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ABSTRACT

The Negotiation Research Digest (NRD) was compiled by the Research Division of the National Education Association (NEA). It began publication in April 1967 and, after 81 issues, ceased publication in June 1975. A normal publication year involved 10 issues published from September through June, skipping July and August. Each issue contained approximately 25 pages of text. News items were commonly grouped under such headings as: Case Reviews, Board Findings and Rulings, Negotiation Notes, Statistics, Special Reports, and Text (the actual text of laws or regulations). Domestic information of interest to educators was gathered at the federal, state, and local levels. During the eight-year period of its publication, the NRD was a major source of news and information concerning education-related negotiations, court cases, legislation, and regulations. An index of major topics is included. (CJ)

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NATIONAL EDUCATION ASSOCIATION

1201 Sixteenth Street, N.W., Washington, D.C. 20036

Negotiation Research Digest

NEGOTIATION RESEARCH DIGEST

April 1967 - June 1975

(81 issues)

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PART I

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Negotiation Research Digest

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Organized as a part of the NEA Research Division at the NEA Center in Washington, D.C. The scope and function of the unit, and publications and publication policy announced.

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Negotiation and Sanctions Resolution Adopted A-7

The American Association of School Administrators (NEA) adopts a resolution approving negotiation and sanctions.

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State Statutes on Negotiation C-12

Statutes on teacher - school board negotiation printed in full for the following states: Alaska, California, Connecticut, Florida, Massachusetts, Michigan, New Hampshire, and New Jersey. Balance of state statutes to be printed in May 1967 issue.

The Negotiation Research Digest is published ten times per year, September through June. Single copy, $3.00; 2-9 copies, 10% discount; 10 or more copies, 20% discount.

Subscription Rate: One year subscription to the Negotiation Research Digest for NEA members and NEA affiliates, $15.00; others, $30.00. Send inquiries to the NEA Records Division.

NEGOTIATION RESEARCH UNIT ESTABLISHED

The National Education Association announces the establishment of a negotiation research unit within the NEA Research Division. This action was taken in response to the need for timely, accurate, and comprehensive research in the area of staff - school board negotiation in the teaching profession. The purpose of the negotiation research unit will be to provide authoritative research information to leaders of the teaching profession, to school officials, and interested laymen. The action has been in the planning and developmental stage since spring 1966.

The unit will collect, store, and analyze negotiation agreements and contracts between boards of education and professional staff members, will survey negotiation procedures and practices, and will compile decisions of judicial and quasi-judicial bodies relative to group procedures in staff - school board relationships. The negotiation research unit of the Research Division will thus maintain a comprehensive body of current materials on the subject.

The first major research study of the new unit got under way in December 1966 with a comprehensive national survey of staff - school board negotiation in public education. The first part of the study consists of a questionnaire mailed to superintendents in the 7,150 school systems enrolling 1,000 or more pupils. The superintendents were asked questions such as:

- What organization is officially recognized by the board as representing the staff?
- Which staff members does the representing organization include?
- How many staff members are represented by the organization?
- How was organization representation verified?
- What is the superintendent's role in negotiation with the representing organization?

The second part of the survey consists of the collection of the individual school system negotiation agreements for the NEA Research Division's depository of such documents.

The negotiation agreements in the depository are coded for speedy search and summary by the Research Division's electronic computer. A 137-item machine useable coding system enables the Division's computer to locate and print a list of all the school systems that have a specific provision in their negotiation agreement. For example, within minutes the computer can identify and list all school systems with negotiation agreements containing class-size provisions. Or, it can identify all school systems in a given state with agreements containing a no-strike clause, the number of personnel represented, or a clause in the agreement specifying negotiable items.

Results of this and other research in the area of negotiation will be made available through the Research Division's Research Reports and through a new monthly publication, Negotiation Research Digest, a publication designed to provide maximum

utility and reference. The Negotiation Research Digest will be published 10 times a year, September through June, on a subscription basis.

The purpose of the Negotiation Research Digest is to report objectively and comprehensively all significant data, trends, and developments concerning professional negotiations, collective bargaining, and similar types of group action procedures relating to members of the teaching profession. To fulfill this purpose each issue of the Digest will be divided into five sections:

Section A: Description and Analysis

Section B: Data and Statistics

Section C: Judicial Decisions, Opinions, and Statutes

Section D: Negotiation Agreements

Section E: Special Items

The sections have been designed to allow maximum flexibility in providing subscribers with important data and information currently available. Depending upon their relative importance, one issue may emphasize judicial opinions while another may emphasize a statistical treatment of a specific aspect of the results of a survey on negotiation. The commutative issues of the Digest, however, are designed to be a comprehensive and permanent source of significant information on staff - school board negotiations in education. The complete text of important negotiation agreements or new provisions appearing in several negotiation agreements will be published. The decisions of judicial or quasi-judicial bodies, such as state mediation boards, will be analyzed, with texts of the decision published in the Digest.

Since the Digest is planned for permanent reference as well as for timely information, it will be indexed twice a year.

Subscription rates are as follows:

To NEA members and NEA affiliated organizations:
- a. First, or single subscription, per year $15.00
- b. Additional subscriptions shipped to the same address, each, per year $10.00

To other persons, organizations, or institutions:
- a. First, or single subscription, per year $30.00
- b. Additional subscriptions shipped to the same address, each, per year $20.00

MINNESOTA SUPREME COURT UPHOLDS EXCLUSION OF TEACHERS FROM COLLECTIVE BARGAINING LAW

The 1965 Minnesota Legislature passed two bills relating to representational policies for public employees. The first bill was for all the public employees in the state except teachers, and the second law was for teachers exclusively. Governor Karl Rolvaag signed into law the bill which covered all public employees except teachers, but vetoed the bill for teachers.

The Minnesota Federation of Teachers, Local 59 (AFL-CIO), in its efforts to gain recognition as exclusive bargaining agent, brought the case to court. A county judge ruled that the section of the public employee law which excluded the teachers was unconstitutional, and that teachers were entitled to exclusive representation and other benefits under the public employee law.

The county judge's ruling was appealed to the Minnesota Supreme Court by the City of Minneapolis Education Association (NEA). The court reversed the county judge's opinion, holding that the section of the public employee law which excluded teachers was constitutional. It held that exclusion of the teachers from this law was not an unreasonable and arbitrary classification since for the purposes of classification, teachers had previously been treated by the legislature as a separate group, and cited the teacher tenure act, certification act, and other statutes.

The Minnesota Supreme Court ruled further that in the absence of a statute authorizing collective bargaining for teachers, the school board had no authority to conduct an election to designate an exclusive representative of the teachers. In concluding, the majority opinion stated that without express statutory authority, and where no prohibitory state statute exists, there is nothing to prevent collective bargaining entered into voluntarily, although "satisfactory results can hardly be expected." The majority went on:

A statute is needed to spell out procedures to be used in the determination of majority representatives in an appropriate unit. But this is a legislative concern. It may be assumed from the statement expressed in the governor's veto message that H.F. 1504, or some law similar to it, will at the next legislative session provide teachers with rights correlative to those given to other employees of the state. In the meantime, there is nothing to prevent the school board from meeting with representatives of both teacher groups. Certainly, in the past the school board has not dealt individually with its more than 3,000 teachers. Until the legislature provides a better method the parties must resort to the former methods employed to solve their differences.

"LEAVE BANK" ESTABLISHED

To assist the professional staff members who suffer prolonged illnesses, the Center Line Public Schools, Michigan (5,000 ADA), in the agreement between the board of education and the Center Line Education Association (NEA), effective from July 1, 1966, through June 13, 1967, established a "leave bank" for sick leave.

Membership in the leave bank is voluntary on the part of employees. Each participating employee contributes one day of sick leave per year to the bank, and may draw up to 60 days of sick leave per year from the bank, provided the first 30 days of sick leave for that year have been covered by accumulated leave or by absence without pay. The text of the agreement relating to the leave bank follows:

10. Sick Leave Bank

a. The Board of Education will cooperate in the establishment of a sick leave bank on a voluntary basis. Any professional employee whose position requires a teaching certificate is eligible to participate.

b. Each employee enrolling in the bank will donate one day of his sick leave to the bank each year until the bank is built up to a maximum of 1500 days. No more days will be added to this maximum until the bank is depleted to 1000 days. The bank will then be built up to 1500 again and the process repeated.

c. Additions will be made to the bank at the beginning of each fiscal year according to the above limitations.

d. A person withdrawing from membership in the bank will not be able to withdraw the contributed days.

e. The first 30 days of illness or disability will not be covered by the bank but must be covered by the person's own accumulated sick leave or absence without pay.

f. A person will not be able to withdraw days from the bank until his own sick leave is depleted.

g. A maximum of 60 days each school year can be drawn by one individual from the bank.

h. Persons withdrawing sick leave days from the bank will not have to replace these days except as a regular contributing member to the bank.

MICHIGAN LABOR MEDIATION BOARD DETERMINES TEACHERS IN GRADES K-12 FORM "BEST" BARGAINING UNIT

Grand Rapids, Michigan, served as the focal point of a major decision in the determination of a bargaining unit for teachers in 1966. The Grand Rapids public schools comprise kindergarten through junior college. The problem of determining the bargaining unit was brought before the Michigan Labor Mediation Board when the Grand Rapids Education Association (NEA) filed a petition requesting certification to represent teachers in grades K-12, while the Grand Rapids Federation of Teachers, Local 256 (AFL-CIO), filed a petition requesting certification to represent teachers in grades 7-12. The two groups agreed that the personnel of the junior college should form a separate bargaining unit.

Before making its decision, the board studied many aspects of the school district's program, teaching methods, school organization, school hours, teacher preparation, discipline, etc. In determining that the collective bargaining unit

should be the teachers in grades K-12, the board concurred with a 1964 decision by the Wisconsin Employment Relations Board (Joint School District No. 8, City of Madison, Decision No. 6746 [May 15, 1964]) when it stated:

The employees involved in this proceeding are engaged in a single profession, that of teaching. The Wisconsin Federation of Teachers desires to split the statutorily established unit into various departments or plants. The fact that teachers perform their duties in separate schools under separate immediate supervision does not establish that each school is a separate department or plant. The function of each school is identical, that is, the education of the youth. While the facilities may be separately located, methods and techniques used in such function are for the most part identical in each school. Generally the curriculum for all schools is planned, directed, and supervised by the school board, the superintendent and other high level administrators, as is the employment of all teachers and the conditions thereof. The immediate separate supervision of the principals at the various schools is subject to the scrutiny and control of the board, the superintendent and high level administrators. To fragmentize the teachers in the employ of one school system on a school by school basis for the purpose of conferences and negotiations with their municipal employer would not only interfere with the proper and efficient administration of a school system, but would in the end result frustrate the intent and purpose of Section 111.70.

CREATION OF BARRIERS IN PROFESSION QUESTIONED

IN PITTSFIELD, MASS., DISSENTING OPINION

Under statutory collective bargaining procedures the determination of the "proper" bargaining unit can be a matter for a labor board ruling, as witnessed by the Grand Rapids, Michigan, decision in this issue of the Negotiation Research Digest. The question arose also in Pittsfield, Massachusetts, when the Pittsfield Education Association (NEA) and the Pittsfield Federation of Teachers, Local 1315 (AFL-CIO) both sought representational certification.

The Association requested the Massachusetts Labor Relations Commission to include in the bargaining group all certificated personnel, except the superintendent and assistant superintendents, while the Federation wanted only classroom teachers, guidance counselors, and department heads in the bargaining unit.

Determination of the bargaining unit favored the Federation, the Massachusetts Labor Relations Commission ruling that the duties and responsibilities of supervisors and administrators differed sufficiently from those of teachers (through department heads) to warrant separate bargaining units. The Pittsfield Education Association (NEA) won elections to represent both groups.

The dissenting opinion included some comments not often considered in labor board opinions, and follows in full:

The Pittsfield Federation of Teachers, Local 1315, a labor organization, seeks to have excluded from the unit all employees above the rank of classroom teachers, but wishes included therein guidance counselors and department heads. The Federation in substance argues that principals, assistant principals and supervisors are in the nature of "supervisory employees"; and hence, should be excluded from the unit pursuant to decisions consistently rendered by both this Commission and the National Labor Relations Board in cases involving industry, trade, and commerce.

We are urged to accept the theory that harm would result in grievance procedures if an overall unit is established. Further, that those above the rank of classroom teacher would dominate and take over the bargaining unit, and that neither of the groups would advance the rights of the other.

The Pittsfield Teachers Association, also a labor organization, seeks to have included in substance all professional employees of the school committee.

Both parties agree that superintendents and assistant superintendents should be excluded.

What constitutes an appropriate bargaining unit in many instances poses a difficult problem.

The evidence in this case clearly shows that all employees are required to hold teaching certificates from the Department of Education based on college degrees and training. Since time immemorial teachers were considered to be engaged in a profession. Today, teaching is a highly specialized field, broken up into many departments. To further fragment the field might prove to be dangerous to our society.

I reject the theory that the same standards used in industry and trade are applicable here in determining what constitutes an appropriate bargaining unit. I find on all the evidence that the supervision exercised by principals down to supervisors is not comparable to the supervision exercised by supervisors or foremen in industry or trade.

On the one hand, a supervisory employee in industry and trade is primarily concerned with the best interests of his employer, and usually has the authority to hire and fire other employees. On the other hand, principals down to classroom teachers are primarily concerned with the proper education of children. They can neither hire nor fire subordinates. The authority devolving upon them is not comparable. The duties with which principals, vice-principals and supervisors are charged is to properly educate students. In order to meet this demand, it is vital that all members of the profession operate as a team.

I can find no precedent for holding that members within the same profession can be excluded from a unit in which other members are admitted. To hold that principals, vice-principals and supervisors should be excluded from a unit consisting of school teachers, in my opinion would create and perpetuate barriers within the teaching profession to the detriment of our children and the profession.

This Commission in the Quincy City Hospital Case, CR-2951, decided that supervisors and head nurses properly belong in the same unit with registered nurses, based on the theory that all were equally and primarily engaged in patient care. Subsequently in the University Hospital Case, CR 2963, and in the Lynn Hospital

Case, CR-2982, this Commission followed the precedent established in the Quincy Hospital Case.

The hospital cases above referred to seem to establish the precedent that those in the same profession who share equally in their relationship and duties to others properly belong within the same unit.

I therefore hold that principals, vice-principals, supervisors and others, together with classroom teachers, are primarily and fundamentally engaged in a profession aimed to educate children, and would constitute an appropriate unit for the purpose of collective bargaining.

(City of Pittsfield, Pittsfield School Department and Pittsfield Teachers Association and Pittsfield Federation of Teachers; Massachusetts Labor Relations Commission, Case No. MCR-18, May 17, 1966)

ADMINISTRATORS ADOPT NEGOTIATION AND SANCTION RESOLUTION

The February 1967 convention of the American Association of School Administrators (NEA) in Atlantic City adopted 21 resolutions on subjects ranging from the "Importance of Quality School Board Members" to "Federal Aid to Education." The eleventh resolution, entitled "Negotiations and Sanctions," follows:

The AASA urges that the teaching profession commit itself to the establishment of truly professional negotiation procedures and, in communities where intolerable educational conditions cannot otherwise be remedied, to the intelligent application of sanctions as the means of demonstrating its determination to obtain suitable salaries, working conditions, and personnel policies. We deplore the use of strikes and affiliations which align educators exclusively with one segment of the American economic system. We recommend that organizations of educators include all professional personnel, and we deplore the current tendency to create, by membership restrictions, artificial barriers among those whose basic interests in education are the same.

The Association commends the Executive Committee; endorses the recent document produced by the AASA, School Administrators View Professional Negotiation; and recommends its study and application by boards of education, teachers, and administrators.

The document, School Administrators View Professional Negotiation, is available from the American Association of School Administrators, 1201 Sixteenth St., N.W., Washington, D.C. 20036. ($1.00; Stock # 021-00636)

AGREEMENT IN LANSING, MICHIGAN, COVERS VACANCIES AND PROMOTIONS

The filling of vacancies in school systems can be a matter of substantial concern to the members of a school district staff. The agreement between the Board of Education of Lansing School District, Lansing, Michigan, and the Lansing Schools Education Association (NEA), effective September 6, 1966, through June 30, 1969, contains an article on the subject as follows:

ARTICLE VIII

VACANCIES AND PROMOTIONS

A. Whenever any vacancy in any educationally certificated position in the district shall occur, the Board shall give written notice to the Executive secretary of the LSEA. No vacancy shall be permanently filled until seventeen days after such notification unless otherwise concurred with by the LSEA.

B. The written notice of each vacancy shall include a job description, stating the minimum requirements necessary for the position.

C. In filling such vacancy, the Board agrees to give due weight to the length of time each applicant has been in the school system of this district, providing all other qualifications are equal. The Board declares its support of a policy of promotion from within its own teaching staff whenever possible.

D. A Promotion and Transfer Committee shall be established which shall consist of five members, three of whom shall be administrators and two of whom shall be teachers.

E. The Promotion and Transfer Committee shall recommend criteria for the selecting of the superintendent, deputy and assistant superintendents, directors, and assistant directors; and shall make recommendations for the filling of any vacancies occuring in the positions of assistant principal, principal, departmental directors or consultants, and coordinators.

NEW YORK COMMITTEE ON

PUBLIC EMPLOYEE RELATIONS

When the public transit employees in New York City went on strike in 1966, Governor Nelson Rockefeller established a Committee on Public Employee Relations, and requested it "to make legislative proposals for protecting the public against the disruption of vital public services by illegal strikes, while at the same time protecting the rights of public employees."

The recommendations of the committee were comprehensive and were made for all public employees in New York State. The full text of Part Three, "The Resolution of Deadlocks in Collective Negotiations," is reproduced beginning page E-1.

PRELIMINARY DATA FROM 1966-67

SURVEY OF WRITTEN NEGOTIATION PROCEDURES BETWEEN LOCAL SCHOOL BOARDS AND ORGANIZATIONS OF THE TEACHING PROFESSION

The data which follow are preliminary and were obtained from the survey of written negotiation procedures now being conducted by the NEA Research Division. The data are based on the returns processed as of March 30, 1967.

General Survey Information

- 7,157 school systems in the United States received questionnaires on their written negotiation procedures for staff - school board negotiation.
- 4,653 systems returned completed questionnaires.
- 1,144,269 classroom teachers are employed by the responding school systems.
- 1,259,361 instructional staff members are employed by the responding systems.
- 1,097 school systems have agreements for recognizing an organization representing the instructional staff.
- 449,148 instructional staff are represented in written negotiation procedures.
- 513,594 instructional staff are employed in school systems which have written negotiation agreements.
- 745,767 instructional staff are employed in responding school systems without written negotiation agreements.

Organizational Representation

- 375 school systems have the recognized organization represent the full instructional staff (excluding the superintendent).
- 654 organizations represent a part of the instructional staff, not the full instructional staff (excluding the superintendent).
- 65 school systems have two or more organizations representing the staff:

  32 of the 65 school systems with multiple organizations representing the staff negotiate separately with each organization.

  29 additional systems with multiple organization representation utilize joint negotiation, with representation proportional to membership in the organizations.

4 systems negotiate with equal representation from each of the organizations.

- 77 systems use a type of representation other than by organization. Almost half of the 77 systems are in Oregon where the state statute requires that a committee of individuals be elected, rather than an organization.

- 8 states have no agreements for staff representation reported.

Determination of Representation

- 257 school systems determined the organization to represent the instructional staff by means of a referendum.

- 132 systems determined staff representation by means of signed cards.

- 203 determinations of staff representation were made on the basis of verified membership.

- 396 systems utilized a "request to negotiate" to determine representation.

STATE OF MICHIGAN
LABOR MEDIATION BOARD

In the Matter of GRAND RAPIDS BOARD OF EDUCATION and GRAND RAPIDS EDUCATION ASSOCIATION and GRAND RAPIDS FEDERATION OF TEACHERS, LOCAL 256, AFL-CIO	Case nos. R65-I-91 R65-J-169

Appearances:

For the Grand Rapids Board of Education — Roger D. Anderson, Attorney at Law

For the Grand Rapids Education Association — Theodore W. Swift, Attorney at Law

For the Grand Rapids Federation of Teachers, Local 256, AFL-CIO — A. Robert Kleiner, Attorney at Law

This matter having come on for hearing before Leo W. Walsh, Member of the Labor Mediation Board, hereinafter referred to as the "Mediation Board", at Grand Rapids, Michigan, on March 22 and 23, and April 19, 20, 27, and 28, 1966, and the Mediation Board having considered the testimony, arguments and briefs of the parties, and being fully advised in the premises, hereby makes the following findings of fact, conclusions of law, and order.

FINDINGS OF FACT

The Grand Rapids Board of Education is a public employer within the meaning and intent of the Michigan Public Employment Relations Act, Act 336 of the Public Acts of 1947, as amended, hereafter referred to as "the Act."

The Grand Rapids Education Association and the Grand Rapids Federation of Teachers, Local 256, AFL-CIO, are labor organizations within the meaning and intent of the Act.

The Grand Rapids Board of Education will hereafter be referred to as the "Board." The Grand Rapids Education Association will hereafter be referred to as the "Association." The Grand Rapids Federation of Teachers will hereafter be referred to as the "Federation."

On September 22, 1965, the Association filed with the Mediation Board a petition for election requesting certification as representative of "all certified personnel K through 12, excluding supervisors and executive personnel, as defined by the Act" of the Board. On October 6, 1965, the Federation filed a similar petition, requesting certification as the representative of "all certified personnel, 7 through 12; excluding supervisory and executive personnel as defined by the Act." Subsequently, and before the hearing herein, the Labor Relations Division of the Mediation Board made an administrative determination that both petitioners met the showing of interest requirement of Section 12 (a) of the Act. Such determination was in each instance based on the unit claimed in the petition. No objection was made to this determination by either petitioner at the hearing.

At the commencement of the hearing, the Federation contended that it could not make a proper determination of the unit it claimed to represent until the unfair labor charge which it had filed alleging domination of the Association by the Board had been determined by the Mediation Board. It, therefore, moved to strike the description of the bargaining unit in its petition for election and for authority to define its claimed bargaining unit at a later time, presumably after the charge case had been finally determined. The charge case was heard by Robert Pisarski, Chief Trial Examiner of the Mediation Board, on January 24, 25 and 26, 1966. The Trial Examiner's Report and Recommended Order was issued June 14, 1966. His Report and Recommendations were, in part, that the Association was not dominated by the Board and, therefore, the Association should not be disestablished as a potential representative of teacher employees of the Board.

The motion was not a motion to amend, but a motion to strike the description of the bargaining unit completely from its petition for election. It was, therefore, denied. There was no later motion made by the Federation to amend its description of the claimed bargaining unit.

Subsequently, on July 14, 1966, the Federation filed with the Board exceptions to the Trial Examiner's Report and Recommendations. Exceptions were also filed by the Association and by the Board on July 15, 1966. Accordingly, the Mediation Board is required to review the Findings and Recommendations of the Trial Examiner. Before doing so, it must have before it a written transcript of the proceedings before the Trial Examiner (Section 16 (b)).

The principal issue presented is what constitutes an appropriate bargaining unit among the teacher employees of the Board. The Board carries on a comprehensive educational program, commencing with kindergarten and covering all grades and non-graded pupils from kindergarten through junior college. The Board has previously consented to recognize an organization of the professional staff of the Junior College to represent them in collective bargaining. There is no representation petition filed with the Mediation Board for the Junior College professional staff. For these reasons, the professional employees of the Grand Rapids Junior College are not under consideration here, although the Federation contends in establishing the appropriate bargaining unit or units of the professional staff of the Board, the Mediation Board should consider the inclusion of the professional staff of the Junior College in the unit or units determined to be appropriate for

collective bargaining among all of the professional employees of the Board. Hereafter, in referring to all or any segment of the professional staff of the Board from kindergarten through the twelfth grade, it will be designated as "K through 12", "K through 6", "7 through 12", or any other like designation.

The petitioners have agreed by stipulation on the various job classifications that should be included in the bargaining unit or units, with three exceptions. The exceptions are elementary intern program consultants, elementary program interns and substitute teachers not on contract. The two issues herein under consideration will be treated separately.

APPROPRIATE BARGAINING UNIT OR UNITS

The Federation contends that there is a substantial diversity of interest between elementary and secondary teachers, so that they should not be included in the same bargaining unit. It further alleges that there has been a past history of representation and bargaining with the Board by the Federation for secondary teachers only, and that such history establishes a practice of separate representation by the Federation which should prevail in determining this question.

The Association contends that, although there are some differences in the teaching methods between the elementary and secondary levels, they are incidental; that by and large, the purpose and objectives of teaching, as well as the compensation and fringe benefits, are identical, resulting in a community of interest among all teachers, K through 12. It further contends that in all known instances where teachers have been recognized for collective bargaining purposes throughout the United States, the appropriate unit has always been determined to be K through 12. It opposes the fragmentation of the teachers into two units, contending this would set one group against the other, resulting in dissension and competition inimical to the best interests of the students and the teaching profession.

The Grand Rapids school system has as its responsibility the education of 62% of the children in the City of Grand Rapids, K through 12. It has in its employment some 1,500 teachers, as well as a large administrative staff. The system has a complete educational program, including facilities and staff for retarded and handicapped children, a physical training and athletic program, and special educational activities such as in music, art, and manual training.

It generally divides its students into three groupings, K through 6, 7 through 8 and 9 or 10 through 12. The K through 6 students are known as the elementary group; the 7 through 8 or 9 are known as the junior high school group; and the 9 or 10 through 12 are known as the senior high school group. Some of its buildings are devoted exclusively to housing the students and educational facilities in each of these three groups. Some, however, contain students in all groupings, and some in two of the groupings. This is determined by the available facilities and the best accommodation of the students.

The teaching technique is the same in the elementary group and the junior and senior high school groups, with some minor exceptions. Teaching in the elementary grades is described as being self-contained. This means that the teacher has the same students all day and teaches all subjects to those students with the exception of physical education and other specialized training. In the junior and senior high schools, the educational technique is described as departmentalized. This means that each teacher is a specialist in one or more subjects, and teaches those subjects only. The students circulate from a home room on a pre-arranged schedule to the rooms of the individual teachers to receive training in each subject. The normal assignment for a secondary teacher is five classes each day in addition to a period in which she is assigned to a home room to supervise students who are not attending a class.

There are some exceptions to this differentiation in teaching techniques because of certain problems within the school system brought about by overcrowding or for other reasons. The Board has found it necessary to teach some of the junior high school grades on a self-contained basis or on a partially self-contained and a partially departmentalized basis. These situations are the exception to the rule.

Teachers are required by law to be certified by the Michigan Department of Education. Certification is either in the elementary or secondary area of education, for the reason that secondary teachers need training in specialized disciplines or subjects to comply with the departmental type of program in the secondary schools; whereas, elementary teachers are trained to teach all subjects included in the elementary school curriculum. Teachers may have both elementary and secondary certification and may, therefore, teach in either area. Some of the teachers in the Grand Rapids school system do have such dual certification. There are teachers in the system who have become certified in the area in which they have not taught before and have switched from one area to the other.

Both the Federation and the Association have been in existence as teacher organizations in the Grand Rapids school system for a number of years. Both have members who teach in the elementary and in the secondary areas.

The Board has met and consulted with both organizations in the past in regard to salaries and other working conditions and has given consideration to recommendations and suggestions from both organizations. The Board has not recognized either organization as the representative, either of its members or of all teachers as their bargaining representative.

The current salaries, increments and fringe benefits are the same for all teachers with the same educational qualifications and experience in the elementary and secondary areas.

In 1960, as a result of an alleged breach of its contract with the secondary teachers in the Grand Rapids school system, an organization of secondary teachers was formed, known as the "Secondary Teachers Association." The Association initiated a suit in the Superior Court of Grand Rapids in 1961 alleging that certain working conditions covered in the contract were changed during the course of the school year. The Association became inactive after the litigation and is no longer in existence.

The rules of the Board require a difference in the elapsed time to be spent at school between the elementary and the secondary teachers. The elementary teacher has 30 hours of such time; whereas, the secondary teacher has 35 hours. All teachers are required to do preparatory work for classes. The secondary teachers have some time during their regular school day for preparatory work, while the elementary teachers have none. The amount of time spent by teachers in preparatory work outside of the regular school day varies with individual teachers and cannot be adequately measured.

The number of days in the school year is the same for both elementary and secondary teachers.

Makeup of Bargaining Unit or Units

When the hearing was adjourned between March 23 and April 19, the Federation, the Association, and the Board met in an attempt to reach agreement as to the job classifications to be included in the bargaining unit or units. There are in all 76 job classifications in the administrative and professional personnel of the Board. All interested parties agreed that 42 of the job classifications should be excluded from the unit or units (Joint Exhibit 1A). They also agreed that 31 job classifications should be included (Joint Exhibit 1B). They were unable to agree as to the inclusion or exclusion of 3 job classifications in the bargaining unit or units (Joint Exhibit 1C). The job classifications upon which agreement was not reached are: Elementary Intern Program Consultants, Elementary Program Interns, and Substitute Teachers not on contract. The Board has an arrangement with Michigan State University School of Education wherein candidates for degrees in education do practice teaching in the Grand Rapids school system before they receive their degree in education. These teachers have special certification from the Michigan Department of Education and are a part of the teaching staff of the Grand Rapids system. They are paid for their services at a salary less than the regularly certified teachers. These teachers are known as "Elementary Program Interns" and teach only in the elementary area.

They are supervised by selected teachers, who are employees of the Grand Rapids school system and whose duties are to assist and advise the Elementary Program Interns in their term of practice teaching.

This intern program is supervised by a designee of the School of Education of Michigan State University. The placement of the Interns, their assignments to consultants and the supervision of their work is all done on a co-operative basis between the Board and the designated representative of Michigan State University.

Each consultant works with and assists five Interns. Their function is to teach the Interns the techniques of teaching and prepare them for regular teaching assignments. They make recommendations to the School of Education of Michigan State University in respect to the quality of the teaching skill of the Intern. This information is used by the School in making a determination regarding the granting of a degree in education to the Intern. These recommendations are made directly to the University and are not made to the Board.

The responsibility of the evaluation of the intern teacher and his supervision as far as the Board is concerned rests with the principal of the school in which the intern teaches, the same as with regularly certified teachers.

The job classification of Substitute Teacher involves teachers who have a limited certification for substitute teaching for not in excess of ninety days in the school year by certification by the State Department of Education, life certificate teachers and retired teachers. The Board has a list of such teachers who are available on short notice to substitute for a full-time teacher who is absent for illness or other reasons. The substitute teachers who have limited certification for a maximum of ninety days' teaching in the school year do not meet the educational requirements of regularly certified teachers. The life certificate and retired teachers who do substitute work may or may not have such qualifications.

The substitute teachers do not have a contract with the Board. Upon their indication of willingness to do substitute teaching and upon the condition that they meet the requirements of certification, they are placed on a list and are subject to call when the need arises. Usually, the substitute teacher's availability is limited by location, transportation, other obligations, and her competence in the discipline that is needed. Substitute teachers have no commitment with the Board for any particular amount of availability, and are often on the lists of substitute teachers of other Boards of Education. They are not obliged to serve when called, and may decline for any reason. They will be removed from the list at any time upon request. They do not share in the fringe benefits of full-time teachers and are paid on a per diem rather than on an annual basis. The substitute teacher list is made up in August for the coming school year. However, it is constantly changing, due to requests for withdrawal from the list and for replacement on it.

CONCLUSIONS OF LAW

Appropriate Bargaining Unit or Units

The Act provides the criteria for determining the bargaining unit in Section 13:

The board shall decide in each case, in order to insure public employees the full benefit of their right to self-organization, to collective bargaining and otherwise to effectuate the policies of this act, the unit appropriate for the purposes of collective bargaining as provided in section 9e of Act. No. 176 of the Public Acts of 1939:...

Section 13 incorporates into the Act by reference Section 9e of Act. No. 176 of the Public Acts of 1939, as amended, being the Michigan Labor Mediation Act. Section 9e of the Michigan Labor Mediation Act reads as follows:

The board, after consultation with the parties, shall determine such a bargaining unit as will best secure to the employees their right of collective bargaining. The unit shall be either the employees of 1 employer employed in 1 plant or business enterprise within this state, not holding executive or supervisory positions, or a craft unit, or a plant unit, or a subdivision of any of the foregoing units; Provided, however, That if the group of employees involved in the dispute has been recognized by the employer or identified by certification, contract or past practice, as a unit for collective bargaining, the board may adopt such unit.

It is apparent from a reading of Section 9e that the Mediation Board has substantial discretion in determining appropriate bargaining units. It may, but it is not required to, take into consideration the past practice of the parties.

In addition to the statutory guidelines set forth in Section 9e, the Supreme Court of Michigan, in Hotel Olds v. State Labor Mediation Board, 333 Mich. 382 (1952), had occasion to consider what constitutes an appropriate bargaining unit. In this case, the court quoted from a decision of the Massachusetts Labor Commission to the effect that it was a primary objective of the Commission to constitute the largest unit which in the particular case is most compatible with the effectuation of the

purposes of the law, and to include in a single unit all common interests.

Act 336 of the Public Acts of 1947 was substantially amended in 1965 (Act 379 of the Public Acts of 1965). Prior to the 1965 amendments, the Act made no attempt to define a unit. It provided that "any given group" of public employees could petition for mediation. In construing this provision in Garden City School Board v. Labor Mediation Board, 358 Mich. 258 (1959), the Supreme Court said:

The basic notion of a 'group' or unit suitable for bargaining or mediating employee grievances is that of unity of interests.

The Mediation Board has, on several previous occasions, accepted the criteria of unity of interest or community of interest as being the proper one in determining an appropriate bargaining unit. We have held in Union School District of the City of Jackson and American Federation of State, County & Municipal Employees, AFL-CIO, and Non-Teaching Employees Club and International Brotherhood of Electrical Workers, Local Union 933, Case No. R-65-H-26 (January 25, 1966), in City of Warren and International Brotherhood of Teamsters, Local No. 299, and American Federation of State, County & Municipal Employees, AFL-CIO, Case No. R-65-H-30, and R-65-H-37 (January 18, 1966), and in South Redford School District and American Federation of State, County & Municipal Employees, AFL-CIO, and Local 299, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Case No. R-65-J-183 (June 30, 1966), that the largest bargaining unit which under the circumstances of the particular case is most compatible with the effectuation of the Act is the appropriate and proper bargaining unit.

In the South Redford School District case we said:

We do not think the electricians have basic interests substantially distinct and different from those of the other crafts in the maintenance group in terms of conditions of employment, qualifications, skills, pay, places of employment, methods of compensation, similarity of duties and the like. (Emphasis added)

In applying the foregoing criteria, we find that all of the K through 12 teachers of the Grand Rapids school system have a similarity of conditions of employment, qualifications, skills, pay, places of employment, methods of compensation and of duties.

There is a difference in the teaching methods between elementary and secondary areas, as described above. However, this difference in methods does not mean that the teaching process is basically different in the one than in the other. Teachers still must perform the teaching function in both areas. They maintain discipline, prepare for class, teach the subject or subjects, consult with parents, keep records, and perform the many other duties of teaching.

The secondary teachers spend more required time at school than the elementary teachers, but they have some time while at school to prepare for classes; whereas, the elementary teachers are required to do all of their preparatory work outside of the hours they are required to be at school. This difference is not basic, and does not result in any diversity of interest among the elementary and secondary teachers.

The past history of relations between the Federation and the Board consists of the Federation presenting to the Board, either in writing or by meeting with the Board, proposals on behalf of its members respecting salaries and other working conditions. It has been the practice of the Board to entertain suggestions and proposals in this area from both the Association and the Federation, and to meet and discuss the proposals with them. The decisions were then made unilaterally by the Board. There is no substantial evidence that the Federation on these occasions held itself out to speak only for the secondary teachers; and it, in fact, has among its membership both elementary and secondary teachers.

In recent years, there has been a tendency throughout the country to recognize organizations as representatives of the teachers in some areas. There are some situations where, without the benefit of legal sanction, boards of education have recognized organizations of teachers to represent them in collective bargaining, and have negotiated agreements with such organizations. More recently, in several states, legal sanction has been given to such arrangements. In some of these states, the bargaining unit for teachers and other public employees has been defined in the legislation. In others, general guidelines have been laid down for determining the appropriate bargaining unit, as under the Michigan Act. Evidence adduced at the hearing indicated that, either where voluntary recognition has occurred, or where it has occurred under enabling state statutes, there is no known instance of a bargaining unit of teachers which does not include all of the teachers in the school system.

The State of Wisconsin has a Public Employment Act similar to Michigan's. In 1964, it was faced with a like problem to the instant case in Joint School District No. 8, City of Madison, Wisconsin Employment Relations Board Decision No. 6746 (May 15, 1964). In this proceeding, the Wisconsin Federation of Teachers urged the Wisconsin Board to fractionalize the teachers employed by the Board of Education of Madison, Wisconsin, on the basis of departments and plants. The Wisconsin Board, in denying this request, said:

The employees involved in this proceeding are engaged in a single profession, that of teaching. The Wisconsin Federation of Teachers desires to split the statutorily established unit into various departments or plants. The fact that teachers perform their duties in separate schools under separate immediate supervision does not establish that each school is a separate department or plant. The function of each school is identical, that is, the education of the youth. While the facilities may be separately located, methods and techniques used in such function are for the most part identical in each school. Generally the curriculum for all schools is planned, directed and supervised by the school board, the superintendent and other high level administrators, as is the employment of all teachers and the conditions thereof. The immediate separate supervision of the principals at the various schools is subject to the scrutiny and control of the board, the superintendent and high level administrators. To fragmentize the teachers in the employ of one school system on a school by school basis for the purpose of conferences and negotiations with their municipal employer would not only interfere with the proper and efficient administration of a school system, but would in the end result frustrate the intent and purpose of Section 111.70.

The Mediation Board concurs in the views expressed by the Wisconsin Board.

For the foregoing reasons, it is the determination of the Mediation Board that the bargaining unit among the teaching personnel of the Grand Rapids Board of Education which will best secure to them their rights of collective bargaining is one consisting of all teachers, K through 12.

Makeup of Bargaining Unit

The Mediation Board concurs in the agreement of the parties that the job classifications in Joint Exhibit 1B are proper classifications to be included in the bargaining unit.

With respect to the three remaining classifications upon which agreement was not reached, the Mediation Board makes the following determinations.

The Elementary Intern Consultants are teachers whose function is to assist in the training of the Elementary Interns. They, as well as the Interns, are under the direct supervision of the school principal. The Consultants do make recommendations with respect to the quality of the work performed by the Interns; however, these recommendations are made to the Department of Education of Michigan State University and not to the Board. They are not available to the Board personnel and, therefore, are not used in evaluating the Interns. The Mediation Board has in the past followed the definition of a supervisor found in the National Labor Relations Act, Section 2 (11). See School District of the City of East Detroit and East Detroit Federation of Teachers and East Detroit Education Association, Case No. R-65-I-49 (January 25, 1966). The Elementary Intern Consultants do not have authority to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline the Interns. Nor do they have the responsibility to direct them or to adjust their grievances or effectively to recommend such action to the Board. It is the conclusion of the Mediation Board, therefore, that Elementary Intern Program Consultants should be included in the bargaining unit.

The Elementary Program Interns are employees of the Board under an arrangement with Michigan State University, wherein, after reaching a certain point in their academic progress toward a degree in education at the University, they are assigned in cooperation with the Board to perform practice teaching in the Grand Rapids school system. They perform all of the functions of other teachers in the elementary area, and are assisted and advised by the Elementary Intern Program Consultants. They are qualified under special certification by the Michigan Department of Education. When they have satisfactorily completed their practice teaching, they receive their degree in education. They are paid a salary which is less than regularly certified teaching personnel salaries. For the foregoing reasons, it is the conclusion of the Mediation Board that the Elementary Program Interns should be included in the bargaining unit.

The third classification upon which the parties could not agree was that of Substitute Teachers. The Substitute Teachers are of two groups, those who are certified but are not under contract with the Board, and a group who, under special certification, are permitted to substitute teach for a period of not to exceed 90 days in any school year. The teachers in the second category do not meet the educational requirements for the fully certified teacher. They are paid on a per diem basis. They do not participate in the fringe benefits received by the regularly certified teachers. They are not obligated to teach when called upon to do so. They may be removed from the Substitute Teacher list at any time upon request. In many instances, whether or not they will accept an assignment depends upon the location of the work available and their other commitments. They are not guaranteed any minimum amount of work. They are often on the Substitute Teacher list of other school boards.

This question was before us in School District of the City of East Detroit, supra., wherein we said:

Because of the temporary and sporadic nature of employment, coupled with no reasonable expectation of permanent employment, both categories of fully certified substitute teachers and ninety-day certificate substitute teachers will be excluded from the bargaining unit.

For the foregoing reasons, it is the determination of the Mediation Board that Substitute Teachers will be excluded from the bargaining unit.

Representation Election

There being before the Mediation Board an unresolved issue regarding the qualifications of one of the petitioning employee organizations to represent the employees in the bargaining unit found herein to be appropriate, a representation election will not be ordered until this issue is resolved.

ORDER

IT IS HEREBY ORDERED that the following job classifications (K through 12) among the teaching employees of the Grand Rapids Board of Education shall constitute an appropriate unit for collective bargaining:

Coordinator of Office Practice
Coordinator of Work Training Program
Psychologist
Diagnosticians
Secondary Librarian Director
Secondary Fused Director
Secondary Athletic Director
Secondary Social Studies Department Head
Secondary Head Counselor
Secondary Counselor
Secondary English Department Head
Secondary Math Department Head
Secondary Science Department Head
Secondary Coordinator - Trade and Industrial
Secondary Coordinator of Retail Practice
Secondary Dramatics
Eighth Grade Director
Seventh Grade Director
Seventh and Eighth Grade Director
Special Education Job Coordinator
Instructional Assistant
Unassigned Classroom Teachers
Art Consultant
Music Consultant
Physical Education Consultant
Speech Correctionist
Helping Teacher
Remedial Reading
Visiting Teachers
Classroom Teachers
Elementary Intern Program Consultants
Elementary Program Intern
Any of the above-listed personnel on sabbatical or sick leave

and excluding all supervisory and executive personnel.

IT IS FURTHER ORDERED that upon a final determination by the Labor Mediation Board of the unfair labor charges before it against the Grand Rapids Board of Education, an Order directing an election among the employees in the appropriate unit, as herein determined, will issue.

MICHIGAN LABOR MEDIATION BOARD

/s/ Robert G. Howlett
Robert G. Howlett, Chairman

/s/ Leo W. Walsh,
Leo W. Walsh, Member

Dated:
August 29, 1966

/s/ Philip Weiss
Philip Weiss, Member

MINNESOTA SUPREME COURT DECISION IN CASE OF MINNEAPOLIS FEDERATION OF TEACHERS, ET AL.

No. 162-1/2 Hennepin County

Minneapolis Federation of
Teachers Local 59, AFL-CIO
Respondent,

40477 vs.
Peter Obermeyer, State Labor
Conciliator, and Board of
Education, Special School
District No. 1 of Minneapolis,
Respondents,
City of Minneapolis Education
Association,
Appellant.
Board of Education of Special
School District No. 1,
Respondent,

40478 vs.
Minneapolis Federation of
Teachers Local 59 AFL-CIO,
Respondent,
City of Minneapolis Education
Association affiliated with
Minnesota Education Association,
Appellant.

Murphy, J.
Dissenting, Thomas
Gallagher, J.

Endorsed
Filed December 9, 1966
Mae Sherman, Clerk
Minnesota Supreme Court

SYLLABUS

1. A statute should not be construed so as to extend its provisions to cover that which is specifically excluded by the legislature.

2. L. 1965, c. 839, § 7 (Minn. St. 179,572), which excepts teachers from the application of several sections of the so-called Public Employees Labor Relations Act, Minn. St. 179.50 to 179.58, is not unconstitutional as an unreasonable and arbitrary classification denying to teachers equal protection under U.S. Const. Amend. XIV and Minn. Const. art. 1, § 2, and art. 4, §§ 33 and 34. The legislature has historically treated teachers as a distinct classification, and this unique historical recognition, found in numerous other statutes which treat public school teachers as a class apart from other public employees, is sufficient to support its validity. Excepting teachers from provisions of the Public Employees Labor Relations Act expresses a determination by the legislature that a distinction exists between the two classes which justifies applying rules to one class which do not apply to another. In the matter of classification courts have viewed the action of the legislature with great liberality. Courts are not to weigh the merits of a classification in the judicial balance and to reject it merely because they might favor a different standard.

3. L. 1965, c. 839, is a revision of some sections of the former Public Employees Labor Relations Act; sets up a general or exclusive system covering the entire subject matter of that part of the former law; is intended as a substitute for it; and repeals the sections of the former law amended by it.

4. The provisions of c. 839 which revised former provisions of the Public Employers Labor Relations Act did not add to nor detract from prior rights of school teachers as they relate to the right to strike or the right to join labor or other organizations. In the absence of a statute, there is no authority which gives a public employee the right to strike nor is there a prohibition against the right of teachers to join unions or associations organized to promote their mutual interest.

5. There is no authority, either express or implied, which gives the school board the right to hold an election for the purpose of designating an exclusive representative of teachers to negotiate with the school board with relation to wages, hours, and working conditions. Public employees do not have collective bargaining rights in the same sense that private or industrial employees enjoy.

Reversed.

OPINION

MURPHY, Justice.

These are appeals from judgments entered in declaratory judgment actions. Error is assigned in the trial court's holding that L. 1965, c. 839, § 7 (Minn. St. 179.572), which excepts teachers from the application of the rest of c. 839, is unconstitutional and severable. Chapter 839 amended and added new provisions to the so-called Public Employees Labor Relations Act (Minn. St. 179.50 to 179.58).

The parties involved in this appeal are rival groups of public school teachers. Respondent Minneapolis Federation of Teachers, Local 59, is a trade-union-oriented organization affiliated with the AFL-CIO and hereinafter referred to as "Local 59." Appellant, City of Minneapolis Education Association, a nonunion organization, is affiliated with the Minnesota Education Association and the National Education Association. These two organizations have deep and irreconcilable differences which give rise to a conflict between them as to the manner in which teachers should communicate and treat with school boards on subjects relating to wages and conditions of employment.[1] We gather from the extended arguments submitted, the original files which constitute the record, briefs of the parties, and brief amicus curiae, that both groups seek the same objective but differ as to means. A review of the attempts of public school teachers to attain some satisfactory basis for meaningful communication with school boards by which their demands might be made known, considered, and resolved in a manner consistent with individual dignity and the ethics of their calling is a study of frustration.

Some background references should be noted. The threat of a strike as a means of dealing with employer-employee relationships in the public educational systems came to the surface in January 1951, when the Board of Education of the city of Minneapolis sought an injunction restraining a threatened strike by a union composed of school maintenance employees. Board of Education of City of Minneapolis v. Public School Employees' Union, 233 Minn. 144, 45 N.W. (2d) 797. The disposition of that dispute turned upon the interpretation of a procedural statute and contributed nothing to the law with which we are here concerned aside from raising a spectre of dangers of strikes by public employees, a subject which the legislature promptly acted upon at its next session. By L. 1951, c. 146, the legislature adopted an act "to prohibit strikes by certain public employees; to provide certain disciplinary action with respect thereto; to

1/ Procedural aspects of this litigation are discussed in a recent decision of this court. Minneapolis Federation of Teachers v. Obermeyer, _____ Minn. _____, 144 N.W. (2d) 789.

provide for the adjustment of grievances and reporting the facts relative thereto; and to provide conditions of reemployment." This act was amended by L 1957, c. 789, which provided that public employees "shall have the right to form and join labor organizations" and prohibited intimidation or coercion in such activity. Apparently, the act was also intended to aid public employees in their dealings with heads of government agencies. The act comprehended that the services of the Labor conciliator should be utilized to investigate controversies and to ascertain representatives of employee groups by means of a secret ballot. By our decision in Richfield Federation of Teachers v. Richfield Education Assn. 263 Minn. 21, 27, 115 N. W. (2d) 682, 686, this provision of the act was found to be lacking in vitality. We there held that "the Conciliator has no implied authority to specify units of representation for purposes of implementing the provisions of the act governing meetings between public employers and public employees under §179.63."

The next development occurred when President Kennedy promulgated an executive order on January 17, 1962, on "employee-Management Cooperation in the Federal Service." Exec. Order No. 10988, 27 F.R. 551. This order provided definite means of communication between associations of Federal government employees and agency heads, which would make it possible to focus public attention upon the merits of employee claims. Apparently, the Minnesota Legislature intended that the 1965 Public Employees Labor Relations Act should be patterned after the proposals contained in President Kennedy's executive order. In amending prior laws on the subject, the legislature in L. 1965, c. 839, recognized in its statement of policy that "adequate means should be provided for preventing controversies between governmental agencies and public employees, and for resolving them when they occur.: Because of the nature of governmental service required "special limitations upon public employment," it was incumbent upon the state to provide "orderly procedures for the participation by public employees and their representatives in the formulation of personnel policies and plans to insure the fair and considerate treatment of public employees, to eliminate employment inequities, and to provide effective means of resolving questions and controversies with respect to terms and conditions of employment." The legislature expressed the policy that governmental agencies should "enter into discussions with affirmative willingness to resolve grievances and differences" and that there was a "mutual obligation to endeavor in good faith to resolve grievances and differences *** within the framework of laws and charter provisions." It is unnecessary to go into the various provisions of c. 839 except to say that in substance it provides for a collective bargaining arrangement for meaningful negotiations subject to the limitation that it does not insure binding arbitration--a limitation inherent in the nature of governmental employment. The act reaffirms denial of the right to strike; affirms the right of public employees to form and join labor or employee organizations; and provides for the election of a representative who may bargain and treat with agency heads as the representative of all employees if the organization represents a majority of the employees.

The part of c. 839 which gives rise to the controversy is §7 (Minn. St. 179.572), which states that the act shall not apply to public school teachers as defined in Minn. St. 125.03, subd. 1. The reason for this exception was that the legislature intended to make special provision for the manner in which school teachers should treat with school boards with relation to questions growing out of their employment. Simultaneously with the enactment of c. 839, the legislature enacted a bill which provided teachers with grievance and representation machinery differing from that provided for other public employees. The bill, H.F. 1504, was entitled "A BILL FOR AN ACT RELATING TO THE TEACHING PROFESSION AND PROVIDING FOR THE SETTLEMENT OF DISPUTES BETWEEN SCHOOL BOARDS AND CERTIFICATED SCHOOL PERSONNEL IN THE PUBLIC SCHOOLS OF THIS STATE." This bill expressed the policy that it would be in the best interests of public education "that a legal procedure be established on a professional level for the orderly, equitable and expeditious settlement of *** disputes." The bill affirmed the right of teachers "to join and form organizations" to deal with the terms and conditions of professional public education and their right "not to join and form such organizations." It affirmed the right of certificated school personnel "to designate representatives for the purpose of meeting with the school board or any committee thereof in an effort to reach a solution to problems" arising from terms and conditions of employment. It recognized the right of representatives to meet and to confer "in good faith" with school boards or their committees and recognized that the parties should make every reasonable effort to resolve disputes. It imposed upon the school board the duty to provide an opportunity for hearing upon request and delegated to the boards the right to establish procedures "for carrying on meetings and for reaching agreement." The bill provided for a form of appeal to the commissioner of education under circumstances where a school board would refuse to meet and confer. In the event of failure to reach a settlement, the commissioner of education was to "act to resolve such disputes by appointing a mediator who shall be qualified, trained and experienced in the field of public education." The bill delegated to the commissioner the power to "prescribe rules regulating the time and manner" of taking such appeals. The bill provided that if conferences with the mediator were not satisfactory, at the request of a majority of the "certificated school personnel" an adjustment panel should be constituted to hear the dispute.

The bill passed both the house and the senate, but was vetoed by the governor. Both it and c. 839 were part of a package relating to an entire field, but, because of the governor's veto, only one became law. In his letter informing the secretary of state that he would not sign the bill, the governor said:

> *Since good results were achieved by the non-partisan committee appointed by me to recommend improvements to the public employees labor relations law, I see no reason that a similarly constituted committee could not work out answers to the problems with which we are faced. I will appoint such a committee and charge it with the responsibility of investigating these problems and making recommendations to the 1967 session of the Legislature.*

With the legislation in this freak posture, where one or two concurrent bills relating to the entire field of public employees labor relations was vetoed and the other signed into law, Local 59 insisted upon proceeding to have elections held and a representative determined to negotiate in behalf of the school teachers pursuant to the provisions of c. 839. In the proceedings before the lower court, it was held that this could be done. The trial court held that §7 was unconstitutional as an unreasonable and arbitrary classification of teachers separate and apart from other state employees and concluded therefore that in spite of the clear intent of the legislature, the governor's veto of the concurrent bill fortuitously brought the teachers within the compass of c. 839.

1. Since we hold that §7 is a constitutional classification, it is unnecessary for us to discuss the issue of severability (Minn. St. 645.20) upon which the decision of the lower court rests. If there is anything clear from the standpoint of legislative intent and contemporary history of this legislation, it is that the teachers were not to be included in the provisions of c. 839 and that they were to be governed by other provisions. It may be said by way of dicta that even if it is assumed that §7 is unconstitutional, we have been cited to no authority to the effect that the court may extend the application of the statute beyond the limits of its provisions. To construe a statute so as to extend its provisions to cover that which is specifically excluded by the legislature seems to us to be an exercise of lawmaking power which courts do not possess. 16 Am.

Jur. (2d) Constitutional Law, §192.

2. The principal issue presented is raised by the contention that §7 is unconstitutional as denying to public school teachers employed by boards of education the statutory benefits granted to all other employees, including teachers employed by the state university and state colleges. We find no definite rule of universal application to determine whether a particular classification is reasonable or unreasonable. It must be recognized that all legislation involves classification since the very idea of legislation implies distinctions and categories of one sort or another. The mere presence of inequality does not in itself determine the question of constitutionality. 16 Am. Jur. (2d) Constitutional Law, § 494; 3B Dunnell, Dig. (3 ed.) § 1669.

The standards of the equal protection clause of the Fourteenth Amendment of the United States Constitution are the same as the standards of equality under art. 1, § 2, and art. 4, §§ 33 and 34, of the Minnesota Constitution. C. Thomas Stores Sales System, Inc. v. Spaeth, 209 Minn. 504, 297 N.W. 9.

When the legislature has determined that a sufficient distinction exists between the two classes of persons to justify applying rules to one class which do not apply to the other, such determination is binding upon the courts unless it appears that the distinction is purely fanciful and arbitrary and that no substantial or logical basis exists therefor. Classification can never be a judicial question except for the purpose of determining, in a given situation, whether the legislative action is clearly unreasonable. In the matter of classification courts have viewed the action of the legislature with great liberality. Courts are not to weigh the merits of a classification in the judicial balance and to reject it merely because they might favor a different standard. These principles are supported in numerous Minnesota authorities including Fairview Hospital Assn. v. Public Bldg. Serv. Union, 241 Minn. 523, 64 N.W. (2d) 16; State ex rel. Ging v. Board of Education, 213 Minn. 550, 7 N.W. (2d) 544; Mathison v. Minneapolis St. Ry. Co. 126 Minn. 286, 148 N.W. 71; Eldred v. Division of Employment and Security, 209 Minn. 58, 295 N.W. 412; State v. International Harvester Co. 241 Minn. 367, 63 N.W. (2d) 547, appeal dismissed, 348 U.S. 853, 75 S. Ct. 78, 99 L. ed. 672; Arens v. Village of Rogers, 240 Minn. 386, 61 N.W. (2d) 508, appeal dismissed, 347 U.S. 949, 74 S. Ct. 680, 98 L. ed. 1096; Dimke v. Finke, 209 Minn. 29, 295 N.W. 75; Anderson v. City of St. Paul, 226 Minn. 186, 32 N.W. (2d) 538; Fabio v. City of St. Paul, 267 Minn. 273, 126 N.W. (2d) 259; Kaljuste v. Hennepin County Sanatorium Comm. 240 Minn. 407, 61 N.W. (2d) 757; William v. Rolfe, 262 Minn. 284, 114 N.W. (2d) 671. It is unnecessary to discuss the numerous points of comparison and differences suggested by the opposing parties in support of their contentions. Our authorities support the proposition that the provisions of the State and Federal Constitutions which apply to classification of subject matter prohibit only unreasonable or arbitrary classification. Police and fire department employees have been recognized in separate classifications for various purposes. Fabio v. City of St. Paul, supra; Kellerman v. City of St. Paul, 211 Minn. 351, 1N.W. (2d) 378. This court has repeatedly recognized the right of the legislature to treat classes of employees separately and differently for purposes of legislation in granting privileges or imposing burdens on members of the same general class. Fabio v. City of St. Paul, supra (police retirement); Kellerman v. City of St. Paul, supra (occupational diseases of firemen); Burns v. City of St. Paul, 210 Minn. 217, 297 N.W. 638 (police retirement); Kaljuste v. Hennepin County Sanatorium Comm. supra (workmen's compensation for public hospital employees who contract tuberculosis in the course of their employment).

It is well recognized that the legislature may classify professions, occupations, and businesses according to natural and reasonable lines of distinction, and if such legislation affects alike all persons of the same class, it is not an invalid classification. Legislation with reference to the teaching profession has generally been sustained as a valid classification. 16A C. J.S. Constitutional Law, § 496. The Supreme Court of Illinois has held that a classification of public school teachers as a distinct class for appropriate legislation "cannot be successfully challenged." Gorham v. Teachers' Retirement System, 27 Ill. (2d) 593, 599, 190 N.E. (2d) 329, 332. The court said in Krebs v. Board of Trustees, 410 Ill. 435, 443, 102 N.E. (2d) 321, 325, 27 A.L.R. (2d) 1434, 1441:

> *The State legislature is charged with the duty of providing the residents of this State a free and public educational system. Such a system requires qualified and competent teachers. The legislature requires these teachers to have certain qualifications. The legislature, by tax laws, provides the means by which these teachers are paid during their teaching careers and thereby, at least indirectly, fixes the amount of their compensation. Under these circumstances, for the legislature to determine that the welfare of the public school system required that a system of retirement allowances be set up for them as a group does not seem unreasonable, and there seems ample justification to distinguish them as a class for that purpose.*

In Minnesota, teachers have been treated as a separate group for the purpose of classification in numerous instances. Separate classification has occurred in the Teachers Tenure Act, Minn. St. 125.17. Public school teachers in school districts outside cities of the first class are covered by the Continuing Contract Law, §125.12. Public school teachers in cities of the first class are included in local teacher retirement associations established pursuant to §§354.15 to 354.23. Public school teachers outside cities of the first class come under §§ 354.05 to 354.14 and 354.31 to 354.61 of the Teachers Retirement Association law.

It should be noted that while the Continuing Contract Law and the Teachers Tenure Act of the cities of the first class apply to public school teachers, they do not apply to the University of Minnesota or state college faculty members. Public school teachers are required to be certified under the Certification Act, §125.03.

On the other hand, the legislature has chosen to group other employees apart from public school teachers by the Civil Service Act, Minn. St. c. 43, which applies to state employees; the Veterans Preference Act, §§197.45 and 197.46; and the Public Employees Retirement Act, c. 353. Accordingly, it seems to us that the most persuasive argument in support of the constitutionality of L. 1965, c. 839, § 7, is that the legislature has historically treated teachers as a distinct classification, and this unique historical recognition is sufficient to classify the teachers for the purpose of this legislation.

Finally, we are committed to the principle that unless a law is unconstitutional beyond a reasonable doubt, it must be sustained. The burden of proof in this respect is on the party seeking to set the law aside. In re Taxes on Property of Cold Spring Granite Co. 271 Minn. 460, 136 N.W. (2d) 782; Williams v. Rolfe, supra.

Under all the circumstances, including the past and contemporary history of the legislation before us, we cannot say that the claim that § 7 is unconstitutional has been sustained.

3. This brings us to the present status of the law as it bears upon the statutory rights of teachers with relation to bargaining or negotiation of wages and working conditions. As we view c. 839, it repeals prior laws dealing with public employee labor relations as it affects teachers, except §§179.51 and 179.53 to 179.56, which include the "no strike" section and provisions imposing sanctions in the event of strikes. Counsel for respondent school board suggests in his brief that c. 839 should be construed so as to preserve for teachers the provisions of Minn. St. 1961, §179.52, which provided for an election to select representatives to meet with the school board. We fail to discern what purpose would be served by the innocuous provisions of that section which could not be attained by discussions or conferences conducted in good faith between the school board and representatives of the two teacher organizations. In any event, we are confronted here with a

situation where c. 839 covered some of the same subject matter as that dealt with in the previous act. It revised the former method of procedure and provided a different manner of conducting negotiations with heads of state agencies. It is well established that "[w]hen a law purports to be a revision of all laws upon a particular subject, or sets up a general or exclusive system covering the entire subject matter of a former law and is intended as a substitute for such former law, such law shall be construed to repeal all former laws upon the same subject." State v. Elam, 250 Minn. 274, 281, 84 N.W. (2) 227, 232; 17 Dunnell, Dig. (3 ed.) §8928.

As we view the provisions of c. 839, it covers the whole subject matter of those earlier provisions of the Public Employees Labor Relations Act which it amended; plainly shows that it was intended as a substitute for them; and consequently operates as a repeal of them. State v. Roselawn Cemetery Assn. 259 Minn. 479, 108 N.W. (2d) 305.

4. It is also argued that c. 839 should be construed so that with respect to teachers the provisions of the Public Employees Labor Relations Act amended by c. 839 remain in effect. It is asserted that if the provisions of the former act are construed as having been repealed, public school teachers will be left with the denial of the right to strike without the benefit of the right to join labor or other organizations.2/ On this point it should be observed that provisions relating to the denial of the right to strike and the affirmation of the right to join labor organizations neither added to nor detracted from existing rights of state employees. Even in the absence of a statute, we know of no authority which gives a public employee the right to strike. In Norwalk Teachers' Assn. v. Board of Education, 138 Conn. 269, 274, 83 A. (2d) 482, 484, 31 A.L.R. (2d) 1133, 1138, President Franklin D. Roosevelt, who was certainly no enemy of labor unions, is quoted as saying:

> *[A] strike of public employees manifests nothing less than an intent on their part to prevent or obstruct the operations of Government until their demands are satisfied. Such action, looking toward the paralysis of Government by those who have sworn to support it, is unthinkable and intolerable.*

Nor did repeal of the statute affirming the right to join labor unions or other associations operate to their prejudice. The law in its present posture does not prohibit membership in a labor union. The right of freedom to assemble granted under the First Amendment permits teachers to join unions or associations organized to promote their mutual interest. Obviously, membership in a union which is committed to the use of a strike as a weapon in negotiations with the school board violates the spirit of the law and according to some authorities would justify prohibitory sanctions. Annotation, 31 A.L.R. (2d) 1142, 1159 to 1164. In the absence of a prohibitory statute or regulation, no good reason appears why school teachers should not organize as a labor union. Norwalk Teachers' Assn. v. Board of Education, supra; 1961 Wis. L. Rev. 609.

We gather from the briefs that there is no serious controversy on these points. The teachers' problem arises from the denial of proper means for communication. The right to join a union or other organization is of little benefit if there are no means by which teachers can communicate with school boards through representatives of such organizations.

5. The next point raised is whether the school board has implied power to conduct an election and bargain with elected representatives of teacher organizations. The school board possesses only such powers as are granted by statute. Board of Education v. Sand, 227 Minn. 202, 34 N.W. (2d) 689. There is no authority either express or implied, by which the school board can hold an election for the purpose of designating an exclusive representative of the teachers. This subject is dealt with in an extensive annotation contained in 31 A. L. R. (2d) 1142. The decisions generally hold that the manner in which public authorities must determine the wages, hours, and working conditions of public employees is governed entirely by the Constitution, statutes, municipal charters, civil service rules and regulations, and resolutions setting out the authority of the public employer. Public employees do not have collective bargaining rights in the same sense that private or industrial employees enjoy them. There must be some statutory provision authorizing collective bargaining. The reason is that the public employer cannot abdicate or bargain away continuing legislative discretion and is not authorized to enter into collective bargaining agreements without specific authority. The fact that statutory provisions grant the right of collective bargaining to employees in private industry does not confer such right on public employers and employees. Richfield Federation of Teachers v. Richfield Education Assn., supra; 31 A. L. R. (2d) 1170.

There is nothing to prevent the heads of governmental agencies from meeting with, or discussing wages, hours, and conditions of employment with, groups, or individuals representing groups of the employee class. The question of collective bargaining for public employees generally, and school teachers particularly, was considered in Norwalk Teachers' Assn. v. Board of Education, supra. The Norwalk teachers' association had a membership consisting of all but two of the teachers in the school system. In the absence of express statutory procedures, the association and the board had in fact entered into an agreement. In this context the court laid down its rules as to recognition and collective bargaining in this statement (138 Conn. 277, 83 A. [2d] 486, 31 A.L.R. [2d] 1140):

> ** * * There is no objection to the organization of the plaintiff as a labor union, but if its organization is for the purpose of 'demanding' recognition and collective bargaining the demands must be kept within legal bounds. What we have said does not mean that the plaintiff has the right to organize for all of the purposes for which employees in private enterprise may unite, * * *. Nor does it mean that, having organized, it is necessarily protected against unfair labor practices * * * or that it shall be the exclusive bargaining agent for all employees of the unit, * * *. It means nothing more than that the plaintiff may organize and bargain collectively for the pay and working conditions which it may be in the power of the board of education to grant.*

The court there held that it was permissible to have a teachers' organization recognized as a representative as long as it was not the exclusive representative for teachers.

It would appear that even without express statutory authority, there is nothing to prevent collective bargaining when it is entered into voluntarily and no prohibitory state statute exists. Even though courts may sanction voluntary bargaining in the absence of statute, satisfactory results can hardly be expected.3/ A statute is needed to spell out procedures to be used in the determination of majority representatives in an appropriate unit. But this is a legislative concern. It may be assumed from the statement expressed in the governor's veto message that H.F. 1504, or some law similar to it, will at the next legislative session provide teachers with rights correlative to those given to other employees of the state. In the meantime, there

2/ Authorities dealing with this area of the law are collected and discussed in numerous articles including Note, 45 Minn.L. Rev. 249; Anderson, Labor Relations in the Public Service, 1961 Wis. L. Rev. 601; Note, 55 Col L. Rev. 343; Note, 75 Harv. L. Rev. 391; and Seitz, Legal Aspects of Public School Teachers Negotiating and Participating in Concerted Activities, 49 Marquette L. Rev. 487.

3/ Seitz, supra, 498.

is nothing to prevent the school board from meeting with representatives of both teacher groups. Certainly, in the past the school board has not dealt individually with its more than 3,000 teachers. Until the legislature provides a better method, the parties must resort to the former methods employed to solve their differences.

Reversed.

THOMAS GALLAGHER, Justice (dissenting).

1. The right to strike is not involved in this case Respondent Minneapolis Federation of Teachers Local 59, AFL-CIO, in a separate action brought in the district court was enjoined from engaging in any strike. The federation did not appeal from this injunction and no issue is now presented involving the constitutionality of Minn. St. 179.51 prohibiting strikes; or of §§179.54 and 179.55, imposing forfeitures and penalties upon public employees who strike.

It is undisputed that some 1,613 employees of Minneapolis Special School District No. 1, including clerks, stenographers, nurses, building tradesmen, part-time teacher aides, janitory-engineers, and others, are covered by the 1965 Public Employees Labor Relations Act L. 1965, c. 839.

In addition, it is not disputed that some 6,500 faculty members of the University of Minnesota and several thousand faculty members of the five State Colleges and all classified employees of the state's public school boards are included within the act. But by virtue of c. 839, § 7 (Minn. St. 179.572), all public elementary and high school teachers are excluded from its terms.

2. In my judgment this exclusion constitutes a discrimination against such public elementary and high school teachers and is therefore unconstitutional. The majority seeks to uphold the validity of the exclusion upon the theory that "[a] statute should not be construed so as to extend its provisions to cover that which is specifically excluded by the legislature." While this principle is well established, it can have no application where the constitutionality of the specific exclusion is in issue. Certainly if the exclusion is of itself unconstitutional, it cannot be upheld upon the theory that the language creating it is clear and definite.

The Minnesota Public Employees Labor Relations Act, L. 1965, c. 839, provides a mechanism whereby all public employees, except elementary and high school teachers, may participate in the formulation of personnel policies governing their employment. The purposes of the act and the public policy are defined in § 1 (Minn. St. 179.50) as follows:

> *Unresolved disputes in the public service are injurious to the public, the governmental agencies, and public employees; therefore, adequate means should be provided for preventing controversies between governmental agencies and public employees and for resolving them when they occur. Because the paramount interest of the public and the nature of governmental processes make it necessary to impose special limitations upon public employment, it is incumbent upon governmental agencies to provide orderly procedures for the participation by public employees and their representatives in the formulation of personnel policies and plans to insure the fair and considerate treatment of public employees, to eliminate employment inequities, and to provide effective means of resolving questions and controversies with respect to terms and conditions of employment. It is the public policy of the state of Minnesota that governmental agencies, public employees and their representatives shall enter into discussions with affirmative willingness to resolve grievances and differences. Governmental agencies and public employees and their representatives shall have a mutual obligation to endeavor in good faith to resolve grievances and differences relating to terms and conditions of employment, acting within the framework of law and charter provisions, and giving consideration to personnel policies, position classification and compensation plans, and other special rules governing public employment.*

Under these clearly expressed purposes and public policies I find no justification for differentiating between the benefited public employees and the excluded public school teachers. Many of the former are lawyers, doctors, professors, assistant professors, instructors, and administrators employed by the University and by the State Colleges. They are professionals who may or may not have an interest in utilizing the protection and rights afforded by the act, but if they desire its protection, they may seek it. What valid reason is there for excluding public school teachers from these same benefits? Certainly they are in the same professional class as are teachers and instructors employed by the university or other state educational institutions.

To justify the exclusion of any particular group of citizens from the benefits of a legislative enactment, it must be shown that there is a substantial difference or distinction between the group excluded and the groups covered by the enactment. As stated in State ex rel. Bd. of Courthouse & City Hall Commrs. v. Cooley, 56 Minn. 540, 550, 58 N.W. 150,153:

> *The fundamental rule is that all classification must be based upon substantial distinctions, which make one class really different from another. * * * [It must be based upon some natural reason, - - some reason suggested by necessity, by some difference in the situation and circumstances of the subjects placed in the different classes, suggesting the necessity of different legislation with respect to them. By necessity is meant practical, and not absolute, necessity; but the characteristics which will serve as a basis of classification must be substantial, and not slight or illusory.* [Emphasis supplied.]

3. Chapter 839 created a new public policy which made sweeping changes in the laws relative to public employees by establishing for the first time certain rights and privileges for them. Obviously, the enactment was based upon the legislature's carefully considered conclusion that public employees, including public school teachers, like their counterparts in private enterprise are subject to the same vicissitudes of rising prices, accident, illness, and old age. Everywhere people are seeking to assert a measure of control over the conditions under which they work and live. By its enactment of c. 839, the legislature recognized this and the right of some 160,000 public employees of the state to be represented by labor organizations of their choice in matters pertaining to their employment contracts. The exclusion of public school teachers from the benefits of this enactment, while at the same time leaving them subject to the forfeitures and penalties provided for in other statutory enactments now in effect, in my judgment constitutes a discriminatory treatment of this group which is entirely without a valid basis.

4. The majority seeks to justify this special classification for public school teachers on the ground that the "legislature has historically treated teachers as a different classification," citing Minn. St. 125.17; 125.12; 354.05 to 354.14; 354.31 to 354.61; 125.03; the Civil Service Act, Minn. St. c. 43; the Veterans Preference Act, §§197.45 and 197.46; and the Public Employees Retirement Act, c. 353, as statutes illustrative of this. While these statutes demonstrate that teachers, like most classifications of public employees, have working conditions distinct to them with respect to tenure, continuing contract rights, retirement benefits, and the like, if the validity of statutory classifications under a public employees labor relations act is to be tested by such factors, then the same distinctions as applied to hundreds of other classifications of public employees, each with distinctive working conditions, would justify the exclusion of any one of such classifications from the

benefits of the act, and the possible loss of the benefits to be derived from a general enactment covering all public employees.

5. It also seems clear to me that the exclusionary provision embodied in section 7 of the act constitutes a violation of the Fourteenth Amendment of the Federal Constitution, which provides that no state shall "deny to any person within its jurisdiction the equal protection of the laws." Under this amendment, it is well settled that all residents of a state have the right to equal treatment and that a state must act without discrimination as to any of them. While a state is not under a duty to provide specific benefits, privileges, or services for its people, if it chooses to do so it must do so on an equal basis for all of them. Missouri ex rel. Gaines v. Canada, 305 U.S. 337, 59 S. Ct. 232, 83L. ed. 208; McCabe v. Atchison, T. & S. F. Ry. Co. 235 U.S. 151, 161, 35 S. Ct. 69, 71, 59 L. ed. 169, 174. As stated in Quaker City Cab Co. v. Pennsylvania, 277 U.S. 389, 400, 48 S. Ct. 553, 554, 72 L. ed. 927, 929:

> ** * * The equal protection clause does not detract from the right of the State justly to exert its * * * power or prevent it from adjusting its legislation to differences in situation or forbid classification in that connection, 'but it does require that the classification be not arbitrary but based on a real and substantial difference having a reasonable relation to the subject of the particular legislation.'* [*Emphasis supplied.*]

Here I can find no real and substantial difference between public elementary and high school teachers, and many or the other classifications of public employees now covered by c. 839.

6. Collective bargaining between public employees and local, state, or Federal government agencies is no longer a novelty. Under presidential executive order, 4/ 531 exclusive recognitions covering over 700,000 Federal workers were given by Federal agencies to various unions representing Federal employees by November 1965 and it was recognized that such workers were authorized to bargain collectively through unions of their choice. Weisenfeld, Public Employees - First or Second Class Citizens, 16 Labor L.J. 685, 691. The American Federation of Teachers, AFL-CIO, with which the respondent local is affiliated, has conducted collective bargaining elections in school systems in Philadelphia, New York, Detroit, and Cleveland, as well as in numerous smaller cities and communities. The Minnesota Legislature by its enactment of c. 839 has recognized this trend and adopted it as a part of the public policy of the state. No reason whatever exists for excluding public school teachers from this public policy, or for granting other public employees of a similar professional character rights and privileges denied to public school teachers.

In my judgment §7 of c. 839 is unconstitutional. Such a determination, of course, would not invalidate the remaining provisions of the act. State ex rel. Foster v. Naftalin, 246 Minn. 181, 74 N.W. (2d) 249; Hunter v. Zenith Dredge Co. 220 Minn. 318, 19 N.W. (2d) 795.

4/ Exec. Order No. 10988, 27 F.R. 551.

STATE NEGOTIATION STATUTES

Beginning on this page and continuing through page C-24 the various state negotiation statutes are presented for 8 states. Although New Jersey has a resolution of the State Board of Education rather than a statute, it is included as one of the eight. The statutes for the remaining four states (Oregon, Rhode Island, Washington, and Wisconsin) will be printed in the May issue.

ALASKA

23.40 LABOR ORGANIZATIONS

Section 23.40.010. Union contracts with state and political subdivisions.
(a) The state or a political subdivision of the state, including but not limited to an organized borough, municipal corporation, independent school district, and public utility district, may enter into a contract with a labor organization whose members furnish services to the state or the political subdivision.

(b) Nothing contained in this chapter requires the state or political subdivision of the state to enter into a union contract.

Section 23.40.020 Enforcement of certain contracts only if union registers. No labor contract executed in this state by a labor organization which has no local in this state or which contract is not to be executed by one or more of its locals in this state may be enforced in the courts of this state unless the labor organization has registered with the department (of labor) and complied with all regulations made by it.

Section 23.40.030. Definition of labor organization. For the purpose of this chapter "labor organization" includes an organization constituted wholly or partly to bargain collectively or deal with employers, including the state and its political subdivisions, concerning grievances, terms, or conditions of employment or other mutual aid or protection in connection with employees.

(Statutory citation: Alaska Statutes, 1962, Title 23, sec. 23.40.010--23.40.030.)

CALIFORNIA

California Statutes 1965, Chap. 2041

Section 1. Section 3501 of the Government Code is amended to read:

3501. As used in this chapter:

(a) "Employee organization" means any organization which includes employees of a public agency and which has as one of its primary purposes representing such employees in their relations with that public agency.

(b) Except as otherwise provided in this subdivision, "public agency" means the State of California, every governmental subdivision, every district, every public and quasi-public corporation, every public agency and public service corporation and every town, city, county, city and county and municipal corporation, whether incorporated or not and whether chartered or not. As used in this chapter, "public agency" does not mean a school district or a county board of education or a county superintendent of schools or a personnel commission in a school district having a merit system as provided in Chapter 3 (commencing with Section 13590) of Division 10 of the Education Code.

(c) "Public employee" means any person employed by any public agency excepting those persons elected by popular vote or appointed to office by the Governor of this state.

Sec. 2. Article 5 (commencing with Section 13080) is added to Chapter 1 of Division 10 of Part 2 of the Education Code, to read:

Article 5. Employee Organizations

13080. It is the purpose of this article to promote the improvement of personnel management and employer-employee relations within the public school systems in the State of California by providing a uniform basis for recognizing the right of public school employees to join organizations of their own choice and be represented by such organizations in their professional and employment relationships with public school employers and to afford certificated employees a voice in the formulation of educational policy. Nothing contained herein shall be deemed to supersede other provisions of this code and the rules and regulations of public school employers which establish and regulate tenure or a merit or civil service system or which provide for other methods of administering employer-employee relations. This article is intended, instead, to strengthen tenure, merit, civil service and other methods of administering employer-employee relations through the establishment of uniform and orderly methods of communication between employees and the public school employers by which they are employed.

13081. As used in this article:

(a) "Employee organization" means any organization which includes employees of a public school employer and which has as one of its primary purposes representing such employees in their relations with that public school employer.

(b) "Public school employer" means a school district, a county board of education, a county superintendent of schools, or a personnel commission of a school district which has a merit system as provided in Chapter 3 of this division.

(c) "Public school employee" means any person employed by any public school employer excepting those persons elected by popular vote or appointed by the Governor of this state.

13082. Except as otherwise provided by the Legislature, public school employees shall have the right to form, join and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations. Public school employees shall also have the right to refuse to join or participate in the activities of employee organizations and shall have the right to represent themselves individually in their employment relations with the public school employer.

13083. Employee organizations shall have the right to represent their members in their employment relations with public school employers. Employee organizations may establish reasonable restrictions regarding who may join and may make reasonable provisions for the dismissal of individuals from membership. Nothing in this section shall prohibit any employee from appearing in his own behalf in his employment relations with the public school employer.

13084. The scope of representation shall include all matters relating to employment conditions and employer-employee relations, including, but not limited to wages, hours and other terms and conditions of employment.

13085. A public school employer or the governing board thereof, or such administrative officer as it may designate, shall meet and confer with representatives of employee organizations upon request with regard to all matters relating to employment conditions and employer-employee relations, and in addition, shall meet and confer with representatives of employee organizations representing certificated employees upon request with regard to all matters relating to the definition of educational objectives, the determination of the content of courses and curricula, the selection of textbooks, and other aspects of the instructional program to the extent such matters are within the discretion of the public school employer or governing board under the law. The designation of an administrative officer as provided herein shall not preclude an employee organization from meeting with, appearing before, or making proposals to the public school employer at a public meeting if the employee organization requests such a public meeting.

Notwithstanding the provisions of Sections 13082 and 13083, in the event there is more than one employee organization representing certificated employees, the public school employer or governing board thereof shall meet and confer with the representatives of such employee organizations through a negotiating council with regard to the matters specified in this section, provided that nothing herein shall prohibit any employee from appearing in his own behalf in his employment relations with the public school employer. The negotiating council shall have not more than nine nor less than five members and shall be composed of representatives of those employee organizations who are entitled to representation on the negotiating council. An employee organization representing certificated employees shall be entitled to appoint such number of members of the negotiating council as bears as nearly as practicable the same ratio to the total number of members of the negotiating council as the number of members of the employee organization bears to the total number of certificated employees of the public school employer who are members of employee organizations representing certificated employees. Each employee organization shall adopt procedures for selecting its proportionate share of members of the negotiating council, provided that such members shall be selected no later than October 31 of each school year. Within 10 days after October 31, the members of the negotiating council shall meet and select a chairman, and thereafter such negotiating council shall be legally constituted to meet and confer as provided for by the provisions of this article. Employee organizations shall exercise the rights given by Section 13083 through the negotiating council provided for in this

section.

13086. Public school employers and employee organizations shall not interfere with, intimidate, restrain, coerce or discriminate against public school employees because of their exercise of their rights under Section 13082.

13087. A public school employer shall adopt reasonable rules and regulations for the administration of employer-employee relations under this article.

Such rules and regulations shall include provision for verifying the number of certificated employees of the public school employer who are members in good standing of an employee organization on the date of such verification, and where a negotiating council is required by Section 13085, for the size of the negotiating council. The public school employer may require an employee organization to submit any supplementary information or data considered by the public school employer to be necessary to the verification of the number of members in an employee organization and such information or data shall be submitted by the organization within 10 days after request, provided that membership lists, if requested, shall not be used as a means of violating Section 13086. In addition, such rules may include provisions for (a) verifying the official status of employee organization officers and representatives, (b) access of employee organization officers and representatives to work locations, (c) use of official bulletin boards and other me ns of communication by employee organizations, (d) furnishing complete and accurate nonconfidential information pertaining to employment relations to employee organizations and (e) such other matters as are necessary to carry out the purposes of this article.

13088. The enactment of this article shall not be construed as making the provisions of Section 923 of the Labor Code applicable to public school employees.

(Statutory Citation: West's Annotated California Codes: Government Code, sec. 3501; Education Code, secs. 13080--13088.)

CONNECTICUT

Public Act 298 of 1965: AN ACT CONCERNING THE RIGHT OF TEACHERS' REPRESENTATIVES TO NEGOTIATE WITH BOARDS OF EDUCATION

Section 1. (a) Any organization or organizations of certificated professional employees of a local or regional board of education may be selected for the purpose of representation in negotiations concerning salaries and all other conditions of employment. Representatives may be designated or selected for the purpose of negotiating by the majority of the employees in the entire group of employees of said board of education or school district below the rank of superintendent or by the majority of the employees in separate units as described in subsection (b). (b) All certificated professional personnel below the rank of superintendent, other than temporary substitutes, employed and engaged either (i) in positions requiring a teaching or special services certificate or (ii) in positions requiring an administrative or supervisory certificate, may select a separate representative by a secret ballot decision of a majority of the personnel voting in each of the two said categories. If twenty per cent or more of the certificated professional employees of a local or regional board of education below the rank of superintendent in either the entire group or in the separate units described in (i) or (ii) above file with the secretary of the state board of education a petition requesting that a teacher representation referendum be held to select an organization for the purpose of representation, said secretary shall file notice of such petition with the local or regional board of education. The signatures on such petition shall remain confidential with the secretary of said board. Any organization having an interest in representing teachers in any of the units authorized by this section may intervene within fifteen days by filing with the secretary of the state board of education a petition supported by ten per cent of the employees of such unit. The local or regional board and the petitioning organization and any intervening teacher's organization may agree on an impartial person or agency to conduct such a referendum consistent with the other provisions of this section, provided not more than one such referendum shall be held in any one school year. In the event of a disagreement on the agency to conduct the referendum, the method shall be determined by the board of arbitration selected in accordance with section 2 of this act. An election shall be held to determine the representatives of the appropriate unit or units, as the case may be, within forty-five days after the filing of the petition with the secretary of the state board of education. (c) The representatives designated or selected as provided in subsection (a) of this section shall be the exclusive representatives of all the employees in such unit for the purposes of negotiating with respect to salary schedules and personnel policies relative to employment of certificated professional employees, provided any certificated professional employee or group of employees shall have the right at any time to present any grievance to such persons as the local or regional board of education shall designate for that purpose.

Section 2. Any dispute as to the eligibility of personnel to vote in an election, or the agency to conduct the election required by section 1 hereof, shall be submitted to a board of arbitration as provided by section 5 (b) of this act except that, where there are two or more organizations seeking to represent employees, each shall be permitted to name an arbitrator and such arbitrators, together with an equal number designated by the board of education, shall select an additional impartial member thereof. The agency selected to conduct the election shall decide on matters relating thereto.

Section 3. The local or regional board of education and the organization designated as exclusive representatives for the appropriate unit, through designated officials or their representatives, shall have the duty to negotiate with respect to salaries and other conditions of employment, and such duty shall include the obligation of such board of education to meet at reasonable times, including meetings appropriately related to the budget-making process, and confer in good faith with respect to salaries and other conditions of employment, or the negotiation of an agreement, or any question arising thereunder and the execution of a written contract incorporating any agreement reached if requested by either party, but such obligation shall not compel either party to agree to a proposal or require the making of a concession. The local or regional board of education, and its representatives, agents and superintendents shall not interfere, restrain or coerce employees in the rights guaranteed by this act, and in the absence of any certification as the exclusive representative as provided by section 1, all organizations seeking to represent members of the teaching profession shall be accorded equal treatment with respect to access to teachers, principals, members of the board of education, records and participation in discussions with respect to salaries and other conditions of employment.

Section 4. No certificated professional employee shall, in an effort to effect a settlement of any salary disagreement with his employing board of education, engage in any strike or concerted refusal to render services.

Section 5. (a) In the event of any disagreement as to the terms and conditions of employment between the board of education of any town or regional school district and the organization or organizations of certificated professional employees of said board, selected for the purpose of representation, the disagreement shall be submitted to the secretary of the state board of education for mediation. The parties shall meet with him or his agents and provide such information as he may require. The secretary may recommend a basis for settlement but such recommendations shall not be binding upon the parties. (b) In the event mediation by the secretary of the state board of education provided by subsection (a) of this section fails to resolve the disagreement, either party may submit the unresolved issue or issues to an impartial board of three arbitrators. Each party to the dispute shall designate one member of the board and the arbitrators so selected shall select the third. The decision of such board, after hearing all the issues, shall be advisory and shall not be binding upon the parties to the dispute. If the parties are unable to agree upon a third arbitrator, either party may petition the superior court or, if the court is not in session, a judge thereof, to designate the third arbitrator in the manner provided by section 52-411 of the general statutes or, if either party refuses to arbitrate, an action to compel arbitration may be instituted in the manner provided by section 52-410 of the general statutes.

Section 6. This act shall take effect from its passage.

(Statutory Citation: Connecticut General Statutes Annotated, Title 10, secs. 10-153b--10-153f.)

FLORIDA

CHAPTER 65-239

230.22 POWERS AND DUTIES OF COUNTY BOARD. The county board, after considering recommendation submitted by the county superintendent, shall exercise the following general powers:

(1) DETERMINE POLICIES. - The county board shall determine and adopt such policies as are deemed necessary by it for the efficient operation and general improvement of the county school system. In arriving at a determination of policies affecting certificated personnel, the county board may appoint or recognize existing committees composed of members of the teaching profession, as defined in the professional teaching practices act. sections 231.54-59, Florida Statutes. When such committees are involved in the consideration of policies for resolving problems or reaching agreements affecting certificated personnel the committee membership shall include certificated personnel representing all work levels of such instructional and administrative personnel as defined in the school code.

(Statutory citation: Florida Statutes Annotated, Chapter 230, sec. 230.22 (1).)

MASSACHUSETTS

Massachusetts Acts of 1965, Chapter 763:

AN ACT PROVIDING FOR THE ELECTION OF REPRESENTATIVE BARGAINING AGENTS WITH POLITICAL SUBDIVISIONS OF THE COMMONWEALTH

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Section 1. Section four C of chapter forty of the General Laws is hereby repealed.

Section 2. Chapter 149 of the General Laws is hereby amended by inserting after section 178 F the following eight sections:

Section 178G. When used in this section and in sections one hundred and seventy-eight H to one hundred and seventy-eight M, inclusive, the following words shall, unless the context requires otherwise, have the following meanings:

"Municipal employer", any county, city, town, or district, and any person designated by the municipal employer to act in its interest in dealing with municipal employees.

"Employee", any employee of a municipal employer, whether or not in the classified service of the municipal employer, except elected officials, board and commission members, police,[a] and the executive officers of any municipal employer.

"Employee organization", any lawful association, organization, federation or council having as a primary purpose the improvement of wages, hours and other conditions of employment.

"Professional employee", any employee engaged in work which is predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical or physical work, which involves the consistent exercise of discretion and judgment in its performance, of such a character that the output produced or the result accomplished cannot be standardized in relation to a given time period, and which requires knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual or physical processes.

Section 178H. (1) Employees shall have and be protected in the exercise of, the right to self-organization, to form, join or assist any employee organization, to bargain collectively through representatives of their own choosing on questions of wages, hours and other conditions of employment and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection free from actual interference, restraint or coercion; provided, however, that an employee organization recognized by a municipal employer or designated as the representative of the majority of the employees in an appropriate unit, shall be the exclusive bargaining agent for all employees of such unit, and shall act, negotiate agreements and bargain collectively for all employees in the unit, and shall be responsible for representing the interests of all such employees without discrimination and without regard to employee organization membership.

(2) Whenever, in accordance with such regulations as may be prescribed by the state labor relations commission, a petition is filed with said commission by a municipal employer alleging that one or more employee organizations have presented a claim to be recognized as the representative of a majority of employees in a specified unit, or by an employee or group of employees or an employee organization alleging that a substantial number of employees wish to be represented for collective bargaining by an employee organization as exclusive representative, or that the employee organization currently certified or recognized by the municipal employer as the bargaining representative does not currently represent a majority of the employees in the unit, said commission shall investigate such petition and, if it has reasonable cause to believe that a question of representation exists, shall provide for an appropriate hearing upon due notice.

(3) If, after hearing, the commission finds that there is a controversy concerning the representation of employees, it shall direct an election by secret ballot or shall use any other suitable method to determine whether and by which employee organization the employees desire to be represented and shall certify the results thereof. No election shall be directed in any bargaining unit or any subdivision thereof within which in the preceding twelve-month period a valid election has been held. No election shall be directed during the term of a collective bargaining agreement; except that for good cause shown the commission may direct such an election. An employee organization which receives a majority of votes cast in an election shall be designated by the commission as exclusive representative of the employees in the unit. In any election where none of the choices on the ballot receives a majority, a run off shall be conducted, the ballot providing for a selection between the two choices receiving the largest and the second largest number of valid votes cast in the election.

(4) The commission shall decide in each case whether the appropriate unit for purposes of collective bargaining shall be the municipal employer unit or any other unit thereof; provided, uniformed employees of the fire department shall be in a separate unit; and provided, further, that no unit shall include both professional and nonprofessional employees unless a majority of such professional employees vote for inclusion in such unit.

Section 178I. The municipal employer and the employee organization recognized or designated as exclusive representative of employees in an appropriate unit shall have the duty to bargain collectively. In such bargaining other than with an employee organization for school employees, the municipal employer shall be represented by the chief executive officer, whether elected or appointed, or his designated representative or representatives. In such bargaining with an employee organization for school employees, the municipal employer shall be represented by the school committee or its designated representative or representatives.

For the purposes of collective bargaining, the representative of the municipal employer and the representative of the employees shall meet at reasonable times, including meetings appropriately related to the budget making process, and shall confer in good faith with respect to wages, hours, and other conditions of employment, or the negotiation of an agreement, or any question arising thereunder, and shall execute a written contract incorporating any agreement reached, but neither party shall be compelled to agree to a proposal or to make a concession. In the event that any part or provision of any such agreement is in conflict with any law, ordinance or by-law, such law, ordinance or by-law shall prevail so long as such conflict remains. If funds are necessary to implement such written agreement, a request for the necessary appropriation shall be submitted to the legislative body. If such request is rejected, the matter shall be returned to the parties

a/ A 1966 amendment deleted police from this exception.

for further bargaining. The preceding two sentences shall not apply to agreements reached by school committees in cities and towns in which the provisions of section thirty-four of chapter seventy-one are operative.

Section 178J. (a) If, after a reasonable period of negotiation over the terms of an agreement, a dispute exists between a municipal employer and an employee organization, or if no agreement has been reached sixty days prior to the final date for setting the municipal budget, either party or the parties jointly may petition the state board of conciliation and arbitration to initiate fact finding.

(b) Upon receipt of such petition the board of conciliation and arbitration shall make an investigation to determine if the conditions set forth in paragraph (a) exist. If the board finds that such conditions do exist, it shall initiate fact finding. Prior to such fact finding, or prior to fact finding ordered by the state labor relations commission in accordance with the provisions of section one hundred and seventy-eight L, the board of conciliation and arbitration shall submit to the parties a panel of three qualified disinterested persons from which list the parties shall select one person to serve as the fact finder and shall notify the board of conciliation and arbitration of their choice. If the parties fail to select the fact finder within five calendar days of receipt of the list, the board of conciliation and arbitration shall appoint the person who shall serve as fact finder.

(c) The person selected or appointed as fact finder may establish dates and place of hearings which shall be where feasible in the locality of the municipality involved. Any such hearings shall be conducted in accordance with rules established by the board of conciliation and arbitration. Upon request, the board of conciliation and arbitration shall issue subpoenas for hearings conducted by the fact finder. The fact finder may administer oaths. Upon completion of the hearings and within sixty days from the date of appointment, unless extended by the board of conciliation and arbitration for good cause shown, the fact finder shall make written findings of fact and recommendations for resolution of the dispute and shall cause the same to be served on the municipal employer and the employee organization involved.

(d) Only employee organizations which are designated or recognized as the exclusive representative under section one hundred and seventy-eight H shall be proper parties in initiating fact finding proceedings.

(e) The cost of fact finding proceedings under this section shall be divided equally between the municipal employer and said employee organization. Compensation for the fact finder shall be in accordance with a schedule of payment established by the board of conciliation and arbitration.

(f) Nothing in this section shall be construed to prohibit the fact finder from endeavoring to mediate the dispute in which he has been selected or appointed as fact finder.

Section 178K. The services of the state board of conciliation and arbitration shall also be available to municipal employers and employee organizations for purposes of conciliation of grievances or contract disputes and for purposes of arbitration of disputes over the interpretation or application of the terms of a written agreement. Nothing in this section shall prevent the use of other arbitration tribunals in the resolutions of disputes over the interpretation or application of the terms or written agreements between municipal employers and employee organizations.

Section 178L. Municipal employers or their representatives or agents are prohibited from: (1) interfering with, restraining or coercing employees in the exercise of the rights guaranteed in section one hundred and seventy-eight H; (2) dominating or interfering with the formation, existence or administration of any employee organization; (3) discharging or otherwise discriminating against an employee because he has signed or filed any affidavit, petition or complaint or given any information or testimony under this section; (4) refusing to bargain collectively in good faith with an employee organization which has been recognized or designated as the exclusive representative of employees in an appropriate unit; and (5) refusing to discuss grievances with the representatives of an employee organization recognized or designated as the exclusive representative in an appropriate unit.

Employee organizations or their agents are prohibited from (1) restraining or coercing a municipal employer in the selection of its representative for purposes of collective bargaining or the adjustment of grievances; and (2) if recognized or designated as the exclusive representative of employees in an appropriate unit, refusing to bargain collectively in good faith with a municipal employer.

When a complaint is made to the labor relations commission that a practice prohibited by this section has been committed, the commission may issue an order dismissing the complaint or may order a further investigation or a hearing thereon. If a hearing is ordered, the commission shall set the time and place for the hearing, which time and place may be changed by the commission at the request of one of the parties for cause shown. Any complaint may be amended with the permission of the commission. The municipal employer, the employee organization or the person so complained of shall have the right to file an answer to the original or amended complaint within five days after the service of such complaint or within such other time as the commission may limit. Such municipal employer, such employee organization or such person shall have the right to appear in person or otherwise to defend against such complaint. In the discretion of the commission any person may be allowed to intervene in such proceeding. In any hearing the commission shall not be bound by the technical rules of evidence prevailing in the courts. A transcript of the testimony taken at any hearing before the commission shall be filed with the commission.

If, upon all the testimony, the commission determines that a prohibited practice has been committed, it shall state its findings of fact and shall issue and cause to be served on the party committing the prohibited practice an order requiring it or him to cease and desist from such prohibited practice, and shall take such further affirmative action as will comply with the provisions of this section, including but not limited to the withdrawal of certification of an employee organization established by or assisted in its establishment by any such prohibited practice. If it is alleged that either party has refused to bargain collectively, the state labor relations commission shall order fact finding and direct the party at fault to pay the full costs thereof. It shall order the reinstatement with or without back pay of an employee discharged or discriminated against in violation of the first paragraph of this section. If, upon all of the testimony, the commission determines that a prohibited practice has not been or is not being committed, it shall state its finding of fact and shall issue an order dismissing the complaint.

Section 178M. It shall be unlawful for any employee to engage in, induce, or encourage any strike, work stoppage, slowdown or withholding of services by such employees.

Section 178N. Nothing in sections one hundred and seventy-eight F to one hundred and seventy-eight M, inclusive, shall diminish the authority and power of the civil service commission, or any retirement board or personnel board established by law, nor shall anything in said sections constitute a grant of the right to

strike to employees of any municipal employer.

Section 3. Section 9R of chapter 23 of the General Laws, as appearing in section 1 of chapter 345 of the acts of 1938, is hereby amended by inserting after the word "inclusive", in line 4, the words:, of this chapter, sections one hundred and seventy-eight H and one hundred and seventy-eight L of chapter one hundred and forty-nine.

Approved November 17, 1965

(Statutory citation: Annotated Laws of Massachusetts: Chapter 149, secs. 178G--178N.)

MICHIGAN

Public Act 379, 1965

An act to prohibit strikes by certain public employees; to provide review from disciplinary action with respect thereto; to provide for the mediation of grievances and the holding of elections; to declare and protect the rights and privileges of public employees; and to prescribe means of enforcement and penalties for the violation of the provisions of this act.

Section 1. As used in this act the word "strike" shall mean the concerted, failure to report for duty, the wilful absence from one's position, the stoppage of work, or the abstinence in whole or in part from the full, faithful and proper performance of the duties of employment, for the purpose of inducing, influencing or coercing a change in the conditions, or compensation, or the rights, privileges or obligations of employment. Nothing contained in this act shall be construed to limit, impair or affect the right of any public employee to the expression or communication of a view, grievance, complaint or opinion on any matter related to the conditions or compensation of public employment or their betterment, so long as the same is not designed to and does not interfere with the full, faithful and proper performance of the duties of employment.

Section 3. No person exercising any authority, supervision or direction over any public employee shall have the power to authorize, approve or consent to a strike by public employees, and such person shall not authorize, approve or consent to such strike, nor shall any such person discharge or cause any public employee to be discharged or separated from his or her employment because of participation in the submission of a grievance in accordance with the provisions of section 7.

Section 6. Notwithstanding the provisions of any other law, any person holding such a position who, by concerted action with others, and without the lawful approval of his superior, wilfully absents himself from his position, or abstains in whole or in part from the full, faithful and proper performance of his duties for the purpose of inducing, influencing or coercing a change in the conditions or compensation, or the rights, privileges or obligations of employment shall be deemed to be on strike but the person, upon request, shall be entitled to a determination as to whether he did violate the provisions of this act. The request shall be filed in writing, with the officer or body having power to remove or discipline such employee, within 10 days after regular compensation of such employee has ceased or other discipline has been imposed. In the event of such request the officer or body shall within 10 days commence a proceeding for the determination of whether the provisions of this act have been violated by the public employee, in accordance with the law and regulations appropriate to a proceeding to remove the public employee. The proceedings shall be undertaken without unnecessary delay. The decision of the proceeding shall be made within 10 days. If the employee involved is held to have violated this law and his employment terminated or other discipline imposed, he shall have the right of review to the circuit court having jurisdiction of the parties, within 30 days from such decision, for determination whether such decision is supported by competent, material and substantial evidence on the whole record.

Section 7. Upon the request of the collective bargaining representative defined in section 11, or if no representative has been designated or selected, upon the request of a majority of any given group of public employees evidenced by a petition signed by said majority and delivered to the labor mediation board, or upon request of any public employer of such employees, it shall be the duty of the labor mediation board to forthwith mediate the grievances set forth in said petition or notice, and for the purposes of mediating such grievances, the labor mediation board shall exercise the powers and authority conferred upon said board by sections 10 and 11 of Act No. 176 of the Public Acts of 1939.

Section 9. It shall be lawful for public employees to organize together or to form, join or assist in labor organizations, to engage in lawful concerted activities for the purpose of collective negotiation or bargaining or other mutual aid and protection, or to negotiate or bargain collectively with their public employers through representatives of their own free choice.

Section 10. It shall be unlawful for a public employer or an officer or agent of a public employer (a) to interfere with, restrain or coerce public employees in the exercise of their rights guaranteed in section 9; (b) to initiate, create, dominate, contribute to or interfere with the formation or administration of any labor organization: Provided, That a public employer shall not be prohibited from permitting employees to confer with it during working hours without loss of time or pay; (c) to discriminate in regard to hire, terms or other conditions of employment in order to encourage or discourage membership in a labor organization; (d) to discriminate against a public employee because he has given testimony or instituted proceedings under this act; or (e) to refuse to bargain collectively with the representatives of its public employees, subject to the provisions of section 11.

Section 11. Representatives designated or selected for purposes of collective bargaining by the majority of the public employees in a unit appropriate for such purposes, shall be the exclusive representatives of all the public employees in such unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment or other conditions of employment, and shall be so recognized by the public employer: Provided, That any individual employee at any time may present grievances to his employer and have the grievances adjusted, without intervention of the bargaining representative, if the adjustment is not inconsistent with the terms of a collective bargaining contract or agreement then in effect, provided that the bargaining representative has been given opportunity to be present at such adjustment.

Section 12. Whenever a petition shall have been filed, in accordance with such regulations as may be prescribed by the board:

(a) By a public employee or group of public employees, or an individual or labor organization acting in their behalf, alleging that 30% or more of the public employees within a unit claimed to be appropriate for such purpose wish to be represented for collective bargaining and that their public employer declines to recognize their representative as the representative defined in section 11, or assert that the individual or labor organization, which has been certified or is being currently recognized by their public employer as the bargaining representative, is no longer a representative as defined in section 11; or

(b) By a public employer or his representative alleging that 1 or more individuals or labor organizations have presented to him a claim to be recognized as the representative defined in section 11; the board shall investigate the petition and, if it has reasonable cause to believe that a question of representation exists, shall provide an appropriate hearing after due

notice. If the board finds upon the record of the hearing that such a question of representation exists, it shall direct an election by secret ballot and shall certify the results thereof. Nothing in this section shall be construed to prohibit the waiving of hearings by stipulation for the purpose of a consent election in conformity with the rules and regulations of the board.

Section 13. The board shall decide in each case, in order to insure public employees the full benefit of their right to self-organization, to collective bargaining and otherwise to effectuate the policies of this act, the unit appropriate for the purposes of collective bargaining as provided in section 9e of Act No. 176 of the Public Acts of 1939: Provided, That in any fire department, or any department in whole or part engaged in, or having the responsibility of, fire fighting, no person subordinate to a fire commission, fire commissioner, safety director, or other similar administrative agency or administrator, shall be deemed to be a supervisor.

Section 14. An election shall not be directed in any bargaining unit or any subdivision within which, in the preceding 12-month period, a valid election has been held. The board shall determine who is eligible to vote in the election and shall establish rules governing the election. In an election involving more than 2 choices, where none of the choices on the ballot receives a majority vote, a runoff election shall be conducted between the 2 choices receiving the 2 largest numbers of valid votes cast in the election. No election shall be directed in any bargaining unit or subdivision thereof where there is in force and effect a valid collective bargaining agreement which was not prematurely extended and which is of fixed duration: Provided, however, No collective bargaining agreement shall bar an election upon the petition of persons not parties thereto where more than 3 years have elapsed since the agreement's execution or last timely renewal, whichever was later.

Section 15. A public employer shall bargain collectively with the representatives of its employees as defined in section 11 and is authorized to make and enter into collective bargaining agreements with such representatives. For the purposes of this section, to bargain collectively is the performance of the mutual obligation of the employer and the representative of the employees to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment, or the negotiation of an agreement or any question arising thereunder, and the execution of a written contract, ordinance or resolution incorporating any agreement reached if requested by either party, but such obligation does not compel either party to agree to a proposal or require the making of a concession.

Section 16. Violations of the provisions of section 10 shall be deemed to be unfair labor practices remediable by the labor mediation board in the following manner:

(a) Whenever it is charged that any person has engaged in or is engaging in any such unfair labor practice, the board, or any agent designated by the board for such purposes, may issue and cause to be served upon the person a complaint stating the charges in that respect, and containing a notice of hearing before the board or a member thereof, or before a designated agent, at a place therein fixed, not less than 5 days after the serving of the complaint. No complaint shall be issued based upon any unfair labor practice occurring more than 6 months prior to the filing of the charge with the board and the service of a copy thereof upon the person against whom the charge is made, unless the person aggrieved thereby was prevented from filing the charge by reason of service in the armed forces, in which event the 6 month period shall be computed from the day of his discharge. Any complaint may be amended by the member or agent conducting the hearing or the board, at any time prior to the issuance of an order based thereon. The person upon whom the complaint is served may file an answer to the original or amended complaint and to appear in person or otherwise give testimony at the place and time fixed in the complaint. In the discretion of the member or agent conducting the hearing or the board, any other person may be allowed to intervene in the proceeding and to present testimony. Any proceeding shall be conducted in accordance with the provisions of section 5 of Act No. 197 of the Public Acts of 1952, as amended, being section 24.105 of the Compiled Laws of 1948.

(b) The testimony taken by the member, agent or the board shall be reduced to writing and filed with the board. Thereafter the board upon notice may take further testimony or hear argument. If upon the preponderance of the testimony taken the board is of the opinion that any person named in the complaint has engaged in or is engaging in the unfair labor practice, then it shall state its findings of fact and shall issue and cause to be served on the person an order requiring him to cease and desist from the unfair labor practice, and to take such affirmative action including reinstatement of employees with or without back pay as will effectuate the policies of this act. The order may further require the person to make reports from time to time showing the extent to which he has complied with the order. If upon the preponderance of the testimony taken the board is not of the opinion that the person named in the complaint has engaged in or is engaging in the unfair labor practice, then the board shall state its findings of fact and shall issue an order dismissing the complaint. No order of the board shall require the reinstatement of any individual as an employee who has been suspended or discharged, or the payment to him of any back pay, if the individual was suspended or discharged for cause. If the evidence is presented before a member of the board, or before examiners thereof, the member, or examiners shall issue and cause to be served on the parties to the proceeding a proposed report, together with a recommended order, which shall be filed with the board, and if no exceptions are filed within 20 days after service thereof upon the parties, or within such further period as the board may authorize, the recommended order shall become the order of the board and become effective as prescribed in the order.

(c) Until the record in a case has been filed in a court, the board at any time, upon reasonable notice and in such manner as it deems proper, may modify or set aside, in whole or in part, any finding or order made or issued by it.

(d) The board may petition for the enforcement of the order and for appropriate temporary relief or restraining order and shall file in the court the record in the proceedings. Upon the filing of the petition, the court shall cause notice thereof to be served upon the person, and thereupon shall have jurisdiction of the proceeding and shall grant such temporary or permanent relief or restraining order as it deems just and proper, enforcing, modifying, enforcing as so modified, or setting aside in whole or in part the order of the board. No objection that has not been urged before the board, its member or agent, shall be considered by the court, unless the failure or neglect to urge the objection is excused because of extraordinary circumstances. The findings of the board with respect to questions of fact if supported by competent, material and substantial evidence on the record considered as a whole shall be conclusive. If either party applies to the court for leave to present additional evidence and shows to the satisfaction of the court that additional evidence is material and that there were reasonable grounds for the failure to present it in the hearing before the board, its member or agent, the court may order the additional evidence be taken before the board, its member or agent, and to be made a part of the record.

The board may modify its findings as to the facts or make new findings, by reasons of additional evidence so taken and filed, and it shall file the modifying or new findings, which findings with respect to questions of fact if supported by competent, material and substantial evidence on the record considered as a whole shall be conclusive and shall file its recommendations, if any, for the modification or setting aside of its original order. Upon the filing of the record with it the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the supreme court in accordance with the general court rules.

(e) Any person aggrieved by a final order of the board granting or denying in whole or in part the relief sought may obtain a review of such order in the court of appeals by filing in the court a complaint praying that the order of the board be modified or set aside, with copy of the complaint filed on the board, and thereupon the aggrieved party shall file in the court the record in the proceeding, certified by the board. Upon the filing of the complaint, the court shall proceed in the same manner as in the case of an application by the board under subsection (e), and shall grant to the board such temporary relief or restraining order as it deems just and proper, enforcing, modifying, enforcing as so modified, or setting aside in whole or in part the order of the board. The findings of the board with respect to questions of fact if supported by competent, material and substantial evidence on the record considered as a whole shall be conclusive.

(f) The commencement of proceedings under subsections (e) or (f) shall not, unless specifically ordered by the court, operate as a stay of the board's order.

(g) Complaints filed under this act shall be heard expeditiously by the court to which presented, and for good cause shown shall take precedence over all other civil matters except earlier matters of the same character.

(h) The board shall have power, upon issuance of a complaint as provided in subsection (b) charging that any person has engaged in or is engaging in an unfair labor practice, to petition any circuit court within any circuit where the unfair labor practice in question is alleged to have occurred or where such person resides or exercises or may exercise its governmental authority, for appropriate temporary relief or restraining order, in accordance with the general court rules, and the court shall have jurisdiction to grant to the board such temporary relief or restraining order as it deems just and proper.

(i) For the purpose of all hearings and investigations, which, in the opinion of the board, are necessary and proper for the exercise of the powers vested in it under this section 11 shall be applicable, except that subpoenas may be issued as provided in section 11 without regard to whether mediation shall have been undertaken.

(j) The labor relations and mediation functions of this act shall be separately administered by the board.

Section 2. Sections 4,5, and 8 of Act No. 336 of the Public Acts of 1947, being sections 423.204, 423.205 and 423.208 of the Compiled Laws of 1948, are repealed.

This act is ordered to take immediate effect.

(Statutory citation: Michigan Statutes Annotated, Title 17, sec. 17.455 (1), 17.455 (3), 17.455 (6), 17.455 (7), 17.455 (9)--17.455 (16).)

NEW HAMPSHIRE

31:3 In General. Towns may purchase and hold real and personal estate for the public uses of the inhabitants, and may sell and convey the same; may recognize unions of employees and make and enter into collective bargaining contracts with such unions; and may make any contracts which may be necessary and convenient for the transaction of the public business of the town.

(Statutory citation: New Hampshire Revised Statutes Annotated, Title III, sec. 31.3.)

NEW JERSEY

STATE BOARD OF EDUCATION RESOLUTION

WHEREAS, employees in local school districts, as public employees, have the right, under the New Jersey State Constitution Article I, section 19, to organize, present to and make known to the local board of education, their grievances and proposals through representatives of their own choosing; and

WHEREAS, the authority of the Commissioner of Education was recently invoked to hear and decide a controversy concerned with the relationships between a board of education and some of its professional employees; and

WHEREAS, the Commissioner of Education in his decision in that case pointed out that local boards of education have "the power to create grievance procedures and an orderly framework within which the complaints of its employees may be presented and resolved," and further that "such procedures are necessary and desirable in order to facilitate and assure the smooth and efficient operation of the local school system;" and

WHEREAS, the New Jersey State Board of Education concurs and recognizes the need for adequate, recorded procedures for the proper consideration of grievances and proposals of local school district employees in order to avoid disharmony and controversy inimicable to the educational welfare of the pupils to be served; now

THEREFORE, BE IT RESOLVED that the New Jersey State Board of Education require each local public school board of education to formulate and adopt written policies setting forth the procedures to be followed for the presentation, consideration, and resolution of grievances and proposals of its employees; and

BE IT FURTHER RESOLVED that at least one copy of such statement of policy for the processing of grievances and proposals shall be available for inspection at appropriate times and places within the local school district, one copy shall be filed with the appropriate county superintendent of schools, and one copy shall be filed with the Commissioner of Education not later than July 1, 1966.

AGREEMENT
between the
WARWICK SCHOOL COMMITTEE
and the
WARWICK EDUCATION ASSOCIATION
Warwick, Rhode Island

February 1, 1967 - January 31, 1969

PREAMBLE

In order to effectuate the provisions of Chapter 9.3 of Title 28 of the General Laws, and to encourage and abet effective and harmonious working relationships between the Warwick School Committee (hereinafter called the "Committee") and the professional staff in order that the cause of public education may best be served in Warwick, THIS AGREEMENT IS MADE AND ENTERED INTO on the 2nd day of December, 1966, by and between the Committee and the Warwick Education Association (hereinafter called the "Association").

ARTICLE I

Recognition

In accordance with the Teacher Arbitration Act of January, 1966, the Committee hereby recognizes the Association as the exclusive representative of all professional employees of the Warwick School System, in teaching or related activities, except temporary per diem substitutes, below the rank of assistant principal. Unless otherwise indicated, the employees in the above unit will be hereinafter referred to as "teachers."

ARTICLE II

Specialists

A. The School Committee and the Association recognize that an adequate number of competent specialists is essential to the operation of an effective educational program, and note that employment of additional specialists is planned beginning with the school year 1967-68. The parties agree to establish a joint committee to study the needs for specialists in the school system and to report their findings and recommendations to the Superintendent when completed.

B. Within ten (10) days after the execution of this Agreement, the School Committee and the Association shall each appoint at least two (2) persons to serve on the joint committee and those persons shall select a chairman from among themselves.

ARTICLE III

Textbooks and Supplies

A. The Committee will provide sufficient textbooks to insure that each pupil in a classroom has textbooks for his own use.

B. The Committee agrees that before a change in textbook or reference texts is made, or a new textbook or reference text is selected, principals in the elementary schools will discuss the change or new selection with the teachers in the school. Before a change in textbook and/or reference text is made in a secondary school, or before a new book is selected, the department head and/or the principal will discuss the change with the teachers in the department. The recommendation of the teachers in the elementary schools and the teachers in the respective secondary departments shall guide the principal and administration in making the final decision.

C. The Committee will provide sufficient teaching equipment and supplies as needed in the school system.

ARTICLE IV

Teacher Evaluation

A. All monitoring or observation of the work performance of a teacher will be conducted openly and with full knowledge of the teacher. The use of eavesdropping, public address or audio systems, and similar surveillance devices shall be strictly prohibited. Teachers will be given a copy of any evaluation report prepared by their superiors and will have the right to discuss such report with their superiors before it is submitted to central Administration or put in their personnel files.

B. Any complaints regarding a teacher made to the Administration by any parent, student or other person will be promptly called to the teacher's attention.

C. No teacher will be disciplined, reprimanded, reduced in rank or compensation or deprived of any professional advantage without just cause. Whether just cause exists in any case shall be subject to the grievance procedure.

D. The Committee and the Association agree to establish a joint committee to study various possible means of improving the teacher evaluation process. Within 60 days of the execution of this Agreement, the Committee and the Association shall each appoint at least three persons to serve on the joint committee and these persons shall select a chairman from among themselves and the joint committee shall render a report of its findings when completed.

ARTICLE V

Teacher Files

A. All teacher files shall be maintained under the following circumstances:

1. No material, excluding references and information obtained in the process of evaluating the teacher for employment, and which is derogatory to a teacher's conduct, service, character or personality shall be placed in the files unless the teacher has had an opportunity to read the material. The teacher shall acknowledge that he has read such material by affixing his signature on the actual copy to be filed with the understanding that such signature merely signifies that he has read the material to be filed. Such signature does not necessarily indicate agreement with its content.
2. The teacher shall have the right to answer any material filed and his answer shall be reviewed by the Director of Personnel and the Assistant Superintendent of the appropriate division and attached to the file copy.
3. Upon request by the teacher he shall be given access to his file.
4. Upon receipt of a written request the teacher shall be furnished a reproduction of any material in his file, excluding references and information obtained in the process of evaluating the teacher for employment.

ARTICLE VI

Promotions

All vacancies in promotional positions, including specialists and/or special projects teachers, excepting the position of Superintendent, shall be filled pursuant to the following procedure:

1. Such vacancies shall be adequately publicized, which shall mean, as a minimum, that a notice shall be posted in every school clearly setting forth a description of and the qualifications for the position, including the duties and salary. During summer vacation, notices shall be distributed with such pay checks as are given out.
2. Such notices shall be posted as far in advance as possible, ordinarily at least 30 days before the final date when applications must be submitted, and in no event less than two weeks before such date.
3. Teachers who desire to apply for such vacancies shall submit their applications in writing to the Superintendent or his authorized agent within the time limit specified in the notice.
4. Such vacancies shall be filled on the basis of qualification for the vacant post, provided, however, that where two or more applicants are equally qualified, seniority in the Warwick School System shall control.

B. Promotional positions are defined as follows: positions paying a salary differential and/or positions on the administrator-supervisory level.

C. All appointments to the aforesaid vacancies and openings shall be made without regard to age, race, creed, color, religion, nationality, sex or marital status.

ARTICLE VII

Teaching Hours and Teaching Load

A. 1. The official length of the school day shall be determined by the School Committee.
2. Teachers on classroom teacher's schedule shall not be required to report earlier than fifteen (15) minutes before the start of the student's school day.
3. Beginning with, and during school year 1967-68, the length of the school day for teachers shall be six and one-half hours, exclusive of the fifteen minutes required before the beginning of the student's school day. Beginning with school year 1968-69 and thereafter, the length of the school day for teachers shall be six and three-quarter hours, exclusive of the fifteen minutes required before the beginning of the student's school day.

B. 1. Beginning with and during school year 1967-68, the work year for teachers will consist of 183 days other than new teachers who may be required to attend additional orientation sessions. Beginning with school year 1968 and thereafter, the work year of teachers shall be 186 days.

C. 1. Teachers may be required to attend the following meetings:
(a) One day each month - General Staff meetings or other meetings called by the Superintendent of Schools.
(b) One day of each month - Building meetings called by the Principal of each school.
(c) One day of each month - Department meetings or Special Groups as authorized by the Superintendent of Schools.
2. Teachers may not be required to attend more than one evening meeting each year for open house and/or parent visitation.
3. Attendance at any other meetings shall be at the option of the individual teacher, except that new personnel may be required to attend additional orientation sessions.

D. Secondary school teachers shall have a duty-free lunch period of the same length as their students' lunch period.

E. All secondary school teachers shall, in addition to their lunch period, have at least five (5) unassigned periods each week in the Junior High Schools and four (4) in the Senior High Schools.

F. In addition to homeroom duty, secondary school teachers shall not be assigned more than twenty-five teaching periods per week in the Junior High Schools nor more than twenty-one teaching periods in the Senior High Schools.

G. Secondary school teachers shall not be required to teach more than two subject matter areas.

H. Teachers shall be permitted to leave the building during unassigned periods with the permission of the principal.

I. When a teacher in a special area is in charge of an elementary school teacher's class, the regular teacher may leave the classroom when his presence is not required.

J. Teacher participation in extracurricular activities will be strictly voluntary. Teachers will be compensated for participation in extracurricular activities in accordance with the provisions of Appendix B of this Agreement.

K. No academic subject area teacher shall be assigned the class responsibility, regardless of the size of his classes, for more than 125 students wherever practicable. The foregoing standards are subject to modifications, for educational purposes, such as the avoidance of split-grade classes or half-classes or specialized or experimental instruction (e.g., music, team teaching, typing classes, physical education).

ARTICLE VIII

Class Size

Wherever feasible under the circumstances (e.g., availability of staff and facilities), in both elementary schools (including kindergartens) and secondary schools (junior and senior high):
1. The regular class shall be approximately 25 pupils, in accordance with the city's ability to provide school plants.
2. The composition and size of Special Education classes shall be in accordance with State Laws.
3. Classes containing concentrations of disadvantaged pupils shall be reduced in size as rapidly as practicable to a number which permits optimum learning opportunities for such pupils.
4. The Committee and the Association agree that there should be a special arrangement for English teachers instructing composition, writing, and functional grammar to be responsible for 15 to 20 students per section to make a genuine contribution to quality education and to prepare students to cope with college demands.

The foregoing standards are subject to modification for educational purposes such as the avoidance of split-grade classes, or half-classes or specialized or experimental instruction (e.g., music, art, typing classes, physical education).

ARTICLE IX

Salaries

A. The salaries of all persons covered by this Agreement are set forth in Appendix "A" which is attached hereto and made a part hereof.

B. All persons on the Teachers' Salary Schedule will be paid in twenty-six (26) equal installments during the contractual year 1967-68. A study shall be made during the contractual school year 1967-68 of possible changes in the salary distribution plan for implementation in the 1968-69 contractual year.

C. New teachers shall be given full increment credit for previous outside teaching experiences. A full teaching year shall be no less than 135 paid days in a school year.

D. Coaches and teachers or sponsors of extracurricular activities shall be compensated as set forth in Appendix "B", which is attached hereto and made a part hereof.

E. The Committee and the Association agree to establish a joint committee to study compensation for all extracurricular activities. Within ten (10) days after the execution of this Agreement, the School Committee and the Association shall each appoint at least two (2) persons to serve on the joint committee, and those persons shall select a chairman among themselves. The Committee shall render a report as soon as possible.

F. It is agreed that a subject matter oriented program in elementary education approved by the Director of Personnel will be accepted as a program in subject matter for the purpose of placing a teacher on the subject matter increment schedule.

ARTICLE X

Non-Teaching Duties

A. The Committee and the Association acknowledge that a teacher's primary responsibility is to teach and that his energies should, to the extent possible, be utilized to this end. Therefore, the Committee agrees to make every effort to reduce the following non-teaching duties by the beginning of school year 1967-68.

1. Non-teaching assignments including supervision of playgrounds, cafeterias and buses.
2. Duplicating instructional and other materials and calculating attendance records.
3. Collecting money from students for non-educational purposes.

B. The Committee agrees to eliminate the following non-teaching duties by the beginning of the school year 1967-68.

1. Health services, such as administering eye or ear examinations and weighing and measuring pupils.
2. Delivering books to classrooms and inventorying books.

ARTICLE XI

Voluntary Transfers and Assignments

A. 1. No later than March 1st of each school year, the Director of Personnel shall post in all school buildings a list of the known vacancies which will occur during the following school year.

2. Teachers who desire a change in grade and/or subject assignment or who desire to transfer to another building shall file a written statement of such desire with the Director of Personnel, not later than March 15th. Such statement shall include the grade and/or subject to which the teacher desires to be assigned and the school or schools to which he desires to be transferred, in order of preference.

3. No later than May 10th of each school year, the Director of Personnel shall post in all school buildings a supplemental list of known vacancies which will occur during the following school year.

4. No later than May 20th, teachers may file an application for reassignment or transfer to positions listed on the supplemental list of vacancies.

5. No assignments of new teachers in the school system shall be made until all pending requests for reassignment or transfer have been acted on.

6. The Director of Personnel shall make available to the Association requested information pertaining to individual reassignments and/or transfer.

B. In the determination of requests for voluntary reassignment and/or transfer, the convenience and wishes of the individual teacher will be honored to the extent that they do not conflict with the instructional requirements and best interests of the school system. If more than one teacher has applied for the same position, the teacher best qualified for that position shall be appointed, and qualifications being substantially equal, seniority in the school system shall control.

ARTICLE XII

Involuntary Transfers and Assignments

The Committee and the Association recognize that some involuntary transfer of teachers from one school to another or reassignment within a school is unavoidable. They also recognize that under normal circumstances transfer or reassignment of teachers should be held to a minimum. Therefore they agree as follows:

A. Notice of an involuntary transfer or reassignment shall be given to teachers as soon as practicable and, under normal circumstances, not later than June 15th.

B. When involuntary transfer or reassignment is necessary, volunteers from among those affected will be transferred or reassigned first. A teacher's area of competence, major and/or minor field of study, quality of teaching performance, and length of service in the Warwick School System will be considered in determining which teacher is to be transferred or reassigned.

C. An involuntary transfer or reassignment will be made only after a meeting between the teacher involved and the cognizant Assistant Superintendent and/or Director of Personnel, at which time the teacher will be notified of the reasons therefor. In the event that a teacher objects to the transfer or reassignment at this meeting, upon the request of the teacher, the Association will be notified and the cognizant Assistant Superintendent and/or the Director of Personnel will meet with the Association's representative to discuss the matter.

D. Openings in the school system will be discussed with the teachers being involuntarily transferred or reassigned. Such teachers may request the positions to which they desire to be transferred. Teachers being involuntarily transferred or reassigned shall have preference over those seeking voluntary transfer or reassignment under Article XI. In consideration of involuntary transfers, those best qualified for a particular position shall receive priority, and, qualifications being substantially equal, seniority in the school system shall control.

E. The Director of Personnel shall make available to the Association requested information pertaining to individual reassignments and/or transfers.

ARTICLE XIII

Teacher Schedules

A. Teachers shall be notified in writing of any change in their programs and schedules for the ensuing school year, including the schools to which they will be assigned, the grades and/or subject that they will teach, and any special or unusual courses or assignments that they will have, as soon as practicable.

B. In order to assure that students are taught by teachers working within their areas of competence, teachers shall not be assigned, except in accordance with the regulations of the State Board of Education.

C. In arranging schedules for teachers who are assigned to more than one school, an effort shall be made to limit the amount of inter-school travel. Such teachers shall be notified of any change in their schedules, as soon as practicable.

D. Teacher assignments and transfers shall be made without regard to age, race, creed, color, religion, nationality, sex or marital status.

ARTICLE XIV

Absence and Leaves

A. Absences Due to Personal Illness

1. Professionally certificated personnel may be absent for personal illness up to ninety days in a school year with full pay except as the deduction hereinafter provided in this section applies to them. Each year the School Committee shall out of its appropriation set aside for absence, illness, and deaths an amount equal to the whole number of certificated personnel multiplied by the salary of a substitute teacher for three days. Any deficiency in this fund shall be made up by deducting from each absent teacher's salary at the end of the year an amount to be determined by the formula.

$$D = \frac{X\ (A-B)}{Y}$$

D equals amount to be deducted
A equals amount needed for substitute salaries
B equals amount appropriated as stated above
X equals number of days of absences of a teacher
Y equals number of days of absences of all teachers

2. The school year of professional personnel for salary purposes shall be that period of time extending from the first Wednesday after Labor Day through Tuesday after Labor Day of the following year. The ninety days of sick leave granted must fall within this stated period of time, and may not be construed to be cumulative or extending from one year to another.

3. In case the illness is long continued, the regular payments shall stop at the end of 70 days of absences; the balance, if any, shall be paid in June after the proper amount of deduction has been determined. The School Committee may require a certificate from a physician for an absence or illness. The School Committee reserves the right to require a physical examination by a physician of its own choice.

B. Absences Due to Illness in Family

1. In case of illness in the immediate family (father, mother, brother, sister, son, daughter, wife, husband, or other relative with whom teacher may be then living) a regular teacher shall be allowed three days absence with full pay in a school year. Such absence shall be charged to the appropriation outlined above and deducted from the ninety days personal illness allowance.

2. In case of death in the immediate family (father, mother, brother, sister, son, daughter, husband, wife or other person with whom teacher may be then living) a regular teacher shall be allowed five days with full pay, and for other relatives (grandparents, uncles, aunts, first cousins, nieces, nephews, and grandchildren) the teacher shall be allowed the day of the funeral with full pay. The above regulations shall apply equally to relatives whether by blood or marriage but no allowance with pay shall be granted for days previous to that on which the death occurs.

C. Leave Without Pay

On recommendation of the Superintendent, the School Committee may grant professional personnel up to one year's leave of absence without pay.

D. Military Leave for Training

When requested, the School Committee shall grant a professionally employed person a military leave of absence for training not to exceed ten school days. Such employee shall receive full pay while on leave.

ARTICLE XV

Temporary Leaves of Absence

A. Teachers shall be entitled to the following temporary leaves of absence with pay each school year:

1. A maximum of one (1) day for each of the following:
   --to receive a college or graduate degree
   --to attend the graduation of a member of the teacher's immediate family
   --to attent to financial or legal transactions
2. Teachers may be allowed additional time off for other personal reasons when such reasons are considered valid by the school principal.

B. Teachers shall be entitled to the following temporary leaves of absence with pay each school year:

1. Up to two (2) days professional leave per year for three (3) delegates (or a total of six (6) teacher days per year) to attend conferences, workshops or hearings as official delegates of the Warwick Education Association.
2. Up to one (1) day for the purpose of visiting other schools may be granted.
3. Days to attend meetings or conferences of an educational nature may be granted.
   (A written report of the conference or visitation shall be submitted to the school principal.)
4. Three (3) days leave for religious holidays.
5. The time necessary for appearance in any legal proceeding connected with the teacher's employment or in any other legal proceeding if the teacher is required by law to attend.

C. Additional leave without pay may be granted.

ARTICLE XVI

Extended Leaves of Absence

A. The Committee agrees that up to two (2) teachers who have served for at least three (3) years in the Warwick School Department, designated by the Association will, upon request, be granted a leave of absence for up to one year without pay for the purpose of engaging in Association (local, state or national) activities. The leave may be initiated only within the period of this Agreement, and must be normally requested in writing by April 1.

Upon return from such leave the teacher will be placed on the appropriate step of the salary schedule. By April 1 of his leave year, the teacher must notify the Warwick School Department whether or not he will return.

B. A leave of absence, without pay, of up to two (2) years will be granted to teachers who join the Peace Corps or serve as exchange teachers and are full-time participants in either of such programs and who have completed at least three years in the Warwick School Department. Upon return from such leave, a teacher will be considered as if he were actively employed by the Committee during the leave, and will be

placed on a salary schedule at the level he would have achieved if he had not been absent.

C. Military leave will be granted to any teacher who is inducted or enlists in any branch of the armed forces of the United States. Upon return from such leave, a teacher will be placed on the salary schedule at the level which he would have achieved had he remained actively employed in the system during the period of his absence up to a maximum of two (2) years.

D. Maternity leave of one school year will be granted without pay or increment. A teacher who becomes pregnant shall notify the Director of Personnel in writing as soon as pregnancy has definitely been determined. Continued employment will normally be possible until the end of the fifth (5) month of pregnancy, however, if the teacher's physical condition warrants it the cognizant Assistant Superintendent and/or Director of Personnel may require earlier termination of her employment, under this section. Appropriate medical evidence of fitness may be required prior to return from such leave, but a teacher normally may return only at the beginning of a school year. The teacher on maternity leave must notify the Director of Personnel in writing her intention to return to her position by May 1.

E. A leave of absence without pay or increment of up to one (1) year will be granted for the purpose of caring for a sick member of the teacher's immediate family.

F. Any teacher whose personal illness extends beyond the period compensated will be granted a leave of absence without pay for such time as is necessary for complete recovery from such illness. Upon return from such leave, a teacher will be assigned to the same position, if available, or, if not, to a substantially equivalent position.

G. All benefits to which a teacher was entitled at the time his leave of absence commenced, will continue to him upon his return.

H. All above requests for extended leaves will be filed with the Director of Personnel in writing normally by April 1, and shall be confirmed in writing by the Director of Personnel within 15 days thereafter.

ARTICLE XVII

Sabbatical Leave

Desiring to reward professional performance and encourage independent research and achievement, the Committee hereby initiates this policy of sabbatical leaves for teachers for study and/or research to be granted upon recommendation by the Superintendent for approved programs whether or not carried on in an academic institution, subject to the following conditions:

A. Requests for sabbatical leave must be received by the Superintendent in writing in such form as may be required by the Superintendent no later than April 1 of the year preceding the school year in which the sabbatical leave is requested.

B. The teacher has completed at least seven consecutive full school years of service in the Warwick School System.

C. Teachers on sabbatical leave should receive the difference between the salary they would normally receive and the first step on the salary schedule.

D. The teacher shall agree to return to employment in the Warwick School System for one full year in the event of one-half year's leave or two full years in the event of a full year's leave. Upon such return the teacher shall be placed on the appropriate step in the salary schedule as though such teacher had not been on leave.

ARTICLE XVIII

Teacher Facilities

A. Upon the adoption of the 1967-1968 school budget the following facilities shall be provided in each school with work scheduled for completion by the end of the school year 1967-68:

1. Space in each classroom in which teachers may safely store instructional materials and supplies.
2. A serviceable desk and chair for the teacher in each classroom.
3. Well lighted, properly equipped and clean rest rooms.

B. Insofar as reasonably practicable, and as expeditiously as possible, each school shall be provided with the following:

1. A teacher work area containing adequate equipment and supplies to aid in the preparation of instructional materials.
2. An appropriately furnished room which will include a pay telephone, to be used as a faculty lounge. Said room will be in addition to the aforementioned teacher work area.

C. An adequate portion of the parking lot at each school will be reserved for teacher parking.

D. New construction will include adequate teacher facilities of the nature noted in A, B, and C above.

ARTICLE XIX

Protection

A. Teachers will immediately report to the school principal all cases of assaults suffered by them in connection with their employment.

B. This report will be forwarded to the Superintendent and the Committee, which will comply with any reasonable request from the teacher for information in its possession relating to the incident or the persons involved, and will act in appropriate ways as liaison between the teacher, the police and the courts.

C. If criminal or civil proceedings are brought against a teacher alleging that he committed an assault in connection with his employment, such teacher may request the Committee to furnish legal counsel to defend him in such proceeding. The Committee will evaluate the request and the circumstances of the assault and shall provide counsel or reimbursement of reasonable counsel fees if the teacher's case is deemed meritorious.

ARTICLE XX

Personal Injury Benefits and Property Damage

A. 1. Whenever a teacher is absent from school as a result of personal injury caused by an assault occurring in the course of his employment, he will be paid his full salary for the period of such absence up to one year from the date of injury, and no part of such absence will be charged to his annual sick leave.

2. The Committee shall have the right to have the teacher examined by a physician designated by the Committee for the purpose of establishing the length of time during which the teacher is temporarily disabled from performing his duties, and the opinion of said physician as to the said period shall control.

B. The Committee will reimburse teachers for:

1. Any clothing or other personal property (excluding automobiles) damaged or destroyed in the course

of employment, provided such damage has not been caused by the teacher's negligence; and

2. The cost of medical, surgical or hospital services (less the amount of any insurance reimbursement) incurred as the result of any injury sustained in the course of employment.

ARTICLE XXI

Insurance

A. The Warwick School Committee shall, commencing with the fiscal year 1967 (February 1, 1967) provide on a fully paid basis for all certified personnel of the Warwick School Department the following coverage: Blue Cross-semi-private plan, Physicians Service plan A or its replacement plan.

ARTICLE XXII

Summer School and Adult Education

A. All openings for summer school and for adult education teachers will be adequately publicized by the Director of Personnel and shall be posted in each school building as early as possible, and under normal circumstances not later than ten days prior to start of said session. Applications must be submitted within one week of the posting of said notices. Teachers who have applied for such summer school or adult education positions will be notified of the action taken regarding their applications as early as practicable.

B. Positions in the summer school and adult education will, to the extent possible, be filled first by regularly appointed teachers in the Warwick School System.

C. In filling such positions, consideration will be given to a teacher's area of competence, major and/or minor field of study, quality of teaching performance, and attendance record.

D. Teachers shall be paid for teaching in summer school at the rate of their current bi-weekly salary pro-rated on the basis of a four hour day, as a full school day.

E. Adult education teachers shall receive no less than $6.00 per hour and a minimum of $15.00 per evening.

ARTICLE XXIII

Grievance Procedure

A. Definition

1. A "grievance" is a claim based upon an event or condition which affects the welfare and/or conditions of employment of a teacher or group of teachers and/or the interpretation, meaning or application of any of the provisions of this Agreement or any subsequent agreement entered into pursuant to this Agreement:

2. An "aggrieved person" is the person or persons making the claim.

3. A "party in interest" is the person or persons making the claim, any person who might be required to take action or against whom action might be taken in order to resolve the claim, and the Chairman of the PR & R Committee or his designee.

B. Purpose

1. The purpose of this procedure is to secure, at the lowest possible administrative level, equitable solutions to the problems which may from time to time arise affecting the welfare or working conditions of teachers. Both parties agree that these proceedings will be kept as informal and confidential as may be appropriate at any level of the procedure.

2. Nothing herein contained will be construed as limiting the right of any teacher having a grievance to discuss the matter informally with the appropriate member of the administration at Level One, and having the grievance adjusted at Level One without intervention of the Association, provided the adjustment is not inconsistent with the terms of this Agreement.

C. Procedure

Since it is important that grievances be processed as rapidly as possible, the number of days indicated at each level should be considered as a maximum, and every effort should be made to expedite the process. The time limits specified may, however, be extended by mutual agreement.

In the event a grievance is filed which might not be finally resolved at Level Four under the time limits set forth herein by the end of the school year could result in irreparable harm to a party in interest, the time limits set forth herein will be reduced so that the grievance procedure may be exhausted prior to the end of the school term or as soon thereafter as is practicable.

1. Level One. A teacher with a grievance will first discuss it with his principal or immediate superior, either directly or through the Association's School Representative, with the objective of resolving the matter informally.

2. Level Two. (a) If the aggrieved person is not satisfied with the disposition of his grievance at Level One, or if no decision has been rendered within five (5) school days after presentation of the grievance he may file the grievance in writing with the Chairman of the Association's Committee on Professional Rights and Responsibilities (hereinafter referred to as the "PR&R Committee") within five (5) school days after the decision at Level One or ten (10) school days after the grievance was presented, whichever is sooner. Within five (5) school days after receiving the written grievance, the Chairman of the PR&R Committee will refer it to the Director of Personnel.

(b) The Director of Personnel will represent the Administration at this level of the grievance procedure. Within five (5) school days after receipt of the written grievance by the Director of Personnel, the Director of Personnel or his designee will meet with the aggrieved person and the Chairman of the PR&R Committee or his designee in an effort to resolve it.

(c) If a teacher does not file a grievance in writing with the Chairman of the PR&R Committee and the written grievance is not forwarded to the Director of Personnel within thirty (30) school days after the teacher knew or should have known of the act or condition on which the grievance is based, then the grievance will be considered as waived. A dispute as to whether a grievance has been waived under this paragraph will be subject to appeal pursuant to Level Five.

3. Level Three. (a) If the aggrieved person is not satisfied with the disposition of his grievance at Level Two, or if no decision has been rendered within five (5) school days after he has first met with the Director of Personnel or his designee, he may file the grievance in writing with the Chairman of the PR&R Committee within five (5) school days after a decision by the Director of Personnel or ten (10) school days after he has first met with the Director of Personnel, whichever is sooner. Within five (5) school days after receiving the written grievance, the Chairman of the PR&R Committee will refer it to the Superintendent.

4. Level Four. (a) If the aggrieved person is not satisfied with the disposition of his grievance at Level Three, or if no decision has been rendered within five (5) school days after referral to the Superintendent, the Chairman of the PR&R Committee will refer it to the Committee.

(b) The School Committee will meet in executive session at, or before its next regularly scheduled meeting to consider all grievances which have been submitted to it since its last such meeting. Any party in interest shall have the right to appear before the Committee and be heard in executive session.

5. Level Five. (a) If the aggrieved person is not satisfied with the disposition of the grievance at Level Four, or if no decision has been rendered within five (5) school days after the Committee has heard the grievance, he may appeal the decision of the Committee in accordance with Chapter 39 of the general Laws of Rhode Island; 16-39-2, appeal of School Committee action to Commissioner, 16-39-3, appeal to State Board, and 16-39-4, agreed statement to the Supreme Court.

D. Rights of Teachers to Representation

1. No reprisals of any kind will be taken by the School Committee or by any member of the Administration against any party in interest, any School Representative, any member of the PR&R Committee or any other participant in the grievance procedure by reason of such participation.

2. Any party in interest may be represented at all stages of the grievance procedure by a person of his own choosing, except that he may not be represented by a representative or an officer of any teacher organization other than the Association.

E. Miscellaneous

1. If, in the judgment of the PR&R Committee, a grievance affects a group or class of teachers, the PR&R Committee may submit such grievance in writing to the Director of Personnel directly and the processing of such grievance will be commenced at Level Two. The PR&R Committee may process such a grievance through all levels of the grievance procedure even though the aggrieved person does not wish to do so.

2. Decisions rendered at Levels One, Two, Three and Four of the grievance procedure will be in writing setting forth the decision and the reasons therefor and will be transmitted promptly to all parties in interest and to the Chairman of the PR&R Committee. Decisions rendered at Level Five will be in accordance with the procedure set forth in Section C. Paragraph 5.

3. All documents, communications and records dealing with the processing of a grievance will be filed separately from the personnel files of the participants.

4. Forms for filing grievances, serving notices, taking appeals, making reports and recommendations, and other necessary documents will be jointly prepared by the Superintendent or his designee and the Association and will be reproduced and given appropriate distribution by the Superintendent or his designee so as to facilitate operation of the grievance procedure.

5. The Committee agreed to make available to any grievant and/or his representative all information not privileged under law in its possession or control and which is relevant to the issues raised in the grievance.

ARTICLE XXIV

Negotiation Procedure

A. 1. Not later than ninety (90) days prior to the expiration of this Agreement, the Committee agrees to negotiate with the Association over a successor Agreement in accordance with the procedure set forth herein in a good-faith effort to reach agreement on all matters concerning teachers' wages, hours, and other conditions of employment. Such matters include, but are not limited to, the handling of grievances, salaries, fringe benefits, specialists, class size, teaching hours and teaching load, performance of non-teaching duties, teacher facilities, use of school facilities, teaching assignments, transfers, filling of vacancies, promotions, textbooks, summer school and adult education programs, teacher evaluation, protection of teachers, sick leave, leaves of absence, accident benefits, insurance, health services, substitute teachers, teaching materials, professional development and educational improvement. Any agreement so negotiated will apply to all teachers, and will be reduced to writing and signed by the Committee and the Association.

2. During negotiation, the Committee and the Association will present relevant data, exchange points of view, and make proposals and counterproposals. As of the time it is made available to the Committee, the Committee will provide the Association with a complete tentative line budget for the next fiscal year. The Committee will make available to the Association for inspection pertinent records of the Warwick School System upon request of the Association. Either party may, if it so desires, utilize the services of outside consultants and may call upon professional and lay representatives to assist in the negotiations.

3. If the negotiations described in this Section A have reached an impasse, as defined in Title 28, Chapter 9.3 of the Acts of 1966, then the procedure described in that Chapter shall be followed.

B. 1. The Committee and the Association agree that all negotiable items have been discussed during the negotiations leading to the Agreement and therefore agree that negotiations will not be reopened on any item whether contained herein or not during the life of this Agreement. The Committee agrees, however, to notify the Association of contemplated changes in policy and to meet with the Association upon request to discuss changes which are of mutual interest and concern.

2. The Committee agrees not to negotiate with any teachers' organization other than that designated as the exclusive representative pursuant to the School Teachers' Arbitration Act. The Committee further agrees not to negotiate with any teachers' organization other than the Association in regard to changes in wages, hours, or other conditions of employment during the term of this Agreement.

ARTICLE XXV

Use of School Facilities

A. The Association will have the right to use school buildings without cost at reasonable times for meetings. Request for use of buildings will be made to the Principal of the building in advance.

B. 1. The Association will have the right to place notices, circulars, and other material on faculty bulletin boards and in teachers' mail boxes.

2. It is expressly understood that no member of the Administration will assume responsibility for the posting or distribution of material for the Association or any other teacher organization.

C. The Committee shall provide, as soon as possible, suitable office space for the Association.

ARTICLE XXVI

General

A. The Committee shall not discriminate in any way against any teacher by reason of his membership in or participation in the activities of the Association or his exercise of rights granted under this Agreement.

B. If negotiation meetings between the Committee and the Association are scheduled during normal working hours of a school day, not more than seven (7) nor less than three (3) representatives of the Association shall be relieved from all regular duties without loss of pay as necessary in order to permit their attendance at such meetings. If it is necessary, pursuant to the Grievance Procedure in Article XXIII of the Agreement, for an Association School Representative, member of the PR&R Committee or other representative designated by the Association to attend a grievance meeting or hearing during a school day, he shall, with permission of the Superintendent or his designee, be released without loss of pay as necessary in order to permit participation in the foregoing activities. Any teacher whose appearance in such investigation, meetings, or hearings as a witness is necessary shall be accorded the same right. The Association agrees that these rights shall not be abused.

C. Association Building Representatives shall be permitted to use non-teaching time during the regular work day for the performance of Association business.

It is expressly understood that said Representatives are full-time teachers and that the right to perform Association work during the regular work day which is provided for in this Article will be exercised no more frequently and no longer than necessary.

D. The Committee will provide the Association with an advance copy of the agenda for each official Committee meeting.

E. School Calendar.

1. When the Superintendent is preparing the school calendar for consideration by the School Committee, he will invite the president of the Warwick Education Association or his designee to consult with him and the two assistant superintendents.

2. The schedule for teachers beyond the school year for pupils shall be as follows:

(a) 1967-68

1. One full day prior to school opening for in-service education for all teachers.

2a. One full day for elementary conferences at the end of November.

2b. One full day at the end of the first semester for in-service education for secondary school teachers.

3. One full day at the end of the school year for marking examinations, posting grades, recording, etc.

(b) 1. One full day prior to opening of school for in-service education for all teachers.

2. One full day in November for elementary conference, and one full day in November for secondary in-service education.

3. One full day in the last part of October for in-service education for all teachers.

4. One full day at the end of the first semester for in-service education for all teachers (not to be a part of February recess).

5. One full day in spring for in-service education for all teachers (not to be a part of spring recess).

6. One full day at the end of the school year for marking examinations and posting grades.

F. This Agreement constitutes committee policy for the term of said Agreement and the Committee will carry out the commitments contained herein and give them full force and effect as committee policy. The Committee will amend its administrative regulations and take such other action as may be necessary in order to give full force and effect to the rovisions of this Agreement.

G. Uniform deduction of Warwick Education Association, Rhode Island Education Association, and National Education Association dues shall be made from the 3rd, 5th, 7th, 9th, and 11th payroll checks during the school year.

Upon written request to the personnel office, a teacher may terminate his deductions of Warwick Education Association, and/or Rhode Island Education Association, and National Education Association dues, such request to be made at least sixty (60) days prior to such termination.

ARTICLE XXVII

Cooperation

A. The Association and the Committee agree on the desirability of making the schools community centered and will cooperate in any program designed to accomplish this.

B. The Association agrees to appoint representatives to serve on special committees when requested to do so.

C. The Committee and the Association agree to establish a joint committee to study the provision of differentials in the salary schedule to insure the employment of special area teachers where the supply is short and has been depleted by industry.

D. The Association agrees to make a concerted effort to work with the Committee and the Administration in developing the total educational program into one that is unique to Warwick, and to support the Committee vocally and actively by its presence at hearings and public meetings in the interest of sound education.

ARTICLE XXVIII

Duration

The provisions of this Agreement will be effective as of February 1, 1967 and will continue and remain in full force and effect until January 31, 1969. Said Agreement will automatically be renewed and will continue in full force and effect for additional periods of one year unless either the Committee or the Association gives written notice to the other not later than ninety (90) days prior to the aforesaid expiration date or any anniversary thereof of its desire to reopen this Agreement and to negotiate over the terms of a successor Agreement.

IN WITNESS WHEREOF, the parties hereunto set their hands and seals this 2nd day of December, 1966.

WARWICK SCHOOL COMMITTEE

By /s/ Myrtle E. Godwin
Myrtle E. Godwin

Chairman

WARWICK EDUCATION ASSOCIATION

By /s/ Joseph Blanco, Jr.
Joseph Blanco, Jr.

President

State of New York
Governor's Committee On
Public Employee Relations

Final Report
March 31, 1966

Part Three

The Resolution of Deadlocks in Collective Negotiations

THE AVOIDANCE OF THE STRIKE is substantially the perfection of procedures and policies to provide an effective alternative to conflict. Part Two of this report proposed procedures to settle the difficult disputes and rivalries involved in issues of representation. Part Five is concerned with various suggestions to improve the quality of negotiations and to avoid an impasse; it is also concerned with the present procedures for the settlement of grievances. The present part focuses upon the critical questions of the most appropriate alternatives to conflict in the event that collective negotiations appear to have reached an impasse. What then?

The design of dispute settlement procedures must constantly avoid at least two serious pitfalls. The first is that impasse procedures often tend to be overused; they may become too accessible, and as a consequence, the responsibility and problem-solving virtues of constructive negotiations are lost. Dispute settlement procedures can become habit-forming, and then negotiations become only a ritual. The second pitfall is that a standardized dispute settlement procedure is not ideally suited to all parties and to all disputes. Procedures work best which have been mutually designed, are mutually administered, and have been mutually shaped to the particular problem at hand.

Collective negotiations in government employment need to be closely coordinated with the calendar of the legislative and budget year. Indeed, an impasse is typically identified by the failure to have achieved an understanding or agreement before the approach of budgeting deadlines established by law. It is a fundamental principle in government employment that collective negotiations and the resort to procedures to resolve an impasse be appropriately related to the legislative and budget making process. An impasse may be defined in terms of the failure to achieve agreement sixty days, or some longer period, prior to the budget submission date established by law for the agency or unit of government.

Part One of this report described the wide variety of types of collective relations that now exist in public employment in the State of New York: (a) In some cases more than one employee organization is recognized in a single unit, while in others one employee organization has the right exclusively to represent all employees. (b) In some cases wages and conditions of employment are prescribed by the agency after discussions with employee organizations; in other cases they are set forth in memoranda or agreements signed by employee organizations after joint discussions but with final prescription by the government agency; in still other cases, agreements are formally negotiated by employee organizations and the agency and signed by both. (c) In some cases the range of subjects discussed with employee organizations is very narrow since many of the conditions of employment are mandated by legislation or administrative regulation, while in other cases the subjects discussed range as widely as in private industry. (d) In some cases wages and conditions of employment for non-classified

employees are determined under legislative authority by reference or equivalence to the wages and conditions prevailing for other designated employees, while in other cases no such formula or principle has been authorized. (e) In some situations the budget available to the government agency is determined in advance and is fixed for the purposes of any collective discussions, while in other cases it is understood that the agency undertakes to seek the necessary funds; in still other situations discussions over wages and sources of funds proceed simultaneously. (f) In some cases the conditions of employment are determined for a single budgetary year, while in others these terms are fixed across two or more budget years.

This variety in the patterns of collective relations between government agencies and employee organizations in New York State, and the early stage of many of these relations, has led this Committee to conlcude that every opportunity and encouragement should be afforded each collective relationship to develop its own procedures and dispute-settling machinery. No single procedure or style of dispute settlement is likely to prove equally acceptable or effective. Moreover, parties may wish to experiment and to revise procedures in the light of experience. No procedure should be imposed by law without first affording the governmental agencies and employee organizations involved in collective relations the opportunity to develop directly their own procedures for resolving an impasse. It would be unwise to freeze so early in the development of collective relations in government employment a single pattern of dispute settlement and to deprive the future of a more varied and perceptive experience from which to choose.

The time to develop procedures to resolve an impasse is when there is no crisis. The processes of joint discussion and negotiations in each collective relation should be devoted to the development of procedures to resolve disputes and to avoid an impasse. Such procedures, designed to meet the needs of the particular parties and the public interest, should be regarded as a priority subject for collective negotiations. These agreed-upon procedures should be reviewed and perfected from time to time in collective negotiations in the light of experience.

The Committee proposes the principle and policy that every collective relationship between a governmental agency and an employee organization, which is reduced to writing, should incorporate a specific procedure which the parties agree to use to resolve disputes over conditions of employment in advance of budget submission or legislative deadlines. Where the collective relationship involves no written agreement or memorandum, the parties should nonetheless adopt such a procedure which they may elect to reduce to writing.

This Committee recommends that every existing collective relationship between a governmental agency and employee organization promptly undertake discussions seeking to establish a mutually agreeable procedure to be followed in a future dispute over employment conditions. This obligation to search for agreed-upon procedures should apply regardless of any specified term of current conditions or existing memoranda or agreement, but any agreed-upon procedure need become operative, if necessary, only with the expiration of the present term. Among the types of procedures which the parties may wish to consider are the following. They may alter or combine these procedures in a variety of ways. Their resourcefulness and imagination may be expected to create still others more appropriate to their particular situation. The list which follows is identified without preferment or ranking. Any procedure must, of course, conform to provisions of law.

(a) The advance commitment to submit a dispute to arbitration. Specific standards may or may not be designated.

(b) The determination to resolve a question according to a formula specifying that the wages, benefits or other conditions of employment in the locality and type of work in question shall be governed by those prevailing in private or public employment in other designated localities and types of work.

(c) The advance agreement to refer a dispute to fact-finding with recommendations, with or without the advance commitment by one or both parties to accept the recommendations. The procedures may provide a number of variants. The negotiators may jointly agree in advance to accept the recommendations of the fact-finders and to urge their acceptance upon their principals. They may jointly agree in advance to take the recommendations to the appropriate legislative body to advocate jointly the requisite appropriation or change in regulations, recognizing the authority of such legislative body. The procedures to select the fact-finding and recommending body may also take a variety of forms.

(d) The advance agreement to establish one or more study committees to review together complex or difficult problems, such as wage relations among classifications, which may not be amenable to simple and immediate solution. Such joint study committees should be expected to achieve mutually agreeable recommendations to their principals prior to the next budget submission or legislative deadline. Joint study committees have proven to be constructive in many private and public relationships. The study committees could well include several employee organizations depending on the scope of the issue.

(e) The advance commitment to utilize mediation procedures and to designate individuals or agencies, public or private, as the mediators.

Some of the parties to a current collective relationship may be unable to reach agreement on the procedures which they are to follow in the event of an impasse in collective negotiations. In such event, the Committee recommends that the following procedures be required to be utilized if an impasse exists not less than sixty days before the date required for the submission of the budget. These procedures may be invoked by the government agency, by the employee organization, or by the Public Employment Relations Board on its own motion.

(a) The Public Employment Relations Board shall first ascertain whether an impasse exists, the issues in controversy, the status of the collective negotiations and the steps which the parties have taken to resolve the dispute. The Board shall seek to resolve the dispute by further mediation, including the search for mutually agreeable procedures to resolve any remaining differences between the parties.

(b) If an impasse continues, the Public Employment Relations Board shall appoint a fact-finding board, ordinarily of three members, each of whom is to be representative of the public, with power to make public recommendations. The fact-finding board shall be appointed from a list of recognized experts maintained by the Board and drawn up after consultation with representatives of employee organizations, state and local government administrators, and agencies with industrial relations and personnel functions. The Public Employment Relations Board may also appoint non-voting advisors to the fact-finding board from each of the parties, in appropriate cases.

(c) The fact-finding board shall hear the contending parties to the dispute. It may request statistical data and reports on its own initiative in addition to the data regularly maintained by the Public Employment Relations Board. A majority of the members of the fact-finding board shall make a recommendation to resolve the issues in dispute no later than fifteen days prior to the submission of the budget or legislative deadline. The recommendations of the fact-finding board shall be used to facilitate agreement prior to the budgetary or legislative deadline; however, they shall not be binding on either the governmental agency or the employee organization, unless they so agree.

(d) In the event that a fact-finding report with recommendations issued by a board established under procedure adopted by the parties, no further fact-finding board with power to make recommendations, as provided in paragraph (b) above, shall be appointed. However, the Public Employment Relations Board shall have the power to take whatever steps it deems appropriate to resolve the dispute, including the making of recommendations after giving due consideration to the recommendations

and facts found by the first body.

This Committee has recommended the above impasse procedures and those incorporated below, because it has concluded that these are most appropriate and most generally applicable to public employment. Fact-finding requires the parties to gather objective information and to present arguments with references to these data. An unsubstantiated or extreme demand from either party tends to lose its force and status in this forum. The fact-finding report and recommendations provide a basis to inform and to crystallize thoughtful public opinion and news media comment. Such reports and recommendations have a special relevance when the public's business is involved. The public has a special right to be informed on the issues, contentions and merits of disputes involving public employees.

The Committee has rejected the proposal for compulsory arbitration not merely because there may be serious questions as to its legality but because of the conviction that impasse disputes may arise less frequently and be settled more equitably by the procedures outlined in this report. In our judgment, the requirement for binding arbitration would likely reduce the prospects of settlement at earlier stages closer to the problems, the employees and the agency; it would tend to frustrate the participation of employees in the determination of compensation and conditions of employment and tend to encourage arbitrary and extreme positions on both sides. Moreover, the procedures here proposed, we believe, are more effective in encouraging proposals which are likely to prove to be mutually acceptable and enforceable. They better preserve the autonomy and authority of the legislative process while achieving a balance between the rights of public employees and the public interest.

A collective relationship between a governmental agency and one or more employee organizations now applies to only a minority of government employees in New York. This Committee recommends that any collective relationship, which results in a written understanding or agreement in the future, incorporate in any such memorandum or agreement a procedure to be followed by the parties in the event of an impasse in negotiations. The parties should preferably design their own procedures, but they may elect to adopt the Public Employment Relations Board procedures outlined above.

The Committee recommends that the Public Employment Relations Board maintain and make available to employee organizations and government agencies, as well as to mediators and fact-finding boards, statistical data relating to wages, benefits and employment practices in public and private employment applicable to various localities and occupations. The Board should also provide data for joint study committees established by government agencies and employee organizations and assist them to resolve complex issues in their negotiations.

The Committee is of the view that the procedures outlined above, providing for the maximum participation by government agencies and employee organizations in the design and administration of the procedures to resolve an impasse, will make a major contribution to the orderly resolution of disputes. As either party is left the alternative to reject the recommendations of a fact-finding board, it is essential to state the views of this Committee as to appropriate procedures in that event.

In public employment, responsibility for the final resolution of any dispute, which has not been settled by the procedures outlined above, lies with the local or state legislative body. The rejection by the employee organization of the recommendations of the fact-finding board does not make a strike legitimate or appropriate. The rejection by a government agency of such recommendations does not constitute a final disposition of the dispute.

Economic coercion involving work stoppages is not to be applied in our society against government. The proper course for the employee organization to take any further complaint, after review and recommendations by a fact-finding board, is the

legislative and political arena representing all the people.

Similarly, if the government agency should reject the recommendations, as it too should have the right to do, the employee organization and the administrators should take the remaining controversy to the legislative and political arena rather than to the streets. In the ordinary course, the legislature reviews and evaluates contending views in budget making and in the specification of conditions of work for public employees.

The committee recommends that in the event of the rejection of a fact-finding recommendation, the legislative body or committee hold a form of "show cause hearing" at which the parties review their positions which respect to the recommendations of the fact-finding board. The appropriate budgetary allotment or other regulations are then to be enacted by the legislative body.

It is ultimately the legislature and the political process which has to balance the interests of public employees with the rest of the community, to relate the compensation of public employees to the tax rate and to appraise the extent and quality of public services and the efficiency of their performance to the aspirations of public employees. The methods of persuasion and political activity, rather than the strike, comport with our institutions and traditions as means to resolve such conflicts of interest. It is these methods, moreover, that have been utilized by the wide variety of employee organizations which are indigenous to public employment.

In summary, four basic principles stand out in the design of machinery to resolve disputes which reach a deadlock in collective negotiations:

(a) Collective negotiations need to be closely coordinated with the budget and legislative year; indeed, an impasse is to be defined by reference to failure to achieve an agreement not less than sixty days prior to the final date of the budgetary submission.

(b) All written memoranda or agreements should include procedures which the parties develop themselves to invoke in the event of an impasse. Parties to such memoranda or agreements now in effect should be encouraged to incorporate such procedures.

(c) In the event of an impasse which has not been resolved, the Public Employment Relations Board should appoint a public fact-finding board, ordinarily of three members, to make recommendations.

(d) In the event of the rejection of a fact-finding recommendation by the employee organization or the governmental agency, the appropriate legislative body or committee should hold a form of "show cause hearing" at which the parties review their positions with respect to the recommendations of the fact-finding board prior to final legislative action on the budget or other enactment.

Governor's Committee on Public Employee Relations. Final Report, Part Three, Resolution of Deadlocks in Collective Negotiations, p. 33-40. New York, March 31, 1966.

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Negotiation Research Digest

MAY 1967 ISSUE NO. 2A

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Negotiation statute for public employees based on Taylor Report enacted. Creates public employment relations board specifically for public employee sector. Effective date is September 1, 1967.

Four Tables of State-by-State Data B-1

Second preliminary report from 1966-67 survey of written negotiation procedures in the teaching profession. Includes two tables of data indicating national affiliation of locally recognized organizations representing staff members.

Procedural Agreements ..... Description: A-1
Text: D-1

Five procedural agreements, including four which contain impasse resolution provisions. Four states represented.

Public Employee Recommendations in Illinois ..... Description: A-2
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Sections 1-6 of report of Illinois Governor's Advisory Commission on Labor-Management Policy for Public Employees.

Negotiation Procedures in Flint, Michigan A-3

Written procedures for the negotiation of a new agreement between the Board of Education of the City of Flint, Michigan, and the Flint Education Association (NEA).

State Statutes C-1

Statutes on teacher-school board negotiation printed in full for New York, Oregon, Rhode Island, Washington, and Wisconsin.

Unique Provisions of Agreements A-4

Unique provisions in agreements between the Hancock Education Association (NEA) and the Hancock (Michigan) Public Schools, and between the Manchester Education Association (NEA) and the Manchester (Connecticut) Public Schools.

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NEW YORK LEGISLATURE PASSES PUBLIC EMPLOYEE NEGOTIATION STATUTE

Governor Rockefeller of New York signed into law on April 21, 1967, Senate Bill 4639 which granted representation and negotiation rights to public employees. The new statute, reproduced in full beginning on page C-1, is based upon the Final Report of the Governor's Committee on Public Employee Relations, or Taylor Report. Part III of the Report, "The Resolution of Deadlocks in Collective Negotiations," was reproduced in the April Negotiation Research Digest.

The preamble to the act describes its purposes:

To amend the civil service law and the judiciary law, in relation to granting to public employees the right of organization and representation for the purpose of collectively negotiating the conditions of employment, creating a public employment relations board to assist in resolving disputes between public employees and public employers, prohibiting strikes by public employees and providing remedies for the violation thereof, and repealing section one hundred eight of the civil service law, relating to strikes by public employees.

The Condon-Wadlin Law, which prohibited strikes by public employees and provided specific penalties in cases of violation, was repealed by the law. The new law also prohibits strikes by public employees. Public employees who strike are subject to disciplinary penalties provided by law for misconduct. Injunctive relief from strikes is provided. An employee organization that fails to comply with an anti-strike injunction may be fined $10,000 per day for each day the injunction is disobeyed.

The new statute establishes a public employment relations board designed to assist local governments, including school districts, and employee organizations in obtaining information, resolving representation disputes, providing panels of persons qualified to serve as mediators or members of fact-finding boards, and other specified functions.

The act empowers public employers to establish procedures to determine the organization to represent the employees, in conformity with provisions set forth in the law, and in agreement with the recognized employee organization, to establish procedures to be used to resolve impasses in the course of negotiations. The public employer is required to negotiate with the certified or recognized employee organization and to enter into written agreements.

The statute becomes effective September 1, 1967.

FIVE PROCEDURAL AGREEMENTS

The NEA Research Division depository of negotiation agreements has provided five procedural agreements for Section D (Agreements) of this issue. Four of the

five agreements include provisions for resolution of impasses. The five school systems, recognized organizations, and number of personnel represented are:

School System	Recognized Organization	Personnel Represented
Community Unit School District No. 4 Champaign County, Illinois	Champaign Education Association (NEA)	743
Adams County School District 14 Adams County, Colorado	District 14 Education Association (NEA)	398
School District 89 Maywood, Illinois	West Suburban Teachers Union, Local 571 (AFL-CIO)	210
Unified School District #470 Arkansas City, Kansas	Arkansas City Education Association (NEA)	185
Lewes Special School District Lewes, Delaware	Lewes Education Association (NEA)	65

Texts of agreements begin on page D-1.

PUBLIC EMPLOYEE POLICY RECOMMENDATIONS IN ILLINOIS

Governor Otto Kerner of Illinois, on July 29, 1966, appointed a 22-member panel to study the problems of employer-employee relations in state and local governmental agencies. The panel was to explore the need for legislation and, if appropriate, to make recommendations for such legislation.

In his Executive Order Governor Kerner conferred upon the panel the following responsibilities:

1. To consider all aspects of employee-employer relations for State and local governmental agencies.

2. To recommend policies appropriate for promoting fairness, harmony, cooperation, and efficiency in public employment.

3. To consider the need, if any, for establishing additional procedures and machinery

a. to carry out these policies

b. to deal with issues concerning the representation of governmental employees and

c. to provide for prompt and fair adjustment of employee grievances.

4. To enlist the aid, advice, and recommendations of interested groups and of knowledgeable individuals concerning the achievement of the above objectives, in accordance with standards and principles that should govern the relationship of governmental agencies and their personnel and that are consistent with the faithful discharge of the responsibility of governmental agencies to the public.

The text of Sections 1-6 of the Report begins on page E-1.

NEGOTIATION PROCEDURES IN FLINT, MICHIGAN

The written procedures used in the negotiation of a new agreement have been of interest to a number of groups. The comprehensive procedures detailed in the agreement between the Flint Education Association (NEA) and the Board of Education of the City of Flint, Michigan, and effective September 1, 1966, through August 31, 1969, provide an example of such procedures. Article III, Negotiation Procedures, is reproduced in full:

ARTICLE III.

Negotiation Procedures

A. Not later than March 1 of the calendar year in which this agreement is subject to reopener or expires, the Board agrees to begin negotiations with the Association concerning a successor Agreement, in accordance with the procedures set forth herein. Any Agreement so negotiated shall apply to all teachers, and shall be reduced to writing and signed by the Board and the Association.

B. In any negotiations described in this Agreement, neither party shall have any control over the selection of the bargaining representatives of the other party, and each party may select its representatives from within or without the school district. It is recognized that no final Agreement between the parties may be executed without ratification by a majority of the Board and by a majority of the membership of the Association.

C. This Agreement incorporates the entire understanding of the parties on all issues which were or could have been subject to negotiation. During the term of this Agreement neither party shall be required to negotiate with respect to any such matter whether or not covered by this Agreement and whether or not within the knowledge or contemplation of either or both of the parties at the time they negotiated or signed this Agreement.

D. When it is mutually agreed that negotiations referred to in Paragraph A between the Association and the Board shall take place during the school day, any teacher so engaged shall be released from regular duties without loss of salary.

E. In the event the negotiations described in Paragraph A above reach an impasse, the procedure described in Act 379 of the Michigan Public Acts of 1965, as amended from time to time, shall be followed when requested by either party.

UNUSUAL PROVISIONS OF AGREEMENTS

In the process of analyzing agreements, the NEA Research Division's negotiation research unit becomes aware of some unusual provisions in agreements. Reports of unusual provisions will be made periodically in the Negotiation Research Digest.

Recognition of one of a teacher's "occupational hazards" is made in the agreement between the Manchester Education Association (NEA) and the Manchester (Connecticut) Public Schools, in Section B of Article XVII, Accident and Sickness Benefits:

B. If a teacher is absent because of illness due to a childhood communicable disease definitely traceable to contact made in school, the absence will not be charged against him.

Some of the smaller communities tend to restrict the private lives of their school staff members. Two sections of Article VI, Teaching Conditions, in the agreement between the Hancock (Michigan) Public Schools and the Hancock Education Association (NEA) are of interest in this respect:

C. Under no conditions shall a teacher be required to drive a school bus as part of his regular assignment.

F. The private and personal life of any teacher is not within the appropriate concern or attention of the board except when it impairs the teacher's effectiveness in the classroom or position. Notwithstanding their employment, teachers shall be entitled to full rights of citizenship and no religious or political activities of any teacher or the lack thereof shall be grounds for any discipline or discrimination with respect to the professional employment of such teacher.

SECOND PRELIMINARY REPORT, 1966-67

SURVEY OF WRITTEN NEGOTIATION PROCEDURES BETWEEN LOCAL SCHOOL BOARDS AND ORGANIZATIONS OF THE TEACHING PROFESSION

The data which follow are preliminary and were obtained from the survey of written negotiation procedures now being conducted by the NEA Research Division. The data are based on the returns processed as of April 24, 1967.

Four tables, A, B, D-1, and D-2, were selected for their broad coverage. Other tables, which will be reported in later issues of this Digest, from the final report on the survey include the types of negotiation in school systems with multiple recognized organizations, the methods used for determining the organization(s) to be recognized, the types of personnel represented in negotiation, and others.

Data for the Chicago City School System has been included in the "systems without agreements" category in Table B inasmuch as it does not currently have a written agreement. When the Chicago agreement is filed with the NEA Research Division, 20,000 personnel will be added to the American Federation of Teachers (AFL-CIO) figures in both the Illinois and the national totals of personnel represented (Table D-1), the Chicago Teachers Union (AFL-CIO) being the recognized organization. In Table D-2 the number of school systems represented by local unions of the American Federation of Teachers (AFL-CIO) will, upon the Chicago filing, be increased to 13 of the 51 Illinois systems with agreements, and nationally to 36 of the 1,263 systems with agreements.

TABLE A

SCOPE OF SURVEY

Table A shows the scope of the survey, the percent of school systems responding, and the numbers of personnel covered by the survey. The 7,157 school systems surveyed represent the universe of school systems in the United States enrolling 1,000 or more pupils.

The response rate was highest among the largest systems, and steadily decreased as the enrollment of the school system decreased.

TABLE B

STATUS OF WRITTEN NEGOTIATION PROCEDURES

Table B provides a state-by-state comparison of the extent of negotiation agreements, and shows the number of instructional staff members employed in the school systems with, and without, negotiation agreements.

By policy, only those school systems which file a copy of their negotiation agreement in the NEA Research Division depository of agreements are included in the group of school systems counted as having agreements.

TABLE D-1

NUMBER OF PROFESSIONAL PERSONNEL REPRESENTED BY NATIONAL AFFILIATION OF LOCAL ORGANIZATIONS FOR NEGOTIATION PURPOSES

Listed state by state in Table D-1 are the numbers of professional personnel represented by organizations recognized for negotiation purposes. It should be noted that this table refers specifically to personnel represented by organizations, and because of this definition, Oregon is listed with zero personnel represented. The Oregon statute does not allow organizational representation, using instead an elected committee of individuals.

In addition, Table D-1 shows for each state the number of professional personnel represented by state and local affiliates of the National Education Association (NEA), by local unions of the American Federation of Teachers (AFL-CIO), and by independent groups.

An analysis of organizational representation by enrollment of the school system in which the personnel are employed reveals that 80 percent of the total personnel represented by the American Federation of Teachers (AFL-CIO) are in those school systems with enrollments of 100,000 or more.

In the case of the systems with mixed or indeterminate national affiliation of the recognized organizations, as well as the single organization systems, the number of personnel represented was appropriately distributed to the proper column.

TABLE D-2

NATIONAL AFFILIATION OF ORGANIZATIONS REPRESENTING PROFESSIONAL STAFF IN NEGOTIATION

Table D-2 presents the same types of data as Table D-1, but on a school system basis.

Listed are the number of school systems with written negotiation agreements, the number of systems where the personnel are represented by local or state affiliates of the National Education Association (NEA), local unions of the American Federation of Teachers (AFL-CIO), or by independent groups. Listed also are the number of school systems in each state where representation of the personnel is by two or more organizations and where the national affiliation of the two organizations is mixed or indeterminate.

Systems with multiple recognized organizations representing the staff were counted as one system for the national organization if all recognized organizations had identical national affiliation. Multiple organization systems with organizations of mixed national affiliation were included in the column, "Two or More."

The lower portion of each table provides comparable data on the basis of school system enrollments. The eight enrollment strata utilized are:

Stratum	School System Enrollment
1	100,000 or more
2	50,000-99,999
3	25,000-49,999
4	12,000-24,999
5	6,000-11,999
6	3,000- 5,999
7	1,200- 2,999
8	1,000- 1,199

TABLE A

SCOPE OF SURVEY

STATE	SYSTEMS SURVEYED	SYSTEMS RESPONDING NUMBER	SYSTEMS RESPONDING PERCENT	SYSTEMS RESPONDING: TOTAL CLASSROOM TEACHERS EMPLOYED	SYSTEMS RESPONDING: TOTAL INSTRUCTIONAL STAFF EMPLOYED
1	2	3	4	5	6
ALABAMA	115.	90.	78.3%	22214.	23159.
ALASKA	8.	7.	87.5	1579.	1858.
ARIZONA	64.	55.	85.9	10384.	11330.
ARKANSAS	118.	85.	72.0	8757.	9394.
CALIFORNIA	491.	302.	61.5	125773.	139347.
COLORADO	66.	59.	89.4	20037.	22010.
CONNECTICUT	113.	82.	72.6	20083.	22556.
DELAWARE	30.	27.	90.0	3812.	4183.
DISTRICT OF COLUMBIA	1.	0.	0.0	0.	0.
FLORIDA	63.	53.	84.1	42475.	46200.
GEORGIA	183.	114.	62.3	25807.	28828.
HAWAII	1.	1.	100.0	6500.	8200.
IDAHO	43.	34.	79.1	4605.	4968.
ILLINOIS	389.	320.	82.3	66226.	71757.
INDIANA	254.	206.	81.1	32719.	35839.
IOWA	147.	130.	88.4	16953.	18362.
KANSAS	101.	71.	70.3	12312.	13754.
KENTUCKY	160.	107.	66.9	17281.	19307.
LOUISIANA	67.	52.	77.6	26068.	27180.
MAINE	91.	74.	81.3	6962.	7647.
MARYLAND	24.	19.	79.2	22738.	26274.
MASSACHUSETTS	205.	124.	60.5	28921.	32214.
MICHIGAN	379.	260.	68.6	60508.	66567.
MINNESOTA	151.	126.	83.4	23566.	25696.
MISSISSIPPI	145.	85.	58.6	12754.	13496.
MISSOURI	163.	131.	80.4	25436.	27499.
MONTANA	33.	31.	93.9	4710.	5026.
NEBRASKA	37.	30.	81.1	6756.	7487.
NEVADA	11.	11.	100.0	4279.	4630.
NEW HAMPSHIRE	45.	36.	80.0	5193.	5794.
NEW JERSEY	294.	233.	79.3	40712.	45120.
NEW MEXICO	45.	32.	71.1	7320.	8040.
NEW YORK	511.	455.	89.0	150131.	169403.
NORTH CAROLINA	166.	140.	84.3	32936.	35334.
NORTH DAKOTA	19.	16.	84.2	2222.	2356.
OHIO	511.	419.	82.0	73642.	79262.
OKLAHOMA	84.	67.	79.8	12899.	14052.
OREGON	86.	56.	65.1	14430.	15626.
PENNSYLVANIA	509.	443.	87.0	77563.	85646.
RHODE ISLAND	27.	15.	55.6	3210.	3456.
SOUTH CAROLINA	104.	71.	68.3	16686.	17829.
SOUTH DAKOTA	24.	20.	83.3	3206.	3445.
TENNESSEE	132.	103.	78.0	21884.	23345.
TEXAS	363.	305.	84.0	63016.	70252.
UTAH	30.	22.	73.3	8632.	9708.
VERMONT	44.	36.	81.8	2586.	2798.
VIRGINIA	125.	98.	78.4	34628.	38212.
WASHINGTON	117.	96.	82.1	25623.	28674.
WEST VIRGINIA	55.	44.	80.0	14462.	15467.
WISCONSIN	192.	136.	70.8	25478.	27628.
WYOMING	21.	20.	95.2	2420.	2627.
TOTAL	7157.	5549.	77.5%	1299104.	1428838.
STRATUM					
1	24.	21.	87.5%	217660.	241558.
2	51.	47.	92.2	123122.	135419.
3	84.	74.	88.1	86911.	97017.
4	332.	268.	80.7	178867.	197396.
5	778.	629.	80.8	218020.	238912.
6	1626.	1255.	77.2	218273.	238948.
7	3468.	2660.	76.7	226132.	246724.
8	794.	595.	74.9	30119.	32864.
TOTAL	7157.	5549.	77.5%	1299104.	1428838.

TABLE B

STATUS OF WRITTEN NEGOTIATION PROCEDURES

STATE	TOTAL SYSTEMS SURVEYED	RESPONDING SYSTEMS		SYSTEMS WITH PROCEDURES				SYSTEMS WITHOUT PROCEDURES			
			INSTR. STAFF			INSTR. STAFF				INSTR. STAFF	
		NUMBER		NUMBER	PERCENT	NUMBER	PERCENT	NUMBER	PERCENT	NUMBER	PERCENT
	1	2	3	4	5	6	7	8	9	10	11
ALABAMA	115	90.	23159.	0.	0.0%	0.	0.0%	90.	100.0%	23159.	100.0%
ALASKA	8	7.	1858.	3.	42.8	1327.	71.4	4.	57.1	531.	28.5
ARIZONA	64	55.	11330.	10.	18.1	2860.	25.2	45.	81.8	8470.	74.7
ARKANSAS	118	85.	9394.	1.	1.1	557.	5.9	84.	98.8	8837.	94.0
CALIFORNIA	491	302.	139347.	256.	84.7	129909.	93.2	46.	15.2	9438.	6.7
COLORADO	66	59.	22010.	17.	28.8	14573.	66.2	42.	71.1	7437.	33.7
CONNECTICUT	113	82.	22556.	48.	58.5	17637.	78.1	34.	41.4	4919.	21.8
DELAWARE	30	27.	4183.	7.	25.9	1248.	29.8	20.	74.0	2935.	70.1
DISTRICT OF COLUMBIA	1	0.	0.	0.	0.0	0.	0.0	0.	0.0	0.	0.0
FLORIDA	63	53.	46200.	4.	7.5	9918.	21.4	49.	92.4	36282.	78.5
GEORGIA	183	114.	28828.	0.	0.0	0.	0.0	114.	100.0	28828.	100.0
HAWAII	1	1.	8200.	0.	0.0	0.	0.0	1.	100.0	8200.	100.0
IDAHO	43	34.	4968.	13.	38.2	2298.	46.2	21.	61.7	2670.	53.7
ILLINOIS[a]	389	320.	71757.	55.	17.1	13943.	19.4	265.	82.8	57814.	[illegible]
INDIANA	254	206.	35839.	27.	13.1	5972.	16.6	179.	86.8	29867.	83.3
IOWA	147	130.	18362.	8.	6.1	2604.	14.1	122.	93.8	15758.	85.8
KANSAS	101	71.	13754.	18.	25.3	6797.	49.4	53.	74.6	6957.	50.5
KENTUCKY	160	107.	19307.	1.	0.9	340.	1.7	106.	99.0	18967.	98.2
LOUISIANA	67	52.	27180.	0.	0.0	0.	0.0	52.	100.0	27180.	100.0
MAINE	91	74.	7647.	5.	6.7	1257.	16.4	69.	93.2	6390.	83.5
MARYLAND	24	19.	26274.	4.	21.0	6686.	25.4	15.	78.9	19588.	74.5
MASSACHUSETTS	205	124.	32214.	49.	39.5	14351.	44.5	75.	60.4	17863.	55.4
MICHIGAN	379	260.	66567.	215.	82.6	62319.	93.6	45.	17.3	4248.	6.3
MINNESOTA	151	126.	21696.	19.	15.0	4047.	15.7	107.	84.9	21649.	84.2
MISSISSIPPI	145	85.	13496.	0.	0.0	0.	0.0	85.	100.0	13496.	100.0
MISSOURI	163	131.	27499.	16.	12.2	4878.	17.7	115.	87.7	22621.	82.2
MONTANA	33	31.	5026.	5.	16.1	784.	15.5	26.	83.8	4242.	84.4
NEBRASKA	37	30.	7487.	2.	6.6	2355.	31.4	28.	93.3	5132.	68.5
NEVADA	11	11.	4630.	1.	9.0	1235.	26.6	10.	90.9	3395.	73.3
NEW HAMPSHIRE	45	36.	5794.	5.	13.8	674.	11.6	31.	86.1	5120.	88.3
NEW JERSEY	294	233.	45120.	135.	57.9	26095.	57.8	98.	42.0	19025.	42.1
NEW MEXICO	45	32.	8040.	4.	12.5	3813.	47.4	28.	87.5	4227.	52.5
NEW YORK	511	455.	169403.	75.	16.4	89349.	52.7	380.	83.5	80054.	47.2
NORTH CAROLINA	166	140.	35334.	1.	0.7	341.	0.9	139.	99.2	34993.	99.0
NORTH DAKOTA	19	16.	2356.	1.	6.2	515.	21.8	15.	93.7	1841.	78.1
OHIO	511	419.	79262.	102.	24.3	32547.	41.0	317.	75.6	46715.	58.9
OKLAHOMA	84	67.	14052.	3.	4.4	3965.	28.2	64.	95.5	10087.	71.7
OREGON	86	56.	15626.	45.	80.3	14346.	91.8	11.	19.6	1280.	8.1
PENNSYLVANIA	509	443.	85646.	39.	8.8	23288.	27.1	404.	91.1	62358.	72.8
RHODE ISLAND	27	15.	3456.	7.	46.6	2291.	66.2	8.	53.3	1165.	33.7
SOUTH CAROLINA	104	71.	17825.	1.	1.4	604.	3.3	70.	98.5	17221.	96.6
SOUTH DAKOTA	24	20.	3445.	3.	14.9	517.	15.0	17.	85.0	2928.	84.9
TENNESSEE	132	103.	23345.	0.	0.0	0.	0.0	103.	100.0	23345.	100.0
TEXAS	363	305.	70252.	6.	1.9	17604.	25.0	299.	98.0	52648.	74.9
UTAH	300	22.	9708.	3.	13.6	1524.	15.6	19.	86.3	8184.	84.3
VERMONT	44	36.	2798.	5.	13.8	404.	14.4	31.	86.1	2394.	85.5
VIRGINIA	125	98.	38212.	1.	1.0	4735.	12.3	97.	98.9	33477.	87.6
WASHINGTON	117	96.	28674.	67.	69.7	22772.	79.4	29.	30.2	5902.	20.5
WEST VIRGINIA	55	44.	15467.	2.	4.5	446.	2.8	42.	95.4	15021.	97.1
WISCONSIN	192	136.	27628.	61.	44.8	19842.	71.8	75.	55.1	7786.	28.1
WYOMING	21	20.	2627.	3.	14.9	1054.	40.1	17.	85.0	1573.	59.8
TOTAL	7157	5549.	1428838.	1353.	24.3%	574621.	40.2%	4196.	75.6%	854217.	59.7%
STRATUM											
1	24	21.	241558.	9.	42.8%	153024.	63.3%	12.	57.1%	88534.	36.6%
2	51	47.	135419.	21.	44.6	69222.	51.1	26.	55.3	66197.	48.8
3	84	74.	97017.	31.	41.8	43592.	44.9	43.	58.1	53425.	55.0
4	332	288.	197396.	107.	39.9	81672.	41.3	161.	60.0	115724.	58.6
5	778	629.	238912.	210.	33.3	87796.	36.7	419.	66.6	151116.	63.2
6	1626	1255.	238948.	345.	27.4	76901.	32.1	910.	72.5	162047.	67.8
7	3468	2660.	246724.	537.	20.1	56648.	22.9	2123.	79.8	190076.	77.0
8	794	592.	32864.	93.	15.6	5766.	17.5	502.	84.3	27098.	82.4
TOTAL	7157	5549.	1428838.	1353.	24.3%	574621.	40.2%	4196.	75.6%	854217.	59.7%

a/ The Chicago total of 22,804 instructional staff personnel are included in the "systems without procedures" until the agreement is filed.

TABLE D-1

NUMBER OF PROFESSIONAL PERSONNEL REPRESENTED BY NATIONAL AFFILIATION OF LOCAL ORGANIZATIONS FOR NEGOTIATION PURPOSES

STATE	PERSONNEL REPRESENTED		N. E. A.		A. F. T.		INDEPENDENT	
	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.
1	2	3	4	5	6	7	8	9
ALABAMA	0.	0.0%	0.	0.0%	0.	0.0%	0.	0.0%
ALASKA	985.	100.0	985.	100.0	0.	0.0	0.	0.0
ARIZONA	2524.	100.0	2524.	100.0	0.	0.0	0.	0.0
ARKANSAS	0.	0.0	0.	0.0	0.	0.0	0.	0.0
CALIFORNIA	107798.	100.0	104922.	97.3	2445.	2.3	431.	0.4
COLORADO	13840.	100.0	13840.	100.0	0.	0.0	0.	0.0
CONNECTICUT	17324.	100.0	15678.	90.5	1477.	8.5	169.	1.0
DELAWARE	1249.	100.0	1249.	100.0	0.	0.0	0.	0.0
DISTRICT OF COLUMBIA	0.	0.0	0.	0.0	0.	0.0	0.	0.0
FLORIDA	9397.	100.0	9397.	100.0	0.	0.0	0.	0.0
GEORGIA	0.	0.0	0.	0.0	0.	0.0	0.	0.0
HAWAII	0.	0.0	0.	0.0	0.	0.0	0.	0.0
IDAHO	2007.	100.0	1757.	87.5	250.	12.5	0.	0.0
ILLINOIS a/	11919.	99.9	7288.	61.1	3889.	32.6	742.	6.2
INDIANA	4923.	100.0	4841.	98.3	35.	0.7	47.	1.0
IOWA	2360.	100.0	2360.	100.0	0.	0.0	0.	0.0
KANSAS	6511.	100.0	6511.	100.0	0.	0.0	0.	0.0
KENTUCKY	340.	100.0	340.	100.0	0.	0.0	0.	0.0
LOUISIANA	0.	0.0	0.	0.0	0.	0.0	0.	0.0
MAINE	1239.	100.0	1239.	100.0	0.	0.0	0.	0.0
MARYLAND	6602.	100.0	6602.	100.0	0.	0.0	0.	0.0
MASSACHUSETTS	13911.	100.0	9375.	67.4	4521.	32.5	15.	0.1
MICHIGAN	59196.	100.0	42091.	71.1	15808.	26.7	1297.	2.2
MINNESOTA	2944.	100.0	1740.	59.1	1152.	39.1	52.	1.8
MISSISSIPPI	0.	0.0	0.	0.0	0.	0.0	0.	0.0
MISSOURI	4754.	100.0	4754.	100.0	0.	0.0	0.	0.0
MONTANA	594.	100.0	249.	41.9	345.	58.1	0.	0.0
NEBRASKA	2482.	100.0	2482.	100.0	0.	0.0	0.	0.0
NEVADA	1134.	100.0	1134.	100.0	0.	0.0	0.	0.0
NEW HAMPSHIRE	386.	100.0	386.	100.0	0.	0.0	0.	0.0
NEW JERSEY	22683.	100.0	22446.	99.0	226.	1.0	11.	0.0
NEW MEXICO	3103.	100.0	3103.	100.0	0.	0.0	0.	0.0
NEW YORK	80646.	100.0	19767.	24.5	60829.	75.4	50.	0.1
NORTH CAROLINA	341.	100.0	341.	100.0	0.	0.0	0.	0.0
NORTH DAKOTA	515.	100.0	515.	100.0	0.	0.0	0.	0.0
OHIO	31590.	100.0	31575.	100.0	15.	0.0	0.	0.0
OKLAHOMA	3920.	100.0	3920.	100.0	0.	0.0	0.	0.0
OREGON	0.	0.0	0.	0.0	0.	0.0	0.	0.0
PENNSYLVANIA	20204.	100.0	9204.	45.6	11000.	54.4	0.	0.0
RHODE ISLAND	2024.	100.0	1864.	92.1	160.	7.9	0.	0.0
SOUTH CAROLINA	604.	100.0	604.	100.0	0.	0.0	0.	0.0
SOUTH DAKOTA	500.	100.0	500.	100.0	0.	0.0	0.	0.0
TENNESSEE	0.	0.0	0.	0.0	0.	0.0	0.	0.0
TEXAS	13289.	100.0	13289.	100.0	0.	0.0	0.	0.0
UTAH	1449.	100.0	1449.	100.0	0.	0.0	0.	0.0
VERMONT	393.	100.0	393.	100.0	0.	0.0	0.	0.0
VIRGINIA	4500.	100.0	4500.	100.0	0.	0.0	0.	0.0
WASHINGTON	21841.	100.0	21841.	100.0	0.	0.0	0.	0.0
WEST VIRGINIA	424.	100.0	424.	100.0	0.	0.0	0.	0.0
WISCONSIN	18444.	100.0	17501.	94.9	943.	5.1	0.	0.0
WYOMING	938.	100.0	938.	100.0	0.	0.0	0.	0.0
T O T A L	501827.	100.0%	395918.	78.9%	103095.	20.5%	2814.	0.6%
STRATUM								
1	124185.	100.0%	40998.	33.0%	81987.	66.0%	1200.	1.0%
2	61739.	100.0	57173.	92.6	4521.	7.3	45.	0.1
3	40659.	100.0	37326.	91.8	3261.	8.0	72.	0.2
4	72951.	100.0	66666.	91.4	6068.	8.3	217.	0.3
5	79600.	100.0	74369.	93.4	4340.	5.5	891.	1.1
6	68148.	100.0	65765.	96.5	2057.	3.0	326.	0.5
7	49547.	99.9	48670.	98.2	861.	1.7	16.	0.0
8	4998.	100.0	4951.	99.1	0.	0.0	47.	0.9
T O T A L	501827.	100.0%	395918.	78.9%	103095.	20.5%	2814.	0.6%

a/ When the Chicago agreement is filed with the NEA Research Division, the AFT total for Illinois and the grand total will be increased by 20,000.

TABLE D-2

NATIONAL AFFILIATION OF ORGANIZATIONS REPRESENTING PROFESSIONAL STAFF IN NEGOTIATION

STATE	SYSTEMS WITH ORGANIZATIONAL REPRESENTATION		N. E. A.		A. F. T.		INDEPENDENT		TWO OR MORE ORGANIZATIONS WITH MIXED AFFILIATIONS	
	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.
1	2	3	4	5	6	7	8	9	10	11
ALABAMA	0.	0.0%	0.	0.0%	0.	0.0%	0.	0.0%	0.	0.0%
ALASKA	3.	100.0	3.	100.0	0.	0.0	0.	0.0	0.	0.0
ARIZONA	9.	100.0	9.	100.0	0.	0.0	0.	0.0	0.	0.0
ARKANSAS	0.	0.0	0.	0.0	0.	0.0	0.	0.0	0.	0.0
CALIFORNIA	256.	100.0	238.	93.0	0.	0.0	0.	0.0	18.	7.0
COLORADO	17.	100.0	17.	100.0	0.	0.0	0.	0.0	0.	0.0
CONNECTICUT	48.	100.0	41.	85.4	0.	0.0	0.	0.0	7.	14.6
DELAWARE	7.	100.0	7.	100.0	0.	0.0	0.	0.0	0.	0.0
DISTRICT OF COLUMBIA	0.	0.0	0.	0.0	0.	0.0	0.	0.0	0.	0.0
FLORIDA	4.	100.0	4.	100.0	0.	0.0	0.	0.0	0.	0.0
GEORGIA	0.	0.0	0.	0.0	0.	0.0	0.	0.0	0.	0.0
HAWAII	0.	0.0	0.	0.0	0.	0.0	0.	0.0	0.	0.0
IDAHO	12.	100.0	11.	91.7	0.	0.0	0.	0.0	1.	8.3
ILLINOIS a/	50.	100.0	34.	68.0	12.	24.0	2.	4.0	2.	4.0
INDIANA	25.	100.0	23.	92.0	0.	0.0	1.	4.0	1.	4.0
IOWA	7.	100.0	7.	100.0	0.	0.0	0.	0.0	0.	0.0
KANSAS	17.	100.0	17.	100.0	0.	0.0	0.	0.0	0.	0.0
KENTUCKY	1.	100.0	1.	100.0	0.	0.0	0.	0.0	0.	0.0
LOUISIANA	0.	0.0	0.	0.0	0.	0.0	0.	0.0	0.	0.0
MAINE	5.	100.0	5.	100.0	0.	0.0	0.	0.0	0.	0.0
MARYLAND	4.	100.0	4.	100.0	0.	0.0	0.	0.0	0.	0.0
MASSACHUSETTS	49.	99.9	47.	95.9	1.	2.0	0.	0.0	1.	2.0
MICHIGAN	215.	100.0	201.	93.5	11.	5.1	0.	0.0	3.	1.4
MINNESOTA	14.	100.0	7.	50.0	2.	14.3	0.	0.0	5.	35.7
MISSISSIPPI	0.	0.0	0.	0.0	0.	0.0	0.	0.0	0.	0.0
MISSOURI	15.	100.0	15.	100.0	0.	0.0	0.	0.0	0.	0.0
MONTANA	4.	100.0	3.	75.0	1.	25.0	0.	0.0	0.	0.0
NEBRASKA	2.	100.0	2.	100.0	0.	0.0	0.	0.0	0.	0.0
NEVADA	1.	100.0	1.	100.0	0.	0.0	0.	0.0	0.	0.0
NEW HAMPSHIRE	4.	100.0	4.	100.0	0.	0.0	0.	0.0	0.	0.0
NEW JERSEY	119.	100.0	115.	96.6	0.	0.0	0.	0.0	4.	3.4
NEW MEXICO	4.	100.0	4.	100.0	0.	0.0	0.	0.0	0.	0.0
NEW YORK	72.	100.0	68.	94.4	3.	4.2	0.	0.0	1.	1.4
NORTH CAROLINA	1.	100.0	1.	100.0	0.	0.0	0.	0.0	0.	0.0
NORTH DAKOTA	1.	100.0	1.	100.0	0.	0.0	0.	0.0	0.	0.0
OHIO	99.	100.0	98.	99.0	0.	0.0	0.	0.0	1.	1.0
OKLAHOMA	3.	100.0	3.	100.0	0.	0.0	0.	0.0	0.	0.0
OREGON	0.	0.0	0.	0.0	0.	0.0	0.	0.0	0.	0.0
PENNSYLVANIA	36.	100.0	35.	97.2	1.	2.8	0.	0.0	0.	0.0
RHODE ISLAND	7.	100.0	6.	85.7	1.	14.3	0.	0.0	0.	0.0
SOUTH CAROLINA	1.	100.0	1.	100.0	0.	0.0	0.	0.0	0.	0.0
SOUTH DAKOTA	3.	100.0	3.	100.0	0.	0.0	0.	0.0	0.	0.0
TENNESSEE	0.	0.0	0.	0.0	0.	0.0	0.	0.0	0.	0.0
TEXAS	6.	100.0	6.	100.0	0.	0.0	0.	0.0	0.	0.0
UTAH	3.	100.0	3.	100.0	0.	0.0	0.	0.0	0.	0.0
VERMONT	5.	100.0	5.	100.0	0.	0.0	0.	0.0	0.	0.0
VIRGINIA	1.	100.0	1.	100.0	0.	0.0	0.	0.0	0.	0.0
WASHINGTON	66.	100.0	66.	100.0	0.	0.0	0.	0.0	0.	0.0
WEST VIRGINIA	2.	100.0	2.	100.0	0.	0.0	0.	0.0	0.	0.0
WISCONSIN	61.	99.9	57.	93.4	3.	4.9	0.	0.0	1.	1.6
WYOMING	3.	100.0	3.	100.0	0.	0.0	0.	0.0	0.	0.0
T O T A L	1262.	100.0%	1179.	93.4%	35.	2.8%	3.	0.2%	45.	3.6%
STRATUM										
1	9.	100.0%	5.	55.6%	2.	22.2%	0.	0.0%	2.	22.2%
2	20.	100.0	18.	90.0	1.	5.0	0.	0.0	1.	5.0
3	31.	100.0	26.	83.9	1.	3.2	0.	0.0	4.	12.9
4	102.	100.1	89.	87.3	7.	6.9	0.	0.0	6.	5.9
5	198.	100.0	174.	87.9	7.	3.5	1.	0.5	16.	8.1
6	325.	100.0	304.	93.5	10.	3.1	1.	0.3	10.	3.1
7	493.	100.0	480.	97.4	7.	1.4	0.	0.0	6.	1.2
8	84.	100.0	83.	98.8	0.	0.0	1.	1.2	0.	0.0
T O T A L	1262.	100.0%	1179.	93.4%	35.	2.8%	[illegible]	0.2%	45.	3.6%

a/ When the Chicago agreement is filed, the number of school systems represented by AFT locals will [illegible]ased by 1 in Illinois and nationally.

STATE NEGOTIATION STATUTES

The statute for New York State was signed by Governor Rockefeller on April 21, 1967. Also included here are the statutes for Oregon, Rhode Island, Washington, and Wisconsin. (Statutes for Alaska, California, Connecticut, Florida, Massachusetts, Michigan, New Hampshire, and New Jersey were reproduced in the April issue.)

NEW YORK

Chapter 392 of Laws of 1967: AN ACT GRANTING REPRESENTATION AND NEGOTIATION RIGHTS TO PUBLIC EMPLOYEES

Section 1. Section one hundred eight of the civil service law is hereby repealed.

§2. Such law is hereby amended by inserting therein a new article, to be article fourteen, to read as follows:

ARTICLE 14

PUBLIC EMPLOYEES' FAIR EMPLOYMENT ACT

Section 200. Statement of policy.

201. Definitions.

202. Right of organization.

203. Right of representation.

204. Recognition and certification of employee organizations.

205. Public employment relations board.

206. Procedures for determination of representation status of local employees.

207. Determination of representation status.

208. Rights accompanying certification or recognition.

209. Resolution of disputes in the course of collective negotiations.

210. Prohibition of strikes.

211. Application for injunctive relief.

212. Local government procedures.

§200. Statement of policy. The legislature of the state of New York declares that it is the public policy of the state and the purpose of this act to promote harmonious and cooperative relationships between government and its employees and to protect the public by assuring, at all times, the orderly and uninterrupted operations and functions of government. These policies are best effectuated by (a) granting to public employees the right of organization and representation, (b) requiring the state, local governments and other political subdivisions to negotiate with, and enter into written agreements with employee organizations representing public employees which have been certified or recognized, (c) creating a public employee relations board to assist in resolving disputes between public employees and public employers, and (d) continuing the prohibition against strikes by public employees and providing remedies for violations of such prohibition.

§201. Definitions. As used in this article:

1. The term "board" means the public employment relations board created by section two hundred five of this article.

2. The term "budget submission date" means the date by which, under law or practice, a government's proposed budget, or a budget containing proposed expenditures applicable to such government, is submitted to the legislative or other similar body of the government for final action, and (a) in the case of a school district other than city school districts means the date of the annual meeting, and (b) in the case of city school districts means the first day of July.

3. The term "membership dues deduction" means the obligation or practice of a government to deduct from the salary of a public employee with his consent an amount for the payment of his membership dues in an employee organization. Such term also means the obligation or practice of government to transmit the sums so deducted to an employee organization.

4. The term "chief legal officer" means (a) in the case of the state of New York or a state public authority, the attorney general of the state of New York, (b) in the case of a county, city, town or village, the county attorney, corporation counsel, town attorney or village attorney, as the case may be, and (c) in the case of any such government not having its own attorney, or any other government or public employer, the corporation counsel of the city in which such government or public employer has its principal office, and if such principal office is not located in a city, the county attorney of the county in which such government or public employer has its principal office.

5. The term "terms and conditions of employment" means salaries, wages, hours and other terms and conditions of employment.

6. The term "employee organization" means an organization" of any kind having as its primary purpose the improvement of terms and conditions of employment of public employees, except that such term shall not include an organization (a) membership in which is prohibited by section one hundred five of this chapter, (b) which discriminates with regard to the terms or conditions of membership because of race, color, creed or national origin, or (c) which, in the case of public employees who hold positions by appointment or employment in the service of the board and who are excluded from the application of this article by rules and regulations of the board, admits to membership or is affiliated directly or indirectly with an organization which admits to membership persons not in the service of the board, for purposes of any provision of this article other than sections two hundred ten and two hundred eleven of this article.

Explanation--Matter in Roman is new; matter in italics is old; matter in brackets [ ] is old law to be omitted.

7. The term "government" or "public employer" means (a) the state of New York, (b) a county, city, town, village or any other political subdivision or civil division of the state, (c) a school district or any governmental entity operating a public school, college or university, (d) a public improvement or special district, (e) a public authority, commission, or public benefit corporation, or (f) any other public corporation, agency or instrumentality or unit of government which exercises governmental powers under the laws of the state.

8. The term "public employee" means any person holding a position by appointment or employment in the service of a public employer, except that such term shall not include persons holding positions by appointment or employment in the organized militia of the state for purposes of any provision of this article than sections two hundred ten and two hundred eleven of this article.

9. The term "state public authority" means a public benefit corporation or public corporation, a majority of the members of which are (i) appointed by the governor or by another state officer or body, (ii) designated as members by virtue of their state office, or (iii) appointed or designated by any combination of the foregoing.

10. The term "strike" means any strike or other concerted stoppage of work or slowdown by public employees.

11. The term "chief executive officer" in the case of school districts, means the superintendent of schools in school districts employing their own superintendents, and in school districts under the jurisdiction of a district superintendent of schools, shall mean the principal of the district.

12. The term "legislative body of the government," in the case of school districts, means the board of education, board of trustees or sole trustee, as the case may be.

§202. Right of organization. Public employees shall have the right to form, join and participate in, or to refrain from forming, joining, or participating in, any employee organization of their own choosing.

§203. Right of representation. Public employees shall have the right to be represented by employee organizations to negotiate collectively with their public employers in the determination of their terms and conditions of employment, and the administration of grievances arising thereunder.

§204. Recognition and certification of employee organizations.

1. Public employers are hereby empowered to recognize employee organizations for the purpose of negotiating collectively in the determination of, and administration of grievances arising under, the terms and conditions of employment of their public employees as provided in this article, and to negotiate and enter into written agreement with such employee organizations in determining such terms and conditions of employment.

2. Where an employee organization has been certified or recognized pursuant to the provisions of this article, the appropriate public employer shall be, and hereby is, required to negotiate collectively with such employee organization in the determination of, and administration of grievances arising under, the terms and conditions of employment of the public employees as provided in this article, and to negotiate and enter into written agreements with such employee organizations in determining such terms and conditions of employment.

§205. Public employment relations board.

1. There is hereby created in the state department of civil service a board, to be known as the public employment relations board, which shall consist of three members appointed by the governor, by and with the advice and consent of the senate from persons representative of the public. Not more than two members of the board shall be members of the same political party. Each member shall be appointed for a term of six years, except that of the members first appointed, one shall be appointed for a term to expire on May thirty-first, nineteen hundred sixty-nine, one for a term to expire on May thirty-first, nineteen hundred seventy-one, and one for a term to expire on May thirty-first, nineteen hundred seventy-three. The governor shall designate one member as chairman of the board. A member appointed to fill a vacancy shall be appointed for the unexpired term of the member whom he is to succeed.

2. Members of the board shall hold no other public office or public employment in the state. The chairman shall give his whole time to his duties.

3. Members of the board other than the chairman shall, when performing the work of the board, be compensated at the rate of one hundred dollars per day, together with an allowance for actual and necessary expenses incurred in the discharge of their duties hereunder. The chairman shall receive an annual salary to be fixed within the amount available therefor by appropriation, in addition to an allowance for expenses actually and necessarily incurred by him in the performance of his duties.

4. The board may appoint an executive director and such other persons, including but not limited to mediators, members of fact-finding boards and representatives of employee organizations and public employers to serve as technical advisers to such fact-finding boards, as it may from time to time deem necessary for the performance of its functions, prescribe their duties, fix their compensation and provide for reimbursement of their expenses within the amounts made available therefor by appropriation.

5. In addition to the powers and functions provided in other sections of this article, the board shall have the following powers and functions:

(a) To establish procedures consistent with the provisions of section two hundred seven of this article and after consultation with interested parties, to resolve disputes concerning the representation status of employee organizations.

(b) To resolve, pursuant to such procedures, disputes concerning the representation status of employee organizations of employees of the state and state public authorities upon request of any employee organization, state department or agency or state public authority involved.

(c) To resolve, pursuant to such procedures but only in the absence of applicable procedures established pursuant to section two hundred six of this article, disputes concerning the representation status of other employee organizations, upon request of any employee organization or other government or public employer involved.

(d) To make studies and analyses of, and act as a clearing house of information relating to, conditions of employment of public employees throughout the state.

(e) To request from any government, and such governments are authorized to provide, such assistance, services and data as will enable the board properly to carry out its functions and powers.

(f) To conduct studies of problems involved in representation and negotiation, including, but not limited to (i) whether employee organizations are to be recognized as representatives of their members only or are to have exclusive representation rights for all employees in the negotiating unit, (ii) the problems of unit determination, (iii) those subjects which are open to negotiation in whole or in part, (iv) those subjects which require administrative or legislative approval of modifications agreed upon by the parties, and (v) those subjects which are for determination solely by the appropriate legislative body, and make recommendations from time to time for legislation based upon the results of such studies.

(g) To make available to employee organizations, governments, mediators, fact-finding boards and joint study committees established by governments and employee organizations statistical data relating to wages, benefits and employment practices in public and private employment applicable to various localities and occupations to assist them to resolve complex issues in negotiations.

(h) To establish, after consulting representatives of employee organizations and administrators of public services, panels of qualified persons broadly representative of the public to be available to serve as mediators or members of fact-finding boards.

(i) To hold such hearings and make such inquiries as it deems necessary for it properly to carry out its functions and powers.

(j) For the purpose of such hearings and inquiries, to administer oaths and affirmations, examine witnesses and documents, take testimony and receive evidence, compel the attendance of witnesses and the production of documents by the issuance of subpoenas, and delegate such powers to any member of the board or any person appointed by the board for the performance of its functions. Such subpoenas shall be regulated and enforced under the civil practice law and rules.

(k) To make, amend and rescind, from time to time, such rules and regulations, including but not limited to those governing its internal organization and conduct of its affairs and to exercise such other powers, as may be appropriate to effectuate the purposes and provisions of this article.

6. Notwithstanding any other provisions of law, neither the president of the civil service commission nor the civil service commission or any other officer, employer, board or agency of the department of civil service shall supervise, direct or control the board in the performance of any of its functions or the exercise of any of its powers under this article; provided, however, that nothing herein shall be construed to exempt employees of the board from the provisions of the civil service law.

§206. Procedures for determination of representation status of local employees.

1. Every government (other than the state or a state public authority), acting through its legislative body, is hereby empowered to establish procedures, not inconsistent with the provisions of section two hundred seven of this article and after consultation with interested employee organizations and administrators of public services, to resolve disputes concerning the representation status of employee organizations of employees of such government.

2. In the absence of such procedures, such disputes shall be submitted to the board in accordance with section two hundred five of this article.

§207. Determination of representation status. For purposes of resolving disputes concerning representation status, pursuant to section two hundred five or two hundred six of this article, the board or government, as the case may be, shall

1. define the appropriate employer-employee negotiating unit, taking into account the following standards:

(a) the definition of the unit shall correspond to a community of interest among the employees to be included in the unit;

(b) the officials of government at the level of the unit shall have the power to agree, or to make effective recommendations to other administrative authority or the legislative body with respect to, the terms and conditions of employment upon which the employees desire to negotiate; and

(c) the unit shall be compatible with the joint responsibilities of the public employer and public employees to serve the public.

2. ascertain the public employees' choice of employee organization as their representative (in cases where the parties to a dispute have not agreed on the means to ascertain the choice, if any, of the employees in the unit) on the basis of dues deduction authorization and other evidences, or, if necessary, by conducting an election.

3. certify or recognize an employee organization upon (a) the determination that such organization represents that group of public employees it claims to represent, and (b) the affirmation by such organization that it does not assert the right to strike against any government, to assist or participate in any such strike, or to impose an obligation to conduct, assist or participate in such a strike.

§208. Rights accompanying certification or recognition. A public employer shall extend to an employee organization certified or recognized pursuant to this article the following rights:

(a) to represent the employees in negotiations and in the settlement of grievances;

(b) to membership dues deduction, upon presentation of dues deduction authorization cards signed by individual employees; and

(c) to unchallenged representation status until the next succeeding budget submission date and, thereafter, for an additional period of either twelve months or, if the parties so agree, not less than twelve months nor more than twenty-four months, which period shall commence one hundred twenty days prior to such next succeeding budget submission date.

§209. Resolution of disputes in the course of collective negotiations.

1. For purposes of this section, an impasse may be deemed to exist if the parties fail to achieve agreement at least sixty days prior to the budget submission date of the public employer.

2. Public employers are hereby empowered to enter into written agreements with recognized or certified employee organizations setting forth procedures to be invoked in the event of disputes which reach an impasse in the course of collective negotiations. In the absence or upon the failure of such procedures, public employers and employee organizations may request the board to render assistance as provided in this section, or the board

may render such assistance on its own motion, as provided in subdivision three of this section.

3. On request of either party or upon its own motion, as provided in subdivision two of this section, and in the event the board determines that an impasse exists in collective negotiations between such employee organization and a public employer as to the conditions of employment of public employees, the board shall render assistance as follows:

(a) to assist the parties to effect a voluntary resolution of the dispute, the board shall appoint a mediator or mediators representative of the public from a list of qualified persons maintained by the board;

(b) if the impasse continues, the board shall appoint a fact-finding board of not more than three members, each representative of the public, from a list of qualified persons maintained by the board, which fact-finding board shall have, in addition to the powers delegated to it by the board, the power to make public recommendations for the resolution of the dispute;

(c) if the dispute is not resolved at least fifteen days prior to the budget submission date, the fact-finding board, acting by a majority of its members, shall immediately transmit its findings of fact and recommendations for resolution of the dispute to the chief executive officer of the government involved and to the employee organization involved, and shall simultaneously make public such findings and recommendations;

(d) in the event that the findings of fact and recommendations are made public by a fact-finding board established pursuant to procedures agreed upon by the parties under subdivision two of this section, and the impasse continues, the public employment relations board shall have the power to take whatever steps it deems appropriate to resolve the dispute, including the making of recommendations after giving due consideration to the findings of fact and recommendations of such fact-finding board, but no further fact-finding board shall be appointed;

(e) in the event that either the public employer or the employee organization does not accept in whole or part the recommendations of the fact-finding board, the chief executive officer of the government involved shall, within five days after receipt of the findings of fact and recommendations of the fact-finding board, submit to the legislative body of the government involved a copy of the findings of fact and recommendations of the fact-finding board, together with his recommendations for settling the dispute; and the employee organization may submit to such legislative body its recommendations for settling the dispute.

§210. Prohibition of strikes.

1. No public employee or employee organization shall engage in a strike, and no employee organization shall cause, instigate, encourage, or condone a strike.

2. A public employee who violates the provisions of subdivision one of this section shall be subject to the disciplinary penalties provided by law for misconduct, in accordance with procedures established by law.

3. (a) An employee organization which is determined by the board to have violated the provisions of subdivision one of this section shall, in accordance with the provisions of this section, lose the rights granted pursuant to the provisions of paragraph (b) of section two hundred eight of this chapter.

(b) In the event of a violation of subdivision one of this section, it shall be the duty of the chief executive officer of the public employer involved (i) forthwith to so notify the board and the chief legal officer of the government involved, and (ii) to provide the board and such chief legal officer with such facilities, assistance and data as will enable the board and such chief legal officer to carry out their duties under this section.

(c) In the event of a violation of subdivision one of this section, the chief legal officer of the government involved, or the board on its own motion, shall forthwith institute proceedings before the board to determine whether such employee organization has violated the provisions of subdivision one of this section.

(d) Proceedings against an employee organization under this section shall be commenced by service upon it of a written notice, together with a copy of the charges. A copy of such notice and charges shall also be served for their information, upon the appropriate government officials who recognize such employee organization and grant to it the rights accompanying such recognition. The employee organization shall have eight days within which to serve its written answer to such charges. The board's hearing shall be held promptly thereafter and at such hearing, the parties shall be permitted to be represented by counsel and to summon witnesses in their behalf. Compliance with the technical rules of evidence shall not be required.

(e) In determining whether an employee organization has violated subdivision one of this section, the board shall consider (i) whether the employee organization called the strike or tried to prevent it, (ii) whether the employee organization made or was making good faith efforts to terminate the strike, and (iii) whether, if so alleged by the employee organization, the public employer or its representatives engaged in such acts of extreme provocation as to detract from the responsibility of the employee organization for the strike.

(f) If the board determines that an employee organization has violated the provisions of subdivision one of this section, the board shall order forfeiture of the rights granted pursuant to the provisions of paragraph (b) of section two hundred eight of this chapter, for a specified period to time, as the board shall determine, but in no event to exceed eighteen months; provided, however, that where a fine imposed on an employee organization pursuant to subdivision two of section seven hundred fifty-one of the judiciary law remains wholly or partly unpaid, after the exhaustion of the cash and securities of the employee organization, the board shall direct that, notwithstanding such forfeiture, such membership dues deduction shall be continued to the extent necessary to pay such fine and such public employer shall transmit such moneys to the court.

(g) An employee organization whose rights granted pursuant to the provisions of paragraph (b) of section two hundred eight of this chapter have been ordered forfeited pursuant to this section may be granted such rights after the termination of such forfeiture only after complying with the provisions of clause (b) of subdivision three of section two hundred seven of this article.

4. Orders of the board made pursuant to this article (including, but not limited to, orders made pursuant to subdivision three of this section) shall be (a) reviewable under article seventy-eight of the civil practice law and rules, and (b) enforceable, upon petition of such board, by the supreme court, which shall have jurisdiction of the proceeding and the power to grant such temporary relief or affirmative or restraining orders as it deems just and proper.

§211. Application for injunctive relief. Notwithstanding the provisions of section eight hundred seven of the labor law, where it appears that public employees or

an employee organization threaten or are about to do, or are doing, an act in violation of section two hundred ten of this article, the chief executive officer of the government involved shall (a) forthwith notify the chief legal officer of the government involved, and (b) provide such chief legal officer with such facilities, assistance and data as will enable the chief legal officer to carry out his duties under this section, and, notwithstanding the failure or refusal of the chief executive officer to act as aforesaid, the chief legal officer of the government involved shall forthwith apply to the supreme court for an injunction against such violation. If an order of the court enjoining or restraining such violation does not receive compliance, such chief legal officer shall forthwith apply to the supreme court to punish such violation under section seven hundred fifty of the judiciary law.

§212. Local government procedures. This article, except section two hundred one, section two hundred two, two hundred three, two hundred four, paragraph b of subdivision three of section two hundred seven, section two hundred eight, subdivisions one and two of section two hundred ten, and section two hundred eleven, shall be inapplicable to any government (other than the state or a state public authority) which, acting through its legislative body, has adopted by local law, ordinance or resolution, its own provisions and procedures which have been submitted to the board by such government and as to which there is in effect a determination by the board that such provisions and procedures and the continuing implementation thereof are substantially equivalent to the provisions and procedures set forth in this article with respect to the state; provided that with respect to the city of New York, such provisions and procedures need not be related to budget submission dates; and provided further, that with respect to provisions and procedures adopted by local law by the city of New York no such submission to or determination by the board shall be required, but such provisions and procedures shall be of full force and effect unless and until such provisions and procedures, or the continuing implementation thereof, are found by a court of competent jurisdiction, in an action brought by the board in the county of New York for a declaratory judgement, not to be substantially equivalent to the provisions and procedures set forth in this article.

§3. Section seven hundred fifty-one of the judiciary law is hereby amended to read as follows:

§751. Punishment for criminal contempts. [*punishment*]

1. Except as provided in subdivision (2), punishment *for a contempt, specified in section seven hundred and fifty, may be by fine, not exceeding two hundred and fifty dollars, or by imprisonment, not exceeding thirty days, in the jail of the county where the court is sitting, or both, in the discretion of the court. Where a person is committed to jail, for the nonpayment of such a fine, he must be discharged at the expiration of thirty days; but where he is also committed for a definite time, the thirty days must be computed from the expiration of the definite time.*

Such a contempt, committed in the immediate view and presence of the court, may be punished summarily; when not so committed, the party charged must be notified of the accusation, and have a reasonable time to make a defense.

2. (a) Where an employee organization, as defined in section two hundred one of the civil service law, wilfully disobeys a lawful mandate of a court of record, or wilfully offers resistance to such lawful mandate, in a case involving or growing out of a strike in violation of subdivision one of section two hundred ten of the civil service law, the punishment for each day that such contempt persists may be by a fine fixed in the discretion of the court in an amount equal to one fifty-second (1/52) of the total amount of annual membership dues of such employee organization or ten thousand dollars whichever is the lesser; provided, however, that where an amount equal to one fifty-second part (1/52) of the total amount of annual membership dues of such employee organization is less than one thousand dollars, such fine may be fixed in the sum of one thousand dollars. In the case of a government exempt from certain provisions of article fourteen of the civil service law, pursuant to section two hundred twelve of such law, the court may, as an additional punishment for such contempt, order forfeiture of the rights granted pursuant to the provisions of paragraph (b) of section two hundred eight of such law, for a specified period of time, as the court shall determine, but in no event to exceed eighteen months; provided, however, that where a fine imposed pursuant to this subdivision remains wholly or partly unpaid, after the exhaustion of the cash and securities of the employee organization, such forfeiture shall be suspended to the extent necessary for the unpaid portion of such fine to be accumulated by the public employer and transmitted to the court. In fixing the amount of the fine and/or duration of the forfeiture, the court shall consider all the facts and circumstances directly related to the contempt, including, but not limited to: (i) the extent of the wilful defiance of or resistance to the court's mandate (ii) the impact of the strike on the public health, safety, or welfare of the community and (iii) the ability of the employee organization to pay the fine imposed; and the court may consider (i) the refusal of the employee organization or the appropriate public employer, as defined in section two hundred one of the civil service law, or the representatives thereof, to submit to the mediation and fact-finding procedures provided in section two hundred nine of the civil service law and (ii) whether, if so alleged by the employee organization, the appropriate public employer or its representatives engaged in such acts of extreme provocation as to detract from the responsibility of the employee organization for the strike.

(b) In the event membership dues are collected by the public employer as provided in paragraph (b) of section two hundred eight of the civil service law, the books and records of such public employer shall be prima facie evidence of the amount so collected.

(c) The term "total amount of annual membership dues of the employee organization" as used in paragraph (a) of this subdivision, shall include initiation fees, periodic dues, and all assessments collected by such employee organization in the twelve month period preceding the contempt attributable to the members of such employee organization in that part of the collective negotiation unit actually on strike; provided, however, that if such strike effectively prevents the functioning of the entire collective negotiation unit or units represented by such employee organization, it shall mean such fees, dues and assessments attributable to the total number of members of the employee organization in such unit or units.

(d) (i) An employee organization appealing an adjudication and fine for criminal contempt imposed pursuant to subdivision two of this section, shall not be required to pay such fine until such appeal is finally determined.

(ii) The court to which such an appeal is taken shall, on motion of any party thereto, grant a preference in the hearing thereof.

§4. This act shall take effect September first, nineteen hundred sixty-seven, except that the provisions of section two hundred five of the civil service law, as added by section two of this act, shall take effect immediately.

Note.--Section one hundred eight of the Civil Service Law (known as the "Condon-Wadlin Law"), repealed by section one of this act, prohibits strikes by public employees and provides penalties for the violation thereof.

(Statutory Citation: New York Civil Service Law, Article 14, secs. 200-212; New York Judiciary Law, sec. 751.)

OREGON

Chapter 390 of 1965: AN ACT RELATING TO WORKING RELATIONS BETWEEN BOARDS OF EDUCATION AND THE TEACHING PROFESSION

Be it Enacted by the People of the State of Oregon:

Section 1. The Legislative Assembly, recognizing that teaching is a profession, declares that in matters arising between district school boards and certificated school personnel with reference to professional services rendered or to be rendered by such personnel, it is in the best interest of public education in this state to establish a procedure for the orderly, equitable and expeditious resolution of such matters.

Section 2. Certificated school personnel, individually or by a committee of such personnel elected for the purpose of representing other such personnel by the vote of a majority of the certificated school personnel below the rank of superintendent in a school district, shall have the right to confer, consult, and discuss in good faith with the district school board by which they are employed, or a committee thereof, on matters of salaries and related economic policies affecting professional services. However, nothing in this section is intended to affect the powers and duties of the district school board over matters of salaries and economic policies affecting professional services.

Section 3. The district school board shall establish election procedures and shall certify the committee which has been elected by the certificated school personnel under Section 2 of this Act.

Section 4. Whenever it appears to the district school board or the certificated school employees meeting with the board under Section 2 of this Act that a persistent disagreement over a matter of salaries or economic policies affecting professional services exists between the board and the employees, the board or the employees may request the appointment of consultants. The consultants shall consist of one member appointed by the board, one member appointed by the employees and one member chosen by the other two members. The consultants may determine a reasonable basis for settlement of the disagreement and may recommend such basis to the board and to the employees.

Section 5. ORS 243.710 through 243.750 shall not apply to certificated public school personnel. [This section removes certificated school personnel from collective bargaining law.]

(Statutory Citation: Oregon Revised Statutes, Chapter 342, secs. 342.450--342.470.)

RHODE ISLAND

Chapter 146 of 1966: AN ACT IN AMENDMENT OF AND IN ADDITION TO TITLE 28 OF THE GENERAL LAWS ENTITLED "LABOR AND LABOR RELATIONS," AS AMENDED, AND PROVIDING FOR THE SETTLEMENT OF DISPUTES BETWEEN CERTIFIED PUBLIC SCHOOL TEACHERS AND SCHOOL COMMITTEES.

It is enacted by the General Assembly as follows:

Section 1. Title 28 of the general laws entitled "Labor and labor relations," as amended, is hereby further amended by adding thereto the following chapter:

CHAPTER 9.3

Arbitration of School Teacher Disputes

28-9.3-1. Declaration of policy--Purpose. In pursuance of the duty imposed upon it by the constitution to promote public schools and to adopt all means necessary and proper to secure to the people the advantages and opportunities of education, the general assembly hereby declares that it recognizes teaching as a profession which requires special educational qualifications and that to achieve high quality education it is indispensable that good relations exist between teaching personnel and school committees.

It is hereby declared to be the public policy of this state to accord to certified public school teachers the right to organize, to be represented, to negotiate professionally and to bargain on a collective basis with school committees covering hours, salary, working conditions and other terms of professional employment, provided, however, that nothing contained in this chapter shall be construed to accord to certified public school teachers the right to strike.

28-9.3-2. Right to organize and bargain collectively. The certified teachers in the public school system in any city, town or regional school district, shall have the right to negotiate professionally and to bargain collectively with their respective school committees and to be represented by an association or labor organization in such negotiation or collective bargaining concerning hours, salary, working conditions and all other terms and conditions of professional employment. For purposes of this chapter, certified teachers shall mean certified teaching personnel employed in the public school systems in the state of Rhode Island engaged in teaching duties. Superintendents, assistant superintendents, principals and assistant principals are excluded from the provisions of this act.

28-9.3-3. Recognition of bargaining agent. The association or labor organization selected by the certified public school teachers in the public school system in any city, town, or regional school district, shall be recognized by the school committee of such city, town or district, as the sole and exclusive negotiating or bargaining agent for all of the said public school teachers of the city, town, or regional school district unless and until recognition of such association or labor organization is withdrawn or changed by vote of the certified public school teachers after a duly conducted election, held pursuant to the provisions of this chapter. An association or labor organization or the school committee may designate any person or persons to negotiate or bargain in its behalf.

28-9.3-4. Obligation to bargain. It shall be the obligation of the school committee to meet and confer in good faith with the representative or representatives of the negotiating or bargaining agent within ten (10) days after receipt of written notice from said agent of the request for a meeting for negotiating or collective bargaining purposes. This obligation shall include the duty to cause any agreement resulting from negotiations or bargaining to be reduced to a written contract, provided that no such contract shall exceed the term of three (3) years. Failure to negotiate or bargain in good faith may be complained of by either the negotiating or bargaining agent or the school committee to the state labor relations board which shall deal with such complaint in the manner provided in chapter 28-7 of this title.

28-9.3-5. Determination of negotiating agent. Elections. The state labor relations board upon the written petition for an election signed by not less than twenty percent (20%) of the certified public school teachers of such city, town or regional school district, indicating their desire to be represented by a particular association or organization or to change or withdraw recognition shall forthwith call and hold an election at which all such certified public school teachers shall be entitled to vote. The association or organization selected by a majority of said certified public school teachers voting in said election shall be certified by the state labor relations board as the exclusive negotiating or bargaining representative of such certified public school teachers of such city, town or regional school district in any matter within the provisions of this chapter. Upon written petition to intervene in the election signed by not less than fifteen percent (15%) of such certified public school teachers indicating their desire to be represented by a different or competing association or organization, the name of such different or competing association or organization shall be placed on the same ballot. If the majority of those voting desire no representation, no association nor labor organization shall be recognized by the school committee as authorized to negotiate or bargain in behalf of its certified public school teachers, and in all elections there shall be provided on the ballot an appropriate designation for such a choice.

28-9.3-6. Supervision of elections. The state labor relations board shall prescribe the method of petitioning for an election, the manner, place and time of conducting such election, and shall supervise all such elections to insure against interference, restraint, discrimination, or coercion from any source. Complaints of interference, restraint, discrimination or coercion shall be heard and dealt with by the labor relations board as provided in chapter 28-7 of this title. All unfair labor practices enumerated in section 28-7-13 are declared to be unfair labor practices for a school committee.

28-9.3-7. Certification of negotiating agent. No association nor organization shall be certified initially as the representative of certified public school teachers except after an election. Teachers shall be free to join or to decline to join any association or organization regardless of whether it has been certified as the exclusive representative of certified public school teachers. If new elections are not held after an association or labor organization is certified, such association or organization shall continue as the exclusive representative of the certified public school teachers from year to year until recognition is withdrawn or changed as provided in section 28-9.3-5. Elections shall not be held more often than once each twelve months and must be held at least thirty (30) days before the expiration date of any employment contract.

28-9.3-8. Request for negotiation or bargaining. Whenever salary or other matters requiring appropriation of money by any city, town or regional school district are to be included as matter of negotiation or collective bargaining conducted under the provisions of this chapter, the negotiating or bargaining agent must first serve written notice of request for negotiating or collective bargaining on the school committee at least one hundred twenty (120) days before the last day on which money can be appropriated by the city or town to cover the first year of the contract period which is the subject of the negotiating or bargaining procedure.

28-9.3-9. Unresolved issues submitted to mediation or arbitration. In the event that the negotiating or bargaining agent and the school committee are unable within thirty (30) days from and including the date of their first meeting, to reach an agreement on a contract, either of them may request mediation and conciliation upon any and all unresolved issues by the state department of education, the director of labor or from any other source. If mediation and conciliation fail or are not requested, at any time after said 30 days either party may request that any and all unresolved issues shall be submitted to arbitration by sending such request by certified mail, postage pre-paid to the other party, setting forth the issues to be arbitrated.

28-9.3-10. Arbitration board-Composition. Within seven (7) days after arbitration has been requested as provided in section 28-9.3-9, the negotiating or bargaining agent and the school committee shall each select and name one (1) arbitrator and shall immediately thereafter notify each other in writing of the name and address of the person so selected. The two (2) arbitrators so selected and named shall, within ten (10) days from and after their selection agree upon and select and name a third arbitrator. If within said ten (10) days the arbitrators are unable to agree upon the selection of a third arbitrator, such third arbitrator shall be selected in accordance with the rules and procedure of the American Arbitration Association. If the negotiating or bargaining agent agrees with the school committee to a different method of selecting arbitrators, or to a lesser or greater number of arbitrators, or to any particular arbitrator, or if they agree to have the state board of education designate the arbitrator or arbitrators to conduct the arbitration, such agreement shall govern the selection of arbitrators, provided, however, that if the state board of education shall be unwilling or shall fail to designate the arbitrator or arbitrators, an alternative method of selection shall be used. The third arbitrator, whether selected as a result of agreement between the two arbitrators previously selected, or selected under the rules of the American Arbitration Association or by the state board of education or by any other method, shall act as chairman.

28-9.3-11. Hearings. The arbitrators shall call a hearing to be held within ten (10) days after their appointment and shall give at least seven (7) days' notice in writing to the negotiating or bargaining agent and the school committee of the time and place of such hearing. The hearing shall be informal, and the rules of evidence prevailing in judicial proceedings shall not be binding. Any and all documentary evidence and other data deemed relevant by the arbitrators may be received in evidence. The arbitrators shall have the power to administer oaths and to require by subpoena the attendance and testimony of witnesses, the production of books, records and other evidence relative or pertinent to the issues presented to them for determination. Both the negotiating or bargaining agent and the school committee shall have the right to be represented at any hearing before said arbitrators by counsel of their own choosing. The hearing conducted by the arbitrators shall be concluded within ten (10) days after the conclusion of the hearings, the arbitrators shall make written findings and a written opinion upon the issues presented, a copy of which shall be mailed or otherwise delivered to the negotiating or bargaining agent or its attorney or other designated representative and the school committee.

28-9.3-12. Appeal from decision. The decision of the arbitrators shall be made public and shall be binding upon the certified public school teachers and their representative and the school committee on all matters not involving the expenditure of money. The decision of the arbitrators shall be final and no appeal shall lie therefrom except on the ground that the decision was procured by fraud or that it violates the law, in which case appeals shall be to the superior court. The school committee shall within three (3) days after it receives the decision send a true copy thereof by certified or registered mail, postage prepaid, to the department or agency responsible for the preparation of the budget and to the agency which appropriates money for the operation of the schools in the city, town or regional school district involved, if said decision involves the expenditure of money.

28-9.3-13. Fees and expenses of arbitration. Fees and necessary expenses of arbitration shall be borne equally by the negotiating or bargaining agent and the school committee.

28-9.3-14. Plural and singular application. Whenever the word arbitrators is used herein it shall also mean arbitrator where applicable.

28-9.3-15. Severability of provisions. If any provision of this chapter, or application thereof to any person or circumstances, is held unconstitutional or otherwise invalid, the remaining provisions of this chapter and the application of such provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

28-9.3-16. Short title. This chapter may be cited as the school teachers' arbitration act.

Section 2. This act shall take effect upon its passage.

[The bill was signed by Governor Chafee May 11, 1966.]

(Statutory Citation: General Laws of Rhode Island, 1956, Title 28, secs. 28-9.3-1--28-9.3-16.)

WASHINGTON

Session Laws of 1965, Chapter 143: AN ACT RELATING TO EDUCATION; RECOGNIZING THE RIGHT OF EMPLOYEE ORGANIZATIONS TO REPRESENT CERTIFICATED EMPLOYEES IN THEIR RELATIONS WITH SCHOOL DISTRICTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. Section 1. It is the purpose of this act to strengthen methods of administering employer-employee relations through the establishment of orderly methods of communication between certificated employees and the school districts by which they are employed.

NEW SECTION. Sec. 2. As used in this act:

"Employee organization" means any organization which includes as members certificated employees of a school district and which has as one of its purposes the representation of the employees in their employment relations with the school district.

"Certificated employee" means any employee holding a regular teaching certificate of the state and who is employed by any school district with the exception of the chief administrative officer of each local district.

NEW SECTION. Sec. 3. Representatives of an employee organization, which organization shall by secret ballot have won a majority in an election to represent the certificated employees within its school district, shall have the right, after using established administrative channels, to meet, confer and negotiate with the board of directors of the school district or a committee thereof to communicate the considered professional judgment of the certificated staff prior to the final adoption by the board of proposed school policies relating to, but not limited to, curriculum, textbook selection, in-service training, student teaching programs, personnel, hiring and assignment practices, leaves of absence, salaries and salary schedules and noninstructional duties.

NEW SECTION. Sec. 4. If in any school district there is a separate employee organization of certificated employees of a community college which organization shall, by secret ballot, have won a majority in an election to represent the certificated employees of the community college, as determined by a secret election, the representatives of the separate aggregation shall have the right, after using established administrative channels, to meet, confer, and negotiate with the board of directors of the school district or a committee thereof to communicate the considered professional judgment of the certificated staff prior to the final adoption by the board of proposed school policies related to, but not limited to, curriculum, textbook selection, in-service training, student teaching programs, personnel, hiring and assignment practices, leaves of absence, salaries and salary schedules, and noninstructional duties.

NEW SECTION. Sec. 5. Nothing in this act shall prohibit any certificated employee from appearing in his own behalf on matters relating to his employment relations with the school district.

NEW SECTION. Sec. 6. In the event that any matter being jointly considered by the employee organization and the board of directors of the school district is not settled by the means provided in this act, either party may request the assistance and advice of a committee composed of educators and school directors appointed by the state superintendent of public instruction. This committee shall make a written report with recommendations to both parties within fifteen days of receipt of the request for assistance. Any recommendations of the committee shall be advisory only and not binding upon the board of directors or the employee organization.

NEW SECTION. Sec. 7. Boards of directors of school districts or any administrative officer thereof shall not discriminate against certificated employees because of their exercise of rights under this act.

NEW SECTION. Sec. 8. Boards of directors of school districts shall adopt reasonable rules and regulations for the administration of employer-employee relations under this act.

NEW SECTION. Sec. 9. Nothing in this law shall be construed to annul or modify, or to preclude the renewal or continuation of, any lawful agreement heretofore entered into between any school district and any representative of its employees.

(Statutory Citation: Revised Code of Washington Annotated, Chapter 28.72, secs. 28.72.010--28.72.090.)

WISCONSIN

Chapter 663, Laws of 1961:

STATUTES RELATING TO BARGAINING IN MUNICIPAL EMPLOYMENT

AN ACT to create 111.70 (1) (c) and (4) of the statutes, relating to bargaining in municipal employment.

The people of the state of Wisconsin, represented, in senate and assembly, do enact as follows:

111.70. MUNICIPAL EMPLOYMENT

1. *Definitions.* When used in this section:

(a) "Municipal employer" means any city, county, village, town, metropolitan sewerage district, school district or any other political subdivision of the state.

(b) "Municipal employe" means any employe of a municipal employer except city and village policemen, sheriff's deputies, and county traffic officers.

(c) "Board" means the Wisconsin employment relations board.

2. *Rights of municipal employes.* Municipal employes shall have the right of self-organization, to affiliate with labor organizations of their own choosing and the right to be represented by labor organizations of their own choice in conferences and negotiations with their municipal employers or their representatives on questions of wages, hours and conditions of employment, and such employes shall have the right to refrain from any and all such activities.

3. *Prohibited practices.*

(a) Municipal employers, their officers and agents are prohibited from:

(1) Interfering with, restraining or coercing any municipal employe in the exercise of the rights provided in sub. (2).

(2) Encouraging or discouraging membership in any labor organization, employe agency, committee, association or representation plan by discrimination in regard to hiring, tenure or other terms or conditions of employment.

(b) Municipal employes individually or in concert with others are prohibited from:

(1) Coercing, intimidating or interfering with a municipal employe in the enjoyment of his legal rights including those set forth in sub. (2).

(c) It is a prohibited practice for any person to do or cause to be done, on behalf or in the interest of any municipal employer or employe, or in connection with or to influence the outcome of any controversy, as to employment relations, any act prohibited by pars. (a) and (b).

4. *Powers of the Board.* The board shall be governed by the following provisions relating to bargaining in municipal employment:

(a) Prevention of prohibited practices. Section 111.07 shall govern procedure in all cases involving prohibited practices under this subchapter.

(b) Mediation. The board may function as a mediator in disputes between municipal employes and their employers upon the request of both parties.

(d)[1] Collective bargaining units. Whenever a question arises between a municipal employer and a labor union as to whether the union represents the employes of the employer, either the union or the municipality may petition the board to conduct an election among said employes to determine whether they desire to be represented by a labor organization. Proceedings in representation cases shall be in accordance with Ss. 111.02 (6) and 11.05 insofar as applicable, except that where the board finds that a proposed unit includes a craft the board shall exclude such craft from the unit. The board shall not order an election among employes in a craft unit except on separate petition initiating representation proceedings in such craft unit.

(e) Fact finding. Fact finding may be initiated in the following circumstances:

(1) If after a reasonable period of negotiation the parties are deadlocked, either party or the parties jointly may initiate fact finding;

(2) Where an employer or union fails or refuses to meet and negotiate in good faith at reasonable times in a bona fide effort to arrive at a settlement.

(f) Same. Upon receipt of a petition to initiate fact finding, the board shall make an investigation and determine whether or not the condition set forth in par. (e) 1 or 2 has been met and shall certify the results of said investigation. If the certification requires that fact finding be initiated, the board shall appoint from a list established by the board a qualified disinterested person, or three-member panel when jointly requested by the parties, to function as a fact finder.

(g) Same. The fact finder may establish dates and place of hearings which shall be where feasible in the jurisdiction of the municipality involved and shall conduct said hearings pursuant to rules established by the board. Upon request, the board shall issue subpoenas for hearings conducted by the fact finder. The fact finder may administer oaths. Upon completion of the hearings, the fact finder shall make written findings of facts and recommendations for solution of the dispute and shall cause the same to be served on the municipal employer and the union.

(h) Parties.

(1) Proceedings to prevent prohibitive practices. Any labor organization or any individual affected by prohibited practices herein is a proper party to proceedings by the board to prevent such practice under this subchapter.

(2) Fact-finding cases. Only labor unions which have been certified as representative of the employes in the collective bargaining unit or which the employer has recognized as the representative of said employes shall be proper parties in initiating fact finding proceedings. Cost of fact-finding proceedings shall be divided equally between said labor organization and the employer.

(i) Agreements. Upon the completion of negotiations with a labor organization representing a majority of the employes in a collective bargaining unit, if a settlement is reached, the employer shall reduce the same

[1]No section (c) shown in statute.

to writing either in the form of an ordinance, resolution or agreement. Such agreement may include a term for which it shall remain in effect not to exceed one year. Such agreements shall be binding on the parties only if express language to that effect is contained therein.

(j) Personnel relations in law enforcement. In any case in which a majority of the members of a police or sheriff or county traffic officer department shall petition the governing body for changes or improvements in the wages, hours or working conditions and designates a representative which may be one of the petitioners or otherwise, the procedures in pars. (e) to (g) shall apply. Such representative may be required by the board to post a cash bond in an amount determined by the board to guarantee payment of one half of the costs of fact finding.

(k) Paragraphs (e) to (g) shall not apply to discipline or discharge cases under civil service provisions of a state statute or local ordinance.

(l) Nothing contained in this subchapter shall constitute a grant of the right to strike by any county or municipal employe and such strikes are hereby expressly prohibited.

(m) The board shall not initiate fact-finding proceedings in any case when the municipal employer through ordinance or otherwise has established fact-finding procedures substantially in compliance with this subchapter.

(Statutory Citation: Wisconsin Statutes Annotated, Title 13, Chapter 111, secs. 111.70 (1)--111.70 (4)(m).)

FIVE PROCEDURAL AGREEMENTS

Section D (Agreements) is devoted to five examples of procedural agreements, four of which contain impasse resolution procedures. Agreements are reproduced as submitted to the NEA Research Division.

Community Unit School District No. 4
Champaign County, Illinois

Champaign Education Association (NEA)

SCHOOL BOARD RESOLUTION FOR MUTUAL AGREEMENT

The Board of Education of the Community Unit School District No. 4, Champaign County, Illinois, recognizes that teaching is a profession. It also recognizes that the best interests of public education will be served by establishing procedures to provide an orderly method for the Board of Education and representatives of the Champaign Education Association to discuss matters of common concern, to reach a mutually satisfactory agreement on these matters and to appeal through professional and educational channels in the event of impasse. Therefore, the Board of Education hereby adopts the procedures which follow.

I. PRINCIPLES

A. ATTAINING OBJECTIVES

Attainment of objectives of the educational program of the district requires mutual understanding, the cooperation among the Board of Education, the Superintendent, his staff, and the professional teaching personnel.

To this end, free and open exchange of views is desirable and necessary, with all parties participating in deliberations leading to the determination of matters of mutual concern.

B. PROFESSIONAL TEACHING PERSONNEL

It is recognized that teaching is a profession requiring specialized and educational qualifications, and that the success of the educational program in the district depends upon the maximum utilization of the abilities of teachers who are reasonably well satisfied with the conditions under which their services are rendered.

It is further recognized that teachers have the right to join or not to join, any organization for their professional or economic improvement but that membership in any organization shall not be required as a condition of employment.

C. TEACHER PARTICIPATION

The Board of Education, the Board and Superintendent, or designated representatives of the Board and/or administrative staff will meet with the representatives of the Champaign Education Association for the purpose of discussion and reaching mutually satisfactory agreements on salary, welfare provisions, working conditions, and other problems of mutual concern.

II. PROCEDURES

A. MEETINGS

Meetings composed of members of the Champaign Education Association Welfare Committee, the Board of Education, and Superintendent, shall be called upon the written request of any one of the parties involved, namely: the Champaign Education Association, the Board of Education, and/or the Superintendent of Schools. Request for meetings should contain a specific statement as to the reason of the request.

B. DIRECTING REQUESTS

Requests from the Champaign Education Association normally will be made directly to the Superintendent or his representative. Requests from the Superintendent or the Board of Education or their representatives will be made to the President of the Champaign Education Association. A mutually convenient meeting date will be set within a reasonable period.

C. EXCHANGE OF FACTS, VIEWS

Facts, opinions, proposals and counterproposals will be exchanged freely during the meeting or meetings (and between meetings, if advisable) in an effort to reach mutual understanding and agreement.

The Champaign Education Association Welfare Committee, the Board of Education, and the Superintendent, will act, as far as possible, as a committee of the whole, studying the financial resources of the district, trends in salary schedules, trends in fringe benefits, and other matters.

D. REQUESTS FOR ASSISTANCE

The participants may call upon competent professional and/or lay representatives to consider the matter under discussion and to make suggestions.

All participants have the right to utilize the services of consultants in the deliberations.

E. AGREEMENT

When the participants reach agreement, it will be reduced to writting and become a part of the official minutes of the Board of Education. When necessary provisions in the agreement shall be reflected in the individual teachers' contracts. The agreement shall not discriminate against any member of the teaching staff, regardless of membership or nonmembership in any teachers organization.

III. APPEAL

A. TO THE BOARD OF EDUCATION

In the event that agreement is not reached, and members of the Board of Education have not participated directly in the deliberations, the teacher association representatives and the Superintendent or his representative may present separate reports stating

their points of agreement and disagreement to the Board of Education. The procedure outline in II will then be followed in an effort to reach understanding and agreement, with the full Board--or Board members selected by the Board--participating in the deliberations.

B. TO THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the event that agreement is not reached with the Board, either the Board or teacher association representative may request the State Superintendent of Public Instruction to appoint a competent individual to seek to bring about a mutually acceptable settlement. The person chosen will have the authority to confer separately or jointly with the Superintendent of Schools, official representatives, or to utilize any other source of information. He may make public any data or recommendations that he may deem advisable.

C. TO A BOARD OF REVIEW

If the State Superintendent of Public Instruction fails to make the appointment within a specified time after receiving the request, or if the person appointed fails to make a recommendation satisfactory to all parties within a specified time after his appointment, a Board of Review will be created in the following manner:

One member will be nominated by the Board of Education or its designated representatives, one member will be nominated by the teacher association representatives, and a third member will be selected by the first two and will serve as chairman.

If the first two members cannot agree on the third member, the State Superintendent of Public Instruction will appoint a third member.

The Board of Review will have authority to hold hearings and to confer with any parties deemed advisable in seeking to effect a settlement.

If an agreement is not reached within a specified time after selection of the Board of Review, the Board of Review will prepare a public report with written recommendations and shall submit it to the Board of Education, teacher association representatives, and the State Superintendent of Public Instruction.

IV. STRIKE PROHIBITIONS

No member of the Champaign Education Association will, in an effort to effect a settlement of a disagreement with the Board of Education, engage in strike.

V. COSTS

Any costs and expenses which may be incurred in securing and utilizing the services of any individual and/or Board of Review will be shared equally by the Board of Education and the Champaign Education Association.

Adams County School District 14
Adams County, Colorado

District 14 Education Association (NEA)

PROFESSIONAL RELATIONS AGREEMENT

I. RECOGNITION

The Board of Education of Adams County School District 14, Adams County, Colorado, hereinafter referred to as The Board, and the District 14 Education Association, hereinafter referred to as The Association, do hereby agree that the welfare of children of School District 14 is our paramount concern in the operation of the schools and is to be promoted to the fullest possible extent by both parties. In order to promote the highest professional relationship toward this end, both parties do hereby agree to the following:

1. The Board recognizes The Association as the official representative of all certificated professional personnel employed or to be employed by The Board.

2. The Board recognizes that teaching is a profession and that educators must be concerned and involved in the process of policy determination for the District.

3. The Association recognizes that the basic responsibility for the operation of the schools is legally vested in The Board as the representatives of the people.

4. The purpose of this professional relations agreement is the recognition of the rights and responsibilities of the parties concerned and the formalization of the procedure by which both parties may work together in good faith with regard to all matters of common concern.

II. PRINCIPLES

A. ATTAINING OBJECTIVES

Attainment of objectives of the educational program of the District requires mutual understanding and cooperation between The Board, the Superintendent and his staff, the professional teaching personnel and the school community. To this end, free and open exchange of views is desirable and necessary among all parties concerned with policy determination for the District.

B. PROFESSIONAL TEACHING PERSONNEL

It is recognized that teaching is a profession requiring specialized training and qualifications and that the success of the educational program in the District depends upon the maximum utilization of the abilities of teachers who are reasonably well satisfied with the conditions under which their services are rendered.

It is further recognized that teachers have the right to join, or not join, any organization for their professional or economic improvement and membership in any organization shall not be required as a condition of employment.

While The Association is the officially recognized organization representing certificated personnel on problems which usually concern all certificated personnel, nothing in this agreement shall be construed in a manner which will remove the right of any individual or group to contact the Administration or The Board of Education for consideration of an individual or group problem which does not concern all certificated personnel.

III. PROCEDURES

A. DIRECTING REQUESTS AND MEETINGS

1. Requests for meetings from The Association will be made directly to the Superintendent of Schools or representatives designated by him.

2. Requests from the Superintendent of Schools or The Board of Education or their representatives will be made to the President of The Association.

3. All requests shall be in writing and shall specify the nature of the problem or problems to be discussed.

4. When a request for a meeting has been made by either party, a mutually convenient date, time and place shall be set within fifteen (15) days of the date of the request.

5. Every possible effort shall be made in the meeting, or in subsequent meetings, to attempt to resolve the problem.

6. The Association and the Superintendent of Schools may elect to jointly develop recommendations that shall be submitted in writing to The Board of Education for consideration and approval or either party may request that a meeting between The Board of Education and The Association be arranged.

B. MEETINGS BETWEEN THE BOARD OF EDUCATION AND THE DISTRICT 14 EDUCATION ASSOCIATION

1. A request for a meeting between The Board of Education and The Association shall specify the nature of the problem or problems and indicate the extent to which The Association and the Administration have attempted to resolve the problem.

2. Following the request, a mutually convenient meeting date and time shall be set within twenty (20) days of the date of the request.

3. Meetings between The Board and The Association shall be held in the Board Room of the District unless other mutually agreeable arrangements have been made and The Board and representatives of The Association shall meet for the purpose of discussion and arriving at mutually satisfactory agreement.

4. The Superintendent of Schools and representatives which he may select shall be present at said meeting and act in an advisory capacity to The Board and the designated representatives of The Association.

5. Members of the Professional Relations Committee, not to exceed six (6) in number, shall be released from school duties without loss of salary when meetings with The Board are scheduled during the school day.

6. Meetings between The Association and The Board of Education shall be held in regular or special sessions of The Board of Education in accordance with the laws of the State of Colorado and the By-Laws of The Board of Education of School District 14. The meetings may be held in Executive Session if duly authorized by The Board of Education, but no formal action may be made in Executive Session.

C. EXCHANGE OF FACTS AND VIEWS

Facts, opinions, proposals and counter-proposals will be exchanged freely during the meeting or meetings in an effort to reach mutual understanding and agreement. The Professional Relations Committee of The Association, The Board, and the Superintendent of Schools will act, as far as possible, as a committee of the whole studying the financial resources of the District, tentative budget requirements and allocations, trends in pupil and teacher welfare, or any other information which may be of assistance in resolving the problem.

D. REQUESTS FOR ASSISTANCE

Either The Association or The Board may call upon competent professional and lay consultants to consider matters under discussion and to make suggestions.

E. COMMUNICATIONS

Communications regarding the progress of professional relations will be released as a joint statement from both parties.

F. AGREEMENT

Formal action on agreement shall be made in open session of The Board and shall become a part of the official minutes. No agreement shall discriminate against any member of the teaching staff regardless of membership or nonmembership in any teaching organization.

IV. MEDIATION AND APPEAL

A. BOARD OF EDUCATION

In the event that agreement is not reached, The Association representatives and The Board or their representative may present separate reports stating their points of agreement and disagreement to both parties. The procedure outlined in Section III will then be followed in an effort to reach understanding and agreement with The Board and The Association.

B. MEDIATION BOARD

In the case of disagreement about the meaning or application of this Agreement, or if an impasse is reached during professional relations, a mediation board may be established by mutual consent.

Membership on the mediation board shall be composed of one person appointed by The Board, one person appointed by the executive council of The Association and a third person to be elected by the two previously named. Neither of the persons elected by The Board and The Association may be members of their respective groups.

C. MEDIATION BOARD PROCEDURES

The mediation board shall have thirty (30) days within which to effect a settlement. The mediation board may hold hearings or utilize any other procedures which will contribute to their insight toward a just resolution of the conflict. The mediation board shall present recommendations to the membership of The Local Association and The School Board for consideration and vote by both parties.

Expenses incurred by the mediation board shall be shared equally by The Board and The Association.

V. AMENDMENT AND CANCELLATION

A. An amendment to this agreement may be made at any time by the mutual agreement of both parties.

B. This agreement shall be in effect until June 30 of each year and unless written notice is provided, shall continue in effect for the ensuing year.

C. Notice of intent to cancel the agreement must be made known by either party to the other by April 1.

Signed _____
President, Board of Education

ATTEST: _____
Secretary, Board of Education

Signed _____
President, District 14 Education Association

ATTEST: _____
Secretary, District 14 Education Association

School District #89
Maywood, Illinois

West Suburban Teachers Union, Local 571 (AFL-CIO)

BOARD OF EDUCATION - TEACHERS' UNION AGREEMENTS

At a special meeting of the Board of Education on August 15, 1944 the following agreement with the West Suburban Teachers Union, Local 571, was adopted. The agreement was made effective immediately.

The Employer recognizes the Union as the Collective bargaining agent for all certificated teachers who are members of the Union, and that all other certificated teachers be represented by the Union, (with the exception that this agreement does not include bargaining for salary adjustments and working conditions for the Superintendent, Principals, or Supervisors of School District 89) in all matters pertaining to salaries, wages, hours, and working conditions.

During the school year 1957-1958, a committee from the Executive Board of the Maywood Chapter of the West Suburban Teachers Union, Local 571 AFT, the superintendent of schools, and the assistant superintendent met several times to prepare the following agreements. The Board of Education adopted these agreements on June 13, 1958.

AGREEMENTS BETWEEN THE BOARD OF EDUCATION, DISTRICT 89, AND THE MAYWOOD CHAPTER OF THE WEST SUBURBAN TEACHERS UNION, LOCAL 571 AFT

These agreements shall remain in effect beginning with their adoption, until revised according to agreement between the Board of Education and the Teachers Union. Since this agreement is incorporated in our Handbook Of Policies, Rules, and Regulations, and since this handbook is revised during the summer of each year, every effort must be made by the parties concerned to complete all agreements for the ensuing year on or before June 1st.

The purpose of incorporating these agreements in the Handbook is to inform all teachers of the agreements that are currently in effect. It should promote clearer understanding and correct procedures, for the orderly settlement of any grievances which may arise between the administration and the teacher.

Agreements

I. The Employer agrees that the regular school bulletin boards in each school building may be used by the Union for posting of all Union materials and notices.

II. The Employer agrees that the Union may use all communication services such as non-toll telephone service and regular delivery service in School District 89 without fee.

III. The Employer agrees that all regular and special meetings of the Union shall be held in the school buildings at such time as may be mutually agreed upon with the superintendent.

IV. When regular monthly meeting dates are established the administration agrees that no other school meetings, athletic affairs or school functions shall be scheduled on those dates.

V. In the Spring of 1956, the Board of Education agreed to allow teachers a personal free day, which is described elsewhere in this Handbook as follows:

A teacher may be absent one day during the year for personal reasons, such as moving, personal business, without loss of salary. This day is not a part of the ten days Absentee Pay Plan and is not accumulative. It is hoped that teachers will use it only when absolutely necessary.

When this personal free day was granted the Teachers Union was informed that people asking for the free day would be asked to give their reasons. These reasons should be emergencies, such as moving day, personal business which could not be transacted on Saturdays or evenings.

VI. In the Spring of 1960 it was agreed that unused days of sick leave during any one year should accumulate to the benefit of the teacher for subsequent use, to a total of fifty days, and that the number of days of sick leave accumulative at the beginning of any year shall not exceed fifty days.

VII. In the Spring of 1958 the Board of Education agreed to the plan of a Sabbatical Leave effective as of the school year 1958-1959. This complete plan with all of its rules and regulations is found elsewhere in this Handbook.

VIII. The teacher's school year consists of 190 days, including legal school holidays and workshop days. According to the way that the calendar runs, the total number of days in each year may vary so that it might be 188 days, 189 days, or 190 days. If the Board makes the school calendar 188 days, they are simply giving teachers two days off with pay. The regular year is 190 days. In discussions of this matter with the Union, the Board has held that they reserve the right to set the length and time of the school year.

Personal Relations and Adjustments Committee

I. All matters of adjustment which remain unresolved shall be referred to a committee which shall be composed of representatives designated by the Executive Board of the Maywood Chapter of West Suburban Teachers Union, Local 571, and by the representatives selected by the Board of Education, School District #89.

II. Any and all matters of adjustments or grievances shall first be presented by the teacher to the principal. If after this, the teacher still is not satisfied, he or she may then present the grievance to the superintendent. If the grievance concerns a teacher-principal professional relationship, the teacher may take it direct to the superintendent without conferring with the principal. In the event adjustment is unsatisfactory to the teacher after conferring with the superintendent, the teacher may present the matter in writing to the Executive Board of the Maywood Chapter of the West Suburban Teachers Union, Local 571. If after the Union Executive Board has given proper consideration to the matter and consulted with the Superintendent it is still not settled, the Executive Board may request of the superintendent that it be referred to a special committee. This special committee shall be composed of two representatives designated by the Executive Board of the Union, two members of the Board of Education, the superintendent and the assistant superintendent. It is further agreed that this special committee

shall make recommendations concerning the settlement of the disagreements involved.

Invalidation

I. In the event that present or subsequent legislation shall exist that invalidates any section, or part of a section, in this agreement, such invalidation shall not render invalid any other section or part thereof in this agreement.

Right of Revision

I. This agreement shall be in effect until it is changed by mutual agreement. For purposes of review, examination, and revision, each party hereto reserves the privilege of exercising the right of revision, by giving the other party written notice of the desire to meet for such review, examination, and revision, as may be mutually agreed upon, at least ten days prior to said meeting. All revisions for the ensuing year must be begun in time to be completed by June 1st, in order to become a part of these agreements.

Unified School District #470
Arkansas City, Kansas

Arkansas City Education Association (NEA)

TEACHER-ADMINISTRATOR-BOARD RELATIONS

I. BELIEFS WHICH UNITE US.

We believe that teachers, administrators and school boards have a common goal -- that of providing the best possible schools for the children and youth of the district. We believe that effective communication among classroom teachers, administrators and school boards is essential. We believe that teachers, administrators and school boards must together seek pathways for mutual development of policies and practices. We believe that the welfare of children is paramount in the operation of the schools.

II. PRINCIPLES WHICH GUIDE US.

1. Build on Present Practices.--Effective teacher-administrator-board relationships should be developed by utilizing and improving any procedures of communication, which in the current practice of a school system, are useful in developing school policy on matters of common concern.

2. Service to Youth Paramount.--The teachers association[1/] which expects to improve its communication and develop confidence with administrators and school boards must seek professional goals such as teacher excellence and professional ethics, as well as good personal practices.

3. Contribution by Teachers.--Professionally prepared teachers are uniquely qualified to make important contributions to the formulation of recommendations for school policies which are related to the work of teachers.

4. Involvement of Teachers.--The legal responsibility for the adoption of school policies belongs to the school board[2/] exclusively. However, before arriving at a decision with respect to important policies which affect the work of teachers, the school board should make sure that teachers have participated cooperatively in the preparation of the recommendation which it will have under consideration. In the event the board feels the recommendation to be unwise, it will engage in good faith discussions with representatives selected by the teachers association before taking action on the recommendation.

5. Policies in Writing.--A cooperatively developed school board policy handbook is fundamental to good board-staff relationships. Written policies shall be revised regularly, shall be made available to all the school personnel, and shall be used consistently by the school board as the basis for its action.

6. Role of Superintendent.--The role of the superintendent of schools is of utmost importance because he must function both as the chief administrator for the board and as head of the professional staff. With this dual role goes the responsibility for leadership. The superintendent's leadership should result in mutual respect between the board and the professional staff. It should result also in steps by which differences can be resolved.

7. Scope.--Only matters of broad professional concern are within the scope of professional negotiation. Although the proper handling of personal grievances of teachers is of utmost importance to the maintenance of staff morale, such grievances are not within the scope of professional negotiation unless they have been evaluated by a responsible committee of the teachers association and found to be of such broad significance that the teachers association by official action decides to make common cause with the teacher in question.

III. PROCEDURES WHICH WE FOLLOW IN KEEPING OPEN THE CHANNELS OF COMMUNICATION.

1. Board Recognition.--The teachers association (see footnote 1) is hereby recognized as the official agency for those teachers. This does not preclude the right of other groups or individuals to be heard by the board.

2. Responsibility of the Teachers Association.--The teachers association must have a well informed, responsible membership. It is essential that there be competent research committees to compile evidence as the basis for whatever the teachers association presents as the needs and desires of the teachers. The teachers association has a duty to educate its own membership with respect to those realities of school system operation to which their proposals are related. The teachers association shall file a copy of its constitution and by-laws with the school board.

3. Requests for Conferences.--When the teachers association wishes to discuss a matter or make a proposal, it shall make its request to the superintendent or his representative. Accompanying the request for a conference will be a written statement setting forth the nature of the concern of the professional staff. Such a request shall result in discussions between the superintendent and representatives selected by the teachers association within a reasonable length of time.[3/] It is assumed that in nearly all such conferences there will be a meeting of the minds, resulting in a recommendation to the school board by the superintendent with the full support of the teachers association.

In those rare cases in which there can be no meeting of minds, the teachers association may choose to request the superintendent to arrange a conference with the school board within a reasonable

1/ The teachers association shall be defined as the organization representing the majority of teachers in the school system.

2/ The school board shall be defined as the duly elected officials legally responsible for governing the school system.

3/ A reasonable length of time shall be defined as not less than 5 days nor more than 30 days unless otherwise mutually agreed upon by the teachers association, superintendent, and/or the school board.

length of time. Requests for conferences may move in the opposite direction. Whenever the superintendent or the school board desires to discuss a matter of importance with the teachers association, a request for a conference shall be directed to the president of that organization. Accompanying such a request shall be a written statement setting forth the concern of the superintendent and/or the school board. Such a request shall result in a conference within a reasonable period of time with representatives selected by the teachers association.

4. Conferences.--Facts, opinions, proposals and counter proposals shall be exchanged freely during the conferences in an effort to reach mutual understanding. Participants in these conferences may wish to utilize the services of consultants.

5. Policy.--When participants reach an understanding, such understanding shall become a matter for policy action by the school board. The policy shall not discriminate against any member of a teaching staff regardless of membership or nonmembership in any teachers organization.

6. Persistent Disagreement.--When the school board and representatives selected by the teachers association cannot come to a mutual understanding of matters of great importance, some impartial fact-finding body shall be called in by both parties jointly to review the situation and make written recommendations publicly to the school board, to the professional staff and to the citizens of the school district. This fact-finding body shall consist of three people. One shall be selected by the teachers association, one by the school board and these two people shall select a third. The welfare of children and youth of the school district shall be regarded as paramount by all parties concerned. After reviewing the recommendations of the fact-finding body, the legal responsibility for making a decision rests exclusively with the school board.

Adopted by Teachers Association: May 5, 1966

Adopted by the Board: May 2, 1966

Lewes Special School District
Lewes, Delaware

Lewes Education Association (NEA)

SECTION 3.8 PROFESSIONAL NEGOTIATION

SECTION 3.8.1 PREAMBLE

Recognizing that providing a high quality education for the children of the Lewes Special School District is the paramount aim of this school district, and that good morale in the teaching staff is necessary for the best education of the children,

We do hereby declare that:

A. The board of education, under law, has the final responsibility of establishing policies for the district.

B. The Superintendent and his administrative staff have the responsibility of carrying out the policies established.

C. The professional teaching personnel have the ultimate responsibility of providing the best possible education in the classroom.

SECTION 3.8.2 PRINCIPLES

Section 3.8.2.1 Attainment of Objectives

A. Attainment of the objectives of the educational program conducted in the schools of the district requires mutual understanding and cooperation among the Board of Education, the Superintendent and his administrative staff, and the professional teaching personnel. To this end, free and open exchange of views is desirable with all parties contributing to the decision-making processes involving matters of mutual concern.

B. The Superintendent is encouraged to establish clear channels of communication in an appropriate manner in order that a free and open exchange of views is possible.

C. The Board of Education realizes that, in the best interests of public education, it is desirable to negotiate occasionally on matters of mutual concern in order to reach mutually satisfactory agreements and, further, to provide a means of appeal in the event of an impasse.

Section 3.8.2.2 Teachers and Teachers' Associations

A. It is recognized that teaching is a profession requiring possession of specialized educational qualifications, and that the success of the educational program conducted in the public schools of the district depends upon the willing services of well-qualified teachers, who are reasonably well-satisfied with the conditions under which their services are rendered.

B. It is further recognized that teachers have the right to join any organization for their professional or economic improvement, and are urged to be active members of such organizations as are compatible with the laws of Delaware and the United States of America. Be it further recognized that, while membership in any organization shall not be required as a condition of employment, all employees should, as a professional obligation, belong to a professional organization of their choice.

C. The teachers, as the on-going executors of the educational enterprise, have a responsibility for maintaining an awareness of the total educational needs and problems of the community, for informing both the school administration and the board of education of the needs, and for actively cooperating in efforts to improve the school program in all its aspects.

D. The mutual responsibilities of boards of education, administrators, and teachers require that teachers should have the right and the opportunity to participate in the formulation of policies of mutual concern, including conditions of employment or service. ("Participate" as used here refers to the right to make recommendations or to react to policy proposals before they are adopted. Legally, only the board of education can determine policy.) In the process of reaching agreement on policy, teachers should be guaranteed the right to express their views to administrators and boards of education through democratically elected teacher representatives.

E. Teachers, in making recommendations on policy matters of mutual concern, have an obligation to justify their proposals and consider their effects upon the educational program.

Section 3.8.2.3 Recognition of Association

A. The Board of Education of the Lewes Special School District, hereinafter referred to as the BOARD, recognizes the Lewes Education Association, hereinafter referred to as the ASSOCIATION, as representative of and for all members employed by the Lewes Special School District.

B. The Association recognizes the Board as the elected representative of the people of the Lewes Special School District, and as the employer of teachers employed in the Lewes Special School District.

C. The purpose of the recognition recited above is the mutual agreement that the parties will negotiate with regard to matters of mutual concern, permitted by applicable law to be negotiated between them within such limitations recited by law.

D. The parties mean by the word "negotiation" a sincere and honest effort to discuss their problems in order to reach a mutually fair agreement concerning them. For the purposes of negotiation, the Association shall represent its membership.

E. The Board will hear and consider proposals of employee groups providing the group or association has on file in the district office a notarized statement which shall include: (a) Name of the Association; (b) purpose of the association; (c) direct affiliations maintained by the association; (d) statement of current number of employees who are members of the association; and (e) a list of current officers of the association.

SECTION 3.8.3 PROCEDURES

Section 3.8.3.1 Inaugurating Negotiations

A. Written requests for negotiations will be submitted by the Association to the Superintendent, or by the Superintendent to the Association.

1. The subject matter to be considered will be specified.

2. Persons who will participate in negotiations will be named.

B. The party receiving the request will consider the merits of the proposal as presented in the written request at the next regular meeting of that party except when the request is received less than forty-eight hours prior to a regularly scheduled meeting. In no case, however, will a request be permitted to be held for more than five weeks before being given consideration.

C. The action of the group receiving the request shall be that of accepting the proposal, agreeing to negotiate, or refusing to accept the proposal and refusing to negotiate. Acknowledgment of receipt of the request and the subsequent decision of the party receiving the request shall be communicated in writing within forty-eight hours after one of the above decisions is reached.

D. If there is an agreement to negotiate, the Superintendent and/or representatives of the Board or the President of the Association shall arrange with the party submitting the request to schedule and hold meetings.

E. If there is a refusal to negotiate, such information shall be submitted in writing and shall state the reason(s) why such action was taken.

Section 3.8.3.2 Conducting Negotiations

A. Meetings

Meetings between representative(s) of the Association and the Board, the Board and Superintendent, or designated representatives of the Board and Superintendent, will be scheduled for a mutually satisfactory time. (The Board reserves the right to consider views and recommendations of individuals and those of organizations representing a minority of the employees in a manner to be left to the Board's discretion.)

1. Relevant data and supporting information, proposals and counter proposals will be presented in a free manner at the meeting or meetings (and between meetings, if advisable) in an effort to reach a mutual understanding and agreement.

2. Competent professional and lay representatives or consultants may be used if deemed advisable by either party.

3. During the period of consideration, interim reports of progress may be made to the association by its representative(s) and to the Board by the Superintendent.

4. While negotiations are in process, any releases prepared for news media will be approved by both groups.

B. Reporting

1. When the participants reach a consensus, a jointly report shall be prepared and signed by both parties and the provisions of this report shall then be considered by the Board and the membership of the association.

2. In the event a consensus is not reached, reports may be presented to the Board by either or both parties.

Section 3.8.3.3 Disagreement or Impasse

A. In case of disagreement resulting in impasse after negotiation procedures have been exhausted, or if either party refused to accept the terms agreed upon by their representatives who participated in negotiation, the matter may be submitted to an Advisory Board. The Advisory Board shall consist of three members, one to be chosen by each party, and the third member to be selected by the first two. The Advisory Board shall be organized within one week after one party makes such a request in writing to the other party.

B. The Advisory Board shall consider all facets of the problem and shall make recommendations for settlement to both parties within two weeks after being formally organized.

C. If the Advisory Board is unable to agree on a recommendation or if either party refuses to accept such recommendations, the matter may be referred to the State Superintendent of Schools by either party, with the request that the State Superintendent of Schools appoint a competent individual or committee to seek to bring about mutually acceptable settlement.

D. All facts, data, and other information shall be submitted by both parties to the Advisory Committee and to the person or committee appointed by the State Superintendent of Schools if such are requested by either party.

Section 3.8.3.4 Costs

Any costs and expenses which may be incurred in securing and utilizing the services of any individual and/or Advisory Board shall be paid for by the party authorizing or requesting such services, but may be shared equally by both parties by mutual agreement.

Section 3.8.3.5 Resolution of Agreement

A. Agreements endorsed by the Board and the Association shall become a part of the official minutes of each party and shall, as such, become public information. Any agreement shall be binding on each according to the terms of the agreement and shall remain in effect until one party informs the other in writing that the agreement is to be void.

B. This contract shall remain in force until July 1, 1964, at eight o'clock in the morning. It may be amended by the agreement of the same parties who entered into it originally. It will be renewed automatically for a period of one year from the expiration date each year unless one of the parties shall have notified the other at least 120 days before expiration date that it will not accept renewal.

State of Illinois
Governor's Advisory Commission on Labor-Management
Policy for Public Employees

Final Report

Sections 1-6

SECTION 1 - GENERAL CONSIDERATIONS

Over the past thirty years, the Congress, as a matter of national policy, has granted employees in private industry the right to organize or not to organize, and where they have organized, the right to bargain collectively with their employers. Although the procedures and practices for effecting those rights have been examined and altered in the light of experience, that basic policy has not been changed.

Public employees are not covered by this policy. In recent years, as public employment expanded to meet new public needs and as the effects of private sector negotiations were apparent, many public employees have become restive, and they have begun to demand that public bodies accord them the same rights that are extended to employees in private industry. Some have asserted that collective action, including work stoppages, is necessary to secure fair and equitable treatment with respect to wages, benefits, and working conditions. There have been a variety of responses to these demands from employing agencies. Some have entered into negotiations or consultation with their employees; some have refused. The absence of a definite public policy on the rights and responsibilities of both the employing agencies and their employees as well as the apparent discontent of some employees have contributed to strikes and threatened strikes. These are matters of grave concern to the citizens of Illinois.

The Governor's Commission recognizes that public employees, like their counterparts in private industry, are dependent upon their employment for their economic well-being, have a real interest in the conditions under which they are employed, and in some cases strongly desire the opportunity to participate in determining their wages and working conditions. In this respect, there are close similarities between employment in public agencies and in private industry.

But the Commission also recognizes that significant differences exist between the services provided by public and by private employers and the standards used to determine how extensively and at what level of quality these services are to be performed. In private industry, decisions about these matters are generally influenced by market forces; in public agencies, these services are generally supplied "free of price" and are determined by political processes in which legislative bodies decide how much revenue can be raised and how it is to be allocated among many competing demands. These factors make the determination of employment conditions in public agencies different from that followed in private industry.

With this background and for these reasons, the Commission strongly believes that legislation defining State policy with regard to the rights and responsibilities of public employers and employees is imperative and in the public interest. We have predicated our recommendations for such legislation on five general principles:

1. Public employees should be granted the legal right to be represented or not to be represented by organizations of their own choosing and to engage in collective negotiations with their employers. Practicable and enforceable procedures should be established to protect these rights.

2. Orderly procedures should be established to determine whether public employees desire to engage in collective negotiations and to decide the appropriate grouping of employees for representation.

3. Collective negotiations should be conducted within the framework of applicable existing legislation, such as legal provisions governing budget-making authority and merit systems, and in full recognition that the implementation of resulting agreements may be dependent upon further legislative action.

4. Work stoppages are not appropriate in the public sector and should be unequivocally prohibited. Practicable and enforceable procedures for dealing with violations of such a prohibition should be established.

5. Effective procedures should be created for the equitable settlement of disputes which may arise in negotiation and administration of collective agreement.

We are well aware that the entire complex system of employer-employee relationships in the public sector is undergoing substantial changes and that procedures being adopted to cope with this problem are experimental. For these reasons we believe that whatever measures are adopted must be flexible and subject to review and change as deemed advisable. We are therefore recommending that appropriate public and legislative committees be established to review systematically the operation of the law, to assist in implementing provisions of the law where necessary because of collective negotiations, and to make appropriate recommendations to the Governor and to the General Assembly for changes in principles and procedures as conditions may require.

Experience indicates that a reasonable period of time is essential to properly organize for the administration of the necessary procedures and to inform the parties concerned about the new procedures under which they will have to function. Therefore, we recommend that any legislation not become effective immediately upon enactment, and we suggest that beginning in the interim and continuing after the effective date that public bodies conduct in-service training programs in employee relations and management procedures, and that universities and other public institutions with expertise in these subject matters be encouraged to assist public agencies and public employee organizations to develop the skills and knowledge which will be needed to realize the promise in these new arrangements.

All this naturally requires a high degree of patience, understanding and cooperation by public employers and employees and the citizens generally.

SECTION 2 - SUMMARY OF RECOMMENDATIONS

1. A statute should be enacted which will guarantee public employees, subject to the qualifications stated below, the right to self-organization and the right to negotiate collectively and the right to refrain from such actions.

2. The statute should cover all governmental bodies including the state government, municipalities, counties, school districts, and special districts and authorities, but excluding the federal government and its agencies. The statute should be appropriately integrated with existing legislation applicable to collective negotiations covering specific groups of public employees.

3. The statute should cover all public employees except elected officials, the heads of departments and agencies, the members of boards and commissions, managerial employees, magistrates, individuals acting as negotiating representatives for employing authorities, the immediate personal or confidential assistants and aides of the foregoing persons, and supervisors.

4. Separate legislation should not be enacted for any special occupational or professional group. However, policemen, including those non-uniformed members of police or forces who have police authority, should be represented only by organizations which do not admit employees other than policemen to membership and which are not affiliated with organizations admitting such other employees to membership.

5. The duty to negotiate should extend to wages, hours, and working conditions, but should not extend to rules and regulations concerning examinations, assignments, and promotions under a Civil Service system.

Collective negotiations should not result in final and binding agreements with respect to those matters which by law are contingent upon the judgment and action of a legislative body or of an administrative agency that has jurisdiction of those matters.

6. It should be the exclusive function of each public employing agency to determine the mission of the agency, set standards of services to be offered to the public, and exercise control and discretion over its organization and operations.

It should be the right of each public employing agency to direct its employees, take disciplinary action, relieve its employees from duty because of lack of work or for other legitimate reasons, and determine the methods, means, and personnel by which the agency's operations are to be conducted. But this should not preclude employees from negotiating or raising grievances about the practical consequences that decisions on these matters may have on wages, hours, and working conditions.

7. Even though a grievance procedure is provided by a Civil Service law or regulation, an employee organization and an employing agency may negotiate a procedure for handling grievances arising under their agreement. Any employee with a grievance must designate which of these procedures he wishes to follow at the time he presents his grievances, but he may not use both.

8. Rules for the authorization of checkoff of dues to an employee organization should

continue as presently provided in law. No other form of employee organization security is recommended.

9. Administration of the law should be delegated to a new independent agency entitled the Illinois Public Employee Relations Board, consisting of a chairman and two other members appointed by the Governor with the approval of the Senate for staggered terms of six years each. The Board should be made up of persons expert in the field of employee relations, no more than two of whom should belong to the same political party. The members of the Board should be compensated at a level sufficient to attract the most qualified available persons on a full-time basis. Employees of the Board, including hearing officers and mediators, should be subject to the Personnel Code.

10. The Board should determine appropriate units for negotiations. For a unit to be appropriate, a clear and identifiable community of interest must be found to exist among the employees in the unit. This community of interest may be exhibited by one or more of the following criteria, although not limited to them: (a) employees with the same conditions of employment which apply uniquely to them, (b) employees with a history of workable and acceptable negotiating pattern, and (c) employees in the same historic craft or profession.

11. Since voluntary settlement of questions concerning representation is desirable, the Board should act only if an unresolved question concerning representation is raised by an employing agency, an employee organization, or an employee or group of employees. In the absence of a signed agreement or a formal certification by the Board (as defined in Paragraph 14 below), an employing agency, faced with a demand for recognition, may raise a question of representation. If a signed agreement exists, with or without formal certification by the Board, the agreement should act as a bar to a representation proceeding for a period to be determined by the Board. A signed agreement should not constitute a bar if the bargaining unit covered in the agreement is found to be inappropriate. A certification should bar an election for a period to be determined by the Board, but in any event for a period of at least one year.

12. Professional and non-professional employees should be given the opportunity to decide whether they want to be included in the same unit if that issue is raised by either group.

13. Board determinations of appropriate units and questions of representation should not be subject to review by a court except in relation to the enforcement or review of a Board order in an unfair practice case.

14. An employee organization should be certified by the Board as an exclusive negotiating representative only after it establishes a majority in a secret ballot election. The Board should determine administratively whether an employee organization has made a sufficient showing of membership among employees in the negotiating unit to justify an election. Other organizations may be included on the ballot if they make an appropriate showing of interest acceptable to the Board. The choice of no organization should always be included on the original ballot. An organization should be certified if the majority of those casting valid ballots in a representation election chooses that organization. In any election where none of the choices on the ballot receives a majority, a run-off should be conducted, the ballot providing for a selection between the two choices receiving the largest and second largest number of valid votes cast in the election. There should be no more than one valid election in a twelve-month period.

15. Certification should entitle an employee organization to exclusive representation rights for all employees in the negotiating unit for which it is certified. However, any individual employee or a group of employees should have the right at any time to present grievances to their employing agency and to have such grievances adjusted, without the intervention of the exclusive negotiating representative, as long as the adjustment is not inconsistent with the terms of a collective agreement then in effect and the exclusive representative has been given opportunity to be present at such adjustment.

16. Decertification elections should be held at the request of the employees in an appropriate unit if the Board determines administratively that a sufficient number of employees desire such an election.

If an employing agency has a good-faith doubt about the continuation of a majority in a unit, it may file a representation petition, but in such cases, the Board must have prima facie evidence of the good-faith doubt.

17. Employing agencies should be prohibited from committing unfair practices as follows:

(a) interfering with, restraining, or coercing employees in the exercise of their rights of self-organization or non-organization,

(b) encouraging or discouraging membership in an employee organization by discrimination in regard to hire, tenure, promotion, or other conditions of employment;

(c) controlling or dominating an employee organization or contributing financial or other support to it, provided that an employing agency shall not be prohibited from permitting employees to confer with it during working hours without loss of time or pay;

(d) disciplining or otherwise discriminating against any person because he has filed a charge of unfair practice or has given testimony under the statute;

(e) refusing to negotiate in good faith with a certified employee organization.

18. Employee organizations should be prohibited from committing unfair practices as follows:

(a) interfering with, restraining, or coercing employees in the exercise of their rights of self-organization or non-organization;

(b) inducing the employing agency or its representative to commit any unfair practice;

(c) refusing to negotiate in good faith with the employing agency.

19. The duty of both parties to negotiate in good faith should be defined so as not to compel concessions by either, but so as to require a good-faith intent by both to arrive at an agreement. Once an agreement is reached, the parties should have a duty to reduce their agreement to writing. Where legislative or administrative action is required to effectuate and to implement the agreement, the duty to negotiate should include a duty by both parties to cooperate with each other in a good-faith attempt to secure the required legislation of administrative approvals.

20. A charge of an unfair practice may be filed by an employing agency, an employee organization, or an individual employee. The Board should have no investigatory or prosecuting function in unfair practice cases, and each complainant should be responsible for advancing his own case. The Board should hold a hearing on each charge if it raises a genuine issue of fact or law. The Board should not issue any remedial order based upon an unfair practice which occurred more than six months before the filing of a charge. The Board may petition the appropriate court to enforce its orders. Any party aggrieved by a Board order should have the right of judicial review. The provisions of the Administrative Review Act should govern all proceedings for judicial enforcement or review of Board orders in unfair practice cases.

21. The statute should contain an explicit and unqualified prohibition of strikes. Strikes should be broadly defined to include work stoppages or any other concerted interferences by employees with the operations of a public service or function. Notices of representation elections should contain an appropriate statement about the illegality of strikes.

22. The statute should explicitly affirm the existing power of the courts to enjoin strikes and should also make clear that its provisions are not designed to limit any inherent judicial power.

23. The statute should provide that the employing agency shall have an affirmative duty promptly to seek an injunction in the event of the occurrence of a strike, and promptly to initiate action for contempt for any violation of such injunction.

24. The statute should explicitly affirm the employing agency's existing authority to discipline or discharge employees engaged in strikes. The statute should not provide for the imposition of automatic penalties (such as discharge, loss of seniority, or loss of retirement benefits) on striking employees.

25. The Board should have an independent Division of Mediation to be staffed by full-time career personnel. Board members should not mediate. Board employees concerned with representation and unfair practice functions should be in a separate division from those concerned with dispute settlement, and neither division's employees should perform the duties of the other.

The career mediation staff should be supplemented by a panel of qualified persons selected by the Board after consultation with interested employee organizations and employing agencies.

26. Either party to negotiation may request mediation, or the Board may, on its own initiative, proffer the assistance of a mediator.

27. If an impasse arises despite mediatory efforts, either party, both parties, or the mediator may request the Board to establish fact-finding machinery. The Board should make a preliminary investigation to determine whether or not the fact-finding procedure should be

activated or whether, instead, further direct negotiations should be recommended to the parties.

28. Fact-finders should be appointed from a list of recognized experts maintained by the Board and compiled after consultation with employee organizations and public employing agencies. A fact-finding tribunal should consist of one or three members selected from the Board's list, as the parties may agree, or, in the absence of such agreement, as the Board may determine. If the parties agree on who shall serve as fact-finders (including persons not on the list), the Board should respect their agreement. Each fact-finder should be paid in accordance with a schedule established by the Board or as agreed to by the parties, but not to exceed $150 per day, and each party should pay one-half of the fact-finder's fee.

29. The fact-finding hearings should be public or private in the discretion of the fact-finding tribunal. The tribunal should have full subpoena powers.

The tribunal should issue and make public its findings and recommendations within thirty days after the tribunal has been appointed, unless it has requested and received an extension of time from the Board. The tribunal should submit its report to the parties, to the Board, and to such other employee organizations or governmental bodies as the tribunal deems appropriate. Within fifteen days of the issuance of the tribunal's report, the parties should report to the Board whether their dispute has been resolved and, if not, which of the recommendations they, respectively, accept and which they reject. The Board should make the parties' reports public.

30. The parties should be encouraged to develop their own dispute-settling machinery, including mediation and fact-finding.

31. Employing agencies should be authorized, but not required, to provide for binding arbitration of disputes concerning the administration or interpretation of collective agreements.

32. Collective negotiations should be conducted in private, but the final terms of any signed agreement should promptly be made available for public inspection.

33. Employing agencies should be permitted, but not required, to make any provision of an agreement, including wage or salary payments, retroactive.

34. The new statute should take effect on October 1, 1967, or ninety days after the signing of the Act, whichever comes later; however, the Board should not entertain representation petitions or unfair practice charges until January 1, 1968.

35. The Governor should appoint a seven-member Advisory Committee, to review the effectiveness of the statute and to recommend any changes in substance or procedures desirable.

36. The Legislature should consider establishing a joint standing committee from among its members to review all matters pertaining to the statute and its administration, the reports and recommendations of the Advisory Committee, and such requests or recommendations arising out of employer-employee negotiations that may require legislative action. The Legislature should consider, possibly at a later time, establishing a Commission which combines the functions of the Advisory Committee and the joint standing committee.

37(a). Public agencies should recognize need for effective channels of communication between management and employees, and should re-examine their policies and practices to be sure that such channels exist and are being used effectively.

(b) Public agencies, either individually or through some centralized program, should regularly gather and analyze information on salaries, wages, employee benefits, and work practices.

(c) Public agencies should re-evaluate and improve their programs for training managers and supervisors at every level, whether the employees are or are not represented by employee organizations.

(d) Public agencies should examine their present organizational structures to determine whether they are adequate to deal with problems which may arise from a need to engage in negotiation and administration of collective agreements.

(e) Employee organizations representing public employees should also take steps to be sure that their representatives are properly trained in the special problems inherent in the collective negotiating process as it relates to public agencies.

SECTION 3 - SCOPE AND COVERAGE

The first question to which the Commission addressed itself was whether to accept the

general principle that public employees in Illinois should be granted, by law, the right to be represented or not to be represented by organizations of their own choosing for collective negotiations with employing agencies. Once this principle was accepted, a number of questions with regard to scope and coverage followed: To whom should the provisions of the statute apply? Should all employees at all levels of government be covered, or should some groups or individuals performing particular functions be excluded? Should all issues of concern to employees be subject to negotiations, or should there be limitations in addition to those already provided by Constitutional and statutory law? What provision should be made to protect the authority of public agencies in order to ensure that the business of government is carried on?

In considering these questions, the Commission was mindful that the rules and experience of private sector bargaining as well as the experience of the federal government and other states with public employee relations laws would be useful but would not be completely transferable to the Illinois situation. The Commission's recommendations, therefore, took into account existing Illinois law and practice and its complex governmental system.

Illinois is similar to, but not identical with, other states and the federal government in the degree to which wages, hours, and working conditions are governed by legislative enactments, Civil Service rules and regulations, and ordinances. These limitations are absent in private sector bargaining. Because they are present in the public sector, collective negotiations must be undertaken in full recognition of all legislative and administrative restraints and must be in harmony with them. Moreover, negotiations by public bodies which have significant financial implications must be related to budget-making.

With these considerations in mind, the Commission makes the following recommendations:

Statement of Policy

1. A statute should be enacted which will guarantee public employees, subject to the qualifications stated below, the right to self-organization and the right to negotiate collectively and the right to refrain from such actions.

No clearly stated public policy about self-organization and collective negotiations for public employees now exists in Illinois, but many public employees are organizing and making demands on public agencies for collective negotiations. The result has been a series of crises accompanied by uncertainty and confusion.

The Commission believes that a clear statement of public policy, defining the rights and responsibilities of public employees and governmental agencies in the State, would remove the uncertainty and confusion.

There is substantial and persuasive support for such a policy in the actions of the federal government and numerous state governments. Congress long ago established such rights for employees in private industry. Executive Order 10988, issued by President Kennedy on January 17, 1962, granted such rights to federal employees. Many states, as noted in Section 8, likewise have provided such rights for public employees in their jurisdictions.

The Commission is of the opinion that the guarantee of these rights, coupled with orderly procedures for administering and protecting them, would be equitable for employees, would provide clear operational guidelines for public agencies, and would promote continuity of government service for the public.

Coverage

2. The statute should cover all governmental bodies including the state government, municipalities, counties, school districts, and special districts and authorities, but excluding the federal government and its agencies. The statute should be appropriately integrated with existing legislation applicable to collective negotiations covering specific groups of public employees.

The objective of the proposed legislation is to promote orderly relations between employee groups and employing public agencies. The objective is equally desirable for all units of government.

Because the Commission found no significant differences between the conditions or circumstances of employment at different units or levels of government, it is recommending that the law cover employees at all levels.

Legislation already exists authorizing collective negotiations for certain groups of public employees, such as employees of the Chicago Transit Authority, personnel within the University Civil Service System, and firemen. The new statute and the existing legislation should be integrated.

Exclusions

3. The statute should cover all public employees except elected officials, the heads of departments and agencies, the members of boards and commissions, managerial employees, magistrates, individuals acting as negotiating representatives for employing authorities, the immediate personal or confidential assistants and aides of the foregoing persons, and supervisors.

Persons who are responsible for the direction or administration of public organizations are the officials who would also formulate and carry out policies dealing with the employee relations which are subject to negotiation. To avoid conflicts of interest in negotiations and in the administration of employee relations policies, and to assure strong management direction, such persons should be excluded from coverage under the statute.

In the public service supervisors frequently are members of professional and employee organizations which admit nonsupervisory personnel to membership. This condition exists in police and fire organizations as well as in organizations in education, health, and welfare. In addition, in the public service, positions which have supervisory titles often vary substantially in the degree of actual supervisory authority. Because of these two factors, the question of the exclusion of supervising employees from coverage under the proposed statute was a matter of special concern. The Commission concluded that to avoid the same conflict of interest discussed above, supervisors should be excluded from coverage. However, to make certain that only those with genuine supervisory authority are excluded, it decided that the definition of supervisor used in the National Labor-Management Relations Act should be adopted. This reads:

> *The term "supervisor" means any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.*

By adopting this definition, exclusion from coverage would be determined on the basis of function rather than title, and an established body of law could be drawn upon to decide borderline cases.

The Commission notes that the exclusion of supervisors from coverage under the law would not prohibit supervisors from maintaining membership in employee organizations if the employing agency does not object. Under these circumstances, established professional and beneficial arrangements will not necessarily be broken.

Police and Other Occupational and Professional Groups

4. Separate legislation should not be enacted for any special occupational or professional group. However, policemen, including those nonuniformed members of police forces who have police authority, should be represented only by organizations which do not admit employees other than policemen to membership and which are not affiliated with organizations admitting such other employees to membership.

In a number of states, special treatment has been given to certain occupational and professional groups, such as police, firemen, teachers, and nurses. In some cases, separate legislation has been enacted for such groups, partly on the ground that the administration of a general law was entrusted to an agency which had jurisdiction over private as well as public employees. In other cases, special provisions have been included in a single comprehensive law.

The Commission has considered this problem carefully and has concluded that separate legislation, with different administrative arrangements, is neither equitable nor efficient in the Illinois context. If a separate law were adopted for police or teachers, for example, it would appear inequitable to deny separate treatment to nurses, firemen, social workers, or other occupations or professions.

Multiple legislation would obviously increase administrative costs and could lead to conflicting rulings and procedures by the various administering boards. Finally, it should be noted that the Commission's proposed statute would apply only to public employees and would provide machinery exclusively for them. This arrangement should permit the selection of personnel who already possess or who will quickly acquire skill in dealing with public agency problems and disputes.

The position of police calls for special provision because their function of preserving public safety and order and enforcing laws might create problems in their interaction with other groups of public and private employees. To avoid possible conflict between police responsibilities and occupational loyalties, the Commission recommends that as a matter of policy

the rights of police to self-organization be qualified by requiring that they may belong only to employee organizations limited to their own occupation and unaffiliated in any way with organizations which admit others than police to membership. Thus, their legitimate interests as employees would be protected without jeopardizing their legal responsibilities.

The position of prison guards and firemen, who have functions analogous to the police, proves, on investigation, to be different. Such police functions as these groups may have do not involve possible conflicts with other employee groups. Prison guards, for example, are responsible primarily for the surveillance of prison inmates. Firemen do not ordinarily have police duties involving labor or employee disputes. However, in a department in which firemen and policemen are used interchangeably, such personnel would be considered as performing the police function.

Scope of Collective Negotiations

5. The duty to negotiate should extend to wages, hours, and working conditions, but should not extend to rules and regulations concerning examinations, assignments, and promotions under a Civil Service system.

Collective negotiations should not result in final and binding agreements with respect to those matters which by law are contingent upon the judgment and action of a legislative body or of an administrative agency that has jurisdiction of those matters.

We define collective negotiations to mean that representatives of employees and employers meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment and with respect to the negotiation and execution of a written document incorporating any agreement reached. Such obligation does not compel either party to agree to a proposal or require the making of a concession. No agreement can be made final and binding insofar as its effectuation or any part thereof depends upon the action of a legislative body or administrative agency.

In the federal government, and in some states, the scope of collective negotiations for public employees is narrowly circumscribed. More typically, however, in both the public and private sectors, scope is defined as in the above recommendation. The Commission believes that the latter practice is more appropriate for the development of constructive employee relations. The State Personnel Code refers to "negotiations affecting pay, hours of work, or other working conditions." The statute pertaining to the University Civil Service System has a similar provision. Many of the collective negotiation systems already in effect for teachers, highway employees, and other public groups are based on this definition. Admittedly the present area of discretion in negotiations is often not clearly defined; it will have to be developed through experience in particular negotiations. To narrow the scope statutorily, however, would invite frustrations and pressures that might hamper the development of favorable relationships.

At the same time, it must be clear that since many employment benefits and conditions are subject to legislation and administrative rules, there will be situations in which collective negotiations must take place within this framework. And since governmental expenditures are often closely circumscribed by the legal appropriating process there will also be situations in which the results of negotiations cannot be effective until they are implemented by legislative or administrative action. In some jurisdictions where collective negotiations have been established for a period of years, the parties have adapted to these constraints by working out arrangements whereby the timing of negotiations corresponds appropriately to the budget and appropriations cycle, and the fiscal consequences of the agreements become budgetary proposals. Such arrangements are obviously desirable.

It is important to safeguard the fundamental principles of the merit system. Therefore, Civil Service rules concerning examinations, assignments, and promotions should not be subjects for collective negotiations. However, employee organizations should continue to be free to offer suggestions to the Civil Service Commission or to the Legislature for revision or improvement in these rules, and employees should be able to raise complaints about their application.

Management Functions

6. It should be the exclusive function of each public employing agency to determine the mission of the agency, set standards of services to be offered to the public, and exercise control and discretion over its organization and operations.

It should be the right of each public employing agency to direct its employees, take disciplinary action, relieve its employees from duty because of lack of work or for other legitimate reasons, and determine the methods, means, and personnel by which the agency's operations are to be conducted. But this should not

preclude employees from negotiating or raising grievances about the practical consequences that decisions on these matters may have on wages, hours, and working conditions.

While a system of collective negotiations gives employee organizations a voice in the determination of their employment conditions, it must not prevent managers of governmental agencies from directing the public business efficiently and in the public interest. A strong management organization with a clear view of its functions and responsibilities is indispensable to the achievement of these objectives.

In the private sector as well as in the federal government and some states, the explicit statutory statement of management rights has been deemed helpful in marking out the responsibility for decision-making and the conditions under which the consequences of the decisions may be considered.

Optional Grievance Procedures Under Civil Service

7. Even though a grievance procedure is provided by a Civil Service law or regulation, an employee organization and an employing agency may negotiate a procedure for handling grievances arising under their agreement. Any employee with a grievance must designate which of these procedures he wishes to follow at the time he presents his grievances, but he may not use both.

The purpose of this recommendation is to accommodate the principles of both the merit system and collective negotiations. A grievance procedure is an essential protection against arbitrary supervisory action. It assures employees that the accepted rules and regulations are applied equitably and fairly. Virtually every collective agreement in the private sector and every well-developed system of collective negotiations in the public sector provides a jointly negotiated grievance procedure. Similarly, most Civil Service systems, either through statute or rule, provide a procedure for employee grievances. The employee would be permitted to obtain a final review of his complaint under either procedure, but he would be prohibited from using both on the same complaint.

Checkoff and Employee Organization Security

8. Rules for the authorization of checkoff of dues to an employee organization should continue as presently provided in law. No other form of employee organization security is recommended.

Provision for the authorization of dues checkoff to an employee organization is contained in two existing laws .... This practice is desirable and should be continued. While some experts have contended that the checkoff privilege should be given only to certified exclusive negotiating representatives and not to minority organizations on the ground that it will unduly encourage rivalries and disturb employee relations, the Commission recommends no change in the existing provisions. Other forms of "employee organization security" would be prohibited under the unfair practices recommended in the next section of this Report. The laws, however, are only permissive to the employing agencies, and the checkoff practice can therefore be controlled at the discretion of the latter.

SECTION 4 - ADMINISTRATIVE MACHINERY

Experience has demonstrated that a general policy statement concerning employee self-organization and collective negotiations has little practical value unless effective administrative arrangements are provided to implement that policy. In the process of organization among employees, situations will inevitably arise in which there is disagreement over the unit in which employees are to be grouped for negotiating purposes, and whether employees actually want an organization to represent them. Some machinery for the resolution of such disagreements must be established. That machinery is discussed in this section.

Machinery must also be created to help the parties resolve disputes that arise after negotiations have begun, as well as those that arise from the administration and interpretation of collective agreements. Resolution of such disputes is discussed in the section on impasse procedures (Section 5). For reasons discussed more fully in that section, it is recommended that those functions be administered independently, but by the same Board.

The Board

9. Administration of the law should be delegated to a new independent agency entitled the Illinois Public Employee Relations Board, consisting of a chairman and two other members appointed by the Governor with the approval of the Senate for staggered terms of six years each. The Board should be made up of persons expert in the field of employee relations, no more than two of whom should belong to the same political party. The members of the Board should be compensated at a level sufficient to attract the

most qualified available persons on a full-time basis. Employees of the Board, including hearing officers and mediators, should be subject to the Personnel Code.

The Board should be independent of other State agencies and should report directly to the Governor, in order to be able to deal fairly and objectively with every public agency. The prestige of an independent Board would assist in attracting high caliber professional employees needed for successful administration of the law.

Full-time employment of three Board members will be required by the flow of Board work, which will come from all public employees in the State, including municipalities, school districts, State agencies and various special public agencies--over 6,000 employing agencies in all. Staggered terms would allow continuity of Board membership from one State administration to the next.

Choice of Employee Organizations

Two problems arise in effectuating the right of employee self-organization. The first is the identification of the employees who are to be grouped together for the purposes of collective negotiation (the appropriate unit), and the second is the procedure by which employees choose or reject an employee organization.

Appropriate Unit

10. The Board should determine appropriate units for negotiations. For a unit to be appropriate, a clear and identifiable community of interest must be found to exist among the employees in the unit. This community of interest may be exhibited by one or more of the following criteria, although not limited to them: (a) employees with the same conditions of employment which apply uniquely to them, (b) employees with a history of workable and acceptable negotiating pattern, and (c) employees in the same historic craft or profession.

Important rights and interests of employees, employee organizations, and employers are affected in the determination of any appropriate bargaining unit. Because of the diversity and complexity of operations and organization of public agencies, particularly those of the State and of the large municipalities, bargaining unit determinations are of major importance.

The Commission believes that fragmentation of units should be avoided and that mere extent of organization by employees should not be controlling in a unit finding. Hence its emphasis that a clear and identifiable community of interest must be found in making unit determinations.

Representation Questions

11. Since voluntary settlement of questions concerning representation is desirable, the Board should act only if an unresolved question concerning representation is raised by an employing agency, an employee organization, or an employee or group of employees. In the absence of a signed agreement or a formal certification by the Board (as defined in Paragraph 14 below), an employing agency, faced with a demand for recognition, may raise a question of representation. If signed agreement exists, with or without formal certification by the Board, the agreement should act as a bar to a representation proceeding for a period to be determined by the Board. A signed agreement should not constitute a bar if the bargaining unit covered in the agreement is found to be inappropriate. A certification should bar an election for a period to be determined by the Board, but in any event for a period of at least one year.

Because important rights and interests are involved in the establishment of negotiating units, the Commission carefully considered the question of whether the Board should be required to determine the appropriateness of every unit and to certify the representative for the unit before collective negotiations could be undertaken. It concluded that, with the appropriate safeguards specified in the recommendation above, employing agencies and employee organizations should be encouraged to settle questions of representation directly. This recognizes a well-established principle in employee relations that differences should be settled as close to the source as possible and also would keep the Board, especially in its early stages, from being overwhelmed with representation matters with the resulting delays and frustrations that could only bring discredit to the Board's work and dissatisfaction with the statute creating it.

Professional Employees

12. Professional and non-professional employees should be given the opportunity to decide whether they want to be included in the same unit if that issue is raised by either group.

Professional employees, because of their specialized education and training, have interests and responsibilities which distinguish them from non-professionals. Because of this uniqueness, the presumption is that they should be

in negotiating units separate from the non-professionals. That presumption should be overcome only if the professionals vote to be included in the same negotiating unit with non-professionals. The latter group should be given a similar choice since there are public agencies in which the non-professionals are a small portion of the total, and they should not automatically be blanketed in with a larger professional group that did not reflect their interests. If, however, the community of interest among professionals and non-professionals is so great that they wish to be put together, that wish should not be denied.

We recommend that for the purpose of this statute the following definition of professional, contained in the national Labor Management Relations Act, should be used.

Different definitions used by employing agencies for other purposes should not be affected.

The term "professional employee" means--

(a) any employee engaged in work (i) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work; (ii) involving the consistent exercise of discretion and judgment in its performance; (iii) of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; (iv) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual, or physical processes; or

(b) any employee, who (i) has completed the courses of specialized intellectual instruction and study described in clause (iv) of paragraph (a), and (ii) is performing related work under the supervision of a professional person to qualify himself to become a professional employee as defined in paragraph (a).

Board Determination To Be Final

13. Board determinations of appropriate units and questions of representation should not be subject to review by a court except in relation to the enforcement or review of a Board order in an unfair practice case.

Questions of appropriate unit and of representation should be resolved promptly in order that disputes may be avoided. Therefore Board determinations on these matters should be final and subject to court review only in unfair practice proceedings. This practice has been followed under the national Labor Management Relations Act and has worked satisfactorily.

Certification Elections

14. An employee organization should be certified by the Board as an exclusive negotiating representative only after it establishes a majority in a secret ballot election. The Board should determine administratively whether an employee organization has made a sufficient showing of membership among employees in the negotiating unit to justify an election. Other organizations may be included on the ballot if they make an appropriate showing of interest acceptable to the Board. The choice of no organization should always be included on the original ballot. An organization should be certified if the majority of those casting valid ballots in a representation election chooses that organization. In any election where none of the choice on the ballot receives a majority, a run-off should be conducted, the ballot providing for a selection between the two choices receiving the largest and second largest number of valid votes cast in the election. There should be no more than one valid election in a twelve-month period.

The recommendations made here with respect to election procedures have been largely derived from the rules and practices developed over a period of many years under the national Labor Management Relations Act to fully guarantee employees their right of self-organization. The requirement of a secret ballot election precludes the use of other ways of determining majority representation, such as card-checks or signed petitions, which have often created controversies. The requirement of a sufficient showing of interest is designed to avoid a waste of Board time and resources in conducting elections where no substantial showing or representation has been made. In order to balance the need for stability of relations with the need for free choice by employees, a period of one year should elapse before another valid election may be held.

Exclusive Representation

15. Certification should entitle an employee organization to exclusive representation rights for all employees in the negotiating unit for which it is certified. However, any individual employee or a group of employees should have the right at any time to present grievances

to their employing agency and to have such grievances adjusted, without the intervention of the exclusive negotiating representative, as long as the adjustment is not inconsistent with the terms of a collective agreement then in effect and the exclusive representative has been given opportunity to be present at such adjustment.

The principle of exclusive representation by a majority organization has become universal practice in the private sector and has been widely followed in the public sector. The Commission believes it to be essential for stable employee relations. Yet the right of individual employees to raise grievances must be safeguarded whether or not they belong to the majority organization. Experience under the national Labor Management Relations Act indicates that this right can be protected without jeopardizing the legitimate interests of the exclusive negotiating representative.

Decertification

16. Decertification election should be held at the request of the employees in an appropriate unit if the Board determines administratively that a sufficient number of employees desire such an election.

If an employing agency has a good-faith doubt about the continuation of a majority in a unit, it may file a representation petition, but in such cases, the Board must have prima facie evidence of the good-faith doubt.

These provisions, like the two preceding ones, follow long-established practice in the private sector and are designed to assure the continued application of the principles of self-organization and majority rule.

Unfair Practices

Unfair Practices for Employing Agencies

17. Employing agencies should be prohibited from committing unfair practices as follows:

(a) interfering with, restraining, or coercing employees in the exercise of their rights of self-organization or non-organization;

(b) encouraging or discouraging membership in an employee organization by discrimination in regard to hire, tenure, promotion, or other conditions of employment;

(c) Controlling or dominating an employee organization or contributing financial or other support to it, provided that an employing agency shall not be prohibited from permitting employees to confer with it during working hours without loss of time or pay;

(d) disciplining or otherwise discriminating against any person because he has filed a charge of unfair practice or has given testimony under the statute;

(e) refusing to negotiate in good faith with a certified employee organization.

Unfair Practices for Employee Organizations

18. Employee organizations should be prohibited from committing unfair practices as follows:

(a) interfering with, restraining, or coercing employees in the exercise of their rights of self-organization or non-organization;

(b) inducing the employing agency or its representative to commit any unfair practice;

(c) refusing to negotiate in good faith with the employing agency.

The recommended unfair practices have been largely derived from the extensive experience in the private sector under the national Labor Management Relations Act. The federal government and a number of states have adopted all or most of these for public employees.

If employees are to be free in their decision to join or not to join an employee organization, there must be assurance that both the employing agency and the employee organization stand aside while employees make their choice. Once the employees choose an organization to represent them, that organization must be independent of the employing agency in order to carry on meaningful negotiations and to maintain effective mutual relationships.

Written Agreements

19. The duty of both parties to negotiate in good faith should be defined so as not to compel concessions by either, but so as to require a good-faith intent by both to arrive at an agreement. Once an agreement is reached, the parties should have a duty to reduce their agreement to writing. Where legislative or administrative action is required to effectuate and to implement the agreement, the duty to

negotiate should include a duty by both parties to cooperate with each other in a good-faith attempt to secure the required legislative or administrative approvals.

The practice of reducing all agreements to writing is firmly established in private industry and has been widely recognized by legislative and administrative bodies as well as by the courts as an appropriate way of eliminating misunderstandings and conflicts over what parties had agreed to.

In the public sector, where the general public has the right to be fully informed about employee agreements, this practice should be universally observed. If one of the parties refuses to reduce agreements reached to writing, this refusal should be treated as a refusal to bargain in good faith. The further duty of the parties to cooperate in a good-faith attempt to secure required legislative or administrative approvals is unique to the public sector. Such cooperation would appear to be essential to constructive relations.

Hearings on Prohibited Practices

20. A charge of an unfair practice may be filed by an employing agency, an employee organization, or an individual employee. The Board should have no investigatory or prosecuting function in unfair practice cases, and each complainant should be responsible for advancing his own case. The Board should hold a hearing on each charge if it raises a genuine issue of fact or law. The Board should not issue any remedial order based upon an unfair practice which occurred more than six months before the filing of a charge. The Board may petition the appropriate court to enforce its orders. Any party aggrieved by a Board order should have the right of judicial review. The provisions of the Administrative Review Act should govern all proceedings for judicial enforcement or review of Board orders in unfair practice cases.

In the private sector under the national Labor Management Relations Act, the administrative agency investigates and prosecutes charges of unfair practices. The Commission believes, at least at this stage of the development of policy, that it is desirable that the parties advance their own complaints and that the Board not be both prosecutor and judge. Since the Board will not have investigatory and prosecuting functions, provision should be made to avoid formal hearings on frivolous charges.

Unfair practices undoubtedly will occur. To effectuate the purposes of the statute, the Board should be given the power to issue orders to remedy the unfair practices and to petition an appropriate court to enforce its orders. Similarly, any party aggrieved by a Board order shall have the right to petition the court for a review of that order.

SECTION 5 - STRIKES AND ALTERNATIVE METHODS FOR RESOLVING NEGOTIATING AND GRIEVANCE IMPASSES

The strike issue is central to a discussion of public employee-employer relations. Throughout its deliberations, the Commission attempted to keep this issue in perspective and to emphasize two objectives--development of a procedure for eliminating the causes of strikes and formulation of an orderly and equitable system for resolving disputes.

The Commission recognizes that many persons consider the right to strike a necessary instrument to protect the interests of employees in private sector bargaining. In the public sector, however, the nature and conditions of employment are different from those in the private sector, as we demonstrated earlier in this Report. These differences convince us that a strike is not an appropriate instrument in negotiations between a government agency and public employees.

We, therefore, have attempted to provide an alternative whereby, on the one hand, the rights of employees are protected and, on the other, the public service is maintained under an arrangement compatible with the political decisions necessary for the allocation of public resources. In our opinion, a procedure for resolving disputes through mediation and fact-finding with recommendations is most likely to accomplish this end.

The pertinent machinery should be designed to avoid two familiar and genuine dangers. The first is overuse of dispute-settling machinery, which often results from unrealistic and irresponsible negotiation and which, in turn, causes a further atrophy of the negotiating process.

The second danger arises from the application of standardized machinery to disputes and relationships that are diverse in character. That danger can be avoided by permitting the parties to devise alternatives more suited to their distinctive needs and relationships. Subject to general legal considerations, the statute should permit and encourage the parties to work out their own dispute-settling machinery, including mediation and fact-finding.

Two other objectives of the dispute-settling machinery also deserve mention: It should encourage the parties not only to engage in

responsible scrutiny of their own positions but also, if deadlock persists, to give a reasoned public explanation of the considerations on which their position rests. Finally, the use of the machinery should be so timed as to be synchronized with the budget-making process. Therefore, the Commission makes the following recommendations:

The Strike Prohibition and Its Implementation Prohibition of Strikes

21. The statute should contain an explicit and unqualified prohibition of strikes. Strikes should be broadly defined to include work stoppages or any other concerted interferences by employees with the operations of a public service or function. Notices of representation elections should contain an appropriate statement about the illegality of strikes.

The federal government and all states, with insignificant exceptions, have outlawed all public strikes. The pervasive consensus against such strikes must be considered by proponents of legislation that would create orderly representation and dispute settlement mechanisms and by all those who desire to promote fair and equitable conditions for public employees. The Commission, however, did not accept this conclusion without careful consideration of reasons for a strike prohibition and the arguments against it.

As stated earlier, the nature and conditions of employment in the public sector differ from those in the private. In private sector bargaining, the economic constraints of the market place, growing out of competition, generally limit the demands of employee organizations. These constraints do not operate in the public sector.

Constraints in the public sector, in contrast, are imposed by the political process. The number of "free services" a governmental agency is able to provide to citizens and the way these services are allocated are determined by political decisions of a legislative body in allocating the available revenue. Revenue available to a governmental unit, whether it is the state, a municipality, or a district, is limited by law; how it is to be used is determined by elected officials, responsive to the public will, through the budget-making process. Not only would strikes be incompatible with an orderly budget-making process and with the distribution of authority among different organs of government, but some strikes would also inflict grave injury on vital interests and would be incompatible with the government responsibility to provide services.

It has been suggested that some distinction could be made between "critical" and "noncritical" strikes in the public sector and that the strike prohibition be limited to the former. Supporting this proposal is the argument that certain strikes in the private sector may impose greater injury on the public than some strikes of public employees. The Commission is convinced that any attempt to draw lines between critical and noncritical public strikes would bristle with unmanageable difficulties and would be likely to undermine the strike prohibition in those areas where the consequences of a strike might be intolerable.

Collective negotiation in the public sector, reinforced by orderly appeals to budget-making authorities, could lead to meaningful participation by employees in shaping the terms of their employment even though strikes are prohibited. Indeed, the denial of the right to strike furnishes additional justification for employee self-determination and for according employees an opportunity to state their demands and grievances in an orderly fashion.

Since the foregoing considerations warrant an unqualified strike prohibition, a reaffirmation of the existing law by the Legislature appears desirable in order to avoid contentions about implied modification and to place the moral force of a legislative determination behind judicially created prohibitions.

In the hope that disputes about what constitutes a strike and what does not may be avoided, the Commission recommends that the definition of a strike should be broad enough to include such concerted stoppages as mass resignations and mass calling-in-sick, designed to place pressure on a governmental agency. The definition should not extend to demonstrations for the purpose of bringing a dispute to public notice as long as such demonstrations do not interfere with the operation of the public agency.

The Injunction Procedure

22. The statute should explicitly affirm the existing power of the courts to enjoin strikes and should also make clear that its provisions are not designed to limit any inherent judicial power.

23. The statute should provide that the employing agency shall have an affirmative duty promptly to seek an injunction in the event of the occurrence of a strike, and promptly to initiate action for contempt for any violation of such injunction.

The Commission emphasizes the desirability of prompt action to enjoin any strike that might occur. It also believes that responsibility for initiating injunctive action should be clearly assigned.

Several alternatives (the employing agency, the legal officer of the political unit in which the agency is located, the attorney general of the State, and the counsel assigned to the Board) were considered by the Commission before it arrived at its recommendation of where the responsibility for seeking an injunction should be placed. We finally decided that the employing agency itself should bear this responsibility. The employing agency is most immediately aware of the occurrence of a strike, most knowledgeable concerning the facts in the case, and most aware of the effects of a strike. Experience in other states suggests that it might be helpful for employing agencies at all levels of government to designate in advance the official in the agency or counsel to it who would be required to act.

Discipline and Penalties

24. The statute should explicitly affirm the employing agency's existing authority to discipline or discharge employees engaged in strikes. The statute should not provide for the imposition of automatic penalties (such as discharge, loss of seniority, or loss of retirement benefits) on striking employees.

Under the proposed statute, as at present, participation in a strike would constitute misconduct on the part of an employee and would be the basis for the imposition of discipline (including discharge), subject to existing procedural safeguards. The Commission recommends that the statute explicitly preserve the existing power of government agencies to discipline strikers.

The Commission is, however, opposed to provisions for automatic penalties, such as discharge, loss of seniority, Civil Service status, or retirement benefits. The deterrent and punitive purposes of similar provisions in other states have not been realized. Their severity and the obligation to apply them to all strikers have paradoxically resulted in an almost total failure to apply them at all. Such automatic penalties have, consequently, become dead letters and have encouraged violations of the law not only by strikers but also by administrators seeking to restore public services. Thus draconian and inflexible penalties have operated to undermine strike prohibitions and the rule of law generally.

The Commission considered and rejected decertification as a possible penalty on an employee organization. Revocation of, or ineligibility for, representation rights would involve substantial administrative burdens, would encroach upon employee self-determination, and would leave a vacuum where an employee organization has support but cannot lawfully be recognized. Although such sanctions might in some situations have a deterrent effect, their potential usefulness appears to be outweighed by their potential costs.

Mediation and Fact-Finding

Career Mediators

25. The Board should have an independent Division of Mediation to be staffed by full-time career personnel. Board members should not mediate. Board employees concerned with representation and unfair practice functions should be in a separate division from those concerned with dispute settlement, and neither division's employees should perform the duties of the other.

The career mediation staff should be supplemented by a panel of qualified persons selected by the Board after consultation with interested employee organizations and employing agencies.

Mediators attached to the Board's Mediation Division should not participate in representation or unfair practice proceedings conducted by the Board. They should be selected and retained solely on the basis of merit, should be conversant with public employee-employer problems, and should have the exclusive responsibility for mediating in the public sector. The Commission emphasizes that an effective mediation service is of critical importance to the development of orderly and mature relationships and that unqualified mediators would be worse than none at all.

The separation of functions is designed to avoid fears by the parties that rejection of mediatory suggestions might prejudice them in other Board proceedings or, obversely, that the parties' participation in other proceedings might prejudice them in the mediation process. In short, an independent mediation division is designed to avoid any actual or apparent compromising of the voluntary character of mediation.

The suggestion for a panel of qualified persons is designed to achieve the following objectives: (1) to supplement the full-time mediation staff during peak-load periods; (2) to

have available personnel that could be called on in situations of special difficulty or special importance. They would be compensated by the State on a per diem basis, according to a schedule to be set by the Board.

Timing of Mediation and Fact-Finding

26. Either party to a negotiation may request mediation, or the Board may, on its own initiative, proffer the assistance of a mediator.

27. If an impasse arises despite mediatory efforts, either party, both parties, or the mediator may request the Board to establish fact-finding machinery. The Board should make a preliminary investigation to determine whether or not the fact-finding procedure should be activated or whether, instead, further direct negotiations should be recommended to the parties.

The Commission emphasizes that collective negotiations and mediation, and fact-finding should take place in advance of the time for fixing the pertinent budget. Nevertheless, inflexible provisions regarding the time for invoking dispute-settling machinery seem undesirable because of the diverse situations involved. As the parties' relationships develop, the time for consultation presumably would be fixed to allow for mediation and fact-finding to take place prior to the time for final decisions on a budget.

The purpose of the Board investigation prior to activating fact-finding machinery is to make certain that there is no further possibility of settling the dispute through mediation. The Board could refuse to activate the machinery if it found that the parties really had not negotiated.

Fact-Finding Tribunals and Hearings

28. Fact-finders should be appointed from a list of recognized experts maintained by the Board and compiled after consultation with employee organizations and public employing agencies. A fact-finding tribunal should consist of one or three members selected from the Board's list, as the parties may agree, or, in the absence of such agreement, as the Board may determine. If the parties agree on who shall serve as fact-finders (including persons not on the list), the Board should respect their agreement. Each fact-finder should be paid in accordance with a schedule established by the Board or as agreed to by the parties, but not to exceed $150 per day, and each party should pay one-half of the fact-finder's fee.

The recommendation for public rather than tripartite tribunals rests on the following considerations: Tripartitism would involve tribunals having three members or a larger odd number of members. A three-man tripartite tribunal would deprive the tribunal of the balance provided by several public representatives; a larger tribunal would be unwieldy. The combining of adversary and quasi-judicial roles by partisan members is questionnable and tends to dilute the public impact of the tribunals work where partisan dissents are filed, as often is the case. Although partisan members sometimes prevent impracticable recommendations and sometimes provide informal mediation, those advantages could be achieved by other measures that would avoid the disadvantages of tripartite tribunals.

The Board presumably would provide for three-man tribunals in important disputes unless circumstances, such as time pressure or the unavailability of suitable fact-finders, made such tribunals impracticable. In any event, where the parties, without undue delay, agree to a one-man or a three-man tribunal and the identity of the individuals, the Board should respect their agreement. Such deference is appropriate because each party is to pay one-half of the fact-finder's fee and because giving weight to their preferences might increase their willingness to accept responsible recommendations. Where a three-man tribunal is appointed, a majority should be authorized to find the facts and make recommendations.

The recommendation that the parties divide the fee is designed to discourage overuse of the fact-finding machinery and dilatory tactics.

The Commission recommends the payment of an adequate fee because it is convinced that the success of dispute-settling machinery depends critically upon the responsibility, competence, and resourcefulness of the fact-finders; indeed, no other factor is more important. Their compensation should take account of the central importance of their role and the large responsibilities that they will be asked to discharge.

Fact-Finders' Reports

29. The fact-finding hearings should be public or private in the discretion of the fact-finding tribunal. The tribunal should have full subpoena powers.

The tribunal should issue and make public its findings and recommendations within thirty days after the tribunal has been appointed, unless it has requested and received an extension of time from the Board. The tribunal should submit its report to the parties, to the Board, and to

such other employee organizations or governmental bodies as the tribunal deems appropriate. Within fifteen days of the issuance of the tribunal's report, the parties should report to the Board whether their dispute has been resolved and, if not, which of the recommendations they, respectively, accept and which they reject. The Board should make the parties' reports public.

The need to support positions before a competent and disinterested tribunal will encourage the parties to scrutinize both their own positions and competing positions. Such a tribunal should, accordingly, promote objective and responsible efforts by the parties to reach agreement. If, however, agreement does not result, the tribunal should make available its findings and recommendations to the news media.

Similarly, the obligation of the parties to respond to the tribunal's recommendations should encourage the parties to engage in responsible scrutiny of their positions, and the publication of such responses should help to crystallize informed opinion. Such publicity may be especially effective in the public sector since the availability of funds will usually depend on legislative action with respect to such matters as budgets and taxation. No penalties are recommended for violation of the fifteen-day response requirement, but failure to respond by one or both parties would become part of the public record.

Local Dispute-Settling Machinery

30. The parties should be encouraged to develop their own dispute-settling machinery, including mediation and fact-finding.

The Commission has emphasized the need for procedures and machinery for the resolution of disputes. In a field as experimental as employee relations in the public sector, the parties should be encouraged to develop machinery most suitable to their own situation. Governmental units, such as the city of Chicago, other large municipalities, and major agencies within the State government, should give particular consideration to this problem.

Miscellaneous Subjects

Compulsory Arbitration

The Commission has not proposed compulsory arbitration because of serious doubts of its desirability as well as its legality. Compulsory arbitration involves risk of chilling negotiations because, where such machinery exists, the employee organization tends to raise its demands so that the arbitration tribunal will have something to take away, and the employer tends to lower his offer so that the tribunal will have something to add. That risk would be particularly acute in situations where both parties are relatively inexperienced in negotiating and where responsible patterns of accommodation have not developed. Such relationships are likely to exist during the developmental stage of collective negotiation in the public sector.

It is true that fact-finding with recommendations also involves the risk of chilling negotiations, but that risk is reduced in the absence of compulsion. Accordingly, the dispute-settling mechanisms proposed promise to be more effective than compulsory arbitration in encouraging voluntary accommodations.

Insofar as voluntary binding arbitration is now provided for in special situations, such as the Chicago Transit Authority, the Commission's proposals would not affect the legality of such machinery, nor would its proposals block agreements by parties to resort to binding arbitration in those situations where such arbitration would be legal.

Grievance Arbitration

31. Employing agencies should be authorized, but not required, to provide for binding arbitration of disputes concerning the administration or interpretation of collective agreements.

It is almost universal practice in the private sector to provide, as a last step in the grievance procedure, for voluntary binding arbitration of grievances and other disputes arising out of the administration and interpretation of an agreement. The development of this process of private law has been one of the brighter achievements in the history of collective bargaining. Its extension to the public sector, insofar as this would be compatible with other legal constraints, seems to the Commission to be highly desirable. However, as in the private sector, not all negotiating situations call for the adoption of the same grievance-settling machinery. Nor is there universal agreement as to the range of issues to be subject to arbitration. Hence, the recommendation provides for authority to establish arbitration, within the scope defined by the parties, as the final step in the grievance procedure but not to make such a procedure mandatory. The Commission believes that statutory authorization for such arbitration would be regarded as a proper delegation of authority and would not

raise Constitutional questions; however, we direct attention to the possible Constitutional question.

Conduct of Negotiations

32. Collective negotiations should be conducted in private, but the final terms of any signed agreement should promptly be made available for public inspection.

Experience in other states as well as in the private sector indicates that collective negotiations are most effectively conducted in private. However, the public has a legitimate interest in the results of such negotiations. Therefore, the final results of these negotiations should be accessible to it.

Retroactivity of Wage Agreements

33. Employing agencies should be permitted, but not required, to make any provision of an agreement, including wage or salary payments, retroactive.

In the existing law,[1] as interpreted by the Attorney General of the State,[2] retroactive wage payments are not legal. This limitation has been a source of friction. Retroactivity is widely practiced in private industry and generally has had a salutary effect when negotiations are complex and prolonged. A practice of retroactivity appears to be particularly desirable when a prohibition against strikes exists. However, retroactivity should not be mandatory and automatic but should be left open for negotiations by the parties.

SECTION 6 - EFFECTIVE DATE AND STATUTORY REVIEW

The preceding sections have provided the basis for a new statutory policy in Illinois on the rights and duties of public employees and employing agencies with respect to employee organization, collective negotiations, and the peaceful resolution of disputes in the event of impasses. Unfortunately, the administrative machinery to implement this policy cannot be created in a matter of a few weeks even though pressing issues currently exist and others will arise. In order to get the new policy and agency off to a satisfactory start, the effective date of the statute must be given careful consideration. It may also be anticipated, from events in other states, that the program will require modification from time to time as experience is accumulated and the administrative process is subjected to test. Methods to obtain suitable appraisal seem, therefore, to be essential.

Accordingly, we make the following additional recommendations:

Effective Date

34. The new statute should take effect on October 1, 1967, or ninety days after the signing of the Act, whichever comes later; however, the Board should not entertain representation petitions or unfair practice charges until January 1, 1968.

Ordinarily new laws go into effect on July 1 of the year they are adopted. Testimony from expert witnesses, however, has stressed the importance of giving the new Board some lead time before exposing it to the complex problems with which it will be obliged to deal. Such lead time is necessary for the appointment of Board members and staff, the dissemination of information about the Act, and the establishment of rules and procedures for handling the various types of cases that will come before the Board. It would also enable employing agencies and employee organizations to become informed about the Act and for the newly organized to start the training of their representatives and other personnel in the techniques and principles of collective negotiations.

Clearly, employee organization will move forward and negotiations will take place whether the Board is ready or not. It is therefore recommended that the Board provide mediation and fact-finding services as early as possible but that it not attempt to process representation and unfair practice cases until a later date.

Establishment of an Advisory Committee

35. The Governor should appoint a seven-member Advisory Committee, to review the effectiveness of the statute and to recommend any changes in substance or procedures desirable.

Any new legislation must be regarded as experimental and subject to modification and improvement on the basis of experience. This is particularly true in an area as complex as public employee relations, involving so many different types of public authorities and occupations. Accordingly, it seems desirable to establish an Advisory Committee of employee relations experts to make periodic studies of experience under the statute and to make reports

1/ State Finance Act, Ill. Rev. Stat. Ch. 127, Sec. 145(3)(1965).

2/ Attorney General's Opinion, File No. 441, January 14, 1958.

to the Governor and to the Legislature assessing the experiment and making appropriate recommendations. The members of this Committee should be reimbursed for travel and subsistence expenses incurred in the performance of their advisory function.

Establishment of a Joint Standing Legislative Committee

36. The Legislature should consider establishing a joint standing committee from among its members to review all matters pertaining to the statute and its administration, the reports and recommendations of the Advisory Committee, and such requests or recommendations arising out of employer-employee negotiations that may require legislative action. The Legislature should consider, possibly at a later time, establishing a Commission which combines the functions of the Advisory Committee and the joint standing committee.

In view of the experimental character of the new statute, members of the Legislature would undoubtedly wish to keep in close touch with developments relating to public employee relations. Establishment of a joint standing committee would insure a significant degree of expertise and understanding in the Legislature.

Moreover, as previous discussion has indicated, the growth of collective negotiations in public agencies will require action by the Legislature on many issues which could not be effectuated otherwise. General changes in salaries and employee benefits and revisions of the Personnel Code are examples. A standing committee would assist the Legislature in judging and acting on such requests and recommendations from the parties. After an initial period of experience, the Legislature might find it desirable to have legislators and outside experts serve together in a single committee, a procedure which has been effective in other technical areas.

Governor's Advisory Commission on Labor-Management Policy for Public Employees. Report and Recommendations, Parts One Through Six, p. 1-35. Springfield, Ill., March 1967.

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October 1967

Award in Arbitration Case ..... Description: A-1
Text: C-1

Text of award in first known case of final and binding arbitration of an agreement grievance in education.

Existence of Agreements B-3

Listing of school systems with enrollments of 12,000 and over, including data on existence of agreement, recognized organization(s), and other information.

Presentation to New Jersey Study Commission E-1

Text of statement by Frederick J. Livingston and Donald H. Wollett of the New York City law firm of Kaye, Scholer, Fierman, Hays, and Handler to the Public and School Employees Grievance Study Procedure Commission.

Negotiation With Multiple Recognized Organizations B-1

Table of the 50 states listing the number of systems with multiple organizations recognized for negotiation purposes as well as the type of negotiation carried on in the systems.

Agreement in Springfield, Massachusetts D-1

Full text of the agreement between the Springfield (Massachusetts) School Committee and the Springfield Education Association (NEA).

New Publications A-1

Three new publications from the NEA Research Division dealing with grievance procedures, provisions of negotiation agreements, and currently available NEA Research Division publications.

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Description and Analysis

FIRST KNOWN CASE OF AN AWARD IN FINAL AND BINDING ARBITRATION OF A GRIEVANCE IN EDUCATION

Arbitrator Robert G. Howlett made the first known award in a case of final and binding arbitration of a grievance in education, upholding the grievance of the Warren Education Association (NEA) in the matter of the interpretation of its agreement with the Warren (Michigan) Board of Education. The major issue under consideration was the equal application of a provision involving credit on the salary schedule for previous experience as the change in the provision affected the placement of teachers newly hired into the system as against those employed under the previous policy.

The award took the association to task for a lack of diligence in checking the language of the agreement before accepting and signing it, as well as other actions of lesser importance. However, Arbitrator Howlett indicated that he based his decision on law and legal precedents rather than the specific wording of the agreement.

Implications from this award for the school systems with agreements as well as for the recognized organizations are numerous. Among the implications are the need for great care in the execution of an agreement, the importance of the language of the agreement, and the many references cited by the arbitrator in arriving at his award.

The text of the award begins on page C-1.

THREE NEW PUBLICATIONS AVAILABLE FROM NEA RESEARCH DIVISION

FORMAL GRIEVANCE PROCEDURES FOR PUBLIC-SCHOOL TEACHERS, 1965-66. Research Report 1967-R10. 1967. 63 p. $1.25. Stock No. 435-13322. (Order from NEA Publications Sales Section.)

As school districts have become larger, employer-employee relations have become less personal, making necessary a formal procedure for adjusting grievances of teachers.

Formal Grievance Procedures for Public-School Teachers analyzes such procedures currently in effect in school systems enrolling 12,000 or more pupils. It defines a grievance as any complaint, problem, or dispute based upon the conditions or

circumstances under which an individual employee can express a complaint, problem, or dispute without fear of reprisal and obtain a fair hearing at progressively higher administrative levels.

As might be expected, the larger the school system, the more likely it is to have some type of grievance procedure. Also, since the trend toward school district consolidation is a recent one, most of the grievance procedures had been in effect less than five years at the time of this study.

The report analyzes the provisions of formal procedures, presents excerpts from selected procedures, and includes a list of 101 references on the subject.

School personnel, education associations, and interested laymen will find this report a frame of reference for both establishing and improving formal grievance procedures.

NEGOTIATION AGREEMENT PROVISIONS, 1966-67 Edition. 1967. 500 p. $15. Stock No. 841-24006. (Order from NEA Publication Sales Section.)

This volume of over 500 pages should be considered an index to the content of the agreements on file in the NEA Research Division depository of negotiation agreements. It lists the more than 1,530 agreements for 1966-67 under the 180 possible provisions which they contain. Specific content of an agreement is not provided in the volume; the listing of an agreement under a particular provision indicates only that the agreement contains subject matter relating to the item. Information on procedures to be followed to obtain further data on the agreements is provided.

At least one copy of this volume will be available at each state education association headquarters.

INDEX TO NEA RESEARCH DIVISION PUBLICATIONS CURRENTLY AVAILABLE. NEA Research Division. Research Memo 1967-20. Washington, D.C.: National Education Association, 1967 (August). 21 p. Single copy free on request to the NEA Research Division.

The nine-page index references 303 NEA Research Division publications dealing with subjects from ability grouping to workmen's compensation court cases. Although some of the publications listed range in price up to $3.50 each, most of the items listed are free or nominally priced.

The references should prove of valuable assistance to anyone currently involved with a school system, whether as teacher, administrator, nor school-board member.

Data and Statistics

TYPE OF NEGOTIATION CONDUCTED IN SYSTEMS WITH MORE THAN ONE RECOGNIZED ORGANIZATION

Final data from the 1966-67 survey of written negotiation procedures between local school boards and organizations of the teaching profession conducted by the NEA Research Division indicated that 1,531 school systems with written negotiation procedures had completed their questionnaires and filed a copy of their procedures with the Research Division. Of this number, 105 systems did not recognize any organization as representing the staff, i.e., some procedure other than organizational representation was used.

Of the 1,426 school systems that recognized at least one organization for purposes of representation in negotiation, 88 systems, or 6.2 percent, recognized more than one organization. Table F, on the next page, provides a breakdown of these 88 systems by state and by type of negotiation.

Negotiation with multiple organizations is of three basic types: (a) Completely separate negotiation sessions held with each recognized organization (columns 5 and 6 of Table F). Such negotiation can be expected in such states as Connecticut and Michigan where state statutes require exclusive representation for the teacher group. The additional organization(s) in these states were established for persons outside the teacher group, such as principals and supervisors. Separate negotiation was reported by 41 of the 88 school systems, or 46.6 percent of the multiple organization systems. (b) Joint negotiation with proportional representation in the negotiation sessions. The 33 California systems with multiple organization recognition must utilize joint negotiation with representation proportional to verified membership since this provision is a part of the California statute. A total of 37 systems of the 88, or 42.0 percent, reported this type of negotiation (columns 7 and 8 of Table F). (c) Joint negotiation with equal representation from each recognized organization. Ten of the 88 systems, or 11.4 percent, reported this type (columns 9 and 10 of Table F).

When Table F data are considered on the basis of enrollment strata, it is quickly seen that the percent of systems that recognize multiple organizations decreases as the size of the systems decrease. This is not unexpected since those systems with the larger number of personnel are more likely to have those personnel organized for representation along lines of responsibility such as counselors or principals.

The bottom portion of the table provides the data on the basis of school system enrollments. The eight enrollment strata utilized are:

Stratum	School system enrollment
1	100,000 or more
2	50,000-99,999
3	25,000-49,999
4	12,000-24,999
5	6,000-11,999
6	3,000- 5,999
7	1,200- 2,999
8	1,000- 1,199

TABLE F

TYPE OF NEGOTIATION CONDUCTED IN SYSTEMS WITH MORE THAN ONE RECOGNIZED ORGANIZATIONS

STATE	SYSTEMS WITH RECOGNIZED ORGANIZATIONS	SYSTEMS WITH MULTIPLE ORGANIZATIONS		SEPARATE NEGOTIATION		JOINT NEG.W/ PROPORTIONAL REPRESENTATION		JOINT NEG. WITH EQUAL REPRESENTATION		OTHER		NOT INDICATED	
	TOTAL	TOTAL	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.
1	2	3	4	5	6	7	8	9	10	11	12	13	14
ALABAMA	0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
ALASKA	3	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
ARIZONA	9	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
ARKANSAS	0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
CALIFORNIA	301	33	11.0	0	0.0	33	100.0	0	0.0	0	0.0	0	0.0
COLORADO	17	1	5.9	1	100.0	0	0.0	0	0.0	0	0.0	0	0.0
CONNECTICUT	55	10	18.2	10	100.0	0	0.0	0	0.0	0	0.0	0	0.0
DELAWARE	7	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
DISTRICT OF COLUMBIA	0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
FLORIDA	5	2	40.0	0	0.0	1	50.0	1	50.0	0	0.0	0	0.0
GEORGIA	0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
HAWAII	0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
IDAHO	13	1	7.7	1	100.0	0	0.0	0	0.0	0	0.0	0	0.0
ILLINOIS	57	2	3.5	0	0.0	0	0.0	2	100.0	0	0.0	0	0.0
INDIANA	27	2	7.4	1	50.0	0	0.0	1	50.0	0	0.0	0	0.0
IOWA	7	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
KANSAS	25	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
KENTUCKY	1	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
LOUISIANA	0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
MAINE	5	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
MARYLAND	5	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
MASSACHUSETTS	64	8	12.5	6	75.0	0	0.0	2	25.0	0	0.0	0	0.0
MICHIGAN	238	4	1.7	4	100.0	0	0.0	0	0.0	0	0.0	0	0.0
MINNESOTA	14	5	35.7	2	40.0	0	0.0	3	60.0	0	0.0	0	0.0
MISSISSIPPI	1	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
MISSOURI	18	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
MONTANA	4	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
NEBRASKA	2	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
NEVADA	1	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
NEW HAMPSHIRE	5	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
NEW JERSEY	130	9	6.9	8	88.9	1	11.1	0	0.0	0	0.0	0	0.0
NEW MEXICO	5	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
NEW YORK	74	2	2.7	2	100.0	0	0.0	0	0.0	0	0.0	0	0.0
NORTH CAROLINA	1	1	100.0	0	0.0	0	0.0	1	100.0	0	0.0	0	0.0
NORTH DAKOTA	1	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
OHIO	113	3	2.7	3	100.0	0	0.0	0	0.0	0	0.0	0	0.0
OKLAHOMA	3	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
OREGON	0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
PENNSYLVANIA	38	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
RHODE ISLAND	9	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
SOUTH CAROLINA	1	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
SOUTH DAKOTA	4	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
TENNESSEE	1	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
TEXAS	6	2	33.3	0	0.0	2	100.0	0	0.0	0	0.0	0	0.0
UTAH	3	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
VERMONT	6	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
VIRGINIA	2	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
WASHINGTON	73	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
WEST VIRGINIA	2	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
WISCONSIN	67	3	4.5	3	100.0	0	0.0	0	0.0	0	0.0	0	0.0
WYOMING	3	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
T O T A L	1426	88	6.2	41	46.6	37	42.0	10	11.4	0	0.0	0	0.0
1	11	5	45.5	2	40.0	3	60.0	0	0.0	0	0.0	0	0.0
2	22	5	22.7	1	20.0	3	60.0	1	20.0	0	0.0	0	0.0
3	34	7	20.6	2	28.6	3	42.9	2	28.6	0	0.0	0	0.0
4	113	11	9.7	6	54.5	5	45.5	0	0.0	0	0.0	0	0.0
5	214	31	14.5	12	38.7	17	54.8	2	6.5	0	0.0	0	0.0
6	361	15	4.2	9	60.0	5	33.3	1	6.7	0	0.0	0	0.0
7	571	12	2.1	7	58.3	1	8.3	4	33.3	0	0.0	0	0.0
8	100	2	2.0	2	100.0	0	0.0	0	0.0	0	0.0	0	0.0
T O T A L	1426	88	6.2	41	46.6	37	42.0	10	11.4	0	0.0	0	0.0

NEGOTIATION AGREEMENTS IN SCHOOL SYSTEMS WITH ENROLLMENTS OF 12,000 OR MORE

The listing of school systems with enrollments of 12,000 or more (Strata 1-4), below, provides information on the existence of written negotiation agreements between the various school boards and organizations of the teaching profession. Information listed is for the 1966-67 school year, as given to the NEA Research Division by the school system administrative offices by June 20, 1967. Data for school systems with enrollments of less than 12,000 will be published in future issues of this Digest.

Established policy required a completed questionnaire and a copy of the written negotiation agreements on file in the NEA Research Division depository of agreements before a local school system could be considered to have written negotiation procedures.

Every effort was made to obtain responses which were as current and as complete as possible. If changes for individual school systems have been made after the filing of the questionnaire and/or agreement with the NEA Research Division, they will be reflected in a future survey.

The information provided for each school system is as follows: whether or not written negotiation procedures exist in the system, the recognized organization(s), the national affiliation of the recognized organization(s), and the number of organizational representatives on the negotiating team. Should the system not have exclusive representation by one organization, the following abbreviations were used to indicate the type of negotiation in effect:

JNE: Joint negotiating council with an equal number of representatives from each recognized organization.

JNP: Joint negotiating council with representation proportional to the number of staff members represented by each recognized organization. California law requires this procedure be used in situations where more than one organization seeks representation rights.

NR: Not reported.

SN: Separate negotiation for each recognized organization.

NEGOTIATION AGREEMENTS IN SCHOOL SYSTEMS WITH ENROLLMENTS OF 12,000 OR MORE

School system	Written negotiation procedures	Recognized organization	National affiliation	Organizational representatives on negotiating team
1	2	3	4	5
Stratum 1 (Enrollments of 100,000 or more)				
CALIFORNIA				
Los Angeles	Yes	Los Angeles Teachers Association	NEA	JNP: 4 of 9
		Affiliated Teachers Organizations of Los Angeles	NEA	4 of 9
		American Federation of Teachers, Local 1021	AFT	1 of 9
San Diego	Yes	San Diego Teachers Association	NEA	JNP: 8 of 9
		San Diego Administrators Association	NEA	1 of 9
DISTRICT OF COLUMBIA				
Washington	No			
FLORIDA				
Dade Co., Miami	No			
Duval Co., Jacksonville	No			
GEORGIA				
Atlanta	No			
HAWAII				
State of Honolulu	No			
ILLINOIS				
Chicago	Yes	Chicago Teachers Union, Local 1	AFT	6
INDIANA				
Indianapolis	No			
LOUISIANA				
Orleans Parish, New Orleans	No			
MARYLAND				
Baltimore City	No			
Baltimore Co., Towson	Yes	Teachers Association of Baltimore County	NEA	Varies
Montgomery Co., Rockville	No			
Prince George's Co., Upper Marlboro	Yes	Prince George's Co. Teachers Association	NEA	3
MICHIGAN				
Detroit	Yes	Detroit Federation of Teachers	AFT	SN: 18
		Organization of School Administrators and Supervisors	IND	SN: NR
MISSOURI				
St. Louis	No			
NEW YORK				
New York City	Yes	United Federation of Teachers, Local 2	AFT	SN: Varies
		UFT: Child Guidance Chapter	AFT	SN: Varies
		UFT: Attendance Teachers Chapter	AFT	SN: Varies
		UFT: Laboratory Assistants Chapter	AFT	SN: Varies
		UFT: Guidance Counselors Chapter	AFT	SN: Varies
OHIO				
Cleveland	No			
Columbus	Yes	Columbus Education Association	NEA	7

NEGOTIATION AGREEMENTS IN SCHOOL SYSTEMS WITH ENROLLMENTS OF 12,000 OR MORE (Continued)

School system	Written negotiation procedures	Recognized organization	National affiliation	Organizational representatives on negotiating team
1	2	3	4	5
PENNSYLVANIA				
Philadelphia	Yes	Philadelphia Federation of Teachers, Local 3	AFT	3
TENNESSEE				
Memphis	No			
TEXAS				
Dallas	No			
Houston	Yes	Houston Teachers Association	NEA	JNP: 5 of 7
		Houston Congress of Teachers	NEA	1 of 7
		Houston Association of School Administrators	NEA	1 of 7
WISCONSIN				
Milwaukee	Yes	Milwaukee Teachers Education Association	NEA	5
Stratum 2 (Enrollments of 50,000-99,999)				
ALABAMA				
Birmingham	No			
Jefferson Co., Birmingham	No			
Mobile	No			
CALIFORNIA				
Fresno	No			
Long Beach	Yes	Teachers Association of Long Beach	NEA	NR
Oakland	Yes	Oakland Education Association	NEA	JNP: 8 of 9
		Independent Classroom Teachers Association	IND	1 of 9
Sacramento	Yes	Sacramento City Teachers Association	NEA	9
San Francisco	(No response)			
San Juan Unified Dist., Carmichael	Yes	San Juan Teachers Association	NEA	NR
COLORADO				
Denver	Yes	Classroom Teachers Association	NEA	SN: 5
		Association of Specialized Services for Children	NEA	SN: 5
Jefferson Co., Lakewood	Yes	Jefferson Co. R-1 Education Association	NEA	Varies
FLORIDA				
Brevard Co., Titusville	Yes	Brevard Co. Classroom Teachers Association	NEA	JNP: 7 of 11
		Brevard Co. Elementary Principals Association	NEA	1 of 11
		Brevard Co. Secondary Principals Association	NEA	2 of 11
		Brevard Co. Supervisory Staff Association	NEA	1 of 11
Broward Co., Ft. Lauderdale	No			
Hillsborough Co., Tampa	Yes	Hillsborough Co. Classroom Teachers Association	NEA	JNE
		Hillsborough Co. Education Association	NEA	JNE
		Hillsborough Co. Unit, Florida State Teachers Association	NEA	JNE
Orange Co., Orlando	No			
Palm Beach Co., West Palm Beach	No			
Pinellas Co., Clearwater	Yes	Pinellas Co. Classroom Teachers Association	NEA	9
GEORGIA				
Dekalb Co., Decatur (excl. Decatur)	(No response)			
KANSAS				
Wichita	Yes	Wichita City Teachers Association	NEA	10

NEGOTIATION AGREEMENTS IN SCHOOL SYSTEMS WITH ENROLLMENTS OF 12,000 OR MORE (Continued)

School system	Written negotiation procedures	Recognized organization	National affiliation	Organizational representatives on negotiating team
1	2	3	4	5
KENTUCKY				
Jefferson Co., Louisville ... (excl. Louisville)	No			
Louisville	No			
LOUISIANA				
Caddo Parish, Shreveport	No			
East Baton Rouge Parish, Baton Rouge	No			
MARYLAND				
Anne Arundel Co., Annapolis .	No			
MASSACHUSETTS				
Boston	Yes	Boston Teachers Union, Local 66	AFT	9
MINNESOTA				
Minneapolis	No			
MISSOURI				
Kansas City	No			
NEBRASKA				
Omaha	Yes	Omaha Education Association	NEA	3
NEVADA				
Clark Co., Las Vegas	No			
NEW JERSEY				
Newark	Yes	Newark Teachers Association	NEA	NR
NEW MEXICO				
Albuquerque	Yes	Albuquerque Classroom Teachers Association	NEA	5
NEW YORK				
Buffalo	No			
NORTH CAROLINA				
Charlotte-Mecklenburg Co., Charlotte	No			
OHIO				
Akron	No			
Cincinnati	Yes	Cincinnati Teachers Association	NEA	16
Dayton	No			
Toledo	Yes	Toledo Education Association	NEA	7
OKLAHOMA				
Oklahoma City	No			
Tulsa	Yes	Tulsa Education Association	NEA	3
OREGON				
Portland	Yes	Precluded by Oregon statute		

NEGOTIATION AGREEMENTS IN SCHOOL SYSTEMS WITH ENROLLMENTS OF 12,000 OR MORE (Continued)

School system	Written negotiation procedures	Recognized organization	National affiliation	Organizational representatives on negotiating team
1	2	3	4	5
PENNSYLVANIA				
Pittsburgh	No			
SOUTH CAROLINA				
Greenville Co., Greenville	No			
TENNESSEE				
Nashville-Davidson Co., Nashville	Yes	Metropolitan Nashville Education Association	NEA	5
TEXAS				
El Paso	Yes	El Paso Teachers Association	NEA	JNP: 3 of 5
		El Paso Education Association	NEA	2 of 5
Fort Worth	Yes	Fort Worth Classroom Teachers Association	NEA	5
San Antonio	No			
UTAH				
Granite, Salt Lake City (excl. Salt Lake City)	No			
VIRGINIA				
Fairfax Co., Fairfax	Yes	Fairfax Education Association	NEA	NR
Norfolk	No			
WASHINGTON				
Seattle	Yes	Seattle Alliance of Educators	NEA	3
WEST VIRGINIA				
Kanawha Co., Charleston	No			
Stratum 3 (Enrollments of 25,000-49,999)				
ALABAMA				
Huntsville	No			
Montgomery Co., Montgomery	No			
ARIZONA				
Phoenix High School Dist., Phoenix	No			
Tucson	No			
CALIFORNIA				
Anaheim High School Dist., Anaheim	Yes	Anaheim Secondary Teachers Association	NEA	9
Fremont	Yes	Fremont Unified School District Teachers Association	NEA	JNP: 8 of 9
		Fremont Administrators Association	NEA	1 of 9
Garden Grove	Yes	Garden Grove Education Association	NEA	9
Hayward	Yes	Hayward Unified Teachers Association	NEA	9
Mt. Diablo, Concord	Yes	Mt. Diablo Unified District Education Association	NEA	9
Newport-Mesa, Newport Beach	Yes	Newport-Mesa Education Association	NEA	5
Norwalk-La Mirada, Norwalk	Yes	Teachers Association of Norwalk-La Mirada Area		
Pasadena	Yes	Pasadena Education Association	NEA	5
Richmond	Yes	Association of Richmond Educators	NEA	JNP: 8 of 9
		Richmond Federation of Teachers, Local 866	AFT	1 of 9
Riverside	Yes	Riverside City Teachers Association	NEA	7
San Bernardino	Yes	San Bernardino Teachers Association	NEA	9

NEGOTIATION AGREEMENTS IN SCHOOL SYSTEMS WITH ENROLLMENTS OF 12,000 OR MORE (Continued)

School system	Written negotiation procedures	Recognized organization	National affiliation	Organizational representatives on negotiating team
1	2	3	4	5
CALIFORNIA (Continued)				
San Jose	(Incomplete questionnaire; policy on file)			
Santa Ana	Yes	Santa Ana Teachers Association	NEA	JNP: 8 of 9
		Santa Ana Elementary Administrators Association	NEA	1 of 9
Stockton	Yes	Stockton Teachers Association	NEA	5
Torrance	Yes	Torrance Education Association	NEA	9
COLORADO				
Colorado Springs	No			
Pueblo	Yes	Pueblo Education Association	NEA	5
CONNECTICUT				
Hartford	Yes	Hartford Federation of Teachers	AFT	SN: 10
		Hartford Principal's Association	IND	SN: 6-7
		Supervisors and Coordinators Association	IND	SN: 4-5
FLORIDA				
Escambia Co., Pensacola	No			
Polk Co., Bartow	(No response)			
Volusia Co., De Land	No			
GEORGIA				
Bibb Co., Macon	No			
Cobb Co., Marietta (excl. Marietta)	No			
Fulton Co., Atlanta (excl. Atlanta)	(No response)			
Muskogee Co., Columbus	No			
Richmond Co., Augusta	No			
Savannah-Chatham Co., Savannah	No			
ILLINOIS				
Rockford	No			
INDIANA				
Evansville	Yes	Evansville Teachers Association	NEA	NR
Fort Wayne	No			
Gary	No			
South Bend	No			
IOWA				
Des Moines	No			
KANSAS				
Kansas City	No			
Topeka	Yes	Topeka Teachers Association	NEA	Varies
LOUISIANA				
Calcasieu Parish, Lake Charles (excl. Lake Charles)	No			
Jefferson Parish, Gretna	No			
Rapides Parish, Alexandria	No			
MASSACHUSETTS				
Springfield	Yes	Springfield Education Association--Unit A	NEA	JNE
		Springfield Education Association--Unit B	NEA	
Worcester	No			

NEGOTIATION AGREEMENTS IN SCHOOL SYSTEMS WITH ENROLLMENTS OF 12,000 OR MORE (Continued)

School system	Written negotiation procedures	Recognized organization	National affiliation	Organizational representatives on negotiating team
1	2	3	4	5
MICHIGAN				
Flint	Yes	Flint Education Association	NEA	8
Grand Rapids	Yes	Grand Rapids Education Association	NEA	5
Lansing	Yes	Lansing Schools Education Association	NEA	6
Livonia	Yes	Livonia Education Association	NEA	5
MINNESOTA				
St. Paul	No			
MISSISSIPPI				
Jackson	No			
NEBRASKA				
Lincoln	No			
NEVADA				
Washoe Co., Reno	Yes	Washoe Co. Teachers Association	NEA	5
NEW JERSEY				
Jersey City	Yes	Jersey City Education Association	NEA	SN: 6
		Jersey City Federation of Teachers	AFT	SN: 6
NEW YORK				
Rochester	Yes	Rochester Teachers Association	NEA	NR
Syracuse	No			
Yonkers	Yes	Yonkers Federation of Teachers	AFT	7
NORTH CAROLINA				
Greensboro	No			
Winston-Salem/Forsyth Co., Winston-Salem	No			
OHIO				
Youngstown	Yes	Youngstown Education Association	NEA	4-6
RHODE ISLAND				
Providence	No			
SOUTH CAROLINA				
Columbia	No			
TENNESSEE				
Chattanooga	No			
Hamilton Co., Chattanooga (excl. Chattanooga)	No			
Knoxville	No			
Shelby Co., Memphis (excl. Memphis)	No			
TEXAS				
Amarillo	No			
Austin	(No response)			
Corpus Christi	No			
Lubbock	No			
Pasadena	No			
Spring Branch, Houston	No			

NEGOTIATION AGREEMENTS IN SCHOOL SYSTEMS WITH ENROLLMENTS OF 12,000 OR MORE (Continued)

School system	Written negotiation procedures	Recognized organization	National affiliation	Organizational representatives on negotiating team
1	2	3	4	5
UTAH				
Davis Co., Farmington	Yes	Davis Education Association	NEA	5
Salt Lake City	No			
VIRGINIA				
Arlington Co., Arlington	No			
Hampton	No			
Henrico Co., Richmond ..... (excl. Richmond)	No			
Newport News	No			
Richmond	No			
Virginia Beach	(No response)			
WASHINGTON				
Highline Dist., Seattle	Yes	Highline Education Association	NEA	NR
Spokane	No			
Tacoma	Yes	Tacoma Alliance of Educators	NEA	5
WISCONSIN				
Madison	Yes	Madison Teachers, Inc.	NEA	4
Racine	Yes	Racine Education Association	NEA	5
Stratum 4 (Enrollments of 12,000-24,999)				
ALABAMA				
Baldwin Co., Bay Minette	No			
Calhoun Co., Anniston	No			
Gadsden	No			
Madison Co., Huntsville	No			
Marshall Co., Guntersville ..	(No response)			
Tuscaloosa	(No response)			
ALASKA				
Anchorage	Yes	Anchorage Borough Education Association	NEA	5
ARIZONA				
Mesa	Yes	Mesa Education Association	NEA	5
Scottsdale Dist., Phoenix ...	No			
Washington Dist., Phoenix ...	No			
ARKANSAS				
Fort Smith	No			
Little Rock	No			
North Little Rock	No			
Pulaski Co. Spec. Dist., Little Rock ..... (excl. Little Rock)	(No response)			
CALIFORNIA				
ABC Unified, Artesia	Yes	ABC Teachers Association	NEA	NR
Alhambra	Yes	Alhambra Teachers Association	NEA	NR
Alum Rock Elem. Dist., San Jose	Yes	Alum Rock Teachers Association	NEA	23
Anaheim Elem. Dist.	Yes	Anaheim Elementary Teachers Association	NEA	11
Azusa	Yes	Azusa Unified Teachers Association	NEA	7
Bakersfield Elem. Dist.	No			
Baldwin Park	Yes	Baldwin Park Teachers Association	NEA	7
Bellflower	Yes	Bellflower Education Association	NEA	7
Berkeley	No			

NEGOTIATION AGREEMENTS IN SCHOOL SYSTEMS WITH ENROLLMENTS OF 12,000 OR MORE (Continued)

School system	Written negotiation procedures	Recognized organization	National affiliation	Organizational representatives on negotiating team
1	2	3	4	5
CALIFORNIA (Continued)				
Burbank	(No response)			
Compton Elem. Dist.	Yes	Compton Elementary Teachers Association	NEA	9
Compton High School Dist.	Yes	Compton Secondary Teachers Association	NEA	JNP: 8 of 9
		Compton Federation of Teachers	AFT	1 of 9
Covina-Valley Unified, Covina	Yes	Covina Unified Education Association	NEA	JNP: 8 of 9
		Tri-Community Chapter, California County for Adult Education	NEA	1 of 9
Cupertino Elem. Dist.	Yes	Cupertino Education Association	NEA	NR
Downey	Yes	Downey Education Association	NEA	7
East Whittier Elem. Dist., Whittier	Yes	East Whittier Education Association	NEA	9
El Rancho Unified, Pico Rivera	Yes	El Rancho Education Association	NEA	7
Fontana	(No response)			
Fullerton Elem. Dist.	Yes	Fullerton Elementary Teachers Association	NEA	NR
Glendale	Yes	Glendale Teachers Association	NEA	7
Grant High School Dist., Sacramento	Yes	Grant District Teachers Association	NEA	JNP: 4 of 5
		Grant District Association of Secondary School Administrators	IND	1 of 5
Grossmont High School Dist., La Mesa	Yes	Grossmont High School District Teachers Association	NEA	9
Hudson Elem. Dist., La Puente	Yes	Hudson Teachers Association	NEA	9
Inglewood	Yes	Inglewood Teachers Association	NEA	12
Kern Co., High School Dist., Bakersfield	Yes	Kern Co. Faculty Association	NEA	25
La Mesa-Spring Valley Elem. Dist., La Mesa	Yes	La Mesa-Spring Valley Teachers Association	NEA	5
Lompoc	No			
Modesto	Yes	Modesto Teachers Association	NEA	9
Montebello	Yes	Montebello Teachers Association	NEA	5
Monterey	(No response)			
Napa Valley Unified, Napa	Yes	Napa Valley Unified Teachers Association	NEA	7
Ontario-Montclair Elem. Dist., Ontario	Yes	Ontario-Montclair Teachers Association	NEA	7
Orange	No			
Palo Alto	Yes	Palo Alto Education Association	NEA	JNP: 8 of 9
		Palo Alto Federation of Teachers	AFT	1 of 9
Palos Verdes Peninsula Unified, Rolling Hills	Yes	Palos Verdes Faculty Association	NEA	7
Pomona	Yes	Associated Pomona Teachers	NEA	9
San Lorenzo	Yes	San Lorenzo Teachers Association	NEA	9
San Mateo Elem. Dist.	No			
Santa Barbara	Yes	Santa Barbara Teachers Association	NEA	9
Santa Clara	Yes	CTA of Santa Clara	NEA	9
Santa Monica	Yes	Santa Monica Classroom Teachers Association	NEA	JNP: 8 of 9
		Santa Monica Administrators and Supervisors Association	NEA	1 of 9
Simi Valley Unified, Simi	Yes	Simi Educators Association	NEA	5
Sweetwater High School Dist., Chula Vista	(No response)			
Vallejo	Yes	Vallejo Education Association	NEA	5
West Covina	Yes	West Covina Education Association	NEA	9
Westminster Elem. Dist.	Yes	Westminster Teachers Association	NEA	
Whittier High School Dist.	Yes	Whittier Secondary Education Association	NEA	9
COLORADO				
Arapahoe Co. Dist. 6, Littleton	Yes	Littleton Education Association	NEA	2
Aurora	Yes	Aurora Education Association	NEA	NR
Boulder Valley, Boulder	Yes	Boulder Valley Education Association	NEA	8
Mesa Co., Valley Dist., Grand Junction	No			
Westminster	Yes	Westminster Education Association	NEA	3

NEGOTIATION AGREEMENTS IN SCHOOL SYSTEMS WITH ENROLLMENTS OF 12,000 OR MORE (Continued)

School system	Written negotiation procedures	Recognized organization	National affiliation	Organizational representatives on negotiating team
1	2	3	4	5
CONNECTICUT				
Bridgeport	Yes	Bridgeport Education Association	NEA	10
New Britain	No			
New Haven	Yes	New Haven Teachers League	NEA	15
Norwalk	Yes	Norwalk Teachers Association	NEA	11
Stamford	Yes	Stamford Education Association	NEA	6
Waterbury	Yes	Waterbury Teachers Association	NEA	5
West Hartford	No			
DELAWARE				
Wilmington	No			
FLORIDA				
Alachua Co., Gainesville	No			
Bay Co., Panama City	(No response)			
Lake Co., Tavares	No			
Lee Co., Fort Myers	No			
Leon Co., Tallahassee	No			
Manatee Co., Bradenton	No			
Marion Co., Ocala	No			
Okaloosa Co., Crestview	No			
Sarasota Co., Sarasota	No			
Seminole Co., Sanford	No			
GEORGIA				
Clayton Co., Jonesboro	No			
Dougherty Co., Albany	No			
Glynn Co., Brunswick	(No response)			
Gwinnett Co., Lawrenceville	No			
Houston Co., Perry	(No response)			
IDAHO				
Boise	No			
ILLINOIS				
Alton	No			
Decatur	Yes	Decatur Education Association	NEA	9
East St. Louis	Yes	East St. Louis Federation of Teachers	AFT	NR
Elgin	Yes	Elgin Teachers Association	NEA	4
Granite City	Yes	American Federation of Teachers	AFT	8
Peoria	No			
Springfield	No			
INDIANA				
Anderson	Yes	No organizational representation		
Hammond	No			
Kokomo	No			
Michigan City	No			
Muncie	(No response)			
Vigo Co., Terre Haute	(No response)			
Washington Twp., Indianapolis	No			
IOWA				
Cedar Rapids	No			
Council Bluffs	No			
Davenport	Yes	Davenport Teachers Association	NEA	4
Sioux City	No			
Waterloo	No			

NEGOTIATION AGREEMENTS IN SCHOOL SYSTEMS WITH ENROLLMENTS OF 12,000 OR MORE (Continued)

School system	Written negotiation procedures	Recognized organization	National affiliation	Organizational representatives on negotiating team
1	2	3	4	5
KANSAS				
Shawnee Mission High School Dist., Shawnee Mission ...	(No response)			
KENTUCKY				
Fayette Co., Lexington	No			
Pike Co., Pikeville	(No response)			
LOUISIANA				
Bossier Parish, Benton	No			
Iberia Parish, New Iberia ...	(No response)			
Lafayette Parish, Lafayette .	No			
Lafourche Parish, Thibodaux .	(No response)			
Ouachita Parish, Monroe ..... (excl. Monroe)	(No response)			
St. Landry Parish, Opelousas	No			
St. Mary Parish, Franklin ...	(No response)			
St. Tammany Parish, Covington	No			
Tangipahoa Parish, Amite	No			
Terrebonne Parish, Houma	No			
MAINE				
Portland	Yes	Portland Teachers Association	NEA	5
MARYLAND				
Allegany Co., Cumberland	No			
Carroll Co., Westminster	No			
Frederick Co., Frederick	Yes	Frederick Co. Teachers Association	NEA	3
Harford Co., Bel Air	No			
Washington Co., Hagerstown ..	No			
MASSACHUSETTS				
Brockton	No			
Chicopee	No			
Fall River	Yes	Fall River Teachers Association	NEA	22
Lowell	(No response)			
Lynn	No			
New Bedford	No			
Newton, Newtonville	No			
Pittsfield	No			
Quincy	Yes	Quincy Teachers Association	NEA	7
Somerville	No			
MICHIGAN				
Ann Arbor	No			
Bay City	Yes	Bay City Education Association	NEA	4
Birmingham	Yes	Birmingham Education Association	NEA	7
Dearborn	Yes	Dearborn Federation of Teachers	AFT	5
East Detroit	Yes	East Detroit Federation of Teachers	AFT	5
Farmington	Yes	Farmington Education Association	NEA	5
Garden City	Yes	Garden City Education Association	NEA	4
Jackson	Yes	Jackson Education Association	NEA	5
Kalamazoo	Yes	Kalamazoo City Education Association	NEA	5
Lincoln Park	No			
Pontiac	Yes	Pontiac Education Association	NEA	SM: 7
		Pontiac Administrators Association	IND	SM: 6
Port Huron	Yes	Port Huron Education Association	NEA	20
Roseville	Yes	Roseville Federation of Teachers	AFT	NR
Royal Oak	Yes	Royal Oak Education Association	NEA	3
Saginaw	Yes	Saginaw Education Association	NEA	4

NEGOTIATION AGREEMENTS IN SCHOOL SYSTEMS WITH ENROLLMENTS OF 12,000 OR MORE (Continued)

School system	Written negotiation procedures	Recognized organization	National affiliation	Organizational representatives on negotiating team
1	2	3	4	5
MICHIGAN (Continued)				
Southfield	Yes	Southfield Education Association	NEA	12
Taylor	Yes	Taylor Federation of Teachers	AFT	NR
Warren	Yes	Warren Education Association	NEA	8
Waterford Twp., Pontiac	Yes	Waterford Education Association	NEA	7
Wayne	Yes	Wayne Education Association	NEA	7
MINNESOTA				
Anoka-Hennepin Dist. 11, Anoka	No			
Bloomington	No			
Duluth	Yes	Duluth Teachers Association	AFT	SN: 14
		Duluth Principals and Supervisors Association	IND	SN: 4
Greenville	No			
Robbinsdale	No			
MISSISSIPPI				
Hinds Co., Jackson	No			
MISSOURI				
Ferguson-Florissant, Ferguson	Yes	Ferguson-Florissant Comm. Teachers Association	NEA	5
Hazelwood	(Incomplete questionnaire; policy on file)			
Independence	No			
North Kansas City, Kansas City	No			
Raytown	No			
Ritenour Dist., Overland	No			
St. Joseph	(No response)			
Springfield	Yes	Springfield Education Association	NEA	Varies
MONTANA				
Billings	No			
Great Falls	No			
NEW HAMPSHIRE				
Manchester	No			
NEW JERSEY				
Camden	No			
Clifton	Yes	Clifton Teachers Association	NEA	SN: 5-7
		Clifton Principals Association	NEA	SN: 3
Edison Twp., Fords	Yes	Edison Twp. Education Association	NEA	2
Elizabeth	(No response)			
Hamilton Twp., Trenton	No			
Middletown	Yes	Middletown Twp. Education Association	NEA	SN: 24
		Middletown Twp. Administrators Association	NEA	SN: 6
Paterson	Yes	Paterson Education Association	NEA	SN: 8-12
		Paterson Teachers Union	AFT	SN: 6
Trenton	No			
Woodbridge	No			
NEW MEXICO				
Las Cruces	No			
NEW YORK				
Albany	No			
Binghamton	(No response)			
Brentwood	No			
East Meadow	(No response)			

NEGOTIATION AGREEMENTS IN SCHOOL SYSTEMS WITH ENROLLMENTS OF 12,000 OR MORE (Continued)

School system	Written negotiation procedures	Recognized organization	National affiliation	Organizational representatives on negotiating team
1	2	3	4	5
NEW YORK (Continued)				
Elmira	No			
Farmingdale	Yes	Farmingdale Classroom Teachers Association	NEA	24
Hicksville	(	No response		)
Kenmore School, Buffalo	No			
Levittown	No			
Massapequa	No			
Mount Vernon	Yes	Mount Vernon Teachers Association	NEA	6
New Rochelle	Yes	New Rochelle Federation of Teachers	AFT	4
Niagara Falls	No			
Rome	No			
Schenectady	No			
Sewanhaka High School Dist. 2, Franklin Square	No			
Utica	No			
NORTH CAROLINA				
Alamance Co., Graham	No			
Buncombe Co., Asheville (excl. Asheville)	No			
Cumberland Co., Fayetteville (excl. Fayetteville)	No			
Davidson Co., Lexington (excl. Lexington)	No			
Durham City	No			
Durham Co., Durham (excl. Durham)	No			
Gaston Co., Gastonia (excl. Gastonia)	No			
Guilford Co., Greensboro (excl. Greensboro)	No			
Harnett Co., Lillington	No			
High Point	No			
Johnston Co., Smithfield	No			
Nash Co., Nashville	No			
New Hanover Co., Wilmington	No			
Onslow Co., Jacksonville	No			
Pitt Co., Greenville (excl. Greenville)	No			
Raleigh	No			
Robeson Co., Lumberton (excl. Lumberton)	No			
Rowan Co., Salisbury (excl. Salisbury)	No			
Wake Co., Raleigh (excl. Raleigh)	No			
Wayne Co., Goldsboro (excl. Goldsboro)	No			
OHIO				
Berea	Yes	Berea Education Association	NEA	27
Canton	Yes	Canton Professional Educators Association	NEA	6
Cleveland Heights-University Heights, Cleveland	No			
Cuyahoga Falls	No			
Elyria	Yes	Elyria Education Association	NEA	SN: NR
		Elyria Federation of Teachers	AFT	SN: NR
Hamilton	Yes	Hamilton Classroom Teachers Association	NEA	12
Kettering	Yes	Kettering Classroom Teachers Association	NEA	9
Lorain	No			
Mansfield	No			
Middletown	No			
Parma	Yes	Parma Education Association	NEA	8
South-Western Dist., Grove City	Yes	South-Western Education Association	NEA	5

NEGOTIATION AGREEMENTS IN SCHOOL SYSTEMS WITH ENROLLMENTS OF 12,000 OR MORE (Continued)

School system	Written negotiation procedures	Recognized organization	National affiliation	Organizational representatives on negotiating team
1	2	3	4	5
OHIO (Continued)				
Springfield	No			
Warren	Yes	Warren Education Association	NEA	NR
Willoughby-Eastlake Dist., Willoughby	Yes	Willoughby-Eastlake Teachers Association	NEA	3
OKLAHOMA				
Lawton	No			
Midwest City	Yes	Midwest City Classroom Teachers Association	NEA	7
Putnam City Dist., Oklahoma City	(No response)			
OREGON				
Beaverton	Yes	Organizational recognition precluded		
Eugene	Yes	Organizational recognition precluded		
Salem	Yes	Organizational recognition precluded		
PENNSYLVANIA				
Allentown	No			
Altoona	Yes	Altoona Area Education Association	NEA	25
Armstrong Dist., Ford City	No			
Bethlehem	No			
Bristol	Yes	Bristol Twp. Education Association	NEA	3
Erie	No			
Harrisburg	No			
Neshaminy Dist., Longhorne	Yes	Neshaminy School District Education Association	NEA	3
Penn Hills Twp. Dist., Pittsburgh	No			
Pennsburg Dist., Fallsington	(No response)			
Reading	No			
Scranton	No			
RHODE ISLAND				
Cranston	No			
Warwick	Yes	Warwick Education Association	NEA	7
SOUTH CAROLINA				
Aiken Co., Aiken	No			
Berkeley Co., Moncks Corner	Yes	Berkeley Co. Education Association	NEA	5
Charleston	No			
Cooper River Dist., North Charleston	No			
Darlington Co., Darlington	(No response)			
Florence	No			
Horry Co., Conway	(No response)			
Pickens Co., Pickens	No			
Rock Hill	No			
Spartanburg	No			
Williamsburg Co., Kingstree	(No response)			
SOUTH DAKOTA				
Rapid City	No			
Sioux Falls	No			
TENNESSEE				
Clarksville City-Montgomery Co. Dist., Clarksville	(No response)			
Knox Co., Knoxville (excl. Knoxville)	No			
Sullivan Co., Blountville	No			

NEGOTIATION AGREEMENTS IN SCHOOL SYSTEMS WITH ENROLLMENTS OF 12,000 OR MORE (Continued)

School system	Written negotiation procedures	Recognized organization	National affiliation	Organizational representatives on negotiating team
1	2	3	4	5
TEXAS				
Abilene	No			
Aldine Dist., Houston	(No response)			
Arlington	No			
Beaumont	Yes	Beaumont Classroom Teachers Association	NEA	41
Birdville Dist., Fort Worth	No			
Brownsville	No			
Ector Dist., Odessa	No			
Edgewood Dist., San Antonio	Yes	Edgewood District Teachers Association	NEA	28
Garland	No			
Goose Creek Dist., Baytown	No			
Harlandale Dist., San Antonio	No			
Irving	(No response)			
Laredo	No			
Mesquite	No			
Midland	(No response)			
North East Dist., San Antonio	No			
Northeast Houston Dist., Houston	No			
Port Arthur	No			
Richardson	No			
South Park Dist., Beaumont	No			
Tyler	No			
Victoria	(No response)			
Waco	No			
Wichita Falls	No			
Ysleta Dist., El Paso	(No response)			
UTAH				
Alpine Dist., American Fork	No			
Jordan Dist., Sandy	No			
Ogden	(No response)			
Weber Co., Ogden (excl. Ogden)	No			
VIRGINIA				
Alexandria	No			
Chesapeake	No			
Chesterfield Co., Chesterfield	No			
Henry Co., Martinsville (excl. Martinsville)	No			
Lynchburg	No			
Pittsylvania Co., Chatham	No			
Portsmouth	(No response)			
Prince William Co., Manassas	No			
Roanoke	No			
Roanoke Co., Salem (excl. Roanoke)	No			
WASHINGTON				
Bellevue	No			
Clover Park Dist., Tacoma	Yes	Clover Park Education Association	NEA	NR
Edmonds Dist., Lynnwood	Yes	Edmonds Education Association	NEA	3
Everett	Yes	Everett Education Association	NEA	3
Renton	Yes	Renton Education Association	NEA	8-10
Shoreline	Yes	Shoreline Education Association	NEA	3-5
Vancouver	Yes	Vancouver Education Association	NEA	3
WEST VIRGINIA				
Cabell Co., Huntington	No			
Fayette Co., Fayetteville	(No response)			

NEGOTIATION AGREEMENTS IN SCHOOL SYSTEMS WITH ENROLLMENTS OF 12,000 OR MORE (Continued)

School system	Written negotiation procedures	Recognized organization	National affiliation	Organizational representatives on negotiating team
1	2	3	4	5
WEST VIRGINIA (Continued)				
Harrison Co., Clarksburg	No			
Logan Co., Logan	No			
McDowell Co., Welch	(No response)			
Marion Co., Fairmount	No			
Mercer Co., Princeton	No			
Raleigh Co., Beckley	No			
Wood Co., Parkersburg	No			
WISCONSIN				
Green Bay	Yes	Green Bay Education Association	NEA	4
Kenosha	Yes	Kenosha Education Association	NEA	SN: 3
		Kenosha Administrators Association	NEA	SN: 5
West Allis	Yes	West Allis-West Milwaukee Education Association	NEA	12
WYOMING				
Casper Midwest Dist., Casper	Yes	Casper-Midwest Classroom Teachers Association	NEA	8
Laramie Co. Dist. 1, Cheyenne	(No response)			

Judicial Decisions, Opinions, and Statutes

In the Matter of the Arbitration Between

WARREN CONSOLIDATED SCHOOLS, WARREN, MICHIGAN

and

WARREN EDUCATION ASSOCIATION

No. 5430 0253 66

Grievance: Retroactive Pay

APPEARANCES:

For Warren Education Assoication:

Erwin B. Ellman, Attorney
Terry Herndon, President
Paul Downing, Executive Secretary
Morris Andrews, Michigan Education Association Staff Representative

For Warren Consolidated Schools:

Charles H. Earl, Attorney
Paul K. Cousino, Superintendent
Kingsley Sears, Assistant Superintendent - Personnel
M. David Keefe, Consultant

This arbitration has been presented pursuant to a collective bargaining agreement dated September 14, 1966, between the Board of Education of Warren Consolidated Schools and the Warren Education Association.[1/]

This is, I believe, the first arbitration between a Board of Education and the exclusive representative of Board of Education employees since the enactment of Public Employment Relations Act which became affective July 23, 1965. The arbitration was conducted under the rules of the American Arbitration Association, and a hearing was held at the Association offices in Detroit. Both parties were represented by highly competent counsel, each of whom presented excellent opening statements and post-hearing briefs. In this instance, contrary to some arbitrations which I have heard, I believe all relevant testimony was produced at the hearing; and all arguments, both legal and evidentiary, presented to the arbitrator.

Following the enactment of the Public Employment Relations Act, the Association demanded recognition of the School Board for certified teachers. Another organization also demanded recognition, and it was not until April 20, 1966, that the Association became the exclusive bargaining representative of the Warren teachers. Collective bargaining started one week later.

On September 14, 1966, a contract covering the period from September 1, 1966, to August 31, 1967, was executed. With the payment of the first paychecks on September 16, 1966, the Association recognized that there was a disagreement between the Association and the School Board concerning Schedule A of the contract, which includes the salary schedule. Thereupon a grievance was filed:

"GRIEVANCE REPORT No. 66-1
September 21, 1966

"Grievant: Warren Education Association in its own behalf and in behalf of all teachers with 'outside experience'

"Statement of Grievance:

"Paychecks of September 16, 1966 reflect miscalculation of teacher salaries for all teachers with 'outside experience' under Schedule A, incorporated in the Agreement pursuant to Article VIII, Section 1. Teachers did not receive full or sufficient credit for 'outside teaching experience and military service' as agreed. This constitutes improper discrimination, prohibited by the Agreement, Michigan and federal constitutions and state and federal law.

"Relief Sought:

"Correction of payroll checks for 1966-67 and retroactive pay to all affected employees for last six years.

"Submitted to Dr. P. K. Cousino, Superintendent
and
Mr. Kingsley Sears, Assist. Superintendent, Personnel

s/Robert S. Kowalczyk
Robert Kowalczyk
Grievance Committee Chairman"

Section 1 of Article VIII, to which reference is made, reads:

"The salaries of teachers covered by this Agreement shall be set forth in Schedule A which is attached to and incorporated in this Agreement."

The parties stipulated that the arbitrator does not have power to determine whether employees are entitled to a retroactive adjustment for the past six years, but that his power is limited to the period covered by the collective bargaining agreement which became effective September 1, 1966.

Disagreement concerns the first sentence of Schedule A which reads:

"The following salary schedule is affective for the 1966-67 school year and teachers shall be placed on the appropriate step which shall then be adjusted to reflect established deviations which prevail."

More specifically, the dispute is over the phrase "which shall then be adjusted to reflect established deviations which prevail."

The Schedule specifies salaries for teachers with various degrees of education: BA, BA+20, MA, MA+15, Specialist, and Doctorate. Salaries are also based on experience ranging from none to eleven years.

1/ I shall refer to the Board of Education of Warren Consolidated Schools as the "School Board" and to the Warren Education Association as the "Association", as the collective bargaining agreement.

The Schedule contains, among others, the following provision:

"(1) Credit for outside experience: Maximum seven (7) years allowed, including military service and teaching experience. Maximum credit for outside teaching experience and military service - $1,770.

"(a) Military service at $177 per year for active duty (full time college work in military academies or training programs is excepted.)

"(b) Classroom teaching experience

"1. First two (2) years at half credit - 3% or $177 per year
2. Third, fourth, and fifth year at full credit - 6% or $354 per year
3. Sixth and seventh year at half credit - 3% or $177 per year
4. No credit shall be allowed for substitute teaching either inside or outside the system."

For a number of years, the School Board has given credit for outside experience as teacher or for service in the Armed Forces. The credit for this type of experience has been increased from time to time, but the past service credit of a teacher who entered the service of the School Board with past service was not increased at a later period when the past service credit became greater. Thus, a teacher hired in 1960 with three years past service credit continued to be credited with three years, even though the past service credit was increased in later years.

The Association contends that under the contract all teachers are entitled to their full past service credit up to a maximum of seven years, commencing with September 1, 1966.[2/]

To put it another way, a teacher who entered the system when the maximum past service credit was three years, but who actually had five years' past service credit should, effective with the beginning of the 1966-67 school year, receive credit for five years' past service experience.

The School Board contends that the phrase "shall be placed on the appropriate step which shall then be adjusted to reflect established deviations which prevail" means that such teacher retains her three years' past service credit, but is not entitled to be increased to five years' past service credit.

Both School Board and Association contend that the agreement or bargain reached in collective bargaining was as each contends.

The Association urges that the maintenance of the differences of the type for which the Board contends exists is contrary to the 14th Amendment to the United States Constitution and Article I, Section 2, of the Michigan Constitution of 1963.

The Fourteenth Amendment of the United States Constitution provides that "No state shall . . . . deny to any person within its jurisdiction the equal protection of the laws." Article I, Section 2, of the Michigan Constitution of 1963 provides that "No person shall be denied equal protection of the laws."

2/ As noted in the text, I have not considered whether any such credit should be retroactive, and neither School Board nor Association presented legal evidence or argument on that point, except that counsel for the Association suggested in his opening statement that the "system" is "legally indefensible as it treats teachers differently".

Both parties rely on court decisions, and the Association also cites decisions of various arbitrators, in support of their respective positions.

The evidence discloses that bargaining started about one week after recognition on April 20, 1966, and that the contract was ultimately ratified on September 6, 1966.

There were bargaining sessions comprising between one hundred and fifty and two hundred hours during this period. All issues were determined by the bargaining representatives of the School Board and the Association prior to the first of September, 1966, except the matter of salaries and insurance. These two issues were the subject of a report dated September 6, 1966, by a fact-finder appointed by the Michigan Labor Mediation Board pursuant to Section 25 of the Labor Mediation Act (Mich. Stat. Ann. 17.454 (27)). Following the fact-finding report, the representatives of the parties reached agreement and ratification followed.

The issue here, as stated above, is concerned with retroactivity for past experience or military service which, under the agreement of the parties, is a maximum of seven years, the first two years at half credit, the third fourth and fifth years at full credit, and the sixth and seventh year at half credit. The parties have, for the duration of the current contract, converted a year of half credit to one hundred and seventy five dollars and fifty cents per year, and a year of full credit at three hundred and fifty one dollars per year.

A discussion of the bargaining concerning this issue is relevant to decision.

The two Association witnesses, Paul Downing, the Association's Executive Secretary, and Terry Herndon, the Association's President, testified in behalf of the Association, and Paul K. Cousino, Superintendent of the Warren Consolidated Schools, and M. David Keefe, a School Board Consultant during bargaining, testified in behalf of the School Board.

Secretary Downing testified that the matter of retroactivity had not been a subject of negotiation during the bargaining sessions. He testified in answer to his counsel:

"Q. Did representatives of the Board ever suggest that Schedule A was to apply to some, and not to all, teachers?
A. No.

Q. Did any representative of the School Board ever suggest that credit for past experience as set forth in the table is applicable only to teachers subsequently hired?
A. No.

Q. Did any representative of the School Board ever suggest or propose that credit for outside teaching experience set forth on the bottom of Schedule A was to apply only to teachers subsequently hired?
A. No.

Q. Was any statement made by any representative of the Board that teachers yet to be hired were to receive better treatment than those members of the bargaining unit?
A. No."

Mr. Downing further testified that he first saw the disputed paragraph of Schedule A after July 6, 1966, when he received a letter which was sent to all the teachers, but that it was never discussed at a bargaining session.

The letter was addressed to "All Members of the Teaching Staff of Warren Consolidated School Board". It read, in part:

"We regret to report that an impasse has been reached in the negotiations for a complete agreement between the School Board and the Warren Education Association.

Except for the issue of basic compensation, a complete agreement had been reached between the parties and confirmed before the State Labor Mediator. On the remaining question of compensation, the School Board made a final offer to complete the agreement. Since this was not accepted, the School Board has directed the School Administration to place this final offer into effect as provided by established legal procedures. Meanwhile, the School Board continues to maintain its complete offer to the Association and desires to conclude an agreement. To this end we are ready at any time to cooperate with the Michigan Labor Mediation Board so as to overcome the impasse.

The agreement, when reached, will establish all of the terms and conditions of employment for the members of the Bargaining Unit. However, during the interim, the following Board policy will effectively apply."

The Board authorized the following salary schedule, subject to the effective terms of any forthcoming agreement:

SCHEDULE A

The following salary schedule is effective for the 1966-67 school year which covers a period of two hundred (200) paid-for days. Teachers shall be placed on the appropriate step in the schedule, which shall then be adjusted to reflect established deviations which prevail." (emphasis supplied)

(Then followed the proposed Schedule of 11 steps starting with a low of $5,850 for teachers with a Bachelor of Arts degree and no experience and ending with a high of $10,998 degrees for teachers holding a Doctorate and eleven years of experience)

Mr. Downing testified that the Board never explained what was meant by the language in the letter and the Schedule A was not physically in existence until the contract was typed for signature, after the ratification meeting of September 6, 1966. Prior to the typing of the agreement, representatives of the Association including Secretary Downing met with Dr. Cousino in his office. Mr. Bieslinski, President of the School Board was present, but Secretary Downing does not recall that Mr. Charles D. Earl, attorney of the Board, was present. Mr. Downing testified that Dr. Cousino had a copy of the letter and asked whether the letter was "okay except for the figures and we said 'okay'". "No statement", Mr. Herndon said, "was made about the language".

Mr. Downing testified that he read the first paragraph in the letter of July 6, 1966, but he did not take the matter up with Association Counsel, although he did review most of the contract with Mr. Ellmann. The phrase "established deviations" was never, he testified, discussed during negotiations.

Mr. Herndon testified that during negotiations as the various provisions of the proposed contract were agreed to, they were put in writing; and that prior to the fact-finding, there had been tentative agreement on all issues except salaries and insurance. The matter of Schedule A was not, he testified, an issue before the fact-finder, and the fact-finding report which was received in evidence so discloses.

At the ratification meeting on September 6, 1966, Schedule A was presented verbally as was the insurance proposal which had been agreed to following the issuance of the fact-finding report. President Herndon went through the contract "briefly" but did not have Schedule A in his possession. President Herndon, Mr. Downing testified, explained to the meeting that credit for outside experience was to be based on two years at half credit, three years of full credit, and the sixth and seventh year at half credit with this being three percent, six percent, and three percent based on the starting salary of fifty nine hundred dollars. He did not state, Mr. Downing further testified, that the outside experience applied only to new teachers.

There was a "Schedule A" in the Association's proposal made to the School Board which read as follows:

"Outside Experience
a) Salary credit for teaching experience outside the district, and for military service will be granted as follows:
1. Military service shall be credited at 3% per year of active service.
2. The first two years of teaching experience will be credited at 3% per year.
3. The third, fourth and fifth and sixth years of teaching experience will be credited at 6% per year.
b) Compulsory credit does not exceed five full years of salary credit, but the Superintendent may exceed this limit with per case approval of the Association."

Mr. Herndon testified that during May or June there was discussion of the Association proposal that credit be increased by two full years as well as giving the Superintendent power to exceed this if approved by the Association. During these discussions, School Board representatives suggested the addition of two years at half pay; and this was accepted, but not reduced to writing at the time.

Mr. Herndon testified he received a copy of the July 6 letter; Schedule A was discussed at meetings before school opened in September, but there never was a specific reference to the disputed paragraph; and neither Dr. Cousino or any other member of the Board team, ever gave any interpretation or entered into discussion of the meaning of the disputed sentence.

Mr. Herndon reiterated in rebuttal testimony that he had no recollection that the matter of retroactivity had ever been discussed.

Superintendent Cousino testified, consistent with the testimony of President Herndon, that past experience was discussed when the Association proposal quoted above was offered and that he, Dr. Cousino, suggested one half credit for the sixth and seventh year. He testified that he said during this discussion that: "Historically the Board of Education has been opposed to retroactivity. We cannot afford to do it if retroactivity is required".

Dr. Cousino then testified that after discussion "at some length" there was a caucus at which President Herndon, Consultant Keefe and Superintendent Cousino were present. This occurred during a bargaining session which started on June 11 and continued for about twenty-four hours. Dr. Cousino placed the time of the caucus at about 1:00 A.M. or 2 A.M. on June 12. He further testified that he and Herndon had a dialogue concerning the sixth year of credit in which Dr. Cousino stated that he proposed one half credit for the sixth and seventh year; he explained, that if we allowed one half credit, we were not paying more for teachers who came in this year than came in last year; President Herndon agreed to accept the sixth and seventh year at half credit; Dr. Cousino repeated that the Board had been opposed to retroactivity pay and that the School Board "could not improve salaries as we were trying to do if we went back and picked up everyone; he does not recall what President Herndon said; and Consultant Keefe "came up" with the language of "established deviations" which was not written down at the time; the parties then returned to the table and went on with other items; the issue of retroactivity was never brought up again.

Later, and prior to the letter of July 6, 1966, Consultant Keefe prepared the disputed sentence.

There was no testimony by any witness that the matter of retroactivity was discussed when all representatives of both Association and School Board were present except Dr. Cousino's statement of the School Board's historical opposition thereto and the cost factor; and no contention by Superintendent Cousino that any Association representative affirmatively accepted the proposal that there should be no retroactivity.

Superintendent Cousino testified that the Association never specifically agreed to the retroactivity argument, but he "was sure this was understood" and "believes they accepted when they took the sixth and seventh year". He completed his testimony by the statement that the position of the School Board on retroactivity was "accepted by silence".

Dr. Cousino further testified that there had been bargaining between the Association and the School Board in the past years and that the payment for past services had never been retroactive. There was testimony by Mr. Downing that a contract had been entered into in 1965-66, but the contract was not offered in evidence.3/

Consultant M. David Keefe testified that he was present at all meetings except the meeting following the ratification of the contract. He described the "gathering in a side office" where he, President Herndon, and Superintendent Cousino had a conversation, where the matter of retroactivity was "officially disposed of". He testified that "formalizing took place when the letter of July 6 was written". He confirmed the testimony of prior witnesses that a "write up" of Schedule A was "never exchanged."

At one of the subsequent meetings when the parties were endeavoring to "jockey the money items around" the Association was given a copy of Schedule A as it appeared in the letter of July 6 with the "top off".

Dr. Cousino asked, Downing testified, whether the "letter (apparently meaning the schedule) was O.K. except for the figures and we said O.K.". No statement, he said, was made about the language. This occurred, he said on cross-examination, at the last session in August.

That the bottom of the July 6 letter was presented to the Association committee was confirmed by the President of the Board of Education, Mr. Breslinski, who testified he was present at the meeting in August when wages were discussed.

Dr. Cousino testified that Secretary Downing and President Herndon approved Schedule A prior to the printing of the contract.

There are three questions to be considered:

1. The meaning of the phrase "teachers shall be placed on the appropriate step in the schedule, which shall then be adjusted to reflect the established deviations which prevail".

2. Whether the foregoing provision is part of the agreement binding on the parties unless prohibitted by law.

3. If the foregoing language is part of the agreement, whether it is an illegal or prohibited provision because contrary to law including as Counsel for the Association avers, the Fourteenth Amendment of the Constitution of the United States and Section 2 of Article I of the Michigan Constitution.

3/ Any bargaining in the past was not, of course, collective bargaining as required, by the Public Employment Relations Act. The testimony suggests that in Warren, as in most areas of public employment, the "bargaining, was more in the nature of a petition to the School Board than collective bargaining as defined in Section 15 of the Public Employment Relations Act.

An analysis of the quoted language, and consideration of the evidence, leads to a conclusion that it refers to Schedule A, hence, supports the School Board contention.

The Association urges that the "deviations" referred to are applicable to the provisions of Schedule B which provide "extra pay to those who are selected by the Superintendent of Schools to perform (specified) extra curricular (beyond the school day) duties".

When courts have construed the term "deviation" they have generally been discussing a physical departure from an established route, such as driving a motor vehicle which "deviated" from an established route, an issue being raised as to whether an injured employee is entitled to workmen's compensation. Other contracts refer to the construction of railroads and roads. In a case involving the construction of the turnpike, the court gave a general definition of "deviation", "Webster's dictionary defines 'deviation' to mean 'a wandering from the way; variation from the common way, from an established standard or position . . . .'"4/

In context, it seems clear that "deviations", as used in Schedule A is limited to that schedule, and refers specifically to the differneces in salaries of teachers resulting from the School Board policy of not making the credit for experience and military service, retroactive-this for the following reasons:

1. The language was prepared by Consultant Keefe with the foregoing purpose in mind.

2. The sentence refers specifically to the "appropriate step in the schedule". Had it been intended that the sentence refer to the extra payments provided in Schedule B reference would not have been made to "appropriate step" as Schedule B provides for specific payments designated as a percentage of base pay but has no relationship to the "step" of the schedule in which a teacher receiving extra pay may be included.

3. The word "the schedule" can only refer to Schedule A because (a) it is the only one of the two schedules which include steps as mentioned above, and (b) a normal meaning of "the schedule" is the schedule in which it is included i.e. Schedule A.

4. The only established deviations concerning which there was evidence, were those relating to credit for past experience and military service.

I find, therefore, that the sentence discussed has reference only to Schedule A and to the differences in pay resulting from the School Board policy, established prior to the 1966-67 school year relating to payment for past experience and military service.

The next issue involves the question of whether the School Board and the Association agree to the inclusion in the contract of the sentence "teachers shall be placed on the appropriate step in the schedule, which shall then be adjusted to reflect established deviations to prevail". Or to put it another way, is the quoted language part of the contract between the Warren Consolidated Schools and the Warren Education Association?

It is clear from the evidence that there was never an affirmative agreement by any representative of the Association that teachers already in the system would be retained at their present credit level or that the disputed sentence should be included in the contract.

The evidence and argument to support the Association provision is as follows:

4/ S. J. Groves & Sons Co. vs. West Virginia Turnpike Commission 164 F. Supp. 816, 821 (S.D.W. Va., 1958).

1. The letter of July 6, 1966, which included the disputed language was mailed to all teachers. Both President Herndon and Secretary Downing, representatives of the Association, received copies of the letter.

2. Superintendent Cousino testified that he referred to the past practice of not making credit for experience retroactive.

3. An agreement was signed including the disputed language.

The Association points out that all other provisions of the contract were written up as the parties reached tentative agreement and exchanged but, no "write up" of Schedule A was exchanged.

The Association urges:

"If the language of 'established deviations which prevail' had been discussed on June 10 or 11 as a means of preserving the past discriminatory salary schedule of the board, it is curious that Mr. Keefe would not have followed his usual practice and reduced it to writing instead of waiting for days or weeks later when preparing (the letter of July 6, 1966)".

The School Board, on the other hand, notes that the parties agree on the sixth and seventh year credit at a meeting in June and:

"For the Association to infer that the School District included the aforementioned (the disputed sentence) in the final draft of the Preamble in 'Schedule A' without discussion of same and without explanation is ridiculous".

While a contract may be reformed on ground of mutual mistake "where the mistake is common to both parties and by reason of it each has done what neither intended",5/ there is no evidence here of a mutual mistake. It is clear that the School Board intended the inclusion of the disputed language and the meaning for which it contends.

There is no evidence that any representative of the School Board was guilty of fraud or misrepresentation, a basis for avoiding a contract.6/

The members of the Association committee knew the language of the July 6 letter. When negotiations resumed near the end of the summer, Schedule A as it appeared in the letter, was used in the negotiations. The schedule as included in the letter, contained the sentence, "Teachers shall be placed on the appropriate step in the schedule, which shall then be adjusted to reflect established deviations which prevail". This is substantially the language of the contract.

The members of the Association bargaining committee are all persons of education each of whom teaches in the Warren Consolidated Schools' System. Each must have at least a Bachelor's Degree. Such persons should be of sufficient intelligence to read that which is placed before them, and to evaluate the meaning thereof. While equitable relief on the basis of unilateral mistake going to the substance in an agreement, has been granted by the courts where the mistake did not result from an inexcusable lack of due care under the circumstances, and plaintiff's position had not been so changed in reliance on the contract that it would be unconscionable to order recision,7/ there is no basis on the evidence before me to hold that relief is merited on any theory of overreaching on the part of the School Board.

5/ 17 Am Jur. 2d, Contracts, par. 143.
6/ 17 Am Jur. 2d, Contracts, par. 151.
7/ Maryland Casualty Company vs. Krasnek 174 So. 2d 541 (Fla., 1965).

While the disputed language appears not to have been explained to the teachers at the ratification meeting, the members of the Association committee should have known the School Board proposal and the Board's intention that it was to be written into the agreement following the ratification meeting.

The President, President-Elect, and Secretary of the School Board signed the agreement as representatives of the Association. If they failed to read it carefully, the failure was theirs; not the representatives of the School Board. They are men of education and obvious intelligence who had the capacity to know what they were doing.8/

The rule with respect to signing a contract without reading it has been stated:

"As a general principle, one who accepts a written contract is conclusively presumed to know its contents and to assent to them, in the absence of fraud, misrepresentation, or other wrongful act by another contracting party. Thus, ignorance of the contents of a contract expressed in a written instrument does not ordinarily affect the liability of one who signs it . . . .

"Failure to read a contract before signing it will not, as a rule, affect its binding force. Indeed, the courts appear to be unanimous in holding that a person who, having the capacity and an opportunity to read a contract, is not misled as to its contents and who sustains no confidential relationship to the other party cannot avoid the contract on the ground of mistake if he signs it without reading it, at least in the absence of special circumstances excusing his failure to read it. It is the duty of every contracting party to learn and know its contents before he signs and delivers it, and, if the contract is plain and unequivocal in its terms, he is ordinarily bound thereby".9/

In the words of the Michigan Supreme Court:

"Upon the face of the papers alone, the rule would be applicable that one who has executed a contract will not be heard to say that he did not read it.".10/

"This court has many times held that one who signs a contract will not be heard to say, when enforcement is sought, that he did not read it, or that he supposed that it was different in its terms".11/

The evidence established that there is no basis for excusing the members of the committee for failure to recognize that the disputed language was intended by the School Board representatives to be included in the contract, or from carefully reading the contract before

8/ There have been occasions where the courts have considered the low degree of intellectual capacity of a party to a contract in determining whether the other party has been guilty of overreaching, but there is no such case here. In the words of the Louisiana Supreme Court". . . . it is the duty of the courts to carefully and painstakingly investigate the circumstances surrounding transactions between a person of limited mental capacity and one experienced in business affairs, in order that substantial justice may be meted out". Succession of Molaison 213 La. 378 34 So. 2d 897 (1948). See also Smith vs. Mosbarger 18 Ariz. 19, 156 P. 79 (1916). Dennett vs. Dennett 44 N. H. 531 (1863).
9/ 17 Am Jur. 2d, Contracts, par. 149.
10/ Baedeker & Associates, Inc., vs. Hamtramck State Bank 257 Mich. 435, 438 (1932).
11/ International Transportation Association vs. Bylenga 254 Mich. 236, 239 (1931). See also Allied Stell and Conveyors, Inc. vs. Ford Motor Company 277 F. 2d 907 913 (6th Cir. (1960); W. T. Rawleig Company vs. Bowen 308 Mich. 122 (1944); Richeson vs. Wagar 287 Mich. 79, 85 (1938); and Warren vs. Federal Life Insurance Co. 198 Mich. 342, 353 (1917).

signing. This is particularly true where the practice of the School Board during the past several years has been the method of granting credit for past service to which the Association now objects.

The evidence leads to the conclusion that the language "shall then be adjusted to reflect established deviations which prevail" is part of the contract and enforceable, unless prohibited by law.

We then face the more difficult question as to whether the disputed language is an illegal or prohibited provision because contrary to law, including the Fourteenth Amendment to the Constitution of the United States and Section 2 of Article I of the Michigan Constitution.

Counsel for the School Board cite the language of the agreement which provides that "(t)he arbitrator shall have no power or authority to add to, subtract from, alter or modify the terms of this Agreement". This raises the question as to whether an arbitrator has power to determine the legality of contract language in the agreement which both parties knew, or shall have known, was included in the agreement.

There are arbitrators to take the position that arbitrators may not, or should not, be concerned with constitutional or statutory issues.12/ In my opinion, however, every contract includes all applicable provisions of the law and arbitrators, as well as all other decision making entities, are bound by the law applicable to the contract being construed.13/ Indeed, a separation of contract interpretation and the legality of the contract is impossible in any arbitrations.

An award which does not consider the law may result in error. Consider obvious examples. Should an arbitrator enforce a contract which provides payment of wages below those established in the Fair Labor Standards Act, or, if applicable, does he perform his function if he overlooks limitations on hours for women and minors, or maximum loads which women may carry in industrial employment? I think not.14/ The issue of civil rights is of increasing importance. Should an arbitrator in Michigan brush aside as inapplicable the statutory provisions which declares that: "The opportunity to obtain employment without discrimination because of race, color, or religion, national origin, or ancestry is hereby recognized and declared to be a civil right"?15/

Some arbitrators have found such limitation in contract language, thus in Spartan Mills and United Textile Workers of America,16/ the arbitrator considered himself limited to the contract by the language: "The arbiters' authorities shall be limited to matters involving the application of the terms of this agreement and must be settled within the terms of this contract. The arbiters may not modify, amend, or add to the terms of this agreement". The first sentence may confine the arbitrators to the terms of the agreement; the "standard" language contained in the second sentence should not be construed as limiting legal consideration.

That arbitrators are bound by applicable laws was well stated by arbitrator Hyman Parker:

> "All agreements are made subject to the applicable provisions of Federal or State laws, and the parties must be presumed to have intended an agreement which is not in violation of any law . . . . I am bound by the agreement and the provisions of the applicable Federal laws in determining the particular grievance involved" (emphasis supplied).17/

That Michigan favors the resolution of labor disputes by arbitration is indicated by the provisions of Section 9d of the Labor Mediation Act.18/ Similar recognition in the private sector may be found in Section 203 (d) of the National Labor Relations Act.19/

Thus, in Pennsylvania Electric Company,20/ an arbitrator construed "time worked" as required by the Fair Labor Standards Act, not withstanding an employer's contention that the contract should be interpreted without regard to the statute, and statutory issues left for resolution in another forum.

In National Steel and Shipbuilding Company,21/ an arbitrator determined a work jurisdiction dispute, and that as an arbitrator, he was not automatically preempted by Section 10 (k) of the National Labor Relations Act.

In Safety Electrical Equipment Corporation vs. Local 299, United Electrical Radio and Machine Workers of America,22/ the court enforced an award which interpreted the Connecticut Workman's Compensation Law. The court, citing United Steel Workers vs. Enterprise Wheel Corporation,23/ noted that it would not refuse to enforce an arbitrator's award "especially where, as here, a review of the arbitrator's opinion reveals no 'manifest disregard' of the law".24/

Both the School Board and Association agree as to the general rule under the Fourteenth Amendment of the United States Constitution and Section 2 of Article I of the Michigan Constitution.25/ Both School Board and

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12/ Bethlehem Steel Company 31 LA 423 (Arthur Stark, 1958); Natvar Corporation 24 LA 753 (Jules J. Justin, 1955); Spartan Mills 27 LA 256 (J. Fred Holly, 1956); Borg-Warner Corporation 9 LA 901 (John H. Lohman, 1948).

13/ There is one possible caveat. If the parties submit a case to an arbitrator with the direction that he is to consider only contract language, and not constitutional and/or statutory and/or common law, the arbitrator should either comply with the request of the parties or withdraw from the case. Here such limitation was not included in the submission, although the School Board urges that the language quoted in the text prohibits the arbitrator from considering the Constitutional issue. In my opinion, construing a contract as affected by law is not adding to, subtracting from, altering or modifying a contract, because the contract includes the law.

14/ See International Union, United Automobile, Aerospace and Agricultural Implement Workers of America vs. W. M. Chace Company 64 LRRM 2098 (U.S. Dist. Ct., E.D. Mich., 1960) where the District Court refused inforcement of an arbitrator's award because compliance with the award would have required the employer to have committed a misdemeanor.

15/ Mich. Stat. Ann. 17.458 (1). See Hotel Employers Association 47 LA 873 (Robert Burns, 1967) in which an arbitrator, construing the National Labor Relations Act, found that an agreement between a civil rights group and an employer's association breached NLRA.

16/ 27 LA 256, 258 (J. Fred Holly, 1956).

17/ 23 LA 45, 47 (1954).

18/ Mich. Stat. Ann. 17.454 (10.3).

19/ 29 U.S.C. 173 (d).

20/ 47 LA 526 (Emanuel S. Stein, 1967).

21/ 40 LA 627 (Edgar A. Jones, 1963).

22/ 62 LRRM 2786 (U.S. Dist. Ct. Conn., 1966).

23/ 363 U.S. 593 (1960).

24/ See also Coakley Brothers Company 47 LA 356 (Arvid Anderson, 1966); Houdaille Industries, Inc. 35 LA 455 (Milton H. Schmidt, 1960); Hawthorne-Mellody, Inc. 42 LA 1296 (Jacob D. Hyman, 1964): American Transportation Corporation 42 LA 1308 (Murray M. Rohman, 1964), and Buckstaff Company 40 LA 833 (George H. Young, 1963). In the last named case the arbitrator disclaimed that he was "construing or interpreting the National Labor Relations Act including that the discharge of these employees would be a violation of the Act", but it is clear that he applied the Statute. Evidentally this arbitrator felt the law so clear that he did not need to construe or interpret it. In many cases involving plant removal and subcontracting, arbitrators apply the National Labor Relations Act, and decisions rendered thereunder.

25/ That the Fourtheenth Amendment is applicable to the states is clear from a number of U.S. Supreme Court cases including Brown vs. Board of Education 349 U.S. 294 (1954); Shelton vs. Tucker 364 U.S. 479 (1960); Reynolds vs. Sims 377 U.S. 533 (1963).

Association recognize that the "fundamental rule of classification for the purpose of legislation is that it shall not be arbitrary; and it is not reviewable unless palpably arbitrary and unreasonable".26/

The School Board urged support of this principal(sic) by citing Michigan cases involving action by the state legislature and city councils. It urges that "(a) classification having some reasonable basis does not offend against that clause (Fourteenth Amendment) merely because it is not made with mathematical nicety or because in practice it results in some inequality".27/

The School Board cited a number of cases by courts of other states and Federal courts in support of its argument that the classification established by the disputed language offends both Federal and State constitutions.28/

The question as to whether a schedule of benefits applicable to public employees is reasonable, or arbitrary and unreasonable, is a matter of judgment which must be made, as objectively as possible, by the person charged with rendering the decision. The evidence, analysis of the contract, and study of the case law leads me to the conclusion that the distinction made between teachers performing the same duties in the Warren Consolidated Schools' System, but receiving different compensation, is unreasonable and arbitrary.

In its simplest form, teacher A who entered the system when three years was the maximum credit for past experience, but who actually had five years past experience, is two steps behind teacher B, performing the same duties, but who entered the school system in 1965 with five years past experience. This, in my opinion, is an arbitrary distinction which under the constitutional equal protection requirement violates the rights of the public employee receiving the lesser pay.

Court decisions support this opinion.

In Richards vs. Board of Education of Township High School District No. 201,29/ the court upheld a salary schedule which gave credit to teachers who took extra courses. Such a differentiation was clearly reasonable, the Illinois court citing an Indiana decision:30/

> "It is not unreasonable that the school authorities should require their employees to continue their training in order to keep abreast with the most modern and advanced methods, nor is it unreasonable that those who neglect further training should receive less compensation than those who seek to improve their efficiency and increase their value to the school corporation . . . . nor is there merit to the claim that a salary schedule based on professional growth operates to reduce the compensation of teachers who do not choose to comply".31/

The disputed provision in the Warren Consolidated Schools' contract has no such logical or reasonable basis, but provides for different pay to teachers who are performing the same duties and who are at the same "rate of growth" insofar as such standard can be measured.32/

In Kacsur vs. Board of Trustees of South Whittier Elementary,33/ a School District sought to abolish a salary schedule applicable to present teachers who had attained tenure from receiving the salaries they had received the previous year. The court in holding that the school's action was arbitrary and unreasonable said:

> "It is well established that a permanent teacher has no vested right to a particular salary and that such salary may be changed by an administrative authority . . . . However, there are limitations on the powers of Boards of Trustees to change salaries of permanent teachers. One of the 'legal consequences' referred to the Abraham case (Abraham v. Sims 2 Cal. 2d 698, 42 P. 2d 1039) is that the fixing of salaries must not be discriminatory, arbitrary, or unreasonable. The above cited cases also qualify the general power of the administrative agencies to fix the salaries of permanent teachers. The cause of this qualification it necessarily follows that there must be a comparison with the salaries of other teachers or salaries of previous years".

In Hutton vs. Gill,34/ the court held that a salary schedule which made a distinction between married and unmarried teachers was "unlawful and arbitrary, and formed no rational basis for a classification". The court voided the schedule.

In Aebli vs. Board of Education of City and County of San Francisco,35/ the court held that a School Board had power to reduce salaries at the commencement of the school year:

> "provided that there is a reasonable basis for such a reduction and provided that the reduction is not the result of unreasonable, arbitrary, or capricious act . . . . but this power is not unlimited. The Board has no power to discriminate against any teacher. It cannot pick out some teachers in a particular category, and without change in duties or function classify that group for salary purposes different from others in the same category, (Fry vs. Board of Education, 17 Cal. 2d, 753,112 P. 2d 229), nor can it reduce salaries in an arbitrary, capricious or unreasonable manner." (p. 625)36/

The Association pointed out with considerable logic, that in many lines of occupation those with longer seniority are granted advantages greater than those who enter the area of employment at a later date.37/ The seniority

26/ In Fitzpatrick vs. Liquor Control Commission 316 Mich. 83, 94 (1946), held that a statute prohibiting female bartenders was not outside of the power of the legislature. In light of recent legislation, the Supreme Court might now decide this case different than it did in 1946.

27/ [Reference not cited.]

28/ Among them are Richards vs. Board of Education of Township High School District No. 201 21 Ill. 2d 104, 171 N.E. 2d 37 (1960); Kacsur vs. Board of Trustees 18 Cal. 2d 586.116P. 2d 593 (1941); Fry vs. Board of Education 17 Cal. 2d 753.112P. 2d 229 (1944); Alston vs. School Board of City of Norfolk 112 F. 2d 992 (4th Cir. 1940). Hutton vs. Gill 212 Ind. 164, 8 N.E. 2d 818 (1937).

29/ 21 Ill. 2d 104, 171 N.E. 2d 37 (1960).

30/ Board of School Trustees, School City of Peru vs. Moore 218 Ind. 283, 33 N.E. 2d 114 (1941).

31/ 171 N.E. 2d 42.

32/ I do not mean to imply by anything I say in this opinion that a School Board may not unilaterally, if there is no bargaining agent, or by agreement, place a top limit on the amount of past service credit to which a teacher may be entitled. In my opinion, a maximum limit is clearly within the power of the School Board acting unilaterally or by agreement with a bargaining agent but all teachers in the system must be treated in the same manner.

33/ 18 Cal. 2d 586, 116 P. 2d 593 (1941).

34/ 21 2 Ind. 164, 8 N.E. 2d 818 (1937).

35/ 62 Cal. App. 2d 706, 145 P. 2d 601 (1944).

36/ There was a dissent in this case and it was a close question as to whether the act of the School Board involved was, in fact, discriminatory. The majority found that the School Board "was making overall uniformity impossible by changing its entire policy as to evaluation of outside experience". While one may agree, in this case, with the dissenting judges, the decision stands for the non-discriminatory uniformity principle which, in my opinion, must be applied here, and this voids the disputed language.

37/ Mayflower Farms, Inc. vs. Ten Eyck 297 U.S. 266 (1936), Morey vs. Doud 354 U.S. 457 (1957), McLaughlin vs. Florida 379 U.S. 184 (1964), and Weadock vs. Judge of Recorder's Court 156 Mich. 376 (1909).

principle is well known in collective bargaining agreements in industry. In the instant case, the contract se provides the reverse of seniority preference.

I disagree with the School Board argument that payment to a new teacher is like a bonus paid to a football player. The comparison is not apt. The football player receive his bonus once. A teacher who receives a lesser amount of past service credit than teachers subsequently hired continues to be behind in compensation as long as the teacher works in the system. If this were a single payment made to a teacher when hired, the comparison would be correct; but here the difference in pay for teachers in the same category continues year after year.

I base decision on the ground that the Warren Education Association in executing the agreement containing the disputed language signed the contract which included a provision which contravenes the Federal and State Constitutional equal protection provisions and that these are applicable to public employees.

Collective bargaining representatives are required to represent their constituents in good faith. Ford Motor Company vs. Huffman,[38] it might be urged that remedy is not a declaration that the disputed language is a nullity, but should be against the bargaining representative for breach of its duty of fair representation such as in National Labor Relations Board vs. Miranda Fuel Co., Inc.,[39] and other cases in which action has been brought against a union either under Section 8 (b) of the National Labor Relations Act or by an action at law.

38/ 345 U.S. 330 (1953), Humphrey vs. More 375 U.S. 335 (1964); Ostrofsky vs. Unified Steel Workers of America 171 F. Supp. 782 (D.C.Md., 1959) affirmed, memorandum decision, 273 F. 2d F. 2d 614 (4th Cir., 1960).

39/ 326 F. 2d 172 (2d Cir., 1963).

There is a distinction in this case. No charge can be filed against a union under the Public Employment Relations Act as the statute does not include union unfair labor practices. Then the Association sought to correct the error of its representatives as soon as the error was discovered. But more importantly, the real issue here is not the Association's failure to represent its employees, except for the negligence of its representatives, but whether the contract provision by reason of its constitutional infringement, is a nullity. In my opinion, it is.

I find that the words in Schedule A "which shall then be adjusted to reflect established deviations which prevail" are not part of the contract dated September 14, 1966, between the Board of Education of Warren Consolidated Schools and the Warren Education Association.

AWARD

The teachers with outside experience employed prior to the 1966-1967 school year who have not been granted credit for prior teaching experience or military service in the same manner as teachers first employed for the 1966-1967 school year are entitled to the same credit, and shall be paid, effective for the 1966-1967 school year, in the same manner as teachers first employed for said year.

I reserve jurisdiction to determine the amount due to each of the teachers entitled to salaries in excess to the salaries received during the 1966-1967 school year in the event the parties are unable to make such determination.

Robert G. Howlett, Arbitrator

February 12, 1967

Negotiation Agreements

AGREEMENT

between

THE SCHOOL COMMITTEE

of the

CITY OF SPRINGFIELD, MASSACHUSETTS

and the

SPRINGFIELD EDUCATION ASSOCIATION (NEA)

Pursuant to the provisions of Section 178 of Chapter 149 of the General Laws of Massachusetts, this Contract is made this 23rd day of March, 1967, by the SCHOOL COMMITTEE OF THE CITY OF SPRINGFIELD (hereinafter sometimes called the "School Committee") and the SPRINGFIELD EDUCATION ASSOCIATION (hereinafter sometimes called the "Association").

W I T N E S S E T H :

ARTICLE I

RECOGNITION

A. Pursuant to the June 27, 1966 Certification of Representatives by the Massachusetts Labor Relations Commission, the School Committee recognizes the Springfield Education Association as the exclusive bargaining agent and representative of the following employees of the Springfield Public Schools for the purposes of collective bargaining with respect to wages, hours, other conditions of employment, the negotiation of collective bargaining agreements, and any questions arising thereunder: all Teachers, Counselors, Librarians, Reading Clinicians, Department Heads in the Elementary, Junior High, and Senior High Schools, Therapists, Special Project Researchers, Psychological Examiners, but excluding all other employees of the Springfield Public Schools.

Unless otherwise indicated, the employees in the above unit will be hereinafter referred to as the "teachers".

B. As sole collective bargaining agent, the Association will accept into voluntary membership all teachers covered by this Contract without regard to race, color, creed, national origin, sex, or marital status, or previous affiliation with other teacher organizations.

The Committee and the Association agree that there will be no discrimination in the hiring of employees or in their training, assignment, promotion, transfer, or discipline because of race, creed, color, religion, national origin, political activities, Association activities, sex, domicile, or marital status.

C. Except as specifically abridged, delegated, granted or modified by this Contract or any supplement thereto or by Section 178 of Chapter 149 of the General Laws of Massachusetts, all of the rights, powers and authority held by the School Committee prior to the effective date of said Contract are retained by the School Committee and the exercise of said rights, powers and/or authority shall not be subject to the grievance procedure and/or arbitration.

ARTICLE II

EXISTING CONDITIONS OF EMPLOYMENT

Except as this Contract shall hereinafter otherwise provide, all conditions of employment applicable on the effective date of this Contract to employees covered by this Contract, as established by the School Committee's Rules and Regulations in force on the said date, shall continue to be so applicable during the life of this Contract. Nothing in this Contract which changes pre-existing School Committee Rules and Regulations shall operate retroactively.

ARTICLE III

TEACHING HOURS AND TEACHER LOAD

The School Committee and the Association recognize and agree that a teacher's responsibility to his students and his profession generally entails the performance of duties and the expenditure of time beyond the regular work day, but that time and work schedules can and should be established applicable to teachers in the normal course of their employment. To this end, the following conditions of employment shall be effective except in circumstances beyond the control of the School Department in the administration of this Contract.

A. Work Day.

1. Subject to the provisions of Paragraph 2 below, every teacher shall be in his school building and available for duty at least fifteen minutes before the beginning of each school day in his building.

2. On every school day between October first and April first, and on every other school day when the weather is inclement, every school building shall be open to pupils thirty (30) minutes before the beginning of each school day. Each Principal shall see that a sufficient number of teachers, equitably assigned, is in attendance for proper supervision.

3. Each teacher shall be in his school building and available for duty after the closing of school for a period of time which shall be sufficient to take care of those details which usually are connected with the closing of the daily session, such period of time not to exceed fifteen (15) minutes. The parties to this Contract agree that fifteen (15) minutes may, on occasions, be insufficient to meet with the Principal if requested to do so, to meet with pupils who may wish assistance or advice, for makeup nights, for supervision of detention sessions in accordance with present administrative practice, and for situations beyond the control of school officials; on such occasions the fifteen minute limit does not apply.

4. Special teachers and special project teachers shall observe the same working hours as teachers of the same level (i.e., elementary school, junior high school, senior high school).

5. Insofar as possible, elementary school teachers shall have a duty-free lunch period of one (1) hour. This, however, shall not prevent teachers from requesting lunch duty.

6. Secondary school teachers shall have a duty-free lunch period of at least one-half (1/2) hour between the end of one teaching period and the beginning of another teaching period.

7. All secondary school teachers shall have the equivalent of at least one (1) preparation period each day, during which they shall not be assigned to any other duties.

8. In addition to home-room duty and study hall supervision, secondary academic subject area school teachers shall not be assigned more than five (5) teaching periods per day. Secondary school teachers of fine and industrial arts, physical education, and home economics may be assigned not more than six (6) teaching periods per day.

9. No secondary school teacher shall, without his agreement, be required in any one semester to teach more than two subjects or to make more than two teaching preparations; except, however, that such teachers may be required to make an additional preparation if they are relieved of homeroom obligations and extra duties such as study hall. Exceptions to this provision may be made only when necessary to do so in the best interests of the educational system.

10. With his Principal's approval a teacher who is teaching his first year in the Springfield Public Schools shall, upon his request and without loss of salary, be granted the equivalent of two days for the observation of other teachers. This may be extended upon recommendation of an assistant superintendent.

11. Every department chairman, in addition to his preparation period, shall be released from classroom instruction for one period per day or the equivalent for departmental activities. No teacher shall be temporary chairman of a department for a period greater than one year.

12. Whenever possible, floating teachers shall be relieved of all homeroom duties.

B. Work Year.

1. For the duration of this Contract, the work year of teachers covered by the salary schedule set forth in Article XXIV shall be no more than 185 work days. The "work year" shall include any days when teacher attendance is required.

2. Effective September, 1967, the work year of counselors shall be ten (10) days more than the work year as defined in Paragraph 1 above. Said ten (10) additional days shall be scheduled immediately following the close of school in June and/or immediately preceding the opening of school in September, and to the extent possible at a mutually agreed upon time.

C. After School Meetings.

1. The number of meetings required for any teacher in any one school year shall not exceed twenty (20). Teachers may, in addition, be required to attend up to ten in-service and/or curriculum development meetings. Under normal circumstances, staff meetings shall not exceed one (1) hour. The Association shall encourage voluntary participation in occasional curriculum development and in-service meetings which shall have as their purpose the improvement of the instructional program in the Springfield Public Schools.

2. Attendance at evening meetings such as P.T.A. affairs, except annual Open House, shall be at the option of an individual teacher, but the School Committee and the Association encourage active participation in such meetings as part of the teacher's responsibilities.

D. No teacher in the bargaining unit shall be required to teach fine or industrial arts, home economics or a laboratory class unless he is qualified.

ARTICLE IV

RELIEF FROM NON-TEACHING DUTIES

The Committee and the Association acknowledge that a teacher's primary responsibility is to teach and that his energies should, to the extent possible, be utilized to this end. Therefore, they agree as follows:

1. Teachers will not be required to drive pupils to activities which take place away from the school building.

2. (a) The Committee agrees to employ ten (10) full-time qualified teacher aides or the equivalent by the beginning of the 1967-68 school year in order to relieve teachers, to the extent possible, from performing non-teaching administrative and clerical tasks.

(b) A study committee will be established as soon as practicable to determine the most effective method of utilizing said aides, and the recommendations will be submitted to the Superintendent for transmission to the School Committee. Said study committee shall include representatives appointed by the Superintendent and representatives appointed by the Association.

ARTICLE V

TEACHING ASSIGNMENTS AND TRANSFERS

A. As soon as practicable, and under normal circumstances not later than June 30, each teacher shall be notified in writing of any changes in the subject area of his program for the ensuing school year, including the school to which he will be assigned, the grades and/or subjects that he will teach, and any special or unusual classes or assignments that he will have, provided that in the event of a change in circumstances or conditions during the month of May through September (e.g., death, resignation, leave of absence, unanticipated change in enrollment), such assignments may be changed as required to meet the situation. The teacher affected shall be sent immediate notice when the change is made.

B. In order to assure that pupils are taught by teachers working within their areas of competence, teachers shall not be assigned, except temporarily and for good cause, to subjects and/or grades or other classes outside the scope of their teaching certificates and/or their major or minor fields of study.

C. Teachers who desire a change in grade and/or subject assignment or who desire to transfer to another building shall file a written statement of such desire with the office of the Superintendent not later than March 1. Such statement shall include the grade and/or subject to which the teacher desires to be assigned and/or the school or schools (in order of preference, if the teacher has preferences) to which he desires to be transferred. As soon as practicable the Office of the Superintendent shall, upon request, make available to each teacher who has filed such a statement, and to the Association, systemwide data showing the names of persons who have been reassigned or

transferred and the nature of such reassignment or transfer.

D. In the determination of reassignments and transfers, the convenience and wishes of the individual teacher will be honored to the extent that these considerations do not conflict with the instructional requirements and best interest of the school system and the pupils. No assignment of new teachers shall be made until all transfer requests have been considered. Any involuntary reassignment or transfer shall be made only after a meeting between the teacher involved and the Superintendent and/or his designees, at which time the teacher shall be notified of the reasons for the reassignment or transfer. In the event that a teacher objects at this meeting to the reassignment or transfer, the Association will, upon request of such teacher, send a representative with the teacher to meet with the Superintendent or his designee to discuss the reassignment or transfer.

E. Notice of transfer shall be given to teachers as soon as practicable, and under normal circumstances, not later than June 30.

F. In arranging schedules for teachers who are assigned to more than one school, every effort will be made to limit the amount of inter-school travel, and gasoline privileges shall be available. Teachers shall be notified of any change in their schedules as soon as practicable.

G. All vacancies, other than those mentioned in Article VI, to be filled in the secondary schools as of the first day of the school year shall be posted in each building prior to June 1 of the preceding school year if known prior to that date.

H. All vacancies in the secondary schools on the second Friday of the new school year which were not known prior to June 1 shall be posted in each building on the Monday following such Friday.

ARTICLE VI

PROMOTIONS

A. Promotional positions are defined as (1) any professional position not specified in Article I above of this Contract; and (2) the following positions specified in Article I: Counselor, Department Head in any Elementary, Junior High or Senior High School, Psychological Examiner, Special Project Researcher and Reading Clinician.

B. Every vacancy in any promotional position shall be publicized by a notice posted in every school building for at least fifteen (15) calendar days, exclusive of vacation, and at least thirty (30) calendar days, exclusive of vacation, in advance of the date of filling such vacancy. Such notice shall clearly set forth the specifications, qualifications, and compensation of the position. A copy of every such notice shall be available to the Association upon request.

C. Every teacher who desires to fill any such vacancy shall file his application therefor in writing with the Superintendent within fifteen (15) calendar days, exclusive of vacation, following the posting of the notice of the vacancy.

D. Every vacancy in paragraph A above shall be filled by an applicant covered by this Contract if his educational qualifications and experiences for the position shall be substantially equal to those of any other applicant not covered by this Contract.

E. Nothing in this Contract shall prevent the School Committee from making acting appointments until positions can be filled with permanent appointments as provided in this Contract. Unless qualified applicants are unavailable, all permanent appointments shall be made within ninety (90) calendar days, exclusive of vacations, of the date on which the vacancy occurred except in the case of the superintendent and/or assistant superintendents. Time spent in such acting appointment shall not be used as an indication of superior qualifications for the position.

ARTICLE VII

TEACHER FACILITIES

A. By the beginning of the 1967-68 school year, the following conditions will prevail in each school building:

1. Each classroom shall have space (e.g., closet, file cabinet, storage container, desk with lock and key) in which teachers may safely store instructional materials and supplies.

2. Teacher parking facilities shall be plowed as soon as practicable.

3. There shall be a pay telephone to be reserved for the exclusive use of teachers in the teachers' lounge or other comparable facility. Such telephone shall be maintained as long as it is self-supporting.

B. To the extent practicable within existing facilities, each school building shall, by the beginning of the 1967-68 school year, have the following facilities:

1. A private dining area for the exclusive use of the teachers in each building in which lunchroom facilities are provided for students. If this is not practicable within existing facilities, an adequate number of separate tables shall be reserved for the exclusive use of the teachers.

2. A teacher workroom containing adequate equipment and supplies to aid in the preparation of instructional materials.

3. An appropriately furnished room for use as a teacher lounge. To the extent possible, said room is to be in addition to the aforementioned teacher workroom.

4. An adequate portion of the parking lot at each school building will be reserved for teacher parking.

5. Counsellors' offices arranged to insure privacy.

C. In connection with the construction of new school buildings and major reconstruction of existing school buildings, the School Committee shall make the following recommendations to the School Building Commission:

1. Each classroom shall be designed so that the educational program as approved by the School Committee can be effectively implemented.

2. Adequate teacher parking facilities shall be provided.

ARTICLE VIII

CLASS SIZE AND COMPOSITION

A. A joint Administration-Association Study Committee shall be established as soon as practicable to make recommendations as to the appropriate number of pupils per teacher in the Springfield School System. The said Study Committee shall submit its recommendations through the Superintendent of Schools to the School Committee.

B. The following conditions shall prevail by the beginning of the 1967-68 school year:

1. The normal assignment for general auxiliary classes is eighteen (18) pupils. The enrollment in special auxiliary classes is limited to fifteen pupils.

2. No class of emotionally disturbed children shall have more than eight (8) pupils.

ARTICLE IX

SPECIALISTS

A. 1. A Study Committee on which shall be included appropriate representation of the Association shall be established as soon as practicable to consider the desirability of the self-contained classroom vis-a-vis the possible utilization in the Springfield elementary schools of various special teachers.

2. The report of said Study Committee shall be presented to the School Committee not later than September 1, 1968 for its consideration.

B. 1. The administration shall periodically review the needs of the Springfield School System and shall make recommendations to the School Committee for its consideration in regard to the following specialists:

Alien Education Teachers
Teachers of the Deaf
French (elementary school) Teachers
Spanish-English (elementary school) Teachers
Helping Teachers
Home Teachers
Instrumental Music Teachers for Elementary, Junior and Senior High Schools
Reading Clinicians
Safety Teachers
School Adjustment Counselors
Shriners Hospital
Speech Therapists
Teachers of the Blind
Psychological Examiners
Guidance Counselors
Teachers of the Physically Handicapped
Teachers of the Mentally Retarded
Teachers of the Emotionally Disturbed
Teachers of the Educationally Disadvantaged

2. An attempt shall be made to employ for the 1967-68 school year such additional specialists in the above categories as already have been recommended by the Administration.

3. Except in unusual circumstances as determined by the Administration, none of the specialists employed in any of the categories set forth in paragraph 1 above shall be used as substitutes for regular classroom teachers. The determination of the Administration shall be subject to the grievance procedure set forth in Article XXV of this Contract.

ARTICLE X

SUMMER SCHOOL PROGRAM

A. The School Committee and the Association recognize that the summer school program, including any projects financed by Federal funds, may vary substantially from year to year, may offer the opportunity for experimentation, and may call for flexibility in approach.

B. Following the determination by the School Committee of the summer program for the year, the School Committee shall adequately publicize its general scope and content, and the positions to be filled by teachers, including a notice in every school not later than April 15; except, however, that such notice regarding any project financed by Federal funds shall be posted as soon as possible.

C. No teaching position in the summer school program shall be filled by a teacher not covered by this Contract if there is an equally qualified applicant for such a position who is so covered. Preference shall be given to applicants who have completed at least one (1) year of teaching in the Springfield School System.

D. When applicants for summer school positions exceed the positions available, the best qualified applicant, in the judgment of the Superintendent, for each position will be employed. In making recommendations for summer school positions the Superintendent or his designee shall consider the teacher's area of competence, major or minor field of study, and quality of teaching performance.

ARTICLE XI

PROTECTION OF TEACHERS

A. 1. Principals and teachers shall be required to report any case of assault on teachers in connection with their employment to the Superintendent of Schools or his representative. The Superintendent of Schools or his representative shall acknowledge receipt of such report and shall report this information to the School Committee.

2. The alleged assault will be promptly investigated by the principal or his designated representative and the appropriate assistant superintendent or his designated representative. Subject to the requirements of Paragraphs 3 and 4 below, these two persons and the Superintendent shall determine what action shall be taken by the School Department. This decision will be communicated to the teacher concerned.

3. If the assault is by an adult who is not a pupil, the School Department will promptly report the incident to the proper law enforcement authorities.

4. In either case (pupil or non-pupil adults), the School Department will render all reasonable non-monetary aid to the teacher in connection with handling of the incident by law enforcement, legal, and medical authorities.

B. Whenever a teacher is absent from school as a result of injury caused by an assault arising out of and in the course of his employment, he shall be paid his full salary (less the amount of any workmen's compensation payments) for the period of such absence without having such absence charged to the annual sick leave or accumulated sick leave, up to a maximum of one (1) year and in situations in which the teacher is blameless.

The School Committee shall have the right to have the teacher examined by a physician designated by the School Committee for the purpose of establishing the length of time during which the teacher is temporarily disabled from performing his duties; and, in the event that there is no adjudication in the appropriate workmen's compensation proceeding for the period of temporary disability, the opinion of said physician as to the said period shall control.

C. So far as permitted by Chapter 41, Section 100C of the General Laws of the Commonwealth as amended by Chapter 513 of the Acts of 1964, the School Committee shall provide indemnification whenever any teacher shall become eligible therefor.

D. 1. The School Committee shall reimburse a teacher for:

(a) Any clothing or other personal property damaged or destroyed as the result of an assault suffered in the course of his employment; and

(b) The cost of any medical, surgical or hospital services (over and above the amount of any insurance reimbursement received by said teacher) incurred as the result

of any assault suffered in the course of his employment. The cost per assault not to exceed $200.

2. The foregoing shall apply to situations in which the teacher is blameless.

ARTICLE XII

TEACHER EVALUATION AND FILES

A. 1. All observation of the teaching performance of any teacher shall be conducted openly and with the full knowledge of the teacher. No evaluation of any teacher by any supervisor shall be completed and filed unless and until the supervisor shall have observed the teacher at work at least two (2) times, or three (3) times if the teacher shall promptly after the second observation request that he be observed again. No teacher shall receive adverse comments from any observer in the presence of pupils.

2. Each teacher shall be given his evaluation report and shall have the opportunity to discuss such report with his supervisor and/or Principal. After such discussion, the teacher shall sign the report, but the teacher's signature does not necessarily indicate agreement with its contents. The teacher may request a delay of one (1) day prior to the signing and filing of such report.

3. Any adverse evaluation of a teacher's performance filed by the teacher's supervisor and/or Principal may be subject to the grievance procedure herein set forth, but only on the grounds of bad faith and/or discrimination.

B. 1. Upon written request, each teacher shall have the right to review at a time mutually convenient the contents of his personnel file, excepting, however, any confidential references given at the time of his employment. At the teacher's request a representative of the Association may accompany the teacher in such review. The review shall be made in the presence of the administrator responsible for the safekeeping of such file. Facilities shall be available for the teacher to make photocopies of such contents and records as concern his work or himself, except in circumstances beyond the control of the administration.

2. A teacher shall have the right to answer in writing any complaints filed in his personnel file, and his answer shall be attached to the complaint and reviewed by the Superintendent of Schools.

C. No teacher shall be disciplined, reprimanded, reduced in rank or compensation or deprived of any professional advantage without just cause. It is expressly understood that the School Committee retains all rights and obligations which it has under the tenure law.

ARTICLE XIII

LEAVES OF ABSENCE WITH PAY

A. 1. Each teacher is entitled to leave of absence for disability and emergency with full pay up to fifteen (15) working days in each school year in which he is serving in the Springfield Public Schools as of the first day of said school year whether he reports for duty or not. Unused leave of absence for disability and emergency shall be accumulated from year to year so long as the teacher remains continuously in the service of the School Committee without limitation, provided, however, that not more than 150 days may be used in any one (1) school year.

For services prior to date of this Contract, each teacher shall be credited for such unused disability and emergency leave as he has accumulated since the initial date of his present employment under the policies of the School Committee in effect during the years of continuous employment.

2. Each teacher upon request shall receive yearly notice of his accrued disability and emergency leave.

3. Absences of five (5) or more consecutive school days because of disability shall be certified by a physician.

4. For the purpose of this Contract, "Emergency" may be interpreted to include such cases as home exigencies, quarantine by order of the Health Department, serious illness of a member of the employee's immediate family or permanent household requiring the personal care of that member by the employee, or for court cases due to no negligence on employee's part. In the case of married women, leave for illness of a child may be granted if the employee is the sole support of the family. For emergency leave a statement of circumstances shall be submitted by the employee, endorsed by the principal or other supervisory officer and forwarded to the Central Office for consideration by the Committee on Disability and Emergency Leave.

5. Any teacher covered by this Contract if excluded or removed from employment because of tuberculosis in a communicable form, shall be carried with pay for the length of time necessary to resume his teaching duties; but in no event to exceed two years.

B. Each teacher may, upon written request and with the advance approval of the Superintendent or his designee, be granted one (1) day's leave of absence with pay each school year for legal or business matters which cannot possibly be taken care of other than during school hours. This time shall be charged against the teacher's disability and emergency leave.

C. Upon the written application of a teacher covered by this Contract the School Committee shall grant leave of absence with pay of not more than three (3) days in any one school year for observance of religious holy days.

D. 1. A teacher covered by this Contract shall be granted leave of absence with pay for one (1) day to attend commencement exercises at which he will be awarded a degree or sixth-year professional diploma in education.

2. A teacher covered by this Contract shall be granted leave of absence with pay for one (1) day to attend commencement exercises at which a member of his immediate family will be awarded a degree, or a diploma which represents the completion of at least two years of post-high school study. For the purpose of this section immediate family is defined as father, mother, husband, wife, son or daughter.

3. The leave provided for in paragraph 1 above shall not be charged against the teacher's disability and emergency leave; the leave provided for in paragraph 2 above shall be so charged.

E. 1. Each teacher shall be granted one day per year without loss of pay to visit another school system or to attend a convention of a professional organization, subject to prior approval of the Superintendent and subject to a report of how the day is spent being turned in to the principal. The Superintendent has the discretion to grant more than one day leave with pay if he is convinced that such leave will be of direct benefit to the Public School System.

2. Upon written request and approval of Principal, Director of Music Education, and the Superintendent of Schools, a music teacher may be released from his teaching duties, without loss of pay, in order to perform with the Springfield Symphony Orchestra only during the annual student concerts presented for the Springfield Public Schools.

3. The leave provided for in paragraphs 1 and 2 above shall not be charged against the teacher's disability and emergency leave.

F. 1. Each teacher covered by this Contract shall be granted bereavement leave under the following conditions:

(a) He shall submit proof of relationship and death satisfactory to his principal or supervisor, whereupon he shall be granted bereavement leave with full pay not to exceed three (3) regularly scheduled consecutive school days, such leave not to extend more than one day beyond the date of the funeral of the deceased relative.

(b) For the purposes of this section, leave with pay shall be granted on the death of husband, wife, mother, father, son, daughter, brother, sister, grandfather, or grandmother of either the teacher or his spouse; or any individual or relative of the teacher or his spouse who was actually living in the immediate household of the teacher at the time of death or at the commencement of the final illness or accident.

2. The present method of providing released time to attend funeral services for a co-worker shall be continued during the term of this Contract.

3. The leave provided for in paragraphs 1 and 2 above shall not be charged against the teacher's disability and emergency leave.

G. If a teacher's attendance at summer school is required (travel time to said summer school shall not be considered as required time), he shall be released at least one week prior to the closing date of the school year without loss of pay. Said time shall be charged to the teacher's disability and emergency leave and the teacher's pay for said days shall be reduced by the amount of any compensation which he received by reason of such attendance. The total number of teachers released under this section shall not exceed five. At the option of the Superintendent and with the approval of the School Committee additional persons may be allowed time off to report for summer school.

H. A teacher covered by this Contract who is a member of a state or national reserve component shall be entitled to up to seventeen (17) days off with pay to serve with said reserve component. This leave shall not be charged against the teacher's disability or emergency leave.

I. Except in circumstances beyond his control, each teacher who has been absent shall notify his principal of his intended return by 2:30 P.M. of the day prior to said return.

ARTICLE XIV

LEAVES OF ABSENCE WITHOUT PAY

A. A married teacher on tenure covered by this Contract shall be granted a maternity leave of absence without pay or increment to become effective not later than six (6) months after the commencement of pregnancy and to terminate not more than two (2) years after the termination of pregnancy. It is necessary that the employee notify the Superintendent's office of the termination of pregnancy as soon as practicable in order that a terminal date for maternity leave can be set.

B. Military leave without pay shall be granted to any teacher who is inducted or enlists in any branch of the armed forces of the United States. Upon return from such leave, a teacher shall be placed on the salary schedule at the level which he would have achieved had he remained actively employed in the system during the period of his absence up to a maximum of four (4) years.

C. Upon his request any teacher covered by this Contract who is on tenure shall be granted a leave of absence without pay for two (2) years to work with the Peace Corps. Upon his return to the Springfield School System, his salary shall be the same as he would have received had the period of his Peace Corps service been spent in the Springfield School System.

D. Upon his request any teacher covered by this Contract who is on tenure shall be granted a leave of absence without pay for two (2) years to work with the Commonwealth or National Teacher Corps in a community other than Springfield. Upon his return to the Springfield School System his salary shall be the same as he would have received had the period of his service in the Teacher Corps been spent in the Springfield School System.

E. Any teacher on tenure covered by this Contract may, upon his written request to the School Committee, be granted an unpaid leave for the following reasons: Prolonged illness, needed rest, and necessities of the home; professional improvement when teachers are not eligible for sabbatical leaves of absence; for teaching in an acceptable school system in the United States when teachers are not selected as exchange teachers; for teaching at a United States military installation abroad; or for any other activity which would, in the opinion of the Superintendent, redound to the future benefit of the Springfield School System.

F. 1. Teachers who are in service more than fifty (50) percent of any school year shall be granted the earned increment and any special increase in accordance with the established requirements relating thereto. Ordinary periods of absence shall be included in computing amount of service. Periods of absence on leave shall not be included in such computation.

2. All benefits to which a teacher was entitled at the time his leave of absence under this Article XIV commenced, including unused accumulated sick leave, shall be restored to him upon his return, and he will be assigned to the same position which he held at the time said leave commenced; if available, or, if not, to a substantially equivalent position.

3. Leaves of absence may be extended by the School Committee. The right to increment credit and the same or a substantially equivalent position upon return from an extended leave shall be determined by the School Committee in each case.

ARTICLE XV

SABBATICAL LEAVE

Teachers covered by this Contract may, subject to the approval of the School Committee, be granted sabbatical leave of absence of one (1) year or one-half (1/2) year for study or research, subject to the following conditions:

A. Not more than two (2) percent of the teachers may be absent on sabbatical leave at any one time.

B. Application for sabbatical leave shall be submitted to the Superintendent of Schools on or before June 1 if it is to become effective in September, and on or before December 1 if it is to become effective at mid-year. A teacher requesting such leave shall submit an Application for Approval of Activities for Professional Improvement, specifying the reasons for which the leave is requested. Evaluation of each application on the basis of services rendered by the applicant and the use to be made of the requested sabbatical leave shall be the responsibility of the Evaluating Committee which shall report its findings to the Superintendent.

C. Sabbatical leave shall be granted only to teachers who have served for at least seven (7) years in the Springfield School System. A second or third such leave shall not be authorized until a teacher shall have reestablished eligibility by serving another period of seven (7) years.

D. Teachers on sabbatical leave shall receive from the School Committee fifty (50%) percent of the salaries which they would have received if they had remained on active duty.

E. The Superintendent of Schools shall require that a teacher on sabbatical leave submit a report to him concerning the manner in which his leave is being used.

F. Prior to the granting of a sabbatical leave, a teacher shall enter into written agreement with the School Committee that upon the termination of such leave, he will return to service in the Springfield School System for a period equal to twice the length of the leave and that, in default of completing such service, he shall refund to the City of Springfield an amount equal to such proportion of salary received by him while on leave as the amount of service not actually rendered as agreed bears to the whole amount of service agreed to be rendered.

G. Upon his return from sabbatical leave, a teacher's salary shall be the same as he would have received had the period of his leave been spent in the Springfield School System, and he shall be returned to the same position which he held at the time said leave commenced, if available, or, if not, to a substantially equivalent position.

ARTICLE XVI

GROUP INSURANCE AND TAX-SHELTERED ANNUITY PLANS

A. All teachers covered by this Contract shall be eligible to participate in the present Group Insurance Plan, in accordance with the provisions of said Plan in force and effect for employees of the City of Springfield, or in any comparable plan subsequently established to cover solely employees of the Springfield Public Schools.

B. Teachers shall be eligible to participate in a tax-sheltered annuity plan established pursuant to appropriate Federal, State and local law.

ARTICLE XVII

ASSOCIATION PRIVILEGES

A. After the close of school on school days, the Association shall have the right to use designated areas in school buildings for meetings of teachers provided there is no interference with any scheduled school activities. The use of such designated areas shall be arranged with the principal in advance. All requests for building use shall conform to School Committee Rules and Regulations provided, however, that there shall be no cost to the Association for such meetings so long as no overtime custodial cost to the School Committee is involved.

B. The Association may distribute materials dealing with proper and legitimate business of the Association through teachers' mail boxes.

C. The Association shall have the right to place a bulletin board space of at least nine square feet but not more than twelve square feet in area, for the purpose of posting materials dealing with proper and legitimate business of the Association. Such space shall be provided for the Association in each school for the unrestricted use of the Association. Such boards shall be placed in a well-lighted area in the office or teachers' exchange. In school buildings which do not have bulletin boards for this purpose, the Association shall have the right to install them.

D. Officers and building representatives of the Association may request, and they may be granted professional leave to attend meetings and workshops held by the Massachusetts Teachers Association and/or the National Education Association. Such leave days are not to exceed an aggregate total of thirty (30) for each school year.

E. The School Committee shall comply with any reasonable request by the Association for available information, excluding confidential personnel records, possessed by the School Committee which is relevant to the processing of any grievance by the Association or to the negotiation by the Association and the School Committee of any condition of employment.

F. The Association shall be provided with a copy of the Official Agenda of each regular School Committee meeting prior to each meeting. The Assistant Superintendent in charge of personnel shall also, the day following such meeting, provide the Association with copies of all other non-confidential materials which are relevant to this Contract, and which were distributed to the School Committee members, and which are in the possession of said Assistant Superintendent. The Association shall be provided with copies of the official minutes of each regular School Committee meeting as soon as possible after the approval of the said minutes by the School Committee.

G. Any teacher covered by this Contract and elected president of the National Education Association, president of its Department of Classroom Teachers or president of the Massachusetts Teachers Association shall, upon his written request of the School Committee, be granted an unpaid leave of absence not to exceed one (1) year in duration for the purpose of discharging the duties of such office; and, upon the Association's written request of the School Committee, an unpaid leave of absence shall be granted for every school year to one (1) teacher for the purpose of providing full-time assistance to the Association in discharging its duties as the exclusive collective bargaining representative of the teachers covered by this Contract. All time spent on every such leave shall be counted as time in the employ of the Springfield Public Schools for all purposes provided, however, that no additional emergency and disability leave shall be accumulated during said leave. Upon his return, the teacher shall be assigned to the same position which he held at the time said leave commenced, if available, or if not, to a substantially equivalent position.

H. When it is necessary, during the school year, pursuant to the grievance procedure in ARTICLE XXV of the Contract, for an Association representative to investigate a grievance during a school day he shall, upon notice to his principal or supervisor, be released therefor without pay but without charge against any leave, provided he can be released without detriment to the educational program. Any teacher whose appearance at a grievance hearing is necessary shall be released without loss of pay and without charge against any leave. The Association agrees that these rights shall not be abused.

I. No teacher shall engage in any Association activities during the time he is assigned to teaching duties.

ARTICLE XVIII

CONSULTATION PROCEDURE

A. The School Committee and the Association desire to encourage the active participation of teachers in the development and implementation of the best possible educational programs for the school children of Springfield, including State and Federal Aid Programs.

The Association shall have a standing committee which may make recommendations to the Superintendent in regard to such programs. The Superintendent or his designee shall acknowledge and review such recommendations and meet with the said standing committee to discuss them.

B. It is clearly understood and agreed that the consultation procedure described herein shall not be construed

to require any party to this Contract to consent to any change, modification or reopening of this Contract.

ARTICLE XIX

CONDITIONS OF INSTRUCTION AND CURRICULUM COMMITTEES

A. Except when handled otherwise for educational purposes, emotionally disturbed and general auxiliary children shall be taught in classes separate from other pupils at the elementary school level. Existing facilities shall be expanded to provide for these children when necessary and feasible.

B. The School Committee and the Association agree that a teacher's primary function is to teach. Therefore:

1. To the extent possible, every effort will be made to limit class interruptions.

2. Except in emergency situations as determined by the principal or his designee or to provide approved special instruction, pupils shall not be taken from class.

3. Except in emergency situations, teachers shall not be required to assume any office duties in the event of absence of office personnel.

C. A teacher's marks shall not be changed arbitrarily or without valid reason. Prior to making any change, the administrator shall consult with the teacher concerned and shall explain the reasons for his action.

D. An elementary school teacher shall not be required to prepare each evaluation of a pupil more than once, unless the evaluation is unsatisfactory to the principal.

E. 1. The understandings and practices regarding the establishment and operation of all curriculum committees as set forth in the Rules and Regulations shall apply both to elementary and secondary schools for the term of this Contract.

2. So far as possible, major curriculum development and revision shall be undertaken by such committees during the summer, and every teacher agreeing to perform such work during the summer shall be paid therefor at the then current summer school rate.

ARTICLE XX

STUDENT CONTROL AND DISCIPLINE

A teacher may order removed and referred to the principal any pupil whose conduct is detrimental to the learning process in the class or whose conduct is contrary to the accepted standards of good behavior on school property. As soon as possible but not later than the end of the school day, the teacher initiating the removal shall present to the principal a written report of the incident. The principal shall inform the teacher of the disposition of the incident.

ARTICLE XXI

ACADEMIC FREEDOM

The private and personal life of any teacher is not within the appropriate concern or attention of the School Committee except as it may reflect adversely on the teacher's responsibilities and relationships with students, parents and the community within the judgment of the School Committee. The decision of the School Committee in this regard shall be subject to the grievance procedure set forth in Article XXV of this Contract.

The School Committee recognizes that children must be free to learn and teachers free to teach broad areas of knowledge in their search for truth.

ARTICLE XXII

TEXTBOOKS

A. The School Committee shall seek to provide sufficient textbooks to insure that each elementary school pupil in each spelling, English, reading and arithmetic class has a textbook for his own use at the time in which he is working in these subjects and at such times when textbooks are being used.

B. Commencing with the 1967-68 school year, appropriate pupil workbooks shall be considered as supplementary teaching aids in the elementary schools and shall be purchased as expendable supply items in each school year. The expenditure per school year for this item shall not exceed $45,000.

C. Recognizing the statutory responsibility of the School Committee for the adoption of textbooks and also the professional competence and skills of the staff in relation to textbook selection, the Association and the School Committee agree that the selection of textbooks to be used in the schools shall continue to be cooperatively arrived at through joint consultation among teachers and administrators, subject to final approval by the School Committee.

D. No textbook in active use shall be collected in secondary schools earlier than two (2) class days before the term ends.

ARTICLE XXIII

SALARIES

1. The Annual Salary Schedule set forth in Appendix A hereof applies to every teacher covered by this Contract and specifies his pay for his work year.

2. A differential of $300.00, $400.00 or $500.00 annually shall be paid to every teacher of classes for the emotionally disturbed in the same manner as to teachers of classes for the mentally retarded.

3. Pay for the additional ten (10) days in the work year of every counselor shall be 10/185th of his annual salary.

4. Every teacher employed in Springfield as of the effective date of this Contract shall, by April 1, 1969, be placed on the Salary Schedule at the step appropriate for his degree status and creditable years of experience. The manner of accomplishing this result is set forth in Appendix A.

5. Upon employment in Springfield, subsequent to the effective date of this Contract, every teacher shall be placed on the Salary Schedule at the step appropriate for his:

(a) Degree status; and

(b) Years of teaching or other acceptable experience, provided, however, that intermittent substitute teaching shall not be credited as experience.

It is agreed that no such new teacher shall receive a higher salary than any presently employed teacher with equal experience and training.

6. The rates of pay for teachers' work performed beyond their work day or in the summer school or evening school program are set forth in Appendix A.

7. It shall not be the policy of the Springfield School Committee to require teachers to use their preparation time to substitute for other teachers. The School Committee will make every reasonable effort to provide

substitutes. In situations where substitutes are necessary but not available, the principal may assign a teacher to use his preparation period for substituting. Such requests shall be distributed equitably among all the teachers in each school during the school year.

8. Every teacher required as a condition of his employment to participate in or conduct special course, workshops or orientations outside his work day or work year shall receive additional compensation therefor at his regular daily rate of pay or portion thereof except as otherwise provided for in this Contract.

9. If any new position, other than those specified in Article I of this Contract, be established within the bargaining unit covered by this Contract, the School Committee shall negotiate with the Association regarding the wages, hours and conditions of employment for said position.

10. No teacher covered by this Contract shall be employed unless certified by the Massachusetts Department of Education or granted a waiver by the State Department of Education.

11. Each year the School Committee shall make an annual survey of teachers' salaries, a copy of which shall be made available to the Association on or before November 15.

12. The School Committee will make every effort to implement the following method of salary payment: salary payments to all teachers shall be made bi-weekly, the first payment to be made on the third Friday of the school year.

Teachers may elect to receive salary payments in either twenty (20) or twenty-six (26) installments, such election to be made by the end of the first week of the school year. Teachers electing twenty-six (26) payments shall also elect to collect, under one of the following two plans, the installments unpaid at the close of the school year:

(a) Full payment at the close of the school year;

or

(b) Six (6) bi-weekly payments beginning at the close of the school year.

Whenever school shall not be in session on a Friday payday, the school day next prior to such Friday shall be the payday. This provision is not subject to the grievance procedure.

13. In every case where, at least twelve (12) months prior to his retirement, a teacher notifies, in writing, the School Committee and the Retirement Board of his intention to retire, at a date at least twelve (12) months from the date of such notification, and if, such teacher will have been a teacher for twenty (20) years at the time of his retirement, such teacher shall, during the last twelve (12) months of his employment, be compensated at the maximum rate established within his wage classification bracket in effect at the time of such notification; provided, that such teacher has been, at the time of such notification, within his current classification, for at least two (2) years immediately preceding the date of such notification.

ARTICLE XXIV

DEDUCTIONS

The School Committee shall provide that, whenever duly authorized by any teacher on a form or forms approved by the Committee, payroll deductions on behalf of such teacher shall be made every payday and paid over in accordance with such forms or forms for any or all of the following purposes:

(1) Purchase of United States Savings Bonds,

(2) Donations to Pioneer Valley United Fund,

(3) Local, State and National Association dues,

(4) Premiums under Washington National Insurance Company group insurance contract,

(5) Premiums under City of Springfield Employees' Group Insurance Program,

(6) Payments to Springfield Teachers Credit Union, and

(7) Premiums under any annuity contract purchased for the teacher by the Committee.

ARTICLE XXV

GRIEVANCE PROCEDURE

A. The purpose of the procedure set forth hereinafter is to produce prompt equitable solutions to those problems which from time to time may arise and affect the conditions of employment of the teachers covered by this Contract. The School Committee and the Association desire that such procedure shall always be as informal and confidential as may be appropriate for the grievance involved at the procedural level involved.

LEVEL ONE: The aggrieved teacher and a member of the Professional Rights and Responsibilities Committee of the Association shall present the grievance orally to the principal or immediate supervisor of the employee.

LEVEL TWO: If at the end of the ten (10) days next following such presentation the grievance shall not have been disposed of to the teacher's satisfaction, the teacher may, within five (5) days thereafter, file with the President of the Association and the Chairman of its Professional Rights and Responsibilities Committee a written statement of the grievance. Within five (5) days thereafter, such statement shall be reviewed with the teacher by the said President or Chairman, and if after such review the teacher shall so desire, the grievance shall on the next following school day be presented in writing by the teacher and the said President or Chairman to the Assistant Superintendent for Personnel. The Assistant Superintendent for Personnel shall within ten (10) days thereafter, meet with the teacher and the said President or Chairman in an effort to settle the grievance.

LEVEL THREE: If at the end of the twenty (20) days next following such meeting with the Assistant Superintendent for Personnel, the grievance shall not have been disposed of to the teacher's satisfaction, the teacher may within five (5) days thereafter, notify the said President and Chairman in writing of the teacher's desire to have the grievance presented to the appropriate Assistant Superintendent who is in charge of the division where the alleged grievance arose; and, within five (5) days following receipt of any such notice, the Professional Rights and Responsibilities Committee of the Association shall meet with the said President and teacher to decide whether or not the Association shall present the grievance to the appropriate Assistant Superintendent who is in charge of the division where the alleged grievance arose. If the Professional Rights and Responsibilities Committee shall so vote, the grievance shall forthwith be presented in

writing by the Association to the appropriate Assistant Superintendent who is in charge of the division where the alleged grievance arose; and within ten (10) days thereafter the appropriate Assistant Superintendent who is in charge of the division where the alleged grievance arose shall meet with the Professional Rights and Responsibilities Committee, the said President, and the teacher in an effort to settle the grievance.

LEVEL FOUR: If at the end of the twenty-five (25) days next following presentation of the grievance in writing to the appropriate Assistant Superintendent who is in charge of the division where the alleged grievance arose, the grievance shall not have been disposed of to the satisfaction of the Professional Rights and Responsibilities Committee of the Association, and if the grievance shall involve the interpretation or application of any provision of this Contract, the Association may, by giving written notice to the school Committee within the ten (10) days next following conclusion of such period of twenty-five (25) days, present the grievance for arbitration; in which event the School Committee and the Association shall forthwith submit the grievance to the American Arbitration Association for disposition in accordance with the applicable rules of the said American Arbitration Association. The arbitrator shall hold hearings promptly and, unless the time shall be extended by mutual agreement, shall issue his award not later than thirty (30) days from the date of the closing of the hearings or, if oral hearings have been waived, from the date of submission to him of the final statements and proofs. The arbitrator's award shall be in writing and shall set forth his findings of fact, reasoning and conclusions. The arbitrator shall be without power or authority to make any award which requires the commission of an act prohibited by law or which is inconsistent with any provision of this Contract or with the Rules and Regulations of the Springfield School Committee as amended by this Contract. The award of the arbitrator shall be submitted to the School Committee and the Association and, subject to law, shall be final and binding upon the School Committee, the Association and the aggrieved teacher. The expenses for such arbitrators' fees shall be shared equally by the School Committee and the Association.

B. If at the end of the ten (10) days next following ing either the occurrence of any grievance or the date of first knowledge of its occurrence by any teacher affected by it, whichever is later, the grievance shall not have been presented at Level One of the procedure set forth in Paragraph A above, the grievance shall be deemed to have been waived. Furthermore, any grievance in process under such procedure shall also be deemed to have been waived if the action required to process the said grievance within a level or to present it to the next level in the procedure shall not have been taken within the time specified therefor in Paragraph A above.

C. Any teacher covered by this Contract may, at Level One and Level Two of the procedure set forth in Paragraph A above, present individually his grievance without representation by the Association; provided, however, that if any grievance so presented shall involve the interpretation or application of any provision of this Contract, the Association shall be given timely written notice of the grievance's presentation and shall be heard on the grievance before its disposition if the Association shall, within the five (5) days next following receipt of such notice, advise the Superintendent or Assistant Superintendent for Personnel of its desire so to be heard.

D. No written communication, other document, or record relating to any grievance shall be filed in the personnel file maintained by the School Department of the City of Springfield for any teacher involved in presenting such grievance.

ARTICLE XXVI

STRIKES

During the term of this Contract the Association shall not cause or sponsor, and no professional employee shall cause or participate in any strike or work stoppage. If the Association disclaims in writing to the School Committee responsibility for any act prohibited hereby, it shall not be liable in any way therefor. Employees who participate in any such act may be disciplined or discharged without recourse to arbitration, provided, however, that the question of their participation shall itself be subject to the grievance and arbitration procedure.

ARTICLE XXVII

TOTALITY OF AGREEMENT

This Contract incorporates the entire understanding of the parties on all issues which were or could have been the subject of negotiation.

ARTICLE XXVIII

GENERAL

A. If any provision of this Contract or any application of this Contract to any teacher or group of teachers shall be found contrary to law, then such provision or application shall not be deemed valid and subsisting, except to the extent permitted by law, but all other provisions or applications shall continue in full force and effect.

B. This Contract constitutes School Committee policy for the term of said Contract, and the School Committee shall carry out the commitments contained herein and give them full force and effect as School Committee policy. The School Committee shall amend its regulations and take such other action as may be necessary in order to give full force and effect to the provisions of this Contract.

ARTICLE XXIX

DURATION

This Contract shall be effective as of 1967, and shall continue and remain in full force and effect until August 31, 1969. The parties agree that, not later than November 15, 1968, they shall enter into negotiations for a successor contract to become effective as of September 1, 1969.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals this day of , 1967.

SPRINGFIELD SCHOOL COMMITTEE

By_____

SPRINGFIELD EDUCATION ASSOCIATION

By_____

APPENDIX A

SALARY SCHEDULES

1. BASIC SALARY SCHEDULE

a. Schedule - Effective from September 1, 1967 to August 31, 1968

TRAINING LEVELS

Steps	II	III	IV	V	VI	VII
0			$5,600	$6,100	$ 6,600	$ 7,100
1		$5,600	5,850	6,350	6,850	7,350
2		5,850	6,150	6,650	7,150	7,650
3	$5,600	6,100	6,500	7,000	7,500	8,000
4	5,850	6,350	6,850	7,350	7,850	8,350
5	6,200	6,700	7,200	7,700	8,200	8,700
6	6,550	7,050	7,550	8,050	8,550	9,050
7	6,900	7,400	7,900	8,400	8,900	9,400
8	7,250	7,750	8,250	8,750	9,250	9,750
9	7,600	8,100	8,600	9,100	9,600	10,100
10	7,950	8,450	8,950	9,450	9,950	10,450
Service Maximum	8,300	8,800	9,300	9,800	10,300	10,800

No new teacher shall be hired for the 1967-68 school year at a salary higher than the salary of any other teacher who has equivalent training and experience.

Effective from September 1, 1968 to August 31, 1969

Steps	II	III	IV	V	VI	VII
0			$5,900	$ 6,400	$ 6,900	$ 7,400
1		$5,900	6,150	6,650	7,150	7,650
2		6,150	6,450	6,950	7,450	7,950
3	$5,900	6,400	6,800	7,300	7,800	8,300
4	6,150	6,650	7,150	7,650	8,150	8,650
5	6,500	7,000	7,500	8,000	8,500	9,000
6	6,850	7,350	7,850	8,350	8,850	9,350
7	7,200	7,700	8,200	8,700	9,200	9,700
8	7,550	8,050	8,550	9,050	9,550	10,050
9	7,900	8,400	8,900	9,400	9,900	10,400
10	8,250	8,750	9,250	9,750	10,250	10,750
Service Maximum	8,600	9,100	9,600	10,100	10,600	11,100

No new teacher shall be hired for the 1968-69 school year at a salary higher than the salary of any other teacher who has equivalent training and experience.

b. Increments

1. Salary increments of any kind are not automatic. They are granted only when there has been a continuation of a high standard of teaching or a demonstrated improvement in efficiency of service.

2. The earned increment for teachers who have completed their first year of teaching will be $250. The earned increment for teachers who have completed their second year of teaching will be $300. The earned increment for teachers with more than two creditable years of teaching experience will be $350 with no salary to exceed the maximum for its training level.

3. After September 1, 1967 the service maximum will apply to all teachers who have served in the Springfield Public Schools for at least eleven years and whose salaries are closer to the regular maximum than to any other step on the salary schedule.

2. INEQUITIES

As of April 1, 1969 all teachers will receive the salary which is indicated for their training and experience on the salary schedule. The above result will be accomplished by means of three equal salary adjustments to become effective September 1, 1967, September 1, 1968 and April 1, 1969.

3. OTHER SALARY SCHEDULES

a. Athletic Coaches

As of September 1, 1967, the coaching salaries as listed on page 117 of the Rules and Regulations of the Springfield School Committee shall be increased 5%.

b. Summer School

Summer of 1967 - $135 per week.

c. Evening School

As of September 1, 1967 - $5.25 per hour for day school teachers on tenure and for teachers with two or more years of evening school experience; $4.75 per hour during the second year of teaching evening school; $4.25 per hour during the first year of teaching evening school.

Special Items

STATEMENT BY

FREDERICK R. LIVINGSTON AND DONALD H. WOLLETT
Partners, Kaye, Scholer, Fierman, Hays & Handler
New York City

BEFORE THE

PUBLIC AND SCHOOL EMPLOYEES GRIEVANCE PROCEDURE STUDY COMMISSION
Trenton, New Jersey
Thursday, April 6, 1967

Our remarks to you today are predicated upon the premise that we were invited to appear before this Commission on the ground that our experience with collective negotiations by public employees has caused us to acquire a degree of expertise in respect to the matters which are your concern. We appear before you today in the spirit of your invitation--on our own time, without compensation--not as advocates but with the hope that the lessons we have learned will be of help to you.

We are both lawyers with backgrounds in government service, sitting as arbitrators, and practicing labor relations law for a wide variety of clients in the private sector. During the past four and a half years our firm has numbered among its clients the National Education Association and its state and local affiliates such as the New Jersey Education Association and the Newark Teachers Association. We have, accordingly, acquired substantial experience in dealing with a wide range of problems related to collective negotiations between boards of education and teacher associations.

We have been involved in teacher representation elections in New Jersey, New York, Massachusetts, Connecticut, Rhode Island, Pennsylvania, Ohio, Michigan, Wisconsin, Colorado and Washington. We have participated, directly or indirectly, in the negotiation of hundreds of collective agreements between boards of education and teacher associations governing salaries, working conditions, and other matters of mutual concern. Where school boards and teacher associations have been unable to resolve their differences at the bargaining table, we have observed first hand the operation of a multiplicity of techniques for resolving such impasses, i.e., strikes, sanctions, mediation, fact-finding with advisory recommendations, and ad hoc binding arbitration.

We do not propose to spend time arguing (a) the reasons why public employees should be legislatively guaranteed the right to join or refrain from joining employee organizations of their own choosing for the purpose of negotiations with their employers over salaries, terms and conditions of employment, and related matters which affect their working environment, (b) the importance of establishing orderly procedures for resolving questions of representation, or (c) the necessity for requiring public employers to negotiate in good faith with the organizational representatives of their employees. The evidence on these points is overwhelming and is as well known to you as it is to us.

Instead, we shall focus our comments on the following matters:

1. The desirability of establishing a separate administrative agency for dealing with collective negotiations in the public sector.

2. The wisdom of treating the problems of public elementary and secondary school teachers and faculty members in public higher education different from other types of classifications of public employees.

3. The functions of a public employment relations board.

4. The importance of having legislation which gives the parties maximum opportunity to develop effective and meaningful procedures for bilateral decision-making which are not patterned after the industrial relations model.

5. The necessity for developing machinery for averting or resolving impasses.

1. A Separate Board for Public Employees is Essential.

New Jersey, New York and Illinois are the only states, to our knowledge, which have had the wisdom to establish expert task forces to study in depth the problems involved in collective negotiations by public employees before enacting legislation. It is noteworthy that both Governor Rockefeller's Committee on Public Employee Relations in New York and Governor Kerner's Advisory Commission on Labor Management Policy for Public Employees in Illinois urged, after intensive study, that the administration of any statute establishing collective negotiations for public employees should be vested in a separate public employee relations board. The Illinois legislature has not yet acted on the recommendations of Governor Kerner's Commission. However, the New York legislature, just four days ago, passed a statute adopting the basic recommendations of Governor Rockefeller's Committee establishing a separate Public Employment Relations Board.

It is pertinent to note that two distinguished New Jerseyans, David Cole, former Chairman of the New Jersey State Mediation Board and Frederick H. Harbison, present Chairman of the Board were members of Governor Rockefeller's Committee and joined their three colleagues in unanimously urging establishment of such a Board.

Other states, such as Massachusetts, Michigan and Wisconsin enacted legislation establishing collective negotiations for a broad category of public employees. The statutes in these states call for administration by the same agency that handles collective bargaining in the private sector. In none of these cases was the enactment of legislation preceded by a careful, expert study of the matter. It is reasonable to suppose that the gubernatorial committees in New York and Illinois were influenced by the experience in Massachusetts, Michigan and Wisconsin in recommending the establishment of a separate administrative agency.

It is significant that July 29 of last year, Governor Romney of Michigan, alarmed by the number of public employee strikes (primarily in education) that had occurred during the first year's operation of the Michigan statute, appointed an Advisory Committee on Public Employee Relations to study the problem and recommend changes needed

in order to make the statute function more effectively. This committee in its report of February 15, 1967 urged, among other things, that fact-finding should be taken away from the Michigan State Labor Mediation Board and given to a separate Public Employment Relations Panel. The Committee reasoned that the designation of a separate panel would enhance the prestige and increase the effectiveness of the fact-finders, would assure the availability of competent persons to serve the fact-finding function, and would build up a body of experience which would be useful in view of the unique aspects of public employee relations.

It may be that Michigan, having learned the hard way, will now move in the direction which those who have studied this problem seem to agree is sound.

There are two fundamental reasons why a separate statute, separately administered, is desirable.

A. There are basic economic and political differences between public and private employment which impel separate treatment.

While experience in the private sector can be useful, the analogies have limited application. Employer-employee relations in the public sector differ in major respects:

1. An essential ingredient of the collective bargaining process in the private sector is the right to strike or lockout.

2. In private collective bargaining, the management representative must have the power to make binding commitments and the power to carry them out. Without such authority on the part of management, bargaining is an illusory exercise.

3. Most governmental agencies do not have authority to determine the extent of their budget. They are therefore unable to make binding commitments as to salaries until funds are appropriated.

4. Bargaining in the public sector to be most effective must therefore precede the adoption of the budget.

5. Some conditions of public employment, such as retirement and tenure, are now determined by legislation. The degree and quality of protection provided in this arena is thus determined by political rather than economic factors.

Governor Kerner's Advisory Commission in Illinois put the point as follows:

"In private industry, decisions about these matters [the standards used to determine how extensively and at what level of quality services are to be performed] are generally influenced by market forces; in public agencies, these services are generally supplied 'free of price' and are determined by political processes in which legislative bodies decide how much revenue can be raised and how it is to be allocated among many competing demands. These factors make the determination of employment conditions in public agencies different from that followed in private industry."1/

B. The forms and procedures for collective bargaining in the private sector do not provide a monolithic model for public employment.

Governor Rockefeller's Committee made the point as follows:

"[Public] employees have, in the past and present, carried on their collective participation and joint negotiations in a great variety of ways and have chosen various types of employee organizations to represent them. There is no a priori reason to assume, therefore, that their future choices would not also be diverse. We cannot assume that employees, if given free choice, would support the development of any single pattern of participation or any single type of employee organization utilizing any single model of collective negotiations. Indeed the opposite assumption would appear more reasonable.

"Sufficient flexibility should be provided so that the lessons of experience in this area of public employment, so uncharted in many of its aspects, can be brought to bear upon the pattern of arrangements which ultimately develops. The door should not be closed on any arrangement which may prove effective and mutually acceptable."2/

Summarizing its conclusions, the Committee stated:

"Despite many complexities, we believe it is both feasible and desirable to develop a system of effective collective negotiation in the public service. This can be achieved in a manner which is consonant with the orderly functioning of a democratic government. It cannot be achieved by transferring collective bargaining as practiced in the private enterprise sector into the governmental sector. New procedures have to be created. In subsequent sections of this report, recommendations are made as to some of the ways and means by which collective negotiation in the public service can be soundly developed."3/

2. A Strong Case Can Also Be Made For Separate Statutory And Administrative Treatment of Education, Including Higher Education.

Five states (California, Connecticut, Oregon, Rhode Island, and Washington) have enacted separate statutes regulating teacher-school board relations.

The case for separate treatment rests on the proposition that teachers, by reason of their education and traditions, have an interest, not shared by other public employees, in the quality of the service provided by the enterprise of which they are a part.

The point can be made by discussing the scope of negotiations, that is, the subject matter in respect to which the parties are required to negotiate.

The typical collective bargaining statute defines the mandatory area of bargaining as "wages, hours and other terms and conditions of employment." On the other hand, S-220, which is being supported by the New Jersey Education Association, defines the scope of bargaining as "the terms and conditions under which professional educators serve and other matters of mutual concern."

The difference in these definitions reflects the fact that the teacher, having committed himself to a career of socially valuable service and invested years in preparation therefor (and years of service and perhaps postgraduate study after original hire), has a special identification with the standards of his "practice" and the quality of service provided to his "clientele." This special identification has been manifest in virtually all school board-teacher negotiations in which we have been involved.

Thus, in the Newark negotiations in 1966 the teacher Association based its case for a higher salary schedule

1/ Report and recommendations of Illinois Governor's Advisory Commission on Labor Management Policy for Public Employees, Government Employees Relations Report No. 184, D-1, March 20, 1967 (Bureau of National Affairs, Inc.) [See Negotiation Research Digest, May 1967.]

2/ Governor's Committee on Public Employee Relations, State of New York, March 31, 1966, p. 21-22.

3/ Governor's Committee on Public Employee Relations, State of New York, March 31, 1966, p. 19.

on the ground that such increases were necessary in order for Newark to compete effectively in the marketplace in recruiting high quality teachers, diminish the loss of experienced teachers, and reduce the number of sub-standard teachers--thereby improving the quality of the educational program. The arguments made and the supporting data presented fully supported the validity of the position.

This is not to say that the Newark teachers were totally altruistic. It is to say that there was a blending of self-concern and "professional" concern which is not characteristic of collective bargaining in the private sector.

Perhaps more to the point, the Newark Teachers Association in the 1967 negotiations insisted on better procedures for dealing with disturbed children who need specialized attention if they are to become educable and whose disruptive presence in the classroom makes effective teaching of and learning by other children difficult, if not impossible.

Characteristically teacher associations also press in negotiations for the employment of specialists, e.g., psychologists, speech therapists, remedial reading teachers and other personnel specially trained to improve the quality of educational service being given to children who are "different," i.e., disadvantaged or gifted. The agreement in New Haven, Connecticut, for instance, calls for the employment of at least one hundred new members of the professional staff to improve the quality of service in such areas as music, art, guidance counselling, and teaching non-English speaking students.

In the recently concluded negotiations in Quincy, Massachusetts, one of the major proposals of the teacher association was that every school building with more than three hundred pupils should have a library so that supplementary reading materials would be readily available. The Quincy teachers also pushed hard for (and obtained) a contract provision guaranteeing their right to participate jointly in the development of curriculum content, teaching methods, aids and materials, educational facilities, and design and equipment of new and remodeled school construction.

Last Fall the Association for Higher Education, the college and university arm of the National Education Association, set up an independent Task Force on Faculty Representation and Academic Negotiations, charged with the responsibility for studying and recommending improved methods for greater participation by college and university faculty members in campus decision-making. The Task Force consists of six distinguished faculty members in higher education under the chairmanship of Dr. Arnold Weber, Professor of Industrial Relations at the University of Chicago. This Task Force, which we have been privileged to serve as counsel, has recommended that university and college faculty members should share authority with school administrators in decision-making in respect to such matters as curriculum, degree requirements, admissions policies, educational objectives and development of the institution, rules governing student behavior, and the appointment of administrative officers.

In the private sector and in other parts of the public sector proposals which would involve employees in decision-making in respect to the type and nature of the product produced or the service provided would be regarded as non-bargainable on the ground that they exceeded the scope of legitimate employee concern and intruded into the area of management prerogatives. Thus, statutes governing such negotiations restrict the scope of mandatory bargaining to "Wages, hours and other terms and conditions of employment."

However, such a definition applied to teacher negotiations makes mischief. Teachers will continue to assert their claim of special competence to participate in decision-making over educational programs and services. School boards, on the other hand, will be encouraged to resist such assertions on the ground that such matters are non-bargainable management prerogatives. In Michigan, Massachusetts, and Wisconsin, where the statutes circumscribe the scope of bargaining in orthodox collective bargaining terms, serious "hang-ups" over the question of the bargainability of teacher proposals stalled negotiations in many instances and exacerbated situations which might otherwise not have been difficult.

Furthermore, it is socially desirable for teachers to participate in decision-making in respect to educational programs and services. Their special knowledge and competence as educational practitioners should, when blended with the "lay" perspective of the school board, produce better policy decisions.

The best way to accommodate this basic difference between teacher negotiations and other types of negotiations is to avoid prior restraints on the scope of bargaining by treating teachers separately and adopting the broad definition contained in S-220.

The case for dealing specially with the problems of public elementary, secondary and higher education is strong. Indeed, the very title of this Commission recognizes the validity of distinguishing between teachers and other categories of public employees. An alternative to creating a separate statute and a separate agency in recognition of this distinction would be to establish a Public Employee Relations Board with separate divisions such as: (1) Police and firemen, (2) health and welfare services, (3) transit, (4) education, (5) public utilities. The Board would be authorized to promulgate rules in respect to the scope of negotiations tailored to fit the realities and traditions of each category.

3. Functions of a Public Employment Relations Board.

If there is a bona fide question of which organization, if any, is supported by a majority of the employees and the parties are therefore unable to settle the matter by agreement, the Board should resolve the question on the basis of signed petitions, membership cards, dues deduction authorizations, or other evidence. If necessary, the Board should conduct an election.

The Board should also be empowered to maintain a roster of arbitrators to hear and determine issues relating to grievances involving interpretation or application of the Agreement and to issue final and binding awards in such matters.

Finally, the Board should assist in the resolution of disputes over contract terms by mediation and, when mediation fails, by resorting to the techniques of fact-finding in order to resolve the dispute.

4. Legislation Should Not Inhibit the Parties From Developing Procedures for Bilateral Decision-Making Which Are Not Patterned After the Industrial Relations Model.

Satisfactory collective relationships between public employers and public employees do not necessarily require the structured negotiation of formal contracts hammered out in a crisis context. As Governor Rockefeller's Committee pointed out, "With proper organization and attitudes on both sides, collective negotiation can develop into a creative process of joint consultation, fact-finding and research."[4/] There are several examples of such experimentation in the private sector: the Armour Automation Committee, the Human Relations Committee in the basic steel industry, and the Long Range Committee in the Kaiser Steel Company. Such arrangements permit the parties to study and resolve issues in the absence of a crisis and thus to avoid critical impasses.

4/ Governor's Committee on Public Employee Relations, Final Report, State of New York, March 31, 1966, p. 53.

The Armour Automation Committee, of which Mr. Livingston is a member and which provides for continuous dialogue in respect to matters of mutual interest, has created a climate of constructive problem-solving which made it possible to renegotiate their collective agreement six months early without fanfare or crisis.

To give an example in the public sector, the teachers' contract in Quincy, Massachusetts establishes a Joint Professional Conditions Committee which meets periodically to consider all matters related to the conditions under which teachers teach and children learn, e.g., teaching loads, the employment of teacher aides to give teachers more "time to teach", the development of a contract year for teachers different from the school year for pupils, the development of better criteria and techniques for measuring teacher performance, and the more effective use of classroom teachers who qualify, in performance terms, as superior.

New Jersey could provide leadership for the nation by asserting the desirability of such arrangements and procedures for continuous dialogue. There are presently many examples of such relationships in New Jersey. Surely, it would be undesirable to force school boards and teacher representatives who desire to improve their relationships and establish different procedures for bilateral decision-making into the adversary mold which typically characterizes collective bargaining in the private sector.

5. Impasse Machinery for Resolving Disputes Over Contract Terms.

Impasse machinery is a line of reserve power for parties who have not as yet developed the kind of mature relationship described above.

One of the functions of the administrative agency should be to establish general criteria and yardsticks for the determination of disputes over contract terms. Through the issuance of general guidelines and also by the process of deciding individual disputes, the agency would establish rules to guide the parties in conducting negotiations. For example, teacher salary matters are frequently decided by comparison with other communities and by a decision as to where one community should rank, with others, considering its wealth and ability to pay, its social needs, and other relevant factors. Guidance on these matters would often make resolution of the specifics of the salary increase much easier.

A second function of the administrative agency would be to promulgate rules as to the time limits within which statutory procedures of mediation and fact-finding would have to be instituted and completed, keeping in mind budget submission deadlines.

A third function would be to collect, study, analyze and make available data relating to wages, benefits and employment practices in public and private employment.

Fourthly, the administrative agency should have a panel of mediators to assist the parties in reaching peaceful settlements of disputes through negotiations. While we agree generally that mediation is more effective where both the employer and the employee organization have requested it, the stakes in the public sector are such that the agency should not hesitate to send an uninvited mediator into a dispute where a crisis is developing.

The importance of the mediation function cannot be overstated. A mediator can be a catalyst for resolving disputes. Furthermore, particularly where the parties are inexperienced, he can perform the important function of guiding them and causing them to evaluate their proposals and positions realistically.

The experience of Newark affords a dramatic case history of the effectiveness of third-party intervention in averting or resolving impasses over contract terms. In 1966, negotiations between the School Board and the teacher association broke down and erupted in a strike which was not settled until both parties agreed to submit the dispute to a fact-finder empowered to make recommendations. We are firmly of the opinion that this strike would not have occurred if a public employment relations board had been in existence.

By contrast, the Newark negotiations early this year were settled peacefully because the Acting Commissioner of Education effectively intervened when the parties reached an impasse by appointing Dr. Buell Gallagher, President of the City College of New York, to act as mediator. Dr. Gallagher brought the parties together after three meetings.

The experience with Dr. Gallagher also underlines the wisdom of using a mediator with expertise in the personnel problems of public education. By reason of his working familiarity with the problems generated when salary schedules are not uniformly applied and his ability to "read" a school budget, Dr. Gallagher was able to gain a complete understanding of the issues quickly and to instill in both parties confidence, not only in his integrity, but also in the fact that he knew what he was talking about.

Fifthly, if mediation has not produced a settlement within a prescribed number of days prior to the effective budget submission deadline, the administrative agency should appoint a fact-finding board empowered to hold hearings and make non-binding recommendations as to the terms of an equitable settlement. The recommendations would first be made to the parties privately and would typically provide a framework for settlement without attempting to prescribe the total and exact terms of agreement. The wisdom of this approach is recognized in the newly-enacted New York statute.

This was the technique used last month by the fact-finder in a teacher salary dispute in Huntington, New York. The recommendations supplied a framework within which variations could be worked out by the parties within twenty-four hours after receipt of the recommendations.

The fact-finding board would retain jurisdiction for a specified period of time during which the parties, failing to reach a complete agreement, might return to the board for further recommendations of a more specific nature covering matters still in dispute.

If the parties have not reached agreement within the specified period, the fact-finding board would then hold an additional hearing and make public recommendations, including in their findings a judgment of the relative culpability of the parties for the continuation of the dispute. The utility of the fact-finding procedure was well expressed by Governor Rockefeller's Committee:

> "Fact-finding requires the parties to gather objective information and to present arguments with references to these data. An unsubstantiated or extreme demand from either party tends to lose its force and status in this forum. The fact-finding report and recommendations provide a basis to inform and to crystallize thoughtful public opinion and news media comment. Such reports and recommendations have a special relevance when the public's business is involved. The public has a special right to be informed on the issues, contentions and merits of disputes involving public employees."[5]

6. Need For Training in Development of Sound Personnel And Employee Relations in the Public Sector.

One of the principal factors that has led to breakdowns in negotiations, early impasses and strikes in public employment is the lack of sophistication and skill on both sides of the bargaining table. The public employment

5/ Governor's Committee on Public Employee Relations, Final Report, State of New York, March 31, 1966, p. 37.

relations board should, as part of its effort to facilitate peaceful settlement of disputes, take the lead in arranging for adequate programs to educate representatives of both parties, improve their understanding of the realities of bargaining in the public sector, and sharpen their ability to deal with each other effectively. For example, universities with faculties expert in these matters should be encouraged to assist public employers and public employer organizations to develop necessary skills and knowledge by means of institutes and extension courses.

Another important function which the Board could and should undertake is to encourage public employers to organize themselves so that they are able to develop more effective employee relations and personnel policies. As Governor Rockefeller's Committee pointed out, there is as yet no counterpart in state and local government to the vice president of industrial relations in private industry. Instead, "municipal and state governments, chief executives, budget directors, department heads, and hard-pressed school boards normally must manage as best they can without competent full time staff advice and assistance in employee relations. Thus, when suddenly faced with demands from an employee organization, they must improvise measures to deal with crisis situations. Often they are uncertain of their authority, unaware of precedents established in other departments or agencies, and unable to call in qualified advisors to help them formulate sound positions. In other words, the organization for effective employee relations is usually under-developed in the government service. The building of more effective organization is thus absolutely essential in order to cope with the mounting pressure of employee organizations for a voice in determining their wages and other conditions of employment."[5]

CONCLUSION

It should be recognized that no legislation can provide a foolproof guarantee against employee strikes. If public employees feel sufficiently aggrieved and have no effective forum in which they can air those grievances, they will strike regardless of the personal risks involved. Therefore, the primary emphasis in legislation establishing collective negotiations in the public sector should be the development of constructive personnel policies and procedures for resolving or preventing disputes. If this is done, the possibility of strikes by public employees will be substantially minimized.

5/ Governor's Committee on Public Employee Relations, Final Report, State of New York, March 31, 1966, p. 51 and 52.

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Two tables of state-by-state data providing information on the numbers of agreements by type, and number of personnel represented by each type of agreement.

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Full text of the agreement between the Danbury (Conn.) Board of Education and the Danbury Education Association (NEA) for the period July 1, 1967, through June 30, 1968.

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Collective Bargaining in Education E-1

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Description and Analysis

BARGAINING UNIT DECISION IN ALPENA, MICHIGAN

Case

When a school system is organized on a kindergarten through community college basis and employs about 350 professional personnel, can 37 teachers in the community college separate themselves from the previously established bargaining unit comprising all the nonsupervisory and administrative personnel in the system and establish their own bargaining unit? No, said the Michigan Labor Mediation Board in the decision rendered on the matter in May 1967.

The Alpena Community College District, Michigan Association of Higher Education, wished to become representatives for the 37 community college teachers in the Alpena Public Schools. The community college teachers were a part of and were represented by the Alpena Segment of the Alpena-Alcona Education Association (NEA). In denying the petition, the Board cited the following as some of the bases for their decision:

1. The teachers in the community college as well as the elementary and secondary teachers were part of the same school system utilizing some of the same administrative staff and some of the same physical plant.

2. Although the certification requirements for the teaching position were different, the basic function of teaching students was the same.

3. The qualifications of many of the teachers were similar, regardless of level taught; the same salary schedule being used for all teachers.

4. Previous decisions of the Michigan Labor Mediation Board.

Implications

This case should be considered along with the Grand Rapids case (Negotiation Research Digest, Issue No. 1, April 1967, C-1) for its implications. Although the Grand Rapids case was basically to determine if teachers of grades K-12 could be divided into two bargaining groups, there was an agreement between the two parties in the case that the community college teachers were to have their own bargaining unit.

KENOSHA, WISCONSIN, "CONVENTION DAYS" CASE

The Kenosha Education Association (NEA) was determined to be the exclusive representative of the teachers in the Kenosha Public Schools after an election victory over the Kenosha Teachers Union (AFL-CIO). Practice in Wisconsin had been to have both the Wisconsin Education Association (NEA) and the Wisconsin Federation of Teachers (AFL-CIO) conventions on the same two days in November.

Shortly after the Kenosha school calendar for 1966-67 was adopted by the school board and agreed to by the Kenosha Education Association, the Wisconsin Federation of Teachers changed its convention date. The school board adopted a resolution which indicated that anyone attending a teachers' convention at a time other than the one established in the calendar would be docked for the days not taught.

The text of the case beginning on page C-4 provides the majority and dissenting opinions of the Wisconsin Employment Relations Commission in denying the allegations of the Kenosha Teachers Union; these allegations included the utilization of unfair labor practices by the school board, improper interpretation of the applicable Wisconsin statutes, and discrimination against a minority organization.

Several other similar cases were taken to the Wisconsin Employment Relations Commission by other locals of the Wisconsin Federation of Teachers. The Kenosha case provided in Section C of this issue served as the basis of the decisions in the other cases.

INFORMATION AVAILABLE FROM NEA DEPOSITORY OF NEGOTIATION AGREEMENTS

The 1,540 negotiation agreements as indicated on page B-3 are on file in the NEA Research Division depository of agreements. Information from that depository is available to subscribers upon request. Agreements or provisions from agreements will be copied; none will be loaned. Requests must be specific, i.e., specific items must be requested from specific agreements, or full texts of specific agreements must be requested.

The NEA Research Division will not be able to comply with requests that require value judgments, e.g., "Please furnish copies of the five best provisions from agreements relating to ...."

Speediest service can be provided if the NEA Research Division publication, Negotiation Agreement Provisions, 1966-67 Edition ($15, Stock #841-24006), is consulted for agreement names and content. A copy of the publication is available in each NEA Regional Office and each state education association headquarters.

A handling charge of $2 should accompany requests for depository information; the charge provides up to 15 pages of copied material. Additional pages of material are 10¢ each; bills will be sent if necessary. Requests for depository information should be directed to the NEA Research Division.

CONTENT OF FUTURE ISSUES

The following selected items will be published in future issues of the Negotiation Research Digest:

- Data on the person(s) or group(s) representing the school board during negotiation sessions.
- An analysis of the various types of impasse resolution procedures.
- Text of the Wisconsin Supreme Court decision on the Muskego-Norway School District case.
- Listings of agreements with specific content provisions.
- Excerpts from California court cases involving the Winton Act, the statute allowing negotiation in the state.

Data and Statistics

FIVE TYPES OF NEGOTIATION AGREEMENTS

The analysis of the negotiation agreements which were filed in the NEA depository of agreements for 1966-67 has provided not only the content material for Negotiation Agreement Provisions, 1966-67 Edition, but also Tables A-1 and A-2 below. These tables give data on the numbers and types of agreements in each state and the number of personnel represented.

For the purposes of these tables, and for classification in Negotiation Agreement Provisions, 1966-67 Edition, the agreements have been grouped into five basic categories: (a) Some agreements do not recognize organizations for negotiation purposes and utilize some other type of negotiation procedure. (b) Some agreements provide only for recognition of an organization as representing the teachers or professional staff or other designated group of employees (called Level I agreements). (c) Agreements which contain recognition (Level I) and negotiation procedures are designated Level II. (d) When impasse resolution procedures are added, the agreement is referred to as a Level III agreement. (e) One additional type of agreement exists and may be referred to by a number of designations. It may be called a Level IV agreement, a comprehensive agreement, or substantive agreement. This variety of agreement may or may not include impasse resolution procedures, but will contain in addition to the recognition and negotiation procedures such features as a salary schedule, leave policies, and other negotiated items relating to personnel and conditions of employment often found in personnel handbooks or school system policies.

For 1966-67 the NEA Research Division depository of agreements contains 1,540 agreements from 1,531 school systems. The additional nine agreements were obtained from school systems which filed more than one agreement; for example, in Winchester, Massachusetts, one agreement was filed for the Winchester Teachers Association and another agreement was filed for the Winchester Principals Group. Each group negotiates separately with the school board.

TABLE A-1

NUMBER OF PERSONNEL REPRESENTED BY TYPE OF AGREEMENT

The September 1967 (Vol. 1, No. 1) issue of the Negotiation Research Digest carried final data from the 1966-67 survey of written negotiation procedures relating to the number of personnel employed in school systems with negotiation agreements. Those data were presented on a state-by-state basis and by enrollment strata. No indication was given at that time as to the types of agreements in affect in the various states.

Table A-1 provides data on a state-by-state basis, as well as by enrollment strata, of the number of personnel represented, by type of agreement.

Stratum	School system enrollment
1	100,000 or more
2	50,000-99,999
3	25,000-49,999
4	12,000-24,999
5	6,000-11,999
6	3,000- 5,999
7	1,200- 2,999
8	1,000- 1,199

TABLE A-2

TYPES OF AGREEMENTS

Table A-2 presents data comparable to those in Table A-1 except that rather than showing the number of personnel represented by each type of agreement, Table A-2 shows the number of agreements of each type which were filed for 1966-67.

FURTHER INFORMATION

A listing of each agreement, by state and type, is provided in Negotiation Agreement Provisions, 1966-67 Edition, published by the NEA Research Division. A copy of the volume is available at each NEA Regional Office and at least one copy may be found in each state education association headquarters. Copies may still be available at $15 each from NEA Publications Sales.

TABLE A-1

NUMBER OF PERSONNEL REPRESENTED BY TYPE OF AGREEMENT

STATE	PERSONNEL COVERED BY AGREEMENTS	OTHER THAN ORGANIZATIONAL REPRESENTATION		LEVEL I		LEVEL II		LEVEL III		SUBSTANTIVE AGREEMENTS	
		NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.
1	2	3	4	5	6	7	8	9	10	11	12
ALABAMA	0	0	.0	0	.0	0	.0	0	.0	0	.0
ALASKA	985	0	.0	0	.0	860	87.3	125	12.7	0	.0
ARIZONA	2,770	246	8.9	146	5.3	635	22.9	1,743	62.9	0	.0
ARKANSAS	0	0	.0	0	.0	0	.0	0	.0	0	.0
CALIFORNIA	132,318	0	.0	913	.7	127,387	96.3	4,018	3.0	0	.0
COLORADO	13,843	0	.0	146	1.1	10,334	74.7	2,639	19.1	724	5.2
CONNECTICUT	18,884	0	.0	2,817	14.9	0	.0	41	.2	16,026	84.9
DELAWARE	1,249	0	.0	0	.0	462	37.0	787	63.0	0	.0
DISTRICT OF COLUMBIA	0	0	.0	0	.0	0	.0	0	.0	0	.0
FLORIDA	9,687	0	.0	0	.0	5,597	57.8	4,090	42.2	0	.0
GEORGIA	0	0	.0	0	.0	0	.0	0	.0	0	.0
HAWAII	0	0	.0	0	.0	0	.0	0	.0	0	.0
IDAHO	2,377	210	8.8	456	19.2	1,429	60.1	282	11.9	0	.0
ILLINOIS	34,210	1,119	3.3	1,199	3.5	4,795	14.0	4,333	12.7	22,764	66.5
INDIANA	11,014	757	6.9	473	4.3	6,615	60.1	3,169	28.8	0	.0
IOWA	2,485	125	5.0	395	15.9	1,547	62.3	418	16.8	0	.0
KANSAS	8,083	69	.9	0	.0	4,724	58.4	3,290	40.7	0	.0
KENTUCKY	340	0	.0	0	.0	340	100.0	0	.0	0	.0
LOUISIANA	0	0	.0	0	.0	0	.0	0	.0	0	.0
MAINE	1,239	0	.0	180	14.5	65	5.2	994	80.2	0	.0
MARYLAND	11,986	0	.0	5,896	49.2	0	.0	6,090	50.8	0	.0
MASSACHUSETTS	16,691	0	.0	323	1.9	345	2.1	320	1.9	15,703	94.1
MICHIGAN	63,117	0	.0	45	.1	0	.0	0	.0	63,072	99.9
MINNESOTA	3,866	922	23.8	75	1.9	2,723	70.4	0	.0	146	3.8
MISSISSIPPI	390	0	.0	0	.0	390	100.0	0	.0	0	.0
MISSOURI	5,119	135	2.6	371	7.2	2,102	41.1	2,511	49.1	0	.0
MONTANA	754	160	21.2	0	.0	594	78.8	0	.0	0	.0
NEBRASKA	2,482	0	.0	2,482	100.0	0	.0	0	.0	0	.0
NEVADA	1,134	0	.0	1,134	100.0	0	.0	0	.0	0	.0
NEW HAMPSHIRE	713	215	30.2	102	14.3	396	55.5	0	.0	0	.0
NEW JERSEY	31,530	3,020	9.6	70	.2	17,944	56.9	6,846	21.7	3,650	11.6
NEW MEXICO	3,603	0	.0	573	15.9	3,030	84.1	0	.0	0	.0
NEW YORK	80,857	343	.4	1,912	2.4	3,999	4.9	9,864	12.2	64,739	80.1
NORTH CAROLINA	341	0	.0	341	100.0	0	.0	0	.0	0	.0
NORTH DAKOTA	515	0	.0	0	.0	515	100.0	0	.0	0	.0
OHIO	34,203	458	1.3	8,118	23.7	15,785	46.2	9,571	28.0	271	.8
OKLAHOMA	3,920	0	.0	39	1.0	0	.0	3,881	99.0	0	.0
OREGON	15,483	15,483	100.0	0	.0	0	.0	0	.0	0	.0
PENNSYLVANIA	21,796	886	4.1	281	1.3	3,588	16.5	6,041	27.7	11,000	50.5
RHODE ISLAND	2,460	0	.0	0	.0	0	.0	0	.0	2,460	100.0
SOUTH CAROLINA	604	0	.0	604	100.0	0	.0	0	.0	0	.0
SOUTH DAKOTA	609	0	.0	266	43.7	343	56.3	0	.0	0	.0
TENNESSEE	3,448	0	.0	0	.0	3,448	100.0	0	.0	0	.0
TEXAS	13,289	0	.0	1,204	9.1	9,085	68.4	3,000	22.6	0	.0
UTAH	1,449	0	.0	0	.0	1,449	100.0	0	.0	0	.0
VERMONT	421	0	.0	0	.0	338	80.3	83	19.7	0	.0
VIRGINIA	4,739	0	.0	0	.0	239	5.0	4,500	95.0	0	.0
WASHINGTON	23,672	79	.3	1,457	6.2	3,755	15.9	18,001	76.0	380	1.6
WEST VIRGINIA	424	0	.0	134	31.6	290	68.4	0	.0	0	.0
WISCONSIN	18,997	0	.0	2,571	13.5	2,996	15.8	3,419	18.0	10,011	52.7
WYOMING	938	0	.0	180	19.2	73	7.8	685	73.0	0	.0
T O T A L	609,034	24,227	4.0	34,903	5.7	238,217	39.1	100,741	16.5	210,946	34.6
STRATUM											
1	146,604	0	.0	5,384	3.7	32,630	22.3	5,290	3.6	103,300	70.5
2	72,676	3,837	5.3	6,203	8.5	33,157	45.6	21,306	29.3	8,171	11.2
3	54,113	0	.0	1,134	2.1	31,873	58.9	7,029	13.0	14,077	26.0
4	84,288	3,571	4.2	3,863	4.6	37,570	44.6	14,023	16.6	25,261	30.0
5	90,888	5,695	6.3	5,232	5.8	39,053	43.0	21,830	24.0	19,078	21.0
6	83,031	4,651	5.6	7,585	9.1	31,993	38.5	17,738	21.4	21,064	25.4
7	63,422	5,750	9.1	4,955	7.8	24,750	39.0	12,222	19.3	15,745	24.8
8	14,012	721	5.1	547	3.9	7,191	51.3	1,303	9.3	4,250	30.3
T O T A L	609,034	24,227	4.0	34,903	5.7	238,217	39.1	100,741	16.5	210,946	34.6

TABLE A-2

NUMBER OF AGREEMENTS

STATE	NO. OF AGREEMENTS	OTHER THAN ORGANIZATIONAL REPRESENTATION		LEVEL I		LEVEL II		LEVEL III		SUBSTANTIVE AGREEMENTS	
		NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.
1	2	3	4	5	6	7	8	9	10	11	12
ALABAMA	0	0	.0	0	.0	0	.0	0	.0	0	.0
ALASKA	3	0	.0	0	.0	2	66.7	1	33.3	0	.0
ARIZONA	10	1	10.0	1	10.0	3	30.0	5	50.0	0	.0
ARKANSAS	0	0	.0	0	.0	0	.0	0	.0	0	.0
CALIFORNIA	301	0	.0	5	1.7	281	93.4	15	5.0	0	.0
COLORADO	17	0	.0	2	11.8	8	47.1	6	35.3	1	5.9
CONNECTICUT	58	0	.0	12	20.7	0	.0	1	1.7	45	77.6
DELAWARE	7	0	.0	0	.0	1	14.3	6	85.7	0	.0
DISTRICT OF COLUMBIA	0	0	.0	0	.0	0	.0	0	.0	0	.0
FLORIDA	5	0	.0	0	.0	3	60.0	2	40.0	0	.0
GEORGIA	0	0	.0	0	.0	0	.0	0	.0	0	.0
HAWAII	0	0	.0	0	.0	0	.0	0	.0	0	.0
IDAHO	14	1	7.1	3	21.4	7	50.0	3	21.4	0	.0
ILLINOIS	62	5	8.1	8	12.9	20	32.3	19	30.6	10	16.1
INDIANA	29	2	6.9	5	17.2	13	44.8	9	31.0	0	.0
IOWA	8	1	12.5	1	12.5	4	50.0	2	25.0	0	.0
KANSAS	26	1	3.8	0	.0	10	38.5	15	57.7	0	.0
KENTUCKY	1	0	.0	0	.0	1	100.0	0	.0	0	.0
LOUISIANA	0	0	.0	0	.0	0	.0	0	.0	0	.0
MAINE	5	0	.0	1	20.0	1	20.0	3	60.0	0	.0
MARYLAND	5	0	.0	3	60.0	0	.0	2	40.0	0	.0
MASSACHUSETTS	66	0	.0	3	4.5	4	6.1	2	3.0	57	86.4
MICHIGAN	238	0	.0	1	.4	0	.0	0	.0	237	99.6
MINNESOTA	19	5	26.3	1	5.3	12	63.2	0	.0	1	5.3
MISSISSIPPI	1	0	.0	0	.0	1	100.0	0	.0	0	.0
MISSOURI	20	2	10.0	4	20.0	8	40.0	6	30.0	0	.0
MONTANA	5	1	20.0	0	.0	4	80.0	0	.0	0	.0
NEBRASKA	2	0	.0	2	100.0	0	.0	0	.0	0	.0
NEVADA	1	0	.0	1	100.0	0	.0	0	.0	0	.0
NEW HAMPSHIRE	6	1	16.7	1	16.7	4	66.7	0	.0	0	.0
NEW JERSEY	151	18	11.9	1	.7	97	64.2	34	22.5	1	.7
NEW MEXICO	5	0	.0	2	40.0	3	60.0	0	.0	0	.0
NEW YORK	78	3	3.8	10	12.8	20	25.6	33	42.3	12	15.4
NORTH CAROLINA	1	0	.0	1	100.0	0	.0	0	.0	0	.0
NORTH DAKOTA	1	0	.0	0	.0	1	100.0	0	.0	0	.0
OHIO	117	4	3.4	25	21.4	56	47.9	31	26.5	1	.9
OKLAHOMA	3	0	.0	1	33.3	0	.0	2	66.7	0	.0
OREGON	55	55	100.0	0	.0	0	.0	0	.0	0	.0
PENNSYLVANIA	42	4	9.5	3	7.1	13	31.0	21	50.0	1	2.4
RHODE ISLAND	9	0	.0	0	.0	0	.0	0	.0	9	100.0
SOUTH CAROLINA	1	0	.0	1	100.0	0	.0	0	.0	0	.0
SOUTH DAKOTA	4	0	.0	1	25.0	3	75.0	0	.0	0	.0
TENNESSEE	1	0	.0	0	.0	1	100.0	0	.0	0	.0
TEXAS	6	0	.0	2	33.3	3	50.0	1	16.7	0	.0
UTAH	3	0	.0	0	.0	3	100.0	0	.0	0	.0
VERMONT	6	0	.0	0	.0	5	83.3	1	16.7	0	.0
VIRGINIA	2	0	.0	0	.0	1	50.0	1	50.0	0	.0
WASHINGTON	73	1	1.4	7	9.6	8	11.0	56	76.7	1	1.4
WEST VIRGINIA	2	0	.0	1	50.0	1	50.0	0	.0	0	.0
WISCONSIN	68	0	.0	14	20.6	12	17.6	20	29.4	22	32.4
WYOMING	3	0	.0	1	33.3	1	33.3	1	33.3	0	.0
T O T A L	1,540	105	6.8	124	8.1	615	39.9	298	19.4	398	25.8
STRATUM											
1	11	0	.0	1	9.1	4	36.4	1	9.1	5	45.5
2	23	1	4.3	2	8.7	12	52.2	6	26.1	2	8.7
3	33	0	.0	1	3.0	18	54.5	5	15.2	9	27.3
4	117	4	3.4	5	4.3	56	47.9	20	17.1	32	27.4
5	228	13	5.7	14	6.1	104	45.6	53	23.2	44	19.3
6	385	23	6.0	34	8.8	147	38.2	79	20.5	102	26.5
7	623	53	8.5	57	9.1	236	37.9	114	18.3	163	26.2
8	120	11	9.2	10	8.3	38	31.7	20	16.7	41	34.2
T O T A L	1,540	105	6.8	124	8.1	615	39.9	298	19.4	398	25.8

NEGOTIATION AGREEMENTS IN SCHOOL SYSTEMS WITH ENROLLMENTS OF 6,000 TO 11,999

The listing of school systems with enrollments of from 6,000 to 11,999 (Stratum 5) below, provides information on the existence of written procedures between the various school boards and organizations of the teaching profession. Information listed is for the 1966-67 school year, as provided to the NEA Research Division by the school system administrative offices by June 20, 1967. Data for school systems with enrollments of 12,000 or more were published in the October issue.

Established policy required a completed questionnaire and a copy of the written negotiation procedures on file in the NEA Research Division depository of agreements before a local school system could be considered to have written negotiation procedures.

Every effort was made to obtain responses which were as current and as nearly complete as possible. Changes for individual school systems will be reflected in a future survey.

The information provided for each school system is as follows: whether or not written negotiation procedures exist in the system, the recognized organization(s), the national affiliation of the recognized organization(s), and the number of organizational representatives on the negotiating team. Should the system not have exclusive representation by one organization, the following abbreviations were used to indicate the type of negotiation in effect:

JNE: Joint negotiating council with an <u>equal</u> number of representatives from each recognized organization.

JNP: Joint negotiating council with representation <u>proportional</u> to the number of staff members represented by each recognized organization. California law requires this procedure be used in situations where more than one organization seeks representation rights.

NR: Not reported.

SN: Separate negotiation for each recognized organization.

NEGOTIATION AGREEMENTS IN SCHOOL SYSTEMS WITH ENROLLMENTS OF 6,000 TO 11,999

School system	Written negotiation procedures	Recognized organization	National affiliation	Organizational representatives on negotiating team
1	2	3	4	5
ALABAMA				
Anniston	No			
Bessemer	No			
Butler Co., Greenville	No			
Chambers Co., Lafayette	No			
Cullman Co., Cullman	(---------- No Response ----------)			
Dallas Co., Selma (excl. Selma)	(---------- No Response ----------)			
Decatur	(---------- No Response ----------)			
De Kalb Co., Fort Payne	No			
Dothan	No			
Elmore Co., Wetumpka	No			
Etowah Co., Gadsden	No			
Florence	No			
Jackson Co., Scottsboro	No			
Lauderdale Co., Florence (excl. Florence)	No			
Lawrence Co., Moulton	No			
Limestone Co., Athens	No			
Monroe Co., Monroeville	(---------- No Response ----------)			
Morgan Co., Decatur (excl. Decatur)	No			
Phenix City	No			
St. Clair Co., Asheville	No			
Selma	No			
Shelby Co., Columbiana	No			
Talladega Co., Talladega	No			
Tuscaloosa Co., Tuscaloosa	No			
Walker Co., Jasper	No			
ALASKA				
North Star Borough, Fairbanks	No			
ARIZONA				
Alhambra District, Phoenix	(---------- No Response ----------)			
Amphitheater District, Tucson	Yes	Amphitheater Classroom Teachers Association	NEA	8
Cartwright District, Phoenix	No			
Flagstaff	(---------- No Response ----------)			
Glendale High School District	No			
Madison District, Phoenix	No			
Phoenix	No			
Roosevelt District, Phoenix	Yes	Roosevelt Classroom Teachers Association	NEA	5
Tempe	No			
ARKANSAS				
Blytheville	No			
El Dorado	No			
Forrest City	No			
Helena-West Helena	No			
Hot Springs	No			
Pine Bluff	No			
Texarkana	No			
West Memphis	(---------- No Response ----------)			
CALIFORNIA				
Acalanes High School District, Lafayette	Yes	Acalanes Education Association	NEA	NR
Alameda	(---------- No Response ----------)			
Alvord District, La Sierra	No			
Arcadia	Yes	Arcadia Teachers Association	NEA	JNP: 4 of 5
		Supervisory Administrative Guidance Association	IND	1 of 5
Bassett District, La Puente	Yes	Bassett Educators Association	NEA	5

NEGOTIATION AGREEMENTS IN SCHOOL SYSTEMS WITH ENROLLMENTS OF 6,000 TO 11,999 (Continued)

School system	Written negotiation procedures	Recognized organization	National affiliation	Organizational representatives on negotiating team
1	2	3	4	5
CALIFORNIA (Continued)				
Cajon Valley Elementary District, El Cajon	Yes	Cajon Valley Education Association	NEA	JNP: 7 of 8
		Cajon Valley Administrators and Supervisors Association	NEA	1 of 8
Campbell Elementary District.	Yes	Campbell Elementary Administrators Association	NEA	NR
		Campbell Elementary Teachers Association	NEA	NR
Campbell High School District	No			
Castro Valley	No			
Centinela Valley High School District, Hawthorne	Yes	Centinela Valley Secondary Teachers Association	NEA	7
Centralia Elementary District, Buena Park	Yes	Centralia Education Association	NEA	9
Chaffey High School District, Ontario	YES	Chaffey District Teachers Association	NEA	7
Charter Oak District, Covina.	Yes	Charter Oak Teachers Association	NEA	JNP: 8 of 9
		California Elementary School Administrators Association	IND	1 of 9
Chico	Yes	Chico Unified Teachers Association	NEA	NR
Chino	Yes	Associated Chino Teachers	NEA	NR
Chula Vista Elementary District	Yes	Chula Vista Elementary Education Association	NEA	NR
Claremont	Yes	Claremont Faculty Association	NEA	JNP: 6 of 7
		Claremont High School Teachers Association	IND	1 of 7
Clovis	Yes	Clovis Unified Teachers Association	NEA	5
Colton	Yes	Colton Joint Unified School District Teachers Association	NEA	9
Corona	Yes	Association of Corona Teachers	NEA	9
Culver City	Yes	Culver City Teachers Association	NEA	5
East Side High School District, San Jose	No			
El Monte Elementary District.	Yes	El Monte Teachers Association	NEA	9
El Monte High School District	Yes	El Monte Union High School District Teachers Association	NEA	JNP: 8 of 9
		El Monte Union High School District Administrators Association	NEA	1 of 9
Eureka	No			
Folsom	Yes	Folsom Education Association	NEA	NR
Fremont High School District, Sunnyvale	Yes	Fremont District Teachers Association	NEA	NR
Fullerton High School District	No			
Glendora	Yes	Glendora Teachers Association	NEA	9
Hueneme Elementary District, Port Hueneme	Yes	Hueneme Education Association	NEA	9
Huntington Beach High School District	Yes	District Educators Association	NEA	9
Jefferson Elementary District, Daly City	(---------- No Response ----------)			
Jurupa District, Riverside	Yes	Jurupa Teachers Association	NEA	9
Laguna Salada Elementary District, Pacifica	Yes	Laguna Salada Education Association	NEA	7
Lancaster Elementary District	Yes	Lancaster Elementary Teachers Association	NEA	5
La Puente High School District	Yes	Valley Teachers Association	NEA	JNP: 7 of 9
		California Council for Adult Education	IND	1 of 9
		Association of Administrators and Counselors	IND	1 of 9
Lawndale Elementary District.	Yes	Lawndale Teachers Association	NEA	JNP: 8 of 9
		Lawndale Elementary Administrators Division	NEA	1 of 9
Little Lake Elementary District, Santa Fe Springs	Yes	Little Lake Education Association	NEA	7
Livermore Valley District, Livermore	(---------- No Response ----------)			
Lowell Elementary District, Whittier	yes	Lowell Joint Education Association	NEA	9
Lynwood	Yes	Lynwood Teachers Association	NEA	9
Magnolia Elementary District, Anaheim	Yes	Magnolia Educators Association	NEA	NR
Merced Elementary District	Yes	Merced City Faculty Association	NEA	9
Monrovia	Yes	Monrovia Teachers Association	NEA	NR

NEGOTIATION AGREEMENTS IN SCHOOL SYSTEMS WITH ENROLLMENTS OF 6,000 TO 11,999 (Continued)

School system	Written negotiation procedures	Recognized organization	National affiliation	Organizational representatives on negotiating team
1	2	3	4	5
CALIFORNIA (Continued)				
Moreland Elementary District, San Jose		Incomplete questionnaire; policy on file		
Newark	Yes	Newark Teachers Association	NEA	9
Oceanside Elementary District	No			
Ocean View Elementary District, Huntington Beach	Yes	Ocean View Teachers Association	NEA	JNP: 8 of 9
		Ocean View Administrators Association	NEA	1 of 9
Oxnard Elementary District	Yes	Oxnard Educators Association	NEA	9
Oxnard High School District	Yes	Oxnard Educators Association	NEA	7
Paramount	Yes	Paramount Teachers Association	NEA	NR
Pittsburg	No			
Placentia	Yes	Placentia Unified Educational Association	NEA	NR
Redlands	Yes	Redlands Teachers Association	NEA	7
Redondo Beach Elementary District	Yes	Redondo Beach City Teachers Association	NEA	JNP: 8 of 9
		Redondo Beach Elementary Administrators Association	NEA	1 of 9
Redwood City Elementary District	Yes	Redwood City Teachers Association	NEA	JNP: 8 of 9
		Redwood City Chapter, AFT	AFT	1 of 9
Rio Linda Elementary District	Yes	Rio Linda Teachers Association	NEA	NR
Rowland Elementary District, Rowland Heights	Yes	Rowland Education Association	NEA	9
Salinas High School District	(---------- No Response ----------)			
San Leandro	(---------- No Response ----------)			
San Mateo High School District	No			
San Rafael	Yes	San Rafael Teachers Association	NEA	JNP: 6 of 7
		Marin Federation of Teachers	AFT	1 of 7
Santa Clara	(---------- No Response ----------)			
Santa Cruz	Yes	Santa Cruz City Teachers Association	NEA	7
Santa Maria Elementary District	Yes	Santa Maria Elementary Education Association	NEA	7
Santa Rosa	Yes	Santa Rosa Teachers Association	NEA	9
Sequoia High School District, Redwood City	Yes	Sequoia District Teachers Association	NEA	JNP: 7 of 9
		Sequoia Federation of Teachers	AFT	2 of 9
South Bay High School District, Redondo Beach	(---------- No Response ----------)			
South San Francisco	Yes	South San Francisco Chapter--CTA	NEA	JNP: 6 of 7
		South San Francisco Administrators	IND	1 of 7
Sunnyvale Elementary District	No			
Tustin Elementary District	Yes	Tustin Elementary Teachers Association	NEA	JNP: 8 of 9
		Tustin Elementary School Administrators Association	NEA	1 of 9
Union Elementary District, San Jose	Yes	Union District Faculty Association	NEA	5
Vista	Yes	Vista Teachers Association	NEA	JNP: 6 of 7
		Vista Administrators Association	IND	1 of 7
COLORADO				
Adams Co. District 12, Denver	Yes	District 12 Teachers Association	NEA	8
Adams Co. District 14, Commerce City	Yes	District 14 Education Association	NEA	5
Englewood	No			
Greeley	No			
Mapleton District, Denver	Yes	Mapleton Education Association	NEA	4
Poudre District, Fort Collins	No			
St. Vrain District, Longmont	Yes	St. Vrain Valley Education Association	NEA	8
CONNECTICUT				
Bristol	Yes	Bristol Education Association	NEA	SN: 5
		Bristol Principals Association	IND	SN: 4
Danbury	Yes	Danbury Education Association	NEA	NR
East Hartford	Yes	East Hartford Education Association	NEA	11
Enfield District, Thompsonville	Yes	Enfield Teachers Association	NEA	SN: 5
		Enfield Principals Association	NEA	SN: 3

NEGOTIATION AGREEMENTS IN SCHOOL SYSTEMS WITH ENROLLMENTS OF 6,000 TO 11,999 (Continued)

School system	Written negotiation procedures	Recognized organization	National affiliation	Organizational representatives on negotiating team
1	2	3	4	5
CONNECTICUT (Continued)				
Fairfield	Yes	Fairfield Education Association	NEA	10
Greenwich	Yes	Greenwich Educational Association	NEA	NR
Groton	Yes	Groton Education Association	NEA	8-10
Hamden	No			
Manchester	Yes	Manchester Education Association	NEA	10
Meriden	Yes	Meriden Education Association	NEA	13
Middletown	Yes	Middletown Education Association	NEA	7
Milford	Yes	Milford Education Association	NEA	SN: 7
		Milford Principals Association	NEA	SN: NR
Norwich	Yes	Norwich Teachers League	NEA	NR
Southington	No			
Stratford	Yes	Stratford Education Association	NEA	7
Wallingford	No			
West Haven	Yes	West Haven Education Association	NEA	NR
Westport	(---------- No Response ----------)			
DELAWARE				
Du Pont District 7, Wilmington	No			
Newark Special District	Yes	Newark Schools Education Association	NEA	6
New Castle Special District	No			
FLORIDA				
Clay Co., Green Cove Springs	Yes	Clay County Education Association	NEA	5
Gadsden Co., Quincy	No			
Indian River Co., Vero Beach	No			
Jackson Co., Marianna	(---------- No Response ----------)			
Monroe Co., Key West	No			
Pasco Co., Dade City	(---------- No Response ----------)			
Putnam Co., Palataka	No			
St. Johns Co., St. Augustine	(---------- No Response ----------)			
St. Lucie Co., Fort Pierce	No			
Santa Rosa Co., Milton	No			
GEORGIA				
Bulloch Co., Statesboro	(---------- No Response ----------)			
Carroll Co., Carrollton	No			
Catoosa Co., Ringgold	No			
Clarke Co., Athens	No			
Coffee Co., Douglas	No			
Decatur Co., Bainbridge	(---------- No Response ----------)			
Floyd Co., Rome (excl. Rome)	No			
Griffin-Spalding Co., Griffin	No			
Hall Co., Gainesville	(---------- No Response ----------)			
Henry Co., McDonough	No			
Rome	No			
Tift Co., Tifton	No			
Valdosta	No			
Walker Co., Lafayette	No			
Whitfield Co., Walton	No			
IDAHO				
Idaho Falls	Yes	Idaho Falls Education Association	NEA	12
Pocatello	Yes	Pocatello Education Association	NEA	SN: NR
		Pocatello Teachers Guild	AFT	SN: NR
Twin Falls	(---------- No Response ----------)			
ILLINOIS				
Arlington Heights Elementary District	Yes	Arlington Teachers Association	NEA	6
Aurora East District	Yes	Aurora Education Association (East)	NEA	NR

NEGOTIATION AGREEMENTS IN SCHOOL SYSTEMS WITH ENROLLMENTS OF 6,000 TO 11,999 (Continued)

School system	Written negotiation procedures	Recognized organization	National affiliation	Organizational representatives on negotiating team
1	2	3	4	5
ILLINOIS (Continued)				
Aurora West District	No			
Bloomington	No			
Cahokia	Yes	American Federation of Teachers	AFT	NR
Carpentersville	No			
Champaign	Yes	Champaign Education Association	NEA	7
Collinsville	Yes	Collinsville Education Association	NEA	JNE: 3
		Collinsville Federation of Teachers	AFT	JNE: 3
Danville	Yes	No organizational representation		
Des Plains Elementary District	No			
Elmhurst Elementary District.	No			
Elmhurst High School District, Villa Park	No			
Evanston Elementary District.	No			
Freeport	No			
Galesburg	No			
Harlem District, Rockford	No			
Joliet Elementary District	Yes	Joliet Education Association	NEA	JNE: 3
		Joliet Federation of Teachers, Local 604	AFT	JNE: 3
Kankakee	No			
Maine High School District, Park Ridge	Yes	District 207 Teachers Association	IND	NR
Moline	No			
Morton (J. S.) High School District, Cicero	No			
Niles High School District, Skokie	No			
Palatine Elementary District	No			
Park Ridge Elementary District	Yes	Department of Teachers, Park Ridge Education Association	NEA	12
Proviso High School District, Maywood	Yes	Proviso Council, Local 571	AFT	NR
Quincy	Yes	No organizational representation		
Rock Island	No			
Thornton Twp. High School District, Harvey	No			
Township High School District 214, Arlington Heights	No			
Waukegan Elementary District.	No			
INDIANA				
Bartholomew District, Columbus	No			
Bloomington	Yes	Bloomington Metropolitan Teachers Association	NEA	NR
East Allen Co., New Haven	Yes	East Allen County Teachers Association	NEA	SN: 10
		East Allen County Principals Association	NEA	SN: 4
East Chicago	No			
Elkhart	No			
Huntington Co., Huntington	No			
Lafayette	No			
LaPorte	No			
Lawrence District, Indianapolis	(---------- No Response ----------)			
Marion	No			
Mishawaka	No			
New Albany-Floyd District, New Albany	No			
New Castle-Henry District, New Castle	No			
Perry Twp. District, Indianapolis	No			
Richmond	No			
Warren Twp. District, Indianapolis	No			
Wayne Twp. District, Indianapolis	No			

NEGOTIATION AGREEMENTS IN SCHOOL SYSTEMS WITH ENROLLMENTS OF 6,000 TO 11,999 (Continued)

School system	Written negotiation procedures	Recognized organization	National affiliation	Organizational representatives on negotiating team
1	2	3	4	5
IOWA				
Burlington	Yes	Burlington Education Association	NEA	10
Cedar Falls	No			
Clinton	Yes	Clinton Education Association	NEA	11
Dubuque	No			
Fort Dodge	(---------- No Response ----------)			
Mason City	No			
Ottumwa	No			
KANSAS				
Geary Co., Junction City	Yes	Junction City Education Association	NEA	NR
Hutchinson	No			
Lawrence	Yes	Lawrence Education Association	NEA	5
One Hundred Ten Elementary District, Overland Park	No			
Salina	(---------- No Response ----------)			
Washington District, Kansas City	No			
KENTUCKY				
Ashland	No			
Bell Co., Pineville	(---------- No Response ----------)			
Covington	No			
Daviess Co., Owensboro	No			
Floyd Co., Prestonburg	No			
Hardin Co., Elizabethtown	No			
Harlan Co., Harlan	No			
Hopkins Co., Madisonville	(---------- No Response ----------)			
Kenton Co., Independence	No			
Letcher Co., Whitesburg	No			
Lexington	No			
Owensboro	No			
Paducah	Yes	Paducah Education Association	NEA	12
Perry Co., Hazard	(---------- No Response ----------)			
LOUISIANA				
Acadia Parish, Crowley	No			
Ascension Parish, Donaldsonville	(---------- No Response ----------)			
Avoyelles Parish, Marksville	No			
Beauregard Parish, De Ridder	No			
Bogalusa	No			
Concordia Parish, Vidalia	No			
De Soto Parish, Mansfield	No			
Evangeline Parish, Ville Platte	No			
Franklin Parish, Winnsboro	No			
Iberville Parish, Plaquemine	No			
Jefferson Davis Parish, Jennings	No			
Lincoln Parish, Ruston	No			
Livingston Parish, Livingston	No			
Monroe	(---------- No Response ----------)			
Morehouse Parish, Bastrop	(---------- No Response ----------)			
Natchitoches Parish, Natchitoches	No			
Plaquemines Parish, Pte-A-La-Hache	No			
Pointe Coupee Parish, New Roads	No			
Richland Parish, Rayville	No			
St. Bernard Parish, Chalmette	No			
St. Charles Parish, Luling	No			
St. Martin Parish, St. Martinville	No			

NEGOTIATION AGREEMENTS IN SCHOOL SYSTEMS WITH ENROLLMENTS OF 6,000 TO 11,999 (Continued)

School system	Written negotiation procedures	Recognized organization	National affiliation	Organizational representatives on negotiating team
1	2	3	4	5
LOUISIANA (Continued)				
Vermillion Parish, Abbeville.	(---------- No Response ----------)			
Vernon Parish, Leesville	No			
Washington Parish, Franklinton	No			
Webster Parish, Minden	No			
MAINE				
Bangor	No			
MARYLAND				
Cecil Co., Elkton	(---------- No Response ----------)			
Charles Co., La Plata	No			
Dorchester Co., Cambridge ...	Yes	Dorchester Educators	NEA	NR
Howard Co., Ellicott City ...	No			
St. Marys Co., Leonardtown ..	No			
Wicomico Co., Salisbury	(---------- No Response ----------)			
Worcester Co., Snow Hill	No			
MASSACHUSETTS				
Arlington	No			
Attleboro	No			
Beverly	No			
Braintree	No			
Brookline	No			
Cambridge	(---------- No Response ----------)			
Everett	No			
Fitchburg	(---------- No Response ----------)			
Framingham	No			
Haverhill	(---------- No Response ----------)			
Holyoke	Yes	Holyoke Teachers Club	NEA	NR
Lawrence	No			
Lexington	No			
Malden	No			
Medford	Yes	Medford Teachers Association	NEA	NR
Melrose	Yes	Melrose Teachers Club	NEA	9
Natick	(---------- No Response ----------)			
Needham	No			
Peabody	No			
Revere	(---------- No Response ----------)			
Waltham	No			
Watertown	(---------- No Response ----------)			
Wellesley	No			
Westfield	No			
Weymouth	No			
Woburn	No			
MICHIGAN				
Allen Park	Yes	American Federation of Teachers	AFT	6
Alpena	Yes	Alpena Education Association	NEA	5
Battle Creek	Yes	Battle Creek Education Association	NEA	SN: 7
		School Principals and Consultants	NEA	SN: 3
Berkley	Yes	Berkley Education Association	NEA	5
Bloomfield Hills	Yes	Bloomfield Hills Education Association	NEA	5
Carman	No			
Ferndale	Yes	Ferndale Education Association	NEA	3
Grosse Pointe	Yes	Grosse Pointe Education Association	NEA	5-7
Hazel Park	Yes	Hazel Park Education Association	NEA	6
Highland Park	Yes	Highland Park Federation of Teachers	AFT	7
Lakeview District, St. Clair Shores	No			
Midland	Yes	Midland City Education Association	NEA	5
Mount Clemens	Yes	Mount Clemens Education Association	NEA	6
Muskegon	Yes	Muskegon City Teachers Association	NEA	7

NEGOTIATION AGREEMENTS IN SCHOOL SYSTEMS WITH ENROLLMENTS OF 6,000 TO 11,999 (Continued)

School system	Written negotiation procedures	Recognized organization	National affiliation	Organizational representatives on negotiating team
1	2	3	4	5
MICHIGAN (Continued)				
Oak Park	No			
Portage	Yes	Portage Education Association	NEA	9
Redford District, Detroit	Yes	Redford Union Education Association	NEA	7
Rochester	Yes	Rochester Education Association	NEA	5
South Redford District, Detroit	Yes	South Redford Education Association	NEA	5
St. Clair Shores	Yes	Lake Shore Federation of Teachers	AFT	6
Utica	Yes	Utica Education Association	NEA	5
Van Dyke District, Warren	Yes	Van Dyke Federation of Teachers	AFT	4
Walled Lake	Yes	Walled Lake Education Association	NEA	5-7
Wyandotte	Yes	Wyandotte Education Association	NEA	7
Wyoming	Yes	Wyoming Education Association	NEA	SN: 5
		Wyoming Administrators and Supervisors	IND	SN: 5
Ypsilanti	(---------- No Response ----------)			
MINNESOTA				
Albert Lea	No			
Austin	No			
Columbia Heights District, Minneapolis	(---------- No Response ----------)			
Edina-Morningside	No			
Hopkins	No			
Mankato	Yes	Mankato Teachers League	NEA	SN: NR
		Administrators Committee	NEA	SN: NR
Minnetonka District, Excelsior	No			
Mounds View District, St. Paul	No			
North St. Paul	No			
Osseo	No			
Richfield	No			
Rochester	No			
Roseville District, St. Paul.	No			
St. Cloud	No			
St. Louis Park	No			
White Bear Lake	Yes	No organizational recognition		
MISSISSIPPI				
Biloxi	No			
Coahoma Co., Clarksdale	No			
Columbus	(---------- No Response ----------)			
De Soto Co., Hernando	No			
Gulfport	No			
Hattiesburg	Yes	Hattiesburg Education Association	NEA	NR
Holmes Co., Lexington	(---------- No Response ----------)			
Jones Co., Laurel (excl. Laurel)	No			
Laurel	(---------- No Response ----------)			
Le Flore Co., Greenwood	No			
Meridian	No			
Natchez	No			
Quitman Co., Marks	(---------- No Response ----------)			
Rankin Co., Brandon	(---------- No Response ----------)			
Sunflower Co., Indianola	(---------- No Response ----------)			
Vicksburg	No			
MISSOURI				
Columbia	Yes	Columbia Community Teachers Association	NEA	NR
Hickman Mills	No			
Joplin	(---------- No Response ----------)			
Kirkwood	No			
Lindbergh District, St. Louis	No			
Mehlville District, St. Louis	No			
Normandy District, St. Louis.	Yes	Normandy Teachers Association	NEA	5

NEGOTIATION AGREEMENTS IN SCHOOL SYSTEMS WITH ENROLLMENTS OF 6,000 TO 11,999 (Continued)

School system	Written negotiation procedures	Recognized organization	National affiliation	Organizational representatives on negotiating team
1	2	3	4	5
MISSOURI (Continued)				
Parkway District, Chesterfield	No			
Pattonville District, St. Ann	Yes	Pattonville Community Teachers Association	NEA	5
Riverview Gardens District, St. Louis	Yes	Riverview Gardens Community Teachers Association	NEA	15
University City District, St. Louis	No			
Webster Groves		Incomplete questionnaire; policy on file		
MONTANA				
Butte	Yes	Butte Teachers Union, Local 332	AFT	
NEBRASKA				
Bellevue	No			
Westside District, Omaha	No			
NEW HAMPSHIRE				
Nashua	No			
Portsmouth	No			
NEW JERSEY				
Atlantic City	Yes	Atlantic City Education Association	NEA	4
Bayonne	No			
Bloomfield	Yes	Bloomfield Education Association	NEA	8
Bridgeton	Yes	Bridgeton Education Association	NEA	3
Bridgewater Twp., Raritan	Yes	Bridgewater-Raritan Education Association	NEA	12
Cherry Hill	Yes	Cherry Hill Education Association	NEA	5
Cranford	Yes	Cranford Teachers Association	NEA	10
East Brunswick	Yes	East Brunswick Education Association	NEA	12
East Orange	Yes	East Orange Education Association	NEA	9
Fair Lawn	Yes	Fair Lawn Education Association	NEA	6
Hoboken	Yes	Hoboken Teachers Association	NEA	JNP: 3 of 4
		Administrators and Supervisors Association	NEA	1 of 4
Irvington	No			
Linden	(---------- No Response ----------)			
Livingston	No			
Madison Twp., Old Bridge	Yes	Madison Twp. Education Association	NEA	SN: 3
		Madison Federation of Teachers	AFT	SN: 3
Montclair	No			
Neptune Twp., Ocean Grove	No			
New Brunswick	(---------- No Response ----------)			
North Bergen	No			
Paramus	Yes	Paramus Teachers Association	NEA	NR
Parsippany-Troy Hills	Yes	Parsippany-Troy Hills Education Association	NEA	SN: 10-15
		Parsippany-Troy Hills Federation of Teachers	AFT	SN: 5- 7
Passaic	Yes	Passaic Teachers Association	NEA	NR
Pennsauken	No			
Perth Amboy	No			
Piscataway Twp., New Market	(---------- No Response ----------)			
Plainfield	No			
Ridgewood	Yes	Ridgewood Education Association	NEA	3
Scotch Plains-Fanwood	No			
South Orange-Maplewood	Yes	No organizational recognition		
Teaneck District, W. Englewood	Yes	Teaneck Teachers Association	NEA	15
Toms River	(---------- No Response ----------)			
Union Twp., Union	No			
Union City	No			
Vineland	No			
Wayne	No			
Westfield	No			
West Orange	No			
Willingboro District, Levittown	Yes	Willingboro Education Association	NEA	3

NEGOTIATION AGREEMENTS IN SCHOOL SYSTEMS WITH ENROLLMENTS OF 6,000 TO 11,999 (Continued)

School system	Written negotiation procedures	Recognized organization	National affiliation	Organizational representatives on negotiating team
1	2	3	4	5
NEW MEXICO				
Alamogordo	No			
Carlsbad	Yes	Carlsbad Education Association	NEA	7
Clovis	No			
Farmington	No			
Gallup-McKinley Co., Gallup.	Yes	Gallup-McKinley County Education Association	NEA	NR
Hobbs	No			
Roswell	No			
Santa Fe	No			
NEW YORK				
Auburn	No			
Baldwin	Yes	Baldwin Faculty Association	NEA	6
Bay Shore	Yes	Bay Shore Teachers Association	NEA	2
Bethpage	No			
Camillus	Yes	West Genesee Teachers Association	NEA	15
Clarkstown Central District, New City	No			
Colonie Central District, Albany	No			
Commack	Yes	Commack Teachers Association	NEA	5
Corning	No			
Deer Park	Yes	Deer Park Teachers Association	NEA	7
Endicott	No			
Freeport	Yes	Freeport Teachers Association	NEA	5
Great Neck	Yes	Great Neck Teachers Association	NEA	8
Greec District, Rochester	No			
Herricks District, New Hyde Park	Yes	Herricks Teachers Association	NEA	10
Horseheads	No			
Huntington	Yes	Associated Teachers of Huntington	NEA	7
Ithaca	No			
Jamestown	No			
Kingston	No			
Lawrence District, Cedarhurst	No			
Lindenhurst	No			
Liverpool	No			
Lockport	No			
Mepham District, Merrick	No			
Middle Country District, Centereach	Yes	Middle Country Teachers Association	NEA	6
Newburgh	Yes	Newburgh Teachers Association	NEA	5
North Babylon	Yes	North Babylon Teachers Association	NEA	NR
Northport	Yes	Northport Teachers Association	NEA	NR
North Syracuse	No			
North Tonawanda	No			
Oceanside	Yes	Oceanside Faculty Association	NEA	5
Patchogue	Yes	Patchogue Classroom Teachers Association	NEA	5
Plainedge District, Bethpage.	No			
Plainview	Yes	Plainview-Old Bethpage Federation of Teachers	AFT	SN: 10
		Administrators Association	IND	SN: 4
		Department Chairman Association	IND	SN: 5
Port Washington	No			
Ramapo Central District 2, Spring Valley	No			
Rome	No			
Smithtown District, St. James	No			
South Huntington District, Huntington Station	No			
Syosset	Yes	Syosset Teachers Association	NEA	7
Troy	Yes	Troy Teachers Association	NEA	NR
Uniondale	No			
Valley Stream High School	Yes	Valley Stream Teachers Association	NEA	10
Vestal	No			
Wappingers Falls	No			
Watertown	No			
West Babylon	No			
West Islip	No			

NEGOTIATION AGREEMENTS IN SCHOOL SYSTEMS WITH ENROLLMENTS OF 6,000 TO 11,999 (Continued)

School system	Written negotiation procedures	Recognized organization	National affiliation	Organizational representatives on negotiating team
1	2	3	4	5
NEW YORK (Continued)				
West Seneca	Yes	West Seneca Teachers Association	NEA	NR
White Plains	No			
Williamsville	No			
NORTH CAROLINA				
Asheville	No			
Bertie Co., Windsor	No			
Bladen Co., Elizabethtown	No			
Burke Co., Morgantown	No			
Burlington	No			
Cabarrus Co., Concord	No			
Caldwell Co., Lenoir	No			
Carteret Co., Beaufort	No			
Catawba Co., Newton	No			
Chatham Co., Pittsboro	No			
Cleveland Co., Shelby	No			
Columbus Co., Whiteville	(---------- No Response ----------)			
Craven Co., New Bern	(---------- No Response ----------)			
Duplin Co., Kenansville	No			
Edgecombe Co., Tarboro	No			
Fayetteville	No			
Franklin Co., Louisburg	(---------- No Response ----------)			
Gastonia	No			
Goldsboro	Yes	Goldsboro Unit of North Carolina Education Association	NEA	JNE: 13
		Goldsboro Unit of North Carolina Teachers Association	NEA	JNE: 8
Granville Co.-Oxford City	(---------- No Response ----------)			
Halifax Co., Halifax	No			
Haywood Co., Waynesville	No			
Henderson Co., Hendersonville	No			
Hertford Co., Winton	No			
Hickory	No			
Iredell Co., Statesville	No			
Kingston	No			
Lenoir Co., Kingston (excl. Kingston)	(---------- No Response ----------)			
Martin Co., Williamston	No			
Moore Co., Carthage	No			
Northampton Co., Jackson	No			
Person Co., Roxboro	No			
Randolph Co., Asheboro	No			
Rocky Mount	(---------- No Response ----------)			
Rutherford Co., Rutherfordton	No			
Sampson Co., Clinton	No			
Scotland Co.-Laurinburg City	No			
Stanly Co., Albemarle	No			
Surry Co., Dobson	No			
Union Co., Monroe	(---------- No Response ----------)			
Warren Co., Warrenton	No			
Wilkes Co., Wilkesboro	No			
Wilson	No			
NORTH DAKOTA				
Fargo	Yes	Fargo Education Association	NEA	5
Grand Forks	No			
Minot	No			
OHIO				
Alliance	Yes	Alliance Education Association	NEA	19
Ashtabula Area	Yes	Ashtabula Area Education Association	NEA	5
Barberton	No			
Beavercreek District, Xenia	Yes	Beavercreek Classroom Teachers Association	NEA	12
Bedford	Yes	Bedford Education Association	NEA	7
Chillicothe	Yes	Chillicothe Education Association	NEA	4
East Cleveland	No			
Euclid	No			

NEGOTIATION AGREEMENTS IN SCHOOL SYSTEMS WITH ENROLLMENTS OF 6,000 TO 11,999 (Continued)

School system	Written negotiation procedures	Recognized organization	National affiliation	Organizational representatives on negotiating team
1	2	3	4	5
OHIO (Continued)				
Fairborn	No			
Findlay	No			
Garfield Heights District, Cleveland	No			
Lakewood (Cuyahoga)	No			
Lancaster	(No Response)			
Lima	Yes	Lima Education Association	NEA	5
Maple Heights	No			
Marion City	Yes	Marion Education Association	NEA	NR
Massillon	Yes	Massillon Education Association	NEA	6
Mentor	No			
Newark	No			
Northwest (Hamilton) District, Cincinnati	Yes	Northwest Teachers Association	NEA	NR
Plain (Stark) District, Canton	(No Response)			
Portsmouth	(No Response)			
Princeton District, Cincinnati	No			
Sandusky	Yes	Sandusky Education Association	NEA	NR
Shaker Heights	Yes	Shaker Heights Teachers Association	NEA	14
South Euclid-Lyndhurst District, Cleveland	No			
Sylvania	No			
Upper Arlington District, Columbus	No			
Washington (Lucas) District, Toledo	Yes	Teachers Association Washington Local Schools	NEA	SN: 3
		Principals Committee	NEA	SN: 5
West Clermont District, Amelia	No			
Xenia	Yes	Xenia Education Association	NEA	3
Zanesville	No			
OKLAHOMA				
Bartlesville	No			
Enid	No			
Muskogee	No			
Norman	No			
Ponca City	No			
OREGON				
Coos Bay	Yes	Organizational Recognition Precluded		7
Corvallis	Yes	Organizational Recognition Precluded		5
David Douglas District, Portland	Yes	Organizational Recognition Precluded		7
Klamath Co., Klamath Falls	Yes	Organizational Recognition Precluded		5
Medford	Yes	Organizational Recognition Precluded		7
Roseburg	Yes	Organizational Recognition Precluded		NR
Springfield	Yes	Organizational Recognition Precluded		NR
PENNSYLVANIA				
Abington	No			
Albert Gallatin District, Uniontown	No			
Baldwin Whitehall District, Pittsburgh	Yes	Baldwin-Whitehall Education Association	NEA	10
Bethel Park	No			
Bradford	No			
Butler	No			
Canon-McMillan District, Canonsburg	(No Response)			
Carlisle	No			
Centennial District, Warminster	No			

NEGOTIATION AGREEMENTS IN SCHOOL SYSTEMS WITH ENROLLMENTS OF 6,000 TO 11,999 (Continued)

School system	Written negotiation procedures	Recognized organization	National affiliation	Organizational representatives on negotiating team
1	2	3	4	5
PENNSYLVANIA (Continued)				
Central Bucks District, Doylestown	No			
Central Dauphin District, Harrisburg	No			
Chambersburg	No			
Chartiers Valley District, Pittsburgh	No			
Cheltenham District, Philadelphia	No			
Chester	(---------- No Response ----------)			
Coatesville	Yes	Coatesville Area Teachers Association	NEA	4
Colonial District, Plymouth Meeting	No			
Connellsville	(---------- No Response ----------)			
Easton	No			
Gateway District, Monroeville	No			
Greater Johnstown District, Johnstown	Yes	Greater Johnstown Education Association	NEA	60
Haverford Twp. District, Havertown	(---------- No Response ----------)			
Hazleton	No			
Hempfield District, Greensburg	(---------- No Response ----------)			
Highland District, Tarentum	No			
Kiski District, Vandergrift	No			
Lancaster	Yes	Lancaster Education Association	NEA	NR
Laurel Highlands District, Hopwood	No			
Lower Merion Twp. District, Ardmore	Yes	No organizational recognition		
McKeesport	Yes	McKeesport Education Association	NEA	9
Marple-Newton District, Newton Square	No			
Mifflin Co. District, Lewistown	(---------- No Response ----------)			
Millcreek District, Erie	No			
Mount Lebanon District, Pittsburgh	No			
New Castle	No			
Norristown	No			
North Hills District, Pittsburgh	No			
North Penn District, Lansdale	Yes	North Penn Education Association	NEA	6
Norwin District, Irwin	No			
Ridley District, Folsom	No			
Ringgold District, Monongahela	No			
State College	Yes	State College Area Education Association	NEA	NR
Tredyffrin-Easttown-Paoli District, Berwyn	Yes	Tedyffrin-Easttown Branch of PSEA	NEA	5
Uniontown	No			
Upper Darby	No			
Warren Co., Warren	No			
West Chester	Yes	West Chester Area Education Association	NEA	5
West Mifflin	No			
West Shore District, Lemoyne	(---------- No Response ----------)			
Wilkes-Barre	(---------- No Response ----------)			
Williamsport	No			
Wyoming Valley West District, Forty Fort	(---------- No Response ----------)			
York	No			
RHODE ISLAND				
East Providence	Yes	East Providence Education Association	NEA	7
Pawtucket	(---------- No Response ----------)			
Woonsocket	No			

NEGOTIATION AGREEMENTS IN SCHOOL SYSTEMS WITH ENROLLMENTS OF 6,000 TO 11,999 (Continued)

School system	Written negotiation procedures	Recognized organization	National affiliation	Organizational representatives on negotiating team
1	2	3	4	5
SOUTH CAROLINA				
Anderson	No			
Beaufort	No			
Brookland-Cayce District, Cayce	No			
Cherokee Co., Gaffney	No			
Chester Co., Chester	No			
Fairfield Co., Winnsboro	(---------- No Response ----------)			
Georgetown Co., Georgetown	No			
Greenwood	No			
Kershaw Co., Camden	(---------- No Response ----------)			
Lancaster Co., Lancaster	No			
Lee Co., Bishopville	(---------- No Response ----------)			
Lower Colleton District, Walterboro	No			
Lower Richland-Eastover District, Eastover	No			
Marlboro Co., Bennettsville	No			
Newberry Co., Newberry	No			
Oconee Co., Walhalla	No			
Orangeburg	No			
St. Andrews District, Charleston	(---------- No Response ----------)			
Sumter No. 2 District, Sumter	No			
Sumter No. 17 District, Sumter	No			
Union Co., Union	No			
TENNESSEE				
Anderson Co., Clinton	No			
Blount Co., Maryville	(---------- No Response ----------)			
Bradley Co., Cleveland	No			
Campbell Co., Jacksboro	No			
Carter Co., Elizabethton	No			
Fayette Co., Somerville	No			
Franklin Co., Winchester	No			
Greene Co., Greeneville	(---------- No Response ----------)			
Hawkins Co., Rogersville	No			
Jackson	No			
Johnson	No			
Kingsport	No			
Lawrence Co., Lawrenceburg	No			
Madison Co., Jackson (excl. Jackson)	(---------- No Response ----------)			
Maury Co., Columbia	No			
Oak Ridge	No			
Putnam Co., Cookeville	(---------- No Response ----------)			
Robertson Co., Springfield	No			
Rutherford Co., Murfreesboro	No			
Sumner Co., Gallatin	(---------- No Response ----------)			
Tipton Co., Covington	No			
Washington Co., Jonesboro	No			
TEXAS				
Alice	No			
Big Spring	No			
Brazosport District, Freeport	No			
Bryan	No			
Carrolton	No			
Edinburg	No			
Galena Park	No			
Galveston	No			
Grand Prairie	No			
Harlingen	No			
Hurst-Euless-Bedford District, Hurst	(---------- No Response ----------)			

NEGOTIATION AGREEMENTS IN SCHOOL SYSTEMS WITH ENROLLMENTS OF 6,000 TO 11,999 (Continued)

School system	Written negotiation procedures	Recognized organization	National affiliation	Organizational representatives on negotiating team
1	2	3	4	5
TEXAS (Continued)				
Killeen	No			
Kingsville	No			
La Marque	No			
Longview	No			
Lufkin	No			
McAllen	No			
Marshall	No			
Northside District, San Antonio	No			
Pampa	No			
Pharr-San Juan-Almo District, Pharr	No			
Plainview	No			
Port Neches	No			
San Angelo	No			
Sherman	No			
Temple	No			
Texarkana	No			
Texas City	No			
UTAH				
Box Elder Co., Brigham City	Yes	Box Elder Education Association	NEA	15
Cache, Logan	No			
Murray	No			
Nebo District, Spanish Fork	(---------- No Response ----------)			
Provo	No			
Tooele Co., Tooele	No			
VERMONT				
Burlington	Nc			
VIRGINIA				
Accomack Co., Accomac	No			
Albemarle Co., Charlottesville (excl. Charlottesville)	No			
Augusta Co., Staunton	No			
Bedford Co., Bedford	No			
Buchanan Co., Grundy	No			
Campbell Co., Rustburg	No			
Charlottesville	No			
Danville	No			
Fauquier Co., Warrenton	No			
Franklin Co., Rocky Mount	No			
Halifax Co.-South Boston District, Halifax	No			
Hanover Co., Ashland	No			
Lee Co., Jonesville	No			
Loudoun Co., Leesburg	(---------- No Response ----------)			
Mecklenburg Co., Boydton	No			
Montgomery Co., Christiansburg	No			
Nansemond Co., Suffolk	(---------- No Response ----------)			
Petersburg	No			
Pulaski Co., Pulaski	No			
Rockingham Co., Harrisonburg	(---------- No Response ----------)			
Russell Co., Lebanon	No			
Scott Co., Gate City	Yes	Scott County Teachers Association	NEA	5
Smyth Co., Marion	No			
Tazewell Co., Tazewell	No			
Washington Co., Abingdon	(---------- No Response ----------)			
Wise Co., Wise	(---------- No Response ----------)			
York Co., Yorktown	No			

NEGOTIATION AGREEMENTS IN SCHOOL SYSTEMS WITH ENROLLMENTS OF 6,000 TO 11,999 (Continued)

School system	Written negotiation procedures	Recognized organization	National affiliation	Organizational representatives on negotiating team
1	2	3	4	5
WASHINGTON				
Auburn	Yes	Auburn Education Association	NEA	5
Bellingham	Yes	Bellingham Education Association	NEA	5
Bremerton	Yes	Bremerton Education Association	NEA	5
Central Valley District, Spokane	Yes	Central Valley Education Association	NEA	3
Federal Way	Yes	Federal Way Education Association	NEA	NR
Franklin Pierce District, Tacoma	Yes	Franklin Pierce Education Association	NEA	NR
Kennewick	Yes	Kennewick Education Association	NEA	NR
Kent	Yes	Kent Education Association	NEA	5
Lake Washington District, Kirkland	No			
Longview	Yes	Longview Education Association	NEA	5
Moses Lake	No			
Northshore District, Bothell	Yes	Northshore Education Association	NEA	11
Olympia	Yes	Olympia Education Association	NEA	5
Puyallup	Yes	Puyallup Education Association	NEA	NR
Richland	Yes	Richland Education Association	NEA	2
Walla Walla	Yes	Walla Walla Education Association	NEA	3
Yakima	Yes	Yakima Education Association	NEA	NR
WEST VIRGINIA				
Berkeley Co., Martinsburg	No			
Boone Co., Madison	Yes	Boone County Education Association	NEA	5
Brooke Co., Wellsburg	No			
Greenbrier Co., Lewisburg	No			
Hancock Co., New Cumberland	No			
Marshall Co., Moundsville	No			
Mason Co., Point Pleasant	No			
Mingo Co., Williamson	No			
Monongalia Co., Morgantown	No			
Nicholas Co., Summersville	No			
Ohio Co., Wheeling	No			
Preston Co., Kingwood	No			
Putnam Co., Winfield	No			
Randolph Co., Elkins	No			
Wayne Co., Wayne	No			
Wyoming Co., Pineville	No			
WISCONSIN				
Appleton	No			
Beloit	No			
Brookfield	(---------- No Response ----------)			
Eau Claire	Yes	American Federation of Teachers, Local 696	AFT	5
Fond Du Lac	No			
Janesville	Yes	Janesville Education Association	NEA	3
La Crosse	Yes	La Crosse Education Association	NEA	5
Manitowoc	Yes	Manitowoc Education Association	NEA	NR
Oshkosh	Yes	Oshkosh Education Association	NEA	5
Sheboygan	Yes	Sheboygan Education Association	NEA	5
Superior	Yes	Superior Federation of Teachers	AFT	SN: 3
		Superior Principals Association	NEA	SN: 3
Waukesha	No			
Wausau	Yes	Wausau Education Association	NEA	5
Wauwatosa	No			

Judicial Decisions, Opinions, and Statutes

In the Matter of:

BOARD OF EDUCATION OF THE ALPENA PUBLIC SCHOOLS,
ALPENA AND PRESQUE ISLE COUNTIES, MICHIGAN,

Employer,

-and-

ALPENA COMMUNITY COLLEGE DISTRICT
MICHIGAN ASSOCIATION OF HIGHER EDUCATION,

Petitioner, Case No. R67 B-61

-and-

ALPENA SEGMENT OF THE ALPENA-ALCONA EDUCATION ASSOCIATION,

Intervenor.

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

APPEARANCES:

For the Employer: William F. Knapp, Esq.

For the Petitioner: Foster, Campbell, Lindemer & McGurrin
By: James A. White, Esq.

For the Intervenor: Robert R. Ferguson, Esq.

On March 16 and 17, 1966, a hearing in the above-entitled case was held before Brian S. Ahearn, Trial Examiner of the Michigan Labor Mediation Board, hereinafter referred to as the Board, in Alpena, Michigan. Having considered the entire record and the briefs submitted by the Petitioner and the Intervenor on April 10, 1967, and being fully advised in the premises, the Board hereby makes the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Board of Education of the Alpena Public Schools, Alpena and Presque Isle Counties, Michigan, hereinafter referred to as the Board of Education or the Employer, is a public employer within the meaning of Act 336 of the Public Acts of 1947, as amended, hereinafter referred to as the Act.

Alpena Community College District, Michigan Association of Higher Education, hereinafter referred to as the Petitioner, and Alpena Segment of the Alpena-Alcona Education Association, hereinafter referred to as the Intervenor, are labor organizations within the meaning of the Act.

On February 23, 1967, the Petitioner filed a Petition for Election in the above-entitled case, seeking an election among the employees in a unit described as: "Professional Employees of Alpena Community College represented by Alpena Community College District of the Michigan Association For Higher Education." The Intervenor contends that the Petition should be dismissed on the following grounds: (1) Contract bar, and (2) Inappropriateness of unit. The Employer's position is essentially neutral.

The Board of Education maintains and operates a kindergarten through community college educational system, hereinafter referred to as the K-CC system, consisting of 15 elementary schools, 2 junior high schools, a senior high school and a community college, which are situated at various locations within Alpena County. The elementary schools are attended by students in kindergarten through the sixth grade; the junior high schools by students in grades 6 through 9; and the senior high schools by students in grades 10 through 12. The community college which is attended primarily by students beyond the twelfth grade offers both non-collegiate courses of study and a two-year program which is equivalent to the freshman and sophomore years of four-year colleges granting baccalaureate degrees.

The community college is integrated within the unified organizational structure of the K-CC system. Illustrative of this integration is the fact that like the principals of the elementary, junior high and senior high schools, the dean of the community college reports and is responsible to the Employer's Superintendent of Schools. Further, a large staff of administrators whose offices are located in the single administrative building of the K-CC system perform the administrative functions of the entire K-CC system. Moreover, with the assistance of its administrative staff, the Board of Education determines policy for both the K-12 schools and the community college and centrally manages and controls their operation.

The Board of Education employs approximately 350 professional employees, including approximately 37 community college instructors, to perform the teaching functions of the K-CC system. As their common employer, the Board of Education centrally hires and effects all other personnel action affecting these professional employees.

Many of the instructors at the community college formerly were high school teachers in the K-CC system. Certain community college instructors have taught high school students in addition to their principal duty of teaching community college students. Presently, several teachers

who primarily are assigned to teach junior and senior high school students also teach community college courses. Approximately 4 junior and senior high school teachers perform "extracurricular duties" at the community college, such as coaching baseball and basketball and supervising the community college intramural program.

The Employer's Director of Buildings and Grounds is responsible for the maintenance of all physical facilities of the K-CC system. Certain of these facilities are shared by both K-12 and community college students, including a museum on the community college campus, which contains a planetarium and classrooms for art and astronomy courses, and the physical education facilities of the K-CC system which are located in K-12 buildings.

Unlike the community college instructors, the K-12 teachers are required by law to be certified by the Michigan Department of Education. In hiring community college instructors, the Employer's policy is to require, if possible, that they possess masters degrees and 15 to 18 credit hours in the field of specialization in which they will be teaching. With respect to applicants for K-12 teaching positions, the Board of Education desires and seeks, but does not require, the same qualifications. Approximately 25% of the K-12 teachers and approximately 84% of the community college instructors have acquired masters degrees. The single salary schedule for the teachers and instructors of the K-CC system provides that those who have secured masters degrees or completed other post-graduate study are entitled to additional remuneration.

All of the K-12 teachers and community college instructors are professional employees engaged in the function of teaching students. In performing this function, all of them utilize the four basic methods of teaching, i.e., lecture, demonstrative, audio-visual and group project. However, they must accommodate the scope, depth and emphasis of courses and the teaching techniques which they employ to the level of maturity and corresponding capacity of the students whom they respectively teach.

The teachers of the K-12 grades spend more time in the classroom but less time in preparing for classes than the community college instructors. Whereas the K-12 teachers must maintain discipline in their classrooms and in other areas of the schools, the community college instructors generally do not encounter any disciplinary problems. The record discloses that the community college instructors are permitted to exercise greater discretion than the K-12 teachers in determining the modes of presentation and the substance of courses which they teach.

On January 11, 1966, the Board of Education recognized the Intervenor as the exclusive collective bargaining representative of all elementary and secondary teachers and community college instructors within the K-CC system. On or about June 15, 1966, the Board of Education and the Intervenor executed a collective bargaining agreement covering the employees within this unit which will terminate at midnight on June 14, 1967. The benefits and conditions of employment determined by this agreement are substantially similar for both K-12 teachers and community college teachers.

DISCUSSION AND CONCLUSIONS

Contract Bar

On February 28, 1967, the Board issued the following statement of policy with respect to the filing of petitions for representation elections by rival labor organizations during the term of collective bargaining agreements covering employees of boards of education or school districts:

> For the calendar year 1967, in cases of collective bargaining agreements between Boards of Education or School Districts and representatives of their employees which terminate on or prior to October 1, 1967, petitions for elections filed by rival labor organizations, under the provisions of the Public Employment Relations Act, must be filed with the Labor Mediation Board on or before March 17, 1967.
>
> In cases of collective bargaining agreements between Boards of Education or School Districts and representatives of their employees which terminate after October 1, 1967, petitions for elections filed by rival labor organizations under the provisions of the Public Employment Relations Act, must be filed with the Labor Mediation Board no earlier than 150 days and no later than 90 days prior to the termination date of the collective bargaining agreement.

The Intervenor contends that its collective bargaining agreement with the Employer which will terminate at midnight on June 14, 1967 operates as a bar to the Petition for Election filed by the Petitioner on February 23, 1967. However, inasmuch as the contract between the Intervenor and the Employer will terminate prior to October 1, 1967, and as the Petition was filed before March 17, 1967, the Board concludes, in accord with the above-quoted policy statement, that the petition was timely filed and is not dismissible on the ground of contract bar.

Inappropriateness Of Unit.

The Petitioner seeks to sever the community college instructors from an established unit composed of both K-12 teachers and community college instructors. The Intervenor contends that in the circumstances of the instant case, severance of the community college instructors from the established unit should not be permitted.

In Union School District of the City of Jackson, Case No. R65 H-26, 1966 Labor Opinions 30, the Board stated:

> The appropriateness of a proposed bargaining unit is generally determined on the basis of the common employment interests of the group involved. In making such determination, we give particular weight to the bargaining history of the group. While the extent of organization may be a factor, it is not controlling. We are reluctant to disturb a unit which has been established over a period of time. The legislative intent expressed in Section 9 e of the Act clearly permits the Board to give substantial weight to a unit that has been identified by "past practice."

In that case, the Board quoted with approval the following language of the National Labor Relations Board in Baltimore Transit Company, 92 NLRB 688 27 LRRM 1148: "As a matter of policy the Board is ordinarily reluctant to disturb a prior unit determination or a contract unit established as a result of collective bargaining, in the absence of compelling circumstances."

As the Board has frequently noted, a primary objective in designating appropriate bargaining units is to constitute the largest unit which in the circumstances of the particular case is most compatible with the effectuation of the purposes of the Act and to include within a single unit all employees with common interests. City of Warren, Cases Nos. R65 H-30 and R65 H-37, 1966 Labor Opinions 25; South Redford School District, Case No. R65 J-184, 1966 Labor Opinions 160; Village of Portland, Case No. R66 G-274, 1966 Labor Opinions 410; Detroit Board of Education, Case No. R65 L-400, 1966 Labor Opinions 414; Board of Education of the School District of the City of Detroit, Case No. R65 I-62, 1966 Labor Opinions 559.

The K-12 teachers and the community college instructors comprise a bargaining unit which was established on January 11, 1966, when the Employer recognized the Intervenor as the exclusive collective bargaining representative of the employees therein. The collective bargaining

relationship thus created has culminated in the execution of a collective bargaining agreement which covers the established K-CC unit. As the National Labor Relations Board has held, a bargaining history in excess of a year's duration is substantial and may control the determination of the appropriate unit. Puerto Rico Steamship Association, 116 NLRB 418, at footnote 11, 38 LRRM 1271; see also, Owens-Illinois Glass Company, 108 NLRB 947, 34 LRRM 1114.

The salary schedule, benefits and conditions of employment of both K-12 teachers and community college instructors are substantially similar. The possession of a masters degree is not an absolute requirement for employment as a community college instructor and is a qualification desired and sought in K-12 teachers. A substantial number of the elementary and secondary teachers do possess masters degrees. Further, the Employer's teacher salary schedule entitles teaching personnel with masters degrees to the same additional compensation irrespective of whether they are K-12 teachers or community college instructors. See Detroit Board of Education, Case No. R65 L-400, 1966 Labor Opinions 414, 416.

All of the K-12 teachers and community college instructors employed by the Board of Education are members of the same profession and perform the same basic duty of teaching students. Graduations in the maturity of the students within the K-CC system do result in variations in the relative duties, skills and working conditions of the teachers who instruct them at the various stages of their intellectual and emotional development. However, these variations do not negate the essential similarity of the duties, skills and working conditions of all these professional employees. See Grand Rapids Board of Education, Cases Nos. R65 I-91 and R65 J-169, 1966 Labor Opinions 241, 249.

Both the K-12 teachers and the community college instructors are employees of the same employer. Their common employer determines policy for the entire K-CC system which, as evidenced by the centralization of administrative, managerial and personnel functions, the interchange of personnel and the sharing of physical facilities, is operated as a single, integrated organization.

Based upon the foregoing, and the evidence on the record as a whole, the Board concludes that the Petitioner has failed to demonstrate sufficient differentiation between the interests of the K-12 teachers and the community college instructors to warrant disruption and fragmentation of the established unit by the severance of the community college instructors therefrom. City of Warren Cases Nos. R65 H-30 and R65 H-37, 1966 Labor Opinions 25; Union School District of the City of Jackson, Case No. R65 H-26, 1966 Labor Opinions 30; South Redford School District, Case No. R65 J-184, 1966 Labor Opinions 160; Grand Rapids Board of Education, Cases Nos. R65 I-91 and R65 J-169, 1966 Labor Opinions 241; Detroit Board of Education, Case No. R65 L-400, 1966 Labor Opinions 414. Accordingly, the Board will dismiss the Petition for Election in the above-entitled case.

ORDER

IT IS HEREBY ORDERED that the Petition for Election in the above-entitled case be, and it hereby is, dismissed.

MICHIGAN LABOR MEDIATION BOARD

Robert G. Howlett, Chairman
Leo W. Walsh, Board Member
Philip Weiss, Board Member

Dated: May 5, 1967

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

KENOSHA TEACHERS UNION LOCAL 557, and WISCONSIN FEDERATION OF TEACHERS, AFL-CIO, Complainants,	Case XII No. 11057 MP-32 Decision No. 8120
vs.	
CITY OF KENOSHA BOARD OF EDUCATION, Respondent.	

Appearances:
Goldberg, Previant & Uelmen, Attorneys at Law, by Mr. Kenneth R. Loebel, for the Complainants.
Mr. Burton Scott, City Attorney, for the Respondent.

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

The above entitled matter having come on for hearing before the Wisconsin Employment Relations Board, Now known as the Wisconsin Employment Relations Commission, on October 25, 1966, at Kenosha, Wisconsin, Chairman Morris Slavney, Commissioners Arvid Anderson and Zel Rice II, being present, and the Commission having considered the evidence and arguments and briefs of counsel, and being fully advised in the premises, makes and files the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. That Complainant Kenosha Teachers Union, Local 557, affiliated with the Wisconsin Federation of Teachers, AFL-CIO, and with the American Federation of Teachers, AFL-CIO, hereinafter referred to as the KTU, is an employe organization existing for the purpose of representing teachers in conferences and negotiations on matters pertaining to the conditions of their employment, and has its offices at 5527 - 35th Avenue, Kenosha, Wisconsin.

2. That Complainant Wisconsin Federation of Teachers, AFL-CIO, hereinafter referred to as the WFT, is an employe organization having its offices at 7230 West Capitol Drive, Milwaukee, Wisconsin, and has as its affiliates various local employe organizations, consisting of teachers employed in various school districts throughout the State of Wisconsin, including the KTU.

3. That Respondent City of Kenosha Board of Education, hereinafter referred to as the School Board, has its offices at 5515 Sheridan Road, Kenosha, Wisconsin; that it maintains and operates high schools, junior high schools and grade schools in said community, and in that regard employs, among others, teaching personnel.

4. That Kenosha Education Association, hereinafter referred to as the KEA, is an employe organization, existing for the purpose of representing teachers in conferences and negotiations on matters pertaining to the conditions of their employment, and has its offices at Kenosha, Wisconsin; and that the KEA is affiliated with the Wisconsin Education Association, hereinafter referred to as the WEA, which is an employe organization having its offices at Madison, Wisconsin; and that the WEA has as its affiliates various local employe associations consisting of teachers employed in various school districts throughout the State of Wisconsin.

5. That on February 3, 1965, the Wisconsin Employment Relations Board, hereinafter referred to as the WERB, conducted an election among non-supervisory teaching personnel in the employ of the School Board to determine whether such employes desired to be represented for the purpose of conferences and negotiations by the KTU or by the KEA or by neither of said organizations; that the numerical results of the election, as reflected in the Tally of Ballots issued on February 3, 1965, after the balloting, indicated that of 700 teachers eligible to vote, 364 cast ballots for the KEA while 309 cast ballots for the KTU; that following the conduct of said election, but prior to the issuance of the certification by the WERB, the KTU timely filed with the WERB objections to the conduct of the election as well as a complaint of prohibited practices, wherein it alleged, in both proceedings, that the School Board had engaged in conduct which affected the results of the election; that as a result of said proceedings, the certification of the results of the election was delayed until February 25, 1966, on which date the WERB dismissed the objections to the conduct of the election, dismissed the complaint of prohibited practices, and issued the certification of the results of the election, wherein the KEA was certified as the exclusive collective bargaining representative of all regular full-time and all regular part-time certificated teaching personnel of the School Board, excluding all other employes, supervisors and administrators.

6. That early in February, 1966, and prior to the issuance of the certification of representatives above described, the School Board, in consideration of the 1966-1967 school year and preparatory to the issuance of individual teacher contracts for said year to teachers in its employ, adopted and issued the "school calendar" for said school year; that said calendar, among other things, provided that schools would be closed on November 3 and 4, 1966, because of annual state teacher conventions; that historically for the past number of years, the WEA and the WFT have held their annual conventions on the first Thursday and Friday in November of each year; that in establishing November 3 and 4, 1966, the first Thursday

and Friday of November, 1966, as state convention days, the School Board did not consult with either the KEA or the KTU but adopted said dates because of the historical practice of the WEA and the WFT of holding their annual conventions on the first Thursday and Friday in November of each year; that after it had been certified as the exclusive representative for the teachers in the employ of the School Board, the KEA assented to the calendar as issued by the School Board; and that thereafter and prior to April 15, 1966, individual teachers in the employ of the School Board executed their individual teaching contracts for the 1966-1967 school year on the basis of the conditions of employment established by the School Board, including the calendar adopted by it for the school year 1966-1967.

7. That on April 29, 1966, after it had determined to change its practice with respect to the dates on which its annual convention was held, the WFT forwarded a letter to the School Board advising it that the WFT annual teacher convention would be held on October 6 and 7, 1966; that on July 9, 1966, the KTU sent a communication to the School Board requesting that the new dates for the WFT convention be placed on the 1966-1967 school calendar; that the School Board did not reply to either of said communications; that after the start of the school year and on September 14, 1966, the KTU sent a communication to the School Board stating that its members would attend the WFT convention on October 6 and 7, 1966; that upon receipt of the last mentioned communication, being uncertain as to the number of absences to anticipate among teachers who might choose to attend the WFT convention, and being concerned of the possibility of closing its schools for two additional days, not contemplated in the calendar, the School Board adopted the following resolution on September 20, 1966:

> "NOW, THEREFORE, BE IT RESOLVED that any member of the teaching staff who absents himself from duty in violation of his teaching contract and in contravention of the established school calendar for 1966-1967 shall not receive compensation for the period of said absence and shall be subject to appropriate disciplinary action."

8. That on October 6 and 7, 1966, approximately 19 teachers in the employ of the School Board attended the WFT convention at Milwaukee, Wisconsin; that those teachers who did attend said convention were not paid for the day or days on which they absented themselves from their teaching duties as a result of such attendance; that on November 3 and 4, 1966, as provided in the school calendar, the School Board closed its schools; and that all teachers in the employ of the School Board, regardless of whether or not they attended the WEA convention, which was held on the latter dates, were paid by the School Board as if they had taught school on said dates.

9. That the School Board, by adopting the aforementioned resolution and by refusing to pay teachers for the days they absented themselves from their teaching duties as a result of attending the WFT convention on October 6 and/or 7, 1966, did not interfere, restrain or coerce or discriminate against any of the teachers in its employ, with regard to their right to engage in concerted activity on behalf of the KTU or any other employe organization of their choosing.

Upon the basis of the above and foregoing Findings of Fact, the Commission makes the following

CONCLUSIONS OF LAW

1. That the Respondent, City of Kenosha Board of Education, by adopting the resolution on September 20, 1966, the implementation of which would deny compensation to teachers who absented themselves to attend the annual convention of the Wisconsin Federation of Teachers on October 6 and 7, 1966, and which would further subject said teachers to disciplinary action, did not, and does not, constitute any prohibited practice within the meaning of Section 111.70 of the Wisconsin Statutes.

2. That the refusal of the Respondent, City of Kenosha Board of Education, to grant teachers in its employ time off to attend the annual convention of the Wisconsin Federation of Teachers on October 6 and 7, 1966, and the refusal to pay such teachers for the time they attended said convention, did not, and does not, constitute any prohibited practice within the meaning of Section 111.70 of the Wisconsin Statutes.

Upon the basis of the above and foregoing Findings of Fact and Constitutions of Law, the Commission makes the following

ORDER

IT IS ORDERED that the complaint filed in the instant matter be, and the same hereby is, dismissed.

Given under our hands and seal
at the City of Madison, Wisconsin,
this 3rd day of August, 1967.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Morris Slavney /s/
Morris Slavney, Chairman

Arvid Anderson /s/
Arvid Anderson, Commissioner

I dissent

Zel S. Rice II /s/
Zel S. Rice II, Commissioner

No. 8120

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

KENOSHA TEACHERS UNION LOCAL 557, and WISCONSIN FEDERATION OF TEACHERS, AFL-CIO, Complainants, vs. CITY OF KENOSHA BOARD OF EDUCATION, Respondent.	Case XII No. 11057 MP-32 Decision No. 8120

MEMORANDUM ACCOMPANYING FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

It is alleged in the complaint that the School Board committed prohibited practices within the meaning of Section 111.70 by interfering, restraining and coercing teachers in its employ in the exercise of their rights and in violation of the provisions of said statute by adopting a resolution declaring that any teacher who absented himself from teaching to attend the WFT annual convention would have his pay deducted because of such absence and would be subject to disciplinary action therefor. The complaint was filed on September 22, 1966, prior to the scheduled WFT convention, which was held on October 6 and 7, 1966. The answer by the School Board, filed on October 10, 1966, denied any violation of the statute and affirmatively alleged that in adopting its calendar, it scheduled teacher convention days, where teachers could be absent without loss of pay, in accordance with the historical practice of the WEA and WFT in holding their conventions on the first Thursday and Friday in November of each year. The School Board further alleged that individual teacher contracts executed by the teachers in its employ were entered into on the basis, in part, of the calendar adopted by the School Board. During the period prior to the announcement by the WFT that its convention was changed from November to October, any change in the school calendar as requested by the WFT and KTU would have constituted a change in working conditions not negotiated with the then certified collective bargaining representative, the KEA.

Hearing in the matter was conducted on October 25, 1966, after the dates of the WFT convention. After the filing of the complaint, the School Board did not pay those teachers who absented themselves on October 6 and 7 because of their attendance at the WFT convention.

The Complainants contend that Section 40.45, Wisconsin Statutes, establishes the legal right of any teacher covered by said statute to attend a state teachers' convention of his choice and that the School Board, by the adoption of the resolution and the subsequent denial of pay to teachers who attended such convention, interfered with the right of said teachers to engage in concerted activity on behalf of the employe organization of their choosing. Complainants argue that under section 40.45, teachers have an absolute right to absent themselves from their teaching duties to attend a state teachers' convention and that, therefore, school boards cannot deny the teachers in their employ of that right "even if it might mean that school will be not taught as a result thereof".

The Complainants also contend that the School Board, by paying teachers who attended the WEA convention and refusing to pay teachers who attended the WFT convention, discriminated against the members of the WFT in violation of Section 111.70.

The School Board contends that the language of Section 40.45 imposes no mandatory duty upon any school board to release its teachers to attend state teachers' conventions, but rather that the language therein is "permissive". It further contends that the School Board considered the calendar as a bargainable issue and that the calendar which the School Board established in February, 1966, for the school year 1966-1967, was acquiesced in by the KEA, the exclusive collective bargaining representative of its teachers, after the calendar had been finalized by the School Board, but prior to the date upon which the School Board was notified of the change in convention dates by the WFT. The School Board argues that to acquiesce in the WFT and the KTU request with respect to the WFT convention would constitute a violation of the teaching contracts of the individual teachers and would be contrary to its duty to the KEA as the majority representative, in respect to changing the calendar, and further, that the determination by the School Board, with respect to the resolution to the denial of pay to those teachers who attended the WFT convention, "right or wrong", was made in good faith.

The gist of the complaint is that the School Board, by closing its schools and permitting its teachers to attend the WEA convention, with pay, interfered with the rights of those teachers who desired to engage in activity and/or membership on behalf of the KTU and WFT by denying same to teachers who absented themselves to attend the WFT convention and thereby, along with the issuance of the resolution, discriminated against said teachers because of such activity.

It might be argued that unequal treatment to members of one organization constitutes an interference with the rights of said members to engage in activity on behalf of that organization, and therefore, is in violation of the statute. However, in determining whether such a violation occurred, we cannot ignore the circumstances surrounding the School Board's action herein. The calendar was adopted unilaterally by the School Board, then approved by the KEA, which was certified as the exclusive bargaining representative after the adoption of the calendar. Individual teacher contracts were entered into by all

teachers in the employ of the School Board based, in part, on said school calendar. The adoption of the calendar and execution of teacher contracts occurred prior to the announcement by the WFT of the change in the historical practice of scheduling its annual teacher convention. The Commission has held that equal treatment to a minority organization, in some respects, is not required after the majority representative has been established, since the statute permits municipal employers to make distinctions between a majority organization and an organization which represents the minority of its employes, and that, therefore, certain rights and benefits granted by the municipal employer to the exclusive representative and not to the minority organization, do not constitute a violation of the statute.1/ Counsel for the Complainants would have the Commission make an exception thereto by contending that Section 40.45 requires school boards to excuse teachers from their teaching duties on the dates their organization conducts its annual teacher convention. The pertinent portion of said Section of the Statutes reads as follows:

> "...School days are days on which school is actually taught...and the following days on which school is not taught:...(b) days on which state and county teachers' conventions are held...,"

Commissioner Anderson, in his separate memorandum of concurrence has concluded that Section 40.45 is permissive rather than mandatory. I do not deem it necessary, for the purpose of this proceeding, to determine whether said section imposes either a mandatory or permissive duty upon school boards to permit teachers to attend an annual state teacher convention of their choice. Our Supreme Court in a recent decision determined that the general school statutes are subject to the limitations of Section 111.70, at least where such statutes affect municipal employe rights established in the latter statute.2/ It is my conclusion that if any action of the School Board, with respect to any mandatory provisions of the School Code, constituted a prohibited practice within the meaning of Section 111.70, then those provisions would fall.

On the other hand, if granting time off for teacher conventions were permissive, there may be a limitation on such permissive action if exercised in such a way so as to unlawfully interfere, restrain, coerce or discriminate against any municipal employe in exercising his right to engage or not to engage in lawful concerted activity on behalf of any municipal employe organization.

We have concluded that the Respondent did not violate Section 111.70 by denying excused time off to teachers to attend the WFT convention. Our conclusion in that regard is affected by the certification of the KEA as the exclusive representative of the teachers in the employ of the School Board. A representative selected by the majority of the employes in a bargaining unit, as a result of such status, enjoys certain privileged acts of employer cooperation which are deemed not to unlawfully interfere with the rights of employes who are either members of a minority organization or who are not affiliated with any organization, and, therefore, certain benefits granted by the municipal employer to the exclusive representative and not to any minority representative would not constitute unlawful interference, restraint, coercion or discrimination within the meaning of Section 111.70.3/

The calendar adopted by the School Board and subsequently concurred in by the KEA, constituted a condition of employment affecting the teachers in the employ of the School Board. This condition of employment was announced to the teachers and was taken into consideration by them when they executed their individual teacher contracts. We conclude that the establishment of the calendar, as acquiesced in by the KEA, establishing November 3 and 4 as teacher convention days, and the implementation thereof, which resulted in the closing of schools on days which permitted teachers to attend the WEA convention, constituted an act of permissive cooperation which the KEA was privileged to receive as a result of its majority status.4/ The refusal of the School Board to comply with the request of the KTU, the minority organization, to change the school calendar so as to in effect, designate also October 5 and 6 "teacher convention" days, the adoption of the resolution containing a warning of disciplinary action and a determination not to pay teachers who attended the WFT convention, and the subsequent refusal to pay teachers who attended the WFT convention on said dates, does not constitute a violation of Section 111.70. Had the WFT held its convention on November 3 and 4, it is apparent that those teachers who would have attended same would have been treated identically to those teachers who attended the WEA convention on said dates, as would have been the teachers who chose not to attend either said conventions. Otherwise, in accordance with our decision in West Milwaukee - West Allis School District No. 1,5/ any disparative treatment would have constituted a violation of the statute.

The Complainants also contend that the deputy superintendent, because of his WEA membership and because of his participation in the School Board's determination with respect to the KTU's request, violated the well-established principle of conflict of interest and thereby committed a prohibited practice within the meaning of Section 111.70. The Commission finds that the record does not support the Complainants' allegation that the participation of supervisory personnel, who were members of the WEA, in the School Board's decision constituted any violation of the statute. The record, to the contrary, supports the finding that the decision made by the School Board and its administrative officials was neither predicated nor motivated as a result of the organizations involved, but rather upon other factors, such as obligations under individual teacher contracts, the length of the school year, effect upon receiving state aid, and upon the interests of the students in the school system. In light of the evidence adduced at the hearing, the allegation of the Complainants with respect to conflict of interest therefore must fall and is deemed dismissed.

Dated at Madison, Wisconsin this 3rd day of August, 1967.

WISCONSIN EMPLOYMENT RELATIONS COMMITTEE

Morris Slavney /s/
Morris Slavney, Chairman

SEPARATE MEMORANDUM OF CONCURRENCE

I believe the fundamental issue before the Board is whether the School District was obligated, under Sections 40.40(3), 40.45 and 111.70, Wisconsin Statutes, to grant teachers time off to attend the WFT state teachers convention and to pay them for the time they attended such convention when it granted to members of the WEA time off to attend the state teachers convention of that organization and paid them for the time they attended that convention.

The Wisconsin Supreme Court, in its recent Muskego-Norway decision, had occasion to construe the applicability of Section 111.70 to the School Law, Section 40.40 and 40.41. The Court said:

> "The provisions of sec. 111.70, Stats., apply to the authority of school districts to the same extent as the authority of other municipal governing bodies. Sec. 111.70 was enacted with a full knowledge of pre-existing statutes. Construction of statutes should

1/ Milwaukee Board of School Directors, (6833-A) 3/66.
2/ Muskego-Norway Consolidated Schools et al., No. 43, August Term, 1966.
3/ Milwaukee Board of School Directors, (6833-A) 3/66 and (6995-A) 3/66.
4/ Ibid.
5/ (7654) 7/66.

be done in a way which harmonizes the whole system of law of which they are a part, and any conflict should be reconciled if possible.

"Sec. 40.40(3), Stats., provides that a school board may give to a teacher without deducting from her wages the whole or any part of time spent in attending a teachers' convention upon filing with the clerk a certificate showing such attendance. Sec. 40.45 provides that days on which state and county teachers' conventions are held are considered to be school days. Under sec. 111.70(2) teachers have the right to refrain from affiliating with labor organizations expressly forbidden by sec. 111.70(3) (a)1. These statutes are not necessarily in conflict. They can all be given effect by construing them together and ruling that teachers cannot be required to attend such conventions under threat of loss of pay, but that teachers who do not attend such conventions can be required to work for the school. In this way teachers can avoid deductions from their salaries while the right to refuse to join a labor organization guaranteed by sec. 111.70(2) is preserved. If the teacher refuses to work, deductions from his salary could be made, but if the school does not offer work to teachers not attending conventions, the school cannot deny pay to such teachers."6/

I therefore believe it is our duty to construe Sec. 111.70 and 40.45, "...in a way which harmonizes the whole system of law of which they are a part, and any conflict should be reconciled, if possible." The parties in this proceeding and in similar pending cases seek a definitive ruling from this agency on the teacher convention issue presented herein.

Accordingly, it is my view that Sec. 40.45 relating to days on which teachers conventions are held must be construed with Sec. 40.40(3) which provides that school boards may pay all or part of a teacher's wages for time spent in attending teachers' conventions. The Supreme Court opinion above emphasized the permissive nature of Sec. 40.40(3) by underlining the work "may" in the first line of that section. Time off to attend a convention and pay for such time off are closely related subjects as evidenced by the Supreme Court's citation of Sec. 40.45 when construing Sec. 40.40(3) in the Muskego-Norway case. It, therefore, is manifestly clear that Sec. 40.45, when considered with Sec. 40.40(3), does not impose a mandatory duty on the part of the School Board to grant time off to teachers to attend a teachers' convention.

To hold otherwise would require school districts to grant time off for all conventions held by teachers' organizations at the state and county level, regardless of the effect of granting such time off on the number of days actually taught in a school district. If the number of days granted off by school boards for the purpose of attending such teacher conventions were not limited, it is obvious that such practice could have an impact on the number of days on which school is actually taught. The testimony of the State Superintendent of Schools in this proceeding indicated that his office would be concerned about the eligibility of school districts for school aids if the time off for the purpose of attending teachers' conventions was not limited. The record indicates that Sec. 40.45 has been consistently construed by the State Superintendent's Office to be permissive in nature. School Boards, however, may not exercise the permissive authority under Sec. 40.40(3) and 40.45 in such a manner as to violate the rights of teachers under Section 111.70.

Dated at Madison, Wisconsin this 3rd day of August, 1967.

Arvid Anderson /s/
Arvid Anderson, Commissioner

6/ See footnote 2/.

MEMORANDUM OF DISSENT

I conclude that the School Board committed a prohibited practice in permitting KEA members to attend the convention of the WEA with pay while not excusing KTU members to attend the WFT convention and by denying pay to those who attended the latter.

The issue herein is whether such unequal treatment is prohibited by Section 111.70. In Milwaukee Board of School Directors, in discussing the granting of exclusive use of school facilities to the majority representative for certain purposes, we stated that a municipal employer had the right to grant the majority representative privileges "...in order that the representative may perform its obligations as the majority representative of the employes...." Our justification for this type of discrimination was as follows:

"When the exclusive representative is acting in its representative status, it is performing a function in effectuating the public policy of this state in the encouragement of collective bargaining in public employment..."

In that decision we said:

"Those rights or benefits which are granted exclusively to the majority representative, and thus denied to minority organizations, must in some rational manner be related to the functions of the majority organization in its representative capacity, and must not be granted to entrench such organization as the bargaining representative.

* * * * *

"However, meetings of the majority representative limited to members only, regardless of its purpose cannot be considered as falling within the area of protected privilege..." (Emphasis added.)

We went on to say:

"...There is no proviso permitting a municipal employer to assist any labor organization by granting it the use of its facilities for organizational or internal purposes. Therefore, the granting by a municipal employer of the exclusive use of its facilities to any labor organization for organizational or internal purposes regardless of its majority or minority status, would interfere with the rights of employes belonging to other employe organizations.... Any unequal treatment in this regard is unlawful under Section 111.70 of the Wisconsin statutes." (Emphasis added.)

I believe that in permitting KEA members to attend the convention of the WEA without loss of pay and denying KTU members the privilege of attending the WFT convention without loss of pay, the School Board assisted the KEA by granting it special privileges for internal purposes. This act of cooperation with the KEA, the majority representative, does not fall within the area of protected privilege because the attendance at the WEA convention cannot rationally be related to the functions of the KEA as the majority organization in its representative capacity, nor can it constitute the performance of any of the obligations of the KEA, as the majority representative of the teachers. It was an act of cooperation related to the internal purposes of the majority representative, and it interfered with the rights of employes who were members of the KTU and encouraged membership in the KEA by discrimination. Therefore, it constitutes a prohibited practice on the part of the School Board.7/

Dated at Madison, Wisconsin this 3rd day of August, 1967.

Zel S. Rice II /s/
Zel S. Rice II, Commissioner

7/ The issue of whether Section 40.45 is mandatory or permissive would not affect my determination.

Negotiation Agreements

AGREEMENT

between the

DANBURY BOARD OF EDUCATION

and the

DANBURY EDUCATION ASSOCIATION (NEA)

THIS AGREEMENT IS MADE AND ENTERED INTO on this 12th day of April, 1967, by and between the DANBURY BOARD OF EDUCATION (hereinafter referred to as the "Board") and THE DANBURY EDUCATION ASSOCIATION (hereinafter referred to as the "Association") affiliated with the Connecticut Education Association.

ARTICLE I

GENERAL

A. This Agreement is negotiated under Public Act 298 of the Connecticut General Assembly, 1965 Session, in order (a) to fix for its term the salaries and other conditions of employment provided herein, and (b) to encourage and abet effective and harmonious working relationships between the Board and the professional staff in order that the cause of public education may be best served in Danbury.

B. To this end, the Board and the Association recognize the importance of orderly, just and expeditious resolution of issues which may arise as the result of those provisions of this Agreement dealing with salaries and conditions of employment under Public Act 298 and accordingly agree herein upon a grievance procedure for the effective processing of such disputes.

C. The Board and the Association accept the provisions of this agreement as cooperative commitments which they will in good faith honor, support and seek to fulfill, subject to the ability of the respective parties, financial, ethical, moral and otherwise, to perform under the provisions of governing law.

D. The Board and the Association recognize the importance of responsible participation by the entire professional staff in the educational process, planning, development and growth. To this end they agree to maintain communication to inform about programs, to guide in development and to assist in planning and growth either by committee, individual consultation or designated representatives.

E. Subject to the provisions of Public Act 298, as the same may be amended, the Board agrees not to negotiate with any teachers' organization other than the Danbury Education Association for the duration of this Agreement. Except for such negotiations under Public Act 298, however, the Board shall be free to communicate with teachers or their representatives, or any other persons, individually or by group, for whatever purpose the Board may deem desirable in the discharge of its responsibilities.

F. Although reference is made to the Board or the Association as such, each reserves the right to continue to act as a whole, by committee, by designated representative or by individual member. Designated representatives may be professional and not necessarily of the membership. Each party will provide to the other, upon request, satisfactory evidence or documentation (such as minutes or resolutions) of authority to act.

G. This agreement shall constitute the policy of the Danbury Board of Education and the Danbury Education Association in the subject areas covered by the agreement for the duration of the agreement unless changed by the mutual consent of the parties of this Agreement. Such mutually consented change shall be in writing. Previously adopted policies, rules or regulations in conflict with this agreement are superseded by this Agreement. However, nothing in this Agreement which changes pre-existing Board of Education policy will have retroactive applicability or operation.

H. Subject to the provisions of this Agreement, the Board and the Superintendent of Schools reserve and retain full rights, authority and discretion, in the proper discharge of their duties and responsibilities, to control, supervise and manage the School Department of the City of Danbury and its professional staff under governing law, ordinances, rules and regulations--Municipal, State and Federal. In all matters under this Agreement calling for the exercise of judgment or discretion on the part of the Board, the decision of the Board shall be final and binding, except where some standard of grievability is set forth in this Agreement and may apply.

I. Nothing in this Agreement shall in any way limit or contravene the authority of any Minicipal, State or Federal board, commission, agency or other governmental body.

J. The Board of Education and the Danbury Education Association recognize the need for a positive statement of an educational philosophy. Toward this end, the Board of Education, the Superintendent of Schools and representatives of the Danbury Education Association shall jointly review the written statement of the educational aims and goals of the Danbury School system. With adoption by the Board, policy and programs can then be developed, executed and administered in line with the tenets of the published philosophy.

ARTICLE II

RECOGNITION

A. The Board recognizes the Association for the purpose of professional negotiation, as the exclusive representative of the entire unit consisting of all certificated professional employees of the Board below the rank of superintendent, (hereinafter referred to as "teachers" or "administrators") pursuant to and with all the rights and privileges as provided by Public Act 298 of the 1965 General Assembly; the Association (having been designated as the exclusive representative in an agreement between the Board and the Association executed on November 10, 1965).

B. The Danbury Education Association agrees to represent equally all teachers and administrators without regard to membership or participation in, or association with the activities of the Association or any other employee organization, and to continue to admit teachers

and administrators to membership without qualification other than employment in the Danbury School system and payment of dues.

ARTICLE III

PERSONNEL POLICIES

A. The Board and the Association recognize the Code of Ethics of the Education Profession, as adopted by the National Education Association in July 1963 and the Connecticut Education Association in May 1964, as the guideline for acceptable professional behavior in this school district.

B. The Board and the Association agree that questions considered by the Board to involve matters of professional ethics will be referred to the Association for study and interpretation through the Association's Professional Rights and Responsibilities Committee before action is taken thereon by the Board.

C. The Board and the Association further agree that the Association shall be expected to deal with ethical problems arising under the Code of Ethics of the Education Profession in accordance with the terms thereof and through procedures developed by the Association with emphasis upon raising professional standards.

D. The Board reserves the right to act independently in referring ethical matters to the PR and R committee of the CEA or NEA if after a sufficient lapse of time it is the judgment of the Superintendent that reasonable efforts have not been exercised in seeking a solution to the question by the local Association.

ARTICLE IV

THE WORK YEAR FOR THE PROFESSIONAL STAFF

A. The starting and dismissal times of all schools shall be determined by the Board of Education and publicized by the Superintendent of Schools.

B. The workday of all personnel covered by the teacher's salary schedule shall begin one half hour before school begins and may end anytime after student dismissal, provided that teachers recognize and acknowledge their professional responsibility for assisting students after school, for meeting the professional requirements of their position and for participating in the activities deemed necessary to the maintenance and development of a good school.

C. Personnel covered by the Administrative Salary Schedule shall work at their assigned duties on a schedule which shall be determined individually by the Superintendent and the administrator. Recognition is given that the proper performance of their duties may, on occasion, require more than normal hours.

D. Chapter 172 - Section 10-259 of the State Statutes states "the----school year shall commence July first and end June thirtieth.

The work year for all personnel covered by this article shall be negotiated by the Board and the Association.

1. The work year for teachers covered by the classroom teachers' salary schedule shall be composed of 186 days as follows:

   (a) 2 days for programs of orientation for teachers new to the Danbury School System.
   (b) 1 day for preschool activities for all teachers.
   (c) 180 days of school.
   (d) 2 days for in-service training programs, one in November and one in May. Prograss shall be planned cooperatively by the Association and the Superintendent or his designees.
   (e) 1 day for post school activities for all teachers.

   Minimum school days (4 hours) will be scheduled during the school calendar year as follows:

   (a) The first day of school for all elementary schools.
   (b) Four (4) Parent-Teacher Conference days during American Education Week for all elementary schools.
   (c) The Wednesday before Thanksgiving.
   (d) Six (6) days for examinations at the High School----Three (3) at mid-year and three (3) at the end of the school year.
   (e) The last day of school.

2. Emergency closings (where school is not in session or is in session for less than four (4) hours) will be made up at a time mutually agreed upon by the Association and the Superintendent of Schools.

3. The work year for persons receiving salaries beyond the classroom teachers' salary schedule as defined in Article IX-A shall be as follows:

   (a) <u>10 Month Contract</u>

   This contract extends for a period of 44 weeks--beginning on August 28, 1967 and terminating June 28, 1968.

   (b) <u>11 Month Contract</u>

   This contract extends for a period of 48 weeks--beginning on August 14, 1967 and terminating July 12, 1968.

   (c) <u>12 Month Contract</u>

   This contract extends for a period of 52 weeks--beginning on July 1, 1967 and terminating June 30, 1968.

4. Holiday and Vacation Schedules during the year--July 1, 1967 - June 30, 1968 shall be as follows:

   (a) Teachers who have a work year of 186 or 184 work days shall have all holidays and school vacations as provided for in the school calendar.

   (b) Persons on a 10 month contract shall have all holidays and school vacations as provided for in the school calendar and in addition Labor Day.

   (c) Persons on an 11 month contract shall have all holidays and school vacations as provided for in the school calendar and in addition July 4 and Labor Day.

   (d) Persons on a 12 month contract shall have a vacation period equal to 20 working days, all holidays observed in the school calendar, and in addition July 4, Labor Day and the Friday after Thanksgiving.

5. <u>The Summer School Work Schedule</u>

   (a) A full summer school teaching schedule shall consist of four hours daily for 30 teaching days.

   (b) The summer school for 1967 shall begin on Friday, June 30 and close on Friday, August 11.

E. Teachers may be required to remain after normal school closing time for staff, operational or other meetings for the efficient operation of the school or department. Meeting schedules by administrators should be held to a reasonable minimum.

F. Attendance at meetings other than building, departmental or staff, such as PTA affairs, shall be at the option of the individual staff member.

DANBURY PUBLIC SCHOOLS
Danbury, Connecticut

SCHOOL CALENDAR
1967 - 1968
(All dates are inclusive)

August 30 - 31	Orientation/Professional meetings for staff members new to the system
September 5	Pre-School activities - all teachers
September 6	Fall Term begins
October 6	Danbury Fair
October 12	Columbus Day
October 27	Teachers' Convention
November 13	In-service Day
November 23 - 26	Thanksgiving Recess (early dismissal the 22nd)
December 23 - January 1	Holiday Recess
January 2	Schools reopen
February 17 - 25	Winter Recess
February 26	Schools reopen
April 12	Good Friday
April 13 - 21	Spring Recess
April 22	Schools reopen
May 13	In-service day
May 30	Memorial Day
June 18	Schools close (early dismissal)
June 19	Post-activities - all teachers

Work Year

1. Teachers new to the system - 186 days

2. Teachers returning to the system - 184 days

G. Attendance at up to three evening meetings per year is required:

1. One evening in observance of National Education Week for open house.
2. Two evenings, one during each half of the school year to be used for parent-teacher conference.

H. Academic subject area secondary school teachers shall not be assigned more than five teaching periods per day. Special subject area secondary school teachers (e.g. art, music, physical education) may be assigned six teaching periods per day, provided they are relieved from home room duties.

I. Secondary school teachers shall not be required to teach more than two subjects or to have more than three teaching preparations within said subject or combination of subjects at any one time.

In this reference, a preparation shall be defined as any of the following:

(1) Among special areas within one discipline, i.e. U. S. History; Asian History; Geography, or Civics.
(2) Levels within one discipline, i.e. English I, II, III, IV.
(3) Divisions among special areas and divisions among levels not to exceed 3 (Honors or Advanced, Slow, All others).

In addition to a normal teaching program, a teacher may be required to teach one limited enrollment course provided that they are relieved from study hall and homeroom obligations.

J. Exceptions to the provisions of paragraphs H and I above, may be made only if the Superintendent of Schools determines that it is necessary to do so in the best interests of the educational process. The Association shall be notified in writing of each instance in which the Superintendent shall so determine. A disagreement over whether an exception is justified shall be subject to the grievance procedure and shall be initiated at Level Two thereof.

K. Teacher participation in extra-curricular activities for which no additional compensation is paid shall be strictly voluntary.

The Board and the Association recognize that there is a need to study all extra-curricular activities except for interscholastic athletics. The Board and the Association agree to a joint study to the end that recommendations shall be developed prior to negotiations in 1968-1969.

L. All evaluations of teachers which are to become a part of the permanent personnel file shall be written and shall be read and signed by the teacher involved prior to the insertion of said evaluation in the teacher's personnel file.

M. All teachers shall have a duty-free lunch period of at least 30 minutes.

ARTICLE V

TEACHER DUTIES

A. The teacher shall be directly responsible to the Principal and/or Housemaster and, through him, to the Superintendent of Schools or his designee. He shall discharge his duties in accordance with the policies and the Rules and Regulations of the Board of Education and shall comply with the rules and instructions of the Superintendent and Principal. Such rules shall be written.

B. The teacher shall familiarize himself with his duties and shall conform at all times to the rules and regulations regarding the routine of the school and the supervision of the pupils.

C. The teacher shall keep accurate records including the providing of information for the IBM department as to pupil attendance, a careful and accurate record of the pupils' subject grades, and such records as may be requested by the Housemaster, the Principal or the Superintendent.

D. The teacher shall follow the courses of study and outlines as available and approved by the Board of Education and shall adequately prepare lesson plans based upon them. He shall confer frequently with the Principal to assure that his class is progressing satisfactorily.

E. The teacher shall be responsible for the proper care of all books and other school property committed to his charge and shall assist in keeping an inventory thereof and shall report to the Principal or Housemaster immediately any damage thereto.

F. The teacher shall open and dismiss classes at times designated by the Principal and shall adhere strictly to the regulations concerning recesses, toilet privileges, lunch provisions and personal dismissals.

G. All rooms shall be open for the reception of pupils fifteen minutes before the time of commencing the exercises. On cold or stormy days the rooms shall be open for the reception of pupils as soon as convenient.

H. The teacher may detain pupils a reasonable length of time for disciplinary purposes or to give them assistance in their studies.

I. The teacher shall provide an adequate opportunity over a reasonable period for pupils to make up deficiency caused by absence or neglect.

J. No teacher shall sell text books, supplies or other materials to be used in his class without the written permission of the Superintendent or his designee.

K. The teacher shall punctually attend all meetings called by the Superintendent or Principal unless for satisfactory reasons he shall be excused. He shall also co-operate with the Superintendent or Principal in carrying out of any plans or programs for the improvement of instruction and shall attend such courses and lectures as the Superintendent or the Board of Education shall direct, subject to the provisions of tuition payment and subsidation.

L. The teacher shall not allow pupils to be harassed or interrupted in their work and no teacher shall permit the pupil to be interviewed at the door except by parents, guardians or other accredited messengers. This permission shall be refused whenever the teacher has any doubt concerning the sincerity of purpose of the caller.

M. The teacher shall at all times regularly and frequently inform parents of the standing of children whose work is unsatisfactory or who are not meeting the standards for promotion or who are in danger of being retained or demoted subject to the established standards of the school.

N. A teacher should, at all times, maintain a state of good health and must, upon request of the Superintendent, submit evidence thereof.

O. A teacher, who in the judgment of the Superintendent is not capably performing his duties may, with the permission of the Board, be suspended by the Superintendent.

ARTICLE VI

CLASS SIZE

The following guidelines shall prevail wherever feasible subject to the circumstances which exist regarding staff and facilities.

Elementary Schools

A. No regular class group in Pre-primary, kindergarten, grades 1, 2, 3, or 4 (or their equivalent where grade designations no longer exist) shall have more than 25 pupils.

B. No regular class group in grades 5 or 6 (or their equivalent where grade designations no longer exist) shall have more than 30 pupils.

C. The size of groups containing concentrations of disadvantaged pupils shall be reduced in size, or an additional professional teacher shall be employed for each 50 pupils.

Secondary Schools

Except for the areas of Music, Physical Education and Driver Education.

A. No regular class shall have more than 30 students.

B. No teacher shall, at any given time, have instructional responsibility, regardless of class size, for more than 125 students.

C. Classes established specifically for culturally disadvantaged (as defined in the State Act for the disadvantaged) and for slow learning students shall be reduced in size to 20 pupils for maintenance of optimum learning opportunities for pupils of this classification.

Special Education

Classes in Special Education shall not contain more pupils than designated by standards developed and promulgated by the State Department of Education.

General

The foregoing guidelines are subject to modification for educational purposes. This could apply in instances of

1. split-grade classes
2. specialized classes
3. large group instruction
4. team teaching
5. experimental programs

ARTICLE VII

TEACHER FACILITIES

The following facilities shall be provided for in each school building to the extent feasible in existing buildings and provided that no substantial capital investment is necessary, and in designing new buildings and rehabilitating existing buildings, the Board will suggest provision in each school building:

A. Space in each classroom for ample, secure, storage of instructional materials and supplies.

B. A teacher workroom containing adequate equipment and supplies to aid in the preparation of instructional materials.

C. An appropriately furnished room to be used as a faculty lounge (said room to be in addition to the aforementioned teachers' workroom).

D. Well lighted and clean teachers' rest rooms.

E. A system whereby teachers can effectively and expeditiously communicate with the main building office in the event of an emergency. Such facilities shall be manned full time.

F. Parking space of adequate portion and convenient location at each school.

ARTICLE VIII

TEACHING ASSIGNMENTS, TRANSFERS AND EXCHANGE TEACHERS

PART ONE - ASSIGNMENT OF TEACHERS

A. Teachers initially joining the Danbury School System shall receive their school assignment from the Superintendent's office.

B. Teachers already in the system shall receive notification of their programs for the ensuing school year not later than June 1 of the then current school year.

C. Teachers shall be notified in writing of any changes in their programs and schedules for the ensuing school year, including the schools to which they will be assigned, the grades and/or subjects that they will teach, and any special or unusual classes or assignments that they will have. In the event of a change in circumstances or conditions during the months of May through August (resignations, death, promotion, and leave of absence) such assignments may be changed as required to meet the situation.

D. In order to assure that pupils are taught by teachers working within their areas of competence, teachers shall not be assigned, except in accordance with the regulations of the State Board of Education and for

good cause, to subjects and/or grades or other classes outside the scope of their teaching certificates.

E. Teacher assignments shall be made without regard to age, race, creed, color, religion, nationality, sex or marital status.

F. In the determination of assignments, the convenience and wishes of the teacher will be honored to the extent that these considerations do not conflict with the instructional requirements and best interests of the school system and the pupils.

PART TWO - TRANSFERS

Although the Board and the Association recognize that some transfer of teachers from one school to another is unavoidable, they also recognize that frequent transfer of teachers is disruptive to the educational process and interferes with optimum performance.

A. When a reduction in the number of teachers in a school is necessary, volunteers shall be transferred first. Seniority in the Danbury School system shall be considered in selecting the volunteer.

B. When involuntary transfers are necessary, length of service in the Danbury School system shall be a factor in determining which teacher is to be transferred. Teachers being involuntarily transferred will be transferred only to a comparable position.

An involuntary transfer shall be made only after a meeting between the teacher involved and the Superintendent or his designee, at which time the teacher shall be notified of the reasons for the transfer. In the event that a teacher objects to the transfer at this meeting, the teacher will notify the Association and the Superintendent or his designee will meet with the Association's representatives to discuss the transfer. If grievance is sought it shall be initiated at Level Three.

C. A list of open positions in other schools shall be made available to all teachers being transferred, and preferance shall be given in filling such positions on the basis of length of service in the Danbury School system.

D. Teachers who desire to transfer to another building shall file a written statement of such desire with the Superintendent not later than March 1. Such statement shall include the grade and/or subject to which the teacher desires to be assigned or the school or schools (in order of preference, if the teacher has preferences) to which he desires to be transferred.

E. Teachers who desire a change in grade and/or subject assignment shall speak to the Housemaster, Principal and Director.

F. Notice of transfer shall be given to the teacher as soon as practicable and under normal circumstances not later than June 1.

G. Teacher transfers shall be made without regard to age, race, creed, color, religion, nationality, sex or marital status.

PART THREE - EXCHANGE TEACHERS

In any one year, up to 1% of the teachers may be exchanged for teachers from some other school administration district in the United States or in a foreign country. Such exchange shall be initially recommended by the Superintendent to the Board of Education, which shall recommend final action. Agreements for such an exchange of teachers shall be entered into between the governing bodies of the school administrative districts concerned and shall include, among other appropriate provisions and requirements, provisions for:

1. A written acceptance of the reciprocal agreement on the part of the teachers entering into the exchange.
2. A certificate of good mental and physical health on the part of both teachers.
3. An exchange of credentials and recommendations between the officials of the schools involved.
4. All exchange arrangements to be for a period of one year.
5. The Board to continue the exchange teacher at the Danbury School system on regular salary status.
6. All rights and privileges of the Danbury teacher to continue in effect during the exchange period.

ARTICLE IX

POSITIONS RECEIVING SALARIES BEYOND

THE TEACHERS' SALARY SCHEDULE

A. Positions in this article are defined as those which pay a salary differential and/or positions on the administrative level including but not limited to positions such as associate superintendent, assistant superintendent, administrative assistant, director, consultant, principal, housemaster, assistant principal and department chairman.

B. Vacancies in positions covered by this article which are caused by death, retirement, discharge, resignation, or by the creation of a new position shall be filled pursuant to the following procedure:

1. Such vacancies shall be adequately publicized, both within and outside the system, including a notice in every school (by posting or otherwise) as far in advance of the date of filling such vacancy as possible (at least 30 days in advance and in no event less than two weeks in advance). Where need to fill a vacancy arises during the summer months, notification shall be by mail.
2. Said notice of vacancy shall clearly set forth the qualifications for the position.
3. Teachers who desire to apply for such vacancies shall file their applications in writing with the Superintendent within the time limit specified in the notice.
4. Such vacancy shall be filled on the basis of qualification for the vacant post, provided, however, that where two or more applicants are substantially equal in qualification, the applicant with the greatest amount of seniority in the Danbury School system shall be given the preference.

C. All appointments to the foresaid vacancies and openings shall be made without regard to age, race, creed, color, religion, nationality, sex or marital status.

ARTICLE X

SUMMER SCHOOL, DEMONSTRATION CITY,

and ADULT EDUCATION PROGRAMS

A. Positions in these programs shall, to the extent possible, be filled first by teachers regularly employed in the Danbury School system.

B. In filling such positions, consideration shall be given to a teacher's area of competence, major and/or minor field of study, quality of teaching performance, attendance record, length of service in the Danbury School system, and prior experience in these programs, if any.

C. All openings for these positions shall be listed as early as possible so interested teachers may apply.

ARTICLE XI

PROTECTION OF TEACHERS

A. Teachers shall report immediately in writing to their principal and to the central office all cases of assault suffered by them in connection with their employment.

B. Such report shall be forwarded through the Superintendent to the Board which shall comply with any reasonable request from the teacher for information in its possession not privileged under law which relates to the incident or the persons involved.

C. The Board agrees to provide legal counsel to defend any teacher in any action arising out of any claim, demand, suit or judgment by reason of alleged negligence or other act resulting in accidental bodily injury to or death of any person, or in accidental damage to or destruction of property, within or without the school building, providing such teacher, at the time of the accident resulting in such injury, damage or destruction, was acting in the discharge of his duties within the scope of his employment or under the direction of the Board.

D. If criminal or civil proceedings are brought against a teacher alleging that he committed an assault in connection with his employment the Board shall furnish legal counsel to defend him in such proceeding. If the teacher chooses to provide his own counsel and the teacher prevails in the proceedings, then the Board shall reimburse the teacher for reasonable counsel fees incurred by him in defending the proceeding, in accordance with Connecticut Statutes, Chapter 170, Section 10-235.

E. Whenever a teacher is absent from school as a result of personal injury compensable under Connecticut Workmen's Compensation Laws, and caused by an assault arising out of and in the course of his employment, he shall be paid his full salary for the period of such absence for up to one calendar year without having such absence charged to the annual sick leave or accumulated sick leave. Any amount of salary payable pursuant to this Section shall be reduced by the amount of any workmen's compensation award for temporary disability due to the said assault injury for the period for which such salary is paid. The Board shall have the right to have the teacher examined by a physician designated by the Board for the purpose of establishing the length of time during which the teacher is temporarily disabled from performing his duties; and, in the event that there is no adjudication in the appropriate workmen's compensation proceeding for the period of temporary disability, the opinion of the said physician as to the said period shall control.

F. The Board of Education assumes responsibility for any assault to the teacher or his person while acting in the discharge of his duties or within the scope of his employment or under the direction of the Board of Education or its designee.

When absence arises out of or from such assault or injury, the teacher shall not forfeit any sick leave or personal leave. Any claim, demand, suit, or judgment arising from such assault or injury shall be honored by the Board of Education.

ARTICLE XII

ACCIDENT OR SICKNESS BENEFIT

A. Whenever a teacher is absent from school as a result of personal injury, compensable under the Connecticut Workmen's Compensation laws, and caused by an accident (other than an assault) arising out of and in the course of his employment, he may elect to charge all or part of such absence during the period of temporary disability due to the accident to the sick leave days to his credit. If he elects payment he shall receive the pay to which he is entitled less any workmen's compensation award made for the temporary disability. In the absence of such election his sick leave credits shall not be reduced by any compensation payments. Acceptance of sick leave payments shall constitute an election to charge the absence for such period to the sick leave days to his credit.

B. The Board shall provide the following health benefits.

1. Annual flu shots

2. Annual chest x-ray

ARTICLE XIII

LEAVES OF ABSENCE

A. Sick Leave

Teachers shall be entitled to sick leave with full pay up to fifteen (15) working days in each year. Unused sick leave shall be accumulated from year to year, so long as the teacher remains continuously in the service of the Board, up to but not in excess of one hundred and twenty-five (125) working days.

1. Teachers whose respective schools are closed by order of the Health Officer or the Superintendent shall receive full pay and such absence shall not be charged to sick leave.

2. In the event of absence of a teacher for illness in excess of five (5) consecutive working days, the Board may, if it has reasonable cause to believe that there is an abuse of sick leave policy, require an examination by an independent physician, such examination to be at Board expense.

3. A teacher who has been absent because of infectious or contagious disease may be required to submit evidence of complete recovery before resuming his duties.

4. Leave of absence for ill health not to exceed two years may be granted, without pay, by the Board, such leave being subject to the regulations regarding retirement, and shall be credited as teaching experience on the salary schedule.

5. No teacher shall absent himself from duty except for personal illness or emergency unless permission shall have first been obtained from the Superintendent. In all cases of illness the teacher shall notify the Superintendent or Principal at once in order that a proper substitute may be provided. No substitute shall be provided except by the Superintendent, nor shall the substitute be paid by anyone other than the Board.

6. Professional staff members who are not on a ten month contract, may accumulate an additional 10% of sick leave for each month over ten that they are under contract in the particular year. (11 month contract 137 days; 12 month contract 150 days). Their yearly rate of accumulation remains with that of the professional staff at 15 days per year.

B. Sabbatical Leave

The Superintendent shall review and approve worthwhile scholarly programs of independent work in or outside academic institutions, subject to the following conditions:

1. No more than 1% of the total staff shall be absent on sabbatical leave at any one time.

2. Requests for sabbatical leave must be received by the Superintendent in writing in such form as may be required under normal circumstances no later than December 31 of the year preceding the school year in which the sabbatical is requested. It is understood that the deadline of December 31 may be waived at the discretion of the Superintendent when fellowships, grants or scholarships, awarded later in the year, make such a deadline unreasonable.

3. The professional staff member shall be eligible once after at least seven consecutive full school years of active service in the Danbury School system. A second sabbatical would require the elapse of another seven year period.

4. A sabbatical leave shall be for a full academic year and the professional staff member shall be paid at one half his annual salary rate, provided that the total compensation of any program grant, scholarship, assistantship or other compensation and the sabbatical pay does not exceed the professional staff members full annual salary rate. If such does occur the sabbatical pay will be reduced by an amount necessary to effect the balance. In this instance "full annual salary rate" shall be defined as that salary from which retirement is deducted.

5. The professional staff member agrees to return to employment in the Danbury School system for two full years. In the event such a contract is not kept the staff member agrees to reimburse the Board fully for all sabbatical payments.

6. The teacher returning from sabbatical shall be placed on the appropriate step in the salary schedule as though such leave had not occurred. The sabbatical shall not affect continuity of service nor accrual of seniority toward longevity benefits.

C. Convention Leave

1. When it is evident that convention or conference attendance or the observation of an activity in another school building or school system will contribute to the effectiveness of the instructional program, the Superintendent, with reasonable limitations as to time and number of individuals involved may grant convention or conference leaves, or permission to observe an activity in another school building or school system to teachers without loss of pay.

2. The Board agrees to reimburse all teachers attending a convention or conference, or observing activities in another school system when reimbursement is recommended by the Superintendent.

D. Personal Leave

1. A professional staff member shall be privileged to take one school day of leave with salary, annually, to attend to personal, legal, business, household or family matters.

   An additional two days of personal leave may be granted to a professional staff member for the birth of his child. A request for such leave shall be made in writing to the Superintendent of Schools or his designee.

2. Application for such leave shall be made as far in advance as is practicable and, except for emergency, shall be made at least 48 hours prior to the date of leave.

3. The applicant does not need to state the reason for leave but must indicate on the application that the leave is being taken under this section - namely Article XIII.

4. Accumulation to two days total annual leave is allowed for persons on tenure.

E. Absence On Account of Death

1. If explicitly reported, absence of a professional staff member due to the death of a wife, husband, parent, parent-in-law, child, brother, sister, or step-child, shall be permitted without loss of pay, or deduction from sick leave or personal days. Such absence shall not exceed three days for each such death.

F. Jury Duty

1. All professional staff members who are called for jury duty shall receive the necessary leave to fulfill their civil obligation. This leave shall not be deducted from sick leave or from personal days. The staff member shall receive a rate of pay equal to the difference between the professional salary and the jury fee.

G. Professional Leave

1. When it is necessary for official representatives of the Association to engage in Association activities directly relating to the Association's duties as representative of the teachers, they shall be given such free time, without loss of pay or sick leave, as is necessary to perform any such activities. The Association and its officers recognize and agree that this privilege should not be abused.

2. Application for such leave shall be made in writing to the Superintendent as far in advance as practicable and ordinarily at least 48 hours. Such leave will not be deducted from sick leave.

3. The Board reserves the right to withdraw this privilege when in the opinion of the Superintendent there is sufficient evidence of abuse. Such judgment will not be made arbitrarily, capriciously or without rational basis in fact.

H. Maternity

Professional staff members on tenure in the Danbury School system may request leave for maternity subject to the following conditions:

1. The leave starts at the end of the fourth month pregnancy and extends for the remainder of the school year and for the year next ensuing.

2. There is no compensation.

3. No experience credit on the salary schedule is granted for the period of maternity leave.

4. The Board may reengage the teacher for the ensuing year if health conditions warrant.

5. Failure to reapply for reinstatement in the system in the school year following the ensuing year shall be considered a resignation and will be so treated.

6. Credit toward accrual of longevity shall not be granted for maternity leave.

7. Persons without tenure status shall, when pregnant, resign effective at the end of the fourth month of such pregnancy in accordance with established policy.

I. Other Leaves

1. A professional staff member may be granted leave for one day, without loss of salary, for participating in one's own commencement exercises.

2. A professional staff member may be allowed leave without loss of salary, for the observance of religious holidays of own sect or group.

3. A professional staff member may be allowed leave, without loss of salary, to begin programs of study which result from foundation or scholarship grants and which necessitate personal presence in advance of the close of the school year.

4. Other extended leaves, with or without salary, may be granted at the discretion of the Board of Education.

All leave under this section shall be applied for as far in advance as possible. If unusual, the request must be submitted early enough for presentation at a regular meeting of the Board of Education.

J. Unauthorized Leaves

1. A teacher shall forfeit his pay for absence for any cause other than those hereinbefore specified.

ARTICLE XIV

GRIEVANCE PROCEDURE

A. Purpose

1. The purpose of this procedure is to secure, at the lowest possible administrative level, equitable solutions to the problems which may from time to time arise affecting the welfare or working conditions of teachers or administrators. Both parties agree that these proceedings shall be kept as informal and confidential as may be appropriate at any level of the procedure.

2. Nothing herein contained shall be construed as limiting the right of any member of the unit having a grievance or dispute to discuss the matter informally with any appropriate member of the administration.

B. Definitions

1. A "grievance" is hereby defined to mean (a) a complaint beyond the first level, by a teacher or a group of teachers based upon an alleged violation of or variation from the provisions of this Agreement, or the interpretation, meaning or application thereof, or (b) that the Board failed to act in good faith in exercising its judgment or discretion as provided for in this Agreement - i.e., that it acted arbitrarily, capriciously or without rational basis in fact, or (c) that the Association has acted unreasonably in withholding its approval where called for under this Agreement.

2. An "aggrieved person" is a person or group of persons making such a complaint.

3. A "party in interest" is a person or group of persons (including the Board or any of its representatives) who might be required to take action or against whom action might be taken in order to resolve the complaint.

C. Procedure

1. Since it is important that grievances be processed as rapidly as possible, the number of days indicated at each level should be considered as maximum and every effort should be made to expedite the process. The time limits specified may, however, be extended by mutual agreement.

2. In the event a grievance is filed on or after June 1 which, if left unresolved until the beginning of the following school year, could result in irreparable harm to a party in interest, the time limits set forth herein shall be reduced so that the grievance procedure may be exhausted prior to the end of the school term or as soon thereafter as practicable.

3. Level One.

(a) A teacher with a complaint shall first discuss it with his immediate supervisor and/or principal, either directly or with the Association's School Representative, with the objective of resolving the matter informally.

(b) Beyond Level One all complaints are considered grievance and must be presented through the Grievance Committee.

4. Level Two.

(a) In the event that the aggrieved person is not satisfied with the disposition of his complaint at Level One or in the event that no decision has been rendered within ten (10) school days after presentation of the complaint, he may file a grievance in writing with the Chairman of the Committee on Professional Rights and Responsibilities within five (5) school days after the decision at Level One or fifteen (15) school days after the complaint was presented, whichever is sooner. Within five (5) school days after receiving the written grievance, the Chairman shall refer it in writing to the Superintendent of Schools.

(b) The Superintendent shall represent the Board at this level of the grievance procedure. Within ten (10) school days after receipt of the written grievance by the Superintendent, the Superintendent or his designee shall meet with the aggrieved person in an effort to resolve it.

(c) If a teacher does not file a grievance in writing with the Chairman of the Committee on PR & R and the written grievance is not forwarded to the Superintendent within thirty (30) school days after the teacher knew or should have known of the act or condition on which the grievance is based, then the grievance shall have been waived. A dispute as to whether a grievance has been waived under this paragraph shall be subject to mediation pursuant to Level Four.

5. Level Three.

(a) In the event that the aggrieved person is not satisfied with the disposition of his grievance at Level Two, or in the event no decision has been rendered within ten (10) school days after he has first met with the Superintendent or his designee, he may file the grievance in writing with the Chairman of the Committee on PR & R within five (5) school days after a decision by the Superintendent, or fifteen (15) school days after he has first met with the Superintendent, whichever is sooner. Within five (5) school days after receiving the written grievance, the Chairman of the Committee on PR & R shall refer it to the Board. Within ten (10) school days after receiving the written grievance, the Board shall meet with the aggrieved person and the PR & R Committee for the purpose of resolving the grievance. The ultimate decision on the grievance at Level Three shall, however, be rendered by the full Board.

6. Level Four.

(a) In the event that the aggrieved person is not satisfied with the disposition of his grievance at Level Three, or in the event no decision has been rendered within ten (10) school days after he has first met with the Board, he may, within five (5) school days after a decision by the Board or fifteen (15) school days after he has first met with the Board, whichever is sooner, request in writing the Committee on PR & R to submit his grievance to mediation. If the Committee on PR & R determines that the grievance is meritorious and submitting it for mediation is in the best interest of the Danbury School system, it may by written notice to the Board submit the grievance to mediation within fifteen (15) school days after receipt of a request by the aggrieved person.

(b) The parties agree to follow procedures for mediation as stated in Public Act 298, Section 5a.

(c) In the event the mediation is not satisfactory the PR & R Committee may submit the grievance to arbitration. The decision to submit to arbitration must be the responsibility of the PR & R Committee. Written notice of the decision to seek arbitration shall be given to the Board. Within ten (10) school days after such written notice of arbitration, representatives of the Board and the Committee on PR & R shall agree upon and select an arbitrator or arbitrators. If the parties cannot agree upon an arbitrator or arbitrators at this meeting, a request for a list of five (5) arbitrators shall be made to the American Arbitration Association by the Committee on PR & R. Beginning with the Association acting through the Committee on PR & R, the Association and the Board shall alternately strike a name from the list until only one (1) person remains, who shall be the arbitrator.

(d) The arbitrator so selected shall confer with representatives of the Board and the Committee on PR & R and hold hearings promptly and unless extended by mutual agreement, shall issue his decision not later than twenty (20) days from the date of the closing of the hearings, or, if oral hearings have been waived, then from the date the final statements and proofs are submitted to him. The arbitrator's decision shall be in writing and shall set forth his findings of fact, reasoning and conclusions on the issues submitted. The arbitrator shall be without power or authority to make any decision which requires the commission of an act prohibited by law or which is violative of the terms of this Agreement, nor can he add to, subtract from or modify any terms of this Agreement, establish or change any salary rate or job classification. The decision of the arbitrator shall be submitted to the Board and to the Association and, subject to law, shall be final and binding, provided that the arbitrator shall not usurp the functions of the Board or the proper exercise of its judgment and discretion under law and this Agreement.

(e) The costs for the services of the arbitrator including per diem expenses, if any, and actual and necessary travel and subsistence expenses, shall be borne equally by the Board and the Association.

7. Rights of Teachers to Representation.

(a) No reprisals of any kind shall be taken by any party to this Agreement against any party in interest, any witness, any member of the Committee on PR & R or any other participant in the grievance procedure by reason of such participation.

(b) Any party in interest may be represented at all stages of this grievance procedure by a person of his own choosing, by an officer of any teacher organization other than the Association or its affiliates. When a teacher is not represented by the Association the Association shall have the right to be present and to state its views at all stages of this grievance procedure.

8. Miscellaneous.

(a) If, in the judgment of the Committee on PR & R, a grievance affects a group or class of teachers, the Committee on PR & R may submit such grievance in writing to the Superintendent directly and the processing of such grievance shall be commenced at Level Two. The Committee on PR & R may process such a grievance through all levels of the procedure even though the aggrieved persons do not wish to do so.

(b) Decisions rendered at Levels Two and Three of the grievance procedure shall be in writing setting forth the decision and the reasons therefor and shall be promptly transmitted to all parties in interest and to the Chairman of the Committee on PR & R. Decisions rendered at Level Four shall be in accordance with the procedures hereinbefore set out therefor.

(c) Forms for filing and processing grievances and other documents necessary under the procedure shall be prepared by the Superintendent and given appropriate distribution so as to facilitate operation of the grievance procedure. All documents, communications and records dealing with the processing of a grievance shall be filed separately from the personnel files of the participants.

ARTICLE XV

POLICIES AND REGULATIONS

A. At the start of each school year a complete copy of all Board of Education policies and administrative procedures as accepted to date shall be placed on file in the Principal's office of each school. Other copies shall be given to Board members and be available at the Superintendent's office. Any teacher or administrator is free to consult an available copy of the policies.

B. All teachers shall, at the start of each school year, be furnished with a complete copy of all administrative rules and regulations pertaining to their particular school. These policies, rules and regulations shall be furnished in loose-leaf notebook form so that changes, additions and delections may be conveniently inserted.

ARTICLE XVI

TEXTBOOKS

A. Whenever possible the Board agrees to provide each pupil in a classroom with his own textbooks.

B. The Board agrees to consider the recommendations of the curriculum committee and all interested parties in formulating a choice of texts. The Superintendent, however, shall have the responsibility of recommending to the Board, after due consideration, textbook changes, courses of study and other curriculum matters.

ARTICLE XVII

CONTRACTS

The Board hereby agrees to use the teacher's Initial Contract, Long Term Contract and Annual Salary Agreement forms as adopted in 1966-67.

ARTICLE XVIII

HEALTH INSURANCE

A. All personnel covered by this Agreement shall be eligible to receive Blue Cross, C. M. S. and Major Medical coverage for themselves as outlined below.

B. The Board of Education shall provide at no cost to the staff member the following individual medical health insurance benefits.

1. Extended Blue Cross with semi-private room credit Rider plus outpatient Hospital Benefits Rider

2. Connecticut Medical Service preferred contract

3. Major Medical coverage as currently carried (1966-1967)

ARTICLE XIX

SALARIES

A. The Salary program of this section applies to the following members of the instructional staff:

1. all classroom teachers

2. all teachers and other staff members on a full time assignment in these programs:

a. classes for Physically Handicapped
b. classes for Mentally Retarded
c. Guidance Counselors
d. Psychological Examiners
e. Social Workers
f. Speech Teachers
g. Reading Teachers
h. Teachers of Homebound Students
i. Adult Education Teachers
j. Summer School Professional Staff

B. When employing new staff, the Superintendent shall place the teacher on the appropriate step in the salary schedule, taking into account:

1. Degree status

2. Previous teaching experience in either public or private schools and of a continuous nature more than 90 school days of any school year. Short term substitution shall not be considered or evaluated.

3. Military service as covered in C below.

C. Any teacher may apply for military credit in achieving placement on the salary schedule. Military credit of one year shall be granted for twelve months military service, two years for twenty-one months or more military service. The maximum credit applicable is two years. No partial credits are applicable.

The military service may have occurred at any time prior to or during employment in the Danbury School system.

No credit shall be allowed toward longevity increments except as covered in D below.

D. A longevity benefit dependent on the length of service in the City of Danbury School system shall be added to the annual salary.

1. The continuity of employment will not be considered broken by:

a. approved leave
b. military leave

2. Approved leave shall not count as accrued time in obtaining longevity.

3. Military leave granted to regularly employed professional staff shall not break the employment continuity and the time of service shall count toward accrued time in obtaining longevity.

4. Each longevity benefit shall be the equivalent of an incremental step.

a. For twenty years service, a salary adjustment of one increment shall be added to the basic annual salary. This increment shall bear the same ratio difference with the last step of the teachers' schedule as that difference existing between the last step and the next to last step of the current teachers' schedule.

b. For twenty-five years service, a salary adjustment of two increments shall be added to the basic annual salary. These increments shall bear the same ratio difference with the last step and each other as that difference existing between the last step and the next to last step of the current teachers' schedule.

5. Longevity benefits shall not be used in computing administrative maximum salaries.

6. The amount of longevity benefit as defined shall be the same for all qualifying personnel independent of contract length.

E. In order to clarify points of the salary schedule it is necessary to define degrees and graduate study.

1. A bachelor's degree is defined as a baccalaureate degree earned at a college or university approved by the Board.

2. A master's degree is defined as a graduate degree -- i.e., a degree for which an initial baccalaureate degree is required -- earned at a college or university approved by the Board.

3. Advanced graduate study is defined as follows:

a. A second master's degree in a discipline other than the discipline in which the initial master's degree or master's degree equivalency was attained. For example, a master's degree in administration, supervision, guidance, and the like would be considered a graduate degree in the field of Education. A person seeking salary credit for advanced graduate study (sixth year) and already receiving salary credit for a master's degree in Education would need to present a master's degree in a subject field such as English, mathematics, science, foreign languages, history, and the like.

b. The acquisition of a 6th year professional certificate based on a planned graduate program of study.

c. The completion of 30 hours of graduate course work in a planned program provided the institution issues a statement that the work so completed is equivalent to a certificate of Advanced Graduate Study and the Superintendent accepts the credits and courses offered.

d. Doctorate is defined as a doctoral degree earned at a college or university of approved and accredited status.

F. Teachers newly hired to the system are effectively employed and entitled to salary after attendance at the first scheduled meeting or exercise of the current school year calendar.

G. Teachers who are a part of the system are effectively employed and entitled to salary adjustments or

movement on schedule (teachers or administrators) as follows:

1. 10 month teacher's schedule - on the first day of physical attendance at a scheduled exercise listed in the current school year calendar on or after September 1st.

2. 10 month adminstrator - on the first day of physical attendance at a scheduled exercise listed in the current school year calendar on or following the published year beginning date of the Superintendent.

3. 11 month administrator - on the first day of physical attendance in school or office on or following the published year beginning date of the Superintendent.

4. 12 month administrator - on the first day of physical attendance in school or office on or following July 1.

H. Any teacher on a leave of absence with or without pay shall continue on the payroll at the salary step existent at the start of the leave. Adjustments in step and salary will only be made as necessary when the leave is concluded and the teacher is in physical attendance at scheduled exercises, classes or office.

I. Summer School

Payments for summer school work are to be determined as follows:

1. A full program shall be a four hour program daily for 30 teaching days

2. Compensation shall be 10% of the teacher's basic salary for 1967-68. Longevity increments or level of responsibility ratios shall not apply.

3. A half program shall be a two hour program daily for 30 teaching days or a four hour program daily for 15 teaching days.

4. Compensation for a half program shall be 5% of the teacher's basic salary for 1967-68. Longevity increments or level of responsibility ratios shall not apply.

5. When the teacher is not regularly employed in the Danbury School system his status shall be evaluated as in B above and his rate of pay established thereby.

J. Night School pay shall be $7.00 per hour for professional degree-holding personnel and $5.50 per hour for non-degree-holding personnel.

K. Homebound instruction compensation shall be $6.00 per hour without transportation allowance.

L. In order to assure that the placement of personnel employed in new positions in the school system bears an appropriate relationship to the level of responsibility of other staff members--it is agreed as a new position is established for the employment of certified professional personnel, the Board and/or the Superintendent shall negotiate with the proper committee of the Association on the establishment of the level of responsibility for such position.

M. In the event of any change or reclassification by the Board of administrative position, or in the event of any transfer or reassignment, the teacher or teachers affected thereby shall be paid the salary called for in the new position, so long as it does not result in a reduction in pay, provided that in the event of transfer or reassignment by reason of discontinuance of a position or on grounds of lack of competence or proper qualifications to hold or carry out the duties of the former position, the teacher or teachers affected thereby shall be paid the salary called for in the new position, whether or not a reduction. The issue of competence or proper qualifications as aforesaid shall be specifically subject to the grievance procedure provided in Article XIV of this Agreement.

N. Rate of Pay for Substitute Teachers

1. The rate of pay for substitute teachers shall be $18.00 per day.

2. After 10 consecutive days of substitute teaching in the same assignment the rate of pay will advance to $25.00 per day.

3. Whenever a substitute fills a position which will be vacant for at least 40 consecutive school days, and the substitute is not certified for regular employment, the substitute, from the eleventh day on, will be paid at the minimum salary rate on Level I of the teachers' schedule. Said contract shall terminate upon return of the regular teacher to his assignment.

4. Whenever a substitute fills a position which will be vacant for at least 40 school days, such substitute, if certified for the work being done shall, after a trial period of 10 days, be given a regular teacher's contract and be paid at a rate appropriate to his training and experience.

O. Determination of Experience, Minimum Requirement of a Working Year

For purposes of determining experience, a working year is defined as one in which salary or a combination of salary and accumulated sick benefits were paid for 90 school days or more in the school calendar year.

P. Salary Schedule (see attachment)

Qualification for Placement in Each Level

Level I

Bachelor's degree from a recognized college or university and temporary, provisional or standard teacher's certification.

Level II

Master's degree from a recognized college or university with temporary, provisional or standard teacher's certification.

Level III

1. Master's degree plus 30 additional advance graduate study credits in a planned program of study and temporary, provisional or standard teacher's certification. Evaluation of the credits subject to the Superintendent's approval.

2. 6th year certification from a recognized college or university with temporary, provisional or standard teacher's certification.

Level IV

Earned Doctorate

Q. Administrative Salaries

1. Administrative salaries are based on levels of *responsibility as shown in the chart #8. Each* level of responsibility has a corresponding ratio based on the formula:

DANBURY PUBLIC SCHOOLS
Danbury, Conn.

Teachers' Salary Schedule

1967 - 1968

Degree Schedule

Steps	Ratio	Level I	Ratio	Level II	Ratio	Level III	Ratio	Level IV
1	1.00	6,000	1.08	6,480	1.16	6,960	1.24	7,440
2	1.04	6,240	1.12	6,720	1.20	7,200	1.28	7,680
3	1.08	6,480	1.16	6,960	1.24	7,440	1.32	7,920
4	1.13	6,780	1.21	7,260	1.29	7,740	1.37	8,220
5	1.18	7,080	1.26	7,560	1.34	8,040	1.42	8,520
6	1.23	7,380	1.31	7,860	1.39	8,340	1.47	8,820
7	1.28	7,680	1.36	8,160	1.44	8,640	1.52	9,120
8	1.33	7,980	1.41	8,460	1.49	8,940	1.57	9,420
9	1.38	8,280	1.46	8,760	1.54	9,240	1.62	9,720
10	1.43	8,580	1.51	9,060	1.59	9,540	1.67	10,020
11	1.48	8,880	1.56	9,360	1.64	9,840	1.72	10,320
12	1.53	9,180	1.61	9,660	1.69	10,140	1.77	10,620
13	1.58	9,480	1.66	9,960	1.74	10,440	1.82	10,920
14			1.71	10,260	1.79	10,740	1.87	11,220
15			1.76	10,560	1.84	11,040	1.92	11,520

Non-Degree Schedule

Steps	Ratio	Non-Degree Level
1	.92	5,520
2	.96	5,760
3	1.00	6,000
4	1.04	6,240
5	1.08	6,480
6	1.13	6,780
7	1.18	7,080
8	1.23	7,380
9	1.28	7,680
10	1.33	7,980
11	1.38	8,280
12	1.43	8,580

Ratio = 1 + .02N

Where N = number rank of level

2. The ratio difference between levels is 2% based upon a 10 month Teacher's Salary base.

3. The maximum salary for a 10 month position is determined by multiplying the maximum of the applicable teachers' schedule by the ratio of the level.

   The maximum salary for 11 or 12 month positions is determined by adding 10% (for 11 months) or 20% (for 12 months) to the appropriate 10 month salary base and multiplying by the ratio of the applicable level.

4. Longevity increments are not included in the ratio computation. They are added to the salary which results from the ratio schedule.

5. In departments where there is a Coordinator, the duties of the department head will be carried out by the Coordinator.

6. The salary of the Elementary Administrative Intern is not negotiated. Instead, the salary is computed as follows:

   a. Determine the proper salary from the Teacher's Schedule
   b. Add 10% to (a) above
   c. Multiply (b) above by 1.04 and the result is the salary for the position.

   The salary for each year of the internship is to be computed on the same basis.

7. The following chart details Position, Level of responsibility and Salary Ratio of Danbury School System Administrative Personnel

Position	Level	Ratio
Assistant Superintendent of Schools	25	1.50
High School Principal	21	1.42
Director of Pupil Services and Guidance	15	1.30
Director of Elementary Education	15	1.30
Junior High School Principal	14	1.28
Director of Personnel	14	1.28
Administrative Assistant to Sup't. of Schools	12	1.24
Director of State and Federally Funded Programs	12	1.24
Director of Adult Education	12	1.24
Principal of Large Elementary School	12	1.24
Assistant High School Principal	12	1.24
Principal of Medium Elementary School	10	1.20
Housemasters	10	1.20
Coordinator of Vocational Education	10	1.20
Principal of Small Elementary School	8	1.16
Supervisor of Special Education	8	1.16
Coordinator of Early Childhood Education	8	1.16
Coordinator of Physical Education	6	1.12
Coordinator of Art	6	1.12
Coordinator of Music	6	1.12
Coordinator of Educational Media and Technology	6	1.12
Coordinator of Elementary Librarians	5	1.10
Assistant Principal Elementary School	4	1.08
Reading Consultant	3	1.06
Department Head (large)	3	1.06
Department Head (small)	2	1.04
Elementary Administrative Intern	2	1.04
Coordinator of Home and Family Services	2	1.04

8. The existence of a level does not presuppose a position at that level.

9. Positions may be added or removed by the Board of Education when required pursuant to pertinent sections of this Agreement.

10. The rate of advancement toward maximum salary and the amount of annual salary adjustment for personnel covered by this program shall be acted upon annually by the Board of Education based upon recommendations submitted by the Superintendent of Schools. The Superintendent shall be guided in his recommendation by the competency and performance of each individual in his position.

    Satisfactory service shall enable persons with a salary ratio of 1.15 or over to reach maximum in five (5) years.

    Satisfactory service shall enable persons with a salary ratio of less than 1.15 to reach maximum in less than 5 years. In these instances the minimum annual ratio spread increment shall not be less than .03.

11. A person entering an administrative position shall negotiate with the Superintendent of Schools and the Board of Education for his starting salary. If the person was a teacher in the Danbury system the starting salary shall be higher than his salary as a teacher and in the direction of maximum as determined by the ratio program.

12. A review of positions and levels is to be made yearly by the Personnel Policies Committee of the Board and the DEA Negotiating Committee. Recommendation will be made by this committee regarding the positions and levels for the consideration of the Superintendent and the Board of Education.

13. The position and length of contract for Danbury School system administrative personnel are:

Position	Length of Contract (Months)
Assistant Superintendent of Schools	12
High School Principal	12
Director of Pupil Services and Guidance	12
Director of Elementary Education	12
Junior High School Principal	12
Director of Personnel	12
Administrative Assistant to Sup't. of Schools	12
Director of State and Federally Funded Programs	12
Director of Adult Education	12
Principal of Large Elementary School	11
Assistant High School Principal	12
Principal of Medium Elementary School	11
Housemasters	11
Coordinator of Vocational Education	12
Principal of Small Elementary School	11
Supervisor of Special Education	11
Coordinator of Early Childhood Education	12
Coordinator of Physical Education	10
Coordinator of Art	10
Coordinator of Music	10
Coordinator of Educational Media and Technology	11
Coordinator of Elementary Librarians	11
Assistant Principal Elementary School	11
Reading Consultant	10
Department Head (large)	10
Department Head (small)	10
Elementary Administrative Intern	11
Coordinator of Home and Family Services	11

14. Contract Definition for Administrative Salaries

    a. 10 month contract - a contract extending for a period of 44 weeks with the starting time as indicated by the Superintendent of Schools.

    b. 11 month contract - a contract extending for a period of 48 weeks with the starting time as indicated by the Superintendent of Schools. Holidays and vacations are listed in the table of paid holidays.

    c. 12 month contract - a contract extending for a period of 52 weeks with the starting time as indicated by the Superintendent of Schools. Holidays and vacations are listed in the table of paid holidays.

15. The Holidays and vacations for Administrative personnel are:

Holiday	Contract 11 month	Contract 12 month
New Year's Day	1	1
Washington's Birthday	-	1
Good Friday	1	1
Memorial Day	1	1
July 4th	1	1
Labor Day	1	1
Fair Day	1	1
Columbus Day	1	1
Veteran's Day	1	1
Thanksgiving	2	2
Christmas	1	1
Vacation	15*	20**
	26	32

* Estimated vacation period of three school recesses, Christmas, Winter and Spring. (Minimum)
** Four weeks vacation to be arranged with the Superintendent of Schools.

Holidays occurring on Sunday will be observed on the following Monday. Holidays occurring on Saturday may be observed on Saturday at the discretion of the Superintendent.

16. When a professional staff member is requested in writing by the Superintendent of Schools or his designee to work beyond the time stipulated in his contract, he shall be paid on a pro-rata basis.

R. Storm Days

1. On storm days, when school is cancelled during the day or for the full day, all Administrative Personnel in the Superintendent's Office and those in the Main Street Center who do not have direct relationship with pupils are expected to remain at work or to report to work unless excused by the Superintendent or his designee.

S. The maximum salary for the position of Psychological Examiner is computed by multiplying the ratio of 1.06 times the appropriate 10 months salary base, subject to Policy - pg. [D-13] - #10.

T. Termination of Employment Before the End of the School Year

1. In the event employment is terminated due to resignation, retirement, maternity leave of absence, etc., the salary payable shall be determined as follows:

    a. Determine the number of work days that would normally accrue to the teacher for a full schedule.

b. Determine the number of school days worked or the sum of school days worked and approved leave of absence with pay days.

c. Form a ratio of these numbers with (a) as the denominator and multiply this ratio by the contract rate of pay, the resulting product is the total salary to be paid.

d. In no instance can this sum exceed the contract salary.

U. Coaching Salaries for 1967-68

1. Coaching salaries shall be based upon the following nine (9) criteria:

a. Hours involved - to include total hours necessary to prepare and conduct the activity.
b. Number of students involved - to indicate the average number of students in the activity.
c. Experience necessary - to indicate specialization, quality and length of experience necessary for the activity.
d. Crowd-spectator reaction pressure - to indicate the degree of effect of activity performance on spectators and reflection on the teacher.
e. Injury element - to indicate significance of injury worry possibility for the teacher.
f. Weekends and vacation time involved - to indicate premium time necessary for supervision of the activity.
g. Equipment and facility responsiblity - to consider quantity, type and necessary care of equipment and facilities.
h. Indoor and outdoor environmental factors - to consider these factors in relation to the teacher's administration of the activity.
i. Travel, bus supervision - to consider the amount of bus travel and supervision, boys and girls, or both, involved in the activity.

2. Coaching salaries shall be computed in the following manner:

a. Any coach with less than three years of experience

1) Varsity Coach

Salary = N x X

2) Assistant Coach

Salary = N (.60 x X)

3) Junior Varsity Coach

Salary = N (.50 x X)

4) Assistant Junior Varsity Coach

Salary = N (.40 x X)

5) Head Freshman Coach

Salary = N (.40 x X)

6) Assistant Freshman Coach

Salary = N (.30 x X)

NOTE:
N = The total number of points established for the activity coached.

and

X = The dollar value per point.

b. Any coach with more than three years of experience

The dollar value per point shall increase by one dollar for each year of experience over three (3) years to a maximum of seven (7) years of experience.

e.g. The salary for a varsity coach with four years of experience would then be computed according to the following formula:

Salary = N (X + 1)

3. The monetary value per point shall be established at ten dollars ($10.00)

4. The total number of points awarded any activity shall be determined in the following manner:

Total points = The sum of A x B for each of the nine criteria established in #1.

Where A = The weighted score from 1 to 5 established for each of the nine criteria (See #5 below)

B = Each coaching activity evaluated from 1 to 5 as it relates to each of the nine criteria (See #6)

5. The following weights shall be established for each of the nine criteria listed in #1:

a. Hours involved = 4
b. Number of students = 3
c. Experience necessary = 3
d. Crowd Spectator Pressure = 3
e. Injury Element = 3
f. Weekends and Vacations = 3
g. Equipment and Facility Responsibility = 2
h. Indoor-Outdoor Environmental Factors = 2
i. Travel; Bus Supervision = 1

6. The following points shall be established for each activity listed:

Factor	Weight	Ftball	Basktball	Track	Bsball
a	4	5	5	4	3
b	3	3	2	5	3
c	3	5	5	5	5
d	3	5	5	3	3
e	3	5	3	3	3
f	3	3	5	2	3
g	2	5	1	3	3
h	2	4	2	4	3
i	1	3	5	5	5
Total A x B =		104	91	89	80

Factor	Weight	Wrestling	Cross Country	Soccer	Tennis	Golf
a	4	3	2	2	1	1
b	3	2	3	3	2	1
c	3	5	5	5	5	5
d	3	2	1	2	1	1
e	3	3	1	3	1	1
f	3	2	3	2	1	1
g	2	2	1	2	1	0
h	2	2	3	3	2	2
i	1	3	3	3	3	5
Total A x B =		65	58	66	43	40

7. Salaries for women coaches

Factor	Weight	Field Hockey	Basketball	Softball	Cheer-leading
A	4	2	2	2	2
B	3	1	2	2	1
C	3	3	3	3	3
D	3	1	1	1	1
E	3	2	2	2	1
F	3	0	0	0	1
G	2	2	2	2	0
H	2	0	0	0	0
I	1	2	2	2	2
Totals		35	38	38	31

8. The maximum salary for the position of Director of Athletics shall be computed by multipling the ratio of 1.06 times the appropriate 10 months salary base, subject to policy as outlined in item 10 on page [D-13] of this Agreement.

9. The maximum salary for the position of Business Manager for Athletics shall be $500.00.

ARTICLE XX

TUITION PAYMENTS

The Danbury Board of Education agrees to provide tuition reimbursement for course work and study in all courses required by the Board of Education exclusive of certification needs. Reimbursement shall be 100% of the cost for tuition.

ARTICLE XXI

SALARY DEDUCTIONS

A. Deductions required for health insurance, DEA, and/or CEA, and/or NEA dues and other benefits shall be made by the Administration through salary withholding.

B. Teachers may elect once in any year to accept 21, 24 or 26 payments for salary.

ARTICLE XXII

NEGOTIATION OF SUCCESSOR AGREEMENT

A. Not later than January 15 of the year of expiration of this Agreement, and subject to the provisions of Public Act 298 as the same may be amended, the Board agrees to initiate negotiations with the Association over a Successor Agreement in a good faith effort on both sides to reach continuing agreement not only on salaries and other conditions of employment but also on other matters of personnel policy and relationships which may then be of mutual concern and interest. Any agreement so negotiated shall apply to all members of the bargaining unit and shall be reduced to writing and signed by the parties.

B. During negotiation, the Board and the Association shall present relevent data, exchange points of view, and make proposals and counter-proposals. Each party shall make available to the other, upon request, information within its possession which is not privileged under law and which is relevant to the subject under discussion. Either party may, if it so desires, utilize the services of outside consultants and may call upon professional and lay representatives to assist in the negotiations.

C. If the negotiations described in Section A of this Article XXII reach an impasse, the procedure set forth in Section 5 of Public Act 298 shall be followed with respect to those matters of salary and other conditions of employment covered by the Act.

ARTICLE XXIII

THE CONSULTATION PROCEDURE

It is recognized by the Board and the Association that all situations and developments could not be anticipated at the time of negotiation of this document. To achieve rapport between the Board and the Association it is agreed that there shall be periodic informal meetings held between the negotiating groups of each organization. Such meetings shall be requested by the Association or the Board as deemed necessary by either party.

In the event situations or developments indicate that the strict letter of this document cannot be adhered to and a change in the existing agreement is deemed necessary by the Board or the Association, then in such event the Board and the Association agree to the following procedure:

1. If a proposal is initiated by the Association, it shall be submitted in writing with the request for a meeting to the Board, who shall acknowledge receipt within five (5) days thereafter and a committee designated by the Board shall meet with the Association to discuss the proposal within fifteen (15) days thereafter. If as a result of this meeting or subsequent meetings arranged to the mutual satisfaction of the Association and the Committee of the Board, agreement is reached on the proposal, it shall be presented to the Board and the Association as a joint recommendation of the Committee and the Association. If the Board rejects the joint recommendation of the Committee and the Association, the Association shall have the right to negotiate the proposal with the Board as set forth in Paragraph three (3) below.

2. If the proposal is initiated by the Board, the Board shall submit the same in writing to the Association, which shall acknowledge receipt within five (5) days thereafter and meet with a committee of the Board to discuss the proposal within fifteen (15) days thereafter. If as a result of this meeting or subsequent meetings arranged to the mutual satisfaction of the Committee of the Board and the Association, agreement is reached on the proposal, it shall be presented to the Board and the Association as a joint recommendation of the Committee and the Association. If the Association rejects the joint recommendation of the Committee and the Association, the Board shall have the right to negotiate the proposal with the Association as set forth in Paragraph three (3) below.

3. Should consultation, as set forth in Paragraphs 1 and 2 above, fail to effect the recommended change, the procedure shall be as follows:

   a. Any proposal initiated by the Association shall be submitted in writing to the Board which shall acknowledge receipt in writing within five (5) days thereafter and meet with the Association to negotiate the proposal within fifteen (15) days thereafter.

   b. Any proposal initiated by the Board shall be submitted in writing to the Association which shall acknowledge receipt in writing within five (5) days thereafter and meet with the Board to negotiate the proposal within fifteen (15) days thereafter.

4. Any proposal approved by both the Board and the Association shall be reduced to writing, signed by the Board and the Association, and shall become an addendum or an amendment to the existing agreement when appropriate.

ARTICLE XXIV

DURATION

The provisions of this Agreement shall be effective as of July 1, 1967 and shall continue and remain in full force and effect for the period of one full year from and after said date.

In Witness Whereof, the parties have hereunto set their hands and seals as one the day and year first above written.

(Signed)_____
President, Danbury Education Association

(Signed)_____
President, Danbury Board of Education

Special Items

COLLECTIVE BARGAINING IN EDUCATION

Address delivered at the Annual Meeting of School Boards Institute, sponsored by the Pennsylvania School Study Council and held at the Pennsylvania State University, April 3, 1967.

by

Fred M. Heddinger, First Vice President,
Pennsylvania School Boards Association.

John Foster Dulles once said "Social progress does not have to be bought at the price of individual freedom."

Everyone engaged in the educational enterprise today would do well to carefully consider the truth of this statement. Perhaps nothing so aptly describes the situation that is developing in the headlong drive by teachers' groups for more tightly knit organization and collective negotiations. Because I have been asked to react to three particular facets of collective negotiations. I do not intend to undertake a depth study of motivating factors which are influencing the current pattern of behavior of teachers and their organizations. However, one cannot discuss the desirability, legality, or any other facet of collective bargaining in education without giving some perspective to the scene as it now exists.

Teachers, under the strong encouragement and sometimes duress of employee organizations geared to a high powered struggle for dues paying memberships, are at the threshold of working relationships in education which may have as a part of the price to be paid not only loss of individual freedom but also loss of many professional prerogatives and stature as professionals.

Perhaps what I have to say here today on collective negotiations will not be particularly popular with any segment of educational community. But it is about time that we begin to identify the specific problems that require attention rather than shadow box with the generalities that are so often used for whipping boys.

First, let's recognize that the quest for contracts or negotiation agreements is not necessarily the result of widespread dissatisfaction nor necessarily the result of problems that exist in education. Two strong employee organizations, competing with each other for the affection and dues income of a very large body of members and potential members, are often deliberately contributing to the heat that exists in the educational arena. Under such circumstances, school boards and school administrators - as well as legislators - must recognize that what they agree to do or do not agree to do may have a very little bearing on whether or not they end up with pressures for a contract or a negotiation agreement.

Secondly, we should recognize that the educational scene is suddenly beset with a host of newly established experts in the almost virgin field of collective bargaining in education. To a large degree these experts fall into two categories. On the one hand, persons with a great deal of industrial labor relations experience are often attempting to literally transplant industry experience into the field of education. On the other hand, persons with a great deal of experience in education but virtually no experience in the process of collective bargaining are working at setting precedents in bargaining in the educational field without fully appreciating the significance and long term consequence of some of their actions. To some extent, one may reasonably question if some of these people are a part of the solution to the problem or are instead a part of the problem.

Statements like "teachers wish to sell their services for the maximum possible return. On the other hand, school boards wish to purchase the services of teachers for as little as possible", which is a statement taken from the book Collective Negotiations for Teachers, is an example of some of the broad generalizations that are today troubling the educational scene. This same kind of generalization can be better made about any field of effort other than education for it gives no recognition to the fact that school boards have often joined with teachers in leading the way to better salaries for teachers. I have a fond regard for Mike Lieberman and Mike Moscow, authors of Collective Negotiations for Teachers, and would recommend their book as an important reference tool. It is not, however, an objective analysis of collective bargaining in education but rather, gives guidelines as to how to get into collective bargaining despite the caution that it contains that industrial labor relations precedents are not necessarily valid precedents for education.

The two major employee organizations vying to represent teachers claim to have widely different philosophic points of view regarding what they are attempting to do. In practice it appears increasingly difficult to distinguish one from the other on the basis of group behavior, and as an interesting sidelight, some time ago a public statement was made by one group suggesting that the two organizations should merge into one. There are a couple of significant differences which are worthy of note however.

The one group has clearly addressed itself to the "bread basket" issues and has made no effort to hide the fact that it does not consider school administrators a part of its family.

The other group fires up a great many high sounding platitudes about professional maturity and improved school board effectiveness through professional negotiations but in practice seems to leave three distinct impressions. The first of these is that the underlying issue is clearly "bread basket" in nature. The second is that their approach to collective bargaining is clearly marked by immaturity, not maturity. A truly mature approach to such an issue would quickly recognize that many of the things for which collective bargaining procedures are sought are clearly beyond the reasonable purview of collective bargaining. And the third is that although concern is espoused for maintaining a house in which the administrator will continue to be a fellow worker in education, behavior clearly indicates that administrators belong with the "bad guys" the role that appears to have been assigned to school boards.

If collective bargaining is to be the future pattern for teachers and education, perhaps we should clear the air of all the claptrap that presently serves to confuse the scene.

In many respects a collective bargaining procedure is a great deal simpler mode of operation for school

administrators and school boards than is the manner in which administrators and school boards now work in endeavoring to meet the needs of individuals. School boards, administrators, and teachers should clearly understand that this is true.

Recognizing this, all three groups should then deliberately and thoughtfully determine - based on their local working relationships - if collective bargaining procedures will truly serve their individual and mutual objectives. It is especially important for teachers to assess this basic issue as independently and as free from organizational pressue as they can, for collective bargaining will likely result in less attention and consideration for their individual personal desires and needs than they now enjoy even though such a course may be simpler and less time consuming for administrators and school boards.

If the decision is to be that collective bargaining will be the order of the day for teachers and education, then a couple of other painful but necessary decisions must also be reached. First, school administrators must recognize that they clearly are managers of educational enterprise and, as such, can no longer equivocate and attempt to serve dual roles as the teachers' boy with the teachers and as the school boards' boy with the school board. Unfortunately, some of the heat on the educational scene stems from administrators attempting to play school boards against teachers, thus attempting to preserve for themselves an imaginary neutral role. Under collective bargaining, administrators are agents of school boards and if they are not prepared or willing to accept the full responsibility of this role they would be well advised to make way for successors who will accept such responsibility.

Secondly, teachers, administrators, and school boards should recognize that much of the legislation enacted over the years by the states to regulate salaries, working conditions, and fringe benefits in education should be wiped from the books. If collective bargaining is to prevail, then subjects appropriate for collective bargaining should be regulated or adjusted by the collective bargaining process. Teachers have been quite successful in the past in obtaining legislative action on matters in which they had a strong interest. But it is difficult to believe, for example, that teachers or administrators would reasonably expect that the sixteen or more provisions of the existing Pennsylvania School Code dealing with items normally subject to collective bargaining in industrial practice should still be regulated by law in education and that collective bargaining should be superimposed on top of such provisions. Tenure, mandated salary schedules and increments, discharge procedures, retirement benefits, and a variety of additional legislated conditions of employment can be expected to give way to collective bargaining on such matters.

Now let's consider if professional negotiations agreements or contracts are desirable. School boards, administrators, and teachers alike just do not understand the fundamental issues if they naively believe that having a contract, or not having a contract, really solves any specific problems or, for that matter, necessarily leads to solutions to specific problems in education.

Working relationships between groups of people or levels of educational effort are not tied to the existence or nonexistence of negotiation agreements or contracts. Repeatedly I have made the point to audiences that ideal working relationships can and do exist without contracts whereas most unsatisfactory working relationships may and do exist even though a nearly ideal contract may exist. Good working relationships require constant attention. I have no patience with administrators who blame school boards, or school boards who blame administrators, or teachers who blame school boards and administrators for poor working relationships. When poor working relationships exist, usually all three groups are at fault and all three groups should be working at improving such a condition with or without a contract.

Administrators especially should be sensitive to their prime responsibility for working relationships and school boards should see to it that their administrator does fulfill his key role in maintaining good relationships while getting his overall mission accomplished. The outdated practice of some administrators who find it convenient to glibly blame school boards for ills that they cannot control adds only unnecessary heat to the scene while pointing up their lack of ability to effectively manage educational enterprise.

For typically reasonable groups of teachers, administrators, and school boards negotiation agreements or contracts are not desirable.

For teachers who have been encouraged to believe that contracts will solve all their problems, it could well be that contracts will instead build whole new sets of problems. If they are concerned about personal attention, they should recognize that under collective bargaining structure they will likely receive less rather than more personal attention. If they are concerned about communications with the administrator or school board, it is unlikely that insertion of a third party and another intermediate step will by itself improve communications. If they are concerned about the administrator likely representing their point of view to the school board or to the public at large, do they really believe that forcing the administrator to more formally align himself with the school board is likely to work toward a more favorable solution to the particular problem in which they are interested? If they are concerned about becoming merely a number in an ever increasingly complex system of larger school units, do they really believe that having a negotiations committee represent them will do anything except hasten the trend toward becoming just a number?

Before teachers become irrevocably committed to collective bargaining, they should recognize that they are traveling a path which - on the basis of present trends - can easily end up with teachers becoming another organized labor group under the general cognizance of the National Labor Relations Board with all of the added implications of federal control beyond those that presently exist under the Office of Education and Office of Economic Opportunity programs. If this is what they think they want they should get some firsthand experience from the organized labor field and compare what they presently have to what they are likely to get. The actual practice of collective bargaining is generally quite different than the theory and textbooks would represent it to be.

For administrators, collective bargaining agreements will not solve problems but instead can well add to their problems. In the first place, at the present time neither administrator nor teacher really understands the rules of the game for collective bargaining. While teachers and administrators are learning the mode of operation under such an arrangement, they are highly subject to manipulation by profit motivated or vested interest third parties. Also, the process of establishing suitable new ground rules for the relatively virgin field of collective bargaining in education can be overly time consuming, thus serving to add to the frustrations already evidenced in some quarters.

I am not going to debate the legality of collective bargaining agreements in education in Pennsylvania or in any other state. With the unpredictable behavior of our courts today, it is virtually impossible to try to identify what is legal or binding today and if these same things will have the same status tomorrow. So for advice on legality seek the counsel and advice of a competent solicitor who has done his homework in this subject.

From our discussion today, there are some points that I would like to leave with school boards, administrators, and teachers.

1. In general, you are better off without contract. If you have problems, identify the specific problems and

work on those specifics, don't generalize and believe that a contract or agreement will clean up problems generally.

2. The Pennsylvania School Boards Association has repeatedly advised school boards and administrators to go slow on contract. If your local situation dictates that you should enter into an agreement, seek competent legal opinion before entering into such an agreement. The Solicitor's Association of PSBA will endeavor to give guidance to your solicitor. A broad, general recognition agreement is probably in the best interests of all the parties concerned if an agreement must be consummated. To this end, the general form of agreement used by Vermont may be helpful as a guide.

3. Administrators should recognize that they now stand with school boards, not in an imaginary neutral zone.

4. School boards should insist that their administrator behave as their agent, not as an intermediate who endeavors to tread the middle of the road.

5. Colleges and universities preparing teachers should quit inculcating teachers with the image that school boards are "bad guys". All too often, teachers fresh out of school with no prior experience are prepared to do battle with school boards and administrators almost from the start, simply because they have been prepared to expect the worst by their teachers and professors at the colleges and universities. For the most part, school boards and administrators are reasonable and competent people dealing with social, technological, and educational pressures unequalled in the past.

6. Teachers should quit projecting in their classes an image to their students that school administrators and school boards are responsible for unsatisfactory conditions that very often the teachers themselves have done very little to improve. Education is a three-pronged effort requiring close cooperation between all three levels. Blaming each other for shortcomings or problems merely serves to lower the public regard for the entire effort, affording reformers and devotees of central management further food on which to feed and build.

7. School boards and administrators should be moving in the direction of utilizing all the human resources available to them in gearing their educational program to local needs. If this is done well, everyone engaged in this American educational venture will be so busy working on the specific problems that exist that agitation for organization by national employee organizations may be recognized for what it is, a power play between organized labor and a professional association for dues income and membership which has little to do with educational issues.

If salaries are the underlying issue which most people see as a goal through more militant organization - and there is much evidence to indicate that this is true - then let me urge school boards, administrators, and teachers to devise year around educational programs that make sense so that teachers can commit themselves to a more normal twelve month work effort and, by this, obtain salary schedules that are consistent with such a commitment and more comparable to other fields of endeavor. This is something that can be done only through the cooperative effort of all three groups.

If there is a single theme that I can leave with you today, it is a plea for closer cooperation between school boards, administrators, and teachers. Over the past four or five years at the State level a great deal has been accomplished from the cooperative effort of the Pennsylvania State Education Association, the Pennsylvania Congress of Parents and Teachers, and the Pennsylvania School Boards Association working together as the Joint Action Committee for Education. This year - for the first time - at the National level all of the principal educational interests including NEA, AASA, PTA, NSBA, the Association of Chief State School Officers, and the Association of State Boards of Education have joined together in voicing mutual concern in education. Identification of specific problems, and working together jointly toward mutually acceptable solutions for these specific problems, is the surest way of achieving the social progress in education that all of us would like to see.

1966-67 SALARY SURVEY PUBLICATIONS NOW AVAILABLE

Every two years the NEA Research Division comprehensively surveys all United States school systems on the subject of salaries paid to professional personnel. The results of that survey are now available in two Research Reports.

Research Report 1967-R11: 23rd Biennial Salary Survey of Public-School Professional Personnel, 1966-67: National Data. 36 p. $1.00. #435-13324

Summarized in this volume are national estimates of salaries paid all teachers, principals, superintendents, and a selected group of other professional employees. The summary data for each position are provided in five categories: national data for all operating systems, and four enrollment groups (under 300; 300-2,999; 3,000-24,999; and 25,000 or more).

For each of the five categories the following data are reported: estimated number of school systems and number of personnel for the reported category, mean salary, first quartile (25th percentile), median salary, third quartile (75th percentile), and a distribution of salaries paid reported by percent of personnel within dollar intervals.

Research Report 1967-R12: 23rd Biennial Salary Survey of Public-School Professional Personnel, 1966-67: Data for Systems with Enrollments of 12,000 or More. 259 p. $3.75. #435-13326

Listed for each of the 19 school positions listed in the Research Report 1967-R11, above, are data for all of the United States school systems with enrollments of 12,000 or more. For example, the following classroom teacher salary information is provided for each system:

- Mean salary paid for 1952-53, 1962-63, 1964-65, and 1966-67
- First quartile, median, and third quartile for 1966-67
- Distribution of salaries paid in 13 intervals from below $4,000 to $11,000 and over
- Number of teachers and mean salary paid for:

1. No degree and less than 4 years of college
2. Bachelor's degree or 4 years of college, but less than 5 years
3. Master's degree or 5 years of college, but less than 6 years
4. Six years of college but less than 7 years
5. S ven years of college or doctor's degree

Copies of these publications may be ordered from NEA Publications Sales, 1201 Sixteenth Street, N.W., Washington, D.C. 20036.

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Negotiation Research Digest

Volume 1, No. 4 December 1967

Wisconsin Supreme Court Decision ..... Description: A-1
Text: C-1

Court upholds Wisconsin Employment Relations Board in its finding of unfair labor practices against the Muskego-Norway School District and its firing of an employee for employee organization activities.

Bargaining Sessions in Massachusetts Not Board Meetings ..... Description: A-1
Text: C-11

Attorney General rules that collective bargaining sessions with employees need not be open to the public.

Negotiators for the School Board B-1

State-by-state data from the NEA Research Division's 1966-67 survey of written negotiation procedures.

Impasse Resolution Procedures E-1

Analysis of the various types of procedures plus listings of the agreements using each type of procedure in 1966-67.

California Representation Procedure Upheld ..... Description: A-1
Text: C-7

Appeals Court decision upholds representation on negotiating councils proportional to organizational membership and bars use of secret ballot election.

Agreement in Warren, Michigan D-1

Includes three salary schedules covering period into 1970 and authorization for deduction of dues or equivalent from the salary of members and nonmembers of the Warren Education Association (NEA).

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Description and Analysis

MASSACHUSETTS ATTORNEY GENERAL RULES BARGAINING SESSIONS NOT SUBJECT TO OPEN MEETING LAW

In a recent opinion the Massachusetts Attorney General stated that collective bargaining sessions with employee organizations were not subject to the Open Meeting Law. His opinion was based on the interpretation that bargaining sessions were not school-board meetings and thus not subject to the Open Meeting Law.

CALIFORNIA APPEALS COURT UPHOLDS PROPORTIONAL REPRESENTATION ON NEGOTIATING COUNCIL; PROHIBITS REPRESENTATION ELECTIONS

On September 25, 1967, the California Appeals Court upheld a permanent injunction preventing the Berkeley Board of Education from holding a representation election among its teachers, and also provided an important decision relating to the representation of California certificated employees on a negotiation council proportional to organization membership.

The court specifically prohibited representation elections among the certificated employees in the public schools and upheld the exclusion of the same personnel from provisions of the Labor Code.

The appeal, brought by the Berkeley Federation of Teachers and the American Federation of Teachers (AFL-CIO) against a permanent injunction obtained by the Berkeley Teachers Association (NEA) against the Berkeley Board of Education, upheld the representation of certificated employees through the use of a negotiating council, with members of the council appointed on the basis of organization membership. The AFT argued that the terms "members" and "members in good standing" were not defined by the Legislature for the purposes of the negotiating council and therefore did not apply.

The court disagreed with the AFT argument and later in the decision indicated that "membership in good standing in an employee organization must be accepted as a designation by them of that organization to represent them on a negotiating council."

WISCONSIN SUPREME COURT UPHOLDS CHARGE OF UNFAIR LABOR PRACTICES AGAINST MUSKEGO-NORWAY SCHOOL DISTRICT

In an August 1965 decision, the Wisconsin Employment Relations Board came to the following "Conclusion of Law" in a case involving charges brought against the Muskego-Norway Consolidated Schools:

1. That the Muskego-Norway Consolidated Schools Joint School District No. 9, Town of Muskego, Waukesha County and Town of Norway, Racine County, by its agents Robert J. Kreuser and Jack G. Refling, by threatening its teachers with the forfeiture of two days pay, if they failed to attend teachers' conventions and failed to retain membership in the sponsoring

organization, interfered with, coerced, and restrained teachers in its employ in the exercise of their right to freely affiliate with, or decline to affiliate with, any employed organization, and, thereby, has committed, and is committing, prohibited practices within the meaning of Section III.70 (3) (a) 1 of the Wisconsin Statutes.

2. That Muskego-Norway Consolidated Schools Joint School District No. 9, Town of Muskego, Waukesha County, and Town of Norway, Racine County, by its School Board, by refusing and failing to renew Carston C. Koeller's teaching contract for the year 1964-65 upon the recommendation of Kreuser, Refling, Ussel and Todd, discriminated against him in regard to the conditions of his employment, for the purpose of discouraging membership in and activities on behalf of the Muskego-Norway Education Association and, thereby, has committed, and is committing, prohibited practices, within the meaning of Section III.70 (3) (a) 1 and 2 of the Wisconsin Statutes.[1/]

The school board appealed the decision to the Waukesha County Circuit Court which declared the WERB decision null and void. The WERB appealed the Circuit Court decision to the Wisconsin Supreme Court which reversed the lower court and thus upheld the WERB.

In its decision, the full text of which begins on page C-1, the Court stated:

On the whole record we conclude that the WERB's finding No. 29 is supported by substantial evidence and reasonable inferences drawn therefrom in view of the entire record, that the failure to renew Koeller's teaching contract was motivated by his activities as chairman of the welfare committee of MNEA and not by any shortcomings Koeller may have had as a teacher nor upon his differences with certain policies of the school board and the respondent supervisory personnel.

1/ Carston C. Koeller, et al. v. Muskego - Norway Consolidated Schools Joint School District No. 9, 1965, Wisconsin Employment Relations Board, Decision No. 7247.

Data and Statistics

NEGOTIATORS FOR THE SCHOOL BOARD

While the school board is vested with the final responsibility of ratifying a negotiation agreement or the items negotiated thereunder, the positions of the persons actually negotiating for the board vary considerably. In Massachusetts, negotiation agreements in 94 percent of the school systems involved the school board in the negotiation process: the full board in 41 percent, a subcommittee of the board in 41 percent, and board members and school administrative personnel in 12 percent. In contrast, in California, the board members were involved in agreements in only 15 percent of the school systems. However, the teachers in California negotiated only with the superintendent in 69 percent of the systems as compared with 2 percent of the systems in Massachusetts.

Members of the school board were involved in the negotiation process in 50 percent or more of the school systems in 30 of the 45 states with agreements. What may be more significant, however, is the well-developed trend for greater school-board involvement in negotiation as the size of the school system decreases, coupled with a trend of less delegation of the negotiation function to (or assumption by) the superintendent as the size of the school system decreases.

There are rather clear delineations of negotiation responsibility when the data are considered on a geographic basis. The school board is involved the least in the Far West (35.3 percent) followed by the Southwest (41.7 percent), while most highly involved in the Northeast (91.7 percent) and Mideast (86.4 percent).

The data above and the data provided in the accompanying tables were obtained by the NEA Research Division in its 1966-67 survey of written teacher/school board negotiation agreements in school systems with enrollments of 1,000 or more, and are furnished as reported by the school systems.

Stratum	School system enrollment
1	100,000 or more
2	50,000-99,999
3	25,000-49,999
4	12,000-24,999
5	6,000-11,999
6	3,000- 5,999
7	1,200- 2,999
8	1,000- 1,199

Northeast: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont
Mideast: Delaware, District of Columbia, Maryland, New Jersey, New York, Pennsylvania
Southeast: Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, West Virginia
Great Lakes: Illinois, Indiana, Michigan, Ohio, Wisconsin
Plains: Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota
Southwest: Arizona, New Mexico, Oklahoma, Texas
Rocky Mountain: Colorado, Idaho, Montana, Utah, Wyoming
Far West: Alaska, California, Hawaii, Nevada, Oregon, Washington

TABLE N-1.--NEGOTIATORS FOR THE SCHOOL BOARD: NUMERICAL DISTRIBUTION

State	Systems with agreements	Full school board	Subcommittee of board	Board members and superintendent	Board members and other school administrative personnel	Board members, superintendent, and other administrative personnel	Superintendent	Superintendent and other administrative personnel	Other school administrative personnel	No response
1	2	3	4	5	6	7	8	9	10	11
Alabama	...	...	...	...	...	...	...	...	...	...
Alaska	3	1	...	...	...	...	1	1	...	...
Arizona	10	2	2	2	1	...	2	1	...	...
Arkansas	...	...	...	...	...	...	...	...	...	...
California	301	14	5	20	1	5	208	30	17	1
Colorado	17	3	1	3	1	...	7	2	...	...
Connecticut	55	10	18	18	...	5	3	...	...	1
Delaware	7	1	1	3	...	1	1	...	...	...
District of Columbia	...	...	...	...	...	...	...	...	...	...
Florida	5	1	1	2	...	...	1	...	...	...
Georgia	...	...	...	...	...	...	...	...	...	...
Hawaii	...	...	...	...	...	...	...	...	...	...
Idaho	14	5	1	3	...	...	5	...	...	...
Illinois	62	10	11	19	2	11	6	3	...	...
Indiana	29	12	2	8	...	1	6	...	...	...
Iowa	8	3	2	1	...	1	1	...	...	...
Kansas	26	6	2	4	...	...	13	...	...	1
Kentucky	1	...	...	...	...	...	1	...	...	...
Louisiana	...	...	...	...	...	...	...	...	...	...
Maine	5	1	1	...	...	...	3	...	...	...
Maryland	5	2	...	...	...	...	2	...	1	...
Massachusetts	64	26	26	6	1	1	1	...	3	...
Michigan	238	10	19	47	4	37	40	53	27	1
Minnesota	19	12	1	5	1	...	...	...	...	...
Mississippi	1	...	...	...	...	...	...	1	...	...
Missouri	20	6	...	7	...	...	7	...	...	...
Montana	5	4	1	...	...	...	...	...	...	...
Nebraska	2	1	1	...	...	...	...	...	...	...
Nevada	1	...	...	...	...	...	...	1	...	...
New Hampshire	6	1	2	1	...	1	...	...	...	1
New Jersey	151	27	54	50	1	11	7	...	...	1
New Mexico	5	1	...	...	...	...	2	1	1	...
New York	74	11	17	19	1	8	7	9	1	1
North Carolina	1	...	1	...	...	...	...	...	...	...
North Dakota	1	1	...	...	...	...	...	...	...	...
Ohio	117	19	9	27	...	4	45	7	5	1
Oklahoma	3	...	...	...	...	...	2	1	...	...
Oregon	55	27	14	12	...	1	...	...	...	1
Pennsylvania	42	7	8	17	...	2	4	3	...	1
Rhode Island	9	4	1	2	...	2	...	...	...	...
South Carolina	1	...	...	...	...	...	1	...	...	...
South Dakota	4	2	1	...	...	1	...	...	...	...
Tennessee	1	...	...	...	...	...	...	1	...	...
Texas	6	...	...	1	...	1	1	2	...	1
Utah	3	...	...	1	...	...	2	...	...	...
Vermont	6	4	1	1	...	...	...	...	...	...
Virginia	2	...	...	1	...	1	...	...	...	...
Washington	73	20	4	23	...	6	17	3	...	...
West Virginia	2	...	...	1	...	...	...	...	...	1
Wisconsin	68	15	28	17	...	2	4	2	...	...
Wyoming	3	...	1	1	...	1	...	...	...	...
Total	1,531	269	236	322	13	103	400	121	55	12
Stratum										
1	11	...	1	1	...	...	2	4	2	1
2	23	1	4	2	...	2	5	3	5	1
3	34	1	...	2	1	2	11	9	7	...
4	117	9	11	10	1	12	41	21	11	1
5	227	37	23	44	2	15	70	29	8	...
6	384	63	57	80	6	29	106	26	13	5
7	624	136	116	152	3	36	142	27	8	3
8	111	22	24	31	...	7	23	2	1	1
Total	1,531	269	236	322	13	103	400	121	55	12

TABLE N-2.--NEGOTIATORS FOR THE SCHOOL BOARD: PERCENT DISTRIBUTION

State	Full school board	Subcommittee of board	Board members and superintendent	Board members and other school administrative personnel	Board members, superintendent, and other administrative personnel	Superintendent	Superintendent and other administrative personnel	Other school administrative personnel	No response	Percent of systems in which board involved in negotiation
1	2	3	4	5	6	7	8	9	10	11
Alabama	...	...	...	...	...	...	...	...	...	...
Alaska	33.3%	...	...	...	...	33.3%	33.3%	...	...	33.3%
Arizona	20.0	20.0%	20.0%	10.0%	...	20.0	10.0	...	...	70.0
Arkansas	...	...	...	...	...	...	...	...	...	...
California	4.7	1.7	6.6	0.3	1.7%	69.1	10.0	5.6%	0.3%	15.0
Colorado	17.6	5.9	17.6	5.9	...	41.2	11.8	...	...	47.1
Connecticut	18.2	32.7	32.7	...	9.1	5.5	...	...	1.8	92.7
Delaware	14.3	14.3	42.9	...	14.3	14.3	...	...	...	71.4
District of Columbia	...	...	...	...	...	...	...	...	...	...
Florida	20.0	20.0	40.0	...	...	20.0	...	...	...	80.0
Georgia	...	...	...	...	...	...	...	...	...	...
Hawaii	...	...	...	...	...	...	...	...	...	...
Idaho	35.7	7.1	21.4	...	...	35.7	...	...	...	64.3
Illinois	16.1	17.7	30.6	3.2	17.7	9.7	4.8	...	...	85.5
Indiana	41.4	6.9	27.6	...	3.4	20.7	...	...	...	79.3
Iowa	37.5	25.0	12.5	...	12.5	12.5	...	...	...	87.5
Kansas	23.1	7.7	15.4	...	...	50.0	...	...	3.8	46.2
Kentucky	...	...	...	...	...	100.0	...	...	...	...
Louisiana	...	...	...	...	...	...	...	...	...	...
Maine	20.0	20.0	...	...	...	60.0	...	...	...	40.0
Maryland	40.0	...	...	...	...	40.0	...	20.0	...	40.0
Massachusetts	40.6	40.6	9.4	1.6	1.6	1.6	...	4.7	...	95.3
Michigan	4.2	8.0	19.7	1.7	15.5	16.8	22.3	11.3	0.4	49.2
Minnesota	63.2	5.3	26.3	5.3	...	...	...	...	...	100.0
Mississippi	...	...	...	...	...	...	100.0	...	...	...
Missouri	30.0	...	35.0	...	...	35.0	...	...	...	65.0
Montana	80.0	20.0	...	...	...	...	...	...	...	100.0
Nebraska	50.0	50.0	...	...	...	...	...	...	...	100.0
Nevada	...	...	...	...	...	...	100.0	...	...	...
New Hampshire	16.7	33.3	16.7	...	16.7	...	...	...	16.7	83.3
New Jersey	17.9	35.8	33.1	0.7	7.3	4.6	...	...	0.7	94.7
New Mexico	20.0	...	...	...	...	40.0	20.0	20.0	...	20.0
New York	14.9	23.0	25.7	1.4	10.8	9.5	12.2	1.4	1.4	75.7
North Carolina	...	100.0	...	...	...	...	...	...	...	100.0
North Dakota	100.0	...	...	...	...	...	...	...	...	100.0
Ohio	16.2	7.7	23.1	...	3.4	38.5	6.0	4.3	0.9	50.4
Oklahoma	...	...	...	...	...	66.7	33.3	...	...	...
Oregon	49.1	25.5	21.8	...	1.8	...	...	...	1.8	98.2
Pennsylvania	16.7	19.0	40.5	...	4.8	9.5	7.1	...	2.4	81.0
Rhode Island	44.4	11.1	22.2	...	22.2	...	...	...	...	100.0
South Carolina	...	...	...	...	...	100.0	...	...	...	...
South Dakota	50.0	25.0	...	...	25.0	...	...	...	...	100.0
Tennessee	...	...	...	...	...	...	100.0	...	...	...
Texas	...	...	16.7	...	16.7	16.7	33.3	...	16.7	33.3
Utah	...	...	33.3	...	...	66.7	...	...	...	33.3
Vermont	66.7	16.7	16.7	...	...	...	...	...	...	100.0
Virginia	...	...	50.0	...	50.0	...	...	...	...	100.0
Washington	27.4	5.5	31.5	...	8.2	23.2	4.1	...	...	72.6
West Virginia	...	...	50.0	...	...	...	...	...	50.0	50.0
Wisconsin	22.1	41.2	25.0	...	2.9	5.9	2.9	...	...	91.2
Wyoming	...	33.3	33.3	...	33.3	...	...	...	...	100.0
Total	17.6%	15.4%	21.0%	0.8%	6.7%	26.1%	7.9%	3.6%	0.8%	61.6%
Stratum										
1	...	9.1%	9.1%	...	...	18.2%	36.4%	18.2%	9.1%	18.2%
2	4.3%	17.4	8.7	...	8.7%	21.7	13.0	21.7	4.3	39.1
3	2.9	...	5.9	2.9%	5.9	32.4	26.5	20.6	...	17.6
4	7.7	9.4	8.5	0.9	10.3	35.0	17.9	9.4	0.9	36.8
5	16.3	10.1	19.4	0.9	6.6	30.8	12.8	3.5	...	53.3
6	16.4	14.8	20.8	1.6	7.6	27.6	6.8	3.4	1.3	61.2
7	21.8	18.6	24.4	0.5	5.8	22.8	4.3	1.3	0.5	71.0
8	19.8	21.6	27.9	...	6.3	20.7	1.8	0.9	0.9	75.7
Total	17.6%	15.4%	21.0%	0.8%	6.7%	26.1%	7.9%	3.6%	0.8%	61.6%

TABLE N-3.--NEGOTIATORS FOR THE SCHOOL BOARD: GEOGRAPHICAL DISTRIBUTION

Region	Systems with agreements	Full school board	Subcommittee of board	Board members and superintendent	Board members and other school administrative personnel	Board members, superintendent, and other administrative personnel	Superintendent	Superintendent and other administrative personnel	Other school administrative personnel	No response
1	2	3	4	5	6	7	8	9	10	11
Far West	433	62	23	55	1	12	226	35	17	2
Great Lakes	514	66	69	118	6	55	101	65	32	2
Mideast	279	48	80	89	2	22	21	12	2	3
Northeast	145	46	49	28	1	9	7	...	3	2
Plains	80	31	7	17	1	2	21	...	...	1
Rocky Mountain	42	12	4	8	1	1	14	2	...	...
Southeast	19	1	2	5	...	2	4	3	...	2
Southwest	24	3	2	3	1	1	7	5	1	1

TABLE N-4.--NEGOTIATORS FOR THE SCHOOL BOARD: GEOGRAPHICAL DISTRIBUTION BY PERCENTS

Region	Full school board	Subcommittee of board	Board members and superintendent	Board members and other school administrative personnel	Board members, superintendent, and other administrative personnel	Superintendent	Superintendent and other administrative personnel	Other school administrative personnel	No response	Percent of systems in which board involved in negotiation
1	2	3	4	5	6	7	8	9	10	11
Far West	14.3%	5.3%	12.7%	0.2%	2.8%	52.2%	8.1%	3.9%	0.5%	35.3%
Great Lakes	12.8	13.4	23.0	1.2	10.7	19.6	12.6	6.2	0.4	61.1
Mideast	17.2	28.7	31.9	0.7	7.9	7.5	4.3	0.7	1.1	86.4
Northeast	31.7	33.8	19.3	0.7	6.2	4.8	...	2.1	1.4	91.7
Plains	38.7	8.8	21.3	1.2	2.5	26.3	...	...	1.2	72.5
Rocky Mountain	28.6	9.5	19.0	2.4	2.4	33.3	4.8	...	...	61.9
Southeast	5.3	10.5	26.3	...	10.5	21.1	15.8	...	10.5	52.6
Southwest	12.5	8.3	12.5	4.2	4.2	29.1	20.8	4.2	4.2	41.7

Judicial Decisions, Opinions, and Statutes

No. 43

August Term, 1966

STATE OF WISCONSIN: IN SUPREME COURT

Muskego-Norway Consolidated Schools, et al.,

Respondents,

v.

Wisconsin Employment Relations Board,

Appellant.

APPEAL from a judgment of the circuit court for Waukesha county, CLAIR H. VOSS, Circuit Judge. Reversed.

In July, 1960, the Muskego-Norway Consolidated Joint School District was created. Nine graded schools and one high school were located in the district. In 1960 the Muskego-Norway Education Association (MNEA), an organization composed of practically 100 percent of all teaching and administrative personnel in the employ of the school district, was organized. The MNEA is affiliated with the Wisconsin Education Association (WEA), which renders assistance to local affiliates in regard to their representation of teachers in conferences and negotiations concerning salaries and other conditions of employment.

This controversy[1/] concerns certain activities in the school district during the period from 1960 through early 1964. On the one hand is a group of teachers employed by the district who in May, 1964, complained of violations of sec. 111.70, Stats., on the part of the school board and certain of its supervisory personnel. These teachers alleged that the school district coerced the teachers into joining the WEA, MNEA, or the Wisconsin Federation of Teachers Union by threatening to enforce a rule providing that wages would be deducted from the salary of any teacher taking off the two days of the annual teachers' convention who was not a member of any convening labor organization, and discouraged labor activity on the part of the teachers by its failure to renew the teaching contract of Carston C. Koeller because of his labor activities on behalf of the MNEA.

On the other hand are the school district; Robert J. Kreuser, superintendent of schools; Jack C. Refling, high school principal; Paul J. Ussel, assistant principal; and Charles A. Ladd, coordinator of instruction.

Certain facts in this involved dispute are uncontroverted and best be set forth here. Other pertinent facts, some controverted, are detailed in the opinion.

In the 1960-1961 school year Dr. Rossmiller, the superintendent of the school district at the time, suggested to the officers of the MNEA that they prepare proposals with respect to teachers' salaries and working conditions for the year 1961-1962, and the MNEA, through its welfare committee, formulated and submitted these proposals in the spring of 1961. The school board then directly disclosed to the MNEA the salaries and working conditions that it had decided upon for the year 1961-1962.

During the year 1961-1962 the MNEA welfare committee delayed preparation of its proposals for the year 1962-1963. Such delay was until January of 1962, when Kreuser became superintendent of schools.

By January, 1962, the MNEA had again formulated proposals but Kreuser informed members of the MNEA that they did not need to attend school board meetings as he would represent their interests. The committee's proposals were related orally and not in writing to Kreuser. MNEA members did not attend school board meetings in 1962-1963, but did present their proposals to the board.

Looking toward the school year 1963-1964, the MNEA welfare committee in the 1962-1963 year, then headed by Complainant Allan Walldren, requested Kreuser to furnish information as to the salaries in neighboring districts as well as all salaries being paid in the Muskego-Norway district. Kreuser furnished the information on outside teachers, but not on his district. Nevertheless the welfare committee submitted its proposals in writing and when Kreuser told them he would present the proposals to the board, the committee declined and on February 4, 1963, the full committee appeared at the board meeting for the purpose of discussing its proposals. The committee was dismissed from the board meeting and Kreuser announced the conditions of employment for the year 1963-1964 at a later special meeting of teachers employed by the district.

Carston Koeller, a first-year teacher in the district, was elected chairman of a reorganized and enlarged MNEA welfare committee for the 1963-1964 year. (He remained chairman at all times pertinent herein.) In September of 1963 the committee began operations by requesting salary information from Superintendent Kreuser. When this information was not forthcoming, the committee obtained it by circulating questionnaires to the teachers. The MNEA also began sending representatives to board meetings. Largely through Koeller's efforts, this information was tabulated prior to mid-January, 1964, and proposals for the year 1964-1965 were formulated. The committee worked hard and held as many as 26 meetings. Its proposals, which were very comprehensive and were approved by the MNEA membership, were presented to the personnel committee of the school board. The proposals dealt with matters of teacher salaries, insurance, personal and sabbatical leaves, class size and load, job security, teacher qualifications, and other matters supporting said proposals including various tables and graphs.

1/ Other aspects of this controversy were previously considered by this court in Muskego-Norway C.S.J.S.D. No. 9 v. W.E.R.B. (1966), 32 Wis. (2d) 478, 145 N. W. (2d) 689, 147 N. W. (2d) 541; rehearing granted, (1967), Wis. (2d), N. W. (2d).

The personnel committee took these proposals under advisement. The personnel committee met again with MNEA representatives and questioned the accuracy of these proposals and whether they represented the wishes of a majority of the teachers. Further questionnaires were circulated and modified proposals were submitted (as approved by the MNEA membership). The report and proposals were submitted to the board meeting on March 2, 1964. What transpired at that meeting and subsequently will be described later in the statement of facts.

Paralleling in importance the development of the MNEA as an effective representative of the teachers are the activities of the chairman of its welfare committee, Carston Koeller, both educational and as a leader in the MNEA. Mr. Koeller was hired by the school district in 1962 following three years of teaching experience in the air force and one year at Belleville, Wisconsin. Mr. Koeller taught five classes of general mathematics, a subject taken by students deficient in mathematics and incapable of comprehending algebra. These students were also slower learners in other subjects as well. In 1963, at the end of Koeller's first year of teaching, a report was filed by the then principal, Donald Helstad, listing him in the bottom quarter of the faculty in teaching ability, although this did not necessarily mean he was a poor teacher. Helstad advised that Koeller had shown as much progress as any other high school teacher at the time and Helstad unqualifiedly recommended that Koeller be rehired for the year 1963-1964. Koeller was retained. Subsequently, Koeller engaged in a number of activities related to his duties as a teacher rather than to his extracurricular duties with the MNEA.

1. On October 2, 1963, Koeller mailed to six parents a statement asking them to sign a request to give Mr. Koeller permission to use whatever physical means was necessary in order to enforce discipline. On October 7th the new principal, Refling, held a conference with Koeller informing him he was not to determine a course of discipline contrary to established school procedures. At this conference, Koeller's difficulty in handling students in study hall was also discussed. (Koeller had placed a female student in a large unlighted closet as a disciplinary procedure.)

2. On October 14th Koeller suggested in writing to a committee of teachers established to create procedures for disciplining study halls that enforcement of discipline could be implemented by "tweak or pull an ear, rap on head, pull hunk of hair or sit in front closet with door shut."

3. In the fall of 1963, football players were excused from their seventh-hour classes on the day of the game. On October 22nd Koeller sent a note to Principal Refling, objecting to this practice. Koeller was then called into a conference with Ussel and Refling, in which conference Koeller's disagreement with school policies and his lack of judgment in handling student situations were discussed. Koeller then appealed by letter directly to Mr. Guhr (school board president) but was told to go through the normal grievance procedures. No further action was taken on this matter except that on October 28th Refling sent Koeller a letter warning him about insubordination.

4. On December 2, 1963, following a visit to Koeller's classroom, Coordinator of Instruction Ladd made the following comments and suggestions for improving inadequacies in Koeller's teaching techniques: (a) More student "involvement," (b) "Less teacher talk," (c) the elicitation of "clear, confident responses" from students, (d) personal supervision of assignments, (e) various approaches to various students, and (f) permitting students to make their own evaluations. Koeller visited an experienced mathematics teacher from a Racine school and his class, and thereafter Ladd noticed that Koeller's teaching techniques improved.

5. On December 10, 1963, as a layman, Koeller wrote the state department of public instruction, concerning state aids formulas and the financial condition of the Muskego-Norway district. In this letter Koeller complained of inadequate facilities in the district.

6. On January 28, 1964, Koeller scheduled a meeting of the National Honor Society which conflicted with the meeting of the high school P.T.A. Koeller was given oral confirmation from Ussel but school policy required a written approval. A memo from the principal chastized Koeller for failing to obtain the approval of the principal, and Koeller circulated the memo.

7. On February 5, 1964, Koeller sent a student to the office with a note indicating he had suspended the student for three days. Koeller was told that the administration decided whether suspensions were in order. Koeller then publicly challenged the position of the administration in the MNEA newsletter, quoting from the private memo he had received from the administration. In the newsletter, Koeller maintained he had the right to suspend students for disciplinary reasons. Koeller was called into conference with the principal, where he was advised he was skating on "thin ice" in utilizing the MNEA newsletter to vent a private grievance.

8. On February 18th Koeller read the memo received in regard to the scheduling problem to the National Honor Society students and announced that this was the reason for resigning as adviser from the group. Koeller then sent Kreuser a note explaining his reasons for resigning and charging at Kreuser had exhibited vindictiveness toward him. Koeller subsequently withdrew this statement.

9. Koeller's record as a teacher includes having 43 disciplinary referrals to Principal Refling, while the 49 other teachers on the faculty had a total of 150 disciplinary referrals.

There is a dispute about what transpired at the March 2, 1964, meeting of the board. In addition to the salary-and-working-conditions proposals of the MNEA during executive session the board also considered whether to rehire Koeller. Kreuser denied that he made any recommendations at that session against renewing Koeller's contract. He denied that the subject was even discussed. Yet board member Vogel recalled that Kreuser had advised him on March 3d that Kreuser had made this recommendation at the meeting the previous night. Between March 2 and March 9, 1964, a summary of Koeller's activities was prepared and, upon the recommendation of Kreuser, at another executive session on March 9, 1964, the school board formally determined not to offer Koeller a teacher's contract for 1964-1965. On March 11, 1964, conditions of employment were again announced at a general teachers' meeting. No prior notice of action taken on its proposals was received by the MNEA.

On March 12, 1964, Koeller was called to Kreuser's office and given a notice that his contract would not be renewed. Kreuser read from a sheet of paper a number of reasons for the dismissal, but he did not give Koeller a copy of the list of the reasons even though Koeller requested one. Kreuser also advised Koeller that a successful contest of the discharge was unlikely, because all statutory requirements had been met. Further, Kreuser advised Koeller that such an appeal would be professional suicide because Koeller needed Kreuser's signature to obtain a life-time teaching certificate.

A dispute exists as to whether or not Kreuser first offered to give Koeller a recommendation for another job if Koeller would resign. Koeller's testimony indicates this is true while the testimony of Kreuser and Refling is that Koeller was only offered the opportunity to resign. Nonetheless, Koeller refused to resign and was then handed a prepared notice of termination, the letter stating that the action was "deemed advisable in view of actions and conduct on your part which have previously been discussed with you."

After a full hearing on the complaints, the WERB found:

"29. That the primary motivation of Kreuser's recommendation to the School Board not to renew Koeller's teaching contract for the 1964-1965 school year was not based on any shortcomings Koeller may have had as a teacher, nor upon his differences with certain policies with the School Board, but rather upon Koeller's activity and efforts on behalf of the MNEA Welfare Committee as the collective bargaining representative of the majority of the professional teaching personnel in the employ of the School District; that the discriminatory refusal of the School Board to renew Koeller's teaching contract and the recommendations with respect thereto made by Superintendent Kreuser and other supervisory employees of the School District, interfered, restrained and coerced not only Koeller, but also the remaining teachers in the employ of the School District in the exercise of their right to engage in lawful concerted activities."

And it reached the following conclusion of law:

"2. That Muskego-Norway Consolidated Schools Joint School District No. 9, Town of Muskego, Waukesha County, and Town of Norway, Racine County, by its School Board, by refusing and failing to renew Carston C. Koeller's teaching contract for the year 1964-1965 upon the recommendation of Kreuser, Refling, Ussel and Ladd, discriminated against him in regard to the conditions of his employment, for the purpose of discouraging membership in and activities on behalf of the Muskego-Norway Education Association and, thereby, has committed, and is committing, prohibited practices, within the meaning of Section 111.70 (3) (a) 1 and 2 of the Wisconsin Statutes."

As to the allegation that the school board and supervisory personnel had interfered with the freedom of the teachers to join or not join employee organizations, the following appeared in a statement of school policy in a manual for teachers:

"It is expected that when school is closed for the purpose of attending professional meetings, teachers shall be in attendance at such meetings."

The WEA convention was planned for November 7 and 8, 1963. The Wisconsin Federation of Teachers also met on this date. In a November, 1963, memorandum from Kreuser to the administrators of the district it was stated:

"That as a matter of professional ethics no teacher that is not a member of the groups holding convention at this time can really expect time off with pay during these days."

This policy was implemented on the faculty of Muskego-Norway by Refling, who issued a memo (also on November 1, 1963) stating:

"We are making plans for everyone to attend next week's teachers convention. This brings up a matter of professional ethics that might be called to your attention at this time. That anyone not a member of either of the convening groups can hardly expect time off with pay."

Refling told one teacher that this meant he would have to join a teachers' organization in order to get paid.

As a conclusion of law on this matter, the WERB declared:

"1. That the Muskego-Norway Consolidated Schools Joint School District No. 9, Town of Muskego, Waukesha County and Town of Norway, Racine County, by its agents Robert J. Kreuser and Jack G. Refling, by threatening its teachers with the forfeiture of two days pay, if they failed to attend teachers' conventions and failed to retain membership in the sponsoring organization, interfered with, coerced, and restrained teachers in its employ in the exercise of their right to freely affiliate with or decline to affiliate with, any employee organization, and, thereby, has committed, and is committing, prohibited practices within the meaning of Section 111.70 (3) (a) 1 of the Wisconsin Statutes."

The WERB ordered the school district and individual supervisory personnel to cease and desist from similar activities, to offer Koeller his former position without prejudice, to pay Koeller any damages he may have suffered and to post a notice to all teachers notifying them of the actions taken and future policy to be followed by the district.

A petition for review of the WERB's order was filed under ch. 227, Stats. Thereafter, judgment was entered setting aside the order of the WERB. On the merits the trial court found that the finding of the WERB that the school board's primary motivation for firing Koeller was his labor activities was based on speculation and conjecture. As to the teachers' convention issue, the trial court also set aside the WERB order declaring the state law requires schools to be closed and authorizes teachers' time off with pay only if they attend the conventions. Further, the trial court ruled that there had been no proof of any relationship between the school board and the administators. The WERB has appealed.

WILKE, J. Four issues are raised on this appeal:2/

First, is the authority of school boards under secs. 40.40 and 41.41, Stats., subject to the limitations of sec. 111.70, Stats.?

Second, is the WERB finding that respondents interfered with, coerced and restrained teachers in its employ in the exercise of their right to freely decline to affiliate with employee organizations supported by substantial evidence?

Third, is the WERB finding that the refusal of respondents to renew Koeller's contract was prompted by his labor activities supported by substantial evidence?

Fourth, must the WERB make an express finding that Kreuser, Refling, Ladd and Ussel were agents of the Muskego-Norway school board in order to impute their actions to the board in deciding whether unfair labor practices were committed?

Relation of Secs. 40.40, 40.41 and 40.45 and Sec. 111.70, Stats.

One of the principal premises for the trial court's decision was that secs. 40.40 and 40.41, Stats., require the school board to contract individually with each teacher each year. The trial court also approved the school board's policy of offering its teachers the choice of attending conventions or losing two days' pay. This policy, according to the trial court, merely complied with sec. 40.40 (3), which provides:

"The board may give to any teacher, without deduction from her wages, the whole or part of any time spent by her in attending a teacher's institute held in the county,

2/ The issue of the time taken by the WERB in rendering its decision and related findings, conclusions and order was considered by this court previously. See footnote 1, supra.

or a school board convention or the meeting of any teachers' association, upon such teacher's filing with the school clerk a certificate of regular attendance at such institute, convention or association, signed by the person conducting the institute or convention, or by the secretary of the association." (Emphasis added.)

The WERB found that by threatening its teachers with the forfeiture of two days' pay if they failed to attend teachers' conventions, the school district interfered with the teacher's rights guaranteed by sec. 111.70 (2), Stats., to freely affiliate with or decline to affiliate with any employee organization.3/

The provisions of sec. 111.70, Stats., apply to the authority of school districts to the same extent as the authority of other municipal governing bodies.4/ Sec. 111.70 was enacted after secs. 40.40 and 40.41 and is presumed to have been enacted with a full knowledge of pre-existing statutes.5/ Construction of statutes should be done in a way which harmonizes the whole system of law of which they are a part, and any conflict should be reconciled if possible.6/

Sec. 40.40 (3), Stats., provides that a school board may give to a teacher without deducting from her wages the whole or any part of time spent in attending a teachers' convention upon filing with the clerk a certificate showing such attendance. Sec. 40.45 provides that days on which state and county teachers' conventions are held are considered to be school days. Under sec. 111.70 (2) teachers have the right to refrain from affiliating with labor organizations and forcing teachers to join employee organizations is expressly forbidden by sec. 111.70 (3) (a) 1. These statutes are not necessarily in conflict. They can all be given effect by construing them together and ruling that teachers cannot be required to attend such conventions under threat of loss of pay, but that teachers who do not attend such conventions can be required to work for the school. In this way teachers can avoid deductions from their salaries while the right to refuse to join a labor organization guaranteed by sec. 111.70 (2) is preserved. If the teacher refuses to work, deductions from his salary could be made, but if the school does not offer work to teachers not attending conventions, the school cannot deny pay to such teachers.7/

Respondents also contend that secs. 40.40 and 40.41, Stats., permit the school board to refuse to rehire on any ground or for no reason at all. Assuming this to be true, secs. 40.40 and 40.41 can be modified by subsequent statutes which forbid refusing to rehire a teacher for a particular reason. For example, a school board may not refuse to rehire a teacher because of his race, nationality or political or religious affiliations.8/ Modification of statutes is a question of legislative policy. In 1959 the legislature enacted sec. 111.70 (3) (a), which prohibits municipal employers, including school districts, from:

"1. Interfering with, restraining or coercing any municipal employee in the exercise of the rights provided in sub. (2).

"2. Encouraging or discouraging membership in any labor organization, employee agency, committee, association or representation plan by discrimination in regard to hiring, tenure or other terms or conditions of employment."

This also restricts the reasons a teacher can be refused re-employment. A school board may not terminate a teacher's contract because the teacher has been engaging in labor activities.

Scope of Judicial Review.

The second and third issues concern whether crucial findings of the WERB are supported by credible evidence. This makes it necessary to state the standard of judicial review of the findings of the WERB. It is well established that under sec. 227.20 (1) (d), Stats., judicial review of the WERB findings is to determine whether or not the questioned finding is supported "by substantial evidence in view of the entire record."9/ This court has held that the key to the application of this standard is to determine what is meant by "substantial evidence."10/

In Copland this court quoted from an article by E. Blythe Stason11/ as follows:

'"[T]he term "substantial evidence" should be construed to confer finality upon an administrative decision on the facts when, upon an examination of the entire record, the evidence, including the inferences therefrom, is found to be such that a reasonable man, acting reasonably, might have reached the decision; but, on the other hand, if a reasonable man, acting reasonably, could not have reached the decision from the evidence and its inferences then the decision is not supported by substantial evidence and it should be set aside.'"12/

Moreover, in Copland we reiterated that "'substantial evidence' is 'such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.' (Emphasis supplied.)"13/ In Copland we declared that the

3/ "111.70 (2) Rights of Municipal Employees. Municipal employees shall have the right of self-organization, to affiliate with labor organizations of their own choosing and the right to be represented by labor organizations of their own choice in conferences and negotiations with their municipal employers or their representatives on questions of wages, hours and conditions of employment, and such employees shall have the right to refrain from any and all such activities."

4/ "111.70 Municipal employment. (1) Definitions. When used in this section: (a) 'Municipal employer' means any city, county, village, town, metropolitan sewerage district, school district or any other political subdivision of the state."

5/ Town of Madison v. City of Madison (1955), 269 Wis. 609, 70 N. W. (2d) 249.

6/ Moran v. Quality Aluminum Casting Co. (1957), 34 Wis. (2d) 542, 553, 000 N. W. (2d) 000; Pelican Amusement Co. v. Pelican (1961), 13 Wis. (2d) 585, 593, 109, N. W. (2d) 82; Brunette v. Bierke (1955), 271 Wis. 190, 196, 72 N. W. (2d) 702.

7/ Archy Jaecks v. West Milwaukee-West Allis, Joint City School Dist. No. 1, Case III, No. 10552 M P-24, WERB Decision No. 7664, July 15, 1966, CCH Labor Law Reporter, State Laws, vol. 3, par. 49,757.

8/ Sec. 40.435, Stats., provides: "(1) No discrimination shall be practiced in the employment of teachers in public schools because of their race, nationality or political or religious affiliations, and no questions of any nature or form shall be asked applicants for teaching positions in the public schools relative to their race, nationality or political or religious affiliations, either by public school officials or employees or by teachers' agencies and placement bureaus.

"(2) Whoever violates this section shall be fined not less than $25 nor more than $50, or imprisoned in the county jail not less than 5 nor more than 30 days. Violation of this section shall be cause for the removal of any superintendent, member of a board of education or school board, or other public school official."

9/ Sec. 227.20 (1) (d), Stats.

10/ Copland v. Department of Taxation (1962), 16 Wis. (2d) 543, 554, 114 N. W. (2d) 858.

11/ "Substantial Evidence" in Administrative Law, 89 University of Pennsylvania Law Review (1941), 1026, 1038.

12/ Copland v. Department of Taxation, supra, footnote 10, at page 554.

13/ Copland v. Department of Taxation, supra, footnote 10, at page 554, quoting from Gateway City Transfer Co. v. Public Service Comm. (1948), 253 Wis. 397, 405, 406, 34 N. W. (2d) 238; and Consolidated Edison Co. v. National L. R. Board (1938), 305, U. S. 197, 59 Sup. Ct. 206, 83 L. Ed. 126.

test of reasonableness "is implicit in the statutory words 'substantial evidence.'","[14] and that the "[u]se of the statutory words "in view of the entire record as submitted' strongly suggests that the test of reasonableness is to be applied to the evidence as a whole, not merely to that part which tends to support the agency's findings."[15]

Interference with Right to Affiliate with Employee Organization.

In the instant case the evidence supports the WERB's finding and related conclusion that the respondents interfered with coerced and restrained teachers in the exercise of their right to freely affiliate with or decline to affiliate with any employee organization. The school district's policy expressed in the teacher's manual strongly implied that teachers were required to join the WEA. Memos circulated by Superintendent Kreuser and Principal Refling indicated that time off with pay would be granted only to teachers who were members of the convening groups (the WEA or the Federation of Teachers). The minutes of an executive committee contain the following statement:

"It was brought to the attention of the executive committee by the membership committee that some of our professional staff are not joining the WEA. Mr. Ussel stated that he had talked to the district office and said that wages will be deducted for anyone not attending the WEA Convention."

One of the complainants stated to Principal Refling, "It appears I have the choice of paying the seven bucks or losing two days pay," to which Refling replied, "That's about the size of it."

All these statements and actions indicate a policy of coercing teachers into joining the WEA (or its competitor organization) by threatening them with the loss of pay for failing to join. The WERB found that the WEA was an employee organization and, although this finding was not challenged, it is supported by the evidence. Coercing teachers to join an employee organization is a prohibited practice of sec. 111.70 (3) (a) 1, Stats. The WERB's order to the respondents to cease and desist from this action is valid.

Termination of Employment for Labor Activities.

The WERB found that the primary motivation for the refusal of the school board to renew Koeller's contract was because of his activities and efforts on behalf of the MNEA welfare committee. The WERB concluded that the school board discriminated against Koeller in regard to the conditions of his employment for the purpose of discouraging membership in and activities on behalf of the MNEA and was thereby committing a prohibited practice under sec. 111.70 (3) (a), Stats.

A major premise in the trial court's argument for reversing the WERB's determination in this respect is that if a valid reason for discharging an employee exists, this is a sufficient basis for holding that the employee was not dismissed for union activities. The trial court quotes Wisconsin Labor R. Board v. Fred Rueping L. Co. as follows:

"... When a valid reason as heretofore defined is found to be present, it is relatively difficult and may be impossible to more than guess which reason motivated the discharge. The board could find discrimination here only by finding that the assigned reason for the discharge of Assaf was false because if it was not the evidence is in such state that a finding of discrimination would be pure conjecture. Furthermore, we have some misgivings whether, if a valid and sufficient reason for discharge exists, the real or motivating reason has any materiality whatever, unless it can be shown that in other cases where similar grounds for discharge of nonunion men existed, no such action was taken."[16]

In other words, if there was good reason for terminating Koeller's employment because of teaching deficiencies and his differences of teaching philosophy with the school board and the supervisory personnel, it would not matter whether the contract was not renewed for his labor activities. But this is not the law. In Rueping there was no speculation as to what the real reason for the discharge was. Moreover, the law concerning discharge for labor activities has changed since 1938. In N.L.R.B. v. Great Eastern Color Lithographic Corp.[17] the federal courts stated:

"The issue before us is not, of course, whether or not there existed grounds for discharge of these employees apart from their union activities. The fact that the employer had ample reason for discharging them is of no moment. It was free to discharge them from any reason good or bad, so long as it did not discharge them for their union activity. And even though the discharges may have been based upon other reasons as well, if the employer were partly motivated by union activity, the discharges were violative of the Act." (Emphasis added.)

Several other federal cases are in accord.[18] Although these cases all involve a construction of unfair labor practices under the Wagner Act, the case of St. Joseph's Hospital v. Wisconsin E. R. Board[19] adopts their legal conclusion that an employee may not be fired when one of the motivating factors is his union activities, no matter how many other valid reasons exist for firing him.

The trial court opined that the WERB reached finding of fact No. 29 "purely upon conjecture." It concluded that there was ample reason for the school board's actions for Koeller's deficiencies as a teacher and his philosophical differences with the individual respondents on school matters.

But in this court's judicial review we are not required to agree in every detail with the WERB as to its findings, conclusions and other. We must affirm its findings if they are supported by substantial evidence in view of the entire record. Sec. 227.20 (2), Stats., requires that upon such review due weight shall be accorded the experience, technical competence, and specialized knowledge of the agency involved. In short, this means the court must make some deference to the expertise of the agency.

In St. Joseph's Hospital v. Wisconsin E. R. Board[20] the WERB found that the discharge of an employee was primarily because of her union activities. The court discussed the scope of review of this finding as follows:

"Finding 20 is a finding of ultimate fact and is of necessity based upon inferences from other testimony before the board. Such inferences may not be based upon conjecture but must be drawn from established facts which logically support them. The drawing of inferences from other facts in the record is a function of the board and the weight to be given to those facts is for the board to determine. International Union v. Wisconsin E. R. Board

14/ Copland v. Department of Taxation, supra, footnote 10, at page 554.

15/ Ibid. See also Albrent Freight & Storage Co. v. Public Service Comm. (1953), 263 Wis. 119, 128, 56 N. W. (2d) 846 58 N. W. (2d) 410; Motor Transport Co. v. Public Service Comm. (1953), 263 Wis. 31, 43, 56 N. W. (2d) 548; 4 Davis, Administrative Law Treatise, pp. 129, 130, sec. 29.03.

16/ (1938), 228 Wis. 473, 499, 279 N. W. 673.

17/ (2d Cir. 1962), 309 Fed. (2d) 352, 355.

18/ Wonder State Mfg. Co. v. N.L.R.B. (6th Cir. 1964), 331 Fed. (2d) 737, 738; N.L.R.B. v. Symons Mfg. Co. (7th Cir. 1964), 328 Fed. (2d) 835, 837; Marshfield Steel Co. v. N.L.R.B. (8th Cir. 1963), 324 Fed. (2d) 333, 337.

19/ (1953), 264 Wis. 396, 59 N. W. (2d) 448.

20/ Supra, footnote 19.

258 Wis. 481, 46 N. W. (2d) 185. Such findings, when made, cannot be disturbed by a court unless they are unsupported by substantial evidence in view of the entire record submitted."21/

The board is the judge of the credibility of the witnesses22/ and the reviewing court is not to substitute its judgment for the judgment of the board.23/

In essence, in the instant case we must decide whether the WERB's crucial findings, conclusions and order are based on inferences reasonably drawn on the entire record or whether they are the result of conjecture on the part of the WERB.

On the whole record we conclude that the WERB's finding No. 29 is supported by substantial evidence and reasonable inferences drawn therefrom in view of the entire record, that the failure to renew Koeller's teaching contract was motivated by his activities as chairman of the welfare committee of MNEA and not on any shortcomings Koeller may have had as a teacher nor upon his differences with certain policies of the school board and the respondent supervisory personnel.

The WERB's finding No. 29 is the logical final determination as to the motivation behind the failure to renew Koeller's contract following the stepping-up labor activities of the welfare committee in which Koeller had such a major part and the difficulties had in assembling and presenting proposals on salaries and working conditions to Kreuser and the school board.

The WERB placed heavy emphasis on the timing and manner of the dismissal. Although there was dispute about it the WERB could reasonably find that the first recommendation of Koeller's nonrenewal was made at the executive session of the school board on March 2, 1964, immediately following the very meeting when the MNEA proposals for 1964-1965 were submitted to the school board for the first time and were discussed; that at that time no written reasons were given for the dismissal; that on March 9, 1964, a summary of reasons having been prepared since March 2nd, the school board acted formally to terminate Koeller's services; that Koeller was not notified of this action until March 12, 1964, the day after the school teachers were called together and told of the school board's determinations about salaries and working conditions for the year 1964-1965 (there having been no negotiations about the MNEA proposals).

In a memorandum accompanying its findings of fact, conclusions of law and order the WERB discussed its reasons for concluding that the respondents were motivated by Koeller's labor activities in ending his employment. The WERB also thoroughly discussed and rejected the other reasons that were alleged to have motivated the respondents relating to the shortcomings of Koeller as a teacher and his disagreement with certain policies established by the school board.

The WERB carefully considered each one of the reasons compiled in the summary prepared by supervisory personnel prior to the school board's final action on March 9th as to why Koeller's contract should not be renewed. The WERB's analysis is summed up as follows:

"It seems incredible to us that the Superintendent could be sincere in the gravity of complaints made against Koeller and at the same time offer to recommend him to another position. We believe this to be a gross act of intimidation."

The WERB concluded:

". . .in light of the entire record, we do not find that Koeller's competence as a teacher or disciplinarian motivated the determination not to extend his teaching contract.

"We have therefore concluded that the Respondent School District refused Koeller a contract in order to discourage membership and collective bargaining activities on behalf of the Welfare Committee of the MNEA."

In any event, it may be assumed arguendo that the school board would have been warranted in terminating Koeller's services on these grounds if the motivation for the action were not connected with his labor activities. Yet the WERB could reasonably find, as it did, that the motivation for failing to renew Koeller's contract was his activities in the MNEA and on behalf of his fellow teachers' welfare.

Agency

The WERB specifically found that Kreuser, Refling, Ussel, and Ladd were supervisory personnel in the employ of the Muskego-Norway school district. The WERB considered the actions of these supervisory personnel in determining whether unfair labor practices had been committed by the school board and the school district. The trial court ruled that there was nothing in the findings of the WERB or in the evidence to establish that these supervisory personnel were agents of the Muskego-Norway school board. Therefore, ruled the trial court, actions of the supervisory personnel could not be attributed to the board in determining whether unfair labor practices had been committed, and only actions by school board members could be considered.

The trial court's ruling places form over substance. Where the WERB expressly found that Kreuser, Refling, Ussel, and Ladd were "supervisory personnel in the employ of said School District," such employment is sufficient to constitute an agency relationship. The employment policies of the school district are implemented through the actions of the supervisory personnel. Under the trial court's ruling, the school board could tacitly engage in unfair labor practices through actions by the supervisory personnel, and the employees discriminated against would have no effective recourse. Such a technical interpretation--as made by the trial court--of the findings of the WERB deprives sec. 111.70 (3), Stats., of any real substance.

By the Court. - Judgment reversed.

No. 43

August Term, 1966

STATE OF WISCONSIN: IN SUPREME COURT

Muskego-Norway Consolidated Schools, et al.,
Respondents,

v.

Wisconsin Employment Relations Board,
Appellant,

BELFUSS, J. (dissenting) I dissent from that part of the opinion which holds that the refusal of respondents to renew Koeller's contract was prompted by his labor activities is supported by substantial evidence.

The facts as set forth in the opinion clearly demonstrate the school board was amply justified in discharging Koeller because of his inadequacy in teaching and discipline methods. There is no substantial evidence that the school board discharged him for his union activities; a finding to the contrary rests only upon speculation and conjecture.

21/ Id. at page 401.

22/ St. Francis Hospital v. Wisconsin E. R. Board, (1959), 8 Wis. (2d) 308, 98 N. W. (2d) 909.

23/ St. Joseph's Hospital v. Wisconsin E. R. Board supra, footnote 19.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION TWO

BERKELEY TEACHERS ASSOCIATION, etc., et al., Plaintiffs and Respondents, vs. BERKELEY FEDERATION OF TEACHERS, AMERICAN FEDERATION OF TEACHERS, AFL-CIO, Local 1078, and ERIC ANDERSON Interveners and Appellants.	1 Civil 23751 1 Civil 23996

These consolidated appeals from an order granting a preliminary injunction and a judgment permanently enjoining the Berkeley Board of Education from holding an election among its certificated teachers, raise questions of first impression concerning the Winton Act (Ed. Code, §§13080-13088; Gov. Code, §3501). Plaintiffs and respondents, Berkeley Teachers Association and its officers (hereafter collectively referred to as Association), individually and in their representative capacities, initiated this action for declaratory and other relief against the members of the Berkeley Board of Education (hereafter Board), and the Superintendent of Schools of the Berkeley Unified School District (hereafter District). The interveners and appellants are the Berkeley Federation of Teachers and its president (hereafter collectively referred to as Federation).

The facts are not in dispute. Both the Association and the Federation are voluntary unincorporated associations of the District's certificated employees. Each organization meets the statutory definition of an employee organization (Ed. Code, §13081, subd. (a));1/ the District meets the statutory definition of a public school employer (Ed. Code, §13081, subd. (b)).2/ Pursuant to the Winton Act, the Board on October 19, 1965, adopted its Resolution No. 2860, establishing a negotiating council of nine members "allotted proportionately according to an election of the certificated staff, to represent organizations of certificated staff members in negotiations. . ." On October 22, 1965, the Association filed its complaint alleging that the election procedure violated the Winton Act and the Federation intervened. The preliminary injunction was issued on December 31, 1965, and the permanent injunction on April 29, 1966.

A brief history and description of the Winton Act is necessary for an understanding of the issues presented.3/ In 1961 the Legislature enacted sections 3500-3509 of the Government Code to provide a uniform basis for recognizing the rights of all public governmental employees to join and be represented in their employer-employee organizations or not to join any such organizations and to represent themselves individually. Section 3500 indicates that the representation of public employees in the field of employer-employee relations was no longer the exclusive concern of any public agency of the state, but was instead a matter of general public concern requiring uniform treatment. School districts and their employees and employee organizations were expressly included. In 1965 the Legislature adopted the Winton Act which removed school districts from the scope and operation of the 1961 statute (Gov. Code, §3501) and made the new provisions of sections 13080-13087 of the Education Code applicable only to school districts.

The statement of purposes of the 1965 legislation emphasized the right of public school employees to join organizations of their own choice and be represented by such organizations not only in their employment but also in their professional relationships with their employers and to afford them a voice in the formulation of educational policy. Like its 1961 predecessor, the Winton Act was designed to strengthen existing tenure, merit or civil service systems and other methods of administering employer-employee relations through the establishment of uniform and orderly methods of communication between employees and the public school employers by which they are employed (Ed. Code, §13080; cf. Gov. Code, §3500). The rights of public school employees, their organization and the scope of representation are provided for by sections 13082-13084 of the Education Code (set forth

1/ "(a) 'Employee organization' means any organization which includes employees of a public school employer and which has as one of its primary purposes representing such employees in their relations with that public school employer."

2/ "(b) 'Public school employer' means a school district, a county board of education, a county superintendent of schools, or a personnel commission of a school district which has a merit system as provided in Chapter 3 of this division."

3/ We are indebted to the excellent memorandum on this subject prepared by Los Angeles County Counsel, H. W. Kennedy.

below),[4] which parallel Government Code sections 3502, 3503 and 3504.

The novel provisions of the statute are sections 13085-13087. Section 13085 effectuates the legislative purpose of affording certificated employees a voice in the formulation of educational policy by providing in its first paragraph that the public school employer shall meet and confer "with representatives of employee organizations upon request with regard to all matters relating to employment conditions and employer-employee relations," and in addition, "meet and confer with representatives of employee organizations representing certificated employees upon request with regard to all matters relating to the definition of educational objectives, the determination of the content of courses and curricula, the selection of textbooks, and other aspects of the instructional program to the extent such matters are within the discretion of the public school employer or governing board under the law. The designation of an administrative officer as provided herein shall not preclude an employee organization from meeting with, appearing before, or making proposals to the public school employer at a public meeting if the employee organization requests such a public meeting." (Italics added.)

The first paragraph provides the legislative background for the second, which creates and provides for a negotiating council if more than one employee organization represents certificated employees in the District, as follows: "Notwithstanding the provisions of Sections 13082 and 13083, in the event there is more than one employee organization representing certificated employees, the public school employer or governing board thereof shall meet and confer with the representatives of such employee organization through a negotiating council with regard to the matters specified in this section, provided that nothing herein shall prohibit any employee from appearing in his own behalf in his employment relations with the public school employer. The negotiating council shall have not more than nine nor less than five members and shall be composed of representatives of those employee organizations who are entitled to representation on the negotiating council." (Italics added.)

The proviso at the beginning of the second paragraph is an indication that what follows is not in all respects in conformity with the provisions of sections 13082 and 13083 (which appear to limit the scope of representation to employer-employee relations and working conditions) as the negotiating council deals with all "matters specified in this section," namely, employment conditions and matters of educational policy. Significantly, the negotiating council does not represent all certificated employees of the District, but is composed of representatives of those employee organizations entitled to be represented on the negotiating council.

Then follows the sentence which sets forth the statutory formula for determining the number of members of the negotiating council, that employee organizations are entitled to appoint as follows: "An employee organization representing certificated employees shall be entitled to appoint such number of members of the negotiating council as bears as nearly as practicable the same ratio to the total number of members of the negotiating council as the number of members of the employee organization bears to the total number of certificated employees of the public school employer who are members of employee organizations representing certificated employees. Each employee organization shall adopt procedures for selecting its proportionate share of members of the negotiating council, provided that such members shall be selected no later than October 31 of each school year. Within 10 days after October 31, the members of the negotiating council shall meet and select a chairman, and thereafter such negotiating council shall be legally constituted to meet and confer as provided for by the provisions of this article. Employee organizations shall exercise the rights given by Section 13083 through the negotiating council provided for in this section." (Italics added.)

Section 13086 briefly indicates that public school employees shall not be intimidated, coerced, etc. because of their exercise of the right to represent themselves individually in their employment relations (§13082), and section 13087 then provides: "A public school employer shall adopt reasonable rules and regulations for the administration of employer-employee relations under this article.

"Such rules and regulations shall include provision for verifying the number of certificated employees of the public school employer who are members in good standing of an employee organization on the date of such verification, and where a negotiating council is required by Section 13085, for the size of the negotiating council. The public school employer may require an employee organization to submit any supplementary information or data considered by the public school employer to be necessary to the verification of the number of members in an employee organization and such information or data shall be submitted by the organization within 10 days after request, provided that membership lists, if requested, shall not be used as a means of violating Section 13086. In addition, such rules may include provisions for (a) verifying the official status of employee organization officers and representatives, (b) access of employee organization officers and representatives to work locations, (c) use of official bulletin boards and other means of communication by employee organizations, (d) furnishing complete and accurate nonconfidential information pertaining to employment relations to employee organizations and (e) such other matters as are necessary to carry out the purposes of this article."

The final portion of the statute, section 13088 (paralleling §3509, Gov. Code), provides that its enactment shall not be construed to make section 923[5] of the Labor Code applicable.

Both of the courts below apparently concluded that the allotment proportionately of the nine members of the negotiating council by means of an election, participated in by all of the District's certificated employees and in which they are called upon to choose between employee organizations, was not in accord with the intent and purpose of the Winton Act, and was contrary to the express provisions of section 13085 (quoted above) that the members of the negotiating council be selected by the employee organizations representing certificated employees.

4/ Section 13082: "Except as otherwise provided by the Legislature, public school employees shall have the right to form, join and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations. Public school employees shall also have the right to refuse to join or participate in the activities of employee organizations and shall have the right to represent themselves individually in their employment relations with the public school employer."

Section 13083: "Employee organizations shall have the right to represent their members in their employment relations with public school employers. Employee organizations may establish reasonable restrictions regarding who may join and may make reasonable provisions for the dismissal of individuals from membership. Nothing in this section shall prohibit any employee from appearing in his own behalf in his employment relations with the public school employer."

Section 13084: "The scope of representation shall include all matters relating to employment conditions and employer-employee relations, including, but not limited to wages, hours and other terms and conditions of employment."

5/ Footnote not cited.

The Federation argues that the election procedure is a proper and reasonable method, authorized by section 13087, and necessitated by the fact that the Legislature has not defined the words "members" and "members in good standing" as used in that section with reference to the number of certificated employees of the District who are members in good standing of an employee organization which is to represent them with regard to all matters specified in section 13085.6/ We cannot agree.

The Board's resolution provides that all of the District's certificated employees, irrespective of whether or not they are members of an employee organization,7/ may participate in an election for the purpose of determining which organization each employee wishes to represent him on the negotiating council. However, as indicated above, section 13085 does not provide for a negotiating council to represent all certificated employees of the District, but a negotiating council composed of representatives of those employee organizations entitled to be represented on the negotiating council. Then, section 13085 provides that the members of the negotiating council are to be appointed, according to the proportionate allotment, by the organizations representing certificated employees. The formula for determining membership on the negotiating council does not take into account the total number of certificated employees who are employed by the District. It sets the proportion as nearly as practicable at the ratio which the certificated employee membership of each of the respective organizations bears to the total certificated employee membership of all such organizations.

(Furthermore, while section 13087 contemplates that a public school employer may establish procedures for determining which of its certificated employees are members of one or more employee organizations, an election is not such a procedure. The procedure contemplated is merely one of ascertainment and verification. The term "election" implies an ability to choose between two or more alternatives. Certificated employees who are members of an employee organization have no choice remaining open to them. Their membership in good standing in an employee organization must be accepted as a designation by them of that organization as authorized to represent them on a negotiating council. The formula of section 13085 for determining the entitlement of an employee organization to appoint members to a negotiating council requires only that those employees who are members of an employee organization may be counted. Under the Winton Act, an election is an inappropriate procedure to ascertain or verify membership in an employee organization.)

It is true that the Winton Act does not precisely define the word "member" as applied to an "employee organization" representing certificated employees. A reading of the statute as a whole, however, clearly indicates that "member" is used in its normally accepted sense and is to be given its ordinary and usual meaning of a certificated employee who joins an employee organization representing certificated employees. The statute does not allow for the interpretation of "member" (advocated by the Federation) which would permit organizational membership to be determined on the basis of preference or choice of all certificated employees whether or not the voting employees are "members in good standing" of the organization. The statute requires organizations (employee organizations representing certificated employees of the District) which have "members in good standing." Section 13087 recognizes that the employee organization is in the best position to advise the District as to the number of certificated employees who are members in good standing on the verification date.

Thus, organizational membership and the number of employees who are members are both considered by the Legislature as facts within the knowledge of the particular employee organization representing certificated employees.8/ By section 13083, the Legislature gave each employee organization the right to represent its members. To further protect the organizations, they were also given the power to adopt reasonable restrictions as to joining and dismissal of individual members. Employee organizations would be deprived of the benefits of section 13083, if membership were determined by the suggested election. In addition, the formula for a certificated employee organization's entitlement to appoint members on the negotiating council would be entirely frustrated if certificated employees who are members of a certificated employee organization were determined by the suggested election rather than by "membership in good standing."

Membership in voluntary unincorporated associations is a personal right based on contract, and can only be divested in the manner provided by the contract (5 Cal.-Jur.2d, pp. 463-465). Once acquired, membership in a labor organization is a property right that the courts will protect. In DeMille v. American Fed. of Radio Artists, 31 Cal.2d 139, the court said at page 149: "The member and the association are distinct. The union represents the common or group interests of its members, as distinguished from their personal or private interest. 'Structurally and functionally, a labor union is an institution which involves more than the private or personal interests of its members. It represents organized, institutional activity as contrasted with wholly individual activity. This difference is as well defined as that existing between individual members of the union.' (United States v. White, 322 U. S. 694, at page 701 [64 S.Ct. 1248, 88 L.Ed. 1542, 152 A.L.R. 1202].)" Recently, our Supreme Court has given recognition to the rights of duly authorized members of unincorporated associations to represent the membership of such an association in a representative court action such as the one here involved (Professional Fire Fighters, Inc. v. City of Los Angeles, 60 Cal.2d 276, 283; International Assn. of Fire Fighters v. City of Palo Alto, 60 Cal.2d 295).

We cannot agree with the Federation's contention that the verification of membership provisions of section 13087 create an ambiguity because the dual membership of many certificated employees9/ makes such verification meaningless. We think that the proportional formula for the appointment of members to the negotiating council adequately takes care of any plural membership problems. Precisely because the dual membership problem was anticipated, section 13085 provides that the number of members on the negotiating council that an organization may appoint shall bear "as nearly practicable" the same ratio to the total number of members of the council as the number of members of the organization bears to the total number of certificated employees who are members of employee organizations. If, for example, an employee's membership is counted in both or all of the organizations of which he is a member for the purpose of determining the make-up of the council, the plural memberships will simply cancel each other out.

6/ We note that in making this argument, the Federation omitted from its brief the portion of section 13085 relating to the appointment of the negotiating council.

7/ The complaint alleged that more than 70 percent of the District's certificated employees were members of the Association; and that 10 percent of the District's certificated employees were not members of any organization representing them.

8/ The federal courts similarly stress as the essential elements of membership in an organized group "the desire of an individual to belong to the organization and a recognition by the organization that it considers him as a member" (Killian v. United States, 368 U.S. 231, 249-250; quoting from Jencks v. United States, 353 U.S. 657, 679.)

9/ Although no figures are provided, all parties assume the existence of a substantial number of overlapping memberships as certificated employees may be members of several organizations and join them for different purposes.

Furthermore, any action by a public school employer requiring a certificated employee who belongs to more than one organization to designate which single organization may count him as a member for purposes of representation on the negotiating council, would amount to an unwarranted interference by an employer with the relationship between the employee organization and its members. Such relationship is a contractual one that imposes duties as well as confers privileges on the member (DeMille v. American Fed. of Radio Artists, 31 Cal.2d 139, 146). One of the duties of a member of an organization is loyalty to the basic purposes of the organization (Davis v. Int. Alliance etc. Employees, 60 Cal.App.2d 713, 715). Thus, where an employee joins an organization that has as one of its primary purposes representing employees in their relationships with a public school employer (Ed. Code, §13081, subd. (a)), an obligation to permit the organization to count him as a member for the purposes of such representation, including participation in a negotiating council, can properly be implied from the membership relationship or imposed by the by-laws (Smith v. Kern County Medical Assn., 19 Cal.2d 263, 265; Neto v. Conselho Amor DaSociedade, 18 Cal.App. 234). Any interference with this contractual obligation by the public school employer would constitute at the most an actionable tort (Imperial Ice Co. v. Rossier, 18 Cal.2d 33, 35) or at least an idle act, since the employee could refuse to make a choice between organizations. Even if such choice were made, each organization could rely on its contractual right to count the employee as a member.

The Federation also argues that the Board may lawfully provide for an election among its teachers to determine their choice of organizations to represent them on the negotiating council as the Winton Act was designed to adopt for public school employees collective bargaining devices long accepted in the field of private employment. As indicated above, section 13088, like its 1961 predecessor (Gov. Code, §3509), expressly provides that section 923 of the Labor Code does not apply to public school employees. Even in the absence of such a provision, it is well settled that by enacting section 923 of the Labor Code, the Legislature did not intend to extend to public employment the collective bargaining procedures and devices applicable to private employment (Nutter v. City of Santa Monica, 74 Cal.App.2d 292, 296-301; Los Angeles Met. Transit Authority v. Brotherhood of Railroad Trainmen, 54 Cal.2d 684).10/

The legislative history of the Winton Act indicates that on May 6, 1965, the Assembly flatly rejected two amendments substituting the collective bargaining procedures applied in private employment.11/ Thus, the conclusion is inescapable that the Legislature intended to bar representational elections from the field of public school employment and expressly rejected the collective bargaining approach of having a single employee organization represent all certificated employees.12/

In view of the above, we conclude that the election envisioned by the Board's resolution was contrary to and in conflict with the clear provisions of the Winton Act. As the governing body of a school district has no authority to enact a rule or regulation that alters the terms of a legislative enactment (Renken v. Compton City School Dist., 207 Cal.App.2d 106, 114), the court below properly granted the relief requested by the Association.

Affirmed.

Taylor, J.

WE CONCUR:

Shoemaker, P. J.

Agee, J.

10/ As stated in State v. Brotherhood of R. R. Trainmen, 37 Cal.2d 412, 417: "A concise statement of the characteristics distinguishing public from a private employment in this regard appears in a letter from President Roosevelt to the National Federation of Federal Employees, dated August 16, 1937: 'All Government employees should realize that the process of collective bargaining, as usually understood, cannot be transplanted into the public service, It has its distinct and insurmountable limitations when applied to public personnel management. The very nature and purposes of Government make it impossible for administrative officials to represent fully or to bind the employer in mutual discussions with Government employee organizations. The employer is the whole people, who speak by means of laws enacted by their representatives in Congress. Accordingly, administrative officials and employees alike are governed and guided, an and in many instances restricted, by laws which establish policies, procedures, or rules in personnel matters.' (Quoted in City of Springfield v. Clouse, 356 Mo. 1239 [206 S.W.2d 539, 542-543]; C.I.O. v. City of Dallas, (Tex. Civ. App.) 198 S.W.2d 143, 144-145.)"

11/ "1. Assemblyman Ryan proposed amendments to delete the provisions for a representational negotiating council as now contained in the second paragraph of Section 13085, and to insert in lieu thereof provisions for the election by secret ballot of the members of the negotiating council, which 'members elected to the negotiating council shall be certificated employees who are employed as classroom teachers and who are under contract to the public school employer for the ensuing school year.' The amendments were refused adoption: AYES - 28; NOES - 41. (Assembly Journal for May 6, 1965, pp. 3045-3046, 3047-3048)

"2. Assemblyman Stanton proposed an amendment, to make the collective bargaining provisions of Labor Code Section 923 'applicable to public school employees', by deleting the word 'not' in Section 13088, so that section would read: 'The enactment of this article shall not be construed as making the provisions of Section 923 of the Labor Code applicable to public school employees.' This amendment was refused adoption, without a roll-call vote. (Assembly Journal for May 6, 1965, p. 3048)"

The author of the statute, in a declaration admitted into evidence, stated:

"The issue of voluntary employee association representation versus a governing board-called secret ballot election of all school district employees irrespective of their affiliations was thoroughly debated by members of the Legislature, both in committee and on the floor of the Assembly. Whenever action was taken on the issue, the election was rejected on the ground that AB 1474 was designed to protect, promote and regulate voluntary public school employee associations and to provide means whereby these associations might select spokesmen to represent their members before the governing board of the school district. Both the members of the Legislature and witnesses who testified before committees of the Legislature agreed that a board-called election to bypass these existing associations was in conflict with these objectives."

12/ This rejection has been recognized as a novel innovation in the field of public employment (Section of Labor Relations, Committee on Law of Government Employee Relations, A.B.A. 1966 Proceedings, p. 151).

THE COMMONWEALTH OF MASSACHUSETTS
Department of the Attorney General
State House - Boston 02133

September 12, 1967

Honorable Owen B. Kiernan
Commissioner of Education
182 Tremont Street
Boston, Massachusetts 02111

Dear Commissioner Kiernan:

You have requested my opinion on whether G.L.c. 39, §§ 23A-23C, the Open Meeting Law, applies to collective bargaining sessions between school committees and school employees. In my opinion it does not.

Collective bargaining with municipal employees is governed by G.L.c. 149, §§ 178G-178N, inserted by St. 1965, c. 763. Section 178I provides:

"The municipal employer and the employee organization recongized or designated as exclusive representative of employees in an appropriate unit shall have the duty to bargain collectively. In such bargaining other than with an employee organization for school employees, the municipal employer shall be represented by the chief executive officer, whether elected or appointed, or his designated representative or representatives. In such bargaining with an employee organization for school employees, the municipal employer shall be represented by the school committee or its designated representative or representatives.

"For the purposes of collective bargaining, the representative of the municipal employer and the representatives of the employees shall meet at reasonable times, including meetings appropriately related to the budget making process, and shall confer in good faith with respect to wages, hours and other conditions of employment, or the negotiation of an agreement, or any question arising thereunder, and shall execute a written contract incorporating any agreement reached, but neither party shall be compelled to agree to a proposal or to make a concession. In the event that any part or provision of any such agreement is in conflict with any law, ordinance or by-law, such law, ordinance or by-law shall prevail so long as such conflict remains. If funds are necessary to implement such written agreement, a request for the necessary appropriation shall be submitted to the legislative body. If such request is rejected, the matter shall be returned to the parties for further bargaining. The preceding two sentences shall not apply to agreements reached by school committees in cities and towns in which the provisions of section thirty-four of chapter seventy-one are operative."

The Open Meeting Law, G.L.c. 39, § 23A, as applicable to municipalities, provides in part:

"As used in this section and in section twenty-three B, the word 'board' shall include every board, commission, committee and sub-committee, however elected, appointed or otherwise constituted, of any district, city or town. It shall also include the governing board of every local housing, redevelopment or similar authority. All board meetings shall be open to the public and to the press unless the board shall vote to go into executive session. Such executive session may be held only for the purpose of discussing, deliberating or voting on those matters which by general or special statute, or federal grant-in-aid requirements cannot be made public, and those matters which if made public might adversely affect the public security, the financial interest of the district, city, town or local housing authority, or the reputation of any person....." (Emphasis supplied.)

After careful consideration, I have concluded that this statute does not apply to collective bargaining sessions with school employees. The decisive point is that such sessions are not "meetings" within the meaning of that term in the statute. The meetings to which the statute refers are rather those in which the internal discussions, deliberations and voting of an agency are of public concern. A collective bargaining session, on the other hand, is a meeting at which the employer and employees are engaged in a process of an interchange and analysis of each other's proposals and counterproposals. This is a different kind of process from that involved in the conduct of an agency's internal deliberations or the making of its official decisions.

The fact that G.L.c. 149, § 178I provides that "In (the) bargaining with an employee organization for school employees, the municipal employer shall be represented by the school committee or its designated representative or representatives" does not change the foregoing conclusion. It is my opinion that by making a specific reference to a school committee, the Legislature did so, not for the purpose of subjecting it to the requirements of the Open Meeting Law, but only to recognize a school committee's traditional independence in the conduct of its own affairs.

That the collective bargaining sessions are not "meetings" within the meaning of the Open Meeting Law is also evident from the second paragraph of § 23A thereof, which provides that "Except in an emergency, a notice of each board meeting shall be filed with the clerk of the municipality in which the board acts, and the notice or a copy thereof shall, at least twenty-four hours, including Saturdays but not Sundays and legal holidays, prior to such meeting, be publicly posted in the office of such clerk or on the principal official bulletin board of such municipality."

It seems clear that the scheduling of collective bargaining sessions could not be arranged with the necessary flexibility for their success if the foregoing notice requirements were applicable. Nor could such flexibility be realized by treating the sessions as "emergencies" so as to excuse compliance with such requirements. Many of the sessions, I would expect, could not be said to be "emergencies" in any true sense of that word.

Nothing in this opinion, I wish to add, should be construed as applying beyond the conduct of the bargaining sessions themselves. I express no opinion on the application of the Open Meeting Law to discussions, deliberations, or votes of a school committee when not actually engaged in such sessions.

Very truly yours,

ELLIOT L. RICHARDSON
Attorney General

ELR:ADJ

Negotiation Agreements

AGREEMENT

between

THE BOARD OF EDUCATION

of the

WARREN (MICHIGAN) CONSOLIDATED SCHOOLS

and the

WARREN EDUCATION ASSOCIATION (NEA)

September 1, 1967 through January 26, 1970

PREAMBLE

This Agreement, entered into this fourteenth day of June, 1967, is by and between the Board of Education of the Warren Consolidated Schools, Warren, Michigan, hereinafter referred to as the "School Board," and the Warren Education Association, hereinafter called the "Association," affiliated with the Michigan and National Education Associations.

WITNESSETH

Whereas the Board and the Association recognize and declare that providing a quality education for the children of the Warren Consolidated School District is their mutual aim and that the character of such education depends predominantly upon the quality and morale of the teachers, administrators, Board members, and non-instructional employees, and

Whereas the members of the teaching profession are particularly qualified to assist in formulating programs designed to improve education standards, and

Whereas the Board and the Association have a statutory obligation, pursuant to the Public Employment Relations Act, ACT 379 of the Michigan Public Acts of 1965, to bargain in good faith with respect to hours, wages, terms, and conditions of employment for teachers, and

Whereas the parties have reached certain understandings which they desire to confirm in this Agreement,

It is hereby agreed as follows:

ARTICLE I - RECOGNITION

Section 1: The School Board recognizes the Association as the exclusive bargaining representative for all members of the unit which includes: All regularly employed certified teachers under contract; Diagnosticians; Counselors; School Social Workers; Coop. Consultant; Science Consultant; and E.I.P. Consultant, but excluding:

Other personnel employed by the Board of Education of the Warren Consolidated Schools, specifically: Superintendent; Deputy Superintendents; Assistant Superintendents; Directors; Music Coordinator; Reading Coordinator; House Coordinators; Principals; Assistant Principals; E. I. P. Teachers; Nurses; Secretarial and Clerical Employees; Custodial and Maintenance Employees; Cafeteria Employees; Bus Drivers; and the holder of any other non-certified position, and daily substitute teachers.

Section 2: Throughout this Agreement, the term "teacher" shall designate all members of the Bargaining Unit.

Section 3: The School Board agrees that, upon receipt of a signed authorization for deduction of membership fees and regular dues of the Association from any teachers, the sum of said dues and fees as established by the Association will be deducted from the regular salaries of such teachers and remitted to the Association along with a letter of transmittal.

Section 4: Professional Responsibility

A. Membership in the Association shall be open to all teachers regardless of race, creed, sex, marital status or national origin.

B. It is recognized that the proper negotiation and administration of collective bargaining agreements entail expense which is appropriately shared by all teachers who are beneficiaries of such agreements. To this end, in the event a teacher shall not join the Association and execute an authorization for dues deduction, such teacher shall, as a condition of continued employment by the Board, execute an authorization for the deduction, of a sum equivalent to the dues and assessments of the Association which sum shall be forwarded to the Association. In the event that such an authorization is not signed for a period of thirty days following the commencement of employment of the teacher, the Board agrees that in order to effectuate the purposes of the Public Employment Relations Act and this Agreement, the services of such teacher shall be discontinued as of the end of the current school year. Such teacher or teachers shall be notified of the termination of their services immediately upon the expiration of the thirty (30) day period heretofore mentioned. However, if at the end of the school year the

teacher or teachers receiving the termination notice shall then be engaged in pursuing any legal remedies contesting the discharge under this provision before the Michigan Tenure Commission or a court of competent jurisdiction, such teacher's services shall not be terminated until such time as such teacher or teachers have either obtained a final decision as to the validity or legality of said discharge, or said teacher or teachers have ceased to pursue the legal remedies available to them by not making a timely appeal of any decision rendered in said matter by the Michigan Tenure Commission or a court of competent jurisdiction.

In any case in which a teacher or teachers contest a discharge under the provisions of the paragraph B, Section 4, Article I, and it is necessary for the Board to defend its position and to engage legal counsel and to incur other expenses in so doing, the Association agrees to pay one half (1/2) of the expenses so incurred by the Board.

ARTICLE II - EFFECT OF AGREEMENT

Section 1: The parties mutually agree that the terms and conditions set forth in this Agreement represent the full and complete understanding and commitment between the parties hereto which may be altered, changed, added to, deleted from, or modified only through the voluntary, mutual consent of the parties in an amendment hereto.

Section 2: Should any Article, Section or clause of this Agreement be declared illegal by a court of competent jurisdiction, said Article, Section, or clause, as the case may be, shall be automatically deleted from this Agreement to the extent that it violates the law, but the remaining Articles, Sections and clauses shall remain in full force and effect for the duration of the Agreement, if not affected by the deleted Article, Section or clause.

Section 3: Any contract between the Board and an individual teacher shall be expressly subject to the terms and conditions of the Agreement.

ARTICLE III - DEFINITION OF RESPONSIBILITIES AND RIGHTS

The parties to this Agreement acknowledge their responsibilities as set forth herein and recognize the interrelationships and interaction of each upon the other.

Section 1: It is recognized by all parties hereto that the Board, on its own behalf and on behalf of the electors of the district, hereby retains and reserves unto itself, all powers, rights, authority, duties and responsibilities conferred upon and vested in it by the laws and the Constitution of the State of Michigan, and of the United States.

Section 2: Teachers are responsible for maintaining a continuous high level of professional service to the welfare and benefit of the student body. Teachers, therefore, are responsible to discharge their teaching assignments with professional proficiency and, to this end, to plan adequately and make conscientious efforts to meet, as required and within reason, with children, parents and/or consultants.

Section 3: The School Board, through its Administration, will sincerely foster the dedication expected of the teachers by planning constructively to provide the best possible teacher facilities attainable within the limits of prudent expenditures, and to assist teachers in the advancement of their skills and techniques by providing meaningful and useful seminars and programs. The Board will continually review and analyze the needs of the School District so that all committees, programs, and projects will relate directly to a quality educational program either by reason of seeking improvement in teaching methods, tools, techniques, and/or professional standards of excellence or by reason of seeking improved efficiency, economy of operation, and/or consideration of ways and means to satisfy the mandatory need for student improvement, greater student achievement and high level employee morale.

Section 4: The Board agrees that it will not directly or indirectly discourage, deprive, or coerce any teacher in the enjoyment of any rights conferred by the laws or Constitutions of Michigan and the United States and that it will not discriminate against any teacher because of his membership in the Association or collective negotiations with the Board, or his institution of any grievance, complaint or proceeding under this Agreement; and that the rights granted to teachers in this Agreement are in addition to those provided in the above-mentioned statutes and Constitutions.

Section 5: Consistent with the Code of Ethics of the Education Profession, teachers shall be entitled to full rights of citizenship and the exercise thereof shall not be grounds for any discipline or discrimination against a teacher.

Section 6: The parties agree that there shall be no discrimination against any employee or applicant for employment by reason of race, creed, color, marital status, sex, or national origin, and that the provisions of this Agreement shall be applied in a manner which is not arbitrary, capricious or discriminatory.

Section 7: Each teacher shall have the right, upon request, to review the contents of his own personnel file. A representative of the Association may, at the teacher's request, accompany the teacher in this review.

Section 8: Disciplinary interviews and reprimands will be considered in private. An affected teacher will, however, have the right, in all such instances, to request the presence of an Association Grievance Committee Representative at said interview and, when such a request is made, the interview will not proceed until the Representative is in attendance.

Section 9: The School Board agrees that its Rules and Regulations governing employee conduct will be reasonable and that enforcement of discipline will be fair and for just cause.

Section 10: The Association shall have the right to post notices of its activities and matters of Association concern on teacher bulletin boards, at least one of which shall be provided in each school building. The Association shall have the right to use the district mail service and teacher mail boxes for communications to teachers.

Section 11: The Association and its representatives shall have the right to use school buildings for meetings, provided that when special custodial service is required, the Board may make a reasonable charge therefor.

Section 12: Duly authorized representatives of the Association and their respective affiliates shall have the right to transact official Association business on school property at all reasonable times, provided that this shall not interfere with or interrupt normal school operations. And further provided, no Association views on matters relating to supervisor-teacher or Board-Association relationships will be discussed in the presence of students.

Section 13: The Association shall have the right to use school facilities and equipment, including typewriters, mimeographing machines, other duplicating equipment, calculating machines and all types of audio-visual equipment, when such equipment is not otherwise in use. Association use of school business equipment will be permitted provided that:

a. Request is made and use arranged for in advance.
b. The use is strictly to service the legitimate business of the Association, such as the duplication of records, notices, correspondence, etc.

c. The purpose is for internal business use of the Association and is not for public distribution.
d. Supplies, in connection with such equipment use, will be furnished or paid for by the Association.

ARTICLE IV - NEGOTIATION PROCEDURES

Section 1: Representatives of the Board and the Association's bargaining committee will meet on the last school day Tuesday of each month for the purpose of reviewing the administration of the contract, and to resolve problems that may arise. These meetings are not intended to bypass the grievance procedure.

Each party will submit to the other, on or before Friday prior to the meeting, an agenda covering what they wish to discuss.

Section 2: All meetings between the parties will regularly be scheduled to take place as promptly as possible at times when the teachers involved are free from assigned instructional responsibilities, unless otherwise mutually agreed.

Section 3: Should such a meeting result in a mutually acceptable amendment of the Agreement then the admendment shall be subject to ratification by the Board and the Association provided that the Bargaining Committee shall be empowered to effect temporary accommodations to resolve special problems.

Section 4: The Board agrees to furnish the Association such information as is requested for the intelligent development of proposals on behalf of teachers or for the processing of any grievance or complaint.

Section 5: The Superintendent will provide the Association with his proposed agenda to be considered at each public meeting of the Board of Education, along with whatever reports, addenda, and other information which is available at the time. Only matters which by their nature must be confidential shall be withheld. This shall normally be restricted to decisions regarding the acquisition of sites or individual employees.

In addition, the Administration will make every effort to keep the Association informed by using the monthly meetings to discuss anticipated revision of educational, construction, or fiscal programs.

ARTICLE V - GRIEVANCE PROCEDURES

Section 1: Definition

Any claim by the Association or a teacher that there has been a violation, misinterpretation, or misapplication of the terms of the Agreement, a violation of their right to fair treatment, or violation of any established policy or practice shall be a grievance, and shall be resolved through the procedure set forth herein.

Section 2: Time Limits

All time limits herein shall consist of school days except that when a grievance is submitted on or after June 1, time limits shall consist of all week days so that the matter may be resolved before the close of the school term or as soon as possible thereafter. Time limits may be extended only with the written consent of the Administration and the Association.

Section 3: Grievance Representation

Upon selection and certification by the Association, the Board shall recognize a grievance representative in each building and an Association grievance committee of eight members and the Executive Secretary.

Section 4: Procedure

The parties acknowledge that it is usually most desirable for an employee and his supervisor to resolve problems through free and informal communications. When requested by either party, the building representative may intervene to assist in this resolution. However, should such informal processes fail to satisfy the supervisor and the teacher, then a grievance may be processed as follows:

Step 1 -- If the complaint is not resolved in the initial meeting, the employee must present the grievance in writing, within five (5) days, to the principal who will arrange a meeting within four (4) days. The Association's representative, the Board's representative, the Association's building representative, and the principal, and the grievant shall be present for the meeting.

The building principal must provide the grievant with a written answer on the grievance within two (2) days. The Association shall refer the grievance to the Board's Representative who will arrange a meeting within five (5) days with the Association's Grievance Committee and the Board's Representatives.

Step 2 -- If the grievance is not satisfactorily resolved in Step 1, the Board's representative will arrange a meeting with the Association's grievance committee and the Board's representatives. Each party shall have the right to include in its representation appropriate witnesses and needed counselors to develop facts pertinent to the grievance.

Upon conclusion of the hearing, the Board will have four (4) days in which to provide their decision in writing to the Association.

Section 5: Arbitration

If either party is not satisfied with the disposition of the grievance at Step 2 or the Step 2 time limits expire without action, then the grievance may be submitted to final and binding arbitration under the rules of the American Arbitration Association which shall act as administration of the proceedings. If neither party files a demand for Arbitration within thirty (30) days of the date for the Board's Step 2 reply, then the grievance shall be deemed withdrawn.

Neither the Board nor the Association will be permitted to assert any grounds or evidence not previously disclosed to the other party.

The arbitrator shall have no power to alter, add to, or subtract from the terms of this Agreement. However, it is mutually agreed that the arbitrator is empowered to include in his award such financial reimbursements as he judges to be proper. Each party shall bear the full costs for its side of the arbitration, and will pay one half of the costs for the arbitrator.

Section 6: The Board acknowledges the right of the Association's Executive Secretary and/or the Board's representative to participate in the processing of a grievance at any level.

Section 7: Provided both parties agree, Steps 1 and/or 2 of the Grievance Procedure may be bypassed and the grievance brought directly to the next step.

Section 8: For the duration of the Agreement, the Association will not engage in, authorize, encourage, either directly or indirectly, any concerted interruption of educational activities due to a cessation, withdrawal or withholding of services in any manner or form either in whole or in part by members of the Bargaining Unit for any reason and no officer or representative of the Association or member of the Bargaining Unit shall be empowered to provoke, instigate, cause, participate in, assist, encourage or prolong any such prohibited activity.

ARTICLE VI - DISCHARGE & DEMOTION

Discharge, demotion, or other involuntary change in the employment status of a teacher shall be for just cause and

preceded by: a) The faithful execution of the evaluation procedure and the honoring of all teacher's rights included in this Agreement and applicable statutes, b) The forwarding of a written explanation for the action to the teacher and the Association, c) A complete review of the teacher's personnel file with the teacher and his representative, and d) If requested by the teacher, a hearing before the Board of Education.

ARTICLE VII - EVALUATION PROCEDURES

Section 1: The building principal or his assistant is responsible for written evaluations of all professional employees assigned to his building. His responsibility includes:

a. Orienting all teachers with the evaluative procedures and instruments during the first five (5) weeks of their assignment to his building, and advise the employee as to who shall observe and evaluate his performance.
b. Compile observations made from time to time prior to formal evaluation.
c. Probationary teachers must be evaluated formally once each semester. (Schedule "B" - Once each season)
d. Each formal evaluation must be preceded by at least one classroom observation of at least thirty consecutive minutes and within ten days prior to the evaluation.
e. Conferring with teachers and discussing with them each item which is to be included in their respective personnel files.
f. Providing each teacher with a copy of formal evaluation reports.
g. Provide definite, positive assistance to rectify professional difficulties to teachers receiving substandard evaluations that may lead to dismissal.
h. All monitoring or observation of the work performance of a teacher shall be conducted openly and with full knowledge of the teacher.
i. All tenure teachers must be evaluated once each year.

Section 2: The procedures set forth in Section 1 above shall be fully applicable to those teachers working in assignments set forth in Schedules B and C, except that item "d" may be adjusted to accommodate the exigencies of the activity.

ARTICLE VII - RETIREMENT

Section 1: Employees are required to retire at 65 years of age; however, an employee may be granted an exception to the 65 age requirement on a year to year basis subject to the following:

a. Provide the Board with a complete physical examination report at his own expense.
b. Approval for each additional year will be made by the Superintendent, and not be subject to grievance.

ARTICLE IX - TRANSFERS

Section 1: To be eligible for transfer, a teacher must have an acceptable performance record and be eligible for tenure status in the coming school year.

Section 2: In the event a building principal fails to accept an applicant for transfer, he will provide his reasons in writing if requested to do so.

Section 3:

a. At any time during the school year, a teacher may express his desire to be transferred to a specific or unspecified location.
b. The school administration shall by February 15 of each year post known openings by assignment and location that will be available in the following school year. Teachers desiring to request consideration for any of the posted openings shall have to submit a request no later than March 1 immediately following.
c. The school administration shall, on May 1 of each year, make a supplementary posting for the following school year of all openings existing as of that date. Teachers desiring to request consideration for any such openings shall have to apply by May 10 immediately following.
d. Requests for consideration for specific openings shall supersede and cancel any previous transfer requests made to unspecified locations. All requests except as provided herein shall remain effective until assignments are made which shall normally be by August 1 of each year.
e. All requests shall have to be submitted to the personnel department on forms supplied by the School Administration.

Section 4: Evaluation and Effect of Requests

The consideration of any application shall depend upon demonstrable qualifications and/or lack of qualifications for the position, and length of service in the district. The teacher meriting consideration and with the most service in the district shall be transferred provided that the overall, legitimate objectives of the School Administration are satisfied and the overall, legitimate needs of the School District are not impaired or adversely affected.

Section 5: Method of Assignment

a. Assignment of individual teachers to particular schools will be made by the office of the Superintendent.
b. Assignment of individual teachers to particular class schedules within the adopted general schedule of teaching hours will be made by the involved principals.

Section 6: Unrequested Transfers

A teacher who will be affected by a change in assignment or school location will be notified and consulted by the principal as soon as practicable.

Such changes will be voluntary on the part of the affected teacher provided that the overall, legitimate objectives of the School Administration are satisfied and the overall, legitimate needs of the School District are not impaired or adversely affected.

Section 7: Probationary Assignment Status

If practicable, non-tenure teachers will be retained in the same assignment during their probationary period.

ARTICLE X - STUDENT DISCIPLINE AND TEACHER PROTECTION

Section 1: The Board recognizes its responsibility to give all reasonable support and assistance to teachers with respect to the maintenance of control and discipline in the classroom. The Board further recognizes that the teacher may not fairly be expected to assume the ongoing responsibility for emotionally disturbed students nor to be charged with responsibility for psychotherapy. Whenever it appears that a particular pupil requires the attention of special counselors, social workers, law enforcement personnel, physicians, or other professional persons, the Board will take reasonable steps to assist the teacher with respect to such pupil.

Section 2: It is recognized that discipline problems are less likely to occur in classes which are well taught and where a high level of student interest is maintained. However, a teacher may use such force as is necessary to protect himself from attack or to prevent injury to another student, and may administer corporal punishment according to policies of the Board.

Section 3: A teacher may exclude a pupil from his class when the grossness of the offense, the persistence of the misbehavior or the disruptive effect of the violation makes the continued presence of the student in the classroom intolerable. In such cases, the teacher will furnish the principal with knowledge of the exclusion and as promptly as possible, full particulars of the incident. The affected pupil will be readmitted to the classroom only upon written authorization of the principal, or when requested, by written guidelines from the principal for the future handling of this case.

Section 4: Individual records will be maintained on student discipline and will be available to teachers as an aid for determining disciplinary recommendations concerning particular pupils.

Section 5: Any case of assault or legal action upon a teacher while acting within the scope of his duties shall be promptly reported to the Board of its designated representative.

The Board shall render all reasonable assistance to the teacher in connection with the incident by law enforcement and judicial authority.

Section 6: Time lost by a teacher in connection with any incident in Sections 1 thru 5 above shall be handled as follows:

a. Time for appearances before a judicial body or legal authority shall result in no loss of wages or reduction in accumulated leave.
b. In case of disability, the teacher's wages shall continue in full, without reduction in accumulated leave, until workman's compensation payments begin.
c. In the event of total disability due to incidents in connection with this Article, the Board shall pay to the teacher the difference between the compensation payment and the contractual salary of the employee without reduction of accumulated leave.
d. It being agreed that where a teacher is finally adjudged guilty of a criminal charge or has judgment entered against him in a civil case as related to the incident, the Board has no further responsibility for pay or loss of accumulated leave.

Section 7: No action against a teacher shall be taken on a basis of a complaint by a parent or student, nor any notice thereof shall be included in the teacher's personnel file unless the matter is first reported to the teacher in writing.

ARTICLE XI - SCHEDULES, HOURS, AND ASSIGNMENTS

Section 1: The school calendar shall be as set forth as in Schedule E-G.

Section 2: The school day shall be as set forth below:

	High School	Jr. High School	Elementary
Teacher reports	7:30	8:15	8:00
Teacher leaves	3:15	3:50	3:30

Section 3: The maximum of instructional-supervisory time assigned to a teacher shall be as in the past. Each teacher shall fulfill these responsibilities but will not be required to assume abnormal obligations of time or service not contemplated by the terms and conditions of this Agreement.

It is further agreed that Special Services to first and second grade teachers will be expanded in order to provide for greater diversity in instruction and greater preparation time available to teachers.

Section 4: Lunch Periods

a. Kindergarten teachers shall receive a minimum of one hour free from assigned duty for their lunch period.
b. The lunch period of teachers of grades one through six shall be the same as that of their students provided that teachers may be utilized for supervision during inclement weather or other noncontrollable circumstances and according to the routine duty schedule agreed to by the building committee (Article XIX). However, under no circumstances will the duty free lunch period be less than thirty (30) minutes.
c. Secondary teachers will recieve a minimum of thirty (30) consecutive minutes for a lunch period.

Section 5: Temporary vacancies requiring coverage which are created by the School Administration and absences about which the Administration has received adequate notice, will be covered by substitutes in every case except where none can be obtained and the lack is beyond the control of the Administration.

Temporary vacancies about which sufficient notice is not given or which may result in lightening the teaching load of other teachers, or where emergency conditions make the scheduling of a substitute impractical shall be covered by reassignment of the available staff. However, schedules will be arranged so that additions to regular assignments will be avoided.

Section 6: The parties recognize that optimum school facilities for both student and teacher are desirable to insure the high quality of education that is the goal of both the Association and the Board. It is also acknowledged that the primary duty and responsibility of the teacher is to teach and that the organization of the school day should be directed toward insuring that the energy of the teacher is primarily utilized to this end.

Any teacher desiring to leave his assigned building prior to the completion of his daily schedule as set forth in Section 2 above, shall first secure the permission of his immediate supervisor or his appointee.

Section 7: Inasmuch as the pupil-teacher ratio is an important aspect of an effective educational program and is directly related to the volume of a teacher's work, it is agreed that the following limits on class size represent desired objectives. The utilization of facilities and personnel and the future planning of construction and staff recruitment shall be such as to move toward these objectives.

Elementary		Secondary			
K-2	25	General	28	Vocational Shops	24
3-4	27	Lab. Science	26	Homemaking	26
5-6	28	Business	28	Music	28 (except as required for Choir, Band, Orchestra, etc.)
		Typing	33		
		Ind. Arts	26		
		Drafting	28	Art	26
		P.E.	40	Pool	30

Special Education

Handicapped or mentally retarded	15
Sight saving, hearing conservation	8
Emotionally disturbed	10
Hard of Hearing	10
Deaf	7

Miscellaneous

Secondary Counselors	300

The Board shall endeavor to employ one social worker for each 1800 students and one diagnostician per 5000.

If at any time it is found that a specified limit is exceeded by more than 10% then the involved principal, the involved teacher, an Association representative, and the Superintendent's representative shall meet to plan means for relieving the situation. Agreed to changes will be put into effect before the limit is exceeded by 20%.

For instruction requiring specialized facilities, the available work stations shall control when that number is less than that provided above.

ARTICLE XII - COMPENSATION

Section 1: Annual salaries shall be computed according to Schedules A-C attached hereto, which are incorporated in and made a part of this agreement.

Section 2: Hourly rates to be paid for a teacher's service in Adult Education, Summer School, Workshops, or Driver Education shall be as in Schedule D attached hereto. These wages shall be paid bi-weekly and, at the time of payment, the Board shall be no more than one week in arrears.

Section 3: Insurance

The Board shall purchase the following for each teacher:

a. M.E.S.S.A. Comprehensive Health Care Insurance for the teacher and his dependents including the loss of time benefit amounting to twenty dollars ($20.00) per week, and long term income protection commencing after 52 weeks at 1/2 pay till age 65.
b. Supplementary group life insurance which shall provide the teacher life insurance protection equal to $10,000 and $10,000 additional benefit for accidental death or dismemberment.

Section 4: Automobile Allowance

Teachers required to drive personal automobiles in the course of their employment or otherwise using their automobiles in service to the district shall be reimbursed eight cents (8¢) per mile driven.

Section 5: Payroll Procedures

a. Payroll checks will be issued bi-weekly on Fridays to all employees, except as elsewhere provided. The responsibility of distribution will be made by the immediate supervisor.
b. Contractual salaries will be divided by 21 to determine the gross bi-weekly amount except for those teachers who request a division by 26 on appropriate forms furnished by the administration. This will be paid to the employee, less withholding tax, retirement, and any other deductions selected by the employee.
c. Any balance in the Board's contractual salary commitment to a teacher shall be paid on the last Friday of the school year.
d. Should a regular pay date fall during a period when school is not in session, teachers shall receive the pay due on that date on the last day prior to recess.
e. All authorizations for payroll deductions will be made on one form, and shall be available for:

   i. Association Dues
   ii. U.S. Bonds
   iii. United Foundation
   iv. Additional M.E.S.S.A. Health, Accident and Life Insurance
   v. Credit Union
   vi. Tax-deferred Annuities

Section 6: On any day when school sessions are scheduled but that schedule is cancelled by the Superintendent due to weather or other conditions beyond control and this official closing is announced on Radio Station WJR, then the following provisions for teachers' pay will prevail:

a. If the announcement states that schools are closed, teachers are not to report and will receive full pay.
b. If the announcement states that schools are closed and teachers are to report, then teachers must report. However, if a teacher is unable to report, he shall be paid for such absence and his absence charged against unused personal leave days.

ARTICLE XIII - COMPENSABLE LEAVE

Section 1: Paid for leave time will be provided in order to protect a teacher's income during periods of unavoidable absence. The board's primary concern is for periods of personal illness; however, in appropriate circumstances, bereavement, personal business and emergencies shall constitute legitimate usage of compensable leave.

Section 2: Teachers shall be entitled to a sick leave accumulation at the rate of one day per month of employment and one additional day for the completion of each school year of employment. This sick leave, to the full amount of eleven (11) day accumulation, shall, at the commencement of the school year, be put at the disposal of each teacher. A teacher may draw on his bank as required, subject to the provisions thereof, but, in the event that the service of any teacher is interrupted by reason of discharge, termination, suspension or leave and said teacher has utilized more sick leave days than have been accumulated on the monthly basis, then the value of the excess paid-for leave days shall be deducted from the last paycheck due to the teacher at the time of interruption. Unused sick leave, left over at the end of the school year shall be accumulated to a maximum of one year (200 days).

Section 3: Upon the death or retirement of a teacher. (in accordance with the Michigan Public Schools Employees Retirement Act), the accumulated sick leave to his credit shall have a cash surrender value of 50%.

Section 4: It is agreed that the use of leave days will be strictly confined to the legitimate purposes specified in the schedule, which follows immediately. It is understood that any teacher found to have violated this restiction will be charged with an offense and, in aggravated cases, such teacher shall be subject to possible discharge after a hearing discloses there is reasonable cause for such discharge.

Section 5: Sick leave may be used, in accordance with the schedule specified herein, for personal or family illness, bereavement and personal business. For all absences the teacher is required to notify the School Administration upon the first knowledge of the necessity for the absence.

a. Personal illness: bonafide physical incapacity to report for and discharge duties, to the extent of usued days credited.

Bereavement: Leave, up to a maximum of six (6) days when required, will be granted in the case of the death of a teacher's father, mother, father-in-law, mother-in-law, spouse, children, brother, sister, grandmother or grandfather. The amount of days which will be approved will depend upon the travel and circumstances involved.

One-day leaves may be granted for funerals of others than in the immediate family.

c. Personal Leave: Three (3) days per year will be allowed for personal leave. These may be used for personal business which cannot be conducted on other than a school day according to the following provisions:

1. Personal leave, in all cases except unforseen emergency, requires at least two days advanced notice to the principal or immediate supervisor.

2. Personal leave is to be used for sound, pressing, and unavoidable reasons only, and its proper use may be subject to verification at the request of the School Administration if warranted by the teacher's previous attendance record or if there is legitimate cause to suspect that the leave has been used improperly.

3. Personal leave days are not to be used for any purpose that one could construe to be a failure to accept one's professional responsibility and/or failure to conduct one's self in a professional or ethical manner.

4. Should personal leave be used improperly, it will result in the loss of salary for the day or days in question. Examples of unacceptable uses of personal leave are:

   a) Recreational pursuits
   b) Economic gains
   c) Social functions
   d) Other employment
   e) Seeking new employment
   f) Marriage
   g) Child care
   h) College course registration

5. To avoid unanticipated loss of wages, it is advised that teachers consult with their principals and/or the WEA Executive Secretary regarding the propriety of their leave prior to its use.

Section 6: Workman's Compensation

Workman's Compensation shall be provided as specified by law. In addition, the Board will pay to the teacher the difference between the amount paid to him by the Workman's Compensation insurance and his regular salary, and will charge the employee's sick leave accumulation proportionately for a period equivalent (to the nearest half day) to the supplementary payment.

ARTICLE XIV - NON-COMPENSABLE LEAVE

Section 1: Requests

Upon request to the Superintendent or his representative and certification of need, leaves of absence for physical or mental illness, maternity, and association representation (no more than two per year) will be granted. Similarly, the Board or the Superintendent may grant leaves for other reasons. In all cases except illness the leave shall be for a specific term. However, should the term expire prior to the need of leave, the Board may grant a continuance of the leave. Leave for Association Representation shall be for one year and subject to annual renewal and limited by the number of years service prior to leave.

Section 2: Return From Leave

The teacher is responsible to notify the Superintendent thirty days prior to the date on which he desires to resume active status as an employee. Thereafter the teacher will be reinstated to the first available position for which he is qualified. All benefits which had accrued at the time leave commenced shall be restored to the teacher upon reinstatement. Further, a teacher who was on leave for association representation shall be credited with those salary increments which would have accrued had his services not been interrupted.

Section 3: Termination of Leave

It shall be the responsibility of the teacher to:

a. Inform the Superintendent of any change in the circumstances which created the need for leave.
b. Report for duty upon termination of leave.

Teachers' willful neglect of these responsibilities shall subject them to dismissal as employees.

ARTICLE XV - MILITARY LEAVE

Military leaves will be granted and reemployment will be governed by the provisions of the "Universal Military Training Act."

If National Guard or Reserve encampment should occur during the school year, the teacher required to participate shall be granted a temporary leave of absence. The employee will receive his regular salary minus that which he shall receive from the government for each school day spent in government service.

ARTICLE XVI - MINIMAL STANDARDS AND PROFESSIONAL GROWTH

Section 1: Every effort will be made by the Board to employ a teacher for every regular teaching assignment who has a bachelor's degree from an accredited college or university.

Section 2: The employment of teachers not holding a provisional or permanent certificate will be avoided. The Association will be advised of the teachers' names and assignments in those cases where it becomes necessary to employ a teacher with less accreditation than that noted above.

Section 3: The Administration may request that a teacher enroll in specific credit courses so that he might fill certain academic or professional voids and so that he may achieve preparation standards which are mandated by curriculum revisions or applicable accreditation standards. Should the teacher be unwilling or unable to accommodate such a request to the extent of completing four credit hours per year and the want of the indicated improvement prohibits the initiation or continuance of a desired curriculum or accreditation, then the teacher may be reassigned (accommodating his desires as nearly as possible) in order that the objective may be gained. Teachers complying with such requests shall be reimbursed for tuition, books, and ten dollars ($10.00) for miscellaneous expense incurred by enrollment in the classes.

Section 4: A teacher who has acquired a permanent teaching certificate and who continues his professional growth through enrollment in graduate courses related to his professional responsibilities shall be reimbursed for his tuition upon submission of proof that the courses have been successfully completed. Reimbursement shall be limited to twenty dollars ($20.00) per semester hour applied to no more than six hours per calendar year, and shall not apply to hours taken through a program for which teachers receive subsidy from other sources such as NSF, NDEA, etc., except that when the subsidy is less than twenty dollars ($20.00) per hour, the balance shall be reimbursed by the Board. Further, should a teacher accure more than six qualified hours in a given year, the balance may be included for reimbursement in the following year. This clause does not apply to any courses taken prior to September 1, 1967.

ARTICLE XVII - SABBATICAL LEAVE

Section 1: Purpose

In order to provide opportunities for maximal professional improvement, Sabbatical Leave shall be available to teachers for formal, full time study at a recognized college or university.

Section 2: Eligibility

a. An applicant must possess a Michigan Life or permanent certificate and must have accrued seven consecutive, full years of teaching service in the Warren Consolidated School district.*

b. Applicants shall not have received a sabbatical Leave during the seven years immediately preceding any application.*
c. Each applicant must agree to return to service in the Warren Consolidated School district immediately upon termination of Sabbatical Leave and to continue in such service for a period of three years, unless physical disability makes this impossible or there is mutual agreement to the contrary. A signed agreement in the format of a promissory note shall stipulate that the failure of the teacher to provide such service shall result in the obligation to reimburse the district a proportional part of the salary paid to him during Sabbatical Leave determined by the fraction of the three years not served following the leave.

Section 3: Application

a. Applications shall be made to the Committee for Sabbatical Leave on or before annual deadline dates to be established by the said committee.
b. The application shall be accompanied by plans for the use of the Sabbatical Leave, evidence that the applicant has been accepted into a graduate program, and an exposition of the plan's potential for increasing the applicant's professional competence and such other information as may be necessary as determined by the Committee for Sabbatical Leave.

Section 4: Selection

a. The Committee for Sabbatical Leave shall consist of an elementary and a secondary principal appointed by the Superintendent, a teacher appointed by the W.E.A., and the President of the W.E.A. The Committee shall be chaired by the Deputy Superintendent for Instruction, who will vote only in the event of a tie.
b. The Committee will prepare a priority listing of eligible candidates and recommend names for Sabbatical Leave appointments. Provided sufficient qualified applicants have come forth, up to 1% of the body of teachers currently employed will be recommended.
c. Consideration shall be given to:

1. Assured eligibility.
2. The proposed Leave's potential for contributing to the applicant's professional growth.
3. The applicant's prior contribution to the Warren Consolidated Schools and potential for future leadership.
4. The applicant's need for financial support.
5. Any other pertinent factors as established by the Committee.

d. In establishing Sabbatical Leave, the Board of Education shall grant Sabbatical Leave to as many candidates as are recommended by the Committee for Sabbatical Leave but not to exceed a number equal to 1% of the teachers of the school district at the time Leaves are granted.

Section 5: Compensation

a. While on Sabbatical Leave a teacher shall receive 50% of his teaching salary for the time involved.
b. A teacher shall receive the insurance and retirement* fringe benefits as provided for teachers by the Board of Education.
c. The teacher is responsible to notify the Business Office of the place to which his payroll check shall be addressed while he is on Leave. Checks will be mailed to that address on or before the regular paydays.

Section 6: Miscellaneous Administrative Provisions

a. Sabbatical Leave may be for a portion of the year but may not exceed a full school year.*
b. A teacher on Sabbatical Leave may not deviate from his approved plan except with the written permission of the Deputy Superintendent for Instruction.
c. Sabbatical Leave will be automatically terminated should the grantee be placed upon a probationary academic status by his college or university.
d. Any falsification of information by the teacher in application or other reports required as a part of Sabbatical Leave may subject the Leave to termination upon recommendation by the Committee for Sabbatical Leave.
e. Upon return from Sabbatical Leave the teacher shall be advanced on the salary schedule as though he had been employed as a teacher during the period of Leave; he shall be restored to his former position, if possible, or to a position of at least comparable nature of status and seniority.*

* Provided by Section 340.572 of General School Laws

ARTICLE XVIII - ACADEMIC FREEDOM

Section 1: The parties seek to educate young people in the democratic tradition, to foster a recognition of individual freedom and social responsibility, to inspire meaningful awareness of and respect for the Constitution and the Bill of Rights, and to instill appreciation of the values of individual personality. It is recognized that these democratic values can best be transmitted in an atmosphere in which academic freedom for teacher and student is encouraged.

Section 2: Freedom of individual conscience, association and expression will be encouraged and fairness in procedures will be observed both to safeguard the legitimate interests of the schools and to exhibit by appropriate examples the basic objectives of a democratic society.

ARTICLE XIX - BUILDING POLICIES

Principals will establish a representative committee for the joint development of building policies. W.E.A. Building Representatives will be included on these committees.

ARTICLE XX - MAINTENANCE OF STANDARDS

Section 1: All conditions of employment shall be maintained at not less than the minimum standards in effect at the time this Agreement is signed provided that such conditions shall be improved as required by the provisions of this Agreement. This Agreement shall not be interpreted or applied to deprive teachers of professional advantages heretofore enjoyed unless expressly stated herein.

ARTICLE XXI - MISCELLANEOUS PROVISIONS

Section 1: The Board recognizes that appropriate texts, library reference facilities, maps and globes, laboratory equipment, audio-visual equipment, teaching supplies, athletic equipment, current periodicals, standard tests and questionnaires, and similar materials are the tools of the teaching profession. The Board agrees at all times to keep the schools reasonably equipped and maintained. The parties will confer from time to time for the purpose of improving selection and use of such educational tools.

Section 2: The Board and the Association mutually recognize the importance of continuous use of adequate teaching reference material in maintaining a high level of professional performance. In furtherance of that recognition, the Board shall endeavor to make such material available in the schools.

Section 3: Each school will have designated areas, apart from students, appropriately furnished for use as teachers' lavatory, teachers' dining room or teachers' lounge, where smoking is permitted. Provision for such facilities will be made in all future buildings.

Section 4: The Board will make every reasonable effort to provide teachers with written notice of assignment for the following school year by the end of the present school year.

Section 5: In the event that it becomes necessary to reduce the number of teachers through layoff from employment by the District, then the teachers with the most service with the District who are fully qualified to staff the positions kept active shall be retained.

Section 6: All instructional positions in Driver Education, Adult Education (embracing subjects taught in the school system during the regular school year), and Summer School shall be filled within the Bargaining Unit. After adequate posting, if the position cannot be so filled, then the Board may fill the position from outside the Bargaining Unit.

Section 7: Teachers may terminate their services with the Board only by mutual consent unless written notice is received by the Board addressed to the Superintendent at least sixty days before September 1.

Section 8: Each member of the Bargaining Unit shall present a physician's current statement or a copy of a recent Michigan Health Department report (from a Mobile Unit) declaring that his lungs are free from tuberculosis, to the Personnel Department once each school year. For the purposes of satisfying the requirements of this clause, certification that a test has been taken will be accepted until results of the test are received.

Section 9: Upon request by the Association, the President of the Association shall be granted one free period per day to perform the business of the Association for which time the Association shall reimburse the school district on a prorated basis in accordance to the portion of time that this time represents to the regular teaching day.

Section 10: Business or Conference Time. In the event that the Association is desirous of sending representatives to local, state or national conferences conducted by the Association for the further-cause of its own professional purposes, or other business leaves pertinent to the Association affairs said representatives shall be excused, providing the frequency does not impair the quality effect of classroom instruction, and providing that said request for leave has been submitted to the Superintendent for his approval as soon as possible prior to the leave. (When these days accumulate to 20 in any school year, the Association will reimburse the district for the costs of substitutes for the additional days.)

Section 11: Names and addresses of newly hired teachers will be provided to the Association following School Board approval of their contracts.

These teachers will be provided with a copy of the current Agreement between the parties.

ARTICLE XXII - COMMITTEES

Section 1: Sabbatical Leave; as in Article XVII.

Section 2: Special Increments

A committee composed of William Randall, Robert James, Louise Rossi, Fritz Pinis, Marion Hasler, David Johnson, those teachers directly involved, and a W.E.A. appointee, will be formed to conduct an in-depth examination of the following special positions. This examination shall consist of the development of work descriptions, responsibilities, hours beyond the normal school day and relationships in the reimbursement schedule. This examination shall be completed on or before February 1, 1968, at which time representatives of the two parties will meet and develop a mutually acceptable schedule of reimbursement. Any changes in the pay percentages resulting from this examination and subsequent meetings of the two parties shall be retroactive to September 1, 1967.

SPECIAL POSITIONS

Aqua Gems	Homebound Teacher
Girls Athletic Association	Type A
Debate, Varsity, High School	Type B
Debate, Reserve, High School	Deaf and Hard of Hearing
Forensics, High School	Visually Hindicapped
Play Director	Diagnostician
Stage Crew Director	Speech Correction
Stage Crew Assistant	Remedial Reading Teacher
Yearbook, High School	Band Director, Jr. & Sr. High
School Paper, High School	Secondary Orchestra
Radio Technician	Vocal Music, High School
Radio Director	Elementary Instrumental
Safety Patrol	Elementary Choir
School Social Worker	Counselors

And such other new positions as may be suggested by this examination.

Section 3: Teacher Assignments

A committee composed of David Johnson, William Gordon, Philip Killoran and Walter Benton shall conduct an in depth examination of teacher assignment practices at the secondary level. The committee shall report its findings and recommendations to the Superintendent on or before March 1, 1968. Recommended improvements shall be put into effect for the next school year.

Section 4: Professional Encouragement

A committee composed of William Bigham, David Johnson, Marie Moier and Paul Downing shall develop means for administering and adjudicating the professional growth practices described in Schedule A.

Section 5: Evaluation - to be established by the parties for the ongoing study of teacher evaluation practices and procedures.

ARTICLE XXIII - TERM OF THE AGREEMENT

Section 1: Duration of Agreement

This Agreement shall be effective as of September 1, 1967, and shall continue in full force and effect until the 26th day of January, 1970.

Section 2: Successor Agreements

On or before November 1, 1969, either side may give the other notice, by certified mail, of its desire to terminate, amend or modify this Agreement. Upon receipt of this notice by the other side, arrangements shall promptly be made for negotiations to commence. In the event that neither side gives notice to the other of its intention to terminate, amend or modify the Agreements by November 1, 1969, then the Agreement shall automatically be extended on the same terms for another year and, similarly, from year to year thereafter, with the notification date of intent to terminate, amend or modify beginning November 1 of the successor year.

It being agreed that in the event the average of the base rate of Pontiac School District, Utica Community School District, and Hazel Park School District exceeds the base rate of W.C.S. on any ensuing February 1, this agreement will be declared open for negotiations of wages only.

Likewise negotiations will be reopened on any ensuing February 1 if during the preceding 12 months prior to the particular February 1 the B.L.S. Cost of Living Index exceeds 4.5% or The Improvement in the State Aid Formula exceeds the base established for the 67-68 school year by 15%.

THE WARREN CONSOLIDATED SCHOOL DISTRICT

By: The School Board

_____
Vice-President

_____
Acting Secretary

_____
Superintendent of Schools

_____
William Bigham, Director
of Employee Relations

THE WARREN EDUCATION ASSOCIATION

By: _____
President

_____
Vice-President

_____
Executive Secretary

Date _____

SCHEDULE A

1. Schedules A1, A2 and A3 reflect annual wages to be prorated over the effective period.
2. Credit for experience will be computed on the commencement of employment and thereafter on each September 1.
3. Credit for outside experience: Maximum seven (7) years allowed, including military service and teaching experience. Maximum credit for outside teaching experience and military service - 30%.

   a. Military service at 3% per year for active duty (full time college work in military academies or training programs is excepted.)
   b. Classroom teaching experience
      1. First two (2) years at half credit - 3%
      2. Third, fourth, and fifth year at full credit - 6%
      3. Sixth and seventh year at half credit - 3%
      4. No credit shall be allowed for substitute teaching either inside or outside the system.

4. Vocational Experience: Outside work experience approved by the State Department of Vocational Education as acceptable for vocational certification shall be credited at the rate of one half increment for each year of approved experience 3% (2080 hours) to a maximum of two increments for four years of such experience (12%). Further, this increment credit will only be granted provided the teacher is employed in an appropriate and related vocational program approved for reimbursement by the State Department of Vocational Education, it being understood that with the addition of this experience in no case will the total experience credit exceed 30% as shown in above (credit for outside experience). Teachers currently receiving 4% for a journeyman's card will continue to do so if the provisions of this section do not apply to them.

The salaries set forth in Schedule A are extended from the entry rate at the Bachelor's level in accordance with the following index. (All percentages in previous sections of Schedule A refer to the current B.A. base salary):

Experience	Bachelors	+20 s.h.*	Masters	+15 s.h.**	Specialist***
0	1.00	1.04	1.06	1.10	1.12
1	1.06	1.10	1.12	1.16	1.18
2	1.12	1.16	1.18	1.22	1.24
3	1.18	1.22	1.24	1.28	1.30
4	1.24	1.28	1.30	1.34	1.36
5	1.30	1.34	1.40	1.44	1.46
6	1.36	1.40	1.46	1.50	1.52
7	1.42	1.46	1.52	1.56	1.58
8	1.48	1.52	1.58	1.62	1.64
9	1.54	1.58	1.64	1.68	1.70
10	1.60	1.64	1.70	1.74	1.76
11	1.66	1.70	1.76	1.80	1.82

*Bachelors plus 20 semester hours (these courses shall be on the graduate level or apply toward permanent certification) 4% additional.

**Master's Degree plus 15 semester hours (these courses must be at the graduate level unless approved in advance by the Superintendent) 4% additional.

***These courses must have resulted in the attainment of a Specialist's Degree or must be (a) in the course of a program toward a Doctor's Degree for which a period of five (5) years will be allowed at the expiration of which time the involved teacher shall be appropriately moved to the MA+15 or Doctorate schedule, or (b) must be for courses approved in advance by the Superintendent.

6. Differential for Master's Degree or Higher Degree.

After five (5) years' teaching experience (teaching experience as credited in our system) the sum of 4% shall be granted for those possessing a Master's Degree or a higher degree. Those who complete the fifth year of teaching experience as credited in Warren during a school year shall be expected to make written request for adjustment. Such adjustment, prorated, shall be added to the final check of the school year.

7. Teachers must present written evidence of qualification to benefit from salary allowances on advanced degree and extra hour schedules. Payment shall be made in a lump sum on a prorated basis at the end of the school year for any credits earned during that year providing an official transcript is received from the college authorities on or before June 1 indicating that the course work has been satisfactorily completed in accordance with college regulations. All credits must be in accordance with the standards established herein and, also, in the Memo of Clarification entitled: "The Index for Salary Schedule".

8. Credit for partial years of prior experience shall be computed to the nearest 1% of the base.

9. Teachers who work a part-time schedule shall receive a prorated annual salary. Such teachers will also receive prorated hospital and medical insurance contributions in accordance with the following formula:

   a. No contribution will be made for those scheduled for less than 3/8 of a regular week.
   b. Those scheduled for 3/8 and up to 3/4 of a regular week will have one-half (1/2) of the contribution made in their behalf, and
   c. Those scheduled for 3/4 or more of a regular week will have the full contribution made in their behalf.

Prorating of salaries will be based on the number of teaching periods in relation to the full teaching load in the same assignment.

10. Non-degree teachers will be paid in accordance with the following schedule:

0 - $5,300.00	3 - $6,200.00
1 - 5,600.00	4 - 6,500.00
2 - 5,900.00	5 - 6,800.00

11. Payroll adjustments will be based on 200 days and the following shall be regarded as paid holidays:

Labor Day
Thanksgiving
New Year's Day
Good Friday
Memorial Day

12. It is agreed that the Board will budget for professional growth increments to be added to schedules A2 and A3. Increments of $600 shall be available to approximately the upper quartile of teachers with more than six years of experience according to the recommendations of the appropriate committee (Article XXII).

SCHEDULE A - 1

In no case will the extension of experience factors extend any salary beyond the maximum for the schedule.

September 1, 1967 to January 29, 1968

	BA	BA+20	MA	MA+15	Spec.
0	6,350	6,604	6,731	6,985	7,112
1	6,731	6,985	7,112	7,366	7,493
2	7,112	7,366	7,493	7,747	7,874
3	7,493	7,747	7,874	8,128	8,255
4	7,874	8,128	8,255	8,509	8,636
5	8,255	8,509	8,890	9,144	9,276
6	8,636	8,890	9,271	9,525	9,652
7	9,017	9,271	9,652	9,906	10,033
8	9,398	9,652	10,033	10,287	10,414
9	9,779	10,033	10,414	10,668	10,795
10	10,160	10,414	10,795	11,049	11,176
11	10,541	10,795	11,176	11,430	11,557

SCHEDULE A - 2

January 29, 1968 to January 27, 1969

	BA	BA+20	MA	MA+15	Spec.
0	6,650	6,916	7,049	7,315	7,448
1	7,049	7,315	7,448	7,714	7,847
2	7,448	7,714	7,847	8,113	8,246
3	7,847	8,113	8,246	8,512	8,645
4	8,246	8,512	8,645	8,911	9,044
5	8,645	8,911	9,310	9,576	9,709
6	9,044	9,310	9,709	9,975	10,108
7	9,443	9,709	10,108	10,374	10,507
8	9,842	10,108	10,507	10,773	10,906
9	10,241	10,507	10,906	11,172	11,305
10	10,640	10,906	11,305	11,571	11,704
11	11,039	11,305	11,704	11,970	12,103

SCHEDULE A - 3

January 27, 1969 to January 26, 1970

	BA	BA+20	MA	MA+15	Spec.
0	7,000	7,280	7,420	7,700	7,840
1	7,420	7,700	7,840	8,120	8,260
2	7,840	8,120	8,260	8,540	8,680
3	8,260	8,540	8,680	8,960	9,100
4	8,680	8,960	9,100	9,380	9,520
5	9,100	9,380	9,800	10,080	10,220
6	9,520	9,800	10,220	10,500	10,640
7	9,940	10,220	10,640	10,920	11,060
8	10,360	10,640	11,060	11,340	11,480
9	10,780	11,060	11,480	11,760	11,900
10	11,200	11,480	11,900	12,180	12,320
11	11,620	11,900	12,320	12,600	12,740

SCHEDULE B - COMPENSATION FOR CO-CURRICULAR ASSIGNMENTS

1. The Board will grant extra pay to those who are selected by the Superintendent of Schools and who agree to perform the following co-curricular assignments beyond the routine school day.

Remuneration (annual) for a given assignment bears a percentage relationship to the appropriate level on the bachelor's schedule. The appropriate level is that represented by the teacher's previous year of experience in directing a given activity in Warren Consolidated Schools plus credit for outside experience (per current credit policies for experience in the same activity).

A. Athletics	Percentage
Aqua Gems, High School	2
Baseball Head, High School	8
Baseball Reserve, High School	5
Basketball Head, High School	10
Basketball Reserve, High School	7
Basketball, 9th Grade	6
Basketball, Junior High (7-8)	5
Cheerleaders, High School	4
Cheerleaders, Junior High	2
Football Head, High School	10
Football Assistant, High School	7
Football Reserve, High School	7
Football Reserve, Assistant High School	6
Football, 9th Grade	6
Football, Junior High (7-8)	5
G.A.A.	4
Swimming Head, High School	8
Swimming, Junior High	3
Track Head, High School	8
Track Assistant, High School	5
Track, Junior High	3
Cross Country	5
Wrestling (Varsity)	8
Wrestling (J-V)	5
Tennis	6

SCHEDULE B - COMPENSATION FOR CO-CURRICULAR ASSIGNMENTS

B. Miscellaneous	Percentage
Debate, Varsity	3
Debate, Reserve, High School	2
Forensics	2
Play Director, Senior Class	3
Play Director, Junior Class	3
(No more than 6 percent per building per year)	
Stage Crew Director, High School	5
Stage Crew Assistant, High School	3
Yearbook High School	2
School Paper (Sr. High only)	2
Safety Patrol	
In buildings of 1-20 rooms	2
In buildings of over 20 rooms	3
Radio Technician	5
Radio Program Manager	5

SCHEDULE C

1. Salary increment granted in consideration of hours worked beyond the normal school day and special responsibility of the position, computation shall be as in Schedule B.

A. Special Education	Percentage
School Social Worker (Plus One Additional Week)	10
Homebound	3
Type A, Deaf & Hard of Hearing, Visually Handicapped	6
Type B, Special Education	3
Diagnostician	10
Speech Correctionist	3

B. Music	Percentage
Band Director, High School	10
Band Director, Junior High	6
Secondary Orchestra	6
Vocal Music, High School	6
Elementary Instrumental	4
Elementary Choir	3

C. Miscellaneous	
Consultants (All)	10
Counselors (Plus One Additional Week)	5
Project Leader	4
Remedial Reading Teacher	3

2. Recognition of the Master's in Social Work as a sixth-year specialist degree on the salary schedule is granted.

3. In order to be qualified for any differential adjustment employee must be full time and certified in the area for which they are employed, i.e., Social Worker, Diagnostician.

SCHEDULE D

Flat rate annual remuneration for extra duties includes:

a. Teachers of Driver Education - $5.50 per hour.

b. Summer Curricular Workshops - $5.00 per hour.

c. Adult and Summer School Teaching and Classroom Instruction in Driver Education - $6.00 per hour.

Special Items

IMPASSE RESOLUTION PROCEDURES

Many teacher organization/school board agreements provide that when an impasse or persistent disagreement is reached in negotiation, an impartial third party is selected to assist the negotiators in resolving their disagreement. Many different methods and combinations of methods used to select the impartial third party who may be an individual or a panel of individuals with power to act as mediator, arbitrator, or fact-finder. The third party may be named specifically in the agreement, it may be selected jointly each time, or an independent organization which has been named in the agreement may make the appointment or provide a list of nominees from which the parties may make a selection.

Examples of many of the most commonly used impasse resolution procedures are provided below together with listings of school systems with the various provisions in their 1966-67 agreements. The listings have been taken from Negotiation Agreement Provisions, 1966-67 Edition ($15, Stock #841-24006), published by the NEA Research Division. In the Negotiation Agreement Provisions, not only are the systems listed according to the type of impasse procedure used, but there is a complete state-by-state listing of all the school systems which have impasse procedures with the page number to indicate where the impasse procedure occurs in the agreement.

Joint Selection Each Time as Needed

The agreement between the Board of Education of the Portland (Maine) Public Schools and the Portland Teachers Association (NEA) states that both the Board and the Association shall select one member of a Board of Review. These two members then jointly select a third member to act as panel chairman. If the two members cannot decide on a third panel member, the Commissioner of Education makes the selection. Therefore, since the agreement provides an alternative in the selection of the third panel member by asking for the aid of the Commissioner of Education, the possibility of an impasse in the selection of a mediation panel is eliminated.

The following is excerpted from the Portland agreement:

2. The Board of Review will consist of three people who shall be selected as follows: Within seven days of the above mentioned request, the Portland School Committee and the Portland Teachers' Association shall each select one person. These two people shall not be members of the Portland School Committee or the Portland Teachers Association. The two persons so selected shall, within five days, select a third person who is not a member of either organization mentioned above. This third person shall serve as Chairman of the Board of Review. If a chairman is not appointed within the specified five days, the Portland School Committee and the Portland Teacher Association shall request the Maine Commissioner of Education to appoint, within five days, a chairman.

3. The Board of Review shall meet with the School Committee and the Portland Teachers Association, make inquiries and investigations, hold hearings and take such steps as it deems appropriate. It shall, within twenty days after

the Board of Review holds its first hearing, make findings of fact and recommend terms of agreement. These findings and recommendations are to be made public.

4. The report of such third party shall be advisory only and shall not be binding on either party.

5. The Board of Review shall use its own discretion regarding closed sessions and news releases.

6. Any cost or expense of the Board of Review shall be shared equally.

Other school systems which use joint selection are listed below.

Explanation: The information given in the columns is as follows:

Column 1: school system
Column 2: location
Column 3: organization
Column 4: number of personnel represented
Column 5: type of agreement
Column 6: date of agreement
Column 7: earliest reopener
Column 8: date of expiration
Column 9: national affiliation

			ARIZONA					
MESA PUBLIC SCHOOLS	MESA	MESA EDUC ASSN	00840	LEVEL III				NEA
ROOSEVELT SCH DIST 66	PHOENIX	ROOSEVELT CLRM TCHS ASSN	00380	LEVEL III			04 67	NEA
CREIGHTON SCHOOL DISTRICT	PHOENIX	CREIGHTON EDUC ASSN	00318	LEVEL III				NEA
FLOWING WELLS PUBLIC SCH	TUCSON	FLOWING WELLS EDUC ASSN	00157	LEVEL III				NEA
GILBERT PUBLIC SCHOOLS	GILBERT	GILBERT CLASSROOM TCH ASSN	00048	LEVEL III	08 66		09 67	NEA
			CALIFORNIA					
INGLEWOOD UNF SCH DST	INGLEWOOD	INGLEWOOD TCHRS ASSN	00589	LEVEL III				NEA
NAPA VALLEY UNF SCH DST	NAPA	NAPA VALLEY UNF TCHRS ASSN	00549	LEVEL III				NEA
ALUM ROCK UNION ELEM SCH	SAN JOSE	ALUM ROCK TEACHERS ASSN	00540	LEVEL III				NEA
SANTA MARIA SCH DST	SANTA MARIA	SANTA MARIA ELEM EDUC ASSN	00237	LEVEL III	01 66			NEA
BONITA UNF SCH DST	SAN DIMAS	BONITA UNF TCHRS ASSN	00245	LEVEL III				NEA
CAMBRIAN SCHOOL DISTRICT	SAN JOSE	CAMBRIAN FACULTY ASSN	00200	LEVEL III				NEA
PETALUMA CITY SCHS	PETALUMA	ASSN PETALUMA AREA TCHRS	00275	LEVEL III	08 66			NEA
RED BLUFF UN HS DST	RED BLUFF	RED BLUFF HS FACULTY CLUB	00079	LEVEL III	11 66			NEA
ALBANY UNF SCH DST	ALBANY	ALBANY TCHR ASSN	00105	LEVEL III				NEA
FOUNTAIN VALLEY SCH DST	HUNTINGTON BCH	2 ORGANIZATIONS RECOGNIZED	00250	LEVEL III				NEA
HOPE SCH DST	SANTA BARBARA	HOPE DST TCHRS ASSN	00052	LEVEL III	01 66		01 67	NEA
PARADISE UNF SD	PARADISE	PARA UNF DST TCHRS ASSN	00094	LEVEL III				NEA
CLOVERDALE UNION SCH DIST	CLOVERDALE	CLOVERDALE TCHRS ASSN	00030	LEVEL III				NEA
			COLORADO					
AURORA PUBLIC SCHOOLS	AURORA	AURORA EDUCATION ASSN	00714	LEVEL III				NEA
WESTMINISTER SCH DST 50	WESTMINISTER	WESTMINISTER EDUC ASSN	00669	LEVEL III				NEA
ADAMS COUNTY SCH DST 14	COMMERCE CITY	DISTRICT 14 EDUC ASSN	00398	LEVEL III			06 67	NEA
MAPLETON PUBLIC SCHOOLS	DENVER	MAPLETON EDUC ASSN	00280	LEVEL III				NEA
			DELAWARE					
DOVER SPEC SCH DST	DOVER	DOVER EDUC ASSN	00210	LEVEL III	10 66		06 67	NEA
MT PLEASANT SPEC SCH DST	WILMINGTON	MT PLEASANT EDUC ASSN	00273	LEVEL III		05 68	07 68	NEA
LEWES SPEC SCH DST	LEWES	LEWES EDUC ASSN	00065	LEVEL III			07 68	NEA
			FLORIDA					
HILLSBOROUGH CO BD PUB IN	TAMPA	2 ORGANIZATIONS RECOGNIZED	03800	LEVEL III	01 66			NEA
COLLIER CO SCH DST	NAPLES	COLLIER CO EDUC ASSN	00290	LEVEL III	01 67		12 67	NEA
			IDAHO					
CALDWELL SCH DST 132	CALDWELL	CALDWELL EDUC ASSN	00160	LEVEL III	04 67			NEA

ILLINOIS									
DECATUR PUBLIC SCH DST 61	DECATUR	DECATUR EDUC ASSN	00900	LEVEL III				12 67	NEA
CHAMPAIGN COM SCHS	CHAMPAIGN	CHAMPAIGN EDUC ASSN	00743	LEVEL III					NEA
DEKALB COM SCH DST 428	DEKALB	DEKALB CLRM TCHRS ASSN	00200	LEVEL III					NEA
JACKSONVILLE SCH DST 117	JACKSONVILLE	JACKSONVILLE TCHRS ASSN	00274	LEVEL III	06 65				NEA
COM UNIT SCH DST 100	JERSEYVILLE	JERSEY CO EDUC ASSN	00149	LEVEL III				07 67	NEA
LEYDEN HS DST 212	FRANKLIN PARK	W SUBURBAN AFT LOCAL 571	00175	LEVEL IV	07 67	11 67		06 68	AFT
SCH DST 89	MAYWOOD	W SUBURBAN TCHRS UN 571	00210	LEVEL IV	06 58			06 67	AFT
BATAVIA PUB SCHS DST 101	BATAVIA	BATAVIA TCHRS ASSN	00118	LEVEL III				07 66	NEA
EAST ALTON ELEM DST 13	EAST ALTON	EAST ALTON EDUC ASSN	00075	LEVEL III					NEA
GENEVA COM UNIT SD 304	GENEVA	GENEVA EDUC ASSN	00129	LEVEL III	06 65				NEA
LAKE VILLA SCH DST 41	LAKE VILLA	LAKE VILLA TCHRS ASSN	00052	LEVEL III	01 65				NEA
LIBERTYVILLE DST 70	LIBERTYVILLE	LIBERTYVILLE ELE TCH COUN	00085	LEVEL III				06 67	NEA
MARKHAM SCH DST 144	MARKHAM	DIST 144 EDUC ASSN	00130	LEVEL III					NEA
PAXTON COM UNIT SCHS	PAXTON	PAXTON EDUC ASSN	00085	LEVEL III	01 65				NEA
WESTCHESTER PUB SCHS	WESTCHESTER	WESTCHESTER EDUC ASSN	00100	LEVEL III	06 65				NEA
NORTH CHICAGO HS	N CHICAGO	N CHICAGO HS TCHRS ASSN	00071	LEVEL III					NEA
ROCK FALLS TWP HS	ROCK FALLS	ROCK FALLS HS EDUC ASSN	00057	LEVEL III					NEA
INDIANA									
EVANSV VANDERBURGH SCH CP	EVANSVILLE	EVANSVILLE TCHRS ASSN	01379	LEVEL III	03 66			03 67	NEA
BLOOMINGTON METRP SCHS	BLOOMINGTON	BLOOMINGTON MET TCHRS ASSN	00510	LEVEL III					NEA
EAST ALLEN CO SCHS	NEW HAVEN	2 ORGANIZATIONS RECOGNIZED	00493	LEVEL III					NEA
GOSHEN COM SCHS	GOSHEN	GOSHEN COM TCHRS ASSN	00212	LEVEL III					NEA
LOGANSPORT COM SCH CORP	LOGANSPORT	LOGANSPORT EDUC ASSN	00221	LEVEL III	09 67	04 68			NEA
SHELBYVILLE CENTRAL SCHS	SHELBYVILLE	SHELBVL CEN TCHRS ASSN	00186	LEVEL III					NEA
DANVILLE COM SCH CORP	DANVILLE	DANVILLE CLRM TCHRS ASSN	00074	LEVEL III					NEA
FAIRFIELD COM SCHS	GOSHEN	FAIRFIELD EDUCATORS ASSN	00078	LEVEL III	04 66	04 67			NEA
WESTFIELD WASHINGTON SCHS	WESTFIELD	WESTFIELD CLRM TCHRS ASSN	00096	LEVEL III					NEA
KANSAS									
TOPEKA PUB SCHS USD 501	TOPEKA	TOPEKA TCHRS ASSN	01115	LEVEL III	06 66				NEA
GEARY CO USD 475	JUNCTION CITY	JUNCTION CITY EDUC ASSN	00350	LEVEL III					NEA
ARKANSAS CTY UNF SCH 470	ARKANSAS CITY	ARKANSAS CITY TCHRS ASSN	00185	LEVEL III	05 66				NEA
EL DORADO USD 490	EL DORADO	CITY TCHRS ASSN	00130	LEVEL III	01 66				NEA
LEAVENWORTH USD 453	LEAVENWORTH	LEAVENWTH CITY TCHRS ASSN	00237	LEVEL III					NEA
LIBERAL USD 480	LIBERAL	LIBERAL EDUC ASSN	00214	LEVEL III					NEA
UNF SCH DST 383	MANHATTAN	MANHATTAN TCHRS ASSN	00263	LEVEL III					NEA
ATCHISON UNF DST 409	ATCHISON	ATCHISON CITY TCHRS ASSN	00115	LEVEL III	12 65				NEA
UNF SCH DST 417	COUNCIL GROVE	LOCAL DST TCHRS ASSN	00071	LEVEL III	11 66				NEA
GOODLAND UNF SCH DST 352	GOODLAND	GOODLAND CITY TCHRS ASSN	00079	LEVEL III					NEA
MARYSVL UNF SCH DST 364	MARYSVILLE	EDUCTRS ASSN UNF DST 364	00076	LEVEL III	04 67				NEA
SABETHA USD 441	SABETHA	TCHRS ASSN UNF DST 441	00085	LEVEL III	00 66				NEA
HUGOTON PUBLIC SCHS 210	HUGOTON	NO ORGANIZATION RECOGNIZED	00069	NO RECOG.	09 66				
MAINE									
PORTLAND PUB SCHS	PORTLAND	PORTLAND TCHRS ASSN	00646	LEVEL III				06 67	NEA
SO PORTLAND SCHS	SO PORTLAND	SO PORTLAND TCHRS ASSN	00276	LEVEL III					NEA
YARMOUTH SCH DST	YARMOUTH	YARMOUTH TCHRS ASSN	00072	LEVEL III				09 67	NEA
MASSACHUSETTS									
MAYNARD PUBLIC SCHS	MAYNARD	MAYNARD TCHRS ASSN	00100	LEVEL III	07 65			06 67	NEA
MICHIGAN									
BEECHER PUB SCHS	FLINT	BEECHER EDUC ASSN	00254	LEVEL IV	07 66			06 67	NEA
SPRING LAKE PUB SCHS	SPRING LAKE	SPRING LAKE EDUC ASSN	00080	LEVEL IV	09 66			06 67	NEA
MISSOURI									
SPRINGFIELD SCH DST R 12	SPRINGFIELD	SPRINGFIELD EDUC ASSN	01080	LEVEL III					NEA
POPLAR BLUFF SCH DST	POPLAR BLUFF	COM TCHRS ASSN	00267	LEVEL III	11 66				NEA
SIKESTON PUB SCHS	SIKESTON	COM TCHRS ASSN	00208	LEVEL III					NEA
DEXTER PUB SCHS	DEXTER	DEXTER COM TCHRS ASSN	00092	LEVEL III					NEA
MONTGOMERY CO R II PUB SC	MONTGOMERY CO	NO ORGANIZATION RECOGNIZED	00069	NO RECOG.					
NEW JERSEY									
E BRUNSWICK PUB SCHS	E BRUNSWICK	E BRUNSWICK EDUC ASSN	00490	LEVEL III	12 66				NEA
TEANECK PUB SCHS	TEANECK	TEANECK TCHRS ASSN	00434	LEVEL III					NEA
WILLINGBORO PUB SCHS	WILLINGBORO	WILLINGBORO EDUC ASSN	00394	LEVEL III					NEA
BERGENFIELD PUB SCHS	BERGENFIELD	BERGENFIELD EDUC ASSN	00313	LEVEL III					NEA
BRICK TWP SCHS	BRICK TOWN	BRICK TWP EDUC ASSN	00310	LEVEL III					NEA
DOVER PUB SCHS	DOVER	DOVER EDUC ASSN	00180	LEVEL III	06 66				NEA
GARFIELD PUB SCH SYS	GARFIELD	GARFIELD EDUC ASSN	00182	LEVEL III	06 66				NEA
HAWTHORNE SCH DST	HAWTHORNE	HAWTHORNE TCHRS ASSN	00150	LEVEL III					NEA
NUTLEY PUB SCHS	NUTLEY	NUTLEY TCHRS ASSN	00262	LEVEL III	06 66				NEA
PHILLIPSBURG PUB SCHS	PHILLIPSBURG	PHILLIPSBURG EDUC ASSN	00182	LEVEL III	06 66				NEA
ESSEX CO VOC TECH SCHS	E ORANGE	ESSEX CO VOC TECH TCH ASSN	00156	LEVEL III	09 66				NEA
LAWRENCE TWP PUB SCH DST	TRENTON	LAWRENCE TWP EDUC ASSN	00180	LEVEL III	06 66				NEA
MANASQUAN SCH DST	MANASQUAN	MANASQUAN TCHRS ASSN	00092	LEVEL III					NEA
MONROE TWP PUB SCHS	WILLIAMSTOWN	MONROE TWP EDUC ASSN	00130	LEVEL III	05 66				NEA
RIDGEFIELD PUB SCHS	RIDGEFIELD	NO ORGANIZATION RECOGNIZED	00114	NO RECOG.	06 66				
RIVERSIDE PUB SCHS	RIVERSIDE	RIVERSIDE EDUC ASSN	00098	LEVEL III					NEA
ROSELLE PARK PUB SCHS	ROSELLE PARK	ROSELLE PARK TCHRS ASSN	00130	LEVEL III					NEA
VERONA PUB SCHS	VERONA	VERONA EDUC ASSN	00159	LEVEL III	06 66				NEA
WALL TWP PUB SCHS	BELMAR	WALL TWP EDUC ASSN	00169	LEVEL III					NEA

JAMESBURG PUB SCHS	JAMESBURG	JAMESBURG EDUC ASSN	00060	LEVEL III	11 66			NEA
SPOTSWOOD PUB SCHS	SPOTSWOOD	SPOTSWOOD EDUC ASSN	00052	LEVEL III				NEA
WEST MORRIS HSD	CHESTER	W MORRIS TCHRS ASSN	00092	LEVEL III	06 66			NEA

NEW YORK

ROCHESTER CITY SCH DIST	ROCHESTER	ROCHESTER TEACHERS ASSN	02240	LEVEL IV	07 66		06 67	NEA
BALDWIN PUB SCHS	BALDWIN	BALDWIN FAC ASSN	00432	LEVEL III	06 66			NEA
BAY SHORE PUB SCHS	BAY SHORE	BAY SHORE TCHRS ASSN	00373	LEVEL III	09 66	03 67		NEA
COMMACK PUB SCHS	COMMACK	COMMACK TCHRS ASSN	00612	LEVEL III	11 66			NEA
FREEPORT UFSD 9	FREEPORT	FREEPORT TCHRS ASSN	00413	LEVEL III	07 66			NEA
GREAT NECK PUB SCHS 7	GREAT NECK	GREAT NECK TCHRS ASSN	00650	LEVEL III	01 66			NEA
MIDDLE COUNTRY CEN SD 11	CENTEREACH	MIDDLE CNTRY TCHRS ASSN	00300	LEVEL III	07 66			NEA
NORTHPORT UFSD 4	NORTHPORT	NORTHPORT TCHRS ASSN	00450	LEVEL III	12 66			NEA
CENTRAL SCH DST 2	SYOSSET	SYOSSET TCHRS ASSN	00300	LEVEL III	10 66			NEA
WEST SENECA CEN SCH	WEST SENECA	W SENECA TCHRS ASSN	00385	LEVEL III	10 66			NEA
ARLINGTON CENTRAL SCH DST	POUGHKEEPSIE	ARLINGTON TCHRS ASSN	00320	LEVEL III	02 67			NEA
MARYVALE SCH DST UFSD 2	CHEEKTOWAGA	MARYVALE TCHRS ASSN	00313	LEVEL III				NEA
ENLARGED CITY SCH DST	OSWEGO	OSWEGO CLRM TCHRS ASSN	00275	LEVEL III	07 66	03 67		NEA
WESTBURY PUB SCHS 1	WESTBURY	WESTBURY CLRM TCHRS ASSN	00260	LEVEL III	05 66			NEA

OHIO

TOLEDO PUB SCHS	TOLEDO	TOLEDO EDUC ASSN	02600	LEVEL III	09 66			NEA
WARREN CITY SCH DST	WARREN	WARREN EDUC ASSN	00531	LEVEL III				NEA
ASHTABULA AREA CITY SCHS	ASHTABULA	ASHTABULA AREA EDUC ASSN	00349	LEVEL III				NEA
BEDFORD CITY SCH DST	BEDFORD	BEDFORD EDUC ASSN	00316	LEVEL III				NEA
CHILLICOTHE CITY SCH DST	CHILLICOTHE	CHILLICOTHE EDUC ASSN	00285	LEVEL III	01 67			NEA
LIMA CITY SCH DST	LIMA	LIMA EDUC ASSN	00437	LEVEL III				NEA
NORTHWEST SCH DST	CINCINNATI	NORTHWEST TCHRS ASSN	00380	LEVEL III	10 66			NEA
FREMONT CITY SCHS	FREMONT	FREMONT EDUC ASSN	00249	LEVEL III				NEA
NEW PHILADELPHIA CITY SCHN	PHILADELPHIA	NEW PHILA TCHR EDUC ASSN	00165	LEVEL III	05 66			NEA
PORT CLINTON SCH DST	PORT CLINTON	PORT CLINTON EDUC ASSN	00150	LEVEL III				NEA
SALEM SCH DST	SALEM	SALEM EDUC ASSN	00160	LEVEL III				NEA
TROY CITY SCHS	TROY	TROY CITY EDUC ASSN	00241	LEVEL III				NEA
WESTERVILLE CITY SCHS	WESTERVILLE	WESTERVILLE EDUC ASSN	00239	LEVEL III	09 66			NEA
ANTHONY WAYNE LOC SCH DST	WHITEHOUSE	ANTHONY WAYNE EDUC ASSN	00122	LEVEL III				NEA
BEXLEY SCH DST	COLUMBUS	BEXLEY CITY TCHRS ASSN	00140	LEVEL III				NEA
CAMPBELL SCH DST	CAMPBELL	CAMPBELL EDUC ASSN	00120	LEVEL III	05 64		09 67	NEA
CARROLLTON EXE VILLAGE SD	CARROLLTON	CARROLLTON EDUC ASSN	00131	LEVEL III				NEA
CELINA PUB SCHS	CELINA	CELINA EDUC ASSN	00132	LEVEL III				NEA
CHARDON SCH DST	CHARDON	CHARDON CLRM TCHRS ASSN	00119	LEVEL III	12 66			NEA
CHESAPEAKE UN EXEM VIL	CHESAPEAKE	CHESAPEAKE EDUC ASSN	00068	LEVEL III	01 67			NEA
COSHOCTON CITY SCHS	COSHOCTON	COSHOCTON CITY EDUC ASSN	00122	LEVEL III	02 67			NEA
HURON CITY SCHS	HURON	HURON LOC EDUC ASSN	00078	LEVEL III				NEA
SPRGFIELD SCH DST CLARK	SPRINGFIELD	SPRINGFIELD LOC TCHRS ASSN	00122	LEVEL III				NEA
WARREN TWP LOC SCH DST	LEAVITTSBURG	LEAVITTSBURG TCHRS ASSN	00079	LEVEL III			03 68	NEA

OREGON

SALEM PUB SCHS	SALEM	NO ORGANIZATION RECOGNIZED	00953	NO RECOG.				
MEDFORD SCH DST 549C	MEDFORD	NO ORGANIZATION RECOGNIZED	00479	NO RECOG.				
LINN BENTON UHSD 8	ALBANY	NO ORGANIZATION RECOGNIZED	00168	NO RECOG.				
BETHEL SCH DST 52	EUGENE	NO ORGANIZATION RECOGNIZED	00180	NO RECOG.				
MILWAUKEE ELEM SCH DST 1	MILWAUKEE	NO ORGANIZATION RECOGNIZED	00241	NO RECOG.				
MILWAUKEE UHSD 5	MILWAUKEE	NO ORGANIZATION RECOGNIZED	00203	NO RECOG.	10 65			
BROOKINGS HARBOR SD 17C	BROOKINGS	NO ORGANIZATION RECOGNIZED	00075	NO RECOG.				
CROOK CO SCH DST	PRINEVILLE	NO ORGANIZATION RECOGNIZED	00126	NO RECOG.				
HILLSBORO ELEM SCHS	HILLSBORO	NO ORGANIZATION RECOGNIZED	00102	NO RECOG.				
LEBANON PUB SCH DST 16C	LEBANON	NO ORGANIZATION RECOGNIZED	00081	NO RECOG.				
LEBANON UN HSD UH 1	LEBANON	NO ORGANIZATION RECOGNIZED	00074	NO RECOG.				
MORROW O SCH DST R 1	LEXINGTON	NO ORGANIZATION RECOGNIZED	00090	NO RECOG.				
MYRTLE POINT DST 41	MYRTLE POINT	NO ORGANIZATION RECOGNIZED	00094	NO RECOG.				
NEWBERG UNF SCH DST	NEWBERG	NO ORGANIZATION RECOGNIZED	00168	NO RECOG.	12 65			
NYSSA SCH DST 26	NYSSA	NO ORGANIZATION RECOGNIZED	00066	NO RECOG.				
ONTARIO UNF SCH DST	ONTARIO	NO ORGANIZATION RECOGNIZED	00136	NO RECOG.				
SUTHERLIN UNF DST 130	SUTHERLIN	NO ORGANIZATION RECOGNIZED	00070	NO RECOG.	11 65			
SWEET HOME SCH DST	SWEET HOME	NO ORGANIZATION RECOGNIZED	00150	NO RECOG.				
WEST LINN SCH DST 3	WEST LINN	NO ORGANIZATION RECOGNIZED	00157	NO RECOG.				
CENTRAL LINN SCH DST	HALSEY	NO ORGANIZATION RECOGNIZED	00058	NO RECOG.				
CONCORD ELEM SCH DST 28	MILWAUKEE	NO ORGANIZATION RECOGNIZED	00053	NO RECOG.				
GLIDE PUB SCHS DST 12	GLIDE	NO ORGANIZATION RECOGNIZED	00066	NO RECOG.				
REDMOND ELEM SCH DST 2	REDMOND	NO ORGANIZATION RECOGNIZED	00121	NO RECOG.				

PENNSYLVANIA

ALTOONA AREA SCH DST	ALTOONA	ALTOONA AREA EDUC ASSN	00631	LEVEL III				NEA
BRISTOL TWP SCH DST	BRISTOL	BRISTOL TWP EDUC ASSN	00571	LEVEL III	02 66		01 67	NEA
BALDWIN WHITEHALL SCH DST	PITTSBURGH	BALDW WHITEHALL EDUC ASSN	00443	LEVEL III				NEA
COATESVILLE AREA SCH DST	COATESVILLE	COATESV AREA TCHRS ASSN	00350	LEVEL III				NEA
THE GREATER JOHNSTOWN SD	JOHNSTOWN	GR JOHNSTOWN EDUC ASSN	00495	LEVEL III	11 65			NEA
LANCASTER CITY SCHS	LANCASTER	LANCASTER EDUC ASSN	00482	LEVEL III	10 66			NEA
NORTH PENN SCH DST	LANSDALE	NO PENN EDUC ASSN	00350	LEVEL III				NEA
STATE COLLEGE AREA SD	STATE COLLEGE	ST COLLEGE AREA EDUC ASSN	00347	LEVEL III	04 66			NEA
WEST CHESTER AREA SCH DST	WEST CHESTER	W CHESTER AREA EDUC ASSN	00410	LEVEL III				NEA
BIG SPRING SCH DST	NEWVILLE	BIG SPRING TCHRS EDUC ASSN	00133	LEVEL III	04 66			NEA
FOX CHAPEL AREA SCH DST	PITTSBURGH	F CHAPEL AREA EDUC ASSN	00271	LEVEL III				NEA
INTERBORO SCH SYS	GLENOLDEN	INTERBORO EDUC ASSN	00200	LEVEL III	10 66			NEA
WISSAHICKON SCH DST	AMBLER	WISSAHICKON EDUC ASSN	00226	LEVEL III	10 66			NEA
CANTON AREA SCH DST	CANTON	CANTON AREA EDUC ASSN	00065	LEVEL III		01 68		NEA
MAHANOY AREA SCH DST	MAHANOY CITY	MAHANOY AREA EDUC ASSN	00102	LEVEL III				NEA
OXFORD AREA SCH DST	OXFORD	OXFORD AREA LOC BR CHESTE	00139	LEVEL III	07 66			NEA
TRI VALLEY SCH DST	VALLEY VIEW	TRI VALLEY TCHRS ASSN	00075	LEVEL III	00 66		00 68	NEA

			TEXAS				
FT WORTH IND SCH DST	FT WORTH	FT WORTH CLRM TCHRS ASSN	03000	LEVEL III	08 66		NEA
			VIRGINIA				
FAIRFAX CO SCH BD	FAIRFAX	FAIRFAX EDUC ASSN	04500	LEVEL III	10 66		NEA
			WASHINGTON				
OLYMPIA SCH DST 111	OLYMPIA	OLYMPIA EDUC ASSN	00349	LEVEL III	04 65		NEA
SO KITSAP SCH DST 402	PORT ORCHARD	SO KITSAP EDUC ASSN	00240	LEVEL III	09 64		NEA
SUNNYSIDE SCH DST 201	SUNNYSIDE	SUNNYSIDE EDUC ASSN	00166	LEVEL III			NEA
BURLINGTON EDISON DST 100	BURLINGTON	BURLTN EDISON EDUC ASSN	00120	LEVEL III			NEA
EASTMONT SCH DST 206	E WENATCHEE	EASTMONT EDUC ASSN	00149	LEVEL III	11 63		NEA
MUKILTEO SCH DST 6	MUKILTEO	MUKILTEO EDUC ASSN	00142	LEVEL III			NEA
EDGEMONT SCH DST 342	PUYALLUP	NO PIERCE CO EDGMT ED ASSN	00047	LEVEL III			NEA
			WISCONSIN				
KENOSHA JT SCH DIST 1	KENOSHA	KENOSHA ED ASSN	00932	LEVEL IV	07 66	07 67	NEA
GREENDALE PUB SCHS	GREENDALE	GREENDALE EDUC ASSN	00137	LEVEL III			NEA
VIROQUA AREA SCHS	VIROQUA	VIROQUA ED ASSN EXEC COMM	00095	LEVEL IV	03 66	06 67	NEA

State Education Agency

When impasse occurs between the Butte County Board of Education (Arco, Idaho) and the Butte County Education Association (NEA), they "may request the State Superintendent of Public Instruction to appoint a competent individual or committee to seek to bring about a mutually acceptable settlement." Here the negotiating parties move directly to the state education agency to select the complete mediation panel or mediator if they cannot select the panel members themselves. This differs from the joint selection method where the State Commissioner names only the third panel member, not the entire mediating panel.

The Arco, Idaho, agreement provision reads as follows:

III. MEDIATION AND APPEAL

In case of disagreement about the meaning or application of this agreement, or if an impasse is reached during the professional negotiations, the matter will be submitted to an advisory board within thirty days after the request of either party to the other. The Board will name one adviser and another will be named by the association. A third member shall be named by the first two members and shall be the chairman.

The advisory board will be expected to report recommendations for settlement within fifteen days. The recommendations will be submitted to both parties and shall be made public.

If the advisory board fails to make a recommendation satisfactory to all parties within the specified time, either the Board or the Association may request the State Superintendent of Public Instruction to appoint a competent individual or committee to seek to bring about a mutually acceptable settlement. The person or committee will have the authority to confer separately or jointly with the superintendent, representative of the board and Association, and to utilize any other source of information. The recommendations will be submitted to both parties and may be made public.

If the parties refuse to accept the proposed settlement, the State Superintendent shall so notify the State Board of Education.

IV. COSTS

Any costs and expenses which may be incurred in securing and utilizing the services of the chairman of the above named advisory board shall be shared equally by the Board and the Association.

The following is a list of the other school systems which use the state education agency to resolve impasses (see explanation on page E-2):

		ALASKA					
GATEWAY BOROUGH SCH DST	KETCHIKAN	KETCHIKAN EDUC ASSN	00125	LEVEL III	04 65	06 67	NEA
		COLORADO					
ADAMS COUNTY SCH DST 12	EAST LAKE	DST 12 EDUC ASSN	00450	LEVEL III		09 67	NEA
EAST OTERO SCH DST R1	LA JUNTA	EAST OTERO EDUC ASSN	00128	LEVEL III			NEA
		CONNECTICUT					
BRIDGEPORT PUB SCH	BRIDGEPORT	BRIDGEPORT ED ASSOC	01100	LEVEL IV	09 66	06 68	NEA
STAMFORD PUB SCH	STAMFORD	STAMFORD ED ASSN	01034	LEVEL IV	07 66	06 67	NEA
WATERBURY PUB SCH	WATERBURY	WATERBURY TEACHERS ASSN	00821	LEVEL IV	01 67	07 67	NEA
BRISTOL PUB SCH	BRISTOL	BRISTOL EDUC ASSN	00510	LEVEL IV	09 66	08 67	NEA
DANBURY SCH DIST	DANBURY	DANBURY ED ASSN	00463	LEVEL IV	07 66	07 67	NEA
EAST HARTFORD PUB SCH	EAST HARTFORD	EAST HARTFORD EDUC ASSN	00571	LEVEL IV	11 66	06 67	NEA
MANCHESTER PUB SCH	MANCHESTER	MANCHESTER EDUC ASSN	00448	LEVEL IV	08 66	07 67	NEA
MERIDEN PUB SCH	MERIDEN	MERIDEN ED ASSOC	00496	LEVEL IV	11 66	11 67	NEA
MIDDLETOWN PUB SCH	MIDDLETOWN	MIDDLETOWN ED ASSN	00310	LEVEL IV	09 66	08 67	NEA
MILFORD SCH DST	MILFORD	MILFORD EDUC ASSN	00580	LEVEL IV	06 66	08 67	NEA
STRATFORD SCH DST	STRATFORD	STRATFORD EDUC ASSN	00375	LEVEL IV	02 66	09 68	NEA
WEST HAVEN PUB SCH	WEST HAVEN	WEST HAVEN ED ASSN	00460	LEVEL IV	06 66	08 67	NEA
NEW LONDON PUB SCHS	NEW LONDON	NEW LONDON EDUC ASSN	00270	LEVEL IV	04 67	09 68	NEA
BETHEL PUB SCH	BETHEL	BETHEL EDUC ASSN	00113	LEVEL IV	07 66	06 67	NEA
CLINTON SCH DST	CLINTON	CLINTON EDUC LEAGUE	00139	LEVEL IV	11 66	08 67	NEA
CROMWELL PUB SCH	CROMWELL	CROMWELL EDUC ASSN	00095	LEVEL IV	01 67	09 67	NEA
NEW MILFORD SCH DIST	NEW MILFORD	NEW MILFORD TEACHERS ASSN	00137	LEVEL IV	09 66	09 67	NEA
NEWTOWN PUB SCH	NEWTOWN	NEWTOWN TEACHERS ASSN	00133	LEVEL IV	09 66	08 68	NEA
SEYMOUR PUB SCH	SEYMOUR	SEYMOUR EDUC ASSN	00139	LEVEL IV	12 66	12 67	NEA
WOODBURY PUB SCH	WOODBURY	WOODBURY TEACHERS ASSN	00083	LEVEL IV	09 66	06 67	NEA
PROSPECT PUB SCH	PROSPECT	TCHRS ASSN OF PROSPECT	00041	LEVEL III			NEA
		DELAWARE					
GEORGETOWN SPEC SCH DST	GEORGETOWN	GEORGETOWN LOCAL EDUC ASSN	00075	LEVEL III	05 65		NEA
HARRINGTON SPEC SCH DST	HARRINGTON	HARRINGTON TCHRS ASSN	00064	LEVEL III	03 66		NEA
LAUREL SPEC SCH DST	LAUREL	LAUREL EDUC ASSN	00100	LEVEL III	09 66		NEA
		IDAHO					
SNAKE RIVER SCH DST 52	BLACKFOOT	SNAKE RIVER EDUC ASSN	00075	LEVEL III	10 64	07 66	NEA
ARCO JT SCH DST 111	ARCO	BUTTE EDUC ASSN	00047	LEVEL III		07 67	NEA
		ILLINOIS					
ELGIN PUB SCHS	ELGIN	ELGIN TCHRS ASSN	00859	LEVEL III	08 65	07 67	NEA
KANELAND COM SD 302	MAPLE PARK	KANELAND EDUC ASSN	00096	LEVEL III			NEA
MUNDELEIN CONS HS	MUNDELEIN	MUNDELEIN EDUC ASSN	00070	LEVEL III		06 67	NEA
LYONS DST 103	LYONS	DST 103 PROF ORGANIZATION	00140	LEVEL III			NEA
		IOWA					
BURLINGTON COM SCH DST	BURLINGTON	BURLINGTON EDUC ASSN	00367	LEVEL III			NEA
		MARYLAND					
BALTIMORE CO SCH DST	TOWSON	TCHRS ASSN OF BALTIMORE CO	05290	LEVEL III	04 65		NEA
FREDERICK CO SCH DST	FREDERICK	FREDERICK CO TCHRS ASSN	00800	LEVEL III	08 66		NEA
		MISSOURI					
RIVERVIEW GARDENS SCH DST	ST LOUIS	RIVR GARDENS COM TCH ASSN	00594	LEVEL III			NEA
		NEW JERSEY					
NEWARK PUBLIC SCHOOLS	NEWARK	NEWARK TEACHERS ASSN	03650	LEVEL IV	02 67	02 70	NEA
EDISON TWP PUB SCH	FORDS	EDISON TWP EDUC ASSN	00697	LEVEL III	07 66		NEA
ATLANTIC CITY PUB SCHS	ATLANTIC CITY	ATLANTIC CITY EDUC ASSN	00392	LEVEL III			NEA
KEARNY PUB SCHS	KEARNY	2 ORGANIZATIONS RECOGNIZED	00276	LEVEL III	06 66		NEA
MIDDLESEX PUB SCHS	MIDDLESEX	MIDDLESEX EDUC ASSN	00157	LEVEL III	06 66		NEA
N PLAINFIELD PUB SCHS	N PLAINFIELD	N PLAINFIELD EDUC ASSN	00200	LEVEL III	06 66	07 67	NEA
BORDENTOWN REG HS	BORDENTOWN	BORDENTOWN REG TCHRS ASSN	00048	LEVEL III	07 66	06 67	NEA
EATONTOWN PUB SCHS	EATONTOWN	EATONTOWN TCHRS ASSN	00100	LEVEL III	06 66		NEA
HANOVER TWP PUB SCHS	WHIPPANY	HANOVER TWP EDUC ASSN	00110	LEVEL III			NEA
NORTHFIELD SCH SYS	NORTHFIELD	NORTHFIELD TCHRS ASSN	00060	LEVEL III	06 66		NEA
N HUNTERDON REG HS	ANNANDALE	N HUNTERDON REG HS TCH ASN	00076	LEVEL III			NEA

NEW YORK

OCEANSIDE UFS DISTRICT 11	OCEANSIDE	OCEANSIDE FACULTY ASSN	00497	LEVEL IV	07 66	12 66	06 67	NEA
LONG BEACH CITY SCH DST	LONG BEACH	LG BEACH CLRM TCHRS ASSN	00334	LEVEL III	07 66		06 68	NEA
VALLEY CEN SCH DST 1	MONTGOMERY	VALLEY CEN TCHRS ASSN	00235	LEVEL III				NEA
MIDDLE ISLAND CEN SD 12	MIDDLE ISLAND	MIDDLE ISLAND TCHRS ASSN	00164	LEVEL III	07 66			NEA
MT PLEASANT CEN SCH DST 1	THORNWOOD	MT PLEASANT TCHRS ASSN	00138	LEVEL III	07 66		06 67	NEA
WHEATLAND CHILI CEN SD	SCOTTSVILLE	WHEAT CHILI TCHRS ASSN	00088	LEVEL III				NEA

OHIO

XENIA CITY SCHS	XENIA	THE XENIA EDUC ASSN	00392	LEVEL III	05 66			NEA
JACKSON MILTON SCH DST	NORTH JACKSON	JACKSON MILTON EDUCATORS	00060	LEVEL III	03 67		10 68	NEA
TALAWANDA SCH DST	OXFORD	TALAWANDA EDUC ASSN	00149	LEVEL III	07 66			NEA
NORWOOD CITY SCH DST	NORWOOD	NORWOOD TCHRS ASSN	00236	LEVEL III				NEA
OTSEGO LOC SCHS	TONTOGANY	OTSEGO EDUCATORS ASSN	00058	LEVEL III				NEA

OKLAHOMA

IND SCH DST 1	TULSA	TULSA EDUC ASSN	03206	LEVEL III				NEA
MIDWEST CITY SCH DST 52	MIDWEST CITY	MIDWEST CITY CLRM TCH ASSN	00675	LEVEL III	10 66			NEA

VERMONT

ST JOHNSBURY SCH DST	ST JOHNSBURY	ST JOHNSBURY TCHRS ASSN	00083	LEVEL III				NEA

WASHINGTON

SEATTLE SCH DST 1	SEATTLE	SEATTLE ALLIANCE EDUCATORS	04200	LEVEL III	12 66			NEA
HIGHLINE PUB SCH DST 401	SEATTLE	HIGHLINE EDUC ASSN	01392	LEVEL III	00 66			NEA
TACOMA SCH DST 10	TACOMA	TACOMA ALLIANCE EDUCATORS	01893	LEVEL III	11 66			NEA
RENTON SCH DST 403	RENTON	RENTON EDUC ASSN	00637	LEVEL III				NEA
SHORELINE SCH DST 412	SHORELINE	SHORELINE EDUC ASSN	00770	LEVEL III				NEA
VANCOUVER SCH DST 37	VANCOUVER	VANCOUVER EDUC ASSN	00640	LEVEL III	06 65	03 66		NEA
BREMERTON SCH DST	BREMERTON	BREMERTON EDUC ASSN	00380	LEVEL IV	07 66		06 67	NEA
CENTRAL VALLEY SCH DST	SPOKANE	CENTRAL VALLEY EDUC ASSN	00382	LEVEL III	09 65			NEA
FEDERAL WAY PUB SCHS	FEDERAL WAY	FEDERAL WAY EDUC ASSN	00443	LEVEL III	01 66			NEA
FRANKLIN PIERCE SCH DST	TACOMA	FRANKLIN PIERCE EDUC ASSN	00340	LEVEL III				NEA
KENT SCH DST 415	KENT	KENT EDUC ASSN	00430	LEVEL III				NEA
LONGVIEW SCH DST 122	LONGVIEW	LONGVIEW EDUC ASSN	00388	LEVEL III	01 66			NEA
NORTHSHORE SCH DST 417	BOTHELL	NORTHSHORE EDUC ASSN	00356	LEVEL III				NEA
RICHLAND SCH DST 400	RICHLAND	RICHLAND EDUC ASSN	00360	LEVEL III	06 66			NEA
ABERDEEN SCH DST 5	ABERDEEN	ABERDEEN EDUC ASSN	00230	LEVEL III	02 66			NEA
BETHEL SCH DST 403	SPANAWAY	BETHEL EDUC ASSN	00160	LEVEL III	04 66			NEA
CENTRALIA SCH DST 401	CENTRALIA	CENTRALIA EDUC ASSN	00219	LEVEL III	06 66			NEA
KELSO SCH DST 403	KELSO	KELSO EDUC ASSN	00221	LEVEL III				NEA
MARYSVILLE SCH DST 25	MARYSVILLE	MARYSVILLE EDUC ASSN	00171	LEVEL III				NEA
MT VERNON UN HSD 1	MT VERNON	MT VER LACONNER CONWAY EA	00220	LEVEL III	01 66			NEA
NO THURSTON SCH DST	LACEY	NO THURSTON EDUC ASSN	00207	LEVEL III				NEA
PASCO SCH DST 1	PASCO	PASCO TCHRS EDUC ASSN	00200	LEVEL III	04 66	01 67		NEA
PORT ANGELES SCH DST 21	PORT ANGELES	PORT ANGELES EDUC ASSN	00239	LEVEL III	12 65			NEA
WENATCHEE SCH DST 246	WENATCHEE	WENATCHEE EDUC ASSN	00269	LEVEL III				NEA
WEST VALLEY SCH DST 363	MILLWOOD	WEST VALLEY EDUC ASSN	00179	LEVEL III	06 66	10 66		NEA
ARLINGTON SCH DST 16	ARLINGTON	ARLINGTON EDUC ASSN	00100	LEVEL III				NEA
BAINBRIDGE ISLAND SCH DST	BAINBRIDGE IS	BAINBRIDGE IS EDUC ASSN	00084	LEVEL III				NEA
CAMAS SCH DST 117	CAMAS	CAMAS EDUC ASSN	00113	LEVEL III	05 65			NEA
CENTRAL KITSAP SCH DST	SILVERDALE	CENTRAL KITSAP EDUC ASSN	00144	LEVEL III				NEA
CHENEY SCH DST 360	CHENEY	CHENEY EDUC ASSN	00110	LEVEL III	00 65			NEA
CLARKSTON SD J250 185	CLARKSTON	CLARKSTON UNIT WASH ED ASN	00128	LEVEL III	04 65			NEA
DUPONT FORT LEWIS SD 7	DUPONT	FT LEWIS EDUC ASSN	00119	LEVEL III				NEA
ELLENSBURG SCH DST 401	ELLENSBURG	ELLENSBURG EDUC ASSN	00100	LEVEL III				NEA
FERNDALE SCH DST 502	FERNDALE	FERNDALE EDUCNL ASSN	00110	LEVEL III				NEA
FIFE SCH DST 417	TACOMA	N PIERCE CO EDUC ASSN	00079	LEVEL III				NEA
GRANDVIEW SCH DST	GRANDVIEW	GRANDVIEW EDUC ASSN	00100	LEVEL III				NEA
LAKE STEVENS SCH DST	LAKE STEVENS	LAKE STEVENS EDUC ASSN	00086	LEVEL III	01 67			NEA
MOXEE SCH DST 90	YAKIMA	MOXEE EDUC ASSN	00054	LEVEL III	10 66			NEA
NO FRANKLIN SD J51 162	CONNELL	FRANKLIN CO UNIT WEA	00060	LEVEL III	11 65			NEA
OTHELLO PUB SCHS	OTHELLO	OTHELLO EDUC ASSN	00091	LEVEL III				NEA
SELAH SCH DST 119	SELAH	SELAH EDUC ASSN	00093	LEVEL III	01 66			NEA
SEQUIM PUB SCHS 323	SEQUIM	SEQUIM EDUC ASSN	00055	LEVEL III				NEA
SO CENTRAL SCH DST 406	SEATTLE	SO CENTRAL EDUC ASSN	00105	LEVEL III	03 66			NEA
TAKOMA SCH DST 409	MAPLE VALLEY	TAKOMA EDUC ASSN	00086	LEVEL III				NEA
WASHOUGAL SCH DST 112	WASHOUGAL	WASHOUGAL EDUC ASSN	00072	LEVEL III				NEA
WEST VALLEY SCH DST 208	YAKIMA	W VALLEY EDUC ASSN	00118	LEVEL III				NEA
DAYTON SCH DST 2	DAYTON	DAYTON SUBUNIT WEA	00046	LEVEL III				NEA
HIGHLAND SCH DST 203	COWICHE	HIGHLAND YAKIMA EDUC ASSN	00041	LEVEL III	04 66			NEA
QUILLAYUTE VALLEY SD 402	FORKS	NW PENINSULA EDUC ASSN	00056	LEVEL III				NEA
WHITE RIVER SCH DST 416	BUCKLEY	WHITE RIVER EDUC ASSN	00080	LEVEL III	03 67			NEA

WISCONSIN

SAUK PRAIRIE PUB SCHS	PRAIRIE DU SAC	SAUK PRAIRIE EDUC ASSN	00112	LEVEL III				NEA

WYOMING

CASPER MIDWEST SCH DST	CASPER	CASPER MIDWEST CLRM TCH AN	00689	LEVEL III				NEA

State Labor Board

Michigan state law states that upon request the bargaining representative or public employer has the right to use the mediation services of the State Labor Board. The agreement between the Board of Education of the Clarkston (Michigan) School Board and the Clarkston Education Association (NEA) illustrates this type of provision for resolving an impasse.

Articles V and VI of the Clarkston agreement follow.

V. MEDIATION AND APPEAL

A. Board of Education

If agreement is not attained by the representatives of the negotiating parties, the Association representatives and/or the representatives of the Board of Education may present separate written reports to the Board of Education and the Association membership.

B. Advisory Board

In the event of an impasse during negotiations or in the event of a disagreement concerning the interpretation or application of an agreement, the matter may be submitted to an Advisory Board within fifteen (15) days after the request of either party to the other. The Board will name one advisor and the Association will name another. A third member, who shall be the chairman, shall be named by the first two named members.

The Advisory Board shall report recommendations for settlement within fifteen (15) days. The recommendations shall be submitted to both parties and shall be made public.

C. State Labor Mediation Board

If the Advisory Board fails to make a recommendation acceptable to the parties within the specified time, either the Board or the Association may request the aid of such mediation facilities as may be provided by the State of Michigan. The Mediation Board or its designated representatives shall have authority upon request to confer separately or jointly with members of the Board of Education and/or its representatives as well as designated representatives of the Association. The data or recommendations of the Mediation Board shall be made public.

VI. COSTS

Costs and expenses which may be incurred in securing and utilizing the services of any individual or Advisory Board shall be shared equally by the Board and the Association.

The 1966-67 agreements which provided for utilizing the services of a state labor board were the following (see explanation on page E-2):

MASSACHUSETTS

FALL RIVER SCH DST	FALL RIVER	FALL RIVER TCHRS ASSN	00643	LEVEL IV	01 67	09 67	12 67	NEA
QUINCY SCHOOL DISTRICT	QUINCY	QUINCY TEACHERS ASSN	00800	LEVEL IV	03 67	10 67	06 68	NEA
HOLYOKE PUBLIC SCH	HOLYOKE	HOLYOKE TEACHERS CLUB	00380	LEVEL IV	07 66		06 67	NEA
MEDFORD PUBLIC SCHOOLS	MEDFORD	MEDFORD TEACHERS ASSN	00485	LEVEL IV	07 66	09 67	06 69	NEA

MELROSE PUBLIC SCHOOLS	MELROSE	MELROSE TEACHERS CLUB	00359	LEVEL IV	07 67	10 67	06	70	NEA
AGAWAM PUBLIC SCHOOLS	AGAWAM	AGAWAM TCHRS ASSN	00207	LEVEL IV	10 66	07 67	06	69	NEA
BURLINGTON SCHOOL DIST	BURLINGTON	BURLINGTON TEACHERS ASSN	00350	LEVEL IV	07 66		07	67	NEA
DRACUT PUBLIC SCHOOLS	DRACUT	DRACUT TEACHERS ASSN	00163	LEVEL IV	06 66	10 67	06	69	NEA
LEOMINSTER SCHOOL DIST	LEOMINSTER	LEOMINSTER TEACHERS ASSN	00176	LEVEL IV	01 67	06 67	12	69	NEA
SAUGUS PUBLIC SCHOOLS	SAUGUS	SAUGUS TEACHERS ASSN	00279	LEVEL IV	11 66	10 67	12	67	NEA
SCITUATE PUB SCHS	SCITUATE	SCITUATE TCHRS ASSN	00220	LEVEL IV	09 66		07	67	NEA
STONEHAM PUBLIC SCHOOLS	STONEHAM	STONEHAM TEACHERS ASSN	00188	LEVEL IV	02 67	10 67	06	68	NEA
WAKEFIELD SCHOOL DISTRICT	WAKEFIELD	WAKEFIELD TEACHERS ASSN	00234	LEVEL IV	06 66	10 67	06	69	NEA
WEST SPRINGFIELD PUB SCHS	W SPRINGFIELD	W SPRINGFIELD EDUC ASSN	00300	LEVEL IV	06 66		06	67	NEA
WILMINGTON PUB SCHS	WILMINGTON	WILMINGTON TCHRS ASSN	00220	LEVEL IV	09 66		08	67	NEA
WINCHESTER PUBLIC SCHOOLS	WINCHESTER	WINCHESTER TCHRS ASSN	00256	LEVEL IV	09 67		08	70	NEA
GEORGETOWN PUB SCHOOLS	GEORGETOWN	GEORGETOWN ED ASSN	00066	LEVEL IV	10 66	10 67	06	69	NEA
CARLISLE PUBLIC SCHOOLS	CARLISLE	CARLISLE TEACHERS ASSN	00037	LEVEL IV	07 66	11 67	06	69	NEA
SUTTON SCHOOL DISTRICT	MILLBURY	SUTTON TEACHERS ASSN	00050	LEVEL IV	11 66	10 67	11	69	NEA
ABINGTON PUBLIC SCHOOLS	ABINGTON	ABINGTON TEACHERS ASSN	00133	LEVEL IV	11 66	07 67	06	69	NEA
ASHLAND PUBLIC SCHOOLS	ASHLAND	ASHLAND TEACHERS ASSN	00112	LEVEL IV	10 66	10 67	06	68	NEA
CANTON PUBLIC SCHOOLS	CANTON	CANTON TEACHERS ASSN	00150	LEVEL IV	06 66		06	67	NEA
EAST BRIDGEWATER PUB SCHS	E BRIDGEWATER	E BRIDGEWATER TCHRS ASSN	00090	LEVEL IV	07 66	10 67	06	69	NEA
HOLLISTON SCHOOL DISTRICT	HOLLISTON	HOLLISTON TEACHERS ASSN	00132	LEVEL IV	09 66		07	68	NEA
LUDLOW PUB SCH	LUDLOW	LUDLOW TCHRS ASSN	00185	LEVEL IV	10 66	10 67	06	69	NEA
MARSHFIELD PUBLIC SCHOOLS	MARSHFIELD	MARSHFIELD TEACHERS CLUB	00179	LEVEL IV	12 66	10 67	06	68	NEA
NORTHBRIDGE PUBLIC SCH	WHITINSVILLE	NORTHBRIDGE TEACHERS ASSN	00095	LEVEL IV	10 66		12	67	NEA
SOUTHBRIDGE PUB SCHS	SOUTHBRIDGE	SOUTHBRIDGE TCHRS ASSN	00125	LEVEL IV	07 66	10 67	06	69	NEA
SWANSEA PUB SCH	SWANSEA	SWANSEA TCHRS ASSN	00112	LEVEL IV	12 66	10 67	06	69	NEA
WESTFORD PUBLIC SCHOOLS	WESTFORD	WESTFORD TEACHERS ASSN	00120	LEVEL IV	12 66	11 67	06	69	NEA
NARRAGANSETT REG SCH DIST	BALDWINVILLE	TEMPLETON TCHRS ASSN	00072	LEVEL IV	07 66	10 67	06	69	NEA
TOWNSEND PUBLIC SCHOOLS	TOWNSEND	TOWNSEND TEACHERS ASSN	00029	LEVEL IV	07 67	10 68	07	69	NEA
WINCHESTER PUBLIC SCHOOLS	WINCHESTER	WINCHESTER PRINCIPALS GRP	00015	LEVEL IV	02 67	10 67	08	70	IND

MICHIGAN

FLINT COMM SCHS	FLINT	FLINT EDUC ASSN	01800	LEVEL IV	09 66	07 [illegible]	06	69	NEA
GRAND RAPIDS PUB SCHS	GRAND RAPIDS	GRAND RAPIDS EDUC ASSN	01460	LEVEL IV	03 67		08	67	NEA
LANSING SCH DST	LANSING	LANSING SCHS EDUC ASSN	01475	LEVEL IV	09 66	01 67	06	69	NEA
LIVONIA PUB SCHS	LIVONIA	LIVONIA EDUC ASSN	01300	LEVEL IV	07 66		06	68	NEA
BAY CITY SCH DIST	BAY CITY	BAY CITY ED ASSN	00629	LEVEL IV	07 66		06	67	NEA
BIRMINGHAM PUB SCHOOL SYS	BIRMINGHAM	BIRMINGHAM ED ASSN	00850	LEVEL IV	09 66	06 67	06	69	NEA
FARMINGTON PUB SCHS	FARMINGTON	FARMINGTON EDUC ASSN	00599	LEVEL IV	09 66		08	67	NEA
GARDEN CITY SCH DST	GARDEN CITY	GARDEN CITY EDUC ASSN	00546	LEVEL IV	07 66		06	67	NEA
JACKSON UN SCH DST	JACKSON	JACKSON EDUC ASSN	00597	LEVEL IV	09 66		06	68	NEA
KALAMAZOO PUB SCHS	KALAMAZOO	KALAMAZOO CITY EDUC ASSN	00891	LEVEL IV	09 66		06	69	NEA
SAGINAW CITY SCHS	SAGINAW	SAGINAW EDUC ASSN	01001	LEVEL IV	06 66		09	67	NEA
SOUTHFIELD PUB SCHS	SOUTHFIELD	SOUTHFIELD EDUC ASSN	00728	LEVEL IV	07 66		06	67	NEA
WAYNE COMM SCH DST	WAYNE	WAYNE EDUC ASSN	00707	LEVEL IV	06 66		06	68	NEA
BATTLE CREEK SCH DST	BATTLE CREEK	BATTLE CREEK EDUC ASSN	00649	LEVEL IV	08 66	02 68	08	69	NEA
BERKLEY CITY SCH DIST	BERKLEY	BERKLEY EDUC ASSN	00425	LEVEL IV	07 66		06	67	NEA
BLOOMFIELD HILLS SCH DIST	BLOOMFIELD HLS	BLOOMFIELD HILLS ED ASSN	00363	LEVEL IV	07 66		07	67	NEA
HAZEL PARK SCH DST	HAZEL PARK	HAZEL PARK ED ASSN	00330	LEVEL IV	09 66		06	67	NEA
MIDLAND PUB SCHS	MIDLAND	MIDLAND CITY EDUC ASSN	00530	LEVEL IV	06 66		09	67	NEA
MT CLEMENS COMM SCHS	MT CLEMENS	MT CLEMENS EDUC ASSN	00265	LEVEL IV	07 66		06	67	NEA
MUSKEGON CITY PUB SCHS	MUSKEGON	MUSKEGON CITY TCHRS ASSN	00425	LEVEL IV	08 66	06 67	07	69	NEA
ROCHESTER COMM SCHS	ROCHESTER	ROCHESTER EDUC ASSN	00285	LEVEL IV	07 66	05 67	06	69	NEA
WALLED LAKE CONS SCH DST	WALLED LAKE	WALLED LAKE EDUC ASSN	00360	LEVEL IV	07 66		06	67	NEA
WYOMING PUB SCHS	WYOMING	WYOMING EDUC ASSN	00360	LEVEL IV	07 66		06	67	NEA
ADRIAN SCH DST	ADRIAN	ADRIAN EDUC ASSN	00280	LEVEL IV	07 66		07	69	NEA
ALBION PUB SCHS	ALBION	ALBION EDUC ASSN	00160	LEVEL IV	09 66		08	67	NEA
AVONDALE SCH DST	AUBURN HTS	AVONDALE EDUC ASSN	00150	LEVEL IV	09 66	08 67	08	68	NEA
BEDFORD PUB SCHS	TEMPERANCE	BEDFORD EDUC ASSN	00255	LEVEL IV	07 66		06	67	NEA
BENTON HARBOR SCH DST	BENTON HARBOR	BENTON HARBOR EDUC ASSN	00348	LEVEL IV	08 66		08	69	NEA
CADILLAC CITY SCH DST	CADILLAC	CADILLAC EDUC ASSN	00126	LEVEL IV	09 66	05 67	09	69	NEA
CHERRY HILL SCH DST	INKSTER	CHERRY HILL EDUC ASSN	00204	LEVEL IV	06 66		06	67	NEA
CLARKSTON COMM SCHS	CLARKSTON	CLARKSTON EDUC ASSN	00194	LEVEL IV	07 66		06	67	NEA
CLINTONDALE SCH DST	MT CLEMENS	CLINTONDALE EDUC ASSN	00148	LEVEL IV	07 66	05 67	06	69	NEA
DEARBORN TWP SCH DST 8	DEARBORN HTS	DEARBORN EDUC ASS	00252	LEVEL IV	08 66		06	67	NEA
EAST CHINA TWP DST 3	ST CLAIR	EAST CHINA EDUC ASSN	00165	LEVEL IV	07 66		06	67	NEA
ESCANABA AREA PUB SCHS	ESCANABA	ESCANABA EDUC ASSN	00170	LEVEL IV	07 66		06	67	NEA
GREENVILLE SCH DST	GREENVILLE	GREENVILLE EDUC ASSN	00132	LEVEL IV	07 66	03 68	06	69	NEA
HASTINGS SCH DST	HASTINGS	HASTINGS EDUC ASSN	00145	LEVEL IV	11 66		06	68	NEA
HOLLAND PUB SCHS	HOLLAND	HOLLAND EDUC ASSN	00210	LEVEL IV	07 66		06	67	NEA
HURON VALLEY PUB SCHS	WILFORD	HURON VALLEY EDUC ASSN	00215	LEVEL IV	09 66	03 67	06	68	NEA
IONIA CITY SCH DST	IONIA	IONIA EDUC ASSN	00112	LEVEL IV	07 66		07	67	NEA
KENTWOOD SCH DST	GRAND RAPIDS	KENTWOOD EDUC ASSN	00173	LEVEL IV	09 66		08	67	NEA
LAKE ORION COMM SCHS	LAKE ORION	LAKE ORION EDUC ASSN	00170	LEVEL IV	06 66		06	67	NEA
LAKEVIEW SCH DST	BATTLE CREEK	LAKEVIEW EDUC ASSN	00230	LEVEL IV	08 66		06	67	NEA
LAMPHERE PUB SCHS	MADISON HTS	LAMPHERE EDUC ASSN	00230	LEVEL IV	07 66	02 67	06	69	NEA
MONA SHORES SCHS	MUSKEGON	MONA SHORES EDUC ASSN	00243	LEVEL IV	10 66		06	67	NEA
MT MORRIS CONS SCH DST	MT MORRIS	MT MORRIS EDUC ASSN	00115	LEVEL IV	06 66		07	67	NEA
ORCHARD VIEW SCH DST	MUSKEGON	ORCHARD VIEW EDUC ASSN	00140	LEVEL IV	07 66		06	67	NEA
OSCODA AREA SCHS	OSCODA	OSCODA TCHRS CLUB	00185	LEVEL IV	07 66		06	67	NEA
PLYMOUTH COMM SCH DST	PLYMOUTH	PLYMOUTH EDUC ASSN	00310	LEVEL IV	09 66		06	67	NEA
ST JOSEPH SCH DST	ST JOSEPH	ST JOSEPH EDUC ASSN	00180	LEVEL IV	09 66	03 67	08	69	NEA
SOUTH HAVEN PUB SCHS	SOUTH HAVEN	SOUTH HAVEN EDUC ASSN	00122	LEVEL IV	09 66		06	67	NEA
TECUMSEH PUB SCHS	TECUMSEH	TECUMSEH EDUC ASSN	00120	LEVEL IV	09 66	03 67	06	69	NEA
TROY SCH DST	TROY	TROY EDUC ASSN	00225	LEVEL IV	08 66		08	67	NEA
WARREN WOODS PUB SCHS	WARREN	WARREN WOODS EDUC ASSN	00314	LEVEL IV	07 66		06	67	NEA
WEST OTTAWA SCH DST	HOLLAND	WEST OTTAWA EDUC ASSN	00191	LEVEL IV	06 66		06	67	NEA
AIRPORT COMMUNITY SCHOOLS	CARLETON	AIRPORT ED ASSN	00084	LEVEL IV	06 66		06	67	NEA
ALMA PUB SCHS	ALMA	ALMA EDUC ASSN	00125	LEVEL IV	06 66	01 67	06	68	NEA

BEAVERTON RURAL SCHS	BEAVERTON	BEAVERTON EDUC ASSN	00048	LEVEL IV	07 66			06 67	NEA
BIG RAPIDS SCHOOL DIST	BIG RAPIDS	BIG RAPIDS EDUC ASSN	00089	LEVEL IV	08 66			04 68	NEA
BOYNE CITY PUBLIC SCHOOLS	BOYNE CITY	BOYNE CITY ED ASSN	00048	LEVEL IV	06 66			06 69	NEA
BREITUNG TWP SCHOOLS	BREITUNG	BREITUNG ED ASSN	00093	LEVEL IV	08 66			06 67	NEA
FLAT ROCK COMM SCHS	FLAT ROCK	FLAT ROCK EDUC ASSN	00091	LEVEL IV	09 66			08 67	NEA
CALEDONIA COMM SCHS	CALEDONIA	CALEDONIA EDUC ASSN	00082	LEVEL IV	06 66			06 67	NEA
CAPAC COMM SCH DIST	CAPAC	CAPAC EDUC ASSN	00052	LEVEL IV	07 66			06 67	NEA
CHEBOYGAN AREA SCHOOLS	CHEBOYGAN	CHEBOYGAN AREA ED ASSN	00097	LEVEL IV	07 66			06 67	NEA
CHESANING UNION SCHS	CHESANING	CHESANING SCH CHPTR	00107	LEVEL IV	07 66			06 67	NEA
COMSTOCK PK SCH DST	COMSTOCK PARK	COMSTOCK PK EDUC ASSN	00076	LEVEL IV	07 66			09 67	NEA
DURAND AREA SCHS	DURAND	DURAND EDUC ASSN	00108	LEVEL IV	06 66			06 67	NEA
EAST JACKSON SCH DST	JACKSON	EAST JACKSON EDUC ASSN	00070	LEVEL IV	07 66	04 67		06 68	NEA
ESSEXVILLE HAMPTON PS	ESSEXVILLE	ESSEXVILLE HAM EDUC ASSN	00095	LEVEL IV	07 66	01 67		06 69	NEA
FENTON AREA PUB SCHS	FENTON	FENTON EDUC ASSN	00125	LEVEL IV	07 66			08 67	NEA
FOWLERVILLE COMM SCHS	FOWLERVILLE	FOWLERVILLE EDUC ASSN	00064	LEVEL IV	07 66			06 67	NEA
GROSSE ILE TWP SCHS	GROSSE ILE	GROSSE ILE EDUC ASSN	00103	LEVEL IV	09 66			08 67	NEA
GWINN SCH DST	GWINN	GWINN EDUC ASSN	00140	LEVEL IV	08 66			09 67	NEA
HANCOCK PUB SCHS	HANCOCK	HANCOCK EDUC ASSN	00052	LEVEL IV	09 66			06 67	NEA
HARTFORD PUB SCHS	HARTFORD	HARTFORD EDUC ASSN	00058	LEVEL IV	07 66	03 67		06 69	NEA
HILLSDALE COMM SCHS	HILLSDALE	HILLSDALE EDUC ASSN	00115	LEVEL IV	09 66			08 67	NEA
IDA PUB SCHS	IDA	IDA EDUC ASSN	00070	LEVEL IV	09 66			06 67	NEA
ITHACA SCH DST	ITHACA	ITHACA EDUC ASSN	00082	LEVEL IV	09 66			06 67	NEA
LAKE FENTON COMM SCHS	FENTON	LAKE FENTON TCHRS ED ASSN	00061	LEVEL IV	07 66			06 67	NEA
LAKEVILLE SCH DST	OTISVILLE	LAKEVILLE EDUC ASSN	00091	LEVEL IV	07 66	04 67		06 68	NEA
MANISTIQUE AREA SCHOOLS	MANISTIQUE	MANISTIQUE TEACHERS ASSN	00075	LEVEL IV	09 66			06 67	NEA
MARLETTE COMM SCH	MARLETTE	MARLETTE EDUC ASSN	00056	LEVEL IV	07 66			06 67	NEA
MARSHALL PUB SCHS	MARSHALL	MARSHALL TCHRS ASSN	00128	LEVEL IV	08 66			08 67	NEA
MARYSVILLE PUB SCHS	MARYSVILLE	MARYSVILLE EDUC ASSN	00085	LEVEL IV	07 66			06 67	NEA
MASON CONS SCHS	ERIE	MASON EDUC ASSN	00088	LEVEL IV	09 66			08 67	NEA
MERIDIAN PUB SCHS	SANFORD	MERIDIAN EDUC ASSN	00072	LEVEL IV	09 66			06 67	NEA
MONTROSE TWP SCHS	MONTROSE	JAMES J HILL CH MEA	00068	LEVEL IV	07 66			06 67	NEA
NAPOLEON SCH DST	NAPOLEON	NAPOLEON EDUC ASSN	00072	LEVEL IV	06 66	02 67		06 69	NEA
NEGAUNEE PUB SCHS	NEGAUNEE	NEGAUNEE TCHRS ASSN	00085	LEVEL IV	09 66			08 67	NEA
NORTHVILLE PUB SCH DST	NORTHVILLE	NORTHVILLE CH MEA	00121	LEVEL IV	07 66			06 67	NEA
OKEMOS PUB SCHS	OKEMOS	OKEMOS EDUC ASSN	00110	LEVEL IV	07 66			06 67	NEA
ONSTED COMM SCHS	ONSTED	ONSTED EDUC ASSN	00050	LEVEL IV	06 66	02 67		05 69	NEA
PETOSKEY SCH DST	PETOSKEY	PETOSKEY EDUC ASSN	00091	LEVEL IV	09 66			06 67	NEA
PINCONNING AREA SCHS	PINCONNING	PINCONNING AREA FAC CLUB	00099	LEVEL IV	06 66	05 67		06 69	NEA
RAVENNA SCH DST 4	RAVENNA	MUSKEGON CO EDUC ASSN	00067	LEVEL IV	07 66			07 67	NEA
REED CITY PUB SCHS	REED CITY	REED CITY EDUC ASSN	00064	LEVEL IV	04 66			04 67	NEA
REETHS PUFFER SCHS	MUSKEGON	REETHS PUFFER EDUC ASSN	00175	LEVEL IV	07 66	04 67		07 69	NEA
RUDYARD TWP SCH DST 111	RUDYARD	RUDYARD EDUC ASSN	00121	LEVEL IV	07 66			06 67	NEA
ST LOUIS PUB SCHS	ST LOUIS	ST LOUIS EDUCATORS CLUB	00080	LEVEL IV	07 66			06 67	NEA
SALINE AREA SCH DST	SALINE	SALINE EDUC ASSN	00086	LEVEL IV	07 66			06 67	NEA
SANDUSKY COMM SCHS	SANDUSKY	SANDUSKY EDUC ASSN	00050	LEVEL IV	09 66			06 67	NEA
SHEPHERD PUB SCHS	SHEPHERD	SHEPHERD EDUC ASSN	00060	LEVEL IV	09 66			06 67	NEA
SOUTH LYON COMM SCH DST	SOUTH LYON	SOUTH LYON EDUC ASSN	00105	LEVEL IV	07 66			06 67	NEA
SWARTZ CREEK COMM SCHS	SWARTZ CREEK	SWARTZ CREEK TCHRS ASSN	00194	LEVEL IV	07 66			06 67	NEA
THORNAPPLE KELLOGG SCHS	MIDDLEVILLE	THORNAPPLE KELLOGG ED ASSN	00063	LEVEL IV	09 66			08 67	NEA
UNION CITY COM SCH	UNION CITY	UNION CITY EDUC ASSN	00058	LEVEL IV	07 66			07 69	NEA
VASSAR PUB SCH DST	VASSAR	VASSAR EDUC ASSN	00072	LEVEL IV	08 66	12 66		06 67	NEA
WAYLAND UN SCHS	WAYLAND	WAYLAND EDUC ASSN	00080	LEVEL IV	07 66			06 67	NEA
WESTWOOD HTS SCH DST	FLINT	WESTWOOD HTS EDUC ASSN	00087	LEVEL IV	06 66	04 67		06 68	NEA
WHITEHALL DIST SCHS	WHITEHALL	WHITEHALL EDUC ASSN	00077	LEVEL IV	06 66			06 67	NEA
WILLIAMSTON COMM SCH DST	WILLIAMSTON	WILLIAMSTON EDUC ASSN	00060	LEVEL IV	09 66	01 67		06 68	NEA
AKRON FAIRGROVE PUB SCH	AKRON	AKRON FAIRGROVE EDUC ASSN	00051	LEVEL IV	09 66	04 68		09 68	NEA
BATH COMM SCHS	BATH	BATH EDUC ASSN	00050	LEVEL IV	09 66			06 67	NEA
GRANT SCH DST	GRANT	GRANT TCHRS CLUB	00060	LEVEL IV	06 66			06 67	NEA
CONCORD COMM SCHS	CONCORD	CONCORD EDUC ASSN	00063	LEVEL IV	03 66	05 67		03 69	NEA
FARWELL AREA SCHOOLS	FARWELL	FARWELL ED ASSN	00050	LEVEL IV	07 66			06 67	NEA
HARTLAND CONS SCH DST	HARTLAND	HARTLAND EDUC ASSN	00065	LEVEL IV	07 66	03 67		06 68	NEA
LINDEN COMM SCHS	LINDEN	LINDEN TCHRS ASSN	00065	LEVEL IV	07 66			06 67	NEA
MAYVILLE COMM SCHS	MAYVILLE	MAYVILLE EDUC ASSN	00048	LEVEL IV	07 66	03 67		06 69	NEA
STEPHENSON AREA PUB SCHS	STEPHENSON	STEPHENSON EDUC ASSN	00064	LEVEL IV	08 66			06 67	NEA
WHITE CLOUD SCH DST	WHITE CLOUD	WHITE CLOUD EDUC ASSN	00041	LEVEL IV	06 66			06 67	NEA
WHITE PIGEON COMM SCH	WHITE PIGEON	WHITE PIGEON EDUC ASSN	00092	LEVEL IV	06 66			06 67	NEA

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MADISON SCH DST	MADISON	MADISON TCHRS INC	01924	LEVEL IV	06 66	09 68		06 69	NEA
LA CROSSE CITY SCHS PUB	LA CROSSE	LA CROSSE EDUC ASSN	00384	LEVEL III	07 66				NEA
OSHKOSH AREA PUB SCHS	OSHKOSH	OSHKOSH EDUC ASSN	00462	LEVEL III	04 66				NEA
SHEBOYGAN PUB SCHS	SHEBOYGAN	SHEBOYGAN EDUC ASSN	00500	LEVEL III	09 62				NEA
WAUSAU DST PUB SCHS	WAUSAU	WAUSAU EDUC ASSN	00445	LEVEL III					NEA
CUDAHY PUB SCHS	CUDAHY	CUDAHY EDUC ASSN	00190	LEVEL III	06 64				NEA
MARSHFIELD SCH DST	MARSHFIELD	MARSHFIELD TCHRS ASSN	00150	LEVEL III					NEA
MONONA GROVE JT SCH DST 4	MONONA GROVE	MONONA GROVE EDUC ASSN	00185	LEVEL IV	04 67			03 68	NEA
BARABOO DST SCHS	BARABOO	BARABOO EDUC ASSN	00116	LEVEL III	02 66				NEA
WISC HEIGHTS PUB SCHS	MAZOMANIE	WISC HEIGHTS TCHRS ASSN	00072	LEVEL IV	02 67	03 68		09 68	NEA
FT ATKINSON SCHOOL DIST	FT ATKINSON	FT ATKINSON TEACHERS ASSN	00145	LEVEL IV	09 66			09 67	NEA
MAYVILLE JT SCH DST 9	MAYVILLE	MAYVILLE EDUC ASSN	00068	LEVEL III	01 67				NEA
ORFORDVILLE FOOTV JSD 4	ORFORDVILLE	ORFORDVILLE EDUC ASSN	00076	LEVEL III				07 66	NEA
PLYMOUTH JT SCH DST 8	PLYMOUTH	PLYMOUTH EDUC ASSN	00112	LEVEL IV	12 63			07 67	NEA
ST FRANCIS PUB SCHS	ST FRANCIS	ST FRANCIS EDUC ASSN	00092	LEVEL III					NEA
SHEBOYGAN FALLS PUB SCHS	SHEBGAN FALLS	SHEBOYGAN FALLS TCHRS ASSN	00070	LEVEL III	07 66			06 67	NEA
SUN PRAIRIE PUB SCHS	SUN PRAIRIE	SUN PRAIRIE EDUC ASSN	00155	LEVEL III					NEA
TWO RIVERS PUB SCHS	TWO RIVERS	TWO RIVERS EDUC ASSN	00095	LEVEL III	09 66				NEA
WHITEWATER JT DST 1	WHITEWATER	WHITEWATER EDUC ASSN	00110	LEVEL III					NEA
NEKOOSA PUB SCHS	NEKOOSA	NEKOOSA TCHRS ASSN	00092	LEVEL III					NEA
FLAMBEAU PUB SCHS	EAGLE RIVER	FLAMBEAU TCHRS ASSN	00094	LEVEL III	11 66				NEA

American Arbitration Association

The American Arbitration Association is yet another source which may be used when selecting a third party. The Concord-Carlisle Regional School, Concord, Massachusetts, uses the AAA when the Board and the Joint Professional Negotiations Committee cannot agree upon a mediator. The section from the Concord-Carlisle agreement dealing with the selection of a mediator by the AAA follows:

> If the dates shown on the schedule for final agreement or ratification are not met, the TWO PARTIES will agree upon a mediator to be appointed. In the event of failure of mediation, an arbitrator will be appointed, also by agreement. In a normal year the arbitrator should, if required, be appointed no later than September 1, since the final date for his award would be no later than November 1, as shown by the schedule.
>
> The mediator and the arbitrator may, if desired, be one and the same person.
>
> In the event of the failure of the TWO PARTIES to agree upon a mediator or an arbitrator, as the case may be, he shall be selected in accordance with the rules of the American Arbitration Association.
>
> In the event of the appointment of a mediator or an arbitrator any fees or expenses paid to or incurred by such an individual shall be shared equally by the school committee and the teachers associations.

Other agreements which use the American Arbitration Association in their impasse resolution procedures are listed below (see explanation on page E-2):

			MASSACHUSETTS					
TEWKSBURY PUB SCHOOLS	TEWKSBURY	TEWKSBURY TEACHERS ASSN	00223	LEVEL IV	11 66	11 67	06 69	NEA
CONCORD CARLISLE REG SCHS	CONCORD	2 ORGANIZATIONS RECOGNIZED	00220	LEVEL III				NEA
			NEW JERSEY					
RED BANK PUBLIC SCHS	RED BANK	RED BANK TEACHERS ASSN	00169	LEVEL III	09 66	02 67		NEA
			NEW YORK					
HUNTINGTON UFSD 3	HUNTINGTON	ASSOC TCHRS OF HUNTINGTON	00534	LEVEL III	00 66		09 68	NEA
HERRICKS PUB SCHS UFSD 9	NEW HYDE PARK	HERRICKS TCHRS ASSN	00379	LEVEL III				NEA
PATCHOGUE MEDFORD PUB SCG	PATCHOGUE	PATCHOGUE CLRM TCHRS ASSN	00431	LEVEL IV	07 66	01 67	06 68	NEA
CENTRAL HSD	VALLEY STREAM	VALLEY STREAM TCHRS ASSN	00465	LEVEL III	07 66		06 67	NEA
HAUPPAUGE UFSD 6	HAUPPAUGE	HAUPPAUGE CLRM TCHRS ASSN	00264	LEVEL III	12 65			NEA
MALVERNE UFSD 12	MALVERNE	MALVERNE TCHRS ASSN	00197	LEVEL III	01 66	03 67		NEA
VALLEY STREAM UFSD 13	VALLEY STREAM	VALLEY STREAM TCHRS ASSN	00124	LEVEL III	07 66		06 67	NEA
WANTAGH PUB SCHS UFSD 23	WANTAGH	WANTAGH FAC ORGANIZATION	00317	LEVEL III	04 65			NEA
ELWOOD PUB SCHS	HUNTINGTON	ELWOOD TCHRS ASSN	00175	LEVEL III	06 66			NEA
THREE VILLAGE CEN SD	SETAUKET	THREE VILLAGE TCHRS ASSN	00313	LEVEL III	09 66			NEA
VALLEY STREAM UFSD 24	VALLEY STREAM	DST 24 VAL STREAM TCH ASSN	00085	LEVEL III	07 66		06 67	NEA

U. S. Mediation and Conciliation Service

One 1966-67 agreement, that between the Youngstown (Ohio) Education Association (NEA) and the Youngstown Board of Education, utilized the U. S. Mediation and Conciliation Service in impasse resolution. Sections 2 through 5 of Article III from the Youngstown agreement are as follows:

> Section 2. If the negotiating parties fail to reach agreement on any item under consideration, either party may, after five (5) days written notice to the other, present its position and/or request to the Board of Education at an official meeting of that body, and each party may, in accordance with the

Board's policies, present written and/or oral argument and data in support of its position.

Section 3. The Board will exercise its own judgment as to whether the case shall be studied by a special committee of its membership with report to the full Board; heard by the full Board in open meeting; or considered by the full Board as a committee of the whole. In any event, the Board will endeavor to reach a decision in the matter within ten (10) days after its next regular meeting (which time may be extended by mutual agreement), and all parties shall be advised of that decision and shall conscientiously attempt to accept and follow the same.

Section 4. In the event, however, that any of the parties hereto cannot conscientiously accept and follow the Board's decision, the said party shall, within ten (10) days after notice is received of the Board's decision, notify all parties hereto of its inability to accept and follow the said decision, and request referral of the matter to a mediation agency. This agency shall be either the Federal Mediation and Conciliation Service or the American Arbitration Association, at the option of the requesting party.

It is mutually agreed that all parties hereto will honor such a request when submitted as specified above. It is further agreed that any judgment, opinion or recommendation of such a mediation agency shall be advisory only, and in no way binding upon any party hereto.

Any costs incident to the use of such mediation service as is contemplated herein shall be the sole responsibility of the party requesting the service.

Combination of Methods

An example of an agreement which utilizes a combination of procedures for resolution of impasse is that between the Red Bank (New Jersey) School District and the Red Bank Teachers Association (NEA). The agreement illustrates joint selection, followed by the use of the State Commissioner of Education, then followed by the American Arbitration Association if the chairman of the Advisory Board cannot be agreed upon. The applicable text follows:

MEDIATION AND APPEAL

If the procedures outlined in Section IV, titled "Procedures," should not result in an agreement satisfactory to both parties, and recognizing that the best interests of the community, the school system, the educational process and all participants therein, will best be served by making every effort to resolve all disputes as near the local level as is possible, the following procedure will be followed in the event that agreement is not reached unless the Board shall in its option elect to proceed directly to the Advisory Board, Section E hereafter:

A. The Association representatives and the Board representatives shall present separate reports stating their points of agreement and disagreement to the full Board. A mutually convenient meeting date shall be set within ten (10) work days, exclusive of officially Board designated holidays or vacations falling within the normal school year, of the date of such requests. It is specifically understood and agreed, however, that no hiatus in this procedure shall be occasioned by the occurrence of the regular summer vacation.

B. Facts, opinions, proposals and counter-proposals will be exchanged freely during the meeting or meetings in an effort to reach mutual understanding and agreement. The Association Welfare Committee, the Board and the Superintendent will act, as far as possible, as a committee of the whole, reviewing all matters pertinent to the issues which are the subject of negotiation.

C. Paragraph E. of Section IV, titled "Procedures," applies in these circumstances.

D. Paragraph F. Section IV, titled "Agreement," applies in these circumstances.

E. Advisory Board: In case of disagreement about the meaning or application of this Agreement, or if an impasse is reached during professional negotiations the procedure will be as follows, however, the subject of whether or not an impasse exists will never be submitted to arbitration:

1. The matter will be submitted to an Advisory Board which will convene within fifteen (15) calendar days after the request of either party to the other, if such time limit can possibly be met. Wherever possible, the Advisory Board will undertake to mediate the dispute in an effort to resolve the difference between the parties before conducting hearings.

2. To insure that such Advisory Board will convene with all possible dispatch, the Board and the Association shall each designate a member of the Advisory Board within three (3) calendar days of receipt, by certified mail, of the request by one party upon the other, for the appointment of such Advisory Board.

3. The two so designated advisors will designate a third member who shall be chairman. If the two named advisors fail to agree upon a third member to function as chairman within eight (8) calendar days of the request which had been made by certified mail of one party upon the other, either of the two so designated advisors is empowered to request the State Commissioner of Education to: appoint the third member if he will do so, or to convene a totally new committee, or to appoint one individual to study the situation and function as a committee of one, to make an advisory recommendation, or to take such other action as he deems best to resolve the dispute. In exceptional circumstances, either the Association or the Board can request the Commissioner to make such appointment from persons not involved in Monmouth County. In the event the Commissioner of Education refuses to act as requested herein, the two parties shall mutually request the American Arbitration Association to submit a roster from which a third party can be selected. Each party to this agreement retains the right to reject all names on the first roster with the further understanding that if they can not reach agreement on names submitted on the second roster that such appointment will be made directly by the American Arbitration Association.

4. The chairman, whether appointed by the two advisors, the State Commissioner of Education, or the American Arbitration Association, shall then convene the Advisory Board as closely to the desired fifteen (15) calendar day period as is practicable.

5. The Board and the Association, during an additional fifteen (15) calendar day period after receiving the advisory recommendations, will meet in an attempt to reach agreement on the recommendations submitted to each.

No items other than those submitted as advisory recommendations will be considered or introduced into these series of meetings.

6. If such agreement is reached, paragraph F. of Section IV, titled "Agreement," will apply in these circumstances and neither the Board nor the Association will publicize the recommendations of the Advisory Board.

7. If such agreement based upon the advisory recommendations is not reached, either the Board or the Association is free to follow any course of action legally its right.

8. The Advisory Board shall limit itself to the issues submitted to it and shall consider nothing else.

F. In recognition of the fact that full, complete and orderly channels have been established for the peaceful and just settlement of all disagreements arising under the terms of the Agreement, the Association, therefore, agrees to take no concerted action as described or defined by the word "sanctions" against the school board or the school district except as agreed in sub-section 7, paragraph E, this section.

VI. COSTS

In recognition of the fact that this Agreement provides opportunity for utilizing the services of individuals not a party to the Agreement, and to use them in an advisory or consultant basis by either of the parties unilaterally or jointly, it is agreed that:

A. If such individual is retained by one party in the behalf of that party, the fees and expenses will be wholly borne by the party making such retention.

B. If such individual is retained by both parties jointly, as a mutually agreeable consultant or advisor, the fees and expenses of the individual will be equally shared by the Board and the Association.

C. If any individual or committee is appointed under the terms of this Agreement by the State Commissioner of Education or the American Arbitration Association, the fees and expenses of such individual or committee will be equally shared by the Board and the Association.

Selection Is Named in Agreement

Some agreements may name a specific mediator whom negotiators may use when impasse occurs; e.g. "John Doe will be secured at the request of either the Board or the Association if the parties are unable to reach agreement during negotiations." The specified person could be a mediator supplied by the American Arbitration Association or a local mediator known by Board and Association members.

The following four school systems specify the mediator in the agreement (see explanation on page E-2):

		CALIFORNIA			
ONTARIO MONTCLAIR SCH DSTONTARIO	ONT MONTCLAIR TCHRS ASSN	00650	LEVEL II	12 65	NEA
		NEW YORK			
GUILDERLAND CENL SCH DST GLDRLND CENTER	GUILDERLAND TCHRS ASSN	00290	LEVEL III	11 66	NEA
BREWSTER CENTRAL SCH DST BREWSTER	BREWSTER TCHRS ASSN	00193	LEVEL III	01 67	NEA
CHAPPAQUA PUB SCHS CSD 4 CHAPPAQUA	CHAPPAQUA TCHRS ASSN	00189	LEVEL III	09 66	NEA

Other

A listing of the agreements with impasse resolution procedures utilizing a procedure different from any of the major classifications above, is found below (see explanation on page E-2):

		CALIFORNIA					
PLUMAS UNF SCH DST	QUINCY	PLUMAS CO TCHRS ASSN	00160	LEVEL III	01 66		NEA
VENTURA UNF SCH DST	VENTURA	VENTURA UNF EDUC ASSN	00613	LEVEL III			NEA
		IOWA					
MT VERNON COM SCH DST	MT VERNON	MT VERNON TCHRS ASSN	00051	LEVEL III			NEA
		KANSAS					
NEWTON UNF SCH DST 373	NEWTON	NEWTON TCHRS ASSN	00200	LEVEL III			NEA
UNF SCH DST 427	BELLEVILLE	CNTRL REPUBLIC CO TCH ASSN	00080	LEVEL III			NEA
BARBER CO NORTH USD 254	MEDICINE LODGE	BARBER CO N TCHRS ASSN	00090	LEVEL III			NEA
		MISSOURI					
COLUMBIA MISSOURI SCH DST	COLUMBIA	COLUMBIA COM TCHRS ASSN	00470	LEVEL III			NEA
		NEW JERSEY					
PARSIPPANY TROY HILLS SD	PARSIPPANY	NO ORGANIZATION RECOGNIZED	00441	NO RECOG.	06 66		
EWING TWP PUB SCHS	TRENTON	EWING EDUC ASSN	00281	LEVEL III	06 66		NEA
LYNDHURST PUB SCHS	LYNDHURST	LYNDHURST TCHRS ASSN	00145	LEVEL III			NEA
		NEW YORK					
UNION FREE SCH DIST 22	FARMINGDALE	FARMINGDALE CLRM TCHR ASSN	00722	LEVEL IV	10 66	03 67	NEA
CENTRAL SCH DST 4	PLAINVIEW	PLAINVIEW OLD BETHPAGE AFT	00650	LEVEL IV	12 66		AFT
LEWISTON PORTER CEN SD	YOUNGSTOWN	LEWISTON PORTER EDUC ASSN	00221	LEVEL III	03 66		NEA
CENTRAL SCH DST 2	CLD SPR HARBOR	HARBOR TCHRS ASSN	00141	LEVEL III		06 67	NEA
		OHIO					
CANFIELD LOC SCHS	CANFIELD	CANFIELD EDUC ASSN	00095	LEVEL III	09 66	09 67	NEA
		OREGON					
LINCOLN CO UNIT SCH DST	NEWPORT	NO ORGANIZATION RECOGNIZED	00318	NO RECOG.			
ASTORIA SCH DST 1C	ASTORIA	NO ORGANIZATION RECOGNIZED	00125	NO RECOG.			
		PENNSYLVANIA					
BOYERTOWN AREA SCH DST	BOYERTOWN	BOYERTOWN AREA EDUC ASSN	00264	LEVEL III			NEA
PHOENIXVILLE AREA SCH DST	PHOENIXVILLE	PHOENIXVILLE AR EDUC ASSN	00226	LEVEL III			NEA
RICHLAND SCH DST	JOHNSTOWN	RICHLAND EDUC ASSN	00147	LEVEL III	09 66		NEA
AVON GROVE SCH DST	WEST GROVE	AVON GROVE EDUC ASSN	00114	LEVEL III			NEA
		RHODE ISLAND					
WARWICK PUB SCH	WARWICK	WARWICK EDUC ASSN	00857	LEVEL IV	02 67	01 69	NEA
COVENTRY PUB SCHS	COVENTRY	CVTRY TCHR REPRESENTATIVES	00231	LEVEL IV	09 67	06 69	NEA
		WISCONSIN					
BLACK RIVER FALLS SD 2	BLK RVR FALLS	BLACK RIVER FALLS ED ASSN	00088	LEVEL III			NEA
STURGEON BAY PUB SCHS	STURGEON BAY	STURGEON BAY TCHRS COUN	00063	LEVEL III			NEA

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Negotiation Research Digest

Volume 1, No. 5 January 1968

First Decision and Order in Education by New York State Public Employment Relations Board ..... Description: A-2
Text: C-4

Board finds United Federation of Teachers (AFL-CIO) in violation of Taylor Act prohibiting strikes by virtue of the Federation's actions against New York City Schools in September 1967.

New Agreement in Denver, Colorado ..... Description: A-1
Text: D-1

Full text of agreement between Denver Classroom Teachers Association (NEA) and Denver Public Schools for period January 1, 1968, through April 6, 1969.

Patterns in Negotiation ..... Data: B-1

States differ markedly in the person(s) doing the negotiating with the teachers; the role of the superintendent in negotiation varies widely also. Tables for the 11 states with 50 or more agreements and the nation as a whole provide revealing patterns on the two criteria.

High Court Hearing Denied ..... Description: A-1

California Supreme Court denies hearing in case of Berkeley Teachers Association v. Berkeley Federation of Teachers.

Final and Binding Arbitration of Grievances Legal in Michigan ..... Description: A-1
Text: C-1

The Circuit Court of Berrien County, Michigan, has ruled that bargaining agreements which were entered into voluntarily may legally contain final and binding arbitration as the last step in a grievance procedure.

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Grievance Procedures in 1966-67 Negotiation Agreements E-1

Listing of all 1966-67 negotiation agreements in NEA depository of agreements containing grievance procedures. Provided, also, are methods used to help resolve grievances in last step of procedure, and disposition of grievance, i.e., advisory or final and binding.

Newport, Rhode Island, Arbitration Award ..... Description: A-3
Text: C-6

Text of arbitrator's award which determined content of agreement over items negotiable and salaries and fringe benefits.

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Description and Analysis

CALIFORNIA SUPREME COURT DENIES HEARING IN BERKELEY CASE

The December issue of the NEGOTIATION RESEARCH DIGEST carried the text of the California Court of Appeal decision in the case of Berkeley Teachers Association v. Berkeley Federation of Teachers which upheld the method of determining the composition of the membership of the negotiation councils as stipulated by the Winton Act, California's teacher negotiation statute. The Appeals Court also denied the Federation's allegation that representation elections were legal under the act.

On November 22, 1967, the California Supreme Court denied a hearing in the case, making the decision of the Court of Appeal final.

MICHIGAN COURT RULES FINAL AND BINDING ARBITRATION OF GRIEVANCES LEGAL

The Circuit Court of Berrien County, Michigan, has ruled that a school system may enter into a grievance procedure in a bargaining agreement which has as its last step final and binding arbitration of the grievance. A grievance brought by two members of the American Federation of State, County, and Municipal Employees (AFL-CIO) against the Benton Harbor School District was at issue in the case decided by the court.

The Benton Harbor School District had entered into an agreement with the union voluntarily, the agreement containing final and binding arbitration as the last step in its grievance procedure. After the grievance filed in behalf of the two union members reached the arbitration phase, the school district notified the union it would not proceed with the arbitration.

Important in this case is the limitation placed in the agreement upon the powers of the arbitrator: *He shall have no power to change, modify, or alter the existing contract between the parties or any of the provisions of the same.*

While many agreements contain this limitation on the arbitrator's powers, the decision's importance lies in its allowance of binding arbitration of grievances. Full text of the decision begins on page C-1.

This decision should have considerable impact upon the disposition of grievances in Michigan and in other states.

NEW DENVER, COLORADO, AGREEMENT

On November 21, 1967, the agreement between the Denver Classroom Teachers Association (NEA) and the Denver Public Schools was signed by the Denver Board of Education representatives. The agreement is effective January 1, 1968, through April 6, 1969.

Incorporated in the agreement is an extensive section on mediation (Articles 5-5 through 5-7) and an Article devoted to the Association president who is granted a

year's leave while in office. One-half of the president's salary is paid by the Denver Classroom Teachers Association and one-half by the Denver Public Schools.

Full text of the agreement begins on page D-1.

NEW YORK STATE'S NEW PUBLIC EMPLOYMENT RELATIONS BOARD RENDERS DECISION IN NEW YORK CITY CASE

Shortly after New York State's new Taylor Act went into effect on September 1, 1967, the New York City Schools were hit by a strike called by the United Federation of Teachers, Local 2, American Federation of Teachers (AFL-CIO). Under the Taylor Law the Public Employment Relations Board (PERB) is authorized in § 205, 5(i) *to hold hearings and make such inquiries as it deems necessary for it properly to carry out its functions and powers.*[1/]

In the hearings held during October 1967 the New York City Board of Education charged the UFT with striking in violation of the New York State Public Employees' Fair Employment Act (Taylor Act). The UFT (the respondent) had collected resignations from many members.

In its first decision affecting employees in education the PERB stated:

WE FIND THAT:

1. *Respondent caused the strike;*
2. *Respondent did not make good faith efforts to terminate the strike;*
3. *The public employer did not engage in such acts of extreme provocation as to detract from the responsibility of the employee organization for the strike;*

WE FURTHER FIND THAT:

4. *The strike was a premeditated act, planned and prepared over a long period of time;*
5. *The strike was announced even before respondent's own strike deadline.*

In its Decision and Order, dated November 30, 1967, the PERB withdrew payroll dues deduction rights from the UFT for 12 months. In addition, it ordered that such payroll deduction rights "shall be restored at the end of such period of twelve months only after the United Federation of Teachers, Local 2, American Federation of Teachers, AFL-CIO, has affirmed that it no longer asserts the right to strike against any government...."

The full text of the document begins on page C-4.

Editor's Note: The fine of $150,000 levied against the UFT for violation of the injunction against the teachers' striking is now in the process of appeal.

1/ Negotiation Research Digest, Issue No. 2, May 1967, p. C-3.

NEWPORT, RHODE ISLAND, ARBITRATION AWARD

In the development of its first negotiation agreement the Newport, Rhode Island, School Committee and the Teachers Association of Newport (NEA) disagreed over a number of items including the salary schedule, fringe benefits, and whether a number of items were or were not negotiable. Were the items to be determined negotiable, they would become part of the agreement.

The arbitrator was assigned to the case by the American Arbitration Association; he said his function was "to determine the merits of all the proposals and counter-proposals submitted by each of the parties during negotiation and at the arbitration hearing, and to decide the content of the collective bargaining agreement they contemplate executing."

In addition to salary and fringe benefit awards the arbitrator made all of the disputed items negotiable. Text of the award begins on page C-6.

NEW TEACHER PROVISIONS IN TWO AGREEMENTS

The orientation of teachers new to the school system of Milwaukee, Wisconsin, is considered in the comprehensive agreement with the Milwaukee Teachers Education Association:

NEW TEACHERS

1. A program shall be conducted for the introduction of new teachers into the school system, providing a minimum of three days of orientation prior to the beginning of the school year.

2. Each new teacher shall be assigned to an experienced member of the staff of his school to whom the new teacher may turn for advice and guidance during the school year.

3. New teachers shall be given a written contract together with a copy of the Board rules and of this document developed through negotiations with the Milwaukee Teachers Education Association.

The agreement between the American Federation of Teachers, Local 1275 (AFL-CIO), and the Board of Education, City of Ashland, Wisconsin, considers the probationary period of teachers new to Ashland in its Article XIII.

ARTICLE XIII *PROBATIONARY PERIOD*

1. A beginning teacher in the Ashland school system who is without prior teaching experience will serve a three year probationary period. An experienced teacher, new to the system, can, on the basis of good performance, complete the probationary phase of his employment in less than three years, but never in less than one year.

2. The performance of probationary teachers will be assessed by either the elementary coordinator or the high school principal. Teacher performance and growth will be reported to the superintendent who in turn will recommend to the Board of Education the renewal or non-renewal of probationary teacher contracts.

Data and Statistics

PATTERNS IN NEGOTIATION

Data on the role of the superintendent in negotiation and on who negotiates for the school board were published in the September and December 1967 issues of NEGOTIATION RESEARCH DIGEST. These data were obtained from the NEA Research Division's 1966-67 survey of written negotiation procedures. Considered separately the two tables of data provide valuable insight into the differing roles and procedures followed by school systems in the various states. However, when the data are considered together, the various states show many differences.

Eleven states reported 50 or more school systems with written negotiation agreements in 1966-67. The data for them and for the nation as a whole were distributed into separate contingency tables. In each table the responses on the role of the superintendent were distributed along the vertical axis while those relating to the negotiators for the school board were distributed along the horizontal axis.

Calculations (chi square) were made for each table on the basis of the frequencies in each cell to test for observed distributions (responses) which were significantly different from the expected or theoretical distributions. Responses for the states of New York and Washington could not be expected to be duplicated by chance more often than once in a hundred times ($p<.01$); the corresponding rates for the states of California, Connecticut, Massachusetts, Michigan, New Jersey, Ohio, Wisconsin, and the nation as a whole were not more than once in a thousand times ($p<.001$). The observed distributions for Illinois and Oregon were not significantly different from the expected or theoretical distributions.

The tables for the 11 states and the United States will be found on the six pages which follow. The number of useable responses is given in each cell in each table.

To facilitate visual interpretation of the data in the tables, five intervals were utilized. In addition to the use of blank cells where there were no responses, the intervals and the keys were:

No responses	
Less than 2.0 percent	
2.0 to 9.9 percent	
10.0 to 19.9 percent	
20.0 to 39.9 percent	
More than 40.0 percent	

Role of the superintendent	Negotiators for the school board: Board members	Board members and superintendent	Board members and school administrators	Superintendent	School administrators
Negotiator with full authority	1	3	1	95	16
Negotiator with limited authority	1	7	1	70	10
Advisor to negotiators for board	1	2		4	3
Advisor to negotiators for both board and teachers	12	6	2	28	12
Neutral resource person	4	2	1	4	1
Nonparticipant					5

CALIFORNIA - 292 responses

Negotiator with full authority	1		1	3	
Negotiator with limited authority		4			
Advisor to negotiators for board	9	3	2		
Advisor to negotiators for both board and teachers	16	9	1		
Neutral resource person	2	2	1		
Nonparticipant					

CONNECTICUT - 54 responses

Role of the superintendent	Negotiators for the school board: Board members	Board members and superintendent	Board members and school administrators	Superintendent	School administrators
Negotiator with full authority		3	2	2	2
Negotiator with limited authority	2	2		2	1
Advisor to negotiators for board	3	4	3		
Advisor to negotiators for both board and teachers	13	8	7	2	
Neutral resource person	3	2	1		
Nonparticipant					

ILLINOIS - 62 responses

Negotiator with full authority				1	
Negotiator with limited authority					
Advisor to negotiators for board	16	2	1		2
Advisor to negotiators for both board and teachers	26	4	1		1
Neutral resource person	7				
Nonparticipant	3				

MASSACHUSETTS - 64 responses

Role of the superintendent	Negotiators for the school board: Board members	Board members and superintendent	Board members and school administrators	Superintendent	School administrators
Negotiator with full authority	3	18	16	21	41
Negotiator with limited authority	1	13	10	15	9
Advisor to negotiators for board	11	12	9	3	22
Advisor to negotiators for both board and teachers	10	4	6		2
Neutral resource person	4	1			1
Nonparticipant					3

MICHIGAN - 235 responses

Negotiator with full authority		3		1	
Negotiator with limited authority	1	4		2	
Advisor to negotiators for board	7	4	3	1	
Advisor to negotiators for both board and teachers	55	34	7		
Neutral resource person	15	3	2		
Nonparticipant					

NEW JERSEY - 142 responses

Role of the superintendent	Negotiators for the school board: Board members	Board members and superintendent	Board members and school administrators	Superintendent	School administrators
Negotiator with full authority		4	2	3	5
Negotiator with limited authority	2	5		3	1
Advisor to negotiators for board	3	1			3
Advisor to negotiators for both board and teachers	20	8	7	1	1
Neutral resource person	3	1			
Nonparticipant					

NEW YORK - 73 responses

Negotiator with full authority	1	1		22	5
Negotiator with limited authority	1	4	2	15	2
Advisor to negotiators for board	1	5	1		2
Advisor to negotiators for both board and teachers	18	16	1	6	1
Neutral resource person	7	1		2	
Nonparticipant					1

OHIO - 115 responses

Role of the superintendent	Negotiators for the school board: Board members	Board members and superintendent	Board members and school administrators	Superintendent	School administrators
Negotiator with full authority					
Negotiator with limited authority	1				
Advisor to negotiators for board	7	3			
Advisor to negotiators for both board and teachers	23	7	1		
Neutral resource person	8	2			
Nonparticipant	1				

OREGON - 53 responses

Negotiator with full authority	2	1		4	2
Negotiator with limited authority		6	2	7	1
Advisor to negotiators for board	2	2			
Advisor to negotiators for both board and teachers	20	14	4	5	
Neutral resource person					
Nonparticipant					

WASHINGTON - 72 responses

Role of the superintendent	Negotiators for the school board: Board members	Board members and superintendent	Board members and school administrators	Superintendent	School administrators
Negotiator with full authority					1
Negotiator with limited authority		1		3	
Advisor to negotiators for board	14	7	1		1
Advisor to negotiators for both board and teachers	23	7	1	1	
Neutral resource person	6				
Nonparticipant					

WISCONSIN - 66 responses

Negotiator with full authority	8	37	22	178	80
Negotiator with limited authority	12	55	16	132	26
Advisor to negotiators for board	86	50	21	8	37
Advisor to negotiators for both board and teachers	321	159	47	64	20
Neutral resource person	67	17	7	6	2
Nonparticipant	5	1			9

UNITED STATES - 1,493 responses

Judicial Decisions, Opinions, and Statutes

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF BERRIEN

LOCAL 953, affiliated with the International Union of the American Federation of State, County and Municipal Employees, and COUNCIL 55, American Federation of State, County and Municipal Employees, Plaintiffs, vs. SCHOOL DISTRICT OF THE CITY OF BENTON HARBOR, Defendant.	No. C-6229(B) OPINION ON ORDER TO SHOW CAUSE

The facts are not contested by the parties in this cause.

Defendant, a public school district of Michigan, entered into a collective bargaining agreement, attached as exhibit A to the complaint filed in this cause, with plaintiff union effective December 19, 1966, and for a term ending June 30, 1968, which in this case covers the custodial and maintenance employees of defendant. The agreement said in part that it was "to promote orderly and peaceful labor relations for the mutual interest of the employer and the employee."

Said agreement provided for binding arbitration of issues arising in the future between the parties concerning the application and interpretation of the terms of the agreement or its effect, and established a five-step procedure for handling any dispute or grievance.

The provisions governing the fifth step are in issue here. It is provided that when the first four steps are exhausted (as was done in this case) either the employer or the union on written notice to the other may refer the grievance for arbitration and the American Arbitration Association shall be asked to supply a list of names of seven available arbitrators. Each party shall alternately strike a name and the last remaining name shall be the arbitrator. The jurisdiction of such arbitrator is limited ". . .to the interpretation of the meaning of the provisions of this agreement." It is specifically provided relative to the arbitrator that:

> "He shall have no power to change, modify, or alter the existing contract between the parties or any of the provisions of the same."

The decision of the arbitrator must be given in 15 days and is binding on both parties who equally share the fees and expenses of the arbitrator.

On or about February 13, 1967, written grievances concerning overtime pay and job posting were filed by Oswald Hobdy and Frank Manderino, members of plaintiff union and maintenance employees of the defendant, with Edward Troffer, Director of Building and Grounds. The disputes failed of settlement in the first four steps of the grievance procedure.

As required by step 4 of the agreement of the parties hereto, mediation was requested from the Michigan Labor Mediation Board. After conclusion of the mediation effort, the state mediator ruled that ". . .both parties are now free to pursue the grievances in accordance with the collective bargaining agreement which provides for arbitration."

Plaintiff union then by written notice referred the grievance to arbitration and a list of arbitrators was requested from the American Arbitration Association.

Howard A. Cole was designated by the parties as arbitrator and notice of the time and place of the hearing was sent to the parties. At first, claiming the request for arbitration was untimely, the defendant school district rejected the union's request for arbitration, but on or about April 21, 1967, it waived the objection and agreed to arbitration.

On June 2, 1967, defendant notified by letter plaintiff union that it would not proceed with arbitration. (Exhibit C attached to the complaint.)

Claiming irreparable injury, plaintiff union filed this suit asking an order by this court directing defendant to proceed with arbitration of the grievances of Hobdy and Mandarino as provided for by Step 5 of Section 5 of the collective bargaining agreement of the parties hereto.

The parties hereto are in conflict as to the law.

Defendant claims it can not comply with Step 5 in the arbitration provisions of the collective bargaining agreement because of the opinion of the Attorney General

of Michigan dated May 26, 1967, and bearing opinion number 4578, a copy of which was attached to and made a part of the answer filed by defendant. It is claimed therefore by defendant that it had no lawful authority to enter into the contract with the union representatives of its employees providing for binding arbitration and it can not comply with the same on the aforesaid grievances of employees Hobdy and Mandarino.

Oral argument was held before the court on June 15, 1967, on the order to show cause secured by plaintiff against defendant. Thereafter this court has been favored with excellent briefs by able counsel representing both parties to this suit.

The legal issue involved may be briefly and simply stated as follows:

Is this defendant school district prohibited by law from proceeding with binding arbitration as provided in its voluntary collective bargaining agreement with the plaintiff union?

There is no case known to the parties or this court decided in Michigan on this question or on the facts of this cause.

Unless the law of this state prohibits school districts from agreeing to binding arbitration of grievances of their employees under their collective bargaining agreements, the defendant in this cause is by the terms of its written contract with the plaintiff union obligated to proceed with said Step 5, i.e., binding arbitration of the grievances of Hobdy and Mandarino.

Each case must be decided on its own facts and merit. Here it must be noted (1) the collective bargaining agreement in issue was voluntarily entered into by both parties to this suit, and presumably both benefited therefrom, and (2) the provision in said Step 5 for binding arbitration provides that while the decision of the arbitrator is final and binding on both parties, the arbitrator's jurisdiction is "limited to the interpretation of the meaning of the provisions of this agreement and to the compliance of either party with its obligations under this agreement. He shall have no power to change, modify, or alter the existing contract between the parties or any of the provisions of the same." Further, it should be noted that the arbitrator is selected by joint participation of the parties, who equally share his fee and expenses and he is a person approved and listed by the American Arbitration Association.

This court recognizes that for many years collective bargaining, well recognized in this and all other states, has often included provisions for compulsory arbitration. In other matters (contract claims, valuation disputes, insurance claims, etc.) the Michigan legislature and courts have favored arbitration as an efficient, fair and usually inexpensive means to resolve disputes. Labor difficulties like strikes, walkouts, slowdowns, etc., have been avoided or lessened because of the availability of arbitration. The public interest is best served in education, as well as other activities, if a means is found to resolve differences within the framework and language of a labor contract.

This court recognizes that school districts and their boards are creations of the state legislature and may exercise only those powers and rights given expressly or by implication by the legislature (Senghas v. L'Anse Creuse Public Schools, 368 Mich. 557, McLaughlin v. Board of Education, 255 Mich. 667). The court further recognizes that employees of school districts are public employees and as such in various instances do not enjoy the same rights as private employees.

In view of the aforesaid opinion of the Attorney General, the defendant was quite correct in refusing to proceed with arbitration until the courts have spoken, which is now being done. The Attorney General's opinion is not binding on this or higher courts.

The plaintiff would prefer to call this a "voluntary labor arbitration" with binding effect, and the defendant a "compulsory arbitration." This is dealing in the emotional impact of words rather than their legal effects. In this cause we have a voluntary agreement which includes compulsory or binding arbitration. It can be used to the benefit of both parties, as well as the public.

This court agrees that there is no statute of Michigan expressly providing that school districts or other public employers may agree to binding arbitration, and there is no statute expressly prohibiting it. But is there not the implied power to do so in Section 15 of Act 336, P.A. 1947, as added by Acts 397 and 379, P.A. 1965?

Therein it is provided that a public employer shall "bargain collectively" and may "make and enter collective bargaining agreements." Further, bargaining collectively is defined among other goals as "the negotiation of an agreement or any question arising thereunder (emphasis added)." Certainly giving the power to enter into a contract would include the power to settle disputes arising under the terms of such contract. Negotiations as to "wages, hours and other terms and conditions of employment" can well include the power to arbitrate disputes on these points after the contract is signed.

The said law does also provide "such obligation does not compel either party to agree to a proposal or require the making of a concession." Defendant places reliance on this provision. Does this prohibit school districts from voluntarily agreeing to binding arbitration in a collective bargaining agreement voluntarily entered into as to disputes arising as to the application and interpretation of the terms of the agreement or its effect? Or, as this court finds, does such quoted part of the statute, while giving much the same right to collective bargaining as is provided to private employers and employees, mean that neither party entering into collective bargaining discussions prior to any written contract must agree to proposed terms or make concessions? This court believes such provision applies before any agreement is executed and does not prohibit fulfillment of binding arbitration once it is included in a voluntarily excuted collective bargaining agreement between the public employer and employee, which is the situation we have in this cause. In short, such provision insures both parties the right to bargain to an impasse with no compulsion on the school board to agree to a collective bargaining agreement or to enter into an agreement.

The Attorney General in his said opinion states, "... it is abundantly clear that the Board of Education is not required by that Act to agree to a proposal or be compelled to make a decision." This is what this court has just stated. But this applies before the contract, if any, is made. The Attorney General does not state whether once the concession is voluntarily made by the public employer, as was done by this defendant, that the concession (i.e., binding arbitration) is not enforceable. The Attorney General's opinion is as to conditions and rights before the contract, not after the contract itself is voluntarily made, which is this present cause.

The arbitration provisions of the agreement in this case do not appear to be any abdication or delegation of its policy-making authority or concessions by the defendant to the arbitrator of plaintiff union.

The rule of interpretation of statutes is that words will be given their plain or their common meaning. "Collective bargaining" has certainly for thirty years and more included bargaining for more than only terms,

conditions and compensation for work. The term at the time the legislature used it included bargaining as to binding machinery to arbitrate disputes as to wages, hours and conditions of employment arising from the labor contract.

Had the legislature intended that binding arbitration within the terms of the labor agreement be not embraced in its use of the words "collective bargaining," it could have easily and briefly so stated. It did not do so and this court must find that the right to collective bargaining includes the right to provide for binding arbitration. Had the legislature intended only to permit limited negotiations between the public employer and employee, it could have used specific terms and rights rather than the general term "collective bargaining." The use and effect of binding arbitration of grievances under a labor contract must be presumed was well known to the legislature as it was to all citizens who have any knowledge of labor relations. It might be noted that the legislature did not hesitate to prohibit the right to strike.

Defendant argues that binding arbitration in its labor contract with plaintiff will or does mean that the union will be setting powers, policy or rights which the board of education alone holds. Not so. The arbitrator is not the union's agent. He or she is selected after first being approved as to qualifications by the American Arbitration Association. He or she is determined after each party has an equal voice in the selection of the arbitrator. His or her expenses and fees are shared equally by the parties. The arbitrator can not add to or change the contract, but specifically is limited to deciding a grievance which the parties to the contract can not resolve within "the provisions of the agreement." This is not giving the arbitrator the right to decide matters outside the agreement or to disputes not covered by the contract.

This is not a situation of passing to an individual the rights and duties of the state legislature or of the board of education of the defendant school district. It is an amicable and more efficient means than resignation, walkout or strike by the employees to resolve any difficulties within a contract previously acceptable to and executed by the parties.

The Attorney General's said opinion cites Norwalk Teachers Ass'n. v. Board of Education of the City of Norwalk, 83 A2d 482. This case recognized (Supreme Court of Connecticut) the right of the board of education to enter voluntarily a contract to arbitrate a specific dispute. The court recognized the differences between binding arbitration of any and all matters, which it would not approve and which is not the case here, and arbitration of matters within the voluntary contract, which is the case here.

Reference is made to a recent decision of the Supreme Court of Wisconsin, Local 1226, Rhinelander City Employees, AFSCME, et al v. City of Rhinelander, Sup. Ct. No. 245, June 6, 1967. The contract in Rhinelander called for "final and binding" arbitration of grievances under the collective bargaining agreement. As in the present cause, such arbitration was limited to the contract itself. The court denied the defense that the arbitration clause was not binding on the city, and it further held that the courts had authority to enforce or require compliance with arbitration agreements.

Certainly where no law or public policy prohibits a contract on behalf of public employees containing a provision for binding arbitration of issues within the contract itself, the contract, like any other contract, must be enforced by the court. Defendant claims only the defense that as a matter of law the contract provision for binding arbitration can not be enforced. Defendant does not dispute the court's authority to enforce the contract and any and all provisions it finds valid.

Having found that the parties hereto could have entered a contract providing for binding arbitration of disputes within the terms of the contract itself and did so, the prayer of plaintiff for an order directing defendant to proceed with final and binding arbitration of the grievances of Oswald Hobdy and Frank Mandarino as provided by the collective bargaining agreement of the parties hereto is granted. Plaintiff will prepare the appropriate order and submit the same to defense counsel and then to this court for approval.

Dated: October 12, 1967

CHESTER J. BYRNS, Circuit Judge

PUBLIC EMPLOYMENT RELATIONS BOARD

IN THE MATTER OF UNITED FEDERATION OF TEACHERS, LOCAL 2, AMERICAN FEDERATION OF TEACHERS, AFL-CIO, Party Charged, THE BOARD OF EDUCATION OF THE CITY OF NEW YORK, Party Making Charge.	DECISION AND ORDER

On October 18 and 19, 1967 this Public Employment Relations Board held a hearing on charges filed by the Board of Education of the City of New York alleging that the United Federation of Teachers, Local 2, American Federation of Teachers, AFL-CIO, hereinafter called respondent, had violated §210 of the New York State Public Employees' Fair Employment Act. Subdivision 1 of that section states:

> No public employee or employee organization shall engage in a strike, and no employee organization shall cause, instigate, encourage or condone a strike.

Prior to the date of the hearing the General Counsel of this Board made a motion for leave to intervene in the proceedings and, over the objection of both original parties, the motion for leave to intervene was granted pursuant to §206.2(n) of the Rules of this Board.

On September 11, 1967 approximately 900 schools operated by the New York City Board of Education were scheduled to open and offer their normal services to students returning from their summer vacations. On that date there was no contract between the Board of Education and respondent. The prior contract had expired on June 30, 1967 and no new contract was ratified by respondent membership until September 28, 1967. During the period between September 11, 1967 and September 28, 1967 approximately 80% of the teachers employed by the Board of Education failed to report to work. That absentee rate contrasts with a normal absentee rate of between 3% and 5%, a rate which was restored after the agreement was ratified.

This Board determines that the unusually high absentee rate between September 11, 1967 and September 28, 1967 constituted a strike, and that such strike was caused by respondent. The absentee rate was occasioned by a concerted work stoppage by members of the respondent pursuant to its position of "no contract, no work". This concerted work stoppage was designed to pressure the Board of Education into granting a more favorable contract than respondent anticipated that it might obtain absent such work stoppage; it was accompanied by picketing and public declarations that the teachers will continue to withdraw their services until a satisfactory contract is negotiated. These circumstances make it clear that a strike has transpired even though many members of respondent executed statements of resignations which they delivered to respondent. Unlike a strike, resignation contemplates a severance of relationship between an employee and an employer. No such severance was contemplated in the instant situation. The respondent adopted the procedure of accumulating statements of resignation upon the recommendation of its Strike Strategy Committee and it assured its constituency that it would fully protect all teachers who signed the resignation statements. In point of fact, when it became apparent that some of the consequences of a resignation might follow the submission of the resignation statements, respondent decided not to submit them, and never did.

Respondent must be charged with full responsibility for the strike. By vote of its membership it adopted the "no contract, no work" policy which occasioned the strike; it solicited resignation statements; it prepared and distributed picket signs; it solicited persons to walk the picket lines; it instituted a telephone recording system whereby a tape-recorded message was played for the information of over 100,000 callers urging them to withhold their services; it announced the inevitability of a work stoppage of sufficient magnitude to prevent schools from reopening on September 11, 1967 even before that date; finally, speaking through its president, it stated that it was engaged in an act of civil disobedience - that is, it admitted that it was in violation of the law albeit for reasons that it deemed to be justifiable.

In defense of its action, respondent has advanced the theory that the terms of §210 of the Act which prohibit strikes by public employees are inapplicable unless the procedures set forth in §209 of the Act for the resolution of impasses have been utilized, and within a specified period of time before the budget submission date (Respondent's reply brief, page 4). We reject this contention. The prohibition against strikes by public employees was not an innovation of the Public Employees' Fair Employment Act and the impasse resolution procedures were not - as alleged by respondent - the quid pro quo for the strike prohibition. The prohibition against strikes by public employees is derived from the common law where it was unconditional. It was articulated in the Condon-Wadlin Law in which it was also unconditional. The strike prohibited has been continued by the Public Employees' Fair Employment Act.

The language of §209 also makes it clear that the invocation of the impasse procedures specified therein is not a prerequisite for the application of the strike prohibition. Subdivision 3 of §209 provides for the invocation of the impasse procedures on the request of a party to a dispute or by this Board upon its own motion. Neither respondent nor the Board of Education requested this Board to invoke the impasse procedures; the Board decided not to invoke them on its own motion because substantially equivalent procedures were already being applied when, on September 1, 1967, the Public Employees' Fair Employment Act became effective. As a matter of fact, there was both mediation and fact-finding by nationally recognized labor relations experts, including public recommendations, prior to the commencement of the strike. Moreover, the report of the fact-finding panel was presented to and accepted by the Board of Education which, by the terms of the Public Employees' Fair Employment Act, §201, subd. 12, was the legislative body which was charged with making the final determination. Under the circumstances, the contention of the respondent that it was denied the benefits of the impasse resolution procedures of the law is without substance.

In reply, respondent conceded that there may have been substantial compliance with the impasse resolution procedures, but insists that this was inadequate because such procedures did not take place within a specified period of time before the appropriate budget submission date. That budget submission date was January 1, 1967, a time before the enactment of the Public Employees' Fair Employment Act. It therefore appears to be the theory of respondent that the Act permits strikes by public employees after its effective date so long as the budget submission date involved was prior to that effective date so as to render the application of the impasse procedures impossible. This theory is rejected. Neither the legislative history nor the language of the statute suggests any intent to create a period of time during which strikes would not be prohibited. The statute requires this Board to consider three criteria in determining whether an employee organization has violated the statute. They are (1) whether the employee organization causes the strike or tries to prevent it; (2) whether the employee organization made or was making good faith efforts to terminate the strike; and (3) whether, if so alleged by the employee organization, the public employer engaged in such acts of extreme provocation as to detract from the responsibility of the employee organization for that strike. The Legislature did not establish as a criterion the implementation of the impasse procedures other than as this bears upon extreme provocation.

Although there were only eleven days after the effective date of the Act before the strike deadline announced by respondent, this circumstance does not justify a strike. The strike deadline was an illegal artificiality created by respondent under its "no contract, no work" policy. Except for this policy, there was no reason why respondent could not have continued to negotiate beyond September 11, 1967 with a demand that the terms of any contract which would emerge should be made retroactive to September 11, 1967.

Having concluded that the respondent had violated §210 of the Public Employees' Fair Employment Act, we must now decide what penalty to impose. The statute provides that an employee organization which is determined by this Board to have caused a strike shall lose the right to membership dues deductions for a period not to exceed 18 months. As a further guide, the statute requires this Board to consider the three criteria already referred to.

WE FIND THAT:

1. Respondent caused the strike;

2. Respondent did not make good faith efforts to terminate the strike;

3. The public employer did not engage in such acts of extreme provocation as to detract from the responsibility of the employee organization for the strike;

WE FURTHER FIND THAT:

4. The strike was a premeditated act, planned and prepared over a long period of time;

5. The strike was announced even before respondent's own strike deadline.

ACCORDINGLY, WE ORDER THAT:

The rights of the United Federation of Teachers, Local 2, American Federation of Teachers, AFL-CIO, to membership dues deduction shall be forfeited for a period of twelve months commencing on the first practicable date, and that it shall be restored at the end of such period of twelve months only after the United Federation of Teachers, Local 2, American Federation of Teachers, AFL-CIO has affirmed that it no longer asserts the right to strike against any government; provided, however, if a fine imposed on the United Federation of Teachers, Local 2, American Federation of Teachers, AFL-CIO, pursuant to subdivision 2 of §751 of the Judiciary Law remains wholly or partly unpaid, after the exhaustion of the cash and securities of the United Federation of Teachers, Local 2, American Federation of Teachers, AFL-CIO, such membership dues deduction shall be continued to the extent necessary to pay such fine and the Board of Education of the City of New York shall transmit such monies to the Court.

/s/ Robert D. Helsby
Robert D. Helsby, Chairman

/s/ Joseph R. Crowley
Joseph R. Crowley, Member

/s/ George H. Fowler
George H. Fowler, Member

Dated this 30th day of November, 1967
at Albany, New York.

Reproduced below is the major portion of an arbitration award resulting from unresolved issues in the negotiation between the Newport (Rhode Island) School Committee and the Teachers Association of Newport (NEA). Not included is the section of five pages which dealt with specific language for the agreement awarded by the arbitrator as noted in the section provided.

In the Matter of the Arbitration Between: Teachers Association of Newport and Newport School Committee American Arbitration Association Case Number 1130-0187-67	John T. Conlon Arbitrator

Pursuant to the provisions of Title 28 of the General Laws of the State of Rhode Island and Providence Plantations, as amended, the undersigned was duly appointed Arbitrator in the above entitled matter by Notice from the American Arbitration Association, dated July 17, 1967.

The Petition

The Teachers Association of Newport, as the party submitting the Demand for Arbitration in this case, petitioned the Arbitrator at the hearings for:

> An award concerning hours, salary, working conditions and other terms of professional employment encompassed in the proposed contract provisions submitted by the Teachers Association of Newport.

The Hearings

Hearings on this matter were held on July 31 - August 1, 1967 in the Newport School Administrative Offices, Newport, Rhode Island. Present and representing each of the parties at these hearings were:

For the Newport School Committee:	For the Teachers Association of Newport:
Paul F. Murray	Edward B. Talbot
Robert W. McBrier	Robert Chanin
Thomas F. Coristine, Jr.	Roger Aubin
John F. MacDonnell	Evelyn C. Carroll
Nicholas S. Logothets	Terrence C. Burns
David L. Jenkins	Sherwin J. Kapstein
Patrick G. Kirby	Mary King
	Jean Conheeny
	James R. Chapman
	Francis X. MacKinnon
	Terrence M. Murphy
	Harry F. Vaughan

Throughout the hearings full opportunity was permitted each of the parties to present argument and exhibits in support of their respective positions, and to examine and cross examine witnesses.

At the conclusion of the hearings the parties agreed by joint stipulation to waive the ten-day statutory requirement for the filing of the Arbitrator's decision, and set August 28, 1967 as the deadline for the receipt of the award.

Subsequent to the hearings the Arbitrator requested of the parties, through the office of the American Arbitration Association, additional evidence relating to teachers' salaries. Said information was received in a letter from Mr. John F. MacDonnell, Superintendent of Schools, dated August 16, 1967.

Positions of the Parties

The evidence introduced at the hearings established that the parties have reached an impasse in their negotiations over the terms of an initial collective bargaining contract. It is also disclosed that the areas of disagreement essentially encompass all of the terms proposed for that agreement by each of the parties during the course of their negotiations and during the arbitration hearing. The substantive issues which are in dispute fall into three clearly defined classifications: one, the extent and form of a salary adjustment; two, the establishment on a contractual basis of several employment practices of a non-salary economic nature; and three, a similar establishment of several additional terms and conditions of employment of a non-economic character.

The positions of the Teachers' Association of Newport (T.A.N.) and the Newport School Committee (N.S.C.) on the issues in dispute may be summarized as follows:

I. Salary:

	Class I		Class II*		Class III		Class IV*	
	Min.	Max.	Min.	Max.	Min.	Max.	Min.	Max.
A. Schedules Proposed by T.A.N. (T.A.N. Ex.'s #8 5/29/67; and #10, 7/31/67)	$5,900	$8,900	$6,000	$9,600	$6,200	$9,800	$6,300	$10,300
B. Schedules adopted by N.S.C. (T.A.N. Ex.'s #10, 12, 7/31/67; Letter, 8/16/67)	5,500	8,100	5,800	8,400	6,100	8,700	6,400	9,000

*Also, change adopted by N.S.C. from +30 to +36 credit hours required.
**Class V established, Base salary plus $1,100 at each step for teachers holding doctorate degree.

. . . . . .

C. Administrative Salary Adjustments, Proposed by T.A.N. (T.A.N., Ex. #8)

Ratios for increments based on maximum step, B.A. Schedule:

.1 - .25	Department Chairmen
.25	Dean of Girls
.15	Director of Athletics
.05	Part-time Guidance Counselors

D. Supplementary Activity Salary Schedule, Proposed by T.A.N. (T.A.N. Ex. #8.) — increments ranging from $200 - 800 for participation in eight (8) extracurricula activities.

E. Athletic Coaches Schedule, Proposed by T.A.N. (T.A.N. Ex. #8) — increments ranging from $350 - 1,500; six (6) step system in each of five classifications.

F. Substitute Teacher Rates, Proposed by T.A.N. (T.A.N. Ex. #8) — Graduated scale from $20 to $30 /day.

G. Military Service Credit, Proposed by T.A.N. (T.A.N. Ex. #8) — Maximum of two (2) years credit, or two (2) steps on appropriate salary schedule.

H. Special Education Teachers, Proposed by T.A.N. (T.A.N. Ex. #8) — $600 increment for participation in program.

The T.A.N. estimates of gross additional cost resulting from implementation of the above proposals are (T.A.N. Ex. #21):

A. $387,700
B. $ 83,000
C. $ 10,400
D. $ 4,700
E. $ 9,500
F. None provided
G. None provided
H. $ 4,500

II. Non-Salary Economic Matters:

Item (Proposed by T.A.N.)	T.A.N. Estimate of Gross Additional Annual Cost	(T.A.N. Ex. #21)
A. Health Insurance	$31,600	($12.90/mo./teacher)
B. Additions to staff for:		
(1) Daily Preparation Time	$22,400	(4 teachers @ $5,600 each)
(2) Non-Teaching Duties (total)	$27,000-28,000	(teachers aides)
(3) Specialist Services	$210,000	(30 teachers @ $7,000 each)
(4) Reduction in Class Size	$19,600	(3-1/2 teachers @ $5,600 each. Secondary Program only)
C. Travel: Assignments & Transfers	$200	(@ $.10/mile)
D. Sabbatical Leave	--	($1,800-1,825/yr.teacher)

II. Non-Salary Economic Matters: (Continued)

Item (Proposed by T.A.N.)	T.A.N. Estimate of Gross Additional Annual Cost (T.A.N. Ex. #21)	
E. Textbooks	$18,000	(@ $10.00/pupil)
F. Supplies	$5,000	
G. Summer School & Adult Education	$6,000	(@ $7,50/hr.)
H. Teacher Facilities	$16,350	

According to the T.A.N., the gross additional annual cost of the proposals indicated in I and II above to the City of Newport should be reduced by: (1) the fact that funding would be required for only 21/26 of the pay periods of the present fiscal year (e.g., September 1, 1967 - June 30, 1968), (2) the increase of $85,500 in the School Committee's budget for salary in the present fiscal year as approved by the City Council, and (3) the anticipated normal allocation of state aid in the amount of 30% of expenditures. Following appropriate adjustments in gross costs due to these factors, the so-called "true-cost" projected by the T.A.N. of implementing the programs proposed above was estimated to be $364,150.

Other than for item I.B. (Salary) above, and for the reasons indicated hereinafter in this section, no comparable cost estimates for the above proposals were submitted by N.S.C.

III. Non-Economic Matters

According to testimony by the T.A.N. the following non-economic proposals submitted by the T.A.N. were:

A. Discussed during negotiation sessions and substantial and tentative agreement by the parties was reached thereon:

Article (T.A.N. Ex. #8)	Title	Section(s)
9	Teaching Assignments & Transfers	A,C,D,E,F,H
10	Promotions	all
11	Teacher Files	all
12	Protection	
13	Personal Injury Benefits and Property Damage	
14	Leave	A-1,2,first sentence of 3, B,C,
16	Special Education Centers	all
19	Textbooks	A,C,
20	Supplies	B,C,D
21	Summer School and Adult Education	A,B,C
22	Use of School Facilities	all

B. Not discussed, or not discussed at length during negotiations, and no agreement reached thereon:

Article (T.A.N. Ex. #8)	Title
1	Recognition
2	Negotiation Procedure
3	Grievance Procedure
18	Insurance and Annuity Plan (especially Sec. B)
23	Dues Deduction
24	General
25	Duration
Appendix B	Individual Contracts

With reference to non-economic matters, the N.S.C. maintained that tentative agreement was not achieved on certain of the items indicated in A above, and was most highly tentative and subject to further discussion on the remainder. In addition, the N.S.C. introduced into evidence at the arbitration hearing a copy of counterproposals on non-economic matters prepared for presentation at the last negotiation session, but never formally or previously submitted to the T.A.N. These counterproposals related to the following matters:

Article (N.S.C. Ex. #2)	Title
1	Teaching Hours and Teaching Load
2	Class Size
3	Teacher Facilities
4	Teaching Assignments and Transfers
5	Promotions
6	Teacher Files
7	Protection
8	Personal Injury Benefits and Property Damage
9	Leave
10	Evaluation of Teachers
11	Summer School and Adult Education
12	Use of School Facilities
13	Grievance Procedure

The position of the N.S.C. was that in many if not most instances the intent and effect of the above identified counterproposals did not differ significantly from the proposals on these matters submitted by the T.A.N. The representatives of the T.A.N., by way of response, maintained that the differences in the two sets of proposals on non-economic matters were material and substantial in every respect.

The above summarizes the differences between the positions of the parties on the substantive issues involved in their negotiations. Also, however, a deep difference of opinion exists between their respective positions on their individual and joint responsibilities in bargaining collectively under the provisions of the recently amended Title 28 of the General Laws.

In essence the position of the N.S.C. on this matter may be stated as follows. By long standing state statute the care, control, and management of individual school systems in Rhode Island is vested in the elected School Committee of each community. With the exception of hours and salary, the only two items expressly designated as negotiable under the amended provisions of Title 28, the N.S.C. retains its traditional and exclusive right to determine policy in all other school-related matters. To enter into a binding contract with the T.A.N. on these latter matters would, it was maintained, represent a forfeiture of the N.S.C.'s legal responsibility for administrative governance.

In addition, the N.S.C. further justified its position on this issue by citing limitations on its ability

and responsibility to commit the expenditure of public money under the terms of a negotiated collective bargaining contract. Final fiscal authority, it was stated, resides in the municipal City Council, not in the N.S.C. Hence, it therefore is not legally possible for the N.S.C. to enter into a binding agreement on matters involving the expenditure of money other than for salary, and thus commit the City Council and a subsequent School Committee to the support of the activities involved. Finally on this point, by implication if not by express statement, the N.S.C. appeared to infer that the limitation on the authority of the arbitrator in his decision to bind the parties to the expenditure of money raised doubts as to their obligation to negotiate over such matters.

The position of the T.A.N. on the issue of the legal responsibilities of the parties in bargaining collectively differs markedly from that of the N.S.C. As interpreted by the T.A.N., the provisions of the statute requiring bargaining over ". . .working conditions and other terms of professional employment." clearly implies a legal obligation to negotiate all proposals relating to these matters and to incorporate agreement reached thereon in a binding contract. Matters involving the expenditure of money not only are not expressly exempted from this requirement, but rather were intended by the legislature to be included within the scope of this obligation.

According to the T.A.N., the fundamental criterion that should govern the terms to be included in a collective bargaining agreement is what is "needed" in order to improve the school system. The N.S.C. has an obligation under the law to negotiate with the T.A.N. the means by which these needs are to be satisfied, to enter into a binding contract incorporating therein the agreement reached on these matters, and to present and justify before the City Council the monies which shall have to be appropriated to accomplish the objectives involved. For the year at hand, the N.S.C. should be obliged, following a precedent established in 1965, to request of the City Council the supplementary funds required to effectuate the terms of the projected collective bargaining agreement, the anticipated and ultimate effect on the tax rate notwithstanding.

Discussion and Opinion

The function of the Arbitrator in this case is, in effect, to determine the merits of all of the proposals and counterproposals submitted by each of the parties during negotiation and at the arbitration hearing, and to decide the content of the collective bargaining agreement they contemplate executing. This is a monumental task, and an awesome responsibility. It is undertaken with a full awareness that under the provisions of Title 28 of the General Laws, as amended, the decision of the Arbitrator shall be binding on all matters not involving the expenditure of money.

As a prior condition to deciding the merits of the positions of the parties on the substantive matters at issue, the Arbitrator of necessity must first determine the nature and extent of the party's obligation to bargain on these matters under the applicable statutory provisions.

To the mind of the undersigned Arbitrator the intent of the state legislature on this question is not in every instance readily determinable from the express provisions of existing law. Whereas the statute defines in precise fashion the obligation of the parties to bargain over matters relating to ". . .hours, (and) salary. . ." it does not similarly identify the scope of that obligation with respect to ". . .working conditions and other terms of professional employment." It therefore is only with the latter provisions that a major problem of interpretation and application of legislative intent lies. A determination on this issue is essential to the case at hand, and must be imputed from the total evidence available.

In the absence of express statutory provisions or other compelling evidence to the contrary, it is held, after careful deliberation, that the only reasonable and logical interpretation of legislative intent with reference to the terms in question is that consistent with their traditional and customary usage in the sister field of industrial employment, and as it is evolving in the more recently organized field of public employment. In general, in each of these fields, these terms and variations of them normally are accorded a very broad and almost ever expanding definition and construction, to the extent that matters not otherwise expressly prescribed as non-negotiable typically are considered and held to come within the range of items upon which bargaining is mandatory.

Further, inasmuch as in normal practice many if not most of the programs and activities established under these or essentially similar terms elsewhere involve the expenditure of money, it must be assumed, again in the absence of explicit statutory qualification or other evidence to the contrary, that it was the intent of the legislature that the parties would be required to bargain over matters involving the expenditure of money. The inclusion in Chapter 9.3-8 of Title 28 of the provision "Whenever salary or other matters requiring appropriation of money. . .are to be included as matter of negotiation or collective bargaining. . ." is construed and held to reinforce this interpretation of legislative intent.

On the basis of the foregoing it therefore is ruled that all of the proposals submitted by the T.A.N. legitimately are subject to the bargaining process under existing statute.

It also follows in order not to make the collective bargaining process no more than an ineffective ritual, but rather to secure the stated statutory objective of high quality education, that the obligation of the N.S.C. logically must be inferred to extend to presentation before the City Council of all of the agreements reached in negotiation which involve the expenditure of public funds. Whether the City Council thereafter has the authority to reduce in any way the funds so committed is not an issue which the Arbitrator is empowered to decide. But it is within his proper jurisdiction in this case to rule that under the law it was not intended that the N.S.C. would be the final judge on these matters.

Having thus decided the issue relating to the scope of the legal responsibilities of the parties in bargaining collectively, it now is appropriate to turn to the substantive matters in dispute.

First and foremost of these is the difference of opinion which exists between the parties as to the salary structure which should be in effect during the coming school year. On the basis of the evidence presented at the hearing and that obtained subsequent thereto, it does appear that the schedule adopted for 1967-68 by the N.S.C. and the City Council is low in relative and absolute terms when compared with these generally in effect in comparable cities and other communities within the state. In order to remain competitive in the academic market place in attracting qualified new teachers to the Newport system, to aid in the retention of experienced teachers presently in the system, and to promote self-improvement of such teachers through advanced graduate study, an upward adjustment in excess of that already adopted appears imperative and warranted.

It is the opinion of the Arbitrator, and is so decided, that the above objectives can best be accomplished by an additional across-the-board increment graduated according to steps in each classification of teachers in the manner and amounts indicated below:

Steps	Class I	Class II	Class III	Class IV
1-4	$100	$100	$100	$100
5-8	200	200	200	200
9-	300	300	300	300

In the absence of state governmental action to the contrary, it is further awarded that the N.S.C. may not unilaterally and at this time establish Class V in the salary structure, adjust credit hour requirements for upward reclassification of teachers from 30 to 36 hours, or alter previously existing definitions of creditable hours.

All of the remaining salary adjustment and non-salary economic proposals submitted by the T.A.N. appear in the judgment of the arbitrator to have merit, in varying degrees. However, in light of the magnitude of the improvements awarded in the basic salary structure, and after careful consideration of the total circumstances existing in the school system and in the community, it is the conviction of the Arbitrator that only the most pressing and deserving of the proposals, from both an educational and financial point of view, should be incorporated in an agreement.

It is the best judgment of the Arbitrator that the most worthy and most feasible of these proposals are those relating to the institution of a health insurance program for teachers, the provision of student-parent aides and specialist services to teachers, and the promotion of sabbatical leave opportunities for qualified candidates. The need and desirability of instituting these programs on a contractual basis were well established at the hearings.

It therefore is awarded that the programs identified below shall be incorporated in the collective bargaining agreement and supported in the amounts and manner indicated:

Program	Amount	Explanation
Health Insurance	$31,600	(@ approximately $12.90/ mo./teacher)
Student-Parent Aides	10,000	(exclusive of volunteer aide services)
Specialist Teachers	49,000	(7 teachers at approximate average annual salary of $7,000 each)
Sabbatical Leaves	27,000	(15 teachers at approximately $1,800 each annually)

Further it is recommended, though not awarded as mandatory, that a Joint Study Committee composed of all interested parties be established to make recommendations to the approximate authorities as to the administration of the above identified programs.

With respect to all of the other salary and non-salary economic proposals submitted by the T.A.N., the parties shall be free under the terms of this award to negotiate and incorporate in an agreement provisions relating to these matters. Should such voluntary action on their part for any reason not be forthcoming, it is the decision of the Arbitrator that at least for this moment the T.A.N. shall forego their proposals on each of these matters.

The parties to this dispute are not in essential disagreement over the great majority of the non-economic items which they propose to be included in their collective agreement. There is significant disagreement however between their respective positions as to the precise provisions which should be included in the contract in order to effectuate each of the programs or activities involved. All of the proposals of a non-economic nature submitted by each of the parties, and all of the evidence advanced in support of their positions on these matters, have been carefully reviewed by the Arbitrator. Those proposals which, in the judgment of the Arbitrator have inherent merit, and which appear desirable and necessary for inclusion in the contract in order to effectuate the objectives and obligations of the parties in bargaining collectively, are incorporated, in the form and manner decided by the Arbitrator most reasonable and appropriate, in the following section entitled Award.

Before proceeding to the express statement of the decision reached on all of the foregoing matters, the Arbitrator feels compelled to make a general and summary comment.

The evidence introduced at the hearings established that several problems exist in the school system in Newport. In general, however, these problems are not unique to their community. Many exist in varying degrees in school systems throughout our country. Some have persisted for many years.

In recognition of the existence of these problems, our federal government, state and local governments, and private foundations in recent years have devoted considerable thought and resources to determining and promoting solutions to them.

One of the solutions increasingly being adopted to solve the problem of a generally inadequate system of communication between school committees and teachers is the requirement under the law that such parties henceforth shall engage in collective bargaining over matters of vital importance to the educational program and over which they have a mutual and compatible interest.

The State of Rhode Island, for one, has imposed such a requirement. For the first time the N.S.C. and the T.A.N. have undertaken to fulfill their responsibilities in bargaining collectively under the applicable statute. Also for the first time, or so it is understood, the matters remaining at issue between the parties, not having been resolved in negotiation, have been referred to arbitration for a decision.

It is the conviction of the Arbitrator that the Award presented immediately hereinafter represents a just and equitable settlement of the issues in dispute. The parties are urged to incorporate forthwith in a collective bargaining agreement the decisions rendered therein. It is anticipated and forecast by the Arbitrator that such provisions, together with those evolving in the future through good-faith bargaining, will resolve most and hopefully all of the problems in the school system in Newport.

John T. Conlon
Arbitrator

Award

Subject only to changes which may occur on matters which the parties to this arbitration are not bound by law to accept the decision of the Arbitrator as final and binding, and over which joint agreement through negotiation henceforth may and hopefully shall be forthcoming, it is hereby awarded that the collective bargaining contract between said parties shall read as follows:

Article I - Recognition

As stated in Article I, T.A.N. Ex. #8.

Article II - Negotiation Procedure

As stated in paragraphs A,1, C, and D, only in Article II, T.A.N. Ex. #8, except that the date for the commencement of negotiations shall read "Not later than October 15. . ."

Article III - Grievance Procedure

A. Definitions

As stated in paragraphs A, B and C in Article XIII, N.S.C. Ex. #2.

B. Purpose

As stated in Section B, Article III, T.A.N. Ex. #8.

C. Procedure

As stated in Section C, Article III, T.A.N. Ex. #8.

D. Miscellaneous

As stated in Sections D and E, Article III, T.A.N. Ex. #8, except that paragraphs I, J, M and O of Article XIII, N.S.C. Ex. #2 shall also be added to these provisions.

Article IV - Salary

As stated in Article IV, paragraph A only, T.A.N. Ex. #8.

Article V - Teaching Hours and Teaching Load

As stated in Article V, T.A.N. Ex. #8, except for the following changes:

(1) Section A.2 shall be changed only to read ". . .will end thirty (30) minutes after the aforesaid dismissal times."

(2) Section F shall be changed only to read ". . .determines that they are compelled by necessity or are otherwise justified in the best interests of the educational process."

(3) Section G shall read "Teacher participation in extracurricular activities will be voluntary and teachers will be compensated by reasonable amounts for such participation whenever possible."

Article VI - Class Size

As stated in Article VI, T.A.N. Ex. #8, except that Section A.1 therein shall be changed to read: "The Superintendent of Schools shall make an effort to schedule and maintain class sizes of approximately twenty-five (25) students in the secondary school system."

Article VII - Non-Teaching Duties

As stated in Article VII, Section A.1 only, T.A.N. Ex. #8, except that the second sentence of this section shall be changed to read "Therefore the Committee agrees to employ teacher aides and/or clerks by the beginning of the 1967-68 school year. . .and the like."

Article VIII - Teacher Facilities

As stated in Article 3, N.S.C. Ex. #2.

Article IX - Teaching Assignments and Transfers

As stated in Article IV, Sections A-F and H, N.S.C. Ex. #2, and as stated in the introductory paragraph and Section G, Article IX, T.A.N. Ex. #8.

Article X - Promotions

As stated in Article X, T.A.N. Ex. #8.

Article XI - Teacher Files

As stated in Article XI, T.A.N. Ex. #8.

Article XII - Protection

Shall read as follows: "The Committee shall consider any case of assault of any personnel of the school system and shall take whatever action it deems reasonable and/or necessary under the circumstances."

Article XIII - Personal Injury Benefits & Property Damage

As stated in Article VIII, N.S.C. Ex. #2.

Article XIV - Leave

As stated in Article IX, Sections A and B in their entirety, N.S.C. Ex. #2, and Section C therein except as to be amended and changed as follows:

(1) Paragraph 3 of Section C, first sentence, shall be changed to read ". . .the substitute who replaces him, or a minimum of $1800 per year, whichever is the higher."

(2) Paragraph 4 of Section C shall be deleted and shall be replaced by Paragraph 5, Section D, Article XIV, T.A.N. Ex. #8.

(3) Paragraph 3, Section D, Article XIV, T.A.N. Ex. #8 shall be added to the provisions of this Section.

Article XV - Evaluation of Teachers

As stated in Article XV, T.A.N. Ex. #8.

Article XVI - Special Education Centers

As stated in Article XVI, T.A.N. Ex. #8.

Article XVII - Specialists

As stated in the first sentence of Section A, Article XVII, T.A.N. Ex. #8, together only with the following additional statement:

"Accordingly, it is agreed that an attempt shall be made by the school authorities responsible to appoint, as soon as possible, a minimum of seven (7) additional such specialists at an approximate average annual salary of $7,000 each."

Article XVIII - Insurance and Annuity Plan

As stated in Article XVIII, T.A.N. Ex. #8.

Article XIX - Textbooks

As stated in Article XIX, Section A only, T.A.N. Ex. #8.

Article XX - Supplies

To read only as follows: "General supplies shall be ordered by the school authorities responsible so that to the extent reasonably possible all items are available as needed."

Article XXI - Summer School and Adult Education

As stated in Article II, Section A, first sentence only, and Sections B, C, and D, N.S.C. Ex. #2.

Article XXII - Use of School Facilities

As stated in Article XXII, Sections A and D only, T.A.N. Ex. #8, subject however to the addition at the end of Section A of the phrase ". . .during non-school hours."

Article XXIII - Dues Deduction

As stated in Article XXIII, T.A.N. Ex. #8.

Article XXIV - General

As stated in Article XXIV, T.A.N. Ex. #8, except for the following changes:

(1) The second sentence of Section B, "When it is necessary. . .substitutes." shall be deleted.

(2) The word "reasonable" shall be added to Section D so as to read "The Committee will, upon reasonable request, provide. . ."

(3) Section E shall be deleted.

Article XXV - Duration

As stated in Article XXV, T.A.N. Ex. #8, except with the addition of September 1, 1967 as the date on which the contract becomes effective.

Appendix A

Section I-A only, Salary Schedule, T.A.N. Ex. #8, and to read only as follows: Effective as of the date of this agreement, the salary schedule adopted by the Committee and the City Council shall be revised so as to provide salary increments to all persons covered by this Agreement in the amounts and manner indicated below:

CLASSIFICATION

Step	Class I	Class II	Class III	Class IV
1-4	$100	$100	$100	$100
5-8	$200	$200	$200	$200
9-11	$300	$300	$300	$300

The above represents the sum total of the Award.

Negotiation Agreements

AGREEMENT

MADE AND ENTERED INTO BY AND BETWEEN

SCHOOL DISTRICT NO. 1 IN THE CITY AND COUNTY OF DENVER AND STATE OF COLORADO

AND

DENVER CLASSROOM TEACHERS ASSOCIATION (NEA)

THIS AGREEMENT is made and entered into by and between SCHOOL DISTRICT NO. 1 IN THE CITY AND COUNTY OF DENVER AND STATE OF COLORADO and DENVER CLASSROOM TEACHERS ASSOCIATION this 21st day of November, 1967.

The Board and the Association recognize that providing a high quality education for the children of Denver is the paramount objective of the School District, that high morale of the teaching staff is necessary for the best education of children, and that:

The Board is elected by the qualified electors of the School District as the governing body of the School District and, as such, possesses all powers delegated to a board of education or to a school district by the Constitution and laws of the State of Colorado, together with the duties imposed thereby.

The Superintendent is the chief executive officer of the Board, and as such, administers the affairs and programs of the School District as provided by law and Board policy.

Teachers and the Board share responsibility for providing education of the highest possible quality for the pupils of the School District, and both parties recognize that teachers have the major role in direct contact with pupils.

Attainment of the objectives of the educational program conducted in the Denver Public Schools requires mutual understanding and cooperation between the Board and the teachers. To this end, good-faith negotiations between the Board and the Association with a free and open exchange of views are desirable.

Teaching is a profession requiring the possession of specialized educational qualifications, and the success of the educational program conducted in the Denver Public Schools depends upon the willing services of well-qualified teachers who are satisfied with the conditions provided by the Board.

Teachers have the right to join, or refrain from joining, any lawful organization for their professional or economic improvement and for the advancement of public education, but membership of a teacher in any organization shall not be required as a condition of employment by the School District.

The instruction process is the primary function of the school and support personnel should arrange their work to enhance this process insofar as possible.

NOW, THEREFORE, the parties agree as follows.

ARTICLE 1

Definitions

1-1 The term "teacher" as used in this Agreement shall refer to all regularly assigned teachers represented exclusively by the Association in the negotiating unit as defined in Article 3, Recognition.

1-2 The term "Board" as used in this Agreement shall mean the Board of Education of School District No. 1 in the City and County of Denver and State of Colorado.

1-3 The term "Association" as used in this Agreement shall mean the Denver Classroom Teachers Association.

1-4 The terms "School District" and "Denver Public Schools" as used in this Agreement shall mean School District No. 1 in the City and County of Denver and State of Colorado.

1-5 The term "Superintendent" as used in this Agreement shall mean the Superintendent of Schools of School District No. 1 in the City and County of Denver and State of Colorado.

1-6 The term "school year" as used in this Agreement shall mean the period of time from the opening of the schools of the district in the fall, usually in September, through the closing of the schools of the district in the spring, usually in June.

ARTICLE 2

General

2-1 The Board shall continue its policy of not discriminating against any teacher on the basis of race, creed, color, national origin, sex, marital status, or membership in any teacher organization.

2-2 The Association shall continue to admit persons to membership without discrimination on the basis of race, creed, color, national origin, sex, or marital status, and to represent equally all teachers without regard to membership in any teacher organization.

2-3 To the extent feasible, the Board will provide the Association with an advance copy of the agenda for each official Board meeting.

2-4 This Agreement constitutes Board policy for the term of said Agreement and the Board and the Association will carry out the commitments contained herein and give them full force and effect.

2-5 No provision, term or condition of this Agreement shall be in any way interpreted as affecting or changing

the provisions of the retirement plan of the School District now in effect or any of the policies, rules or regulations made pursuant to said retirement plan.

2-6 No change, rescission, alteration or modification of this Agreement in whole or in part shall be valid unless the same is ratified by both the Board and the Association and endorsed in writing hereon.

2-7 This Agreement shall be governed and construed according to the Constitution and Laws of the State of Colorado.

2-8 The Board and Association recognize that the Board has certain powers, discretions and duties that, under the Constitution and Laws of the State of Colorado, may not be delegated, limited or abrogated by agreement with any party. Accordingly, if any provision of this Agreement, or any application of this Agreement to any teacher covered hereby shall be found contrary to law, such provision or application shall have effect only to the extent permitted by law, but all other provisions or applications of this Agreement shall continue in full force and effect.

2-9 In case of any direct conflict between the express provisions of this Agreement and any Board or Association policy, practice, procedure, custom or writing not incorporated in this Agreement, the provisions of this Agreement shall control.

ARTICLE 3

Recognition

3-1 Pursuant to the provisions of the resolution adopted by the Board on February 8, 1967, and the results of the election called by the Board in said resolution, the Board has recognized the Association as the exclusive representative of all members of the teaching staff of the Denver Public Schools, except the following:

Speech Correctionists
Adult Vocational Education Teachers
Nurses
Psychologists
Social Workers
Dental Hygienists
Audiometrists
Dentists
Physicians
Supervising Teachers
Deans
Coordinators
Principals
Assistant Principals
Supervisors
Directors
Administrative Directors
Executive Directors
Assistant Superintendents
Superintendent

3-2 The Board hereby reaffirms recognition of the Association and agrees that the Association shall continue as such exclusive representative until April 6, 1969, and for such additional periods of time as its recognition may be extended under procedures approved by the Board.

3-3 All rights and privileges granted to the Association under the terms and provisions of this Agreement are for the exclusive use of the Association.

ARTICLE 4

Annual Negotiations

After approval and execution of this Agreement and upon request by the Association to the Board or by the Board to the Association, after March 1 of each year during the term of this Agreement, the Board and the Association will negotiate as provided in Article 5; provided, however, that such negotiations shall terminate not later than June 1 of each year unless extended by mutal consent.

ARTICLE 5

Negotiating Procedure

5-1 Initiating Negotiations

5-1-1 Written requests for negotiations between the Board and the Association may be submitted on such matters concerning teachers' salaries, wages, hours and conditions of employment as the parties from time to time may agree to negotiate. Such request will specify the subject matter to be considered and will include the specific written proposal or proposals to be negotiated.

5-1-2 A written response will be made within ten days of the receipt of any such written request.

5-1-3 Negotiations mutually agreed upon will be conducted at times and places mutually agreeable to the negotiators named by each party; provided, however, that the first meeting shall be held within ten days of such written response.

5-2 Conducting Negotiations

5-2-1 During negotiation, the Board and the Association will present relevant data, exchange points of view, and make proposals and counter proposals. Upon request of either party, the other will make available for inspection its records and data pertinent to the subject of negotiation.

5-2-2 As of the time they are made available to the Board, the Board will provide the Association with a Superintendent's proposed budget for the next fiscal year, as well as available preliminary budgetary information and proposals affecting teachers' salaries, wages, hours and conditions of employment.

5-2-3 Either party may, if it so desires, utilize the services of outside consultants and may call upon professional and lay representatives to assist in the negotiations.

5-2-4 If negotiations are scheduled during the school day, the negotiators shall be released from their regular duties without loss of pay.

5-2-5 Negotiations shall be conducted in closed sessions unless both parties agree to the contrary.

5-2-6 During negotiations as described in 5-1, 5-2 and 5-3 of this Article, releases to news media or otherwise shall be made only as agreed to jointly.

5-3 Joint Study Committees

5-3-1 The negotiators are empowered to create joint study committees.

5-3-2 Consultants may be used if deemed necessary by either party.

5-3-3 If meetings of joint study committees are scheduled during the regular school day, members of such committees shall be released from their regular duties without loss of salary.

5-3-4 Recommendations and reports of joint study committees are advisory in nature.

5-3-5 Upon completion of its study and submittal of a written report on the subject assigned to it, a joint study

committee shall be considered dissolved, and once dissolved, no such committee shall be reactivated except by mutual consent of the Association and the Board.

5-3-6 The above statements do not preclude the creation of any committee authorized by the Association or the Board to conduct an independent study on any subject.

5-4 Adopting Agreements

5-4-1 Tentative agreements reached as a result of such negotiations will be reduced to writing and will have conditional approval of both parties pending the public hearings on the proposed budget for the ensuing fiscal year. After adoption of such budget, and after ratification by both parties, the final agreement will be signed by the Board and the Association and will become an addendum to this Agreement.

5-4-2 After budget hearings are commenced, negotiations may be reopened as a result of such budget hearings. In that event, they shall be resumed not later than the Monday following the regular October Board meeting and shall be concluded not later than the second Thursday after the regular October Board meeting. These dates may be modified by mutual consent.

5-5 Mediation

5-5-1 If the negotiations described in Sections 5-1 and 5-2 have reached an impasse, the issues in dispute shall be submitted to mediation for the purpose of inducing the Board and the Association to make a voluntary agreement. In the event that the parties are unable to agree upon a mediator, the mediator shall be selected in the following manner:

5-5-1-1 Immediately after demand for or submission to mediation, the American Arbitration Association shall submit simultaneously to each party an identical list of the names of five persons skilled in mediation of educational matters. Each party has seven days from the mailing date in which to cross off any names to which it objects, number the remaining names in order of its preference and return the list to the American Arbitration Association. If a party does not return the list within the time specified, all persons named therein shall be deemed acceptable.

5-5-1-2 From among the persons who have been approved on both lists, and in accordance with the designated order of mutual preference, the American Arbitration Association shall invite the acceptance of a mediator.

5-5-1-3 If the parties fail to agree upon any of the persons named or if those named decline or are unable to act, or if for any other reason an appointment cannot be made from such lists of names, the American Arbitration Association shall appoint a mediator from its other members without submitting additional lists.

5-6 Conducting Mediation

5-6-1 The format, dates and times of meetings will be arranged by the mediator and such meetings will be conducted in closed sessions.

5-6-2 The mediator will meet with the Board and the Association, either separately or together.

5-6-3 To the extent that tentative agreements are reached as a result of such mediation, the procedures provided in Sections 5-4-1 and 5-4-2 shall apply. If mediation fails in whole or in part, the mediator shall report the issues which remain in dispute to the respective parties.

5-6-4 The costs for the services of the mediator, including per diem expenses, if any, and actual and necessary travel expenses, shall be shared equally by the Board and the Association.

5-7 Fact Finding

5-7-1 If the mediation described in Section 5-5 has failed to bring about agreement on all issues, either the Board or the Association may request that the issues which remain in dispute be submitted to a fact finder. In the event that the parties are unable to agree on a fact finder, the fact finder shall be selected in the manner provided in Section 5-5 for selecting a mediator.

5-7-2 The fact finder will have the authority to hold hearings and make procedural rules.

5-7-3 All hearings by the fact finder shall be held in closed session and no news releases shall be made concerning progress of such hearings.

5-7-4 Within a reasonable time after the conclusion of such hearings, the fact finder shall submit a report in writing to the Board and the Association only and shall set forth in the report his findings of fact, reasoning, and recommendations on the issues submitted. The report shall be advisory only and binding neither on the Board nor the Association.

5-7-5 Within five days after receiving the report of the fact finder, the Board and the Association will meet to discuss the report. No public release shall be made until after such meeting.

5-7-6 The respective parties shall take official action on the report of the fact finder no later than fifteen days after the meeting described in Section 5-7-5 above.

5-7-7 To the extent that tentative agreement is reached on the issues in dispute as a result of such fact finding, the procedures provided in Sections 5-4-1 and 5-4-2 shall apply.

5-7-8 The costs for the services of the fact finder, including per diem expenses, if any, and actual and necessary travel expenses, shall be shared equally by the Board and the Association.

5-7-9 Either party may request that an official stenographic record of the testimony taken at the fact finding hearings be made and a copy of any transcript shall be provided to the fact finder. The party requesting a stenographic record shall pay the costs thereof except that if the other party shall request a copy of any transcript, it shall share the entire cost of making the stenographic record.

ARTICLE 6

Successor Agreement

6-1 If the Association continues as the exclusive negotiating representative of teachers for additional periods of time under procedures approved by the Board, this Agreement shall be automatically extended for such additional periods of time, otherwise it shall expire as of the date that the Association's representation of teachers shall terminate.

ARTICLE 7

Grievance Procedure

7-1 Definitions

7-1-1 A "grievance" shall mean a complaint by a teacher, or teachers, in the negotiating unit that there has been a violation, a misinterpretation, or inequitable application of any of the provisions of this Agreement, except that the term "grievance" shall not apply to any matter as to which (1) the method of review is prescribed by law, or (2) the Board is without authority to act.

7-1-2 An "aggrieved person" is a teacher or teachers asserting a grievance.

7-1-3 A "party in interest" is an employee who might be required to take action or against whom action might be taken in order to resolve a grievance.

7-2 Purpose

7-2-1 Good morale is maintained, as problems arise, by sincere efforts of all persons concerned, to work toward constructive solutions in an atmosphere of courtesy and cooperation. The purpose of this procedure is to secure, at the lowest possible administrative level, equitable solutions to the problems which may, from time to time, arise. Both parties agree that these proceedings will be kept as informal and confidential as may be appropriate at any level of the procedure.

7-2-2 Nothing herein contained will be construed as limiting the right of any teacher having a grievance, to discuss the matter informally with any appropriate member of the administration and having the grievance adjusted, provided the adjustment is consistent with the terms of this agreement. The Association shall have the opportunity to be present and to state its views at any level in the grievance procedure beyond LEVEL ONE.

7-3 Procedure

Since it is important that grievances be processed as rapidly as possible, the number of days indicated at each level should be considered as a maximum, and every effort should be made to expedite the process. The time limits specified may, however, be extended by mutual agreement.

If a grievance is filed which might not be finally resolved at LEVEL THREE under the time limits set forth herein prior to the end of the school year, and which if left unresolved until the beginning of the following school year could result in irreparable harm to a party in interest, the time limits set forth herein will be reduced so that the grievance procedure may be concluded prior to the end of the school year, or as soon thereafter as is practicable.

7-3-1 LEVEL ONE

A grievance will first be discussed with the aggrieved person's principal with the objective of resolving the matter informally, at which time the aggrieved person (1) may discuss the grievance personally, (2) may request that the Association's Representative accompany him, or (3) may request that the Association's Representative act in his behalf.

7-3-2 LEVEL TWO

7-3-2-1 If the aggrieved person is not satisfied with the disposition of his grievance at LEVEL ONE, or if no decision has been rendered within ten school days after presentation of the grievance, he may file the grievance in writing with the Association within five school days after the grievance decision has been rendered at LEVEL ONE or within fifteen school days after the grievance was presented at LEVEL ONE, whichever is sooner. Such grievance shall be then filed by the Association with the Superintendent's office within five school days after receiving such written grievance.

7-3-2-2 The Superintendent, or his designee, will represent the Administration at this LEVEL of the grievance procedure. The Superintendent, or his designee, will meet with the aggrieved person in an effort to resolve the grievance; such meeting will take place within five school days after receipt of the written grievance by the Superintendent.

7-3-3 LEVEL THREE

7-3-3-1 If the aggrieved person is not satisfied with the disposition of his grievance at LEVEL TWO, or if no decision has been rendered within ten school days after the Superintendent, or his designee, has heard the grievance, he may within five school days request in writing that the Association submit his grievance to arbitration. If the Association deems the grievance meritorious, it may demand arbitration within fifteen school days after receipt of the aggrieved person's request.

7-3-3-2 In the event the parties are unable to agree upon an arbitrator, he shall be selected in the manner provided in Section 5-5 for selecting a mediator.

7-3-3-3 The arbitrator will have authority to hold hearings and make procedural rules. He will issue a report within a reasonable time after the date of the close of the hearings or, if oral hearings have been waived, then from the date the final statements and evidence are submitted to him.

7-3-3-4 All hearings held by the arbitrator shall be in closed sessions and no news releases shall be made concerning progress of the hearings.

7-3-3-5 The arbitrator's report shall be submitted in writing to the Board and the Association only, and shall set forth his findings of fact, reasoning, conclusions, and recommendations on the issues submitted. The arbitrator's recommendations shall be consistent with law and with the terms of this agreement. His report shall be advisory only, and binding neither on the Board nor the Association.

7-3-3-6 Within five school days after receiving the report of the arbitrator, the Board and the Association will meet to discuss the report. No public release may be made until after such meeting.

7-3-3-7 The Board shall take official action on the report of the arbitrator not later than at the next regularly scheduled meeting of the Board subsequent to the meeting metioned in Section 7-3-3-6 above.

7-3-3-8 The costs for the services of the arbitrator, including per diem expenses, if any, plus actual and necessary travel and subsistence expenses, shall be shared equally by the Board and the Association.

7-3-3-9 Any party may request an official stenographic record of the testimony at the hearings under the terms and conditions provided in Section 5-7-9.

7-4 Rights of Teachers to Representation

7-4-1 Neither the Board nor any member of the administration shall take reprisals affecting the employment status of any teacher, any party in interest, any Association Representative or any other participant in the grievance procedure by reason of such participation.

7-4-2 Any party in interest may be represented at any level of the grievance procedure by a person, or persons, of his own choosing, except that he may not be represented by a representative or an officer of any teacher organization other than the Association. When a teacher is not represented by the Association, the Association shall have the right to be present and to state its views at any level of the grievance procedure except at LEVEL ONE.

7-5 Miscellaneous

7-5-1 If, in the judgment of the Association, a grievance affects a group of teachers, the Association may submit such grievance in writing directly to the Superintendent's office, and the processing of such grievances may be commenced at LEVEL TWO. The Association may process such a grievance even though the aggrieved persons do not wish to do so.

7-5-2 Decisions rendered at LEVEL TWO of the grievance procedure will be in writing setting forth the decision and the reasons therefor, and will be transmitted promptly to all parties in interest and to the Association.

Decisions rendered at LEVEL THREE will be in accordance with the procedures set forth in Section 7-3-3.

7-5-3 All written and printed matter dealing with the processing of a grievance will be filed separately from the central office personnel files of the participants.

7-5-4 To facilitate operation of the grievance procedure, necessary forms for filing, for serving notices, for making appeals, for making reports and recommendations, and other necessary documents will be jointly prepared and distributed by the Superintendent and the Association.

7-5-5 The Board agrees to make available to the aggrieved person and his representative, all pertinent information not privileged under law, in its possession or control and which is relevant to the issues raised by the grievance.

7-5-6 When it is necessary at LEVEL TWO or LEVEL THREE for a representative, or representatives, designated by the Association, to attend a meeting or a hearing called by the Superintendent, or his designee, during the school day, the Superintendent's office shall so notify the principal of such Association Representatives, and they shall be released without loss of pay for such time as their attendance is required at such meeting or hearing.

7-5-7 No grievance shall be recognized by the Board or the Association unless it shall have been presented at the appropriate level within thirty school days after the aggrieved person knew, or should have known, of the act or condition on which the grievance is based, and if not so presented, the grievance will be considered as waived, provided that no grievance shall be recognized at LEVEL TWO unless it shall have been filed with the Superintendent's office within at least forty-five days after the act or condition upon which it is based occurred.

ARTICLE 8

Teaching Hours and Teaching Load

8-1 The regular school day for teachers is from 8:30 a.m. to 3:45 p.m. Teachers scheduled to begin their duties earlier, or to continue until a later time as a result of double sessions or extended school days, will not be required to be on duty longer than the total hours of the regular day without additional compensation or compensatory time off, except as is provided in Section 8-3 below. The principal shall have authority to permit teachers divergence from the regular school day.

8-2 The work year of teachers covered by the classroom teachers' salary schedule (other than new teachers who may be required to attend pre-session orientation meetings) shall be determined by the official school calendar. Teachers shall be paid additional compensation for employment prior to or after the dates scheduled on the official school calendar. The compensation is to be determined on the basis of the then current teachers' salary schedule.

8-3 The principal, together with the School Building Committee, will make decisions relating to building meetings and evening meetings in each school. Generally, Wednesday will be the day used for such meetings. One Wednesday each month may be used for Area meetings, or other such meetings, called by the Superintendent. It is assumed that such meetings will be used only as necessary to insure effective school operation.

8-4 Teachers assigned to new positions during the regular school year may be required to attend additional in-service orientation sessions.

8-5 Teachers will have an uninterrupted, duty-free period of at least forty-five minutes for lunch except when emergencies or special events make it necessary to alter the schedule. Teachers shall be permitted to leave the building during their lunch periods. The school office will be notified when a teacher plans to be out of the building during this time.

8-6 Teachers shall have a planning period each day during which they will not be assigned to any other duties except for emergencies or unusual scheduling problems.

8-7 The accepted and desirable teaching load for secondary school teachers shall be five teaching periods a day. This should include classes in not more than two subject areas nor more than three teaching preparations except in cases where unusual circumstances require other provisions.

8-8 If a teacher is placed in charge of a building during the absence of the principal from that building, the teacher may reasonably expect relief from one or the other of his assignments (either office or classroom) as the length of the principal's absence seems to require.

8-9 The Board and Association agree that matters concerning class size, flexible scheduling, maximum teaching load and other related subjects, need continuing study and investigation. These will be taken up by the Professional Council for action.

ARTICLE 9

Teacher Schedules

9-1 Teachers shall be notified of their tentative program, schedule, or grade level assignment for the ensuing year as soon as the master schedule is prepared. In addition, they will be notified of any changes in their tentative program, schedule, or grade level assignment for the ensuing year, including the schools to which they will be assigned, as soon as practicable.

9-2 In order to assure that students are taught by teachers working within their areas of greatest competence, teachers shall not be assigned, except in accordance with the regulations of the State Board of Education and for good cause shown, to subjects or grades or other classes outside the scope of their teaching certificates or their major or minor fields of study.

9-3 In arranging schedules for teachers who are assigned to more than one school, an effort shall be made to limit the amount of interschool travel. Such teachers shall be notified of any change in their schedules as soon as practicable.

9-4 Teacher schedules shall be made without regard to race, creed, color, national origin, sex, marital status, or membership in any teacher organization.

9-5 Experience levels of teachers will be given consideration in terms of school, schedule, program, or grade level assignments.

ARTICLE 10

Non-Teaching Duties

10-1 The Board and the Association recognize that a teacher's primary responsibility is to teach and that his energies should, to the extent possible, be utilized to this end. Therefore, the Board agrees to make every effort to reduce the following non-teaching duties through the use of teacher aides and part-time clerical assistants so that teachers will have more time to devote to teaching activities:

Non-teaching assignments, including but not limited to, health services, supervision of study halls, corridors, playgrounds, cafeterias, streets and sidewalks, and busses.

Collecting money from students.

Delivering books to classrooms, taking inventories, duplicating instructional and other materials, calculating attendance records, and other similar clerical functions.

10-2 Teachers shall not be required to transport pupils to activities which take place away from the school building.

10-3 The Board and Association agree that the efficiency and effective use of teacher aides is an area that needs continuing study and investigation. This will be taken up by the Professional Council.

ARTICLE 11

Teacher Evaluation

11-1 Evaluation of a teacher's performance shall be conducted in accordance with acceptable personnel practice. The teacher will be fully informed by the principal as to how such evaluation shall be conducted.

11-2 Teachers will be given a copy of any evaluation report and will discuss such report with the person preparing it before it is submitted to the permanent central office teacher's file. After such review, the teacher shall affix his signature to indicate that he is aware of the contents of the report.

11-3 Participation in extra-curricular activities shall not constitute a valid basis for evaluating a person's classroom teaching performance.

11-4 No teacher's compensation shall be reduced below the amount to which he is entitled under the then current salary schedule without just cause, provided, however, that if a teacher is receiving additional compensation for the performance of additional duties, such additional compensation shall not be payable in the event the teacher is relieved of such additional duties. Whether or not just cause exists in any case shall be subject to the grievance procedure.

ARTICLE 12

Teacher Files

12-1 All teacher permanent central office files shall be maintained under the following conditions:

12-1-1 All materials placed in the permanent central office teacher's file, and originating within the School District, from this date forth shall be available to the teacher at his request for inspection.

12-1-2 Material originating within the School District and which is derogatory to a teacher's conduct, service, character or personality shall not be placed in a teacher's file unless the teacher has had an opportunity to read the material.

The teacher shall acknowledge that he has read such material by affixing his signature on the actual copy to be filed. Such signature does not necessarily indicate agreement with the content of such material.

12-1-3 The teacher shall have the right to answer any material filed, and his answer shall be reviewed by the Assistant Superintendent for Personnel Services and attached to the file copy.

12-1-4 All references and information originating outside the School District on the basis of confidentiality and information obtained within the School District in the process of evaluating the teacher for employment shall not be subject to this agreement and therefore shall not be available for inspection by the teacher.

ARTICLE 13

Instructional Materials

13-1 The Board will endeavor to provide sufficient instructional materials to insure that each pupil will have the best possible access to them.

13-2 Each school will be allocated a revolving fund through their .240 budget account to be used for the purchase of instructional materials that are not otherwise readily obtainable by the teacher. Each teacher may request of the principal authorization for such items as specially needed in his class.

13-3 The Board and Association agree that matters concerning instructional materials need continuing study and investigation. This will be taken up by the Professional Council.

ARTICLE 14

Transfer

14-1 A change in teaching position from one school to another may be requested by the teacher affected, by the principal of the teacher's school, or may be initiated by the Superintendent and his staff. The approval of the Superintendent or his designee is required.

14-2 General Principles

14-2-1 The principle criterion for consideration of a request for transfer is whether or not the request will result in the best educational program for the School District. A request for transfer will not be granted if the teacher does not qualify for the existing vacancy.

14-2-2 The best educational program results from the selection of a school faculty which is well-balanced in terms of the teachers' experience, general background, and competence. Careful consideration will be given to each of the above when filling vacancies.

14-3 Transfer -- Requested by Teacher

14-3-1 Not later than April 20 of each school year, the Superintendent shall have posted in the office of each school, a list of the known vacancies which will occur during the following school year.

14-3-2 Teachers who desire a transfer to another building shall file a request on the appropriate form with the Superintendent not later than May 1 of each year. Requests on file prior to the posting of vacancies will also be considered. If a transfer is to be made, the teacher and the administrators concerned will be notified in writing of the new assignment. Except in unusual cases, teachers who are to be transferred will be notified before May 20.

14-3-3 Not later than May 20 of each school year, the Superintendent shall have posted in the office of each school building a supplemental list of known vacancies which will occur during the following school year.

14-3-4 Not later than June 1 of each school year, teachers may file applications for transfers to positions listed on the supplemental list of vacancies. Requests on file previous to the posting of vacancies will also be considered. If a transfer is to be made, the teacher and administrators concerned will be notified in writing of the new assignment. Except in unusual cases, teachers

who are to be transferred will be notified in writing before the close of the school year.

14-3-5 No assignments of new teachers in the school system shall be made until all pending requests for transfer have been processed. If a teacher does not wish to be considered for vacancies which occur in the summer, the teacher must cancel his request for transfer in writing.

14-3-6 In considering a request for transfer, the convenience and wishes of the individual teacher will be honored to the extent that they do not conflict with the instructional requirements and best interests of the School District.

14-3-7 If more than one teacher has applied for the same position, the teacher best qualified for that position shall be appointed. Qualifications being substantially equal, seniority in the School District shall control.

14-3-8 All requests for transfer on file in the Superintendent's office shall be destroyed on October 31 of each year. All renewals or new requests for transfer must be filed on or after November 1 of each year.

14-3-9 Nothing in this Article shall prevent a teacher from requesting a transfer at any time.

14-3-10 On or about June 15, the Superintendent shall make available to the Association a system-wide schedule showing the names of all persons who have been transferred and the nature of such transfers. A supplemental listing of transfers and their nature shall be made available to the Association by the end of August.

14-4 Transfers -- Requested by Administration

14-4-1 Notice of transfer shall be given to teachers as soon as practicable and, under normal circumstances, not later than June 1 of each school year.

14-4-2 A transfer will be made only after a meeting between the teacher involved and the Superintendent, or his designee, at which time the teacher will be notified of the reasons therefor. In the event that the teacher objects to the transfer, he may immediately notify the Association. The Superintendent, or his designee, will then meet with the teacher and the Association representative to discuss the matter.

14-4-3 A list of open positions in the school system will be available to all teachers being transferred. When a choice of positions is possible, teachers may indicate an order of preference for appropriate consideration.

14-4-4 Transfers because of changes in enrollment or other unusual situations may be made at any time.

ARTICLE 15

Summer School and Evening School

15-1 Summer School

15-1-1 A statement of all subject area openings for summer school teachers will be adequately publicized by the Superintendent and shall be posted in each school building as early as possible, and under normal conditions not later than the preceding March 15. Applications must be submitted within two weeks of the posting of said notices. Teachers who have applied for such summer school positions will be notified of the action taken regarding their applications as early as practicable, and under normal circumstances not later than May 10.

15-1-2 Positions in summer school will, to the extent possible, be filled first by regularly appointed teachers in the Denver Public Schools.

15-1-3 In filling such positions, consideration will be given to a teacher's area of competence, major and minor fields of study, quality of teaching performance, and attendance record.

15-1-4 In areas where there are more qualified applicants for summer school positions than positions available, preference shall be given to applicants who have taught not more than two summer sessions immediately preceding the current year.

15-1-5 When a sufficient number of regularly appointed teachers in the Denver Public Schools is not available to fill the positions, they will then be filled next in order of preference, by substitute teachers in the Denver Public Schools

To the extent that they are applicable, the same criteria that are used in making appointments from among regularly appointed teachers will be used in regard to substitute teachers.

15-1-6 Teachers employed in summer school may use previously accumulated sick leave but shall not be entitled to additional sick leave credits by reason of summer school employment.

15-1-7 Summer school teachers shall be paid an hourly rate of pay according to the formula set forth in Section 2-1-2 of Schedule 2 attached hereto and applied to the then current salary schedule.

15-2 Evening School

15-2-1 Teachers who wish to apply for positions in the evening school, except for the adult vocational education classes, shall make written application directly to the Emily Griffith Opportunity School prior to June 1 for the following school year.

Teachers who have applied for such evening school positions will be notified of the action taken on their applications as early as practicable and under normal circumstances not later than September 1.

15-2-2 Positions in the evening school except for adult vocational education classes will, to the extent possible, be filled first by regularly appointed teachers in the Denver Public Schools.

15-2-3 In filling such positions, consideration will be given to a teacher's area of competence, major and minor fields of study, quality of teaching performance, and attendance record.

15-2-4 In areas where there are more qualified applicants for evening school positions than positions available, preference shall be given to applicants who have taught not more than two years immediately preceding the current school year.

15-2-5 When a sufficient number of regularly appointed teachers in the Denver Public Schools is not available to fill the positions, they will then be filled next in order of preference, by substitute teachers in the Denver Public Schools. To the extent that they are applicable, the same criteria that are used in making appointments from among regularly appointed teachers will be used in regard to substitute teachers.

15-2-6 Evening school teachers shall be paid an hourly rate of pay according to the formula set forth in Section 2-1-2 of Schedule 2 attached hereto and applied to the then current salary schedule.

ARTICLE 16

Vacancies in Other Than Classroom Teaching Positions

16-1 A copy of the "Job Descriptions for Personnel in Administrative, Supervisory, Teaching, and Auxiliary

Assignments" shall be placed in the faculty room, library, or other appropriate place in each school or department. This manual is to include the official title, function, responsibility and authority, typical duties, and specification profile of each job classification. A copy of the current salary schedule will be included in the manual.

16-2 Teachers who desire consideration for vacancies in other certificated positions may submit a letter of application to the Assistant Superintendent for Personnel Services at any time.

16-3 The Assistant Superintendent for Personnel Services shall acknowledge promptly in writing the receipt of such application.

ARTICLE 17

Teacher Facilities

17-1 Each school will have the following facilities:

17-1-1 Space in each classroom in which teachers may safely store instructional materials and supplies, provided that the Board shall not be held to be the insurer of the teachers' personal belongings stored in such space.

17-1-2 A desk and chair for each teacher except in unusual circumstances.

17-1-3 Well-lighted and clean teacher rest rooms.

17-2 In so far as financially practicable and as expeditiously as possible, each school shall be provided with the following:

17-2-1 A work room for teachers containing equipment and supplies to aid in the preparation of instructional materials.

17-2-2 A furnished room to be used as a faculty lounge. Such room will be in addition to the aforementioned teacher work room.

17-2-3 Telephone service available to teachers which permits privacy of conversation.

17-2-4 Space in the parking lot at each school will be reserved for teacher parking.

17-3 When new schools are constructed, they will include teacher facilities of the nature noted above.

ARTICLE 18

Personal Injury Benefits and Property Damage

18-1 Temporary Disability

18-1-1 Whenever a teacher is temporarily absent from school and temporarily unable to perform his duties as a result of personal injury incurred in the scope and course of his employment and not the result of his own negligence, he will be paid his full salary less the amount of any workmen's compensation payments or award made for temporary disability due to said injury for the period of such temporary absence for a total period of six months from the date of such injury, or remainder of the school year, whichever is longer. No part of such temporary absence, not in excess of a total period of six months from the date of such injury will be charged against the teacher's ordinary sick leave.

18-1-2 The Board shall have the right to have the teacher examined by a physician designated by the Board to assist it in determining the length of time during which the teacher is temporarily unable to perform his duties, and that the disability is attributable to the injury involved. In the event that there is an adjudication of the period of temporary disability in the appropriate workmen's compensation proceeding, the Board may adopt such adjudication.

18-2 The Board will reimburse teachers for any clothing or other personal effects damaged or destroyed in the scope and course of employment, provided such damage or destruction is not the result of the teacher's negligence.

ARTICLE 19

Teacher Protection From Assaults

19-1 Any teacher who has suffered any assault in connection with his employment shall immediately make a written report of the circumstances thereof to his principal and shall make supplemental written reports attaching copies of any summons, complaint, process, information, indictment, notice or demand served upon him in connection with such assault within five days after he has been served therewith, and reporting the final disposition of any such proceeding.

19-2 Such reports will be forwarded to the Board through the Superintendent's Office and, in the event civil or criminal proceedings are brought against the teacher, the Board will comply with any reasonable request by the teacher for information in the Board's possession not privileged by law or policy of the District and relevant to the incident reported.

19-3 If criminal or civil proceedings are brought against a teacher alleging that he committed an assault in connection with his employment, such teacher, after making the reports described in Section 19-1 above, may request the Board's assistance in the preparation of the teacher's defense. Upon receipt of such request, the Board will instruct its attorney to consult with the teacher's legal counsel and cooperate with him in the preparation of the teacher's defense, insofar as the interests of the teacher and the District are not conflicting.

19-4 Nothing in this Article shall prejudice any action that the Board might otherwise take regarding the teacher's employment status.

19-5 Liability insurance coverage in the amount of $100,000.00 shall be provided to each teacher. Costs of such coverage shall be paid by the Board, provided that such costs shall not vary substantially from the preliminary cost estimate of $2,500.00 per year, upon which this agreement is based.

19-6 The Board and the Association reaffirm their support of DPS Policy #1214 A, Pupil Conduct.

ARTICLE 20

Group Life Insurance

20-1 It is recognized by the Board and the Association that the group life insurance program of the School District is a condition of employment affecting all of the School District employees and cannot be negotiated with any single group. Therefore, the Board and Association agree that the following Association proposal shall be submitted to a vote of all School District employees to ascertain their preferences in connection with any change in the current group life insurance program:

> The amount of employee participation in the group life insurance program shall be reduced from 25¢ to 10¢ per $1,000.00 of group life insurance coverage per month above the initial $2,000.00 of coverage.

20-2 It is further agreed that other proposals which are within the monetary limitations suggested by the Association's proposal may be submitted to the School District's employees at the same time.

20-3 The results of such vote can not be binding on the Board, but in reaching its decision, the Board agrees to be guided by the preferences so expressed.

ARTICLE 21

Transportation Allowance

21-1 Teachers whose duties require daily travel between two or more schools are authorized reimbursement for automobile use. They will be paid a flat rate of $15.00 per month, vacation time and time off payroll excluded, to cover the cost of owning a car available to the District, plus six cents per mile for operating costs. Teachers authorized transportation allowance are required to carry bodily injury liability insurance of not less than $50,000.00 per person and $100,000.00 per accident, and property damage liability insurance of not less than $5,000.00.

21-2 Teachers whose duties require less than daily travel between two or more schools shall be reimbursed at the rate of ten cents per mile for the use of their personal automobile.

21-3 Teachers authorized transportation allowance but not owning or driving an automobile are reimbursed for actual bus fare expenditures.

ARTICLE 22

Salaries

22-1 Effective September 1, 1968, the salary schedule for all teachers covered by this Agreement shall be as set forth in Schedules 1 and 2 which are attached to this Agreement and made a part of this Article by this reference.

22-2 Special Increment

22-2-1 The currently existing special increment of $350.00 per annum which is granted to regular contract tenure teachers who have completed at least seventeen years of active teaching service with the Denver Public Schools, including probationary years, will remain in effect until September 1, 1968.

22-2-2 Effective September 1, 1968, the amount of such special increment will be increased from $350.00 per annum to $400.00 per annum and the teaching service requirement will be reduced from seventeen years to fifteen years of active teaching service with the Denver Public Schools, including probationary teaching service.

22-2-3 Those teachers who have or shall have qualified for the currently existing special increment described in Section 22-2-1 above, prior to September 1, 1968, shall receive an additional $50.00 per annum effective September 1, 1968.

22-3 After September 1, 1968, additional special increments will be granted to teachers who have or shall have qualified for the special increment described in Section 22-2 above and who shall have performed additional five year periods of active teaching service with the Denver Public Schools after having qualified for the special increment described in Section 22-2 above or after September 1, 1968, whichever is later. The amount of such additional increments shall be $400.00 per annum for each such five year period of active teaching service.

22-4 Effective September 1, 1968, teacher participation in the extra-curricular activities of athletics coaches, band, dramatics, and forensics directors shall receive additional compensation in accordance with the applicable provisions of Section 2-1-6 of Schedule 2.

22-4-1 Present practices and policies concerning extra-curricular compensation for duties beyond the regular school day shall continue in effect.

22-4-2 The Board and Association agree that matters concerning additional compensation for duty beyond the regular school day need continuing study and investigation. These will be taken up by the Professional Council for action.

ARTICLE 23

Sick Leave

23-1 Each teacher shall be entitled to sick leave with full pay for up to ten school days in each year. When the effective date of appointment of a teacher is before the beginning of the second semester of any year, he will be given credit for the full annual sick leave allowance. When the effective date of appointment of a teacher is on or after the beginning of the second semester, the teacher will be given credit for five days sick leave allowance. Unused sick leave shall be accumulated from year to year.

23-2 In the event of absence of a teacher for illness or accident in excess of twenty consecutive school days, the Board may require an examination by a physician, such examination to be at the Board's expense.

23-3 In the event a teacher has used all his accumulated sick leave, he may request that the Board grant him additional leave. The Board may require an examination by a physician, such examination to be at the Board's expense.

23-4 Long-term substitute teachers who are assigned to duty for sixteen or more consecutive school days are credited with that proportionate part of five days sick leave as the remaining days in the semester are to the total days in the semester.

23-5 Previously accumulated sick leave days will be restored to all reappointed teachers.

ARTICLE 24

Temporary Leaves of Absence

24-1 Teachers shall be granted the following temporary leaves of absence with pay during each school year upon written application to the principal. Exceptions may be made during periods of emergency, when there is an unusual number of teacher absences because of illness and when there is an inadequate supply of substitute teachers available. The Superintendent will notify the Association when such periods of emergency occur when some leaves may not be granted.

24-1-1 Two days of leave with full pay during each school year for the purpose of transacting or attending to personal, legal, business, household, or family matters which require absence during school hours. It is intended that leave under this Article shall be available for reasons of hardship or other pressing need, and not merely for personal convenience.

24-1-2 One day leave to receive a college degree.

24-1-3 One day leave to attend the graduation of a member of the teacher's immediate family (father, mother, brother, sister, son, daughter, husband, wife).

24-1-4 Up to five days leave in event of the death or serious illness in the teacher's immediate family (father, mother, brother, sister, son, daughter, husband, wife or persons living in the teacher's household). Such leaves are to be charged to sick leave.

24-1-5 Up to three days leave for religious holidays.

24-1-6 Up to two days leave to visit other schools or school systems for the purpose of improving classroom instruction and upon the completion of prior arrangement with the schools or school system involved.

24-1-7 The time necessary for appearances in any legal proceeding connected with the teacher's employment or with the school system or in any other legal proceedings if the teacher is required by law to attend.

24-2 The Superintendent, or his designee, may grant permission to teachers to attend educational meetings without loss of pay, but permission to be absent from any assignment for more than ten days (not necessarily consecutive) in any one year is granted only by the Board of Education upon the recommendation of the Superintendent, or his designee. A record of the conditions of such permission is kept on file in the Office of the Assistant Superintendent for Personnel Services.

24-3 All leaves granted under the provisions of this Article, will be in units of full days or half days.

24-4 Leaves requested under this Article during the opening three full weeks or closing two weeks of the school year, the closing week of the first semester, and the opening week of the second semester, will be granted only in unusual circumstances.

24-5 Application for leaves of absence under this Article should be submitted as far in advance as possible to the principal for clearance, and must be submitted at least 24 hours before taking such leave except in the case of emergencies.

ARTICLE 25

Extended Leaves of Absence

25-1 The Board agrees that up to three teachers designated by the Association will upon request be granted a leave of absence for up to two years, without pay, for the purpose of engaging in Association (local, state, national) activities. Upon return from such leave, a teacher will be considered as if he were actively employed by the Board during the leave and will be placed on the salary schedule at the level he would have achieved if he had not been absent.

25-2 Peace Corps leave will be granted, without pay, any teacher who enlists for a period not to exceed two years. Upon return from such leave, a teacher will be placed on the salary schedule at the level which he would have achieved had he remained actively employed in the system during the period of his absence. Peace Corps leave is for one year at a time and the teacher must renew his leave for an additional year.

25-3 Military Leave

25-3-1 Emergency military leave as provided by Colorado Revised Statutes 1963, 94-1-34 will be granted, without pay, to any teacher who is inducted or enlists in active military services in time of war or other emergency declared by the proper authority of the State or of the United States. Upon return from such leave, a teacher will be placed on the salary schedule at the level which he would have achieved if he had not taken such leave. Military leave is for one year at a time and the teacher must renew his leave each year thereafter for the duration of the period of such war or other emergency.

25-3-2 A military leave of up to fifteen days in any calendar year without loss of pay or other benefits under the provisions of Colorado Revised Statutes 1963, 94-1-33 will be granted to any teacher who is a member of the National Guard or any other component of the military forces of the State or reserve forces of the United States and who is engaged with such organization or component in training or active service ordered or authorized by proper authority pursuant to law.

25-4 Regularly appointed teachers who have completed at least three continuous years of service shall be granted maternity leave of up to two years without pay or increment. A teacher who becomes pregnant shall notify her principal in writing as soon as pregnancy has been definitely determined. Continued employment will normally be possible until the end of the twenty-fourth week of pregnancy, but will depend upon the physical condition of the teacher. Appropriate medical evidence of fitness will be required prior to return from such leave, but a teacher will in no event return earlier than the beginning of the semester following the date on which the child is six months old.

25-5 Regularly appointed teachers who have completed at least three continuous years of service shall be granted a leave for the adoption of a child of up to two years without pay or increment. The adoptive mother shall notify her principal and the Executive Director for Personnel Services as soon as the date of adoption has been definitely determined. The adoptive mother shall state the birth date of the child at the time of such notification. If the child is less than six months old, the teacher will in no event return earlier than the beginning of the semester following the date on which the child is six months old.

25-6 A leave of absence of up to one year, without pay or increment, will be granted for the purpose of caring for a sick member of the teacher's immediate family and such leave may be extended for one year.

25-7 Any teacher whose personal illness extends beyond accumulated sick leave allowable will be granted a leave of absence of up to one year without pay or increment, and such leave may be extended for one year. Request for such leave must be accompanied by a statement from a regularly licensed physician that such leave is necessary. The request for such leave also must be approved by the Director of the Department of Health Services. Upon return from such leave, a teacher will be assigned to the same position, if available, or, if not, to a substantially equivalent position.

25-8 Regularly appointed teachers who have completed at least ten years of active service in the Denver Public Schools will be granted, upon request, a year's leave of absence with one-half pay for restoration of health. Upon return from such leave, the teacher will be considered as if he were actively employed by the Board during the leave and will be placed on the salary schedule at the level he would have achieved if he had not been absent. Request for such leave must be accompanied by a statement from a regularly licensed physician that such leave is necessary. The request for such leave also must be approved by the Director of the Department of Health Services. Such leave of absence may be extended without pay or increment for an additional year. Maternity and adoption leave is not covered by this section.

25-9 A teacher has the right to become a candidate for public office and to serve in such elective office unless there is a specific legal prohibition. Regularly appointed teachers who have completed at least three continuous years of service will be granted a leave of absence without pay in order to run for, or serve in, public office.

25-10 Regularly appointed teachers who have completed at least three continuous years of service in the Denver Public Schools shall be granted upon request, leaves of

up to one year without pay or increment for professional study, travel, or research other than those covered under Article 26, Sabbatical Leaves of Absence. Such leaves may be extended up to one year without pay or increment.

25-11 All requests for extended leaves of absence will be applied for and granted in writing.

25-12 The time on extended leaves of absence shall not be counted in computing the probationary period required for tenure purposes.

ARTICLE 26

Sabbatical Leaves of Absence

26-1 Sabbatical leaves of absence are granted for professional improvement upon recommendation by the Superintendent, subject to the following conditions:

26-1-1 Requests for sabbatical leaves of absence must be received by the Superintendent in writing in such form as may be required by the Superintendent not later than November 1 or April 1 of the year preceding the semester of the school year in which the sabbatical leave is requested except in the case of emergencies.

26-1-2 The teacher must have completed at least five consecutive full school years in active service as a regularly appointed teacher in the Denver Public Schools, in order to be eligible to request a sabbatical leave.

26-1-3 Teachers on sabbatical leaves of absence will be paid at one-half of their annual salary rate. Upon return, the teacher shall be placed on the appropriate step in the salary schedule as though such teacher had not been on leave.

26-1-4 A sabbatical leave of absence may be extended without pay or increment for one additional year.

26-1-5 The teacher shall agree to return to employment with the Denver Public Schools for one full year in the event of a one-half year leave of absence, or two full years in the event of a full year leave. The teacher also shall agree to notify the Office of the Superintendent for approval of any projected changes in his plan for professional improvement.

26-1-6 The teacher returning from a sabbatical leave of absence for professional improvement shall submit to the Superintendent a report containing transcripts of all college and university study while on leave, a description of travel, and all other items of information pertinent to an evaluation of his program.

ARTICLE 27

The Professional Council

27-1 The Professional Council shall be composed of the Executive Director and five members of the Executive Committee of the Association, the Superintendent and five persons designated by him.

27-2 The Professional Council shall meet at least once a month during the school year to discuss and study subjects mutually agreed upon relating to the school system.

27-3 The Professional Council is empowered to appoint committees composed of teachers and administrators to study and report upon mutually agreed upon subjects. On completion of its study and report on the subject assigned to it, each committee shall be considered dissolved, and once dissolved no committee shall be reactivated except by mutual consent of the members of the Professional Council.

27-4 The clerical expenses of the Professional Council and its sub-committees shall be paid by the Board.

27-5 Association representatives on the Professional Council shall be released from school duties for monthly meetings of the Professional Council without loss of salary whenever it is jointly decided to hold such meetings during the school day. Members of subcommittees may also be excused without loss of salary under the same conditions.

ARTICLE 28

School Building Committees

28-1 A committee of teachers shall be created in each school building from a faculty of that building.

28-1-1 In schools having a faculty of fewer than forty teachers, the committee shall consist of three teachers. Two members of the committee shall be elected by the teachers in the building. One member of the committee shall be appointed by the Association.

28-1-2 In schools having a faculty of at least forty teachers, but fewer than eighty teachers, the committee shall consist of five teachers. Three members of the committee shall be elected by the teachers in the building. Two members of the committee shall be appointed by the Association.

28-1-3 In schools having a faculty of eighty or more teachers, the committee shall consist of seven teachers. Four members of the committee shall be elected by the teachers in the building. Three members of the committee shall be appointed by the Association.

28-2 All elections under Section 28-1, above, shall be conducted by the Association members within the school. All teachers within the school shall be eligible to vote for and hold elective positions of the committee irrespective of membership in the Association.

28-3 The principal of each school shall meet at least once a month during the school year with the School Building Committee to discuss school operations and questions relating to the implementation of this Agreement.

28-4 The principal may have additional administrative staff from the building present at such meetings if he so desires. Additional meetings may be held at the request of either party. Proposed changes in existing rules and procedures and new rules and procedures for each school shall be subjects for discussion at such meetings. Such rules shall not be inconsistent with the terms of this Agreement.

ARTICLE 29

Association President

29-1 The Board shall grant leave for one year, with pay, to the President of the Association during his term in office. The Association shall reimburse the Board for one-half of the President's salary.

29-2 The President of the Association, or his authorized designee, shall be allowed to visit schools. Upon his arrival at any school, he shall notify the office or the principal in order to facilitate the purpose of his visit.

29-2-1 Visits that are made to solve special problems of teachers which necessitate the interruption of class schedules shall be arranged for in advance with the principal, or in his absence, the acting administrator.

ARTICLE 30

Use of School Facilities

30-1 The Association will have the right to use school buildings for meetings, without cost, as approved by the

appropriate administrative office provided that such meetings do not interfere with the normal operation of the school.

30-1-1 Meetings of Association groups within a school shall be arranged for in advance through the office of the principal.

30-1-2 General Association meetings shall be arranged for by request to the Building Use Office, School Administration Building, on Denver Public Schools Form 1619, on or before October 1 of each school year. The Building Use Office should be informed of any subsequent changes in dates, times, or rooms to be used. Emergency meetings may be arranged for by contacting the Building Use Office at other times during the school year.

30-2 The Association will have the right to place notices, circulars, and other material on designated school bulletin boards and in teachers' mail boxes.

30-2-1 Authorized representatives of the Association will assume responsibility for posting or distributing of materials for the Association.

30-2-2 An information copy of distributed notices, circulars, and other material shall be sent to the principal at the time of posting or distribution.

30-2-3 Any material of political nature which endorses or opposes a political issue or a candidate for public office may not be so distributed or posted.

ARTICLE 31

Dues Deduction

31-1 The Board agrees to deduct from teachers' salaries an amount to cover dues for the Association, the Colorado Education Association, and the National Education Association, as the teachers individually and voluntarily authorize the Board to deduct, and to transmit the amount so authorized to the treasurer of the Association.

31-2 Every teacher who desires to authorize such deduction shall file with the School District Secretary through the office of the Association, a signed and dated "Denver Classroom Teachers Association Salary Deduction Authorization Form" authorizing the School District Treasurer to deduct from his monthly earnings and to remit to the treasurer of the Association, an amount equal to 1/12 of the dues required for membership in the organization or organizations specified in Section 31-1 above. Such forms shall include a waiver of all right and claim against the Board and the School District and the officers and agents thereof, for monies deducted and remitted in accordance with said authorization, and an agreement that such deductions and remittances shall continue from year to year as so authorized, unless such teacher notifies the School District Secretary in writing, on an appropriate form, that he desires to discontinue or to change such authorization, said notice to be received by the first day of the month in advance of the effective date of such discontinuance or change.

31-3 Deductions shall be made uniformly on each monthly payroll period. The School District Secretary shall not be required to honor for any month's deduction, any authorizations that are delivered to him later than the tenth day of the month prior to the distribution of the payroll from which the deductions are to be made.

31-4 If a teacher who is absent on account of sickness, leave of absence, or for any other reason has no earnings due him for the month, no deductions will be made for that teacher for that month. The Association will arrange collection of dues for that month directly with the teacher.

31-5 The Association agrees to save the Board harmless from any action growing out of these deductions and commenced by any teacher against the Board or the School District and assumes full responsibility for the disposition of the funds so deducted once they have been turned over to the treasurer of the Association.

31-6 A service charge of five cents per month per individual teacher authorization shall be retained by the school district to help defray costs of making such deduction.

ARTICLE 32

Effective Dates and Duration

32-1 The provisions of this Agreement which do not require expenditure of School District funds shall be effective as of the date of this Agreement. The provisions of this Agreement regarding salary increases shall be effective September 1, 1968. All other provisions of this Agreement shall be effective January 1, 1968.

32-2 This Agreement shall remain in full force and effect until April 6, 1969, at which time it shall terminate unless the Association shall continue as the sole negotiating representative of the teachers of the School District under procedures to be approved by the Board.

IN WITNESS WHEREOF the parties have caused their corporate names to be hereunto subscribed by their respective presidents and their corporate seals to be hereunto affixed and attested by their respective secretaries, the day and year first above written.

Attest:

Kenneth R. Gher
Secretary

SCHOOL DISTRICT NO. 1 IN THE CITY AND COUNTY OF DENVER AND STATE OF COLORADO

by James D. Voorhees, Jr.
President

Attest:

Donna Jean Purbaugh
Secretary

DENVER CLASSROOM TEACHERS ASSOCIATION

by A. H. Barnes
President

SCHEDULE 1

Teacher Salary Schedule
(Effective September 1, 1968)

Degree	Baccalaureate	Baccalaureate + 45*	Baccalaureate + 90*	Master's	Master's + 45*	Master's + 90*	Doctorate
Years of Service							
1	6000	6100	6200	6200			
2	6100	6200	6300	6300			
3	6300	6400	6500	6500			
4	6650	6950	7250	7250			
5	6950	7250	7550	7550			
6	7250	7550	7850	7850			
7	7550	7850	8150	8450	9050		
8	7875	8175	8475	8850	9375		
9	8200	8500	8800	9175	9700		
10	8525	8825	9125	9500	10025	10350	10675
11	8875	9175	9475	9925	10375	10700	11025
12	9225	9525	9825	10275	10725	11150	11375
13	9575	9875	10175	10625	11000	11370	11690

*quarter hours

SCHEDULE 2

2-1 Compensation of teachers being paid by month, day, or hour shall be based upon the following formula and amounts effective September 1, 1968.

2-1-1 Curriculum development assignments - $6.15 per hour

Divide the Master's annual salary at midpoint on the schedule by the number of contract days (190) in the regular school year for contract teachers and further divide by the number of hours (7-1/4) in a contract teacher's day.

2-1-2 Summer school and evening school teaching - $6.15 per hour

Divide the Master's annual salary at midpoint on the schedule by the number of contract days (190) in the regular school year for contract teachers and further divide by the number of hours (7-1/4) in a contract teacher's day.

2-1-3 Inservice education - $4.00 per hour

Sixty-five percent of the rate paid for curriculum development assignments.

2-1-4 Substitute teachers (16 or more days) - $31.60 per day

Divide the beginning Baccalaureate salary by the number of contract days (190) in the regular school year for a contract teacher.

2-1-5 Teachers for homebound children - $6.15 per hour

Divide the Master's annual salary at midpoint on the schedule by the number of contract days (190) in the regular school year for contract teachers and further divide by the number of hours (7-1/4) in a contract teacher's day.

2-1-6 Extracurricular Activities

Athletics coaches, band, dramatics, and forensics directors

Athletics coaches, band, dramatics, and forensics directors receive their regular salaries as teachers plus an extra stipend for extra activities.

Activity	Index	Activity Salary	Salary Per Month
Head football coach	1.00	$600.00	$200.00
Head golf coach	.60	360.00	120.00
Head tennis coach	.60	360.00	120.00
Head cross country coach	.60	360.00	120.00
Head basketball coach	1.00	600.00	200.00
Head wrestling coach	.875	525.00	175.00
Head swimming coach	.725	435.00	145.00
Head baseball coach	.825	495.00	165.00
Head track coach	.825	495.00	165.00
Head gymnastics coach	.725	435.00	145.00
Assistant football coach	.80	480.00	160.00
Assistant basketball coach	.80	480.00	160.00
Assistant wrestling coach	.75	450.00	150.00
Assistant baseball coach	.70	420.00	140.00
Assistant track coach	.70	420.00	140.00
Band director	.60	360.00	40.00
Dramatics director	1.20	720.00	80.00
Forensics director	1.35	810.00	90.00

Band, dramatics, and forensics directors are compensated for nine months. All other positions are for three months.

Based on an index with 1.00 being equivalent to ten percent (10%) of the minimum baccalaureate salary.

Special Items

GRIEVANCE PROCEDURES CONTAINED IN NEGOTIATION AGREEMENTS

Grievance procedures are found in 370 (24 percent) of the 1,540 negotiation agreements between school boards and professional employees for 1966-67 on file in the NEA Research Division depository. In the event a grievance is not settled within the administration channels of the school system, 314 (85 percent) of these 370 grievance procedures provide for the final appeal to be made to an agency outside the local school system. This agency's finding may be advisory or final and binding. Advisory arbitration, mediation, or fact finding is specified in 58 percent of the 314 grievance procedures which provide for outside appeal; final and binding arbitration is the termination point in 35 percent.

Nine out of 10 of the 370 grievance procedures are contained in agreements from states which had passed negotiation statutes prior to the NEA Research Division's survey. Of all agreements in Michigan, 95 percent contain a grievance procedure, and 29 percent provide final and binding arbitration of grievances. Of all agreements in Massachusetts 82 percent contain grievance procedures, but 62 percent provide for the settlement of grievances through final and binding arbitration. Other states in which agreements provide final and binding arbitration of grievances are, in descending order of frequency: Rhode Island (22.2 percent), Connecticut (17.2 percent), New York (6.4 percent),[1/] Pennsylvania (2.3 percent), Illinois (1.6 percent), Wisconsin (1.5 percent), and New Jersey (0.6 percent).

Of the 314 grievance procedures providing appeal to an outside agency, 142 (45 percent) specify that the selection of the arbitrator, mediator, or review panel is to be made through the state labor board. These labor boards are provided in Massachusetts, Michigan, and Wisconsin. In 114 (36 percent) of the 314 grievance procedures, the American Arbitration Association provides assistance to the parties in selecting a third party.

Of the 142 grievance procedures referred to the state labor boards for final appeal, 18 percent specify that the decision will be final and binding. Whereas, in the 114 grievance procedures referred to the American Arbitration Association for final appeal, 75 percent specify final and binding arbitration. The following summary presents the method and type of final appeal contained in negotiated grievance procedures.

Agency of final appeal	Type of mediation/arbitration					
	Total		Advisory		Binding	
	Number	Percent	Number	Percent	Number	Percent
State labor board	142	45.2%	117	37.3%	25	8.0%
American Arbitration Association.	114	36.3	29	9.2	85	27.1
Joint selection each time as needed.	35	11.1	22	7.0	13	4.1
State education agency	9	2.9	9	2.9	...	...
U.S. Mediation and Conciliation Service	5	1.6	...	...	5	1.6
Selection is named in agreement .	3	1.0	2	0.6	1	0.3
Other	6	1.9	5	1.6	1	0.3
Total	314	100.0%	184	58.6%	130	41.4%

1/ All of these agreements are in New York City.

In 1965-66, a study of grievance procedures in school systems with enrollments of 12,000 or more reported 129 grievance procedures from various documents. Nine grievance procedures were found to provide for a final appeal outside the local school systems, eight of which were contained in negotiation agreements.[2/] It was reported then that the impact of negotiation upon formal grievance machinery could be significant. A year later in 1966-67, a negotiation survey revealed 185 professional negotiation agreements in school systems of 12,000 or more enrollment. Grievance procedures which provide for final appeal outside the local school system were contained in 45 of these agreements.

Following is a list of school systems with negotiation agreements which contain a grievance procedure with the final appeal being outside the local school system. The asterisk (*) indicates final and binding arbitration. The remainder of the school systems provide for advisory arbitration, mediation, or fact-finding.

For more detailed information on impasse procedure, see the December issue of NEGOTIATION RESEARCH DIGEST.

Column 1 - Name of school system
Column 2 - Location
Column 3 - Recognized organization
Column 4 - Number of personnel represented
Column 5 - Type of agreement
Column 6 - Date of agreement
Column 7 - Date of earliest reopener
Column 8 - Date of expiration
Column 9 - National affiliation of recongized organization

2/ National Education Association, Research Division. Formal Grievance Procedures for Public-School Teachers, 1965-66. Research Report 1967-R10. Washington, D.C.: the Association, 1967. p. 20.

METHOD OF SELECTION OF ARBITRATOR, MEDIATOR, OR REVIEW PANEL SELECTION IS NAMED IN AGREEMENT

			CONNECTICUT					
0231	STAMFORD PUB SCH	STAMFORD	STAMFORD ED ASSN	01034	LEVEL IV	07 66		06 67 NEA
0628	MILFORD SCH DST	MILFORD	MILFORD EDUC ASSN	00580	LEVEL IV	06 66		08 67 NEA
			PENNSYLVANIA					
*0020	PHILADELPHIA PUB SCH	PHILADELPHIA	PHILADELPHIA AFT LOCAL 3	11000	LEVEL IV	09 66		08 68 AFT

METHOD OF SELECTION OF ARBITRATOR, MEDIATOR, OR REVIEW PANEL JOINT SELECTION EACH TIME AS NEEDED

			COLORADO					
0225	LITTLETON SCHOOL DST 6	LITTLETON	LITTLETON EDUC ASSN	00724	LEVEL IV	05 67		10 68 NEA
			CONNECTICUT					
*0227	BRIDGEPORT PUB SCH	BRIDGEPORT	BRIDGEPORT ED ASSOC	01100	LEVEL IV	09 66		06 68 NEA
*0618	DANBURY SCH DIST	DANBURY	DANBURY ED ASSN	00463	LEVEL IV	07 66		07 67 NEA
0620	ENFIELD SCH DIST	THOMPSONVILLE	ENFIELD ED ASSN	00460	LEVEL IV	09 66		06 67 NEA
3251	BETHEL PUB SCH	BETHEL	BETHEL EDUC ASSN	00113	LEVEL IV	07 66		06 67 NEA
*3253	CLINTON SCH DST	CLINTON	CLINTON EDUC LEAGUE	00135	LEVEL IV	11 66		08 67 NEA
			ILLINOIS					
0255	GRANITE CITY COM DST 9	GRANITE CITY	GRANITE AFT LOCAL 743	00611	LEVEL IV	07 66	08 68	06 69 AFT
1623	JOLIET TOWNSHIP HIGH SCHS	JOLIET	WILL CO AFT LOCAL 604	00370	LEVEL IV	09 67		07 68 AFT

MASSACHUSETTS

*4139	HOLLISTON SCHOOL DISTRICT	HOLLISTON	HOLLISTON TEACHERS ASSN	00132	LEVEL IV	03 66		07 68	NEA
*4165	PALMER PUBLIC SCHOOLS	PALMER	PALMER TCHRS ORGANIZATION	00090	LEVEL IV	01 67	10 67	07 68	NEA

MICHIGAN

0316	TAYLOR TWP SCH DST	TAYLOR	TAYLOR AFT LOCAL 1085	00698	LEVEL IV	06 66		08 67	AFT
1876	AVONDALE SCH DST	AUBURN HTS	AVONDALE EDUC ASSN	00150	LEVEL IV	09 66	08 67	08 68	NEA
1878	BEECHER PUB SCHS	FLINT	BEECHER EDUC ASSN	00254	LEVEL IV	07 66		06 67	NEA
1886	CLARKSTON COMM SCHS	CLARKSTON	CLARKSTON EDUC ASSN	00194	LEVEL IV	07 66		06 67	NEA
1887	CLAWSON SCH DIST	CLAWSON	CLAWSON ED ASSN	00298	LEVEL IV	06 66		07 67	NEA
*1891	CRESTWOOD SCH DST	DEARBORN HTS	CRESTWOOD EDUC ASSN	00212	LEVEL IV	07 66		06 67	NEA
*1903	FRASER PUB SCHS	FRASER	FRASER EDUC ASSN	00200	LEVEL IV	07 66		06 67	NEA
*1915	HOWELL PUB SCHS	HOWELL	HOWELL EDUC ASSN	00150	LEVEL IV	07 66		06 67	NEA
*1935	ORCHARD VIEW SCH DST	MUSKEGON	ORCHARD VIEW EDUC ASSN	00140	LEVEL IV	07 66		06 67	NEA
4201	BENTLEY COMM SCH	FLINT	BENTLEY EDUC ASSN	00096	LEVEL IV	07 66		06 67	NEA
*4251	ESSEXVILLE HAMPTON PS	ESSEXVILLE	ESSEXVILLE HAM EDUC ASSN	00095	LEVEL IV	07 66	01 67	06 69	NEA
*4271	HARTFORD PUB SCHS	HARTFORD	HARTFORD EDUC ASSN	00058	LEVEL IV	07 66	03 67	06 69	NEA
4334	ONSTED COMM SCHS	ONSTED	ONSTED EDUC ASSN	00050	LEVEL IV	06 66	02 67	05 69	NEA
*4358	SALINE AREA SCH DST	SALINE	SALINE EDUC ASSN	00066	LEVEL IV	07 66		06 67	NEA
4377	WAYLAND UN SCHS	WAYLAND	WAYLAND EDUC ASSN	00080	LEVEL IV	07 66		06 67	NEA
6696	LINDEN COMM SCHS	LINDEN	LINDEN TCHRS ASSN	00065	LEVEL IV	07 66		06 67	NEA

NEW JERSEY

2117	MIDDLESEX PUB SCHS	MIDDLESEX	MIDDLESEX EDUC ASSN	00157	LEVEL III	06 66			NEA
2125	NUTLEY PUB SCHS	NUTLEY	NUTLEY TCHRS ASSN	00262	LEVEL III	06 66			NEA
4749	MANASQUAN SCH DST	MANASQUAN	MANASQUAN TCHRS ASSN	00092	LEVEL III				NEA
4913	VERONA PUB SCHS	VERONA	VERONA EDUC ASSN	00159	LEVEL III	06 66			NEA
6817	JAMESBURG PUB SCHS	JAMESBURG	JAMESBURG EDUC ASSN	00060	LEVEL III	11 66			NEA

OHIO

0061	TOLEDO PUB SCHS	TOLEDO	TOLEDO EDUC ASSN	02600	LEVEL III	09 66			NEA

PENNSYLVANIA

1105	STATE COLLEGE AREA SD	STATE COLLEGE	ST COLLEGE AREA EDUC ASSN	00347	LEVEL III	04 66			NEA

WISCONSIN

*0158	MADISON SCH DST	MADISON	MADISON TCHRS INC	01524	LEVEL IV	06 66	09 68	06 69	NEA
1260	EAU CLAIRE SCH DST	EAU CLAIRE	EAU CLAIRE AFT LOCAL 696	00465	LEVEL IV	01 66		12 66	AFT

METHOD OF SELECTION OF ARBITRATOR, MEDIATOR, OR REVIEW PANEL STATE EDUCATION AGENCY

CONNECTICUT

1491	WETHERSFIELD PUB SCH	WETHERSFIELD	EDUC ASSN OF WETHERSFIELD	00264	LEVEL IV	09 66		08 67	NEA
3299	WOODBURY PUB SCH	WOODBURY	WOODBURY TEACHERS ASSN	00083	LEVEL IV	09 66		06 67	NEA

NEW JERSEY

0339	EDISON TWP PUB SCH	FORDS	EDISON TWP EDUC ASSN	00697	LEVEL III	07 66			NEA
2087	BERGENFIELD PUB SCHS	BERGENFIELD	BERGENFIELD EDUC ASSN	00313	LEVEL III				NEA
2105	HAWTHORNE SCH DST	HAWTHORNE	HAWTHORNE TCHRS ASSN	00150	LEVEL III				NEA
2124	N PLAINFIELD PUB SCHS	N PLAINFIELD	N PLAINFIELD EDUC ASSN	00200	LEVEL III	06 66		07 67	NEA
4757	MONROE TWP PUB SCHS	WILLIAMSTOWN	MONROE TWP EDUC ASSN	00130	LEVEL III	05 66			NEA
4799	ROSELLE PARK PUB SCHS	ROSELLE PARK	ROSELLE PARK TCHRS ASSN	00130	LEVEL III				NEA

RHODE ISLAND

2638	COVENTRY PUB SCHS	COVENTRY	CVTRY TCHR REPRESENTATIVES	00231	LEVEL IV	09 67		06 69	NEA

METHOD OF SELECTION OF ARBITRATOR, MEDIATOR, OR REVIEW PANEL STATE LABOR BOARD

MASSACHUSETTS

*0291	FALL RIVER SCH DST	FALL RIVER	FALL RIVER TCHRS ASSN	00643	LEVEL IV	01 67	09 67	12 67	NEA
0788	MEDFORD PUBLIC SCHOOLS	MEDFORD	MEDFORD TEACHERS ASSN	00485	LEVEL IV	07 66	09 67	06 69	NEA
*1829	BURLINGTON SCHOOL DIST	BURLINGTON	BURLINGTON TEACHERS ASSN	00350	LEVEL IV	07 66		07 67	NEA
*1840	LEOMINSTER SCHOOL DIST	LEOMINSTER	LEOMINSTER TEACHERS ASSN	00176	LEVEL IV	01 67	06 67	12 69	NEA
*1849	NORWOOD PUBLIC SCH	NORWOOD	NORWOOD TEACHERS ASSN	00299	LEVEL IV	08 66	10 67	07 67	NEA
*1853	ROCKLAND PUBLIC SCHOOLS	ROCKLAND	ROCKLAND TEACHERS ASSN	00163	LEVEL IV	07 66	10 67	07 69	NEA
*1856	SAUGUS PUBLIC SCHOOLS	SAUGUS	SAUGUS TEACHERS ASSN	00279	LEVEL IV	11 66	10 67	12 67	NEA
*1857	SCITUATE PUB SCHS	SCITUATE	SCITUATE TCHRS ASSN	00220	LEVEL IV	09 66		07 67	NEA

1870	WEST SPRINGFIELD PUB SCHS	W SPRINGFIELD	W SPRINGFIELD EDUC ASSN	00300	LEVEL IV	06 66		06 67	NEA
*1871	WILMINGTON PUB SCHS	WILMINGTON	WILMINGTON TCHRS ASSN	00220	LEVEL IV	09 66		08 67	NEA
*4113	ABINGTON PUBLIC SCHOOLS	ABINGTON	ABINGTON TEACHERS ASSN	00133	LEVEL IV	11 66	07 67	06 69	NEA
4129	EASTHAMPTON PUB SCHOOLS	EASTHAMPTON	EASTHAMPTON TEACHERS ASSN	00113	LEVEL IV	12 66	10 67	06 68	NEA
*4130	EAST LONGMEADOW PUB SCHS	E LONGMEADOW	E LONGMEADOW TCHRS ASSN	00163	LEVEL IV	07 66	07 67	07 68	NEA
*6657	TOWNSEND PUBLIC SCHOOLS	TOWNSEND	TOWNSEND TEACHERS ASSN	00029	LEVEL IV	07 67	10 68	07 69	NEA
*6659	BLACKSTONE MILLVILLE SCHS	BLACKSTONE	BLACKSTONE TEACHERS ASSN	00035	LEVEL IV	07 66	10 67	06 69	NEA
*9007	BLACKSTONE MILLVILLE SCHS	BLACKSTONE	MILLVILLE TEACHERS ASSN	00011	LEVEL IV	09 67		08 68	NEA

MICHIGAN

*0121	GRAND RAPIDS PUB SCHS	GRAND RAPIDS	GRAND RAPIDS EDUC ASSN	01460	LEVEL IV	03 67		08 67	NEA
0123	LIVONIA PUB SCHS	LIVONIA	LIVONIA EDUC ASSN	01300	LEVEL IV	07 66		06 68	NEA
0304	FARMINGTON PUB SCHS	FARMINGTON	FARMINGTON EDUC ASSN	00599	LEVEL IV	09 66		08 67	NEA
0305	GARDEN CITY SCH DST	GARDEN CITY	GARDEN CITY EDUC ASSN	00546	LEVEL IV	07 66		06 67	NEA
0306	JACKSON UN SCH DST	JACKSON	JACKSON EDUC ASSN	00597	LEVEL IV	09 66		06 68	NEA
0307	KALAMAZOO PUB SCHS	KALAMAZOO	KALAMAZOO CITY EDUC ASSN	00891	LEVEL IV	09 66		06 69	NEA
0309	PONTIAC SCH DST	PONTIAC	PONTIAC EDUC ASSN	01075	LEVEL IV	07 66	02 67	06 69	NEA
0311	PORT HURON AREA SCH DST	PORT HURON	PORT HURON EDUC ASSN	00674	LEVEL IV	04 66	01 67	06 68	NEA
0315	SOUTHFIELD PUB SCHS	SOUTHFIELD	SOUTHFIELD EDUC ASSN	00728	LEVEL IV	07 66		06 67	NEA
0801	ALPENA PUB SCHS	ALPENA	ALPENA ALCONA EDUC ASSN	00350	LEVEL IV	06 66		06 67	NEA
0802	BATTLE CREEK SCH DST	BATTLE CREEK	BATTLE CREEK EDUC ASSN	00649	LEVEL IV	08 66	02 68	08 69	NEA
0803	BERKLEY CITY SCH DIST	BERKLEY	BERKLEY EDUC ASSN	00425	LEVEL IV	07 66		06 67	NEA
0804	BLOOMFIELD HILLS SCH DIST	BLOOMFIELD HLS	BLOOMFIELD HILLS ED ASSN	00363	LEVEL IV	07 66		07 67	NEA
0807	GROSSE POINTE SCH SYS	GROSSE POINTE	GROSSE POINTE EDUC ASSN	00575	LEVEL IV	07 66	07 67	06 69	NEA
0812	MT CLEMENS COMM SCHS	MT CLEMENS	MT CLEMENS EDUC ASSN	00265	LEVEL IV	07 66		06 67	NEA
0813	MUSKEGON CITY PUB SCHS	MUSKEGON	MUSKEGON CITY TCHRS ASSN	00425	LEVEL IV	08 66	06 67	07 69	NEA
0815	PORTAGE PUB SCHS	PORTAGE	PORTAGE EDUC ASSN	00475	LEVEL IV	09 66		06 67	NEA
0816	REDFORD UN SCHS DST 1	DETROIT	REDFORD UN EDUC ASSN	00417	LEVEL IV	07 66	05 67	07 69	NEA
0817	ROCHESTER COMM SCHS	ROCHESTER	ROCHESTER EDUC ASSN	00285	LEVEL IV	07 66	05 67	06 69	NEA
0818	SOUTH REDFORD SCH DST	DETROIT	SOUTH REDFORD EDUC ASSN	00418	LEVEL IV	07 66		06 68	NEA
0819	LAKE SHORE SCH DST	ST CLAIR SHRS	LAKE SHORE AFT LOCAL	00355	LEVEL IV	07 66	07 67	06 68	AFT
0822	WALLED LAKE CONS SCH DST	WALLED LAKE	WALLED LAKE EDUC ASSN	00360	LEVEL IV	07 66		06 67	NEA
0823	WYANDOTTE CITY SCH DST	WYANDOTTE	WYANDOTTE EDUC ASSN	00355	LEVEL IV	07 66	06 67	06 68	NEA
1874	ADRIAN SCH DST	ADRIAN	ADRIAN EDUC ASSN	00280	LEVEL IV	07 66		07 69	NEA
1875	ALBION PUB SCHS	ALBION	ALBION EDUC ASSN	00160	LEVEL IV	09 66		08 67	NEA
1877	BEDFORD PUB SCHS	TEMPERANCE	BEDFORD EDUC ASSN	00255	LEVEL IV	07 66		06 67	NEA
1882	CADILLAC CITY SCH DST	CADILLAC	CADILLAC EDUC ASSN	00126	LEVEL IV	09 66	05 67	09 69	NEA
1883	CENTER LINE PUB SCHS	CENTER LINE	CENTER LINE EDUC ASSN	00244	LEVEL IV	07 66		06 67	NEA
1885	CLARENCEVILLE SCHOOL DIST	LIVONIA	CLARENCEVILLE ED ASSN	00165	LEVEL IV	09 66	04 67	08 69	NEA
1888	CLINTONDALE SCH DST	MT CLEMENS	CLINTONDALE EDUC ASSN	00148	LEVEL IV	07 66	05 67	06 69	NEA
1893	DEARBORN HEIGHTS SD 7	DEARBORN HGTS	DEARBORN HGTS DST 7 ED ASN	00179	LEVEL IV	09 66		09 67	NEA
*1897	E GRAND RAPIDS PUB SCHS	E GRAND RAPIDS	E GRAND RAPIDS TCHRS ASSN	00175	LEVEL IV	07 66		06 67	NEA
*1899	ECORSE PUB SCHS	ECORSE	ECORSE AFT LOCAL 1425	00199	LEVEL IV	09 66		06 67	AFT
*1910	GULL LAKE COMM SCH	KALAMAZOO	GULL LAKE EDUC ASSN	00152	LEVEL IV	08 66		09 67	NEA
1911	HAMTRAMCK PUB SCHS	HAMTRAMCK	HAMTRAMCK AFT LOCAL 1052	00154	LEVEL IV	09 66		09 67	AFT
1912	HASTINGS SCH DST	HASTINGS	HASTINGS EDUC ASSN	00145	LEVEL IV	11 66		06 68	NEA
1914	HOLLAND PUB SCHS	HOLLAND	HOLLAND EDUC ASSN	00210	LEVEL IV	07 66		06 67	NEA
1916	HURON VALLEY PUB SCHS	MILFORD	HURON VALLEY EDUC ASSN	00215	LEVEL IV	09 66	03 67	06 68	NEA
1920	KENTWOOD SCH DST	GRAND RAPIDS	KENTWOOD EDUC ASSN	00173	LEVEL IV	09 66		08 67	NEA
*1921	LAKE ORION COMM SCHS	LAKE ORION	LAKE ORION EDUC ASSN	00170	LEVEL IV	06 66		06 67	NEA
1922	LAKEVIEW SCH DST	BATTLE CREEK	LAKEVIEW EDUC ASSN	00230	LEVEL IV	08 66		06 67	NEA
1923	LAMPHERE PUB SCHS	MADISON HTS	LAMPHERE EDUC ASSN	00230	LEVEL IV	07 66	02 67	06 69	NEA
1924	L ANSE CREUSE PUB SCHS	MOUNT CLEMENS	L ANSE CREUSE EDUC ASSN	00210	LEVEL IV	09 66		08 67	NEA
1936	OSCODA AREA SCHS	OSCODA	OSCODA TCHRS CLUB	00185	LEVEL IV	07 66		06 67	NEA
1938	PLYMOUTH COMM SCH DST	PLYMOUTH	PLYMOUTH EDUC ASSN	00310	LEVEL IV	09 66		06 67	NEA
1944	SOUTH HAVEN PUB SCHS	SOUTH HAVEN	SOUTH HAVEN EDUC ASSN	00122	LEVEL IV	09 66		06 67	NEA
1948	TECUMSEH PUB SCHS	TECUMSEH	TECUMSEH EDUC ASSN	00120	LEVEL IV	09 66	03 67	06 69	NEA
1955	WEST OTTAWA SCH DST	HOLLAND	WEST OTTAWA EDUC ASSN	00151	LEVEL IV	06 66		06 67	NEA
4186	AIRPORT COMMUNITY SCHOOLS	CARLETON	AIRPORT ED ASSN	00084	LEVEL IV	06 66		06 67	NEA
4194	BANGOR PUB SCHS	BANGOR	BANGOR EDUC ASSN	00055	LEVEL IV	07 66		06 67	NEA
4199	BELLEVUE PUB SCHS	BELLEVUE	BELLEVUE EDUC ASSN	00050	LEVEL IV	06 66		06 67	NEA
4202	BENZIE CO CNTR1 SCHS	BENZONIA	BENZIE CO CNTR1 EDUC ASSN	00052	LEVEL IV	07 66		06 67	NEA
4204	BIG RAPIDS SCHOOL DIST	BIG RAPIDS	BIG RAPIDS EDUC ASSN	00089	LEVEL IV	08 66		04 68	NEA
4207	BOYNE CITY PUBLIC SCHOOLS	BOYNE CITY	BOYNE CITY ED ASSN	00048	LEVEL IV	06 66		06 69	NEA
4211	BREITUNG TWP SCHOOLS	BREITUNG	BREITUNG ED ASSN	00093	LEVEL IV	08 66		06 67	NEA
4214	FLAT ROCK COMM SCHS	FLAT ROCK	FLAT ROCK EDUC ASSN	00091	LEVEL IV	09 66		08 67	NEA
4220	CAPAC COMM SCH DIST	CAPAC	CAPAC EDUC ASSN	00052	LEVEL IV	07 66		06 67	NEA
4228	CHARLOTTE PUB SCH DIST	CHARLOTTE	CHARLOTTE ED ASSN	00120	LEVEL IV	09 66		06 67	NEA
4229	CHEBOYGAN AREA SCHOOLS	CHEBOYGAN	CHEBOYGAN AREA ED ASSN	00097	LEVEL IV	07 66		06 67	NEA
4230	CHELSEA SCHOOL DISTRICT	CHELSEA	CHELSEA ED ASSN	00088	LEVEL IV	06 66	06 67	06 69	NEA
4231	CHESANING UNION SCHS	CHESANING	CHESANING SCH CHPTR	00107	LEVEL IV	07 66		06 67	NEA
4240	CORUNNA PUB SCHS	CORUNNA	CORUNNA EDUC ASSN	00084	LEVEL IV	07 66		06 67	NEA
4244	DEXTER COMM SCHS	DEXTER	DEXTER EDUC ASSN	00076	LEVEL IV	08 66		06 67	NEA
4246	DURAND AREA SCHS	DURAND	DURAND EDUC ASSN	00108	LEVEL IV	06 66		06 67	NEA
4253	FENNVILLE SCH DST	FENNVILLE	FENNVILLE EDUC ASSN	00064	LEVEL IV	07 66		06 67	NEA
4256	FOWLERVILLE COMM SCHS	FOWLERVILLE	FOWLERVILLE EDUC ASSN	00064	LEVEL IV	07 66		06 67	NEA
*4266	GWINN SCH DST	GWINN	GWINN EDUC ASSN	00140	LEVEL IV	08 66		09 67	NEA
*4268	HANCOCK PUB SCHS	HANCOCK	HANCOCK EDUC ASSN	00052	LEVEL IV	09 66		06 67	NEA
4274	HILLSDALE COMM SCHS	HILLSDALE	HILLSDALE EDUC ASSN	00115	LEVEL IV	09 66		08 67	NEA
4275	HOLLY AREA SCHS	HOLLY	HOLLY EDUC ASSN	00127	LEVEL IV	08 66	04 67	06 68	NEA
4276	HOLT PUB SCHS	HOLT	HOLT EDUC ASSN	00160	LEVEL IV	07 66		06 67	NEA
4277	HOMER COMM SCHS	HOMER	HOMER EDUC ASSN	00058	LEVEL IV	07 66	02 67	07 69	NEA
4281	IDA PUB SCHS	IDA	IDA EDUC ASSN	00070	LEVEL IV	09 66		06 67	NEA
*4285	IRONWOOD CITY SCH DST	IRONWOOD	IRONWOOD EDUC ASSN	00090	LEVEL IV	09 66		09 67	NEA
4286	ISHPEMING SCH DST	ISHPEMING	ISHPEMING TCHRS ASSN	00091	LEVEL IV	06 66		06 67	NEA
4287	ITHACA SCH DST	ITHACA	ITHACA EDUC ASSN	00082	LEVEL IV	09 66		06 67	NEA
4292	LAKE FENTON COMM SCHS	FENTON	LAKE FENTON TCHRS ED ASSN	00061	LEVEL IV	07 66		06 67	NEA
4301	LUDINGTON AREA SCH DST	LUDINGTON	LUDINGTON TCHRS ASSN	00140	LEVEL IV	06 66	03 67	06 69	NEA
4303	MANISTIQUE AREA SCHOOLS	MANISTIQUE	MANISTIQUE TEACHERS ASSN	00075	LEVEL IV	09 66		06 67	NEA
4305	MARLETTE COMM SCH	MARLETTE	MARLETTE EDUC ASSN	00056	LEVEL IV	07 66		06 67	NEA
4307	MARYSVILLE PUB SCHS	MARYSVILLE	MARYSVILLE EDUC ASSN	00085	LEVEL IV	07 66		06 67	NEA

4308	MASON PUB SCHS	MASON	MASON EDUC ASSN	00131	LEVEL IV	07 66		06 67	NEA
4309	MASON CONS SCHS	ERIE	MASON EDUC ASSN	00088	LEVEL IV	09 66		08 67	NEA
4319	NANKIN MILLS SCH DST	WESTLAND	NANKIN MILLS EDUC ASSN	00135	LEVEL IV	06 66	01 67	06 69	NEA
4321	NEGAUNEE PUB SCHS	NEGAUNEE	NEGAUNEE TCHRS ASSN	00085	LEVEL IV	09 66		08 67	NEA
4322	TAHQUAMENON AREA SCHS	NEWBERRY	TAHQUAMENON AREA EDUC ASSN	00069	LEVEL IV	09 66	05 67	06 69	NEA
*4326	N DEARBORN HTS SCH DST	N DEARBORN HTS	N DEARBORN HTS AFT LC 1439	00118	LEVEL IV	09 66		08 67	AFT
4336	OVID ELSIE AREA SCHS	OVID ELSIE	OVID ELSIE EDUC ASSN	00092	LEVEL IV	09 66	03 67	08 68	NEA
4337	OXFORD AREA COMM SCHS	OXFORD	OXFORD EDUC ASSN	00084	LEVEL IV	07 66		06 67	NEA
*4338	PARCHMENT SCH DST	PARCHMENT	PARCHMENT EDUC ASSN	00097	LEVEL IV	07 66		07 67	NEA
4340	PENNFIELD SCH DST	BATTLE CREEK	PENNFIELD EDUC ASSN	00092	LEVEL IV	06 66		06 67	NEA
4342	PETOSKEY SCH DST	PETOSKEY	PETOSKEY EDUC ASSN	00091	LEVEL IV	09 66		06 67	NEA
*4344	PINCONNING AREA SCHS	PINCONNING	PINCONNING AREA FAC CLUB	00099	LEVEL IV	06 66	05 67	06 69	NEA
*4345	PLAINWELL COMM SCHS	PLAINWELL	PLAINWELL EDUC ASSN	00114	LEVEL IV	09 66		06 67	NEA
4346	QUINCY COMM SCHS	QUINCY	QUINCY EDUC ASSN	00052	LEVEL IV	07 66	03 67	06 69	NEA
4347	RAVENNA SCH DST 4	RAVENNA	MUSKEGON CO EDUC ASSN	00067	LEVEL IV	07 66		07 67	NEA
4350	RICHMOND COMM SCHS	RICHMOND	RICHMOND EDUC ASSN	00055	LEVEL IV	09 66		09 67	NEA
4354	RUDYARD TWP SCH DST 111	RUDYARD	RUDYARD EDUC ASSN	00121	LEVEL IV	07 66		06 67	NEA
4357	ST LOUIS PUB SCHS	ST LOUIS	ST LOUIS EDUCATORS CLUB	00080	LEVEL IV	07 66		06 67	NEA
4359	SANDUSKY COMM SCHS	SANDUSKY	SANDUSKY EDUC ASSN	00050	LEVEL IV	09 66		06 67	NEA
4360	SHEPHERD PUB SCHS	SHEPHERD	SHEPHERD EDUC ASSN	00060	LEVEL IV	09 66		06 67	NEA
4361	SOUTH LYON COMM SCH DST	SOUTH LYON	SOUTH LYON EDUC ASSN	00105	LEVEL IV	07 66		06 67	NEA
4365	STAMBAUGH TWP PUB SCHS	STAMBAUGH	STAMBAUGH EDUCATOR CLUB	00054	LEVEL IV	07 66		06 67	NEA
4367	STOCKBRIDGE COMM SCHS	STOCKBRIDGE	STOCKBRIDGE TCHRS ASSN	00070	LEVEL IV	07 66		08 67	NEA
4368	SWARTZ CREEK COMM SCHS	SWARTZ CREEK	SWARTZ CREEK TCHRS ASSN	00154	LEVEL IV	07 66		06 67	NEA
4371	THREE RIVERS PUB SCH	THREE RIVERS	THREE RIVERS EDUC ASSN	00100	LEVEL IV	07 67		06 68	NEA
4372	UNION CITY COM SCH	UNION CITY	UNION CITY EDUC ASSN	00058	LEVEL IV	07 66		07 69	NEA
4374	VASSAR PUB SCH DST	VASSAR	VASSAR EDUC ASSN	00072	LEVEL IV	08 66	12 66	06 67	NEA
4375	VICKSBURG COMM SCHS	VICKSBURG	VICKSBURG EDUC ASSN	00111	LEVEL IV	07 66	02 67	06 69	NEA
4378	WEST BLOOMFIELD SCHS	ORCHARD LAKE	WEST BLOOMFIELD EDUC ASSN	00126	LEVEL IV	07 66		07 67	NEA
4382	WILLIAMSTON COMM SCH DST	WILLIAMSTON	WILLIAMSTON EDUC ASSN	00060	LEVEL IV	09 66	01 67	06 68	NEA
6675	ALCONA COMM SCH DIST	LINCOLN	ALCONA TEACHERS CLUB	00052	LEVEL IV	07 66	06 67	06 68	NEA
6676	BATH COMM SCHS	BATH	BATH EDUC ASSN	00050	LEVEL IV	09 66		06 67	NEA
6679	GRANT SCH DST	GRANT	GRANT TCHRS CLUB	00060	LEVEL IV	06 66		06 67	NEA
6680	CLINTON COMM SCH DST	CLINTON	CLINTON EDUC ASSN	00048	LEVEL IV	07 66		06 67	NEA
6692	HARTLAND CONS SCH DST	HARTLAND	HARTLAND EDUC ASSN	00045	LEVEL IV	07 66	03 67	06 68	NEA
6697	MADISON SCH DST	ADRIAN	MADISON EDUC ASSN	00051	LEVEL IV	09 66	05 67	08 69	NEA
6710	SAND CREEK COMM SCHS	SAND CREEK	SAND CREEK EDUC ASSN	00048	LEVEL IV	05 66		08 67	NEA
6711	STEPHENSON AREA PUB SCHS	STEPHENSON	STEPHENSON EDUC ASSN	00064	LEVEL IV	08 66		06 67	NEA
6712	SUMMERFIELD SCHS	PETERSBURG	SUMMERFIELD EDUC ASSN	00041	LEVEL IV	07 66		06 67	NEA
6714	WAKEFIELD TWP SCH DST	WAKEFIELD	WAKEFIELD EDUC ASSN	00041	LEVEL IV	07 66		06 67	NEA
6716	WHITE CLOUD SCH DST	WHITE CLOUD	WHITE CLOUD EDUC ASSN	00041	LEVEL IV	06 66		06 67	NEA

WISCONSIN

0024	MILWAUKEE SCH DIST	MILWAUKEE	MILWAUKEE TCHRS ASSN	04600	LEVEL IV	12 66		12 67	NEA
2879	MONONA GROVE JT SCH DST 4	MONONA GROVE	MONONA GROVE EDUC ASSN	00185	LEVEL IV	04 67		03 68	NEA
6245	BARABOO DST SCHS	BARABOO	BARABOO EDUC ASSN	00116	LEVEL III	02 66			NEA
6272	FT ATKINSON SCHOOL DIST	FT ATKINSON	FT ATKINSON TEACHERS ASSN	00145	LEVEL IV	09 66		09 67	NEA

METHOD OF SELECTION OF ARBITRATOR, MEDIATOR, OR REVIEW PANEL U.S. MEDIATION AND CONCILIATION SERVICE

MICHIGAN

*0806	FERNDALE SCH DST	FERNDALE	FERNDALE EDUC ASSN	00375	LEVEL IV	09 66		06 68	NEA
*1909	GREENVILLE SCH DST	GREENVILLE	GREENVILLE EDUC ASSN	00132	LEVEL IV	07 66	03 68	06 69	NEA
*1945	SOUTH LAKE SCHS	ST CLAIR SHRS	SOUTH LAKE EDUC ASSN	00215	LEVEL IV	06 66	01 67	06 69	NEA
*4255	FOREST HILLS PUB SCHS	GRAND RAPIDS	FOREST HILLS EDUC ASSN	00142	LEVEL IV	09 66	03 67	08 68	NEA
*4352	ROCKFORD PUB SCHS	ROCKFORD	ROCKFORD EDUC ASSN	00129	LEVEL IV	07 66	06 67	06 69	NEA

METHOD OF SELECTION OF ARBITRATOR, MEDIATOR, OR REVIEW PANEL AMERICAN ARBITRATION ASSOCIATION

CONNECTICUT

*0097	HARTFORD	HARTFORD	HARTFORD FED OF TEACHERS	01477	LEVEL IV	04 66	10 66	03 67	AFT
*0229	NEW HAVEN PUB SCH	NEW HAVEN	NEW HAVEN TEACHERS LEAGUE	01107	LEVEL IV	01 67	01 68	01 69	NEA
0252	WATERBURY PUB SCH	WATERBURY	WATERBURY TEACHERS ASSN	00821	LEVEL IV	01 67		07 67	NEA
*0619	EAST HARTFORD PUB SCH	EAST HARTFORD	EAST HARTFORD EDUC ASSN	00571	LEVEL IV	11 66		06 67	NEA
0625	MANCHESTER PUB SCH	MANCHESTER	MANCHESTER EDUC ASSN	00448	LEVEL IV	08 66		07 67	NEA
0627	MIDDLETOWN PUB SCH	MIDDLETOWN	MIDDLETOWN ED ASSN	00310	LEVEL IV	09 66		08 67	NEA
*0631	STRATFORD SCH DST	STRATFORD	STRATFORD EDUC ASSN	00375	LEVEL IV	02 66		09 68	NEA
*1478	NEW LONDON PUB SCHS	NEW LONDON	NEW LONDON EDUC ASSN	00270	LEVEL IV	04 67		09 68	NEA
*1492	WINDHAM PUB SCH	WILLIMANTIC	WINDHAM ED ASSN	00185	LEVEL IV	09 66		08 67	NEA
3256	CROMWELL PUB SCH	CROMWELL	CROMWELL EDUC ASSN	00095	LEVEL IV	01 67		09 67	NEA
*3286	SEYMOUR PUB SCH	SEYMOUR	SEYMOUR EDUC ASSN	00139	LEVEL IV	12 66		12 67	NEA

ILLINOIS

*0008	CHICAGO PUB SCHS	CHICAGO	CHICAGO AFT LOCAL 1	20000	LEVEL IV	01 67		12 67	AFT

MASSACHUSETTS

*0118	SPRINGFIELD PUBLIC SCHOOLS	SPRINGFIELD	SPRINGFIELD ED ASSN	01437	LEVEL IV	03 67			08 69	NEA
*0296	QUINCY SCHOOL DISTRICT	QUINCY	QUINCY TEACHERS ASSN	00800	LEVEL IV	03 67	10 67		06 68	NEA
0784	HOLYOKE PUBLIC SCH	HOLYOKE	HOLYOKE TEACHERS CLUB	00380	LEVEL IV	07 66			06 67	NEA
*0789	MELROSE PUBLIC SCHOOLS	MELROSE	MELROSE TEACHERS CLUB	00355	LEVEL IV	07 67	10 67		06 70	NEA
*1823	AGAWAM PUBLIC SCHOOLS	AGAWAM	AGAWAM TCHRS ASSN	00207	LEVEL IV	10 66	07 67		06 69	NEA
*1833	DARTMOUTH PUBLIC SCHOOLS	N DARTMOUTH	DARTMOUTH TEACHERS ASSN	00159	LEVEL IV	07 67	10 67		06 68	NEA
*1835	DRACUT PUBLIC SCHOOLS	DRACUT	DRACUT TEACHERS ASSN	00163	LEVEL IV	06 66	10 67		06 69	NEA
*1848	HANOVER PUBLIC SCHOOLS	HANOVER	HANOVER TEACHERS ASSN	00120	LEVEL IV	06 66			07 67	NEA
*1863	STONEHAM PUBLIC SCHOOLS	STONEHAM	STONEHAM TEACHERS ASSN	00188	LEVEL IV	02 67	10 67		06 68	NEA
*1866	TEWKSBURY PUB SCHOOLS	TEWKSBURY	TEWKSBURY TEACHERS ASSN	00223	LEVEL IV	11 66	11 67		06 69	NEA
1872	WINCHESTER PUBLIC SCHOOLS	WINCHESTER	WINCHESTER TCHRS ASSN	00256	LEVEL IV	09 67			08 70	NEA
*1873	WINTHROP PUBLIC SCHOOLS	WINTHROP	WINTHROP TEACHERS ASSN	00146	LEVEL IV	01 67			06 68	NEA
*4093	GEORGETOWN PUB SCHOOLS	GEORGETOWN	GEORGETOWN ED ASSN	00066	LEVEL IV	10 66	10 67		06 69	NEA
*4101	WEST BRIDGEWATER PUB SCHS	W BRIDGEWATER	W BRIDGEWATER TCHRS ASSN	00072	LEVEL IV	09 66	10 67		06 69	NEA
*4103	CARLISLE PUBLIC SCHOOLS	CARLISLE	CARLISLE TEACHERS ASSN	00037	LEVEL IV	07 66	11 67		06 69	NEA
*4117	ASHLAND PUBLIC SCHOOLS	ASHLAND	ASHLAND TEACHERS ASSN	00112	LEVEL IV	10 66	10 67		06 68	NEA
*4123	CANTON PUBLIC SCHOOLS	CANTON	CANTON TEACHERS ASSN	00150	LEVEL IV	06 66			06 67	NEA
*4128	EAST BRIDGEWATER PUB SCHS	E BRIDGEWATER	E BRIDGEWATER TCHRS ASSN	00090	LEVEL IV	07 66	10 67		06 69	NEA
*4134	FRANKLIN PUB SCHOOLS	FRANKLIN	FRANKLIN TEACHERS ASSN	00161	LEVEL IV	07 66	10 67		06 69	NEA
*4146	LUDLOW PUB SCH	LUDLOW	LUDLOW TCHRS ASSN	00185	LEVEL IV	10 66	10 67		06 69	NEA
*4150	MARSHFIELD PUBLIC SCHOOLS	MARSHFIELD	MARSHFIELD TEACHERS CLUB	00179	LEVEL IV	12 66	10 67		06 68	NEA
*4161	NORTHBRIDGE PUBLIC SCH	WHITINSVILLE	NORTHBRIDGE TEACHERS ASSN	00095	LEVEL IV	10 66			12 67	NEA
*4168	SOMERSET PUBLIC SCHOOLS	SOMERSET	SOMERSET TEACHERS ASSN	00156	LEVEL IV	02 67	10 67		06 68	NEA
*4169	SOUTHBRIDGE PUB SCHS	SOUTHBRIDGE	SOUTHBRIDGE TCHRS ASSN	00125	LEVEL IV	07 66	10 67		06 69	NEA
4173	SWANSEA PUB SCH	SWANSEA	SWANSEA TCHRS ASSN	00112	LEVEL IV	12 66	10 67		06 69	NEA
*4178	WESTFORD PUBLIC SCHOOLS	WESTFORD	WESTFORD TEACHERS ASSN	00120	LEVEL IV	12 66	11 67		06 69	NEA
*6655	NARRAGANSETT REG SCH DIST	BALDWINVILLE	TEMPLETON TCHRS ASSN	00072	LEVEL IV	07 66	10 67		06 69	NEA
*6663	KING PHILIP REG SCH DIST	WRENTHAM	KING PHILIP TCHRS ASSN	00086	LEVEL IV	07 66	10 67		06 69	NEA
*6673	WARE SCHOOL DISTRICT	WARE	WARE TEACHERS ASSN	00057	LEVEL IV	11 66			06 67	NEA
9008	WINCHESTER PUBLIC SCHOOLS	WINCHESTER	WINCHESTER PRINCIPALS GRP	00015	LEVEL IV	02 67	10 67		08 70	IND

MICHIGAN

0019	DETROIT SCH DIST	DETROIT	DETROIT AFT LOCAL 231	12000	LEVEL IV	07 66			07 67	AFT
*0120	FLINT COMM SCHS	FLINT	FLINT EDUC ASSN	01800	LEVEL IV	09 66	02 68		08 69	NEA
*0122	LANSING SCH DST	LANSING	LANSING SCHS EDUC ASSN	01475	LEVEL IV	09 66	01 67		06 69	NEA
*0300	BAY CITY SCH DIST	BAY CITY	BAY CITY ED ASSN	00629	LEVEL IV	07 66			06 67	NEA
*0301	BIRMINGHAM PUB SCHOOL SYS	BIRMINGHAM	BIRMINGHAM ED ASSN	00850	LEVEL IV	09 66	06 67		06 69	NEA
*0303	EAST DETROIT SCH DST	EAST DETROIT	EAST DETROIT AFT LOCAL	00542	LEVEL IV	09 66			07 67	AFT
0310	WATERFORD TWP SCH DST	WATERFORD	WATERFORD EDUC ASSN	00721	LEVEL IV	09 66			08 67	NEA
0312	ROSEVILLE CITY SCH DST	ROSEVILLE	ROSEVILLE AFT LOCAL 1071	00518	LEVEL IV	09 66			08 67	AFT
0313	ROYAL OAK SCH DST	ROYAL OAK	ROYAL OAK EDUC ASSN	00835	LEVEL IV	07 66	02 67		06 69	NEA
*0314	SAGINAW CITY SCHS	SAGINAW	SAGINAW EDUC ASSN	01001	LEVEL IV	06 66			09 67	NEA
*0317	WARREN CONS SCHS	WARREN	WARREN EDUC ASSN	00800	LEVEL IV	09 66			08 67	NEA
*0318	WAYNE COMM SCH DST	WAYNE	WAYNE EDUC ASSN	00707	LEVEL IV	06 66			06 68	NEA
0800	ALLEN PK PUB SCHS	ALLEN PARK	AMER FED TCHRS	00267	LEVEL IV	06 66			06 67	AFT
*0808	HAZEL PARK SCH DST	HAZEL PARK	HAZEL PARK ED ASSN	00330	LEVEL IV	09 66			06 67	NEA
0809	HIGHLAND PARK SCH DST	HIGHLAND PARK	H PARK FED OF TCHRS	00515	LEVEL IV	07 66			07 67	AFT
*0811	MIDLAND PUB SCHS	MIDLAND	MIDLAND CITY EDUC ASSN	00530	LEVEL IV	06 66			09 67	NEA
*0820	UTICA COMM SCHS	UTICA	UTICA EDUC ASSN	00603	LEVEL IV	07 67			06 68	NEA
*0824	WYOMING PUB SCHS	WYOMING	WYOMING EDUC ASSN	00360	LEVEL IV	07 66			06 67	NEA
*1879	BENTON HARBOR SCH DST	BENTON HARBOR	BENTON HARBOR EDUC ASSN	00348	LEVEL IV	08 66			08 69	NEA
*1880	BRIDGEPORT COMM SCHS	BRIDGEPORT	BRIDGEPORT EDUC ASSN	00150	LEVEL IV	07 66			06 67	NEA
*1881	BUENA VISTA SCH DST 9	SAGINAW	BUENA VISTA 9 EDUC ASSN	00130	LEVEL IV	09 66			07 67	NEA
1884	CHERRY HILL SCH DST	INKSTER	CHERRY HILL EDUC ASSN	00204	LEVEL IV	06 66			06 67	NEA
*1894	DEARBORN TWP SCH DST 8	DEARBORN HTS	DEARBORN EDUC ASSN	00252	LEVEL IV	08 66			06 67	NEA
*1898	EAST LANSING SCH DST	EAST LANSING	EAST LANSING EDUC ASSN	00210	LEVEL IV	09 66			06 67	NEA
*1905	GRAND BLANC COMM SCHS	GRAND BLANC	GRAND BLANC EDUC ASSN	00302	LEVEL IV	07 66	05 67		06 68	NEA
1913	HEINTZEN PUB SCH DST	SOUTHGATE	HEINTZEN AFT LOCAL	00168	LEVEL IV	06 66			07 67	AFT
*1918	IONIA CITY SCH DST	IONIA	IONIA EDUC ASSN	00112	LEVEL IV	07 66			07 67	NEA
1928	MELVINDALE NO ALLEN PK SD	MELVINDALE	MELVINDALE AFT LOCAL 1051	00240	LEVEL IV	09 66			09 67	AFT
1931	MT MORRIS CONS SCH DST	MT MORRIS	MT MORRIS EDUC ASSN	00115	LEVEL IV	06 66			07 67	NEA
*1941	SAGINAW TWP COMM SCHS	SAGINAW	SAGINAW TWP EDUC ASSN	00254	LEVEL IV	08 66			06 67	NEA
*1942	ST JOSEPH SCH DST	ST JOSEPH	ST JOSEPH EDUC ASSN	00180	LEVEL IV	09 66	03 67		08 69	NEA
1951	TROY SCH DST	TROY	TROY EDUC ASSN	00225	LEVEL IV	08 66			08 67	NEA
*1952	VAN BUREN PUB SCHS	BELLEVILLE	VAN BUREN EDUC ASSN	00287	LEVEL IV	09 66			06 67	NEA
*1953	WARREN WOODS PUB SCHS	WARREN	WARREN WOODS EDUC ASSN	00314	LEVEL IV	07 66			06 67	NEA
4188	ALLEGAN SCHOOL DISTRICT	ALLEGAN	ALLEGAN ED ASSN	00090	LEVEL IV	07 66			06 67	NEA
*4189	ALMA PUB SCHS	ALMA	ALMA EDUC ASSN	00125	LEVEL IV	06 66	01 67		06 68	NEA
*4190	ANCHOR BAY SCH DST	NEW BALTIMORE	ANCHOR BAY EDUC ASSN	00085	LEVEL IV	08 66	05 67		08 68	NEA
*4197	BEAVERTON RURAL SCHS	BEAVERTON	BEAVERTON EDUC ASSN	00048	LEVEL IV	07 66			06 67	NEA
*4232	CHIPPEWA VALLEY SCH DIST	MOUNT CLEMENS	CHIPPEWA VALLEY ED ASSN	00065	LEVEL IV	08 66			06 67	NEA
*4237	COMSTOCK PK SCH DST	COMSTOCK PARK	COMSTOCK PK EDUC ASSN	00076	LEVEL IV	07 66			09 67	NEA
*4254	FENTON AREA PUB SCHS	FENTON	FENTON EDUC ASSN	00125	LEVEL IV	07 66			08 67	NEA
4269	HARPER CREEK COMM SCHS	BATTLE CREEK	HARPER CREEK EDUC ASSN	00130	LEVEL IV	08 66			08 67	NEA
*4290	KELLOGGSVILLE PUB SCHS	KELLOGGSVILLE	KELLOGGSVILLE EDUC ASSN	00105	LEVEL IV	09 66			09 67	NEA
*4296	LAKEVILLE SCH DST	OTISVILLE	LAKEVILLE EDUC ASSN	00091	LEVEL IV	07 66	04 67		06 68	NEA
*4306	MARSHALL PUB SCHS	MARSHALL	MARSHALL TCHRS ASSN	00128	LEVEL IV	08 66			08 67	NEA
*4312	MERIDIAN PUB SCHS	SANFORD	MERIDIAN EDUC ASSN	00072	LEVEL IV	09 66			06 67	NEA
*4320	NAPOLEON SCH DST	NAPOLEON	NAPOLEON EDUC ASSN	00072	LEVEL IV	06 66	02 67		06 69	NEA
*4329	NORTHVILLE PUB SCH DST	NORTHVILLE	NORTHVILLE CH MEA	00121	LEVEL IV	07 66			06 67	NEA
4348	REED CITY PUB SCHS	REED CITY	REED CITY EDUC ASSN	00064	LEVEL IV	04 66			04 67	NEA
*4362	SPARTA AREA SCHS	SPARTA	SPARTA EDUC ASSN	00111	LEVEL IV	07 66			06 67	NEA
*4363	SPRINGFIELD SCH DST	BATTLE CREEK	SPRINGFIELD EDUC ASSN	00087	LEVEL IV	09 66	02 67		08 68	NEA
*4364	SPRING LAKE PUB SCHS	SPRING LAKE	SPRING LAKE EDUC ASSN	00080	LEVEL IV	09 66			06 67	NEA
*4370	THORNAPPLE KELLOGG SCHS	MIDDLEVILLE	THORNAPPLE KELLOGG ED ASSN	00063	LEVEL IV	09 66			08 67	NEA
*4376	WATERVLIET SCH DST 62	WATERVLIET	WATERVLIET EDUC ASSN	00060	LEVEL IV	08 66			07 67	NEA
4380	WESTWOOD HTS SCH DST	FLINT	WESTWOOD HTS EDUC ASSN	00087	LEVEL IV	06 66	04 67		06 68	NEA
*4381	WHITEHALL DIST SCHS	WHITEHALL	WHITEHALL EDUC ASSN	00077	LEVEL IV	06 66			06 67	NEA
*6674	AKRON FAIRGROVE PUB SCH	AKRON	AKRON FAIRGROVE EDUC ASSN	00051	LEVEL IV	09 66	04 68		09 68	NEA

*6682	CONCORD COMM SCHS	CONCORD	CONCORD EDUC ASSN	00043	LEVEL IV	03 66	05 67	03 69	NEA
6700	MAYVILLE COMM SCHS	MAYVILLE	MAYVILLE EDUC ASSN	00048	LEVEL IV	07 66	03 67	06 69	NEA
*6718	WHITE PIGEON COMM SCH	WHITE PIGEON	WHITE PIGEON EDUC ASSN	00052	LEVEL IV	06 66		06 67	NEA
			NEW JERSEY						
*0054	NEWARK PUBLIC SCHOOLS	NEWARK	NEWARK TEACHERS ASSN	03650	LEVEL IV	02 67		02 70	NEA
			NEW YORK						
*0017	NEW YORK CITY SCH	NEW YORK CITY	NEW YORK AFT LOCAL 2	55700	LEVEL IV	07 65	10 66	06 67	AFT
0129	ROCHESTER CITY SCH DIST	ROCHESTER	ROCHESTER TEACHERS ASSN	02240	LEVEL IV	07 66		06 67	NEA
0131	YONKERS PUB SCHS	YONKERS	YONKERS FED OF TCHRS	01364	LEVEL IV	07 66		06 67	AFT
0358	NEW ROCHELLE SCH DST	NEW ROCHELLE	NEW ROCHELLE AFT LOCAL 280	00690	LEVEL IV	06 66		06 67	AFT
0953	PATCHOGUE MEDFORD PUB SCG	PATCHOGUE	PATCHOGUE CLRM TCHRS ASSN	00451	LEVEL IV	07 66	01 67	06 68	NEA
*9003	NEW YORK CITY PUB SCHS	NEW YORK CITY	UFT GUIDANCE COUNSELORS	01085	LEVEL IV	07 65		06 67	AFT
*9006	NEW YORK CITY PUB SCHS	NEW YORK	UFT CHILD GUIDANCE CHP	00465	LEVEL IV	07 65		06 67	AFT
*9005	NEW YORK CITY PUB SCHS	NEW YORK	UFT LABORATORY ASST & TECH	00425	LEVEL IV	03 66		06 67	AFT
*9006	NEW YORK CITY PUB SCHS	NEW YORK CITY	UFT ATTENDANCE TCHRS CHP	00450	LEVEL IV	03 66		06 67	AFT
			RHODE ISLAND						
*2644	N PROVIDENCE SCH DEPT	N PROVIDENCE	N PROVIDENCE AFT LOCAL 920	00160	LEVEL IV	09 66		09 67	AFT
5803	BRISTOL PUB SCHS	BRISTOL	BRISTOL EDUC ASSN	00142	LEVEL IV	09 67		09 69	NEA

METHOD OF SELECTION OF ARBITRATOR, MEDIATOR, OR REVIEW PANEL OTHER

			MICHIGAN						
1949	TRAVERSE CITY PUB SCHS	TRAVERSE CITY	TRAVERSE CITY EDUC ASSN	00228	LEVEL IV	07 66		06 67	NEA
6705	ONTONAGON TWP SCHS	ONTONAGON	ONTONAGON EDUC ASSN	00062	LEVEL IV	08 66		06 67	NEA
			RHODE ISLAND						
*0416	WARWICK PUB SCH	WARWICK	WARWICK EDUC ASSN	00857	LEVEL IV	02 67		01 69	NEA
2641	MIDDLETOWN PUB SCH	NEWPORT	MIDDLETOWN TCHRS ASSN	00210	LEVEL IV	07 67		06 68	NEA
2643	NORTH KINGSTOWN SCH DST	NO KINGSTOWN	NORTH KINGSTOWN TCHRS ASSN	00126	LEVEL IV	07 67		06 68	NEA
			WISCONSIN						
6296	MENASHA SCH DST	MENASHA	MENASHA AFT LOCAL 1166	00080	LEVEL IV	09 66		06 67	AFT

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Negotiation Research Digest

Volume 1, No. 6 February 1968

Who Can Represent a Grievant? ..... Description: A-1
Text: C-3

The exclusive representative of the employees only, says the Michigan Labor Mediation Board in its decision involving a teacher's desire to be represented by his own counsel rather than by the teacher organization which had won representation rights.

What's Negotiable? ..... Data: B-1

Listing of negotiation agreement content provisions and the number of agreements of each type containing them.

Two Agreements ..... Description: A-1
Text: D-1

One comprehensive agreement from Illinois, and one New York State procedural agreement printed in full.

Court Orders Negotiation Agreement ..... Description: A-1
Text: C-1

Florida Circuit Court ordered adoption of a "professional communication policy" by the Broward County Board of Public Instruction.

School Administrator and Professional Negotiation E-1

Text of presentation by Forrest E. Conner, Executive Secretary, American Association of School Administrators, to conference of superintendents in April 1967.

Index to Negotiation Research Digest E-5

Numbers 1 through 5 of Volume 1 are indexed in this issue. The index to Issues 1 and 2 (April and May 1967) was published in the September 1967 issue.

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Description and Analysis

WHO CAN REPRESENT A GRIEVANT?

Under exclusive representation who can represent an employee in processing a grievance? Certainly the designated bargaining agent can. May the employee represent himself? May the employee be represented by his own counsel?

According to the Michigan Labor Relations Board decision involving the Avondale School District and an individual, grievances cannot be presented to a board of education by an individual, with or without counsel. The grievance must be presented to the board of education (if so stated in the negotiation agreement) through the steps outlined in the grievance procedure and through the exclusive representative of the employees. Text of the decision begins on page C-3.

FLORIDA COURT DECREE REQUIRES SCHOOL BOARD TO MEET WITH TEACHERS

In a September 25, 1967, decree, Judge L. Clayton Nance of the Broward County, Florida, Circuit Court ordered a 1967-68 minimum salary of $5,600 for the Broward County School System. He also ordered the Broward County Board of Public Instruction to adopt a "professional communications policy."

TWO AGREEMENTS

Beginning on page D-1 will be found the comprehensive agreement between the District 149 Classroom Teachers Association (NEA) and the Board of Education of School District 149, Dolton, Cook County, Illinois. The agreement is for the period from July 1, 1967, through June 30, 1968.

A procedural agreement between four New York State school systems and a teachers organization begins on page D-10. The school systems are Central High School District No. 1, and Union Free School Districts Numbers 13, 24, and 30, of Valley Stream, New York. The four boards of education entered into an agreement with the Valley Stream Teachers Association (NEA) for the period July 1, 1967, through June 30, 1968.

CONTENT OF FUTURE ISSUES

Some of the content planned for the remaining issues of Volume 1 are:

- Texts of agreements from some states not previously represented
- Preliminary data from the 1967-68 survey of written teacher/school board negotiation agreements
- New York State Public Employment Relations Board case regarding a request for decertification of a teacher organization as exclusive representative plus applicable PERB rules on the subject
- Michigan Labor Mediation Board case involving arbitration of grievances and union security clauses.

Data and Statistics

WHAT'S BEING NEGOTIATED?

How many negotiated agreements in the United States between teacher organizations and school boards contain this provision? How many agreements in my state contain this provision as a negotiated item? The question, What is negotiable? is often asked today. The tables that follow should answer some of those questions.

Each agreement in the NEA Research Division's depository was analyzed for over 150 content items. Each agreement is listed by name for each provision contained in the agreement in Negotiation Agreement Provisions, 1966-67 Edition (Stock No. 841-24006, $15); the tables in this article were prepared from this publication.

Table 1 lists for each state the number of agreements and the number of agreements containing the indicated provisions, those which deal with the negotiated procedures and could be found in all agreements.

Provisions which have been negotiated, such as leaves or a salary schedule, are found only in the 398 comprehensive agreements (Level IV) as shown in Table 2. Only 12 states are represented in the comprehensive agreements on file in the NEA Research Division.

It should be remembered that if an item is not included in an agreement, it may be included in a state statute, or it may be specifically excluded by a court ruling, by a state statute, or for some other reason. Some items which have not been negotiated or changed by negotiation may continue in effect and be found in the school system's policies. Thus, this listing must be considered only as a listing of provisions in 1966-67 negotiation agreements, not an all-inclusive listing of school system policies and practices.

TABLE 1.--NUMBER OF 1966-67 AGREEMENTS CONTAINING CERTAIN PROVISIONS

State	Number of agreements	Negotiation procedure: Procedure for recognition of employee organization	Contains specific items included or excluded from negotiation	Structure of negotiation committee	Provisions for negotiation sessions	Procedure for impasse in negotiation
1	2	3	4	5	6	7
Alabama	0	...	...	...	...	...
Alaska	3	2	0	1	3	1
Arizona	10	1	0	8	7	5
Arkansas	0	...	...	...	...	...
California	301	281	122	171	191	16
Colorado	17	10	4	7	15	6
Connecticut	58	2	8	1	28	21
Delaware	7	1	4	0	7	6
District of Columbia	0	...	...	...	...	...
Florida	5	0	3	0	3	2
Georgia	0	...	...	...	...	...
Hawaii	0	...	...	...	...	...
Idaho	14	0	2	0	7	3
Illinois	62	5	22	9	40	21
Indiana	29	3	5	2	19	9
Iowa	8	1	3	1	6	2
Kansas	26	0	7	0	23	16
Kentucky	1	0	0	0	1	0
Louisiana	0	...	...	...	...	...
Maine	5	0	3	0	4	3
Maryland	5	0	2	0	2	2
Massachusetts	66	2	0	1	12	36
Michigan	238	1	4	13	184	124
Minnesota	19	0	13	1	15	0
Mississippi	1	0	0	1	1	0
Missouri	20	1	9	4	16	7
Montana	5	0	5	0	4	0
Nebraska	2	1	1	0	0	0
Nevada	1	1	0	0	0	0
New Hampshire	6	0	5	1	5	0
New Jersey	151	9	63	41	139	37
New Mexico	5	1	1	1	2	0
New York	78	7	25	12	53	38
North Carolina	1	0	0	0	0	0
North Dakota	1	0	1	0	1	0
Ohio	117	18	32	15	86	31
Oklahoma	3	0	1	0	2	2
Oregon	55	0	41	39	19	25
Pennsylvania	42	1	4	3	36	21
Rhode Island	9	0	3	1	6	2
South Carolina	1	0	0	0	0	0
South Dakota	4	0	1	0	3	0
Tennessee	1	0	1	0	1	0
Texas	6	2	2	3	4	1
Utah	3	0	2	0	3	0
Vermont	6	0	5	0	5	1
Virginia	2	0	0	0	2	1
Washington	73	19	21	1	61	57
West Virginia	2	0	0	0	1	0
Wisconsin	68	5	31	3	42	27
Wyoming	3	0	0	1	2	1
Total	1,540	374	456	341	1,061	524

TABLE 1.--NUMBER OF 1966-67 AGREEMENTS CONTAINING CERTAIN PROVISIONS (Continued)

State	Negotiation procedure (Cont.)		Scope of agreement			
	Provision for cost of arbitration, mediation, or review panel in impasse	Joint committees established to operate under agreement	General statement of parties to agreement	General statement of recognition	Classification of persons covered or excluded under agreement	Maintenance of standards
1	8	9	10	11	12	13
Alabama	...	...	...	...	...	...
Alaska	1	0	0	2	0	0
Arizona	0	1	0	5	0	0
Arkansas	...	...	...	...	...	...
California	12	2	1	6	5	0
Colorado	5	1	0	11	2	0
Connecticut	2	14	54	49	47	0
Delaware	5	0	5	5	0	0
District of Columbia	...	...	...	...	...	...
Florida	2	0	1	5	1	0
Georgia	...	...	...	...	...	...
Hawaii	...	...	...	...	...	...
Idaho	3	0	5	11	0	0
Illinois	16	8	20	47	6	1
Indiana	5	2	1	19	0	0
Iowa	0	0	1	3	0	0
Kansas	1	0	2	22	0	0
Kentucky	0	0	0	1	0	0
Louisiana	...	...	...	...	...	...
Maine	2	0	1	4	0	0
Maryland	0	0	0	5	0	0
Massachusetts	1	6	58	64	32	1
Michigan	4	126	230	232	231	6
Minnesota	0	1	2	7	0	0
Mississippi	0	0	0	0	0	0
Missouri	1	0	0	9	0	0
Montana	0	0	1	3	0	0
Nebraska	0	0	0	2	0	0
Nevada	0	0	0	1	0	0
New Hampshire	0	0	0	3	0	0
New Jersey	10	2	64	63	6	0
New Mexico	0	0	1	4	0	0
New York	27	5	43	66	17	0
North Carolina	0	0	1	1	0	0
North Dakota	0	0	1	1	0	0
Ohio	22	0	3	89	2	0
Oklahoma	1	0	2	3	0	0
Oregon	11	0	2	0	52	0
Pennsylvania	10	3	14	33	1	0
Rhode Island	0	2	8	9	5	0
South Carolina	0	0	0	1	0	1
South Dakota	0	0	3	4	0	0
Tennessee	0	0	1	1	0	0
Texas	1	1	5	5	0	0
Utah	0	1	1	1	0	0
Vermont	0	0	1	6	0	0
Virginia	0	0	2	1	0	0
Washington	23	0	46	53	3	0
West Virginia	0	0	2	2	0	0
Wisconsin	7	6	45	49	11	1
Wyoming	0	0	2	2	0	0
Total	172	181	629	908	421	10

TABLE 1.--NUMBER OF 1966-67 AGREEMENTS CONTAINING CERTAIN PROVISIONS (Continued)

State	Scope of agreement (Cont.)				Rights of representative organization		
	Savings clause	Effect on prior rules and policies	Effect on future changes in board policies and regulations	Distribution of agreement	Nondiscrimination clause against membership in employee organization	Check-off or dues deduction	Use of building facilities, e.g., assembly hall
1	14	15	16	17	18	19	20
Alabama	...	...	...	...	...	...	...
Alaska	0	0	0	0	0	0	0
Arizona	0	0	0	0	0	0	1
Arkansas	...	...	...	...	...	...	...
California	0	14	1	0	206	40	131
Colorado	0	0	0	0	0	0	0
Connecticut	17	20	11	9	18	18	0
Delaware	0	0	0	0	3	0	0
District of Columbia	...	...	...	...	...	...	...
Florida	0	0	0	0	3	0	0
Georgia	...	...	...	...	...	...	...
Hawaii	...	...	...	...	...	...	...
Idaho	0	0	0	0	4	1	1
Illinois	9	0	4	1	25	8	9
Indiana	0	0	0	0	11	0	0
Iowa	0	0	0	0	1	0	0
Kansas	0	0	0	0	5	0	0
Kentucky	0	0	0	0	0	0	0
Louisiana	...	...	...	...	...	...	...
Maine	0	0	0	0	3	0	0
Maryland	0	0	0	0	0	0	0
Massachusetts	8	48	2	0	3	37	2
Michigan	188	163	25	145	161	207	208
Minnesota	0	0	0	0	3	1	0
Mississippi	0	0	0	0	0	0	0
Missouri	0	0	0	0	1	0	0
Montana	0	0	0	0	0	0	0
Nebraska	0	0	0	0	1	0	0
Nevada	0	0	0	0	0	0	0
New Hampshire	0	0	0	0	0	0	0
New Jersey	1	1	0	0	13	1	0
New Mexico	0	1	0	0	0	0	0
New York	11	5	9	7	18	11	7
North Carolina	0	0	0	0	0	0	0
North Dakota	0	0	0	0	0	0	0
Ohio	0	0	0	1	18	1	2
Oklahoma	0	0	0	0	1	0	0
Oregon	0	0	0	0	0	0	0
Pennsylvania	1	0	0	0	4	1	1
Rhode Island	0	0	0	0	6	4	4
South Carolina	0	0	0	0	0	0	0
South Dakota	0	0	0	0	0	0	0
Tennessee	0	0	0	0	1	0	0
Texas	0	0	0	0	0	0	0
Utah	0	0	0	0	0	0	1
Vermont	0	0	0	0	0	0	0
Virginia	0	0	0	0	0	0	0
Washington	0	1	0	0	8	0	0
West Virginia	0	0	0	0	0	0	0
Wisconsin	0	3	1	4	9	5	4
Wyoming	0	0	0	0	2	0	0
Total	235	256	53	167	528	335	371

TABLE 1.--NUMBER OF 1966-67 AGREEMENTS CONTAINING CERTAIN PROVISIONS (Continued)

State	Rights of representative organization (Cont.)				
	Use of school equipment, typewriters, and duplicating machines	Use of school communication system, bulletin boards, and mail boxes	Information pertinent to negotiation, e.g., financial and budgetary reports made available to the representative organization	Organizational representatives allowed time off without loss of salary for negotiation sessions or grievance hearings	Conducting official organization business during the school day
1	21	22	23	24	25
Alabama	...	...	...	...	...
Alaska	0	0	0	0	0
Arizona	0	1	1	0	0
Arkansas	...	...	...	...	...
California	3	241	219	7	56
Colorado	0	0	0	5	0
Connecticut	0	1	17	11	4
Delaware	0	0	0	0	0
District of Columbia	...	...	...	...	...
Florida	0	0	3	1	1
Georgia	...	...	...	...	...
Hawaii	...	...	...	...	...
Idaho	0	1	1	0	1
Illinois	0	6	16	3	5
Indiana	0	0	9	0	0
Iowa	0	0	0	0	0
Kansas	0	0	0	0	0
Kentucky	0	0	0	0	0
Louisiana	...	...	...	...	...
Maine	0	0	0	0	0
Maryland	0	0	0	0	0
Massachusetts	0	3	1	6	3
Michigan	38	186	203	122	41
Minnesota	0	0	0	0	0
Mississippi	0	0	0	0	0
Missouri	0	0	0	0	0
Montana	0	0	0	0	0
Nebraska	0	0	0	0	0
Nevada	0	0	0	0	0
New Hampshire	0	0	0	0	0
New Jersey	0	0	12	0	0
New Mexico	0	1	1	1	0
New York	0	7	13	7	6
North Carolina	0	0	0	0	0
North Dakota	0	0	0	0	0
Ohio	0	2	13	0	0
Oklahoma	0	0	1	1	1
Oregon	0	0	4	0	0
Pennsylvania	0	1	15	1	1
Rhode Island	0	4	1	3	3
South Carolina	0	0	0	0	0
South Dakota	0	0	0	0	0
Tennessee	0	0	1	0	0
Texas	0	0	1	0	0
Utah	0	1	1	0	0
Vermont	0	0	0	0	0
Virginia	0	0	0	0	0
Washington	0	0	2	0	1
West Virginia	0	0	0	0	0
Wisconsin	1	3	7	4	1
Wyoming	0	0	1	0	0
Total	42	458	543	172	124

TABLE 1.--NUMBER OF 1966-67 AGREEMENTS CONTAINING CERTAIN PROVISIONS (Continued)

State	Rights of representative organization (Cont.)			Teacher activity	
	Time off to attend professional organization conferences or conventions	Leave of absence for full-time service to organization without loss of tenure	No-strike clause	Individual or minority representation to the administration	Teacher's rights under law not abridged
1	26	27	28	29	30
Alabama	...	...	...	...	...
Alaska	0	0	2	0	0
Arizona	0	0	1	0	0
Arkansas	...	...	...	...	...
California	2	0	0	161	19
Colorado	0	0	0	10	0
Connecticut	3	4	3	7	1
Delaware	0	0	2	1	0
District of Columbia	...	...	...	...	...
Florida	1	0	0	2	0
Georgia	...	...	...	...	...
Hawaii	...	...	...	...	...
Idaho	0	0	0	3	0
Illinois	1	1	11	11	2
Indiana	0	0	0	8	0
Iowa	0	0	0	0	0
Kansas	0	0	0	10	0
Kentucky	0	0	0	0	0
Louisiana	...	...	...	...	...
Maine	0	0	0	1	0
Maryland	0	0	0	1	0
Massachusetts	2	3	7	2	1
Michigan	128	101	88	172	154
Minnesota	0	0	0	4	0
Mississippi	0	0	0	0	0
Missouri	0	0	0	7	0
Montana	0	0	0	0	0
Nebraska	0	0	0	0	0
Nevada	0	0	0	1	0
New Hampshire	0	0	0	0	0
New Jersey	0	1	1	60	0
New Mexico	0	0	0	1	0
New York	2	2	13	25	9
North Carolina	0	0	0	1	0
North Dakota	0	0	0	1	0
Ohio	0	0	2	44	0
Oklahoma	0	0	1	0	0
Oregon	0	0	0	4	0
Pennsylvania	0	1	1	7	0
Rhode Island	2	2	0	1	0
South Carolina	0	0	0	0	0
South Dakota	0	0	0	3	0
Tennessee	0	0	0	0	0
Texas	0	0	0	0	0
Utah	0	0	0	1	1
Vermont	0	0	0	1	0
Virginia	0	0	0	0	0
Washington	1	0	1	41	0
West Virginia	0	0	0	1	0
Wisconsin	4	0	1	1	0
Wyoming	0	0	1	0	0
Total	146	115	135	620	187

TABLE 1.--NUMBER OF 1966-67 AGREEMENTS CONTAINING CERTAIN PROVISIONS (Continued)

State	Teacher activity (Cont.)					Board rights
	Personal activities outside school	Employment outside school	Political activities outside school	Academic freedom	Polygraph tests	General statement of responsibility
1	31	32	33	34	35	36
Alabama	...	...	...	...	...	...
Alaska	0	0	0	0	0	0
Arizona	0	0	0	0	0	0
Arkansas	...	...	...	...	...	...
California	0	0	1	0	0	8
Colorado	0	0	0	0	0	0
Connecticut	0	2	0	0	0	18
Delaware	0	0	0	0	0	0
District of Columbia	...	...	...	...	...	...
Florida	0	0	0	0	0	0
Georgia	...	...	...	...	...	...
Hawaii	...	...	...	...	...	...
Idaho	0	0	0	0	0	0
Illinois	0	0	0	1	0	5
Indiana	0	0	0	0	0	0
Iowa	0	0	0	0	0	0
Kansas	0	0	0	0	0	1
Kentucky	0	0	0	0	0	0
Louisiana	...	...	...	...	...	...
Maine	0	0	0	0	0	0
Maryland	0	0	0	0	0	0
Massachusetts	1	2	0	1	0	16
Michigan	85	10	111	11	41	166
Minnesota	0	0	0	0	0	1
Mississippi	0	0	0	0	0	0
Missouri	0	0	0	0	0	0
Montana	0	0	0	0	0	0
Nebraska	0	0	0	0	0	0
Nevada	0	0	0	0	0	0
New Hampshire	0	0	0	0	0	1
New Jersey	0	0	0	0	0	2
New Mexico	0	0	0	0	0	0
New York	0	2	0	0	0	2
North Carolina	0	0	0	0	0	0
North Dakota	0	0	0	0	0	0
Ohio	0	0	0	0	0	0
Oklahoma	0	0	0	0	0	0
Oregon	0	0	0	0	0	0
Pennsylvania	0	0	0	0	0	1
Rhode Island	0	0	0	0	0	0
South Carolina	0	0	0	0	0	0
South Dakota	0	0	0	0	0	1
Tennessee	0	0	0	0	0	0
Texas	0	0	0	0	0	0
Utah	0	0	0	0	0	0
Vermont	0	0	0	0	0	0
Virginia	0	0	0	0	0	0
Washington	1	0	1	0	0	2
West Virginia	0	0	0	0	0	0
Wisconsin	2	2	2	0	0	3
Wyoming	0	0	0	0	0	0
Total	89	18	115	13	41	227

TABLE 2.--NUMBER OF 1966-67 COMPREHENSIVE AGREEMENTS CONTAINING CERTAIN PROVISIONS

State	Number of agreements	Instructional program						
		Curriculum review	Teacher qualifications	Development of special educational programs	Development of tax or bond programs	Application of state and federal funds	Evaluation and application of testing programs	Distribution of budgetary items
1	2	3	4	5	6	7	8	9
Colorado	1	1	1	0	0	0	0	1
Connecticut	45	3	3	8	0	1	0	0
Illinois	10	2	3	1	0	1	0	2
Massachusetts ...	57	4	3	4	0	0	0	0
Michigan	237	71	44	41	67	22	4	53
Minnesota	1	0	0	0	0	0	0	0
New Jersey	1	0	0	0	0	1	0	0
New York	12	2	1	1	0	0	0	1
Ohio	1	0	0	0	0	0	0	0
Pennsylvania	1	0	0	1	0	0	0	0
Rhode Island	9	1	0	2	0	0	0	0
Washington	1	0	1	0	0	0	0	0
Wisconsin	22	1	10	1	0	1	0	1
Total	398	85	66	59	67	26	4	58

State	Instructional program (Cont.)						
	Evaluation of teachers performance	Selection and distribution of textbooks	Pupil ratio and class size	Instructional aids which are available for the teacher's use in development, planning, and teaching in the classroom	Teacher aids to relieve the teacher of extraneous duties	Secretarial and clerical assistance in the preparation of reports, tests, and programs	School calendar or year
1	10	11	12	13	14	15	16
Colorado	0	0	1	0	0	0	1
Connecticut	0	16	17	9	5	4	22
Illinois	2	4	2	1	1	1	6
Massachusetts ...	2	2	3	4	2	0	11
Michigan	43	112	183	147	53	27	195
Minnesota	0	0	0	0	0	0	1
New Jersey	0	0	1	1	1	0	1
New York	0	0	6	3	5	1	2
Ohio	0	0	0	0	0	0	0
Pennsylvania	1	1	1	1	1	0	0
Rhode Island	0	4	4	3	4	1	3
Washington	0	0	0	0	0	0	0
Wisconsin	0	1	4	0	1	2	11
Total	48	140	222	169	73	36	253

TABLE 2.--NUMBER OF 1966-67 COMPREHENSIVE AGREEMENTS CONTAINING CERTAIN PROVISIONS (Cont.)

State	Instructional program (Cont.)				Personnel policies and practices			
	Pupil progress reports, promotion, and policies	Student extracurricular activities supervision	Parent-teacher conferences	Integration of education for textbooks, pupils, and staff	Individual contract terms	Teaching hours or day	Teaching load or schedule of class periods	Teaching assignment in subject areas
1	17	18	19	20	21	22	23	24
Colorado	0	0	0	0	0	1	0	1
Connecticut	1	12	5	0	26	15	13	22
Illinois	1	4	1	2	0	3	4	4
Massachusetts ...	2	5	2	0	0	4	4	5
Michigan	12	94	82	113	152	160	154	190
Minnesota	0	0	0	0	0	0	0	0
New Jersey	0	1	0	0	0	1	1	1
New York	0	4	1	0	0	8	6	7
Ohio	0	0	0	0	0	0	0	0
Pennsylvania	0	1	0	1	0	1	1	0
Rhode Island	1	3	2	0	1	4	4	5
Washington	0	0	0	0	0	0	0	0
Wisconsin	2	7	1	0	5	6	6	7
Total	19	131	94	116	184	203	193	242

State	Personnel policies and practices (Cont.)						
	Teaching assignment for special education programs	Hours of service before and after regular class periods	Duty-free periods for planning, etc.	Lunch period for elementary teachers	Lunch period for secondary teachers	Nonclassroom service duties	Promotion to higher classification, supervisor, or administrator
1	25	26	27	28	29	30	31
Colorado	0	0	1	1	1	1	0
Connecticut	8	7	19	24	23	16	23
Illinois	3	4	1	4	4	6	1
Massachusetts ...	1	2	3	4	5	2	6
Michigan	22	132	174	186	173	149	199
Minnesota	0	0	0	0	0	0	0
New Jersey	1	0	1	0	0	0	1
New York	5	5	7	7	6	5	4
Ohio	0	0	0	0	0	0	0
Pennsylvania	0	0	0	0	0	1	0
Rhode Island	2	3	3	4	4	2	7
Washington	0	0	0	0	0	0	1
Wisconsin	2	2	4	7	6	5	1
Total	44	155	213	237	222	187	243

TABLE 2.--NUMBER OF 1966-67 COMPREHENSIVE AGREEMENTS CONTAINING CERTAIN PROVISIONS (Cont.)

State	Personnel policies and practices (Cont.)					Method of selection of arbitrator, mediator, or review panel for grievance procedure		
	Qualifications for professional growth	Regular teacher meetings	Transfers	Dismissal and resignation	Grievance procedure	Selection is named in agreement	Joint selection each time as needed	State education agency
1	32	33	34	35	36	37	38	39
Colorado	1	0	0	0	1	0	1	0
Connecticut	8	11	22	5	33	2	5	2
Illinois	5	3	4	2	7	0	2	0
Massachusetts ...	14	2	5	3	54	0	2	0
Michigan	59	105	213	85	226	0	16	0
Minnesota	1	0	0	1	0	0	0	0
New Jersey	0	1	1	1	15	0	5	6
New York	9	2	9	6	11	0	0	0
Ohio	1	0	0	0	1	0	1	0
Pennsylvania	1	1	1	0	2	1	1	0
Rhode Island	2	4	5	1	6	0	0	1
Washington	1	0	0	1	0	0	0	0
Wisconsin	15	3	5	14	13	0	2	0
Total	117	132	265	119	369*	3	35	9

*Includes 16 procedural agreements containing a grievance procedure.

State	Method of selection of arbitrator, mediator, or review panel for grievance procedure (Cont.)				Professional code of ethics	Teacher discipline or reprimand	Assault cases and pupil discipline	Teacher's personnel file
	State labor board	U. S. Mediation and Conciliation Service	American Arbitration Association	Other				
1	40	41	42	43	44	45	46	47
Colorado	0	0	0	0	1	0	0	1
Connecticut	0	0	11	0	16	2	16	7
Illinois	0	0	1	0	0	0	4	6
Massachusetts ...	16	0	30	0	1	4	4	6
Michigan	122	5	60	2	113	144	194	143
Minnesota	0	0	0	0	0	0	0	0
New Jersey	0	0	1	0	0	0	1	0
New York	0	0	9	0	1	4	9	9
Ohio	0	0	0	0	0	0	0	0
Pennsylvania	0	0	0	0	0	0	1	1
Rhode Island	0	0	2	3	0	3	4	3
Washington	0	0	0	0	0	1	0	0
Wisconsin	4	0	0	1	1	2	1	0
Total	142	5	114	6	133	160	234	176

TABLE 2.--NUMBER OF 1966-67 COMPREHENSIVE AGREEMENTS CONTAINING CERTAIN PROVISIONS (Cont.)

State	Damaged or stolen property	Procedure for teacher evaluation	Teacher facilities, e.g., lounge, parking space, desk, storage room	Other than full-time teachers	Salary policy		
					Salary schedule	Salary credits for prior growth and experience	Salary increments for professional preparation
1	48	49	50	51	52	53	54
Colorado	0	1	0	0	0	1	1
Connecticut	4	19	15	8	42	32	40
Illinois	1	2	4	4	8	7	8
Massachusetts ...	1	7	4	2	35	19	35
Michigan	123	196	177	34	235	173	230
Minnesota	0	0	0	0	1	1	1
New Jersey	0	1	1	1	1	1	1
New York	5	4	6	5	12	9	12
Ohio	0	0	0	0	1	0	1
Pennsylvania	0	1	1	1	1	1	1
Rhode Island	3	5	4	1	9	4	9
Washington	0	0	0	0	0	1	1
Wisconsin	0	5	2	2	21	18	21
Total	137	241	214	58	366	267	361

State	Salary policy (Cont.)				Fringe benefits			
	Extra-duty pay for special activities	Overtime pay when required to remain over regular class periods	Other than full-time instructional personnel pay	Pay period	Tuition reimbursement	Health services	Terminal leave or severance pay	Travel allowance for transportation, food, lodging
1	55	56	57	58	59	60	61	62
Colorado	1	0	0	0	0	0	0	0
Connecticut	19	0	13	16	7	2	6	11
Illinois	7	5	6	5	2	1	4	2
Massachusetts ...	16	2	5	10	3	0	3	4
Michigan	208	98	74	63	74	35	89	65
Minnesota	1	0	0	0	1	0	0	1
New Jersey	0	0	1	0	0	0	0	0
New York	7	1	9	7	1	1	5	4
Ohio	0	0	0	0	0	0	0	0
Pennsylvania	1	0	1	1	0	0	1	0
Rhode Island	2	0	1	5	0	0	0	2
Washington	0	0	0	1	0	0	0	0
Wisconsin	15	5	6	10	9	7	2	6
Total	277	111	116	118	97	46	110	95

TABLE 2.--NUMBER OF 1966-67 COMPREHENSIVE AGREEMENTS CONTAINING CERTAIN PROVISIONS (Cont.)

State	Fringe benefits (Cont.)	Part of full premium payments by board or other agency						
	Payment of professional organization dues (subject oriented groups)	Health insurance	Liability insurance	Life insurance	Workmen's compensation	Income protection or disability insurance	Pension or retirement	Tax-sheltered annuity
1	63	64	65	66	67	68	69	70
Colorado	0	1	1	1	0	1	0	0
Connecticut	0	32	20	2	1	0	0	0
Illinois	0	5	1	0	0	0	0	0
Massachusetts ...	0	6	7	0	1	2	2	0
Michigan	1	142	50	23	18	30	0	16
Minnesota	0	1	0	0	0	0	0	0
New Jersey	0	1	0	0	0	0	0	0
New York	0	10	1	0	0	0	4	0
Ohio	0	0	0	0	0	0	0	0
Pennsylvania	0	1	1	0	0	0	0	0
Rhode Island	0	8	1	1	0	0	0	0
Washington	0	1	0	0	0	0	0	0
Wisconsin	0	18	12	5	5	1	2	0
Total	1	226	94	32	25	34	8	16

State	Part of full premium payments by board or other agency (Cont.)	Available through board cooperation only						
	Automobile insurance	Health insurance	Life insurance	Liability	Workmen's compensation	Income protection or disability insurance	Pension or retirement	Tax-sheltered annuity
1	71	72	73	74	75	76	77	78
Colorado	0	0	0	0	0	0	0	0
Connecticut	0	0	0	0	0	0	1	7
Illinois	0	0	0	0	0	0	0	2
Massachusetts ...	0	1	0	0	0	0	0	6
Michigan	0	6	19	2	1	18	0	23
Minnesota	0	0	0	0	0	0	0	0
New Jersey	0	1	0	0	0	0	0	0
New York	0	0	0	0	0	0	0	0
Ohio	0	0	0	0	0	0	0	0
Pennsylvania	0	0	0	0	0	0	0	0
Rhode Island	0	1	0	0	0	0	0	0
Washington	0	0	0	0	0	0	0	0
Wisconsin	1	1	1	0	0	0	1	3
Total	1	10	20	2	1	18	2	41

TABLE 2.--NUMBER OF 1966-67 COMPREHENSIVE AGREEMENTS CONTAINING CERTAIN PROVISIONS (Cont.)

State	Absences with full or part pay									
	General (not specified)	Sick leave	Sabbatical leave	Bereavement leave	Family illness leave	Personal business leave	Professional business leave	Association leave	Jury duty	Court summons or other legal action
1	79	80	81	82	83	84	85	86	87	88
Colorado	0	1	1	0	0	1	0	0	1	0
Connecticut	16	36	20	15	7	23	12	2	3	3
Illinois	1	7	5	3	0	6	1	2	1	0
Massachusetts ...	9	30	13	15	1	11	3	0	0	1
Michigan	67	175	67	95	19	109	9	5	112	98
Minnesota	0	1	1	0	0	0	0	0	0	0
New Jersey	0	1	0	0	0	1	0	1	0	0
New York	3	11	11	3	1	6	0	4	8	3
Ohio	0	0	0	0	0	0	0	0	0	0
Pennsylvania	0	0	0	0	0	1	0	0	0	0
Rhode Island	1	8	4	5	0	4	3	0	4	3
Washington	1	1	1	0	1	0	1	0	0	0
Wisconsin	8	18	3	6	5	1	4	0	1	0
Total	106	289	126	142	34	163	33	14	130	108

State	Absences with full or part pay (Cont.)								
	Foreign exchange teaching	Domestic exchange teaching	Other school visitations	Educational conference	Military leave	Reserve training	Selective service examination	Medical examination	Religious holidays
1	89	90	91	92	93	94	95	96	97
Colorado	0	0	0	1	0	0	0	0	0
Connecticut	2	1	3	7	0	4	0	0	10
Illinois	0	0	0	2	0	0	0	0	0
Massachusetts ...	0	0	0	3	0	2	0	0	3
Michigan	1	0	91	130	0	10	83	4	5
Minnesota	0	0	0	0	0	0	0	0	0
New Jersey	0	0	0	0	0	0	0	0	0
New York	0	0	3	4	5	0	5	0	2
Ohio	0	0	0	0	0	0	0	0	0
Pennsylvania	0	0	0	0	0	0	0	0	0
Rhode Island	0	0	4	3	0	6	0	0	4
Washington	0	0	0	0	0	0	0	0	0
Wisconsin	1	0	3	2	0	1	0	0	0
Total	4	1	104	152	5	23	88	4	24

TABLE 2.--NUMBER OF 1966-67 COMPREHENSIVE AGREEMENTS CONTAINING CERTAIN PROVISIONS (Cont.)

State	Absences with full or part pay (Cont.)	Absences without pay							
	Quarantine or communicable diseases	General (not specified)	Sick leave	Sabbatical leave	Bereavement leave	Family illness leave	Personal business leave	Professional business leave	Association leave
1	98	99	100	101	102	103	104	105	106
Colorado	0	1	7	0	0	0	1	1	0
Connecticut	2	11	0	5	0	0	0	1	1
Illinois	0	3	1	2	0	0	0	0	0
Massachusetts ...	1	7	1	1	0	2	1	0	2
Michigan	23	64	125	54	1	4	9	78	4
Minnesota	0	0	0	0	0	0	0	0	0
New Jersey	0	0	0	1	0	0	0	0	0
New York	1	2	3	0	0	0	2	5	1
Ohio	0	0	0	0	0	0	0	0	0
Pennsylvania	0	0	0	1	0	0	0	0	0
Rhode Island	1	3	1	1	0	1	1	1	2
Washington	0	1	0	0	0	0	0	0	0
Wisconsin	1	6	0	1	0	0	2	2	0
Total	29	98	138	66	1	7	16	88	10

State	Absences without pay (Cont.)								
	Public office or political campaigns	Foreign exchange teaching	Domestic exchange teaching	Peace corps	Educational conference	Maternity leave	Military leave	Medical examination	Religious holidays
1	107	108	109	110	111	112	113	114	115
Colorado	0	0	0	1	0	1	1	0	0
Connecticut	0	1	5	3	0	19	11	0	0
Illinois	0	0	0	1	0	4	1	0	0
Massachusetts ...	1	0	0	2	0	7	6	0	0
Michigan	97	19	5	81	1	183	167	0	1
Minnesota	0	0	0	0	0	0	0	0	0
New Jersey	0	0	0	0	0	0	0	0	0
New York	0	7	0	2	0	6	2	0	0
Ohio	0	0	0	0	0	0	0	0	0
Pennsylvania	0	0	0	0	0	0	0	0	0
Rhode Island	0	3	0	2	0	4	3	0	0
Washington	0	0	0	0	0	1	1	0	0
Wisconsin	1	0	1	0	0	8	1	1	0
Total	99	30	11	92	1	233	193	1	1

Judicial Decisions, Opinions, and Statutes

IN THE CIRCUIT COURT OF THE SEVENTEENTH

JUDICIAL CIRCUIT, IN AND FOR BROWARD

COUNTY, FLORIDA

CIVIL ACTION NO. 67-5707 Judge Nance

THE BOARD OF PUBLIC INSTRUCTION OF BROWARD COUNTY, FLORIDA

Plaintiff,

vs.

BROWARD COUNTY CLASSROOM TEACHERS ASSOCIATION, INCORPORATED, a Florida non-profit Corporation, and DAVID L. PIERCE, its President, and LYNN Q. GILMORE, its Executive Secretary; THE FLORIDA EDUCATION ASSOCIATION, INC., a Florida non-profit Corporation, and DEXTER HAGMAN, its President, and ED HENDERSON, its Executive Secretary; and THE NATIONAL EDUCATION ASSOCIATION, INC., a foreign non-profit Corporation and its officers.

Defendants,

DECREE

This cause came on before the Court on the 12th day of September, 1967, upon the Plaintiff's Petition for a Temporary Injunction without Notice and the Court having considered same and ordering the Plaintiff to give Notice to all parties, the Court then set a hearing on said Petition for Temporary Injunction for 5:00 o'clock P.M. on the 12th day of September, 1967; that at the appointed hour all parties appeared by and through their respective counsel and the Court, having heard opening statements by counsel for all parties, ordered the parties to appear by their counsel in the Court's Chambers for a Pre-trial Conference; that thereafter all parties appeared by and through their respective counsel at said Pre-trial Conference and upon the conclusion of same and the parties having announced that they had reached an Agreement to settle all issues as contained in Plaintiff's Complaint, the Court then reconvened at 3:00 o'clock P.M. on the 13th day of September, 1967 at which time the said Agreement of the parties was read by the Court Reporter into the Official Record of this Court. The Court having considered said Agreement and having heard argument of Counsel and being fully advised in the premises, THEREFORE:

ORDERS, ADJUDGES AND DECREES as follows:

1. That this Court has jurisdiction of the parties hereto and of the subject matter hereof.

2. That upon the joint motion of the parties hereto the pleadings in this cause be and they are hereby amended to conform to the terms of this Decree.

3. That upon the Agreement and stipulation of Counsel for all parties hereto the Court does hereby ratify, adopt, approve and confirm the following Agreement:

A. That all instructional personnel of the Broward County School System shall return to work forthwith for the school year 1967-68 at a salary base of FIVE THOUSAND, SIX HUNDRED DOLLARS ($5,600.00) on the index.

B. That The Board of Public Instruction of Broward County, Florida shall adopt the following professional communications policy to be effective immediately:

(1) It is recognized by all parties that teaching is a profession.

(2) The Broward County Board of Public Instruction recognizes The Broward County Classroom Teachers Association, Inc. and The Broward Administrators and Supervisors Association as communicating agencies for professional personnel.

(3) The membership of this Professional Communications Committee shall be comprised of five (5) of the teaching members of the Classroom Teachers Association, two (2) representatives of The Broward Administrators and Supervisors Association. They shall meet with two (2) of the School Board members and the Superintendent. Each organization shall have the right to select its own representation.

This group shall be called a Coordinating Committee and shall meet monthly as agreed upon by the members. Special sessions may be called by a committee majority.

(4) Facts, opinions, proposals and counter-proposals should be exchanged freely during the sessions in an effort to reach mutual understandings.

(5) The internal structure of the Committee and the development of operating procedures shall be left to the discretion of the committee.

(6) When the members of the Coordinating Committee reach agreement, it shall be incumbent upon the representatives of the professional organizations to secure official actions from their respective associations prior to presentation to the Board of Public Instruction for official action.

(7) It is clearly understood that The Board of Public Instruction has the final authority in determining policy and program in the operation of the Public Schools in Broward County, Florida.

C. The Board of Public Instruction of Broward County, Florida will forthwith submit the following letter to The Broward County Legislative Delegation:

"Gentlemen:

The crisis now facing Broward County Schools is partially the result of the failure to provide sufficient finances.

We urge you to convene a special session of the State Legislature so that the problems of the schools in Broward County, as well as all of Florida, can be resolved immediately.

Enclosed is statistical material regarding the effects of the last Legislative session on the Broward County Public Schools."

D. Any funds which might be appropriated for instructional purposes by a Special Session of the Legislature in 1967-68 school year, will be added to that part of the program for which such funds were intended.

E. All possible action will be taken immediately to correct undesirable education conditions in this County. (The Board of Public Instruction of Broward County has already indicated its intention to accomplish this by appointing a Committee including Classroom Teachers Association and Broward Administrators and Supervisors Association representation to develop a millage and bond program).

F. All purported resignations heretofore submitted to The Broward County Board of Public Instruction shall be returned forthwith by the Plaintiff to the Clerk of this Court, and they shall be burned by the Clerk of this Court. The names of persons having submitted said purported resignations shall not be released. It is further agreed that no punitive or retaliatory actions shall be taken against any member of the teaching profession for his or her action, or failure to act, to bring about the improvements stated herein.

G. No settlement reached between the parties hereto shall, in any way, constrain the Defendants or their members from full support of The Florida Education Association, Inc.; provided, however, that no such action taken by any Defendants shall breach or induce the breach of the terms of this negotiated Agreement; and, provided further, that nothing herein contained shall act to prevent The Board of Public Instruction from exercising its legal duties, responsibilities, and/or remedies in connection with assuring the operation of public schools in Broward County, Florida.

4. The court will, and does hereby, retain jurisdiction over the parties hereto and the subject matter of this cause for the purpose of strict enforcement and all parties are hereby directed to comply with the full terms of this Decree, it being the purpose and intention of this Court that Broward County shall suffer no further loss, defeat or destruction as a result of those matters complained of in the Complaint filed herein. It is the intention of this Court that interference with this Decree will not be tolerated.

DONE AND ORDERED in Chambers this 25th day of September, 1967, at Fort Lauderdale, Broward County, Florida.

L. CLAYTON NANCE
CIRCUIT JUDGE

STATE OF MICHIGAN LABOR MEDIATION BOARD LABOR RELATIONS DIVISION, AVONDALE, MICH.

In the Matter of:

AVONDALE SCHOOL DISTRICT
BOARD OF EDUCATION,
Respondent

and -

Case No. C66 F-71

HAROLD STRAYER,
Charging Party

and -

AVONDALE EDUCATION ASSOCIATION,
Intervenor

TRIAL EXAMINER'S DECISION AND RECOMMENDED ORDER

APPEARANCES:

For the Respondent: Harry D. Wise, Jr., Attorney

For the Charging Party: Craig and Fieger, by Bernard J. Fieger, Attorney

For the Intervenor: Ellmann and Ellmann, by Harvey Wax and Erwin B. Ellmann, Attorneys

The above-entitled matter having come on for hearing before the undersigned Trial Examiner of the Michigan Labor Mediation Board, hereinafter referred to as the Board, at Detroit, Michigan, on February 3, 1967, and the entire record having been considered, including post-hearing briefs filed by all of the parties on various dates during February, March and April, 1967, the undersigned hereby makes the following findings of fact, conclusions of law, and recommendations to the Board for the disposition of the case:

FINDINGS OF FACT

Avondale School District Board of Education, the Respondent herein, is a public employer within the meaning of Act 336 of the Public Acts of 1947, as most recently amended by Act 379 of the Public Acts of 1965 (Public Employment Relations Act, M.S.A. sec. 17.455), hereinafter referred to as PERA.

On June 22, 1966 Harold Strayer, a teacher employed by the Avondale School District, filed charges, pursuant to Section 16 of PERA, alleging that the employer had engaged in, and was engaging in unfair labor practices within the meaning of Section 11 of PERA. The specific allegation is as follows:

> "That the employer violated Section 11 of the Public Employment Relations Act in that it has refused to permit the individual employee to present his grievance with counsel of his choice and has attempted to dictate to said employee the identity of said counsel."

The Board issued Complaint against the Respondent on August 5, 1966. After a conference held in the case by Trial Examiner Bert Wicking during September, 1966, the matter was adjourned because of the parties' desire to attempt to negotiate certain stipulations and agreements. Since the issue in dispute was not resolved between the parties, the case was finally reset for hearing and transferred to the undersigned.

The Answer filed by the Respondent denies the violation as alleged, asserts that it is ready, willing and able to allow the Charging Party to present his grievance, avers that the Avondale Education Association is the duly designated bargaining agent for certified teachers and the proper organization to represent him, and claims that Section 11 of PERA does not guarantee an individual employee a right to counsel of his choice in a grievance hearing. Finally, the Answer alleges that the charge is not brought in good faith but is an attempt to embarrass and harass the Respondent. In this connection, the Answer asserts that Charging Party is President of Avondale Federation of Teachers, a dissident group which was defeated by Avondale Education Association in a representation election.

At the commencement of the hearing, the Charging Party objected to a motion by Avondale Education Association to intervene in this case, since the case involves an individual's rights vis a vis his employer. The undersigned allowed the intervention, since the Association's rights as exclusive bargaining agent are unquestionably affected by a determination of the extent of an individual's right, if any, to process his own grievance outside of the contract procedure.

Most of the vital facts in this case are undisputed. Harold Strayer was president of the Federation at the time of the representation case and afterwards. By April, 1966 the Association was negotiating with the Respondent for a collective bargaining agreement. On April 25, Strayer met with Superintendent of Schools, John W. Dickey, regarding a "grievance" he had written concerning the need for certain equipment in his academic department. During the discussion reference was made to Strayer's personnel file. Strayer asked permission to inspect the file. Dickey sent him photostats of several memoranda and confidential file notes relating to Strayer's actions. Much of the material was critical of Strayer. Strayer, upon receiving the material, wrote to Dickey, asking that the material be removed from his file or that he be given a hearing before the Board of Education concerning the contents of the file. He also pointedly took exception to the accuracy of several specific statements in the file. Strayer was notified he could appear before the Board of Education on June 20, 1966.

On that date he arrived at the hearing with Bernard J. Fieger (the same attorney representing him in this unfair labor practice case). Strayer testified that the Board of Education refused to hear his grievance with Attorney Fieger representing him, saying that it would hear it if he was alone (and with the Association represented). Superintendent Dickey suggested it would be permissible for him to be represented by an Association lawyer. However, according to Strayer's testimony, the Board of Education "neither affirmed nor denied" that he could be represented by another attorney of his own choice, aside from Fieger. According to the minutes of the meeting the Board of Education President informed Strayer that he could not be represented by Attorney Fieger because Fieger represents the Federation, while the Association is the recognized bargaining agent.

As of June 20, 1966, a contract containing a grievance procedure was still under negotiation between the Association and the Respondent. That agreement was subsequently executed in September, 1966, after Strayer filed his charges with the Labor Mediation Board. On July 25, 1966 the Association offered to process his grievance if he would file it with the Association. (Strayer chose to proceed on his own.) The Association President, R. F. Welty, expressed the view to Strayer that he had two other choices: pursue the grievance individually with a Federation representative, or "accept private council (sic) and process this matter as a grievance". Later on, Welty determined that he had spoken in error when he had expressed the opinion that Strayer had a right to process his own grievance with private counsel.

ANALYSIS AND CONCLUSIONS OF LAW

This case presents one fundamental question and one narrow issue. The fundamental question is whether PERA grants to individual employees an enforceable right to have job-related grievances adjusted outside of the grievance procedure, where a majority organization has been recognized as exclusive representative of the employees in the particular unit. The narrow issue is whether PERA prohibits a public employer from restricting the individual employee's choice of counsel, once the employer has agreed (whether under legal compulsion or not) to hear and adjust the employee's grievance outside the grievance procedure.

While the Supreme Court apparently has not addressed itself to these issues, the National Labor Relations Board and the several Courts of Appeals have, with one exception, uniformly interpreted the federal statutory counterpart of PERA Section 1[illegible] as not creating any right whatsoever in the individual employee to compel his employer to meet with him for the purpose of adjusting his grievances.

Section 9 (a) of the National Labor Relations Act, as amended (29 U.S.C. sec. 159 (a), reads as follows:

> "Sec. 9 (a) Representatives designated or selected for the purposes of collective bargaining by the majority of the employees in a unit appropriate for such purposes, shall be the exclusive representatives of all the employees in such unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment: Provided, That any individual employee or a group of employees shall have the right at any time to present grievances to their employer and to have such grievances adjusted, without the intervention of the bargaining representative, as long as the adjustment is not inconsistent with the terms of a collective-bargaining contract or agreement then in effect: Provided further, That the bargaining representative has been given opportunity to be present at such adjustment."

In light of the legislative debates in Congress concerning the section and its provisos, it has generally been held that the purpose of the first proviso was simply to avoid a construction of the statute which would make it a violation of the bargaining duty for an employer to voluntarily listen to individual complaints. In Broniman v. A & P Tea Co., 353 F2d 559 (CA6, 1965), 60 LRRM 2566, cert. denied 384 U.S. 907 (1966), the Sixth Circuit Court stated as follows:

> "The plaintiff seeks an order requiring the defendant to meet with the plaintiff for the purpose of processing his grievance. The nature of the action herein and the relief sought are based on a misconception of the statute in question. The employer is not required to meet for the purpose of adjusting a grievance. The statute provides a permissible step in adjustment, not a required one. In other words, this section of the statute grants a privilege to the employee. He may or may not take his grievance directly to the employer, as he chooses. If he takes his grievance directly to the employer, the employer may not wish to attempt to make an adjustment in the absence of the union representative and he cannot be compelled to do so. There could be a good reason for this."

The Second Circuit, in Black-Clawson Co., Inc., v. International Association of Machinists, 313 F2d 179 (CA2, 1962) 52 LRRM 2038, put it this way:

> "It seems clear, therefore, that rather than conferring an indefeasible right upon the individual employee to compel compliance with the grievance procedure up to and including any arbitration provision, section 9 (a) merely set up a buffer between the employee and his union, 'permitting' the employee to take his grievances to the employer, and 'authorizing' the employer to hear and adjust them without running afoul of the 'exclusive bargaining representative' language of the operative portion of section 9 (a)."

The NLRB has adopted the same interpretation of the proviso and has consistently refused to find an employer's refusal to meet with an individual or minority group to constitute an unfair labor practice. Federal Telephone and Radio Corporation, 107 NLRB 649, 33 LRRM 1203 (1953); Youngstown Cartage Company, 146 NLRB 305 (1964). Accord: General Counsel Rulings 317 and 418 of 1952, 31 LRRM 1103, 31 LRRM 1039; Woody v. Sterling Aluminum Products, Inc., 243 F. Supp. 764 (E.D. Mo.,

1965). Contra: Douds v. Local 1250, RWDSU, 173 F2d 764 (C.A.2, 1949).

The Wisconsin Employment Relations Board has reached the opposite result under a statutory provision which is undoubtedly drawn from the federal statute's section 9 (a), but which is much more emphatic in stressing that the employee has an enforceable right to present his own grievance and compel its adjustment. Section 111.05 (1) of the Wisconsin Statutes provides that

> "any individual employee or any minority group of employees in any collective bargaining unit shall have the right at any time to present grievances to their employer in person or through representatives of their own choosing, and the employer shall confer with them in relation thereto." (emphasis supplied)

The Wisconsin Board, in Milwaukee Teachers Union, Local 252, AFT v. Board of School Directors of the City of Milwaukee And Milwaukee Teachers' Education Association, Dec. No. 6995-A (1966), interpreted the above proviso as limiting the exclusiveness of the so-called exclusive representative by creating an employer duty to confer with an individual or a minority group. The Michigan Legislature also borrowed from Section 9 (a) of the federal statute when it enacted Section 11 of PERA, which reads as follows:

> "Representatives designated or selected for purposes of collective bargaining by the majority of the public employees in a unit appropriate for such purposes, shall be the exclusive representatives of all the public employees in such a unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment or other conditions of employment and shall be so recognized by the public employer: Provided, That any individual employee at any time may present grievances to his employer and have the grievances adjusted, without intervention of the bargaining representative, if the adjustment is not inconsistent with the terms of a collective bargaining contract or agreement then in effect, provided that the bargaining representative has been given opportunity to be present at such adjustment."

However, the Michigan language weakens rather than strengthens the wording of the federal statute. Reference to a "group of employees" is eliminated, thereby eliminating the possibility of a construction that minority unions have rights in the grievance area. (Howlett, "Michigan's New Public Employment Relations Act", 45 Mich. State Bar Journal 12, f.n. 15). Next, the permissive word "may" is substituted for "have the right", in connection with the individual's presentation of his grievances and the employer's adjustment thereof.

It seems obvious that both the Wisconsin and Michigan draftsmen consciously departed from the somewhat ambivalent language of the federal proviso, but with opposite ends in mind. In the case of Section 11 of PERA, the intent of the draftsmen must have been to assure that the prevailing NLRB and federal judicial construction would be followed. Accordingly, it is held here that no right to process his own grievances inures to an employee as a consequence of the proviso to Section 11 of PERA. The proviso is no more than a grant of immunity to an employer against being charged with a refusal to bargain (in violation of Section 10 (e) of PERA) in the event the employer voluntarily chooses to listen to and adjust an employee's grievance outside of the ordinary grievance machinery.

Individual teachers or other public employees possessed no general right to compel their employers to meet and adjust their grievances prior to the 1965 enactment of PERA. Since PERA is a "collective bargaining" law, the policy of which is to make the organization backed by the majority the "exclusive" agent for all employees, it would be an anomaly if it were found that the statute also created a right of "individual" bargaining. Such would be contrary to the whole tenor of the statute.

In Melvindale-Northern Allen Park School District, MLMB C66 F-57, 1967 Labor Opinions 167, the Board adopted the trial examiner decision, which contained the following statement:

> "Loss of a representation election does not mean the losing organization must disband, but it does mean that the employer must cease dealing with the organization in matters affecting wages, hours and conditions of employment, and must accord to the winning organization the status of bargaining representative of all the employees within the unit." (emphasis in text)

Lest the above finding be misconstrued as meaning that employees have no right to voice their disapproval of conditions of employment unless they use the recognized agent's grievance procedure, the undersigned hastens to add that, while an employee complaining or grieving on his own has no statutory "status" or "right" to insist on being heard, he does, nevertheless, have the protection of PERA against employer coercion or discrimination because of such complaints or grievances. (See Livonia Board of Education, MLMB C67 C-15, trial examiner decision issued June 23, 1967; exceptions now pending before the Board.)

The Charging Party in the instant case argues that, regardless of the existence or non-existence of a Section 11 right to compel the School Board to hear and adjust an individually-filed grievance, the facts of this case show that the School Board agreed to hear the grievance and to permit counsel to participate, but balked at Strayer's choice of counsel because the attorney in question also represented the Avondale Federation of Teachers. The argument, while not completely elaborated in the Charging Party's brief, would appear to be that the ban against Attorney Fieger's appearance constituted (a) interference with Strayer's right to engage in union activity or (b) discrimination against him because of his pro-Federation sentiments. While Section 10 (a) and (c) of PERA prohibit interference or discrimination, which are listed as unfair labor practices, the refusal to permit Strayer to have any given attorney represent him, at a hearing to which he had no right in the first place, was not the sort of interference or discrimination contemplated by PERA.

The charges here allege a violation of Section 11, not Section 10 (a) or (c). Section 16, which confers on this Board the power to remedy unfair labor practices, provides that violations of Section 10 "shall be deemed to be unfair labor practices." Accordingly, the charges filed by Strayer do not, on their face allege commission of an unfair labor practice. However, even ignoring that problem, the record does not establish interference or discrimination of the sort prohibited by Section 10 to have occurred. If Strayer had no right to a hearing on his individual grievance, then the School Board's willingness to hear him did not make it mandatory that he be allowed counsel of his choice. Finally, the Charging Party's bootstrap argument is adversely affected by Strayer's own testimony that the Board of Education "neither affirmed nor denied" that he could be represented by another attorney of his choice (aside from Mr. Fieger).

It is concluded that the Board of Education did not, by refusing to permit an individual employee to present his own grievance through counsel of his choice, violate PERA, even if the refusal were based on the fact that the attorney in question was also counsel for a minority employee organization.

MICHIGAN LABOR MEDIATION BOARD

James R. McCormick, Trial Examiner

Dated: Sept. 8, 1967

RECOMMENDED ORDER

For the reasons set forth above, it is recommended that the Board enter an Order, dismissing the charges and complaint in their entirety.

Negotiation Agreements

AGREEMENT

between

THE BOARD OF EDUCATION

of

SCHOOL DISTRICT 149
COOK COUNTY, ILLINOIS

and the

DISTRICT 149 CLASSROOM TEACHERS ASSOCIATION (NEA)

SCHOOL DISTRICT NO. 149
PROFESSIONAL NEGOTIATION AGREEMENT

The Board of Education of District No. 149 (hereinafter referred to as the "Board") and the District 149 Classroom Teachers Association (hereinafter referred to as the "Association") do hereby concur and agree that the following statement of principles and policies is hereby adopted to provide for the best possible education for the students attending schools of District No. 149 and for the welfare and professional growth of the teachers, supervisors and administrators employed by said District.

I. Recognition.

The Board recognizes that teaching is a profession. It further recognizes that the best interests of public education will be served by establishing procedures to provide for an orderly method for the Board and representatives of the Association to discuss matters of common concern, to reach a mutually satisfactory agreement on these matters and to appeal through professional and educational channels in the event of impasse. To this end the Board extends to the Classroom Teachers Association sole and exclusive negotiating rights on behalf of all certificated personnel - teachers, supervisors, and administrators (excluding the Superintendent of Schools, District No. 149) employed by the District.

II. Principles.

A. Attainment of Objectives.

The attainment of objectives of the educational program of the District requires mutual understanding and cooperation among and between the Board, the Superintendent and administrators, and the certificated teachers of the District.

To this end a free and open exchange of views through fixed and established channels of communication is both desirable and necessary with all parties participating through their properly selected representatives in the deliberations leading to the determination of those matters affecting the welfare and performance of district certificated personnel.

It is further understood and agreed that representatives of the Association shall be encouraged to participate in a free and open exchange of ideas and opinions without fear of any form of reprisal.

B. Professional Certificated Personnel.

It is recognized that teaching is a profession requiring specialized and educational qualifications and that the success of the educational program of the District depends upon the maximum utilization of the abilities of certificated personnel who are comfortable and secure under the conditions under which their services are rendered. It is further recognized that the certificated personnel employed by the District shall have the right to join or not to join, participate in, or not to participate in, any employee organization not prohibited by law for their professional or economic improvement, but that membership in any organization shall not be required as a condition of employment.

C. Association Participation.

The Board through its designated representatives, serving as a negotiating committee, agrees to meet with representatives of the Association for the purpose of discussion and reaching mutually satisfactory agreement only on matters pertaining to salaries, working conditions, welfare provisions, and other professional matters as hereinafter enumerated.

It is further understood that any and all action of the negotiating committee of the Board is subject to approval by a majority of the Board, and that the action of the Association is subject to the approval of a majority of its membership.

III. Procedures.

A. Meetings.

Meetings between the representatives of the Board and the Association to discuss an alleged violation of this agreement may be called upon written request of the Association or the negotiating committee of the Board with the approval of the Board, or by the Board, or the Superintendent of Schools. Such meetings shall be held within 15 calendar days of the date of said notification. Requests for meetings must specify the matters to be discussed and the subject of the meeting.

The Classroom Teachers Association and/or the Board shall have the right to request that the Superintendent of

Schools and specific supervisory or administrative personnel be in attendance at such meetings. It is understood that no supervisors or administrators shall be present unless the Superintendent is also in attendance.

B. Requests for Meetings.

Requests from the Board or the representatives of the Association for meetings as described in Paragraph III-A will in all cases be made through the Superintendent of Schools. Notices of meetings called at the request of the Superintendent shall be presented in writing to the representatives of the Association and to the head of the negotiating committee of the Board, either personally, or by certified mail if the notice cannot be given personally.

Step I. The grievant, individually or through its Classroom Teachers representative, will contact the Principal of the Building in which employed in an effort to attain satisfaction.

Step II. In the event the grievance or dispute cannot be settled in Step I the grievance shall be reduced to writing by the grievant, the Building Principal shall state his/her position in writing (copies of both letters being submitted to the representatives of the CTA) and said letters shall be then forwarded to the Superintendent.

The Superintendent will conduct a meeting between grievant, principal (third party if another person is involved) and CTA representative in an effort to satisfy the grievance.

Step III. Only after exhausting the procedures of Step I and II above shall a meeting be called with the Board Committee.

It is agreed and understood that no meetings involving an aggrieved district employee shall be held with the Board committee unless the representatives of the Association, the aggrieved, the Superintendent, and the appropriate building Principal, are present. Should any third party/parties be involved, such persons shall also be present at the meeting at the request of any party.

It is not necessary that the aggrieved employee have the Association representative as spokesman in the presentation of the grievance in either Step I or Step II, but the CTA as the sole bargaining agent for all teachers must become a party to the grievance beginning in Step II. Should the grievant prefer to make an individual plea or statement in Steps II and/or III, such permission will be granted by the Association representatives who may, at their option, be present at all hearings even if not as a participant. All meetings on grievance matters involving specific individuals shall be held in private session.

C. Exchange of Facts, Views.

Facts, opinions, proposals and counterproposals may be exchanged freely in all meetings under this agreement in an effort to reach mutual understanding. Materials relevant to the subject matter of a meeting may be submitted in written form to all parties to a meeting at the time of or prior to the meeting.

The Board or CTA representative may in any meeting, with the prior approval of the other, call upon competent professional and/or lay representatives to participate in any meeting under the terms of this agreement. (see Section VI - Costs.)

D. Resolution of Grievance.

When the participants in any grievance under the conditions of the Agreement have reached an understanding the grievance and decision thereon shall be reduced to writing, initialed by all participants with copies thereof placed in the proper personnel files of parties to the grievance.

IV. Appeals.

A. Failure to Resolve Grievance.

In the event the grievance cannot be resolved in either Steps I, II or III, or as set forth above in Article III, the grievance shall be presented to the Board of Education in Executive session with all parties to the grievance in attendance. The resolution by the Board shall be reduced to writing and copies placed in the personnel files.

Should the grievance continue unresolved a Fact Finding Board will be named as follows:

One member appointed by the Board President;
One member appointed by the Association; and
A third member selected by the appointees who will serve as chairman.

The Fact Finding Board will have authority to hold private meetings, collect evidence in such manner as it deems necessary, and to confer with any or all parties to the dispute in an effort to obtain a satisfactory solution.

If within 60 days a solution of the grievance is not attained, the Fact Finding Committee will present its recommendations to the Board of Education in Executive session with all parties to the grievance present and the Board of Education shall then make its final determination. There shall be no appeal from this decision of the Board.

V. Strike Prohibition.

Recognizing that strikes by public employees are illegal and prohibited by law, and recognizing further that neither the Board nor the Association can condone strike activity as a means of settling any dispute, it is understood and agreed that every effort will be made to discourage any strike action or picketing by certificated employees of the District.

It is further agreed that during the term of this Agreement, any economic strike, picketing, slowdown, or concerted refusal to render full and complete service to the District by certificated personnel employed by the District, shall be considered a violation of the employee(s) teaching contract and grounds for immediate dismissal. Should the Association encourage or indicate approval of strike action, picketing, slowdown or a concerted refusal to render full and complete service for any reason, this Agreement shall become null and void.

It is understood and agreed that should another election of an exclusive negotiating agent be conducted under the provisions of Section VIII - C, as a condition for placing any organization on the ballot, its officers must affirm in writing its recognition and support of the laws prohibiting strikes by public employees, and also affirm in writing that that organization will, under no circumstances, participate in any strike, picketing, slowdown, or refusal to render full services, and that it will not impose any duty or obligation on any of its members to conduct assist or participate in such a strike, picketing, slowdown, or refusal to render full service.

VI. Costs.

All participants to a grievance, subject to the rules and regulations of their office or organization, shall have the right to employ the services of consultants in the deliberations. Costs accruing for such consultant will be paid by the employer of the consultants.

VII. Articles.

The salary schedules and policy statements attached hereto in the form of Articles are made a part of this Agreement.

VIII. Duration.

The provision of this Agreement and attached Articles shall be effective as of July 1, 1967, and shall continue in full force and effect until June 30, 1968, and year to year thereafter.

Either party desiring changes in the Agreement shall notify the other party in writing at least 30 days prior to April 1, of any year and a negotiation meeting will be convened within 15 days thereof.

IX. Final Determination.

The Association recognizes that the School District in accordance with the provisions of the School Code of the State of Illinois, shall be governed by the Board of Education and that the Board of Education cannot lawfully delegate its authority with reference to any decision affecting the school system. It is not the intent of this Agreement to violate any section of School Code, the laws of the State of Illinois, or of the U.S.A.

Dated this _____day of February, 1967.

School District No. 149
Classroom Teachers Association

By: _____
President

Attest: _____
Secretary

Board of Education
School District No. 149
Cook County, Illinois

By: _____
President

Attest: _____
Secretary

Examined and my signature affixed hereto

_____
Superintendent

ARTICLES

Referred to in Section VII of Professional Negotiation Agreement

I. Salaries.

It is the intent and desire of the Board and the Association that the Attached Salary Schedules (Appendix A, B, C and D) for certificated employees, excluding the Superintendent of Schools, and as may be revised from time to time, shall be made a part of this Agreement.

The Board and the Association acknowledge and concur, however, in recognizing that the effective date of such schedule is dependent upon an availability of funds, such availability to include but not be limited to an upward modification in moneys available from the State of Illinois and/or a successful referendum to increase the Educational Fund tax rate of the District.

The Board and the Association agree and concur further in the intent to continue meetings periodically to determine if budgetary cost savings can be realized which will make formal adoption of this schedule feasible and possible.

II. Teaching Conditions.

A. The Board will make every effort to minimize class size as is economically feasible.

B. A clerk/s shall be hired on a full or part time basis as deemed appropriate by the Superintendent, for each school for the purpose of assisting teachers in their administrative functions. Such clerks shall, but not be limited to, the collecting of moneys, running dittos, and other functions requiring teachers' time. Such clerks shall not be used by teachers for the purpose of grading test papers (objective nor subjective nor standard) nor shall they be used to perform functions normally assigned to teachers.

C. Each teacher shall be entitled to a minimum 40 minute lunch period.

D. Material centers shall be established in each school for grades 1 - 3, 4 - 6, and in Junior High School.

E. Each teacher shall have a planning period each day.

F. Teachers shall have the right to participate and cooperate in planning teaching schedules and the school calendar. Teachers who participate in this summer activity shall be limited to not more than three in number, appointed by the Classroom Teachers Association, shall not be reimbursed for the work, and must agree to meet with the Superintendent (or his designated representatives) at his convenience for planning purposes.

G. The Board shall investigate the availability of non-paid teachers aides to render assistance to the classroom teachers in administrative details.

Should teachers aides be available, the Board, in cooperation with the Association, will develop a procedure for introducing such persons into the District.

III. Teacher Assignments.

A. A committee of the Association shall work with the administration on the development of an in-service training program for new teachers.

B. New teachers (beginning teachers) will not be assigned to low ability groupings if practicable and subject to the determination of the building principal.

C. Department chairmen shall be appointed by the administrative staff for all academic subjects at the Junior High School level, and also for Art, French, Speech, Remedial Reading, Physical Education, Music, and Special Education at both the Junior High and grades 1 to 6 inclusive school levels.

The Department Chairmen shall work with the Curriculum Coordinator in an advisory capacity on all matters affecting the curriculum development of the department.

Department Chairmen shall not be reimbursed for this assistance, nor shall any teacher be required to accept such chairmanship.

D. Teachers employed in the District for the first time may, if they desire, have free time, not to exceed more than 4 periods of 40 minutes each during the school year, to observe the work of the more experienced teachers in the district.

Such observation shall be scheduled through the superintendent's office but with the prior approval of the teacher to be observed.

E. It is agreed that a reasonable ratio of students to teachers assigned Lunch Room duty is considered to be no more than 100 to 1 and the administrative staff will attempt to maintain such ratio.

IV. Pupil Promotions.

A. The evaluation of the classroom teacher shall be given prime consideration in determining the promotion or retention of a pupil.

B. Should in any instance, the Superintendent override the teacher's position relative to promotion or demotion, a full explanation will be given to the teacher involved. The teacher in her discussion with the Superintendent concerning a reversal of his/her opinion on the subject may have Association representation if he/she so desires.

V. Protection of Teacher.

A. Liability injurance for liability incurred in connection with the performance of assigned duties, in the amount of $1,000,000.00, shall be carried on each teacher at the expense of District No. 149.

B. The teacher shall be included in any parent-principal and/or Superintendent conference regarding parental complaint against the teacher or his/her teaching method or performance.

C. New teachers may request special help or assistance from their appropriate supervisors, principals, or the Superintendent. Requests for Superintendent assistance shall be channeled through the principal of the building in which the teacher is employed.

D. A definition of the duties and responsibilities of the curriculum coordinator and the supervisors shall be reduced to writing and presented to each teacher at the start of each school year.

E. A licensed registered nurse shall be scheduled to be in each building a part of each day.

VI. Instructional Services.

A. The Association shall be permitted to have a volunteer teacher committee for each grade at the elementary level and for each department at the Junior High level, to assist and advise the Curriculum Coordinator in the selection of text books and instructional materials.

B. Prior to setting up new teaching programs, teachers shall be given an opportunity to comment and suggest. When possible, the aid of experts shall be employed in the creating of new instructional programs. The CTA may recommend such experts, but final selection shall be made by the Superintendent exclusively.

C. The Association, in cooperation with the Administrative Staff, shall undertake a study to determine if in-district workshops for graduate college credit can be arranged and a full report shall be made to the Board.

D. The Board of Education shall approve payment of tuition costs up to a maximum of $35.00 per semester hour, for courses pre-approved by the Superintendent and taken by certificated employees at summer or night school, which work will be toward an advanced degree or professional growth. Reimbursement of tuition up to $35.00 per semester hour shall be made upon presentation to the Superintendent of evidence of satisfactory course completion. Completion as used in this context shall imply satisfactory work in accordance with standards established by the college or university.

VII. General.

A. A committee of not more than three (3) persons appointed by and representing the Association shall be entitled to meet with the Board of Education once monthly for a period not to exceed one (1) hour for an exchange of views on matters affecting teaching personnel. Those matters dealing with specific personnel shall be in Executive Session.

Such meetings shall be requested through the Superintendent's office at least one (1) week in advance of the desired meeting.

B. No policy effecting teacher income or working conditions shall be unilaterally adopted by the Board without prior opportunity for a negotiating meeting being offered to the Association.

C. A request for an election to decertify the Association as the sole negotiating agent for the certificated personnel of the District, and for another certification election, may be submitted to the Board for its action, on but not before the first day of school September, 1969, nor later than the 15th day of October, 1969, and on each succeeding year thereafter, upon presentation to the Board of Education of a petition signed by at least 75% of all certificated personnel employed by the District requesting such election.

D. The school district shall permit, upon individual request, a payroll deduction for professional dues. The amount of deduction may be spaced over four (4) consecutive periods as the individual may desire.

E. The President of the Association shall be free of extra duty assignments during the term of the presidency.

F. The Association President shall be given 1/2 day released time each two weeks.

G. An office - desk space - will be made available to the CTA in one building depending upon the availability of space.

H. Summer school teachers shall be selected by the Superintendent. All teachers shall have an opportunity to make application for such assignments. The teachers of summer school kindergartens shall be paid at the same pro rata hourly as those teachers assigned to academic instruction.

VIII. Sick Leave. (Board Policy 4141)

Sick leave for certificated personnel shall be allowed as provided by the School Code. In addition to the benefits allowed under this code section, this District will allow the following benefits:

A. All accumulated and unused sick leave salaries at the end of any three-year period shall be paid as part of the salary schedule to the employee at the end of such contractual period at the following rates:

> Two-thirds of one day's salary pro-rated on the yearly salary figure for each day of sick leave not used.
>
> Sick leave is defined as:
>
> 1. Inability to work because of personal sickness or injury.
> 2. Absence for examination or treatment by a doctor, dentist or eye specialist.
> 3. Quarantine at home or necessity to take care of a member of immediate family.
> 4. Death in immediate family, household or close relative.

B. Any certificated personnel, upon termination of employment before three years of employment have been completed, shall be paid for all unused sick leave at the termination of employment on the basis of the above described rate. (School Code: Article 22, Section 6, Pages 227-228)

C. Days of accumulated sick leave will not be decreased as a result of payment in cash for unused sick leave.

IX. Pregnancy. (Board Policy 4141)

A. Request for Reassignment.

1. In the event a teacher under contract becomes pregnant, the following policy will apply:

The conditions of her contract will cease at the time it is necessary to relieve her of her duties. The teacher will be required to submit a resignation.

2. A physician's statement will be the basis on which the term of her pregnancy is determined. If the teacher is teaching grades 1, 2, or 3, she will cease her teaching duties and will be replaced after five months of pregnancy. If the teacher is teaching grades 4 through 8, she will cease her teaching duties after three months of pregnancy. If the teacher becomes pregnant and her health is seriously affected and it is felt by the building principal and Superintendent that her efficiency as a teacher is also seriously affected, then the teacher will cease her duties.

B. A teacher desiring consideration for reassignment in this District must make a written request to the Superintendent within 18 months from time of resignation.

C. Neither the Superintendent nor the District is obligated to reassign teachers who have resigned because of pregnancy and request reassignment.

D. Teachers reassigned to duty will be reinstated on the salary schedule with full credit for term of service.

X. Educational and Sabbatical Leave. (Board Policy 4141)

A. During the summer, educational leave may be granted for the purpose of study for an advanced degree to the administrative and supervisory staff making request. Approval shall be made at the discretion of the Superintendent and approval of the Board of Education, and said leave shall be for a maximum of eight weeks.

B. Section 24-6.1 of the School Code of the State of Illinois (Sabbatical Leave) shall be adopted as policy with the following clarifications and exceptions:

1. Sabbatical Leave may be granted to certificated personnel performing contractual service to the District, for the purpose of taking courses for credit at an accredited college or university. Sabbatical Leave shall be for a minimum of four months and a maximum of one year.

2. Any certificated personnel desiring a Sabbatical Leave for other purposes as described in the section of the School Code are required to submit a written request to the Superintendent. The Superintendent shall submit such requests with his recommendation to the Board of Education.

3. This leave may be granted after completion of at least six years of satisfactory service as a full time certificated person and may again be granted after completion of a subsequent period of six years of service. A leave granted for a period of one school year or less shall bar a further Sabbatical Leave until completion of six years additional satisfactory service. The leave shall be conditioned upon a plan for resident study, proposed by the applicant and deemed by the Board to benefit the school system, which plan shall be approved by the Board and not thereafter modified without the approval of the Board.

At no time shall the number of persons on Sabbatical leave exceed three.

4. Before a leave is granted, the applicant shall agree in writing that if at the expiration of such leave he does not return to and perform contractual continued service in the District for at least one school year after his return, all sums of money received from the Board during his Sabbatical Leave will be refunded to the Board unless such return and performance is prevented by illness or incapacity.

5. During absence pursuant to such leave, such certificated person shall receive the same basic salary as if in actual service, except that there shall be deducted therefrom an amount equivalent to the amount payable for substitute service. However, such salary after deduction for substitution service shall in no case be less than 1/2 of the then current contractual salary or the statutory minimum, whichever is greater. The person on leave shall not engage in any activity for which salary or compensation is paid unless the activity is directly related to the purpose for which the leave is granted and is approved by the Board. A Sabbatical Leave may be granted to enable the applicant, if otherwise eligible, to accept scholarships for study or research. Unless justified by illness or incapacity, failure of any person granted a leave to devote the entire period to the purposes for which the leave was granted shall constitute a cause for removal from teaching service.

6. Upon expiration of a leave granted and upon presentation of evidence satisfactory to the Board showing compliance with the conditions of the leave, certificated persons shall be returned to a position equivalent to that formerly occupied. The contractual continued service status of the person on Sabbatical Leave shall not be affected.

7. Absence during a leave granted pursuant to this Section shall not be construed as a discontinuance of service for any purpose, including progression on the salary schedule if one is in effect in the district. The Board shall pay the contribution to the Teachers' Retirement System required of the person on leave computed on the salary of such person for the year immediately prior to the leave.

8. This Section in no way limits the power of the Board to grant leaves for other purposes.

XI. Special Leave. (Board Policy 4141)

A. Two days of special leave will be allowed each year for reasons beyond the teachers' control, which will not be accumulative and which will be granted at the discretion of the Superintendent upon receipt by him of a written request stating the reason(s).

XII. Military Leave. (Board Policy 4141)

A. Military leave shall be administered according to applicable Federal or State Law. In the absence of Federal or State Law, military leave is considered to extend from the date of teacher request to the date of teacher application for reassignment to teaching duties, plus additional time to coincide with the start of a new school year (August or September). Application for reassignment to teaching duty must be made within 45 days of honorable discharge.

B. Military leave shall not be counted toward tenure, longevity, nor shall such time be applied toward meeting salary time requirements. Sick leave shall not be accumulative during military leave, nor shall the teacher on military leave be paid a salary.

XIII. Holiday Pay. (Board Policy 4141)

A. Full time employees of School District No. 149 shall be paid compensation for days designated as legal holidays. (Policy adopted February 22, 1961.)

XIV. Professional Growth. (Board Policy 4131)

The Board of Education encourages all personnel employed by the District to participate in educational opportunities to improve their professional growth. Request for permission to attend such professional improvement programs during school hours and/or for reimbursement for expenses incurred shall be directed to the Superintendent for action. (Approved October 26, 1966.)

XV. Physical Examination. (Board Policy 4114)

Teachers are required to present a physical examination report upon employment in the School District or at any other times to be decided by the Superintendent. Teachers forty years of age or older are required to present a physical examination report every year while employed in the School District. Urinalysis and blood count are to be included in the physical examination. (School Code: Article 24, Sections 24-5, Page 229.)

Teachers are required to submit a chest X-ray report at the beginning of each school year. Teachers under thirty years of age may submit a Mantoux test report in lieu of a chest X-ray. (School Code: Special Acts, Sections 1-7, Pages 462-465.)

XVI. Absences. (Board Policy 4151)

A classroom teacher must be present a minimum of one hour and forty minutes in any one-half day to receive remuneration for that particular one-half day of instruction. (Policy adopted February 15, 1961.)

XVII. Children of District Employees.

The children of non-resident members of the professional or non-professional staff may be enrolled in the schools of the District at any time. This is a condition of employment by the Board of Education.

DATED this _____ day of February, 1967.

School District No. 149
Classroom Teachers Association

By: _____
President

Attest: _____
Secretary

Board of Education
School District No. 149
Cook County, Illinois

By: _____
President

Attest: _____
Secretary

Examined and my signature affixed hereto.

_____
Superintendent

APPENDIX A

SALARY SCHEDULE - CERTIFICATED PERSONNEL - TEACHING

YEAR	Non-Degree 90% of B.A.	B.A. Index	B.A. and 6 hours	B. A. and 12 hours	B.A. and 18 hours	B.A. and 24 hours	B.A. and 30 hours
1	$5400. 1.00	6000. 1.00	$6040.	$ 6080.	$ 6120.	$ 6160.	$ 6200.
2	5616. 1.04	6240. 1.04	6280.	6320.	6360.	6400.	6440.
3	5832. 1.08	6480. 1.08	6520.	6560.	6600.	6640.	6680.
4	6048. 1.12	6720. 1.12	6760.	6800.	6840.	6880.	6920.
5	6264. 1.16	6960. 1.16	7000.	7040.	7080.	7120.	7160.
6	6480. 1.20	7200. 1.20	7240.	7280.	7320.	7360.	7400.
7		7440. 1.24	7480.	7520.	7560.	7600.	7640.
8		7920. 1.32	7960.	8000.	8040.	8080.	8120.
9		8160. 1.36	8200.	8240.	8280.	8320.	8360.
10		8400. 1.40	8440.	8480.	8520.	8560.	8600.
11		8640. 1.44	8680.	8720.	8760.	8800.	8840.
12		8880. 1.48	8920.	8960.	9000.	9040.	9080.
13		9120. 1.52	9160.	9200.	9240.	9280.	9320.
14		9360. 1.56	9400.	9440.	9480.	9520.	9560.
15		9600. 1.60	9640.	9680.	9720.	9760.	9800.
16		9840. 1.64	9880.	9920.	9960.	10000.	10040.
17		10080. 1.68	10120.	10160.	10200.	10240.	10280.
18		10320. 1.72	10360.	10400.	10440.	10480.	10520.
19		10560. 1.76	10600.	10640.	10680.	10720.	10760.
20		10800. 1.80	10840.	10880.	10920.	10960.	11000.

YEAR	M.A. Index	M.A. and 6 hours	M.A. and 12 hours	M.A. and 18 hours	M.A. and 24 hours	M.A. and 30 hours
1	$ 6500. 1.00	$ 6540.	$ 6580.	$ 6620.	$ 6660.	$ 6700.
2	6760. 1.04	6800.	6840.	6880.	6920.	6960.
3	7020. 1.08	7060.	7100.	7140.	7180.	7220.
4	7280. 1.12	7320.	7360.	7400.	7440.	7480.
5	7540. 1.16	7580.	7620.	7660.	7700.	7740.
6	7800. 1.20	7840.	7880.	7920.	7960.	8000.
7	8060. 1.24	8100.	8140.	8180.	8220.	8260.
8	8580. 1.32	8620.	8660.	8700.	8740.	8780.
9	8840. 1.36	8880.	8920.	8960.	9000.	9040.
10	9100. 1.40	9140.	9180.	9220.	9260.	9300.
11	9360. 1.44	9400.	9440.	9480.	9520.	9560.
12	9620. 1.48	9660.	9700.	9740.	9780.	9820.
13	9880. 1.52	9920.	9960.	10000.	10040.	10080.
14	10140. 1.56	10180.	10220.	10260.	10300.	10340.
15	10400. 1.60	10440.	10480.	10520.	10560.	10600.
16	10660. 1.64	10700.	10740.	10780.	10820.	10860.
17	10920. 1.68	10960.	11000.	11040.	11080.	11120.
18	11180. 1.72	11220.	11260.	11300.	11340.	11380.
19	11440. 1.76	11480.	11520.	11560.	11600.	11640.
20	11700. 1.80	11740.	11780.	11820.	11860.	11900.

1. For Special Subject Teachers:

   Speech Correctionist
   EMH, TMH
   Developmental Reading
   Remedial Reading
   Partially Blind

Add $400.00 to BA Schedule, and if MA is in area of teaching specialty, add $500.00. (This $500.00 is not to be paid unless MA is in area of teaching specialty.)

2. Teachers new to the District shall be placed on the salary schedule in terms of actual experience to a maximum of seven (7) years.

3. The maximum increase allowable during the school year 1967-68 shall be $650.00. All teachers shall be on full salary schedule (Appendix A) for the school year 1968-69.

APPENDIX B

COOK COUNTY SCHOOL DISTRICT NO. 149
EXTRA DUTY SALARY SCHEDULE

Health and Physical Education

Direction of Health and P.E. (all grades) ---------- Base Salary plus $700.00

Junior High School (grades 7-8)

Boys
- Basketball ----------Base Plus $350.00
- Intramural ----------Base plus $300.00
- Track----------Base plus $100.00
- Softball----------Base plus $100.00

Girls
- Cheerleader----------Base plus $150.00

Elementary (grades 4-6)

Boys
- Intramurals----------Base plus $300.00

Girls
- Intramurals---------- Base plus $300.00

MAXIMUM ALLOWABLE TOTAL ----------$700.00

APPENDIX C

Bus Duty - A.M.	$125.00
Bus Duty - P.M.	$175.00
Music	
Extra curricular music instruction	$200.00
Student Council	
Sponsor	$150.00
Assistant	$100.00
Science Club	
Sponsor	$150.00
Patrol	$150.00
Noonday Supervision	$225.00

Note:
1. All extra duty salaries are for a full school year.
2. Maximum allowable total to be paid to any individual - $700.00

APPENDIX D

SALARY SCHEDULE - CERTIFICATED PERSONNEL - ADMINISTRATIVE

YEAR	Guidance Counsellor		Elementary Assistant Principal Supervisor		Junior High Assistant Principal	
	B. A.	M.A.	B.A.	M.A.	B.A.	M.A.
1	$ 6900.	$ 7475.	$ 7200.	$ 7800.	$ 7500.	$ 8125.
2	7176.	7774.	7488.	8112.	7800.	8450.
3	7452.	8073.	7776.	8424.	8100.	8775.
4	7728.	8372.	8064.	8736.	8400.	9100.
5	8004.	8671.	8352.	9048.	8700.	9425.
6	8280.	8970.	8640.	9360.	9000.	9750.
7	8556.	9269.	8928.	9672.	9300.	10075.
8	9108.	9867.	9504.	10296.	9900.	10725.
9	9384.	10166.	9792.	10608.	10200.	11050.
10	9660.	10465.	10080.	10920.	10500.	11375.
11	9936.	10764.	10368.	11232.	10800.	11700.
12	10212.	11063.	10656.	11544.	11100.	12025.
13	10488.	11362.	10944.	11856.	11400.	12350.
14	10764.	11661.	11232.	12168.	11700.	12675.
15	11040.	11960.	11520.	12480.	12000.	13000.
16	11316.	12259.	11808.	12792.	12300.	13325.
17	11592.	12558.	12096.	13104.	12600.	13650.
18	11868.	12857.	12384.	13416.	12900.	13975.
19	12144.	13156.	12672.	13728.	13200.	14300.
20	12420.	13455.	12960.	14040.	13500.	14625.

YEAR	Elementary Principal Administrative Asst. to Superintendent		Junior High Principal Curriculum Coordinator	
	B.A.	M.A.	B.A.	M.A.
1	$ 7800.	$ 8450.	$ 8100.	$ 8775.
2	8112.	8788.	8424.	9126.
3	8424.	9126.	8748.	9477.
4	8736.	9464.	9072.	9828.
5	9048.	9802.	9396.	10179.
6	9360.	10140.	9720.	10530.
7	9672.	10478.	10044.	10881.
8	9984.	11154.	10692.	11583.
9	10296.	11492.	11016.	11934.
10	10608.	11830.	11340.	12285.
11	10920.	12168.	11664.	12636.
12	11232.	12506.	11988.	12987.
13	11544.	12844.	12312.	13338.
14	11856.	13182.	12636.	13689.
15	12168.	13520.	12960.	14040.
16	12480.	13858.	13284.	14391.
17	12792.	14196.	13608.	14742.
18	13104.	14534.	13932.	15093.
19	13416.	14872.	14256.	15444.
20	13728.	15210.	14580.	15795.

NOTES:

1. Administrators new to the district shall be placed on the salary schedule in terms of actual experience to a maximum of 7 years.

2. The maximum increase allowable during the school year 1967-68 shall be $800.00. All Administrators shall be on salary schedule (Appendix D) for the school year 1968-69.

AGREEMENT

between the

BOARD OF EDUCATION

Central High School District No. 1

Union Free School District No. 13

Union Free School District No. 24

Union Free School District No. 30

Valley Stream, New York

and the

VALLEY STREAM TEACHERS ASSOCIATION, INC. (NEA)

July 1, 1967 - June 30, 1968

PREFACE

This agreement is made and entered into this 27th day of June 1967 by and between the Board of Education of Central High School District No. I, Union Free School Districts No. 13, 24 and 30 (hereinafter referred to as the "Board") and the Valley Stream Teachers' Association (hereinafter referred to as the "Association").

PREAMBLE

The parties recognize that the laws of this state and sound principles impose on them interrelated duties and responsibilities in conducting the affairs of this school district. In order to insure the efficient administration of this school district, and to assure the teaching staff, through their freely chosen representatives, participation in the determination of the terms and conditions of their employment and in developing of the highest standards of educational practices, the parties agree to:

1. the recognition of the Valley Stream Teachers' Association as the exclusive bargaining agents for the teaching staff

2. the delineation of the areas of negotiation and mediation

3. the establishment of a written procedure for Association-Board discussions on educational planning

4. the establishment of a formal procedure for negotiations and mediation

5. the acceptance of the JOINT CODE OF ETHICS as developed and adopted jointly by the New York State School Boards' Association and the New York State Teachers' Association in 1950 and amended in 1964.

The details of the agreement follow:

Article I - Recognition

During the period of this agreement, the Board recognizes the Valley Stream Teachers' Association as exclusive agent for negotiation for all the personnel in this district who are on the regular teachers' salary schedule. Both parties agree that all other personnel in administrative or supervisory capacity are excluded. It is recognized that department chairmen, and certain other persons, serve in a dual capacity and have both administrative and classroom duties. It is, therefore, agreed that the Association's representation of these persons is limited to their salaries, class loads, and non-administrative duties.

The Association recognizes the District Principal as the chief executive officer of this school district, and as the responsible administrator for educational planning, for development of curriculum, for supervision of personnel, and all other activities as set forth in Board policies, and according to applicable state laws. It is agreed by the Association that prior to formal meeting with the Board, all questions, requests and recommendations concerning matters of negotiation, covered in Article III shall be submitted through the District Principal and discussed with him.

The Boards recognize the chief officer of the Association (V. S. T. A.) and grant up to three full days' leave with pay for him to attend educational meetings, subject to prior agreement with the District Principal as to time.

The Board and the Boards of Education in Union Free School Districts Nos. 13, 24 and 30 and the Board of Education of Central High School District No. 1, meet from time to time to discuss matters of mutual concern relating to their respective school districts. This has been named the "Joint meeting of the Boards", (referred to herein as "Joint Boards"). A committee of the Joint Boards called the Boards' Negotiating Committee will meet with the Valley Stream Teachers' Association's Negotiating Committee as outlined in Article IV, to discuss matters which are of concern to all of the districts and its staff. This practice, IVa, is subject to the existing by-laws of the Joint Boards, which by-laws recognize that the Joint Boards have no power to make any binding decisions and that all decisions can only be made by each of the Boards of Education at its own meetings, as required by law.

The Board, having received satisfactory evidence from the Valley Stream Teachers' Association that the Association in fact has been designated by the majority of teachers in this District as their bargaining agent, recognizes the Association as the exclusive bargaining agent for the teaching staff for the purposes of this agreement.

Nothing stated or implied in this agreement shall be construed as requiring a teacher to be a member of the Association as a condition of employment in this district.

The Board reserves the right to meet with any other group or organization to hear its views and requests on negotiable matters, provided that the Association is duly notified of such meetings and is afforded the opportunity of attending.

Article II - Educational Consultation

It is agreed by both parties that the teaching staff shall have the opportunity to participate in and contribute to the educational planning in this district. To this end the District Principal or his designee will meet with the Association once each month during the school year to consult on matters of mutual concern and to advise the Association of administrative proposals for future educational planning. Either party may invite additional participants as required.

The Association recognizes the authority and role of the duly appointed administrators as contained in the policies of the Board and in the administrative regulations.

The Board shall meet with the Association at least once a semester to review educational policies. It will be the intent of these meetings to allow a complete interchange of views on all matters not subject to negotiation as set forth elsewhere in this agreement.

Article III - Matters for Negotiation and Mediation

Both parties agree that all matters specifically covered in this article are subject to negotiations and, in the event of an impasse, the matters not resolved shall be subject to mediation as set forth in Article IV.

a - Terms of Employment and Salary

For the purpose of this section the provisions set forth in the current by-laws, paragraphs 4 through 11 and 15 shall prevail.

b - Extra Pay for Extra Service

For the purpose of this section, the provisions set forth in the current by-laws, paragraphs 12 and 13, including Appendix D shall prevail.

It is agreed by both parties that the District Principal, or his designee, has the sole right to determine the qualifications of teachers for assignment to extra curricular activities (pursuant to administrative regulations). The Board reserves the right to determine those activities which will be established, continued, or eliminated as it deems best for the pupils and for the district.

Acceptance of assignments to extra curricular activities shall be voluntary, except in those instances, when in the judgment of the principal, faculty supervision is required and no qualified volunteer is available, after notice to the district's faculty. Such assignment shall be accepted by the teacher so assigned, after a meeting with the principal and receipt of a written statement of the reason(s) for the assignment. This assignment is not to exceed one semester or a season unless the assignment is a year round activity.

c - Leaves of Absence

For the purposes of this section, the provisions of the current by-laws, paragraphs 16 through 20 inclusive, shall prevail.

d - Substitute Teachers

For the purposes of this section, the provisions of the current by-laws, paragraph 23, shall prevail.

e - Insurance

Both parties agree to continue the hospital and medical insurance plan now in effect for employees and their families under The New York State Employees' Health Insurance Program.

f - Other Specific Conditions

For the purposes of this section, the provisions of the current by-laws, paragraphs 14, 21 and 25 shall prevail.

g - In-Service Credit

For the purposes of this section, the provisions of Appendix C of the current by-laws shall prevail.

h - School Hours and Calendar

1 - Both parties agree that, except for activities related to the educational program, or programs such as open school nights, graduations, __*__ hours including a lunch period. Professional responsibilities and obligations such as student assistance, parent conferences, faculty, departmental and guidance meetings, committee service (which shall be voluntary) and other activities related to the educational program will require additional time at school.

2 - It is agreed that when there are conferences, committees, meetings or other activities related to the educational program, teachers engaged in them will continue in attendance and participation until the close of the activity.

3 - The fourth Monday of each month during the school year shall be reserved for Association meetings, to begin at the end of the school day, after the dismissal of pupils.

4 - Both parties agree that the school year will be comprised of not less than 180 days of instruction, exclusive of emergency or special closing days, and that a school calendar for the ensuing year of 184 working days will be prepared jointly by the Association and District Principal not later than March 1st.

i - Grievance

For the purposes of this section, the provisions of the "Grievance Procedure" as indicated in the district by-laws shall prevail.

j - Interpretation of Agreement

Article IV - Negotiation Procedure

a - Negotiating Committees

The negotiating committee for the districts shall be made up of not more than ten members of the Association and not more than nine

* CHS #1 - Seven hours
U.F.S.D.
#13 - Six hours and 30 minutes
#24 - Seven hours
#30 - Six hours and 50 minutes

members of the Boards. The District Principal shall be an observer and may serve as a consultant to the Committee. In accordance with paragraph 4 of Article I these Committees shall meet in concert when considering those negotiable items of concern to the four districts of Valley Stream. Both parties agree, through this committee, to bargain in good faith and to strive diligently to resolve all issues with due regard to the public interest.

b - Call for Negotiating Meetings

The first meeting of the negotiating committee shall be held no later than December 15th of each year and shall be convened at a mutually agreeable date. Subsequent meetings shall be held at such times as mutually agreed upon, or by special call in not less than 10 days nor more than 20 days after such notice, by either party. Such requests for negotiations shall be in writing, dated, and shall be sent through the District Principal. Any special requests shall specify the matter(s) to be negotiated.

c - Time Limitation on Budget Matters

It is specifically agreed that all requests to discuss matters which would require funds to be placed in the budget shall be made on or before December 15th of each year.

d - Issues and Requests

All data, information, statistics, and background on specific matters to be negotiated shall be submitted through the District Principal. For possible clarification of the issues, he may consult with either or both parties. Any data, information or statistics to be used by either party in negotiating meetings shall be submitted to the other party in advance of such meeting. The services of consultants may be utilized during deliberations. The costs must be borne by the party making use of the consultants.

e - Resolution of Issues or Impasse

The negotiating committee shall continue to meet and deliberate until all issues are resolved or an impasse has been reached. An impasse shall be considered to exist on any issue when:

1 - no common agreement of both parties has been reached after 45 calendar days have elapsed after the date of the first discussion by the negotiating committee unless extended by mutual agreement or

2 - both parties agree that further deliberation by the negotiating committee will not resolve the issue.

f - Publication of Any Information

While negotiations and mediation are in progress on any issues, it is agreed that neither party will resort to the use of public media in any effort to affect the outcome unless any release or communication to the public has a mutually agreed upon content.

g - Summary of Negotiations

There shall be prepared, a written statement, indicating the tentative agreements reached through negotiations. This tentative agreement, signed by the Chairman of each negotiating committee, shall be submitted to the respective parent bodies, and shall be of no effect until formal action and approval by both parties. A similar, but separate, summary shall be prepared on those issues still unresolved. This document may be used by either, or both, parties for submission to mediation.

Article V - Mediation Procedure

a - Notice of Intent to Mediate

If an impasse has been reached as set forth in Article IV, either party by written notice to the other party, may indicate its desire to submit any unresolved issue to a mediator. This notice should be filed with the other party within 10 days after an impasse has been established and should indicate specifically the issue(s) to be mediated.

b - Selection of Mediator

Both parties will attempt to select a mediator by mutual agreement. If the parties are unable to agree on a mediator within seven calendar days after an impasse has been reached, then the District Principal shall immediately request the American Arbitration Association to name a mediator.

c - Role of Mediator

The mediator shall use every effort to aid the parties to reach agreement. Both negotiating parties shall, in good faith, be available to the mediator. If an agreement is not reached within 20 days the mediator shall prepare a written account of his findings of fact and his recommendations of terms for a resolution of the issue(s).

It is agreed by the parties that the recommendations of the mediator are not binding on either party and are of an advisory nature only. The parties shall report their acceptance or rejection of the mediator's recommendations within 10 days. The report of the mediator may be made public by either party.

d - Final Decision by Board

If the recommendations of the mediator are accepted by the Board of Education and the Association, the issue(s) shall be considered resolved in accordance with the recommendations. If either party rejects the mediator's recommendations, the Board, only after due and careful consideration of all factors, shall decide the issue(s) as is its responsibility according to the laws of this state.

e - Costs of Mediation

All costs incurred in securing and utilizing the services of a mediator shall be borne equally by the Association and the Board.

Article VI - Work Stoppage

The Association and the Board subscribe to the principle that differences should be resolved by peaceful and lawful means without interruption to the school program. The parties further recognize that strikes and work stoppages by any members of the teaching staff are unlawful and contrary to public policy.

The Association therefore agrees that there shall be no strikes, work stoppages or concerted refusal to perform assigned duties by any employee covered by this agreement.

The Board, on its part, agrees to make every effort to effect settlement of all issues in the best interests of the students of this district.

Article VII - Legal Limitations

Should any provisions of this agreement be found contrary to any Federal or State Law, or any local superseding ordinance or statute, then such provisions of the agreement shall be considered void and shall be rewritten to conform with said laws.

Article VIII

This agreement shall become effective on July 1, 1967 and will remain in effect until June 30, 1968, or until a new contract is negotiated, except as amended in writing by mutual consent of both parties.

The agreement may be extended for periods of one year when both parties mutually consent.

Teachers' Salary Scale (Effective July 1, 1967)

Step	B	B+15	B+30	B+45	B+60	M	M+15	M+30	M+45	M+60	D
1	6350	6600	6850	7100	7350	7050	7300	7550	7800	8050	8300
2	6650	6900	7200	7450	7700	7400	7650	7900	8150	8400	8650
3	6950	7200	7550	7800	8050	7750	8000	8250	8500	8750	9000
4	7350	7600	7950	8200	8450	8150	8400	8650	8900	9150	9400
5	7650	7900	8300	8550	8800	8500	8750	9000	9250	9500	9750
6	7950	8200	8650	8900	9150	8850	9100	9350	9600	9850	10,100
7	8250	8500	9000	9250	9500	9200	9450	9700	9950	10,200	10,450
8	8550	8850	9350	9600	9850	9550	9800	10,050	10,300	10,550	10,800
9	8850	9200	9700	9950	10,200	9900	10,150	10,400	10,650	10,900	11,150
10	9200	9550	10,050	10,300	10,550	10,250	10,500	10,750	11,000	11,250	11,500
11	9550	9900	10,400	10,650	10,900	10,600	10,850	11,100	11,350	11,600	11,850
12	9900	10,250	10,750	11,000	11,250	10,950	11,200	11,450	11,700	11,950	12,200
13	10,300	10,650	11,150	11,400	11,650	11,350	11,600	11,850	12,100	12,350	12,600
14	10,650	11,000	11,500	11,750	12,000	11,700	11,950	12,200	12,450	12,700	12,950
15	11,000	11,350	11,850	12,100	12,350	12,050	12,300	12,550	12,800	13,050	13,300
20	11,350	11,700	12,200	12,450	12,700	12,400	12,650	12,900	13,150	13,400	13,650
25	11,700	12,050	12,550	12,800	13,050	12,750	13,000	13,250	13,500	13,750	14,000
30	12,050	12,400	12,900	13,150	13,400	13,100	13,350	13,600	13,850	14,100	14,350
35	12,400	12,750	13,250	13,500	13,750	13,450	13,700	13,950	14,200	14,450	14,700

* No teacher shall receive less than 4% increase over last year's basic salary.

** The B.N.C. guarantees to maintain the Valley Stream salary schedule on the MA, 15 year cumulative, above median in the 56 districts of Nassau County--Determination date, August 1st, 1967.

Special Items

THE SCHOOL ADMINISTRATOR AND PROFESSIONAL NEGOTIATION

Presentation Delivered in Topeka, Kansas
on
April 17, 1967
by
Dr. Forrest E. Conner, Executive Secretary
American Association of School Administrators

Mass action for individual benefit is by no means a new concept. It has been used ever since the days of the Industrial Revolution and the formation of craft guilds. Nearly every segment of society, except the teaching profession, has used it. Some notable examples are the medical societies which have used collective action to secure favorable legislation with regard to licensing and other features in the practice of medicine; business and industry both have employed mass action to obtain reasonable profit rates, favorable tariff laws, and the like; the profession of law has employed mass action to attain a monopoly on the license and practice of law in our country. The labor unions, of course, have brought the practice to the peak of perfection in obtaining favorable working conditions and pay for the working man of America. Therefore, strong teacher organizations demanding a voice in policy making as well as welfare benefits should not have surprised us, but they did.

There were several reasons for the teaching profession to get into this particular arena. The image of the meek, mild, timid, unmarried teacher who rarely spoke on school matters outside her classroom has long since disappeared. Today there is more and better preparation for teaching, more men and more married teachers, tenure, knowledge of their professional rights and responsibilities, and far more assertiveness than a few years back.

There was another factor. The teachers of our country had taken a look at the economy and had noted our general prosperity, the advance in the standard of living, and their low ranking on the pay scale and said, "We want our share." And rightfully so because even today with advancing teacher salary schedules, except for the beginning teacher with a B.A. degree, the teaching profession still lags behind on the pay scales compared with other vocations and professions requiring equal preparation.

We now live, whether we like it or not, in a new age of political activism in which collective action and thrusts for power are both fashionable and effective. Teachers, like other groups of employees, have learned this fact of life and are beginning to capitalize upon it for their purposes.

We may deplore all these events as selfish power grabs or applaud them as indications that our teaching force has finally arrived at a sense of professional dignity that augurs well for both the profession and education. Regardless of how one views the trend, <u>it is here.</u>

The term "professional negotiation" came into being in Denver in 1962 at the NEA Convention held in that city. It was new to boards of education, and they reacted vigorously and belligerently, asserting that it was an infringement on the legal powers of the board.

It was new to school administrators. Some felt shunted aside. Others regarded it as an infringement on administrative authority; and some regarded it as a backhanded slap by the very people for whose wages and favorable working conditions they had fought so hard.

So there was turbulence - for teachers, administrators, school boards and professional organizations. It was like three cub bears trying to handle one bottle of pop.

Five years have now elapsed since Denver and 1962, and some elements of sense and proportion are beginning to emerge from a confusing picture.

Negotiation, clearly, is one means by which the creative capacities of the professional staff members can be tapped.

Most school administrators have been pleased with the ever-increasing competence of the profession. Generally, school administrators have applauded the willingness of teachers to assume increasing professional responsibility. But many have wondered about the long-range effects of teacher aggressiveness and, in some cases, militancy. This is readily understandable.

The phenomenon of negotiation has brought perplexing problems to the doorstep of the school administrator.

The over-all problem is this: What is the appropriate role of the superintendent in the processes and procedures through which teachers may share in policy making particularly, though not solely, when their salaries, benefits, and working conditions are involved?

Of this we can be sure: School administrators cannot afford to be in the untenable position of trying blindly to apply traditional concepts to new and changing circumstances. School administrators must reshape and redesign their leadership role, using all the intelligence, insight, and understanding which can be brought to bear.

To assist them with this leadership role, AASA published last fall, with the help of a number of experienced and insightful people, a booklet entitled <u>The Administrator Views Professional Negotiation</u>. We could not have published it three years ago. It is a sign of progress in resolving difficulties. In this book, some forthright stands were taken. In other words, we stuck our necks out. It received wide acclaim.

Actually, what was said in this book was only a detailed elaboration of many of the things that AASA had already said in its resolutions and publications.

For example:

In its 1965 resolution entitled "Staff Relations," AASA said this:

> We believe that teachers, school boards, and administrators are all committed to the advancement of public education and that the goals and interests of these groups are highly interrelated. We believe strongly that the development of school policies and programs and the solution of school problems can best be accomplished by these groups. . .We believe that shared responsibility for policy and program development is a professional concept requiring a unique professional approach. We maintain that the superintendent of schools has a unique responsibility to provide leadership in these matters.

The philosophy of staff relations having been stated, it remained to define positions on a number of hard, practical issues related to this important concept.

In 1963 AASA developed and published a policy statement entitled Roles, Responsibilities, Relationships of the School Board, Superintendent, and Staff. It contains a section which sets forth the beliefs of school superintendents concerning the development of personnel policies. The section bears restatement in the context of professional negotiation:

> We believe that the superintendent has a responsibility to see that opportunities are provided for staff members - teachers, supervisors, principals, and specialists - to play appropriate roles in developing personnel policies and in maintaining professional working conditions.
>
> We believe that the superintendent has a responsibility to assist staff members - in ways satisfactory to them - in studying welfare problems, in developing proposals pertaining to staff welfare, and in presenting them to the school board for consideration and action.
>
> We believe that shared responsibility in policy development is a professional concept. It assumes a commonality of goals and interests among teachers, school boards, and administrators; and it assumes that service to children is the paramount consideration and that welfare provisions for teachers are means to that end.
>
> We believe that the right to discuss pros and cons and to participate in developing a program does not imply the right to make decisions. Although consensus should always be patiently sought and will often prevail between staff and school board, the board must retain its responsibility and legal right to make decisions.

It is apparent that the development of personnel policies in the sixties calls for far different, and certainly more formalized, procedures than heretofore have existed in most school systems throughout the nation. Professional negotiation agreements represent one approach to the matter; collective bargaining contracts, another. The wishes of the professional staff on negotiation procedures and on the content of agreements will frequently prevail. It is essential, however, that the superintendent of schools be deeply and actively involved in the development of policies which affect the staff and the school system's operation.

Need for Written Negotiation Agreements

One of the fundamental principles of effective school personnel administration is that policies should be in writing, widely disseminated, and, where appropriate, officially adopted by boards of education. These principles are equally pertinent in the area of collective negotiation. There are obvious advantages to be gained from putting agreements in writing.

It is estimated that apart from the 12 states which have laws on the matter, with several other pending, there are several hundred locally developed negotiation agreements presently in existence. It seems apparent that there are few jurisdictions in which there would be legal impediments in the way of boards of education wishing to adopt such agreements. In view of the advantages to be gained from their adoption and the ever-mounting pressures being exerted for the development of appropriate formalized negotiation procedures, AASA has recommended that all school districts develop and adopt written negotiation agreements appropriate to their own unique local circumstances.

Exclusive Negotiation

The existence within a district of more than one employee organization claiming to represent the professional staff presents a thorny problem to boards of education and their chief school administrators. Although in the absence of a statute a board cannot be compelled to recognize one organization exclusively for the purpose of negotiation, virtually every one of the voluntary negotiation agreements currently in existence provides for the recognition of a single organization as representative of the staff. Of the current state legislation, California's law is the only one which specifically calls for proportional representation.

From a practical standpoint, it makes good sense to negotiate with a single organization, providing, of course, that it can be ascertained beyond any doubt that such an organization can speak for the majority of the staff. The rational basis for a policy of granting exclusive negotiation rights is the power of a board of education to adopt those policies which in its judgment promote the best interests of the school system and the educational program. Such a policy is desirable and legal in most jurisdictions so long as two conditions are met: (a) that the policies developed by means of negotiation with representatives of the majority organization be uniformly applicable to all staff members, regardless of membership in the organization; and (b) that the rights of all individuals and minority groups to present their views to the board of education at an open meeting be vigorously protected.

Composition of the Negotiation Unit

AASA contends that education is a unique enterprise in that much of its success depends upon the closest possible working relationships among teachers, principals, administrators, and supervisors. In order to maintain this type of relationship, it is desirable for all segments of the professional staff to belong to a single staff organization.

On the other hand, each segment of the professional staff should be able at all times to arrive at considered judgments about matters of importance free of domination or coercion from other segments. In some jurisdictions, it may be desirable to maintain independent classroom teacher and administrative-supervisory units within a single organization, each free to develop independent judgments where appropriate. Any differences or disagreements among various segments of all-inclusive organizations should be thoroughly aired and reconciled before negotiations take place.

It seems clear that a pattern of negotiation forced upon unwilling individuals or borrowed from the AFL-CIO without regard to the unique characteristics of education will in the long run be unsatisfactory and work to the detriment of all concerned. All-inclusive organizations have operated successfully in the past and will continue to operate successfully in the future as long as all parties desire to make them operate successfully and as long as the specialized needs of units within the organizations can be met satisfactorily. Local preference, based upon unique local circumstances and not upon arbitrary rules handed down from outside agencies, should determine the type of negotiation unit which most satisfactorily fills the needs of the district.

AASA maintains that local education associations made up of teachers, supervisors, principals, and administrators working together in close harmony best serve the cause of education. Whatever the pattern of representation or organization eventually chosen, however, no teacher, supervisor, principal, coach, counselor, or administrator should be unrepresented in the process.

Content of Negotiations

The question, "What is negotiable?" has been the subject of much controversy in educational circles. Some hold that all matters are negotiable; textbook selection, building construction, sequence of curriculum, and the selection of instructional materials are but a few examples. Others contend that negotiable matters should be restricted to salaries, benefits, and working conditions. Arguments can be marshalled on both sides of the question. The Association finds the reasoning for a more broadly construed concept of negotiation most persuasive. There is a substantial difference between bargaining over wages and hours in the industrial context and negotiating over matters of common interest in the educational context. If education is truly a profession, all professional personnel have a legitimate interest in the decisions that affect their pupil clientele, the effectiveness of their own work, and the quality of the educational program.

Obviously, negotiating the selection of a specific textbook for a specific course offering would be nonsensical, as would negotiating a curricular sequence or the educational materials to be purchased for third-grade social studies. However, the process by which these basic decisions are made can be negotiated.

Most agreements go far beyond what one normally envisions as "welfare" concerns. The Association believes negotiation, in good faith, should encompass all or some aspects of such items as:

1. Curriculum
2. Inservice education
3. Personnel policies
4. Teaching assignments
5. Transfers and promotions
6. Recruitment of teachers
7. Discharge and discipline of teachers
8. Provision of physical facilities for teachers
9. Budget preparation
10. Lunch and rest periods
11. Salaries and wages
12. Welfare benefits
13. Class size
14. Leaves of absence
15. Expiration date of negotiation agreement
16. Other mutually agreed upon matters which directly affect the quality of the educational program.

The Association believes that some items are not negotiable and that a school board may refuse to bargain about non-negotiable subjects without violating its duty to negotiate in good faith. A school board should not negotiate any items which would violate existing state laws. It could not agree, for example, to operate a school system less than the minimum number of days required by state law; nor could it negotiate a millage rate in excess of the legal maximum; nor could it negotiate a clause in the contract permitting employees to strike in violation of state law; nor should it negotiate any item that would result in violation of the applicable code of ethics. Illustrations of other non-negotiable items include, but are not limited to, the following: the selection of legal counsel to the board of education, determination of the financial accounting system to be employed by the board, and selection of the superintendent, principals, and other administrative and supervisory personnel. Here again, except in the case of the superintendent, the process may be negotiable, but the selection of individuals should always remain the prerogative of the superintendent to recommend and the board to appoint.

Mediation and Appeal Procedures

Successful negotiation results in agreement acceptable to all parties. It would be naive to suppose, however, that negotiation always leads to agreement. There will be times, despite good-faith efforts to arrive at equitable solutions to common problems, when persistent disagreements simply cannot be resolved by the parties involved in the negotiation process. Although boards of education cannot and should not give up their legal responsibility to arrive at final decisions concerning matters of policy, there are no legal barriers to seeking the advice and recommendations of impartial, knowledgeable third parties. Such a step should not be taken lightly, nor before the most painstaking work on the part of the superintendent, board, and staff to seek a satisfactory compromise. Failing this, however, there should be some recourse. The channel of resolution should be developed along with, and be an integral part of, the written negotiation agreement. In 1963, AASA published the following statement in Roles, Responsibilities, Relationships of the School Board, Superintendent and Staff:

> We believe that both the board and the professional staff - teachers, principals, and other administrators - should, at a time that is free from tension and controversy, develop together a plan to be used in case of persistent disagreement. In those few, highly unusual instances where major controversy threatens to disrupt the schools, an appeal to an unbiased body should be available to either the board or the teachers, or both. The function of this third party should be limited to fact finding and to advisory assistance. Its identity might vary from state to state, but it should always be an agency which has responsibility for some segment of public education in the state. Included among such organizations might be a state board of education, a state department of education, a state university, or a state public college. It should be made clear that such a study would be conducted without disruption of the schools. A report should be made to both the board of education and the staff.

Sanctions

Any negotiation or bargaining process envisions power on both sides of the table. The board's power is legislative and financial. The teacher's power is withholding of services.

In its book, School Administrators View Professional Negotiation, AASA has endorsed the type of sanction which involves unfavorable publicity focused upon intolerable educational conditions. As AASA has stated

in Roles, Responsibilities, Relationships of the School Board, Superintendent and Staff:

> We believe that in those exceedingly rare situations where the professional staff believes that the school board or some other legal fiscal control body has denied reasonable requests for conferences, for study, and for presentation of welfare proposals, or has demonstrated flagrant unwillingness to provide reasonable salary contracts or other welfare provisions, the professional staff has the right to present all the facts to the public and to their professional associates in other school districts. On the other hand, where the staff obstinately holds to an unreasonable position which disrupts or seriously impairs the operation of the schools, the school board has comparable rights and obligations.

When applied on a responsible, professional basis, sanctions can be a very powerful tool for the resolution of serious educational problems.

Strikes

Teacher strikes, or the withdrawals of service, whether or not taking place in conjunction with sanctions, are illegal. There are statutes in 15 states prohibiting various types of public employees, often including teachers, from striking. There are no statutes which provide that teachers may strike. In the absence of statutory provision, the judicial view has traditionally been that public employees do not have the right to strike.

Aside from the legal implications of teacher strikes, there are moral and ethical considerations. Children should not be deprived of their education, nor should communities be deprived of their schools. Moreover, the strike, involving refusal of services to the district and the children is usually a violation of the teacher's contract and a detraction from the ethical image of one charged with instilling in students the concept of responsibility in meeting and fulfilling obligations.

Responsible teachers organizations should not be left without a powerful means with which to resolve intolerable situations or educational conditions, the solution of which has defied all reasonable procedures of negotiation. Such a potent tool exists in sanctions - a dignified procedure worthy of a true profession. The sanction does not involve interruption of teachers' services to the students during the school year. Its impact is primarily on the civic body - board, community, or state - responsible for the intolerable conditions, rather than on the children.

AASA endorses the proper and considered use of sanctions by a professional organization. It does not condone teachers' strikes under any condition.

The Unique Position of the Superintendent of Schools

There is no position in the profession of education comparable to that of the superintendent of schools.

Today, the superintendent of schools occupies a complex and demanding position. He is often torn between diverse alternatives, obligations, and responsibilities.

Yet, it seems clear that the professional superintendent has one allegiance that transcends all other commitments. Although he is a devoted member of his professional group and deeply concerned with the success of his associates, his allegiance to the learner supersedes all other loyalties. This commitment need not and should not place him in conflict with his colleagues. Its very nature makes him seek assiduously and vigorously to maintain environmental circumstances which his associates desire, need, and must have to work to best advantage. One of the major concerns of the superintendent always has been and always should be to help provide those conditions which enable teachers and all other staff members to achieve their professional goals.

Neither does this freedom of operation by the superintendent suggest disloyalty to the school board. As a matter of fact, it is his professional judgment, wisdom, and leadership that make him valuable to the board.

Three roles the superintendent can play:

1. Refrain entirely from negotiations leaving it entirely to the board and the representatives of teachers.
   a. This isolates the superintendent.
   b. It denies both parties to negotiations the information and understanding of the superintendent.
2. Bargaining agent of board - definitely the board's man - no pretense of representing teachers.
   a. Leaves him only one hat to wear, 'tis true, but
   b. It is repugnant to most administrators.
   c. It sets him up as an adversary of the professional staff.
3. "Independent" third party.

   Counselor to both groups, supplier of information, referee, judge, active participant, "soother", cajoler.

Much depends on attitude of Board, negotiating group and atmosphere of negotiations, which role he will play.

A Time for Action

New patterns of staff relationships require many changes in local school administration. Paternalism is no longer fashionable. Old, established traditions and processes no longer suffice. It avails little to debate the desirability of these changes in relationships or to bemoan their speed. Changes are here, and their pace will quicken rather than abate in the years ahead.

It is the firm belief of AASA that problems are better prevented than solved, and that satisfactory negotiation procedures are best developed before the need for them becomes acute. We believe that the superintendent of schools, if he is to continue in his position of educational leadership, must assume responsibility for initiating and guiding changes in established patterns of staff relationships. Written negotiation agreements which carefully delineate the roles and responsibilities of the superintendent, the board, and the teachers are essential to the smooth and efficient operation of the schools.

The superintendent must contribute his professional judgment, experience, and understanding to the development of appropriate new procedures of staff negotiation.

Rarely do I end a speech with a poem. In this case, I am reminded of one of Edwin Markham's poems:

> He drew a circle that shut me out -
> Heretic, rebel, a thing to flout.
> But Love and I had wit to win:
> We drew a circle that took him in!

Whether or not professional negotiation will become an abomination or a blessing to the profession will depend largely upon the ability of the board of education, the teachers association and the superintendent to draw circles that take each other in.

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Negotiation Research Digest

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March 1968

First New York State Representation Determination in Education ..... Description: A-1
Text: C-28

New York State's Public Employment Relations Board certified that the Amityville Teachers Association (NEA) would continue to represent the teachers of Union Free School District No. 6, and that the Amityville Federation of Teachers (AFL-CIO) did not show enough strength to force an election to determine the organization to be certified.

New Jersey Supreme Court Upholds Jail Sentences in Woodbridge Strike Case ..... Description: A-1
Text: C-20

Court upholds jail sentences for defendants involved in contempt proceedings evolving from violation of restraining order issued to end a strike by Woodbridge Township Federation of Teachers, Local 822, American Federation of Teachers (AFL-CIO).

Four Procedural Agreements from Four States ..... Description: A-2
Text: D-1

Procedural agreements from California, Oregon, Texas, and Washington are reproduced in this issue. They represent four different types of procedural agreements.

Committee Use in Agreements B-1

An analysis of the extent of the establishment of study committees within the framework of negotiation agreements, plus a listing of the 1966-67 agreements with such committees.

"Agency Shop" Provision Approved in Michigan ..... Description: A-2
Text: C-1

In a recent decision the Michigan Labor Mediation Board indicated that an "agency shop" union security provision in public employee negotiation agreements would not be contrary to the Michigan Public Employment Relations Act.

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Budget Defeat Situation Clarified by Oregon Attorney General Ruling ..... Description: A-3
Text: C-31

The rights and roles of both the teacher consultation committee and the school board under the Oregon negotiation statute have been clarified in situations involving voter defeat of a school budget.

PERB Certification Procedures ..... Description: A-1
Text: C-22

Rules and procedures relating to certification of employee organizations drawn up by New York State's Public Employment Relations Board are presented.

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Description and Analysis

FIRST REPRESENTATION DETERMINATION IN EDUCATION UNDER RULES OF PROCEDURE ESTABLISHED BY NEW YORK STATE'S PERB

New York State's Taylor Law established a Public Employment Relations Board (PERB) to supervise the operation of the law, make determinations of representation, etc. To implement the Taylor Law, the PERB established various rules and regulations which were designed to help administer the law in an orderly fashion; these regulations were published by the PERB as Rules of Procedure: A Guide to the Taylor Law. The sections of this publication dealing with representation and certification of employee organizations begin on page C-22.

While the rules go into substantial detail in a number of areas, one of the most interesting sets of rules deals with certification of an organization without an election. The PERB established two sets of percents. Each percent in the first column denotes the percent of unit employees having selected the majority organization for negotiation purposes. In the second column are corresponding minimum percents of employees which must have selected a competing organization for negotiation purposes in order to prevent certification of the majority organization without an election.

This rule was used by the PERB in making its first representation determination in education, between the Amityville Teachers Association (NEA) and the Amityville Federation of Teachers (AFL-CIO). Each organization wished to represent the teachers in Union Free School District No. 6 of Babylon and Oyster Bay, New York. The text of the PERB's determination of the Amityville Teachers Association as the exclusive negotiating agent begins on page C-28.

WOODBRIDGE, NEW JERSEY, STRIKE CONTEMPT CONVICTIONS UPHELD BY STATE SUPREME COURT

In October 1966, the Woodbridge Township Federation of Teachers, Local 866, American Federation of Teachers (AFL-CIO), struck the schools of Woodbridge, New Jersey. A court restraining order was issued to end the strike, but was disregarded by a national AFT leader and local leaders. The leaders were convicted of contempt of court; and the sentences were appealed to the New Jersey Supreme Court where the judgments were affirmed.

To date, no negotiation agreement has been filed for the Woodbridge schools; the NEA Research Division has been advised that none has existed for either 1966-67 or 1967-68.

The New Jersey Supreme Court's decision on the matter begins on page C-20.

FOUR PROCEDURAL AGREEMENTS

The February issue of the Digest carried the texts of an Illinois comprehensive agreement and a New York State detailed procedural agreement between four school systems and one teachers organization. Four procedural agreements, one each from

California, Oregon, Texas, and Washington, are included in this issue to provide a broad view of many different types of procedural agreements. The May 1967 Digest carried five procedural agreements, one each from Colorado, Kansas, and Delaware, and two from Illinois.

The California agreement provides an example of the types of procedures used in California and Minnesota for the determination of representation on a negotiating council. The Oregon agreement, like all Oregon agreements, does not recognize an organization for negotiation purposes, but rather an elected committee of individuals. On the other hand, the Texas agreement recognizes organizational representation, but utilizes a consultation committee. An example of an agreement which is not of a "special type" is provided by one from Washington.

The school systems, recognized organizations, and the pages on which the agreement begin are:

School System and Recognized Organization	Page
Inglewood Unified School District, Inglewood, California Inglewood Teachers Association (NEA)	D-1
Linn-Benton Union High School District No. 8, Albany, Oregon No Organization Recognized	D-4
Fort Worth Independent School District, Fort Worth, Texas Fort Worth Classroom Teachers Association (NEA)	D-6
Vancouver School District No. 37, Vancouver, Washington Vancouver Education Association (NEA)	D-8

MICHIGAN LABOR MEDIATION BOARD UPHOLDS ARBITRATION OF GRIEVANCE DECISION; SUPPORTS "AGENCY SHOP" TYPE OF UNION SECURITY CLAUSES

In a lengthy and detailed decision in a case between the Oakland County (Michigan) Sheriff's Department and the Oakland County Board of Supervisors and Metropolitan Council No. 23, American Federation of State, County, and Municipal Employees (AFL-CIO), the Michigan Labor Mediation Board (LMB) made some interpretations of the Michigan Public Employment Relations Act (PERA) which will probably have substantial impact on negotiation in education.

The Labor Mediation Board concurred with the Berrien County Circuit Court decision which allowed final and binding arbitration of grievances which occurred under an agreement entered into voluntarily (Negotiation Research Digest, January 1968, C-1).

The additional problem of "union security" provisions in agreements was presented to the LMB for consideration in the case; two separate dissenting opinions were added to the LMB decision on this matter. After a detailed discussion of the various types of union security provisions involving Supreme Court of the United States decisions, National Labor Relations Board rulings, and other opinions and decisions, the LMB indicated that "agency shop" type union security provisions were not in opposition to the PERA. (An agency shop provision is one in which each employee pays to the organization representing him for purposes of collective bargaining, organization dues or their equivalent if he does not care to join the organization.)

The LMB stated:

A requirement that employees pay their share of the cost of negotiating and administering a collective bargaining agreement neither discourages nor encourages membership in the labor organization selected by the majority of employees in the bargaining unit to represent them. It is not discriminatory, as the requirement that each employee pay his pro rata share of the costs applies alike to all employees in the bargaining unit, whether they are, or are not, members of the union.

The Warren, Michigan, agreement published in the December 1967, Negotiation Research Digest contains such an agency shop provision.

OREGON ATTORNEY GENERAL RULES ON REOPENING OF NEGOTIATION AFTER VOTER DEFEAT OF SCHOOL BUDGET

Two Oregon Attorney General's opinions, published in the September 1967, Negotiation Research Digest, dealt in part, with the use of consultants to help resolve disagreements and exclusive representation of the certificated personnel by the elected committee.

Because of the defeat of a number of school budgets by the voters of Oregon, a number of questions were raised about the necessity for the school board to reopen negotiation. The opinion clarifies those situations.

Data and Statistics

NEGOTIATION AND THE COMMITTEE

School systems often set up committees to investigate and recommend solutions to problems. What purposes can committees serve in teacher/school board negotiation? And which negotiation agreements specifically provide for committes?

Research studies suggest that advantages of the committee approach are:

- Promotion of the free exchange of comments and ideas
- Utilization of expertise within the staff
- Involvement of more staff members in commitment to decisions made
- Reduction of potential conflict through continuous discussion
- Administration of specific policies through joint committees
- Study of difficult and complex policies and programs.

Certain teacher-school board negotiators have incorporated the committee approach in their negotiation agreements. Of the 1,540 agreements listed in Negotiation Agreement Provisions, 1966-67 Edition ($15, Stock #841-24006), 181 have one or more joint teacher/administrator/school board committees; 92 percent of these 181 agreements were comprehensive agreements.

Approximately 30 percent (54) of the 181 agreements contain provisions for two or more committees, or a total of 287 committees exclusive of grievance committees.

The committees provided for in negotiation agreements are of two kinds, broad general committees and specific provisional committees. The broad general committees meet regularly or upon request of either party to discuss problems of the professional or educational programs. Problems for discussion are not defined in the agreement but may vary depending on the circumstances. The specific committees are limited to specific problems and their recommendations are limited to particular provisions.

Excerpts from Pontiac, Michigan (NEA), Littleton, Colorado (NEA), and Palmer, Massachusetts (NEA), illustrate the broad general committee approach.

Pontiac, Mich. (NEA)
Pontiac Education Association

ARTICLE XI - THE PROFESSIONAL RELATIONS COMMITTEE

The Association will establish a Professional Relations Committee which will meet each month during the school year with the Superintendent and administrators he selects as representatives of the Board of Education to discuss and study matters of mutual interest concerning the Pontiac Schools which fall outside of provisions of this contract.

The purpose of these meetings shall be to provide a means whereby (A) the items of concern to the Association may be brought to the attention of the Board representatives for consideration, (B) items of concern to the Board representatives may be brought to the attention of the Association for consideration, (C) information may be exchanged, (D) a high level of mutual understanding may be maintained, and (E) matters pertinent to the general welfare of teachers and the school district may be discussed.

The operating procedures and meeting times for discussions between the PRC and Board representatives shall be determined annually prior to October 1 by the participants.

The PRC will serve in an advisory, consultative, and fact-finding capacity to the Board of Education through the Board representatives.

PRC members and representatives of the Board may consider, but are not restricted to, the following matters:

1. The quantity and quality of instructional materials.
2. Educational programs.
3. Provision of specialists in the school district.
4. The summer school program.
5. Summer use under contract of teacher time.
6. Educational innovations and experimentation.

7. Professional growth of teachers.
8. Problems of intergroup relations.
9. Development of an evaluation process for tenure teachers.

Littleton, Colo.
Littleton Education Association (NEA)

ARTICLE IV

1. Provision for Continual and Permanent Board-Teacher Communication

   a. In order to further establish a cooperative spirit and a mutual understanding between the Staff and the Board of Education, periodic informal meetings will be held with the Board of Education, the Littleton Education Association, and the Central Administrative Staff. Such meetings might well include other personnel as needed and as required by individual agenda items. The purpose of such meetings is not only to establish mutual understanding but also to discuss those areas of District-wide concern including questions relating to District policy, implementation of such policy, general teacher welfare, budgetary procedures, instructional matters, and other such items.

   b. The dates for five bi-monthly meetings shall be established each September by the Superintendent of Schools. Additional special meetings may be called as needed by mutual agreement.

   c. Discussion items shall be established by submission to the Superintendent of Schools from the LEA Board of Directors, the Superintendent of Schools himself, and the Board of Education at least two days prior to the scheduled meeting date. If no items are submitted for discussion, the Superintendent of Schools shall contact the President of the Board of Education and the LEA President for possible cancellation of regularly scheduled meetings.

Palmer, Mass. (NEA)
Palmer Teachers Organization

Section XII
Consultation Procedure

1. The consultation procedure shall be as follows:

   a. If a proposal is initiated by the Organization, it shall be submitted in writing with the request for a meeting to the Superintendent or his designee, who shall acknowledge receipt within three days thereafter and meet with the Organization to discuss the proposal within fifteen days thereafter. If, as the result of this meeting or subsequent meetings arranged to the mutual satisfaction of the Organization and the Superintendent or his designee, agreement is reached on the proposal, it shall be presented to the Committee as a joint recommendation of the Superintendent and the Organization. If such discussions do not result in agreement, or if the Organization is dissatisfied with the course of discussions with the Superintendent, the Organization may so notify the Committee in writing and shall have the right to present its proposal directly to the Committee in a working session not more than one month thereafter.

   b. If the proposal is initiated by the Committee or the Superintendent, the Superintendent or his designee shall submit the same in writing to the Organization, which shall acknowledge receipt within three days thereafter and meet with the Superintendent or his designee to discuss the proposal within fifteen days. Thereafter the procedure shall be as set forth in paragraph 1 above.

   c. Any proposal adopted by the Committee and initiated or approved by the Organization shall be reduced to writing, signed by the Committee and the Organization, and shall, when appropriate, become an addendum to this Agreement. In any discussions as aforesaid, the Committee or the Organization may utilize the services of outside consultants and may call upon professional and lay representatives to participate.

2. In addition to consultation on proposals to become part of the Agreement, certain provisions of this Agreement call for consultation in accordance with the foregoing procedure in the administration or modification thereof. It is agreed that by mutual consent such procedure may be altered and adapted to the needs of the situation in order, as informally and effectively as possible, to achieve the continuing communication which will best assist the Board in reaching its decisions.

3. Further, the Committee recognizes the Organization's contributions to date and desires to encourage the active participation of teachers in the development and implementation of the best possible educational programs for the school children of Palmer, including State and Federal aid programs. To this end, the Executive Committee of the Organization may appoint an Educational Improvement Committee of not fewer than seven teachers to be chaired by a classroom teacher which will be responsible for developing recommendations to the Committee in the field of educational programs. The Committee agrees that the Superintendent or his

designees will meet and consult with said Committee after classroom school hours, so that there may be a full and free exchange of information and opinion. The frequency of said meetings is to be determined by mutual agreement of parties concerned.

Excerpts from Grand Blanc, Michigan (NEA), East Hartford, Connecticut (NEA), and Belleville, Illinois (AFT), illustrate the specific provisional committee approach.

Grand Blanc, Mich. (NEA)
Grand Blanc Education Association

ARTICLE XVII

Professional Study Committees

A. There is hereby established a Professional Study Committee whose purpose it will be to study and make recommendations with respect to compensation for extra duties. The Board and the Association will appoint an equal number of representatives to serve on this committee. This committee's recommentations will be submitted in time to be considered when Schedule A is reopened for negotiation.

B. There is hereby established a Professional Study Committee whose purpose it will be to study and make recommendations with respect to the problems incurred by teachers at the end of the marking period. The Board and the Association will each appoint an equal number of persons to serve on this committee. This committee's recommendations will be submitted no later than February 1, 1967.

C. There is hereby established a Professional Study Committee whose purpose it will be to study and make recommendations with respect to the policies and procedures involved in teacher evaluation. The Board and the Association will each appoint an equal number of persons to serve on this committee. This committee's recommendations will be submitted no later than February 1, 1967.

The following list represents a set of guidelines which have been mutually agreed to by the Board and the Association and should be regarded as directives for the committee:

1. An effective evaluation policy is based primarily on self appraisal. Every effort should be made to provide opportunity for individual teachers to analyze their own strengths and weaknesses and to give direction to their self-improvement.

2. Purposeful evaluation of teachers must be founded on the idea of improvement and growth of those being evaluated through appraisal and analysis of their strengths and weaknesses. Teachers should view evaluation as an activity that guides and counsels them in their work.

3. Evaluation of teachers and teaching should be a countinuous rather than a spasmodic or periodic procedure.

4. Teachers should be permitted to participate in the development and implementation of the evaluation practices employed.

5. Effective and fair evaluation of teachers should be made in the light of recognized objectives and ideals.

6. Evaluation procedures should be sustained by cooperative planning and understanding among the total professional staff.

7. Direct observation plays an important part in the evaluation process. Therefore, a checklist of items that are regarded to be elements of a good teaching-learning situation should be used and periodically evaluated.

8. Following any type of evaluation there should be a conference between the person who does the evaluating and the person who has been evaluated. Often this conference will merely reassure the teacher that the evaluation has indicated that he is performing well; sometimes it will include specific suggestions about areas that appear to need attention.

   The conference might well conclude with the writing of a summary statement to which both participants can agree, so the points that were discussed became a matter of record and can be reconsidered at a later date. This is particularly valuable when specific areas need correction. The persons participating in the conference might each be provided a copy of the agreements reached during this conference.

9. Whenever an evaluation summary is made, either orally or in writing, it should be based upon the evaluator's frequent and direct observations and contacts with the person who is being evaluated. Many educators agree that there should be no less than two evaluation conferences with each teacher during a school year - one at mid-year and another toward the close of the school year.

10. The Board of Education should be responsible for providing teachers with in-service experiences designed to assist the individual in overcoming areas of weaknesses.

Note: The items which follow are to be regarded as additional ideas for this committee to consider in its deliberations and not necessarily as directives:

1. Consideration should be given to the provision for a teacher evaluator in addition to an administrative appraisal.

2. Provision might also be made for teacher evaluation of administrative personnel.

D. The Board and the Association recognize the necessity for the formulation of a policy with respect to academic freedom. For this purpose a study committee (having equal membership appointed by the Board and the Association) will be formed to mutually develop a policy for implementation by March 15, 1967.

East Hartford, Conn. (NEA)
East Hartford Education Association

ARTICLE XVII

CURRICULUM DEVELOPMENT

The Association is interested in curriculum development and recognizes that rapid technological and sociological changes and growth mandate constant study of and revision in our curriculum and instructional program. The Board of Education is aware of the value of summer workshops and knows that they have been beneficial in other districts. The Board therefore will sponsor two curriculum study groups (elementary and secondary) during the summer of 1967 and will compensate the participating teachers. The Superintendent of Schools shall determine the nature of the study to be undertaken as well as the composition of the two groups.

Belleville, Ill. (AFT)
Belleville AFT Local 673

7. The In-Service Training and Evaluating Committee shall constitute an Evaluating and Classification Committee. Its membership shall include one representative from each of the following organizations or groups within District #118: The Association for Childhood Education, The American Federation of Teachers Local 673, the Belleville Grade Teachers Association, the Board of Education, the Administration, the Directors, and the Principals. The Evaluating and Classification Committee shall review, approve or reject Courses of Study pursued at the University, College, or Extension level, and evaluate credits for such advancement work, insofar as professional growth and compensation on the Salary Schedule are concerned. Request for approval of such "Advancement Courses" (Credit Courses) must be submitted in writing to the In-Service Training and Evaluating Committee, which in turn shall make recommendations to the Board. Final approval is to be given by the Board.

The following tabulation of the 287 committees by form and type shows that broad general committees are about as prevalent as specific provisional committees. The provisional committees are divided into two categories: instructional programs and personnel policies, and further divided by specific area of concern.

Form and type of committees contained in negotiation agreements

	Number	Percent
BROAD GENERAL COMMITTEES	141	49.1%
Professional study committees	82	
Liaisons or consultation committees	44	
Educational Improvement committees	15	
SPECIFIC PROVISONAL COMMITTEES .	146	50.9
Instructional Programs	58	20.2
Curriculum review	22	
Special education programs	8	
Textbooks	5	
Class size	5	
Teacher aides	4	
Instructional aids	3	
Secretarial and clerical assistance	3	
Application of state and federal funds	2	
School calendar or year ..	2	
Miscellaneous instructional programs	4	
Personnel policies and programs	88	30.7
Teacher evaluation	14	
Leaves of absence	12	
Professional growth	11	
Salary and welfare	10	
Insurance coverage	6	
Extracurricular duties (supervision or compensation)	6	
Teaching load	5	
Merit programs	5	
Promotions	5	
Teaching hours or day	3	
Duty free periods	3	
Teacher tenure	3	
Miscellaneous personnel policies	5	
Total number of committees	287	100.0%

School systems that contain provisions for committees in teacher/board negotiation agreements are listed below. Column headings for this list are:

Column 1 - Name of school system
Column 2 - Location
Column 3 - Recognized organization
Column 4 - Number of personnel represented
Column 5 - Type of agreement
Column 6 - Date of agreement
Column 7 - Date of earliest reopener
Column 8 - Date of expiration
Column 9 - National affiliation of recognized organization

JOINT COMMITTEES ESTABLISHED TO OPERATE UNDER AGREEMENT

ARIZONA									
GLENDALE SCH DST 40	GLENDALE	GLENDALE ELEM CLRM TCH ASN	00231	LEVEL II					NEA
CALIFORNIA									
FOLSOM JT UNF SCH DST	FOLSOM	FOLSOM EDUC ASSN	00465	LEVEL II					NEA
MENLO PARK CITY SCH DST	MENLO PARK	MENLO PARK EDUC ASSN	00101	LEVEL II	01 66				NEA
COLORADO									
LITTLETON SCHOOL DST 6	LITTLETON	LITTLETON EDUC ASSN	00724	LEVEL IV	09 67			10 68	NEA
CONNECTICUT									
HARTFORD	HARTFORD	HARTFORD FED OF TEACHERS	01477	LEVEL IV	04 66	10 66		03 67	AFT
NORWALK PUBLIC SCHOOLS	NORWALK	NORWALK TEACHERS ASSN	00800	LEVEL IV	01 67			08 68	NEA
WATERBURY PUB SCH	WATERBURY	WATERBURY TEACHERS ASSN	00821	LEVEL IV	01 67			07 67	NEA
BRISTOL PUB SCH	BRISTOL	BRISTOL EDUC ASSN	00510	LEVEL IV	09 66			08 67	NEA
EAST HARTFORD PUB SCH	EAST HARTFORD	EAST HARTFORD EDUC ASSN	00571	LEVEL IV	11 66			06 67	NEA
ENFIELD SCH DIST	THOMPSONVILLE	ENFIELD ED ASSN	00460	LEVEL IV	09 66			06 67	NEA
MERIDEN PUB SCH	MERIDEN	MERIDEN ED ASSOC	00496	LEVEL IV	11 66			11 67	NEA
MILFORD SCH DST	MILFORD	MILFORD EDUC ASSN	00580	LEVEL IV	06 66			08 67	NEA
WEST HAVEN PUB SCH	WEST HAVEN	WEST HAVEN ED ASSN	00660	LEVEL IV	06 66			08 67	NEA
DARIEN PUB SCH	DARIEN	DARIEN EDUC ASSN	00327	LEVEL IV	04 67			06 68	NEA
WINDHAM PUB SCH	WILLIMANTIC	WINDHAM ED ASSN	00185	LEVEL IV	09 66			08 67	NEA
EAST WINDSOR PUB SCH	WAREHOUSE PNT	EAST WINDSOR EDUC ASSN	00113	LEVEL I					NEA
RIDGEFIELD PUB SCH	RIDGEFIELD	RIDGEFIELD EDUC ASSN	00209	LEVEL IV	09 66			06 67	NEA
SEYMOUR PUB SCH	SEYMOUR	SEYMOUR EDUC ASSN	00139	LEVEL IV	12 66			12 67	NEA
ILLINOIS									
CHICAGO PUB SCHS	CHICAGO	CHICAGO AFT LOCAL 1	20000	LEVEL IV	01 67			12 67	AFT
EAST ST LOUIS SCH DST 189	EAST ST LOUIS	E ST LOUIS AFT LOCAL 1220	00859	LEVEL IV	09 66			09 67	AFT
GRANITE CITY COM DST 9	GRANITE CITY	GRANITE AFT LOCAL 763	00611	LEVEL IV	07 66	08 68		06 69	AFT
BELLEVILLE DISTRICT 118	BELLEVILLE	BELLEVILLE AFT LOCAL 673	00191	LEVEL IV	07 66			08 68	AFT
SCH DST 89	MAYWOOD	W SUBURBAN TCHRS UN 571	00210	LEVEL IV	06 58			06 67	AFT
BATAVIA PUB SCHS DST 101	BATAVIA	BATAVIA TCHRS ASSN	00118	LEVEL III				07 66	NEA
COMMUNITY UNIT DIST 196	DUPO	DUPO AFT LOCAL 1732	00065	LEVEL IV	09 67			09 68	AFT
MADISON COM UNIT SD 12	MADISON	MADISON AFT LOCAL 763	00112	LEVEL IV	09 66			06 67	AFT
INDIANA									
EVANSV VANDERBURGH SCH C	EVANSVILLE	EVANSVILLE TCHRS ASSN	01379	LEVEL III	03 66			03 67	NEA
WESTFIELD WASHINGTON SCHS	WESTFIELD	WESTFIELD CLRM TCHRS ASSN	00096	LEVEL III					NEA
MASSACHUSETTS									
BOSTON PUB SCHS	BOSTON	BOSTON AFT LOCAL 66	04521	LEVEL IV	09 66			08 67	AFT
SPRINGFIELD PUBLIC SCHOOLS	SPRINGFIELD	SPRINGFIELD ED ASSN	01437	LEVEL IV	03 67			08 69	NEA
QUINCY SCHOOL DISTRICT	QUINCY	QUINCY TEACHERS ASSN	00800	LEVEL IV	03 67	10 67		06 68	NEA
WINTHROP PUBLIC SCHOOLS	WINTHROP	WINTHROP TEACHERS ASSN	00146	LEVEL IV	01 67			06 68	NEA
PALMER PUBLIC SCHOOLS	PALMER	PALMER TCHRS ORGANIZATION	00090	LEVEL IV	01 67	10 67		07 68	NEA
MASCONOMET REGIONAL DIST	TOPSFIELD	MASCONOMET TEACHERS ASSN	00104	LEVEL IV	11 66	10 67		11 69	NEA
MICHIGAN									
DETROIT SCH DIST	DETROIT	DETROIT AFT LOCAL 231	12000	LEVEL IV	07 66			07 67	AFT
FLINT COMM SCHS	FLINT	FLINT EDUC ASSN	01800	LEVEL IV	09 66	02 68		08 69	NEA
GRAND RAPIDS PUB SCHS	GRAND RAPIDS	GRAND RAPIDS EDUC ASSN	01460	LEVEL IV	03 67			08 67	NEA
LANSING SCH DST	LANSING	LANSING SCHS EDUC ASSN	01475	LEVEL IV	09 66	01 67		06 69	NEA
LIVONIA PUB SCHS	LIVONIA	LIVONIA EDUC ASSN	01300	LEVEL IV	07 66			06 68	NEA
BIRMINGHAM PUB SCHOOL SYS	BIRMINGHAM	BIRMINGHAM ED ASSN	00850	LEVEL IV	09 66	06 67		06 69	NEA
DEARBORN PUB SCHS	DEARBORN	DEARBORN FED OF TCHRS 681	01150	LEVEL IV	09 66			06 67	AFT
EAST DETROIT SCH DST	EAST DETROIT	EAST DETROIT AFT LOCAL	00542	LEVEL IV	09 66			07 67	AFT
GARDEN CITY SCH DST	GARDEN CITY	GARDEN CITY EDUC ASSN	00546	LEVEL IV	07 66			06 67	NEA
PONTIAC SCH DST	PONTIAC	PONTIAC EDUC ASSN	01075	LEVEL IV	07 66	02 67		06 69	NEA
PORT HURON AREA SCH DST	PORT HURON	PORT HURON EDUC ASSN	00674	LEVEL IV	04 66	01 67		06 68	NEA
ROYAL OAK SCH DST	ROYAL OAK	ROYAL OAK EDUC ASSN	00835	LEVEL IV	07 66	02 67		06 69	NEA
SAGINAW CITY SCHS	SAGINAW	SAGINAW EDUC ASSN	01001	LEVEL IV	06 66			09 67	NEA
TAYLOR TWP SCH DST	TAYLOR	TAYLOR AFT LOCAL 1085	00698	LEVEL IV	06 66			08 67	AFT
WARREN CONS SCHS	WARREN	WARREN EDUC ASSN	00800	LEVEL IV	09 66			08 67	NEA
WAYNE COMM SCH DST	WAYNE	WAYNE EDUC ASSN	00707	LEVEL IV	06 66			06 68	NEA
ALLEN PK PUB SCHS	ALLEN PARK	AMER FED TCHRS	00267	LEVEL IV	06 66			06 67	AFT
BATTLE CREEK SCH DST	BATTLE CREEK	BATTLE CREEK EDUC ASSN	00649	LEVEL IV	08 66	02 68		08 69	NEA
BERKLEY CITY SCH DIST	BERKLEY	BERKLEY EDUC ASSN	00425	LEVEL IV	07 66			06 67	NEA
BLOOMFIELD HILLS SCH DIST	BLOOMFIELD HLS	BLOOMFIELD HILLS ED ASSN	00363	LEVEL IV	07 66			07 67	NEA
FERNDALE SCH DST	FERNDALE	FERNDALE EDUC ASSN	00375	LEVEL IV	09 66			06 68	NEA
GROSSE POINTE SCH SYS	GROSSE POINTE	GROSSE POINTE EDUC ASSN	00575	LEVEL IV	07 66	07 67		06 69	NEA
HAZEL PARK SCH DST	HAZEL PARK	HAZEL PARK ED ASSN	00330	LEVEL IV	09 66			06 67	NEA
HIGHLAND PARK SCH DST	HIGHLAND PARK	H PARK FED OF TCHRS	00515	LEVEL IV	07 66			07 67	AFT
MIDLAND PUB SCHS	MIDLAND	MIDLAND CITY EDUC ASSN	00530	LEVEL IV	06 66			09 67	NEA
MUSKEGON CITY PUB SCHS	MUSKEGON	MUSKEGON CITY TCHRS ASSN	00425	LEVEL IV	08 66	06 67		07 69	NEA
REDFORD UN SCHS DST 1	DETROIT	REDFORD UN EDUC ASSN	00417	LEVEL IV	07 66	05 67		07 69	NEA
ROCHESTER COMM SCHS	ROCHESTER	ROCHESTER EDUC ASSN	00285	LEVEL IV	07 66	05 67		06 69	NEA
SOUTH REDFORD SCH DST	DETROIT	SOUTH REDFORD EDUC ASSN	00418	LEVEL IV	07 66			06 68	NEA
LAKE SHORE SCH DST	ST CLAIR SHRS	LAKE SHORE AFT LOCAL	00355	LEVEL IV	07 66	07 67		06 68	AFT
UTICA COMM SCHS	UTICA	UTICA EDUC ASSN	00603	LEVEL IV	07 67			06 68	NEA
VAN DYKE PUB SCHS	WARREN	VAN DYKE AFT LOCAL	00305	LEVEL IV	09 66			06 67	AFT

WALLED LAKE CONS SCH DST	WALLED LAKE	WALLED LAKE EDUC ASSN	00360	LEVEL IV	07 66		06 67	NEA
WYOMING PUB SCHS	WYOMING	WYOMING EDUC ASSN	00360	LEVEL IV	07 66		06 67	NEA
ADRIAN SCH DST	ADRIAN	ADRIAN EDUC ASSN	00280	LEVEL IV	07 66		07 69	NEA
AVONDALE SCH DST	AUBURN HTS	AVONDALE EDUC ASSN	00150	LEVEL IV	09 66	08 67	08 68	NEA
BEDFORD PUB SCHS	TEMPERANCE	BEDFORD EDUC ASSN	00255	LEVEL IV	07 66		06 67	NEA
BUENA VISTA SCH DST 9	SAGINAW	BUENA VISTA 9 EDUC ASSN	00130	LEVEL IV	09 66		07 67	NEA
CADILLAC CITY SCH DST	CADILLAC	CADILLAC EDUC ASSN	00126	LEVEL IV	09 66	05 67	09 69	NEA
CENTER LINE PUB SCHS	CENTER LINE	CENTER LINE EDUC ASSN	00244	LEVEL IV	07 66		06 67	NEA
CHERRY HILL SCH DST	INKSTER	CHERRY HILL EDUC ASSN	00204	LEVEL IV	06 66		06 67	NEA
CLAWSON SCH DIST	CLAWSON	CLAWSON ED ASSN	00298	LEVEL IV	06 66		07 67	NEA
CLINTONDALE SCH DST	MT CLEMENS	CLINTONDALE EDUC ASSN	00148	LEVEL IV	07 66	05 67	06 69	NEA
COLDWATER SCHOOL DIST	COLDWATER	COLDWATER EDUC ASSN	00152	LEVEL IV	07 66	04 67	03 69	NEA
DEARBORN HEIGHTS SD 7	DEARBORN HGTS	DEARBORN HGTS DST 7 ED ASN	00179	LEVEL IV	09 66		09 67	NEA
DOWAGIAC UN SCH DST 31	DOWAGIAC	DOWAGIAC EDUC ASSN	00137	LEVEL IV	06 66	01 67	03 69	NEA
EAST CHINA TWP DST 3	ST CLAIR	EAST CHINA EDUC ASSN	00165	LEVEL IV	07 66		06 67	NEA
EAST LANSING SCH DST	EAST LANSING	EAST LANSING EDUC ASSN	00210	LEVEL IV	09 66		06 67	NEA
ECORSE PUB SCHS	ECORSE	ECORSE AFT LOCAL 1429	00199	LEVEL IV	09 66		06 67	AFT
ESCANABA AREA PUB SCHS	ESCANABA	ESCANABA EDUC ASSN	00170	LEVEL IV	07 66		06 67	NEA
FRASER PUB SCHS	FRASER	FRASER EDUC ASSN	00200	LEVEL IV	07 66		06 67	NEA
GRAND BLANC COMM SCHS	GRAND BLANC	GRAND BLANC EDUC ASSN	00302	LEVEL IV	07 66	05 67	06 68	NEA
GREENVILLE SCH DST	GREENVILLE	GREENVILLE EDUC ASSN	00132	LEVEL IV	07 66	03 68	06 69	NEA
HASTINGS SCH DST	HASTINGS	HASTINGS EDUC ASSN	00145	LEVEL IV	11 66		06 68	NEA
HEINTZEN PUB SCH DST	SOUTHGATE	HEINTZEN AFT LOCAL	00168	LEVEL IV	06 66		07 67	AFT
HOWELL PUB SCHS	HOWELL	HOWELL EDUC ASSN	00150	LEVEL IV	07 66		06 67	NEA
HURON VALLEY PUB SCHS	WILFORD	HURON VALLEY EDUC ASSN	00215	LEVEL IV	09 66	03 67	06 68	NEA
IONIA CITY SCH DST	IONIA	IONIA EDUC ASSN	00112	LEVEL IV	07 66		07 67	NEA
KENTWOOD SCH DST	GRAND RAPIDS	KENTWOOD EDUC ASSN	00173	LEVEL IV	09 66		08 67	NEA
LAKE ORION COMM SCHS	LAKE ORION	LAKE ORION EDUC ASSN	00170	LEVEL IV	06 66		06 67	NEA
LAMPHERE PUB SCHS	MADISON HTS	LAMPHERE EDUC ASSN	00230	LEVEL IV	07 66	02 67	06 69	NEA
MELVINDALE NO ALLEN PK SD	MELVINDALE	MELVINDALE AFT LOCAL 1051	00240	LEVEL IV	09 66		09 67	AFT
MONA SHORES SCHS	MUSKEGON	MONA SHORES EDUC ASSN	00243	LEVEL IV	10 66		06 67	NEA
MT MORRIS CONS SCH DST	MT MORRIS	MT MORRIS EDUC ASSN	00115	LEVEL IV	06 66		07 67	NEA
PLYMOUTH COMM SCH DST	PLYMOUTH	PLYMOUTH EDUC ASSN	00310	LEVEL IV	09 66		06 67	NEA
SAGINAW TWP COMM SCHS	SAGINAW	SAGINAW TWP EDUC ASSN	00254	LEVEL IV	08 66		06 67	NEA
SOUTH LAKE SCHS	ST CLAIR SHRS	SOUTH LAKE EDUC ASSN	00215	LEVEL IV	06 66	01 67	06 69	NEA
SOUTHGATE COM SCH DST	SOUTHGATE	SOUTHGATE EDUC ASSN	00197	LEVEL IV	09 66		06 67	NEA
AIRPORT COMMUNITY SCHOOLS	CARLETON	AIRPORT ED ASSN	00084	LEVEL IV	06 66		06 67	NEA
ALLEGAN SCHOOL DISTRICT	ALLEGAN	ALLEGAN ED ASSN	00090	LEVEL IV	07 66		06 67	NEA
BIG RAPIDS SCHOOL DIST	BIG RAPIDS	BIG RAPIDS EDUC ASSN	00089	LEVEL IV	08 66		04 68	NEA
BOYNE CITY PUBLIC SCHOOLS	BOYNE CITY	BOYNE CITY ED ASSN	00068	LEVEL IV	06 66		06 69	NEA
BRANDYWINE SCH DST 48	NILES	BRANDYWINE EDUC ASSN	00107	LEVEL IV	07 66	01 68	06 69	NEA
FLAT ROCK COMM SCHS	FLAT ROCK	FLAT ROCK EDUC ASSN	00091	LEVEL IV	09 66		08 67	NEA
CAPAC COMM SCH DIST	CAPAC	CAPAC EDUC ASSN	00052	LEVEL IV	07 66		06 67	NEA
CHARLOTTE PUB SCH DIST	CHARLOTTE	CHARLOTTE ED ASSN	00120	LEVEL IV	09 66		06 67	NEA
CHEBOYGAN AREA SCHOOLS	CHEBOYGAN	CHEBOYGAN AREA ED ASSN	00097	LEVEL IV	07 66		06 67	NEA
CHELSEA SCHOOL DISTRICT	CHELSEA	CHELSEA ED ASSN	00088	LEVEL IV	06 66	06 67	06 69	NEA
CHESANING UNION SCHS	CHESANING	CHESANING SCH CHPTR	00107	LEVEL IV	07 66		06 67	NEA
COLEMAN COMMUNITY SCHOOLS	COLEMAN	COLEMAN EDUC ASSN	00055	LEVEL IV	07 66		06 68	NEA
CORUNNA PUB SCHS	CORUNNA	CORUNNA EDUC ASSN	00084	LEVEL IV	07 66		06 67	NEA
EAST JACKSON SCH DST	JACKSON	EAST JACKSON EDUC ASSN	00070	LEVEL IV	07 66	04 67	06 68	NEA
FENNVILLE SCH DST	FENNVILLE	FENNVILLE EDUC ASSN	00064	LEVEL IV	07 66		06 67	NEA
FENTON AREA PUB SCHS	FENTON	FENTON EDUC ASSN	00125	LEVEL IV	07 66		08 67	NEA
FOREST HILLS PUB SCHS	GRAND RAPIDS	FOREST HILLS EDUC ASSN	00142	LEVEL IV	09 66	03 67	08 68	NEA
FOWLERVILLE COMM SCHS	FOWLERVILLE	FOWLERVILLE EDUC ASSN	00064	LEVEL IV	07 66		06 67	NEA
GODFREY LEE PUB SCHS	WYOMING	GODFREY LEE ED ASSN	00066	LEVEL IV	09 66		09 67	NEA
HARPER CREEK COMM SCHS	BATTLE CREEK	HARPER CREEK EDUC ASSN	00130	LEVEL IV	08 66		08 67	NEA
HILLSDALE COMM SCHS	HILLSDALE	HILLSDALE EDUC ASSN	00115	LEVEL IV	09 66		08 67	NEA
HOMER COMM SCHS	HOMER	HOMER EDUC ASSN	00058	LEVEL IV	07 66	02 67	07 69	NEA
HURON SCH DST	NEW BOSTON	HURON EDUC ASSN	00068	LEVEL IV	09 66	01 67	06 69	NEA
JONESVILLE COMM SCH DST 6	JONESVILLE	JONESVILLE EDUC ASSN	00060	LEVEL IV	07 66	06 67	06 69	NEA
KELLOGGSVILLE PUB SCHS	KELLOGGSVILLE	KELLOGGSVILLE EDUC ASSN	00105	LEVEL IV	09 66		09 67	NEA
LAKEVILLE SCH DST	OTISVILLE	LAKEVILLE EDUC ASSN	00091	LEVEL IV	07 66	04 67	06 68	NEA
MANISTIQUE AREA SCHOOLS	MANISTIQUE	MANISTIQUE TEACHERS ASSN	00075	LEVEL IV	09 66		06 67	NEA
MARLETTE COMM SCH	MARLETTE	MARLETTE EDUC ASSN	00056	LEVEL IV	07 66		06 67	NEA
MARSHALL PUB SCHS	MARSHALL	MARSHALL TCHRS ASSN	00128	LEVEL IV	08 66		08 67	NEA
MARYSVILLE PUB SCHS	MARYSVILLE	MARYSVILLE EDUC ASSN	00089	LEVEL IV	07 66		06 67	NEA
MASON PUB SCHS	MASON	MASON EDUC ASSN	00131	LEVEL IV	07 66		06 67	NEA
MASON CONS SCHS	ERIE	MASON EDUC ASSN	00088	LEVEL IV	09 66		09 67	NEA
MERIDIAN PUB SCHS	SANFORD	MERIDIAN EDUC ASSN	00072	LEVEL IV	09 66		06 67	NEA
NANKIN MILLS SCH DST	WESTLAND	NANKIN MILLS EDUC ASSN	00135	LEVEL IV	06 66	01 67	06 69	NEA
NEGAUNEE PUB SCHS	NEGAUNEE	NEGAUNEE TCHRS ASSN	00085	LEVEL IV	09 66		08 67	NEA
TAHQUAMENON AREA SCHS	NEWBERRY	TAHQUAMENON AREA EDUC ASSN	00069	LEVEL IV	09 66	05 67	06 69	NEA
N DEARBORN HTS SCH DST	N DEARBORN HTS	N DEARBORN HTS AFT LC 1439	00118	LEVEL IV	09 66		08 67	AFT
PENNFIELD SCH DST	BATTLE CREEK	PENNFIELD EDUC ASSN	00092	LEVEL IV	06 66		06 67	NEA
PETOSKEY SCH DST	PETOSKEY	PETOSKEY EDUC ASSN	00091	LEVEL IV	09 66		06 67	NEA
RAVENNA SCH DST 4	RAVENNA	MUSKEGON CO EDUC ASSN	00067	LEVEL IV	07 66		07 67	NEA
ROCKFORD PUB SCHS	ROCKFORD	ROCKFORD EDUC ASSN	00129	LEVEL IV	07 66	06 67	06 69	NEA
SALINE AREA SCH DST	SALINE	SALINE EDUC ASSN	00086	LEVEL IV	07 66		06 67	NEA
SANDUSKY COMM SCHS	SANDUSKY	SANDUSKY EDUC ASSN	00050	LEVEL IV	09 66		06 67	NEA
SHEPHERD PUB SCHS	SHEPHERD	SHEPHERD EDUC ASSN	00060	LEVEL IV	09 66		06 67	NEA
SPRINGFIELD SCH DST	BATTLE CREEK	SPRINGFIELD EDUC ASSN	00087	LEVEL IV	09 66	02 67	08 68	NEA
SPRING LAKE PUB SCHS	SPRING LAKE	SPRING LAKE EDUC ASSN	00080	LEVEL IV	09 66		06 67	NEA
THORNAPPLE KELLOGG SCHS	MIDDLEVILLE	THORNAPPLE KELLOGG ED ASSN	00063	LEVEL IV	09 66		08 67	NEA
VASSAR PUB SCH DST	VASSAR	VASSAR EDUC ASSN	00072	LEVEL IV	08 66	12 66	06 67	NEA
VICKSBURG COMM SCHS	VICKSBURG	VICKSBURG EDUC ASSN	00111	LEVEL IV	07 66	02 67	06 69	NEA
WATERVLIET SCH DST 62	WATERVLIET	WATERVLIET EDUC ASSN	00060	LEVEL IV	08 66		07 67	NEA
WEST BLOOMFIELD SCHS	ORCHARD LAKE	WEST BLOOMFIELD EDUC ASSN	00128	LEVEL IV	07 66		07 67	NEA
WILLIAMSTON COMM SCH DST	WILLIAMSTON	WILLIAMSTON EDUC ASSN	00060	LEVEL IV	09 66	01 67	06 68	NEA
AKRON FAIRGROVE PUB SCH	AKRON	AKRON FAIRGROVE EDUC ASSN	00051	LEVEL IV	09 66	04 68	09 68	NEA
GRANT SCH DST	GRANT	GRANT TCHRS CLUB	00060	LEVEL IV	06 66		06 67	NEA
CONCORD COMM SCHS	CONCORD	CONCORD EDUC ASSN	00043	LEVEL IV	03 66	05 67	03 69	NEA
FARWELL AREA SCHOOLS	FARWELL	FARWELL ED ASSN	00050	LEVEL IV	07 66		06 67	NEA

LINDEN COMM SCHS	LINDEN	LINDEN TCHRS ASSN	00065	LEVEL IV	07 66		06 67		NEA
WHITEFORD AGRICULTURAL	SCOTTAWA LAKE	WHITEFORD EDUC ASSN	00043	LEVEL IV	05 66		05 67		NEA
		MINNESOTA							
INDEPENDENT SCH DIST 277	MOUND	2 ORGANIZATIONS RECOGNIZED	00146	LEVEL IV	09 66		06 67		
		NEW JERSEY							
NEWARK PUBLIC SCHOOLS	NEWARK	NEWARK TEACHERS ASSN	03650	LEVEL IV	02 67		02 70		NEA
RED BANK PUBLIC SCHS	RED BANK	RED BANK TEACHERS ASSN	00169	LEVEL III	09 66	02 67			NEA
		NEW YORK							
NEW YORK CITY SCH	NEW YORK CITY	NEW YORK AFT LOCAL 2	55700	LEVEL IV	07 65	10 66	06 67		AFT
ROCHESTER CITY SCH DIST	ROCHESTER	ROCHESTER TEACHERS ASSN	02240	LEVEL IV	07 66		06 67		NEA
PATCHOGUE MEDFORD PUB SCG	PATCHOGUE	PATCHOGUE CLRM TCHRS ASSN	10491	LEVEL IV	07 66	01 67	06 68		NEA
CENTRAL SCH DST 2	SYOSSET	SYOSSET TCHRS ASSN	00300	LEVEL III	10 66				NEA
NO BELLMORE UFSD 4	NO BELLMORE	NO BELLMORE TCHRS ASSN	00180	LEVEL II	00 65				NEA
		PENNSYLVANIA							
PHILADELPHIA PUB SCH	PHILADELPHIA	PHILADELPHIA AFT LOCAL 3	11000	LEVEL IV	09 66		08 68		AFT
CHURCHILL AREA SCH DST	PITTSBURGH	CHURCHILL AREA EDUC ASSN	00276	LEVEL II					NEA
WISSAHICKON SCH DST	AMBLER	WISSAHICKON EDUC ASSN	00226	LEVEL III	10 66				NEA
		RHODE ISLAND							
WARWICK PUB SCH	WARWICK	WARWICK EDUC ASSN	00857	LEVEL IV	02 67		01 69		NEA
MIDDLETOWN PUB SCH	NEWPORT	MIDDLETOWN TCHRS ASSN	00210	LEVEL IV	07 67		06 68		NEA
		TEXAS							
BEAUMONT IND SCH DST	BEAUMONT	BEAUMONT CLRM TCHRS ASSN	00635	LEVEL II					NEA
		UTAH							
DAVIS CO SCH DST	FARMINGTON	DAVIS EDUC ASSN	01000	LEVEL II					NEA
		WISCONSIN							
MILWAUKEE SCH DIST	MILWAUKEE	MILWAUKEE TCHRS ASSN	04600	LEVEL IV	12 66		12 67		NEA
MADISON SCH DST	MADISON	MADISON TCHRS INC	01524	LEVEL IV	06 66	09 68	06 69		NEA
KENOSHA JT SCH DIST 1	KENOSHA	KENOSHA ED ASSN	00932	LEVEL IV	07 66		07 67		NEA
MONONA GROVE JT SCH DST 4	MONONA GROVE	MONONA GROVE EDUC ASSN	00185	LEVEL IV	04 67		03 68		NEA
WISC HEIGHTS PUB SCHS	MAZOMANIE	WISC HEIGHTS TCHRS ASSN	00072	LEVEL IV	02 67	03 68	09 68		NEA
FT ATKINSON SCHOOL DIST	FT ATKINSON	FT ATKINSON TEACHERS ASSN	00145	LEVEL IV	09 66		09 67		NEA

Judicial Decisions, Opinions, and Statutes

STATE OF MICHIGAN

LABOR MEDIATION BOARD, LABOR RELATIONS DIVISION

OAKLAND COUNTY SHERIFF'S DEPARTMENT and OAKLAND COUNTY BOARD OF SUPERVISORS, Respondents, and METROPOLITAN COUNCIL NO. 23, AMERICAN FEDERATION OF STATE, COUNTY & MUNICIPAL EMPLOYEES, AFL-CIO, Charging Party	Case No. C66 F-63

DECISION AND ORDER

On June 9, 1966, Metropolitan Council No. 23, American Federation of State, County & Municipal Employees, AFL-CIO, filed a charge against the Oakland County Sheriff's Department averring that the Oakland County Sheriff's Department had refused to bargain on a number of issues. Breach of Section 10(e) of the Public Employment Relations Act (Mich. Stat. Ann. 17.455 10) was alleged.

On August 4, 1966, an amended charge was filed by Council No. 23 directed against both the Oakland County Sheriff's Department and the Oakland County Board of Supervisors.

An answer and special appearance was filed by the Oakland County Board of Supervisors contending that "joining the Oakland County Board of Supervisors . . . is without foundation in law or fact and is an attempt to unlawfully bypass the election and certification process required under Act No. 379 of the Public Acts of 1965".1/

Hearings were held before the Labor Mediation Board's Chief Trial Examiner, who issued his Decision and Recommended Order on April 20, 1967.

Exceptions were filed by the Respondents to the Decision and Recommended Order.

The Trial Examiner disagreed with the contention of the Oakland County Board of Supervisors that it was not a proper party to the proceedings. He found that both the Oakland County Board of Supervisors and the Sheriff of the County of Oakland are public employers within the meaning of the Act.

We have reviewed the findings and recommendations of the Trial Examiner with respect to this issue and find no prejudicial error. The Oakland County Board of Supervisors had knowledge of the original representation proceeding, and subsequently participated in collective bargaining between the Oakland County representatives and the Charging Party's bargaining committee. We adopt the Trial Examiner's Decision on this issue.2/

Of interest is an opinion of Michigan's Attorney General dated April 10, 1967, issued to the Prosecuting Attorney of Delta County, Michigan. The Prosecuting Attorney inquired whether the Sheriff, under Michigan Statutes Annotated 5.863, having power to appoint and revoke appointments of deputies may, "rather than the Delta County Board of Supervisors . . ., in fact, be the employer of the deputy sheriffs." The Attorney General noted that

> ". . . the 1963 Constitution provides that boards of supervisors shall be established in each organized county and shall have legislative, administrative and such other powers and duties as provided by law. See Article VII Secs. 7 & 8."

He concluded:

> ". . . it is my opinion that Delta County Board of Supervisors is the Employer of the deputy sheriffs and, as their public employer, is the body to negotiate with the Delta County Deputies Association if the latter is certified as the exclusive bargaining agent of the sheriffs of Delta County."

If the issue here discussed is raised in a representation proceeding in the future, adoption of the Attorney General's opinion would require that the Board of Supervisors, rather than the Sheriff, be designated as the

1/ Public Employment Relations Act (Mich. Stat. Ann. 17.455 (12) et seq)

2/ One statement of the Trial Examiner, standing alone, may give an erroneous impression. The Trial Examiner said: "The Oakland County Board of Supervisors may not require certification by this Board as a condition precedent to bargaining where it entertains no real doubt as to the union's majority." Approval of the Trial Examiner's decision is not to be construed as approval of the Bernel Foam doctrine, 146 NLRB 1277, 55 LRRM 1039 (1964), as interpreted by subsequent cases. See Joy Silk Mills, Inc., 85 NLRB 1263, 24 LRRM 1568 (1949); mod. and enf'd, 185F.2d 732, 27 LRRM 2633 (195[illegible]). We have not held in any case that lack of a "real doubt as to (a) union's majority," standing alone, is a basis for an order directing collective bargaining.

employer. Here, representatives of the Board of Supervisors participated in collective bargaining and thus recognized its status as an employer. The Board of Supervisors was not damaged in any way by its inclusion as a respondent.

The Trial Examiner also found Respondents guilty of refusal to bargain for:

> "Insisting or conditioning the removal of Sergeant Fauser from the Union negotiation committee or in any other manner insisting upon negotiating as to the size and membership of the American Federation of State, County & Municipal Employees, AFL-CIO bargaining Committee."

Respondents excepted to the Trial Examiner's findings on the ground that (1) the supervisory or non-supervisory status of Sergeant Fauser is not properly an issue in these proceedings; (2) the Trial Examiner ignored the testimony of Sheriff Frank Irons, who described the duties of Sergeant Fauser, which, Respondents allege, disclose that he is a supervisory employee; and (3) there was no allegation in the charge or amended charge or statement supporting the charges, and no evidence at the hearing, that Sergeant Fauser ever attempted to enter a bargaining session.

We agree with Respondents that Respondents should not be found to have refused to bargain because of the absence of Sergeant Fauser from the bargaining sessions.

The supervisory or non-supervisory status of sergeants was not determined in the representation proceedings between the Oakland County Sheriff's Department and the American Federation of State, County & Municipal Employees, AFL-CIO (Case No. R66 B-59, 1966 Michigan Labor Opinions 53). Sergeants and other employees were allowed to vote by stipulation of the parties, subject to challenge. The votes of the sergeants and other employees were not required in determination of the results of the election; hence the issue was not resolved in the representation case.

The status of Sergeant Fauser and other employees who voted subject to challenge may be determined in a petition for clarification of the bargaining unit. Indeed, this would appear to be the proper forum for such determination.

This is recognized by the Trial Examiner who, after counsel for the Respondents interposed a question as to questioning concerning the supervisory or non-supervisory status of sergeants, said:

> "I think the proper way to determine, perhaps, whether a particular employee should be included in the bargaining unit or not is to ask, is to have a motion made for clarification of the bargaining unit."

But decision does not require a determination of that issue or of the supervisory or non-supervisory status of Sergeant Fauser. Decision is based on the evidence presented in these proceedings. The Charging Party has not sustained the burden of proof that the Respondent refused to bargain because Sergeant Fauser was a member of the Charging Party's bargaining committee. Howard J. Draft, Staff Representative of State, County & Municipal Employees, testified:

> "The name of Sergeant Fauser was brought up, and I was informed that there was no need to bring Sergeant Fauser into negotiations as they wouldn't talk to him."

There was no testimony that an attempt was ever made to have Sergeant Fauser participate in negotiations. There never was, therefore, a refusal of Respondents to discuss wages, hours and working conditions with a committee of which Sergeant Fauser was a member. At most, there was a statement that Respondents would not deal with a committee of which Sergeant Fauser was a member, but no refusal to do so.3/

Our Order will eliminate item 1 b from the Recommended Order.

The third issue involves Respondents' refusal to bargain concerning arbitration as the terminal point of a grievance procedure.

The Board authorized amicii curiae to brief and argue orally the two issues of arbitration as the terminal point in a grievance procedure and union security as mandatory subjects of bargaining.4/

The Trial Examiner found that arbitration as the terminal point in a grievance procedure is a proper subject of collective bargaining, citing Steelworkers v. Warrior & Gulf Navigation Co., 363 U.S. 574, 80 S. Ct. 1347, 46 LRRM 2416 (1960), which enunciates the principle that arbitration is "now the national policy to encourage settlement of grievances via the arbitration process."5/

The Trial Examiner concluded:

> "It is incongruous that Public Employers, under jurisdiction of the Act, may submit to arbitration disputes involving contracts covering varied subjects such as purchase of supplies, services and construction, and yet be precluded from submitting grievances to arbitration only because they appear in the industrial relations context."6/

A grievance procedure, the Respondents contend, which vests in an arbitrator power to reverse a discharge of a deputy sheriff or other employee is illegal because in derogation of the sheriff's statutory power under the "Sheriff's Act" (Mich. Stat. Ann. 5.861, et seq.) to hire or fire his employees. Respondents also contend that a sheriff may not be required to bargain with respect to seniority provisions because the sheriff has power to appoint employees of his department and "the surrender by a sheriff during the bargaining of a statutory right to hire and fire would be in 'derogation' of the so-called Sheriff's Statute."

3/ National Labor Relations Board v. Security Guard Service, 66 LRRM 2247 (5th Cir., 1967), is not apposite. It involved a charge of discharge under Section 8(a)(3) of the National Labor Relations Act. The Court of Appeals enforced an NLRB finding that sergeants possessed only directive, not supervisory powers and consequently were not supervisors. The NLRB stated at 59 LRRM 1685-1686, adopting the Trial Examiner's language, that "it would be anomalous, I think, to find that sergeants are supervisors in an 8(a)(3) proceeding, and at the same time hold the Respondent to the rule applied in an 8(a)(5) proceeding requiring it to bargain in a unit which includes supervisors." While NLRB has determined the supervisory or non-supervisory status of employees in 8(a)(5) cases, such determination is unnecessary here because the evidence does not establish a refusal to bargain with a committee of which Sergeant Fauser was a member.

4/ Amicii curiae who filed briefs and argued orally were: Michigan State AFL-CIO, Michigan Conference of Teamsters, Genesee County, Michigan Education Association, City of Detroit, American Federation of State, County & Municipal Employees, and International Building and Construction Trades Council of Detroit.

5/ See also, Steelworkers v. American Manufacturing Company, 363 U.S. 564, 80 S.Ct. 1343, 46 LRRM 2414 (1960), and Steel workers v. Enterprise Wheel & Car Corporation, 363 U.S. 593, 80 S.Ct. 1358, 46 LRRM 2423 (1960).

6/ See Cogan, "Are Government Bodies Bound by Arbitration Agreements?" 22 The Arbitration Journal 151 (1967), for discussion of the impact of arbitration agreements on states and the government of the United States.

The Sheriff's Act provides:

"Each sheriff may appoint 1 or more deputies, for whose official acts he shall be in all respects responsible, and may revoke such appointments at his pleasure; and persons may also be deputed by any sheriff, by an instrument in writing, to do particular acts."

The Sheriff's Act and the Public Employment Relations Act must be construed, if possible, to give meaning to each of the statutes.7/

The Public Employment Relations Act requires the sheriff to bargain with the exclusive representative of his employees in an appropriate unit.8/

The sheriff is required to engage in good faith collective bargaining and to enter into a contract embodying the conditions of employment bargained to agreement by the sheriff and the exclusive bargaining representative of the sheriff's employees.9/

Respondents urge that the sheriff's statutory power to hire and fire precludes the sheriff from limiting his authority by agreeing that an arbitrator may determine whether an employee -- and specifically, a deputy sheriff -- may be discharged for just cause. Virtually lost in the argument by the parties and the amicii curiae is the use of arbitration as a means of determining disputes involving grievances concerning working conditions other than discharge.

We conclude that arbitration as a terminal point in the bargaining procedure is a mandatory subject of bargaining for the Oakland County Sheriff and his representatives designated by the Oakland County Board of Supervisors.

A sheriff's power to appoint deputy sheriffs at his pleasure and to revoke such appointments at any time is the same power vested in private employers by the common law.10/ A private employer, absent statutory limitation, may hire and fire at will. His power is neither greater nor less than that vested in the sheriff by statute.

But the power of private employers changed. A private employer's power was limited by the National Labor Relations Act, first enacted in 1935, which required employers to engage in good faith collective bargaining with exclusive representatives of their employees.11/ Among bargainable issues are discharge and a grievance procedure as a means of determining whether a discharge is for just cause.12/ Arbitration is a recognized terminal point in a grievance procedure.

There is no basis for distinguishing between a statutory requirement that a private employer bargain with respect to discharge and a grievance procedure and that a public employer be required by statute to do so.

Arbitration has long been recognized as a means of determining disagreements which arise between an employer and his employees and which are unsettled by the grievance procedure. While a private employer's refusal to agree to an arbitration provision is not, per se, a refusal to bargain, since a concession does not need to be made, assuming good faith, the issue of arbitration is bargainable.13/ The power of a private employer, absent a limiting statute, to discharge is equal to that of a public employer. Indeed, a sheriff, an office known to the English common law, had power to appoint deputy sheriffs and to revoke their appointments prior to the enactment of the Michigan statute.14/

7/ See People v. Harrison, 194 Mich. 363, 160 N.W. 623 (1916); Garfield Township v. A.B. Klise Lumber Co., 219 Mich. 31, 184 N.W. 489 (1922); Remus v. City of Grand Rapids, 274 Mich. 577, 265 N.W. 755 (1936); Rathburn v. State, 284 Mich. 521, 280 N.W. 35 (1938); In re Opening of Gallagher Avenue, 300 Mich. 309, 1 N.W. 2d 553 (1942); People v. Buckley, 302 Mich. 12, 4 N.W. 2d 448; In re Estate of Jones, 334 Mich. 392, 5 N.W. 2d 697 (1952).

8/ The appropriate unit was determined in Case No. R66 B-59, 1966 Michigan Labor Opinions 53, to include deputy sheriffs.

9/ Under Section 15 of PERA, working conditions which public employer and bargaining agent have agreed may be included in a resolution or ordinance. Either resolution or ordinance would seem not to be applicable in the case of a sheriff, although a Board of Supervisors might adopt a resolution or ordinance setting out the "bargain."

10/ Both private employers and their employees were considered to have the right to contract for the employees' services, a right which could not be limited by government. Allen v. Flood, H. L. (1898) A. C. 1; National Protective Association v. Cumming, 170 N.Y. 315 (1902); Interborough Rapid Transit v. Lanvin, 247 N.Y. 65 (1928); Interborough Rapid Transit v. Green, 227 N.Y.S. 258 (1928); Hitchman Coal Company v. Mitchell, 245 U.S. 229 (1917); People v. Chicago M. & St. P.R. Co., 306 Ill. 486, 138 N.E. 155, 28 A.L.R. 610 (1923); New York C. & S. L. R. Co. v. Schaffer, 65 O.S. 414, 62 N.E. 1036 (1902).

11/ 49 Stat. 449, as amended by 61 Stat. 136, and 73 Stat. 519, 29 U.S.C.A.S. 141, et seq.; National Labor Relations Board v. Jones & Laughlin, 301 U.S. 1, 1 LRRM 703 (1937).

12/ National Licorice v. National Labor Relations Board, 309 U.S. 350, 6 LRRM 674 (1940); Inland Steel Company v. National Labor Relations Board, 170 F.2d 247 (7th Cir., 1948); Jacobs Manufacturing Co., 94 NLRB 1214, 28 LRRM 1162 (1951).

13/ Exposition Cotton Mills, 76 NLRB 1289, 21 LRRM 1319 (1948); Union Manufacturing Co., 76 NLRB 1214, 28 LRRM 1162 (1951; National Labor Relations Board v. United Clay Mines Corporation, 219 F.2d 120 (6th Cir., 1955); White v. National Labor Relations Board, 255 F.2d 564 (5th Cir., 1958). If an employer can pursue an issue to an impasse, then it is a mandatory subject of bargaining. If an issue is not a mandatory subject of bargaining, an employer need not bargain in good faith on the subject, but may simply refuse to discuss it. See, also, National Labor Relations Board v. American National Insurance Co., 343 U.S. 395 (1952). In this case, the employer refused to agree to an arbitration clause, but the Supreme Court found that he had bargained in good faith.

14/ See, for example, 1 Blackstone's Commentaries 339, et seq., where there is a discussion of the English sheriff's duties and powers. Because he performed many duties, he had the power to appoint ". . . an under-sheriff, bailiffs, and gaolers; . . . ." See, also, Vol. 25, The Laws of England, p. 800, Sheriff and Bailiffs, Part II, sec. 1: "1375. Only one under-sheriff of a county may be appointed, and he may be removed at the pleasure of the high sheriff even though his appointment purported to be irrevocable." English case law on this subject includes Norton v. Simmes (1614) Hob. 12, Moore (K. B.) 856 and Commons Digest, tit. Viscount (B. 1.). This absolute power to appoint and discharge was a part of the American Common Law, but it was always subject to qualification for abuse, civil service, and the Commissioners' power over the budget. Hoge v. Trigg, 4 Munf. 150 (Va., 1814); Taylor v. Brown, 4 Cal. 188, 60 Am. Dec. 604 (1854); Edmunds v. Barton, 31 N.Y. 495 (1865); McWilliams v. Richland County, 16 Ill. App. 333 (1885); Taylor v. Canyon County, 6 Id. 466, 56 P. 168 (1899); State v. Goldsmith, 96 S.C. 484, 81 S.E. 147 (1914); Cronin v. Civil Service Comm., 71 Cal. App. 633, 236 P. 339 (1925); Sheriff of Salt Lake County v. Board of Commissioners, 71 U. 593, 268 P. 783 (1928).

Other limitations on the power of an employer to discharge are found in fair employment practices statutes and civil rights acts.15/

If Respondents' contention were carried to its logical conclusion, a sheriff could discharge for union activity, an act specifically made an unfair labor practice by Section 10 of the Public Employment Relations Act.

If Respondents' contention should be sustained, the legality of arbitration as a terminal point in a grievance procedure would have equal applicability to other public employees, including probate court employees (Mich. Stat. Ann. 27.3178(12), (13); county clerks' employees (Mich. Stat. Ann. 5.833); registers of deeds' employees (Mich. Stat. Ann. 5.983); and county treasurers' employees (Mich. Stat. Ann. 5.683). Public employers generally, without statute, have power to employ needed employees, subject to appropriations of the legislative body having power to appropriate for the appointing officer or body.

While the sheriff, as well as other public employers, is vested only with such authority as is granted by the state legislature, the legislature has directed that all public employers subject to legislative control engage in good faith bargaining.

Collective bargaining includes the power to establish, by mutual agreement, a grievance procedure and arbitration as a method of resolving impasses. The public employer does not, in any way, abrogate its authority to enter into the terms of a collective bargaining agreement. The arbitration with which we are concerned relates only to the interpretation and enforcement of an agreement to which the public employer has already consented. This is an essence of collective bargaining, or, as the U.S. Supreme Court said in Steelworkers v. Warrior & Gulf Navigation Co., 363 U.S. 574 (1960), "part and parcel of the collective bargaining process itself."

The Public Employment Relations Act requires a sheriff, as well as other public employers, to bargain with his employees' bargaining representative and authorizes him to enter into a collective bargaining agreement covering wages, hours and working conditions.16/ The privilege to work and retain employment, unless discharged for cause, is one of the most basic conditions of employment which an employee may enjoy.

If there were a contract, but no arbitration, a collective bargaining agent, and perhaps an employee, would have power to enforce the provisions of the contract through suit in the circuit court. Arbitration in the labor area is a substitute for a lawsuit. The philosophy expressed in the Steelworkers Trilogy17/ with respect to the private sector is equally applicable to the public sector.

Arbitration is a process which aids in the maintenance of the integrity of the negotiated contract. As stated by the Supreme Court in Wiley & Sons v. Livingston, 376 U.S. 543, 549 (1964):

> "This court has in the past recognized the central role of arbitration in effectuating national labor policy."

The role of a grievance procedure in the employer-employees relationship is well stated by the National Labor Relations Board in Danner Press, Inc., 153 NLRB No. 87, 59 LRRM 1597, 1598 (1965):

> "The (National Labor Relations) Board has from the beginning of the Act's administration recognized grievances as normal and proper subjects of collective bargaining. Both the Board and the courts have further acknowledged that the statutory obligation of an employer to bargain collectively with the representative of its employees does not end with the making of a collective contract, but that the duty to bargain postulated by the Act compels the continuation of bargaining after negotiation and execution of the contract to settle disputes as to its meaning and application."18/

Public entities have power to enter into enforceable contracts to arbitrate disputes involving commercial transactions.19/ The Public Employment Relations Act equates collective bargaining contracts entered into by public employers with contracts in the commercial area. Whatever doubt there may have been with respect to the authority of public employers to enter into collective bargaining agreements has been removed by the Public Employment Relations Act. We can conceive of no valid reason for excepting disputes in the employer-employee relationship from the general power of a public employer to

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15/ Title VII of the Civil Rights Act of 1964, 78 Stat. 253, 42 U.S.C.A. Sec. 2000e, et seq.; Civil Rights Act, Act No. 45 of the Public Acts of 1963, M.S.A. Sec. 3.548. National Labor Relations Board v. Condenser Corporation of America, 128 F.2d 67, 10 LRRM 483 (CA 3, 1942); Associated Press v. National Labor Relations Board, 301 U.S. 103, 1 LRRM 732 (1937); Radio Officers Union v. National Labor Relations Board, 347 U.S. 17, 33 LRRM 2417 (1954). These cases uphold an employer's right of discharge unless for reasons prohibited by the National Labor Relations Act, such as union membership, concerted activity, and other activities protected by Sec. 7.

16/ PERA, Sec. 15: "A public employer shall bargain collectively with the representatives of its employees as defined in section 11 and is authorized to make and enter into collective bargaining agreements with such representatives. For the purposes of this section, to bargain collectively is the performance of the mutual obligation of the employer and the representative of the employees to meet at reasonable times and confer in good faith with respect to wages, hours and other terms and conditions of employment, or the negotiation of an agreement, or any question arising thereunder, and the execution of a written contract, ordinance or resolution incorporating any agreement reached if requested by either party, but such obligation does not compel either party to agree to a proposal or require the making of a concession." As discussed in the text above, the issue as to whether it is the sheriff or the Board of Supervisors which should be named as the employer in this proceeding is of minimal importance here. The Board of Supervisors participated in the collective bargaining and knew that the sheriff was named as an employer in the representation proceedings. Both, as public employers, are required to bargain in good faith.

17/ See footnote 5 and the text to which the footnote applies.

18/ See also, North American Aviation, Inc., 44 NLRB 604, 11 LRRM (1942); Consolidated Aircraft Corporation, 47 NLRB 694, 12 LRRM 44 (1943); enf., 141 F.2d 785, 14 LRRM 553 (CA 9, 1944); National Labor Relations Board v. Sands Manufacturing Co., 306 U.S. 332, 4 LRRM 530 (1939); and National Labor Relations Board v. Newark Morning Ledger Co., 120 F.2d 262, 267, 7 LRRM 379 (1941); 8 LRRM 571 (CA 3, 1941).

19/ 10 McQuillin, Municipal Corporations, 3rd Ed., Sec. 29.194, p. 495: "Municipal contracts are measured by the same tests and are subject to the same rights and liabilities as are other contracts." McQuillin continues: "A contract may provide for submission of disputes arising thereunder to arbitration***." (pp. 497, 498) 5 Am. Jur. 2d 569, Arbitration and Award, Sec. 67: "A state or its agencies may enter into a valid contract with private parties providing for the arbitration of disputes that may arise under the contract.***." 40 A.L.R. 1370: "It is well established that a city has the power to submit to arbitration any claim asserted by or against it, whether based on contract or tort, in the absence of a statutory prohibition. This power is based on the right to contract and the right to maintain and defend suits." See, also, Hotard V. New Orleans, 213 La 843, 35 S.2d 752 (1948), and Madison v. Frank Lloyd Wright Foundation, 20 Wis. 2d 361, 122 N.W. 2d 409 (1963).

arbitrate disputes between a public employer and the other contracting party.

We are aware that the Attorney General, in an opinion issued May 29, 1967, has held that boards of education do not have statutory authority to enter into contracts providing for binding arbitration of grievances.

The Attorney General cites a number of cases to support his conclusion, none of which arose under a state statute which, like Michigan's Public Employment Relations Act, requires public employers to engage in collective bargaining.

Thus in Mugford v. Mayor and City Council of Baltimore, 185 Md. 266, 44 A.2d 745 (Md. Ct. App., 1945), an action was brought to void an agreement between the city and a labor union and to restrain the city from extending a preferential advantage to a union. But in Maryland, there was no statute authorizing public employers to execute collective bargaining agreements; hence the case is without persuasive effect in Michigan.

In Norwalk Teachers Association v. Board of Education of Norwalk, 138 Conn. 269, 83 A.2d 482 (1951), cited in the Attorney General's opinion, the court held:

> "If it is borne in mind that arbitration is the result of mutual agreement, there is no reason to deny the power of the defendant to enter voluntarily into a contract to arbitrate a specific dispute (although the board of education's) power to submit to arbitration would not extend to questions of policy but might extend to questions of liability . . . Agreement to submit all disputes to arbitration, commonly found in ordinary union contracts, are in a different category." (emphasis supplied)

At the time of the decision in Norwalk Teachers Association, there was no statute authorizing or requiring public employers in Connecticut to engage in good faith collective bargaining. Yet the Connecticut court approved arbitration of contracts to arbitrate disputes between the school board and its employees' representative.

In Fellows v. Latronica, 151 Col. 300, 377 P.2d 547, 549 (1962), where the court disclaimed the applicability of Colorado law to the statutory scheme now in effect in Michigan, the court noted in its opinion that while there was no authority in a city to enter into a collective bargaining agreement, "this opinion should not be construed as decisive of any issue arising under a contract with a labor union where specific charter provisions or a statutory authority exists for such contract." (emphasis supplied)

Manchester v. Manchester Teachers Guild, 100 N.H. 507, 131 A.2d 59 (1957), concerns only the right of public employees to strike.

In accord with our opinion are the decisions of the Supreme Court of Wisconsin in Local 1226, Rhinelander City Employees, American Federation of State, County and Municipal Employees, AFL-CIO v. City of Rhinelander, 35 Wis. 2d 209, 151 N.W. 2d 30 (1966), and Muskego-Norway Consolidated Schools v. Wisconsin Employment Relations Board, 32 Wis. 2d 478, 151 N.W. 2d 84 (1966).

Wisconsin, like Michigan, has a statute which requires public employers to engage in collective bargaining.20/

Rhinelander City Employees reversed a prior decision, Local 1111 of United Electrical, Radio & Machine Workers of America v. Allen-Bradley Co., 259 Wis. 609, 49 N.W. 2d 728 (1951), in which the court held that it had no power to order an employer to perform an agreement to arbitrate.

We are in accord with the decision of the Honorable Chester J. Byrns, Berrien County Circuit Judge, in Local 953, International Union of American Federation of State, County & Municipal Employees, et al. v. School District of the City of Benton Harbor, No. C-6229 (b), dated October 12, 1967, No. 216 GERR p. E-1 (October 30, 1967), in which the court enforced the arbitration provision of a collective bargaining agreement between the parties. In discussing the opinion of the Attorney General in his opinion, Judge Byrns said:

> "This court agrees that there is no statute of Michigan expressly providing that school districts or other public employers may agree to binding arbitration, and there is no statute expressly prohibiting it. But is there not the implied power to do so in Section 15 of Act 335, P.A. 1947, as added by Acts 397 and 379, P.A. 1965?
>
> "Therein it is provided that a public employer shall 'bargain collectively' and may 'make and enter collective bargaining agreements.' Further, bargaining collectively is defined among other goals as 'the negotiation of an agreement or any question arising thereunder (emphasis supplied by court).' Certainly giving the power to enter into a contract would include the power to settle disputes arising under the terms of such contract. Negotiations as to 'wages, hours and other terms and conditions of employment' can well include the power to arbitrate disputes on these points after the contract is signed.
>
> "The said law does also provide 'such obligation does not compel either party to agree to a proposal or require the making of a concession.' Defendant places reliance on this provision. Does this prohibit school districts from voluntarily agreeing to binding arbitration in a collective bargaining agreement voluntarily entered into as to disputes arising as to the application and interpretation of the terms of the agreement or its effect? Or, as this court finds, does such quoted part of the statute, while giving much the same right to collective bargaining as is provided to private employers and employees, mean that neither party entering into collective bargaining discussions prior to any written contract must agree to proposed terms or make concessions? This court believes such provision applies before any agreement is executed and does not prohibit fulfillment of binding arbitration once it is included in a voluntarily executed collective bargaining agreement between the public employer and employee, which is the situation we have in this cause. In short, such provision insures both parties the right to bargain to an impasse with no compulsion on the school board to agree to a collective bargaining agreement or to enter into an agreement."

The Respondents cite cases enunciating the rule of law that repeal of statutes "by implication" is not favored: Reynolds v. Miller, 274 Mich. 354 (1936); People v. Harrison, 194 Mich. 363 (1916); State Highway Commission v. Detroit City Controller, 331 Mich. 337 (1951); Regents of the University of Michigan v. Auditor General, 109 Mich. 134 (1896); and Village of Highland Park V. McAlpine, 117 Mich. 666 (1898)

The succinct answer is that the Public Employment Relations Act is not general legislation. It is most specific. It requires that the public employer engage in good faith collective bargaining.

Arbitration has been a bargainable issue in collective bargaining for many years, promoted during World War II by the National War Labor Board as a sensible means of deciding contract disputes.

It is unnecessary to decide in this case whether an agreement to arbitrate a dispute involving discharge of a deputy sheriff is binding upon a successor sheriff.

20/ Wisconsin Employment Labor Relations Act, Wis. Stat. Ch. 111.70, 111.80 (1967)

The Sheriff's Act authorizes a sheriff to revoke appointments of deputy sheriffs "at his pleasure" which suggests that a successor sheriff cannot be bound in this respect by his predecessor. We see no problem with respect to the incumbent sheriff, who, should he agree to arbitrate the issue of discharge, is simply limiting his own statutory power to discharge during the term of his office.

We express no opinion with respect to the power of one sheriff to bind a successor sheriff on the issue of discharge, a power specifically provided for in the statute.

We envisage no problems with respect to other conditions of employment not specified in the statute. In this respect, one public employer, including a sheriff, has power to bind his successors in office with respect to conditions of employment not regulated by statute in the same manner as a public employer has the power to contract for street sprinklers, fire engines, surveys and architects.21/

Respondents except to the Trial Examiner's finding that union security is a mandatory subject of collective bargaining.

Respondents, the City of Detroit and Genesee County contend:

(1) If the Michigan Legislature had intended to legalize union security, it would have added to Section 10(c) of the Public Employment Relations Act the clarifying statement which appears in Section 8 (a)(3) of the National Labor Relations Act:

> "Provided, that nothing in this act or any other statute of the United States shall preclude an employer from making an agreement with a labor organization to require as a condition of employment membership therein. . . . "

The Michigan Legislature, being full aware of the above provisions of the National Labor Relations Act, purposely excluded the 8(a)(3) exception to the prohibition against discrimination appearing in Section 10(c). Without this proviso a public employer by agreement to a union security clause, would encourage union membership. The Supreme Court of the United States, in National Labor Relations Board v. General Motors Corporation, 373 U.S. 734, 53 LRRM 2313 (1963), pointed out that Sections 8(3) and (7) standing alone, without the proviso, would be construed to outlaw union security arrangements.

(2) It is against the principles of public employment, as the Legislature was aware, to require that any citizen who is qualified and wishes to hold a position in the public service be required to join a labor organization under penalty of forfeiting his right to retain his public position. To require present employees to become members of a union in order to continue in employment would unconstitutionally impair existing employment contracts.

(3) To discharge an employee from public service for failing to join a public employee union would discriminate against such employee and encourage employee membership in a labor organization. The Public Employment Relations Act makes no distinction between "legal or illegal encouragement" of union membership as contended by the Trial Examiner.

(4) Requirement of union membership or payment of dues as a condition of employment for either present or future employees would violate the general civil service provisions of public employers which usually prohibit discharge of employees for political or religious reasons or for reasons other than the good of the service. The City of Detroit notes that Section 6 of Article Eleven of the 1963 Constitution authorizes public employers to establish, modify or discontinue a merit system for employees other than teachers under contract or tenure by a vote of the electors.22/

(5) In the absence of a statute, a public employer may not enter into any agreement, arrangement or course of conduct which would give preference to union labor, citing Lewis v. Detroit Board of Education, 139 Mich. 307 (1905).23/

(6) The inclusion of Section 14 in the Michigan Labor Mediation Act which affirmatively recognizes union security agreements evidences an intent to prohibit such agreements in public employment.24/

(7) The provision of Section 7 of the National Labor Relations Act which authorizes employees to refrain from union activities is not applicable, as it, too contains an exception, i.e., "except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in Section 8(a)(3)." The language of Section 10 is a refutation of the conclusion of amicii curiae supporting the Charging Party that there "is neither express authorization for, nor prohibitions of, union security." Section 10(c) takes union security from the province of Section 15.

The Charging Party and the several amicii curiae which filed briefs in support of the Trial Examiner's decision contend:

(1) Union security has traditionally been considered a subject for collective bargaining and a condition of employment under both the National Labor Relations Act and the Michigan Labor Mediation Act.

(2) The Public Employment Relations Act contains no prohibition against union security agreements; hence it is a mandatory subject of bargaining.

21/ 10 McQuillin, Municipal Corporations, Sec. 29.101, "Binding Successors to Contracts."

22/ City of Detroit points out correctly that the extent to which constitutional, statutory or charter provisions relative to the employment of public employees may be in conflict with various forms of union security are not presently vital to the determination of the question at issue. This would be, as the City of Detroit notes, a possible area of concern which might apply in individual instances under a contractual union security provision.

23/ Also cited are: 31 Am.Jur. 458, Labor, Sec. 87; Antitau, Municipal Corporations 3:239; Petrucci v. Hogan, 27 N.Y.S. 2d 718, 725 (1941); Mugford v. Mayor and City Council of the City of Baltimore, 185 Md. 266, 44 A.2d 745, 747 (1945); City of Los Angeles v. Los Angeles Building & Construction Trades Council, 94 Cal. App. 2d 36, 210 P.2d 305, 309, 310 (1949); and Perez v. Board of Police Commissioners, 78 Cal.App. 2d 638, 647, 178 P.2d 537, 543 (1947). In the latter case, the court stated:" . . . nothing can be gained by comparing public employment with private employment; there can be no analogy in such a comparison." In Michigan, however, the legislature, by enactment of the Public Employment Relations Act, determined that the industrial type of employer-employee relations and collective bargaining should apply to the public sector.

24/ Also cited is the "Report of Governor Romney's Advisory Committee on Public Employees Relations", which recommends that public employers and unions be expressly authorized to include in collective bargaining agreements union security provisions of the type authorized by the National Labor Relations Act. This, urges the City of Detroit, is a recognition that the power does not presently exist.

(3) Michigan has not enacted a right-to-work statute, thus disclosing that there is no policy objection to union security in Michigan.

(4) The Public Employment Relations Act was not copied from the National Labor Relations Act. The legislative history of the two statutes differed and the two acts differ in many respects, including, importantly for this purpose, the omission in Section 9 of the Michigan statute of the provision in Section 7 of the National Labor Relations Act that employees "shall also have the right to refrain from any or all of such activities. . . . " The original National Labor Relations Act (Wagner Act) did not prohibit voluntary closed shop agreements, and Section 16(3) of the Labor Mediation Act "has long been understood without benefit of proviso" to authorize union security.

(5) Section 10(c) should be construed in the light of the stated purpose of the Act to "declare and protect the rights and privileges of public employees."

(6) Section 10(a) is all inclusive, as subsections (b), (c), (d), and (e) specify particular types of interference.

(7) Section 10 applies only to unilateral interference by an employer, and not to provisions of a mutually negotiated collective bargaining agreement.

(8) The Public Employment Relations Act does not prohibit employees from agreeing to become and remain members of a labor organization. To require them to do so would not "discriminate" within the meaning of 10(c), because the employees themselves, through their duly appointed agent, would have agreed to union membership as a condition of employment.

(9) The Public Employment Relations Act follows closely in its operative provisions the patterns set by the Labor Mediation Act, which does not prohibit union security provisions in a collective bargaining contract. Section 14 of the Labor Mediation Act was included to preclude an erroneous interpretation that without it union security clauses might be invalid.

(10) Section 10 of the Public Employment Relations Act, like Section 16 of the Labor Mediation Act, prohibits employers from interfering only with the rights conferred by Section 9 -- thereby establishing the same rule in public employment as in private employment. The principles of the Labor Mediation Act are to be applied to public employment unless there is a strong and categorical indication to the contrary.

(11) Any advantageous condition of employment bargained by the union "encourages" union membership. An employer who requires minority as well as majority support of the organization properly representing all employees in the bargaining unit is no more "discriminating" than when the employer applies all other terms and conditions of the agreement even-handedly to all members of the bargaining unit.

(12) All "discrimination" is not outlawed; only "illegal" discrimination. For example, permitting the certified or recognized union to post notices on the bulletin board to hold meetings on the employer's premises or granting leaves to union representatives may be "discriminatory," but they are not violative of the statute.

(13) A union has the obligation to negotiate in behalf of all employees: Hughes Tool Co. v. National Labor Relations Board, 147 F.2d 69 (CA 5, 1945); Hughes Tool Co., 104 NLRB 318 (1953); Wallace v. National Labor Relations Board, 323 U.S. 248 (1944); and Steele v. Louisville & N.R.R., 323 U.S. 192, 204 (1944)

Neither of the parties nor any of the amicii curiae have cited any decision which prohibits a public employer and a labor organization representing the employees from agreeing that all employees must become members of a labor organization. Our research has not brought to light any such case. Indeed, at common law, an employer had unlimited right to discriminate against his employees.25/

Any restriction, therefore, on the legal power of a public employer and a labor organization to execute a collective bargaining agreement which includes a union security provision must be found either in (1) a difference between public employers and private employers, (2) a distinction between public employees and private employees, or (3) the Public Employment Relations Act.

Both the Charging Party and Respondent, and their supporting amicii curiae, appeal to legislative history to support their respective positions. Unfortunately, the Michigan Legislature does not report the debates in Senate or House of Representatives, and committee reports are infrequent. There was no committee report from either the Senate or House of Representatives Labor Committee prior to the presentation of HB 2953, which, after amendment, became the Public Employment Relations Act. Consequently, legislative history, insofar as it is of assistance in determining the issue before us must be gleaned from a determination as to what the legislators could reasonably have been expected to do in view of federal and state legislation already in the statute books.

It is not possible to determine from legislative history whether the omission in the Public Employment Relations Act of the proviso (Charging Party's item 4) of Section 7 of the National Labor Relations Act was intended to legitimatize union security provisions in collective bargaining contracts, and whether the omission of the additional exception (Respondent's item 7) was intended to prohibit the inclusion of union security clauses in collective bargaining contracts.

The Michigan Legislature, we agree, knew the Congressional history of the Wagner, Taft-Hartley and Landrum-Griffin Acts. That the federal law was an element in the enactment of the Public Employment Relations Act is apparent, as the Michigan statute follows the language of the federal statute in a number of respects. Indeed, it is clear that in several areas, including Section 10, the Michigan Legislature adopted the federal legislation for Michigan's public sector. To the extent that this was done, the interpretation of the language of the federal statutes is of assistance in decision here.

25/ Discrimination: This right includes refusal to hire, People v. Chicago M. & St. P.R. Co., supra, note 10, and New York Central v. Schaffer, supra, note 10; threats to discharge if the employees do not quit the union (yellow dog), Coppage v. Kansas, 236 U.S. 1 (1915), Tosh v. West Kentucky Coal Co., 252 Fed. 44 (6th Cir., 1918); Sherman v. Abeles, 265 N.Y. 282, 193 N.E. 241 (1934); and discrimination in discharge or hire based on reasons of affiliation or lack of it, Texas & N. O. R. Co. v. Brotherhood, 281 U.S. 548 (1929), Drake Bakeries v. Bowles, 31 O.N.P.N.S. 425, Rosenthal-Ettlinger Co. v. Schlossberg, 266 N.Y.S. 762 (1933), Bayonne Textile Corporation v. American Federation of Silk Workers, 114 N.J. Eq. 307, 168 A. 799 (1933). Yellow Dog Contracts. Not only were yellow dog contracts legal, Tosh v. West Kentucky Coal Co., 252 Fed. 44 (6th Cir., 1918), Sherman v. Abeles, 265 N.Y. 282, 193 N.E. 241 (1934); Hitchman Coal Company v. Mitchell, 245 U.S. 229 (1917), Interborough Rapid Transit v. Green, 227 [illegible] 258 (1928), United Shoe Machinery Corporation v. Fi[illegible] 37 Mass. 537, 130 N.E. 86 (1921), and People v [illegible] 185 N.Y. 257, 77 N.E. 1073 (1906). Attempts [illegible] several states to outlaw yellow dog contracts prior to [illegible]ris-LaGuardia were voided as an invasion of freedom of contract, Adair v. United States, 208 U.S. 161 (1908), and Coppage v. Kansas, 236 U.S. 1 (1915).

We find no validity in the argument that there is some inherent difference with respect to union security as a subject of bargaining between private and public employment (Respondents' items 2 and 3). The Michigan Legislature established, for the public sector, the same type of (a) right to engage in concerted activities, (b) collective bargaining, (c) method of choosing a collective bargaining representative, and (d) unfair labor practices as are found in the private sector, with one substantial exception. Public employees are prohibited from striking (Section 2); but in other respects, their rights to engage in concerted activities and to be free from unfair labor practices committed against them are as provided in the private sector by both the National Labor Relations Act and the Michigan Labor Mediation Act.26/ In addition, and of importance in determination of the issue here: neither the proviso in Section 8 (3) of the Wagner Act nor in 8(a)(3) of the Taft-Hartley Act is included in Section 10(c) of the Public Employment Relations Act.

We likewise find no merit in the argument that the principles of public employment, including civil service statutes and ordinances, prohibit union security provisions in collective bargaining agreements (Respondents' item 4). To the extent that specific conditions of employment are written into statutes, such provisions may become part of the "bargain" between the parties, in the same manner that minimum wages under federal and state minimum wage laws, and the overtime provisions of the Fair Labor Standards Act, are part of every collective contract to which they are applicable.

If there is an unconstitutional impairment with respect to employees already employed, that issue may be determined with respect to an individual dispute brought to the proper tribunal (see Respondents' item 2; footnotes 22 and 23). If a union security provision conflicts with an employee's individual contract, which includes civil service or other contract rights, court or other tribunal will so find.

But the existence of civil service statutes and ordinances and other contract provisions included in contracts does not, per se, affect the legality, and therefore, the bargainability, of a union security provision. And it is evident that this issue of unconstitutionality is not germane with respect to employees hired after a collective bargaining agreement, which includes a union security clause, has been executed by a public employer and an exclusive bargaining representative.

Section 10(a) renders it unlawful for a public employer to interfere with, restrain or coerce public employees in the exercise of their rights guaranteed by Section 9. We are not persuaded that Section 9 is determinative of the issue before us (Charging Party's item 6), as a union security clause in a contract neither promotes nor impairs the right of employees to engage in the concerted activities specified in Section 9. While it may be "all inclusive," Section 9 neither authorizes nor prohibits union security as a mandatory subject of collective bargaining.

We reject the concept that Section 10 applies only to unilateral interference by an employer, but does not apply to a mutually negotiated collective bargaining agreement (Charging Party's item 7). Section 10 prohibits specified acts. Engaging in them in concert with a union does not make them legal.

What, then, is the meaning of Section 10:

"It shall be unlawful for an employer or an officer or agent of a public employer. . . (c) to discriminate in regard to hire, terms or other conditions of employment in order to encourage or discourage membership in a labor organization. . . ."

There are, as the Charging Party and supporting amicii curiae urge, acts which may be discriminatory in the sense that they do not apply exactly the same to all persons or groups; and a good contract does encourage union membership (Charging Party's item 11).27/ But this argument, pressed to its logical conclusion, would authorize any contract provision in a contract, including some which might be contrary to specific prohibitions in other statutes.28/ A line must be drawn at some point. The issue here is whether the inclusion of compulsory union membership in a collective contract is the type of requirement, or act, of a public employer which encourages union membership within the interdiction of the section.

The issue is not what the Board believes ought to be the type of union security, if any, which should be included in collective bargaining contracts, but, "What does the Public Employment Relations Act authorize or prohibit?"

The basic contention of the Respondents is that Section 10(c) of the Michigan Public Employment Relations Act does not contain the proviso of the companion Sections 8(3) of the Wagner Act and 8(a) (3) of the Taft-Hartley Act. Under 8(3) of the Wagner Act, all types of union security including the closed shop, were protected by the proviso. In the Taft-Hartley amendment to 8(3) of the Wagner Act, all types of union security except the closed shop were protected by the proviso. Absent the proviso from 10(c) of the Public Employment Relations Act, the Respondents reason, all forms of union security are illegal under the section.

It may be urged that Section 10(c) is limited to discrimination as between employees in a bargaining unit or in a group employed by the employer, such as the discharge of a part of the employees in a group, because they promoted or participated in an organizing campaign in the employing unit.29/

Section 10(c), however, must be interpreted in the context of its adoption.

The thrust of Section 10(c), like Section 8(3), is prohibition of discrimination against unions. Individual employees may be involved because part of an anti-union program carried out, or participated in, by an employer. The concept of the Wagner Act was to promote the right of collective bargaining by employees who desired to be represented for that purpose by an exclusive bargaining agent. Section 8(a) (1) of Taft-Hartley and Section 10(a) of the Public Employment Relations Act are directed primarily toward protection of individuals acting in concert; Section 8(a) (3) and 10 (c) toward labor organization protection with individuals involved, but as participants in the organization or organizational activity.

26/ The unfair labor practices are "lifted" from the Wagner Act rather than the Taft-Hartley Act, as there are no union unfair labor practices in the Public Employment Relations Act and only limited unfair labor practices in Section 17a of the Labor Mediation Act.

27/ Radio Officers' Union of Commercial Telegraphers Union, AFL v. National Labor Relations Board. 347 U.S. 17, 42, 74 S.Ct. 323, 98 L. Ed. 455 (1954); National Labor Relations Board v. Dalton Brick & Tile Corporation, 301 F.2d 886, 896(5th Cir., 1962).

28/ It Could, under this theory, be urged that any type of contract provision, unless specifically prohibited by other statute, is legal.

29/ National Labor Relations Board v. C. Malone Trucking, Inc., 278 F.2d 92 1st Cir., 1960); National Labor Relations Board v. Robbins Tire and Rubber Co., Inc., 161 F. 2d 798 (5th Cir., 1947); National Labor Relations Board v. Vail Manufacturing Company, 158 F.2d 664 (7th Cir., 1947), cert. denied, 331 U.S. 835, 67 S. Ct. 1517, 91 L.Ed. 1848, reh. denied, 332 U.S. 826, 68 S. Ct. 159, 92 L.Ed. 401.

The right of employees to organize into unions and to bargain through a union was a developing concept. It was recognized by Congress in the Railway Labor Act enacted in 1926, 44 Stat. 577, which was interpreted by the Supreme Court in Texas and New Orleans Railroad Company v. Brotherhood of Railway and Steamship Clerks, 281 U.S. 548 50 S. Ct. 427, 74 L.Ed. 1034 (1930). The Act authorized collective bargaining, and stated that:

"Representatives for the purposes of this Act, shall be designated by the respective parties. . .without interference, influence, or coercion exercised by either party over the self-organization or designation or representatives by the other." (p. 567)

The Court noted:

"It is at once to be observed that Congress was not content with the general declaration of the duty of carriers and employees to make every reasonable effort to enter into and maintain agreements concerning rates of pay, rules and working conditions, and to settle disputes with all expedition in conference between authorized representatives, but added this distinct prohibition against coercive measures. This addition cannot be treated as superfluous or insignificant, or as intended to be without effect." (pp. 567-568)

In 1933, Congress enacted the National Industrial Recovery Act, 48 Stat. 195, which included Section 7(a), which required that a code of fair competition should contain a provision that:

"Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities to the purpose of collective bargaining or other mutual aid or protection."

Thus, the concept of free collective bargaining without interference -- and thus without encouragement or discouragement -- by an employer was advanced.

After the Supreme Court declared NIRA unconstitutional in 1935,30/ the Wagner Act was enacted, which contained a Section 7, but without the right to refrain from engaging in union activities. Section 8 unfair labor practices were included to implement Section 7 rights. The Wagner Act was primarily concerned with the organizational phases of labor relations and the activities of employers which violated the employees' Section 7 rights.

This is well stated by Archibald Cox and Derek Curtis Bok:

"The Wagner Act of 1935 established on a permanent foundation the legally protected right of employees to organize and bargain collectively through representatives of their own choosing. The basic idea reaches back before 1900 but much of its elaboration was the work of the NIRA period.

"Section 8(1) declared it to be an unfair labor practice for an employer 'to interfere with, restrain or coerce employees in the exercise of rights guaranteed in Section 7.' This provision covers generally such anti-union tactics as beating up labor organizers, locking the employees out to destroy incipient unions, industrial espionage and other use of the employer's economic power to prevent unionization. Threats of economic reprisal or promises of benefit are unfair labor practices. Section 8(1) also forbids subtler anti-union tactics such as wage increases carefully timed to show the employees that nothing would be gained by joining a union.

"Subsections (2), (3) and (4) of Section 8 proscribe specifically some of the more offensive anti-union tactics in which employers had engaged.

"The provisions just summarized continue to apply after a union has become the bargaining representative, but their importance is greatest during what may be called the organizational phase of labor management relations — the period in which employees are taking steps to form a union or in which an outside union is seeking to persuade them to organize. For it is at this time that employees need the most protection and the employer is most likely to attack the union."31/

This reasoning is substantiated by National Labor Relations Board v. Jones & Laughlin Steel Corporation, 301 U.S. 1, 57 S. Ct. 615, 81 L.Ed. 893 (1937), where the Wagner Act was held constitutional. The Court sustained the concept that engaging in unfair labor practices affected commerce, and said:

"Experience has abundantly demonstrated that the recognition of the right of employees to self-organization and to have representatives of their own choosing for the purpose of collective bargaining is often an essential condition of industrial peace."

Thus, the concept was discrimination which interfered with organizational activities *per se*, rather than discrimination between individuals.

While the legislative history is not sufficiently definitive to furnish a clear cut answer to the Congressional intent with respect to the impact of the proviso to Section 8(3) on union security, the report of the Senate Committee on Education and Labor, in speaking of the proviso, said:

"The proviso (to Section 8(3)) is not intended to require any employer to enter into an agreement conditioning employment upon membership in any labor organization. . . . This proviso is not a mandate, but is a permissive exception made necessary by other provisions of the law. If this proviso were not in the bill, a willing employer and willing employees could not of their own accord agree that thereafter a person seeking employment should be required, as a condition of employment, to join the employees' organization."32/ (emphasis supplied)

The difficulty in determining the impact of the proviso is evident from National Labor Relations Board v. General Motors, 373 U.S. 734, 738, 83 S. Ct. 1453, 10 L. Ed. 2d 670, 53 LRRM 2313 (1963), where the Court said:

"Section 8(3) under the Wagner Act was the predecessor to Sec. 8(a)(3) of the present law. Like Sec. 8(a)(3) Sec. 8(3) forbade employers to discriminate against employees to compel them to join a union. Because it was feared that Sec. 8(3) and Sec. 7, if nothing were added to qualify them, might be held to outlaw union-security arrangements, such as the closed shop, see 79 Cong. Rec. 7570 (statement of Senator Wagner), 7674 (statement of Senator Walsh); H.R. Rep. No. 972, p. 17; H. R. Rep. No. 1147, p. 19, the proviso to Sec. 8(3) was added expressly declaring:

30/ Schechter Poultry Corporation v. United States, 295 U.S. 495, 55 S. Ct. 837, 79 L. Ed. 1570 (1935).

31/ Labor Law, Cases and Materials, The Foundation Press, pp. 118, 119.

32/ Senate Committee on Education and Labor, Report No. 1184, p. 6.

"Provided, That nothing in this act . . . or in any other statute of the United States, shall preclude an employer from making an agreement with a labor organization . . . to require as a condition of employment membership therein, if such labor organization is the representative of the employees as provided in section 9(a) . . . ."

"The prevailing administration and judicial view under the Wagner Act was or came to be that the proviso to Sec. 8(3) covered both the closed and union shop, as well as less onerous union security arrangements, if they were otherwise legal. The National Labor Relations Board construed the proviso as shielding from an unfair labor practice charge less severe forms of union-security arrangements than the closed or the union shop, including an arrangement in Public Service Co. of Colorado, 89 N.L.R.B. 418, 26 LRRM 1014, requiring non-union members to pay to the union $2 a month'for the support of the bargaining unit.' And in Algoma Plywood Co. v. Wisconsin Board, 336 U.S. 301, 307, 23 LRRM 2402, which involved a maintenance of membership agreement, the Court, in commenting on petitioner's contention that the proviso of Sec. 8(3) affirmatively protected arrangements within its scope, of Garner v. Teamsters Union, 346 U.S. 485, 33 LRRM 2218, said of its purpose: 'The short answer is that Sec. 8(3) merely disclaims a national policy hostile to the closed shop or other forms of union-security agreement.' "

While the Supreme Court opinion suggests that Section 8(3) might be held to outlaw union security arrangements, we read the report of the Senate Committee on Labor and Education as more than an exposition of the law as it existed when the Wagner Act was originally enacted. To repeat the words of the report, if the proviso were not included, an employer and a collective bargaining agent "could not of their own accord agree that thereafter a person seeking employment should be required, as a condition of employment, to join the employees' organization." If they could not so agree, it means that without the proviso, there could be no union security.

The concept that Section 8(3) is directed more against anti-union discrimination than discrimination between employees in a particular group is well stated by the Court of Appeals for the Seventh Circuit in Montgomery Ward & Co., Inc. v. National Labor Relations Board, 107 F.2d 555, 564 (7th Cir., 1939):

"We believe that the term 'discrimination' takes its meaning from the context of Section 8(3), and that it refers to anti-union discrimination, that is, to a different treatment accorded union employees solely because of their union memberships or activities and without reference to whether they hold comparable or noncomparable jobs. To restate and summarize, Section 8(3) prohibits certain employer conduct, namely, the discouragement of union membership by means of anti-union discrimination. It directly protects union membership, and it indirectly protects employees engaged in lawful union activities from discharges that would effect a discouragement of union membership. See National Labor Rel. Board v. Fansteel Metallurgical Corp., 306 U.S. 240, 59 S. Ct. 490, 83 L.Ed. 627, 123 A.L.R. 599, National Labor Relations Board v. Sands Mgf. (sic) Co., 306 U.S. 332, 59 S. Ct. 508, 83 L. Ed. 682." (emphasis supplied)

This meaning of Section 8(a)(3) is recognized in National Labor Relations Board v. Stremel, 141 F.2d 317, 318 (10th Cir., 1944). The National Labor Relations Board had entered a cease and desist order against the operator of a coal mine who locked out all his employees. In enforcing the Board order which, among other things, found that the employer had breached Section 8(3) of the statute, the court said:

"A shut-down or lock-out of employees for the purpose of discouraging membership in a labor organization constitutes a discrimination within Section 8(3)(1) of the Act."33/

This decision, like others, discloses that, in context, the term "discrimination" has a broader meaning than differentiation or distinction between employees in a particular unit or group. If "to discriminate" or "discrimination" were to be defined as narrowly as the Charging Party suggests, a lockout of all employees in a unit to interfere with an organizing drive would not be discrimination under Section 8(3) of its successor, Section 8(a)(3), because there would be no different treatment as between employees.

This philosophy of Section 8(a)(3) is recognized by the majority opinion in Textile Workers Union of America v. Darlington Manufacturing Co., 380 U.S. 263, 272, 85 S. Ct. 994, 13 L.Ed. 2d 827 (1965). While the Court held that it is not an unfair labor practice for an employer to close his entire business, even if the closing were due to an anti-union basis, the Court recognized that there would be discrimination within the meaning of Section 8(a)(3) of the National Labor Relations Act if all employees were terminated for the purpose of discouraging the unionization of the company's employees:

"We are not presented here with the case of a 'runaway shop,' whereby Darlington would transfer its work to another plant or open a new plant in another locality to replace its closed plant. Nor are we concerned with a shutdown where the employees, by renouncing the union, could cause the plant to reopen. Such cases would involve discriminatory employer action for the purpose of obtaining some benefit from the employees in the future."

This emphasis on the anti-union, as distinguished from individual, discrimination is present in National Labor Relations Board v. National Garment Co., 166 F.2d 233, 238 (8th Cir., 1948), where a successor owner was found to have breached Section 8(a)(3) even though the acts held to be unfair labor practices were committed against all employees without distinction between them. The Court said:

"The contention of respondents that they did not discriminate against the employees because they laid off employees, both union and non-union, may not be sustained. They discriminated against all employees by treating them differently than they would have treated them had some of them not joined the union within the plain intendment of Sections 7 and 8(1)(3). 'It shall be an unfair labor practice for an employer to interfere with, restrain or coerce employees in the exercise of the rights guaranteed in section 7 (of self organization in labor unions) (3) by discrimination in regard to tenure of employment' N.L.R.B. v. Cape County Milling Co., 8 Cir., 140 F. 2d 543, 152 A.L.R. 144; N.L.R.B. v. Somerset Shoe Co., 1 Cir., 111 F.2d 681; N.L.R.B. v. National Motor Bearing Co., 9 Cir., 105 F. 2d 652, 657, 658."34/

33/ The Court cited National Labor Relations Board v. National Motor Bearing Co., 105 F.2d 652, 657 (9th Cir., 1939); Atlas Underwear Co. v. National Labor Relations Board, 116 F.2d 1020, 1023 (6th Cir., 1941); National Labor Relations Board v. Mall Tool Co., 119 F.2d 700, 701 (7th Cir., 1941).

34/ The omission of discrimination with respect to "tenure" by the Michigan Legislature does not, in our opinion, create a difference in meaning as between the federal and state statutes, as the term "tenure" is included in the broader words "terms" and "conditions of employment." See also, National Labor Relations Board v. National Motor Bearing Co., 105 F.2d 652 (9th Cir., 1939), and the decision of the National Labor Relations Board in 5 NLRB 409, 2 LRRM 8 (1938).

That Section 8(a)(3) is directed primarily against anti-union discrimination is the thrust of Radio Officers' Union of the Commercial Telegraphers Union, AFL v. National Labor Relations Board. 347 U.S. 17, 74S. Ct. 323, 98 L.Ed. 455 (1954). The Court held that Section 8(a)(3) of the amended National Labor Relations Act provides that it is an unfair labor practice for an employer to discriminate against his employees to encourage or discourage union membership. One of three cases heard by the Supreme Court involved an alleged breach of Section 8(a)(3). The Court affirmed a Court of Appeals decision which enforced an order of the National Labor Relations Board in which an employer, from self-interest and not from a desire to encourage union membership, accorded union members wage treatment more preferential than that accorded non-members. The union involved was a close one, admitting only first-born sons of members.

In discussing Section 8(a)(3), the Court said: "Thus Sec. 8(a)(3) and 8(b)(2) were designed to allow employees to freely exercise their right to join unions, be good, bad or indifferent members, or abstain from joining any union without imperiling their livelihood. The only limitation Congress has chosen to impose on this right is specified in the proviso to Sec. 8(a)(3) which authorizes employers to enter into certain union security contracts, . . . (emphasis supplied)

". . . Thus, an employer can discharge an employee for non-membership in a union if the employer has entered a union security contract valid under the Act with such union, and if the other requirements of the proviso are met. No other discrimination aimed at encouraging employees to join, retain membership, or stay in good standing in a union is condoned." (pp. 40-42)

This language is consistent with the concept that the purpose of Section 8(a)(3) was anti-union discrimination, as distinguished from individual discrimination, and that the proviso was added in order that there might be individual discrimination in requiring employees to become members of a union under a union security clause authorized by the proviso.

The Court also said:

"Moreover, the National Labor Relations Board in its annual reports regularly reiterates this requirement in its discussion of Sec. 8(a)(3). For example, a recent report states that 'upon scrutiny of all the facts in a particular case, the Board must determine whether or not the employer's treatment of the employee was motivated by a desire to encourage or discourage union membership or other activities protected by the statute.' " (pp. 43-44)

Mr. Justice Black, in his dissenting opinion, also views Section 8(a)(3) as being directed primarily against discrimination with respect to unions per se. Mr. Justice Black said:

"Behind the Labor Act was a long history of employer hostility to strong unions and affection for weak ones. Power over wages, hours and other working conditions permitted employers to help unions they liked and hurt unions they disliked. To enable workers to join or not join unions without fear of reprisal, Congress passed the Labor Act prohibiting such employer discrimination.

"The Board has been careful in Sec. 8(a)(3) cases to make findings that employer discrimination was motivated by hostility or favoritism toward union membership." (pp. 58-59)

At least one Court of Appeals has treated the proviso as an affirmative authorization for a union security provision in the contract. The Court of Appeals for the Third Circuit35/ said:

"In our view, the proviso validates an employer's 'agreement with a labor organization to require as a condition of employment (to which the agreement shall become applicable) membership therein on or after the thirtieth day following the beginning of such employment.' We have added the bracketed phrase to the proviso in order to make explicit what we think is a necessary implication of the statutory language. For a collective bargaining agreement, in its nature, applies not to employment at large, but to some class or classes of persons employed somewhere by the contracting employer." (emphasis supplied)

While there is no affirmative legislative history, we believe that the Michigan Legislature, with its knowledge of, and reliance on, provisions of the National Labor Relations Act, would have included the proviso had it been intended that union security provisions be considered as outside the interdiction of Section 10(c).

We believe the better and more persuasive position to be that without the proviso, a union or closed shop provision is prohibited; therefore, it is not a mandatory subject of collective bargaining.

The prohibition, however, is the encouragement and discouragement of union membership. A union is required to represent all employees in the bargaining unit in good faith and without discrimination. Thus, union membership is discouraged if employees enjoy the fruits of the union vine without sharing the cultivation of the vineyard. Grapes may not be harvested until the ground has been prepared; the vines planted, trimmed and sprayed; the soil weeded and fertilized.

As the Supreme Court of the United States said in Ford v. Huffman, 345 U.S. 330, 337, 73 S.Ct. 681, 97 L.Ed. 633 (1953):

"The statutory obligation to represent all members of an appropriate unit requires them to make an honest effort to serve the interests of all those members without hostility to any."36/

Thus, under this concept, a public employer who refuses to agree to a contract provision which will require all employees to share in the cost of an exclusive bargaining representative to negotiate and administer a collective bargaining contract might be said to be discouraging union membership. Certainly, there is an encouragement of "free riders" who gain the benefits of the efforts of the bargaining representative, but do not share in the costs. And this employer treats all employees alike for the employer has refused (as an employer has the privilege of doing if he bargains in good faith) to agree to a contract clause requiring the non-union member to pay his part of the cost of contract negotiation and administration.

35/ National Labor Relations Board v. Midwest Transfer Company of Illinois, 287 F.2d 443, 444-445 (1961).

36/ See also, Vaca v. Sipes, 386 U.S. 171 (1967); Local Union No. 12, United Rubber, Cork, Linoleum & Plastic Workers of America v. National Labor Relations Board, 368 F.2d, 12, 63 LRRM 2395 (5th Cir., 1966), cert. den., 19 L.Ed 2d 99, 36 L.W. 3135 (1967); Syres v. Oil Workers, 350 U.S. 892 (1955); Humphrey v. Moore, 375 U.S. 335 (1964); Pekar v. Local 181, Brewery Workers, 311 F.2d 628, 52 LRRM 2123 (6th Cir., 1962), cert. denied, 373 U.S. 912, 83 S.Ct. 1303, 53 LRRM 2186 (1963); Hiller v. Liquor Salesmen's Local, 338 F.2d 778 (2nd Cir., 1964); Horn v. Street Railway Employees, 194 F.Supp. 560 (D.C.E. Mich., S.D., 1961); Zdero v. Briggs, 338 Mich. 549, 61 N.W. 2d 615 (1956); and Ostrofsky v. Steelworkers, 171 F.Supp. 782 (D.C. Md., 1959) aff'd, 273 F.2d 414 (4th Cir., 1960).

But this employer's act is passive, not active. It is a refusal, not an affirmative act. Such refusal, assuming bargaining in good faith, is recognized by Section 15 as within the power of a public employer, for the section provides that the requirement to bargain in good faith "does not compel either party to agree to a proposal or require the making of a concession."

This, it seems to me, is the place where the line should be drawn, in a reasonable interpretation of Section 10(c).

A requirement that employees pay their share of the cost of negotiating and administering a collective bargaining agreement neither discourages nor encourages membership in the labor organization selected by the majority of employees in the bargaining unit to represent them. It is not discriminatory, as the requirement that each employee pay his pro rata share of the costs applies alike to all employees in the bargaining unit, whether they are, or are not, members of the union.

I conclude that an agency shop provision in a collective bargaining agreement is not prohibited by the Public Employment Relations Act; therefore, the agency shop is a mandatory subject of bargaining. This is the type of contract provision whereby an employee in the bargaining unit who chooses not to become a member of the labor organization which is the exclusive bargaining representative may be required, as a condition of employment, to pay to such labor organization an amount equal to the union membership fee and dues.

It might be urged that there are fraternal and social aspects to union membership, and that some unions include insurance benefits with dues' payment; hence payment by a non-member of an amount equal to a union's dues is discriminatory and may encourage membership in that an employee may believe that if he must pay an amount equivalent to dues, he "might as well" join the union. This was the philosophy of the Court of Appeals for the Second Circuit in Nationa' Labor Relations Board v. Local 138, International Union of Operating Engineers, ___F.2d ___, 66 LRRM 2703 (1967), a case involving a charge of discrimination in the administration of a hiring hall.

The fraternal and social aspects of unions and insurance contracts for members have lessened in recent years, as unions have become primarily representatives of employees in bargaining units. Whatever difference there may be between the costs of the representative function and other union activities is minimal, and not a basis for distinguishing between a contract provision requiring payment of dues equivalent and some lesser amount.

While an agency shop provision which provides for a payment by non-members of an amount less than the dues might be negotiated, I do not view the traditional agency shop type of agreement as prohibited by Section 10(c).

In my opinion, the inclusion of Section 14 of the Labor Mediation Act is support for the Respondents' position rather than the Charging Party's contention; and it is one factor in my determination that union shop provisions do fall within the prohibition of Section 10(c). Had the Legislature intended to provide for the same type of union security in the public sector as is authorized in the private sector, it is reasonable to believe that the legislators, who debated amendments to the Labor Mediation Act at the same time they considered and amended the Hutchinson Act, would have included a provision in the Public Employment Relations Act similar to Section 14 of the Labor Mediation Act (Respondents' item 6)

We are not persuaded by the argument that the lack of a right-to-work statute in Michigan is a factor in decision here. So-called right-to-work statutes enacted by a number of states are applicable solely to the private sector (Charging Party's item 3). The issue here is solely a matter of statutory construction.

The policy of the Act which declares the purpose to declare and protect the rights and privileges of public employees cannot be read as authority for any particular type of collective bargaining agreement. Each labor organization has the responsibility (discussed above) of representing the employees in the bargaining unit it represents in good faith (Charging Party's item 5). The protection afforded to, and benefits negotiated for, public employees by a collective bargaining agreement are available to all employees in the bargaining unit.

Thus, the payment for this protection, the negotiation of the benefits and administration of the contract by all employees neither encourages nor discourages union membership. It discriminates against none. It is consistent with Section 16.

/s/ Robert G. Howlett
Robert G. Howlett, Chairman

Dated: JAN 8, 1968

STATE OF MICHIGAN

LABOR MEDIATION BOARD

In the Matter of OAKLAND COUNTY SHERIFF'S DEPARTMENT and OAKLAND COUNTY BOARD OF SUPERVISORS, Respondent, and METROPOLITAN COUNCIL NO. 23, AMERICAN FEDERATION OF STATE, COUNTY & MUNICIPAL EMPLOYEES, AFL-CIO, Charging Party.	Case No. C66 F-63

CONCURRING AND DISSENTING OPINION

I concur with the decision of Board Chairman Howlett and Board Member Weiss on the issues of joinder of the Oakland County Board of Supervisors; that the Charging Party has not sustained the burden of proof that the Respondent refused to bargain because Sergeant Fauser was absent from the bargaining sessions. I also concur with my colleagues that arbitration as a terminal step in the processing of grievances is a mandatory subject of bargaining; however, like Chairman Howlett, I "express no opinion with respect to the power of one sheriff to bind a successor sheriff on the issue of discharge, a power specifically provided for in the statute."

The issue of union security is one pregnant with complications and contradictions. I agree with Chairman Howlett that the agency shop is a mandatory subject of bargaining; but, as to other forms of union security, we are not in accord, infra; I am completely at variance with Board Member Weiss on this issue, infra.

The basic contention of the Respondents on this issue is that Section 10(c) of the Michigan Public Employment Relations Act (hereinafter referred to as PERA) does not contain the proviso of the companion sections 8(3) of the Wagner Act and 8(a)(3) in the amendment of that section of the National Labor Relations Act (hereinafter referred to as NLRA) by the Taft-Hartley Act. Under 8(3) of the Wagner Act, all types of union security, including the closed shop, were protected by the proviso. In the Taft-Hartley amendment to 8(3) of the Wagner Act, all types of union security except the closed shop were protected by the proviso. Absent the proviso from 10(c) of PERA, the Respondents reason, all forms of union security are illegal under the section.

It is clear that the proviso was inserted in the federal act to eliminate any misconstruction of Section 8 (a)(3) of NLRA making the employer guilty of a Section 8(a)(3) unfair labor practice if it entered into any type of union security agreement which was not specifically authorized by the proviso to the section.

Neither the National Labor Relations Board nor the federal courts have ever passed upon the issue of union security before us because the federal legislation comparable to Section 10(c) has always contained the proviso. It, therefore, becomes our responsibility to decide this issue without the benefit of precedent, either at the state or federal level.

In the Board decision and in the briefs submitted by some amicii curiae, stress is placed upon the Supreme Court decision in National Labor Relations Board v. General Motors Corporation, 373 U. S. 734, 738-39, 83 S. Ct. 1453, LRRM 2313, 2315 (1963), wherein the Court said:

> "Section 8(3) under the Wagner Act was the predecessor to §8(a)(3) of the present law. Like §8(a)(3), §8(3) forbade employers to discriminate against employees to compel them to join a union. Because it was feared that §8(3) and §7, if nothing were added to qualify them, might be held to outlaw union security arrangements, such as the closed shop, see 79 Cong. Rec. 7570 (Statement of Senator Wagner), 7674 (Statement of Senator Walsh): H. R. Rep. No. 792, p. 17; H. R. Rep. No. 1147, p. 19, the proviso to §8(3) was added expressly declaring: . . ." (emphasis supplied)

The Supreme Court in this case did not determine that absent the proviso, union security agreements are illegal. All it did was tract the legislative history of Sections 8(3) under the Wagner Act, and 8(a)(3) of the present law, and state the reason for adding the proviso to those sections by the Congress.

10(c) of PERA makes it unlawful for an employer "to discriminate in regard to hire, terms or other conditions of employment in order to encourage or discourage membership in a labor organization . . . . " Two conditions must be met in order to find a violation of this provision: (1) there must be discrimination on the part of the employer; and (2) the discrimination must either encourage or discourage membership in a labor organization.

In Radio Officers Union v. NLRB, 347 U.S. 17, 33 LRRM 2417 (1954), the Supreme Court dealt with three situations involving alleged violations of Section 8(a)(3):

> "The language of 8(a)(3) is not ambiguous. The unfair labor practice is for an employer to encourage or discourage membership by means of discrimination. Thus, this section does not outlaw all encouragement or

discouragement of membership in labor organizations; only such as is accomplished by discrimination is prohibited. Nor does this section outlaw discrimination in employment as such; only such discrimination as encourages or discourages membership in a labor organization is proscribed." (emphasis added) (pp. 42-43)

In Local 357, Teamsters v. NLRB, 365 U. S. 667, 47 LRRM 2906 (1965), the Supreme Court in the majority opinion said:

". . . The truth is that the union is a service agency that probably encourages membership whenever it does its job well. But as we said in Radio Officers v. Labor Board, supra., the only encouragement or discouragement of union membership banned by the Act is that which is 'accomplished by discrimination.'" (pp. 675-676) (emphasis supplied)

In this case, Mr. Justice Clark, in his dissenting opinion, dissects and analyzes Section 8(a)(3) of NLRA. His analysis is most helpful in reaching a decision on the union security issue in this case. He said:

"Section 8(a)(3) provides, in part, that it shall be an unfair labor practice for an employer 'by discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization.' (emphasis added) "As I view this prohibition, which by Sec. 8(b)(2) is also applied to unions when causing or attempting to cause any employer to violate this section, two factors must be present before there is an unfair labor practice: (1) discrimination in the hiring or tenure of employees which is intended to, or inherently tends to, result in (2) encouragement or discouragement of membership in a union.

"The word 'discrimination' in the section, as the Board points out and I agree, includes not only distinctions contingent upon 'the present or absence of union membership,' ante, p. ____, but all differences in treatment regardless of their basis. This is the 'cause' portion of the section. But Sec. 8(a)(3) also includes an 'effect' clause which provides that the intended or inherent effect of the discrimination must be 'to encourage or discourage (union) membership.' The section has, therefore, a divided structure. Not all discriminations violate the section, but only those the effect of which is encouragement or discouragement of union membership. Cf. Radio Officers v. Labor Board 347 U.S. 17, at 43, 33 LRRM 2414: 'Nor does this section outlaw discrimination in employment as such; only such discrimination as encourages or discourages membership in a labor organization is proscribed.' Each being a requirement of the section, both must be present before an unfair labor practice exists. . . ." (pp. 688-689) (emphasis supplied)

He also said:

"Even if we could draw no support from prior cases, the plain and accepted meaning of the word 'discrimination' supports my interpretation. In common parlance, the word means to distinguish or differentiate. (emphasis added)

Without good reason, we should not limit the word to mean to distinguish in a particular manner (i.e., on the basis of union membership or activity) so that a finding that the hall dispatched employees without regard to union membership or activity bars a finding of violation. The mere fact that the section might be read in the manner suggested by the union does not license such a distortion of the clear intent of the Congress, i.e., to prohibit all auxiliaries to the closed shop, and all pressures on employee free choice, however subtly they are established or applied. Moreover, our interpretation in Radio Officers v. Labor Board, supra, supports this position. There we said: (see supra, p. 3)"1/ (p. 689)

Having given consideration to the twofold aspect of the nature of the unfair labor practice prohibited by Section 8(a)(3) of NLRA and likewise by 10(c) of PERA, as the language is nearly identical in both sections, it becomes necessary to consider if both conditions of the section are met in the various types of union security provisions. The ambit of such provisions, as shown by long experience in collective bargaining in the private sector, are closed shop, union shop, agency shop and maintenance of membership with some modifications of these four to be found occasionally.

The closed shop type of union security agreement provides that all members of the bargaining unit must be members of the representative of the employees, and all hiring must be made from the membership of the bargaining representative. Applying the definition of "discrimination," i.e., "to distinguish or differentiate" as defined by Justice Clark in the Teamsters case, I find no discrimination in treatment of employees in a closed shop union security arrangement. All employees are treated the same; they are all required to belong to the collective bargaining representative.

Likewise, there is no difference of treatment of employees under union shop union security provisions, because all employees are required to maintain their membership in the collective bargaining representative and all new hires are required to become members. Thus, all are treated the same -- without discrimination.

In the agency shop type of union security arrangement, employees are not required to become members of the collective bargaining representative, but, if they elect not to join, they are required to pay into the treasury of the collective bargaining representative the equivalent of initiation fees and dues as reimbursement for servicing the collective bargaining agreement. Moreover, the nonmember is entitled to the same services from the collective bargaining representative as the member. The choice is with the employee -- he may or may not become a member as he chooses. When he chooses not to become a member, he is required to pay his share of the cost of servicing the collective bargaining agreement the same as the member, and he receives the same services as the member. I find no discrimination and, therefore, no Section 10(c) proscription to this kind of union security.

Under some maintenance of membership union security provisions, employees are divided into two classes. Members of the bargaining representative are required to maintain their membership as a condition of employment. Those who are not members are not required to become members as a condition of employment, nor are they required to pay to the collective bargaining representative the equivalent of

1/ Discrimination within the proscriptions of Section 8(a)(3) and 8(b)(3) of the National Labor Relations Act takes many forms: involuntary reduction of seniority, refusal to hire for an available job, and disparate wage treatment, Radio Officers Union v. NLRB, supra; derogating employment status of employee, NLRB v. Miranda Fuel Co., Inc. 326 F.2d 172, 54 LRRM 2715 (2nd Cir., 1963); assignment of work to union members only, Carpenters v. NLRB, 286 F.2d 533, 47 LRRM 2254 (D.C. Cir., 1960); union attempt to induce secondary employees not to handle primary employer's products, Sheet Metal Workers v. NLRB, 293 F.2d 141, 48 LRRM 2243 (D. C. Cir., 1961); union insistence on employer agreement requiring foremen to be union members, Typographical Union, Local 38 v. NLRB, 278 F.2d 6, 46 LRRM 2132 (1st Cir., 1960); requiring union membership as a condition of employment without allowing 30-day grace period, Fabricators Local 810, 128 NLRB 1002, 46 LRRM 1457 (1960); refusal to hire without work permit, District Council of Detroit v. NLRB, 285 F. 2d 289, 47 LRRM 2200 (D.C. Cir., 1960).

initiation fees and dues. Maintenance of membership of this kind involves a patent discrimination against bargaining representative members which inevitably discharges union membership. For that reason, I conclude that it comes within the interdiction of Section 10(c) and constitutes an unfair labor practice.

Other types of union security arrangements and modifications of those set forth above may or may not come within the prohibition of Section 10(c), depending upon the application of the two criteria set forth in the section to the facts and circumstances of those situations as they may arise.

/s/ Leo W. Walsh
Leo W. Walsh, Board Member

Dated: January 8, 1968

STATE OF MICHIGAN

LABOR MEDIATION BOARD

In the Matter of. OAKLAND COUNTY SHERIFF'S DEPARTMENT and OAKLAND COUNTY BOARD OF SUPERVISORS, Respondents, and METROPOLITAN COUNCIL NO. 23, AMERICAN FEDERATION OF STATE, COUNTY & MUNICIPAL EMPLOYEES, AFL-CIO, Charging Party.	Case No. C66 F-63

CONCURRING AND DISSENTING OPINION

I concur with Board Chairman Howlett and Board Member Walsh on the issues of joinder of the Oakland County Board of Supervisors: burden of proof with respect to Sergeant Fauser; and arbitration as the terminal step in the grievance procedure as a mandatory subject of bargaining.

My colleagues have found it unnecessary to determine the effect of grievance arbitration on the statutory powers of a sheriff who succeeds a sheriff who may have agreed to arbitration as the terminal point in a contract grievance procedure. In my opinion, the Board should affirmatively state its position on this issue. I do not believe that such an arbitration clause as would result from collective bargaining with an incumbent Sheriff can be binding on future or successor sheriffs, who would take office upon election, or the death of the incumbent sheriff.

It is a recognized fact that a public employer, such as a Sheriff may bind his successors to contracts regarding proprietary matters (see footnote 21, majority opinion), but this principle does not extend to governmental matters covered by statute.

Specifically, a new Sheriff, whether elected or takin over for a deceased Sheriff, may with statutory impunity discharge all appointees of the past Sheriff. Lamoreaux v. Attorney General, 89 Mich. 146, 50 N.W. 812 (1891).

Likewise, I would extend this limiting principle to all public employers whose governmental functions are carried out under specific statutes like the Sheriffs Act, (for example, the Probate Court, County Clerk, Register of Deeds and County Treasurer as found on page 11 of Majority Opinion).

I further dissent from Chairman Howlett's finding that an agency shop is a mandatory subject of bargaining, and from Board Member Walsh's finding that all forms of union security except maintenance of membership are mandatory subjects of bargaining.

My reasons for dissenting are numerous. I think Michigan law is contrary to the proposition that a General law, such as PERA, may overrule a specific statute, such as the Sheriffs Act.

> "Broadly speaking, a general law within the intent of constitutional provisions requiring uniform operation of general laws is a law which affects all the people of the state or all persons or things of a particular class. While a statute which is applicable to all of the people of the state and which operates in all parts of the state is most general in its character, it is not necessary that a law in order to be general shall affect all of the people of the state, or all of the state, it need not be universal in application, and it need not include or embrace all the subjects with which it deals, nor need it include all classes of individuals. It may be intended to operate over a limited territory, and, if every person or locality brought within the relations and circumstances provided for by the law is affected, the law may be general although presently operative but on a single individual or thing, place, or political subdivision, and its general character is not affected by the number of persons, things or localities which come within the scope of its operation, or on the number without the class." C.J.S. Vol. 82; Par. 762; pp 264, 270, 271.

Whereas a "Specific Law" is:

> "A statute which relates to persons or things as a class is a general law, while a statute which relates to particular persons or things of a class is special." 82 C.J.S.; Par. 163; p. 277

From these definitions, it should be apparent that PERA would be a General Law that applies to the class of public employment, and the Sheriffs Act, or other acts, is a specific act and covers a specific person in respect to one particular act.

Inherent in Michigan law is the idea that repeal by implication is not favored. Village of Highland Park v. McAlpine, 117 Mich. 666, 76 N.W. 159 (1898); Highway

Commission v. Detroit City Controller, 331 Mich. 337, 49 N.W. 2d 318 (1951); People v. Harrison, 194 Mich. 363, 160 N.W. 623 (1916); Reynolds v. Miller, 274 Mich. 354, 264 N.W. 399 (1936).

General laws cannot repeal special statutes absent a repealing clause or terms clearly repugnant to the repealed act intended to revise the regulation.

In Regents of the University of Michigan v. Auditor General, 109 Mich. 134, 66 N.W. 956 (1896), a special statute requiring the state to pay 7% interest to the University was held not repealed by a general law establishing usury interest rates at 6%. The court held at page 137:

> "It is a general rule of construction that an act passed for a particular purpose, it is not abrogated by general legislation, sufficiently broad to include it, unless the intent to abrogate it is clear."

This case affirmed a similar principle as found in People v. Daniel Hanrahan, 75 Mich. 611, 42 N.W. 1124 (1889); and McKenna v. Edmundstone, 91 N.Y. 231 (1883).

Most recently, the Supreme Court of Michigan dealt with this same issue in Northville Coach Lines, Inc., v. City of Detroit, 379 Mich. 317, 150 N.W. 2d 772 (1967) where an issue was raised as to whether the General Home Rule Act was passed with an intent to repeal specific provisions of the Special Motor Carrier Act. The Court said:

> "We agree with plaintiff's contention in this regard and, also, with their statement that had it been the intent of the legislature by Act 3, PA. 1939, to repeal the provisions of the Motor Carrier Act, such intent would have been made manifest in clear and unmistakable language. A clear intention to repeal must be shown." (Emphasis Supplied).

Other recent cases indicate that repeal by implication is not favored especially where there is a situation of a general law overruling a special law.

There is a presumption of no repeal intended without specific language so stating. Saginaw City Council v. Saginaw Board of Estimates, 256 Mich. 624, 239 N.W. 872 (1932); Yarger v. City of Hastings, 375 Mich. 413, 134 N.W. 2d 726 (1965); Attorney General ex rel. Owen v. Joyce, 233 Mich. 619, 207 N.W. 863 (1926)

The present language of PERA, particularly with no proviso such as that found in LMA and NLRA, expresses no intent to overrule special statutes enacted to regulate the hiring and firing of public employees. Thus, I conclude that special statutes like the Sheriffs Act must remain intact from the proposed repeal found in the Majority Opinion.

Also, I believe that a discharge for refusal to tender dues or the equivalent under a union security clause is violative of the Sheriffs Act (M.S.A. Sec. 5.863), Veterans' Preference Act (M.S.A. Sec. 4.1221), Teachers' Tenure Act (M.S.A. Sec. 15.1971) and Civil Service systems on all governmental levels (Const. Art. VII, Sec. 22; Art. XI, Sec. 6).

I have dealt with the Sheriffs Act in detail, supra, and I now turn to the Veterans' Preference Act which provides preferential appointment to public service for honorably discharged servicemen and women. This statute does not apply to layoff (Swantush v. Detroit, 257 Mich. 389, 241 N.W. 265 (1932); does not regulate the terms of employment, but rather the status (Walking v. Smith, 276 Mich. 193, 267 N.W. 616 (1936)); and does not impinge on the constitutional right of municipal self-government (Smith v. Flint City Commissioners, 258 Mich. 698, 242 N.W. 814 (1932)).

These qualifications are to prevent veterans preference beyond the public need, but present a direct conflict with the closed shop union security proposed by Member Walsh. In such a case, the special statute regulating veterans should remain intact from assault by the general PERA.

Job security for the veteran is provided in M.S.A. Sec. 4.1222 which provides that no veteran holding public employment shall be removed, suspended or transferred without his consent except for misconduct after a hearing.

Annotations under this section include O'Donnell v. Liquor Control Commission, 288 Mich. 377, 284 N.W. 915 (1939), holding that a discharge for political reasons could not be sustained, and feeble attempts to reinstate the dischargee upon order of the reviewing Governor were not in good faith.

Also in layoff situations a person in military service, who had been in public service prior to the military, gets his military time added to his seniority in case he wants to return to the same position upon his discharge from the military.

It is obvious that a union security clause discharge would violate these specific Legislative pronouncements.

The Teacher's Tenure Act defines Teachers as certificated personnel and certificated is defined by the State Board of Education, not by a union, as a working condition.

Additionally, M.S.A. Sec. 15. 1991 provides that after a teacher serves his probationary period he will be continuously employed, and not discharged for failure to pay union dues as that is not just or reasonable cause within M.S.A. Sec. 15.2001. Contracts with terms inconsistent with tenure are generally not valid. (M.S.A. Sec. 15.2054; LaShells v. Henen, 98 Cal. App. 6, 276, p. 377 (1929)).

Also, M.S.A. Sec. 15.2065(1) provides for reemployment of honorably discharged veteran teachers without loss of seniority. Finally, M.S.A. Sec. 15.2001 says that discharge of a teacher may be made only for just cause after a full hearing.

All of these previous statutes are special statutes by definition, and consequently may not be superseded by PERA. It has to be assumed that the Legislature was aware of such prior enactments so, absent a specific expression of intent in PERA to supersede such, there can be no implied conditioning of these statutes by PERA.

The opinion of Chairman Howlett states that the special statutes must be reconciled with PERA to give meaning to both. He then proceeds to establish the validity of PERA and leaves any possible conflicts to the courts. To me, this position presupposes that there are certain conflicts and this jeopardizes the entire holding by attempting no careful consideration of them. Further, this position assumes that PERA and the Special Statutes are on an equal footing which is obviously invalid. This position is untrue because (1) PERA is a General Statute, whereas others are specific; (2) certain Civil Service setups are constitutional entities, not flowing from the Legislature as PERA; and (3) parties responsible for setting certain conditions of employment (e.g. State Board of Education defining "certificated," and as the final step in grievance and discharge machinery) are not subject to PERA's bargaining, and any attempt to limit that power is invalid.

I think that under our Constitutional form of government the Legislature is intended to be the guardian of public policy. It must be assumed that the Legislature was aware of these policy considerations when PERA was passed. However, it seems that my fellow Board Members have chosen to ignore the express intent of the Legislature, and public policy inconsistent with their positions

-- to read into the law what they feel should be there. This is illegal as a usurpation of the Legislative function. See, for example, Green v. Graves, 1 Doug. 351 (1844); Twp. of Leoni v. Taylor, 20 Mich. 148 (1870); City of Big Rapids v. Big Rapids Furniture Mfg. Co., 210 Mich. 158, 177 N.W. 284 (1920); Central Mut. Ins. Co. of Chicago v. Kalamazoo Circuit Judge, 278 Mich. 221, 270 N.W. 275 (1936); Paselli v. Utley, 286 Mich. 638, 282 N.W. 849 (1938); Village of Kingsford v. Cudlip, 258 Mich. 144, 241 N.W. 793 (1932); Noey v. City of Saginaw, 271 Mich. 595, 261 N.W. 88 (1935); Roosevelt Oil Co. v. Secretary of State, 339 Mich. 679, 64 N.W. 2d 582 (1954); Melia v. Employment Security Comm., 346 Mich. 544, 78 N.W. 2d 273 (1956); Mack v. Reo Motors, Inc., 345 Mich. 268, 76 N.W. 2d 35 (1956).

There is a significant difference in public and private employment despite the wholesale adoption of private techniques in the public area.

The idea of "publicness" has been lost in the Majority Opinion. This idea is demonstrated by the fact that if public employees strike there can be no duplication of services as in the private sector. PERA was passed under the State police powers so the safety and welfare of the people must be maintained -- which does not allow for union security discharges where workers are in short supply or truly essential such as Policemen, Nurses, Firemen, etc. Government services are not operated with a profit motive but rather as economically and efficiently as possible -- which is frustrated when the supply of workers is not available because of a desire not to join a union; unions being an industrial phenomenon some people seek to escape by working for the Government.

In the school situation, compromising the special statutes with PERA in the manner followed by the majority might lead to the loss of school aid, tax exemptions, and criminal prosecution of school boards. School Boards are lay people chosen to represent the entire community.

And, since when did the Legislature, by enacting PERA, make union dues a prerequisite to working for the Government? It is a basic principle of public employment that the merit system was to cure the bad effects of the political "spoils" system -- which evils may be continued under another "spoils" system.

There is no protection of minority rights in PERA, as there are no union unfair practices, no secret ballots for union security, no provisos as to tender of dues, and no positive protection in a suit for fair representation. Under the fair representation decisions of the Michigan Courts there is no contract of membership (Hartley v. Brotherhood of Railway Clerks, 283 Mich. 201, 277 N.W. 885 (1938)), considerable union discretion in handling members (Zdero v. Briggs Manufacturing Co., 338 Mich. 549, 61 N.W. 2d 615 (1953)); Cortez v. Ford Motor Co., 349 Mich. 108, 84 N.W. 2d 523 40 LRRM 2474 (1957); Sheremet v. Chrysler Corp., 372 Mich. 626, 127 N.W. 2d 313 (1964), and the employee must exhaust all available union and employer grievance procedures (Kennedy v. UAW, 3 Mich. App. 629, 143 N.W. 2d 133 (1966); Ries v. Evening News Assn., 370 Mich. 614, 122 N.W. 2d 663 (1963). All of this is a condition to bringing a suit which is a costly and time-consuming protective device.

In the private sector, the U.S. Supreme Court has held that union security is no more violative of freedom of association than an integrated state bar. However, in certain situations under the Railway Labor Act, the same court ordered a rebate of dues used for politics to objecting members.

In a recent case, Keyishian v. Board of Regents of New York, 385 U.S. 589, 87 S.Ct. 675, 17 L.Ed. 2d 629 (1967), the court struck down a loyalty oath for a college professor as violative of his right to associate. The Court overruled Adler v. Board of Education, 342 U.S. 485, which had held that if a teacher did not like the conditions of employment concerning association he should look elsewhere. As Michigan makes the exaction of a similar "non-communist" oath a condition precedent to employment and state aid (M.S.A. Secs. 15.701-2), I see no practical difference between an oath to not participate in "Communist" groups and an oath to support a union, where both are exacted as a condition of employment. If a loyalty oath violates the Constitution, then a union oath would do the same.

Freedom of association and the merit system is violated by saying, "You must support a union to work here," just the same as saying, "You must be a Republican or Catholic to work here." To uphold such a term of employment would be to say that a person can only properly perform the work if he supports the union, which is inane.

I also believe that union security is violative of PERA Section 10(c) and the NLRA counterpart 8(a)(1).

On page 27 of House Report No. 245 on the Taft-Hartley Amendments, it was stated:

> "A committee amendment assures that when the law states that employees are to have the rights guaranteed in section 7, the Board will be prevented from compelling employees to exercise such rights against their will, . . . In other words, when Congress grants to employees the right to engage in specified activities, it also means to grant them the right to refrain from engaging therein if they do not wish to do so."

Preceding this is the policy statement in Norris-La Guardia indicating the right to refrain, and Senate Report 573 on the Wagner Act stating a right to refrain existed in 8(3) though not within the terms of Section 7.

What all this adds up to is that a right to refrain may be implied from the expressed right to organize.

In interpreting Sec. 8(a)(1), the courts have found that the interference and coercion forbidden is not restricted to union activity but applies to all concerned activity. NLRB v. Phoenix Life Ins. Co., 167 F.2d 983, 22 LRRM 2089 (7th Cir., 1948); cert. denied 335 U.S. 845, 22 LRRM 2590 (1948). Also the practice in hiring or not hiring union men may violate 8(a)(1) but not 8(a)(3), since the conduct may not discriminate or encourage but have the effect of restraining free choice. NLRB v. Corning Glass Works, 293 F.2d 784, 48 LRRM 2759 (1st Cir., 1961); NLRB v. Burnup & Sims, Inc., 379 U.S. 21, 57 LRRM 2385 (Sup. Ct., 1964).

Union security in public employment will be coercing the employees' rights to refrain with respect to union choice and all other matters relating to seniority, etc. By not including a provision similar to section 14 of LMA in PERA, the Legislature indicates a laissez faire attitude toward the individual's right to refrain -- if that provision violates any other provisions it would not be valid.

Other policy matters are like those found in Petrucci v. Hogan, 27 N.Y.S. 2d 718 (1941), where the courts would not allow a union security discharge on the municipal transit lines because it could not discover anything in Civil Service regulations relating to union membership as a condition of employment. Furthermore, in Michigan, municipalities may outlaw unionism of certain classes of public employees who owe an undivided loyalty to the Government. F.O.P. v. Harris, 306 Mich. 68, 10 N.W. 2d 310 (1943); Local 201, American Federation of State Employees v. City of Muskegon, 369 Mich. 384, 120 N.W. 2d 197; cert. denied, 375 U.S. 833 (1964).

PERA is not ambiguous. LMB v. Jackson County Road Commission, 365 Mich. 645, 114 N.W. 2d 183 (1962). The absence of a proviso similar to section 14 of LMA, has

been noted in the "Report of Governor Romney's Advisory Committee on Public Employees Relations:

> "Public employers and unions should be expressly authorized to include in their collective bargaining agreements 'union security' provisions of any type authorized, in the case of private employers, by the National Labor Relations Act, including 'agency shop' provisions, subject to condition that membership in the union should be open to every employees in the bargaining unit on a non-discriminatory basis."

Absence of such a proviso would invalidate all union security because of the working of Sections 8(3), 8(1) and 7 of the Wagner Act as noted on page 6 of the Senate Committee on Education and Labor Report No. 1184:

> "This proviso is not a mandate, but is a permissive exception made necessary by other provisions of the law. If this proviso were not in the bill, a willing employer and willing employees could not of their own accord agree that thereafter a person seeking employment should be required as a condition of employment to join the employees' organization. The reason is that an employer is elsewhere in the bill forbidden to indulge in "discrimination in regard to hire . . . to encourage. . . membership in any labor organization or "to attempt, by interference or coercion, to impair the exercise by employees of the right to form or join labor organizations."

I note with interest the Majority's analysis of the problem as referred to in the NLRB v. General Motors Corp., 373 U.S. 734, 83 S. Ct. 1453, 10 L.Ed. 2d 670 (1963) case. That case viewed the Legislative History of the Wagner Act as grounds for fear that sections 8(3) and 7 taken together would outlaw union security. It was more than fear and it was more than 8(3) and 7.

Viewing the report as indicative of Congressional feeling there was more than fear -- the Legislature viewed outlawing of union security as a fact.

Similarly, I agree with Chairman Howlett that the absence of a proviso in PERA indicates a Legislative intent to not have union security. But I cannot be a party to the Chairman's hyper-technical reading of sec. 10(c) as allowing an agency shop.

I disagree with the Chairman's reading of the Sec. 10(c) term "membership" to allow agency shops. First of all, the Supreme Court has held that agency shops satisfy the "membership" term of 8(a)(3) of NLRA. NLRB v. General Motors, supra. And, secondly, although 14(b) of Taft-Hartley allows states to restrict union security it also used the term "membership", and the Supreme Court has not struck down right to work laws that also outlaw agency shops. Retail Clerks v. Shermerhorn, 373 U.S. 746, 83 S. Ct. 1461, 10 L.Ed. 2d 678 (1963).

Thus, I would not find any union security arrangements mandatory subjects of bargaining absent a Legislative Amendment. So I find Member Walsh's position equally untenable as viewing 10(c) "discrimination" as the key and neglecting further analysis.

It is my conclusion that the general -- special statute dichotomy, statutory construction, and sound public policy necessitate a finding that union security is not a mandatory subject of bargaining under PERA as presently enacted.

/s/ Philip Weiss
Philip Weiss, Board Member

Dated: January 8, 1968

SUPREME COURT OF NEW JERSEY

A-24 September Term 1967

In the Matter of WILLIAM BLOCK, JOSEPH CASELLA, JAMES GILL, JAMES HIGHBERGER, ROBERT HUGHES, AGNES MORAVEK, KATHY McGREGOR, RAYMOND PETERSON, CHARLES RICHARDS, STEVE VAGRIN, WILLIAM WEINBRENNER, and WOODBRIDGE TOWNSHIP FEDERATION OF TEACHERS, LOCAL #822, AMERICAN FEDERATION OF TEACHERS, A.F.L.-C.I.O., an unincorporated association, charged with contempt of court.

Argued September 26, 1967 --
Decided December 18, 1967
On appeal from the Superior Court, Chancery Division, Middlesex County.
Mr. Abraham L. Friedman argued the cause for appellants (Mr. Samuel L. Rothbard, of counsel; Messrs. Rothbard, Harris and Oxfeld, attorneys).
Mr. Francis C. Foley argued the cause for respondent.
The opinion of the Court was delivered PER CURIAM.

Defendants were convicted in summary proceedings for contempt of court arising out of violations of a restraining order issued to end a strike by school teachers in Woodbridge, New Jersey. The Woodbridge Township Federation of Teachers, Local #822, American Federation of Teachers, A.F.L.-C.I.O., was fined $1,000; defendant Casella was fined $1,000 and sentenced to serve six months in jail, the last three months being suspended, subject to probation for two years; defendant Richards was fined $1,000 and sentenced to a term of three months, the last two months being suspended, subject to probation for one year; and the remaining individuals were each fined $500 and sentenced to a term of one month, which jail sentence was suspended, subject to probation for a year. We certified the appeals before argument in the Appellate Division.

In October 1966 the defendant Local #822, representing slightly more than half of the 821 teachers of Woodbridge, presented to the Board of Education a list of demands embodied in a document called Project Mews. By letter to the Board dated January 10 signed by its president, defendant Richards, the Local advised that its Executive Council had adopted the following resolution the day before and had directed its release to all teachers, members of the Board, and news media:

"Whereas, Unless the priority proposals of Project Mews and a revised salary guide of $6,000 to $12,000 be met by the Board of Education, therefore,

Resolved, the Executive Council of the Woodbridge Township Federation of Teachers will recommend that immediate steps be taken to affect a work stoppage in the Woodbridge Township Schools."

On January 15, a meeting of about 400 teachers was held. Defendant Casella, a representative of the national union, who, according to the testimony, is called when help is needed, attended the meeting. Apparently no strike vote was taken, but the members voted to meet at 7:00 a.m. the next day to discuss what to do.

The record does not reveal what happened at that meeting on January 16, but some 400 teachers failed to report for work and picket lines were established. The strike being illegal, a restraining order was sought and obtained that day. At a meeting of the teachers that evening, the restraining order was read to the assemblage and copies were served on all defendants except Gill, who was served at 7:00 a.m. the next day. At that meeting Casella and Richards asked the Board to meet to discuss the demands, and when the Board president replied that the Board would meet if the teachers returned to the classrooms, Casella informed the Board and all present that the teachers "were operating from a position of strength" and "they would stay out, out on strike or what have you, until they had a specific agreement with the Board." Casella then announced a meeting would be held at 7:00 a.m. the next morning (January 17) and left, followed by a substantial number of the teachers.

The teachers met at 7:00 a.m. on the 17th with Richards presiding and Casella present. There was no further picketing, but 420 teachers did not report for duty. At about 1:50 p.m. on the 17th Richards wired the Board that "if you desire to reopen the Woodbridge schools, call our office 636-2799." The teachers met again at 7:00 a.m. on the 18th, and more than 400 teachers stayed away from the schools. Later that day the order to show cause issued in these contempt proceedings.

Defendants say the restraining order was too vague to support these charges. The order, though comprehensively phrased to avoid verbal nuances, was plain in its restraints, and surely so with respect to the conduct upon which the convictions rest. None of the defendants could have doubted that the restraining order enjoined that he or she did. We have sketched the role of Richards, including the telegram which stated in effect that the

stoppage would continue, despite the restraining order, unless the Board communicated with him.

Casella was particularly vocal in his defiance of the restraining order. We noted above his categorical statement that the restraining order would be ignored, made to the assembled teachers on the evening of the 16th after the order was read and served. Earlier that day, upon being told by a member of the press that an injunction was being sought, Casella replied that "We don't know what injunctions are about. They are only an anti-labor tactic. They have never settled the teachers' dispute." Again, when told by a reporter that the court was considering the issuance of the contempt order to show cause, Casella told the reporter that "citations were a bunch of nonsense," that he did not believe anyone would be arrested but "the teachers were prepared to go to Devil's Island and spend the rest of their lives there." These statements were published as Casella obviously knew they would be. As to the other individual defendants, all of whom were either officers or members of the negotiating committee, the testimony showed that all of them stayed away from work on the 16th, the 17th and the 18th notwithstanding service of the restraining order prior to the scheduled time for reporting on the 17th, and none of them phoned in to say he or she would be absent or why.

Defendants say the evidence was insufficient to prove guilt beyond a reasonable doubt. We think the recited evidence, none of which was contradicted, is ample, and we agree with the trial court's findings. We find also that the circumstances justify the sentences imposed.

Defendants urge a number of additional challenges, none of which requires extended treatment. It was not error to deny the demand for trail by jury. See In re Buehrer, decided this day. Here defendants contend additionally that N.J.S.A. 2A:15-56 calls for trial by jury. The statute relates to labor disputes as defined in N.J.S.A. 2A:15-58, and a controversy between government and its employees is beyond its scope. See The Delaware River and Bay Authority v. The International Organization, &c., 45 N. J. 138, 148-150 (1965).

Defendants, who did not move to vacate the restraining order or to obtain a stay of it, now seek to challenge it on constitutional themes. Passing the issue whether the order may thus be questioned in a contempt proceeding, see Walker v. Birmingham, ___ U.S. MMM, 18 L. ed. 2d 1210 (1967); In re Carton, 48 N.J. 9, 17 (1966), we find no substance in any of the several complaints. There is no issue of involuntary servitude under the Thirteenth Amendment; the individual teachers were free to quit but they could not strike in concert. Nor can defendants claim a right to strike under the State Constitution, Art. I, Para. 19, upon the thesis that they are in private employment because teaching can be pursued under private auspices. We rejected the relevancy here of the distinction between "governmental" and "proprietary" functions in Delaware River and Bay Authority, supra, 45 N. J. at 146. When government undertakes itself to meet a need, it necessarily decides the public interest requires the service, and its employees cannot reverse or frustrate that decision by a concerted refusal to meet that need. In any event, teachers are ill-situated to profit from the distinction we have rejected, since the maintenance of a free public school system is mandated by the State Constitution itself. Art. VIII, 4, Para 1. The assertion that a differentiation in this area between a teacher in the public service and a teacher in a private school offends the equal-protection and the due-process clauses of the Fourteenth Amendment seems to us to be plainly frivolous. Nor is the distinction between "office" and "position" or "employment," made in some context, relevant to the subject of strikes by public servants.

Finally defendants say the trial court should not have designated the attorney for the Board to serve as prosecutor. Our rules leave this subject to the discretion of the trial court. R. R. 4:87-4. In the abstract, it might be ideal to name one who is not counsel for a litigant, but realistically it may be sensible and necessary to call upon an attorney already familiar with the case to present it. See Whippany Paperboard Co., Inc. v. Local No. 301, &c., C.I.O., 11 N. J. 153, 166 (1952). Here the attorney did not represent a private client with a dollar interest, but rather a public body. There was no reason to suppose he could not be fair. In fact he was scrupulously so, and defendants say not a word to the contrary. Rather defendants point out that as the trial developed, it became necessary for the prosecutor to testify since he served some of the defendants with the restraining order. The need for that testimony was understandably overlooked when the assignment was made, and no doubt for the reason that no one anticipated defendants would question the fact of service. Defendants did not suggest before trial that the prosecutor might have to testify, nor at the trial did defendants dispute his testimony in the least. They merely insisted, as they could, that the prosecution prove all of the elements of its case. It seems needless to add that defendants do not show they were prejudiced.

The judgments are affirmed.

EXCERPTS FROM THE

NEW YORK STATE PUBLIC EMPLOYMENT RELATIONS BOARD'S

RULES OF PROCEDURE

From: Summary of the Rules

Representation Proceedings

When confronted with a request for recognition, an employer must initially resolve the two basic issues cited above: The appropriateness of the unit and of the employee organization, if any, chosen by the employees in such unit. If the employer, after deciding upon what it believes to be the appropriate unit for collective negotiations, determines that the employee organization involved represents the employees it claims to represent within that unit, it should grant *recognition* to that employee organization. If there is no dissent from this determination, there is no need for the State Board to become involved.

Many issues concerning representation will need to be resolved by the State Board because the parties involved often will be unable to agree upon a resolution of the dispute. A question concerning representation may be brought before the Board in the following ways:

- *By a public employer who has received a request for recognition* -- Within forty-five days after receiving a request for recognition, the public employer may file a petition for certification with the State Board.

- *No response by the public employer to a request for recognition* -- In the event that the public employer makes no response to a request for recognition, the party seeking recognition may, after forty-five days, file a petition for certification with the State Board.

  Refusal by the public employer to grant recognition -- Within thirty days thereafter, a petition for certification may be filed with the State Board by the party which is refused recognition by the public employer.

- *The public employer grants recognition to one employee organization but a competing organization feels that it is the one that should be recognized* -- A petition for certification or decertification may be filed by, or on behalf of, the competing employee organization which has reason to believe that there has been an error either in establishment of the negotiating unit or in granting recognition. This petition must be filed within thirty days after the employer has posted and published notice that it has granted recognition to an employee organization. Such posting and publication is required immediately after the granting of recognition. In reviewing such an act of recognition, the State Board will give weight to the units which the public employer has determined to be appropriate in the light of responsibilities of the employer to serve the public.

- *Voluntary recognition granted between April 21, 1967 and October 31, 1967* -- With regard to any recognitions granted between these dates, a petition for certification or decertification may be filed with the State Board on or before November 30, 1967.

- *Voluntary recognition granted before April 21, 1967* -- A petition for certification or decertification may be filed between 150 to 165 days prior to the next budget submission date of the employer.

- *Upon the expiration of the period during which an employee organization is entitled to unchallenged representation status* -- A petition for certification or decertification may be filed during the forty-five days preceding the expiration of this period.

Processing of Petitions By the State Board

Once a petition is filed with the State Board, it will be investigated by the Director of Representation and his staff.

1. *Appropriate negotiating unit* -- It is recognized that in many cases different parties may be able to argue with varying degrees of logic that different units are appropriate. The complexity of this issue was recognized by the Legislature which included in the Taylor Law a mandate for continuous study of the question. The Law does, however, set forth the following criteria for determination of an appropriate unit:

(a) *Community of interest* -- This is a most significant element that must be considered in determining the appropriate unit in a particular case. The following will be important in this regard: whether the employees sought to be grouped together are subject to common working rules, personnel practices, environment or salary and benefit structure. A helpful question to ask might be whether any real *conflict of interest* exists among the employees in the proposed unit.

(b) *Power to reach agreement* -- Briefly, this means that the public employer who would ordinarily deal with the proposed unit should have the power to act effectively concerning the terms and conditions of employment to be negotiated.

(c) *Responsibilities to the public* -- The proposed unit must be compatible with the joint responsibilities of the public employer and the employees to serve the public. This criterion means that a proposed negotiating unit might be inappropriate if its structure and composition were found to interfere with providing a service to the public. It takes into consideration the administrative convenience of the employer and perhaps suggests that an excessive number of units might be undesirable. On the other hand, too large a unit might be unwieldy for the negotiation of all possible issues.

To summarize, the following criteria, among others, will be considered in determining the appropriate negotiating unit in each particular case: (a) the manner in which wages and other terms of employment are determined; (b) the method of job and salary classification; (c) inter-

dependence of jobs and interchange of employees; (d) the desires of employees (this is indicative of a *felt* community of interest); (e) past practices regarding organization and negotiations; (f) the manner in which the employer is organized to do his job; (g) occupational differences; and (h) the number of employee organizations with which the employer might have to negotiate.

2. *Showing of interest* -- At the outset of the proceeding, the Director of Representation will determine administratively whether the employee organization involved has the support of a sufficient number of employees to warrant further processing of the petition. In making this determination, the following showing of interest requirements will be applied:

(a) In cases where there has been no response by the public employer to the demand for recognition, or where the employer has expressly refused to grant recognition, a showing of interest of 30% of the employees in the unit alleged to be appropriate shall ordinarily be required.

(b) In cases where the petitioner is seeking to review a decision by a public employer to voluntarily recognize an employee organization, a showing of interest of 10% of the employees in the unit deemed appropriate by the employer or alleged to be appropriate by the petitioner shall ordinarily be required.

(c) Where an employee organization is seeking to intervene in a representation proceeding, a showing of interest of *10%* of the employees in the unit already claimed to be appropriate or alleged to be appropriate by the employee organization seeking intervention shall ordinarily be required.

The State Board will decide, on a case-by-case basis, what type of showing of interest will be required. For example, dues deduction authorization cards, membership cards, signed petitions, or a combination of these may be acceptable.

3. *Exclusivity* -- If an employee organization is recognized or certified as exclusive negotiating agent, it must represent *all* employees within the negotiating unit whether or not such employees are members of the organization. *It should be noted that employees cannot be required to join any employee organization.*

The alternative to exclusivity is "members only" representation. The Taylor Law mandates that the Board conduct continuous studies into the issue of exclusivity and whether it is desirable in the field of public employment. Pending such studies, the Law allows parties to agree between themselves for exclusivity. However, exclusivity may only be granted to an employee organization that is found to represent a majority of the employees in the appropriate unit. If the parties agree to exclusivity prior to resolution of the question concerning representation and if the Board resolves the question concerning representation in favor of a majority employee organization, then that employee organization will be certified by the Board as the exclusive negotiating agent. If the parties do not agree to exclusivity at this stage and if the issue concerning representation is resolved in favor of a majority employee organization, then the parties may negotiate for exclusivity. The recognition of a minority employee organization for "members only" would ordinarily prevent the granting of exclusive rights to the majority organization during the period in which the status of the recognized minority organization would be protected under Section 208(c) of the Law. This Section assures to recognized employee organizations unchallenged representation status for a period of time that can be determined in accordance with a formula specified. Similarly, the granting of exclusive rights to the majority employee organization would ordinarily prevent the recognition of any of the minority employee organizations during the period of exclusivity. The granting of exclusive rights to the majority organization could be combined with recognition of a minority organization if the exclusive rights of the majority organization and the recognitions of the minority organizations were so restricted as to subject matter so that each has an independent sphere of interest.

4. *Certification by the State Board without an election* -- To determine whether an employee organization represents those employees it claims to represent, the statute authorizes reliance upon "dues deduction authorization and other evidences, or, if necessary, by conducting an election." *Dues deduction authorization and other evidences* means *membership in an employee organization in addition to proof that such membership is for purposes of representation in collective negotiations.*

If an employee organization can demonstrate by dues deduction authorization and other evidences that a sufficient proportion of the employees in an appropriate unit have designated it as the negotiating agent, it will be certified so long as a substantial proportion of the employees in the unit have not authorized a competing employee organization to represent them. In the following table, Column I specifies the minimum proportion of public employees in a negotiating unit which must support an employee organization by dues deduction authorizations and other evidences for the employee organization to be certified without an election; Column II specifies the proportion of public employees in a competing employee organization which must support the competing organization by dues deduction authorizations and other evidences to prevent certification without an election.

Column I (Percentage necessary to be certified without an election)	*Column II (Percentage necessary to prevent certification without an election)*
55	10
60	15
65	20
70	25

None of the foregoing is designed to discourage a public employer from recognizing an employee organization where it is convinced that the employee organization represents a majority of the employees in the appropriate unit.

5. *Certification by the State Board after an election* -- If an election is held, it will be by secret ballot. If an employee organization is deemed by the State Board to represent those employees it claims to represent, with or without an election having been held, that employee organization will be *certified* as negotiating agent.

From: Rules of Procedure

Part 201 Determination of Representation Status Under Section 207 of the Act

§201.1 Scope.

The following relates to all public employees except:

(a) Those employed by a government which has acted through its legislative body pursuant to Section 206.1 of the Act and established an impartial agency to administer procedures not inconsistent with Section 207 of the Act (see Part 202 of these Rules).

(b) Those employees employed by a government that has adopted procedures by local law, ordinance or resolution, pursuant to Section 212 of the Act, and with respect to which there is in effect a determination by the Board that such provisions and procedures are substantially equivalent to the provisions and procedures set forth in the Act and in pertinent Rules with respect to the State (see Part 203 of these Rules).

(c) Those covered by Chapter 54 of the Charter and the Administrative Code of the City of New York.

§201.2 Petitions; Filing.

A petition for investigation of a question concerning representation of public employees under the Act (hereinafter called a petition for certification), or a petition alleging that an employee organization which has been certified or is being currently recognized should be deprived of representative status (hereinafter called a petition for decertification), may be filed by one or more public employees or any employee organization acting in their behalf, or by a public employer.

Petitions under this section shall be in writing and signed. Four copies of the petition shall be filed with the Board. Petition forms will be supplied by the Board upon request. Prior to the submission of a case to the Board pursuant to Section 201.7 of these Rules, a petition may be withdrawn only with the consent of the Director of Representation. After the submission of a case to the Board, the petition may be withdrawn only with the consent of the Board. Whenever the Director of Representation or the Board, as the case may be, approves withdrawal of any petition, the case shall be closed.

§201.3 Time for Filing of Petitions.

(a) A petition for certification may be filed forty-five days after a public employer has been asked to recognize an employee organization, if no employee organization has been recognized or certified as majority representative of any of the employees within the unit alleged to be appropriate and if no election has been held under the auspices of the Board or an impartial agency during the twelve months preceding the filing of the petition; provided, however, that the Board may, in its discretion, permit the filing of a petition within twelve months following an election in which no employee organization was certified, providing, however, that the petition may be filed by the public employer within such forty-five days.

Such a petition shall ordinarily be supported by a showing of interest of at least 30% of the employees within the unit alleged to be appropriate.

(b) A petition for certification or decertification may be filed within thirty days after publication of notice that an employee organization has been recognized. Such a petition shall ordinarily be supported by a showing of interest of at least 10% of the employees in the unit deemed appropriate by the employer or alleged to be appropriate by the petition.

Publication is hereby required in all cases of recognition and shall entail the following:

(1) Specification by the public employer of the name of the employee organization which has been recognized, the unit involved for which it has been recognized, and the date of recognition.

(2) Posting of a written notice in a conspicuous place at suitable offices of the public employer for not less than five working days. This shall be accomplished by the public employer within fifteen days after recognition.

(3) Inclusion in a public advertisement in a newspaper of general circulation in the area of the public employer for not less than one day. This shall be accomplished by the public employer within fifteen days after recognition.

(4) Notification of any employee organizations that have, in a written communication within the year preceding the request for recognition, claimed to represent any of the employees in the unit. This shall be accomplished in writing by the public employer within seven days after recognition.

(c) A petition for certification or decertification may be filed within forty-five days before the expiration under Section 208(c) of the Act of the period of unchallenged representation status accorded a recognized or certified employee organization. Such a petition shall ordinarily be supported by a showing of interest of at least 30% of the employees in the unit already in existence or alleged to be appropriate by the petitioner.

(d) A petition for certification or decertification with respect to employees who are represented by an employee organization that was recognized or that entered into a contract with a public employer prior to September 1, 1967, may be filed during a period between one hundred twenty to one hundred sixty-five days prior to a budget submission date of the public employer, provided, however, that a petition for certification or decertification may be filed between November 1, 1967 and November 30, 1967 with respect to public employees who are then represented by an employee organization if such employee organization was first recognized between April 21, 1967 and November 1, 1967. Such a petition shall ordinarily be supported by a showing of interest of at least 30% of the employees in the unit already in existence or alleged to be appropriate by the petitioner.

(e) A petition for certification or decertification which seeks to review a determination of representation status of public employees made under provisions and procedures established by a local government pursuant to Section 212 of the Act may be filed together with a petition for review under Section 203.8 of these Rules, provided, however, that such a petition will not be processed unless the Board determines that the continuing implementation of the provisions and procedures of the local government has not been substantially equivalent to the provisions and procedures set forth in the Act and these Rules. Such a petition shall ordinarily be supported by a showing of interest of at least 10% of the employees in the unit deemed appropriate by the local government or an impartial agency or alleged to be appropriate by the petitioner.

§201.4 Contents of Petition for Certification; Contents of Petition for Decertification.

(a) A petition for certification shall contain the following:

(1) The name, affiliation, if any, and address of petitioner.

(2) The name and address of the public employer involved.

(3) A description of the negotiating unit which petitioner claims to be appropriate.

(4) A statement of whether petitioner seeks exclusive rights of representation within the negotiating unit or units alleged to be appropriate.

(5) The names and addresses of any other employee organizations which claim to represent any public employees within the allegedly appropriate unit. If there is any contract covering public employees in such unit, petitioner shall specify the duration, the parties, and the unit involved in the contract or attach a copy of the contract.

(6) The number of employees in the allegedly appropriate unit.

(7) Whether the requisite showing of interest requirement, as set forth in Section 201.3 of these Rules, is met.

(8) If an employee organization, the date upon which it asked the public employer for recognition.

(9) A statement that the matter is not subject to Section 206.1 or Section 212 of the Act (except a petition filed under §201.3(e)).

(10) An affirmation that petitioner and the employee organization, if any, with which he is affiliated does not assert the right to strike against any government, to assist or participate in any such strike, or to impose an obligation to conduct, assist, or participate in such a strike.

(11) A clear and concise statement of any other relevant facts.

(b) Petitions for decertification shall contain the following:

(1) The name, affiliation, if any, and address of petitioner.

(2) The name or names of the employee organization(s) which have been certified or are currently being recognized by the public employer and which claim to represent the employees in the unit involved, and the expiration date of any contract covering such employees.

(3) Whether such representation is exclusive.

(4) The name and address of the public employer involved.

(5) Whether the employee organization(s) which have been certified or are currently recognized by the public employer have engaged in a strike or have caused, instigated, encouraged, or condoned a strike against any government.

(6) The grounds upon which decertification or annulment of recognition is sought.

(7) A description of the unit, including the number of employees.

(8) Whether the requisite showing of interest requirement, as set forth in Section 201.3 of these Rules, is met.

(9) A statement that the matter is not subject to Section 206.1 or Section 212 of the Act (except a petition filed under §201.3(e)).

(10) A clear and concise statement of any other relevant facts.

§201.5 Notice of Pending Petitions.

Upon the filing of a petition under this part, notice thereof, including the date when such petition was filed, the name and address of the petitioner, the name and address of the public employer involved, and the unit claimed to be appropriate shall be posted by an agent of the Board on a public docket to be maintained by the Board at its principal office.

§201.6 Investigations and Elections.

(a) Ascertainment of desires of parties.

(1) Investigation. Subsequent to the filing of a petition, the Director of Representation shall direct an investigation of all questions concerning representation, including, if applicable, whether the showing of interest requirement, as set forth in Section 201.3 of these Rules, has been met, whether more than one employee organization seeks to represent some or all of the employees in the allegedly appropriate unit, whether there is agreement among the parties as to the appropriateness of the alleged unit, and whether the parties wish the negotiating representative to have exclusive rights of representation. The determination as to the sufficiency of showing of interest is a ministerial act.

(2) Hearing. The Director of Representation may direct a hearing, in which event he or his agent shall prepare and cause to be served upon the parties a notice of hearing before a hearing officer at a time and place fixed therein. A copy of the petition shall be served with the notice of hearing.

(b) Conduct of Hearings.

(1) Hearings shall be open to the public unless otherwise ordered by the hearing officer. At any time, a hearing officer may be substituted for the hearing officer previously assigned. It shall be the duty of the hearing officer to inquire fully into all matters at issue and to obtain a full and complete record.

(2) The hearing officer may, at his discretion, continue the hearing from day to day or adjourn it to a later date or another place, by announcement thereof at the hearing or by other appropriate notice.

(c) Motions.

(1) All motions made during a hearing shall be made part of the record of the proceedings.

(2) Motions before or after a hearing. All motions other than those made during a hearing shall be made in writing to the Director of Representation, shall briefly state the relief sought, and shall be accompanied by affidavits setting forth the grounds upon which they are based. The moving party shall serve a copy of all motion papers on all other parties and shall, within three working days thereafter, file with the Director of Representation the original and three copies thereof with proof of service. Answering affidavits, if any, must be served on all parties and the original thereof, together with three copies and proof of service, shall be filed with the Director of Representation within five working days after service

of the moving papers, unless the Director of Representation directs otherwise. The Director of Representation may rule upon motions filed with him or he may refer motions to the hearing officer. He may decide to hear oral argument or testimony thereon, in which case he shall notify the parties of such fact and of the time and place of such argument or for the taking of such testimony. All such motions and rulings and orders thereon shall be part of the record of the proceedings.

(3) Review. Unless expressly authorized by the Board, rulings by the Director of Representation or by a hearing officer shall not be appealed directly to the Board, but shall be considered by the Board whenever the case is submitted to it for decision.

(d) Waiver. An objection not duly urged before the hearing officer or the Director of Representation shall be deemed waived unless the failure to urge such objection shall be excused by the Board because of extraordinary circumstances.

(e) Introduction of Evidence; the Rights of Parties at Hearings.

(1) Any party shall have the right to appear at any hearing in person, by counsel, or by other representative, and any party and the hearing officer shall have the power to call and examine witnesses, and to introduce into the record documentary and other evidence. Witnesses shall be examined orally under oath. Compliance with the technical rules of evidence shall not be required. Stipulations of fact may be introduced in evidence with respect to any issue.

(2) The refusal of a witness at any hearing to answer any question which has been ruled to be proper shall, at the discretion of the hearing officer, be grounds for striking all testimony previously given by such witness on related matters.

(3) Misconduct at any hearing before a hearing officer, the Director of Representation, or the Board shall be grounds for summary exclusion from the hearing. Such misconduct, if of an aggravating character and engaged in by an attorney or other representative of a party, shall be grounds for suspension or disbarment from further practice before the Board or its agent after due notice and hearing.

(f) Report. The hearing officer shall submit an analysis of the record, including his conclusions and recommendations to the Director of Representation.

(g) Determination of Representatives on Consent. Subject to the approval of the Director of Representation, the parties to a representation proceeding may agree on a method by which the Director of Representation may determine the question of representation.

(h) Action by Director of Representation. After receipt of the report and recommendations of the investigator or the hearing officer, or upon consent of the parties, the Director of Representation may direct an election, recommend dismissal of the petition, or otherwise dispose of the matter. The direction of an election may be appealed to the Board within seven days thereafter.

(1) Certification without an election.

As used herein, "dues deduction authorizations and other evidences" means membership in an employee organization in addition to proofs that such membership is for purposes of representation in collective negotiations.

If an employee organization can demonstrate by dues deduction authorizations and other evidences that a sufficient proportion of the employees in an appropriate unit have designated it as the negotiating agent, it will be certified so long as a substantial proportion of the employees in the unit have not authorized a competing employee organization to represent them by executing dues deduction authorizations and other evidences. In the following, Column I specifies the minimum proportion of public employees in a negotiating unit which must support an employee organization by dues deduction authorizations and other evidences in order for the employee organization to be certified without an election; Column II specifies the proportion of public employees in a competing employee organization which must support the competing organization by dues deduction authorizations and other evidences in order to prevent certification without an election.

Column I (Percentage necessary to be certified without an election)	*Column II (Percentage necessary to prevent certification without an election)*
55	10
56	11
57	12
58	13
59	14
60	15
61	16
62	17
63	18
64	19
65	20
66	21
67	22
68	23
69	24
70	25

The determination of the proportion of employees in a negotiating unit who support an employee organization by dues deductions and other evidences is a ministerial act.

(2) Direction of an election.

If the Director of Representation determines that an election or elections shall be held, he shall provide that such election or elections be conducted by an agent of the Board at such time and place and upon such terms and conditions as the Board, the Director of Representation, or the agent may specify.

(i) Election Procedure.

(1) Unless otherwise directed by the Board, all elections shall be conducted under the supervision of the Director of Representation. All elections shall be by secret ballot. An employee organization other than the petitioner shall be entitled to be placed on the ballot upon a showing of interest of at least 10% of the employees in the unit found to be appropriate. Whenever two or more employee organizations are included as choices in an election, any participant may, upon prompt request to and approval thereof by the Director of Representation, have its name removed from the ballot; provided, however, that with respect to a petition for decertification, the employee organization certified or currently recognized may not have its name removed from the ballot without giving due notice in writing to all parties and the Director of Representation disclaiming any representation interest among the public employees in the unit. Any party may be represented by observers of his own selection, subject to such limitations as the Director of Representation may prescribe. Any party or the Board's agent may challenge, for good cause, the eligibility of any person to participate in the election. The ballots of such challenged persons shall be impounded. Upon the

conclusion of the election, the Director of Representation shall cause to be furnished to the parties a tally of ballots. Within five working days after the tally of ballots has been furnished, any party may file with the Director of Representation four copies of objections to the conduct of the election or conduct affecting the results of the election. Such filing must be timely whether or not challenged ballots, if any, are sufficient in number to affect the results of the election. Such objections shall contain a short statement of the reasons therefor. Copies of such objections shall immediately be served upon each of the other parties by the party filing them and a statement of service shall be filed with the Director of Representation.

(2) An answer may be filed within five working days from service of the objections. One copy of the answer shall be served on each party and the original, with proof of due service and two copies, shall be filed with the Director of Representation. The answer, if submitted, shall contain a concise statement of facts in refutation of the objections.

(3) If objections are filed to the conduct of the election or conduct affecting the result of the election, or if challenged ballots are sufficient in number to affect the result of the election, the Director of Representation shall investigate such objections or challenges, or both, and shall prepare a report and recommendations.

(j) Run-off Election.

(1) The Director of Representation shall conduct a run-off election without further order of the Board when an election in which the ballot provides for not less than three choices (i.e., at least two employee organizations and "neither") results in no choice receiving a majority of the valid ballots cast and no objections are filed pursuant to Section 201.6(h). Only one run-off shall be held pursuant to this section.

(2) The ballot in the run-off election shall provide for a selection among the two or more choices receiving the largest number of votes, the sum of whose votes aggregate at least one more than half of the total votes cast. Upon the conclusion of the run-off election, the provisions of Section 201.6(i) shall govern insofar as applicable.

§201.7 Submission to Board.

(a) Upon completion of proceedings before the Director of Representation, he shall submit the record of the case to the Board. The record shall include the petition, notice of hearing, motions, rulings, orders, stenographic report of the hearing stipulations, exceptions, documentary evidence, any briefs or other documents submitted by the parties, objections to the conduct of an election or conduct affecting the results of an election, and the reports and recommendations of the investigator, hearing officer and the Director of Representation.

(b) Upon receipt of the case, the Board shall proceed either forthwith upon the record or, if it so determines, after oral argument, the submission of briefs, or further hearings, to decide the issues and make such disposition of the matter as it deems appropriate. The Board may designate an employee organization as the exclusive representative of public employees within a negotiating unit if the employee organization has demonstrated that it represents a majority of the employees within the negotiating unit and there has been prior agreement between the public employer and the employee organization or organizations representing a substantial majority of the public employees in the unit that the majority representative should be afforded exclusive rights of representation.

NEW YORK STATE

PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of

UNION FREE SCHOOL DISTRICT NO. 6, TOWN OF BABYLON, SUFFOLK COUNTY, AND TOWN OF OYSTER BAY, NASSAU COUNTY,

Employer,

and

AMITYVILLE FEDERATION OF TEACHERS,

Petitioner,

and

AMITYVILLE TEACHERS ASSOCIATION,

Intervenor

Case No. C-0037

Decision and Certification of Negotiating Representative

On November 30, 1967, the Amityville Federation of Teachers (hereinafter referred to as the petitioner) filed, in accordance with the Rules of Procedure (hereinafter referred to as the Rules) of the New York State Public Employment Relations Board (hereinafter referred to as the Board) a petition for decertification of the Amityville Teachers Association (hereinafter referred to as the intervenor) as the exclusive negotiating agent for the classroom teachers, auxiliary personnel, guidance counsellors, nurse teachers, reading teachers, psychologists, department chairmen, librarians, speech therapists, dental hygienists, and A-V director, employed by the Union Free School District No. 6, Town of Babylon, Suffolk County, and Town of Oyster Bay, Nassau County (hereinafter referred to as the employer).1/ The petition alleges that petitioner requested recognition as negotiating representative on November 8, 1967 and that the employer recognized the intervenor as the negotiating representative on October 16, 1967. These allegations are uncontested, and the petition is clearly timely.2/

On December 11, 1967, an informal conference was held in this matter. Present at the conference was a Trial Examiner of the Board and representatives of all parties. At this conference, the parties entered into a consent agreement which provides, interalia, that the appropriate unit shall consist of 245 employees within the following job classifications: classroom teachers, home school visitor, department chairmen, directors, guidance counsellors, librarians, nurses, and the psychologist.

The consent agreement further provides that an election will be held unless the employee organizations who are parties thereto submit to the Director of Representation (hereinafter called the Director) of the Board within seven days from the execution date of the agreement, "dues deduction authorizations and other evidences" sufficient to satisfy the requirements of Section 201.6(h) (1) of the Rules for certification without an election. The significance and meaning of this Section was carefully explained to all parties by the Trial Examiner prior to their entering into the consent agreement.

On December 13, 1967, the petitioner submitted to the Board 83 "authorization and designation" cards. These cards contain the following information: the name of the employee, the date of signing, the school involved, the position of the employee, the school district, and the home address and telephone number of the employee. The following statement is also included above the signature of the employee: "I hereby designate and authorize the American Federation of Teachers as my exclusive agent and representative for the purpose of collective negotiations with respect to the terms and conditions of employment, the negotiation of collective agreements, and the administration of grievances arising thereunder."

On December 18, 1967, the Director approved the aforesaid consent agreement.

By letter dated December 20, 1967, the intervenor, pursuant to the consent agreement, submitted to the Director 155 "cards" containing the following information: the name of the individual employee and his position, the school involved, the date of execution, and the following statement: "This is to certify that as a paid member of the Amityville Teachers Association, I hereby designate and authorize the ATA as my exclusive representative for collective negotiations under the New York Public Employees' Fair Employment Act."

The Rules elaborately detail the circumstances under which an employee organization may be certified without an election. If an employee organization can demonstrate by "dues deduction authorizations and other evidences" that a sufficient portion of the employees in the appropriate unit have designated it as the negotiating agent, it will be

1/ An amended petition, seeking certification as exclusive negotiating representative, was filed on December 15, 1967.

2/ Rules, §§201.3(6), 208.1.

certified as long as a substantial proportion of the employees in the unit have not authorized a competing employee organization to represent them by executing dues deduction authorizations and other evidences.3/ The Rules specifically define "dues deduction authorizations and other evidences" as membership in an employee organization in addition to proof that such membership is for purposes of representation in collective negotiations.4/ Further, the Rules specify (a) the minimum proportion of employees in the negotiating unit which must support an employee organization by dues deduction authorizations and other evidences for that organization to be certified without an election, and (b) the minimum proportion of employees in the negotiating unit which must support a competing organization by dues deduction authorizations and other evidences to prevent certification without an election.5/ The following illustration, taken from Section 201.6(h) (1) of the Rules is pertinent:

Column I (Percentage necessary to be certified without an election)	*Column II* (Percentage necessary to prevent certification without an election)
55	10
60	15
65	20
70	25

3/ Rules, §201.6(h) (1).
4/ Ibid.
5/ Ibid.

In the instant case, while petitioner's submission of cards is sufficient to constitute a showing of interest, and did indeed satisfy the applicable 10% showing of interest requirement,6/ it is clear from the above that they do not satisfy the requirements for certification without an election nor do they block the certification of the intervenor without an election, since evidence of membership is lacking.

On the other hand, the cards submitted by the intervenor satisfy the requirements for certification without an election in that they specify the two necessary ingredients: (1) membership, and (2) proof that such membership is for purposes of representation in collective negotiations.7/ Since these cards were executed by 55% of the employees in the unit agreed to in the consent agreement (this percentage has been computed without taking into consideration the twenty employees who signed cards on behalf of both competing employee organizations), and since the petitioner has not submitted any "dues deduction authorizations and other evidences", the Board finds that the Amityville Teachers Association is entitled to be certified as the exclusive8/ negotiating agent for the employees in the unit specified in the consent agreement.

6/ Rules, §201.3(b).
7/ These ingredients might conveniently be referred to as "membership plus".
8/ The consent agreement provides that "if an employee organization is certified, it shall be certified as an 'exclusive' negotiating agent".

STATE OF NEW YORK

PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of UNION FREE SCHOOL DISTRICT NO. 6, TOWN OF BABYLON, SUFFOLK COUNTY, AND TOWN OF OYSTER BAY, NASSAU COUNTY, Employer and AMITYVILLE FEDERATION OF TEACHERS, Petitioner, and AMITYVILLE TEACHERS ASSOCIATION, Intervenor	Case No. C-0037

CERTIFICATION OF REPRESENTATIVE
AND ORDER TO NEGOTIATE

A representation proceeding having been conducted in the above matter by the Public Employment Relations Board in accordance with the Public Employees' Fair Employment Act and the Rules of Procedure of the Board, and it appearing that a negotiating representative has been selected;

Pursuant to the authority vested in the Board by the Public Employees' Fair Employment Act,

IT IS HEREBY CERTIFIED that the AMITYVILLE TEACHERS ASSOCIATION

has been designated and selected by a majority of the employees of the above named public employer, in the unit described below, as their exclusive representative for the purpose of collective negotiations and the settlement of grievances.

Unit: Classroom teachers, home school visitor, department chairmen, directors, guidance counsellors, librarians, nurses, and the psychologist

Further, IT IS ORDERED that the above named public employer shall negotiate collectively with the

AMITYVILLE TEACHERS ASSOCIATION

and enter into a written agreement with such employee organization with regard to terms and conditions of employment, and shall negotiate collectively with such employee organization in the determination of, and administration of, grievances.

Signed on the 10th day of January, 1968.

On behalf of the
Public Employment Relations Board

/s/ Robert D. Helsby

/s/ Joseph R. Crowley

/s/ George H. Fowler

PERB 58 (12-67)

STATE OF OREGON

DEPARTMENT OF JUSTICE

Salem

September 7, 1967

Honorable Richard L. Kennedy
State Representative
761 East 20th
Eugene, Oregon

No. 6345

You have written this office stating that as a result of defeats of many school budgets in the state, questions have arisen concerning the responsibility of the district school board to the elected consultation committee representing the certificated personnel of the district. In this connection, you ask the following questions:

"In the event the district school board and the consultation committee had previously agreed on a salary schedule, is it necessary for the school board to meet again with the committee before adopting formal changes in the salary schedule providing the reason for the change is the defeat of the proposed school budget?

"In the event a district is preparing a second budget to submit to the voters, is it necessary for the board to 'confer, consult and discuss' the matter of salaries and other related economic matters with the consultation committee?

"During the preparation of the second budget, is it possible for either side to declare persistent disagreement and request consultants? It is necessary for the school board to actually appoint consultants and hear the report of said individuals?"

The answers to these questions involve consideration of the extent to which the procedures provided by ORS 342.450 to 342.470 are applicable after defeat of a tax measure submitted to the voters in support of the initial budget adopted by the school board. In opinion No. 6222, dated January 10, 1967 and opinion No. 6231, dated February 3, 1967, this office had occasion to review the consultation procedures provided by these statutes and it was held in opinion No. 6222 that the school board's obligation to observe such procedures terminated upon the budget document being received by the budget committee. In arriving at this conclusion, we said in that opinion:

"There is nothing in ORS 342.470 which specifies the length of time during which a school board is obligated to 'confer, consult and discuss' salary matters, nor is there any designation of the time within which consultants are to be appointed. Lacking specified time limits in the statute itself, our interpretation must be based upon the purposes to be accomplished by the procedures provided for therein. After board determination of the salary item in accordance with the necessities of its budget timetable, we assume that there is no further obligation on its part to meet with the committee. The decision has been made and no purpose would be served by requiring further discussion of the matter. However, until the budget document is prepared and delivered to the budget committee, the board has authority to alter the items therein. Conceivably, a recommendation of consultants could cause modification of the board's decision on salaries during this time. Accordingly, it is our opinion that request for consultants could be made at any time prior to delivery of the budget document to the budget committee."

It was also noted in that opinion that the school board had a duty to prepare the budget document in a timely manner and that ORS 342.460 specifically provides that the obligation to "confer, consult and discuss" does not affect the powers and duties of the school board over the matter of teachers' salaries. We further observed, in opinion No. 6231, that although the legislative design was to obligate the parties to conferences, consultations and discussions on salary or related economic matters, with the objective that agreements might be reached upon such matters through these procedures, there was no absolute requirement that an agreement between the parties be consummated.

We affirm these observations made in our prior opinions and add only that where, as here, an agreement has been reached on a salary schedule through the consultation procedures good faith would seem to require that the school board attempt to secure budget committee approval of the salary schedule and, if this is possible, to provide for the agreed schedule in the initial budget. It further appears that if, in order to balance such a budget, a tax levy in excess of the six percent limitation is necessary, the board shall attempt to secure voter approval of a levy sufficient to meet the salary schedule as agreed upon.

Thereafter, if the voters have defeated a measure to authorize a tax sufficient to balance the budget, it is our opinion that it then becomes the school board's primary responsibility to either prepare a budget which can be balanced by a levy within the district's tax base or to resubmit a tax measure to the voters. In most cases, the budget timetable will require that these steps be taken without delay, particularly if another tax measure is to be submitted to the voters. If, in the board's best judgment, proposed expenditures in the budget must be reduced in order to make a levy within the tax base or to secure voter approval of a supplemental tax measure, then it is the board's prerogative as well as its duty to make such reductions. In making reductions, consideration should be given to all factors affecting the best interests of the school district, including teacher salary schedules, but the ultimate decision concerning the amount and nature of reductions must rest in the sound discretion of the board.

Because of the necessities of meeting the budget timetable and in view of our prior holdings, we are of the opinion that voter defeat of the initial tax measure does not unqualifiedly entitle the committee to renew the consultation procedures provided by ORS 342.450 to 342.470. Matters which have been or should have been the subject of original consultation procedures and which are not affected by proposed board action should not now be the subject of such procedures. Nevertheless, where an agreement has previously been reached, a board proposal

to reduce the agreed salary schedule necessarily is a decision that reduction of budgetary items must be made and that such reductions must include reduction of the agreed item for teachers' salaries. Such a decision involves new matter and a consideration of factors not present when the original agreement was made. Voter rejection of the tax measure is not necessarily a direction by the electorate to reduce the agreed salary schedule. The committee has a vital interest in deliberations which lead to a determination that such a reduction is necessary. We therefore conclude that in this situation the committee is entitled to "confer, consult and discuss" with the board the proposed salary reduction and to ask for appointment of consultants in the event of persistent disagreement. This conclusion, we believe, is in furtherance of the legislative purpose and is in harmony with the liberal construction generally accorded social legislation of this type. See 3 Horack, Sutherland, Statutory Construction, p. 395, 7201 et seq.

We repeat that we do not view the right to reopen consultation procedures as unqualified and we confine this opinion to the situation you have described. The "other related economic matters" you mention may or may not be the proper subject of further consultation procedures, depending on whether they are directly affected by proposed board action and whether they were previously the subject of such consultation procedures or should have been and were not. All such procedures are subject to the necessities of the budget and timetable and the committee should act in a timely manner at all stages of the proceedings. The board, in turn, should promptly advise the committee of any proposal to reduce the agreed salary schedule and expeditiously provide a time for conferences, consultations or discussions. Obviously, the time available for such conferences, consultations or discussions is limited, and the services of appointive consultants, if any, would need to be performed before the time set for finalization of the new budget if such services are to be effective.

Within the limitations noted above, we answer your questions in the affirmative.

ROBERT Y. THORNTON
Attorney General

by Loren H. Russell
Assistant

10/11/67
cm/1000

Negotiation Agreements

CERTIFICATED EMPLOYEE-EMPLOYER RELATIONS

INGLEWOOD UNIFIED SCHOOL DISTRICT, INGLEWOOD, CALIF.

and

INGLEWOOD TEACHERS ASSOCIATION (NEA)

4200. Basic Policy. In compliance with Sections 13080-13088 inclusive of the California Education Code, the Inglewood Unified School District recognizes the right of certificated employees to form, join, and participate in activities of employee organizations of their own choosing; provided however, that individuals may refuse to join such organizations, and may represent themselves in relations with the district. The Board of Education shall afford recognized certificated employee organizations the opportunity to meet and confer with the Board of Education or its regularly delegated representative on matters relating to employment conditions and employee-employer relations, and in addition, upon request, to meet and confer on matters relating to the definition of educational objectives, the determination of the content of courses and curricula, the selection of textbooks, and other aspects of the instructional program to the extent such matters are within the discretion of the Board of Education under the law.

POLICY RULES AND REGULATIONS

A. Recognition of Certificated Employee Organizations.

1. Definition of Certificated Employee Organization. Certificated Employee Organization means any organization composed of certificated employees of the Inglewood Unified School District which has as one of its primary purposes representing such employees in their relations with said school district.

2. Procedures for Recognition. The following procedure is hereby established for the recognition of certificated employee organizations:

a. On or before October 15 of each school year, each organization representing certificated employees of the Inglewood Unified School District shall file with the Superintendent of Schools a statement including the following:

(1) The name and mailing address of the organization.

(2) The names, organization titles, and addresses of the officers of the organization.

(3) The number of employees who are members in good standing.

(4) Designation of the names of all officers and/or committee chairmen entitled to represent the organization and its members in negotiations with the Superintendent of Schools and the Board of Education.

(5) Copies of the articles of incorporation, or constitution, the bylaws, and any other written rules and regulations governing the organization. Changes in constitution, bylaws, or other data shall be filed promptly with the Superintendent of Schools when such changes occur.

b. Signed verification of all above information shall be made by the president or secretary of the organization. Information required in paragraph (3) above shall be sworn to under penalty of perjury by the president or secretary of the organization.

c. The Board of Education shall acknowledge the proper registration of certificated employee organizations as set forth in this policy, and shall issue a notice of recognition of such organizations on or before the second regular meeting of the Board of Education immediately following the date on which the organizations file their statement with the Superintendent of Schools.

B. Procedures Governing Employee-Employer Relationships.

1. Operational Procedures.

a. The Superintendent of Schools is hereby designated as an official representative of the Board of Education in all matters of concern to certificated employee organizations.

b. All correspondence and inquiries from certificated employee organizations shall be directed to the Board of Education through the Superintendent of Schools.

c. The Superintendent of Schools shall send official replies to all written requests and/or reports made by recognized certificated employee organizations.

d. Any individual employee or group of employees wishing to make a presentation to the Board of Education shall file a written request with the Superintendent of Schools, in accordance with Board of Education Policy No. 1300 in advance of a regular or announced meeting of the Board of Education, in order that the request may be placed on the Agenda.

2. Organizational Communications.

a. Reasonable use of school facilities for communication to or between members of recognized certificated employee organizations is permitted. Such communications must not interfere with or interrupt the instructional

program or work of the employee. Such communications shall not involve the use of students as helpers or as messengers.

b. All official meetings of certificated employee organizations held on school premises shall go through the regular procedure for the use of school premises under the Civic Center Act.

3. Cooperative Development of Policy.

a. All discussions shall be conducted in an atmosphere of mutual respect and courtesy that is characteristic of Board, Superintendent and Staff relationships in the Inglewood Unified School District.

b. The Superintendent of Schools shall share with members of recognized certificated employee organizations any non-confidential information that may be helpful in negotiations or review of changes being considered. Specifically, these shall include:

(1) Accurate data regarding the district's employment practices, financial status, anticipated income, and probable obligations. Whenever possible, this should include both immediate and projected estimates of the above.

(2) Budget schedules and worksheets, and tentative budgets for the ensuing year.

(3) Copies of amendments, deletions, or additions to administrative and/or Board Policies affecting employee-employer relationships. Copies of such proposed variations of existing policies shall be supplied to the recognized certificated employee organizations no less than fifteen days prior to the Board meeting at which such proposals are to be considered.

(4) Any other non-confidential information pertaining to employee-employer relationships as may be requested by the president or principal officer of the recognized certificated employee organization, as an official request of that organization.

4. Procedure for Impasse.

a. In the event of disagreement and/or stalemate over final actions to be taken by the Board of Education on matters specified in Section 13085 of the Education Code, the Board of Education or the recognized certificated employee organization may request that an Educational Review Board be established to conduct a study of the factors producing the impasse or problem.

b. The Educational Review Board shall consist of five members. The Board of Education and the recognized certificated employee organization shall each select two members who are conversant with the problems of public education. These members shall in turn, within ten days, select a fifth member to serve as chairman of the Educational Review Board.

c. Recommendations of the Educational Review Board will be made to the Board of Education and to the recognized certificated employee organization. The final decision on the matters under consideration shall rest with the Board of Education.

C. Establishment of Negotiating Council.

1. In the event that more than one certificated employee organization requests and receives recognition, there shall be established a Negotiating Council, the purpose of which is to arrive at mutual agreement or understanding with the Board of Education on matters of concern relating to basic policy. The term of the Negotiating Council shall be from November 1 to October 31 each year.

2. On or before September 25 of each school year, each certificated employee organization requesting the right to name a representative or representatives to the Negotiating Council shall file with the Superintendent of Schools a request for representation on the Negotiating Council.

3. On or before October 15 of each school year, each certificated employee organization which has filed a request for representation on or before September 25 shall gain recognition by complying with the procedure for recognition as outlined in Section A-2, above, of this policy.

4. If a certificated employee organization fails to file such request for representation, or the verification of membership, by the required dates, it shall not be entitled to membership on the Negotiating Council for the current school year.

5. Representation.

a. For the purpose of representation, a certificated employee shall be counted only once. In the case of multiple memberships in recognized certificated employee organizations, a certificated employee shall be represented fractionally by each organization in proportion to the number of recognized certificated employee organizations to which he belongs, and in no case shall the sum of the several fractions exceed one.

b. The Negotiating Council shall consist of seven members. The number of representatives which each recognized certificated employee organization may appoint to the Negotiating Council shall be such number as bears, as nearly as practicable, the same ratio to the total number of members of the Negotiating Council as the number of members of that employee organization bears to the total number of certificated employees having membership in recognized certificated employee organizations.

6. On or before October 20 the Superintendent shall prepare a Negotiating Council formation report which shall list the following information:

a. The number of certificated employees who are verified to be members in good standing. The Board of Education or any recognized certificated employee organization may request an independent audit for the verification of membership as of October 20.

(1) If any organization shall deny to the auditor access to its records, such organization shall immediately forfeit its right to representation on the Negotiating Council.

(2) The audit shall be completed no later than December 1. Any changes in representation necessitated by the results of the audit shall be reported to the organizations by December 5. Organizations shall make the necessary changes in their number of representatives effective at the next meeting of the Negotiating Council called subsequent to December 5.

b. The number of members of the Negotiating Council, if any, to which each recognized certificated employee organization that filed a request for representation is entitled.

c. The date of the regular Board meeting prior to October 31 on which the report will be submitted to the Board of Education for approval.

7. The Superintendent shall distribute the Negotiating Council formation report to all recognized certificated employee organizations which have filed a timely request for representation.

8. The final formation report, as approved by the Board of Education shall fix for one year the number of representatives on the Negotiating Council to which each recognized certificated employee organization is entitled.

9. Copies of the final formation report, as approved by the Board of Education, shall be posted in a public place, and sent to all certificated employee organizations having members in the employ of the Inglewood Unified School District.

10. On or before October 31, each employee organization entitled to representation on the Negotiating Council shall select its representatives to said council and submit their names to the Superintendent of Schools.

11. The Superintendent of Schools, upon receipt of all names for membership on the Negotiating Council, shall notify all certificated employee organizations represented on the Negotiating Council of the names of the Negotiating Council members, and that the Council is required to hold its first meeting prior to November tenth.

12. The Negotiating Council shall meet on or before November tenth to elect a chairman. The chairman shall notify the Board of Education and the Superintendent of Schools that the Negotiating Council is legally constituted to meet and confer with the Board of Education or its duly authorized representative.

13. The Board of Education, or its duly authorized representative, shall, upon request of the chairman of the Negotiating Council, meet and confer with the Negotiating Council with regard to matters specified in Sections 13083-13085 of the Education Code.

14. <u>Procedure for Impasse</u>.

a. In the event of disagreement and/or stalemate over final action to be taken by the Board of Education on matters specified in Section 13085 of the Education Code, the Board of Education or the Negotiating Council may request that an Educational Review Board be established to conduct a study of the factors producing the impasse or problem.

b. The Educational Review Board shall consist of five members. The Board of Education and the Negotiating Council shall each select two members who are conversant with the problems of public education. These members shall in turn, within ten days, select a fifth member to serve as chairman of the Educational Review Board.

c. Recommendations of the Educational Review Board will be made to the Board of Education and to the Negotiating Council. The final decision on the matters under consideration shall rest with the Board of Education.

POLICY RELATING TO WORKING RELATIONS

BETWEEN THE BOARD OF EDUCATION AND CERTIFIED PERSONNEL

LINN-BENTON UNION HIGH SCHOOL DIST. #8

ALBANY, OREGON

The Board of Directors of School District U-8J resolves to comply with O.R.S. 342.450 to 342.470 and to establish procedures under which certified personnel other than superintendent may confer, consult, and discuss with the Board of Directors on questions pertaining to salaries and other economic policies affecting professional services.

The Board of Directors will confer, consult, and discuss salaries and related economic policies affecting professional services with a committee of certified personnel elected to represent other such personnel within the district in accordance with procedures established under this policy statement.

Article I. Name of Committee.

Section 1. This body shall be known as the Conference Committee.

Article II. Purpose.

Section 1. The purpose of this committee shall be to establish procedures under which certified personnel other than the superintendent may confer, consult, and discuss, in good faith, with the Board of Directors of School District U-8J on questions pertaining to salaries and other economic policies affecting professional services.

Article III. Membership.

Section 1. Membership on this committee shall be limited to the certified personnel of School District U-8J below the rank of superintendent.

Section 2. This committee shall consist of five teachers and one administrator. One of these teachers will be from each Junior High and two from the senior high school. One administrator will be elected at large.

Article IV. Term of Office.

Section 1. Members of this committee shall serve for a period of three years from the time of the election.

Section 2. At the initial election candidates will be ranked by number or votes received with the two highest candidates serving three year terms, the next two candidates serving two year terms, and the next one candidate serving a one year term.

Section 3. Subsequent to the initial year, the elected member(s) shall serve a three year term of office.

Section 4. Committee members may be re-elected, however, no member shall serve more than six consecutive years.

Article V. Vacancies.

Section 1. Should vacancies occur, they shall be filled for the unexpired term by the person receiving the next highest number of votes at the last election.

Section 2. Should the nominee list be depleted a special election directed by the district clerk shall be held to fill the unexpired term.

Article VI. Nominations.

Section 1. Nominations shall be by petition.

Section 2. The petition may be obtained from the principal's office in the respective buildings.

Section 3. A petition for each candidate must contain the signatures of at least fifteen certified employees of School District U-8J.

Section 4. The prospective candidate shall file the nomination petition with the building principal at least two weeks prior to the election.

Section 5. The building principals shall file the petition(s) with the district clerk's office wherein the candidate's names(s) shall appear on the ballot.

Section 6. The petition form shall be provided by the U-8J District Clerk.

Article VII. Elections.

Section 1. Elections shall be completed by 5:00 p.m. on the first Tuesday in October.

Section 2. The printing, circulating, canvassing of ballots, and the election shall be conducted under the supervision of the School Board of District U-8J.

Section 3. All committee members shall receive a majority of the votes cast to be elected.

Section 4. All certified personnel in School District U-8J are eligible to vote on all candidates.

Section 5. In the event no candidate secures a majority of the votes cast, a run-off election within 10 days shall be held between the two candidates receiving the largest number of votes.

Section 6. The election results shall be certified by the School Board of District U-8J.

Section 7. Campaigning shall not interfere with a teacher's professional responsibility.

Section 8. All voting shall be by secret ballot.

Article VIII. Recall.

Section 1. A recall election of a committee member(s) shall be held within 20 days if a petition is filed with the district clerk bearing the signatures equal in number to 30 percent of the certified staff below the rank of superintendent.

Section 2. Election for recall shall be conducted in the same manner as a regular election.

Section 3. A Conference Committee member shall be recalled by a two-thirds majority of those voting.

Section 4. Vacancies shall be filled in the manner specified in Article V.

Article IX. Responsibilities.

Section 1. The Conference Committee shall represent the certified personnel in District U-8J below the rank of superintendent.

Section 2. The committee shall have the responsibility of conferring, consulting, and discussing in good faith with the district school board on such matters as salaries and related economic policies affecting professional services; however, nothing in this Article is intended to deny any individual access to the School Board for any reason. All school staff members shall have the right to address the School Board on matters that are of personal interest to themselves.

Section 3. The committee shall keep accurate records of the proceedings and make available upon request such proceedings to the certified personnel.

Article X. Resolving Differences.

Section 1. In the event of a persistent disagreement between the School Board and the certified school employees, either party may request the appointment of the consultant board. The consultant board shall consist of one member appointed by the board, one member appointed by the employees and one member chosen by the other two members. Such request shall be in writing and delivered to the chairman of the other party.

Section 2. In the ensuing 5 days the School Board and the certified school personnel shall each appoint its representatives to the Consultation Board.

Section 3. A third representative shall be appointed by the two representatives so selected with 5 days of their appointment.

Article XI. Consultation Board.

Section 1. The Consultation Board shall have 30 days in which to reach a recommendation concerning the dispute.

Section 2. The Consultation Board shall be fact-finding and shall make recommendations to the school board and district certified personnel for reasonable settlement of the disagreement.

Section 3. The necessary expenses of the Consultation Board shall be borne by District U-8J. The form "necessary expense" shall include daily compensation for each consultant not to exceed $25 plus 8 cents ($.08) per mile for required travel.

Article XII. Board Responsibility.

Section 1. Nothing in this resolution is intended to deny or abrogate any of the powers or responsibilities of the School Board that have been assigned to it by any Oregon Law or regulation of the State Board of Education.

PROFESSIONAL COMMUNICATION AGREEMENT

between

THE BOARD OF EDUCATION OF THE FORT WORTH INDEPENDENT SCHOOL DISTRICT

FORT WORTH, TEXAS

and

THE FORT WORTH CLASSROOM TEACHERS ASSOCIATION (NEA)

INTRODUCTION

The Fort Worth Classroom Teachers Association (hereinafter referred to as Association) enjoys an unusually fine rapport with the Superintendent of Schools of the Fort Worth Independent School District (hereinafter referred to as Superintendent) and the Board of Education of the Fort Worth Independent School District (hereinafter referred to as Board). The Association, the Superintendent, and the Board are all interested in promoting the well-being of pupils and teachers and the professional growth of the latter.

Recognizing this good fortune, the Association hopes to insure the continuance of this excellent relationship through this written agreement. The Association feels that a Superintendent and a Board who are willing to adopt such an agreement are granting teachers the status of a profession in fact as well as in name.

The purpose of this agreement is to give teachers a voice in the development of educational policies which affect them and to improve the channels of communication among the Association, the Superintendent, and the Board.

In return, the Association pledges that it will exercise reasonableness and restraint in its requests and will follow professional channels and methods in seeking agreement.

The Association is fully aware of, and readily accepts, the responsibilities embodied in this agreement. The Association intends to work hand-in-hand with the Superintendent and the Board for the betterment of the Fort Worth Public Schools.

The Board, the Superintendent, and the Association agree that the education and the well-being of the children of the Fort Worth Public Schools are paramount in the operation of the schools and will be promoted by all three parties.

The parties do hereby agree as follows:

I. RECOGNITION

The Board will grant exclusive negotiation rights to the Association as long as the Association can substantiate that it represents a majority of the professional teaching staff of the Fort Worth Independent School District. Such substantiation will be in the form of a letter of verification from a local certified public accountant.

The Association will not discriminate in its membership requirements on the basis of race, religion, national origin, sex, marital status, or teaching level or subject.

II. PRINCIPLES

A. Attaining Objectives

Attaining objectives of the educational program requires mutual understanding and cooperation among the Board, the Superintendent and his staff, and the professional teaching personnel. Free and open exchange of views is desirable and necessary, with all parties participating in deliberations leading to the solution of problems of mutual concern.

B. Professional Teaching Personnel

Teaching is a profession requiring specialized qualifications; and the success of the educational program depends to a large extent upon the maximum use of the abilities of teachers satisfied with their conditions of employment.

C. Representation

The Board or the Superintendent (as the Board's chief administrative officer) or their designated representatives may meet and confer with members of the Association and attempt to reach agreement on any proposal or policy affecting the educational program.

Individuals and minority organizations may present their views and recommendations to the Board at regularly scheduled meetings of the Board.

III. PROCEDURES

A. Negotiation Committees

Representatives of the Association may confer with representatives of any other organization prior to initiating negotiation. The purpose of these conferences will be to seek areas of common concern.

B. Directing Requests

Requests for meetings from the Association normally will be made directly to the Superintendent. Requests from the Board or the Superintendent will be made to the president of the Association. A mutually convenient meeting date shall be set within a reasonable period of time.

C. Meetings

Meetings composed of members of the Association Negotiation Committee and the Board or the Superintendent shall be called upon the written request of any one of the parties. Requests for meetings shall contain

the reasons for the request, and will be made in writing at least ten days prior to the suggested date of such meeting. Teacher members of the Committee shall be released from school duties to attend meetings. Meetings shall be scheduled to interfere the least with school schedules.

D. Study Committees

The parties may appoint "ad hoc" study committees to research, study, and develop projects, programs, and reports, and to make recommendations on matters under consideration. The committees shall report findings to the parties.

E. Assistance

The parties may call upon competent professional and lay representatives to consider matters under discussion and to make suggestions. Each party shall provide its own necessary clerical assistance.

F. Progress Reports

With the approval of the parties, periodic progress reports may be issued.

G. Exchange of Information

Free and open exchange of information and continuing close communication between the parties are essential in the development of intelligent, accurate, and constructive programs on behalf of students, teachers, and the educational program.

The Board and Superintendent agree to furnish the Association, upon reasonable request, pertinent information such as preliminary budgetary proposals, requirements, allocations, and other information to assist the Association in making recommendations for the development of sound educational programs.

The Association agrees to furnish the Board and Superintendent, upon reasonable request, research information and data, gathered by the Association, that will assist the Board and Superintendent in the development of sound educational programs.

IV. AGREEMENT

When agreement on a proposal or policy is reached, it shall be reduced to writing and, when approved by the Association and the Board, shall be signified by the signing of all parties, and become a part of the official minutes of the Board. Every attempt should be made by both parties to expedite approval. The agreement shall constitute a modification of the Articles of this agreement, and when necessary, provisions in the agreement shall be reflected in individual contracts of school personnel. The agreement shall not discriminate against any member of the staff regardless of membership or nonmembership in the Association.

V. MEDIATION AND APPEAL

A. Board of Education

If agreement is not reached, and members of the Board have not participated directly in the deliberations, the Association representatives and the Superintendent or his representatives may present separate reports to the Board. The procedure outlined in Section III will then be followed to reach agreement with the Board.

B. Advisory Panel

In case of a disagreement about the meaning or application of this agreement, or if an impasse is reached during negotiations, the matter will be submitted to a local Advisory Panel within thirty days after the request of either party to the other. The Board will name one adviser, and the Association will name another. A third member, who shall be the chairman, shall be named by the first two named members.

The Advisory Panel shall have authority to confer separately or jointly with the Board, the Superintendent, and the Association, and to use any other source of information.

The Advisory Panel shall report recommendations for settlement within a reasonable period of time. The recommendations shall be submitted to both parties.

The Association recognizes that under Texas law, the Board shall have and exercise the exclusive control of the public schools within the Fort Worth Independent School District. This agreement in no way attempts to alter or diminish such statutory authority. The final decision will be made by the Board.

VI. COSTS

Costs and expenses incurred by any party will be borne by that party. In the event an Advisory Panel is used, the Association will bear the expenses of its appointee, the Board will bear the expenses of its appointee, and both parties will share equally the cost of the third member. Any additional expenses incurred during mediation and appeal will be shared equally by both parties.

VII. ARTICLES

Agreements reached as hereinabove provided will be attached as Articles.

VIII. DURATION

The provisions of each Article attached hereto shall be effective as of the date affixed to each Article, and shall continue in full force until revised. Either party desiring changes in this agreement shall notify the other party in writing at least thirty days prior to April 1 of any year. Changes may be made at any time by mutual consent.

ATTEST:

SUPERINTENDENT OF SCHOOLS
FORT WORTH INDEPENDENT SCHOOL DISTRICT

/s/ Elden B. Busby
Date August 24, 1966

BOARD OF EDUCATION
FORT WORTH INDEPENDENT SCHOOL DISTRICT

Six Signatures

FORT WORTH CLASSROOM
TEACHERS ASSOCIATION

Five Signatures

PROFESSIONAL NEGOTIATIONS

VANCOUVER SCHOOL DISTRICT NO. 37

VANCOUVER, WASHINGTON

and

VANCOUVER EDUCATION ASSOCIATION (NEA)

INTRODUCTORY STATEMENT

The Board of Directors of Vancouver School District No. 37 concurs:

1) that teaching is a profession requiring maximum utilization of the knowledge and opinions of professionally qualified personnel in the context of challenge under which their services are regularly rendered, and

2) that the attainment of educational objectives of the school district requires a free and open exchange of views between the district's board of directors and its staff of certificated employees in matters relating to, but not limited to: curriculum, textbook selection, in-service training, student teaching programs, hiring and assignment practices, leaves of absence, salaries and salary schedules and noninstructional duties, and

3) that the welfare of the pupils of the school district may be substantially enhanced by the establishment of effective channels and procedures of communication between the district's board of directors and representatives of its staff of certificated employees.

The board of directors does, therefore, adopt this statement of policy under authorization granted by Chapter 143, Laws of 1965, Revised Code of Washington, as follows:

I. RECOGNITION

A. The board of directors recognizes the Vancouver Education Association, hereinafter referred to as the association, as the duly-elected body, representative of all of the K-12 certificated personnel employed, or to be employed, by the board.

B. The association recognizes the board as the elected representative of the people of Vancouver and as the employer of the certificated personnel of the Vancouver School District.

The association recognizes that the board must by law establish all school policies for the district.

C. The purpose of this recognition is the mutual agreement that the parties will negotiate with regard to all matters of future policy adoption or revision and will use professional and educational channels for appeal in the event of impasse.

D. This policy shall not be interpreted to deny the right of a certificated employee to appear before the board on his own behalf on matters relating to his employment relations with the board. In the event such employment relations shall affect other certificated staff members, the association shall have the right to express its considered professional judgment before the board prior to the board's final determination of policy.

II. PROCEDURES

A. POLICY DEVELOPMENT

Notice of any impending or projected policy development or revision must be directed by the superintendent to the association president at least 15 days prior to formal board consideration.

Policy decisions are defined as legislative acts of the board wherein general guidelines are established for use by the board of directors, members of the administrative and/or teaching staff in future specific situations or actions.

Upon timely receipt of notice from the superintendent of intent to enact or revise policy, the association president shall, at least five days before the scheduled meeting of the board, notify the superintendent of the organization's desire to make representations regarding the policy decision.

Failure to give such timely and written notice of intent to make representations shall constitute lack of interest in the matter.

B. DIRECTING REQUESTS

Requests for meetings from the association normally will be made directly to the district superintendent or his representative. Requests from the district superintendent or the board or their representatives will be made to the president of the association. A mutually convenient meeting date shall be set within 15 days of the date of the request.

C. REPRESENTATION

A local organization shown by an election to have been designated to represent a majority of the certificated employees of the school district shall subsequently appoint a maximum of three representatives who shall present themselves at the next regular meeting of the board of directors as the professional negotiations team which shall communicate to the board of directors the views of the certificated employees of the district.

The designated professional negotiations team may, in cases involving specialized or technical matters, select other members of their organization to represent them in their stead.

The board of directors may designate a committee of its members to represent the school directors in professional negotiations discussions.

D. MEETINGS

The district superintendent shall meet when deemed necessary by either party with the association representatives to confer on matters of mutual concern. Policy matters not satisfactorily resolved at these meetings, or matters requiring board action, shall be the subject of negotiation between a committee of the board, including the district superintendent, and association representatives.

Meetings composed of the professional negotiations team, the board, or a committee of the board, and the district superintendent, shall be called upon the written request of any one of the parties. Requests for meetings shall contain the reasons for the request. Teacher members of the negotiations team shall be released from school duties to attend meetings. Meetings shall be scheduled to interfere the least with school schedules.

Official summary minutes shall be kept and clerical assistance provided.

E. ASSISTANCE

The parties may call upon competent professional and lay representatives to consider matters under discussion and to make suggestions. Educational consultants may be used in the deliberations. The presence of consultants should be made known to both parties in advance of any meeting for inclusion on an agenda.

Necessary clerical assistance shall be provided.

F. EXCHANGE OF INFORMATION

Recognizing that the ebb and flow of information is essential to decision making, teaching, and learning, it is necessary that there be a mutual exchange of information relating to topics under discussion which will assist in developing intelligent, accurate, and constructive programs on behalf of the teachers, the students, and the educational program.

III. MEDIATION AND APPEAL

A. ADVISORY BOARD

In case of disagreement about the meaning or application of this policy, or if an impasse is reached during negotiations, the matter will be submitted to an advisory board within 30 days after the request of either party to the other. The board will name one adviser, and the association will name another. A third member, who shall be the chairman, shall be named by the first two named members.

The advisory board shall report recommendations for settlement within 15 days. The recommendations shall be submitted to both parties.

B. THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

If the advisory board fails to make a recommendation acceptable to the parties, either party may request the assistance and advice of a committee composed of educators and school directors appointed by the state superintendent of public instruction. This committee shall make a written report with recommendations to both parties within 15 days of receipt of the request for assistance.

Any recommendations of the committee shall be advisory only and not binding upon the board of directors or the employee organization.

VI. COSTS

Costs and expenses which may be incurred in securing and utilizing the services of any individual or advisory board shall be borne by the agency requesting assistance from the state superintendent's office.

VII. MODIFICATION

Either party desiring changes in this policy shall notify the other party in writing at least 30 days prior to April 1 of any year.

Changes may be made at any other time by mutual consent.

VIII. MINORITY VIEWS

A. Any individual or minority organization of certificated employees desiring to represent separate views, recommendations or problems, shall do so first by following procedures adopted by the board of directors for the lodging of complaints and inquiries through proper administrative channels of communication.

B. Failing to receive satisfaction through proper channels of communication, the individual or minority organization may request of the chief administrative officer of the board an opportunity for an audience with the board making that request in writing at least ten days before the scheduled meeting. Such written request shall contain a statement of the reasons for requesting the audience, outlining the problems to be discussed and specifying the points to be made.

C. The chief administrative officer of the board will respond in writing, not less than three days before the scheduled board meeting, inviting participation by the individual or spokesmen members of the minority organization and specifying the date, time and place of the meeting and the amount of time allocated on the agenda for the audience requested. Any audience so scheduled will be limited to matters specified in the request.

Compiled by the Research Division

NATIONAL EDUCATION ASSOCIATION

1201 Sixteenth Street, N.W., Washington, D.C. 20036

Negotiation Research Digest

Volume 1, No. 8 April 1968

Comprehensive Agreements from Janesville, Wisconsin, and Arlington, Virginia ..... Agreements: D-1

Texts of agreements between the Arlington County, Virginia, School Board and the Arlington Education Association (NEA) and between the Janesville Education Association (NEA) and the Board of Education of Janesville, Wisconsin. Both agreements are for the 1968-69 school year, July 1, 1968, to June 30, 1969.

Michigan Schools Must Bargain on School Calendar; Employee Activities Protected ..... Description: A-1
Text: C-1

Providing the applicable state statutes are met, the school calendar is an appropriate subject for bargaining. Vacation days and similar local school calendar determinations are subject to bargaining procedures if requested.

Teacher Planning Periods Specified in Negotiation Agreements ..... Data and Statistics: B-1

Analysis of 1966-67 comprehensive agreements containing provisions for duty-free teacher planning or preparation periods. Listing of 181 such agreements with specific requirements for elementary-, junior high-, or high-school teachers.

Rhode Island Supreme Court Specifies Procedure ..... Description: A-1
Text: C-5

When a school board will not execute an agreement, a recognized organization should first seek relief from the Rhode Island Labor Relations Board, not from courts.

New Jersey Study Commission Recommendations ..... Text: E-1

Three excerpts from the text of the Final Report to the Governor and Legislature of the New Jersey Public and School Employees' Grievance Procedure Study Commission.

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Agreement Article on Principals ..... Description: A-2

Clerical help, a duty-free lunch period, and building control are three areas covered in Article XV, Principals, in the Derby, Connecticut, agreement.

Optical Scanning Techniques Broaden Analysis of 1967-68 Agreements ..... Description: A-3

Announcement of more detailed analysis of 1967-68 negotiation agreements.

The Negotiation Research Digest is published ten times per year, September through June. Single copy, $3.00; 2-9 copies, 10% discount; 10 or more copies 20% discount.

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Description and Analysis

BARGAIN OVER SCHOOL CALENDAR; ACTIVITIES OF EMPLOYEE REPRESENTING UNIT PROTECTED

In a mid-1967 decision involving charges brought against the Reese (Michigan) Public School District by the Reese Teachers Education Association (NEA), the Michigan Labor Mediation Board found the system "was engaging in certain unfair practices, and ... that it be ordered to cease and desist therefrom." The charges related to a refusal to bargain over certain aspects of the school calendar, and the addition of letters to a teacher's personnel file as a result of the teacher's activities representing the members of the bargaining unit.

The MLMB ordered the letters removed from the teacher's file because the letters constituted interference with the rights of employees under the meaning of the Public Employment Relations Act.

The Board also indicated that the Reese School Board was obliged to bargain with respect to certain aspects of the school calendar, such as length of vacations, time of beginning and end of vacations, and holidays. The bargaining would, of course, have to stay within statutory calendar requirements.

Text of the decision begins on page C-1.

UTILIZE LABOR RELATIONS BOARD FIRST, RHODE ISLAND SUPREME COURT DIRECTS

When in May 1967 the Warren (Rhode Island) School Committee would not execute a negotiated contract for 1967-68 with the Warren Education Association (NEA), the Association attempted to compel the School Committee to execute the agreement by instituting court action. The matter was taken to the Rhode Island Supreme Court which recently rendered a decision on the case.

The Court indicated the association was in error in seeking court action to compel the school committee to execute the contract; the Rhode Island Labor Relations Board has the power to compel the school committee to execute a contract. The labor relations board is provided with authority to obtain speedy judicial action on enforcement, when necessary. The court added:

We are of the opinion that the association has in the teachers arbitration act a very adequate and effective course of relief in this case. The legislature has created therein a remedy for their grievances which significantly enhances their power to bargain with school committees. By petitioning the labor relations board, whose expertise in this sensitive area is unquestioned, the association may well find such assistance so efficacious in solving their negotiation problems that the necessity of any judicial intervention will be averted. If its efforts are unsuccessful in

bringing about proper relief, seasonable judicial aid can be swiftly brought to bear on a recalcitrant party through the preferred status which is given to suits filed at the behest of the state labor relations board.

The full text of the decision begins on page C-5.

SPECIFIC ARTICLE RELATES TO PRINCIPALS IN DERBY, CONNECTICUT, AGREEMENT

The Derby Education Association, as the recognized organization for negotiation, represents all regular certificated personnel other than the superintendent.

In its agreement with the Board of Education of the Derby (Connecticut) School District, the Derby Education Association (NEA) has included an article relating specifically to principals:

ARTICLE XV

PRINCIPALS

A. Clerical help - Clerical help will be given to every school including the high school. Bradley School, New Irving, Franklin, Lincoln School, and the Reading Consultant will each receive a part time clerk. The high school will receive a full time clerk.

B. Duty free lunch period - The principals will receive a free period during the noon hour for lunch not to exceed thirty (30) minutes, and the principal should be able to use his own discretion in leaving the building at this time.

C. Building control - Each principal should be empowered to administer and supervise his building in the multitude of minor details that arise in the everyday operation of the plant and staff commensurate with his assigned authority and responsibility.

1. Minor repairs that must be made immediately when the superintendent or maintenance man is not available.

2. Supervision of staff (professional and non-professional).

3. Should be a part of decision making concerning staff and building plans.

D. Assist in the selection of certified personnel - Recommend that principals and supervisors take an active part in recruitment and selection of certified personnel with the aim of having the best possible qualified teachers come to Derby to teach.

1. A committee would be responsible for making recommendations to the superintendent regarding selection of personnel.

2. Whenever feasible committee members and superintendent should visit prospective teacher and observe and interview.

3. The principal who has a person assigned to school should have knowledge and consideration of the appointment.

E. Administrative Council to assist in better communication on all levels - it is recommended that a council be set up as a means of maintaining effective communication throughout the school system. This council might also serve as a sounding board for proposals or complaints before they are taken before the Board of Education at a public meeting. The council should be made up of representatives as follows:

1. *The superintendent of schools*
2. *Two Board of Education members (one from each party)*
3. *One principal*
4. *One teacher representative from each building*
5. *One traveling teacher*
6. *One non-certified personnel (secretary, nurse, etc.)*
7. *One custodian*

F. Educational Conferences - We recommend that the Board of Education encourage out attendance at certain special conferences and meetings both in and out of the state of Connecticut.

1. *The Board is requested to establish a fund in the budget to indicate their willingness and encouragement.*

2. *The superintendent is to be notified in advance (as soon as possible) of personnel's intention to attend these meetings.*

3. *Establish an equitable arrangement for all to participate.*

G. It is requested that a luncheon meeting be held once a month to discuss problems or new ideas with the superintendent, the chairman of the Board of Education, the principals, supervisors, and other educators.

H. Promotions - Consideration should be given to principals already in the system when vacancies occur in positions for which they are qualified.

MORE DETAILED ANALYSIS OF 1967-68 NEGOTIATION AGREEMENTS MADE POSSIBLE THROUGH USE OF OPTICAL SCANNING TECHNIQUES

The agreements obtained in the 1966-67 national survey of teacher/school board negotiation agreements were each analyzed for a possible 180 content items; results of the analysis were made available as Negotiation Agreement Provisions, 1966-67 Edition ($15, Stock #841-24006). The scope of the analysis of the 1967-68 agreements has been broadened substantially to 394 items, the bulk of the increase being in the three areas of group insurance, salary schedules, and leaves of absence. Each of the three areas will be analyzed to provide more specific and useable data; a change in the mode of reporting the information will increase its utility.

The increase in the number of items analyzed has been made possible through the adoption of optical scanning techniques. The coupling of the optical scanning techniques to the use of the NEA Research Division's computer should provide a more useable 1967-68 edition of Negotiation Agreement Provisions. Digest subscribers will be notified when the new edition is being readied for printing; a tentative publication date has not yet been established.

Data and Statistics

TEACHER PLANNING PERIODS SPECIFIED IN NEGOTIATION AGREEMENTS

Teachers have recently shown considerable concern over the availability of time to plan and prepare their lessons as part of the regular school activities. One way of studying the details and extent of such planning or preparation periods is to study the negotiation agreements which have such provisions.

The February 1968 issue of Negotiation Research Digest indicated that 213 of the 398 comprehensive agreements for 1966-67 had such duty-free planning time provisions. Each of these 213 agreements was studied in preparing this analysis; 181 contained specific statements relating to duty-free planning time. The planning time allotments in each of the 181 agreements follow in the accompanying table.

As would be expected, the wording of the agreements varied widely. Thus, the table lists only those systems whose agreements specified amounts of unassigned time which could be used for planning or preparation. Wherever possible, terminology was carried into the table from the agreement in order not to require the making of value judgments.

Agreements in which amounts of time were listed as "relief time," but not specified for planning or preparation, were not included in the table.

"Periods of special area instruction" is used in the table to denote the availability of time blocks to the elementary-school teacher for planning when that teacher's class is being instructed by a special teacher in such subjects as art, music, and physical education. Again, however, the availability of such planning time for the regular classroom teacher had to be specified.

Agreements which listed target dates for implementation of planning periods, goals, or similar indefinite wording, will not be found listed in the table.

Care should be taken not to make quick comparisons of planning times specified, either on an inter- or intra-school system basis, without considering the number of teaching periods, the maximum number of preparations, and the length of the periods. Each of these factors may have an effect upon the number and length of planning periods.

Inclusion or omission of planning time for junior high-school teachers should be considered in the light of different organizational patterns, philosophies, and policies; e.g., a school system which considers its junior high-school teachers to be the equivalent of high-school teachers for organizational purposes, may not make a separate specification for the junior high-school teachers in the agreement.

The table lists only those systems which negotiated a specific duty-free planning time provisions into its agreement. Most other school systems also have planning time allotments for at least their high-school teachers, but they either do not have a comprehensive negotiation agreement or did not negotiate on the subject.

State and school system	Location	Elementary-school teachers	Junior high-school teachers	High-school teachers
COLORADO				
Littleton School District 6	Littleton	150 minutes per week		One period per day
CONNECTICUT				
Bristol Public Schools	Bristol			One period per day
East Hartford Public Schools	East Hartford			One period per day or five per week
Enfield School District	Thompsonville			One period per day
Manchester Public Schools	Manchester			One period per day
Milford School District	Milford			One period per day
New Haven Public Schools	New Haven			One period per day
New London Public Schools	New London	Periods of special area instruction		One period per day
New Milford School District	New Milford	Some time each day		
Putnam Supervisory District Schools	Pomfret		Four periods per week	
Seymour Public Schools	Seymour	One period per day	One period per day	One period per day
Stratford School District	Stratford			One period per day
Waterbury Public Schools	Waterbury			One period per day
Waterford School District	Waterford	Two hours per week		Two periods per week
Wethersfield Public Schools	Wethersfield			One period per day
Windham Public Schools	Willimantic		One period per day	One period per day
Woodbury Public Schools	Woodbury			One period per day
MASSACHUSETTS				
Boston Public Schools	Boston			Five periods per week
Palmer Public Schools	Palmer			One period per day
Springfield Public Schools	Springfield			One period per day
MICHIGAN				
Adrian School District	Adrian		One period per day	Two periods per day
Akron-Fairgrove Public Schools	Akron		Five periods per week	Five periods per week
Airport Community Schools	Carleton			Five periods per week
Albion Public Schools	Albion	50 minutes per day	50 minutes per day	50 minutes per day
Alcona Community School District	Lincoln			One period per day
Allen Park Public Schools	Allen Park	25-30 minutes per day	25-30 minutes per day	25-30 minutes per day
Bath Community Schools	Bath			Five periods per week
Battle Creek School District	Battle Creek			One period per day
Bay City School District	Bay City			One period per day
Beaverton Rural Schools	Beaverton		One period per day	One period per day
Benton Harbor School District	Benton Harbor			One period per day
Big Rapids School District	Big Rapids		Five periods per week	Five periods per week
Birmingham Public Schools	Birmingham	One period per day		One period per day
Bloomfield Hills School District	Bloomfield Hills		Five periods per week	Five periods per week
Bridgeport Community Schools	Bridgeport		One period per day	One period per day
Buchanan School District 61	Buchanan			Five periods per week
Buena Vista School District 9	Saginaw			One period per day
Cadillac City School District	Cadillac		Five periods per week	Five periods per week
Caledonia Community Schools	Caledonia		Five periods per week	Five periods per week
Capac Community School District	Capac		Five periods per week	Five periods per week
Charlotte Public School District	Charlotte		Five periods per week	Five periods per week
Cheboygan Area Schools	Cheboygan		Five periods per week	Five periods per week
Cherry Hill School District	Inkster		Five periods per week	Five periods per week
Chesaning Union Schools	Chesaning		Five periods per week	Five periods per week
Chippewa Valley School District	Mt. Clemens			One period per day
Clawson School District	Clawson		Five periods per week	Five periods per week
Clinton Community School District	Clinton	250 minutes per week		One period per day
Clintondale School District	Mt. Clemens			60 minutes per day
Coldwater School District	Coldwater	One period per day		One period per day
Coleman Community Schools	Coleman			One period per day
Comstock School District	Comstock	Periods of special area instruction	One period per day	One period per day
Comstock Park School District	Comstock Park			One period per day
Concord Community Schools	Concord			One period per day
Crestwood School District	Dearborn Heights	Periods of special area instruction	Five periods per week	Four periods per week
Dearborn Public Schools	Dearborn	Periods of special area instruction		One period per day
Dearborn Twp. School District 8	Dearborn Heights		Five periods per week	Five periods per week
Detroit School District	Detroit			Ten periods per week
Dexter Community Schools	Dexter			One period per day
Dundee Community Schools	Dundee		One period per day	One period per day
Durand Area Schools	Durand		Five periods per week	Five periods per week
East Detroit School District	East Detroit	For special teachers only		

State and school system	Location	Elementary-school teachers	Junior high-school teachers	High-school teachers
MICHIGAN (Continued)				
East Lansing School District	East Lansing		Five periods per week	Five periods per week
Ecorse Public Schools	Ecorse	60 minutes per day		60 minutes per day
Escanaba Area Public Schools	Escanaba		Five periods per week	Five periods per week
Fairview School District	Fairview		Five periods per week	Five periods per week
Farmington Public Schools	Farmington			One period per day
Farwell Area Schools	Farwell	One period per day		One period per day
Fennville School District	Fennville		Five periods per week	Five periods per day
Fenton Area Public Schools	Fenton	2-1/2 periods per week	Five periods per week	Five periods per week
Ferndale School District	Ferndale		Five periods per week	Five periods per week
Flint Community Schools	Flint		Five periods per week	Five periods per week
Forest Hills Public Schools	Grand Rapids			Five hours per week
Fowlerville Community Schools	Fowlerville		Five periods per week	Five periods per week
Garden City School District	Garden City		Five periods per week	Five periods per week
Grand Blanc Community Schools	Grand Blanc	30 minutes per day	Five periods per week	Five periods per week
Greenville School District	Greenville		45 minutes per day	45 minutes per day
Grosse Pointe School System	Grosse Pointe	Equiv. of one high school period/day		One period per day
Gull Lake Community Schools	Kalamazoo	Periods of special area instruction	One period per day	One period per day
Gwinn School District	Gwinn		Five periods per week	Five periods per week
Hancock Public Schools	Hancock		Five periods per week	Five periods per week
Hastings School District	Hastings	Five preparation hours per week	Five periods per week	Five periods per week
Hazel Park School District	Hazel Park		One period per day	One period per day
Heintzen Public Schools	Southgate			Five periods per week
Highland Park School District	Highland Park	Five 45-minute periods per week		Five 45-minute periods per week
Hillsdale Community Schools	Hillsdale			One period per day
Homer Community Schools	Homer	150 minutes per week	One period per day	One period per day
Huron School District	New Boston			One period per day
Huron Valley Public Schools	Milford		Five periods per week	Five periods per week
Ida Public Schools	Ida		Five periods per week	Five periods per week
Ionia City School District	Ionia		Five periods per week	Five periods per week
Ironwood City School District	Ironwood		Five periods per week	Five periods per week
Ishpeming School District	Ishpeming	6-1/4 nonteaching hours	Five hours per week	Five hours per week
Kalamazoo Public Schools	Kalamazoo			One period per day
Kellogsville Public Schools	Kellogsville			Five periods per week
Kentwood School District	Grand Rapids			One period per day
Lake Shore School District	St. Clair Shores	Periods of special area instruction	One period per day	One period per day
Lakeview School District	Battle Creek	Periods of special area instruction		
Lakeville School District	Otisville		Five periods per week	Five periods per week
L'Anse Creuse Public Schools	Mt. Clemens	Periods of special area instruction		Five periods per week
Lansing School District	Lansing			Five periods per week
Livonia Public Schools	Livonia		Five periods per week	Five periods per week
Madison School District	Adrian		Five periods per week	Five periods per week
Manistique Area Schools	Manistique	Three hours per week	Five periods per week	Five periods per week
Maple Valley Schools	Vermontville		Five periods per week	Five periods per week
Marlette Community Schools	Marlette	Periods of special area instruction		Four periods per week
Marshall Public Schools	Marshall		Five periods per week	Five periods per week
Marysville Public Schools	Marysville		Five periods per week	Five periods per week
Mayville Community Schools	Mayville		Five periods per week	Five periods per week
Melvindale-North Allen Park School District	Melvindale	275 minutes per week	275 minutes per week	275 minutes per week
Meridian Public Schools	Sanford		Five periods per week	Five periods per week
Mona Shores Schools	Muskegon		One period per day	One period per day
Montrose Twp. Schools	Montrose		Five periods per week	Five periods per week
Mt. Clemens Community Schools	Mt. Clemens		One period per day	One period per day
Mt. Morris Consolidated School District	Mt. Morris		One period per day	One period per day
Muskegon City Public Schools	Muskegon		Five periods per week	Five periods per week
Mankin Mills School District	Westland	One hour per week	Five periods per week	No high school. Organized K-9
Napoleon School District	Napoleon		Five periods per week	Five periods per week
Negaunee Public Schools	Negaunee			One period per day
North Dearborn Heights School District	North Dearborn Heights	One period per day		Five periods per week
Northville Public Schools	Northville	30 minutes per day		Five periods per week
Okemos Public Schools	Okemos		Five periods per week	Five periods per week
Onstead Community Schools	Onstead		Five periods per week	Five periods per week
Oscoda Area Schools	Oscoda		Ten periods per week	Ten periods per week
Ovid-Elsie Area Schools	Ovid-Elsie		Five periods per week	Five periods per week
Oxford Area Community Schools	Oxford		One period per day	One period per day
Parchment School District	Parchment	Periods of special area instruction		One period per day
Petosky School District	Petosky		Five periods per week	Five periods per week
Plainwell Community Schools	Plainwell		One period per day	One period per day

State and school system	Location	Elementary-school teachers	Junior high-school teachers	High-school teachers
MICHIGAN (Continued)				
Plymouth Community School District	Plymouth	Comparable to jr. and sr. high school	One period per day	One period per day
Pontiac School District	Pontiac	Periods of special area instruction		One period per day
Portage Public Schools	Portage		Five periods per week	Five periods per week
Port Huron Area School District	Port Huron		Five periods per week	Five periods per week
Ravenna School District 4	Ravenna			250 minutes per week or one period per day
Redford Union School District 1	Detroit	30 minutes per day		One period per day
Reeths-Puffer Schools	Muskegon		Five periods per week	Five periods per week
Richmond Community Schools	Richmond			Five periods per week
Rochester Community Schools	Rochester		Five periods per week	Five periods per week
Royal Oak School District	Royal Oak			One period per day
Rudyard Twp. School District 111	Rudyard		Ten periods per week	Five periods per week
Saginaw City Schools	Saginaw		One period per day	One period per day
St. Louis Public Schools	St. Louis		Five periods per week	Five periods per week
Saline Area School District	Saline			One period per day
Sand Creek Community Schools	Sand Creek	Periods of special area instruction		
Shepherd Public Schools	Shepherd		Four periods per week	Four periods per week
Southfield Public Schools	Southfield	Three hours per week		Five periods per week
Southgate Community School District	Southgate			Five periods per week
South Lake Schools	St. Clair Shores		Five periods per week	Five periods per week
South Lyon Community School District	South Lyon	Periods of special area instruction		One period per day
South Redford School District	Detroit	30 minutes per day		45 minutes per day
Sparta Area Schools	Sparta	Five periods per week	Five periods per week	Five periods per week
Spring Lake Public Schools	Spring Lake			One period per day
Stephenson Area Public Schools	Stephenson		Five periods per week	Five periods per week
Summerfield Schools	Petersburg			Five periods per week
Swartz Creek Community Schools	Swartz Creek		Five periods per week	Five periods per week
Tahquamenon Area Schools	Newberry		Five periods per week	Five periods per week
Taylor Twp. School District	Taylor	One period per day		One period per day
Thornapple-Kellogg Schools	Middleville			Five periods per week
Troy School District	Troy		Five periods per week	
Utica Community Schools	Utica	Periods of special area instruction		One period per day
Van Buren Public Schools	Belleville		Five periods per week	Five periods per week
Vassar Public School District	Vassar		Five periods per week	Five periods per week
Wakefield Twp. School District	Wakefield	30 minutes per day		
Walled Lake Consolidated School District	Walled Lake			One period per day
Warren Woods Public Schools	Warren		3-3/4 preparation hours per week	Five preparation hours per week
Watervliet School District 12	Watervliet		Three periods per week	Five periods per week
Wayland Union Schools	Wayland			Four periods per week
Wayne Community School District	Wayne	Periods of special area instruction		Five periods per week
West Bloomfield Schools	Orchard Lake			One period per day
West Ottawa School District	Holland			One period per day
Westwood Heights School District	Flint		Five periods per week	Five periods per week
Whitehall District Schools	Whitehall		One period per day	One period per day
White Pigeon Community Schools	White Pigeon		Five periods per week	Five periods per week
Williamston Community School District	Williamston		Five periods per week	Five periods per week
Wyoming Public Schools	Wyoming			One period per day
NEW JERSEY				
Newark Public Schools	Newark			One period per day
NEW YORK				
Farmingdale UFSD 22	Farmingdale	30 minutes per day	30 minutes per day	30 minutes per day
New York City Schools	New York City			Five periods per week
Rochester City School District	Rochester			Five periods per week
Yonkers Public Schools	Yonkers	Two periods per week		Four periods per week
RHODE ISLAND				
Bristol Public Schools	Bristol			One period per day
Coventry Public Schools	Coventry		Four periods per week	Four periods per week
Warwick Public Schools	Warwick		Five periods per week	Four periods per week
WISCONSIN				
Milwaukee School District	Milwaukee		Five periods per week	Five periods per week

Judicial Decisions, Opinions, and Statutes

STATE OF MICHIGAN

LABOR MEDIATION BOARD

In the Matter of:

REESE PUBLIC SCHOOL DISTRICT,
Respondent,

and

Case No. C67 D-31

REESE TEACHERS EDUCATION
ASSOCIATION,

Charging Party.

DECISION AND ORDER

On July 5, 1967, Trial Examiner, Joseph B. Bixler issued his Decision and Recommended Order in the above matter, finding that the Respondent, Reese Public School District, had engaged in and was engaging in certain unfair labor practices, and recommended that it be ordered to cease and desist therefrom and to take certain affirmative action.

The Trial Examiner's Decision and Recommended Order was issued and served upon the interested parties in accordance with Section 10 (a) and (e) of Act 336 of the Public Acts of 1947, as amended. The parties have had an opportunity to review said Decision and Recommended Order for a period of at least twenty days from date of service thereof on the parties, and no exceptions have been filed by any of the parties to the proceedings.

The Board, after reviewing the Trial Examiner's Decision and Recommended Order and the entire record in the case, hereby adopts the findings, conclusions and recommendations of the Trial Examiner.

O R D E R

Pursuant to Section 10 (a) and (e) of the Act, the Board hereby adopts as its Order, the Order recommended by the Trial Examiner and orders that the Respondent, Reese Public School District, shall take the action set forth in the Trial Examiner's Recommended Order. It has been brought to the Board's attention that the Reese Public School District has commenced compliance with the Trial Examiner's Decision and Recommended Order. Therefore, the Reese Public School District shall take only such further steps, if any, that are necessary for full compliance.

MICHIGAN LABOR MEDIATION BOARD

Robert G. Howlett, Chairman
Leo W. Walsh, Member
Philip Weiss, Member

Dated: August 8, 1967

TRIAL EXAMINER'S DECISION
AND RECOMMENDED ORDER

APPEARANCES:

For Respondent: Merle Grover and Alan Luce

For Charging Party: Foster, Campbell, Lindemer & McGurrin
By: James A. White

The above-entitled matter having come on for hearing before the undersigned trial examiner of the Michigan Labor Mediation Board, hereinafter referred to as the Board, at Detroit, Michigan, on May 23, 1967, and the entire record having been considered, including briefs filed by the parties, the undersigned hereby makes the following findings of fact, conclusions of law and recommendations to the Board for the disposition of the Case:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Reese School District (hereinafter referred to as Respondent) is a public employer within the meaning of the Public Employment Relations Act (hereinafter called PERA).

Reese Teachers Education Association (hereinafter called Charging Party) is a labor organization within the meaning of PERA.

The Charging Party alleges that the School District has violated Section 10 (a) and (e) of PERA by: (1) Inserting letters commenting on the conduct of the chief of the Charging Party's negotiating committee when he appeared before the Reese School Board on September 7, 1966, December 7, 1966, and January 15, 1967. (2) That the Reese School District failed to bargain with the Charging Party concerning the school calendar for the school year 1967-1968.

The Letters:

In regard to the letters, all parties agreed that three letters were inserted in the personnel file of Vernon Henrichs on or about February 3 or 4, 1967. The three letters were placed in the personnel file by the superintendent of schools, Dr. Bruce Dunn with the knowledge of the School Board.

The letters were introduced as exhibits and are as set forth below:

Exhibit 1

Re: Mr. Vernon Henrichs

September 8, 1966

During the latter part of last night's regular Board meeting at which the School calendar for the 1966-67 school year was adopted, Mr. Henrichs requested time to comment on the adoption.

In an extremely abusive tone of voice, he accused the Board of Education and the administration of failure to consider his recommendations. Mr. Henrichs told the Board that previous to the Board meeting when he had discussed his recommendations with me that if his

recommendations were adopted, he would not file an unfair labor practice. If, however, the Board did not see fit to adopt his recommendations, he would so file an unfair labor practice. The unfair labor practice would constitute the administration's failure to get his prior consent to calling a two-day pre-school conference, which has always been done, and setting the date for the opening day of school.

The September 7, 1966 Board meeting was the first regular Board meeting held after tentative agreement had been reached on August 10, 1966, on major economic issues.

The Board of Education did consider each and every point Mr. Henrichs raised prior to adopting the present school calendar in executive session prior to adopting the calendar in the public meeting. Even though Mr. Henrichs accused them of failure to do so. Mr. Henrichs reiterated his statement to the Board that if his recommendations were not adopted, an unfair labor practice would be filed. Mr. Henrichs' tone of voice and remarks to the Board were irresponsible, untrue, abusive, and communication became impossible after a point.

/s/ Bruce J. Dunn

Exhibit 2

Re: Mr. Vernon Henrichs

December 8, 1966

At last night's regular Board of Education meeting at which the public was in attendance, I was extremely embarrassed by Mr. Henrichs.

Mr. Henrichs accused me of violating tentative agreements by having published the school calendar in the newspaper prior to adoption of the calendar by the Board of Education. This, Mr. Henrichs implied made it impossible for the Board of Education to fairly consider the R.T.E.A.'s objections to certain parts of the calendar.

When I asked what paper this calendar had appeared in, I was told the Reese Reporter. When I stated I did not recall having seen it in print or having authorized the calendar's publication, it was again implied I wouldn't want to remember something of this nature.

Today, I went to Frankenmuth where the paper is published and went through the back copies and could find no edition in which the school calendar had been published.

/s/ Bruce J. Dunn

Exhibit 3

Re: Mr. Vernon Henrichs

January 6, 1967

At last night's regular Board of Education meeting, Mr. Henrichs informed the Board that the statement he made at the previous Board of Education meeting was in error. That only the starting date of school had been published instead of the full calendar.

No apology was given, just a statement to clarify the record.

/s/ Bruce J. Dunn

The questions raised by the facts underlying this portion of the charge are (1) whether Henrichs was engaged in activity protected by PERA when he appeared before the Board on September 7, 1966, December 7,1966, and January 5, 1967, and (2) whether Henrichs' behavior at the meeting, as protected activity, so far exceeded the bounds of proper decorum as to make discipline or the action taken by Respondent for his behavior lawful.

The events involved in this aspect of the charge are almost without dispute. The School District was contemplating the establishment of the school calendar for the years 1966-1967 during the month of August, 1966.

Within a few days of September 7, 1967, Henrichs approached the Superintendent of schools Dr. Dunn and informed him that the teachers represented by the Charging Party desired that December 19, 20, and 21, 1966, be added to the Christmas vacation as provided in the school calendar. After some discussion, Dr. Dunn informed Henrichs that the School Board was meeting on the calendar on September 7, 1967. Henrichs and two other teachers holding office in the Charging Party appeared at this meeting; Henrichs asked to speak. This event took place after the School Board had adopted the calendar in executive session. The record is not clear as to exactly what Henrichs said to the School Board. That he claimed the Charging Party's suggestions had not been considered, and that he raised his voice above a conversational tone is established. There is a question whether he did or did not slam the door when he departed. It is also established that Henrichs did not use any profanity when addressing the Board or at any other time.

Whatever happened at this session was not any worse than the conduct attributed to Henrichs by the Respondent, and this at the hearing, was only described in the vague term "abusive" as used in Exhibit No. 1.

The events at the December 7, 1966, Board meeting are undisputed. Henrichs admits he did make the statement attributed to him in Exhibit No. 2, i.e., he claimed the school calendar had been published. Henrichs admitted the error of this statement, and that he corrected it as stated in Exhibit No. 4 before the Board.

These three Exhibits written on the dates they bear, were put into the personnel file of Henrichs on February 3rd or 4th, 1967, when the collective bargaining between the Charging Party and Respondent was signed. Without passing on the actual significance of the three Exhibits in an employee's personnel file, the undersigned is of the opinion that they must have some effect on the employment status of Henrich and certainly do not enhance his record or they would not have been put in the file.

This, then, brings the second question as stated above under consideration. May an employer effect the status of an employee because of the manner in which he engaged in protected activity, as did Henrichs?

That the appearance of Henrichs before the school Board on September 7, 1966, and December 8, 1966, was an activity in concert with other employees is undisputed. Nor is there dispute that the employees so engaged were seeking to effect a matter touching on their employment--the addition of three additional days to the Christmas vacation period. It further appears that the School Board was of necessity the only place the employees could make this appeal as the School Board member of the Respondent's negotiating team has maintained and testified at this hearing that it lawfully is the School Board's prerogative to set the school year calendar. Further it was the School Board who had set the calendar that the teachers sought to alter.

The undersigned has concluded that Henrichs was engaged in protected concerted activities within the meaning of Section 9 of PERA, when he appeared before the School Board.

The latitude of the protection afforded employees while engaged in concerted protected activities by the National Labor Relations Board is extensive. They cannot be punished for making false or incorrect statements while so

engaged unless the statements are made deliberately or with malice. El Mundo Broadcasting Corporation, 108 NLRB 1270; American Shuffle Board Co. 92 NLRB 1272.

In the area of employee representative conduct the NLRB had held the representative must be free to express himself in a natural manner and on a plane of equality with the employer. This principle was rather well stated by a Trial Examiner of the National Labor Relations Board, with approval of that Board, in N. P. Nelson Iron Works, Inc., 80 NLRB 125, 23 LRRM 1130 as follows:

> Unquestionably, it is essential to the accomplishment of this purpose that, in their dealings with the employer on behalf of the employees, the employee-representatives be treated on a plane of equality with the employers rather than as subordinates as they are in the performance of their duties in the plant; that in spite of possible offense to the employer, the employee-representatives be permitted the broadest, frankest, and freest possible statement of their positions and pertinent arguments in such language of vigor and clarity, as comes naturally to them and seems reasonably related to their objectives as employee-representatives, short of inexplicable or prolonged name-calling or threats of physical harm or other illegal action; (Of course, the employer and his representatives possess a corresponding right to freedom in their expressions and arguments. And representatives of either party may forcefully object to the tactics and language employed by the other side so long as they bargain collectively in good faith as required by the Act and the Labor Management Relations Act of 1947.) and, finally, that for the effective exercise of their rights on behalf of the employees, the employee-representatives be protected against discrimination or retaliation by the employer. Only by a full acceptance and observance of these fundamental requirements, can it be hoped that management and labor shall be afforded a reasonable opportunity of coming to grips with, and ultimately solving, the problems which confront them.

It would seem that a union representative cannot be expected to be divested of human emotions such as anger as long as it is not manifested in a manner as would exceed the bounds indicated in the N. P. Nelson Iron Works case quoted above. Thor Power Tool Company, 148 NLRB 1379.

In Sanilac County Road Commission, MLMB 1967 Labor Opinions page 107, Case No. C66 F-68, the Michigan Labor Mediation Board considered a situation where County Road Commission employees appeared before the County Board of Supervisors seeking bargaining with the Road Commission and also made accusations of criminal activity on the part of County Road Commissioners. The appearance was found to be protected activity even though the accusations made were found to be groundless.

In the instant case we do not have employees even approaching the behavior considered in the Sanilac case. The accusation here is only that Henrichs violated some one's vague subjective standard of behavior. The undersigned is of the opinion that the record reveals that Henrichs did not exceed the bounds of lawful conduct and certainly did not conduct himself in a manner which would reflect upon Henrichs' suitability as a teacher or deserving comments on his conduct being inserted in his personnel file and made a permanent part of that file.

The undersigned concludes that in the circumstances of this case, the insertion of the letters by the Superintendent into the personnel file of Henrichs is interference with the rights guaranteed public employees, within the meaning of 10 (a) and (c) of PERA.

This conclusion is reached without any finding of animosity toward the Charging Party or Henrichs on the part of Respondent or its Superintendent. However, intent or animosity is not essential to finding the violations of the Act, for it is sufficient if Respondent's actions had the effect of interfering with its employees freedom to engage in concerted protected activity. American Freightways Co., Inc., 124 NLRB 146.

The 1967-1968 Calendar

The second aspect of the charge is a claim that the Respondent here has failed to bargain concerning the setting of the school calendar for the years 1967-1968, in violation of Section 10 (c) and Section 15 of the Act.

The contention of the Respondent is that the matter of school calendar was covered in the current bargaining contract between the parties in Article V, Subparagraph (c) of that contract. Article V, Subparagraph (c) of the contract reads as follows:

> The Board shall consult with the association to obtain their suggestions which will be given every possible consideration before the Board adopts the School Calendar. This shall be subject to grievance procedures as provided by Article XIV.

Respondent takes the position that consultation on the school calendar took place prior to the setting of the 1967-1968 calendar, and therefore its contractual obligation has been fulfilled.

The Charging Party's position is that the school calendar is a mandatory subject of bargaining and that the contract provision quoted above applies only to the 1966-1967 school calendar and, therefore, Respondent was obligated to bargain with the Charging Party before setting the calendar for the years 1967-1968.

The record establishes that negotiations on the current contract began prior to September 1966 and continued until February 1967 at which time the final contract was agreed upon and signed, when noneconomic provisions were agreed upon. This contract was to be effective from August 10, 1966, until June 30, 1967.

In March, 1967, negotiations began on a new contract for the school year 1967-1968. During the first meeting in March, the matter of the school calendar came up and the bargaining team for the Charging Party suggested that the new 1967-1968 calendar be of similar length to that of 1966-1967. At this meeting Albert Rummel, member of and spokesman for the School Board's negotiating team is said to have told the Charging Party's team something to the effect that they could accept suggestions but could not negotiate the calendar. Rummel admits at one of the meetings that he might have said there was some question in his mind whether the calendar was a negotiable item.

Both parties agree that the Charging Party's negotiation team did present a calendar to the School Board's team at a negotiation session held on March 15, 1967. According to Claude D. Hinman, a member of the Charging Party's team, after this calendar was presented there was a caucus and the Board team, by Rummel, informed them that it was the Board's power to determine the calendar and he made reference to a circuit court decision wherein it had been determined that a School Board could not negotiate away certain rights or authority.[1] There was, however, further discussion of the Charging Party's calendar at a negotiation session held either on March 30, or April 4, 1967. Henrichs was questioned concerning the calendar and various members of the Board team made comments among which was the school bus problem on half days. At this time Henrichs was asked to substantiate the number of teaching days contained in the calendar and it appears that the number claimed could not be established.

1/ Wilson Nickelsetal vs. the Board of Education of the Imlay City Community Schools No. 6 et al - by Circuit Judge Churchill, of Lapeer County, January 3, 1967.

After the discussion of the proposed calendar, the Charging Party's team was invited to attend the School Board meeting on April 5, 1967, by Rummel.

At this meeting the new calendar for 1967-1968 was to be on the School Board's agenda. None of the Charging Party's representatives attended this meeting. As stated by Henrichs "it would not be negotiating" and they were of the opinion that Article V Section c of the contract did not apply to the calendar for the year 1967-1968 but only to that for 1966-1967.

On April 5, 1967, the School Board adopted a school calendar for 1967-1968.

The contentions of the parties to this matter make it necessary to decide whether the school calendar is a mandatory subject of bargaining.

If it is not a mandatory subject of bargaining, then the Charging Party's second allegation must be dismissed as there would have been no duty to be breached by the Respondent. There is a duty to bargain with the representative of the teachers in regard to the calendar; a determination of whether Article V Subparagraph (c) is a waiver of the statutory duty is required.

The undersigned is of the opinion that a School Board under Section 11 of PERA is obligated to bargain with a collective bargaining representative of its employees in regard to certain aspects of the school calendar.[2] Certain aspects are used because this duty to bargain would in at least one area be clearly circumscribed by statutory requirement. This would be the required length of school term in months provided in M.S.A. 15.3375 sec. 575. Within the statutorily required term it seems clear that the length of the vacations, time of beginning and end of vacations, and holidays would be contemplated by Section 11 of PERA, as hours and conditions of employment. The undersigned, however, is of the opinion that he cannot determine, based upon the record in this case as to whether other events set forth in the school calendars presented as exhibits, such as marking period endings, commencement or institute days, are mandatory subjects of bargaining.[3] These matters were not litigated at the hearing.

Having reached the conclusion that at least part of the terms of the School Calendar are subjects for negotiation, we reach the question of whether the right to negotiate on the 1967-1968 calendar has been waived by the Charging Party.

Article V Subparagraph (c), set out above, does provide for less than what is contemplated by negotiation. It obligates the School Board only to consult and give consideration to the Charging Party's "suggestions." The undersigned would find this a waiver of bargaining, but cannot determine on this record the calendar contemplated by the parties to the agreement. As pointed out in the brief for Respondent, there is "no reference whatsoever as to whether the school calendar to be considered by the Board of Education was the 1966-1967 calendar or the 1967-1968 calendar." The undersigned agrees. Nor does the record disclose what the intent of the parties was when this clause was put into the agreement. Under these circumstances a finding that the clause attaches to a school year other than the one coextensive with the agreement would be sheer speculation. The Respondent in its brief argues that as of the 1967-1968 calendar came up during the current agreement, that document governs. This reasoning, however, appears to lack logic as it is no answer if the 1967-1968 calendar had been proposed to the School Board after the June 30, 1967, expiration date of the agreement, as had been the practice of the School Board in past years and in accordance with its codified policy presented as an exhibit.

A second approach by Respondent is that the School Board has fulfilled its contractual obligation (that is, consulted and considered suggestions as to the 1967-1968 calendar) and that the Charging Party has a remedy as provided in the grievance procedure of Article XIV of the current agreement. This argument is at first blush quite persuasive; however, it presupposes the applicability of Article V Subparagraph (c) to the calendar for the succeeding year. This supposition, as noted above, the undersigned has found is without foundation in this record.

The National Labor Relations Board has always approached waivers with caution and has required such a waiver to be clear and unmistakable. C & C Plywood Corporation, 148 NLRB 414 p. 417. This view seems proper whether determining if a waiver exists or its period of applicability. Any other approach would require interpretation of contractual agreements and the policing of contractual agreement by a Labor Board, a function more properly belonging to other tribunals.

The undersigned therefore concludes that the Respondent in the circumstances of this case has not bargained with the Charging Party as required by Sections 11 and 15 of PERA, and has accordingly violated Section 10 (e) of the Act.

RECOMMENDED ORDER

Upon the foregoing findings of fact and conclusion of law it is accordingly recommended that the Board enter an Order that the Public Employer, Reese Public School District shall:

1. Cease and desist from:

   (a) Interfering, restraining or coercing public employees in the exercise of their right in Section 9 of the Public Employment Relations Act.

   (b) Refusing to bargain collectively with the Teachers Education Association.

2. Take the following affirmative action:

   (a) Remove from the personnel file of Vernon Henrichs those documents dated September 8, 1966, December 8, 1966, and January 6, 1967, signed by Dr. Dunn, Superintendent of Schools, and expunging from the records of said Vernon Henrichs all reference thereto.

   (b) Bargain collectively with the Reese Teachers Education Association in regard to holidays and vacation dates to be included in the 1967-1968 school calendar.

   (c) Notify the undersigned in writing within twenty days from receipt of the Recommended Order what steps the Respondent has taken to comply herewith.

The undersigned has not recommended the posting of any notice in this case as the violations found do not show an intent either to disregard the provisions of PERA or to accomplish ends proscribed by PERA, and he is therefore of the opinion such posting would not effectuate the policies of PERA.

MICHIGAN LABOR MEDIATION BOARD

Joseph B. Bixler
Trial Examiner

Dated: July 5, 1967

[2] City of Madison, 56 LRRM 2488.
[3] These matters were raised in the brief for the Charging Party.

State of Rhode Island
Supreme Court

Warren Education Association

v.

Richard L. Lapan et al.,
Warren School Committee

O P I N I O N

KELLEHER, J. This civil action in the nature of mandamus was instituted against the defendants in their capacities as members of the school committee of the town of Warren to require the committee to execute a collective bargaining agreement which would embrace salaries, working conditions and other incidents of employment for the 1967-68 school year. The plaintiff is the duly-recognized collective bargaining agent for the certified public school teachers who are employed by the town. The case is before us on the plaintiff's appeal from an order of the superior court which granted the defendants' motion to dismiss the instant complaint for failure to state a claim upon which relief could be granted under 12(b) (6) of the new rules of civil procedure of the superior court. We shall sometimes hereafter refer to the plaintiff as the association to the defendants as the committee.

The instant complaint is based upon the following undisputed facts. On or about December 22, 1966, the association gave written notice requesting a meeting for the purpose of negotiating a contract for the school year which would begin in September 1967. Pursuant to this request several meetings were held in January and February 1967 between the committee and representatives of the association. An agreement was reached on the contents of a contract for the next school year. The committee advised the association that it wished to defer the formal execution of any agreement until after the annual financial town meeting had been held in the month of May. In the meantime, the association on March 14, 1967, gave its unanimous approval of the agreement which had been reached between its agents and the committee. Subsequent to the financial town meeting, the association made a written request to the committee that it meet with its representatives and formally execute the agreement reached earlier. On May 29, 1967, the acting chairman of the committee notified the association of the committee's refusal to execute the contract. The association thereupon instituted this litigation for mandamus to compel the committee to execute in writing the terms upon which they had orally agreed.

The association bases its complaint upon the provisions of G. L. 1956, §28-9.3-4, which is part of the school teachers arbitration act. This section reads as follows:

> 28-9.3-4, Obligation to bargain.--It shall be the obligation of the school committee to meet and confer in good faith with the representative of representatives of the negotiating or bargaining agent within ten (10) days after receipt of written notice from said agent of the request for a meeting for negotiating or collective bargaining purposes. This obligation shall include the duty to cause any agreement resulting from negotiations or bargaining to be reduced to a written contract, provided that no such contract shall exceed the term of three (3) years. Failure to negotiate or bargain in good faith may be complained of by either the negotiating or bargaining agent or the school committee to the state labor relations board which shall deal with such complaint in the manner provided in chapter 7 of this title.

The association acknowledges that although an action for a writ of mandamus is now controlled procedurally in the superior court by its rules of civil procedure, the legal sufficiency of a complaint in such an action is still to be tested by the same principles which have heretofore governed the issuance of this prerogative writ. Demers v. Shehab, R. I. 224 A.2d 380. Accordingly, a plaintiff in such an action must show that he has a clear right to have done the act he seeks and that the defendant has a clear, legal and ministerial duty to perform without any discretion to refuse. Castle Realty Co. v. Soloveitzik, R. I. 224 A.2d 44. It also must be demonstrated that the law has provided no other adequate remedy. In those situations where it can be shown that there is an adequate administrative remedy available to a plaintiff, it is settled law that he must exhaust such a remedy before judicial relief can be invoked by way of mandamus. Conley v. McCarthy, 84 R. I. 141, 121 A.2d 875.

Before examining the issue of whether mandamus will lie in this particular action, we feel a comment should be directed to the procedural aspects of the hearing held on the committee's motion.

Under rule 12(b) of the superior court's rules of civil procedure, parties on either side of a law suit may submit to the court for its consideration matters outside the pleadings in support of or in opposition to a motion to dismiss for failure to state a claim meriting relief. The provisions of rule 12(b) expressly authorize the trial justice either to include or exclude such extra pleading matters in his deliberation on a motion to dismiss; however, if the trial justice freely elects to consider the supplemental information, rule 12(b) provides that a motion is converted into one for summary judgment and should be disposed of according to the pertinent provisions of rule 56. Ewing v. Frank, R. I., filed November 9, 1967.

When a motion is converted under rule 12(b) into one for summary judgment, there is a significant and noteworthy change in the issue presented to the court. No longer is the inquiry of the court focused on a determination of the sufficiency of the complaint to set forth a valid claim for relief, as would be the situation under rule 12(b), but instead a decision must be made, after a review of the entire record, on whether there exists a factual issue contested by the parties, and, in the absence of which, whether as a matter of law one party is entitled to a judgment.

On a hearing on a motion under either rule 12(b) or rule 56, it is not the office of the trial justice to determine any issues of fact. In such cases, all favorable inferences which can be drawn from matters properly before the court accrue to the benefit of the party against whom the motion is made. Thus the pleadings under rule 12(b) and the entire record under rule 56 are

scrutinized closely by the court in determining whether the movant has met his burden successfully; and correspondingly all pleadings and evidentiary documents filed by the non-moving party are viewed indulgently by the court. 6 Moore, Federal Practice (2d ed.), ¶56.15, p. 2281. The record in the instant appeal discloses that the above procedure was not adhered to by the trial justice.

At the hearing of defendants' 12(b) motion, the transcript indicates that the trial justice was shown a letter and that its contents apparently influenced him in dismissing plaintiff's complaint.1/ In taking this action the trial justice stated that in his opinion mandamus would not lie under the facts of this case. Although extrinsic matter was accepted by the court at the hearing, the trial justice purported to dismiss the claim under 12(b) (6).2/ Such action is procedural error. Gager v. "Bob Seidel," 300 F.2d 727.

It is elementary that if a trial justice wishes to limit the scope of the hearing on a motion to dismiss under 12(b) (6), he has no right to consider facts except those recited in the pleadings; and he has no right to admit evidence not incorporated in the formal pleadings. In short, he must confine his examination to the well-pleaded facts in applying the substantive law to the allegations pleaded to determine if the complaint properly describes the set of circumstances upon which a court could justifiably grant relief. Resort to anything beyond the pleadings is without sanction or authority and is error. Grand Opera Co. v. Twentieth Century-Fox Film Corp., 235 F.2d 303.

Even if we were to treat defendants' motion as properly transformable into one for summary judgment under rule 56, our action would have questionable validity since there is respectable authority to the effect that letters alone are not within the contemplated class of documents permissible to be filed under rule 56. Marks Music Corp. v. Stasny Music Corp., 1 F.R.D. 720; 3 Barron & Holtzoff, §1237, p. 164. It also seems to be clear that written documents submitted to and not excluded by a court on motions under rule 56 must be attached to the record and exhibited in full. Taylor v. Royal Ins. Co., 34 F.R.D. 132; 3 Barron & Holtzoff, supra. This allows us the benefit of examining them in the event the ruling of the trial justice on the motion is appealed. In the state of the instant record we can only surmise the contents of the committee's letter.

The test of what a complaint must contain in order to withstand a motion to dismiss under 12(b) (6) has been clearly spelled out by this court in Bragg v. Warwick Shoppers World, Inc., R. I. 227 A.2d 582, and more recently in Buszta v. Souther, R. I. 232 A.2d 396. In both cases we said that in order to justify a dismissal of a complaint under this rule the trial justice, after according the plaintiff the benefit of every inference in viewing the allegations of his complaint in their most promising light, should be satisfied that it is clear beyond a reasonable doubt that the plaintiff could not conceivably prove facts which would qualify him for judicial relief. While the superior court's dismissal of the association's complaint was wrong because the trial justice failed to comply with the proper standards set forth in the new rules of procedure when he considered the committee's motion, we believe that there are other grounds upon which we can and will affirm the ruling of the trial justice. Lancia v. Grossman's of R. I., Inc., R. I. 216 A.2d 617; Ludwee v. New England Motors, 99 R.I. 663, 210 A.2d 131.

The association argues that the decision of the trial justice should be overturned for two reasons. First, they contend that the legislature's use of the word "may" in the last sentence of §28-9.3-4 connotes the idea of permissive recourse to the state labor relations board in disputes arising under the act; therefore, they are not compelled as a condition precedent to seeking relief from the courts to present a complaint to the state labor relations board. Secondly, they assert, even if the statute is construed to mean that a complaint must be filed with the state labor relations board prior to litigation, the remedy afforded by petitioning the board is inadequate in several respects, especially since the board is powerless under our statutory law to compel the committee to execute a written contract encompassing all the terms upon which the parties had orally agreed.

As a preface to our discussion of the statute and the legislative intent behind its enactment, we deem it appropriate to dwell briefly on the history of the teacher-school committee labor relations in the years preceding the enactment of the teachers arbitration act. All we relate are matters of common knowledge.

In years past, work stoppages, or the threats thereof, have plagued several school systems in the state. This court ruled in the 1958 case of City of Pawtucket v. Pawtucket Teachers' Alliance, 87 R. I. 364, 141 A.2d 624, that a public school teacher has no lawful right to strike. Last year we reaffirmed that rule in School Committee v. Pawtucket Teachers' Alliance, R. I. 221 A.2d 806.

The legislature in 1965, keenly aware of the strife and disruption caused by such discordant incidents between school committees and teachers and anxious to provide some remedy in this area of great public interest passed Resolution No. 45 which created a special commission to study and recommend ameliorative legislation in this area of governmental concern. The resolution which delineated the authority of the commission contained a directive from the legislature that the commission formulate a suggested procedure designed to be available in the event of a bargaining controversy between a school committee and teachers. Section 28-9.3-4 of the teachers arbitration act is the direct result of the commission's deliberations and legislative proposals. It is this section we are asked to construe.

The prime issues to be decided on this appeal may be defined as follows: first, whether or not, before seeking judicial aid, the teachers must under the statute initially request the state labor relations board to intervene; second, whether §28-9.3-4 provides the teachers with a plain, timely and effective administrative remedy.

I

"May": Permissive or Mandatory?

As regards the first issue, we believe it was the intent of the legislature to require a complaining party to submit their grievances to the state labor relations board before any judicial remedy could be invoked. Thus, when a breakdown in communication occurs in negotiations between teachers and school committees, the legislature intended, in our opinion, to vest initial jurisdiction of the controversy in the board.

The association argues the use of the word "may" in the section under examination is demonstrative evidence that the legislature intended to permit a party to elect

1/ The trial justice is reported in the transcript as having stated that the contents of a letter sent to the association by the school committee induced him to dismiss the complaint on the basis that the association sought to compel an act which was not ministerial in nature but instead was one which involved discretion; hence, he concluded that mandamus was an improper vehicle for relief under such a set of circumstances.

2/ The fact that the trial justice regarded his decision to be one under rule 12(b) (6) and not rule 56 is made obvious by his permitting the association leave to file an amended complaint. If he had intended to enter judgment under rule 56, it would be inconsistent to allow the filing of an amended pleading.

between filing a complaint with either the courts or the labor relations board. We acknowledge the cardinal rule of construction advanced by the association that in construing statutes a court will attribute to words their common, ordinary and natural meaning. Mount Pleasant Cab Co. v. Rhode Island Unemployment Compensation Board, 73 R. I. 7, 53 A.2d 485. Nevertheless, we are also cognizant of another rule of equal dignity in the canons of construction which provides that a court should construe words of a statute according to their plain meaning unless such interpretation would defeat the discovered intendment of the legislature. Irish v. Collins, 82 R. I. 348, 107 A.2d 455; State v. Nadeau, 81 R. I. 505, 105 A.2d 194. Moreover, a court should not allow itself to be enslaved to the literal meaning of words and on occasion, albeit with due caution, must eschew the literal and ordinary meaning of words in order to better fulfill the evident purpose of the legislation sought to be construed. O'Brien v. Waterman, 91 R. I. 374, 163 A.2d 31; 82 C.J.S., Statutes, §329, p. 651. The present appeal, we feel, is to be included within the rule of the Irish and O'Brien cases.

We readily concur in the association's observation that the verb "may" is connotative of permissiveness, but we recognize occasions when this court has attributed to it a different meaning in order to fulfill better the ascertained intent of the legislature. Such was the situation in Carlson v. McLyman, 77 R. I. 177, 182, 74 A.2d 853, 855, where this court said:

> * * * We concede that the ordinary meaning of the word 'may' is permissive and not compulsive; yet whether it should be given the latter meaning and construed as 'shall' in a given case depends on the intent of the legislature as ascertained from the language, the nature, and the object of the statute.

See also Nolan v. Representative Council, 73 R. I. 498, 57 A.2d 730. As in the Carlson and Nolan cases, we feel the present case is one requiring a purposeful interpretation of the word "may."

Our efforts to ascertain the intent which prompted the legislature to enact the teachers arbitration bill were greatly aided by the published report of the findings and suggestions of the special study commission which we referred to earlier. We have taken judicial notice of this manuscript. 29 Am. Jur.2d, Evidence, §28, p. 65. In our opinion the report, which sheds considerable light on the section under examination, strongly reenforces and corroborates our treatment of the verb "may" as a mandatory and not as a permissive directive of the legislature. In that portion of the report devoted to listing recommendations, we find the following comment of the commission appearing on page 7:

> Once an organization representing the teachers has been certified, the school board should be compelled to bargain or negotiate in good faith with such organization. Failure to bargain or negotiate in good faith could be the subject matter of a complaint against either the teachers' organization or the school board and such complaint should be handled in the same fashion as unfair labor practices are presently handled under the State Labor Relations Act.

The above passage seems to us to represent cogent evidence that the legislature intended that if either a school committee or a teachers association fails to negotiate in good faith, the aggrieved group must commence proceedings before the state labor relations board prior to turning to the courts for assistance.

II

Adequacy of the Remedy

The second issue formulated in this case is whether the teachers arbitration act provides a plain and adequate remedy. If we find that the act does offer such a remedy, then it is clear under our law that the association must explore and exhaust that remedy prior to seeking judicial recourse. Conley v. McCarthy, 84 R. I. 141, 121 A.2d 875.[j/] We have in the past stated that an available remedy which would bar the issuance of a writ of mandamus must be one which is plain, speedy and adequate. Putnam Foundry & Maching Co. v. Town Council, 29 R. I. 422, 67 A. 733. The question of what constitutes a plain, adequate and speedy remedy is not susceptible to application as a general rule but instead must be considered in the circumstances of each case. 55 C.J.S., Mandamus, §17.

There has been no persuasive showing by the association in this case of any facts which would induce us to find exception to the applicability of the general rule as it was announced in the case of Conley, supra. In our opinion the association has in chap. 9.3 of title 28 a plain and adequate relief for their alleged grievances.

It is clear to us from our examination of the statute and from a review of the facts before us, that contrary to the association's assertions, the state labor relations board may compel the committee to sign a written contract formalizing any prior oral agreement reached by the parties at the bargaining table. Section 28-9.3-4 specifically provides that the obligation to meet and confer in good faith includes the duty to reduce any earlier oral agreement to a written contract. Once either party complains to the state labor relations board under this section, the board shall treat the complaint in the same manner as if it were a charge of an unfair labor practice brought pursuant to §28-7-13. We further note that §28-7-26, provides the board with authority to petition the superior court for a decree enforcing their orders. It is to be observed also that §§28-7-25 and 28-7-32 provide that all proceedings either before the board or before the court shall be disposed of in an expeditious fashion. The latter section expressly states that any petition filed pursuant to chap. 7 of title 28 shall take precedence over all other matters on the calendar except those of similar character.

In view of the foregoing, therefore, we are of the opinion that the association has in the teachers arbitration act a very adequate and effective course of relief in this case. The legislature has created therein a remedy for their grievances which significantly enhances their power to bargain with school committees. By petitioning the labor relations board, whose expertise in this sensitive area is unquestioned, the association may well find such assistance so efficacious in solving their negotiation problems that the necessity of any judicial intervention will be averted. If its efforts are unsuccessful in bringing about proper relief, seasonable judicial aid can be swiftly brought to bear on a recalcitrant party through the preferred status which is given to suits filed at the behest of the state labor relations board. To allow the association to bring this action without first pursuing the administrative remedy which the legislature intended they so employ, would be tantamount to redrafting the legislation under study. This, of course, we refuse to do. Our duty is to construe--not to redraft statutes. Moretti v. Div. of Intoxicating Beverages, 62 R. I. 281, 5 A.2d 288.

The order appealed from is sustained, and the case is remitted to the superior court for further proceedings.

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j/ See also Izzi v. Warwick School Committee, 82 R. I. 76, 105 A.2d 818; New England Tel & Tel Co. v. Kennelly, 75 R. I. 422, 67 A.2d 705; 55 C.J.S., Mandamus, §17. In the Izzi case, this court under a substantially analogous set of circumstances, refused to grant a writ of mandamus to a teacher because a plain and adequate remedy had been made available by the legislature.

Negotiation Agreements

AGREEMENT

BETWEEN

THE ARLINGTON COUNTY (VIRGINIA) SCHOOL BOARD

AND

THE ARLINGTON EDUCATION ASSOCIATION (NEA)

This Agreement is entered into this _____day of _____ _____1968, by and between the Arlington County School Board, hereinafter called the "Board," and the Arlington Education Association, hereinafter called the "Association." This Agreement will be in effect from July 1, 1968 to June 30, 1969.

ARTICLE I

General

A. The provisions of this Agreement shall constitute Board policy for the duration hereof or until changed by mutual consent in writing.

B. Present Board policies not covered by this Agreement shall remain in effect in their present form.

C. Not later than six (6) months prior to the expiration of this Agreement, the Board and the Association agree to negotiate over a Successor Agreement. It is expressly understood, however, that any such agreement shall be binding only to the extent permitted by the laws of the State of Virginia and the United States.

ARTICLE II

Teaching Hours and Conditions

A. Normally the teachers' regular school day begins one-half hour before the opening of school for students and extends to one-half hour after student dismissal.

The above is simply a guideline. Both parties recognize that a certain amount of flexibility is necessary for the most effective operation of the schools.

B. Lunchroom attendants will be employed in the elementary schools in order to relieve teachers of lunchroom duty. It is the policy of the Board that each secondary teacher will normally be allowed an uninterrupted lunch period of 30 minutes to be worked out by the building principal and his staff.

C. Each secondary teacher will have one period per day for conference and planning. To the extent possible, efforts will be made to provide a daily period for conference and/or planning for each elementary teacher. To this end, elementary teachers will not be required to be with their classes during regular physical education classes when such are conducted by the elementary physical education teacher.

D. Principals will make every effort to secure voluntary participation in the sponsoring and supervision of extracurricular activities, such as clubs, musicals, theatricals, etc. for which no additional compensation is received.

E. The Board and the Association agree that continuing efforts must be made to reduce class size. Therefore, they agree on the following goals to be implemented by September 1971, or as soon as possible pending the availability of funds and facilities.

1. The maximum pupil load for regular academic classes in secondary schools will be 125 pupils per day and a maximum of 100 pupils per day in English classes, and

2. The normal maximum class size in regular elementary school classes will be 25 pupils.

F. Instructional secretaries shall be provided in all elementary schools with no loss of instructional staff. Allocation will be made on the existing formula which is one-half instructional secretary for the first 300 students or major fraction thereof and one-half for each 150 students or major fraction thereof above the first 300.

G. Instructional secretaries in secondary schools will continue to be provided with the goal of full staffing in three school years without reduction of the instructional staff. (A committee will be appointed to develop goal and implementation procedures)

H. Assignment of clerical assistants in the libraries of secondary schools will be on the basis of a 1/2 time secretary for each 500 students or major fraction thereof.

I. Requirements for additional course work shall be the same as those required by the State of Virginia for certificate renewal.

ARTICLE III

Teacher Assignment

A. Assignment of teachers shall be made only after every effort has been made to meet the reasonable request and desires of any teacher concerned.

Teachers other than newly-appointed and substitute teachers will be notified in writing, as soon as practicable, of their programs for the coming school year, including the school to which they will be assigned, the classes or subjects they will teach, and special or unusual classes they will have. It is recognized that certain shifts in enrollment may necessitate changes subsequent to such notification but every effort will be made to keep such changes to a minimum.

B. In order to assure that pupils are taught by teachers working within their areas of competence, teachers shall not be assigned without their written consent, except temporarily for good cause, outside the scope of

their teaching certificates and/or their major fields of study.

C. No regularly-assigned teacher shall be used as an involuntary substitute except in case of emergency and after every effort has been made to employ a substitute.

ARTICLE IV

Teacher Transfer

A. The Board and the Association recognize that frequent transfers may be disruptive of the education process and optimum teacher performance unless there are specific procedures which guarantee fairness to teachers as well as taking into consideration the over-all interests of the school administration.

B. If a vacancy is created in the building in which a teacher presently teaches, he may apply for reassignment within the building. Such vacancy shall be filled by the Superintendent on the basis of fitness for the post; length of service will be a preferential factor when there is more than one applicant of equal fitness.

C. Teacher-initiated requests for transfer shall be granted when the teacher is qualified and when transfer is considered feasible by the Superintendent. Such requests denied will be reported to the teacher, including the reasons for the denial. The teacher whose request for transfer has been denied may request the reasons for denial in writing.

D. Transfers may be requested by the administration. The teacher should be notified in writing of the intended transfer and given the opportunity to discuss the proposal. Such transfers will be based on advantages to the individual, staff balance, recommendation of supervisor and principal and best interests of the school system. Length of service will be one of the factors considered.

E. A notice announcing impending vacancies in coaching positions will be posted in each school at least 30 days prior to filing any such vancancy.

ARTICLE V

Promotions

A. All vacancies in supervisory and administrative positions caused by death, retirement, discharge, resignation, or the creation of a new position shall be filled pursuant to the following procedure:

1. All vacancies shall be adequately publicized throughout the school system as far in advance of filling the position as possible. (Ordinarily, 30 days in advance but in no event less than two weeks)

2. Said notice shall clearly set forth the qualifications for the positions. (Job description.)

3. Such vacancy shall be filled on the basis of fitness for the post; when two or more applicants are substantially equal in fitness, the length of service in Arlington shall be given prime consideration.

ARTICLE VI

Teacher Contracts, School Calendar and Scheduled Work Calendars

A. Contracts

The Board will continue to execute contracts with individual teachers in accordance with Virginia School Law and section 35-5.04 of the Personnel Policies. All teacher contracts, whether probationary or continuing, shall be for a "10-month contractual period" as specified by the State Board of Education.

B. School Calendar

The School Calendar shall be adopted by the Board after negotiation with the Association. It is set forth in Appendix A which is attached to and becomes a part of this agreement.

C. Schedules of Work

The schedules of work for teachers are based on the adopted calendar and shall be as follows:

1. Regular Teachers

As set forth in the adopted calendar for the regular school session.

2. Summer School Teachers

As set forth in the adopted calendars to include both the regular and summer school sessions.

3. Curriculum Project Teachers

As set forth in the adopted calendar for the regular session plus a specified number of work days, not to exceed 33 days, scheduled by the Associate Superintendent for instruction.

4. Home Economic Teachers, School Librarians, and Visiting Teachers

As set forth in the regular calendar plus five specific days, scheduled by the principal or immediate supervisor.

5. Psychologists, Child Development Consultants, Vocational Office Training, Industrial Cooperative Training, Distributive Education, and other teachers employed on an extended contract and not identified in the preceding paragraphs

As set forth in the adopted calendar for the regular session plus 33 specific days scheduled by the principal or immediate supervisor.

ARTICLE VII

Professional Compensation

A. The salaries of teachers covered by this Agreement are set forth in Appendix B which is attached to and incorporated in this Agreement.

B. Salaries of non-teaching professional personnel (administrators and supervisors) covered by this Agreement are set forth in Appendix C which is attached to and incorporated in this Agreement.

C. Salaries for other compensated activities are set forth in Appendix D which is attached to and incorporated in this Agreement.

D. New teachers will be given full increment credit for previous teaching experience, including both that in Arlington and outside of Arlington. This provision is not

retroactive and does not apply to anyone presently employed in Arlington County. (Exception: People with B.A. degree newly employed cannot advance beyond Step 10)

E. Employees with a satisfactory performance record who qualify and retire under the Virginia Supplemental Retirement System or the Arlington County Retirement System are paid for 25 per cent of their accumulated sick leave, based on their salary at the time of retirement.

F. Employees on the regular teachers' scale may elect --at the time they sign their annual contract--to receive their annual salary in either 10 or 12 equal payments.

ARTICLE VIII

Leave Policies

A. Sick Leave.

1. Full-time employees accumulate one day of sick leave per month. Part-time employees who work at least an average of twenty hours per week also accumulate sick leave in proportion to the amount of time worked daily, e. g., a half-time employee accumulates one-half day of sick leave per month.

2. Each employee is credited with one year's accumulation of sick leave as of the date of employment.

3. A new employee is credited with his accumulated sick leave if he is a member of the VSRS and is transferring directly from another school system in Virginia.

4. Sick leave is accumulated without limit.

B. Annual Leave

1. Accumulation of Leave

a. Eligibility

1) Personnel employed on 12-month basis earn 12 days of annual leave during their first year of employment. This is earned at the rate of one day per month. Annual leave may not be taken during the first six months of employment in the Arlington School System except in cases of emergency.

2) Twelve-month part-time employees (those who work less than the normal work week, e.g., 1/2 or 3/4 time) are credited with leave in proportion to the amount of time worked, e.g., a person working four hours per day on a 12-month basis is entitled to 12 four-hour days of annual leave.

3) Employees who work less than an average of twenty hours per week are not eligible for annual leave.

4) Nine and three-quarters, ten, and eleven-month employees do not earn annual leave but are not required to work on school or legal holidays, or on snow days when schools are officially closed.

b. Bonus Days

On the last working day in June of each year, the leave account of each employee is credited with one additional day for each complete fiscal year of continuous service. The maximum number of bonus days is fourteen. Leave with pay, military leave without pay, and leave for educational purposes do not count as a break in continuous service. However, if an employee is granted leave without pay for other reasons for a total of more than twenty working days in any fiscal year, he does not earn a bonus day for that year. Employees newly employed on a 12-month basis are credited with one bonus day of leave for each three consecutive years of previous continuous full-time employment in the Arlington County Schools.

c. Maximum Accumulation of Annual Leave

A total of forty days of annual leave may be carried forward from one fiscal year to another plus one day for each year of completed service from July 1 to June 30, not to exceed fourteen days. Employees retiring or terminating on June 30 will receive pay for up to thirty days of accrued annual leave plus their bonus days.

d. Conversion of Annual Leave to Sick Leave

A department head may authorize conversion of an employee's excess annual (and compensatory) leave to sick leave if in his judgment the excess leave was accumulated for reasons beyond the employee's control, and it was not convenient to grant use of such annual leave earned.

e. Holidays

P-Scale employees will be allowed to take leave not chargeable to annual leave, as follows:

1. On the day after Thanksgiving, and

2. On the last working day before Christmas, provided schools are not in session that day, in which case such leave shall be taken on the first working day after Christmas.

f. Compensatory Leave

P-Scale employees required to work on any legal holiday as defined in Section 35-9.12 of the existing policies will be entitled to a day's compensatory leave, not chargeable to annual leave. Such compensatory leave will normally be taken within 30 days of the holiday worked.

C. Maternity Leave

1. Eligibility

a. To be eligible for maternity leave, a teacher must have been issued a continuing contract by the Arlington County Public Schools. Other employees must have successfully completed their six months' probationary period and have been granted permanent status.

b. Adoption

In addition to pregnancy, adoption of a child constitutes a valid reason for requesting a leave under the procedures of this policy.

2. Criteria for Determining the Termination Date

a. The availability of a suitable replacement.

b. The health and welfare of the employee.

c. The necessity of completing certain phases of the program for which the employee is responsible.

d. The school's reporting period.

e. The employee's consistent ability to perform in her professional capacity and in the best interests of the instructional program of the students involved.

f. The opinions of the attending physician and her immediate supervisor or principal.

3. Duration of Maternity Leave

a. Maternity leave is ordinarily granted initially for the balance of a school year for employees other than twelve months' employees. Twelve-month employees receive a one-year maternity leave.

b. An employee whose assignment is in a school is responsible for the notification of the Personnel Office by April 1 as to:

1) Her desire to return to work the following September, or

2) Her desire to have her maternity leave extended for one year.

c. Other employees are responsible for notifying the Personnel Office one month prior to the expiration of their leave as to:

1) Her desire for employment, or

2) Her desire for an extension of maternity leave for one year.

d. The Assistant Superintendent for Personnel makes the decision as to whether or not the leave should be extended.

D. Personal Leave

1. Full-time employees who do not earn annual leave are allowed one day of personal leave the first year of employment and two days each year thereafter.

2. Such leave is in addition to sick leave.

3. Unused personal leave will be transferred to employee's sick leave account on June 30 of each year.

E. Extended Leave

1. Policy

a. Extended leave for one year (without pay) is granted for the following reasons:

1) Professional, full-time study.

2) Foreign teaching assignments or exchange teaching.

3) Serious illness of the employee or a member of his immediate family.

2. Procedure

The applicant makes a written request to his principal or immediate supervisor. He uses the same procedure and form as that described for a request for maternity leave.

3. Duration

a. Extended leave is granted for one year. It can be extended for an additional year if the employee requests the extension in writing prior to April 1. The Assistant Superintendent for Personnel makes the decision as to whether or not the leave is to be extended.

b. The employee is responsible for the notification of the Personnel Office by April 1 if he intends to return to his position the next school year.

c. Extended leave will count as an additional year of experience for salary purposes only if it is spent in full-time study or full-time teaching. In order to count as a year of experience, the teacher's total outside experience cannot exceed ten years.

F. Disability Leave

1. Policy

a. Permanent Employees

All permanent and probationary employees and limited term employees who are eligible for sick leave and who are temporarily disabled in line of duty receive full pay for the period of disability without charge against their annual or sick leave, subject to the following conditions:

1) Provided that the disability resulted from an injury or illness sustained directly in the performance of the employee's work, as provided in the State Workmen's Compensation Act.

2) If incapacitated for his regular assignment, the employee may be given other duties with the school system for the period of recuperation. Unwillingness to accept such an assignment as directed by the Division Superintendent results in the employee's ineligibility for disability leave during the time involved.

3) A physician selected by the Assistant Superintendent for Personnel determines the physical ability of the employee to continue working or to return to work.

4) Disability leave is limited to 90 working days for any one injury.

5) So long as an employee is on the payroll while on disability leave, sick leave, or annual leave, he must endorse any Workmen's Compensation checks over to the Arlington County School Board and forward them to the Business Office.

b. Temporary and Part-time Employees

Temporary and part-time employees who are not eligible for sick leave and who are

disabled in line of duty do not receive disability leave but are paid in accordance with the provisions of the State Workmen's Compensation Act.

G. Military Leave

1. Policy

a. Any permanent employee who leaves his position in order to enter active service in the Armed Forces of the United States can apply for military leave.

1. Any permanent employee who enters the military service in time of war or who is called to the service involuntarily is automatically eligible for military leave.

2. Any permanent employee who volunteers for military service other than in time of war must apply for military leave, using the form and procedure set forth below.

b. Military leave extends to a date 90 days after the expiration date of the employee's initial term of active military service. An employee on military leave is entitled to re-employment provided he applies to the Personnel Office within 90 days of his honorable separation under honorable conditions, and provided further that he is physically and mentally capable of performing the duties of the position. The school system cannot guarantee the employee the same assignment as he had prior to his leave, although it does guarantee a comparable position for which he is qualified.

c. Probationary and part-time employees are not eligible for military leave.

d. An employee required to report for a military physical examination is granted leave with pay for the period required.

e. Any permanent employee who is a member of the National Guard or an organized military Reserve of the United States is allowed leave with pay, not to exceed 15 calendar days, in order to attend training camps. Either calendar year or fiscal year may be used in applying this section, depending upon the current policy of the Federal Government.

f. Requests for deferment are made by the Assistant Superintendent for Personnel.

H. Civil Leave

An employee is allowed time off without loss of pay when performing jury duty, when subpoenaed to appear before public body, commission, or the court (unless he is the defendant and is convicted), when performing emergency civilian duty in connection with national defense, or for the purpose of voting. Any pay received for service performed while on such leave must be endorsed over to the Arlington County School Board.

I. Sabbatical Leave

Teachers, psychologists, principals, administrative, professional, and supervisory personnel are eligible for sabbatical leave after they have served for six consecutive years in the Arlington County Public Schools. Sabbatical leave is not granted for less than one full semester or more than one calendar year. Such leave is not granted more often than once in seven consecutive years. Sabbatical leave is granted upon recommendation of the Superintendent with the approval of the School Board at half salary for the year in which the leave is taken. Employees on sabbatical leave are paid half of the salary they would have received had they remained in their position full time.

J. Leave for Study

Twelve-month employees on the P-Scale are eligible for leave for study with pay at the end of each four-year period of employment. This leave consists of 30 work days and shall be for the purpose of study and professional improvement.

K. Excused Professional Leave

1. At the direction or with the approval of the principal and the Associate Superintendent for Instruction, teachers, principals and Supervisors may be excused from regular duties without loss of pay or personal leave to participate in observations, workshops, meetings, conferences, or other activities devoted to the improvement of curriculum and instruction.

2. Professional leave is granted to individuals attending professional meetings when they have been selected by the Associate Superintendent for Instruction to represent the county at those meetings. Such leave is limited to ten days in any one school year. All full-time professional personnel other than teachers, supervisors and principals apply for this type of leave through their immediate supervisor or appropriate assistant superintendent.

3. Arlington Education Association

Policy

When the need arises, officers and committee chairmen may attend essential local, state, and national meetings. Substitutes may be used on a full or half-day basis, or the building principal may make other arrangements within his staff, at his discretion.

4. Attendance at VEA Convention

a. Principals, supervisors, visiting teachers and school nurses who are members of the VEA are authorized to attend the convention of this organization on the day or days that such meetings of their groups are held. Principals must notify the Superintendent's Office and supervisors must notify the Associate Superintendent for Instruction, in writing, of the date and time they intend to attend the convention. Visiting teachers and the school nurses clear their attendance at the convention with their supervisors.

b. Classroom teachers, assistant principals, counselors, and other personnel who are members of the VEA and who have some responsibility for program are authorized to attend on the date or dates of their program participation. Principals are authorized to obtain substitutes when necessary.

c. Substitutes are authorized for delegates who have been officially selected to attend the VEA Convention. Substitutes are not authorized for the preceding day.

ARTICLE IX

Retirement System

(To be implemented dependent on results of actuarial study now in progress. Language may be changed at suggestion of actuary)

A. Name and Purpose

A retirement system is hereby established, to be known as the Arlington County Public Schools Supplemental Retirement System, for the purpose of providing supplemental retirement benefits for eligible employees who become members thereof and who are members of the Virginia Supplemental Retirement System.

B. Administration

The Assistant Superintendent of Schools for Business and Finance will be responsible for the administration of the retirement system.

C. Eligibility

All employees now members of VSRS and those subsequently employed who become members shall be eligible for participation.

D. Contributions

The Arlington County School Board will contribute an amount sufficient to establish this plan.

E. Retirement

Retirement will be as stipulated under the existing provisions of VSRS.

F. Benefits

Each employee who retires under VSRS shall receive an annual retirement allowance equal to 5/8 of one per cent of the average final compensation times the number of years of creditable service.

Any employee terminating service in Arlington shall receive no benefits under this plan. Any money credited to him while employed shall revert to the retirement fund.

ARTICLE X

Summer School Working Conditions

A. Insofar as it is possible, tentative commitments will be made to applicants for summer school positions by April 15th. It is understood, however, that changes in enrollment may necessitate a change in the number of teachers who may be needed. However, once a contractual commitment has been made, both parties will be bound by the terms of the contract.

B. The salary for summer school employment will be 1/6 of the teacher's salary for the ensuing school year.

C. The salary of teachers in summer school who will not be employed in the Arlington County school system for the ensuing year will be:

1. In the elementary schools 5/7 of 1/6 of the Bachelor's starting salary for the ensuing year.

2. In the secondary schools 6/7 of 1/6 of the Bachelor's starting salary for the ensuing year.

D. Selection of summer school personnel will be made on the basis of those best qualified in the subject matter field and for teaching the type of group to be instructed. However, where two or more applicants are substantially equal in fitness, length of service in Arlington County will be a preferential factor. Those who do not receive summer school appointments will be so notified in writing with the list of the reasons therefor if the teacher so requests.

ARTICLE XI

Discipline

A. The Board and the Association agree that a committee will be appointed by March 1, 1968 to recommend specific plans for dealing with the problems created by disruptive and educationally handicapped students. It is expected that the committee will report its findings by October 1, 1968.

B. The committee will consist of twelve members, four appointed by the Superintendent, four appointed by the Association, and four by the County Council of PTAs. The committee will represent, insofar as is possible, all segments of the school staff.

ARTICLE XII

Teacher Protection

A. Policy

It is the policy of the Arlington School Board to provide all proper and reasonable support to employees in the discharge of their duties in the school system.

B. Funishing Legal Counsel

The Board will furnish legal counsel to employees in defense of legal actions arising out of the discharge of their duties within the scope of their employment in the school system, provided:

1. The employee is not entitled to such legal counsel by virtue of its availability through a personal or group insurance policy.

2. Such counsel, when provided, is selected from a list approved by the School System, provided, however, in the event the School Board has any policy of insurance which would provide legal defense in the circumstances, then the employee must accept legal counsel selected by the insurance carrier unless he pays for his personally selected counsel.

3. If such counsel is furnished in a criminal proceeding and the employee is found guilty, the employee shall reimburse the Board for all costs involved in providing counsel.

C. Reporting of Incidents

It is the responsibility of all employees to report immediately, in writing, to their principal or supervisor all significant incidents of alleged assaults, whether involving situations between pupils or between pupils and employees. It is the responsibility of the principal or supervisor to call promptly all significant complaints of parents, students or others to the

attention of the employee or employees concerned when such complaints involve assaults.

D. Absence from Duties for Reasons of Injury

Whenever an employee is absent from school as a result of personal injury caused by an unjustified assault arising out of and in the course of his employment, he shall be paid his full salary for the period of such absence or the balance of that fiscal year, whichever is shorter, without having such absence charged to the annual sick leave or accumulated sick leave.

1. Any amount of salary payable pursuant to this section shall be reduced by the amount of any workmen's compensation award for temporary disability due to the said assault injury for the period for which such salary is paid.

2. The Board shall have the right to have the employee examined by a physician designated by the Board for the purpose of establishing the length of time during which the employee is temporarily disabled from performing his duties and, in the event that there is no adjudication in the appropriate workmen's compensation proceeding for the period of temporary disability, the opinion of the said physician as to the said period shall control.

E. Suspensions Pending Legal Action

If an employee is suspended or temporarily relieved of his duties because of pending legal action, such employee shall receive all pay and other benefits of his position until such action is resolved, but not beyond the end of the current fiscal year. Nothing herein shall impair or preclude the right of disciplinary action pursuant to 35-7.10 of the Personnel Policies of the School Board.

ARTICLE XIII

Grievance Procedure

Policy

It is the policy of the school system and the purpose of these procedures to secure, at the most immediate administrative level, possible equitable solutions to the problems which may from time to time arise affecting the welfare or working conditions of employees. These proceedings shall be kept as informal and confidential as may be appropriate at any level of the procedures. Nothing herein contained shall be construed as limiting the right of any member of the unit having a grievance or dispute to discuss the matter informally with any appropriate member of the administration.

I. Option A - Available to All Employees

A. The employee should first discuss the matter with his principal, division and department heads.

B. If the employee is still dissatisfied, or if he feels that he cannot follow step A, he shall notify the office of the Assistant Superintendent for Personnel, either in writing or by appearing at the Personnel Office in person, stating the reason for his complaint or grievance, including all pertinent facts in the case.

C. The office of the Assistant Superintendent for Personnel shall investigate the complaint and submit a report of his findings to the Superintendent within 30 days.

D. The Superintendent will act upon the report of the Assistant Superintendent for Personnel.

E. The final appeal shall be to the School Board.

II. Option B - Available only to employees eligible for membership in the organization recognized by the Board as representing professional employees. (Arlington Education Association)

A. Procedure

Since it is important that grievances or disputes be processed as rapidly as possible, the number of days indicated at each level should be considered as maximum and every effort should be made to expedite the process. The time limits specified may, however, be extended by mutual agreement.

In the event a grievance is filed on or after June 1, the time limits set forth herein shall be reduced so that the grievance procedure may be exhausted prior to the end of the school term or as soon thereafter as is practicable.

1. Level One - Principal or Immediate Superior

A member of the unit with a grievance or dispute shall first discuss it with his immediate supervisor or principal, either directly or through the AEA Director, with the objective of resolving the matter informally.

2. Level Two - Assistant Superintendent of Schools for Personnel

a. In the event that such aggrieved member of the unit is not satisfied with the disposition of his grievance at Level One, or in the event that no decision has been rendered within ten (10) school days after presentation of the grievance, he may file a written grievance with the PR&R Committee of AEA within five (5) school days after the decision at Level One or fifteen (15) school days after the grievance was presented, whichever is sooner. Within five (5) school days after receiving the written grievance, the PR&R Committee shall refer it to the Assistant Superintendent of Schools for Personnel with its findings and recommendations.

b. The Assistant Superintendent shall represent the administration at this level of the grievance procedure. Within ten (10) school days after receipt of the written grievance by the Assistant Superintendent, the Assistant Superintendent shall meet with the aggrieved person in an effort to resolve it.

c. If a member of the unit does not file a written grievance with the PR&R Committee or forward a written grievance to the Assistant Superintendent within thirty (30) school days after the member of the unit knew or should have known of the act or condition on which the grievance is based, then the grievance shall be waived.

A dispute as to whether a grievance has been waived under this paragraph shall be subject to arbitration pursuant to Level Three.

3. Level Three - Superintendent

In the event that the aggrieved member of the unit is not satisfied with the disposition of his grievance at Level Two, he may file a written request to meet with the Superintendent in an effort to resolve such grievance.

a. The person or persons involved at Level Two shall submit to the Superintendent written documents in support of their positions at Level Two which shall include all factors considered by the Assistant Superintendent for Personnel, the PR&R Committee and the aggrieved.

b. The Superintendent shall schedule a meeting with the aggrieved within ten (10) school days after receipt of request and shall render a decision within five (5) school days after the meeting, notifying the aggrieved of his decision in writing.

4. Level Four - School Board

In the event that the aggrieved member of the unit is not satisfied with the disposition of his grievance at Level Two, or in the event no decision has been rendered within ten (10) school days, after he has first met with the Assistant Superintendent, he may file a written grievance, indicating such dissatisfaction, with the PR&R Committee or the Board within five (5) school days after a decision by the Assistant Superintendent, or fifteen (15) school days after he has first met with the Assistant Superintendent, whichever is sooner. Within five (5) school days after receiving the written grievance, the PR&R Committee shall refer it to the Board. Within ten (10) school days after receiving the written grievance, a Committee of the Board shall meet with the aggrieved member of the unit for the purpose of resolving the grievance. However, the ultimate decision on the grievance at Level Four shall be rendered by the full Board.

5. Level Five - Impartial Arbitration

a. In the event that the aggrieved member of the unit is not satisfied with the disposition of his grievance at Level Four, or in the event no decision has been rendered within ten (10) school days after he has first met with the Board Committee, he may, within five (5) school days after a decision by the Board or fifteen (15) school days after he has first met with the Board Committee, whichever is sooner, present a request in writing to the PR&R Committee or the Board to submit his grievance to arbitration. The PR&R Committee or the Board may submit the grievance to arbitration within fifteen (15) school days after receipt of a request by the aggrieved person.

b. Within ten (10) school days after such written notice of arbitration, representatives of the Board and the AEA or its designee shall agree upon and select an arbitrator or arbitrators at this meeting, a request for a list of five (5) arbitrators shall be made to the American Arbitration Association by the AEA. The AEA and the Board shall alternately strike a name from the list until only one (1) person remains who shall be the arbitrator.

c. The arbitrator or arbitrators so selected shall confer with representatives of the Board, the aggrieved member of the unit, and the PR&R Committee and hold hearings promptly and shall issue his decision not later than twenty (20) days from the date of the closing of the hearings, or, if oral hearings have been waived, then from the date the final statements are submitted to him. The arbitrator's decision shall be in writing and shall set forth his findings of fact, reasoning and conclusions on the issues submitted. The arbitrator shall be without power or authority to make any decision which requires the commission of an act prohibited by law or which is violative of the terms of this Agreement. The decision of the arbitrator shall be submitted to the Board, the aggrieved member of the unit, and the PR&R Committee. The arbitrator's findings are advisory to the Board.

d. The costs for the services of the arbitrator including per diem expenses, shall be borne equally by the Board and the AEA.

B. Rights of Teachers to Representation

1. No reprisals of any kind shall be taken by the Board or by any member of the administration against anyone by reason of participation in the grievance procedure or support of any participant thereto.

2. Any member of the unit or the Board may be represented at any stage of this grievance procedure by any person of his choice provided, however, that exclusive organizational representation shall be provided by the AEA. When a member of the unit is not represented by the Association, the AEA shall have the right to be present and to state its views at all stages of this grievance.

C. Miscellaneous

1. If, in the judgment of the PR&R Committee or the Executive Board of the AEA, a grievance affects a group or class of members in the unit, the PR&R Committee may submit such grievance in writing to the Assistant Superintendent directly and the processing of such grievance shall be commenced at Level Two. The PR&R Committee may process such a grievance through Level IV of the grievance procedure even though the aggrieved person does not wish to do so.

(See additional details and information in PR&R Procedures)

2. Decisions rendered at Levels One, Two, Three and Four of the grievance procedure shall be in writing setting forth the decision and the reasons therefor and shall be promptly transmitted to all parties in interest and to the PR&R Committee. Decisions rendered at Level Four shall be in accordance with the procedures set out in paragraph 5 (c).

3. All documents, communications, and records dealing with the processing of a grievance shall be filed separately from the personnel files of the participants.

4. Forms for filing grievances, serving notices, taking appeals, making reports and recommenda-

tions, and other necessary documents shall be prepared jointly by the Assistant Superintendent for Personnel and by the AEA and given appropriate distribution by the AEA so as to facilitate operation of the grievance procedure.

5. The Board reserves the right to file a grievance against the Association or an individual member for what it deems to be unprofessional conduct.

ARTICLE XIV

Group Hospitalization Insurance

Policy

All regularly employed personnel are eligible for enrollment in the group hospitalization program. This is a comprehensive coverage (Major Medical, Blue Cross-Blue Shield Plan). The School Board participates in the financing of the program by contributing 2/3 of the cost for full-time (30-40 hours per week) employees, 1/3 for those working 20-29 hours weekly, and 1/4 for those working up to 20 hours weekly. Family coverage is available.

For those employees who prefer to participate in the Group Health Association plan, the School Board contributes the same dollar amount as it contributes to employees participating in the Blue Cross-Blue Shield plan.

ARTICLE XV

General Provisions

A. It is understood that teachers shall continue to serve under the direction of the Superintendent of Schools and in accordance with Board policies as set forth in the Administrative Manual, as amended, provided that the provisions of this Agreement shall supersede and prevail over any conflicting provisions.

B. This Agreement shall constitute Board policy for the term of said Agreement, and the Board hereby amends its rules and regulations to the extent necessary to give effect to the provisions of this Agreement.

C. If any portion of this Agreement is ruled invalid for any reason, the remainder shall remain in full force and effect.

APPENDIX A

SCHOOL CALENDAR - 1968-69

Summer School Session

Elementary Teachers report	June 28
First Day Summer School for Secondary Teachers and Pupils	July 1
First Day Summer School for Elementary Pupils	July 2
Fourth of July Holiday	July 4 and 5
Last Day Summer School for Pupils	August 15
Last Day Summer School for Elementary Teachers	August 15
Last Day Summer School for Secondary Teachers	August 16

Regular Session

August	Pre-School Professional Activities (all teachers) and Pupil Testing	Aug. 28, 29, 30 (W, Th, F)
September	Labor Day Holiday	Sept. 2 (M)
	First Day of School	Sept. 3 (T)
	Release Time Elementary Schools (1:30 dismissal) for Program Development in Individual Schools .	Sept. 18 (W)
October	Elementary Schools Release for Parent-Teacher Conferences (Noon Dismissal)	Oct. 10, 11, 14, 15 (Th, F, M, T)
November	Veterans Day Holiday for Pupils - In-service for Teachers	Nov. 11 (M)
	Release Time Elementary Schools (1:30 Dismissal) for Program Development in Individual Schools .	Nov. 20 (W)
	Thanksgiving Day Holiday	
December	Release Time Elementary Schools (1:30 dismissal) for County-wide Program Development	Dec. 11 (W)
	Christmas Holiday Starts (end of day)	Dec. 20 (F)
January	Schools Reopen	Jan. 2 (Th)
	Release Time Elementary Schools (1:30 dismissal) for Program Development in Individual Schools .	Jan. 15 (W)
	Inauguration Day Holiday	Jan. 20 (M)
February	Release Time Elementary Schools (1:30 dismissal) for County-wide Program Development	Feb. 12 (W)
	Washington's Birthday Holiday	Feb. 21 (F)
March	Elementary Schools Release for Parent-Teacher Conferences (noon dismissal)	Mar. 6, 7, 10, 11 (Th, F, M, T)
April	Easter Holiday Starts (end of day)	April 3 (Th)
	Professional Activities for Teachers	April 8 (T)
	Schools Reopen	April 9 (W)
	Release Time Elementary Schools (1:30 dismissal) for County-wide Program Development	April 23 (W)
May	Release Time Elementary Schools (1:30 dismissal) for County-wide Program Development	May 21 (W)
	Memorial Day Holiday	May 30 (F)
June	Release Time Elementary Schools (1:30 dismissal) for Program Development in Individual Schools .	June 4 (W)
	Senior High School Examinations	June 10,11,12 (T,W,Th)
	Last Day of School - Senior High Students	June 12 (Th)
	Graduation Day	June 13 (F)
	Last Day of School for Elementary and Junior High Students	June 13 (F)
	Last Day for Teachers	June 14 (Sat.)

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Days of Instruction			Professional Days		
	Jr. High & Elem.	Sr. High		Jr. High & Elem.	Sr. High
Aug.	0	0	Aug.	3	3
Sept.	20	20	Sept.	0	0
Oct.	23	23	Oct.	0	0
Nov.	17	17	Nov.	1	1
Dec.	15	15	Dec.	0	0
Jan.	21	21	Jan.	0	0
Feb.	19	19	Feb.	0	0
Mar.	21	21	Mar.	0	0
Apr.	20	20	Apr.	1	1
May	21	21	May	0	0
June	10	9	June	1	2
	187	186		5	7

Scheduled Days of Work: 193

APPENDIX B

TEACHERS' SALARY SCHEDULE 1968-69

B.A.		M.A.		M.A.+30		Ph.D.	
Index	$	Index	$	Index	$	Index	$
1.00	6200	1.15	7130	1.25	7750	1.35	8370
1.05	6510	1.20	7440	1.30	8060	1.40	8680
1.10	6820	1.25	7750	1.35	8370	1.45	8990
1.18	7316	1.33	8246	1.43	8866	1.53	9486
1.25	7750	1.40	8680	1.50	9300	1.60	9920
1.32	8184	1.47	9114	1.57	9734	1.67	10354
1.38	8556	1.53	9486	1.63	10106	1.73	10726
1.44	8928	1.59	9858	1.69	10478	1.79	11098
1.50	9300	1.65	10230	1.75	10850	1.85	11470
1.56	9672	1.71	10602	1.81	11222	1.91	11842
1.62	10044	1.77	10974	1.87	11594	1.97	12214
1.68	10416	1.83	11346	1.93	11966	2.03	12586
1.74	10788	1.89	11718	1.99	12338	2.09	12958
1.80	11160	1.95	12090	2.05	12710	2.15	13330
1.86	11532	2.01	12462	2.11	13082	2.21	13702

APPENDIX C

SALARY SCALE FOR ADMINISTRATORS & SUPERVISORS 1968-69

	A		B		C		D		E		F		G	
	$	Index	$	Index	$	Index	$	Index	$	Index	$	Index	$	Index
P-1	$11,765	1.65	$12,192	1.71	$12,620	1.77	$13,048	1.83	$13,476	1.89	$13,904	1.95	$14,331	2.01
P-2	13,618	1.91	14,046	1.97	14,474	2.03	14,902	2.09	15,330	2.15	15,757	2.21	16,185	2.27
P-3	14,260	2.00	14,688	2.06	15,116	2.12	15,543	2.18	15,971	2.24	16,399	2.30	16,827	2.36
P-4	14,830	2.08	15,330	2.15	15,829	2.22	16,328	2.29	16,827	2.36	17,326	2.43	17,825	2.50
P-5	16,043	2.25	16,684	2.34	17,326	2.43	17,968	2.52	18,609	2.61	19,251	2.70	19,893	2.79
P-6	16,969	2.38	17,611	2.47	18,253	2.56	18,895	2.65	19,536	2.74	20,178	2.83	20,820	2.92
P-7	18,538	2.60	19,180	2.69	19,821	2.78	20,463	2.87	21,105	2.96	21,747	3.05	22,388	3.14
P-8	21,675	3.04	22,317	3.13	22,959	3.22	23,600	3.31	24,242	3.40	24,884	3.49	25,525	3.58

APPENDIX D

Supplemental Salaries

Baseball	Head Coach	750
	Assistants	500
Basketball	Head Coach (H.S.)	850
	Assistants	500
	Head Coach (J.H.)	500
Crew	Head Coach	750
	Assistants	500
Cross Country	Head Coach	300
Football	Head Coach (H.S.)	1000
	Assistants	500
	Head Coach (J.H.)	600
Gymnastics	Head Coach	500
Intramurals	Boys (H.S.)	900
	Boys (J.H.)	700
	Girls (H.S.)	900
	Girls (J.H.)	800
Rifle	Head Coach	300
Soccer	Head Coach	500
	Assistants	300
Tennis	Head Coach	300
Track	Head Coach (H.S.)	750
	Assistants	500
	Head Coach (J.H.)	500
Wrestling	Head Coach (H.S.)	750
	Assistants	500
	Head Coach (J.H.)	500
Debate		500
Drama		600

AGREEMENT

BETWEEN

THE BOARD OF EDUCATION, JANESVILLE, WISCONSIN

AND

THE JANESVILLE EDUCATION ASSOCIATION (NEA)

AGREEMENT

This Agreement entered into by and between the Janesville, Wisconsin, Board of Education on behalf of District No. Jt. I, City of Janesville, and Towns of Harmony, Janesville, LaPrairie and Rock, County of Rock, Wisconsin (Janesville Public Schools), herein referred to as the Board of Education, and the Janesville Education Association, Inc., herein referred to as the Janesville Education Association.

ARTICLE I. RECOGNITION

The Board of Education recognizes the Janesville Education Association as the exclusive representative for the following unit of employees:

All regular full time and all regular part-time certificated teaching personnel employed by the Janesville Board of Education, including guidance counselors and speech and hearing specialists, but excluding teaching principals, per diem teachers, psychologists, interns, recreational directors and all other employees, supervisors and administrators.

It is understood and agreed that an informal election will be held to determine if guidance counselors and speech and hearing specialists wish to be excluded from the unit. A separate determination will be made for each group. If a majority of a group wish to be excluded from the unit, an appropriate modification will be made in the foregoing unit description.

ARTICLE II. BOARD OF EDUCATION'S RIGHTS

Except as specifically modified by this Agreement, the Board of Education retains, without limitations, all powers, rights, and authority vested in it by all laws, rules and regulations, including but not limited to: The right to manage and control school properties and facilities; select and direct personnel; determine, manage and control the school curriculum; relieve employees from duties; take such action as it deems necessary to maintain efficiency in the operation of the school system; determine the methods, means and personnel by which the functions of the school district will be performed. The exercise of these rights shall not be subject to the grievance procedure.

ARTICLE III. NEGOTIATION PROCEDURES

Section 1. The Board of Education and Janesville Education Association to the extent they have a legal obligation so to do, will meet for the purposes of negotiating in good faith at reasonable times in a bona fide effort to arrive at a settlement on questions of wages, hours and conditions of employment. The parties to this Agreement agree as follows:

Section 2. All items proposed to be negotiated for a school year commencing July 1 and ending June 30 shall be submitted to the duly authorized agent of the other party in writing and according to the time table set forth in this Agreement. Negotiations shall be conducted on not less than an annual basis and shall be conducted during the year preceding the one in which the Agreement shall take effect.

Section 3. Time Table. All items proposed for negotiations shall be presented as follows:

(a) The Janesville Education Association shall make its proposals in writing, on or about May 1.

(b) The Board of Education shall make its proposals and counter-proposals in writing, on or about June 1.

(c) Thereafter, meetings shall be scheduled at the convenience of the parties to resolve any areas of disagreement that are raised by the exchange of said proposals and counter-proposals.

(d) The proposals and counter-proposals described above shall constitute the subjects of negotiations. No new matters may be interjected, except by mutual consent of the parties.

Section 4. Each party shall advise the other of the names of persons who shall constitute its bargaining committees, and negotiations shall be conducted between the bargaining committees. The parties shall have the right to change or substitute members of their respective bargaining committees at any time, upon giving the other party written notice in advance of effecting said change or substitution. The parties may utilize the services of attorneys and/or accountants. The parties will make available non-confidential information pertinent to the bargaining issues on reasonable request.

Section 5. Negotiations shall be closed to the public. The parties shall make every reasonable effort to agree on the content of any news releases made during negotiations. Only in the absence of such agreement may the parties make unilateral news releases. The parties will, upon request of either party, participate in mediation with a mediator appointed by the Wisconsin Employment Relations Commission or a mediator mutually agreed upon between the parties. Where the parties are legally required to do so, they will participate in fact finding procedures pursuant to Section 111.70(4)(e) of the Wisconsin Statutes.

Section 6. When an agreement has been reached on all issues framed for the negotiations as described above, the over-all Agreement shall be reduced to writing for submission to the Janesville Education Association and the Board of Education for approval. When the Agreement is approved by both parties, it shall be considered a final Agreement and shall be signed by duly authorized representatives of the parties.

ARTICLE IV. GRIEVANCE PROCEDURE

A grievance is defined as a dispute concerning the interpretation or application of this Agreement. If any employee covered by this Agreement, or the Janesville Education Association has a grievance, the following grievance procedure steps shall apply:

a. STEP ONE. An aggrieved party shall promptly attempt to resolve the grievance by oral discussion with the principal or principals or supervisor or supervisors of such aggrieved party.

b. STEP TWO. If the grievance is not resolved in Step One, it shall be reduced to writing by the grievant who shall, within ten (10) school days after the grievance occurs, file the grievance with the Superintendent of Schools, and mail a copy to the Janesville Education Association and the principal or supervisor involved. A grievance which is not timely filed and mailed, shall be deemed finally resolved against the grievant. The Superintendent of Schools shall arrange a meeting to discuss the grievance, within ten (10) school days after he receives the written grievance, and subsequent meetings may be scheduled as agreed by all parties. The Superintendent of Schools shall give a written answer to the grievance, to the President of the Janesville Education Association, and to the grievant, within ten (10) school days after the final meeting regarding the grievance.

c. STEP THREE. If the grievance is not resolved in Step Two, the grievant may file the grievance in writing to the Clerk of the Board of Education within ten (10) school days after receipt of the Superintendent's answer. A grievance not timely filed with the Board of Education shall be deemed finally resolved against the grievant. The Board of Education shall consider the grievance in closed session at its next regular meeting, or the following regular meeting or at any special meeting called for that purpose in the interim. The Janesville Education Association and the grievant shall have the right to present their position to the Board at such meeting.

The Board of Education shall within ten (10) school days after the meeting advise the grievant and the Janesville Education Association in writing of the action taken with regard to the grievance.

d. STEP FOUR. If the grievant is not satisfied with the action taken by the Board of Education, he may, within ten (10) days of receipt of written notice of said action, file a written request with the Wisconsin Employment Relations Commission to appoint an arbitrator to determine the matter and file a copy thereof with the Clerk of the Board of Education. If the request is not timely filed with the Wisconsin Employment Relations Commission and the Clerk of the Board of Education the grievance shall be deemed finally resolved against the grievant. The Wisconsin Employment Relations Commission shall appoint a Commissioner or member of its staff to act as arbitrator. The decision of the arbitrator shall be final and binding upon the parties. However, the arbitrator shall be limited to determining questions arising under this Agreement and shall not have authority to modify or change any of the terms of the Agreement.

In the event there is a charge for the services of an arbitrator, or for a transcript of proceedings, the parties shall share the expenses equally. Each party shall bear the expense of preparing and presenting its own case.

ARTICLE V. TEACHER'S CONTRACTS

Section 1. The individual teacher's contracts signed between employees and the Janesville Public Schools shall be in the form of Appendix A, which is attached hereto.

Section 2. Every effort will be made to rehire teachers in their same teaching assignment, absent a contrary agreement between a teacher and the Superintendent of Schools. The Superintendent of Schools shall promptly notify any teacher affected by a transfer or change in work assignment.

Section 3. Contracts shall be adjusted in September of each year to compensate for additional credits earned during summer school, extension work, or for any other applicable reason. Advanced approval from the Assistant Superintendent in charge of Instruction is required for professional work to be undertaken which would affect the teacher's salary schedule status.

ARTICLE VI. WORK DAY

The work day shall commence one-half hour before scheduled classes begin and end one-half hour after the last scheduled class ends; except where special problems occur with bus schedules, a comparable work day shall be devised to meet the particular bus problem. It is understood that the work day will vary between schools, depending upon class schedules. Any duties outside the defined work day shall be voluntary, except for employees performing added duties for which they receive differentiated pay or released time. However, it is recognized by the parties that teachers have a professional responsibility to perform services related to and consistent with the over-all aims of the school program outside of the normal work day.

ARTICLE VII. VERTICAL COMMITTEES

The parties approve of the use of Vertical Curriculum Committees in the various subject areas to better coordinate areas of elementary, junior and senior high school education. Meetings of Vertical Curriculum Committees and related curriculum demands shall be held during the defined work day or attendance at such meetings shall be voluntary.

ARTICLE VIII. JOINT POLICY STUDY COMMITTEE

A Joint Policy Study Committee shall be established for the purpose of making suggestions as to general policy for the Janesville Public Schools. The Committee shall be composed of three members of the School Board, three members of the Janesville Education Association, and three School Administrators, including the Superintendent of Schools who shall act as the Executive Secretary of the Committee.

ARTICLE IX. SALARY SCHEDULE

Section 1. The salary schedule in Appendix B attached hereto shall be applicable during the 1968-1969 school year. The Board of Education reserves the right to exceed the salary schedule for employees (new hires or current employees) it determines to have special skills, ability, training, or related work experience. Teachers may be held at their existing level in the discretion of the Superintendent of Schools.

Section 2. Differentiated Pay Schedules for Curricular and Co-Curricular Positions.

(a) The differentiated pay schedule for curricular positions in Appendix C attached hereto shall be applicable during the 1968-1969 school year.

(b) The differentiated pay schedule for co-curricular positions in Appendix D attached hereto shall be applicable during the 1968-1969 school year. However, it is understood that the Board of Education will meet with the Janesville Education Association negotiating committee to review the schedule as it relates to coaches for the 1969 portion of the school year.

Section 3. All payments for services rendered by employees pursuant to this Agreement are contingent upon the collection of taxes and the availability of funds for the operation of Janesville Public Schools.

ARTICLE X. EXTRA DUTY COMPENSATION - SENIOR HIGH SCHOOL ATHLETIC EVENTS

Scheduled duties performed at the following Senior High School athletic events shall be compensated for at the rate of $10.00 per event.

Football
Basketball
Track
Swimming Meets

Scheduled duties performed at the following Senior High School athletic events shall be compensated for at the rate of $5.00 per event.

Cross Country
Gymnastics
Wrestling

Where more than one event takes place at the same time, scheduled duties performed at Senior High Athletic events will be paid for at the higher rate. There shall be no pyramiding of rates where more than one event takes place at the same time.

ARTICLE XI. PROFESSIONAL IMPROVEMENT REQUIREMENTS

Section 1. Teachers shall comply with the following professional growth requirements:

(a) Teachers holding a Bachelors Degree shall be required to complete 6 semester hours of approved study in a recognized college or university summer school program for each 4 year interval after receiving such degree. Updating of professional growth shall be completed within 4 years after completion of the preceding 4 year requirement.

(b) Teachers holding a Masters Degree shall be required to complete 6 semester hours of approved study in a recognized college or university summer school program for each 5 year interval after receiving such degree. Updating of professional growth shall be completed within 5 years after completion of the preceding 5 year requirement.

(c) Teachers who do not have a Bachelors Degree are required to make continuous advancement until a degree is obtained. The completion of 6 semester hours of study in a recognized college or university summer school program shall be required during each calendar year.

Section 2. During any four year period, professional staff members shall be reimbursed in an amount up to $200 for approved work toward a higher degree in a recognized summer school for only recognized semester credit hours. Payments shall be paid only for completed semester credit hours and shall be paid according to the following schedule:

COMPLETED SEMESTER HOURS	AMOUNT OF REIMBURSEMENT
6	$200
5	170
4	135
3	100
2	70
1	35

Payments of $100 or more shall be made in two equal installments, in October and February following completion of the credit hours. In order to be entitled to such payments, the staff member must be an employee of the school system at the time the payment is to be made.

Section 3. The Board may permit the following to be used to satisfy the foregoing summer school requirements:

(A) Equivalent credits for completed courses of study in a recognized Extension Division, or by attending Saturday or evening classes in a recognized college or university. No reimbursement shall be paid for such studies.

(B) Eight professional growth equivalency credits by:

a. In-service credits for regular school year term workshops. These may consist of such things as math workshops, science workshops, guidance workshops, mental health workshops, etc. One professional growth credit may be permitted for each 16 hours that a workshop is in session. No reimbursement shall be paid for such studies.

b. In-service credit granted for workshops conducted by the Board of Education during summer vacation time. Two professional growth credits may be granted for each week that a workshop is in session. A week's session is defined as six (6) hours daily for five (5) days a week. Compensation is granted in accordance with the Board of Education specifications for that year's workshop.

(C) Credit granted for service on state committees and other unusual services. Employment experiences which may enrich the individual as a teacher in the judgment of the Board of Education, are included. No reimbursement shall be paid for such services. Conditions for granting credit are as follows:

a. Applications for such credit must be made to the Assistant Superintendent in Charge of Instruction immediately following such experience.

b. The application must be outlined in such form as may be required by the Assistant Superintendent in Charge of Instruction so that evaluation of such a request may be made.

(D) Exchange Teacher Policy. In case any teacher employed by the Janesville Public Schools serves overseas for one school year as a result of being accepted in the Exchange Teacher Program, he or she may receive full professional growth for one full professional growth period of four or five

years as the case may be. This must meet the approval of the Assistant Superintendent in Charge of Instruction.

(E) A combination of three credit hours from a recognized college or university, plus four alternative professional growth credits may satisfy the summer school requirement for a four year period.

(F) Once every 12 years a teacher may satisfy the summer school requirement by meeting the following travel requirements:

a. One credit will be allowed for each week of travel and eight credits will satisfy the summer school requirement. Travel may be one eight-weeks trip, one six-weeks trip plus one two-weeks trip or two four-week trips. One week trips may not be used to satisfy this requirement.

b. The following procedures shall apply to travel which shall satisfy the summer school requirement.

(1) By May 1 of the year in which the teacher intends to travel, an outline of the proposed trip(s) must be presented to the Assistant Superintendent in Charge of Instruction who will in turn give it to the Chairman of the J.E.A. Travel Committee. This outline should include (a) approximate number of miles to be traveled, (b) map of the intended trip, (c) places or things to be seen, (d) duration of the trip, (e) the value of the trip to the job the teacher is performing.

(2) By May 15, the J.E.A. Travel Committee will pass judgment as to whether or not this trip has merit enough to be sanctioned. Should the possibility of a trip arise toward the close of school or during the summer, the same required outline should be left with the Assistant Superintendent In Charge of Instruction or with his Secretary. The Board of Education shall make the final determination as to whether credit for the trip will be allowed.

(3) A complete summary of the trip must be submitted after the trip (in booklet form, including pictures, etc.) following the outline submitted. It is desirable that a travelog of the trip be given before a group or groups. The deadline for filing the summary of the trip with the Assistant Superintendent In Charge of Instruction is November 15 following the summer trip.

(4) After the written report has been evaluated by the J.E.A. Travel Committee, it will be placed on file in the office of the Assistant Superintendent In Charge of Instruction until the end of the school year.

(5) If a teacher can obtain semester credit hours for summer travel from a recognized college or university, he shall be reimbursed for such credits according to the schedule set forth in Section 2 above. Otherwise, there shall be no reimbursement.

(6) A combination of one four-week trip which qualifies for credit and three semester hours or four professional growth credits will satisfy summer school requirements.

Section 4. General Procedures

(a) In all instances, approval must be received from the Assistant Superintendent in Charge of Instruction prior to enrollment in a course (either at summer school or extension work), or prior to enrollment in workshops or prior to a trip. Special permission must be received from the Assistant Superintendent In Charge of Instruction prior to enrollment in a course which is not a requirement for a degree or which does not pertain to the teachers subject field.

(b) An official transcript of credits is to be on file in the office of the Superintendent of Schools before summer school expense will be paid and before advancement on salary schedule will be effected.

ARTICLE XII. SABBATICAL LEAVES

Effective during the school year commencing July 1, 1969 and ending June 30, 1970, the Board of Education shall budget sufficient funds for sabbatical leaves for certified professional staff personnel for the purpose of advanced study or research.

The following rules shall govern the administration of this fund:

a. Certified professional staff personnel must have served at least 7 consecutive years in the Janesville Public School system in order to establish service eligibility for sabbatical leave.

b. Either one year's leave up to one-half pay at the base salary schedule or one semester's leave up to one-half pay at the base salary schedule may be granted. In determining one-half pay differentiated pay shall not be taken into consideration.

c. The recipient of a sabbatical leave must agree by written contract to return to the Janesville Public School system and render at least two full years of service following completion of sabbatical leave, or to repay the sabbatical leave fund for amounts received as stated in the contract. The contract shall be secured by a judgment note.

d. Application for sabbatical leave shall be made to the Superintendent of Schools no later than March 1 preceding the beginning of the school year during which it will be taken. In determining if sabbatical leave will be granted, the Superintendent of Schools shall consider the value to both the professional staff member and the Janesville Public School system of the proposed study and/or research.

e. The recipient will not advance via yearly service increments during the period of the sabbatical leave. However, a general salary adjustment during the period of the sabbatical leave shall be applied to the recipient's contract upon return to the system.

f. No more than one percent of the professional staff eligible for sabbatical leave shall receive a sabbatical leave in any one year.

ARTICLE XIII. TRANSFERS AND VACANCIES

A teacher desiring a transfer to a new teaching assignment or to apply for a vacancy within the school system shall make a written request to his principal. The principal shall act upon the request and within ten (10) school days give the teacher written notice of his recommendation to the Superintendent of Schools. If the principal fails to give such written notice within ten (10) days or recommends that the request be denied, the teacher shall have the right to submit a written request to the Superintendent of Schools, with a copy to the principal involved. The determination of the Superintendent of Schools shall be final and binding.

ARTICLE XIV. INSURANCE COVERAGE AND TEACHER RETIREMENT

The Board of Education will continue to make the same payments which are presently being made for medical and hospitalization insurance, life insurance and the State Teachers Retirement Plan.

ARTICLE XV. SICK LEAVE AND ABSENCES

Section 1. "Days" or "school days" in sick leave or absence are counted as contract days including days taught, curriculum days, and other days included within the teacher's contracts.

Section 2. Sick leave may be accumulated to a maximum of 90 days for a 190 day teaching schedule. Professional staff assigned more than 190 days will receive pro-rata additional days leave. Professional staff assigned less than 190 days will receive pro-rata less days leave.

Section 3. When a teacher will be absent from work he shall give notice to his principal or the person designated by the Superintendent of Schools to receive such notice. If the absence is for consecutive days, the principal should be notified of the probable date of return.

Section 4. Professional employees under yearly contract shall be allowed in each school year 10 days of leave at full pay for the following reasons:

a. Personal illness (except that arising from pregnancy)
b. Quarantine

Section 5. Professional employees under yearly contract shall be allowed in each school year a maximum of six (6) days at full pay, when earned, according to the following schedule with the exception of teachers new in the system for their first two years (see Section 6 below). Any combination of the following absences shall not exceed six (6) days in any contract school year:

a. Serious illness or death in the immediate family -- not to exceed 6 school days when earned, with the exception of teachers new in the system for their first two years (see Section 6 below). The interpretation of "immediate family" shall be in the discretion of the Superintendent.

b. Funeral not of immediate family -- not to exceed 2 school days.

c. Graduation of members of immediate family -- not to exceed 2 school days. Wedding of a professional employee or a member of his immediate family -- not to exceed 2 school days.

Section 6. The unused portion of the annual leave may be accumulated to a maximum sick leave including the current sick leave (Section 4) and (Section 5) as follows:

	Reasons set forth in Schedule 4	Reasons set forth in Schedule 5
1st year teaching	10 days	2 days
2nd year teaching	20 days	4 days
3rd year teaching	30 days	6 days
4th year teaching	40 days	6 days
5th year teaching	50 days	6 days
6th year teaching	60 days	6 days
7th year teaching	70 days	6 days
8th year teaching	80 days	6 days
9th year teaching	90 days	6 days

Section 7. The Board of Education may require a physician's certificate or a certificate of a spiritual advisor if treatment is by prayer or spiritual means, as a basis of pay during leave after an absence of 3 days for personal illness, or as it may deem necessary in other cases.

Section 8. In the event the 6 days are exceeded or if death or serious illness of someone not within the listings above requires absence during all or part of a school day, whether or not a substitute is hired, a deduction to the extent of the cost of a substitute for the time involved will be made.

Section 9. Doctor appointments should be made after working hours, except in emergencies.

Section 10. One day's leave with pay for personal illness will be granted for summer school teaching each year and one day's leave with pay for death or illness in the immediate family (lineal relationship) will be granted each year. No cumulative leave is granted for summer school teaching. Notification of absence/leave is to be made to the Director of Summer Session.

Section 11. Leave with pay for professional meetings where the individual receives no compensation, falling on school days approved in advance by the Superintendent of Schools, will be granted as equitably as possible according to grade level or departments. If compensation is received, it will be deducted.

Section 12. All other absences will result in loss of pay based upon the daily rate involved in extent of the contract of the individual whether or not a substitute is hired.

Section 13. No deduction of salary shall be made for absences for accidents occurring in line of duty not to exceed ten days in any one school year. Such amounts shall not be deducted from the ten day personal illness allowance from which all other absences are deducted in computing accumulations.

Section 14. The Board will not grant leave with pay in addition to legal weekly compensation payments in accident compensation cases passed by the Industrial Commission.

Section 15. Every employee of the Board is covered under Chapter 102 known as the Wisconsin Workman's Compensation Act. Generally, under the act a person is entitled to compensation where he is an employee of the Board of Education and at the time of the injury is performing services growing out of and incidental to his employment. While an employee is on the way to work or is on the way home after leaving work he is generally not within the purview of the compensation act. However, there are instances where the job itself

will require his presence at a particular place off the school premises. In such instances, it can be said that the school employee is performing services growing out of and incidental to his employment.

Section 16. Leaves before and after vacation period. All professional staff members are expected to be on the job until school closes before vacation periods and on the day school begins after vacation periods. If a teacher is attending an approved summer school program which requires early or late attendance necessary to fulfill requirements of the program, the Superintendent shall determine in his sole discretion whether or not loss of pay shall result. All other absences not covered in the Sick Leave and Absence Policy shall result in loss of pay.

ARTICLE XVI. PUBLICATION OF ARTICLES AND NEWS RELEASES

Section 1. The Board of Education encourages any staff member to publish articles of good quality in professional journals. It is suggested that any writer of such articles referring to the local school system be encouraged to check with the administration for accuracy.

Section 2. It is suggested that staff members clear news releases and publications concerning the education program of the Janesville Public Schools through the Superintendent prior to publication.

ARTICLE XVII. STUDY COMMITTEES

Parties agree to set up Study Committees to review the existing Board of Education policies regarding leaves of absence, including short term leaves of absence, and to study criteria to be used in determining credit for work related experience and special training and further to study the policy regarding outside activity. The composition of these committees will be determined by the parties, except that both parties shall have equal representation and the Superintendent of Schools shall be the Executive Secretary. Each Committee shall report to both parties upon completion of its study.

This Agreement shall have a term for the school year commencing July 1, 1968 and ending June 30, 1969 (the 1968-1969 school year), except that the following articles shall be effective as stated below:

1. The following articles shall be effective immediately upon the execution of this Agreement:

   a. Article I - Recognition
   b. Article II - Board of Education Rights
   c. Article III - Negotiation Procedures
   d. Article IV - Grievance Procedures
   e. Article V - Teacher Contracts
   f. Article VIII - Joint Study Committees
   g. Article XI - Professional Improvement Requirements
      The reimbursement for summer school credit hours provided in Section 2 of Article XI shall be effective starting with summer school for the year 1968.
   h. Article XIII - Transfers and Vacancies

2. The following articles shall be effective at the commencement of the teaching year defined in the teacher's contracts:

   a. Article VI - Work Day
   b. Article VII - Vertical Committees
   c. Article IX - Salary Schedules
   d. Article X - Extra Duty Compensation
   e. Article XIV - Insurance Coverage and Teacher Retirement
   f. Article XV - Sick Leave and Absences

Executed the _____day of_____1968 at Janesville, Wisconsin

Janesville Education Association, Inc.

_____
President

_____
Secretary

_____
Bargaining Committee Chairman

Janesville Board of Education

_____
President

_____
Clerk

_____
Teachers Committee Chairman

APPENDIX A

JANESVILLE PUBLIC SCHOOLS
Janesville, Wisconsin

NOTICE OF APPOINTMENT

TO:_____

You are hereby notified that you have been appointed to a position in District No. Jt. 1, City of Janesville and Towns of Janesville, Harmony, LaPrairie and Rock, County of Rock, Wisconsin (Janesville Public Schools), for the 19_____ school year beginning _____ _____ and for a period of _____ weeks as designated by the Board of Education, for which period of services properly rendered you are to receive a salary of_____ _____ dollars ($_____), payable in 10 equal installments over a period of 40 weeks, or in 12 equal installments over a period of 52 weeks, at the option of the teacher. Said contract is subject to:

(1) Express conditions stated on salary placement schedule attached to this notice of appointment.

(2) Any and all rules and regulations adopted by the Board of Education on or before March 15, 1968, and on file in the office of the Clerk, and any agreement by and between the Board of Education and the Janesville Education Association.

(3) Evidence that you are legally qualified to fill the position as required by the Statutes of the State of Wisconsin through submission of a valid teaching license, certificate or permit and complete official transcripts of credit from the colleges or universities attended.

(4) Satisfactory evidence of state of health based upon a medical examination and certified to by a licensed physician as required by the Board of Education.

(5) Provisions of the laws of Wisconsin governing the continuing contract law, the State Teachers Retirement System and Teachers' Insurance, and laws of the federal and state governments relating to Withholding Tax and Old Age and Survivors Insurance System (Social Security).

The Superintendent of Schools shall have the right to make such assignments or transfers of your services within the Janesville Public Schools as in his opinion the interest of the educational program may demand.

All payments for services rendered by you pursuant to this notice and your acceptance are contingent upon the collection of taxes and the availability of funds for the operation of the public schools of Janesville.

Request for resignation shall be made in writing to the Superintendent for presentation to the Board of Education at least 30 days before the resignation will if accepted by the Board of Education become effective.

Dated this_____day of _____19_____.

Janesville Board of Education

By_____
Superintendent

ACCEPTANCE OF APPOINTMENT

I have read and understood the terms of this Notice of Appointment and I agree to its provisions and to accept the position, subject to the conditions specified. As required by the State Retirement Law, I give below my full name and I certify my date and place of birth.

I was born at_____
City County State

on_____
Month Day Year

Dated this _____day of _____19_____.

Complete maiden name, if applicable:

_____

By_____
Appointee

(Please sign and return the duplicate copy of this contract and retain the original)

APPENDIX B

JOINT SCHOOL DISTRICT NO. 1

CITY OF JANESVILLE, WISCONSIN
Salary Schedule 1968-1969 School Year

	0	1	2	3	4	5	6	7	8	9	10	11	12	13
B.A.	6100	6370	6640	6910	7180	7450	7720	7990	8260	8530	8800	9070	9340	
B.A. + 6	6250	6527	6804	7081	7358	7635	7912	8189	8466	8743	9020	9297	9574	
B.A. + 12	6400	6684	6968	7252	7536	7820	8104	8388	8672	8956	9240	9524	9808	
B.A. + 18	6550	6840	7130	7420	7710	8000	8290	8580	8870	9160	9450	9740	10030	
B.A. + 24	6700	6997	7294	7591	7888	8185	8482	8779	9076	9373	9670	9967	10264	
M.A.	6850	7153	7456	7759	8062	8365	8668	8971	9274	9577	9880	10183	10486	10789
M.A. + 6	7000	7310	7620	7930	8240	8550	8860	9170	9480	9790	10100	10410	10720	11030
M.A. + 12	7150	7467	7784	8101	8418	8735	9052	9369	9686	10003	10320	10637	10954	11271
M.A. + 18	7300	7623	7946	8269	8592	8915	9238	9561	9884	10207	10530	10853	11176	11499
M.A. + 24	7450	7780	8110	8440	8770	9100	9430	9760	10090	10420	10750	11080	11410	11740

APPENDIX C

DIFFERENTIATED PAY
CURRICULAR POSITIONS

1968-1969 SCHOOL YEAR

CURRICULAR POSITION

Department Chairman

Size of Department	% of Salary Base
1 - 2	2%
3 - 5	3%
6 - 9	4%
10 - 13	5%
14 - 17	6%
18 and over	7%

Coordinator

Size of Department	% of Salary Base
1 - 2	1 %
3 - 5	1 1/2%
6 - 9	2 %
10 - 13	2 1/2%
14 - 17	3 %
18 and over	3 1/2%

Team Teaching (including R & I)

$50 - $500

Special Education

$200

Ungraded

$200

APPENDIX D

DIFFERENTIATED PAY
CO-CURRICULAR POSITIONS
1968-1969 SCHOOL YEAR

CO-CURRICULAR POSITIONS

Senior Highs:	
Football - Head	$750 (+ 1 week early)
Football - Assistant	450
Basketball - Head	750
Basketball - Assistant	450
Swimming - Head	550
Swimming - Assistant	350
Wrestling - Head	550
Wrestling - Assistant	350
Track - Head	550
Track - Assistant	350
Baseball - Head	550
Baseball - Assistant	350
Gymnastics	*500
Cross Country	450
Tennis	350
Tennis - Assistant	300
Golf	350
Band	350
Chorus	350
Debate	500
Dramatics	550
Dramatics - Assistant	225
Junior Highs:	
Football	450
Football - Assistant	300
Basketball	450
Basketball - Assistant	300
Basketball - Seventh Grade	250
Swimming	350
Swimming - Assistant	250
Track - Head	350
Track - Assistant	250
Tennis	300
Golf	300
Debate	250
Elementary:	
Basketball	250
Girls' Athletics	150
Senior Highs:	
Orchestra	200
Annual	200
Paper	200
Forensics	200
GAA, Water ballet, cheerleading	100 each
Photography	100
Junior Highs:	
Annual	100
Paper	100
Chorus	100
Band	150
Orchestra	100

Special Items

State of New Jersey

Final Report to the Governor and the Legislature

Public and School Employees'
Grievance Procedure Study Commission:

Introduction
Basic Considerations
Recommendations

Introduction

The essential issues confronted by the Commission and its response must be viewed against the background of the conditions unique to New Jersey and the growing nationwide concern with problems arising from increasing organizational activity among public employees. The Commission's frame of reference included a legislative mandate and the State Constitution. In addition, the size and structure of public employment in New Jersey, the extent of employee organization, and the experience of other states and the federal government were factors affecting the definition of the Commission's approach and the development of its conclusions.

Under Chapter 170 of the Laws of 1966 of the State of New Jersey, as amended by Chapter 8 of the Laws of 1967, the Commission was "authorized, empowered and directed to study present procedures for the presentation of grievances by public and school employees and to develop and recommend, if they deem that such recommendations are necessary, a procedure or procedures for the presentation of grievances by public and school employees." Such a procedure "must take into consideration the rights and needs of public and school employees as well as a recognition of the legitimate concerns of the public in the efficient operation of government." To discharge its function, the Commission was directed to "study the respective situations of State employees, county employees, municipal employees, school district employees, employees of State, bistate and local authorities, and all other public employees."

Fundamental to the Commission's task was the provision in the New Jersey State Constitution, Article I, paragraph 19, that "Persons in private employment shall have the right to organize and bargain collectively. Persons in public employment shall have the right to organize, present to and make known to the State, or any of its political subdivisions or agencies, their grievances and proposals through representatives of their own choosing." In the opening phrases of the law establishing the Commission, the Legislature noted that this Constitutional provision "explicity distinguishes between persons in private employment and persons in public employment with respect to the constitutional right to bargain collectively;...."

In undertaking its task, the Commission invited interested parties to present their views. Four days of public hearings were held, and the proceedings were published. In addition several individuals and organizations submitted written statements and communications. A number of public officials and experts in the field of labor-management relations gave the Commission the benefit of their views in executive session.

The Commission undertook its work at a time when problems of labor-management relationships in public employment were being considered by official bodies in a number of states and organizations of public employees were becoming more active. Reports by state commissions in Michigan, New York, and Illinois and legislation in a dozen states provided a basis for identifying critical issues and various ways of dealing with them. Special attention was given to experience in Wisconsin, Michigan, and New York. To supplement information available in published documents from other states, the Commission conferred with officials administering public labor-relations programs in other states.

With this background of experience in other states, the Commission was able to focus on special aspects of public employment in New Jersey. Perhaps the most significant feature of the New Jersey situation is the absence of any general legislation dealing with collective negotiations in either public or private employment, except for the provision of voluntary mediation services in private employment through the New Jersey State Board of Mediation.

In the absence of any procedure for settling disputes in public employment, an interim report was issued in May, 1967, (see Appendix 3) calling on the parties to use any and all available voluntary procedures to assist in resolution of impasses. It also recommended legislation to establish responsibility for collective negotiation on the part of public employers and to authorize the New Jersey State Board of Mediation to enter public disputes at the request of the parties. The interim report did not lead to legislation.

The complexity of governmental structure in New Jersey is illustrated by the 1967 Census of Governmence which reported 1,421 local government units in the State including 21 counties, 335 municipalities, 232 townships, 522 independent school districts, and 311 special districts. Not counted in the total were 83 dependent school districts.

In February, 1967, New Jersey had an estimated 254,000 state and local government employees, including 48,000 in state government and 206,000 in local government. Of the total, 123,000 were in education and 131,000 in other activities, according to data prepared by the New Jersey Department of Labor and Industry in cooperation with the U.S. Bureau of Labor Statistics. U.S. Census Bureau statistics showing New Jersey public employment by function and by governmental jurisdiction are shown in the Appendix.

Until recently New Jersey has experienced relatively little activity by public employee organizations directed specifically toward collective negotiations. Of the quarter million public employees about 140,000 were members of public employee organizations in 1967.

The following membership among public employees in New Jersey was claimed by organizations presenting evidence to the Commission:

American Federation of State, County, and Municipal Employees, AFL-CIO	3,000
American Federation of Technical Engineers, AFL-CIO	3,000
Association of New Jersey State College Faculties	1,000
New Jersey Civil Service Association	40,000
New Jersey Education Association	57,000
New Jersey State Employees Association	5,000
New Jersey State Federation of Teachers, AFL-CIO	6,000
New Jersey State Patrolmen's Benevolent Association and New Jersey State Firemen's Mutual Benevolent Association	22,000

In the Commission's judgment, the number and variety of public employing authorities and the consequent potential for organizational and procedural variation in labor-management relations require a flexible, evolutionary approach to legislation dealing with dispute settlement.

Not insignificantly, there were also about 67,000 federal employees in New Jersey covered by Executive Order 10988 which has since 1962 accorded employee organizations a limited degree of formal representation rights and a system of collective negotiations.

The example of the federal government under Executive Order 10988 stimulated nationwide interest at state and local levels, and the public sector began to evolve through a phase which had previously been experienced in private employment. To the extent possible the Commission has been alert to the applicability and limitations of private sector experience to public employment.

Throughout the period of the Commission's existence, public concern with basic issues of collective negotiations in public employment was mounting, and the activities of employee organizations were becoming more vigorous and widespread. The Commission has been increasingly aware of the need for constructive response by governmental authorities and at the same time impressed by the need for caution and flexibility in an extremely dynamic situation.

The national pace of labor organization and protest activities has been accelerating rapidly. A recent report by the U.S. Bureau of Labor Statistics (Work Stoppages Involving Government Employees, 1966) indicated that the nationwide total number of stoppages in 1966 was greater than the four previous years combined. Of 142 stoppages in the United States, none were reported by federal employees, nine involved state governments, and 133 were at local government levels. This concentration of strikes in local government suggests that substantial attention must be given to problems of county, municipal, and other units of local government.

The functional area in which reported stoppages occurred is also significant. Among those for which such detail was provided, there were 54 in public schools and libraries, 36 in sanitation services, 19 in administration and protection services, 17 in hospitals and other health services.

To put the extent of reported work stoppages into perspective they directly involved about 105,000 out of 8.3 million state and local employees, and about 2 days were lost due to stoppages for every 10,000 days worked. The corresponding ratio for private industry was [illegible] days in 1966. The subject matter identified with the reported stoppages was revealing. The major issues in 78 stoppages were salaries and related supplementary benefits. However, organization and recognition disputes were central in 36 cases, and matters of administration were the principal issues in 21 cases. Thus it appears that unresolved disputes are evident in various functional areas and that nonwage issues are a significant element in public sector collective negotiations.

The Commission was faced with the complex task of developing legislative recommendations designed to provide public employees with more effective and equitable procedures for resolving their problems with their government employers. It found that lack of machinery for resolving representation and substantive disputes has been a significant cause of dissatisfaction among public employees.

The other causes were related to compensation and working conditions which were beyond the direct competence and concern of the Commission. However, the importance of adequate wages and terms of employment as a prerequisite for constructive employer-employee relations cannot be over-estimated. Dispute settlement machinery alone cannot cope with these underlying factors, and work stoppages can only be minimized where appropriate attention is given to substantive conditions of work.

Basic Considerations

The fundamental task before the Commission is to identify the most effective way to implement the constitutional rights of New Jersey public employees to organize and to present grievances and proposals through representatives of their own choosing consistent with the protection of the general public interest and the maintenance of stable and effective Civil Service systems. The Commission has considered at length whether the existing grievance procedures under State and local laws and regulations should be supplemented by other procedures for the resolution of disputes affecting public employers and public employees; and, if so, what form these procedures should take. In particular, we are dealing with the issue whether there should be joint resolution of grievances and proposals by public employers and representatives of their employees through collective negotiations and the limits within which a system of dispute settlement should operate.

Since the New Jersey Constitution differentiates between the rights of persons in public and private employment, a prime concern is the difference between collective settlement of disputes in the two sectors. A major issue of public policy is whether the commonly accepted right in private employment to withhold services by concerted action extends appropriately to public employment.

The principal avenues are available to public employees for the redress of grievances and advancement of proposals. One is the redress of individual grievances as provided by existing Civil Service laws and regulations. The second is the traditional practice of interest groups seeking to advance their objectives through direct appeals to legislative bodies and public opinion, including political action with special relevance to wage issues not entirely within the province of executive authority. The third method is collective negotiation on issues amenable to resolution by employing authorities and organizations of public employees.

While these three approaches overlap and are not mutually exclusive, the Commission is concerned with the third approach. It has developed its recommendations in the area of collective negotiations with several fundamental policy considerations in mind.

First, the Commission believes that the Civil Service system must be protected, and the Civil Service procedures for the settlement of grievances must remain available to serve their intended purpose. However, these procedures must be supplemented by other procedures for settling disputes through collective negotiations. As President

Kennedy's task force noted in 1962 in recommending adoption of Executive Order 10988 providing certain collective negotiating procedures for federal employees:

> The task force wishes...to note its conviction that there need be no conflict between the system of employee management relations proposed... and The Civil Service Merit System, which is and should remain the essential basis of the personnel policy of the Federal Government....

Civil Service systems provide an established method of recruiting, selecting, and promoting government employees on the basis of merit. However, Civil Service systems on the whole do not establish a means by which employees acting in concert may promote the collective interests of civil servants. On the other hand, a system of collective negotiations and dispute settlement in public employment is compatible with Civil Service. Implementing legislation should not abrogate, modify, or hinder established Civil Service law, regulations, or procedures in New Jersey.

Second, the Commission believes strongly that the primary obligation for evolving and using appropriate and effective machinery for settling disputes should be placed on public employers and public employees organizations. They should be encouraged to carry out this obligation with the greatest possible latitude for them to develop feasible techniques with a minimum of statutory prescription.

Experience in other jurisdictions has indicated that a flexible approach is most conducive to the constructive evolution of stable employer-employee relationships. New Jersey should take advantage of the opportunity to develop machinery consistent with its history and institutions rather than to adopt solutions that may be appropriate to other state and local governments.

The Commission has considered and rejected compulsory arbitration as incompatible with the intent to place basic responsibility on the parties to achieve a settlement. The availability of mandatory third party determination is inconsistent with the context of a free economy and tends to encourage the parties to shift responsibility or to delay settlement in the hope of a favorable adjudication.

The Commission believes that the parties should have the fullest opportunity to make a voluntary system work, and there is ample evidence from other jurisdictions that compulsion should be a last resort rather than a first. Similarly, the Commission has concluded that experience elsewhere indicates the extreme difficulty of defining and applying effective sanctions, and attempts to specify sanctions, should be deferred until their need and feasibility can be ascertained.

If experience and events prove to the contrary, additional legislative direction can always be provided in response to demonstrated need. But at this early stage of development of public employee organization in New Jersey, a pragmatic approach offers the greatest promise of effectiveness in the public interest. We should preserve and adopt what is usable in the existing structure of labor-management relationships in the State and incorporate it where possible into a new framework to meet the requirements of the public service.

Third, the Commission's recommendations must give substance to the constitutional right of public employees to present "their grievances and proposals through representatives of their own choosing." This significant phrase implies that public employees have substantial rights to collective representation and negotiation, although perhaps not the full right of collective bargaining accorded to persons in private employment. The critical distinction is in the right to strike, which is commonly regarded as an essential ingredient in free collective bargaining.

The Commission has taken careful account of the varying judicial and administrative interpretations related to the legal right of public employees collectively to withhold their services. The Commission on balance believes that neither the public employer nor the public employee has the right to withhold services as a form of coercion to induce settlement of disputes.1/ It recognizes that both public sentiment and judicial opinion may alter over time. This is a contentious issue that is likely to be the subject of continuing legal action.

Governmental employers and employees have a mutual obligation to resolve disputes without interruption of service to the public. Community opinion and the Constitution of New Jersey now support this principle, and the Commission's proposals are predicated on the existence of such a principle in fact and in law. Consequently, the Commission's conclusions and recommendations focus on a system of relationships for resolving disputes compatible with the existing constitutional framework and mindful of the public interest which constrains both public employers and public employees.

The Commission recognizes that unauthorized work stoppages may occur in public employment and effective sanctions may be difficult to administer and enforce. The constructive approach, in the Commission's view, is to provide the fullest and most workable procedure for collective negotiation and resolution of disputes in public employment so that work stoppages will be minimized if not eliminated.

While the rights of persons in public and private employment differ, the Commission holds that the difference should be minimal. The public employer is sovereign, but responsible action by public employees cannot be expected unless they are given the greatest measure of freedom of action consistent with the denial to them of the legal right to strike, As experience in private employment suggests, stable negotiating relationships will benefit both public employees and the general public. Multiplicity of organizations claiming or possessing representation rights for the same group or unit of employees has long been regarded as undesirable. Multiple representation of employees encourages rivalries among employee groups and severely handicaps private and public employers in the development of effective negotiations and stable relationships.

Expert witnesses and representatives of interested employer and employee groups appearing before the Commission were almost unanimous in their opposition to multiple representation within any employee negotiating unit. Michigan, Wisconsin, Connecticut, Rhode Island, and Massachusetts have recognized this danger and have sought to minimize it in some fashion, as did the federal government in Executive Order 10988. The New Jersey Department of Civil Service, in its presentation to the Commission, accepted this viewpoint and advocated restriction of multiple bargaining following the pattern of the federal executive order. Both the Illinois Governor's Advisory Commission on Labor-Management Policy for Public Employees

1/ Mrs. Williams, Mr. Kops, and Mr. Miller wish to note their objection to this policy insofar as it denies public employees the legal right to stop work in concerted action. They believe that public employees should enjoy the same rights as persons in private employment and that the prohibition of legal work stoppages by public employees should not be specified in this report or in recommended legislation. They wish to point out that the intent of the Constitution in Article I, para. 19, is subject to dispute and varying legal interpretations, and consequently the Commission should not accept the status quo as a basis for proposals. They believe the legislature has the power to regulate labor-management relations in public employment including the authorization of work stoppages, and that in any event the federal constitution guarantees the same basic freedom to withhold services to all citizens.

and the New York Governor's Committee on Public Employee Relations concluded that multiple representation was inadvisable.2/ The New York report recommended that the matter be left for further study and for settlement by the parties.

The Illinois Report specifically recommended that multiple representation be restricted on condition that individual employees have the right to process their own grievances so long as the settlements are not in conflict with the terms of the pertinent collective agreement. The New Jersey Commission has concluded that a comparable approach is pertinent in New Jersey and consistent with our legal framework.

Fourth, the Commission has sought to provide stability in negotiating arrangements; and for efficiency and equity, to devise a single system for settling disputes which would accord the same services and privileges to all State and local public employees in New Jersey with flexibility to accommodate occupational and institutional differences. As a practical matter wide variations among levels, units, and functions of government make it difficult to provide separate arrangements for a major group of employers or employees without providing similar arrangements for other groups.

And fifth, in devising an agency suited to New Jersey's circumstances, the Commission sought to provide for administrative effectiveness, political accountability, and maximum use of representative panels with a clear tripartite structure. An agency headed by a single executive was regarded as meeting these criteria more effectively than a multi-headed board or commission.3/

In concluding that the administrative agency should be located in the New Jersey Department of Labor and Industry, the Commission was guided by experience in other states and by the impracticality of creating a new administrative department of the executive branch of State government. The protection and independence of the Civil Service system as well as its function as a general personnel administration for the State make it inadvisable to link the new agency with the Civil Service Department. In reviewing the experience of other states, the Commission found that responsibility for labor-management relations in the public sector is vested either in independent agencies or in special state labor relations or mediation boards, even where their jurisdiction extends only to selected groups of public employees. The relevant New York State agency is an autonomous Board responsible to the Governor although located administratively in the New York State Department of Civil Service. The New York State law does not cover New York City, where the roughly comparable labor relations agency has no connection with the Civil Service system.

In its administrative design, the Commission has sought to include all dispute settlement in one division and to create another administrative division to enforce laws and regulations respecting public employment. The Commission believes that the experience of the private sector in dispute settlement should be applied to public employment when it is relevant and that functions of administration and enforcement that are pertinent only to public employment should be organized separately. Other states such as Wisconsin and Michigan have established a single agency providing dispute settlement services in both public and private employment, and this approach was taken in New Jersey for reasons of efficiency, economy, and flexibility.

New Jersey may be at the threshold of major developments in public personnel administration, but procedures for collective negotiations constitute only one element in an improved public personnel system. The promotion of stable relationships and minimization of personnel turnover require both competitive compensation and skilled management. Experience in other states indicates that these are particularly essential for effective regulation of governmental relations. Competent administrative and mediation talent is costly. Wisconsin has a professional staff of about twenty-five, and New York State already has twice the number, not including New York City. New Jersey may well begin more modestly in size, but must maintain the highest quality from the outset.

2/ In their reports, both issued in March, 1967.

3/ The recently created New York State Public Employment Relations Board has three members, but only the chairman serves full time.

Recommendations

1. The Commission recommends the enactment of legislation to facilitate and encourage the peaceful resolution of disputes in public employment and to require public employers at all levels of state and local government in New Jersey to meet with employees through representatives of their own choosing for the mutual resolution, within the law, of grievances and proposals. This legislation should encourage public employers and representatives of public employees to develop effective procedures for settlement of disputes with maximum flexibility to accommodate the varying needs and circumstances of individual governments, public programs, and professional services. Public employers and employee organizations should be empowered to use the facilities of appropriate public and private agencies and individuals to assist in the peaceful resolution of disputes on a voluntary basis with the mutual consent of the parties.

There is a duty to negotiate, and it is the basic obligation of public employers and public employee organizations to fashion and use their own dispute settlement machinery within the limits set by law. The procedures and machinery recommended below are to be utilized in the event that the parties are unsuccessful in resolving their own disputes, and the proposals are intended to encourage mutual resolution by the parties.

2. For the purposes of the recommended legislation, the terms "public employer" and "appointing authority" include the state of New Jersey and a county, municipality, township, school district, special district, department, board, commission, institution, agency or authority created by any thereof. A "public employee" is any person holding a position by appointment or employment in the service of a public employer, except elected officials, heads and deputy heads of departments and agencies, and members of boards and commissions.

3. Collective negotiations can be effective in public employment despite the fact that executive bodies often lack final authority to determine matters of wages, salaries, and working conditions and are limited to making recommendations to chief executives and legislators. Many issues can be resolved by negotiation between public employers and employee organizations. However, the scope of negotiations should be limited by the discretionary or recommending power of the appointing authority in public employment, which should guide both the definition of negotiating agencies and the range of subject matter considered. Accordingly, appropriate subjects for negotiation include the determination of public employees' terms and conditions of employment, such as salaries, wages, hours, and other terms and conditions of employment within the power of the appointing authority to determine or recommend.

4. The proposed legislation should protect the right of public employees to join or to refrain from joining organization for the purpose of collective resolution of disputes. Employees should continue to have the option of presenting individual grievances through the established Civil Service procedures or through procedures mutually agreed to by appointing authorities and employee organizations. Disposition of individual grievances should be consistent with agreements or understandings resulting from joint resolution of employment terms by collective negotiations where such may exist.

5. The Commission recommends one general procedure for settlement of disputes applicable to all groups and categories of state and local public employees. A new administrative body, The New Jersey Employment Relations Agency, should be created, headed by a full-time Director of the highest professional caliber, appointed by the Governor with the advice and consent of the Senate to serve at the Governor's pleasure.

The Agency should have two divisions operating separately: a Division of Administration and a Division of Dispute Settlement. The Division of Administration would be concerned solely with the sector of public employment, and would deal with matters of determinating negotiating units, elections, recognition, certification of representative organizations and definition of negotiable issues. The Division should be empowered to establish and enforce regulations concerning these matters, including procedures for the disposition of unfair practice charges which should not be specified by statute.

The Commission believes that settlement of disputes in public employment can be materially guided by the experience in private employment with the mutual resolution of disputes by employers and employee groups. The Commission further believes that the use of a single division for settlement of disputes in both public and private employment would be more economical and efficient than administration through separate divisions for public and private employment.4/

Accordingly, the Division of Dispute Settlement should be responsible for assisting in the resolution of disputes in both public and private employment. It should be assigned discretionary authority to provide a range of procedures to resolve an impasse in joint negotiations, including voluntary mediation, fact finding, public reporting of fact finding, advisory arbitration, and where acceptable to the parties involved, binding arbitration. Dispute settlement services may be provided by staff mediators and per diem ad hoc specialists are required, including elected and appointed public officials having knowledge appropriate in specific functional areas and being acceptable to the parties. The Division should also continue to make available the voluntary arbitration panel service for grievance or contract dispute settlement now provided by the New Jersey State Board of Mediation.

Under the Commission's plan, the New Jersey State Mediation Board would be abolished and its functions and staff transferred to the new Agency. The New Jersey Employment Relations Agency would be administered through the New Jersey Department of Labor and Industry with specific assurance of its managerial and fiscal autonomy and provision for the high level of technical and professional staff required.

For the performance of its work, the Agency should be authorized, subject to available appropriations, to appoint employees as required and to prescribe their duties and fix compensation in accordance with laws and regulations applicable to State employees.

6. The Commission recommends that two panels, one on Public Employment and one on Dispute Settlement in Private Employment, be established to advise the Director of the Agency on matters of policy and to recommend policy changes to the Director, the Governor, and the State Legislature. The members and chairmen of the panels should be appointed by the Governor and should receive per diem compensation and reimbursement for necessary expenses relating to panel activities. A single person may serve as chairman of both panels.

a. The Public Employment Panel should have eleven members: three public members, one of whom would be designated chairman; four representatives of public employers; and four representatives of public employee organizations. The Panel would consider policies of labor management relations in public employment, including matters of dispute settlement as well as administration and enforcement of statutory provisions concerning representation, elections, negotiating units, scope of negotiations, and related matters.

b. The Panel on Dispute Settlement in Private Employment should have seven members: Three public members, one of whom would be designated chairman; two representatives of private employers; and two representative of labor organizations in private employment. The Panel should provide advice on policy matters relating to voluntary settlement of labor-management disputes in private employment.

7. Within the Agency, the Division of Administration should deal with matters of public employment related to determination of relevant groups or units of employees for negotiating, elections, recognition, certification of representative organizations, and definition of negotiable issues. The Director of the Agency should be authorized to promulgate regulations and procedures necessary or desirable for effective administration and enforcement of the proposed statute.

With respect to the conduct of elections:

a. The Agency should be authorized to establish rules and procedures to determine employees' choice of a representative organization, the representation status of an employee organization, a proper negotiating unit, and certification of an employee organization as a representative organization for purposes of negotiation.

b. The Agency should determine the eligibility of individuals or specific groups of employees to participate in representation elections consistent with its determination in specific cases of the appropriate negotiating unit and the statutory definition of public employees.

c. When a majority of employees in a given negotiating unit have indicated by secret election a preference for a specific representative organization, no other organization should be designated, certified, or recognized for the purpose of collective negotiations, but this should not preclude an employee's right to process grievances individually.

d. Designation of a majority negotiating representative should bar a representation election for a specified period to be determined or approved by the Agency. When a representation election results in no designation of a negotiating organization, the Agency should have discretion to fix a time limit on another election.

e. An election should be mandatory to establish the initial arrangement concerning recognition of an employee organization by an employer.

With respect to other matters of administration:

a. A recognized majority organization must represent all employees in the relevant unit who wish to utilize its services for processing grievances whether or not they are members, and settlements negotiated by such an organization likewise must apply to all employees in the unit.

b. The Agency should be authorized to determine, when necessary, the appropriate negotiating unit. In doing so, it shall consider the "community of interest" among employees. Whether determined by the Agency or by the negotiating parties, negotiating units must be consistent with the jurisdiction of the government involved.

c. The subject matter covered in negotiations should be consistent with the discretionary or recommending authority of the public employer.

4/ Senator Stout, Mr. Kientz, and Mr. Kops wish to note their objection to the procedure which places the responsibility for dispute settlement in public and private employment in the same division of the Agency.

d. Dues deduction by an employer should be regarded as a right accompanying designation as a majority representative organization. It may be authorized only for such a majority designated organization and only with the express written permission of individual employees, who may withdraw such permission at any time.

e. The Agency should not intervene in matters of recognition and unit definition except in the event of a dispute.

f. The Agency should be authorized to study and resolve disputes related to appropriate subjects for negotiation and to refer impasses over negotiable issues to the dispute settlement machinery.

g. The duration of a negotiated agreement should not be specified by legislation. This matter should be left to the parties to resolve through negotiation.

h. Negotiated agreements should be written.

8. The Agency should be authorized to establish procedures for settling disputes in public employment, including the definition of an impasse and the time limits for subsequent action such as mediation or fact finding. These matters should not be fixed by statute. The Agency should be given discretionary authority to employ various procedures to resolve an impasse. In the event of an unresolved dispute, it should be authorized to intervene an offer third party mediation on its own initiative.

With respect to mediation services:

a. The Agency should also have authority to provide mediation services from its own full time staff or from panels of individuals serving on a part time basis. Such mediation services should be provided at no cost to the parties. The need for acceptance by the parties of individual mediators should be recognized as a matter of practicality.

b. The members of the two advisory panels should be eligible to participate in settling disputes in public and private employment and should receive appropriate per diem compensation for such services.

c. The mediation staff of the Division of Disputes Settlement should include the present staff of the New Jersey State Board of Mediation and such additional specialists as may be required for disputes settlement in the various fields or functions of government. The specialists should be available for settlement of disputes in subject areas where their particular knowledge or experience may be pertinent, such as education, health services, and protective services.

d. This staff should be supplemented as required by part time specialists compensated on a per diem basis, and officials or administrators of public agencies should be authorized to serve in such capacity when requested by the Agency or parties to a dispute. The assignment to disputes settlement activity of full or part time staff mediators should be at the discretion of the Agency.

To resolve disputes or encourage the parties to reach agreement:

a. The Agency should encourage the parties to use their own procedure for the settlement of a dispute, including fact finding. If they are unable to reach agreement, the Agency should have the discretion to employ appropriate techniques for settling the dispute.

b. In the event of an impasse the Agency should determine when fact finding should begin. It should also have the power to recommend or invoke fact finding, the cost of which should be borne by the parties equally.

c. The Agency should be authorized to determine a terminal date for resolving disputes. The deadline may be related to legally designated budget submission dates or to other significant functional dates such as the expiration of agreements or governmental service schedules.

Determination of a deadline by administrative action rather than by statute allows for the constructive flexibility that is needed in dealing with sensitive and contentious situations. In this, as in other aspects of its recommendations, the Commission believes that statutory procedures should be kept to a minimum. Instead, the Agency should be given wide authority to develop procedures appropriate to New Jersey's needs and to retain sufficient flexibility to respond to circumstances which cannot be fully anticipated.

9. As part of its evolutionary approach, the Commission believes that specific statutory sanctions should be avoided. Enforcement should be sought through the courts as at present. The prevailing public and legal opinion barring strikes in public employment should be expressly incorporated into the statute creating the new agency.

10. The Agency should be empowered directly in cooperation with the Civil Service Commission and other governmental, educational, and research organizations, to develop and apply research and training programs to assist employers and public employees effectively to discharge their obligations.

Effective administration of dispute settlement machinery requires preparation and training for public officials at all levels, and substantial resources for this must be made available. Research and education must be given high priority so that experience can be applied to improve techniques. The best statutes and procedures will not minimize disputes unless public employers and employees alike have both the knowledge and skills required for constructive dispute settlement.

In addition to skills in the procedures of collective negotiation, fuller knowledge and understanding of developing trends in public employment is essential. Adequate communication between public employers and public employees provides a foundation for understanding and a disposition toward accommodation.

Further, increasing employee organization requires a response for the public employer beyond the province of collective negotiation. The organization and functioning of management processes in public employment provide the context in which mutual resolution of disputes takes place. Pressures for clarification of administrative policy and procedure are generated by increasing employee participation, and in turn, the generation and disposition of grievances is in part a consequence of management action. The Commission recognizes the contribution which management at all levels in the public service must make in creating an institutional environment in which a constructive response to the opportunity for participation will be maximized. Consequently, the need for research and the practical application of the findings through training in both general management and in labor-management relations cannot be overstressed.

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Teacher Facility Provisions in Agreements ..... Data: B-1

Analysis of content of agreement provisions relating to faculty lounges, parking facilities, faculty workrooms to be used for preparation of instructional materials, and similar provisions.

New Hampshire Supreme Court Approves "Union Shop" for Public Employees ..... Description: A-1
Text: C-1

In a case involving the Berlin Police Union, the Supreme Court of New Hampshire issued a decision approving a "union shop" provision in agreements between public employees and a public employer, which requires authorization for deduction of union dues within a specified number of days after employment.

Minority Organization Cannot Intervene in Grievance Process ..... Description: A-3
Text: C-4

That was the determination of the Michigan Labor Mediation Board in a case involving the Livonia Federation of Teachers which had filed charges against the Livonia Board of Education without the knowledge or concurrence of the employee grievant.

Plans for June 1968 Negotiation Research Digest ..... Description: A-1

Information about some of the data to be published from the 1967-68 survey of written negotiation agreements in education.

Procedural Agreements from Five States ..... Description: A-2
Text: D-1

Indiana, Minnesota, Nebraska, Ohio, and Pennsylvania are represented by the procedural agreements in this issue.

Public Employee Collective Bargaining ..... Text: E-1

Remarks to University of Maryland conference by Franklin K. DeWald, Personnel Director for the State of Michigan.

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Description and Analysis

NEW HAMPSHIRE SUPREME COURT APPROVES "UNION SHOP" FOR PUBLIC EMPLOYEES

The Berlin Police Union, Local #1444, of the American Federation of State, County, and Municipal Employees (AFL-CIO), sought to test the validity of certain provisions of the contract negotiated with the Berlin Police Commission. One provision tested before the New Hampshire Supreme Court was their "union shop" clause.

In its decision the court stated:

The so-called union shop clause (article 3, section 1) is qualified and limited by its terms. The clause in full reads as follows: "Whenever re-employments are made or the police department hires new employees, they shall within sixty working days become members of the Union Local #1444 by presenting to the police department a proper authorization, approved by the Union president, for the collection of their dues." (emphasis supplied) There is no requirement in this clause, or any other, for maintenance of membership in good standing. This clause, together with the "check-off" clause (article 4, section 1) for union dues, imposes a financial obligation only. The union cannot cause the discharge of an employee, who has resigned from or has been expelled by the union for any reason other than his withdrawal of the check off authorization.

Thus, it appears that the Court approved not a union shop clause which would actually require union membership, but an agency shop clause which requires the payment of union dues, or its equivalent. The Michigan Labor Mediation Board approved the agency shop provision in a January 1968, opinion (Negotiation Research Digest, March 1968, C-1).

Both the Supreme Court and the Michigan Labor Mediation Board have viewed the payment of dues or its equivalent to the union (the representing organization) as a reasonable and proper union security clause. The MLMB, which supervises the administration of the negotiation statute for public employees in the state, summarized the case for the agency shop clause in the following manner:

A requirement that employees pay their share of negotiating and administering a collective bargaining agreement neither discourages nor encourages membership in the labor organization selected by the majority of employees in the bargaining unit to represent them. It is not discriminatory, as the requirement that each employee pay his pro rata share of the costs applies alike to all employees in the bargaining unit, whether they are, or are not, members of the union.

PLANS FOR JUNE 1968 ISSUE OF NEGOTIATION RESEARCH DIGEST

The 1967-68 survey of written negotiation agreements in education is scheduled to be concluded in sufficient time to allow publication of some final survey data in the June 1968 Negotiation Research Digest. Some of the data from the survey planned for inclusion are:

• Data below will be provided by states for both 1966-67 and 1967-68 so that appropriate comparisons may be made.

• The number of school systems with and without agreements, and the number of instructional personnel employed in these school systems.

• Representation of instructional personnel for negotiation purposes by affiliates of the National Education Association, the American Federation of Teachers (AFL-CIO), and independent groups. Tables for number of instructional personnel represented and number of school systems with exclusive representation by each group will be provided.

• A complete listing for each state of all agreements on file in the NEA Research Division depository and verified for 1967-68. The listing will provide the name and location of the school system, the recognized organization(s), the number of personnel represented, national affiliation of the recognized organization(s), and the year an agreement was first filed with the NEA Research Division depository.

Other content in the issue will include the text of the Michigan Supreme Court decision in the case of School District for the City of Holland v. Holland Education Association, which relates to the legality of a court injunction stopping a teacher strike when a collective bargaining agreement has not been signed. The Framingham (Massachusetts) agreement will be published in Section D: Agreements. This agreement is in two parts: Unit A, for the teachers and others in their bargaining unit, and Unit B, for members of the bargaining unit for administrators.

PROCEDURAL AGREEMENTS FROM FIVE STATES

The following agreements are reproduced in Section D: Agreements of this issue:

Agreement	Personnel represented	State	Page
Altoona Area School District and Altoona Area Education Association (NEA)	700	Pennsylvania	D-1
Logansport Education Association (NEA) and Logansport Community School Corporation	243	Indiana	D-3
Marshall Education Association (NEA) and (Marshall) Independent School District 413	102	Minnesota	D-5
Ralston Board of Education and Ralston Teachers Association (NEA)	126	Nebraska	D-8
Miamisburg Education Association (NEA) and Miamisburg City School District	204	Ohio	D-10

Including the five agreements above and the one to be reproduced in the June issue (Framingham, Massachusetts), the Digest will have reproduced in its first volume 25 agreements from 20 states, 11 of which were comprehensive.

MINORITY ORGANIZATION CANNOT INTERVENE IN GRIEVANCE PROCESS

Situation: You are a teacher in the Livonia, Michigan, Schools. The elected bargaining agent is the Livonia Education Association (NEA), but you are a member of the Livonia Federation of Teachers (AFL-CIO). You file a grievance which is taken to Step Two of the grievance procedure with the approval and assistance of the LEA. You are apparently satisfied with the disposition of the grievance at Step Two because you do not pursue it further. At this point, and without your knowledge and concurrence, can the Livonia Federation of Teachers file charges against the school system?

No, said the Michigan Labor Mediation Board. The case involved a LFT member writing his interpretation of a clause in the agreement between the LEA and the school system, duplicating it and sending it to members of his staff. The LFT filed charges of coercion because of a letter the superintendent wrote to the LFT member involved. In dismissing the charges, the MLMB stated:

The charge was filed by the Livonia Federation of Teachers (which organization is not the collective bargaining representative of teachers of the Respondent) without the concurrence of knowledge of Ernst. He was unaware that it had been filed until shortly before the hearing on April 10, 1967. He was not a witness at the hearing. Obviously, he did not consider that he had been coerced or restrained by the letter of January 17. The letter contains no direct threats nor any innuendo from which restraint or coercion could be implied.

For the foregoing reasons, it is concluded that the charge is without merit and should be dismissed.

Text of the decision and the trial examiner's recommendations begin on page C-4.

Data and Statistics

TEACHER FACILITIES PROVISIONS IN 1966-67 COMPREHENSIVE AGREEMENTS

What provisions on facilities for teachers are being included in comprehensive agreements between teacher organizations and school boards? What kinds of facilities are most commonly included in such provisions? To answer these questions, the NEA Research Division analyzed the 1966-67 comprehensive agreements for 12 specific kinds of facilities. However, because of the diversity of clauses and provisions, the table given here can only indicate whether the agreements mentioned one or more of the 12 specific facilities for teachers.

A fictitious example of an article incorporating each of the listed facilities follows:

Article XX

Teacher Facilities

The school board agrees to provide:

1. (a) Storage space in each classroom for instructional materials and supplies; (b) locked storage space for a teacher's personal effects provided the school district shall not be liable in case of theft from such storage space.

2. A suitable desk and chair for each teacher.

3. A workroom for each school for the teachers' use in preparing instructional materials. This workroom shall be equipped with at least a typewriter and a duplicating machine. Additional equipment may be added at a later date.

4. Another room, in addition to the workroom, above, suitably furnished and restricted to staff use for a faculty lounge. Smoking shall be allowed in the faculty lounge.

5. A telephone in each faculty lounge for the reasonable use of the staff. Teachers making toll calls shall record them and be held responsible for such charges.

6. (a) Separate restrooms for men and women, restricted to adult use. (b) Restrooms shall be kept clean and well-lighted.

7. Adequate lunchroom space separate from the children.

8. Adequate paved parking facilities on the school grounds restricted to staff use.

9. All new school construction (or remodeling) with a communication system whereby the teacher may initiate communication with the school office.

10. A soft-drink vending machine for the faculty lounge upon majority request of a school faculty. The faculty organization shall be responsible for the maintenance of said vending machine; profits therefrom shall be added to the faculty organization scholarship fund.

The analysis which follows is the second and last one to be made from the 1966-67 agreements; future analyses will be made from the 1967-68 agreements. Negotiation Agreement Provisions, 1966-67 Edition (Stock No. 841-24006, $15) provided the basic content information on facilities for teachers in agreements by listing the agreements with such a provision to be examined.

State and school system	Location	Storage space for instructional materials	Teacher's desk and chair	Faculty workroom	Faculty lounge[a]	Faculty lunchroom	Separate men's and women's restrooms	Provisions relating to restrooms	Parking facilities	Communication system with office	Telephone for teachers	Vending machines	Locked personal storage space
CONNECTICUT													
Bridgeport Public Schools	Bridgeport								X				
Danbury School District	Danbury	X		X	X			X	X	X			
East Hartford Public Schools	East Hartford	X		X	X	X		X		X	X		
Hartford Public Schools	Hartford												X
Manchester Public Schools	Manchester	X		X	X		X	X	X	X	X		
Meriden Public Schools	Meriden	X		X	X		X	X					
Middletown Public Schools	Middletown	X		X	X		X	X			X		
New Haven Public Schools	New Haven	X		X	X			X		X			
New London Public Schools	New London	X		X	X								
New Milford School District	New Milford	X		X	X	X							
Seymour Public Schools	Seymour	X		X	X								
Stamford Public Schools	Stamford	X		X	X		X			X			
Stratford School District	Stratford	X		X	X								
Waterbury Public Schools	Waterbury	X		X	X			X		X			X
West Haven Public Schools	West Haven	X		X	X		X	X					
ILLINOIS													
Chicago Public Schools	Chicago					X	X	X					
Community Unit District 196	Dupo				X								
East St. Louis School District 189	East St. Louis				X				X				
Joliet Township High School	Joliet				X				X				
MASSACHUSETTS													
Boston Public Schools	Boston				X	X				X			
Palmer Public Schools	Palmer	X		X	X			X		X			
Quincy School District	Quincy	X		X	X					X	X		
Springfield Public Schools	Springfield	X	X	X	X	X			X		X		X
MICHIGAN													
Adrian School District	Adrian		X		X	X		X	X		X	X	
Airport Community Schools	Carleton				X	X		X	X		X		
Akron-Fairgrove Public Schools ..	Akron				X	X		X	X		X		
Albion Public Schools	Albion											X	
Alcona Community School District.	Lincoln				X	X		X			X		
Allegan School District	Allegan				X	X		X			X		
Allen Park Public Schools	Allen Park										X	X	
Alma Public Schools	Alma			X	X	X		X	X		X		
Anchor Bay School District	New Baltimore				X			X	X		X		
Avondale School District	Auburn Heights			X	X	X		X	X		X	X	
Bath Community Schools	Bath				X			X			X		
Battle Creek School District	Battle Creek				X	X		X	X		X		
Bay City School District	Bay City			X	X			X	X		X		X
Beaverton Rural Schools	Beaverton				X	X		X	X		X		
Bedford Public Schools	Temperance			X		X		X			X		
Beecher Public Schools	Flint				X	X		X	X		X	X	
Bellevue Public Schools	Bellevue				X			X	X		X	X	
Benton Harbor School District ...	Benton Harbor					X		X	X		X		
Berkley City School District	Berkley				X	X	X		X			X	
Big Rapids School District	Big Rapids				X	X		X					

a/ The faculty workroom and faculty lounge are separate and distinct; where both are marked, two separate facilities are provided.

State and school system	Location	Storage space for instructional materials	Teacher's desk and chair	Faculty workroom	Faculty lounge[a/]	Faculty lunchroom	Separate men's and women's restrooms	Provisions relating to restrooms	Parking facilities	Communication system with office	Telephone for teachers	Vending machines	Locked personal storage space
MICHIGAN (Continued)													
Birmingham Public Schools	Birmingham					X		X	X		X	X	
Bloomfield Hills School District.	Bloomfield Hills				X	X		X	X		X		
Boyne City Public Schools	Boyne City				X			X					
Breitung Township Schools	Breitung				X	X		X					
Bridgeport Community Schools	Bridgeport				X	X		X			X		
Buena Vista School District 9 ...	Saginaw				X	X		X	X		X		
Cadillac City School District ...	Cadillac				X	X		X	X				
Caledonia Community Schools	Caledonia				X	X		X			X		
Capac Community School District .	Capac			X				X	X				
Center Line Public Schools	Center Line				X	X		X	X				
Cherry Hill School District	Inkster				X	X		X	X				
Charlotte Public School District.	Charlotte				X	X		X			X	X	
Chesaning Union Schools	Chesaning				X	X		X			X		
Chippewa Valley School District .	Mt. Clemens	X			X	X		X	X				
Clare Public Schools	Clare				X			X					
Clawson School District	Clawson				X	X		X	X		X	X	
Clinton Community School District	Clinton				X			X					
Clintondale School District	Mt. Clemens				X	X		X	X		X		
Coldwater School District	Coldwater				X	X		X	X		X		
Coleman Community Schools	Coleman				X			X			X		
Comstock School District	Comstock				X			X	X		X		
Comstock Park School District ...	Comstock Park				X				X		X		
Concord Community Schools	Concord				X	X		X	X		X	X	
Crestwood School District	Dearborn Heights				X	X			X			X	
Dearborn Heights School District 7	Dearborn Heights				X	X		X	X			X	
Dearborn Twp. School District 8 .	Dearborn Heights				X	X		X	X		X	X	
Detroit School District	Detroit		X			X		X					
Dexter Community Schools	Dexter				X				X		X		
Dowagiac Union School District 31	Dowagiac				X	X		X	X		X		
Dundee Community Schools	Dundee				X								
Durand Area Schools	Durand				X	X		X	X		X	X	
East China Twp. District 3	St. Clair				X	X		X	X		X		
East Jackson School District	East Jackson				X	X		X	X		X	X	
East Lansing School District	East Lansing				X	X		X	X		X		
Ecorse Public Schools	Ecorse		X		X			X			X		
Escanaba Area Public Schools	Escanaba				X	X		X	X		X	X	
Essexville-Hampton Public Schools	Essexville				X				X		X		
Farmington Public Schools	Farmington	X		X	X		X	X	X		X		X
Fennville School District	Fennville				X				X		X	X	
Fenton Area Public Schools	Fenton	X			X	X		X	X		X	X	
Ferndale School District	Ferndale				X	X		X				X	
Flint Community Schools	Flint				X				X		X	X	
Forest Hills Public Schools	Grand Rapids				X			X	X		X		
Fowlerville Community Schools ...	Fowlerville				X	X		X	X		X	X	
Garden City School District	Garden City				X	X		X	X		X	X	
Grand Rapids Public Schools	Grand Rapids											X	
Greenville School District	Greenville				X	X		X	X				
Grosse Pointe School System	Grosse Pointe			X	X				X		X		
Gull Lake Community Schools	Kalamazoo			X					X		X		
Gwinn School District	Gwinn				X	X		X	X		X	X	
Hamtramck Public Schools	Hamtramck		X					X					

State and school system	Location	Storage space for instructional materials	Teacher's desk and chair	Faculty workroom	Faculty lounge[a]	Faculty lunchroom	Separate men's and women's restrooms	Provisions relating to restrooms	Parking facilities	Communication system with office	Telephone for teachers	Vending machines	Locked personal storage space
MICHIGAN (Continued)													
Hancock Public Schools	Hancock								X		X		
Harper Creek Community Schools ..	Battle Creek				X								
Hartford Public Schools	Hartford				X	X		X	X		X		
Hartland Consolidated School District	Hartland				X	X		X	X		X	X	
Hastings School District	Hastings				X	X		X	X		X		
Hazel Park School District	Hazel Park				X			X					
Heintzen Public School District .	Southgate	X	X										
Highland Park School District ...	Highland Park		X										
Holt Public Schools	Holt				X			X					
Homer Community Schools	Homer				X				X				
Howell Public Schools	Howell				X	X		X			X		
Huron School District	New Boston				X			X					
Huron Valley Public Schools	Milford			X	X			X	X				
Ida Public Schools	Ida				X			X	X				
Ironwood City School District ...	Ironwood				X	X		X	X		X		
Ishpeming School District	Ishpeming										X		
Jackson Union School District ...	Jackson				X	X		X	X		X		
Kellogsville Public Schools	Kellogsville				X	X		X	X		X		
Lake Fenton Community Schools ...	Fenton				X	X		X	X		X	X	
Lake Orion Community Schools	Lake Orion					X		X	X		X		
Lakeville School District	Otisville				X			X	X		X		
Lamphere Public Schools	Madison Heights				X	X		X	X				
L'Anse Creuse Public Schools	Mt. Clemens				X				X		X		
Lansing School District	Lansing				X	X		X	X		X	X	
Livonia Public Schools	Livonia				X	X		X	X		X	X	
Madison School District	Adrian				X			X					
Manistique Area Schools	Manistique				X			X	X		X		
Marlette Community Schools	Marlette				X			X	X		X		
Marysville Public Schools	Marysville				X			X	X		X	X	
Mason Consolidated Schools	Erie				X	X		X	X		X	X	
Mason Public Schools	Mason				X			X	X				
Mayville Community Schools	Mayville				X	X		X	X		X		
Melvindale-North Allen Park School District	Melvindale				X	X		X	X				
Meridian Public Schools	Sanford				X	X		X	X		X		
Midland Public Schools	Midland	X		X	X			X			X		
Mona Shores Schools	Muskegon				X	X		X	X		X		
Montrose Twp. Schools	Montrose		X		X			X	X		X	X	
Mt. Clemens Community Schools ...	Mt. Clemens				X				X		X	X	
Mt. Morris Consolidated School District	Mt. Morris					X		X	X		X	X	
Munising Public Schools	Munising				X	X		X			X		
Muskegon City Public Schools	Muskegon				X			X	X		X	X	
Nankin Mills School District	Westland				X			X	X		X		
Napoleon School District	Napoleon				X				X		X	X	
Negaunee Public Schools	Negaunee				X	X		X			X		
North Dearborn Heights School District	North Dearborn Heights		X										

a/ The faculty workroom and faculty lounge are separate and distinct; where both are marked, two separate facilities are provided.

State and school system	Location	Storage space for instructional materials	Teacher's desk and chair	Faculty workroom	Faculty lounge[a/]	Faculty lunchroom	Separate men's and women's restrooms	Provisions relating to restrooms	Parking facilities	Communication system with office	Telephone for teachers	Vending machines	Locked personal storage space
MICHIGAN (Continued)													
Northville Public School District	Northville	X		X	X	X		X	X		X	X	
Onstead Community Schools	Onstead				X			X	X		X		
Orchard View School District	Muskegon										X	X	
Oscoda Area Schools	Oscoda				X	X		X					
Ovid-Elsie Area Schools	Ovid-Elsie				X	X		X	X		X		
Oxford Area Community Schools ...	Oxford				X			X	X				
Parchment School District	Parchment				X				X		X		
Petosky School District	Petosky					X		X	X		X		
Pinconning Area Schools	Pinconning				X	X		X	X		X		
Plymouth Community School District	Plymouth			X	X			X	X		X		
Pontiac School District	Pontiac			X	X			X	X		X		
Portage Public Schools	Portage				X			X			X		
Port Huron Area School District .	Port Huron			X		X		X	X		X	X	
Ravenna School District 4	Ravenna				X	X		X	X		X	X	
Redford Union School District 1 .	Detroit				X	X		X	X		X		
Reeths-Puffer Schools	Muskegon				X	X		X	X		X	X	
Richmond Community Schools	Richmond				X			X	X			X	
Rochester Community Schools	Rochester				X			X	X		X		
Rockford Public Schools	Rockford				X	X		X	X		X		
Roseville City School District ..	Roseville				X		X						
Royal Oak School District	Royal Oak				X	X		X	X		X		
Rudyard Twp. School District 111.	Rudyard				X	X		X	X		X	X	
Saginaw City Schools	Saginaw	X		X	X	X		X	X		X		
St. Joseph School District	St. Joseph							X			X		
Saline Area School District	Saline				X			X	X		X	X	
Shepherd Public Schools	Shepherd				X			X			X		
Southfield Public Schools	Southfield				X	X		X					
Southgate Community School District	Southgate				X						X		
South Haven Public Schools	South Haven				X				X		X		
South Lake Schools	St. Clair Shores				X	X		X	X		X	X	
South Lyon Community School District	South Lyon	X		X	X			X	X		X		
Sparta Area Schools	Sparta				X	X		X	X		X	X	
Spring Lake Public Schools	Spring Lake				X			X					
Stephenson Area Public Schools ..	Stephenson				X	X		X	X		X	X	
Summerfield Schools	Petersburg			X		X		X	X		X		
Tahquamenon Area Schools	Newberry				X	X		X	X		X		
Taylor Twp. School District	Taylor		X		X		X		X			X	
Techumseh Public Schools	Techumseh				X	X		X	X				
Thornapple-Kellog Schools	Middleville				X	X		X	X		X	X	
Troy School District	Troy				X	X		X					
Van Buren Public Schools	Belleville				X	X		X	X		X	X	
Van Dyke Public Schools	Warren					X		X	X		X	X	
Vassar Public Schools	Vassar				X			X			X		
Vicksburg Community Schools	Vicksburg				X			X			X		
Walled Lake Consolidated School District	Walled Lake	X		X						X			
Wakefield Twp. School District ..	Wakefield				X	X		X	X		X		
Warren Consolidated Schools	Warren				X	X		X	X				
Warren Woods Public Schools	Warren				X			X	X			X	
Watervliet School District 62 ...	Watervliet				X			X	X		X	X	
Wayland Union Schools	Wayland				X			X			X		

State and school system	Location	Storage space for instructional materials	Teacher's desk and chair	Faculty workroom	Faculty lounge a/	Faculty lunchroom	Separate men's and women's restrooms	Provisions relating to restrooms	Parking facilities	Communication system with office	Telephone for teachers	Vending machines	Locked personal storage space
MICHIGAN (Continued)													
Wayne Community School District	Wayne			X	X				X		X		
West Bloomfield Schools	Orchard Lake		X		X			X	X		X	X	
Westwood Heights School District	Flint				X	X	X		X		X	X	
White Cloud School District	White Cloud				X	X		X	X		X	X	
Whiteford Agricultural Schools	Ottawa Lake					X		X	X		X		
Whitehall District Schools	Whitehall				X								
White Pigeon Community Schools	White Pigeon				X	X		X	X				
Williamston Community School District	Williamston				X				X		X		
NEW JERSEY													
Newark Public Schools	Newark	X		X	X			X		X			
NEW YORK													
New Rochelle	New Rochelle				X								
New York City Schools (Teachers)	New York City							X			X	X	
New York City (Attendance Teachers)	New York City							X					
Rochester	Rochester				X								
Union Free School District 22	Farmingdale	X		X	X			X			X		
PENNSYLVANIA													
Philadelphia Public Schools	Philadelphia		X						X				
RHODE ISLAND													
Bristol Public Schools	Bristol	X	X					X					
Coventry Public Schools	Coventry	X	X	X	X			X	X		X		
North Kingstown School District	North Kingstown	X	X			X		X					
Warwick Public Schools	Warwick	X	X	X	X			X	X				
WISCONSIN													
Kenosha Jt. School District 1	Kenosha				X								
Milwaukee School District	Milwaukee							X					

a/ The faculty workroom and faculty lounge are separate and distinct; where both are marked, two separate facilities are provided.

Judicial Decisions, Opinions, and Statutes

SUPREME COURT

STATE OF NEW HAMPSHIRE

Coos,
No. 5567

PAUL TREMBLAY & a.

v.

BERLIN POLICE UNION & a.

Argued January 6, 1967.

Decided January 30, 1968.

Petition for declaratory judgment (RSA 491:22) to test the validity of certain provisions of a union contract negotiated on December 13, 1965, between Local Union #1444 of the American Federation of State, County, and Municipal Employees and the Berlin police commission. The plaintiffs are Paul Tremblay, the city marshal of the city of Berlin, his assistant, and two police officers Edgar LaPlante and Carl Giordono. The defendants are the Berlin police department Local Union #1444 of the American Federation of State, County and Municipal Employees and the Berlin police commissioners. The parties submitted an agreed statement of facts and questions of law raised by the pleadings were reserved and transferred without ruling by the Court. (Grant, J.).

The pertinent part of the agreed statement of facts is as follows:

"1. That on December 13th, 1965, the Police Commissioners for the City of Berlin, did recognize the local Union #1444 as the sole and exclusive representative of all employees of the Police Department except the Chief and his assistant, for the purposes of bargaining with respect to wages, hours of work, and working conditions acting under the alleged authority granted to them by New Hampshire Revised Statutes Annotated, Chapter 31, Section 3 Supplement, 'Towns may recognize unions of employees and make and enter into collective bargaining contracts with such unions.'

"2. That on December 13, 1965, the Union and the Berlin Police Commission executed a contract, a copy of which is annexed to the petition.

"3. Article II, Section 1, of the contract recognizes that the Union is the sole and exclusive representative of all employees for the purpose of bargaining with respect to wages, hours of work and working conditions.

"4. Article III, Section 1, of the contract establishes a Union Shop.

"5. Article VII, Section 1, of the contract, entitled 'Vacancies,' provides that the employee with the highest seniority shall be given first opportunity to fill a vacancy providing he is qualified.

"6. Article VIII, Section 1, provides that reduction in force or rehiring shall be done on the basis of seniority.

"7. Article IX, Section 1, provides that temporary employees shall be hired before new employees, provided they can qualify.

"8. Article XVII, Section 1, sets up a procedure for settling grievances, which among other things, provides for an impartial arbitrator, whose decision shall be final and binding on all parties, with the further proviso that this clause shall comply with and be subordinate to the New Hampshire State Law.

"9. Article XXIII, Section 1, provides for payment to officers for appearance in Court and controls the manner in which the officers shall issue subpoenas.

"10. That your Petitioners Edgar LaPlante and Carl Giordono, Police Officers of the Berlin Police Department holding the rank of Sergeant Detective initially refused to give individual written authorization to allow the deduction from their weekly salary of $4.00 per four (4) week period for Union dues as demanded by Article IV, Section 1 of the above named contract entitled, Check-Off, but were finally constrained to sign by the Petitionees Local Union #1444 and the Petitionees the Police Commissioners for the City of Berlin upon information and belief expressed to them by the said Petitionees that their failure to sign the written authorization as demanded by Article IV, Section 1, would result in their dismissal from the Police Force as the Police Department for the City of Berlin was now a Union Shop.

"11. That the Petitionees Local Union #1444 and the Police Commissioners subsequent to the execution of the written contract aforementioned, orally agreed to raise the pay of your Petitioners Edgar LaPlante and Carl Giordono by $5.00 per week. This raise of salary to replace the right of these two (2) Petitioners to overtime pay as stipulated in Article XII, Section 2 of the above contract, and court time compensation as stipulated in Article XXIII, Section 1 of this same contract."

Earl F. Gage (by brief and orally), for the plaintiffs.

Arthur J. Bergeron for the Berlin Police Commissioners, filed no brief.

Broderick, Craig, Bourque & Costikas (Mr. William H. Craig orally), for Berlin Police Department Local Union #1444 of the American Federation of State, County and Municipal Employees.

PER CURIAM. The "right of public employees to join or become members of labor unions is becoming increasingly recognized." American Federation of State &c. Employees v. Keene, 108 N.H. 68, 69. See Anderson, Legal Aspects of Collective Bargaining in Public Employment, in Developments in Public Employee Relations: Legislative, Judicial, Administrative, 128 (Warner [illegible]). The corresponding right of a municipality to [illegible] into a collective bargaining contract with a labor u[illegible] has been recognized by statute since the enactment [illegible] Laws 1955, ch. 255. Manchester v. Guild, 100 N.H. 507, 511. That statute, which is a constitutional exercise of legislative power (N.H. Const., Pt. II, Art. 5; Opinion of the Justices, 101 N.H. 544; Exeter v. Kenick, 104 N.H. 168, 170) reads as follows: "Towns may recognize unions of employees and make and

enter into collective bargaining contracts with such unions." RSA 31:3 (supp). In 1962 the city of Berlin passed an ordinance which expressly empowered all present and future city boards and commissions to recognize unions of their employees and to enter into collective bargaining contracts with such unions.

The plaintiffs contend that the police commissioners and the police department employees are state officers and not city officers and therefore the statute authorizing collective bargaining by municipalities (RSA 31:3 (supp) has no application. This contention might have had merit under former legislation where police commissioners were appointed by the state. Gooch v. Exeter, 70 N.H. 413; Gibbs v. Manchester, 73 N.H. 265; Gilbert v. Berlin, 76 N.H. 470; Pollard v. Gregg, 77 N.H. 190. However under more recent home rule legislation (Laws 1963, 275:3) the city of Berlin voted to authorize the mayor and city council to appoint police commissioners instead of their appointment being made by the state. Laws 1963, 275:8. Under this home rule legislation it is clear this police department is managed by the police commissioners who are answerable in turn to the mayor and council of the city (Laws 1963, 275:4-6) who are municipal officials whom the statute authorizes to enter into collective bargaining contracts. (RSA 31:3 (supp)). This conclusion is buttressed by the fact that an attempt to retain appointment of police commissioners by the state was defeated when the home rule legislation was being considered in the Senate. See 1963 Journal of the Senate 946. The power of municipalities to recognize unions of their employees is discretionary and not compulsory and the power resides in the mayor and city council. American Federation of State & c. Employees v. Keene, 108 N.H. 68, 70. This discretionary power was exercised by the mayor and city council of Berlin by its ordinance of December 3, 1962, whereby the city expressly accepted the provisions of RSA 31:3 (supp) and validly conferred upon all city boards and commissions the authority to place those provisions into effect. Therefore we conclude that the Berlin police commissioners had authority to enter into a collective bargaining contract with the union. See Comment, Municipal Employees' Unions; The Climb up Labor's Ladder, 4 Duquesne L. Rev. 137, 141 (1965); Stutz, Collective Bargaining by City Employees; 15 Lab. L. J. 696 (1964); Collective Bargaining for Public Employees; An Analysis of Statutory Provisions, 8 B.C. Ind. & Com. L. Rev. 273 (1967); Gallagher, Municipal Collective Bargaining, An Introduction 11, New Hampshire Town and City, 14 (1968).

This collective bargaining agreement is assailed as being an abdication and surrender of municipal sovereignty and "completely contrary to the public interest." As we read and interpret the collective bargaining agreement it contains certain overriding provisions which are designed to make all delegation of authority to the union consistent with and subject to the ultimate authority of the police commission and mayor and council to manage the police department consistently with the statutory directives. Under the contract the union has agreed that there shall be no strikes, slowdowns, stoppage of work "or any interference with the efficient management of the Police Department." Art. 20, section 1. Thus the interest of the public in having uninterrupted police protection is explicitly preserved. See Manchester v. Guild, 100 N.H. 507, 511. Article 2, section 1 provides that the "Union unreservedly accepts and recognizes the necessity of the Police Department to operate within its budget as set by the City Council." This is an express recognition that the union must operate within the municipal fiscal system and that it is bound by the discretion of the city council. Article 17, section 1 relating to the disposition of grievance procedures and providing for arbitration was specifically amended as follows: "Notwithstanding any provision of the within arbitration clause, the said clause and all provision[s] thereof shall comply with and be subordinate to the N.H. State Law." Additionally in Article 20, section 1 it is provided that "nothing in the...paragraph shall be construed so as to conflict with applicable state laws." These quoted provisions of the contract demonstate the objective of both the union and the city to enter into a collective bargaining agreement that is legal and consistent with all governing state laws.

The plaintiffs contend that police commissioners have lost the power to make rules and regulations. Article 19, section 3 places the responsibility for making regulations for the health and safety of the employees in the police department and the union members agree to comply with them. The provision that either party to the agreement may request a meeting "to discuss such regulations" is unobjectionable. Article 19, section 2 makes explicit what is already implicit in the agreement which is that the police commissioners will abide by the terms of the contract and that other rules and regulations shall not conflict therewith. The commissioners still have "full authority to make and enforce all rules and regulations for the government of the police force." Laws 1963, 275:5.

The grievance procedure clause of the agreement (Article 17, section 1), is attacked as an unlawful delegation of municipal authority to the union. This clause provides, after a series of preliminary procedures, for an impartial arbitrator to be appointed by the state board of arbitration whose decision is to be final and binding on the parties. If that were the end of the matter, it would present a serious question. But, as previously noted, the clause was specifically amended to provide that it "shall comply and be subordinate to N.H. State Law." This amendment subjects the grievance and arbitration procedure to Laws 1963, 275:5 as well as the state arbitration statute (RSA 273:12-27) which contains a provision that a party may give a notice in writing not to be bound by the arbitrator's decision. RSA 273:22. We conclude that Article 17, section 1 is not an unlawful delegation of the city's authority to control the police department. See Norwalk Teachers Ass'n. v. Board of Education, 138 Conn. 279-280; Symposium, Collective Bargaining in the Public Service, 22 Pub. Adm. Rev. 1, 8, 18 (1962); Anderson, The U.S. Experience in Collective Bargaining in Public Employment, in Collective Bargaining in the Public Service; Theory and Practice 21 (Warner ed. 1967).

The so-called union shop clause (Article 3, section 1) is qualified and limited by its terms. The clause in full reads as follows: "Whenever re-employments are made, or the police department hires new employees, they shall, within sixty working days become members of the Union Local #1444 by presenting to the police department a proper authorization, approved by the Union president, for the collection of their dues." (emphasis supplied) There is no requirement in this clause, or any other, for maintenance of membership in good standing. This clause, together with the "check off" clause (article 4, section 1) for union dues, imposes a financial obligation only. The union cannot cause the discharge of an employee, who has resigned from or has been expelled by the union for any reason other than his withdrawal of the check off authorization.

It is argued that this union shop clause of the collective bargaining agreement is invalid as an unlawful delegation of municipal power and is "ultra vires and void." There is no law which prohibits a union shop in this state and RSA 275:1 prohibits any effort to coerce or compel any person into an agreement "not to join or become a member of any labor organization" as a condition of securing or continuing in any employment. The Legislature has declared as a matter of public policy that collective bargaining for municipal employees is a proper public purpose. In making this declaration it has not excluded police departments (as some statutes do) or other public employees in equally essential positions. cf., Laws 1963, 278:1, now RSA 38-A:18, II (supp), which applies to transit employees. Opinions may differ as to the desirability of collective bargaining for public employees but that discretionary decision has been lodged in the municipalities. One city may determine that union recognition results in efficient operation of its departments; another city may decide that public employees should have less rights than

private citizens. See Weisenfield, Public Employees-First or Second Class Citizens, 16 Lab. L. J. 685 (1965); Cornell, Collective Bargaining by Public Employees Groups, 107 U. Pa. L Rev. 43 (1958).

In the present case the police commissioners and the union have, in effect, declared in advance under the collective bargaining agreement that union security is a reasonable requirement for the efficient and orderly administration of the police department. Stutz, Collective Bargaining by City Employees, 15 Lab. L. J. 696, (1964). This is a decision they have the right to make because (1) the Legislature authorized it, (2) ultimate control remains in the municipality and the police commissioners to hire and fire personnel and manage the police department, (3) the overriding provisions of the collective bargaining agreement provide that the powers delegated to the union are subordinate to and must be consistent with the powers of the city and its agents in its control over the administration of the police department. Laws 1963, 275:4, 5. See, Comment, Labor Problems in Public Employment, 61 Nw. U. L. Rev. 105, 133 (1966).

Our conclusion that this union shop clause, as construed is valid is equally applicable to the seniority provisions (articles 6-10) and for the same three reasons mentioned in the previous paragraph.

Petition dismissed.

GRIFFITH, J., took no part in the decision.

STATE OF MICHIGAN

LABOR MEDIATION BOARD

In the Matter of:

LIVONIA BOARD OF EDUCATION,
Respondent,

-and-

LIVONIA FEDERATION OF TEACHERS,
Charging Party,

-and-

LIVONIA EDUCATION ASSOCIATION,
Intervenor.

Case No. C67 C-15

DECISION AND ORDER

The Livonia Federation of Teachers, Charging Party, filed an unfair labor practice charge dated March 2, 1967, against the Respondent, Livonia Board of Education, and complaint was issued. The Intervenor, Livonia Education Association, is the collective bargaining representative of the teachers in the Respondent School District, not the Charging Party.

The charge alleged that the Respondent had engaged in unfair labor practices within the proscription of Section 10 of the Michigan Public Employment Relations Act, hereinafter referred to as PERA.[1]

The original charge consisted of two parts, (a) and (b). The (a) charge was withdrawn at the commencement of the hearing. The (b) portion of the charge consisted of an allegation that the Superintendent of Schools of the Respondent, on January 17, 1967, wrote one of the teaching employees of the Respondent instructing him that he had no right to release for general consumption among the teachers of the District interpretations of the collective bargaining agreement between the Respondent board and the Intervenor. The charge further alleges that the contents of the letter constituted a threat to the employee for exercising rights guaranteed and protected under PERA.

A hearing was held on the charge before Trial Examiner, James R. McCormick in Detroit, Michigan, on April 10, 1967, after which briefs were filed by the attorneys for all parties. The Trial Examiner, on June 23, 1967, issued his Findings of Fact, Analysis, Conclusions of Law and Recommended Order, in which he found the Respondent to be guilty of a violation of Section 10 of PERA in that the letter of January 17, 1967, "interfered with, restrained and coerced its (Respondent's) employees within the meaning of Section 10 of PERA in the exercise of their rights guaranteed in Section 9 of PERA." He further recommended, in order to effectuate the purposes of the Act, that the Board enter an order requiring the Respondent to cease and desist from such activities, to post a notice where they are customarily posted on the premises of the Respondent for a period of thirty days, notifying the employees of the Respondent of the findings of this Board regarding restraint and coercion and advising the employees of their rights to communicate their views and criticisms of the collective bargaining agreement and their interpretation thereof, or any other views they may have concerning wages or conditions of employment, without notifying the Respondent board in advance.

On July 13, 1967, the Respondent board, through its attorneys, filed exceptions with this Board to the Findings of Fact, Analysis, Conclusions of Law, Recommended Order and Notice to all Employees of the Trial Examiner.

The Facts which resulted in the filing of the charge are:

Roy E. Ernst, a teacher at Franklin High School of the Respondent, filed a grievance on October 24, 1966, in accordance with the grievance procedure contained in Article XVI of the collective bargaining agreement between the Respondent and the Intervenor. He contended that the Respondent had misinterpreted the agreement by stating that teachers were required to attend certain extra-curricular functions without additional compensation. The grievance was answered on October 27, 1966, by Mr. Ammerman, the building principal, in which he stated that teachers would be expected to attend the Parents Meeting at Franklin High School on November 9 without additional compensation, as that was required under the administrative interpretation of the agreement.

Not being satisfied with the disposition of the grievance at the first step, an appeal was taken by Ernst to the next step in the grievance procedure. Article XVI of the agreement requires that an appeal to the second step of the grievance procedure must be approved by a committee of the Intervenor bargaining representative, and this was done. This committee took the position that the use of the word "expect" was not in accordance with the provisions of the agreement, which provisions it contended provided for voluntary attendance only at extra-curricular activities.

The grievance appeared to be satisfactorily resolved in a meeting between the executive secretary of the Intervenor and the Superintendent of Schools, wherein it was agreed that attendance at extra-curricular functions was not compulsory; but teachers were expected to attend unless unusual circumstances interfered with their attendance.

Subsequently, the principal of Franklin High School sent a communication to the faculty regarding a Parent Night to be held on November 9, 1966. He stated that any teacher who was unable to attend should communicate with him concerning the attendance problem as soon as possible.

No appeal was taken from the disposition of the grievance at the second step, and there is no indication that

1/ Michigan Public Employment Relations Act, 336 of the Public Acts of 1947, as amended by Act 379 of the Public Acts of 1965.

Ernst was dissatisfied with the result at that time, or that he had requested the Intervenor to pursue the grievance further. However, after the aforementioned communication by the principal of the Franklin High School, Ernst wrote a letter on November 30, 1966, to the teaching staff, in which he objected to the requirement of the principal that teachers not attending the Parent Night meeting should communicate with him as to the reasons for not attending, and stating that teachers were under no obligation to give reasons for non-attendance.

As a result of this letter, the Superintendent of the Respondent Board of Education called a meeting on December 21, 1966, at which were present Ernst, the Superintendent, the principal of Franklin High School, and representatives of the Intervenor. The purpose of this meeting was to discuss what the Superintendent regarded as improper procedures on the part of Ernst in writing the letter. At the meeting, it was agreed that the Superintendent would secure a legal opinion as to the right of an individual teacher to communicate with other members of the bargaining unit with respect to his interpretation of the agreement. This decision and the subsequent legal opinion received by the Superintendent resulted in a letter written by him, dated January 17, 1967, directed to Ernst, which letter reads as follows:

> Dear Mr. Ernst:
>
> I have referred to our attorneys the matter which we discussed on December 21, 1966, regarding the individual teacher's right for action to release his own interpretation of the LEA-Board of Education Agreement to other teachers by written memorandum.
>
> Our attorneys, concur that no such right exists under the Agreement. It is an Agreement between the Livonia Education Association, as sole bargaining unit for the teachers, and the Livonia Board of Education, and, as such, any interpretations should be agreed upon jointly by official representatives of the LEA and the Board. It appears clear that you do not have the right, nor is it proper administratively for you, to release any individual interpretation of meanings under the contract. There are ways clearly stated for the Association and the Board to reach agreements in regard to interpretations. These methods do not include any reference to interpretations by an individual teacher.

This letter is the basis for the charge of restraint and coercion in violation of Section 10 (a) of PERA.

In its exceptions, the Respondent objects to the statement of the Trial Examiner on page 6 of his Decision and Recommended Order with regard to the rights of employees which are guaranteed by Section 9 of PERA in which he said:

> The instant case has its origin in a grievance concerning a matter which is covered by the collective bargaining agreement and which is clearly a matter affecting conditions of employment - namely the obligation to attend parents' night activities. In defense against the charges, the Board of Education points out that Ernst admittedly was "speaking personally" and was not acting in concert with others, a prerequisite for Section 9 rights. The undersigned rejects this argument as applied here. Ernst was communicating to fellow employees in protest of an existing employer ruling affecting working conditions of all teachers. A rule that an employee does not gain the protective umbrella of more supporters for his views is too anomalous to be maintained. This would result in a holding that an employee who wishes to circulate union authorization cards is not protected until others sign the cards and join in his effort. Organizational activity inherently concerted in nature. Every concerted activity must commence with some individual's personal initiative in communicating his views to others. Whether or not they ultimately are persuaded by him and become his cohorts, his original, as yet unsupported, moves are within the scope of the rights guaranteed by Section 9.

We agree with the Trial Examiner that the writing of the letter to his fellow teachers by Ernst on November 30, 1966, was concerted activity under Section 9 of PERA, which is protected activity under Section 10 (a) of PERA.

The National Labor Relations Board, in several similar factual situations, has found them to constitute concerted activity, protected by Section 7 and Section 8 (a) (1) of the National Labor Relations Act.[2/]

Additional reason is found for the protection of employees in their right to communicate to fellow employees any grievances or complaints they may have in Section 1 of PERA.

> . . .Nothing contained in this act shall be construed to limit, impair or affect the right of any public employee to the expression or communication of a view, grievance, complaint or opinion on any matter related to the conditions or compensation of public employment or their betterment, so long as the same is not designed to and does not interfere with the full, faithful and proper performance of the duties of employ-

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2/ In Root-Carlin, Inc. v. NLRB, 93 NLRB 1313, 27 LRRM 1235, (1951), the Board found that organizational activity which in its inception involves only a speaker and a listener is concerted and protected activity. In Salt River Valley Water Users Association v. NLRB, 99 NLRB 849, 30 LRRM 1156 (1952), the Board found that activity by an individual employee for the mutual aid and protection of himself and fellow employees is concerted and protected activity under Section 7 of NLRA. In Schwartz v. NLRB, 55 NLRB 798, 15 LRRM 870 (1945), the Board found that circulating membership cards among employees and urging them to join a union is concerted and protected activity under Section 7 and Section 8 (a) (1) of NLRA. In Pepperidge Farms, Inc. and Local 1, IBEW, AFL-CIO, 134 NLRB 129, 49 LRRM 1338 (1961), where an employee called on other employees to register dissatisfaction with the employer over the amount of work given to "on-call" employees and to encourage those employees to make themselves unavailable for work for the purpose of showing the company how much these employees were needed, the Board found this to be a concerted, protected activity. In Averdey, Inc. and Charles Pagliaite, 144 NLRB 25, 57 LRRM 1261, (1964), the activity of one employee in circulating a petition among other employees for removal of the union business agent was concerted activity, protected under Sections 8 (a) (1) and 8 (a) (3), NLRA. In Mushroom Transportation Company and Charles Keeler, 142 NLRB 123, 53 LRRM 1206, (1963), wherein an employee was discharged because he told fellow employees they were not getting what they were entitled to under the collective bargaining agreement, the employer contending it was not concerted activity but individual discussion with one employee at a time, the Board held that such activity was concerted, saying, "it is an indispensable step to induce a grievance." In Montgomery Ward & Company, Inc. 156 NLRB 5, 60 LRRM 1544 (1965), wherein an employee was discharged for filing a petition with the Labor Department alleging a violation of the Equal Pay Act by the Employer, the Board held that although the presentation of the complaint was an individual act, her discussion of the problem with other employees constituted concerted activity within the meaning of Section 7 of NLRA and was protected activity.

3/ See Sanilac County Road Commission and Teamsters Local 339, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, 1967 Mich. Labor Opinions 107, in which we made reference to this portion of Section 1 of PERA in connection with another unfair labor practice case involving coercion and restraint under Section 10 (a) of PERA. See, also, City of Saginaw and Saginaw Fire Fighters Association, Local 422, 1967 Mich. Labor Opinions 465.

The Respondent also excepts to certain other language in the Trial Examiner's Decision and Recommended Order commencing on page 6 and ending on page 7 thereof, reading as follows:

> The Board of Education next defends the Superintendent's letter on the grounds that it "merely states a legal conclusion that no right exists under the collective bargaining agreement for an individual teacher to release his own interpretation of meanings under the contract." This defense must be taken seriously, for it is a plausible reading of the January 17 letter that it does no more than correctly deny the existence of a contractual right to release individual interpretations of the contract, and no such right is to be found within the four corners of the contract between the Employer and the Association. The right, however, does exist. It is contained within, Section 9 of PERA. It may not be abrogated by contract. It is, ultimately, the right to criticize one's employer or one's bargaining agent, and the right to seek to persuade other employees to join in the criticism or to take remedial action.

We agree with the conclusion of the Trial Examiner that the rights guaranteed by Section 9 of PERA may not be abrogated by the collective bargaining agreement. These rights vest in the employees and their representatives, and any attempt to abrogate them constitutes a violation of Section 10 of PERA.

The Respondent also takes exception to the following paragraph, which appears at page 9 of the Trail Examiner's Decision and Recommended Order:

> Finally, the Board of Education observes that the Superintendent did not so much as suggest that Ernst would be subject to discipline if he repeated his improper act. Thus, it is argued, no "threat" or "coercion" can be found in the case, but rather a bland statement of legal position. The undersigned agrees that the letter is phrased in terms of a statement of the non-existence of certain rights, not in terms of a warning. Nevertheless, the threat of punishment for a recurrence is implicit whenever a highly placed employer representative offically notifies an employee that his conduct has been improper and that he had overstepped his rights. The Employer's argument would, logically, justify a holding that an employer may inform all of its employees that they have no right to organize or to discuss union affairs on their own time or to sign union authorization cards. Certainly such statements would be understood as being coercive and threatening. The same is true of the Superintendent's letter to Ernst, who would have to assume he would risk punishment for any repeat performance.

The Respondent contends that the letter of January 17, 1967, of the Superintendent does not contain any direct threats and is not inherently coercive. We agree with that conclusion.

The letter must be read in the context of the factual background which preceded it.4/

Ernst had filed a grievance over what he regarded as an incorrect interpretation of the collective bargaining agreement. The grievance was processed through the second step of the grievance procedure. It was resolved to his satisfaction at that level when it was agreed teachers were not required to attend extra-curricular activities.

Later, the principal of Franklin High School, in a communication to the teachers regarding their attendance at a Parent Night meeting, directed teachers who were not able to attend to communicate with him regarding their attendance problem. Ernst regarded the requirement of communication as an improper requirement resulting in his letter of November 30, 1966, to the Franklin High School staff.

Ernst's letter was regarded by the Superintendent of the Respondent as an improper communication to the staff because it was made without consultation with the school administration and the Intervenor bargaining representative.

The Superintendent called a meeting at which Ernst and representatives of the Intervenor were present, whereat it was agreed that the Superintendent would obtain a legal opinion regarding the propriety of Ernst's letter. The opinion was obtained, resulting in the letter of January 17, 1967, from the Superintende t to Ernst.

The charge was filed by the Livonia Federation of Teachers (which organization is not the collective bargaining representative of the teachers of the Respondent) without the concurrence or knowledge of Ernst. He was unaware that it had been filed until shortly before the hearing on April 10, 1967. He was not a witness at the hearing. Obviously, he did not consider that he had been coerced or restrained by the letter of January 17. The letter contains no direct threats nor any innuendo from which restraint or coercion could be implied.5/

For the foregoing reasons, it is concluded that the charge is without merit and should be dismissed.

ORDER

IT IS HEREBY ORDERED that the unfair labor practice charge of the Livonia Federation of teachers against the Livonia Board of Education dated March 2, 1967, is without merit, and is hereby dismissed.

MICHIGAN LABOR MEDIATION BOARD
Robert G. Howlett, Chairman
Leo W. Walsh, Board Member
Philip Weiss, Board Member

Dated: November 6, 1967

TRIAL EXAMINER'S DECISION AND RECOMMENDED ORDER

APPEARANCES:

For the Respondent: Carl J. Thrun, Attorney, and Keller, Thoma, McManus & Keller By: Charles E. Keller, Attorney

For the Charging Party: Craig & Fieger, By: Bernard J. Fieger, Attorney

For the Intervenor: Ellmann & Ellmann, By: Harvey I. Wax, Attorney

The above-entitled matter having come on for hearing before the undersigned trial examiner of the Michigan Labor Mediation Board, hereinafter referred to as the Board, at Detroit, Michigan on April 10, 1967, and the entire record having been considered, including post-hearing briefs filed by the Respondent and the Intervenor on May 9, 1967, and a brief filed by the Charging Party on May 19, 1967, the undersigned hereby makes the following findings of fact, conclusions of law and recommendations to the Board for the disposition of the case:

FINDINGS OF FACT

The Livona Board of Education, the Respondent herein is a public employer within the meaning of Act 336 of the Public Acts of 1947, as most recently amended by Act 379

4/ NLRB v. Kropp Forge Co., 68 NLRB 617, 25 LRRM 2219, 178 F. 2d 822 (Enf'd C.A. 7, 1949); NLRB v. Collins & Aikman Corporation, 142 NLRB 15, 57 LRRM 2532 F. 2d 743 (C.A. 5, 1964); NLRB v. J. Weingarten, Inc., 141 NLRB 22, 57 LRRM 2588, 339 F. 2d 498 (C.A. 5, 1964); NLRB v. Poinsett Lumber & Manufacturing Company, 35 LRRM 2736, 221 F. 2d 121 (C.A. 4, 1955).

5/ Hendricks Manufacturing Company v. NLRB, 53 LRRM 2831 321 F. 2d 100 (5th Cir. 1963).

of the Public Acts of 1965 (Public Employment Relations Act, M.S.A. sec. 17.455), hereinafter referred to as PERA.

Livonia Federation of Teachers and Livonia Education Association, the Charging Party and Intervenor herein, are organizations representing public employees in the State of Michigan.

On March 2, 1967, the Federation filed charges pursuant to sections 10 and 16 of PERA, alleging that the Board of Education had engaged in and was engaging in unfair labor practices within the meaning of section 10 of PERA. During the hearing certain portions of the charges were either formally withdrawn or acknowledged to be unproven and tacitly withdrawn. The remaining allegation, which is disposed of hereinafter, is that the Superintendent of Schools, on January 17, 1967, wrote to a teaching employee, a member of the Livonia Federation of Teachers, instructing him that as a teacher he had no right to release for general consumption among the employees of the District, interpretations of the collective bargaining agreement between the Board of Education and the exclusive bargaining agent (the Intervenor). The charges further allege that the contents of the January 17, letter constituted a threat to the employee for exercising rights guaranteed and protected by PERA.

The Board of Education, in its Answer to the charges and complaint, denied the above allegation. At the hearing it developed that the material facts are not seriously in dispute, and are as follows:

On October 24, 1966, Roy E. Ernst, a teacher at Franklin High School, filed a grievance with his building principal in accordance with the grievance procedure set forth in Article XVI of the collective bargaining agreement between the Board of Education and the Association.

The grievance in substance alleged that the Board of Education had misinterpreted the contract by stating that teachers were required to attend "parents' night and certain other evening events" without additional compensation.

By answer dated October 27, 1966, the building principal, Mr. Ammerman, stated that under administrative interpretation he "would expect all Franklin teachers to attend the November 9 Parent Meeting at Franklin High School without additional compensation. . . ."

The grievant, Mr. Ernst, was not satisfied with the disposition of his grievance at Level One, and initiated the procedures at Level Two of the grievance procedure by referring the matter to the Association's Board of Reference. The Board of Reference continued the procedure of Level Two by forwarding its position, with Mr. Ernst's concurrence, to the Superintendent.

The Board of Reference position was that the use of the word "expect" by Mr. Ammerman in his Level One answer was stronger than is implied in the master contract and is not in the spirit of voluntary attendance. Parent Night should be voluntary but teachers should be encouraged to attend."

Mr. Yates, the Superintendent of Schools, in accordance with the provisions of Level Two, rendered a disposition to the grievance indicating apparent resolution by agreement between himself and the Executive Secretary of the Association as to the interpretation of the contract. This interpretation was to the effect that while attendance at Parents' Night, "was not compulsory", teachers were requested to attend unless "unusual circumstances" interferred "with this attendance. . ." The Superintendent indicated his approval of the principal's requirement that teachers unable to attend because of unusual circumstances communicate with the principal concerning the problem.

Mr. Ernst, the grievant, did not appeal to Level Three of the grievance procedure. However, on November 30, 1966, Mr. Ernst, as an individual, issued the following communication to his fellow teachers:

To: Franklin Staff
From: Roy Ernst
Re: Disposition of Grievance about attendance at Parents' Night, PTA, etc.
Date: November 30, 1966

Mr. Yates affirmed that attendance at Parents' Night PTA, etc. is not compulsory. Therefore, if teachers wish to be volunteers for such activity, article VIF will apply, allowing an early departure on the day they attend an evening activity.

Mr. Yates also stated that teachers not attending Parents' Night gave reasons for their absence.

Speaking personally, I would like to point out that teachers are under no obligation to 'give reasons' and it is degrading to a teacher to require him to do so. On the other hand, you may feel more comfortable if you make your reasons known.

On December 21, 1966, approximately a month after Mr. Ernst had issued his communication, Mr. Yates called an informal meeting at Franklin High School to discuss the memorandum. Present besides Mr. Yates were Mr. Ammerman, Mr. Ernst, and six association representatives. Mr. Yates stated purpose in holding the meeting over the memorandum was to "improve communication, to mention proper and courteous procedures in relation to my (superintendent's) office and any building principal." It was specifically noted that there was no intent to make reprisals against anyone.

Following Mr. Yates' opening remarks, a general discussion was had concerning the appropriateness of a teacher issuing a memorandum without first giving the principal or the superintendent an opportunity to discuss it. Mr. Yates noted that an affront to the administration, or at least a "second guessing" of the administration might result, either of which could be avoided by proper communications between all parties.

Near the end of the meeting, there was an understanding that Mr. Yates would secure an opinion from counsel as to the right of an individual teacher to release his own interpretation of the collective bargaining agreement.

On January 17, 1967, Mr. Yates sent a letter to Mr. Ernst, stating as follows:

Dear Mr. Ernst:

I have referred to our attorneys the matter which we discussed on December 21, 1966, regarding the individual teacher's right for action to release his own interpretation of the LEA-Board of Education Agreement to other teachers by written memorandum.

Our attorneys concur that no such right exists under the Agreement. It is an Agreement between the Livonia Education Association, as sole bargaining unit for the teachers, and the Livonia Board of Education, and, as such, any interpretations should be agreed upon jointly by official representatives of the LEA and the Board. It appears clear that you do not have the right, nor is it proper administratively for you, to release any individual interpretation of meanings under the contract. There are ways clearly stated for the Association and the Board to reach agreements in regard to interpretations. These methods do not include any reference to interpretations by an individual teacher.

ANALYSIS

Section 10 of PERA provides that:

It shall be unlawful for a public employer or an officer or agent of a public employer (a) to interfere

with, restrain, or coerce public employees in the exercise of their rights guaranteed in Section 9; . . .

Section 9 of PERA provides that:

It shall be lawful for public employees to organize together or to form, join or assist in labor organizations, to engage in lawful concerted activities for the purpose of collective negotiations or bargaining or other mutual aid and protection, or to negotiate or bargain collectively with their public employers through representatives of their own free choice.

The instant case has its origin in a grievance concerning a matter which is covered by the collective bargaining agreement and which is clearly a matter affecting conditions of employment - namely the obligation to attend parents' night activities. In defense against the charges, the Board of Education points out that Ernst admittedly was "speaking personally" and was not acting in concert with others, a prerequisite for Section 9 rights. The undersigned rejects this argument as applied here. Ernst was communicating to fellow employees in protest of an existing employer ruling affecting working conditions of all teachers. A rule that an employee does not gain the protective umbrella of Section 9 rights unless and until he wins one or more supporters for his views is too anomalous to be maintained. This would result in a holding that an employee who wishes to circulate union authorization cards is not protected until others sign the cards and join in his effort. Organizational activity and protests against general working conditions are inherently concerted in nature. Every concerted activity must commence with some individual's personal initiative in communicating his views to others. Whether or not they ultimately are persuaded by him and become his cohorts, his original, as yet unsupported, moves are within the scope of the rights guaranteed by Section 9.

The Board of Education next defends the Superintendent's letter to the grounds that it "merely states a legal conclusion that no right exists under the collective bargaining agreement for an individual teacher to release his own interpretation of meanings under the contract." This defense must be taken seriously, for it is a plausible reading of the January 17 letter that it does no more than correctly deny the existence of a contractual right to release individual interpretations of the contract, and no such right is to be found within the four corners of the contract between the Employer and the Association. The right, however, does exist. It is contained within Section 9 of PERA. It may not be abrogated by contract. It vests in the individual employee. It is, ultimately, the right to criticize one's employer or one's bargaining agent, and the right to seek to persuade other employees to join the criticism or to take remedial action.

A careful reading of the January 17 letter leaves the overall impression that Ernst is being informed that no right of any kind to communicate criticisms of the employer's contract interpretations to fellow employees exists. The letter refers at one point to rights "under the Agreement", but in other places refers to rights generally. No distinction is made by the Superintendent in the body of the letter. Most persons reading the letter would understand it as a denial of any right to issue individual interpretations. For example, the letter indicates it was not "proper" administratively for Ernst to have done what he did.

The Board of Education also calls attention to the undersigned's previous statement of support for the national policy favoring the channeling of disputes into a grievance procedure, citing Woodward General Hospital, 1966 Labor Opinions 543, 548-549. The national policy favors utilizing the grievance-arbitration machinery to the fullest extent possible. However, such a policy does not dictate that employees who choose to criticize their working conditions, apart from the established grievance machinery, lose the statutory protection of their rights. This point is well illustrated in the instant case, where the Association appears to have acceded to the Superintendent's position and to have "settled" the grievance. Obviously, Ernst was not satisfied, and, rather than pursue the grievance procedure further, without the support of his exclusive bargaining agent, he chose to appeal directly to fellow teachers for support and vindication. While this act had no "status" under the contract, it was protected activity nonetheless. The Board of Education was free to ignore the "open letter" from Ernst to fellow teachers; it was not free to proscribe it. If it were, expression of dissident employee views would be entirely at the risk of the employee. The majority bargaining agent must be afforded preferential status, but not to the extent of silencing minority views.

The Board of Education contends that Ernst's letter to fellow teachers constituted a suggestion that they disobey an administrative directive, as well as an affront to the school administration. An affront it may well have been, but Ernst did not advocate insubordination, or incite teachers to act in contempt of the Superintendent's ruling, albeit he came close to suggesting that. Rather, Ernst may be properly accused of being somewhat self-important in circulating his own interpretation of the contract's meaning, as if he occupied some official status as a spokesman for his peers. Even if Ernst's letter be viewed as a call to arms, the Superintendent's January 17 letter addressed itself not to that question but to the general right to issue statements of views concerning the contract's interpretation.

Finally, the Board of Education observes that the Superintendent did not so much as suggest that Ernst would be subject to discipline if he repeated his improper act. Thus, it is argued, no "threat" or "coercion" can be found in the case, but rather a bland statement of legal position. The undersigned agrees that the letter is phrased in terms of a statement of the non-existence of certain rights, not in terms of a warning. Nevertheless, the threat of punishment for a recurrence is implicit whenever a highly placed employer representative offically notifies an employee that his conduct has been improper and that he had overstepped his rights. The Employer's argument would, logically, justify a holding that an employer may inform all of its employees that they have no right to organize or to discuss union affairs on their own time or to sign union authorization cards. Certainly such statements would be understood as being coercive and threatening. The same is true of the Superintendent's letter to Ernst, who would have to assume he would risk punishment for any repeat performance.

CONCLUSIONS OF LAW

The Board of Education, through the act of its Superintendent in notifying employee Ernst on January 17, 1967, that he had no right, as an employee, to communicate to fellow employees his views concerning, or interpretations of, the existing collective bargaining agreement, interfered with, restrained, and coerced its employees, within the meaning of Section 10 of PERA in the exercise of their rights guaranteed in Section 9 of PERA.

The undersigned trial examiner recommends that, in order to effectuate the purposes of PERA, the Board enter an Order as follows:

RECOMMENDED ORDER

Upon the basis of the foregoing Findings of Fact and Conclusions of Law, and upon the entire record in the case, the public employer, Livonia Board of Education, its Superintendent, officers, agents, successors and assigns, shall:

1. Cease and desist from:

   Interfering with, restraining, or coercing employees in the exercise of rights guaranteed in Section 9 of PERA, by notifying employees that

they have no right to communicate to fellow employees their views concerning, and their interpretations of, a collective bargaining agreement or anything else affecting wages or conditions of employment.

2. Take the following affirmative action:

(a) Post, at all places where notices to the teaching employees are customarily posted, copies of the attached "Notice to all Employees", said notices to be posted for thirty consecutive days during the regular school year.

(b) Notify the Board, within twenty days of receipt of this Order what steps the public employer has taken to comply herewith.

MICHIGAN LABOR MEDIATION BOARD

James R. McCormick
Trial Examiner

Dated: June 23, 1967

NOTICE TO ALL EMPLOYEES

THE MICHIGAN LABOR MEDIATION BOARD, AFTER A PUBLIC HEARING, HAS FOUND THAT THE LIVONIA BOARD OF EDUCATION HAS VIOLATED THE PUBLIC EMPLOYMENT RELATIONS ACT BY NOTIFYING ITS TEACHERS, THROUGH A LETTER SENT BY THE SUPERINTENDENT TO ONE OF ITS TEACHERS, THAT THEY HAVE NO RIGHT TO COMMUNICATE WITH FELLOW TEACHERS THEIR VIEWS CONCERNING, OR INTERPRETATIONS OF, THE CONTRACT BETWEEN THE BOARD OF EDUCATION AND LIVONIA EDUCATION ASSOCIATION.

PLEASE BE ADVISED THAT THE LIVONIA BOARD OF EDUCATION RECOGNIZES THE RIGHT OF EMPLOYEES TO COMMUNICATE FREELY THEIR VIEWS OR CRITICISMS OF A COLLECTIVE BARGAINING AGREEMENT OR THEIR INTERPRETATIONS THEREOF OR ANY OTHER VIEWS THEY MAY HAVE CONCERNING WAGES OR CONDITIONS OF EMPLOYMENT, WITHOUT NOTIFYING REPRESENTATIVES OF THE BOARD OF EDUCATION IN ADVANCE OR FOLLOWING ANY SPECIFIED PROCEDURE.

LIVONIA BOARD OF EDUCATION

BY: _____

Dated: _____

This Notice must remain posted for 30 consecutive days from the date of posting and must not be altered, defaced or covered by any other material.

Negotiation Agreements

PROFESSIONAL NEGOTIATION AGREEMENT

ALTOONA (PENNSYLVANIA) AREA SCHOOL DISTRICT

AND

ALTOONA AREA EDUCATION ASSOCIATION (NEA)

PREAMBLE

The Board of School Directors of the Altoona Area School District and the Altoona Area Education Association believe that the development and operation of educational programs of the highest quality, for the benefit of the students and the community, is a common responsibility which requires, for its effective discharge, consultation among the Board, the Superintendent and Administrative Staff, and members of the teaching staff speaking through their elected representative. Since these groups have the same ultimate aim of providing the best possible educational opportunity for all pupils enrolled in the schools consistent with community resources, relationships must be established and maintained which are based upon this common interest and the concept of education as a public trust and as a professional calling.

The Board of School Directors, the Superintendent and the Administrative Staff, and the members of the teaching staff can best attain their common objectives and discharge their common responsibilities if each utilizes the ability, experience and judgment of the other in formulating policies and making decisions that involve matters of mutual concern and which affect the quality of the district's educational program. It is the purpose of this Agreement to set forth the policies and standards governing such matters of mutual concern to the parties.

This Agreement is made and entered into by and between the BOARD OF SCHOOL DIRECTORS OF THE ALTOONA AREA SCHOOL DISTRICT (hereinafter referred to as the "BOARD") and the ALTOONA AREA EDUCATION ASSOCIATION (hereinafter referred to as the "ASSOCIATION").

RECOGNITION

It is recognized that teaching is a profession requiring specialized educational qualifications and that the quality of the educational programs conducted in the public school of the ALTOONA AREA SCHOOL DISTRICT depends primarily upon the quality of the teaching service. It is recognized that the professional preparation of teachers qualifies them to make significant contributions to the conduct of educational affairs of the district and to the determination of policy and program.

The Association, as the organizational representative of the members of the professional staff, recognizes the paramount responsibility of the Board for the operation of the Altoona Area Schools.

The Board and the Association recognize their responsibilities toward each other and the community for negotiating in good faith and seeking agreement on matters of mutual concern. Neither will demean the process, and both recognize that the controlling determinant of policy development and implementation is the quality of the educational program and the welfare of the children.

The Board recognizes the Association as the representative of all professional personnel, employed or to be employed by the Board who are members of the Association.

NEGOTIATION PROCEDURES

The parties hereto recognize that the Board is legally charged with the responsibility of enacting policies governing the operations of the School District. These policies to be most effective must be developed cooperatively by the School Board and the Professional Staff. Attainment of objectives of the educational program of the District requires mutual understanding and cooperation among the Board, the Superintendent, his Staff, and the professional teaching personnel. Free and open exchange of views is desirable and necessary, with all parties participating in deliberations leading to the determination of matters of mutual concern. To this end, the Board and the Superintendent, or designated representatives of the Board and Superintendent, shall meet with representatives of the Association for purposes of discussion in an effort to reach satisfactory solutions to problems of mutual concern. The following procedures are approved:

(a) Matters of mutual concern shall be discussed first by the Association with the Superintendent or by the Superintendent with the Association. In matters pertaining to a particular administrator or supervisor, discussion shall be conducted with the Superintendent and all parties concerned in attendance. If no resolution of differences can be found in these discussions, then either the Association or the Superintendent may refer the points at issue to the Board. A meeting between the Board, or committees of the Board and the Association will be called on written request of either the Board or the Association provided the request for such a meeting contains specific statements of the reasons for such request. Such a meeting shall be held within 15 days of the date on which the request for it shall have been made, except that emergency meetings may be called on 48 hours notice when they are deemed necessary by the Board, the Superintendent, or the Association.

(b) The Board and the Superintendent agree to furnish to the Association's representative, in accordance with their reasonable written request, all available financial and personnel data and such other information as will assist the Association in developing sound recommendations for consideration by the Board and/or the Superintendent.

(c) Full and free discussion of the issues will be encouraged during such meeting in an effort to reach mutually satisfactory understandings.

(d) When such matters as have been satisfactorily negotiated have been adopted as school district policy by the Board, they shall become additions to the personnel policy handbook, a copy of which shall be provided to each member of the professional staff.

APPEAL

In the case of impasse when mutually satisfactory understandings cannot be reached, a Mediation Board shall

be established. Such Mediation Board shall be composed of one member appointed by the Board, one member appointed by the Association, and a third member who shall be elected by the Board member and the Association member. The third member of such Mediation Board may be a recognized expert in a field related to the problem at hand, or he may be any qualified and disinterested person from outside the School District. He shall serve as chairman of the Mediation Board. Any costs and expenses which may be incurred in securing and utilizing the services of such Mediation Board shall be borne equally by the Board and the Association.

The Mediation Board shall within 30 days make every effort to propose solutions of points of difference which the parties to the differences may mutually accept. In the process, it may hold hearings and gather such facts as are germane to the issues. If no agreement between the parties is reached out of such recommendations made to them, the Mediation Board shall prepare its recommendations in written form and present them to the Board of School Directors and to the Association for their separate approval.

If either party rejects the recommendations of the Mediation Board, any matters remaining at issue shall be disposed of in accordance with the laws of the Commonwealth of Pennsylvania in such cases made and provided.

REVIEW AND REVISION

The provisions of this Agreement shall be reviewed annually by the parties to the Agreement to consider any desirable revisions which would make it more effective in the interests of the school community.

IN WITNESS WHEREOF, the interested parties affix their signature this _____

day of _____, 196___.

BOARD OF SCHOOL DIRECTORS OF THE
ALTOONA AREA SCHOOL DISTRICT

BY_____

ALTOONA AREA EDUCATION ASSOCIATION

BY _____

PROFESSIONAL NEGOTIATION AGREEMENT

LOGANSPORT (INDIANA) COMMUNITY SCHOOL CORPORATION

AND

LOGANSPORT EDUCATION ASSOCIATION (NEA)

Professional Negotiation Agreement

PREAMBLE

Recognizing that providing a high quality education for the children of the LOGANSPORT COMMUNITY SCHOOL CORPORATION is paramount in the operation of the schools in this corporation, and good morale in the teaching staff is necessary for the best education of children, the Board of School Trustees and the Logansport Education Association do hereby agree as follows:

RECOGNITION

The Board of School Trustees will recognize for the purpose of negotiation proposals, the Logansport Education Association designated Committee selected by the bona fide teachers' association, on behalf of the teachers of the said school corporation. The contracts will still be with the individual teachers. It is further provided that any teacher may present information or proposals to the School Board and the Superintendent.

The Logansport Education Association recognizes that policy formation and adoption is the statutory responsibility of the Board of School Trustees. Policy administration is the responsibility of the Superintendent, however policy is developed through the cooperative efforts of the Board, the Superintendent, and the designated Committee of the Logansport Educational Association.

The purpose of this recognition is the mutual agreement that the parties will negotiate with regard to all matters of common concern and will use professional and educational channels for advice in the event of impasse.

PRINCIPLES

I. Teaching is a profession requiring specialized educational qualifications and preparations.

II. The quality of the educational programs conducted in the public schools of Logansport depends primarily upon the quality of the teaching service.

III. The professional preparation of teachers qualifies them to make significant contributions to the conduct of educational affairs and to the determination of policy and program.

IV. The Board and the professional staff should cooperate in identifying and studying problems which may affect working relations before either group takes an official position.

V. The Board and the professional staff should work together in good faith to reach agreement in the solution of these problems.

ROLE OF THE SUPERINTENDENT

The chief negotiator of problems that pertain to teachers and to the School Board should be the Superintendent. This role befits him because he is the Executive Officer of the School Board and the highest Administrative Officer. In serving children in these two capacities he not only should have full knowledge of problems pertaining to the education of children -- in which both teachers and the School Board have a common interest -- but he should also keep teachers and School Board members well informed on their problems. Thus, in discharging his responsibilities, the Superintendent is expected to keep the professional channels of communication open between the teachers and the School Board.

I
INITIATION OF NEGOTIATIONS

A. It is to be assumed that the Board and the Association will be in continual communication with and through the Superintendent regarding any topics of mutual concern and consideration.

B. If at any time it is determined by either party that a meeting is desired, a request will be communicated in writing stating the topics to be discussed. A meeting will be arranged by the Superintendent within fifteen school days unless another date is mutually acceptable.

II
NEGOTIATION PROCEDURE

A. Representatives of the Board and of the Association will form a Professional Negotiations Committee.

B. The Superintendent will be present at all such meetings and will serve as chairman of the committee. Out of his knowledge of his own school system and practices elsewhere, the Superintendent should be expected to provide information and counsel to both the Board and the Association.

C. When agreement is reached, such agreement will be returned to the respective groups for ratification.

D. Releases of information to news media will be made jointly.

III
MEDIATION OF UNRESOLVED DISAGREEMENT

A. If, after four (4) weeks of negotiations, agreement seems remote, an impasse may be declared by the Board, Association, or the Superintendent. The assistance of competent professional and lay representatives forming an

advisory committee shall be called to consider matters under discussion and to make suggestions and give advice.

B. This advisory committee will be comprised of one member chosen by the Board, one by the bona fide teachers' association; these two choose a third person who shall be the chairman.

C. Cost and expenses which may be incurred in securing and utilizing the services of any individual or advisory board shall be shared equally by the Board and bona fide teachers' association, provided such services and costs have been mutually agreed upon.

IV
APPENDIX

Items such as salary schedules, calendar of School Year, leave policies, etc., shall be attached to and become a part of this agreement as they are updated to maintain a status of meeting current needs.

V
CHANGES

Either party desiring changes in this agreement shall notify the other party in writing at least thirty (30) days prior to April 1 of any year. Changes may be made at any time by mutual consent.

ATTEST: BOARD OF SCHOOL TRUSTEES
LOGANSPORT COMMUNITY SCHOOL CORPORATION
Logansport, Cass County, Indiana

BY: _____ PRESIDENT

_____ VICE PRESIDENT

_____ TREASURER

_____ SECRETARY

_____ ASST. SECRETARY

LOGANSPORT EDUCATION ASSOCIATION
Logansport, Indiana

BY: _____ PRESIDENT

_____ SECRETARY

_____
CHAIRMAN OF THE PROFESSIONAL LIAISON COMMITTEE

Policy Adopted May 8, 1967

A POLICY GUIDE TO IMPLEMENT SCHOOL BOARD-TEACHER MEETINGS

INDEPENDENT SCHOOL DISTRICT 413

MARSHALL, MINNESOTA

and

MARSHALL EDUCATION ASSOCIATION (NEA)

BE IT RESOLVED, THAT THE SCHOOL BOARD OF INDEPENDENT SCHOOL DISTRICT NUMBER 413, MARSHALL, MINNESOTA, ADOPTS THE FOLLOWING POLICY PURSUANT TO CHAPTER 633, LAWS OF 1967, FOR THE PURPOSE OF PROVIDING AN ORDERLY PROCEDURE FOR MEETING WITH THE SCHOOL DISTRICT'S TEACHERS:

1. RECOGNITION

It shall be the policy of the school board to:

a. Recognize members of the teaching staff as professionals trained to provide classroom instruction to the pupils of the district, and to implement the educational program as determined by the school board.

b. Expect members of the professional staff to recognize that the school board has the full power to manage, control and direct the operations of the school district.

2. THE PROFESSIONAL EMPLOYEE

It shall be the policy of the school board that:

a. Only those teachers who are employed by the school district are eligible to meet with the school board or its representatives.

b. Any individual teacher may meet with the school board at reasonable times to express his views.

c. In the event more than one teacher organization exists in the school district each organization of teachers shall upon request be entitled to representation on a Teachers' Council on a basis proportionate to membership.

3. SCHOOL ADMINISTRATORS

It shall be the policy of the school board that:

a. The superintendent of schools shall meet with the school board individually concerning his employment with the school district.

b. Other school administrators shall be entitled to meet with the school board on matters concerning their employment.

4. RIGHT TO FORM OR JOIN ORGANIZATIONS

It shall be the policy of the school board that:

a. Any certificated teacher shall have the right to join or not to join, or to form or not to form, any organization of teachers without fear of discrimination.

5. RECOGNITION OF TEACHER REPRESENTATIVES

It shall be the policy of the school board that:

a. When one teacher organization exists in the district the school board will grant recognition to that organization upon a request for recognition in writing to the clerk of the school board by October 20.

b. When only one teacher organization exists in the district the school board, or a committee thereof, which may include its representatives, will meet with a committee of not more than five from that organization, plus its representatives serving in a consultant capacity.

c. In the event that more than one teacher organization exists in the district, and the organization desires recognition by the school board it will make such request in writing to the clerk of the school board by October 20. The request shall include a verification by the president of the organization of the number of teachers belonging to the organization on the date of verification.

d. In the event more than one teacher organization has requested recognition a Teachers' Council will be formed in the district to represent the teacher organizations on a basis proportionate to membership.

e. The school board through its superintendent of schools will notify by October 25 each eligible teacher organization of the number of members it is entitled to on the Teachers' Council.

f. The president of each eligible teacher organization will notify the clerk of the school board in writing by October 31 the names of that organization's members appointed to serve on the Teachers' Council.

g. In the event more than one eligible teacher organization has requested recognition by the school board, and the organizations cannot agree on the proportionate number from each organization assignable to the Teachers' Council, a Teachers' Council composed of eligible representatives may be formed according to the following formula:

1. The number of eligible teachers verified as belonging to the eligible teacher organization shall be divided by the total number of

verified eligible teachers belonging to recognized teacher organizations in the district. The ratio shall be rounded off to the fourth decimal.

2. Multiply the ratio obtained for each eligible teacher organization times five computed and rounded to the third decimal point.

3. The school board shall determine and notify each eligible teacher organization of the number of members it is entitled to on the Teachers' Council based on the results of the above computations. Teacher organizations having fractional amounts shall be determined on the basis of ranking from high to low to complete the five-member Teachers' Council. In the event eligible teacher organizations have equal fractional amounts the school board may determine the number each eligible organization is entitled to by lot in the presence of the president of each eligible teacher organization.

h. If a dispute arises as to the verification of membership numbers in the eligible teacher organizations they shall employ a Certified Public Accountant to audit the organization membership lists. The accountant shall certify such audit to the clerk of the school board without revealing names of organization members. Cost involved shall be borne by the challenging organization.

i. Once the school board has determined the number of teachers each organization is entitled to on the Teachers' Council, and has so notified each organization, each eligible organization shall adopt its own procedures for selecting the persons to represent that organization on the Teachers' Council. Each eligible organization shall certify to the clerk of the board in writing by October 31 its representatives on the Teachers' Council. Any teacher organization entitled to membership on the Teachers' Council which fails to name members by October 31 or refrains from participating on the Council shall forfeit the right to membership on the Council until the following October 31 as prescribed by law.

j. The members of the Teachers' Council shall meet within ten days after October 31 to adopt their own rules of procedure and to elect officers.

6. REPRESENTATION

It shall be the policy of the school board to:

a. Determine who its representatives shall be. This may be the school board, or a committee thereof which may include its representatives. The committee may be of such numbers as the board determines, but may be comprised of only the superintendent of schools and other authorized representatives. The committee should include either the superintendent or at least one member of the school board.

b. Recognize that when one organization of teachers exists the group meeting with the school board or its representatives may include its representatives serving in a consultant capacity.

c. Recognize that a Teachers' Council may include its representatives serving in a consultant capacity when meeting with the school board or its representatives.

7. TERMS OF PROFESSIONAL SERVICE

It shall be the policy of the school board that:

a. For the purpose of effort towards reaching an agreement between teacher representatives and the school board only the areas of wages and economic aspects relating to the employment of teachers shall be considered.

b. The school board or its representatives shall meet with the teacher representatives for the purpose of working toward an agreement on terms of professional service on regularly scheduled dates, or at such times as the parties may mutually agree.

c. The school board will attempt to work out an agreement with teacher representatives on terms of professional service prior to March 1.

d. Pursuant to Chapter 890, Laws of 1967, presentation of contracts or amendments to the contract to probationary teachers being re-employed, or to continuing contract teachers, shall be made no later than March 20.

e. When agreement has been reached with teacher representatives on terms of professional service such agreement shall be implemented by the adoption of an appropriate resolution by the board, or by direction to an administrative officer.

8. OTHER MATTERS OF PROFESSIONAL CONCERN

It shall be the policy of the school board to:

a. Meet with teacher representatives at times mutually convenient to both parties on other matters relating to educational policies not requiring an effort to reach an agreement.

b. Adopt as nearly complete as possible, the Annual School Calendar for the next school year prior to March 20 of each year.

9. ADJUSTMENT PANEL

It shall be the policy of the school board that:

a. A request by the teacher representatives for an adjustment panel to consider terms of professional service must be made to the school board prior to March 1.

b. If the adjustment panel conducts informal meetings in an effort to reach agreement on terms of professional service, and agreement is not reached prior to April 1st either party may request the adjustment panel to conduct formal hearings.

c. Any findings of the adjustment panel are only advisory in nature to both parties.

10. SCHOOL BOARD AUTHORITY

It shall be the policy of the school board that:

a. Only the additional powers prescribed by Chapter 633, Laws of 1967, relating to meetings of school boards and teachers will be used. Neither the school board nor teacher representatives may exceed the provisions of the act.

b. In the implementation of Chapter 633, Laws of 1967, all parties should be cognizant of legislative intent in that school boards shall have the full power to manage, control, and direct the operations of the school district.

c. These adopted guidelines may be changed by the school board when necessary to serve the best educational interests of the district.

October 9, 1967

PROFESSIONAL RECOGNITION AGREEMENT

RALSTON BOARD OF EDUCATION, RALSTON, NEBRASKA

and

RALSTON TEACHERS ASSOCIATION (NEA)

Article I: Agreement

This agreement made and entered into this fifteenth day of January, 1968, by and between the School Board of Ralston, District #54, Douglas County, Nebraska (hereinafter referred to as the "Board") and the Ralston Teachers Association (hereinafter referred to as the "Association").

Article II: Philosophy

The Ralston Board of Education and the Ralston Teachers Association firmly believe that the primary function of the Board and its professional staff is to assure each boy and girl attending the Ralston Schools the highest level of educational opportunities obtainable. The Board recognizes that teaching is a profession; the Board and the Association believe that the objectives of the educational program are realized to the highest degree when mutual understanding, cooperation, and effective communications exist between the Board and its professional staff.

Article III: Recognition

The Board recognizes the Association as the official negotiating agent for all certified personnel employed by the Board. The Association shall submit to the Board by November 1 of each year a notarized statement of the number of active members of the Association. This recognition shall continue in effect so long as the Association's active membership contains more than fifty (50) per cent of the total of certificated personnel.

Article IV: Principles

1. PROFESSIONAL TEACHING PERSONNEL. It is recognized that members of the professional staff require specialized qualifications and that the success of the educational program in Ralston depends upon the maximum utilization of abilities of teachers who are reasonably well satisfied with the conditions under which their services are rendered.

It is further recognized that teachers have the right to join, or not to join the Association, but membership shall not be a prerequisite for employment or continuation of employment of any employee.

2. TEACHER PARTICIPATION. The Board, or designated representatives of the Board will meet with representatives designated by the Association for the purpose of discussion and reaching agreements.

Article V: Areas For Discussion and Agreement

This recognition constitutes an agreement between the Board and the Association to reach understandings regarding employment and relations with certificated personnel on the following items:

1. Base Salary
2. Index Salary Schedule
3. Unit plan to supplement Index Salary Schedule
4. Employment Policy Statements
5. Employment of non-certified personnel to assist teachers
6. Insurance
7. Professional Leave with pay (Sabbatical)

The Association recognizes that the Board is the legally constituted body responsible for the determination of policies covering all aspects of the Ralston School System. The Board recognizes that it must operate in accordance with the statutory provisions of the State of Nebraska. The Board cannot reduce, negotiate, or delegate its legal responsibilities.

Article VI: Procedures for Conducting Negotiations

1. OPENING NEGOTIATIONS. Issues proposed for discussion shall be submitted in writing by the Association to the Board or its delegated representative on or before January 1 of any year. The Board shall have thirty (30) days in which to accept or reject the request in whole or in part and shall give written notice of its decision. If the Board accepts the request, the first meeting shall be held within twenty-one (21) days after such acceptance, unless both parties agree to a later date.

2. NEGOTIATION PROCEDURES. Designated representatives of the Board shall meet at an agreed upon place and time with representatives of the Association for the purpose of effecting a free exchange of facts, opinions, proposals and counter-proposals in an effort to reach understanding and agreement. Both parties agree to conduct such negotiations in good faith and to deal openly and fairly with each other on all matters. Following the initial meeting on any matter (to be set as described above), such additional meetings shall be held as the parties may require to reach an understanding on the issues or until an impasse is reached. Meetings shall not exceed three (3) hours and shall be held at a time other than the regular school day.

A budgetary item not agreed upon by March 15 shall be submitted to a Board of Review as described in paragraph 7.

3. EXCHANGE OF INFORMATION. Both parties and/or the superintendent shall furnish each other, upon reasonable request, all available information pertinent to the issues under consideration.

4. CONSULTANTS. The parties may call upon consultants to assist in preparing for negotiations, and to advise them during conference sessions. The expense of such consultants shall be borne by the party requesting them.

5. COMMITTEE REPORTS. The parties agree that the proceedings of the negotiating committee shall not be released unless such an issuance has the prior approval of both parties.

6. REACHING AGREEMENT. When consensus is reached, covering the areas under discussion, the proposed agreement shall be reduced to writing as a memorandum of understanding and submitted to the Association and the Board for approval. Following approval by a majority of the Association membership and by a majority of the Board, the Board will take such actions upon the recommendations submitted as are necessary to make them official.

7. RESOLVING DIFFERENCES. In case of disagreement about the meaning or application of this agreement or in the event an agreement is not reached by negotiations after full consideration of proposals and counter-proposals, the parties agree to consult a fact-finding board. One member shall be designated by the Board, one member by the Association, and these two members shall select a third who will be chairman. If agreement is not reached on a third member within ten (10) days, a request may be submitted to the Commissioner of Education of the Nebraska State Department of Education to submit a list of five (5) persons deemed qualified to serve as members of such a fact-finding board. Upon receipt of such list, members selected by the parties shall alternately strike names until one remains and this person shall become the third member of the Board. This committee shall act as fact-finders, conferring with both parties and making recommendations for settlement of the issues in question within thirty (30) days. Such recommendations shall receive the good faith consideration of the parties as a method of settling the dispute. All fees and expenses for the Board of Review will be borne equally by the two parties.

8. RIGHTS OF MINORITIES AND INDIVIDUALS. The legal rights inherent in the Statutes of Nebraska for certificated personnel are in no way abridged by this agreement.

Article VII: Implementation and Amendment

This recognition agreement shall become effective upon its approval by the Association and by the Board. It may be amended by mutual consent of both parties with written evidence of said consent being presented by each party to the other.

RALSTON PUBLIC SCHOOL DISTRICT #54 BOARD OF EDUCATION

BY _____ (L.S.)
ITS CHAIRMAN HEREUNTO DULY AUTHORIZED

RALSTON TEACHERS ASSOCIATION

BY _____ (L.S.)
ITS CHAIRMAN HEREUNTO DULY AUTHORIZED

PROFESSIONAL NEGOTIATIONS POLICIES AND PROCEDURES

MIAMISBURG CITY SCHOOL DISTRICT, MIAMISBURG, OHIO

and

MIAMISBURG EDUCATION ASSOCIATION (NEA)

PREAMBLE

Recognizing that providing a high quality education for the children of the Miamisburg City Schools is the paramount aim of this school district, and that good morale in the teaching staff is necessary for the best education of the children, we do hereby declare that:

I. The Board of Education, under law, has the final responsibility of establishing policies for the district.

II. The superintendent and his staff have the responsibility of carrying out the policies established.

III. The professional teaching personnel have the ultimate responsibility of providing the best possible education in the classroom.

The Board of Education also recognizes that the best interests of public education will be served by establishing procedures to provide an orderly method for the Board of Education and representatives of the Miamisburg Education Association to discuss matters of common concern, and to reach a mutually satisfactory agreement on these matters.

PRINCIPLES

I. Attaining objectives.

A. Attainment of objectives for the educational program of the Miamisburg City School District requires mutual understanding and cooperation among the Board of Education, the Superintendent, his staff, and the teaching personnel. Therefore, free and open exchange of views is desirable and necessary with all parties participating in deliberation leading to determination of matters of mutual concern.

II. Professional Personnel Organizations.

A. It is recognized that:

1. Teaching is a profession requiring the possession of specialized educational qualifications.

2. The success of the educational program depends upon the services of qualified and competent teachers who are reasonably satisfied with the conditions under which their services are performed.

3. Teachers should join organizations for their professional improvement and for the advancement of public education. They are strongly urged to join the Miamisburg Education Association, The Western Ohio Education Association, the Ohio Education Association, and the National Education Association.

III. Recognition.

A. The Board of Education recognizes:

1. The Miamisburg Education Association as the sole representative for negotiations.

2. The Miamisburg Education Association for the purpose of arriving at an agreement on proposals concerning salary welfare provisions, and working conditions.

a. On or before November 1 of each school year a certified list of membership in the Miamisburg Education Association shall be submitted to the Superintendent of the Miamisburg School District.

b. The Executive Committee of the Miamisburg Education Association shall appoint annually, no later than June 1, a committee composed of not more than six members representing the elementary, secondary and administrative staff personnel. (These members shall hereinafter be referred to as the Negotiations Committee.)

3. That the recognition of the Miamisburg Education Association will not prevent any certified professional employee or group of certified professional employees from requesting a hearing to present information or proposals to the Board of Education.

a. Such request shall be presented in writing to the Superintendent of Schools at least five days prior to a regularly scheduled Board of Education meeting. The request shall include names of individuals requesting the hearing and the topic to be presented.

PROCEDURES

I. Initiating steps to agreement.

A. A written request for meetings will be submitted by the Miamisburg Education Association to the Superintendent or by the Superintendent to the President of the Miamisburg Education Association.

1. The subject matter to be considered will be specified in writing.

II. Meetings.

Meetings between the Committee of the Miamisburg Education Association and the Superintendent and/or his official representative(s) will be scheduled for a mutually satisfactory time (within 15 days after the date of the request for a meeting, unless a mutually satisfactory later date is agreed upon).

A. Relevant data and supporting information, proposals and counter proposals will be presented.

B. Consultants may be used if deemed advisable by either party.

C. During the period of consideration, interim reports of progress may be made to the Miamisburg Education Association by its Committee and to the Board of Education by the Superintendent.

D. While discussions are in process, any release prepared for news media shall be approved by both groups.

E. Those items to be considered by the Board shall be requested to be placed on the negotiations agenda.

III. Action.

A. When a negotiations agenda has been established the Miamisburg Board of Education shall meet together with the Miamisburg Education Association Committee and the Superintendent and/or his official representatives in executive session.

1. A written request for informal and formal meetings with the Board will be submitted by the Executive Committee Miamisburg Education Association to the Superintendent and the Board of Education or by the Board of Education to the Superintendent and the Executive Committee of the MEA.

2. The subject matter will be specified in writing.

3. Meetings between the Negotiating Committee of the MEA and the Board of Education will be scheduled for a mutually satisfactory time (within 15 days after the date of request for a meeting, unless a mutually satisfactory later date is agreed upon. The Chairman of meetings dealing with negotiations shall be a person mutually agreed upon.

a. Data and information, proposals and counter-proposals will be presented.

b. Consultants will be called in by either party if necessary.

c. Brief progress reports may be made to the members of the MEA.

d. While discussions are in progress, any news release prepared for news media shall be approved by both groups.

e. The decision of the Board of Education relative to matters on the negotiations agenda will be made at a regular or special meeting of the Board of Education.

4. When a consensus is reached, a joint report is to be prepared by the Board and the MEA negotiations committee, for affirmation by the members of the MEA and the official acceptance by the board. The provisions of the report shall be put into effect by the Superintendent.

B. Board of review.

1. In the event that agreement is not reached with the Board of Education as per Section A above, either the Board of Education or the Miamisburg Education Association may request that a Board of Review be created. This Board of Review will be created within fifteen days unless both parties agree to a later date.

a. The Board of Review will be created in the following manner:

1) The Board of Education will select its member from a list of nominees submitted by any one of the organizations, as follows: National Education Association, Ohio Education Association, Ohio Association of School Administrators, Ohio School Boards Association, or another source mutually agreeable to both parties.

2) The Miamisburg Education Association will select its member from a list of nominees submitted by any one of the organizations as follows: National Education Association, Ohio Education Association, Ohio Association of School Administrators, Ohio School Boards Association or another source mutually agreeable to both parties.

3) The two members selected for the Board of Review shall select a third member from the list of nominees above who will serve as chairman.

b. The Board of Review will have authority to hold hearings and to confer with any parties deemed advisable in seeking to effect a recommendation to the Board of Education and the Miamisburg Education Association.

c. All hearings conducted by the Board of Review shall be in closed sessions and no news releases shall be made concerning progress of hearings.

d. Upon completion of their review, the recommendation of the Board of Review shall be presented to a joint meeting of the Committee of the Miamisburg Education Association and the Board of Education.

e. The Board of Education, in its official and legal capacity, shall take final action upon the recommendation.

COSTS

I. Any cost or expense will be paid by the party that incurs the cost or expense.

INDIVIDUAL GRIEVANCE PROCEDURES

From time to time problems relative to working conditions, assignments interpretation of policies, and so forth will inevitably arise. Most problems should be solved in conference with the principal of the school; or, if the problem involves the principal, the teacher should have a reasonable guarantee that his position will be made known to those in authority above the principal.

I. After discussion with the Principal the teacher or his duly authorized representative should feel free to take the problem to the Superintendent and/or Assistant Superintendent for further study and review.

II. If a satisfactory solution is not reached, then the teacher should request a review by the Board of Education. This request should be in writing, directed to the Superintendent.

III. The Board of Education, in its official and legal capacity, shall reach a final decision.

AMENDMENTS

Amendments to this agreement may be made during May and June of the year of expiration, when there is mutual agreement to amendments by the Committee and the Board of Education. Amendments agreed upon shall go into effect at the beginning of the next agreement.

TERMINATION OF AGREEMENT

This agreement shall continue in force from July 1, 1966 to June 30, 1969 with the Miamisburg Education Association unless another organization petitions the Board of Education for recognition and certifies that said organization has a larger membership than the Miamisburg Education Association. Faculty members may belong to only one organization claiming the right to negotiate.

APPROVED:

Signed: Nancy Nelson
President, Miamisburg Education Association

Signed: Frank Smith
President, Board of Education

Special Items

REMARKS OF FRANKLIN K. DEWALD, MICHIGAN STATE PERSONNEL DIRECTOR,
TO AMERICAN FEDERATION OF STATE, COUNTY & MUNICIPAL EMPLOYEES
CONFERENCE AT UNIVERSITY OF MARYLAND, MARCH 11, 1968

PUBLIC MANAGEMENT VIEWS PUBLIC EMPLOYEE UNIONISM

The current view that public management in America takes of employee unionism is as varied as a perfect rainbow on a warm May day. Color him purple, he's bad; color him pink, he's A-okay.

As you are well aware, public jurisdictions across the nation vary from one extreme to the other in their approach to the public employee revolution of the 60's. Some use bargaining as developed and ritualized in modern industry-labor negotiations; some prohibit bargaining of any flavor, and some even prohibit public employees from joining unions.

The failure of citizens in many cases to heed and recognize the value of the public employee, the tightening squeeze of inflation on his paycheck, the success of industrial unionism in not only obtaining relatively higher wages but in some cases comparable levels of job security for its members, have left many public employees with the feeling of being left behind in society.

Coincidentally, the public employee has witnessed the effective use of civil disobedience in the civil rights arena. He tends toward a similar response in his unhappy identity. He has focused on the value of human and individual rights and become acutely conscious of the restrictions traditionally accepted by public employees, especially on the right to strike.

In other words, the economic as well as social and political climate have been ideal for the birth of public employee militancy.

It is no wonder, then, that 12 million public employees became the new frontier for the union organizer, for militant union tactics, the threat of strikes and disruption, in an effort to replace complacency with action.

In inquiring about the nature of my invitation here I learned it was a "good faith" invitation to hear my personal views as a public administrator on the subject of public employee unionism and on collective bargaining in particular. I expressed a willingness to do so in a spirit of mutual respect, a determination to be forthright, and an expectation that I will be forgiven for my transgressions -- if indeed forgiveness should be required.

CHANGES SUSPECT

I recognize that much of the leadership of many of the public employee unions is militant labor leadership wedded to old, but tried and true formulas, and expert in using them, with little short range incentive to change. To many, collective bargaining is a sacred model, and any proposals for major design changes extremely suspect.

But I propose some modifications not only in the self-serving interests of public employee management and organizations, but in the public interest, which overrides the interests of us both.

I don't intend to get involved today in discussing at length the State of Michigan Civil Service situation, because it is beside the point, is in a state of flux, and is a minor item compared to the broad implications of the subject matter assigned to me.

MICHIGAN PROCEDURES

But for the information of those of you who may not know the Michigan Civil Service Commission has in the past, and is planning in the near future, to make changes in our employee relations policy designed to provide more effective channels of collective participation by employees in the decisions affecting their working conditions. We have in the past and expect in the future to draw heavily on many of the employee relations features of collective bargaining.

The State Constitution and civil service rules establish the Commission as a third-party arbitrator of grievances between employees and their state agency employer, and in a sense state employees in Michigan work under a form of constitutional binding arbitration. The Commission, as a third party, makes decisions on pay rates and fringe benefits after hearing-conferences with both state agency managers and employee groups and organizations.

Commission policy has made some distinctions we feel necessary in public employee relations from the industrial type collective bargaining system commonly used in private industry.

These distinctions do not recognize the strike as a sanctioned tool in employee negotiations, do not authorize exclusive recognition of one employee group to the complete exclusion of others, or formal collective bargaining contracts between a state agency and an employee union, although we do require conference and hearings with recognized employee organizations.

Many provisions - such as formal recognition, dues check off, and formal grievance procedure - are an established part of the Commission's formal employee relations policy and have been for many years.

It is the Commission's feeling that it has a third party responsibility in employee relations to provide the

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employee with his just due, while at the same time protecting the public interest.

So much for Michigan. Now back to the general subject of public employee unionism and collective bargaining in the public service.

First of all, most of what has been said on this subject has one thing in common: It raises more questions than it answers. Today I'm going to raise a few questions, but I'm also going to venture some answers as well.

LITTLE INNOVATION

The few states that have given this matter serious and detailed attention through task forces or study commissions have relied on "experts" in labor relations from the private sector.

This is somewhat understandable, as few public jurisdictions had expertise in collective bargaining. Many of these men were professionals who counsel labor or private management, and were men who had become too much members of the private labor management establishment. Naturally, they worked within old and tried concepts, were exceedingly timid about innovation, and suggested model laws, policies, and procedures that in most cases could hardly be distinguished from the principles of industrial labor relations law. Where the law did not spell out procedures, state mediators for interpretation then went to the case law of industrial labor relations for answers.

As one might expect, the result has been an effort by these commissions and task forces to transpose the solutions commonly used in bargaining in private industry into the public sector. Generally such solutions have had the vigorous support of union organizations. What we see in many of the so-called "progressive" states or cities is this particular "solution" at work.

BLIND ADHERENCE WILL FAIL

The theme of what I am going to say today is quite simply this: In attacking this problem, a blind adherence by unions or public management to the assumptions upon which private collective bargaining is predicated has already failed in many places where it has been attempted and is bound to fail in other places where it is attempted.

I have no quarrel with public employee unions which advocate a form of collective negotiation, but I do take exception to any which can only see the similarities between the problems of the private and public sector and refuse to recognize the crucial differences. It is here that we part company.

It is my belief that what is needed on both the part of the public employee organization as well as public management is less reliance on the old hidebound concepts and more emphasis on finding new ones for the public good.

We both have been too comfortable with our old notions and should spend more time re-thinking and re-arranging to meet our obligation to the public and the employee.

CONTRADICTION IN PUBLIC THINKING

At the outset, I sense an extraordinary contradiction in public thinking which attempts to separate the use of collective bargaining from the right to strike -- when in fact they are inseparable. Most of the people involved in the dialogue about the subject have been guilty of either an error in semantics, a fuzziness of nomenclature, or purposeful fraud.

Everybody using the term knows it means a method of determining conditions of employment in private negotiations between representatives of the employer and employee organizations. But many conveniently forget or ignore the balance wheel that has made collective bargaining work in the industrial context, and I refer to the strike and the lockout.

In private employment bargaining, both management and the union must weigh the economic risks in terms of pricing the employer out of the market in the face of consumer choice and competition. In the face of these economic restraints, agreement then tends to be compelled by the employees' right to strike on one hand and the employer's right to lock out on the other. Remove one or the other and you take the "wheels off the buggy"; your machinery is instantly out of kilter.

So what we have is the incongruity in many public jurisdictions today of new laws allowing or requiring public employers to bargain collectively -- which also say employees do not have the right to strike. Obviously, the lockout by a public employer is out of the question.

As a result, in many of these jurisdictions union membership is growing rapidly, employees are being forged into bargaining units which are then protected with not only exclusive recognition and the checkoff, but varying types of union security as well.

With this type of organization and a few dollars in the treasury, quite naturally when the employee organization feels its rightful demands are being ignored and union leadership sees no other solution, they are walking out on strike regardless of what the law says. Sometimes the membership is demanding a walkout against the better judgment of union leadership. But all of this is only a natural consequence of the environment initially created by the enabling legislation in the first place. Our political leadership and labor relations experts should not profess surprise at the results, which should have been obvious from the beginning.

This situation will get much worse before it gets better. Some of the settlements resulting from public employee strikes have resulted in substantial gains for union membership as well as a few dearly bought. Another interesting aspect of the problem is that the likelihood for substantial settlements for the union is also inherent in this particular system.

PRIVATE, PUBLIC MANAGER DIFFERENCES

Private managers have different motivations for opposing union demands than public managers. A private manager's compensation is usually closely tied to company profits through bonus, stock option plans, as well as salary. The public manager's salary has nothing to do with profit. The private manager has many options if faced with a strike. He can shut down and use up stored inventory, close up and reinvest in some other business, merge into a conglomerate to withstand demands, etc. Meanwhile, the public does not do without, but rather buys the product from a competitor.

Public managers and the public in general have none of these options in case of a strike in the public service. Most of their services the public cannot buy elsewhere, and most of them the public cannot do without for long or cannot do without at all. When a strike in this context occurs, the pressure of a democratic society to settle exerted on its elected executives is instantaneous

and unlike anything experienced by their counterparts in private industry.

In other words, public managers have no balance against a strike in public collective bargaining as it is known in private industry when a service is shut off.

STRIKES A REALITY

In Michigan in 1966, the first full year after our public employee relations act was amended to require collective bargaining by local units of government (but still prohibiting strikes), we had 23 strikes in public employment more than in the previous 20 years. In 1967 we had about twice that many, and friends in the State Labor Mediation Board are fearful of a further increase in number this year. Legislation has been introduced to substantially amend the law to place restraints on public employee unions.

The amendments may or may not pass this year, or even next but will in a matter of time.

The reasons are some I have already stated and others. The public, in states where it is used, is slowly coming to realize that industrial type collective bargaining is far from being a panacea to its public employee relations. They are beginning to understand that strikes are an inevitable and integral part of the collective bargaining process and that accepting one means accepting the other, and that trying to pretend otherwise is a fantasy.

At the same time employee unions pursuing the open season they currently enjoy in the public employee field in many places are moving with understandable preoccupation with the business of organization. In the hurly-burly of competition for recognition as the bargaining agent, there is the tendency to make unrealistic promises to members or would-be members.

Some are learning, and more will learn the hard way that the appearances and the realities of bargaining in government are quite different things. Many members have been encouraged to believe that public management can act like private management at the bargaining table.

CRITICAL POINT FOR BARGAINING

The fact is that the critical point in public bargaining does not occur between the public executive and the union negotiators at the bargaining table, where they are expected to bargain in good faith according to sacred formula. The critical point comes when the legislative branch appropriates funds from the taxpayers' pocketbooks to finance the costs of the bargaining agreement. What is the worth of a public administrator's signature on an agreement when he cannot authorize or guarantee the money, or the changes in an ordinance or law to fulfill these agreements?

The agreement may be used as a lever on an appropriating body, but it certainly is a far cry from the signature of Malcome Denise on last year's Ford Contract.

With few exceptions, the only place the employee organization can get what it wants in a democratic society is from this society's true source of authority - the legislative body, be it the school board, city council, board of supervisors, state legislature, or the Federal Congress. That is where the payoff is now, this is where it was before public employees were organized to bargain collectively, and there it will continue to be unless our form of government is changed.

Economic bargaining and the withholding of services against the true source of power in a democracy, the Legislature, may make them sit up and take notice. But it also will inevitably result in restrictive laws on employee unionism as well as collective bargaining.

It is an axiom in government that like the Almighty, "what the Legislature giveth, it can also taketh away."

Let's be realistic. The Federal Congress and State Legislatures have the final authority to regulate private employee-employer relationships and certainly will not permit this authority to be challenged with public employees. To make such a challenge would merely invite trouble.

COMPROMISE REQUIRED

In summary, it is my original premise that if public managers and public employee organizations are to make any meaningful progress in a lasting solution to our employee relations dilemma, both sides must give some ground.

A ritualistic reliance by employee unions on the industrial collective bargaining concept must be modified. On the other hand, public managers must vastly improve the channels of collective participation by employees in decisions affecting their working conditions. This includes the use of recognition, checkoff, a requirement for conference and negotiation about problems of mutual interest, and a grievance procedure achieved by joint conference and understanding.

I say this because the current wave of militancy and work stoppages, if continued, will result in statutory changes by state legislators in the other direction.

There isn't any question about this. In the private sector The Wagner Act was amended by the Taft Hartley Act to allow the government to step in to seek injunctions if a strike in private industry imperiled the nation's health and welfare, and included other provisions designed to put the brakes on unionism in the private sector. Landrum Griffin, in a different sense, imposed other restrictions. The $700,000 fine slapped on the mine workers in 1946, these and others are part of the handwriting on the wall.

Public confidence in the free collective bargaining process in private industry has fallen in recent years because a few strikes in private industry approached the scope of national discomfort. The Council of Economic Advisers has said the system does not provide sufficient built-in protection for the public interest in the area of wage and price determination.

POOR TIMING

It is a particularly poor time, from the standpoint of the overall union movement, to have the glare of publicity and the glowering of public reaction focused on a new type of strike that shuts off a vital public service. Yet these forces are already set in motion and are on a collision course. It will, I'm afraid, take only a few such strikes of tragic consequence to heat public opinion to the point where legislative bodies will move to put out the fire.

With proper planning and proper leadership in both public management and public employee organizations, we can and should see to it the reaction is not regressive.

When the time comes, it is my hope that in some jurisdictions, including our State of Michigan Civil

Service, we will have developed a system worthy of notice and possible emulation - a jurisdiction where healthy employee organization and effective state department management can co-exist in the public interest.

PUBLIC IN THE BACK OF THE BUS

Most of what I've heard or read about collective bargaining in the public service not only has appeared naive by trying to somehow separate strikes from the process; but has been strangely silent about the rights and the role of the most important figure in the triangle -- the public. We have been so preoccupied with self-interest, the public interest has been left riding in the back of the bus.

All that is necessarily good for employee unionism is not necessarily good for the country, just as all that public management wants in employee relations is not necessarily good for the public service.

Unions, when bargaining with a public manager, are really bargaining with the citizen taxpayer of this particular jurisdiction, but he has no seat at the bargaining table. One might say he is represented by the appointed or elected official or officials who sit there, as union members are represented by elected or appointed committee members at the table. Very well, but the citizen frequently not only doesn't know what's going on -- he only hears about his bargain after an agreement is made.

Frequently the news media don't know and can't report to the public what is really going on until after the deal has been made because negotiating is done behind closed doors. One might say the union membership does not really know much about it, either. Very well. But the union membership then has a chance to ratify the agreement by a democratic process of voting. Joe Citizen, on the other hand, has no opportunity to ratify his part of the bargain, even though he will pay for it.

THE PUBLIC MUST BE HEARD

What I am saying is that in this negotiation or bargaining procedure, no one has paid proper deference to what the public thinks about the proposed settlement, in advance of an agreement to which the public is committed.

It is a clear fact the economic self-interest of public employee unions on behalf of their members is adverse to the economic self-interest of the taxpayer. Any workable system established to resolve these differences in public negotiations is going to have to make room for the citizen in the process, make some provision for public hearing prior to approval or ratification by management.

I'm sure public employee unions would shudder at the thought of having all newly negotiated contracts subject to public referendum among the taxpayers -- but don't think for a minute that legislative bodies may not decide this is necessary unless public managers and employee unions agree on a workable system among themselves that gives the citizen a chance to be heard when his voice can have weight in the deliberations.

SCOPE OF NEGOTIATIONS

One of the more interesting facets of the attempt to borrow industrial bargaining techniques by the public service is the matter of the scope of bargaining. Here, apparently, public employee unions don't want to follow the private pattern where unions generally have recognized the need to limit the scope of bargaining where co-determination is incompatible with performance of the managerial function. But in Michigan, for instance, teachers want to bargain with school boards about the curriculum. The use of bargaining power by employees to try and tell public managers how to manage is an abuse of this power. Unless unions and public managers realistically agree the scope of bargaining should be limited to regulating the physical conditions of work and economic matters, I think they, too, will sooner or later be corrected by stiff and restrictive legislation.

BUDGET CYCLE

Perhaps one of the most unrealistic, and consequently most troublesome, facets of bargaining agreements in the public sector has been refusal by some union negotiators to recognize the budget cycle. Understandably, early in the game problems were unavoidable. But from a practical standpoint of the union as well as public managers, it would seem an agreement deadline in negotiations or bargaining should be established which is a given number of days prior to the submission of the budget to the appropriating body.

SYSTEM OF LIMITED NEGOTIATION

I believe that many of the facets of collective bargaining must and will be extended to public employees, but in my opinion the system that will survive will be a system of limited negotiation.

I don't say this will happen tomorrow. I do say it is the system which our democratic society will demand and will evolve in the foreseeable future.

Generally the public employee, in return for the rights of organization, formal recognition, formal grievance procedures, a system of resolving impasses involving forms of mediation and fact finding and a system of checks and balances on unfair labor practices, will have to give certain other things in return.

They will include basic acceptance of: 1) a form of limited negotiation which includes a no-strike pledge; 2) provisions so affected citizens can be heard at a time when their voice can have weight in deliberations; 3) limitation on the scope of negotiation to physical conditions of work and economic matters, generally excluding the manner in which agency managers otherwise accomplish their mission; and 4) a timetable so economic negotiations coincide with the budget cycle.

Employee unions would not have to worry about a lockout. On the other hand, any violation of the no-strike pledge should in turn be handled by clear cut injunctive rights and/or contempt proceedings through the courts and hearings by the government agency involved to determine whether the checkoff and/or recognition should be suspended or terminated. The likelihood of strikes by public employees in this context would be vastly diminished.

PUBLIC EMPLOYEE RELATIONS BOARDS

There is little question that some form of special Public Employee Relations Commissions to direct and handle such matters within the states will have to be created by the states if such a forum does not already exist and operate in an effective manner.

The exact nature of the organization and procedures of such commissions would in itself be the subject of a rather lengthy discourse. These undoubtedly will vary depending on the state and its geographic, economic, as well as political complexion.

I have one final thought, however, that I think deserves exploration.

FACT FINDING BEFORE BARGAINING

One approach to expediting and easing negotiation of economic issues within the states might be the establishment of a state public wage board to determine prevailing wage rates for comparable jobs within the state as a whole, or in the larger, more diverse states by geographic area.

At first blush it might appear like a cart before the horse approach because in a sense it's similar to fact finding before bargaining, at least on wage rates and fringe benefits.

I mention this possibility because determining prevailing wage rates within the state is a job we perform each year in order to perform our function of setting pay rates for the classified service, and the wage comparison can be accomplished without great difficulty.

In the State of Michigan Civil Service the Civil Service Commission initiates all pay adjustments and they become effective subject to a restricted form of legislative veto.

Pay rates are not initiated nor determined by the Legislature. The Legislature has 60 days after our plan is transmitted to rescind or reduce any pay increases, but a two-thirds vote of both houses is required. Any reduction must apply uniformly to all classes of positions affected by the increases, and may not adjust pay differentials already established. This means we must have up-to-date data in depth before we act.

The survey compares 96 classes of positions, representing almost two-thirds of our work force, with other cities in Michigan, a few counties, other states, and the federal service. The private survey compares 42 classes of positions representing almost half our work force with about 400 private employers of all sizes in various geographic areas of Michigan.

We have been doing this for over 20 years.

It seems to me rather than going through identical motions in 50 or 100 or more local negotiations in cities within a state over jobs that are common to all these local units involved, reliance could be placed on the state public wage board to publish its study results and perhaps recommend prevailing rates for jobs common to the communities or school boards involved. The wage board could or could not be a part of the state public employee relations board.

The local negotiations could concentrate on jobs or issues peculiar to the community. Argument at the local level on pay and fringes for jobs common to all by either side would then be limited to variance from the wage pegged for that fiscal year by the state wage board.

In other words, fact finding would be done in advance for everybody, including the affected parties and the public to see and recognize before bargaining begins. It seems to me this could eliminate a lot of wasted motion at the local level.

From our experience, it is clear that a factual finding of the type described could be obtained and with little imagination a prevailing wage or a recommended wage formula be devised.

The findings of the survey would amount to a compilation by a staff with the final recommendations coming from a supervising commission, with membership balanced to represent the public, the employees, and public managers.

To a person with a background in industrial labor relations this idea of a government in some way recommending or controlling wage rates probably is repugnant, with the inclination to reject it at the outset.

Yet honesty will require the admission that agreements in the public sector can never be free from governmental interference of some form. At whatever level, you're not negotiating with a private employer who derives his power from company owners, pitting your economic power against his with your membership's livelihood or the employer's business at stake! You are negotiating with the government -- local, state, or national -- which derives its power directly from every citizen.

This may represent some unique or peculiar thinking in your estimation, but I would like to conclude that changes in approach and exploration of what may appear unique or peculiar are needed.

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Negotiation Research Digest

Volume 1, No. 10 June 1968

Comparison of 1966-67 and 1967-68 negotiation survey data ..... Data and Statistics: B-1

Eight pages of detailed tabular comparisons of the two years' data, showing increases in number of school systems with agreements, numbers of personnel employed in school systems with and without agreements, plus regional and enrollment stratum trends.

Michigan Supreme Court Rules on Holland Strike ..... Description: A-1
Text: C-3

Regardless of whether an agreement has been signed, teachers are subject to the "no strike" provision in the Michigan negotiation statute. However, the courts need not issue an injunction against a teacher strike. It was suggested that before issuing an injunction, the courts determine whether the school districts have refused to bargain in good faith.

Listing of 1967-68 Agreements ..... Special Item: E-1

Over 2,100 systems with an agreement for 1967-68 in the NEA Research Division depository are listed, along with the recognized organization, its national affiliation, and the number of personnel represented.

Rochester Fact-Finders' Report ..... Description: A-2
Text: C-6

An impasse between the Rochester (New York) Board of Education and the Rochester Teachers Association (NEA) over beginning salaries led to a tripartite fact-finding panel being established. The panel recommended a 1968-69 minimum salary of $6,800; the stated reasons for the recommendation are noteworthy.

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Maryland Negotiation Statute Enacted ..... Description: A-1
Text: C-1

On May 7, 1968, Governor Spiro Agnew signed into law HB 374 which provides for negotiation in good faith between certificated public-school employees and boards of education through elected exclusive representatives of the employees.

One School System, Separate Agreements for Teachers and Administrators D-1

Under the Massachusetts negotiation statute, teachers and administrative personnel may have separate bargaining units; the Framingham Teachers Association (NEA) and the Framingham School Committee have two agreements: Unit A: Teachers, and Unit B: Administrators.

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Description and Analysis

MARYLAND ENACTS NEGOTIATION STATUTE FOR CERTIFICATED SCHOOL EMPLOYEES

When Maryland's new negotiation statute for certificated school employees was signed into law in May, Maryland became the sixteenth state with a negotiation statute (in addition, one state has a State Board of Education resolution).

The statute (text of which begins on page C-1) provides for:

- Exclusive representation; determination by election, if necessary
- Election for the exclusive representative(s), or none, by June 15, 1968, except in Baltimore
- No more than two units in any school system; determination of unit(s) to be made by school board.
- Prohibition of strikes, with specified penalties if a strike is called
- Tripartite impasse resolution panel
- Detailed recognition and/or election procedures.

MICHIGAN SUPREME COURT RULES ON HOLLAND STRIKE

If a school system has not executed a collective bargaining agreement with its majority employee bargaining representative, are the teachers employees of the school system? Yes, said the Michigan Supreme Court, the teachers are employees of the school system and subject to the no-strike provision of the state statute.

Should a court be expected to automatically issue an injunction against a teacher strike? No, not necessarily. The court stated:

> *. . . the legislature intended that injunctive relief could be granted, but that courts are not required to grant it in every case involving a strike by public employees. To attempt to compel legislatively, a court of equity in every instance of a public employee strike to enjoin it would be to destroy the independence of the judicial branch of government.*

The court continued by saying that a strike by public employees is not, in and of itself, sufficient to cause issuance of an injunction.

> *. . . because it is basically contrary to public policy in this State to issue injunctions in labor disputes absent a showing of violence, irreparable injury, or break of the peace.*

The court then suggested that when in the future such injunctions are sought, the courts establish whether, in fact, the school district has refused to bargain in good faith. On the basis of this finding, the court would have to determine whether the injunction should be issued, on what terms, and for how long.

In the specific case considered (Holland School District v. Holland Education Association), the court indicated that there was a lack of proof to support the issuance of a temporary injunction, dissolved the injunction, and returned the case to the circuit court for further proceeding.

ROCHESTER FACT-FINDER'S REPORT AND RECOMMENDATIONS

With the Rochester, New York, agreement between the Rochester Teachers Association (NEA) and the Rochester Board of Education expiring on June 30, 1968, the sole unresolved issue late in March was the beginning teachers' salary for 1968-69. The two groups were $800 apart, with the Board of Education indicating that according to city officials, funds to pay even their initial, and only, offer were lacking.

In considering the need for comparability of salaries between public and private employment the report stated:

> *Employees in the private sector who are aggrieved by the inadequacy of their compensation are permitted by law to engage in self-help through concerted activities--most especially the strike--to improve their lot. This right is denied to public employees in the State of New York (as elsewhere) by the Public Employees Fair Employment Act (The "Taylor Act"), which superseded the Condin-Wadlin Act on September 1, 1967. If the procedures of the new "Taylor Act" for the strikeless resolution of negotiating impasses in public employment are to achieve their goal, they must make available to aggrieved public employees an alternative means of bringing proper pressure to bear upon public officials. If public employees cannot obtain fair remuneration for their services through the impasse procedures provided by law, then strikes by public employees may become the rule, rather than the exception.*
>
> *Accordingly, the Committee, while recognizing the plight of the City of Rochester, is not willing to impose the burden of that plight upon the teachers of the Rochester school system nor upon the students who will suffer if Rochester is unable to attract and retain qualified teachers.*

The report went on to list four reasons for its recommendation for exceeding by $300 the amount the Board of Education said it could not finance. These reasons included turnover rates, and beginning salaries of other Monroe County school systems.

The report also strongly indicted the City of Rochester's fiscal condition by quoting the study made by a similar committee in 1966, to which the current Committee added only "Amen."

The text of the report begins on page C-6.

Data and Statistics

COMPARISON OF 1966-67 AND 1967-68 NEGOTIATION SURVEY DATA

The eight pages of tables which follow provide comprehensive data for comparison of the two national surveys of teacher/school board written negotiation agreements conducted in 1966-67 and 1967-68. Both surveys were sent to all school systems with an enrollment of 1,000 or more; data for the two years are completely comparable.

In order to be counted as having a written negotiation agreement (or procedure) a copy of the agreement had to be sent to the NEA Research Division and meet established minimum criteria for an agreement. Further, each agreement from last year's survey had to receive positive validation for the current year by the school system as being unchanged, or be replaced by a copy of the new agreement. Thus, some school systems counted in last year's survey as having agreements are not counted in the 1967-68 survey for one of the following reasons: positive validation of last year's agreement was not received, a copy of the new agreement was not filed, no response was received from the school system on any communication sent to ascertain the status of a negotiation agreement in the system, or the agreement was rescinded. The NEA Research Division has made every effort to make the current study as complete and as accurate as possible.

Four state statutes, two mandatory (Minnesota and New York) and two permissive (Nebraska and Texas), were enacted during 1967, influencing in some degree the negotiation trends in these states.

Some of the highlights of the comparison of data from the two surveys are:

- Number of school systems with agreements increased to 2,212 from 1,531 in 1966-67, up 44.5 percent.
- Instructional personnel employed in school systems with agreements raised to 909,976 from 648,322 last year, a gain of 40.4 percent.
- 34.8 percent of responding school systems in 1967-68 have negotiation agreements as compared to 25.0 percent in 1966-67.
- While 41.5 percent of the instructional staff in 1966-67 were employed in school systems with agreements, the comparable 1967-68 figure is 52.1 percent.
- The survey response rate increased from 85.4 percent last year to 88.8 percent this year.
- In the realm of national affiliation of local teacher organizations, the teacher representation by the American Federation of Teachers (AFL-CIO) increased by 38,433, while the teacher representation of the National Education Association increased by 201,844; the NEA increase was sufficiently large to raise its share of the total national teacher representation to 79.3 percent, from 77.7 percent.
- The Far West (California, Oregon, Washington, Nevada, Alaska, and Hawaii) continued as the geographical region with the largest share of instructional personnel employed in school systems with agreements at 87.1 percent, an increase from 81.7 percent last year, on a 1967-68 base of 256,262 personnel.

When comparing percents for the two years, one should be sure to take into account the fact that the base, e.g., personnel in systems with negotiation, for 1967-68 is considerably larger than that for 1966-67; in each table the base for computation of percents is indicated. Thus, a larger figure for 1967-68 may have a smaller percent than for 1966-67 because of the considerably larger base for the 1967-68 computations.

Data from the 1966-67 survey, reproduced here for comparison purposes, was originally published as follows:

Table 1, columns 2, 4, 6, 8: Final data, in summary form, Negotiation Research Digest, September 1967, p. B-1. Preliminary data, Negotiation Research Digest, May 1967, p. B-3.

Table 2, columns 2, 4, 6, 8, 10: Final data, Negotiation Research Digest, September 1967, p. B-4. Preliminary data, Negotiation Research Digest, May 1967, p. B-4.

Table 3, columns 2, 4, 6, 8, 10: Final data, Negotiation Research Digest, September 1967. p. B-4. Preliminary data, Negotiation Research Digest, May 1967, p. B-4.

Table 4, columns 2, 4, 6, 8, 10, 12, 14: Final data, NEA Journal, September 1967, p. 35. Preliminary data, Negotiation Research Digest, May 1967, p. B-5.

Table 5, columns 2, 4, 6, 8, 10, 12, 14, 16, 18: Final data, NEA Journal, September 1967, p. 35. Preliminary data, Negotiation Research Digest, May 1967, p. B-6.

Tables 6A, 6B, 7A, 7B, data for 1966-67, all columns, Negotiation Research Digest, September 1967, p. B-6.

Section E, Special Items, of this issue of the Negotiation Research Digest contains a complete list of the 1967-68 agreements (and counted in the tables), in the NEA Research Division depository plus information about obtaining copies of the agreements.

Tables 6B and 7B provide data on the basis of geographical regions as established by the U.S. Bureau of the Census. The states comprising the eight regions are:

Northeast: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.

Mideast: Delaware, District of Columbia, Maryland, New Jersey, New York, Pennsylvania.

Southeast: Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, West Virginia.

Great Lakes: Illinois, Indiana, Michigan, Ohio, Wisconsin.

Plains: Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota.

Southwest: Arizona, New Mexico, Oklahoma, Texas.

Rocky Mountains: Colorado, Idaho, Montana, Utah, Wyoming.

Far West: Alaska, California, Hawaii, Nevada, Oregon, Washington.

TABLE 1.--SCOPE OF SURVEYS, 1966-67 AND 1967-68

State	Systems surveyed		Systems responding		Response rates a/		Instructional staff employed in responding systems	
	1966-67	1967-68	1966-67	1967-68	1966-67	1967-68	1966-67	1967-68
1	2	3	4	5	6	7	8	9
Alabama	115	115	93	97	80.9%	84.3%	23,426	29,787
Alaska	8	8	8	7	100.0	87.5	1,941	1,172
Arizona	64	62	59	55	92.2	88.7	11,892	15,500
Arkansas	118	108	88	90	74.6	83.3	9,571	11,851
California	491	492	395	446	80.4	90.7	164,880	189,668
Colorado	66	60	60	59	90.9	98.3	22,062	23,103
Connecticut	113	110	103	107	91.2	97.3	26,500	30,574
Delaware	30	31	28	26	93.3	83.9	4,329	4,337
District of Columbia	1	1	1	1	100.0	100.0	7,410	7,705
Florida	63	63	53	49	84.1	77.8	46,347	56,153
Georgia	183	181	120	125	65.6	69.1	29,351	34,624
Hawaii	1	1	1	1	100.0	100.0	8,200	7,892
Idaho	43	44	37	41	86.0	93.2	5,265	6,273
Illinois	389	405	341	384	87.7	94.8	75,060	86,944
Indiana	254	256	215	231	84.6	90.2	37,061	47,611
Iowa	147	147	136	140	92.5	95.2	19,083	22,854
Kansas	101	102	84	87	83.2	85.3	15,907	17,528
Kentucky	160	159	112	114	70.0	71.7	19,968	23,897
Louisiana	67	67	53	56	79.1	83.6	27,639	33,872
Maine	91	75	79	69	86.8	92.0	8,010	7,971
Maryland	24	24	21	23	87.5	95.8	34,962	38,254
Massachusetts	205	210	175	179	85.4	85.2	43,391	46,864
Michigan	379	393	328	347	86.5	88.3	76,237	84,930
Minnesota	151	157	141	143	93.4	91.1	28,735	31,085
Mississippi	145	142	88	106	60.7	74.6	14,513	18,595
Missouri	163	172	145	155	89.0	90.1	29,646	33,041
Montana	33	33	31	32	93.9	97.0	5,026	5,180
Nebraska	37	41	33	36	89.2	87.8	7,782	8,139
Nevada	11	11	11	10	100.0	90.9	4,630	5,156
New Hampshire	45	35	37	33	82.2	94.3	5,913	5,043
New Jersey	294	311	264	285	89.8	91.6	53,390	62,785
New Mexico	45	44	37	42	82.2	95.5	9,804	11,068
New York	511	511	469	468	91.8	91.6	172,340	176,705
North Carolina	166	163	141	143	84.9	87.7	35,558	48,977
North Dakota	19	17	17	16	89.5	94.1	2,822	3,093
Ohio	511	520	449	468	87.9	90.0	83,392	92,030
Oklahoma	84	86	72	69	85.7	80.2	14,591	15,951
Oregon	86	88	74	82	86.0	93.2	18,045	19,004
Pennsylvania	509	505	457	473	89.8	93.7	88,178	101,734
Rhode Island	27	30	23	25	85.2	83.3	6,449	6,868
South Carolina	104	102	72	72	69.2	70.6	17,874	18,473
South Dakota	24	28	24	25	100.0	89.3	3,788	3,083
Tennessee	132	129	111	107	84.1	82.9	28,291	33,292
Texas	363	358	313	308	86.2	86.0	78,264	71,004
Utah	30	31	24	28	80.0	90.3	10,433	11,306
Vermont	44	18	40	16	90.9	88.9	3,293	2,167
Virginia	125	127	100	107	80.0	84.3	38,469	43,610
Washington	117	121	110	113	94.0	93.4	31,491	33,370
West Virginia	55	54	46	49	83.6	90.7	15,889	16,413
Wisconsin	192	208	176	189	91.7	90.9	31,016	33,893
Wyoming	21	19	20	18	95.2	94.7	2,627	3,020
Total	7,157	7,175	6,115	6,352	85.4%	88.8%	1,560,741	1,743,449
Stratum and enrollment								
1 (100,000 or more)	24	25	24	23	100.7%	92.0%	260,906	258,228
2 (50,000-99,999)	51	54	50	53	98.0	98.1	145,464	165,859
3 (25,000-49,999)	84	90	80	84	95.2	93.3	105,885	129,138
4 (12,000-24,999)	332	346	290	314	87.3	90.8	213,919	244,957
5 (6,000-11,999)	778	857	680	777	87.4	90.7	257,296	313,733
6 (3,000-5,999)	1,626	1,679	1,365	1,479	83.9	88.1	263,374	304,454
7 (1,200-2,999)	3,468	3,390	2,951	2,983	85.1	88.0	276,123	289,789
8 (1,000-1,199)	794	734	675	639	85.0	87.1	37,774	37,291
Total	7,157	7,175	6,115	6,352	85.4%	88.8%	1,560,741	1,743,449

a/ Response rates are determined by comparing systems responding to systems surveyed.

TABLE 2.--STATUS OF WRITTEN NEGOTIATION AGREEMENTS: SCHOOL SYSTEMS

State	Responding systems		Systems with agreements				Systems without agreements			
			Number		Percent[a]		Number		Percent[a]	
	1966-67	1967-68	1966-67	1967-68	1966-67	1967-68	1966-67	1967-68	1966-67	1967-68
1	2	3	4	5	6	7	8	9	10	11
Alabama	93	97	0	0	0.0%	0.0%	93	97	100.0%	100.0%
Alaska	8	7	3	4	37.5	57.1	5	3	62.5	42.8
Arizona	59	55	10	15	16.9	27.2	49	40	83.0	72.7
Arkansas	88	90	0	2	0.0	2.2	88	88	100.0	97.7
California	395	446	301	371	76.2	83.1	94	75	23.7	16.8
Colorado	60	59	17	22	28.3	37.2	43	37	71.6	62.7
Connecticut	103	107	55	66	53.3	61.6	48	41	46.6	38.3
Delaware	28	26	7	8	25.0	30.7	21	18	75.0	69.2
District of Columbia	1	1	0	1	0.0	100.0	1	0	100.0	0.0
Florida	53	49	5	14	9.4	28.5	48	35	90.5	71.4
Georgia	120	125	0	0	0.0	0.0	120	125	100.0	100.0
Hawaii	1	1	0	0	0.0	0.0	1	1	100.0	100.0
Idaho	37	41	14	18	37.8	43.9	23	23	62.1	56.0
Illinois	341	384	62	103	18.1	26.8	279	281	81.8	73.1
Indiana	215	231	29	48	13.4	20.7	186	183	86.5	79.2
Iowa	136	140	8	13	5.8	9.2	128	127	94.1	90.7
Kansas	84	87	26	40	30.9	45.9	58	47	69.0	54.0
Kentucky	112	114	1	12	0.8	10.5	111	102	99.1	89.4
Louisiana	53	56	0	0	0.0	0.0	53	56	100.0	100.0
Maine	79	69	5	12	6.3	17.3	74	57	93.6	82.6
Maryland	21	23	5	10	23.8	43.4	16	13	76.1	56.5
Massachusetts	175	179	64	111	36.5	62.0	111	68	63.4	37.9
Michigan	328	347	238	301	72.5	86.7	90	46	27.4	13.2
Minnesota	141	143	19	84	13.4	58.7	122	59	86.5	41.2
Mississippi	88	106	1	1	1.1	0.9	87	105	98.8	99.0
Missouri	145	155	20	28	13.7	18.0	125	127	86.2	81.9
Montana	31	32	5	5	16.1	15.6	26	27	83.8	84.3
Nebraska	33	36	2	4	6.0	11.1	31	32	93.9	88.8
Nevada	11	10	1	1	9.0	10.0	10	9	90.9	90.0
New Hampshire	37	33	6	11	16.2	33.3	31	22	83.7	66.6
New Jersey	264	285	148	171	56.0	59.9	116	114	43.9	40.0
New Mexico	37	42	5	9	13.5	21.4	32	33	86.4	78.5
New York	469	468	77	135	16.4	28.8	392	333	83.5	71.1
North Carolina	141	143	1	1	0.7	0.6	140	142	99.2	99.3
North Dakota	17	16	1	7	5.8	43.7	16	9	94.1	56.2
Ohio	449	468	117	188	26.0	40.1	332	280	73.9	59.8
Oklahoma	72	69	3	4	4.1	5.7	69	65	95.8	94.2
Oregon	74	82	55	63	74.3	76.8	19	19	25.6	23.1
Pennsylvania	457	473	42	89	9.1	18.8	415	384	90.8	81.1
Rhode Island	23	25	9	18	39.1	72.0	14	7	60.8	28.0
South Carolina	72	72	1	1	1.3	1.3	71	71	98.6	98.6
South Dakota	24	25	4	7	16.6	28.0	20	18	83.3	72.0
Tennessee	111	107	1	3	0.9	2.8	110	104	99.0	97.1
Texas	313	308	6	9	1.9	2.9	307	299	98.0	97.0
Utah	24	28	3	7	12.5	25.0	21	21	87.5	75.0
Vermont	40	16	6	4	14.9	25.0	34	12	85.0	75.0
Virginia	100	107	2	4	2.0	3.7	98	103	98.0	96.2
Washington	110	113	74	91	67.2	80.5	36	22	32.7	19.4
West Virginia	46	49	2	3	4.3	6.1	44	46	95.6	93.8
Wisconsin	176	189	67	88	38.0	46.5	109	101	61.9	53.4
Wyoming	20	18	3	5	14.9	27.7	17	13	85.0	72.2
Total	6,115	6,352	1,531	2,212	25.0%	34.8%	4,584	4,140	74.9%	65.1%
Stratum and enrollment										
1 (100,000 or more)	24	23	11	18	45.8%	78.2%	13	5	54.1%	21.7%
2 (50,000-99,999)	50	53	23	33	46.0	62.2	27	20	54.0	37.7
3 (25,000-49,999)	80	84	34	44	42.5	52.3	46	40	57.5	47.6
4 (12,000-24,999)	290	314	117	165	40.3	52.5	173	149	59.6	47.4
5 (6,000-11,999)	680	777	227	356	33.3	45.8	453	421	66.6	54.1
6 (3,000-5,999)	1,365	1,479	384	589	28.1	39.8	981	890	71.8	60.1
7 (1,200-2,999)	2,951	2,983	624	862	21.1	28.8	2,327	2,121	78.8	71.1
8 (1,000-1,199)	675	639	111	145	16.4	22.6	564	494	83.5	77.3
Total	6,115	6,352	1,531	2,212	25.0%	34.8%	4,584	4,140	74.9%	65.1%

a/ Computation of percents based on the number of responding school systems for the given year.

TABLE 3.--STATUS OF WRITTEN NEGOTIATION AGREEMENTS: INSTRUCTIONAL PERSONNEL

State	Instructional personnel in responding systems		Instructional personnel in systems with agreements				Instructional personnel in systems without agreements			
			Number		Percent[a]		Number		Percent[a]	
	1966-67	1967-68	1966-67	1967-68	1966-67	1967-68	1966-67	1967-68	1966-67	1967-68
1	2	3	4	5	6	7	8	9	10	11
Alabama	23,426	29,787	0	0	0.0%	0.0%	23,426	29,787	100.0%	100.0%
Alaska	1,941	1,172	1,327	601	68.3	51.2	614	571	31.6	48.7
Arizona	11,892	15,500	2,860	7,029	24.0	45.3	9,032	8,471	75.9	54.6
Arkansas	9,571	11,851	0	1,214	0.0	10.2	9,571	10,637	100.0	89.7
California	164,880	189,668	144,374	175,041	87.5	92.2	20,506	14,627	12.4	7.7
Colorado	22,062	23,103	14,573	16,036	66.0	69.4	7,489	7,067	33.9	30.5
Connecticut	26,500	30,574	19,394	23,733	73.1	77.6	7,106	6,841	26.8	22.3
Delaware	4,329	4,337	1,248	1,354	28.8	31.2	3,081	2,983	71.1	68.7
District of Columbia	7,410	7,705	0	7,705	0.0	100.0	7,410	0	100.0	0.0
Florida	46,347	56,153	10,221	36,735	22.0	65.4	36,126	19,418	77.9	34.5
Georgia	29,351	34,624	0	0	0.0	0.0	29,351	34,624	100.0	100.0
Hawaii	8,200	7,892	0	0	0.0	0.0	8,200	7,892	100.0	100.0
Idaho	5,265	6,273	2,458	3,023	46.6	48.1	2,807	3,250	53.3	51.8
Illinois	75,060	86,944	38,084	48,041	50.7	55.2	36,976	38,903	49.2	44.7
Indiana	37,061	47,611	6,292	14,875	16.9	31.2	30,769	32,736	83.0	68.7
Iowa	19,083	22,854	2,604	6,117	13.6	26.7	16,479	16,737	86.3	73.2
Kansas	15,907	17,528	8,341	11,344	52.4	64.7	7,566	6,184	47.5	35.2
Kentucky	19,968	23,897	340	7,954	1.7	33.2	19,628	15,943	98.2	66.7
Louisiana	27,639	33,872	0	0	0.0	0.0	27,639	33,872	100.0	100.0
Maine	8,010	7,971	1,257	2,332	15.6	29.2	6,753	5,639	84.3	70.7
Maryland	34,962	38,254	12,427	32,773	35.5	85.6	22,535	5,481	64.4	14.3
Massachusetts	43,391	46,864	17,208	32,535	39.6	69.4	26,183	14,329	60.3	30.5
Michigan	76,237	84,930	66,680	80,534	87.4	94.8	9,557	4,396	12.5	5.1
Minnesota	28,735	31,085	4,047	19,760	14.0	63.5	24,688	11,325	85.9	36.4
Mississippi	14,513	18,595	390	405	2.6	2.1	14,123	18,190	97.3	97.8
Missouri	29,646	33,041	5,189	8,289	17.5	25.0	24,457	24,752	82.4	74.9
Montana	5,026	5,180	784	856	15.5	16.5	4,242	4,324	84.4	83.4
Nebraska	7,782	8,139	2,355	2,750	30.2	33.7	5,427	5,389	69.7	66.2
Nevada	4,630	5,156	1,235	1,208	26.6	23.4	3,395	3,948	73.3	76.5
New Hampshire	5,913	5,043	793	1,314	13.4	26.0	5,120	3,729	86.5	73.9
New Jersey	53,390	62,785	31,869	39,240	59.6	62.4	21,521	23,545	40.3	37.5
New Mexico	9,804	11,068	4,313	5,023	43.9	45.3	5,491	6,045	56.0	54.6
New York	172,340	176,705	89,576	110,489	51.9	62.5	82,764	66,216	48.0	37.4
North Carolina	35,558	48,977	341	336	0.9	0.6	35,217	48,641	99.0	99.3
North Dakota	2,822	3,093	515	1,832	18.2	59.2	2,307	1,261	81.7	40.7
Ohio	83,392	92,030	35,043	53,456	42.0	58.0	48,349	38,574	57.9	41.9
Oklahoma	14,591	15,951	3,965	4,857	27.1	30.4	10,626	11,094	72.8	69.5
Oregon	18,045	19,004	15,669	17,004	86.8	89.4	2,376	2,000	13.1	10.5
Pennsylvania	88,178	101,734	24,151	36,697	27.3	36.0	64,027	65,037	72.6	63.9
Rhode Island	6,449	6,868	2,737	5,902	42.4	85.9	3,712	966	57.5	14.0
South Carolina	17,874	18,473	604	690	3.3	3.7	17,270	17,783	96.6	96.2
South Dakota	3,788	3,08[illegible]	626	1,467	16.5	47.5	3,162	1,616	83.4	52.4
Tennessee	28,291	33,292	3,448	9,688	12.1	29.1	24,843	23,604	87.8	70.8
Texas	78,264	71,004	17,604	9,624	22.4	13.5	60,660	61,380	77.5	86.4
Utah	10,433	11,306	1,524	6,409	14.6	56.6	8,909	4,897	85.3	43.3
Vermont	3,293	2,167	432	420	13.1	19.3	2,861	1,747	86.8	80.6
Virginia	38,469	43,610	4,992	7,907	12.9	18.1	33,477	35,703	87.0	81.8
Washington	31,491	33,370	24,623	29,355	78.1	87.9	6,868	4,015	21.8	12.0
West Virginia	15,889	16,413	446	580	2.8	3.5	15,443	15,823	97.1	96.4
Wisconsin	31,016	33,893	20,309	23,709	65.4	69.9	10,707	10,184	34.5	30.0
Wyoming	2,627	3,020	1,054	1,733	40.1	57.3	1,573	1,287	59.8	42.6
Total	1,560,741	1,743,449	648,322	909,976	41.5%	52.1%	912,419	833,473	58.4%	47.8%
Stratum and enrollment										
1 (100,000 or more)	260,906	258,228	181,569	231,423	69.5%	89.6%	79,337	26,805	30.4%	10.3%
2 (50,000-99,999)	145,464	165,859	76,320	108,147	52.4	65.2	69,144	57,712	47.5	34.7
3 (25,000-49,999)	105,885	129,138	48,134	67,306	45.4	52.1	57,751	61,832	54.5	47.8
4 (12,000-24,999)	213,919	244,957	89,593	131,575	41.8	53.7	124,326	113,382	58.1	46.2
5 (6,000-11,999)	257,296	313,733	93,895	149,651	36.4	47.7	163,401	164,082	63.5	52.2
6 (3,000-5,999)	263,374	304,454	85,953	125,423	32.6	41.1	177,421	179,031	67.3	58.8
7 (1,200-2,999)	276,123	289,789	66,074	87,873	23.9	30.3	210,049	201,916	76.0	69.6
8 (1,000-1,199)	37,774	37,291	6,784	8,578	17.9	23.0	30,990	28,713	82.0	76.9
Total	1,560,741	1,743,449	648,322	909,976	41.5%	52.1%	912,419	833,473	58.4%	47.8%

a/ Computation of percents based on the number of instructional personnel in responding school systems for the given year.

TABLE 4.--NUMBER OF PROFESSIONAL PERSONNEL REPRESENTED BY NATIONAL AFFILIATION OF LOCAL ORGANIZATIONS FOR NEGOTIATION PURPOSES

State	Number of personnel represented		National Education Association				American Federation of Teachers				Independent			
			Number		Percent a/		Number		Percent a/		Number		Percent a/	
	1966-67	1967-68	1966-67	1967-68	1966-67	1967-68	1966-67	1967-68	1966-67	1967-68	1966-67	1967-68	1966-67	1967-68
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Alabama	0	0	0	0	0.0%	0.0%	0	0	0.0%	0.0%	0	0	0.0%	0.0%
Alaska	985	538	985	538	100.0	100.0	0	0	0.0	0.0	0	0	0.0	0.0
Arizona	2,524	6,471	2,524	6,471	100.0	100.0	0	0	0.0	0.0	0	0	0.0	0.0
Arkansas	0	1,068	0	1,068	0.0	100.0	0	0	0.0	0.0	0	0	0.0	0.0
California	120,289	144,734	117,403	139,659	97.6	96.5	2,455	3,251	2.0	2.2	431	1,824	0.4	1.3
Colorado	13,840	14,834	13,840	14,834	100.0	100.0	0	0	0.0	0.0	0	0	0.0	0.0
Connecticut	19,029	22,804	17,383	19,298	91.4	84.6	1,477	3,456	7.8	15.2	169	50	0.9	0.2
Delaware	1,249	1,339	1,249	1,339	100.0	100.0	0	0	0.0	0.0	0	0	0.0	0.0
District of Columbia	0	6,355	0	0	0.0	0.0	0	6,355	0.0	100.0	0	0	0.0	0.0
Florida	9,687	33,837	9,687	33,837	100.0	100.0	0	0	0.0	0.0	0	0	0.0	0.0
Georgia	0	0	0	0	0.0	0.0	0	0	0.0	0.0	0	0	0.0	0.0
Hawaii	0	0	0	0	0.0	0.0	0	0	0.0	0.0	0	0	0.0	0.0
Idaho	2,167	2,524	1,917	2,494	88.5	98.8	250	30	11.5	1.2	0	0	0.0	0.0
Illinois	33,091	44,790	8,025	16,067	24.3	35.9	24,324	28,491	73.5	63.6	742	232	2.2	0.5
Indiana	5,224	14,067	5,142	11,234	98.4	79.9	35	2,787	0.7	19.8	47	46	0.9	0.3
Iowa	2,360	5,606	2,360	5,327	100.0	95.0	0	279	0.0	5.0	0	0	0.0	0.0
Kansas	8,014	11,068	8,014	11,068	100.0	100.0	0	0	0.0	0.0	0	0	0.0	0.0
Kentucky	340	7,604	340	7,604	100.0	100.0	0	0	0.0	0.0	0	0	0.0	0.0
Louisiana	0	0	0	0	0.0	0.0	0	0	0.0	0.0	0	0	0.0	0.0
Maine	1,239	2,221	1,239	2,221	100.0	100.0	0	0	0.0	0.0	0	0	0.0	0.0
Maryland	11,986	30,622	11,986	21,922	100.0	71.6	0	8,700	0.0	28.4	0	0	0.0	0.0
Massachusetts	16,733	31,068	12,197	25,617	72.9	82.5	4,521	5,451	27.0	17.5	15	0	0.1	0.0
Michigan	63,270	73,715	45,744	56,415	72.3	76.5	16,229	17,200	25.7	23.3	1,297	100	2.0	0.1
Minnesota	2,944	18,560	1,740	13,500	59.1	72.7	1,152	3,910	39.1	21.1	52	1,150	1.8	6.2
Mississippi	390	390	390	390	100.0	100.0	0	0	0.0	0.0	0	0	0.0	0.0
Missouri	4,984	7,926	4,984	7,926	100.0	100.0	0	0	0.0	0.0	0	0	0.0	0.0
Montana	594	660	249	152	41.9	23.0	345	508	58.1	77.0	0	0	0.0	0.0
Nebraska	2,482	2,580	2,482	2,580	100.0	100.0	0	0	0.0	0.0	0	0	0.0	0.0
Nevada	1,134	1,100	1,134	1,100	100.0	100.0	0	0	0.0	0.0	0	0	0.0	0.0
New Hampshire	498	1,301	498	1,301	100.0	100.0	0	0	0.0	0.0	0	0	0.0	0.0
New Jersey	28,056	34,538	27,819	34,378	99.2	99.5	226	160	0.8	0.5	11	0	0.0	0.0
New Mexico	3,603	4,106	3,603	4,106	100.0	100.0	0	0	0.0	0.0	0	0	0.0	0.0
New York	80,862	101,944	19,983	39,841	24.7	39.1	60,829	61,776	75.2	60.6	50	327	0.1	0.3
North Carolina	341	341	341	341	100.0	100.0	0	0	0.0	0.0	0	0	0.0	0.0
North Dakota	515	1,813	515	1,813	100.0	100.0	0	0	0.0	0.0	0	0	0.0	0.0
Ohio	33,754	50,388	33,681	44,422	99.8	88.2	73	5,966	0.2	11.8	0	0	0.0	0.0
Oklahoma	3,920	4,797	3,920	4,797	100.0	100.0	0	0	0.0	0.0	0	0	0.0	0.0
Oregon b/	0	0	0	0	0.0	0.0	0	0	0.0	0.0	0	0	0.0	0.0
Pennsylvania	20,910	33,162	9,910	20,246	47.4	61.1	11,000	11,597	52.6	35.0	0	1,319	0.0	4.0
Rhode Island	2,460	5,507	2,300	4,127	93.5	74.9	160	1,380	6.5	25.1	0	0	0.0	0.0
South Carolina	604	604	604	604	100.0	100.0	0	0	0.0	0.0	0	0	0.0	0.0
South Dakota	609	1,444	609	1,444	100.0	100.0	0	0	0.0	0.0	0	0	0.0	0.0
Tennessee	3,448	9,688	3,448	9,688	100.0	100.0	0	0	0.0	0.0	0	0	0.0	0.0
Texas	13,289	9,403	13,289	9,403	100.0	100.0	0	0	0.0	0.0	0	0	0.0	0.0
Utah	1,449	6,068	1,449	6,068	100.0	100.0	0	0	0.0	0.0	0	0	0.0	0.0
Vermont	421	413	421	413	100.0	100.0	0	0	0.0	0.0	0	0	0.0	0.0
Virginia	4,739	7,024	4,739	7,024	100.0	100.0	0	0	0.0	0.0	0	0	0.0	0.0
Washington	23,684	27,376	23,684	27,376	100.0	100.0	0	0	0.0	0.0	0	0	0.0	0.0
West Virginia	424	565	424	565	100.0	100.0	0	0	0.0	0.0	0	0	0.0	0.0
Wisconsin	18,894	22,103	17,951	21,038	95.0	95.2	943	1,065	5.0	4.8	0	0	0.0	0.0
Wyoming	938	1,612	938	1,612	100.0	100.0	0	0	0.0	0.0	0	0	0.0	0.0
Total	567,973	810,678	441,140	643,268	77.7%	79.3%	124,019	162,362	21.8%	20.0%	2,814	5,048	0.5%	0.6%
Stratum and enrollment														
1 (100,000 or more)	149,569	201,377	46,382	72,830	31.0%	36.2%	101,987	127,228	68.2%	63.2%	1,200	1,319	0.8%	0.7%
2 (50,000-99,999)	68,837	96,286	64,271	91,794	93.4	95.3	4,521	4,300	6.6	4.5	45	192	0.1	0.2
3 (25,000-49,999)	44,597	61,441	41,264	53,662	92.5	87.3	3,261	7,257	7.3	11.8	72	522	0.2	0.8
4 (12,000-24,999)	80,713	119,011	74,418	107,918	92.2	90.7	6,078	10,032	7.5	8.4	217	1,061	0.3	0.9
5 (6,000-11,999)	84,951	134,504	79,453	125,453	93.5	93.3	4,607	7,613	5.4	5.7	891	1,438	1.0	1.1
6 (3,000-5,999)	76,198	112,021	73,291	107,055	96.2	95.6	2,581	4,607	3.4	4.1	326	359	0.4	0.3
7 (1,200-2,999)	57,328	78,502	56,328	77,189	98.3	98.3	984	1,213	1.7	1.5	16	100	0.0	0.1
8 (1,000-1,199)	5,780	7,536	5,733	7,367	99.2	97.8	0	112	0.0	1.5	47	57	0.8	0.8
Total	567,973	810,678	441,140	643,268	77.7%	79.3%	124,019	162,362	21.8%	20.0%	2,814	5,048	0.5%	0.6%

a/ Computation of percents based on number of personnel respresented for the given year.
b/ The Oregon negotiation statute precludes organizational representation.

TABLE 5.--SCHOOL SYSTEMS WITH EXCLUSIVE REPRESENTATION OF PROFESSIONAL STAFF IN NEGOTIATION BY NATIONAL AFFILIATION OF LOCAL ORGANIZATION(S)a/
PART A

State	Systems with organizational representation		National Education Association				American Federation of Teachers			
			Number		Percentb/		Number		Percentb/	
	1966-67	1967-68	1966-67	1967-68	1966-67	1967-68	1966-67	1967-68	1966-68	1967-68
1	2	3	4	5	6	7	8	9	10	11
Alabama	0	0	0	0	0.0%	0.0%	0	0	0.0%	0.0%
Alaska	3	4	3	4	100.0	100.0	0	0	0.0	0.0
Arizona	9	14	9	14	100.0	100.0	0	0	0.0	0.0
Arkansas	0	2	0	2	0.0	100.0	0	0	0.0	0.0
California	301	371	282	136	93.7	90.6	0	0	0.0	0.0
Colorado	17	22	17	22	100.0	100.0	0	0	0.0	0.0
Connecticut	55	66	48	62	87.3	93.9	0	3	0.0	4.5
Delaware	7	8	7	8	100.0	100.0	0	0	0.0	0.0
District of Columbia	0	1	0	0	0.0	0.0	0	1	0.0	100.0
Florida	5	14	5	14	100.0	100.0	0	0	0.0	0.0
Georgia	0	0	0	0	0.0	0.0	0	0	0.0	0.0
Hawaii	0	0	0	0	0.0	0.0	0	0	0.0	0.0
Idaho	13	17	12	16	92.3	94.1	0	0	0.0	0.0
Illinois	57	98	38	73	66.7	74.5	15	22	26.3	22.4
Indiana	27	47	25	42	92.6	89.4	0	2	0.0	4.3
Iowa	7	13	7	12	100.0	92.3	0	0	0.0	0.0
Kansas	25	39	25	39	100.0	100.0	0	0	0.0	0.0
Kentucky	1	9	1	9	100.0	100.0	0	0	0.0	0.0
Louisiana	0	0	0	0	0.0	0.0	0	0	0.0	0.0
Maine	5	11	5	11	100.0	100.0	0	0	0.0	0.0
Maryland	5	10	5	9	100.0	90.0	0	1	0.0	10.0
Massachusetts	64	111	62	106	96.9	95.5	1	3	1.6	2.7
Michigan	238	301	222	283	93.3	94.0	13	17	5.5	5.6
Minnesota	14	84	7	54	50.0	64.3	2	2	14.3	2.4
Mississippi	1	1	1	1	100.0	100.0	0	0	0.0	0.0
Missouri	18	27	18	27	100.0	100.0	0	0	0.0	0.0
Montana	4	4	3	2	75.0	50.0	1	2	25.0	50.0
Nebraska	2	4	2	4	100.0	100.0	0	0	0.0	0.0
Nevada	1	1	1	1	100.0	100.0	0	0	0.0	0.0
New Hampshire	5	11	5	11	100.0	100.0	0	0	0.0	0.0
New Jersey	130	159	126	157	96.9	98.7	0	0	0.0	0.0
New Mexico	5	9	5	9	100.0	100.0	0	0	0.0	0.0
New York	74	134	70	128	94.6	95.5	3	4	4.1	3.0
North Carolina	1	1	1	1	100.0	100.0	0	0	0.0	0.0
North Dakota	1	7	1	7	100.0	100.0	0	0	0.0	0.0
Ohio	113	184	111	181	98.2	98.4	1	2	0.9	1.1
Oklahoma	3	4	3	4	100.0	100.0	0	0	0.0	0.0
Oregonc/	0	0	0	0	0.0	0.0	0	0	0.0	0.0
Pennsylvania	38	88	37	86	97.4	97.7	1	1	2.6	1.1
Rhode Island	9	18	8	16	88.9	88.9	1	2	11.1	11.1
South Carolina	1	1	1	1	100.0	100.0	0	0	0.0	0.0
South Dakota	4	7	4	7	100.0	100.0	0	0	0.0	0.0
Tennessee	1	3	1	3	100.0	100.0	0	0	0.0	0.0
Texas	6	9	6	9	100.0	100.0	0	0	0.0	0.0
Utah	3	7	3	7	100.0	100.0	0	0	0.0	0.0
Vermont	6	4	6	4	100.0	100.0	0	0	0.0	0.0
Virginia	2	4	2	4	100.0	100.0	0	0	0.0	0.0
Washington	73	91	73	91	100.0	100.0	0	0	0.0	0.0
West Virginia	2	3	2	3	100.0	100.0	0	0	0.0	0.0
Wisconsin	67	88	63	85	94.0	94.3	3	5	4.5	5.7
Wyoming	3	5	3	5	100.0	100.0	0	0	0.0	0.0
Total	1,426	2,116	1,336	1,968	93.7%	93.0%	41	67	2.9%	3.2%
Stratum and enrollment										
1 (100,000 or more)	11	18	6	10	54.5%	55.6%	3	6	27.3%	33.3%
2 (50,000-99,999)	22	32	20	30	90.9	93.8	1	1	4.5	3.1
3 (25,000-49,999)	34	44	29	35	85.3	79.5	1	4	2.9	9.1
4 (12,000-24,999)	113	162	99	137	87.6	84.6	7	10	6.2	6.2
5 (6,000-11-999)	214	344	189	304	88.3	88.4	8	15	3.7	4.4
6 (3,000-5,999)	361	562	338	523	93.6	93.1	12	18	3.3	3.2
7 (1,200-2,999)	571	818	556	797	97.4	97.4	9	11	1.6	1.3
8 (1,000-1,199)	100	136	99	132	99.0	97.1	0	2	0.0	1.5
Total	1,426	2,116	1,336	1,968	93.7%	93.0%	41	67	2.9%	3.2%

a/ Exclusive representation, for purposes of this table, is based upon national affiliation. If two or more local organizations with the same national affiliation represent the professional staff, the school system is credited to the national organization.
b/ Computation of percents is based upon the number of school systems with organizational representation for the given year.
c/ The Oregon statue precludes organizational representation.

TABLE 3.--SCHOOL SYSTEMS WITH EXCLUSIVE REPRESENTATION OF PROFESSIONAL STAFF IN NEGOTIATION BY NATIONAL AFFILIATION OF LOCAL ORGANIZATION(S)a/
PART B

State	Systems with organizational representation		Independent				Two or more organizations with mixed affiliation			
			Number		Percentb/		Number		Percentb/	
	1966-67	1967-68	1966-67	1967-68	1966-67	1967-68	1966-67	1967-68	1966-67	1967-68
1	2	3	12	13	14	15	16	17	18	19
Alabama	0	0	0	0	0.0%	0.0%	0	0	0.0%	0.0%
Alaska	3	4	0	0	0.0	0.0	0	0	0.0	0.0
Arizona	9	14	0	0	0.0	0.0	0	0	0.0	0.0
Arkansas	0	2	0	0	0.0	0.0	0	0	0.0	0.0
California	301	371	0	0	0.0	0.0	19	35	6.3	9.4
Colorado	17	22	0	0	0.0	0.0	0	0	0.0	0.0
Connecticut	55	66	0	0	0.0	0.0	7	1	12.7	1.5
Delaware	7	8	0	0	0.0	0.0	0	0	0.0	0.0
District of Columbia	0	1	0	0	0.0	0.0	0	0	0.0	0.0
Florida	5	14	0	0	0.0	0.0	0	0	0.0	0.0
Georgia	0	0	0	0	0.0	0.0	0	0	0.0	0.0
Hawaii	0	0	0	0	0.0	0.0	0	0	0.0	0.0
Idaho	13	17	0	0	0.0	0.0	1	1	7.7	5.9
Illinois	57	98	2	1	3.5	1.0	2	2	3.5	2.0
Indiana	27	47	1	1	3.7	2.1	1	2	3.7	4.3
Iowa	7	13	0	0	0.0	0.0	0	1	0.0	7.7
Kansas	25	39	0	0	0.0	0.0	0	0	0.0	0.0
Kentucky	1	9	0	0	0.0	0.0	0	0	0.0	0.0
Louisiana	0	0	0	0	0.0	0.0	0	0	0.0	0.0
Maine	5	11	0	0	0.0	0.0	0	0	0.0	0.0
Maryland	5	10	0	0	0.0	0.0	0	0	0.0	0.0
Massachusetts	64	111	0	0	0.0	0.0	1	2	1.6	1.8
Michigan	238	301	0	1	0.0	0.3	3	0	1.3	0.0
Minnesota	14	84	0	1	0.0	1.2	5	27	35.7	32.1
Mississippi	1	1	0	0	0.0	0.0	0	0	0.0	0.0
Missouri	18	27	0	0	0.0	0.0	0	0	0.0	0.0
Montana	4	4	0	0	0.0	0.0	0	0	0.0	0.0
Nebraska	2	4	0	0	0.0	0.0	0	0	0.0	0.0
Nevada	1	1	0	0	0.0	0.0	0	0	0.0	0.0
New Hampshire	5	11	0	0	0.0	0.0	0	0	0.0	0.0
New Jersey	130	159	0	0	0.0	0.0	4	2	3.1	1.3
New Mexico	5	9	0	0	0.0	0.0	0	0	0.0	0.0
New York	74	134	0	0	0.0	0.0	1	2	1.4	1.5
North Carolina	1	1	0	0	0.0	0.0	0	0	0.0	0.0
North Dakota	1	7	0	0	0.0	0.0	0	0	0.0	0.0
Ohio	113	184	0	0	0.0	0.0	1	1	0.9	0.5
Oklahoma	3	4	0	0	0.0	0.0	0	0	0.0	0.0
Oregonc/	0	0	0	0	0.0	0.0	0	0	0.0	0.0
Pennsylvania	38	88	0	0	0.0	0.0	0	1	0.0	1.1
Rhode Island	9	18	0	0	0.0	0.0	0	0	0.0	0.0
South Carolina	1	1	0	0	0.0	0.0	0	0	0.0	0.0
South Dakota	4	7	0	0	0.0	0.0	0	0	0.0	0.0
Tennessee	1	3	0	0	0.0	0.0	0	0	0.0	0.0
Texas	6	9	0	0	0.0	0.0	0	0	0.0	0.0
Utah	3	7	0	0	0.0	0.0	0	0	0.0	0.0
Vermont	6	4	0	0	0.0	0.0	0	0	0.0	0.0
Virginia	2	4	0	0	0.0	0.0	0	0	0.0	0.0
Washington	73	91	0	0	0.0	0.0	0	0	0.0	0.0
West Virginia	2	3	0	0	0.0	0.0	0	0	0.0	0.0
Wisconsin	67	88	0	0	0.0	0.0	1	0	1.5	0.0
Wyoming	3	5	0	0	0.0	0.0	0	0	0.0	0.0
Total	1,426	2,116	3	4	0.2%	0.2%	46	77	3.2%	3.6%
Stratum and enrollment										
1 (100,000 or more)	11	18	0	0	0.0%	0.0%	2	2	18.2%	11.1%
2 (50,000-99,999)	22	32	0	0	0.0	0.0	1	1	4.5	3.1
3 (25,000-49,999)	34	44	0	0	0.0	0.0	4	5	11.8	11.4
4 (12,000-24,999)	113	162	0	0	0.0	0.0	7	15	6.2	9.3
5 (6,000-11,999)	214	344	1	1	0.5	0.3	16	24	7.5	7.0
6 (3,000-5,999)	361	562	1	1	0.3	0.2	10	20	2.8	3.6
7 (1,200-2,999)	571	818	0	1	0.0	0.1	6	9	1.1	1.1
8 (1,000-1,199)	100	136	1	1	1.0	0.7	0	1	0.0	0.7
Total	1,426	2,116	3	4	0.2%	0.2%	46	77	3.2%	3.6%

a/ Exclusive representation, for purposes of this table, is based upon national affiliation. If two or more local organizations with the same national affiliation represent the professional staff, the school system is credited to the national organization.
b/ Computation of precents is based upon the number of school systems with organizational representation for the given year.
c/ The Oregon statue precludes organizational representation.

TABLE 6A.--PERCENT OF SCHOOL SYSTEMS WHICH HAVE WRITTEN AGREEMENTS BY WHICH LOCAL TEACHERS NEGOTIATE FOR ALL OR PART OF THE PROFESSIONAL STAFF IN RESPONDING SCHOOL SYSTEMS

Item		Total	Enrollment stratum 1	2	3	4	5	6	7	8
1		2	3	4	5	6	7	8	9	10
Yes:	1966-67 ...	25.0%	45.8%	46.0%	42.5%	40.3%	33.4%	28.1%	21.1%	16.4%
	1967-68 ...	34.8	78.3	62.3	52.4	52.5	45.8	39.8	28.9	22.7
No:	1966-67 ...	75.0	54.2	54.0	57.5	59.7	66.6	71.9	78.9	83.6
	1967-68 ...	65.2	21.7	37.7	47.6	47.5	54.2	60.2	71.1	77.3
Total:	1966-67 ...	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
	1967-68 ...	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Total response:	1966-67 ...	6,115	24	50	80	290	680	1,365	2,951	675
	1967-68 ...	6,352	23	53	84	314	777	1,479	2,983	639

TABLE 7A.--PERCENT OF INSTRUCTIONAL STAFF IN SCHOOL SYSTEMS WHICH HAVE WRITTEN AGREEMENTS BY WHICH LOCAL TEACHERS NEGOTIATE FOR ALL OR PART OF THE PROFESSIONAL STAFF IN RESPONDING SCHOOL SYSTEMS

Item		Total	Enrollment stratum 1	2	3	4	5	6	7	8
1		2	3	4	5	6	7	8	9	10
Yes:	1966-67 ...	41.5%	69.6%	52.5%	45.5%	41.9%	36.5%	32.6%	23.9%	18.0%
	1967-68 ...	52.2	89.6	65.2	52.1	53.7	47.7	41.2	30.3	23.0
No:	1966-67 ...	58.5	30.4	47.5	54.5	58.1	63.5	67.4	76.1	82.0
	1967-68 ...	47.8	10.4	34.8	47.9	46.3	52.3	58.8	69.7	77.0
Total:	1966-67 ...	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
	1967-68 ...	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Total response:	1966-67 ...	1,560,741	260,906	145,464	105,885	213,919	257,296	263,374	276,123	37,774
	1967-68 ...	1,743,449	258,228	165,859	129,138	244,957	313,733	304,454	289,789	37,291

Stratum	School system enrollment
1	100,000 or more
2	50,000-99,999
3	25,000-49,999
4	12,000-24,999
5	6,000-11,999
6	3,000- 5,999
7	1,200- 2,999
8	1,000- 1,199

TABLE 6B.--PERCENT OF SCHOOL SYSTEMS WHICH HAVE WRITTEN AGREEMENTS BY WHICH LOCAL TEACHERS NEGOTIATE FOR ALL OR PART OF THE PROFESSIONAL STAFF IN RESPONDING SCHOOL SYSTEMS

Item		Enrollment grouping			Region							
		A (25,000 or more)	B (3,000 to 24,999)	C (1,000 to 2,999)	North-east	Mid-east	South-east	Great Lakes	Plains	South-west	Rocky Moun-tains	Far West
1		2	3	4	5	6	7	8	9	10	11	12
Yes:	1966-67 ...	44.2%	31.2%	20.3%	31.7%	22.5%	1.3%	34.0%	13.7%	5.0%	24.4%	72.5%
	1967-68 ...	59.4	43.2	27.8	51.7	32.4	3.7	44.9	30.4	7.8	32.0	80.4
No:	1966-67 ...	55.8	68.8	79.7	68.3	77.5	98.7	66.0	86.3	95.0	75.6	27.5
	1967-68 ...	40.6	56.8	72.2	48.3	67.6	96.3	55.1	69.6	92.2	68.0	19.6
Total:	1966-67 ...	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
	1967-68 ...	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Total response:	1966-67 ...	154	2,335	3,626	457	1,241	1,077	1,511	577	481	172	599
	1967-68 ...	160	2,570	3,622	429	1,276	1,115	1,620	601	474	178	659

TABLE 7B.--PERCENT OF INSTRUCTIONAL STAFF IN SCHOOL SYSTEMS WHICH HAVE WRITTEN AGREEMENTS BY WHICH LOCAL TEACHERS NEGOTIATE FOR ALL OR PART OF THE PROFESSIONAL STAFF IN RESPONDING SCHOOL SYSTEMS

Item		Enrollment grouping			Region							
		A (25,000 or more)	B (3,000 to 24,999)	C (1,000 to 2,999)	North-east	Mid-east	South-east	Great Lakes	Plains	South-west	Rocky Moun-tains	Far West
1		2	3	4	5	6	7	8	9	10	11	12
Yes:	1966-67 ...	59.7%	36.7%	23.2%	44.7%	44.1%	6.8%	55.0%	21.8%	25.1%	44.9%	81.7%
	1967-68 ...	73.5	47.1	29.5	66.6	58.3	17.7	63.9	43.4	23.4	57.4	87.1
No:	1966-67 ...	40.3	63.3	76.8	55.3	55.9	93.2	45.0	78.2	74.9	55.1	18.3
	1967-68 ...	26.5	52.9	70.5	33.4	41.7	82.3	36.1	56.6	76.6	42.6	12.9
Total:	1966-67 ...	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
	1967-68 ...	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Total response:	1966-67 ...	512,255	734,589	313,897	93,556	360,761	306,908	303,105	107,260	114,551	45,413	229,187
	1967-68 ...	553,225	863,144	327,080	99,487	391,520	369,544	345,476	118,755	113,523	48,882	256,262

Judicial Decisions, Opinions, and Statutes

STATE NEGOTIATION STATUTES

The new negotiation statute for Maryland, below, is in addition to those published in the April, May, and September, 1967, issues.

MARYLAND

AN ACT to repeal Section 175 of Article 77 of the Annotated Code of Maryland (1965 Replacement Volume), title "Public Education," subtitle "Chapter 15, Teachers' Associations," regarding the promotion of teachers' associations by the county examiners, and to enact new Section 175 in lieu thereof, said new section to stand in the place of the section so repealed, providing for the designation of an employee organization as the exclusive representative of public school employees in a specified unit or units in the counties and in Baltimore City, where qualifying provisions are met, and for such representative to serve as negotiating agent for such employees; to provide for procedures in the event of impasse in negotiations between such agent and a public school employer; to prohibit strikes by employee organizations; and providing for the duties of certain state and local officials and agencies in relation to this act.

Section 1. Be it enacted by the General Assembly of Maryland, that Section 175 of Article 77 of the Annotated Code of Maryland (1965 Replacement Volume), title "Public Education," subtitle "Chapter 15, Teachers' Associations," be and it is hereby repealed, and that new Section 175 be and it is hereby enacted in lieu of the section so repealed and to read as follows:

175.

(a) As used herein:

(1) "Employee organization" means any organization which includes certificated employees of a public school employer, and persons of equivalent status in Baltimore City, and which has as one of its primary purposes the representation of such employees in their relations with that public school employer.

(2) "Public school employer" means a county board of education or the Board of School Commissioners of Baltimore City.

(3) "Public school employees" means any certificated professional person employed by a public school employer, or any person of equivalent status in Baltimore City so employed, except the superintendent of schools and persons designated by the public school employer to act in a negotiating capacity as specified in subsection (h) (1) of this section.

(b) Public school employees shall have the right to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of being represented as to all matters relating to salaries, wages, hours and other working conditions. An employee organization may establish reasonable restrictions regarding who may join and may make reasonable provisions for the dismissal of individuals from membership.

(c) Public school employees shall also have the right to refuse to join or participate in the activities of employee organizations.

(d) No later than June 15, 1968 in each county, and no later than June 15, 1969 in Baltimore City, the public school employer shall designate, as hereinafter provided, which, if any, employee organization shall be the exclusive representative of all public school employees in a specified unit in such county or Baltimore City. The determination of the composition of the unit shall be made by the public school employer in negotiation with those employee organizations which request negotiation thereon; provided, however, that in no event shall there be more than two units in any county or Baltimore City; and provided further that all public school employees shall be included in one of said units and shall be permitted all the rights granted herein.

(e) The designation of an exclusive representative shall be made upon the following bases:

(1) Where an employee organization certifies to the public school employer that it has a membership enrollment of at least thirty percent (30%) of the total number of public school employees in a specified unit in a county or Baltimore City, as of June 1 of the year in which certification is made, such certification shall constitute a request for recognition as exclusive representative of all public school employees in said unit in such county or Baltimore City.

(2) Thereafter, if any other employee organization certifies that it has a membership enrollment of at least ten percent (10%) of the total number of public school employees in such unit, as of said June 1, then, in such event, an election shall be held, in which the public school employees in such unit shall be offered a choice among each of said employee organizations as the exclusive representative of all public school employees in said unit or of no exclusive representation.

(3) If no other employee organization certifies that it has a membership enrollment of at least ten percent (10%) of the total number of public school employees in such unit, then, upon request by said employee organization described in subsection (1) hereof, an election shall be held wherein the ballot shall offer a choice between exclusive representation by such organization and no exclusive representation.

(4) If no other employee organization certifies that it has a membership enrollment of at least ten percent (10%) of the total number of public school employees in such unit, and no request for election is made as provided for in subsection (3) hereof, then, upon further certification by said employee organization described in subsection (1) hereof that it has a membership enrollment of the majority of the public school employees in such unit in said county or Baltimore City, in such event the public school employer shall designate said employee organization as the exclusive representative of all public school employees in said unit in such county or Baltimore City.

(5) The state board of education shall adopt reasonable rules and regulations for verifying the number of certificated employees (or persons of equivalent status in Baltimore City) of the public school employer who are members in good standing of an employee organization on the date of such certification or who may have signed a petition provided for herein. The state board of education shall adopt reasonable rules and regulations for the conduct of elections held hereunder and the certification of the results thereof, and it shall provide supervision of such elections. Such elections shall be conducted in

each school facility where public school employees are assigned on a regularly scheduled school day, in a manner assuring the secrecy of the ballot, and all such elections shall be held on a regular working day for public school employees, between June 1 and June 15 inclusive, except that such an election shall not be held in Baltimore City in the year 1968. In all elections held hereunder, the employee organization receiving the largest number of votes cast in a unit shall be declared to be the exclusive representative of all public school employees in such unit; provided, however, that if the largest number of votes in said election is cast for no exclusive representation, then there shall be no representative designated for such unit. The public school employer shall provide such assistance as may be required in conducting said elections.

(f) The designation of an exclusive representative shall be for a minimum period of two years. Thereafter, such organization shall continue to serve as such exclusive representative until such time as another election is conducted. Subsequent elections may be held only after the expiration of the two-year period, upon petition, signed by more than twenty percent (20%) of the public school employees in said unit of said county or Baltimore City. All such elections shall be conducted in the same manner as provided heretofore, in Section (e) hereof. All signatures to a petition requesting subsequent elections must be obtained within ninety (90) days prior to said election date.

(g) An employee organization designated as an exclusive representative shall serve as the negotiating agent of all public school employees in the unit in such county or Baltimore City. An employee organization designated as exclusive representative of the employees in a unit must represent fairly and without discrimination all employees in the unit without regard to whether such employees are members of such employee organization.

(h) (1) A public school employer, or such representatives as it may designate, who shall not be less than two in number, shall meet and negotiate with two or more representatives of the employee organization so designated as the exclusive negotiating agent for the public school employees in a unit of said county or Baltimore City, upon request, with regard to all matters relating to salaries, wages, hours and other working conditions.

(2) The term "negotiate" as used herein shall include the duty to confer in good faith, at all reasonable times, and to reduce to writing the matters agreed upon as the result of such negotiations.

(3) The designation of such representatives by the employer as provided herein shall not preclude such employee organization from appearing before, or making proposals to the public school employer at any public meeting or hearing.

(i) If upon the request of either party the state superintendent of schools determines from the facts that an impasse is reached in negotiations between a public school employer and an employee organization designated as an exclusive negotiating agent, the assistance and advice of the State Board of Education may be requested, with the consent of both parties. In the absence of such consent, upon the request of either party, a panel shall be named to aid in the resolution of differences. Such panel shall contain three persons, one to be appointed by each party within three (3) days, and the third to be selected by the other two within ten (10) days from the date of said request. The State Board of Education, or the panel selected, shall meet with the parties to aid in the resolution of differences, and, if the matter is not otherwise resolved, shall make a written report and recommendation within thirty (30) days from the date of said request. Copies of such report shall be sent to representatives of both the public school employer and the employee organization. All costs of mediation shall be shared by the public school employer and the employee organization.

(j) Public school employers and employee organizations shall not interfere with, intimidate, restrain, coerce or discriminate against public school employees because of the exercise of their rights under subsections (b) and (c) hereof.

(k) Nothing contained herein shall be deemed to supersede other provisions of this Code and the rules and regulations of public school employers which may establish and regulate tenure. Notwithstanding any of the provisions of this section, the public school employer shall render the final determination as to all matters which have been the subject of negotiation, but this final determination shall still be subject to other provisions of this article concerning the fiscal relationship between the public school employer and the county commissioners, county council, or the mayor and council of Baltimore City.

(l) Employee organizations shall be prohibited from calling or directing a strike. If an employee organization designated as exclusive representative shall violate the provisions hereof, its designation as exclusive representative shall be revoked by the public school employer; and said employee organization and any other employee organization which violates any of the provisions hereof, shall be ineligible to be designated as exclusive representative for a period of two (2) years thereafter. If any employee organization violates the provisions hereof, the public school employer shall refrain from making payroll deductions for that organization's dues for a period of one (1) year thereafter.

(m) The enactment of this section shall not be construed so as to make the provisions of the Maryland Labor Laws contained in Articles 89 and 100 of this Code applicable to public school employment.

(n) If any provision of this section or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the section which can be given effect without the invalid provisions or application; and to this end the provisions of this section are severable.

Sec. 2. And be it further enacted, that this Act shall take effect June 1, 1968.

STATE OF MICHIGAN

SUPREME COURT

SCHOOL DISTRICT FOR THE CITY OF HOLLAND, OTTAWA AND ALLEGAN COUNTIES, MICHIGAN,

Plaintiff-Appellee,

v.

HOLLAND EDUCATION ASSOCIATION, WINONA PENNA, TED BOEVE, MARGARET DEPREE, DOROTHY BRADISH, BARBARA LAMPEN, DELLA BOWMAN, JOHN DOE AND MARY ROE,

Defendants-Appellants.

BEFORE THE ENTIRE BENCH

O'HARA, J.

Leave to appeal was granted in this case to review an order of the Court of Appeals.[1] The order denied a stay of proceedings previously granted and denied the prayer of the appellants to dissolve a temporary injunction. The order remanded the cause to the circuit court for hearing on the merits.

This is a chancery case. The constitutional provision (Const 1963, art 6, §5) abolishes the distinctions between law and equity proceedings. It did not abolish the historic difference between law and equity. We note this because it is as a Court of Equity we sit in the case at bar. In this, as in all other cases clearly in equity, we hear appeals de novo. The reason for this restatement of principle will appear decisionally later in our opinion.

In 1947, the legislature enacted what is generally referred to as the Hutchinson Act. CL 1948, §423.201 et seq., as amended by PA 1965, No 379 (Stat Ann 1960 Rev and Stat Ann 1968 Cum Supp §17.455 [1] et seq.).

We herewith set forth the title to the act as amended by PA 1965, No 379:

> An act to prohibit strikes by certain public employees; to provide review from disciplinary action with respect thereto; to provide for the mediation of grievances and the holding of elections; to declare and protect the rights and privileges of public employees; and to prescribe means of enforcement and penalties for the violation of the provisions of this act.

Its first section, as amended by PA 1965, No 379, defines a strike:

> As used in this act the word "strike" shall mean the concerted failure to report for duty, the wilful absence from one's position, the stoppage of work, or the abstinence in whole or in part from the full, faithful and proper performance of the duties of employment, for the purpose of inducing, influencing or coercing a change in the conditions, or compensation, or the rights, privileges or obligations of employment.

The second section specifies the employees affected:

> No person holding a position by appointment or employment in the government of the state of Michigan, or in the government of any 1 or more of the political subdivisions thereof, or in the public school service, or in any public or special district, or in the service of any authority, commission, or board, or in any other branch of the public service, hereinafter called a "public employee," shall strike.

In the late summer of 1967 the teachers in the School District for the City of Holland, Ottawa and Allegan Counties, acting through their duly certified collective bargaining agency, did not resume their teaching duties on the day set by the board of education. If they were employees within the meaning of the statute they were on strike as that term is defined in the statute.

The school district sought an injunction restraining the teachers from withholding their services. A hearing was held and the trial chancellor issued a temporary injunction. The Court of Appeals denied continuation of a stay order previously granted and the prayer to dissolve the injunction. We likewise denied a stay order and declined to dissolve the injunction but granted leave to appeal. The case is before us in that posture. Regrettably, we have a meager record, the pleadings, transcribed colloquies between court and counsel, and oral argument. To the extent possible, in order that our decision be precedentially meaningful, we will discuss those basic issues which relate to the legal concepts which we consider must govern, and will not limit ourselves to the narrow question of the propriety of the issuance of the temporary injunction.

We acknowledge the very thorough and helpful briefs of the parties and those filed amicus curiae.

The first argument to which we must address ourselves is the challenge to the constitutionality of the statute. Appellants contend it violates guarantees in both our Federal and the State constitutions. The constitutional rights claimed to be violated are those guaranteeing freedom of speech, assembly, freedom from involuntary servitude, and denial of equal protection of law. Appellants concede that the act has once been judicially declared free from constitutional infirmity. This Court so held in City of Detroit v. Division 26 of the Amalgamated Association of Street, Electric Railway & Motor Coach Employees of America (1952), 332 Mich 237. Appellants argue, however, that in the intervening years Federal Supreme Court decisions, notably Garrity v. New Jersey, 385 US 493, decided in 1967, have eroded the basis of this Court's decision in the Detroit public employees case.

We cannot agree. We are indeed mindful of the argument so vigorously advanced that public employees generally, and particularly teachers, are denied rights

1/ 7 Mich App 569.

enjoyed by those in private employment to their prejudice. The wisdom and philosophy of the act in question is not ours to question. We do not hold here that limitations upon the right to strike by public employees could not be exercised by a legislature in an unconstitutional manner. We are concerned with our act and it alone. We do not read Garrity, supra, either directly or by implication to have overruled Detroit v. Association of Employees hereinbefore cited. Garrity concerned itself with the privilege against self-incrimination as against job forfeiture, a principle not involved herein. To hold our act flatly unconstitutional we would have to disregard our own precedent and the overwhelming weight of nationwide authority. We reaffirm the principle that within limitations not here relevant the sovereignty may deny to its employees the right to strike.

Next, it is argued that if the act be constitutional, as we have here held, it is inapplicable to appellants for 2 reasons; first, because appellants are not "employees" within the meaning of the act, and second, that as to teachers, injunctive relief may not be granted because an alternative exclusive remedy is to be found in the act.

We consider the first. The principal thrust of this argument is that, because no contracts of employment were in force between appellants and appellee school district at the time the injunction issued, the involved teachers cannot be employees as a matter of law. It is contended that the school code, specifically CLS 1961, §340.569, as amended by PA 1965, No 14 (Stat Ann 1968 Rev §15.3569), mandates such conclusion. Appellants refer to this argument as the "keystone issue." This position is supported by the Attorney General, a party hereto by our invitation. The issue divided us in disposing of the question of the dissolution of the temporary injunction and the continuance of a previously granted stay order thereof. It has been the subject of the most extensive briefing of any issue in the case, and was the focal point of appellants' forceful presentation on oral argument. We note all of the foregoing in order that the parties may be fully aware that we have given to it the fullest and most careful consideration. In finality, we have come to the conclusion that Garden City School District v. Labor Mediation Board, 358 Mich 258, of necessity must control. In that case the positions of the parties herein were reversed. In Garden City, the school board sought injunctive restraint against the State labor mediation board in its attempted mediation between teachers and the board. The school board challenged that jurisdiction, in part, on the ground that the school code required written contracts, and that the mediation board had no jurisdiction over the terms thereof. This Court said (pp 262, 263):

> Public school teachers are certainly persons "holding a position by appointment or employment * * * in the public school service."
>
> Appellant school board contends, however, that the provisions of the school code of 1955 (CLS 1956, §340.569 [Stat Ann 1959 Rev §15.3659]), by providing that teachers shall be hired by written contract, denies jurisdiction to the labor mediation board for mediation as to any terms which might be included in such contracts.
>
> The written contract provision was first adopted in 1927, and the legislature was certainly familiar with its requirements when it adopted PA 1947, No 336, which we have quoted. We read these 2 acts together as allowing mediation of salary disputes in advance of the determination of the salary provisions of individual teacher contracts. (Emphasis supplied.)

Since this Court concluded that there is jurisdiction to mediate grievances "in advance of the determination of salary provisions," it follows that such jurisdiction would necessarily attach in advance of the executing of the written contracts themselves, which are required in the case of teachers, by the School Code.

If teachers as we have held are subject to the provision of the Hutchinson Act dealing with the mediation grievances in advance of signing written contracts, we can hardly hold with consistency that they are not subject to the no-strike provision of the same act for the same reason. We are constrained to hold that appellants were "employees" within the terms of the act.

We next turn to the exclusivity of remedy argument. It is based on §6 of the act,2/ which provides:

> Notwithstanding the provisions of any other law, any person holding such a position who, by concerted action with others, and without the lawful approval of his superior, wilfully absents himself from his position, or abstains in whole or in part from the full, faithful and proper performance of his duties for the purpose of inducing, influencing or coercing a change in the conditions or compensation, or the rights, privileges or obligations of employment shall be deemed to be on strike but the person, upon request, shall be entitled to a determination as to whether he did violate the provisions of this act. The request shall be filed in writing, with the officer or body having power to remove or discipline such employee, within 10 days after regular compensation of such employee has ceased or other discipline has been imposed. In the event of such request the officer or body shall within 10 days commence a proceeding for the determination of whether the provisions of this act have been violated by the public employee, in accordance with the law and regulations appropriate to a proceeding to remove the public employee. The proceedings shall be undertaken without unnecessary delay. The decision of the proceeding shall be made within 10 days. If the employee involved is held to have violated this law and his employment terminated or other discipline imposed, he shall have the right of review to the circuit court having jurisdiction of the parties, within 30 days from such decision, for determination whether such decision is supported by competent, material and substantial evidence on the whole record.

In this regard we find ourselves in harmony with the holding of the Court of Appeals:3/

> The claim of the defendants that §6 of the public employees relations act is the only remedy available to the school board cannot be accepted by this Court. Its provisions for discipline of striking public employees and review procedure for them cannot be interpreted to imply removing the historic power of courts to enjoin strikes by public employees. See 31 ALR 2d 1142 and the cases cited therein.

Additionally, we deem it necessary to observe that the whole section deals with after-the-fact remedies by the employee. The withholding of services and the cessation of compensation for services has had to have taken place before the section can operate. It must be said that appellants' position is eminently, indeed inexorably logical in this regard. The section cannot operate within a situation where injunctive restraint of the withholding of such service has already been granted. We would find ourselves in a complete logical self-contradiction if we were to hold as we have here that courts retain their jurisdiction to issue a restraining order against withholding of services by public employees, and

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2/ CL 1948, §423.206, as amended by PA 1965, No 379.

3/ 7 Mich App 569, 574.

at the same time hold §6 to be an exclusive remedy. The section seems to us to support the conclusion that the legislature intended that injunctive relief could be granted, but that courts are not required to grant it in every case involving a strike by public employees. To attempt to compel legislatively, a court of equity in every instance of a public employee strike to enjoin it would be to destroy the independence of the judicial branch of government.

Having held that the Hutchinson act is without constitutional infirmity, that appellants are public employees and as such subject to its no-strike provisions, and that the courts have jurisdiction to restrain prohibited strikes by public employees, but are not required to do so in every case, we turn to the question of whether in the case at bar the chancellor had before him that quantum of proof or uncontradicted allegations of fact which would justify the issuance of an injunction in a labor dispute case.

We here hold it is insufficient merely to show that a concert of prohibited action by public employees has taken place and that ipso facto such a showing justifies injunctive relief. We so hold because it is basically contrary to public policy in this State to issue injunctions in labor disputes absent a showing of violence, irreparable injury, or breach of the peace. For a recent discussion of this question, see Cross Company v. UAW Local No. 155 (AFL-CIO), 371 Mich 184. We further so hold because such an interpretation of the act would as before noted raise a serious constitutional question.

We indicated earlier that we deal with a meager record. No testimony was taken on the hearing upon the application for the temporary injunction. Simply put, the only showing made to the chancellor was that if an injunction did not issue, the district's schools would not open, staffed by teachers on the date scheduled for such opening. We hold such showing insufficient to have justified the exercise of the plenary power of equity by the force of injunction. We are mindful of the exemplary conduct of the teachers when the writ, valid on its face, was issued. We are mindful, too, that the appellee district has cooperated by the maintenance of the previous year's schedule of payments to the teachers as was conceded in oral argument.

We recognize that great discretion is allowed the trial chancellor in the granting or withholding of injunctive relief. We do not, in ordinary circumstances, substitute our judgment for his. We hold here, however, that there was a lack of proof which would support the issuance of a temporary injunction.

The order of the Court of Appeals, affirming the circuit court is reversed. Hearing the matter as we do de novo, we dissolve the temporary injunction hereinbefore issued, and remand to the circuit court for further proceedings. We suggest that such proceedings inquire into whether, as charged by the defendants, the plaintiff school district has refused to bargain in good faith, whether an injunction should issue at all, and if so, on what terms and for what period in light of the whole record to be adduced. No costs, a public question.

REPORT AND RECOMMENDATIONS OF THE AD HOC COMMITTEE APPOINTED TO RESOLVE THE IMPASSE IN NEGOTIATIONS BETWEEN THE ROCHESTER BOARD OF EDUCATION AND THE ROCHESTER TEACHERS ASSOCIATION

Introduction

The current contract between the Rochester Board of Education and the Rochester Teachers Association expires on June 30, 1968. Negotiations for a renewal of the contract are currently at an impasse. Pursuant to the provisions of the existing contract, the Board and the RTA mutually selected the undersigned to serve as an "Ad Hoc Committee," empowered "to take whatever steps it deems necessary in order to assist the parties to resolve their differences."

On March 22, 1968, the Committee met with representatives of the Board and of the RTA to ascertain what role it could play in helping to resolve the impasse in negotiations. The Committee was then advised that the sole issue before it was the starting salary for teachers of the Rochester School District for the year 1968-69.

The Committee was informed that the opening demand of the RTA in the present negotiations was a starting salary of $7,500; that the only counter-offer of the Board was $6,500; and that the RTA subsequently responded to the Board's counter-offer by reducing its demand from $7,500 to $7,300. The Board representatives asserted that they had been advised by city officials that the city lacked sufficient funds from tax revenues and other sources to finance even the initial proposal of the Board--to wit $6,500--and that, accordingly, there was no alternative for the Board except to stand fast at its original figure.

With the sole issue of the starting salary before it, the Committee proceeded to hold a series of hearings and conferences during which it heard from the Board, the Superintendent of Schools, members of the negotiating teams of the Board and of the RTA, the City Manager, and other officials and knowledgeable Rochester citizens. In the course of these proceedings, the Committee was informed in considerable detail of the financial condition of the City and School District of Rochester. The Committee was also apprised of the problems of recruitment and retention of teachers, and of the trend of teacher salaries in Monroe County, in other areas of the State of New York, in the interstate geographic region which constitutes the "labor market" for the Rochester School District, and in other large cities across the country.

After thorough consideration of the evidence presented, the Committee finds and recommends as follows.

Findings and Recommendations

The Committee is confronted at the outset by the question of the criteria to be applied in determining and recommending a starting salary for the teachers of Rochester. If the "ability to pay" standard were to be accepted as the sole, or even primary, test, the consequences would be: (1) either Rochester would be unable to recruit and retain competent teachers or the teachers would be subsidizing, through the inadequacy of their salaries, a substantial part of the costs of public education in the Rochester School District; (2) the public officials responsible for the funding of public education in Rochester, including the School Board, the City Council, and county and state legislators, would be relieved of the political pressures they ought to bear.

Employees in the private sector who are aggrieved by the inadequacy of their compensation are permitted by law to engage in self-help through concerted activities--most especially the strike--to improve their lot. This right is denied to public employees in the State of New York (as elsewhere) by the Public Employees Fair Employment Act (the "Taylor Act"), which superseded the Condon-Wadlin Act on September 1, 1967. If the procedures of the new "Taylor Act" for the strikeless resolution of negotiating impasses in public employment are to achieve their goal, they must make available to aggrieved public employees an alternative means of bringing proper pressure to bear upon public officials. If public employees cannot obtain fair remuneration for their services through the impasse procedures provided by law, then strikes by public employees may become the rule, rather than the exception.

Accordingly, the Committee, while recognizing the fiscal plight of the City of Rochester, is not willing to impose the burden of that plight upon the teachers of the Rochester school system nor upon the students who will suffer if Rochester is unable to attract and retain qualified teachers.

The criterion which the Committee deems centrally relevant in making its recommendations as to the starting salary for Rochester teachers in the year 1968-69 is provided by the appropriate labor market. This labor market may be variously defined. In its narrowest definition it encompasses the 18 school districts of Monroe County. A bit more broadly defined, it encompasses the school districts of the State of New York. More broadly defined, it encompasses the school districts of the entire interstate geographic region in which Rochester is located.

Employing these market criteria the Committee finds that the starting salary for teachers in the Rochester School District for 1968-69 should be $6,800. The Committee so recommends.

The Committee makes this recommendation for the following reasons:

1. In the most immediately relevant labor market for school teachers--i.e., Monroe County--the Committee finds that a beginning salary of $6,800 is necessary to enable the Rochester School Board to compete successfully for a competent staff. In the Committee's judgment, Rochester should pay the top salaries for teachers in Monroe County. The reason for this is that teaching in an urban, as opposed to a suburban, school district is a more demanding and challenging responsibility. The $6,800 starting figure for Rochester teachers affords, in the Committee's judgment, a level which will permit Rochester to recruit the quality and quantity of teachers it needs.

2. Looking to a broader labor market--that of the State of New York generally--the Committee notes that the school board of the neighboring city of Buffalo has recently executed a contract with its teachers providing for a beginning salary of $6,800. Eastern portions of the state are reporting settlements at the same general level.

3. The current salary of $5,900 for beginning teachers in Rochester is $300 below the top two school districts in Monroe County and places Rochester currently 15th out of the 18 Monroe County districts in starting salary.

4. The "turnover" rate of teachers in the Rochester School District has increased from 15.5 percent in 1962-63 to 22.3 percent in 1966-67. This means that the District must recruit more than 500 teachers each year. As late as July of the past year 117 teaching positions remained unfilled for the school year beginning two months thereafter. Moreover, the percentage of males among the new teachers hired decreased from 27.2 percent in 1963-64 to 24.3 percent in 1967-68. The Committee believes that a beginning salary scale of $6,800 will reduce the high percentage of teachers who leave the school system each year, and help to attract more male teachers, who are needed particularly in the inner city schools.

An argument can be made, and indeed has been forcefully made by RTA representatives in the proceedings before the Committee, for a higher starting salary than $6,800. The Committee, however, has concluded that the latter figure will render Rochester competitive in the relevant labor market, without unduly worsening the city's already acute dilemma concerning the financial resources to provide necessary services.

The Fiscal Condition of the City of Rochester

The Committee has concluded that it would be remiss in discharging its responsibilities were it not to comment upon the fiscal dilemma of the City of Rochester. Two years ago, a similar Committee confronted by the same task as the present Committee made reference to the "dire straits of the City and of its dependent school district concerning revenue for essential public services." The 1966 Committee observed:

> It is no exaggeration to say that the Committee is appalled by what it has learned. In brief, the lesson is this: Rochester, a city with few peers in the matter of per capita income, is close to the point of inability to provide essential public services. This may come as a shock to those who have not had occasion to examine the fiscal facts of life in this community. The constitutional ceiling has been about reached with respect to real estate taxes. The City's share of the county sales tax has been dwindling because of the shift of population from city to other communities in the county and because of the population basis for the allocation of sales tax revenues among the municipalities of the county.
>
> The upshot of the foregoing developments has been to create an inequitable distribution of burden between city residents and out-county residents with respect to the services provided by the city. While the city remains the economic heartland of the county, the place where many non-city residents come daily to earn their livelihood, the city has lost a substantial amount of revenue by reason of the aforesaid population shift. The effect of this shift has been to create a double squeeze on city revenues. First, the loss of residents to the suburbs has adversely affected real estate values in the city, thus limiting the city's revenues from real estate taxes. Second, the loss of population to the suburbs has decreased the city's share of the county sales tax revenue under the present inequitable scheme of distribution of such revenue on a population basis.

The 1966 Committee closed its report by reiterating:

> In concluding, the Committee wishes to emphasize again the distressing fiscal crisis in which the city of Rochester finds itself. New revenues must be produced in order to permit the city to meet its mounting responsibilities, not only with respect to its schools, but also in the provision of other essential public services. The inequities in distribution of tax burden between residents of the city and of the surrounding suburbs, all of whom benefit from city services, must be confronted if decay of the city is not to proceed apace--a consequence of concern to all residents of Monroe County. It is ironic that in the midst of private affluence such public poverty should prevail.
>
> Lest it be misunderstood, the Committee wishes to make clear that it does not mean to attribute blame for the fiscal dilemma of Rochester to any public officials or agencies. The problems of Rochester are not peculiar to it, but are indeed shared by many other large metropolitan centers. These problems, however, can no longer be safely ignored.
>
> To the extent they are not dealt with, future blame will indeed be attributable to those possessed of the authority and responsibility for dealing with such matters.

The most charitable addendum the present Committee can add to the foregoing excerpts from the 1966 Committee reports is "Amen!" A more accurate addendum would note that the most significant change which the intervening two years have brought is that the situation is now considerably worse. The "future blame" referred to in the 1966 Committee's report is now present blame, and it must be shared by those public officials "possessed of the authority and responsibility for dealing with such matters."

The present Committee's investigation leads it to conclude that public officials at all levels of government must work to find new solutions to the fiscal problems of cities whose diminishing populations are called upon to provide expanding services to surrounding communities which depend upon the urban core for their livelihood and prosperity and which should therefore bear their fair share of the costs of maintaining the economic health of the parent city. This challenge is especially relevant to Monroe County which has long been proud of Rochester's reputation as the "Quality City." Since local industry depends so heavily upon a supply of highly skilled labor, the importance of a well-educated work force highlights the need for skilled and dedicated teachers in the urban center. The County of Monroe therefore has an obligation to adopt either a new formula for distribution of county sales tax revenue, or provide other forms of assistance for the revenue-starved city. Rochester similarly needs the support of state legislators in opening up new sources of tax revenue or other state aid. Rochester similarly needs, along with the other large cities of the nation, federal support and assistance.

It is not within the province of this Committee to detail the potential sources of financial plasma for this sick patient. The Committee calls attention, however, to the impending report of the Citizens Advisory Panel on Financing Public Education, a body of public-spirited citizens of Rochester who have been studying the possible sources of additional revenue for the Rochester School District at a depth and with a scope not available to this Committee, operating as it has under the pressures of an emergency impasse in collective negotiations and an April 15 deadline for the School Board's budget to be presented to the City Council.

Respectfully submitted,

/s/ _____
Robert R. France

/s/ _____
Jean T. McKelvey

/s/ _____
Walter E. Oberer
Chairman

Dated: April 8, 1968

Negotiation Agreements

AGREEMENT

BETWEEN THE

FRAMINGHAM (MASSACHUSETS) SCHOOL COMMITTEE

AND

FRAMINGHAM TEACHERS ASSOCIATION (NEA):

UNIT A - TEACHERS

UNIT B - ADMINISTRATORS

UNIT A: TEACHERS

AGREEMENT

This AGREEMENT is made and entered into on this 14th day of February, 1967, by and between the FRAMINGHAM SCHOOL COMMITTEE (hereinafter referred to as the "Committee") and the FRAMINGHAM TEACHERS ASSOCIATION (hereinafter referred to as the "Association").

PREAMBLE

The Framingham School Committee and the Framingham Teachers' Association recognize that, in a democratic society, education must be a continuous evaluation and active promotion of all universal truths; that each child is entitled to an educational program designed to meet his specific educational needs; that each child is entitled to instruction by personnel professionally qualified and adequate in number in order that education of the highest quality may be the effective result; that more attention should be devoted to the constructive guidance of leisure-time and in-school time activities of students; that commensurate with quality education is the need for good morale within the teaching staff; that both the Committee and the Association view the consideration of matters of mutual concern as a joint responsibility.

ARTICLE I

RECOGNITION

A. The Committee recognizes the Association for the purpose of collective bargaining as the exclusive representative of a unit consisting of all professional teaching employees of the Framingham School System falling into any one of the following categories:

All classroom teachers or teachers of remedial or special education, including all department heads, professional guidance personnel serving pupils directly in a counseling capacity, work study program personnel, computer service personnel, the Art, Audio-Visual, Home Economics, Industrial Arts, Music, Physical Education Directors and Assistant Directors, school librarian and all Administrative Interns, but excluding substitute teachers and all other employees of the school department.

ARTICLE II

NEGOTIATION PROCEDURE

A. Not later than November 1 of the calendar year in the calendar year in which this Agreement expires, the Committee agrees to enter into negotiations with the Association over a successor agreement.

B. Any agreement reached with the Committee, will be reduced to writing, will be signed by the Committee and the Association, and will become an addendum to this Agreement.

ARTICLE III

GRIEVANCE PROCEDURE

A. A "grievance" is hereby defined to mean a dispute involving the meaning, interpretation, or application of this contract.

B. Failure at any step of this procedure to communicate the decision of a grievance within the specified time limits to the aggrieved employee and to the President of the Association shall permit the aggrieved party or parties to proceed to the next step.

C. Failure at any step of this procedure to appeal the grievance to the next step within the specified time limits shall be deemed to be acceptance of the decision rendered at that step.

D. No reprisals of any kind shall be taken by any party of this Contract against any party in interest, any witness, any member of the Personnel Committee of the Association, or any other participant in the grievance procedure by reason of such participation.

E. A grievance that affects a group or class of teachers from a different building or department, or is of a general nature, may be submitted in writing by the Association to the Superintendent directly and the processing of such grievance shall be commenced at Level Two.

F. If any employee covered by this contract shall present any grievance without representation by the Association, the disposition, if any, of the grievance shall be consistent with the provisions of this Contract. The Association shall be permitted to be heard at each level of the procedure under which the grievance shall be considered.

When a grievance arises, the grievance must be filed within ten (10) school days (or when school is not in session, fourteen (14) calendar days) from the day of the event upon which the grievance is based or from the date when the teacher had or should have had knowledge of the event.

Level One

A teacher with a grievance, shall with or without a building representative of the Association, present it to

his immediate supervisor and/or the principal within (10) school days of the event on which the grievance is based. Any meeting with reference to the above shall be held during non-school hours.

Level Two

A. In the event that the grievance shall not have been disposed of to the satisfaction of the aggrieved employee at Level One, or in the event that no decision has been reached within ten (10) school days after presentation of the grievance to the immediate supervisor and/or principal, the grievance shall be reduced to writing and referred to the Superintendent of Schools within five (5) school days of the disposition under Level One.

B. The Superintendent shall represent the School Committee at this level of the grievance procedure. Within (10) school days after receipt of the written grievance by the Superintendent, he or his designee shall meet with the aggrieved employee and said President or his designee in an effort to settle the grievance.

Level Three

In the event that the grievance shall not have been disposed of at Level Two, or in the event that no decision has been rendered within ten (10) school days after the Level Two meeting, the grievance shall be referred in writing to the School Committee. At its next regular School Committee meeting or at a special meeting called for the purpose of considering the grievance, the School Committee shall meet with the Association in an effort to settle the grievance.

Level Four

A. In the event that the grievance shall not have been satisfactorily disposed of at Level Three, or in the event that no decision has been rendered within ten (10) school days after the Level Three meeting, the Association may refer in writing within ten (10) school days of the disposition under Level Three the unsettled grievance to arbitration. The Arbitrator shall be selected by agreement between the parties. If the parties are unable to agree upon an arbitrator, the selection shall be made by the American Arbitration Association, in accordance with its rules and regulations.

B. The arbitrator shall be without power or authority to modify or alter the terms of this contract.

C. The decision of the arbitrator shall be in writing and shall be rendered within thirty (30) days after the hearing is declared closed. This decision shall be final and binding on both parties.

D. The costs for the services of the arbitrator shall be borne equally by the School Committee and the Association.

ARTICLE IV

SALARIES

A. The salaries of all persons covered by this Agreement are set forth in Appendix "A" which is attached hereto and made a part hereof.

B. Definition of Degrees and Advanced Graduate Study:

1. Bachelor's Degree is defined as a baccalaureate degree earned at a college or university accredited by the U. S. Department of Health, Education, and Welfare.

2. Master's Degree is defined as a graduate degree earned at a college or university accredited by the U.S. Department of Health, Education, and Welfare.

3. Advanced Credit is defined as credits earned subsequent to receiving a master's degree at a college or university accredited by the U.S. Department of Health, Education, and Welfare.

ARTICLE V

SPECIALISTS AND SPECIAL PROGRAMS

A. The Committee and the Association recognize the fact that an adequate number of competent specialists is essential to the operation of an effective educational program. To this end, where practical and possible, the School Committee will strive not to reduce the number of specialists employed in the school system and where circumstances warrant, will strive to increase their number.

B. Where practical and possible the Junior and Senior High School Guidance Counsellors workload shall include the responsibility of not more than 300 students.

C. Where practical and possible, the workload of the Head Guidance Counsellors in the Secondary School shall not exceed sixty percent of that of the other members of the Guidance Department.

D. A joint Committee-Association subcommittee will be established as soon as practical to consider means of clarifying the assignments of specialists within the Framingham School System. The report of said subcommittee will be presented not later than April 1, 1967 for school committee consideration looking toward possible implementation for the 1967-68 school year.

ARTICLE VI

NON-TEACHING DUTIES

The Committee and the Association acknowledge that a teacher's primary responsibility is the total education of the children in his care.

A. 1. Assignment of teachers for non-teaching duties shall be on a reasonable basis.

2. Although teachers may be required to collect and transmit money to be used for educational purposes, they will not be held responsible for the loss of any money collected where such loss is not the fault of the teacher.

B. Teachers will not be required to drive pupils to activities which take place away from the school building. Teachers may do so voluntarily, however, with the advance approval of their principal or immediate supervisor. In such event, the teacher will be relieved of all personal liability for any accident which may occur in connection with said trip when such accident is not the result of negligence on the part of the teacher.

C. Volunteers will be solicited for the positions of class advisors, student council advisors, yearbook and newspaper business managers, and school treasurers. If there is no qualified volunteer for any of the above positions, a teacher may be appointed by the Superintendent or his designee to fill the position.

ARTICLE VII

TEACHER EMPLOYMENT

A. The Framingham School Committee reserves the right to grant salary credit for experience or specialized abilities other than actual teaching experience.

B. The granting of such credit must be recommended by the administration and must be voted by the Framingham School Committee.

C. A prospective teacher who has spent one (1) year or more in the service of his country and has an honorable discharge, may apply for extra salary credits. No more than two (2) salary credits shall be granted for military service. This shall not apply to anyone entering the System prior to the execution of this Agreement.

D. A prospective teacher who has had experience related to teaching or who possesses specialized abilities needed by the School System may apply for extra salary credit. No more than five (5) salary credits shall be granted under this classification and no more than one (1) year's credit shall be granted for each year's experience. Furthermore, C and D are exclusive. No candidate shall receive salary credits under both classifications.

E. Any teacher who receives extra salary credits under Section C and D above, must receive his teaching certificate within two (2) school years of his date of employment.

F. The granting of salary credits under C and D shall not place an individual above Step 10 on the salary schedule.

G. This policy shall become effective on the execution date of this Agreement, and shall not be applied retroactively. Any situations not following strictly the above regulations shall be reviewed by the Administration, and upon its recommendation brought to the School Committee for action.

ARTICLE VIII

CLASS SIZE

The School Committee and the Association recognize that class size is an important factor in good education and will whenever possible, subject to space availability and all other educational consideration, insure that class size is of the most effective nature for both teacher and pupil. However, the final decision as to class size will be made by the School Committee in the best interest of all.

ARTICLE IX

TEACHER ASSIGNMENT

A. Teachers will be notified in writing of their programs for the coming school year, including the schools to which they will be assigned, the grades and/or subjects that they will teach, and any special or unusual classes that they will have, as soon as practicable.

B. In order to assure that pupils are taught by teachers working within their areas of competence, teachers will not be assigned, except temporarily and for good cause, outside the scope of their teaching certificates and/or their major or minor fields of study.

C. To the extent possible, changes in grade assignment in the elementary schools and in subject assignment in the secondary schools, will be voluntary.

D. In arranging schedules for teachers who are assigned to more than one school, an effort will be made to limit the amount of inter-school travel. Such teachers will be notified of any changes in their schedules as soon as practicable. Teachers who are assigned to more than one school in any one school day will receive ten cents (10¢) per mile for all inter-school driving done by them, subject to the regulation currently in existence.

ARTICLE X

VACANCIES AND PROMOTIONS

A. Whenever any vacancy in a professional position occurs, including those outside the bargaining unit during the school year (September to June), it will be adequately publicized by the Superintendent by means of a notice placed on the Association bulletin board in every school as far in advance of the appointment as possible. During the months of July and August, written notice of any such vacancy will be given to the Association. In both situations, the qualifications for the position, its duties, and rate of compensation, will be clearly set forth.

B. All teachers will be given adequate opportunity to make application for such positions, and the committee agrees to give consideration to the professional background and other attainments of all applicants.

ARTICLE XI

POSITIONS IN SUMMER SCHOOL, EVENING SCHOOL AND UNDER FEDERAL PROGRAMS

A. All openings for summer school and evening school positions and for positions under Federal programs will be adequately publicized by the Superintendent in each school building as early as possible and teachers who have applied for such positions will be notified of the action taken regarding their applications as early as possible.

B. Positions in the Framingham summer school and evening school and positions under Federal programs will be to the extent possible, filled first by regularly appointed teachers in the Framingham School System where those teachers possess qualifications equal to those of candidates outside the school system.

C. All teachers will be given adequate opportunity to made application for these positions in summer school, evening school and under Federal programs. The Committee shall give consideration to the professional background and other attainments of all applicants.

ARTICLE XII

TEACHER EVALUATION

A. Supervision of teachers will be conducted professionally, openly and with full knowledge of the teacher. Teachers will be given a copy of any evaluation report prepared by their superiors and will have the right to discuss such report with their superiors.

B. 1. Teachers will have the right, upon written request to review the contents of their personnel file.

2. No material derogatory to a teacher's conduct, service, character or personality will be placed in his personnel file unless the teacher has had an opportunity to review the material. The teacher will acknowledge that he has had the opportunity to review the material by affixing his signature to the copy to be filed with the express understanding that such signature in no way indicates agreement with the contents thereof. The teacher will also have the right to submit a written answer to such material and his answer shall be reviewed by the Superintendent and attached to the file copy.

C. Any serious complaints regarding a teacher made to any member of the Administration by any parent, student,

or other person will be promptly called to the attention of the teacher.

D. The Association recognizes the authority and responsibility of the principal for disciplining or reprimanding a teacher for delinquency of professional performance. If a teacher is to be disciplined or reprimanded by a member of the Administration above the level of the principal, however, he may request to have a representative of the Association present.

E. No teacher will be disciplined, reprimanded, reduced in rank or compensation or deprived of any professional advantage without just cause. Provided, however, that the right to discharge a nontenure teacher because of unsatisfactory work performance will be within the sole discretion of the Administration as will the determination as to what constitutes unsatisfactory work performance. Unsatisfactory work performance as used in this Article refers to those matters included in the teacher's personnel file.

F. The Committee reserves the right to set reasonable standards of behavior for teachers.

G. A joint Committee-Association subcommittee (consisting of three (3) members appointed by the Committee and three (3) members appointed by the Association, of which at least one must be a teacher and one an Administrator), will be established as soon as practicable to consider means of improving the procedures for the evaluation of teachers. The report of said subcommittee will be presented to the Committee and the Association not later than April 1, 1967.

ARTICLE XIII

TEACHER FACILITIES

Where practical and possible each school will have the following facilities:

1. Space in each classroom in which teachers may safely store instructional materials and supplies.

2. A teacher work area containing adequate equipment and supplies to aid in the preparation of instructional materials.

3. An appropriately furnished room, which will include a telephone, to be reserved for the exclusive use of the teachers as a faculty lounge. Said room will be in addition to the aforementioned teacher work area.

4. A serviceable desk and chair for the teacher in each classroom.

5. A communication system so that teachers can communicate with the main building office from their classroom.

6. A well-lighted and clean male teacher rest room and a well-lighted and clean female teacher rest room.

7. A separate, private dining area for the exclusive use of the professional staff.

8. An adequate portion of the parking lot reserved for teacher parking.

ARTICLE XIV

USE OF SCHOOL FACILITIES

A. 1. Upon making arrangements with the Director of Buildings and Grounds, the Association will have the right to use school buildings without cost at reasonable times for meetings. The Principal of the building in question will be notified in advance of the time and place of all such meetings.

2. Upon making arrangements with the Director of Buildings and Grounds, the Association will have the right to use the gymnasium and other athletic facilities and equipment at the high school without cost one (1) evening each week. The Principal of the building in question will be notified in advance of the time and place of all such meetings.

B. Where practical and possible, there will be one (1) bulletin board in each school building, which will be placed in the faculty lounge, for the purpose of displaying official Association notices, circulars and other material of a non-controversial nature. Copies of all such material will be given to the building principal, but his advance approval will not be required. If the principal objects to a particular bulletin, he will take the matter up with the Association.

C. Use of school facilities and equipment for Association use shall be freely granted within reasonable limits. The cost of any materials used will be borne by the Association.

D. No teacher will be prevented from wearing pins or other identification of membership in the Association or any other teacher organization.

ARTICLE XV

SICK LEAVE

The present sick leave policy will remain in effect.

ARTICLE XVI

TEMPORARY LEAVES OF ABSENCE

A. Death in the Immediate Family -- Full time employees shall be allowed a period of three (3) days absence without loss of pay each time there is a death in his immediate family. The immediate family is defined to include mother, father, sister, brother, child, spouse, mother-in-law and father-in-law.

B. Personal Reasons -- A full time employee may be allowed a total of three (3) days absence each calendar year without loss of pay for reasons approved by his principal. Said approval shall not be unreasonably withheld. Application for personal leave must be made at least twenty-four (24) hours before the taking of such leave except in the case of an emergency. The benefits of this paragraph shall not be utilized so as to extend a holiday or a vacation period.

ARTICLE XVII

EXTENDED LEAVES OF ABSENCE

A. The Committee agrees that up to three (3) teachers designated by the Association may, upon individual request to the school committee, be granted a leave of absence for up to two (2) years without pay for the purpose of engaging in Association (local, state or national) activities. The exercise of this discretion by the School Committee will be reasonable. Upon return from such leave a teacher will be considered as if he were actively employed by the Committee during the leave and will be placed on the salary schedule at the level he would have achieved if he had not been absent. An employee may be granted only one leave during his lifetime.

B. A leave of absence without pay of up to two (2) years will be granted to any teacher who joins the Peace

Corps or serves as an exchange teacher, and is a full time participant in either of such programs. Upon return from such leave a teacher will be considered as if he were actively employed by the Committee during the leave and will be placed on the salary schedule at the level he would have achieved if he had not been absent.

C. Military leave will be granted to any teacher who is inducted or enlists in any branch of the armed forces of the United States. Upon return from such leave, a teacher will be placed on the salary schedule at the level which he would have achieved had he remained actively employed in the system during the period of his absence up to a maximum of two (2) years.

D. A leave of absence without pay or increment of up to one (1) year may be granted at the discretion of the School Committee for the purpose of caring for a sick member of the teacher's immediate family. The exercise of such discretion will be reasonable. Additional leave may be granted at the sole discretion of the Committee.

E. The Committee may grant a leave of absence without pay or increment to any teacher to campaign for, or serve in a public office. The exercise of this discretion will be reasonable.

F. After five (5) years continuous employment in the Framingham School System, a teacher may be granted a leave of absence, without pay, for up to one (1) year for health reasons. Requests for such leave will be supported by appropriate medical evidence. The exercise of this discretion will be reasonable.

G. Any teacher whose personal illness extends beyond the period compensated will be granted a leave of absence for such time as is necessary for complete recovery from such illness.

H. Other leaves of absence without pay may be granted by the Committee.

I. All benefits to which a teacher was entitled at the time his leave of absence commenced, including unused accumulated sick leave, will be restored to him upon his return, and he will be assigned to the same position, or one substantially equivalent to one he held at the time said leave commenced.

J. All requests for extensions or renewals of leaves will be applied for and granted in writing.

ARTICLE XVIII

SABBATICAL LEAVES

The present policy with respect to sabbatical leaves will remain in effect, except that no more than one percent (1%) of the teachers will be permitted to be on sabbatical leave at one time.

ARTICLE XIX

PROTECTION

A. Teachers will immediately report all cases of abusive conduct and/or torts suffered by them in connection with their employment to the Superintendent of Schools in writing.

B. This report will be forwarded to the Committee which will comply with any reasonable request from the teacher for information in its possession relating to the incident or the persons involved, and will act in appropriate ways as liaison between the teacher, the police and the courts. In addition any student involved in such an assault will be promptly and properly disciplined after the responsibility has been established.

C. If criminal or civil proceedings are brought against a teacher alleging that he committed an assault in connection with his employment, the Committee may furnish legal counsel to defend him in such proceedings if he requests such assistance. If the Committee does not provide such counsel and the teacher is exonerated, then the Committee will reimburse the teacher for reasonable counsel fees incurred by him.

ARTICLE XX

CURRICULUM REVISION

There may be a voluntary curriculum revision program each summer under the direction of the Superintendent, the purpose of the program to study needed curriculum revision.

ARTICLE XXI

DUES DEDUCTION

A. The Committee agrees to deduct from the salaries of its employees dues for the Framingham Teachers Association - Massachusetts Teachers Association or the National Education Association, or any one of such Associations as said teachers individually and voluntarily authorize the Committee to deduct, and to transmit the monies promptly to such Association or Associations. Teacher authorizations will be in writing in the form set forth below:

DUES AUTHORIZATION CARD

Name .....

Address .....

I hereby request and authorize the ..... School Committee to deduct from my earnings and transmit to the Associations checked below an amount sufficient to provide for regular payment of the membership dues as certified by such Association in equal monthly payments over the remainder of the school year and for succeeding school years. I understand that the Committee will discontinue such deductions for any school year only if I notify the Committee in writing to do so not later than thirty (30) days prior to the commencement of the school year. I hereby waive all right and claim for said monies so deducted and transmitted in accordance with this authorization, and relieve the School Committee and all its officers from any liability therefor.

Teacher Organization:

Framingham Teachers Association .....

Massachusetts Teachers Association .....

National Education Association .....

Dated: .....

Signature of teacher .....

B. Each of the Associations named in Section A above will certify to the Committee in writing the current rate of its membership dues. Any Association which will change the rate of its membership dues will give the Committee thirty (30) days written notice prior to the effective date of such change.

C. No later than September 30 of each year, the Committee will provide the Association with a list of those

employees who have voluntarily authorized the Committee to deduct dues for any of the Associations named in Section A above. The Committee will notify the Association four times a year of any changes in said list.

D. The Association shall indemnify and save the Committee and/or the town harmless against all claims, demands, suits, or other forms of liability, which may arise by reason of any action taken in making deductions and remitting the same to the Association pursuant to this Article.

ARTICLE XXII

WORKLOAD

A. The current practice with respect to work year, vacation periods, hours and workload for teachers will remain in effect during the life of this Agreement unless there is good justification for a change; provided that nothing in this Article shall be construed to limit the right of the School Committee to determine the length of the school year or the school day.

B. A committee composed of two members appointed by the Association and two members appointed by the School Committee, shall be established to study special workload problems and to recommend appropriate changes, if any, to the School Committee for its consideration.

ARTICLE XXIII

LUNCH BREAK

Wherever practical and possible teachers will be given a duty free luncheon break of thirty (30) minutes.

ARTICLE XXIV

ON THE JOB INJURY

All teachers will be covered by workmen's compensation. A teacher who is collecting workmen's compensation may use accumulated sick leave to make up the difference, if any, between the teacher's regular pay and the workmen's compensation payments allocated to lost time.

ARTICLE XXV

EDUCATIONAL PROGRAM

The Association in consultation with the Administration will propose the implementation of a special educational program for students, such proposal to be made to the School Committee by September 15, 1967.

ARTICLE XXVI

GENERAL

A. There will be no reprisals of any kind taken against any teacher by reason of his membership or non-membership in the Association or participation or lack of participation in its activities.

B. The Committee agrees to deduct from teachers' salaries money for NEA and/or MTA services and programs as said teachers individually and voluntarily authorize the Committee to deduct and to transmit the monies promptly to such Association or Associations. It is expressly understood that any deductions which a teacher may authorize the Committee to make from his earnings will be deducted in monthly installments.

C. There shall be a Faculty Advisory Committee established in each building where internal problems may be discussed. The recommendation of the Faculty Advisory Committee must be given serious consideration by the respective principals.

D. The Committee will, upon request, provide the Association with any documents which will assist the Association in developing intelligent, accurate, informed and constructive programs on behalf of the teachers and their students.

E. A copy of the official agenda of School Committee meetings will be given to the Association in advance of the meeting and a record of all actions taken will be given to the Association after that record has been approved.

F. If any provision of this Agreement or any application of the Agreement to any employee or group of employees shall be found contrary to law, then such provision or application shall not be deemed valid and subsisting, except to the extent permitted by law, but all other provisions or applications will continue in full force and effect.

ARTICLE XXVII

NO STRIKE

The Association agrees that they will not cause, condone, or sanction or take part in any strike, walkout, slowdown or work stoppage.

The Association and its members, individually and collectively agree that if there is a violation of this clause any or all teachers violating this clause will at the discretion of the Committee be subject to disciplinary action, including discharge, suspension or complete loss of seniority, and the matter shall not be arbitrable.

ARTICLE XXVIII

TRANSFERS

Although the Committee and Association recognize that some transfer of teachers from one school to another is unavoidable, they also recognize that frequent transfer of teachers is disruptive of the educational process and interferes with optimum teacher performance. Therefore, they agree as follows:

A. When a reduction in the number of teachers in a school is necessary, volunteers will be transferred first.

B. When involuntary transfers are necessary, a teacher's area of competence, major and/or minor field of study, quality of teaching performance, and length of service in the Framingham School System will be considered in determining which teacher is to be transferred. Teachers being involuntarily transferred will be transferred only to a comparable position.

An involuntary transfer will be made only after a meeting between the teacher involved and the Superintendent (or his designee), at which time the teacher will be notified of the reasons for the transfer.

C. A list of open positions in other schools will be made available to all teachers being transferred. The School Committee in making involuntary transfers will give consideration to the professional background and other attainments of the teacher.

D. Notice of transfer will be given to teachers as soon as practicable and under normal circumstances not later than June 1.

E. Teachers desiring a transfer will submit a written request to the Superintendent stating the assignment preferred. Such requests must be submitted between September 1 and June 1 of each school year to be considered for next school year. Requests must be renewed each year. All requests will be acknowledged in writing.

F. Before a teacher is assigned or transferred to a particular school, the principal of the school in question will be consulted regarding said assignment or transfer.

ARTICLE XXIX

SCHOOL COMMITTEE RIGHTS

Nothing in this Agreement shall be deemed to derogate from or impair any power, right or duty heretofore possessed by the School Committee except where such right, power or duty is specifically limited by this contract.

ARTICLE XXX

The Association and the Committee agree that each has had a right to bargain for any provision that they wished in this contract and each expressly waives the right to reopen the contract for any further demands or proposals and that the present contract constitutes a complete agreement on all matters and that if other proposals have been made, they have been withdrawn in consideration of the Agreement.

ARTICLE XXXI

DURATION

The provisions of this Agreement will be effective as of February 14, 1967 and will continue and remain in full force and effect through December 31, 1967, and shall be automatically renewed from year to year thereafter unless at least sixty (60) days prior to the expiration date either party notifies the other in writing of its desire to terminate this Agreement.

FRAMINGHAM SCHOOL COMMITTEE
Theresa V. Norton

FRAMINGHAM TEACHERS ASSOCIATION
Henry B. Fortier

February 14, 1967

APPENDIX

SALARY SCHEDULE

Effective January 1, 1967

BACHELOR		MASTER	
Step	1966-1967	Step	1966-1967
0	$5,900.00	0	$6,500.00
1	6,150.00	1	6,750.00
I		I	
2	6,400.00	2	7,000.00
3	6,650.00	3	7,250.00
4	6,900.00	4	7,500.00
5	7,300.00	5	7,900.00
II		II	
6	7,700.00	6	8,400.00
7	8,100.00	7	8,900.00
8	8,500.00	8	9,400.00
III		III	
9	8,900.00	9	9,900.00
10	9,300.00	10	10,400.00
IV		IV	
		11 Masters +36 Super Maximum	11,000.00

SALARY REQUIREMENTS

1. Teachers who accumulate in accordance with Committee regulations from an accredited institution 15 semester hours beyond an earned Master's degree shall be paid an additional $200 which shall be added to any step on the Master's schedule.

2. Teachers who accumulate in accordance with Committee regulations from an accredited institution 30 semester hours beyond an earned Master's degree shall be paid an additional $400 which shall be added to any step on the Master's schedule.

3. Teachers who have an earned doctorate from an accredited institution shall be paid an additional $900 which shall be added to any step on the Master's schedule.

4. The Committee reserves the right to withhold increments and adjustments for those teachers who do not receive from their superiors favorable recommendations for such increases.

SPECIFIC REQUIREMENTS

1. All degrees recognized for salary credit on this schedule shall be obtained from an accredited institution.

2. In order to progress from Level I to Level II, a teacher must receive a favorable recommendation from his superiors.

3. In order to progress from Level II to Level III, a teacher must present evidence of the successful completion of six semester credits for courses previously approved by the Associate Superintendent of Schools. Three credits must be in the teacher's subject matter area; three credits may be in the field of general education. These courses must have been taken as the teacher progressed through the steps of Level II of the salary schedule. The only exception to the subject matter course requirements shall be for those people who have been accepted in an advanced degree program.

4. In order to progress from Level III to Level IV, a teacher must present evidence of the successful completion of six semester credits for courses previously approved by the Associate Superintendent of Schools. Three credits must be in the teacher's subject matter area; three credits may be in the field of general education. These courses must have been taken as the teacher progressed through the steps of Level III of the salary schedule. The only exception to the subject matter course requirements shall be for those people who have been accepted in an advanced degree program.

5. Step 10 on the Master's scale has three parts: The master's maximum shall be $10,400. For those people who have a master's plus 15 hours, their maximum shall be $10,600. For those people who have a master's degree plus 30 semester hours, their maximum shall be $10,800. The $200 for 15

semester hours beyond the master's, and the $400 for the 30 semester hours beyond the master's may be applied at any step on the master's salary schedule. For people who expect to be re-rated to these levels, 9 out of 15, and 18 out of 30 of the semester hours at the respective levels must be in the subject matter area of the teacher concerned. These courses must have the previous approval of the Associate Superintendent of Schools.

6. In order to be eligible to move to Level V a teacher must have achieved a master's degree plus thirty hours and have reached the tenth step in the master's schedule. In order to move to Level V a teacher must present evidence of the successful completion of six semester credits for courses taken within a three-year period after having reached the tenth step on the master's schedule plus thirty hours. These courses must have been previously approved by the Associate Superintendent of Schools. Three credits must be in the teacher's subject matter area; and three credits may be in the field of general education. The only exception to the subject matter course requirements shall be for those people who have been accepted in a doctorate program.

COMPENSATION TO HIGH SCHOOL
DEPARTMENT HEADS, ADVISORS TO CERTAIN
STUDENT ACTIVITIES AND JUNIOR HIGH
SCHOOL DEPARTMENT CHAIRMEN
ALL RATIOS RELATE TO THE TENTH STEP
OF THE MASTER'S DEGREE SCHEDULE

1. High School

	Step 1	Step 2	Step 3	Step 4
Dept. Heads (9-12)	1.06	1.08	1.10	1.12
Supervisors (7-12)	1.08	1.10	1.12	1.14
Directors (1-12)	1.10	1.12	1.14	1.16

2. Student Activity Advisors

Year Book Advisor	$500
School Newspaper Advisor	500
Year Book - Newspaper Business Manager	400
Student Activity Treasurer	500
Senior Class Play Director	300
Student Council Advisor	300
Junior, Senior Class Advisor	200

3. Junior High School Dept. Chairman $200

AGREEMENT

BETWEEN THE

FRAMINGHAM (MASSACHUSETTS) SCHOOL COMMITTEE

AND

FRAMINGHAM TEACHERS ASSOCIATION (NEA):

UNIT A: TEACHERS

UNIT B - ADMINISTRATORS

UNIT B: ADMINISTRATORS

AGREEMENT

This AGREEMENT is made and entered into on this third day of March, 1967, by and between the FRAMINGHAM SCHOOL COMMITTEE (hereinafter referred to as the "Committee") and the FRAMINGHAM TEACHERS ASSOCIATION, UNIT "B" (hereinafter referred to as the "Administrators").

PREAMBLE

The School Committee of the Town of Framingham and Unit "B" of the Framingham Teachers Association recognize that the development of educational programs of the highest quality, for the benefit of the students and the town, is a common responsibility which can be best attained when each group utilizes the ability, experience, creativity and judgment of the other.

It is hoped that the consultation begun through professional negotiations will continue throughout the school year and that such dialogue will contribute to the betterment of public education in the Town of Framingham.

ARTICLE I

RECOGNITION

The Framingham School Committee recognizes Unit "B" of the Framingham Teachers Association as the exclusive representative of a unit consisting of:

All principals, vice principals and those directors and assistant directors, not included in Unit "A" excluding all other employees of the school department.

ARTICLE II

NEGOTIATION PROCEDURE

Section A. Not later than November 1 of the calendar year in which this Agreement expires, the Committee agrees to enter into negotiations with the Administrators over a successor Agreement.

Section B. The Committee agrees not to negotiate with any Administrators' organization other than Unit "B" of the Framingham Teachers' Association, so designated as the exclusive bargaining agent pursuant to Chapter 763. The Committee further agrees not to negotiate with any teachers' organization other than the Association in regard to changes in wages, hours or other conditions of employment to become effective during the term of this Agreement.

ARTICLE III

GRIEVANCE PROCEDURE

Section A. A "grievance" is hereby defined to mean a complaint by an Administrator or a group of Administrators based on an alleged violation of this Agreement, or a dispute involving the meaning, interpretation or application thereof.

Section B. Failure at any step of this procedure to communicate the decisions of a grievance within the specified time limits to the aggrieved employee and to the Chairman of the Professional Negotiation Committee shall permit the aggrieved party or parties to proceed to the next step.

Section C. Failure at any step of this procedure to appeal the grievance to the next step within the specified time limits shall be deemed to be acceptance of the decision rendered at that step.

Section D. A grievance that affects a group or class of administrators or is of a general nature, may be submitted in writing to the superintendent directly and the processing of such grievance shall be commenced at Level Two.

Section E. If any employee covered by this Agreement shall present any grievance without representation by the Administrators, the disposition, if any, of the grievance shall be consistent with the provision of this Agreement. The Administrators shall be permitted, if they so request, to be heard at each level of the procedure under which the grievance shall be considered.

Section F.

Level One

An informal settlement between the Administrator and his immediate superior will be attempted.

Level Two

An Administrator with a grievance, with or without the Chairman of the Professional Negotiation Committee, shall present the grievance to his immediate superior in writing within ten (10) school days of the occurrence of the event upon which the grievance is based.

Level Three

A. In the event that the grievance shall not have been disposed of to the satisfaction of the aggrieved employee at Level Two, or in the event that no decision has been reached within ten (10) school days

after presentation of the grievance to the immediate superior, the grievance shall within ten (10) school days be referred to the Superintendent of Schools.

B. The Superintendent or his designee shall represent the Committee at this Level of the grievance procedure. Within ten (10) school days after receipt of the written grievance by the Superintendent, he shall meet with the aggrieved employee and the said Chairman in an effort to settle the grievance.

Level Four

In the event that the grievance shall not have been disposed of at Level Three or in the event that the grievance shall not have been rendered within ten (10) school days after the Level Three meeting, the grievance shall be referred in writing to the Committee. Within ten (10) school days thereafter, the Committee shall meet with the Professional Negotiating Committee in an effort to settle the grievance.

Level Five

In the event that the grievance shall not have been satisfactorily disposed of at Level Four, or in the event that no decision has been rendered within ten (10) school days after the Level Four meeting, the Administrators may within ten (10) school days refer the unsettled grievance to arbitration. The Arbitrator shall be selected by agreement between the parties. If the parties are unable to agree upon an Arbitrator, the selection shall be made by the American Arbitration Association, in accordance with its rules and regulations.

The Arbitrator shall be without power or authority to make any decisions either prohibited by law or to add to, alter or modify this Agreement.

The decision of the Arbitrator shall be in writing and shall set forth his findings of fact, reasoning and conclusions of the issues submitted. This decision shall be final and binding on the parties.

The costs for the services of the Arbitrator shall be borne equally by the Committee and the Administrators.

Section G. All grievance meetings excluding arbitration hearings shall be held when school is not in session.

ARTICLE IV

PROFESSIONAL SERVICES

It is recognized that the proper performance of administrative duties will normally require Administrators to work longer than the school day and longer than the normal school year as established by the school committee.

The current policy in regard to service or days when school is not in session will continue, unless there is good justification for a change.

ARTICLE V

VACANCIES, PROMOTIONS AND TRANSFERS

Where practical and possible, known administrative vacancies, such as those caused by retirement, by the creation of a new position or by the building of a new school, should be published widely. Qualifications, duties and compensation should be clearly stated in the published material. Except in cases of emergency, appointments to these positions will be made a minimum of thirty (30) days previous to the date that the appointment is to become effective.

The Committee agrees to give consideration to the professional background and qualifications when Administrators from within the system apply for another administrative opening.

An Administrative Board to consist of one (1) Central Office Administrator, one (1) Elementary Administrator and one (1) Secondary Administrator shall be organized to advise and assist the Superintendent of Schools and the Committee in reviewing applications for Administrative vacancies, provided that the final decision shall be made by the Superintendent and the School Committee.

Transfers

Although the Committee and the Administrators recognize that some transfer of Administrators from one school to another is unavoidable, they also recognize that frequent transfer is disruptive of the educational process and interferes with optimum performance.

Therefore, they agree as follows:

A. When feasible, volunteers will be transferred first.

B. When involuntary transfers are necessary, an Administrator's professional background and other qualifications will be considered in determining which Administrator is to be transferred. Administrators being involuntarily transferred will be transferred where possible to a comparable position.

An involuntary transfer will be made only after a meeting between the Administrator involved and the Superintendent or his designee at which time the Administrator will be notified of the reasons for the transfer.

C. Notice of transfer will be given to Administrators as soon as practicable and under normal circumstances not later than June 1.

D. Administrators desiring a transfer will submit a written request to the Superintendent stating the assignment preferred. Such request must be submitted between September 1 and June 1 of each school year to be considered for the next school year.

ARTICLE VI

SABBATICAL LEAVES

The present policy with respect to sabbatical leaves will remain in effect, except that no more than two Administrators will be permitted to be on sabbatical leave at one time.

ARTICLE VII

LEAVES OF ABSENCE
FOR NON-SABBATICAL PURPOSES

Section A. Death in Immediate Family:

1. A full time Administrator shall be allowed a period of three (3) days absence with full pay each time there is a death in his immediate family.

2. The immediate family is defined to include mother, father, sister, brother, child, wife, husband, mother-in-law and father-in-law, or members of the immediate household.

Section B. Each full time Administrator shall be allowed a total of three (3) days absence each calendar year with full pay for reasons approved by the

Superintendent. Reasons for such leave are to be given and where possible, submitted at least forty-eight (48) hours in advance.

Section C. Administrators absent from duty with prior Committee approval for reasons other than those previously stated shall receive full pay during their absence.

Section D. Administrators absent due to quarantine by authorized persons shall not have such absence considered as sick leave, or as personal days, and shall receive full pay.

Section E. Administrators will be entitled to temporary leave of absence with pay for time necessary for appearance in legal proceedings connected with the Administrator's employment including arbitration hearings.

ARTICLE VIII

SALARY

The present salary and ratio structure (see Appendix A) will remain in effect pending the report of the study committee agreed upon in Article 13.

ARTICLE IX

ADMINISTRATIVE STRUCTURE

When a revision in the administrative structure such as the creation of a new position or a substantial change in duties of an existing position is contemplated by the school committee, a representative of the Administrators will be given the opportunity to advise the Superintendent relative to such revision, provided that the above shall not be subject to the grievance or arbitration procedure.

ARTICLE X

SICK LEAVE

1. An indefinite number of days may be accumulated.

2. Cumulation to begin as of the date of the Administrator's service in the School Department, and at the rate of one day per month of the Administrator's year until the beginning of the next calendar year. Thus, the number of days will vary from 10.5 to 11.

3. Beginning the first calendar year after the date of employment, 10.5 or 11 days will be added to any unused cumulation, and such a process will continue indefinitely.

4. Sick leave deductions will be made from the cumulation if payment has been made to the individual during his absence. Otherwise, no deduction will be made from the individual's cumulation.

5. The Committee has established a "borrowing" policy which involves the following conditions:

a. If an individual is out of service beyond his cumulation, at any period in his service, and wishes to petition the School Committee through the Superintendent for extra days, the School Committee reserves the right to grant such a petition up to 15 days, with the understanding that the individual shall repay by services the number of days that have been granted.

b. If an individual resigns from the Department and has on his record "borrowing" time, then a financial deduction will be taken before the final payment period.

6. The implementation of the indefinite accumulation shall start as of January 1, 1966.

7. In the event that illness of an employee extends beyond the period of five (5) consecutive school days, the Superintendent of Schools may require a doctor's certificate as to the nature of the illness, the condition of the employee, and the ability of the employee to resume work.

8. Except as provided above, sick leave provisions presently in effect will continue.

ARTICLE XI

PROTECTION

Section A. Administrators shall immediately report to their Superintendent in writing all cases involving abusive conduct and/or torts suffered by them in connection with their employment.

Section B. This report will be forwarded to the Committee which will comply with any reasonable request from the Administrator for information in its possession relating to the incident or the persons involved, and will act in appropriate ways as liaison between the Administrator, the police and the courts. In addition, any student involved in such an assault will be promptly disciplined after the responsibility has been established.

Section C. If criminal or civil proceedings are brought against an Administrator alleging that he committed an assault in connection with his employment, the Committee may furnish legal counsel to defend him in such proceedings if he requests such assistance. If the Committee does not provide such counsel and the Administrator is exonerated, then the Committee will reimburse the Administrator for reasonable counsel fees incurred by him.

Section D. All Administrators will be covered by workmen's compensation. An Administrator who is collecting workmen's compensation may use accumulated sick leave to make up the difference, if any, between the Administrator's regular pay and the workmen's compensation payments allocated to lost time.

Section E. Any Administrator whose personal illness extends beyond the period compensated will be granted a leave of absence for such time as is necessary for complete recovery up to one (1) year. The School Committee at its discretion may extend this period.

Section F. Although Administrators may be required to collect and transmit money to be used for educational purposes, they will not be held responsible for the loss of any money collected where such loss is not the fault of the Administrator.

ARTICLE XII

PROFESSIONAL DEVELOPMENT AND
EDUCATIONAL IMPROVEMENT

Section A. The Committee will pay the reasonable expenses (including fees, meals, lodging and/or transportation) incurred by Administrators who attend local and out of town workshops, seminars, conferences or other professional improvement sessions at the request and/or with the advance approval of their immediate superior and the Superintendent of Schools.

Section B. Junior High School Principals will have the option of attending the National Principals Convention or the Long Group.

ARTICLE XIII

STUDY COMMITTEE

The ratio structure is based on job specifications and responsibilities. A committee of five (5) members will investigate the cost and feasibility of an in-depth assessment of the Framingham Administrative Organization by a professional evaluation agency or university. This Committee will be composed of two (2) members appointed by the School Committee, two (2) members of the Administrators and the Superintendent of Schools. Said five (5) members committee shall file a report on the cost and feasibility of such an in-depth assessment by June 1, 1967 for the School Committee's consideration.

ARTICLE XIV

GENERAL

Section A. Subject to the provisions of this Agreement, the wages, hours and other significant conditions of employment applicable on the effective date of this Agreement to the Administrators covered by this Agreement shall continue to be so applicable unless there is good justification for a change. Before any such change is made, it will be discussed with the Administrators.

Section B. Administrators will be allowed to live in a community of their choice.

Section C. If any provision of this Agreement is or shall at any time be contrary to law, then such provision shall not be applicable or performed or enforced, except to the extent permitted by law and substitute action shall be subject to appropriate consultation and negotiation. Even though one or more contract items are, or at any time become, contrary to law, all other provisions of this Agreement shall continue in effect.

Section D. No non-tenure Administrator will be disciplined without just cause, provided that the determination of what constitutes satisfactory work performance will be within the School Committee's sole discretion.

Section E. The determination of what constitutes satisfactory work performance for a non-tenure administrator will be within the sole discretion of the School Committee. The School Committee agrees that such discretion will not be unreasonably exercised.

ARTICLE XV

DUES DEDUCTION

Section A. The Committee agrees to deduct from the salaries of its employees dues for the Framingham Teachers Association - Massachusetts Teachers Association or the National Education Association, or any one of such Associations as said Administrators individually and voluntarily authorize the Committee to deduct, and to transmit the monies promptly to such Association or Associations. Administrator authorizations will be in writing in the form set forth below:

DUES AUTHORIZATION CARD

Name .....

Address .....

I hereby request and authorize the Framingham School Committee to deduct from my earnings and transmit to the Association checked below an amount sufficient to provide for regular payment of the membership dues as certified by such Association in equal monthly payments over the remainder of the school year and for succeeding school years. I understand that the Committee will discontinue such deduction for any school year only if I notify the Committee in writing to do so not later than thirty (30) days prior to the commencement of the school year. I hereby waive all right and claim for said monies so deducted and transmitted in accordance with this authorization, and relieve the School Committee and all of its officers from any liability therefor.

Teacher Organization:

Framingham Teachers Association .....

Massachusetts Teachers Association .....

National Education Association .....

Administrator's Signature .....

Dated: .....

Section B. Each of the Associations named in Section A above will certify to the Committee in writing the current rate of its membership dues. Any Association which will change the rate of its membership dues will give the Committee thirty (30) days written notice prior to the effective date of such change.

Section C. No later than September 30 of each year, the Committee will provide the Association with a list of those employees who have voluntarily authorized the Committee to deduct dues for any of the Associations named in Section A above. The Committee will notify the Association four times yearly of any changes in said list.

Section D. The Association shall indemnify and save the Committee and/or the town harmless against all claims, demands, suits, or other forms of liability, which may arise by reason of any action taken in making deductions and remitting the same to the Association pursuant to this Article.

ARTICLE XVI

NO STRIKE

The Association agrees that they will not cause, condone, sanction or take part in any strike, walkout, slowdown or work stoppage.

The Association and its members, individually and collectively agree that if there is a violation of this clause any or all Administrators violating this clause will at the discretion of the Committee, be subject to disciplinary action, including discharge, suspension or complete loss of seniority, and the matter shall not be arbitrable.

ARTICLE XVII

SCHOOL COMMITTEE RIGHTS

Nothing in this Agreement shall be deemed to derogate from or impair any power, right or duty heretofore possessed by the School Committee except where such right, power or duty is specifically limited by this contract.

ARTICLE XVIII

WAIVER

The Administrators and the Committee agree that each has had a right to bargain for any provision that they

wished in this contract and each expressly waives the right to reopen the contract for any further demands or proposals and that the present contract constitutes a complete agreement on all matters and that if other proposals have been made, they have been withdrawn in consideration of this Agreement.

ARTICLE XIX

DURATION

The provisions of this Agreement will be effective as of March 3, 1967 and will continue and remain in full force and effect through December 31, 1967, and shall be automatically renewed from year to year thereafter unless at least sixty (60) days prior to the expiration date either party notifies the other in writing of its desire to terminate this Agreement.

FRAMINGHAM SCHOOL COMMITTEE
By Theresa V. Norton, Chairman
FRAMINGHAM TEACHERS ASSOCIATION

UNIT "B"

By Henry B. Fortier, President
Framingham Teachers Association
Joseph W. Schmidt, Chairman,
Unit "B"

APPENDIX A
FRAMINGHAM PUBLIC SCHOOLS
ADMINISTRATORS SALARY SCHEDULE
FOR 1967

Based on Master's Maximum $10,400

Position	1st Step	2nd Step	3rd Step
Director, Pupil Personnel Service	1.35	1.40	1.45
Director, Building and Grounds	1.30	1.35	1.40
Director, Secondary Instruction	1.35	1.40	1.45
Director, Elementary Instruction	1.35	1.40	1.45
High School Principal	1.35	1.40	1.45
Junior High School Principal	1.25	1.30	1.35
Vice-Principal--High School	1.20	1.25	1.30
Elementary Principal (+ 15 rooms)	1.15	1.20	1.25
Elementary Principal (- 15 rooms)	1.10	1.15	1.20
Vice-Principal--Jr. High School	1.05	1.10	1.15
Director, Vocational School	1.10	1.15	1.20
Director, Special Education	1.10	1.15	1.20
Director, Citizenship Education	1.05	1.10	1.15
Director, Noon Lunch Program	.95	1.00	1.05
Ass't. Director, Buildings and Grounds	.85	.90	.95
Acting Director of Federal Projects	---	---	1.15

All of the above administrators are eligible for an additional $200, $400 or $900 if they have 15 or 30 credits beyond the master's degree or have an earned doctorate from an accredited institution.

Special Items

LISTING OF 1967-68 AGREEMENTS

The listing of over 2,200 negotiation agreements on the pages which follow provides a very valuable compendium indicating those school systems where a teacher/school board negotiation agreement is known to exist for 1967-68. Each agreement listed received positive validation for the year, and is available (in copied form) from the NEA Research Division for the use of educators, researchers, and interested persons. (See below.)

Each school system listed is followed by its location, the recognized organization(s), number of instructional personnel in the system, national affiliation of the organization(s) listed, type of negotiation conducted where more than one organization is listed, and the year(s) for which the agreement has been on file. In the case of school systems having more than one recognized organization, the following rules have been applied:

1. Where two or more separate agreements are utilized by a school system for different units, a listing for the school system and each recognized organization is provided. In this case, it is understood that separate negotiation is conducted with each organization.

2. If two or more organizations are recognized under the same agreement, 2 ORGANZTNS RECOGNIZED (or the correct number) is listed in place of the organization name, followed by the number of instructional staff in the system, the affiliated national organization(s) representing the personnel in the system, and either JNP, JNE, or SN, plus the year of filing. Following the system identification line are lines listing each of the organizations recognized under the agreement, the number of personnel each represents, and its national affiliation.

The identification of the type of negotiation carried out with multiple organizations under one agreement is:

SN - Separate negotiation for each recognized organization.
JNE - Joint negotiating council with an equal number of representatives from each organization.
JNP - Joint negotiating council with representation proportional to the number of staff members represented by each recognized organization. Immediately below the JNP will be found the number of negotiating council members assigned to each recognized organization.

This listing does not differentiate between procedural and comprehensive agreements, or by type of procedural agreement. The analysis for such a differentiation and for almost 400 different content items is now in process and is expected to be completed about the end of the summer. The results of the analysis will be published and made available in two volumes as Negotiation Agreement Provisions, 1967-68 Edition. Announcement of the size, cost, and publication date of this publication will be made to Digest readers in September.

Copies of any of the agreements listed are available on the following basis: A minimum charge of $2 is made for each request for copies of agreements. The charge will provide up to 15 pages of xeroxed material; pages in excess of 15 will be charged at the rate of 10¢ per page. Each request for copies of agreements should include a check for $2 payable to National Education Association; any amount in excess of that will be billed.

LISTING OF NEGOTIATION AGREEMENTS: 1967-68: FOR SCHOOL SYSTEMS WITH AN ENROLLMENT OF 1,000 OR MORE AND ON FILE WITH THE RESEARCH DIVISION: NATIONAL EDUCATION ASSOCIATION

ALASKA						
GATEWAY BORO SCH DST	KETCHIKAN	KETCHIKAN EDUC ASSN	130	NEA		1966-68
GREATER JUNEAU BORO SD	JUNEAU	GREATER JUNEAU EDUC ASSN	186	NEA		1966-68
GREATER SITKA BORO SCH	SITKA	SITKA TCHRS ASSN	90	NEA		1967-68
KENAI PENINSULA BORO SCH	KENAI	KENAI PENINSULA ED ASSN	195	NEA		1967-68
ARIZONA						
CREIGHTON SCH DST 14	PHOENIX	CREIGHTON EDUCATION ASSN	320	NEA		1966-68
DYSART PUB SCHS	PEORIA	DYSART DST CLRM TCHR ASN	144	NEA		1967-68
FLOWING WELLS PUB SCH	TUCSON	FLOWING WELLS EDUC ASSN	160	NEA		1966-68
GLENDALE SCH DST 40	GLENDALE	GLENDALE ELM CLM TCH ASN	250	NEA		1966-68
ISAAC SCH DST 5	PHOENIX	ISAAC CLRM TCHRS ASSN	204	NEA		1967-68
MESA PUB SCHS	MESA	MESA EDUC ASSN	851	NEA		1966-68
MIAMI AREA SD 40	MIAMI	MIAMI AREA EDUC ASSN	129	NEA		1967-68
PHOENIX UN HS DST	PHOENIX	PHOENIX UN CLRM TCH ASSN	1,241	NEA		1967-68
ROOSEVELT SCH DST 66	PHOENIX	ROOSEVELT CLRM TCHR ASSN	400	NEA		1966-68
TEMPE UN HS DST	TEMPE	TEMPE EDUC ASSN	178	NEA		1967-68
TUCSON PUB SCHS	TUCSON	TUCSON EDUC ASSN	2,513	NEA		1967-68
WILLCOX PUB SCHS	WILLCOX	WILLCOX CLRM TCHRS ASSN	84	NEA		1967-68
WILSON SCH DST 7	PHOENIX	WILSON CLRM TCHRS ASSN	112	NEA		1966-68
YUMA ELEM SD 1	YUMA	NO ORGANZTN RECOGNIZED	276			1966-68
YUMA UNION HS DST	YUMA	YUMA EDUCATION ASSN	167	NEA		1966-68
ARKANSAS						
LITTLE ROCK PUB SCH	LITTLE ROCK	LITTLE ROCK CLRM TCHR ASN	1,146	NEA		1967-68
WHITE HALL SD 27	PINE BLUFF	WHITE HALL CLRM TCH ASSN	68	NEA		1967-68
CALIFORNIA						
ABC UNF SCH DST	ARTESIA	ABC TCHRS ASSN	391	NEA		1966-68
ACALANES UN HS DST	LAFAYETTE	ACALANES EDUC ASSN	343	NEA		1966-68
ADELANTO SCH DST	ADELANTO	ADELANTO DST TCHRS ASSN	68	NEA		1966-68
ALBANY UNF PUB SCH	ALBANY	ALBANY TCHRS ASSN	123	NEA		1966-68
ALHAMBRA CITY SCHS	ALHAMBRA	ALHAMBRA TCHRS ASSN	715	NEA		1966-68
ALISAL SCH DST	SALINAS	ALISAL TCHRS ASSN	70	NEA		1966-68
ALUM ROCK UN ELEM SD	SAN JOSE	ALUM ROCK TCHRS ASSN	680	NEA		1966-68
ALVORD UNF SCHS	RIVERSIDE	ALVORD DST TCHRS ASSN	372	NEA		1967-68
AMADOR VLY JT UN HS DST	PLEASANTON	AMADOR VALLEY TCHRS ASSN	95	NEA		1966-68
ANAHEIM CTY SCH DST	ANAHEIM	ANAHEIM ELEM TCHRS ASSN	351	NEA		1966-68
ANAHEIM UNION HS DST	ANAHEIM	ANAHEIM SEC TCHRS ASSN	1,700	NEA		1966-68
ANALY UN HS DST	SEBASTOPOL	ANALY DST TCHRS ASSN	105	NEA		1967-68
ANDERSON UNION HS DST	ANDERSON	ANDERSON UN HS TCHRS ASN	69	NEA		1966-68
ANTELOPE VALLEY UN HSD	LANCASTER	2 ORGANZTNS RECOGNIZED	285	NEA-AFT	JNP	1966-68
		ANTELOPE VLY UHSD FAC ASN	135	NEA	7	
		HIGH DESERT AFT LOCAL	50	AFT	2	
ANTIOCH UNF SCHS	ANTIOCH	3 ORGANZTNS RECOGNIZED	310	NEA-AFT-IND	JNP	1966-68
		ANTIOCH TCHRS ASSN	254	NEA	7	
		ANTIOCH AFT	42	AFT	1	
		ANTIOCH ADMN ASSN	14	IND	1	
ARCADIA UNF SCH DST	ARCADIA	2 ORGANZTNS RECOGNIZED	447	NEA-IND	JNP	1966-68
		ARCADIA TCHRS ASSN	358	NEA	4	
		SUPRVSRY ADM GUDNCE ASSN	89	IND	1	
ARCATA ELEM SCH DST	ARCATA	ARCATA ELEM TCHRS ASSN	62	NEA		1967-68
ARCATA UN HS DST	ARCATA	ARCATA UN HSD FAC ASSN	141	NEA		1967-68
ARMIJO JT UN HS DST	FAIRFIELD	ARMIJO TCHRS ASSN	150	NEA		1966-68
ARVIN UNION SCH DST	ARVIN	ARVIN TCHRS ASSN	74	NEA		1966-68
ATWATER SCH DST	ATWATER	ATWATER ELEM TCHRS ASSN	152	NEA		1967-68
AUBURN UNION SCH DST	AUBURN	AUBURN UNION TCHRS ASSN	74	NEA		1966-68
AZUSA UNF SCH DST	AZUSA	AZUSA EDUCATORS ASSN	519	NEA		1966-68
BAKERSFIELD CTY ELEM SCH	BAKERSFIELD	2 ORGANZTNS RECOGNIZED	953	NEA-IND	JNP	1967-68
		BAKERSFIELD ELEM TCH ASSN	718	NEA	8	
		BAKERSFIELD CLRM TCH ORGN	90	IND	1	
BALDWIN PARK UNF SCH DST	BALDWIN PARK	BALDWIN PARK TCHRS ASSN	517	NEA		1966-68
BARSTOW UNF SCH DST	BARSTOW	BARSTOW EDUC ASSN	498	NEA		1967-68
BASSETT UNF SCH DST	LA PUENTE	BASSETT EDUCTRS ASSN	365	NEA		1966-68
BEARDSLEY SCH DST	BAKERSFIELD	BEARDSLEY TCHRS ASSN	75	NEA		1966-68
BEAUMONT UNF SCH DST	BEAUMONT	BEAUMONT TCHRS ASSN	89	NEA		1966-68
BELLEVUE UN SCHS	SANTA ROSA	BELLEVUE EDUC ASSN	64	NEA		1967-68
BELLFLOWER UNF SCH DST	BELLFLOWER	BELLFLOWER EDUC ASSN	537	NEA		1966-68
BELMONT SCH DST	BELMONT	BELMONT FACULTY ASSN	156	NEA		1966-68
BENICIA UNF SCH DST	BENICIA	BENICIA TCHRS ASSN	83	NEA		1966-68
BEVERLY HILLS UNF SD	BEVERLY HILLS	BEVERLY HILLS TCHRS ASSN	362	NEA		1966-68
BONITA UNF SCH DST	SAN DIMAS	BONITA UNF TCHRS ASSN	269	NEA		1966-68
BRAWLEY UNION HS	BRAWLEY	BRAWLEY UN HS TCHR ASSN	74	NEA		1966-68
BREA OLINDA UNF SCHS	BREA	BREA OLINDA TCHRS ASSN	162	NEA		1966-68
BRENTWOOD UNION SCH DST	BRENTWOOD	LIBERTY TCHRS ASSN	46	NEA		1966-68
BUENA PARK SCH DST	BUENA PARK	BUENA PARK TCHRS ASSN	200	NEA		1966-68
BURBANK UNF SCH DST	BURBANK	3 ORGANZTNS RECOGNIZED	730	NEA-AFT-IND	JNP	1967-68
		BURBANK AFT LOCAL	52	AFT	1	
		BURBANK EVE SCH TCH ASSN	70	IND	1	
		BURBANK TCHRS ASSN	608	NEA	7	
BURLINGAME SCH DST	BURLINGAME	BURLINGAME TCHRS ASSN	145	NEA		1966-68
CABRILLO UNF SCH DST	HALF MOON BAY	CABRILLO UNF TCHRS ASSN	114	NEA		1967-68
CALAVERAS UNF SCH DST	SAN ANDREAS	ASSN OF CALAVERAS EDUCRS	88	NEA		1966-68
CAMBRIAN ELEM SCHS	SAN JOSE	CAMBRIAN FACULTY ASSN	237	NEA		1966-68
CAMPBELL UNION SCH DST	CAMPBELL	2 ORGANZTNS RECOGNIZED	552	NEA	JNP	1966-68
		CAMPBELL ELEM TCHRS ASSN	517	NEA	6	
		CAMPBELL ELEM ADMN ASSN	35	NEA	1	

CAPISTRANO UNF SCHS	CAPISTRANO BCH	CAPISTRANO UNF ED ASSN	260	NEA		1966-68
CARLSBAD UNION HS DST	CARLSBAD	AQUA HEDIONDA TCHRS ASSN	118	NEA		1966-68
CARMEL UNF SCHS	CARMEL	CARMEL TCHRS ASSN	158	NEA		1967-68
CARPINTERIA UNF SCHS	CARPINTERIA	TCHRS ASSN OF CARPINTERIA	101	NEA		1966-68
CASCADE UNION ELEM SCH	ANDERSON	SO SHASTA TCHRS ASSN	76	NEA		1967-68
CENTER JT ELEM SCH DST	N HIGHLANDS	CENTER JT SD TCHRS ASSN	48	NEA		1967-68
CENTINELA VALLEY UHSD	HAWTHORNE	CENTINELA VLY SEC TCH ASN	321	NEA		1966-68
CENTRAL UN HS DST	EL CENTRO	CENTRAL UN HS FACULTY CLB	82	NEA		1966-68
CENTRALIA SCH DST	BUENA PARK	CENTRALIA EDUC ASSN	299	NEA		1966-68
CERES UNIFIED SCH DST	CERES	CERES UNF TCHRS ASSN	185	NEA		1966-68
CHAFFEY UNION HS DST	ONTARIO	CHAFFEY TCHRS ASSN	496	NEA		1966-68
CHARTER OAK UNF SD	COVINA	2 ORGANZTNS RECOGNIZED	356	NEA-IND	JNP	1966-68
		CHARTER OAK EDUC ASSN	281	NEA	8	
		CHARTER OAK CES ADMN ASN	13	IND	1	
CHICO UNF SCH DST	CHICO	CHICO UNF TCHRS ASSN	462	NEA		1966-68
CHINO UNF SCH DST	CHINO	ASSOCIATED CHINO TCHRS	360	NEA		1966-68
CHOWCHILLA SCH DST	CHOWCHILLA	CHOWCHILLA ELM TCHR ASSN	36	NEA		1966-68
CHULA VISTA CTY SCH DST	CHULA VISTA	CHULA VISTA ELEM ED ASSN	575	NEA		1966-68
CLAREMONT UNF SCH DST	CLAREMONT	CLAREMONT FACULTY ASSN	319	NEA		1966-68
CLOVIS UNF SCH DST	CLOVIS	CLOVIS UNF TCHRS ASSN	323	NEA		1966-68
COACHELLA SCHS	COACHELLA	COACHELLA ELEM TCHRS ASN	92	NEA		1967-68
COACHELLA VLY UN HS DST	COACHELLA	COACHELLA VLY SEC TCH ASN	71	NEA		1966-68
COLTON JT UNF SCH DST	COLTON	COLTON UNF EDUC ASSN	474	NEA		1966-68
COMPTON CTY SCH DST	COMPTON	COMPTON ELM TCHRS ASSN	676	NEA		1966-68
COMPTON UN HS DST	COMPTON	2 ORGANZTNS RECOGNIZED	731	AFT	JNP	1966-68
		COMPTON SEC TCHRS ASSN	544	NEA	8	
		COMPTON AFT LOCAL	89	AFT	1	
CORCORAN UNF SCH DST	CORCORAN	CORCORAN FACULTY ASSN	149	NEA		1967-68
CORONA UNF SCH DST	CORONA	ASSN OF CORONA TCHRS	532	NEA		1966-68
COVINA VALLEY UNF SCH DS	COVINA	COVINA UNF EDUC ASSN	711	NEA		1966-68
CULVER CITY UNF SCHS	CULVER CITY	CULVER CITY TCHRS ASSN	344	NEA		1966-68
CUPERTINO SCH DST	CUPERTINO	CUPERTINO EDUC ASSN	950	NEA		1966-68
CUTLER OROSI UNF SCH DST	OROSI	CUTLER OROSI UNF TCH ASSN	119	NEA		1966-68
DAVIS JT UNF SCH DST	DAVIS	DAVIS TCHRS ASSN	233	NEA		1966-68
DELANO JT UNION HS DST	DELANO	DELANO JT UHS TCHRS ASSN	94	NEA		1966-68
DELANO UNION SCH	DELANO	DELANO ELEM TCHRS CLUB	127	NEA		1966-68
DESERT CEN UNF SCH DST	EAGLE MOUNTAIN	DESERT CEN UNF TCHR ASSN	60	NEA		1967-68
DESERT SANDS UNF SCHS	INDIO	DESERT SANDS TCHRS ASSN	305	NEA		1967-68
DINUBA PUB SCHS	DINUBA	DINUBA TCHRS ASSN	142	NEA		1966-68
DIXIE SCH DST	SAN RAFAEL	DIXIE TCHRS ASSN	219	NEA		1966-68
DIXON UNF SCH DST	DIXON	DIXON TCHRS ASSN	89	NEA		1966-68
DOS PALOS JT UN ELEM SCH	DOS PALOS	DOS PALOS JT UN ELEM TA	60	NEA		1967-68
DOS PALOS JT UNION HS	DOS PALOS	DOS PALOS CHAPTER CTA	52	NEA		1966-68
DOWNEY UNF SCH DST	DOWNEY	DOWNEY EDUC ASSN	836	NEA		1966-68
DUARTE UNF SCHS	DUARTE	DUARTE UNF EDUC ASSN	208	NEA		1966-68
EARLIMART ELEM SCH DST	EARLIMART	EARLIMART FACULTY CLUB	52	NEA		1966-68
EAST WHITTIER CITY SD	WHITTIER	EAST WHITTIER EDUC ASSN	501	NEA		1966-68
EL CENTRO ELEM SCH DST	EL CENTRO	EL CENTRO ELEM TCHRS ASSN	178	NEA		1966-68
EL DORADO UN HS DST	PLACERVILLE	EL DORADO UN HS FAC ASSN	111	NEA		1966-68
EL MONTE ELEM SCH DST	EL MONTE	EL MONTE ELEM TCHRS ASSN	429	NEA		1966-68
EL MONTE UNION HS DST	EL MONTE	2 ORGANZTNS RECOGNIZED	321	NEA	JNP	1966-68
		EL MONTE HS DST TCHR ASSN	252	NEA	7	
		EL MONTE HS DST ADM ASSN	48	NEA	2	
EL RANCHO UNF SCH DST	PICO RIVERA	EL RANCHO EDUC ASSN	632	NEA		1966-68
EL SEGUNDO UNF SCH DST	EL SEGUNDO	2 ORGANZTNS RECOGNIZED	177	NEA-IND	JNP	1967-68
		EL SEGUNDO EDUC ASSN	138	NEA	8	
		SEC TCHRS ASSN EL SEGUNDO	30	IND	1	
ELK GROVE UNF SCHS	ELK GROVE	ELK GROVE EDUC ASSN	326	NEA		1967-68
ELSINORE UNION SCH DST	ELSINORE	ELSINORE VALLEY EDUC ASN	55	NEA		1967-68
ENTERPRISE CITY SCHS	COMPTON	ENTERPRISE CTY TCHRS ASN	134	NEA		1967-68
ENTERPRISE ELEM SCHS	REDDING	ENTERPRISE ELEM TCH ASSN	95	NEA		1966-68
ESCALON UNF SCHS	ESCALON	ESCALON UNF TCHRS ASSN	92	NEA		1967-68
ESCONDIDO UN SCH DST	ESCONDIDO	ESCONDIDO ELM TCHRS ASSN	270	NEA		1966-68
ESCONDIDO UNION HS DST	ESCONDIDO	ESCONDIDO HSD EDUC ASSN	194	NEA		1966-68
EUREKA CITY SCHS	EUREKA	EUREKA TCHRS ASSN	396	NEA		1967-68
EVERGREEN SCH DST	SAN JOSE	EVERGREEN TCHRS ASSN	105	NEA		1966-68
EXETER UN ELEM SCHS	EXETER	EXETER TCHRS ASSN	46	NEA		1967-68
FAIRFAX SCH DST	FAIRFAX	FAIRFAX TCHRS ASSN	46	NEA		1966-68
FAIRFIELD PUB SCHS	FAIRFIELD	FAIRFIELD TCHRS ASSN	279	NEA		1966-68
FALL RIVER JT UNF SCHS	FALL RVR MILLS	FALL RIVER EDUC ASSN	71	NEA		1967-68
FALLBROOK UNION SCH	FALLBROOK	FALLBROOK ELM TCHRS ASSN	103	NEA		1966-68
FOLSOM CORDOVA JT UNF SD	FOLSOM	FOLSOM EDUC ASSN	520	NEA		1966-68
FONTANA UNF SCHS	FONTANA	FONTANA TCHRS ASSN	520	NEA		1967-68
FORT BRAGG UNF SCH DST	FORT BRAGG	FORT BRAGG TCHRS ASSN	125	NEA		1966-68
FORTUNA UN SCH DST	FORTUNA	FORTUNA TCHRS ASSN	46	NEA		1967-68
FOUNTAIN VALLEY SCH DST	HUNTINGTON BCH	2 ORGANZTNS RECOGNIZED	304	NEA	JNP	1966-68
		FOUNTAIN VALLEY EDUC ASSN	282	NEA	8	
		FOUNTAIN VLY LDRSHP ASSN	22	NEA	1	
FREMONT UNF SCH DST	FREMONT	2 ORGANZTNS RECOGNIZED	1,200	NEA	JNP	1966-68
		FREMONT TCHRS ASSN	1,010	NEA	8	
		FREMONT ADMIN ASSN	80	NEA	1	
FRESNO CITY UNF SCH DST	FRESNO	FRESNO TCHRS ASSN	2,436	NEA		1967-68
FULLERTON ELEM SCH DST	FULLERTON	FULLERTON ELEM TCHR ASSN	575	NEA		1966-68
FULLERTON UN HS DST	FULLERTON	FULLERTON SEC TCHRS ORG	695	NEA		1967-68
GALT JT ELEM UN SCHS	GALT	GALT AREA TCHRS ASSN	40	NEA		1967-68
GARDEN GROVE UNF SCH DST	GARDEN GROVE	2 ORGANZTNS RECOGNIZED	2,008	NEA	JNP	1966-68
		GARDEN GROVE EDUC ASSN	1,727	NEA	8	
		GARDEN GROVE SCH ADM ASN	106	NEA	1	
GARVEY ELEM SCH DST	SO SAN GABRIEL	GARVEY TCHRS ASSN	238	NEA		1966-68
GILROY UNF SCH DST	GILROY	GILROY TCHRS ASSN	217	NEA		1966-68
GLENDALE UNF SCH DST	GLENDALE	GLENDALE TCHRS ASSN	1,218	NEA		1966-68
GLENDORA UNF SCH DST	GLENDORA	GLENDORA TCHRS ASSN	411	NEA		1966-68
GOLETA UNION SCH DST	GOLETA	GOLETA TCHRS ASSN	241	NEA		1967-68
GRANT JT UNION HS DST	SACRAMENTO	2 ORGANZTNS RECOGNIZED	600	NEA-IND	JNP	1966-68
		GRANT DST TCHRS ASSN	450	NEA	4	
		GRANT DST ASN SEC SCH ADM	90	IND	1	

GRASS VALLEY ELEM SCHS	AUBURN	GRASS VALLEY TCHR ASSN	62	NEA		1967-68
GREENFIELD UN SCH DST	BAKERSFIELD	GREENFIELD TCHRS ASSN	129	NEA		1967-68
GRIDLEY UNION SCH DST	GRIDLEY	GRIDLEY TCHRS ASSN	92	NEA		1966-68
GROSSMONT UN HS DST	LA MESA	GROSSMONT UN HSD TCH ASN	650	NEA		1966-68
HANFORD ELEM SCHS	HANFORD	HANFORD ELEM TCHRS ASSN	196	NEA		1966-68
HAWTHORNE SCH DST	HAWTHORNE	HAWTHORNE ELM TCHRS ASSN	239	NEA		1966-68
HAYWARD UNIFIED SCH DST	HAYWARD	CALIF TCHRS ASSN	1,200	NEA		1966-68
HEALDSBURG HS DST	HEALDSBURG	HEALDSBURG AREA TCH ASSN	85	NEA		1967-68
HERMOSA BEACH CTY SD	HERMOSA BEACH	HERMOSA BEACH TCHRS ASSN	90	NEA		1966-68
HILLSBORO CTY SCH DST	HILLSBOROUGH	HILLSBORO TCHRS ASSN	76	NEA		1966-68
HOLLISTER SCH DST	HOLLISTER	HOLLISTER ELEM TCH ASSN	72	NEA		1967-68
HOPE SCH DST	SANTA BARBARA	HOPE DST TEACHERS ASSN	51	NEA		1966-68
HUDSON PUB SCHS	LA PUENTE	HUDSON TCHRS ASSN	806	NEA		1966-68
HUENEME ELEM SCHS	PORT HUENEME	HUENEME EDUC ASSN	274	NEA		1966-68
HUNTINGTON BCH UN HS DST	HUNTINGTON BCH	DISTRICT EDUCATORS ASSN	921	NEA		1966-68
HUNTINGTON BEACH CTY SCH	HUNTINGTON BCH	HUNTGTON BCH ELEM TCHR AN	193	NEA		1966-68
IMPERIAL UNF SCH DST	IMPERIAL	IMPERIAL TCHRS ASSN	72	NEA		1966-68
INGLEWOOD UNF SCHS	INGLEWOOD	INGLEWOOD TCHRS ASSN	626	NEA		1966-68
JEFFERSON UNION HS DST	DALY CITY	3 ORGANZTNS RECOGNIZED	382	NEA-IND	JNP	1966-68
		JEFFERSON UHSD TCHRS ASSN	290	NEA	7	
		JEFFERSON UHS COACHES ASN	35	IND	1	
		ASSN JEFFERSON ADMNSTRS	25	NEA	1	
JURUPA UNF SCH DST	RIVERSIDE	JURUPA TEACHERS ASSN	374	NEA		1966-68
KERN CO JT UN HS DST	BAKERSFIELD	KERN CO JT UN HSD FAC AN	915	NEA		1966-68
KINGS CANYON UNF SCH	REEDLEY	KINGS CANYON EDUC ASSN	240	NEA		1967-68
KINGSBURG JT UN ELEM SCH	KINGSBURG	KINGSBURG ELEM TCHR ASSN	51	NEA		1966-68
KLAMATH TRINITY UNF SCHS	HOOPA	KLAMATH TRINITY TCH ASSN	74	NEA		1966-68
LA HABRA CTY SCH DST	LA HABRA	LA HABRA EDUC ASSN	265	NEA		1966-68
LA MESA SPRING VLY SD	LA MESA	LA MESA SPRNGFLD VLY TA	638	NEA		1966-68
LA PUENTE UN HS DST	LA PUENTE	3 ORGANZTNS RECOGNIZED	456	NEA-IND	JNP	1966-68
		VALLEY TCHRS ASSN	297	NEA	7	
		CALIF COUN ADULT EDUC	20	IND	1	
		ADMNSTRTRS AND COUNSELORS	67	IND	1	
LAFAYETTE SCH DST	LAFAYETTE	LAFAYETTE EDUC ASSN	201	NEA		1966-68
LAGUNA SALADA ELM SD	PACIFICA	LAGUNA SALADA EDUC ASSN	362	NEA		1966-68
LAKE TAHOE UNF SCH DST	SO LAKE TAHOE	SOUTH TAHOE TCHRS ASSN	152	NEA		1967-68
LAKESIDE PUB SCHS	LAKESIDE	LAKESIDE TCHRS ASSN	119	NEA		1966-68
LAMONT SCH DST	LAMONT	LAMONT TCHRS ASSN	73	NEA		1967-68
LANCASTER SCH DST	LANCASTER	LANCASTER TCHRS ASSN	277	NEA		1966-68
LAS LOMITAS PUB SCHS	MENLO PARK	LAS LOMITAS EDUC ASSN	95	NEA		1966-68
LASSEN UN HS DST	SUSANVILLE	2 ORGANZTNS RECOGNIZED	54	NEA-IND	JNP	1967-68
		LASSEN CLRM TCHRS ASSN	11	IND	1	
		LASSEN SEC TCHRS ASSN	34	NEA	6	
LAWNDALE SCH DST	LAWNDALE	2 ORGANZTNS RECOGNIZED	281	NEA	JNP	1966-68
		LAWNDALE TCHRS ASSN	161	NEA	8	
		LAWNDALE ELM ADMN DIV	14	NEA	1	
LEMON GROVE SCH DST	LEMON GROVE	LEMON GROVE DST TCH ASSN	162	NEA		1966-68
LEMOORE UN ELEM SCHS	LEMOORE	LEMOORE ELEM FAC CLUB	65	NEA		1966-68
LEMOORE UN HS DST	LEMOORE	LEMOORE TCHRS ASSN	72	NEA		1967-68
LENNOX ELM SCH DST	LENNOX	LENNOX TCHRS ASSN	103	NEA		1966-68
LINDSAY UNF SCH DST	LINDSAY	LINDSAY TCHRS ASSN	98	NEA		1966-68
LITTLE LAKE CTY SCH DST	LITTLE LAKE	LITTLE LAKE EDUC ASSN	291	NEA		1966-68
LIVE OAK SCH DST	SANTA CRUZ	LIVE OAK ELM TCHR ASSN	63	NEA		1966-68
LIVINGSTON UN ELEM SCH	LIVINGSTON	LIVINGSTON ELEM TCH ASSN	43	NEA		1967-68
LODI UNF SCH DST	LODI	LODI EDUC ASSN	445	NEA		1967-68
LONG BEACH UNF SCH DST	LONG BEACH	TCHRS ASSN OF LONG BEACH	3,402	NEA		1966-68
LOS ALAMITOS SCH DST	LOS ALAMITOS	LOS ALAMITOS EDUC ASSN	136	NEA		1966-68
LOS ALTOS SCH DST	LOS ALTOS	LOS ALTOS TCHRS ASSN	269	NEA		1966-68
LOS ANGELES CTY SCH DST	LOS ANGELES	3 ORGANZTNS RECOGNIZED	34,650	NEA-AFT	JNP	1966-68
		LOS ANGELES TCHRS ASSN	11,224	NEA	5	
		AFFL TCHRS ORGANZTN OF LA	7,572	NEA	3	
		LOS ANGELES AFT LOC 1021	2,272	AFT	1	
LOS BANOS UNF SCH DST	LOS BANOS	LOS BANOS TCHRS ASSN	131	NEA		1966-68
LOS GATOS JT UN HS DST	LOS GATOS	LOS GATOS JT UHSD TCH ASN	179	NEA		1966-68
LOS GATOS UN ELEM SCHS	LOS GATOS	LOS GATOS TCHRS ASSN	161	NEA		1967-68
LOS NIETOS SCH DST	LOS NIETOS	LOS NIETOS EDUC ASSN	140	NEA		1966-68
LOWELL JT SCHS	WHITTIER	LOWELL JT EDUC ASSN	240	NEA		1966-68
LUCIA MAR UNF SCHS	PISMO BEACH	LUCIA MAR UNF TCHRS ASSN	277	NEA		1967-68
LYNWOOD UNF SCH DST	LYNWOOD	LYNWOOD TCHRS ASSN	313	NEA		1966-68
MADERA UNF SCH DST	MADERA	2 ORGANZTNS RECOGNIZED	348	NEA-AFT	JNP	1966-68
		MADERA UNF TCHRS ASSN	281	NEA	4	
		MADERA CHAPTER AFT	30	AFT	1	
MAGNOLIA SCH DST	ANAHEIM	MAGNOLIA EDUCATORS ASSN	227	NEA		1966-68
MANHATTAN BEACH CTY SD.	MANHATTN BEACH	MANHATTN BEACH TCHRS ASN	222	NEA		1966-68
MANTECA UNF SCH DST	MANTECA	MANTECA TCHRS ASSN	300	NEA		1966-68
MARTINEZ UNF SCHS	MARTINEZ	MARTINEZ EDUC ASSN	244	NEA		1966-68
MARYSVILLE JT UNF SD	MARYSVILLE	MARYSVILLE UNF TCHRS ASN	407	NEA		1966-68
MENLO PARK CITY SCH DST	MENLO PARK	MENLO PARK EDUC ASSN	117	NEA		1966-68
MERCED CTY SCH DST	MERCED	MERCED CTY FAC ASSN	284	NEA		1966-68
MILL VALLEY SCH DST	MILL VALLEY	MILL VALLEY TCHRS ASSN	169	NEA		1966-68
MILLBRAE ELEM SCH DST	MILLBRAE	MILLBRAE EDUC ASSN	184	NEA		1966-68
MILPITAS SCH DST	MILPITAS	MILPITAS EDUC ASSN	275	NEA		1966-68
MODESTO CITY SCHS	MODESTO	MODESTO TCHRS ASSN	855	NEA		1966-68
MODOC TULELAKE JT UNF	ALTURAS	MODOC TULELAKE TCHRS ASSN	104	NEA		1967-68
MOJAVE UNIFIED SCH	MOJAVE	MOJAVE FACULTY ASSN	75	NEA		1966-68
MONROVIA UNF SCH DST	MONROVIA	MONROVIA TCHRS ASSN	330	NEA		1966-68
MONTEBELLO UNIF SCH DST	MONTEBELLO	MONTEBELLO TCHRS ASSN	1,085	NEA		1966-68
MONTEREY PEN UNF SCH DST	MONTEREY	MONTEREY BAY TCHRS ASSN	788	NEA		1966-68
MOORPARK UNION SCH	MOORPARK	MOORPARK TCHRS ASSN	47	NEA		1967-68
MORENO VALLEY UNF SCH	SUNNYMEAD	MORENO VLY EDUCATORS ASSN	250	NEA		1967-68
MORONGO UNF SCHS	29 PALMS	MORONGO TCHRS ASSN	169	NEA		1966-68
MOUNTAIN VIEW ELEM SCH	MOUNTAIN VIEW	MT. VIEW ELEM EDUC ASSN	183	NEA		1967-68
MT DIABLO UNF SCH DST	CONCORD	2 ORGANZTNS RECOGNIZED	2,200	NEA-AFT	JNP	1966-68
		MT DIABLO UNF DST ED ASSN	1,646	NEA	8	
		MT DIABLO UNF DST AFT	204	AFT	1	
MUROC UNIF SCH DST	EDWARDS	MUROC EDUC ASSN	192	NEA		1966-68

MURRAY SCH DST	DUBLIN	MURRAY EDUCATORS ASSN	165	NEA		1966-68
N MONTEREY CO UN SCH DST	MOSS LANDING	N MONTEREY CO TCHRS ASSN	112	NEA		1966-68
N SACRAMENTO SCHS	SACRAMENTO	N SACRAMENTO CHAPTER CTA	186	NEA		1966-68
NAPA VALLEY UNF SCH DST	YOUNTVILLE	NAPA VALLEY EDUCATORS ASN	663	NEA		1966-68
NATIONAL SCH DST	NATIONAL CITY	NATIONAL CTY ELEM TCH ASN	208	NEA		1967-68
NEEDLES UNF SCH DST	NEEDLES	NEEDLES TCHR ASSN	81	NEA		1967-68
NEVADA UN HS DST	GRASS VALLEY	NEVADA UN HS TCHRS ASSN	71	NEA		1966-68
NEW HAVEN UNF SCH DST	UNION CITY	2 ORGANZTNS RECOGNIZED	248	NEA-AFT	JNP	1966-68
		NEW HAVEN TCHRS ASSN	218	NEA	8	
		NEW HAVEN AFT LOCAL	26	AFT	1	
NEWARK UNF SCH DST	NEWARK	2 ORGANZTNS RECOGNIZED	344	NEA-IND	JNP	1966-68
		NEWARK ADMIN ASSN	20	IND	1	
		NEWARK TCHRS ASSN	259	NEA	8	
NEWHALL SCH DST	NEWHALL	NEWHALL TCHRS ASSN	45	NEA		1966-68
NEWMAN GUSTINE UNF SCH	NEWMAN	NEWMAN GUSTINE TCHRS ASN	127	NEA		1966-68
NEWPORT MESA UNF SCH DST	NEWPORT BEACH	NEWPORT MESA EDUC ASSN	1,174	NEA		1966-68
NORWALK LA MIRADA UNF SD	NORWALK	NORWALK LA MIRADA TCH ASN	1,585	NEA		1966-68
NOVATO UNF SCH DST	NOVATO	2 ORGANZTNS RECOGNIZED	525	NEA-AFT	JNP	1966-68
		NOVATO TCHRS ASSN	375	NEA	8	
		NOVATO AFT LOCAL	30	AFT	1	
OAKDALE JT UN HS DST	OAKDALE	3 ORGANZTNS RECOGNIZED	90	NEA-AFT	JNP	1967-68
		OAKDALE AFT LOCAL	8	AFT	1	
		OAKDALE HS FACULTY CLUB	53	NEA	4	
		RIVERBANK HS FACULTY CLUB	21	NEA	2	
OAKLAND UNF SCH DST	OAKLAND	OAKLAND ED ASSN	2,958	NEA		1966-68
OCEAN VIEW SCH DST	HUNTINGTON BCH	2 ORGANZTNS RECOGNIZED	439	NEA	JNP	1966-68
		OCEAN VIEW TCHRS ASSN	410	NEA	8	
		OCEAN VIEW ADMN ASSN	29	NEA	1	
OCEANSIDE CARLSBAD UHSD	OCEANSIDE	4 ORGANZTNS RECOGNIZED	163	NEA-AFT-IND	JNP	1967-68
		OCEANSD CARLSBD FAC CLUB	57	NEA	4	
		CARLSBAD HS FAC ASSN	43	IND	2	
		OCEANSD CARLSBD AFT LOCAL	29	AFT	2	
		OCEANSD CRLSBD HS ADM ASN	7	IND	1	
OCEANSIDE UNION SCHS	OCEANSIDE	2 ORGANZTNS RECOGNIZED	322	NEA	JNP	1967-68
		OCEANSIDE ELEM TCH ASSN	291	NEA	5	
		OCEANSIDE ELEM PRIN ASSN	22	NEA	1	
OJAI UNF SCH DST	OJAI	OJAI VALLEY TCHRS ASSN	157	NEA		1966-68
ONTARIO MONTCLAIR SCH	ONTARIO	2 ORGANZTNS RECOGNIZED	703	NEA	JNP	1966-68
		ONTARIO MONTCLAIR TCH ASN	650	NEA	8	
		ONTARIO MONTCLAIR PRIN AN	37	NEA	1	
ORANGE UNF SCH DST	ORANGE	ORANGE UNF EDUC ASSN	1,057	NEA		1967-68
ORCUTT UNION SCH DST	ORCUTT	ORCUTT EDUCATORS ASSN	175	NEA		1966-68
ORINDA UNION SCH DST	ORINDA	ORINDA TCHRS ORGANZTN	172	NEA		1966-68
OROVILLE UNION HS DST	OROVILLE	OROVILLE SEC TCHRS ASSN	98	NEA		1966-68
OXNARD SCH DST	OXNARD	OXNARD EDUCATORS ASSN	375	NEA		1966-68
OXNARD UNION HS	OXNARD	OXNARD EDUCATORS ASSN	587	NEA		1966-68
PACIFIC GROVE UNF SD	PACIFIC GROVE	2 ORGANZTNS RECOGNIZED	195	NEA-AFT	JNP	1966-68
		PACIFIC GROVE TCHRS ASSN	137	NEA	6	
		PACIFIC GROVE AFT LOCAL	19	AFT	1	
PAJARO VLY UNF SCHS	WATSONVILLE	PAJARO VALLEY EDUC ASSN	488	NEA		1966-68
PALM SPRINGS UNF SCH DST	PALM SPRINGS	2 ORGANZTNS RECOGNIZED	299	NEA	JNP	1966-68
		PALM SPRINGS TCHRS ASSN	276	NEA	6	
		PALM SPRINGS HS FAC ASSN	23	NEA	1	
PALMDALE SCH DST	PALMDALE	2 ORGANZTNS RECOGNIZED	168	NEA-AFT	JNP	1966-68
		PALMDALE ELM TCHRS ASSN	148	NEA	8	
		PALMDALE AFT	20	AFT	1	
PALO ALTO UNF SCH DST	PALO ALTO	2 ORGANZTNS RECOGNIZED	785	NEA-AFT	JNP	1966-68
		PALO ALTO EDUC ASSN	738	NEA	8	
		PALO ALTO AFT LOCAL	47	AFT	1	
PALO VERDE UNF SCH DST	BLYTHE	PALO VERDE VLY TCHRS ASN	189	NEA		1966-68
PALOS VERDES PENSL A USD	ROLLING HILLS	PALOS VERDES FACULTY ASN	700	NEA		1966-68
PARADISE UNF SCH DST	PARADISE	PARADISE TCHRS ASSN	109	NEA		1966-68
PARAMOUNT UNF SCH DST	PARAMOUNT	PARAMOUNT TCHRS ASSN	385	NEA		1966-68
PARLIER UNF SCH DST	PARLIER	PARLIER TCHRS CLUB	75	NEA		1967-68
PASADENA UNF SCH DST	PASADENA	PASADENA EDUC ASSN	1,266	NEA		1966-68
PATERSON UNF SCHS	PATERSON	PATERSON UNF TCHRS ASSN	110	NEA		1966-68
PERRIS UN HS DST	PERRIS	PERRIS VLY TCHRS ASSN	70	NEA		1966-68
PETALUMA CITY ELEM SCHS	PETALUMA	PETALUMA TCHRS ASSN	334	NEA		1967-68
PETALUMA HS DST	PETALUMA	ASSN PETALUMA AREA TCHRS	345	NEA		1966-68
PIEDMONT UNF SCHS	PIEDMONT	PIEDMONT TCHRS ASSN	128	NEA		1966-68
PLACENTIA UNF SCH DST	PLACENTIA	PLACENTIA UNF EDUC ASSN	420	NEA		1966-68
PLACER JT UNION HS	AUBURN	ASSOCIATED TCHRS PLACER	131	NEA		1966-68
PLACERVILLE UN ELEM SCHS	PLACERVILLE	PLACERVILLE UN TCHR ASSN	92	NEA		1966-68
PLEASANTON ELEM SCHS	PLEASANTON	AMADOR VA'LEY TCHRS ASSN	123	NEA		1966-68
PLUMAS UNF SCH DST	QUINCY	PLUMAS CNTY TCHRS ASSN	160	NEA		1966-68
POMONA UNF SCH DST	POMONA	ASSOCIATED POMONA TCHRS	900	NEA		1966-68
PORTERVILLE SCH DST	PORTERVILLE	PORTERVILLE FACULTY CLUB	179	NEA		1966-68
PORTERVILLE UN HS DST	PORTERVILLE	PORTERVILLE TCHRS ASSN	150	NEA		1967-68
POWAY UNF SCH DST	POWAY	POWAY FACULTY ASSN	173	NEA		1967-68
RAVENSWOOD CITY SCH DST	PALO ALTO	RAVENSWOOD TCHRS ASSN	265	NEA		1966-68
RED BLUFF SCH DST	RED BLUFF	RED BLUFF ELEM EDUC ASSN	78	NEA		1967-68
RED BLUFF UNION HS DST	RED BLUFF	RED BLUFF UHS TCHRS ASSN	77	NEA		1966-68
REDLANDS UNF SCH DST	REDLANDS	REDLANDS TCHRS ASSN	554	NEA		1966-68
REDONDO BEACH CITY SD	REDONDO BEACH	2 ORGANZTNS RECOGNIZED	467	NEA	JNP	1966-68
		REDONDO BCH CTY TCH ASSN	411	NEA	8	
		REDONDO BCH ELM ADM ASSN	30	NEA	1	
REDWOOD CITY SCHS	REDWOOD CITY	2 ORGANZTNS RECOGNIZED	535	NEA-AFT	JNP	1966-68
		REDWOOD CITY TCHRS ASSN	364	NEA	8	
		REDWOOD CITY CHAPTER AFT	27	AFT	1	
RIALTO UNF SCH DST	RIALTO	RIALTO EDUC ASSN	444	NEA		1966-68
RICH MAR UNION SCH DST	SAN MARCOS	RICH MAR TCHRS ASSN	67	NEA		1966-68
RICHMOND UNF SCH DST	RICHMOND	2 ORGANZTNS RECOGNIZED	2,012	NEA-IND	JNP	1966-68
		ASSN OF RICHMOND EDUCATOR	1,790	NEA	8	
		RICHMOND ED ASN CLRM TCH	222	IND	1	
RIM OF WORLD UNF SD	LAKE ARROWHEAD	RIM TCHRS CLUB	97	NEA		1966-68

RINCON VALLEY UN SCHS	RINCON VALLEY	RINCON VLY TCHRS ASSN	97	NEA		1966-68
RIO LINDA UN SCHS	RIO LINDA	2 ORGANZTNS RECOGNIZED	469	NEA	JNP	1966-68
		RIO LINDA EDUC ASSN	444	NEA	5	
		RIO LINDA ELEM ADM ASSN	25	NEA	1	
RIO SCH DST	OXNARD	RIO TCHRS ASSN	90	NEA		1966-68
RIVERBANK ELEM SCH DST	RIVERBANK	RIVERBANK TCHRS ASSN	53	NEA		1966-68
RIVERSIDE UNF SCH DST	RIVERSIDE	RIVERSIDE CTY TCHRS ASSN	1,127	NEA		1966-68
ROSEMEAD ELEM SCH DST	ROSEMEAD	ROSEMEAD TCHRS ASSN	102	NEA		1966-68
ROSEVILLE CITY SCH DST	ROSEVILLE	ROSEVILLE TCHRS ASSN	137	NEA		1966-68
ROSEVILLE JT UN HS DST	ROSEVILLE	ROSEVILLE SEC EDUC ASSN	144	NEA		1966-68
ROWLAND PUB SCHS	ROWLAND HTS	ROWLAND EDUC ASSN	509	NEA		1966-68
SACRAMENTO CITY UNF SD	SACRAMENTO	SACRAMENTO CTY UNF SD TA	2,325	NEA		1966-68
SALINAS CITY SCH DST	SALINAS	SALINAS COUNCIL ELM TCHRS	251	NEA		1966-68
SALINAS UN HS DST	SALINAS	3 ORGANZTNS RECOGNIZED	494	NEA-IND	JNP	1967-68
		SALINAS UN HS DT TCHRS AN	312	NEA	6	
		SALINAS UN HS DT FCLTY AN	123	IND	2	
		INTELL DISCUSSEFF ACT LEG	51	IND	1	
SAN ANSELMO SCH DST	SAN ANSELMO	SAN ANSELMO ELEM TCHRS AN	99	NEA		1967-68
SAN BENITO JT UN HS DST	HOLLISTER	SAN BENITO HS FAC CLUB	59	NEA		1966-68
SAN BERNARDINO CTY UFSD	SAN BERNARDINO	SAN BERNARDINO TCHRS ASSN	1,800	NEA		1966-68
SAN BRUNO PARK ELEM SD	SAN BRUNO	SAN BRUNO EDUC ASSN	241	NEA		1966-68
SAN DIEGO UNF SCHS	SAN DIEGO	2 ORGANZTNS RECOGNIZED	5,747	NEA	JNP	1966-68
		SAN DIEGO TCHRS ASSN	4,141	NEA	8	
		SAN DIEGO ADM ASSN	340	NEA	1	
SAN DIEGUITO UN HS DST	CARDIFF	2 ORGANZTNS RECOGNIZED	160	NEA-AFT	JNP	1967-68
		SAN DIEGUITO FAC ASSN	114	NEA	6	
		SAN DIEGUITO AFT LOCAL	19	AFT	1	
SAN FRANCISCO UNF SCHS	SAN FRANCISCO	3 ORGANZTNS RECOGNIZED	4,791	NEA-IND	JNP	1967-68
		SN FRNCISCO CLRM TCH ASSN	2,494	NEA	7	
		SN FRNCISCO ASSN SCH ADMN	292	NEA	1	
		S FRAN ASN PHYS ED TCHRS	192	IND	1	
SAN GABRIEL CITY SCHS	SAN GABRIEL	SAN GABRIEL TCHRS ASSN	156	NEA		1966-68
SAN JACINTO UNF SCH DST	SAN JACINTO	SAN JACINTO TCHRS ASSN	72	NEA		1967-68
SAN JUAN UNF SCH DST	CARMICHAEL	SAN JUAN TCHRS ASSN	2,157	NEA		1966-68
SAN LORENZO UNF SCH DST	SAN LORENZO	SAN LORENZO EDUC ASSN	729	NEA		1966-68
SAN LORENZO VALLEY UNF	BEN LOMOND	SAN LORENZO TCHRS ASSN	107	NEA		1966-68
SAN LUIS COASTAL UNF SD	SN LUIS OBISPO	SAN LUIS COASTAL UNF TA	396	NEA		1966-68
SAN MARINO UNF SCH DST	SAN MARINO	SAN MARINO TCHRS ASSN	175	NEA		1967-68
SAN MATEO UN HS DST	SAN MATEO	SAN MATEO UN HSD TCH ASN	653	NEA		1967-68
SAN RAFAEL CITY SCHS	SAN RAFAEL	2 ORGANZTNS RECOGNIZED	438	NEA-AFT	JNP	1966-68
		SAN RAFAEL TEACHERS ASSN	376	NEA	6	
		MARIN CO AFT LOCAL	54	AFT	1	
SANTA ANA UNF SCH DST	SANTA ANA	2 ORGANZTNS RECOGNIZED	864	NEA	JNP	1966-68
		SANTA ANA TCHRS ASSN	829	NEA	8	
		SANTA ANA ELEM ADMN ASSN	35	NEA	1	
SANTA BARBARA SCH DST	SANTA BARBARA	2 ORGANZTNS RECOGNIZED	950	NEA-AFT	JNP	1966-68
		SANTA BARBARA CTY TCH ASN	849	NEA	8	
		SANTA BARBARA AFT	45	AFT	1	
SANTA CLARA UNF SCH DST	SANTA CLARA	CALIF TCHRS SANTA CLARA	1,081	NEA		1966-68
SANTA CRUZ CITY SCHS	SANTA CRUZ	SANTA CRUZ CITY TCH ASSN	300	NEA		1966-68
SANTA MARIA SCH DST	SANTA MARIA	SANTA MARIA ELM EDUC ASN	261	NEA		1966-68
SANTA MONICA UNF SD	SANTA MONICA	2 ORGANZTNS RECOGNIZED	801	NEA	JNP	1966-68
		SANTA MONICA CLM TCH ASN	644	NEA	8	
		SANTA MONICA ASN SCH ADMN	53	NEA	1	
SANTA PAULA ELEM SCHS	SANTA PAULA	SANTA PAULA ELEM ED ASSN	152	NEA		1967-68
SANTA PAULA UN HS DST	SANTA PAULA	SANTA PAULA HS FAC CLUB	70	NEA		1966-68
SANTA ROSA CITY HS DST	SANTA ROSA	SANTA ROSA TCHRS ASSN	534	NEA		1966-68
SANTA ROSA CTY ELEM SCHS	SANTA ROSA	SANTA ROSA TCHRS ASSN	528	NEA		1967-68
SANTEE ELEM SCH DST	SANTEE	SANTEE TCHRS ASSN	190	NEA		1966-68
SARATOGA SCH DST	SARATOGA	SARATOGA TCHRS ASSN	139	NEA		1966-68
SAUGUS UNION SCHS	SAUGUS	SNTA CLARITA ELM TCH ASN	126	NEA		1966-68
SAUSALITO SCH DST	SAUSALITO	SAUSALITO DST TCHRS ASSN	71	NEA		1966-68
SAVANNA SCH DST	ANAHEIM	SAVANNA DST TCHRS ASSN	125	NEA		1966-68
SCOTTS VALLEY UNION SD	SANTA CRUZ	SCOTTS VALLEY TCHRS ASSN	59	NEA		1967-68
SEAL BEACH ELEM PUB SCHS	SEAL BEACH	SEAL BEACH TCHRS ASSN	65	NEA		1967-68
SELMA UNF SCHS	SELMA	SELMA UNF FAC ASSN	176	NEA		1967-68
SEQUOIA UN HS DST	REDWOOD CITY	2 ORGANZTNS RECOGNIZED	713	NEA-AFT	JNP	1966-68
		SEQUOIA DST TCHRS ASSN	421	NEA	7	
		SEQUOIA AFT	159	AFT	2	
SHASTA LAKE UN SCHS	CENTRAL VALLEY	SHASTA LAKE TCHRS ASSN	57	NEA		1966-68
SHASTA UN HS DST	REDDING	2 ORGANZTNS RECOGNIZED	232	NEA-AFT	JNP	1967-68
		SHASTA SEC TCHRS ASSN	209	NEA	8	
		SHASTA CO AFT LOCAL	23	AFT	1	
SIMI VALLEY UNF SCH DST	SIMI	SIMI EDUCATORS ASSN	717	NEA		1966-68
SO SAN FRANCISCO UNF SD	S SN FRANCISCO	2 ORGANZTNS RECOGNIZED	643	NEA-IND	JNP	1966-68
		S SAN FRANCISCO CHAP CTA	548	NEA	6	
		S SAN FRANCISCO ADMN ASN	95	IND	1	
SO WHITTIER ELEM SCH DST	WHITTIER	SO WHITTIER TCHRS ASSN	194	NEA		1966-68
SONOMA VLY UNF SCH DST	SONOMA VALLEY	VLY OF MOON TCHRS ASSN	174	NEA		1966-68
SOQUEL UN ELEM SCH DST	CAPITOLA	SOQUEL EDUC ASSN	71	NEA		1966-68
SOUTH BAY UNION HS DST	HERMOSA BEACH	SO BAY UNION HSD FAC ASN	328	NEA		1967-68
SOUTHERN HUMBOLDT UNF SD	GARBERVILLE	SOUTHERN HUMBOLDT TA	71	NEA		1966-68
ST HELENA UNF SCH DST	ST HELENA	ST HELENA TEACHERS ASSN	64	NEA		1966-68
STANDARD SCH DST	OILDALE	STANDARD TCHRS ASSN	85	NEA		1966-68
STANISLAUS UNION SCH DST	MODESTO	STANISLAUS UN TCHRS ASSN	57	NEA		1966-68
STOCKTON UNF SCHS	STOCKTON	STOCKTON TCHRS ASSN	1,438	NEA		1966-68
SULPHUR SPRINGS UN SCH	SAUGUS	SULPHUR SPRINGS TCH ASSN	58	NEA		1967-68
SUSANVILLE SCH DST	SUSANVILLE	SUSANVILLE ELEM TCH ASSN	47	NEA		1966-68
SYLVAN UNION SCH DST	MODESTO	SYLVAN DST EDUCATORS ASN	106	NEA		1966-68
TAFT UNION HS DST	TAFT	TAFT UNION HS TCHRS ASSN	83	NEA		1966-68
TAMALPAIS UNION HS DST	LARKSPUR	TAMALPAIS DST TCHR ASSN	329	NEA		1966-68
TEHACHAPI UNF SCH DST	TEHACHAPI	TEHACHAPI ASSN OF TCHRS	85	NEA		1966-68
TEMPLE CTY UNIFIED SCHS	TEMPLE CITY	TEMPLE CTY EDUC ASSN	192	NEA		1966-68
THERMALITO UNION ELEM SD	OROVILLE	THERMALITO TCHRS ASSN	46	NEA		1966-68
TIMBER PUB SCHS	NEWBURY PARK	TIMBER EDUC ASSN	160	NEA		1967-68
TORRANCE UNF SCH DST	TORRANCE	TORRANCE ED ASSN	1,494	NEA		1966-68

TRACY JT UN HS DST	TRACY	TRACY EDUCATORS ASSN	102	NEA		1967-68
TRACY PUB SCHS	TRACY	TRACY EDUCATORS ASSN	227	NEA		1966-68
TRAVIS UNF SCH DST	TRAVIS AFB	TRAVIS UNF TCHRS ASSN	174	NEA		1966-68
TULARE CITY SCH DST	TULARE	TULARE CITY TCHRS ASSN	166	NEA		1967-68
TULARE UNION HS DST	TULARE	DST CALIFORNIA TCHRS ASSN	140	NEA		1966-68
TURLOCK ELEM SCH DST	TURLOCK	TURLOCK ELEM TCHRS ASSN	156	NEA		1966-68
TUSTIN ELEM SCH DST	TUSTIN	2 ORGANZTNS RECOGNIZED	345	NEA	JNP	1966-68
		TUSTIN ELM ADM TCHR ASSN	40	NEA	1	
		TUSTIN ELM TCHRS ASSN	305	NEA	8	
UKIAH UNF SCH DST	UKIAH	MENDOSETA TCHRS ASSN	284	NEA		1966-68
UNION SCH DST	SAN JOSE	UNION DST FACULTY ASSN	413	NEA		1966-68
UPLAND SCH DST	UPLAND	UPLAND TEACHERS ASSN	223	NEA		1966-68
VALLEJO UNF SCH DST	VALLEJO	VALLEJO ED ASSN	750	NEA		1966-68
VALLEY OAKS UN SCH DST	THOUSAND OAKS	VALLEY OAKS TCHRS ASSN	198	NEA		1966-68
VENTURA UNF SCH DST	VENTURA	VENTURA UNF EDUC ASSN	788	NEA		1966-68
VICTOR SCH DST	VICTORVILLE	VCTRVLE ELEM TCHRS ASSN	86	NEA		1966-68
VICTOR VLY JT UN HS DST	VICTORVILLE	VICTOR VLY TCHRS ASSN	236	NEA		1967-68
VISALIA UNF SCH DST	VISALIA	VISALIA UNF TCHRS ASSN	573	NEA		1966-68
VISTA UNF SCH DST	VISTA	2 ORGANZTNS RECOGNIZED	310	NEA-IND	JNP	1966-68
		VISTA TCHRS ASSN	284	NEA	6	
		VISTA ADMN ASSN	26	IND	1	
WALNUT CREEK PUB SCHS	WALNUT CREEK	2 ORGANZTNS RECOGNIZED	210	NEA-AFT	JNP	1966-68
		WALNUT CREEK EDUC ASSN	190	NEA	8	
		WALNUT CREEK AFT	6	AFT	1	
WALNUT ELEM SCH DST	WALNUT	WALNUT EDUC ASSN	120	NEA		1967-68
WASCO UNION SCHS	WASCO	WASCO ELEM TCHRS ASSN	85	NEA		1966-68
WASHINGTON UNF SCH DST	W SACRAMENTO	WASHINGTON EDUC ASSN	307	NEA		1966-68
WASHINGTON UNION HS DST	FRESNO	WASHINGTON UHS FAC CLUB	57	NEA		1966-68
WEST COVINA UNF SCHS	WEST COVINA	WEST COVINA EDUC ASSN	570	NEA		1966-68
WESTERN PLACER UNF SCHS	LINCOLN	WESTERN PLACER TCHRS ASN	89	NEA		1967-68
WESTMINSTER ELY SCH DST	WESTMINSTER	WESTMINSTER TCHRS ASSN	516	NEA		1966-68
WESTSIDE UNION SCH DST	LANCASTER	WESTSIDE TCHRS ASSN	86	NEA		1966-68
WHEATLAND ELEM UNF SCH	WHEATLAND	WHEATLAND TCHRS ASSN	198	NEA		1966-68
WHISMAN SCH DST	MOUNTAIN VIEW	WHISMAN DST TCHRS ASSN	133	NEA		1966-68
WHITTIER CITY SCH DST	WHITTIER	WHITTIER ELM TCHRS ASSN	261	NEA		1966-68
WHITTIER UN HS DST	WHITTIER	WHITTIER SEC EDUC ASSN	686	NEA		1966-68
WILLOWBROOK SCHS	LOS ANGELES	2 ORGANZTNS RECOGNIZED	147	NEA	JNP	1966-68
		WILLOWBROOK DST TCHR ASSN	95	NEA	6	
		WILLOWBROOK ADM SUPR ASSN	18	NEA	1	
WILLOWS UNF SCH DST	WILLOWS	WILLOWS UNF TCHRS ASSN	93	NEA		1966-68
WM S HART UNION HS DST	NEWHALL	HART DISTRICT TCHRS ASSN	230	NEA		1967-68
WOODLAND JT UNF SCH DST	WOODLAND	WOODLAND EDUCATION ASSN	330	NEA		1966-68
YUCAIPA JT UNF SCH DST	YUCAIPA	YUCAIPA TCHRS ASSN	159	NEA		1967-68

COLORADO

ADAMS ARAPAHOE SD 28J	AURORA	AURORA EDUC ASSN	813	NEA		1966-68
ADAMS CO SCH DST 14	COMMERCE CITY	SCH DST 14 EDUC ASSN	410	NEA		1966-68
ARAPAHOE CO SCH DST 6	LITTLETON	LITTLETON EDUC ASSN	748	NEA		1966-68
BOULDER VALLEY SD RE 2	BOULDER	BOULDER VALLEY EDUC ASSN	1,045	NEA		1966-68
BRUSH SCH DST	BRUSH	BRUSH EDUC ASSN	92	NEA		1967-68
CHERRY CREEK SCH DST 5	ENGLEWOOD	CHERRY CREEK EDUC ASSN	346	NEA		1966-68
DENVER PUB SCHS	DENVER	DENVER CLASSROOM TCHR ASN	4,974	NEA		1966-68
DOUGLAS CO SCH DST	CASTLE ROCK	DOUGLAS CO EDUC ASSN	121	NEA		1967-68
EAST OTERO SCH DST R 1	LA JUNTA	LA JUNTA EDUC ASSN	138	NEA		1966-68
EASTLAKE SCH DST 12	DENVER	EASTLAKE SD 12 TCHRS ASN	534	NEA		1966-68
GREELEY PUB SCH	GREELEY	GREELEY EDUC ASSN	470	NEA		1967-68
JEFFERSON CO SCH DST R 1	LAKEWOOD	JEFFERSON CO R 1 ED ASSN	2,690	NEA		1966-68
LAKE CO SCH DST RE 1	LEADVILLE	LAKE CO EDUC ASSN	130	NEA		1967-68
MAPLETON PUB SCHS	DENVER	MAPLETON EDUC ASSN	297	NEA		1966-68
PUEBLO PUB SCH DST 60	PUEBLO	PUEBLO EDUC ASSN	1,284	NEA		1966-68
SHERIDAN SCH DST 2	FORT LOGAN	SHERIDAN EDUCATORS ASSN	122	NEA		1967-68
ST VRAIN VALLEY PUB SCHS	LONGMONT	ST VRAIN VLY EDUC ASSN	423	NEA		1966-68
THOMPSON SCH DST R2 J	LOVELAND	THOMPSON EDUC ASSN	264	NEA		1967-68
VALLEY SCH DST RE 1	STERLING	SO PLATTE EDUC ASSN	257	NEA		1966-68
WELD CO SCH DST RE 1	GILCREST	VALLEY EDUC ASSN	86	NEA		1966-68
WEST END SCH DST RE 2	NATURITA	WEST END EDUC ASSN	66	NEA		1966-68
WESTMINSTER SCH DST 50	WESTMINSTER	WESTMINSTER EDUC ASSN	726	NEA		1966-68

CONNECTICUT

ANSONIA PUB SCHS	ANSONIA	ANSONIA AFT LCL 1012	193	AFT		1967-68
BERLIN PUB SCH	BERLIN	BERLIN EDUC ASSN	169	NEA		1967-68
BETHEL PUB SCH	BETHEL	BETHEL EDUC ASSN	141	NEA		1966-68
BLOOMFIELD PUB SCH	BLOOMFIELD	BLOOMFIELD EDUC ASSN	258	NEA		1967-68
BRIDGEPORT PUB SCHS	BRIDGEPORT	BRIDGEPORT EDUC ASSN	1,113	NEA		1966-68
BRISTOL CITY SCHS	BRISTOL	BRISTOL TCHRS ASSN	560	NEA		1966-68
BROOKFIELD PUB SCHS	BROOKFIELD CTR	BROOKFIELD TCHRS ASSN	100	NEA		1966-68
CANTON PUB SCH	COLLINSVILLE	CANTON TCHRS ASSN	83	NEA		1967-68
CLINTON PUB SCH	CLINTON	CLINTON EDUCATION LEAGUE	135	NEA		1966-68
CROMWELL PUB SCH	CROMWELL	CROMWELL EDUC ASSN	107	NEA		1966-68
DANBURY PUB SCHS	DANBURY	DANBURY EDUC ASSN	502	NEA		1966-68
DARIEN PUB SCHS	DARIEN	DARIEN EDUC ASSN	333	NEA		1966-68
DERBY PUB SCHS	DERBY	DERBY TCHRS LEAGUE	101	NEA		1967-68
E HARTFORD PUB SCHS	E HARTFORD	E HARTFORD EDUC ASSN	612	NEA		1966-68
EAST LYME PUB SCH	EAST LYME	EAST LYME TCHRS ASSN	148	NEA		1967-68
EAST WINDSOR PUB SCHS	EAST WINDSOR	EAST WINDSOR EDUC ASSN	122	NEA		1966-68
ENFIELD PUB SCHS	THOMPSONVILLE	ENFIELD TCHRS ASSN	508	NEA		1966-68
FAIRFIELD PUB SCHS	FAIRFIELD	FAIRFIELD EDUC ASSN	638	NEA		1966-68
GLASTONBURY PUB SCHS	GLASTONBURY	GLASTONBURY EDUC ASSN	299	NEA		1966-68
GREENWICH PUB SCHS	GREENWICH	GREENWICH EDUC ASSN	620	NEA		1966-68
GROTON PUB SCHS	GROTON	GROTON EDUC ASSN	484	NEA		1966-68
HARTFORD PUB SCHS	HARTFORD	HARTFORD FED TCHRS	1,623	AFT		1966-68
LEDYARD PUB SCHS	LEDYARD	LEDYARD EDUC ASSN	170	NEA		1967-68
MANCHESTER PUB SCHS	MANCHESTER	MANCHESTER ED ASSN	518	NEA		1966-68
MANSFIELD SCH DST	MANSFIELD	MANSFIELD EDUC ASSN	64	NEA		1966-68

MERIDEN PUB SCHS	MERIDEN	MERIDEN EDUC ASSN	521	NEA		1966-68
MIDDLETOWN PUB SCHS	MIDDLETOWN	MIDDLETOWN EDUC ASSN	357	NEA		1966-68
MILFORD SCH	MILFORD	MILFORD ED ASSN	622	NEA		1966-68
MONROE PUB SCHS	MONROE	MONROE TCHRS ASSN	154	NEA		1967-68
NEW BRITAIN CONS SCHS	NEW BRITAIN	NEW BRITAIN AFT LOCAL 871	750	AFT	SN	1967-68
NEW BRITAIN CONS SCHS	NEW BRITAIN	NEW BRITAIN ADM SUP DIR	50	IND	SN	1967-68
NEW CANAAN PUB SCHS	NEW CANAAN	NEW CANAAN EDUC ASSN	271	NEA		1966-68
NEW HAVEN PUB SCHS	NEW HAVEN	NEW HAVEN AFT LOCAL	1,200	AFT		1966-68
NEW LONDON PUB SCHS	NEW LONDON	NEW LONDON EDUC ASSN	264	NEA		1966-68
NEW MILFORD PUB SCH	NEW MILFORD	NEW MILFORD TCHRS ASSN	166	NEA		1966-68
NEWINGTON SCHS	NEWINGTON	NEWINGTON TCHRS ASSN	357	NEA		1966-68
NEWTON PUB SCH	NEWTON	NEWTON TCHRS ASSN	177	NEA		1966-68
NORTH HAVEN PUB SCHS	NORTH HAVEN	NORTH HAVEN EDUC ASSN	384	NEA		1966-68
NORWALK PUB SCH	NORWALK	NORWALK TCHRS ASSN	830	NEA		1966-68
NORWICH PUB SCHS	NORWICH	NORWICH TCHRS LEAGUE	250	NEA		1966-68
PLYMOUTH PUB SCHS	TERRYVILLE	PLYMOUTH EDUC ASSN	123	NEA		1967-68
PORTLAND PUB SCHS	PORTLAND	PORTLAND TEACHERS CLUB	107	NEA		1966-68
PROSPECT PUB SCHS	PROSPECT	PROSPECT TCHRS ASSN	50	NEA		1966-68
REGIONAL HS DST 4	DEEP RIVER	REGIONAL SD 4 TCHR ASSN	145	NEA		1966-68
RIDGEFIELD PUB SCHS	RIDGEFIELD	RIDGEFIELD TCHRS ASSN	247	NEA		1966-68
SEYMOUR PUB SCHS	SEYMOUR	SEYMOUR EDUC ASSN	148	NEA		1966-68
SIMSBURY PUB SCHS	SIMSBURY	SIMSBURY EDUC ASSN	244	NEA		1966-68
SOMERS PUB SCHS	SOMERS	SOMERS EDUC ASSN	83	NEA		1967-68
SOUTHINGTON SCHS	SOUTHINGTON	SOUTHINGTON EDUC ASSN	357	NEA		1967-68
STAFFORD PUB SCHS	STAFFORD SPRGS	STAFFORD EDUC ASSN	94	NEA		1966-68
STAMFORD PUB SCH	STAMFORD	STAMFORD ED ASSN	1,190	NEA		1966-68
STRATFORD PUB SCHS	STRATFORD	STRATFORD EDUC ASSN	553	NEA		1966-68
TORRINGTON PUB SCH	TORRINGTON	TORRINGTON ED ASSN	275	NEA		1966-68
TRUMBULL PUB SCHS	TRUMBULL	TRUMBULL EDUC ASSN	341	NEA		1967-68
VERNON TWP PUB SCHS	ROCKVILLE	VERNON EDUC ASSN	322	NEA		1966-68
WALLINGFORD PUB SCHS	WALLINGFORD	WALLINGFORD EDUC ASSN	490	NEA		1967-68
WATERBURY PUB SCH	WATERBURY	WATERBURY TCHRS ASSN	923	NEA		1966-68
WATERFORD PUB SCHS	WATERFORD	WATERFORD ED ASSN	238	NEA		1966-68
WATERTOWN PUB SCH	WATERTOWN	WATERTOWN EDUC ASSN	217	NEA		1966-68
WEST HAVEN PUB SCHS	WEST HAVEN	WEST HAVEN EDUC ASSN	460	NEA		1966-68
WETHERSFIELD TWP SCHS	WETHERSFIELD	EDUC ASSN OF WETHERSFIELD	294	NEA		1966-68
WILTON PUB SCHS	WILTON	WILTON EDUCATION ASSN	205	NEA		1966-68
WINDHAM PUB SCH	WILLIMANTIC	WINDHAM EDUCATION ASSN	189	NEA		1966-68
WINDSOR SCHS	WINDSOR	WINDSOR EDUC ASSN	267	NEA		1966-68
WOODBRIDGE PUB SCHS	WOODBRIDGE	WOODBRIDGE EDUC ASSN	59	NEA		1967-68
WOODBRIDGE REG HS DST 5	WOODBRIDGE	AMITY EDUC ASSN	170	NEA		1967-68
WOODBURY PUB SCHS	WOODBURY	WOODBURY TCHRS ASSN	75	NEA		1966-68
DELAWARE						
GEORGETOWN SPECIAL SD	GEORGETOWN	GEORGETOWN EDUC ASSN	78	NEA		1966-68
HARRINGTON SPECIAL SD	HARRINGTON	HARRINGTON TCHRS ASSN	67	NEA		1966-68
LAUREL SPECIAL SCH DST	LAUREL	LAUREL EDUC ASSN	108	NEA		1966-68
LEWES SPECIAL SCH DST	LEWES	LEWES EDUC ASSN	78	NEA		1966-68
MT PLEASANT SPECIAL SD	WILMINGTON	MT PLEASANT EDUC ASSN	277	NEA		1966-68
NEWARK SPEC SCHS	NEWARK	NEWARK SCHS EDUC ASSN	462	NEA		1966-68
SEAFORD SPEC SCH DST	SEAFORD	SEAFORD EDUC ASSN	170	NEA		1967-68
SMYRNA SPECIAL SCH DST	SMYRNA	SMYRNA EDUC ASSN	114	NEA		1967-68
DISTRICT OF COLUMBIA						
DST OF COLUMBIA PUB SCHS	WASHINGTON DC	WASHINGTON TCHRS AFT LCL	7,705	AFT		1967-68
FLORIDA						
BAKER CO SCHS	MACLENNY	BAKER CO EDUC ASSN	107	NEA		1967-68
BREVARD CO PUB SCHS	TITUSVILLE	4 ORGANZTNS RECOGNIZED	2,750	NEA	JNP	1966-68
		BREVARD CO CLM TCH ASSN	2,607	NEA	7	
		BREVARD CO ELEM PRIN ASSN	54	NEA	1	
		BREVARD CO SEC PRIN ASSN	30	NEA	2	
		BREVARD CO SUP STAFF ASSN	59	NEA	1	
BROWARD COUNTY SCH	FT LAUDERDALE	2 ORGANZTNS RECOGNIZED	4,230	NEA	JNP	1967-68
		BROWARD CLRM TCHRS ASSN	3,750	NEA	5	
		BROWARD ASSN OF SUPER ADM	480	NEA	2	
CLAY CO PUB SCHS	GREEN COVE SPR	CLAY CO EDUCATION ASSN	332	NEA		1966-68
COLLIER CO PUB SCHS	NAPLES	COLLIER CO EDUC ASSN	344	NEA		1966-68
DADE CO PUB SCHS	MIAMI	3 ORGANZTNS RECOGNIZED	10,100	NEA	JNP	1967-68
		DADE CO CLRM TCHRS ASSN	8,888	NEA	11	
		DADE CO ASST PRIN ASSN	244	NEA	2	
		DADE CO SCH ADMN ASSN	968	NEA	3	
DUVAL CO PUB SCH	JACKSONVILLE	DUVAL TCHRS ASSN	6,005	NEA		1967-68
HERNANDO CO PUB SCHS	BROOKSVILLE	2 ORGANZTNS RECOGNIZED	167	NEA	JNE	1967-68
		HERNANDO CLRM TCHRS ASSN	100	NEA		
		HERNANDO CO EDUC ASSN	67	NEA		
HILLSBOROUGH CO PUB SCHS	TAMPA	2 ORGANZTNS RECOGNIZED	3,800	NEA	JNE	1966-68
		HILLSBORO CLM TCHRS ASSN	2,000	NEA		
		HILLSBORO CO EDUC ASSN	1,200	NEA		
MANATEE CO PUB SCHS	BRADENTON	3 ORGANZTNS RECOGNIZED	761	NEA	JNP	1967-68
		MANATEE CO CLRM TCH ASSN	651	NEA	5	
		MANATEE CO COUN SCH ADM	70	NEA	1	
		MANATEE PERS GUIDNCE ASSN	40	NEA	1	
MARION CO SCH DST	OCALA	MARION EDUC ASSN	702	NEA		1967-68
PINELLAS CO PUB SCHS	CLEARWATER	PINELLAS CO CLM TCHR ASSN	4,157	NEA		1966-68
POLK CO PUB SCHS	BARTOW	POLK EDUC ASSN	2,360	NEA		1967-68
SARASOTA CO SCHS	SARASOTA	SARASOTA CO TCHRS ASSN	920	NEA		1967-68
IDAHO						
ABERDEEN SCH DST 58	ABERDEEN	ABERDEEN EDUC ASSN	58	NEA		1967-68
ARCO JT SCH DST 111	ARCO	BUTTE EDUC ASSN	47	NEA		1966-68
BOUNDARY CO SCH DST 101	BONNERS FERRY	BOUNDARY CO EDUC ASSN	69	NEA		1966-68

CALDWELL SCH DST 132	CALDWELL	CALDWELL EDUC ASSN	160	NEA		1966-68
CASSIA CO JT SCH DST 151	BURLEY	CASSIA CO EDUC ASSN	220	NEA		1966-68
COEUR DALENE S DST 271	COEUR DALENE	COEUR DALENE EDUC ASSN	200	NEA		1966-68
EASTSIDE SCH DST 201	PRESTON	EASTSIDE TCHRS ASSN	78	NEA		1966-68
IDAHO FALLS JT DST 93	IDAHO FALLS	EAST BONNEVILLE EDUC ASSN	169	NEA		1966-68
IDAHO FALLS SCH DST 91	IDAHO FALLS	IDAHO FALLS EDUC ASSN	460	NEA		1966-68
LEWISTON IND SCH DST 1	LEWISTON	LEWISTON EDUC ASSN	240	NEA		1967-68
MERIDIAN JT SD 2	MERIDIAN	MERIDIAN DST TCHRS ASSN	146	NEA		1966-68
NAMPA SCH DST 131	NAMPA	NO ORGANZTN RECOGNIZED	195			1966-68
OROFINO SCH DST 171	OROFINO	CLEARWATER EDUC ASSN	114	NEA		1967-68
POCATELLO SCH DST 25	POCATELLO	2 ORGANZTNS RECOGNIZED	569	NEA-AFT	SN	1966-68
		POCATELLO EDUC ASSN	300	NEA		
		POCATELLO AFT GUILD	30	AFT		
SHELLEY JT SCH DST 60	SHELLEY	SHELLEY TCHRS ASSN	71	NEA		1966-68
SNAKE RIVER SCH DST 52	BLACKFOOT	SNAKE RIVER EDUC ASSN	78	NEA		1966-68
WALLACE SCH DST 393	WALLACE	DST 393 EDUC ASSN	77	NEA		1967-68
WEISER SCH DST 431	WEISER	WEISER EDUCATION ASSN	72	NEA		1966-68

ILLINOIS

ADDISON SCH DST 4	ADDISON	ADDISON TCHRS ASSN	190	NEA		1967-68
ALSIP SCH DST 126	ALSIP	NO ORGANZTN RECOGNIZED	75			1967-68
ANTIOCH COM HS DST	ANTIOCH	ANTIOCH COM HS TCH ASSN	64	NEA		1967-68
ARLINGTON HTS PS DST 25	ARLINGTON HTS	ARLINGTON TCHRS ASSN	436	NEA		1966-68
AURORA SCH DST 129	AURORA	AURORA WEST EDUC ASSN	496	NEA		1967-68
BATAVIA PUB SCHS	BATAVIA	BATAVIA TCHRS ASSN	140	NEA		1966-68
BELLEVILL TWP HS DST 201	BELLEVILLE	BELLEVILLE AFT LOCAL 434	255	AFT		1967-68
BELLEVILLE PUB SCHS	BELLEVILLE	BELLEVILLE AFT LOCAL 673	211	AFT		1966-68
BELLWOOD SCH DST 88	BELLWOOD	BELLWOOD TCHRS ASSN	139	NEA		1967-68
BETHALTO COM SCH UNIT 8	BETHALTO	BETHALTO EDUC ASSN	140	NEA		1967-68
BLUE ISLAND ELEM SCHS	BLUE ISLAND	BLUE ISLAND EDUC ASSN	137	NEA		1967-68
BOURBONNAIS ELEM SCH DST	BOURBONNAIS	NO ORGANZTN RECOGNIZED	47			1967-68
BRADLEY ELEM SCHS 61	BRADLEY	BRADLEY ELEM TCHRS ASSN	78	NEA		1966-68
BREMEN COM HS DST 228	MIDLOTHIAN	MIDLOTHIAN FACULTY ASSN	242	IND		1966-68
BUSHNELL PRAIRIE CTY S	BUSHNELL	BUSHNELL PRAIRIE CTY TA	70	NEA		1966-68
CANTON UNION SD 66	CANTON	CANTON EDUC ASSN	190	NEA		1967-68
CARBONDALE ELEM SD 95	CARBONDALE	CARBONDALE EDUC ASSN	131	NEA		1967-68
CARPENTERSVILLE COM SCHS	CARPENTERSVLE	DST 300 EDUC ASSN	540	NEA		1967-68
CHAMPAIGN COM UNIT SD 4	CHAMPAIGN	CHAMPAIGN EDUC ASSN	743	NEA		1966-68
CHICAGO HGTS SD 170	CHICAGO HGTS	CHICAGO HGTS AFT LOCAL	205	AFT		1967-68
CHICAGO PUB SCHS	CHICAGO	CHICAGO AFT LOCAL 1	23,271	AFT		1966-68
CICERO PUB SCH DST 99	CICERO	CICERO COUN AFT 571	275	AFT		1966-68
COLLINSVILLE UNIT 10	COLLINSVILLE	2 ORGANZTNS RECOGNIZED	331	NEA-AFT	JNE	1966-68
		COLLINSVILLE EDUC ASSN	172	NEA		
		COLLINSVILLE AFT	140	AFT		
COLUMBIA COM SCH DST	COLUMBIA	COLUMBIA EDUC ASSN	60	NEA		1967-68
DECATUR PUB SCHS	DECATUR	DECATUR EDUC ASSN	1,107	NEA		1966-68
DEKALB COM UNIT SD 428	DEKALB	DEKALB CLRM TCHRS ASSN	287	NEA		1966-68
DES PLAINES ELEM SD 62	DES PLAINES	DES PLAINES EDUC ASSN	338	NEA		1967-68
DOLTON SCH DST 149	DOLTON	DST 149 CLRM TCHRS ASSN	152	NEA		1967-68
DOWNERS GROVE ELM SD 58	DOWNERS GROVE	DOWNERS GR ELM TCHR ASSN	275	NEA		1966-68
DOWNERS GROVE HS DST 99	DOWNERS GROVE	DOWNERS GROVE HS TCH ASN	198	NEA		1966-68
DUPO COM UNIT DST 196	DUPO	DUPO AFT	36	AFT		1966-68
E CHICAGO HGTS PUB SCHS	E CHICAGO HGTS	E CHICAGO HGTS AFT LOCAL	74	AFT		1967-68
E ST LOUIS SCH DST 189	EAST ST LOUIS	E ST LOUIS AFT LOCAL 1220	1,056	AFT		1966-68
EAST ALTON ELM SD 13	EAST ALTON	EAST ALTON EDUC ASSN	75	NEA		1966-68
EAST AURORA SCH DST 131	AURORA	AURORA EAST EDUC ASSN	427	NEA		1966-68
EDWARDS CO COM UNIT SD 1	ALBION	EDWARDS CO TCHRS ASSN	68	NEA		1966-68
EDWARDSVILLE COM DST 7	EDWARDSVILLE	EDWARDSVILLE EDUC ASSN	251	NEA		1966-68
ELGIN PUB SCHS	ELGIN	ELGIN TCHRS ASSN	970	NEA		1966-68
ELK GROVE SCH DST 59	ELK GROVE	TEACHERS COUNCIL DST 59	370	NEA		1966-68
ELMWOOD PARK COM HSD 232	ELMWOOD PARK	ELMWOOD PARK EDUC ASSN	66	NEA		1967-68
FENTON HS	BENSENVILLE	FENTON EDUC ASSN	96	NEA		1966-68
FOREST RIDGE SCH DST 142	MIDLOTHIAN	FOREST RIDGE EDUC ASSN	61	NEA		1967-68
GENOA KINGSTON USD 424	GENO	GENOA KINGSTON ED ASSN	64	NEA		1967-68
GLENBROOK HS	GLENVIEW	GLENBROOK EDUCATORS ASSN	258	NEA		1966-68
GRANITE PUB SCHS	GRANITE CITY	GRANITE CITY AFT LOC 743	611	AFT		1966-68
GREENVILLE PUB SCHS	GREENVILLE	GREENVILLE TCHRS ASSN	125	NEA		1966-68
HARVEY SCH DST 152	HARVEY	HARVEY EDUC ASSN	167	NEA		1967-68
HIGHLAND PARK DST 107	HIGHLAND PARK	TCHRS COUN DST 107	75	NEA		1967-68
J STERLING MORTON HS DST	CICERO	W SUBURBAN AFT LOCAL	457	AFT		1967-68
JACKSONVILLE SCH DST 117	JACKSONVILLE	JACKSONVILLE TCHRS ASSN	281	NEA		1966-68
JERSEYVILLE COM DST 100	JERSEYVILLE	JERSEY CO EDUC ASSN	168	NEA		1966-68
JOLIET PUB SCH DST 86	JOLIET	2 ORGANZTNS RECOGNIZED	505	NEA-AFT	JNE	1966-68
		JOLIET EDUC ASSN	250	NEA		
		JOLIET AFT	230	AFT		
JOLIET TWP HS 204	JOLIET	JOLIET AFT LOCAL 604	370	AFT		1966-68
KANELAND COM UNIT SD 302	MAPLE PARK	KANELAND EDUC ASSN	100	NEA		1966-68
KANKAKEE SCH DST 111	KANKAKEE	KANKAKEE AFT LOCAL 886	381	AFT		1967-68
LA GRANGE SCH DST 105	LA GRANGE	DST 105 TCHRS ASSN	88	NEA		1967-68
LA SALLE PERU TWP HS	LA SALLE	LA SALLE PERU AFT 1243	95	AFT		1966-68
LAKE VILLA SCH	LAKE VILLA	LAKE VILLA TCHRS ASSN	55	NEA		1967-68
LEYDEN COM HS DST	FRANKLIN PARK	W SUBURBAN AFT LOCAL 571	238	AFT		1966-68
LIBERTYVILLE SCH DST 70	LIBERTYVILLE	LIBERTYVLLE ELM TCH COUN	100	NEA		1966-68
LINCOLNWOOD DST 74	LINCOLNWOOD	LINCOLNWOOD TCHRS ASSN	109	NEA		1967-68
LYONS ELM DST 103	LYONS	DST 103 PROF ORGANZATION	158	NEA		1966-68
MADISON COM UNIT SD 12	MADISON	MADISON DST AFT LOC 763	124	AFT		1966-68
MAINE TWP HS DST 207	PARK RIDGE	TWP HS DST 207 TCHRS ASSN	621	NEA		1966-68
MARSHALL COM USD C2	MARSHALL	MARSHALL CLRM TCHRS ASSN	102	NEA		1966-68
MAYWOOD SCH DST 89	MAYWOOD	MAYWOOD COUN TCH UN 571	280	AFT		1966-68
MORTON COM CONS SCHS	MORTON	MORTON EDUCATION ASSN	104	NEA		1966-68
MT PROSPECT TWP HSD 214	MT PROSPECT	MT PROSPECT TCHRS ASSN	650	NEA		1967-68
MUNDELEIN CONS HS	MUNDELEIN	MUNDELEIN EDUC ASSN	74	NEA		1967-68
MURPHYSBORO COM SD 186	MURPHYSBORO	MURPHYSBORO EDUC ASSN	140	NEA		1967-68
N CHICAGO COM DST 123	NORTH CHICAGO	N CHICAGO HS TCHRS ASSN	74	NEA		1966-68
NAPERVILLE COM HSD 107	NAPERVILLE	NAPERVILLE HS TCHRS ASSN	114	NEA		1967-68

NAPERVILLE SCH DST 78	NAPERVILLE	NAPERVILLE TCHRS ASSN	254	NEA		1967-68
NILES TWP COM HS DST 219	SKOKIE	NILES TWP AFT	480	AFT		1967-68
NORTHBROOK ELEM DST 27	NORTHBROOK	DST 27 FACULTY ASSN	62	NEA		1967-68
OAK PARK ELEM DST 97	OAK PARK	OAK PARK ED ASSN	330	NEA		1966-68
OAK PARK-RVR FRST 90	RVR FRST	OAK PARK DST EDUC ASSN	323	NEA		1967-68
OTTAWA ELEM SCHS	OTTAWA	OTTAWA ELEM CLRM TCH ASSN	135	NEA		1967-68
PALATINE TWP HSD 211	PALATINE	TCHRS ASSN OF HS DST 211	285	NEA		1967-68
PALOS COM CONS SD 118	PALOS PARK	PALOS EDUC ASSN	80	NEA		1967-68
PARK RIDGE PUB SCHS	PARK RIDGE	PARK RIDGE EDUC ASSN	354	NEA		1966-68
PAXTON COM UNIT 2	PAXTON	PAXTON EDUC ASSN	85	NEA		1966-68
POSEN ROBBINS PUB SCH	POSEN	POSEN AFT LOCAL 1094	120	AFT		1967-68
PROVISO TWP HS DST 209	MAYWOOD	PROVISO AFT LOC 571	391	AFT		1966-68
QUINCY PUB SCHS	QUINCY	NO ORGANZTN RECOGNIZED	464			1966-68
RIDGELAND SCH DST 122	OAK LAWN	RIDGELAND TCHRS ASSN	122	NEA		1967-68
RIVERSIDE BROOKFIELD TWP	RIVERSIDE	RIVSDE BRKFIELD TCHR ASSN	103	NEA		1966-68
ROCK FALLS TWP HS	ROCK FALLS	ROCK FALLS HS EDUC ASSN	61	NEA		1966-68
ROXANA COM SCHS UNIT 1	ROXANA	ROXANA EDUC ASSN	209	NEA		1967-68
SCHAUMBURG TWP SCH DST	HOFFMAN ESTATS	DST 54 CLRM TCHRS ASSN	376	NEA		1967-68
SKOKIE SCH DST 69	SKOKIE	SKOKIE SD 69 EDUC ASSN	128	NEA		1967-68
SOUTH STICKNEY ELEM 111	OAKLAWN	SOUTH STICKNEY LOCAL 943	230	AFT		1966-68
SPRINGFIELD PUB SCH	SPRINGFIELD	SPRINGFIELD EDUC ASSN	1,107	NEA		1967-68
STREATOR ELEM SCH	STREATOR	STREATOR ELEM TCHRS ASSN	122	NEA		1967-68
STREATOR TWP HS DST	STREATOR	STREATOR AFT LOCAL 1270	80	AFT		1967-68
SYCAMORE COM UNIT SD 427	SYCAMORE	SYCAMORE EDUC ASSN	135	NEA		1967-68
THORNTON FRAC TWP HSD215	CALUMET CITY	THORNTON FRAC AFT LCL 683	190	AFT		1966-68
VIRDEN COM UNIT DST 4	VIRDEN	NO ORGANZTN RECOGNIZED	58			1966-68
WESTCHESTER PUB SCHS	WESTCHESTER	WESTCHESTER EDUC ASSN	88	NEA		1966-68
WHEATON ELEM SCH DST 36	WHEATON	WHEATON EDUC ASSN	308	NEA		1967-68
WILMOT SCH DST 110	DEERFIELD	DST 110 TCHRS COUNCIL	94	NEA		1967-68
WOODLAND SCH COM UNIT 5	STREATOR	NO ORGANZTN RECOGNIZED	60			1966-68
INDIANA						
ANDERSON CTY SCH	ANDERSON	ANDERSON AFT	768	AFT		1966-68
BLACKFORD CO COM SCHS	HARTFORD CITY	BLACKFORD CO TCHRS ASSN	182	NEA		1966-68
BLOOMINGTON MET SCH DST	BLOOMINGTON	BLOOMINGTON MET TCHR ASN	562	NEA		1966-68
CENTRVLE ABINGTON COM S	CENTERVILLE	CNTRVLE CLRM TCHRS ASSN	92	NEA		1966-68
CLARKSVILLE TWP SCH	CLARKSVILLE	CLARKSVILLE CLRM TCH ASN	120	NEA		1966-68
CLAY ERVIN HOWARD SCHS	KOKOMO	NORTHWSTRN CLRM TCHR ASSN	112	NEA		1966-68
DANVILLE COM SCH CORP	DANVILLE	DANVILLE CLRM TCHR ASSN	92	NEA		1966-68
EAST ALLEN CO SCHS	NEW HAVEN	EAST ALLEN CO TCHRS ASSN	494	NEA		1966-68
EAST GARY CITY SCH	EAST GARY	2 ORGANZTNS RECOGNIZED	129	NEA-AFT	JNE	1966-68
		E GARY CLRM TCHRS ASSN	61	NEA		
		E GARY AFT LOCAL 1395	35	AFT		
ELKHART COM SCHS	ELKHART	ELKHART COM EDUC ASSN	676	NEA		1967-68
ELWOOD CTY SCH DST	ELWOOD	ELWOOD CLRM TCHRS ASSN	144	NEA		1966-68
EVANSVLE VANDERBURGH SCH	EVANSVILLE	EVANSVILLE TCHRS ASSN	1,516	NEA		1966-68
FAIRFIELD COM SCHS	GOSHEN	FAIRFIELD EDUC ASSN	75	NEA		1966-68
FORT WAYNE COM SCHS	FT WAYNE	FT WAYNE TCHRS ASSN	1,770	NEA		1967-68
GOSHEN COM SCHS	GOSHEN	GOSHEN COM TCHRS ASSN	228	NEA		1966-68
GREENCASTLE COM SCHS	GREENCASTLE	GREENCASTLE CLRM TCH ASN	130	NEA		1966-68
JAY SCH CORP	PORTLAND	JAY SCH CLRM TCHRS ASSN	236	NEA		1966-68
LIBERTY PERRY COM SCHS	SELMA	LIBERTY PERRY CLM TCH ASN	92	NEA		1966-68
LOGANSPORT COM SCH CORP	LOGANSPORT	LOGANSPORT EDUC ASSN	243	NEA		1966-68
MADISON CONS SCHS	MADISON	MADISON CLRM TCHRS ASSN	206	NEA		1966-68
MANCHESTER COM SCHS	N MANCHESTER	MANCHESTER TCHRS CLUB	107	NEA		1967-68
MT PLEASANT TWP COM SCHS	YORKTOWN	MT PLESNT CLRM TCHR ASSN	94	NEA		1966-68
N LAWRENCE COM SCHS	BEDFORD	N LAWRENCE EDUC ASSN	308	NEA		1967-68
N SPENCER CO SCHS	DALE	N SPENCER CO CLRM ASSN	94	NEA		1967-68
NINEVEH HENSLY JACKN USD	TRAFALGAR	N H J CLRM TCHRS ASSN	73	NEA		1966-68
NORTH NEWTON SCH CORP	MOROCCO	N NEWTON CLRM TCHRS ASSN	74	NEA		1966-68
NORTHERN COM SCH DST	SHARPSVILLE	NO ORGANZTN RECOGNIZED	72			1966-68
OAK HILL UNITED SCH CORP	CONVERSE	OAK HILL TEACHERS ASSN	119	NEA		1966-68
PERRY CENTRAL COM SCH	LEOPOLD	PERRY CENTRAL TCHRS ASSN	47	NEA		1967-68
PERRY TWP METRO SCH DST	INDIANAPOLIS	PERRY EDUCATORS ASSN	475	NEA		1967-68
PRAIRIE HTS COM SCHS	LA GRANGE	PRAIRIE HTS CLRM TCH ASN	87	NEA		1967-68
RANDOLPH SOUTHERN SCHS	LYNN	RANDOLPH SO CLM TCHR ASN	46	IND		1966-68
RENSSLAER CENTRAL SCHS	RENSSLAER	RENSSLAER CENTRAL CLM TA	89	NEA		1966-68
RICHMOND COM SCH	RICHMOND	RICHMOND ASSN CLRM TCHRS	485	NEA		1967-68
RUSHVILLE CONS SCHS	RUSHVILLE	RUSHVLLE CONS TCHRS CLUB	210	NEA		1966-68
SHELBYVILLE CENTRAL SCHS	SHELBYVILLE	SHELBYVILLE LOC CLM TA	194	NEA		1966-68
SO ADAMS SCHS	BERNE	SO ADAMS CLRM TCHRS ASSN	90	NEA		1967-68
SOUTH BEND COM	SOUTH BEND	SOUTH BEND LOCA 679	1,842	AFT		1967-68
SOUTH NEWTON PUB SCHS	KENTLAND	SO NEWTON CLRM TCHR ASSN	87	NEA		1966-68
SOUTHWEST SULLIVAN CO	SULLIVAN	SW SULLIVAN CO CLRM T ASN	115	NEA		1967-68
TRI COUNTY SCH CORP	WOLCOTT	TRI CO CLRM TCHRS ASSN	69	NEA		1967-68
VIGO CO SCH CORP	TERRE HAUTE	2 ORGANZTNS RECOGNIZED	1,088	NEA-AFT	JNE	1967-68
		VIGO CO CLRM TCHRS ASSN	850	NEA		
		VIGO AFT LOCAL 734	150	AFT		
WA NEE COM SCHS	NAPPANEE	WA NEE TCHRS ASSN	152	NEA		1967-68
WABASH CITY SCH	WABASH	WABASH CITY TCHRS ASSN	142	NEA		1967-68
WAYNE TWP MET SCH DST	INDIANAPOLIS	WAYNE TWP CLRM TCHRS ASSN	516	NEA		1967-68
WESTCHESTER TWP SCHS	CHESTERTON	WESTCHESTER TWP TCH ASSN	183	NEA		1967-68
WESTERN SCH CORP	RUSSIAVILLE	WESTERN CLRM TCHRS ASSN	89	NEA		1967-68
WESTFIELD WASHINGTON SCH	WESTFIELD	WESTFIELD CLM TCHR ASSN	61	NEA		1966-68
IOWA						
BETTENDORF COM SCH DST	BETTENDORF	BETTENDORF EDUC ASSN	262	NEA		1967-68
BRITT COM SCH	BRITT	BRITT EDUC ASSN	58	NEA		1967-68
BURLINGTON COM SCH DST	BURLINGTON	BURLINGTON EDUC ASSN	366	NEA		1966-68
CLINTON COM SCHS	CLINTON	CLINTON EDUC ASSN	312	NEA		1966-68
DAVENPORT PUB SCHS	DAVENPORT	DAVENPORT EDUC ASSN	1,043	NEA		1966-68
DES MOINES IND COM SCHS	DES MOINES	2 ORGANZTNS RECOGNIZED	2,089	NEA-AFT	JNP	1967-68
		DES MOINES EDUC ASSN	1,564	NEA	4	
		DES MOINES AFT LOCAL 600	279	AFT	1	

GRINNELL NEWBURG COM SD	GRINNELL	GRINNELL NEWBRG ED ASSN	131	NEA	1966-68
IOWA CITY COM SCHS	IOWA CITY	IOWA CITY TCHRS ASSN	456	NEA	1966-68
KEOKUK COM SCH DST	KEOKUK	KEOKUK EDUC ASSN	201	NEA	1966-68
MT VERNON COM SCH DST	MT VERNON	MT VERNON TCHRS ASSN	58	NEA	1966-68
PLEASANT VALLEY COM SCH	PLEASNT VALLEY	PLEASANT VALLEY COM ED AN	139	NEA	1967-68
S TAMA COM SCH DST	TAMA	S TAMA CNTY EDUC ASSN	121	NEA	1967-68
WATERLOO COM SCHS	WATERLOO	WATERLOO EDUC ASSN	881	NEA	1967-68

KANSAS

ANTONY HARPER UNF SD 361	ANTHONY	HARPER CO TCHRS ASSN	101	NEA	1967-68
ARKANSAS CTY UNF SD 470	ARKANSAS CITY	ARKANSAS CITY TCHRS ASSN	193	NEA	1966-68
ATCHISON PUB SCHS	ATCHISON	ATCHISON TCHRS ASSN	120	NEA	1966-68
AUBURN WASHBURN USD 437	TOPEKA	UNITED 437 TCHRS ASSN	174	NEA	1967-68
BARBER CO NORTH USD 254	MEDICINE LODGE	BARBER CO NORTH TCHR ASN	89	NEA	1966-68
CIRCLE UNF SCH DST 375	TOWANDA	CIRCLE UNF 375 TCHR ASSN	77	NEA	1967-68
CLOUD CO UNF SD 333	CONCORDIA	DST 333 TCHRS ASSN	110	NEA	1967-68
COLBY UNF SCH DST 315	COLBY	COLBY CITY TCHRS ASSN	78	NEA	1967-68
COUNCIL GROVE USD 417	COUNCIL GROVE	LOCAL DST TCHRS ASSN	87	NEA	1966-68
DODGE CITY USD 443	DODGE CITY	DODGE CITY EDUC COUNCIL	232	NEA	1966-68
EL DORADO USD 490	EL DORADO	EL DORADO TCHRS ASSN	177	NEA	1966-68
EMPORIA UNF SCH DST 253	EMPORIA	EMPORIA CTY TCHRS ASSN	193	NEA	1967-68
FT SCOTT UNF SCH DST 234	FORT SCOTT	FT SCOTT TCHRS ASSN	130	NEA	1966-68
GARNETT UNF SCH DST 365	GARNETT	N ANDERSON CO TCHRS ASSN	95	NEA	1967-68
GIRARD UNF SCH DST 248	GIRARD	GIRARD UNF 248 TCH ASN	65	NEA	1967-68
HAYSVILLE UNF S DST 261	HAYSVILLE	USD 261 TCHRS ASSN	219	NEA	1966-68
HIAWATHA UNF SD 415	HIAWATHA	HIAWATHA UNF TCHRS ASSN	91	NEA	1967-68
HUGOTON PUB SCHS	HUGOTON	NO ORGANZTN RECOGNIZED	71		1966-68
INDEPENDENCE UNF SD 446	INDEPENDENCE	INDEPENDENCE TCHRS ASSN	134	NEA	1967-68
IOLA UNF SCH DST 257	IOLA	USD 257 TCHRS ASSN	117	NEA	1966-68
KANSAS CITY SCHS	KANSAS CITY	KANSAS CITY EDUC ASSN	1,514	NEA	1967-68
LAWRENCE UNF SCH DST 497	LAWRENCE	LAWRENCE EDUC ASSN	420	NEA	1966-68
LEAVENWORTH UNF SD 453	LEAVENWORTH	LEAVENWORTH CTY TCH ASSN	237	NEA	1966-68
LIBERAL UNF SCH DST 480	LIBERAL	LIBERAL EDUC ASSN	207	NEA	1966-68
LYONS UNF SCH DST 405	LYONS	DST 405 TCHR ASSN	81	NEA	1966-68
MANHATTAN UNF SD 383	MANHATTAN	MANHATTAN TCHRS ASSN	293	NEA	1966-68
MARYSVILLE UNF SD 364	MARYSVILLE	MARYSVILLE TEACHERS ASSN	83	NEA	1966-68
MCPHERSON UNF SD 418	MCPHERSON	MCPHERSON UNF TCHRS ASSN	165	NEA	1967-68
NEWTON USD 373	NEWTON	NEWTON TCHRS ASSN	215	NEA	1966-68
OTTAWA UNF SCH DST 290	OTTAWA	OTTAWA TCHRS ASSN	138	NEA	1967-68
PARSONS DST SCHS	PARSONS	PARSONS EDUC ASSN	136	NEA	1966-68
PRATT UNF SCH DST 382	PRATT	PRATT EDUC ASSN	119	NEA	1966-68
REPUBLIC CO UNF SD 427	BELLEVILLE	CEN REPUBLIC CO TCH ASN	82	NEA	1966-68
RUSSELL UNF SCH DST 407	RUSSELL	RUSSELL CO TCHRS ASSN	170	NEA	1967-68
SABETHA UNF SCH DST 441	SABETHA	SABETHA EDUC ASSN	88	NEA	1966-68
SHAWNEE HGTS UNF SD 450	TECUMSEH	SHAWNEE HGTS EDUC ASSN	103	NEA	1967-68
TOPEKA UNF SCH DST 501	TOPEKA	TOPEKA TCHRS ASSN	1,093	NEA	1966-68
WELLINGTON UNF SD 353	WELLINGTON	WELLINGTON TCHRS ASSN	133	NEA	1966-68
WICHITA UNF SCH DST 259	WICHITA	WICHITA CITY TCHRS ASSN	3,367	NEA	1966-68
WINFIELD USD 465	WINFIELD	WINFIELD TCHRS ASSN	143	NEA	1967-68

KENTUCKY

BOONE CO SCHS	BURLINGTON	BOONE CO EDUC ASSN	262	NEA	1967-68
CALLOWAY CO SCHS	MURRAY	CALLOWAY CO EDUC ASSN	105	NEA	1967-68
DAVIESS CO PUB SCHS	OWENSBORO	DAVIESS CO EDUC ASSN	312	NEA	1967-68
FAIRVIEW IND SCH	ASHLAND	FAIRVIEW EDUC ASSN	58	NEA	1967-68
FLOYD CO SCH DST	PRESTONSBURG	FLOYD CO EDUC ASSN	500	NEA	1967-68
HENDERSON CO SCH	HENDERSON	NO ORGANZTN RECOGNIZED	202		1967-68
JEFFERSON CO PUB SCHS	LOUISVILLE	JEFFERSON CO TCHRS ASSN	3,560	NEA	1967-68
LOUISVILLE PUB SCHS	LOUISVILLE	LOUISVILLE EDUC ASSN	2,394	NEA	1967-68
MAYSVILLE IND SCHS	MAYSVILLE	MAYSVILLE EDUC ASSN	71	NEA	1967-68
MURRAY PUB SCHS	MURRAY	MURRAY EDUC ASSN	81	NEA	1967-68
PADUCAH IND SCHS	PADUCAH	PADUCAH EDUC ASSN	340	NEA	1966-68
SHELBYVILLE IND SCHS	SHELBYVILLE	NO ORGANZTN RECOGNIZED	69		1967-68

MAINE

AUBURN PUB SCHS	AUBURN	AUBURN TCHRS ASSN	224	NEA	1967-68
BRUNSWICK PUB SCHS	BRUNSWICK	BRUNSWICK TCHRS ASSN	195	NEA	1967-68
CAPE ELIZABETH SCH DST	SO PORTLAND	CAPE ELIZABETH FAC CLUB	119	NEA	1967-68
EAST MILLINOCKET SCH DST	E MILLINOCKET	NO ORGANZTN RECOGNIZED	53		1967-68
FALMOUTH SCH DEPT	FALMOUTH	FALMOUTH TCHRS ASSN	96	NEA	1967-68
LEWISTON PUB SCHS	LEWISTON	LEWISTON TCHRS ASSN	253	NEA	1967-68
MADISON SCH DST 59	MADISON	MADISON AREA TCHRS CLUB	67	NEA	1967-68
PORTLAND PUB SCHS	PORTLAND	PORTLAND TCHRS ASSN	676	NEA	1966-68
SO PORTLAND PUB SCH	SOUTH PORTLAND	SO PORTLAND TCHRS ASSN	301	NEA	1966-68
WALDOBORO SCH DST 40	WALDOBORO	MEDOMAK VLY EDUC ASSN	97	NEA	1967-68
WESTBROOK SCH	WESTBROOK	WESTBROOK TCHRS ASSN	175	NEA	1967-68
YARMOUTH SCH DEPT	YARMOUTH	YARMOUTH TCHRS ASSN	76	NEA	1966-68

MARYLAND

ALLEGANY CO SCHS	CUMBERLAND	ALLEGANY CO TCHRS ASSN	766	NEA	1967-68
ANNE ARUNDEL CO SCHS	ANNAPOLIS	ANNE ARUNDEL CO TCH ASSN	3,006	NEA	1967-68
BALTIMORE CITY PUB SCHS	BALTIMORE	BALTIMORE AFT LOCAL	9,300	AFT	1967-68
BALTIMORE CO SCH DST	TOWSON	TCHRS ASN OF BALTIMORE CO	5,500	NEA	1966-68
CAROLINE CO PUB SCHS	DENTON	CAROLINE CO TCHRS ASSN	255	NEA	1966-68
DORCHESTER CO DST SCHS	CAMBRIDGE	DORCHESTER EDUC ASSN	296	NEA	1966-68
FREDERICK CO PUB SCHS	FREDERICK	FREDERICK CO TCHRS ASSN	900	NEA	1966-68
HARFORD CO PUB SCHS	BEL AIR	HARFORD CO EDUC ASSN	1,250	NEA	1967-68
MONTGOMERY CO PUB SCHS	ROCKVILLE	MONTGOMERY CO EDUC ASSN	5,000	NEA	1967-68
PRINCE GEORGES CO PUB S	UPPER MARLBORO	PRINCE GEORGES CO TCH ASN	6,500	NEA	1966-68

MASSACHUSETTS

ABINGTON PUB SCHS	ABINGTON	ABINGTON TCHRS ASSN	145	NEA		1966-68
AGAWAM PUB SCHS	AGAWAM	AGAWAM TCHRS ASSN	214	NEA		1966-68
ANDOVER PUB SCH	ANDOVER	ANDOVER EDUC ASSN-TCHRS	260	NEA	SN	1967-68
ANDOVER PUB SCH	ANDOVER	ANDOVER EDUC ASSN-ADMIN	25	NEA	SN	1967-68
ARLINGTON PUB SCHS	ARLINGTON	ARLINGTON TCHRS ASSN	650	NEA		1967-68
ASHLAND PUB SCHS	ASHLAND	ASHLAND TCHRS ASSN	124	NEA		1966-68
ATTLEBORO SCH DST	ATTLEBORO	ATTLEBORO EDUC ASSN	342	NEA		1967-68
BARNSTABLE PUB SCHS	OSTERVILLE	BARNSTABLE TCHRS ASSN	250	NEA		1967-68
BELCHER TOWN PUB SCHS	BELCHER TOWN	BELCHER TOWN TCHRS ASSN	62	NEA		1967-68
BELMONT PUB SCH	BELMONT	BELMONT TCHRS ASSN-TCHRS	242	NEA	SN	1967-68
BELMONT PUB SCH	BELMONT	BELMONT TCHRS ASSN-ADM	15	NEA	SN	1967-68
BERKSHIRE HILLS REG SCHS	GR BARRINGTON	BRKSHRE HLLS REG TCH ASSN	63	NEA		1967-68
BEVERLY PUB SCH	BEVERLY	BEVERLY TCHRS ASSN	368	NEA		1967-68
BLACKSTONE SCH	BLACKSTONE	BLACKSTONE TCHRS ASSN	55	NEA		1966-68
BOSTON CITY SCH	BOSTON	BOSTON AFT LOCAL 66	4,500	AFT		1966-68
BOURNE PUB SCHS	BOURNE	BOURNE TCHRS ASSN	221	NEA		1967-68
BRAINTREE PUB SCHS	BRAINTREE	BRAINTREE EDUC ASSN	430	NEA		1967-68
BROCKTON PUB SCHS	BROCKTON	BROCKTON TCHRS ASSN	940	NEA		1967-68
BURLINGTON PUB SCHS	BURLINGTON	BURLINGTON ED ASSN	350	NEA		1966-68
CAMBRIDGE PUB SCHS	CAMBRIDGE	CAMBRIDGE TCHRS ASSN	638	NEA		1967-68
CANTON PUB SCHS	CANTON	CANTON TCHRS ASSN	170	NEA		1966-68
CHELMSFORD PUB SCHS	CHELMSFORD	CHELMSFORD TCHRS ASSN	347	NEA		1967-68
CHELSEA PUB SCHS	CHELSEA	CHELSEA AFT LOCAL	235	AFT	SN	1967-68
CHELSEA PUB SCHS	CHELSEA	CHELSEA TCHRS CLUB ADM	19	NEA	SN	1967-68
CHICOPEE PUB SCHS	CHICOPEE	CHICOPEE TCHRS ASSN	278	NEA		1967-68
CONCORD CARLISLE HS DST	CONCORD	CONCORD CARLISLE TCHRS AN	83	NEA		1966-68
CONCORD PUB SCH	CONCORD	CONCORD TCHRS ASSN	170	NEA		1966-68
DALTON PUB SCHS	DALTON	DALTON TCHRS ASSN	57	NEA		1967-68
DANVERS PUB SCH	DANVERS	DANVERS TCHRS ASSN	270	NEA		1967-68
DARTMOUTH PUB SCHS	N DARTMOUTH	DARTMOUTH TCHRS ASSN	194	NEA		1966-68
DEDHAM PUB SCH	DEDHAM	DEDHAM TCHRS ASSN	281	NEA		1967-68
DRACUT PUB SCHS	DRACUT	DRACUT TCHRS ASSN	164	NEA		1966-68
EAST BRIDGEWATER SCH	E BRIDGEWATER	E BRIDGEWATER TCHRS ASSN	108	NEA		1966-68
EASTHAMPTON PUB SCHS	EASTHAMPTON	EASTHAMPTON TCHRS ASSN	132	NEA		1966-68
EASTON SCHS	N EASTON	EASTON TCHRS ASSN	155	NEA		1967-68
EVERETT PUB SCHS	EVERETT	EVERETT TCHRS ASSN	389	NEA		1967-68
FAIRHAVEN PUB SCHS	FAIRHAVEN	FAIRHAVEN TCHRS ASSN-TCH	153	NEA	SN	1967-68
FAIRHAVEN PUB SCHS	FAIRHAVEN	FAIRHAVEN TCHRS ASSN-ADM	13	NEA	SN	1967-68
FALL RIVER PUB SCHS	FALL RIVER	FALL RIVER TCHRS ASSN	700	NEA		1966-68
FALMOUTH PUB SCHS	FALMOUTH	FALMOUTH EDUC ASSN	235	NEA		1967-68
FRAMINGHAM PUB SCH	FRAMINGHAM	FRAMINGHAM TCHRS ASSN-TCH	703	NEA	SN	1967-68
FRAMINGHAM PUB SCH	FRAMINGHAM	FRAMINGHAM TCHRS ASSN-ADM	40	NEA	SN	1967-68
FRANKLIN SCHS	FRANKLIN	FRANKLIN TCHRS ASSN	185	NEA		1966-68
GEORGETOWN SCH DST	GEORGETOWN	GEORGETOWN EDUC ASSN	73	NEA		1966-68
GRAFTON PUB SCHS	GRAFTON	GRAFTON TCHRS ASSN	120	NEA		1966-68
GREENFIELD PUB SCHS	GREENFIELD	GREENFIELD TCHRS ASSN	200	NEA		1967-68
HAVERHILL PUB SCH	HAVERHILL	HAVERHILL TCHRS ASSN	407	NEA		1967-68
HOLLISTON PUB SCHS	HOLLISTON	HOLLISTON TCHRS ASSN	143	NEA		1966-68
HOLYOKE PUB SCHS	HOLYOKE	HOLYOKE TCHRS CLUB	380	NEA		1966-68
HOPEDALE PUB SCHS	HOPEDALE	HOPEDALE TCHRS ASSN	60	NEA		1966-68
HOPKINTON PUB SCHS	HOPKINTON	HOPKINTON TCHRS ASSN	83	NEA		1966-68
HUDSON PUB SCH	HUDSON	HUDSON TCHRS ASSN	140	NEA		1967-68
HULL PUB SCHS	HULL	HULL TCHRS ASSN	145	NEA		1967-68
KING PHILIP REG SCH DST	WRENTHAM	KING PHILIP TCHRS ASSN	86	NEA		1966-68
LAWRENCE PUB SCH	LAWRENCE	LAWRENCE AFT LOCAL 1019	330	AFT		1967-68
LEOMINSTER PUB SCHS	LEOMINSTER	LEOMINSTER TCHRS ASSN	257	NEA		1966-68
LUDLOW PUB SCHS	LUDLOW	LUDLOW TCHRS ASSN	193	NEA		1966-68
LUNENBURG PUB SCHS	LUNENBURG	LUNENBURG TCHRS ASSN	105	NEA		1967-68
LYNN PUB SCH	LYNN	LYNN AFT LOCAL 137	735	AFT		1967-68
MARSHFIELD PUB SCHS	MARSHFIELD	MARSHFIELD TCHRS CLUB	179	NEA		1966-68
MASCONOMET REG SCH DST	TOPSFIELD	MASCONOMET TCHRS ASSN	120	NEA		1966-68
MAYNARD PUB SCHS	MAYNARD	MAYNARD TCHRS ASSN	103	NEA		1966-68
MEDFIELD PUB SCHS	MEDFIELD	MEDFIELD TCHRS ASSN	127	NEA		1967-68
MELROSE PUB SCHS	MELROSE	MELROSE EDUC ASSN	366	NEA		1966-68
MILFORD PUB SCH	MILFORD	MILFORD TCHRS ASSN-TCHRS	111	NEA	SN	1967-68
MILFORD PUB SCH	MILFORD	MILFORD TCHRS ASSN-ADMIN	7	NEA	SN	1967-68
MILTON PUB SCH	MILTON	MILTON TCHRS ASSN	250	NEA		1967-68
MONTAGUE PUB SCHS	TURNERS FALLS	MONTAGUE TCHRS ASSN	104	NEA		1966-68
MT GREYLOCK REG SCHS	WILLIAMSTOWN	MT GREYLOCK FAC ASSN	77	NEA		1967-68
N BROOKFIELD SCHS	N BROOKFIELD	N BROOKFIELD TCHRS ASSN	39	NEA		1967-68
N MIDDLESEX REG SCH DST	TOWNSEND	N MIDDLESEX TCHRS ASSN	63	NEA		1967-68
NEW BEDFORD PUB SCHS	NEW BEDFORD	NEW BEDFORD TCHRS ASSN	720	NEA		1967-68
NEWBURYPORT PUB SCHS	NEWBURYPORT	NEWBURYPORT TCHRS ASSN	198	NEA		1967-68
NORTH ATTLEBORO PUB SCHS	N ATTLEBORO	N ATTLEBORO TCHRS ASSN	156	NEA		1967-68
NORTH READING PUB SCHS	N READING	N READING TCHRS ASSN	170	NEA		1967-68
NORTHAMPTON SCH DEPT	NORTHAMPTON	NORTHAMPTON TCHRS ASSN	285	NEA		1967-68
NORTHBRIDGE PUB SCHS	WHITINSVILLE	NORTHBRIDGE TCHRS ASSN	103	NEA		1966-68
NORTON PUB SCHS	NORTON	NORTON TCHRS ASSN	94	NEA		1966-68
NORWOOD PUB SCHS	NORWOOD	NORWOOD TCHRS ASSN	352	NEA		1966-68
OXFORD PUB SCH	OXFORD	OXFORD TCHRS ASSN	137	NEA		1967-68
PALMER TWP SCHS	PALMER	PALMER TCHRS ORGANZTN	93	NEA		1966-68
PITTSFIELD PUB SCH	PITTSFIELD	PITTSFIELD TCHRS ASSN-TCH	643	NEA	SN	1967-68
PITTSFIELD PUB SCHS	PITTSFIELD	PITTSFIELD TCH ASSN-ADM	49	NEA	SN	1967-68
QUINCY PUB SCHS	QUINCY	QUINCY TCHRS ASSN	900	NEA		1966-68
READING PUB SCH	READING	READING TCHRS ASSN	252	NEA		1967-68
ROCKLAND PUB SCH	ROCKLAND	ROCKLAND TCHRS ASSN	175	NEA		1966-68
ROCKPORT PUB SCHS	ROCKPORT	ROCKPORT TCHRS ASSN	52	NEA		1967-68
SAUGUS PUB SCHS	SAUGUS	SAUGUS TCHRS ASSN	290	NEA		1966-68
SCITUATE PUB SCHS	SCITUATE	SCITUATE TEACHERS ASSN	260	NEA		1966-68
SHARON PUB SCHS	SHARON	SHARON TCHRS ASSN	192	NEA		1966-68
SO BERKSHIRE REGION SD	SHEFFIELD	SO BERKSHIRE REG TCH ASSN	77	NEA		1966-68
SOMERSET PUB SCHS	SOMERSET	SOMERSET TCHRS ASSN	171	NEA		1966-68
SOMERVILLE SCHS	SOMERVILLE	SOMERVILLE TCHRS ASSN	635	NEA		1967-68
SOUTHBRIDGE PUB SCH	SOUTHBRIDGE	SOUTHBRIDGE TCHRS ASSN	133	NEA		1966-68
SPRINGFIELD PUB SCHS	SPRINGFIELD	SPRINGFIELD EDUC ASN-TCH	1,444	NEA	SN	1966-68

SPRINGFIELD PUB SCHS	SPRINGFIELD	SPRINGFIELD EDUC ASN-ADM	180	NEA	SN	1966-68
STONEHAM PUB SCHS	STONEHAM	STONEHAM TCHRS ASSN	215	NEA		1966-68
STOUGHTON PUB SCHS	STOUGHTON	STOUGHTON TCHRS ASSN-TCH	240	NEA	SN	1967-68
STOUGHTON PUB SCHS	STOUGHTON	STOUGHTON TCHRS ASSN-ADM	21	NEA	SN	1967-68
SUTTON PUB SCHS	SUTTON	SUTTON TCHRS ASSN	54	NEA		1966-68
SWANSEA PUB SCHS	SWANSEA	SWANSEA TCHRS ASSN	130	NEA		1966-68
TAUNTON PUB SCH	TAUNTON	TAUNTON TCHRS ASSN	277	NEA		1967-68
TEWKSBURY TWP SCHS	TEWKSBURY	TEWKSBURY TCHRS ASSN	261	NEA		1966-68
W BRIDGEWATER PUB SCHS	W BRIDGEWATER	W BRIDGEWATER TCHRS ASSN	82	NEA		1966-68
WAKEFIELD PUB SCHS	WAKEFIELD	WAKEFIELD TCHRS ASSN	300	NEA		1966-68
WALPOLE PUB SCHS	WALPOLE	WALPOLE TCHRS ASSN	264	NEA		1967-68
WALTHAM PUB SCHS	WALTHAM	WALTHAM TCHRS ASSN	550	NEA		1967-68
WARE SCH DST	WARE	WARE TCHRS ASSN	65	NEA		1966-68
WAYLAND PUB SCHS	WAYLAND	WAYLAND TCHRS ASSN	250	NEA		1966-68
WEST BOYLSTON	WEST BOYLSTON	WEST BOYLSTON TCHRS ASSN	89	NEA		1966-68
WEST SPRINGFIELD PUB SCH	W SPRINGFIELD	W SPRINGFIELD EDUC ASSN	310	NEA		1967-68
WESTBOROUGH PUB SCHS	WESTBOROUGH	WESTBOROUGH TCHRS ASSN	132	NEA		1966-68
WESTFIELD SCHS	WESTFIELD	WESTFIELD TCHRS ASSN	320	NEA		1967-68
WESTFORD PUB SCHS	WESTFORD	WESTFORD TEACHERS ASSN	133	NEA		1966-68
WESTON TWP PUB SCHS	WESTON	WESTON TCHRS ASSN	167	NEA		1966-68
WESTPORT SCH DST	WESTPORT	WESTPORT TCHRS ASSN	93	NEA		1967-68
WHITMAN HANSON REG SCHS	WHITMAN	WHITMAN HANSON REG HS TA	66	NEA		1967-68
WILMINGTON PUB SCH	WILMINGTON	WILMINGTON TEACHERS ASSN	235	NEA		1966-68
WINCHESTER PUB SCHS	WINCHESTER	WINCHESTER TCHRS ASSN	250	NEA	SN	1966-68
WINCHESTER PUB SCHS	WINCHESTER	WINCHESTER PRIN GROUP	11	NEA	SN	1966-68
WINTHROP PUB SCHS	WINTHROP	WINTHROP TCHRS ASSN	178	NEA		1966-68

MICHIGAN

ADDISON COM SCHS	ADDISON	ADDISON EDUC ASSN	62	NEA		1966-68
ADRIAN PUB SCHS	ADRIAN	ADRIAN EDUC ASSN	290	NEA		1966-68
AIRPORT COM SCHS	CARLETON	AIRPORT EDUC ASSN	95	NEA		1967-68
AKRON FAIRGROVE PUB SCHS	FAIRGROVE	AKRON FAIRGROVE TCHR ASSN	57	NEA		1966-68
ALBION PUB SCHS	ALBION	ALBION ED ASSN	164	NEA		1966-68
ALCONA COMM SCH	LINCOLN	ALCONA TCHRS CLUB	52	NEA		1966-68
ALLEGAN PUB SCH	ALLEGAN	ALLEGAN EDUCATION ASSN	140	NEA		1966-68
ALLEN PARK PUB SCH	ALLEN PARK	ALLEN PARK FED TCHRS	300	AFT		1966-68
ALMA PUB SCHS	ALMA	ALMA EDUC ASSN	140	NEA		1966-68
ALPENA PUB SCH	ALPENA	ALPENA TEACHERS ASSN	460	NEA		1966-68
ANCHOR BAY SCH DST	NEW BALTIMORE	ANCHOR BAY EDUC ASSN	94	NEA		1966-68
ANN ARBOR PUB SCH	ANN ARBOR	ANN ARBOR TCHRS ASSN	1,015	NEA		1967-68
ARMADA AREA SCHS	ARMADA	ARMADA EDUC ASSN	57	NEA		1967-68
AVONDALE SCH DST	AUBURN HTS	AVONDALE EDUCATION ASSN	192	NEA		1966-68
BAD AXE PUB SCHS	BAD AXE	BAD AXE EDUC ASSN	67	NEA		1967-68
BANGOR PUB SCHS	BANGOR	BANGOR EDUCATION ASSN	64	NEA		1966-68
BANGOR TWP SCH DST	BAY CITY	BANGOR TWP EDUC ASSN	150	NEA		1967-68
BATH COM SCHS	BATH	BATH EDUC ASSN	63	NEA		1967-68
BATTLE CREEK PUB SCHS	BATTLE CREEK	BATTLE CREEK ED ASSN	577	NEA		1966-68
BAY CITY PUB SCH	BAY CITY	BAY CITY ED ASSN	666	NEA		1966-68
BEAVERTON RURAL SCHS	BEAVERTON	BEAVERTON EDUC ASSN	58	NEA		1966-68
BEDFORD PUB SCHS	TEMPERANCE	BEDFORD EDUC ASSN	256	NEA		1966-68
BEECHER PUB SCHS	FLINT	BEECHER EDUC ASSN	282	NEA		1966-68
BELLEVUE COMM SCHS	BELLEVUE	BELLEVUE EDUC ASSN	57	NEA		1966-68
BENTLEY COM SCHS	FLINT	BENTLEY EDUC ASSN	108	NEA		1966-68
BENTON HARBOR CITY SCHS	BENTON HARBOR	BENTON HARBOR EDUC ASSN	520	NEA		1966-68
BENZIE CNTY CENTRAL SCH	BENZONIA	BENZIE CNTY CENTL ED ASSN	58	NEA		1966-68
BERKLEY CITY SCH DST	BERKLEY	BERKLEY EDUC ASSN	451	NEA		1966-68
BERRIEN SPRINGS PUB SCHS	BERRIEN SPRNGS	BERRIEN SPRNGS EDUC ASSN	87	NEA		1967-68
BIG RAPIDS PUB SCHS	BIG RAPIDS	BIG RAPIDS EDUC ASSN	100	NEA		1966-68
BIRMINGHAM PUB SCHS	BIRMINGHAM	BIRMINGHAM EDUC ASSN	1,013	NEA		1966-68
BLISSFIELD COM SCHS	BLISSFIELD	BLISSFIELD EDUC ASSN	97	NEA		1967-68
BLOOMFIELD HILLS SCH DST	BLOOMFIED HLLS	BLOOMFIELD HILLS ED ASSN	393	NEA		1966-68
BOYNE CITY SCHS	BOYNE CITY	BOYNE CITY TCHRS ASSN	60	NEA		1966-68
BRANDON SCH DST	ORTONVILLE	BRANDON EDUC ASSN	70	NEA		1967-68
BRANDYWINE PUB SCH	NILES	BRANDYWINE EDUC ASSN	120	NEA		1966-68
BREITUNG TWP SCHS	KINGSFORD	BREITUNG TWP EDUC ASSN	105	NEA		1966-68
BRIDGEPORT COM SCH	BRIDGEPORT	BRIDGEPORT EDUC ASSN	179	NEA		1966-68
BRIGHTON AREA SCHS	BRIGHTON	BRIGHTON EDUC ASSN	118	NEA		1967-68
BUCHANAN PUB SCH 61	BUCHANAN	BUCHANAN EDUC ASSN	115	NEA		1966-68
BUENA VISTA SCH DST 9	SAGINAW	BUENA VISTA EDUC ASSN	168	NEA		1966-68
BYRON CENTER PUB SCHS	BYRON CENTER	BYRON CEN EDUC ASSN	59	NEA		1967-68
CADILLAC AREA PUB SCHS	CADILLAC	CADILLAC EDUC ASSN	136	NEA		1966-68
CALEDONIA COM SCHS	CALEDONIA	CALEDONIA EDUC ASSN	95	NEA		1966-68
CAPAC COM SCHS	CAPAC	CAPAC EDUC ASSN	61	NEA		1966-68
CARMAN SCHS	FLINT	CARMAN EDUC ASSN	409	NEA		1967-68
CARO COM SCHS	CARO	CARO EDUC ASSN	97	NEA		1967-68
CEDAR SPRINGS PUB SCHS	CEDAR SPRINGS	CEDAR SPRINGS EDUC ASSN	80	NEA		1967-68
CENTER LINE PUB SCH	CENTER LINE	CENTER LINE EDUC ASSN	272	NEA		1966-68
CHARLEVOIX PUB SCHS	CHARLEVOIX	CHARLEVOIX TCHRS ED ASSN	62	NEA		1967-68
CHARLOTTE PUB SCHS	CHARLOTTE	CHARLOTTE EDUC ASSN	143	NEA		1966-68
CHEBOYGAN AREA SCHS	CHEBOYGAN	CHEBOYGAN AREA EDUC ASSN	103	NEA		1966-68
CHELSEA SCH DST	CHELSEA	CHELSEA EDUC ASSN	100	NEA		1966-68
CHERRY HILL SCHS	INKSTER	CHERRY HILL EDUC ASSN	220	NEA		1966-68
CHESANING UN SCH DST	CHESANING	CHESANING SCH CHP MEA	120	NEA		1966-68
CHIPPEWA VALLEY SCHS	MT CLEMENS	CHIPPEWA VLY EDUC ASSN	111	NEA		1966-68
CITY OF MUSKEGON PUB SCH	MUSKEGON	MUSKEGON CITY TCHRS ASSN	557	NEA		1966-68
CLARE PUB SCHS	CLARE	CLARE EDUC ASSN	79	NEA		1966-68
CLARENCEVILLE SCHS	FARMINGTON	CLARENCEVILLE ED ASSN	187	NEA		1966-68
CLARKSTON COMM SCHS	CLARKSTON	CLARKSTON ED ASSN	260	NEA		1966-68
CLAWSON PUB SCH	CLAWSON	CLAWSON ED ASSN	218	NEA		1966-68
CLINTON COM SCH	CLINTON	CLINTON EDUCATION ASSN	51	NEA		1966-68
CLINTONDALE PUB SCHS	MT CLEMENS	CLINTONDALE EDUC ASSN	195	NEA		1966-68
CLIO AREA SCHS	CLIO	CLIO EDUC ASSN	191	NEA		1967-68
COLDWATER COM SCHS	COLDWATER	COLDWATER EDUC ASSN	192	NEA		1966-68
COLEMAN COM SCHS	COLEMAN	COLEMAN EDUC ORGANIZATION	65	NEA		1966-68
COLON COM SCHS	COLON	COLON EDUC ASSN	51	NEA		1966-68

COMSTOCK PARK PUB SCHS	COMSTOCK PARK	COMSTOCK PARK EDUC ASSN	86	NEA	1966-68
COMSTOCK PUB SCHS	COMSTOCK	COMSTOCK EDUC ASSN	173	NEA	1966-68
CONCORD COM SCHS	CONCORD	CONCORD EDUC ASSN	45	NEA	1966-68
COOPERSVILLE PUB SCHS	COOPERSVILLE	COOPERSVILLE EDUC ASSN	97	NEA	1967-68
CORUNNA PUB SCH	CORUNNA	CORUNNA ED ASSN	102	NEA	1966-68
CRESTWOOD SCH DST	DEARBORN HGTS	CRESTWOOD EDUC ASSN	234	NEA	1966-68
CROSWELL LEXINGTON SCH	CROSWELL	CROSWELL LEXINGTON ED ASN	85	NEA	1967-68
DANSVILLE AGRICULTURAL	DANSVILLE	DANSVILLE EDUC ASSN	44	NEA	1967-68
DEARBORN CITY SCH DST	DEARBORN	DEARBORN AFT LOCAL	1,298	AFT	1966-68
DEARBORN HGTS SCH DST 7	DEARBORN HGTS	DEARBORN HGTS DST 7 ED AN	200	NEA	1966-68
DEARBORN TWP SCH DST 8	DEARBORN HTS	DEARBORN EDUCATION ASSN	274	NEA	1966-68
DELTON KELLOGG PUB SCHS	DELTON	DELTON KELLOGG EDUC ASSN	83	NEA	1967-68
DETROIT PUB SCHS	DETROIT	DETROIT AFT LOCAL 231	12,000	AFT	1966-68
DEXTER COM SCH	DEXTER	DEXTER ED ASSN	87	NEA	1966-68
DOWAGIAC UN SCH DST 31	DOWAGIAC	DOWAGIAC EDUC ASSN	161	NEA	1966-68
DUNDEE COM SCH	DUNDEE	DUNDEE PROFESS TCHRS ASN	79	NEA	1966-68
DURAND AREA SCHS	DURAND	DURAND EDUC ASSN	121	NEA	1966-68
E DETROIT CITY SCHS	E DETROIT	E DETROIT AFT LOCAL	603	AFT	1966-68
E GRAND RAPIDS CITY SCHS	GRAND RAPIDS	E GRAND RAPIDS TCHR ASSN	185	NEA	1966-68
EAST CHINA PUB SCH	ST CLAIR	EAST CHINA ED ASSN	191	NEA	1966-68
EAST JACKSON PUB SCHS	JACKSON	EAST JACKSON EDUC ASSN	89	NEA	1966-68
EAST LANSING CITY SCHS	EAST LANSING	EAST LANSING EDUC ASSN	268	NEA	1966-68
EAU CLAIRE PUB SCHS	EAU CLAIRE	EAU CLAIRE EDUC ASSN	56	NEA	1967-68
ECORSE PUB SCHS	ECORSE	ECORSE AFT LCL 1425	199	AFT	1966-68
ELKTON PIGEON BAY SCHS	PIGEON	ELKTN PGON BYPRT TCH ASN	95	NEA	1967-68
ESCANABA AREA PUB SCH	ESCANABA	ESCANABA EDUCATION ASSN	191	NEA	1966-68
ESSEXVILLE HAMPTON PUB S	ESSEXVILLE	ESSEXVILLE HAMPTON ED ASN	103	NEA	1966-68
EVART PUB SCHS	EVART	EVART EDUC ASSN	50	NEA	1967-68
FAIRLANE SCH DST	DEARBORN HGTS	FAIRLANE EDUC ASSN	56	NEA	1967-68
FARMINGTON SCH DST	FARMINGTON	FARMINGTON EDUC ASSN	620	NEA	1966-68
FARWELL AREA SCHS	FARWELL	FARWELL EDUC ASSN	57	NEA	1966-68
FENNVILLE SCH DST 5	FENNVILLE	FENNVILLE EDUCATION ASSN	68	NEA	1966-68
FENTON AREA SCHS	FENTON	FENTON EDUC ASSN	134	NEA	1966-68
FERNDALE CITY SCH DST	FERNDALE	FERNDALE EDUCATION ASSN	413	NEA	1966-68
FITZGERALD PUB SCH	WARREN	FITZGERALD EDUC ASSN	240	NEA	1967-68
FLAT ROCK COM SCHS	FLAT ROCK	FLAT ROCK EDUC ASSN	99	NEA	1966-68
FLINT COM SCHS	FLINT	FLINT EDUC ASSN	2,225	NEA	1966-68
FOREST HILLS PUB SCHS	GRAND RAPIDS	FOREST HILLS EDUC ASSN	151	NEA	1966-68
FOWLERVILLE COM SCHS	FOWLERVILLE	FOWLERVILLE EDUC ASSN	67	NEA	1966-68
FRASER PUB SCHS	FRASER	FRASER EDUC ASSN	276	NEA	1966-68
FREMONT PUB SCHS	FREMONT	FREMONT EDUC ASSN	110	NEA	1967-68
GARDEN CITY PUB SCHS	GARDEN CITY	GARDEN CITY EDUC ASSN	594	NEA	1966-68
GIBRALTAR SCH DST	ROCKWOOD	GIBRALTAR AFT LOCAL 1349	140	AFT	1967-68
GODFREY LEE PUB SCHS	WYOMING	GODFREY LEE EDUC ASSN	69	NEA	1966-68
GODWIN HEIGHTS PUB SCHS	WYOMING	GODWIN HGTS EDUC ASSN	164	NEA	1967-68
GRAND BLANC COM SCHS	GRAND BLANC	GRAND BLANC EDUC ASSN	319	NEA	1966-68
GRAND HAVEN PUB SCHS	GRAND HAVEN	GRAND HAVEN EDUC ASSN	270	NEA	1967-68
GRAND LEDGE PUB SCH	GRAND LEDGE	GRAND LEDGE EDUC ASSN	206	NEA	1967-68
GRAND RAPIDS SCHS	GRAND RAPIDS	GRAND RAPIDS ED ASSN	1,580	NEA	1966-68
GRANDVILLE PUB SCHS	GRANDVILLE	GRANDVILLE EDUC ASSN	194	NEA	1967-68
GRANT PUB SCHS	GRANT	GRANT EDUC ASSN	65	NEA	1966-68
GREENVILLE SCHS	GREENVILLE	GREENVILLE EDUC ASSN	132	NEA	1966-68
GROSSE ILE	GROSSE ILE	GROSSE ILE ED ASSN	115	NEA	1966-68
GROSSE POINTE PUB SCH	GROSSE POINTE	GROSSE POINTE ED ASSN	680	NEA	1966-68
GULL LAKE COM SCH	RICHLAND	GULL LAKE EDUCATION ASSN	150	NEA	1966-68
GWINN PUB SCHS	GWINN	GWINN TCHRS ASSN	153	NEA	1966-68
HAMTRAMCK SCHS	HAMTRAMCK	HAMTRAMCK AFT LCL 1052	156	AFT	1966-68
HANCOCK PUB SCH	HANCOCK	HANCOCK EDUC ASSN	58	NEA	1966-68
HARPER CREEK COM SCHS	BATTLE CREEK	HARPER CREEK EDUC ASSN	137	NEA	1966-68
HARPER WOODS CITY SCH	HARPER WOODS	HARPER WOODS AFT LOCAL	104	AFT	1967-68
HARRISON COM SCHS	HARRISON	HARRISON EDUC ASSN	53	NEA	1967-68
HARTFORD PUB SCHS	HARTFORD	HARTFORD EDUC ASSN	65	NEA	1966-68
HARTLAND PUB SCH	HARTLAND	HARTLAND EDUCATION ASSN	51	NEA	1966-68
HASTINGS PUB SCHS	HASTINGS	HASTINGS EDUC ASSN	146	NEA	1966-68
HAZEL PARK	HAZEL PARK	HAZEL PARK EDUC ASSN	400	NEA	1966-68
HEINTZEN PUB SCHS	SOUTHGATE	HEINTZEN AFT LOCAL	181	AFT	1966-68
HIGHLAND PARK SCHS	HIGHLAND PARK	HIGHLAND PARK AFT LOCAL	579	AFT	1966-68
HILLSDALE COM SCHS	HILLSDALE	HILLSDALE EDUC ASSN	130	NEA	1966-68
HOLLAND PUB SCHS	HOLLAND	HOLLAND EDUC ASSN	243	NEA	1966-68
HOLLY AREA SCHS	HOLLY	HOLLY AREA TCHRS CLUB	136	NEA	1966-68
HOLT PUB SCHS	HOLT	HOLT EDUC ASSN	168	NEA	1966-68
HOMER COM SCHS	HOMER	HOMER EDUC ASSN	70	NEA	1966-68
HOWELL PUB SCH	HOWELL	HOWELL EDUCATION ASSN	187	NEA	1966-68
HUDSON AREA SCHS	HUDSON	HUDSON MEA TCHRS ASSN	73	NEA	1967-68
HURON SCH DST	NEW BOSTON	HURON EDUC ASSN	90	NEA	1966-68
HURON VALLEY SCHS	MILFORD	HURON VALLEY EDUC ASSN	231	NEA	1966-68
IDA PUB SCHS	IDA	IDA EDUC ASSN	76	NEA	1966-68
IMLAY CITY COM SCHS	IMLAY CITY	IMLAY CITY AFT LOCAL	80	AFT	1967-68
IONIA PUB SCHS	IONIA	IONIA TCHRS ASSN	130	NEA	1966-68
ISHPEMING SCH DST 1	ISHPEMING	ISHPEMING TCHRS ASSN	100	NEA	1966-68
ITHACA PUB SCHS	ITHACA	ITHACA EDUC ASSN	83	NEA	1966-68
JACKSON UNION SCH DST	JACKSON	JACKSON EDUC ASSN	662	NEA	1966-68
JEFFERSON SCH DST	MONROE	JEFFERSON EDUC ASSN	106	NEA	1967-68
JENISON PUB SCH	JENISON	JENISON EDUCATION ASSN	81	NEA	1966-68
JONESVILLE COM SCHS	JONESVILLE	JONESVILLE EDUC ASN	63	NEA	1966-68
KALAMAZOO CITY SCHS	KALAMAZOO	KALAMAZOO CITY ED ASSN	975	NEA	1966-68
KELLOGGSVILLE PUB SCHS	WYOMING	KELLOGGSVILLE EDUC ASSN	112	NEA	1966-68
KENTWOOD PUB SCH	GRAND RAPIDS	KENTWOOD EDUCATION ASSN	220	NEA	1966-68
L ANSE CREUSE	MT CLEMENS	L ANSE CREUSE EDUC ASSN	300	NEA	1966-68
LAKE FENTON COM SCH	FENTON	LAKE FENTON EDUC ASSN	68	NEA	1966-68
LAKE ORION COM SCH	LAKE ORION	LAKE ORION EDUC ASSN	199	NEA	1966-68
LAKE SHORE PUB SCHS	ST CLAIR SHRES	LAKE SHORE AFT LOCAL	430	AFT	1966-68
LAKEVIEW PUB SCHS	ST CLAIR SHORE	LAKEVIEW EDUC ASSN	381	NEA	1967-68
LAKEVIEW SCH DST	BATTLE CREEK	LAKEVIEW EDUC ASSN	243	NEA	1966-68
LAKEVILLE COM SCHS	OTISVILLE	LAKEVILLE EDUC ASSN	109	NEA	1966-68
LAKEWOOD SCHS	LAKE ODESSA	LAKEWOOD EDUC ASSN	131	NEA	1967-68

LAMPHERE PUB SCH	MADISON HTS	LAMPHERE EDUCATION ASSN	311	NEA	1966-68
LANSING SCHS	LANSING	LANSING SCHS EDUC ASSN	1,743	NEA	1966-68
LAPEER CO PUB SCHS	LAPEER	LAPEER EDUC ASSN	210	NEA	1967-68
LESLIE PUB SCHS	LESLIE	LESLIE EDUC ASSN	68	NEA	1967-68
LINCOLN PARK PUB SCH	LINCOLN PARK	LINCOLN PARK EDUC ASSN	380	NEA	1967-68
LINDEN COM SCHS	LINDEN	LINDEN EDUC ASSN	80	NEA	1966-68
LIVONIA PUB SCHS	LIVONIA	LIVONIA EDUC ASSN	1,685	NEA	1966-68
LOWELL AREA SCH	LOWELL	LOWELL EDUC ASSN	121	NEA	1967-68
LUDINGTON AREA SCH	LUDINGTON	LUDINGTON TCHRS ASSN	157	NEA	1966-68
MADISON SCH DST	ADRIAN	MADISON EDUC ASSN	58	NEA	1966-68
MANISTIQUE SCHS	MANISTIQUE	MANISTIQUE TCHRS ASSN	70	NEA	1967-68
MAPLE VALLEY PUB SCH	VERMONTVILLE	MAPLE VALLEY EDUC ASSN	76	NEA	1966-68
MARLETTE COM SCH	MARLETTE	MARLETTE EDUC ASSN	73	NEA	1966-68
MARSHALL PUB SCH	MARSHALL	MARSHALL TEACHERS ASSN	147	NEA	1966-68
MARYSVILLE PUB SCH DST	MARYSVILLE	MARYSVILLE EDUC ASSN	90	NEA	1966-68
MASON CNTY CNTRL SCH DST	SCOTTVILLE	MASON CNTY CNTRL EDUC ASN	64	NEA	1967-68
MASON CONS SCHS	ERIE	MASON EDUC ASSN	93	NEA	1966-68
MASON PUB SCH	MASON	MASON EDUC ASN	143	NEA	1966-68
MAYVILLE COM SCHS	MAYVILLE	MAYVILLE EDUC ASSN	53	NEA	1966-68
MELVINDALE N ALEN PK SCH	MELVINDALE	MELVINDALE AFT LOCAL 1051	265	AFT	1966-68
MENOMINEE PUB SCHS	MENOMINEE	MENOMINEE CTY DST ED ASN	129	NEA	1967-68
MERIDIAN PUB SCHS	SANFORD	MERIDIAN EDUC ASSN	79	NEA	1966-68
MIDLAND CITY SCH DST	MIDLAND	MIDLAND CITY EDUC ASSN	570	NEA	1966-68
MONA SHORES SCHS	MUSKEGON	MONA SHORES EDUC ASSN	278	NEA	1967-68
MONROE CITY SCH DST	MONROE	MONROE CITY EDUC ASSN	415	NEA	1967-68
MONTABELLA COM SCHS	EDMORE	MONTABELLA EDUC ASSN	71	NEA	1967-68
MONTAGUE PUB SCHS	MONTAGUE	MONTAGUE EDUC ASSN	81	NEA	1967-68
MONTROSE TWP SCHS	MONTROSE	JAMES J HILL CHAPTER MEA	74	NEA	1966-68
MT CLEMENS COM SCHS	MT CLEMENS	MT CLEMENS EDUC ASSN	332	NEA	1967-68
MT MORRIS PUB SCHS	MT MORRIS	MT MORRIS EDUC ASSN	132	NEA	1966-68
MT PLEASANT CITY SCH DST	MT PLEASANT	MT PLEASANT EDUC ASSN	229	NEA	1967-68
MUNISING PUB SCH DST 3	MUNISING	MUNISING CHAPTER MICH EA	61	NEA	1966-68
N DEARBORN HGTS SCH DST	DEARBORN HGTS	ASSN OF PROF TCHRS	110	IND	1966-68
NANKIN MILLS SCH DST	WESTLAND	NANKIN MILLS EDUC ASSN	142	NEA	1966-68
NAPOLEON SCH DST	NAPOLEON	NAPOLEON TCHRS ASSN	74	NEA	1966-68
NEGAUNEE PUB SCH	NEGAUNEE	NEGAUNEE TEACHERS ASSN	91	NEA	1966-68
NEW BUFFALO AREA SCHS	NEW BUFFALO	NEW BUFFALO TCHRS ASSN	59	NEA	1967-68
NILES COM SCHS	NILES	NILES DST EDUC ASSN	315	NEA	1967-68
NORTHVIEW PUB SCHS	GRAND RAPIDS	NORTHVIEW EDUC ASSN	120	NEA	1967-68
NORTHVILLE PUB SCH	NORTHVILLE	NORTHVILLE TCHRS ASSN	139	NEA	1966-68
NORWAY VULCAN AREA SCH	NORWAY	NORWAY VULCAN EDUC ASSN	53	NEA	1967-68
NOVI COM SCHS	NOVI	NOVI EDUC ASSN	55	NEA	1967-68
OAK PARK PUB SCHS	OAK PARK	OAK PARK AFT LOCAL	514	AFT	1967-68
OAKRIDGE PUB SCHS	MUSKEGON	OAKRIDGE TCHRS ASSN	90	NEA	1967-68
OKEMOS PUB SCHS	OKEMOS	OKEMOS EDUC ASSN	150	NEA	1966-68
ONSTED COM SCH DST 5	ONSTED	ONSTED EDUC ASSN	50	NEA	1966-68
ONTONAGON AREA SCHS	ONTONAGON	ONTONAGON EDUC ASSN	62	NEA	1966-68
ORCHARD VIEW PUB SCH	MUSKEGON	MICHIGAN EDUC ASSN	167	NEA	1966-68
OSCODA AREA SCH	OSCODA	OSCODA EDUCATION ASSN	194	NEA	1966-68
OTSEGO PUB SCHS	OTSEGO	OTSEGO EDUC ASSN	117	NEA	1967-68
OVID ELSIE AREA SCH	ELSIE	OVID ELSIE EDUC ASSN	103	NEA	1966-68
OXFORD AREA COM SCH	OXFORD	OXFORD EDUCATION ASSN	100	NEA	1966-68
PARCHMENT SCH DST	PARCHMENT	PARCHMENT EDUC ASSN	115	NEA	1966-68
PAW PAW SCH DST 27	PAW PAW	PAW PAW EDUC ASSN	94	NEA	1967-68
PENNFIELD SCHS	BATTLE CREEK	PENNFIELD EDUC ASSN	102	NEA	1966-68
PERRY PUB SCHS	PERRY	PERRY EDUC ASSN	71	NEA	1967-68
PETOSKEY PUB SCHS	PETOSKEY	PETOSKEY EDUC ASSN	91	NEA	1966-68
PINCKNEY COM SCHS	PINCKNEY	PINCKNEY EDUC ASSN	83	NEA	1967-68
PINCONNING AREA SCH	PINCONNING	PINCONNING EDUC ASSN	99	NEA	1966-68
PLAINWELL COMM SCHS	PLAINWELL	PLAINWELL EDUC ASSN	127	NEA	1966-68
PLYMOUTH COM SCH DST	PLYMOUTH	PLYMOUTH EDUC ASSN	380	NEA	1966-68
PONTIAC CITY SCHS	PONTIAC	PONTIAC EDUC ASSN	1,110	NEA	1966-68
PORT HURON AREA SCHS	PORT HURON	PORT HURON EDUC ASSN	673	NEA	1966-68
PORTAGE PUB SCH	PORTAGE	PORTAGE ED ASSN	525	NEA	1966-68
PORTLAND PUB SCHS	PORTLAND	PORTLAND TCHRS CLUB	66	NEA	1967-68
QUINCY COM SCHS	QUINCY	QUINCY EDUC ASSN	61	NEA	1966-68
RAVENNA SCH DST 24	RAVENNA	RAVENNA EDUC ASSN	59	NEA	1966-68
READING COM SCHS	READING	READING EDUC ASSN	49	NEA	1967-68
REDFORD UN SCH DST 1	DETROIT	REDFORD UN EDUC ASSN	454	NEA	1966-68
REED CITY PUB SCH	REED CITY	REED CITY EDUC ASSN	78	NEA	1966-68
REETHS PUFFER SD 14	MUSKEGON	REETHS PUFFER EDUC ASSN	195	NEA	1966-68
RICHMOND COM SCH	RICHMOND	RICHMOND EDUCATION ASSN	69	NEA	1966-68
ROCHESTER COM SCHS	ROCHESTER	ROCHESTER EDUC ASSN	359	NEA	1966-68
ROCKFORD PUB SCH	ROCKFORD	ROCKFORD EDUCATION ASSN	154	NEA	1966-68
ROSEVILLE PUB SCH	ROSEVILLE	ROSEVILLE AFT	600	AFT	1966-68
ROYAL OAK CITY SCH DST	ROYAL OAK	ROYAL OAK ED ASSN	916	NEA	1966-68
RUDYARD TWP SCH DST 11	RUDYARD	RUDYARD EDUCATION ASSN	135	NEA	1966-68
SAGINAW CITY PUB SCHS	SAGINAW	SAGINAW EDUC ASSN	1,060	NEA	1966-68
SAGINAW TWP COM SCHS	SAGINAW	SAGINAW TWP EDUC ASSN	264	NEA	1966-68
SALINE AREA SCHS	SALINE	SALINE EDUC ASSN	119	NEA	1966-68
SAND CREEK COM SCH	SAND CREEK	SAND CREEK EDUC ASSN	46	NEA	1966-68
SANDUSKY COM SCH	SANDUSKY	SANDUSKY EDUCATION ASSN	59	NEA	1966-68
SARANAC COM SCH	SARANAC	SARANAC EDUC ASSN	54	NEA	1967-68
SAULT STE MARIE AREA PS	SAULT ST MARIE	SAULT EDUC ASSN	207	NEA	1966-68
SCHDST CITY OF TROY	TROY	TROY EDUC ASSN	259	NEA	1966-68
SHEPHERD PUB SCHS	SHEPHERD	SHEPHERD EDUC ASSN	67	NEA	1966-68
SOUTH HAVEN PUB SCH	SOUTH HAVEN	SOUTH HAVEN EDUC ASSN	142	NEA	1966-68
SOUTH LAKE SCH	ST CLAIR SHORE	SOUTH LAKE ED ASSN	245	NEA	1966-68
SOUTH LYON COM SCH	SOUTH LYON	SOUTH LYON EDUC ASSN	136	NEA	1967-68
SOUTH REDFORD SCH DST	DETROIT	SO REDFORD EDUC ASSN	429	NEA	1966-68
SOUTHFIELD PUB SCH	SOUTHFIELD	SOUTHFIELD EDUCATION ASN	819	NEA	1966-68
SOUTHGATE COM SCHS	SOUTHGATE	SOUTHGATE EDUC ASSN	224	NEA	1966-68
SPARTA AREA PUB SCHS	SPARTA	SPARTA EDUC ASSN	119	NEA	1966-68
SPRING LAKE PUB SCH	SPRING LAKE	SPRING LAKE EDUC ASSN	94	NEA	1966-68
SPRINGFIELD PUB SCHS	BATTLE CREEK	SPRINGFIELD EDUC ASSN	103	NEA	1966-68
SPRINGPORT SCHS	SPRINGPORT	SPRINGPORT EDUC ASSN	59	NEA	1967-68

ST CHARLES COM SCHS	ST CHARLES	MINA J MILLER NEA	61	NEA		1967-68
ST JOSEPH CITY SCH DST	ST JOSEPH	ST JOSEPH EDUC ASSN	203	NEA		1966-68
ST LOUIS PUB SCH	ST LOUIS	ST LOUIS EDUCATORS CLUB	90	NEA		1966-68
STEPHENSON AREA PUB SCHS	STEPHENSON	STEPHENSON EDUC ASSN	69	NEA		1966-68
STOCKBRIDGE COM SCHS	STOCKBRIDGE	STOCKBRIDGE EDUC ASSN	77	NEA		1966-68
SUMMERFIELD SCHS	PETERSBURG	SUMMERFIELD EDUC ASSN	43	NEA		1966-68
SWARTZ CREEK COM SCH	SWARTZ CREEK	SWARTZ CREEK COM TCH ASN	165	NEA		1966-68
TAHQUAMENON AREA SCHS	NEWBERRY	TAHQUAMENON EDUC ASSN	71	NEA		1966-68
TAYLOR TWP SCHS	TAYLOR	TAYLOR AFT LOCAL 1085	823	AFT		1966-68
TECUMSEH PUB SCH	TECUMSEH	TECUMSEH EDUCATION ASSN	141	NEA		1966-68
THORNAPPLE KELLOGG SCHS	MIDDLEVILLE	THORNAPPLE KELLOGG ED ASN	73	NEA		1966-68
THREE RIVERS PUB SCH	THREE RIVERS	THREE RIVERS EDUC ASSN	146	NEA		1966-68
TRAVERSE CTY PUB SCH	TRAVERSE CITY	TRAVERSE CITY EDUC ASSN	276	NEA		1966-68
TRENTON PUB SCH	TRENTON	TRENTON EDUC ASSN	309	NEA		1967-68
UNION CITY COM SCHS	UNION CITY	UNION CITY EDUCATION ASN	64	NEA		1966-68
UTICA COMMUNITY SCH	UTICA	UTICA EDUCATION ASSN	721	NEA		1966-68
VAN BUREN PUB SCHS	BELLEVILLE	VAN BUREN ED ASSN	302	NEA		1966-68
VAN DYKE PUB SCHS	WARREN	VAN DYKE FED TCHRS	354	AFT		1966-68
VASSAR PUB SCHS	VASSAR	VASSAR EDUC ASSN	77	NEA		1966-68
VICKSBURG COM SCHS	VICKSBURG	VICKSBURG EDUC ASSN	121	NEA		1966-68
WALLED LAKE SCH DST	WALLED LAKE	WALLED LAKE ED ASSN	460	NEA		1966-68
WARREN CONS SCHS	WARREN	WARREN EDUC ASSN	1,135	NEA		1966-68
WARREN WOODS SCHS	WARREN	WARREN WOODS EDUC ASSN	410	NEA		1966-68
WATERFORD TWP SCH DST	PONTIAC	WATERFORD EDUC ASSN	800	NEA		1966-68
WATERVLIET PUB SCHS	WATERVLIET	WATERVLIET EDUC ASSN	74	NEA		1966-68
WAVERLY PUB SCHS	LANSING	WAVERLY EDUC ASSN	215	NEA		1967-68
WAYLAND UN SCH DST 4	WAYLAND	WAYLAND EDUC ASSN	90	NEA		1966-68
WAYNE COM SCHS	WAYNE	WAYNE ED ASSN	937	NEA		1966-68
WEST IRON CNTY PUB	STAMBAUGH	WEST IRON ED ASSN	127	NEA		1966-68
WEST OTTAWA SCH	HOLLAND	WEST OTTAWA EDUC ASSN	177	NEA		1966-68
WESTWOOD HEIGHTS SCH	FLINT	WESTWOOD HGTS EDUC ASSN	103	NEA		1966-68
WHITE CLOUD PUB SCHS	WHITE CLOUD	WHITE CLOUD EDUC ASSN	44	NEA		1966-68
WHITE PIGEON	WHITE PIGEON	WHITE PIGEON EDUC ASSN	58	NEA		1966-68
WHITEFORD AGRICULTRL S	OTTAWA LAKE	WHITEFORD EDUCATION ASSN	51	NEA		1966-68
WHITEHALL SCHS	WHITEHALL	WHITEHALL EDUC ASSN	77	NEA		1966-68
WHITMORE LAKE PUB SCH	WHITMORE LAKE	WHITMORE LAKE EDUC ASSN	51	NEA		1967-68
WILLIAMSTON COM SCH	WILLIAMSTON	WILLIAMSTON EDUC ASSN	73	NEA		1966-68
WILLOW RUN PUB SCHS	YPSILANTI	WILLOW RUN EDUC ASSN	212	NEA		1967-68
WYANDOTTE CITY SCH DST	WYANDOTTE	WYANDOTTE EDUC ASSN	395	NEA		1966-68
WYOMING PUB SCH	WYOMING	WYOMING ED ASSN	380	NEA		1966-68
YPSILANTI CITY SCHS	YPSILANTI	YPSILANTI EDUC ASSN	406	NEA		1967-68
ZEELAND CITY PUB SCHS	ZEELAND	ZEELAND EDUC ASSN	76	NEA		1966-68
MINNESOTA						
ALBERT LEA PUB SCH	ALBERT LEA	2 ORGANZTNS RECOGNIZED	338	NEA-AFT	JNP	1967-68
		ALBERT LEA EDUC ASSN	285	NEA	4	
		ALBERT LEA AFT LOCAL 1341	45	AFT	1	
ALEXANDRIA PUB SCHS	ALEXANDRIA	ALEXANDRIA EDUC ASSN	198	NEA		1967-68
ANOKA SCHS	ANOKA	2 ORGANZTNS RECOGNIZED	980	NEA-AFT	JNP	1967-68
		ANOKA HENNEPIN EDUC ASSN	752	NEA	4	
		ANOKA HENNEPIN AFT LOCAL	188	AFT	1	
AURORA HOYT SCH IND 691	AURORA	2 ORGANZTNS RECOGNIZED	131	NEA-AFT	JNP	1966-68
		AURORA EDUC ASSN	52	NEA	2	
		AURORA FED TCHRS	79	AFT	3	
AUSTIN IND SCH DST 492	AUSTIN	2 ORGANZTNS RECOGNIZED	426	NEA-AFT	JNP	1967-68
		AUSTIN EDUC ASSN	313	NEA	4	
		AUSTIN AFT LOCAL	83	AFT	1	
BENSON SCH DST 777	BENSON	BENSON EDUC ASSN	97	NEA		1967-68
BLOOMINGTON IND SD 271	BLOOMINGTON	2 ORGANZTNS RECOGNIZED	1,052	NEA-IND	JNP	1967-68
		BLOOMINGTON EDUC ASSN	386	NEA	2	
		BLOOMINGTON TCHRS ASSN	666	IND	4	
BRAINERD IND SD 181	BRAINERD	2 ORGANZTNS RECOGNIZED	277	NEA-AFT	JNP	1967-68
		BRAINERD EDUC ASSN	122	NEA	2	
		BRAINERD AFT LOCAL	146	AFT	3	
BUFFALO PUB SCH	BUFFALO	BUFFALO EDUC ASSN	74	NEA		1967-68
CHASKA IND SCH DST 112	CHASKA	CHASKA EDUC ASSN	82	NEA		1967-68
CLOQUET IND SCH DST 94	CLOQUET	CLOQUET EDUCATION ASSN	163	NEA		1966-68
COLUMBIA HTS IND DST 13	COLUMBIA HTS	2 ORGANZTNS RECOGNIZED	330	NEA-AFT	JNP	1967-68
		COLUMBIA HTS EDUC ASSN	134	NEA	2	
		COLUMBIA AFT LOCAL 710	164	AFT	3	
CROOKSTON IND SD 593	CROOKSTON	CROOKSTON EDUC ASSN	130	NEA		1967-68
DEER RIVER IND SD 317	DEER RIVER	DEER RIVER TCHRS ASSN	62	NEA		1967-68
DETROIT LAKES IND SD 22	DETROIT LAKES	DETROIT LAKES EDUC ASSN	167	NEA		1966-68
DULUTH SPEC SCH DST 69	DULUTH	2 ORGANZTNS RECOGNIZED	1,023	NEA-AFT	JNP	1966-68
		DULUTH AFT LOCAL	838	AFT	4	
		DULUTH EDUC ASSN	185	NEA	1	
E GRAND FORKS IND SD 595	E GRAND FORKS	E GRAND FORKS FAC CLUB	118	NEA		1967-68
EDINA PUB SCHS	EDINA	EDINA FAC CLUB	483	IND		1967-68
ELY IND SCH DST 696	ELY	2 ORGANZTNS RECOGNIZED	90	NEA-AFT	JNP	1967-68
		ELY TCHRS ASSN	77	NEA	4	
		ELY FED TCHRS	10	AFT	1	
FAIRMONT IND SD 454	FAIRMONT	FAIRMONT EDUC ASSN	148	NEA		1967-68
FARIBAULT PUB SCH	FARIBAULT	FARIBAULT EDUC ASSN	175	NEA		1967-68
FARMINGTON IND SD 192	FARMINGTON	FARMINGTON EDUC ASSN	75	NEA		1967-68
FERGUS FALLS IND SD 544	FERGUS FALLS	FERGUS FALLS EDUC ASSN	195	NEA		1966-68
FOSSTON IND SD 601	FOSSTON	FOSSTON EDUC ASSN	55	NEA		1967-68
FRAZEE SCH DST 23	FRAZEE	FRAZEE EDUC ASSN	64	NEA		1967-68
GLENWOOD EDUC ASSN	GLENWOOD	GLENWOOD EDUC ASSN	73	NEA		1967-68
GRAND MARAIS SCH DST 166	GRAND MARAIS	COOK CO EDUC ASSN	57	NEA		1967-68
GRAND RAPIDS DST 318	GRAND RAPIDS	2 ORGANZTNS RECOGNIZED	278	NEA-AFT	JNP	1967-68
		GRAND RAPIDS AFT LOCAL	146	AFT	3	
		DISTRICT 318 MEA	66	NEA	2	
HASTINGS IND SD 200	HASTINGS	HASTINGS EDUC ASSN	174	NEA		1967-68
HENNEPIN CO IND SD 286	MINNEAPOLIS	BROOKLYN CEN EDUC ASSN	113	NEA		1967-68

HERMANTOWN IND DST 700	DULUTH	2 ORGANZTNS RECOGNIZED	112	NEA-AFT	JNP	1967-68
		HERMANTOWN EDUC ASSN	52	NEA	3	
		HERMANTOWN AFT LOCAL	50	AFT	2	
HIBBING PUB SCH DST 701	HIBBING	2 ORGANZTNS RECOGNIZED	287	NEA-AFT	JNP	1967-68
		HIBBING EDUC ASSN	190	NEA	3	
		HIBBING AFT LOCAL	90	AFT	2	
INT L FALLS IND SD 361	INT L FALLS	INT L FALLS AFT LCL 331	174	AFT		1967-68
LA CRESCENT IND SD 300	LA CRESCENT	LA CRESCENT EDUC ASSN	78	NEA		1967-68
LAKEVILLE DST 194	LAKEVILLE	2 ORGANZTNS RECOGNIZED	92	NEA-AFT	JNP	1967-68
		LAKEVILLE EDUC ASSN	79	NEA	4	
		LAKEVILLE FED TCHRS	10	AFT	1	
LITCHFIELD IND SD 465	LITCHFIELD	LITCHFIELD EDUC ASSN	103	NEA		1967-68
LITTLE FALLS SCH DST	LITTLE FALLS	LITTLE FALLS TCHRS ASSN	142	NEA		1967-68
LUVERNE IND SCH DST 670	LUVERNE	LUVERNE EDUC ASSN	88	NEA		1967-68
MADISON IND SD 377	MADISON	MADISON EDUC ASSN	56	NEA		1967-68
MAHTOMEDI PUB SCH	MAHTOMEDI	2 ORGANZTNS RECOGNIZED	85	NEA-AFT	JNP	1966-68
		MAHTOMEDI TCHRS ASSN	74	NEA	4	
		MAHTOMEDI AFT	11	AFT	1	
MANKATO IND SCH DST 77	MANKATO	MANKATO TCHRS LEAGUE	357	NEA		1966-68
MARSHALL IND SCH DST 413	MARSHALL	MARSHALL EDUCATION ASSN	102	NEA		1966-68
MILACA IND DST 912	MILACA	MILACA EDUC ASSN	77	NEA		1967-68
MINNETONKA SCH DST 276	EXCELSIOR	MINNETONKA TCHRS ASSN	412	NEA		1967-68
MOORHEAD PUB DST 152	MOORHEAD	2 ORGANZTNS RECOGNIZED	364	NEA-AFT	JNP	1966-68
		MOORHEAD EDUC ASSN	307	NEA	4	
		MOORHEAD FED TCHRS	35	AFT	1	
MORRIS PUB SCHS	MORRIS	MORRIS TCHRS ASSN	96	NEA		1966-68
MOUND SCH DST 277	MOUND	2 ORGANZTNS RECOGNIZED	171	NEA-AFT	JNP	1966-68
		MOUND AFT LOCAL	96	AFT	3	
		MOUND DST 277 EDUC ASSN	75	NEA	2	
MOUNDS VIEW IND DST 621	ST PAUL	MOUNDS VIEW LOCAL MEA	510	NEA		1967-68
N BRANCH IND SD 138	N BRANCH	N BRANCH EDUC ASSN	58	NEA		1967-68
N ST PAUL MAPLEWOOD SCH	MAPLEWOOD	N ST PAUL MAPLEWOOD ED AN	492	NEA		1967-68
NASHWAUK IND SCH DST 319	NASHWAUK	ARROWHEAD TCHR UN LOC 755	80	AFT		1966-68
NEW PRAGUE IND DST 721	NEW PRAGUE	NEW PRAGUE EDUC ASSN	58	NEA		1967-68
NEW ULM IND DST 83	NEW ULM	NEW ULM PUB SCH TCH ASSN	119	NEA		1967-68
NORTHFIELD SCH DST 659	NORTHFIELD	NORTHFIELD EDUC ASSN	165	NEA		1966-68
ORONO SCH DST 278	LONG LAKE	ORONO TCHRS ASSN	112	NEA		1967-68
ORTONVILLE IND SD 62	ORTONVILLE	ORTONVILLE TCHRS ASSN	57	NEA		1967-68
OSSEO IND SCH DST 279	OSSEO	OSSEO EDUC ASSN	512	NEA		1967-68
PARK RAPIDS IND SD 309	PARK RAPIDS	PARK RAPIDS EDUC ASSN	88	NEA		1967-68
PELICAN RAPIDS IND SD548	PELICAN RAPIDS	PELICAN RAPIDS EDUC ASSN	61	NEA		1967-68
PINE CITY PUB SCHS	PINE CITY	PINE CITY TCHRS ASSN	78	NEA		1967-68
PIPESTONE PUB SCHS	PIPESTONE	PIPESTONE EDUCATION ASSN	145	NEA		1966-68
RED WING DST 256	RED WING	RED WING EDUC ASSN	177	NEA		1967-68
RICHFIELD SCH DST 280	RICHFIELD	2 ORGANZTNS RECOGNIZED	534	NEA-AFT	JNP	1967-68
		RICHFIELD EDUC ASSN	280	NEA	3	
		RICHFIELD FED TCHRS	251	AFT	2	
ROBBINSDALE IND SD 281	ROBBINSDALE	2 ORGANZTNS RECOGNIZED	1,110	NEA-AFT	JNP	1967-68
		ROBBINSDALE AFT LOCAL	647	AFT	3	
		ROBBINSDALE EDUC ASSN	432	NEA	2	
ROSEVILLE IND SD 623	ST PAUL	2 ORGANZTNS RECOGNIZED	583	NEA-AFT	JNP	1967-68
		ROSEVILLE EDUC ASSN	390	NEA	4	
		ROSEVILLE AFT	119	AFT	1	
SHAKOPEE IND DST 720	SHAKOPEE	2 ORGANZTNS RECOGNIZED	74	NEA-AFT	JNP	1967-68
		SHAKOPEE EDUC ASSN	58	NEA	4	
		SHAKOPEE FED TCHRS	11	AFT	1	
SO ST PAUL PUB SCHS	SO ST PAUL	3 ORGANZTNS RECOGNIZED	275	NEA-AFT-IND	JNP	1967-68
		SO ST PAUL AFT LOCAL	140	AFT	3	
		SO ST PAUL TCHR ALLIANCE	47	IND	1	
		SO ST PAUL EDUC ASSN	47	NEA	1	
SPRING LAKE PK IND SD 16	MINNEAPOLIS	2 ORGANZTNS RECOGNIZED	201	NEA-AFT	JNP	1967-68
		MINNESOTA EDUC ASSN	132	NEA	4	
		MINNESOTA AFT LOCAL	47	AFT	1	
ST CLOUD PUB SCH	ST CLOUD	ST CLOUD TCHRS ASSN	431	NEA		1967-68
ST JAMES PUB SCH 840	ST JAMES	ST JAMES EDUC ASSN	110	NEA		1966-68
ST LOUIS PARK PUB SCH	ST LOUIS PARK	2 ORGANZTNS RECOGNIZED	559	NEA-AFT	JNP	1967-68
		ST LOUIS PARK ASSN TCHRS	288	NEA	3	
		ST LOUIS PARK AFT LOCAL	220	AFT	2	
ST PAUL PARK IND DST 833	ST PAUL PARK	2 ORGANZTNS RECOGNIZED	361	NEA-AFT	JNP	1967-68
		S WASHINGTON CO EDUC ASSN	260	NEA	4	
		ST PAUL PARK AFT LOCAL	91	AFT	1	
ST PETER IND SD 508	ST PETER	ST PETER EDUC ASSN	90	NEA		1967-68
STAPLES SCH DST 793	STAPLES	STAPLES EDUC ASSN	101	NEA		1967-68
STEWARTVILLE IND DST 534	STEWARTVILLE	STEWARTVILLE EDUC ASSN	76	NEA		1967-68
STILLWATER IND DST 834	STILLWATER	ST CROIX ED ASSN	305	NEA		1966-68
THOMSON TWP DST 99	ESKO	ESKO TCHRS ASSN	50	NEA		1967-68
TWO HARBORS IND 381	TWO HARBORS	2 ORGANZTNS RECOGNIZED	230	NEA-AFT	JNP	1967-68
		SILVER BAY AREA EDUC ASSN	103	NEA	3	
		TWO HARBOR AFT LOCAL	78	AFT	2	
WASECA IND SD 829	WASECA	WASECA EDUC ASSN	94	NEA		1967-68
WAYZATA SCH DST 284	WAYZATA	2 ORGANZTNS RECOGNIZED	260	NEA	SN	1967-68
		WAYZATA EDUC ASSN	245	NEA		
		WAYZATA ADMN ASSN	15	NEA		
WHITE BEAR IND DST 624	WHITE BEAR LAK	WHITE BEAR TCHRS ASSN	492	NEA		1966-68
WILLMAR IND SD 347	WILLMAR	2 ORGANZTNS RECOGNIZED	227	NEA-AFT	JNP	1967-68
		WILLMAR EDUC ASSN	153	NEA	4	
		WILLMAR AFT LOCAL	38	AFT	1	
WINONA IND DST 861	WINONA	2 ORGANZTNS RECOGNIZED	245	NEA-AFT	JNP	1967-68
		WINONA EDUC ASSN	186	NEA	4	
		WINONA FED TCHRS	40	AFT	1	
WORTHINGTON PUB SCH	WORTHINGTON	WORTHINGTON EDUC ASSN	169	NEA		1967-68
MISSISSIPPI						
HATTIESBURG MUN SCH DST	HATTIESBURG	HATTIESBURG EDUC ASSN	405	NEA		1966-68

MISSOURI

AURORA SCH DST	AURORA	AURORA EDUC ASSN	68	NEA		1966-68
BAYLESS CONS SCH DST	ST LOUIS	BAYLESS COM TCHRS ASSN	125	NEA		1966-68
BROOKFIELD R 3 SCH DST	BROOKFIELD	BROOKFIELD COM TCHR ASSN	80	NEA		1966-68
CAPE GIRARDEAU SD 63	CAPE GIRARDEAU	CAPE GIRARDEAU COM TCH AN	295	NEA		1967-68
COLUMBIA PUB SCH	COLUMBIA	COLUMBIA COM TCHRS ASSN	454	NEA		1966-68
CRYSTAL CITY SCHS	CRYSTAL CITY	CRYSTAL CTY COM TCH ASSN	59	NEA		1967-68
DEXTER PUB SCHS	DEXTER	DEXTER COM TCHRS ASSN	92	NEA		1966-68
EL DORADO SPRGS PSD R 2	EL DRADO SPRGS	NO ORGANZTN RECOGNIZED	68			1966-68
ELDON SCH DST RE 1	ELDON	ELDON CLRM TCHRS ASSN	80	NEA		1966-68
FERGUSON FLORISSANT SD	FERGUSON	FERG FLOR COM TCHRS ASSN	781	NEA		1966-68
FRANCIS HOWELL SCH DST	ST CHARLES	COMMUNITY TCHRS ASSN	149	NEA		1966-68
HANNIBAL PUB SCH	HANNIBAL	HANNIBAL COM TCHRS ASSN	199	NEA		1967-68
LINDBERGH PUB SCHS	ST LOUIS	LINDBERGH COM TCHRS ASSN	506	NEA		1967-68
MARSHALL PUB SCH	MARSHALL	MARSHALL TCHRS ASSN	108	NEA		1967-68
NORMANDY SCH DST	ST LOUIS	NORMANDY TCHRS ASSN	382	NEA		1966-68
NORTH KANSAS CTY SD 74	KANSAS CITY	N KANSAS CTY COM TCH ASN	932	NEA		1967-68
PARKWAY SCH DST	CHESTERFIELD	PARKWAY COM TCHRS ASSN	620	NEA		1967-68
PATTONVILLE R 3 SCH DST	PATTONVILLE	PATTONVILLE COM TCHR ASN	542	NEA		1966-68
POPLAR BLUFF SCHS	POPLAR BLUFF	POPLAR BLUFF COM TCH ASN	269	NEA		1966-68
RICHMOND R 13 SCH	RICHMOND	RICHMOND COM TCHRS ASSN	13	NEA		1966-68
RIVERVIEW GARDENS SD	ST LOUIS	RIVR GARDENS COM TCH ASN	418	NEA		1966-68
ROCKWOOD SCH DST R6	EUREKA	ROCKWOOD COM TCHRS ASSN	3,1	NEA		1966-68
SCOTLAND CO R 1 PUB SCHS	MEMPHIS	SCOTLND CO R 1 COM TCH AN	50	NEA		1967-68
SIKESTON PUB SCHS R 6	SIKESTON	SIKESTON COM TCHR ASSN	225	NEA		1966-68
SPRINGFIELD R 12 SCH DST	SPRINGFIELD	SPRINGFIELD EDUC ASSN	1,113	NEA		1966-68
ST CLAIR SCH DST R 13	ST CLAIR	ST CLAIR COM TCHRS ASSN	69	NEA		1966-68
WELLSTON SCH DST	ST LOUIS	WELLSTON COM TCHRS ASSN	91	NEA		1966-68
WEST PLAINS SCH DST R7	WEST PLAINS	W PLAINS COM TCHRS ASSN	130	NEA		1967-68

MONTANA

ANACONDA SCH DST 10	ANACONDA	ANACONDA AFT LOCAL 502	123	AFT		1967-68
BUTTE SCH DST 1	BUTTE	BUTTE TCHRS UNION AFT 332	395	AFT		1966-68
LAUREL SCH DST 7	LAUREL	LAUREL MEA UNIT	81	NEA		1966-68
MISSOULA CO HS	MISSOULA	NO ORGANZTN RECOGNIZED	175			1966-68
WHITEFISH PUB SCHS	WHITEFISH	WHITEFISH MEA UNIT	82	NEA		1966-68

NEBRASKA

KEARNEY PUB SCHS	KEARNEY	KEARNEY EDUC ASSN	178	NEA		1967-68
OMAHA PUB SCHS	OMAHA	OMAHA EDUC ASSN	2,388	NEA		1966-68
RALSTON PUB SCH	RALSTON	RALSTON TCHRS ASSN	126	NEA		1967-68
VALENTINE CITY SCHS	VALENTINE	VALENTINE EDUC ASSN	58	NEA		1966-68

NEVADA

WASHOE CO SCH DST	RENO	WASHOE CO TCHRS ASSN	1,208	NEA		1966-68

NEW HAMPSHIRE

DOVER CITY SCH DST	DOVER	DOVER TCHRS ASSN	192	NEA		1967-68
INTER LAKES SCH DST	MEREDITH	INTER LAKES TCHRS ASSN	57	NEA		1966-68
KEENE CITY SCHS	KEENE	KEENE EDUC ASSN	185	NEA		1966-68
LEBANON SCH DST	LEBANON	LEBANON TCHRS ASSN	105	NEA		1967-68
MASCOMA VALLEY REG SCHS	WEST CANAAN	MASCOMA VLY TCHRS ASSN	57	NEA		1966-68
MONADNOCK REG SCH DST	KEENE	MONADNOCK REG TCHRS ASSN	119	NEA		1966-68
OYSTER RIVER COOP SCHS	DURHAM	OYSTER RVR TCHRS GUILD	78	NEA		1967-68
PORTSMOUTH SCH DST 52	PORTSMOUTH	PORTSMOUTH TCHRS ASSN	280	NEA		1967-68
SOMERSWORTH SCHS	SOMERSWORTH	SOMERSWORTH TCHRS ASSN	66	NEA		1967-68
TIMBERLANE REG SCHS	PLAISTOW	TIMBERLN HAMPSTD TCH ASN	120	NEA		1967-68
WINNACUNNET COOP SCH DST	HAMPTON	WINNACUNNET HS TCHRS ASSN	55	NEA		1966-68

NEW JERSEY

ASBURY PARK SCHS	ASBURY PARK	ASBURY PARK EDUC ASSN	219	NEA		1967-68
ATLANTIC CITY PUB SCHS	ATLANTIC CITY	ATLANTIC CITY EDUC ASSN	397	NEA		1966-68
BELLMAWR PUB SCHS	BELLMAWR	NO ORGANZTN RECOGNIZED	65			1966-68
BERGENFIELD PUB SCHS	BERGENFIELD	BERGENFIELD EDUC ASSN	340	NEA		1966-68
BERKELEY HGTS PUB SCHS	BERKELEY HGTS	NO ORGANZTN RECOGNIZED	138			1966-68
BERNARDS TWP PUB SCHS	BASKING RIDGE	BERNARDS TWP TCHR ASSN	180	NEA		1966-68
BOGOTA SCH DST	BOGOTA	BOGOTA EDUC ASSN	106	NEA		1967-68
BOUND BROOK PUB SCH	BOUND BROOK	BOUND BROOK EDUC ASSN	125	NEA		1966-68
BRICK TWP SCHS	BRICK TOWN	BRICK TWP EDUC ASSN	371	NEA		1966-68
BRIDGETON PUB SCHS	BRIDGETON	BRIDGETON EDUC ASSN	350	NEA		1966-68
BRIDGEWATER RARITAN SD	RARITAN	BRIDGEWATER RARITAN EA	516	NEA		1966-68
BUENA REG SCH DST	BUENA	BUENA EDUC ASSN	65	NEA		1966-68
BURLINGTON CTY PUB SCHS	BURLINGTON	BURLINGTON CTY TCHRS ASN	182	NEA		1966-68
BURLINGTON TWP SCHS	BURLINGTON	BURLINGTON TWP TCHRS ASSN	109	NEA		1966-68
CALDWELL W CALDWELL SD	CALDWELL	CALDWELL W CALDWELL EA	228	NEA		1966-68
CEDAR GROVE PUB SCHS	CEDAR GROVE	CEDAR GROVE EDUC ASSN	175	NEA		1966-68
CHATHAM BORO PUB SCHS	CHATHAM	CHATHAM TCHRS ASSN	128	NEA		1966-68
CHERRY HILL TWP SCH	CHERRY HILL	CHERRY HILL EDUC ASSN	809	NEA		1966-68
CLARK TWP SCH DST	CLARK	CLARK TCHRS ASSN	136	NEA		1966-68
CLAYTON PUB SCHS	CLAYTON	CLAYTON EDUC ASSN	74	NEA		1966-68
CLIFFSIDE PARK PUB SCHS	CLIFFSIDE PARK	CLIFFSIDE PARK EDUC ASSN	160	NEA		1966-68
CLIFTON PUB SCHS	CLIFTON	2 ORGANZTNS RECOGNIZED	620	NEA	SN	1966-68
		CLIFTON TEACHERS ASSN	516	NEA		
		CLIFTON PRINCIPALS ASSN	16	NEA		
CLOSTER PUB SCHS	CLOSTER	CLOSTER TCHRS ASSN	75	NEA		1967-68
CRANFORD PUB SCHS	CRANFORD	CRANFORD TCHRS ASSN	397	NEA		1966-68
DENVILLE TWP SCHS	DENVILLE	DENVILLE TWP TCHRS ASSN	111	NEA		1966-68
DOVER PUB SCHS	DOVER	DOVER EDUC ASSN	200	NEA		1966-68
DUMONT PUB SCH	DUMONT	DUMONT EDUC ASSN	228	NEA		1967-68
DUNELLEN PUB SCHS	DUNELLEN	DUNELLEN EDUC ASSN	99	NEA		1966-68

EAST BRUNSWICK PUB SCHS	EAST BRUNSWICK	EAST BRUNSWICK EDUC ASSN	478	NEA		1966-68
EAST HANOVER TWP SCHS	HANOVER	EAST HANOVER EDUC ASSN	69	NEA		1966-68
EAST ORANGE PUB SCHS	EAST ORANGE	EAST ORANGE EDUC ASSN	599	NEA		1966-68
EAST RUTHERFORD SCHS	E RUTHERFORD	NO ORGANZTN RECOGNIZED	85			1966-68
EATONTOWN PUB SCH	EATONTOWN	EATONTOWN TCHRS ASSN	121	NEA		1966-68
EDGEWATER PARK TWP SCHS	BEVERLY	EDGEWATER TWP TCHRS ASSN	60	NEA		1967-68
EDISON TWP PUB SCHS	EDISON	EDISON TWP EDUC ASSN	747	NEA		1966-68
EGG HARBOR TWP PUB SCHS	PLEASANTVILLE	EGG HARBOR TWP TCHR ASSN	64	NEA		1966-68
EMERSON PUB SCHS	EMERSON	EMERSON EDUC ASSN	115	NEA		1966-68
ENGLEWOOD CLIFFS PUB SCH	ENGLEWOOD CLFF	ENGLEWOOD CLIFFS TCH ASSN	65	NEA		1967-68
ENGLEWOOD PUB SCHS	ENGLEWOOD	ENGLEWOOD TCHRS ASSN	269	NEA		1967-68
ESSEX CO VOC TECH SCHS	EAST ORANGE	ESSEX CO VOC TECH TCH ASN	168	NEA		1966-68
EVESHAM TWP SCH DST	MARLTON	EVESHAM TWP TCHRS ASSN	79	NEA		1966-68
EWING TWP PUB SCHS	TRENTON	EWING TWP EDUC ASSN	319	NEA		1966-68
FAIR HAVEN PUB SCHS	FAIR HAVEN	NO ORGANZTN RECOGNIZED	58			1966-68
FAIR LAWN PUB SCHS	FAIR LAWN	FAIR LAWN EDUC ASSN	440	NEA		1966-68
FLEMINGTON RARITAN RE S	FLEMINGTON	FLEMINGTON RARITAN EA	108	NEA		1966-68
FLORENCE TWP PUB SCHS	FLORENCE	FLORENCE TWP EDUC ASSN	90	NEA		1966-68
FLORHAM PARK SCHS	FLORHAM PARK	FLORHAM PARK EDUC ASSN	70	NEA		1966-68
FORT LEE PUB SCHS	FORT LEE	NO ORGANZTN RECOGNIZED	194			1966-68
FRANKLIN LAKES SCHS	FRANKLIN LAKES	FRANKLIN LAKES EDUC ASSN	70	NEA		1967-68
FRANKLIN TWP SCHS	SOMERSET	FRANKLIN TWP EDUC ASSN	396	NEA		1967-68
GARFIELD PUB SCHS	GARFIELD	GARFIELD EDUC ASSN	196	NEA		1966-68
GREATER EGG HARBOR REG	MAYS LANDING	OAKCREST EDUC ASSN	115	NEA		1966-68
HAMILTON TWP SCHS	MAYS LANDING	HAMILTON TWP EDUC ASSN	55	NEA		1967-68
HANOVER TWP PUB SCHS	WHIPPANY	HANOVER TWP EDUC ASSN	125	NEA		1966-68
HASBROUCK HGHTS PUB SCH	HASBROUCK HGTS	HASBROUCK HGHTS EDUC ASSN	117	NEA		1967-68
HAWTHORNE PUB SCHS	HAWTHORNE	HAWTHORNE TCHRS ASSN	172	NEA		1966-68
HIGHLAND PARK PUB SCHS	HIGHLAND PARK	HIGHLAND PARK EDUC ASSN	188	NEA		1966-68
HILLSBOROUGH TWP SD	BELLE MEAD	HILLSBOROUGH EDUC ASSN	149	NEA		1966-68
HILLSDALE PUB SCHS	HILLSDALE	HILLSDALE EDUC ASSN	80	NEA		1966-68
HOBOKEN PUB SCHS	HOBOKEN	2 ORGANZTNS RECOGNIZED	386	NEA	JNP	1966-68
		HOBOKEN TCHRS ASSN	310	NEA	3	
		HOBOKEN ADM SUPR ASSN	33	NEA	1	
HOWELL TWP SCHS	FARMINGDALE	HOWELL TWP EDUC ASSN	174	NEA		1966-68
JAMESBURG PUB SCHS	JAMESBURG	JAMESBURG EDUCATION ASSN	64	NEA		1966-68
JERSEY CITY PUB SCHS	JERSEY CITY	JERSEY CITY ED ASSN	1,665	NEA		1966-68
KEARNY PUB SCH	KEARNY	KEARNY EDUC ASSN	292	NEA		1966-68
KENILWORTH PUB SCHS	KENILWORTH	KENILWORTH TCHRS ASSN	90	NEA		1966-68
KEYPORT PUB SCH	KEYPORT	KEYPORT TCHRS ASSN	105	NEA		1967-68
KINNELON PUB SCH	KINNELON	KINNELON EDUCATION ASSN	140	NEA		1966-68
LAKEWOOD PUB SCHS	LAKEWOOD	LAKEWOOD EDUC ASSN	240	NEA		1967-68
LAWRENCE TWP SCHS	TRENTON	LAWRENCE EDUCATORS ASSN	197	NEA		1966-68
LENAPE REG HS	MEDFORD	LENAPE EDUC ASSN	136	NEA		1966-68
LITTLE SILVER SCHS	LITTLE SILVER	LITTLE SILVER EDUC ASSN	40	NEA		1966-68
LODI PUB SCHS	LODI	LODI EDUC ASSN	170	NEA		1966-68
LONG BRANCH PUB SCHS	LONG BRANCH	LONG BRANCH EDUC ASSN	311	NEA		1966-68
LOWER CAMDEN CO RE MSD 1	LINDENWOLD	LO CAMDEN CO RE MSDF ASN	194	NEA		1966-68
LYNDHURST PUB SCHS	LYNDHURST	LYNDHURST TCHRS ASSN	161	NEA		1966-68
MADISON TWP PUB SCHS	OLD BRIDGE	2 ORGANZTNS RECOGNIZED	570	NEA-AFT	SN	1966-68
		MADISON TWP TCHRS ASSN	500	NEA		
		MADISON TWP AFT	40	AFT		
MAINLAND REGIONAL HS	LINWOOD	MAINLAND TCHRS ASSN	71	NEA		1966-68
MANASQUAN PUB SCHS	MANASQUAN	MANASQUAN TCHRS ASSN	103	NEA		1966-68
MANVILLE PUB SCHS	MANVILLE	MANVILLE EDUC ASSN	150	NEA		1967-68
MAPLEWOOD SCHS	SO ORANGE	NO ORGANZTN RECOGNIZED	430			1966-68
MARGATE CITY SCHS	MARGATE CITY	MARGATE EDUC ASSN	68	NEA		1967-68
MARLBORO TWP PUB SCHS	WICKATUNK	MARLBORO TWP TCHRS ASSN	59	NEA		1966-68
MATAWAN REG SCH DST	MATAWAN	MATAWAN TCHRS ASSN	300	NEA		1966-68
MAYWOOD SCH	MAYWOOD	MAYWOOD EDUC ASSN	79	NEA		1967-68
METUCHEN PUB SCHS	METUCHEN	METUCHEN TCHRS ASSN	196	NEA		1966-68
MIDDLE TWP PUB SCHS	CAPE MAY CT HO	MIDDLE TWP EDUC ASSN	89	NEA		1966-68
MIDDLESEX BORO PUB SCHS	MIDDLESEX	MIDDLESEX EDUC ASSN	179	NEA		1966-68
MIDDLETOWN TWP PUB SCHS	MIDDLETOWN	2 ORGANZTNS RECOGNIZED	640	NEA	SN	1966-68
		MIDDLETOWN TWP EDUC ASSN	575	NEA		
		MIDDLETOWN TWP ADM ASSN	35	NEA		
MILLBURN TWP PUB SCH	MILLBURN	MILLBURN EDUCATION ASSN	269	NEA		1966-68
MILLVILLE PUB SCHS	MILLVILLE	MILLVILLE TCHRS ASSN	229	NEA		1967-68
MONMOUTH REGIONAL HS	EATONTOWN	MONMOUTH EDUC ASSN	101	NEA		1966-68
MONROE TWP PUB SCHS	WILLIAMSTOWN	MONROE TWP EDUC ASSN	138	NEA		1966-68
MOORESTOWN PUB SCHS	MOORESTOWN	NO ORGANZTN RECOGNIZED	205			1966-68
MORRISTOWN PUB SCH	MORRISTOWN	MORRISTOWN ED ASSN	250	NEA		1966-68
MOUNT HOLLY TWP SCH	MOUNT HOLLY	MOUNT HOLLY EDUC ASSN	120	NEA		1967-68
MT LAUREL TWP PUB SCH	MOORESTOWN	MT LAUREL EDUC ASSN	83	NEA		1966-68
N ARLINGTON PUB SCHS	N ARLINGTON	N ARLINGTON TCHRS ASSN	100	NEA		1966-68
N HUNTERDON REG HS DST	ANNANDALE	N HUNTRDN REG HS TCH ASN	87	NEA		1966-68
NEW PROVIDENCE SCH DST	NEW PROVIDENCE	NO ORGANZTN RECOGNIZED	202			1966-68
NEWARK PUB SCHS	NEWARK	NEWARK TCHRS ASSN	3,650	NEA		1966-68
NEWTON SCH DST	NEWTON	NEWTON TCHRS ASSN	152	NEA		1966-68
NORTH PLAINFIELD PUB SCH	N PLAINFIELD	N PLAINFIELD EDUC ASSN	214	NEA		1966-68
NORTHFIELD PUB SCHS	NORTHFIELD	NORTHFIELD TCHRS ASSN	61	NEA		1966-68
NUTLEY PUB SCHS	NUTLEY	NUTLEY TCHRS ASSN	280	NEA		1966-68
OCEAN CITY PUB SCHS	OCEAN CITY	OCEAN CITY TCHRS CLUB	89	NEA		1966-68
PARAMUS PUB SCHS	PARAMUS	PARAMUS TCHRS ASSN	425	NEA		1966-68
PARK RIDGE PUB SCHS	PARK RIDGE	PARK RIDGE EDUC ASSN	113	NEA		1966-68
PARSIPPANY TROY HLLS SCH	PARSIPPANY	NO ORGANZTN RECOGNIZED	505			1966-68
PASSAIC CO RE HS DST 1	LITTLE FALLS	PASSAIC VALLEY EDUC ASSN	118	NEA		1966-68
PASSAIC PUB SCHS	PASSAIC	PASSAIC TCHRS ASSN	443	NEA		1966-68
PASSAIC TWP SCHS	STIRLING	PASSAIC TWP EDUC ASSN	72	NEA		1967-68
PATERSON PUB SCHS	PATERSON	2 ORGANZTNS RECOGNIZED	1,249	NEA-AFT	SN	1966-68
		PATERSON EDUC ASSN	980	NEA		
		PATERSON TCHRS UNION	120	AFT		
PENNS GROVE REG SCH DST	PENNS GROVE	PENNS GR UP PENNS NK EA	154	NEA		1966-68
PENNSVILLE PUB SCHS	PENNSVILLE	PENNSVILLE EDUC ASSN	213	NEA		1967-68
PHILLIPSBURG PUB SCHS	PHILLIPSBURG	PHILLIPSBURG EDUC ASSN	176	NEA		1966-68
PLAINFIELD PUB SCHS	PLAINFIELD	PLAINFIELD EDUC ASSN	470	NEA		1967-68
PLEASANTVILLE PUB SCHS	PLEASANTVILLE	PLEASANTVILLE TCHRS ASSN	155	NEA		1966-68

RAMAPO INDIAN HS RF SCHS	FRANKLIN LAKES	RAMAPO INDIAN HLS ED ASN	180	NEA	1966-68
RAMSEY PUB SCHS	RAMSEY	RAMSEY TCHRS ASSN	192	NEA	1966-68
RANDOLPH TWP SCHS	DOVER	RANDOLPH TWP EDUC ASSN	190	NEA	1966-68
RARITAN TWP SCH	HAZLET	RARITAN TWP EDUC ASSN	267	NEA	1967-68
RED BANK PUB SCHS	RED BANK	RED BANK TEACHERS ASSN	187	NEA	1966-68
RIDGEFIELD PARK PUB SCH	RIDGEFIELD PK	RIDGEFIELD PARK EDUC ASN	137	NEA	1966-68
RIDGEFIELD PUB SCHS	RIDGEFIELD	NO ORGANZTN RECOGNIZED	123		1966-68
RIDGEWOOD PUB SCHS	RIDGEWOOD	RIDGEWOOD EDUC ASSN	475	NEA	1966-68
RINGWOOD SCHS	RINGWOOD	RINGWOOD TCHRS ASSN	80	NEA	1967-68
RIVER DELL REG SCHS	ORADELL	RIVER DELL EDUC ASSN	162	NEA	1966-68
RIVER EDGE PUB SCHS	RIVER EDGE	RIVER EDGE TCHRS ASSN	66	NEA	1966-68
RIVER VALE PUB SCHS	WESTWOOD	RIVER VALE EDUC ASSN	101	NEA	1966-68
RIVERSIDE PUB SCHS	RIVERSIDE	RIVERSIDE EDUC ASSN	101	NEA	1966-68
ROSELLE PARK PUB SCHS	ROSELLE PARK	ROSELLE PARK TCHRS ASSN	143	NEA	1966-68
ROSELLE PUB SCHS	ROSELLE	ROSELLE TCHRS ASSN	193	NEA	1966-68
ROXBURY TWP PUB SCH	SUCCASUNNA	ROXBURY EDUCATION ASSN	225	NEA	1966-68
RUNNEMEDE ELEM SCHS	RUNNEMEDE	RUNNEMEDE TEACHERS ASSN	55	NEA	1966-68
RUTHERFORD PUB SCHS	RUTHERFORD	RUTHERFORD EDUC ASSN	163	NEA	1966-68
SADDLE BROOK TWP PUB SCH	SADDLE BROOK	SADDLE BROOK EDUC ASSN	135	NEA	1966-68
SALEM CITY SCHS	SALEM	SALEM TEACHERS ASSN	130	NEA	1966-68
SAYREVILLE BORO SCH DST	SAYREVILLE	SAYREVILLE EDUC ASSN	255	NEA	1966-68
SECAUCUS PUB SCHS	SECAUCUS	SECAUCUS EDUC ASSN	75	NEA	1966-68
SOMERVILLE PUB SCHS	SOMERVILLE	SOMERVILLE EDUC ASSN	192	NEA	1966-68
SOUTH PLAINFIELD PUB SCH	SO PLAINFIELD	SO PLAINFIELD EDUC ASSN	285	NEA	1967-68
SPARTA TWP PUB SCHS	SPARTA	SPARTA EDUC ASSN	175	NEA	1966-68
SPOTSWOOD PUB SCHS	SPOTSWOOD	SPOTSWOOD EDUC ASSN	60	NEA	1966-68
STERLING HS DST	SOMERDALE	STERLING EDUC ASSN	78	NEA	1966-68
SUMMIT SCH DST	SUMMIT	SUMMIT EDUCATION ASSN	318	NEA	1966-68
SUSSEX WANTAGE REG SCH	SUSSEX	SUSSEX WANTAGE EDUC ASSN	59	NEA	1967-68
TEANECK PUB SCH	TEANECK	TEANECK EDUC ASSN	470	NEA	1966-68
TENAFLY PUB SCHS	TENAFLY	TENAFLY TCHRS ASSN	217	NEA	1966-68
TINTON FALLS PUB SCHS	NEW SHREWSBURY	NO ORGANZTN RECOGNIZED	84		1966-68
TOMS RIVER SCHS	TOMS RIVER	TOMS RVR TCHRS ASSN	525	NEA	1967-68
TOTOWA BORO PUB SCHS	TOTOWA	TOTOWA EDUC ASSN	68	NEA	1966-68
UNION CO REG HS DST	SPRINGFIELD	UNION CO REG TCHRS ASSN	336	NEA	1966-68
UPPER DEERFIELD TWP SD	SEABROOK	SEABROOK EDUC ASSN	55	NEA	1966-68
UPPER FREEHOLD REG S DST	ALLENTOWN	UPPER FREEHLD REG ED ASSN	81	NEA	1966-68
UPPER SADDLE RVR SD	SADDLE RIVER	UP SADDLE RVR EDUC ASSN	76	NEA	1966-68
VERONA PUB SCHS	VERONA	VERONA EDUC ASSN	174	NEA	1966-68
WALDWICK PUB SCHS	WALDWICK	WALDWICK EDUC ASSN	155	NEA	1966-68
WALL TWP PUB SCHS	WALL	WALL TWP EDUC ASSN	188	NEA	1966-68
WALLINGTON BORO PUB SCH	WALLINGTON	WALLINGTON EDUC ASSN	64	NEA	1966-68
WARREN TWP PUB SCHS	WARREN	WARREN TWP EDUC ASSN	92	NEA	1966-68
WASHINGTON TWP PUB SCHS	LONG VALLEY	WASHINGTON TWP ED ASSN	54	NEA	1967-68
WATCHUNG HILLS REG HS	WARREN	WATCHUNG HLLS REG HS EA	85	NEA	1966-68
WEST MILFORD TWP SCHS	NEWFOUNDLAND	NO ORGANZTN RECOGNIZED	216		1966-68
WEST MORRIS REG HS DST	CHESTER	WEST MORRIS TCHRS ASSN	105	NEA	1966-68
WEST PATERSON PUB SCHS	WEST PATERSON	WEST PATERSON EDUC ASSN	77	NEA	1966-68
WESTWOOD CONS SCHS	WESTWOOD	WESTWOOD EDUC ASSN	244	NEA	1966-68
WILLINGBORO PUB SCHS	WILLINGBORO	WILLINGBORO EDUC ASSN	517	NEA	1966-68
WOOD RIDGE PUB SCHS	WOOD RIDGE	WOOD RIDGE EDUC ASSN	95	NEA	1967-68
WOODSTOWN PILESGRVE SCH	WOODSTOWN	WOODSTOWN PILESGRVE ED AN	97	NEA	1966-68
WYCKOFF TWP PUB SCH	WYCKOFF	WYCKOFF EDUC ASSN	155	NEA	1967-68
NEW MEXICO					
ALAMOGORDO PUB SCH	ALAMOGORDO	ALAMOGORDO EDUC ASSN	430	NEA	1967-68
ALBUQUERQUE PUB SCHS	ALBUQUERQUE	ALBUQUERQUE CLRM TCH ASN	3,281	NEA	1966-68
ARTESIA SCH DST	ARTESIA	ARTESIA EDUC ASSN	233	NEA	1967-68
AZTEC SCH DST 2	AZTEC	AZTEC EDUC ASSN	100	NEA	1967-68
BLOOMFIELD MUN SCHS	BLOOMFIELD	BLOOMFIELD EDUC ASSN	85	NEA	1966-68
CARLSBAD MUN SCHS	CARLSBAD	CARLSBAD EDUC ASSN	400	NEA	1966-68
DEMING PUB SCH	DEMING	DEMING EDUC ASSN	165	NEA	1967-68
LOS LUNAS SCHS	LOS LUNAS	LOS LUNAS CLRM TCHRS ASSN	149	NEA	1967-68
LOVINGTON MUN SCH DST	LOVINGTON	LOVINGTON EDUC ASSN	180	NEA	1966-68
NEW YORK					
ADAMS CENTRAL SCH DST	ADAMS CENTER	ADAMS CNTR TCHRS ASSN	102	NEA	1967-68
ADIRONDACK CEN SCHS	BOONVILLE	ADRNDCK CEN SCH TCH ASSN	118	NEA	1967-68
AMHERST SCH DST 18	AMHERST	AMHERST EDUC ASSN	80	NEA	1967-68
ARDSLEY PUB SCH	ARDSLEY	ARDSLEY TCHRS ASSN	174	NEA	1967-68
ARLINGTON CENTRAL SCH	POUGHKEEPSIE	ARLINGTON TCHRS ASSN	360	NEA	1966-68
BABYLON UFSD 1	BABYLON	BABYLON TCHRS ASSN	145	NEA	1967-68
BABYLON UFSD 3	BABYLON	N BABYLON TCHRS ORGANZTN	511	NEA	1966-68
BALDWIN UNION FREE SCHS	BALDWIN	BALDWIN FACULTY ASSN	499	NEA	1966-68
BATAVIA CITY SCHS	BATAVIA	BATAVIA TCHRS ASSN	223	NEA	1967-68
BAY SHORE PUB SCHS	BAY SHORE	BAY SHORE TCHRS ASSN	391	NEA	1966-68
BETHLEHEM CENTRAL SCH	DELMAR	BETHLEHEM CNTRL TCHRS ASN	291	NEA	1967-68
BREWSTER CENTRAL SCH DST	BREWSTER	BREWSTER TCHRS ASSN	140	NEA	1966-68
BUFFALO PUB SCHS	BUFFALO	BUFFALO TCHRS FEDERATION	3,820	NEA	1966-68
CANASTATA CON SCHS	CANASTATA	CANASTATA TCHRS ASSN	125	NEA	1967-68
CANTON CEN SCHS	CANTON	CANTON CEN TCHRS ASSN	122	NEA	1967-68
CARLE PLACE PUB SCH	CARLE PLACE	CARLE PLACE TCHRS ASSN	157	NEA	1966-68
CLARKSTOWN CENTRAL SD 1	NEW CITY	CLARKSTOWN TCHRS ASSN	551	NEA	1967-68
CLIFTON FINE CEN SCH	STAR LAKE	CLIFTON FINE TCHRS ASSN	65	NEA	1967-68
COLD SPRING HARBOR SCH	COLD SPRING HA	HARBOR TCHRS ASSN	163	NEA	1966-68
COLONIE CEN SCH DST 1	ALBANY	S COLONIE TCHRS ASSN	480	NEA	1967-68
COMMACK PUB SCHS	COMMACK	COMMACK TEACHERS ASSN	728	NEA	1966-68
CONNETQUOT CEN SCH DST 7	BOHEMIA	CONNETQUOT TCHRS ASSN	321	NEA	1966-68
CORNING PAINTED POST SCH	CORNING	CORNING TCHRS ASSN	511	NEA	1967-68
COXSACKIE ATHENS CEN SCH	COXSACKIE	COXSACKIE ATHENS TCH ASN	89	NEA	1967-68
DANSVILLE CEN SCHS	DANSVILLE	DANSVILLE TCHRS ASSN	132	NEA	1967-68
DEER PARK PUB SCHS	DEER PARK	DEER PARK TCHRS ASSN	426	NEA	1966-68
DRAPER SCHS	SCHENECTADY	DRAPER TCHRS ASSN	91	NEA	1967-68
E AURORA PUB SCHS	E AURORA	E AURORA FAC ASSN	194	NEA	1967-68

EAST ROCKAWAY PUB SCHS	EAST ROCKAWAY	EAST ROCKAWAY TCHRS ASSN	113	NEA		1966-68
FABIUS CEN SCHS	FABIUS	FABIUS TCHRS ASSN	80	NEA		1967-68
FALLSBURGH CEN SCH DST 1	FALLSBURGH	FALLSBURGH TCHRS ASSN	85	NEA		1967-68
FARMINGDALE PUB SCH	FARMINGDALE	FARMINGDALE CLRM TCH ASN	815	NEA		1966-68
FILLMORE CEN SCHS	FILLMORE	FILLMORE FACULTY ASSN	50	NEA		1967-68
FORT PLAIN CEN SCH	FORT PLAIN	FORT PLAIN TCHRS ASSN	81	NEA		1967-68
FRANKLINVILLE CEN SCHS	FRANKLINVILLE	FRANKLINVLE TCHRS ASSN	58	NEA		1967-68
FREEPORT UF SD 9	FREEPORT	FREEPORT TCHRS ASSN	426	NEA		1966-68
GARDEN CITY PUB SCHS	GARDEN CITY	GARDEN CTY TCHRS ASSN	300	NEA		1967-68
GATES CHILI CEN SCHS	ROCHESTER	GATES CHILI TCHRS ASSN	349	NEA		1967-68
GEN BROWN CEN SCHS	BROWNVILLE	GEN BROWN TCHRS ASSN	85	NEA		1967-68
GLEN COVE PUB SCHS	GLEN COVE	GLEN COVE TCHRS ASSN	310	NEA		1967-68
GLENS FALLS CITY SCHS	GLENS FALLS	GLENS FALLS TCHRS ASSN	230	NEA		1967-68
GLOVERSVILLE PUB SCHS	GLOVERSVILLE	GLOVERSVILLE TCHRS ASSN	225	NEA		1967-68
GREAT NECK PUB SCHS	GREAT NECK	GREAT NECK TCHRS ASSN	724	NEA		1966-68
GREENBURG TWP UFSD 3	DOBBS FERRY	DOBBS FERRY TCHRS ASSN	110	NEA		1967-68
GUILDERLAND CENL SCH DST	GULDRLND CENL	GUILDERLAND TCHRS ASSN	312	NEA		1966-68
HARRISON UFSD 6	HARRISON	HARRISON TCHRS ASSN	178	NEA		1967-68
HASTINGS UFSD 4	HSTNGS ON HDSN	HASTINGS TCHRS ASSN	137	NEA		1967-68
HEMPSTEAD PUB SCH	HEMPSTEAD	HEMPSTEAD CLRM TCHRS ASSN	294	NEA		1967-68
HERRICKS PUB SCHS	NEW HYDE PARK	HERRICKS TCHRS ASSN	400	NEA		1966-68
HEWLETT WOODMERE PUB SCH	HEWLETT	HEWLETT WOODMERE FAC ASSN	376	NEA		1966-68
HOLLEY CENTRAL SCH	HOLLEY	NO ORGANZTN RECOGNIZED	75			1966-68
HOOSICK FALLS CNTRL SCH	HOOSICK FALLS	HOOSICK FALLS TCHRS ASSN	84	NEA		1966-68
HORSEHEADS CENTRAL SD 1	HORSEHEADS	HORSEHEADS CEN TCHRS ASSN	370	NEA		1967-68
HUNTINGTON UFSD 3	HUNTINGTON	ASSTD TCHRS OF HUNTINGTN	517	NEA		1966-68
INDIAN RIVER CEN SCH	PHILADELPHIA	INDIAN RIVER TCHRS ASSN	116	NEA		1967-68
ISLIP UNF SCHS	ISLIP	ISLIP CLRM TCHRS ASSN	334	NEA		1966-68
JERICHO PUB SCHS	JERICHO	JERICHO TCHRS ASSN	265	NEA		1967-68
JOHNSTOWN CITY SCHS	JOHNSTOWN	JOHNSTOWN TCHRS ASSN	153	NEA		1967-68
KENMORE PUB SCHS	KENMORE	KENMORE TCHRS ASSN	1,115	NEA		1967-68
KINGS PARK CNTRL DST 5	KINGS PARK	KINGS PARK CLRM TCHRS ASN	234	NEA		1967-68
LAKE SHORE CEN SCHS	ANGOLA	LAKE SHORE CEN TCHR ASSN	223	NEA		1966-68
LAKELAND SCHS	SHRUB OAK	LAKELAND FAC ASSN	420	NEA		1967-68
LANSING CENTRAL SCH	LUDLOWVILLE	LANSING FACULTY ASSN	76	NEA		1967-68
LEWISTON PORTER PUB SCHS	LEWISTON	LEWISTON PORTER EDUC ASN	237	NEA		1966-68
LIBERTY CENTRAL SCH	LIBERTY	LIBERTY FACULTY ASSN	130	NEA		1966-68
LONG BEACH CTY SCH	LONG BEACH	LONG BEACH CLRM TCH ASSN	373	NEA		1966-68
LOWVILLE ACAD CEN SCH	LOWVILLE	LOWVILLE TCHRS ASSN	107	NEA		1966-68
LYNBROOK PUB SCHS	LYNBROOK	LYNBROOK TCHRS ASSN	255	NEA		1967-68
MAHOPAC PUB SCHS	MAHOPAC FALLS	MAHOPAC TCHRS ASSN	205	NEA		1967-68
MAINE ENDWELL PUB SCH	ENDWELL	MAINE ENDWELL TCHRS ASSN	289	NEA		1966-68
MALONE CEN SCHS	MALONE	MALONE TCHRS ASSN	206	NEA		1967-68
MALVERNE UF SCH DST	MALVERNE	MALVERNE TCHRS ASSN	197	NEA		1966-68
MANHASSET PUB SCHS	MANHASSET	MANHASSET EDUC ASSN	181	NEA		1967-68
MARYVALE UFSD 2	CHEEKTOWAGA	MARYVALE TCHRS ASSN	364	NEA		1966-68
MASSENA CEN SCHS	MASSENA	MASSENA CEN SCH TCH ASSN	238	NEA		1967-68
MERRICK UFS DST 25	MERRICK	MERRICK FACULTY ASSN	160	NEA		1966-68
MIDDLE ISLAND PUB SD 12	MIDDLE ISLAND	MIDDLE ISLAND TCHRS ASSN	165	NEA		1966-68
MIDDLEBURGH CEN SCH	MIDDLEBURGH	MIDDLEBURGH TCHRS ASSN	60	NEA		1967-68
MINEOLA PUB SCHS	MINEOLA	MINEOLA TCHRS ASSN	310	NEA		1967-68
MOHONASEN CEN SCHS	SCHENECTADY	MOHONASEN TCHRS ASSN	214	NEA		1967-68
MT PLEASANT CEN SCHS	THORNWOOD	MT PLEASANT TCHRS ASSN	158	NEA		1966-68
N BELLMORE PUB SCHS	N BELLMORE	N BELLMORE TCHRS ASSN	202	NEA		1966-68
N ROCKLAND CENTRL SD	STONY POINT	N ROCKLAND TCHRS ASSN	306	NEA		1966-68
N TONAWANDA PUB SCHS	N TONAWANDA	N TONAWANDA TCHRS ASSN	495	NEA		1967-68
NEW ROCHELLE CTY SCH DST	NEW ROCHELLE	NEW ROCHELLE FED TCHRS	702	AFT		1966-68
NEW YORK CITY PUB SCH	NEW YORK	CHILD GUIDANCE TCHRS	401	AFT	SN	1966-68
NEW YORK CITY PUB SCH	NEW YORK	UFT LOCAL 2	56,739	AFT	SN	1966-68
NEW YORK CITY PUB SCHS	NEW YORK	ATTENDANCE TCHRS	475	AFT	SN	1966-68
NEW YORK CITY PUB SCHS	NEW YORK	LABORATORY ASSISTANTS	407	AFT	SN	1966-68
NEW YORK CITY PUB SCHS	NEW YORK	GUIDANCE COUNSELORS	856	AFT	SN	1966-68
NEWARK CEN SCH DST 1	NEWARK	NEWARK TCHRS ASSN	157	NEA		1967-68
NEWBURGH CITY SCH DST	NEWBURGH	NEWBURGH TCHRS ASSN	624	NEA		1966-68
NEWFANE CENTRAL SCH	NEWFANE	NEWFANE TCHRS ASSN	166	NEA		1967-68
NORTH COLONIE CEN SCHS	NEWTONVILLE	N COLONIE TCHRS ASSN	344	NEA		1967-68
NORTHPORT UFSD 4	NORTHPORT	NORTHPORT TCHRS ASSN	511	NEA		1966-68
NORWOOD NORFOLK CEN SCH	NORWOOD	NORWOOD NORFOLK TCH ASSN	87	NEA		1966-68
OCEANSIDE UFS DST 11	OCEANSIDE	OCEANSIDE FACULTY ASSN	550	NEA		1966-68
ONTEORA CEN SCHS	BOICEVILLE	ONTEORA TCHRS ASSN	190	NEA		1967-68
OSWEGO SCH DST	OSWEGO	2 ORGANZTNS RECOGNIZED	301		SN	1966-68
		OSWEGO CLRM TCHRS ASSN	280	NEA		
		ASSN OF ADM PERSONNEL	7	NEA		
OXFORD ACADEMY CEN SCH	OXFORD	OXFORD TCHRS ASSN	80	NEA		1966-68
PALMYRA MACEDON CEN SCH	PALMYRA	PALMYRA MACEDON FAC ASSN	147	NEA		1967-68
PATCHOGUE MEDFORD SCH	PATCHOGUE	PATCHOGUE CLRM TCHR ASSN	465	NEA		1966-68
PHOENIX CEN SCH	PHOENIX	2 ORGANZTNS RECOGNIZED	171	NEA	SN	1967-68
		PHOENIX CEN ADM SUPR ASSN	11	NEA		
		PHOENIX CEN TCHRS ASSN	152	NEA		
PLAINVIEW CEN SCH DST 4	PLAINVIEW	PLAINW OLD BETHPAGE AFT	700	AFT		1966-68
PORT JEFFERSON PUB SCHS	PORT JEFFERSON	PORT JEFFERSON TCHR ASSN	168	NEA		1966-68
RANDOLPH CEN SCHS	RANDOLPH	RANDOLPH CEN SCH TCH ASN	80	NEA		1967-68
RICHFIELD SPRGS CEN SCHS	RICHFLD SPRGS	RICHFLD SPRGS FAC ASSN	60	NEA		1967-68
ROCHESTER CTY SCH DST	ROCHESTER	ROCHESTER TCHRS ASSN	2,683	NEA		1966-68
ROME CITY SCH DST	ROME	ROME TCHRS ASSN	647	NEA		1967-68
RONDOUT VALLEY CENT SCH	ACCORD	RONDOUT VALLEY TCHRS ASSN	185	NEA		1966-68
RYE TWP UNION FREE SD 4	PORT CHESTER	PORT CHESTER TCHRS ASSN	312	NEA		1967-68
S HUNTINGTON UFSD 13	HUNTINGTON STA	S HUNTINGTON TCHRS ASSN	698	NEA		1967-68
SAUGERTIES CEN SCHS	SAUGERTIES	SAUGERTIES TCHRS ASSN	189	NEA		1967-68
SAYVILLE PUB SCH	SAYVILLE	SAYVILLE TCHRS ASSN	220	NEA		1967-68
SCARSDALE UFSD 1	SCARSDALE	SCARSDALE TCHRS ASSN	360	NEA		1967-68
SCHALMONT CENTRAL SCH	SCHENECTADY	SCHALMONT TCHRS ASSN	194	NEA		1967-68
SKANEATELES CEN SCH	SKANEATELES	SKANEATELES TCHRS ASSN	150	NEA		1967-68
SMITHTOWN CEN SD 1	ST JAMES	SMITHTOWN CLRM TCHRS ASN	467	NEA	SN	1967-68
SMITHTOWN CEN SD 1	ST JAMES	SMITHTOWN SCH ADM ASSN	27	IND	SN	1967-68
SODUS CEN SCHS	SODUS	SODUS FACULTY ASSN	125	NEA		1967-68

STARPOINT CENTRAL SCH	LOCKPORT	STARPOINT TEACHERS ASSN	149	NEA		1966-68
SWEET HOME CEN SCHS	BUFFALO	SWEET HOME EDUC ASSN	321	NEA		1967-68
SYOSSET PUB SCHS	SYOSSET	SYOSSET TCHRS ASSN	611	NEA		1966-68
SYRACUSE CITY SCH DST	SYRACUSE	2 ORGANZTNS RECOGNIZED	1,751	NEA-IND	SN	1967-68
		SYRACUSE TCHRS ASSN	1,451	NEA		
		SYRACUSE ASSN OF ADM SUPR	300	IND		
THREE VILLAGE CENTRAL SD	SETAUKET	THREE VILLAGE TCHRS ASSN	408	NEA		1966-68
TRUMANSBURG CEN SCHS	TRUMANSBURG	TRUMANSBURG TCHRS ASSN	103	NEA		1967-68
TUCKAHOE UFS DST 2	EASTCHESTER	TUCKAHOE TCHRS ASSN	72	NEA		1966-68
TULLY CEN SCH	TULLY	TULLY TCHRS ASSN	75	NEA		1967-68
UNION FREE SCH DST 13	VALLEY STREAM	VALLEY STREAM TCHRS ASSN	177	NEA		1966-68
UNION SPRINGS CEN SCH	UNION SPRINGS	UNION SPRINGS TCHRS ASSN	93	NEA		1966-68
VALLEY CENTRAL SCHS	MONTGOMERY	VALLEY CENTRAL TCHRS ASN	240	NEA		1966-68
VALLEY STREAM DST 1	VALLEY STREAM	VALLEY STREAM TCHRS ASSN	465	NEA		1966-68
VALLEY STREAM UFSD 30	VALLEY STREAM	VALLEY STREAM TCHRS ASSN	118	NEA		1967-68
VALLEY STREAM 24	VALLEY STREAM	VALLEY STREAM TCHRS ASSN	94	NEA		1966-68
VESTAL CENTRAL SCH	VESTAL	VESTAL TCHRS ASSN	449	NEA		1967-68
WEST GENESEE CENTRL SCH	CAMILLUS	WEST GENESEE TCHRS ASSN	469	NEA		1966-68
WESTBURY PUB SCHS	WESTBURY	WESTBURY CLRM TCHRS ASSN	299	NEA		1966-68
WHEATLAND CHILI CENTRL S	SCOTTSVILLE	WHEATLAND CHILI TCHR ASN	90	NEA		1966-68
WILLIAMSVILLE CEN SCHS	GEORGETOWN SQ	WILLIAMSVILLE TCHRS ASSN	492	NEA		1967-68
YONKERS PUB SCH	YONKERS	YONKERS FED OF TCHRS	1,608	AFT		1966-68
NORTH CAROLINA						
GOLDSBORO CTY SCHS	GOLDSBORO	2 ORGANZTNS RECOGNIZED	341	NEA	JNE	1966-68
		GOLDSBORO EDUC ASSN	189	NEA		
		GOLDSBORO TCHRS ASSN	152	NEA		
NORTH DAKOTA						
BISMARCK SCH DST 1	BISMARCK	BISMARCK TCHRS ASSN	387	NEA		1967-68
BOTTINEAU PUB SCHS	BOTTINEAU	BOTTINEAU EDUC ASSN	50	NEA		1967-68
FARGO PUBLIC SCH	FARGO	FARGO EDUC ASSN	531	NEA		1966-68
GRAND FORKS PUB SCHS	GRAND FORKS	GRAND FORKS EDUC ASSN	550	NEA		1967-68
MCKENZIE CO SCH DST 1	WATFORD CITY	MCKENZIE CO NDEA LCL 114	50	NEA		1967-68
WEST FARGO SCH DST 6	WEST FARGO	W FARGO EDUC ASSN	110	NEA		1967-68
WILLISTON PUB SCH	WILLISTON	WILLISTON EDUC ASSN	154	NEA		1967-68
OHIO						
ADA EXMPT VLG SCH	ADA	ADA EDUC ASSN	48	NEA		1967-68
ALLIANCE CITY SCH DST	ALLIANCE	ALLIANCE EDUC ASSN	330	NEA		1966-68
ANTHONY WAYNE LOC SCH	WHITEHOUSE	ANTHONY WAYNE EDUC ASSN	123	NEA		1966-68
ANTWERP LOCAL SCHS	ANTWERP	ANTWERP EDUC ASSN	47	NEA		1967-68
ASHLAND CITY SCHS	ASHLAND	ASHLAND CTY TCHRS ASSN	250	NEA		1967-68
ASHTABULA AREA CITY SCHS	ASHTABULA	ASHTABULA AREA EDUC ASSN	349	NEA		1966-68
ATHENS CITY SCHS	ATHENS	ATHENS CTY EDUC ASSN	195	NEA		1967-68
AUSTINTOWN PUB SCH	YOUNGSTOWN	AUSTINTOWN EDUC ASSN	251	NEA		1967-68
AVON LOCAL SCHS	AVON	AVON TCHRS ASSN	75	NEA		1966-68
BALTIC GARAWAY LCL SCHS	SUGARCREEK	GARAWAY TCHRS ASSN	86	NEA		1967-68
BEACHWOOD PUB SCHS	CLEVELAND	NO ORGANZTN RECOGNIZED	148			1966-68
BEAVERCREEK PUB SCH	XENIA	BEAVERCREEK CLRM TCH ASN	328	NEA		1966-68
BEDFORD CITY SCHS	BEDFORD	BEDFORD EDUC ASSN	325	NEA		1966-68
BELLEFONTAINE CITY SCH	BELLEFONTAINE	BELLEFONTAINE EDUC ASSN	141	NEA		1967-68
BELPRE CITY SCH	BELPRE	BELPRE EDUC ASSN	100	NEA		1966-68
BEREA CITY SCHS	BEREA	BEREA EDUC ASSN	756	NEA		1966-68
BEXLEY CITY SCH	COLUMBUS	BEXLEY CTY TCHRS ASSN	131	NEA		1966-68
BIG WALNUT LOCAL SCH DST	SUNBURY	BIG WALNUT EDUC ASSN	80	NEA		1967-68
BLUFFTON EX VLG SCHS	BLUFFTON	BLUFFTON EDUC ASSN	65	NEA		1967-68
BROOKFIELD LOCAL SCHS	BROOKFIELD	BROOKFIELD AFT	98	AFT		1966-68
BROOKLYN CITY SCHS	BROOKLYN	BROOKLYN EDUC ASSN	120	NEA		1966-68
BROOKVILLE SCHS	BROOKVILLE	BROOKVILLE TCHRS ASSN	90	NEA		1966-68
CAMPBELL SCH DST	CAMPBELL	CAMPBELL EDUC ASSN	123	NEA		1966-68
CANFIELD SCHS	CANFIELD	CANFIELD EDUC ASSN	116	NEA		1966-68
CANTON PUB SCHS	CANTON	CANTON PROFESSNL EDU ASN	1,000	NEA		1966-68
CARDINAL LOCAL SCH DST	MIDDLEFIELD	CARDINAL EDUC ASSN	74	NEA		1967-68
CARLISLE LOCAL SCHS	CARLISLE	CARLISLE TCHRS ASSN	110	NEA		1967-68
CARROLLTON EXEPT VILLAGE	CARROLLTON	CARROLLTON EDUC ASSN	129	NEA		1966-68
CHAGRIN FLLS EXPT VLG	CHAGRIN FALLS	CHAGRIN FALLS EDUC ASSN	125	NEA		1966-68
CHAMPION LOCAL SCHS	CHAMPION	CHAMPION CLRM TCHRS ASSN	115	NEA		1967-68
CHARDON LOCAL SCHS	CHARDON	CHARDON CLRM TCHRS ASSN	119	NEA		1966-68
CHESAPEKE UN EXEM VIL SD	CHESAPEKE	CHESAPEKE EDUC ASSN	70	NEA		1966-68
CHILLICOTHE CTY SCH DST	CHILLICOTHE	CHILLICOTHE EDUC ASSN	265	NEA		1966-68
CHIPPEWA LOCAL SCH	DOYLESTOWN	DOYLESTOWN EDUC ASSN	67	NEA		1967-68
CINCINNATI PUB SCHS	CINCINNATI	CINCINNATI TCHRS ASSN	3,834	NEA		1966-68
CIRCLEVILLE CITY SCHS	CIRCLEVILLE	CIRCLEVILLE TCHRS ASSN	127	NEA		1966-68
CLAYMONT CITY SCH	UHRICHSVILLE	CLAYMONT TCHRS ASSN	122	NEA		1967-68
CLEARVIEW LCL SCHS	LORAIN	CLEARVIEW EDUC ASSN	83	NEA		1967-68
CLEVELAND PUB SCH	CLEVELAND	CLEVELAND AFT LOCAL 279	6,300	AFT		1967-68
CLINTON MASSIE SCH	CLARKSVILLE	CLINTON MASSIE TCHR ASSN	75	NEA		1966-68
CLVLND HTS UNI HTS SCHS	CLEVELAND	CLVLND HTS UNI HTS TCH AN	750	NEA		1967-68
CLYDE EXMPT VLG SCH	CLYDE	CLYDE EDUCATORS ASSN	99	NEA		1967-68
COLUMBUS CITY SCH DST	COLUMBUS	COLUMBUS ED ASSN	4,470	NEA		1966-68
COSHOCTON CTY SCHS	COSHOCTON	COSHOCTON CTY EDUC ASSN	126	NEA		1966-68
COVENTRY LOCAL SCHS	AKRON	COVENTRY EDUC ASSN	134	NEA		1967-68
CRESTLINE EXEM VIL SCH	CRESTLINE	CRESTLINE PROFESSNL EA	67	NEA		1966-68
DAWSON BRYANT LOC SD	COAL GROVE	DAWSON BRYANT EDUC ASSN	75	NEA		1966-68
DEER PARK CTY SCHS	CINCINNATI	DEER PARK EDUC ASSN	100	NEA		1966-68
DELAWARE CITY SCHS	DELAWARE	DELAWARE CITY TCHRS ASSN	173	NEA		1966-68
DOVER CITY SCHS	DOVER	DOVER EDUC ASSN	151	NEA		1967-68
EAST LIVERPOOL CITY SCH	EAST LIVERPOOL	EAST LIVERPOOL TCHRS ASSN	224	NEA		1967-68
EASTWOOD LCL SCHS	PEMBERVILLE	EASTWOOD EDUC ASSN	96	NEA		1967-68
ELYRIA CTY SCHS	ELYRIA	2 ORGANZTNS RECOGNIZED	573	NEA-AFT	SN	1966-68
		ELYRIA EDUC ASSN	500	NEA		
		ELYRIA AFT	19	AFT		

FAIRFIELD LOCAL SCH DST	FAIRFIELD	FAIRFIELD CLRM TCHRS ASN	239	NEA	1966-68
FAIRLESS LOCAL SCH DST	NAVARRE	FAIRLESS EDUC ASSN	119	NEA	1967-68
FAIRVIEW PARK CITY SD	FAIRVIEW PARK	NO ORGANZTN RECOGNIZED	102		1966-68
FINDLAY CITY SCH	FINDLAY	FINDLAY EDUC ASSN	379	NEA	1967-68
FINNEYTOWN LCL SCHS	CINCINNATI	FINNEYTOWN EDUC ASSN	148	NEA	1966-68
FIRELANDS LOCAL SCHS	OBERLIN	FIRELANDS TEACHER ASSN	80	NEA	1966-68
FOREST HILLS SCHS	CINCINNATI	FOREST HILLS EDUC ASSN	282	NEA	1966-68
FOSTORIA CTY SCHS	FOSTORIA	FOSTORIA EDUC ASSN	160	NEA	1967-68
FREMONT CTY SCH DST	FREMONT	FREMONT EDUC ASSN	180	NEA	1966-68
GALION CITY PUB SCH	GALION	GALION TCHRS ASSN	170	NEA	1967-68
GARFIELD HGHTS SCH DST	GARFIELD HGHTS	GARFIELD HGHTS TCHRS ASSN	284	NEA	1967-68
GENEVA AREA CTY SCH DST	GENEVA	GENEVA AREA TCHRS ASSN	146	NEA	1966-68
GIRARD CITY SCHS	GIRARD	GIRARD TCHRS ASSN	112	NEA	1966-68
GREEN LCL SCHS	GREENSBURG	GREEN EDUC ASSN	144	NEA	1967-68
GREEN LOCAL SCHS	SMITHVILLE	GREEN LOCAL TCHRS ASSN	65	NEA	1966-68
GREENHILLS FORST PK CS	CINCINNATI	GREENHILLS FORST PK EA	262	NEA	1966-68
HAMILTON CITY SCHS	HAMILTON	HAMILTON CLRM TCHRS ASSN	632	NEA	1966-68
HAMILTON LOCAL SCH	COLUMBUS	HAMILTON LOCAL TCHRS ASSN	176	NEA	1967-68
HIGHLAND LOCAL SCHS	MEDINA	HIGHLAND TCHRS ASSN	94	NEA	1967-68
HURON CITY SCHS	HURON	HURON LOC EDUC ASSN	93	NEA	1966-68
INDIAN LAKE LOCAL SCHS	LEWISTOWN	INDIAN LAKE EDUC ASSN	82	NEA	1966-68
INDIAN VALLEY LOCAL SCH	GNADENHUTTEN	INDIAN VALLEY TCHRS ASSN	108	NEA	1967-68
JACKSON MILTON LOCAL	NORTH JACKSON	JACKSON MILTON EDUC ASSN	70	NEA	1966-68
JEFFERSON AREA LOCAL SCH	JEFFERSON	JEFFERSON AREA TCHRS ASSN	102	NEA	1967-68
KENT CITY SCHS	KENT	KENT EDUC ASSN	240	NEA	1967-68
KENTON CITY SCHS	KENTON	KENTON EDUC ASSN	124	NEA	1967-68
KETTERING CITY SCHS	KETTERING	KETTERING CLRM TCHRS ASN	784	NEA	1966-68
KIRTLAND SCH DST	KIRTLAND	KIRTLAND EDUC ASSN	68	NEA	1967-68
LAKE LOCAL SCH	MILLBURY	LAKE EDUC ASSN	103	NEA	1967-68
LAKEVIEW LOCAL SCHS	CORTLAND	LAKEVIEW TCHRS ASSN	87	NEA	1967-68
LAKOTA LOCAL SCHS	RISING SUN	LAKOTA EDUC ASSN	89	NEA	1967-68
LEBANON EXEM VIL SCHS	LEBANON	LEBANON TCHRS ASSN	152	NEA	1966-68
LEETONIA EXEPT VILLAGE S	LEETONIA	NO ORGANZTN RECOGNIZED	52		1966-68
LEXINGTON LCL SCHS	LEXINGTON	LEXINGTON TCHRS ASSN	106	NEA	1967-68
LIBERTY LOC SCHS	YOUNGSTOWN	LIBERTY EDUC ASSN	142	NEA	1966-68
LIMA CITY SCH DST	LIMA	LIMA EDUC ASSN	450	NEA	1966-68
LOCKLAND CITY SCH DST	LOCKLAND	LOCKLAND EDUC ASSN	69	NEA	1966-68
LOGAN CITY SCHS	LOGAN	LOGAN EDUC ASSN	131	NEA	1966-68
LOUDONVLE PERRYSVLE SCH	LOUDONVILLE	LOUDONVLE PERRYSVLE ED AN	82	NEA	1966-68
LOVELAND CITY SCH DST	LOVELAND	LOVELAND EDUCATION ASSN	131	NEA	1966-68
MAD RIVER LCL SCHS	DAYTON	MAD RVR TWP CLRM TCH ASN	313	NEA	1967-68
MADISON LOCAL SCH DST	GROVEPORT	MADISON LOCAL EDUC ASSN	173	NEA	1967-68
MADISON TWP LOC SCH DST	TROTWOOD	MADISON CLRM TCHRS ASSN	255	NEA	1966-68
MANCHESTER LOCAL SCH	MANCHESTER	MANCHESTER LOCAL TCHRS	74	NEA	1966-68
MANSFIELD CITY SCHS	MANSFIELD	MANSFIELD EDUC ASSN	620	NEA	1967-68
MAPLETON LOC SCH DST	ASHLAND	MAPLETON TCHRS ASSN	56	NEA	1966-68
MARGARETTA LOCAL SCHS	CASTALIA	MARGARETTA TCHRS ASSN	104	NEA	1967-68
MARIETTA CITY SCH DST	MARIETTA	MARIETTA EDUC ASSN	245	NEA	1966-68
MARION CITY SCHS	MARION	MARION EDUC ASSN	350	NEA	19[illegible]-68
MAUMEE CITY SCHS	MAUMEE	MAUMEE EDUC ASSN	207	NEA	19[illegible]-68
MAYSVILLE LOCAL SCHS	SO ZANESVILLE	MAYSVILLE EDUC ASSN	93	NEA	1967-68
MENTOR EXMPT VLG SCHS	MENTOR	MENTOR TCHRS ASSN	484	NEA	1967-68
MIAMISBURG CITY SCH	MIAMISBURG	MIAMISBURG EDUC ASSN	204	NEA	1967-68
MILFORD EXMPT VLG SCHS	MILFORD	MILFORD EDUC ASSN	190	NEA	1967-68
MILTON UN EXEM VIL SCHS	WEST MILTON	MILTON UNION EDUC ASSN	102	NEA	1966-68
MINERVA LOCAL SCH	MINERVA	MINERVA LOCAL TCHRS ASSN	106	NEA	1967-68
N CENTRAL LCL SCH DST	CRESTON	N CENTRAL LOC EDUC ASSN	74	NEA	1967-68
NEW PHILADELPHIA CTY SCH	NEW PHILADLPHA	NEW PHILA EDUC ASSN	190	NEA	1966-68
NEW RICHMOND EXEM VIL S	NEW RICHMOND	NEW RICHMOND EXEM VIL EA	120	NEA	1966-68
NEWCOMERSTOWN EX VLG SCH	NEWCOMERSTOWN	NEWCOMERSTOWN TCHRS ASSN	64	NEA	1967-68
NEWTON FALLS EXEM VIL S	NEWTON FALLS	NEWTON FALLS CLM TCH ASN	86	NEA	1966-68
NILES CITY SCHS	NILES	NILES CLRM TCHRS ASSN	188	NEA	1966-68
NORDONIA HILLS SCH	NORTHFIELD	NORDONIA HILLS TCHRS ASSN	205	NEA	1967-68
NORTH CANTON CITY SCH	NORTH CANTON	NORTH CANTON EDUC ASSN	180	NEA	1966-68
NORTH OLMSTED CTY SCHS	NORTH OLMSTED	NORTH OLMSTED EDUC ASSN	307	NEA	1966-68
NORTH RIDGEVILLE PUB SCH	NORTH RIDGVLLE	NORTH RIDGVLLE EDUC ASSN	133	NEA	1966-68
NORTH ROYALTON PUB SCHS	NORTH ROYALTON	N ROYALTON EDUC ASSN	135	NEA	1966-68
NORTHRIDGE LOCAL SCH DST	DAYTON	NORTHRIDGE CLSRM TCHR ASN	156	NEA	1967-68
NORTHWEST LOCAL SCH DST	CINCINNATI	NORTHWEST TCHRS ASSN	407	NEA	1966-68
NORTON SCHS	BARBERTON	NORTON CLRM TCHRS ASSN	162	NEA	1966-68
NORWALK CITY SCH DST	NORWALK	NORWALK CITY TCHRS ASSN	133	NEA	1966-[illegible]
NORWOOD PUB SCHS	NORWOOD	NORWOOD TCHRS ASSN	244	NEA	1966-68
OBERLIN CITY SCH	OBERLIN	OBERLIN EDUC ASSN	128	NEA	1967-6[illegible]
OLMSTED FALLS SCHS	OLMSTED FALLS	OLMSTED FALLS TCHRS ASSN	120	NEA	1966-68
OTSEGO LOCAL SCHS	TONTOGANY	OTSEGO EDUC ASSN	65	NEA	1966-68
PAINESVILLE CITY SCHS	PAINESVILLE	PAINESVILLE CTY TCH ASSN	174	NEA	1967-68
PARMA CITY SCHS	PARMA	PARMA EDUC ASSN	1,066	NEA	1966-68
PAULDING EXEPT VILLAGE S	PAULDING	PAULDING EDUC ASSN	74	NEA	1966-68
PIKE DELTA YORK LCL SCH	DELTA	PIKE DELTA YORK EDUC ASSN	76	NEA	1967-68
POLAND LOCAL SCHS	POLAND	POLAND EDUC ASSN	115	NEA	1967-68
PORT CLINTON CITY SCHS	PORT CLINTON	PORT CLINTON EDUC ASSN	159	NEA	1966-68
PYMATUNING VLY LCL SCHS	ANDOVER	PYMATUNING VLY EDUC ASSN	67	NEA	1967-68
RAVENNA CITY SCHS	RAVENNA	RAVENNA EDUC ASSN	204	NEA	1966-68
READING CITY SCHS	READING	READING EDUC ASSN	126	NEA	1966-68
REVERE LCL SCHS	BATH	REVERE EDUC ASSN	144	NEA	1967-68
REYNOLDSBURG SCH	REYNOLDSBURG	REYNOLDSBURG TCHRS ASSN	192	NEA	1967-68
RICHMOND HTS LOCAL SCHS	RICHMOND HTS	RICHMOND HTS EDUC ASSN	60	NEA	1966-68
RITTMAN EXMPT VLLG SCH	RITTMAN	RITTMAN EDUC ASSN	76	NEA	1966-68
ROCKY RIVER PUB SCHS	ROCKY RIVER	ROCKY RIVER TCHRS ASSN	243	NEA	1966-68
ROLLING HILLS LCL SCHS	RYESVILLE	ROLLING HILLS TCHRS ASSN	85	NEA	1967-68
ROOTSTOWN LOCAL SCHS	ROOTSTOWN	ROOTSTOWN TCHRS ASSN	91	NEA	1966-68
ROSS LCL SCH DST	HAMILTON	ROSS LCL TCHRS ASSN	93	NEA	1967-68
ROSSFORD EXMPT VLG SCHS	ROSSFORD	ROSSFORD EDUC ASSN	76	NEA	1967-68
S WESTERN CITY SCHS	GROVE CITY	S WESTERN EDUC ASSN	611	NEA	1966-68
SALEM CITY SCHS	SALEM	SALEM EDUC ASSN	175	NEA	1966-68
SANDUSKY CITY SCH	SANDUSKY	SANDUSKY EDUC ASSN	306	NEA	1967-68

SANDY VLY LCL SCH DST	MAGNOLIA	SANDY VLY EDUC ASSN	88	NEA	1967-68
SCIOTO VALLEY SCHS	PIKETON	PIKETON SCIOTO VLY CTA	62	NEA	1967-68
SHAKER HEIGHTS CITY SCH	SHAKER HEIGHTS	SHAKER HGTS TCHRS ASSN	490	NEA	1966-68
SIDNEY CITY SCH DST	SIDNEY	SIDNEY EDUC ASSN	203	NEA	1966-68
SOLON LOC SCH DST	SOLON	SOLON EDUC ASSN	135	NEA	1966-68
SOUTH POINT LCL SCHS	SOUTH POINT	SOUTH PT CLRM TCHRS ASSN	91	NEA	1967-68
SOUTHWEST LICKING SCHS	PATASKALA	SOUTHWEST LICKING ED ASN	89	NEA	1967-68
SPENCERVILLE LOCAL SCH	SPENCERVILLE	SPENCERVILLE EDUC ASSN	61	NEA	1967-68
SPRINGFIELD LCL SCHS	NEW MIDDLETOWN	SPRINGFIELD LCL ED ASSN	81	NEA	1967-68
SPRINGFIELD LOC SCH DST	SPRINGFIELD	SPRINGFIELD LOC TCHR ASN	127	NEA	1966-68
STOW CITY PUB SCHS	STOW	STOW TCHRS ASSN	226	NEA	1967-68
STRONGSVILLE CITY SCH	STRONGSVILLE	STRONGSVILLE EDUC ASSN	160	NEA	1967-68
SUGARCREEK LCL SCHS	BELLBROOK	SUGARCREEK EDUC ASSN	101	NEA	1967-68
TALAWANDA SCH DST	OXFORD	TALAWANDA EDUCATORS ASSN	196	NEA	1966-68
TALLMADGE CITY SCHS	TALLMADGE	TALLMADGE TCHRS ASSN	172	NEA	1966-68
TEAYS VLY LOCAL SCH	ASHVILLE	TEAYS VLY CLRM TCHRS ASSN	100	NEA	1967-68
THREE RIVERS LOC SCH DST	NORTH BEND	THREE RIVERS EDUC ASSN	113	NEA	1966-68
TOLEDO CITY SCH	TOLEDO	TOLEDO EDUCATION ASSN	2,605	NEA	1966-68
TRIWAY LOCAL SCHS	WOOSTER	NO ORGANZTN RECOGNIZED	105		1966-68
TROY PUB SCHS	TROY	TROY CITY EDUC ASSN	252	NEA	1966-68
TUSLAW LOCAL SCH DST	MASSILLON	TUSLAW CLRM TCHRS ASSN	82	NEA	1967-68
UNION SCIOTO PUB SCHS	CHILLICOTHE	UNION SCIOTO TCHRS ASSN	50	NEA	1966-68
UNITED LOCAL SCH	HANOVERTON	UNITED EDUC ASSN	64	NEA	1967-68
UPPER ARLINGTON SCH	COLUMBUS	UPPER ARLINGTON EDUC ASSN	435	NEA	1967-68
URBANA CITY SCH	URBANA	URBANA EDUC ASSN	149	NEA	1966-68
VANDALIA BUTLER CTY SCHS	VANDALIA	VANDALIA BUTLER CLM TA	204	NEA	1966-68
WARREN CITY SCHS	WARREN	WARREN EDUC ASSN	660	NEA	1966-68
WARREN LOCAL SCH	MARIETTA	WARREN TCHRS ASSN	117	NEA	1967-68
WARREN TWP LOC SCHS	LEAVITTSBURG	LEAVITTSBURG TCHRS ASSN	82	NEA	1966-68
WASHINGTON LOCAL SCHS	TOLEDO	TCH ASSN WASHNGTN LOC SCH	529	NEA	1966-68
WASHINGTON TWP SCH DST	CENTERVILLE	CENTERVILLE CLRM TCH ASSN	274	NEA	1967-68
WEST HOLMES LOCAL SCH	MILLERSBURG	WEST HOLMES EDUC ASSN	118	NEA	1967-68
WICKLIFFE CITY SCH	WICKLIFFE	WICKLIFFE TCHRS ASSN	218	NEA	1967-68
WILLARD CITY SCH DST	WILLARD	WILLARD TCHRS ASSN	129	NEA	1966-68
WILLOUGHBY EASTLAKE SCH	WILLOUGHBY	WILLOUGHBY ELAKE TCH ASN	680	NEA	1966-68
WOOSTER CITY SCHS	WOOSTER	WOOSTER EDUC ASSN	202	NEA	1966-68
WORTHINGTON PUB SCH	WORTHINGTON	WORTHINGTON EDUC ASSN	303	NEA	1967-68
XENIA CITY SCHS	XENIA	XENIA EDUC ASSN	418	NEA	1966-68
YOUNGSTOWN CTY SCH DST	YOUNGSTOWN	YOUNGSTOWN EDUC ASSN	1,161	NEA	1966-68
OKLAHOMA					
MIDWEST CITY SCHS	MIDWEST CITY	MIDWEST CTY CLM TCHR ASN	780	NEA	1966-68
MUSKOGEE CITY SCH	MUSKOGEE	MUSKOGEE EDUC ASSN	404	NEA	1967-68
PONCA CITY SCH DST 71	PONCA CITY	PONCA CITY EDUC ASSN	305	NEA	1967-68
TULSA CO IND SCH DST 1	TULSA	TULSA EDUC ASSN	3,368	NEA	1966-68
OREGON					
ALBANY UNION HS DST 8	ALBANY	NO ORGANZTN RECOGNIZED	177		1967-68
ASTORIA PUB SCHS	ASTORIA	NO ORGANZTN RECOGNIZED	125		1966-68
BEAVERTON SCH DST 48	BEAVERTON	NO ORGANZTN RECOGNIZED	840		1966-68
BEND PUB SCHS	BEND	NO ORGANZTN RECOGNIZED	236		1966-68
BETHEL PUB SCH	EUGENE	NO ORGANZTN RECOGNIZED	183		1966-68
BROOKINGS HARBOR SD 17C	BROOKINGS	NO ORGANZTN RECOGNIZED	76		1966-68
CENTRAL POINT SCH DST 6	CENTRAL POINT	NO ORGANZTN RECOGNIZED	181		1966-68
COLUMBIA CO SCH DST 5J	WESTPORT	NO ORGANZTN RECOGNIZED	100		1967-68
CONCORD PUB SCHS	MILWAUKEE	NO ORGANZTN RECOGNIZED	53		1966-68
COOS BAY SCH DST 9	COOS BAY	NO ORGANZTN RECOGNIZED	305		1966-68
COQUILLE SCH DST 8	COQUILLE	NO ORGANZTN RECOGNIZED	102		1966-68
CORVALLIS SCH DST 509J	CORVALLIS	NO ORGANZTN RECOGNIZED	456		1966-68
CROOK CO SCH DST	PRINEVILLE	NO ORGANZTN RECOGNIZED	129		1966-68
DAVID DOUGLAS SCH DST	PORTLAND	NO ORGANZTN RECOGNIZED	519		1966-68
DOUGLAS CO SCH DST 4	ROSEBURG	NO ORGANZTN RECOGNIZED	353		1966-68
ESTACADA ELEM SD 108	ESTACADA	NO ORGANZTN RECOGNIZED	64		1967-68
EUGENE SCH DST 4	EUGENE	NO ORGANZTN RECOGNIZED	1,153		1966-68
FERN RIDGE SCH DST 28J	VENETA	NO ORGANZTN RECOGNIZED	91		1967-68
GLIDE SCH DST 12	GLIDE	NO ORGANZTN RECOGNIZED	65		1966-68
GRESHAM ELEM SCH DST 4	GRESHAM	NO ORGANZTN RECOGNIZED	102		1967-68
GRESHAM JT UN HSD U2 20	GRESHAM	NO ORGANZTN RECOGNIZED	193		1967-68
HILLSBORO ELEM SCHS	HILLSBORO	NO ORGANZTN RECOGNIZED	108		1966-68
HILLSBORO UNION HS	HILLSBORO	NO ORGANZTN RECOGNIZED	171		1967-68
HOOD RIVER CO SCHS	HOOD RIVER	NO ORGANZTN RECOGNIZED	183		1967-68
INDEPENDENCE DST 13J	INDEPENDENCE	NO ORGANZTN RECOGNIZED	123		1966-68
JEFFERSON CO SD 509J	MADRAS	NO ORGANZTN RECOGNIZED	126		1966-68
JOSEPHINE CO SCH DST	GRANTS PASS	NO ORGANZTN RECOGNIZED	172		1966-68
JUNCTION CITY SD 69	JUNCTION CITY	NO ORGANZTN RECOGNIZED	107		1966-68
KLAMATH CO UNIT 600	KLAMATH FALLS	NO ORGANZTN RECOGNIZED	350		1966-68
LA GRANDE PUB SCHS	LA GRANDE	NO ORGANZTN RECOGNIZED	133		1966-68
LAKE OSWEGO SCH DST 7	LAKE OSWEGO	NO ORGANZTN RECOGNIZED	310		1966-68
LEBANON SCH DST 16	LEBANON	NO ORGANZTN RECOGNIZED	93		1966-68
LEBANON UN HS DST 1	LEBANON	NO ORGANZTN RECOGNIZED	79		1966-68
LINCOLN CO UNIT SCH DST	NEWPORT	NO ORGANZTN RECOGNIZED	325		1966-68
LYNCH SCH DST 28	PORTLAND	NO ORGANZTN RECOGNIZED	204		1966-68
MEDFORD SCH DST 549C	MEDFORD	NO ORGANZTN RECOGNIZED	525		1966-68
MILWAUKIE ELEM DST 1	MILWAUKIE	NO ORGANZTN RECOGNIZED	250		1966-68
MILWAUKIE UN HS DST 5	MILWAUKIE	NO ORGANZTN RECOGNIZED	215		1966-68
MORROW CO SCH DST R 1	LEXINGTON	NO ORGANZTN RECOGNIZED	97		1966-68
MYRTLE POINT SCH DST 41	MYRTLE POINT	NO ORGANZTN RECOGNIZED	84		1966-68
NEWBERG UNF SCH DST	NEWBERG	NO ORGANZTN RECOGNIZED	132		1966-68
NORTH BEND SCH DST 13	NO BEND	NO ORGANZTN RECOGNIZED	154		1966-68
NYSSA SCH DST 26	NYSSA	NO ORGANZTN RECOGNIZED	69		1966-68
ONTARIO SCH DST 8C	ONTARIO	NO ORGANZTN RECOGNIZED	138		1966-68
PARKROSE SCH DST 3	PORTLAND	NO ORGANZTN RECOGNIZED	295		1966-68
PENDLETON SCH DST 16R	PENDLETON	NO ORGANZTN RECOGNIZED	209		1966-68
PLEASANT HILLS SCH DST	PLESANT HILLS	NO ORGANZTN RECOGNIZED	78		1967-68

PORTLAND PUB SCH	PORTLAND	NO ORGANZTN RECOGNIZED	3,600			1966-68
REDMOND PUB SCHS 2J	REDMOND	NO ORGANZTN RECOGNIZED	140			1966-68
SALEM PUB SCH	SALEM	NO ORGANZTN RECOGNIZED	1,075			1966-68
SIUSLAW SCH DST 97 J	FLORENCE	NO ORGANZTN RECOGNIZED	84			1967-68
SOUTH LANE SCH DST 45J3	COTTAGE GROVE	NO ORGANZTN RECOGNIZED	168			1967-68
SPRINGFIELD PUB SCHS	SPRINGFIELD	NO ORGANZTN RECOGNIZED	520			1966-68
ST HELENS SCH DST 502	ST HELENS	NO ORGANZTN RECOGNIZED	138			1967-68
SUTHERLIN SCH DST 130	SUTHERLIN	NO ORGANZTN RECOGNIZED	68			1966-68
SWEET HOME SCH DST	SWEET HOME	NO ORGANZTN RECOGNIZED	183			1966-68
THE DALLES SCH DST 12	THE DALLES	NO ORGANZTN RECOGNIZED	162			1966-68
TIGARD ELEM SCH DST 23	TIGARD	NO ORGANZTN RECOGNIZED	105			1966-68
TIGARD UN HS DST 2	TIGARD	NO ORGANZTN RECOGNIZED	65			1966-68
TILLAMOOK SCH DST 9	TILLAMOOK	NO ORGANZTN RECOGNIZED	123			1967-68
WASCO CO SCH DST 9	THE DALLES	NO ORGANZTN RECOGNIZED	70			1966-68
WEST LINN SCH DST 3	WEST LINN	NO ORGANZTN RECOGNIZED	178			1966-68
WINSTON DILLARD PUB SCHS	WINSTON	NO ORGANZTN RECOGNIZED	92			1966-68

PENNSYLVANIA

ABINGTON SCHS	ABINGTON	ABINGTON EDUC ASSN	678	NEA		1967-68
ALLENTOWN SCH DST	ALLENTOWN	ALLENTOWN EDUC ASSN	925	NEA		1967-68
ALTOONA AREA SCH DST	ALTOONA	ALTOONA AREA EDUC ASSN	700	NEA		1966-68
ARMSTRONG SCH DST	FORD CITY	ARMSTRONG EDUC ASSN	570	NEA		1967-68
AVON GROVE SCH DST	WEST GROVE	AVON GROVE TCHRS ASSN	120	NEA		1966-68
BALDWIN WHITEHALL SCHS	PITTSBURGH	BALDWN WHITEHLL ED ASSN	450	NEA		1966-68
BEDFORD AREA SCHS	BEDFORD	BEDFORD AREA EDUC ASSN	167	NEA		1967-68
BETHLEHEM CEN SCH DST	FREDERICKTOWN	BETHLEHM CEN LCL PSEA	140	NEA		1967-68
BIG SPRING SCH DST	NEWVILLE	BIG SPRING TCHRS ASSN	146	NEA		1966-68
BOYERTOWN AREA SCH DST	BOYERTOWN	BOYERTOWN AREA EDUC ASSN	287	NEA		1967-68
BRISTOL BORO SCH DST	BRISTOL	BRISTOL BORO EDUC ASSN	101	NEA		1967-68
BRISTOL TWP SCH DST	BRISTOL	BRISTOL TWP EDUC ASSN	690	NEA		1966-68
BUCKTAIL AREA JT SCH DST	RENOVO	BUCKTAIL AREA AFT 1579	45	AFT		1966-68
CANTON AREA SCH DST	CANTON	CANTON AREA EDUC ASSN	74	NEA		1966-68
CATASAUQUA SCHS	CATASAUQUA	CATASAUQUA EDUC ASSN	85	NEA		1967-68
CHURCHILL AREA SCHS	PITTSBURGH	CHURCHILL AREA EDUC ASSN	284	NEA		1966-68
CLAIRTON CITY SCH DST	CLAIRTON	CLAIRTON EDUC ASSN	183	NEA		1967-68
CLEARFIELD AREA SCHS	CLEARFIELD	CLEARFIELD EDUC ASSN	226	NEA		1967-68
COATESVILLE AREA SCH DST	COATESVILLE	COATESVILLE AREA TCH ASN	485	NEA		1966-68
COLONIAL SCH DST	PLYMOUTH METNG	COLONIAL EDUC ASSN	450	NEA		1967-68
COUNCIL ROCK SCH DST	RICHBORO	COUNCIL ROCK EDUC ASSN	284	NEA		1967-68
CURWENSVILLE AREA SCH	CURWENSVILLE	CURWENSVILLE AREA ED ASSN	85	NEA		1967-68
DARBY TWP SCH DST	GLENOLDEN	DARBY TWP EDUC ASSN	82	NEA		1967-68
DERRY TWP SCHS	HERSHEY	HERSHEY EDUC ASSN	172	NEA		1967-68
DOWNINGTOWN AREA SCH DST	DOWNINGTOWN	DOWNINGTOWN AREA ED ASSN	268	NEA		1966-68
DU BOIS AREA SCHS	DU BOIS	DU BOIS AREA EDUC ASSN	248	NEA		1967-68
EPHRATA AREA SCHS	EPHRATA	EPHRATA AREA ED ASSN	188	NEA		1967-68
EXETER PUB SCHS	READING	EXETER TWP EDUC ASSN	115	NEA		1966-68
FOREST HILLS SCH DST	SIDMAN	FOREST HILLS EDUC ASSN	170	NEA		1967-68
FOX CHAPEL AREA SCH DST	PITTSBURGH	FOX CHAPEL AREA EDUC ASN	271	NEA		1966-68
FRAZIER SCHS	PERRYOPOLIS	FRAZIER EDUC ASSN	90	NEA		1967-68
GREATER JOHNSTOWN SCH	JOHNSTOWN	GREATER JOHNSTOWN ED ASSN	503	NEA		1966-68
GROVE CITY AREA SCH DST	GROVE CITY	GROVE CITY BRANCH PSEA	183	NEA		1967-68
HATBORO HORSHAM SCH DST	HORSHAM	HATBORO HORSHAM EDUC ASSN	218	NEA		1967-68
HAVERFORD TWP SCH DST	HAVERTOWN	HAVERFORD TWP EDUC ASSN	395	NEA		1967-68
INTERBORO PUB SCHS	GLENOLDEN	INTERBORO EDUC ASSN	205	NEA		1966-68
IROQUOIS AREA SCH DST	ERIE	IROQUOIS EDUC ASSN	112	NEA		1967-68
KENNETT CONS SCH DST	KENNETT SQUARE	KENNETT BRANCH OF PSEA	163	NEA		1967-68
LAMPETER STRASBURG SCHS	LAMPETER	LAMPTR STRASBRG ED ASSN	126	NEA		1967-68
LANCASTER CITY SCHS	LANCASTER	LANCASTER EDUC ASSN	530	NEA		1966-68
LAUREL HIGHLANDS SCHS	HOPWOOD	LAUREL HIGHLANDS ED ASSN	248	NEA		1967-68
LOWER DAUPHIN SCH DST	HUMMELSTOWN	LOWER DAUPHIN EDUC ASSN	210	NEA		1966-68
LOWER MERION SCH DST	ARDMORE	NO ORGANZTN RECOGNIZED	567			1966-68
MAHANOY AREA SCH DST	MAHANOY CITY	MAHANOY AREA TCHRS ASSN	106	NEA		1966-68
MARPLE NEWTON SCH DST	NEWTON SQUARE	MARPLE NEWTON EDUC ASSN	358	NEA		1967-68
MARS AREA SCHS	MARS	MARS AREA EDUC ASSN	120	NEA		1966-68
MCKEESPORT AREA SCH DST	MCKEESPORT	MCKEESPORT EDUC ASSN	471	NEA		1966-68
MILLCREEK TWP SCHS	ERIE	MILLCREEK BRANCH PSEA	347	NEA		1967-68
MOHAWK AREA SCHS	BESSEMER	MOHAWK AREA TCHRS ASSN	118	NEA		1967-68
NESHAMINY SCH DST	LANGHORNE	NESHAMINY SD EDUC ASSN	638	NEA		1966-68
NORTH EAST JT SCHS	NORTH EAST	NORTH EAST BRANCH PSEA	80	NEA		1967-68
NORTH PENN SCHS	LANSDALE	N PENN EDUC ASSN	450	NEA		1966-68
NORTHAMPTON AREA SCHS	NORTHAMPTON	NORTHAMPTON AREA ED ASSN	212	NEA		1967-68
NORTHWESTERN LEHIGH SCHS	NEW TRIPOLI	NORTHWESTERN LEHIGH ED AN	70	NEA		1967-68
OCTORARA AREA SCH DST	ATGLEN	OCTORARA AREA EDUC ASSN	138	NEA		1967-68
OXFORD AREA SCH DST	OXFORD	OXFORD AREA EDUC ASSN	142	NEA		1966-68
PAOLI AREA JT HS	BERWYN	PAOLI AREA TCHRS ASSN	197	NEA		1966-68
PARKLAND SCH DST	OREFIELD	PARKLAND EDUC ASSN	272	NEA		1967-68
PEN ARGYL AREA SCH DST	PEN ARGYL	PEN ARGYL AREA TCHRS ASSN	103	NEA		1967-68
PENN CAMBRIA SCH DST	CRESSON	PENN CAMBRIA EDUC ASSN	109	NEA		1967-68
PENN MANOR SCH DST	MILLERSVILLE	PENN MANOR ED ASSN	249	NEA		1966-68
PENNS MANOR AREA SCH DST	CLYMER	PENNS MANOR AREA ED ASSN	63	NEA		1967-68
PHILADELPHIA PUB SCH	PHILADELPHIA	PHILADELPHIA AFT LCL 3	11,557	AFT	SN	1966-68
PHILADELPHIA PUB SCH	PHILADELPHIA	PHILA PUB SCH NURSES ASSN	1,319	IND	SN	1967-68
PHILIPSBURG OSCEOLA SCHS	PHILIPSBURG	PHILPSBG OSCEOLA AREA EA	190	NEA		1967-68
PHOENIXVILLE AREA SD	PHOENIXVILLE	PHOENIXVILLE AREA ED ASN	260	NEA		1966-68
POTTSTOWN SCH DST	POTTSTOWN	POTTSTOWN EDUC ASSN	297	NEA		1967-68
PUNXSUTAWNEY AREA SCHS	PUNXSUTAWNEY	PUNXSUTAWNEY AREA ED ASN	190	NEA		1967-68
RED LION AREA SCH DST	RED LION	RED LION AREA EDUC ASSN	210	NEA		1966-68
RICHLAND SCH DST	JOHNSTOWN	RICHLAND EDUC ASSN	153	NEA		1966-68
ROSE TREE MEDIA SCH	MEDIA	ROSE TREE MEDIA PROF ASN	352	NEA		1967-68
SALISBURY TWP SCH DST	ALLENTOWN	SALISBURY TWP TCHRS ASSN	101	NEA		1967-68
SAYRE AREA SCH DST	SAYRE	SAYRE AREA TCHRS ASSN	118	NEA		1967-68
SPRING FORD AREA SCH DST	ROYERFORD	SPRING FORD EDUC ASSN	218	NEA		1966-68
STATE COLLEGE AREA SD	STATE COLLEGE	STATE COLLEGE AREA ED ASN	389	NEA		1966-68
STROUDSBURG AREA SCHS	STROUDSBURG	STROUDSBURG AREA TCH ASN	177	NEA		1967-68
TREDYFRN EASTTOWN JT SCH	BERWYN	TREDYFRIN ETOWN BR PSEA	366	NEA		1966-68

TRI VALLEY SCHS	VALLEY VIEW	TRI VLY EDUC ASSN	73	NEA		1966-68
UNIONTOWN AREA SCH DST	UNIONTOWN	UNIONTOWN AREA EDUC ASSN	299	NEA		1967-68
UNIONVILLE CHADDSFRD SCH	UNIONVILLE	UNIONVLE CHADDSFRD ED ASN	107	NEA		1967-68
UPPER MORELAND SCH DST	WILLOW GROVE	UPPER MORELAND ED ASSN	224	NEA		1966-68
UPPER PERKIOMEN SCH DST	PENNSBURG	UPPER PERKIOMEN EDUC ASSN	143	NEA		1967-68
WARREN CO SCH DST	WARREN	WARREN CO EDUC ASSN	940	NEA		1967-68
WAYNESBORO AREA SCH DST	WAYNESBORO	WAYNESBORO AREA EDUC ASN	251	NEA		1966-68
WEST CHESTER AREA DST	WEST CHESTER	W CHESTER AREA EDUC ASSN	524	NEA		1967-68
WEST MIFFLIN AREA SCHS	WEST MIFFLIN	W MIFFLIN EDUC ASSN	340	NEA		1967-68
WINDBER AREA SCH DST	WINDBER	WINDBER AREA EDUC ASSN	114	NEA		1966-68
WISSAHICKON SCH DST	AMBLER	WISSAHICKON EDUC ASSN	250	NEA		1966-68
WYOMING AREA SCH DST	WEST PITTSTON	WYOMING AREA ED ASSN	196	NEA		1967-68
YOUGH SCH DST	HERMINIE	YOUGH EDUC ASSN	180	NEA		1967-68
RHODE ISLAND						
BARRINGTON PUB SCHS	BARRINGTON	BARRINGTON TCHRS ASSN	256	NEA		1967-68
BRISTOL PUB SCHS	BRISTOL	BRISTOL EDUC ASSN	163	NEA		1966-68
CHARIHO REG HS DST	WOOD RIVER JCT	CHARIHO TCHRS ASSN	61	NEA		1967-68
COVENTRY PUB SCHS	COVENTRY	CVNTRY TCH REPRESENTATVS	264	NEA		1966-68
CRANSTON SCH DST	CRANSTON	CRANSTON TCHRS ASSN	667	NEA		1967-68
EAST GREENWICH SCH DST	EAST GREENWICH	EAST GREENWICH EDUC ASSN	138	NEA		1967-68
EAST PROVIDENCE PUB SCH	EAST PROVDNCE	EAST PROVIDENCE EDUC ASN	425	NEA		1966-68
FOSTER GLOCESTER SCHS	N SCITUATE	PONAGANSET TCHRS ASSN	74	NEA		1967-68
JOHNSTON TOWN SCHS	JOHNSTON	JOHNSTON AFT LOCAL 1702	190	AFT		1967-68
MIDDLETOWN PUB SCHS	MIDDLETOWN	MIDDLETOWN TCHRS ASSN	220	NEA		1966-68
N KINGSTOWN TWP SCHS	N KINGSTOWN	N KINGSTOWN TCHRS ASSN	300	NEA		1966-68
NEWPORT SCH	NEWPORT	NEWPORT TCHRS ASSN	300	NEA		1967-68
PORTSMOUTH SCH DST	PORTSMOUTH	PORTSMOUTH EDUC ASSN	153	NEA		1967-68
PROVIDENCE PUB SCH	PROVIDENCE	PROVIDENCE AFT LOCAL 958	1,282	AFT		1967-68
SCITUATE SCHS	N SCITUATE	SCITUATE TCHRS ASSN	86	NEA		1967-68
SO KINGSTOWN SCHS	WAKEFIELD	SO KINGSTOWN TCHRS ASSN	166	NEA		1967-68
WARWICK SCH DEPT	WARWICK	WARWICK EDUC ASSN	970	NEA		1966-68
WESTERLY SCH DST	WESTERLY	WESTERLY TCHRS ASSN	187	NEA		1966-68
SOUTH CAROLINA						
BERKELEY CO SCH DST	MONCKS CORNER	BERKELEY CO EDUC ASSN	690	NEA		1966-68
SOUTH DAKOTA						
ABERDEEN IND SCH DST 32	ABERDEEN	ABERDEEN CTY TCHRS ASSN	276	NEA		1966-68
DOUGLAS IND SCH DST 3	ELLSWORTH AFB	DOUGLAS EDUC ASSN	166	NEA		1967-68
LEAD IND SCH DST 106	LEAD	LEAD EDUC ASSN	98	NEA		1967-68
RAPID CITY IND SCH DST 1	RAPID CITY	RAPID CITY EDUC ASSN	565	NEA		1967-68
SPEARFISH IND SD 104	SPEARFISH	SPEARFISH SH TCHRS ASSN	70	NEA		1966-68
TODD CO IND SCH DST	MISSION	TODD CO EDUC ASSN	109	NEA		1966-68
WATERTOWN IND SCH DST 1	WATERTOWN	WATERTOWN EDUC ASSN	183	NEA		1966-68
TENNESSEE						
MEMPHIS CITY SCHS	MEMPHIS	MEMPHIS EDUC ASSN	5,220	NEA		1967-68
METRO NASHVLE DVDSN SCHS	NASHVILLE	METRO NASHVILLE ED ASSN	4,111	NEA		1966-68
OAK RIDGE SCHS	OAK RIDGE	OAK RIDGE EDUC ASSN	357	NEA		1967-68
TEXAS						
ALAMO HTS IND SCH DST	SAN ANTONIO	ALAMO HTS TCHRS ASSN	299	NEA		1966-68
BEAUMONT IND SCH DST	BEAUMONT	BEAUMONT CLRM TCHRS ASSN	800	NEA		1966-68
EDGEWOOD IND SCH DST	EDGEWOOD	EDGEWOOD DST TCHRS ASSN	930	NEA		1966-68
EL PASO PUB SCHS	EL PASO	2 ORGANZTNS RECOGNIZED	2,990	NEA	JNP	1966-68
		EL PASO TCHRS ASSN	2,689	NEA	5	
		EL PASO EDUC ASSN	301	NEA	3	
HARLANDALE IND SCHS	SAN ANTONIO	2 ORGANZTNS RECOGNIZED	710	NEA	SN	1967-68
		HARLANDALE TCHRS ASSN	650	NEA		
		HARLANDALE ADM ASSN	60	NEA		
NEW BRAUNFELS IND SCHS	NEW BRAUNFELS	NEW BRAUNFELS UNIT TSTA	189	NEA		1967-68
SAN ANTONIO IND SCH DST	SAN ANTONIO	SAN ANTONIO TCHRS COUNCIL	3,275	NEA		1967-68
STEPHENVILLE IND SCH DST	STEPHENVILLE	STEPHENVILLE CLRM TCH ASN	90	NEA		1967-68
TEXARKANA PUB SCHS	TEXARKANA	TEXARKANA CLRM TCHR ASSN	341	NEA		1967-68
UTAH						
BOX ELDER CO SCH DST	BRIGHAM CITY	BOX ELDER EDUC ASSN	400	NEA		1966-68
DAVIS CO SCH DST	FARMINGTON	DAVIS EDUC ASSN	1,045	NEA		1966-68
DUCHESNE CO SCH DST	DUCHESNE	DUCHESNE EDUC ASSN	111	NEA		1967-68
GRANITE SCH DST	SALT LAKE	GRANITE EDUC ASSN	2,510	NEA		1967-68
NEBO SCH DST	SPANISH FORK	NEBO EDUC ASSN	400	NEA		1967-68
SALT LAKE CITY SCHS	SALT LAKE CITY	2 ORGANZTNS RECOGNIZED	1,863	NEA	JNP	1967-68
		SALT LAKE TCHRS ASSN	1,381	NEA	5	
		SALT LAKE ADM ASSN	186	NEA	2	
WASATCH CO SCH DST	HEBER CITY	WASATCH EDUC ASSN	80	NEA		1966-68
VERMONT						
HARTFORD SCH DST	WHITE RIVR JCT	HARTFORD TCHRS ASSN	110	NEA		1967-68
ROCKINGHAM TWP SCH DST	BELLOWS FALLS	ROCKINGHAM TCHRS ASSN	72	NEA		1966-68
SOUTH BURLINGTON TWP SD	S BURLINGTON	S BURLINGTON TCHRS ASSN	155	NEA		1966-68
ST JOHNSBURY PUB SCHS	ST JOHNSBURY	ST JOHNSBURY TCHRS ASSN	83	NEA		1966-68
VIRGINIA						
ALEXANDRIA CITY PUB SCH	ALEXANDRIA	EDUC ASSN OF ALEXANDRIA	993	NEA		1967-68
ARLINGTON CO SCHS	ARLINGTON	ARLINGTON EDUC ASSN	1,400	NEA		1967-68
FAIRFAX CO PUB SCH	FAIRFAX	FAIRFAX EDUC ASSN	5,260	NEA		1966-68
SCOTT CO SCH DST	GATE CITY	SCOTT CO TCHRS ASSN	254	NEA		1966-68

WASHINGTON

ABERDEEN SCH DST 5	ABERDEEN	ABERDEEN EDUC ASSN	250	NEA	1966-68
AUBURN SCH DST 408	AUBURN	AUBURN EDUC ASSN	327	NEA	1966-68
BAINBRIDGE ISLAND SD 303	BAINBRIDGE ISL	BAINBRIDGE ISL EDUC ASSN	91	NEA	1966-68
BATTLE GROUND SD 119	BATTLE GROUND	BATTLE GROUND EDUC ASSN	158	NEA	1966-68
BELLEVUE PUB SCHS	BELLEVUE	BELLEVUE EDUC ASSN	1,094	NEA	1967-68
BELLINGHAM SCH DST 501	BELLINGHAM	BELLINGHAM EDUCATION ASN	450	NEA	1966-68
BETHEL SCH DST 403	SPANAWAY	BETHEL EDUC ASSN	183	NEA	1966-68
BLAINE SCH DST	BLAINE	BLAINE EDUC ASSN	50	NEA	1967-68
BREMERTON SCH DST 100C	BREMERTON	BREMERTON ED ASSN	360	NEA	1966-68
BURLINGTON EDISON SD 100	BURLINGTON	BURLINGTON EDISON ED ASSN	131	NEA	1966-68
CAMAS PUB SCHS	CAMAS	CAMAS EDUC ASSN	116	NEA	1966-68
CENTRAL VALLEY SD 356	SPOKANE	CENTRAL VALLEY EDUC ASSN	393	NEA	1966-68
CENTRALIA SCH DST 401	CENTRALIA	CENTRALIA EDUC ASSN	140	NEA	1966-68
CHENEY SCH DST 360	CHENEY	CHENEY EDUC ASSN	118	NEA	1966-68
CLARKSTON DST J250185	CLARKSTON	CLARKSTON ED ASSN	137	NEA	1966-68
CLOVER PARK SCH DST 400	LAKEWOOD CENTR	CLOVER PARK EDUC ASSN	790	NEA	1966-68
CNTRL KITSAP SCH DST 401	SILVERDALE	CNTRL KITSAP EDUC ASSN	155	NEA	1966-68
COLVILLE SCH DST 115	COLVILLE	COLVLLE STEVN CO ED ASSN	81	NEA	1966-68
DAYTON SCH DST 2	DAYTON	DAYTON SUBUNIT WEA	54	NEA	1966-68
EASTMONT SCH DST 206	EAST WENATCHEE	EASTMONT EDUC ASSN	156	NEA	1966-68
EDMONDS SCH DST 15	LYNWOOD	EDMONDS EDUC ASSN	1,250	NEA	1966-68
ELLENSBURG SCH DST 401	ELLENSBURG	ELLENSBURG EDUC ASSN	159	NEA	1966-68
ENUMCLAW SCH DST 216	ENUMCLAW	ENUMCLAW EDUC ASSN	141	NEA	1967-68
EVERETT SCH DST 2	EVERETT	EVERETT EDUC ASSN	639	NEA	1966-68
EVERGREEN SCH DST 114	VANCOUVER	EVERGREEN EDUC ASSN	171	NEA	1966-68
FEDERAL WAY SCH DST 210	FEDERAL WAY	FEDERAL WAY EDUC ASSN	521	NEA	1966-68
FERNDALE SCH DST 502	FERNDALE	FERNDALE EDUC ASSN	115	NEA	1966-68
FIFE SCH DST 417	TACOMA	NO PIERCE CO EDUC ASSN	75	NEA	1966-68
FRANKLIN PIERCE SD 402	TACOMA	FRANKLIN PIERCE EDUC ASN	601	NEA	1966-68
GOLDENDALE SCH DST 404	GOLDENDALE	GOLDENDALE EDUC ASSN	49	NEA	1967-68
GRANDVIEW SCH DST JT	GRANDVIEW	GRANDVIEW ED ASSN	110	NEA	1966-68
HIGHLAND SCH DST 203	COWICHE	HIGHLAND YAKIMA ED ASSN	45	NEA	1966-68
HIGHLINE PUB SCHS	SEATTLE	HIGHLINE EDUC ASSN	1,400	NEA	1966-68
ISSAQUAH SCH DST 411	ISSAQUAH	ISSAQUAH EDUC ASSN	304	NEA	1967-68
KELSO SCH DST 403	KELSO	KELSO EDUCATION ASSN	231	NEA	1966-68
KENNEWICK SCH DST 17	KENNEWICK	KENNEWICK EDUC ASSN	338	NEA	1966-68
KENT SCH DST 415	KENT	KENT EDUC ASSN	500	NEA	1966-68
LAKE STEVENS SCH DST 4	LAKE STEVENS	LAKE STEVENS EDUC ASSN	95	NEA	1966-68
LAKE WASHINGTON SD 414	KIRKLAND	LAKE WASHINGTON ED ASSN	592	NEA	1967-68
LONGVIEW PUB SCHS	LONGVIEW	LONGVIEW EDUC ASSN	392	NEA	1966-68
LYNDEN SCH DST 504	LYNDEN	LYNDEN EDUC ASSN	59	NEA	1966-68
MARYSVILLE SCH DST 25	MARYSVILLE	MARYSVILLE EDUC ASSN	255	NEA	1966-68
MERCER ISLAND SCHS	MERCER ISLAND	MERCER ISLAND EDUC ASSN	255	NEA	1967-68
MONROE SCH DST 103	MONROE	MONROE EDUC ASSN	90	NEA	1967-68
MOXEE SCH DST 90	YAKIMA	MOXEE EDUC ASSN	63	NEA	1966-68
MT BAKER SCHS	DEMING	MT BAKER EDUC ASSN	58	NEA	1967-68
MT VERNON CONS SD 320	MT VERNON	MT VER LACONR CONWY ED AN	156	NEA	1966-68
MT VERNON UN HS DST 320	MT VERNON	MT VER LACONR CONWY ED AN	155	NEA	1967-68
MUKILTEO SCH DST	MUKILTEO	MUKILTEO EDUC ASSN	161	NEA	1966-68
NORTH KITSAP SD 400	POULSBO	NORTH KITSAP EDUC ASSN	127	NEA	1966-68
NORTH SHORE SCH DST 417	BOTHELL	NORTH SHORE EDUC ASSN	392	NEA	1966-68
NORTH THURSTON SD 3	LACEY	NORTH THURSTON EDUC ASSN	236	NEA	1966-68
OLYMPIA SCH DST 111	OLYMPIA	OLYMPIA EDUC ASSN	352	NEA	1966-68
OMAK SCH DST 19	OMAK	OMAK EDUC ASSN	78	NEA	1967-68
OTHELLO PUB SCHS	OTHELLO	OTHELLO EDUC ASSN	102	NEA	1966-68
PASCO SCH DST 1	PASCO	PASCO TCHRS EDUC ASSN	260	NEA	1966-68
PENINSULA SCH DST 401	GIG HARBOR	PENINSULA EDUC ASSN	119	NEA	1967-68
PIERCE CO SCH DST 3	PUYALLUP	PUYALLUP EDUC ASSN	450	NEA	1966-68
PORT ANGELES SCH DST 21	PORT ANGELES	PORT ANGELES EDUC ASSN	240	NEA	1966-68
PROSSER CONS SCH DST 116	PROSSER	PROSSER EDUC ASSN	94	NEA	1967-68
PULLMAN SCH DST 267	PULLMAN	PULLMAN EDUC FORUM	153	NEA	1967-68
QUILLAYUTE VLY SD 402	FORKS	NW PENINSULA EDUC ASSN	56	NEA	1966-68
QUINCY SCH DST 144 101	QUINCY	QUINCY EDUC ASSN	87	NEA	1966-68
RAYMOND SCH DST 116	RAYMOND	RAYMOND EDUC ASSN	49	NEA	1967-68
RENTON SCH DST 403	RENTON	RENTON EDUC ASSN	705	NEA	1966-68
RICHLAND SCH DST 400	RICHLAND	RICHLAND EDUC ASSN	391	NEA	1966-68
RIDGEFIELD SCH DST 122	RIDGEFIELD	RIDGEFIELD EDUC ASSN	61	NEA	1967-68
SEATTLE SCH DST 1	SEATTLE	SEATTLE ALLIANCE EDUCTRS	4,337	NEA	1966-68
SEDRO WOOLLEY SCH DST	SEDRO WOOLLEY	SEDRO WOOLLEY EDUC ASSN	141	NEA	1967-68
SELAH SCH DST 119	SELAH	SELAH EDUC ASSN	102	NEA	1966-68
SEQUIM SCH DST 323	SEQUIM	SEQUIM EDUC ASSN	58	NEA	1966-68
SHORELINE PUB SCHS	SEATTLE	SHORELINE EDUC ASSN	842	NEA	1966-68
SNOHOMISH SCH DST 201	SNOHOMISH	SNOHOMISH EDUC ASSN	175	NEA	1967-68
SO KITSAP SCH DST 402	PORT ORCHARD	SO KITSAP EDUC ASSN	291	NEA	1966-68
SOUTH CENTRAL SD 406	SEATTLE	SOUTH CENTRAL EDUC ASSN	112	NEA	1966-68
SUNNYSIDE PUB SCHS 201	SUNNYSIDE	SUNNYSIDE EDUC ASSN	165	NEA	1966-68
TACOMA SCH DST 10	TACOMA	TACOMA ALLIANCE EDUCATORS	2,049	NEA	1966-68
TAKOMA SCH DST 409	MAPLE VALLEY	TAKOMA EDUC ASSN	101	NEA	1966-68
TUMWATER SCH DST 33	TUMWATER	TUMWATER EDUC ASSN	102	NEA	1967-68
UNIVERSITY PLACE SD 83	TACOMA	UNIVERSITY PLACE ED ASSN	150	NEA	1967-68
VANCOUVER SCH DST 37	VANCOUVER	VANCOUVER EDUC ASSN	683	NEA	1966-68
VASHON ISLAND PUB SCH	VASHON	VASHON EDUCATION ASSN	70	NEA	1966-68
WALLA WALLA SCH DST 140	WALLA WALLA	WALLA WALLA EDUC ASSN	330	NEA	1966-68
WASHAUGAL SCH DST 112 6	WASHAUGAL	WASHAUGAL EDUC ASSN	88	NEA	1966-68
WENATCHEE PUB SCHS	WENATCHEE	WENATCHEE EDUCATION ASSN	282	NEA	1966-68
WEST VALLEY SCH DST	YAKIMA	WEST VALLEY EDUC ASSN	120	NEA	1966-68
WEST VALLEY SCH DST 363	MILLWOOD	WEST VALLEY EDUC ASSN	185	NEA	1966-68
WHITE PASS SD 303	RANDLE	WHITE PASS EDUC ASSN	48	NEA	1967-68
WHITE RIVER SCH DST 416	BUCKLEY	WHITE RIVER EDUC ASSN	91	NEA	1966-68
WOODLAND SCH DST 404	WOODLAND	WOODLAND EDUC ASSN	52	NEA	1967-68
YAKIMA SCH DST 7	YAKIMA	YAKIMA EDUC ASSN	595	NEA	1966-68

WEST VIRGINIA

BARBOUR CO SCH DST	PHILIPPI	BARBOUR CO EDUC ASSN	144	NEA	1967-68
BOONE CO PUB SCHS	MADISON	BOONE CO CLRM TCHRS ASSN	309	NEA	1966-68
TAYLOR CO PUB SCHS	GRAFTON	TAYLOR CO EDUC ASSN	131	NEA	1966-68

WISCONSIN

APPLETON PUB SCHS	APPLETON	APPLETON EDUC ASSN	579	NEA	1967-68
ASHLAND UNF SCH DST 1	ASHLAND	ASHLAND AFT LOCAL 1275	140	AFT	1966-68
ASHWAUBENON SCH DST 1	GREEN BAY	ASHWAUBENON EDUC ASSN	116	NEA	1967-68
BARABOO PUB SCHS	BARABOO	BARABOO EDUC ASSN	124	NEA	1966-68
BEAVER DAM UNF SCHS	BEAVER DAM	BEAVER DAM EDUC ASSN	160	NEA	1966-68
BERLIN PUB SCHS	BERLIN	BERLIN EDUC ASSN	82	NEA	1967-68
BLACK RIVER FALLS SD 2	BLACK RVR FLLS	BLCK RVR FLLS EDUC ASSN	92	NEA	1966-68
BONDUEL COM SCHS	BONDUEL	BONDUEL TCHRS ASSN	99	NEA	1966-68
BRODHEAD PUB SCHS	BRODHEAD	BRODHEAD EDUC ASSN	61	NEA	1967-68
CHETEK AREA SCH DST 3	CHETEK	CHETEK EDUC ASSN	78	NEA	1966-68
CRANDON JT SCH DST 1	CRANDON	CRANDON EDUC ASSN	92	NEA	1967-68
DELAVAN DARIEN HS DST	DELAVAN	DELAVAN EDUC ASSN	96	NEA	1966-68
DODGEVILLE JT SCH DST 1	DODGEVILLE	DODGEVILLE TCHRS ORGNZTN	72	NEA	1966-68
EAU CLAIRE CTY JT DST 5	EAU CLAIRE	EAU CLAIRE AFT LOC 696	501	AFT	1966-68
EDGERTON SCHOOLS	EDGERTON	EDGERTON EDUC ASSN	116	NEA	1966-68
EVANSVILLE JT SD 6	EVANSVILLE	EVANSVILLE EDUC ASSN	86	NEA	1967-68
FLAMBEAU PUB SCHS	TONY	FLAMBEAU TCHRS ASSN	94	NEA	1966-68
FOND DU LAC PUB SCH	FOND DU LAC	FOND DU LAC EDUC ASSN	387	NEA	1967-68
FORT ATKINSON JT SD 6	FORT ATKINSON	FORT ATKINSON EDUC ASSN	155	NEA	1966-68
GREENDALE SCHS	GREENDALE	GREENDALE EDUC ASSN	172	NEA	1966-68
JANESVILLE PUB SCHS	JANESVILLE	JANESVILLE EDUC ASSN	555	NEA	1966-68
KENOSHA UNF SCH DST 1	KENOSHA	KENOSHA EDUCATION ASSN	1,020	NEA	1966-68
LA CROSSE CTY PUB SCH	LA CROSSE	LA CROSSE EDUC ASSN	435	NEA	1966-68
LAKE GENEVA PUB SCHS	LAKE GENEVA	LAKE GENEVA EDUC ASSN	79	NEA	1966-68
LANCASTER JT SCH DST 3	LANCASTER	LANCASTER EDUC ASSN	82	NEA	1966-68
MADISON PUB SCHS	MADISON	MADISON TEACHERS INC	1,603	NEA	1966-68
MANITOWAC PUB SCHS	MANITOWAC	MANITOWAC EDUC ASSN	340	NEA	1966-68
MAPLE COM JT SCH DST 1	MAPLE	MAPLE AFT LOCAL 1293	84	AFT	1967-68
MARION PUB SCHS	MARION	MARION EDUC ASSN	93	NEA	1967-68
MARKESAN SCH DST	MARKESAN	MARKESAN DST EDUC ASSN	64	NEA	1966-68
MARSHFIELD PUB SCHS	MARSHFIELD	MARSHFIELD TCHRS ASSN	170	NEA	1966-68
MAYVILLE CTY JT SD 5	MAYVILLE	MAYVILLE EDUC ASSN	78	NEA	1966-68
MCFARLAND COM SCHS	MCFARLAND	MCFARLAND EDUC ASSN	66	NEA	1967-68
MENASHA PUB SCH	MENASHA	MENASHA TCHR UN LOC 1166	152	AFT	1966-68
MENOMONEE FALLS JT SD 1	MENOMONEE FLLS	MENOMONEE FALLS EDUC ASSN	363	NEA	1967-68
MENOMONIE PUB SCHS	MENOMONIE	MENOMONIE EDUC ASSN	161	NEA	1966-68
MERRILL AREA SCHS	MERRILL	MERRILL AREA EDUC ASSN	174	NEA	1966-68
MIDDLETON SCH JT DST 12	MIDDLETON	MIDDLETON EDUC ASSN	64	NEA	1967-68
MILWAUKEE PUB SCHS	MILWAUKEE	MILWAUKEE TCHRS ED ASSN	5,400	NEA	1966-68
MONONA GROVE PUB SCHS	MONONA	MONONA GROVE EDUC ASSN	189	NEA	1966-68
MONROE JT SCH DST 1	MONROE	MONROE EDUC ASSN	138	NEA	1967-68
MOSINEE COM SCHS	MOSINEE	MOSINEE EDUC ASSN	74	NEA	1966-68
MUSKEGO NORWAY CONS SCH	MUSKEGO	MUSKEGO NORWAY EDUC ASSN	196	NEA	1966-68
NEENAH JT SCH DST	NEENAH	NEENAH EDUCATION ASSN	325	NEA	1966-68
NEKOOSA PUB SCHS	NEKOOSA	NEKOOSA TCHRS ASSN	52	NEA	1966-68
NEW BERLIN PUB SCH	NEW BERLIN	NEW BERLIN EDUC ASSN	315	NEA	1967-68
NEW HOLSTEIN PUB SCHS	NEW HOLSTEIN	NEW HOLSTEIN EDUC ASSN	77	NEA	1966-68
NEW RICHMOND PUB SCHS	NEW RICHMOND	NEW RICHMOND ED ASSN	109	NEA	1967-68
NORTH FOND DU LAC DST 11	N FOND DU LAC	N FOND DU LAC EDUC ASSN	61	NEA	1967-68
OCONOMOWOC PUB SCH	OCONOMOWOC	OCONOMOWOC EDUC ASSN	255	NEA	1966-68
OCONTO CITY JT SD 1	OCONTO	OCONTO EDUC ASSN	59	NEA	1967-68
ONALASKA PUB SCHS	ONALASKA	ONALASKA TCHRS ASSN	69	NEA	1966-68
OREGON CONS SCHS	OREGON	OREGON EDUC ASSN	103	NEA	1967-68
ORFORDVILLE JT SCH DST 4	ORFORDVILLE	ORFORDVILLE EDUC ASSN	84	NEA	1966-68
OSCEOLA AREA JT SD 2	OSCEOLA	OSCEOLA TCHRS EDUC ASSN	52	NEA	1966-68
OSHKOSH CITY SCHS	OSHKOSH	OSHKOSH EDUC ASSN	546	NEA	1966-68
OWEN WITHEE PUB SCH	OWEN	OWEN WITHEE EDUC ASSN	60	NEA	1967-68
PLYMOUTH JT SCH DST 8	PLYMOUTH	PLYMOUTH EDUCATION ASSN	120	NEA	1966-68
PORT WASHINGTON SCH DST	PORT WASHINGTN	PORT WASHINGTN ED ASSN	140	NEA	1966-68
PORTAGE PUB SCHS	PORTAGE	PORTAGE EDUC ASSN	133	NEA	1967-68
RACINE UNF SCH DST 1	RACINE	RACINE EDUC ASSN	1,217	NEA	1966-68
REEDSBURG SCHS	REEDSBURG	REEDSBURG EDUC ASSN	115	NEA	1967-68
RIPON JT SCH DST 1	RIPON	RIPON TCHRS ASSN	118	NEA	1967-68
ROTHSCHILD SCHOFIELD SD	SCHOFIELD	ROTHSCHILD SCHOFIELD TA	162	NEA	1967-68
SAUK PRAIRIE PUB SCHS	PRAIRIE DU SAC	SAUK PRAIRIE EDUC ASSN	127	NEA	1966-68
SEYMOUR COM JT SD 4	SEYMOUR	SEYMOUR EDUC ASSN	109	NEA	1967-68
SHEBOYGAN FALLS JT SD 1	SHEBOYGN FALLS	SHEBOYGAN FALLS FAC ASSN	79	NEA	1966-68
SHEBOYGAN PUB SCHS	SHEBOYGAN	SHEBOYGAN EDUC ASSN	527	NEA	1966-68
SHOREWOOD SCH DST	SHOREWOOD	SHOREWOOD EDUC ASSN	140	NEA	1966-68
SOUTH MILWAUKEE SCH	SO. MILWAUKEE	SO MILWAUKEE EDUC ASSN	237	NEA	1967-68
ST FRANCIS PUB SCHS	ST FRANCIS	ST FRANCIS EDUC ASSN	111	NEA	1966-68
STEVENS POINT PUB SD	STEVENS POINT	STEVENS POINT AREA EA	260	NEA	1966-68
STURGEON BAY PUB SCHS	STURGEON BAY	STURGEON BAY TCHRS CNCL	66	NEA	1966-68
SUN PRAIRIE PUB SCH	SUN PRAIRIE	SUN PRAIRIE EDUC ASSN	178	NEA	1966-68
SUPERIOR JT DST 1	SUPERIOR	SUPERIOR AFT LOCAL	375	AFT	1966-68
TOMAH PUB SCH	TOMAH	TOMAH ED ASSN	158	NEA	1966-68
TWO RIVERS PUB SCHS	TWO RIVERS	TWO RIVERS EDUC ASSN	120	NEA	1966-68
VERONA AREA PUB SCHS	VERONA	VERONA AREA EDUC ASSN	75	NEA	1967-68
VIROQUA AREA SCHS	VIROQUA	VIROQUA EDUC ASSN	100	NEA	1966-68
WAUSAU DST PUB SCHS	WAUSAU	WAUSAU EDUC ASSN	480	NEA	1966-68
WAUTOMA JT PUB SCH DST 1	WAUTOMA	WAUTOMA EDUCATION ASSN	62	NEA	1966-68
WEST ALLIS CTY JT SD	WEST ALLIS	W ALLIS W MILWAUKE TCH AN	654	NEA	1966-68
WEST BEND JT SCH DST 1	WEST BEND	WEST BEND EDUC ASSN	219	NEA	1966-68
WHITEWATER JT DST 1	WHITEWATER	WHITEWATER EDUC ASSN	129	NEA	1966-68
WHITNALL AREA SCHS	HALES CORNERS	WHITNALL AREA EDUC ASSN	144	NEA	1966-68
WISC RAPIDS DST PUB SCHS	WISC RAPIDS	WISCONSIN RAPIDS EDU ASN	291	NEA	1966-68
WISCONSIN HGTS SCHS	MAZOMANIE	WISC HGTS ASSN OF TCHRS	83	NEA	1966-68

WYOMING

CASPER MIDWEST SCHS	CASPER	CASPER MIDWEST CLRM TA	691	NEA	1966-68
CHEYENNE SCH DST 1	CHEYENNE	CHEYENNE EDUC ASSN	696	NEA	1967-68
LARAMIE PUB SCH DST 1	LARAMIE	LARAMIE EDUC ASSN	212	NEA	1966-68
LOVELL PUB SCHS	LOVELL	LOVELL EDUC ASSN	54	NEA	1967-68
NEWCASTLE SCH DST 1	NEWCASTLE	NEWCASTLE CLRM TCHRS ASN	80	NEA	1966-68

Compiled by the Research Division

NATIONAL EDUCATION ASSOCIATION

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Negotiation Research Digest

Volume 2, No. 1 September 1968

School-Board Members and School Administrators as Negotiators ..... Data and Statistics: B-1

State-by-state data from NEA Research Division's 1967-68 survey of school systems with written negotiation procedures: report on the involvement of school-board members and school administrators in negotiation sessions with teacher representatives. Joint board member and school administrator negotiation teams are on the increase.

Grievant Reinstated with Back Pay ..... Description: A-1 Text: C-1

Arbitrator in Michigan awards reinstatement with back extracurricular pay for head football coach because school board did not follow established dismissal procedure. The grievance procedure in Warren Consolidated Schools agreement terminates in final and binding arbitration under the rules of the American Arbitration Association.

No Exceptions Found in Contract--Unilateral Determination of Individual Teacher's Salary Not Allowed ..... Description: A-1 Text: C-6

Massachusetts Board rules school committee cannot unilaterally set or change teacher's salary without negotiating with the Silver Lake Regional High School Teachers' Association.

Insufficient Interest Demonstrated for New Election and Petition for Decertification Untimely ..... Description: A-1 Text: C-9

Wisconsin Commission declares that the Wauwatosa School Board did not demonstrate that 30 percent of the employees involved favor an election and that the petition for decertification filed by the Board was not timely.

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Salary Schedule and Grievance Procedure Impasse Recommendations ..... Description: A-2
Text: C-17

New York Fact Finder recommends a $6,800 base salary and final and binding arbitration in the settlement of grievances in Port Jefferson negotiation impasse.

Port Jefferson, New York, Agreement ..... Text: D-1

Fact Finders' recommendations incorporated in the agreement between Port Jefferson Station Teachers Association, Inc. (NEA) and Union Free School District #3, Port Jefferson Station.

Cumulative Index to Negotiation Research Digest E-1

A cumulative index from the first issue in April 1967 through June 1968 is presented in this issue. A two-year cumulative index will be presented in each September issue.

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Description and Analysis

GRIEVANT REINSTATED WITH BACK PAY

Without warning of any dissatisfaction in his over-all performance or notification that he was in danger of losing his position, Warren High School's head football coach was told by a representative of the school board that if he did not resign from his coaching responsibilities he would be dismissed from them. Believing that the coach had been released "without just cause and due process," the Warren Education Association filed a grievance.

Although a number of charges were raised by the school board, the arbitrator found them to be largely the result of misunderstandings and misinterpretations. Besides, he indicated, dismissals must be conducted according to established procedures. The coach was found to be worthy of reinstatement to his former position and was awarded the back extracurricular pay due him for the year he was barred from coaching.

NO EXCEPTIONS FOUND IN CONTRACT--UNILATERAL DETERMINATION OF INDIVIDUAL TEACHER'S SALARY NOT ALLOWED

The teachers association is the exclusive bargaining agent for all the teachers in Silver Lake Regional High School. A teacher was being paid $6,450 per annum which was below his level on the salary schedule. This had been set exclusively for him by the school committee because it believed that he was not performing in an adequate manner for a man of his experience and background. No other teacher was singled out for such treatment. No teacher was excepted from the contract, and no discussion was ever held concerning this teacher.

The state conciliation board held that the school committee could not unilaterally set or change salaries. Since no evidence was presented to the effect that the teacher was not performing "in a satisfactory manner," and the parties had made no exception from the salary schedule, and they knew that the agreement set a schedule for all professional employees, the teacher was entitled to the salary that would be his according to the schedule ($8,800), retroactive to the date the negotiated salary schedule became effective.

INSUFFICIENT INTEREST DEMONSTRATED FOR NEW ELECTION AND PETITION FOR DECERTIFICATION UNTIMELY

Following an election conducted by the Wisconsin Employment Relations Commission, Local 1561 of District Council 48, AFSCME, AFL-CIO, was certified as the exclusive collective bargaining representative of "all custodial and maintenance employees of the Wauwatosa Board of Education," with the exception of the electricians and carpenters. Several years after this certification, the board of education entered a claim that because some employees who were in separate units were being represented without having so elected, and because it sensed some dissatisfaction, it had a good faith doubt that the majority of the employees presently desired representation by the union. The claim took the form of a petition requesting that another election be held among certain of the board's employees to determine whether those employees desired to continue their representation by the union.

The Commission reviewed the petition and then dismissed it. It concluded that "the petition was not timely filed," that the inclusion of certain departmental employees in the certified bargaining unit did not raise a question of representation in that unit, and that, therefore, a good faith doubt had not been established. In setting down its conclusion, the Commission established a new ploicy: (a) In order for action to be taken on a petition requesting the polling of employees to determine their certification in or decertification from a union, the petitioning group must demonstrate that 30 percent of the employees involved favor the election. (b) Petitions concerning collective bargaining agreements must be filed within the 60-day period prior to the date provided in the agreement or resolution for settlements.

SALARY SCHEDULE AND GRIEVANCE PROCEDURE IMPASSE RECOMMENDATIONS

The Jefferson Station Teachers' Association wanted $7,400 base pay ($1,100 over the current figure). Port Jefferson Station School District was willing to pay $6,615. Unable to reach an agreement, the parties submitted their arguments to the New York State Public Employment Relations Board. The fact-finder familiarized himself with the school tax revenues, compared the Port Jefferson Station salary schedule with those of other districts in the area, and recommended a $6,800 base. He declared that despite rising costs, the higher salary was needed to keep Port Jefferson Station on a par with the other area schools, thus allowing it to attract and hold its share of competent teachers.

The teachers association and the board had trouble agreeing on grievance settlement methods, too. Aware of the school board's fear that final and binding arbitration settled by an impartial third party might deny it its responsibility as representative of the people in establishing policy, the fact-finder said that such arbitration was legal and must be accepted on grievances involving "terms and conditions of employment."

The results of the collective negotiation, including the recommendations of the fact-finder, are reprinted in Section D.

Data and Statistics

SCHOOL-BOARD MEMBERS AND SCHOOL ADMINISTRATORS AS NEGOTIATORS

For two consecutive years, the NEA Research Division has conducted a national survey of written negotiation agreements and procedures in school systems with 1,000 or more pupils enrolled. Both the 1966-67 survey and the 1967-68 survey attempted to obtain information on the involvement of school-board members and school administrators in the negotiation sessions with teacher representatives.

The two surveys asked similar questions: Who negotiates for the board? What is the role of the superintendent in negotiation sessions? For states which reported 50 or more school systems with negotiation agreements, tables were developed on these patterns in negotiation. In each table the responses on the role of the superintendent were distributed along the vertical axis while those relating to the negotiators for the school board were distributed along the horizontal axis.

These data for 1967-68 are presented in Table L, Role of Superintendent in Negotiation Sessions; Table M, Negotiator for the School Board; and the tables on Patterns in Negotiation. Corresponding tables for 1966-67 data were reported in the September 1967, December 1967, and January 1968 issues of the NEGOTIATION RESEARCH DIGEST.

Because some school systems did not respond to a particular question, there are variations in the total responses among the tables. Generally, those systems which did not respond were not included in the calculation of percentages.

Role of the Superintendent

Nationally, no significant change in the role of the superintendent from 1966-67 to 1967-68 was reported. California and Michigan still reported a modal response which indicates that the superintendent has full authority in negotiation. These superintendents who "negotiate with full authority" remained at almost two-fifths of the responses. (Not almost two-thirds as erroneously reported in the September 1967 issue of the DIGEST.)

Mandatory negotiation statutes which were passed in Minnesota and New York seem to have effected some change in their school systems' responses. In both states, the percentage of responses for the superintendent as advisor to both board and teacher negotiators showed a decrease. On the other hand, the percentage of responses for the superintendent as advisor to board negotiators only, showed an increase. Some of the change may have been effected somewhat by the greater number of systems with negotiation agreements.

The responses by enrollment strata still indicate that as the size of the system decreases, the superintendent's role shifts from that of negotiator with full authority to that of advisor to the negotiators for both the teachers and the school board.

Negotiators for the School Board

The percents of school systems which reported that in negotiation sessions the boards are represented by board members only, or by the superintendent only, decreased

from 1966-67 to 1967-68; the percent reporting board representation jointly by board members and the superintendent or other school administrators increased slightly.

The data presented by enrollment strata show some shifting of representation for the board in negotiation sessions. Stratum 1 systems (100,000 pupils enrolled) predominantly reported that school administrators other than the superintendent represent the board. Most often Strata 2 through 4 systems (12,000-99,999 pupils enrolled) reported that superintendents together with other school administrators represent the board in negotiation sessions, but the smallest systems (1,000-11,999 pupils enrolled) reported most frequently that board members jointly with the superintendent represent the board.

Patterns in Negotiation

Thirteen states reported 50 or more school systems with written negotiation agreements in 1967-68. Data on the role of the superintendent in negotiation and on who negotiates for the school board were tabulated in separate contingency tables for each of these states and for the nation. When these data are considered together, many differences among the states appear.

The bottom portions of Tables L and M provide comparable data on the basis of school system enrollment. The eight enrollment strata utilized are:

Stratum	School system enrollment
1	100,000 or more
2	50,000-99,999
3	25,000-49,999
4	12,000-24,999
5	6,000-11,999
6	3,000- 5,999
7	1,200- 2,999
8	1,000- 1,199

TABLE L

ROLE OF SUPERINTENDENT IN NEGOTIATION SESSIONS

STATE	NUMBER OF AGREEMENTS		NEGOTIATOR WITH: FULL AUTHORITY		NEGOTIATOR WITH: LIMITED AUTHORITY		ADVISOR TO NEGOTIATORS: SCHOOL BOARD ONLY		ADVISOR TO NEGOTIATORS: BOARD AND TEACHERS		ADVISOR TO NEGOTIATORS: NEUTRAL RESOURCE PERSON		NONPARTICIPANT	
	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
ALABAMA	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
ALASKA	4	100.0	1	25.0	0	.0	1	25.0	1	25.0	1	25.0	0	.0
ARIZONA	15	100.0	2	13.3	1	6.7	2	13.3	10	66.7	0	.0	0	.0
ARKANSAS	2	100.0	1	50.0	0	.0	0	.0	1	50.0	0	.0	0	.0
CALIFORNIA	367	100.1	142	38.7	137	37.3	25	6.8	49	13.4	9	2.5	5	1.4
COLORADO	22	99.9	5	22.7	7	31.8	1	4.5	9	40.9	0	.0	0	.0
CONNECTICUT	66	100.0	9	13.6	6	9.1	21	31.8	25	37.9	4	6.1	1	1.5
DELAWARE	7	100.0	0	.0	0	.0	2	28.6	4	57.1	1	14.3	0	.0
DISTRICT OF COLUMBIA	1	100.0	0	.0	0	.0	1	100.0	0	.0	0	.0	0	.0
FLORIDA	14	100.0	4	28.6	2	14.3	1	7.1	4	28.6	2	14.3	1	7.1
GEORGIA	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
HAWAII	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
IDAHO	18	100.0	2	11.1	4	22.2	2	11.1	10	55.6	0	.0	0	.0
ILLINOIS	102	99.9	10	9.8	14	13.7	21	20.6	49	48.0	8	7.8	0	.0
INDIANA	48	100.0	6	12.5	5	10.4	7	14.6	30	62.5	0	.0	0	.0
IOWA	13	100.1	0	.0	2	15.4	4	30.8	6	46.2	1	7.7	0	.0
KANSAS	40	100.0	9	22.5	7	17.5	3	7.5	19	47.5	2	5.0	0	.0
KENTUCKY	11	100.0	1	9.1	4	36.4	0	.0	6	54.5	0	.0	0	.0
LOUISIANA	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
MAINE	12	99.9	1	8.3	2	16.7	1	8.3	7	58.3	0	.0	1	8.3
MARYLAND	9	99.9	2	22.2	0	.0	3	33.3	3	33.3	1	11.1	0	.0
MASSACHUSETTS	109	100.0	2	1.8	4	3.7	45	41.3	31	28.4	24	22.0	3	2.8
MICHIGAN	297	100.0	114	38.4	51	17.2	94	31.6	26	8.8	6	2.0	6	2.0
MINNESOTA	84	100.0	3	3.6	11	13.1	37	44.0	28	33.3	5	6.0	0	.0
MISSISSIPPI	1	100.0	1	100.0	0	.0	0	.0	0	.0	0	.0	0	.0
MISSOURI	28	100.0	5	17.9	6	21.4	0	.0	15	53.6	2	7.1	0	.0
MONTANA	5	100.0	0	.0	0	.0	0	.0	4	80.0	1	20.0	0	.0
NEBRASKA	4	100.0	0	.0	1	25.0	1	25.0	1	25.0	1	25.0	0	.0
NEVADA	1	100.0	0	.0	0	.0	0	.0	1	100.0	0	.0	0	.0
NEW HAMPSHIRE	9	100.0	0	.0	0	.0	2	22.2	6	66.7	1	11.1	0	.0
NEW JERSEY	167	100.1	7	4.2	9	5.4	19	11.4	106	63.5	25	15.0	1	.6
NEW MEXICO	8	100.0	1	12.5	1	12.5	1	12.5	5	62.5	0	.0	0	.0
NEW YORK	133	100.0	19	14.3	21	15.8	47	35.3	37	27.8	3	2.3	6	4.5
NORTH CAROLINA	1	100.0	0	.0	0	.0	0	.0	1	100.0	0	.0	0	.0
NORTH DAKOTA	7	100.0	0	.0	1	14.3	1	14.3	5	71.4	0	.0	0	.0
OHIO	186	100.0	55	29.6	48	25.8	22	11.8	55	29.6	6	3.2	0	.0
OKLAHOMA	4	100.0	2	50.0	1	25.0	0	.0	1	25.0	0	.0	0	.0
OREGON	63	100.0	0	.0	2	3.2	9	14.3	39	61.9	12	19.0	1	1.6
PENNSYLVANIA	86	99.9	7	8.1	9	10.5	10	11.6	53	61.6	7	8.1	0	.0
RHODE ISLAND	17	100.1	1	5.9	1	5.9	8	47.1	5	29.4	2	11.8	0	.0
SOUTH CAROLINA	1	100.0	1	100.0	0	.0	0	.0	0	.0	0	.0	0	.0
SOUTH DAKOTA	7	100.1	1	14.3	1	14.3	2	28.6	2	28.6	1	14.3	0	.0
TENNESSEE	3	100.0	0	.0	0	.0	0	.0	1	33.3	0	.0	2	66.7
UTAH	9	99.9	4	44.4	1	11.1	0	.0	4	44.4	0	.0	0	.0
TEXAS	7	100.1	2	28.6	2	28.6	0	.0	3	42.9	0	.0	0	.0
VERMONT	4	100.0	0	.0	0	.0	0	.0	4	100.0	0	.0	0	.0
VIRGINIA	4	100.0	0	.0	1	25.0	2	50.0	0	.0	1	25.0	0	.0
WASHINGTON	90	100.1	14	15.6	14	15.6	6	6.7	52	57.8	4	4.4	0	.0
WEST VIRGINIA	3	100.0	0	.0	0	.0	0	.0	3	100.0	0	.0	0	.0
WISCONSIN	88	100.0	6	6.8	8	9.1	30	34.1	33	37.5	10	11.4	1	1.1
WYOMING	5	100.0	0	.0	2	40.0	1	20.0	2	40.0	0	.0	0	.0
TOTAL	2,182	100.0	440	20.2	386	17.7	432	19.8	756	34.6	140	6.4	23	1.3
STRATUM														
1	17	99.9	6	35.3	0	.0	5	29.4	0	.0	3	17.6	3	17.6
2	32	100.1	12	37.5	6	18.8	8	25.0	4	12.5	0	.0	2	6.3
3	43	99.9	16	37.2	9	20.9	11	25.6	5	11.6	1	2.3	1	2.3
4	162	100.0	42	25.9	36	22.2	34	21.0	38	23.5	8	4.9	4	2.5
5	351	100.0	85	24.2	76	21.7	70	19.9	98	27.9	15	4.3	7	2.0
6	580	100.0	118	20.3	95	16.4	109	18.8	205	35.3	44	7.6	9	1.6
7	855	100.0	145	17.0	141	16.5	165	19.3	344	40.2	55	6.4	2	.2
8	142	100.0	16	11.3	23	16.2	30	21.1	62	43.7	11	7.7	0	.0
TOTAL	2,182	100.0	440	20.2	386	17.7	432	19.8	756	34.6	140	6.4	28	1.3

TABLE N

NEGOTIATOR FOR THE SCHOOL BOARD

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
	NO. OF AGREEMENTS		BOARD MEMBERS ONLY		SUPT. OF SCHOOLS ONLY		OTHER SCHOOL ADMINISTRATORS		BOARD MEMBERS AND SUPT.		BOARD MEMBERS AND OTHER SCHOOL ADMINISTRATORS		BOARD MEMBERS, SUPTS., AND OTHER SCHOOL ADMINISTRATORS		SUPT. AND OTHER SCHOOL ADMINISTRATORS	
STATE	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.
ALABAMA	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
ALASKA	4	100.0	0	.0	1	25.0	0	.0	1	25.0	0	.0	2	50.0	0	.0
ARIZONA	15	100.0	2	13.3	3	20.0	1	6.7	5	33.3	1	6.7	1	6.7	2	13.3
ARKANSAS	2	100.0	0	.0	1	50.0	0	.0	0	.0	0	.0	1	50.0	0	.0
CALIFORNIA	369	99.9	9	2.4	202	54.7	23	6.8	40	10.8	3	.8	20	5.4	70	19.0
COLORADO	22	99.9	4	18.2	8	36.4	0	.0	5	22.7	1	4.5	1	4.5	3	13.6
CONNECTICUT	65	100.0	17	26.2	7	10.8	0	.0	27	41.5	2	3.1	11	16.9	1	1.5
DELAWARE	8	100.0	3	37.5	0	.0	0	.0	2	25.0	0	.0	3	37.5	0	.0
DISTRICT OF COLUMBIA	1	100.0	0	.0	0	.0	0	.0	0	.0	0	.0	1	100.0	0	.0
FLORIDA	14	100.0	3	21.4	0	.0	0	.0	7	50.0	0	.0	2	14.3	2	14.3
GEORGIA	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
HAWAII	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
IDAHO	18	100.0	4	22.2	4	22.2	0	.0	10	55.6	0	.0	0	.0	0	.0
ILLINOIS	102	100.0	11	10.8	5	4.9	1	1.0	45	44.1	5	4.9	26	25.5	9	8.8
INDIANA	48	100.1	4	8.3	8	16.7	1	2.1	20	41.7	1	2.1	9	18.8	5	10.4
IOWA	13	100.1	3	23.1	2	15.4	0	.0	3	23.1	0	.0	4	30.8	1	7.7
KANSAS	40	100.0	7	17.5	11	27.5	0	.0	14	35.0	1	2.5	4	10.0	3	7.5
KENTUCKY	11	100.1	2	18.2	2	18.2	0	.0	4	36.4	0	.0	1	9.1	2	18.2
LOUISIANA	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
MAINE	12	99.9	4	33.3	1	8.3	0	.0	4	33.3	0	.0	1	8.3	2	16.7
MARYLAND	10	100.0	0	.0	1	10.0	4	40.0	1	10.0	0	.0	2	20.0	2	20.0
MASSACHUSETTS	111	99.9	54	48.6	2	1.8	5	4.5	34	30.6	6	5.4	8	7.2	2	1.8
MICHIGAN	300	100.0	20	6.7	30	10.0	37	12.3	66	22.0	9	3.0	59	19.7	79	26.3
MINNESOTA	84	100.0	6	7.1	1	1.2	1	1.2	58	69.0	4	4.8	14	16.7	0	.0
MISSISSIPPI	1	100.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	1	100.0
MISSOURI	28	100.1	4	14.3	4	14.3	0	.0	11	39.3	1	3.6	4	14.3	4	14.3
MONTANA	5	100.0	2	40.0	0	.0	0	.0	3	60.0	0	.0	0	.0	0	.0
NEBRASKA	4	100.0	1	25.0	0	.0	0	.0	2	50.0	0	.0	1	25.0	0	.0
NEVADA	1	100.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	1	100.0
NEW HAMPSHIRE	10	100.0	5	50.0	0	.0	0	.0	3	30.0	0	.0	2	20.0	0	.0
NEW JERSEY	170	100.1	53	31.2	5	2.9	0	.0	87	51.2	4	2.4	18	10.6	3	1.8
NEW MEXICO	9	99.9	0	.0	3	33.3	0	.0	1	11.1	1	11.1	1	11.1	3	33.3
NEW YORK	132	99.9	34	25.8	9	6.8	6	4.5	32	24.2	15	11.4	23	17.4	13	9.8
NORTH CAROLINA	1	100.0	1	100.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
NORTH DAKOTA	7	100.0	1	14.3	0	.0	0	.0	5	71.4	0	.0	1	14.3	0	.0
OHIO	196	100.0	14	7.5	47	25.3	7	3.8	65	34.9	0	.0	17	9.1	36	19.4
OKLAHOMA	4	100.0	0	.0	2	50.0	0	.0	1	25.0	0	.0	0	.0	1	25.0
OREGON	63	100.0	31	49.2	1	1.6	0	.0	25	39.7	1	1.6	5	7.9	0	.0
PENNSYLVANIA	89	99.9	16	18.0	5	5.6	1	1.1	46	51.7	2	2.2	14	15.7	5	5.6
RHODE ISLAND	18	100.1	7	38.9	1	5.6	0	.0	6	33.3	1	5.6	3	16.7	0	.0
SOUTH CAROLINA	1	100.0	0	.0	1	100.0	0	.0	0	.0	0	.0	0	.0	0	.0
SOUTH DAKOTA	7	100.1	2	28.6	1	14.3	0	.0	1	14.3	1	14.3	2	28.6	0	.0
TENNESSEE	3	99.9	0	.0	1	33.3	1	33.3	0	.0	1	33.3	0	.0	0	.0
TEXAS	9	99.9	0	.0	3	33.3	0	.0	1	11.1	0	.0	3	33.3	2	22.2
UTAH	7	100.1	0	.0	0	.0	0	.0	3	42.9	1	14.3	0	.0	3	42.9
VERMONT	4	100.0	3	75.0	0	.0	0	.0	0	.0	0	.0	1	25.0	0	.0
VIRGINIA	4	100.0	1	25.0	0	.0	0	.0	1	25.0	0	.0	2	50.0	0	.0
WASHINGTON	90	100.1	27	30.0	14	15.6	2	2.2	32	35.6	0	.0	7	7.8	8	8.9
WEST VIRGINIA	3	100.0		.0	0	.0	0	.0	3	100.0	0	.0	0	.0	0	.0
WISCONSIN	88	100.1	27	30.7	2	2.3	2	2.3	46	52.3	2	2.3	6	6.8	3	3.4
WYOMING	4	100.0	0	.0	0	.0	0	.0	2	50.0	0	.0	2	50.0	0	.0
TOTAL	2,197	100.1	382	17.4	388	17.7	94	4.3	722	32.9	63	2.9	282	12.8	266	12.1
STRATUM																
1	18	100.1	2	11.1	0	.0	8	44.4	1	5.6	1	5.6	3	16.7	3	16.7
2	33	100.1	2	6.1	4	12.1	6	18.2	4	12.1	3	9.1	2	6.1	12	36.4
3	44	100.1	1	2.3	4	9.1	11	25.0	3	6.8	1	2.3	5	11.4	19	43.2
4	164	100.0	21	12.8	33	20.1	18	11.0	26	15.9	4	2.4	27	16.5	35	21.3
5	354	100.0	48	13.6	75	21.2	21	5.9	91	25.7	12	3.4	44	12.4	63	17.8
6	584	100.1	102	17.5	105	18.0	23	3.9	179	30.7	21	3.6	92	15.8	62	10.6
7	856	100.0	168	19.6	141	16.5	7	.8	361	42.2	18	2.1	94	11.0	67	7.8
8	144	100.1	38	26.4	26	18.1	0	.0	57	39.6	3	2.1	15	10.4	5	3.5
TOTAL	2,197	100.1	382	17.4	388	17.7	94	4.3	722	32.9	63	2.9	282	12.8	266	12.1

PATTERNS IN NEGOTIATION

CALIFORNIA - 365 RESPONSES

NEGOTIATORS FOR THE SCHOOL BOARD

ROLE OF THE SUPERINTENDENT	BOARD MEMBERS		BOARD MEMBERS AND SUPERINTENDENT		BOARD MEMBERS AND SCHOOL ADMINISTRATORS		SUPERINTENDENT		SCHOOL ADMINISTRATORS	
	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.
NEGOTIATOR WITH FULL AUTHORITY	0	.0	5	1.4	3	.8	101	27.7	33	9.0
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	18	4.9	9	2.5	78	21.4	32	8.8
ADVISOR TO NEGOTIATORS FOR BOARD	2	.5	6	1.6	2	.5	4	1.1	11	3.0
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	4	1.1	10	2.7	6	1.6	16	4.4	11	3.0
NEUTRAL RESOURCE PERSON	3	.8	1	.3	2	.5	2	.5	1	.3
NONPARTICIPANT	0	.0	0	.0	0	.0	0	.0	5	1.4

CONNECTICUT - 65 RESPONSES

NEGOTIATOR WITH FULL AUTHORITY	0	.0	2	3.1	1	1.5	6	9.2	0	.0
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	3	4.6	2	3.1	1	1.5	0	.0
ADVISOR TO NEGOTIATORS FOR BOARD	5	7.7	10	15.4	4	6.2	0	.0	1	1.5
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	11	16.9	10	15.4	4	6.2	0	.0	0	.0
NEUTRAL RESOURCE PERSON	0	.0	2	3.1	2	3.1	0	.0	0	.0
NONPARTICIPANT	1	1.5	0	.0	0	.0	0	.0	0	.0

ILLINOIS - 102 RESPONSES

NEGOTIATOR WITH FULL AUTHORITY	0	.0	3	2.9	2	2.0	2	2.0	3	2.9
NEGOTIATOR WITH LIMITED AUTHORITY	2	2.0	2	2.0	4	3.9	2	2.0	4	3.9
ADVISOR TO NEGOTIATORS FOR BOARD	1	1.0	11	10.8	8	7.8	0	.0	1	1.0
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	5	4.9	26	25.5	15	14.7	1	1.0	2	2.0
NEUTRAL RESOURCE PERSON	3	2.9	3	2.9	2	2.0	0	.0	0	.0
NONPARTICIPANT	0	.0	0	.0	0	.0	0	.0	0	.0

MASSACHUSETTS - 109 RESPONSES

NEGOTIATOR WITH FULL AUTHORITY	0	.0	0	.0	1	.9	1	.9	0	.0
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	1	.9	0	.0	0	.0	3	2.8
ADVISOR TO NEGOTIATORS FOR BOARD	19	17.4	16	14.7	7	6.4	0	.0	3	2.8
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	15	13.8	12	11.0	4	3.7	0	.0	0	.0
NEUTRAL RESOURCE PERSON	17	15.6	5	4.6	1	.9	1	.9	0	.0
NONPARTICIPANT	1	.9	0	.0	1	.9	0	.0	1	.9

PATTERNS IN NEGOTIATION

MICHIGAN - 296 RESPONSES

NEGOTIATORS FOR THE SCHOOL BOARD

ROLE OF THE SUPERINTENDENT	BOARD MEMBERS		BOARD MEMBERS AND SUPERINTENDENT		BOARD MEMBERS AND SCHOOL ADMINISTRATORS		SUPERINTENDENT		SCHOOL ADMINISTRATORS	
	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.
NEGOTIATOR WITH FULL AUTHORITY	1	.3	18	6.1	23	7.8	19	6.4	53	17.9
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	12	4.1	15	5.1	9	3.0	15	5.1
ADVISOR TO NEGOTIATORS FOR BOARD	9	3.0	24	8.1	23	7.8	2	.7	35	11.8
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	4	1.4	11	3.7	6	2.0	0	.0	5	1.7
NEUTRAL RESOURCE PERSON	5	1.7	1	.3	0	.0	0	.0	0	.0
NONPARTICIPANT	1	.3	0	.0	0	.0	0	.0	5	1.7

MINNESOTA - 84 RESPONSES

NEGOTIATOR WITH FULL AUTHORITY	0	.0	1	1.2	2	2.4	0	.0	0	.0
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	9	10.7	2	2.4	0	.0	0	.0
ADVISOR TO NEGOTIATORS FOR BOARD	2	2.4	28	33.3	7	8.3	0	.0	0	.0
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	3	3.6	19	22.6	4	4.8	1	1.2	1	1.2
NEUTRAL RESOURCE PERSON	1	1.2	1	1.2	3	3.6	0	.0	0	.0
NONPARTICIPANT	0	.0	0	.0	0	.0	0	.0	0	.0

NEW JERSEY - 166 RESPONSES

NEGOTIATOR WITH FULL AUTHORITY	0	.0	4	2.4	1	.6	1	.6	1	.6
NEGOTIATOR WITH LIMITED AUTHORITY	1	.6	5	3.0	0	.0	1	.6	2	1.2
ADVISOR TO NEGOTIATORS FOR BOARD	4	2.4	9	5.4	5	3.0	0	.0	0	.0
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	28	16.9	62	37.3	14	8.4	2	1.2	0	.0
NEUTRAL RESOURCE PERSON	17	10.2	5	3.0	2	1.2	1	.6	0	.0
NONPARTICIPANT	1	.6	0	.0	0	.0	0	.0	0	.0

NEW YORK - 132 RESPONSES

NEGOTIATOR WITH FULL AUTHORITY	0	.0	1	.8	5	3.8	4	3.0	9	6.8
NEGOTIATOR WITH LIMITED AUTHORITY	1	.8	9	6.8	5	3.8	4	3.0	2	1.5
ADVISOR TO NEGOTIATORS FOR BOARD	10	7.6	12	9.1	19	14.4	1	.8	5	3.8
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	19	14.4	10	7.6	7	5.3	0	.0	0	.0
NEUTRAL RESOURCE PERSON	3	2.3	0	.0	0	.0	0	.0	0	.0
NONPARTICIPANT	1	.8	0	.0	2	1.5	0	.0	3	2.3

PATTERNS IN NEGOTIATION

OHIO - 186 RESPONSES

NEGOTIATORS FOR THE SCHOOL BOARD

ROLE OF THE SUPERINTENDENT	BOARD MEMBERS		BOARD MEMBERS AND SUPERINTENDENT		BOARD MEMBERS AND SCHOOL ADMINISTRATORS		SUPERINTENDENT		SCHOOL ADMINISTRATORS	
	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.
NEGOTIATOR WITH FULL AUTHORITY	0	.0	8	4.3	2	1.1	23	12.4	22	11.8
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	15	8.1	5	2.7	17	9.1	11	5.9
ADVISOR TO NEGOTIATORS FOR BOARD	5	2.7	9	4.8	2	1.1	0	.0	6	3.2
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	5	2.7	32	17.2	7	3.8	7	3.8	4	2.2
NEUTRAL RESOURCE PERSON	4	2.2	1	.5	1	.5	0	.0	0	.0
NONPARTICIPANT	0	.0	0	.0	0	.0	0	.0	0	.0

OREGON - 63 RESPONSES

NEGOTIATOR WITH FULL AUTHORITY	0	.0	0	.0	0	.0	0	.0	0	.0
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	1	1.6	0	.0	1	1.6	0	.0
ADVISOR TO NEGOTIATORS FOR BOARD	3	4.8	4	6.3	2	3.2	0	.0	0	.0
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	18	28.6	17	27.0	4	6.3	0	.0	0	.0
NEUTRAL RESOURCE PERSON	9	14.3	3	4.8	0	.0	0	.0	0	.0
NONPARTICIPANT	1	1.6	0	.0	0	.0	0	.0	0	.0

PENNSYLVANIA - 86 RESPONSES

NEGOTIATOR WITH FULL AUTHORITY	0	.0	4	4.7	0	.0	2	2.3	1	1.2
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	5	5.8	1	1.2	2	2.3	1	1.2
ADVISOR TO NEGOTIATORS FOR BOARD	1	1.2	7	8.1	1	1.2	0	.0	1	1.2
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	11	12.8	27	31.4	11	12.8	1	1.2	3	3.5
NEUTRAL RESOURCE PERSON	3	3.5	3	3.5	1	1.2	0	.0	0	.0
NONPARTICIPANT	0	.0	0	.0	0	.0	0	.0	0	.0

WASHINGTON - 90 RESPONSES

NEGOTIATOR WITH FULL AUTHORITY	0	.0	1	1.1	2	2.2	6	6.7	5	5.6
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	7	7.8	2	2.2	3	3.3	2	2.2
ADVISOR TO NEGOTIATORS FOR BOARD	1	1.1	4	4.4	1	1.1	0	.0	0	.0
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	24	26.7	19	21.1	2	2.2	5	5.6	2	2.2
NEUTRAL RESOURCE PERSON	2	2.2	1	1.1	0	.0	0	.0	1	1.1
NONPARTICIPANT	0	.0	0	.0	0	.0	0	.0	0	.0

PATTERNS IN NEGOTIATION

WISCONSIN - 88 RESPONSES

NEGOTIATORS FOR THE SCHOOL BOARD

ROLE OF THE SUPERINTENDENT	BOARD MEMBERS		BOARD MEMBERS AND SUPERINTENDENT		BOARD MEMBERS AND SCHOOL ADMINISTRATORS		SUPERINTENDENT		SCHOOL ADMINISTRATORS	
	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.
NEGOTIATOR WITH FULL AUTHORITY	0	.0	2	2.3	0	.0	1	1.1	3	3.4
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	5	5.7	1	1.1	1	1.1	1	1.1
ADVISOR TO NEGOTIATORS FOR BOARD	11	12.5	17	19.3	2	2.3	0	.0	0	.0
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	9	10.2	18	20.5	5	5.7	0	.0	1	1.1
NEUTRAL RESOURCE PERSON	6	6.8	4	4.5	0	.0	0	.0	0	.0
NONPARTICIPANT	1	1.1	0	.0	0	.0	0	.0	0	.0

UNITED STATES - 2,175 RESPONSES

NEGOTIATOR WITH FULL AUTHORITY	1	.0	59	2.7	47	2.2	186	8.6	145	6.7
NEGOTIATOR WITH LIMITED AUTHORITY	7	.3	105	5.0	52	2.4	137	6.3	82	3.8
ADVISOR TO NEGOTIATORS FOR BOARD	84	3.9	172	7.9	96	4.4	7	.3	69	3.2
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	194	8.9	347	16.0	123	5.7	50	2.3	39	1.8
NEUTRAL RESOURCE PERSON	81	3.7	34	1.6	18	.8	4	.2	3	.1
NONPARTICIPANT	8	.4	0	.0	4	.2	0	.0	16	.7

Judicial Decisions, Opinions, and Statutes

ARBITRATION AWARD
AMERICAN ARBITRATION ASSOCIATION, ADMINISTRATOR

Case No. 5430-0023-67
May 25, 1968

THE BOARD OF EDUCATION,
WARREN CONSOLIDATED SCHOOLS

- and -

Grievance No. 66-14

WARREN EDUCATION ASSOCIATION

Subject: Discipline: Removal of Head Football Coach

Statement of the Grievance: "On November 16, 1966 at a meeting in the Warren High School's principal's office with Mr. E. Eschenburg and Mr. R. James, Mr. Nowak was told that he was being relieved as head football coach of Warren High School. We hold that this violates all standards of just treatment and fair enforcement of discipline set forth in the Agreement.

"[Request] immediate termination of any and all proceedings to relieve Mr. Nowak as head football coach at Warren High School and reaffirmation of his good standing in that position."

--signed November 22, 1966

Contract Provisions Involved: Article II, Section 4; Article III, Section 2; Article VIII, Section 3; Article XIII, Section 1; and Schedule B of the September 14, 1966 Agreement.

Statement of the Award: The grievance is granted. Nowak should be returned to his position as Head Football Coach for the 1968-1969 school year and should be compensated for his loss of extra-curricular pay as Head Football Coach for the 1967-1968 school year. No further relief is appropriate.

BACKGROUND

This grievance protests the removal of S. Nowak as Head Football Coach at Warren High School. The Association maintains that the Agreement assures all teachers that "their employment status, wholly or in part, will not be altered to their detriment without just cause and due process." It believes that the procedures followed by the School Board in this case denied Nowak "due process" and that his dismissal was neither "fair" nor "for just cause."

Nowak has been a Physical Education Teacher at Warren High School since 1962. He was also Head Football Coach for five years, September 1962 through June 1967. His pay included a yearly salary for his teaching duties and additional compensation, approximately $800 in the 1966-1967 school year, for his extra-curricular duties as Head Football Coach.

A meeting was held at Warren High School on November 16, 1966. Present were the Director of Athletics (R. James), the Principal (E. Eschenburg) and Nowak. James explained he was dissatisfied with Nowak's coaching work, alleging (1) that the football program had gradually deteriorated, (2) that the football players had behaved badly at games, (3) that the football squad's lack of control had caused other high schools to question the advisability of scheduling games with Warren High School, and (4) that parents, players, coaches, officials and athletic directors were in general displeased with the squad. He said that, for these reasons, he was not going to recommend Nowak for reemployment as Head Football Coach the following year. He suggested that Nowak think about the matter and that if he chose to resign the School Board would accept his resignation.

Nowak's version of the conversation was substantially the same. He was called into this meeting without knowing what its purpose was. He was given various reasons why James felt his coaching performance was inadequate. He was told that he had a choice of either resigning or being dismissed and that he should go to another school district if he wished to continue coaching football. His impression was that James had previously reviewed his situation with "higher authorities" and that the matter had already been decided.

Nowak wrote to James the next day, November 17, 1966, requesting "a written copy of the charges you mentioned in the meeting yesterday . . ." He never received a copy of such charges. The Association filed a grievance

in his behalf on November 22, 1966. The Superintendent of the Warren Consolidated Schools replied that "this grievance does not fall within the purview of the contract." And, after a Step 2 meeting was held on this grievance, the Superintendent stated to the Association:

> . . . I am concurring with and upholding the recommendation of Mr. Robert James, Director of Athletics, that Mr. Steve Nowak not be assigned to the position of head football coach at Warren High School for the 1967-1968 school year. Accordingly, the grievance is denied.

The School Board permitted Nowak to complete his work as Head Football Coach for the 1966-1967 school year. It decided, however, that he would not serve in that capacity for the 1967-1968 school year. Nowak is still a Physical Education Teacher at the Warren High School. He has only been relieved of his duties as a football coach.

The parties first submitted this case to me solely on the question of arbitrability. The School Board argued that Nowak's protest could not be deemed a "grievance" and was therefore not arbitrable. That argument was rejected by my decision on June 10, 1967. The award stated:

> To summarize, the Association complains (1) that Nowak's removal constitutes "disciplinary action less than specific and outright discharge [or] demotion" and that such discipline was unjustified and (2) that his removal was a "violation, misinterpretation or misapplication" of certain provisions of the Agreement. On either ground, Nowak's complaint qualifies as a "grievance." This dispute is therefore arbitrable . . .

The merits of Nowak's case were then heard. The School Board contends that a football coach is responsible for more than the instruction of young men in the fundamentals of the sport and the improvement of their physical fitness. It says a coach must also develop good sportsmanship, build morale within the team and student body, and maximize student participation in the sport. It believes Nowak failed to meet these latter responsibilities. It alleges, as proof of his failure, that he has been deficient in the following respects:

> (1) Gradual deterioration of the football program . . . during Mr. Nowak's regime.
> (2) Conduct of players on field.
> (3) Sideline conduct of players.
> (4) Appearance and personal habits of players.
> (5) Conduct . . . at games where he was coach and at athletic contests where he was a spectator.
> (6) Harassment of boy playing for him to the extent the boy quit the squad.
> (7) Handling of a player in a vindictive and malicious manner.
> (8) Lack of control of squad to the extent other area high schools were dubious of scheduling Warren High School.
> (9) Permitting publication of derogatory article in school paper about athletic officials.
> (10) Allowing players under his charge to criticize officials.
> (11) Failure to follow orders regarding use of football field facilities.
> (12) Improper care of equipment and supplies.
> (13) Non-attendance at league meetings.
> (14) Conduct to the extent that team physician quit.
> (15) General dissatisfaction of parents, players, athletic officials, other coaches, and athletic directors with Mr. Nowak's Football Squad.
> (16) Won-lost record as a coach.1/

The School Board argues, in other words, that Nowak was removed from his coaching position because of "incompetence." The Association disagrees. It contends that the charges against Nowak have either not been proven or are "remote, trivial and unconvincing." It claims he was dismissed as Head Football Coach because of "organizational activities protected by" the Public Employment Relations Act and because of "personal spite and vindictiveness." It insists therefore that the dismissal was "arbitrary and capricious." It asserts too that he was denied "basic procedural rights," e.g., the School Board's failure to give him "written notice of the charges against him throughout the grievance procedure." It concludes that the discipline here was neither "fair" nor "for just cause" and that the School Board did not make a "good faith evaluation of all factors" in Nowak's case.

DISCUSSION AND FINDINGS

The charges against Nowak can be divided into five general categories for purposes of discussion.

First, the School Board alleges that Nowak on several occasions failed to follow rules or instructions. This involves charges 9, 11, 12 and 13.

Charge 9. An article appeared in the October 30, 1964 school newspaper which was critical of the officiating in a game with Utica High School. James immediately wrote Nowak, citing the practice of having "the Sports Editor clear any articles or editorials with the Head Coach" and suggesting he follow that practice in the future. The evidence reveals that Nowak had no knowledge of this practice and had never been told to review student football articles prior to publication. Nowak did not see the October 30 article before it was published. He too felt that the criticism of officials in this article was completely improper. Written procedures regarding the Head Coach's responsibility for student articles were finally formulated and distributed on December 3, 1964. Under these circumstances, Nowak can in no way be blamed for the article in question.

Charge 11. James wrote to Nowak on September 14, 1966, that "the Reserve [JV] Football Game with Lincoln High School . . . October 13th will be played . . . on the field at the west end of the [Warren] High School." He did not want to use the varsity field for the game. However, a short time before the game, the coaches became concerned about "an excessive amount of glass on the playing field" and the bleachers being too close to the field. The matter was referred to the Warren High School Principal who decided, pursuant to the coaches' recommendation, to move the game to the varsity field. James complained that Nowak should have contacted his office for permission to use the varsity field. He does not claim -- given the coaches' concern for the players' safety -- that he would not have granted permission. Thus, the School Board's complaint against Nowak involves no more than a matter of procedure.

Charge 12. James went to the Warren High School stadium on Thursday, November 3, 1966, to check conditions for the game the following night. He found some "football [tackling] dummies and blocking shields"

1/ The first 15 allegations were set forth in the School Board's opening statement at the hearing; the 16th allegation was added during the course of the hearing.

lying on the floor in a puddle of water. He wrote to Nowak, protesting this careless handling of equipment. Nowak explained that the dummies and shields had been left in a covered area on the floor of the stadium the night before. Student managers put the equipment away. It snowed that night. Because of a leak in the stadium, the melting snow created puddles on the floor and the equipment got wet. The damage was slight. There is no proof that this kind of damage had ever occurred before during Nowak's tenure as Head Football Coach. Although he is responsible for "the care and condition of the equipment," he surely cannot be considered to have been negligent in this situation.

Charge 13. James asserts that Nowak failed to attend a Bi-County League meeting on September 20, 1966. The Coaches Handbook states that coaches must "attend all rules, league, officials, etc. meetings pertinent to the sport you coach." Nowak's explanation for his absence was that he never received notice of the meeting. He knew in general when meetings were held but he had always been given a written reminder. Here, the Faculty Manager either misplaced or lost the notice. Nowak was not reminded and simply forgot about the meeting. There is no real evidence as to whether Nowak was absent on other occasions and, if so, whether such absences were justified. Nor has the School Board established that Nowak was any less diligent than other coaches in attending Bi-County League meetings. His absence on September 20, 1966, by itself, does not suggest any lack of responsibility in the performance of his job.

Second, the School Board alleges that there was a gradual deterioration in the football program during Nowak's tenure as Head Coach. This involves charges 1 and 16.

James emphasizes that although school enrollment has remained substantially the same for some years, the number of young men trying out for football decreased from 100 in 1962 to 60 in 1966. He attributes this decline in student interest to Nowak's failure to promote the sport through football banquets, team parties, dad's nights, etc. He stresses too that Nowak's "won-lost" record was not particularly good, winning just 52 percent of the games as contrasted to his predecessor who won 70 percent of the games.

These claims are extremely difficult to evaluate. Student interest in football could be affected by a variety of socio-economic factors which have no relationship to the effectiveness of a Head Coach. It may be that participation in all sports declined at Warren High School and that the number of students trying out for other teams is also lower. It may be that other high schools have experienced similar declines in student participation in the football program. It may be that less participation is simply a reflection of what some consider to be a national problem, a declining level of physical fitness in our youth. There is no evidence before me on any of these points. In view of such uncertainty, the decrease in student interest at Warren High School cannot fairly be attributed to Nowak. The fact is that new high schools constructed in the area may have reduced the number of athletes available to Warren High School. 2/ Nowak did arrange some special activities, although not as many as James would have liked. But this matter was never called to Nowak's attention. As for his "won-loss" record, I note that the team was 1-7 in 1961 before Nowak arrived and then 4-4 in 1962, and 7-1 in 1963 under Nowak. The best he could do in the next three years was 4-4. But I find it difficult to believe that a high school coach's worth can be measured in this way. His ability to mold character--to instill in his charges a sense of determination, team play, sportsmanship and self-discipline--is far more important. He can achieve these goals without winning games. For these reasons, charges 1 and 16 are not persuasive.

Third, the School Board alleges that Nowak treated two boys improperly, harassing one to the point that he quit the squad and handling the other in a vindictive and malicious manner. This involves charges 6 and 7.

There is absolutely no merit in these charges. The first string quarterback in the 1966 season was the son of the then President of the School Board. He started every game except one. He neither started nor played in the "homecoming day" game, his service being limited to holding the ball for the conversion attempt after a touchdown. His father testified that his son was crying when he came home for he had been given no explanation for being kept out of the game.3/ Nowak explained that the boy had several injuries (thumb, leg, back) and had been on crutches the Monday before the game. He stated that the boy had difficulty throwing the ball because of his injured thumb. Therefore, he planned early in the week to use someone else as quarterback. He could not recall whether he offered an explanation to the boy. But, given these circumstances, it should have been apparent to everyone (the boy included) why he did not play. Nowak showed good judgment in placing a higher value on the boy's health than on the team's need for its first string quarterback.

The center was unable to appear at all the practice sessions one week in October 1966 because of the death of a relative. He later quit the squad. When James asked him for an explanation, he said "the coaches made fun of him" for missing practice. James held Nowak responsible even though there are four coaches on the team. Nowak explained that the line coach told the linemen at a half-time "pep talk" that this boy had missed practice during the week, insinuating that "the boy hadn't done his job." The line coach apparently did not know the reason for the boy's absence. When Nowak discovered what had happened, he told the line coach he was "wrong" to speak as he did. Nowak cannot be blamed for the line coach's error in this kind of situation.

Fourth, the School Board alleges that the conduct and appearance of the players was sometimes poor. It believes Nowak should be held accountable for such deficiencies. This involves charges 2, 3, 4 and 8.

Charge 4. James complained to Nowak in September 1966 about "long hair" on some of the football players, a condition he regarded as "unhealthy" and in conflict with their image as "clean wholesome individuals." Nowak replied he would see what he could do to correct the situation. The record does not reveal what steps he took to eliminate "long hair." James did not notice any improvements during the rest of the season. There are, however, limits to Nowak's power. He can attempt to persuade boys to cut their hair. But, beyond that, there is little he could do. James suggested that a boy could not "legally" be removed from the team for this reason but that "there are other ways of eliminating him . . . such as not having him play in games." Nowak evidently did not take the latter course. His decision not to deny a boy the privilege of playing on account of a question of taste (i.e., hair style) seems sound to me.

2/ The Principal of Warren High School stated at the January 6, 1967 grievance meeting that "the quantity of Warren High School athletes had been affected by Cousino High and Mott draining some of these and by the opening of the Warren Woods High School . . . ."

3/ This young man was not called upon to testify at the hearing.

Charges 2, 3 & 8. James states that football players have misbehaved on the field and on the sidelines. He saw them slam their helmets on the ground, kick the sideline markers, and throw their parkas aside. He noted that players have occasionally been thrown out of a game for a personal foul. He emphasized that there have been two "free-for-alls," one in 1964 and another in 1966, in varsity games with Utica High School. Nowak concedes there has been some misconduct but insists it has been quite limited. The testimony indicates that even the most disciplined football squad has occasional lapses. A momentary loss of control in a game so full of emotion and body contact is understandable. It would be extremely difficult for a coach to anticipate such conduct. The dispute between James and Nowak really concerns the dimensions of this problem. If players had been guilty of continual misconduct, as James suggests, it seems to me that the matter would have been called to Nowak's attention. But, apart from conversations about the "free-for-alls" at Utica, James never spoke to Nowak about player conduct on the field or on the sidelines. James obviously felt free to criticize Nowak's performance as a coach, issuing memoranda to him about the care of equipment, the checking of student newspaper articles, the elimination of "long-haired" athletes, etc. His silence about player conduct suggests that this was not as serious a problem as he later made it out to be. Nowak was of course properly criticized for his squad being involved in "free-for-alls."4/

Fifth, the School Board alleges that Nowak's conduct at games as a coach or as a spectator was poor. It says his behavior caused the team physician to quit. It claims there was "general dissatisfaction" with Nowak among "parents, players, athletic officials, other coaches, and athletic directors." This involves charges 5, 10, 14 and 15.

Charge 5. Nowak was watching a JV game at Utica High School in October 1965. He and an assistant left their bleacher seats to walk to the other side of the field. According to the Utica coaches, Nowak was told to get off the field and away from the sidelines but he refused. Some unpleasant words followed. According to Nowak, he left the field and returned to the bleachers when asked to do so. He says this was just "a misunderstanding." He was instructed by James to apologize to the Utica coaching staff and he did so. His conduct evidently deserved censure.5/

A referee (also the Secretary of the School Board) at a game in early 1964 described Nowak's conduct as "boisterous and loud," assessed a 15-yard penalty against him for "unsportsmanlike conduct," and threatened to remove him from the game. Nowak explained that this occurred after the Warren punter had been knocked down three times without the officials calling a penalty for "roughing the kicker." He went on the field to protest, an act which calls for a penalty for "unsportsmanlike conduct." He should be censured. However, this does happen occasionally to football coaches. The former Head Football Coach at Cousino High School described an almost identical incident in which he received a 15-yard penalty for "unsportsmanlike conduct" in walking on the field to object to an official's ruling. He testified that he has seen this penalty imposed on other coaches as well. There is no evidence that Nowak was guilty of such misconduct more than once.6/

Charge 10. James asserts that Nowak "allowed" his players to criticize officials. However, nothing in the record suggests that Nowak ever condoned such behavior. As soon as he learned that the officiating was being criticized, he sought to stop it.

Charge 14. Dr. Messina was the team physician for five to seven years. He quit this position during the 1964 season or at the end of the 1965 season. James met him sometime later at a social function. He testified that the doctor told him he quit because "working with Nowak was impossible." Dr. Messina did not testify at the hearing. Nowak claimed the doctor was too busy to take care of the team and said they parted by "mutual understanding." He knew of no problem between them. The doctor's statement about Nowak was extremely vague; the School Board's charge against Nowak was pure hearsay. There is absolutely no proof of any wrongdoing on Nowak's part.

Charge 15. James contended that parents had complained to him about the players' conduct and the football program. He had no record of the number or the precise nature of these complaints. Nor is there any evidence as to whether the number of complaints was greater at Warren High School than elsewhere. In any event, it should be apparent that these complaints would probably be as unfounded as most of the charges in this case. The players showed their dissatisfaction by hanging Nowak in effigy on August 25, 1966. But that act was evidently prompted by the players' anger over the fact that the team did not start football practice as scheduled. The delay was the result of a contract dispute between the School Board and the Association. The players also sent a letter to James in November 1967, asking that Nowak's replacement for the 1967-1968 school year be retained as Head Football Coach. However, Nowak's rights under the Agreement are not dependent upon a vote of the football squad. The dissatisfaction of others has already been discussed in this opinion.

To summarize, most of the charges against Nowak are not supported by the evidence. The few charges which have been proven certainly do not justify his dismissal as Head Football Coach.

There is still another serious flaw in the School Board's case. James maintains that Nowak's performance as Head Football Coach grew progressively worse between 1964 and November 1966. He issued some memoranda to Nowak, complaining about his failure to take proper care of the equipment, his failure to attend league meetings, and so on. He spoke to him about some other matters. But not once in this entire period did he apprise Nowak that he was dissatisfied with his overall performance or warn Nowak that he would recommend his dismissal if no improvement took place. Nowak was never really put on notice that he was in danger of losing his coaching position. He was never made aware that he had to perform his work better in order to retain his coaching position. Such notice, such advance warning, is an essential ingredient in any fair disciplinary procedure.

The School Board concedes that the removal of Nowak as Head Football Coach was "disciplinary action."

4/ The former Head Football Coach at Cousino High School (now Executive Secretary of the Association) testified that his team was also occasionally involved in a "flareup" or "altercation" on the field.

5/ There was also an "incident" in a pre-season scrimmage with Avondale High School in 1963. James says he first learned that Avondale was critical of the Warren team in November 1966. It is not at all clear who was to blame for this "incident"--the Warren players, the Avondale players, all the players, or the fact that there were no referees present to handle the scrimmage.

6/ This referee was also critical of Nowak's actions at a basketball game in the spring of 1964. Both men were spectators. He contends Nowak stood up and booed an official in front of many Warren High School students. This kind of behavior is reprehensible even though it occurs while a teacher-coach is off duty.

Because most of the charges against him have not been borne out by the evidence and because the School Board failed to provide him with any notice of the need for improvement, I find that the discipline was neither "fair" nor "for just cause." His removal was a violation of Article III, Section 2. In reaching this conclusion, I have considered and rejected the Association claims that his removal was caused by "personal spite and vindictiveness" or by his "organizational activities."

Nowak should be returned to his position as Head Football Coach for the 1968-1969 school year and should be compensated for his loss of extra-curricular pay as Head Football Coach for the 1967-1968 school year. The Association asks for a substantial award of damages beyond mere back pay on the ground that the School Board acted "capriciously and recklessly" and that Nowak has suffered an "impairment of his reputation, loss of prestige in his profession, and psychological injury." I cannot grant this request. The School Board removed Nowak from his position in the mistaken but good faith belief that it had complete and unfettered discretion with respect to extra-curricular coaching appointments. It did not act "capriciously and recklessly." There is no indication of any "psychological injury." Any damage to his reputation should be repaired by this award which makes it perfectly clear that his dismissal was unjustified. No interest on the back pay is required. The Association's demand for "litigation costs" is denied.

AWARD

The grievance is granted. Nowak should be returned to his position as Head Football Coach for the 1968-1969 school year and should be compensated for his loss of extra-curricular pay as Head Football Coach for the 1967-1968 school year. No further relief is appropriate.

/s/
Richard Mittenthal, Arbitrator

The Commonwealth of Massachusetts

DEPARTMENT OF LABOR AND INDUSTRIES

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BOARD OF CONCILIATION AND ARBITRATION

BOSTON April 22, 1968

In the matter of the joint application for arbitration of a controversy between

School Committee of the Silver Lake
Regional School District
-and-
Silver Lake Regional High School
Teachers' Association

A 53-1968

The Board, having afforded the Employer and the Union full opportunity to present testimony, exhibits and arguments, and to examine and cross-examine witnesses at the hearing, has onsidered the issue(s) submitted by the parties, and having studied and weighed the evidence bearing on the issu (s), awards as follows:

John H. McCormick is not being properly paid under the basic salary schedule as outlined in the contract between the parties. His salary should be $8,800 per year. The School Committee shall make him whole for all his lost income resulting from its failure to pay him his proper salary.

BY THE BOARD:

/s/_____
ROBERT D. MORAN, CHAIRMAN

/s/_____
George M. Romanos, Commissioner

/s/_____
John F. Roman, Commissioner

STATEMENT OF THE CASE AND OPINION

This case was heard by the Board at Boston on February 13, 1968. The School Committee was represented by Philip S. Cronin, Esq., 4 South Russell Street, Plymouth. The Teachers' Association was represented by Haskell C. Freedman, Esq., 85 Devonshire Street, Boston.

The parties have jointly asked the Board to determine whether John H. McCormick, a teacher of English at the Silver Lake Regional High School, Kingston, Massachusetts, is being paid the salary to which he is entitled under the contract between the parties, and, if not, to determine what remedy should be applied.

Mr. McCormick has been continuously employed as an English teacher at the Silver Lake Regional High School since 1955. He received a bachelor's degree from Harvard in 1938 and a Master's degree from Boston State College in 1940.

In January, 1967, before the parties to this case entered into a collective bargaining agreement, Mr. McCormick was being paid at an annual salary of $6,200, which had been set specifically for him by name as the result of a vote of the School Committee. No other teacher in this school system which employs about 100 teachers was singled out for such treatment. All other teachers were paid in accordance with a salary schedule adopted by the School Committee which set different rates of pay depending upon a teacher's educational attainments and the number of years of teaching experience.

It was stated at this hearing that the School Committee had taken this unusual action in Mr. McCormick's case as a kind of disciplinary penalty because he was not performing in a manner which his superiors in the school system considered adequate for a man of Mr. McCormick's experience and background. No direct testimony to substantiate this was introduced, however.

Neither party to this case here disputes the absolute power of the School Committee to take action of this kind prior to the execution of a collective bargaining agreement. On January 30, 1967, the first such agreement covering teachers employed in the Silver Lake Regional School District was executed by the parties to this case. It is still in effect and has been changed only by the adoption of a salary schedule negotiated on November 9, 1967, pursuant to a wage reopener clause incorporated in Paragraph 8 of the contract. The contract binds the parties until its expiration date--June 30, 1969.

No teacher having been excepted from this contract by agreement of the parties, the contract therefore covers

all teachers in the school system including Mr. McCormick. Paragraph 2 states that:

> ...the Committee recognizes the Association as the exclusive bargaining agent and representative of all professional employees... of the Committee....

Therefore, pursuant to the written agreement of both parties, the Committee voluntarily released its authority to deal directly with Mr. McCormick or any other teacher with respect to individual wages. It agreed to bargain on such matters collectively and exclusively with the Teachers' Association during the period from January 30, 1967 until June 30, 1969.

Agreements of this nature between school districts and their employees was authorized by the adoption on November 17, 1965, of General Laws, Chapter 149, Section 178H(1) which provides in part that:

> Employees shall have...the right to...bargain collectively through representatives of their own choosing on questions of wages, hours and other conditions of employment....

There was no salary schedule included in the January 30, 1967, agreement between the parties. There was, however, a provision included in paragraph 3 that:

> ...the wages...applicable on the effective date of this Contract to the employees covered by this Contract shall continue to be so applicable.

By virtue of this provision, therefore, Mr. McCormick's salary on January 30, 1967 was established at $6,200 per annum. It is worth noting at this point that, although his salary was unchanged, the basis for its establishment changed. Prior to January 30 it was fixed by the School Committee by virtue of its unfettered authority to set teachers' salaries. On January 30, his salary was fixed by a joint agreement entered into between the School Committee and the Teachers' Association which had been granted exclusive authority to bargain collectively for Mr. McCormick and all other teachers in this school system.

The School Committee, of course, was not required to enter into the terms that were included in this contract with the Teachers' Association. It did so voluntarily. It could have attempted to come to an agreement with the Teachers' Association on Mr. McCormick's status but there was no evidence that negotiations of this nature took place.

The evidence indicates that on an undetermined date in March or April 1967, the School Committee voted to set the salary of Mr. McCormick separately from the adoption of the salary schedule and to establish his salary for the 1967-68 school year at $6,450 per annum. The superintendent of schools explained this action to Mr. McCormick in a letter dated May 18, 1967, by stating that:

> The reason for this exclusion is that your performance as a teacher was not considered to be of an adequate professional standard to qualify you for election to the standard teachers' schedule.

This action of the School Committee was a clear violation of its agreement to recognize the Teachers' Association as the exclusive bargaining agent for all teachers. Once having entered such an agreement, the Committee could not unilaterally change or establish any teacher's salary. To achieve the desired result, the School Committee was obligated to both consult with and reach an agreement with the Teachers' Association. The School Committee vote respecting Mr. McCormick's salary for the school year 1967-68, is consequently a nullity.

On November 9, 1967, the parties agreed upon a new salary schedule for all teachers. It provided for 12 steps, each step being defined as "the completion of a year's teaching in a satisfactory manner within the Silver Lake Regional School District, or its equivalent". Within each step five different salary categories were established depending upon the teacher's educational attainments, that is, whether the teacher had a Bachelor's Degree, a Bachelor's Degree plus 15 hours credit toward a Master's Degree, a Master's Degree, etc.

Neither the evidence nor the agreement revealed when this salary schedule became effective. The evidence did indicate however that all teachers were paid the rate specified for teachers of their years of service and educational attainment - except Mr. McCormick. He continued to be paid at the rate set by the vote of the School Committee in March or April, 1967.

There is no question but that Mr. McCormick must be considered a part of this salary schedule the same as every other teacher. The parties made no exceptions from the schedule. They knew that they were setting a schedule for "all professional employees" and they so stated in their agreement.

Step 12 is the highest step on the Schedule. It provides that a teacher with a Master's Degree shall be paid $8,800 per annum. When this salary schedule was adopted, Mr. McCormick had been teaching in this system for 12 years and held a Master's Degree. If he belongs at Step 12, therefore, his salary should be $8,800 per year.

There is only one reason why he would not belong at Step 12: because his teaching within the system had not been performed "in a satisfactory manner". There was very little competent evidence introduced on this point at the hearing. There was some hearsay testimony that a former principal of the high school considered McCormick's performance as a teacher to be sub-standard. But neither this man who, it was stated, is now with another school system, or any other person who had first-hand knowledge of McCormick's teaching performance was produced as a witness by the School Committee. On the other hand, the Teachers' Association introduced copies of 3 teacher evaluation forms which had been given to Mr. McCormick after periodic evaluations of his teaching on October 3, 4, and 5, 1967 by the co-head of the English Department - one of McCormick's immediate superiors. Although these forms had spaces for the evaluator to make suggestions for improvement in the five categories on which McCormick was rated (i.e. knowledge of Subject Matter, Personal Qualities, Professional Characteristics, Techniques and Effectiveness of Teaching, and Performance Within School other than Teaching), there were no such suggestions made. In fact, there was nothing on these evaluation forms derogatory to Mr. McCormick or from which a person could conclude that he was not an ordinary prudent teacher performing in a satisfactory manner.

The burden of proving that an employee is not performing his job in a satisfactory manner rests with the employer. It is logical that this be so. An employer has hired an employee and retained him in his employ. These are positive acts indicating satisfaction with the

employee's ability to fill the job and his performance as an employee in the actual work situation. It is no argument that the procedures for disciplinary action are unworkable or weighted in favor of the employees. This is particularly true in the case of a teacher. The School Committee has a heavy responsibility for the education of children. Surely they would protect these children from an inadequate teacher if there was reason to do so. In this case, no attempt was ever made to discipline Mr. McCormick or to assign him to non-teaching duties and, in fact, the School Committee voluntarily elected him as a teacher in the system each and every year since 1955 and delivered to him a signed contract for each school year. The foregoing is inconsistent with the hearsay evidence and unsubstantiated assertions made at this hearing that Mr. McCormick's performance as a teacher was unsatisfactory.

The School Committee has not sustained its burden of proving that Mr. McCormick's performance was unsatisfactory. His proper place on the salary schedule of November 9, 1967, therefore, is at Step 12 and his proper salary under the contract is $8,800 per year.

Since he is being paid at a lower rate than that which the Board has here found to be proper, the School Committee is obligated to remedy this injustice by paying him the difference between his proper rate and the rate at which he has been paid. This will be retroactive to the date upon which the salary schedule of November 9, 1967, went into effect.

FOR THE BOARD

ROBERT D. MORAN, CHAIRMAN

We concur in this Award.

GEORGE M. ROMANOS, JR.,
COMMISSIONER

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of WAUWATOSA BOARD OF EDUCATION Involving Employes of WAUWATOSA BOARD OF EDUCATION	Case IX No. 11699 ME-339 Decision No. 8300-A

Appearances:
Lamfrom, Peck, Ferebee & Brigden, Attorneys at Law, by Mr. W. B. Ferebee, for the Municipal Employer.
Goldberg, Previant & Uelmen, Attorneys at Law, by Mr. John S. Williamson, Jr., for the Employe Organization

ORDER DISMISSING PETITION FOR ELECTION

Wautwatosa Board of Education having filed a petition with the Wisconsin Employment Relations Commission requesting that the Commission conduct an election or elections among certain of its employes to determine appropriate bargaining units and representation, and with respect to the latter, whether certain of its employes desire to continue their representation by District Council 48 and Local 1561 of the American Federation of State, County and Municipal Employees, AFL-CIO, and hearing on said petition having been conducted by the Commission on October 27, 1967, Chairman Morris Slavney and Commissioner Zel S. Rice II being present; and the Commission, having reviewed the evidence, arguments and briefs of Counsel, and being satisfied that no question concerning representation exists among the employes involved;

NOW, THEREFORE, it is

ORDERED

That the petition filed herein be, and the same hereby is, dismissed.

Given under our hands and seal
at the City of Madison, Wisconsin,
this 28th day of February, 1968.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney /s/
Morris Slavney, Chairman

Zel S. Rice II /s/
Zel S. Rice II, Commissioner

William R. Wilberg /s/
William R. Wilberg, Commissioner

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of WAUWATOSA BOARD OF EDUCATION Involving Employes of WAUWATOSA BOARD OF EDUCATION	Case IX No. 11699 Me-339 Decision No. 8300-A

MEMORANDUM ACCOMPANYING ORDER
DISMISSING PETITION FOR ELECTION

The instant proceeding was initiated by a petition filed on September 26, 1967, by the Wauwatosa Board of Education, hereinafter referred to as the School Board, requesting the Commission to conduct an election, pursuant to Section 111.70, Wisconsin Statutes, to determine whether its employes employed in a claimed appropriate collective bargaining unit, consisting of "all custodial and maintenance employes, excluding carpenter, plumber, electrician, electrician helper, cafeterial employes, clerical employes, supervisors, professional and executive employes," desired to be represented for the purposes of conferences and negotiations by Local 1561 and District Council 48, AFSCME, AFL-CIO, hereinafter referred to as the Union. In its petition the School Board claimed that

> in the election held on February 20, 1963, the eligible employes inappropriately included certain craft and supervisory employes, as well as cafeteria employes who constitute a separate department or division and who have not had an opportunity to indicate whether they wish to be represented separately, the total of which employes if appropriately excluded might well change the results of the election.

The petition also stated that

> the bargaining representative by recent statement(s) and activities has indicated a practice and intent to distinguish between "union" employes and "non-union" employes (i.e., employes who are members of the Union and employes who are not members of the Union) in its representation of employes currently in the bargaining unit.

On March 6, 1963, following an election conducted by it, the Commission certified the Union as the exclusive collective bargaining representative of "all custodial and maintenance employes of the Wauwatosa Board of Education, including the stock clerk, and all cooks, but excluding the electrician, carpenters, clerical employes and all other employes, supervisors, professional employes and executives." Said election had been conducted pursuant to a stipulation therefor executed by the parties, wherein they had stipulated to the appropriate unit. On or about December 12, 1966, the parties entered into a collective bargaining agreement covering the wages and working conditions of the employes in the certified unit. The agreement became effective on January 1, 1967, and was to remain in effect from year to year thereafter unless either party requested a change by June 1 of the year preceding the year in which its proposed changes were to become effective. The agreement also set forth that if changes were requested, bargaining thereon would commence in September.

On May 6, 1967, following a proceeding for the clarification of the bargaining unit, which involved a determination with respect to the supervisory status of certain classifications of employes, the Commission amended its Certification to reflect that the classifications of supervising custodian and supervising custodian and swimming pool operator were considered included in the appropriate bargaining unit.

Hearing on the instant petition was held on October 12, 1967. Subsequently the Union filed a motion requesting that the Commission reopen the hearing for the purpose of admitting evidence alleged to be relevant to the conduct of the School Board with respect to negotiations with the Union. The Commission on November 24, 1967, denied the motion on the basis that it pertained to matters affected by the pending petition. On February 5, 1968, the Union again filed a similar motion. The dismissal of the petition herein necessitates no ruling on the motion.

The primary issue raised by the petition, pleadings, and arguments and briefs of counsel is whether there presently exists a question of representation among the custodial and maintenance employes of the School Board.

The School Board contends that a question of representation presently exists for the following reasons:

1. The presently existing certified collective bargaining unit is inappropriate in that it includes certain craft employes.

2. The employes employed in the cafeterias constitute a separate department and employes therein should be given an opportunity to determine for themselves whether they desire to constitute a collective bargaining unit separate and apart from the other custodial and maintenance employes. Further, that regular part-time cafeteria employes, who were excluded from the certified unit by agreement, should have been properly included in the unit.

3. The Union in carrying out its representative status has distinguished between members and non-members.

4. The school board has a good faith doubt as to whether a majority of the employes presently desire representation by the Union.

FACTS WITH RESPECT TO CRAFT INCLUSION

Pursuant to the stipulation executed by the parties, the certified bargaining unit excludes the craft classifications of electrician and carpenters. No other craft classification was called to the attention of the Commission during the initial election proceeding. The School Board also employs a plumber, two painters as well as an electrician helper. During the course of the hearing on the instant petition, parties agreed that the plumbers and painters constitute craft employes within the meaning of Section 111.70(4)(d). The School Board contends that the electrician's helper is also a craft employe. The Union contends otherwise. The record discloses that for at least the past five years the electrician's helper has performed electrical maintenance work. The particular employe who is classified as "Custodian Assigned" has worked with the electrician for the past 11 years and has performed all of the duties performed by the electrician except for the maintenance and repair of the clock system. The helper performs such duties without the direct supervision of the electrician. On occasions the helper has performed some snow plowing and replaced custodial employes when the need has arisen.

The School Board asserts that the Custodian Assigned, as the electrician's helper, should be included in a craft unit with the electrician and therefore should not be in the unit with other employes. It cites in support thereof the Commission's decision in Winnebago County Hospital[1] where the Commission held that "helpers who are in line of progression in the craft will be included as part of the craft." The School Board contends that the evidence supports a finding that the helper has had on-the-job training equivalent to an electrician's apprenticeship program and that he only needs a license granted by the City of Wauwatosa to become a journeyman electrician. It contends that the classification "Custodian Assigned" should not be determinative of the employe's craft status for the reasons that the Commission should look beyond job titles to determine the status of the employe involved.[2]

The Union argues that since the Municipal Employer-Employe Labor Relations Law does not provide that it is a prohibited practice for a municipal employer and a labor organization representing its employes to agree to a collective bargaining unit which includes craft as well as non-craft employes and therefore there is no statutory prohibition preventing the parties from agreeing to such units. Accordingly, the Union contends that there is no reason for the Commission to disregard the stipulated appropriate bargaining unit and that the Commission should encourage the parties to "live up to their contractual commitments" reflected in the stipulated unit and in the collective bargaining unit subsequently executed by the parties.

CAFETERIA EMPLOYES

The School Board maintains a hot-lunch program for students in 12 schools. Lunches are prepared in seven of the schools, while food is transported to the remaining five schools. The food-service operation has been

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1/ Dec. No. 6043, 7/62.

2/ Village of Shorewood, Dec. No. 6552, 11/63.

previously designated by the School Board as its cafeterias, and the employes therein as cafeteria employes. All the employes therein are under the primary supervision of the Supervisor of Cafeterias, who reports to the Director of the Business Services, who in turn reports to the Superintendent of Schools. At the time of the hearing the School Board employed 18 full-time and 35 part-time cafeteria employes. Cafeteria employes are employed only during the school term, they are hourly-paid, they receive no vacation nor holiday pay, they are separately supervised, and they perform duties separate and apart from other employes. The Custodial and Maintenance employes work the full year, are paid monthly, and receive vacation and holiday pay.

The regular part-time cafeteria employes work from two to five hours daily, do not earn sick leave or participate in the life and hospital surgical insurance plans. The nature of their duties and their rate of pay are similar to regular full-time cafeteria employes who are employed six hours a day and who receive sick leave and participate in life and hospital surgical plans.

With respect to the cafeteria employes, the stipulated bargaining unit includes all full-time cafeteria employes who were designated in the certification as "cooks". However, in negotiations which subsequently followed the certification, the cafeteria employes were broken down into three separate classifications, assistant cook manager, cooks and cook helpers. It would appear that the regular part-time employes have been designated by the Municipal Employer as cook helpers.

The position of the Municipal Employer is that the cafeteria employes and the custodial and maintenance employes are in reality separate departments. It points out that these two groups of employes have distinct duties, work in different locations, and have separate supervision. In addition, it is noted that the hours worked by each group of employes differs, their method of compensation differs in that custodial and maintenance employes are paid a monthly salary and cafeteria employes receive an hourly rate, and certain employe benefits differ, specifically vacation with pay, holiday pay, and sick leave. Therefore, it is argued that the criteria established by the Commission in distinguishing separate departments are present in this instance. In addition, the Municipal Employer argues that the original bargaining unit, established by stipulation and not by Commission determination, included some and not all of the cafeteria employes, and since the Municipal Employer believes that all cafeteria employes are entitled to a separate unit vote based on the fact that they constitute a separate department, it has petitioned the Commission to provide these employes with an opportunity to express their wishes with respect to inclusion or exclusion from the overall maintenance unit.

The Municipal Employer, therefore, asserts that the regular part-time cafeteria employes should be included in a unit, whether it be the overall custodial and maintenance unit or the separate cafeteria department unit if the employes choose to constitute themselves a separate unit. In support of its position the Municipal Employer argues that the Commission has consistently held that employes who are regularly employed on a part-time basis have an interest in wages, hours and conditions of employment and consequently are eligible to participate in an election involving full-time employes.3/ Therefore, it is argued that these employes have a sufficient interest in the wages, hours and working conditions of the bargaining unit employes to be included in the bargaining unit with the full-time cafeteria employes, and the Commission should accordingly conduct an election to determine the wishes of all cafeteria employes with respect to inclusion or exclusion from the overall custodial and maintenance unit and the selection of a bargaining representative.

The Union contends that since the collective bargaining agreement between the parties provides that any party seeking any unilateral changes in the practices and policies set forth in the collective bargaining agreement would request such changes "by June 1 of the year preceding the year in which the changes are to go into effect," and since the Municipal Employer did not make any request to change the status of any of the employes working in the cafeteria with respect to their inclusion in the bargaining unit, the Commission should not permit the Municpal Employer to violate its contractual promise to request such changes as set forth above.4/ In addition, the Union argues that there is nothing in the Statute which requires that the employes in the cafeteria department, even if they are found to constitute a separate department, must be given an opportunity to determine whether they wish to constitute themselves a separate bargaining unit, nor does the inclusion of those employes in the overall unit without their having been given a unit determination vote make the overall unit inappropriate.

ALLEGED DISPARITY OF TREATMENT OF NON-UNION EMPLOYES

In support of its contention that the Union, in representing its employes, distinguished between members and non-members of the Union, the only evidence was statements contained in newsletters distributed by the Union during April and May 1967, and produced by the School Board with respect to such contention. In the first letter the Union publicized the fact that it was, in accordance with the grievance and arbitration provisions of the collective bargaining agreement existing between the parties, submitting a grievance relating to the reclassification of a Mechanics Helper, the matter was characterized in the newsletter as follows:

> This case involves an employe (who happens to be non-union) who was given a raise above and beyond what the Union negotiated. A typical Union-busting technique, we expect to teach the School Board, through arbitration, that they must communicate and negotiate with the Union on all matters relating to wages, hours, and conditions of employment. Sooner or later, the Board is going to learn that it is much easier to work with us than against us.5/

The May newsletter contained the following reference to the arbitration case:

> On Friday, May 5 Local 1561 and the school board presented the cases to arbitrator Thomas P. Whalen. The case involves an additional pay increase unilaterally given by the school board to a non-union employe in the maintenance department.5/

The School Board argues that the above statements indicate that the Union distinguishes between members and non-members, or at least infers disparity of treatment, and thus, the School Board argues, that the employes who voted in the original election now believe that the Union will not provide equal representation to all employes, and therefore the employes should now be given an opportunity to express their desires with regard to representation.

3/ Portage Stop-N-Shop, Dec. No. 6803, 7/64 and City of South Milwaukee, Dec. No. 7202, 7/65.

4/ The Union put forth the same argument with respect to the School Board's desire to exclude the Electrician's Helper from the unit.

5/ Emphasis added.

The Union contends that the statements contained in the letters do not establish or infer any disparity of representation of members vis-a-vis non-members.

SCHOOL BOARD'S GOOD-FAITH DOUBTS AS TO UNION'S REPRESENTATIVE STATUS

The School Board asserts that it has a good faith doubt of the Union's majority status since it queried its supervisory staff as to whether they were, from day to day conversations with the employes, able to form an opinion as to whether a majority of the employes presently desire representation by the Union. It further asserts that as a result of these inquiries, in the opinion of the supervisory staff, specifically the school principals, there was a question as to whether a majority of the employes in the bargaining unit presently desire that the Union continue to represent them.

The record indicates that early in the summer of 1967, the School Board directed the Assistant to the School Superintendent to secure information relative to whether or not a majority of the employes in the bargaining unit desired to continue their representation by the Union. The Assistant to the Superintendent thereafter contacted the school principals to determine whether in their opinion a majority of the employes presently desire representation by the incumbent Union, and as a result of such inquiries, at a special meeting of the School Board held in July, the Assistant to the Superintendent reported to the School Board that the school principals were of the opinion that there was a reasonable doubt as to whether or not a majority of the employes in the bargaining unit still desired to be represented by the Union.

The School Board further argues that Section 111.70 (4)(d), Wisconsin Statutes, does not require a municipal employer to demonstrate that it has reasonable cause to believe that the certified union does not represent a majority of the employes in the bargaining unit in that Section 111.70 (4)(d) provides that "whenever a question arises between a municipal employer and a labor union as to the employes of the employer, either the union or the municipality may petition the board to conduct an election among said employes to determine whether they desire to be represented by a labor organization . . ." It further contends the Commission has clearly established a rule which does not require the petitioning union to demonstrate a showing of interest in a petition for a second election, and accordingly, there is no reason to require a municipal employer to demonstrate by objective evidence that there is a lack of interest by the employes in the union certified to represent them.

The School Board argues that since it could not conduct a private poll or interrogate employes concerning their union membership or sympathies, and since documentary evidence such as union dues or check-off authorizations were not available, in order to determine the sympathies and attitude of the employes with respect to union representation, it queried its supervisory staff as to whether, in their opinion, there was a question of representation. The School Board claims that although the evidence is "tenuous," under the circumstances it is the best evidence available. For all of the above reasons the Municipal Employer argues that a question concerning representation does exist in this instance and the Commission should direct an election.

The School Board further argues that it has a reasonable cause to believe that the Union does not presently represent a majority of the employes in the appropriate collective bargaining unit because of the improper inclusion of the craft employes, namely plumbers, painter and electrician's helper, in the original unit, and, also because of the exclusion of the regular part-time cafeteria employes from the original unit, and further, on the basis that the cafeteria employes, being a separate department, constitute a unit separate and apart from the custodial and maintenance employes, and therefore, since there is a question which has arisen concerning the appropriate unit, there also exists a question of representation.

With respect to this issue, the Union argues that Section 111.70(4)(d) does not either specifically grant or deny the Commission the discretion to dismiss employer petitions, and further argues that there is nothing in this section of the statute which contemplates the creation of a device which would "enable public employers 'to disrupt collective bargaining' and upset 'stable relations.'" The Union asserts that there is no reason for granting municipal employers the right to file election petitions where they have no good faith doubt of the union's majority status. The Union asserts that the facts demonstrate that the School Board's purpose in filing this petition was to postpone as long as possible its obligation to bargain in good faith with the Union. The Union argues that the evidence pertaining to the School Board's refusal to bargain subsequent to the election hearing is relevant to the Union's motion to dismiss the petition, and therefore, the Commission's denial of the Union's motion to reopen the hearing to allow evidence with respect to the Municipal Employer's refusal to bargain and dilatory tactics should be reconsidered and the motion granted.

DISCUSSION

The Municipal Employer-Employe Labor Relations Law, in Section 111.70(4)(d), contains the following language with respect to representation elections among municipal employes:

> (d) Collective bargaining units. Whenever a question arises between a municipal employer and a labor union as to whether the union represents the employes of the employer, either the union or the municipality may petition the board to conduct an election among said employes to determine whether they desire to be represented by a labor organization. Proceedings in representation cases shall be in accordance with ss. 111.02(6) and 111.05 insofar as applicable, except that where the board finds that a proposed unit includes a craft the board shall exclude such craft from the unit. The board shall not order an election among employes in a craft unit except on separate petition initiating representation proceedings in such craft unit.

The material portion of Section 111.02(6) of the Wisconsin Employment Peace Act provides as follows:

> (6) The term "collective bargaining unit" shall mean all of the employes of one employer (employed within the state), except that where a majority of such employes engaged in a single craft, division, department or plant shall have voted by secret ballot as provided in section 111.05(2) to constitute such group a separate bargaining unit they shall be so considered. . .

The material portions of Section 111.05 of the Wisconsin Employment Peace Act provide as follows:

> (2) Whenever a question arises concerning the determination of a collective bargaining unit as defined in section 111.02(6), it shall be determined by secret ballot, and the board, upon request, shall cause the ballot to be taken in such manner as to show separately the wishes of the employes in any craft, division, department or plant as to the determination of the collective bargaining unit.

(4) Questions concerning the determination of collective bargaining units or representation of employes may be raised by petition of any employe or his employer (or the representative of either of them) . . . The fact that one election has been held shall not prevent the holding of another election among the same group of employes, provided that it appears to the board that sufficient reason therefor exists.

Under the pertinent statutory provisions a question of representation must exist as a condition precedent to the processing of a petition for an election among employes. The Commission has not required any showing of interest to be demonstrated by any petitioner with respect to the processing of election petitions filed pursuant to the Wisconsin Employment Peace Act or the Municipal Employer-Employe Labor Relations Act. The Commission has considered the filing of the petition, whether it be to certify or decertify a representative, as a good-faith claim that the employes desire to be represented or not to be represented. This policy has been applied in initial and subsequent elections[6/] on the basis of our experience that the overwhelming number of petitions have been filed in good faith with the expectation of obtaining the results prompting the petition.

Under both statutes, the fact that the Commission processes the petition does not necessarily result in the conduct of an election. Even assuming no issue with respect to the appropriate unit, there are other factors considered by the Commission as to whether a question of representation presently exists. In private employment, the Commission has considered the presence or absence of a current collective bargaining agreement, the presence or absence or current and active negotiations and the length thereof, whether the current bargaining agent is certified or recognized, the period of time since the current bargaining agent was certified, and the employment relations history involved. Such considerations have led to the adoption of contract bar principles, as well as a policy with respect to the timely filing of petitions. In processing election petitions under Sec. 111.70, in addition to the above noted factors, the Commission has also considered the budgetary deadlines involved, as well as other pertinent statutes and ordinances affecting the collective bargaining relationship and the implementation of conditions of employment reached at the bargaining table.

The establishment of a policy which would now require labor organizations seeking representation to present a showing of interest or to require that an employer establish a good faith doubt that the employes desire to continue their representation by an incumbent union, requires a consideration of the rights of employes to select or change their bargaining representative, with the interest of preserving stability in existing collective bargaining relationships. We have considered the above-discussed factors in order to balance and achieve these objectives when confronted with issues involving the timely filing of petitions for elections.[7/]

Although the Commission has not in the past processed a substantial number of petitions which have not been filed in good faith, the results of recent elections seeking a change in the present representative status indicate that an increasing number of petitions have been filed where there was little likelihood of success by the petitioner. The processing of such election petitions has resulted in no change in the bargaining relationship and has had an adverse impact upon such existing relationship, in that such processing has interrupted and delayed negotiations, thus affecting the stability of the collective bargaining relationship. Such unwarranted delays create problems especially in municipal employment with respect to the effect of budgetary deadlines and other special deadlines which may be imposed by statute, and in both the private and public employment where such delays create additional issues for bargaining, such as effective dates of agreements, as well as their retroactive application.

The Commission concludes that there is now sufficient reason requiring parties requesting elections seeking a change in representation or the rejection of the present representative to furnish the Commission with objective data raising the question concerning representation before it will conduct such an election, which if otherwise held, might delay and frustrate the relationship between the recognized or certified labor organization and the employer. Inasmuch as election procedures with respect to representation and bargaining units are identical in the Wisconsin Employment Peace Act and in the Municipal Employer-Employe Labor Relations Law, the policies which we are herein adopting shall apply to election proceedings processed by this agency under both statutes.

Accordingly, where there is an existing collective bargaining relationship resulting from a good faith voluntary recognition of the labor organization, or where the labor organization has been certified in an election conducted by this agency, an organization filing a petition for an election among the employes involved at the time of filing must administratively demonstrate that at least 30 per cent of the employes in the claimed appropriate collective bargaining unit desire the petitioning organization to represent them for the purposes of collective bargaining. Where the petition is filed by an employe or employes seeking to terminate the representative status of the incumbent labor organization, the petitioning employe or employes must administratively demonstrate to this agency at the time of filing that at least 30 percent of the employes in the requested bargaining unit desire to terminate the representative status of the union. An employer petitioning for an election in an existing unit must demonstrate to this agency at the hearing, by objective considerations, that it has reasonable cause to believe that the incumbent organization has lost its majority status since its certification or the date of voluntary recognition. This objective evidence must not have been obtained by the employer through prohibited means.

Under both the private and municipal labor laws, all the employes of the employer generally constitute an appropriate unit. The Municipal law contains a specific statutory exception, and that is that craft employes can only be included in a unit consisting of the same craft.[8/] The Commission has applied the same provision to professional employes.[9/] In the private employment act, employes engaged in a separate craft, division, department or plant may determine for themselves whether they desire to constitute a separate unit.[10/] Under the municipal law, this option is also given to employes employed in a separate division, department or plant.[11/] In the past, where a request for such a separate unit has been made, and where it has been established that the unit desired constitutes a separate craft, division, department or plant, the Commission has conducted a unit determination election without any requirement of a showing of interest.

6/ Kenosha Board of Education, Dec. No. 8301, 5/67.

7/ City of Green Bay, Dec. No. 6558, 11/63; Waukesha County, Dec. No. 7435-A, 5/66; Kenosha Board of Education, Dec. No. 8301, 5/67.

8/ Sec. 111.70(4)(d), Wis. Stats.

9/ Winnebago County Hospital (6043), 7/62.

10/ Sec. 111.02(6), Wis. Stats.

11/ Sec. 111.70(4)(d), Wis. Stats.

We are now changing our policy with respect to unit determination elections. Where a properly recognized or certified bargaining unit exists, and where a petition is filed by a labor organization seeking a severance from the existing unit on the claim that the unit sought constitutes a separate craft,[12] division, department or plant, the petitioner must administratively demonstrate to this agency at the time of filing that at least 30 percent of the employes in the proposed smaller unit desire to be represented by the petitioning organization in the smaller unit. Where the employes file a petition seeking merely to sever themselves from the existing unit without any representation, such petitioners must administratively demonstrate to the Commission at the time of filing that at least 30 percent of the employes in the claimed separate craft, [13] division, department or plant desire to constitute themselves a unit separate and apart from the employes in the existing unit. When such a petition is filed by an employer, the employer must demonstrate at the hearing by objective considerations that it has reasonable cause to believe that the employes in the claimed separate craft, department, division or plant desire to constitute themselves a separate collective bargaining unit. Of course, if the showing of interest is appropriate, the Commission must be satisfied that the unit sought constitutes a separate craft,[14] division, department or plant. The fact that the Commission directs an election which would permit employes to sever themselves from the existing unit does not in itself raise a question of representation among the remaining employes in the original unit. If a representation election is desired among the employes in the remaining unit, there must be a separate showing of interest for those employes or, in case the petition is filed by the employer, an establishment of a good faith doubt as to whether the employes in the remaining unit desire to continue their representation by the incumbent union.

In the instant proceeding the School Board asserts it has a good faith doubt that a majority of employes desire to continue their representation by the Union. One of the elements relied upon by the School Board in attempting to establish a good faith doubt as to the Union's representative status concerns the fact that the stipulated bargaining unit, which was subsequently certified by the Commission, includes certain craft employes, contrary to Section 111.70(4)(d), Wis. Stats.

The Commission agrees with the School Board that the certified unit should not include craft employes since the statute specifically prescribes that "the board shall not order an election among employes in a craft unit except on separate petition initiating representation proceedings in such craft unit."[15] However, the Commission is not of the opinion that the removal of the craft employes from the certified unit creates a question concerning representation. Instead, it is the Commission's opinion that the matter should be treated as a request for a clarification of the certified collective bargaining unit, rather than as a question concerning representation. Here the craft employes inappropriately included in the unit consisted of two painters, a plumber and the electrician's helper. In the original election, of 88 employes eligible to vote, 84 cast ballots, 51 of whom voted in favor of the Union as their representative while 33 opposed such representation. Assuming that said four "craft employes" had not voted in favor of the Union, the Union's majority would have remained substantial without their vote. Under such circumstances the exclusion of such craft employes from the unit does not raise a question of representation in the existing unit.

The School Board contends that its good faith doubt is further substantiated by the fact that the cafeteria employes, being in a separate division, are entitled to a separate unit vote, and further, that regular part-time cafeteria employes were not included in the original unit. The School Board presented no evidence to support a finding that any of the cafeteria employes, full or part-time, desired to constitute a unit separate and apart from any other employes, or that any regular part-time employes were interested in any representation.

The School Board asserts that the newsletters issued by the Union could be construed as discrimination against non-Union employes and that, therefore, the employes should have another opportunity to express their wishes with respect to representation by the Union. However, there was no evidence adduced which supports the School Board's contention that the employes themselves may have changed their attitude toward the Union or that the newsletters affected the desire of any employes to continue representation by the Union.

With respect to the School Board's reliance on the report made to it by the Assistant to the Superintendent concerning the attitude of the employes toward the Union, the Commission concludes that the evidence with regard thereto is insufficient to establish any reasonable cause to believe that the Union has lost its majority status or that any employes have changed their attitude in that regard. At the most, such evidence is compounded hearsay, and we are satisfied that it does not establish a good faith doubt with respect to the majority status of the Union. Therefore, we are dismissing the petition for the reasons stated herein.

Although an issue was not raised with respect to the timing of the filing of the petition herein, we feel obliged to comment thereon. An election hearing is not an adversary proceeding, but is in the form of an investigation conducted by the Commission for the purpose of determining, among other things, whether it will conduct a representation election among the employes involved.

The term of the agreement involved in this proceeding was to continue until at least December 31, 1967, and from year to year thereafter unless either party requested changes by June 1 of the year preceding the year in which changes are to go into effect. The agreement further provided that bargaining on such requested changes was to commence in September. Here the Union had made a timely request for changes for the 1968 agreement. The School Board did not file its petition until September 26, 1967, approximately four weeks after bargaining was to commence on the requested changes. Had not the Union nor the School Board reopened the agreement by June, the agreement would have continued in full force and effect for another year, and this agency would not have entertained any petition for an election during the remainder of 1967.

It appears to us that the timing of the filing of the petition, and the basis on which it was filed, indicates an attempt by the School Board to frustrate the rights of its employes and the collective bargaining process. If the School Board had had any good faith reasonable basis for questioning the Union's majority status, it should have raised such question prior to June 1, the date on which the agreement can be reopened. The entertainment of election petitions by the Commission after either one or both of the parties are formally preparing themselves

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12/ No unit vote is necessary for craft employes in municipal employment.

13/ Ibid.

14/ Ibid.

15/ The Commission concludes that the electrician's helper has sufficient craft skills and training to constitute a craft helper regularly performing craft work, and therefore subject to the craft exclusion as set forth in 11.70(4)(d).

for, or are in collective bargaining, after an agreement has been reopened, and especially during the period established for bargaining, would not effectuate the policies set forth in Section 111.70, since the device of filing petitions at such times would impede meaningful conferences and negotiations in public employment as contemplated in the Statute.

In a decision involving Whitewater Unified School District,16/ a labor organization filed a petition requesting the Commission to conduct an election among employes presently represented by another organization. The incumbent organization and the School Board were parties to an existing collective bargaining agreement, which contained no specific reopening date. The Commission dismissed the election petition as being untimely filed, since it was filed some nine months prior to the date on which negotiations would commence for a possible succeeding agreement. In its decision the Commission indicated that the immediate conduct of a second election would affect the stability of the existing collective bargaining relationship, and the Commission concluded that it would entertain a new petition filed any time within the 30-day period prior to the date on which negotiations would commence for a new agreement.

Where there exists a valid collective bargaining agreement which contains provisions for reopening same for the purpose of negotiating terms and conditions of a new agreement, the Commission will only process petitions seeking an election among the employes covered by said agreement if said petitions are filed within a sixty (60) day period preceding the date established for the reopening of the agreement.

In municipal employment, in the absence of a collective bargaining agreement, where the conditions of employment are reflected in a resolution or ordinance which was adopted after collective bargaining and where said resolution or ordinance establishes a date for the commencement of negotiations to seek changes in wages, hours and working conditions, the Commission will process petitions seeking an election only if said petitions are filed within the sixty (60) day period preceding the date established for the commencement of such negotiations.

The reason for the adoption of such time limitations is to promote stability in the collective bargaining relationship, and in municipal employment to insure the parties a reasonable period of time to engage in bargaining and to negotiate an agreement prior to the established budgetary deadlines, or if no representative is selected, to avoid useless bargaining.

In this particular proceeding, because of the accumulation of the reasons set forth for the change in Commission policy, we are dismissing the petition filed by the School Board, for the reasons (1) that the inclusion of craft employes in the certified bargaining unit does not raise a question of representation in said unit;17/ (2) that it has not established a good faith doubt that any of the employes desire to change their bargaining representative; (3) that it has not established that any of the cafeteria employes desire to constitute a separate unit, or that any regular part-time employes desire to be in any unit; and (4) that the petition was not timely filed.

In summary, the policies adopted by the Commission are as follows:

SHOWING OF INTEREST

Where there presently exists a recognized or certified bargaining representative:

(1) Any election petition filed by a rival labor organization or employes must be accompanied by applications for membership or some form of authorization to seek such election,18/ signed and currently dated, by at least 30 percent of the employes in the existing unit, or in the unit desired by the petitioner.

(2) Where the petition is filed by the employer, the employer at the hearing must demonstrate, by objective considerations, reasonable cause to believe that the incumbent organization has lost its majority status either in the existing unit or in a different claimed appropriate unit.

TIME FOR FILING PETITIONS

Where there presently exists a collective bargaining agreement covering the wages, hours and conditions of employment of employes in an appropriate collective bargaining unit, the petition must be filed within the sixty (60) day period prior to the date provided in said agreement for its reopening. Where the conditions of employment are reflected in an ordinance or resolution, the petition must be filed within the sixty (60) day period prior to the date reflected in the resolution or ordinance for the commencement of negotiations for changes in wages, hours and working conditions of the employes in the unit covered by said resolution or ordinance.

The Commission will continue its present policy of not requiring any showing of interest or time limitations on filing of petitions where there exists no certified or voluntarily recognized collective bargaining representative.

Dated at Madison, Wisconsin this 28th day of February, 1968.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney /s/
Morris Slavney, Chairman

Zel S. Rice II /s/
Zel S. Rice II, Commissioner

William R. Wilberg /s/
William R. Wilberg, Commissioner

16/ Decision No. 8034, 5/67.

17/ The Commission will issue an Amended Certification of Representatives wherein it will amend the existing unit to exclude craft classifications which were included in the original unit.

18/ Such showing of interest shall not be deemed to be part of the petition, but will be reviewed administratively by the Commission. Prior to the issuance of the notice of hearing, the employers involved will be requested to furnish the Commission with a list of employes in the proposed unit, as of the date of the filing of the petition, for the Commission's use in administratively determining whether there is sufficient showing of interest. The validity of the showing of interest shall not be subject to litigation in the representation hearing, as the details of such showing of interest will not be revealed.

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

BEFORE A FACT FINDER

In the Matter of the Fact Finding between

U.F.S.D. #3, PORT JEFFERSON STATION, NEW YORK

-and-

Recommendations

PORT JEFFERSON STATION TEACHERS ASSOCIATION

In accordance with the authority vested in the undersigned by the New York State Public Employment Relations Board with regard to a dispute between the parties hereto, and having duly heard the evidence and argument, I make the following recommendations for resolution of the dispute:

I. The Increase in Salary
Effective 1968-69:

(a) The base BA-1 shall become $6,800 in place of the present $6,300;

(b) The index on the BA base shall be graduated in place of the present 5% on the BA base across and down as follows:

(1) 5%, $340 on BA, BA 15 through step 10;
(2) 5-1/4%, $357 on BA, BA 15 beginning at step 11 on BA and BA 15 and applicable to all other steps across and down except as in (3);
(3) 5-1/2%, $374, beginning at step 7 on BA 45 MA through MA 60.

(c) The present separate BA 45 step shall be replaced by BA 45 MA.

II. The Provision for Grievance Arbitration
Effective 1968-69:

A "grievance" is defined as a complaint by a teacher or a group of teachers based upon an event or condition which arises under the terms and conditions of employment of a teacher or group of teachers and/or an alleged violation or dispute concerning the provisions of this Agreement or the meaning, interpretation or application thereof.

3. Level 3-(b) The Association and the Board may agree upon a mutually acceptable arbitrator. If they do not, the Association may appeal the decision of the Board to the Committee of Labor of Suffolk County for arbitration under its rules.

(c) The arbitrator so selected shall confer with representatives of the Board and the Association and hold hearings promptly and shall issue his decision not later than twenty school calendar days from the date of the close of hearings, or, if oral hearings have been waived, then from the date the final statements and proofs are submitted to him. The arbitrator's decision shall be in writing and shall set forth his findings of fact, reasonings and conclusions on the issues submitted. The arbitrator shall be without power or authority to make any decision which requires the commission of an act prohibited by law or mandated upon or within the sole discretion of the Board. Nor shall the arbitrator make any decision which is violative of the terms of this Agreement. The decision of the arbitrator made in conformance with his authority, shall be binding and final. The arbitrator shall have no power to alter, add to or detract from the provisions of this Agreement.

There is this 1st day of May, 1968, transmitted copy of the Findings of Fact and Recommendations for resolution of the dispute to the chief executive officer of the Union Free School District #3, Port Jefferson Station, N.Y. and the Jefferson Station Teachers Association. There is simultaneously herewith made public such Findings and Recommendations.

JONAS SILVER, Fact-Finder

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

BEFORE A FACT FINDER

In the Matter of Fact Finding between

U.F.S.D. #3, PORT JEFFERSON STATION, NEW YORK

-and-

PORT JEFFERSON STATION TEACHERS ASSOCIATION

DISCUSSION AND FINDINGS OF FACT

PRINCIPAL SPOKESMEN:

For the Board
Robert Schur, Vice-President
John W. Wallen, District Principal
Irwin Selinger, Assistant District Principal

For the Association
Robert Carr, Chairman, Negotiation Committee
John Jurich, President
Jack Zamek, Member, Negotiating Committee

FACT FINDER: Jonas Silver

Pursuant to Section 209 and Section 205.5 (k) of the New York State Civil Service Law, the undersigned was appointed by the New York State Public Employment Relations Board for the purpose of inquiring into the causes and circumstance of the dispute involving the Port Jefferson Station School District and the Jefferson Station Teachers Association and to make findings of fact and recommendations for the resolution of the dispute. Acting under his authority as a Fact-Finder, the undersigned held hearings on April 23 and 25, 1968, at the John F. Kennedy Junior High School, Port Jefferson Station. Both parties appeared, gave testimony, submitted statistical and other evidence and offered argument in support of their respective contentions.

I. The Matters in Dispute

The Association regards as the major differences between itself and the Board*, the requests which it makes on behalf of the teachers in the bargaining unit for (1) a general increase in the 1968-69 salary schedule; and (2) a provision in the new agreement for final and binding arbitration of employee grievances. The Board agrees that the aforesaid are the major differences between the parties. Following the hearing the parties settled the remaining matters in dispute by further collective negotiations. Accordingly, consideration is given hereinafter solely to the issues of salary schedule and arbitration.

The School District

The Port Jefferson-Terryville School District has currently enrolled 3,414 students from K-1 through K-11. In 1968-69, it will have 3,834, and will add grade K-12 to its present Junior High School building. The necessity for sending students to another district at considerable cost will be eliminated with the opening of a new elementary school this Fall, making available facility for grade 6 now enrolled in the Junior High School. These changes and the increase in kindergarten children will require the addition of 40 teachers to the present staff of 169. Plans have been drawn for the construction of a senior high school which, if approved by the residents and taxpayers, will not be completed until 1971. Thus the District is experiencing rising school enrollment, crowded classrooms and inadequate physical plant. Taxwise the school tax rate at present is $14.23 per $100; and there is little industrial property. Despite these pressures of expansion and the resultant tug upon the taxpayer's pocket book, the District has maintained sound educational standards and a fair level of teacher salaries.

I. The Issue of an Increase in Salary

The Association requests that the Fact-Finder recommend that the present salary schedule be increased in 1968-69 as follows:

$1,100 over the current base of $6,300 for the entering teacher with a BA degree or $7,400, with retention of the existing 5% index on the BA base in educational credits increment and length of service increment or $370 in place of the current $315 increment;

merge the BA 45 credits progression with the MA making a single BA 45 MA.

The Board requests that the Fact-Finder recommend that the present salary schedule be increased as follows:

$315 over the current base or $6,615 for the entering teacher with a BA degree with retention of the existing 5% index or $330 in place of the current $315;

retain the separate BA + 45 progression.

A. The Arguments of the Parties

In support of its position the Association argues:

(1) Teacher negotiated increases in Nassau and Suffolk are currently averaging above 9% of total

*The term Board refers to the Board team, not the Board itself.

bargaining unit payroll when considering the general increase and the addition to existing increments, i. e., new money. When fringe benefits in money value are added, the percentage of new money is 10 percent.

(2) The increase in BA, step 1 is running to 15% above present levels.

(3) Port Jefferson Station ranks 41 out of 600 school districts measured by MA cumulative salary after 20 years or $1,000 ahead of Islip in 52nd place but Islip negotiated a base of $6,900 and a 5-1/2% index; Northport is 79th place, negotiated a $7,000 base; Hauppage, ranked about the same as Port Jefferson Station, negotiated a $6,800 base and indices of 5% across, 5-1/2% on step 4 down, 6% on step 8 down, and 6-1/2% on step 12 down.

(4) The $8,204.30 average salary of teachers in this District is achieved after 8 years at the BA; it is well below the $10,100, the Bureau of Labor Statistics estimates a modest family budget requires at today's price level.

(5) Last year's increase of 5% was less than that obtained by teachers generally in other school districts and was accepted by the teachers on the representation that the tax increase would otherwise be extraordinary. In fact, the tax increase turned out to be far less than anticipated.

In support of its position, the Board argues:

(1) The increase which it proposes would cost $125,000 above the existing schedule not including additional social security, retirement, new positions. It represents an increase of 8.25% in existing payroll for unit personnel. (This figure excludes existing increments which come to $53,235).

(2) The existing school tax rate of $14.23 per $100 is fourth highest in the Town of Brookhaven and represents a heavy tax burden for the residents and taxpayers who have very modest incomes and have to provide for a senior high school in the District.

(3) Many school districts in Suffolk have negotiated increases which place their 1968-69 salary schedules well below that sought by the Association and, in some instances, below that offered by the Board.

B. The Findings of Fact

(1) According to data furnished to the Nassau-Suffolk School Boards Association based on 1967-68 salary schedules, the beginning BA teacher at $6,300, resulted in a rank for Port Jefferson Station of 18 below the top out of 43 Suffolk school districts. This ranking was on a par with Babylon, Brentwood, Central Islip, Center Moriches, and Patchogue, among others. The salary was slightly below the average county minimum of $6,331 for beginning teachers and behind Hauppage, Bayport-Blue Point and Bellport, among others.

(2) The maximum on the BA schedule of $10,080, placed this District 33rd in rank below the top and behind Hauppage, Bayport-Blue Point, Brentwood, Bellport and other districts. The salary was below the average county maximum of $10,451 on the BA step.

(3) Taking the teacher with five years preparation, Port Jefferson ranked in 14th place at a minimum of $6,930, a little above the county average minimum of $6,910. With respect to the related steps, the Port Jefferson Station Teacher (MA), reached $11,970 at the maximum or slightly below the county average maximum of $11,979, and the District ranked 19th.

(4) Further statistical measures from the same source (Nassau-Suffolk School Boards Association) show the same conclusion, i. e., that the District ranks closer to the middle countywide, better in some areas of salary than in others as compared with the county averages but not too far above or below averages.

(5) The NYSTA 1967-68 state salary schedule summary indicates that on the 20-year cumulative MA salary schedule, Port Jefferson Station ranks slightly below Hauppage and on a par with East Islip and Sayville in Suffolk and Freeport, Herricks and Lynbrook in Nassau.

(6) By far the preponderant number of school districts in Nassau and Suffolk (including Centereach, Smithtown, Brentwood, and Hauppage) have negotiated a $6,800 minimum 1968-69 for BA-1.

(7) The offer of the Board in terms of new salary would appropriate 4.9% of payroll of bargaining unit salaries which is substantially below the average increase in salary represented by new money (i.e., base increase plus add on to existing increments) in Nassau and Suffolk settlements currently. The latter figure appears to be approximately 9%.

(8) The level of salaries in the Long Island school district generally, the trend of negotiated increases, the ranking of Port Jefferson Station salary-wise in comparison with other districts with which it has kept pace in the past, are all relevant factors employed by the Fact-Finder in arriving at a recommendation. The Board is made aware of these factors in the effort to recruit new teachers; the teachers are aware of these factors in the consideration they give as to whether to accept a position in this or another District.

(9) The Fact-Finder also considers the extent to which the salary schedule allows for increases based on additional educational attainments and length of service in the District for the teacher who continues to serve the educational needs of the District in competent fashion should receive appropriate recognition in the increment structure.

(10) It is anticipated that the State Legislature will provide aid to the extent of the $760 factor. Whatever the precise final figure, the Fact-Finder recommends an appropriate increase in the present salary schedule reasonably consistent with the foregoing findings. Such increase is set forth in the Section, "Recommendations." It will maintain the level of salary schedule in this District relative to the upward changes in teacher salaries generally and the position of this District in relation to the position it now occupies with respect to other school districts as Long Island.

The Fact-Finder is mindful of the tax burden involved in funding the salary increases; he has taken particular note of the present high level of the school tax rate and the as yet unfulfilled need for a senior high school in determining a fair and equitable salary increase.

However, it should be clearly understood that the District cannot expect to attract and hold competent teachers while at the same time seeking to establish a new salary schedule which would be less than realistic in the light of all the aforementioned findings as to comparable teacher salary trends. Acceptable educational standards cost money to maintain. But are the children of this District to be denied the excellence of instruction and the quality of facilities that are necessary effectively to prepare them for the vocation, the college admission, the intelligent, informed participation in the affairs of a democratic society in which they will one day be an active citizen? Teacher salaries are an important element of school costs; they cannot be arbitrarily held down while text book publishers raise their prices, fuel and utility suppliers obtain increases in their product, school bus services move upward in price, custodians demand and receive increases, and builders and architects show no unbecoming modesty. The list could be expanded. It need not be for whatever the costs of running the schools, teacher salaries should be accorded a priority. This is so because in the learning process there is no substitute, not in the audio-visual aid, the closed circuit TV or the teaching machine, for the personal guidance given by the dedicated teacher to the marvel of creation that is the inquiring child. In the frightening race between education and catastrophe in which the foundations of our society are being severely tested, no school district can afford to fall behind with respect to the prevailing level of teacher salaries.

II. The Issue of Final and Binding Arbitration

The Association requests that the Fact-Finder recommend that teacher grievances remaining in dispute after discussion between the Administration or the Board and the Association, shall be submitted to arbitration before an impartial, third party whose decision would be final and binding upon the Association and the Board. The Association would include within the definition of a grievance subject to final and binding arbitration, statements of policy of the Board that affect terms and conditions of employment.

The Board is opposed to final and binding arbitration though it is not averse to advisory arbitration in which a third party would make recommendations as to the disposition of a grievance having to do only with violations of the agreements. Grievances arising out of statements of policy, however, in the Board's view, would not be subject to advisory arbitration.

The Association argues that binding arbitration is necessary in order to fairly decide employee grievances where both parties remain in disagreement and consequently the Board would be the final judge of its own action. Inasmuch as the teachers do not have the right to strike by way of correcting an alleged breach of terms and conditions of employment, they should be afforded instead orderly recourse to decision by an impartial arbitrator. The Association argues further that arbitrable grievances should include disputes over Board policy because many of the terms and conditions of employment are contained in or become the subject of Board policy and are not to be found in the collective agreement. The Association points to several recently negotiated agreements between school districts and teacher associations which provide for arbitration of grievances.

The Board argues that it is unable to accept binding arbitration because a third party would then make decisions affecting matters of policy which are the responsibility of the Board as the representative of the people of the community. The Board explains that it is neither required by law nor can it, practically speaking, await the approval of the Association before it adopts or implements policy which may in some way be said to affect terms and conditions of employment. On the other hand, the Board suggests, it is willing to attempt advisory arbitration with respect to alleged violations of contract provisions as a way of exploring this new and unchartered area of turning to a third party in the settlement of grievances.

A. Discussion and Finding of Fact

However time-consuming, involved and frustrating collective bargaining may become with respect to the wages, hours and conditions of public employees, agreement, finally achieved, brings with it a measure of definiteness and understanding as to the terms of employment over a fixed duration. However, the most skillful of negotiators cannot write the provisions of the agreement in such manner that all day to day questions relating to employment conditions will find ready answers by reference to agreement language. Despite the best effort of the Board and the Association to fairly administer the agreement, there will inevitably occur those differences in interpretation of its terms with regard to employee grievances that will not yield to persuasion.

The prospect of the existence of continuing grievances in the life of a collective agreement is a commonplace in the administration of bargaining contracts covering employees in private industry. There is no reason to expect that grievances will be uncommon in the public sector where, recognition of and collective negotiations with employee organizations has only recently come of age and, if anything, the agreement provisions are limited in substance and reach by the restraints of statute, administrative regulation, and the undelegable discretion of governmental bodies. If, therefore, an agreement such as the one presently being fashioned by the Association and the Board, is to be made to work in practice and thus fulfill the intention of the parties to afford meaningfully satisfactory working conditions, teacher grievances, in appropriately processed fashion, must become susceptible of final solution in the event Board and Association are unable to agree as to the outcome.

Faced with the problem of achieving speedy and judicious decision of unsettled grievances, management and union in private industry early recognized that terminal arbitration would furnish an adequate remedy. And, the Congress gave approval to terminal arbitration of grievances when, in 1947, it included in the Taft-Hartley Act, an expression of public policy in favor of grievance arbitration in private industry. Beginning a decade later, the U.S. Supreme Court, in a series of landmark decisions, judicially sanctioned the enforcement of collective bargaining contracts which provide for finally and binding arbitration of grievances. The Court noted, among other considerations, the use of arbitration as a substitute or quid pro quo for the contractual commitment of a union to a no-strike clause. In view of the prohibition against strikes by public employees under the New York State Public Employees' Fair Employment Act, the adoption of binding arbitration of grievances, within lawful limits, would likewise appear to be a quid pro quo for the declared employee disability.

Section 204 of the Taylor Law requires public employers to negotiate collectively with employee organizations "in the determination of, and administration of grievances arising under, the terms and conditions of employment of the public employees..." It also requires that public employers "negotiate and enter into written agreements with such employee organization in determining such conditions of employment." By the separate reference to the administration of grievances, the legislature showed the particular importance it attached to grievance handling and determination. Indeed, it is a declared public policy of the state and a purpose of the Act, among others, "to promote harmonious and cooperative relationships between government and its employees..." A grievance procedure which provides for terminal arbitration in a final and binding manner where otherwise there would remain the unilateral decision of the Board and/or Administration, contributes substantially to such declared legislative purpose.

Though the Governor's Committee on Public Employee Relations did not concern itself with methods of grievance settlement, it did state:

> We strongly encourage at all governmental levels that the representatives of the employing agency and the employees work out their own procedures for the handling of grievances including terminal arbitration on a case-by-case basis. We suggest this ad hoc basis because of the doubt expressed by some that a provision for binding arbitration applicable to all future disputes would be legal. p. 45

In singling out terminal arbitration as a desirable procedure for grievance disposition, the Committee refers to the doubt of some as to the legality of binding arbitration with respect to all future disputes. It is to be noted, in this connection, that a number of school districts on Long Island (including West Islip, Northport, Brentwood, Cold Spring Harbor, Southhold, Hicksville and Amityville), have to this date negotiated with teacher associations, provision for binding arbitration of grievances. It appears that appropriate safeguards have been written into these contracts relative to the legal problem of assuring to the school district that it will continue to exercise its statutory authority under the Education Law, as well as the rules and regulations of the Commissioner of Education. The undersigned received in evidence, the current agreements of West Islip (Long Island), Buffalo and Schenectady with teacher associations which contain provision for final and binding arbitration of grievances subject to legal safeguards.

It appears therefore that the problem of legality is not insurmountable and does not require the solution offered by the Board, i. e., advisory arbitration. The power of the arbitrator may be defined so as to prohibit unlawful incursions into the area mandated by statute, or reserved to the undelegable authority of the Board.

As for the Board's related concern that the definition of a grievance submissible to arbitration should not intrude on the Board's policy making function, the undersigned believes that such concern, while not without substance, need not remain unquieted. The Association's right to grieve is predicated on "grievances arising under, the terms and conditions of employment..." (Section 204) and "terms and conditions of employment means salaries, wages, hours and other terms and conditions of employment" (Section 201, 5).

In the present state of collective negotiations between the Board and the Association, the forthcoming agreement will hardly define the "terms and conditions of employment" with completeness. The Board's statements of policy will continue to be referrable to "terms and conditions of employment" as at present. To the extent, therefore, that such statements of policy give rise to grievances because the claim is made that application of policy involves differences as to "terms and conditions of employment", the grievance would be no less a grievance than one arising solely under the collective agreement "terms and conditions." Such grievance should therefore be subject to the same procedure terminating in final and binding arbitration. However, it must be clearly understood that the grievance would be a complaint of a teacher or teachers who allege that they are prejudiced in some way by the application of the policy just as the grievance under the agreement would involve a claim of teacher or teachers that they are adversely affected by the application of a provision of the agreement.

In view of the foregoing, the Fact-Finder shall recommend that the parties include in the forthcoming agreement provision for final and binding arbitration of grievances in the critical sections of the grievance procedure in dispute, as set forth in the Section, "Recommendations".

Negotiation Agreements

AGREEMENT

BETWEEN THE

PORT JEFFERSON STATION TEACHERS ASSOCIATION, INC. (NEA)

AND

UNION FREE SCHOOL DISTRICT #3, PORT JEFFERSON STATION, NEW YORK

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PREAMBLE

In order to continue to encourage effective and harmonious working relations among the Board of Education of Union Free School District No. 3, the Executive Office of the District Principal and its professional staff so that the best educational interests of the children of Port Jefferson Station/Terryville may be served, this agreement is hereby entered into on the _____ day of _____, 1968 between the Board of Education and the Port Jefferson Station Teachers Association, Inc.

ARTICLE I

RECOGNITION

A. The Board of Education, Union Free School District No. 3, Port Jefferson Station, New York, having determined that the Port Jefferson Station Teachers Association, Inc., affiliated with the New York State Teachers Association and the National Education Association and incorporated by the Board of Regents in behalf of the University of the State of New York, is supported by a majority of the professional certified personnel in the district, hereby recognizes the Port Jefferson Station Teachers Association, Inc. as the exclusive negotiating agent for the professional certified personnel of this district. The negotiating unit shall include all professional certified personnel except the District Principal, the Assistant District Principal, Principals, Assistant Principals, Coordinators, and Directors. This recognition shall extend until one hundred and twenty (120) days prior to the annual meeting date in 1969 and shall be automatically renewed at that time for a successive period of one year, except as stated in "B" below. The Board agrees not to negotiate with any other individual or organization for members of the negotiating unit other than the Association for the duration of this Agreement.

B. Within 30 days of the end of the one (1) year period of recognition provided for in this Agreement, upon the written request of the Board or of at least thirty percent (30%) of the members of the negotiating unit, the Board may hold an election to determine what organization shall represent teachers in this district. If no such request is received within thirty (30) days of the termination of this Agreement, this Agreement shall automatically be renewed.

ARTICLE II

NEGOTIATION PROCEDURE

A. It is contemplated that the terms and conditions of employment provided in this Agreement shall remain in effect until altered by mutual agreement in writing between the parties or through other provisions provided for in the Agreement. Nevertheless, because of the special nature of the public educational process, it is likewise recognized that matters may from time to time arise of vital mutual concern to the parties. It is in the public interest that the opportunity for mutual discussion of such matters be provided. The parties accordingly agree to cooperate in arranging meetings, selecting representatives for discussion, furnishing necessary information and otherwise constructively considering and resolving any such matters. It is expressly

understood that any reasonable requests for the sharing of information shall be honored and that reasonable requests for any meetings to negotiate matters of concern shall be honored. No conditions in the existing contract need be negotiated without the consent of both parties until the regularly scheduled negotiations meetings.

B. This Agreement shall remain in full force subject to Amendment for the duration of the recognition of PJSTA as the representative of professional certified personnel in the District. No later than January 15th each year, the parties agree to enter into good faith negotiations over Amendments to this Agreement. In case of impasse, either party may request the use of mediation. The parties shall seek to agree on a mutually acceptable mediator and will obtain a commitment from said mediator to serve. If the Board and the Association are unable to agree upon a mediator, or are unable to obtain such a commitment, the parties shall request the State Public Employment Relations Board to designate a mediator to assist the parties to reach an agreement. If the parties retain a private mediator but still remain at impasse for ten (10) calendar days, either party may request the State Public Employment Relations Board for further mediation and fact finding. Such mediation and fact finding will be governed by the provisions of Section 209 of the Civil Service Law.

C. Neither party in any negotiations shall have control over the selection of the negotiating representatives of the other party and each party may select its representatives from inside or outside the school district. While no final Agreement shall be executed without final ratification by the Association and the Board, the parties mutually pledge that their representatives will be clothed with all necessary power and authority to make proposals, consider proposals, and reach compromises in the course of negotiations.

D. The meetings of this Committee shall be open to members of the Committee except that competent professional and/or lay people may be invited to attend. Notifications must be sent to the other party prior to the meetings.

E. When used herein, the term "Teachers" refers to members of the negotiating unit. The terms "him" and "his" shall, when appropriate, also apply to "her" or "hers". The singular also shall apply, when appropriate, to the plural.

ARTICLE III

PRIOR SERVICE CREDIT

A. A maximum of eight (8) years acceptable experience is permissible for placement on the salary schedule, at the discretion of the District Principal. "Acceptable teaching experience" is defined as full time teaching in public and/or private schools. Additional credit for teaching may be allowed for a position on the salary schedule at the discretion of the Board of Education.

B. Credit for placement on the schedule for service in the United States Armed Forces and/or Peace Corps may be granted as follows: one year for each full year of service, not exceeding two years. Additional credit for service may be allowed at the discretion of the Board of Education.

C. Credit for service in the field of business may be granted as follows: one full year for each full year of related business experience not to exceed a total of four years.

D. Appointment notices for teaching staff in the following year will be returned to the District Principal no later than ten (10) days after receipt of the same from the District Principal. This appointment agreement is to indicate intent to return to the employ of the district under the employment contract agreed upon by the Board and the Association. This notification of intent to return is not binding beyond May 1st of the present year. The form to be used will be agreed upon by the District Principal and President of the Association.

ARTICLE IV

TENURE

A. The probationary period under the Education Law of the State of New York, with respect to tenure, shall be three years.

B. In cases where non-tenure employees services are not required beyond June 30th of a particular year, they will be notified, in writing, no later than sixty (60) days in advance of that date as required by law. Failure to render such notification shall result in the granting of tenure by default. Every effort will be made by the District Principal to give greater notification when possible.

ARTICLE V

JURY DUTY

A. Teachers who are selected for jury duty shall suffer no loss of benefits.

B. Any remuneration received by a teacher over and above his expenses for transportation, meals and other incidentals shall be forwarded to the Board of Education.

ARTICLE VI

PHYSICAL EXAM

A. Each employee shall undergo a physical examination prior to the opening day of school of the first year of employment, and every third year thereafter. This examination shall include at least the following: a check of reflexes, heart, blood pressure, lungs, eyes, ears, and throat, a urine analysis, and an examination for the presence of hernia. The examination shall be reported to the District Principal on a form provided by the District.

B. Each employee shall undergo an X-Ray examination prior to the first class day of school each year, unless the employee's physician advises, in writing, against his having such an examination.

C. The Board shall assume the cost of the X-Ray (Suffolk County Health Department) and medical examination. If a non-school physician is used for the medical examination, the Board shall reimburse the teacher for the cost of the examination in an amount equal to the fee that would have been paid to the school physician.

ARTICLE VII

CURRICULUM

A. Recognizing that well developed curriculums contribute greatly to quality education, the Board agrees that every teacher shall receive a copy of the appropriate curriculum (s).

B. Further, the Board and the Association agree to establish a joint committee to study ways to develop the best curriculum possible for this district. This com-

mittee shall make a written report with recommendations to the District Principal and the President of the Association. The District Principal shall select the committee members with the assistance of the Association.

ARTICLE VIII

TEACHER EVALUATION

A. All monitoring or observation of the work performance of a teacher will be conducted openly and with full knowledge of the teacher. The use of eavesdropping, public address or audio systems, and similar surveilance devices shall be strictly prohibited. Teachers will be given a copy of the evaluation report prepared by their superiors before it is submitted to central administration or put in their personnel files.

B. 1. Observations for evaluation need not be announced.

2. Non-tenure teachers should be observed at least three (3) times per year, omitting September and June unless the individual teacher requests an observation during these months. The intent of observation shall be to evaluate, not to harass, nor to interfere with the instructional program.

3. Every effort shall be made to insure that all visits will be of a duration that will permit the observation of one full lesson.

C. Observations will be performed only by building administrators, qualified persons at the request of the building administrator, or the District Principal.

D. Written reports of observations will be discussed with the teacher, (no later than five days after the observation). Reports and conferences should be of a constructive nature, i.e.: suggestions for improvement.

E. Any complaints regarding a teacher made to the administration by any parent, student or other person will be promptly called to the teacher's attention. The teacher will have the opportunity to respond to such complaints. If a record of the complaint is filed in the teacher's record, his response will also be filed in the record.

F. No teacher will be disciplined, reprimanded, reduced in rank or compensation or deprived of any professional advantage without just cause. Whether just cause exists in any case shall be subject to the grievance procedure.

G. If a critical report of an observation of a teacher is made, the person making the criticism shall record his plan to correct the situation causing the criticism. The next observation report will explicitly, where possible, state what actual steps have been taken to correct the situation causing the criticism. Upon request, the teacher observed may be required to state, in writing, the steps he has taken to correct the cause of criticism.

ARTICLE IX

SALARY PAYMENT

A. One of the following options shall be elected yearly by each teacher concerning the manner in which he is to be paid:

1. Prorated over a ten (10) month period

2. Prorated over a twelve (12) month period with the added election of receiving one large paycheck for the summer on the last day of school or continuing to receive paychecks by mail on scheduled pay days for the summer months.

B. The District Principal shall yearly draw up a payday schedule (calendar) to indicate the dates for issuance of paychecks, and shall submit the schedule to the P.J.S.T.A. for approval.

ARTICLE X

DUES DEDUCTION

A. The Board agrees to deduct from the salaries of its teachers, dues for the Port Jefferson Station Teachers Association, the New York State Teachers Association and the National Education Association and the 2nd Supervisory District Teachers Association as said teachers individually and voluntarily authorize the Board to deduct, and to transmit the monies promptly to such Association or Associations. Teacher authorizations will be in writing in the form set forth on the following page.

"DUES AUTHORIZATION CARD"

Name _____

Address _____

I hereby request and authorize the Board of Education of Union Free School District No. 3, Town of Brookhaven, Suffolk County, New York, to deduct from my earnings and transmit to the Association checked below, an amount sufficient to provide for regular payment of the membership dues as certified by such Associations in equal monthly payments over the remainder of the school year. I hereby waive all right and claim for said monies so deducted and transmitted in accordance with this authorization, and relieve the School Board and all of its officers from any liability therefore.

Teacher Organization

Port Jefferson Station Teachers Association _____

New York State Teachers Association _____

National Education Association _____

2nd Supervisory District Teachers Ass'n. _____

Dated: _____ Teacher's Signature _____

B. The Association will certify to the Board, in writing, the current rate of the membership dues of the Associations named in Section A above.

C. Deductions referred to in Section A above will be made from the 4th, 5th, 6th and 7th paychecks of the school year. The Board will not be required to honor for any month's deduction, any authorizations that are delivered to it later than October 15th.

D. No later than October 30th of each year, the Board will provide the Association with a list of those employees who have voluntarily authorized the Board to deduct dues for the Associations named in Section A above. The Board will notify the Association of any changes in said list. Any teacher desiring to have the Board discontinue deductions he has previously authorized must notify the Board and the Association concerned in writing by October 15th of each year for that school year's dues.

E. The Board agrees that it will not accord dues deduction or similar check-off rights to any other organizations, except other recognized bargaining units.

ARTICLE XI

SUBSTITUTES

A. Qualifications for substitute teachers shall conform to the regulations of the Commissioner of Education. However, it is the intention of the Board to give preference to persons who are certified and/or who hold a baccalaureate degree.

B. All substitutes will register with a central office administrator or someone designated by him, and that administrator will place the substitute's name on a master list for the district. Said list shall be kept on file and available in each principal's office.

C. Where possible, calls for substitutes will be made by one person (or answering service) for the district. Preference will be given to those who have served competently on previous occasions.

D. Substitutes will receive, on arrival at school, from the office:

1. Daily Plans

2. Assignments for day

3. Bell Schedule

4. A copy of General School Policy

ARTICLE XII

TEACHER PROGRAMS

A. Elementary School - No later than thirty (30) days before the end of the term, preference sheets shall be issued to teachers - to be used in making assignments for the coming year. These sheets shall indicate preference for grade level, and the type of class on that level, with the understanding that, where possible, such preferences shall be honored. Teachers shall be given the opportunity to discuss their assignment requests with their principal.

B. High School and Junior High -

1. No later than thirty (30) days prior to the end of the school year, programming preference sheets shall be distributed to all teachers. Program preference shall be honored where administratively possible. Every effort shall be made to insure that no later than ten (10) school days prior to the end of the school year, teachers shall be notified as to the following matters concerning their program for the following term:

(a) subjects to be taught

(b) grades of the subject to be taught

(c) any special or unusual classes that teachers will be required to teach

(d) the grade level and special nature, if any, of the official class.

(e) the session to which the teacher will be assigned if the school operates on more than one session.

2. Every effort shall be made to insure that, no later than the end of the next to the last school day of the term, teachers shall receive their building programs for the following term, including the periods and rooms where their teaching assignments occur.

3. Where possible, the following will apply: there shall be no more than three (3) consecutive assignments and no more than four (4) consecutive working assignments (including any building assignments). The number of different rooms in which assignments occur shall be held to the absolute minimum administratively possible. The number of lesson preparations shall be kept at the minimum possible. Enriched classes and modified classes shall be considered as separate preparations. Within a department, teachers with a full teaching program and a home room shall be given preference in the assignment of the number of preparations. A teacher will not change a room assignment without the approval of the building principal.

C. 1. Within the first two (2) weeks of the opening day of school, each building principal shall post, in the faculty room, a master sheet showing the complete schedule, including duties, of all teachers. This master sheet shall be kept up to date. Updating shall be the responsibility of the individual school principal.

2. Equitable standards, within a school, for exemptions from home rooms and building assignments shall be applied.

ARTICLE XIII

CONDITIONS OF INSTRUCTION

The Board and the Association agree that a teacher's primary function is to teach. Therefore: The Board, the District Principal and the Association shall strive to develop a policy to make this a reality.

ARTICLE XIV

INTER-SCHOOL TEACHER PROGRAM

In arranging schedules for teachers who are assigned to more than one school during a school day, the District Principal shall make an effort to limit the amount of inter-school travel. Such teachers shall be assigned no more than five (5) classes per day with no duty period. They shall be compensated for inter-school travel at the rate of one hundred dollars ($100) per year for the use of their cars if, in the course of their teaching duties, they travel between schools on a daily basis. If a teacher travels between schools on less than a daily basis, he shall be compensated for the use of his car which shall be pro-rated accordingly.

ARTICLE XV

TEXTBOOKS AND MATERIALS

A. The Board shall make every effort to provide sufficient books, textbooks, and materials for each subject taught in the classroom so as to insure that each child in a classroom is supplied with books, textbooks, and materials for his own use at his own level.

B. The Board agrees that before a change in textbooks or reference texts is made, or a new textbook or reference text is selected, principals in the elementary schools will secure the recommendation of the appropriate teachers for the change or new selection of texts and reference materials. Before a change in textbook (s) and/or reference book (s) is made in the high school or junior high school, the department head and/or the principal will discuss the change with the teachers in the appropriate departments. The recommendations of the teachers in the Elementary, High and Junior High Schools shall guide the Principal and Administration in making the final decision.

C. The Board will provide sufficient teaching equipment and supplies as are reasonably needed in the school system.

ARTICLE XVI

PROMOTIONS, VACANCIES & TRANSFERS

A. All vacancies in positions, including specialists and/or special project teachers, shall be filled pursuant to the following procedure:

1. Such vacancies shall be adequately publicized, which shall mean, as a minimum, that a notice shall be posted in every school clearly setting forth a description of and the qualifications for the position, including the duties and salary range. During summer recess, notices shall be distributed to the staff by mail.

2. Such notices shall be posted as far in advance as possible, ordinarily at least thirty (30) days before the final date when applications must be submitted, and in no event less than two weeks before such date.

3. Teachers who desire to apply for such vacancies shall submit their applications in writing to the District Principal, or his authorized agent, within the time limit specified in the notice.

4. Such vacancies shall be filled on the basis of qualifications for the vacant post, provided, however, that where there are two or more applicants who are equally qualified, in the opinion of the District Principal, seniority in the Port Jefferson Station School System shall prevail.

B. All appointments to the aforesaid vacancies and openings shall be made without regard to age, race, creed, color, religion, nationality, sex, or marital status.

C. Voluntary Transfers and Assignments

1. No later than March 1st of each school year, the District Principal shall post in all school buildings, a list of the known vacancies which will occur during the following school year.

2. Teachers who desire a change in grade and/or subject assignment or who desire to transfer to another building, shall file a written statement of such desire with the District Principal not later than March 15th. Such statement shall include the grade and/or subject to which the teacher desires to be assigned and the school or schools to which he desires to be transferred, in order of preference.

3. No later than May 10th of each school year, the District Principal shall post in all school buildings, a supplemental list of known vacancies which will occur during the following school year.

4. No later than May 20th, teachers may file an application for reassignment or transfer to positions listed on the supplemental list of vacancies.

5. No assignments of new teachers in the school system shall be made until all pending requests for reassignment or transfer have been acted upon.

6. The District Principal shall discuss with the Association, information pertaining to individual reassignments and/or transfer.

7. In determination of requests for voluntary reassignment and/or transfer, the convenience and wishes of the individual teacher will be honored to the extent that they do not conflict with the instructional requirements and best interests of the school system. If more than one teacher has applied for the same position, the teacher best qualified for that position shall be appointed, and qualifications being substantially equal in the opinion of the District Principal, senority in the school system shall prevail. When a position is filled, the District Principal shall promptly advise all unsuccessful applicants for the position.

D. Involuntary Transfer and Assignments - The Port Jefferson Station Teachers Association recognizes that some involuntary transfer of teachers from one school to another or reassignment within a school is unavoidable. They also recognize that under normal circumstances, transfer or reassignment of teachers should be held to a minimum. Therefore:

1. Notice of an involuntary transfer or reassignment shall be given to teachers as soon as practicable and, under normal circumstances, no later than June 15th.

2. When involuntary transfer or reassignment is necessary, volunteers from among those affected will be transferred or reassigned first. A teacher's area of certification, major and/or minor field of study, quality of teaching performance, and length of service in the school system will be considered in determining which teacher is to be transferred or reassigned.

3. An involuntary transfer or reassignment will be made only after a meeting between the teacher involved and the District Principal, at which time the teacher will be notified of the reasons therefore. In the event that a teacher objects to the transfer or reassignment at this meeting, upon the request of the teacher, the Association will be notified and the District Principal will meet with the Association's representative to discuss the matter.

4. Openings in the school system will be discussed with the teachers being involuntarily transferred or reassigned. Such teachers may request the positions to which they desire to be transferred. Teachers being involuntarily transferred or reassigned shall have preference over those seeking voluntary transfer or reassignment. In consideration of involuntary transfers, those best qualified for a particular position shall receive priority, and, qualifications being substantially equal, seniority in the school system shall prevail.

5. The District Principal shall discuss with the Association, information pertaining to individual reassignments and/or transfers.

ARTICLE XVII

TEACHER AND ASSOCIATION RIGHTS

A. Every effort shall be made to provide the following facilities in each school:

1. Space in each classroom in which teachers may safely store instructional supplies and materials.

2. Well lighted, private, comfortable, properly equipped and clean rest areas and separate toilet facilities for men and women teachers.

3. A teacher's desk and teacher's chair for the teacher in each classroom.

4. Duplicating machines, calculating machines, typewriters, etc., in each school shall be made available for the reasonable use of teachers.

B. Insofar as reasonably practicable, and as expeditiously as possible, each school shall be provided with the following:

1. A teacher work area containing adequate equipment and supplies to aid in the preparation of instructional materials.

2. An appropriately furnished room to be used as a faculty lounge.

3. A special lunch area in each school for the exclusive use of teachers, and facilities for warming, refrigerating and storing food.

4. Each school shall have a pay phone.

C. An adequate portion of the parking lot at each school will be reserved for the teaching staff.

D. New construction will include adequate teacher facilities of the nature noted in A, B, and C above.

E. The Association will have the right to use school buildings without cost at reasonable times for meetings.

F. A faculty bulletin board will be installed and maintained in the faculty room in each school building. The Association will have the unrestricted right to place notices, circulars, and other material on faculty bulletin boards, in teachers' mail boxes, and by check-in sheets. It is expressly understood that no member of the Administration will assume responsibility for the posting or distribution of material for the Association or any other teacher organization.

G. If negotiation meetings are scheduled by the Board and agreed to by the Association, during school hours, teachers who are involved in negotiations will be relieved of their regular teaching duties during these hours with no loss of pay.

H. The District shall provide reasonably adequate and proper clerical assistance to teachers in order to assist them in the preparation of tests, instructional materials, etc..

I. The teachers shall have the right to install a cold and/or hot drink machine in their faculty room and/or lounge.

J. The Board shall make arrangements to have each class room cleaned at the end of each school day.

ARTICLE XVIII

SUMMER EMPLOYMENT

A. Appointments to positions of summer employment shall be made, in writing, not later than June 15th each year by the District Principal. Additional teaching needs may be filled at a later date.

B. Appointments to such summer employment shall be made with preference being given to qualified teachers already employed within the District, if the District Principal deems this to be in the best interests of the District.

C. All openings for summer employment shall be adequately publicized by the District Principal in each school building, as soon as possible.

D. Once a teacher is contracted for summer employment, he shall be employed in an appropriate professional capacity for the period specified, at the agreed compensation, irrespective of the enrollment for summer school or other unforeseen circumstances.

E. Remuneration for a 6 weeks summer school shall be on the following basis:

1. $550 for one class taught
   $800 if two classes are taught
   $950 if three classes are taught

2. Elementary summer school - $900 each teacher.

3. Summer School Remedial Reading Program - $900.00 each teacher.

ARTICLE XIX

LEAVES

A. Sick Leave - Teachers shall receive ten (10) sick days each year without loss of any benefits. Unexpended sick leave shall accumulate to one hundred fifty (150) days. Sich leave is defined as leave for personal illness, or illness in the teacher's immediate family, or any person residing with the teacher, which requires the teacher's presence.

B. Death in the Family - In cases of death in the family, (defined as: parents, aunts, uncles, parents-in-law, guardians, grandparents, grandparents-in-law, brother, sister, brothers-in-law, sisters-in-law, wife, husband, child or relative living with or dependent upon the family) the employee will be allowed the number of days absence required, up to a maximum of five, each occurence, without deduction of salary.

C. Maternity Leave - Maternity leave shall be granted to a teacher who is a prospective mother, for a period of time to be determined in consultation with her principal and the District Principal. A teacher, when she is aware that she will require a maternity leave, will notify the District as soon as she has medical confirmation. Questions relating to how long a prospective mother may teach before the birth of her child, and how soon after the birth she may return to duties, shall be determined by the teacher concerned with the advice of her personal physician and the District Principal. A prospective mother may teach for five months from the date of conception.

D. General Leaves - The Board may grant leaves of absence for reasons other than previously specified. Reasonable requests shall be honored. Any requests for such leave shall be answered no later than four (4) weeks after submission of such request to the District Principal. Emergency leaves will be given immediate consideration and answered within two (2) weeks.

E. Personal Days - Teachers may be absent from duties, without loss of benefits, at least two (2) days during any school year. These days are in addition to religious holidays, as specified by the Commissioner of Education. A written report of intended absence, on a form to be agreed upon by the District and the P.J.S.T.A., for such personal days shall be submitted to the District Principal no later than one day prior to the expected absence. No reason for such personal day shall be required or solicited. It is expected that such absences shall not be contiguous to a school holiday, unless necessary. Additional personal days may be granted at the discretion of the District Principal.

F. Professional Days - Teachers shall be granted one day's absence from duties without loss or benefits for activities related, in the opinion of the District Principal, to the profession of teaching. Additional days may be granted at the discretion of the District Principal. A written report of intended absence, on a form agreed upon by the District and the P.J.S.T.A., will be submitted to the District no later than one (1) day prior to the expected absence. The District Principal may request a report summarizing the day's activity. An additional five (5) professional days will be allocated to the Association and shall be administered by the Association.

G. Catastrophic Sick Leave -

1. In the event that a teacher shall suffer an incapacitating illness or accident, catastrophic sick leave will commence subsequent to a waiting period of fifteen calendar days, catastrophic sick leave will commence when fifteen (15) days accumulated sick leave has been expended.

2. The duration of such sick leave will not extend past one-hundred and eighty (180) consecutive working days. Should disability carry over to the next school year, extended coverage would likewise carry over.

3. An incapacitating illness is one that is under treatment by a physician and which, by the school physician's recommendation, makes it inadvisable for the person afflicted to continue working.

4. A teacher on tenure shall receive the full benefit when deemed necessary by the school physician, of one-hundred and eighty (180) consecutive working days leave. However, in the case of a non-tenure teacher whose contract was not to be renewed, the extended sick benefit will not carry beyond the term of the existing contract.

5. Extended sick leave shall be granted when necessary to any person who has worked a minimum of ten (10) days as a regular member of the teaching staff. Where Workmens Compensation is involved, the Board reserves the right to use the formula of payment: salary minus Workmens Compensation payments. Extended sick leave shall be granted only once to any one person during a school year except where it seems reasonable to the Board of Education to grant futher time.

6. If a teacher is still unable to return to work at the expiration of sick leave and catastrophic leave benefits, he shall be granted an indefinite unpaid leave of absence. It is understood that the leave terminates if the teacher accepts employment elsewhere.

7. If the next school year takes place while the teacher is on catastrophic sick leave, he shall accumulate another ten (10) sick days.

ARTICLE XX

REQUIRED MEETINGS & CONFERENCES

Teachers may be required to attend no more than two meetings each month, unless they are held on school time. These meetings shall not extend more than forty (40) minutes past the end of the required working day. It is agreed that, in exceptional cases, a greater number of required meetings, or meetings longer than forth (40) minutes duration, may be held.

ARTICLE XXI

MISCELLANEOUS PROVISIONS

A. This Agreement shall constitute the full and complete commitments between both parties and may be altered, changed, added to, deleted from or modified only through the voluntary, mutual consent of the parties in a written and signed amendment to this Agreement. Before the Board adopts a change of policy which affects wages, hours, or any condition of employment which is not covered by the terms of this agreement and which has not been proposed by the Association, the Board will notify the Association in writing, that it is considering such a change. The Association will have the right to negotiate such items with the Board, provided that it files such a request with the Board, ten (10) school days after the receipt of said notice.

B. This Agreement shall supersede any rules, regulations or practices of the Board which shall be contrary to or inconsistent with its terms. The provisions of this Agreement shall be incorporated into and be considered part of the established policies of the Board.

C. Any individual agreement, arrangement or contract between the Board and an individual teacher, heretofore executed, shall be subject to and consistent with the terms and conditions of this or subsequent agreements to be executed by the parties. If an individual agreement, arrangement or contract contains any language inconsistent with this Agreement, this Agreement, during its duration, shall be controlling.

D. If any provisions of this Agreement or any application of the Agreement to any teacher or group of teachers shall be found contrary to law, then such provision or application shall not be deemed valid and subsisting except to the extent permitted by law, but all other provisions or applications shall continue in full force and effect.

E. Copies of this Agreement shall be printed at the expense of the Board and shall be distributed to all teachers now employed in this District at least twenty-four (24) hours prior to the Association meeting held to ratify this agreement. All new teachers employed after the adoption of this Agreement shall receive a copy of this Agreement no later than the date upon which they are employed by the district.

F. It is expressly understood that teacher "staff handbooks" shall not be distributed to teachers without the prior review of the Association of the contents of such handbooks. By June 1st, 1969, the Board shall reduce all policy to written form and put it into a bound book form. This policy book will be regularly supplemented as Amendments are made. The Association will receive a copy of this policy book and all Amendments made to it.

G. The Port Jefferson Station Teachers Association is representative of the staff for the purpose of discussion of, negotiation on, and participation in the matters which affect the collective interests of the parties to this Agreement. The collective interests include, but are not limited to, recruitment of teachers, teacher turnover, class size, teaching load, personnel policies, performance of non-teaching duties (extra-curricular duties, remuneration and assignment procedures, clerical duties, etc.) teacher facilities, teaching assignments, transfers, promotions, summer school, protection of teachers, leaves of absence, medical benefits, health services, substitute teachers, salaries, in-service training, professional improvement, professional standards, curriculum, communications, community support for school programs, and fringe benefits.

ARTICLE XXII

A. Hours -

1. The length of the required working day for teachers in the secondary schools shall not exceed 7 hours.

2. The length of the required working day for teachers in the elementary schools shall not exceed six hours and fifty minutes.

3. The starting and dismissal times for students shall be determined by the Board of Education.

B. Class Load -

1. In the High and Junior High School, there shall be a maximum of five teaching periods, one preparation period of not less than forty-five (45) minutes, one administrative period, and one full duty free lunch period for all teachers each day.

2. Every elementary school teacher shall have a forty-five (45) minute duty free lunch period each day. Every elementary school teacher shall have a minimum of five (5) preparation periods each week.

ARTICLE XXIII

CLASS SIZE

The Board recognizes that the following are desirable goals which they will strive to achieve:

A. Elementary Schools

1. No kindergarten class should exceed twenty-three (23) pupils.

2. In the first and second grades, classes should not exceed twenty-five (25) pupils.

3. In grades three through six, classes should not exceed twenty-seven (27) pupils.

4. Physical education classes should not exceed thirty-five (35) pupils.

B. High and Junior High School

1. No subject class in Junior or Senior High School should exceed twenty-eight (28) pupils.

2. The size of classes in laboratory science should not exceed twenty-four (24) pupils.

3. Physical education classes should not exceed forty (40) pupils.

4. For the first thirty-five (35) students assigned to a study hall there should be assigned one teacher. For every additional thirty-five (35) students, or fraction thereof, assigned to a study hall there should be assigned one teacher aide. The Board and Association agree that a review of study hall policy is in order.

5. In rooms with specific equipment - business, shops, et.al., the number of pupils assigned to such rooms should not exceed the number specified in State recommendations.

6. In no case should the total pupil load for one teacher exceed one hundred twenty five (125) students.

7. In Team Teaching situations, a ratio of one (1) teacher to every twenty-five (25) students should be maintained.

8. These limitations are not meant to be restrictive or to prevent the introduction and use of new teaching methods.

ARTICLE XXIV

EXTRA-CURRICULAR SERVICES

A. All extra-curricular services shall be established as paid services. Extra-curricular services are all those services for which teachers are responsible to the administration, and are in excess of teaching and non-teaching profession related duties. Non-teaching profession related duties are covered by the contract salary and include: student conferences, extra help, parental conferences, membership and participation in professional organizations, consultation with pupil personnel services, class attendance, reports, supervisory and administrative activities such as lunch room, bus duty, supervised study, etc.. The Board agrees to make every effort to limit clerical, supervisory and administrative duties.

B. It is agreed that one or more non-teaching profession related duties may be removed or added to the list by mutual agreement between the administration and the Association.

C. Participation in all extra-curricular services by teachers is to be without coercion, consented to by the teachers involved. Any teacher may refuse to participate in any extra-curricular service.

D. Any teacher who wishes to volunteer any services, which are extraordinary to his contract may do so, free from intimidation or coercion by any member of the Board, Administration, Association or fellow workers.

E. All extra-curricular services are created by the administration with the approval of the Board. All such extra-curricular services shall be defined by the District Principal and these job descriptions shall be made available to all teachers.

F. The limits of the number of extra-curricular service positions that any individual may hold shall be restricted only by the ability of such teachers to perform the services. It is expressly understood that appointment of teachers to extra-curricular service positions shall be made, from among the applicants for such positions, strictly on the basis of the individual's ability to perform such services.

G. The schedule of payment for extra-curricular services shall be included in this Agreement as Appendix A.

H. Any extra-curricular services that are not included in Appendix A shall be remunerated at a rate negotiated between the Association and the Board.

I. The method of payment for extra-curricular services shall be on a monthly or seasonal basis, whichever is more appropriate.

ARTICLE XXV

CALENDAR

A. The Representative Council of the Association shall have the privilege of reviewing the proposed calendar drawn up by the District Principal and of making recommendations concerning it before its final adoption by the Board.

B. The following provisions will be included in each yearly calendar:

1. One full day in October or November and one full day in April or May for teachers conferences.

2. A maximum of three snow days. The chief administrator and the F.J.S.T.A. President, or his designee, will confer on the day or days to be used for make-up days.

3. One day of orientation for new teachers to our district to be followed by one day of preparation conferences for all teachers. The Association shall assist the District Principal in preparing the orientation program.

4. A week of afternoons (1:00-3:00) shall be provided for parent-teacher conferences at the end of the first marking period.

5. One special day (Monday, Tuesday, Wednesday, Thursday) shall be set aside each week for Association activities. No other meetings shall be held on that day.

ARTICLE XXVI

TIME FOR THE PRESIDENT

The Board and the Association realize that the President of the Association is often required, by the nature of his position, to spend a considerable amount of time during the year in matters that are not only related to teachers, but to general cause of education within the District. In consideration of this, the Board agrees to make every effort to limit his class and duty assignments in order to promote the best interests of the District.

ARTICLE XXVII

STUDENT DISCIPLINE AND TEACHER PROTECTION

A. Protection

1. Teachers will immediately report to the school principal all cases of assaults suffered by them in connection with their employment.

2. This report will be forwarded to the District Principal and he will comply with any reasonable requests from the teacher, or his representative, for information in his possession relating to the incident or the persons involved, and will act in appropriate ways as liaison between the teacher, parents, the police, the courts, and other interested parties.

3. If a criminal or civil proceedings are brought against a teacher alleging that he committed an assault in connection with his employment, such teacher shall be provided by the Board with competent legal counsel to defend him in such proceedings.

4. The Board will reimburse teachers for the cost of medical, surgical or hospital services (less the amount of any insurance reimbursement) incurred as the result of any injury sustained in the course of employment.

B. Discipline

1. A teacher, on notifying the principal or his designee, may exclude from a class period, and send to the place designated by the principal, a student who is, in the professional judgement of the teacher, causing serious disruption. When a student is excluded from class, the teacher will confer with the principal, or his designee, to provide necessary information concerning the problem within twenty-four (24) hours. The principal may reinstate the student after advising the teacher, that some adjustment has been made, or following a conference which includes at least two of the following persons: a counselor, an administrator, the child and/or parent, the school psychologist, or the attendance officer. The teacher shall be informed, before the student's return to class, by the principal, as to the results of the conference and the adjustment made.

2. After three such referrals, at the latest, the principal shall have the student and at least one parent attend a conference on school rules. The school shall be represented at this conference by the principal and if appropriate, other personnel. If the teacher (s) involved and the principal agree that a procedure other than a parental conference would be more beneficial to the student, that procedure may be substituted. This shall be a prerequisite to returning the child to class.

3. If the student continues to cause serious disruption, in the professional opinion of the teacher, the principal or appropriate person shall suspend or detain the student for an appropriate period of time. Such actions may be reapplied if the disruptive behavior continues.

4. Principals shall notify the police in case of any juvenile delinquency, criminal acts in the schools and any other serious school related offenses by students.

5. A continuous record of discipline cases shall be maintained in each student's permanent record file (in reference to Items 1 to 4) for the use of the Professional School Staff.

6. A teacher has the same legal right to administer corporal punishment for the purpose of restraining and correcting students, in attendance at school, as has the parent in maintaining discipline in the home, provided such punishment is reasonable in form and moderate in degree.

7. When a student is returned to the school setting and receiving concurrent outside help for his behavioral problem, it is the teacher's responsibility to acquaint himself with the nature and progress of such help.

ARTICLE XXVIII

TAX SHELTERED ANNUITY

The Board shall make available to all members of the professional staff the Tax Sheltered Annuity. Selection of the carrier of such annuity programs shall be at the option of the Board of Education. The Board shall provide a program of payroll deductions to pay for these programs. The existing carrier shall not be changed without the mutual consent of the Board and the Association.

ARTICLE XXIX

GRIEVANCE

A. Definitions

1. A "grievance" is a claim based upon an event (s) or condition (s) which affects the welfare and/or terms and conditions of employment of a teacher or group of teachers and/or the interpretation, meaning or application of any of the provisions of this Agreement or any subsequent Agreement entered into pursuant to this Agreement.

2. An "aggrieved person" is the person or persons making the claim.

3. A "party of interest" is the person or persons making the claim and any person who might be required to take action or against whom action might be taken in order to resolve the claim.

B. Purpose

1. The purpose of this procedure is to secure equitable solutions to the problems which might arise between teachers, Association and/or Administration and Board of Education.

2. Nothing herein contained will be construed as limiting the right of any teacher (s) and/or the Association having a grievance to discuss the matter informally with any appropriate member of the Administration. No settlement of an informal nature shall be made with an individual teacher which shall be inconsistent with the provisions of this Agreement.

C. Procedure - Since it is important that grievances be processed as rapidly as possible, the number of days indicated at each level should be considered as a maximum and every effort shall be made to expedite the process.

1. Level one - Upon receipt of a written grievance by the District Principal, the District Principal shall arrange a meeting with the aggrieved person or his designee within five (5) days. The District Principal shall make a disposition of the grievance to the parties of interest in writing within five (5) days of such a meeting.

2. Level Two - If the District Principal makes no decision concerning the grievance within five (5) days of his meeting with the aggrieved person, or if the aggrieved person is not satisfied with the decision made at level one, he shall submit his grievance to the Representative Council of the Association, or a committee designated by the Representative Council to hear such grievances. If the Representative Council or its designated committee deems the grievance to be meritorious, it shall refer the grievance to the President of the Board of Education. Within ten (10) school days of the receipt of a grievance by the President of the Board, the Board shall meet with the aggrieved person, or his designee, for the purpose of resolving the grievance.

3. Level three -

(a) If the aggrieved person is not satisfied with the disposition of his grievance at level two, or if no decision has been rendered within ten (10) days since he first met with the Board, the aggrieved person may request the President of the Association to submit his grievance to arbitration.

(b) The Association and the Board may agree upon a mutually acceptable arbitrator. If they do not, the Association may appeal the decision of the Board to the Commissioner of Labor of Suffolk County for arbitration under his rules. If the Commissioner of Labor of Suffolk County is not available, the Association may appeal the decision to the American Arbitration Association.

(c) The arbitrator so selected shall confer with the Board and the aggrieved person, or his designee, within twenty (20) days from the date of the close of hearings or, if oral hearings have been waived, then from the date the final statements and proofs are submitted to him. The arbitrator's decision will be in writing and will set forth his findings of fact, reasoning and conclusions on the issues submitted. The Arbitrator will be without power or authority to make any decisions which requires the commission of an act prohibited by law or which is violative of the terms of this Agreement. In grievances arising under the contract, the decisions of the fact-finder shall be binding on both parties. In grievances arising outside the scope of the contract, the recommendations of the arbitrator shall be advisory.

(d) The costs for the services of the arbitrator, including per diem expenses, if any, and actual and necessary travel and subsistence expenses, will be shared equally by the Board and the Association.

D. Rights of Teachers to Representation

1. No reprisal of any kind will be taken by the Board or any member of the Administration against any party in interest, any building representative, any member of the Representative Council or any other participant in the grievance procedure by reason of such participation.

2. Any party of interest may be represented at any or all stages of the grievance procedure by a person (s) of his own choosing. When a teacher is not represented by the Association, the Association shall have the right to be present and to state its views at all stages of the grievance procedure.

E. Miscellaneous

1. If, in the judgement of the Representative Council, or its designee, a grievance affects a group or class of teachers, the Council, or its designee, may process such a grievance as though it were an individual grievance. In such a case, the Association may process a grievance for all persons concerned, even though an individually aggrieved person may not wish to do so.

2. All documents, communications and records dealing with the processing of a grievance will be filed separately from the personnel files of the participants.

3. Forms for the filing of grievances, serving notices, taking appeals, making reports and recommendations and other necessary documents will be prepared, with the approval of the Association, by the District Principal and be given appropriate distribution so as to facilitate operation of the grievance procedure.

4. Nothing in this agreement shall be construed so as to deny the Association, or its representatives, the right to seek redress before any appropriate Administrative Agency or through the courts, if such a course seems to them, at their sole discretion, more appropriate.

5. It is expressly understood that this grievance procedure shall not be used to delay the resolution of conflicts that might arise related to the interpretation of this Agreement.

ARTICLE XXX

SALARIES

A. The basic salary schedule of the District is appended to and considered a part of this Agreement as Appendix "B".

B. Teachers with an MA, its equivalent or better, shall receive a double increment granted at step 6 providing the teacher has had a minimum of four years of service in Union Free School District No. 3.

C. Teachers will receive longevity increments of five percent (5%) of their salary at the 20th, 21st, 25th and 30th years of teaching service.

D. Unless otherwise specified, Professional Staff included in the Association's Negotiating Unit, who are presently receiving a differential in the pay scale, shall continue to receive the same differential.

E. No teacher in the district shall be below step.

F. Chairmen of departments having less than six (6) members (including the Chairman) shall receive a salary differential of five percent (5%) above their annual salary.

G. Chairmen of departments having six (6) or more members (including the Chairman) shall receive a salary differential of eight percent (8%) above their annual salary.

H. Reading teachers shall receive a differential of $550 above their annual salaries.

I. The Clinic Teacher shall receive $500 differential above his annual salary.

J. Guidance Counselors shall receive a $400 differential above their annual salaries.

K. Psychologists shall receive a $400 differential above their annual salaries.

L. No teacher shall receive a reduction in salary or other compensation as a result of this Agreement.

ARTICLE XXXI

INSURANCE

A. All insurance provided by the district for staff members shall be provided for all full time staff members.

B. The Board of Education shall pay seventy-five percent (75%) premium for teacher's choice of major medical and statewide, G.H.I. or H.I.P. Health and Accident insurance for the teacher and his dependents.

C. In the event of the death of a staff member, his estate will receive, from the District, the equivalent of one (1) full year's salary.

ARTICLE XXXII

PROFESSIONAL IMPROVEMENT

A. S.C.O.P.E. In-Service courses will be accepted for credit on the salary schedule.

B. Teachers shall be granted full credit for inclusion on the salary level for approved undergraduate courses - for courses taken after the Bachelor's degree is attained. Courses are approved by the District Principal or his designee.

ARTICLE XXXIII

SABBATICAL LEAVE

A. 1. Sabbatical leave shall be herein defined as a leave of absence from school with pay as provided by the particular leave selected.

2. The Board of Education shall provide a sabbatical leave without any loss of benefits heretofore accrued for not less than three percent (3%) of the faculty in the School District after February 10, 1968 if there are sufficient applications. Administrators in the District shall not be included in determining the three percent (3%) provision.

3. A sabbatical leave may be granted for study, or travel. A sabbatical leave shall be granted upon application of the staff member prior to April 1, 1968, for a period of: one (1) year at full pay if the staff member has served ten (10) years in the School District, or a full year at 50% pay if the staff member has served seven (7) years in the School District. Any income received as salary, in excess of the teacher's annual salary, provided from outside the School District, will be deducted from sabbatical leave salary.

B. 1. A committee from the Professional Rights and Responsibilities Committee of the Association, together with the Administration, shall select those staff members to be granted a sabbatical leave if the number of applicants exceeds the number of leave positions available, based upon the merits of the particular requests.

2. Those staff members not granted a sabbatical leave because of the number of positions and applicants shall be given first consideration the following year.

C. In the event that a staff member is not able to complete the granted sabbatical leave for the purpose for which it was granted, due to unforeseen circumstances, the staff member shall be allowed to return to work in the School District without any loss of pay or benefits or to remain on sabbatical leave, whichever is more appropriate at the discretion of the Board of Education.

D. Upon return, the teacher shall be place on the appropriate step in the salary schedule as though the teacher had not been on leave. Sabbatical leave shall entail the loss of no benefits.

E. By virtue of a written agreement, the teacher is expected to return to the District for one year. Also, by virtue of a gentleman's agreement, it is hoped he will return to the District for a total of three (3) years.

ARTICLE XXXIV

SPECIALIST SERVICES

The Association and the Board recognize that an adequate number of competent specialists is essential to the operation of an effective educational program. In consideration of this, both parties agree that every effort should be made to provide the District with the necessary specialists.

The Board and the Association agree to establish a joint committee to investigate and determine the further needs for specialist services in the District. This committee shall report its findings and recommendations to the District Principal and the President of the Association when completed. The District Principal shall select the committee with Association recommendations.

ARTICLE XXXV

TEACHER AIDES

The Board and the Association agree that a teacher's primary responsibility is to teach and that his energies should, to the extent possible, be utilized to this end. Therefore, they agree as follows:

A. The Board shall maintain no less than seven (7) full time teacher aides, or their equivalent, by the beginning of the 1968-1969 school year in order to relieve teachers from performing non-teaching and clerical tasks. The Board agrees to increase this number at a reasonable rate.

B. The Association and the Board shall establish a joint committee to study the most effective methods possible to make use of teacher aides. This committee shall make a report with recommendations as to the number of teacher aides that the District should employ, and in what areas they would be most useful in the promotion of educational excellence within the District. This report shall be made jointly to the District Principal and the Association and shall become the subject of negotiations in the Agreement that shall succeed

this Agreement. The District Principal, with the assistance of the Association, shall appoint the members of this committee.

ARTICLE XXXVI

SELF-EVALUATION

A. Because both the Board and the Association are vitally interested in the quality of the educational program of the Port Jefferson Station/Terryville Schools, and because self-evaluation can be one of the most profitable ways to improvement, they have agreed to the following: in school year 1968-1969 a committee composed of two (2) Board members, two (2) administrators selected by the District Principal, and four (4) teachers appointed by the Association will evaluate our local school system using the National Education Association's Profiles in Excellence.

B. Cost of purchasing copies of the evaluation instrument will be borne by the Board and the Association.

C. Official copes of the report will be presented in writing to the Professional Staff by the District Principal at an official District Faculty Meeting.

D. A summary of the report will be presented in writing to the Professional Staff by the District Principal at an official district faculty meeting.

E. Appropri[illegible] steps will be taken to publicize our strong point[illegible] and to correct any conditions needing improvement.

APPENDIX A

EXTRA-CURRICULAR SERVICES

A. Non-Athletic Positions

1.	Sr. High Student Council Advisor	$400
2.	Jr. High Student Council Advisor	$300
3.	JFK Band	$450
4.	Jr.-Sr. High Newspaper	$350
5.	Student Store	$300
6.	Junior Chorus	$200
7.	Senior Chorus	$300
8.	Dramatics	$400
9.	National Junior Honor Society	$150
10.	Audio-Visual (each school)	$400
11.	Radio Club	$150
12.	Literary magazine	$250
13.	Judo Club	$150
14.	Math Club - League	$250
15.	Science Lab Club	$200
16.	Botany Club	$150
17.	Stage Crew Advisor	$400
18.	Elem. Band Coordinator	$300
19.	Elem. Science Coordinator	$300
20.	Elem. Grade Advisor	$150
21.	9th Grade Advisor	$150
22.	10th Grade Advisor	$200
23.	11th Grade Advisor	$250
24.	12th Grade Advisor	$400
25.	Chess Club	$150
26.	Library Club	$150
27.	Spanish Club	$150
28.	Chef's Club	$150
29.	Oil Painting	$150
30.	French Club	$150
31.	Girls Leaders Club	$150
32.	Civics Club	$150
33.	Elem. Newspaper	$150

B. Athletics

1. Coaches:

Sport	1st Jr. High	2nd Jr. High	3rd Jr. High	1st Jr. Varsity	2nd Jr. Varsity	3rd Jr. Varsity	1st Varsity	2nd Varsity
Football								
Head	400	500	550	500	600	700	850	
Asst.	350	450	500	400	500	600	500	
Soccer								
Head	400	500	550	500	600	700	700	
7th & 8th	350	450	500					
Cross Country								
Head	300	400	500				400	500
Basketball								
Head	400	500	550	550	650	750	850	
7th & 8th	350	450	500					
Wrestling								
Head	400	500	550	500	650	750	700	
Gymnastics								
Head	400	500	550				600	
Fencing								
Head	250	350	400				350	
Cheerleaders								
Head	400	500	550	500	600	700	700	
Baseball								
Head	400	500	550	500	600	700	700	
Track								
Head	400	500	550				700	800
Asst.							350	450
Golf								
Head	250	350	400				350	450
Bowling								
Head	250	350	400				350	450
LaCrosse								
Head	400	500	550	500	600	700	700	

2. Girls' Inter-scholastic sports

		1st yr.	2nd yr.
Sr. High	Fall	150	
	Winter	250	
	Spring	150	
Jr. High (total - all seasons)		200	

3. Intramurals

Jr. & Sr. High	Fall	150	175
	Winter	300	350
	Spring	150	175
Elementary (total - all seasons)		350	

4. Varsity Club - full year 400

C. Other services (performed on an irregular basis - chaperones, assistance at athletic activities, etc.)

1. Afternoon or evening sessions at $20.00 per session.

2. School trips not held on school time at $25.00 per session.

APPENDIX "B"

SALARY SCHEDULE

STEP	BA	BA+15	BA+30	BA+45 MA	BA+60 MA+15	MA+30	MA+45	MA+60
1	6,800	7,140	7,497	7,854	8,211	8,568	8,925	9,282
2	7,140	7,480	7,854	8,211	8,568	8,925	9,282	9,639
3	7,480	7,820	8,211	8,568	8,925	9,282	9,639	9,996
4	7,820	8,160	8,568	8,925	9,282	9,639	9,996	10,353
5	8,160	8,500	8,925	9,282	9,639	9,996	10,353	10,710
6	8,517	8,857	9,282	9,656	10,013	10,370	10,727	11,084
7	8,874	9,214	9,639	10,030	10,387	10,744	11,101	11,458
8	9,231	9,571	9,996	10,404	10,761	11,118	11,475	11,832
9	9,588	9,928	10,353	10,778	11,135	11,492	11,849	12,206
10	9,945	10,285	10,710	11,152	11,509	11,866	12,223	12,580
11	10,302	10,642	11,067	11,526	11,883	12,240	12,597	12,954
12	10,659	10,999	11,424	11,900	12,257	12,614	12,971	13,328
13	11,016	11,356	11,781	12,274	12,631	12,988	13,345	13,702
14		11,713	12,138	12,648	13,005	13,362	13,719	14,076
15			12,495	13,022	13,379	13,736	14,093	14,450
16				13,396	13,753	14,110	14,467	14,824

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Negotiation Research Digest

Volume 2, No. 2 October 1968

First Comprehensive Agreement in Arizona ..... Text: D-1

Full text of agreement negotiated between Board of Education of the Phoenix Union High School System and Classroom Teachers Association of Phoenix Union High School System (NEA), effective from the first teacher workday of the 1968-69 school year to July 1, 1970. Includes salary schedule for 1968-69 and 1969-70 school years, and provisions on academic freedom, teacher evaluation, sick leave, sabbatical leave, and grievance procedure which terminates in advisory arbitration.

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Article from agreement between Ferndale City School District, Michigan, and Ferndale Education Association (NEA).

Survey Data on Organizational Representation..... Data and Statistics: B-1

Majority of local school boards negotiate with only one local teachers organization which represents classroom teachers only. Three tables from NEA Research Division's negotiation survey on recognition, negotiation, and determination of local teacher organization(s).

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Mediation Board reviews financial situation in Adams County School District 14, Colorado, and recommends that starting salary for beginning teachers with BA degree be increased by $400 per annum. Other recommendations are progressively greater annual increases: $450 for teachers at BA degree maximum, and $575 to $750 for other teachers, depending on years of employment.

Agency Shop Challenge Held Premature by Michigan Court ..... Description: A-2
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Challenge against agency shop clause in Warren, Michigan, agreement dismissed by lower state court because the plaintiff had not exhausted other remedies under the contract.

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Binghamton, New York: Guidance counselors and audio-visual employees belong in the classroom teachers organization ..... Text: C-13

Depew, New York: Principals share community of interest with classroom teachers -- one unit of all certificated employees ..... Text: C-15

Iowa Court Rules State Can Engage in Collective Bargaining ..... Description: A-3
Text: C-17

Tenth District Court of Iowa rules that while there is no lawful means to compel State Board of Regents to recognize and bargain with local union. By the same token, there are no laws which would prevent such action.

Contract Provides No Change in Conditions of Employment -- Attendance-Keeping Task Not Covered ..... Description: A-3
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Unresolved issues should be specified in agreement, otherwise, School Committee of Athol, Massachusetts, has authority to require teachers to keep student attendance records. Conditions of employment cannot remain fixed and immovable throughout life of agreement says arbitration panel.

School Systems Which Conduct Negotiation with Multiple Organizations ..... Special Item: E-1

Detailed listing of 119 school systems which recognize more than one local organization which represents specific categories of professional personnel.

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Description and Analysis

STUDENT BEHAVIOR PROBLEMS PROVISION

Students who pose severe behavior problems can disrupt the learning environment and hinder other students' education. Behavior problems require individual diagnosis and assistance. The agreement between the Ferndale City School District, Michigan, and Ferndale Education Association (NEA) establishes a "Crisis Committee" composed of administrators, specialists, and classroom teachers. This committee evaluates and reviews the individual circumstances and explores and recommends possible solutions to student behavior problems. (For another approach to student discipline see the Phoenix, Arizona, agreement reprinted in Section D: Article VII, Special Student Programs, page D-4; and Article XXI, Student Discipline, page D-8.)

"CRISIS COMMITTEE"

54. The Crisis Committee is a group of Ferndale educators who meet to make program plans for children who are posing severe behavior problems. The standing committee is composed, at the present time, of the Assistant Superintendent; a building principal; the reading consultant; the School Diagnostician; the Director of Special Education; and the FEA representative. The visiting teacher of the particular school is also included, along with the classroom teacher and the building principal. The Committee does not have a regular location or time to meet but is convened by the Director of Special Education when the need arises.

The need is based on the following criteria:

A. The teacher is having considerable difficulty in controlling the child's behavior. The behavior is such that the education of the other students in the room is endangered.

B. All normal or routine procedures, at the building level, for handling problems, have been exhausted.

C. The principal of the building has received, completed and forwarded a referral on the student to the Special Education Office.

D. The child has been tested by our school diagnostician.

E. The child has been evaluated by a psychiatrist and reports are available.

F. The teacher has maintained an anecdotal record on the child for a period of time.

G. The district has no special programs for which the child is eligible.

H. Appropriate placement outside of a public school setting is not available.

Based on the above information then the Director of Special Education convenes the Crisis Committee at a designated time and place.

55. The Committee hears all the information on the child and then takes whatever action seems appropriate in order for the child, teacher and students in the classroom to proceed. The Committee is reconvened again at the request of the teacher and the building principal or at a designated time, usually four weeks after the initial staffing, to discuss progress, or lack of progress, and to evaluate the initial recommendations.

56. The Committee cannot force compliance but only functions as a group to share ideas or to explore what might be done. It is up to the teacher and building principal to implement the plan. The minutes of the meetings are forwarded to all participants.

NEGOTIATION IMPASSE PROCEDURE USED IN ADAMS COUNTY, COLORADO

In May 1968, after more than four months of salary negotiation between the Board of Education of Adams County District 14, Colorado, and District 14 Education Association (NEA), an impasse was declared. The impasse resulted from the Association's wanting a higher beginning salary, progressively higher annual increases, and higher top salaries, and the school board's seeing no financial way of implementing these increases within the budget limitations.

The Professional Relations Agreement negotiated in 1966 between the Board of Education and the Education Association contains an impasse procedure. (The full text of this agreement was reprinted in the May 1967 Digest.) This procedure provides for the establishment of a mediation board composed of one person appointed by the Board of Education, one person appointed by the Association, and a third person elected by these two. This mediation board holds hearings, determines the facts, and makes recommendations.

The impasse in this case was resolved when the mediation board analyzed the school district's budget, reserve funds, and revenue sources which emphasized the district's financial difficulties, and proposed a means by which, with extremely careful budgeting and distribution of funds, the Board of Education could give beginning teachers a $400 increase and retain the multi-step salary schedule requested by both parties.

AGENCY SHOP CHALLENGE HELD PREMATURE BY MICHIGAN COURT

To challenge the agency shop clause of the collective bargaining contract made between the Warren Board of Education and the Warren Education Association, a nonaffiliated teacher brought his case before a lower state court in Michigan. The contract, which states that the WEA is the exclusive bargaining unit for the Warren teachers, requires any teacher not joining the Association to "execute an authorization for the deduction of a sum equivalent to the dues and assessments of the Association which sum shall be forwarded to the Association" to cover the expenses of negotiation processes. If such authorization is not given, the contract gives the Board the right to notify the teacher that his employment will terminate with the end of the school year. In this case, the nonaffiliated teacher asked the court to declare the provisions of the collective bargaining contract to be contrary to the Michigan Teachers' Tenure Act. However, because all administrative remedies under the contract had not been exhausted, the court declared the plaintiff's plea premature.

IOWA DISTRICT COURT DECLARES STATE BOARD OF REGENTS CAN RECOGNIZE AND BARGAIN WITH EMPLOYEE ORGANIZATIONS

In an attempt to implement collective bargaining with its employer, the State Board of Regents, Local No. 1258 of the United Packing House Food and Allied Workers of America, AFL-CIO, (a local union of nonacademic personnel employed by the physical plant department at the University of Northern Iowa) struck. The Board, however, feeling bound by a 1961 opinion of the Attorney General that the State of Iowa does not have "to recognize unions for bargaining purposes" refused to negotiate. In an attempt to resolve the conflict, the Tenth District Court of Iowa issued a temporary injunction and scheduled a hearing. The Court determined that although the State of Iowa does not have to recognize unions for bargaining purposes, it can recognize and bargain with them.

CONTRACT PROVIDES NO CHANGE IN CONDITIONS OF EMPLOYMENT-- ATTENDANCE-KEEPING TASK NOT COVERED

During the last three years of an experiment in departmentalized instruction on the elementary level, the teachers at Riverbend School, Athol, Massachusetts, were relieved of keeping attendance records for their pupils. During these three years they signed a contract with their school board stating that wages, hours, and other conditions of employment would not be altered. Then the School Committee decided to revert to an earlier self-contained classroom system and returned the record-keeping duties to the teachers. The teachers, considering the addition of such duties a violation of their "conditions of employment," filed a grievance, but were told, when the case was taken before the arbitration panel, that keeping of attendance registers was not a condition of employment. Absent of any specific contract provision, the school committee has the right to require teachers to keep attendance records.

Data and Statistics

DATA ON RECOGNITION, NEGOTIATION, AND DETERMINATION OF LOCAL TEACHER ORGANIZATIONS

Table 1 shows that 90.4 percent (1,999) of the 2,212 school systems with negotiation agreements or procedures in 1967-68 negotiate with one local teachers organization which represents part or all of the professional staff. The categories of professional staff represented by these 1,999 school systems are:

- 62.1 percent represent classroom teachers only
- 28.9 percent are all-inclusive units
- 8.7 percent represent classroom teachers and building administrators
- 0.3 percent represent classroom teachers and central office personnel

Only 9.6 percent (213) of the school systems which enclosed a negotiation agreement or procedure with the survey questionnaire recognize more than one organization or do not recognize any organization. The majority of these school systems reflect the different recognition provisions contained in several state negotiation statutes. In California and Minnesota, a joint negotiating council is established when more than one organization requests recognition. Organizational representatives on the council are selected on a proportionate basis. The Oregon statute mandates a committee elected from the certificated school personnel.

While 5.4 percent (119) of the school system recognize more than one local organization, nearly two-thirds of these systems were reported in California and Minnesota. School systems with multiple recognition usually negotiate with two organizations; however, New York City reported separate agreements with five local organizations representing various categories of the professional staff. Over two-thirds of the 94 school systems which do not recognize any organization are in Oregon. Only 31 school systems throughout the country have adopted policies similar to those mandated in Oregon.

Type of Negotiation with Multiple Organizations

In the 119 school systems which negotiate with two or more organizations, three basic negotiation procedures are reported: (a) 25 systems reported separate negotiation sessions held with each recognized organization, (b) 87 systems provide joint negotiating councils with proportional representation, and (c) 7 systems have joint negotiation with equal representation from each recognized organization. A system-by-system breakdown is provided in Section E.

Tables 1 and 2, when considered on the basis of enrollment strata, show that the percent of systems recognizing two or more organizations decreases as the size of the systems decrease. This same pattern was indicated in the 1966-67 data presented in the October 1967 Digest.

Method Used To Determine Organization(s)

Table 3 lists the various methods used by the school systems to determine the organization(s) which will be designated for negotiation. Only the 2,118 school systems that recognize one or more organizations are reported in this table. The remaining 94 systems utilized a procedure other than organizational representation.

Stratum	School system enrollment
1	100,000 or more
2	50,000-99,999
3	25,000-49,999
4	12,000-24,999
5	6,000-11,999
6	3,000- 5,999
7	1,200- 2,999
8	1,000- 1,199

TABLE 1.--NUMBER OF LOCAL ORGANIZATIONS REPRESENTING PART OR ALL OF STAFF IN NEGOTIATIONS

State	Number of systems with procedures	Staff not represented by any organization		Staff represented by one organization		Staff represented by two organizations		Staff represented by three organizations		Staff represented by four organizations		Staff represented by five organizations	
		No.	Pct.	No.	Pct.	No.	Pct.	No.	Pct.	No.	Pct.	No.	Pct.
Alabama	0	...	...	...	...	...	...	...	...	...	...	...	...
Alaska	4	...	...	4	100.0%	...	...	...	...	...	...	...	...
Arizona	15	1	6.6%	14	93.3	...	...	...	...	...	...	...	...
Arkansas	2	...	...	2	100.0	...	...	...	...	...	...	...	...
California	371	...	...	319	85.9	43	11.5%	8	2.1%	1	0.2%	...	...
Colorado	22	...	...	22	100.0	...	...	...	...	...	...	...	...
Connecticut	66	...	...	65	98.4	1	1.5	...	...	...	...	...	...
Delaware	8	...	...	8	100.0	...	...	...	...	...	...	...	...
District of Columbia	1	...	...	1	100.0	...	...	...	...	...	...	...	...
Florida	14	...	...	8	57.1	3	21.4	2	14.2	1	7.1	...	...
Georgia	0	...	...	0	0.0	...	...	...	...	...	...	...	...
Hawaii	0	...	...	0	0.0	...	...	...	...	...	...	...	...
Idaho	18	1	5.5	16	88.8	1	5.5	...	...	...	...	...	...
Illinois	103	5	4.8	96	93.2	2	1.9	...	...	...	...	...	...
Indiana	48	1	2.0	45	93.8	2	4.2	...	...	...	...	...	...
Iowa	13	...	...	12	92.3	1	7.6	...	...	...	...	...	...
Kansas	40	1	2.5	39	97.5	...	...	...	...	...	...	...	...
Kentucky	12	1	8.3	11	91.7	...	...	...	...	...	...	...	...
Louisiana	0	...	...	0	0.0	...	...	...	...	...	...	...	...
Maine	12	1	8.3	11	91.7	...	...	...	...	...	...	...	...
Maryland	10	...	...	10	100.0	...	...	...	...	...	...	...	...
Massachusetts	111	...	...	101	91.0	10	9.0	...	...	...	...	...	...
Michigan	301	...	...	301	100.0	...	...	...	...	...	...	...	...
Minnesota	84	...	...	56	66.7	27	32.1	1	1.1	...	...	...	...
Mississippi	1	...	...	1	100.0	...	...	...	...	...	...	...	...
Missouri	28	1	3.5	27	96.4	...	...	...	...	...	...	...	...
Montana	5	1	20.0	4	80.0	...	...	...	...	...	...	...	...
Nebraska	4	...	...	4	100.0	...	...	...	...	...	...	...	...
Nevada	1	...	...	1	100.0	...	...	...	...	...	...	...	...
New Hampshire	11	...	...	11	100.0	...	...	...	...	...	...	...	...
New Jersey	171	12	7.0	154	90.0	5	2.9	...	...	...	...	...	...
New Mexico	9	...	...	9	100.0	...	...	...	...	...	...	...	...
New York	135	1	0.7	129	95.5	4	2.9	...	...	...	...	1	...
North Carolina	1	...	...	0	0.0	1	100.0	...	...	...	...	...	...
North Dakota	7	...	...	7	100.0	...	...	...	...	...	...	...	...
Ohio	188	4	2.1	183	97.3	1	0.5	...	...	...	...	...	...
Oklahoma	4	...	...	4	100.0	...	...	...	...	...	...	...	...
Oregon	63	63	100.0	0	0.0	...	...	...	...	...	...	...	...
Pennsylvania	89	1	1.1	87	97.7	1	1.1	...	...	...	...	...	...
Rhode Island	18	...	...	18	100.0	...	...	...	...	...	...	...	...
South Carolina	1	...	...	1	100.0	...	...	...	...	...	...	...	...
South Dakota	7	...	...	7	100.0	...	...	...	...	...	...	...	...
Tennessee	3	...	...	3	100.0	...	...	...	...	...	...	...	...
Texas	9	...	...	7	77.7	2	22.2	...	...	...	...	...	...
Utah	7	...	...	6	85.7	1	14.2	...	...	...	...	...	...
Vermont	4	...	...	4	100.0	...	...	...	...	...	...	...	...
Virginia	4	...	...	4	100.0	...	...	...	...	...	...	...	...
Washington	91	...	...	91	100.0	...	...	...	...	...	...	...	...
West Virginia	3	...	...	3	100.0	...	...	...	...	...	...	...	...
Wisconsin	88	...	...	88	100.0	...	...	...	...	...	...	...	...
Wyoming	5	...	...	5	100.0	...	...	...	...	...	...	...	...
TOTAL	2,212	94	4.2	1,999	90.4	105	4.7	11	0.5	2	0.1	1	a/
Stratum													
1	18	0	0.0	13	72.2	2	11.1	2	11.1	0	0.0	1	5.5
2	33	1	3.0	26	78.8	4	12.1	1	3.0	1	3.0	0	0.0
3	44	0	0.0	35	79.5	9	20.5	0	0.0	0	0.0	0	0.0
4	165	3	1.8	140	84.8	20	12.1	2	1.2	0	0.0	0	0.0
5	356	12	3.3	308	86.5	32	9.0	4	1.1	0	0.0	0	0.0
6	589	27	4.5	534	90.7	26	4.4	1	0.1	1	0.1	...	...
7	862	42	4.9	808	93.7	11	1.2	1	0.1	0	0.0	0	0.0
8	145	9	6.2	135	93.1	1	0.6	0	0.0	0	0.0	0	0.0
TOTAL	2,212	94	4.2	1,999	90.4	105	4.7	11	0.5	2	0.1	1	0.0

a/ Less than 1/10 of 1 percent.

TABLE 2.--TYPE OF NEGOTIATION CONDUCTED IN SYSTEMS WITH MORE THAN ONE RECOGNIZED ORGANIZATION

State	Number of systems with recognized organization	Systems with multiple organizations		Separate negotiation		Joint negotiation with proportional representation		Joint negotiation with equal representation	
		No.	Pct.	No.	Pct.	No.	Pct.	No.	Pct.
Alabama	...	...	...	...	...	...	...	...	...
Alaska	4	...	...	...	...	...	...	...	...
Arizona	14	...	...	...	...	...	...	...	...
Arkansas	2	...	...	...	...	...	...	...	...
California	371	52	14.0%	...	...	52	100.0%	...	...
Colorado	22	...	...	...	...	...	...	...	...
Connecticut	66	1	1.5	1	100.0%	...	...	...	...
Delaware	8	...	...	...	...	...	...	...	...
District of Columbia	1	...	...	...	...	...	...	...	...
Florida	14	6	42.8	...	...	4	66.7	2	33.3%
Georgia	...	...	...	...	...	...	...	...	...
Hawaii	...	...	...	...	...	...	...	...	...
Idaho	17	1	5.9	1	100.0	...	...	...	...
Illinois	98	2	2.0	...	...	...	...	2	100.0
Indiana	47	2	4.2	...	...	...	...	2	100.0
Iowa	13	1	7.7	...	...	1	100.0	...	...
Kansas	39	...	...	...	...	...	...	...	...
Kentucky	9	...	...	...	...	...	...	...	...
Louisiana	...	...	...	...	...	...	...	...	...
Maine	11	...	...	...	...	...	...	...	...
Maryland	10	...	...	...	...	...	...	...	...
Massachusetts	111	10	9.0	10	100.0	...	...	...	...
Michigan	301	...	...	...	...	...	...	...	...
Minnesota	84	28	33.3	1	3.6	27	96.4	...	...
Mississippi	1	...	...	...	...	...	...	...	...
Missouri	27	...	...	...	...	...	...	...	...
Montana	4	...	...	...	...	...	...	...	...
Nebraska	4	...	...	...	...	...	...	...	...
Nevada	1	...	...	...	...	...	...	...	...
New Hampshire	11	...	...	...	...	...	...	...	...
New Jersey	159	5	3.1	4	80.0	1	20.0	...	...
New Mexico	9	...	...	...	...	...	...	...	...
New York	134	5	3.7	5	100.0	...	...	...	...
North Carolina	1	1	100.0	...	...	...	...	1	100.0
North Dakota	7	...	...	...	...	...	...	...	...
Ohio	184	1	0.5	1	100.0	...	...	...	...
Oklahoma	4	...	...	...	...	...	...	...	...
Oregon	...	...	...	...	...	...	...	...	...
Pennsylvania	88	1	1.1	1	100.0	...	...	...	...
Rhode Island	18	...	...	...	...	...	...	...	...
South Carolina	1	...	...	...	...	...	...	...	...
South Dakota	7	...	...	...	...	...	...	...	...
Tennessee	3	...	...	...	...	...	...	...	...
Texas	9	2	22.2	1	50.0	1	50.0	...	...
Utah	7	1	14.3	...	...	1	100.0	...	...
Vermont	4	...	...	...	...	...	...	...	...
Virginia	4	...	...	...	...	...	...	...	...
Washington	91	...	...	...	...	...	...	...	...
West Virginia	3	...	...	...	...	...	...	...	...
Wisconsin	88	...	...	...	...	...	...	...	...
Wyoming	5	...	...	...	...	...	...	...	...
TOTAL	2,116	119	5.6	25	21.0	87	73.1	7	5.9
Stratum									
1	18	5	27.8	2	40.0	3	60.0	...	...
2	32	6	18.6	...	...	5	83.3	1	16.7
3	44	9	20.4	2	22.2	7	77.8	...	...
4	162	22	13.6	7	31.8	14	63.6	1	4.5
5	344	36	10.5	4	11.1	29	80.6	3	8.3
6	562	28	5.0	7	25.0	20	71.4	1	3.6
7	818	12	1.5	3	25.0	8	66.7	1	8.3
8	136	1	0.7	...	...	1	100.0	...	...
TOTAL	2,116	119	5.6	25	21.0	87	73.1	7	5.9

TABLE 3.--METHOD USED TO DETERMINE ORGANIZATION(S) TO BE DESIGNATED FOR NEGOTIATION

State	Systems surveyed	Systems with recognized organizations		Staff referendum		Signed cards		Verified membership		Request to negotiate		Other		No Response	
		No.	Pct.	No.	Pct.	No.	Pct.	No.	Pct.	No.	Pct.	No.	Pct.	No.	Pct.
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
Alabama	115	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Alaska	8	4	100.0%	...	...	...	...	...	...	4	100.0%	...	...	...	...
Arizona	62	14	100.0	2	14.3%	...	...	2	14.3%	9	64.3	1	7.1%	...	...
Arkansas	108	2	100.0	...	...	...	...	...	...	2	100.0	...	...	...	...
California	492	371	100.0	...	...	...	...	221	59.6	141	38.0	2	0.5	7	1.9%
Colorado	60	22	100.0	1	4.5	...	...	4	18.2	17	77.3	...	...	...	...
Connecticut	110	66	99.9	35	53.0	7	10.6%	3	4.5	19	28.8	...	...	2	3.0
Delaware	31	8	100.0	...	...	1	12.5	1	12.5	5	62.5	...	...	.	12.5
District of Columbia	1	1	100.0	1	100.0	...	...	...	...	...	...	...	...	...	...
Florida	63	14	100.0	2	14.3	...	...	...	...	11	78.6	1	7.1	...	...
Georgia	181	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Hawaii	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Idaho	44	17	100.1	2	11.8	...	...	2	11.8	11	64.7	1	5.9	1	5.9
Illinois	405	98	100.0	23	23.5	6	6.1	1	1.0	64	65.3	1	1.0	3	3.1
Indiana	256	47	100.0	6	12.8	1	2.1	2	4.3	37	78.7	1	2.1	...	...
Iowa	147	13	100.0	2	15.4	...	...	...	...	8	61.5	3	23.1	...	...
Kansas	102	39	100.1	6	15.4	...	...	1	2.6	30	76.9	1	2.6	1	2.6
Kentucky	159	11	100.0	3	33.3	...	...	2	22.2	6	54.5	...	...	...	...
Louisiana	67	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Maine	75	11	100.0	1	9.1	1	9.1	...	...	8	72.7	...	...	1	9.1
Maryland	24	10	100.0	1	10.0	...	...	2	20.0	6	60.0	1	10.0	...	...
Massachusetts	210	111	100.0	29	26.1	60	54.1	3	2.7	19	17.1	...	...	...	...
Michigan	393	301	99.9	97	32.2	127	42.2	17	5.6	54	17.9	2	0.7	4	1.3
Minnesota	157	84	100.1	...	...	...	...	47	56.0	36	42.9	...	...	1	1.2
Mississippi	142	1	100.0	...	...	...	...	...	...	1	100.0	...	...	...	...
Missouri	172	27	100.0	2	7.4	...	...	1	3.7	21	77.8	3	11.1	...	...
Montana	33	4	100.0	1	25.0	...	...	...	...	2	50.0	1	25.0	...	...
Nebraska	41	4	100.0	...	...	2	50.0	...	...	2	50.0	...	...	...	...
Nevada	11	1	100.0	...	...	...	...	...	...	1	100.0	...	...	...	...
New Hampshire	35	11	100.0	1	9.1	...	...	...	...	8	72.7	1	9.1	1	9.1
New Jersey	311	159	100.0	19	11.9	6	3.8	19	11.9	113	71.1	...	...	2	1.3
New Mexico	44	9	100.0	2	22.2	...	...	1	11.1	5	55.6	1	11.1	...	...
New York	511	134	100.1	17	12.7	43	32.1	45	33.6	25	18.7	2	1.5	2	1.5
North Carolina	163	1	100.0	...	...	...	...	...	...	1	100.0	...	...	...	...
North Dakota	17	7	100.0	...	...	...	...	...	...	7	100.0	...	...	...	...
Ohio	520	184	99.9	28	15.2	3	1.6	31	16.8	113	61.4	6	3.3	3	1.6
Oklahoma	86	4	100.0	...	...	...	...	...	...	3	75.0	1	25.0	...	...
Oregon	88	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Pennsylvania	505	88	99.9	6	6.8	6	6.8	6	6.8	69	78.4	1	1.1	...	...
Rhode Island	30	18	100.0	17	94.4	1	5.6	...	...	...	...	...	...	...	...
South Carolina	102	1	100.0	...	...	...	...	...	...	...	...	1	100.0	...	...
South Dakota	28	7	100.0	2	28.6	1	14.3	...	...	4	57.1	...	...	...	...
Tennessee	129	3	100.0	...	...	...	...	...	...	2	66.7	1	33.3	...	...
Texas	358	9	99.9	3	33.3	1	11.1	3	33.3	1	11.1	1	11.1	...	...
Utah	31	7	100.0	3	42.9	...	...	...	...	4	57.1	...	...	...	...
Vermont	18	4	100.0	...	...	...	...	...	...	4	100.0	...	...	...	...
Virginia	127	4	100.0	1	25.0	...	...	...	...	3	75.0	...	...	...	...
Washington	121	91	100.0	73	80.2	2	2.2	3	3.3	12	13.2	...	...	1	1.1
West Virginia	54	3	100.0	...	...	1	33.3	...	...	2	66.7	...	...	...	...
Wisconsin	208	88	99.9	36	40.9	7	8.0	6	6.8	37	42.0	1	1.1	1	1.1
Wyoming	19	5	100.0	1	20.0	1	20.0	1	20.0	2	40.0	...	...	...	...
TOTAL	7175	2118	100.0	423	20.0	277	13.1	424	20.0	929	43.9	34	1.6	31	1.5
Stratum															
1	25	18	100.0	7	38.9	...	...	4	22.2	6	33.3	1	5.6	...	...
2	54	32	100.1	6	18.8	...	...	11	34.4	15	46.9	...	...	...	...
3	90	44	99.9	18	40.9	2	4.5	13	29.5	9	20.5	...	...	2	4.5
4	346	162	100.0	40	24.7	12	7.4	53	32.7	50	30.9	6	3.7	1	0.6
5	857	344	99.9	66	19.2	35	10.2	83	24.1	146	42.4	8	2.3	6	1.7
6	1679	562	100.0	113	20.1	80	14.2	103	18.3	249	44.3	6	1.1	11	2.0
7	3390	820	99.9	141	17.2	127	15.5	138	16.9	394	48.0	10	1.2	10	1.2
8	734	136	99.9	32	23.5	21	15.4	19	14.0	60	44.1	3	2.2	1	0.7
TOTAL	7175	2118	100.0%	423	20.0%	277	13.1%	424	20.0%	929	43.9%	34	1.6%	31	1.5%

Judicial Decisions, Opinions, and Statutes

In the Matter Between

THE BOARD OF EDUCATION
ADAMS COUNTY SCHOOL DISTRICT 14
ADAMS COUNTY, COLORADO

and

DISTRICT 14 EDUCATION ASSOCIATION

Concerning Impasse In

SALARY NEGOTIATIONS

MEDIATION BOARD

FACT FINDING REPORT

AND

RECOMMENDATIONS

Mediation Board:

Dr. Frank S. Miles, Executive Director, Colorado Association of School Boards
Mr. William E. Stiles, Jr., Specialist in Negotiations, National Education Association
Mr. John Phillip Linn, Professor of Law, University of Denver College of Law, Chairman

Appearances:

For the Board of Education:

Dr. John G. Stuart, Superintendent of Schools
Dr. Horace J. Good, Deputy Superintendent
Mr. Dale Graham, Director of Personnel and Instructional Services
Mr. Harold Sohrweid, Director of Federal and State Relations
Mr. Gordon Griffin, Supervisor of Business Services
Mr. Clyde Morgensen, Supervisor of Transportation

For District 14 Education Association:

Members of the Professional Negotiations Committee --
Mr. James P. Anderjeski, Chairman
Mr. Leonard Capra
Mr. Charles Kehl
Mr. John A. Tovado

Consultants --
Mrs. Roberta J. Altenbern, President, District 14 Education Association
Mr. Arthur J. Calomino, Salary and Welfare Committee Chairman
Mr. Sam Danielson
Mr. Herbert R. Padzensky

Dates of Hearings:

May 23, 1968	May 28, 1968
May 24, 1968	May 29, 1968
May 26, 1968	May 30, 1968
May 27, 1968	

The Issue:

The sole question presented to the Mediation Board for consideration and recommendation was: What should be the salary schedule for the teachers of Adams County School District 14 effective September, 1968?

The Professional Relations Agreement between the Board of Education of Adams County School District 14, Adams County, Colorado, hereinafter referred to as the Board, and the District 14 Education Association, hereinafter referred to as the Association, provides for establishment by mutual consent of a Mediation Board when an impasse is reached during professional relations. Under the Agreement, the Mediation Board functions as a fact finding body with the ultimate responsibility to present recommendations to the membership of the Association and the Board for their consideration and vote.

Pursuant to Article IV of the Agreement, the Mediation Board met with representatives of the Board and of the Association in formal hearings at the times noted above, and after analyzing the testimony and documentary evidence (see list of exhibits attached hereto) and weighing the arguments of the parties, the Mediation Board makes the following observations and recommendations.

The Negotiation Process:

The Mediation Board reviewed the negotiation process and discussed the issues involved with the parties. The following factors and attitudes appear to have contributed to the impasse that resulted:

1. The Agreement between the Association and the Board makes clear cut interpretation difficult. As a result, the parties spent approximately the first four weeks in negotiations attempting to resolve the issue of appropriate representation. The Agreement should leave little room for questioning the role of the parties concerned or the procedures to be involved in the process of negotiations.

2. The negotiations commenced in January, 1968. This late date did not allow sufficient time for negotiations among the relatively inexperienced negotiation representatives. Contract renewal time, as prescribed by law, is April 15. It seems appropriate that negotiations be scheduled so that they may be terminated prior to that date.

3. A substantial portion of the negotiating time was devoted to consideration of the financial problems of the District and attempts to reach understandings about the budget process. Several changes in accounting methods and processes in recent years made comparative studies difficult. Federal programs, and their accounting requirements, created some confusion. A change in the State law required all school districts to adopt a calendar budget year commencing not later than January 1, 1967. Prior to that time, the fiscal year of the District was from July 1 to June 30. The change in the budget process of the District

made it difficult for the parties to review the financial history of the District and reach meaningful understandings. The process of developing a salary schedule which covers a school year, while the budget of the District is based upon a calendar year, resulted in misunderstandings and disagreements.

4. At the time impasse was declared in early May, 1968, both parties had reached a point of frustration. The Association representatives felt that after negotiating for more than four months and making three salary proposals without concessions from the Board that too little progress had been made. The representatives of the Board believed they had made a fair salary proposal to the Association, in light of the budget limitations of the District, and that the Association and its members refused to give that proposal adequate and reasonable consideration.

Financial Structure of the School District:

Latest available data reveal the following:

1. Adams County School District 14 has the second highest tax levy among the 181 school districts in the State of Colorado.

2. The combined General Fund levy, Capitol Reserve Fund levy, and the Bond and Interest Fund levy for the past four years has been:

1965 - 48.50 mills	1967 - 55.88 mills
1966 - 51.61 mills	1968 - 59.88 mills

The rate of taxation shown applies to property as assessed in the preceding calendar year.

3. Even though the property taxpayers of the District have assumed a high mill levy, the revenue derived provides less for the support of each pupil than is provided per pupil in many districts with a substantially lower mill levy.

4. Adams County School District 14 ranks 12th from the bottom among the 181 school districts in assessed valuation per pupil in average daily attendance. Only three of the fourteen school districts in the Denver Metropolitan area - Adams County District 12, Adams County District 50, and Arapahoe County District 2 - have a per pupil property tax base which is less than the base for this District.

5. Best available data support the conclusion that the adjusted gross income per pupil with the District is lower than that of other districts in the Denver Metropolitan area.

An analysis of the financial structure of Adams County School District 14 leads to the conclusion that the tax base of the District is inadequate to meet the demands placed upon it. It doesn't seem appropriate that the second highest school district levy in Colorado should produce less revenue than would be required to support a program of average per pupil cost.

As the need for increased educational expenditures continue from year to year, the mill levy for this District will continue to get progressively higher. The financial structure of this District imposes an undue burden on the property taxpayers and provides less revenue than is needed.

Only through action of the Colorado General Assembly can meaningful relief to the financial situation in the District be realized.

Revenue Considerations:

During the process of negotiations, considerable discussion centered on the sources of revenue which might be utilized to fund the 1969 budget and the reallocation of certain funds. Representatives of the Association suggested that budgeted amounts for certain functions could be reduced and the savings applied to increased instructional salaries. Specifically, the Association suggested the Board:

1. Reduce transportation services, or charge a transportation fee.

2. Eliminate or substantially reduce the Contingency Fund.

3. Employ no additional personnel this coming year.

4. Eliminate the Capital Reserve Fund levy and appropriate a similar number of dollars to the General Fund.

5. Increase the percentage of the total budget allocated to instructional salaries.

6. Increase the mill levy.

7. Impose student fees for field trips and a rental fee for the use of text books.

The Mediation Board spent considerable time reviewing the suggestions made relative to additional revenues and the possibilities of reallocating certain portions of the budget to other purposes. The understandings of the Mediation Board are presented as follows.

Transportation

The State plan for the support of bus transportation provides that a school district shall receive from the State 15¢ per mile plus 3¢ a day for each pupil transported by bus, but in no case will the State support more than 75% of the amount actually spent by the District in transporting pupils to and from school. A school district receives no reimbursement from the State for such things as field trips, activity trips, etc. Few of the larger districts receive the full 75% of the total cost of transporting pupils from the State.

In this District, elementary pupils are transported to and from school if they live more than 3/4 of a mile from their attendance center. It is common practice among school districts in the State to transport pupils only if they live more than a mile away from the school. Many unusual and extremely hazardous traffic conditions exist within the District which seem to justify the established practice as it applies to elementary school students. Further, the Mediation Board concluded that relatively few dollars would be saved by adopting the one mile practice of other districts.

Some savings might be realized through the purchase of different type buses, but the amount is speculative. Pusher type school buses are being purchased for use in the District. Although the initial outlay for the purchase of these buses is somewhat greater, the view was presented that such buses have a greater carrying capacity, are less expensive to maintain, and are more maneuverable on the bus routes of the District.

Although the Mediation Board concluded that relatively little could be saved by amending the policies of the District with regard to the distance which pupils should be transported or with regard to the purchasing policy of buses, it believed that the imposition of transportation fees for student field trips, activity trips, and other sources might result in a savings of as much as

$7,000 a year, but the Mediation Board makes no recommendation concerning the institution of such fees.

The Contingency Fund

The Contingency Fund of the District is authorized by law to cover costs created by acts of God, emergencies, and other items which could not reasonably have been foreseen at the time of budget adoption. The Mediation Board does not recommend the elimination of the Contingency Fund allocation in the budget.

In some respects, the Contingency Fund of a District is similar to an insurance policy. You hope that it isn't used, but it is important that the protection be provided. In reviewing the budgets of other districts, it would appear that the amount allocated to the Contingency Fund in Adams County School District 14 is not out of line. However, some consideration might be given to a reevaluation of contingency needs, and it may be determined that a lesser amount may be budgeted for this purpose.

The Employment of Additional Personnel

The decision as to whether teachers or other personnel should be or should not be employed must be based upon an evaluation of need, and the Mediation Board had insufficient data before it to reach any conclusions in this regard.

Capital Reserve Fund

Colorado law provides that a board of education may appropriate 2 mills for a Capital Reserve Fund. The monies in the Capital Reserve Fund are used for the purchase of new equipment, classroom furnishings, minor building remodeling, etc. The law does not permit these funds to be used for General Fund purposes.

The Colorado Industrial Commission has cited numerous building deficiencies in the District which must be corrected, because they reflect potential health or safety hazards. The Board and Administration feel compelled to correct these deficiencies at the earliest possible date.

A bond proposal was recently rejected in this District. Because funds are not available, maintenance projects are now on an emergency catch-up status. The amount allocated to preventive maintenance is totally inadequate. When a bond issue is approved, consideration may be given to reducing or eliminating the Capital Reserve Fund levy.

Percent of the Budget Allocated to the Instructional Salaries

The budget allocation for 1968 provides that 61.22% of the total shall be devoted to instructional salaries. The Mediation Board was presented evidence to show that only two districts in the Denver Metropolitan area allocate a higher percentage of their total budget to instructional salaries.

As a general practice, the concept of allocating a given percentage of the budget to different functions seems appropriate in establishing guidelines for budget development. However, the specific needs of all categories of the budget must be given due consideration and the allocation of funds should be adjusted accordingly. The percentage allocated to teachers salaries or other functions of the budget may need to be adjusted either upward or downward. In the absence of an evaluation of the total needs of the District, the Mediation Board cannot conclude that too little of the present budget is allocated to instructional salaries.

Revenue Sources

The limitations of a school district to derive additional revenue from increased levies must be given due consideration. Colorado law provides, in effect, that a board of education may authorize property tax increases in an amount not to exceed 5% of that derived from this source in the preceding year. The 5% increase authorized by law does not relate to the total budget of the District, rather it relates to the property taxes of the District and the extent to which revenues from this source may be increased.

The 1968 budget of the Adams County School District 14 calls for a General Fund net property tax requirement in the amount of $1,960,997. If the Tax Commission were to permit the inclusion of the levy for the Capital Reserve Fund ($84,818) in the computation of local property tax requirements for 1968, the Board, in its discretion, could increase revenues from property tax sources for 1969 in an amount equal to 5% of $2,045,815, or a total of $102,290.75.

The Colorado Tax Commission has authority to permit increases in excess of the 5% if the need can be demonstrated to its satisfaction. If the Tax Commission rejects a request for increase above the 5% limit, the question may be presented to the taxpaying electors of the District and they may vote to approve or reject increases without limit.

It is the view of the Mediation Board that a vote on the budget will probably be necessary in this District next year. In determining the extent to which revenue increases should be sought for 1969, it would seem essential that consideration should be given to (a) the probability of receiving Tax Commission approval, and (b) the possibilities of securing voter approval of a substantial levy increase if the Tax Commission rejects the proposal.

Student Fees

In the process of negotiations, some discussion centered on the possibility of raising additional money through student fees for field trips and a book rental charge. It has been the position of the District that such charges should not be imposed. The State Board of Education, by resolution, has stated the policy view that districts should not impose such charges on students. The Mediation Board notes, however, that many districts do receive some funds from student sources.

Financing Educational Programs in the Future

As we look at the financial status of the District for the next two years, some problems appear inevitable. All educational costs are likely to increase. As reserve funds are depleted, they will have to be replaced with tax revenue dollars. The Mediation Board finds no reason to justify expectations that the 1968 revenues will be higher or lower than presented in the budget. In reviewing the 1968 budget of the District, the Mediation Board concluded that the budget of the District presented a reasonably accurate programmed plan of income and expenditures for the operations of the District. Revenue sources and the purposes for which monies were to be spent were readily identifiable.

At best, the process of budget developing and budget reviewing requires a degree of educated guessing. However, in reviewing the 1968 budget of the District, the Mediation Board has determined that anticipations for ending fund balances as of December 31, 1968, may be developed in this way:

$166,000	Planned ending fund balance
$ 46,000	By holding 1968 expenditures to 1% less than the amount budgeted
$ 60,000	Anticipate that only $20,000 of the $80,000 budgeted for contingency will be used in 1968
$ 7,500	Reduce the number of new personnel to be employed
$279,500	Total

If the above speculations become a reality, it would be feasible for the Board to apply $235,000, or a little more, to the 1969 budget. It is essential, however, that the persons involved realize the problems which result when reserve funds are used to pay for continuing commitments.

When a district has reserve funds, and anticipated expenditures exceed anticipated revenues, the reserve funds can be applied and the tax requirement reduced accordingly. However, as we look to the future, it must be realized that the day will come when reserve funds are not available to apply to continuing budget commitments. At that time, an increase in tax revenues must be sufficient to cover increased expenditures plus the amount applied from reserve funds in the preceding year. The Mediation Board anticipates that a substantial tax increase will be required in the 1970 budget if the reserve funds are significantly applied to the 1969 budget.

In the discussions that took place during the process of negotiations, a possibility for the funding of the 1969 budget considered the following sources of revenue which would be in addition to the anticipations for 1968:

$107,085	Additional income from property tax relief fund
$127,500	A 3 mill increase in property taxes
$100,000	Apply $235,000 of the ending balance to the expenditures budget. In 1968, $135,000 of reserve funds were applied to continuing budget items which must be maintained.
$334,585	Total

The increase in budgeted appropriations required by the salary schedule proposed by the Mediation Board amounts to approximately $243,100. If this represents 61.22% of the increase for next year, the total increase in the 1969 budget would amount to approximately $400,000. The funding of the Mediation Board recommendation will require careful planning. It will be necessary that every effort be made to reduce spending during the remainder of 1968 and to hold to a minimum the amount budgeted for other purposes in 1969.

Salary Schedule Considerations

The charge to the Mediation Board was to give due consideration to all relevant factors and recommend a teacher salary schedule which would be fair and equitable to all concerned. In the hearings conducted by the Mediation Board, attempts were made to ascertain the desires of the parties relative to a salary schedule.

Among the salary schedule views presented by representatives of the Association were the following:

1. Salaries paid teachers in the District must be significantly increased.
2. The salary schedule should recognize the labors of past service.
3. Annual increases in salaries should get progressively higher.
4. There should be a commitment to pay better salaries at the top level.
5. There should be a greater difference between the top and bottom of the salary schedule.
6. It is considered desirable that the beginning salary for a teacher with a BA degree should be at least $5,800.
7. The remaining items for negotiation following the adoption of a salary schedule this year will not have significant budgetary implications.

Among the salary schedule views presented by representatives of the Board were as follows:

1. The total cost of any proposed schedule should be such that it can be funded within the budget limitations of the District.
2. The top salaries paid teachers with BA degrees should be limited, thus encouraging these people to seek professional growth.
3. A schedule which recognizes and rewards professional growth.
4. A schedule that will permit the District to be competitive in the employment of new teachers as well as more adequately compensate the older teachers in the District.

A review of the salary data received by the Mediation Board clearly revealed (a) the need to increase base salaries to permit the District to be competitive in seeking to employ well qualified teachers, and (b) the significant need to increase the salaries at the top for persons who had demonstrated professional growth.

The average salary paid the teachers of the District compares favorably with the average teacher salary in the State and in the Denver Metropolitan area, but this results because the percentage of long term employees in the District is significantly greater than in neighboring districts.

Both parties have expressed an interest in and a desire to continue the multi-step salary schedule designed to encourage and reward professional growth among teachers through graduate study. The existing schedule has unquestionably effectively contributed to such professional growth in the District. The Mediation Board is, under the circumstances, not disposed to recommend a change from the multi-step schedule. The Mediation Board believes the multi-step schedule is theoretically sound but generally more expensive than schedules with fewer steps based on educational advancements. The teachers must realize and appreciate the salary advantages of the multi-step salary schedule over schedules with less steps; they cannot fairly compare the two types of schedules by examining the salary at a given, or selected, point because all factors in one salary schedule must be weighed against all factors of any other schedule before a fair comparison is possible.

Salary Schedule Recommendations

The salary schedule recommendation of the Mediation Board is based on the following assumptions:

1. That the issues which remain to be negotiated will not have significant budgetary implications; and

2. That the funding of the proposed salary schedule can be accommodated without the need for a budget election this year.

The Mediation Board believes the salary schedule it recommends should include the following features, and the recommended schedule has been so designed:

1. The salary paid to a beginning teacher with a BA degree is $5,800 per annum. This compares with a $5,400 base salary in the present schedule.

2. The schedule provides for progressively greater annual increases in salary, thus rewarding those teachers who choose to continue their service in the District.

3. Teachers with a BA degree who have reached the maximum on the existing schedule are provided a salary increase of $450.

4. Salary increases for teachers entitled to receive a salary increment in September, 1968, range from a low of $575 for the first year teacher to a high of $750 for all teachers on the regular schedule who have been employed in the District seven or more years.

5. The multi-step schedule concept is continued unchanged and provides a salary increase for each 15 quarter hours of college credit earned by a teacher.

6. The increase in cost to the District in the 1968-69 school year amounts to approximately $243,100. In the 1969 budget of the District, it will be necessary to provide for the payment of increments during the period from September to December, 1969.

The Mediation Board makes the following recommendations:

1. That the parties adopt the salary schedule attached hereto.

2. That the District hold in effect the recommended salary schedule for the duration of the calendar year 1969.

3. That, before April 15, 1969, the Board and the Association agree on a new salary schedule for the calendar year 1970 which gives substantial consideration to the need for maximum salaries that are in line with those in effect in the other school districts in the Denver Metropolitan area.

Respectfully submitted this 5th day of June, 1968,

John Phillip Linn, Chairman

Frank S. Miles

William E. Stiles, Jr.

Exhibits

1. Brief of the Board.
2. Effect of 1968 budget and projected 1969 budget upon the net fund balance of December 31, 1967.
3. Letter dated 3-13-68 to superintendents from Colorado Dept. of Education concerning P.L. 815 and P.L. 874.
4. Memorandum dated 5-21-68 to superintendents from Colorado Dept. of Education concerning P.L. 815 and P.L. 874.
5. Memorandum dated 2-29-68 to superintendents from Colorado Dept. of Education concerning Title III, NDEA.
6. Salaries and related information, Fall 1967, compiled by Colorado Dept. of Education.
7. Approved budget for Adams County School District 14 - 1968.
8. Ten-year plan for Instruction and Construction in Adams County School District No. 14 (Robert Johnson study - Division of Educational Research, University of Montana).
9. CIC Safety Inspection Report No. 14288; 10-23-67.
10. CIC Safety Inspection Report No. 14649; 2-22-68.
11. CIC Safety Inspection Report No. 14648; 2-22-68.
12. CIC Safety Inspection Report No. 14647; 2-22-68
13. CIC Safety Inspection Report No. 14651; 2-22-68.
14. CIC Safety Inspection Report No. 14650; 2-22-68.
15. CIC Safety Inspection Report No. 14652; 2-22-68.
16. CIC Safety Inspection Report No. 14625; 2-16-68.
17. CIC Safety Inspection Report No. 14626; 2-16-68.
18. CIC Safety Inspection Report No. 14627; 2-16-68.
19. CIC Safety Inspection Report No. 14628; 2-16-68.
20. CIC Safety Inspection Report No. 14569; 2-13-68.
21. CIC Safety Inspection Report No. 14629; 2-19-68.
22. CIC Safety Inspection Report No. 14617; 2-14-68.
23. CIC Safety Inspection Report No. 14624; 2-15-68.
24. CIC Safety Inspection Report No. 14623; 2-15-68.
25. CIC Safety Inspection Report No. 14620; 2-15-68.
26. CIC Safety Inspection Report No. 14618; 2-15-68.
27. CIC Safety Inspection Report No. 14616; 2-14-68.
28. CIC Safety Inspection Report No. 14621; 2-15-68.
29. CIC Safety Inspection Report No. 14619; 2-14-68.
30. CIC Safety Inspection Report No. 14614; 2-13-68.
31. Minutes of Special Meeting, Bd. of Educ. Adams County Dist. 14 - 5/7/68.
32. Student Enrollment Comparisons, Dist. 14 - 1967-68.
33. 1968-69 Estimated Student Enrollment, Dist. 14.
34. Brief of District #14 Education Association.
35. Letter from Mr. Kehl to Dr. Stuart setting forth negotiation subjects.
36. 1967-68 Salary Schedule, District #14.
37. District #14 Teacher Scatter Information showing teacher resignations or retirements.
38. District #14 memo from Mr. Graham to Dr. Stuart summarizing teacher turnover 9/21/67.
39. Salary proposal exchanged by parties during 1968 negotiations.
40. Teachers' salaries per ADA, 1968 in Denver Metropolitan Area as compiled by Rocky Mt. School Study Council.
41. Salary Comparisons of Classified Personnel for Denver Metro School Districts.
42. Review and Projection of Incomes for General Fund, District #14, 5/26/68.
43. District #14 Revenue Comparisons 1964 through 1968.
44. District #14 Teachers Placement in 1967-68 Salary Schedule.
45. District #14 Teacher Placement Comparisons on Salary Schedules.
46. Comparisons of Budgeted and Actual Revenues and Comparisons 1961 through 1967.
47. Comparison of 1967 General Fund Tax Levies in Colorado School Districts with Enrollments of Over 1,000 students.
48. District #14 Statement of Appropriations, Expenditures, and Encumbrances 1962 through 1966.
49. Reasons Why Budget Should be Increased or Adjusted.
50. Memo from Colorado Dept. of Education concerning Tax Comm'n. and Elector Approval of Excess Levies 5/23/68.
51. Colo. State B'd. of Educ. Position Statement on School Fees 2/14/67.
52. Englewood 1968-69 Teachers Salary Schedule.
53. Brighton 1968-69 Teachers Salary Schedule.
54. Adams County District #12 1968-69 Teachers Salary Schedule.
55. Sheridan District #2 1968-69 Teachers Salary Schedule.
56. Littleton 1968-69 Teachers Salary Schedule.
57. Teacher Raises under Board of Education Proposed $5700 Base Schedule 4/20/68.
58. District #14 Distribution of College Hours Beyond BA and MA Degrees.
59. District #14 Teachers on Maximums 1967-68.
60. Comparison of 1967-68 Salary Schedule with District #14 Education Association's Proposed #3 Schedule.

61. Comparison of 1967-68 Salary Schedule with District #14 Education Association's Proposed #1 Schedule.

62. Comparison of 1967-68 Salary Schedule with Board of Education's #1 Schedule.

63. Evaluation of 1967-68 Salary Schedule for District #14 by NEA Tests.

64. Evaluation of Bd. of Education's #1 Schedule by NEA Tests.

65. Evaluation of District #14 Education Association's #3 Schedule by NEA Tests.

66. NEA Study of Salary Schedules.

67. Comparative Information on Enrollment, Certificated Personnel, School Finance by Colorado School Districts, 1966-1967; published by the Colorado Department of Education, 1968.

ADAMS COUNTY SCHOOL DISTRICT 14
4720 EAST 69TH AVENUE
COMMERCE CITY, COLORADO

PROPOSED TEACHERS SALARY SCHEDULE 1968 - 1969

Accepted Experience	1 Year	2-3 Years	4 & + Years													
	Base 1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
B.A.	5,800	5,975	6,175	6,425	6,700	6,975	7,250	7,550	7,850	8,050	8,250					
B.A. + 15	5,900	6,075	6,275	6,525	6,800	7,075	7,350	7,650	7,950	8,250	8,550					
B.A. + 30	6,000	6,175	6,375	6,625	6,900	7,175	7,450	7,750	8,050	8,350	8,650					
B.A. + 45	6,100	6,275	6,475	6,725	7,000	7,275	7,550	7,850	8,150	8,450	8,750	9,050				
M.A.	6,300	6,475	6,675	6,925	7,200	7,475	7,750	8,050	8,350	8,650	8,950	9,250	9,550			
M.A. + 15	6,400	6,575	6,775	7,025	7,300	7,575	7,850	8,150	8,450	8,750	9,050	9,350	9,650	9,950		
M.A. + 30	6,500	6,675	6,875	7,125	7,400	7,675	7,950	8,250	8,550	8,850	9,150	9,450	9,750	10,050	10,350	
M.A. + 45	6,600	6,775	6,975	7,225	7,500	7,775	8,050	8,350	8,650	8,950	9,250	9,550	9,850	10,150	10,450	10,750

DISMISSAL OF CHALLENGE TO "AGENCY SHOP"
PROVISION OF ASSOCIATION'S CONTRACT WITH
WARREN, MICH., SCHOOLS

STATE OF MICHIGAN
IN THE CIRCUIT COURT
FOR THE COUNTY OF MACOMB

James Clampitt, for himself and on behalf of all professional employees of the Warren Consolidated Schools, similarly situated,

Plaintiffs,

vs. No. X-67-2865

The Board of Education of the Warren Consolidated Schools and the Warren Education Association,

Defendants.

OPINION

The action herein was commenced on August 8, 1967. A Motion of Warren Education Association for Accelerated Judgment of Dismissal was filed January 25, 1968. The Plaintiff asks this Court for a Judgment declaring void the provisions of the collective bargaining contract being contrary to the Teachers' Tenure Act and for a permanent injunction against enforcing those provisions. Later, oral arguments were had by respective counsel, the Court took the decision under advisement; briefs were to be and were filed.

The Plaintiff accepts the Statement of Facts set forth in the Defendant, Warren Education Association's brief. The Board of Education of the Warren Consolidated Schools has for a number of years recognized the Warren Education Association for the purpose of collective bargaining under the Public Employment Relations Act. (PERA). A collective agreement was negotiated and entered into by the parties which governed their relations for the 1966-1967 school year period. The agreement herein was negotiated June 14, 1967, for the period 1967-1970 and remains in full force and effect at the present time. This agreement continues to provide that the Association is the "exclusive bargaining representative for all members of the unit which includes teachers such as Plaintiff. (Article 1, Section 1).

Article II, Section 3 provides: "Any contract between the board and an individual teacher shall be expressly subject to the terms and conditions of the agreement."

In Article I, Section 3 the public employer agreed to deduct membership fees and regular dues established by the Association for its members upon signed authorization of the member. In Section 4 it was affirmed that Association membership "shall be open to all teachers regardless of race, creed, sex, marital status or national origin." It was further provided:

"It is recognized that the proper negotiation and administration of collective bargaining agreements entail expense which is appropriately shared by all teachers who are beneficiaries of such agreements. To this end, in the event a teacher shall not join the Association and execute an authorization for dues deduction, such teacher shall, as a condition of continued employment by the Board, execute an authorization for the deduction of a sum equivalent to the dues and assessments of the Association which sum shall be forwarded to the Association. In the event that such an authorization is not signed for a period of thirty days following the commencement of employment of the teacher, the Board agrees that in order to effectuate the purposes of the Public Employment Relations Act and this Agreement, the services of such teacher shall be discontinued as of the end of the current school year. Such teacher or teachers shall be notified of the termination of their services immediately upon the expiration of the thirty (30) day period heretofore However, if at the end of the school year the teacher or teachers receiving the termination notice shall then be engaged in pursuing any legal remedies contesting the discharge under this provision before the Michigan Tenure Commission or a court of competent jurisdiction, such teacher's services shall not be terminated until such time as such teacher or teachers have either obtained a final decision as to the validity or locality of said discharge, or said teacher or teachers have ceased to pursue the legal remedies available to them by not making a timely appeal of any decision rendered in said matter by the Michigan Tenure Commission or a court of competent jurisdiction."

The above-quoted provision corresponds to what is known in private employment as an "agency shop." In Roberts' Dictionary of Industrial Relations (1966) "agency shop" is defined as:

"A union security provision to eliminate 'free riders.' All employees in the bargaining unit are required to pay dues or service charges to the collective bargaining agent. Non-union employees, however, are not required to join the union as a condition of employment. Payment of dues is to defray the expenses of the bargaining agent in negotiations, contract administration, etc."

A closed shop is defined as:

"A union security arrangement where the employer is required to hire only employees who are members of the union. Membership in the union is also a condition of continued employment. The closed shop is illegal under federal labor statutes."

Roberts' Dictionary of Industrial Relations (1966). The existence of the said above stated provision in the agreement was publicized to all members of the bargaining unit, almost all of whom are members of the Warren Education Association. To those few teachers who are not, the Board of Education sent letters advising them that because of the provision in Article II, Section 3, non-members refusing to pay a sum equivalent to dues and assessments of the Association would be terminated from employment in accordance with the agreement. Plaintiff is one such teacher who was so notified and who has refused to comply. Plaintiff, whose employment is subject to termination, concedes that the provision for an agency shop in a collective bargaining agreement between a public employer and the bargaining agent is permitted under the Public Employment Relations Act (Act 336, Public Acts of 1947, as amended). It is only the penalty provided in Article I, Section 4, of the collective bargaining agreement between the school board and the Warren Education Association that "In the event that such an authorization (for the deduction of a sum equivalent to the dues and assessments of the Association) is not signed for a period of thirty (30) days following the commencement of employment of the teacher, the board agrees that in order to effectuate the purposes of the Public Employment Relations Act in this agreement, the services of such teacher (under tenure) shall be discontinued as of the end of the current school year," which plaintiff contends is illegal and invalid.

The so-called tenure act (enacted 1937 and as amended in 1964) is: "An Act relative to continuing tenure of office of certificated teachers in public educational institutions; to provide for probationary periods; to regulate discharges or demotions; to provide for resignations and leaves of absence; to create a state tenure commission and to prescribe the powers and duties thereof; (and) to prescribe penalties for violation of the provisions of this act."

The purpose of Teachers' Tenure Act is to maintain an adequate and competent teaching staff, free from political and personal arbitrary interference (Rehberg vs. Board of Education of Melvindale, Ecorse Township School District No. 11, Wayne County, 330 Mich. 541). Wilson vs. Flint Board of Education, 361 Michigan Reports 691, describes the tenure act as legislation enacted to do away with autocratic power of school boards to prescribe rules to ensure a greater degree of security to teachers. Put in another way, the spirit of the statute is to protect the teacher against the whim and caprice of changing office holders (Street vs. Ferndale Board of Education, 361 Michigan Reports 32).

Article III, under Continuing Tenure, provides: "After the satisfactory completion of the probationary period, a teacher shall be employed continuously by the controlling board under which the probationary period has been completed, and shall not be dismissed or demoted except as specified in this act," etc.

Article IV under Discharge, Demotion or Retirement provides: "Discharge or demotion of a teacher on continuing tenure may be made only for reasonable and just cause, and only after such charges, notice, hearing, and determination thereof, as are hereinafter provided."

Article X under Waiver of Rights by Teachers provides: "No teacher may waive any rights and privileges under this act in any contract or agreement made with a controlling board. In the event that any section or sections of a contract or agreement entered into between a teacher and a controlling board make continuance of employment of such teacher contingent upon certain conditions which may be interpreted as contrary to the reasonable and just causes for dismissals, provided by this act, such section or sections of a contract or agreement shall be invalid and of no effect in relation to determination of continuance of employment of such teacher."

The Public Employment Relations Act (Act 336 of the Public Acts of 1947, as amended) is: "An act to prohibit strikes by certain public employees; to provide review from disciplinary action with respect thereto; to provide for the mediation of grievances and the holding of elections; to declare and protect the rights and privileges of public employees; and to prescribe means of enforcement and penalties for the violation of the provisions of this act."

As provided under Section 2 (M.S.A. 17.455 (2)) of PERA under Strikes by Public employees prohibited, "No person holding a position by appointment or employment in the government of the state of Michigan, or in the government of any 1 or more of the political subdivisions, thereof, or in the public school service or in any public or special district, or in the service of any authority, commission, or board, or in any other branch of the public service, hereinafter called a "public employee," shall strike.

Under Section 11 (M.S.A. 17.455 (11) of PERA, "Representatives designated or selected for purposes of collective bargaining by the majority of the public employees in a unit appropriate for such purposes, shall be the exclusive representatives of all the public employees in such unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment or other conditions of employment, and shall be so recognized by the public employer: Provided, That any individual employee at any time may present grievances to his employer and have the grievances adjusted, without intervention of the bargaining representative, if the adjustment is not inconsistent with the terms of a collective bargaining contract or agreement then in effect, provided that the bargaining representative has been given opportunity to be present at such adjustment."

Under Section 15 (M.S.A. 17.455 (15) of PERA, "A public employer shall bargain collectively with the representatives of its employees as defined in section 11 and is authorized to make and enter into collective bargaining agreements with such representatives. For the purposes of this section, to bargain collectively is the performance of the mutual obligation of the employer and the representative of the employees to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment, or the negotiation of an agreement, or any question arising thereunder, and the execution of a written contract, ordinance or resolution incorporating any agreement reached if requested by either party, but such obligation does not compel either party to agree to a proposal or require the making of a concession."

Under Section 7 (M.S.A. 17.455 (7))of PERA, "Upon the request of the collective bargaining representative defined in section 11, or if no representative has been designated or selected, upon the request of a majority of any given group of public employees evidenced by a petition signed by said majority and delivered to the labor mediation board, or upon request of any public employer of such employees, it shall be the duty of the labor mediation board to forthwith mediate the grievances set forth in said petition or notice, and for the purposes of mediating such grievances, the labor mediation board shall exercise the powers and authority conferred upon said board by sections 10 and 11 of Act No. 176 of the Public Acts of 1939."

The Board of Education of the Warren Consolidated Schools in this case has entered an appearance and filed an answer but has not filed a brief; its position appearing to be that whatever side prevails, the Board of Education will abide by such a decision. The involvement of the Board of Education herein, can hardly be designated as placing continued employment of the teacher on the mercy and whim of changing office holders. While the purpose of the Teachers' Tenure Act is to maintain an adequate and competent teaching staff, free from political and personal arbitrary interference, it cannot be said that the action of the Board of Education of the Warren Consolidated Schools can be construed to be in violation of the purpose of the Teachers' Tenure Act.

It would appear that the Warren Consolidated Board of Education has negotiated and entered into the agreement demanded by the Warren Education Association. To merely view the Board of Education of the Warren Consolidated Schools as a number of political office holders without recognizing them also as bargaining representatives in behalf of the school children, their parents, tax payers and interested citizens, substantial in number and large in area; is not an accurate picture.

Plaintiff's quarrel, if at all, would appear to be with the Warren Education Association which is the exclusive bargaining representative for all the members of the unit which includes teachers such as the Plaintiff. It is interesting to note, that the Plaintiff is silent about accepting or rejecting the benefits obtained through the bargaining of the Warren Education Association (majority of the teachers in this school district are members).

There are several manners in which the Plaintiff in this case could have proceeded rather than to have commenced action in the Circuit Court; none of which causes of action appear to have been followed. The agreement between the Warren Consolidated Schools, Warren, Michigan and the Warren Education Association includes the following under Article V -- Grievance Procedures -- Section 1: Definition --

> "Any claim by the Association or a teacher that there has been a violation, misinterpretation, or misapplication of the terms or the Agreement, a violation of their right to fair treatment, or violation of any established policy or practice shall be a grievance, and shall be resolved through the procedure set forth herein".

Further, based on what is before the Court it does not appear that the Plaintiff has exhausted his remedy under Article VI -- Discharge and Demotion -- which reads as follows:

> "Discharge, demotion or other involuntary change in the employment status of a teacher shall be for just cause and preceded by: a) the faithful execution of the evaluation procedure and the honoring of all teacher's right included in this Agreement, and applicable statutes, b) The forwarding of a written explanation for the action to the teacher and the Association, c) A complete review of the teacher's personnel file with the teacher and his representative, and d) If requested by the teacher, a hearing before the Board of Education".

Also, under the Michigan Tenure of Teachers Act, Article IV -- Discharge, Demotion or Retirement -- it is provided that a discharge or demotion of a teacher on continuing tenure may be made only for responsible and just cause and only after such charges, notice, hearing and determination thereof as hereinafter provided. This Act provides the manner in which the hearings should be conducted and further provides the manner in which an appeal may be taken from a decision of the Controlling Board to the Tenure Commission. This has not been done.

Based on the reasons stated herein, the Court finds that the Plaintiff has not exhausted remedies available to him and for this reason the case is dismissed.

/s/_____
Walter F. Cynar
Circuit Judge

Dated: July 19, 1968
Copies to: Ellman & Ellman
Attorney for Defendant
(Warren Education Association)
Charles Earl
Attorney for Defendant
(Board of Education of the Warren Consolidated School)
Bernard J. Fieger
Attorney for Plaintiff

STATE OF NEW YORK

PUBLIC EMPLOYMENT RELATIONS BOARD

IN THE MATTER OF BOARD OF EDUCATION, CENTRAL HIGH SCHOOL DISTRICT NO. 3, TOWN OF HEMPSTEAD, NASSAU COUNTY, NEW YORK, Employer, and BUILDING ADMINISTRATORS, CENTRAL HIGH SCHOOL DISTRICT NO. 3, Petitioner.	CASE NO. C-0032

DECISION

On November 30, 1967, Building Administrators, Central High School District No. 3 (herein referred to as the petitioner)[1] filed, in accordance with the Rules of Procedure (herein referred to as the Rules) of the New York State Public Employment Relations Board (herein referred to as the Board), a petition for certification as the exclusive negotiating representative for the building principals and assistant principals employed by the Board of Education, Central High School District No. 3, Town of Hempstead, Nassau County, New York (herein referred to as the employer). The petition alleges that petitioner requested recognition on September 25, 1967, which request was declined on November 10, 1967. These allegations are uncontested, and the petition is timely.

On January 11, 1968, a hearing was conducted in this matter[2]. At this hearing, the employer contended that the appropriate unit should include the executive assistant to the principal, administrative assistants, directors, district chairmen, building principals, assistant principals, the school lunch manager, the superintendent of buildings and grounds and the deputy business assistant. Petitioner reiterated its position that the unit should consist only of building principals and assistant principals.

The employer is a central high school district consisting of three senior high schools and four junior high schools. The school district services approximately 10,000 students and employs approximately 600 professionals and 60-70 non-professionals. The district principal is the chief administrator of the school district and is the executive officer of the Board of Education. His primary function is to carry out district policy. All parties agree he should be excluded from the unit.

The district principal is assisted in his functions by an executive assistant. The executive assistant has such duties as are assigned to him by the district principal, such as locating information, carrying out rules and regulations and "trouble shooting". In general, he has no responsibility to act for the district principal in the latter's absence.

In addition to the executive assistant, the district principal has three administrative assistants, one for curriculum and research, a second for program and personnel, and a third for business and finance. The administrative assistant in charge of program and personnel is assisted by three full-time directors, one of whom directs physical education, another directs vocational education, and the third directs pupil personnel services.

The administrative assistant for curriculum and research has responsible to him the district chairmen. There is a district chairman for each of the major fields of study. The district chairmen observe and evaluate teachers in their respective subject fields with reference to content and methodology, and are responsible for the development and updating of curriculum materials. They, of course, work with the principals in performing these duties and spend over half of their time visiting the various schools in the district. Indeed, the resultant overlapping of duties and authority has apparently created a desire on the part of the principals and assistant principals to be represented separately from the district chairmen.

The administrative assistant for business has responsible to him the deputy business assistant[3], school lunch manager and superintendent of buildings and grounds. The deputy business assistant's primary job is the organization and operation of school bus transportation, and he consults with the principals and assistant principals in this regard. In addition, he maintains inventory and is responsible for assisting in the development of budgetary needs and requirements. The school lunch manager has direct responsibility for the operation of the seven cafeterias within the school district, and works along with the principals and assistant principals in this regard. The superintendent of buildings and grounds has district-wide responsibility for the maintenance, upkeep and care of the seven buildings and adjacent grounds, and works with each of the principals and assistant principals with regard to the maintenance of each building.

1/ The parties stipulated that petitioner is an employee organization within the meaning of the Taylor Law.
2/ The rulings of the Trial Examiner at the hearing are affirmed, as no prejudicial error is apparent.

3/ This position is presently vacant.

Each building principal is in charge of a school building and is assisted by an assistant principal. The building principals and their assistants are responsible in their particular school for all phases of operation and administration. In fulfilling this responsibility, they regularly consult and work along with the other administrative personnel.

The district principal has an "administrative cabinet" which consists of all job classifications discussed above, except that the school lunch manager and the superintendent of buildings and grounds participate only when a problem concerning their area of specialization arises, and the assistant principals participate only when the principals are not available.

All of the administrative personnel are paid in accordance with an index factor based upon the teachers' salary schedule, except that the record is not clear with regard to the school lunch manager and the superintendent of buildings and grounds. In other words, the wages of the administrative personnel are adjusted above the wages of teachers by applying a percentage factor. This percentage, which only varies slightly in each instance, is added to the teachers' wages to determine the salary of the administrative personnel.

All administrative personnel receive the same holidays, have the same vacation allowance (except for the building principals who work an extra month during the summer), and participate in the same medical benefit and retirement programs. All are professionally licensed, with the possible exception of the school lunch manager and the superintendent of buildings and grounds.

On several occasions during the past two or three years, petitioner met with the district principal or the Board of Education and discussed the matter of salaries. However, petitioner was not formally recognized as negotiating agent and no contract was negotiated.

For the reasons discussed below, the undersigned finds that a unit consisting of all the administrative personnel except the district principal is the appropriate unit in this case. The realities of the situation do not bear out petitioner's contention that the principals and assistant principals form a separate appropriate unit from the rest of the administrative positions below the level of district principal. All administrative personnel are subject to the same ultimate supervision (by the district principal) and their areas of responsibility are closely integrated to serve the primary function of efficiently running the school district and each constituent school. The wages of substantially all the administrative personnel are determined on the basis of the same system, and they receive the same fringe benefits except for the minor difference in vacations mentioned above.

Thus, any separate community of interest the principals and assistant principals might have by reason of their desire for separate representation[4/] and past informal negotiations has been submerged in the broader community of interest shared with the other administrative personnel[5/]. There is nothing in the record to indicate that a general unit of administrators could not negotiate effectively with the district principal and Board of Education with regard to terms and conditions of employment. The record does indicate, however, that a separate unit of principals and assistant principals would, in this case, result in undue and unnecessary fragmentization and administrative inconvenience[6/].

The undersigned therefore concludes that the appropriate unit in this matter is as follows:

Included: The executive assistant to the district principal, all administrative assistants, directors, district chairmen, building principals, assistant principals, the school lunch manager, the superintendent of buildings and grounds and the deputy business assistant.

Excluded: The district principal.

THEREFORE, the undersigned will recommend to the Public Employment Relations Board that the petition in this matter be dismissed UNLESS petitioner, within 14 days from today, files an amended petition seeking certification in the unit determined above to be appropriate[7/]. In the event an amended petition for certification is timely filed, an election, by secret ballot, will be held under the supervision of the undersigned, among the employees in the unit determined to be appropriate, unless the petitioner submits to the undersigned, within 7 days from the date of filing of the amended petition, dues deduction authorizations and other evidences sufficient to satisfy the requirements of Section 201.6(h)(1) of the Rules for certification without an election.

Dated: Albany, New York
March 27, 1968

Paul E. Klein
Director of Representation

4/ The record does not reveal whether the other administrative personnel also desire separate representation.

5/ This community of interest is shared with the school lunch manager and superintendent of buildings and grounds, even though they may not be licensed "professionals".

6/ The employer has already recognized an employee organization as negotiating representative for the teachers, and another employee organization as negotiating representative for a unit of clerical, custodial and cafeteria employees.

7/ The record does not indicate whether petitioner desires to represent the employees in this unit.

STATE OF NEW YORK

PUBLIC EMPLOYMENT RELATIONS BOARD

IN THE MATTER OF

THE CITY SCHOOL DISTRICT OF THE CITY OF BINGHAMTON, NEW YORK,
Employer,

and

BINGHAMTON TEACHERS ASSOCIATION,
Petitioner,

and

BINGHAMTON FEDERATION OF TEACHERS,
Intervenor.

CASE NO. C-0119

DECISION AND ORDER

On December 19, 1967, the Binghamton Teachers Association (herein referred to as the petitioner) filed, in accordance with the Rules of Procedure (herein referred to as the Rules) of the New York State Public Employment Relations Board (herein referred to as the Board), a petition for certification as the negotiating agent for a unit of employees of The City School District of The City of Binghamton, New York (herein referred to as the employer) described as follows:

Included: classroom teachers, department heads, dental hygiene teachers, nurse teachers, sight saving teachers, hearing teachers, librarians, teacher consultants, guidance counsellors, audio-visual specialist, other special teachers, instrumental music teachers, speech correction teachers, reading clinic teachers, school psychologists and visiting teachers.

Excluded: superintendent of schools, assistant(s) superintendent of schools, clerk of the Board of Education and business administrator, auditor, executive assistant to the superintendent, administrative assistants, directors of academic studies, director of physical education, principals, head nurse teacher, speech correction director and federal program director.

The petition also states that the Binghamton Federation of Teachers (herein referred to as the intervenor) is a party in interest. Further, the petition alleges, and it is uncontested, that petitioner requested recognition as negotiating representative on September 19, 1967 and the employer has not replied1/. The petition is therefore timely2/.

1/ On December 7, 1967, the employer passed a resolution creating, inter-alia, a negotiating unit substantially identical to the one described in the petition. However, no employee organization was recognized as negotiating agent for this unit.

2/ Rules, §201.3(a)

At a formal hearing held on January 30, 1968 before a Trial Examiner of the Board3/, and all parties being present, it was stipulated by the parties that the unit described in the petition is appropriate, except that the intervenor contended that the 16 full-time guidance counsellors should be excluded since they are basically administrative, and the audio-visual specialist should also be excluded4/.

The guidance counsellors work closely with the teachers for the benefit of the students, and have the responsibility of deciding which students should be in which classes. They do not have any other administrative responsibilities5/. Thus, they do not rate, hire or fire teachers or any other employees of the employer, nor do they effectively recommend same. They do not supervise teachers or any other employees.

The salary of guidance counsellors is the standard teaching salary with an additional increment of $800 to $1000 yearly, and they receive the same fringe benefits as do teachers. Thus, they have the same sick leave, sabbatical leave and vacation allowances as do teachers, they receive the same pay differential for additional education as teachers, and they are eligible for the same health and retirement plans as teachers.

Further, it has been a custom for many years for teachers and guidance counsellors jointly to submit requests for pay increases to the Board of Education. On November 16, 1967, 14 of the guidance counsellors submitted a petition to the President of the Board of Education requesting joint representation with the teachers.

3/ The rulings of the Trial Examiner at the hearing are affirmed, as no prejudicial error is apparent.

4/ The intervenor did not state why it was contending that the audio-visual specialist should be excluded, nor did it produce evidence to support this contention.

5/ This is true despite the fact that one of the school principals, in a school "guidebook", sets forth theoretically that the duties of a guidance counsellor include "[assisting] the principal in the organization and administration of the school as assigned."

As noted above, the intervenor made no attempt to document its contention that the audio-visual specialist[6] should be excluded from the instructional unit. He is a certified teacher, works closely with other teachers in making films available for instructional purposes, and testified at the hearing that he desires to be included in the same unit as other teachers. His terms and conditions of employment are determined in the same way as those of all other teachers. He clearly belongs in the instructional unit.

The undersigned further concludes that the guidance counsellors also belong in the instructional unit. They have many interests in common with teachers, and the record does not indicate any significant conflicting interests. Both groups are professionals and certified, they work alongside one another, and their functions dovetail. All are subject to the same ultimate supervision (by the school principal), and neither supervises the other. The wages of both groups are the same, except that the guidance counsellors get an additional increment, and they receive the same fringe benefits. There is nothing in the record to indicate that a general instructional unit could not negotiate effectively with the Board of Education with regard to terms and conditions of employment[7]. The record does indicate, however, that a separate unit of guidance counsellors would, in this case, result in undue and unnecessary fragmentation and administrative inconvenience[8].

6/ There is only one such employee, and his proper title is "audio-visual teacher".

7/ As already noted, the overwhelming majority of guidance counsellors have specifically indicated their desire to be included in the general unit.

8/ The employer has already recognized an employee organization as negotiating representative for the non-professional employees of the school district.

The undersigned therefore concludes that the appropriate unit in this matter is as follows:

Included: classroom teachers, department heads, dental hygiene teachers, nurse teachers, sight saving teachers, hearing teachers, librarians, teacher consultants, other special teachers, instrumental music teachers, speech correction teachers, reading clinic teachers, school psychologists, visiting teachers, guidance counsellors and the audio-visual teacher.

Excluded: superintendent of schools, assistant(s) superintendent of schools, clerk of the Board of Education and business administrator, auditor, executive assistant to the superintendent, administrative assistants, directors of academic studies, director of physical education, principals, head nurse teacher, speech correction director and federal program director.

THEREFORE, IT IS ORDERED THAT an election by secret ballot shall be held under the supervision of the undersigned among the employees of the employer in the unit determined above to be appropriate, UNLESS the petitioner or intervenor submits to the undersigned within seven (7) days from the date of receipt of this decision, dues deduction authorizations and other evidences sufficient to satisfy the requirements of Section 201.6(h)(1) of the Rules for certification without an election.

Dated: Albany, New York
March 29, 1968

Paul E.Klein
Director of Representation

STATE OF NEW YORK

PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of:

BOARD OF EDUCATION,
UNION FREE SCHOOL DISTRICT NO. 7,
Employer,

-and-

DEPEW TEACHERS ORGANIZATION, INC.,
Petitioner.

CASE NO. C-0134

DECISION

On January 3, 1968, the Depew Teachers Organization, Inc., (hereinafter referred to as the petitioner) filed, in accordance with the Rules of Procedure (hereinafter referred to as the Rules) of the New York State Public Employment Relations Board (hereinafter referred to as the Board), a timely petition for certification as the exclusive negotiating representative for all certificated employees of the Board of Education, Union Free School District No. 7 (hereinafter referred to as the employer), excluding the superintendent of schools.

On February 13 and May 28, 1968, a formal hearing[1] was conducted before a Trial Examiner of this Board with all parties present and represented by counsel.

The issue to be determined is whether four principals and two assistant principals (hereinafter collectively referred to as principals)[2] are to be included in a general teachers' unit.

The petitioner contends that principals, being also qualified teachers, share a substantial community of interest with all other teachers so as to warrant their inclusion in the same negotiating unit as teachers. Petitioner characterizes the relationship between principals and teachers as one marked by cooperation and consultation rather than by disciplinary authority. It claims that the educational objectives of the principals coincide with those of the teachers, requiring a meaningful dialogue with the teaching staff which would be cut off or inhibited by placing principals in a separate negotiating unit.

The employer, while acknowledging a certain community of interest between these two groups, contends that, for purposes of unit determination, principals must be regarded as a part of management rather than as a part of the teaching staff for whom they are responsible inasmuch as principals are its "...right arm...eyes and ears..." The employer characterizes the relationship between principals and teachers as one marked by a sharp conflict of interest in that the managerial duties of the principals entail evaluation, assignment and retention of teachers. Indeed, on October 20, 1967, the employer recognized the petitioner as the exclusive negotiating representative for its teachers only.

The employer is a small school district, employing approximately 140 teachers and six principals. It is composed of two elementary schools, a middle school, and a high school. The superintendent of schools is the chief administrator and is directly responsible to the Board of Education. His primary function is to carry out the policies of the Board of Education. Principals, in turn, are directly responsible to the superintendent of schools with regard to the administration of the school building to which they are assigned. In the middle school and high school, the principal is assisted by an assistant principal.

Principals, as general administrators of their school buildings, perform functions which do not entail classroom teaching. Nevertheless, their salary is determined in accordance with the basic teacher salary schedule plus an index factor. Their fringe benefits, including sick leave, retirement, and hospital-surgical benefits are the same as those to which the teachers are entitled.

Each school year, the principals submit a proposed budget to the superintendent of schools. This proposed budget is, in part, prepared by the principals after consultation with the teaching staff and after obtaining their requisitions for equipment and instructional supplies. The superintendent of schools, after receipt of this proposed budget, independently examines it to determine its economic feasibility before submitting it to the Board of Education.

Principals may make recommendations to the superintendent of schools with regard to disciplinary action against a teacher. However, in the past 11 years, not one such recommendation for either suspension or discharge of a tenured employee has originated from the principals.

Recently, the initial responsibility for seeking and interviewing job applicants has been shifted from the superintendent of schools to the principals. The principals' report and recommendation is transmitted to the superintendent of schools, who re-interviews each applicant. The superintendent of schools then exercises his prerogative in making a final recommendation with regard to hiring to the Board of Education.

Each year, approximately four or five teachers become eligible for tenure. To receive tenure, a teacher must be recommended by the superintendent of schools, who, in turn, considers the recommendation of the principal. However, in the past 11 years, only two teachers were denied tenure.

1. The rulings of the Trial Examiner at the hearing are affirmed, as no prejudicial error is apparent.
2. The parties stipulated that the job titles of principal and assistant principal are, for the purposes of this hearing, synonymous both as to authority and duty. The petitioner amended its petition so as to exclude the curriculum coordinator from its proposed unit.

Principals may also recommend whether a probationary teacher[3] should be continued and, again, the superintendent of schools makes the effective recommendation to the Board of Education. Each year, there are approximately eight probationary teachers; over the past 11 years, only two probationary teachers have been discharged or asked to resign.

Principals may make curriculum recommendations directly to the Board of Education. However, in the past 11 years, this type of direct recommendation has been made less than ten times. Curriculum determination in each school is a joint venture of a principal and the curriculum coordinator. The latter has a staff responsibility directly to the superintendent of schools.

Principals are solely responsible for classroom assignment of teachers, but usually perform this task after consultation with the involved teacher. Principals also determine student assignment, assisted in the middle school and high school by guidance counselors.

The employer has promulgated general work rules concerning such matters as sick leave, personal leave, sabbatical leave, maternity leave, graduate credits, and prior service credits. In practice, it is the superintendent of schools and the Board of Education (but not the principals) who make effective recommendations and/or determinations with regard to these matters.

Beginning in November 1966, and for the school year 1967-1968, the petitioner negotiated such subjects as salaries and general work rules with the employer on behalf of both teachers and principals. The principals have indicated their desire to remain in the same negotiating unit as teachers with regard to future negotiations.[4]

No hard and fast rule can be established at this time declaring that principals, ipso facto, should or should not be included within a general unit of teachers for purposes of collective negotiations. Rather, each case must be determined on its individual facts. In the instant case, I find that the most appropriate unit claimed consists of all certificated personnel including teachers and principals.

As the Board has recently stated, "[t]he mere existence of supervisory responsibilities does not require a conclusion that there is present such a conflict of interest as to overcome or outweigh other facts or circumstances giving rise to a community of interest."[5] In the instant case the record indicates that, in this small school district, the superintendent of schools is the individual upon whom the Board of Education basically relies with regard to administrative matters.[6] It is clear that principals and teachers have enjoyed, over the years, a relationship marked by mutual consultation and cooperation. Although principals theoretically have power to make recommendations to the Board of Education with regard to such matters as discipline and curriculum, the record is clear that this power is very rarely exercised. Further, with regard to both tenure and probation, it appears from the record that rarely, if ever, have the principals effectively recommended that tenure be denied or that a teacher on probation be discharged. In the area of general work rules, the principals act merely as conduits for the transmission of information to the superintendent of schools rather than as decision makers. Therefore, while in theory the power of evaluation inherent in the job of a principal might create such a conflict of interest between the principal and his teachers as to warrant separate representation, actual practice in the instant case negates this conclusion. Further, it should be noted that there is a history of apparently meaningful past negotiations wherein the petitioner represented both the teachers and the principals, and the record does not persuasively indicate that this practice cannot or should not be continued.

Accordingly, the broad community of interest shared by the teachers and principals in such matters as their basic mission, the substantially similar method of salary determination, and common fringe benefits, mandates the creation of a single negotiating unit.[7]

THEREFORE, IT IS DETERMINED THAT there shall be one unit of all certificated employees of the employer as follows:

Included: Principals, assistant principals, teachers, counselors, nurses, physical-education director, audio-visual director, and librarians.

Excluded: All other personnel.

FURTHER, IT IS ORDERED THAT an election by secret ballot shall be held under the supervision of the undersigned among the employees of the employer in the unit determined above to be appropriate and who were employed by the employer on the payroll date immediately preceding the date of this Decision, UNLESS the petitioner submits to the undersigned, within seven days from the date of receipt of this Decision, dues deduction authorizations and other evidences sufficient to satisfy the requirements of Section 201.6(h)(1) of the Rules for certification without an election.

IT IS FURTHER ORDERED THAT the employer shall submit to the undersigned, within seven days from the date of receipt of this Decision, an alphabetized list of employees in the unit determined above to be appropriate who were employed on the payroll date immediately preceding the date of this Decision.

Dated: Albany, New York
July 15, 1968

/s/ _____
Paul E. Klein
Director of Representation

3. A probationary teacher is one employed less than three years. After three years, a teacher is eligible for tenure.

4. Four of the principals so testified, and a letter from a fifth to this effect was received in evidence at the hearing.

5. In the Matter of New York State Division of State Police, Case Nos. C-0062, C-0130, C-0133, (July 1, 1968).

6. Indeed, even the cafeteria and transportation employees of the employer are under the direct staff responsibility of the superintendent of schools.

7. It is interesting to note, despite the employer's preference for separate units, the testimony of the superintendent of schools to the effect that, in his opinion, any power of evaluation that the principals might have with regard to the teachers raises no conflict of interest between these two groups.

IN THE DISTRICT COURT OF THE STATE OF IOWA
IN AND FOR BLACK HAWK COUNTY
STATE BOARD OF REGENTS,
STATE OF IOWA,

Plaintiff,

versus

UNITED PACKING HOUSE FOOD AND ALLIED WORKERS, LOCAL NO. 1258 AFFILIATED WITH THE UNITED PACKINGHOUSE WORKERS OF AMERICA, AFL-CIO: JOHN WALTON, INDIVIDUALLY, AND AS PRESIDENT OF SAID ASSOCIATION: RICHARD KAMMEYER, INDIVIDUALLY AND AS VICE-PRESIDENT OF SAID ASSOCIATION: KENNETH STOCK, INDIVIDUALLY AND AS RECORDING SECRETARY OF SAID ASSOCIATION: AND RAPHE BRAMBLETT, INDIVIDUALLY AND AS FINANCIAL SECRETARY OF SAID ASSOCIATION, AND ALL OFFICERS, MEMBERS, AGENTS AND REPRESENTATIVES OF SAID UNITED PACKINGHOUSE FOOD AND ALLIED WORKERS LOCAL NO. 1258 AND ALL PERSONS INDIVIDUALLY AND AS A CLASS, WHO AID, ABET OR ASSIST THE FOREGOING NAMED DEFENDANTS, OR ANY OF THEM,

Defendants.

No. 44035
FINDINGS AND ORDERS

On February 23, 1968, plaintiff filed herein its Petition for Injunction. On that date the Court entered an order granting a temporary writ of injunction in the form asked by plaintiff and providing that such temporary injunction should continue "until the 29th day of February, 1968, and shall terminate on such date unless an extension thereof is granted by this court for good cause shown and not ex parte." That order also scheduled a hearing on the petition for that date.

Because of conflicts in schedule between counsel and the Court the hearing was not held until March 1, 1968.

In the meantime, on February 24, 1968, defendants, employees of plaintiff at the University of Northern Iowa in the physical plant department had complied with the terms of the temporary injunction and returned to work.

They remained at work to the time of the hearing on March 1, 1968, although the temporary injunction had expired by its own terms on February 29, 1968. At the hearing of March 1, 1968, through counsel, defendants indicated that they would remain at work and refrain from taking any actions in violation of the terms of the injunction until such time as the Court rendered a decision herein without the necessity for any further temporary restraining orders. That situation has continued to the present time.

At the hearing on March 1, 1968, plaintiffs appeared by Leo M. Baker and William Sindlinger and defendants appeared personally and by C.A. Frerichs. Evidence was offered by plaintiff on that date and the matter continued for submission of briefs and for such further evidence as counsel for defendants might desire to produce. Subsequently further evidence was introduced by stipulation and by exhibits relative to the employment arrangements between plaintiff and the academic staff at the University of Northern Iowa, particularly with respect to initial "probationary" employment and acquisition of "tenure" status.

Briefs were thereafter submitted and the petition and Answer thereto, dictated into the record on March 1, 1968, submitted to the Court. The Court being advised in the premises makes and enters the following Findings and Orders:

By stipulation of the parties and by evidence offered at the hearing of March 1, 1968, it appears that the employees named individually and as a class are non-academic personnel employed by the plaintiff at the University of Northern Iowa under the general jurisdiction of the "physical plant committee". These are the employees at the University providing the basic physical services for the operation of the physical plant of the University, and include a wide variety of labor classifications and skills. Sometime prior to February 20, 1968, these employees had organized themselves into a union and received a charter as Local No. 1258 of the United Packing House Food and Allied Workers of America, AFL-CIO. John Walton, a turbine operator at the University of Northern Iowa, was and is president of Local 1258.

On Tuesday, February 20, 1968, Defendant union and its members struck against the Plaintiff by leaving their jobs without authority and remained on strike until Friday P.M., February 23, 1968. Defendants also, on February 20, 1968, did place pickets varying from two to five in number at nine locations on the campus of the University of Northern Iowa, Cedar Falls, Iowa. One of these locations was the site of the construction of the East and West Towers Building and dining facility which is being constructed by Klinger Construction Company, Sioux City, Iowa. Defendant union and its members did continue to picket at all sites during all hours of the day and night until approximately 3:00 p.m., Friday, February 23, 1968. Garbage was not picked up on the University of Northern Iowa campus from Tuesday,

February 20, 1968, until late Thursday afternoon, February 22, 1968. When the garbage was picked up, all the receptacles were full. All construction work on the East and West Towers building and dining facility, the Science Building, the Union building and the addition to the Administration building ceased (with the exception of one non-union subcontractor) during the course of the strike by Defendants. Plaintiff agrees the picketing was peaceful.

The practical effect of the picketing was to bring to a halt construction on $10,500,000 worth of projects previously determined to be necessary for the orderly and efficient operation of the University of Northern Iowa with its constantly expanding student body during the forthcoming academic year. The picketing also created difficulties in food deliveries requiring non-striking employees to pick up food off campus to maintain a dining service furnishing three meals a day to approximately 4,200 students, and for several days caused the private contractor responsible for garbage removal to refrain from moving accumulating garbage from the campus.

A number of issues are raised by the Petition and Answer thereto. In this order, in the nature of an interlocutory order, the Court disposes of one of these issues, reserving decision on the others to a later date, if such decision is necessary.

The pleadings, briefs, and testimony of Mr. Walton indicate that the principal matter at issue between the parties is whether or not the plaintiff can and shall engage in collective bargaining with the defendant union.

The plaintiff, concededly a public instrumentality, feels bound by the opinion of the Attorney General of August 16, 1961, issued to the Iowa Liquor Control Commission and dealing with the question of whether or not state employees, such as defendants, may join and organize labor organizations, whether the state or any agency thereof has power to enter into collective bargaining or bargaining agreements and whether or not any such labor organization may coerce the state or any subdivision thereof to bargain collectively by means of strike, boycott, picketing, or any other coercive device. In that opinion the Attorney General ruled that state employees can organize and join labor organizations. With this portion of the opinion the Court agrees, and the matter is conceded in plaintiff's reply brief under proposition of law No. 3.

The matter of collective bargaining by the state or any of its agencies was dealt with in two separate questions in the Attorney General's Opinion. The first of these was "whether or not the State of Iowa has to recognize unions for bargaining purposes," and the second was "whether or not the State of Iowa has the power to bargain collectively, regarding labor, hours, and working conditions." The Attorney General answered each of these questions in the negative.

The Court agrees that the State of Iowa does not have to recognize unions for bargaining purposes. Leaving aside irrelevant issues such as municipal home rule, etc. and looking to Chapter 262 of the 1966 Code of Iowa, it is clear that plaintiff is vested with very broad discretion in the management of the affairs of the University of Northern Iowa and the other institutions under its control.

By 262.9(4) the Board of Regents is directed to "manage and control the property, both real and personal, belonging to said institutions." By 262.9 (11), the Board is empowered to "perform all other acts necessary and proper for the execution of the powers and duties conferred by law upon it."

The direction and authority to operate an institution of higher education and to manage and control its physical plant necessarily implies the authority to hire employees to maintain and operate that physical plant. See Local 266 vs. Salt River Project Agricultural Improvement and Power District (Arizona--1954) 275 Pacific 2d 393, 399. Coupled with Sub-section 11 of Section 262.9 this gives the Board of Regents a large discretion in the employment of workers such as those involved in this case. There is no lawful means by which defendants or any other private group or organization may compel the Board of Regents to recognize the defendant local or any other union for bargaining purposes if the Regents, in their discretion, determine to follow some other method of dealing with the problems inevitable with the employment of large numbers of individuals.

On the other hand, there are no provisions in Chapter 262 nor in any other provisions of Iowa law which appear to the Court to prevent the Regents from entering into collective bargaining or a collective bargaining agreement with the defendant local or any other union, if the Regents, in the exercise of their broad discretion, determine such a course to be most suitable for the carrying out of the duties laid upon them by Chapter 262. It seems perfectly proper for the Regents to determine, if they so desire, that the act of collective bargaining agreement, is "necessary and proper for the execution of the powers and duties conferred by law" upon the Board.

It is true that the merit system of employment is now applicable to defendant employees, and some authorities have held that a statutory scheme such as a merit system so "fills the field" as to preclude any collective bargaining agreements. See, for example, Mugford vs. Mayor (1946) 185 Maryland 266, 44 A 2d 745. There are other authorities to the same effect, and perhaps more precisely in point than the Mugford Case.

Whatever may have been the provisions of the civil service statutes or merit system statutes involved in decisions in other states, it seems clear to the Court that there are many areas of the employer-employee relationship open for bargaining despite the presence of a civil service system. As Professor Richard F. Dole, Jr. of the College of Law of the University of Iowa said in a speech delivered May 22, 1968, at the annual meeting of the Iowa Municipal Attorneys' Association in Des Moines, "Although a civil service system may limit the permissible subjects for collective bargaining, a civil service system does not necessarily preclude collective bargaining on all subjects."

He cited the case of Civil Service Forum vs. New York City Transit Authority, 151 NYS 2d 402 (1956).

The Attorney General in 1961 stated "In State Courts, it has been uniformly held in the absence of statute to the contrary that government employers have no power to bargain collectively with their employees in regard to wages, hours and working conditions." He cited the Mugford Case, supra.

The situation today is that it has not been uniformly so held in State Courts. The more recent, and to the Court's mind the better reasoned cases hold, in the absence of statute, that public employers do have the power to engage in collective bargaining and to enter into collective bargaining agreements. Chicago Division of the Illinois Education Association, et al vs. Board of Education of the City of Chicago, et. al. (Illinois 1966) 222 NE2 d 243, and International Brotherhood of Electrical Workers vs. Town of Farmington (1965) 75 NM 393, 405 Pacific 2d 233. Each of these cases was decided in a statutory scheme quite similar to that of the State of Iowa involved in this case, and each

follows the reasoning of a landmark case decided by the Supreme Court of Connecticut in 1951, Norwalk Teachers Association vs. East Board of Education (1951) 138 Conn. 269, 83 Atlantic 2d 482.

The Court has concluded, therefore, that this plaintiff, operating under authority of Chapter 262 of the 1966 Code of Iowa, does have the power to bargain collectively regarding labor, hours, and working conditions.

In view of this determination, and in view of the Court's appraisal of the pleadings, briefs, and evidence, the Court is reserving judgment on Paragraphs A, B, C, D, and F of the prayer of Plaintiff's Petition.

Paragraph E of the prayer of the Petition asks that defendants be enjoined "from strike, boycott, picketing, or any other coercive device against the plaintiff for the purpose of coercing plaintiff to bargain collectively with defendant union."

The prayer, in the respect underlined, is too broad in that it asks the Court to prohibit the defendants from engaging in political lobbying newspaper advertising, and perhaps a myriad of other off campus activities carried on outside of working hours to persuade plaintiff to do that which it has the power to do.

The general rule of law appears to be that public employees, such as these defendants, do not have the right to strike as an aid in obtaining recognition or in obtaining desired ends in collective bargaining. This rule is simple to state, but difficult to apply. As an example of only one of many possible situations which might be involved we have the form of the injunction authorized by the Court in City of Los Angeles vs. Los Angeles Building and Construction Trades Council (Cal 1949) 210 Pacific 2nd 305, 307. In that case the Court felt obliged to limit a sweeping injunction as follows: "Nothing in this order shall be construed as affecting the right of any employee of said department to abandon or to resign his employment."

There are also many other troublesome areas which might arise, such as picketing which might be carried on in such a fashion as to constitute only an exercise of free speech without any side effects, such as the halting of large scale construction projects or necessary physical ingress or egress at the University.

In view of the present uncertainty as to what, if any, action by way of strike or picketing may be taken in the future, and in order to give the plaintiff Board of Regents an opportunity to consider what policies it may wish to follow in the light of this opinion, it is the Ruling of the Court as follows:

1. That that portion of Paragraph E of the prayer of the Petition requesting the Court to enjoin defendants from engaging in "any other coercive device", for the purpose of bringing plaintiff to a collective bargaining table is denied.

2. That the balance of Paragraph E of the prayer and all other paragraphs of the prayer and the issues raised thereunder are continued under submission by the Court for a period of 30 days.

3. That at the expiration of such 30 day period, on the application of any party, the Court will enter such further ruling as may be required, either upon the record already made, or upon such of any party in connection with any events which may have transpired during the intervening period.

Clerk shall furnish copy hereof to counsel.

Done and ordered this 12th day of June, 1968.

Peter Van Metre
Judge, Tenth Judicial District of Iowa

SCHOOL COMMITTEE OF THE TOWN OF ATHOL

AND

ATHOL TEACHERS ASSOCIATION

ROBERT D. MORAN, JOHN F. ROMAN
and GEORGE M. ROMANOS, JR., of the
MASSACHUSETTS STATE BOARD OF CONCILIATION AND ARBITRATION, appointed
by the parties. Boston, Massachusetts,
June 19, 1968

[Text of Award]

MORAN, Arbitrator: STATEMENT OF THE CASE AND OPINION: This grievance concerns the keeping of school attendance registers and results from changes which the School Committee instituted in the method of instruction at the Riverbend Elementary School in September, 1967.

Both parties signed the application for arbitration which asked this Board to answer these questions:

"Has the contract between the parties, in particular section 3. been violated by action of the School Committee in requiring teachers to keep the attendance registers. and. is this a grievance as defined in the contract?"

The answer to the second question is "yes." The rationale for that answer can be found in reading the first question together with the following language quoted from the grievance procedure of the contract between the parties:

". . . if the grievance shall involve the interpretation or application of any provision of this Contract . . . the School Committee and the Association shall forthwith submit the grievance to the State Board of Conciliation and Arbitration for disposition. . . ."

The answer to the main question merits a more extended discussion. Although the application for arbitration was not amended it was clear from statements made by Counsel for both parties at this hearing that this question should not be read as applicable to all teachers but should be restricted to teachers at the Riverbend School. The Board has so considered this grievance.

Background

For several years prior to the opening of school in September, 1967, this school operated under a so-called departmentalized system of instruction wherein each teacher specialized in certain courses. The students would take different courses from several different teachers during the school year. In September, 1967, Riverbend School returned to the so-called self-contained classroom system which had been employed in this school until the latter part of the nineteen fifties and which always has been, and still is, in effect in all other elementary schools in the Athol school system. A self-contained classroom is one where one teacher teaches all the subjects to a single group of students.

During the final 3 school years under the departmentalized system at the Riverbend School, teachers were not required to keep attendance registers. They were kept by clerical help employed at the school. At the time the self-contained classroom system was reinstated at Riverbend in September, 1967, the School Committee decided to assign the duty of keeping the attendance registers to each classroom teacher although there was still the same amount of clerical help available at the school. The Riverbend teachers believe that this action of the School Committee was a violation of Section 3 of their contract. They have therefore initiated this grievance.

Section 3 states as follows:
"Subject to the provisions of this contract . . . the wages, hours, and other conditions of employment applicable on the effective date of this contract to the employees covered by this Contract shall continue to be so applicable."

The effective date of the contract in existence at the time this grievance arose was November 16, 1966. At that time the duties required of teachers at Riverbend School did not include keeping attendance registers. But whether or not the absence of such duties was a "condition of employment" is a matter that will be discussed later.

EXECUTION OF A NEW CONTRACT

Counsel for the School Committee has alleged that this grievance was resolved by the execution of a new contract between the parties in January, 1968.

As noted earlier, the change in keeping attendance registers at Riverbend School took place at the opening of the new school year in September, 1967. The following month the Teachers Association launched this issue on its way through the five levels of the grievance procedure included in the contract.

Simultaneously the parties were in the process of negotiating a new contract. These negotiations were successfully concluded with the execution of a new agreement on January 31, 1968. The new agreement also contained a clause continuing the existing conditions "applicable on the effective date of this contract."

But this contract had a different effective date: January 31, 1968. On that date the Riverbend teachers were keeping attendance registers.

The School Committee has taken the position that it is the latter contract that is determinative of this issue and that the parties agreed to continue the status quo as of January 31, 1968.

It appears from the evidence and argument presented at this hearing that there was no meeting of the minds on this matter. The Teachers Association did not intend to waive this grievance by the execution of a new agreement in 1968. But they did not consider, let alone insist, that the new contract ought to include any reservation of rights, either. They believed that the 1967 change in keeping attendance registers at Riverbend School was a contract violation so that what these teachers were required to do thereafter could not be a proper condition of employment.

Arbitrators are generally less inclined to apply a strict construction of contract language where the negotiating parties are inexperienced. If these parties had better understood the rules and practices in labor contract negotiations they would have adopted some method of expressing their position on how the execution of their new contract would effect the unresolved issue between them. More experienced negotiators would have done so. But it is not surprising that these parties failed to do so in view of the fact that collective bargaining between school teachers and school boards is relatively new in Massachusetts and these parties are only now in the first few months of their second contract. In any event the ultimate decision of this issue does not depend on what the status quo was in either November, 1966 or January, 1968.

THE CONDITION-OF-EMPLOYMENT ISSUE

The pivotal issue in this case is whether the keeping or not keeping of attendance registers was one of the "conditions of employment" of teachers in the Athol School System.

A contract clause continuing existing conditions of employment throughout the life of a collective bargaining agreement does not make fixed and immovable each and every matter that affects the working conditions of the employees regardless of scope. If it did, could the textbooks used in the classroom be changed? The proportion of male and female students in each class - or of white and non-white? Few would argue that things of this nature would be frozen into place by such a contract provision. But each of the suggested changes could make the teacher's job more or less difficult and in that respect, at least, rate as a condition of employment.

The keeping of attendance registers in public elemencary schools is required by State regulations. Boys and girls are listed separately, together with information on such things as the student's date and place of birth and next of kin. Each day a record is made of each student who is absent, tardy or dismissed early. The attendance register must be balanced after each 4 week period and semi-annually in June and January.

The only witness produced by the Teachers Association testified that these duties could be performed by a teacher in about 5 minutes' time each day, with about 35 to 40 minutes for balancing the register after each 4 week period, and from 1 1/2 to 3 hours for making the semi-annual balance each June and January.

There was no evidence that these duties were arduous or that they required any time beyond the normal school day of each teacher which is specified in the contract as no longer than:

". . . fifteen (15) minutes before the start of their day's assignment and . . . one-half (1/2) hour after the close of their day's assignment. . . ."

The Teachers Association introduced evidence that during the negotiations leading up to the January 1968 contract they tried to obtain a requirement that the keeping of attendance registers would be assigned to a school secretary in certain schools. The language proposed was as follows:

"Every school with at least two hundred and fifty (250) pupils will have a full-time secretary for at least forty-four (44) weeks. One function of this person will be to keep the school attendance registers."

There was testimony adduced by the Association that this proposal was an attempt to extend to other schools the situation relative to attendance registers then prevailing at Riverbend School, but that . . . "This was a proposal that was given up by the Association in the process of collective bargaining."

The School Committee maintained that the departmentalized instructional system was tried at the Riverbend School on an experimental basis. During the first few years of the several years of experimentation with this system the teachers kept the attendance registers. A secretary kept the registers during the last three years that this system was being tried. On the basis of this experiment the School Committee decided to return to the self-contained classroom system at Riverbend. As part of this decision the School Committee assigned to teachers the duty of keeping the attendance registers as was done at other schools in this system.

All the foregoing considerations lead this Board to the conclusion that the non-keeping of attendance registers by teachers of the Riverbend School was not a condition of their employment.

Negotiation Agreements

AGREEMENT

BETWEEN THE

BOARD OF EDUCATION OF THE PHOENIX
UNION HIGH SCHOOL SYSTEM

AND THE

CLASSROOM TEACHERS ASSOCIATION OF THE
PHOENIX UNION HIGH SCHOOL SYSTEM (NEA)

1968-1970

AGREEMENT

This Agreement is made and entered into this _____ day of _____, 1968, by and between the Board of Education of the Phoenix Union High School System and the Classroom Teachers Association of the Phoenix Union High School System affiliated with the Arizona Education Association and the National Education Association as the elected representative organization for all of the teachers in the Phoenix Union High School System.

The Board and the Association recognize and declare that providing a quality education for the pupils of the school district is their mutual aim and that the character of such education depends predominately upon the quality and morale of the teaching staff, and that:

The members of the teaching profession are particularly qualified to assist in formulating policies and programs designed to improve educational standards.

Attainment of the objectives of the educational program conducted in the Phoenix Union High School System requires mutual understanding and cooperation between the Board and the teachers. To this end, good-faith negotiations between the Board and the Association with a free and open exchange of views are desirable. NOW, THEREFORE, the parties agree as follows:

ARTICLE I

Definitions

A. The term "teacher" as used in this Agreement shall refer to all employees represented by the Association in the negotiating unit as defined in Article II, Recognition.

B. The term "Board" as used in this Agreement shall mean the Phoenix Union High School System Board of Education.

C. The term "Association" as used in this Agreement shall mean the Classroom Teachers Association of the Phoenix Union High School System.

D. The term "School District" as used in this Agreement shall mean the Phoenix Union High School System.

E. The term "Superintendent" as used in this Agreement shall mean the Superintendent of Schools of the Phoenix Union High School System.

F. The term "school year" as used in this Agreement shall mean the period of time from the opening of the schools of the district in the fall, usually in September, through the closing of the schools of the district in the spring, usually in June.

G. The term "campus" as used in this Agreement shall mean the school unit; e.g., Alhambra High School, Phoenix Union High School.

ARTICLE II

Recognition

The Board recognizes the Association as the exclusive and sole representative of all members of the certificated staff of the school district except the following:

Superintendent
Assistant Superintendents
Consultants
Principals
Associate Principals
Administrative Assistants (Campus and District level)
Directors
Psychologists
Personnel Manager
Assistant Personnel Manager
Coordinators
Assistant Principals
Teachers while on Administrative Assignment
Summer School Teachers other than PUHSS Regular Day School Teachers
Evening School and Adult Education Teachers other than PUHSS Regular Day School Teachers
Substitute Teachers
Supervisors
Assistant Supervisors

ARTICLE III

Association and Teacher Rights

A. The Board hereby agrees that every certificated employee of the Board shall have the right freely to organize, join and support the Association for the purpose of engaging in negotiations and other concerted activities for mutual aid and protection. As a duly elected body exercising governmental power under color of law of the State of Arizona, the Board undertakes and agrees that it will not

directly or indirectly discourage or deprive or coerce any teacher in the enjoyment of any rights conferred by the statutes and Constitutions of Arizona and the United States; that it will not discriminate against any teacher with respect to hours, wages, or any terms or conditions of employment by reason of his membership in the Association, his participation in any activities of the Association or collective negotiations with the Board, or his institution of any grievance, complaint or proceeding under this Agreement or otherwise with respect to any terms or conditions of employment.

B. Nothing contained herein shall be construed to deny or restrict to any teacher rights he may have under the Arizona School Laws or other applicable laws and regulations. The rights granted to teachers hereunder shall be deemed to be in addition to those provided elsewhere.

C. The Association and its representatives shall have the right to use school buildings at all reasonable hours for meetings, scheduling such use with the Associate Principal of the school, provided that this shall not interfere with or interrupt normal school operation. Direct expenses incident to the meeting, other than those normally a part of the school operations, shall be borne by the Association.

D. Duly authorized representatives of the Association and the organizations with which the Association is affiliated shall be permitted to discuss matters pertaining to Association business with system personnel on campus at all reasonable times, provided that this shall not interfere with or interrupt normal operations. Direct expenses of any meeting resulting from such discussion, other than those normally a part of the school operations, shall be borne by the Association.

E. The Association shall have the right to place appropriately identified notices, circulars and other material on designated school bulletin boards and in the teachers' mail boxes. The district courier service may be used for the distribution of the above material. The authorized representative of the Association will assume responsibility for the posting and distribution of the material for the Association. An information copy of the distributed material shall be sent to the principal, or his designee, at the time of the posting or distribution. Partisan political material endorsing or opposing a candidate for public office may not be so distributed or posted.

F. Teachers shall be entitled to full rights of citizenship and no religious or political activities of any teacher or the lack thereof shall be grounds for any discipline or discrimination with respect to the professional employment of such teacher. The private and personal life of any teacher is not within the appropriate concern or attention of the Board, provided it does not interfere with the instructional program of the school.

The teacher may be subject to disciplinary action, including suspension, for repeated infractions or failures to perform his responsibilities. Improper conduct, either in school or in the community, reflecting upon the image of public education within the system shall be cause for such action.

G. The provisions of the Agreement and the wages, hours, terms and conditions of employment shall be applied in a manner which is not capricious, or discriminatory and without regard to race, creed, religion, color, national origin, age, sex, or marital status. (Husband and wife cannot be assigned to the same campus.)

H. Membership in the Association shall be open to all teachers regardless of race, creed, religion, age, color, sex, marital status, or national origin.

ARTICLE IV

Rights of the Board

A. The Association acknowledges that the Board is charged by law with the responsibility for and authority to manage and direct the operation of the District. In the exercise of such responsibility and authority the Board shall conform to the provisions of this Agreement to the extent permitted by law.

B. Due to emergencies that occur during the school year, teachers shall be required to make home telephone numbers and addresses available to the Principal and the Personnel Department. Unless personnel request the exclusion of this information, it will be included in the System directory.

ARTICLE V

Payroll Deductions

A. Teachers may prior to October 15 sign and deliver to the Board an assignment authorizing deduction of membership dues and assessments of the Association (including the National Education Association and the Arizona Education Association). Such authorization shall continue in effect unless subsequent to June 1st and prior to September 15th of any year such authorization is formally revoked by the teacher in writing and copies thereof are delivered to the Association and the Board.

B. The deduction of membership dues upon member's request shall be made from regular pay checks for fifteen (15) payments, and the Board agrees to remit promptly to the respective Associations all monies so deducted, accompanied by a list of teachers from whom the deductions have been made.

C. Teachers may at any time sign and deliver to the Board an assignment authorizing deduction of payments for the A.E.A. #1 Federal Credit Union and Health Insurance. Teachers may also sign and deliver to the Board at the appropriate time of the year authorization for payroll deductions for the United Fund and for Tax-Sheltered Annuities. Authorization for payroll deduction for other purposes may be negotiated by the parties to this Agreement, subject to the limitations imposed on the District Payroll Office by the County Superintendent of Schools.

ARTICLE VI

Teaching Hours and Class Load

A. The regular school day for certificated employees covered by this Agreement shall consist of eight (8) hours, including a duty-free lunch period. The necessary adjustments to the length of the working day will be made by the principal of each school, in order to take into account the difference in the length of the lunch period. The work day will customarily extend from 8:00 a.m. to 4:00 p.m. However, teachers scheduled to begin their duty earlier, or to continue until a later time, will not be required to be on duty longer than the total hours of the regular school day without additional compensation or compensatory released time. The principal shall have the authority to permit divergence by teachers from the regular school day.

Teachers are expected to be available to parents and students for consultation after the last regularly scheduled class, and until the end of the working day. The responsibility of the teacher to be available for conferences with parents is recognized as a teacher's professional responsibility and shall be encouraged by the Association. Such contacts with parents shall be accomplished by personal appointment, parent-teacher conference meetings, home visits, or telephone conversations.

B. The weekly teaching load shall be defined as no more than twenty-five (25) classroom teaching periods and five (5) unassigned preparation periods, except for teacher assigned to the Area Vocational Program. This may be modified for flexible scheduling, team-teaching, or for experimental programs.

C. All teachers shall have a duty-free uninterrupted lunch period, except in emergency situations, and shall be permitted to leave the campus during this period.

D. Every reasonable effort will be made to keep a teacher's total daily student contacts to no more than 160, except as otherwise provided herein. Every reasonable effort will also be made to distribute the total contacts as evenly as possible among the classes, 35 per class period for a five-period teaching day, and 40 per class period for a four-period teaching day. In addition, every reasonable effort will be made to insure that teachers of special remedial classes, such as reading improvement, shall have no more than 125 student contacts, to be spread as evenly as possible among the teaching class periods.

In the subject areas of music and physical education, the departmental average shall be no more than 180 student contacts.

The Association and Board recognize the need to limit class enrollment to the number of work stations available. The funds are not provided to guarantee this for 1968-69.

For at least one school in the year 1968-69, the student contacts in business machines, industrial arts, trades and industry, and laboratory science classes shall be determined by the available work stations. The number of student contacts in these classes shall be adjusted to conform to this stipulation as of the end of the first register month and remain in effect the remainder of the school year. The Professional Council will study this program to determine the dollars necessary to implement this program in other schools in 1969-70.

The class size of any subject stipulated in the statute, will be honored.

Any exceptions to the above in which the total student contacts exceed the figure given, which involve distribution patterns with more than a 5-student variation per class, or which may involve an internal redistribution of students or teachers within a department, may be reviewed by the campus committee periodically during the first six weeks, at the end of the first semester, and at the end of the first register month of the second semester.

The present student-teacher ratio will not be increased during the 1968-69 or the 1969-70 school years except as otherwise provided herein. Consideration for change will be studied by the Professional Council for the school year 1969-70.

The Board of Education shares the concern of the Association for a reasonable student-teacher ratio and for establishing a reasonable maximum class size. The Board agrees that a high priority will be assigned to this area of instructional improvement with regard to the allocation of funds in future years.

E. A teacher engaged during the school day in negotiating on behalf of the Association with any representative of the Board shall be released from regular duties with no loss of salary. A teacher participating during the school day in any grievance procedures which are scheduled by the Board and the Association shall be released from regular duties without loss of salary, with the cost of the substitute to be shared equally between the Board and the Association.

F. Services to be rendered by the certificated staff covered by this Agreement include their participation outside of the regular school day in a reasonable number of school functions per school year and attendance at a reasonable number of general campus or system teacher meetings per semester. School functions shall include all time spent after the regular school day in scheduled parent-teacher conferences, PTA, teacher meetings after the regular school day, and attendance at any educational or civic functions. The Principal, after conferring with the Campus Committee, will make decisions relating to these matters.

G. Teachers may be required to attend regularly scheduled system-wide meetings not in excess of five (5) per school year. Arrangements for these meetings will be made as provided for in Article XXIV B-2.

H. General faculty meetings called by the school administration shall be held no more often than once a month, except in September when two meetings may be necessary, or except in the event of an emergency. An agenda for the meeting covering all known items shall be furnished the faculty at least 24 hours in advance. Faculty meetings shall not exceed one hour in duration, nor extend beyond 4:00 p.m. unless previously agreed to by the campus committee. The term "faculty meeting" as used herein does not include organization meetings on the opening day for teachers.

I. The work year of teachers covered by this Agreement (other than teachers new to the System who will be required to attend up to three pre-session orientation days) shall be determined by the official school calendar. Teachers shall be paid additional compensation for employment prior to or after the date scheduled on the official school calendar, except as otherwise provided in this Agreement.

J. The Board and Association agree that matters concerning -

1. Weekly teaching load
2. Special student programs
3. Pupil-teacher ratios and/or student contacts, and maximum class size
4. Clerical assistance available for teachers
5. Use of teacher aides, instructional aides, and paraprofessionals
6. Discipline
7. Teacher transfer
8. Teacher evaluation
9. Teacher file
10. Delivery and inventory of books and materials

need continuing study and investigation. The above, along with other items, will be considered by the Professional Council.

K. Emergencies may arise making it necessary for the administration to assign teachers to cover a class during their preparation period. Teachers will be relieved from such duty at the earliest possible time. Each emergency will be reported to the Association and the Principal by the teacher who was assigned to cover the class.

L. The school calendar, including the starting school date, ending date, vacation periods, legal paid holidays, number of pupil attendance and membership days, and teacher record days, will be reviewed annually by the Board and the Association prior to adoption by the Board, and before any contracts for the year in question are distributed.

M. If a homeroom period is held, it shall not exceed twenty (20) minutes except in unusual circumstances. A homeroom assignment shall be a part of a teacher's regular assignment within the teaching day.

ARTICLE VII

Special Student Programs

A. Wherever it appears that a particular pupil is a continuing disruptive influence in a class, and that the pupil requires the special attention of counselors, social workers, law enforcement officials, psychologists, physicians, or other professional personnel, the administration will take reasonable steps to relieve the teacher of responsibilities for such pupils.

The Board agrees that specific steps will be taken toward the solution of this problem. As a first step at least one class, or corrective referral group will be established on one campus during 1968-69 and continued through the 1969-70 school year.

The system psychologist and doctor working with counselors and teachers will establish criteria to determine how such pupils will be identified.

These criteria will be reviewed by the Campus Committee of the school(s) in which such a program is located, as well as by the Professional Council.

B. The teacher shall be informed when students are assigned to his class whose history of serious behavior deviation, psychological or physical problems indicates that they should be given special attention. The criteria for determining which case histories shall be reviewed with the teacher shall be developed by a committee composed of the System Psychologist, the System Doctor, the School Department Chairman for Pupil Personnel Services, an Administrative Assistant, and a campus representative from the Association. The criteria will be reviewed by the Professional Council.

ARTICLE VIII

Teaching Conditions

A. The Board and the Association acknowledge that a teacher's primary responsibility is to teach and that his energies should, to the extent possible, be utilized to this end. Therefore, the Board agrees to make every effort to reduce the following non-teaching duties through the use of teacher aides and part-time clerical assistants:

1. Non-teaching assignments including supervision of buildings and grounds, cafeterias, and study halls.

2. Duplicating instructional and other materials and calculating attendance records.

3. Issuing return slips.

4. Collecting money from students for non-educational purposes.

B. Teachers are expected to assume the responsibility for the sponsorship of at least one extra-curricular activity. Such assignment should be within teacher's field of interest to the extent possible. First year teachers may be exempt from extra curricular assignments by the recommendation of the Campus Committee.

Student demand and interest in the activity, teacher interest, experience or skill in the activity, and the contribution the activity makes to the school program are factors to be reconciled by the Campus Committee and Professional Council in reviewing the record of extra-curricular program and teacher assignment for 1969-70.

ARTICLE IX

Qualifications and Assignments

A. Teachers shall not be assigned outside the scope of their teaching certificates or their major or minor field of study without the consent of the teacher and the Campus Committee.

B. Each year teachers will be consulted regarding the subjects they would prefer to teach. In making assignments, consideration will be given to the teacher's professional preparation, professional teaching experience and his expressed preference. Where there is not mutual agreement on teacher assignments after consultation, the teacher shall accept the assignment and the matter shall be referred to the Personnel Department for adjudication. The teacher may request to be present and/or be represented by the Association when the matter is adjudicated.

C. All teachers shall be given written notice of their assignments for the forthcoming year as soon as the master schedule is completed, and in no event later than May 15. Normally, no changes in teachers' schedules will be made later than the 15th day of August preceding the commencement of the school year. When changes in schedules must be made after August 15, every effort shall be made to consult the teachers prior to the change, as well as to notify the Association.

D. A reasonable effort will be made to schedule teachers with no more than two preparations a day. Each modified, accelerated, and enriched class, requiring different preparation, shall be considered a single preparation. The foregoing is subject to modification for educational purposes such as providing half-classes or for specialized or experimental instruction (e.g., music, art, physical education, etc.).

E. Any assignments in addition to the normal teaching schedule during the regular school year, including adult education courses, driver training, extra duties enumerated in Schedule B other than those enumerated in the teachers' contracts, and summer school courses, shall not be obligatory but shall be with the consent of the teacher. Preference in making such assignments will be given to teachers regularly employed in the district.

F. Teacher schedules and assignments shall be made without regard to race, creed, color, national origin,

sex, marital status (Husband and wife cannot be assigned to the same campus.) age or membership in any teacher organization.

G. Department chairmen shall be selected from the ranks of tenure teacher applicants unless a probationary teacher applicant has demonstrated superior qualifications. In any event, department chairmen shall be qualified teachers who have had at least three years of successful teaching experience in secondary schools in the subject area. A department chairman who is not on tenure will not evaluate teachers.

ARTICLE X

Vacancies, Promotions and Transfers

A change in teaching position from one school to another may be requested by the teacher affected, by the principal of the teacher's school, or may be initiated by the Superintendent and his staff. The approval of the Superintendent or his designee is required.

a. The principal criterion for consideration of a request for transfer is whether or not the request will result in the best educational program for the School District. A request for transfer will not be granted if the teacher does not qualify for the existing vacancy.

b. The best educational program results from the selection of a school faculty which is well-balanced in terms of the teachers' experience, general background, and competence. Careful consideration will be given to each of the above when filling vacancies.

A. The Board recognizes that it is desirable in making assignments to consider the interests and aspirations of the teachers. Requests by a teacher for transfer to a different school or position shall be made in writing to the Personnel Department, one copy of which shall be filed with the Association and one copy with the Principal. The application shall set forth the reasons for transfer, the school or position sought, and the applicant's academic qualifications. Such requests shall be renewed once each year to assure active consideration by the Board.

B. The Association recognizes that when vacancies occur during the school year it may be difficult to fill them from within the district without undue disruption to the existing instructional program. If the Superintendent in his reasonable judgment so determines, such a vacancy may be filled on a temporary or tentative basis until the end of the normal school year at which time the position will be considered vacant.

C. Whenever a vacancy arises or is anticipated, the Superintendent shall promptly notify the Personnel Department and the Association. Vacancies shall be filled on the basis of professional experience which includes length of service in the district, competency and qualifications of the applicant and other relevant factors.

D. An involuntary transfer will be made to prevent undue disruption of the instructional program, to relieve overstaffing, and other unforeseen circumstances which may occur. The Superintendent shall notify the Personnel Department, the affected teacher, and the Association of the reasons for such transfer. If the teacher objects to such transfer, the dispute may be referred to the Personnel Department for adjudication. The teacher may request to be present and/or be represented by the Association when the matter is adjudicated.

E. Any teacher who shall be transferred to a supervisory or executive position and shall later return to a teacher status shall be entitled to retain such rights as he may have had under this Agreement prior to such transfer to supervisory or executive status and to full credit for total experience in the System.

F. Teachers who wish to terminate employment will notify the System Personnel Office in writing, but only after such action has been reported to and discussed with the principal concerned. Notification of resignation will be made prior to the close of the school year to become effective at the end of the school year. Only in extreme emergency should a teacher resign less than thirty (30) days prior to the beginning of a new school year. A teacher may be allowed to resign during the school year provided a qualified replacement is available and the teacher gives the Personnel Office at least thirty (30) days prior notice.

ARTICLE XI

Illness or Disability

A. At the beginning of each school year, each teacher shall be credited with a ten day sick leave allowance to be used for absences caused by illness or physical disability of the teacher. The unused portion of such allowance shall accumulate from year to year without limitation.

B. A teacher who is unable to teach because of personal illness or disability and who has exhausted all sick leave available shall be granted a leave of absence without pay for the remainder of the school year. The teacher's health condition will be reviewed and future action will be determined by the school physician and a decision will be made either to return the teacher to active duty, extend the leave of absence, or take other appropriate action.

ARTICLE XII

Temporary Leaves of Absence

A. The Board recognizes that participation in the activities of professional associations, through services on committees, boards, and commissions, may contribute to the professional growth of the staff. Likewise, the continuation of the education of staff members augurs well for the improvement of instruction. Accordingly, substitutes will be provided, upon approval of the Superintendent, for teachers who are absent from classes for the following reasons:

1. Up to three days leave to attend conferences or workshops sponsored by a professional education association, as an official delegate of the association.

2. One day leave to receive a college or graduate degree.

B. A teacher who must appear in any legal proceeding connected with his employment with the school district may be absent without loss of pay for that cause, if the teacher is required by law to attend.

C. The Superintendent, or his designee, shall work out with the Association a calendar of educational meetings which System personnel may attend. Equitable representation will be sought for these meetings from among classroom teachers, representatives of the various departmental divisions, supervisors,

and administrators within the System. When so recommended, these persons will attend without loss of pay.

D. The existing statutes with regard to military leave shall apply to this agreement.

ARTICLE XIII

Extended Leaves of Absence

A. The Board agrees that one teacher designated by the Association may, upon request, be granted a leave of absence for one year without pay for the purpose of engaging in Association (local, state, national) activities.

B. A leave of absence without pay will be granted to any teacher who joins the Peace Corps, or is engaged in a similar government approved educational activity, or serves as an exchange teacher, as long as the teacher is a full-time participant in any such program.

C. A leave of absence without pay shall be granted to any teacher upon application to the Board for the purpose of campaigning for or serving in a county, state, or national public office.

D. The statutory requirements with regard to military leave shall apply to this Agreement.

E. All requests for an extended leave of absence shall be applied for and granted in writing.

F. If an extended leave is granted, all accrued rights of tenure, retirement, leave, salary increments, and other benefits shall be preserved and shall be available to the applicant upon his return from leave.

ARTICLE XIV

Sabbatical Leave

A. Teachers who have been employed for seven consecutive years may be granted a sabbatical leave for one year. During said sabbatical leave, the teacher shall be considered to be in the employ of the Board and may be paid one-half his annual salary.

B. A teacher, upon return from a sabbatical leave, shall be restored to his former position or to a position of like nature and status. All accrued rights of tenure, retirement, leave with pay, salary increments and other benefits provided by law shall be preserved and available to the teacher after the termination of the sabbatical leave of absence.

ARTICLE XV

Professional Compensation

A. Effective as of the first teacher work day as defined by the official 1968-69 school calendar, the salary schedule for all teachers covered by this agreement shall be set forth in Schedule A and Schedule B attached to this agreement and made a part of this Article by reference.

B. Teachers required in the course of their employment to drive personal cars on a regular basis shall be authorized to receive a transportation allowance of ten (10) cents per mile. Effort shall be made to limit use of personal cars for school business by the providing of district-owned vehicles. Teacher's names must be placed on the eligibility list in order to receive mileage reimbursement. Use of these vehicles for student-oriented activities shall have first priority. The assignment of the district-owned vehicles will be processed by the administration on each campus. District-owned vehicles shall not be assigned for personal use.

C. Credit for Experience

1. Upon entering the Phoenix Union High School System, the teacher shall be given credit at the rate of one year for each year of prior professional teaching experience in full-time and regular employment in a recognized and accredited educational institution. The maximum prior experience allowance shall be 5 steps on the salary schedule. Requests for retroactive prior service credit will not be considered subsequent to one year of teaching in this system. No prior service credit will be granted for teaching experience obtained more than ten years ago.

2. Trades and Industries teachers in the Phoenix Union High School System will be given one step on the salary schedule for each year of trade experience above the minimum requirements, up to a maximum of five years prior service credit.

3. One step prior service credit will be allowed for each 30 semester hours of approved college earned in T & I subjects at an accredited institution.

Prior service credit for a combination of the above may not exceed five years except as provided by the Board of Education.

D. Advancement Through the Salary Schedule

1. A teacher shall be advanced through the steps of the salary schedule at the rate of one step per year of service in this system, provided he/she has shown competence in the performance of his/her assigned duties.

2. A teacher who has worked full-time in this system for more than one-half of the school year shall be advanced one step on the salary schedule. If employment has been for one semester or less, or employment is for one-half the regular teaching load or less, the teacher will remain on the same step of the salary schedule for the following year. However, if a teacher is teaching on a fractional time basis from year to year, he/she will receive the fractional part of the normal increment.

3. A teacher will be advanced through the steps of the salary schedule provided he/she has completed four semester hours of approved study or four hours of approved non-academic work in the preceding five years. The four hours must have been completed prior to September 1. Teachers new to the system, who have not received four hours of acceptable credit in the preceding five year period, will have until September 1 following their first year of employment to have the four hours completed. Total time - two school years and two summers.

One additional step will be given on the salary schedule for completion of 24 semester hours, one step for completion of 48 semester hours, and one step for completion of 72 semester hours (the earned Doctorate and M.A. +72 are considered equivalent for salary purposes) of approved credit beyond the Master's Degree.

(a) Teachers who qualify for advancement on the salary schedule during the summer will receive an increment for their advancement during the school year immediately following the summer during which the requirements were completed. Work must be completed prior to September 1 and the transcripts must be submitted to the Personnel Manager prior to December 1. This will become effective with the 1968-69 school year.

(b) Approved study shall include all that study done at the request of the officials of the school system; that study accepted for credit toward an advanced degree by an accredited institution of higher learning; other study done after the master's degree if approved by the Superintendent or his delegated representative; and certain non-academic work.

(c) Credit for advancement on the salary schedule requires the prior approval of the Principal and the Personnel Department. Criteria for such approval will be prepared by the Professional Council.

E. Department Chairmen shall follow the salary schedule but shall have their assignments adjusted to compensate for the demands of the department chairmanship. The rate of pay for department chairmen will be determined by the number of teachers in each department at the end of the first reporting period of the school year. All fractions of teachers will be added; and, after the total number of teachers has been determined, the fraction will be rounded out to the next higher whole number from which the Department chairmen's salary increment will be determined.

Number in Department	Additional Yearly Salary
2 to 4	$ 100
5 to 9	$ 200
10 to 14	$ 300
15 to 19	$ 400
20 or more	$ 500

F. Pay for Supervising Activities

Teachers shall be paid for certain supervisory work required for activities supported by admission fees or activities provided out of student funds. The rate of pay shall be $3.50 per hour. A maximum of $10.50 will prevail for supervision of one event or $17.50 for a combined event within the system with the following exceptions:

(1) The individual in charge of supervision of a particular activity.

(2) The Business Manager or the person in charge of the finances of the activity or event.

The maximum shall be $10.50 for bus supervisors if the event is less than fifty (50) miles from the Phoenix Union High School District, $14.00 if between fifty (50) and ninety-nine (99) miles away, or $17.50 if one hundred (100) or more miles away.

G. Pay for Extended School Year

If a teacher works more than the regular contract year, payment for this work will be according to the following formula:

Summer school teachers' weekly rate shall be .25 of the weekly contract rate of the preceding year's contract for each class taught.

Weekly pay for participants in 8:00 a.m. to 4:00 p.m. system workshops shall be .75 of the weekly contract rate of the preceding year. Minimum pay for summer school shall be $55 for each class.

Teachers in Evening Schools and Adult Education courses shall be paid at the rate of $6.00 per hour.

This formula will be used for all categories of teachers except the following who shall be paid at their regular weekly rate:

1. Counselors
2. Teachers of Cosmetology
3. Teachers of Horticulture
4. Practical Nursing Instructors
5. Manpower Instructors
6. Teachers of Distributive Education
7. Teachers of Industrial Cooperative Education
8. Teachers of Cooperative Office Education

Teachers on other assignments shall be paid at their regular contract rate, unless otherwise specified in this agreement.

H. Correspondence Course teachers shall be paid at the rate of $1.25 per lesson evaluated.

I. No reduction in teachers salaries shall be made except in accordance with a general reduction required by law in this school district and in such case the reduction shall be equitably applied among all budget items.

ARTICLE XVI

Academic Freedom

A. The parties seek to educate people in the democratic tradition, to foster a recognition of individual freedom and social responsibility, to inspire meaningful awareness of, and respect for, the Constitution and the Bill of Rights, and to instill appreciation of the values of individual personality. It is recognized that these democratic values can best be transmitted in an atmosphere which is free from censorship and artificial restraints upon free inquiry and learning, and in which academic freedom for teacher and student is encouraged.

B. Academic freedom shall be guaranteed to teachers in order to create in the classroom an atmosphere of freedom, which permits students to raise questions dealing with critical issues of the time and which maintains an atmosphere conducive to the study, investigation, presentation, and interpretation of facts which stress the interplay of ideas. The teacher has the right to express his point of view provided his students understand that it is his opinion and not to be accepted by them as an authoritative statement. In addition the teacher is responsible for exercising his judgment in selecting for discussion those relevant issues which he may deem to be of value to the maturity and understanding of the students involved.

C. Freedom of individual conscience, association and expression will be encouraged, and fairness in procedures will be observed both to safeguard the legitimate interests of the schools and to exhibit by appropriate examples the basic objectives of a democratic society.

D. Teachers will be entitled to full rights of citizenship, and no religious or political activities of any

teacher or lack thereof will be grounds for any discipline or discrimination with respect to the professional employment of such teacher.

ARTICLE XVII

Teacher Evaluation

A. The performance of all teachers shall be evaluated in writing. Probationary teachers shall be evaluated at least three times during the school year. Tenure teachers shall be evaluated at least once every two years.

B. Evaluation shall be conducted by the Department Head and the Principal or his designee. At least one of the three evaluations of the probationary teachers shall be conducted by the Principal and at least one by the Department Head. At the beginning of the school year, the Principal shall prepare a list of the administrators qualified to evaluate teachers in certain subject areas, and designate those areas to be evaluated.

C. Each observation shall be made in person for a minimum of thirty consecutive minutes. All monitoring or observation of the work of the teacher shall be conducted openly and with full knowledge of the teacher. A written report of the observation shall be submitted to the teacher.

D. A copy of each written evaluation shall be submitted to the teacher. If either the teacher or the evaluator requests a personal interview, it will be held within ten days after the observation. The teacher will be given an opportunity to review each written evaluation report. A conference will be held with each probationary teacher within ten days after the third observation. All evaluations shall be based on valid criteria mutually developed by the Association and the Administration. Within ten days after the teacher has received the evaluation report, a copy of this report shall be submitted to the Personnel Manager.

E. The Principal, no later than February 1 of each year, shall submit the final written evaluation and recommendation for probationary teachers to the teacher, the Superintendent, and the Association. If the Association disagrees with the recommendation of the Principal regarding the re-employment of a probationary teacher, the Association may present its written recommendation to the Professional Council. In the event a probationary teacher is not re-employed, the Board will advise the teacher of the reasons in writing, with a copy to the Association.

ARTICLE XVIII

Teacher Files

All teacher files shall be maintained under the following conditions:

A. All materials placed in the teacher's files and originating within the School District shall be available beginning September 1, 1968, to the teacher at his request for inspection, except as provided in Section D.

B. Material originating within the School District and which is derogatory to a teacher's conduct, service, character or personality shall not be placed in a teacher's file unless the teacher has had an opportunity to read the material. The teacher shall acknowledge that he has read such material by affixing his signature on the actual copy to be filed. Such signature does not necessarily indicate agreement with the content of such material.

C. The teacher shall have the right to answer any material filed, and his answer shall be submitted to the Principal, reviewed by the Personnel Manager, and attached to the file copy.

D. All references and information originating outside the School District on the basis of confidentiality, and information obtained within the School District in the process of recommending the teacher for employment or promotion shall not be subject to this agreement and therefore shall not be available for inspection by the teacher.

ARTICLE XIX

Professional Behavior

A. Alleged breaches of discipline shall be promptly reported to the offending teacher and to the Association. The Association will use its best efforts to correct breaches of professional behavior by any teacher.

B. A teacher shall be entitled to have a representative of the Association present when he is being reprimanded or disciplined for infraction of rules or delinquency in professional performance. When a request for such representation is made, no action shall be taken with respect to the teacher until a representative of the Association is present.

C. Teachers shall not be disciplined, reprimanded, reduced in rank or compensation, or deprived of any professional advantage without just cause, and all information forming the basis for disciplinary action will be made available to the teacher and the Association. No such action will in any way interfere with the Board's legal right to disassociate a probationary teacher from the employ of the District for just cause.

ARTICLE XX

In-Service Training

The parties recognize that in our rapidly changing society teachers must constantly review curriculum content, teaching methods and material, educational philosophy and goals, social change and other topics related to education. The Board recognizes that it shares with its professional staff the responsibility for the upgrading and updating of teacher performance and attitudes.

a. The Professional Council may recommend to the Board the topics for workshops, conferences and programs designed for teachers during school hours.

b. The Professional Council may also recommend to the Board the topics for after school courses, workshops, conferences, and programs designed to improve the quality of instruction.

ARTICLE XXI

Student Discipline

A. Wherever it appears that a particular pupil is a continuing disruptive influence in a class, and that the pupil requires the special attention of counselors,

social workers, law enforcement officials, psychologists, physicians, or other professional personnel, the administration will take reasonable steps to relieve the teacher of responsibilities for such pupils.

The System psychologist and doctor working with counselors and teachers from the Association will establish criteria to determine how such pupils will be identified.

The Board agrees that specific steps will be taken toward the solution of this problem. As a first step at least one class, or corrective referral group, will be established on one campus during 1968-69.

B. A teacher may exclude a pupil from a class for one class period or less when the grossness of the offense, the persistence of the misbehavior, or the disruptive effect of the violation makes the continued presence of the student unacceptable. In such cases, the student may be excluded from the class for the remainder of the period and will be sent with the appropriate transmittal slip to an Administrative Assistant. The teacher will furnish the Administrative Assistant with the full particulars of the incident as promptly as his teaching obligations will permit.

C. Students shall be suspended from school only by the Principal or his designee. The administration will endeavor to achieve correction of student misbehavior through counseling and interviews with the student and his parents. If transfer of the student to another teacher is deemed appropriate, such transfer will be arranged by mutual agreement between the teachers and administration.

D. In any case of an assault upon a teacher, or a complaint or suit by third parties as a result of action taken by the teacher while performing his duties, the Board will render all reasonable assistance to the teacher in connection with the handling of the incident by law enforcement and judicial authorities.

E. No action shall be taken upon a complaint made by a parent of a student directed toward a teacher, nor shall any reference to the complaint be included in the teacher's personnel file unless the teacher is duly notified.

A teacher shall be provided with the opportunity to be included in conferences between parents and the administration when the conference pertains to the teacher's relationship with one of his students.

ARTICLE XXII

Grievance Procedure

A. 1. A "grievance" shall mean a complaint by a teacher, or teachers, in the negotiating unit that there has been a violation, a misinterpretation, or inequitable application of any of the provisions of this Agreement.

2. An "aggrieved person" is a teacher or a group of teachers asserting a grievance.

3. A "party of interest" is an employee who might be required to take action or against whom action might be taken in order to resolve a grievance.

4. "Days" shall mean working school days.

B. 1. Good morale is maintained, as problems arise, by sincere efforts of all persons concerned to work toward constructive solutions in an atmosphere of courtesy and cooperation. The purpose of this procedure is to secure, at the lowest possible administrative level, equitable solutions to the problems which may, from time to time, arise. Both parties agree that these proceedings will be kept as informal and confidential as may be appropriate at any level of the procedure.

2. Nothing contained herein will be construed as limiting the right of any teacher having a grievance to discuss the matter informally with any appropriate member of the administration and having the grievance adjusted, provided the adjustment is consistent with the terms of this Agreement. The Association shall have the opportunity to be present and to state its views at any level in the grievance procedure beyond LEVEL ONE in the Formal Procedure.

C. Since it is important that grievances be processed as rapidly as possible, the number of days indicated at each level should be considered as a maximum, and every effort should be made to expedite the process. The time limits specified may be extended by mutual agreement.

If a grievance is filed which might not be finally resolved at LEVEL THREE under the time limits set forth herein prior to the end of the school year, and which if left unresolved until the beginning of the following school year could result in irreparable harm to a party or parties in interest, the time limits set forth herein will be reduced so that the grievance procedure may be concluded prior to the end of the school year.

D. Informal Procedure

If a teacher feels that he has a grievance, he may first discuss the matter with his principal or other appropriate administrator, in an effort to resolve the problem informally.

The teacher may (1) discuss the alleged grievance personally or (2) request that the Association's representative accompany him and request that he act on the teacher's behalf.

E. Formal Procedure

1. Level One - School Principal

A. If an aggrieved person is not satisfied with the outcome of the informal procedure, or if he has not elected to utilize it, he may present his alleged grievance formally in writing to his principal or other appropriate administrator.

B. The aggrieved person or the principal may request a conference prior to the rendering of the decision. The teacher may (1) discuss the alleged grievance personally or (2) request that the Association's representative accompany him and request that he act on the teacher's behalf.

C. The principal or other appropriate administrator, within five (5) days after receipt of the alleged grievance or after the personal conference, shall render a written decision to the aggrieved person with a copy to the campus representative of the Association.

2. Level Two - Superintendent of Schools

A. If an aggrieved person is not satisfied with the decision concerning his alleged grievance at Level One, he may, within three (3) days after the decision is rendered, or within eight (8) days after his formal presentation file his alleged grievance with the Association.

B. The Association shall, within five (5) days, make a judgment on the merits of the alleged grievance. If the Association decides, either that the alleged grievance lacks merit, or that the decision at Level One is in the best interest of the school system, it shall send written notification to the teacher and the campus representative of the Association. If the Association decides that the alleged grievance has merit and the decision at Level One is not acceptable, it shall, within five (5) days after receipt refer such grievance in writing to the Superintendent of Schools.

C. The Superintendent of Schools within ten (10) days from the receipt of the written grievance shall designate three persons, who may include himself, to meet with the aggrieved person and representatives of the Association for the purpose of resolving the grievance. The Principal or appropriate administrator who was involved at Level One shall be notified and shall have the option of attending the meeting.

The Superintendent shall, within five (5) days after this meeting, render his decision in writing to the aggrieved person, the Principal or appropriate administrator, and the Association.

3. Level Three - Impartial Arbitration

A. If the aggrieved person is not satisfied with the disposition of his grievance at Level Two, he may within three (3) days after the decision is rendered, or within ten (10) days after the meeting with the Superintendent, request in writing to the President of the Association that his grievance be submitted to arbitration. The President shall immediately refer the request to the Association's Professional Rights and Responsibilities Committee (hereinafter referred to as the PR&R Committee.)

B. The PR&R Committee shall, within five (5) days, make a judgment on the merits of the alleged grievance. If the PR&R Committee decides, either that the alleged grievance lacks merit, or that the decision at Level Two is in the best interest of the school system, it shall send written notification to the teacher and the campus representative of the Association. If the PR&R Committee decides that the alleged grievance has merit and the decision at Level Two is not acceptable, it shall, within five (5) days after receipt, request the Association to submit the grievance to arbitration.

C. The Association may, within five (5) days after the receipt of the request, submit the grievance to arbitration by so notifying the Board in writing.

D. The President of the Board and the Association shall, within five (5) days after the written notice is received, select jointly an arbitrator who is an experienced and impartial person of recognized competence. If the parties are unable to agree upon an arbitrator within five (5) days, the American Arbitration Association shall be called upon immediately to select an arbitrator.

E. The arbitrator shall confer promptly with representatives of the Board and the Association, shall review the record of prior meetings, and shall hold such further hearings as he deems necessary.

F. The arbitrator will have authority to hold hearings and make procedural rules. His recommendations will be issued within a reasonable time after the date of the close of the hearings or, if oral hearings have been waived, from the date the final statements and evidence are submitted to him.

G. The arbitrator's recommendations shall be submitted in writing as soon as possible to the Board, with a copy to the Association only, and shall set forth his findings of fact, reasoning and conclusions on the issues submitted. The arbitrator's recommendations shall be consistent with existing statute.

H. The Board shall take official action on the report of the arbitrator within fifteen (15) days after its receipt and shall render its decision in writing to all parties concerned.

I. All costs for the services of the arbitrator shall be shared equally by the Board and the Association.

F. All sessions held in connection with the processing of grievances including arbitration shall be in closed session and no new releases shall be made concerning progress of the hearings.

G. 1. Reprisals shall not be taken against any teacher, any party in interest, any Association representative or any other participant in the grievance procedure by reason of such participation.

2. Any party in interest may be represented at any level of the formal grievance procedure by a person, or persons, of his own choosing. When a teacher is not represented by the Association, the Association shall have the right to be present and to state its views at any level of the formal grievance procedure.

H. 1. If a grievance affects a group of teachers from more than one school, the Association may submit such grievance in writing directly to the Superintendent's office, and the processing of such grievances may be commenced at LEVEL TWO. The Association may process such a grievance even though the aggrieved persons do not wish to do so.

2. Decisions rendered at LEVEL TWO of the grievance procedure will be in writing setting forth the decision and the reasons therefor, and will be transmitted promptly to all parties in interest and to the Association.

Decisions rendered at LEVEL THREE will be in accordance with the procedures set forth heretofore.

3. All written and printed matter dealing with the processing of a grievance will be filed separately from the central office personnel files of the participants.

4. The Board agrees to make available to the aggrieved person and his representative, all pertinent information not privileged under law in its possession or control and which is relevant to the issues raised by the grievance, except as otherwise provided for in this Agreement.

5. When it is necessary at LEVEL TWO or LEVEL THREE for a representative, or representatives, designated by the Association, to attend a meeting or a hearing called by the Superintendent or his designee during the school day, the Superintendent's office shall so notify the principal of such Association representatives, and they shall be released without loss of pay for such time as their attendance is required at such meeting or hearing. The cost of substitutes will be shared equally by the Board and the Association.

6. No grievance shall be recognized by the Board or the Association unless it shall have been presented to the appropriate level within thirty (30) school days after the aggrieved person knew, or should have known, of the act or condition on which the grievance is based, and if not so presented, the grievance shall be considered as waived, provided that no grievance shall be recognized at LEVEL TWO unless it shall have been filed with the Superintendent's office within at least forty-five (45) days after the act or condition upon which it is based occurred.

I. A grievance may be withdrawn at any level without prejudice or record, and cannot be reopened.

J. Failure by the aggrieved person at any level to appeal a grievance to the next level within the specified time limits herein shall be deemed to be acceptance of the decision rendered at that level.

ARTICLE XXIII

Professional Council

A. The membership of the Professional Council shall be composed of five members of the Administrative-Supervisory staff designated by the Superintendent, and five members of the Association.

The Superintendent, serving in an ex-officio and non-voting capacity, will attend all meetings of the Professional Council.

B. The Professional Council shall meet at least once a month in order to discuss and research topics of mutual concern. The scope of the topics will include the following, in addition to other topics which may be presented to the Council for consideration.

1. To investigate specifically the items mentioned in Article VI, Section J, and make recommendations concerning same.

2. To assist in the planning and scheduling of System-wide meetings.

3. To assist in the preparation of the official school calendar.

4. To confer for the purpose of improving the selection and use of educational tools.

5. To participate in an appropriate manner in budget discussions prior to the preparation of the annual budget.

6. To consider appropriate referrals from campus committees.

7. To refer mutually agreed-upon items to the Negotiation Teams.

The meetings of the Professional Council shall be scheduled so as not to conflict with other existing System and campus committees.

C. When a topic is discussed by the Professional Council the preferable procedure for arriving at a decision will be initially through a consensus of the membership. If a consensus of the Council is not easily discerned, the topic under consideration will be resolved through a majority vote of the Council.

D. The Professional Council will make recommendations to the Superintendent and the Board regarding the topics that have been discussed. When the Superintendent has arrived at a decision regarding any topic recommended by the Professional Council, the results of the Superintendent's decision will be made available to the Board of Education.

In all cases, the Board will be the final authority on any topic brought to the Board of Education's attention by the Professional Council.

E. The Professional Council will select one of its voting members to be Chairman. The Chairman shall have a vote.

The agenda for the Professional Council will be determined by a member of the Association and the Administration serving as a screening committee for agenda items.

The minutes of the Professional Council will be disseminated to the Association, as well as to the members of the Administrative-Supervisory staff in the System.

The clerical expenses of the Professional Council and its committees shall be paid by the Board.

F. Association members on the Professional Council shall be released from school duties for meetings of the Professional Council without loss of salary whenever it is jointly decided to hold such meetings during the school day.

G. Resource people may attend a meeting by notification of the screening committee by a member of the Council prior to the preparation of the agenda.

ARTICLE XXIV

Campus Committee

A. A Campus Committee will be established at each school. The membership of the Committee shall be composed of seven members designated by the Association, (four to be elected by members of the Association on campus, and three to be appointed by the Association's Executive Board from members on campus) and at least three members of the Administrative-Supervisory staff on campus designated by

the Principal. The selection of the membership of the Campus Committee will be determined prior to May 1 of each year.

The Principal, serving in an ex-officio and non-voting capacity, will attend all meetings of the Campus Committee.

B. The Campus Committee shall be scheduled to meet once a week, if needed. The Campus Committee must meet twice a month. The purpose of the Campus Committee is to discuss and research matters of mutual concern at the campus level. This Committee is to be in no way a substitute for the grievance procedure.

The meetings will be scheduled to begin no later than the start of the last instructional period of the school day.

The meetings of the Campus Committee shall be scheduled so as not to conflict with other existing System committees and the Professional Council.

C. When a topic is discussed by the Campus Committee the preferable procedure for arriving at a decision will be initially through a consensus of the membership. If a consensus of the Committee is not easily discerned, the topic under consideration will be resolved through a majority vote of the Committee.

D. The Campus Committee will make recommendations to the Principal regarding the topics that have been discussed. When the Principal has arrived at a decision regarding any topic forwarded by the Campus Committee, the Principal's decision, together with the recommendation of the Campus Committee, will be disseminated to the Professional Council and faculty. Minutes of the Campus Committee may be disseminated to the faculty.

In all cases, the Board will be the final authority on any topic brought to the Board of Education's attention by the Campus Committee through the Professional Council.

E. The Campus Committee will select one of its voting members to be Chairman. The Chairman shall have a vote. The agenda for the Campus Committee will be determined by a member of the Association and the Administration serving as a screening committee for agenda items.

F. Campus Committee members shall be released from school duties for meetings of the Committee without loss of salary whenever it is jointly decided to hold such meetings during the school day.

G. Resource people may attend a meeting by notification of the Screening Committee by a member of the Campus Committee prior to the preparation of the agenda.

ARTICLE XXV

A. There shall be no strikes or work stoppage, nor shall sanctions be applied against the District for any reason whatsoever by the Association.

ARTICLE XXVI

Effective Dates and Duration

A. If any provision or application of this agreement to any teacher or group of teachers shall be found to be contrary to law, then such provision or application shall be deemed valid only to the extent permitted by law, but all other provisions or applications shall continue in full force and effect.

B. The provisions of this Agreement shall be effective as of the date of this Agreement. The provisions of this Agreement regarding salary increases shall be effective as of the first teacher work day, as defined by the official 1968-69 school calendar.

C. This Agreement shall remain in full force and effect until July 1, 1970. Said Agreement will automatically be renewed and will continue in full force and effect for additional periods of one year unless either the Board or the Association gives written notice to the other not later than November 30, 1969 or any anniversary thereof, to terminate this Agreement, at the end of that first year.

D. The Board of Education and the Association recognize that there are external factors which could create a fiscal emergency that may necessitate consideration of modification of this agreement; e.g., additional financial restrictions imposed or benefits granted by the legislature. Any serious reduction in instructional services or significant increase in instructional services occurring as a result of the foregoing will not take place unless mutually agreed upon by the Board and the Association.

E. A copy of this Agreement shall be printed at the joint expense of the Board and the Association.

Negotiated by:

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
C.T.A. Negotiating Team	Board Negotiating Team
Approved by: Phoenix Union Classroom Teachers Association	Approved by: Board of Education of the Phoenix Union High School System
_____	_____
President	President
_____	_____
_____	_____
_____	_____
_____	_____
_____	

SCHEDULE A

SALARY SCHEDULE FOR TEACHERS
PHOENIX UNION HIGH SCHOOL SYSTEM
1968-69 SCHOOL YEAR

BASE - $6450 INCREMENT - 6 1/4%
(Rounded to closest dollar)

	STEP	INDEX	SALARY
Beginning B.A., no experience	1	.9375	$ 6,047.00
Beginning M.A., no experience	2	1.0000	6,450.00
Beginning M.A. + 24, no experience	3	1.0625	6,853.00
Beginning M.A. + 48, no experience	4	1.1250	7,256.00
Beginning M.A. + 72 or earned Doctorate, no experience	5	1.1875	7,659.00
	6	1.2500	8,063.00
	7	1.3125	8,466.00
	8	1.3750	8,869.00
	9	1.4375	9,272.00
Top B.A.	10	1.5000	9,675.00
	11	1.5625	10,078.00
	12	1.6250	10,481.00
	13	1.6875	10,884.00
Top M.A. without extra credit	14	1.7500	11,288.00
Top M.A. + 24 without extra credit	15	1.8125	11,691.00
Top M.A. + 48 without extra credit	16	1.8750	12,094.00
Top M.A. + 72 or earned Doctorate	17	1.9375	12,497.00

Increment - $403.00

Prior service credit will be granted on the basis of one step on the salary schedule for one year of prior teaching experience with a five year maximum. No prior service credit will be granted for teaching experience obtained more than ten years ago.

SCHEDULE A

SALARY SCHEDULE FOR TEACHERS
PHOENIX UNION HIGH SCHOOL SYSTEM
1969-70 SCHOOL YEAR

BASE - $6900 INCREMENT - 6 1/4%
(Rounded to closest dollar)

	STEP	INDEX	SALARY
Beginning B.A., no experience	1	.9375	$ 6,469.00
Beginning M.A., no experience	2	1.0000	6,900.00
Beginning M.A. + 24, no experience	3	1.0625	7,331.00
Beginning M.A. + 48, no experience	4	1.1250	7,763.00
Beginning M.A. + 72 or earned Doctorate, no experience	5	1.1875	8,194.00
	6	1.2500	8,625.00
	7	1.3125	9,056.00
	8	1.3750	9,488.00
Top B.A.	9	1.4375	9,919.00
	10	1.5000	10,350.00
	11	1.5625	10,781.00
	12	1.6250	11,213.00
	13	1.6875	11,644.00
Top M.A. without extra credit	14	1.7500	12,075.00
Top M.A. + 24 without extra credit	15	1.8125	12,506.00
Top M.A. + 48 without extra credit	16	1.8750	12,938.00
Top M.A. + 72 or earned Doctorate	17	1.9375	13,369.00

Increment - $431.00

Prior service credit will be granted on the basis of one step on the salary schedule for one year of prior teaching experience with a five year maximum. No prior service credit will be granted for teaching experience obtained more than ten years ago.

SCHEDULE B
PHOENIX UNION HIGH SCHOOL SYSTEM
EXTRA PAY FOR EXTRA SERVICES

Position	Index
COACHES:	
Football	
Varsity	.10
Assistant Varsity	.07
Head or Assistant Junior Varsity	.06
Head or Assistant Frosh	.06
Basketball	
Varsity	.09
Junior Varsity	.06
Frosh	.06
Wrestling	
Varsity	.08
Junior Varsity	.06
Baseball	
Varsity	.08
Junior Varsity	.06
Frosh	.06
Track	
Varsity	.08
Junior Varsity	.06
Frosh	.06
Tennis	
Varsity	.04
Junior Varsity	.03
Frosh	.03
Gymnastics	
Varsity	.07
Assistant Varsity	.03
Golf - Varsity	.04
Cross Country - Varsity	.04
Swimming	.05
Badminton	.04
Archery	.02
OTHERS:	
Pom and Cheer Sponsor	.06
Band Director	.06
Dramatics Coach	.06
Yearbook Adviser	.06
Newspaper Adviser	.06
Girls Athletic Association	.06
Boys Athletic Association	.06
Orchestra Director	.04
Vocal Music Director	.04
Forensics	.04
Rifle Team	.02

1968-69
EXTRA PAY INCREMENTS
(Rounded to closest dollar)

INDEX	M.A.	$6450 STEP 1	$6853 STEP 2	$7256 STEP 3	$7659 STEP 4	$8063 STEP 5
10		$645	$685	$726	$766	$806
9		581	617	653	689	726
8		516	548	580	613	645
7		452	480	508	536	564
6		387	411	435	460	484
5		323	343	363	383	403
4		258	274	290	306	323
3		194	206	218	230	242
2		129	137	145	153	161

1969-70
EXTRA PAY INCREMENTS
(Rounded to closest dollar)

INDEX	M.A.	$6900 STEP 1	$7331 STEP 2	$7762 STEP 3	$8193 STEP 4	$8625 STEP 5
10		$690	$773	$776	$819	$863
9		621	660	699	737	776
8		552	586	621	655	690
7		483	513	543	574	604
6		414	440	466	492	518
5		345	367	388	410	431
4		276	293	310	328	345
3		207	220	233	246	259
2		138	147	155	164	173

The Index is multiplied by Steps 2 through 6 of Teachers' Schedule A (the first 5 steps of the Master's Schedule).

Extra pay step is determined by years of service in the assignment in the Phoenix Union High School System.

The additional pay for coaches shall be for the season of practice as defined by the Arizona Interscholastic Association and their contracts for coaching shall be drawn accordingly. The extra service responsibilities for coaches, pom and cheer sponsors, and directors of Girls Athletic Association and Boys Athletic Association shall not begin prior to the close of the last teaching period of the school day.

Supervisory pay shall not be paid any of the above-listed personnel for performing the services for which extra pay is allocated.

Coaches who change coaching assignments shall not lose an index step.

Coaches who leave a coaching assignment for up to two years, but who remain in the System, will not lose an index step.

Coaches shall not be penalized for refusing additional coaching duties assigned by the Administration.

Varsity coaches shall have no more than two coaching assignments without their consent.

Coaches, other than varsity coaches, shall normally be limited to two coaching assignments.

Special Items

SCHOOL SYSTEMS WHICH NEGOTIATE WITH MULTIPLE ORGANIZATIONS

The listing of 119 school systems which recognize more than one organization provides information on the local representation, national affiliation, and type of negotiation. Representatives from local affiliates for both the National Education Association and the American Federation of Teachers are on 47 of the 87 joint negotiating councils with proportional representation. On 16 of the councils, representatives are from affiliates of the NEA and independent organizations. Separate local units which are NEA affiliates compose 24 joint negotiating councils.

On all 52 joint negotiating councils in California, the majority of the members represent local organizations which are affiliates of the California Teachers Association and the National Education Association. On the 27 joint negotiating councils in Minnesota, the majority of the members in 18 councils represent NEA affiliates; in 8 councils, AFT affiliates; and one council, an independent organization.

Organizations which represent administrators, principals, or supervisors are designated on 32 of the joint negotiating councils. Of these 32 councils, 23 local administrator organizations are NEA affiliates and 9 are independent groups.

Of the 25 school systems which indicate separate negotiation with two or more local organizations, 20 systems conduct separate negotiation with local classroom teacher organizations and administrator organizations. In 15 of these 20 systems both the local classroom teacher organization and the administrator organization are affiliates of the National Education Association.

The following abbreviations are used to indicate the type of negotiation in effect:

JNE: Joint negotiating council with an equal number of representatives from each recognized organization.

JNP: Joint negotiating council with representation proportional to the number of staff members represented by each recognized organization.

SN: Separate negotiation for each recognized organization.

LISTING OF SCHOOL SYSTEMS IN WHICH STAFF IS REPRESENTED BY TWO OR MORE ORGANIZATIONS

State and school system	Location	Local organizations representing part or all of staff in negotiation	Number of staff members represented	National affiliation	Type of negotiation
CALIFORNIA					
Antelope Valley Un. HSD	Lancaster	2 organizations recognized	285	NEA-AFT	JNP
		Antelope Vly. UHSD Fac. Assn.	135	NEA	7
		High Desert AFT Local	50	AFT	2
Antioch Unf. Sch. Dist.	Antioch	3 organizations recognized	310	NEA-AFT-IND	JNP
		Antioch Tchrs. Assn.	254	NEA	7
		Antioch AFT Local	42	AFT	1
		Antioch Admn. Assn.	14	IND	1
Arcadia Unf. Sch. Dist.	Arcadia	2 organizations recognized	447	NEA-IND	JNP
		Arcadia Tchrs. Assn.	358	NEA	4
		Suprvsry.-Adm.-Gudnce. Assn.	89	IND	1
Bakersfield Cty. Elem. Sch.	Bakersfield	2 organizations recognized	953	NEA-IND	JNP
		Bakersfield Elem. Tchrs. Assn.	718	NEA	8
		Bakersfield Clrm. Tchrs. Orgn.	90	IND	1
Burbank Unf. Sch. Dist.	Burbank	3 organizations recognized	730	NEA-AFT-IND	JNP
		Burbank Tchrs. Assn.	608	NEA	7
		Burbank Eve. Sch. Tchrs. Assn.	70	IND	1
		Burbank AFT Local	52	AFT	1
Campbell Un. Sch. Dist.	Campbell	2 organizations recognized	552	NEA	JNP
		Campbell Elem. Tchrs. Assn.	517	NEA	6
		Campbell Elem. Adm. Assn.	35	NEA	1
Charter Oak Unf. Sch. Dist.	Covina	2 organizations recognized	356	NEA-IND	JNP
		Charter Oak Educ. Assn.	281	NEA	8
		Charter Oak Adm. Assn.	13	IND	1
Compton Un. HS Dist.	Compton	2 organizations recognized	731	NEA-AFT	JNP
		Compton Sec. Tchrs. Assn.	544	NEA	8
		Compton AFT Local	89	AFT	1
El Monte Un. HS Dist.	El Monte	2 organizations recognized	321	NEA	JNP
		El Monte HS Dist. Tchrs. Assn.	252	NEA	7
		El Monte HS Dist. Adm. Assn.	48	NEA	2
El Segundo Unf. Sch. Dist.	El Segundo	2 organizations recognized	177	NEA-IND	JNP
		El Segundo Educ. Assn.	138	NEA	8
		Sec. Tchrs. Assn. El Segundo	30	IND	1
Fountain Valley Sch. Dist.	Huntington Bch.	2 organizations recognized	304	NEA	JNP
		Fountain Valley Educ. Assn.	282	NEA	8
		Fountain Valley Ldrshp. Assn.	22	NEA	1
Fremont Unf. Sch. Dist.	Fremont	2 organizations recognized	1,200	NEA	JNP
		Fremont Tchrs. Assn.	1,010	NEA	8
		Fremont Adm. Assn.	80	NEA	1
Garden Grove Unf. Sch. Dist.	Garden Grove	2 organizations recognized	2,008	NEA	JNP
		Garden Grove Educ. Assn.	1,727	NEA	8
		Garden Grove Adm. Assn.	106	NEA	1
Grant Jt. Un. HS Dist.	Sacremento	2 organizations recognized	600	NEA-IND	JNP
		Grant Dist Tchrs. Assn.	450	NEA	4
		Grant Dist. Assn. Sec. Sch. Adm.	90	IND	1
Jefferson Un. HS Dist.	Daly City	3 organizations recognized	382	NEA-IND	JNP
		Jefferson UHSD Tchrs. Assn.	290	NEA	7
		Jefferson UHS Coaches Assn.	35	IND	1
		Assn. Jefferson Adm.	25	NEA	1
La Puente Un. HS Dist.	La Puente	3 organizations recognized	456	NEA-IND	JNP
		Valley Tchrs. Assn.	297	NEA	7
		Calif. Coun. Adult Educ.	28	IND	1
		Adm. and Counselors	67	IND	1

State and school system	Location	Local organizations representing part or all of staff in negotiation	Number of staff members represented	National affiliation	Type of negotiation
CALIFORNIA (Continued)					
Lassen Un. HS Dist.	Susanville	2 organizations recognized	54	NEA-IND	JNP
		Lassen Sec. Tchrs. Assn.	34	NEA	6
		Lassen Elem. Tchrs. Assn.	11	IND	1
Lawndale Sch. Dist.	Lawndale	2 organizations recognized	281	NEA	JNP
		Lawndale Tchrs. Assn.	161	NEA	8
		Lawndale Elem. Adm. Assn.	14	NEA	1
Los Angeles Cty. Sch. Dist.	Los Angeles	3 organizations recognized	34,650	NEA-AFT	JNP
		Los Angeles Tchrs. Assn.	11,224	NEA	5
		Affl. Tchrs. Org. of L.A.	7,572	NEA	3
		Los Angeles AFT Local	2,272	AFT	1
Madera Unf. Sch. Dist.	Madera	2 organizations recognized	348	NEA-AFT	JNP
		Madera Unf. Tchrs. Assn.	280	NEA	4
		Madera AFT Local	30	AFT	1
Mt. Diablo Unf. Sch. Dist.	Concord	2 organizations recognized	2,200	NEA-AFT	JNP
		Mt. Diablo Unf. Educ. Assn.	1,646	NEA	8
		Mt. Diablo Unf. AFT Local	204	AFT	1
New Haven Unf. Sch. Dist.	Union City	2 organizations recognized	248	NEA-AFT	JNP
		New Haven Tchrs. Assn.	218	NEA	8
		New Haven AFT Local	26	AFT	1
Newark Unf. Sch. Dist.	Newark	2 organizations recognized	344	NEA-IND	JNP
		Newark Tchrs. Assn.	259	NEA	8
		Newark Adm. Assn.	20	IND	1
Novato Unf. Sch. Dist.	Novato	2 organizations recognized	525	NEA-AFT	JNP
		Novato Tchrs. Assn.	375	NEA	8
		Novato AFT Local	30	AFT	1
Oakdale Jt. Un. HS Dist.	Oakdale	3 organizations recognized	90	NEA-AFT	JNP
		Oakdale HS Faculty Club	53	NEA	4
		Riverbank HS Faculty Club	21	NEA	2
		Oakdale AFT Local	8	AFT	1
Ocean-View Sch. Dist.	Huntington Bch.	2 organizations recognized	439	NEA	JNP
		Ocean-View Tchrs. Assn.	410	NEA	8
		Ocean-View Adm. Assn.	29	NEA	1
Oceanside-Carlsbad UHSD	Oceanside	4 organizations recognized	163	NEA-AFT-IND	JNP
		Oceansd-Carlsbd. Fac. Club	57	NEA	4
		Carlsbad HS Fac. Assn.	43	IND	2
		Oceansd.-Carlsbd. AFT Local	29	AFT	2
		Oceansd.-Carlsbd. HS Adm. Assn.	7	IND	1
Oceanside Un. Sch. Dist.	Oceanside	2 organizations recognized	322	NEA	JNP
		Oceanside Elem. Tchrs. Assn.	291	NEA	5
		Oceanside Elem. Prin. Assn.	22	NEA	1
Ontario-Montclair Sch. Dist.	Ontario	2 organizations recognized	703	NEA	JNP
		Ontario-Montclair Tchrs. Assn.	650	NEA	8
		Ontario-Montclair Prin. Assn.	37	NEA	1
Pacific Grove Unf. Sch. Dist. ...	Pacific Grove	2 organizations recognized	195	NEA-AFT	JNP
		Pacific Grove Tchrs. Assn.	137	NEA	6
		Pacific Grove AFT Local	19	AFT	1
Palm Springs Unf. Sch. Dist.	Palm Springs	2 organizations recognized	299	NEA	JNP
		Palm Springs Tchrs. Assn.	276	NEA	6
		Palm Springs HS Fac. Assn.	23	NEA	1
Palmdale Sch. Dist.	Palmdale	2 organizations recognized	168	NEA-AFT	JNP
		Palmdale Elem. Tchrs. Assn.	148	NEA	8
		Palmdale AFT Local	20	AFT	1
Palo Alto Unf. Sch. Dist.	Palo Alto	2 organizations recognized	785	NEA-AFT	JNP
		Palo Alto Educ. Assn.	738	NEA	8
		Palo Alto AFT Local	47	AFT	1

State and school system	Location	Local organizations representing part or all of staff in negotiation	Number of staff members represented	National affiliation	Type of negotiation
CALIFORNIA (Continued)					
Redondo Beach Cty. Sch. Dist. ...	Redondo Beach	2 organizations recognized	467	NEA	JNP
		Redondo Bch. Cty. Tchrs. Assn.	411	NEA	8
		Redondo Bch. Elem. Adm. Assn.	30	NEA	1
Redwood City Sch. Dist.	Redwood City	2 organizations recognized	535	NEA-AFT	JNP
		Redwood City Tchrs. Assn.	364	NEA	8
		Redwood City Chp. AFT Local	27	AFT	1
Richmond Unf. Sch. Dist.	Richmond	2 organizations recognized	2,012	NEA-IND	JNP
		Assn. of Richmond Educators	1,790	NEA	8
		Richmond Ed. Asn. of Clrm. Tch.	222	IND	1
Rio Linda Un. Sch. Dist.	Rio Linda	2 organizations recognized	469	NEA	JNP
		Rio Linda Educ. Assn.	444	NEA	5
		Rio Linda Elem. Adm. Assn.	25	NEA	1
Salinas Un. HS Dist.	Salinas	3 organizations recognized	496	NEA-IND	JNP
		Salinas Un. HS Tchrs. Assn.	322	NEA	6
		Salinas Un. HS Fac. Assn.	123	IND	2
		Intell. Discus. & Eff. Act. Leg.	51	IND	1
San Diego Unf. Sch. Dist.	San Diego	2 organizations recognized	5,747	NEA	JNP
		San Diego Tchrs. Assn.	4,141	NEA	8
		San Diego Adm. Assn.	340	NEA	1
San Dieguito Un. HS Dist.	Cardiff	2 organizations recognized	160	NEA-AFT	JNP
		San Dieguito Fac. Assn.	114	NEA	6
		San Dieguito AFT Local	19	AFT	1
San Francisco Unf. Sch. Dist. ...	San Francisco	3 organizations recognized	4,791	NEA-IND	JNP
		San Francisco Clrm. Tch. Assn.	2,494	NEA	7
		San Francisco Assn. Sch. Adm.	292	NEA	1
		San Fran. Asn. Phys. Ed. Tchrs.	192	IND	1
San Rafael City Sch. Dist.	San Rafael	2 organizations recognized	438	NEA-AFT	JNP
		San Rafael Tchrs. Assn.	376	NEA	6
		Marin Co. AFT Local	54	AFT	1
Santa Ana Unf. Sch. Dist.	Santa Ana	2 organizations recognized	864	NEA	JNP
		Santa Ana Tchrs. Assn.	829	NEA	8
		Santa Ana Elem. Adm. Assn.	35	NEA	1
Santa Barbara Sch. Dist.	Santa Barbara	2 organizations recognized	950	NEA-AFT	JNP
		Santa Barbara Tchrs. Assn.	849	NEA	8
		Santa Barbara AFT Local	45	AFT	1
Santa Monica Unf. Sch. Dist.	Santa Monica	2 organizations recognized	801	NEA	JNP
		Santa Monica Clrm. Tch. Assn.	644	NEA	8
		Santa Monica Assn. Sch. Adm.	53	NEA	1
Sequoia Un. HS Dist.	Redwood City	2 organizations recognized	713	NEA-AFT	JNP
		Sequoia Tchrs. Assn.	421	NEA	7
		Sequoia AFT Local	159	AFT	2
Shasta Un. HS Dist.	Redding	2 organizations recognized	232	NEA-AFT	JNP
		Shasta Sec. Tchrs. Assn.	209	NEA	8
		Shasta Co. AFT Local	23	AFT	1
So. San Francisco Unf. Dist.	S. San Francisco	2 organizations recognized	643	NEA-IND	JNP
		S. San Fran. Chp. CTA	548	NEA	6
		S. San Fran. Adm. Assn.	95	IND	1
Tustin Elem. Sch. Dist.	Tustin	2 organizations recognized	345	NEA	JNP
		Tustin Elem Tchrs. Assn.	305	NEA	8
		Tustin Elem. Adm. Assn.	40	NEA	1
Vista Unf. Sch. Dist.	Vista	2 organizations recognized	310	NEA-IND	JNP
		Vista Tchrs. Assn.	284	NEA	6
		Vista Adm. Assn.	26	IND	1

State and school system	Location	Local organizations representing part or all of staff in negotiation	Number of staff members represented	National affiliation	Type of negotiation
CALIFORNIA (Continued)					
Walnut Creek Sch. Dist.	Walnut Creek	2 organizations recognized	210	NEA-AFT	JNP
		Walnut Creek Educ. Assn.	190	NEA	8
		Walnut Creek AFT Local	6	AFT	1
Willowbrook Sch. Dist.	Los Angeles	2 organizations recognized	147	NEA	JNP
		Willowbrook Tchrs. Assn.	95	NEA	6
		Willowbrook Adm.-Supr. Assn.	18	NEA	1
CONNECTICUT					
New Britain Cons. Schs.	New Britain	2 organizations recognized	750	AFT-IND	SN
		New Britain AFT Local 871	700	AFT	SN
		New Britain Adm.-Sup.-Dir.	50	IND	SN
FLORIDA					
Brevard Co. Pub. Schs.	Litusville	4 organizations recognized	2,750	NEA	JNP
		Brevard Co. Clrm. Tch. Assn.	2,607	NEA	7
		Brevard Co. Elem. Prin. Assn.	54	NEA	1
		Brevard Co. Sec. Prin. Assn.	30	NEA	2
		Brevard Co. Sup. Staff Assn.	59	NEA	1
Broward Co. Pub. Schs.	Ft. Lauderdale	2 organizations recognized	4,230	NEA	JNP
		Broward Clrm. Tchrs. Assn.	3,750	NEA	5
		Broward Assn. of Sup.-Adm.	480	NEA	2
Dade Co. Pub. Schs.	Miami	3 organizations recognized	10,100	NEA	JNP
		Dade Co. Clrm. Tchrs. Assn.	8,888	NEA	11
		Dade Co. Asst. Prin. Assn.	244	NEA	2
		Dade Co. Sch. Adm. Assn.	968	NEA	3
Hermando Co. Pub. Schs.	Brooksville	2 organizations recognized	167	NEA	JNE
		Hernando Clrm. Tchrs. Assn.	100	NEA	JNE
		Hernando Co. Educ. Assn.	67	NEA	JNE
Hillsborough Co. Pub. Schs.	Tampa	2 organizations recognized	3,800	NEA	JNE
		Hillsboro Clrm. Tchrs. Assn.	2,000	NEA	JNE
		Hillsboro Co. Educ. Assn.	1,200	NEA	JNE
Manatee Co. Pub. Schs.	Bradenton	3 organizations recognized	761	NEA	JNP
		Manatee Co. Clrm. Tch. Assn.	651	NEA	5
		Manatee Co. Sch. Adm. Assn.	70	NEA	1
		Manatee Pers. Guidance Assn.	40	NEA	1
IDAHO					
Pocatello Sch. Dist. 25	Pocatello	2 organizations recognized	569	NEA-AFT	SN
		Pocatello Educ. Assn.	300	NEA	SN
		Pocatello AFT Guild	30	AFT	SN
ILLINOIS					
Collinsville Sch. Unit 10	Collinsville	2 organizations recognized	331	NEA-AFT	JNE
		Collinsville Educ. Assn.	172	NEA	JNE
		Collinsville AFT Local	140	AFT	JNE
Joliet Pub. Sch. Dist. 86	Joliet	2 organizations recognized	505	NEA-AFT	JNE
		Joliet Educ. Assn.	250	NEA	JNE
		Joliet AFT Local	230	AFT	JNE
INDIANA					
East Gary City Schs.	East Gary	2 organizations recognized	129	NEA-AFT	JNE
		E. Gary Clrm. Tchrs. Assn.	61	NEA	JNE
		E. Gary AFT Local 1395	35	AFT	JNE
Vigo Co. Sch. Corp.	Terre Haute	2 organizations recognized	1,088	NEA-AFT	JNE
		Vigo Co. Clrm. Tchrs. Assn.	850	NEA	JNE
		Vigo AFT Local 734	150	AFT	JNE
IOWA					
Des Moines Ind. Com. Schs.	Des Moines	2 organizations recognized	2,089	NEA-AFT	JNP
		Des Moines Educ. Assn.	1,564	NEA	4
		Des Moines AFT Local 600	279	AFT	1
MASSACHUSETTS					
Andover Pub. Schs.	Andover	2 organizations recognized	285	NEA	SN
		Andover Educ. Assn. - Tch.	260	NEA	SN
		Andover Educ. Assn. - Adm.	25	NEA	SN

State and school system	Location	Local organizations representing part or all of staff in negotiation	Number of staff members represented	National affiliation	Type of negotiation
MASSACHUSETTS (Continued)					
Belmont Pub. Schs.	Belmont	2 organizations recognized	261	NEA	SN
		Belmont Tchrs. Assn.-Tch.	242	NEA	SN
		Belmont Tchrs. Assn.-Adm.	15	NEA	SN
Chelsea Pub. Schs.	Chelsea	2 organizations recognized	255	AFT-NEA	SN
		Chelsea AFT Local	235	AFT	SN
		Chelsea Tchrs. Club - Adm.	19	NEA	SN
Fairhaven Pub. Schs.	Fairhaven	2 organizations recognized	169	NEA	SN
		Fairhaven Tchrs. Assn.-Tch.	1[illegible]	NEA	SN
		Fairhaven Tchrs. Assn.-Adm.	[illegible]	NEA	SN
Framingham Pub. Schs.	Framingham	2 organizations recognized	703	NEA	SN
		Framingham Tchrs. Assn.-Tch.	663	NEA	SN
		Framingham Tchrs. Assn.-Adm.	40	NEA	SN
Milford Pub. Schs.	Milford	2 organizations recognized	119	NEA	SN
		Milford Tchrs. Assn.-Tch.	111	NEA	SN
		Milford Tchrs. Assn.-Adm.	7	NEA	SN
Pittsfield Pub. Schs.	Pittsfield	2 organizations recognized	692	NEA	SN
		Pittsfield Tchrs. Assn.-Tch.	643	NEA	SN
		Pittsfield Tchrs. Assn.-Adm.	49	NEA	SN
Springfield Pub. Schs.	Springfield	2 organizations recognized	1,447	NEA	SN
		Springfield Educ. Assn.-Tch.	1,267	NEA	SN
		Springfield Educ. Assn.-Adm.	180	NEA	SN
Stoughton Pub. Schs.	Stoughton	2 organizations recognized	263	NEA	SN
		Stoughton Tchrs. Assn.-Tch.	240	NEA	SN
		Stoughton Tchrs. Assn.-Adm.	21	NEA	SN
Winchester Pub. Schs.	Winchester	2 organizations recognized	261	NEA	SN
		Winchester Tchrs. Assn.	250	NEA	SN
		Winchester Prin. Group	11	NEA	SN
MINNESOTA					
Albert Lea Pub. Schs.	Albert Lea	2 organizations recognized	338	NEA-AFT	JNP
		Albert Lea Educ. Assn.	285	NEA	4
		Albert Lea AFT Local 1341	45	AFT	1
Anoka Pub. Schs.	Anoka	2 organizations recognized	980	NEA-AFT	JNP
		Anoka-Hennepin Educ. Assn.	752	NEA	4
		Anoka-Hennepin AFT Local	188	AFT	1
Aurora Hoyt Ind. Sch. 691	Aurora	2 organizations recognized	131	AFT-NEA	JNP
		Aurora AFT Local	79	AFT	3
		Aurora Educ. Assn.	52	NEA	2
Austin Ind. Sch. Dist. 492	Austin	2 organizations recognized	426	NEA-AFT	JNP
		Austin Educ. Assn.	313	NEA	4
		Austin AFT Local	83	AFT	1
Bloomington Ind. S.D. 271	Bloomington	2 organizations recognized	1,052	IND-NEA	JNP
		Bloomington Tchrs. Assn	666	IND	3
		Bloomington Educ. Assn.	386	NEA	2
Brainerd Ind. S.D. 181	Brainerd	2 organizations recognized	277	AFT-NEA	JNP
		Brainerd AFT Local	146	AFT	3
		Brainerd Educ. Assn.	122	NEA	2
Columbia Hts. Ind. S.D. 13	Columbia Hts.	2 organizations recognized	330	AFT-NEA	JNP
		Columbia AFT Local 710	164	AFT	3
		Columbia Hts. Educ. Assn.	134	NEA	2
Duluth Spec. Sch. Dist. 69	Duluth	2 organizations recognized	1,023	AFT-NEA	JNP
		Duluth AFT Local	838	AFT	4
		Duluth Educ. Assn.	185	NEA	4

State and school system	Location	Local organizations representing part or all of staff in negotiation	Number of staff members represented	National affiliation	Type of negotiation
MINNESOTA (Continued)					
Ely Ind. Sch. Dist. 696	Ely	2 organizations recognized	90	NEA-AFT	JNP
		Ely Tchrs. Assn.	77	NEA	4
		Ely AFT Local	10	AFT	1
Grand Rapids Dist. 318	Grand Rapids	2 organizations recognized	278	AFT-NEA	JNP
		Grand Rapids AFT Local	146	AFT	3
		District 318-MEA	66	NEA	2
Hermantown Ind. Dist. 700	Duluth	2 organizations recognized	112	NEA-AFT	JNP
		Hermantown Educ. Assn.	52	NEA	3
		Hermantown AFT Local	50	AFT	2
Hibbing Sch. Dist. 701	Hibbing	2 organizations recognized	287	NEA-AFT	JNP
		Hibbing Educ. Assn.	190	NEA	3
		Hibbing AFT Local	90	AFT	2
Lakeville Sch. Dist. 194	Lakeville	2 organizations recognized	92	NEA-AFT	JNP
		Lakeville Educ. Assn	79	NEA	4
		Lakeville AFT Local	10	AFT	1
Mahtomedi Pub. Schs.	Mahtomedi	2 organizations recognized	85	NEA-AFT	JNP
		Mahtomedi Tchrs. Assn.	74	NEA	4
		Mahtomedi AFT Local	11	AFT	1
Moorhead Sch. Dist. 152	Moorhead	2 organizations recognized	364	NEA-AFT	JNP
		Moorhead Educ. Assn.	307	NEA	4
		Moorhead AFT Local	35	AFT	1
Mound Sch. Dist. 277	Mound	2 organizations recognized	171	AFT-NEA	JNP
		Mound AFT Local	96	AFT	3
		Mound Dist. 277 Educ. Assn.	75	NEA	2
Richfield Sch. Dist. 280	Richfield	2 organizations recognized	534	NEA-AFT	JNP
		Richfield Educ. Assn.	280	NEA	3
		Richfield AFT Local	251	AFT	2
Robbinsdale Ind. S.D. 281	Robbinsdale	2 organizations recognized	1,110	AFT-NEA	JNP
		Robbinsdale AFT Local	647	AFT	3
		Robbinsdale Educ. Assn.	432	NEA	2
Roseville Ind. S.D. 623	St. Paul	2 organizations recognized	583	NEA-AFT	JNP
		Roseville Educ. Assn.	390	NEA	4
		Roseville AFT Local	119	AFT	1
Shakopee Ind. S.D. 720	Shakopee	2 organizations recognized	74	NEA-AFT	JNP
		Shakopee Educ. Assn.	58	NEA	4
		Shakopee AFT Local	11	AFT	1
So. St. Paul Pub. Schs.	So. St. Paul	3 organizations recognized	275	AFT-NEA-IND	JNP
		So. St. Paul AFT Local	140	AFT	3
		So. St. Paul Educ. Assn.	47	NEA	1
		So. St. Paul Tchrs. Alliance	47	IND	1
Sprink Lake Pk. Ind. S.D. 16	Minneapolis	2 organizations recognized	201	NEA-AFT	JNP
		Minnesota Educ. Assn.	132	NEA	4
		Minnesota AFT Local	47	AFT	1
St. Louis Park Pub. Schs.	St. Louis Park	2 organizations recognized	559	NEA-AFT	JNP
		St. Louis Park Tchrs. Assn.	288	NEA	3
		St. Louis Park AFT Local	220	AFT	2
St. Paul Park Ind. Dist. 833	St. Paul Park	2 organizations recognized	361	NEA-AFT	JNP
		S. Washington Co. Educ. Assn.	260	NEA	4
		St. Paul Park AFT Local	91	AFT	1
Two Harbors Ind. Dist. 381	Two Harbors	2 organizations recognized	230	NEA-AFT	JNP
		Silver Bay Area Educ. Assn.	103	NEA	3
		Two Harbor AFT Local	78	AFT	2
Wayzata Sch. Dist. 284	Wayzata	2 organizations recognized	260	NEA	SN
		Wayzata Educ. Assn.	245	NEA	SN
		Wayzata Adm. Assn.	15	NEA	SN

State and school system	Location	Local organizations representing part or all of staff in negotiation	Number of staff members represented	National affiliation	Type of negotiation
MINNESOTA (Continued)					
Willmar Ind. Sch. Dist. 347	Willmar	2 organizations recognized	227	NEA-AFT	JNP
		Willmar Educ. Assn	153	NEA	4
		Willmar AFT Local	38	AFT	1
Winona Ind. Dist. 861	Winona	2 organizations recognized	245	NEA-AFT	JNP
		Winona Educ. Assn.	186	NEA	4
		Winona AFT Local	40	AFT	1
NEW JERSEY					
Clifton Pub. Schs.	Clifton	2 organizations recognized	620	NEA	SN
		Clifton Tchrs. Assn.	516	NEA	SN
		Clifton Prin. Assn.	16	NEA	SN
Hoboken Pub. Schs.	Hoboken	2 organizations recognized	386	NEA	JNP
		Hoboken Tchrs. Assn.	310	NEA	3
		Hoboken Adm.-Sup. Assn.	33	NEA	1
Madison Twp. Pub. Schs.	Old Bridge	2 organizations recognized	570	NEA-AFT	SN
		Madison Twp. Tchrs. Assn.	500	NEA	SN
		Madison Twp. AFT Local	40	AFT	SN
Middletown Twp. Pub. Schs.	Middletown	2 organizations recognized	640	NEA	SN
		Middletown Twp. Educ. Assn.	575	NEA	SN
		Middletown Twp. Adm. Assn.	35	NEA	SN
Peterson Pub. Schs.	Peterson	2 organizations recognized	1,249	NEA-AFT	SN
		Peterson Educ. Assn.	980	NEA	SN
		Peterson AFT Local	120	AFT	SN
NEW YORK					
New York City Pub. Schs.	New York	5 organizations recognized	65,000	AFT	SN
		UFT Local 2	56,739	AFT	SN
		Guidance Counselors	856	AFT	SN
		Attendance Tchrs.	475	AFT	SN
		Labortory Assistants	407	AFT	SN
		Child Guidance Tchrs.	401	AFT	SN
Oswego Sch. Dist.	Oswego	2 organizations recognized	301	NEA	SN
		Oswego Clrm. Tchrs. Assn.	280	NEA	SN
		Assn. of Adm. Pers.	7	NEA	SN
Phoenix Central Schs.	Phoenix	2 organizations recognized	171	NEA	SN
		Phoenix Cen. Tchrs. Assn.	152	NEA	SN
		Phoenix Cen. Adm.-Sup. Assn.	11	NEA	SN
Smithtown Cen. Dist. 1	St. James	2 organizations recognized	558	NEA-IND	SN
		Smithtown Clrm. Tchrs. Assn.	467	NEA	SN
		Smithtown Sch. Adm. Assn.	27	IND	SN
Syracuse City Sch. Dist.	Syracuse	2 organizations recognized	1,751	NEA-IND	SN
		Syracuse Tchrs. Assn.	1,451	NEA	SN
		Syracuse Assn. of Adm.-Sup.	300	IND	SN
NORTH CAROLINA					
Goldsboro City Schs.	Goldsboro	2 organizations recognized	341	NEA	JNE
		Goldsboro Educ. Assn.	189	NEA	JNE
		Goldsboro Tchrs. Assn.	152	NEA	JNE
OHIO					
Elyria City Schs.	Elyria	2 organizations recognized	573	NEA-AFT	SN
		Elyria Educ. Assn.	500	NEA	SN
		Elyria AFT Local	15	AFT	SN
PENNSYLVANIA					
Philadelphia Pub. Schs.	Philadelphia	2 organizations recognized	13,995	AFT-IND	SN
		Philadelphia AFT Local 3	11,557	AFT	SN
		Phila. Pub. Sch. Nurses Assn.	1,319	IND	SN
TEXAS					
El Paso Pub. Schs.	El Paso	2 organizations recognized	2,990	NEA	JNP
		El Paso Tchrs. Assn.	2,689	NEA	5
		El Paso Educ. Assn.	301	NEA	3
Harlandale Ind. Schs.	San Antonio	2 organizations recognized	710	NEA	SN
		Harlandale Tchrs. Assn.	650	NEA	SN
		Harlandale Adm. Assn.	60	NEA	SN

State and school system	Location	Local organizations representing part or all of staff in negotiation	Number of staff members represented	National affiliation	Type of negotiation
UTAH					
Salt Lake City Schs.	Salt Lake City	2 organizations recognized	1,863	NEA	JNP
		Salt Lake Tchrs. Assn.	1,381	NEA	5
		Salt Lake Adm. Assn.	186	NEA	2

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Negotiation Research Digest

Volume 2, No. 3 November 1968

New Jersey Employer-Employee Relations Act ..... Description: A-1
New Jersey passes bill to provide public employee negotiation with a separate Public Employee Relations Commission. Text: C-1

New Mexico Schools Are Given Answers to Issues Involving Teacher Strikes ..... Description: A-1
The Attorney General in New Mexico answers specific questions dealing with teachers' strikes. The major issues of concern are the school boards' obligation for the school year, teachers salaries, and duty requirements. Text: C-5

Existing Agreement Acts as Bar to Election ..... Description: A-1
Extensive reopener clause contained in three-year agreement between Flint, Michigan, Board of Education and Flint Education Association does not prevent the agreement f.om acting as a bar to an election petition by the Flint Federation of Teachers, according to the Labor Board. Text: C-8

Arbitrator in Rochester, New York, Determines Bargaining Units for School Personnel ..... Description: A-2
Arbitrator in two bargaining unit cases determines the bargaining units for both the professional staff and the nonteaching staff. Text: C-11

Illness and Disability Protection ..... Description: A-2
Livonia, Michigan, agreement contains new concept of illness and disability protection for teachers.

Michigan Board Sets Aside Election ..... Description: A-6
Second election ordered by the Labor Board in Willow Run, Michigan, because a document which misstated facts was distributed on election day, not allowing enough time for reply. Text: C-17

Panel Report on Salary Impasse in Kentucky ..... Description: A-6
Review panel recommends salary range of $5,900 to $10,496 in salary impasse at Jefferson County School District in Kentucky. Text: C-20

Teacher Strikes in 1967-68 ..... Analysis: B-1
NEA Research Bulletin reports on teacher strikes during 1967-68 school year. The 114 teacher strikes involving 163,000 teachers and an estimated 1,400,000 man-days of instruction was less than 1/2 of 1 percent of the total estimated 367 million man-days of instruction scheduled in 1967-68 for the entire United States.

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Charges of Discrimination by Rival Organization Dismissed by Michigan Board ..... Description: A-6
Text: C-24

After election, the Avondale Board of Education was not required to provide equal privileges to the losing organization.

Kenosha, Wisconsin Agreement ..... Text: D-1

Agreement between the Kenosha, Wisconsin, Board of Education and the Kenosha Education Association (NEA) is effective from July 1, 1968, to June 30, 1969. Approximately 1,020 teachers are represented under this agreement. The salary schedule ranges from $6,600 to $12,445 with increments of 4½ to 5 percent. Other provisions are procedure for impasse reached during negotiation, class size, teaching load for junior and senior high schools, sabbatical leave after five years' service, and alternate compensation plans.

Collective Bargaining in the Public Sector ..... Text: E-1

Speech by Dr. Neil W. Chamberlain, Professor, Graduate School of Business, Columbia University, presented at the 5th annual Orvil E. Dryfoos Conference on Public Affairs, Public Affairs Center, Dartmouth College.

Maryland et. al. v. Wirtz, Secretary of Labor ..... Description: A-7

Supreme Court of the United States held valid the Fair Labor Standards Acts Amendments which extend coverage to certain school employees. Executive, administrative, and professional personnel are specifically excluded from coverage.

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Description and Analysis

NEW JERSEY EMPLOYER-EMPLOYEE RELATIONS ACT

New Jersey passes bill to provide public employee negotiation with a separate administrative agency for public employees. A Public Employment Relations Commission is established in the Act to make policy, establish rules and regulations, mediate impasses, and resolve representation disputes. The Act provides for an exclusive representative for an appropriate unit which may be designated, selected, or elected by the majority of employees. The negotiating unit shall be defined with due regard for the community of interest, established practice, prior agreement, or special circumstances. The Commission shall not intervene in matters of recognition and unit definition except in the event of dispute.

ATTORNEY GENERAL OPINION (NEW MEXICO) CLARIFIES SCHOOL BOARDS OBLIGATION IN CASE OF STRIKE

Several public school systems in New Mexico were involved in teacher strikes last February. The reaction of the local school boards varied as to their obligation for the school year and the payment or nonpayment of teachers' salaries and the duty requirements of teachers who worked and teachers who were on strike. The Attorney General created three different sets of circumstances involving teacher strikes and answered specific questions which might arise relative to each set. According to the Attorney General, the school year is controlled by law which requires a school district to have 180 teaching days. This is not to be confused with "duty days." The payment of teachers' salaries and the number of days teachers are required to work are controlled by the teacher's employment contract. Generally, within the controls established in these documents, the local school board may at its discretion accommodate in several ways to situations arising out of strikes.

EXISTING AGREEMENT ACTS AS BAR AGAINST ELECTION

Agreement between the Flint Education Association (NEA) and the Flint, Michigan, Board of Education was held to bar petition for election by the Flint Federation of Teachers among teachers of Flint Community Junior College. The agreement between the Association and the Board is effective from September 1, 1966, to August 31, 1969, with reopener on or after February 1, 1968, for the purpose of negotiating teachers' salaries and fringe benefits and class size for the school year 1968-69. The Federation argued that (a) the reopener clause is so extensive that the contract would cease to exist, and (b) the unit described by the Federation is more appropriate for collective bargaining than the present certified Association unit. The Board found that the reopener clause did not prevent the agreement from acting as a bar as long as the term of the agreement was within the three-year limit established by law. Further, the question that one unit is more appropriate than another was held to be moot during the term of the agreement.

ARBITRATOR IN ROCHESTER, NEW YORK, DETERMINES BARGAIN UNITS FOR SCHOOL PERSONNEL

What classifications of school personnel should be represented and what bargaining units should be determined to represent the school personnel? These issues were determined in Rochester (New York) Public School System by a single arbitrator in two bargaining unit cases. One case determined the bargaining units and representation for the professional staff; the other case determined the same for the nonteaching staff. While the Rochester Teachers Association was elected to represent the classroom teacher unit, it requested recognition for a unit including all employees on the administrative and supervisory salary schedule (except administrative directors, coordinators, and assistant superintendents) and all Bracket T-II assignments. This separate unit was deemed appropriate after the arbitrator determined certain criteria established in the law for (a) community of interest, (b) power of authority to reach agreement, and (c) responsibilities to serve the public were satisfied.

These same criteria were used in the other case involving all nonteaching personnel. Prior to the request for determination, one organization conducted informal negotiation for all nonteaching personnel. Separate units for a Primary Unit and a Supervisory and Technical Unit (excluding the civil service "exempt category") were determined appropriate by the aribtrator. In addition, the arbitrator considered the desires of the teacher aides upon petition to be excluded from the units to be valid. Election procedures in both cases were established under the auspices of the American Arbitration Association whereby the persons involved could determine whether they would be represented by the requesting organizations. (The Rochester Teachers Association was elected to represent the professional administrative and supervisory unit.)

NEW CONCEPT OF ILLNESS AND DISABILITY PROTECTION

The agreement between the Livonia, Michigan, Public Schools and the Livonia Education Association (NEA), effective from September 1968 to August 1969, contains a new concept of illness and disability protection. This provision provides for the establishment of an illness and disability bank. The reserve funds allocated to this bank are to be used to remunerate teachers for the unused portion of annual days alloted for illness, disability, and/or personal business. This provision will be tried on an experimental basis during the term of this agreement. Reprint of article follows:

LIVONIA PUBLIC SCHOOLS
LIVONIA EDUCATION ASSOCIATION (NEA)
LIVONIA, MICHIGAN

ARTICLE X

Illness and Disability

On an experimental basis during the period of this Agreement, the Board and the Association agree to incorporate a new concept of illness and disability protection for teachers. Such illness and disability protection shall be provided as hereinafter set forth:

A. Coverage

1. Group I

a. Teachers who have less than three full years service with the Livonia Public Schools shall be known as Group I teachers for the purposes of this Article.

b. Group I teachers shall be provided with ten (10) annual days leave per year for the purpose of illness, disability, and/or personal business. Such annual days shall not be cumulative; however, the unused portion of said annual days shall be remunerated from the Illness and Disability Bank, prior to June 30, in accordance with the formula prescribed in B. 2, of this Article.

c. Group I teachers shall also be provided by the Board with salary continuation insurance protection in the amount of $50/wk., as provided by MESSA.

2. Group II

a. Teachers who have three or more full years' service with the Livonia Public Schools shall be known as Group II teachers for the purposes of this Article.

b. Group II teachers shall be guaranteed a sum equal to the total amount of their annual salary as set forth in Appendix A, in the event they are ill or disabled and unable to work. This salary guarantee shall be for any period of illness or disability up to one calendar year from the onset of the illness or disability. In no event, however, shall any teacher be paid under this provision an amount in excess of the total salary he would have earned had he been able to work during the period of the illness or disability.

c. Group II Teachers shall be allotted ten (10) computational days leave per year for the purpose of illness, disability, and/or personal business. Such computational days shall not be cumulative; however, the unused portion of said computational days shall be remunerated from the Illness and Disability Bank prior to June 30 in accordance with the formula prescribed in B. 2, of this Article.

3. For any absence which exceeds three consecutive school days the teacher shall upon request provide the office of the Assistant Superintendent for Personnel with a written statement from a qualified physician as to the need for such absence.

a. Only in emergencies may leave days be taken under the provisions of this Article on the last two days of school or immediately preceding or following a holiday. Any use of leave days under this emergency provision must be approved by the Superintendent of Schools in advance if at all possible. The teacher shall furnish verification upon request from a qualified physician if they are ill on these days.

B. Illness and Disability Bank

1. Funding*

a. For the purposes of administering the illness and disability protection for teachers, an Illness and Disability Bank shall be established in the amount of $_____ (this sum having been determined by multiplying the number of members of the bargaining unit by the average number of days used for the purposes of illness, disability, and/or personal business, and in turn multiplying that figure by the current per diem substitute rate).

b. The Illness and Disability Bank shall have two (2) sections: A and B. The purposes of the A section shall be: (1) to charge all absences of Group I teachers actually requiring a substitute against; and (2), to provide Group I teachers with a base for remuneration of unused annual days. The purpose of the B section shall be: (1) to charge all absences of Group II teachers actually requiring a substitute against: and (2), to provide Group II teachers with a base for remuneration of unused computational days.

The amount of the A section shall be $_____, and the amount of the B section shall be $_____, the basis for said amounts having been determined according to Paragraph a above.

c. Ninety per cent of the initial amount allocated to the respective sections (A and B) of the Illness and Disability Bank shall be used to remunerate teachers for unused days according to the following paragraphs of this Article. Ten per cent of the initial amount shall be reserved by the Board for use in this program in future years.

d. In addition, there shall be maintained a Reserve Illness and Disability Bank in the amount of $_____. The Reserve Illness and Disability Bank shall be used expressly for the purpose of protecting the liability of the Board during the period of this Agreement, and shall not be included in the remuneration for the unused portion of annual days in the case of Group I teachers, nor the remuneration for the unused portion of computational days in the case of Group II teachers.

2. Remuneration

a. Teachers in Group I shall be remunerated for unused annual days according to the following formula:

$(A-B-C) \div D = E$, where

A = Total of Section A Bank
B = 10% for future years

*Note: The dollar amounts cannot be filled in until the rate of pay for substitutes, number of teachers in the bargaining unit and average number of days used are determined. The dollar amounts shall be as set forth in these paragraphs.

C = Total number of days for which substitute was required x current substitute rate
D = Total number of unused annual days

E = Amount of remuneration per unused annual day.

b. Teachers in Group II shall be remunerated for unused computational days according to the following formula:

(A-B-C) ÷ D = E, where

A = Total of Section B Bank
B = 10% for future years
C = Total number of days for which substitute was required x current substitute rate
D = Total number of unused computational days

E = Amount of remuneration per unused computational day.

C. Evaluation

1. In recognition of the experimental nature of the Illness and Disability Program contained herein, the Association and the Board agree to evaluate the program prior to the close of the school year in order to assess its effect upon reducing the usage of substitute days within the district and its attempt to provide increased benefits for teachers.

2. Such evaluation shall result in the mutual determination of the desirability of continuing the program in future years.

It is expressly understood that all members of the bargaining unit who have accumulated sick leave days under the provision of previous contracts shall retain that accumulation and, in the event that it is mutually agreed as a result of the evaluation to return to the plan set forth in the Agreement of 1966-68 or a similar plan involving the accumulation of sick leave days, such accumulation shall be restored in full. Toward this end, the Office of the Assistant Superintendent for Personnel shall forward a statement to this effect including the total accumulated days to each member of the bargaining unit having such accumulation, a carbon copy of which shall be placed in the teacher's personnel file.

It is further understood that such accumulation shall not be used during the period of this Agreement, except that a teacher in Group I who has exhausted his ten (10) annual days may use any portion or all of the days accumulated under previous contracts, should he so desire. In such an instance, the Board agrees not to charge days used from prior accumulation against the Illness and Disability Bank.

The Superintendent's office shall forward to the Association on a monthly basis a list indicating the actual number of days for which a substitute was required for both Group I and Group II teachers. No later than Wednesday following the last day of school, the Association shall be furnished with the data and computations necessary to determine remuneration to both Group I and Group II teachers on the basis of the formulas established in this Article.

MICHIGAN BOARD SETS ASIDE ELECTION

An election held on March 12, 1968, to determine the bargaining agent for teachers in Willow Run Public Schools, Michigan, was set aside by the State Labor Mediation Board because a document, found to be a misstatement of fact, was distributed by the Association on the day of the election. Although this document in itself was not reason enough to order a second election, the Board decided that the effect on the election results was significant and the timing of the distribution did not permit the other parties to reply. The Board ordered a second election to be held.

REVIEW PANELS REPORT ON SALARY NEGOTIATION IMPASSE IN JEFFERSON COUNTY (LOUISVILLE) KENTUCKY

Salary negotiation impasse between the Jefferson County Board of Education, Louisville, Kentucky, and the Jefferson County Teachers Association (NEA) was referred to a Review Panel. This was made possible under the terms of the parties Professional Negotiation Agreement made and entered into on December 6, 1967. The Board had adopted a tentative Budget for 1968-69 which contained a salary range of $5,800 to $10,208. The Association proposal provided a salary range of $6,000 to $11,130. The Review Panel recommended a compromise plan with a salary range of $5,900 to $10,496.

The Review Panel reasoned that:

> Teachers should not be expected to subsidize governmental operations if sufficient funds are not provided through tax revenues. The Board does not seek to cut wage rates of employees of contractors that build buildings for the system or that provide other services necessary for its operation. It pays the prices set by competitive bidding for supplies in the open market. It follows, therefore, that teachers should be paid salaries that are competitive to those of systems comparable with the local one.

CHARGES OF DISCRIMINATION BY RIVAL ORGANIZATION DISMISSED BY MICHIGAN BOARD

After a representative election won by the Avondale Education Association, the Board of Education negotiated with the exclusive representative organization. The agreement provides certain rights and privileges to the Association, such as, dues checkoff, posting of organization material on an official bulletin board, and right to use meeting rooms. These privileges were denied the rival organization, the Avondale Federation of Teachers. Thereupon, the Federation filed discrimination charges against the Board of Education.

Although the charges were substantiated by the record, the trial examiner found no violation of the law and dismissed the Federation's charges. The law does not require an employer to grant equal privileges to a rival organization. Further, legally speaking, absent a newly raised question of representation, the losing organization does not continue to "represent" a "minority"; it represents no one, because the winning organization legally represents and speaks for every employee in dealings with the employer regarding salaries and conditions of employment. The Michigan Labor Board upheld the trial examiner's dismissal of the charges.

U. S. SUPREME COURT HELD VALID FAIR LABOR STANDARDS AMENDMENTS WHICH EXTENDS COVERAGE TO CERTAIN SCHOOL EMPLOYEES

Maryland, joined by 27 other states and one school district, brought suit against the Secretary of Labor, seeking to enjoin enforcement of the Fair Labor Standards Act (FLSA) as applied to schools and hospitals operated by the states and their subdivisions. Persons employed in an executive, administrative, or professional capacity are excluded from coverage.

In 1961, the Congress changed the basis of employee coverage under the FLSA to include employees of any "enterprise" engaged in interstate commerce. In 1966, the exemption of states and their political subdivisions with respect to school and hospital employees was removed.

The states in this suit charged that the "enterprise" concept was beyond the power of the Congress under the Commerce Clause and that coverage of state-operated hospitals and schools was likewise beyond the commerce power. The Court believed that the "enterprise" concept was within the power of the Congress since interstate commerce depends NOT only on the individual workers but on the whole "enterprise." The protection was extended merely to fellow employees of any employee who would have been protected by the original Act. It did not enlarge the class of employers.

The second contention of the states, that the Commerce Clause does not afford a constitutional basis for extension of the Act to state-operated schools and hospitals, assumed that the Congress was interfering with "a sovereign state function." The Court declared that the states were not being told how to perform medical and educational functions. The Court felt that since schools and hospitals are major users of goods imported from other states, and the flow of interstate goods is affected by work stoppages which do occur in these institutions, this is a valid regulation under the Commerce Clause. The court held that "valid general regulations of commerce do not cease to be regulations of commerce because a state is involved." (Maryland et. al. v. Wirtz, Secretary of Labor, U. S. Supreme Court, June 10, 1968, 36 LW 4565).

Data and Statistics

Teacher Strikes in 1967-68*

THE PAST SCHOOL YEAR from August 1967 through June 1968 was witness to a veritable explosion in teacher strikes and work stoppages--a total of 114. These strikes accounted for over one-third of the number of teacher strikes and 80 percent of the estimated number of man-days involved in strikes since 1940. They occurred in 21 of the 50 states and in the District of Columbia, and ranged in length from 1 day to more than 3 weeks. State wide strikes or work stoppages occurred in Florida, Oklahoma, and Pennsylvania. The numbers of operating school districts reported in 1967-68 were 67 districts in Florida, 940 in Oklahoma, and 590 in Pennsylvania. Because these work stoppages were called to stimulate passage of state education legislation, they are recorded as three work stoppages.

Many editorials in affected communities and nationally syndicated columns viewed striking teachers as heretics; many other editorials viewed them as martyrs. While some citizens applauded the teachers, others sought punitive action against them.

How many man-days were involved in teacher strikes? What was the relation to the total man-days of instruction? The NEA Research Division has compiled answers to these and related questions for the 1967-68 school year. The information is summarized in the tables by type of organization, by month, by state, and as a percent of the total man-days of instruction.

Fifty-six teacher strikes were recorded in the first months of school in 1967, more than recorded in any one school year up to this time. By the end of the school year, the total of 114 was reached, and almost 163,000 teachers and an estimated 1,400,000 man-days of instruction were involved.

While the 1.4 million man-days involved in strikes may seem high, they equaled less than 1/2 of 1 percent of the total estimated 367 million man-days of instruction scheduled in 1967-68 for the entire United States. Of the total man-days involved in strikes, or work stoppages 90 percent were recorded in three states, Florida, Michigan, and New York? 3.90, 1.04, and 2.11 percent, respectively, of the estimated state total man-days of instruction. In the remaining 19 states and the District of Columbia the percent of man-days involved in strikes was less than 1 percent of the estimated total instructional man-days for each area. In addition, in many of school systems, the days lost because of teacher strikes were rescheduled during the school year to meet the state minimum attendance requirements.

The total number of man-days of instruction was calculated by multiplying the estimated total instructional staff in 1967-68 by the constant figure of 180 days of instruction for the year. While the minimum number of instructional days mandated by state law varies, most state laws require 180.

Further details on teacher strike activity since 1940 and a system-by-system listing from 1960 are given in a Research Memo in process.

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*Reprinted from NEA Research Bulletin, December 1968.

1--TEACHER STRIKES AND WORK STOPPAGES, BY TYPE OF ORGANIZATION, BY MONTH, AND BY STATE, 1967-68 SCHOOL YEAR

Type of organization and month	Number of strikes and work stoppages[a]	Estimated number of personnel involved	Estimated number of man-days involved
TYPE OF ORGANIZATION			
Teacher union	38	70,955	862,275
Professional association	70	90,406	566,208
Joint union/association	2	850	3,040
Independent organization	1	130	1,430
No organization	3	263	833
MONTH			
August	1	600	5,400
September	55	74,265	892,103
October	7	1,129	3,939
November	7	2,355	5,660
December	5	1,570	5,830
January	3	1,900	4,900
February	11	35,806	454,758
March	7	39,646	39,646
April	4	236	1,161
May	13	4,810	19,815
June	1	287	574
STATE			
California	5	3,921	3,921
Connecticut	1	900	1,800
District of Columbia ...	1	3,300	3,300
Florida[b]	4	32,000	423,800
Illinois[c]	12	2,881	12,519
Indiana	1	225	1,125
Kentucky	2	980	11,480
Maryland	2	4,650	26,550
Massachusetts	1	400	400
Michigan	47	20,686	172,124
Missouri	2	394	676
New Hampshire	1	550	550
New Jersey	4	946	946
New Mexico	2	3,040	15,200
New York[d]	5	47,422	703,154
Ohio	12	4,161	9,346
Oklahoma[b]	1	13,500	13,500
Pennsylvania[b]	6	22,062	31,202
Rhode Island	2	265	945
Tennessee	1	101	808
West Virginia	1	70	140
Wisconsin	1	150	300
TOTAL	114	162,604	1,433,786

a/ Based on instructional days involved by full-time teachers during the regular school year rather than teacher report-in days. Data on strike estimates were compiled from published and unpublished information collected by the Bureau of Labor Statistics, U.S. Department of Labor, and the NEA Research Division.

b/ State-wide strikes counted as 1 strike each. In 1967-68, Florida reported 67 operating school districts; Pennsylvania, 590; and Oklahoma, 940.

c/ Excluded are two strikes by substitute teachers in Chicago, Illinois.

d/ Excluded is 1 strike by 35 summer-school teachers in Lindenhurst, New York, which cancelled the program.

2--MAN-DAYS INVOLVED IN TEACHER STRIKES AS A PERCENT OF TOTAL MAN-DAYS OF INSTRUCTION, 1967-68

State	Estimated total instructional staff[a]	Assumed number of man-days of instruction (180 days)[b]	Estimated number of man-days involved in teacher strikes[c]	Man-days involved in teacher strikes as a percent of man-days of instruction[d]
California	190,000	34,200,000	3,921	0.01%
Connecticut	32,400	5,832,000	1,800	0.03
District of Columbia ..	7,735	1,392,300	3,300	0.24
Florida	60,300	10,854,000	423,800	3.90
Illinois	100,954	18,171,720	12,519	0.07
Indiana	52,450	9,441,000	1,125	0.01
Kentucky	31,000	5,580,000	11,480	0.21
Maryland	40,536	7,296,480	26,550	0.36
Massachusetts	52,450	9,441,000	400	e/
Michigan	92,300	16,614,000	172,124	1.04
Missouri	44,097	7,937,460	676	0.01
New Hampshire	6,848	1,232,640	550	0.04
New Jersey	70,746	12,734,280	946	0.01
New Mexico	12,680	2,282,400	15,200	0.67
New York	185,000	33,300,000	703,154	2.11
Ohio	100,510	18,091,800	9,346	0.05
Oklahoma	28,011	5,041,980	13,500	0.27
Pennsylvania	101,540	18,277,200	31,202	0.17
Rhode Island	8,256	1,486,080	945	0.06
Tennessee	35,225	6,340,500	808	0.01
West Virginia	18,300	3,294,000	140	e/
Wisconsin	44,976	8,095,680	300	e/
21 states and D.C...	1,316,314	236,936,520	1,433,786	0.60
Remaining 29 states.	722,507	130,051,260	...	....
United States	2,038,821	366,987,780	1,433,786	0.39%

a/ National Education Association, Research Division. Estimates of School Statistics, 1967-68. Research Report 1967-R19. Washington, D.C.: the Association, 1967. p. 29.

b/ Assumes a constant of 180 minimum days of public-school instruction for the year. While the number of instructional days varies from state to state, the majority of states require a minimum of 180.

c/ Based on instructional days involved by full-time teachers during the regular school year rather than teacher report-in days. Data on strike estimates are compiled from published and unpublished information collected by the Bureau of Labor Statistics, U.S. Department of Labor, and the NEA Research Division.

d/ Assumes that the man-days involved in teacher strikes are not rescheduled.

e/ Less than 1/100 of 1 percent.

Judicial Decisions, Opinions, and Statutes

NEW JERSEY EMPLOYER-EMPLOYEE RELATIONS ACT

STATE OF NEW JERSEY

CHAPTER 303, LAWS OF 1968

An Act to amend the title of "An act to promote the mediation, conciliation and arbitration of labor disutes and the creation of a board of mediation for the promotion thereof," approved April 30, 1941 (P.L. 1941, c. 100), so that the same shall read "An act concerning employer-employee relations in public and private employment, creating a board of mediation, a public employment relations commission and prescribing their functions, powers and duties," and to amend and supplement the body of said act and making an appropriation.

Be It Enacted by the Senate and General Assembly of the State of New Jersey:

1. The title of chapter 100 of the laws of 1941 is amended to read as follows: An act concerning employer-employee relations in public and private employment, creating a board of mediation, a public employment relations commission and prescribing their functions, powers and duties.

2. Section 1 of P.L. 1941, chapter 100 (C. 34:13A-1) is amended to read as follows:

1. This act shall be known and may be cited as "New Jersey Employer-Employee Relations Act."

3. Section 2 of P.L. 1941, chapter 100 (C. 34:13A-2) is amended to read as follows:

2. It is hereby declared as the public policy of this State that the best interests of the people of the State are served by the prevention or prompt settlement of labor disputes, both in the private and public sectors; that strikes, lockouts, work stoppages and other forms of employer and employee strife, regardless where the merits of the controversy lie, are forces productive ultimately of economic and public waste; that the interests and rights of the consumers and the people of the State, while not direct parties thereto, should always be considered, respected and protected; and that the voluntary mediation of such public and private employer-employee disputes under the guidance and supervision of a governmental agency will tend to promote permanent, public and private employer-employee peace and the health, welfare, comfort and safety of the people of the State. To carry out such policy, the necessity for the enactment of the provisions of this act is hereby declared as a matter of legislative determination.

4. Section 3 of P.L. 1941, chapter 100 (C. 34:13A-3) is amended to read as follows:

3. When used in this act:

(a) The term "board" shall mean New Jersey State Board of Mediation.

(b) the term "commission" shall mean New Jersey Public Employment Relations Commission.

(c) the term "employer" includes an employer and any person acting, directly or indirectly, on behalf of or in the interest of an employer with the employer's knowledge or ratification, but a labor organization, or any officer or agent thereof, shall be considered an employer only with respect to individuals employed by such organization.

This term shall include "public employers" and shall mean the State of New Jersey, or the several counties and municipalities thereof, or any other political subdivision of the State, or a school district, or any special district, or any authority, commission, or board, or any branch or agency of the public service.

(d) The term "employee" shall include any employee, and shall not be limited to the employees of a particular employer unless this act explicitly states otherwise, and shall include any individual whose work has ceased as a consequence of or in connection with any current labor dispute or because of any unfair labor practice and who has not obtained any other regular and substantially equivalent employment. This term, however, shall not include any individual taking the place of any employee whose work has ceased as aforesaid, nor shall it include any individual employed by his parent or spouse, or in the domestic service of any person in the home of the employer, or employed by any company owning or operating a railroad or railway express subject to the provisions of the Railway Labor Act. This term shall include public employee, i.e. any person holding a position, by appointment or contract, or employment in the service of a public employer, except elected officials, heads and deputy heads of departments and agencies, and members of boards and commissions, provided that in any school district this shall exclude only the superintendent of schools or other chief administrator of the district.

(e) The term "representative" is not limited to individuals but shall include labor organizations, and individual representatives need not themselves be employed by, and the labor organization serving as a representative need not be limited in membership to the employees of, the employer whose employees are represented. This term shall include any organization, agency or person authorized or designated by a public employer, public employee, group of public employees, or public employee association to act on its behalf and represent it or them.

5. There is hereby established a Division of Public Employment Relations and a Division of Private Employment Dispute Settlement.

(a) The Division of Public Employment Relations shall be concerned exclusively with matters of public employment related to determining negotiating units, elections, certifications and settlement of public employee representative and public employer disputes and grievance procedures. For the purpose of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the Division of Public Employment Relations is hereby allocated within the Department of Labor and Industry, and located in the city of Trenton, but notwithstanding said allocation, the office shall be independent of any supervision or control by the department or by any board or officer thereof.

(b) The Division of Private Employment Dispute Settlement shall assist in the resolution of disputes in private

employment. The New Jersey State Board of Mediation, its objectives and the powers and duties granted by this act and the act of which this act is amendatory and supplementary shall be concerned exclusively with matters of private employment and the office shall continue to be located in the city of Newark.

6. (a) There is hereby established in the Division of Public Employment Relations a commission to be known as the New Jersey Public Employment Relations Commission. This commission, in addition to the powers and duties granted by this act, shall have in the public employment area the same powers and duties granted to the labor mediation board in sections 7 and 10 of chapter 100, P.L. 1941 and in sections 2 and 3 of chapter 32, P.L. 1945. There shall be a chief executive officer and administrator who shall devote his full time to the performance of his duties exclusively in the Division of Public Employment Relations. (b) This commission shall make policy and establish rules and regulations concerning employer-employee relations in public employment relating to dispute settlement, grievance procedures and administration including enforcement of statutory provisions concerning representative elections and related matters. The commission shall consist of 7 members to be appointed by the Governor, by and with the advice and consent of the Senate. Of such members, 2 shall be representative of public employers, 2 shall be representative of public employee organizations and 3 shall be representative of the public including the appointee who is designated as chairman. Of the first appointees, 2 shall be appointed for 2 years, 2 for a term of 3 years and 3, including the chairman, for a term of 4 years. Their successors shall be appointed for terms of 3 years each, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the member whose office has become vacant.

The members of the commission shall be compensated at the rate of $50.00 for each day, or part thereof, spent in attendance at meetings and consultations and shall be reimbursed for necessary expenses in connection with the discharge of their duties.

7. Except as hereinafter provided, public employees shall have, and shall be protected in the exercise of, the right, freely and without fear of penalty or reprisal, to form, join and assist any employee organization or to refrain from any such activity; provided, however, that this right shall not extend to any managerial executive except in a school district the term managerial executive shall mean the superintendent of schools or his equivalent, nor, except where established practice, prior agreement or special circumstances, dictate the contrary, shall any supervisor recommend the same, have the right to be represented in collective negotiations by an employee organization that admits nonsupervisory personnel to membership, and the fact that any organization has such supervisory employees as members shall not deny the right of that organization to represent the appropriate unit in collective negotiations; and provided further, that, except where established practice, prior agreement, or special circumstances dictate the contrary no policeman shall have the right to join an employee organization that admits employees other than policemen to membership. The negotiating unit shall be defined with due regard for the community of interest among the employees concerned, but the commission shall not intervene in matters of recognition and unit definition except in the event of a dispute.

Representatives designated or selected by public employees for the purposes of collective negotiation by the majority of the employees in a unit appropriate for such purposes or by the majority of the employees voting in an election conducted by the board as authorized by this act shall be the exclusive representatives for collective negotiation concerning the terms and conditions of employment of the employees in such unit. Nothing herein shall be construed to prevent any official from meeting with an employee organization for the purpose of hearing the views and requests of its members in such unit so long as (a) the majority representative is informed of the meeting; (b) any changes or modifications in terms and conditions of employment are made only through negotiation with the majority representative; and (c) a minority organization shall not present or process grievances. Nothing herein shall be construed to deny to any individual employee his rights under Civil Service laws or regulations. When no majority representative has been selected as the bargaining agent for the unit of which an individual employee is a part, he may present his own grievance either personally or through an appropriate representative or an organization of which he is a member and have such grievance adjusted.

A majority representative of public employees in an appropriate unit shall be entitled to act for and to negotiate agreements covering all employees in the unit and shall be responsible for representing the interests of all such employees without discrimination and without regard to employee organization membership. Proposed new rules or modifications of existing rules governing working conditions shall be negotiated with the majority representative before they are established. In addition, the majority representative and designated representatives of the public employer shall meet at reasonable times and negotiate in good faith with respect to grievances and terms and conditions of employment.

When an agreement is reached on the terms and conditions of employment, it shall be embodied in writing and signed by the authorized representatives of the public employer and the majority representative.

Public employers shall negotiate written policies setting forth grievance procedures by means of which their employees or representatives of employees may appeal the interpretation, application or violation of policies, agreements, and administrative decisions affecting them, provided that such grievance procedures shall be included in any agreement entered into between the public employer and the representative organization. Such grievance procedures may provide for binding arbitration as a means for resolving disputes.

8. Section 6 of P.L. 1941, chapter 100 (C. 34:13A-6) is amended to read as follows:

(a) Upon its own motion, in an existing, imminent or threatened labor dispute in private employment, the board, through the Division of Private Employment Dispute Settlement, may, and, upon the request of the parties or either party to the dispute, must take such steps as it may deem expedient to effect a voluntary, amicable and expeditious adjustment and settlement of the differences and issues between employer and employees which have precipitated or culminated in or threaten to precipitate or culminate in such labor dispute.

(b) Whenever negotiations between a public employer and an exclusive representative concerning the terms and conditions of employment shall reach an impasse, the commission through the Division of Public Employment Relations shall, upon the request of either party, take such steps as it may deem expedient to effect a voluntary resolution of the impasse. In the event of a failure to resolve the impasse by mediation the Division of Public Employment Relations in empowered to recommend or invoke fact-finding with recommendation for settlement, the cost of which shall be borne by the parties equally.

(c) The board in private employment, through the Division of Private Employment Dispute Settlement, and the commission in public employment, through the Division of Public Employment Relations, shall take the following steps to avoid or terminate labor disputes: (1) to arrange for, hold, adjourn or reconvene a conference or conferences between the disputants or one or more of their representatives or any of them; (2) to invite the disputants or their representatives or any of them to attend such conference and submit, either orally or in writing, the

grievances of and differences between the disputants; (3) to discuss such grievances and differences with the disputants and their representatives; and (4) to assist in negotiating and drafting agreements for the adjustment in settlement of such grievances and differences and for the termination or avoidance, as the case may be, of the existing or threatened labor dispute.

(d) The commission, through the Division of Public Employment Relations, is hereby empowered to resolve questions concerning representation of public employees by conducting a secret ballot election or utilizing any other appropriate and suitable method designed to ascertain the free choice of the employees. The division shall decide in each instance which unit of employees is appropriate for collective negotiation, provided that, except where dictated by established practice, prior agreement, or special circumstances, no unit shall be appropriate which includes (1) both supervisors and nonsupervisors, (2) both professional and nonprofessional employees unless a majority of such professional employees vote for inclusion in such unit or, (3) both craft and noncraft employees unless a majority of such craft employees vote for inclusion in such unit. All of the powers and duties conferred or imposed upon the division that are necessary for the administration of this subdivision, and not inconsistent with it, are to that extent hereby made applicable. Should formal hearings be required, in the opinion of said division to determine the appropriate unit, it shall have the power to issue subpoenas as described below, and shall determine the rules and regulations for the conduct of such hearing or hearings.

(e) For the purposes of this section the Division of Public Employment Relations shall have the authority and power to hold hearings, subpoena witnesses, compel their attendance, administer oaths, take the testimony or deposition of any person under oath, and in connection therewith, to issue subpoenas duces tecum, and to require the production and examination of any governmental or other books or papers relating to any matter described above.

(f) In carrying out any of its work under this act, the board may designate one of its members, or an officer of the board to act in its behalf and may delegate to such designee one or more of its duties hereunder and, for such purpose, such designee shall have all the powers hereby conferred upon the board in connection with the discharge of the duty or duties so delegated. In carrying out any of its work under this act, the commission may designate one of its members or an officer of the commission to act on its behalf and may delegate to such designee one or more of its duties hereunder and, for such purpose, such designee shall have all of the powers hereby conferred upon the commission in connection with the discharge of the duty or duties so delegated.

(g) The board and commission may also appoint and designate other persons or groups of persons to act for and on its behalf and may delegate to such persons or groups of persons any and all of the powers conferred upon it by this act so far as it is reasonably necessary to effectuate the purposes of this act. Such persons shall serve without compensation but shall be reimbursed for any necessary expenses.

(h) The personnel of the Division of Public Employment Relations shall include only individuals familiar with the field of public employee-management relations. The commission's determination that a person is familiar in this field shall not be reviewable by any other body.

9. Section 8 of P.L. 1941, chapter 100 (C. 34:13A-8) is amended to read as follows:

8. Nothing in this act shall be construed to interfere with, impede or diminish in any way the right of private employees to strike or engage in other lawful concerted activities.

10. Nothing in this act shall be contrued to annul or modify, or to preclude the renewal or continuation of any agreement heretofore entered into between any public employer and any employee organization, nor shall any provision hereof annul or modify any statute or statutes of this State.

11. The commission shall collect and maintain a current file of filed contracts in public employment. Public employers shall file with the commission a copy of any contracts it has negotiated with public employee representatives following the consummation of negotiations.

12. The commission in conjunction with the Institute of Management and Labor of Rutgers, the State University, shall develop and maintain a program for the guidance of public employers in employee-management relations, to provide technical advice to public employers on employee-management programs, to assist in the development of programs for training management personnel in the principles and procedures of consultation, negotiation and the settlement of disputes in the public service, and for the training of management officials in the discharge of their employee-management relations responsibilities in the public interest.

13. Section 11 of P.L. 1941, chapter 100 (C.34:13A-11) is amended to read as follows:

11. The board shall have power to adopt, alter, amend or repeal such rules in connection with the voluntary mediation of labor disputes in private employment and the commission shall have the same powers in public employment, as may be necessary for the proper administration and enforcement of the provisions of this act.

14. For the purpose of carrying out the amendatory and supplementary provisions of this act there is hereby appropriated for the use of the commission for the fiscal year 1968-1969, the additional sum of $100,000.00.

15. This act shall take effect July 1, 1968.

OTHER SECTIONS APPLICABLE TO BOTH PUBLIC AND PRIVATE SECTORS; REFERENCE: NEW JERSEY STATUTES ANNOTATED, SECS. 34:13A-7, 13A-12, 13A-13.

7. Arbitration. Whenever a controversy shall arise between an employer and his employees which is not settled either in conference between representatives of the parties or through mediation in the manner provided by this act, such controversy may, by agreement of the parties, be submitted to arbitration, one person to be selected by the employer, one person to be selected by the employees, and a third selected by the representatives of the employer and employees, and in the event of any such appointment or selection not being made upon the request of the parties in the controversy, the department may select the third person to arbitrate the matter submitted; provided, however, that the failure or refusal of either party to submit a controversy to arbitration shall not be construed as a violation of the policy or purpose of this act, or of any provision thereof, nor shall failure or refusal to arbitrate constitute a basis for any action at law or suit in equity.

12. Construction. Nothing contained in this act shall be construed as interfering with, impeding or diminishing in any way any right guaranteed by law or by the Constitution of the State or of the United States.

13. Separability of provisions. If any clause, sentence, paragraph or part of this act, or the application thereof to any person or circumstances, shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this act, and the application of such provisions to other persons or circumstances, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof, directly involved in the controversy in which such judgment shall have been rendered and to the person or circumstances involved. It is hereby declared to be the legislative intent that this act would have been adopted had such invalid provisions not been included herein.

OPINION
of
BOSTON E. WITT
Attorney General

No. 68-35

March 20, 1968

By: Gary O'Dowd
Assistant Attorney General

To: Harry Wugalter, Chief
Public School Finance Division
Department of Finance and Administration
Legislative-Executive Building
Santa Fe, New Mexico

Background:

For a short period in the month of February many public school teachers in a number of school districts in this state failed or refused to report to their classrooms without an excused or authorized absence. The reaction of the local school boards was by no means uniform. Some local boards took affirmative action in one way or another, others took no action. After the teachers reported back to their classrooms, the various local boards of education as well as representatives of the teachers sought the advice of the Public School Finance Division of the Department of Finance and Administration and the Department of Education. The numerous inquiries from the local boards as well as from the representatives of the teachers brought about this opinion request.

It was mentioned above that the reactions of the local boards to the teacher walkout were by no means uniform. Three school districts are representative of the patterns that were followed by the local school boards. For simplicity, we have designated the three representative school districts as Districts A, B and C. We will briefly set forth the events as they occurred in each of these school districts along with the questions presented to this office and our conclusions before setting forth our analysis and opinion.

School District A:

On February 22, 1968, the schools of School District A were not closed by local school board action. Some teachers reported for work while many others did not. The board of education of School District A met and officially closed all schools in the district on February 23, 26, 27 and 28.

Questions:

1. In order to comply with the minimum school year, must the board of education make up the days lost through official board closing on February 23, 26, 27 and 28?

2. Must the board of education of School District A pay the daily wage, as stipulated in the teaching contract, to those teachers who did not present themselves on February 22nd, and for whom there was no clarification of absence that might be covered via the sick leave provision, or other board policy provisions?

3. If the board of education of School District A wishes to make up February 22nd, is it legal for the board of education to compel those teachers who honored the school calendar and reported for duty that day, to add an additional day of service to the school year?

Conclusions:

1. Not unless those days are necessary to meet the minimum requirement of 180 teaching days.

2. No, but see analysis.

3. No, but see analysis.

School District B:

In School District B, the public school teachers requested time off from their assignments. This request was refused by the local school board of this district. On February 26th some teachers presented themselves for duty. Custodial, maintenance, cafeteria and pupil transportation services were performed. After an evaluation of the situation, the local school board through its superintendent closed school.

Questions:

1. Is it legal for the local board of education to meet after the opening of school, and order the school closed retroactively in order that the day be added to the adopted school calendar?

2. May the local board of education of School District B compel those teachers who reported for duty on February 26th to add another day of service to the school calendar?

Conclusions:

1. See analysis.

2. No.

School District C:

The local board of education of School District C denied a request by a teacher organization to grant professional leave to its teachers or to close the school on a particular day. School in the district were not closed and some teachers reported to their classrooms as stipulated by the school district's calendar, while others did not. The school district hired substitutes to fill the positions of the teachers who did not present themselves for duty. Now a request has come from the teacher organization for the board of education to retroactively declare

that day a professional study day, and that no deduction of pay be made for any of the certified personnel who participated.

Questions:

1. Is it lawful for the board to retroactively close the schools in the district on that day and add an additional day to its school district calendar?

2. If it is legal, then must those teachers who presented themselves for service and taught that day, as well as those teachers who were absent because of verified bona fide reasons acceptable through board policy, be expected to add another day of service to the calendar without remuneration?

3. If the board of education of School District C wishes to require an additional day of service from those teachers who presented themselves as per terms of the school district's calendar and whose pay was not reduced, must the board amend those teachers' contracts if it desires to pay them for the additional day?

Conclusions:

1. No, but see analysis.

2. No.

3. Yes.

Subsequent to the above factual situations and questions being presented to this office the following supplemental questions have been asked:

1. Is it legal for a local board of education to grant leave without pay for a given number of days to school personnel in order that they may engage in professional organization-sponsored activities?

2. Is it legal for a local board of education to grant leave with pay for a given number of days to school personnel in order that they may engage in professional organization-sponsored activities?

3. Is it legal for a local board of education to grant leave with pay, less the amount required to pay a substitute, for a given number of days to school personnel in order that they may engage in professional organization-sponsored activities?

Conclusions:

1. Yes.

2. Yes.

3. Yes, but see analysis.

Analysis:

Section 77-6-9A of the Public School Code (Sections 77-1-1 through 77-20-11, N.M.S.A., 1953 Compilation (P.S.)) provides as follows:

"No budget for a school district shall be approved by the division (Division of Public School Finance) which does not provide for:

A. a school year consisting of at least one hundred eighty [180] teaching days. The state board shall, by regulation, establish the requirements for a teaching day." (Emphasis added).

Evidently, Section 77-4-2 of the Public School Code authorizes local boards of education to adopt regulations and pursuant thereto to enter into contracts with teachers providing for a school year exceeding 180 teaching days. A "school year" is defined as the total number of teaching days offered by public schools in a school district during a period of twelve consecutive months.

Employment contracts between local school boards and teachers must be on forms approved by the state board of education. See Section 77-8-8 of the Public School Code. The approved form contract provides that the teacher shall present himself or herself for duty at such times and places as designated. For each day's absence from duty not included in sick leave, or otherwise compensated for in accordance with rules and regulations of the local school board, the contract provides that there is to be deducted from the teacher's salary a proportionate amount or such lesser portion of the total annual salary as shall be established by the local school board. The contract further provides that these deductions are to be made from the installments due the teacher following such absence. Under this contract teachers agree to comply with the lawful rules and regulations of the local school board, which would include rules and regulations setting forth the days of the school year which will be teaching days as that term is defined by the State Board of Education.

At this point, we believe it is important to point out more specifically that the Public School Code requires a school district to have 180 teaching days while the teachers contractual form uses the phrase "duty days". These terms are not always synonymous in that a teacher may be paid for a duty day that cannot be classified as a "teaching day". An example of this is a day where teachers are paid for attending a professional meeting connected with their profession pursuant to Section 77-8-5 of the Public School Code. While this is to be considered a "duty day" under the teacher's contract, it cannot be considered a "teaching day" as that term is ordinarily used. See Attorney General Opinion No. 63-169, issued December 20, 1963.

With the above discussion in mind, it is fairly easy to answer a number of the inquiries presented in this opinion request. First of all we were asked if School District A must make up the days lost through the official board action of closing the schools on February 23, 26, 27 and 28. Section 77-6-9A, supra, only requires a school district to have 180 teaching days. The local school board has the power to decide what days and the number of days that will be teaching days in the school district so long as they provide for at least 180 teaching days. If for any reason the local board closes the schools in the district on days that normally would be teaching days, those days must be made up at some time during the school year if the loss of the days would result in the district holding less than 180 teaching days. See Attorney General Opinion 63-169, supra. If the days are not made up the school district could not receive its full distribution from the state equalization fund. If School District A has contracts with its teachers providing for 183 duty days and the school teachers have already attended 2 days of professional meetings the school board must make up at least 3 of the days lost through the official board closing on February 23, 26, 27 and 28 or the school district will not be able to comply with the requirement of 180 teaching days.

The second question directed to School District A asks if the local school board must pay the daily wage, as stipulated in the teaching contract, to those teachers who "walked out" on February 22, 1968. In answering

this question, we believe that the provisions of the teachers' contract are controlling. That is, if the absence from duty is not included in sick leave, or otherwise compensated for in accordance with the rules and regulations of the local board, there must be deducted from the teacher's salary a proportionate amount or such lesser portion of the total annual salary as shall be established by the board. The only question is how much the local board will decide to deduct from the teachers' salaries. The amount to be deducted will be further discussed in our answer to question 3 of the supplemental questions.

Next we are asked if a local school board may compel teachers who reported for duty on a regular school day to add an additional day of service during the school year. Again we look to the teachers contract and find that the answer is unequivocally, no. Such a teacher has contracted to present himself or herself for duty on a certain number of duty days during the school year. If the teacher tenders his or her services on a day that school has not been closed by the local school board, the local board must recognize this as a "duty day" under the terms of the teacher's employment contract. The teacher is obligated to tender his or her services only on the number of duty days prescribed in the teaching contract, and no more.

In School District B, the local school board did not close school until after some teachers had presented themselves for duty. Custodial, maintenance, cafeteria and pupil transportation services were performed, and then the local school board closed the schools. It is the opinion of this office that this day must be included as a "duty day" under the terms of the teacher's employment contract and those teachers who presented themslves for duty must be given credit for having worked on that day. This is not to say that the day can be included as a teaching day under the provisions of Section 77-6-9, supra. If the local school board wishes to add a day to the school year, it may do so, but those teachers who have already reported on the number of duty days required under their contract may not be compelled to teach an additional day.

An additional problem arises with adding another day to the school year due to the fact that transportation services have already been performed on a day that the school board of School District B now wishes to classify as a day that schools in the district were closed. The transportation distribution from the state equalization fund is based on 180 teaching days. Presumably no other moneys would be available from the state to help pay for the transportation of students on the extra day proposed by the local school board of School District B.

Question 1 under the heading "School District C" asks if a school board may retroactively declare a school day to be a professional study day. Section 77-8-5 of the Public School Code provides that local school boards may pay teachers:

> "...<u>according to their employment contracts</u> on evidence of attendance at any professional meeting connected with their profession as educators or associated with the courses of instruction in which they specialize." (Emphasis added).

We must therefore look to the teachers form employment contract to determine whether the board may retroactively declare a school day to be a professional school day. The teachers form contract provides:

> "For each day's absence from duty not included in sick leave, or otherwise compensated for in accordance with the rules and regulations of the Board, <u>there shall be deducted from said salary</u> a proportionate amount of such lesser portion of the total annual salary as shall be established by the Board." (emphasis added).

We are told that in School District C, the teachers requested a professional study day and such request was denied by the local school board. Thus it cannot now be argued that the days absence for a "professional study day" was pursuant to a rule or regulation of the board. Since the teachers in School District C were not excused by a rule or regulation of the Board, the board must now, pursuant to the teacher form contract, make the appropriate deduction from the salaries of those teachers who failed to report to class without an authorized absence.

In answer to the second and third questions directed to School District C, those teachers who have already taught or offered to teach on a day that schools were open cannot be required to add another day of service without receiving compensation beyond the compensation provided for in their contract. This also applies to those teachers who were absent because of verified reasons acceptable through board policy. They cannot be expected to teach an extra day without additional compensation being paid by the school board. If the board of education wishes to ask those teachers who performed pursuant to their contractual obligatons to teach an additional day the teachers contract should be amended to provide for the additional duty day and the additional compensation that will be paid for this additional duty day.

The supplemental questions asked are all related to attendance by teachers at professional meetings connected with their profession or associated with the courses of instruction in which they specialize. In answer to the first question, we can find nothing which would prohibit a local board of education from granting a teacher leave without pay to attend professional organizaton-sponsored activities. The local school board, in its discretion, may pay teachers attending such professional organization-sponsored activities. See Section 77-8-5, supra.

Last of all we have been asked if a local board of education may grant leave with pay, less the amount required to pay a substitute, so that the teachers may engage in professional organization sponsored activities. As pointed out above, the teachers form contract provided that if the absence is an unauthorized absence, the board may deduct from the teacher's salary either a proportionate amount of the total annual salary or such lesser portion of the total annual salary as shall be established by the board. Thus if the teacher has contracted to perform 183 duty days and is absent 1 day for which absence is unauthorized, the board may deduct 1/183 of the teacher's annual salary. The board, however, may establish a policy of deducting a lesser amount from the teacher's salary. Certainly a deduction for unauthorized leave in an amount equal to the cost of hiring a substitute teacher is authorized under the teacher form contract.

Boston E. Witt
Attorney General

By:

Gary O'Dowd
Assistant Attorney General

In the Matter of:

FLINT BOARD OF EDUCATION,

Employer,

-and-

Case No. R68 B-33

FLINT FEDERATION OF TEACHERS,

Petitioner,

-and-

FLINT EDUCATION ASSOCIATION.[1]

B-IV PERA
Contract Bar
Found

The Trial Examiner did not err in prohibiting testimony bearing on the relative appropriateness of a fraction of a contractual unit, offered for the purpose of showing the contract was not a bar to an election.

B-IV PERA
Contract Bar
Found

The extent of negotiations pursuant to a reopening clause does not prevent a contract from acting as a bar to an election during a contract term not exceeding three years.

B-IV PERA
Contract Bar
Found

Extensive or complete renegotiation during a contract term does not prevent a contract from acting as a bar as long as the original termination date is not extended beyond the period allowed by Section 14 of PERA.

FINDINGS OF FACT
CONCLUSIONS OF LAW AND ORDER

APPEARANCES:

Flint Board of Education: Reese C. Dean, Esq.

Flint Federation of Teachers: Craig & Fieger
By: Bernard J. Fieger, Esq.

Flint Education Association: Forster, Campbell, Lindemer & McGurrin
By: Theodore W. Swift, Esq.

The above-entitled matter having come on for hearing before Joseph B. Bixler, a Trial Examiner of the Michigan Labor Mediation Board, hereinafter referred to as the Board, at Flint, Michigan, on March 12, 1968, and the Board having considered the testimony and arguments of the parties, and being fully advised in the premises, hereby makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Flint Board of Education is a public employer within the meaning of Act 336 of the Public Acts of 1947, as amended by Act 379 of the Public Acts of 1965 (Public Employment Relations Act), hereinafter referred to as PERA.

Flint Federation of Teachers and Flint Education Association, hereinafter referred to as the Federation and Association, respectively, are labor organizations within the meaning of PERA.

The petition for election, filed by the Federation, requests an election in a unit described as follows:

"All teaching personnel of the Flint Community Junior College except those excluded by law as supervisory or executive personnel."

The Employer and the Association contend that an election should not be held in the unit described above for two reasons.

1. That the Federation is estopped from an election among the employees in the unit described in the petition.

2. That there is in force and effect a valid collective bargaining agreement covering the employees in the petitioned-for unit that does not expire until August 31, 1969.

The estoppel argument:

On November 5, 1965, the parties as a result of petitions filed by the Flint Education Association and the Board of Education of the School District of the City of Flint, entered into an Agreement for Consent Election. This Agreement provided that an election be held among employees of the Employer in a unit encompassing both the teaching personnel in K through 12 and the Junior College operated by the Employer.

The Association and the Employer contend that the Federation, having agreed to and having participated in an election in a unit including the Junior College teachers with K through 12 teachers, cannot at this time take the position that such a unit is not appropriate for collective bargaining.

[1] The Flint Education Association objected to being referred to as Intervenor.

We are not convinced that the mere agreement of a labor organization to a particular unit in an Agreement for Consent Election would alone estop that organization from contesting the appropriateness of that unit in subsequent proceedings.[2]

In the instant case, however, the agreement to the unit and participation of the parent body of the Federation Petitioner in this case does not stand alone. The Association and the Employer, subsequent to the election and certification of the Association on February 9, 1966, and in reliance thereon, reached a collective bargaining agreement covering the certified unit. This contract, effective September 1, 1966, will not expire until August 31, 1969, and such contract is urged by the Association and Employer as a bar to an election in this matter. It is the existence of this agreement, and not estoppel of the Federation which prevents the holding of an election on the petition, if the collective bargaining agreement meets the requirements of Section 14 of PERA.

Contract Bar:

The contract offered into evidence as a bar to an election in the unit sought by the Federation is on its face valid. It contains substantive terms of employment, and a fixed termination date that has not been prematurely extended.

The Federation does not raise any question as to the validity of the execution of this collective bargaining agreement.

The Federation also expressly stated that the unit as set forth in the contract was neither illegal, under PERA, nor a unit prohibited by Board policy.

The reasons the Federation maintains the contract is not a bar to an election in the petitioned-for unit are that: (1) the contract provides for a reopening clause so extensive that the contract would cease to exist, and, (2) the unit described in the petition is more appropriate for collective bargaining than the certified unit.

The reopening clause:

The reopening clause of the contract is contained in Article 22 that reads as follows:

"This Agreement shall be effective as of the 1st day of September, 1966, and continue in full force and effect for three years until the 31st day of August, 1969, provided that, the Association may reopen this Agreement on or after February 1, 1968 for the purpose of negotiating over teachers' salaries and fringe benefits and class size for the school year 1968-1969."

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The Federation does not raise any question as to the validity of the execution of this collective bargaining agreement.

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At the hearing, the Federation sought to introduce evidence of proposals the Association had made to the Employer pursuant to the reopening of the contract on February 1, 1968. The purpose of this evidence, according to the Federation, is to show how extensively the Association believed the contract to be open and thereby establish that the whole contract was being re-negotiated. The Federation contends therefore, the contract ceased to be a bar under Section 14 of PERA.

The Trial Examiner sustained objections to the introduction of this evidence on grounds that such a proposal would amount to opinion evidence and would be improper as parol evidence offered for the purpose of altering the terms of a written contract.

We are in agreement with the ruling of the Trial Examiner. The proposals at best would only reflect the opinion of the Association as to these aspects of the contract it contends are open for renegotiation. Further, the extent of renegotiation of a contract has been ruled by this Board not to affect its status as a contract bar as long as there is no premature extension of the contractual termination date. See Sterling Township, 1966 Labor Opinions 9 where we said,

"It is well established that the parties may renegotiate, modify, delete, or alter any provisions of a contract during its term if this action is mutually assented to."

This Board is further in agreement with the National Labor Relations Board's long-standing view that modification of substantive provisions of a contract, even if beyond the scope of the contractual reopening clause, will not prevent the contract from acting as a bar as long as the termination date is not extended. Deluxe Metal Furniture Co., 121 NLRB 135, 42 LRRM 1470; Ford Motor Co., 28 LRRM 1371; Western Electric Co., 94 NLRB No. 9, 28 LRRM 1002.

There is stronger basis for our so holding that for the National Labor Relations Board to do so as the Public Employment Relations Act establishes a three-year limit on contracts which may serve as a bar to an election. It might be urged that under PERA a contract could be extended to the three-year limit and remain a bar.

Thus any evidence relating to the extent of negotiations contemplated or actually engaged in by the Association and Employer would be immaterial to the case at hand. The only question before the Board is whether the collective bargaining agreement presented as a bar, as it stands unaltered, meets the requisites of Section 14 of PERA.

The appropriate unit:

As noted above, the Federation does not contend the unit covered by the contract presented as a bar, and certified by this Board, is one either prohibited by PERA or contrary to Board policy. At the hearing, the Trial Examiner rejected, over objection of the Federation, evidence bearing on whether the petitioned unit (one consisting of Junior College teachers) is more appropriate than the certified unit, made up of both Junior College Teachers and those teaching K through 12.

The record discloses, as discussed above, that the only other contention that the contract was not a bar to an election was based on proposed evidence relative to the extent of the contractual reopening which we have deter-

mined does not, under Section 14, affect the efficacy of the contract. The question is, therefore, whether the Federation may properly present evidence on the question of comparative appropriateness of the unit.

A determination that one unit is more appropriate than another could not affect the validity of a contract as a contract bar. Section 14 of PERA explicitly provides that, "NO election shall be directed in any bargaining unit or subdivision thereof where there is in force and effect a valid collective bargaining agreement . . ." (Emphasis added) This statutory prohibition on fragmentation of a unit covered by a valid contract clearly renders the question of relative appropriateness moot during the term of the collective bargaining agreement, as long as the term does not exceed three years.[3]

Here the Board has determined that the collective bargaining agreement admitted into evidence and advanced as a bar to an election is a valid contract so as to prevent an election under Section 14 of PERA.

In view of this finding, the Trial Examiner did not err in excluding evidence offered for the purpose of proving that a fraction of the contractual unit would be more appropriate than the whole unit.

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[3]The Petitioner cites National Labor Relations Board decisions to support the contention that the National Board will remove a contract as a bar because of the appropriateness of the unit. In Water Tower Inn, 139 NLRB 842, the National Board litigated the appropriateness of a unit for the purpose of determining whether a contract bar existed. The National Board found in effect that the unit was inappropriate but found the contract a bar because the contractual unit was a historical one in the area. Indianapolis Power and Light, 76 NLRB 136. This case does not involve the question of whether a contractual unit is appropriate or not but decided that the incumbent union and employer were attempting to improperly use an automatic renewal clause to create a contract bar while actually negotiating a new contract.

Another case, Dolese & Sheppard Co., NLRB 532 appears to support the Petitioner's contention inasmuch as it found a contract not a bar in a multiplant situation because the contract only embraced a unit of employees at one plant. The decision does not specify the nature of the inappropriateness found, but cites an earlier decision of the National Board for support, Kinniar Mfg. Co., 4 NLRB 773. In that case, a unit was found inappropriate because it included supervisors in a unit with rank and file employees, a holding with which we would agree.

We find these decisions unpersuasive support for the Petitioner's contention that this Board should allow litigation of relative appropriateness of an appropriate bargaining unit, during a contract term.

Therefore, by virtue of Section 14 of PERA, and for the reasons stated above, the Board is precluded in the instant matter from directing an election, and, accordingly, will dismiss the petition.

ORDER

The Petition in this matter is hereby dismissed.

MICHIGAN LABOR MEDIATION BOARD

Robert G. Howlett, Chairman
Leo W. Walsh, Board Member

Dated: July 31, 1968

ROCHESTER BOARD OF EDUCATION
AND
ROCHESTER TEACHERS' ASSOCIATION AND OTHER EMPLOYEE ORGANIZATIONS

JEAN T. MCKELVEY, Arbitrator, appointed by the parties (AAA).
Rochester, New York, November 6 and 15, 1967.

[Text of Award]
Part I

MCKELVEY, Arbitrator; UNIT DETERMINATION: At the public hearing on October 30, 1967, the Rochester Teachers Association presented the arbitrator with a formal written request for recognition as the exclusive bargaining representative for a unit including all employees on the administrative and supervisory salary schedule (except administrative directors, coordinators and assistant superintendents) and all Bracket T-II assignments currently excluded from the existing unit of professional employees.[1] In its statement, the Association noted that the Board had already agreed to establish the requested unit and that the only remaining question was determining whether the Association was the majority choice of the employees in the unit.

While the parties did in fact agree on April 26, 1967 to establish an exclusive bargaining representative for administrative and supervisory certificated personnel in a unit as described above, the arbitrator notes that the question of determining the most appropriate unit or units for all non-represented personnel is one which has been submitted to her for decision under the Board Resolution of October 19, 1967. In the making of this determination, the agreement of the parties, while important, is not controlling in itself unless it also satisfies the criteria of appropriateness set forth in Section 207.1 of the Civil Service Law. This is the Section of the law to which specific reference is made in the Resolution empowering the arbitrator to determine the most appropriate unit or units, and it is likewise the Section of the law which governs local procedures for the determination of representative status of local employees under Section 206.1, which is the optional procedure adopted by the Board of Education to govern these proceedings.

The statutory standards which must be taken into account in defining appropriate employer-employee negotiating units are set forth as follows in Section 207.1:

"(a) the definition of the unit shall correspond to a community of interest among the employees to be included in the unit;

"(b) the officials of government at the level of the unit shall have the power to agree, or to make effective recommendations to other administrative authority or the legislative body with respect to, the terms and conditions of employment upon which the employees desire to negotiate; and

"(c) the unit shall be compatible with the joint responsibilities of the public employer and public employees to serve the public."

Applying these criteria to the composition of the proposed unit, the arbitrator finds that they do in fact justify and substantiate the appropriateness of a separate unit of administrative and supervisory certificated personnel for the following reasons:

1. While there is a recognizable professional community of interest among all certificated personnel, the community of interest to which the statute makes reference distinguishes between employers and employees. In the employment relationship the administrators and supervisors, while themselves employees, are in turn representatives of the employer in their dealings with subordinate personnel. Not only do they serve as representatives of the Board in administering the policies of the School District, but they also evaluate the work of teachers and other members of the established unit, have the power to recommend action concerning them, and serve as the Board's representative in lower stages of the grievance procedure operating in the established unit. While they share a community of interest as administrative and supervisory employees of the Board, their administrative and supervisory functions distinguish their interest from those whom they supervise. Hence, in the judgment of the arbitrator, it would not be appropriate to add them to the existing recognized unit (which for purposes of convenience will be referred to hereafter as Unit I).

The same principle justifies the exclusion from the proposed unit of those at higher levels of evaluation and supervision who in their turn "supervise the supervisors." This means that the proposed unit of administrators and supervisors (hereafter referred to as Unit II) should not include administrative directors, coordinators and assistant superintendents.

2. The proposed unit satisfies the second criterion in the statute since the Superintendent of Schools has the power to make recommendations to the Board of Education concerning the terms and conditions of employment of administrative and supervisory certificated personnel, and the Board in turn has the power to make agreements.

3. The proposed unit is compatible with the joint responsibilities of the Board of Education and the administrative and supervisory employee to serve the public. A larger unit, as noted above, would not be compatible with the criterion of community of interest. Smaller units into which this proposed unit might be subdivided, such as department heads, or assistant

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[1] The Board of Education has recognized the Rochester Teachers Association as the exclusive negotiating representative of all professional employees (except administrators and supervisors) since December 2, 1964, when the Association defeated the Rochester Teachers Union in a secret ballot election conducted by the American Arbitration Association under the supervision of Professor Walter E. Oberer who served as the "Neutral Third Party."

principals, or principals would lead to such fragmentation as to create an undue burden on the employer in terms of multiple negotiations, and would also be so inherently divisive as to create conflicts of interest among various segments of administrative and supervisory personnel which could subordinate their common interest in serving the public. Finally, if no unit were deemed appropriate, this would deny administrators and supervisors any collective voice in negotiating the terms and conditions of their own employment. Not only would this result in an inequity vis a vis the other professional employees, but it might also tend to create unchanneled individual conflict with the Board of Education. The public interest is better served by allowing these administrative and supervisory employees to organize and to be represented if they so choose, than by denying them the right to representation which the statute is designed to protect as a matter of public policy.

To conclude, the arbitrator decides that the most appropriate unit for administrative and supervisory certificated personnel is one which includes all certificated employees on the administrative and supervisory salary schedule up to, but not including, administrative directors, coordinators, and assistant superintendents, and, in addition, includes all Bracket T-II assignments currently excluded from Unit I.

Representation Procedures

Inasmuch as the Rochester Teachers Association is the only employee organization which has expressed an interest in representing employees in the appropriate administrative and supervisory unit, as defined above, the arbitrator rules that all eligible members of the unit shall have the opportunity to vote by secret ballot as to whether they wish to be represented for purposes of collective negotiations by the Rochester Teachers Association, or by no organization. In the absence of a contest, and in the interest of expediting the balloting, the voting will be by mail in an election to be conducted by the Syracuse office of the American Arbitration Association.

The rules to govern the election, having been agreed upon by the Board of Education and the Rochester Teachers Association, are as follows:

ELIGIBLE VOTER LIST

The parties will meet on Monday, November 6, to discuss the list of eligible voters in accordance with the unit described above. Any disagreements shall be referred to the Impartial Agent for decision.

Eligible voters who are on leave of absence shall be included on the list.

The agreed-upon list of eligible voters, together with their home addresses, shall be sent to Robert Bowling, Manager of the Syracuse office of the American Arbitration Association, 731 James Street, Syracuse, New York by certified mail, return receipt requested no later than 5 P.M., Monday, November 22, 1967.

THE BALLOT

The ballot, to be printed by the American Arbitration Association, shall read as follows:

American Arbitration Association
(Administrator)
OFFICIAL SECRET BALLOT
For Eligible Administrative and Supervisory
Certificated Employees of the City School
District of Rochester, New York
Mark an X on this ballot in ONE (1) square only. Make no other mark.
Do you desire to designate the Rochester Teachers Association as the exclusive negotiating agent for a unit of supervisory and administrative certificated employees of the Rochester City School District
YES NO
This is a SECRET BALLOT and must NOT be signed.

INSTRUCTIONS ACCOMPANYING
THE BALLOT

All instructions accompanying the mailed ballot shall be prepared by the American Arbitration Association, which shall be responsible for preparing the ballots and return envelopes, mailing them to the eligible voters and receiving and keeping custody of the returned ballots.

MAILING DATES

As soon as possible after receipt of the eligible voter list, but not later than Monday, November 20, 1967, the American Arbitration Association will place the ballots in the mail.

In order to be valid, ballots must be returned, in envelopes prepared by the American Arbitration Association, and must be postmarked not later than midnight, Monday, November 27, 1967.

NOTICE OF ELECTION

Notice of the election will be prepared by the American Arbitration Association and posted on appropriate bulletin boards in each building not later than Monday, November 20, 1967.

COUNTING OF BALLOTS

Returned ballots will be brought to Rochester in a sealed box by the American Arbitration Association Administrator on Friday, December 1, 1967. They will be counted in the teachers' cafeteria of East High School commencing at 3:45 P.M. on Friday, December 1, 1967. The Association shall be entitled to have five (5) official observers at the count. They are to be provided with official badges by the American Arbitration

Association. The names of the official observers shall be given to the American Arbitration Association's representative before the count begins. Five neutral tellers shall be provided and so designated by the American Arbitration Association. The Impartial Agent will be available at the count to decide any questions or challenges which may arise.

Any person who believes himself eligible to vote and who has not received a ballot by Monday, November 27, 1967 should notify both [F.] and [S.]. Such persons should also report to the teachers' cafeteria, East High School, December 1, 1967 between 3:45 P.M. and 4 P.M. The Impartial Agent will then determine whether or not they may cast a ballot in person.

THE TALLY

The American Arbitration Association shall provide a sheet for the official tally of the election results which is to be signed by the tellers, the observers and the American Arbitration Association representative.

CERTIFICATION OF ELECTION RESULTS

The Impartial Agent will certify the election results to the parties. If the Rochester Teachers Association receives a majority of the valid votes cast, it shall be certified as the exclusive negotiating representative for the unit.

FEES

Fees and expenses incurred by the American Arbitration Association in connection with the election are to be billed to and paid by the Rochester Board of Education.

Part II

UNIT DETERMINATION

In addition to approximately 2,500 certificated personnel, the City School District employs about 1,200 non-teaching employees on a Civil Service Payroll whose salaries, wages and working conditions are set forth in Article X of the Rules and Regulations of the Board of Education as revised and made effective July 1, 1967 (hereinafter referred to as Article X). Those on the Civil Service Payroll are employed in one of the following specific job classifications (Article X, page 1):

1. Class A: Clerical - Stenographic.
2. Class B: Skilled and Semi-Skilled.
3. Class C: Specified Positions in the Office of Business Affairs.
4. Class D: Administrative and Technical Positions in the Department of Buildings and Grounds, Research, T.V., and in the Office of the Superintendent.
5. Class E: All positions in the Buildings and Grounds Division not specifically covered in A, B, C, or D above.
6. Class M: Miscellaneous positions not falling in Class A, B, C, D, or E classifications and including 12-month employees and hourly employees, of whom some are considered permanent, and some are temporary employees.

Salary Schedule X covering the A, B, C, D, and E classifications set forth 20 salary brackets or grades with five progression steps in each bracket, effective July 1, 1967. The range of salaries from minimum to maximum at Step 1 is $3,472 to $15,393 per annum. At Step 5 the range is from $4,508 to $20,409 per annum. (Article X, page 21).

There are approximately 150 positions listed by job title for classifications A through E, and slotted into one of the salary brackets as shown in Article X.

Annual and hourly rates for Class M employees are set forth in various classifications appearing in Sections 10-6 through 10-10 covering miscellaneous positions in music; part-time and special positions; recreation club, intramural and inter-school contests; and cafeteria personnel and positions.

In addition to these wage and salary schedules, Article X contains general employment provisions for Civil Service Personnel covering such substantive matters as hours, leaves of absence, vacations, health insurance, life insurance sick leave, overtime, and pensions. Grievance procedures are outlined in Section 10-03.

For several years in the past an organization known as BENTE (Board of Education Non-Teaching Employees) has negotiated informally for its members with the Board of Education. On January 16, 1967, [A.], Legal Counsel to BENTE, sent a letter to the Board of Education enclosing the text of a proposed negotiation agreement and stating that on January 19, 1967, he would present to the Board a petition requesting that BENTE be recognized as the exclusive bargaining agent of all the non-teaching employees whose positions were listed in Article X. This petition containing approximately 750 signatures allegedly representing about 99 per cent of the membership of BENTE and approximately 60 per cent of all the non-teaching employees as defined in Article X, was presented to the Board on January 19, 1967 and to the undersigned Impartial Agent at the Public Hearing held on October 30, 1967.

At the time this petition and proposed agreement were presented to the Rochester Board of Education, in January 1967, the New York State Legislature was considering various bills to grant state and local government employees the right to organize and to engage in collective negotiations. Because of the uncertainty which existed as to the outcome of these legislative proposals, and in view of the lack of time for appropriate recognition procedures prior to the submission of the 1967-1968 budget on April 15, the Rochester Board of Education decided to withhold action on BENTE's request for formal recognition. Instead it agreed to meet with the BENTE representatives on an informal basis. As a result of these informal negotiations in the spring of 1967, agreement was reached on new substantive terms and conditions of employment for the non-teaching employees including an across-the-board percentage increase in wages and salaries for Article X employees, and a $2,500 life insurance policy for all of the Schedule A through E position holders and for some of those in the miscellaneous category.

After the passage of the Taylor Act and after consultation with interested employee organizations, the Rochester Board of Education agreed to unit determination and representation procedures under the Resolution governing the instant proceedings.

At the informal meeting held by the arbitrator on October 19, 1967 with representatives of the interested parties, the representatives of BENTE presented their Constitution and By-Laws. They stated that their dues-paying membership was 940 out of a total of between 1,200 and 1,400 non-teaching employees.

They also presented to the Impartial Agent a copy of a letter sent to the Board of Education's Legal Counsel on September 28, 1967 setting forth BENTE's views on appropriate local procedures to be adopted by the Rochester Board of Education for the purpose of implementing the Public Employees' Fair Employment Law of

1967. Attached to the letter was a schedule proposing a Tentative Unit Classification for Article X positions.

This proposal suggested the establishment of two appropriate negotiating units for Article X employees, with the exception of an Exempt Category of those positions on the Salary A, C, D, and E Schedules which involved top administrative and executive positions as well as those secretarial positions whose incumbents had access to confidential and policy information relating to negotiations for Article X personnel. These positions in the Exempt Category were to be excluded from any negotiating unit.

All other positions classified in Salary Schedules A, B, C, D, and E were to be assigned to one of two proposed appropriate units defined as a Primary Unit, and a Supervisory and Technical Unit. To the Supervisory and Technical Unit were assigned all positions involving evaluation of the work of others as well as those individuals who by the nature of their work may have a grievance filed against them. Some 37 job titles were listed under this Classification II for the Supervisory and Technical Unit.

The proposed Primary Unit included all Civil Service positions classified in Salary Schedules A, B, C, D, and E, and in addition the following positions in the miscellaneous category: accompanists, school attendants, teacher aides, and cafeteria personnel.

At this same meeting on October 19, 1967 representatives of Local 1635, AFSCME stated that they were seeking a unit composed of all non-teaching, non-supervisory and non-exempt civil service employees with the exception of custodial employees who possess a stationary engineer's license and those in direct line of promotion to positions requiring a stationary engineer's license. The representative of Local 71, Operating Engineers, expressed his views favoring the establishment of a separate unit of most custodial personnel listed in Salary Schedule E.

Following this informal hearing, as noted above, the arbitrator conducted a Public Hearing on October 30, 1967 of which legal notice was duly given (see note 3 and Appendix B). At this formal hearing the attorney for BENTE presented the same position on the appropriate units which he had stated at the informal meeting. The representative of the Operating Engineers, [W.], argued that most custodial employees shared a community of interest in that they worked as licensed stationary engineers or were in the line of progression to advance to the position of custodian engineers and, therefore, should be permitted to vote in a "self determination" election.

[I.], Business Manager, Local 466, Hotel and Restaurant Employees and Bartenders International Union, appeared at the Public Hearing and spoke in favor of a separate unit of cafeteria personnel on the ground that they shared a community of interest in food service in the schools. It was announced at the Hearing that Local 1635, AFSCME, had withdrawn from the proceedings. The only other spokesman at the hearing was Mrs. [S.], a teacher aide, who protested the inclusion of the teacher aides in the primary unit sought by BENTE on the ground that the aides' community of interest was separate from the interests of the non-teaching personnel and more akin to those of the professional teachers. She stated that her group would prefer no representation at all to representation by BENTE.

Following the Public Hearing which was concluded after all parties present had an opportunity to state their view and arguments on the appropriate unit or units for non-teaching personnel, and arbitrator met again with representatives of the Board of Education, BENTE, Local 71 of the Operating Engineers and Local 466, Hotel and Restaurant Employees on Monday, November 6, 1967. The purpose of this meeting was to review with all interested parties the job descriptions in Salary Schedule E and in the cafeteria personnel group in an effort to determine the specific functions and duties of each of the positions described therein. In addition the chief supervisors of each of these two departments described their structure, organization and functions. A representative of the Personnel Department also explained the fringe benefit provisions for each of the groups on the Civil Service Salary Schedule.

The representative of BENTE opposed the severance of custodial and cafeteria personnel on the ground that BENTE had represented the employees in these classifications in informal negotiations in the past and that they had a general community of interest with all other non-teaching employees.

At the conclusion of this meeting, the Impartial Agent announced that she would make her determination of appropriate units on the basis of the evidence presented, subject to the rules and regulations of the Public Employment Relations Board which had been officially adopted, but not yet received by her or by the parties to this proceeding.

On the following day, Tuesday, November 7, 1967 the Board's Legal Counsel received copies of the Rules and Regulations and mailed them to the interested parties and to the Impartial Agent. On Friday, November 10 the Impartial Agent was informed by [L.] and by [W.] that the organizations they represented were withdrawing from the proceedings and that letters confirming their withdrawal would be sent to the Impartial Agent immediately.

On Sunday, November 12, 1967, Mrs. [S.] presented the Impartial Agent with a petition signed by 85 of the 105 Teacher Aides reading as follows:

"As a member of the Teacher-Aides Association of Rochester and employed by the Rochester City School District, I DO NOT wish to have BENTE represent me in negotiations with the Board of Education under the provisions of the Taylor Law." (Emphasis in original).

Mrs. [S.] explained that the main petition signed by 62 Teacher Aides had been prepared at a meeting of Teacher Aides held on November 8, 1967 at which time the group had formally organized, adopted a name (Teacher-Aides Association of Rochester to be known as TAAR) and had elected her as President.

The foregoing, therefore, constitutes the record of the proceedings before the Impartial Agent on the question of appropriate unit determination for Article X employees.

Findings

As the record above indicates, all of the intervening organizations have now withdrawn from the proceedings with the exception of BENTE and the recently formed group of Teacher Aides. This means that the Impartial Agent is not now confronted with the problem of determining the appropriateness of the two separate units of custodial and cafeteria personnel for whom separate representation was originally sought. What remains for decision, therefore, is the appropriateness of the two units proposed by BENTE. Her judgment of their appropriateness will be based on the criteria set forth in the Taylor Act as further elaborated and defined in the official Statement of Procedures under the Public Employees' Fair Employment Act adopted November 1, 1967.

On the question of the appropriate negotiating unit, the Statement of Procedures notes that the issue is complex and "that in many cases different parties will

probably be able to argue with varying degrees of logic that different issues are appropriate." The text then goes on to discuss each of the statutory criteria as follows:

1. "COMMUNITY OF INTEREST - This is a most significant element that must be considered in determining the appropriate unit in a particular case. The following will be important in this regard: whether the employees sought to be grouped together are subject to common working rules, personnel practices, environment or salary and benefit structure. A helpful question to ask might be whether any real CONFLICT OF INTEREST exists among the employees in the proposed unit."

2. "POWER TO REACH AGREEMENT - Officials of government at the level of the proposed unit must have power to agree to terms and conditions of employment or to effectively recommend changes in terms and conditions of employment. Briefly, this means that the public employer who would ordinarily deal with the proposed unit should have the power to act effectively concerning the terms and conditions of employment to be negotiated."

3. "RESPONSIBILITIES TO THE PUBLIC - The proposed unit must be compatible with the joint responsibilities of the public employer and the employees to serve the public. This criterion means that a proposed negotiating unit might be inappropriate if its structure and composition were found to interfere with providing a service to the public. It takes into consideration the administrative convenience of the employer and perhaps suggests that an excessive number of units might be undesirable. On the other hand, too large a unit might be unwieldy for the negotiation of all possible issues."

Applying these criteria the Impartial Agent finds that there should be two units for Article X employees as follows:

I. A Primary Unit (excluding those in the Supervisory and Technical Unit defined below and the Exempt Category defined below) consisting of all Civil Service positions classified in Salary Schedules A, B, C, D, and E and including the following miscellaneous groups: cafeteria personnel, the music accompanists, and the regular school attendants.

The Teacher Aides are to be excluded from this unit because over 80 per cent expressed a desire NOT to be included.2/

The cafeteria personnel, and the accompanists and regular school attendants are included because they have almost identical fringe benefits with the Schedule A through E employees, because their percentage wage adjustments have historically been the same as those of the A through E employees, and because BENTE has served as their informal negotiating representative during the past few years.

2/ With respect to the Teacher Aides, there has been no showing that they share a community of interest with the nonteaching personnel or that the interest of the public would be served by grouping the Teacher Aides together with the other requested employees. Furthermore, as indicated in the PERB Statement of Procedures, in determining the appropriate unit consideration should be given to "the desires of employees." Here, over 80 percent of the Teacher Aides have expressed a desire NOT to be included. For these reasons, the Teacher Aides have been excluded from the unit.

The petition signed by the 62 Teacher Aides was made available to the parties. No contention was made that the petition did not clearly represent the intention of the signatories.

Moreover, to split these miscellaneous full-time employees off into other units would tend to create a condition of undue fragmentation which would serve neither them nor their employer well.

II. A Supervisory and Technical Unit which is separate from the Primary Unit described above because the individuals included do not have, as employer representatives, a sufficient community of interest with those whom they supervise and evaluate. This Unit is to include the following positions:

SALARY SCHEDULE A

Assistant Supervisor - Data Processing Control
Computer Operator
Principal Examiner Claims
Senior Purchasing Clerk

SALARY SCHEDULE B

Cafeteria Manager A & B
Copy Preparation - Foreman
Assistant Bus Foreman
Fleet Safety Investigator
Foreman - Storehouse & Print Shop
Service Station Manager - Auto Annex
Office Machine Repair - Foreman
Bus Foreman
Print & Bindery Supervisor
Warehouse Supervisor

SALARY SCHEDULE C

Junior Accountant
Junior Computer Programmer
Junior Programmer Analyst
Purchasing Assistant
School Auditor
Computer Programmer
Programmer Analyst
Senior Accountant
Supervisor - Data Processing Operations

SALARY SCHEDULE D

Maintenance Inspector, Buildings A & B
Maintenance Inspector, Grounds
Television Engineer Technician
Assistant Architect A & B
Assistant Engineer, Electrical
Assistant Engineer, Mechanical
Construction Engineer
Maintenance Inspector, Electrical
Maintenance Inspector, Mechanical
Projects Inspector
Television Maintenance Engineer
Research Associate
Chief Engineer - T.V.

SALARY SCHEDULE E

Assistant Custodian Engineer
Custodian Engineer A & B
Maintenance Mechanic - Foreman
Sr. Maintenance Mechanic - Foreman
III. Exempt Category - Salary Schedule A

This includes all stenographers and secretaries who have access to confidential and policy information related to negotiations for Article X employees. It also includes the positions listed below:

SALARY SCHEDULE A

Stenographic Secretary - Recording
Interviewer Custodial Personnel
Administrative Assistant - Personnel

SALARY SCHEDULE C

School Lunch Director
Supervisor of Pupil Transportation
Director of Data Processing
Supervisor of Budget and Accounting
Supervisor of Purchases and Stores

SALARY SCHEDULE D

Project Engineer
Mechanical Engineer
Supervisor Plant Maintenance
Architect
Legal Counsel

SALARY SCHEDULE E

Supervisor - Plant Security
Supervising Custodian Engineer A & B
All other miscellaneous personnel not specifically included in any of the units defined above and all employees of projects funded by Office of Economic Opportunity and all Article X employees connected therewith.

In the opinion of the Impartial Agent the above units are the most appropriate because they satisfy all the criteria set forth in the statute.

Representation Procedures

Inasmuch as BENTE is the only employee organization which has expressed an interest in representing employees in the two units, as defined above, the arbitrator rules that all eligible members of the units shall have the opportunity to vote by secret ballot as to whether they wish to be represented for purposes of collective negotiations by BENTE or by no organization. In the absence of a contest, and in the interest of expediting the balloting, the voting will be by mail in an election to be conducted by the Syracuse Office of the the American Arbitration Association.

The rules to govern the election, having been agreed upon by the Board of Education and BENTE are as follows:

ELIGIBLE VOTER LISTS

The parties will meet on Friday, November 17, 1967, to discuss the lists of eligible voters in accordance with the units described above. Any disagreements shall be referred to the Impartial Agent for decision.

The agreed-upon lists of eligible voters, together with their home addresses, shall be sent to Robert Bowling, Manager of the Syracuse Office of the American Arbitration Association, 731 James Street, Syracuse, New York by certified mail, return receipt requested no later than 5 p.m., Monday, November 20, 1967.

THE BALLOTS
American Arbitration Association
(Administrator)

For Eligible Supervisory and Technical Civil Service Employees (Article X Salary Schedule) of the City School District of Rochester, New York.
MARK an X on this ballot in ONE (1) square only. Make No Other Mark.
Do you desire to designate BENTE as the exclusive negotiating agent for a unit of supervisory and technical civil service employees of the Rochester City School District?

YES NO

THIS IS A SECRET BALLOT AND MUST NOT BE SIGNED.
Sign only the Outside Return Envelope.
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American Arbitration Association
(Administrator)

For Eligible Non-Supervisory Civil Service Employees (Article X Salary Schedule) of the City School District of Rochester, New York
MARK an X on this ballot in ONE (1) square only. Make No Other Mark.
Do you desire to designate BENTE as the exclusive negotiating agent for a unit of non-supervisory civil service employees of the Rochester City School District?

YES NO

THIS IS A SECRET BALLOT AND MUST NOT BE SIGNED.
Sign only the Outside Return Envelope

In the Matter of:

WILLOW RUN PUBLIC SCHOOLS,

Employer,

-and-

WILLOW RUN FEDERATION OF TEACHERS,

Petitioner,

-and-

WILLOW RUN EDUCATION ASSOCIATION,

Intervenor. Case No. R68 B-4

B-VII PERA
Objections Sustained

Material misstatement of fact made at a time so near the election so as to prevent a reply by the aggrieved party is grounds for setting the election aside. Board adopts NLRB Hollywood Ceramics rule regarding election propaganda 140 NLRB 221.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER AND DIRECTION OF ELECTION

APPEARANCES:

Willow Run Public Schools: Eugene B. Calder, Esq.

Willow Run Federation of Teachers: Craig & Fieger
By: Bernard J. Fieger, Esq.

Willow Run Education Association: Levin, Levin, Garvett & Dill
By: Erwin Ellmann, Esq.

Pursuant to an Agreement for Consent Election signed by the parties on February 26, 1968, an election was held by an election officer of the Labor Mediation Board, hereinafter referred to as the Board, on March 12, 1968, between the hours of 3:15 p.m. and 5:30 p.m.

The results of this election were:

Willow Run Federation of Teachers	90
Willow Run Education Association	98
Neither	1
Spoiled Ballots	1
Challenged Ballots	1
Total	191

On March 13, 1968, the Willow Run Federation of Teachers, hereinafter referred to as the Petitioner, filed objections to conduct affecting the results of the election.

The objections as filed are:

"1. The Willow Run Education Association interfered and prejudiced the conducting of a proper election by issuing, on the date of the election, a release containing statements allegedly made by the President of the Willow Run Federation of Teachers and the representative of the Michigan Federation of Teachers, which statements were not made by them and which release misquoted and falsely quoted the actual statements of these persons; which releases were issued at a time when there was no opportunity for response, since said releases were issued March 12th, 1968, the date of the election.

2. That the agents, servants and employees of the employer interfered with the free exercise of the ballot by the employees of the School District in that the Superintendent of Schools made statements to at least one member of the staff regarding the consequence of the Willow Run Federation of Teachers being successful in the election, which statement was repeated to other members of the bargaining unit, which statement was false but which could have had the effect of intimidating members of the bargaining unit in the exercise of their ballot; and which statement the Superintendent of Schools refused to correct although requested to do so and although he had sufficient time to do so."

The objections were clarified by a Bill of Particulars, filed on April 15, 1968, pursuant to a request for particularization by the Willow Run Education Association, hereinafter referred to as the Intervenor.

On April 16, 1968, a hearing was held before Joseph B. Bixler a Trial Examiner of the Board, at Detroit, Michigan. The Board having considered the entire record, arguments, and briefs of the parties, hereby makes the following Findings of Fact, Conclusions of Law and Direction of Election.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The objection to conduct by Intervenor:

The literature objected to was placed in the teachers mail boxes on the day of the election, March 12, 1968. The Intervenor admits authorship. This document reads as follows:

"WILLOW RUN EDUCATION ASSOCIATION
WITH RIGHTS COME RESPONSIBILITIES

Both June Fieger, MFT field representative, and Tom Porter, WRFT president, have stated that if they win today's election they will NOT negotiate during the summer unless they are paid by the school board. Is this realistic? (The WREA paid the negotiating team since they worked for the teachers.)

This means that if negotiations are not completed by June 14th, and there is little likelihood they will be, the chances of WRFT having a contract ready at the beginning of school are highly dubious. Are you ready to withhold services in the fall when you know that the negotiating team will not have been working for you during the summer? What will the public reaction be? Will the people of Willow Run support us in such a situation? Is this the responsible position to take?

Last year all MEA affiliated units whose negotiations were not completed by June 15 were advised by the State Association to negotiate during the summer. By contrast, most of the Federation's 21 districts last summer followed Mary Ellen Riodan's lead and 'took the summer off.'

FOR RESPONSIBLE NEGOTIATIONS"[1]

The main thrust of the Petitioner's objections is that neither June Fieger nor Tom Porter made the statements attributed to them.

The record establishes that June Fieger did not make the statement attributed to her in the leaflet that the Petitioner would not negotiate during the summer unless paid by the School Board.

June Fieger denied having made such statements, and testified that, on the contrary, she would recommend to the local organization that they negotiate during the summer even without pay. The witness, Demona Tobin, testifying for the Intervenor regarding June Fieger's statements, is the one who questioned June Fieger as to whether Petitioner would negotiate during the summer, and elicited June Fieger's remarks relative to the subject. Tobin testified without any material disagreement with June Fieger as to what was said relative to negotiations during the summer vacation period.

Porter, the president of Petitioner, testified that, to his knowledge, he never told anyone that Petitioner would not negotiate during the summer vacation unless paid by the School Board. His testimony is contradicted by Michael Bennett, the president of the Intervenor. Bennett testified that at a party attended by the school teachers on the night of March 7, 1968 Bennett and Porter were talking and the subject of summer negotiations came up. Bennett raised the subject by saying if the Intervenor lost the election, he (Bennett) would not have to negotiate all summer. Porter is said, by Bennett, to have replied that if we (Petitioner) won, there would be no summer negotiations unless they were paid by the Board. Porter is alleged to have said "Shucks we want our summer vacation."

Another witness, offered by the Intervenor, to establish that Porter made the statement as quoted in the March 12, 1968, leaflet, a vice-president of Intervenor, Shirley Santuci, testified that a week or so before the election, while in casual hallway conversation, Porter said teachers should not have to negotiate in the summer and that they deserve a vacation or time to go to school. Porter is alleged, further, to have said teachers should not bargain without pay.

This Board is in agreement with the National Labor Relations Board policy regarding election propaganda misstatements as set forth in its decision in Hollywood Ceramics Co., Inc., 140 NLRB 221. In that case the National Board stated:

"We believe that an election should be set aside only where there has been a misrepresentation or other similar campaign trickery, which involves a substantial departure from the truth, at a time which prevents the other party or parties from making an effective reply, so that the misrepresentation, whether deliberate or not, may reasonably be expected to have a significant impact on the election. However, the mere fact that a message is inartistically or vaguely worded and subject to different interpretations will not suffice to establish such misrepresentation as would lead us to set the election aside. Such ambiguities, like extravagant promises, derogatory statements about the other party, and minor distortions of some facts, frequently occur in communication between persons. But even where a misrepresentation is shown to have been substantial, the Board may still refuse to set aside the election if it find upon consideration of all the circumstances that the statement would not be likely to have a real impact on the election. For example, the misrepresentation might have occurred in connection with an unimportant matter so that it could only have had a de minimis effect. Or it could have been so extreme as to put the employees on notice of its lack of truth under the particular circumstances so that they could not reasonably have relied on the assertion.

Or, the Board may find that the employees possessed independent knowledge with which to evaluate the statements."

In the present case, the handbill put into the teachers mailboxes by the Intervenor on March 12, 1968, did misquote June Fieger. As noted above, the record reveals that she had said practically the opposite of the remark attributed to her. In addition the misstatement, having been disseminated the morning of the election made a reply, for all practical purposes, impossible.

While the remarks attributed to the Petitioner's president are technically accurate according to the testimony of the Intervenor's president, we are not convinced that the statement made under the circumstances disclosed by the record justifies the presentation made in the March 12, 1968, handbill, wherein he is coupled, incorrectly, with June Fieger, as having taken an organizational position negative to summer bargaining.

In addition, this Board is of the opinion that the misrepresentation relative to summer bargaining is of a material nature. This materiality stems from the Intervenor's handbill that couples the lack of summer bargaining with a "withholding of services" in absence of contract.

We are satisfied that the Intervenor has violated the standards set forth in the Hollywood Ceramics Company case. The literature of March 12, 1968, contained a material misrepresentation and the timing of its distribution was such as made a reply impossible. We find that Intervenor has exceeded the bounds of fair electioneering and interfered with the free choice of the employees. Accordingly, we set aside the election, and we shall direct that a second election be conducted.[2]

DIRECTION OF SECOND ELECTION

It IS HEREBY ORDERED that a second election, by secret ballot, shall be conducted, under the direction and supervision of a Board Agent, among the employees within the following appropriate unit:

All certified teaching personnel under contract, EXCLUDING: Superintendent, Administrative Assistant Principals, Assistant Principals, Head Librarian, Public Librarian, Business Manager, Vocational Director, Adult

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[1]The words "With right come Responsibilities" are in letters approximately three-fourths of an inch high and the concluding, "For Responsible Negotiations" approximately one inch high.

[2]This finding and order makes it unnecessary to fully consider the second aspect of Petitioner's objections. The record reveals that a unit employee testified that one James Waarala, who has been included in the unit, told the employees that the Superintendent said if the Federation (Petitioner) won the election that the string music program would be abandoned. The employee is a string music teacher. This testimony was not offered by the petitioner to establish that the Superintendent of Schools made the remark, but on the contrary, that the Waarala made the remark and that Waarala was a supervisor as would make the remark a threat.

The record does not establish that Waarala is a supervisor as defined by the Board. School District of the City of East Detroit. 1966 Labor Opinions p. 60. In view of this finding, we do not find the remark as quoted, amounts to a threat that could prevent a fair election in this matter.

Education Director, Director of Guidance and Attendance and all other persons with supervisory functions.

Eligible to vote are those employees who were employed during the payroll period immediately preceding the direction of this second election, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are those employees in the military service of the United States, if they appear at the polls.

Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, and who have not been rehired or reinstated before the election date.

IT IS FURTHER ORDERED that the Employer shall prepare an eligibility list in alphabetical order, containing eligible voters' names in accordance with the above description, and submit copies of such list forthwith to the Labor Mediation Board and to the other parties.

IT IS FURTHER ORDERED that the election shall be conducted on the premises of the Employer at such time and date as a Board Agent shall determine after consultation with the parties.

IT IS FURTHER ORDERED that the Employer shall cause to be posted in prominent places in and about the establishment, sample ballots and notices of election (furnished by the Board) setting forth the time, date and place of election, at least five days prior to said election.

IT IS FURTHER ORDERED that eligible employees shall vote whether they desire to be represented for collective bargaining purposes by Willow Run Federation of Teachers, Willow Run Education Association, or neither.

MICHIGAN LABOR MEDIATION BOARD

Robert G. Howlett, Chairman
Leo W. Walsh, Board Member

Dated: May 16, 1968

In the Matter of Fact Finding between

JEFFERSON COUNTY BOARD OF EDUCATION
Louisville, Kentucky

- and -

JEFFERSON COUNTY TEACHERS ASSOCIATION
Louisville, Kentucky

REVIEW PANEL'S
FINDING OF FACT AND
RECOMMENDATIONS

Concerning Impasse in

SALARY NEGOTIATIONS

APPEARANCES:

For the Board of Education:

Richard Van Hoose, Superintendent
Ernest G. Grayson, Associate Superintendent in Charge of Finance
Mrs. Marie Doyle, Administrative Assistant

For the Teachers Association:

Claude Purvis, Spokesman, Negotiating Team
J. Dan Baldwin, Member, Negotiating Team
Wallace Cantrell, Member, Negotiating Team
Mrs. Kay Hendrix, Member, Negotiating Team
Dan McCubbin, Executive Director
Marion Hibbard, President

Panel Members:

Craig Bradley, appointed by the Board of Education
William E. Stiles, Jr., appointed by the Teachers Association
William B. Peden, Chairman, appointed by the other two Panel Members

By the terms of the Professional Negotiation Agreement between the Jefferson County Board of Education, Louisville, Kentucky, hereinafter sometimes referred to as "the Board," and the Jefferson County Teachers Association, Louisville, Kentucky, hereinafter sometimes referred to as "the Association," dated December 6, 1967, an "impasse" procedure is provided in the event that the parties reach an impasse during negotiations. Pursuant to such procedures, the Board appointed Craig Bradley and the Association appointed William E. Stiles, Jr., as Panel Members. On September 9, 1968, the two Panel Members agreed on the selection of William B. Peden as the Chairman and third member of the Panel.

Hearings were held on September 11, 12, and 16, 1968, at the Conference Room of the Kentucky Education Association, Louisville, Kentucky. Full and equal opportunity was given to each party to make statements and arguments, introduce evidence, and examine and cross-examine witnesses. At the conclusion of the hearings, opportunity was given to both parties to file written post-hearing briefs, but neither party was desirous of filing such. Both the Board and the Association agreed that the Panel was duly constituted and appointed and that the report of the panel would be due on September 23, 1968.

ISSUE

The basic issue involved is one of salary schedules. The final offer of the Board was for a base salary of $5,800.00 for a beginning teacher with a B.A. degree, with provisions for a four point index for both experience and preparation. The final offer of the Association was for a base salary of $6,000.00 for a beginning teacher with a B.A. degree, with provisions for a four and one-half point index for both experience and preparation. Prior to the last proposal of the Association it had presented a request for a base salary of $6,200.00, with provisions for a five point index for both experience and preparation. In addition both the first and second proposals of the Association had provisions for shortening the number of "steps" necessary to reach the maximum benefit for work experience. The Tentative Budget adopted by the Board also shortened the number of steps necessary for such purpose but not to the extent requested by the Association.

The Board had started its negotiations from the base pay of $5,450.00 in its 1967-1968 budget. Upon the parties being unable to reach an agreement, the Association declared that an impasse existed and called for the appointment of a Review Panel as provided in the Professional Negotiation Agreement.

FACTS PRESENTED

The Negotiation Process:

Some time prior to the Professional Negotiation Agreement of December 6, 1967, there were two major groups representing the teachers in the county system, both

of which were acting in good faith, but sometimes being at odds with each other. In such a situation the Board was in the middle.

Through the efforts of Messrs. J. Dan Baldwin and Claude Purvis, Jr., and others the two groups were brought together into a single unit known as the Jefferson County Teachers Association. Messrs. Baldwin and Purvis were elected joint presidents of the association.

The present agreement was adopted in December of 1967 prior to the session of the Kentucky General Assembly which began in January of 1968, at which time certain bills were to be introduced regarding professional bargaining for teachers. This was a forward step in that this was the first such agreement in force in the system.

Section A of the Preamble to the Professional Negotiation Agreement between the Jefferson County Board of Education and the Jefferson County Teachers Association says, in part, "...good-faith negotiations between the Board and the Association are the basic purpose of this Agreement."

Article V, Section A, "Subjects of Negotiation" says: "Either party shall have the right to meet and negotiate for the purpose of reaching an agreement which shall include the following items but not be limited thereto: Personnel policies and working conditions, curriculum, salaries, and salary schedule, and other matters pertaining to the orderly and efficient operation and development of the school system."

Between December 6, 1967, and the end of the school year, the Board and the Association negotiated, and reached agreement on several items related to working conditions. Salary negotiations, however, continued through the summer except for the month of July. No agreement was reached.

The Association proposed that the Board open schools on August 26 with the salary schedule for the 1967-68 school year temporarily in effect until agreement could be reached on a salary schedule for the 1968-69 school year. The Board, because it had promised the new teachers a salary of at least $5,750.00, felt it could not keep the old schedule in effect. On August 13, 1968, the Board adopted a "tentative salary schedule" beginning at $5,800.00 for teachers with a Bachelor's degree and no experience and ranging to $10,208.00 for teachers with 30 semester hours beyond the Master's degree and fifteeen years of experience.

The Association regarded the adoption of the "tentative salary schedule" as a reason to believe that an impasse existed and at that time invoked Article IV, "Mediation and Impasse", of the Professional Negotiation Agreement.

During negotiation over the salary schedule, little or no real bargaining took place. The Association offered one proposal and one counter-proposal. The Board offered two proposed salary schedules, both costing approximately the same amount of money.

Both parties agreed that there had been some difficulty in fulfilling all the requirements of the Agreement, particularly with regard to the exchange of information about financial resources and tentative budgetary requirements. This portion of the Agreement will probably be reopened during negotiations in the current school year.

The Association feels that at least part of the lack of bargaining was due to the "gentlemen's agreement" to keep the salary schedules of the Board and of the Board of Education of Louisville, Kentucky, comparable. Early in the negotiation sessions the Association informed the Board that the Association would not consider such agreement as having a bearing on the salary schedule.

The Gentlemen's Agreement:

At the time of the Special Session of the Kentucky General Assembly in 1965 the Government agreed to add to the call of that legislature a proposal to add a 1/2 of 1% of occupational license tax in Jefferson County for school financing. The bill as originally proposed would have allocated approximately 66% of the revenue produced to the Louisville Board of Education and 34% to the Jefferson County Board of Education.

A "gentlemen's agreement" was reached (the exact parties to such agreement are unknown to the Panel, but apparently including representatives of the Jefferson County Board of Education, the Louisville Board of Education, and legislators from this area) whereby the revenue from the proposed tax would be allocated on a pupil population ratio. A part of this agreement was that the salary schedules in the Louisville and Jefferson County systems would be kept at comparable levels so that in the event of merger of the two systems the cost necessary to make the two salary schedules equal would be negligible.

Salary schedules in the two systems have been comparable for the past three school years, and the schedule adopted in the Tentative Budget of the Board for the year 1968-1969 is comparable to the one subsequently adopted by the Louisville Board of Education.

When the Professional Negotiation Agreement was entered into on December 6, 1967, providing for negotiations between the Board and the Association a number of possibilities arose among which are:

1. That such agreement constituted a possible breach of the "gentlemen's contract" in that if true bargaining concerning salaries should take place, the salary schedules of the two systems might not continue to be comparable.

2. That the agreement of December 6, 1967, was unenforceable because of the prior "gentlemen's agreement."

3. That the "gentlemen's agreement" was no longer in effect because the merger bills had failed.

It is not the function of the Panel to make a determination of whether such "gentlemen's agreement" is still in effect legally or morally, nor to determine whether there has been a possible breach thereof. Our function is to make an investigation, find facts and recommend a solution.

Recruiting:

One problem in relation to the creation of the present Tentative Budget and negotiations regarding salary schedules is related to recruiting. Because of the turnover rate and the addition of new classrooms each year a large number of teachers must be recruited and hired annually. Since teachers must be hired in the early part of the calendar year before the budget is approved, some promise must be made as to what salary a new teacher can expect. The Board is thus placed in the position of having to, in large degree, fix the base pay before negotiations commence with the Association. During the recruiting in 1968 representatives of the Board promised that there would be at least a $300.00 increase in the base salary as compared with the year 1967-1968, for a starting salary of at least $5,750.00.

Teacher Turnover Rate:

The Association presented a schedule (Exhibit B, JCTA) showing the percentage of teacher turnover rate of 48

school districts for 1966-67 said to be comparable with the Jefferson County system. The average percentage of turnover was 15.3 while that of Jefferson County was 20.1, the fourth highest of the 48.

The Association charges the reason for the higher rate in Jefferson County is that the salary schedule is below the national average. The average salary for Jefferson County Classroom teachers in 1967-1968 was $6,936.00. The estimated average salary for classroom teachers in the United States for 1967-1968 was $7,296.00. (NEA Research Report 1968-R1, Rankings of the States, 1968)

The Board presented the results of a survey that it made (Exhibit F, JCBE) on 636 teachers who had left the system. Only 49 replied that they had taken another position in teaching, while 23 replied that they had taken a position in industry. The two reasons given most commonly were: "Husband Transferred," (105) and "Marrying or Moving," (116).

It is thus apparent that the salary schedule has some direct effect on the turnover rate, but that it is not the major factor at the present time. It must be pointed out, however, that if the schedule is not kept current with the times the turnover rate will no doubt increase.

Salaries in Comparable Districts:

An examination of the salary schedules already adopted for the 1968-1969 school year in 16 cities, five of which are of closely comparable size to Jefferson County (Exhibit C, JCTA), showed that one had a minimum salary of $5,700.00, one $5,800,00, one $5,900.00 and the other thirteen school districts had minimum salaries of $6,000.00 and over, up to $7,000.00. Fourteen of the same districts provided a salary schedule for a sixth year of preparation (Rank I on the Jefferson County Schedule), and of these, five provided a maximum salary under $11,000.00 and nine $11,000.00 and over, up to $12,600.00.

A projection of the salary schedules of 53 school districts of approximately the same size as Jefferson County (Exhibit A, JCTA) and which assumes an average increase of 8% over the 1967-68 school year, anticipates an average minimum salary of $6,037.00 and an average sixth year preparation maximum of $11,154.00.

When the cities among the 53 spoken of in the immediately preceding paragraph are limited to those which lie in the southeastern region of the United States (Virginia, West Virginia, Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, and Arkansas), and the same projection (an anticipated 8% increase) is made, the average minimum salary shows at $5,762.00 and the sixth year preparation maximum of $10,006.00.

Number of Days Worked:

A comparison was made of the days teachers were on duty in 1966-1967 in forty-five school districts, including Jefferson County, which are of comparable size (Exhibit N, JCTA). The average was 185 days for the forty-five districts. Jefferson County teachers were on duty 190 days.

Revenue Receipts:

The Board has clearly stated there is no source of additional increase to supplement the base salary or index steps.

Kentucky may or may not be unique in its taxing structure. The structure in itself is not permissive, as the rates are subject only to legislative process. In addition the base for assessment is subject to legislative process, which base was set at 100% of fair value by the Special Session of 1965.

Since the amounts of revenue from local sources as well as from state sources (foundation program) are fixed at the State level, it appears that additional revenue is an impossibility at this time, therefore additional revenue with which to implement an increase in salaries is not available.

The Foundation Program allotment was predicated on a projected enrollment of 87,091, a level which has not been attained. This will have a direct bearing on budgeted receipts, but just how much the reduction will be is pure conjecture at this point, according to information presented by the Board.

Cost of Salary Increase:

The exact cost of an increase in the base salary of $1.00 cannot be determined without minute calculations as so many factors are involved such as the total number of teachers, the rank of each teacher, the experience factor for each teacher, and various other items. In spite of the difficulties involved a working estimate can be obtained by dividing the cost of the increase in the Tentative Budget (Exhibit E, JCBE, page numbered -5-) by $350.00 (the amount of the increase).

Such cost was shown to be $1,956,836.00 which gives a cost of $5,591.00 for each $1.00 of increase in the base salary. To give the teachers a $50.00 raise in base pay would cost approximately $280,000.00; a $100.00 raise, $560,000.00, etc.

Cost of Change in Index:

The parties have stipulated that the cost of a 1/10 of 1% increase in the index from 4.0 to 4.1 would be in the vicinity of $90,000.00 to $100,000.00. An increase from 4.0 index to a 4.5 index would cost between $450,000.00 and $500,000.00. The cost of changing the index upward will rise as the base salary is increased.

Source of Pay Raise:

The Association has taken two basic positions:

1. That the teachers should be paid the "going rate," which in the Association's opinion is the national average for systems of comparable size. They contend that the Board pays the "going rate" for books, supplies, interest on bonds, and for all other expenditures, and thus that it should do likewise for its teachers. To the Association it is merely a matter of priorities.

2. That the proposed budget shows an increase of some $9,000,000.00 over 1967-68 actual expenditure and that more than $1,900,000.00 of such amount should go into increases for teachers.

The Association has not gone on record as to the source from which any increase in salaries that the Panel should recommend should originate, either from an increase in revenue or a decrease in expenditures, or a combination of both. Its position is that this is a prerogative of the Board and that all the teachers ask is to be paid the "going rate."

The Board takes the position that it is dealing with a situation where it cannot control its income in that the tax rate is fixed, and it has no ability to change such. Further the Board says that all of the budgeted items are essential and that none of them can be cut without seriously disrupting the educational process. The Board has shown

that of the $8,950,282.76 increase in budgeted expenditures in the Tentative Budget for 1968-1969 that $2,210,373.37 comes from a Specially Voted Building Fund which by law can only be used for capital outlays and debt service.

The Board has further shown that of the approximate $6,700,000 increase in proposed General Fund expenditures in the Tentative Budget that approximately $5,469,000 is an addition to the instructional purposes budget. It takes the position that instructional salaries, excluding secretarial and clerical salaries, have been increased some $4,848,000, which amount includes both increases for existing personnel as well as salaries of new personnel employed because of the expansion of the system.

Salary Schedule Recommendations:

The recommendation of the Review Panel is based on the assumption that the funding of the proposed salary schedule can be accommodated by reducing other expenditures in the Tentative Budget. The Panel does not propose to tell the Board the specific expenses that must be reduced, if reductions are necessary, as that is a function that the Board must decide in accordance with priorities.

Teachers should not be expected to subsidize governmental operations if sufficient funds are not provided through tax revenues. The Board does not seek to cut wage rates of employees of contractors that build buildings for the system or that provide other services necessary for its operation. It pays the prices set by competitive bidding for supplies in the open market. It follows, therefore, that teachers should be paid salaries that are competitive to those of systems comparable with the local one.

The Review Panel believes that the salary schedule that it recommends should provide for salaries comparable to those paid in similar systems and that the percentage points in the index should be increased to give added recognition for experience and preparation.

RECOMMENDATION

The Review Panel makes the following recommendations:

1. That the base salary in the Tentative Budget adopted for the 1968-1969 school year be increased from $5,800.00 to $5,900.00.

2. That the index in the Tentative Budget adopted for the 1968-1969 school year be changed from 4% to 4.1% both for experience and preparation, with the percentage increase for experience at the maximum step remaining unchanged.

Respectfully submitted this 23rd day of September, 1968.

Craig Bradley

William B. Peden, Chairman

William E. Stiles, Jr.

Exhibits:

1. Joint Exhibits:

   A. Professional Negotiation Agreement Between the Jefferson County Board of Education and the Jefferson County Teachers Association.

2. Exhibits of Jefferson County Board of Education:

   A. Estimated Income.
   B. Estimated Income - Revised 8/7/68.
   C. 1968-69 Tentative Budget.
   D. Comparison of Expenditures, 1968-69 Budget vs. 1967-68 Actual - Revised 8/27/68.
   E. Additional Comments and Recommendations 1968-69 Budget and Teachers Salary Schedule - Revised 8/13/68.
   F. Cumulative Total From July 1, 1967 - dated June 24, 1968.
   G. Annual Statistical Report - 1966-1967.

   G.1 Clarification of Position.

   H. Average Salaries Paid to Elementary and Secondary School Classroom Teachers by Geographic Regions. 1962-63 and 1967-68.
   I. Salary Schedule Provisions for Classroom Teachers, 1967-68 (presented also to JCTA Exhibit A).
   J. Comparison of 1968-69 Foundation Program Allotment for Teachers Salary vs. J.C.B.E. Tentative Salary Schedule for 1968-69.
   K. Budgetary Needs for which Funds are not Presently Available (June 9, 1965).

3. Exhibits of Jefferson County Teachers Association:

   A. Salary Schedule Provisions for Classroom Teachers, 1967-68.
   B. 1966-67 Percentage Teacher Turnover Rate.
   C. Adopted 1968-69 Schedules.
   D. Original JCTA Proposed Salary Schedule for 1968-69.
   E. JCTA Proposal #2 (National Average).
   F. Letter dated August 19, 1968, to Mr. Dan C. McCubbins from Harvey Zimmerman, Assistant Professor of Economics.
   G. Estimated Income 1968-69.
   H. Estimated Income, 2nd Estimate.
   I. Increase in Estimated Receipts.
   J. Comparison of Expenditures, 1968-69 Budget vs. 1967-68 Actual (JCBE Exhibit D, Revised and Resubmitted by JCTA).
   K. Copy of letter dated September 3, 1968, from E.C. Grayson, Associate Superintendent, to Mr. Dan McCubbin, to which is attached copy of Annual Financial Report for 1967-68 school year.
   L. Jefferson County Board of Education 1968-69 Tentative Substitute Teacher Salary Schedule.
   M. Comparison of Expenditures 1968-69 vs. 1967-68, (Revised 7/27/69).
   N. No. Teaching or Class Days 1966-67 and No. Days on Duty 1966-67.
   O. Difference between Board's and JCTA's Schedule and Index.

In the Matter of:

AVONDALE SCHOOL DISTRICT
BOARD OF EDUCATION,

Respondent,

-and-

Case No. C66 K-131

AVONDALE FEDERATION OF TEACHERS,
MICHIGAN FEDERATION OF TEACHERS,

Joint Charging Parties,

-and-

AVONDALE EDUCATION ASSOCIATION,

Intervenor

B-II PERA
Procedural Issues

Both local teacher organization and its parent body are qualified, as parties in interest, to file charges that the school board is unlawfully favoring a rival organization.

B-II PERA
Procedural Issues

Incumbent teacher bargaining agent is entitled to full intervention in case involving charges by rival organization that school board denies it certain rights which are granted to incumbent.

B-VIII PERA
Unfair Labor Practices
Assistance or Domination Not Found

Adopting Wisconsin rule, the Board decides that a school board may grant, through bargaining, to the certified bargaining agent of its teachers, the exclusive use of payroll deduction of dues, school bulletin boards and teachers' mail boxes, meanwhile denying all such advantages to a rival organization.

Decision and Order

Exceptions were filed by the Avondale Federation of Teachers and Michigan Federation of Teachers, Joint Charging Parties, to the Trial Examiner's Decision and Recommended Order dated April 23, 1968.

The exceptions read as follows:

"1. The recommended order provides for a dismissal of the charges in their entirety when the decision itself indicates areas which should permit for the charges to lay.

2. The decision itself permits a rival organization to the exclusive representative to have organizational conveniences or advantages '...which are essential to communicating with employees, such as the right to solicit membership during non-working hours on the premises and the right to handbill or distribute literature at certain times and places.'

3. The charges contained in (b)(1) (relating to bulletin boards), (b)(4), (b)(5), (b)(6) and (b)(7) and (c) would be those areas covered by the above quoted portion of the decision and should be so allowed by the Labor Mediation Board."

We find no prejudicial error in the statement of the Trial Examiner with respect to organizations other than the exclusive bargaining representative soliciting membership during non-working hours on the premises and handbilling or distributing literature at certain times and places. The Trial Examiner, perhaps out of undue caution, was simply noting that there are circumstances wherein a rival organization may engage in activities to promote membership in its organization. Soliciting membership in an organization other than the exclusive bargaining representative on an employee's own time is not a prohibited activity during the period when a new representation petition may be filed by a rival organization. During this period, advertising activities are authorized.

Charge (b)(5) was listed as an area of activity by the Avondale Federation of Teachers which should be allowed by the Labor Mediation Board. The evidence disclosed that the only "materials" to which reference was made in this part of the charge consisted of a package postmarked December 10, 1966, and addressed to "Teachers, Stiles Schools, 3976 Livernois, Rochester, Mich. 48063." The refusal of an employer to deliver materials mailed in this fashion to its employees is not an unfair labor practice. Indeed, the package had a return address showing it was mailed by one "Harold Strayer"; not by either of the Charging Parties.

There was no evidence to support Charge (b)(7). Material to which reference was made was addressed to Stiles Elementary School, and appears to have been delivered by one of the Charging Parties, not by U.S. mail.

We pass no judgment on any breach of federal postal law or regulations, as this is a matter not within the jurisdiction of the Labor Mediation Board.

Subject to the comments above, we adopt the Trial Examiner's Decision and Recommended Order.

ORDER

The charges filed by Avondale Federation of Teachers and Michigan Federation of Teachers, as amended during the hearing, are dismissed.

MICHIGAN LABOR MEDIATION BOARD

Robert G. Howlett, Chairman
Leo W. Walsh, Board Member

Dated: July 15, 1968

Trial Examiner's Decision and Recommended Order

APPEARANCES:

For the Respondent: Harry D. Wise Jr., Esq.

For the Charging Party: Bernard J. Fieger, Esq.

For the Intervenor: Ellmann and Ellmann
By: Harvey I. Wax, Esq.

Pursuant to Section 16 of Act 336, Public Acts of 1947 as amended (M.S.A. Sec. 17.455, designated as the Public Employment Relations Act, hereinafter referred to as PERA), a hearing was held on March 2, 3, and 17, 1967, at Detroit, Michigan, before the undersigned Trial Examiner of the Labor Mediation Board (hereinafter referred to as the Board) on charges filed by Avondale Federation of Teachers and Michigan Federation of Teachers, hereinafter referred to as AFT and MFT respectively. Based on the entire record, including post-hearing briefs filed by the Respondent and by the Intervenor Avondale Education Association (AEA), the undersigned hereby makes the following:

Findings of Fact and Conclusions of Law

The Respondent is a public employer within the meaning of PERA.

Respondent moved for discharge of MFT as a charging party. MFT is the parent body of AFT, and both are labor organizations within the meaning of PERA. Both are qualified, as parties in interest, to file the unfair labor practice charges which are the subject of this case.

AEA is also a labor organization within the meaning of PERA, since it currently is the certified exclusive bargaining agent for teachers in the Respondent district. AFT and MFT objected to AEA's right to intervene in these proceedings. The undersigned ruled that AEA has an interest in the outcome and is entitled to full intervention.

The charges, as amended during the hearing, allege that the Respondent has violated sec. 10(a), (b) and (c) of PERA in that:

(a) It has refused to honor the request of its employees, members of the Avondale Federation of Teachers, as demonstrated by authorization executed by such employees, that the dues of the Avondale Federation of Teachers be deducted from their wages although it grants that privilege to members of another labor organization.

(b) (1) It has refused to permit the Avondale Federation of Teachers or its members to freely use the internal mail system and faculty bulletin boards for the purpose of distributing and displaying its notices, bulletins and information releases to the professional employees of the Employer and its members.

(2) It refused to permit individual members of representatives of the Federation to insert Federation materials in the teachers' mailboxes.

(3) It refused to permit packages containing Federation materials from being delivered from one school to another for distribution within the internal mail system.

(4) It removed Federation materials from teachers' mailboxes and from mailboxes of Federation members when placed in such boxes directly by members or representatives of the Federation.

(5) It refused to deliver Federation materials mailed in packages by U.S. Mail to teachers in the several schools after opening said packages, said materials having the individual teachers' names imprinted thereon.

(6) It refused to permit letters from the Federation and other individuals, containing Federation materials or suspected Federation materials to be delivered from school to school through the internal mail system or to be placed in the teachers' mailboxes.

(7) That on February 21, 1967, Federation materials mailed in the U.S. Mail to the individual members were refused by the agents and administrators of the System and returned to the U.S. Post Office; in one school where the letters had been actually placed in the teachers' mailboxes, such letters were then removed and returned to the U.S. Post Office; that such action was admitted to the President of the Federation by a Principal and by an Assistant Superintendent.

(c) It refuses to permit the Avondale Federation of Teachers or its members to use the school premises for meetings of the Avondale Federation of Teachers.

Additional and related charges, numbered (d), (e) and (f) were withdrawn at the conclusion of the hearing.

The basic facts:

On January 11, 1966, following a representation election in which AFT participated, the Labor Mediation Board certified AEA as the exclusive bargaining agent for all teachers in the Avondale District. Prior to and during the election contest, the School District, by resolution, treated the two rival organizations with a carefully-guarded equality in terms of organizational opportunities. Both were allowed to have members' dues deducted from pay checks. Both were allowed use of school facilities for purposes of holding meetings and posting notices and other campaign materials.

After the election the Respondent adopted a stricter policy with regard to organizational activity on the part of AFT. On September 6, 1966, AEA and the Respondent executed a collective bargaining agreement for the ensuing school year. This agreement provided for the checkoff of dues in favor of AEA but made no provision for AFT checkoff. The agreement provided for posting of organization material on an official bulletin board and for AEA's right to use of meeting rooms. AFT has been allowed to erect its own bulletin board in at least one school, where such a request was specifically made. Efforts by AFT to have its organizational publications distributed

via the inter-school mail delivery service have been blocked by the Respondent. Generally speaking, these publications have been severely critical of AEA and its performance as bargaining agent for Avondale teachers.

Analysis and conclusions

While the Respondent and AEA introduced evidence tending to contradict the charges, it may be fairly concluded that the fundamental facts asserted in the charges are substantiated by the record. The issue raised by these facts is whether an employer is prohibited by PERA Section 10 from favoring the majority representative by such disparate treatment. Section 11 of PERA provides in pertinent part as follows:

> "Representatives designated or selected for purposes of collective bargaining by the majority of the public employees in a unit appropriate for such purposes, shall be the exclusive representatives of all the public employees in such unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment or other conditions of employment, and shall be so recognized by the public employer..."

The import of Section 11 is that the majority rules in determining a bargaining agent and, conversely, that the organization which loses a representation election may not be accorded any sort of status as spokesman for its supporters. For a school board to bargain with the defeated organization as to its members would be akin to a foreign government negotiating a treaty with a defeated presidential candidate. Here, AEA has been, at all times material to this case, the exclusive representative. This means that, as a matter of law, AEA speaks for every teacher in the system and AFT speaks for absolutely none (so far as the school board is concerned).

Checkoff of dues, use of bulletin boards and the faculty mail service, and use of school rooms for meetings are not rights implicitly guaranteed to all labor organizations. The employer may concede such conveniences either through collective bargaining or on its own motion. Where a valid question concerning representation has been clearly raised, the employer may not discriminate between rival organizations as to these conveniences. Where, as here, the question of representation has been resolved in favor of one of two rival organizations, Section 11 of PERA becomes operative and the organizations need not, indeed may not, be treated as equals in the eyes of the employer. Eastern Michigan University, C67 K23, 1967 Labor Opinions 384; Bentor Harbor Board of Education, C65 K20, 1966 Labor Opinions 334; Melvindale-Northern Allen Park School District, C66 K57, 1967 Labor Opinions 167. The employer's duty to bargain with the statutory bargaining agent includes "the negative duty to treat with no other." N.L.R.B. v. Jones & Laughlin Steel Corporation, 301 U.S. 1, 44; Wyckoff Heights Hospital, 27 NYSLRB 75, 79, 55 LRRM 1291 (1964).

The Wisconsin Employment Relations Board has dealt with the problems posed in this case. In a declaratory ruling in Milwaukee Board of School Directors, Case V, No. 9836 DR-1, Decision No. 6833-A, issued March 24, 1966, the Wisconsin Board held as follows:

> That the Milwaukee Board of School Directors may, under Sec. 111.70, Wisconsin Statutes, grant, through collective bargaining, to the certified exclusive collective bargaining representative for the teaching staff, the exclusive use of the following privileges, under circumstances where the use of such privileges has been accorded to other organizations representing members of the teaching staff prior to the certification of the exclusive collective bargaining representative:
>
> a. Payroll deduction of dues, upon voluntarily executed authorization by individual teachers in favor of the exclusive collective bargaining representative, where such an exclusive obligation is reflected in a resolution or collective bargaining agreement.
>
> b. The posting of notices and other appropriate materials on school bulletin boards, in the performance of its function as the exclusive collective bargaining representative of the teaching staff.
>
> c. The use of teachers' mailboxes for the distribution of notices and other appropriate materials when necessary to perform its function as the exclusive collective bargaining representative of the teaching staff.

The undersigned adopts the reasoning and conclusion of the Wisconsin Board. In my estimation, where one organization is the settled exclusive representative under the statute, a rival organization may be denied all organizational conveniences or advantages except those which are essential to communicating with employees, such as the right to solicit membership during non-working hours on the premises and the right to handbill or distribute literature at certain times and places. The conveniences involved in this case may be denied entirely during an organizing campaign. Therefore, they may be denied to AFT after its election loss. The simultaneous grant of such conveniences to AEA is consistent with Section 11 of PERA and AEA's duty to fairly and impartially represent all teachers, even the AFT dissidents. Such conveniences help the exclusive representative to communicate with the people it represents. That is essential to good representation. Armco Steel Corporation, 148 NLRB 1179. See also Armco Steel Corporation v. N.L.R.B., 344 F2d 621, 624 (CA 6, 1965) 59 LRRM 2077. The brief of AEA succinctly sums up the case in observing that the winning organization, once it has negotiated a favorable contract, need not carry the minority organization on its back. I would argue only with the connotation in the word "minority."

Legally speaking, absent a newly-raised question of representation, the losing organization does not continue to "represent" a "minority"; it represents no one, because the winning organization legally represents and speaks for every employee in dealings with the employer regarding salaries and conditions of employment.

Recommended Order

On the basis of the above findings it is recommended that the Board enter an Order dismissing the charges in their entirety.

MICHIGAN LABOR MEDIATION BOARD

James R. McCormick
Trial Examiner

Dated: April 23, 1968

Negotiation Agreements

MASTER CONTRACT AGREEMENT

Between the

Kenosha Board of Education

and the

Kenosha Education Association (NEA)

Effective July 1, 1968 to June 30, 1969

KENOSHA UNIFIED SCHOOL DISTRICT NO. 1

Kenosha, Wisconsin

PROFESSIONAL NEGOTIATION AGREEMENT

I. Preamble

The Board of Education of the Kenosha Unified School District and the Kenosha Education Association agree that the educational welfare of the children of the district is paramount in the operation of the schools. The parties further agree that the development and fulfillment of educational programs of the highest quality require harmonious working relationships among the board, the administrative staff and the teaching staff. In order to promote maximum utilization of the ability, experience, and judgment of all parties sharing responsibility for the quality of instruction in the Kenosha Unified District, the parties do hereby agree as follows:

II. Definitions

As used in this agreement:

A. Board shall mean Board of Education of the Kenosha Unified School District.

B. Superintendent shall mean the Superintendent of Schools of the Kenosha Unified School District.

C. Association shall mean the Kenosha Education Association.

D. Joint Negotiations Committee shall mean the committee composed of three board members, three Association representatives, a five member advisory committee composed of teachers selected by the Association, and a five member administrative staff advisory committee including the Superintendent of Schools and/or the Deputy Superintendent of Schools to be selected by the Board of Education.

E. Teaching Personnel shall mean the certificated teaching employees of the Board.

F. Consultant shall mean a resource person qualified by training and/or experience to advise on problems being considered by the Joint Negotiations Committee. Said consultant may or may not be an employee of the Board and may be called upon by either party.

III. Recognition

The Board and the Association recognize their responsibilities toward each other and to the community for negotiating in good faith to reach agreements which are mutually satisfactory.

The Board recognizes that teaching is a profession, that members of this profession have specialized educational qualifications, and that their participation on matters relative to the professional services of teachers is important to the success of school programs.

The Association recognizes the members of the Board of Education as elected representatives of the people and further recognizes the legal authority of Board Members for district policy decisions and the Superintendent for the operation of the district.

The Board recognizes the Kenosha Education Association as exclusive representative of all certified teaching personnel of the district.

Exclusive recognition shall entitle the Association to the use of school buildings, bulletin boards, and teacher mailboxes in the performance of its obligations as the majority representative of the teaching personnel.

IV. Principles

A. Obtaining Objectives - The process described in this negotiation agreement is dependant on mutual understanding and cooperation. It therefore requires a free and open exchange of views with all parties participating in negotiations leading to policy decisions by the Board of Education.

B. Membership in Organizations - Membership in any organization shall not be required as a condition of employment.

C. Joint Negotiations Committee - Three members of the Board selected by the Board and three representatives of the Association selected by the Association shall comprise the Joint Negotiations Committee. Association representatives shall be certified to the Board by the president of the Association.

D. Subjects of Negotiation - The Joint Negotiations Committee shall consider such matters of mutual concern as salaries, hours, and conditions of employment.

V. Procedures

A. Directing Requests - A request from the Association for the initial meeting of the Joint Negotiations Committee for consideration of the Salary and Welfare Agreement shall be made in writing directly to the Board President. A similar request from the Board shall be made in writing to the President of the Association.

Within fourteen (14) days of the date of the request, a mutually convenient time and place for a meeting shall be set by the Joint Negotiations Committee. The meeting will occur within twenty-one (21) days from the date of the request.

B. In order that the negotiations may be conducted in an orderly manner, each group shall be represented by a Chairman. It shall be the responsibility of the Chairmen to open the meeting, to control, and to conclude the meeting. Negotiating sessions shall be of not more than two hours duration unless an extension of time is mutually agreed upon. A subsequent meeting date shall be established prior to the conclusion of each meeting if there is further business to conduct.

C. Minutes - Minutes of each session shall be kept by the Secretary of the Board acting in an official capacity. Ten (10) copies of the minutes shall be mailed to the Association Office in care of the Executive Secretary. A copy of the minutes shall be sent to each member of the Board and Administrative Staff Advisory Committee.

D. Meetings - Additional meetings shall be agreed upon by the Joint Negotiations Committee as may be necessary to complete consideration of agenda items. The presidents of the Board and Association will be responsible for notifying their representatives of scheduled meetings.

E. Assistance - Consultants may be called upon by either the Board or the Association for advice or information on matters being considered by the Joint Negotiations Committee. The total number of participants representing the Board or the Association shall not exceed ten for either group for any one session.

F. Exchange of Information - The Board agrees to furnish the Association, upon reasonable request to the Superintendent, such information as available which will assist the Association in developing intelligent, feasible and constructive proposals on behalf of teachers, students, and the school system.

G. Study Committees - The Joint Negotiations Committee, by mutual agreement, may appoint ad hoc study committees for research, study, and development of reports. Such committees shall report their findings only to the Joint Negotiations Committee.

H. Proceedings during Negotiations - Negotiations shall be conducted in meetings which are closed to the press and to the public. Until all procedures under the terms of this Agreement have been exhausted, no information, other than that of a final signed agreement arrived at through negotiations, shall be made public by either the Association or the Board without the approval of both parties. This does not preclude keeping the teaching personnel and the Board informed, on a confidential basis, as to progress of negotiations.

I. Procedure in the Event of an Impasse - When an impasse has been reached during negotiations, the matter will be submitted to a Board of Review within thirty days upon the request of either party to the other. In no event shall the disputed matter(s) be submitted to the Board of Review until at least three months or ten meetings have elapsed after the commencement of negotiations. The Board of Education will name one advisor and the Association will name another. A third member, who will act as chairman, and who is not a member of either party, will be selected by the first two members. If the first two members cannot agree on a third member, the State Superintendent of Public Instruction will then be requested to appoint a third member. The Board of Review shall report recommendations for settlement within a reasonable period of time set by the two negotiation parties - after studying the facts, proposals, counter-proposals, and other pertinent information in an attempt to reach a type of agreement that is acceptable to both parties. Actions of the Board of Review shall be mediatory and shall not be disclosed to the public or to the press.

J. Costs - Costs and expenses incurred in securing and utilizing the services of a consultant are the responsibility of the party engaging this service. Costs and expenses of an advisor named by either party shall be borne by that party. Costs and expenses incurred in securing and utilizing the services of members of the Board of Review shall be shared equally by the Board and the Association.

VI. Agreement

When a substantive agreement is reached, it shall then be made in writing and submitted for ratification to the Board and to the Association. When approved by both parties, it shall be signed by their respective presidents and shall be entered into the official minutes of the Board. Thereupon, the terms of the agreement shall be incorporated into Board policy.

If any sections of this agreement or any addenda thereto should be held invalid by operation of law or by any tribunal of competent jurisdiction, or if compliance with or enforcement of any sections or addenda should be restrained by such tribunal, the remainder of this agreement and addenda thereto shall not be affected thereby, and the parties shall enter into immediate negotiations for the purpose of arriving at a mutually satisfactory replacement for such (invalid) section(s).

VII. Amendment

If either the Association or the Board desires change(s) in this agreement, the President of the group desiring change(s) shall notify the President of the other group in writing. If the other group agrees to the necessity of the change(s), the proposed amendment(s) shall become agenda items for negotiations and are final when ratified by the Board and the Association. By mutual consent the effective date of such amendments may be set prior to the completion of the current agreement year.

VIII. Distribution

Teachers shall receive a copy of the professional Negotiation Agreement and the Teacher Salary and Welfare Agreement upon receipt of their individual contracts, said documents to be furnished by the Board.

IX. Grievance Procedure

A. Definitions

1. A "grievance" is a claim based upon an event or condition which affects the welfare and/or conditions of employment of a teacher or group of teachers and/or the interpretation, meaning or application of any of the provisions of this agreement of any subsequent agreement entered into pursuant to this agreement.

2. An "aggrieved person" is the person or persons making the claim.

3. A "party in interest" is the person or persons making the claim, any person who might be required to take action in order to resolve the claim, and the Chairman of the Professional Rights and Responsibilities Committee (hereafter called the PR&R Committee) or his designee.

B. Purpose

1. The purpose of this procedure is to secure, at the lowest possible administrative level, equitable solutions to the grievance(s) which may arise. Both parties agree that these proceedings will be kept as informal and confidential as may be appropriate at any level of the procedure.

2. Nothing herein contained will be construed as limiting the right of any teacher having a grievance to discuss the matter informally with the appropriate member of the administration at level one, and having the grievance adjusted at level one without intervention by the Association, provided the adjustment is not inconsistent with the terms of this Agreement.

C. Procedure

Since it is important that grievances be processed as rapidly as possible, the number of days indicated at each level should be considered as a maximum, and every effort should be made to expedite the process. The time limits specified may, however, be extended by mutual consent.

In the event a grievance is filed which might not be finally resolved under the time limits set forth herein by the end of the school term, and which if left unresolved until the beginning of the following school term could result in irreparable harm to a party in interest, the time limits set forth herein will be reduced so that the grievance procedure may be exhausted prior to the end of the school term or as soon thereafter as is practicable.

Any problem(s) involving teachers, or the Kenosha Education Association, concerning conditions of employment contained within the agreement shall be resolved in the following manner:

1. Level One. The teacher(s) involved shall, within five (5) school days of the grievance, go first to his immediate supervisor by himself, or with a representative of the PR&R Committee, in an attempt to solve the grievance.

2. Level Two. (a) If the aggrieved person(s) is not satisfied with the disposition of his grievance at Level One, or if no decision has been rendered within five (5) school days after presentation of the grievance, he may file the grievance in writing with the Chairman of the Association's PR&R Committee within five (5) school days after the decision at Level One or ten (10) school days after the grievance was presented, whichever is sooner. Within five (5) school days after receiving the written grievance, the Chairman of the PR&R Committee will refer it to the Superintendent of Schools.

(b) The Superintendent will represent the administration at this level of the grievance procedure. Within five (5) school days after receipt of the written grievance by the Superintendent, the Superintendent or his designee will meet with the aggrieved person and the Chairman of the PR&R Committee or his designee in an effort to resolve it.

(c) If a teacher does not file a grievance in writing with the Chairman of the PR&R Committee and the written grievance is not forwarded to the Superintendent within thirty (30) school days after the teacher knew or should have known of the act or condition on which the grievance is based, then the grievance will be considered as waived.

3. Level Three. (a) If the aggrieved person is not satisfied with the disposition of his grievance at Level Two, or if no decision has been rendered within five (5) school days after he has first met with the Superintendent or his designee, he may file the grievance in writing with the Chairman of the PR&R Committee within fifteen (15) school days after the grievance was submitted at Level Two. Within five (5) days after receiving the written grievance, the PR&R Committee will determine whether to refer the grievance to the Board of Education.

(b) The Board will meet in executive session at its next regularly scheduled meeting to consider all grievances which have been submitted to it since its last such meeting. Any party in interest shall have the right to appear before the Board and be heard.

THIS AGREEMENT IS MADE and entered into as of the 15th day of January, 1968, by and between the Kenosha Board of Education, Kenosha Unified School District No. 1, Kenosha, Wisconsin, and the Kenosha Education Association, for a term of one year from the date hereof or until a new agreement is reached.

KENOSHA EDUCATION ASSOCIATION	KENOSHA BOARD OF EDUCATION
_____ President	_____ President

KENOSHA UNIFIED SCHOOL DISTRICT NO. 1

Kenosha, Wisconsin

TEACHER SALARY AND WELFARE AGREEMENT

Pursuant to the Professional Negotiation Agreement existing by and between the Kenosha Board of Education, Unified School District Number One, and the Kenosha Education Association, acting as the officially certified and exclusive collective bargaining representative for certified teaching personnel, as adopted by the Board of Education at its regular monthly meeting on January 15, 1968, the following agreement on teacher salaries and working conditions, coming as a result of negotiations between the parties to the agreement and representing mutually satisfactory conclusions thereof, is hereby promulgated as governing the relationships indicated herein between the Board of Education at its regular monthly meeting on January 15, 1968, the following agreement on teacher salaries and working conditions, coming as a result of negotiations between the parties to the agreement and representing mutually satisfactory conclusions thereof, is hereby promulgated as governing the relationships indicated herein between the Board of Education and the teaching staff of the Kenosha Public Schools, effective July 1, 1968, except as otherwise noted.

I. WORKING CONDITIONS

A. Class Size

1. Every reasonable effort will be made to maintain an optimum class size of twenty-five and a maximum class size of twenty-nine, in academic subjects, at the elementary school level.

2. Every reasonable effort will be made to maintain an optimum class size of twenty-five and a maximum class size of twenty-nine, in academic subjects, at the secondary school level. The foregoing standards are subject to modifications for educational purposes or specialized or experimental instruction.

3. Every reasonable effort will be made to maintain an optimum class size of the following special subject classes, in the secondary school, with a maximum of three (3) pupils above the optimum class size.

Industrial Arts (Junior High Woodworking)	21	Physical Education	40
Industiral Arts (All other)	22	Music (academic)	30
Art	30	Home Economics	25
Drafting	30		

The number of students per class will not exceed the number of pupil stations available.

4. In areas of high population mobility, or where special considerations are present, the class size indicated herein may be revised to fit the particular situation.

5. Every reasonable effort will be made to keep the number of split grades to a minimum and to assign fewer students to split grade classes than to single grade classes.

B. Teaching Hours and Teaching Load

1. Teaching hours

a. All teachers are expected to be in their respective rooms or assigned places at least fifteen minutes before the time for the tardy signal for each session. Teachers are expected to be present and performing their duties during the times that pupils are required to be there according to the hours of school as presently established by the Board of Education. Teachers shall be available for a period of thirty (30) minutes after school dismissal except in those schools which have closed noon hours.

b. Teachers shall be required to attend staff meetings at the call of the Principal. Every reasonable effort will be made to limit such meetings to the following:

1. One day of each month for building meetings called by the principal of each building;

2. One day of each month for department meetings or special group meetings.

c. The minimum duty free lunch period for teachers will be thirty (30) minutes.

d. All secondary schools will have a closed noon hour as soon as adequate lunch facilities can be made available. Noon hour schedules will be worked out by the staff of the school under the direction of the principal whenever changes from an open to a closed noon hour are contemplated. The only exception to this policy will occur in the case of the opening of a new building. Under such circumstances, teachers will know the type of noon hour to be in effect when they apply for transfer to the building.

2. Teaching load

a. Junior high school level

1. The normal teaching load shall include the equivalent of twenty-five (25) teaching periods per week.

2. The normal teaching load shall include no more than two (2) distinct teaching preparations. Distinct preparations shall be defined as preparations for classes of different grade levels, or very different ability levels, or different subject areas.

3. The normal teaching load shall include at least the equivalent of one preparation period per day.

4. The normal teaching load shall include five periods per week to be used for work in special assigned areas not involving the direct supervision of students. Special assigned areas may include:

a. Curriculum planning

b. Lab preparation

c. TV and special program preparation

d. Conferences

e. Committee assignments

5. Through mutual agreement between a teacher and the building principal, the teaching load may consist of six teaching periods in lieu of the normal five teaching periods and one special assignment period.

6. The normal teaching load shall include an activity or study hall assignment in schools where activities are scheduled during the school day.

7. It will be normal to have a homeroom assignment in those schools operating on an open noon hour.

b. Senior high school level

1. The normal teaching load shall include the equivalent of twenty-five (25) teaching periods per week.

2. The normal teaching load shall include no more than two distinct teaching preparations. Distinct preparations shall be defined as preparations for classes of different ability levels, or different subject areas.

3. The normal teaching load shall include at least the equivalent of one preparation period per day.

4. The normal teaching load shall include a homeroom or equivalent assignment.

c. Teacher participation in extra-curricular activities outside of the normal teaching hours will be considered voluntary.

II. TEACHER ASSIGNMENT

A. Assignment of teaching field

In accordance with past and present practice, teachers shall not be assigned, except temporarily and for good cause, outside the scope of their teaching certificate or their major or minor field of study.

B. Posting of vacancies

In accordance with past and present practice, lists of vacancies existing after the 15th of April of each year shall be posted regularly in each building unit and in the Office of the Kenosha Education Association, so that teachers desiring reassignment may be advised of open positions.

C. Advisors to new staff

Every reasonable effort shall be made, during the school year, to request experienced teachers to act as advisors to new members of the staff on a voluntary basis.

D. Teacher schedules

1. Teachers shall continue to be notified in writing of any change in their programs and schedules for the ensuing school year, including the schools to which they will be assigned, the grades and/or subject they will teach, and any special or unusual courses or assignments that they will have prior to the close of the school year.

2. In arranging schedules for the teachers who are assigned to more than one school, every reasonable effort will be made to limit the amount of inter-school travel. Such teachers shall be notified of any change in their schedules as soon as practicable.

E. Promotions

All vacancies in promotional positions, including specialists and/or special projects teachers, excepting the position of superintendent, shall be filled pursuant to the following procedure.

1. Such vacancies shall be adequately publicized which shall mean as a minimum that a notice shall be conspicuously posted in every school clearly setting forth a description of and the qualifications for the position, including the duties and salary.

2. Such notice shall be posted as far in advance as possible, ordinarily at least 30 days before the final date when applications must be submitted, and in no event less than two weeks before such date.

3. Teachers who desire to apply for such vacancies shall submit their applications in writing to the Office of Personnel within the time limit specified in the notice.

III. SALARIES

A. 1968-1969 Teacher salary schedule

The basic salary schedule for all persons covered by this agreement is set forth in Appendices "A" and "B" which are attached hereto and made a part hereof.

B. Alternate Compensation Plans

One of two alternate compensation plans, known as Option A and Option B, will be made available to each teacher. Under Option A the teacher's contract salary is divided into twenty payments, with 1/20th of the salary being paid on each designated pay period during the school year. Under Option B the teacher's contract salary is also divided into twenty payments to be made on each designated pay period during the school year. Under Option B, however, each of the first nineteen payments will be equal to 1/24th of the teacher's contract salary, while the twentieth payment will be equal to 5/24ths of such salary. The teacher will be asked to indicate his preference at the time of the signing of the teaching contract with no changes in the compensation plan permitted during the duration of the contract.

C. Extra-curricular compensation

Extra-curricular personnel shall be compensated as set forth in Appendix "C" which is attached hereto and made a part hereof.

D. Teacher substitutes

If a teacher is required to act in the capacity of a substitute teacher, that teacher will receive compensation of $5.00 for each period taught in addition to the teacher's regularly assigned duties.

E. Credit for military service

Credit will be given on the salary schedule for military service up to a maximum of three (3) years.

IV. FRINGE BENEFITS

A. Inservice travel account

A minimum of $10,000 will be included in the 1968-69 school budget for the purpose of partially reimbursing teachers authorized to attend workshops and conferences related to their teaching assignment.

B. Group health insurance

1. The school district shall continue to provide on a fully paid basis, hospital and surgical insurance to

all personnel subject to this agreement at least comparable to that provided in the school year 1967-1968.

2. The school district shall continue to pay teacher group health and hospitalization insurance for the duration of the annual contract, after sick leave has been exhausted, provided, however, that the teacher shall have been on duty for at least one day after the opening of schools during the contract year.

C. Sabbatical leave

1. Purposes: The underlying philosophy of the sabbatical leave is to increase the quality of teaching and to gain enriching and broadening experience by professional study and research. Major consideration must be given to the benefits which will accrue to the pupils and to the community, through the individual teacher's personal growth.

2. Sabbatical Leave Committee: All applications for leave shall be reviewed by a sabbatical leave committee appointed by the Superintendent of Schools and composed of the Deputy Superintendent, two additional members of the administration, and three teachers. The suggestions of the committee shall be made to the Superintendent, who shall make recommendations to the Board for final approval.

The committee shall be so structured as to provide for staggered terms. Membership shall be for three years, with the provision for an extension of one three-year period, whereupon the member shall retire from the committee. From the inception of the committee, two members, one from the administration and one from the teaching staff, shall retire upon the completion of one year's service. Appointment of new members to the committee shall be by the Superintendent.

3. Quota: Not more than one (1%) per cent of the teaching staff shall be granted sabbatical leave in any one full academic year.

4. Eligibility: An applicant for a sabbatical leave must be a degree-holding teacher who has served in the school system for no less than five (5) consecutive years preceding the leave and must not have reached his sixtieth birthday at the time of application.

5. Requirements: An applicant who wishes to undertake formal study shall agree to meet the minimum requirements of the institution of higher learning which he plans to attend. When the first half of the sabbatical leave has been completed, the teacher shall request that a progress report be submitted to the committee by a representative of said institution. At the conclusion of the leave, evidence of successful completion of the study program, in the form of a certified transcript of work taken and the grades earned, shall be submitted to the Superintendent.

6. Length of leave: A sabbatical leave may be granted for a period of one full academic year. Recipients of sabbatical leaves must return to the school system for not less than two complete years after returning from such leave and, prior to the inception of such leave, shall furnish the district a suitable bond or collateral to indemnify the school system against loss if this condition is not met. The teacher shall bear the expense of the bonding initially, but the school district will refund the cost of bonding after the recipient has returned and has served in the school system for two years. After one year of such service, and where professional advancement is involved, a teacher may leave the system without forfeiture of bond but, in this instance, refunding of bond premium will not be made.

This provision will not apply when, for physical reasons or other circumstances beyond his control, the teacher is incapable of further service. In such case, the teacher shall submit to the Superintendent of Schools a written statement from a licensed physician indicating physical incapacity.

7. Application procedure: Following consultation with his immediate supervisor, the applicant shall secure a sabbatical leave form from his principal or department head. This form must be completed and filed with the Chairman of the Sabbatical Leave Committee by March 1st of the year preceding the leave. The Committee will submit its recommendations to the Superintendent by April 1st annually. (Appendix E)

8. Determinants of Sabbatical Leave: In order that all applicants be given equal consideration, the following criteria will be considered in selecting the candidates for sabbatical leave: (a) evidence of acceptance of the teacher's program or project by the institution offering advanced study or research; (b) merit of objectives for sabbatical leave; (c) years of teaching experience in the Kenosha Public Schools; (d) previous leaves; (e) reasonable distribution of applicants by schools; (f) interview with the Sabbatical Leave Committee; and (g) teaching needs within the school system.

9. Rights and privileges: A teacher who is granted a sabbatical leave shall retain all rights of tenure, retirement, insurance, and salary step placement attained prior to the sabbatical leave, and accrued sick leave. After completion of the sabbatical leave, the teacher will be placed on the salary schedule one step higher than when he left, e.g. a teacher on the sixth step when he applies for sabbatical leave, shall be placed upon the seventh step when he returns. Sick leave will accrue during the time of the sabbatical leave.

10. Accident and illness, or other termination, of the sabbatical leave: In case of injury to, or other illness of the teacher during the leave, which prevents his completing the purpose of the leave, the sabbatical leave, including compensation, will be terminated and all provisions for sick leave will then apply. These provisions will take effect immediately following notification of the Chairman of the Sabbatical Leave Committee, verified by a doctor's report. Upon release by a medical doctor, the teacher will return to regular teaching duty for the remainder of the school year, to be assigned as needed at the discretion of the Superintendent. The subsequent year he will be reassigned as if he had completed the sabbatical leave.

If the teacher is unable to continue the purpose of the sabbatical leave for reasons other than sickness or injury, he will notify the Superintendent and will return to regular duties as assigned.

11. Other employment or grants and fellowships: During the period of sabbatical leave, a teacher may engage in remunerative employment and/or may accept grants or fellowships, if all other provisions of this agreement are met and such employment, grant, or fellowship does not adversely affect the purposes of the sabbatical leave.

12. Compensation: Compensation for a teacher on sabbatical leave shall be $5,000. Payments shall be made to the applicant in accordance with payroll procedures as they apply to all teaching personnel.

V. GENERAL

A. Alteration in Compensation Plans

Requests or proposals from the teaching staff for a check-off system are to be made to the Board through the Association as the certified bargaining representative for the teaching staff.

B. Alterations in the school calendar

Requests or proposals from the teaching staff for alterations in the annual school calendar, e.g., teacher conventions, are to be made to the Board through the Association as the certified bargaining representative for the teaching staff.

C. The Board shall not discriminate in any way against any teacher by reason of his membership in or participation in the activities of any teachers' association.

D. The Board will provide the Association with an advance copy of the agenda for each official board meeting.

E. All existing school policies affecting teachers as defined by the Professional Negotiation Agreement and the Teachers' Salary and Welfare Agreement, unless changed by this contract, shall remain unaltered until changed by mutual consent.

F. The school calendar for each ensuing school year shall be a matter of negotiation between the Association and the Board pursuant to the Wisconsin Employment Relations Commission ruling.

G. The School calendar for school year 1968-1969 is set forth in Appendix "D".

VI. TEACHER TENURE

The following changes are made in the existing Board policies concerning the attainment of teacher tenure status and affect all teachers employed for the 1968-69 school year and thereafter:

A. A degree teacher with two or more years of teaching experience prior to employment in the Kenosha School District shall be granted tenure status when he has been employed in the District for two full consecutive school years and been approved for further employment.

B. A degree teacher with less than two years of teaching experience prior to employment in the Kenosha School District shall be granted tenure status when he has been employed in the District for three full consecutive school years and been approved for further employment.

C. A non-degree teacher with three or more consecutive years of teaching experience in the Kenosha School District shall be granted tenure status when he has been employed in the District for one complete school year after he attains a degree and has been approved for further employment.

VII. NON-TEACHING DUTIES

A. The Board and the Association acknowledge that a teacher's primary responsibility is to teach and that his energies should be utilized to this end only. Therefore, continuing efforts will be made to reduce the clerical responsibilities assumed by teachers.

B. The Board will continue a plan for the collection of fees at the elementary level, as a means of alleviating the clerical load for elementary teachers.

VIII. REHIRING OF TEACHERS WITH RETIREMENT STATUS

Teachers eligible for retirement at age 65, but rehired, shall be appropriately placed on the salary schedule; they shall maintain sick leave benefits which have accrued previous to the time at which they reach retirement status.

IX. USE OF SCHOOL FACILITIES

A. The Association, in the performance of its obligations as negotiating agent for teachers, will have the right to use school buildings for meetings without cost up to 5:00 P.M. on regular school days. At other times the Association shall pay custodial costs only for such use. The principal of the building will be notified in advance of the time and place of all such meetings.

B. The Association, in the performance of its obligations as negotiating agent for teachers, shall have the right to place notices, circulars, and other material on bulletin boards designated for teacher use and in teachers' mailboxes.

C. It is expressly understood that no member of the administration will assume responsibility for the posting or distribution of materials for the Association or any other teacher organization.

X. PAYROLL DEDUCTIONS

A. The following voluntary payroll deductions will be made:

1. U.S. Savings Bonds
2. Kenosha County United Fund
3. Tax sheltered annuity through the Wisconsin Teacher Retirement Fund
4. Group Life Insurance
5. Kenosha Teachers Credit Union

B. An amount to cover the combined dues of the Kenosha Education Association, Wisconsin Education Association, and the National Education Association will be deducted from the salary of each teacher who authorizes such a deduction. The administration of such deductions will be handled in the following manner:

1. Deductions will be made once a month. The amount of the deduction will be established at the time of enrollment. There will be one standard deduction, except for those who are life members.
2. The monthly deduction will be made only on the first payroll check of each month, beginning in October of each year.
3. If a member has no earnings to be paid the first payroll check of the month, no deduction will be made for that month.
4. The member will have to make his own arrangements for direct payment of his dues if he has no pay check on the first pay period of any month.
5. It shall be the member's responsibility to see that the deduction is taken from his check on the first pay period of any month.
6. Any errors should be reported immediately by the teacher to the Treasurer of the Kenosha Education Association who will contact the School Finance Office.
7. The dues withheld will be remitted by the School Finance Office to the Treasurer of the Kenosha Education Association the week following the deduction. The remittance will be accompanied by a list of teachers and amounts for which deductions were made.
8. The Treasurer of the Kenosha Education Association will furnish the School Finance Office with an initial list of members who have authorized combined dues deductions and the amount to be deducted for each.
9. All subsequent additions or deletions will be forwarded <u>in writing</u> by the Treasurer of the Kenosha Education Association to the School Finance Office after obtaining necessary teacher authorization.

10. The initial list of names of teachers who have authorized combined dues deductions will be provided to the School Finance Office by the Treasurer of the Kenosha Education Association on or before September 15 of each year.

XI. TEMPORARY LEAVES OF ABSENCE

A. Absences due to personal illness

Professionally certificated personnel may be absent for personal illness up to ten (10) days in a school year with full pay. Such unused leave is cumulative up to a total of one hundred twenty (120) days.

B. Absences due to illness in family

In case of illness in the immediate family (father, mother, brother, sister, son, daughter, husband, wife, or other relative with whom the teacher may be living at the time) a teacher shall be allowed three (3) days absence with full pay in a school year. Such absence shall be charged to the sick leave as outlined above and deducted from the current of accumulated personal illness allowance.

C. Absences not chargeable to the sick leave allowance.

1. Death in family

In case of death in the immediate family (father, mother, brother, sister, son, daughter, husband, wife, or other relative with whom the teacher may be living), a regular teacher shall be allowed three (3) days with full pay, and for other relatives (grandparents. uncles, aunts, first cousins, nieces, nephews, and grandchildren) the teacher shall be allowed the day of the funeral with full pay. The above regulations shall apply equally to relatives whether by blood or marriage but no allowance with pay shall be granted for days previous to that of which the death occurs. Additional death leave will be granted at the discretion of the Superintendent of his appointed designee up to a maximum of three (3) days.

2. Military leave for duty

The Board shall grant, upon request, a military leave of absence for duty not to exceed ten school days if such leave is mandatory.

Such employee shall receive the difference between the military pay exclusive of any reimbursement for expenses other than salary and his regular school per diem rate.

3. Personal leaves

a. Two (2) days leave without pay for personal reasons. Application for such personal leave shall be made at least twenty-four (24) hours before taking such leave (except in case of emergency) and the applicant shall not be required to state the reason for taking such leave other than that he is taking it under this section.

b. One (1) day leave without pay to receive a college or graduate degree.

c. One (1) day leave without pay to attend the graduation of a member of the teacher's immediate family.

4. Appearance in legal proceedings

The Board will continue to grant time necessary for appearance in any legal proceeding connected with the teacher's employment or with the school district or in any other legal proceeding if the teacher is required by law to attend. Such approved absence will be with full pay subject to reimbursement to the Board for any fees received for required appearance.

XII. EXTENDED LEAVES OF ABSENCE

A. A leave of absence without pay of up to two (2) years will be granted to any tenure teacher who joins the Peace Corps or serves as an exchange teacher and is a full-time participant in either of such programs. Upon return from such leave, a teacher will be considered as if he were actively employed by the Board during the leave and will be placed on the salary schedule at the level he would have achieved if he had not been absent.

B. Military leave will be granted to any tenure teacher who is inducted or enlists in any branch of the armed forces of the United States. Upon return from such leave, a teacher will be placed on the salary schedule at the level which he would have achieved had he remained actively employed in the system during the period of his absence up to a maximum of three (3) years.

C. Maternity leaves of absence shall be limited to employees on tenure but in no event shall an employee be engaged in teaching during the four month period prior to confinement. In all cases of pregnancy a leave of absence and/or withdrawal from service shall be mandatory at least four months prior to the date of delivery. It shall be the duty of the employee to notify the Superintendent of the pregnancy not later than six months prior to the anticipated date of the birth of the child and to furnish a physician's certificate stating the expected period of confinement. A leave of absence, if requested, shall be without compensation and shall be taken not later than four months before the expected date of confinement. The Superintendent at his sole discretion may deny employment to a pregnant teacher at the start of a semester.

The provisions of this section, with respect to notification of pregnancy, apply to all instructional employees regardless of tenure. Such leaves of absence may be for a period extending to the end of the teaching year during which it is requested. It may be extended to include the following teaching year if desired.

Under any circumstance, a teacher who is out on maternity leave will be permitted to return to the classroom only at the beginning of a school year, i.e. September. Before the teacher returns to work after such leave of absence she shall be fit and capable of doing the work she was hired to do, and upon request shall furnish a physician's certificate to this effect.

D. A leave of absence without pay or increment of up to one (1) year will be granted for the purpose of caring for a sick member of the teacher's immediate family. Upon return from such leave, a teacher will be assigned to substantially equivalent position, as available.

E. Any teacher whose personal illness extends beyond the period compensated will be granted a leave of absence without pay for such time as is necessary for complete recovery from such illness. Upon return from such leave, a teacher will be assigned to a substantially equivalent position, as available.

F. The Board shall continue to grant all benefits to which a teacher was entitled at the time his leave of absence commenced, including unused sick leave.

G. All requests for extended leaves will be applied for and granted in writing.

XIII. VOLUNTARY AND INVOLUNTARY TRANSFERS AND ASSIGNMENTS

A. The Superintendent of Schools is responsible for the assignment of instructional staff personnel. It is, therefore, his responsibility to effect any and all trans-

fers, reassignment, or relocation involving instructional staff members. Reassignment of staff members may become necessary to meet expanding enrollments, instructional requirements, the opening of new buildings, and for other acceptable reasons, including the wishes of employees who desire to change their places of employment within the system.

When in the best interests of the school system a transfer of a teacher from one position to another is required, the teacher will be given reasons for the change as early as possible before the change is to be effected. Reasons for transfer shall be expressly understood by all concerned and the responsibility for the decision effecting the reassignment of a staff member shall rest with the Office of the Deputy Superintendent.

B. Voluntary transfers and assignments

1. During the school year the Superintendent shall post in all school buildings a list of the known vacancies which will occur during the following school year, and he shall send copies of this list to the Executive Secretary of the Association. During the summer, lists of known vacancies shall be supplied to the Executive Secretary of the Association as they arise.

2. Applications for transfer may be instituted for any instructional staff member who has achieved tenure status, and who has been in his present position for at least two years. Persons seeking transfer should obtain a teacher transfer form, complete it, and send it to their immediate supervisor for processing. A letter of application which includes a brief description of the reason for the request should accompany the form. On receipt of the application the applicant's immediate supervisor may add his approval and endorsement to the application. The application may then be referred to the administrator of the school or area wherein the applicant desires to relocate. The receiving administrator may then add his approval and his endorsement of the application. The application is then sent to the Personnel Administrator who refers it with all pertinent information to the Deputy Superintendent for action. If the application is approved, the applicant and other supervisory and administrative personnel concerned will be informed of the decision and the reassignment of the applicant will thereby be confirmed. In the event that the application for transfer is denied by any of the persons to whom it is referred, it shall be their responsibility to direct the letter of application and their request for denial to the Office of the Personnel Administrator. It will then be the responsibility of the Personnel Administrator and/or the Deputy Superintendent to investigate the reasons for the denial and rule on the request.

The following criteria shall be used as the basis for decision on the request for transfer:

(1) The instructional needs of the school system will be given first consideration in all transfer requests.

(2) The specific qualifications of the teacher or teachers requesting transfer will be reviewed and considered.

All decisions affecting personnel are subject to review, on request, by the Superintendent of Schools.

3. Vacancies created due to expansion of the present school district facilities or new positions created in the school district shall be posted as they occur.

4. The Board shall continue to carry out their present practice of posting in appropriate places and making available to the Association a systemwide schedule showing the names and new positions of all persons who have been reassigned or transferred.

5. In the determination of requests for voluntary reassignment and/or transfer, the convenience and wishes of the individual teacher will be honored to the extent that they do not conflict with the instructional requirements and best interests of the school system.

C. Involuntary transfers and assignments

Although the Board and the Association recognize that some involuntary transfer of teachers from one school to another or reassignment within a school may be unavoidable, they also recognize that frequent transfer or reassignment of teachers is disruptive of the educational process and interferes with optimum teacher performance. Therefore, they agree as follows:

1. Notice of an involuntary transfer or reassignment shall be given to teachers as soon as practicable and, under normal circumstances, not later than May 1.

2. A teacher's area of competence, and major and/or minor field of study, will be considered in determining which teacher is to be transferred or reassigned. Such teachers will be placed in a comparable position wherever possible.

3. Action on involuntary transfer or assignment shall be initiated by the proper supervisory employee to the Office of Personnel. The Office of Personnel, under the direction of the Deputy Superintendent, shall institute necessary action. This action shall include:

a. A meeting with the teacher involved in order to establish the problem and the need for action.

b. A meeting with the Personnel Administrator and the receiving administrator to explore the problem and insure a reasonable opportunity for success.

c. The request shall be sent to the Office of the Deputy Superintendent for review and approval or rejection.

XIV. TEACHER EVALUATION

A. All monitoring or observation of the work performance of a teacher will be conducted openly and with full knowledge of the teacher. Teachers will be shown a copy of any evaluation report prepared by their superiors and will have the right to discuss such a report with their superiors before it is submitted to central Administration or put in their personnel files.

B. No teacher will be disciplined or deprived or any professional advantage without just cause.

XV. TEACHER AND BUILDING FACILITIES

A. Building facilities

1. Every reasonable effort will be made to provide space in each classroom in which teachers may safely store instructional materials and supplies used in said classroom.

2. Where facilities exist the Board shall provide a teacher work area containing adequate equipment and supplies to aid in the preparation of instructional materials.

3. Every reasonable effort will be made to provide well-lighted and clean teacher rest rooms.

4. In new school building units the Board shall continue to provide a communications system so that teachers can communicate with the main office from each individual classroom.

5. Existing faculty lounges in the elementary schools and existing teacher facilities in the secondary schools will be maintained and such lounges and facilities shall be provided for in new school building units.

6. An adequate portion of all existing parking lots will be reserved for teacher parking. Accessibility will be maintained as soon as possible during inclement weather. Every reasonable effort will be made to provide adequate teacher parking at every school.

B. Teacher facilities

Where conditions permit the Board shall provide a serviceable desk and chair for each teacher.

XVI. TEXTBOOKS AND SUPPLIES

The Board will continue its endeavor to provide sufficient instructional materials to ensure each pupil will have the best educational program available to him.

XVII. SPECIALISTS

The Board and the Association recognize that an adequate number of competent specialists and/or consultants are essential to the operation of an effective educational program, and that additional specialists will be added each year as needed.

XVIII. PROTECTION

A. Teachers will immediately report all cases of assault suffered by them in connection with their employment to the school principal in writing.

B. This report will be forwarded to the Superintendent and the Board which will comply with any reasonable request from the teacher for information in its possession relating to the incident or the persons involved, and will act in appropriate ways as liaison between the teacher, the police, and the courts.

C. If civil proceedings are brought against a teacher alleging that he committed an assault in connection with disciplining a student, legal counsel to defend the teacher in such proceedings will be provided by the Board through its insurance carrier.

XIX. PERSONAL INJURY BENEFITS

A. Whenever a teacher is absent from school as a result of personal injury caused by an assault by a student, occurring in the course of the teacher's employment, the teacher will be paid his full salary for the period of such absence, and no part of such absence will be charged to his annual sick leave. Under these conditions any benefits accruing to the teacher would be remitted to the school district.

B. Insofar as the Workmen's Compensation law applies teachers will be reimbursed for the cost of medical, surgical and/or hospital services incurred as the result of any injury sustained in the course of employment.

C. The Board shall have the right to have the teacher examined by a physician designated by the Board for the purpose of establishing the length of time during which the teacher is temporarily disabled or absent from performing his duties, and the opinion of said physician as to the said period shall control.

XX. SAVINGS CLAUSE

If any sections of this agreement or any addenda thereto should be held invalid by operation of law or by any tribunal of competent jurisdiction, or if compliance with or enforcement of any sections or addenda should be restrained by such tribunal, the remainder of this agreement and addenda thereto shall not be affected thereby, and the parties shall enter into immediate negotiations for the purpose of arriving at a mutually satisfactory replacement for such (invalid) section(s).

XXI. DURATION

The provisions of this agreement will be effective as of July 1, 1968, will continue and remain in full force and effect as binding on the parties until June 30, 1969, and will be the basis for negotiations in the 1968-1969 school year.

XXII. PROFESSIONAL NEGOTIATION AGREEMENT

The Professional Negotiation Agreement dated January 15, 1968, will be the basis for negotiations on a new agreement in the 1968-1969 school year.

****

This Agreement is made and entered into as of the 6th day of June, 1968, by and between the Board of Education, Kenosha Unified School District Number One, and the Kenosha Education Association, certified collective bargaining representative for certified teaching personnel of said District.

KENOSHA EDUCATION ASSOCIATION KENOSHA BOARD OF EDUCATION

/s/ William H. Klenke
President

/s/ Frances A. Jaeschke
President

APPENDIX A

KENOSHA UNIFIED SCHOOL DISTRICT NO. I
Kenosha, Wisconsin

1968-69 KENOSHA TEACHERS' SALARY SCHEDULE

Percentage Increments of Base Salary in Each Lane

	B	B+12	B+24	MA	M+12	M+24
Base	100%	103%	106%	110%	113%	116%
1	4-1/2	4-1/2	4-1/2	4-1/2	4-1/2	4-1/2
2	4-1/2	4-1/2	4-1/2	4-1/2	4-1/2	4-1/2
3	4-1/2	4-1/2	4-1/2	4-1/2	4-1/2	4-1/2
4	4-1/2	4-1/2	4-1/2	4-1/2	4-1/2	4-1/2
5	4-1/2	4-1/2	4-1/2	4-1/2	4-1/2	4-1/2
6	4-1/2	4-1/2	4-1/2	4-1/2	4-1/2	5
7	4-1/2	4-1/2	4-1/2	4-1/2	4-1/2	5
8	4-1/2	4-1/2	4-1/2	4-1/2	5	5
9	4-1/2	4-1/2	4-1/2	4-1/2	5	5
10	4-1/2	4-1/2	4-1/2	4-1/2	5	5
11	4-1/2	4-1/2	4-1/2	4-1/2	5	5
12	4-1/2	4-1/2	4-1/2	4-1/2	5	5
13				4-1/2	5	5

APPENDIX B

KENOSHA UNIFIED SCHOOL DISTRICT NO. 1

1968-69 KENOSHA TEACHERS' SALARY SCHEDULE

	B 100%	B+12 103%	B+24 106%	MA 110%	M+12 113%	M+24 116%
Base	6600	6798	6996	7260	7458	7656
	(297)	(306)	(315)	(327)	(336)	(345)
1	6897	7104	7311	7587	7794	8001
	(297)	(306)	(315)	(327)	(336)	(345)
2	7194	7410	7626	7914	8130	8346
	(297)	(306)	(315)	(327)	(336)	(345)
3	7491	7716	7941	8241	8466	8691
	(297)	(306)	(315)	(327)	(336)	(345)
4	7788	8022	8256	8568	8802	9036
	(297)	(306)	(315)	(327)	(336)	(345)
5	8085	8328	8571	8895	9138	9381
	(297)	(306)	(315)	(327)	(336)	(383)
6	8382	8634	8886	9222	9474	9764
	(297)	(306)	(315)	(327)	(336)	(383)
7	8679	8940	9201	9549	9810	10147
	(297)	(306)	(315)	(327)	(373)	(383)
8	8976	9246	9516	9876	10183	10530
	(297)	(306)	(315)	(327)	(373)	(383)
9	9273	9552	9831	10203	10556	10913
	(297)	(306)	(315)	(327)	(373)	(383)
10	9570	9858	10146	10530	10929	11296
	(297)	(306)	(315)	(327)	(373)	(383)
11	9867	10164	10461	10857	11302	11679
	(297)	(306)	(315)	(327)	(373)	(383)
12	10164	10470	10776	11184	11675	12062
				(327)	(373)	(383)
13				11511	12048	12445

(Increments between steps shown in parentheses.)

Appendix C

1968-69 KENOSHA TEACHERS' EXTRA - AND CO-CURRICULAR COMPENSATIONS

Coaches Salary Schedule

	0 to 5 Yrs. Step #1	More than 5 Yrs. Step #2
High School		
Football		
Head Coach	$775.00	$875.00
Sophomore Coach	600.00	700.00
Assistant Coach	550.00	650.00
Trainer	300.00	375.00
Basketball		
Head Coach	775.00	875.00
Sophomore Coach	600.00	700.00
J.V. Coach	550.00	650.00
Track		
Head Coach	550.00	650.00
Assistant Coach	425.00	525.00
Swimming		
Head Coach	600.00	700.00
Assistant Coach	475.00	575.00
Wrestling		
Head Coach	600.00	700.00
Assistant Coach	475.00	575.00
Baseball		
Head Coach	550.00	650.00
Sophomore Coach	425.00	525.00
Cross Country		
Head Coach	425.00	525.00
Tennis		
Head Coach	425.00	525.00
Golf		
Head Coach	425.00	525.00
Junior High School		
Football		
Head Coach	475.00	550.00
Assistant Coach	375.00	450.00
Basketball		
Head Coach	475.00	550.00

1. No teacher shall be assigned to more than two coaching assignments in interscholastic sports in a single school year.

2. No teacher shall be assigned to a senior high school head coaching position in more than one of the following sports -- football, baseball, basketball, track, swimming, and wrestling.

3. The increment for coaching service for 5 years or more shall be applicable only for service in a specific sport or assignment.

4. All previous interscholastic athletic coaching experience in the Kenosha Public Schools shall be used in determining whether personnel are assigned to step #1 or step #2.

Appendix C (continued)

Senior High School -- Extra-Remuneration Assignments

Cheerleaders	$150.00
Debate and Forensics	$350.00
Drama Coach	$150.00
House Manager	$275.00 + $12.00 per evening for all outside activities
Assistant House Manager	$225.00 + $10.00 per evening for all outside activities
Stage Manager	$250.00 + $10.00 per evening for all outside activities
Yearbook and Newspaper Advisors	Released time

Junior High School -- Extra-Remuneration Assignments

Drama Coach	$75.00

Noon hour supervisors - compensation of $3.50 per noon hour

APPENDIX D

KENOSHA UNIFIED SCHOOL DISTRICT NO. 1

Kenosha, Wisconsin

1968-69 SCHOOL CALENDAR

August 26th-August 30th	(Monday-Friday).	Orientation of New Teachers
September 2nd	(Monday)	Labor Day
September 3rd	(Tuesday).	Staff Meetings
(All teachers at Tremper H.S. Auditorium at 9:00 A.M. - Buildings at 1:30 P.M.)		
September 4th	(Wednesday)	Pupils Report
November 7th-8th	(Thursday-Friday) . .	Convention Days
November 27th	(Wednesday-Schools Close at Noon)	
28th-29th	(Thursday-Friday).	Thanksgiving Recess
December 20th	(Friday-Close of Session)	Christmas Recess
January 2nd	(Thursday) Schools Reopen	End of Christmas Recess
February 3rd	(Monday) P.M. . . .	Teacher Institute
March 17th	(Monday) P.M. . . .	Teacher Institute
April 4th	(Friday-Schools Close at Noon) . . .	Easter Recess Begins
April 14th	(Monday) Schools Reopen. . . .	End of Easter Recess
May 30th	(Friday) Schools Closed.	Memorial Day
June 6th	(Friday) Close of Session	End of School Year

Report cards will be distributed on week following the close of the first three marking periods.

Recapitulation

*Total of Actual School Days Schools Are in Session.	180
**Credited Legal Holidays Allowed.	3
***Credited Institute Days and Convention Days.	3
	186

*Includes 4 half days counted as full days

** Legal Holidays allowed for eligibility as follows: Labor Day (1), Thanksgiving Day (1), and Memorial Day (1).

***Staff Institutes and Conventions - September 3rd (1), November 7th and November 8th (2), February 3rd (1/2), and March 17th (1/2).

SCHEDULE FOR CLOSING SCHOOL

June 3rd	(Tuesday)	Formal class instruction ends in senior high schools.
June 4th	(Wednesday)	Formal class instruction ends in elementary and junior high schools following the close of the morning session.
June 4th-5th	(Wednesday-Thursday)	Teachers work on regular schedule to complete grades, records and reports.
June 6th	(Friday - 11 A.M.)	Teachers' final checks released by principal's office subject to clearance of check-out regulations.

Appendix E

KNEOSHA UNIFIED SCHOOL DISTRICT NO.1

Kenosha, Wisconsin

Application Form for Sabbatical Leave

_____ (Date) _____ (Name: Please Print)

A. Please consider my request for sabbatical leave in accordance with the provisions and stipulations of the 1968-69 Teacher Salary and Welfare Agreement.

B. I am requesting sabbatical leave of absence for the following period of time:_____,19__, to _____.19__.

C. The outline of my proposed sabbatical leave program, including the name of the university or institution, courses and semester units, and other pertinent information, is attached hereto.

D. A written statement of acceptance of the proposed program by the university or institution is attached hereto.

E. A summary of the manner in which the above study or research will benefit the school system and the pupils of this school district is attached hereto.

Applicant	Approvals
_____ (Signature)	_____ (Principal)
_____ (Address)	_____ (Chmn., Sabbatical Leave Comm.)
_____ (School)	_____ (Supt. of Schs.)
_____ (Grade or Subject)	_____ (Pres., Bd. of Educ.)

Special Items

COLLECTIVE BARGAINING IN THE PUBLIC SECTOR

Neil W. Chamberlain*

Prepared for presentation at the 5th Annual Orvil E. Dryfoos Conference on Public Affairs, Public Affairs Center, Dartmouth College, May 25-26, 1968.

In matters of economics, it has become fashionable to speak of the "blurred line" between the public and private sectors. It is hard to know where one ends and the other begins. In matters of collective bargaining, on the other hand, the hard edge has been largely preserved. Whatever fuzziness may attach to the public or private nature of the operation, we still tend to use a binary sort to identify those who are public employees and those who are not. To those who are not (or at least to most of them), we apply one set of bargaining rules. To those who are public employees, we apply a different set.

Perhaps it overtaxes the imagination to speak of applying any set of rules to bargaining in the public service. Even if some jurisdictions have moved to codify practice, as in New York City, we can hardly say that governmental units in the United States, as a class, operate on industrial relations principles that are relatively uniform and understood. Instead, we have a wilderness of chiefly casual or undirected growth. There is no counterpart of the federal and state labor relations acts which provide a certain pattern in the private sphere. The federal Executive Order 10988 of 1962 does go some distance towards establishing a limited bargaining format for the classified civil service, but this embraces less than one-half of federal employees and confines bargaining to personnel policies and grievances, excluding all money matters and major benefits. In the states and municipalities there is only confusion or -- if one is in a euphemistic mood -- experimentation.

In some important respects one can compare collective bargaining in the public sector today with collective bargaining in the private sector 30 or 35 years ago. Problems which were a source of controversy and bitter dispute between unions and managers at that time, but which since have largely been worked out, have risen again to plague relations between unions and governments today. It is as though the law makers and law administrators can minister to others but not to themselves.

One of the most divisive issues in pre-World War II private bargaining was that of the managerial prerogative. Corporate officials intoned solemnly and repetitively that their legal obligation ran solely to the stockholders, and that they were in fact chosen by stockholder trustees to manage the company's assets in stockholder interests. How could they then consent to negotiate with an outside group, responsible to non-stockholder interests, concerning matters which affected so directly the profitability of the company? Even when the passage of time had conditioned managers to bargain with unions on wages, hours, and working conditions, they continued for a time to try to draw a line dividing subjects which were bargainable from those which were not. The latter were presumed to relate to the proper functioning of the business, and were the sole prerogative of management, of no concern to unions. The unions, for their part, refused to draw such a line. They argued that any aspect of corporate activity might conceivably affect their members so significantly that they in their turn would be abnegating their representative duty if they did not make it a subject for negotiation and for strike if necessary.

So bitterly did the conflict go that some top-flight executives of America's major corporations threatened to pull out of the system if they were forced to surrender on this matter of principle. But with the passage of time the conflict reduced to a skirmish, and what had been viewed as principle was seen as a matter of relative bargaining powers. There were no surrenders -- only settlements. What had loomed as a threat to the maturation -- and even to the survival -- of private collective bargaining receded into the background. Now whenever the monthly issue is exhumed, as it occasionally still is, the sophisticated squirm uneasily as though good taste had been violated.

Except in the public sector. There the management prerogative issue is alive and shining, and battles are waged in its name. The name, to be sure, is changed -- it is now spoken of as sovereignty -- but the principle remains the same. In Hobbesian terms, government is identified as the sole possessor of final power, since it is responsive to the interests of all its constituents. To concede to any special-interest group a right to bargain for terms which the sovereignty believes contravenes the public interest is to deny the government's single responsibility. The government must remain in possession of the sole power to determine, on behalf of all, what shall be public policy. And public policy includes the determination of what proportion of tax revenues shall be allocated for the conduct of any service, whether it be police protection or sanitation or teaching. No union can be allowed to bargain up the rates for its members, through threat or pressure, thereby curtailing what the city can afford to do in other areas. The economic concept of opportunity cost demonstrates that if sanitation workers get more, the city must skimp in providing parks or manning fire stations. It is not for the sanitation workers to manipulate the government's budget; that is a matter for the legislators on behalf of the public as a whole. If sanitation workers are unhappy at the outcome, they are not bound to stay in service. The government makes its budget, determines its rates, and fills its jobs with those to whom the rates are satisfactory. The same line of reasoning applies to other conditions of employment.

Government employers are of course willing to listen to the arguments of their employees and to take these into account in fixing their personnel and wage policies. But union pressure tactics -- the applications of private force -- are out of place in dealing with a sovereignty.

Perhaps I have stated the issue more baldly and crudely than a constitutional lawyer would do, but this is the essence of the matter. The public service is held to be different from a private profit-making organization. If the latter may be defrocked of its managerial

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prerogatives without concern, the former must remain fully vested with sovereignty if society is to survive.

I submit that this argument is as specious as any of the older myths in industrial relations which we have relegated to some cobwebby historical attic. Is it essential that every act of government, however routine or however directly affecting the interests of some special group, however misguided or ill-conceived or convenient to itself, must be protected by the invisible shield of sovereignty? Certainly it is possible to distinguish between those acts of government which involve only an operating or administrative function and those which involve the policy-making or legislative function. If sovereignty is an attribute of the latter, it need not automatically be extended to the former. The managing of the public establishment can surely be differentiated from a determination of what the public establishment shall manage.

If we permit suppliers of equipment and materials to governments to negotiate over prices and delivery terms, are we denying governmental sovereignty any less than if we permit suppliers of services to do the same? Or in the case of services, is it that we are fearful of monopoly power or excessive bargaining strength? If that is the issue, then we are dealing with matters of relative bargaining power, just as in the private sector, so that principle is not involved. Or is it that public services are so essential that we cannot permit an interruption in them? If that is the nub of the problem, it speaks only for different procedures, not an absence of them. But these are issues to which I want to return later, so I will say no more about them now. I have mentioned them here only to strengthen my case that sovereignty as an excuse not to bargain in the public sector is no more a principle than management prerogative is in the private sector, that it is chiefly a source of comfort and convenience to government officials rather than a bedrock on which society rests.

Other issues which are viewed as relics in the private sector but as lively problems in the public domain are union recognition and exclusive representation rights. The bloody strikes in the little steel industry 30 years ago were aimed at forcing management to recognize the union as a representative institution, with which an agreement could -- and should -- be negotiated. The National Labor Relations Act which was passed in 1935 had set up an election procedure intended to resolve that issue but so reluctant was management to admit that the union even existed that it sometimes required the force of a strike to secure what the law provided.

In the public sector the same reluctance is manifested today, as in the recent Memphis sanitation strike, the same affair in which Martin Luther King lost his life. Terms were not the issue there, only union recognition, beclouded it is true by the fact that it was a white government which was being asked to recognize a union composed largely of Negroes. But in the private sphere, color or no color, the recognition problem has long since been hurdled, while it still persists in some public jurisdictions.

Similarly with exclusive representation rights. That matter was laid to rest in private industry in the thirties. At first managements were willing, however reluctantly, to sign agreements with unions "for members only." This was the formula on which U.S. Steel finally came to terms with John L. Lewis, and it was considered a major union victory, despite the fact that it conferred less than the Wagner Act allowed. But by the end of that decade majority representation was an accepted principle. The union which won the backing of 51 percent of workers voting in an election was certified as the bargaining representative for all.

Many government officials remain reluctant to grant such status in public bargaining units. The "for members only" formula is the only one on which negotiations can take place even when the union is recognized. It is held that the government cannot compel a person to be represented by a union he does not want and in the control of which he does not participate -- issues which were put to rest by government itself in labor legislation which it passed applying to others.

I do not mean to imply that all government units adhere to such views. Some have moved a long way towards modernizing their labor relations. But the public sector taken as a whole reveals a tangled underbrush of just such obsolete doctrines choking the path leading to improved collective bargaining.

One other comparable difficulty I will simply mention briefly. In the great upsurge of unionism in the thirties, labor negotiators sometimes complained that they could not locate the seat of corporate authority, with which they could effectively negotiate. Contracts were more often signed then with plants than companies, and a plant manager would sometimes maintain that he had no authority to commit the company, which might well have been the case. But the local union had difficulty in reaching a distant management, and if it did it might find itself being referred back to the plant management. Sometimes it took a strike to locate those with whom an agreement could be reached. By and large that sort of shadowboxing was as much a matter of artlessness as artfulness, of inexpertise rather than game-playing, and it is seldom any longer a factor in private negotiations. But it is still a problem in the public sector, especially in the cities, where a union may get shunted around among the conflicting or overlapping authorities of a department manager, a mayor, and a city council, and where it may still at times require a strike to identify who has the capacity to make an agreement.

I have so far been talking of respects in which collective bargaining in the public sector is slowly and awkwardly traversing the same ground that private collective bargaining covered some time ago, stubbing its toes on some of the same obstacles, without much apparent benefit from the prior experience. But there are respects in which the two spheres are admittedly different, or are thought to be different, which introduce fresh problems of their own. These differences may indeed seem to render collective bargaining in the two sectors entirely noncomparable, rendering invalid those comparisons which I have just been making.

The first of these arises from the peculiar constraints imposed by the source of revenues of government as against business. When a business firm negotiates a new contract, the cost of the package can be covered from any or all of three sources: a reduction in its profits, greater efficiency (increased productivity), or higher prices on its products. A firm will bargain harder and grant less if these three sources are limited, and it will usually be more generous if these three sources are permissive. In the case of government, in contrast, it makes no profit and its productivity gains are limited since it deals primarily in services. Its primary source of revenue for the higher costs lies in raising its prices, which is to say its taxes. And that is a political act which it will take only with great reluctance. Thus one can expect that a government will tend to be niggardly with its employees to avoid the unhappy necessity of tax increases. The consequence is that, on the whole, the incomes of public employees have shared less in the general prosperity than have private incomes. It simply takes more pressure to raise the public remuneration level, given the different nature of the public employer.

There are some who are reluctant to confront this fact. They try to blunt the argument by pointing to the special advantages of public service, such as job security or

longer vacations. There are always people who prefer such benefits to more on private jobs, they say; if that were not the case, governments would have more difficulty getting people to work for them.

This argument can be faulted on two counts. Whatever special benefits may attach to certain types of public employment, the money side of the total package has not risen proportionately as much as in private employ, so that the relative position of civil servants has deteriorated. Second, the fact that people can be found for the jobs says nothing about the quality of those people -- that too may be and probably has been deteriorating in recent years.

So I return to the special constraint lying on the public sector -- that its revenues can be increased chiefly through taxes, leading public negotiators to tougher positions on the bargaining front. I am not unmindful of the fact that some unions themselves wield political influence, and have at times won what seem to be outsize increases presumably because of such influence, but these instances are not the common pattern, I am sure. In weighing certain public grumbling over higher taxes against a union membership's ambiguous pleasure over a fat settlement, most politicians would feel the scales were tipped to favor the former.

A second major dissimilarity between the public and private sectors lies in the availability of the strike. Despite the rash of walkouts of civil servants in the last few years, the doctrine remains that workers cannot strike against the government. Such state legislation as there is on public collective bargaining invariably affirms that dogma. In New York, when the Taylor Act replaced the Condon-Wadlin Act it did nothing to legalize strikes of public employees. On the contrary, it calls for fines to be levied against a striking union running for each day the strike continues. It does provide for factfinding as to a fair settlement whenever union and government officials have reached an impasse, but it does not require either party to accept the recommendation, and there is no authorization of a strike even if one or both parties reject the recommendation.

The issue of strikes in the public service has been vigorously debated, and I will not review the arguments here. There are some who feel that no strikes against the government can be tolerated, and others who believe that strikes should be treated the same in the public as in the private sector -- curtailed or controlled only when they create an emergency or threaten public health or safety, and otherwise permitted. Whatever one's views on the matter, the question of strikes against the government intrudes a special and thorny note which is absent from discussions of private collective bargaining. It is all tied up with the matter of sovereignty, and all very confused and confusing.

There is a third respect in which public sector bargaining has its own special complications. It can perhaps be wrapped up in a phrase which has gained currency and credibility -- "the sickness of the cities." When we catalogue our major social ills, most of them are traceable to the urban condition. And inevitably these social ills have their impact on the working conditions of city employees, whether we are talking about teachers confronting unruly students or perhaps equally unruly parents, or policemen and firemen called on to meet the desperate conditions created by civil disorders, or welfare workers whose duties take them into the worst of slum areas, or sanitation workers and bus drivers who must fight the almost impossible traffic congestion of the central city. The plight of our cities has made working conditions for such as these so miserable that it is small wonder they are driven to seek more of a voice concerning programs to ameliorate their lot and more remuneration for what they are called on to do.

Indeed, I am inclined to think we would make more progress in resolving problems of collective bargaining in the public sector if we concentrated first on municipal or local employment, and tried to see this less as a problem of public service generally than as part of the problem of the cities. In the remainder of my remarks I shall proceed on that basis.

If I may simply summarize now the thesis which I intend to develop a little more fully, it would take this form. A solution to how city employees can be fairly dealt with is not to be found in trying to untie, one by one, all the knots which entangle that issue -- the knots of sovereignty and exclusive representation and political constraints and right of strike -- but rather by cutting through that whole inherited snarl and trying to devise freshly a feasible and functional system of urban labor relations which falls into place alongside other urban programs. For it is clear that our cities are in need of drastic treatment, and the forms the treatment takes are bound to affect their pattern of labor relations.

To begin with, despite all the traditional American regard for home rule and despite the current renewed emphasis on decentralization as a means of focussing affirmative responsibility on those who are quick to be negatively critical, a revitalization of metropolitan civil service will not prove possible without some federal leadership. We are faced here with something which, like civil rights, so blankets the nation that to hope its massive problems can be solved by dozens of disjointed and unrelated efforts is quixotic. The federal government is needed not to impose solutions on the cities or even to assume a dominant role; it is needed chiefly as the natural governmental unit capable of coordinating the otherwise fragmented urban efforts.

It is now abundantly clear that the problems of our cities are no longer local problems. To cope with the mounting pressures that come from urban congestion, racial unrest, unwelcome technical fallout, social welfare programs with rising case loads, and all the other manifestations of urban blight requires a nationally coordinated program. Local leadership, drive, and imagination are indispensable, but they are not enough. To meet the demands which the times place upon us we cannot do without national leadership, drive, and imagination in impelling and propelling the local effort.

I will confine myself principally to labor relations aspects of the matter, even though I emphasize the holistic nature of the urban conditon. Let me begin at a simple, indeed, elemental level -- the necessity for providing some standards for adequate remuneration for the various occupational groupings common to cities. Whether some agency within the federal Department of Housing and Urban Development or some independent commission, there is a role to be played by some small body of experts which could collect and compare data from all the cities relating to pay scales, and which can compare such data with comparable jobs in private industry taking into account differences in job advantages and responsibilities. In effect, this would constitute something of a national job evaluation for the common municipal occupations.

Such a continuing survey would have several benefits. It would set meaningful benchmarks which would at least partially outflank the problem of the political unpalatability of tax increases to raise pay scales. It would expose more vividly to the citizens of any community how the remuneration which they offer their public employees compares with remuneration elsewhere, and put pressure on them to raise their sights where that is called for. That pressure comes from outside the jurisdiction, in the form of what Arthur Ross once called "coercive comparisons." And how can a municipal administration be condemned for conceding to its organized workers increases which are designed to bring them up to a standard?

The kinds of job evaluaton or rate ranges of which I am talking would not constitute a substitute for collective bargaining, but standards around which bargaining can take place. There would be no expectation of national uniformity to city pay scales, but at least an informed sense of the range within which remuneration could be expected to fall. By linking such scales to comparable private employments, with adjustments, provision would also be made for more orderly upward movement.

But this is only the start. Earlier I commented that governments, unlike business, cannot rely on increased productivity to finance higher pay scales, since governments deal chiefly in services. But that is at best a half truth. The efficiency of services can be improved, perhaps not as easily as can the manufacture of goods but enough to warrant more effort in this direction. And municipal administrations, again with appropriate federal coordination, can pool experience and research results in a continuing push to upgrade their operations. Here the coordinated effort is more likely to put pressure on the unions which may be expected to fight changes in working practices, but will find resistance less easy if there is a nationally coordinated effort to introduce changes, especially if this is accompanied by improvement in remuneration.

We would doubt, for example, that our sorely pressed police forces around the country would benefit from experimentation with new forms of organization, higher recruit requirements at higher levels of pay, improved methods of communication, and other innovations? These come with difficulty when a Policeman's Benevolent Association fights for the preservation of traditions which are, unfortunately, no answer to present needs. But with the prod of a federally coordinated national program, led by experts, it would no longer be so easy for the local PBA to charge a local administration with being uninformed or with playing political football with public safety.

With an impartial, objective, but concerned search for standards both of performance and remuneration, it would be an act of folly to allow an inherited dogma of governmental sovereignty to stand in the way of realizing their full potential. Leaving to one side the question of applicability to all municipal employees, I see no reason why arbitration should not serve as an appropriate means of resolving disputes which city authorities and unions cannot settle by negotiation. Surely one can question whether the sovereign city of, say, Cincinnati or Detroit or Seattle (I pick the names at random) should be privileged to pay its employees as little as they can get away with, regardless of how this deteriorates the quality of their services or leads to labor embroilments. Surely it needs no argument in these days that what happens in any major city is of importance to all cities. Arbitration with the benefit of carefully researched standards to determine what a city should pay and what it should expect for its payment scarcely impugns the sovereignty of a city in any essential respect.

There is not the slightest prospect -- I say this categorically -- that any city can withdraw from its employees the right to strike, and fail to put in its place a meaningful substitute, and expect to preserve a system of orderly labor relations. The last few years have demonstrated that the consequence can only be illegal strikes and disrespect for law. Is the city more sovereign when it presides over anti-strike ordinances which are ignored than when it joins in an initiative to establish a well-founded arbitration procedure?

But -- a cautious voice may well inquire -- suppose we do provide national standards guiding arbitration decisions in municipal settlements, where do the cities obtain the financing to underwrite the higher awards? Can there be any doubt that the cities' payrolls would swell enormously if they were to pay salaries commensurate with the upgraded quality of performance which is needed if they are to remain afloat?

The fact is that the tax base of the cities is woefully inadequate to their fiscal needs. The property tax which is their chief resort is too limited a support. The Pechman task force appointed by President Johnson recognized that the federal government is the great revenue producer with its prior accessibility to the income tax, which even with a steady rate structure produces a heavier flow of funds as incomes rise and move into higher brackets. Out of that recognition emerged the Heller-Pachman plan for redistributing funds from federal government to the states. In its original formulation there was no restriction on the uses to which such funds could be put. The assumption was made that the states would of their own accord channel the federal bonus to their most pressing needs. As others latched on to the idea, variant versions appeared. Some wanted to tie the allocations to specific uses. One interesting variation would have funneled the funds directly to cities, bypassing the state administration, on the premise that here is where the financial need is greatest.

At the moment the war in Vietnam has effectively dampened any interest in the Heller-Pechman proposal. Rising military outlays pose a need for new sources of revenue rather than for means of their effective disbursement. But the war will not go on forever, and the time will come soon enough for us to be thinking of it now, when the efficient tax collection machinery of the federal government can be put in the service of the cities, whether or not through the states as intermediaries.

It is here that the importance of a fresh new approach to the problems of collective bargaining in the public service becomes evident. Instead of relating it to questions of strike and sovereignty and the like, we relate it to needed standards of performance and remuneration consonant with performance, and we recognize the national character of the urban crisis by effective federal coordination of municipal initiatives, and we provide -- through the Heller-Pechman mechanism -- the financial means of backing up the negotiated settlements and arbitral awards which are linked to federal fact-finding.

To encourage local initiative and at the same time to set some constraint on local awards, some sort of local matching of federal assistance would probably be required. Perhaps the federal treasury would underwrite one-third of municipal wage and salary awards when these were specifically linked to standards for scales and performances. I do not propose any particular formula since this would have to be fitted within the overall framework of Heller-Pechman federal disbursements.

Obviously some such financial bolstering of the cities is absolutely essential if they are to survive, and it should be equally obvious that the cities' problems of labor relations are directly linked to their financial problems. Unless there is some orderly mechanism for an upward adjustment of salary scales in keeping with the private sector, we can expect continued labor unrest in the cities, bubbling up into recurrent illegal strikes as the only means of forcing attention to need and providing the rationale for some kind of settlement, political or otherwise. I do not think an orderly system can be devised separately by each city out of the resources available to them. It will require a federal coordinating initiative supplemented by federal fiscal power.

But I do not want to stress too singly the financial aspect. Performance in the public sector is also of the highest importance. The quality of the cities' services, from education to sanitation, is much in need of improvement. But tied in with the quality of performance is a variety of matters which might also be labelled working conditions. Questions such as moonlighting by policemen and firemen, the hours of rubbish pickup in

residential and commercial areas, teachers' extracurricular requirements, and so on in a seemingly endless list involve at one and the same time performance and working conditions. Such double-interest issues cannot be discussed as though the issues were separable. It is here that continuing discussions with representative unions in a nonbargaining atmosphere can be fruitful, but they are likely to be most fruitful if the cities can move such discussions on to a professional plane. Most of the services a city supplies can be converted into professional services, standards of performance can then be examined in terms of professional standards, and working conditions in terms of professional practice.

This may seem excessively optimistic, but I would prefer to set my sights higher than lower. I see no reason why we should conceive of collective bargaining in the public service as involving only or even primarily a transfer of experience from the private sector. Some experience is extremely relevant, as I indicated at the start of my remarks, but other facets of the process may be remarkably different. If we see the present as a time of opportunity, when we can newly fashion a system of public collective bargaining responsive to its peculiar needs, and do it with whatever innovative mechanisms give promise of help, we are likely to achieve a better result than if we attempt to tailor the public garment by alterations on the private pattern.

I have confined the burden of my comments to labor relations in the cities, barely touching on the federal government and the states. These latter, I think, present more tractable problems. Our greatest need at the moment is in the cities, and I urge that we think of collective bargaining there not as presenting just one more nearly insuperable problem but as something which itself can contribute to a better society.

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Negotiation Research Digest

Volume 2, No. 4 December 1968

Michigan Labor Board Dismisses Refusal To Bargain Charge ..... Description: A-1
Text: C-1

The MLMB dismissed the charge that the Board of Education of the City of Menominee was refusing to bargain, but warned against negotiating in public.

California Amendment Permits Executive Sessions ..... Description: A-1
Text: C-6

State and local agencies may hold executive sessions for negotiations and grievance cases.

Freedom of Association Upheld ..... Description: A-1
Text: C-8

Attorney General of Indiana stated that a supervisory employee may not be prohibited from joining the employee organization of which his subordinates are members.

Maryland Decisions Under New Law ..... Description: A-2
Text: C-10
Text: C-12

State School Board ruled that a county council may cut the school budget even after negotiations. Also, the superintendent may appoint teachers to budget advisory task forces without infringing on organization rights.

Strike Injunction ..... Description: A-2
Text: C-14

The Florida Supreme Court upheld the strike injunction against the Pinellas County Classroom Teachers Association, ruling that Florida government employees are prohibited from striking by law.

Grades Not Sufficient Criteria ..... Description: A-2
Text: C-17

An arbitrator in a Barnstable, Massachusetts, case stated that a teacher's effectiveness cannot be judged solely on the grades of his students.

Winton Act Upheld ..... Description: A-3
Text: C-20

The Superior Court of California ruled that San Francisco may not hold negotiations outside the Negotiating Council.

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Association Activities Not Cause of Dismissal ..... Description: A-3
Text: C-22

The Michigan Labor Mediation Board ruled that a Bullock Creek teacher was not rehired because of a low rating, not organization activities.

Sabbatical Leave Not Automatic upon Superintendent's Approval .... Description: A-4
Text: C-24

The School Committee has the right to overrule the Superintendent's recommendation for sabbatical leave if the candidate does not meet all of the required conditions.

Negotiation in Higher Education ..... Analysis: B-1

A report on existing statutes, formal policies, and procedures covering negotiations in institutions of higher education.

Jackson Community College Agreement ..... Text: D-1

Agreement between the Jackson Community College (Jackson, Michigan) Board of Trustees and the Jackson Community College Faculty Association, effective from September 1, 1968, to August 31, 1970. The salary schedule (10-month contract) ranges from $6,900 to $14,175 for 1968-69 and from $7,452 to $15,309 for 1969-70. Separate indexes provide higher pay for 12-month contracted employees (2 semesters and summer school). Other provisions include faculty voice in choice of the College president, deduction of representation fee for nonmembers, statement on academic freedom, and formation of an association-administration personnel review committee.

Experience of the Canadians on Negotiations in Education ..... Text: E-1

Speech by Mr. Gib Eamer, Executive Secretary, Saskatchewan Teachers Federation, presented at the Western Washington State College Negotiations Seminar, August 1968.

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Description and Analysis

MICHIGAN LABOR BOARD RULES AGAINST NEGOTIATING IN PUBLIC BUT DISMISSES REFUSAL TO BARGAIN CHARGE

The Michigan Labor Mediation Board dismissed the charge of the Menominee City District, MEA, that the Menominee Board of Education was refusing to bargain. The Board of Education had insisted on having representatives of the press present during bargaining sessions as a condition for the use of its premises.

The MLMB stated that the language of the School Code, "meetings of the Board shall be public," does not refer to negotiation sessions, but only to meetings where final action on board business (such as ratification) takes place. The MLMB also warned the Board that "collective bargaining cannot be effective in the presence of either press or public."

The MLMB agreed with the Trial Examiner that if the Association found the press "unpalatable...it was incumbent upon [it] at that time to reject the meeting place." The charge was dismissed because the Association did not make "a clear demand for a neutral meeting place."

CALIFORNIA PROVIDES FOR EXECUTIVE SESSIONS

California amended its code to permit state and local agencies to hold executive sessions with their representatives during consultation meetings with employee organizations regarding salaries and fringe benefits.

The amendment also provides that state and local agencies may hold executive sessions rather than public hearings on grievances against public employees, unless a public hearing is specifically requested in writing by the public employee. The agency then may deliberate its decision in executive session.

FREEDOM OF ASSOCIATION UPHELD BY INDIANA ATTORNEY GENERAL

In response to the question, "May a department of State Government prohibit its supervisory and/or professional employees from holding membership in an employee association?" the Attorney General of Indiana declared that no state government or department may lawfully prohibit a public employee in a supervisory capacity from joining a union or employee organization of which his subordinates, also, may be members.

The employer can expect the loyalty of his supervisory employee as a member of management, although recognizing the potential conflict if he, also, is represented by the employee organization. No legislation may infringe on the rights of an individual to free association.

Since the legislature has not acted on this matter, he added, "when the state enters into agreements with employee unions, the definition of the bargaining unit therein could well be drawn to exclude those employees which the parties can agree are 'supervisory' and 'professional.'"

FIRST STATE SCHOOL-BOARD DECISIONS UNDER NEW MARYLAND LAW

Under the new Maryland statute, final appeal in negotiation disputes between local school boards and their employee organizations is to the State Board of Education. The Board's first decisions under the new law concerned the right of a county council to cut the school budget after negotiations between the school board and the employee organization had been completed, and the right of a school superintendent to appoint district teachers to budget advisory Task Forces.

Renegotiation on School Budgets Not Allowed

After the Anne Arundel County Council cut over $3 million from the Category of Instruction in the school budget, the Board of Education cut the salary scale for provisional teachers. The Teachers' Association of Anne Arundel County objected. As the agency for final appeal in negotiation disputes, the State Board of Education ruled that a county council or commissioners can make cuts in school budget items which a school board has previously negotiated with teachers.

The State Board emphasized that the County Council had the power to make such a cut even though the Association thought it was protected by a negotiated agreement. It also pointed out that the Association and the Board of Education could not renegotiate, even though the Board of Education had broken the letter and the spirit of the law by taking upon itself the decision on where to make the cuts. No teachers association in Maryland can renegotiate an agreement even when a county council negates that agreement by exercising its lawful power to cut funds from the school budget.

County Superintendent Has Right To Establish Task Forces

The State Board of Education found that the Montgomery County School Superintendent's establishment of Task Forces of teachers to advise him on budget problems did not conflict with the exclusive representative's rights provided in the negotiation law. However, the Board reserved the right to intervene at a later date if such activity is expanded to undermine the negotiation process.

STRIKE INJUNCTION UPHELD IN PINELLAS COUNTY, FLORIDA

The Pinellas County Classroom Teachers Association found the salary schedule presented by the Board of Public Instruction unacceptable and told the County Superintendent that the teachers would not "begin performance of services until 'such things as salaries and general working conditions could be agreed and incorporated in their respective contracts.'" The Circuit Court issued a strike injunction.

The Florida Supreme Court upheld the injunction, ruling that the teachers had already signed final, binding contracts with the Board, even though the contracts contained only a base salary, with the statement that the Board would not employ teachers at a salary lower than this base. The Court further ruled that Florida government employees were in effect prohibited from striking by law, and that the teachers were not forced into involuntary servitude, as they had the choice of working or resigning.

STUDENTS' GRADES NOT A CRITERION FOR TEACHER EFFECTIVENESS

The arbitrator in the case between the Barnstable, Massachusetts, School Committee and the Barnstable Teachers Association determined that a directive sent to

a high-school teacher by his principal was threatening the "welfare and employment conditions" of that employee.

After meeting with the teacher and observing his class in response to complaints he had received, the principal had directed the teacher to give his students higher grades in conformity with those they received in other classes, or be considered insubordinate. The teacher protested. The arbitrator judged that the teacher's rights were violated, since grades alone cannot be the criterion for assessing a teacher's effectiveness.

CALIFORNIA COURT UPHOLDS WINTON ACT

The issue before the Superior Court of California was the validity of the right of the San Francisco Board of Education or its School Superintendent and the Teacher Federation to meet and confer directly with their respective representatives apart from the Negotiating Council.

The Winton Act requires that the two bargaining units meet and confer only through the Negotiating Council. Therefore, the Superior Court ordered that the parties were "perpetually enjoined and restrained from meeting and conferring or signing agreements directly with their representatives...outside of and without regard to the Negotiating Council."

ASSOCIATION ACTIVITIES RULED NOT REASON FOR MICHIGAN TEACHER'S DISMISSAL

The Michigan Labor Mediation Board upheld the Trial Examiner's decision to dismiss the charge by the Bullock Creek Education Association that the Bullock Creek School District failed to rehire a teacher because of his activities as a member of an association bargaining committee.

The Bullock Creek District did not rehire the teacher following the required one-year probationary period for teachers new to a school district. Pursuant to the Teacher Tenure Act, the District was obliged to terminate the teacher's employment if it did not want to grant him full tenure.

The Bullock Creek Education Association claimed that the teacher had not been rehired because of his association activities, and the District claimed that he had not been rehired because of a poor rating on his teaching performance.

In examining the charge of discrimination, the MLMB compared the teacher's evaluation forms with the forms of other teachers evaluated during the same time period, and found that two teachers who had been given higher ratings than this teacher had also not been rehired.

The MLMB ruled that a reported hostile verbal exchange between the teacher and a member of the School Board during bargaining sessions was an isolated incident and, therefore, not relevant to the case. In handing down its decision, the MLMB stated that "mere weakness of the Employer's defense does not satisfy the [charging party's] burden of proof."

The MLMB declined to pass judgment on the reasonableness of the evaluation, however, and in so doing stated, "If sitting as an arbitrator on the merits of the refusal to retain [the teacher], the undersigned might well conclude that the District has not treated [the teacher] fairly or in a professional manner."

SABBATICAL LEAVE NOT AUTOMATIC UPON SUPERINTENDENT'S APPROVAL, IF PRIOR CONTRACT CONDITIONS ARE NOT MET

The arbitrator ruled that the Pittsfield, Massachusetts, School Committee did not violate the terms of its agreement with the Pittsfield Teachers Association when it denied a request for sabbatical leave over the recommendation of the Superintendent of Schools. The contract language requires the Committee to approve automatically the Superintendent's recommendation of sabbatical leave only if the applicant meets all other conditions for approval.

The grievant's request for sabbatical leave was received by the Superintendent after the deadline for submission. Therefore, since one of the conditions for sabbatical leave was not met, the School Committee had the right to overrule the Superintendent's approval.

Data and Statistics

NEGOTIATION IN HIGHER EDUCATION

Collective negotiation activity for faculties in state colleges and universities and junior and community colleges has been increasing. One contributing factor is the passage of state negotiation statutes for public employees.

Negotiation Statutes

Following is a review of states which have passed statutes affecting employer-employee relations in public higher education.

All Public Employees

Five states--Alaska, Hawaii, Michigan, New Jersey, and New York--have passed negotiation statutes which cover all public employees, including employees of school districts, under their respective laws. The New York statute specifically refers to state colleges and universities. The Michigan statute by a court ruling in a case involving nonprofessional employees covers colleges and universities.

Eight states have passed separate negotiation statutes which taken together cover all public employees. California, Florida, Minnesota, Oregon, and Washington negotiation statutes cover teachers separately from state and other public employees. Massachusetts and Wisconsin negotiation statutes cover state employees separately from other public employees including teachers. Rhode Island has three separate negotiation statutes, for state employees, municipal employees, and teachers.

Since these 13 states have passed one or more negotiation statutes, which generally cover all public employees, it appears that all state colleges and universities, junior and community colleges, and public school systems in these states are covered.

Professional Employees in Public Education

Ten states have passed separate teacher negotiation or consultation statutes for public education--California, Connecticut, Florida, Maryland, Minnesota, Nebraska, Oregon, Rhode Island, Texas, and Washington. In Maryland, Nebraska, and Texas, only public-school teachers have negotiation or consultation statutes; other public employees have not been given statutory negotiation rights. In Connecticut, a separate negotiation statute is provided for municipal employees but there is no statute for state employees.

In the teacher negotiation statutes in these 10 states, public-school employers are defined as regional, county, or local school districts. The public-school employees are defined as teachers or certificated school personnel. Only the

Washington law specifically refers to certificated employees of community colleges. While not receiving specific mention in the other statutes, faculties of junior colleges would in all likelihood be covered where these institutions are part of the school system as defined in the law.

In addition to the 10 states mentioned above, eight states cover teachers under negotiation statutes along with other public employees. In Alaska, Hawaii, Michigan, New Jersey, and New York, teachers are covered in all the public employee negotiation statutes. Teachers in Massachusetts and Wisconsin are included with the municipal employees in the negotiation law. In New Hampshire, teachers are covered under a negotiation statute for town employees. Other public employees in New Hampshire are not covered for negotiations.

Other Public Employees

Three other states have negotiation statutes for public employees, but with exceptions. Delaware has passed a negotiation statute for state and municipal employees which excludes certified professional employees of the public schools. Similarly, the Missouri negotiation statute for state and municipal employees excludes teachers in public schools, colleges, and universities. Vermont has a negotiation statute for municipal employees excluding teachers. Other states have negotiation statutes for special segments of public employment which are not related to education.

Survey of Formal Negotiation Policies and Procedures

In 1967-68 the NEA Research Division surveyed salary and related matters in public and nonpublic higher education institutions. Responses were received from 1,113 of the 1,570 colleges and universities granting the 4-year or higher degree and 649 of the 853 2-year institutions. One question asked whether a formal procedure provided for conferences or negotiation between representatives of the governing board of the institution and faculty representatives on matters of faculty salary or welfare.

Ten (1 percent) of the institutions granting 4-year or higher degrees and 52 (8.4 percent) of the 2-year institutions responded that they had a documented policy which provides that the representatives of the governing board or the administration agree to negotiate with faculty representatives on matters of salary or welfare. All but one of these 52 2-year institutions were public institutions. Tables 1 and 2 provide details.

An example of an agreement between the governing board of a college and the faculty is that between the Board of Trustees of Jackson Community College, Jackson, Michigan, and the Jackson Community College Faculty Association (NEA), which is reproduced in full in Section E.

TABLE 1.--POLICY AND PRACTICE OF NEGOTIATION IN 1,113 COLLEGES AND UNIVERSITIES GRANTING THE 4-YEAR OR HIGHER DEGREE, 1967-68

Salary policy and practice	Number of institutions						Full-time faculty	
	Universities		Colleges		Total			
	Public	Nonpublic	Public	Nonpublic	Number	Percent	Number	Percent
1	2	3	4	5	6	7	8	9
On matters of faculty salary or welfare, a formal procedure is maintained by which representatives of the governing board of the institution or the administration agree to:								
(A) Confer with faculty representatives								
Practiced and documented	46	20	28	129	223	21.3%	45,005	24.6%
Practiced, not documented	39	24	49	118	230	22.0	40,827	22.3
Not practiced	86	47	89	355	577	55.1	94,748	51.8
(B) Negotiate with faculty representatives								
Practiced and documented	1	1	1	7	10	1.0	885	0.5
Practiced, not documented	1	2	...	2	5	0.5	1,433	0.8
Not practiced	...	...	1	1	2	0.2	120	0.1
(C) Not indicated	10	8	7	41	66	...	11,511	...

Source:
National Education Association, Research Division. Salaries in Higher Education, 1967-68. Research Report 1968-R7. Washington, D.C.: the Association, 1968. p. 32.

TABLE 2.--POLICY AND PRACTICE OF NEGOTIATION IN 649 2-YEAR INSTITUTIONS, 1967-68

Salary policy and practice	Number of institutions				Full-time faculty	
	Public	Nonpublic	Total		Number	Percent
			Number	Percent		
1	2	3	4	5	6	7
On matters of faculty salary or welfare, a formal procedure is maintained by which representatives of the governing board of the administration agree to:						
(A) Confer with faculty representatives						
Practiced and documented	122	16	138	22.4%	9,623	28.7%
Practiced, not documented	132	29	161	26.1	9,157	27.3
Not practiced	167	90	257	41.7	9,529	28.4
(B) Negotiate with faculty representatives						
Practiced and documented	51	1	52	8.4	4,684	14.0
Practiced, not documented	3	1	4	0.6	129	0.4
Not practiced	2	2	4	0.6	376	1.1
(C) Not indicated	19	14	33	...	1,506	...

Source:
National Education Association, Research Division. Salaries in Higher Education, 1967-68. Research Report 1968-R7. Washington, D.C.: the Association, 1968. p. 74.

Judicial Decisions, Opinions, and Statutes

In the Matter of:

BOARD OF EDUCATION OF THE
CITY OF MENOMINEE,

Respondent,

- and -

Case No. C67 E-38

MENOMINEE CITY DISTRICT
MICHIGAN EDUCATION
ASSOCIATION,

Charging Party.

B-VIII PERA
Unfair Labor Practices
Refusal to Bargain Not Found

Section 561 of the School Code of 1951 (CLS 1961, 340, 561; Mich. Stat. Ann. 1965 Cum. Sup. 15.3561) does not require school boards or unions to negotiate in public meetings.

A school board or other public employer is not obligated to provide a meeting place for negotiations.

OPINION AND ORDER

Respondent Board of Education of the City of Menominee recognized the Charging Party as the exclusive bargaining representative of the teachers employed by it subsequent to the enactment of the Public Employment Relations Act in July, 1965. The parties entered into a collective bargaining agreement for the school year 1966-67.

In February, 1967, there were discussions between a representative of the Board of Education and the Charging Party concerning negotiations for a contract covering the 1967-68 school year.

At issue in this case is the insistence of the Board of Education that it would not participate in negotiations without members of the press in attendance at bargaining sessions.

On May 12, 1967, the Menominee Association filed charges, some of which were withdrawn at the hearing. The remaining charges stated:

"The Employer has and is violating Section 10(e) of the Act by refusing to engage in any collective bargaining without the presence of representatives of the local press. By taking the position that they (the Board of Education) refuse to exclude the press from negotiating sessions, they have effectively imposed a condition upon the bargaining process which cannot be met by the Labor organization due to the fact that the Board of Education, though continuing issuance of inflammatory, coercive, intimidating, misleading and inaccurate releases to the press, have made the press the agents of the Board and have created an atmosphere in the community which severely prejudices meaningful negotiations if the press, as agents of the Board, are allowed to attend. The refusal to proceed except in the presence of these outside agents, constitutes a refusal to bargain in violation of Section 10(e) of the Act."

The Employer and its agents received the proposal of the Menominee City District of the MEA for the 1967-1968 school year on or about March 1, 1967, and refused to hold any negotiation meetings until April 7, 1967, at which time a counter-proposal represents a 'sham' proposal and reveals nothing more than 'surface bargaining' with no attempt to bargain in good faith as required by Section 15 of the Act.

At the April 7, 1967, meeting at which the counter-proposal was submitted, the Board refused to schedule further meetings, and announced its tentative policy to allow the press to be present. A further meeting was tentatively scheduled for April 17, 1967, at which time the 'press' was present. The Menominee City District (MEA) negotiating team refused to proceed, and the Employer then prepared a news release and issued the same together with the entire proposed contract of the Menominee City District (MEA). The editorial comments prepared by the Board and released to the press were inaccurate, misleading and designed to frighten, inflame and panic the general public, and, when coupled with the previous statements of the Board, designed to ridicule, terrorize, coerce and intimidate the teachers. These reports were published in both local papers.

All of the foregoing incidents constitute individual unfair labor practices and, collectively, demonstrate a continuing pattern of refusal to bargain in good faith in violation of Section 15 of the Act.

The Employer, by adopting its position in regard to refusal to exclude the press, has attempted and succeeded in placing an onus on the labor organization by placing the Association in the position of choosing to abandon meaningful negotiations by allowing the presence of the press or, in the alternative, forcing the Association to become vilified by the press because of its refusal to allow their presence. The very act of casting the Association in a public posture where it is labeled, with the assistance of the Board, as a group which is afraid to air its views in public because it has 'something to hide' constitutes a refusal to bargain."

The Trial Examiner recommended dismissal of the charges because the Menominee Association did not make "a clear demand for a neutral meeting," which the School Board had refused. The evidence discloses that the two parties contemplated the use of School Board premises and that the Board of Education conditioned the use of the school premises on the presence of the press.

We agree with the Trial Examiner that if the Menominee Association found the presence of the press "unpalatable

...it was incumbent upon (the Association) at that time to reject the meeting place."

Exceptions were filed to the Trial Examiner's Findings of Fact and Recommended Order by both the Charging Party and the Respondent.

The Board of Education's Exceptions and Brief do not persuade us that the Trial Examiner was in error.

The Board of Education relies upon Section 561 of the School Code of 1951 (CLS 1961 340.561; Mich. Stat. Ann. 1965 Cum. Sup. 15.3561) which, among other things, provides:

> "Meetings of the board shall be public meetings and no person shall be excluded therefrom. The board may hold executive sessions, but no final action shall be taken in any executive session."

The section also provides that:

> "All business which the board of any district is authorized to perform shall be done in a public meeting of the board and no action shall be valid unless voted at a meeting of the board by a majority vote of the members elected to the board and a proper record made of the vote."

The basis for the Board of Education's argument is the language that "business" shall be done at a "public meeting of the Board."

In context, it appears clear that the term "business" means final action which binds the School District to the action of the Board of Education. It is evident from the statutory provision: "The board may hold executive sessions, but no final action shall be taken in any executive session," that there may be discussions and tentative conclusions reached at non-public meetings.

In 1965, the Legislature enacted the Public Employment Relations Act, which requires the public employers and the employees' exclusive bargaining representatives to engage in "good faith" collective bargaining. While collective bargaining is in one sense "business" of a public employer, the results of a bargaining session do not become final board action until ratification by the Board of Education.[1]

The succinct answer to the Board of Education's contention is that:

> 1. Collective bargaining cannot be effective in the presence of either press or public. Representatives of employers and labor organizations (perhaps because they are human) tend to speak for the public and the news media rather than engage in the collective bargaining procedure.
>
> While both sides should have nothing to hide in bargaining if they are bargaining in good faith, neither side is required by law to lead with its best offer or to follow a prescribed pattern effecting a settlement.
>
> We believe the Legislature intended neither preliminary discussion in public of the purchase price of desks or books, nor for the services of teachers -- so long as the public has an opportunity to know the terms of the bargain before final School Board approval or disapproval.
>
> We will not impose upon the parties the obligation to bargain in a public arena if they are unwilling to do so. Such an obligation would tend to prolong negotiations and damage the procedure of compromise inherent in collective bargaining.
>
> 2. The Legislature recognized the need for executive sessions in section 561 of the School Code. The Legislature also recognized this need when it established the process of collective bargaining as a requirement for public employers and exclusive bargaining representatives.[2]
>
> 3. The statute is satisfied by the public meeting of the Board of Education at which the tentative agreement reached by the bargaining teams of the Board of Education and the teachers are presented to the public for public consideration and public ratification or rejection.
>
> Parenthetically, we believe it advisable for representatives of both public employers and employees to keep their principals advised (including, if it seems wise, the press) of the progress of negotiations. This, however, is apart from the requirement that the press be present at bargaining sessions.

We might also note in passing, that the "press" stands on no higher ground than the public generally. As the New York Court of Appeals said in United Press Association v. Valente, 308 N. Y. 71, 123 N.E. 2d 777, 778, 783 (1954):

> "***this is not a case of...freedom of the press and ...the right asserted by Petitioners is not embodied within the constitutional provision guaranteeing those freedoms... But freedom of the press is in no way abridged by an exclusionary ruling which denies to the public generally, including newspapermen, the opportunity to 'see and hear what transpired.' ***The fact that petitioners are in the business of disseminating news gives them no special right or privilege, not possessed by other members of the public."

In this case, the Menominee Association did not propose an alternative meeting place, so we affirm the Trial Examiner with the correction of the typographical error noted below.

It is apparent, as the Menominee Association's Exception No. 1 pointed out, that the second sentence of the Trial Examiner's conclusions contains a typographical error. It should read:

---

[1] Likewise, the tentative agreement is not binding on the employees in the bargaining unit until ratification by the members of the labor organization if its constitution or by-laws or resolution of its members so provide. Seldom do labor organizations authorize bargaining committees to bind the organization without membership approval.

[2] We recognize that the refusal or failure of a labor organization to bargain in good faith is not an unfair labor practice. However, the labor organization has the same duty to bargain as does the public employer. Only the method of enforcement is different; and, perhaps, there is no effective means under the present statute to require a labor organization to bargain in good faith. However, see General Teamsters Union v. Brewer's City Coal Dock, 33 LRRM 2210 (Circuit Court, Ottawa County, 1953); General Teamsters Union, Local No. 406 v. Uptown Cleaners & Hatters, Inc., 356 Mich. 204, 97 N.W. 2d 593 (1959); Detroit Local Joint Executive Board, Hotel and Restaurant Employees, and Bartenders International Union, AFL-CIO v. Dick Ceaser, d/b/a Dick Ceaser Enterprises, 53 LRRM 2848 (Circuit Court, Wayne County, 1963). And Garden City School District v. Labor Mediation Board, 358 Mich. 285, 99 N.W. 2d 485 (1959) required mediation.

"It would, therefore, follow that the School Board or other employer within the meaning of PERA could not insist on meeting on its premises, and take that position that it would not exclude the press."

ORDER

The charges filed by the Menominee City District Michigan Education Association are dismissed.

MICHIGAN LABOR MEDIATION BOARD

Robert G. Howlett, Chairman
Leo W. Walsh, Board Member

Dated: May 17, 1968

APPEARANCES:

For the Respondent: Charles E. Keller, Esq.

For the Charging Party: Thomas Roberts, Esq.

FINDINGS OF FACT AND RECOMMENDED ORDER

The above entitled matter having come on for hearing before Joseph B. Bixler, Trial Examiner for the Michigan Labor Mediation Board, hereinafter referred to as the Board, at Menominee, Michigan, on September 27, and the entire record and post hearing briefs having been considered, the undersigned hereby makes the following findings of fact, conclusions of law and recommendation to the Board for the disposition of the case:

FINDINGS OF FACT

Board of Education of the City of Menominee, hereinafter referred to as the School Board, is a public employer within the meaning of Act 336 of the Public Acts of 1947, as amended by Act 379 of the Public Acts of 1965, hereinafter referred to as PERA.

Menominee City District, Michigan Educational Association, hereinafter referred to as the Charging Party is a labor organization within the meaning of PERA.

The Charging Party has been the recognized collective bargaining representative of the teachers employed by the School Board for at least two years. The parties entered into a collective bargaining agreement for the school year 1966. In February 1967, Irene Lovig, the chairman of the Charging Party, had a preliminary discussion with Dr. Robert Freeman, the Superintendent of Schools, relative to the beginning of negotiations for a contract covering the 1967-1968 school year. The record reveals that at this preliminary meeting a question arose as to whether the representatives of the press were to be allowed to be present at the oncoming negotiations sessions. The Charging Party, by letter of February 27, 1967, and at various times subsequent to that date made clear its desire that negotiation sessions be conducted without members of the press in attendance at the negotiating sessions.

The School Board, on the other hand, while not refusing to negotiate without the press present, repeatedly took the position that the School Board did not believe it could exclude the press from meetings affecting public welfare and monies. This position was explicitly set forth in writing in letters to Mrs. Lovig on April 21, 26, and May 1, 1967, from Dr. Freeman.

The Charging Party and the School Board negotiating teams eventually did meet with the press representatives present, under protest by the Charging Party, and a collective bargaining agreement was reached for the school year 1967-1968. In view of the fact that an agreement has been reached, various portions of the charges as originally filed, were withdrawn by the Charging Party at the hearing.

The essence of the remaining allegations is that the School Board, by its refusal to agree to exclude the press representatives from the negotiation sessions, violated Section 10(e) of PERA.

The foregoing facts are not in material dispute.

The School Board takes the position that what occurred is not a violation of the bargaining duty as imposed by Section 10(e) of PERA for three reasons:

1. That the School Board is prohibited by Michigan statute from conducting meetings in private.

2. That the Michigan and Federal constitutions require the press to be given access to negotiations under the provisions relating to freedom of the press.

3. That the presence of members of the press under National Labor Relations Board precedent would be found not to impede collective bargaining nor would even insistence on the presence of the press constitute an unfair labor practice.

The Charging Party in advocating its position that an unfair labor practice has occurred here takes the negative to each of the School Board's contentions.

Considering the contentions of the parties in the order in which they appear above.

Michigan Statutes

The statute advanced by the School Board as prohibiting closed meeting is Section 561 of the School Code of 1955, as last amended by Act 181, P.A. 1961, CLS 1961 No. 340.561; MSA 1965 Cum. Supp. No. 15.3561. This act provides as follows:

All business which the board of any district is authorized to perform shall be done at a public meeting of the board and no act shall be valid unless voted at a meeting of the board by a majority vote of the members elect of the Board and a proper record made of the vote. A meeting in which all members are present, with or without proper notice, shall be considered a legal meeting for the transaction of business. Meetings of the board shall be public meetings and no person shall be excluded therefrom. The board may hold executive sessions, but no final action shall be taken at any executive session. The minutes of all board meetings must be signed by the secretary. In the absence of the secretary in any meeting, the president shall appoint a temporary secretary who shall sign the minutes of the meeting. In the absence of president, the other members present shall elect a temporary president. (Emphasis added)

The School Board in its brief, when quoting this statute, concludes that the words, "...meeting of the board shall be public meetings and no person shall be excluded therefrom. The board may hold executive sessions" make it "clear and unequivocal" that the public and the press have a right to be present at its meetings. This reasoning begs the question facing the State Labor Board. It assumes that bargaining sessions are not "executive sessions" as provided for in the statute and secondly that they are meetings of the School Board.

As far as this record reveals, the negotiation meetings were not meetings wherein final action was to be taken. The negotiations were not conducted by the School Board, but by a man retained as a negotiator. At the conclusion

of the negotiations, the School Board found it necessary to hold a formal public meeting to approve the agreement reached by the negotiating teams.

The undersigned cannot conclude under these circumstances that the School Board is statutorily required to hold public meetings within the meaning of the statute when fulfilling the bargaining duty imposed by the PERA.

Freedom of the Press

The School Board proposes that the First Amendment of the U.S. Constitution wherein it provides, "Congress shall make no law... abridging the freedom of speech, or of the press," and the Michigan Constitution that, "No law shall be enacted to restrain or abridge the liberty of speech or of the press" obligates the School Board to allow the access of the press to negotiation sessions.

As conceded by the School Board in its brief, the United States Supreme Court has not recognized explicitly the "right to know." The undersigned suspects that such a right extended to the press will never be recognized. The press as a business is engaged in gathering news. What is gathered is marketable to the extent that the individual citizen is curious enough to purchase the product. However, the mere fact that the press is constitutionally given freedom of expression does not give it the right of access to any information that is not available by right to the average citizen. That the press is extended privileges and often treated with a deference not extended to the average citizen is obvious, but when it comes to the matter of a legal "right to know" the press and the individual are equals. One would not need to be a constitutional scholar to detect the inherent evil in the press being subsidized by exclusive access to information not available to the public for verification. It would be far better that the citizen and the press be denied the right to know, than to have the citizen forced to accept accounts of events not available to him for verification. In the instant case, this is especially true where the School Board is required to act openly when taking final action. This affords the public access to the tentative agreement before it becomes final and binding.

Here, this contention actually has little bearing on the issue of this case as there is no basis for concluding the press had a "right to know" beyond that provided for in the school code, discussed above. The record does not reveal, nor do any of the parties contend that "final action" was to be taken during the negotiation sessions.

Precedent allowing or disallowing the press to be present at negotiation sessions

The State Labor Mediation Board has never passed on the question of outsiders, of any variety as non-participating observers being present at negotiation sessions. Both parties have turned to National Labor Relations Board decisions, and not suprisingly, both have found cases involving transcriptions of negotiation sessions that they contend support their respective positions.

The employer's cases involved insistence by the employer of stenographic record of bargaining meetings, St. Louis Typographical Union (Graphic Arts, Assn.) 149 NLRB 750. The Charging Party's case involves the employer's demand that a tape recording be made of bargaining meetings. Architectural Fiberglass, 65 LRRM 1331.

In the Graphic Arts case, the NLRB found such insistence was not per se a violation, in the Fiberglass case, the NLRB found the insistence on the tape recording an unfair labor practice, and evidence of not bargaining in good faith. In the first case, the National Board leaves open the door to a contrary disposition depending on the use made of the stenographic record, and in the latter case the insistence on the tape recording, is found to be a violation, particularly, in view of many obvious violations of the National Labor Relations Act that occurred. In the opinion of the undersigned, the case at hand is readily distinguishable from the cases relied upon by the parties. First, the employer here has not insisted upon the presence of the press. Secondly, a tape of stenographic record being taken is quite obviously different than the presence of newspaper reporters whose only object of being present is to observe what occurs for the purpose of publication.

It is this latter element that convinces the undersigned that a party to negotiations could not lawfully insist upon the press, or the public for that matter, being present at the bargaining meetings. The very concept of bargaining entails shifting of positions and retreating from some in return for advancement of others. To have these changes reported on a day to day piecemeal basis could lead to one party or the other having the appearance of excessive acquiescence to the demands of the others. In addition, the knowledge of publicity cannot help but require that presentation be postured for the public rather than for the mutual resolution of existing differences.

The National Labor Relations Board has treated a situation that is close to that involved in this case. An employer invited rank and file employees to attend negotiating sessions over the objection of the bargaining agent. The National Board in that case stated as follows:

> Respondent insistence that bargaining negotiations be conducted in the presence of the rank and file employees clearly was contrary to uniform industrial practice and was not conducive to the orderly, informal and frank discussion of the issues confronting the negotiators necessary to reach a contract.[1]

The undersigned is of the opinion that this determination of the National Board is well taken and that insistence, over objection of the other party, to the presence of employees, the public, or the press at bargaining sessions as a condition precedent to further bargaining is a failure to bargain in good faith.

In the instant case, however, the School Board maintains that it has not insisted on the presence of the press, but merely refused to exclude the press from the meeting room. The record does not reveal how the parties to this cause came to be meeting on School Board premises for negotiations. The parties met on the School Board premises and at Mediation Board offices from time to time from May until August 1967.[2] On August 9, 1967, a tentative agreement was reached that was contingent on the passage of additional millage by the citizens of Monominee. The millage increase was rejected on August 28, 1967. This date must be in error. As noted above, on August 9, 1967, the parties reached a tentative agreement with the State Mediator in Grand Rapids. Because this agreement was contingent upon a millage vote to be held on August 28, 1967, there would have been no need for negotiation during this period. It follows that the testimony was in error as to the time the request for a neutral site was made and therefore too vague to form a basis for a conclusion that the School Board insisted on meeting on its premises, as well as refusing to exclude the press before August 28, 1967.

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[1] L.G. Everist, Inc., 103 NLRB 308, 31 LRRM 1553.

[2] Mediation sessions were held in private at the insistence of the State Mediator.

CONCLUSIONS

The undersigned, as indicated above, is convinced that the statutory duty to bargain prohibits either party from insisting on the presence of outsiders during the bargaining. It would, therefore, follow that the School Board or other employer within the meaning of PERA could not insist on meeting on its premises, and take the position that it would exclude the press. This would amount to conditioning bargaining upon the presence of outsiders.

In the instant case, the School Board and the Charging Party at the inception of the bargaining looked to the use of School Board premises as a matter of course. I do not believe that the statute imposes any obligation on the employer to provide a meeting place.[3] In the absence of such an obligation, there would appear to be no justification in concluding that the one offering the premises for bargaining purposes cannot condition the use of the premises. If such conditions are unpalatable to the other party, it is incumbent upon them at that time to reject the meeting place. In the case at hand, the Charging Party knew prior to the first scheduled meeting that the School Board would not expel members of the press from its premises. The Charging Party chose not to attend that meeting scheduled for April 17, 1967, rather than to demand a neutral meeting place where they could have excluded the press. Had a clear demand for a neutral meeting place been made and the school Board refused to meet without the presence of the press, a clear violation of the duty to bargain would have been established.

[3]Cf. McCulloch Corp. 132 NLRB 201.

Recommendations

As this record stands, the undersigned is of the opinion that it does not establish that a breach of the bargaining duty imposed by PERA has occurred. It is recommended that the Board dismiss the charges in this case.

MICHIGAN LABOR MEDIATION BOARD

Joseph B. Bixler
Trial Examiner

Dated: January 26, 1968

SENATE BILL NO. 592

CHAPTER 1272

An act to add Section 54957.6 to, and to amend Section 11126 of, the Government Code, relating to employer-employee relations.

[Approved by Governor August 13, 1968. Filed with Secretary of State August 13, 1968.]

The people of the State of California do enact as follows:

SECTION 1. Section 11126 of the Government Code is amended to read:

11126. Nothing contained in this article shall be construed to prevent a state agency from holding executive sessions during a regular or special meeting to consider the appointment, employment or dismissal of a public officer or employee or to hear complaints or charges brought against such officer or employee by another public officer, person or employee unless such officer or employee requests a public hearing. As a condition to holding an executive session on the complaints or charges to consider disciplinary action or to consider dismissal such officer or employee shall be given written notice of his right to have a public hearing rather than an executive session, which notice shall be delivered to him personally or by mail at least 24 hours before the time for holding a regular or special meeting. If notice is not given, any disciplinary or other action taken against any officer or employee at such executive session shall be null and void. The state agency also may exclude from any such public or private meeting, during the examination of a witness, any or all other witnesses in the matter being investigated by the state agency. Following the public hearing or executive session the agency may deliberate on the decision to be reached in an executive session.

Nothing in this article shall be construed to prevent state agencies, which administer the licensing of persons engaging in businesses, or professions from holding executive sessions to prepare, approve, grade or administer examinations.

Nothing in this article shall be construed to prohibit a state agency from holding an executive session to deliberate on a decision to be reached based upon evidence introduced in a proceeding required to be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1, Division 3, Title 2 of the Government Code or similar provision of law.

Nothing in this article shall be construed to prevent any state agency from holding an executive session to consider matters affecting the national security.

Nothing in this article shall be construed to grant a right to enter any correctional institution or the grounds of a correctional institution where that right is not otherwise granted by law, nor shall anything in this article be construed to prevent a state agency from holding an executive session when considering and acting upon the determination of a term, parole, or release of any individual or other disposition of an individual case, or if public disclosure of the subjects under discussion or consideration is expressly prohibited by statute.

Nothing in this article shall be construed to prevent any executive session to consider the conferring of honorary degrees, or gifts, donations and bequests which the donor or proposed donor has requested in writing to be kept confidential.

Nothing in this article shall be construed to prevent the Alcoholic Beverage Control Appeals Board from holding an executive session for the purpose of holding a deliberative conference as provided in Section 11125 of the Government Code.

Nothing in this article shall be construed to prevent the Trustees of the California State Colleges from holding executive sessions dealing with site selection for such state colleges.

Nothing in this article shall be construed to prevent the Franchise Tax Board from holding executive sessions for the purpose of discussion of confidential tax returns or data the public disclosure of which is prohibited by law.

Nothing in this article shall be construed to prevent the Board of Corrections from holding executive sessions when considering reports of crime conditions under the provisions of Section 6027 of the Penal Code.

Nothing in this article shall be construed to prevent the Motor Vehicle Pollution Control Board from holding executive sessions when considering the proprietary specifications and performance data of manufacturers.

Nothing in this article shall be construed to prevent the Board of Administration of the Public Employees Retirement System from holding executive sessions when considering investment decisions.

Nothing in this article shall be construed to prevent the governing body of a public agency, or such boards, commissions, administrative officers, or other representatives as may properly be designated by law or by such governing body, from holding executive sessions with its representatives at any time in discharging its responsibilities under Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of this code as such sessions relate to salaries, salary schedules, or compensation paid in the form of fringe benefits.

Sec. 2. Section 54957.6 is added to the Government Code, to read:

54957.6. Notwithstanding any other provision of law, a legislative body of a local agency may hold executive sessions with its designated representatives prior to and during consultations and discussions with representatives of employee organizations regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits of employees in order to review its position and instruct its designated representatives.

STATE OF INDIANA

OFFICES OF ATTORNEY GENERAL

JOHN J. DILLON, ATTORNEY GENERAL

219 STATE HOUSE

June 6, 1968

Honorable Roger D. Branigin
Governor of Indiana
206 State House
Indianapolis, Indiana

OFFICIAL OPINION NO. 25

Dear Governor Branigin:

You have asked me to advise you on the following question:

> "May a department of State Government prohibit its supervisory and/or professional employees from holding membership in an employee association?"

You stated that one department head reports that some of his supervisory employees are not effectively carrying out department policies and orders because of a conflict with their loyalty to the employees' union to which they belong. You also ask whether, if such membership cannot be prohibited under the law, association activities of supervisory and professional employees can be restricted in any way by the department head. Although your question is rather broad, from the context I have concluded that you are concerned primarily with unions organized on a "vertical" pattern, i.e., those which include non-supervisory employees and their supervisors in the same union.

That it is essential to business and industry that some employees be more responsive to management than to labor unions has long been recognized. The United States Supreme Court decided in March of 1947 that foremen were "employees" whose rights to bargain collectively were protected by the National Labor Relations Act, Packard Motor Car Co. v. National Labor Relations Board (1947), 330 U.S. 485. Within four months, Congress had amended the Act specifically to exclude "supervisory employees" from the definition of employees with whom employers are required to bargain collectively under the terms of the Act, thus nullifying the effect of the Supreme Court opinion. The Labor Management Relations Act of 1947, 61 Stat. 137, amending § 2 of the National Labor Relations Act, 29 U.S.C. § 152. Congress did, however, preserve the right of foremen to become and remain members of labor organizations. The Labor Management Relations Act of 1947, 61 Stat. 151, amending § 14(a) of the National Labor Relations Act (last amended by 73 Stat. 541), 29 U.S.C. § 164(a). The purpose of the amendments was explained in National Labor Relations Board v. Retail Clerks International Ass'n. A.F.L. (9th Cir. 1954), 211 F. 2d 759, at 763-764, cert. den. 348 U.S. 839:

> "A primary objective of § 2(11) of the Act. . . was to assure to the employer his right to procure the loyalty and efficiency of his supervisors and managers. The reports which accompanied the legislative bill which Congress enacted into the Labor Management Relations Act of 1947, made this abundantly clear. The reports were specific as to certain evils which the congressional committees thought they could avoid by excluding foremen and other supervisors from the operation of the Labor Act. Much emphasis was laid upon the desirability of assuring their independence of unions of the rank-and-file. It was noted that what had been happening in respect to unionizing of foremen under the former Act was 'bad for output' and hurt the free flow of commerce which the Act was intended to promote."

In Carpenters District Council v. National Labor Relations Board (D.C. Cir. 1959), 274 F.2d 564, the Court said:

> "Congress was aware of the potential conflict between the obligations of foremen as representatives of their employers, on the one hand, and as union members, on the other. Section 2(3) evidences its intent to make the obligations to the employer paramount. That provision excepts foremen from the protection of the Act. Its purpose was to give the employer a free hand to discharge foremen as a means of ensuring their undivided loyalty, in spite of any union obligations." 274 F.2d at 566.

However, the fact that some supervisors are members of a union of their subordinate employees does not excuse an employer from bargaining with the union, and an employer may treat the supervisory employees as employees covered by the National Labor Relations Act if he desires to do so. Pharmacists & Retail Drug Store Employees Union v. Lake Hills Drug Co. (W.D. Wash., N.D. 1964), 255 F.Supp. 910. See also Carpenters District Council v. National Labor Relations Board, supra.

The National Labor Relations Act does not apply to state employees. National Labor Relations Act, § 2(2), 29 U.S.C. § 152(2); 1966 O.A.G. 144, 151, No. 22; 1944 O.A.G. 224, No. 55. Neither is there an Indiana statute defining the bargaining rights of public employees. As I pointed out in 1966 O.A.G. 144, No. 22, the lack of an Indiana labor relations law for public employees creates daily problems for public officers in the executive and administrative departments of government. Public employees also are left without definite standards to guide their legitimate attempts to secure better working conditions and wages.

Nonetheless, there are several applicable rules of law:

(1) No person has a right to public employment, which is, instead, a benefit or privilege. Keyishian v. Board of Regents (1967), 385 U.S. 589, 605-606; State ex rel. Buttz v. Marion Circuit Court (1947), 225 Ind. 7, 72 N.E. 2d 225 (public office).

(2) Despite that fact, the United States Constitution prohibits that conditions be placed upon the benefit or privilege of public employment which infringe upon the liberties of free expression and association. It was not always so. See Adler v. Board of Education (1952), 342 U.S. 485. However, the Supreme Court of the United States recently said, in holding New York's Feinberg Law unconstitutional,

> ''the . . . Law was, however, before the Court in Adler and its constitutionality was sustained. But constitutional doctrine which has emerged since that decision has rejected its major premise. That premise was that public employment, including academic employment, may be conditioned upon the surrender of constitutional rights which could not be abridged by direct government action. Teachers, the Court said in Adler, 'may work for the school system upon the reasonable terms laid down by the proper authorities of New York. If they do not choose to work on such terms, they are at liberty to retain their beliefs and associations and go elsewhere.' 342 U.S., at 492. The Court also stated that a teacher denied employment because of membership in a listed organization 'is not thereby denied the right of free speech and assembly. His freedom of choice between membership in the organization and employment in the school system might be limited, but not his freedom of speech or assembly, except in the remote sense that limitation is inherent in every choice.' Id., at 493.
>
> ''However, the Court of Appeals for the Second Circuit correctly said in an earlier stage of this case, '. . . the theory that public employment which may be denied altogether may be subjected to any conditions, regardless of how unreasonable, has been uniformly rejected.' Keyishian v. Board of Regents, 345 F.2d 236, 239. Indeed, that theory was expressly rejected in a series of decisions following Adler. See Wieman v. Updegraff, 344 U.S. 183; Slochower v. Board of Education, 350 U.S. 551; Cramp v. Board of Public Instruction, supra; Baggett v. Bullitt, supra; Shelton v. Tucker, supra; Speiser v. Randall, supra; see also Schware v. Board of Bar Examiners, 353 U.S. 232; Torcaso v. Watkins, 367 U.S. 488. In Sherbert v. Verner, 374 U.S. 398, 404, we said: ''It is too late in the day to doubt that the liberties of religion and expression may be infringed by the denial of or placing of conditions upon a benefit or privilege.''' Keyishian v. Board of Regents, supra, 385 U.S. at 605-606. (Emphasis added.)

(3) The protected right of free association and expression includes labor union membership, under both the United States Constitution and Art. 1, § 31 of the Indiana Constitution. N.L.R.B. v. Jones and Laughlin Steel Corp. (1937), 301 U.S. 1, 33; Karges Furniture Co. v. Amalgamated Woodworkers Local Union (1905), 165 Ind. 421, 75 N.E. 877; 1966 O.A.G. 144, 150-151, No. 22.

(4) One condition of the exercise of the right of free association which may not be imposed on the benefit or privilege of public employment is the requirement that an employee refrain from mere membership in an organization. See Keyishian v. Board of Regents, supra.

(5) As previously stated, it has been long recognized in ordinary business and industrial labor-management relations that there are employees who must be more responsive to the wishes of the employer than to those of a union made up primarily of non-supervisory employees. This principle is as necessary in government as it is in business and industry.

It is, therefore, my opinion that a department of state government may not prohibit a supervisory or professional employee from holding membership in an employee association which is primarily an organization of his subordinate employees, because such a prohibition would violate the supervisory or professional employee's right of free association protected by both the United States and the Indiana Constitutions. Obviously, however, any supervisory or professional employee who is not effectively carrying out department policies and orders, for whatever reason, including responsiveness to a union of his subordinates rather than to the department he is hired to represent, can be disciplined or dismissed as otherwise authorized by law for failure to perform his duties properly. Some supervisory and professional employees of the state at high levels have the duty of implementing the policy of the State of Indiana with regard to employment practices and salaries. Active participation, such as making policy in or negotiating on behalf of a labor union of subordinate employees, would put those professional and supervisory employees in the untenable position of negotiating with themselves. For those employees, it would seem reasonable to me that refraining from such activities would be the wisest course to follow.

One further problem consistently emerges when the degree of responsiveness to management required of a particular employee is questioned. That problem is the selection of those employees who may properly be designated ''supervisory'' or ''professional'' employees, and from whom responsiveness to management (in this case, the state) rather than to a labor union of his subordinates may fairly be demanded. The designation of such employees is ordinarily made, in business and industry, according to definitions in the National Labor Relations Act. Since the state government must operate without the General Assembly's expression of detailed policy on this subject, the matter appears to be a proper subject of bargaining between the state and the employee unions. A reasonable level of employment must be selected to be designated as ''supervisory'' or ''professional.'' When the state enters into agreements with employee unions, the definition of the bargaining unit therein could well be drawn to exclude those employees which the parties can agree are ''supervisory'' and ''professional.''

Respectfully submitted,

/s/JOHN J. DILLON
Attorney General of Indiana

TEACHERS' ASSOCIATION OF ANNE ARUNDEL COUNTY :

v. :

BOARD OF EDUCATION OF ANNE ARUNDEL COUNTY :

BEFORE THE

STATE BOARD OF EDUCATION

FACTS

This is a review before the State Board of Education under the provisions of Article 77, Section 21 of the actions of the Board of Education of Anne Arundel County on the school budget after it had been submitted to and reduced by the County Council.

On or before June 15, 1968, the Teachers' Association of Anne Arundel County (''TAAAC'') was duly designated as the exclusive representative and negotiating agent of all public school employees in Anne Arundel County, pursuant to Article 77, Section 175.

Some time theretofore the Board of Education had submitted to the County Council of Anne Arundel County (''County Council'') a proposed budget which had been previously negotiated with TAAAC on a voluntary basis and which had been approved by the Representative Assembly of TAAAC and by the Board of Education. The County Council subsequently cut the sum of $3,100,000.00 for the Category of Instruction in the school budget, without further specification. Thereafter, the acting Superintendent of Schools for Anne Arundel County, C. Berry Carter, requested representatives of TAAAC to be present at a meeting of the Board of Education, at which the matter of reallocation of funds in the Category of Instruction was to be discussed. Such discussion was held shortly before the regularly scheduled public meeting of the Board on June 17, 1968, and this discussion was continued after the adjournment of the latter, at approximately 10:30 P.M. At this reconvened session the Board stated to TAAAC representatives that it would be necessary to cut approximately $165,000.00 from the salary scale for provisional degree teachers, which the representatives of TAAAC advised the Board would not be acceptable to it. Considering the meeting to be at an end, the TAAAC representatives left at approximately 12:30 with the impression that the School Board had not yet made its final decision and that TAAAC would be consulted further on the matter. Before the adjournment the School Board felt it had strongly indicated to TAAAC that its final offer had been made. In any event, later in the morning of June 18, the School Board effected the $165,000 cut from the salary scale of the provisional degree teachers.

TAAAC contends that the requirement of Article 77, Section 175 (h)(2) that the employee organization and the county school board negotiate ''at all reasonable times'' as to salaries includes the period of time after the school budget has been submitted to the County Council. TAAAC further contends that the actions of the School Board on June 17 and June 18 did not constitute good faith negotiation. The School Board, on the other hand, submits that, even if negotiation were required (which it does not concede) ample opportunity was given TAAAC to discuss the issue with the Board.

Opinion of the Board

At the time this matter was heard by the State Board of Education the 1968-69 school budget of Anne Arundel County had already been implemented. Any order of the Board upsetting arrangements which had theretofore been made could have resulted in harm to the cause of public education of the County. Nevertheless, we would not hesitate to express an opinion on the issue raised by the petitioner if such an opinion could be a guide for similar situations in the future. However, this issue should not arise again.

Article 77, Section 68 requires the county commissioners or county council in any county to ''indicate in writing what item or items of the annual budget of the county board of education have been denied in whole or part, and the reason for the denial in whole or in part of the respective items''. The Court of Appeals of Maryland, in Board of Education v. Montgomery County, 237 Md. 191, 201-202, 205 A. 2d 202, 208 (1964), has made it abundantly clear that the reasons for such denial of school budget items must not only be in writing ''but must be detailed'' in order to ''advise the county board of education of the items to which it is required to limit the expenditure of the school tax'' (emphasis supplied). Under Article 77, Section 68A, the obligation of itemizing budget cuts in Anne Arundel County has, in some measure, been transferred to the County Executive. Anne Arundel County v. Board of Education, 248 Md. 512, 522, 237 A. 2d 426, 430-31 (1968). Leaving aside the question of whether the law requires itemization of budget cuts by the County Executive or the County Council, it is clear that itemization of costs by an authority other than the Board of Education is required and that a lump sum cut violates both the letter and spirit of the law.

If the clear mandate of the law had been adhered to, no discretion would have been left in the Anne Arundel County Board of Education to reallocate funds within its budget after action by the County Council. Thus, the present controversy would not have arisen.

The complexity of the problems which may arise under the provisions of Article 77, Section 175, as this case illustrates, makes it imperative that county boards of education, county commissioners, and county councils do not take the requirements of Article 77, Sections 68 and 68A lightly. The law is clear. We shall expect county boards of education to abide by it. Where the county commissioners or county council effect a budget cut which does not meet the requirements of Sections 68 and 68A the county board of education shall bring the matter promptly to the attention of the State Board of Education so that consultation can take place on the legal remedy which should be pursued.

The negotiating procedure followed by the Board of Education of Anne Arundel County in this case was adopted in the context of a ''second round'' of budget

considerations, following a budget cut by the County Council. We have made it clear that under the provisions of the Public School Law of our State there must not be any such ''second round''. We are prepared to note, though, that if the procedure in question here had been followed in the initial negotiation process it would not have met the requirements of Article 77, Section 175 (h) (2).

Conclusion

For the reasons stated in our Opinion the petition is dismissed.

It is so ORDERED

Jerome Framptom, Jr., President

Richard Schifter, Vice-President

Mrs. J. Wilmer Cronin

Mrs. William F. Robie

Ross V. Smith

Ramsay B. Thomas, M. D.

Edward N. Wilson

MONTGOMERY COUNTY EDUCATION ASSOCIATION	)	
	)	
vs	)	Before the State
	)	Board of Education
HOMER O. ELSEROAD, Superintendent	)	of Maryland
Montgomery County Public Schools	)	

FACTS

This is a review before the State Board of Education under the provisions of Article 77, Section 21 of the actions of the Superintendent of Schools of Montgomery County in inviting teachers employed by the Montgomery County Public Schools to serve on task forces advising the Superintendent on budget problems.

On March 7, 1966 the Montgomery County Public Schools formalized a long-standing practice by adopting a policy to provide for ''Superintendent's Committees for Operational Tasks''. On July 18, 1966, a supplemental policy statement relating to Advisory Committees was issued.

On or before June 15, 1968 the Montgomery County Education Association, petitioner herein, was designated as the ''exclusive representative'' of all public school employees of Montgomery County, in accordance with Article 77, Sec. 175.

On July 19, 1968, the respondent, Superintendent Elseroad invited a number of teachers for whom petitioner acted as exclusive representative to serve on budget development task forces, whose purpose it was ''to insure considerably greater staff involvement in establishing needs for improvement in FY 1970.'' The Superintendent characterized this approach as ''a milestone toward total staff involvement in all phases of our operation.'' The result of the task force efforts, he indicated, would be a ''comprehensive brochure describing our recent programs and outlining our goals for the future.'' Once the brochure was published, he explained, ''the staff and the public will be asked to make a listing of priorities to help the Superintendent and the Board of Education develop the Operating Budget for FY 1970.''

Petitioner objected to the Superintendent's action in inviting teachers to serve on the task forces, contending that in doing so he infringed on petitioner's status as exclusive representative of the teachers under Article 77, Sec. 175.

Opinion of the Board

The task forces established by Superintendent Elseroad on July 19, 1968 were to report by August 5, 1968. The issue raised by the petition is, therefore, moot. However, as the basic question raised by the petitioner is likely to come up again, we are prepared to state our opinion thereon.

Article 77, Sec. 175 provides that ''(p)ublic school employees shall have the right to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of being represented as to all matters relating to salaries, wages, hours and other working conditions''. Id. (b). The law further sets forth a procedure under which an organization can qualify as an ''exclusive representative''. Id. (e). It then requires that a public school system ''meet and negotiate with two or more representatives of the employee organization so designated as the exclusive negotiating agent for the public school employees .... with regard to all matters relating to salaries, wages, hours and other working conditions''. Id. (h)(1). The term ''negotiate'' is defined as including ''the duty to confer in good faith, at all reasonable times, and to reduce to writing the matters agreed upon as the result of such negotiations". Id. (h)(2).

Article 77, Sec. 175 also provides that ''(n)othing contained herein shall be deemed to supersede other provisions of this Code....'' Id. (k). Among such other provisions is Article 77. Sec. 155 which reads as follows:

> "The county superintendent of schools shall visit the schools, observe the management and instruction and give suggestions for the improvement of the same. He shall advise with principals and teachers...and shall labor in every way to awaken public interest and to improve educational conditions within the county." (Emphasis supplied.)

The question raised by this petition relates to the scope of Article 77, Sec. 175. As we interpret the language as well as ''the true intent and meaning'' of the law, we believe that it does no more nor less than prescribe a formal procedure by which the representative of the public school employees and the public school employer negotiate on salaries, wages, hours and other working conditions. That procedure must be adhered to and no entity other than the exclusive representative may speak for the employees in these negotiations.

In the facts presented to us we see no evidence that the task forces were in any way infringing on the negotiations process prescribed by law. Nor do we see the exclusivity rights of the petitioner infringed upon. In establishing the task forces the Superintendent did no more than exercise his duties under Article 77, Sec. 155. We find his action of involving members of the teaching staff commendable and would, in fact, suggest that task forces of this type be expanded to include interested members of the public and students as well. The greater the opportunities for a constructive interchange of ideas on educational goals and policies prior to the preparation of the budget, the better the service rendered the community.

We are not suggesting that Section 175(k) gives the Superintendent the power to use Section 155 so as to negate the basic purpose of the 1968 professional negotiations statute. We can conceive that situations might arise in which task forces of the kind established by Montgomery County are used to undermine the negotiation process required by Article 77, Section 175. Nothing contained in this opinion should be construed as preventing us from intervening in such a situation. But in the instant case we find no evidence of any such improper intent.

Petitioner has referred us to two decisions of the United States Supreme Court. Neither of these, in our view, supports its contentions. The issue in N.L.R.B. v. Wooster Div. of Borg-Warner Corp. 356 U.S. 342 (1958) to which petitioner's quotation referred, was whether an employer may insist, in negotiating a union contract, on providing for a pre-strike secret vote of all employees. The quotation from N.L.R.B. v. Jones & Laughlin Steel Corp. 301 U.S. 1 (1937), explains the Court's interpretation of the Railway Labor Act, which requires the employer "to refrain from entering into collective labor agreements with anyone other than their true representative as ascertained in accordance with the provisions of the Act." These two decisions refer clearly to the negotiating process and not to contacts between employer and employee outside the negotiating process. They are thus inapposite.

We note from the evidence that at least one of the teachers invited to serve on a task force refused to do so. We urge that as a matter of good policy it be made clear to all teachers that their participation in a task force shall be purely voluntary and that any teacher should feel free to turn down an invitation.

Conclusion

For the reasons stated in our Opinion the petition is dismissed.

It is so ORDERED

Jerome Frumptom, Jr., President

Richard Schifter, Vice-President

Mrs. J. Wilmer Cronin

Mrs. William F. Robie

Ross V. Smith

Ramsay B. Thomas, M. D.

Edward N. Wilson

FLORIDA SUPREME COURT DECISION IN PINELLAS COUNTY
CLASSROOM TEACHERS ASSOCIATION CASE

IN THE SUPREME COURT OF FLORIDA
JULY TERM, A. D. 1968

The Pinellas County Classroom Teachers Association, Inc., a Florida corporation, and Fred Cekau, its President, and Mrs. Elsie Chamburs, its secretary,
Appellants,

vs.

The Board of Public Instruction of Pinellas County, Florida,
Appellee.

Case No. 36,773

Opinion filed September 18, 1968
An Appeal from the Circuit Court for Pinellas County, Ben F. Overton, Judge
Cotten, Shivers, Gwynn & Daniel, William F. Daniel and Edwin I. Ford, for Appellants
Edward A. Turville, for Appellee

THORNAL, J.

We take jurisdiction of a direct appeal from a final decree of a circuit court which construes controlling provisions of the Florida and United States Constitutions.

Our ultimate decision is concluded by the power of a chancellor to enjoin a strike by public school teachers.

On January 11, 1967, the appellant, Pinellas County Classroom Teachers Association, Inc., entered into a Professional Affairs Agreement with the appellee, Board of Public Instruction of Pinellas County. In this opinion we shall refer to the Agreement by that designation. The appellant association shall be called C. T. A., and the Board shall be so called. By the Agreement the Board recognized C. T. A. as the organization with which it would negotiate concerning salaries and working conditions of teachers. Both parties accepted "their individual obligations to assure the uninterrupted operation of the School System." By its terms it remained effective until January 15, 1968. Numerous Conferences were held pursuant to the agreement. In April, 1967, new contracts were sent to all teachers employed on an annual contract basis and to those moving into a continuing contract or tenure status. Testimony was that not a single contract was returned to the Board with any statement of reservations. As a result, before the beginning of the 1967-68 school term, the Board had received executed contracts from every teacher who was returning to the system either under tenure or on an annual contract basis. In the former category there were 2,699, and in the latter, 1,073. Copies of the two types of contracts were attached to the complaint and a list of the names of all teachers who signed them was placed in evidence. Additionally, there were 252 teachers under so-called binder agreements. These were new teachers whose certification from the State had not yet been received. In this status they were not members of C. T. A. when suit was filed. However, each of these had previously received and accepted a formal "notification of appointment" which the chancellor correctly held constituted an enforceable agreement.

Each annual contract recited a base salary and then expressly provided that the Board agrees to employ the teacher "at a salary not less than that shown above, and in accordance with the officially adopted salary schedule." Each continuing contract provided that the teacher was employed on a continuing basis "at an annual salary schedule heretofore or hereafter adopted by the County Board." The so-called binder agreement stated that "The signatures on this offer will indicate that this agreement is binding on the part of the County Board and you." The binder provided also that "The salary scale for the coming school year recognizing certification, rank, and acceptable experience, will be observed." This was accepted by the 252 new teachers.

Normally, under state regulations the budget of the Board should have been submitted to the State Superintendent of Public Instruction by August 3, 1967. However, due to legislative delays occasioned by teacher salary problems at the time, the Board could not adopt its 1967-68 salary schedule until August 10, 1967. The Chancellor held that the delay was excusable and we agree.

At the August 10, 1967, Board Meeting the vice-president of C. T. A. read a prepared statement to the effect that the salary schedule was unacceptable despite increases in all categories. On August 15, 1967, the president of C. T. A. delivered to the County Superintendent a written communication to the effect that the teachers could not begin the performance of services until "such things as salaries and general working conditions could be agreed and incorporated in their respective contracts."

With schools scheduled for opening on August 16, 1967, and the announced intention of the teachers to stay away from the classrooms, the Board sought and obtained a temporary injunction to prohibit the strike. The temporary injunction was granted on August 15, 1967, and was made permanent on August 31, 1967, after two days of extensive hearings.

By the injunctive decree the Chancellor announced:

"That the Pinellas County Classroom Teachers Association, Inc., and each of its members who hold an appointment with the Board of Public Instruction of Pinellas County, Florida, be and they are hereby permanently enjoined from striking, failing to report to work, stopping work, or failing to perform all or part of their duties of employment for the purpose of inducing, influencing or coercing a change in compensation or conditions of employment."

The Chancellor supplemented the formal decree with an explanatory opinion which was expressly incorporated into the decree. It is this decree which we now review on appeal.

Although appellants claim that the teachers were only negotiating and had never finalized contracts, this record is abundantly clear that all three classes of teachers had binding contracts with the Board. While the stipulated salaries were stated to be the minimums or those stated in the schedule to be adopted by the Board, the fact remains that all elements of a contract were present and agreed upon in writing. The Chancellor correctly held that all parties bound by his decree had valid and enforceable contracts to teach in the Pinellas County schools for the year 1967-68, beginning August 16, 1967.

Appellants raise various objections to the pleadings. The complaint was properly brought against the appellant Association in order to bind its members by the decree. The Association represented the teachers who had acted in concert through C. T. A. as their bargaining agency. The members of C. T. A. were the only ones bound by the decree. Non-member teachers had not threatened to strike. Relief against them was neither sought, nor obtained.

The complaint adequately alleged bases for declaratory relief. Under Fla. R. Civ. P. 1.130 (a), it was sufficient to attach copies of each of the several contracts and allege that they "were signed respectively by the three categories of teachers.

Appellants have come directly here, claiming that the trial judge passed directly on the validity of Fla. Stat. §839.221 (1967). This statute, in effect, prohibits governmental officers and employees from participating in strikes against the government. It states that "no person shall accept or hold any . . . employment in the service of the state, of any county or of any municipality . . ." who participates in any strike against the governmental employer. The statute guarantees the right to bargain as a member of a union or labor organization but precludes the right to strike against government.

The Chancellor did not really pass on the validity of the statute. He recognized the statute and then announced that even if it were inapplicable, "a person holding a government position has no right to strike without clear and direct legislative authority to do so." He based his ultimate judgment on the general powers of equity to prevent the breakdown of an essential aspect of government because of an unauthorized work stoppage by its employees. In following this course the Chancellor relied upon sound concepts and precedents. Miami Water Works Local No. 654 v. City of Miami, 26 So. 2d 194 (Fla. 1946); Dade County v. Amalgamated Association of Street Electric Railway & Motor Coach Employees of America, 157 So. 2d 176 (3d Dist. Ct. App. Fla. 1963); Norwalk Teachers' Ass'n. v. Board of Education of City of Norwalk, 83 A. 2d 482 (Conn. 1951). In referring to strikes by public employees the decision last cited credits the late President Franklin D. Roosevelt with the statement that "Such action, Looking toward the paralysis of Government by those who have sworn to support it, is unthinkable and intolerable." We share this view so clearly announced by one whom history records as a political patron saint of the modern labor movement. The Chancellor wisely made clear that his injunction could not preclude an unconditional termination of employment, nor could it be employed to impinge on freedom of speech, assembly or association short of the advocacy of a strike against the government.

The Chancellor did, however, construe the so-called "involuntary servitude" provisions of the state and federal Constitutions. Fla. Dec. of Rights §19, provides in part: "Neither slavery nor involuntary servitude . . . shall ever be allowed in this state." Substantially identical proscriptions are announced by U.S. Const. amend. XIII.

Appellants insist that the injunction requires involuntary servitude as proscribed by the foregoing provisions. The Chancellor specifically held that it does not. He clearly stated that involuntary servitude is not involved simply because all he was doing was prohibiting a strike by a group of teachers who had been duly appointed and who had not terminated their employment. The Chancellor did not force the teachers to work. He merely offered them alternatives, which were: (1) to work and thereby comply with their contracts; (2) resign in accordance with the terms of their contracts; or (3) resign in violation of their contracts and subject themselves to the provisions of Fla. Stat. §231.36 (1965), which would make them ineligible for employment in the school system for a period of one year from the date of such violation.

We are not here confronted by an arbitrary mandate to compel performance of personal service against the will of the employee. These people were simply told that they had contracted with the government and that they could, if they wished, terminate the contract legally or illegally, and suffer the results thereof. They could not, however, strike against the government and retain the benefits of their contract positions.

Appellants place great reliance on Henderson v. Coleman, 150 Fla. 185, 7 So. 2d 117 (1942). This decision does not control the instant case. Henderson merely held that one man cannot be forced to serve another against his will.

It then held that where "there was no contractual relation" between a union and a truck operator, the union members could not be required to work for the operator. In the case before us there was the "Professional Affairs Agreement" between the Board and C. T. A. Even more importantly, perhaps, the appellants were told that they could resign or breach their contracts, but they could not strike and bargain for a return to work while retaining their teacher status under contract terms. This is a significant aspect of the instant matter which should be carefully noted in employing this opinion in any future situation.

A "strike is ordinarily thought of as the physical act of employees leaving their workbenches or office desks and departing from their place of employment, but not including in such departure a serverance of the employer-employee relationship." Forkosch, A Treatise on Labor Law (1965). The teachers here were not quitting their jobs or severing the employer-employee relationship. They were free to do that before and after the injunction. What they were really attempting to do here was to exert pressure on the School Board by refusing to go to work, but at the same time laying claim to their positions and asserting the right to go back to work on terms more acceptable to them. This, indeed, was a typical strike. Dayton Co. v. Carpet, etc. Union Local No. 596, AFL, 229 Minn. 87, 39 N. W. 2d 183, cert. denied 339 U. S. 906 (1949); State v. Coleman, 156 Fla. 413, 27 So. 2d 477 (1945).

The conclusion is almost inescapable that the action announced by members of appellant C. T. A. was a strike by any standard. It was a strike against the government which all authorities agree cannot be tolerated in the absence of expressed consent by the government. Local 1526, International Longshoremen's Association, A. F. L. - C.I.O., v. Broward County Port Authority, 183 So. 2d 257 (4th Dist. Ct. App. Fla. 1966); Board of Education of the City of New York v. Shanker, 283 N.Y.S. 2d 548 (Sup. Ct. 1967); Amell v. United States, 384 U.S. 158 (1966); Miami Water Works Local No. 654 v. City of Miami, supra; Norwalk Teachers Association v. Board of Education of the City of Norwalk, supra; Pruzan v. Board of Education of the City of New York, 209 N. Y. S. 2d 966 (Sup. Ct. 1960), aff'd. App. Div., 215 N. Y. S. 2d 718 (1961), aff'd. 9 N. Y. 2d 793, 175 N. E. 2d 164 (1961).

We affirm the holding of the Chancellor to the effect that in the absence of specific statutory authority an employee of government has no right to strike, as herein defined, in order to coerce a change in compensation or conditions of employment. To this end, we agree with the Chancellor when he stated:

> "To allow such action would permit the breakdown of governmental functions, would sanction the control of a governmental function for private gain; and further, to allow such action is the same as saying that governmental employees may deny the authority of government through its duly elected representatives. To permit this is to take the first step toward anarchy."

The decree is affirmed.

CALDWELL, C. J., THOMAS, ROBERTS, DREW, and ADAMS, (Retired), JJ., concur
ERVIN, J., concurs in judgment with opinion

ERVIN, J., concurring in the judgment:

I concur in the judgment of affirmance. I believe that the described contracts which were executed by teachers on a tenure basis or an annual contract basis, or on a binder agreement basis bound them to teach during the ensuing school year. Such contracts rendered them ineligible to resign or refuse to teach, for salary reasons, during that term. Had they not executed such contracts containing the language described in the foregoing opinion, they would have been bound in any way and would have been under no legal or moral obligation to teach during the ensuing school year.

In the matter of the arbitration between:

BARNSTABLE TEACHERS ASSOCIATION

and

BARNSTABLE SCHOOL COMMITTEE

Case No. 1130-0043-68

OPINION AND AWARD
Contract interpretation grievance.

This matter was presented to the undersigned at a hearing held in Osterville, Mass. on May 6, 1968. At this hearing Haskell C. Freedman, Esq. appeared for the Association and Alan S. Miller, Esq. appeared for the Committee. Briefs were filed by Mr. Freedman and Mr. Miller on June 28, 1968.

ISSUE

(1) Does the demand for arbitration filed with the American Arbitration Association on January 29, 1968, constitute an arbitrable matter under the terms of the collective bargaining agreement?

(2) If so, what disposition shall be made of that demand for arbitration?

BACKGROUND

The essential portions of the demand for arbitration filed by Richard P. Gleason, Chairman of the Association's Negotiating Committee, read as follows:

''NATURE OF DISPUTE:

From his own experience of the past eight years and by precedent, the Barnstable School System has accepted the teachers' judgement and evaluation of students - which is basic to the integrity of the teaching profession. In violation of Article II in the Agreement hereto attached, the conditions of employment of the undersigned were radically changed and his welfare threatened by a written statement from his administrator containing the following points:

1) the undersigned must abandon his personal judgement of students and substitute higher grades; and

2) to fail to do so would constitute insubordination (which is in effect dismissal).

REMEDY SOUGHT:

1) A retraction of the demand that the undersigned abandon his academic standards; and

2) a statement of policy from the Barnstable School Committee to all teaching personnel re-establishing the teacher's right to grade according to his personal judgement without political (or other) interference.''

The provisions of the Agreement which are pertinent to our inquiry are Article II and Article III.

Article II provides,

''ARTICLE II

COMPENSATION AND OTHER CONDITIONS OF EMPLOYMENT

Except as otherwise provided in this Agreement, the wages, hours, and other conditions of employment applicable on the effective date of this Agreement shall continue to be so applicable unless there is good justification for a change. Before any significant change is made, it will be discussed with the Association.''

Article III defines a grievance in Paragraph A, to wit:

''ARTICLE III

GRIEVANCE AND ARBITRATION

A. A ''grievance'' is a claim based upon an event or condition which affects the welfare and/or conditions of employment of a teacher or group of teachers and/or the interpretation, meaning or application of any of the provisions of this Agreement or any subsequent agreement entered into pursuant to this Agreement.''

In Article III, Paragraph E., Level Four A. the parties provide for the disposition of grievances via arbitration,

''---provided, however, that only grievances that involve the interpretation or application of this Agreement shall be subject to arbitration.---''

The grievant, Edward F. Barry, is a high school chemistry teacher. He has been employed in this capacity by the Barnstable School Committee since 1959. In mid May 1967 Mr. Barry was called to the office of principal Paul J. Prescott and informed that a number of complaints had been made about the marks he was giving to his students. Mr. Barry inquired as to the nature of these complaints and Mr. Prescott explained that he didn't think it was important to discuss that. He said he would like to have Mr. Barry give consideration to re-evaluating his marking system, his teaching approach and the subject material covered. Mr. Barry replied that as a good teacher he was constantly in the process of evaluating his methods, himself and his subject materials. The meeting closed with Mr. Prescott asking Mr. Barry to give the matter further thought.

At the beginning of school in early September 1967, Mr. Prescott visited one of Mr. Barry's chemistry classes for a few minutes one day and for a full period the next day. After this, Mr. Prescott again asked Mr. Barry to his office. Mr. Wannie, the assistant principal, was present at this meeting. Mr. Barry asked that either Mr. Wannie not be present or that he be allowed to have a fellow teacher present, and both requests were denied. Mr. Barry was asked for his opinion as to why his students were achieving at a lower level in chemistry than in any of their other subjects? He answered that he aimed the course at a sufficiently high level so that the median of achievement would be adequate for a student to compete with students in other schools who were seeking admission to Ivy League colleges. Since some of his students had been "assigned" to chemistry they did not in his opinion belong in this class. The meeting ended according to Mr. Barry's testimony, with a request that he make a firm statement within two weeks as to whether he intended to mark his students in line with the present marking curve.

On October 5, 1967, Mr. Prescott again spoke to Mr. Barry about his marking habits and when the latter declined to agree to conform to the marking curve which is apparently followed by all other teachers, Mr. Prescott handed him the following memorandum:

"October 2, 1967

Memo to: Mr. Barry
From: Mr. Prescott

A study of the final marks you gave in college chemistry last year shows the following:

Of the 67 people taking college chemistry, four received A's or 6%; eight received a mark of B or 12%. Quite commonly in the better colleges, an A or B is the only mark that is considered as a college certifying mark so 18% of your students received certifying marks. At the other end of the scale, 30% received D; 13% failed or a total of 43% received either D or a failing mark.

These marks are very much out of line with the marks college preparatory students received in other classes and from other instructors. A further examination of the records shows that your distribution of marks has been about the same for the past three years.

High school chemistry is not regarded as more difficult than numerous other subjects in the high school curriculum. Also, it is very doubtful if the students in your chemistry classes are misplaced to any degree. There is reason to believe that they have sufficient ability and/or intelligence to do good work in chemistry, work which is worthy of a college certifying mark. In view of the above, you are asked to do the following:

1. To report to the principal and to the director of guidance, in writing, any student who you believe is lacking in intelligence and/or the ability to do the work required in a college preparatory chemistry class. Upon the receipt of such a report, the guidance department and myself will immediately go over the student's records and tests with you, in order that appropriate action may be taken.

2. You are also asked to repeatedly examine the teaching techniques you use in your classes, methods of motivation, the employment of audio visual aids, the degree of student participation, etc. This is to be done in order to make every effort possible to increase learning thereby raising standards.

3. You are specifically and directly ordered to revise your marking system to bring it into line with the marks received by college preparatory students in other classes in the school. To fail to do so, will be regarded as an act of insubordination.

4. Enclosed is a Distribution of Marks report for the second quarter, 1966-67."

The graph attached to this memo indicated the grades received by Barnstable High School students for the 2nd quarter 1966-67, as follows:

	College Course	Other Than College Course
A	14%	9%
B	33%	26%
C	28%	35%
D	19%	21%
E	4%	7%

Attached to the graph, the results of which are listed above, was a statement dated February 9, 1967 which read:

"The attached graph of distribution of marks for the second quarter is <u>not</u> to be construed as meaning that administration wishes teachers to mark on a so-called normal curve. Quite the contrary.

The graph is presented to merely serve as a basis of comparison."

ANALYSIS I

Following a full and considered study of all the testimony, documentary evidence and arguments, the Arbitrator is required to find that the Association's January 27, 1968 demand for arbitration does raise an arbitrable issue. The crux of the dispute is over Mr. Barry's right to continue to grade his students as he has in the past, and this clearly is a condition of employment and is covered by Article II of the Agreement. Article II provides in effect that working conditions not changed in negotiations, and applicable on the effective date of the Agreement, shall continue to be so applicable unless there is good justification for a change. It further says that before any significant change is made, it will be discussed with the Association.

Mr. Barry's method of marking his students based on examination results, homework, classroom participation and lab work, has been followed uninterruptedly since he was first retained as a teacher in 1959. As a teacher his first duty is to teach and this is followed closely by a second responsibility which is to evaluate the results of his teaching by marking his students.

A condition of employment is not only one of the fringe benefits attaching to a job, it is each of the separate duties of the job which is performed on a continuing basis. The clerical duties attaching to a teaching assignment is a condition of employment, and so too is the lecturing, the maintaining of discipline, preparing tests, and the grading of students. Each of these functions is a condition of employment for a

teacher, and where a teacher is directed to revise his marking system to bring it into line with the marks received by his students in their other classes, this raises a question as to whether or not his rights under Article II of the Agreement have been violated, and this matter is arbitrable under Article III, E, Level Four, as the grievance involves the interpretation or application of the Agreement.

It can not be disputed that school administrators are entitled to express concern about a teacher whose results show that only 18% of his college preparatory students received certifying marks, and 50% of these same students obtained certifying marks in all of their other subjects. Originally Mr. Barry was asked to reconsider his teaching approach, the subject material covered and the possible re-evaluation of his marking system. This was certainly a reasonable request in view of his high percentage of low marks and low percentage of high marks.

Thereafter however, it is apparent that reasonable discussions of the possible causes of this phenomenon did not occur, despite the good intentions of both sides to do what was best for the students. Whether Mr. Barry or Mr. Prescott is primarily responsible for the breakdown in communications which resulted is not determinable from the evidence, but in all likelihood both are at fault for not having sufficient respect for the sincerety of each other.

Mr. Prescott's paragraph numbered 3, on his October 2, 1967 memo to Mr. Barry is the bone of contention and it deserves to be read again:

> ''3. You are specifically and directly ordered to revise your marking system to bring it into line with the marks received by college preparatory students in other classes in the school. To fail to do so, will be regarded as an act of insubordination.''

Mr. Prescott treats Mr. Barry's marking system as the main cause of the low marks received by Mr. Barry's chemistry students, and the arbitrator finds that there is no evidence in the record to support such a conclusion, or to justify a directive to revise his marking system to bring it into line with the marks received by students in other classes.

The School Committee's case is replete with references to the need for Mr. Barry to revise his marking system upward, ostensibly so that more chemistry students will receive A's and B's and thus have a better chance for admission to college. This is a desirable result but the approach of revising a marking system to obtain it, leaves much to be desired. There are enough natural hazards in any marking system which make it difficult to grade a student with precisely the mark he deserves without imposing an artificial standard, with no instructions for its application.

When all teachers were given copies of the 1966-67 second quarter graph showing marks of students at Barnstable High School, a note was appended to each graph. That note was previously quoted and essentially it said that it should not be implied that the administration wanted teachers to grade on a normal curve. On the contrary, the graph was to be used for comparison. However, in Mr. Prescott's memo of October 2, 1967, he specifically directs Mr. Barry to revise his marking system, "to bring it into line with the marks received by college preparatory students in other classes in the school." This is a direct order to mark his students on a so-called normal curve, and it contradicts the February 9, 1967 memo attached to the graphs distributed to the teachers, where this was declared not to be the policy of the administration.

The low marks complained about in Mr. Barry's case could be the result of one or several different factors. He could be covering too much material for the time alloted. He could be covering too much non-sequential material causing some students to have difficulty in picking up new categories. It could be that his course needs to be organized differently, or restructured to provide more lecture time and less class room participation, or vice versa. Wherever improvements are in order they should be made, but Mr. Barry is entitled to advice and counseling along these lines and it is absurd to direct him to change his marking system, when marks are the effect and not the cause of his students inability to better understand the subject matter.

After proper investigation by the administration, which up to now has not taken place, it may be found that a simple rearrangement of the subject matter, or a rewording of certain test questions will result in chemistry students having a better understanding of their subject, with better marks resulting. If this is so then Mr. Barry may be directed to make the rearrangement or rephrase his test questions, and based on his character as revealed at the hearing and his fine record as a teacher over the years, he would be delighted to adopt any suggestion that will result in better learning opportunities for his students.

For the foregoing reasons, the Arbitrator finds that Mr. Prescott's directive to Mr. Barry contained in the October 2, 1967 memo in paragraph numbered 3, constitutes a violation of Mr. Barry's rights under Article II of the Agreement. At the time the Agreement was written Mr. Barry enjoyed the right of marking his students fairly and equitably based on their overall accomplishments in his chemistry classes. Mr. Prescott's directive to him, to in effect mark on a normal curve, is contrary to stated administration policy. There is no justification for imposing such a marking system on this teacher, and the attempt to do so is contrary to the intent and spirit of Article II of the Agreement.

Accordingly, the undersigned Awards that:

(1) The demand for arbitration filed with the American Arbitration Association on January 29, 1968 does constitute an arbitrable issue.

(2) The memo of October 2, 1967 from Mr. Prescott to Mr. Barry, shall be removed from Mr. Barry's personnel file and expunged from his record.

Mr. Barry need not comply with the paragraph numbered 3 of this memo.

/s/ William J. Fallon
Arbitrator

Boston, Mass.
September 11, 1968

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO

SAN FRANCISCO CLASSROOM TEACHERS ASSOCIATION, a corporation; VICTOR B. GRAFF, individually, as President and a member of said Association and as Chairman of the Negotiating Council of The San Francisco Unified School District; and RALPH J FLYNN, individually and as Executive Secretary of said Association, Plaintiffs, vs. BOARD OF EDUCATION OF THE SAN FRANCISCO UNIFIED SCHOOL DISTRICT, City and County of San Francisco, State of California; EDWARD KEMMITT, LAUREL GLASS, MRS. ERNEST R. LILIENTHAL, REYNOLD H. COLVIN, ADOLFO deURIOSTE, ZURETTI L. GOOSBY and ALAN H. NICHOLS, as members of said Board; SAN FRANCISCO UNIFIED SCHOOL DISTRICT of the City and County of San Francisco, State of California; and ROBERT E. JENKINS, Superintendent of Schools of said District; SAN FRANCISCO FEDERATION OF TEACHERS, LOCAL 61, AMERICAN FEDERATION OF TEACHERS, AFL-CIO, an unincorporated association; and JAMES E. BALLARD, individually and as President of said Federation, Defendants.	NO. 588011 J U D G M E N T

The above entitled case came on regularly for hearing before the above-entitled court, the Honorable Andrew J. Eyman Presiding, on February 20, 1968.

Plaintiffs above-named appeared by their attorneys, Messrs. Johnson & Stanton, by Thomas E. Stanton, Jr., Esq. and Marshall A. Staunton, Esq.; defendants Board of Education of the San Francisco Unified School District and all Board members, said School District, and Superintendent of Schools Robert E. Jenkins, appeared by their attorneys, Thomas M. O'Conor, Esq., City Attorney, by George E. Baglin, Esq., Deputy City Attorney, and Irving G. Breyer, Esq., Legal Adviser to the San Francisco Unified School District; and defendants San Francisco Federation of Teachers, Local 61, American Federation of Teachers and James E. Ballard, appeared by their attorneys, Messrs. Levy, DeRoy, Geffner & Van Bourg, by Victor J. Van Bourg, Esq.

The cause was referred to the Court Commissioner, the Honorable William J. Ahlbach, for a hearing concerning all issues of the petition for writ of mandate and complaint for declaratory relief. The hearing commenced on February 27, 1968, and continued on March 4, 13 and 28, and April 15 and 24, 1968. At the conclusion of the hearings on April 24, 1968, the parties, through their respective attorneys of record, signed and thereafter filed an agreed statement of facts to be submitted to the above-entitled court for its determination and judgment. The cause was argued orally before the court on May 28, 1968, and thereupon submitted to the court for decision.

The Court, having considered the pleadings, the agreed statement of facts, the exhibits attached thereto, the testimony supplementary to said statement and the briefs and arguments of counsel, and having heretofore signed and filed its written Findings of Fact and Conclusions of Law directing that judgment be entered as hereinafter provided:

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, DECLARED AND DECREED, as follows:

1. That the provisions of article 5 (commencing with Section 13080) of Chapter 1 of Division 10 of Part 2 of the Education Code, commonly known as the Winton Act, are not unconstitutional under the Constitution of the United States and the State of California for any of the reasons specified in the seventh affirmative defense pleaded in the answer of the defendant San Francisco Federation of Teachers, Local 61, American Federation of Teachers, AFL-CIO (hereinafter referred to as the "defendant Federation") on file herein.

2. That defendant Board of Education and its designee, the defendant Superintendent of Schools, are required by the Winton Act to meet and confer in good faith and to endeavor to reach agreements with representatives of certificated employee organizations, including representatives of the defendant Federation, only through the Negotiating Council with regard to the matters set forth in Sections 13084 and 13085 of the Education Code, and the defendant Federation is required by said Winton Act to meet and confer with the defendant Board of Education and the defendant Superintendent of Schools only through the Negotiating Council with regard to said matters.

3. That the Winton Act does not preclude representatives of the defendant Federation or of any other organization representing certificated employees from presenting proposals directly to the defendant Board of Trustees at a public meeting, or any member of said Board or the defendant Superintendent of Schools or any other person from asking questions or otherwise commenting on or responding to any such presentation at such meeting, but the Act does require that meeting and conferring on such proposals be accomplished through the Negotiating Council.

4. That a peremptory writ of mandate be issued out of and under the seal of this Honorable Court and be directed to defendant Board of Education, the defendant members of said Board and the defendant Superintendent of Schools, commanding them that immediately after the receipt of said writ, they meet and confer in good faith and endeavor to reach agreements with representatives of certificated employee organizations, including representatives of the defendant Federation, only through the Negotiating Council of the defendant School District with regard to matters set forth in Sections 13084 and 13085 of the Education Code; and further commanding said defendants, and each of them, to make known to this Honorable Court in the Court Room of Department 20 thereof, in the City Hall of the City and County of San Francisco, State of California, within twenty days after the date this judgment becomes final, how they have executed this writ, and to have with them then and there this writ.

5. That the above-named defendant Board of Education and its designee, the above-named defendant Superintendent of Schools, be and they hereby are, perpetually enjoined and restrained from meeting and conferring or signing agreements directly with representatives of the defendant Federation or of any other certificated employee organization with regard to matters set forth in Sections 13084 and 13085 of the Education Code, outside of and without regard to the Negotiating Council, and the above-named defendants Federation and James E. Ballard be, and they hereby are, perpetually enjoined and restrained from thus meeting and conferring or signing agreements with the defendant Board of Education or the defendant Superintendent of Schools.

6. That plaintiffs above-named do have and recover from defendants costs and disbursements incurred in this proceeding, amounting to the sum of $_____.

Dated: August 26, 1968.

_____
/*/ ANDREW J. EYMAN
Judge of the Superior Court

In the Matter of:

BULLOCK CREEK SCHOOL DISTRICT
OF MIDLAND COUNTY,

Respondent,

Case No. C68 C-16

- and -

BULLOCK CREEK EDUCATION ASSOCIATION,

Charging Party.

B-VIII PERA
Unfair Labor Practices
Discrimination

In a case involving a charge that an employer terminated an employee because of his activities as a member of a union bargaining committee, mere weakness of the employer's defense (explanation) does not satisfy the charging party's burden of proof, absent some affirmative evidence of anti-union motivation on the employer's part.

DECISION AND ORDER

On May 9, 1968, Trial Examiner James R. McCormick issued his Decision and Recommended Order in the above-entitled matter, finding that the Respondent, Bullock Creek School District of Midland County, had not engaged in, and was not engaging in, certain unfair labor practices and recommended that the charges be dismissed as far as they relate to the failure of Respondent to rehire teacher Kenneth Galloway for the 1968-1969 school year. The Trial Examiner withheld his decision on certain other allegations which were heard by him as part of this case. Rulings on those aspects of the case await the filing of briefs, as is more fully set forth in the Trial Examiner's Decision, attached.

The Trial Examiner's Decision and Recommended Order was issued and served upon the interested parties in accordance with Section 16(b) of Act 336 of the Public Acts of 1947 as amended. The parties have had an opportunity to review said Decision and Recommended Order for a period of at least twenty days from date of service thereof on the parties, and no exceptions have been filed by any of the parties to the proceedings.

ORDER

Pursuant to Section 16(b) of the Act, the Recommended Order by the Trial Examiner shall become the Order of the Board and the charges and complaint relating to the failure to rehire Galloway are hereby dismissed.

MICHIGAN LABOR MEDIATION BOARD

Robert G. Howlett, Chairman
Leo W. Walsh, Board Member

Dated: July 15, 1968

TRIAL EXAMINER'S DECISION
AND
RECOMMENDED ORDER

APPEARANCES:

For the Charging Party: Foster, Campbell, Lindemer and McCurrin
By: James A. White, Esq.

For the Respondent: Thomas and Delaney,
By: John W. Thomas, Esq.

The above-entitled matter came on for hearing, pursuant to Section 16 of Act 336, Public Acts of 1947, as amended (Public Employment Relations Act, hereinafter referred to as PERA), before the undersigned trial examiner of the Labor Mediation Board, on April 4, 1968, at Midland, Michigan, as a result of charges filed on March 13, 1968, by the Bullock Creek Education Association (hereinafter referred to as the Association) against Bullock Creek School District of Midland County (hereinafter referred to as the District) alleging unlawful practices prohibited by PERA Section 10. On the record as a whole, including testimony of witnesses, exhibits, stipulations, and argument of counsel, the undersigned makes the following finding of fact, conclusions of law, and recommended order:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The District is a public employer within the meaning of PERA and the Association is a labor organization within the meaning of PERA. The Association is the certified exclusive bargaining agent for the certificated teaching personnel of the District.

The charges, as amended, allege certain violations of the District's duty to bargain with the Association. The charges also allege that Kenneth Galloway, a biology teacher in the District's High School, was, on March 26, 1968, notified that he would not be employed for the 1968-1969 school year and that his services would be discontinued as of June 7, 1968. It is alleged that Galloway is being discriminated against because of his Association activities.

At the conclusion of the hearing it was agreed to submit the Galloway case for decision without briefs. Accordingly, the Galloway charge was effectively severed from the remainder of the case, for purposes of the undersigned's decision and recommended order.

The instant decision is concerned with the Galloway charge only. A decision on the remaining charges will be issued following submission of briefs, a due date for which was set at the conclusion of the hearing.

Galloway taught for four years at Bad Axe, Michigan, before being hired by this District for the school year 1967-1968. He is a certificated biology teacher and teaches both regular biology classes and "slow" classes. Pursuant to the Teacher Tenure Act, Act 4 of 1937, Extra Session, as amended, a teacher such as Galloway, upon moving to a new district, is on probation for one school year. If the District does not want him to gain full tenure in the District, it must notify him, at least sixty days prior to the end of the school year, that his performance has not been satisfactory and that he will not be employed further.

Galloway was elected to the Association's negotiating team in November, 1967. He participated in the negotiation meetings held so far this year. The record does not reveal any specific organizational activity on his part other than participating in meetings as a member of the team. The only noteworthy event involving Galloway at a negotiation meeting was a verbal exchange he had with School Board Member Dr. Frederick Brown. Brown, with reference to the top salary proposed by the Association for a teacher with a master's degree, remarked that he would consider taking a teaching position at such a high salary. Galloway cracked that Brown would not be qualified to teach. Brown, obviously flustered, countered that if he (Brown) did decide to take a teaching job Galloway would be the first to go. The remark apparently was an isolated, if potentially threatening, statement. Brown holds a doctor of philosophy degree in biology, Galloway's field, and it is quite plausible that Brown was alluding to his own presumed superior qualifications to teach biology. An Association witness who heard the verbal exchange, so interpreted Brown's meaning.

On January 30, 1968, Galloway was observed in his class by High School Principal Oliver Juengel, as a preliminary to filling out a standard evaluation form which is routinely prepared on probationary teachers in January. Immediately thereafter, Juengel filled out the form and discussed it with Galloway. The form provides for ratings of teachers on thirty-one factors, which fall under four major headings: classroom instruction and management, professional qualities, personal qualities, and parent and community relations. The teacher may be graded superior, good, acceptable, improvement needed, and unsatisfactory. Juengel graded Galloway "good" on the bulk of the factors and "acceptable" on seven of them. On the reverse side of the form, Juengel pointed out that Galloway had some problems in maintaining order during a classroom discussion.

The Assistant Principal observed Galloway's class for about ten minutes sometime later, but did not make an evaluation. He did tell Galloway he would recommend his retention. On March 6, 1968, Superintendent Dalton O. Coe wrote to Galloway telling him the District was uncertain as to whether Galloway ought to be put on tenure and expressing a hope that in the interim the District could bring itself up to date on Galloway's status in order to make a proper determination.

Later in March, Juengel again observed Galloway in his class. Juengel was present for most of an hour and was distressed over cheating and continuous student talking. He did not discuss his concern with Galloway. Subsequently, Juengel recommended to Superintendent Coe that Galloway not be retained. Juengel had concluded, according to his testimony, that Galloway's inability to maintain discipline was serious enough to cause the District to deny him continuing tenure, particularly in view of the fact that Galloway was not a novice but rather an experienced teacher.

Superintendent Coe, relying mainly on Juengel's recommendation, in turn recommended to the School Board that Galloway not be given tenure. Coe testified that he gave additional weight to Galloway's academic record and prior teaching record, the details of which were not made known at the hearing held by the undersigned. The Association objected to all such evidence as too remote to be relevant.

Juengel explained the seemingly favorable written evaluation report on Galloway by saying that he ordinarily only makes use of the first three grades (superior, good, acceptable) in evaluating teachers. Thus, he testified, Galloway's ratings were low when compared to other teachers. This is confirmed by a study of the comparable evaluation reports made on all other probationary teachers at the high school. Of approximately twenty such teachers, Galloway's rating was the worst, and some of these are beginning teachers. The most convincing evidence in support of Juengel's claim is the fact that the two other probationary teachers in the District who have been denied tenure this Spring both received considerably better grades on their evaluation forms than Galloway received.

If sitting as an arbitrator on the merits of the refusal to retain Galloway, the undersigned might well conclude that the District has not treated Galloway fairly or in a professional manner. However, the Tenure Act forces a School Board to discontinue a teacher's services or allow him to obtain tenure privileges, which makes it relatively difficult to remove him at a later time. In any event, the undersigned may not act in the capacity of an arbitrator or tenure commission which must determine if just cause for the termination existed. The sole statutory issue here is whether the Association has proved by a preponderance of the evidence that the District was motivated by Galloway's activities as a member of the Association's bargaining committee. The Association, in my mind, has not carried this burden of proof. To be specific, absent some affirmative evidence of anti-Association motivation, mere weakness of the Employer's defense does not satisfy the burden of proof. I find that there is insufficient evidence on which to predicate a finding of a violation of Section 10 of PERA in connection with the decision to not retain Galloway.

RECOMMENDED ORDER

On the basis of the foregoing findings of fact and conclusions of law, and on the record as a whole, the undersigned recommends that the Board enter an Order dismissing the charges as to Galloway. The remainder of the case, as noted above, will be treated in a separate decision after the filing of briefs.

MICHIGAN LABOR MEDIATION BOARD

James R. McCormick
Trial Examiner

Dated: May 19, 1968

AMERICAN ARBITRATION ASSOCIATION

In the Matter of the Arbitration

between

The Pittsfield Teachers Association

and

The Pittsfield School Committee

CASE NO. 1130-0209-68

Introduction

The undersigned, who was designated Arbitrator in the above-entitled matter by the American Arbitration Association pursuant to the terms of the parties' January 1, 1967 Agreement, held a hearing in Pittsfield, Massachusetts on July 25, 1968 at the Plunket School at which the School Committee was represented by Leon J. Kowal, Esq. and the Association by George R. Shea, Jr., Esq.

The Issue

As agreed by the parties at the commencement of the arbitration hearing, the issue presented to the Arbitrator for a decision is:

> Has the contract been violated by the decision of the School Committee to deny the request of the Grievant for sabbatical leave, after the Superintendent has made a recommendation, on the grounds that the request was not received on time?

The Facts

The Grievant, John A. Massimiano, a teacher and subsequently Director of Health, Safety, and Special Education, began his service in the Pittsfield Schools in 1951.

The contract calls for a written request for sabbatical leaves to be "received by the Superintendent of Schools" no later than December 31 each year. The Grievant testified that his request, although dated December 31, was actually submitted at 3:30 p.m. on Friday, December 29, in the official "incoming" mailbox in the outer office of the Superintendent of Schools. The school office was closed on December 30, 31, and January 1 because of the holiday weekend. The Superintendent himself was not in the office in the several days prior to or after the deadline, but authorized an Assistant Superintendent, Lincoln Lynch, to open the mail on his behalf. Witnesses testified that school administrators knew in advance of the Grievant's intent to file a request, that the office was open until 5:00 p.m. on the 29th, that Assistant Superintendent Lynch was not only empowered to open the mail but was "very efficient" and on duty until late in the afternoon.

The Grievant testified that on Tuesday, January 2, Lynch asked if he had submitted the request. Not until the morning of January 3 was the receipt of the request acknowledged by the process of "time stamping," the usual Pittsfield School Office practice in handling certain other requests for leave. The time stamping, usually done by a secretary, on this request was witnessed on January 3 by Lynch and by the Assistant for Personnel, Thomas J. Roche.

Superintendent James P. Reynolds recommended to the School Committee that the request be granted. At its March 13 meeting, the Superintendent asked the Grievant several questions concerning his request (mainly about grants for advanced study) but the School Committee voted to deny the request. The Association filed a grievance on March 19 on the grounds that Article XX on sabbatical leaves had been violated since leaves for study and travel will be granted upon recommendation of the superintendent. The School Committee decided that the request for sabbatical leave was not submitted in conformance with the contract, hence no violation.

Relevant Contract Provisions

Article XX: SABBATICAL LEAVES

> Upon recommendation by the Superintendent of Schools, sabbatical leaves will be granted for study or travel to a member of the professional staff by the Committee subject to the following conditions:
>
> 1. No more than one (1)% per cent of the professional staff will be absent on sabbatical leave at any one time.
>
> 2. Requests for sabbatical leave must be received by the Superintendent of Schools in writing in such form as may be required by the Superintendent of Schools no later than December 31, and action must be taken on all such requests no later than April 1 of the school year preceding the school year for which the sabbatical leave is requested.
>
> 3. The teacher has completed at least seven (7) consecutive full school years of service in the Pittsfield School System.
>
> 4. Teachers on sabbatical leave will be paid at three-quarters (¾) of their regular salary rate....
>
> 5. The teacher will agree to return to employment in the Pittsfield School System for one (1) full year....

Position of the Parties

The Association contends that the request was made on time on December 29 and that the applicant should not be penalized for any delay in stamping it. It holds that the School Committee, under the provision of the contract, is obliged to grant a request that carries the favorable recommendation of the Superintendent. This provision, it asserts, makes approval automatic. The Association asks that this interpretation be upheld by the Arbitrator.

The Committee contends that it is bound to grant sabbatical leaves only if the conditions listed in Article XX are met (completion of seven years, request by December 31, etc.). It concedes that otherwise the School Committee is compelled to honor such recommendations, but only if the precedent conditions are met. The School Committee asserts that the request was not received until two days after the deadline, and that the Committee then was not bound to accept the recommendation.

Discussion and Opinion

The Arbitrator is asked to interpret the contract and to render a decision on its application in this particular instance.

The parties do not dispute the interpretation that the contract does delegate to the Superintendent the determination of who is to receive sabbatical leaves. The School Committee spokesman at the hearing acknowledged that whether or not the School Committee intended such delegation, that indeed it had agreed to contract language which had that effect. This ordinarily means that anyone deemed eligible (e.g., at least seven years of service, with a written request no later than December 31, agreeing to return, etc.) up to and no more than one (1) per cent (%) of the professional staff can be recommended with School Committee concurrence following as a matter of policy.

But the opening clause of Article XX does specify conditions which are properly interpreted as prerequisites as important as the presence or absence of the Superintendent's recommendation. Clearly the Superintendent cannot recommend more than one per cent nor any teacher with less than seven years of service and expect the School Committee to grant the leave. The clause does specify that it is a Committee's function to make the grant but "...sabbatical leaves will be granted... by the Committee subject to the following conditions." The receipt of a request no later than December 31 is another one of those conditions. The Association as well as the Committee agreed on the phrase "subject to the following conditions" concerning the Committee granting this category of leave.

The question of whether the request was submitted by the deadline is disputed by the parties. The Grievant testified under oath that he submitted the letter in the same fashion as he had successfully requested consideration for promotions earlier in his career. The office mailbox was an ordinary mode of written communication with the Superintendent.

No one witnessed the submission of the request.

Nevertheless, the contract calls for the request to be received by the Superintendent of Schools by December 31. The evidence seems to support the fact that neither the Superintendent nor his designated substitute did receive the request until after the deadline.

1. No administrator or secretary in the office on December 29 was asked to receive the request or acknowledge its receipt on behalf of the Superintendent.

2. Despite procedures for sorting and opening the office mail (several times a day according to witnesses) the request was not acknowledged until the second working day after the deadline.

3. If the request had been acknowledged on the last working day before the deadline, the time stamp for December 29 might have been affixed to a letter dated December 31.

4. The Grievant testified that he was asked on Tuesday, January 2, by an Assistant Superintendent about whether he had submitted a written request.

5. The receipt of the letter was first acknowledged by two administrators on January 3, to which fact one of the witnesses testified at the hearing.

The Superintendent acknowledged that he ignored the time stamp when he made the recommendation. But to ignore any of the conditions which govern the Committee decision was not his but rather a Committee prerogative. The Committee can insist that all contract conditions be enforced by administrators just as teachers can grieve if deprived of their rights under the contract.

The efficiency of the office staff or of other administrators acting on behalf of the Superintendent was affirmed in testimony which satisfied the Arbitrator that no relaxation of work hours or office practices characterized the end of the 1967 calendar year. Nor were there other issues advanced or facts questioned. The fact that the Grievant subsequently decided to leave the system, which might "moot" a lawsuit, did not enter into the Committee argument nor the Arbitrator's decision. Any previous differences between the Grievant and School Committee or other administrators were not raised as factors in this case.

In rendering a decision the Arbitrator is governed by the language of the contract:

> ...The arbitrator's decision will be in writing and will set forth his findings of fact, reasoning and conclusions on the issues submitted. The arbitrator will be without power or authority to make any decision which requires the commission of an act prohibited by law or which is violative of the terms of this Agreement.

In summary, the Arbitrator interprets the contract as delegating to the Superintendent the right to select and recommend staff members for sabbatical leave with Committee approval following automatically if all the stipulated conditions are met. In this particular case, the Arbitrator finds the weight of evidence establishes receipt of a written request after rather than before the stipulated end-of-year deadline. The Committee has the right to insist that all conditions be met and to overrule a favorable recommendation if it determines that one or more conditions have not been met.

Award

The grievance is denied.

Respectfully submitted,

/s/
Joseph M. Cronin
Arbitrator

August 10, 1968
Cambridge, Massachusetts

Negotiation Agreements

AGREEMENT

between

THE JACKSON COMMUNITY COLLEGE

and

THE JACKSON COMMUNITY COLLEGE

FACULTY ASSOCIATION

1968 - 1970

MASTER AGREEMENT

This Agreement entered into this_____ day of _____, 1968, by and between the Board of Trustees of Jackson Community College, Jackson, Michigan, operating under Act 331, P.A. 1966 as amended of the State of Michigan, hereinafter called the ''Board'' and the Jackson Community College Faculty Association, a District of the Michigan Association of Higher Education, hereinafter called the ''Association.''

WITNESSETH

WHEREAS the Board and the Association recognize and declare that providing quality higher education for youth and adults of this college district is their mutual aim and that the character of such education depends predominantly upon the quality and morale of the college professional personnel, and

WHEREAS the members of the faculty are particularly qualified to assist in formulating policies and to assist in determining educational programs, and

WHEREAS the members of the faculty recognize that their primary responsibility is to properly and ethically perform their professional duties, and

WHEREAS the Board has a statutory obligation, pursuant to Act 336 of the Michigan Public Acts of 1947, as amended to negotiate with the Association as the representative of its professional personnel, excluding the administrative personnel, with respect to salaries and terms and conditions of employment, and

WHEREAS the Board and the Association pledge themselves to seek to extend the advantages of public education to every student without regard to race, creed, religion, sex, age, color, or national origin and to seek to achieve equality of educational opportunity for all students, and

WHEREAS the parties have reached certain understandings which they desire to confirm in this Agreement,

In consideration of the following mutual covenants, it is hereby agreed as follows:

ARTICLE I

RECOGNITION

A. The Board hereby recognizes the Association as the sole and exclusive negotiating representative for all college professional personnel under contract on a full-time or part-time basis, excluding seminar instructors, employed or to be employed by the Board, excluding the President; the President-elect; the Vice Presidents; the Deans; the Director of Admissions and Registrar; the Directors of Continuing Education, Paramedical Programs, Development and Construction, and the Director of Information and Alumni Relations; the Comptroller; the Supervisor of Purchasing; the Supervisor of Construction; and the Superintendent of Maintenance, - all of which collectively are designated as the Bargaining Unit.

B. The term ''Instructor'' shall include all instructors, assistant professors, librarians, counselors, coordinators, directors (other than those excluded above), division chairmen and department heads, and references to instructors shall include both male and female instructors.

C. The Board agrees not to negotiate with any teachers' organization other than the Association for the duration of this Agreement.

D. The Board specifically recognizes the rights of itself and its employees appropriately to invoke the assistance of the State Labor Mediation Board or a mediator from such public agency, or an arbitrator appointed pursuant to the provisions of this Agreement.

ARTICLE II

RIGHTS OF THE BOARD

Subject to the provisions of this agreement and except as expressly provided otherwise by the terms of this agreement, the Board of Trustees and the President reserve and retain full rights, authority and discretion, in the proper discharge of their duties and responsibilities, to control, supervise and manage the Jackson Community College and its professional staff, to determine and administer educational policy, to operate the College and to direct the professional staff, and otherwise retain all rights, authority and discretion which are exclusively vested in the Board of Trustees or the President under governing law, ordinances, rules and regulations as set forth in the Constitution and laws of the State of Michigan and of the United States.

ARTICLE III

RIGHTS AND RESPONSIBILITIES
OF THE INSTRUCTORS AND THE ASSOCIATION

A. Pursuant to Act 336 of the Public Acts of 1947, as amended, the Board hereby agrees that every eligible professional employee of the Board shall have the right freely to organize, join and support the Association for the purpose of engaging in collective bargaining or negotiation and other concerted activities for mutual aid and protection. As a duly elected body exercising governmental power under the laws of the State of Michigan, the Board undertakes and agrees that it will not directly or indirectly discourage or deprive or coerce any instructor in the enjoyment of any rights conferred by Act 336 or other laws of Michigan or the Constitution of Michigan or the Constitution of the United States; that it will not discriminate against any instructor with respect to any term or condition of employment by reason of his membership in the Association, his participation in any activities of the Association or collective professional negotiations with the Board, or his institution of any grievance, complaint or proceeding under this Agreement, or otherwise with respect to any terms or conditions of employment.

B. Nothing in this Agreement shall relieve or prevent an individual instructor, whether a member of the Association or not, from performing his professional duties or from exercising his independent judgment as a member of the faculty or of his department or division.

C. Nothing contained herein shall be construed to deny or restrict to any instructor rights he may have under the Michigan General School Laws or other laws and regulations as they apply to community college instructors. The rights granted to instructors in this Agreement are in addition to those provided elsewhere.

D. The Association and its representatives shall have the right to use the college facilities at all reasonable hours for meetings at no charge. It is understood that the Association will pay for any additional costs or custodial services required.

E. Duly authorized representatives of the Association shall be permitted to transact official Association business on college property at all reasonable times, provided that this shall not interfere with nor interrupt normal college operations.

F. The Association shall have the right to use college facilities and equipment, including typewriters, duplicating equipment, other business machines, and all types of audio-visual equipment at reasonable times, when such equipment is not otherwise in use. The Association shall pay for the reasonable cost of all materials and supplies incident to such use.

G. Faculty bulletin boards and other established media of faculty communication shall be made available to the Association for official business.

H. The Board agrees to furnish to the President of the Association pertinent information concerning the College District. This includes, but is not limited to, the professional staffing and the financial resources of the College; agendas, minutes and all attachments of all public Board meetings; treasurer's reports; enrollment data; names and addresses and position on the salary schedule of all professional personnel in the bargaining unit; and such other information as requested by the Association which will assist it in developing intelligent, accurate, informed, and constructive programs on behalf of the faculty and students.

I. The Board shall notify the Association as soon as possible concerning any new or modified fiscal, budgetary or tax programs, construction programs, or major revisions of educational policy, which are proposed or under consideration.

J. The provisions of this agreement and the wages, hours, terms, and conditions of employment shall be applied in a manner which is not arbitrary, capricious, nor discriminatory, and without regard to race, creed, national origin, age, sex, marital status, or political affiliation.

K. All professional staff, including supplemental and part-time instructors, must submit the following notarized statement as required by the State of Michigan:

> "I do solemnly swear (or affirm) that I will support the constitution of the United States of America and the constitution of the State of Michigan, and that I will faithfully discharge the duties of my position, according to the best of my ability."

L. Employees who are found to be members of organizations listed by the United States or Michigan Departments of Justice as subversive or unlawful, or who retain membership in such organizations after they receive such listings, shall have their contracts terminated immediately upon receipt of proof of such by the Board of Trustees.

M. Consistent with the Code of Ethics of the education profession, the private and personal life of any instructor is not within the appropriate concern or attention of the Board except as such behavior may affect the College adversely.

N. Each instructor shall have the right to review and challenge that part of the contents of his personnel file that has been developed concerning his employment by the College. A representative of the Association may be requested to accompany the instructor in such a review. Confidential credentials and related personal references normally obtained at the time of employment are specifically exempted from such review and shall be removed prior to the review of the file.

O. A report from the Association President or his designated representative shall appear on the Agenda of all Board meetings if requested prior to the start of the meeting.

P. The responsibility of the President of the Faculty Association shall be taken into consideration in the assignment of his class load and schedule. No extra-duty assignments or overload will be made unless requested by him.

Q. The faculty will be consulted regarding the selection of the College President whenever such position is vacant or a successor is to be selected for the incumbent.

R. Instructors are expected to live in a location from which reasonable access to the College is possible at all times.

S. Instructors are expected to comply with reasonable rules, regulations and directions adopted by the Board or its representatives from time to time which are not inconsistent with the provisions of this Agreement, provided that a faculty member may reasonably refuse to work under conditions which threaten physical safety or well-being.

T. The Board and the Association recognize that the NEA-MEA Code of Ethics of the Education Profession (See appendix C) shall define acceptable criteria for professional behavior.

1. The Association shall deal with violations of the Code by its members.

2. Action by the Association on unethical conduct of any of its members shall not prevent action by the Board on the same offense.

U. The Association recognizes that abuses of Personal Illness Leave or other leaves, chronic tardiness or absence, willful deficiencies in professional performance or other violations of discipline by an instructor reflect adversely upon the teaching profession and create undesirable conditions in the College.

1. Alleged breaches of discipline, violations of the Master Agreement, or of the Code of Ethics of the Education Profession shall be promptly reported to the offending instructor and to the Association.

2. The Association will use its best resources to correct breaches of professional behavior by any instructor and, in appropriate cases, may lend its support to proper administrative disciplinary procedures.

V. The President or his representative shall have the right to counsel with an instructor regarding his professional performance or behavior. In the event a reprimand, warning or disciplinary action is planned, reasonable advance notification shall be given the instructor and either party shall be entitled to have present a representative of the Association. If the request is made, no action shall be taken until such member is present.

W. Instructors on salary step 10 in September 1968 shall be designated as "Assistant Professors," and those on salary steps 8 and 9 will be reviewed prior to November 1 by the Personnel Review Committee and recommendation made to the President for presentation to the Board for the rank of Assistant Professor.

ARTICLE IV

PAYROLL DEDUCTIONS

A. Instructors may at any time sign and deliver to the Comptroller and the Treasurer of the Association an assignment authorizing deduction of continuing membership United Profession dues (Association, Michigan Association of Higher Education, and American Association of Higher Education). Such authorization shall continue in effect unless such authorization is formally revoked in writing by the instructor and copies thereof delivered to the Treasurer of the Association and to the Comptroller between June 1 and September 1 of a given year.

B. The deduction of membership dues shall be made monthly from regular check payment for ten months, beginning in September and ending in June of each fiscal year, and the Comptroller agrees to remit all monies so deducted according to the directions of the Executive Board of the Association, accompanied by a list of instructors from whom the deductions have been made.

C. The Association assumes full responsibility for the validity and legality of such employee's deductions as are made by the College pursuant to this section.

D. In lieu of Association membership, full-time instructors may sign an authorization of deduction for an amount equivalent to the United Profession Dues as a representation fee and deliver such authorization to the Comptroller, with a copy to the Association Treasurer.

E. Payroll deductions for United Fund, Jackson County School Employees Credit Union, tax sheltered annuities, U.S. government savings bonds, group insurance premiums, and any other deductions mutually agreed upon are also authorized.

F. Mandatory deductions will be made for Social Security, Federal and Michigan Income Tax, retirement, and other deductions required by law.

ARTICLE V

CONDITIONS OF WORK

A. The parties recognize that the availability of optimum school facilities for both student and instructor is desirable to insure the high quality of education that is the goal of both the Association and the Board. It is also acknowledged that the primary duty and responsibility of each instructor is to teach and that the organization of the College and the College day should be directed at insuring that the energy of the instructor is primarily utilized to this end.

B. Teaching Loads

1. Fulltime teaching load excluding composition courses and vocational programs is considered to be no more than 16 class contact hours per week during the fall and spring semesters. A class contact hour is defined as any regularly scheduled fifty-minute instructional activity.

2. Recognizing that the teaching of English composition requires individual student conferences and adequate time for the grading of papers outside of the classroom situation, English compositon classes are equated at 4/3 in calculating contact hours.

3. Recognizing that student counseling and student evaluation are carried on within the laboratory situation, full-time teaching load for instructors assigned exclusively to vocational programs is considered to be no more than 25 class contact hours per week during the fall and spring semesters.

4. Librarians shall be scheduled for an eight-hour work day exclusive of the lunch hour and a five day week.

5. Counselors are expected to be on duty forty hours a week and to perform extra duties from time to time for which the counselors' extra stipend is paid.

6. Whenever possible, a supplemental instructor shall be employed for no more than one-half of the full-time teaching load.

7. Supplemental instructors shall not be employed where there are sufficient course demands to justify the employment of a full-time instructor and providing qualified, full-time instructors are available.

C. Overloads

1. Because assignments vary from one semester to another, being slightly more or less than the regular load, the following "carryover" procedure shall apply in calculating overloads:

   a. A one-hour flexibility will be maintained throughout the year. An instructor in the college sector assigned 17 hours the first semester will not be paid overload until the second semester.

   b. If his assignment is 16 hours or more the second semester, he will be paid for the extra hour plus any overload assigned the second semester.

   c. If his assignment is 15 hours or less the second semester, he will not receive pay for the extra hour taught during the first semester.

2. No teaching load shall exceed 20 hours per semester or 36 hours for a full year in the college sector without prior written consent of the instructor.

3. No teaching load in the vocational sector shall exceed 25 contact hours per semester without the written consent of the instructor.

4. Compensation for overloads will be paid at 1/50th of the instructor's basic annual salary for each contact hour of overload above regular teaching loads as defined in B.

5. Overload assignments will not be included in the regular faculty contracts or letters of appointment but will be authorized on supplementary contracts clearly stating the amount of the overload and compensation therefor.

6. Any overload shall be limited to one registration period without prior written approval of the instructor. Overloads will be avoided whenever possible.

D. Calendar

1. The 1968-69 calendar is Appendix D of this agreement.

2. In the event the opening of the College is delayed due to the unavailability of facilities, the negotiating teams will meet to resolve calendar and scheduling problems.

   a. Christmas vacation shall be from December 23 through January 3.

   b. Legal holidays shall be observed.

3. The College calendar for 1969-70 shall be negotiated prior to December 1, 1968. The calendar for 1970-71 shall be negotiated prior to December 1, 1969.

E. College Week

1. The normal college week is Monday through Friday although classes may be scheduled on Saturday.

2. If an instructor is assigned classes on Saturday, he will not be assigned classes within a 48 hour block of time without his written permission.

3. Assignment for Saturday classes shall be for no more than one registration period without prior written consent of the instructor.

F. College Day

1. The Division Chairmen and Department Heads shall consult with each instructor concerning the scheduling of his classes. Final determination of schedule is made by the appropriate instructional Dean.

2. Instructional assignments may be at any time of the college day, but following an evening assignment no instructor shall be assigned a class before 10:00 a.m. without his written permission.

3. Evening classes from 6:00 p.m. shall be assigned to an instructor no more than two evenings per week without his prior written consent.

4. A fulltime instructor shall not be assigned to evening classes for more than one semester per year without his prior written consent.

5. Every effort shall be made, beginning with the spring semester of the 1968-69 year, for the hours of 4:00 to 6:00 p.m. on Wednesday afternoons to be cleared of scheduled activities in order to allow for associational and institutional meetings. Scheduling for these meetings shall be established through the College Steering Committee.

6. Each instructor shall have an hour free for lunch each day between eleven and two unless written approval waiving the lunch hour is received from the instructor.

7. An instructor will not be scheduled to classes on both campuses without his prior written consent.

G. Class Size

1. Because the student-instructor ratio is an important aspect of an effective educational program, standards for class size in each division and department of the College shall be established by mutual agreement in writing between the Administration and the instructor with the assistance of the Division Chairman or Department Head concerned. In the event no agreement is reached, class size shall be assigned but subject to the grievance procedure. Class size shall be established on the basis of equity and fairness consistent with maintaining the quality of instruction at a Community College level.

2. An "Inventory of Faculty Teaching Loads" shall be distributed to all members of the professional staff each semester.

H. Course Preparation

1. Assignment of course preparation shall be arranged within each department or division.

I. Office Hours

1. It is expected that reasonable attention be given to office hours and student counseling.

2. Class schedules and office hours shall be posted in the instructor's office and submitted in triplicate to the Vice President for Instruction.

3. Supplemental instructors shall be available at least one hour each week for student counseling.

J. Campus Assignments

1. Teaching assignments, involving full-time instructors, outside the present campuses will be discussed with the Association. If no agreement can be reached the position shall be assigned subject to the grievance procedure. It is understood that the instructor's desires shall be considered in making such assignments and due consideration shall also be given to the extra time and expense involved.

K. Registration

1. Registration responsibilities shall continue as set forth in existing policies.

L. Sponsorship of Student Activities

1. Instructors are expected to devote reasonable time to student activities.

2. Assignment will be based on the instructor's preference as much as possible.

3. Assignments will be made, if necessary, but an instructor will be excused from participation if there is good reason.

4. Elected officers of the Association and members of the Association Negotiating Team may be excused from student activity sponsorship if they request it.

M. Attendance at College Functions

1. Commencement responsibilities are as set forth in existing policies.

2. Instructors are expected to attend Commencement Exercises for registration periods in which they are employed.

3. Academic attire is provided for the June Commencement at the expense of the College. It is not used for the other graduations.

N. Teaching Facilities

1. Whenever possible there shall be separate enclosed offices for all full-time instructors with not more than two instructors to each office.

2. Reasonable instructional and office equipment, classroom space, and supplies will be provided for each instructor.

3. Whenever possible, a telephone shall be provided for each office complex, and this phone shall be operative for in and out calls during all the hours when instructors are on duty.

4. Clerical service shall be provided for each office complex in the College.

O. Faculty Facilities

1. There shall be provided in each building used for offices or instruction adequate restroom and lavatory facilities exclusively for faculty use.

2. One room in each instructional building shall be reserved for use as a faculty lounge appropriately furnished.

3. There shall be adequate facilities where possible in each building for women faculty to lie down.

P. Faculty Parking

1. There shall be provided on each campus adequate space exclusively for faculty parking convenient to each building.

2. Faculty parking shall be furnished at no cost for all faculty owned cars.

Q. Vacancies and Promotions

1. Whenever any vacancy in any professional position in the College shall occur or whenever a new position is created, the Board shall publicize it by providing written notice of such vacancies to each faculty member. Additional assignments, other than overloads, resulting in compensation in excess of $300 per semester shall be circulated.

2. A vacancy shall be publicized at the time job applications are to be received. Notices shall go to the faculty first.

3. Instructors shall apply for such vacancies in writing.

4. In filling vacancies in professional positions, the Board shall give first considerations to the candidates within the college who desire to change their assignments.

5. Appointments shall be made in the best interests of the College, in terms of the job descriptions for each position, considering both the proven competence of present employees and the desirability of the introduction of new viewpoints and personalities.

6. Applying for another position, either within the college or elsewhere, is recognized as a professional right and shall not affect adversely an employee's status in his present position.

7. Each applicant shall be notified of the disposition of his application prior to the publication of the name of the successful applicant.

8. The Board shall have final authority in all appointments.

R. Transfers

1. Any instructor who shall be transferred to a supervisory or executive position and shall later return to an instructor's status shall be entitled to retain such rights, including experience credit on the salary schedule, as he may have had under this Agreement prior to such transfer.

2. 2. Contemplated changes in assignment shall be discussed with all instructors concerned and with their Division Chairmen or Department Heads and Dean.

3. Such assignments shall be made in the area of the instructor's competency. The instructor's preference shall be honored whenever possible.

4. Objection to such changes is subject to the grievance procedure.

5. Instructors wishing to change or rotate assignments may make such requests which will be honored whenever possible.

S. Academic Freedom

The rights of the instructor to deal with controversial subjects in his area of competence within the classroom under the protection of the College and the responsibility of the instructor to protect his own and the institution's integrity in these matters as outlined in the Code of Ethics of the Education Profession are confirmed and accepted.

The following quotation is from "Guide for the Evaluation of Institutions of Higher Education," NCA:

"Freedom of the college or university faculty member to present the truth as he sees it in his area of competence both in the classroom and in the reports of his research activities is essential to the accomplishment of the purposes of our society . . . The student can enjoy the freedom to learn only where a corresponding freedom to teach is guaranteed to instructors . . .

"The faculty member, too, has responsibilities in the matter of academic freedom. He must be careful not to use the privileged position he occupies in discussion of subjects other than those in which he possesses special competence as a scholar. For the protection of his profession and his institution he should strive at all times to be accurate and to exercise appropriate restraint in his public utterances. Further, he should recognize that there are limitations on his freedom of expression and action which are dictated by . . . good taste."

T. Dual-Department Assignments

Full-time faculty members who are assigned duties in more than one department or division shall have membership in all departments in which they serve.

U. College Steering Committee

1. The college Steering Committee shall be established in accordance with the procedures agreed to in negotiation, and appears in Section IV of the Faculty Manual.

2. The administration and Association shall cooperatively establish the committee and implement its functions.

ARTICLE VI

SUMMER SESSIONS

A. Teaching Loads

1. Full-time teaching load is established at 16 contact hours per week, but a 15 contact hour assignment is considered a full load.

2. Both fractional and overloads are computed on the basis of a seven-week summer session and on the basis of 16 contact hours per week.

3. A 17 contact hour schedule is not considered as an overload if the class load average is 15 students or fewer.

B. Non-teaching Assignments

1. Non-teaching assignments are based on a 35-hour week for a full schedule.

C. Class Size

1. Class sizes are established on the same basis as the spring and fall semesters.

D. Assignments

1. Instructors in the summer session shall be assigned with their own division or department unless no regular instructor is available.

2. Assignments will be made, whenever possible to instructors requesting summer appointments.

3. Assignments shall be arranged on a rotating basis on a schedule developed by mutual agreement under the division chairman or department head.

4. The Administration shall determine necessary institutional research and curriculum work subject to a maximum of 12 half-load commitments to be divided in any way among the departments and divisions.

E. Summer Commitments

1. By January 15 the Faculty will be advised what courses, experimental and normal, will be offered in the coming summer session in order to present a well-rounded summer program. Firm contracts for scheduled courses will be issued not later than May 1. When a scheduled course for which a teaching contract has been issued does not materialize because of insufficient student interest, the instructor shall have the option of accepting a comparable, professional non-teaching assignment or of accepting a proportionally reduced contract.

2. Faculty members wishing to offer experimental classes not on the schedule or courses not generally offered in a summer session will make their desire known to the Administration as soon as possible and state whether they are willing to stand by to teach such a course. The course will either be approved by placing it on the schedule or rejected. Contracts for these courses will be issued when 5 or more students are registered.

3. The basic summer session does not preclude special offerings that vary in length from the 7-week session.

F. Pay

1. The 1969 basic summer session will consist of a 7-week session at 1/6 of the instructor's 10-month contract computed on the instructor's 1969-70 salary.

2. The 1970 basic summer session will consist of a 7-week session at 1/6 of the instructor's 10-month contract computed on the instructor's 1969-70 salary and with step increases for those eligible.

3. Compensation for summer overloads will be paid at 1/100th of instructor's basic annual salary for each contact hour per week of overload assignment.

4. English composition classes registering more than 20 students will be compensated for on the 4/3rds basis of the regular semester.

G. Summer Contracts

1. An instructor employed for the summer session is issued a 12-month contract or letter of appointment for the fiscal year. It is understood that this 12-month contract or letter of appointment will supersede any 10-month contract or letter of appointment issued on April 15.

ARTICLE VII

DIVISION CHAIRMEN AND DEPARTMENT HEADS

A. Selection and Appointment

1. Division Chairmen and Department Heads are appointed annually and they may succeed themselves.

2. Appointments are made by the President of the College. Any member of the department or division may nominate a candidate or may apply for the appointment. Recommendation may also be initiated by an administrator.

3. Recommendation and nomination shall be submitted by May 1. Appointments shall be made no later than June 1 of each year.

4. If the chairmanship should for any reason become vacant before the expiration of the term of service of the incumbent, the same procedure will be followed to fill the vacancy for the remainder of the term.

B. Salary and Teaching Load

1. Each division chairman or department head will be granted a reduction from his normal teaching load for the purpose of carrying out his responsibilities.

2. Each will receive in addition a salary increment established in Article X, Section K.

C. Responsibilities

1. The duties of the department heads and division chairmen will be developed cooperatively by them and the appropriate administrator, and will be set forth in the job descriptions for their positions. While in the exercise of administrative functions the Division Chairmen and Department Heads are responsible to the Board.

2. Subject to the provisions of Article VI on the Summer Session, summer employment may be offered to but not required of department heads and division chairmen. An acting head or chairman will be appointed to serve in the absence of the incumbent.

ARTICLE VIII

FACULTY BENEFITS

A. Insurance

1. Eligibility for

a. All full-time instructors shall be eligible for the complete insurance coverage.

b. Coverage shall not apply to supplemental instructors or other non-contract part-time professional personnel.

c. For the purposes of definition, an instructor shall be on at least 75% pay and load assignment to be regarded as full-time.

d. Part-time instructors who are employed on annual contracts have the option of inclusion in the group Blue Cross-Blue Shield portion of the program by paying at the net rates charged the group.

2. Effective Date

The annual reopening date of all insurance policies shall be September first.

3. Blue Cross-Blue Shield Benefits

a. The College shall pay the entire group premium for each full-time instructor who is the head of a family or is the only spouse to whom hospitalization insurance is available. No hospitalization is to be supplied to instructors whose spouses can or do cover them through a policy obtained in other employment outside the school.

b. The basic program for these benefits shall be as follows:

HOSPITAL SERVICE[illegible] 120 days of PAID-IN-FULL hospital benefit[illegible] maternity care. Services in the outpatient [illegible]nt. Drugs and medicines, operat[illegible] room, anesthesia, laboratory servi[illegible] for bedpatients, physical therapy, radium and similar materials, dressings and casts, plus many other hospital "Extras."

DOCTOR'S SERVICES - Surgery, 120 days of Medical Care, Obstetrical Delivery, Professional Anesthesia, First Aid. A deductible of $5 or 10% (whichever is greater) for the following. X-rays, Radiation Treatments, Office and Outpatient Laboratory Services. Consultations with another doctor, and Surgical Assistance for the surgeon.

MASTER MEDICAL PROGRAM - Extends and adds to the Basic Program.

Unlimited number of needed hospital and medical care days, up to $30,000 per member per year. Plus all of the "Extras" provided by the Basic Program -- when a hospital bedpatient. "Additional" benefits up to $10,000 per member per year ($20,000 lifetime, benefits used are restored at the rate of up to $1,000 each calendar year of continuous membership).

Additional Benefits pay 80% of services such as the following, subject to a deductible: Home and Office calls; prescription drugs; ambulance; home nursing; blood; hospitalization for diagnosis and observation; artificial limbs; dental care in accidents --- and many others. Plan also pays 50% for office psychiatry and private duty nursing.

DEDUCTIBLE PER BENEFIT YEAR

One person $100
Two or more persons. 200

Master Medical coverage may also be continued for the subscriber past age 65 or retired, with a moderate reduction in benefits.

4. Life Insurance

a. The life insurance program for instructors is carried with the Aetna Life and Casualty Company.

b. The benefits under this policy are:

Description of Benefits — Effective October 1, 1965

Non-Contributory			Contributory	
Basic Annual Earnings	Group Life Insurance		Accidental Death and Dismemberment	Monthly Employee Paid-up Life Insurance Contributions
Less than	$ 3,000	$ 3,000	$ 3,000	$ 3.00
$ 3,000BLT	4,000	4,000	4,000	4.00
4,000BLT	5,000	5,000	5,000	5.00
5,000BLT	6,000	6,000	5,000	6.00
6,000BLT	7,000	7,000	5,000	7.00
7,000BLT	8,000	8,000	5,000	8.00
8,000BLT	9,000	9,000	5,000	9.00
9,000BLT	10,000	10,000	5,000	10.00
10,000BLT	11,000	11,000	5,000	11.00
11,000BLT	12,000	12,000	5,000	12.00
12,000BLT	13,000	13,000	5,000	13.00
13,000BLT	14,000	14,000	5,000	14.00
14,000BLT	15,000	15,000	5,000	15.00
15,000BLT	16,000	16,000	5,000	16.00
16,000BLT	17,000	17,000	5,000	17.00
17,000BLT	18,000	18,000	5,000	18.00
18,000BLT	19,000	19,000	5,000	19.00
19,000 and over		20,000	5,000	20.00

c. The employee contributed paid-up life insurance is mandatory for all new instructors.

d. An instructor, upon leaving the employment of the College, may keep the paid-up insurance or receive a full refund of all contributions.

e. The paid-up portion of the life insurance does not pay an additional amount in the event of the death of the instructor while in the employment of the College.

5. Accident Insurance

a. At the option of the instructor, a contributory accidental death coverage may be selected.

b. This coverage offers a minimum of $20,000 additional accident benefits with a maximum, in $10,000 increments, of up to $100,000 but not to exceed ten times the instructor's basic annual contract.

c. Coverage equal to 50% of that on the instructor may also be elected for the spouse.

d. The rate for the instructor is .06 per month per $1,000 of benefit, and the rate for the spouse is .045 per month per $1,000 of benefit subject to change by the insurance company.

6. Travel accident coverage while on college business

a. Faculty members traveling on College business are covered by a death and dismemberment accident policy with The Insurance Company of North America of ten times the annual salary with a minimum of $50,000 and a maximum of $200,000.

b. This coverage is paid by the College.

7. An ad-hoc Committee shall be selected in October, 1968, to conduct a thorough study and

review of the present health and life insurance programs of the College, compare it with other available plans, and make recommendations to the Board and the Association by March 1, 1969 for possible changes during this Master Agreement and by February 1, 1970 for the new Master Agreement. The committee shall be composed of 5 Association members, 3 administrative members, 1 clerical, 1 custodial, and 1 Board of Trustee member.

B. Leaves of Absence Paid

1. Personal Illness or Disability

a. An instructor's income shall be continued, for each illness or disability, at full basic salary rate for the first 30 days; at 85% for the second 30 days; at 70% for the third 30 days.

b. Days for the purposes of this provision are calendar days.

c. All instructors absent will cause the fact to be reported to their department head, division chairman, or supervisor in advance of their next time obligation. If not available, the message should be left with the main switchboard of the College.

d. The College reserves the right to require a medical examiner's report on cause of frequent or extended absence for health reasons.

2. Long-term Disability

a. If an instructor, prior to age 65, becomes totally and permanently disabled for a period of longer than 90 days, this plan carried with The Aetna Life and Casualty will provide payment of 60% of basic monthly earnings, subject to a maximum of $1,000 per month, for as long as the employee remains so disabled, but not beyond age 65.

b. Benefits payable from Workmen's Compensation, Social Security, etc. will be included in the determination of the 60% payment.

c. The pension supplement will provide a benefit equal to the normal Retirement Income Benefit lost during any period benefits were payable by the Long-Term Disability Plan and will be payable commencing at age 65.

3. Bereavement and Family Illness

a. Leave not to exceed three days may be allowed for such occasions, in the immediate family.

b. Bereavement leave may be followed by personal affairs leave if the employee is required to attend to business matters following the death of a near relative.

c. Arrangements for personal affairs leave in such case shall be made by telephone if not anticipated at the beginning of the bereavement leave.

4. Personal Affairs

a. Reasonable leave may be permitted for matters which cannot be cared for in free time and which would result in legal, business, or family disadvantage if not covered at the appropriate time.

b. Such leaves when known in advance should be arranged with the Vice President for Instruction and provision made for handling responsibilities in the Instructor's absence. Emergency absences should be reported to the College as soon as possible after the emergency is known.

5. College Assignments

a. Absence from campus as a representative of the College shall be regarded as an extension of duty, when arranged in advance.

b. Instructors on approved trips are covered by the College insurance policies.

6. Sabbatical Leave

The Board of Trustees of the Jackson Community College will consider applications and grant sabbatical leaves of absence for full-time instructors in accordance with the following specific provisions:

a. Instructors who have served the College under either Board for ten years are eligible for a sabbatical leave. In the 1969-70 school year the number of years required for eligibility shall be reduced to nine years.

b. Seniority in service shall be given priority consideration in the granting of all such leaves.

c. At the option of the instructor, the sabbatical leave may be taken for one or two semesters or a summer session.

d. A proposal for a summer sabbatical shall be on conditions that do not exist during the year or cannot be arranged by a division or department during a regular semester. These sabbaticals may be rejected by the Board without recourse to the grievance procedure by the applicant.

e. The salary for the sabbatical leave will be half the ten-months' salary for two semesters, full pay for one semester, or for one summer session at the summer rate.

f. If an instructor receives a grant or fellowship, the instructor's pay from Jackson Community College will be reduced so that total income from Jackson Community College and the grant or fellowship will not be more than one and one-third times his regular ten-months' pay at Jackson Community College.

g. No more than five percent of the faculty shall be on a sabbatical leave at the same time.

h. All such leaves will always be conditioned by departmental arrangements which will preclude any loss of efficiency in the department or any substantial deviation from the announced program of the College.

i. It is the responsibility of the College to make every effort to hire short-term replacements for instructors applying for sabbatical leaves if their assignments

cannot be assumed by other members of the staff.

j. All such leaves shall be limited to purposes that clearly promise reciprocal advantage to the College through the enhancement of personal competence by study, research, writing, or cognate pursuits.

k. An instructor who receives a sabbatical leave shall return to the College for a period of two years or refund, on a prorated basis, the salary received during the leave period.

l. Leaves shall be requested at least one semester before the effective date.

C. Leaves of Absence Non-paid

1. Instructors who are called to active military duty will be granted leaves for such period.

2. Women instructors may be granted maternity leave not to exceed one year, however resumption of employment shall be at the beginning of a semester.

3. Instructors may apply for leave without pay for professional travel, schooling, exchange teaching, or work experience and will be granted such leaves if replacement can be obtained. Instructors on continuing contracts shall have preference for such leaves.

4. Leaves of absence will be granted for health reasons.

5. The Board shall grant a leave of absence without pay, upon application, to any instructor to campaign for, or serve in, a political office.

a. Such leave shall be requested 30 days in advance of the date it is to begin.

b. Leave shall begin with the start of active campaigning and shall be terminated at the end of the semester following an unsuccessful election.

c. Leave for office holding may be extended no more than two years following a successful election.

d. Instructors on continuing contract who resign to hold either an elective or an appointive office will be given reemployment preference upon completion of their terms.

4. Campaigning for or the holding of local offices which carry minimum reimbursement and do not entail interference with normal college obligations shall not require a leave, but instructors not on leave shall be particularly careful to observe the Code of Ethics in connection with political involvement and shall "refrain from exploiting the institutional privileges of their professional positions to promote political candidates or partisan activities."

D. Continuation of Benefits While on Leaves

1. Non-paid Leaves

a. Experience credit on the salary schedule will continue to accrue for all the types of non-paid leaves specified in VII C3.

b. Arrangements can be made for insurance on an individual basis while instructors are on leave.

c. An instructor on unpaid leave shall retain all years earned toward sabbatical leave, but shall not accrue additional years while on leave.

2. Sabbatical

a. Experience credit on the salary schedule will continue to accrue while on sabbatical leave.

b. All benefits provided under this Master Agreement shall be guaranteed to an instructor on sabbatical leave.

c. Group Term Life Insurance will be continued on the basis of the annual contractual salary.

E. Admission to Courses

1. Instructors on annual or continuing contracts shall be granted tuition free entrance for credit or audit to any classes they desire so long as there is no conflict with their own assignment.

2. Spouses, children, or legally adopted children of these instructors shall be granted tuition free entrance to any classes for which they meet the entrance requirements.

F. Retirement

1. All contracts with professional employees shall be terminated at the end of the fiscal year (June 30) in which the employee becomes 65 years of age.

2. This shall not preclude the employment of instructors over 65 years of age for limited periods.

3. Instructors may apply for early retirement in accordance with the State Retirement Law.

4. Instructors contemplating retirement should give notice of their intentions a semester before the effective date.

5. Retiring professional staff members who have served ten or more years with the College may be considered for Emeritus appointment upon recommendation of the professional staff. Such appointments carry entitlement to all courtesies and services available to the active staff, but no remuneration.

6. Effective with the 1969-70 school year, a terminal leave benefit of $50.00 per year of service with the College under either Board will be paid upon retirement to--

a. Any instructor who retires at the end of the fiscal year in which he attains the age of 65 and has served a minimum of ten years.

b. Any who has twenty years of service who retires at the end of the fiscal year in which he attains age 60 or at the end of any year thereafter.

c. Any instructor who retires after reaching age 55 who has fifteen years of service if retirement is the result of ill health

sufficient to qualify the instructor for disability retirement under the Michigan Retirement System for Public School Employees Act.

G. Physical Examinations

1. At the request of the President, any instructor shall receive a physical examination by an approved physician covering any condition which appears to interfere seriously with the instructor's performance of duties. The cost of such examination shall be borne by the Board.

2. Each instructor shall submit annually a report of a recent TB test or chest X-ray.

3. Each new instructor shall submit a report of a recent physical examination by a physician, and the contract of employment shall not become effective if an unsatisfactory health condition is present, as determined by the College Physician. Cost of such examination is borne by the prospective instructor.

ARTICLE IX

GRIEVANCE PROCEDURE

A. A grievance is hereby defined to be any dispute or controversy between the parties to this Agreement, or between the Administration and any Instructor covered by this Agreement, with respect to matters arising during the term of this Agreement which affects a condition of employment, discipline, or discharge or otherwise arises out of the provisions of this Agreement.

B. To be valid a grievance must be filed within twenty (20) working days from the time the grievant became aware or should have been aware of the event which gave rise to the alleged grievance. Time periods may be extended by mutual agreement by the parties. When referred to hereinafter, days shall mean working days unless otherwise herein stated.

C. The grievance procedure shall be as follows:

Step 1. Any Instructor having a grievance will first take the grievance up with his Division Chairman or Department Head or immediate supervisor. If an Instructor so desires he may request the presence of a member of the Association. From the time of the conference the supervisor shall have two (2) working days within which to present the Instructor with an answer. After receipt of the answer the grievant shall have ten (10) working days to move the grievance to the 2nd step. If not presented within ten (10) working days, the grievance shall be considered to have been dropped.

Step 2. A grievance presented from Step 1 and to Step 2 shall be presented in writing to the appropriate Dean, with a copy to the Association, who will meet with the grievant and Association representative. The meeting shall be held within six (6) working days of the filing of the grievance in Step 2. Following the meeting a written answer shall be presented to the Association and the grievant within five (5) days. Following the answer the grievant or Association shall have ten (10) days to move the grievance to Step 3. In the event this is not done the grievance will be considered to have been dropped.

Step 3. A grievance appealed to Step 3 shall be discussed between the President or his designee and the grievant and the Association Representative(s). The meeting shall be held within ten (10) days of the presentation of the grievance. Following the meeting the President or his designee shall answer the grievance in writing within five (5) working days. A copy of the answer shall be given to the Association. Following this answer the parties shall have ten (10) working days within which to appeal to Step 4 and if this is not accomplished the grievance will be considered to have been dropped.

Step 4. A grievance appealed to Step 4 will require a meeting between the grievant, the Association Representative(s) and the Board. The meeting shall be held within twenty (20) days of the filing of the grievance in Step 4 and the Board shall have ten (10) working days to answer the grievance in writing.

D. Arbitration. If the Grievant is not satisfied with the disposition of the grievance by the Board or if no disposition has been made within the period provided in Step 4, the grievance may be submitted to arbitration before an impartial arbitrator within 20 working days following the decision of the Board not counting July or August.

1. If the parties cannot agree on an arbitrator within 2 weeks after the demand for arbitration has been made, the arbitrator shall be selected pursuant to the rules and procedures of the American Arbitration Association whose rules shall likewise govern the arbitration proceeding.

2. Except as provided by law, the Board and the Grievant shall not be permitted to assert in such arbitration proceeding any ground or to rely on any evidence not previously disclosed to the other party.

3. The arbitrator shall have no power to alter, add to, or subtract from the terms of the Agreement.

4. Both parties agree to be bound by the award of the arbitrator and agree that judgment thereon may be entered in any Court of competent jurisdiction.

5. The fees and expenses of the arbitrator shall be shared equally by the parties.

E. DISCHARGE. In the event of a discharge the aggrieved party may file a grievance within ten (10) working days directly to Step 3. Subsequent to Step 4, mediation may be invoked by either party.

F. In the event the Board believes there has been a breach of the contractual agreement by the Association, then the President shall have the right to present the matter to the Association Grievance Committee in writing. A meeting shall then be held within ten (10) days. If the matter cannot be resolved, mediation may be requested. If mediation cannot settle the dispute, arbitration may be invoked.

G. In the event the Association files a collective grievance, it shall be processed directly at Step 3.

H. No reprisals of any kind shall be taken against any faculty member for participating in any grievance.

I. If any faculty member for whom a grievance is filed, processed, or sustained shall be found to have been unjustly discharged or demoted, the arbitrator shall be empowered to determine whether he shall be restored to his former position with full reimbursement of all professional compensation lost or shall have the authority to reduce the penalty.

J. The number of days indicated at each level should be considered as maximum and every effort should be made to expedite the process. However, the time limits may be extended by mutual consent. Failure to answer a grievance at any step shall be considered a denial of the grievance.

K. All documents, communications and records dealing with a grievance shall be filed separately from the personnel files of the participants.

L. It is agreed that the aggrieved party and the Association shall be furnished with any information possessed by the Board or the Administration necessary for the processing of any grievance or complaint.

M. Nothing contained herein shall be construed to prevent any instructor from presenting a grievance and having the grievance adjusted without the intervention of the Association. However, no grievance shall be adjusted without prior notification to the Association and an opportunity for an Association Representative to be present, nor shall any adjustment of a grievance be inconsistent with the terms of this Agreement.

N. In the administration of the grievance procedure, the representation of the faculty members is solely the responsibility of the Association.

O. A grievance may be withdrawn at any level. However, if in the judgment of the Association Grievance Committee the grievance affects the welfare of the faculty, the grievance may be continued to be processed as a grievance of the Association.

ARTICLE X

FACULTY EVALUATION

A. The evaluation of staff performance is the responsibility of the Instructional Deans with advice of the appropriate Divisional Chairmen and Department Heads.

B. It is agreed that evaluation shall be done in a fair and equitable manner following the procedures agreed to in negotiations and shall be subject to the grievance procedure.

C. The procedures which are to be followed are in Section IV of the Faculty Manual.

ARTICLE XI

PROFESSIONAL COMPENSATION

A. Dates of Issue and Return

1. All contracts or letters of appointment for returning members of the staff shall be issued by April 15.

2. Said contracts or letters of appointment are to be signed and returned to the Board of Trustees by May 15 and are subject to the terms of the Master Agreement.

B. Annual Contracts

1. New faculty members will be employed on annual contracts during the first two years of employment, except that an instructor with no previous community college teaching experience may be required to serve three years on annual contract.

2. Annual contracts for new faculty members will be renewed if both the instructor and the Board desire such renewal.

a. The Board will notify the instructor in writing by April 1 if his contract is not to be renewed, together with reasons for non-renewal if such is the case.

b. Similarly, the instructor will notify the Board by May 15 if he does not desire renewal of his contract.

3. In addition to the terms of Article X B1, an instructor may, for good reason and by mutual agreement between the Association and the Board, be offered a third year on annual contract before being placed on continuing contract or released.

C. Continuing Contracts

1. Any instructor who has been employed by the Board on a full-time basis for two ten-months' contracts and who meets the Board requirements in Article X B and is recommended by the President, will be appointed to a continuing contract at such salary as the salary schedule may provide.

2. An instructor who wishes to be released from continuing contract shall give notice in writing no later than 60 days prior to the beginning of the semester when the resignation is to become effective.

3. A continuing contract shall not be terminated without a probation period of at least one year, except for retirement or serious misconduct.

4. Probation shall be established by the Board on the recommendation of the appropriate Dean and the President of the College, following an evaluation interview with the instructor. Notification shall be no later than April 15. A copy shall be sent to the instructor and the Association.

5. No instructor on continuing contract shall be placed on probation, dismissed, publicly reprimanded or otherwise disciplined without just cause and proper procedure. Such action will be subject to the professional grievance procedures as described in this Master Agreement.

6. An instructor on probation will be evaluated twice (once prior to December 15 and again prior to March 15) with special attention paid to any reduction or correction of the stated deficiencies. The Dean and the President shall then recommend to the Board either the removal of probation or termination of contract. The Board will notify the instructor in writing with a copy to the Association by April 1 if his contract is to be terminated or by April 15 if he is to be removed from probation.

D. Contract forms are Appendix B of this Agreement.

E. An instructor shall be released from regular duties without loss of salary at least one day each semester for the purpose of participating in area or regional professional meetings or interinstitutional visitations.

1. Each division or department is allowed $150 per year for conference travel allowance with an additional $100 per year for each additional four members and major fraction thereof over four, two constituting a major fraction. A minimum of $150 is allowed per division or department. In addition, $25 for each instructor assigned to the division or department is allowed.

2. Instructors assigned to more than one department shall receive their conference allowance from the department of their major assignment.

3. The department and division members are responsible for the utilization and scheduling of these funds.

4. In order to schedule attendance at National Conventions or other expensive conferences, it is permissible for departments and divisions to carry over the conference funds not to exceed $300 from one year to another.

5. Each Division Chairman and Department Head shall be allowed a uniform travel allowance of a minimum of $100 per year.

6. A contingency fund of $100 will be established for travel allowance for any instructor who is appointed or elected to a regional, state, or national professional committee in his specialized area. This fund will be kept separate from the regular departmental or divisional travel allowance.

F. Salary Schedules

1. The salaries of instructors covered by this Agreement are set forth in Appendix A, which is attached to and incorporated in this Agreement. Such salary schedule shall remain in effect during the term agreed upon.

2. The ten months' schedule is for a full-time assignment during the fall and spring semesters.

3. The twelve months' schedule is for full-time assignment during the fall and spring semesters and the summer session.

4. Step advancement is on an automatic yearly basis until maximum is reached.

G. Placement of New Faculty

1. College level teaching experience will be evaluated at full credit, with suitable prorating of part-time assistantships and similar appointments.

2. Teaching other than college will be evaluated at full credit for one year. Teaching experience beyond this amount will be allowed at half credit.

3. Military experience will be evaluated at half credit with a maximum of two years allowed.

4. Other work experience will be allowable only if it is pertinent to the teaching field. This will be evaluated at full credit for one year. Experience beyond this amount will be allowed at half credit.

5. The total allowable experience in all categories for step placement will not exceed six years, except that seven years' experience credit will be allowed for community and junior college teaching experience.

6. Under special circumstances, credit in excess of this amount may be requested from the President with the amount specified and supporting data justifying the request.

7. Step and Class placement of new instructors will be reviewed by the Personnel Review Committee within the first year of employment.

H. Definitions of and Qualifications for Salary Classification

1. Instructors are classified for salary purposes into four Classes based on academic preparation. Promotion to a higher Class is recommended by the Personnel Review Committee on the following criteria:

Class I	Bachelor's degree or equivalent
Class II	Master's degree or 30 semester hours of graduate credit beyond Class I
Class III	Master's degree plus 30 semester hours of graduate credit after qualifying for Class II OR 60 semester semester hours graduate credit beyond Class I including the Master's degree
Class IV	30 semester hours of graduate credit in addition to Class III requirements (or the earned doctorate)

2. An employee without a Bachelor's Degree but qualified for a specific professional position in relation to the instructional program of the College may be employed on Class I with step placement according to allowable experience. In this category, however, Steps 9 and 10 will not apply and the employee will not be eligible for a continuing contract nor rank designation until a Degree or equivalent has been obtained.

3. Undergraduate credit may be approved as equivalent to graduate credit when

   a. Courses are in the specific teaching area of the applicant.

   b. Courses outside the specific teaching area contribute to the instructor's effectiveness to the College.

4. Approval of undergraduate courses is required by the Personnel Review Committee and the President prior to the time the course is taken.

5. All undergraduate credits earned after the completion of requirements for Class I and prior to the date of this contract shall be evaluated on the basis of relevance to the instructor's assignment within the College. Credit to be evaluated under this provision must be submitted on or before April 30, 1969.

6. Professional or institute courses may be evaluated as graduate equivalency when approved in advance by the Personnel Review Committee and the President.

7. Class advancements involving undergraduate credit heretofore approved will remain unchanged.

8. It is agreed that during the life of this agreement the parties shall mutually develop a program for recognition of equivalency as it relates to work experience and the parties will make every effort to have the study completed for implementation for 1969-70.

9. The following salary adjustments are made for faculty members in Classes III and IV:

   a. For an earned Specialist, Candidate, or similar certificate, and annual salary addition of $250 shall be approved.

   b. An annual salary addition of $250 shall be approved upon certification by the Dean or the student's advisor of the graduate school that the applicant has been admitted to a program leading to a Doctor's degree and that a minimum of one full year of organized graduate work beyond the Master's degree has been satisfactorily completed.

   c. For an earned Doctorate degree an annual salary addition of $900 shall be approved.

10. It is the responsibility of the instructor to supply verification of credits and certificates to the Board.

11. In moving from one class to a higher class placement, step advancement shall be maintained.

I. Personnel Review Committee

1. The functions of this Association-Administration Continuing Committee are as follows:

   a. They will review the Step and Class placement of new instructors during the first year of employment.

   b. They will review applications for Step and Class adjustments for present faculty members.

   c. They will make recommendations to the President for presentation to the Board for salary Step and Class adjustments under the terms of this Master Agreement.

   d. They will make recommendations annually prior to November 1 concerning instructors newly classified on salary steps 8, 9 and 10 for the rank of "Assistant Professor" who have not previously received this rank.

2. The membership of this committee is as follows:

   a. The Vice President for Instruction (Chairman of the Committee)
   b. The Dean of Arts and Science
   c. The Dean of Vocational-Technical Education
   d. The Chairman of the Division or Department of the applicant
   e. An Association member from Salary Class I
   f. An Association member from Salary Class II
   g. An Association member from Salary Class III
   h. An Association member from Salary Class IV
   i. A member-at-large from the Faculty Association
   j. A Secretary-recorder will be selected by the committee from its membership at the beginning of each academic year.

J. Counselors and Coordinators

1. Compensation for counseling or coordinating is computed on 6% of the first seven steps of the Class II teaching schedule.
2. The counseling staff shall be placed on the schedule with full credit for previous counseling experience.
3. Compensation for part-time counseling shall be pro-rated.

K. Division Chairmen and Department Heads

Compensation for division chairmen and department heads is $700 for the fiscal year.

L. Coaching

1. Coaching salaries are based on the percentages listed below and are computed on the first seven steps of the Class II, ten-months' teaching schedule.

Basketball	15%
Swimming	11.5%
Assistant Basketball	10%
Men's Intramural	10%
Women's Intramural	10%
Track	9%
Cross Country	8%
Baseball	8%
Soccer	8%
Tennis	7%
Golf	7%
Assistant Track	6%
Ticket Manager (Athletics)	$200

2. The coaching staff shall be placed on the schedule according to coaching experience in the sport involved and not according to teaching experience.

M. Supplemental Instructors

1. Compensation is paid as follows:

Semester	Amount
1 and 2	$140 per credit hour
3 and 4	145 per credit hour
5 and 6	150 per credit hour
7 and 8	155 per credit hour
9 and over	160 per credit hour

2. English Composition is compensated at 4/3.

N. Salary Payment

1. The salary of each instructor shall be paid on a bi-weekly basis.

2. The instructor shall upon written notice have the option of receiving his compensation for the ten-months' contract in 20 or 26 payments.

   a. The first Friday after Labor Day shall be the first pay for those on 26 payments.

   b. The third Friday after Labor Day shall be the first pay for those on 20 payments.

3. Compensation for the Summer Session is paid in four equal installments bi-weekly beginning the first Friday after July 1.

4. When a normal pay day occurs on a day when classes are not in session such pay day shall be the last day of classes.

5. Deductions may be authorized and shall be executed for any of the following:

   a. United Professional Dues
   b. Government Bonds
   c. Jackson County School Employees' Credit Union
   d. Tax sheltered Annuity
   e. Such others as are mutually agreed upon by the Association and the Board.

6. Salary checks are to be mailed or delivered in sealed envelopes at the instructor's option.

9. Faculty Prepared Instructional Material

1. Material Prepared on Own Time

Salable material developed by staff members on their own time shall not become the property of the College, but such materials may be sold to students of Jackson Community College only under an arrangement with the College.

2. Material Prepared on Contract Time

Salable material developed by staff members during time allocated for that purpose and compensated for by the College shall become the property of the College and royalties accrued therefrom shall be distributed on the basis of 25% to the inventor or inventors, author or authors and 75% to the College unless another method for distribution of proceeds was arranged prior to the development of the material. Material prepared for Jackson Community College student use under these conditions shall be sold to the students with no profit to the author. Patents or copyrights shall be issued to the inventor or author and the College or its assignees.

ARTICLE XII

MISCELLANEOUS

A. Long-range institutional planning shall be conducted cooperatively by the administration and the faculty.

B. Institutional Identification Cards will be supplied to all faculty members during the September registration period.

C. The Association will notify the Vice President of Instruction by November 1 of the year preceding the expiration of the master agreement of any changes in the membership of the Association's negotiating team. Their schedules then will be arranged for 3 three-hour common periods in every week free of classes or other college commitments during the second semester; however, in no event shall the College be responsible for clearing the schedule of more than five people so designated by the Association.

D. In order to promote mutual understanding of the terms of the contract in relation to specific problems, monthly meetings of negotiators shall be held. In addition to negotiators, the President of the Faculty Association and the President of the College may attend.

E. This Agreement shall supersede any rules, regulations or practices of the Board which shall be contrary to or inconsistent with its terms.

F. This Agreement shall likewise supersede any constitutional or by-law provisions of the Association heretofore in effect.

G. All instructor contracts shall be made expressly subject to the terms of this Agreement.

H. The provisions of this Agreement shall be incorporated into and be considered part of the established policies of the Board.

I. Copies of this Agreement shall be incorporated in the Faculty Manual and be presented to all instructors now employed or hereafter employed by the Board.

J. The Association shall have seventy-five copies of this Agreement for its use.

K. If any provision of this Agreement or any application of the Agreement to any instructor or group of instructors shall be found contrary to law, then such provision or application shall not be deemed valid or subsisting except to the extent permitted by law, but all other provisions or applications shall continue in full force and effect.

L. This Agreement shall not be effective until approved as to form by counsel for the Association and for the Board.

ARTICLE XIII

RESERVE CLAUSE

All rights and authority of the Board prescribed by law or stated in Article II of this Agreement are retained. This Agreement covers all subjects of bargaining and there shall be no duty on either party to bargain collectively regarding those matters covered in this Agreement unless otherwise specified for the duration of this Agreement.

ARTICLE XIV

DURATION OF AGREEMENT

This Agreement shall be effective as of September 1, 1968, and shall continue in effect until August 31, 1970. This Agreement shall not be extended orally, and it is expressly understood that it shall expire on the date indicated.

BOARD OF TRUSTEES	ASSOCIATION
By_____ Chairman	By_____ President
By_____ Secretary	By_____ Secretary
By_____ Chief Negotiator	By_____ Chief Negotiator
By_____ Negotiator	By_____ Negotiator
By_____ Negotiator	By_____ Negotiator
By_____ Negotiator	By_____ Negotiator
By_____ Negotiator	By_____ Negotiator

Date of Signing_____

APPENDIX A

Index

	Class I	Class II	Class III	Class IV
Step 1	.92	1.00	1.04	1.08
2	.98	1.07	1.12	1.17
3	1.04	1.14	1.20	1.26
4	1.10	1.21	1.28	1.35
5	1.16	1.28	1.36	1.44
6	1.22	1.35	1.44	1.53
7	1.28	1.42	1.52	1.62
8	1.34	1.49	1.60	1.71
9	1.40	1.56	1.68	1.80
10	1.46	1.63	1.76	1.89

Salary Schedule 1968 - 69

Ten Months (2 Semesters)

	Class I	Class II	Class III	Class IV
Step 1	$ 6,900	$ 7,500	$ 7,800	$ 8,100
2	7,350	8,025	8,400	8,775
3	7,800	8,550	9,000	9,450
4	8,250	9,075	9,600	10,125
5	8,700	9,600	10,200	10,800
6	9,150	10,125	10,800	11,475
7	9,600	10,650	11,400	12,150
8	10,050	11,175	12,000	12,825
9	10,500	11,700	12,600	13,500
10	10,950	12,225	13,200	14,175

Twelve Months (2 Semesters and Summer Session)

	1968-69 Class I	1968-69 Class II	1968 Class III	1968 Class IV
Step 1	$ 8,050	$ 8,750	$ 9,100	$ 9,450
2	8,575	9,363	9,800	10,238
3	9,100	9,975	10,500	11,025
4	9,625	10,588	11,200	11,813
5	10,150	11,200	11,900	12,600
6	10,675	11,813	12,600	13,388
7	11,200	12,425	13,300	14,175
8	11,725	13,038	14,000	14,963
9	12,250	13,650	14,700	15,750
10	12,775	14,263	15,400	16,538

Salary Schedule 1969 - 70

Ten Months (2 Semesters)

	Class I	Class II	Class III	Class IV
Step 1	$ 7,452	$ 8,100	$ 8,424	$ 8,748
2	7,938	8,667	9,072	9,477
3	8,424	9,234	9,720	10,206
4	8,910	9,801	10,368	10,935
5	9,396	10,368	11,016	11,664
6	9,882	10,935	11,664	12,393
7	10,368	11,502	12,312	13,122
8	10,854	12,069	12,960	13,851
9	11,340	12,636	13,608	14,580
10	11,826	13,203	14,256	15,309

Twelve Months (2 Semesters and Summer School)

	1969-70 Class I	1969-70 Class II	1969 Class III	1969 Class IV
Step 1	$ 8,694	$ 9,450	$ 9,828	$10,206
2	9,261	10,112	10,584	11,057
3	9,828	10,773	11,340	11,907
4	10,395	11,435	12,096	12,758
5	10,962	12,096	12,852	13,608
6	11,529	12,758	13,608	14,459
7	12,096	13,419	14,364	15,309
8	12,663	14,081	15,120	16,160
9	13,230	14,742	15,876	17,010
10	13,797	15,404	16,632	17,861

Summer Session, 1970

	Class I	Class II	Class III	Class IV
Step 1	$ 1,242	$ 1,350	$ 1,404	$ 1,458
2	1,323	1,445	1,512	1,580
3	1,404	1,539	1,620	1,701
4	1,485	1,634	1,728	1,823
5	1,566	1,728	1,836	1,944
6	1,647	1,823	1,944	2,066
7	1,728	1,917	2,052	2,187
8	1,809	2,012	2,160	2,309
9	1,890	2,106	2,268	2,430
10	1,971	2,201	2,376	2,552

Special Items

EXPERIENCE OF THE CANADIANS

ON

NEGOTIATIONS IN EDUCATION

By: Gib Eamer*
Western Washington State College
Negotiations Seminar
August, 1968

I have been asked to speak on, "What We Can Learn from the Experience of the Canadians on Negotiations in Education." It would be quite wrong of me to suggest that you should do this or that. I do not think you can devise any one system in negotiations in education that will meet all the situations or even a majority of situations you will encounter in your country.

While we are both democracies and live next to one another, our forms of government are quite different. You separate the legislative and the executive functions of government whereas we link them closely. Our executive - or cabinet system - requires that the members of the cabinet be elected members of the legislature and that the Premier be the leader of the party holding a majority in the legislature to hold the confidence of the legislature. Even the leader of the opposition in the legislature is designated as the Leader of Her Majesty's Loyal Opposition. Because of this constitutional difference our problems are different.

In Canada education is a provincial responsibility and any authority delegated to school boards, superintendents and teachers is contained in acts of the legislature. The School Acts carefully define the duties of each group. The main duties of teachers are not subjected to the direction or whim of local authorities. Many of the items that you might feel are important matters for local negotiations are not a problem to us at the local level. They must be negotiated with the government at the provincial or, as you would say, at the state level.

I have decided tonight to deal with some of the actions we have taken and why we proceeded as we have. If from this you can glean any information or ideas I will be happy.

Statutory Membership

One other difference in our approach is that we believe in and have provision for statutory membership in our professional organizations. This is true in all the provinces of Canada. My own province led the way in this movement when the provincial legislature passed a bill called, "An Act Respecting the Teaching Profession." This was in 1933 and marked the first time, at least in our country, that the law recognized teachers as professional people. A section of that Act states, "Every teacher employed in schools organized under the school act, the Secondary School Act and Vocational School Act shall as a condition of his employment be a member of the Saskatchewan Teachers' Federation."[1] This concept has grown until today every province of Canada has legislation establishing this principle and the right is given to the professional organizations to discipline their membership.

To receive this legislation was a great privilege and placed upon us an equally great responsibility. How best to discharge our duties? We set up goals and became determined to build the teacher group into a respected professional organization and to restore to teachers the dignity and responsibility that inadequate salaries and insecurity had denied them. To achieve this we had to first unite our teachers, not only into one organization, but to unite them in a determination to restore and rebuild the teaching profession.

We Are Different

We recognized that our profession was different from other professional groups in that we are one hundred per cent employed, that we were public servants and that our profession was made up of individuals. As a totally employed group we could have affiliated with labour and, indeed, the British Columbia Teachers' Federation was for a number of years so affiliated. We felt that other aspects of our aspirations could not find expression in such affiliation and that we could not really ape any other professional organization, because our problems were different. So we dedicated ourselves to the building of a professional body to meet our own needs.

The Need for an Economic Base

To realize our vision, there was a need to build our profession on a firm economic base. You can't be professional if you haven't the means to be professional. We have offered no apologies for the emphasis that was first placed on economic matters. To achieve economic security we were determined to bargain and bargain collectively. To us collective bargaining is not a dirty term.

Collective action by groups of people down through the ages has been and still is a vehicle or a process which man has employed to ensure his individual and group survival. In the political sphere tribal organizations developed as man made his first attempts at group organization. Clans, countries, nations, empires represent man's later attempts to organize for survival. The need for group action in economic spheres is accepted as a necessity in an increasingly complex society.

In the economic area we have accepted the formation of companies, corporations and business organizations as legitimate groups for economic development. The buying and selling of material goods and the development of our material resources have reached, in both quality and quantity, levels of success that surpass the wildest expectations of a generation ago.

Yet if those who sell their services wish to organize and use the methods of those that worship at the altar of free enterprise the hue and cry goes up that it is not professional. Collective bargaining by those who sell services and by those whose livelihood depends on their own talents, skills and resources is not a new idea, but it is one that is viewed with considerable mistrust by the uninformed. The final alternative to collective bargaining is a planned economy which removes the local right to make decisions on how one will live or work. Planned economy is a polite word for socialism which to many is a very nasty word.

*Mr. Eamer is Executive Secretary, Saskatchewan Teachers Federation, Canada.

"This term collective bargaining is one of those omnibus terms we have in the economy that means exactly what we choose to make it mean."[2] This quote is from Dr. J. Tait Montague, Director of the Institute of Industrial Relations of the University of British Columbia. Dr. Montague continued, "We usually thought of the labour market as individuals selling their services, and it took a long time for our society to come around to thinking that individuals, in selling their labour services, might group together to require certain action in the labour market. It gradually came about, born of the struggles of early unionists and an increasing social acceptance, that we were not satisfied with what the labour market did to individuals."[3]

The way in which various labour services are sold differs: a lawyer sells his services in a different way from a machinist, and a machinist sells his services in a different way than the plant worker. Teachers must sell their services in a different way than the lawyers or the doctors because we are employed, not self-employed. We cannot meet in solemn conclave in a hotel over a week end and increase our fees. We must bargain for them with a tough employer-representative of the public.

I have belaboured this question of collective bargaining because it was one of our greatest problems--to get an acceptance of the practice by our employers and also to make the term acceptable to teachers. For some reason our public and our employers thought it to be a four-lettered word. However, today it is accepted.

Teachers were the first to establish the right to bargain collectively in the public service. I am happy to say that the right for public employees to so bargain is established on both the provincial and federal levels. It is important to remember that things just don't happen: they are made to happen.

One final quote on this issue and it is by Stanley M. Cohen, Associate Editor of one of our largest newspapers - The Montreal Star. Mr. Cohen said, "Good teachers will only be attracted to our school systems and remain in them if they receive good pay, decent professional working conditions, have high morale, a consultative role and the respect they deserve. And there is nothing degrading about their having to use collective bargaining methods in order to achieve those goals."[4]

Are Strikes Inevitable?

If you have collective bargaining are strikes inevitable? My friend, Dr. Tait Montague, would say that the right to strike should be in collective bargaining. He says, "A hesitation that non-industrial workers have about bargaining has been the use of strike, a feeling that the obligation that they have to their profession and career work is such that they would not want to go on strike. Bargaining is a case of the supply taking action to influence the market. The strike becomes the handle on the thing, the thing that makes the market work. We are getting lots of statements now that the strike is an out-of-date instrument. I want to suggest that there is nothing so out-of-date as the statement that the strike is an out-of-date instrument. It is just not good enough to say, 'I want the market with collective bargaining in it, but only the parts I like.'"[5]

Strike is an irritating term so we avoid using it. We say we reserve the "right to withdraw services". If there is bargaining in "good faith" this ultimate action will not be necessary. Since The Teachers' Salary Negotiation Act was passed in my province we have had nearly 6000 salary agreements settled by negotiation and in the past seventeen years we have had one strike. I would never sign any agreement that would deny me the right to withdraw my services. I know little Johnny will be flung around and it will be said that we are striking against children. To me this is "malarky". If teachers are forced to this ultimate action it means that the educational system is in a sorry way. Whatever means are needed to correct the situation are for Johnny, not against him.

All Teachers Should Be Included in Any Salary Agreement

We take the stand that all our members are teachers whether they are heads of departments, consultants, principals, supervisory assistants or superintendents. Teaching is a team effort and all groups should work together as a team. All of the administrative categories are members of their professional organization. Collective bargaining must not be for a few of the group, but for all. Our negotiating committees bargain for all of these groups, with the single exception of the chief education officer. We think he should be included but this concession shows the "wear and tear" of bargaining.

Our government, at the request of the Trustees' Association, suggested that administrative personnel be removed from the bargaining unit. However, a Royal Commission[6] that heard evidence on this suggestion recommended against the proposal and the groups have remained in the bargaining unit.

What is the opinion of the administrators? I would like to quote to you from a brief submitted to the Royal Commission by the largest group of Administrators, the H. S. Principals' Association.

"1. It is our considered opinion that the present method of determining principals' salaries on the general salary scale, plus administrative allowances, has worked well in the past and should be continued.

2. Members of this association approve the present procedures whereby the responsibility of negotiating principals' allowances is placed in the hands of the general negotiating committee."[7]

The brief went on to state. . .

"It has been claimed that principals' salaries should not be placed in the same package as the salaries of those they supervise. This has been likened to placing the foreman in the same category as the worker he supervises.

This criticism, we consider, loses its validity because it fails to recognize the fundamental differences between supervision in industrial and professional operations. In the industrial situation procedures can be specified in detail and employees told what they are to do, and probably just how to do it. It is also generally possible to mechanically measure the workers' output or efficiency and this also becomes a part of the supervisor's job which can usually be done with a fair degree of objectivity.

In dealing with the complex human relationships which exist in every classroom, any attempt on the part of the supervising principal to dictate to the teacher just how he is to do his teaching and how he is to meet each emerging situation, would only result in a deterioration of the teacher's work. The most effective role of the principal in his relations with staff is to act as a consultant and advisor rather than an authoritarian supervisor. The principal and teachers must work closely together as a professional team if really effective gains are to be made in the educative process.

To segregate principals and teachers for salary negotiations would tend to emphasize the 'master-servant' concept of supervision which we find entirely unacceptable."[8]

All other administrative groups took a similar stand.

It is important to remember that we see collective bargaining as a means to an end--not an end in itself. We feel that our profession can make its greatest contribution to the educational system as a united society of professional equals. "We, therefore, provide in our code of ethics procedures for administrators to properly and democratically discharge their responsibilities. For this reason the administrators could say to the Royal Commission, ''We do not find that the present negotiation procedures compromise, in any way, our relationships with either the Board or the Staff."[9]

Negotiators and Authority

No teacher group in Canada employs professional negotiators and only in two provinces do some school boards employ them. Teachers have never felt the need as they have been able to recruit very able people who have found the work stimulating and have been quite prepared to spend the time in essential preparation. Boards have able business managers and board members that are also quite capable. We find that such committees bring an attitude to negotiations that permits concession and genuine bargaining. It permits each side to get to know the other better and to understand his problems.

Our practices in the different provinces vary. In Alberta the Alberta Teachers' Association certifies the teacher negotiating committee, but the committee is named by the teachers. In Saskatchewan the teachers' committee is elected by a majority of teachers employed and the teacher organization merely certifies that they have been elected and are the committee.

The Saskatchewan Act provides that when a committee is so elected the members of the committee shall be the exclusive representatives of the teachers. Committees are authorized by law to conclude an agreement but a referral back to the total group for ratification is the practice.

What does the wear and tear of negotiations do to teacher-trustee relations? On the whole I believe that bargaining improves relations and establishes better understanding between the two groups, even when there are protracted negotiations. As I pointed out earlier, in my province over 6000 agreements have been concluded during the past seventeen years. In the vast majority of cases they have been very amicable.

Teachers carefully choose their committee. They try to select teachers of repute and, of course, teachers that are prepared to do the necessary homework to be good negotiators. It is my considered opinion that bargaining in good faith by the parties can improve relationships. It would be quite wrong to leave you with the impression that all is always "sweetness and light". At times we do have really rough negotiations but this is the exception, not the rule.

Recently, an interesting news item, in the Edmonton (Alberta) Journal, was a report from the annual meeting of Red Deer County: the Reeve of that county told the annual meeting that the County could put pressure on to resist increases on teaching staff salaries, but the price that would be paid for this would be the loss of a larger number of teachers the next year.

The news story said further that several ratepayers reiterated the Reeve's sentiments. One speaker observed that teachers are being singled out as a group contributing solely to the economic pressures, while other professional people, such as lawyers and doctors, are improving their positions without public censure.

The Reeve of Red Deer County has been on a team for a number of years that has negotiated with a tough teachers' committee.

Points We Had to Learn

It has been the experience of most teacher groups that at first they didn't fully realize that they were public servants and dealing with elected people. It is important in negotiations that room be left for "face saving". This is why it has been found advisable to provide for compromise. It is a fine theory that one should ask only for what one is prepared to accept as a settlement. Practice has told us that this procedure is very unwise.

We always bargain for what we can justify, though we are prepared to accept less. It is also advisable to "throw in" some give-away items.

This is not dishonest, but a realistic approach to bargaining with a group that must justify its agreement with a public that has not perhaps been too well informed.

We had to learn what constitutes a settlement. It is more than the signing of an agreement. A proper settlement must be accepted by both parties. There is a tendency to advocate arbitration for the settlement of disputes. This should be resisted. There is an inclination to hide behind arbitration. Here no attempt is made to reach agreement but rather to let the arbitrator make the decision. This means continued discontent. It also places in the hands of one or two persons the welfare of hundreds of people. It is too impersonal.

We soon learned that bargaining was not a game for amateurs, and that an organization must prepare and arm its negotiators with techniques and information. The Saskatchewan Teachers' Federation has a membership of about twelve thousand. It has three full time staff members at the executive level dealing with economic matters, training of negotiators and researching of information. During the negotiating period, there is a steady flow of information bulletins to committee members.

Committee members quickly learn that those on the other side of the table resent being devastated with argument. By this technique one may win the battle but lose the war. Some of you know Dr. Eric Taylor; he insists that one of the first laws of effective collective bargaining is to attempt to identify yourself with those across the table.

Doves or Hawks?

Let us remember that we are living in the latter half of the twentieth century. "We must disregard our yesterday thinking and proceed on the realities of today. The teacher of today is a different animal and is better prepared. Most teachers are university graduates. They have been taught to think and have been urged to be creative in their teaching. You must expect some of this activity to rub off and make the teacher say, ''We are not prepared to accept the pay standards and working conditions of yesterday."

"The term 'schoolteacher' is as archaic today as the society that spawned it. It is not merely redundant, the mental image it generates no longer applies in the twentieth century America."[9] So says Dr. E. Glenn Fennell commenting on the changing status of teachers in the May-June issue of Education Age.

Dr. Fennell describes the schoolteacher, the Miss Dove of yesterday, as a prim, colourless, conservative maiden who devoted her waking hours to her pupils. She scarcely had a life of her own; hers was a life of service. In return she received a pittance, benevolently bestowed on her by a penurious and patronizing employer.

Miss Dove reflected 19th century society. "Like every good teacher past or present, she endeavoured to fulfill her school's basic role, which was to reflect, preserve, maintain, defend - and if possible improve - the society she served."[10]

Today the role of the school has not changed nor has the basic role of the teacher changed. But there is a vast difference between Miss Dove and the teacher in today's classroom. Miss Dove did not change but her society did; and in her place today we have Mr. and Mrs. Hawk, products of that change.

Recognizing the change the Alberta Teachers' Association commissioned Professor Sam Mitchell of the University of Calgary to prepare a monograph on - "Profile of Alberta Teachers: Expectations and Heightened Aspirations."[11]

Professor Mitchell's study reveals that the increased levels of aspirations which teachers now hold are producing increasing dissatisfaction on the part of teachers when they compare themselves with other professionals; when they consider the status in which teaching is held in the community; and when they think of the opportunities which teaching affords for the development of one's abilities. The study also shows that inexperienced teachers manifest greater dissatisfaction than teachers with five or more years of experience.

In this latter statement surely there is a message for legislators, school board members and administrators. To me the message is that we can expect an escalation of the discontent that exists today. It behooves us to realize these facts of life and be prepared to deal with them in a constructive manner.

This monograph was prepared as a guideline to a teachers' association on how to deal with this phenomenon and to harness this great potential for the general upgrading of education. It is recognized that the 'new' teacher must find his satisfaction in the classroom where he wants to be. He must have a voice in the decision making of school policy, curriculum and working conditions.

We need the Hawks who are anxious to prepare pupils for present-day society. Their militancy should be welcomed. Whom would you have as a teacher of your child, a Dove or a Hawk? I know my answer to the question. Give me the Hawk.

SOURCES

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NATIONAL EDUCATION ASSOCIATION

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Negotiation Research Digest

Volume 2, No. 5 January 1969

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Salt Lake City Agreement ..... Text: D-1
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Agreement between Board of Education and Salt Lake Teachers.... Association (NEA), effective August 20, 1968, to July 1, 1969, provides salary range from $5,484 to $10,878. Contract teachers may choose between two salary schedules. Those electing the "B" schedule perform additional duties and receive higher pay. Other provisions include joint development of

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budget proposals by the Association and the Superintendent, teacher protection from assaults, and payment for 15% of unused sick leave upon retirement.

White Collar Salary Gains Reported by BLS ..... Analysis: B-1
The Bureau of Labor Statistics releases preliminary report of nationwide survey of professional, administrative, technical, and clerical pay for the year ending in June 1968.

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Description and Analysis

U.S. COURT RULES TEACHERS HAVE CONSTITUTIONAL RIGHT TO ENGAGE IN UNION ACTIVITY

The United States Court of Appeals for the Seventh Circuit reversed the decision of the District Court in the Cook County, Illinois, case, ruling that the Constitution of the United States gives teachers the right to engage in union activity. Whether a teacher has tenure or not, he may not be dismissed for exercising his constitutional rights. The Court further ruled that "even if this record disclosed that the union was connected with unlawful activity, the bare fact of membership does not justify charging members with their organization's misdeeds."

EXTRA PAY AWARDED FOR STUDY HALL DUTY

The arbitrator in Lakeview, Michigan, ruled that the Board of Education violated its agreement with the Lakeview Education Association by denying teachers additional compensation for study hall duty assigned one to three times per week in addition to a full teaching load. He stated that a study hall assignment is a "class" or teaching period, and according to the agreement, teachers responsible for more than a full teaching load of five classes a day are entitled to additional compensation for the overload.

The Board, therefore, was ordered to pay these teachers for their study hall duty on a pro-rata formula.

MASSACHUSETTS LABOR COMMISSION FINDS ONE-MAN UNIT INAPPROPRIATE

The Massachusetts Labor Relations Commission rendered a decision in two cases involving the bargaining status of the only principal employed by a school system. The cases involved the Elementary School Systems of the Towns of Ashburnham and Westminster, each of whom employs only one principal.

The Commission ruled that a one-man unit "in cases where the Municipal Employer employs only one in a job classification is inappropriate." In a second question, the Commission found that the principals involved "are not executives within the meaning of the Municipal Collective Bargaining Law." Were they employed in a larger system, they would have been included in the "Administrators Unit." The Commission suggested that the principals be included in the teachers' units, so that they would "not be denied the right to benefits under the statute because of the circumstances in these matters."

TEACHER PAID FOR EXTRA HOURS EARNED BEFORE B.A. DEGREE

The arbitrator in Chippewa Valley, Michigan, ordered that a probationary teacher who had earned 15 hours beyond those required for the B.A. degree, before the award of the degree, be placed on the B.A. + 15 salary schedule, in accordance with promises given her at time of employment.

He ruled that the agreement between the Chippewa Valley Board of Education and the Chippewa Valley Education Association, as well as the prior policies of the Board indicated that placement on this schedule was based on the earning of 15 hours after the B.A. degree had been attained. However, exceptions to this policy had been made in the past.

The arbitrator found that the assurances given the teacher at the time of employment that she would be eligible for the higher schedule were "but another example of policy-deviation which had been indulged in prior to PERA. The significant difference now is that the Association, as an equal party to the Agreement, could prevent the administration from carrying out such promises, especially if it felt that such individual treatment was aimed at undermining its bargaining authority." In this instance, the Association chose to support the case of the teacher.

Following consideration of these points, the arbitrator ordered that since the teacher "was given assurances that she would be eligible for the B.A. + 15 hrs. rating" at the time of employment, this commitment must be honored."

COLLEGE REQUIRED TO PROVIDE SALARY INFORMATION TO ASSOCIATION

The Michigan Labor Mediation Board upheld the charge of the Washtenaw Community College Education Association that the College refused to bargain under PERA by withholding information on employee salaries.

The administration of the College determines salaries of new instructors by using point allocation charts, awarding points for "experience, educational attainment, certificates and licenses, skill-related activities, occupational and/or professional affiliations, breadth and depth of experience, and 'special elements of consideration.'" The award of points is based on information provided in the job application.

The MLMB ruled that employees' charts and the pertinent sections of the application forms used in developing these charts constitute "information which is relevant to the administration of the contract." The College was ordered to provide the Association with these forms "and any other records in its possession which are relevent to salaries or conditions of employment."

CONFLICT OF INTEREST FOUND IN UNIT OF COORDINATORS, DIRECTORS, AND TEACHERS

The New York Public Employment Relations Board ruled in an appeal of the decision by PERB's Director of Representation in the Johnson City unit determination case that coordinators and directors should not be included in the teacher unit. The Board stated that "the evaluating function of the coordinators and directors plus their position in the complaint or grievance procedure would, in our opinion, give rise to such a conflict of interest as to preclude their being joined in the same unit as the teachers."

The Johnson City Teachers Association sought the formation of a single unit of all professional employees, "excluding the superintendent of schools, the administrative assistant to the superintendent, the director of pupil services and the business administrator." The Director of Representation ruled that there should be two units, one composed of principals and vice-principals, and the second including coordinators, directors, and teachers. This decision was appealed by the School Board.

PERB determined that two units were appropriate, one including "all classroom teachers, special teachers, guidance teachers, nurse teachers, dental hygienists and psychologists" and the other including "all principals, vice principals, coordinators and directors." The Board further ordered an election to determine which organization would represent each group, unless sufficient evidence could be presented within seven days to satisfy the requirements for certification without an election.

TEACHER RESPONSIBLE FOR TWO ACTIVITIES LISTED IN SUPPLEMENTAL PAY SCHEDULE TO BE PAID FOR BOTH

The arbitrator in Clintondale, Michigan, ruled that a teacher responsible for more than one activity listed in the supplemental pay schedule is entitled to supplemental pay for each one.

The case involved a music instructor who is responsible for concerts at both the elementary and junior high-school levels. These activities are listed separately on the supplemental pay schedule in the Agreement between the Board of Education and the Clintondale Education Association. The arbitrator concluded, "When the teacher was assigned to perform two of those activities, and it is undisputed that he was so assigned, he became entitled to the compensation provided for each of such activities."

Data and Statistics

SHARP RISE IN WHITE-COLLAR PAY

Salary increases from June 1967 to June 1968 were the largest recorded in the eight years that the Labor Department's Bureau of Labor Statistics has surveyed salaries of selected white-collar occupations in private industry.

Preliminary information from the annual nationwide survey of professional, administrative, technical, and clerical occupations shows that salary increases for clerical occupations averaged 5.1 percent over the year ending June 1968, compared to 4.6 percent the previous year and an average annual increase rate of 3.1 percent from 1961 to 1967. Average salaries for the professional, administrative, and technical occupations also advanced more in the 1967-68 period than in earlier years:

	Percent Increases in Average Salaries		
Occupation	June 1967 to June 1968	1966 to 1967 1/	Average annual rate of increase 1961 to 1967
Accountants	5.7	4.6	3.5
Auditors	5.5	4.8	3.7
Chief accountants	5.5	5.1	3.8
Attorneys	5.3	3.2	3.7
Managers of office services	5.6	5.5	3.6
Buyers	4.9	4.2	NA
Job analysts	7.0	3.4	3.4
Directors of personnel	5.4	3.8	3.7
Chemists	5.1	4.4	4.0
Engineers	5.4	4.3	3.5
Engineering technicians	5.1	3.7	NA
Drafting	5.3	3.5	NA
Clerical	5.1	4.6	3.1

1/ The actual time periods between the 1966 and 1967 surveys were 16 months for drafting and clerical occupations, and 15 months for all others. The increases between surveys were prorated to a 12-month period.

June 1968 average salaries for eight levels of engineers, the largest professional group studied, ranged from $752 a month for college graduates in trainee positions to $1,940 for those responsible for highly complex engineering programs. At the fourth level, the largest group in each profession, representing fully experienced employees, engineers averaged $1,091 a month and chemists $1,063.

Among five engineering technician levels, the third and fourth, in which a majority of the technicians were classified, had average salaries of $633 and $731, respectively. Draftsmen-tracers averaged $412 a month, and the average was $769 for the highest of the three draftsmen levels studied.

Salaries of accountants ranged from $621 for accountants I to $1,128 for accountants V. Auditors averaged $637 at level I and $1,025 a month at level IV. Level I

accountants and auditors were trainees with bachelor's degrees in accounting or the equivalent in education and experience.

Buyers responsible for purchasing "off-the-shelf" items and services (level I) were paid monthly salaries averaging $612. Buyers IV, who purchased large amounts of highly complex and technical items, materials and services, averaged $1,036 a month.

Job analysts and directors of personnel, representing three and four levels of work, were studied in the personnel management field. Level II of job analysts averaged $735 a month compared with $1,048 for those at level IV, where evaluation of a variety of more difficult jobs under general supervision was required. Personnel directors averaged $919 for level I and $1,643 for level IV.

Among the 21 clerical work levels surveyed, average monthly salaries ranged from $306 for file clerks I to $606 for secretaries IV, the highest of a four-level series. Averages for 11 of the clerical levels were above $420 and only 4 were below $380 per month.

Although originally designed to compare Federal with private pay, the survey is also used as a benchmark by business, labor unions, professional societies, trade associations, schools, and State and local government agencies. It is a basic reference source for salary administrators, recruiters, educators, career counselors, employee placement workers, and planners.

The definitions used in the survey were graded by the U.S. Civil Service Commission in accordance with the standards established for each grade under the Federal Classification Act. The equivalent Classification grade for each of the work levels surveyed will be identified in the final survey report.

A bulletin--National Survey of Professional, Administrative, Technical, and Clerical Pay, June 1968--containing complete and final results of the survey will be issued early in 1969. In addition to more detail for the nationwide information based upon the full survey coverage, it will provide mean, median, and middle range salaries by occupational level for all establishments located in metropolitan areas and for establishments with 2,500 employees or more.

This annual survey relates to metropolitan areas and nonmetropolitan counties in the United States except Alaska and Hawaii. The minimum employment sizes of establishments in industries studied were: 250 or more in manufacturing and retail trade; 100 or more in transportation, communication, electric, gas, and sanitary services, wholesale trade, engineering and architectural services, and commercially operated research, development, and testing laboratories; 50 or more in finance, insurance, and real estate. Occupational definitions used for the 1968 survey are the same as in BLS Bulletin No. 1585, "National Survey of Professional, Administrative, Technical, and Clerical Pay, June 1967," except for minor modifications for engineers and chemists.

Survey results are summarized in the following table.

Average Salaries, United States, June 1968

(Employment and average annual salaries for selected professional, administrative, technical, and clerical occupations in private industry 1/ in the United States, except Alaska and Hawaii, June 1968, and percent change in average salaries from June 1967.)

Occupation and class	Number of employees 2/	Average salaries 3/		Percent increase 1967 to 1968
		Monthly	Annual	
(I)	(II)	(III)	(IV)	(V)
Accountants and Auditors				
Accountants I	4,693	$621	$7,451	6.6
Accountants II	9,683	690	8,277	5.8
Accountants III	24,119	781	9,367	5.5
Accountants IV	16,669	939	11,273	5.8
Accountants V	6,557	1,128	13,531	5.8
Auditors I	724	637	7,645	6.3
Auditors II	1,795	726	8,707	4.2
Auditors III	3,773	831	9,977	5.6
Auditors IV	2,637	1,025	12,303	5.8
Chief accountants I	837	1,024	12,289	4.4
Chief accountants II	1,343	1,178	14,135	8.4
Chief accountants III	784	1,381	16,577	4.4
Chief accountants IV	301	1,587	19,046	0.8
Attorneys				
Attorneys I	218	778	9,338	(4/)
Attorneys II	959	856	10,293	7.0
Attorneys III	1,110	1,050	12,602	6.4
Attorneys IV	1,657	1,274	15,283	6.0
Attorneys V	1,428	1,495	17,936	4.2
Attorneys VI	691	1,846	22,152	3.4
Attorneys VII	408	2,403	28,841	5.7
Office Services				
Managers, office services I	282	765	9,183	7.3
Managers, office services II	721	912	10,948	5.3
Managers, office services III	381	1,142	13,707	5.3
Managers, office services IV	62	1,358	16,291	5.7
Buyers				
Buyers I	2,395	612	7,344	4.5
Buyers II	9,132	722	8,660	5.5
Buyers III	12,878	855	10,260	4.5
Buyers IV	4,599	1,036	12,431	5.3
Personnel Management				
Job analysts II	384	735	8,820	8.1
Job analysts III	682	867	10,401	8.1
Job analysts IV	523	1,048	12,577	5.1
Directors of personnel I	1,153	919	11,029	6.0

(I)	(II)	(III)	(IV)	(V)
Directors of personnel II	1,733	$1,101	$13,215	6.6
Directors of personnel III	1,132	1,334	16,005	4.5
Directors of personnel IV	391	1,643	19,715	2.8
Chemists and Engineers				
Chemists I	1,768	672	8,061	6.2
Chemists II	4,419	744	8,931	5.3
Chemists III	9,292	849	10,187	4.8
Chemists IV	10,395	1,063	12,751	5.9
Chemists V	8,015	1,272	15,263	6.0
Chemists VI	4,340	1,444	17,324	4.5
Chemists VII	1,897	1,714	20,561	2.2
Chemists VIII	508	2,118	25,416	3.0
Engineers I	12,361	752	9,023	7.6
Engineers II	32,113	814	9,771	7.6
Engineers III	82,667	914	10,963	6.1
Engineers IV	109,538	1,091	13,095	5.4
Engineers V	71,257	1,269	15,223	4.8
Engineers VI	38,444	1,447	17,361	4.6
Engineers VII	12,789	1,685	20,216	4.6
Engineers VIII	2,971	1,940	23,280	4.7
Engineering Technicians				
Engineering technicians I	5,809	465	5,585	4.1
Engineering technicians II	15,711	555	6,661	5.6
Engineering technicians III	27,976	633	7,596	5.0
Engineering technicians IV	30,347	731	8,767	5.4
Engineering technicians V	15,555	816	9,788	4.8
Draftsmen				
Draftsmen-tracers	6,557	412	4,951	4.6
Draftsmen I	21,828	509	6,110	6.0
Draftsmen II	33,447	629	7,548	4.6
Draftsmen III	25,628	769	9,233	5.9
Clerical				
Clerks, accounting I	79,082	392	4,708	5.3
Clerks, accounting II	55,873	515	6,179	4.1
Clerks, file I	31,891	306	3,674	7.9
Clerks, file II	28,750	342	4,110	6.0
Clerks, file III	8,720	421	5,055	5.9
Keypunch operators I	59,919	380	4,566	5.1
Keypunch operators II	40,687	432	5,189	4.6
Office boys or girls	28,163	334	4,011	6.2
Secretaries I	79,943	463	5,563	4.6
Secretaries II	76,825	522	6,272	4.2
Secretaries III	46,403	557	6,692	5.0
Secretaries IV	15,057	606	7,271	4.8
Stenographers, general	73,720	405	4,861	5.5
Stenographers, senior	56,347	468	5,614	4.1
Switchboard operators I	15,056	382	4,587	5.4

(I)	(II)	(III)	(IV)	(V)
Switchboard operators II	10,293	$454	$5,445	4.0
Tabulating-machine operators I	7,362	392	4,702	4.9
Tabulating-machine operators II	12,756	481	5,779	5.2
Tabulating-machine operators III	6,033	584	7,008	4.8
Typists I	9,523	350	4,206	6.6
Typists II	45,848	407	4,890	4.4

1/ Includes establishments with 250 workers or more in manufacturing and retail trade; 100 or more in transportation, communication, electric, gas, and sanitary services, wholesale trade, engineering and architectural services, and research, development, and testing laboratories operated on a commercial basis; and 50 or more in the finance, insurance, and real estate industry division.

2/ Occupational employment estimates relate to the total in all establishments within scope of the survey and not to the number actually surveyed.

3/ Salaries reported relate to the standard salaries that were paid for standard work schedules; i.e., the straight-time salary corresponding to the employee's normal work schedule excluding overtime hours. Nonproduction bonuses are excluded, but cost-of-living bonuses and incentive earnings are included.

4/ Not included in 1967.

Copies of the completed bulletin may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Judicial Decisions, Opinions, and Statutes

In the

UNITED STATES COURT OF APPEALS

For the Seventh Circuit

SEPTEMBER TERM, 1967 — APRIL SESSION, 1968

No. 16562

JAMES McLAUGHLIN, et al.,
Plaintiffs-Appellants,
v.
ALBERT TILENDIS, et al.,
Defendants-Appellees

A p p e a l from the United States District Court for the Northern District of Illinois, Eastern Division.

JUNE 12, 1968

Before Castle, Chief Judge, and Fairchild and Cummings Circuit Judges.

CUMMINGS, Circuit Judge. This action was brought under Section 1 of the Civil Rights Act of 1871 (42 U.S.C. § 1983)[1] by John Steele and James McLaughlin who had been employed as probationary teachers by Cook County, Illinois, School District No. 149. Each sought damages of $100,000 from the Superintendent of School District No. 149 and the elected members of the Board of Education of that District.

Steele was not offered a second-year teaching contract and McLaughlin was dismissed before the end of his second year of teaching. Steele alleged that he was not rehired and McLaughlin alleged that he was dismissed because of their association with Local 1663 of the American Federation of Teachers, AFL-CIO. Neither teacher had yet achieved tenure.

In two additional Counts, Local 1663 and the parent union, through their officers and on behalf of all their members, sought an injunction requiring the defendants to cease and desist from discriminating against teachers who distribute union materials and solicit union membership.

The District Court granted the defendants' motion to dismiss the complaint, holding that plaintiffs had no First Amendment rights to join or form a labor union, so that there was no jurisdiction under the Civil Rights Act.[2] The District Court's memorandum opinion did not consider the alternative defense presented in the motion that defendants were immune from suit under the Illinois Tort Immunity Act (Ill. Rev. Stats. 1967, Ch. 85, Sec. 2-201). Concluding that the First Amendment confers the right to form and join a labor union, we reverse on the ground that the complaint does state a claim under Section 1983.

It is settled that teachers have the right of free association, and unjustified interference with teachers' associational freedom violates the Due Process clause of the Fourteenth Amendment. Shelton v. Tucker, 364 U.S. 479, 485-487. Public employment may not be subjected to unreasonable conditions, and the assertion of First Amendment rights by teachers will usually not warrant their dismissal. Keyishian v. Board of Regents, 385 U.S. 589, 605-606; Garrity v. New Jersey, 385 U.S. 493, 500; Pickering v. Board of Education, 36 U.S. Law Week 4495. Unless there is some illegal intent, an individual's right to form and join a union is protected by the First Amendment. Thomas v. Collins, 323 U.S. 516, 534; see also Hague v. C.I.O., 307 U.S. 496, 512, 519, 523-524; Griswold v. Connecticut, 381 U.S. 479, 483; Stapleton v. Mitchell, 60 F.Supp. 51, 59-60, 61 (D. Kan. 1945; opinion of Circuit Judge Murrah), appeal dismissed, 326 U.S. 690. As stated in N.A.A.C.P. v. Alabama, 357 U.S. 449, 460:

> "It is beyond debate that freedom to engage in association for the advancement of beliefs and ideas is an inseparable aspect of the 'liberty' assured by the Due Process Clause of the Fourteenth Amendment, which embraces freedom of speech."

Even though the individual plaintiffs did not yet have tenure, the Civil Rights Act of 1871 gives them a remedy if their contracts were not renewed because of their exercise of constitutional rights. Johnson v. Branch, 364 F.2d 177 (4th Cir. 1966), certiorari denied, 385 U.S. 1003; Bomar v. Keyes, 162 F.2d 136 (2d Cir. 1947), certiorari denied, 332 U.S. 825; Smith v. Board of Education of Morrillton School District No. 32, 365 F.2d 770 (8th Cir. 1966); Rackley v. School District Number 5, Orangeburg County, S.C., 258 F.Supp. 676 (D. S.C. 1966); Williams v. Sumter School District Number 2, 255 F. Supp. 397 (D. S.C. 1966).

[1] Section 1983 of Title 42 of the U. S. Code provides:
"Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."

[2] The District Court granted McLaughlin, an Indiana citizen, leave to file an amended complaint for breach of contract, asserting diversity of citizenship, but McLaughlin chose to appeal.

Just this month the Supreme Court held that an Illinois teacher was protected by the First Amendment from discharge even though he wrote a partially false letter to a local newspaper in which he criticized the school board's financial policy. Pickering v. Board of Education, 36 U.S. Law Week 4495. There is no showing on this record that plaintiffs' activities impeded "the proper performance of [their] daily duties in the classroom." Idem at p. 4498. If teachers can engage in scathing and partially inaccurate public criticism of their school board, surely they can form and take part in associations to further what they consider to be their well-being.

The trial judge was motivated by his conclusion that more than free speech was involved here, stating:

> "The union may decide to engage in strikes, to set up machinery to bargain with the governmental employer, to provide machinery for arbitration, or may seek to establish working conditions. Overriding community interests are involved. The very ability of the governmental entity to function may be affected. The judiciary, and particularly this Court, cannot interfere with the power or discretion of the state in handling these matters."

It is possible of course that at some future time plaintiffs may engage in union-related conduct justifying their dismissal. But the Supreme Court has stated that

> "Those who join an organization but do not share its unlawful purposes and who do not participate in its unlawful activities surely pose no threat, either as citizens or as public employees." Elfbrandt v. Russell, 384 U.S. 11, 17.

Even if this record disclosed that the union was connected with unlawful activity, the bare fact of membership does not justify charging members with their organization's misdeeds. Idem. A contrary rule would bite more deeply into associational freedom than is necessary to achieve legitimate state interests, thereby violating the First Amendment.

Illinois has not prohibited membership in a teachers' union, and defendants do not claim that the individual plaintiffs engaged in any illegal strikes or picketing.[3] Moreover, collective bargaining contracts between teachers' unions and school districts are not against the public policy of Illinois. Chicago Education Association v. Chicago Board of Education, 76 Ill.App.2d 456, 222 N.E.2d 243 (1966). Illinois even permits the automatic deduction of union dues from the salaries of employees of local governmental agencies. Ill. Rev. Stats. 1967, Ch. 85, Sec. 472. These very defendants have not adopted any rule, regulation or resolution forbidding union membership. Accordingly, no paramount public interest of Illinois warranted the limiting of Steele's and McLaughlin's right of association. Of course, at trial defendants may show that these individuals were engaging in unlawful activities or were dismissed for other proper reasons, but on this record we hold that the complaint sufficiently states a justiciable claim under Section 1983. There is nothing anomalous in protecting teachers' rights to join unions. Other employees have long been similarly protected by the National Labor Relations Act. See National Labor Relations Board v. Jones & Laughlin, 301 U.S. 1, 33.

[3]In Illinois, strikes and certain picketing by public employees are enjoinable. Redding v. Board of Education, 32 Ill. 2d 567, 207 N.E. 2d 427 (1965).

The second ground of defendants' motion to dismiss was that they are protected against suit by the Illinois Tort Immunity Act (Ill. Rev. Stats. 1967, Ch. 85, Sec. 2-201).[4] Under the Supremacy Clause, that statute cannot protect defendants against a cause of action grounded, as here, on a federal statute. Legislators and judges have broad immunity under Section 1983 because in enacting that statute Congress did not intend to overturn their pre-existing defense. Tenney v. Brandhove, 341 U.S. 367, 376; Pierson v. Ray, 386 U.S. 547, 554-555. However, other officials, such as present defendants, retain only a qualified immunity, dependent on good faith action. Pierson v. Ray, supra, at p. 555; Note, The Doctrine of Official Immunity under the Civil Rights Acts, 68 Harv. L. Rev. 1229, 1235-1236 (1955); Note, The Proper Scope of the Civil Rights Acts, 66 Harv. L. Rev. 1285, 1299 (1953). Even under the Illinois Act, immunity is conditioned upon a showing of good faith (Baum, Tort Liability of Local Governments and Their Employees: An Introduction to the Illinois Immunity Act, Ill. Law Forum (1966) 981, 1003-1004), and there has been no hearing on that question. In this Court and in their brief below the defendants also rely on common law immunity, but we rejected a similar contention in Progress Development Corp. v. Mitchell, 286 F.2d 221, 231 (7th Cir. 1961), where it was held that common law immunity did not extend to members of the Deerfield, Illinois, Park Board charged with discriminating against Negroes. Unless they can show good faith action, the reach of that decision extends to the present defendants who are alleged to have discriminatorily discharged Steele and McLaughlin for their union membership. To hold defendants absolutely immune from this type of suit would frustrate the very purpose of Section 1983. Jobson v. Henne, 355 F.2d 129, 133 (2nd Cir. 1966).[5] At best, defendants' qualified immunity in this case means that they can prevail only if they show that plaintiffs were discharged on justifiable grounds. Thus here a successful defense on the merits merges with a successful defense under the qualified immunity doctrine.

Finally in this connection, it should be noted that immunity was sub silentio denied to the school officials involved in the Johnson, Bomar, Smith, Rackley and Williams cases, supra; see also Board of Education v. Barnette, 319 U.S. 624, 637-638.

The judgment of the District Court is reversed and the cause is remanded for trial.

A true Copy:

Teste:

.....
Clerk of the United States Court of Appeals for the Seventh Circuit.

[4]Sec. 2-201 provides:
"Except as otherwise provided by Statute, a public employee serving in a position involving the determination of policy or the exercise of discretion is not liable for an injury resulting from his act or omission in determining policy when acting in the exercise of such discretion even though abused."

[5]As shown in the Jobson case (355 F.2d at p. 134, note 11), part of Duzynski v. Nosal, 324 F.2d 924 (7th Cir. 1963), on which defendants rely, turns on the absence of state action. No such defense is available here. The remainder of Duzynski, like Phillips v. Nash, 311 F.2d 513 (7th Cir. 1962), certiorari denied, 374 U.S. 809, is concerned with persons protected by judicial immunity.

IN THE MATTER OF THE ARBITRATION

between

LAKEVIEW EDUCATION ASSOCIATION

and

THE BOARD OF EDUCATION OF LAKEVIEW SCHOOL DISTRICT

OPINION AND AWARD

The hearing in this matter was held February 17, 1968, in the Board office, Battle Creek, Michigan. Both parties filed briefs and the Board was granted leave to file a reply brief. All briefs were timely filed and the reply brief received on June 1, 1968.

Jurisdiction of the undersigned is derived by joint selection of the parties pursuant to their collective bargaining agreement.

Present and representing the parties were:

Marshall D. Garvey, Attorney for the Board

Theodore Swift, Attorney for the LEA

ISSUE

1. Is the issue arbitrable?

2. Did the Lakeview Board of Education violate the collective bargaining agreement between the parties by assigning Gerald Phillips, Dale Crawford, John Hageman, Margaret Collins, Jerry Yeast, Lois Dowman, Gladys Stauffer, John W. R. Moffett, Carol L. Culp, teachers in the Highland Junior High School, to study hall assignment ranging from one to three days per week during their planning periods and in addition to their regular assignments without additional compensation? If so, what is the appropriate remedy?

PERTINENT CONTRACT PROVISIONS

ARTICLE I

Recognition

* * * * *

Excluded are superintendent, assistant superintendent, curriculum coordinator, principals, assistant principals, guidance directors, director of special services, also all office, clerical, custodial, maintenance, plant and cafeteria employees. The term "teacher" when used hereinafter in the agreement, shall refer to all employees represented by the Association in the bargaining or negotiations unit as above defined, and references to male teachers shall include female teachers.

* * * * *

ARTICLE III

Professional Rights and Responsibilities Procedures

* * * * *

B. If any teacher has a complaint regarding any condition of employment, such complaint shall be dealt with through the provisions hereof unless it is covered by the Michigan Tenure Act.

* * * * *

D. All complaints, other than tenure, shall be adjusted through the following procedures:

* * * * *

(e) Level Five

Any complaint not resolved at "Level Four" may be submitted to arbitration by either the Lakeview Board of Education or the Lakeview Education Association under the following conditions:

(1) The matter to be arbitrated must concern the application or interpretation of this agreement either as to the meaning of its terms or as to the rights of either party under these terms or as to whether some action which has been taken is justified according to these terms.

(2) The matter to be arbitrated must be one which the Board of Education can legally allow to be submitted to an arbitrator for final determination under the laws of the State of Michigan.

(3) The party choosing to submit any unsettled complaint to arbitration must notify the other party in writing within fifteen calendar days of the conclusion of Level Four of this procedure. Such notification shall identify the complaint and the issue and shall state what part or parts of the contract is involved. Any complaint not submitted to arbitration within the time herein provided shall be deemed withdrawn.

(4) The parties shall choose a permanent impartial arbitrator at the commencement of the term of this contract, who shall conduct all arbitration proceedings hereunder so long as he continues to be acceptable to both parties. If such arbitrator becomes unacceptable to either or both parties appropriate written

notice shall be sent to the arbitrator and the opposite party and he shall thereupon conclude his services by rendering decisions on any complaints pending that have already been heard by him. The parties shall meet within five days after any such notice to mutually agree upon a replacement for the permanent impartial arbitrator.

(5) The arbitrator may interpret this agreement and apply it to the particular case submitted to him but he shall, however, have no authority to add to, subtract from or in any way modify the terms of this agreement nor shall he have any authority to limit or change any policies, practices or rules except as they may involve an application or interpretation of this agreement. Nor shall he have any authority to formulate or add any new policies or rules nor substitute his discretion for the Board's or Administration's discretion in cases where the Board or Administration is given discretion by this agreement.

(6) At the time of the arbitration hearing either party shall have the right to examine and cross examine witnesses and to make a written record of the proceedings.

(7) No claim against the Board including claims for back wages by an employee covered by this agreement or by the Association shall be valid for any period prior to thirty working days from the date when the complaint out of which such claim arises was first filed in writing with the Administration.

(8) All costs incurred in connection with the preparation and presentation of each case shall be paid by the party incurring such costs. The expenses of each witness and the compensation of any witness for either party shall be paid by the party producing such witness. The arbitrator's fees and expenses shall be paid by the party against whom the award is rendered and all other expenses shall be borne by the party incurring them. The arbitrator shall designate for the purpose of this section, the party against whom the award is rendered.

(9) The arbitrator's decision shall be final and binding upon the Board, the Association, and the employee or employees involved.

E. The parties hereto agree that these proceedings shall be kept as confidential as may be appropriate at any level.

F. Any complaint filed on or after the first day of June, shall, if practicable, be resolved prior to the beginning of the following school year. In this case the term school days shall be defined to include all days of the week other than Saturday, Sunday and legal holidays and is not restricted to working school days.

G. Any party in interest may be present at meetings at Level Three, Level Four or Level Five of the procedure upon notification to either the Association or the Board. A "party in interest" is a teacher filing a complaint and also any person or persons who might be required to take action or against whom action may be taken in order to resolve the complaint.

H. When a complaint under these proceedings is resolved in favor of the teacher(s), the Board of Education shall make full reimbursement to that teacher of any wages, benefits or other monies or professional advantage that was lost, if any.

I. Either party may after 24 hour notice to the other party be represented by persons other than those designated in the procedure at Levels Four and Five only.

J. All meetings between the parties under this Article III at Level Five shall be held outside of school hours unless an arbitrator requires that the hearing be held during school hours. In the event this occurs, then up to seven representatives of the Association including "parties of interest" shall be given released time from their duties under this contract without loss of compensation. In the event the Association representatives including "parties of interest" exceed seven, then the hearing must be held outside of school hours.

* * * * *

ARTICLE VII

Teaching Conditions

* * * * *

B. It is desirable that all teachers have a planning period during the school day; however, consideration must be given to the length of the teaching day, and the length of the noon hour as factors deserving attention as changes are considered.

* * * * *

ARTICLE XI

Professional Compensation

* * * * *

G. Teachers who teach a class beyond the normal five classes shall be compensated for the extra class at a rate of seventeen (17) percent of their teaching salary.

* * * * *

FINDINGS OF FACT

Grievants, who are teachers at Highland Junior High School, have a study hall assignment from one to three days per week, varying according to individual teacher, in addition to teaching five classes per day. Teachers generally have planning periods at the junior high and high school level. It is not clear whether other junior high teachers have interrupted planning periods where other duties are assigned, but for the purpose of this proceeding, it may be assumed that they do. The Grievants do not work beyond the hours of the regular school day. Planning periods or study halls are equal in time to a class period. The administration tries to rotate the study halls every eight weeks, but since some teachers at this school have planning periods when there is no study hall, they are never assigned to study halls. Pupils have physical education classes two or three days per week and study hall at the same hour on alternating days. This system has been in effect in the junior high schools at Lakeview since 1959 without extra compensation. Teachers at the high school level and at Beard Junior High teach a combination of five classes and study halls and are considered as carrying a normal load of five classes. Classes are for this purpose equated to study halls. At Beard Junior High it has not been necessary for teachers to use planning periods for study hall assignments due, apparently, to a lower pupil-teacher ratio and study halls are part of the five regular class assignments. There was some claim that the difference in treatment between junior high and high school is justified by longer total hours worked by the high school teachers. The evidence does not bear this out and the normal hours worked are substantially equal within a few minutes.

Article VII B has remained the same in the 1966-1967 contract, which was the first agreement between the parties, and the current agreement. The teachers tried unsuccessfully in the current agreement to make planning periods mandatory for all junior high school and high school teachers. Teachers in the elementary school system do not have planning periods.

Article XI G was introduced for the first time in the current agreement. In previous years some high school teachers taught an extra class during their planning period without additional compensation.

The Union in negotiation proposed that classes taught beyond the normal load be compensated at 12% of the contracted pay per semester. The administration proposed 15% of the annual contract for one extra class per school year. The cost of this proposal was not included in the Union's proposal cost sheet since it was not known how many teachers would be involved. The Union letter to the Michigan Mediation Board requesting fact finding estimated the proposal at $11,000.00 on the basis of six teachers at the high school and one or two at the junior high school level. It appears that no cost estimate was included for teachers in the position of Grievants. Nor is there evidence that such costs could be estimated or that the number of teachers who would handle study halls during planning periods was known. There is no evidence that teachers in this category were specifically discussed.

In the course of negotiations Fact Finding was instituted and as a part of the resulting settlement (Board Exhibit 7) Schedule B, Paragraph 5 of the tentative agreement provided: "The Board of Education can pay 17 per cent additional compensation for those teachers working in an extended work day within the amount previously set aside in the budget for this purpose." Mr. Brophy testified that this referred to the number of extra teachers the Board was considering for six positions and was in the area of $9,000.00 to $10,000.00. He also estimated that the cost of the demand by Grievants would be approximately $4,800.00 for the year.

After millage was rejected by the voters, the parties continued negotiations to attempt to lower costs without affecting changes in contract terms. Part of this was an agreement to eliminate some of the extra classes as originally planned.

Mr. Vandervoort for the LEA agreed that the extra classes including the one at the junior high could be eliminated. The minutes regarding discussions on changes were made a part of the agreement in order to make the agreement possible within the operating income of the District.

The two teachers at the high school who teach an extra class are required to stay an extra or 7th period to cover their planning period, as is the shop teacher in the junior high who teaches an extra class. The shop teacher does not require and does not use this period for planning. Grievants do not have an extra period on the premises of the school.

CONTENTIONS OF PARTIES

The Board contends:

1. The grievance is not arbitrable since it seeks pro rata payment instead of 17% specified in Article XI G and to do this would be to amend or modify the contract which is beyond the arbitrator's power under the agreement.

2. Article VII B does not guarantee a planning period and there is a past practice of having junior high teachers take study hall assignments during planning periods on a rotating basis.

3. The LEA attempted to negotiate mandatory planning periods in the current agreement without success.

4. The language of Article XI G was not intended to cover assignments to study halls during release time.

5. Article XI G was only intended to cover an extended work day involving six class periods and a planning period every day. LEA cost estimates prove that this is factual.

6. Article XI G is specific and does not permit prorating by the arbitrator.

7. After the failure of millage, an agreement made to cut costs indicates that the LEA representative believed that only extra teaching class assignments were involved in Article XI G.

8. The grievances must be denied and costs assessed to LEA.

The Lakeview Education Association contends:

1. Pro-ration does not modify or amend the contract, it merely applies the contract formula realistically. The Board has done this in other situations as revealed by the record, when it pro rated two weeks pay for a teacher who handled an extra class until millage failed. If the argument has <u>any</u> validity, Grievants should be paid 17% for the whole period worked. The "Trilogy" Supreme Court cases make clear that any grievance is arbitrable unless there is clear and forceful evidence of intent to exclude it from arbitration. There is none in this case, particularly in view of the breadth of the contract definition of a grievance.

2. LEA failed to negotiate mandatory planning periods in all cases. LEA maintained and the Board agreed that five hours of teaching in the Junior high school and High school was a full schedule. Study halls were and are treated as classes for this purpose. If study halls were to be treated otherwise, it was the Board's duty to make this clear as it did not do in negotiations or in the agreement itself.

3. The term teacher does not distinguish between Junior high and High school teachers. Superintendant TeSelle's answer to the grievance is clear proof that no distinction is intended in Article XI G.

4. Study halls are accepted as classes in the High school and Woodrow Junior High (transcript, page 10).

5. Article I, Section 2, of the Michigan Constitution - The equal protection of the law guarantee, compels this result.

6. The argument of equalization of time between High and Junior High teachers is both irrelevant and not factual.

7. The nine Grievants should be paid the amount shown on Board Exhibit 6 for the first semester and a similar compilation made for the second semester.

OPINION

I. We must first determine the threshold question of arbitrability. It is always a pertinent inquiry unless waived expressly or by conduct constituting proper grounds for estoppel. The LEA asserts that under the Trilogy doctrines (Warrior and Gulf, et. al.) a grievance is arbitrable unless there is clear and forceful evidence of contractual intent to exclude it from arbitration. The Board asserts that the Trilogy Doctrine is a caveat to the courts to submit such cases to the arbitrator and does not constitute a mandate that even in such cases the arbitrator must proceed on the merits without considering arbitrability and further the doctrine has no application where no court action is involved. The position of both parties is supported by considerable authority. My own view is that unless a court has passed on arbitrability affirmatively, the issue is necessarily before the arbitrator and that this may be true even in cases where a court has ordered arbitration, since implicitly the jurisdictional issue may have been deferred to the arbitrator by the court on the theory that his "greater experience" in labor relations issues was bargained for by the parties.

The thrust of the Board's position on arbitrability is that Article XI G of the contract provides for 17% of the yearly salary for an additional class and therefore since only one to three days per week is involved in the grievance, pro-ration of a class is sought and to grant this would mean that the arbitrator would be modifying or amending the agreement rather than interpreting it. Certain preliminary matters must be considered. It is of course clear that the grievance seeks an interpretation or construction of the application of the agreement. The problem is one that the Board can legally submit to arbitration, since it seeks an interpretation of what is an extra class under Article XI G. There is no claim that the grievance was untimely filed or submitted to arbitration. The matter was properly submitted to the undersigned (Article III D (e) 1-4). Under Article III D(e)(5), the arbitrator is limited to the interpretation and application of the agreement to the facts submitted and properly before him. He may not add to, subtract from, or modify the agreement, nor limit or change any policy, practice or rule except as they are involved in the application or interpretation. The arbitrator may not formulate, add policies or substitute his discretion for that of the Board or Administration where they properly have such discretion. To which your current arbitrator adds, "Amen", he would not want such power. Nevertheless, the duty is plainly present to determine whether the remedy sought forecloses arbitrability because not expressly articulated in Article XI G. This article neither specifically provides for, nor does it negative pro-ration. The salary referred to is an annual salary which is paid on a weekly basis. It is clear that pro-ration in this sense occurred when a certain high school class was discontinued after two weeks because of the millage defeat. The parties pro-rationed payment because there was no other practical or even legal way to proceed. Surely the teacher could not be paid for the entire year because the class was terminated without fault on his part; nor could he legally or practically be expected to forego remuneration. The parties did not deal with this subject, apparently because it did not occur to them as a problem. It does not follow that they therefore affirmatively provided for no pro-ration by default. Such a construction is exceedingly technical and there is no showing in the history of negotiations that it was intended. It could only be justified by express language providing that there could be no pro-ration or by implication from cogent circumstances not present here. Furthermore, if there were merit in a monetary claim, if an "either or" result is required it would be more equitable to require full payment than to deny any payment. The contract is written succinctly with no attempt to fully explicate its application under all circumstances. To apply the agreement as requested would be to arrogate form over substance and to induce the parties to write an encyclopedia rather than a memorial of their basic agreement and simply compound their problems. I therefore hold that the grievances are arbitrable and that this ruling constitutes an interpretation of the agreement and not a modification or creation of a new pay scale.

II. The Lakeview Education Association as the proponent of the grievance has the burden of proof on the merits of this issue.

It is apparent that Article XI G requires interpretation. LEA has continuously sought daily planning periods for all Junior and Senior High School teachers. This demand was not granted under Article VII B in the current contract, although both parties, throughout the history of negotiations, expressed the desirability of extending planning periods to such teachers within budgetary practicality. It is equally clear, as reflected in the various minutes of the negotiation, that both parties viewed a normal class load as five classes per day in both junior and senior high school (minutes of negotiation, LEA Exhibits 1a, b, c, d).

Furthermore, the evidence shows that study hall sessions have been included in the definition of classes as evidenced by the fact that a combination of five classes and study halls has been treated as a full teaching load at both the High School and Woodrow Junior High. On the other hand, junior high teachers have been carrying from one to three study periods in addition to five classes without any extra pay since 1959, and teachers at the high school have taught extra classes, prior to the current contract, without any additional pay.

There is no direct evidence that the extra study periods were discussed as a basis for extra payment, the discussion centering on high school teachers carrying a sixth class. What then was the intendment of Article XI G?

The Superintendent of Schools first answer to the grievance needs consideration in this respect. In his first answer, he stated that Article XI G was intended for teaching a 6th period class during the day at the high school level and that this was extended to the junior high. He goes on to say that the negotiated contract did not grant additional free time during the school day to elementary and junior high teachers.

It is clear that a study hall has been equated to a class and therefore the case would not be substantially different if Grievants were teaching additional classes one to three days per week. A study hall can hardly be a class at Woodrow and not at Highland! The latter part of the answer is not responsive either, since it is not a question of granting additional free time, but of payment for additional classes. For example, the situation would not be covered by Article XI G if Grievants were assigned other duties which did not constitute "classes".

The second answer of the Superintendent on December 6, 1967, apparently followed a meeting with the professional problems committee and denied the grievance on the additional ground that the Grievants were not teaching a full extra class as intended by Article XI G. The difficulty with this answer is that it assumes the technical position later assumed by the Board on the arbitrability question and is an attenuated interpretation of the article not warranted by the language used. In effect, this answer means that if teachers were for some reason assigned extra teaching assignments on a

continuing basis of one to three classes a week in the junior high schools instead of study halls, no extra pay would be due. I find no such agreement by the parties. While I am convinced that the parties did not deal specifically with study halls in addition to five regular classes, Article XI G covers such situation by its language. Nor is the fact that no money value was placed on such situations in negotiations decisive. It is entirely possible either that the precise situation was overlooked, or that since the number of such cases was not clear in advance, no estimate could be made. In either case the scope of the language clearly requires payment for extra classes above the regular schedule. Mr. Brophy's comment in LEA Exhibit 1(F) (July 25, 1967 minutes, page 13) to the effect that there could have been unintentional oversights in his schedule, but any formula agreed upon between the parties would be applied to people overlooked, is appropriate for consideration. In brief, once the basic principle is established contractually, it applies to all affected, even though some may not have been directly considered when the basic principle was established. The problem affects nine Grievants and a limited amount of expenditure. There is no contractual or other justification for treating them differently because they teach at Highland Junior High than if they taught at Woodrow or the High School. The notion that the study hall time equalizes time between junior high and high school is not factual as established by the record and even if it were an appropriate argument, which it is not, it still discriminates between those at Highland who must handle extra classes (study hall) and those at Highland, Woodrow and the High School who do not. This is central to a determination of intent and is not merely an equitable consideration.

I am not impressed with the fact that teachers paid for teaching an extra class on a regular basis are required to remain a seventh period as a study period. This is a requirement of the administration which can be applied to Grievants, or not, as the administration sees fit and therefore is an ephemeral basis for distinction. In any event, if study halls are in fact necessary, Grievants must do the necessary work at home.

The grievance here deals with teachers assigned to extra classes for an extended period of eight or more weeks and the disposition is not intended to deal with "ad hoc" arrangements to cover isolated single class assignments nor is the ruling intended to serve as a basis of claim for perfect equality in all assignments as a contractual requirement.

In the light of the above I shall order Grievants reimbursed on a pro-rata basis as set forth in the award.

The arbitration proceeding has been superbly presented and briefed by both counsel and they are to be congratulated on the quality of the representation of their respective principals. From my past experience with the parties and from the record before me, I am entirely convinced that both sides acted entirely in good faith in the belief that the views they expressed fully represented the basic intention of the parties and it should be obvious from the time required to try and to decide this matter that the issue was very difficult and supported by cogent arguments on both sides. However, I am convinced after most careful study of the record that the result reached is justified by both the contract and surrounding circumstances which give meaning to the written terms of the contract.

LEA has sustained its burden of proof and the award is against the Board.

AWARD

I. The grievance is arbitrable.

II. The Lakeview Board of Education violated the agreement by assigning Grievants to an extra study hall assignment for several weeks from one to three days per week during their planning periods and in addition to their regular assignments of five classes per day, without additional compensation. The Lakeview Board of Education shall pay Grievants Gerald Phillips, Dale Crawford, John A. Hageman, Margaret Collins, Jerry Yeast, Lois Dowman, Gladys Stauffer, John R. Moffett and Carol L. Culp, teachers in the Highland Junior High School, the amounts set forth in Board Exhibit 6 of this proceeding for the first semester of the school year 1967-1968 and the amounts calculated by the same pro-rata formula for study halls handled above their five classes in the second semester. The Arbitrator's fee is assessed against the Lakeview Board of Education.

The Arbitrator retains jurisdiction in the event the parties disagree as to the meaning or application of the Award or the formula for payment to Grievants.

DATED: August 8, 1968

/s/ Harry N. Casselman
Arbitrator

COMMONWEALTH OF MASSACHUSETTS

BEFORE THE LABOR RELATIONS COMMISSION

In the matter of

TOWN OF ASHBURNHAM SCHOOL COMMITTEE

and

ASHBURNHAM TEACHERS ASSOCIATION

Case No. MCR-326

In the matter of

TOWN OF WESTMINSTER SCHOOL COMMITTEE

and

WESTMINSTER TEACHERS ASSOCIATION

Case No. MCR-375

Cases Consolidated

Decided: July 15, 1968

Commissioners present:

Michael J. John, Chairman
Stephen E. McCloskey
Madeline H. Miceli

Appearances:

Joseph A. Furnari - Counsel for the Commission
Richard Comerford - Counsel for the Ashburnham School Committee
Philip Howard - Counsel for the Westminster School Committee
William A. Waldron - Counsel for the Association

DECISION

Statement of Case

On June 12, 1967, Massachusetts Teachers Association, herein called the Association, filed a petition with the State Labor Relations Commission, under Chapter 149, Sections 178 G thru N of the General Laws, herein called the Law, for its certification as representative for the purposes of collective bargaining of certain employees of Town of Ashburnham School Committee herein called "Ashburnham".

On November 21, 1967, Westminster Teachers Association, herein called the Association, filed with the Commission, under the Law, for its certification as representative for the purposes of collective bargaining of certain employees of Town of Westminster School Committee, herein called "Westminster".

The petitions and accompanying notices of hearing were duly served.

Pursuant to notices, a hearing was held in Leominster before Chairman Michael J. John on January 11, 1968. Full opportunity to be heard, to examine and cross-examine witnesses and to introduce testimony bearing upon the issues was afforded to all parties.

At the hearing both cases were tried together because, although involving two separate municipal employers, the issue involved was the same.

At the hearing, counsel for the Commission, at the request of the Petitioners in each case, moved to amend each petition by striking out the unit suggested in each petition and substituting therefor the following suggested appropriate units:

MCR-326:

"The employee employed as the elementary school Principal by the Town of Ashburnham School Committee, excluding all other employees of said School Committee and the Ashburnham - Westminster Regional School District."

MCR-375:

"The employee employed as the elementary school Principal by the Town of Westminster School Committee, excluding all other employees of the said School Committee and the Ashburnham - Westminster Regional School District."

Both Motions were allowed.

Statement of Findings of Fact

1. The Ashburnham - Westminster Regional School District administers and has exclusive control of the public school education of all children from grades seven thru twelve, through the Ashburnham - Westminster Regional School Committee.

2. That the Towns of Ashburnham and Westminster each have their separate respective School Committees which administer and have exclusive control of the public school education of all children from grades one thru six.

3. That the "Union Superintendent" is the Superintendent of the Regional School System, and is also the Superintendent of the Elementary School System in each community with the responsibility to report to the respective school committees, as the case may be.

4. That Mr. Joseph Aveni is the Principal of the Westminster Elementary School System and the sole person so employed in that classification.

5. That Mr. Ralph A. Curran is the Principal of the Ashburnham Elementary School System and the sole person employed in that classification.

6. That both Mr. Aveni and Mr. Curran hold the highest Civil Service positions within their respective school systems as Elementary School Principals.

7. Both Mr. Aveni and Mr. Curran as Principals, have supervision over the teachers within their jurisdiction and have the responsibility to complete status and/or evaluation reports of their subordinates to the School Committee through the Superintendent.

8. That there are approximately forty (40) subordinate teachers in each elementary system, and each Principal is responsible for the preparation of the budget for his respective department; that each Principal can recommend granting or withholding of pay increments by recommendation to the respective School Committees.

9. That both School Committees have recognized the subordinate teachers in the appropriate bargaining unit of teachers, with the Massachusetts Teachers Association designated as the exclusive bargaining agent.

10. That the Massachusetts Teachers Association does represent the teachers and administrators of the Regional School District as the exclusive bargaining representative.

11. That the collective bargaining agreements have been entered into between the Massachusetts Teachers Association as the employee organization and the Regional School System, and the respective community School Committees as Municipal Employers, relative to wages, hours and conditions of employment.

12. That the two elementary school Principals involved herein are in no way included in any of the said collective bargaining agreements.

13. That both elementary school Principals are members of the Massachusetts Teachers Association, but however, were in no way participants in the collective bargaining negotiations, either on the part of the Municipal Employers or on the part of the employee organizations.

14. That these Principals do screen teacher candidates for entrance into the school systems, and do hear grievances in the first instance of all subordinate teachers and employees.

15. That these Principals make written factual reports relative to employees to the Superintendent. The Superintendent makes the final determination as to what action should be taken, and recommends same to the respective School Committees.

16. The Principals do not have the right to hire, fire, suspend or discipline. Their responsibility extends to written reports to the Superintendent who is responsible for the final action to be recommended to the School Committee.

17. Neither of the Principals was or is consulted by either School Committee, nor by the Superintendent in regard to the proposals or matters relating to labor relations which were discussed or to the negotiations prior to the consummation of the collective bargaining agreement.

Issues

1. Whether or not a single-man unit is appropriate within the meaning of the Municipal Collective Bargaining Law.

2. Whether or not the elementary school Principals involved herein are executives within the meaning of the Municipal Collective Bargaining Law.

Conclusions

I. THE MUNICIPAL COLLECTIVE BARGAINING LAW DOES NOT INCLUDE SINGLE-MAN UNITS

The Commission is of the unanimous opinion that the statute relating to collective bargaining for Municipal Employees by its own language implies the requirement that there be more than one person in an appropriate bargaining unit. The word, "employee", whenever used in the context relating to the right to organize is used in the plural. The express intent of the statute is to allow employees, i.e., "to bargain collectively",--"to engage in concerted activities", -- "mutual aid", -- "representative of the majority" -- all connote plurality, rather than individuality.

Looking towards Chapter 150A in the private sector on the State Labor Relations Law, the question of a single-man unit is expressly provided for.

> S2 (9) "the term 'one-man unit' means a single employee of an employer who employs more than one employee in the same occupation within the commonwealth."

We have interpreted that section in the Cabot Theatre case to require at least two employees in the unit, employed by the employer in the same job classification.

We therefore find that one-man units in cases where the Municipal Employer employs only one in a job classification is inappropriate and for this reason the petitions (MCR-326) and (MCR-375) should be dismissed.

Although conclusions as set forth above should be decisive in this matter, we are compelled because of the uniqueness of this case to determine the status of these employees with the organizational structures of their various school systems.

II. THESE ELEMENTARY SCHOOL PRINCIPALS ARE NOT EXECUTIVES WITHIN THE MEANING OF THE MUNICIPAL COLLECTIVE BARGAINING LAW

The both cases are similar and the considerations somewhat identical.

For an employee to be classified as a bona fide executive within the meaning of the statute, we find that he must consistently and continuously be engaged in the exercise of discretion and independent judgment on his own account relative to the management of the department and consequently his fellow employees.

There is no question in our minds that these Principals have supervisory functions. The very nature of their positions and their express duties require the direction of their subordinate employees in the implementation of the policies and programs as decided by the School Committees for the major mission of the school systems--the education of the children in grades one thru six of their respective communities.

In other school systems which included employees in the middle school and high school levels, these elementary principals would have been included in the "Administrators Unit". See our Decision in the City of Springfield, City of Pittsfield and City of Peabody cases.

The sole reason for the proposed denial of collective bargaining rights in these cases is that these elementary school Principals are the only persons in the highest job classifications left in the school systems due to the creation of a Regional School District.

Although they do complete valuation reports, and although the first step in the application of a grievance procedure for their subordinates commences with them, their express duties and functions are limited expressly to the ultimate and overriding authority of the Union Superintendent. They merely report to the Superintendent all pertinent matters relating to the function, requirements and needs of their respective systems. It is the Union Superintendent who possesses the attributes of the executive with the discretion and judgment to take and formulate the final present and/or future action in a situation. In many cases the recommendation of the Principal was disregarded.

We do not believe that these elementary school Principals should be denied the right to benefits under the statute because of the circumstances in these matters. The systems are small, containing approximately thirty to forty teachers each. We believe that the intention of the statute and the rights of these two petitioners would be effectuated if they were included in the overall unit of school teachers in their respective elementary school systems.

No petitions for certification have been filed with this Commission in each Community relative to the elementary school teachers. However, because of the reasons set forth above, if the question were to be raised before us, we would be compelled to declare that a unit of all elementary classroom teachers including the Elementary School Principal would be an appropriate one.

Opinion

After having either read and/or heard the entire record in this case, the Commission finds:

(1) That the units suggested in both petitions are inappropriate for the purposes of collective bargaining;

(2) That both petitions filed herein are hereby dismissed.

SO DIRECTED.

AMERICAN ARBITRATION ASSOCIATION, ADMINISTRATOR

VOLUNTARY LABOR ARBITRATION TRIBUNAL

In the Matter of the Arbitration between

Chippewa Valley Board of Education

-and-

Chippewa Valley Education Association

Case #5430-0019-68

Re: Grievance #1:

Placement on Salary Schedule

OPINION EXPLAINING AWARD By M. David Keefe, Arbitrator

Appearances

C. V. School Board

J. Maatsch - Atty.
C. Peckham - Supt.
J. Mealy - Sec. to Supt.
R. Pardike - H. S. Princ.
W. Fairbanks - Elem. Princ.
R. Custer - Elem. Princ.
L. Girard - Witness

C. V. Educ. Assoc.

M. Andrews - Field Rep.
T. Fette - President
T. Collins - Committeeman
W. Parlan - M.E.A. Rep.
S. Gunden - Grievant

The hearing consumed two (2) days, the first session being held on April 9, 1968 in conference quarters of the American Arbitration Association located in Detroit and the second taking place on April 19, 1968 at the Macomb County Health Center located in Mt. Clemens, Michigan. A single grievance was scheduled for hearing but the Board challenged the arbitrability of the dispute under the terms of the Agreement between the parties dated September 1, 1967 (Joint Ex. #1). The issues on arbitrability and the primary grievance were both presented and heard.

I - The Threshold Issue of Timeliness

STATEMENT OF THE CASE

Grievance #1 (Joint Ex. #2) is dated, on its face, 10-17-67. After proceeding through the process (with vicissitudes that have bearing on the merits but are not involved in the dispute over timeliness), the dispute remained unresolved and was moved to the arbitration step by the Association in a letter to the Superintendent dated December 14, 1967 (Assoc. Ex. #1), which reads as follows:

"In accordance with the Master Agreement, Article XXV, Paragraph F, I would like to meet with you next Tuesday, December 19, 1967, at 4:00, for the purpose of selecting an arbitrator for the Sandra Gunden grievance.

Sincerely"

On December 15, 1967, the Superintendent replied (Assoc. Ex. #2), as follows:

"I was utterly astounded to receive your letter of December 14 suggesting the selection of an arbitrator for the Sandra Gunden grievance, I am unable to understand or appreciate your motives in agitating an injudicious discord.

Unfortunately, in your position as a member of the negotiating team, you have been unable to grasp the true spirit of collective negotiation. The image portrayed by your Association was one of trust and respect, devoid of all negatively conceived and hidden agendas. An obvious lack of discretion in attempting to force ingestion of inappropriate materials down one's gullet (although with enough force this may be possible) can do nothing but cause a condition odious to all.

I have neither time nor patience to persist in carrying this incident to any greater extreme. If, after examining your conscience, you find that you no longer can live within the spirit of that which was intended in the Master Agreement; if you are now trying to tell me that the mutual respect and trust and understandings we had at the negotiation table are no longer valid, then, I would say to you that you are doing an injustice to the School District, to the staff, and to the students and I'll have no part of it. If you want to push for arbitration you will have to do it on your own."

On December 29, 1967, the Association submitted a formal demand for arbitration to the American Arbitration Association. The Board representative did not receive a copy of this document until January 22, 1968. This, the School Board asserts, violates Rule 7th of "Voluntary Labor Arbitration Rules of the American Arbitration Association" and, as a consequence, challenges the arbitrability of the primary matter in dispute.

Pertinent Rules & Provisions Cited by the Parties

a) From the Current Agreement (Joint Ex. #1):

"Article XXV - Professional Grievance Procedure

"F. If the Association is not satisfied with the disposition of the grievance by the Board, or if no disposition has been made within the period above provided, the grievance may be submitted to arbitration before an impartial arbitrator. If the parties cannot agree as to the arbitrator, he shall be selected by the American Arbitration Association in accord with its rules which shall likewise govern the arbitration proceeding. The Board and the Association shall not be permitted to assert in such arbitration processing any ground or to rely on any evidence not previously disclosed to the other party. The arbitrator shall have no power to alter, add to or subtract from the terms of this Agreement. Both parties agree to be bound by the award of the arbitrator."

b) From AAA Rules

"7. Initiation Under an Arbitration Clause in a Collective Bargaining Agreement--Arbitration under an arbitration clause in a collective bargaining agreement under these Rules may be initiated by either party in the following manner:

(a) By giving written notice to the other party of intention to arbitrate (Demand), which notice shall contain a statement setting forth the nature of the dispute and the remedy sought, and...."

The Board's Position

The Board contended that Section F (quoted above) makes it mandatory that the selection of the arbitrator be made in accordance with the Rules of the American Arbitration Association which, by reference, are made a part of the Agreement. Since Rule #7 (also quoted above) calls for the moving party to give the other side a written notice of the demand, this becomes an obligatory requirement of the Labor Contract. In this case, the Association submitted a defective request for arbitration because the Board was not notified until almost a month after the demand was made.

The arbitrator was asked to dismiss the grievance as untimely.

The Association Position

Association Ex. #2 was cited as evidence that the Board repudiated its obligation to participate in arbitration. Furthermore, Rule #7 spells out no time-limits and the notice was given on January 22, which, in the Association's opinion, satisfies the procedural requirements.

The Union asked that the Board's request be denied.

Discussion

The arguments advanced by the Board are entirely without substance and border on the capricious. The Association notice of December 14 (Assoc. Ex. #1) clearly expressed an "intention to arbitrate" the specific dispute in this case. This grievance (Joint Ex. #2) spells out the remedy requested. The Board hardly can cry: "Surprise!" If this was not enough the Board did receive a copy of the precise demand submitted to the American Arbitration Association. This took place prior to the selection of the arbitrator. It cannot reasonably be held that the matter is non-arbitrable on the grounds of the objections raised by the Board.

THE AWARD

The Board's objections are dismissed and Grievance #1 is declared to be arbitrable.

II - The Primary Issue: Grievance #1

STATEMENT OF THE CASE

The Grievant, Sandra Gunden, applied for employment as a probationary teacher in the District shortly before May 10, 1967. She was scheduled to graduate with a BA degree, which she did on June 5, 1967. However, in the course of matriculating, she had accumulated an excess of 23 credit hours over and above those required to earn her degree. At the time of the employment interview referred to herein, the grievant inquired whether or not these credits would apply to gain her placement in the BA plus 15 hours Salary Range which pays an annual premium of $300.00 over the BA Salary Range. The interviewing Board agent signified inability to answer authoritatively but assured the grievant that he would seek a ruling on the request which would be conveyed to her by mail. Shortly thereafter, on May 10, 1967, Miss Gunden received the following communication from the Superintendent (Assoc. Ex. #5):

"Please find enclosed your teaching contract for the 1967-68 school year. It is my understanding that you have some hours beyond that required for your certificate and Bachelor's Degree. By the time school starts this Fall, if you have at least 15 hours over and above that required to meet the certification requirements, we will be able to place you on the higher certification step of our salary schedule. You will note that this contract will be adjusted when the new 1967-68 Master Contract has been negotiated and ratified.

Please sign and return both copies of this contract to this office. Your copy will be mailed to you when it has been signed by the Superintendent."

As indicated in the foregoing document, an individual employment contract was enclosed (Assoc. #4). This document established her pay at $5,600.00 (the BA starting rate) with the following addendum: "This contract subject to adjustment according to appropriate position on 1967-8 Master Contract when ratified".

The 67-8 Agreement was duly entered into on 9-1-67. In it the starting salary for BA is set forth as 6,300.00; for BA + 15 hours, it is $6,600.00. On November 9, 1967, the Grievant received her revised contract from the Board, reflecting her status under the new Labor Agreement (Assoc. #9). This placed her at the start of the BA schedule, rather than BA + 15 hours to which the Grievant claims she is entitled.

The Association's Position

The Grievant testified to the sequence of developments just described in the episode out of which the grievance arose. She added that, earlier in the day in which she had the Chippewa Valley interview, she had also been interviewed at the Warren Consolidated School District. The salary scale in this latter District was somewhat higher than at Chippewa Valley. She received a number of offers, including one from Warren as well as in the school system where she presently works. Her decision to select Chippewa Valley was influenced by the assurance in the 5-10-67 letter (Assoc. Ex. #5) which accompanied the Chippewa Valley contract offer. The witness admitted that she knew Warren would not give the extra credits which she sought. The Labor Agreement specifically ruled such treatment out unless the 15 hours were post-graduate. However, she had no knowledge of pay practices elsewhere, which prompted her inquiry of Chippewa Valley and reliance on the written answer which she received.

Association President Fette stated that he had been a teacher in the school system since the Fall of 1964. He is the chief negotiator and grievance representative. He asserted that he had no knowledge of any intent to limit BA + 15 hours to post-graduate work. He did not know what the past practice was but he assumed that the intent in negotiations was to carry forward the established administrative implementation. In his view, there was no contract-bar to the grievant receiving this recognition. He was not aware of any other teacher in the system gaining the BA + 15 hours column based on hours earned before the degree was conferred.

The witness cited from the Agreement (Joint Ex. #1) certain provisions on which he relied to give substance to the grievant's claim. Among these were:

"Article II - Section J. The provisions of this Agreement concerning the wages, hours, terms and conditions of employment, shall be applied in a manner which is not arbitrary, capricious or discriminatory, and without regard to race, creed, religion, color, national origin, age, sex, marital status...."

The witness argued that denial of BA + 15 to the grievant is contradictive to the 5-10-67 commitment (Assoc. Ex. #5) and, consequently, arbitrary, capricious and discriminatory.

"Article XVII, Section E. No teacher shall be disciplined, reprimanded, reduced in rank or compensation or deprived of any professional advantage without just cause. Any such discipline, reprimand or reduction in rank, compensation or advantage, including adverse evaluation of teacher performance asserted by the Board or representatives thereof shall be subject to the professional grievance procedure hereinafter set forth. All information forming the basis for disciplinary action will be made available to the teacher."

In this case, the Association contended, the grievant was reduced from the rank which had been accorded her through the hiring offer.

"Article XXVIII - Section D. This Agreement shall supersede any rules, regulations or practices of the Board which shall be contrary to or inconsistent with its terms. The provisions of this Agreement shall be incorporated into and be considered part of the established policies of the Board."

Whatever the past practice might have been, the terms of the present Agreement do not spell out that the 15 hours above the BA must be post-graduate. The contract simply says that 15 hours, apart from those required for the degree, must be earned. This could be before or after graduation. Therefore, the grievant and all others who might be in a similar situation are entitled to compensation at the BA + 15 column.

The Union argued that the Superintendent had written the 5-10-67 letter (Assoc. Ex #5) of his own volition. He was clearly in a position to state that the 15 hours MUST be after the degree - had he deemed that the established procedure. Instead, he saw fit to entice the grievant with blandishments which now are supposed to have said other than the meaning plainly conveyed. In responding, the grievant turned her back on offers which were more attractive than the system's BA salary provisions. She did this in confident expectation of getting BA + 15. Today, she lost better opportunities without realizing on the promises which were voluntarily given her.

The Association argued that no meeting had taken place at Step D, as required under the contract provision thereon (Article XXV - Section D) which says: "Within five (5) school days the Superintendent or his designee shall meet with the Association on the grievance and shall indicate his disposition of the grievance in writing within three school days of such meeting." In addition, Section F (already quoted in the Threshold Issue) bars either side from asserting before the arbitrator any ground or evidence not previously disclosed to the opposite party. Therefore the Association objected most strenuously to consideration of the Superintendent's letter to the grievant dated 11-2-67 (Bd. Ex. #1). Since there was no Step D meeting, this, the Association declares, could not be considered as "disposition" after "such meeting". Extending its argument from this premise, the Association urged that all evidence as to possible past practice be ruled inadmissible due to the contention that this would be ground or evidence not disclosed during the grievance procedure as the Board's defense in this case.

The Agreement, in Article XXVIII, Section C provides that "Any individual contract between the Board and an individual teacher, heretofore executed shall be subject to and consistent with the terms and conditions of this Agreement and any individual contract hereafter executed shall be expressly made subject to and consistent with the terms of this or subsequent Agreements to be executed by the parties. If an individual contract contains any language inconsistent with this Agreement, this Agreement, during its duration, shall be controlling."

The Association is the Bargaining Agent. There can be no bargaining between the Board and individual teachers. In this case, the Association insists that the Superintendent, on 5-10-67, merely expressed what the Agreement reflects on its face and that the grievant, like any teacher in her situation, qualifies for the status about which she now grieves.

To support its contention, the Union pointed out that the Salary Schedule headings had changed in the current Agreement from the form they had taken in the 1966-7 Agreement. Presently, they read (from Joint Ex. #1):

Non-Deg. less than 106 hrs.	Non-Deg. 106-119 hours	Degree No Cert.	Cert. B. A.	Cert. B. A. 15 hrs.	Cert. M. A.	Cert. M. A. 15 hrs.	Cert. M. A. 30 hrs.

In 1966-7, they appeared as follows (Assoc. Ex. #3):

Non-deg. less than 106 hrs.	Non-deg. 106-119 hours	Degree No Cert.	B. A.	B. A. plus 15 hrs.	M. A.	M. A. plus 15 hrs.	M. A. plus 30 hrs.

The significant change is that, in the fifth column, the word "plus" has been dropped. Since this is so, the Association maintained that the present terms apply as presently written. There was, however, no claim advanced nor evidence presented that the heading modification was discussed in negotiations. On the other hand, Board Witness Girard had admitted that occasions had arisen when teachers with identical qualifications had received different salaries. This indicates that no consistent policy had applied in the past and, consequently, there was not even a practice on which the Board could rely for possible interpretation.

The Association asked to be upheld in its contention and that the grievant should be awarded the BA + 15 rating for the 1967-8 school year.

The Board's Position

The Board traced the history of the early processing of the grievance as follows:

Grievance #1 was filed as of Tuesday, October 17, 1967. A meeting on the matter was held on Tuesday, October 23, 1967, between Association President Fette and Elementary Principal Custer. Mr. Custer discovered that the grievance was unsigned and, although he recorded his answer referring the grievance to the Superintendent's level, he returned the document to Mr. Fette so that it could be properly signed. This was to conform with the procedure directed by Article XXV, Section B, which states that: "The grievant may invoke the formal grievance procedure on the form in annexed Schedule "C", signed by the grievant and a representative of the Association." (Emphasis added by Board). Mr. Fette placed the grievance in the interoffice mail to go to Miss Gunden. Through error, it was delivered to the Superintendent who on Wednesday, October 24, 1967, returned the grievance to the Association President with the following covering letter (Bd. Ex. #4):

"Recently during a conference in my office we had occasion to discuss Miss Gunden's position on the salary schedule. At that time I indicated to you that, to the best of our knowledge, all of our teachers are on the salary schedule at the proper step. Also, I stated that should Miss Gunden be able to document the fact that she did, in effect, earn 16 hours after she had met all course requirements for certification and a degree, she would be able to be placed on the Bachelor's Degree plus Certificate plus 15 hours category, first year teacher schedule. When it has been established through official transcripts that she did indeed earn 15 hours after having met the requirements mentioned above, she will be placed at the appropriate position on the salary schedule and this, of course, would be retro-active.

"If you elect to invoke the formal grievance procedure on the set form as in Schedule "C", such form shall be signed by both the grievant and a representative of the Association. I am returning herewith the unsigned grievance form dated 10/17/67.

Very truly yours."

On Monday, October 30, 1967, the grievance was resubmitted to the Superintendent with the grievant's signature affixed, but with no accompanying Association representative signature. The Superintendent once more communicated with Miss Gunden on the apparent deficiency, sending her the following letter on November 2, 1967 (Bd. Ex. #1):

"Dear Miss Gunden:

"I am in receipt of Schedule "C" - Professional Grievance Report as of 10/30/67. Please note that if you elect to invoke the formal grievance procedure, it is necessary to have the grievance signed by both a representative of the Association and the grievant. The statement of grievance which was sent to my office is: Miss Gunden be placed on schedule, retro-active to September 1, 1967.

"A brief review of our salary schedule follows: A teacher who has a degree and a certificate is qualified to earn $6,300.00 during the first year. A teacher who has a degree, a certificate, and has earned 15 hours after she has received her degree or certificate would be entitled to earn $6,600.00 during the first year. My position has always been that at the point where the degree and certificate has been earned but not received, a teacher would qualify for the Certificate - Bachelor status. This has happened in a number of cases, particularly with non-degree teachers during the first semester, and therefore they would be qualified for degree pay in the second semester.

"In your case, if you earned 15 hours after the time that you were fully qualified for a teaching certificate, and fully qualified for a Bachelor's degree, you would qualify for the $6,600.00 step on our salary schedule. A person could have a Bachelor's degree in Liberal Arts with 124 semester hours, and then decide to go into teaching. To obtain the proper majors and minors and education courses, this person might take an additional 30 hours, making his total semester hours 154 before he qualified for the certificate. Such a person would be placed at the $6,300.00 step on our salary schedule. Even with 154 semester hours of work, he was not qualified to teach prior to the 154 semester hours, and therefore would not be qualified for the $6,600.00 step.

"The intent of our salary schedule is to pay $6,300.00 for a teacher who has a Bachelor's degree and a certificate. To encourage a person to go on to school and get a permanent certificate, we make another allowance after the teacher earns an additional 15 hours. This is a financial inducement to encourage our teachers to go to school. In summary, if you are able to establish that you did earn 15 hours after you were fully qualified for the certificate and the Bachelor's degree, you will be eligible to be placed on the $6,600.00 step of the salary schedule.

"I trust that this will clarify our position and clear up any misunderstandings that may exist.

"Sincerely yours,"

Mr. Fette, under cross examination, conceded that an Association representative's signature was required to validate a grievance. He further stated that he had seen the letter of 11-2-67 (Bd. Ex. #1), sent to the grievant. The reason that no counter-signature had been added was that Miss Gunden was an Executive Board Member and, as such, her signature as grievant also sufficed to fill the requirement of representative. However, the Superintendent testified that he did not know the grievant's signature fulfilled both needs and had thought Mr. Fette's signature was also required.

The Board contended that the 11-2-67 letter (Bd. Ex. #1) was correspondence on the grievance in the normal course of consideration and, further, that, in the meeting referred to in the 10-24-67 letter (Bd. Ex. #4), the position set forth in the letter to Miss Gunden had been expressed to Mr. Fette. Finally, the Superintendent had met with the grievant late in November, around Thanksgiving, and had fully detailed the Board's position. Inasmuch as each and all of these contacts and exchanges were specifically directed at the grievance herein under consideration, the Board argued that it had satisfactorily fulfilled its disclosure obligations under the Agreement and that its exhibits and evidence were admissible.

The Board explained that candidates for a teaching degree must qualify by taking certain mandatory, preparatory courses. As a result, a student who starts out as a major in Engineering, Divinity or other specialized vocation but who switches in mid-stream to teaching, would find that his initial major accumulated certain credit hours to his benefit which do not count towards the teaching degree. Such a person, after taking the additional courses required for certification, would wind up in precisely the same situation as did Miss Gunden: when the degree was earned the candidate would have gained many excess credit hours which were not required for the degree.

The Salary Schedule set forth in Appendix "B" of the Agreement (Joint Ex. #1), embodies many implied, but plain and uncontrovertible meanings. This schedule actually sets forth the salaries to be paid under certain qualifying conditions. Nevertheless, none of the specified amounts are identified as money, through dollar-signs. No one could deny that the sums set forth are meant to and do represent the various money-amounts. Again, nowhere does this table state that these dollar figures represent a fixed time-lapse to be covered. But no one can deny that each and all are statements of school year annual salaries. Another well understood representation is the vertical column progression of salaries in ten (10) stages. These do not anywhere acknowledge or affirm that the progression basically reflects a teacher's longevity of service in the system. This, however, is exactly the fact and is beyond contention. Finally, the horizontal column structure sets forth still another form of progression; this one being recognition of increased teacher value through higher educational attainments in the specific professional field. With reference to the dispute at issue here, the abbreviated titles at the column headings, imply long held and accepted understandings. Thus, the fourth column is headed "Cert." with "B.A." appearing below "Cert." means that the teacher has been certified by the Michigan Department of Education to teach in the school systems. "B.A." means that <u>in addition</u> the individual has a recognized degree in teaching. The next column is headed: "Cert." (with the same meaning) "B.A." (with the same additional meaning) and "15 hrs." which means 15 additional credit hours of progress after the B.A. and certificate have been attained. Similarly, the columns following after, set forth, in each instance, higher salary ranges in recognition of higher educational attainment after having achieved the preceding level.

The schedule thus analyzed, appears in the Agreement as follows:

"Chippewa Valley Schools

Appendix 'B'

Salary Schedule
1967-1968

	Non-Deg. less than 106 hrs.	Non-Deg. 106-119 hours	Degree No Cert.	Cert. B. A.	Cert. B. A. 15 hrs.	Cert. M. A.	Cert. M. A. 15 hrs.	Cert. M. A. 30 hrs.
1.	5500.00	5600.00	5800.00	6300.00	6600.00	6900.00	7200.00	7500.00
2.	5800.00	5900.00	6100.00	6600.00	6900.00	7200.00	7500.00	7800.00
3.		6200.00	6400.00	6900.00	7200.00	7500.00	7800.00	8100.00
4.			6700.00	7200.00	7500.00	7800.00	8100.00	8400.00
5.				7600.00	7900.00	8200.00	8500.00	8800.00
6.				8000.00	8300.00	8600.00	8900.00	9200.00
7.				8400.00	8700.00	9000.00	9300.00	9600.00
8.				8800.00	9100.00	9400.00	9700.00	10000.00
9.				9200.00	9500.00	9800.00	10100.00	10400.00
10.				9600.00	9900.00	10200.00	10500.00	10800.00"

As against this, the 66-7 schedule headings were presented somewhat differently, as shown in Assoc. Ex. #3, already quoted. The changes were made without discussion and with no intention on either side to change effect. The thought was simply that the substitute form more succinctly expressed the identical meaning implied by the 66-7 headings. In any case, in the years prior to the 66-7 Agreement (when formal negotiations were first undertaken in conformance with procedures authorized by PERA) the Board minutes, adopting salary schedules had unmistakably spelled out intent by designating the contested column heading as: BA + Prov. Cert. + 15 hours. This was meticulously spelled out in 1965 (Bd. Ex. #10); in 1964 (Bd. Ex. #9); in 1963 (Bd. Ex. #8); in 1962 (Bd. Ex. #7); in 1961 (Bd. Ex. #6), and in 1960 (Bd. Ex. #2).

Lucine Girard, a teacher with the District, testified that she had been a member of the Association negotiating team on the 1967-8 contract. She had submitted an affidavit (Bd. Ex. #12). This statement reads as follows:

"I <u>(Lucine J. Girard)</u> of <u>(Chippewa School District)</u> School District, being first duly sworn, hereby state that I have been a <u>(teacher)</u> in this School District for <u>(12)</u> years and am familiar with the computation of the salary schedule for this district and have general knowledge of computation of salary schedules in other districts and hereby state that it is specifically true with this district's computation and generally true through the State that hours earned for extra compensation above a B.A. Degree are not counted until after the degree and certification are earned."

In testimony, she affirmed that the affidavit had been freely given and reflected her personal understanding of extra credit hour application. She disclaimed actual knowledge of past practice and recited at least one instance purporting to demonstrate that a teacher had in the past, been paid at variance to the schedule at the time.

High School Principal Pardike testified that he had been with the Chippewa Valley System for eight (8) years. For the first six (6), he had been a teacher; for the most recent two (2), he was a principal. As a teacher, but before enactment of PERA, he had been active in the representational efforts of the teachers' organization. He had served on the committee for a number of years, frequently as spokesman. Once he was Chairman of the

Salary Committee, again, V.P. of the local organization and finally, President. He had intimate familiarity with the status of the relationship and had been a prime mover in shaping results, as far as possible under the restrictions which then existed. Throughout his tenure as teacher and representative in the System, he had always known and officially recognized that the requirement for B.A.; 15 hours pay was that a B.A. degree PLUS a certificate PLUS 15 credit hours AFTER the B.A. were mandatory. This witness was on the Board negotiating team in 1966-7. There was no change made or, even, proposed in these qualifications. Similarly, he was on the Board Committee in 1967-8. Again, no change was made, suggested or requested. All that occurred was that the heading form was modified to express the intent somewhat more plainly. The intent never varied at all.

The Board argued that the implications which it reads into the current column headings are, actually, the only true interpretation which could be given, in the absence of any evidence that the parties had knowledgeably adopted changes. Such implied meanings are contemplated by the Agreement. Article III specifically provides for them to have force and effect. The exercise by the Board of its rights is "limited only by the specific and express and implied terms of this Agreement...." (Emphasis added by Board). Thus, clearly, the arbitrator not only has the authority, he has the responsibility to resolve this dispute by interpreting the disputed terms within the meaning which they indubitably imply.

Under the only interpretation which the Board contends can be forthcoming, the grievance must be denied. This is so, says the Board because otherwise the clear obligation to place the grievant at the start of B.A. would be ignored and the contract violated, with all other teachers being discriminated against.

The Board asked that the grievance be rejected.

Discussion

It seems appropriate that this opinion should be prefaced by comment on the purpose and utilization of the grievance process and arbitration. This appears to be timely because collective bargaining and its complex ramifications are, obviously, only in the rooting stage in the Public Sector. It is of consequence, therefore, that the intent and mechanics be underscored, if mutually salubrious results are to flow out. The primary reason for existence of the grievance process is to provide for just resolution of real or fancied differences through orderly means which dispose of problems as promptly as possible. In other words, a dispute between the parties is like an abcess on the body of the relationship which should be removed before it festers into cancer. Now, since this is true, it follows that the parties are responsible to act on and move grievances through the process without procrastination and indeed within whatever time limits might apply. Also, if sincere efforts are put forth to settle issues, the parties would practice full development of their positions in the earliest possible stages so that, when all the facts become apparent, agreement might be facilitated. In any case, when the parties fail to achieve internal solutions and resort to an arbitrator, they are entitled to protection against surprise: the grounds on which the other side relies and the evidence, if not the exhibits and precise testimony, should be known. These time limits and disclosure requirements are merely means, servicing the end of prompt and just settlements. They are not chess-moves, designed to checkmate decisions and, thus, completely nullify the very purpose of the process.

In this case, both sides resorted to technical objections which if upheld, would either have prevented any hearing at all or would have effectively prevented the arbitrator from making any decision without risk of exceeding his authority. Having "no power to alter, add to or subtract from the terms of this Agreement", he would be hard put to assess a valid interpretation after refusing to hear or take into account evidence without which, possibly, no appropriate conclusion could be reached. In the first, or Board, objection this has already been dealt with as absolutely barren of merit. There are, as a matter of fact, no time limit controls whatsoever in the grievance process as it is constructed, which could cause a grievance to be declared untimely. The initial filing and subsequent appeals could, literally, be made without restraint as to lateness. The only time limits are for hearings and answers (or an off-setting time allowance for such to take place) where the single effect is to position the grievance for further movement. Section I, which calls for strict observance of "the time limits" is as close to an empty and meaningless provision as has come to this arbitrator's attention within recent memory. The Association contends that meetings, at least, are compulsory, and with this the arbitrator does agree. However, the Association reads too much into the contract when it seeks to bar from consideration the disputed letter of 11-2-67 (Bd. Ex. #1) from the Superintendent to the Grievant. The position of the Association is, in effect, that nothing can be presented to the arbitrator which the parties have not disclosed to each other in grievance meetings. The most normal way for such revelations to occur would, naturally, be in meetings, But communications, submitted in furtherance of the process of a particular grievance, are most certainly not barred under the broad requirement of "ground" or "evidence" which has been "previously disclosed to the other party".

This case took off with a confused and sputtering start. The original filing was without required signatures. The Principal who heard and answered the matter did not waive the called for endorsements. By agreement, the Association President undertook to obtain them. Through error, the faulty grievance was directed to the Superintendent. He returned it for rectification, with a covering letter of 10-24-67 (Bd. Ex. #4). This document, of itself, lays a foundation for ground to be relied on by the Board in the hearing. It is, indisputably, a disclosure made in the course of processing this grievance. Further, when the signed grievance was resubmitted with only Miss Gunden's signature affixed in the grievant's signature line but with no signature in the Association representative's line, the Superintendent wrote the letter of 11-2-67 (Bd. Ex. #1), requesting that the apparent deficiency be corrected. In this communication, the grounds on which the Board relies were expanded in detail and included the declaration about established implementation and intent. Since these policies are a matter of public record and, even before institution of formal negotiations, since PERA, were matters of, at least, discussion and factual (even if one-sided) resolution between the parties, it cannot be said that the Association was euchered out of knowledge of the ground and evidence on which the Board relied. In any event, since Grievance #1 (Joint Ex. #2) was faulty, inasmuch as Miss Gunden failed to re-sign the grievance on the endorsement line provided for the Association representative, and since the record shows that the Superintendent was not informed that she, as an Executive Board member, was authorized by the Association to provide such approval for herself, the Superintendent's failure to hold a meeting in this case cannot be held against him: the grievance appeared to be defective and not subject to hearing until properly signed. Thereafter, the Board waived the objection when the grievance went through the next Step and, finally, came before the arbitrator. Under these circumstances, it is apparent that the Association, which failed to correct the technical shortcomings on signatures so as to reinstitute normal processes leading to a hearing, waived its rights to the Step D hearing when it appealed to Step E while still technically

delinquent. This is rejected by the arbitrator as an adequate defense of its position that the disclosure requirements were evaded by the Superintendent.

The evidence and arguments in this case flow in two directions. One line of approach bases the grievant's claim on the Superintendent's letter of 5-10-67 (Assoc. #5), in which, it is argued, he gave assurances which beguiled her into accepting the Chippewa Valley offer over better offers from elsewhere, if only B.A. status was involved. The second line of reasoning is that whether or not the 5-10-67 letter had been written, the grievant is entitled to recognition as B.A.; 15 hrs. because the Agreement, itself, provides this placement for her or anyone else in her circumstances. The first argument is, obviously, more limited and contained within the broader spectrum of the contention based on the Agreement. This latter aspect will be dealt with first.

The heading for column 5, which is subject to interpretation, must be read by the arbitrator within its ascertainable meaning as given it by the parties through their mutual understanding and application. In this case, it has been established that, although the words in the title were changed, neither side sought a change in established meaning when the current Agreement was negotiated. Inevitably, therefore, parol evidence must be considered to determine what this might have been--for, assuredly, the contract cannot be changed by mere accident, minus the will of either side in negotiations. This history leads to only one conclusion. Prior to PERA - type negotiations, the prevailing policy (despite possible occasional exceptions) was as contended by the Board. The crucial 15 hours had to be earned after the BA degree was earned. In the first formal contract negotiations (1966-7), this policy was adopted as the contract standard. Since no change was requested, contemplated or knowledgeably effected in the 1967-8 negotiations, the standard remains as heretofore. The testimony of Mr. Pardike was most persuasive to this end. On the other hand, Mr. Fette and other Association witnesses confessed no knowledge of past application, although admitting no change was sought in negotiations from whatever that might have been. At the most, Mrs. Girard merely proved that the rule had its exceptions in the years before PERA. This, however, did not indicate such a mixed approach so as to emasculate the plain fact that the policy prevailed and, as such, carried over into the formal contracts with the Association.

With respect to Miss Gunden's claim, based on the letter of 5-10-67 (Assoc. Ex. #5), the arbitrator finds that, indeed, she was given assurances that she would be eligible for the BA - 15 hrs. rating. This was but another example of policy-deviation which had been indulged in prior to PERA. The significant difference now is that the Association, as an equal party to the Agreement, could prevent the administration from carrying out such promises, especially if it felt that such individual treatment was aimed at undermining its bargaining authority. Such, apparently, is not the case in this instance. The Association position is that the commitment must be honored.

This is so ordered.

THE AWARD

The School Board is directed to place the grievant at the first step of the BA - 15 hrs. column and to compensate her for the difference between the BA rate which she was accorded and the BA - 15 hrs. rate to which she is individually entitled.

/s/ M. David Keefe, Arbitrator

Date: May 13, 1968

STATE OF MICHIGAN
LABOR MEDIATION BOARD
LABOR RELATIONS DIVISION

In the Matter of:

WASHTENAW COMMUNITY COLLEGE,
Respondent

and

Case No. C68 C-25

WASHTENAW COMMUNITY COLLEGE
EDUCATION ASSOCIATION,
Charging Party

TRIAL EXAMINER'S DECISION AND RECOMMENDED ORDER

APPEARANCES:

For the Respondent College: Jackson And Lamb
by Paul E. Jackson, Esq.

For the Charging Party: Foster, Campbell, Lindemer & McGurrin,
by Webb A. Smith, Esq.

The above-captioned matter came on for hearing before the undersigned trial examiner of the Labor Mediation Board, at Ann Arbor, Michigan on May 17, 1968, pursuant to a charge of refusal to bargain which was filed on March 28, 1968 by the Washtenaw Community College Education Association against the Washtenaw Community College. On the basis of the entire record made at the hearing and the post-hearing briefs submitted by the parties, the undersigned hereby makes the following findings of fact, conclusions of law and recommended order:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The College is a public employer within the meaning of Act 336, Public Acts of 1947, as amended (Public Employment Relations Act, hereinafter referred to as PERA). The Association is a labor organization within the meaning of PERA.

The charge alleges the following to be a Section 10 (e) unfair labor practice in violation of the duty to bargain as defined in PERA Section 15:

"The Employer has violated, and continues to violate Section 15 of the Public Employment Relations Act in that its administrators have refused, and continue to refuse, to bargain in good faith. Specifically, the Employer was asked on October 5, 1967, November 8, 1967, January 12, 1968, January 19, 1968, February 15, 1968 and February 16, 1968 to provide the Association with the following information:

"1. The point allocation chart provided for each instructor employed during the 1966-1967 and 1967-1968 school year and used by the Employer to determine the salary to be paid to said instructor. Said formula is required by Article III A of the existing Collective Bargaining Agreement of the Employer.

"2. Copies of Pages 1, 2 and 3 of the Employer's job application form in which the training, background and qualifications of each instructor employed during 1966-1967 and 1967-1968 are listed and upon which basis the points are allocated to determine salary.

"3. A list of the salaries actually paid to each instructor during the school year 1966-1967 and 1967-1968.

"All of the above items are required by the Association to enable it to perform its mutual obligation to bargain in good faith and to resolve questions arising under the contract. Said information is not readily available to the Association nor is the same privileged or confidential.

"The refusal to produce the requested information constitutes a continuing violation by the Employer of its statutory duty to bargain in good faith."

The College defends its refusal to furnish such information on a number of grounds. It asserts that (A) items one and two are confidential and personal as between the College and the individual instructor; (B) item three is available to the Association from a reading of the minutes of meetings of the College Board of Trustees which are sent to the Association every month and are available to the public for inspection in the College library; (C) items one and two are beyond the scope of the kinds of information which the College agreed (in the current collective bargaining agreement) to provide, and (D) the College has in fact met and conferred with the Association with regard to whether it would turn over the above information, thereby satisfying its duty to bargain in good faith, since PERA Section 15 does not require that an agreement be reached or a concession be made.

A. Confidential and Personal Nature of the Documents:

The undersigned has studied the point allocation chart and the first three pages of the employment application form used by the College. The contract in effect between the parties sets a minimum and a maximum salary for instructors. The range between the two is a wide $6,000. The College administration is permitted to assign new instructors to a specific salary within the range. The administration, under the terms of the contract, uses a detailed point allocation chart in setting the actual salary. The major categories for awarding "points" are experience, educational attainment, certificates and licenses, skill-related activities, occupational and/or professional affiliations, breadth and depth of experience, and "special elements of consideration." It is obvious that some of these necessitate subjective evaluations. I conclude the contents of the point allocation charts of the instructors represented by the Association are well within the scope of subject matters as to which the College must bargain with the Association. If the Association is to properly police its contract it must be given access to the point allocation charts of the individual instructors. Otherwise the College could carry out the contract in an arbitrary manner.

Likewise, the Association can not intelligently review the College's use of the point allocation charts unless it can compare them with the data set forth on the instructor's job applications. On the job application form the instructor sets forth the following data:

1. Name
2. Address
3. Date of birth
4. U.S. citizen?
5. Social security number
6. Marital status
7. Number and ages of dependents
8. Height
9. Weight
10. Status of health
11. Number of days absent in past year due to illness
12. Community and civic activities
13. Student activities or clubs applicant is interested in sponsoring
14. Educational, technical and professional organizations in which applicant holds membership, license and/or registration
15. Areas in which qualified to teach
16. Areas of specialized training and/or experience that would make a significant contribution to applicant's teaching
17. Details concerning undergraduate education
18. Details concerning graduate education
19. Special training, licenses, or certificates held
20. Details concerning prior work experience

The first ten, or perhaps eleven, of these items are of a personal nature and not directly relevant to the point allocation charts. However, the remaining items, which occupy most of the space on the job application form, are quite impersonal and are manifestly relevant to the charts. They are the primary source of information used by the College in filling in the new instructors' charts. The College, so far as this record reveals, has at no time proposed a limited inspection or production of the job applications so as to permit the Association to administer its contract while still maintaining the confidentiality of the individual instructors' private lives. Such a partial production of the job applications, limited to items twelve through twenty, would have satisfied the duty to bargain, in my opinion, since there was no compelling reason why the Association had to know the highly personal information contained in the first eleven items. Since the requested records contained substantial material which was relevant to the Association's legitimate purposes in administering its contract, the College was legally bound to produce that information. While the College, in my opinion, was entitled to segregate the purely personal material before producing the records, it can not justify its unqualified refusal to produce any part of the records on the rationale that certain items were of a purely personal nature.

The College, in its brief, calls attention to Mich. CL '48, sections 38.458 (Township Civil Service Act) and 38.412 (g) (County Civil Service Act), both of which provide that employee "service records" shall be confidential and not open for public inspection. It also calls attention to Mich. CL '48, section 421.11 (b) (Michigan Employment Security Act) which provides that records concerning benefit rights of employees are confidential. The argument is then made that since the legislature has come out in favor of confidentiality of records wherever it has had occasion to legislate on the subject, it follows that PERA ought to be interpreted in harmony with the mind of the legislature.

There is, apparently, no statute regulating access to job applications kept by community colleges. It is arguable that the very absence of such a statute suggests a legislative intent to permit public access to employee records. In any event, the issue here is not whether the general public has a right of access to the College's job applications but whether the exclusive, certified bargaining agent of all the instructors has a PERA section 10 and 15 right to inspect such employee records as are needed by it in order for it to competently represent the employees in matters affecting wages or conditions of employment. I conclude it has such a right and that the statutes cited in the College's brief provide no basis for ruling otherwise.

B. Availability of Salary Figures in Minutes and Library:

The College provides the Association with the minutes of all its public meetings. The minutes are also available for public inspection in the College library. Under these circumstances I see no reason why the College's refusal to compile a list of instructors with the salary paid to each should be deemed to violate its duty to bargain. The Association was in no real way impeded by the College's position. Therefore, the refusal to comply with the request to produce a list of salaries was not an unfair labor practice.

C. Contract Clause re Providing Information:

Article VII B (2) and (3) of the collective bargaining contract between the parties requires the College to furnish to the Association all information prepared for public release and the agenda for each meeting of the Board of Trustees (together with all normal attachments, including the minutes of past meetings). While the contract does not provide for furnishing of other relevant data which is not "prepared for public release", neither does the contract contain a waiver of the Association's statutory right to such data. In the absence of a clear and unequivocal waiver, I conclude that the Association's statutory right to require production of information is not diminished by a contract clause wherein the College agrees to produce certain kinds of information.

D. Discussion of the Request for Information as Satisfying Duty to Bargain About It:

The College points out that committees representing the two parties have met and discussed the question of furnishing to the Association the data which is the subject of this case. The argument is made that there is no PERA duty to agree, only to confer in good faith. That argument misapplies the statute. PERA does not require the employer to concede on any particular contract term which is the subject matter of the bargaining process. However, the duty to furnish information is part and parcel of the fundamental duty to bargain. This duty is not just one more negotiable subject matter of the bargaining process. The employer is no more free to disagree over whether it will provide the exclusive bargaining agent with relevant data needed to intelligently bargain than it is free to disagree over whether it will recognize and confer with the exclusive bargaining agent.

Having rejected the College's defenses to its admitted refusal to provide the point allocation charts and job application forms, the undersigned concludes that the College has refused, and continues to refuse to bargain in violation of PERA section 10(e) by its refusal to provide such information which is relevant to the administration of the contract. It is, accordingly, recommended that the Board enter an Order as follows:

RECOMMENDED ORDER

Washtenaw Community College, its Board of Trustees, administrators, agents and successors, shall

1. Cease and desist from refusing to bargain collectively with Washtenaw Community College Education Association.

2. Take the following affirmative action which, it is found, will effectuate the policies of PERA.

(a) Upon specific request, provide Washtenaw Community College Education Association with the point allocation charts, relevant portions of job application forms, and any other records in its possession which are relevant to salaries or conditions of employment.

(b) Post, wherever notices to instructors are customarily posted, copies of the attached Notice, affixed on top of copies of the Board's Decision and Order, for a period of thirty (30) consecutive days. The Notices shall be signed by each trustee of the College.

(c) Take reasonable steps to prevent the removal or defacement of said Notice.

(d) Notify the Board within twenty days of receipt of this Order what steps the College has taken to comply therewith.

/s/ James R. McCormick
James R. McCormick
Trial Examiner
MICHIGAN LABOR MEDIATION BOARD

Dated: SEP. 30 1968

NOTICE TO EMPLOYEES

THE MICHIGAN LABOR MEDIATION BOARD, AFTER A PUBLIC HEARING, HAS FOUND THAT WASHTENAW COMMUNITY COLLEGE HAS VIOLATED THE PUBLIC EMPLOYMENT RELATIONS ACT BY REFUSING TO BARGAIN WITH THE WASHTENAW COMMUNITY COLLEGE EDUCATION ASSOCIATION, AS THE EXCLUSIVE REPRESENTATIVE OF ITS INSTRUCTORS BY REFUSING THE ASSOCIATION'S REQUESTS FOR PRODUCTION OF POINT ALLOCATION CHARTS AND RELEVANT PORTIONS OF JOB APPLICATION FORMS FOR THE ASSOCIATION'S USE IN ADMINISTERING ITS CONTRACT.

IN ORDER THAT YOU WILL KNOW THAT WE INTEND TO FULLY RESPECT THE ASSOCIATION'S RIGHT TO EFFECTIVELY REPRESENT YOU, PLEASE BE ADVISED THAT:

WE WILL, UPON SPECIFIC REQUEST, PROVIDE THE ASSOCIATION WITH THE POINT ALLOCATION CHARTS, RELEVANT PORTIONS OF JOB APPLICATION FORMS, AND ANY OTHER RECORDS IN OUR POSSESSION WHICH ARE RELEVANT TO THE SALARIES OR CONDITIONS OF EMPLOYMENT.

WASHTENAW COMMUNITY COLLEGE

By_____

Dated:_____

This Notice must remain posted for thirty consecutive days from the date of posting and must not be altered, defaced or covered by any other material.

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

IN THE MATTER OF

BOARD OF EDUCATION OF THE JOHNSON CITY CENTRAL SCHOOL DISTRICT,

Employer,

and

JOHNSON CITY TEACHERS ASSOCIATION,

Petitioner,

and

JOHNSON CITY FEDERATION OF TEACHERS,

Intervenor.

CASE No. C-0135

DECISION

Petitioner, Johnson City Teachers Association sought certification as the negotiating representative of the entire professional staff of the Johnson City Board of Education, excluding the superintendent of schools, the administrative assistant to the superintendent, the director of pupil services and the business administrator.[1]

The job titles in the unit proposed by the petitioner are principal, vice principal, coordinators, directors, special teachers, classroom teachers, guidance teachers, nurse teachers, dental hygienists and psychologists.

The employer, Johnson City Board of Education, in the proceeding before the Director of Representation, contended that there should be three units, one consisting of principals and vice principals of which there are nine, the second consisting of coordinators and directors which number eleven, and a third basic unit of teachers. In fact, prior to the commencement of this proceeding the employer had determined such three units to be appropriate for the purpose of collective negotiations, but no employee organization was recognized as the negotiating representative for any one of these units.

The intervenor, Johnson City Federation of Teachers, contended that there should be a basic unit of teachers which would exclude principals, vice principals, coordinators and directors, and it is such a unit that the intervenor seeks to represent.

The Director of Representation in his decision determined that there should be two units, one consisting of principals and vice principals, the other including coordinators and directors with the teachers.

Both the public employer and the intervenor have appealed to this Board from the Director's decision. Both appellants assign the same error to said decision; namely, the inclusion of directors and coordinators in the same negotiating unit with the teachers.

[1] All the parties agree that the above job titles be excluded from any negotiating unit.

The appellants argue that the coordinators and directors are supervisors and should not, therefore, be included in the same negotiating unit with teachers.

The coordinators are assigned to Grades 7 through 12. A coordinator is assigned to a specific discipline such as English, Social Studies, Science, Mathematics, Home Economics or Industrial Arts and coordinates the instruction in that subject supervising all of the teachers assigned to teach that subject. The coordinator participates in curriculum planning, the selection of textbooks, assists teachers in planning lessons and in evaluating students. It is also the function of the coordinator to evaluate the performance of the non-tenure teachers under her supervision. The testimony in the record is uncontroverted that the recommendation of the coordinator has always been followed by the principal and school superintendent. The coordinator who testified at the hearing below stated that she had recommended against retention of approximately two teachers each year for the past ten years and her recommendations were followed. Generally, the coordinator attends classes taught by tenured teachers only by invitation or at the specific request of the administration, and in the latter case, would file a written report.

The directors work in Grades 1 through 8 and direct instruction in such subjects as Art, Music and Physical Education. They perform the same evaluating function with respect to non-tenure teachers as do the coordinators, and the testimony is clear that the recommendations of the directors have been accorded the same regard as the recommendations of the coordinators. The coordinators and directors also schedule classes and assign the teaching load to the teachers under their supervision, and they would be the person to whom the teacher would first discuss any complaint or grievance that might arise.

The decision of the Director of Representation below recognized that the coordinators and directors do have some supervisory function but concluded that since at least 50% of the time of coordinators and directors is spent in teaching and they share the same fringe benefits as the teachers that they are more closely related to teachers than to administration.

On the facts in this case, we disagree. The evaluating function of the coordinators and directors plus their position in the complaint or grievance procedure would, in our opinion, give rise to such a conflict of interest as to preclude their being joined in the same unit as the teachers.

We do not ignore the fact that the coordinator and the director who testified at the hearing stated that they desired to be included in the same unit with the teachers and that some 221 teachers signed a petition indicating support for the unit sought by petitioner. Certainly the desire of the employees involved is entitled to consideration in unit determination. However, we are not persuaded that this indicia of a felt community of interest should be determinative in view of the conflict of interest referred to above and in the absence of any evidence as to the circumstances surrounding the signing of such petition.

Accordingly, we find that the coordinators and directors should be in the unit with principals and vice principals for purposes of collective negotiations.

THEREFORE, IT IS DETERMINED THAT there shall be two units of professional employees of the employer, as follows:

UNIT I

Included: All classroom teachers, special teachers, guidance teachers, nurse teachers, dental hygienists and psychologists.

Excluded: All other professional and administrative personnel.

UNIT II

Included: All principals, vice principals, coordinators and directors.

Excluded: All other professional and administrative personnel.

FURTHER, IT IS ORDERED THAT an election by secret ballot shall be held under the supervision of the Director of Representation among the employees of the employer in the two units determined above to be appropriate, UNLESS the petitioner or intervenor submits to the Director of Representation, within seven days from the date of receipt of this decision, dues deduction authorizations and other evidences sufficient to satisfy the requirements of Section 201.6(h)(1) of the Rules for certification without an election.

Dated: Albany, New York
September 17, 1968.

/s/ Robert D. Helsby, Chairman

/s/ Joseph R. Crowley

/s/ George H. Fowler

IN THE MATTER OF THE ARBITRATION

BETWEEN

CLINTONDALE PUBLIC SCHOOLS
BOARD OF EDUCATION

AND

CLINTONDALE EDUCATION ASSOCIATION

OPINION
GRIEVANCE NO. 1-67/68

DUDLEY E. WHITING, ARBITRATOR

APPEARANCES

FOR THE BOARD

Charles Wright III
Charles Bode
John J. Dubinsky

FOR THE ASSOCIATION

Charles W. Somers
Tom Patterson
Santo L. Urso
Robert H. Warren

GRIEVANCE NO. 1-67/68

The grievance reads:

"Mr. Urso teaches Intermediate and Elementary Music. His supplementary contract is for Junior High concerts but does not include elementary music."

BACKGROUND

Santo L. Urso, Jr. has been a teacher in Clintondale Public Schools since 1963, occupying the position of Music Instructor. Prior to the first contract between the parties, pursuant to Board policy, he received a supplementary pay contract providing $100.00 extra pay for two instrumental music concerts for the school years 1964-1965 and 1965-1966. The statement of Board policy did not specify any school level or grade in listing such concerts as an activity for which supplemental pay was allowed.

The parties entered into an agreement dated May 25, 1966, effective July 1, 1966, which provided a Supplemental Pay schedule containing the following:

"D.	Activities, Junior High School	
	2. Music concerts (Band)	$400
I.	Elementary (Band)	200"

Urso received a Supplementary Contract thereunder for "Concerts $400.00". He was assigned to teach instrumental music in the junior high school and in an elementary school and participated in concerts at both schools.

An agreement made on September 5, 1967 provided a Supplemental Pay schedule which contained the following:

"D.	Junior High School	Percentage
	2. Music concerts (instrumental)	6
E.	Elementary (instrumental)	4

For the school year 1967/68, a teacher assigned an activity listed herein, will receive compensation for that activity based on the stated index herein...."

Urso was assigned to teach in the Junior High School and the Price Drive Elementary School and to participate in conducting concerts (instrumental) in both schools. He was offered a Supplementary Contract for 1967/68 for "Instrumental Concerts $417.00". He refused to sign it and filed the grievance involved herein. Meanwhile he has performed the assignments in both schools.

It appears that $417.00 represents the 6% supplemental pay provided for music concerts under Part D - Junior High School. The grievance also seeks 4% ($252.00) supplemental pay provided by Part E - Elementary. At the hearing the Association also claimed, on behalf of the grievant, an additional $200.00 as supplemental pay for Elementary (Band) provided in the prior contract for the school year 1966-1967.

DISCUSSION

The claim for pay under the prior contract is not cognizable because it is not raised by the grievance, which states "date grievance occurred Sept. 25, '67," and under Article XVI - E - 5 it is only the grievance that is submitted to arbitration.

The provision in the Supplemental Pay schedule of the 1967 contract, that "a teacher assigned an activity listed herein, will receive compensation for that activity based on the stated index herein", is not ambiguous and the arbitrator is without power to change it. Thereby when Urso was assigned to perform two of those activities, and it is undisputed that he was so assigned, he became entitled to the compensation provided therein for each of such activities.

The basic position of the Board is that, in music, teaching necessarily entails supplemental concert work and it has never been the practice to allow more than one supplemental pay in this field.

Practice which conflicts with the language of the agreement does not change the agreement, nor empower the arbitrator to change it, and either party may at any time insist upon conformity with the agreement rather than the practice, only retroactive claims being barred thereby.

Moreover, prior to the 1966 agreement the supplemental pay policy did not specify separate items of pay for elementary and junior high school activities, so the practice thereunder would not necessarily govern the application of separate contract pay items therefor. Thus the only relevant practice shown was the payment to Urso under the 1966 agreement. This cannot be treated as a long and consistent or established practice.

Under these circumstances I am constrained to sustain the grievance.

Dated at Detroit, Michigan this 22nd day of May, 1968.

/s/ DUDLEY E. WHITING, ARBITRATOR

Negotiation Agreements

A WRITTEN AGREEMENT

BETWEEN THE

BOARD OF EDUCATION OF SALT LAKE CITY, UTAH

AND THE

SALT LAKE TEACHERS ASSOCIATION (NEA)

AGREEMENT

This AGREEMENT is made and entered into by and between SALT LAKE CITY BOARD OF EDUCATION (hereinafter called the "Board") and the SALT LAKE TEACHERS ASSOCIATION (hereinafter called the "Association") this ninth day of August, 1968.

The Board and the Association recognize that providing a high quality education for the children of Salt Lake is the paramount objective of the School District. In doing this it is understood that:

The Board is elected by the qualified electors of the School District as the governing body of the School District and, as such, possesses all powers delegated to a board of education or to a school district by the Constitution and laws of the State of Utah, together with the duties imposed thereby.

The Superintendent is the chief executive officer of the Board, and as such, administers the affairs and programs of the School District as provided by law and Board policy.

While providing education of the highest possible quality for the pupils of the School District is a shared responsibility, it is recognized that teachers have the major role in direct contact with pupils; therefore, the high morale of the teaching staff, which depends on the willing services of well qualified teachers who are satisfied with the conditions provided by the Board, is a necessity for the best education of the children.

Attainment of the objectives of the educational program conducted in the Salt Lake City Public Schools requires mutual understanding and cooperation between the Board and the Association. To this end, negotiations in good faith between the Board and the Association with a free and open exchange of views are desirable.

NOW, THEREFORE, the parties agree as follows:

ARTICLE 1

Definitions

1.1 The term "teacher" as used in this Agreement shall refer to all regularly assigned teachers in the negotiaton unit as defined in Article 3, Recognition.

1.2 The term "Board" as used in this Agreement shall mean the Board of Education of the Salt Lake City School District in the City and County of Salt Lake and State of Utah.

1.3 The term "Association" as used in this Agreement shall mean the Salt Lake Teachers Association.

1.4 The terms "School District" and "Salt Lake City Public Schools" as used in this agreement shall mean the Salt Lake City School District in the City and County of Salt Lake and State of Utah.

1.5 The term "Superintendent" as used in this Agreement shall mean the Superintendent of Schools of the Salt Lake City School District in the City and County of Salt Lake and State of Utah.

1.6 The term "school year" as used in this Agreement shall mean the period of time from the first day of opening institute in the fall, through the closing of the schools of the district in the spring as established by the official school calendar.

ARTICLE 2

General

2.1 This agreement shall by reference in each individual teacher's contract be deemend to be a part thereof.

2.2 The Board shall continue its policy of not discriminating against any teacher on basis of race, creed, color, national origin, sex, marital status, or membership in any teacher organization.

2.3 Teachers have the right to join any lawful organization for their professional or economic improvement and for the advancement of public education.

2.4 The instruction process is the primary function of the teacher and supporting personnel should arrange their work to enhance this process insofar as possible.

2.5 The Association shall continue to admit persons to membership without discrimination on the basis of race, creed, color, national origin, sex, or marital status.

2.6 The Association shall have the right to request that particular matters within its area of interest be placed on appropriate agendas for official board meetings, and the Board will notify the Association with respect to the placement of such items on particular agendas and of the action taken. The Board will provide the Association with the agenda and information as to subjects to be considered at official board meetings. It

is understood that this excludes all items to be considered in executive sessions of the Board.

2.7 No change, recision, alteration or modification of this Agreement in whole or in part shall be valid unless the same is ratified by both the Board and the Association and endorsed in writing hereon.

2.8 This Agreement shall be governed and construed according to the Constitution and Laws of the State of Utah.

2.9 The Board and Association recognize that the Board has certain powers, discretions and duties that, under the Constitution and Laws of the State of Utah, may not be delegated, limited or abrogated by agreement with any party. Accordingly, if any provision of this Agreement, or any application of this Agreement to any teacher covered hereby shall be found contrary to law, such provision or application shall have effect only to the extent permitted by law, but all other provision or applications of this Agreement shall continue in full force and effect.

2.10 In case of any direct conflict between the express provisions of this Agreement and any Board or Association policy, practice, procedure, custom or writing not incorporated in this Agreement, the provisions of this Agreement shall control.

ARTICLE 3

Recognition

3.1 It is agreed that all members of the teaching staff of the Salt Lake City Public Schools constitute what the parties hereto believe to be an appropriate unit for purposes of negotiating terms and conditions of employment as contemplated by Section 34-1-9, Utah Code Annotated, 1953. The Board agrees to recognize the Association as the exclusive representative of all members of said teaching staff upon being furnished with satisfactory evidence that a majority of said members have designated or selected the Association as their representative, as contemplated by Section 34-1-9, Utah Code Annotated, 1953; provided, however, that any individual member of said teaching staff or a group of said members shall have the right at any time to present grievances to the Board; and provided further nothing herein shall be so construed as to deprive any individual of his rights under Chapter 16, Title 34, Utah Code Annotated, 1953 (Utah Right to Work Law). It is agreed that the teaching staff shall not include the following:

Nurses
Psychologists
Social Workers
Coordinators
Principals
Assistant Principals
Specialists
Directors
Administrative Assistants
Assistant Superintendents
Superintendent

3.2 Such recognition, once effective as to the unit described above, shall be effective during each year of the term of this contract, or any renewal thereof. If within ninety days prior to December 31 of any year good cause exists to believe that a majority of the members of the unit have not designated or selected the Association as their representative, the Board shall be furnished by the Association with satisfactory evidence of such designation or selection by such majority, failing which the Association shall not be recognized as the representative.

ARTICLE 4

Annual Negotiations

4.1 After approval and execution of this Agreement and upon request by the Association to the Board or by the Board to the Association, after January 2 of each year during the term of this Agreement, the Board and the Association will negotiate as provided in Article 5; provided, however, that such negotiations shall terminate not later than May 1 of each year, unless extended by mutual consent.

ARTICLE 5

Procedures for Annual Negotiations

5.1 Initiating Negotiations

5.1.1 Written requests for negotiations between the Board and the Association may be submitted by either party on such matters to include but not limited to teachers' salaries, wages, hours and conditions of employment. Such request will specify the subject matter to be considered and will include the specific written proposal or proposals to be negotiated.

5.1.2 A written response will be made within ten days of the receipt of any such written request.

5.1.3 Negotiations will be conducted at times and places mutually agreeable to the negotiators named by each party; provided, however, that the first meeting shall be held within ten days of such written response.

5.2 Conducting Negotiations

5.2.1 The Board and the Association agree to negotiate in good faith endeavoring to give direction to their respective negotiating teams during negotiations in an effort to reach agreement concerning such matters.

5.2.2 The Association and Superintendent or his designee shall together review preliminary budgetary information affecting revenue and expenditures as soon as they are available for the ensuing year. Further, they shall work together to develop a preliminary budget proposal for presentation to the Board.

5.2.3 During negotiations, the Board and the Association teams will present relevant data, exchange points of view, and make proposals and counter proposals. The respective teams will endeavor to reflect the positions of the Board and Association. Upon request of either party, the other will make available for inspection its records and data pertinent to the subject of negotiations.

5.2.4 Either party may, if it so desires, utilize the services of outside consultants and may call upon professional and lay representatives to assist in the negotiations.

5.2.5 If negotiations are scheduled during the school day, the negotiators shall be released from their regular duties without loss of pay unless mutually agreed otherwise. Qualified substitute teachers will be provided as needed.

5.2.6 Negotiations shall be conducted in closed sessions unless both parties agree to the contrary.

5.2.7 During negotiations as described in 5.1, 5.2, and 5.3 of this Article, releases to news media or otherwise shall be made only as agreed to jointly.

5.3 Joint Study Committees

5.3.1 The negotiators for the Board and the Association are empowered to create joint study committees.

5.3.2 Consultants may be used if deemed necessary by either party.

5.3.3 If meetings of joint study committees are scheduled during the regular school day, members of such committees shall be released from their regular duties without loss of pay unless mutually agreed otherwise.

5.3.4 Recommendations and reports of joint study committees are advisory in nature.

5.3.5 Upon completion of its study and submittal of a written report on the subject assigned to it, a joint study committee shall be considered dissolved, and once dissolved, no such committee shall be reactivated except by mutual consent of the negotiating teams.

5.3.6 The above statements do not preclude the creation of any committee authorized by the Association or the Board to conduct an independent study on any subject.

5.4 Adopting Agreements

5.4.1 Any agreements reached through the aforementioned procedure (Article 5-2) shall be reduced to writing and shall be approved by the Board and the Association and shall be signed by the properly designated officers of the Board and the Association.

5.5 Mediation

5.5.1 If the negotiations described in Sections 5.1 and 5.2 have reached an impasse, the issues in dispute shall be submitted to mediation for the purpose of inducing the Board and the Association to make a voluntary agreement. Both parties calling on the State Board of Education and the Utah Education Association for assistance will make all efforts to mediate the difference.

5.5.2 In the event that the parties are unable to agree, a mediation panel shall be established with one representative appointed by the State Board of Education, one appointed by the Utah Education Association, and one appointed by these two shall be on the panel of three (3) persons and shall act as chairman.

5.6 Conducting Mediation

5.6.1 The format, dates and times of meetings will be arranged by the mediator and such meetings will be conducted in closed sessions.

5.6.2 The mediator will meet with the Board and the Association, either separately or together.

5.6.3 To the extent that tentative agreements are reached as a result of such mediation, the procedures provided in Section 5.4.1 shall apply. If mediation fails in whole or in part, the mediator shall report the issues which remain in dispute to the respective parties.

5.6.4 The costs for the services of the mediator, including per diem expense, if any, and actual and necessary travel expenses, shall be shared equally by the Board and the Association.

5.7 Fact Finding

5.7.1 If the mediation in Section 5.5 has failed to bring about agreement on all issues, either the Board or the Association may request that the issues which remain in dispute be submitted to a fact finder. In the event that the parties are unable to agree on a fact finder, the fact finder shall be selected in the manner provided in Section 5.5 for selecting a mediator.

5.7.2 The fact finder will have the authority to hold hearings and make procedural rules.

5.7.3 All hearings by the fact finder shall be held in closed sessions and no news release shall be made concerning progress of such hearings.

5.7.4 Within a reasonable time after the conclusion of such hearings, the fact finder shall submit a report in writing to the Board and the Association only, and shall set forth in the report his findings of fact, reasoning, and recommendations on the issues submitted. The report shall be advisory only and binding neither on the Board nor the Association.

5.7.5 Within five school days, unless mutually agreed upon otherwise, after receiving the report of the fact finder, the Board and the Association will meet to discuss the report. No public release shall be made until after such meeting.

5.7.6 The respective parties shall take official action on the report of the fact finder no later than fifteen days after the meeting described in Section 5.7.5 above.

5.7.7 To the extent that tentative agreement is reached on the issues in dispute as a result of such fact finding, the procedures provided in Section 5.4.1 shall apply.

5.7.8 The costs for the services of the fact finder, including per diem expense, if any, and actual and necessary travel expenses, shall be shared equally by the Board and Association.

5.7.9 Either party may request that an official stenographic record of the testimony taken at the fact finding hearings be made and a copy of any transcript shall be provided to the fact finder. The party requesting a stenographic record shall pay the costs thereof except that if the other party shall request a copy of any transcript it shall share the entire cost of making the stenographic record.

ARTICLE 6

Grievance Procedure

6.1 Definitions

6.1.1 A "grievance" is a claim based upon an event or condition which affects the welfare or conditions of employment of a teacher or group of teachers and/or the interpretation, meaning or application of any of the provisions of this agreement. It is expressly understood that a claim based upon an event or condition which does not affect the welfare or conditions of employment of a member of the Unit described in Article 3 above shall not constitute a grievance.

6.1.2 An "aggrieved person" is the person or persons making the claim.

6.1.3 A "party in interest" is the person or persons making the claim and any person who might be

required to take action or against whom action might be taken in order to resolve the claim.

6.2 Purpose

6.2.1 The purpose of this procedure is to secure, at the lowest possible administrative level, equitable solutions to grievances which may from time to time arise. Both parties agree that these proceedings shall be kept as informal and confidential as may be appropriate at any level of the procedure. All parties shall cooperate and act in good faith to resolve the grievances.

6.2.2 Nothing herein contained will be construed as limiting the right of any aggrieved person to discuss the matter informally with any appropriate member of the administration and having the grievance adjusted, provided the adjustment is consistent with the terms of this Agreement. The Association shall have the opportunity to be present and to state its views at any level in the grievance procedure beyond LEVEL ONE.

6.3 Procedure

6.3.1 Level One. The aggrieved person shall first discuss the grievance with the principal or immediate superior, either directly or through the Association's Faculty Representative, with the objective of resolving the matter, at which time the aggrieved person (1) may discuss the grievance personally, (2) may request that the Association's Faculty Representative accompany him, or (3) may request that the Association's Faculty Representative act in his behalf.

6.3.2 Level Two

6.3.2.1 If the aggrieved person is not satisfied with the disposition of his grievance at Level One, or if no decision has been rendered within ten (10) school days after presentation of the grievance, he may file the grievance in writing with the Chairman of the Association's Committee on Professional Rights and Responsibilities (hereinafter referred to as the "PR&R Committee") within five (5) school days after the decision at Level One or fifteen (15) school days after the grievance was presented, whichever is sooner. Within five (5) school days after receiving the written grievance, the Chairman shall refer it to the Superintendent of Schools.

6.3.2.2 The Superintendent or his agent shall represent the administration at this level of the grievance procedure. Within ten (10) school days after receipt of the written grievance by the Superintendent, the Superintendent or his agent shall meet with the aggrieved person in an effort to resolve it.

6.3.2.3 If the aggrieved person does not file a grievance in writing with the Chairman of the PR&R Committee and the written grievance is not forwarded to the Superintendent within thirty (30) school days after the aggrieved person knew or should have known of the act or condition on which the grievance is based, then the grievance shall be considered as waived. A dispute as to whether a grievance has been waived under this paragraph shall be subject to arbitration pursuant to Level Three.

6.3.3 Level Three

6.3.3.1 The parties hereto recognize that under existing Utah law a present agreement to arbitrate future disputes is wholly unenforceable. Accordingly, it is understood and agreed that neither party shall have the right to initiate or require the other party to participate in or bear the expenses of any arbitration proceedings unless as agreement in writing for the submission of a particular dispute to arbitration shall have been concluded. Within ten (10) school days after receipt of the written request for submission to arbitration, the Board and/or its designee or the Association and/or its designee shall respond in writing indicating whether it consents to submit the grievance to arbitration.

6.3.3.2 In the event that it is mutually agreed to submit the grievance to arbitration, the Board and/or its designee and the Association and/or its designee shall within ten (10) days make all efforts to agree upon a mutually acceptable arbitrator and shall obtain a commitment from said arbitrator to serve. If the parties are unable to agree upon an arbitrator or to obtain such a commitment within the specified period, an arbitrator shall be selected in accordance with Section 5.5.1.1 of this agreement.

6.3.3.3 The arbitrator so selected shall confer with the Board and/or its designee and the Association and/or its designee and hold hearings promptly and shall issue his decision not later than twenty (20) calendar days from the date of the close of the hearings or, if oral hearings have been waived, then from the date the final statement and proofs are submitted to him. His decision shall be in writing and shall set forth his findings of fact, reasoning and conclusions on the issues submitted. He shall be without power or authority to make any decision which requires the commission of an act prohibited by law or which is violative of the terms of this Agreement.

6.3.3.4 The costs for the services of the arbitrator, including per diem expenses, if any, and actual and necessary travel and subsistence expenses, shall be borne equally by the Board and the Association.

6.4 Rights of Teachers and Representation

6.4.1 No reprisals of any kind shall be taken by either party or by any member of the administration or the Association against any party in interest, any School Representative, any member of the PR&R Committee or any other participant in the grievance procedure by reason of such participation.

6.4.2 Any party in interest may be represented and/or accompanied at all stages of the grievance procedure by an appropriate person of his own choosing. The Association Faculty Representative shall be such representative at Level One if so chosen.

6.5 Miscellaneous

6.5.1 If, in the judgment of the appropriate association representatives, a grievance, affecting a group or class of teachers, not resolvable at Level One, representatives of the Association may submit such grievance in writing to the Superintendent directly and the processing of such grievance may be commenced at Level Two.

6.5.2 Decisions rendered at Levels One, Two and Three of the grievance procedure shall be in writing setting forth the decision and the reasons therefor and shall be transmitted promptly to all parties in interest and to the Association.

6.5.3 All documents, communications and records dealing with the processing of a grievance shall be

filed separately from the personnel files of the participants.

6.5.4 To facilitate operation of the grievance procedure, necessary forms for filing, for serving notices, for making appeals, for making reports and recommendations, and other necessary documents will be jointly prepared and distributed by the Superintendent and the Association.

6.5.5 The Board agrees to make available to the aggrieved person and his representative, all pertinent information not privileged under law, in its possession or control and which is relevant to the issues raised by the grievance.

6.5.6 When it is necessary at LEVEL TWO or LEVEL THREE for a representative, or representatives, designated by the Association, to attend a meeting or a hearing called by the Superintendent, or his designee, during the school day, the Superintendent's Office, shall so notify the principal of such Association representatives, and they shall be released without loss of pay for such time as their attendance is required at such meeting or hearing.

6.5.7 The sole remedy available to any teacher for any alleged breach of this Agreement or any alleged violation of his rights hereunder shall be pursuant to the grievance and arbitration procedure, provided, however, that nothing contained herein shall deprive any teacher of any legal right which he presently has.

ARTICLE 7

Leaves of Absence

7.1 Any teacher may apply for leave of absence without salary for the following reasons: compulsory military service, maternity, temporary transfer of spouse, further study, and other reasons. The granting of such leave of absence does not bind the Board to re-employ the person nor to return him to his previous position except when stated otherwise by law. The teacher, as specified above, is assured of Professional consideration in filling vacancies that may occur after he notified the Board that he desires to return to service.

7.2 Sick-leave Benefits

7.2.1 All teachers employed by the Board shall be entitled to the sick-leave benefits hereinafter stated for personal illness or serious illness in the immediate family. (a) husband, wife. (b) daughter, son who are residing in the home. (c) father, mother who are residing in the home. (d) any other person residing in the teacher's household who may have assumed the roles indicated in b and c.

7.2.2 The annual sick-leave allowance for nine-month employees shall be ten days at full pay with a maximum cumulative allowance of 180 days. Medical verification may be required.

7.2.3 One additional day of annual sick-leave will be added for each additional month served beyond the regular school year of nine months, including teachers participating four weeks or more of summer employment with a maximum cumulative allowance of 180 days.

7.2.4 Sick-leave may be extended beyond the limitations noted above in special instances. These special instances will require case studies to be presented by the individuals, the Association, department heads, and/or principals through the usual channels to the proper committee of the Board.

7.2.5 For new teachers employed by the Board, allowance for sick-leave shall not be operative until the individual has reported for duty.

7.2.6 The sick-leave allowance during the year of service for teachers whose employment is subsequent to the beginning of the school year and for those who terminate their services prior to the expiration of such year shall be pro-rated according to the ratio that the number of days of possible service bears to the total number of days of service during that contract year for teachers of the particular classification with which the teacher is identified.

7.2.7 Upon retirement, a teacher shall be allowed an amount of money equal to 15 per cent of the value of his accumulated sick-leave based on his annual salary at the time of retirement.

7.3 Personal Leave

7.3.1 All teachers under contract may be allowed leave from their responsibilities chargeable to their sick-leave allowance, without loss of pay for a maximum of two days during each school year for such personal reasons as:

7.3.1.1 Funerals (not covered under bereavement)

7.3.1.2 Weddings

7.3.1.3 Community service obligations

7.3.1.4 Religious holidays

7.3.1.5 Serious emergencies subject to approval of the principal

7.3.1.6 Serious illness of immediate family members not living in the home (immediate family as defined under bereavement leave). See 7.5.

7.3.1.7 One day leave to receive a college degree

7.3.1.8 One day leave to attend the graduation of a member of the teacher's immediate family from a high school or post high school institution. (Immediate family as defined under bereavement leave.)

7.4 Personal Injury Benefits

7.4.1 Whenever a teacher is temporarily absent from school and temporarily unable to perform his duties as a result of personal injuries incurred in the scope and course of his employment, he will be paid his full salary for the period of such temporary absence not to exceed his accumulated sick leave. After such time the daily rate fixed by the State Industrial Commission will take effect.

7.5 Bereavement Leave

7.5.1 Any teacher under contract with the Board shall be entitled to a nondeductible leave of absence from service as necessary in the event of a death in his or her immediate family.

7.5.1.1 Up to five days leave in event of a death in the teacher's immediate family. Immediate family shall mean: (1) husband and wife, (2) father, mother, brother, sister, son or daughter or persons who have assumed these roles, (3) or other persons for whom the teacher has assumed responsibility.

7.5.1.2 One day for funeral plus not more than two days travel time, is necessary, for brother-in-law, sister-in-law, daughter-in-law, son-in-law, mother-in-law, father-in-law, grandchildren and grandparents.

7.6 Temporary Leave

7.6.1 Teachers shall be granted the following non-deductible temporary leaves of absence with pay during each school year:

7.6.1.1 The time necessary for appearances in any legal proceeding connected with the teacher's employment or with the school system or in any other legal proceedings if the teacher is required by law to attend. (Less any remuneration received for such service.)

7.6.1.2 The Superintendent, or his designee, may grant permission to teachers to attend educational meetings without loss of pay.

7.6.1.3 Application for leaves of absence under this Article are to be submitted in advance to the principal for clearance.

7.7 Compulsory Military Service

7.7.1 Teachers employed by the Board of Education who leave for service in the Armed Forces shall be granted a military leave of absence. Such leave of absence shall be for three months following honorable discharge from the service. Requests for reinstatement in the employ of the Board of Education may not be granted if made more than three months after discharge from the Armed Services.

7.7.2 Teachers on military leave will receive upon re-employment by the Board of Education the same salary which they would have received had they continued in the service of the Board, i.e., they shall have the benefit of salary increments granted the regular teachers in their absence and shall be subject to reductions, if any, imposed upon the teachers.

7.7.3 Teachers who enter the services of the American Red Cross in time of national emergency on full-time basis will be entitled to military leave with all the privileges granted those who enter the Armed Forces.

7.7.4 Military leaves of absence will be granted only on the basis of the official orders or letters of appointment which must be filed in the office of employee personnel.

7.8 Maternity Leave.

7.8.1 A married woman may be granted a maternity leave of absence up to two years and, upon request, be released from the terms of her contract without prejudice. Requests for such leave of absence must be made by the teacher herself, or by her physician, not later than four months prior to the time of the anticipated birth of the child. With a thirty-day clause in her contract, this means that the maternity leave must become effective not later than three months prior to the time of the anticipated birth of the child. A medical statement as to anticipated delivery date may be required.

7.8.2 Where a known pregnancy exists, a teacher should not sign a contract nor begin a new year of teaching.

7.8.3 Evidence of falsification with respect to date of termination as outlined in the Rules and Regulations of the Board may result in referral for unethical conduct.

7.9 Sabbatical Leave

7.9.1 Sabbatical leave for professional employees is provided under the following regulations:

7.9.1.1 Applicants must have completed a minimum of six consecutive years of teaching experience before being eligible for a sabbatical leave.

7.9.1.2 Applications made upon forms to be furnished by the Board shall be filed at least sixty days before the date upon which the sabbatical leave is to begin.

7.9.1.3 No person is to be given such leave of absence more often than once in seven years.

7.9.1.4 Not more than ten professional employees are to be absent on sabbatical leave at any one time.

7.9.1.5 The applicant will receive $1,250 per semester, payable $250 per month during the period of absence from service. Payment will be made for a maximum of two semesters.

7.9.1.6 A person who accepts a sabbatical leave of absence must signify intentions of returning to the Salt Lake City School System for two years. Such a person is assured re-employment, and upon return, the teacher shall be placed on the appropriate step in the salary schedule as though such teacher had not been on leave.

7.9.1.7 In case a teacher who has taken advantage of sabbatical leave fails to return to service as provided above, all monies received from the Board while attending school are to be returned to the Board including the insurance premiums paid by the Board for the benefit of the teacher.

7.9.1.8 All teachers on sabbatical leave shall be entitled to all insurance benefits provided by the Board at the expense of the Board.

7.10 Attendance at Conventions

7.10.1 Leaves of absence, with or without pay, shall be granted for the purpose of attending conventions, workshops, committee meetings, etc.

7.10.2 The following policy has been outlined for determining teacher attendance at conventions:

7.10.2.1 Program is to be coordinated by the director of employee personnel.

7.10.2.2 Travel will be by car whenever feasible, four passengers to the car, with driver reimbursed at 9¢ per mile.

7.10.2.3 Per diem allowance will be $20.

7.10.2.4 Specialists, principals, and Association may nominate candidates for subject matter conventions.

7.10.2.5 Teachers may nominate themselves.

7.10.2.6 The Board will continue to grant permission to the Association to send representatives to organizational conventions such as TEPS, Classroom Teachers, NEA, etc.

7.10.2.7 If it is deemed advisable, permission may be granted to teachers to attend conventions at their own expense after the budget has been encumbered.

ARTICLE 8

Salaries

8.1 Salary Policy

8.1.1 Effective August 29, 1968, the salary schedule for all teachers covered by this Agreement shall be as set forth in Appendix A which is made a part of this Article by this reference.

8.1.2 Salary negotiations for 1969-70 will be negotiated according to Articles 4 and 5 of this Agreement.

8.1.3 Teachers assigned to summer programs or leadership in curriculum development which extend beyond the "B" Commitment shall receive additional compensation at their regular rates of pay.

8.1.4 The Board and Association agree that matters concerning additional compensation for duty beyond the regular school day need continuing study and investigation. These will be taken up by the District Improvement Council for possible recommendation.

8.1.5 A District salary policy for teachers covered by this Agreement shall be set forth in Appendix B which is made a part of this Article by this reference.

8.2 Criteria for Additional Credit Allowance

8.2.1 Recognizing that professional growth is a continuing responsibility of the professional throughout his career, the Salt Lake City School District has established intermediate salary lanes between degrees for those teachers who complete advanced study.

8.2.2 The following guidelines have been provided for determining placement on any of these lanes:

8.2.2.1 As a general rule only university credit approved by the District Certification Review Committee, graduate or undergraduate, earned after the degree and certification will count.

8.2.2.2 When credit is rejected by the district, the employee may request a review by the full District Certification Review Committee.

8.2.2.3 Credit must be verified by official transcripts and approval of the District Certification Review Committee.

8.2.2.4 Credit may be earned in residence, in the continuing education program, or by home study.

8.2.2.5 The District should assume leadership in cooperation with the universities in setting up in-service programs to fit the needs of the District and carrying college credit.

8.3 A substitute teacher's salary schedule. See Appendix C

8.4 Placement on Salary Schedule

8.4.1 New teachers employed by the Board of Education shall receive such recognition for experience prior to entering the employ of the Board of Education as is approved by the Coordinator of Certificated Personnel. Salary increments shall begin from the approved number of years of experience.

8.4.2 After a teacher has been employed by the Board, advancement on the salary schedule because of experience shall be in accord with the following definition of a year of experience. A year of experience shall be counted as follows:

8.4.2.1 Any teacher who is regularly employed full time and who actually works in any one fiscal year a number of days equal to or greater than one-half of the number of work days in the fiscal year for the class of employees with which he is associated.

8.4.2 Adjustments in salaries due to completion of additional training will be made at the time re-employment contracts are sent out and at the September and October meetings of the Board.

8.4.4 Teachers new to the Salt Lake City School District may be given credit for previous experience equal to nine years and in addition may be allowed up to three years for military experience. The present formula for evaluating teaching experience is as follows:

8.4.4.1 Up to 5 years -- full credit. 6 years -- 5 years allowed. 7 or 8 years -- 6 years allowed. 9 or 10 years -- 7 years allowed. 11 or 12 years -- 8 years allowed. 13 or more years -- 9 years allowed.

8.4.4.2 Military experience is evaluated as follows: 6 months to 17 months -- 1 year. 18 months to 29 months -- 2 years. 30 months or more -- 3 years.

ARTICLE 9

Teacher Protection

9.1 Teacher Protection From Assaults

9.1.1 Any teacher party to any assault in connection with his employment shall immediately make a written report of the circumstances thereof to his principal and shall make supplemental written reports attaching copies of any summons, complaint, process, information, indictment, notice or demand served upon him in connection with such assault within five days after he has been served therewith, and reporting the final disposition of any such proceeding.

9.1.2 Such reports will be forwarded to the Board through the Superintendent's Office and, in the event civil or criminal proceedings are brought against the teacher, the Board will comply with any reasonable request by the teacher for information in the Board's possession not privileged by law or policy of the District and relevant to the incident reported.

9.1.3 If criminal or civil proceedings are brought against a teacher alleging that he committed an assault in connection with his employment, such teacher, after making the reports described in Section 9.1.1 above, may request the Board's cooperation in the preparation of his defense. Upon receipt of such request, the Board will instruct its attorney to consult with the teacher's legal counsel and cooperate with him in the preparation of the teacher's defense, insofar as the interests of the teacher and the District are not conflicting.

9.1.4 Nothing in this Article shall prejudice any action that the Board might otherwise take regarding the teacher's employment status.

9.1.5 To the extent, and only to the extent, that the District may be liable for the teacher's conduct under applicable Utah Law, the Board agrees to provide liability insurance coverage for the benefit of the

teacher, such coverage to be of the same scope and nature, and with the same limits, as liability insurance carried by the District for its own protection, pursuant to the provisions of the "Utah Governmental Immunity Act."

9.1.6 The Board and the Association reaffirm their support of Board of Education policy regarding discipline of pupils. All pupils are to be busy at education work as directed by teachers and principals. Routine problems of control are the responsibility of the teacher in the classroom and the principal in the building. It is expected that proper order be maintained at all times in all school activities. Such disciplinary actions as are necessary may be taken by teachers and principals to achieve this purpose. Such measures of pupil self-government should be encouraged and granted as will result in growth of good behavior on the part of the pupils. (Chapter 30, Title 63, Utah Code Annotated 1953.)

ARTICLE 10

Teacher Evaluation

10.1 Evaluation of a teacher's performance shall be conducted in accordance with acceptable personnel practice. The teacher will be fully informed by the principal as to how such evaluation shall be conducted.

10.2 Teachers will be given a copy of any evaluation report and will discuss such report with the person preparing it before it is submitted to the permanent central office teacher's file. After such review, the teacher shall affix his signature to indicate that he is aware of the contents of the report. Such signature does not necessarily indicate agreement with the content of such material.

10.3 Participation in other than school activities shall not constitute a valid basis for evaluating a person's classroom teaching performance category.

10.4 Evaluation procedures for teachers covered by this Agreement shall be as set forth in Appendix D which is made a part of this Article by this reference.

ARTICLE 11

Teacher Files

11.1 All teacher permanent central office files shall be maintained under the following conditions:

11.1.1 All materials placed in the permanent central office teacher's file subsequent to initial employment materials shall be available to the teacher at his request for inspection.

11.1.2 Material originating within the School District and which is derogatory to a teacher's conduct, service, character or personality shall not be placed in a teacher's file unless the teacher has had an opportunity to read the material. The teacher shall acknowledge that he has read such material by affixing his signature on the actual copy to be filed. Such signature does not necessarily indicate agreement with the content of such material.

11.1.3 The teacher shall have the right to answer any material filed, and his answer shall be reviewed by the director of employee personnel and attached to the file copy.

ARTICLE 12

Professional Behavior

12.1 Teachers are expected to comply with rules, regulations, and directions adopted by the Board or its representatives which are not inconsistent with the provisions of this Agreement, provided that a teacher may refuse to carry out an order which threatens physical safety or well-being.

12.2 The Board recognizes that the Code of Ethics of the Education Profession is considered by the Association and its membership to define acceptable criteria of professional behavior. This Code of Ethics is Appendix E to this Agreement and is made a part of this article by this reference. The Association shall deal with ethical problems in accordance with the terms of such Code of Ethics of the Education Profession.

12.3 The Association recognizes that abuse of sick leave or other leaves, chronic tardiness or absence, willful deficiencies in professional performance, or other violations of discipline by a teacher reflect adversely upon the teaching profession and create undesirable conditions in the school. Alleged breaches of discipline or the Code of Ethics of the Education Profession shall be promptly reported to the offending teacher and to the Association. The Association shall use its best efforts to correct breaches of professional behavior by any teacher and, in appropriate cases, shall institute proceedings against the offending teacher.

12.4 A teacher, if he chooses, will be entitled to have present a representative of the Association when he is being reprimanded, warned or disciplined of any infraction of rules or delinquency in professional performance. When a request for such representation is made, no final action will be taken with respect to the teacher until such representative of the Associaton is present.

12.5 No teacher shall be disciplined, reprimanded, reduced in rank or compensation or deprived of any professional advantage without just cause. Any such discipline, reprimand or reduction in rank, compensation or advantage, including adverse evaluation of teacher performance asserted by the Board or representative thereof shall be subject to the professional grievance procedure as set forth in Article 6. All information forming the basis for disciplinary action will be made available to the teacher and the Association.

ARTICLE 13

Transfers and Assignments

13.1 Voluntary Transfers and Assignments

13.1.1 No later than March 1st of each year, the Personnel Superintendent shall post in all school buildings a list of the possible vacancies which will occur during the following school year.

13.1.2 Teachers who desire a change in grade and/or subject assignment or who desire to transfer to another building shall file a written statement of such desire with the Personnel Superintendent, not later than March 15th. Such statement shall include the grade and/or subject to which the teacher desires to be assigned and the school or schools to which he desires to be transferred, in order of preference.

13.1.3 No later than May 10th of each school year, the Personnel Superintendent shall post in all school buildings a supplemental list of known vacancies which will occur during the following school year.

13.1.4 No later than May 20th, teachers may file an application for reassignment or transfer to positions listed on the supplemental list of vacancies.

13.1.5 Where feasible, assignments of new teachers in the school system shall not be made until all pending requests for reassignment or transfer have been acted on.

13.1.6 The Personnel Superintendent shall make available to the Association requested information pertaining to individual reassignments and/or transfer.

13.1.7 In the determination of requests for voluntary reassignment and/or transfer, the convenience and wishes of the individual teacher will be honored to the extent that they do not conflict with the instructional requirements and best interests of the school system. If more than one teacher has applied for the same position, the teacher best qualified for that position shall be appointed, and, qualifications being substantially equal, seniority in the school system shall control.

13.2 Involuntary Transfers and Assignments

13.2.1 The Board and the Association recognize that some involuntary transfer of teachers from one school to another or reassignment within a school is unavoidable. They also recognize that under normal circumstances transfer or reassignment of teachers should be held to a minimum. Therefore they agree as follows:

13.2.1.1 Notice of an involuntary transfer or reassignment shall be given to teachers as soon as practicable and, under normal circumstances, not later than June 1.

13.2.1.2 When involuntary transfer or reassignment is necessary, volunteers from among those affected will be transferred or reassigned first. A teacher's area of competence, major and/or minor field of study, quality of teaching performance, and length of service in the Salt Lake School District will be considered in determining which teacher is to be transferred or reassigned.

13.2.1.3 An involuntary transfer or reassignment will be made only after a meeting between the teacher involved and the Personnel Superintendent, at which time the teacher will be notified of the reasons therefor. In the event that a teacher objects to the transfer or reassignment at this meeting, upon the request of the teacher, the Association will meet with the Board's representative to discuss the matter.

13.2.1.4 Openings in the school system will be discussed with the teachers being involuntarily transferred or reassigned. Such teachers may request the positions to which they desire to be transferred. Teachers being involuntarily transferred or reassigned shall have preference over those seeking voluntary transfer or reassignment. In consideration of involuntary transfers, those best qualified for a particular position shall receive priority, and, qualifications being substantially equal, seniority in the school system shall control.

13.2.1.5 The Personnel Superintendent shall make available to the Association requested information pertaining to individual reassignments and/or transfers.

13.2.1.6 Teachers who elect the "B" schedule must consider themselves as being available for transfer and changes in placement, or assignment, as necessary.

13.2.1.7 Transfers during the school year will be held to a minimum.

13.2.1.8 Teachers who are sixty years of age will not be transferred except under unusual circumstances or by their request.

13.2.1.9 Teachers and administrators will be consulted before a decision is made.

13.2.1.10 Transfers will not be automatic but based on needs.

ARTICLE 14

Termination Procedures

14.1 Orderly Dismissal Procedures

14.1.1 Before any teacher may be dismissed for any cause, he shall be given a written notice 15 days prior to the effective date of dismissal signed by the Superintendent or his representative, stating the causes for dismissal. Such written notice may be delivered in person or sent by registered mail addressed to the teacher at his last known post office address. A copy of the "Personnel Procedures for Certificated Employees" shall be included with the notice.

14.1.2 After receipt of such notice the teacher shall at his option be entitled to hearings before (1) the Superintendent of Schools, (2) the appropriate committee of the Board of Education, and (3) the Board of Education. The teacher may call the Association, school staff, and such other witnesses as he may deem necessary. Said hearing shall commence within 30 days after receipt of such notice.

14.1.3 If the interests of the school or schools require it for sufficient and just cause, a teacher may be suspended pending a hearing and the rendering of a decision.

14.1.4 Any hearing held for the dismissal of a teacher shall be concluded by a decision in writing within ten days after the termination of the hearing. An official copy of such decision shall be furnished the teacher affected within five days after the decision has been rendered. The Association and principal will be notified of the decision.

14.1.5 In all cases where the final decision is made in favor of the teacher, the charge or charges against him shall be expunged from the records. If, pending final decision as to his dismissal, such teacher has been suspended and, therefore, has suffered loss of salary, he shall be reimbursed in full for the time lost.

14.2 Reduction of Staff

14.2.1 Whenever it becomes necessary to decrease the number of teachers in the school district because of a decrease in the number of pupils attending schools in the district, or because of the discontinuance of a particular service, the Board of Education may suspend as many teachers as may be necessary at the close of the school year. Notice of such action shall be given to the teacher concerned by May 1.

14.2.2 In the event of such staff reduction, teachers shall be suspended in the inverse order in which they were employed, provided, however, that no contract teacher may be suspended under the provisions herein contained while a probationary teacher is

retained or employed to render a service which a contract teacher is certificated and competent to render.

14.2.3 No teacher suspended as aforesaid shall be prevented from securing other employment during the period of such suspension.

14.2.4 Teachers thus suspended shall be reinstated to continuing status in the inverse order in which they were suspended if and when positions become vacant or when positions are created for which such teachers are qualified and are available within a reasonable length of time. Such teachers shall be given notice far enough in advance for them to accept the invitation to return.

14.3 Release from Contract

14.3.1 An individual teacher contract may be terminated by mutual agreement between the Board and the teacher at any time. An individual teacher contract may also be terminated by 30 days notice except during the 30 day period of time prior to opening institute in the fall.

14.3.2 Liquidated damages of $100 shall be assessed against any teacher who has failed to comply with paragraph 14.3.1 above.

ARTICLE 15

Teaching Hours and Teaching Load

15.1 The regular school day for Elementary and Junior High teachers begins at 8:30 a.m. and closes at 4:00 p.m. For High School teachers the regular school day begins at 8:15 a.m. and closes at 4:00 p.m. Teachers scheduled to begin their regular teaching duties earlier, or to continue until a later time will not be required to be on duty longer than the total hours of the regular day without additional compensation or compensatory time off, except as is provided in Section 15.3 below. The principal shall have authority to permit teachers divergence from the regular school day.

15.2 The work year of teachers covered by the classroom teachers' salary schedule (other than new teachers who may be requested to attend presession orientation meetings) shall be determined by the official school calendar. Teachers shall be paid additional compensation for employment prior to or after the dates scheduled on the official school calendar. The compensation is to be determined on the basis of the teachers' current salary schedule.

15.3 The principal, in consultation with the School Improvement Council, will make decisions relating to faculty meetings and evening meetings in each school.

15.4 Professional or in-service meetings are conducted on a district level on Tuesdays or Wednesdays by specialists. Attendance at any of these meetings is voluntary but encouraged. Specialists should schedule in-service meetings with the Director of Curriculum and Instruction in order that conflicts can be avoided. Notice of in-service meetings will be listed in the SATURDAY LETTER and principals are expected to inform faculties of meetings being held that are of concern or interest to them. These meetings will not extend beyond 5:00 p.m.

15.5 The fourth Monday of each month is reserved for meetings of the Salt Lake Teachers Association except that in December it shall be the third Monday.

15.6 All teachers shall have an uninterrupted daily duty-free lunch period. The lunch period for high school and junior high school teachers shall be the same length as the students'. The lunch period for elementary school teachers shall be no shorter than a period five minutes less than the students' lunch period. Teachers shall be permitted to leave the building during their lunch periods. The school office will be notified when a teacher plans to be out of the building during this time.

15.7 Teachers shall be permitted to leave the school during unassigned periods with the permission of the principal.

15.8 The principal and the School Improvement Council in elementary schools will develop wherever feasible a schedule to provide each teacher with a daily planning period.

15.9 The Board and Association agree that matters concerning class size, flexible scheduling, maximum teaching load and other related subjects, need continuing study and investigation. These will be taken up by the District Improvement Council for appropriate recommendation.

ARTICLE 16

Vacancies in Other Than Classroom Teaching Positions

16.1 The Administration shall be responsible for making available job descriptions for personnel in administrative, supervisory, teaching, and auxiliary assignments. A manual will be developed which will include the official title, function, responsibility and authority, typical duties, and specification profile of each job classification. A copy of the current salary schedule will be included in the manual. This manual, when developed, shal be placed in the faculty room, library, or other appropriate place in each school or department.

16.2 Teachers who desire consideration for vacancies in other certificated positions may submit a letter of application to the Assistant Superintendent in Charge of Personnel.

16.3 The Assistant Superintendent in Charge of Personnel shall acknowledge promptly in writing the receipt of such application.

ARTICLE 17

Teacher Facilities

17.1 Each school will have the following facilities:

17.1.1 As soon as possible space will be provided in each classroom in which teachers may safely store instructional materials and supplies, provided that the Board shall not be held to be the insurer of the teachers' personal belongings stored in such space.

17.1.2 A desk and chair for each teacher will be provided except in unusual circumstances.

17.1.3 As soon as possible well-lighted and clean teacher rest rooms will be provided for both men and women.

17.1.4 As soon as possible a work room for teachers will be provided containing equipment and supplies to aid in the preparation of instructional materials.

17.1.5 As soon as possible a furnished room will be provided to be used as a faculty lounge. Such room will be in addition to the aforementioned teacher work room.

17.1.6 Telephone service other than the office telephone will be available to teachers. Business use of this phone shall have priority.

17.1.7 As soon as possible parking facilities will be provided at each school for staff.

17.2 When new schools are constructed, they will include teacher facilities of the nature noted above.

ARTICLE 18

Use of School Facilities

18.1 The Association will have the right to use school buildings for meetings, without cost, as approved by the appropriate administrative office provided that such meetings do not interfere with the normal operation of the school.

18.1.1 Meetings of Association groups within a school shall be arranged for in advance through the office of the principal.

18.1.2 General Association meetings shall be arranged for by request to the Department of Buildings and Grounds.

18.2 The Association will have the right to place notices, circulars and other material on designated school bulletin boards and in teachers' mail boxes.

18.2.1 Authorized representatives of the Association will assume responsibility for posting or distributing of material for the Association.

ARTICLE 19

Cooperating Teachers
and
Teacher Instructional Specialist

19.1 All teachers who are assigned student teachers from any of the training institutions shall be compensated according to the policy of each institution and this amount is to be matched by the Board of Education, payable at the conclusion of the student teaching experience.

19.2 It is realized that revisions and adjustments must be made in pilot studies from time to time, therefore, the Board and the Association agree to such expansion of the Teacher Instructional Specialist pilot study as may be mutually developed. It is understood that a comprehensive evaluation of all aspects of the program will be made during the 1968-69 school year under the direction of the District Improvement Council. Following the evaluation, the District Improvement Council will make recommendations regarding the program.

ARTICLE 20

Summer School Program

20.1 Positions in the Salt Lake City Summer School and continuing education programs shall be filled first by teachers regularly employed in the School District who have elected the "B" schedule.

20.2 In filling such positions, consideration shall be given to a teacher's area of competence, experience, major and/or minor field of study, quality of teaching performance, attendance record, and length of service in the School District. If qualifications are substantially equal, length of service in the School District will be the determining factor.

20.3 All openings for positions in these programs shall be advertised as early as possible so interested teachers may apply.

20.4 The Assistant Superintendent of Personnel shall acknowledge promptly in writing the receipt of such application.

20.5 Teachers currently employed and who plan to return to the district shall have preference.

ARTICLE 21

Times of Salary Payment and Payroll Deduction

21.1 Each teacher shall have, at the time contracts are offered, the option of being paid 1/12 of his total annual salary on the first of each month commencing October 1, and continuing for 12 months, or to be paid 1/10 of his total annual salary commencing October 1 and continuing for 10 months with the 10th payment to be received by July 1. It shall be understood that the Board will retain $100 to cover liquidated damages where an individual teachers' contract is broken. The $100 will be paid to the teacher who has chosen the 10 month option on September 1. If the first day of the month falls on a Saturday, Sunday, holiday, or day of a recess period, the pay will be due on the last work day preceding the first of the month. The payments for July and August will be mailed to the employee provided an address has been filed in the office of the Clerk-Treasurer for that purpose.

21.2 Upon authorization from the teacher, the Board agrees to make payroll deduction for, but not limited to the following: professional dues for SLTA, UEA, NEA, UCIE, Credit Union, Insurance, Welfare Association, and United Fund.

ARTICLE 22

Insurance

22.1 The Board shall continue to make available to teachers and their dependents, group insurance for hospital, surgical, and extended medical benefits and life insurance as provided by Policy No. 140 36 H entered into with the Equitable Life Assurance Society of the United States or an an equivalent or better policy hereinafter entered into. The employee shall have, also, the benefit of such group insurance during the summer vacation period and until the beginning of the next official school year, provided the employee shall have completed service for the full period of this contract.

22.2 This policy shall be reviewed annually by the Association and the Board and adjusted to current medical and hospital charges.

ARTICLE 23

Annuities

23.1 In addition to the foregoing salary provisions, all employees who elect to obtain an annuity contract and file such written election in the office of the Clerk-Treasurer on or before September 10 and January 10 of each year, and conditioned upon the employee remaining in the employment of the Board for the term of his employment, shall be entitled to a non-forfeitable annuity contract from a company of his election, with premiums paid by the Board in amounts elected. The Board shall charge the employee and deduct from the current school year's final salary payment to the employee the annuity premium paid for any month or months for which the employee has drawn and been paid unearned sick leave.

23.2 It is understood and agreed between the Board and the employee that the annuity premium payments by the Board, hereinabove provided for, are not in substitution of or in lieu of additional salary for which the Board is in any way obligated to the employee and the employee at no time during the contract period has the right to additional salary in excess of the amount provided for in his contract in the event the annuity contract is cancelled at the request of or as a result of any action taken by the employee.

23.3 While it is intended that the annuity premium payments to be made by the Board will be tax exempt to the employee, pursuant to the provisions of Section 403 (1)(1)(a), Internal Revenue Code, as amended by Public Law 87-370, Section 3(a)* (3), approved October 4, 1961, it is understood and agreed that the Board does not guarantee the non-taxability to the employee of such premium payments from tax withholding under the Federal Insurance Contribution Act. It is further understood and agreed that the Board does not in any way guarantee the annuity contract.

23.4 Continuation of employee annuity premium payments by the Board throughout subsequent contract school years shall be entirely within the discretion of the Board.

23.5 In the event the employee is released during the school year, the Board's obligation hereunder to pay annuity premium payments will terminate, effective as of the date of employment release and the annuity contract purchased on behalf of such employee will be surrendered by the Board to such employee.

23.6 The teacher will receive an annual notice of his yearly salary and the amount of his annuity with his contract.

ARTICLE 24

District Improvement Council

24.1 The District Improvement Council shall be composed of four members designated annually by the Association, the Superintendent or his designee and three persons designated by him annually. The chairman will be determined annually by the Council.

24.2 The District Improvement Council shall meet at least once a month during the school year to discuss and study subjects mutually agreed upon relating to the school system.

24.3 The District Improvement Council is empowered to appoint committees to study and report upon subjects agreed upon by the Council. On completion of its study and report on the subject assigned to it, each committee shall be considered dissolved, and once dissolved no committee shall be reactivated except by the Council.

24.4 The clerical expenses of the District Improvement Council and its subcommittees shall be paid by the Board.

24.5 Representatives on the District Improvement Council shall be released from school duties for monthly meetings of the District Improvement Council without loss of salary. Members of subcommittees may also be excused without loss of pay.

ARTICLE 25

School Improvement Council

25.1 A School Improvement Council shall be established in each school from the faculty of that school to provide for orderly and professional means of improving the educational program and conditions within the school.

25.2 Minimum Membership on the Council will be as follows:

25.2.1 Elementary Schools: One representative from the primary grades. One representative from the intermediate grades. The SLTA Faculty Representative. Principal.

25.2.2 Junior High Schools: One representative from the non-academic subject areas. One representative from the academic subject areas. The SLTA Faculty Representative(s). Administrative staff -- principal and/or administrative assistant. Representative from the counseling staff. Faculty advisor to student government (if other than administrator).

25.2.3 Senior High Schools: One representative from the non-academic subject areas. One representative from the academic subject areas. SLTA Faculty Representatives. Representative from counseling staff. Administrative staff -- principal and/or assistant administrators.

25.2.4 Additional participation or representation on the Council will be determined by the Council as needs arise.

25.3 Teacher representatives will be elected by the teaching staff. The counselors will elect their representative. The faculty advisor to student government is usually appointed by the principal.

25.4 It shall be possible for individual members of the Council to introduce any items of business or points of view to be considered by the Council.

25.5 The activities of the Council shall be reported to all members of the staff during subsequent faculty meetings.

25.6 The Council should meet monthly and oftener if business dictates. The Chairman will be elected by the Council. The operating procedures of the Council will be determined by the Council.

25.7 The Council work shall not carry over into the administration of policies and programs.

25.8 Items beyond the scope of the School Improvement Council may be referred to the District Improvement Council in writing by the chairman of the School Improvement Council.

ARTICLE 26

Maintenance of Standards

26.1 This Agreement shall not be interpreted or applied to deprive teachers of professional advantage heretofore enjoyed unless expressly stated herein.

26.2 General contract duties of any teacher or the general contract responsibilities of any teaching position in the School District will not be substantially altered or increased without prior consultation with the Association.

ARTICLE 27

Duration

27.1 The provisions of this agreement will be effective upon ratification and will continue and remain in full force and effect until July 1, 1969. Said

agreement will automatically be renewed and will continue in full force and effect for additional periods of one year unless either the Board or the Association gives written notice to the other not later than ninety (90) days prior to the aforesaid expiration date or any anniversary thereof of its desire to reopen this agreement and to negotiate over the terms of a successor agreement.

ARTICLE 28

Binding Effect

28.1 This Agreement shall be binding upon the parties and their respective successors during its existence; provided, however, that the parties recognize that the Board cannot, and does not, commit the expenditure of funds not appropriated or levied, or otherwise available. Accordingly, the obligations of the Board and the District hereunder are subject to and conditioned upon availability of public funds to implement this or any successor agreement.

IN WITNESS WHEREOF, the parties hereunto set their hands and seals this 20th day of August 1968.

THE BOARD OF EDUCATION OF SALT LAKE CITY

By_____, President

THE SALT LAKE TEACHERS ASSOCIATION

By_____, President

APPENDIX A

TEACHERS' SALARY SCHEDULE FOR THE SCHOOL YEAR 1968-69

	Bachelor's Degree		Bachelor's + 30		Bachelor's + 60		Master's Degree		Master's + 45		Doctor's Degree	
	A	B	A	B	A	B	A	B	A	B	A	B
1	$5,484	$	$5,634		$5,814		$6,084		$6,264		$6,864	
2	5,658		5,808		5,988		6,258		6,438		7,038	
3	5,832		5,982		6,162		6,432		6,612		7,212	
4	6,036	$6,108	6,192	$6,264	6,372	$6,444	6,642	$6,714	6,822	$6,894	7,422	$ 7,494
5	6,240	6,384	6,402	6,546	6,582	6,726	6,852	6,996	7,032	7,176	7,632	7,776
6	6,444	6,660	6,612	6,828	6,792	7,008	7,062	7,278	7,242	7,458	7,842	8,058
7	6,648	6,936	6,822	7,110	7,002	7,290	7,272	7,560	7,452	7,740	8,052	8,340
8	6,852	7,212	7,032	7,392	7,212	7,572	7,482	7,842	7,662	8,022	8,262	8,622
9	7,056	7,488	7,242	7,674	7,422	7,854	7,692	8,124	7,872	8,304	8,472	8,904
10	7,260	7,764	7,452	7,956	7,632	8,136	7,902	8,406	8,082	8,586	8,682	9,186
11			7,662	8,238	7,842	8,418	8,112	8,688	8,292	8,868	8,892	9,468
12					8,052	8,700	8,322	8,970	8,502	9,150	9,102	9,750
13							8,532	9,252	8,712	9,432	9,312	10,032
14									8,922	9,714	9,522	10,314
15											9,732	10,596
16											9,942	10,878

1. Pay for teachers of remedial reading is $180 higher than the schedule for regular classroom teachers.
2. Pay for teachers of special classes and speech-correction teachers is $390 higher than the schedule for regular classroom teachers.
3. Pay for counselors is 1/18 higher than the schedule for regular classroom teachers. Services of counselors are required before and/or after the regular school term for ten days.
4. Pay for athletic coaches in the senior high school is $480 higher than the schedule for regular classroom teachers.
5. Teachers assigned to summer school, leadership in curriculum development, or other extra curricular duties, shall receive compensation at their regular rates of pay.

APPENDIX B

Salary Policy

A "multi-track" salary schedule has been adopted by the Board of Education. Advancement on the salary schedule is based on training, experience, and commitment. Increments to an established maximum implies growth in efficiency through a program which combines continued preparation and on-the-job practice.

The Salt Lake City School District has established a salary schedule structure which attempts to provide professional salaries for professional employees. The bachelor's degree provides a minimum base from which all professional salaries are derived.

The salary structure known as the "inverted" triangle provides the pattern for salary determination. This provides:

1. Increments for successful teaching experience.

2. Increments for increased training at significant levels of attainment such as, bachelor's degree plus 30 and 60 quarter hours, master's degree, master's degree plus 45 quarter hours, and doctor's degree.

3. That increased training will also result in an increase in the number of experience increments allowed to reach the maximum.

4. For doubling the base salary at some point of training and experience.

The "A" and "B": salary concept provides for additional increments based on a full commitment to the educational program of the School District, plus additional pay for extended time, additional services, and leadership roles. This salary structure also provides a choice whereby teachers, who for personal reasons are unable to accept additional tasks, may be relieved of such responsibilities.

Contract teachers have the privilege of choosing between the "A" and "B" schedules. This choice is to be made annually, with an understanding of what is expected. Examples of activities and responsibilities in addition to the regular classroom teaching which are common to both the "A" and "B" schedules are:

1. Membership on, but not chairman of, local building committees, such as: Program Committees, Professional Committees, Social Committees, etc.

2. Club sponsorship related to teaching assignment such as: Language Clubs, Model United Nations, Pep Club, etc.

3. Supervision of students during the school day, according to district policy, such as: Halls, Assemblies, During structured period, if necessary, etc.

4. Attendance at meetings according to district policy, such as: Principal's meetings, meetings called by specialists, etc.

In addition to the common responsibilities outlined for teachers on both "A" and "B" schedules, those teachers who elect the "B" schedule will be expected to fulfill responsibilities in the areas indicated. Examples of such additional activities and responsibilities are:

1. Act as cooperating teachers in the student teaching program.

2. Be available for transfer and changes in placement or assignment, as necessary, such as: To staff new schools; adjustments because of enrollment changes; to balance staff to meet specific needs of various schools; to promote professional growth; to establish student teaching centers; etc.

3. Serve on district committees, such as: Curriculum Development, Personnel Policies, Professional Relations, Institute Committees, etc.

4. Serve in innovative teaching situations where qualified and interested: Within the school of present assignment; by transfer to other schools or projects.

5. Chairmanship of local Building Committees, such as: Program Committees; Professional Committees; Social Committees, etc.

6. Accept leadership roles in professional organizations, such as: officers in local teachers organization; committee chairmanship, association faculty representative. It is expected that all teachers who elect the "B" schedule will affiliate with professional organizations.

7. Accept leadership roles in in-service training programs at the building level, such as: Department heads; curriculum development or research responsibility; etc.

8. Accept local leadership responsibilities in such activities as: building Audio-Visual coordinator; sponsorship or competitive student activities other than athletics; Junior Safety patrol sponsor; member of the School Improvement Council.

9. Club sponsorship, not related to teaching assignment, where qualified and interested, such as: bowling clubs, ski clubs, activity clubs, etc.

It is the intent of the "B" schedule program that the administrative staff, principals, specialists and the professional organizations will cooperate to assure an equitable distribution of responsibilities and will avoid the assignment of one teacher to several areas of responsibility.

Probationary teachers may, if they so desire, volunteer for service in areas where they are interested and qualified.

APPENDIX C

Schedule of Pay for Substitute Teachers

Class I

Teachers whose training is less than that required of a certificated teacher or certificated teachers with fewer than three years of experience will be paid $16.00 per day.

Class II

Teachers who have qualified for teaching certificates, whose certificates have lapsed, but who have had three or more years of teaching experience will be paid $18.00 per day.

Class III

Retired teachers or teachers who are fully certificated and have had three years or more of teaching experience will be paid $20.00 per day.

APPENDIX D

Teacher Evaluations

The term "evaluation" is used to describe the philosophy, criteria, and procedures by which professional judgments are made regarding each teacher's performance. The several reasons for periodic staff evaluations are:

1. To upgrade through professional counseling and supervision the performance of all classroom teachers.

2. To identify standards and conditions of professional service in the school system.

3. To provide a simple, permanent record of the quality of each employee's service.

4. To provide a basis for judgment with respect to the continued employment of the teacher.

5. To provide principals with a uniform instrument on which to make evaluations.

A. Probationary Teachers

Teachers who begin teaching in the Salt Lake School District without previous teaching experience must have a probationary period of three years.

Teachers who begin teaching in the Salt Lake City Schools after having had three or more years of teaching experience will have a probationary period which may vary from one to three years.

All teachers entering or returning to the System must be placed on first year probation for the first year, excepting those returning from sabbatical leave.

At the end of the first year those teachers whose work is considered to be outstanding will have their probationary status terminated and be considered as contract teachers.

At the end of the third year those teachers who are re-employed will be placed on contract status.

The above procedures may apply at any time after the total experience outside of Salt Lake City, plus that in Salt Lake City, exceeds three years.

1. Procedures for Evaluation

a. By January 15 of each year the principal will submit an evaluation of all probationary teachers assigned to his school provided they have been employed for at least two months.

b. On April 15 of each year the principal will submit a second evaluation for:

(1) All probationary teachers whose status has changed significantly since January.

(2) All teachers whose evaluations were "less than satisfactory" in January.

2. Procedures Following Evaluation

Teachers serving on probation shall be subject to the provisions of the annual probationary contract. "If in the judgment of the Board, the teacher is at any time during the term of his contract guilty of misconduct or insubordination or is incompetent or is not doing work satisfactory to the Board, or the retention of the teacher is not in the best interest of the schools, the teacher may be dismissed in accordance with Article 14 of this Agreement."

The following procedures will be used.

a. First-year probationary teachers whose work is considered to be unsatisfactory may be dismissed upon thirty days' notice after suitable attempts have been made to improve the performance of the teacher.

b. Second and third-year probationary teachers whose work is considered to be unsatisfactory shall be so notified in writing not later than February 1, by the Director of Employee Personnel.

c. Each written notice shall be followed by conferences between the director and the teacher; the specialist and the teacher; and the principal and teacher. The deputy superintendent in charge of curriculum should be invited to these conferences. The purpose of these conferences shall be to outline with the teacher ways and means for the improvement of his work. He shall be given careful, sympathetic, constructive help.

d. The teacher may call upon specialists for assistance. He also may have opportunity to visit an outstanding teacher in a comparable position as an aid to improving his work. He may be granted a change of assignment if such change is possible and is deemed wise.

e. Teachers whose ratings are unsatisfactory in January will be notified by the Office of Employee Personnel that the quality of their work is in question. Specialists will be alerted to the need for improvement for these teachers. If improvement is not indicated on the April 15 evaluations, and if re-employment will not be offered to them, they must be so notified by May 1.

f. At the termination of the probationary period of three years, a teacher shall be given status as a contract teacher or shall not be re-employed. However, any employee of the Board has the right to appeal as outlined in Article 14-1-2.

B. Contract Teachers

1. Evaluation Policy

Contract teachers are subject to evaluation at any time it is felt necessary to do so and may, as a result of the evaluation, be re-assigned to probationary status or proceedings for dismissal may be implemented.

a. A contract teacher whose work is considered unsatisfactory shall be notified in writing. The

first notice shall be given not later than February 1. If a second notice is necessary, it shall be given not later than May 1. Failure to receive written notice of unsatisfactory work shall be construed to mean that the teacher will be recommended for employment for the ensuing school year with the regular salary increase provided for in the salary schedule for the position.

b. Each notice of unsatisfactory work shall be made in triplicate. One copy shall be mailed to the teacher and one to the principal. The third copy shall be retained in the individual's folder.

c. Each written notice shall be followed by conferences between the director and teacher; the specialist and teacher; and the principal and teacher. The deputy superintendent in charge of curriculum should be invited to these conferences. The purpose of these conferences shall be to outline with the teacher ways and means for improvement of his work. He shall be given careful, sympathetic, constructive help.

d. The teacher may call upon specialists for assistance. He also may have opportunity to visit an outstanding teacher in a comparable situation as an aid to improving his work. He may be granted a change of assignment if such change is possible and deemed wise.

e. If, following notice of unsatisfactory work, the contract teacher shows sufficient improvement, he shall be allowed one year following the second notice to bring his work up to a satisfactory standard.

f. Any contract teacher notified in writing that his work is unsatisfactory shall have the right to a hearing before the department head. He may be accompanied by his counselor or his representative. Such hearings shall be at the option of the teacher, who may call such witnesses as he desires. The principal, specialists involved, and others may be called as witnesses if necessary.

CODE OF ETHICS OF THE EDUCATION PROFESSION

Adopted by the NEA Representative Assembly, July 1968
Pending Adoption by the SLTA Representative Assembly, Fall 1968

PREAMBLE

The educator believes in the worth and dignity of man. He recognizes the supreme importance of the pursuit of truth, devotion to excellence, and the nurture of democratic citizenship. He regards as essential to these goals the protection of freedom to learn and to teach and the guarantee of equal educational opportunity for all. The educator accepts his responsibility to practice his profession according to the highest ethical standards.

The educator recognizes the magnitude of the responsibility he has accepted in choosing a career in education, and engages himself, individually and collectively with other educators, to judge his colleagues, and to be judged by them, in accordance with the provisons of this code.

PRINCIPLE I

Commitment to the Student

The educator measures his success by the progress of each student toward realization of his potential as a worthy and effective citizen. The educator therefore works to stimulate the spirit of inquiry, the acquisition of knowledge and understanding, and the thoughtful formulation of worthy goals.

In fulfilling his obligation to the student, the educator --

1. Shall not without just cause restrain the student from independent action in his pursuit of learning, and shall not without just cause deny the student access to varying points of view.

2. Shall not deliberately suppress or distort subject matter for which he bears responsibility.

3. Shall make reasonable effort to protect the student from conditions harmful to learning or to health and safety.

4. Shall conduct professional business in such a way that he does not expose the student to unnecessary embarrassment or disparagement.

5. Shall not on the ground of race, color, creed, or national origin exclude any student from participation in or deny him benefits under any program, nor grant any discriminatory consideration or advantage.

6. Shall not use professional relationships with students for private advantage.

7. Shall keep in confidence information that has been obtained in the course of professional service, unless disclosure serves professional purposes or is required by law.

8. Shall not tutor for remuneration students assigned to his classes, unless no other qualified teacher is reasonably available.

PRINCIPLE II

Commitment to the Public

The educator believes that patriotism in its highest form requires dedication to the principles of our democratic heritage. He shares with all other citizens the responsibility for the development of sound public policy and assumes full political and citizenship responsibilities. The educator bears particular responsibility for the development of policy relating to the extension of educational opportunities for all and for interpreting educational programs and policies to the public.

In fulfilling his obligation to the public, the educator --

1. Shall not misrepresent an institution or organization with which he is affiliated, and shall take adequate precautions to distinguish between his personal and institutional or organizational views.

2. Shall not knowingly distort or misrepresent the facts concerning educational matters in direct and indirect public expressions.

3. Shall not interfere with a colleague's exercise of political and citizenship rights and responsibilities.

4. Shall not use institutional privileges for private gain or to promote political candidates or partisan political activities.

5. Shall accept no gratuities, gifts, or favors that might impair or appear to impair professional judgment, nor offer any favor, service or thing of value to obtain special advantage.

PRINCIPLE III

Commitment to the Profession

The educator believes that the quality of the services of the education profession directly influences the nation and its citizens. He therefore exerts every effort to raise professional standards, to improve his service, to promote a climate in which the exercise of professional judgment is encouraged, and to achieve conditions which attract persons worthy of the trust to careers in education. Aware of the value of united effort, he contributes actively to the support, planning, and programs of professional organizations.

In fulfilling his obligation to professional employment practices, the educator --

1. Shall not discriminate on the ground of race, color, creed, or national origin for membership in professional organizations, nor interfere with the free participation of colleagues in the affairs of their association.

2. Shall accord just and equitable treatment to all members of the profession in the exercise of their professional rights and responsibilities.

3. Shall not use coercive means or promise special treatment in order to influence professional decisions of colleagues.

4. Shall withhold and safeguard information acquired about colleagues in the course of employment, unless disclosure serves professional purposes.

5. Shall not refuse to participate in a professional inquiry when requested by an appropriate professional association.

6. Shall provide upon the request of the aggrieved party a written statement of specific reason for recommendations that lead to the denial of increments, significant changes in employment, or termination of employment.

7. Shall not misrepresent his professional qualifications.

8. Shall not knowingly distort evaluations of colleagues.

PRINCIPLE IV

Commitment to Professional Employment Practices

The educator regards the employment agreement as a pledge to be executed both in spirit and in fact in a manner consistent with the highest ideals of professional service. He believes that sound professional personnel relationships with governing boards are built upon personal integrity, dignity, and mutual respect. The educator discourages the practice of his profession by unqualified persons.

In fulfilling his obligation to professional employment practices, the educator --

1. Shall apply for, accept, offer, or assign a position or responsibility on the basis of professional preparation and legal qualifications.

2. Shall apply for a specific position only when it is known to be vacant, and shall refrain from underbidding or commenting adversely about other candidates.

3. Shall not knowingly withhold information regarding a position from an applicant or misrepresent an assignment or conditions of employment.

4. Shall give prompt notice to the employing agency of any change in availability of service, and the employing agent shall give prompt notice of changes in availability or nature of a position.

5. Shall not accept a position when so requested by the appropriate professional organization.

6. Shall adhere to the terms of a contract or appointment, unless these terms have been legally terminated, falsely represented, or substantially altered by unilateral action of the employing agency.

7. Shall conduct professional business through channels, when available, that have been jointly approved by the professional organization and the employing agency.

8. Shall not delegate assigned tasks to unqualified personnel.

9. Shall permit no commercial exploitation of his professional position.

10. Shall use time granted for the purpose for which it is intended.

Compiled by the Research Division

NATIONAL EDUCATION ASSOCIATION

1201 Sixteenth Street, N.W., Washington, D.C. 20036

Negotiation Research Digest

Volume 2, No. 6 February 1969

Agency Shop Recommended ..... Description: A-1
Text: C-1

The fact-finder in Inkster, Michigan, negotiations impasse recommends agency shop, released time for union president, and salary compromise.

Legality of Agency Shop Upheld ..... Description: A-1
Text: C-5

The Circuit Court for the County of Wayne, Michigan, rules that an agency shop clause is a bargainable issue which does not conflict with the Teacher Tenure Law.

Sanctions Illegal in New Jersey ..... Description: A-1
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The Supreme Court of New Jersey upholds a lower court decision that sanctions applied against government are as illegal as strikes.

Michigan Administrators Can Bargain ..... Description: A-2
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The Michigan Labor Mediation Board rules in the Hillsdale Community Schools case that administrators and supervisors have bargaining rights and may be represented by MEA affiliates.

City Ordinance Not for Teachers ..... Description: A-2
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The Massachusetts Superior Court rules that the agreement between the Quincy Teachers Association and the School Committee and not the conflicting city ordinance determines payment for retiring teachers' unused sick leave.

Guidance Counselors Lose Pay Differential ..... Description: A-2
Text: C-20

The arbitrator in Godwin Heights, Michigan, finds that the Board under terms of contract is within its rights in allotting counselors a planning period instead of additional compensation.

Adult Education Unit Appropriate ..... Description: A-3
Text: C-24

New York's Director of Representation finds a unit of adult education teachers and counselors in White Plains to be appropriate.

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Contract Bar Found in River Rouge, Michigan ..... Description: A-3
Text: C-28

Two petitions for decertification of the River Rouge Education Association were dismissed as untimely. Agreement reached in September, but not reduced to writing and signed by the parties until December acts as bar.

High Teacher Salaries ..... Analysis: B-1

398 high teacher salary schedules are reported by NEA Research Division salary schedule studies.

Dearborn #8 Administrators' Agreement ..... Text: D-1

The first administrators' agreement to be signed in Michigan, between the Board of Education and the Dearborn #8 Administrators Association, MEA, effective July 1, 1968, to June 30, 1969. Provisions include unlimited accumulation of sick and personal business leave, paid attendance, including all expenses, at annual state or national conferences and meetings, and payment for partial leave accumulation at retirement or resignation.

Arbitration and Public Employment ..... Special Item: E-1

Speech by Joseph Stone, attorney-arbitrator, at the Seminar on Professional Negotiations in Public Education, Montgomery County Education Association, September 28, 1968.

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Description and Analysis

AGENCY SHOP, SALARY COMPROMISE RECOMMENDED IN INKSTER, MICHIGAN

The fact-finder in the case involving an impasse in negotiations between the Inkster, Michigan, Board of Education and the Inkster Federation of Teachers, Local 1068, ruled that the union should be awarded released time for its president and an agency shop clause in the new agreement. The issue of health insurance was remanded to further negotiation since the fact-finder had insufficient data upon which to base an opinion.

In the salary impasse, complicated by the district's precarious financial position, a compromise salary package which would cost an estimated $125,000 was recommended, $160,000 less than the union proposal and $37,000 more than the Board offer. The recommended salary increases ranged from $500 to $1,000 per teacher. The fact-finder provided that "if the parties do not accept these recommendations, a Michigan Treasury Department official should come to Inkster and examine any available records which may shed light on the dispute concerning Inkster's financial liability."

AGENCY SHOP UPHELD BY MICHIGAN COURT

The Circuit Court for the County of Wayne, Michigan, ruled that an agency shop clause "is a valid bargainable issue in contract negotiations between public employees and employers," and does not conflict with the Teacher Tenure Law.

Article II of the agreement between the Southgate Community School District and the Southgate Education Association provides that all teachers as a condition of continued employment shall pay either membership dues and assessments of the Association, MEA, and NEA, or pay a representation fee equivalent to this amount. "In the event the representation fee shall not be paid, the Board upon receiving a signed statement from the Association indicating the teacher has failed to comply with this condition, shall immediately notify said teacher that his services shall be discontinued at the end of the current semester."

The Court ruled that "such provision in an agreement serves the purpose of allocating indiscriminately the cost of representation for collective bargaining among all those participating in the benefits received. Such a provision eliminates the 'free riders.'" "The Tenure Act permits in explicit language the discharge of an employee 'for reasonable and just cause.' The Board and the Association have determined that non-compliance with provisions of Article II of said contract, namely the agency shop provisions, constituted reasonable and just cause for discharge. All fell within the limits of permitted collective bargaining under P.E.R.A. and do not conflict with the Tenure Act."

SANCTIONS ILLEGAL IN NEW JERSEY

The Supreme Court of New Jersey upheld the decision of the Superior Court that sanctions imposed by the Union Beach Teachers Association and the New Jersey Education Association against the school system of the Borough of Union Beach were illegal. In so ruling, the Court likened the sanctions activities to a strike. The teachers claimed that they merely resigned and that the refusal of others to accept employment in the system was inherently different from a quit. In response,

the Court stated: "The public demand for services which makes illegal a strike against government inveighs against any other concerted action designed to deny government the necessary manpower, whether by terminating existing employments in any mode or by obstructing access to the labor market. Government may not be brought to a halt." (Emphasis added.)

MICHIGAN ADMINISTRATORS HAVE BARGAINING RIGHTS

The Michigan Labor Mediation Board ruled in the Hillsdale Community Schools case that supervisory employees have bargaining rights under PERA. The Board declared, "Section 9e is incorporated into PERA only for standards of unit determination and to provide a prohibition against supervisors and executives being included in the same unit with employees they supervise. There is no prohibition against supervisory units. . . ." Further, the school board contention that the Hillsdale Community Schools Principals and Supervisory Association was ineligible because of its affiliation with the Michigan Education Association, the parent organization of many teacher associations, was denied. The Labor Board ruled that "there is no more basis for restricting the choice of bargaining agent to one not representing the rank and file employees here, than there is in restricting that choice respecting craft, technical or professional employee units. Just as professional, craft and technical employees are not restricted in their choice of bargaining representative, supervisory employees should also not be so restricted."

The unit proposed by the principals' organization was found to be appropriate, including "high school, junior high, and elementary school principals, curriculum coordinator, reading coordinator, ESEA coordinator, cooperative education coordinator, head librarian, and physical education director; excluding: teachers, superintendent, assistant superintendent, business manager and all non-certificated employees." A representation election was ordered.

CITY COUNCIL ORDER NOT APPLICABLE TO TEACHERS

The Superior Court of the Commonwealth of Massachusetts ruled that the provision for cash payment for unused sick leave upon retirement in the Agreement between the Quincy Teachers Association and the School Committee is valid and enforceable.

The City of Quincy held that this provision was contrary to the regulation governing sick leave for city employees under Council Order No. 378, "accumulated sick leave does not carry any monetary value to be granted on termination of service."

The Court held that this Order is not applicable to teachers since the school committee and not the city council "has complete authority to set the terms of compensation for the teachers." The general laws state that "a town by by-law and a city by ordinance . . . may establish the hours, days and weeks of work and the hours, days and weeks of leave without loss of pay . . . for any or all employees of such town or city other than those appointed by the school committee;. . ." (Emphasis added.)

PLANNING PERIOD REPLACES ADDITIONAL COMPENSATION FOR GUIDANCE COUNSELORS

The arbitrator in Godwin Heights, Michigan, ruled that the Board of Education was within its rights in allotting guidance counselors a planning period in lieu of additional compensation previously received.

In the negotiations between the Board of Education and the Godwin Heights Education Association in the spring of 1966, the basis for additional compensation for guidance counselors was considered. The Association, "by deliberate and express agreement, . . . rejected education and experience as bases for additional compensation, and required that counsellors receive additional compensation because of the additional hours of work they performed." Article 12 of the Agreement states that "the Board may each year enter into additional contractual agreements with teachers for extra duties beyond their normal daily teaching assignment." Thus, the Board was not compelled to make such additional assignments, and when extra hours were no longer assigned to guidance counselors, no additional compensation was due.

ADULT EDUCATION UNIT FOUND APPROPRIATE

The Director of Representation of the New York Public Employment Relations Board found that the adult education teachers in the White Plains schools should be included in a separate unit from the K-12 teachers "since their terms and conditions of employment are different, and are determined in a different manner."

It was determined that teachers in all three of the adult education programs, manpower development and training (MDT), adult basic education (ABE), and traditional adult education (TAE), have a substantial community of interest regardless of the number of hours worked or coterminous employment in the regular K-12 program. The appropriate unit shall include "all classroom teachers, shop teachers, and guidance personnel who are employed in the adult education program."

It was ordered that the petition for certification filed by the White Plains Federation of Adult Educators, Local 1787, would be dismissed unless amended within 21 days to specify the unit deemed appropriate. Further, the White Plains Teachers Association, bargaining agent for K-12 teachers, could not seek certification until it produced evidence that "it will restrict employee participation in the affairs of the unit deemed herein to be appropriate to persons employed within such unit."

CONTRACT BAR FOUND IN RIVER ROUGE, MICHIGAN

Two petitions for decertification of the River Rouge Education Association were dismissed by the Michigan Labor Mediation Board. On January 3, 1967, the Labor Board certified the Association as exclusive bargaining representative for the River Rouge teachers. The petition filed by the River Rouge Federation of Teachers on December 27, 1967, was dismissed as untimely because it was filed within the certification year.

The Federation filed a second petition on January 3, 1968. The Board found that an agreement reached in September and subsequently implemented but not reduced to writing and signed until December 29, 1967, served as a contract bar. The Federation contended that since several drafts were prepared before the final document was signed, there was continuous bargaining up to the time of signing. The Board ruled that the changes in the various drafts were not "material enough to change the bargain between the parties." "A bargain was made in September, implemented thereafter, and was reduced to writing before the end of the certification year." The second petition was therefore also dismissed as untimely.

Data and Statistics

The following report was prepared by Gertrude N. Stieber, Research Associate, and is a reprint of NEA Research Memo 1968-13, November 1968. Copies of the Memo may be ordered for 30¢ from the NEA Records Division, Stock #431-22836.

SOME OF THE HIGHEST SALARIES SCHEDULED FOR TEACHERS, 1968-69

A beginning salary of $7,000 or more with the bachelor's degree has been adopted by at least 35 school systems for 1968-69. One district has a maximum scheduled salary of $14,716 for the master's degree; one has a scheduled maximum of $16,704 for the highest preparation recognized below the earned doctor's degree.

Almost 7 percent of all teachers in public elementary and secondary schools are employed in 137 school systems whose salary schedules compare with those of other professional employees with similar educational requirements. The salary schedules of the 137 districts meet each of these three arbitrary criteria:

1. A minimum salary of $6,500 or more at Step 1 of the bachelor's degree scale

2. A maximum of $12,000 or more for the master's degree or equivalent

3. A maximum of $13,000 or more for the highest preparation recognized below the doctor's degree.

Scheduled salaries are exclusive of long-service or merit increments beyond regularly scheduled maximums.

In 261 other reporting systems, one or two of the three criteria mentioned above are met, but not all three. These 398 systems are the only ones from which information was received by the NEA Research Division in connection with its 1968-69 salary schedule studies; no doubt schedules of other systems meet the criteria, but their enrollments are too small to be included in the survey, or they did not furnish schedule documents.1/

1/ National Education Association, Research Division. Salary Schedules for Teachers, 1968-69. Research Report 1968-R13. Washington, D.C.: the Association, 1968. 122 p.

Salary schedule information was obtained from 1,794 systems with enrollments of 1,200 or more, and from 133 selected suburban systems in high-income areas with enrollments of 1,000 or more. Most of the 398 systems are located in suburban communities near or adjacent to large metropolitan areas. However, some of the large city districts appear in the list this year, notably Los Angeles, San Diego, San Francisco, Long Beach, Chicago, Detroit, New York, Minneapolis, Philadelphia, Cleveland, Milwaukee, Montgomery and Prince George's Counties, Maryland, Baltimore and Baltimore County, Maryland, and Fairfax County, Virginia.

For the 137 systems which meet all of the criteria mentioned earlier (shown in Group I of Table 1), the mean scheduled salary in 1968-69 for a beginning teacher with a bachelor's degree is $6,805; the median is $6,800 with 40 schedules at the median. The mean maximum scheduled salary for the master's degree for the 137 systems is $12,977; the median, $12,920. Eleven reported scheduled maximums of $14,000 or more for the master's degree salary class.

For the highest preparation level recognized below the earned doctor's degree, the mean scheduled maximum for the 137 districts is $14,262; the median, $14,100.

Of the 137 systems, 101 provide a salary classification for the doctor's degree; the mean scheduled maximum salary for these districts is $14,963. Of the 101 schedules, 13 have maximums of $16,000 or higher for the doctor's degree.

The maximum beginning salary scheduled among the 398 systems whose schedules meet one or more of the three criteria is $7,500. Three Alaska districts have higher starting salaries, but because of the cost-of-living differential in Alaska, these salaries are not considered comparable with those scheduled in other parts of the United States. A beginning salary of $6,500 or more is scheduled by 310, or 77.9 percent, of the 398 systems.

The maximum scheduled salary for the master's degree or equivalent among the 398 systems is $14,716; the maximum for the highest preparation level recognized below the earned doctorate is $16,704; for the earned doctor's degree, $17,201.

Of the 398 systems which meet one or more of the three criteria, 268 specify the six-year preparation level as the highest below the earned doctor's degree, and 101 specify seven years of preparation. Some of the latter group recognize the same maximum for both the doctor's degree and the 7-year equivalency.

A separate salary class is specified for the doctor's degree in 209 schedules; maximum salaries for this class are shown in column 7 of the listing. Since very few classroom teachers possess the doctor's degree, it is not a realistic salary classification for identification of maximum salaries, and means and medians were not computed for this preparation level. Maximum scheduled salaries for the earned doctorate, however, range from $10,700 to $17,201 for the 209 systems which have a separate salary class for this preparation level.

The maximum salaries shown in the attached system-by-system listing are exclusive of long-service increments beyond the regularly scheduled maximums. Of the 398 systems shown, 147, or 36.9 percent, provide for long-service increments; the amounts are not shown in the listing.

Regularly scheduled maximums may be exceeded by merit increments in 51 of the 398 systems, some by definitely scheduled amounts and some by board action with no amounts stated in the schedule. Only 69, or 17.3 percent, derive their schedules on an index or ratio basis. This is about the national average for all reporting systems.

When classified by the arbitrarily selected high-salary criteria already mentioned, schedules of the 398 systems are divided as follows:

1. In 137 all three criteria are met: bachelor's degree minimum, $6,500 or more; master's degree maximum, $12,000 or more; and maximum scheduled salary for the highest preparation recognized below the earned doctor's degree, $13,000 or more.

2. In 39, both the master's degree maximum and the maximum for the highest recognized preparation level below the earned doctorate meet the criteria, but the bachelor's degree minimum is less than $6,500.

3. In 53, both the bachelor's degree minimum and the maximum for the highest preparation level below the doctorate meet the criteria, but the master's degree maximum is below $12,000.

4. In 32, a minimum of at least $6,500 is provided at the bachelor's degree level, as well as a maximum of $12,000 or more for the master's degree, but the maximum scheduled salary for the highest preparation level below the earned doctorate is less than $13,000.

5. Thirty-one provide a maximum of $13,000 or more for the highest preparation level recognized below the doctorate, but do not meet either of the other two criteria.

6. Eighteen provide a maximum salary of $12,000 or more for the master's degree, but do not meet either of the other two criteria.

7. In 88 schedules, the minimum for the bachelor's degree is $6,500 or more, but neither of the other two criteria is met.

It cannot be overstressed that Table 1 does not list all of the public school systems in the United States which have salary schedules high enough to meet all three of the arbitrary criteria adopted for this tabulation. It lists only those systems from which salary data were received in time to be included. Since many school systems were still negotiating salary contracts for 1968-69 at the time this tabulation was made, they necessarily are excluded.

TABLE I.--PUBLIC SCHOOL SYSTEMS REPORTING HIGH SCHEDULED SALARIES, 1968-69

Reporting system	Number of teachers, October 1967	Scheduled salaries, 1968-69: Bachelor's degree minimum	Scheduled salaries, 1968-69: Master's degree maximum	Scheduled salaries, 1968-69: Maximum salary scheduled below earned doctor's degree: Amount	Scheduled salaries, 1968-69: Maximum salary scheduled below earned doctor's degree: Preparation	Scheduled salaries, 1968-69: Maximum for earned doctorate if recognized	Salaries shown: May be exceeded for long service	Salaries shown: May be exceeded for merit	Index schedule
1	2	3	4	5	6	7	8	9	10
Group I--137 systems with bachelor's degree minimum, $6,500 or more; master's degree maximum, $12,000 or more; and highest scheduled salary BELOW earned doctorate, $13,000 or more.									
ALASKA									
Anchorage	1,025	$8,000	$14,000	$16,000	6 yrs	$16,800	No	No	No
Fairbanks	354	8,150	15,078	15,893	6 yrs	16,708	No	No	No
Matanuska-Susitna Dist., Palmer	102	7,800	12,870	15,600	6 yrs+	16,380	No	No	No
CALIFORNIA									
Anaheim (H.S.)	1,192	6,500	12,170	13,000	6 yrs	...	No	No	No
Bassett	284	6,595	12,630	13,320	6 yrs	...	Yes	No	No
Beverly Hills	307	6,728	13,052	15,273	6 yrs+	...	Yes	Yes	No
Campbell (H.S.)	488	6,600	12,350	13,250	6 yrs	...	Yes	No	No
Chula Vista (Elem.)	469	6,750	12,187	13,500	6 yrs	...	Yes	Yes	No
East Side Dist., San Jose (H.S.)	416	6,506	12,084	13,808	6 yrs	14,308	Yes	No	No
El Monte (H.S.)	267	6,512	12,210	13,024	6 yrs	...	Yes	No	No
Fullerton (H.S.)	599	6,580	12,050	13,310	6 yrs	...	No	No	No
Grossmont (H.S.)	628	6,680	12,550	13,350	6 yrs	13,650	Yes	No	No
Long Beach	2,729	6,730	12,410	13,650	7 yrs	14,555	No	No	No
Millbrae (Elem.)	163	6,600	12,098	13,748	6 yrs+	...	No	No	No
Montebello	946	6,510	12,198	13,020	6 yrs	...	No	No	No
San Bruno Park (Elem.)	215	6,600	12,060	13,680	6 yrs+	...	No	No	No
San Francisco	3,824	6,820	12,680	13,640	6 yrs	...	Yes	No	No
San Mateo (H.S.)	591	6,868	12,775	14,660	6 yrs+	15,060	No	No	No
Santa Monica	491	6,645	12,054	14,196	7 yrs	14,689	No	No	No
South San Francisco	465	6,603	12,253	13,611	6 yrs	...	Yes	No	No
CONNECTICUT									
Fairfield	558	6,550	12,052	13,100	6 yrs	14,148	No	No	No
Greenwich	548	6,580	12,190	13,180	6 yrs	14,160	Yes	Yes	No
West Hartford	620	6,500	12,050	13,000	6 yrs	14,050	No	No	No
Westport	432	6,590	12,100	13,180	6 yrs	13,780	No	No	No
ILLINOIS									
Glenbard (H.S.)	293	6,700	12,600	13,600	6 yrs+	...	Yes	No	No
Glenbrook (H.S.)	223	6,700	14,639	15,980	7 yrs	...	No	No	No
Highland Park #107 (Elem.)	62	6,500	13,455	14,755	6 yrs	15,015	No	No	Yes
Highland Park (H.S.)	296	6,700	13,700	15,100	6 yrs	16,150	No	Yes	No
Hinsdale (Elem.)	171	6,600	12,342	13,134	6 yrs	...	No	No	No
Hinsdale Twp. (H.S.)	165	6,700	13,065	13,869	6 yrs	...	No	No	No
Homewood-Flossmoor (H.S.)	137	6,700	12,400	14,950	6 yrs+	15,350	No	Yes	No
J. Sterling Morton, Cicero (H.S.)	349	6,650	12,700	14,250	6 yrs+	14,800	No	No	No
Maine Twp., Park Ridge (H.S.)	595	7,000	13,200	14,250	6 yrs	15,300	No	No	No
Mt. Prospect (H.S.)	651	6,700	13,132	13,802	6 yrs	...	No	No	No
New Trier Twp., Winnetka (H.S.)	205	6,700	14,500	14,500	M.A.	...	No	Yes	No
Niles Twp., Skokie (H.S.)	310	6,804	13,350	14,400	8 yrs+	15,800	No	No	No
Oak Park-River Forest (H.S.)	174	6,800	14,500	15,300	8 yrs	15,800	No	Yes	No
Proviso Twp., Maywood (H.S.)	341	6,800	12,900	13,800	6 yrs+	...	No	No	No
River Forest (Elem.)	65	6,500	12,610	14,123	6 yrs+	...	No	No	Yes
Riverside-Brookfield Twp. (H.S.)	89	6,700	12,900	13,600	6 yrs	...	No	No	No
Villa Park (H.S.)	378	6,750	12,508	13,500	6 yrs+	...	No	No	Yes
MICHIGAN									
Ann Arbor	928	6,500	12,000	13,000	7 yrs	13,325	Yes	No	No
Farmington	612	6,800	12,550	13,200	6 yrs	14,200	No	No	No
Garden City	561	6,850	12,810	13,837	6 yrs	N.D.	No	No	No
Jackson	550	6,775	12,073	14,065	7 yrs	15,061	No	No	No
L'Anse Creuse, Mt. Clemens	272	6,800	12,127	13,470	7 yrs	...	No	No	Yes
Livonia	1,583	6,900	12,800	13,400	6 yrs	13,700	No	No	No
Pontiac	977	6,850	12,604	13,289	6 yrs	13,974	No	Yes	No
Rochester	579	6,900	12,150	13,274	6 yrs	13,836	Yes	No	No
Royal Oak	848	6,950	12,100	13,100	6 yrs+	13,500	No	No	No
Saginaw	1,035	6,800	12,002	14,246	7 yrs	...	No	No	No
Southfield	686	6,870	12,293	13,585	6 yrs	...	No	No	Yes
Troy	205	6,875	12,065	13,062	6 yrs	...	No	No	Yes
Utica	577	7,000	12,201	13,398	6 yrs+	13,799	Yes	No	No
MINNESOTA									
Minneapolis	2,757	6,700	13,050	14,590	6 yrs	14,900	No	No	No
MISSOURI									
Lindberg	465	6,500	12,155	13,000	6 yrs	...	No	No	Yes
NEW JERSEY									
Montclair	381	6,500	12,200	13,100	6 yrs	13,600	No	No	No
Scotch Plains	363	6,500	12,900	13,900	6 yrs	15,300	No	No	No
Union Twp.	425	6,600	12,000	13,000	6 yrs	...	Yes	No	No

TABLE 1.--PUBLIC SCHOOL SYSTEMS REPORTING HIGH SCHEDULED SALARIES, 1968-69 (Continued)

Reporting system	Number of teachers, October 1967	Scheduled salaries, 1968-69: Bachelor's degree minimum	Master's degree maximum	Maximum salary scheduled below earned doctor's degree: Amount	Preparation	Maximum for earned doctorate if recognized	Salaries shown: May be exceeded for long service	May be exceeded for merit	Index schedule
1	2	3	4	5	6	7	8	9	10
NEW YORK									
Amityville	222	$6,850	$13,050	$14,500	6 yrs+	$15,050	Yes	Yes	No
Ardsley	164	7,000	12,380	14,400	7 yrs	15,760	No	No	No
Baldwin	474	6,800	12,700	13,750	7 yrs	14,250	Yes	No	No
Bay Shore	292	6,930	13,514	14,900	7 yrs	...	Yes	No	Yes
Bedford Dist., Mt. Kisco	280	7,000	13,252	13,752	7 yrs	15,002	Yes	No	No
Bethpage	333	6,800	13,250	13,850	7 yrs	14,450	No	No	No
Brentwood	970	6,800	13,295	14,715	7 yrs	15,070	Yes	No	No
Briarcliff	86	6,900	13,731	15,111	7 yrs	15,801	No	No	No
Bronxville	86	7,200	13,950	15,350	7 yrs	15,700	Yes	No	No
Central Islip	183	6,900	13,860	15,240	7 yrs	15,585	Yes	No	Yes
Clarkstown	521	6,700	13,060	15,314	7 yrs	15,814	Yes	No	No
Commack	695	6,800	13,250	14,450	7 yrs	14,750	Yes	No	No
Croton-on-Hudson	97	6,700	12,400	14,100	7 yrs	14,500	No	Yes	No
Deer Park	404	6,850	14,693	16,016	7 yrs	16,445	No	No	No
East Irondequoit	333	6,600	12,408	13,398	7 yrs	13,794	Yes	Yes	No
East Meadow	864	6,800	13,100	14,100	6 yrs	14,500	Yes	No	No
East Rochester	109	6,650	13,300	13,965	6 yrs	...	No	No	Yes
East Rockaway	95	6,800	13,050	13,850	6 yrs+	...	Yes	No	No
Elwood	219	7,000	12,750	15,100	7 yrs	16,100	No	Yes	No
Farmingdale	690	6,750	12,697	14,046	7 yrs	14,384	Yes	No	No
Floral Park	79	6,800	12,525	13,400	6 yrs	14,000	Yes	No	No
Freeport	365	6,800	13,192	13,702	6 yrs	14,314	Yes	No	Yes
Garden City	302	7,300	13,140	15,200	6 yrs+	14,750	Yes	No	No
Great Neck	559	7,000	14,000	15,400	7 yrs	15,700	No	No	No
Harborfields, Greenlawn	269	6,800	12,920	16,456	7 yrs	16,796	Yes	No	No
Harrison	168	7,000	12,390	13,410	7 yrs	...	Yes	No	Yes
Hastings-on-Hudson	130	6,800	13,200	14,700	7 yrs	14,900	No	No	No
Herricks #9, New Hyde Park	320	6,860	12,917	13,871	7 yrs	14,030	Yes	No	No
Hewlett-Woodmere	299	6,800	13,231	14,251	7 yrs	14,591	Yes	Yes	No
Huntington	440	7,000	13,700	15,700	7 yrs	16,300	Yes	No	No
Lakeland Schools, Shrub Oak	320	6,700	13,266	14,874	7 yrs	...	No	No	No
Lawrence Schools, Cedarhurst	405	6,900	13,450	14,450	7 yrs	14,750	Yes	No	No
Levittown	699	6,725	12,725	13,925	7 yrs	14,225	Yes	No	No
Lindenhurst	535	6,800	12,585	14,305	7 yrs	15,005	Yes	No	No
Long Beach	357	6,804	13,182	14,082	7 yrs	14,632	Yes	No	No
Malverne	160	6,750	13,195	14,139	7 yrs	14,375	Yes	No	No
Manhasset	152	7,100	13,025	15,125	7 yrs	15,400	No	Yes	No
Massapequa	819	6,800	12,950	14,725	7 yrs	15,050	Yes	No	No
Melville	408	6,900	13,455	14,835	7 yrs	15,335	Yes	No	Yes
Merrick #3 (H.S.)	501	6,800	12,950	14,250	7 yrs	14,550	Yes	Yes	No
Merrick #25 (Elem.)	110	6,800	12,966	14,003	7 yrs	14,503	Yes	No	No
Mineola	256	6,800	13,100	14,000	7 yrs	14,350	No	No	No
Mount Vernon	632	6,800	12,600	13,600	7 yrs	13,800	No	No	No
New Rochelle	612	6,800	13,700	14,700	7 yrs	15,200	No	No	No
New York City	55,811	6,750	12,650	13,900	6 yrs	...	No	No	No
Northport	375	7,000	13,550	15,150	7 yrs	15,550	Yes	No	No
Oceanside	499	6,750	12,450	14,430	7 yrs	14,760	Yes	No	No
Ossining	185	6,800	13,200	15,140	7 yrs	15,340	No	No	No
Oyster Bay, East Norwich	135	6,800	12,950	13,780	6 yrs+	14,630	Yes	No	No
Patchogue-Medford	370	6,800	12,682	14,042	7 yrs	14,382	Yes	No	No
Pelham	168	6,800	13,500	14,900	7 yrs	15,300	Yes	Yes	No
Plainedge, Bethpage	345	6,800	12,750	13,750	6 yrs+	13,950	No	No	No
Plainview	606	6,825	12,750	13,950	7 yrs	14,250	No	No	No
Port Jefferson	157	7,100	14,194	15,692	6 yrs+	16,185	No	No	No
Port Washington	346	6,800	12,852	14,552	7 yrs	15,232	Yes	No	Yes
Ramapo Dist. #1, Suffern	229	6,600	13,068	15,708	7 yrs	16,698	No	No	No
Ramapo Dist. #2, Spring Valley	665	6,700	13,118	15,614	7 yrs	15,914	Yes	No	Yes
Rochester	2,253	6,800	12,716	13,328	6 yrs	13,872	Yes	No	Yes
Rockville Centre	231	6,725	13,350	14,828	7 yrs	15,197	Yes	Yes	No
Roslyn	185	6,850	13,365	14,300	7 yrs	14,600	Yes	No	No
Rye	179	6,800	13,158	14,259	6 yrs+	14,885	Yes	Yes	Yes
Sachem Dist. #15, Holbrook	446	7,000	13,650	15,050	7 yrs	15,750	No	No	No
Scarsdale	309	6,800	14,584	16,252	7 yrs	17,136	No	No	Yes
Seaford	237	6,800	12,800	14,350	7 yrs	15,000	Yes	No	No
Smithtown	508	6,800	13,900	15,100	7 yrs	15,400	Yes	No	No
South Huntington	651	6,800	13,279	15,355	7 yrs	15,923	Yes	No	No
Syosset	536	6,850	13,100	14,300	7 yrs	14,500	Yes	No	No
Three Village Dist., Setauket	411	7,100	14,716	16,704	7 yrs	17,201	No	No	Yes
Uniondale	426	6,800	14,550	15,350	6 yrs+	15,550	No	No	No
Valley Stream (Elem.)	177	6,800	13,090	14,090	7 yrs	14,390	Yes	No	No
Valley Stream (H.S.)	465	6,800	13,090	14,090	7 yrs	14,390	Yes	No	No
Wantagh	286	6,750	12,800	13,825	6 yrs+	14,550	Yes	No	No
Wappingers Falls	560	6,600	12,950	13,950	7 yrs	...	No	No	No
West Babylon	382	6,800	13,260	14,280	6 yrs+	14,620	Yes	No	No
Westbury	187	6,[illegible]	12,900	14,600	7 yrs	14,925	Yes	Yes	No
West Islip	446	7,000	13,195	14,595	7 yrs	...	Yes	No	No
White Plains	474	7,000	13,700	15,500	7 yrs	16,100	No	No	No
Yonkers	1,466	6,800	12,600	13,900	7 yrs	14,500	No	No	No

TABLE 1.--PUBLIC SCHOOL SYSTEMS REPORTING HIGH SCHEDULED SALARIES, 1968-69 (Continued)

Reporting system	Number of teachers, October 1967	Scheduled salaries, 1968-69: Bachelor's degree minimum	Scheduled salaries, 1968-69: Master's degree maximum	Scheduled salaries, 1968-69: Maximum salary scheduled below earned doctor's degree: Amount	Scheduled salaries, 1968-69: Maximum salary scheduled below earned doctor's degree: Preparation	Scheduled salaries, 1968-69: Maximum for earned doctorate if recognized	Salaries shown: May be exceeded for long service	Salaries shown: May be exceeded for merit	Index schedule
1	2	3	4	5	6	7	8	9	10
Group II--19 systems with master's degree maximum, $12,000 or more; maximum BELOW earned doctorate, $13,000 or more; but with bachelor's degree minimum, less than $6,500.									
CALIFORNIA									
Belmont (Elem.)	145	$6,350	$12,429	$13,425	6 yrs	...	No	No	No
Evergreen (Elem.)	100	6,455	12,774	13,383	M.A.+	...	Yes	No	No
San Carlos (Elem.)	136	6,350	12,302	13,046	6 yrs	...	No	No	No
ILLINOIS									
Elk Grove (Elem.)	415	6,300	12,200	13,200	6 yrs	...	No	Yes	No
Mt. Prospect (Elem.)	210	6,400	12,300	13,500	6 yrs	...	No	No	No
Palatine (Elem.)	438	6,400	12,277	13,329	6 yrs	$14,382	No	No	No
INDIANA									
Lafayette	419	6,300	12,175	13,050	6 yrs	...	No	No	No
MARYLAND									
Baltimore Co., Towson	5,695	6,300	12,500	13,200	6 yrs	13,800	Yes	No	No
Montgomery Co., Rockville	5,248	6,340	12,870	13,377	6 yrs	...	No	No	Yes
Prince George's Co., Upper Marlboro	5,666	6,200	12,524	13,020	6 yrs	13,640	No	No	No
MINNESOTA									
Anoka-Hennepin	880	6,300	12,729	13,674	6 yrs+	...	Yes	No	No
Bloomington	853	6,300	13,172	15,424	6 yrs+	16,107	No	No	No
Edina	421	6,400	13,536	14,912	6 yrs	15,858	No	Yes	No
Golden Valley	74	6,300	13,360	13,861	M.A.+	...	No	No	No
Hopkins	460	6,300	13,300	14,715	6 yrs+	15,125	No	No	No
Minnetonka	370	6,325	13,325	13,325	M.A.	...	No	No	No
Mounds View	432	6,325	13,200	14,100	6 yrs	...	No	No	No
North St. Paul-Maplewood	390	6,325	12,906	15,059	6 yrs+	...	No	No	No
Richfield	473	6,350	13,300	14,850	7 yrs	15,700	No	No	No
Robbinsdale	993	6,300	13,300	14,300	7 yrs	14,875	No	No	No
Roseville	520	6,300	12,978	13,797	6 yrs+	...	No	No	Yes
South St. Paul	234	6,300	12,489	13,304	6 yrs	...	No	No	Yes
St. Louis Park	515	6,400	13,469	14,927	6 yrs	15,949	No	No	No
St. Paul Park	332	6,300	12,400	13,000	M.A.+	...	No	No	No
Stillwater	288	6,200	12,400	13,600	6 yrs+	...	No	No	No
Wayzata	216	6,400	12,608	14,208	6 yrs	15,104	No	No	No
White Bear Lake	423	6,325	13,075	15,050	6 yrs+	...	No	No	No
MISSOURI									
Clayton	170	6,300	12,411	14,175	6 yrs+	14,375	No	Yes	Yes
NEW JERSEY									
Irvington	345	6,200	12,000	13,000	6 yrs	13,500	No	No	No
Paramus	366	6,200	12,190	13,210	6 yrs	13,960	No	No	No
Ridgewood	378	6,100	12,080	13,050	6 yrs	13,850	No	No	Yes
Rockaway Twp. (Elem.)	158	6,200	12,870	13,845	6 yrs	14,820	No	No	No
South Orange-Maplewood	371	6,400	12,300	13,500	6 yrs	...	No	No	No
NEW YORK									
Sweet Home Dist., Buffalo	235	6,400	12,170	13,070	7 yrs	...	Yes	No	No
Williamsville	372	6,400	12,450	13,450	7 yrs	13,650	Yes	No	No
PENNSYLVANIA									
Colonial Dist., Plymouth Meeting	373	5,600	12,250	13,200	6 yrs	13,900	No	Yes	No
Springfield Twp.	239	5,900	12,870	13,410	6 yrs	14,270	No	No	Yes
VIRGINIA									
Arlington Co.	1,150	6,200	12,462	13,082	6 yrs	13,702	No	No	No
Fairfax Co.	4,197	6,400	13,440	14,720	6 yrs	16,000	No	No	Yes
Group III--53 systems with bachelor's degree minimum, $6,500 or more; maximum BELOW earned doctorate, $13,000 or more; but with maximum for master's degree, less than $12,000.									
CALIFORNIA									
ABC Dist., Artesia	511	6,500	11,219	13,000	6 yrs+	...	No	No	No
Alhambra	619	6,500	11,980	13,090	6 yrs	...	No	No	No
Arcadia	390	6,650	10,965	13,406	6 yrs+	13,806	No	Yes	No
Azusa	443	6,500	10,790	13,000	6 yrs	...	No	No	No
Bonita Dist., San Dimas	235	6,500	10,920	13,000	6 yrs	...	No	No	No

TABLE 1.--PUBLIC SCHOOL SYSTEMS REPORTING HIGH SCHEDULED SALARIES, 1968-69 (Continued)

Reporting system	Number of teachers, October 1967	Scheduled salaries, 1968-69: Bachelor's degree minimum	Master's degree maximum	Maximum salary scheduled below earned doctor's degree: Amount	Preparation	Maximum for earned doctorate if recognized	Salaries shown: May be exceeded for long service	May be exceeded for merit	Index schedule
1	2	3	4	5	6	7	8	9	10
CALIFORNIA (Continued)									
Burbank	580	$6,500	$11,660	$13,606	6 yrs+	...	No	No	No
Burlingame (Elem.)	114	6,700	11,875	13,800	6 yrs+	...	No	No	No
Capistrano	242	6,500	11,650	13,000	6 yrs+	...	Yes	No	No
Charter Oak	350	6,500	11,830	13,000	M.A.+	$13,800	No	No	Yes
Covina-Valley, Covina	619	6,500	11,648	13,600	M.A.+	13,650	Yes	No	No
East Whittier (Elem.)	412	6,500	11,250	13,170	6 yrs	13,670	Yes	No	No
Fremont (H.S.)	466	6,700	11,550	13,750	6 yrs+	...	No	No	No
Garden Grove	1,990	6,500	11,088	13,000	6 yrs	...	No	No	No
Glendale	970	6,500	10,950	13,030	7 yrs	13,430	No	No	No
Inglewood	554	6,700	11,430	13,400	6 yrs	13,700	Yes	No	No
Kern Co., Bakersfield (H.S.)	699	6,700	11,839	13,400	7 yrs	14,000	No	No	No
La Canada	193	6,600	11,140	13,760	7 yrs	...	Yes	No	Yes
La Puente (H.S.)	397	6,500	11,940	13,000	6 yrs	...	No	No	No
Los Angeles	21,512	7,000	10,550	13,100	7 yrs	13,400	Yes	No	No
Lynwood	280	6,500	10,530	13,000	6 yrs	...	No	No	No
Martinez	178	6,500	11,820	13,650	6 yrs+	...	Yes	No	No
Milpitas (Elem.)	249	6,517	11,472	13,229	6 yrs	...	Yes	No	Yes
Needles	76	7,050	10,800	13,135	6 yrs	...	No	No	No
Palm Springs	210	6,620	11,340	13,250	7 yrs	13,550	Yes	No	No
Palos Verdes	586	6,600	11,427	13,695	6 yrs+	...	Yes	No	Yes
Pasadena	1,260	6,510	11,130	13,020	7 yrs	13,671	Yes	No	No
Piedmont	100	6,590	11,395	13,520	7 yrs	...	No	No	No
Pomona	745	6,500	10,725	13,000	6 yrs	...	No	No	Yes
San Bernardino	1,402	6,500	11,232	13,004	6 yrs	...	Yes	No	No
San Diego	4,747	6,650	11,036	14,010	7 yrs	...	No	No	No
San Jose	1,385	6,510	11,600	13,630	6 yrs	14,130	No	No	No
San Marino	156	6,500	10,570	13,000	7 yrs	...	Yes	No	No
Simi Valley Simi	606	6,600	11,682	13,266	8 yrs	...	No	No	No
South Bay	301	6,600	11,910	13,215	8 yrs+	13,615	No	No	No
Torrance	1,269	6,634	11,655	13,058	6 yrs	...	No	No	No
Travis	154	6,684	11,700	13,380	6 yrs+	13,788	No	No	No
Ventura	614	6,500	10,704	13,002	6 yrs+	...	Yes	No	No
Walnut Creek (Elem.)	193	6,575	11,000	13,025	6 yrs+	...	Yes	No	No
West Covina	488	6,500	11,859	13,000	6 yrs	...	No	No	No
CONNECTICUT									
Norwalk	781	6,500	11,700	13,000	6 yrs	14,300	Yes	No	No
Stamford	994	6,650	11,639	13,600	6 yrs	14,330	No	No	No
DELAWARE									
Mount Pleasant	187	6,600	11,530	13,350	6 yrs+	13,780	Yes	No	No
ILLINOIS									
Downers Grove (H.S.)	195	6,700	11,925	13,800	7 yrs	...	No	Yes	No
Elgin	851	6,600	11,484	13,042	6 yrs	13,682	No	No	Yes
Glen Ellyn	180	6,500	11,440	13,845	7 yrs	...	No	No	Yes
Skokie Dist. 73-1/2 (Elem.)	84	6,500	11,980	13,330	6 yrs	...	Yes	No	No
Thornton Twp., Harvey (H.S.)	372	6,500	11,050	13,000	7 yrs	...	No	No	Yes
NEW JERSEY									
Millburn	213	6,500	11,700	13,000	6 yrs	...	No	Yes	No
NEW YORK									
Irvington, Dist #2	93	6,700	11,900	14,300	7 yrs	...	No	Yes	No
Newburgh	587	6,500	11,870	13,650	7 yrs	...	Yes	No	Yes
Webster	340	6,600	11,898	13,806	7 yrs	14,306	No	No	Yes
WISCONSIN									
Manitowoc	303	6,500	11,570	13,000	6 yrs	...	No	No	Yes
Muskego-Norway Dist. #9	189	6,700	11,730	13,140	6 yrs	...	No	Yes	No
Wauwatosa	519	6,700	11,725	13,075	6 yrs	13,750	No	Yes	No
Group IV--12 systems with bachelor's degree minimum, $6,500 or more; master's degree maximum, $12,000 or more; but with maximum BELOW earned doctorate less than $13,000.									
ALASKA									
Juneau	175	7,715	12,265	12,590	M.A.+	...	No	No	[illegible]
CALIFORNIA									
Barstow	430	6,500	12,100	12,500	6 yrs	...	No	No	No
Vista	284	6,735	12,273	12,273	M.A.	...	No	No	No
ILLINOIS									
Blue Island (H.S.)	268	6,500	12,025	12,350	6 yrs	12,675	No	No	Yes
Wheaton #95 (H.S.)	138	6,700	12,060	12,797	6 yrs+	...	No	No	No

TABLE 1.--PUBLIC SCHOOL SYSTEMS REPORTING HIGH SCHEDULED SALARIES, 1968-69 (Continued)

Reporting system	Number of teachers, October 1967	Scheduled salaries, 1968-69: Bachelor's degree minimum	Master's degree maximum	Maximum salary scheduled below earned doctor's degree: Amount	Preparation	Maximum for earned doctorate if recognized	Salaries shown: May be exceeded for long service	May be exceeded for merit	Index schedule
1	2	3	4	5	6	7	8	9	10
MICHIGAN									
Battle Creek	524	$6,500	$12,030	$12,630	7 yrs	$13,230	No	No	No
Birmingham	690	6,900	12,550	12,875	6 yrs	13,525	No	No	No
Bloomfield Hills	433	6,850	12,400	12,700	6 yrs	...	No	No	No
Dearborn	1,182	7,300	12,475	12,925	6 yrs	13,800	No	No	No
East Detroit	496	6,900	12,100	12,600	6 yrs	...	No	No	No
Ferndale	343	7,000	12,200	12,800	6 yrs	...	No	No	No
Flint	1,890	6,900	12,200	12,800	6 yrs	13,300	Yes	No	No
Kalamazoo	826	6,500	12,025	12,545	6 yrs	13,065	No	No	Yes
Lake Shore Schools, St. Clair Shores	360	6,940	12,040	12,540	6 yrs	13,040	Yes	No	No
Lansing	1,490	6,825	12,422	12,968	6 yrs	13,514	Yes	No	Yes
Madison Heights	212	6,925	12,150	12,150	M.A.+	...	No	No	No
Oak Park	350	7,100	12,300	12,850	6 yrs	13,050	No	No	No
Port Huron	542	7,000	12,180	12,880	6 yrs	13,790	No	No	Yes
Portage	491	6,500	12,070	12,570	6 yrs	...	No	Yes	Yes
Redford	353	6,900	12,275	12,896	6 yrs	...	No	No	Yes
Roseville	560	6,800	12,000	12,600	6 yrs	13,000	No	No	No
Van Dyke	312	7,000	12,103	12,789	6 yrs	13,475	No	No	Yes
Walled Lake	440	6,850	12,104	12,666	6 yrs	...	No	No	No
Warren	984	7,000	12,320	12,740	6 yrs	...	No	No	Yes
Warren Woods	285	6,800	12,150	12,750	6 yrs	...	No	No	No
West Bloomfield	114	6,900	12,000	12,000	M.A.	...	No	No	No
NEW JERSEY									
Linden	400	6,500	12,050	12,900	6 yrs	13,750	Yes	No	No
Passaic	416	6,500	12,000	12,800	6 yrs	...	No	No	No
WISCONSIN									
Elmbrook Schools, Brookfield	387	6,600	12,200	12,500	6 yrs	12,800	No	Yes	No
Shorewood	124	6,750	12,420	12,892	6 yrs	13,500	No	Yes	Yes
Whitefish Bay	198	6,700	12,250	12,600	6 yrs	...	No	No	No
Whitnall Area, Hales Corners	135	6,500	12,900	12,900	M.A.	...	No	No	Yes
Group V--31 systems with highest scheduled salary BELOW earned doctorate, $13,000 or more, but with bachelor's degree minimum less than $6,500, and master's degree maximum less then $12,000.									
CALIFORNIA									
Acalanes Dist., Lafayette (H.S.)	298	6,300	11,410	13,590	6 yrs+	...	No	No	No
Chaffey Dist., Ontario (H.S.)	431	6,400	11,642	13,248	6 yrs	...	No	No	No
Claremont	297	6,000	11,400	14,700	7 yrs	15,050	No	No	No
Hillsborough (Elem.)	67	6,300	11,300	14,250	6 yrs+	...	No	No	No
Lafayette (Elem.)	180	6,400	11,600	13,200	6 yrs	...	No	No	No
Laguna Beach	123	6,400	10,990	13,107	6 yrs+	...	No	No	No
Livermore	341	6,492	11,896	13,552	6 yrs+	...	No	No	No
Los Gatos (Elem.)	131	6,300	11,750	13,150	6 yrs+	...	Yes	No	No
Mill Valley (Elem.)	147	6,360	11,724	13,320	6 yrs	...	No	No	No
Mt. Diablo, Concord	1,797	6,450	11,255	13,350	6 yrs+	...	No	No	No
Norwalk-La Mirada, Norwalk	1,201	6,400	10,730	13,190	6 yrs+	...	No	No	No
Oxnard (H.S.)	512	6,400	11,950	13,250	6 yrs	...	Yes	No	No
Palo Alto	730	6,480	11,440	14,125	7 yrs	14,375	No	No	No
Pleasanton (Elem.)	117	6,440	11,410	13,300	6 yrs+	...	No	No	No
Ravenswood (Elem.)	243	6,200	11,650	13,100	6 yrs	...	Yes	No	No
San Leandro	431	6,300	11,030	14,425	7 yrs+	...	No	No	No
Salinas (Elem.)	236	6,200	11,450	13,200	6 yrs	...	No	No	No
San Mateo (Elem.)	646	6,350	11,578	13,718	7 yrs	14,318	No	No	No
Santa Clara	939	6,240	11,109	13,533	6 yrs	14,033	Yes	No	No
Sequoia Dist., Redwood City (H.S.)	557	6,400	11,850	14,270	6 yrs+	...	No	No	No
Stockton	1,242	6,450	10,643	13,100	6 yrs+	13,300	Yes	No	No
ILLINOIS									
Deerfield Dist. 109 (Elem.)	114	6,200	11,400	13,500	6 yrs	...	No	Yes	No
Des Plaines (Elem.)	305	6,400	11,350	13,000	6 yrs	...	No	No	No
MASSACHUSETTS									
Brookline	397	6,400	11,840	13,800	6 yrs	14,888	Yes	No	No
Wayland	212	6,300	11,750	13,300	6 yrs	14,100	No	No	No
MINNESOTA									
Osseo	452	6,300	11,501	13,702	6 yrs+	...	No	Yes	No
Rochester	579	6,100	11,900	13,000	6 yrs	14,000	No	No	No
NEBRASKA									
Westside Dist., Omaha	472	6,100	11,160	13,480	6 yrs	13,970	No	Yes	Yes

TABLE 1.--PUBLIC SCHOOL SYSTEMS REPORTING HIGH SCHEDULED SALARIES, 1968-69 (Continued)

Reporting system	Number of teachers, October 1967	Scheduled salaries, 1968-69: Bachelor's degree minimum	Master's degree maximum	Maximum salary scheduled below earned doctor's degree: Amount	Preparation	Maximum for earned doctorate if recognized	Salaries shown: May be exceeded for long service	May be exceeded for merit	Index schedule
1	2	3	4	5	6	7	8	9	10
NEW JERSEY									
Teaneck	418	$6,400	$11,900	$13,200	6 yrs	$14,500	No	No	No
Tenafly	195	6,200	11,850	13,000	6 yrs	14,000	No	No	No
NEW YORK									
Fayetteville-Manlius	300	6,252	11,439	13,011	7 yrs	13,611	Yes	Yes	No
Group VI--18 systems with master's degree maximum $12,000 or more, but with bachelor's degree minimum less than $6,500 and with highest scheduled salary BELOW earned doctorate less than $13,000.									
CALIFORNIA									
Centinela Valley (H.S.)	286	6,400	12,300	12,800	6 yrs	13,467	Yes	No	No
Duarte	174	6,425	12,034	12,850	6 yrs	13,850	No	No	No
Oceanside (Elem.)	268	6,400	12,090	12,800	6 yrs	...	No	No	No
Whittier (H.S.)	581	6,400	12,416	12,928	6 yrs	...	Yes	No	Yes
ILLINOIS									
Northbrook (Elem.)	190	6,300	12,096	12,096	M.A.	...	No	No	No
MICHIGAN									
Bronson	73	6,400	12,030	12,030	M.A.	...	No	No	No
MINNESOTA									
Duluth	926	6,100	12,025	12,325	6 yrs	12,575	No	No	No
St. Paul	1,939	6,400	12,000	12,450	M.A.+	13,300	Yes	No	No
MISSOURI									
Hazelwood	768	6,300	12,690	12,690	M.A.	...	No	No	Yes
NEW JERSEY									
Closter (Elem.)	50	6,200	12,003	12,747	6 yrs	...	No	No	Yes
Springfield (Elem.)	101	6,400	12,000	12,400	6 yrs	13,050	No	No	No
Verona	153	6,350	12,000	12,900	6 yrs	13,400	No	Yes	No
NEW YORK									
Kenmore	905	6,400	12,307	12,959	6 yrs	13,529	Yes	No	Yes
Liverpool	460	6,400	12,100	12,550	6 yrs	13,600	Yes	No	No
OHIO									
Rocky River	206	6,150	12,300	12,675	6 yrs	12,925	No	No	Yes
Shaker Heights	450	6,150	12,300	12,751	6 yrs+	13,379	No	No	Yes
PENNSYLVANIA									
Upper Merion Twp.	294	5,500	12,000	12,600	6 yrs	13,000	No	Yes	No
WISCONSIN									
Menomonee Falls	270	6,300	12,600	12,800	6 yrs	...	No	Yes	No
Group VII--88 systems with bachelor's degree minimum, $6,500 or more, but with master's degree maximum less than $12,000, and with maximum salary scheduled BELOW earned doctorate less than $13,000.									
CALIFORNIA									
Brawley (Elem.)	139	6,900	9,900	10,300	6 yrs	10,700	Yes	No	No
Colton	462	6,500	9,890	12,665	6 yrs+	...	Yes	No	No
Cypress (Elem.)	219	6,500	10,675	11,400	M.A.+	...	No	No	No
Downey	719	6,600	11,250	12,500	6 yrs	...	Yes	No	No
El Monte (Elem.)	332	6,500	11,450	12,140	6 yrs	...	Yes	No	No
Fairfield-Suisun	483	6,500	11,780	12,428	6 yrs	12,848	No	No	No
Garvey-Rosemead (Elem.)	231	6,500	10,928	12,808	6 yrs	...	No	No	No
Hudson, La Puente (Elem.)	693	6,500	11,675	12,525	6 yrs	...	No	No	No
Lancaster (Elem.)	257	6,600	9,780	11,800	6 yrs	...	Yes	No	No
Los Alamitos (Elem.)	130	6,500	10,410	12,060	6 yrs	...	No	No	No
Newport-Mesa, Newport Beach	973	6,500	11,104	12,928	6 yrs	...	No	No	No
Ocean View, Huntington Beach (Elem.)	388	6,500	11,726	12,628	M.A.+	...	No	No	No
Oxnard	320	6,500	11,876	12,635	6 yrs	...	No	No	No
Pasadena	1,260	6,510	11,130	12,390	6 yrs	13,671	Yes	No	Yes
Redlands	458	6,550	11,605	12,700	6 yrs	13,030	Yes	No	No
Redondo Beach (Elem.)	388	6,500	10,880	12,330	6 yrs	...	No	No	No

TABLE 1.--PUBLIC SCHOOL SYSTEMS REPORTING HIGH SCHEDULED SALARIES, 1968-69 (Continued)

Reporting system	Number of teachers, October 1967	Scheduled salaries, 1968-69: Bachelor's degree minimum	Master's degree maximum	Maximum salary scheduled below earned doctor's degree: Amount	Preparation	Maximum for earned doctorate if recognized	Salaries shown: May be exceeded for long service	May be exceeded for merit	Index schedule
1	2	3	4	5	6	7	8	9	10
CALIFORNIA (Continued)									
Rowland	476	$7,000	$10,930	$11,930	6 yrs	...	No	Yes	No
Santa Maria	154	6,600	11,780	12,600	6 yrs	$12,900	No	Yes	No
Susanville	44	6,600	9,850	10,100	M.A.+	...	No	No	No
Tustin (Elem.)	314	6,500	11,555	12,415	6 yrs	...	Yes	No	No
CONNECTICUT									
Bridgeport	1,028	6,500	11,200	12,000	6 yrs	...	No	No	No
Newtown	159	6,500	10,850	12,000	6 yrs	...	No	No	No
Stratford	497	6,500	11,450	12,450	6 yrs	12,950	No	Yes	No
Trumbull	255	6,500	11,600	12,600	6 yrs	...	No	No	No
DISTRICT OF COLUMBIA									
Washington	5,958	7,000	11,550	11,900	6 yrs	12,250	Yes	No	No
FLORIDA									
Dade Co., Miami	9,016	6,650	11,330	11,852	6 yrs	12,374	No	No	No
ILLINOIS									
Aurora, East Side	394	6,600	11,603	12,837	7 yrs	12,969	No	Yes	No
Carpentersville	498	6,500	10,400	11,960	6 yrs	...	No	Yes	No
Chicago	22,397	7,000	11,250	11,800	6 yrs	12,050	Yes	No	No
Downers Grove (Elem.)	255	6,500	11,440	12,200	6 yrs	...	Yes	Yes	No
Elmhurst (Elem.)	310	6,500	11,050	11,505	6 yrs	...	No	No	Yes
Hazel Crest (Elem.)	74	6,500	9,075	9,075	M.A.	...	No	No	No
Joliet Dist. #86 (Elem.)	483	6,600	10,409	10,833	6 yrs	...	Yes	No	No
Lincolnwood (Elem.)	94	6,500	11,650	12,650	6 yrs	13,150	Yes	Yes	No
Mannhein, Franklin Park (Elem.)	165	6,500	11,300	11,540	M.A.+	...	No	No	No
Morton Grove (Elem.)	75	6,500	11,895	12,545	M.A.+	...	No	No	Yes
Rock Island	444	6,500	11,440	12,025	6 yrs+	...	No	No	Yes
Skokie Dist. #68 (Elem.)	149	6,500	11,375	11,375	M.A.	...	No	No	No
Wheaton Dist. #16 (Elem.)	270	6,700	11,580	12,340	6 yrs+	...	No	No	No
INDIANA									
Anderson	665	6,500	11,550	11,850	6 yrs	12,150	Yes	No	No
Highland	269	6,600	11,573	11,899	6 yrs	...	Yes	No	Yes
Hobart	216	6,600	11,150	11,400	6 yrs	...	No	No	No
Lake Ridge Schools, Griffith	244	6,527	11,697	12,171	6 yrs	12,780	No	No	No
Michigan City	486	6,800	11,740	12,040	6 yrs	12,140	Yes	No	No
Munster	130	6,600	11,725	12,500	6 yrs	...	Yes	No	No
Portage Twp.	347	6,700	10,720	11,120	6 yrs	11,520	Yes	No	Yes
MARYLAND									
Baltimore	7,407	6,500	11,400	11,900	6 yrs	12,400	Yes	No	No
MASSACHUSETTS									
Boston	4,564	6,500	11,250	11,800	6 yrs	12,350	No	No	No
MICHIGAN									
Athertone	90	6,600	10,064	10,064	M.A.	...	No	No	Yes
Bay City	632	6,775	11,619	11,856	6 yrs	...	No	No	Yes
Benton Harbor	516	6,500	11,700	12,200	6 yrs	...	No	No	Yes
Cherry Hill	182	6,700	11,300	11,975	6 yrs	12,200	Yes	No	No
Clintondale, Mt. Clemens	200	6,800	11,520	11,970	6 yrs	...	No	No	No
Detroit	11,000	7,500	11,700	12,400	6 yrs	12,700	Yes	No	No
Imlay	85	6,650	9,900	9,900	M.A.	...	No	No	No
Lake Orion	191	6,750	10,950	10,950	M.A.	...	No	No	No
Monroe	383	6,500	10,920	11,635	6 yrs	...	No	No	No
Oxford	97	6,750	11,521	11,521	M.A.	...	No	No	No
South Haven	133	6,500	10,815	10,815	M.A.	...	No	No	No
Waterford Twp., Pontiac	666	6,700	11,500	12,500	6 yrs	...	No	No	No
NEW JERSEY									
Newark	3,221	6,700	11,100	12,300	6 yrs	...	Yes	No	No
Perth Amboy	292	6,500	10,600	11,000	6 yrs	...	Yes	No	No
Plainfield	486	6,500	11,700	12,100	6 yrs	...	Yes	No	No
Summit	303	6,500	10,900	11,100	6 yrs	11,400	No	Yes	No
Westfield	409	6,600	11,900	12,800	6 yrs	13,800	Yes	No	No
NEW YORK									
Buffalo	3,425	6,800	11,605	11,810	6 yrs	12,510	Yes	No	No
Canton	103	6,500	10,253	11,105	6 yrs+	11,386	Yes	No	No
Cheektowaga	283	6,500	11,750	12,650	7 yrs	...	Yes	No	No
Glens Falls	211	6,500	10,700	11,100	6 yrs	...	Yes	No	No
Greece Central, Rochester	678	6,600	11,800	12,850	7 yrs	...	Yes	Yes	No
Horseheads	354	6,500	11,312	11,959	6 yrs	12,406	Yes	No	Yes
Kendall	68	6,500	11,700	12,150	6 yrs	...	No	No	No
Lewiston-Porter	227	6,500	11,050	11,650	6 yrs	11,950	Yes	No	No

TABLE 1.--PUBLIC SCHOOL SYSTEMS REPORTING HIGH SCHEDULED SALARIES, 1968-69 (Continued)

Reporting system	Number of teachers, October 1967	Scheduled salaries, 1968-69: Bachelor's degree minimum	Master's degree maximum	Maximum salary scheduled below earned doctor's degree: Amount	Preparation	Maximum for earned doctorate if recognized	Salaries shown: May be exceeded for long service	May be exceeded for merit	Index schedule
1	2	3	4	5	6	7	8	9	10
NEW YORK (Continued)									
Mayfield	58	$6,500	$10,150	$10,400	6 yrs	...	Yes	Yes	No
Niagara Falls	879	6,500	11,670	12,445	6 yrs	$13,725	Yes	No	No
Port Jervis	121	6,500	10,975	11,875	7 yrs	...	Yes	No	No
Saratoga Springs	222	6,500	10,990	11,890	7 yrs	...	Yes	Yes	No
Starpoint Dist., Lockport	136	6,500	11,150	11,600	6 yrs	...	Yes	No	No
PENNSYLVANIA									
Moon Dist., Coraopolis	199	6,500	11,400	12,250	6 yrs	13,150	No	Yes	No
Mt. Lebanon	414	6,500	10,520	10,820	6 yrs	11,420	Yes	No	No
Philadelphia	12,102	6,700	11,400	12,100	6 yrs	13,300	No	No	No
Pittsburgh	3,132	6,500	10,400	11,300	7 yrs	11,600	Yes	No	No
RHODE ISLAND									
Providence	1,299	6,500	10,600	10,900	6 yrs	11,200	Yes	No	No
WISCONSIN									
Germantown	95	6,500	11,082	12,090	M.A.+	...	No	No	Yes
Milwaukee	4,724	6,800	11,326	12,350	7 yrs	...	Yes	No	Yes
Racine	1,275	6,500	11,261	12,175	6 yrs	...	No	No	Yes
Waukesha	491	6,600	11,550	12,210	6 yrs	..	No	No	Yes
West Allis	702	6,700	11,725	12,395	6 yrs	...	Yes	No	Yes

Judicial Decisions, Opinions, and Statutes

FACT-FINDER'S REPORT ON INKSTER, MICH., TEACHER NEGOTIATIONS

MICHIGAN LABOR MEDIATION BOARD
In the Matter of Fact-Finding

- between -

BOARD OF EDUCATION OF THE SCHOOLS OF THE
CITY OF INKSTER (WAYNE COUNTY, MICHIGAN)
Employer

and

THE INKSTER FEDERATION OF TEACHERS LOCAL 1068,
AMERICAN FEDERATION OF TEACHERS - AFL-CIO
Union

REPORT
and
RECOMMENDATIONS

APPEARANCES:
For the Union
Roger E. Craig, Esq.
Attorney
Henry B. Linne
President
Michigan Federation of Teachers
Mrs. Catherine H. Jackson
President
Inkster Federation of Teachers
Local 1068
For the Employer
Dr. Edward B. Fort
Superintendent
Arthur W. Meek
Assistant Superintendent

INTRODUCTION

On September 3, 1968, Dr. Edward B. Fort, Superintendent of Schools for the Board of Education, hereinafter to be referred to as the Employer, and Mrs. Catherine H. Jackson, President, Inkster Federation of Teachers, Local 1068, hereinafter to be referred to as the Union, sent a joint telegraph to Mr. Hyman Parker, Chief Mediation Officer for the Labor Mediation Board, which stated the following:

REQUEST IMMEDIATE FACT-FINDING ON
ISSUES OF DIFFERENCES BETWEEN US
INCLUDING WAGES AND AGENCY SHOP

On September 4, 1968, the Labor Mediation Board designated the undersigned ". . .as its Hearings Officer and Agent to conduct a fact-finding hearing pursuant to Section 25 of Act 176 of Public Acts of 1939, as amended, and the Board's Regulations and to issue a report with recommendations with respect to the matters in disagreement."

Hearings were held at the Inkster Board of Education offices on September 4 and 5, 1968, at which time both parties to this dispute were afforded full opportunity to present testimony, evidence and arguments. At the September 4 hearing both parties agreed that the following unresolved issues should be submitted to fact-finding inasmuch as failure to agree on them had constituted the main obstacle to a successful negotiation of a new contract.

1. RELEASED TIME FOR THE UNION'S PRESIDENT
2. AGENCY SHOP (PROFESSIONAL RESPONSIBILITY CLAUSE)
3. SALARY SCHEDULE FOR 1968-69
4. BLUE CROSS-BLUE SHIELD BENEFITS

DISCUSSION AND RECOMMENDATIONS

1. RELEASED TIME FOR THE UNION'S PRESIDENT

The previous Agreement (1967-68) between the parties provides the following in Article II Section 3 (B):

> The President of the Federation shall receive one (1) day per week released time . . .

The parties stipulate that this released time is used for union activities which are, primarily, the investigation and processing of contractual grievances. The Employer's position is that 2 days of released time per month is sufficient for this purpose. Moreover, the Employer notes that the payment of a substitute for the Union's President will only compound the Board's financial difficulties which are outlined in detail below.

The Union's rejoinder to this argument is twofold. In the first place, the Union points out that the payment of a substitute teacher constitutes an extremely small percentage of the Board's budgetary allotment for substitute teachers (the latter totaling $55,000). Secondly, the Union maintains that the released time contract provision has enabled the Union to investigate and resolve more grievances before it becomes necessary to invoke the final steps of the contractual grievance procedure.

I recommend that the parties continue the past practice concerning released time which is incorporated in Article II Section 3(B) of the agreement. There seems to be little dispute regarding the fact that both parties have been the beneficiaries of this clause. The uncontradicted evidence is that the Union President has been able to deal with many grievances which, in the absence of the released time practice might have festered and thus proved troublesome. Moreover, the cost of the necessary substitute teacher is extremely small.

If the Union President does not have sufficient time to carry on such Union business, there exists the possibility of shorter absences during the day which will present administrative difficulties.

And, of course, the cost involved in grievances which become exaggerated and more complicated as the result of Union's inability to deal with them at an early stage can be both costly and inconvenient to the Union and the Employer. In this connection it should be noted that the Union President must visit 10 school buildings in order to carry out her functions under Article II Section 3(B).

I do not believe that the parties have been unwise in negotiating that clause in the Agreement. I, therefore, recommend that the past practice concerning released time be continued.

2. AGENCY SHOP (PROFESSIONAL RESPONSIBILITY CLAUSE)

The Union has proposed that a "Professional Responsibility Clause", be incorporated in the 1968-69 Agreement. This clause provides that any member of the bargaining unit who has not joined the Union [within 30 days after his employment or the execution of the Agreement, whichever is later] ". . . shall pay to the Union a sum equal to the Union dues and assessments established by the Union for each school year and shall execute an authorization permitting the deduction of such sums. . ." The clause further provides that payment of such sums does not constitute Union membership. Also included is the obligation for the Employer to require authorization and the obligation for the Employer to deduct from the employee's pay check and transfer such sums to the Union on a monthly basis.

This proposal is, of course, the agency shop. The Union argues for the acceptance of the agency shop on the ground that it represents all members of the bargaining unit and that it services them all equally. Therefore, runs the argument, all members of the unit should contribute to the expenses involved in representation. In this connection, the Union notes that, in addition to expenses involved in collective bargaining, contract administration and fact-finding, it has utilized the resources of both the Michigan Federation of Teachers and the American Federation of Teachers. Moreover, the Union has represented the interests of Inkster teachers in legislative hearings.

Secondly, the Union emphasizes the fact that the representation vote in favor of Local 1068 was "overwhelming" and that during the past year 163 of the 225 bargaining unit employees were members of the Union. Although there are only 175 bargaining unit employees this year it is undisputed that the Union continues to have approximately the same percentage of members as last year. Thus, the Union argument is that the agency shop is also warranted because most of the bargaining unit employees pledged their allegiance to the Union. To permit a small minority to escape payment of what is in effect a service fee penalizes the Union majority.

Thirdly, the Union notes that the Board of Education has already negotiated an agency shop clause with the American Federation of State, County and Municipal Employees Union, that agency shop clauses have been negotiated in Allen Park, East Detroit and Hamtramck, and that 100 out of 500 contracts negotiated by the Michigan Education Association contain agency shop clauses. Therefore, according to the Union, the acceptability of the agency shop in Michigan public schools is well demonstrated and the prevailing pattern argues in favor of an agency shop provision in the Inkster Contract.

While noting that it has not set its face against the agency shop principle for all time, the Employer states that the payment of such sums should not be the responsibility of the Board and that it does not wish to be involved in "coercing" nonunion teachers to pay Union dues. Further, the Employer notes that the difficulties arising out of the current round of negotiations emphasize the disadvantages of a Union security clause for the Employer. In essence this argument is that Union militancy in the face of the Employers' financial situation does not presage a successful relationship in the future.

I am persuaded that the Union's position on this subject is the more meritorious of the two. In the circumstances of this case, it would seem that the very large percentage of Union membership noted above somewhat undercuts the Employers' argument that coercion would result from negotiation of the agency shop in Inkster. Moreover, the Union has vigorously represented the interests of all regardless of Union affiliation or lack thereof. In these circumstances of this case it is unfair for some employees to escape the financial obligations that belong to Union members when the benefits are negotiated equally for both groups of employees.

(It should be noted that the Union's proposal does not contemplate discharge as a sanction to be imposed in the case of an employee who resists payment. Union Counsel has specifically stated that, in the event of a violation of the "Professional Responsibility Clause" the Union would seek judicial enforcement of the clause and not discharge of the employee.)

To sum up, I am not persuaded by the Employer's arguments concerning coercion. I would think that the Labor Mediation Board's decision in Oakland County Sheriff's Department Case No. C-66-F-63 (1968) has put to rest the argument that the agency shop is "coercive" in its impact on nonunion members. For, in that case it was held that the agency shop is not coercive within the meaning of the Michigan Public Employment Act.

Therefore, in light of the Union's large membership, its vigorous representation of all bargaining unit members, and the hardship that a contrary recommendation would impose upon Union members, I recommend that the parties incorporate the Union's agency shop proposal in their 1968-69 contract.

3. SALARY SCHEDULE FOR 1968-69

The starting salary for a teacher with a Bachelor of Arts degree in Inkster in 1967-68 was $6,000. Increments of $300 are provided at each of 7 following steps. For the last 3 steps the teacher receives a $400 increment and at the last (11th) step each teacher received an additional $400 increment in February, 1968.

The starting salary for a teacher with an MA degree is $6,400. The exact same increment pattern noted above applies to the MA teacher.

Thus, the maximum salary in 1967-68 for a BA teacher was $9,600 and for an MA teacher, $10,000.

The Union has proposed that the starting salary for a teacher with a BA degree consists of $7,200 with all increments being $400. This would make the maximum salary for a BA teacher $11,200. The starting salary under the Union's scheme for an MA teacher would be $7,700 with the exact same pattern for increments. Thus, the maximum salary for the MA teacher would be $11,700.

The Employer has countered this proposal with an offer of a $500 across the board increase. This would make the BA starting salary $6,500 and the maximum, $10,000. The MA salary spread would go from $6,900 to $10,500.

The Employer's salary proposal would cost $88,074. The Union estimates the cost of its proposal to be approximately $285,000.

The foremost difficulty in resolving this dispute is that the Fact-Finder is caught in the horns of a fundamental dilemma. On the one hand, acceptance of the Employer's proposal will make Inkster teacher salaries uncompetitive with surrounding communities. This is especially true insofar as the more experienced teachers are concerned.1/ Comparability is one of the important factors to be weighed by the Fact-Finder. Inkster's teachers ought not to be placed in the position of receiving grossly inferior pay rates. Further, the teachers ought not to be placed in the position of subsidizing the school district.

On the other hand, a disproportionate number of experienced teachers who receive large increments makes Inkster's salary costs more burdensome than is the case in surrounding communities. Even more significant is the fact that Inkster has the poorest property tax base of any surrounding community and that a school district deficit in the previous year required a loan from the State in July, 1968. Blending into the Employer's financially precarious picture is House Bill No. 3332, which was signed by Governor Romney on May 17, 1968. This law provides in part that ". . . a school district receiving an emergency loan under the provisions of this act shall balance its budget in the fiscal year immediately following the fiscal year for which it receives an emergency loan, or, following recommendation by the State committee on reorganization of school districts, shall be reorganized by the State Board of Education."

Thus, there is the prospect that the Inkster school district will be dissolved if it runs another deficit and that, as provided in Section 15 of the law, a "contiguous" district will conduct Inkster's school business in the future.

My intent is to issue recommendations which preserve the Inkster school district or which, in any event, do not add substantially to its financial burdens. But I must reconcile such a concern with the fairness and equity which Inkster teachers deserve. For the image of all teachers is ill served by substandard salaries.

The fundamental problem involved in balancing the equities in this case is that neither the Union, employer or Fact-Finder know the full extent of Inkster's current financial liability. It is indeed possible that the Inkster Board would be dissolved without <u>any</u> raise for teachers. Moreover, the Employer acknowledges that its present offer of $88,074 might itself create a deficit; yet it remains willing to implement that offer.

On the other hand, there are certain facts which <u>are</u> available. One of these is that the Employer's budget estimates are not an entirely accurate reflection of the monies that the Board will receive in 1968-69. Although the Employer uses the accrual method of accounting, which is supposed to show 100% of the property tax collection as revenue, it has subtracted 15% of this amount in calculating what is available for salary increases on the ground that "experience" indicates that only 85% is actually collected.

But, in the first place, this is a pessimistic estimate because in the last two years for which records are available (1965-66 and 1966-67) the percentages have been 86.6 and 87.4 respectively. And the pattern from 1961 through 1967 reflects a continuously higher percentage of taxes collected.

1/ A portion of Union Exhibit 5 which indicates comparative salaries is attached as part of the Appendix.

More significant, however, is the fact that each year (from 1961 through 1967) the Inkster School District collects approximately 50% of delinquent property taxes. On an average, this amounts to between $80,000 and $90,000. However, this year's collection of delinquent taxes should be slightly lower in light of the above-noted higher collection of the current levy in recent years. But, of course, the higher collection of the current levy should compensate for the lower collection rate for delinquent taxes.

To repeat, Inkster's method of accounting should show 100% of the current levy <u>without</u> deductions for delinquent taxes this year and <u>without</u> additions for the previous years' delinquent taxes which will be collected this year. But if those deductions and additions were combined with the current levy actually collected the amount of revenue should be just about the same as the revenue which should be reflected through Inkster's accounting method. Thus, under either Inkster's own accounting methods or on the basis of a reliable statement of available cash in '68-'69 the Employer has considerably underestimated its revenue.

But, as noted above, the current financial liabilities are unknown. The Union takes the position that since the State Treasurer - in a letter of July 19, 1968 addressed to Dr. Fort - declared the Employer's insolvency to be $705,000 and since Inkster received a loan in that amount, there is no current liability. But the Employer relies upon a February 14, 1968 Auditor General Report which estimated that Inkster's July, 1968, deficit would be $902,000. To no avail the Employer relied upon this report in its negotiations with the State Treasurer which preceded the above-noted letter and loan.

The Board's current audit is not yet prepared.

Therefore, taking into account all of the above-noted facts and arguments, I make the following recommendations:

1. The Union should accept the Employer's offer of a $500 increase for the first 9 steps of the salary schedule for both BA and MA teachers. Thus, the starting salary for BA teachers should be $6,500 and for MA, $6,900.

2. A new 12th step on the salary schedule should be created. BA teachers in this step should receive an increase of $900. Thus, their salary would be $10,500. MA teachers in this step should receive an increase of $1,000. Thus, their salary would be $11,000.

3. Both BA and MA teachers on the 10th and 11th steps should receive increases of $600 and $700 respectively.

4. Teachers with an educational specialist degree should receive a $100 differential.

5. The parties have not supplied me with information concerning insurance benefits which is sufficient to make a rational judgment at this time. Therefore, Blue Cross-Blue Shield benefits should be the subject of negotiation between the parties.

6. The Union should have the right to reopen the Agreement on all economic issues in February, 1969. At that time the audit will be available for inspection and the parties will have a more complete picture of the Employer's financial position.

7. If the parties do not accept these recommendations, a Michigan Treasury Department official should come to Inkster and examine any available records which may shed light on the dispute concerning Inkster's financial liability.

While my recommendations do not make Inkster's teachers' salaries entirely competitive, they provide substantial increases for the more experienced teachers and, at the same time, they do not unduly jeopardize the Employer's finances. I estimate that my proposals will cost the employer $125,000 - $40,000 in excess of its present offer. There is no evidence before the Fact-Finder to support the conclusion that these recommendations will cause the Inkster school district to run a deficit. There is no evidence that $88,074 is the only offer which is compatible with the District's survival.

What is clear is that the teachers must receive a salary which is reasonably equitable. If the Union's estimates prove correct in February additional increases can be negotiated. If, on the other hand, existing liabilities exceed all revenue actually received during '68-'69, the District will probably be dissolved in the absence of other savings.

I believe that the tragedy of Inkster and the educational opportunities available to its children - with or without dissolution - is largely attributable to the absurd manner in which Michigan and other states finance education. In my judgment, Inkster's reliance upon its poor property tax base is the primary reason for the current dispute in progress. Until the State of Michigan resolves to finance public education through its tax base, poor districts like Inkster will be in turmoil. Consideration of new procedures to cope with teacher stoppages such as compulsory arbitration or stiffer strike penalties - while they have a secondary importance - miss the heart of the matter.

Only if and when Michigan takes on the financial responsibility for state-wide public education itself can the Inkster school district and its teachers hope for a realistic solution to its problems.

/s/ William B. Gould
Professor of Law
Wayne State University Law School

Detroit, Michigan
September 7, 1968

APPENDIX

	B.A.			M.A.		
	'67-'68	'68-'69	Increases	'67-'68	'68-'69	Increases
Inkster	6000-9600			6400-10000		
Garden City	6200-9920	6850-10960	650-1040	6820-11160	7877-12809	1051-1649
Cherry Hill	6150-9600	6700-10150	550-559	6600-11150	7150-11700	550-550
Nankin Mills	6200-10168	---		6820-11160	---	
Flat Rock	6000-9120	---		6480-9840	---	
Taylor	6300-10300	---		6800-11300	---	
Heintzen	6100-9800	6900-10800	800-1000	6550-10600	7500-11800	950-1200
Dearborn #8	6200-9600	7200-11206	1000-1606	6600-10500	8000-13210	1400-2710
Redford Union	6050-9794	6900-11274	850-1480	6582-10660	7525-12275	943-1615
Dearborn #4 to #7	6200-9800			7000-11100		
Lincoln Park	6100-9715			6555-10500		
Wayne	6100-9882	6850-10950	750-1068	6527-10797	7500-12500	973-1703
Huron	6000-9240	6650-10240	650-1000	6500-9740	7150-11000	650-1260

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

JEAN SMIGEL, JOHN STARR, MARY JONES and PHYLLIS RUMLEY, several of a class similarly situated,

Plaintiffs,

vs.

Civil Action No. 118, 812

SOUTHGATE COMMUNITY SCHOOL DISTRICT, a Public Corporate Body; SOUTHGATE EDUCATION ASSOCIATION, a Voluntary Unincorporated Association; DONALD KOUBA, JACK FRUCCI, JOHN DOE AND JANE DOE,

Defendants.

OPINION

AT A SESSION OF SAID COURT held in the City-County Building, Detroit, Michigan on the 22nd day of November, 1968.

PRESENT: Hon. Thomas J. Foley, Judge of the Third Judicial Circuit

This matter comes before this Court by way of Complaint with Order to Show Cause why Defendants should not be restrained from enforcing the provisions of a certain contract entered into by the parties in September, 1968.

Plaintiffs are teachers in the Southgate Community School District. Paragraph 21 (g) of the Complaint sets forth that the plaintiffs are in fact members of "a rival to defendant association."

Defendant Southgate Education Association (hereinafter referred to as The Association) has served as collective bargaining representative for teachers employed by the Defendant Southgate Community School District (hereinafter referred to as The Board) since 1966. The Association was duly elected by a majority of teachers in the bargaining unit and certified by the Labor Mediation Board as the bargaining representative pursuant to provision of the Public Employment Relations Act, being Act 379 of P.A. 1965 (hereinafter referred to as PERA).

Following certification in February, 1966 The Association and The Board did enter into extensive negotiations culminating in a collective bargaining agreement.

Plaintiffs have accepted all the benefits emanating from the negotiated agreement. Some plaintiffs refuse to join The Association or pay the service or representation fee provided under Article II of the agreement.

Article II of the Agreement provides:

"ARTICLE II–MEMBERSHIP, FEES AND PAYROLL DEDUCTIONS

All teachers as a condition of continued employment shall either:

1. Sign and deliver to the Board an assignment authorizing deduction of membership dues and assessments of the Association (including the National and Michigan Education Associations) and such authorization shall continue in effect from year to year unless revoked in writing between June 1 and September 1 of a given year. Such sums shall be deducted during the eight (8) consecutive pay periods commencing the 1st pay of October from the salary of all teachers authorizing deductions and remitted within thirty (30) days to the Association. Teachers joining the Association at the beginning of the second semester and signing and delivering to the Board an assignment authorizing deduction of said membership dues, may have dues for that semester deducted from the six (6) consecutive pay periods commencing the 1st pay of February, or

2. Sign and deliver to the Board an assignment authorizing deduction of a representation fee equivalent to the dues and assessments of the Association (including the National and Michigan Education Associations). Such sums shall be deducted during the eight (8) consecutive pay periods commencing the 1st pay of October from the salary of all teachers authorizing deductions and remitted within thirty (30) days to the Association. Teachers beginning their employment at the beginning of the second semester and signing and delivering to the Board an assignment authorizing deduction of said representation fees may have fees for that semester deducted from the six (6) consecutive pay periods commencing the 1st pay of February.

   Any teacher who wishes to pay cash for this fee must pay the full amount to the Treasurer of the S.E.A. within thirty (30) days of the commencement of employment.

   In the event the representation fee shall not be paid, the Board upon receiving a signed statement from the Association indicating the teacher has failed to comply with this condition, shall immediately notify said teacher that his services shall be discontinued at the end of the current semester. The Board shall follow the dismissal procedure of the Michigan Tenure Act. The refusal of said teacher to contribute fairly to the costs of negotiation and administration of this and subsequent agreements is recognized as just and reasonable cause for termination of employment. However, if at the end of the semester, the teacher, or teachers, receiving the termination notice shall then be engaged in pursuing any legal remedies contesting the discharge under this provision before the Michigan Tenure Commission, or a court of competent jurisdiction, such teacher's service shall not be terminated until such time as such teacher or teachers have either obtained a final decision as to the validity or legality of such charge, or such teacher or teachers have ceased to pursue the legal remedies available to them by not making a timely appeal of any decision rendered in said manner by the Tenure Commission, or a court of competent jurisdiction."

Article II or the so called "agency shop" provision is no longer a novel provision in agreements between bargaining agents and public employers in the State of Michigan, but, on the contrary, the principle has become an acceptable method of creating stability in public employee-employer relationships. Board of Education of the Schools of the City of Inkster, 263 GERR F-1 (Sept. 23, 1968); Oakland County Sheriff's Department, SLMB Case No. C 66 F-63 (Jan. 8, 1968), 1968 Labor Opinions 1, 227 GERR F-1 (Jan., 1968); City of Warren v. Local No. 1383, International Association of Fire Fighters, (Macomb Circuit Court No. S 67-33111); Clampitt v. Board of Education of the Warren consolidated Schools, 256 G E R R E-1.

P.E.R.A. at Section 423.208, CL 1948 provides:

"Sec. 9. It shall be lawful for public employees to organize together or to form, join or assist in labor organizations, to engage in lawful concerted activities for the purpose of collective negotiation or bargaining or other mutual aid and protection, or to negotiate or bargain collectively with their public employers through representatives of their own choice."

Thus the legislature approved not only the right of public employees to organize into labor organizations, but gave further recognition to the age-old process of collective negotiation or bargaining.

"Agency Shop" has been a bargainable issue in the collective bargaining process for many years and has received recognition as having a stabilizing influence upon employer-employee relations. Railway Employees Department vs. Hanson, 351 U.S. 225 (1955); NLRB v. General Motors Corporation, 373 U.S. 734; Tremblay v. Berlin Police Union, 232 G E R R D-1 (February 19, 1968).

In Tremblay, supra, the Supreme Court of New Hampshire was confronted with a collective bargaining agreement which required all policemen to authorize dues deductions to be paid over to a union. The Court noted that the clause, as here, "imposes a financial obligation only," and did not require union membership as a condition of employment. Termination of employment was authorized only for non-payment of such moneys. The Court therein stated:

"In the present case the police commissioner and the union have, in effect, declared under the collective bargaining agreement that union security is a reasonable requirement for the efficient and orderly administration of the police department. . . . this is a decision they have the right to make. . . . Our conclusion is that this union shop clause as construed is valid. . . ."

This Court thus finds that the so called "Agency Shop" is a valid bargainable issue in contract negotiations between public employees and employers.

The claim that an agency shop provision violates statutory law in that it forces one to join a union, and is discriminatory, is without merit. Such provision in an agreement serves the purpose of allocating indiscriminately the cost of representation for collective bargaining among all those participating in the benefits received. Such a provision eliminates the "free riders." Roberts' Dictionary on Industrial Relations (1966).

In City of Warren v. Local No. 1383, International Association of Fire Fighters, supra, the Court was faced with the discharge of twenty-five firemen who refused to make payment pursuant to an agency shop provision calling for payment of dues to the union or a service charge. The City maintained it could not discharge because of limitations on discharge under the Civil Service Act.

Judge Noe stated in part:

"Addressing ourselves to the specific point as to whether the dues as such should be collected from all members of the de-

partment under the factual situation in this case, it is the Court's interpretation that whether the terminology of union shop is used or agency shop, the payment of dues is certainly a part of the union security arrangments arrived at during the collective bargaining agreement. This does not require that those not desiring to become members of the union join the union, but only that they contribute, consistent with the union members, their share of the cost of maintaining the union, consistent with the benefits which they derive from the contract itself. Any other interpretation of Section 10 (P.E.R.A.) or any of its clauses, if extended to invalidate negotiated provisions of the collective bargaining agreement, would utterly destroy the rights of public employees to bargain through representatives of their own choice, or a union, and would completely destroy the exercise of their right to bargain collectively as set forth in P.E.R.A. and particularly Section 9.

An interpretation of Section 10 of the Act was principally directed to interference, restraint and coercion by an employer with the rights of the employees, and was not intended to be extended to non-discriminatory contractual c(l) auses, the outgrowth of terms arrived at by mutual agreement of the City and the chosen representatives (or union) of a majority of employees in the employee unit involved. No precise expression of the legislature intending to invalidate union security agreements appears."

Thus it is concluded that the agency shop provision, proper in itself, does not require union membership and is not discriminatory in violation of the provisions of P.E.R.A.

This Court's attention is directed to the provisions of the Teachers Tenure Act, being 38.101 CL 1948 et seq., wherein it is provided in part;

"Section (1) discharge or demotion of a teacher on continuing tenure may be made only after such charges, notice, hearing, and determination thereof, as are hereinafter provided. . . ."

It is claimed that a tenure teacher cannot be discharged for non-compliance with the agency shop provision because of the above mentioned provision of the Teacher Tenure Act.

Such an argument presupposes a contradiction in the terms and purposes of P.E.R.A. and the Teachers Tenure Act.

The latter promotes good order and welfare of the state and school system by preventing removal of capable and experienced teachers at personal whims of changing office holders. *Rehberg v. Board of Education of Melvindale, 330 M 541.*

The purpose of P.E.R.A., under which agency shop provisions may be bargained, is to benefit the employees with a sound, secure, unified approach to employee representation. Thus we see a common unified goal precluding an interpretation of the tenure act urging a conflict with P.E.R.A.

The Board and the Association have entered into a contract for the purpose of establishing certain standards of conduct necessary on both sides. Article II of the contract provides for the so-called agency shop requiring the payment of dues or a service fee. Further, provision is made for termination of employment upon refusal to comply with the provisions set forth.

Any action which would weaken the bargaining power of the Association and tend to reduce its strength is very well a proper subject for the parties to consider as reasonable grounds for discharge. Such activity disturbs the delicately balanced relationships between the bargaining parties, thus creating hardships greater in magnitude than provisions such as those setting forth hours of attendance and responsibilities in the classroom. Violation of these provisions certainly could be interpreted by the parties and Tenure Commission to constitute reasonable grounds for discharge under Article IV, Section I of the Tenure Act.

The Tenure Act permits in explicit language the discharge of an employee "for reasonable and just cause." The Board and the Association have determined that non-compliance with provisions of Article II of said contract, namely, the agency shop provisions, constituted reasonable and just cause for discharge. All fell within the limits of permitted collective bargaining under P.E.R.A. and do not conflict with the Tenure Act.

This Court is aware that procedures of appeal have been set up in the Teachers Tenure Act. To subject a teacher to discharge and the subsequent cumbersome procedures seeking to test the foregoing conclusions would constitute an unreasonable burden. Thus this Court has undertaken to answer the dispute.

The remaining provisions of the contract between the Board and the Association have been examined. Plaintiffs' allegations that the agency shop is discriminatory is found to be without foundation.

Plaintiffs Order to Show Cause why an injunction should not issue restraining the defendants, their respective officers, agents, employees, members from applying the provisions of the collective bargaining agreement, specifically Article II, Memberships, Fees and Payroll Deductions, Section A, is denied.

/s/ THOMAS J. FOLEY
CIRCUIT JUDGE

NEW JERSEY SUPREME COURT DECISION IN CASE OF UNION BEACH BOARD OF EDUCATION v. NEW JERSEY EDUCATION ASSOCIATION

SUPREME COURT OF NEW JERSEY
A-16 September Term 1968

BOARD OF EDUCATION, BOROUGH OF UNION BEACH, etc.

Plaintiff-Respondent,

v.

NEW JERSEY EDUCATION ASSOCIATION, a corporation, etc.,
UNION BEACH TEACHERS ASSOCIATION, FREDERICK L. HIPP
and three other individual defendants,

Defendants-Appellants.

Argued October 8, 1968 – Decided November 25, 1968.

On appeal from the Superior Court, Chancery Division, Monmouth County, whose opinion is reported in 96 *N.J. Super.* 371 (*Ch. Div.* 1967).

Mr. Saul Z. Cohen, of the New York bar, argued the cause for appellants (*Mr. Peter M. Fishbein, Mr. Murray J. Laulicht, Mr. Donald H. Wollett, Messrs. Kaye, Scholer, Fierman, Hays and Handler*, of the New York bar, of counsel; *Mr. Joseph N. Dempsey* and *Mr. Cassell R. Ruhlman, Jr.*, attorneys).

Mr. Theodore W. Geiser argued the cause for respondent (*Messrs. Pindar, McElroy, Connell and Foley*, attorneys).

Mr. Norman Mesnikoff argued the cause for Monmouth County Chapter, American Civil Liberties Union of New Jersey, *amicus curiae* (*Mr. Lee Holley*, of counsel).

Mr. Thomas P. Cook argued the cause for State Federation of District Boards of Education, *amicus curiae*.

The opinion of the Court was delivered by WEINTRAUB, C. J.

Plaintiff Board of Education (herein Board) obtained a judgment, after a plenary trial, restraining certain activities by defendants and directing them, in effect, to undo actions already taken. The trial court's opinion is reported in 96 *N. J. Super.* 371 (*Ch. Div.* 1967). We certified defendants' appeal before argument in the Appellate Division.

The Board is a public body, N.J.S. 18A:10-1, charged with the conduct of the public school system in the Borough of Union Beach. Defendant New Jersey Education Association (NJEA), with a membership of about 57,000, represents teachers and administrators in public schools in New Jersey. Defendant Union Beach Teachers Association (UBTA) represented 46 of the 47 full-time teachers employed by the Board at the time of the events about to be related. It is affiliated with NJEA, and NJEA is affiliated with a national organization, the defendant National Education Association (NEA), with more than a million members. Defendant Haller was the president of UBTA, and the other individual defendants are officers or representatives of NJEA.

I.

In February 1967 a dispute arose between the secretary of the Board and defendant Haller, president of UBTA. Haller was a teacher in plaintiff's system but had not yet acquired tenure. On March 14, 1967 the Board met to consider teacher contracts for the following school year and decided not to offer one to Haller and two other nontenure teachers who were active in UBTA. Haller was so notified on March 29. UBTA held a special meeting of its membership on March 31 at which a lengthy resolution was adopted listing 17 grievances.

The trial court found the resolution to be a sham in its assertion of alleged grievances, which finding is not, however, pivotal in the decision of the case. The grievances had not been presented before and no effort had been made to pursue established grievance procedures. The real controversy, which comes within the general terms of the 17th alleged grievance, involved the Board's decision not to reemploy Haller and the two other teachers. Indeed, at the meeting of March 31 representatives of NJEA scored the decision of the Board not to reemploy a nontenure teacher without giving a reason and on that basis urged the teachers to submit resignations *en masse*. At the Board's meeting of April 4 Haller presented the "grievance" resolution described above, and also the resignations of 36 of the 47 teachers, to be effective on June 3, about two weeks short of the end of the school term. The Board called upon the teachers to withdraw their resignations. A few did, and on April 17, the Board accepted the remaining 31 resignations.

Meanwhile, on April 12 UBTA resolved that "sanctions be imposed" against the Board and requested NJEA to follow suit. On April 21 the NJEA resolved to "impose sanctions" on the Board, and gave wide circulation to its resolution.

We interrupt the chronology to explain what defendants mean by "sanctions." In 1962 the NEA resolved:

> "The National Education Association believes that, as a means of preventing unethical or arbitrary policies or practices that have a deleterious effect on the welfare of the schools, professional sanctions should be invoked. These sanctions would provide for appropriate disciplinary action by the organized profession.
>
> The National Education Association calls upon its affiliated state associations to cooperate in developing guidelines which would define, organize, and definitely specify procedural steps for involking sanctions by the teaching profession."

In its "Guidelines" NEA states:

> "As used by a professional education organization, sanctions mean censure, suspension or expulsion of a member; severance of relationship with an affiliated association or other agency; imposing of a deterrent against a board of education or other agency controlling the welfare of the schools; bringing into play forces that will enable the community to help the board or agency to realize its responsibility; or the application of one or more steps in the withholding of services."

With reference to "sanctions" imposed by NEA upon a school district, the "Guidelines" include the following "types of sanctions":

> "3. Notification to certification and placement services of unsatisfactory conditions of employment for educators.
>
> 4. Warning to members that acceptance of employment as a new teacher in the school district would be considered as unethical conduct and could lead to discharge from and future refusal of membership in the national professional association.
>
> 5. Advice to members presently employed that, if their private arrangements permit, they should seek employment elsewhere."

As to a member of NEA who is guilty of "unethical" conduct, the "sanctions" authorized are private or public censure, suspension from membership or expulsion from membership.

The "Guidelines" deal with the imposition of "sanctions" by a local education association and also by a state association. As to an offending member, the "sanctions" are those just listed, *i.e.*, private or public censure, suspension or expulsion. As to the school districts, the local education association and the state association also impose "sanctions," and we quote the following from the "Guidelines" with respect to such action at the state level:

> "3. Notification to state and national accrediting agencies of professionally unsatisfactory conditions in a school district;
>
> 4. Withholding of placement services, when the state association maintains a placement office; notice to public and private placement agencies of unsatisfactory conditions in a school district and request to observe professional disapproval;
>
> 5. Notification to members of association of unacceptable conditions for employment in such district and the professional significance of accepting or refusing employment in a school district against which sanctions have been invoked."

In harmony with the "Guidelines," NJEA made wide distribution of its notice of imposition of "sanctions" on the school district, sending notices to its 57,000 members, to the presidents and placement directors of all teacher colleges in New Jersey, to like officials and others connected with state preparatory colleges in Pennsylvania, New York, West Virginia, Connecticut, Delaware and Maryland, and to all state association executive secretaries. It sent sanction notices to building representatives in selected key districts surrounding plaintiff school district. It also sent a letter to teachers considering employment by the Board, warning that "If a contract is signed by you while professional sanctions are in effect at Union Beach, you will be in violation of the professional code of ethics."

All of the notices referred to above quoted NEA Resolution 66-16, which reads:

> "A violation of sanctions by a member of the profession is a violation of the 'Code of Ethics of the Education Profession.' Therefore, the offering or accepting of employment in areas where sanctions are in effect should be evaluated in terms of the Code, and local, state, and national associations should continue to develop procedures for disciplining members who violate sanctions."

NJEA proclaimed through the local press that it would be "a violation of the professional code of ethics for any teacher to accept employment in Union Beach or for any administrator to offer employment in Union Beach as long as the sanctions which had been invoked were in effect."

II.

It has long been the rule in our State that public employees may not strike. We recently refused to hold that teachers are beyond that ban, saying in *In re Block*, 50 *N. J.* 494, 499-500 (1967):

> " * * * Nor can defendants claim a right to strike under the State Constitution, *Art. I*, Par. 19, upon the thesis that they are in private employment because teaching can be pursued under private auspices. We rejected the relevancy here of the distinction between 'governmental' and 'proprietary' functions in *Delaware River and Bay Authority, supra*, 45 *N. J.*, at 146.
>
> "When government undertakes itself to meet a need, it necessarily decides the public interest requires the service, and its employees cannot reverse or frustrate that decision by a concerted refusal to meet that need. In any event, teachers are ill-situated to profit from the distinction we have rejected, since the maintenance of a free public school system is mandated by the State Constitution itself. Art. VIII, Sec. 4 Para. 1."

And we have rejected the notion that public employees may resort to strike because they think their cause is just or in the public good. So, in discussing the contempt sentences imposed in *In re Buehrer*, 50 *N. J.* 501, 508 (1967), we said:

> " * * * Defendants say the trial court gave no weight to their claim that they struck and defied the order because of a frustration born of an inability to obtain for the school system what

they believed it had to have. The prosecution disputes this claim of high purpose. The trial court of course did not evaluate the teachers' demands upon the Board, and neither do we. The notion that some higher right justifies concerted defiance of law can have no role in the courtroom. It cannot excuse; on the contrary, it emphasizes the deliberate nature of the violation. Nor can it meliorate the wrong, especially when the plea comes from public servants who should set the good example."

Defendants deny there was a "strike." They seek to distinguish the usual concerted refusal to work from what transpired here. As to the teachers employed by the Board, defendants say they merely resigned as of a future date, and with respect to the interference with the Board's recruitment of replacements, defendants, as we understand them, say a refusal to accept employment is inherently different from a quit. But the subject is the public service, and the distinctions defendants advance are irrelevant to it, however arguable they may be in the context of private employment. Unlike the private employer, a public agency may not retire. The public demand for services which makes illegal a strike against government inveighs against any other concerted action designed to deny government the necessary manpower, whether by terminating existing employments in any mode or by obstructing access to the labor market. Government may not be brought to a halt. So our criminal statute, N.J.S. 2A:98-1, provides in simple but pervasive terms that any two or more persons who conspire "to commit any act" for the "obstruction of * * * the due administration of the laws" are guilty of a misdemeanor.

Hence, although the right of an individual to resign or to refuse public employment is undeniable, yet two or more may not agree to follow a common course to the end that an agency of government shall be unable to function. Here there was such collective action by agreement both as to the quitting and as to new employment. As to the mass resignations, an agreement to that end must be inferred from the very adoption by the members through their teachers union of the program of sanctions which, despite some verbal obscurity in this regard, quite plainly imports an understanding to withdraw services when the union officialdom "imposes sanctions" upon a school district. The use of "unethical" in condemning new employment because of working conditions must mean it also "unethical" to continue an existing employment under the same conditions. The full understanding must be that upon the imposition of sanctions, all services will be withdrawn. We have no doubt that the agreement to strike was not articulated because of the established illegality of that course. In any event, if it should be thought the plan did not include the obligation to quit in connection with the imposition of sanctions, we think it clear that the teachers entered into an agreement to quit when they voted in favor of mass resignations and then executed 36 of them. Although the Board accepted the resignations and we do not ask that that work stoppage be ended, we are satisfied the stoppage was concerted action to an illegal end.

And with respect to blacklisting of the school district and the scheme of "sanctions" upon teachers who offer or take employment with a "sanctioned" school board, it can escape no one that the purpose is to back up a refusal of others to continue to work. At a minimum the object is to withhold additional services a school district may need to discharge its public duty, which, as we have said, is no less illegal. Such an illegal agreement may come into being at the time of the strike or may antedate it. If individuals enter into a union or association on terms that upon the occurrence of some stipulated event or signal they will impede government in its recruitment of services, that very arrangement constitutes an agreement the law denounces. An agreement not to seek, accept, or solicit employment in government whenever the upper echelon of the union makes a prescribed pronouncement is, no less than an accomplished shut-down, a thrust at the vitality of government, and comes within the same policy which denounces a concerted strike or quit or slowdown or other obstruction of the performance of official duties.

The several actions taken pursuant to the so-called "Guidelines" are thus illegal even if tested in isolation from each other. But of course the so-called imposition of "sanctions" upon the Board, the mass resignations, and the threat of "sanctions" upon teachers who offer or accept new employment, are all part and parcel of a single illegal plan to block government.[1]

That the conventional terminology of a "strike" nowhere appears is of no moment. The substance of a situation and not its shape must control. A doctrine designed to protect the public interest is equal to any demand upon it. It does not yield to guise or ingenuity.

Defendants complain of the following passage in the trial court's opinion (96 *N. J. Super.* at 382):

> "The actions taken by all of the defendants constituted a coercive activity designed for the sole purpose of compelling the board to act in accordance with their desires. As such it was in violation of *Art.* I, *par.* 19 of the 1947 *New Jersey Constitution* as interpreted by our Supreme Court."

They say that to bar all "coercive activity" intended to "compel" a board to act as they want it to act is so broad, and imprecise, as to deny them their right of speech in violation of the First and Fourteenth Amendments. Individuals, severally or in association, of course have the right to denounce a public body, its officers, and its programs, in the most searing terms, and even with a wide margin of error. See *New York Times Co. v. Sullivan,* 376 *U. S.* 254, 11 *L. ed.* 2*d* 686 (1964); *Garrison v. Louisiana,* 379 *U. S.* 64, 13 *L. ed.* 2*d* 125 (1964); *Rosenblatt v. Baer,* 383 *U. S.* 75, 15 *L. ed.* 2*d* 597 (1966); *Ashton v. Kentucky,* 384 *U. S.* 195, 16 *L. ed.* 2*d* 469 (1966); *St. Amant v. Thompson, U. S.*___, 20 *L. ed.* 2*d* 262 (1968). Such condemnation may indeed be "coercive" and be intended to "compel" a public agency to bow to the wishes of the critics. It is the right of the individual, and it serves equally the collective interest of society, thus to bring government before the bar of public opinion, thereby to alter its course.

But although citizens, individually and in association, may thus seek to "coerce" a public body to their wish, there is no right to achieve that end by disabling the public body from acting at all. There is no right to "compel" government to change its ways by blocking the administration of the law until it yields. And this is all the trial court condemned. It is perfectly clear from its opinion that by "coercive activity" it meant the scheme of sanctions before it

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[1] Defendant Hipp, Executive Director of NJEA, accurately said on an earlier occasion, as the trial court noted (96 *N. J. Super.* at 381):

"Legality may not be the crucial issue. The argument that extreme sanction is legal while a strike is not is not impressive. Both involve withdrawal of service and in both children miss certain expected schooling. The extreme sanction of resignation of teachers and blackballing of the district, even though it may be legal, can have a far more devastating effect upon children than the typical brief teachers' strike. In my book any work stoppage, legal or illegal, is a strike. A strike is a sanction and extreme sanction is a strike."

which was intended thus to disable the Board from performing at all by depriving it of necessary personnel. This is evident when the criticized passage is read in the context from which it was lifted, and is made crystal clear by the closing portion of the trial court's opinion which expressly holds only that defendants may not pursue their "sanctions" against the school district or the teachers, must withdraw the "sanctions," and must inform all of the recipients of the notice of "sanctions" that the court has adjudged them to be illegal. The trial court expressly added that "There is no intention, however, of restraining defendants from exercising the right of free speech concerning what they think the conditions are in the Union Beach school system." See 96 *N. J. Super.* at 392-393. The judgment as entered thus confines the restraint,[2] and of course it is the court's judgment, rather than its opinion, which is under review.

What reappears in defendants' argument is a protest that "sanctions" are no more than an expression of disapproval of conditions in the school district and of the conduct of the Board. It is difficult, even in the abstract, to take that view of the terms used. Far from importing a mere denunciation of men and their work, the "imposition of sanctions" imports the imposition of a penalty. Odd though it is, and presumptuous too, for a private group to "impose sanctions" upon government, that is precisely the power defendants claimed to exert, and the "Guidelines" make plain that the penalty intended is the deprivation of public services.

The imposition of "sanctions" was the stipulated signal for unlawful activity. The right to utter even a pleasantry may be lost if it is the agreed call for lawlessness. It need hardly be said that freedom of speech does not include the right to use speech as an instrument to an unlawful end. *Delaware River and Bay Authority v. International Organization of Masters, etc.*, 45 *N. J.* 138, at 149-150 (1965). As was said in *Giboney v. Empire Storage and Ice Co.*, 336 *U. S.* 490, 502, 93 *L. ed.* 834, 843-844 (1949), and repeated in *Cox v. Louisiana*, 379 *U. S.* 536, 555, 13 *L. ed.* 2d 471, 484 (1965), "it has never been deemed an abridgment of freedom of speech or press to make a course of conduct illegal merely because the conduct was in part initiated, evidenced, or carried out by means of language, either spoken, written or printed."

And we see no substance to defendants' claim that there was no proof of injury and therefore relief should have been denied. This proposition rests upon two bases. One seems to be that an exercise of the constitutional rights of speech and association cannot be restrained unless public injury has been achieved. The other is the maxim that equity will relieve only for irreparable injury.

To begin with, there was harm in that thirty-one teachers resigned en masse some two weeks before the end of the school term, and although the Board managed to obtain replacements, it was put to that burden. Moreover, there was interference with the process of recruitment until the temporary injunction issued. Further, one cannot discount the inherent possibility that defendants succeeded in limiting the Board's choice of new employees even though they failed in their effort to dry up the source. At any rate, this is not a case where the right to speak or to assemble is sought to be denied because there might ensue some unintended breach of peace or other unintended public harm. Rather here the conduct was designed to accomplish a public injury. Although a court in its discretion may decline to deal with a vacant threat, it hardly lies with defendants to insist their plan of sanctions is hollow and their claim of power an empty boast. And so, too, with respect to the rule that equity will act only if the injury is irreparable, the maxim does not mean that equity will withhold its hand until a threatened harm is done. It means only that equity will leave the parties to a remedy at law if money damages will adequately compensate for the wrong.

Finally, we see no basis for invoking the clean-hands doctrine. It is enough to say, as the opinion of the trial court adequately reveals, that the doctrine will not be invoked when to do so will injure the public. It would be absurd to subject the public to the wrongs of defendants merely because the Board too may have acted improperly.

III.

The passage we quoted above from the trial court's opinion included the statement that defendants' illegal activity "was in violation of *Art.* I, *par.* 19 of the 1947 *New Jersey Constitution* as interpreted by our Supreme Court." Defendants say we have never held the Constitution prohibits a strike by public employees. The

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[2]The judgment reads:

"(1) all defendants are permanently restrained and enjoined from making any press releases, notices, or statements that 'sanctions' have been or are being applied to the plaintiff;

(2) the defendants, Union Beach Teachers Association, New Jersey Education Association and National Education Association, are hereby permanently restrained and enjoined from in any way threatening censure, expulsion or any other action against any member of the teaching profession who accepts a position with the plaintiff;

(3) the defendants, New Jersey Education Association and National Education Association, are enjoined to distribute to each person or agency to whom each of them distributed the 'Notice of Professional Sanctions' the following notice:

'The Superior Court, State of New Jersey, after full hearing, has determined that the "Notice of Professional Sanctions" imposed by the New Jersey Education Association and the Union Beach Teachers Association upon the Borough of Union Beach, New Jersey, in the spring of 1967 was an illegal act on the part of both the local and the state organizations.

Further, the Court has ordered that the local and state organizations, as well as the National Education Association, be restrained and enjoined from in any way threatening censure, expulsion or any other action against any member of the teaching profession who accepts employment as a teacher in the Borough of Union Beach, New Jersey.

In addition, the New Jersey Superior Court has permanently restrained and enjoined Union Beach Teachers Association, New Jersey Education Association and National Education Association from making any press releases, notices or statements that "sanctions" have been or are being applied in the Borough of Union Beach, New Jersey.

Because the imposition of such "sanctions" was illegal, the Court has directed New Jersey Education Association and National Education Association to publish and distribute this notice of the Court's determination upon as wide a basis as the "Notice of Professional Sanctions" was originally distributed.'

(4) There is no intention in this judgment to restrain the defendants from exercising their right of free speech concerning what they think the conditions are in the Union Beach School system."

criticism is correct. In fact we expressly left the question open in *Delaware River and Bay Authority, supra*, 45 *N. J.* at 148.

Of course, unless some statute purported to authorize such a strike, it would not help defendants if the ban rested in the common law rather than the Constitution. No such statute existed when this case was tried. Since then the Legislature has adopted *Chapter* 303 of the Laws of 1968, and its history invites the question whether the statute impliedly authorized a strike by public employees. At the oral argument defendants conceded the statute carries no such implication, and we agree for the reasons we will presently state. This being our view, the constitutional question need not be faced. Nonetheless, the climate is such that we should decide the question now so that it will be clear whether the Legislature is restrained in this sensitive area by the provisions of *Article* I, par. 19.

Article 1, par. 19 reads:

> "Persons in private employment shall have the right to organize and bargain collectively. Persons in public employment shall have the right to organize, present to and make known to the State, or any of its political subdivisions or agencies, their grievances and proposals through representatives of their own choosing."

Literally, this provision is one of grant to employees rather than of restraint upon them. It purports only to secure the stated rights of private and public employees from legislative denial. That the rights thus secured as to the public employee are less than those assured the private employee does not mean the Legislature may not close the gap in whole or in part. Surely we need not add to the literal reading of the provision to give it sense, for the provision is meaningful without embellishment. This being so, we see no basis to say the provision was intended to deny the Legislature the power to grant public employees rights which could be given them in the absence of this provision.

It of course is essential to the constitutional promise of an ordered society that government shall be able to govern, and we may therefore assume the Legislature could not legislate the branches of government into idleness. Strikes do tend to bring government to a halt. Yet it need not follow that the Legislature could not find strikes to be tolerable within certain areas and limits. As to a public service the Constitution does not expressly require to be furnished, the Legislature, which may withdraw the service, may find some interruption should be permitted. And even where the Constitution requires a public service to be rendered, as in the case of free public schools, *Art.* VIII, Sec. 4, Par. 1, there may be room for legislative judgment as to what interruptions are compatible with the fulfillment of that mandate.

Nothing in the proceedings of the Constitutional Convention suggests the delegates thought *Article* I, Par. 19, disabled the Legislature from adding to the stated rights of employees. On the contrary, a proposal that strikes by public employees be prohibited was withdrawn when the sponsor was assured the common-law prohibition against such strikes would continue notwithstanding the adoption of *Article* I, Par. 19 and that an attempt to embed that rule in the Constitution would likely lead to a lengthy quarrel. See 1 *Proceedings of the New Jersey Constitutional Convention of 1947, pp.* 660-661.[3] We ought not to imply a restraint upon the legislative power which the Convention did not adopt despite an awareness of the issue.

We should not be thought to recommend legislative departure from the common-law rule. On the contrary we remain satisfied that any concerted action which obstructs or disables government runs strongly against sound public policy. Rather the question is whether this judge-made law is beyond legislative disagreement, and we hold only that it is not. More precisely, we hold that *Article* I, Par. 19 does not itself embody the judge-made view, and does not prevent the Legislature from according public employees rights the Legislature could have granted if that provision were not in the Constitution. But the subject is so vital that we will not attribute to the Legislature an intent to depart from the common law unless that intent is unmistakable. Hence we said in *Delaware River and Bay Authority, supra*, 45 *N. J.* at 148:

> " * * * While we are not prepared to accept and do not pass on the Authority's contention that a legislative grant to certain classes of public employees, of full collective bargaining rights including the right to strike, would be violative of *Article* 1, *par.* 19, we are entirely satisfied that such a grant, being a sharp departure from prior law and policy, must be deliberately expressed and is not to be implied."

We turn then to *Chapter* 303 of the *Laws of* 1968. It provides for certain procedures to deal with labor disputes in the public area. It amended *c.* 100 of the *Laws of* 1941, *N. J. S. A.* 34:13A-1, *et seq.*, which had dealt only with labor disputes in the private sector. As initially proposed, *Chapter* 303 would have amended section 8 of the 1941 act to read (the amendments are italicized):

> "Nothing in this act shall be construed to interfere with, impede or diminish in any way the right of *private* employees to strike or engage in other lawful concerted activities. [*Nothing in this act shall be construed to change or enlarge the rights of persons in public employment as set forth in Article I, Paragraph 19 of the Constitution of the State of New Jersey.*]"

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[3]In this regard, the Delegate Nathan L. Jacobs, now a member of our Court, said (the essence of Amendment No. 25 referred to in this exerpt is now *Art.* I, Par. 19):

'Mr. Orchard referred to assurances from the floor. I don't know just who is in a position to give him such assurances, but I would like to express my personal opinion as to the two issues which he raised.

First, in so far as the right of the State to regulate public utilities is concerned, I don't think there is any question that it has that right now. It has exercised it; that right will continue, and will not in any wise be altered by the proposed Amendment No. 25.

In so far as the issue as to whether publicly employed persons have the right to strike against the State is concerned, whatever law there is on the subject is uniform to the effect that publicly employed persons have no right to strike against the State. I am certain that proposed Amendment No. 25 will not in any wise alter that phase of the law as it now exists."

The bracketed sentence was deleted from the bill before adoption so that section 8 of the 1941 act remained amended solely by the insertion of "private" before "employees."

Since *Chapter* 303 provided for "collective negotiations" between public bodies and representatives of their employees, the Governor was concerned lest the deletion of the bracketed sentence might be read to import in "collective negotiations" a right to strike.[4] The Governor accordingly withheld his approval and proposed this amendment:

> "Nothing in this act shall be construed to alter the obligations and duties of persons in public employment under Article I, paragraph 19 of the Constitution of the State of New Jersey as the same has been interpreted by the courts of this State, particularly as bearing upon the absence of a right to strike. This act shall not be construed to confer upon public employees any rights not expressly granted by this Act."

This amendment was one of a number, relating to sundry aspects of the bill, which the Governor proposed. The Legislature declined to adopt these amendments and overrode the Governor's "conditional veto."

We are satisfied the Legislature's refusal to accept the amendment does not suggest the Legislature intended the implication the Governor sought to foreclose. Apart from the fact that the Legislature may have quarreled with other recommended amendments rather than this one, the Legislature could well have rejected this amendment for the same reason it had deleted the sentence of the original bill which is bracketed in the excerpt quoted above, *i.e.*, that in other respects the bill could be said to give public employees rights beyond those granted by *Article I*, Paragraph 19, and that any possible inference that a right to strike was intended was adequately negated by the insertion of the word "private" in the reference to the right to strike in the preceding sentence. Finally, in declining to adopt the Governor's amendment, the legislators could well have relied upon our assurance in *Delaware River and Bay Authority*, quoted above, 45 *N. J.* at 148, that a grant of a right to strike "must be deliberately expressed and is not to be implied."

IV.

The Board asks for an award of counsel fees. An award is not authorized by *R. R.* 4:55-7, as the Board frankly acknowledges. It urges an award to relieve the taxpayers of the burden of this litigation. We are not persuaded to depart from the rule.

The judgment is affirmed.

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[4]The Governor's "conditional veto" message reads:

"First, of paramount concern to me is the fact that the bill, as presently drafted, appears to suggest that public employees have a right to strike, contrary to long-established judicial interpretations of the New Jersey Constitution. Whether by indirection or otherwise, the Legislature in a last-minute amendment struck from Senate Bill No. 746 language disavowing any intention upon its part of enlarging upon the rights of public employees under the Constitution. That deletion, considered in conjunction with certain other provisions of the bill, implies that public employees may engage in work stoppages. The Public and School Employees' Grievance Procedure Study Commission developed a concept of collective negotiations which embraces a bundle of bargaining rights up to but not inclusive of the right of public employees to strike. But for the defects noted in the act, I would assume the Legislature intends that the term 'collective negotiations' be given no greater scope than did the Study Commission. If, however, the Legislature intends more, it should be clearly understood that the Governor of this State will not become a willing partner. I have suggested language which will remove all doubt as to the intention of Senate Bill No. 746 on this subject."

MICHIGAN LABOR MEDIATION BOARD DECISION IN MATTER OF HILLSDALE COMMUNITY SCHOOLS AND PRINCIPALS ASSOCIATION

STATE OF MICHIGAN
LABOR MEDIATION BOARD
LABOR RELATIONS DIVISION

In the Matter of:
HILLSDALE COMMUNITY SCHOOLS,
Employer,

- and -

HILLSDALE COMMUNITY SCHOOLS PRINCIPALS AND SUPERVISORY ASSOCIATION,
Petitioner,

Case No. R66 L-440

- and -

MICHIGAN EDUCATION ASSOCIATION
Special Intervenor.

DECISION AND ORDER

The importance of the issues presented in this case caused us to request the Trial Examiner who heard the case to issue a Report of his Findings (which he did on February 23, 1968) to be used as a basis for oral argument by the parties and the several amici curiae.[1] All parties filed exceptions to certain aspects of the Trial Examiner's findings.

We consolidated this case with *City of Detroit and Government Accountants and Analysts Association,* Case No. R67 D-125, for oral argument, as some issues were common to both cases. On April 1, 1968, we heard oral argument.

We have delayed a decision on the issues presented because it appeared that the Legislature might, by statute, determine the structure of collective bargaining units under the Public Employment Relations Act. As the Legislature did not act,[2] it is incumbent upon this Board to interpret the scope of bargaining units under PERA.

The instant case arose when the Hillsdale Community Schools Principals and Supervisory Association (PSA), a labor organization under the Act, sought an election in a proposed bargaining unit:

> "High school, junior high, and elementary school principals, curriculum coordinator, reading coordinator, ESEA coordinator, cooperative education coordinator, head librarian, and physical education director; excluding: teachers, superintendent, assistant superintendent, business manager and all non-certificated employees."

The Hillsdale Education Association (HEA) is a labor organization which is recognized by the School District as exclusive bargaining agent for the District's non-supervisory certificated teachers.

The School District opposes the petition on the grounds that: (1) Supervisors and executives have no rights to collective bargaining under PERA; (2) assuming, arguendo, that PERA allows such rights to principals and other supervisors, this Board should deny such rights as a matter of public policy; (3) the proposed unit is inappropriate because it contains six staff specialists who are supervised by seven principals, also included in the unit; and (4) PSA may not be certified as exclusive representative of principals and teachers' supervisors, since it is affiliated with the state organization (MEA) which is the parent organization of many teacher organizations, including the organization of teachers in the petitioner's District.

We now turn to a discussion of the issues individually.

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[1]Council 23, American Federation of State, County and Municipal Employees, AFL-CIO; Michigan Nurses Association; Michigan Association of Secondary School Principals; Foremen's Association; Birmingham School District; American Federation of State, County and Municipal Employees, AFL-CIO; Michigan Association of Elementary School Principals.

[2]HB 4161 passed in the House of Representatives, but did not pass the Senate.

1. The unit of supervisors.

The Trial Examiner, in his Report, rejected the School District's position on this issue, consistent with our decision in *Saginaw County Road Commission*, 1967 Labor Opinions 196. During oral argument, the School District and certain amici curiae prayed that we reverse *Saginaw* and hold that supervisory employees are excluded from statutory coverage.

We have studied the briefs and arguments urging reversal of our position, but we are not persuaded that the *Saginaw* decision is contrary to proper construction of PERA.

Our duty as described in Section 13 of PERA is to:

> ". . . decide in each case, in order to insure *public employees* the full benefit of their right to self organization, to collective bargaining and otherwise to effectuate the policies of this act, *the unit appropriate for the purposes of collective bargaining as provided in Section 9e of Act No. 176* (Labor Mediation Act) . . . " (Emphasis supplied)

From this section, the argument is made that "employees," as used in 9e, specifically excludes executives and supervisors; that is, "employees" as used in Section 9e is defined in Section 2 (e) of LMA.[3] However, this argument ignores the use of "public employee" in Section 13 of PERA. "Public employee" is defined in Section 2 of PERA and not in Section 2 (e) of LMA. PERA, Section 2, does not exclude supervisors or executives from the provisions of PERA as does its counterpart in LMA.

Section 9e is incorporated into PERA only for standards of unit determination and to provide a prohibition against supervisors and executives being included in the same unit with employees they supervise. There is no prohibition against supervisory units except by virtue of LMA's Section 2 (e), which is not included by specific mention in PERA.

The School District maintains that our interpretation of the statutes ignores the canon of construction that statutes which have the same general purpose should be read *in para materia* as constituting one law, especially where there is specific reference from one statute to the other.[4] The purpose of this canon of statutory construction is to avoid a strict construction of one statute which defeats the main purpose of another statute or statutes relating to the same subject.[5]

However, this construction of two statutes dealing with the general subject of labor relations is subject to being made more specific by other canons of construction. *Expressio unius est exclusio alterius* restricts the effect of a statute to the area specifically mentioned, i.e., public employment relations. *Expressum facit cessare tacitum* means that "when the law designates the actors none others can come upon the stage."[6] PERA is restricted to public employees, which term is defined in the Act.

We affirm our *Saginaw* decision and adopt the Trial Examiner's Findings of Fact and Conclusions of Law on this issue.[7]

2. Public policy

The School District devotes a substantial portion of its brief to urging the adoption of a policy that supervisors should not be allowed rights under PERA. Our *Saginaw* decision was based on statutory construction, not policy. The School District's argument is that "the policy as well as the letter of the law is a guide to decision."[8]

We recognize this Board's responsibility as guardian of public policy discussed in *National Labor Relations Board v. Atkins & Company*, 331 U.S. 398 (1947). While there are certain areas of policy to be considered in every matter, this policy should not be used to frustrate the intent of the Legislature as we interpret it. Thus, it would be inconsistent for us to find supervisory status encompassed within the definition of "public employees," and then deny that status because we believed that the policy should be to the contrary.

We do note that competent authorities have expressed the opinion that supervisory personnel in the public sector have characteristics which differ from supervisors in private employment.[9]

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[3]The customary basis for prohibition of supervisory units is found in the definition of employee, which excludes supervisors. If supervisors are not employees, they cannot avail themselves of the provisions of the Act.

[4]*In re Miller's Estate*, 359 Mich. 167 (1960); *City of Detroit v. Michigan Bell Telephone Co.*, 374 Mich. 543 (1965).

[5]*City of Detroit, supra.*

[6]*Taylor v. Michigan Public Utilities Commission*, 317 Mich. 400 (1922).

[7]We find no merit to the contention that the principals in the instant case are distinguishable from the traffic director supervisor in *Saginaw* because principals have a policy function. This argument is a *non sequitur* if supervisors are not excluded from the definition of employee. We note that the New York State Public Employment Relations Board has included principals and assistant principals in bargaining units, stating that: "Principals act merely as conduits rather than as decision makers." *Board of Education, Union Free School District and Depew Teachers Organization, Inc.*, 255 GERR C-2 (1968). Similarly, see *Metropolitan Transit Authority*, 48 LRRM 1296 (Mass. Labor Relations Board, 1961). We also dismiss the argument concerning Governor Romney's veto of HB 3388, which bill would have amended PERA to allow the inclusion of police supervisors in the bargaining unit with patrolmen. The issue raised by the bill was solely the inclusion, or exclusion, of police supervisors in the same unit with the rank and file. Police supervisors had, on the enactment of PERA, the privilege to engage in concerted activities, including the choice of an exclusive bargaining representative in a designated unit.

[8]Note: "Interstate Immorality: The Mann Act and the Supreme Court," 56 Yale L.J. 718 (1947).

[9]See, for example, Slavney, "The Public Employee—How Shall He Be Represented in Collective Negotiations?" Governor Rockefeller's Conference on Public Employment Relations, *269 GERR* E-1 (1968). Mr. Slavney observes at p. E-4: "I think most of us here would admit that supervisors in public employment are for the most part different than supervisors in the private sector, not only in the concept of employer loyalty but also in the performance of identifiable supervisory functions. Under a civil service system, the authority supervisors might have with regard to the hire, transfer, suspension, layoff, recall and promotion is subject to more stringent review than in private employment. Further, in civil service, employees performing normal supervisory duties have the same rights and protections as do rank and file employees with respect to tenure, job security and civil service grievance procedures, and normally their salary increments and increases have a distinct relationship to increments and increases granted to nonsupervisory personnel. These factors tend to create a community of interest with employees supervised rather than with management." See, also, *New York Public Library*, 69-1 ARB Sec. 8067 (Yagoda, 1968).

These differences, far from disqualifying public employment supervisors from representation, make a stronger case for allowing supervisors separate bargaining units, particularly when they are not excluded from the definition of "employee."[10]

There is a common interest among school boards, superintendents, principals and teachers to provide "a superior education for the nation's youth."[11] All of those parties work professionally toward the same goal.

We adopt the Trial Examiner's Findings of Fact and Conclusions of Law on this issue.

3. Appropriate Unit

The Trial Examiner found that the petitioned for unit was appropriate although it contained purported principal supervision of the staff specialists. We affirm the Trial Examiner's Findings that the nature of the supervision was not sufficient to invoke the prohibition against supervisors being included in units with those employees they supervise.

The evidence reveals that the supervision is mere routine direction not requiring the exercise of independent judgment. In its *Hotel Olds*[12] decision, the Michigan Supreme Court mandated this Board to find appropriate the largest unit of common interests. The Court adopted language of the Massachusetts Labor Relations Commission in its decision in *Salem Hospital Corporation*, 19 LRRM 1245 (1946):

> "In designating the bargaining units as appropriate, a primary objective of a commission is to constitute the largest unit which, in the circumstances of the particular case, is most compatible with the effectuation of the purposes of the law and to include in a single unit all common interests."

Regarding the unit in question, we find a community of interest between the staff specialists and the principals. There are similarities in administrative duties, professional skills and working conditions. Additionally, we agree with the Trial Examiner's conclusion that the staff specialists' distinct community of interest is insufficient to separate them from the principals.

Thus, we find the petitioned for unit appropriate for collective bargaining purposes under PERA.

4. MEA domination of PSA

The School District argues here that the parent organization (MEA) exercises an overwhelming degree of control over its affiliates, particularly respecting collective bargaining policy. Also, it is alleged that it is impossible for PSA to be truly independent within the MEA organizational framework. Where both the principals' and teachers' organizations are MEA affiliates, the School District maintains that there is a conflict of interest where principals are the first step in the grievance procedure. Hence, if the MEA exercises such a degree of control over its affiliates, it will control the initial stage of the grievance procedure. The Trial Examiner agreed with the School District's contentions.

Perhaps this situation may arise, but it is speculative. We are charged with the duty to protect the organizational rights of all public employees. Where, as here, principals are public employees, we should not restrict their free exercise of Sec. 9 rights, which includes the selection of a collective bargaining representative. *City of Escanaba*, 1966 Labor Opinions 451. The petitioning organization must, however, proceed with the normal proof establishing itself as a labor organization within the terms of the Act.[13]

Similarly, there is no more basis for restricting the choice of bargaining agent to one not representing the rank and file employees here, than there is in restricting that choice respecting craft, technical or professional employee units. Just as professional, craft and technical employees are not restricted in their choice of bargaining representative, supervisory employees should also not be so restricted.

We agree with the principles enunciated by the New York State Labor Relations Board:[14]

> "We also have noted that the 'conflict of loyalties', allegedly resulting from the selection of the same representative by supervisory or protection employees and by rank and file employees, is a misnomer; that it arises, if at all, from the employees' fundamental right of association, which exists independent of statute; that the denial of all rights under the Act to one of the two groups of employees provides no solution; and that any problems which arise can and should be adjusted and resolved in the collective bargaining process, when, and if, that eventually occurs."

The Wisconsin Employment Relations Board was confronted with a similar problem in *Association of Engineers of Milwaukee*, 58 LRRM 1571, 1573 (1964). At issue was the inclusion or exclusion of Municipal Engineers and Architects in a unit of non-supervisory employees.

The Wisconsin Board took note of the supervisors in the petitioning organization's membership. The Board, however, enunciated the principle that in a representation case, the issue of employer interference by reason of supervisors who are members of an organization seeking to represent non-supervisory employees should be determined on the facts of each case, not on membership *per se*. The Board stated:

> "The function of the Board in a representation proceeding is to determine whether or not a question of representation exists, to take evidence with respect to the appropriate collective bargaining unit and with respect to the employees eligible to participate in the election if one is ordered by the Board. It is now our opinion that the Board should not, in a representation proceeding, question the internal affairs of an organization,

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[10] *Metropolitan New York Nursing Home Association*, 60 LRRM 1281 (N. Y. State Labor Relations Board, 1965).

[11] Schmidt, "Collective Negotiations: An Overview," A Guide to Collective Negotiation in Education, School of Labor and Industrial Relations, Michigan State University, 1967, at pp. 4, 5.

[12] *Hotel Olds v. Michigan Labor Mediation Board*, 333 Mich. 382 (1952).

[13] *Public Schools of the City of Muskegon*, 1966 Labor Opinions 397; *Milwaukee-West Allis Federation of* [illegible] 64 LRRM 1337 (Wisconsin Employment Relations Board, [illegible]

[14] *Yonkers Raceway, Inc.*, 63 LRRM 1[illegible] 1100 (N. Y. State Labor Relations Bd., 1966).

which the Board is satisfied exists for the purpose of representing municipal employees in conferences and negotiations with municipal employers on matters pertaining to wages, hours and conditions of employment.

"Therefore, in a representation proceeding, we do not believe that we should impose conditions on any organization seeking to represent municipal employees, which conditions would limit the right of such organizations to establish rules for the acquisition, retention and rejection of membership. To do so in a representation proceeding would impinge on the voluntary nature of such organizations.

"If it can be established, in a prohibitive practice proceeding, that any labor organization which has been selected as the collective bargaining representative of municipal employees in an election conducted by the Board, that the rules and regulations of such an organization interfere with the rights of employees . . . or that supervisory employees have dominated that organization and thus interfered with the rights granted to the employees, we will, among other remedies, set aside the certification."

We agree with the interpretation of the Wisconsin Board (now Commission) which administers a statutory system similar to our own. Like the Wisconsin Commission, we propose to examine each petition for supervisory units, case by case, and to exclude from units ineligible employees.

Before this position is interpreted as allowing the organization of "vice presidents" mentioned in the *Packard*[15] case, we note that there is a level at which organization must end.[16] That level consists of "executive" employees, and is limited to those employees who formulate, determine and effectuate management policies.[17]

The application of this exclusion is not necessary in this case because there is no evidence that the employees in the proposed unit act in any other manner than as resource people in collective bargaining or as conduits for labor relations policy established without their participation. We do not consider that employees who serve the employer at the first step of the grievance procedure are within the executive category by reason of that responsibility. Thus, we do not feel that our determination impinges upon management's right to have trusted personnel act in its behalf in formulating, determining and effectuating policies[18] and in collective bargaining.

We conclude that the bargaining unit appropriate for the purposes of collective bargaining in this case is:

"High school, junior high, and elementary school principals, curriculum coordinator, reading coordinator, ESEA coordinator, cooperative education coordinator, head librarian, and physical education director; excluding: teachers, superintendent, assistant superintendent, business manager and all non-certificated employees."

Accordingly, IT IS ORDERED that an election shall be held pursuant to the attached Direction of Election.

MICHIGAN LABOR MEDIATION BOARD

/s/ Robert G. Howlett, Chairman

/s/ Leo W. Walsh, Board Member

Dated: Dec. 2, 1968

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[15] *Packard Motor Car Company v. NLRB,* 330 U. S. 485 (1947). The briefs of some amici curiae noted the comment by Mr. Justice Jackson.

[16] This position is contrary to the broad interpretation of the statutory phrase "employees" used by the New York Board in *Metropolitan New York Nursing Home Association, supra.,* N. 10.

[17] The executive designation is basically synonymous with managerial employees as defined in *Ford Motor Co.,* 66 NLRB 1317, 17 LRRM 394 (1946), and as applied in *Quincy City Hospital,* 60 LRRM 1244 (Mass. Labor Relations Comm., 1965).

[18] See *Detroit Library Commission,* 1966 Labor Opinions 511.

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS.

SUPERIOR COURT
In Equity
No. 92653

QUINCY TEACHERS ASSOCIATION, ET AL

vs.

THE CITY OF QUINCY, ET AL

FINDINGS, RULINGS AND ORDER FOR DECREE

1. The court finds and rules that an actual controversy has arisen and is specifically set forth in the pleadings within the meaning of G. L., C.231A, S.1 as amended. The material facts are not controverted and they are set forth in a "Statement of Agreed Facts", signed by the parties (Exhibit 2).

2. The central issue underlying the controversy concerns the validity of the provision for *cash payment for unused sick leave*, as set forth in ARTICLE XI of the contract entered into on March 22, 1967, pursuant to the provisions of G.L., C.149, S.178G-N inclusive, by and between the petitioner, Quincy Teachers Association (Teachers) and the individual petitioners as they are members of the school committee of the City of Quincy. (Emphasis supplied). The pertinent language of said ARTICLE XI is as follows:

> "If the employment by the Quincy School system of a member shall cease after his sixtieth birthday because of his retirement or death after he has completed twenty (20) years of professional service in the system, he or his estate, as the case may be, shall be paid an amount equal to his full pay at the time his employment terminates, exclusive of stipends for extra services, for the number of days, not in excess of fifteen (15), of his accumulated and unused sick leave."

3. On June 30, 1967, eleven members of the Quincy School system retired and each has met the provisions of the accumulated sick leave, as provided in said ARTICLE XI. On June 21, 1967, the superintendent of the Quincy School system submitted payroll vouchers for payments to the eleven retiring members in accordance with the above-quoted provision. On July 24, 1967, the respondent Alexander Smith, City Auditor, declined to pay the amount so requested. In June, 1968 there were other members who retired and who have met the aforesaid provisions dealing with accumulated and unused sick leave.

4. The respondents contest the validity of this provision mainly on the following grounds:

(1) The payment of such additional compensation for accumulated and unused sick leave is invalid as a mere gift or gratuity;

(2) This payment of additional compensation contravenes the rules and regulations governing Sick Leave for all persons regularly employed by the City of Quincy, promulgated by the City Manager on June 23, 1954, pursuant to a vote of the city council, as authorized under Council Order No. 378.

The pertinent provision (Paragraph 4-G) of said rules and regulations is as follows:

> "Accumulated sick leave does not carry any monetary value to be granted on termination of service".

5. The court rules that the unused sick leave (limited to an accumulation of fifteen days) is not a mere gift or gratuity. It is part of the compensation for services rendered to the school committee. It is provided for and is a part of the contract negotiated through the collective bargaining process. (It is part of a package of benefits for all teachers of the school system). The court rules that it is a reasonable contract provision for the city to pay a maximum of fifteen days' pay to a limited number of qualifying members who have completed twenty years continuous service upon retirement after obtaining their sixtieth birthday.

6. No principle of law is more firmly and clearly established in this Commonwealth than the one dealing with the responsibility for the operation of our public schools. Without any question, the legislature has vested this responsibility in the school committees of the respective communities. In particular reference to the issues relating to this controversy, G.L.s, C.71, S.s 37 and 38 are decisive. The pertinent language in said Section 37 is as follows:

"DUTIES OF SCHOOL COMMITTEE.

It shall have general charge of all the public schools . . . The pertinent language of said Section 38 is as follows:

"DUTIES OF SCHOOL COMMITTEE: ELECTION, etc., OF TEACHERS.

It shall elect and contract with the teachers of the public schools . . ."

It follows from the foregoing that the school committee has complete authority to set the terms of compensation for the teachers.

7. The court rules that paragraph 4-G of the rules and regulations governing sick leave is not applicable to the teachers. G. L.s, C.40, S.21A provides, in part, as follows:

> "A town by by-law and a city by ordinance . . . may establish the hours, days and weeks of work and the hours, days and weeks of leave without loss of pay . . . for any or all employees of such town or city other than those appointed by the *school committee*; . . ." (Emphasis supplied).

Therefore, there is no "conflict"* between the contract provision and the rule in paragraph 4-G.

8. In conclusion, the court finds and rules that ARTICLE XI of the contract is valid in toto and the City of Quincy is bound to pay each teacher in accordance with the terms and conditions of said ARTICLE XI.

Let a decree be entered accordingly.

HARRY KALUS
Justice Superior Court

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*G.L., C.149, S.178 I, ". . . In the event that any part or provision of any such agreement is in conflict with any law, ordinance or by-law, such law, ordinance or by-law shall prevail so long as such conflict remains."

ARBITRATION AWARD IN CASE OF GODWIN HEIGHTS EDUCATION ASSOCIATION

AND BOARD OF EDUCATION OF GODWIN HEIGHTS PUBLIC SCHOOLS

In the Matter of Arbitration

Between

GODWIN HEIGHTS EDUCATION
ASSOCIATION
and
BOARD OF EDUCATION OF GODWIN
HEIGHTS PUBLIC SCHOOLS,
Wyoming, Michigan

GRIEVANTS: J. R. MILLER
KAY ANTON
D. E. NORLIN
VIRGINIA GATES

AAA Case No. 5430 0028 68

OPINION OF THE ARBITRATOR

Grievants are teachers employed by the Board of Education of Godwin Heights Public Schools. This grievance concerns Grievants' claim that they are entitled to additional compensation for services rendered during the 1967-68 school year. The Board of Education denies that Grievants are entitled to the additional compensation they claim.

Grievants, who are certified teachers of the Godwin Heights public school system, have served as guidance counsellors in that school system. Guidance counsellors, as certified teachers, are entitled to the base pay which all certified teachers receive. It has, however, been the established practice of the Board of Education to pay additional compensation to guidance counsellors for counselling work done by them. This additional compensation, prior to school year 1966-67, was sometimes a fixed dollar amount paid to a counsellor for each hour of counselling work, and sometimes a percentage of the base pay of a certified teacher.

During the school year 1966-67, Grievants, as guidance counsellors, received additional compensation equal to 10% of the base pay of a certified teacher. In August 1967 the Board of Education notified by letter all guidance counsellors that during the year 1967-68 the additional compensation which had been paid during the preceding school year would not be paid, and that in lieu of the additional compensation, guidance counsellors would be given a planning or conference period.

Grievants contend that their right to additional compensation for their services as counsellors is established by the past practice of the Board of Education in making payment of additional compensation in 1966-67 and in prior years. They assert that their service as guidance counsellors entitles them to compensation beyond the base pay of a teacher, and that the reduction by the Board in the hours of counselling performed by Grievants cannot affect their right to receive the premium pay to which they consider counsellors are entitled.

The Board of Education contends that in its school system there are no formal requirements for guidance counsellors other than those applicable to certified teachers generally. Any certified teacher, the Board says, may, in the discretion of the Board, be assigned to guidance counselling. Guidance counselling of itself does not entitle the counsellor to additional pay, according to the board, but if a guidance counsellor performs service in excess of the normal hours worked by teachers, then, for the additional time worked, the counsellor receives additional compensation. The Board says that the additional pay given to counsellors in years preceding 1967-68 was directly related to additional services rendered by them. Since, according to the Board, the additional 10% paid to Grievants in 1966-67 represented compensation for an additional hour of service, the Board had the right, in eliminating that additional service for 1967-68 and substituting therefore a planning period, to eliminate the 10% premium pay. The Board contends, further, that past practice in respect of additional compensation to counsellors is irrelevant in any event, since prior to the 1966-67 school year an agreement was entered into between the Board and representatives of the guidance counsellors which expressly provided that the Board would either pay guidance counsellors 10% additional compensation, or give the counsellors a free period for preparation. Thus, says the Board, it had the right to elect to pay the 10% premium, or in the alternative to substitute a planning period in lieu of an hour of counselling service.

The Applicability of Section 7.5 of the Professional Negotiation Agreement

On June 8, 1966 an agreement was entered into between the Board and the Association which set forth the terms and conditions of the employment of certified teachers by the Board. Grievants contend that the Board's denial to guidance counsellors of 10% additional compensation for the school year 1967-68 was in violation of Section 7.5 of the Professional Negotiation Agreement. Section 7.5 provides:

"No teacher shall be disciplined, reprimanded, reduced in rank or compensation or deprived of any professional advantage without just cause. Any such discipline, reprimand or reduction in rank, compensation or advantage, including adverse evaluation of teacher performance asserted by the Board or any agent or representative thereof shall be subject to the grievance procedure hereinabove set forth."

It does not appear to the Arbitrator that Section 7.5 is relevant to this controversy. The compensation certified teachers are entitled to receive is set forth in Appendix B of the Agreement, where appears a 3-year salary schedule covering school years 1966-67 through 1968-69. The Board is, of course, bound by this schedule and has no right to reduce compensation in violation of the schedule. Section 7.5 does not focus on the right of the Board to make changes in the salaries specified in Appendix B. Section 7.5, rather, is focused on the nature of the action which may be taken by the Board in respect of a teacher charged with fault. The section prescribes the rights and obligations of the Board and of a teacher, where the Board considers that the teacher has been guilty of an offense requiring or justifying the imposition of a penalty by the Board. A teacher charged with an offense may be subject to discipline, reprimand, reduction in rank or other penalty. Such an offender, further, may be penalized by a reduction in compensation. Section 7.5 is, in the Arbitrator's view, intended to declare the intention of the parties that a teacher will not be subject to the imposition of any penalty without just cause. Notwithstanding the salary schedule in Appendix B, an offending teacher may be subject to a reduction in compensation or to other penalty, provided that the reduction in compensation or other penalty is "for just cause". Thus, it does not seem that Section 7.5 is correctly construed as an absolute bar to any reduction in the compensation of a teacher. The section provides, rather, that if the Board seeks to reduce the compensation of an offending teacher, it may do so only for just cause.

The present proceeding is in no way concerned with pedagogic fault. There has been, obviously, not the least intimation by the Board that it considers the Grievants as offenders in any respect whatever. Grievants, further, do not consider that they have been charged with fault and have most appropriately made no attempt to demonstrate their innocence of fault. The controversy between the Board and Grievants is concerned solely with questions relating to the rights of the parties under the contractual arrangements entered into between them. The Arbitrator need not determine whether Grievants did or did not offend so as to be vulnerable to a reduction in compensation "for just cause". The question is, rather, whether, having regard for all that has been agreed upon and all that has transpired between the parties, the elimination of additional compensation for 1967-68 was permissible.

Section 7.5 could not resolve the present controversy between the Board and Grievants even if the section were deemed applicable. The section is not an absolute and unqualified prohibition against reductions in compensation. It merely prohibits reductions in compensation "without just cause". Therefore, if the section were applicable, the Board would insist that its elimination of the 10% was for "just cause". Grievants, of course, would deny that this is so and the parties would then be confronted with the necessity of proving the correctness of their positions and claims, precisely as they do now. The Arbitrator, therefore, does not consider that the solution to this controversy is indicated in Section 7.5.

The Nature of Additional Compensation Paid to Counsellors

It does not appear that the additional compensation paid by the Board to guidance counsellors in past years has been given in recognition of significant differences between the guidance work done by counsellors and the classroom work done by teachers. Guidance counselling is, obviously, different in nature from the teaching of a classroom subject. The difference, however, appears to be precisely analogous to the difference between any one subject and another in high school. Thus, there are, obviously, significant pedagogic differences between the teaching of mathematics and the teaching of French, between the teaching of French and the teaching of music, between the teaching of music and the teaching of botany. These differences are, of course, highly significant to teachers as professional persons, but the differences have not been considered as having economic significance. There is no difference in teacher compensation based on differences in the subjects taught.

For a number of years prior to the school year in controversy, guidance counsellors have been paid compensation in excess of the base pay of a teacher assigned to conventional class-room work. It appears, however, that the additional compensation in excess of base pay, has been directly related to the additional time worked by the counsellors. Thus, it may be said that in past years, guidance counsellors, having worked for hours in excess of the hours worked by class-room teachers, were compensated for the additional work done by them. The Arbitrator finds no evidence that additional compensation was paid to counsellors in past years, not in recognition of extra work by them, but in recognition of differences between class-room teaching and counselling. On the contrary, testimony adduced by the Grievants themselves directly relates additional compensation to additional work. Thus, Mr. Miller, one of the Grievants, testified that the counsellors felt that since the teachers were receiving 1/6th of their base pay for working 6 hours per day - that is, working through their preparation period - the counsellors should be similarly paid for working without a preparation period. (Tr. 57-58.)

Even more to the point, the employment contracts with Grievants uniformly recite that payments for counselling are compensation for "additional assignments". (Association Ex.'s 1, Norlin, 3 Miller, 9 Gates.)

The Arbitrator therefore concludes that compensation over teacher's base pay which guidance counsellors have received from the Board was given in recognition, not of significant qualitative differences between counselling and teaching, but, rather, in recognition of the counsellor's right to additional pay for additional hours of service.

Past Practice of the Parties

If the evidence in this proceeding had established that specific sums had been paid continuously to guidance counsellors over a period of years as compensation for their counselling work, or if the evidence had established that, as an alternative, sums precisely ascertainable by formula (rather than specific sums) had been continuously paid for counselling over a period of years, then, in the absence of a clearly negotiated agreement between the parties concerning counselling compensation, Grievants might persuasively argue that the "past practice" doctrine justifies their present demand for additional compensation in respect of 1967-68. If such a past practice had been shown, it might well be reasonable to infer and conclude that though no specific reference to additional compensation had been made in bargaining, both the Board and the Association assumed that, in accordance with the long-established pattern, additional compensation would be paid for counselling. The past practice doctrine does not appear applicable to the present controversy because the established practice of the parties in respect of additional compensation for counselling, exhibits no clearly defined pattern. It appears, on the contrary, that arrangements for additional compensation were negotiated each year. Prior to formation of the Professional Negotiating Committee, these negotiations were between the Board through its representatives, of course) and the individual teachers. Thus, the amount paid to counsellors was in every year related to the hours of counselling work assigned in excess of the established base. The number of excess hours assigned for counselling was a variable, and additional compensation, of course, fluctuated

with that variable. During the school years 1963-64 through 1965-66, counsellors were paid not a specific sum per hour, as in previous years, but, rather, 7% of their base pay. In March 1966 the Professional Negotiating Committee, in negotiating additional compensation for the school year 1966-67, requested neither a specific sum per hour, nor a percentage, but rather, one-sixth of their base pay. The Committee, however, decided to accept the Board's offer of 10%.

Thus, past practice in respect of counselling compensation discloses not that counsellors were clearly deemed entitled to additional specific sums annually, or to additional sums precisely ascertainable by a percentage of base, but, rather, that the parties agreed annually on the amount of additional hours that would be worked and that the additional hours worked were compensable. The Arbitrator, therefore, does not consider that a past practice has been demonstrated which possesses sufficient certainty to permit a holding that, on the basis of what was uniformly done in past years, Grievants are entitled to additional compensation for school year 1967-68.

Further, if it be assumed that a past practice had been established with sufficient certainty to support a recovery for additional counselling compensation during school year 1967-68, it is clear that past practice - from which the intention of the parties is inferred - must give way to an express agreement between the parties which precisely covers the matter of such compensation for 1967-68. Where employer and employee expressly and explicitly state their intentions, an inference concerning those intentions based on past practice is plainly not permissible. Whether or not the Board and the Association entered into an agreement expressly covering additional compensation for school year 1967-68 is considered in the following section.

Negotiations Between the Board and the Association in Spring, 1966

In March 1966, Mr. Norman Dice, now Assistant Principal of the senior high school, was chairman of the Professional Negotiating Committee. The Committee had already agreed with the Board on the terms of the contract ("Professional Negotiation Agreement") which covered, among other matters, basic compensation for certified teachers. The Committee understood that though basic teacher's pay was covered by their contract, no agreement had been made in respect of certain special areas. These areas included speech correction, remedial reading, machine shop, guidance counselling and other fields. The Negotiating Committee, consisting of five persons, including Mr. Dice as chairman, and Mr. Miller (one of the Grievants herein), ex officio as president of the Association, examined the question of additional compensation for school year 1967-68. The Committee considered that it might base a demand for additional compensation on any one or more of three factors - time, education or experience. The Committee finally agreed to require that additional compensation to counsellors be based on the additional time required of them. Thus, by deliberate and express agreement, the Negotiating Committee rejected education and experience as bases for additional compensation, and required that counsellors receive additional compensation because of the additional hours of work they performed. The fact of this important agreement appears incontrovertible, since Mr. Dice, chairman of the Negotiating Committee, and Mr. Miller, president of the Education Association, both testified that additional compensation was related to additional time.

The Board urges the significance of its minutes covering a special meeting of June 3, 1966, wherein it is stated that the recommendations of the Assistant Superintendent and the Professional Negotiating Committee concerning compensation for certain additional assignments be approved. The minutes then recite: "Guidance Counsellor - 10% of base or a free period for preparation."

The evidence does not establish that the alternatives stated with such clarity and brevity in the June 3rd minutes were apprehended by the Board and by the Negotiating Committee with equal clarity. The parties were undoubtedly clear that for additional counselling 10% of base would be paid. The evidence does not establish, however, that the Negotiating Committee clearly acknowledged the right of the Board to assign a free period in lieu of the 10%. The right of the Board to determine what additional assignments will be made, if any, appears to have been very clearly retained by the Board in Article 12 of the Professional Negotiation Agreement, which provides that "The Board may each year enter into additional contractual agreements with teachers for extra-duties beyond their normal daily teaching assignment". The parties, therefore, undoubtedly understood that the Board was under no compulsion to make additional assignments, and that the Board could offer or withhold such additional assignments, whichever it pleased. Both parties undoubtedly assumed, prior to the commencement of both the 1966-67 school year and the 1967-68 school year, that additional counselling assignments were being made by the Board because it had elected to do so, not because it was under contractual obligation to do so. Therefore, if prior to the commencement of the 1967-68 school year the Association was notified that no additional hours of guidance counselling would be provided, it must be concluded that the Board was within its rights in giving such notice and that the Association was bound by the notice.

Although the significance of the Board's power to withhold additional counselling assignments was not apprehended by the Negotiating Committee with the clarity conveyed by the alternatives stated in the Board's June 3rd minutes - 10% of base, or a free period of preparation - the Association may be fairly charged with notice of those alternatives by reason of Dr. Herman's letter dated August 31, 1966 to Mrs. Connie McAvoy. In Dr. Herman's letter, he expressly refers to the basis for additional compensation payable to counsellors, and his statement of the alternatives in respect of counsellors' compensation is identical with the statement of the alternatives contained in the minutes of the Board. The Association, of course, had no knowledge of the provision in the Board's minutes relating to compensation, but the Association may be fairly deemed bound by the disclosure made by Dr Herman to the Association's president. The Arbitrator thinks it probable that neither the Association nor the counsellors themselves took any action in respect of the alternatives stated by Dr. Herman, not because the alternative - "a free period of preparation" - was thought trivial and so not attended to, but, rather, because they believed (i) that the Board did in fact possess the alternative rights set forth in Dr. Herman's letter, and (ii) that notwithstanding the alternatives, additional assignments for guidance counselling would in fact be made, so that the counsellors would receive 10% of base in 1967-68 as they had in the preceding school year. It is indeed very probable that the Board availed itself of its right to eliminate additional hours for counselling only because it was compelled to do so by budgetary insufficiency.

For the foregoing reasons, the Arbitrator concludes that the additional 10% of base claimed by Grievants was directly related to additional hours of service; that the Association itself desired that additional compensation be related to additional hours of work, rather than to other factors; that the Board had no obligation to allow additional hours to counsellors, the matter of such allowance being entirely within the Board's discretion, that Dr. Herman's letter of August 31, 1966 to the Association evoked no response because the Board was indeed believed to possess the power in its discretion to withhold additional hours; that the Association is fairly deemed bound by an arrangement entered into with its

Professional Negotiating Committee, and by a statement of the arrangement of which the Association was given written confirmation in August 1967; that every member of the Association, including each of Grievants, is bound by the arrangement which was made between the Board and the Association.

Authority of the Superintendent

The Arbitrator considers that the action of the Superintendent of the Board in eliminating the 10% additional compensation was sufficiently authorized by the Board and was in full compliance with law. Although the minutes of the Board's special meeting of August 22, 1967 do not expressly state that the Superintendent is authorized and directed to eliminate additional counselling hours, it does not necessarily follow that the Superintendent's elimination of such counselling was unauthorized and void. The minutes are, by definition, merely a summary of what is said and done. The testimony of the Superintendent sufficiently establishes that the Board directed him to eliminate certain items from the budget, and that the items which might be so eliminated by the Superintendent were specifically identified, one such item being additional counselling hours. Since the Board did in fact authorize the Superintendent to eliminate additional hours of counselling, the action of the Superintendent in effecting that elimination is valid, notwithstanding that the minutes, in referring to the authority given by the Board, make no specific reference to guidance counselling.

Award of the Arbitrator

For the reasons hereinabove set forth, the Arbitrator finds that the action of the Board of Education of Godwin Heights Public Schools, in eliminating additional compensation for Grievants J. R. Miller, Kay Anton, D. E. Norlin and Virginia Gates in respect of the school year 1967-68, was valid and lawful, and the Arbitrator so holds.

/s/ Benjamin M. Becker
Arbitrator

DATED: August 9, 1968

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

IN THE MATTER OF

CITY SCHOOL DISTRICT OF THE CITY OF WHITE PLAINS,
Employer,

and

WHITE PLAINS FEDERATION OF ADULT EDUCATORS, LOCAL 1787,
Petitioner,

and

WHITE PLAINS TEACHERS ASSOCIATION,
Intervenor.

CASE NO. C-0174

DECISION

On January 22, 1968, the White Plains Federation of Adult Educators, Local 1787 (herein referred to as the petitioner) filed, in accordance with the Rules of Procedure (herein referred to as the Rules) of the New York State Public Employment Relations Board (herein referred to as the Board), a timely petition for certification as the exclusive negotiating representative for certain nonsupervisory classroom teachers, shop teachers, and guidance personnel employed in the manpower development and training (herein referred to as MDT), and adult basic education (herein referred to as ABE) programs of the City School District of the City of White Plains (herein referred to as the employer).

A formal hearing[1] in this matter was conducted before a trial examiner of the Board on April 23, May 2, 17, 23, 24, and June 12, 1968. All parties, including the White Plains Teachers Association (herein referred to as the intervenor), were present and represented by counsel.

The employer and intervenor moved to dismiss the petition on the grounds that the petitioner does not qualify for certification under Section 207.3(b) of the Public Employees' Fair Employment Act (herein referred to as the Act). Despite the no-strike affirmation in the instant petition, they contend that the petitioner has failed to sustain its burden of establishing that "it does not assert the right to strike against any government, to assist or participate in any such strike, or to impose an obligation to conduct, assist or participate in such a strike."[2] In support of this contention they point out that, under its constitution and by-laws, petitioner is affiliated with the American Federation of Teachers and the Empire State Federation of Teachers, both of whom in their by-laws provide for contributions from their locals to "defense funds", which allegedly are strike funds. In addition, they claim that published statements of elected officials of both of these latter organizations proclaim the right to strike against government employers. However, there is nothing in the record to show that any such public statements were made with regard to the position of the petitioner. Nor is there anything in the record to establish that petitioner, by its actions, has acted in a manner inconsistent with its no-strike pledge. Accordingly, that pledge cannot be deemed a sham and the motion to dismiss must be denied.[3]

The petitioner, in turn, argues that the intervenor is not an employee organization within the meaning of Section 201.6 of the Act because it is employer dominated. In support of this contention, it points out that some of the management personnel of the employer are members of the intervenor. Also, the petitioner points out that the employer, in its professional handbooks,[4] endorsed membership in the National Education Association, the New York State Teachers Association, the Westchester County Teachers Association and specifically the intervenor, and supported these organizations in

1] The rulings of the trial examiner at the hearing are affirmed, as no prejudicial error is apparent.

2] See Section 207.3(b) of the Act.

3] Compare, e.g., *In the Matter of Town of Huntington*, Case No. C-0266 (Oct. 11, 1968) (Decision of Director of Representation).

4] The latest of these handbooks in evidence is dated 1961.

various ways such as listing their officers' names in its directory. Until the present time, this has occasioned no problems inasmuch as there has never been any need to delineate, for purposes of collective negotiations, between teachers and "administrators" or "management", or between membership in these organizations for the purpose of collective negotiations or for professional development.

In this regard, I take administrative notice of the fact that for many years these organizations have traditionally served as professional organizations. The record shows that, since passage of the Act and indeed for many months prior thereto. no member of the intervenor who may be deemed to be part of "management" has been permitted any role in the formulation of the demands of the teachers' unit, or in the approval of any agreement in their behalf. The intervenor is neither financially dependent upon the employer nor does it exist merely at the whim of the employer. In addition, there is no evidence in the record to establish that the "primary purpose" of the intervenor is other than the improvement of terms and conditions of employment of teachers. Further, the record does not establish that "management" personnel of the employer dominate the policies of the intervenor. Therefore, I find that the intervenor is an employee organization within the meaning and intent of Section 201.6 of the Act.[5]

With regard to the unit question, the petitioner contends that there should be a separate negotiating unit for all classroom teachers, shop teachers, and guidance personnel who are engaged in the MDT and ABE programs for a minimum of fifteen hours per week, for a period of at least three months.

The employer and intervenor contend that only one unit, consisting of all instructional personnel, is appropriate for purposes of collective negotiations. Indeed, on January 22, 1968, the employer recognized the intervenor as the negotiating representative for all its instructional personnel, including the MDT and ABE teachers and guidance personnel. In the alternative, the employer and intervenor contend that fragmentation of this unit, if deemed necessary, should be on a considerably broader scale than urged by the petitioner and should embrace all adult education teachers and counselors, including those in the traditional adult education (herein referred to as TAE) programs.

The employer is a city school district consisting of one senior high school, three junior high schools, and seven elementary schools. Its adult education activities are carried on in a former elementary school building (the Rochambeau school). Each of the schools has a building principal who reports to the superintendent of schools, except that the title of the head of the Rochambeau school is "Director of Adult Education". There is also an assistant superintendent for administration with staff responsibility for personnel administration and employee relations. The school district employs approximately 550 professionals including 151 teachers, counselors, and supervisors employed in the adult education programs, some 39 of whom also teach in the kindergarten through 12th grade (the K-12 programs). Of these 39, 22 are in the TAE program, 16 are in the ABE program, and one is in the MDT program.

The adult education programs are divided into the TAE programs, mostly evening, which have been carried on for many years, and the relatively new federally funded MDT and ABE programs. The MDT programs are conducted pursuant to the Manpower Development and Training Act of 1962 and have as their objective the vocational training of high school "dropouts" to assist them in their search for regular employment. The ABE programs are conducted pursuant to the Economic Opportunity Act of 1964 with the purpose of improving the reading and writing skills of persons 18 years of age and over whose inability to read and write the English language impairs their employability.

Teachers and counselors who are employed in evening programs normally work no more than 9 contact hours per week, while those employed in day-time programs or a combination of day and evening programs normally work 28 to 35 contact hours per week.

The following table lists the approximate number of teachers and counselors in the instructional staff at the Rochambeau school in the three adult education programs, showing the breakdown between those who at the time were working more or less than 15 contact hours per week:[6]

PROGRAM	UNDER 15	15 AND OVER	TOTAL
TAE	71	1	72
ABE	32	8	40
MDT	2	32	34
TOTAL	105	41	146

In addition, there are four supervisors in MDT and one in ABE, all of whom work 15 or more hours per week.

K-12 teachers require and adult teachers do not require state certification to qualify for appointment. The latter apply to the board of education for an adult education certificate upon employment, which is issued locally by the employer after examination as to their qualifications.

Teachers for all three adult programs are recruited from a wide variety of sources including full-time K-12 teachers seeking evening employment to augment their income,[7] and full-time teaching personnel often with special vocational training and experience in a trade for whom their employment as teachers in the MDT and ABE programs is their primary source of income.

The salaries and other terms and conditions of employment are determined by the board of education, except that in the case of the federally supported adult education programs, teacher compensation including salaries and fringe benefits must be approved by Federal and State district officers.[8]

K-12 teachers are paid in accordance with an annual salary schedule having a range of $6,200 for the first year to $10,500 for the 13th year, which provides for automatic annual increments and additional pay for advanced educational degrees. TAE, MDT, and

5] See, e.g., *In the Matter of New York State Thruway*, Case Nos. C-0021 et. al., (Aug. 23, 1968) (Decision of Director of Representation), affirmed by the Board on Nov. 13, 1968.

6] Apparently the petitioner chose 15 contact hours per week as a convenient reference point to distinguish between full and part-time employees.

7] Generally speaking, K-12 teachers are only available for "part-time" (less than 15 hours) work during the school year, although a number work "full-time" during the summer recess.

8] No party contends that teachers in the federally-supported programs are not employees of the employer. In this regard, the employer apparently can make effective recommendations with regard to terms and conditions of employment.

ABE teachers are all paid an hourly rate (currently $8 per hour) for each hour of contact teaching (as required by the Federal Government). Employer witnesses testified at the hearing that this rate had, from the beginning, been set higher than the hourly rate of comparable K-12 teachers (calculated on the basis of 185 seven-hour days per teaching year) in order to compensate them for the lack of certain fringe benefits. However, there is no extra compensation for advanced education or years of service, and there is no specific mathematical relationship to the K-12 salary schedule. Teachers in K-12 are paid bi-weekly for the preceding ten working days; adult education teachers are paid once a month for a work period that ends approximately four weeks prior to pay-day.

K-12 teachers are tenured and, as a matter of board of education policy, adult education teachers are non-tenured. Thus, the MDT and ABE teachers, unlike the K-12 teachers, are appointed (and reappointed) only for the length of the specific course or courses they are to teach, and may be "dropped" for any reason whatsoever.

K-12 teachers have twenty paid holidays, ten days of sick leave per year, two days for personal leave, sabbatical leave, maternity leave, snow days off, and summer vacation, none of which are available as such to hourly paid personnel who are paid only for the time they actually work.

Hourly personnel (and, of course, K-12 personnel) are eligible for social security, health insurance, and the New York State Teachers Retirement System (although the latter is optional for them, and compulsory for K-12 teachers).

The record shows that K-12 teachers are qualified for, and can transfer to, many adult education teaching positions, but none have ever been required to do so. The record does not show any incidence of transfer from adult education to K-12 programs.

The employer and the intervenor have been parties to a relationship which dates back to the early 1950's, during which matters of concern to all of the employer's teachers have been discussed. However, no written agreement resulted, and there is no evidence in the record to indicate the parties' intention or understanding with respect to the MDT or ABE teachers prior to September, 1967. In 1967, the tenor of this relationship changed and the employer and intervenor, by their respective committees, met on numerous occasions to attempt to reach a professional agreement which would, *inter-alia*, define the nature and extent of the recognition to be accorded the intervenor.[9]

On September 27, 1967, the president of the intervenor reported to the professional staff that "after nine months of planning and meetings a committee of the [intervenor] and the board of education have reached general consensus on a professional negotiations agreement." On January 22, 1968, as previously noted, the employer by resolution formally recognized the intervenor as the negotiating representative for all instructional personnel.

There followed three successive draft copies of the proposed professional negotiations agreement, the last of which was dated April 18, 1968. Dr. Antin, the assistant superintendent, testified at the hearing that this version had been ratified and adopted by the board of education. It provides for recognition of the intervenor as "the exclusive representative of all professional personnel employed by the board in positions for which the State Education Department *requires certification*" (emphasis added) Dr. Antin further testified that the significance of this was never discussed in negotiations and had to his knowledge never been interpreted to exclude the adult education teachers, although he conceded that a strict interpretation of the language might so require.

Conflicting evidence was submitted at the hearing concerning the eligibility or non-eligibility of adult education teachers to join the intervenor. Its constitution and by-laws are not clear on the subject but its president apparently considered them ineligible for membership in June, 1967 because at that time he told them that he felt the rules should be changed to make them eligible. Subsequent action by the board of education in "appointing adult education teachers into the White Plains School System," in his opinion, made them eligible to join the intervenor. Moreover, a number actually joined and paid dues to the intervenor and were consulted prior to negotiations, and a representative of TAE (but not MDT or ABE) served on the intervenor's negotiating committee.

In now moving to the merits of the various unit contentions, I will deal first with petitioner's basic position that MDT and ABE teachers should not be included in the same unit as the K-12 teachers. Although all teachers have a common function, namely to teach,[10] the MDT and ABE teachers do not have a substantial community of interest with the K-12 teachers since their terms and conditions of employment are different, and are determined in a different manner. These differences are of sufficient magnitude to preclude their being placed in the same negotiating unit. Among the items that would be of paramount importance in future negotiations to MDT and ABE teachers but would be of little concern to K-12 teachers are job security,[11] automatic salary increments, bi-weekly payroll periods, and the initiation of various fringe benefits such as paid vacations, holidays, and sick leave.[12] Further, it should be noted that for many of the adult education programs the primary requisite is practical experience in the trade or craft being taught as opposed to classroom teaching experience. Thus, it is not surprising that no prior teacher certification is required for employment in the adult education programs, and the approach to training such teachers is markedly different from the method used in K-12 where much emphasis is placed upon advanced degrees and outside conferences and seminars.

Therefore, I find that the MDT and ABE teachers should be separated from the K-12 teachers for purposes of collective negotiations.[13]

There remains the question of whether the TAE teachers should be in the same unit as all other adult education teachers. All adult

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9] Prior to this time, the colloquy between the parties consisted of an informal exchange of viewpoints.

10] However, the mission of MDT and ABE is different inasmuch as they teach different types of students having different needs and different immediate goals. Thus, for example, they do not grade their students. In any event, it is clear that "occupational similarities alone do not warrant amalgamation". *In the Matter of the Board of Higher Education of the City of New York*, Case No. C-0008 (Aug. 9, 1968).

11] See *In the Matter of Middle Country Central School District No. 11*, Case No. C-0061 (Oct. 25, 1968).

12] In this context, it becomes relevant to note the rather uncertain status of the MDT and ABE teachers in such collective "negotiations" as have transpired in the past.

13] See *In the Matter of the Board of Higher Education of the City of New York, supra.*

education teachers, whether TAE, MDT, or ABE, are on the same hourly salary plan, are not eligible for tenure, and do not receive most fringe benefits. In short, all the distinctions between the terms and conditions of employment for K-12 and MDT and ABE teachers exist to the same degree for TAE teachers. Although the TAE and certain MDT and ABE teachers work less hours per week than the "full-time" MDT and ABE teachers, they are appointed under the same procedures, employ the same teaching methods, and are subject to the same ultimate supervision. Thus the regular part-time TAE teachers have a substantial community of interest with all other adult education teachers since their terms and conditions of employment are identical and are determined in the same manner.[14] Therefore, inasmuch as these TAE teachers are adequately concerned with terms and conditions of employment, I find that they should be included in the same negotiating unit as all other adult education teachers.

In arguing for the exclusion of the TAE teachers from a general unit of adult education teachers, petitioner places great stress on the following sentence taken somewhat out of context from a previous Decision of the undersigned: ". . . the role of the non-annual lecturer is generally that of a second job holder whose primary allegiance is to some other employer or career".[15] However, in the instant case, as is true with the TAE teachers, 80% of the ABE teachers also work less than 15 contact hours per week. Further, this concept of "the tail wagging the dog" was only one in a series of factors in a highly complex and unique situation at the City University of New York which have no direct bearing on the instant case. As the Board subsequently pointed out in affirming on appeal:

> ". . . the faculty-rank-status personnel are the heart of the University. It might be compromising to their independence and to the very stability of the University for non-tenured instructional personnel, in numbers almost equal to that of faculty-rank-status personnel, to be included in the unit of faculty-rank-status personnel."[16]

It is clear that no such danger will be created here by including regular part-time TAE teachers in a unit of their peers. As the facts cited above make clear, there is nothing in the record to indicate any conflict of interest between those adult educators who teach more and those who teach less than 15 contact hours. Nor does the record indicate that these groups could not negotiate effectively in the same unit. Thus, any significance which might be attached to whether the adult education teachers are "regular part-time" or "full-time" employees is heavily outweighed by the identicality of their terms and conditions of employment.

However, the supervisors in the adult education program must be excluded from the unit of those subject to their supervision. For purposes of unit determination, they must be considered as part of "management" rather than as part of the teaching staff inasmuch as they participate in the selection of teachers, evaluate their performance, and make effective recommendations with respect to their retention or discharge. These duties give rise to such a conflict of interest as to mandate their exclusion from a "rank-and-file" unit.[17]

In finding a separate unit of all adult education teachers to be appropriate, I have not overlooked the fact that some K-12 teachers also participate in the adult education program. I note that there have been no such cases of voluntary interchange of teachers from the adult education program to the K-12 program; indeed, the former need not be licensed public school teachers. Further, there can be little doubt concerning the genuine interest of "moonlighting" K-12 teachers in achieving benefits for their evening as well as their day time work. In this respect, I can perceive no distinction between the "part-time" employee who may work for more than one employer, and the employee who performs dual functions for the same employer.

THEREFORE, IT IS DETERMINED THAT there shall be a negotiating unit of employees of the employer as follows:

Included: All classroom teachers, shop teachers, and guidance personnel who are employed in the adult education program.

Excluded: Director of adult education, assistant director of adult education, all other supervisors, and all other employees.

FURTHER, IT IS ORDERED THAT the petition in this matter shall be dismissed unless petitioner, within 21 days from receipt of this Decision, files an amended petition with the undersigned seeking certification in the unit determined above to be appropriate.[18] In the event such an amended petition is filed, an election by secret ballot will be held under the supervision of the undersigned among the employees in the unit determined above to be appropriate and who were employed by the employer on the payroll date immediately preceding the date of this Decision, unless the petitioner or intervenor submit to the undersigned within seven days from the date of notice of the filing of the amended petition, dues deduction authorizations and other evidences sufficient to satisfy the requirements of Section 201.6(h) (1) of the Rules for certification without an election.[19]

Dated: Albany, New York
November 15, 1968

/s/ Paul E. Klein
Director of Representation

14] See *In the Matter of City of Rome*, Case Nos. C-0136, C-0137 (Oct. 23, 1968) (Decision of Director of Representation).

15] *In the Matter of the Board of Higher Education of the City of New York*, Case No. C-0008 (May 1, 1968) (Decision of Director of Representation).

16] *In the Matter of Board of Higher Education of the City of New York*, Case No. C-0008 (Aug. 9, 1968).

17] See *In the Matter of Board of Education of the Johnson City Central School District*, Case No. C-0135 (Sept. 17, 1968).

18] Neither at the hearing, nor in its brief, did the petitioner indicate a desire to represent all adult education teachers if such a unit were to be deemed appropriate. Indeed, its constitution and by-laws presently prohibit from membership all teachers who teach less than 15 hours.

19] However, before the intervenor will be allowed to participate in any further proceedings before this Board leading to possible certification, it will be required to produce evidence to the satisfaction of the undersigned that it will restrict employee participation in the affairs of the unit deemed herein to be appropriate to persons employed within such unit. This requirement is limited to the intervenor because of the lack of any evidence in the record to indicate that this problem arises with respect to the petitioner. See *In the Matter of New York State Thruway*, Case Nos. C-0021 et al. (Nov. 15, 1968).

In the Matter of:

RIVER ROUGE BOARD OF EDUCATION,

Employer,

–and–

RIVER ROUGE FEDERATION OF TEACHERS,

Petitioner,

Case Nos. R67 L-410
R68 A-5

–and–

RIVER ROUGE EDUCATION ASSOCIATION,

Intervenor.

B-IV PERA
Contract Bar
Not Found

A contract to be a bar must contain a termination date and sufficient terms to guide the parties in their day-to-day bargaining relationship.

B-IV PERA
Contract Bar
Found

Partial performance, such as teacher performance of services and duties, under the terms of an agreement advanced as despite a bar will make the contract binding and it can act as a bar despite a possible lack of School Board ratification if the document contains all the other requisites of the Board for collective bargaining agreement to as act as a bar.

B-IV PERA
Procedural Issues

Evidence may be introduced to show that official minutes of a governmental body omitted matter from the meeting covered, but not to attack the accuracy of the account contained in the official minutes.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

APPEARANCES:

For the Employer: Butzel, Eaman, Long, Gust & Kennedy
By: Robert J. Battista, Esq.

For the Petitioner: Craig & Fieger
By: Bernard J. Fieger, Esq.

For the Intervenor: Ellmann & Ellmann
By: Erwin Ellmann, Esq.

The above-entitled matters having come on for hearing before Joseph B. Bixler, a Trial Examiner for the Michigan Labor Mediation Board, hereinafter referred to as the Board, at Detroit, Michigan, on February 27, and 28, 1968, the Board having considered the record and briefs in this matter and being fully advised in the premises, hereby makes the following Findings of Fact, Conclusions of law and Direction of Election.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The River Rouge Board of Education is a Public Employer within the meaning of Act 336 of the Public Acts of 1947, as amended by

Act 379 of the Public Acts of 1965, M. S. A. Section 17.455, (Public Employment Relations Act), hereinafter referred to as PERA.

River Rouge Federation of Teachers and River Rouge Education Association, hereinafter respectively called Petitioner and Intervenor, are labor organizations within the meaning of PERA.

The Petition in Case R67 L-410 was filed by the Federation on December 27, 1967. The unit requested in this Petition is one described as:

"All certified teaching personnel except those excluded by law as supervisory or executive personnel."

On January 3, 1968, the Federation filed a second Petition in case R68 A-5. The unit requested in this Petition is identical to that quoted above.

On January 3, 1967, this Board certified the River Rouge Education Association as exclusive bargaining representative of a unit of the Employer's teachers described as follows:

"All certified teaching personnel, excluding superintendent, principals, assistant principals, director of special services, director of guidance and counseling, office manager, athletic director, director of federal projects, and department chairman."

The units petitioned for and the certified unit are essentially the same, and the parties at the hearing stipulated that the certified unit is appropriate.

Contentions of the Parties:

The Employer and the Intervenor contend that:

1. The petition filed in Case R67 L-410 is untimely as it was filed within the certification year.

2. There is a contract bar to an election in this case pursuant to Section 14 of PERA. This contention is based on two agreements advanced as a bar:

(a) On September 17, 1967, the parties reached agreement on terms of a collective bargaining agreement.

(b) A collective bargaining agreement was completely written and signed by all necessary parties on December 29, 1967.

The Petitioner contends that:

1. The petition filed December 27, 1967, in Case R67 L-410 is not untimely because Section 14 of PERA only prohibits direction of election within the year following a valid election.

2. An election is not barred by Section 14 of PERA because neither the School Board nor the employees in the unit ratified the agreements offered as a bar.

The Timeliness of the Petition in Case R67 L-410 Filed on December 27, 1967.

The contention of Intervenor and Employer in regard to this petition is well taken. This Board, in *City of Bay City*, 1967 Labor Opinions 155, determined that petitions filed during the certification year are untimely. This Board further determined in the *Bay City* case that the certification year begins to run "when the Board's Certification of Representation is issued."

Here, since the Certification of Representation was issued on January 3, 1967, the year would not expire until January 2, 1968. As the petition in Case R67 L-410 was filed within the period, it is untimely and is hereby dismissed.

Contract Bar.

The second election petition, Case R68 A-5, while not filed within the certification year, is challenged as barred by a collective bargaining contract pursuant to Section 14 of PERA that there be "in force and effect a valid collective bargaining agreement which was not prematurely extended and which is of fixed duration. . ."

Employer and Intervenor must demonstrate to the satisfaction of the Board two conditions precedent to a contract bar: (a) a valid collective bargaining contract in force and effect; and (b) a contract of fixed duration.

A review of the bargaining history of the contract advanced as a bar discloses that Intervenor and Employer negotiated throughout the spring and summer of 1967. On September 5, 1967, the date scheduled for school to open, the teachers did not return to work. During the next two weeks, there were intensified negotiations between the parties, followed by fact finding.

On September 16, 1967, the parties commenced a marathon bargaining session which ended, at 2:30 a.m., September 17, 1967, in a document which was an agreement in memorandum form initialed by both parties' negotiators. Six of the seven school board members assembled and ratified the agreement in executive session. Later the same day, September 17, the teachers represented by the Intervenor ratified. The Intervenor and Employer commenced the task of reducing the agreement to writing.

Intervenor and Employer advance the memorandum of agreement initialed by the negotiators, as a contract bar. This memorandum contains summary statements of agreements on areas of prior disagreement, to-wit: "Dues deduction in"; "Academic freedom out"; 2 year agreement."

This memorandum may be adequate evidence of agreement reached, but it is inadequate to serve, by itself, as a contract bar to an election. The summary statements are not sufficient to guide the parties in their day-to-day collective bargaining relationship. Standing alone, the memorandum does not satisfy the requirements of Section 14.

The first draft of the written contract was distributed on December 5, 1967, with copies furnished to individual members of the Board of Education. The minutes of the December 12, 1967, meeting of the School Board disclose that the written document was distributed on December 5 and ratified by the Board.

Petitioner attacks the contract and its ratification by charging that the official minutes of the meeting of the Board of Education held December 12 are incorrect. Through witnesses who attended the school board meeting on December 12, Petitioner has attempted to establish that there was no discussion of the contract at this meeting, and that no vote on its ratification was taken. Thusly, Petitioner attempts to impeach the records of an official legislative body.

We have discovered no case which directly affirms or denies the power of a state administrative agency to go behind the official records of a legislative body to determine whether action disclosed by the official records was in fact taken. There are, however, court decisions involving an interested individual's right to impeach such records.

In *Wheat v. Van Tine,* 149 Mich. 314 (1907), the court said:

"Parol evidence is not admissible to *contradict* the record of the proceedings of the common council. It is admissible, however, to show facts *omitted* therefrom. The failure of a clerk to properly enter such proceedings cannot affect the rights of individuals who have acted upon the faith of the action of the council, in fact duly taken, but not recorded."

It has been held that a school district speaks only through its minutes and resolutions, and that official records may not be impugned by mental reservations of persons present, including members of the legislative body. All attacks on such records must be directed to action taken by the legislative body but omitted from the records of the meeting where the action was, in fact, taken. *Travener v. Elk Rapids Rural Agricultural School District,* 341 Mich. 244 (1954).

On December 12, 1967, an official record was made, approved at the next board meeting and published in a newspaper of general circulation on January 25, 1968. Petitioner's attempted impeachment would prove abortive in court. We have no greater power than a court, if, indeed, we have equal power.

Following the preparation of the draft contract, Intervenor's bargaining team and counsel reviewed the draft "page by page" on December 19, 1967. Certain changes were made, resulting in a form of the document signed by both parties on December 29, 1967.

Petitioner avers that the December 29 document does not conform with the contract ratified by the school board on December 12; hence may not serve as a contract bar.

The contracts of school districts, which are municipal corporations, are presumed valid. *Rasmussen v. Lincoln Park School District,* 4 Mich. App. 278 (1966); *Attorney General ex rel. McRae v. Thompson,* 168 Mich. 511 (1912); *Holloway v. Ogden Township School District,* 62 Mich. 153 (1886).

While the act of executive of a contract by members of a school board, or by the board's agent, will not, by itself, create an enforceable contract (*Cowley v. Harrisville Township School,* 130 Mich. 634 (1902); *Hazen v. Lerche,* 47 Mich. 626 (1882); *Vreeland v. School District No. 2, Monguagon Township,* 264 Mich. 212 (1933)), the acceptance of the benefits of an executed contract, even though not formally ratified, creates a ratification or estoppel (*Crane v. Bennington Township School District No. 6,* 61 Mich. 299 (1886); *Jones v. Iosco School District No. 3,* 110 Mich. 363 (1896); *Laughlin v. Jackson City School District No. 17,* 98 Mich. 523 (1894); *McLaughlin v. Board of Education of Fordson School District of the City of Dearborn,* 255 Mich. 664 (1931).

Here, the teachers performed, and are performing, services and are being paid for such services. Performance and payment is pursuant to the terms of an oral agreement made in September, reduced to writing and executed in December. Even though the document had not been ratified at the school board meeting of December 12, 1967, the contract binds the River Rouge Board of Education and by action of the Board and the teachers for whose benefit it was negotiated has become a contract which serves as a contract bar.

Examples of performance are salary, personal days, Blue Cross, sick leave, and posting. The contract was in force and effect, as well as valid and enforceable.

Another theory advanced to attack the validity of the contract is the three forms of the written contract prepared in December. It is averred that the form of the contract signed on December 29, differs materially from the document ratified by the school board on December 12. Therefore, urges Petitioner, there was continuous bargaining to the time of the signing. Even then, continues the Petitioner, there was doubt because in January the parties signed a memorandum of clarification.

If we were to adopt such a theory, the collective bargaining process in the public sector would become fraught with delicate nuances not found in private sector bargaining, and, we are certain, not intended by the Legislature.

It is common practice—and often the only practical method—to agree on a contract, present the agreed items to the employer's board of directors or executive officials, and the union membership, for ratification, and then prepare the written document which becomes, on execution, the contract which controls the working conditions during the term.

We do not agree with the contention that the changes which were made between the conclusion of bargaining and the execution of the contract were material enough to change the *bargain* between the parties.

The activity in which the parties engaged was mutual activity to make the written contract reflect the agreement reached in September.

Changes in wording are not a continuation of bargaining in private industry bargaining. Neither should they be so construed in the public sector, despite the complexity of statutory regulation.

A bargain was made in September, implemented thereafter, and was reduced to writing before the end of the certification year.

The contract is a complete document regulating the employment relationship.

IT IS HEREBY ORDERED that the petitions in Case No. R67 L-410 and Case No. R68 A-5 be dismissed.

MICHIGAN LABOR MEDIATION BOARD

Robert G. Howlett, Chairman
Leo W. Walsh, Board Member
Morris Milmet, Board Member

Dated: October 24, 1968

Negotiation Agreements

AGREEMENT

DEARBORN 8 BOARD OF EDUCATION

and

DEARBORN 8 ADMINISTRATORS ASSOCIATION

This agreement, entered into this _____day of _____, 1968, by and between the Board of Education of School District No. 8 Fractional of the City and Township of Dearborn, Dearborn Heights, Michigan, hereinafter called the "Board," and the Dearborn 8 Administrators Association, hereinafter called the "Association."

WITNESSETH

WHEREAS, the Board and the Association recognize and declare that providing a quality education for the children of Dearborn 8 is their mutual aim; and

WHEREAS, educational administrators should be particularly qualified to assist in suggesting and developing policies and programs designed to improve educational standards; and

WHEREAS, the Board agrees to bargain in good faith with the Association as the representatives of its administrative personnel with respect to hours, wages, and other conditions of employment; and

WHEREAS, the parties, following extended and deliberate professional negotiations, have reached certain understandings which they desire to memorialize;

IN CONSIDERATION of the following mutual covenants, it is hereby agreed as follows:

ARTICLE I - RECOGNITION

SECTION A

The Board hereby recognizes the Association as exclusive bargaining representative of all administrators below the level of Deputy Superintendent.

The term "Board" when used hereinafter in this Agreement shall refer to the legally elected representatives of the school district and/or its officially designated representatives.

The term "Administrator" when used hereinafter in this Agreement shall refer to those persons employed by and authorized by the Board to recommend for hiring, firing, and/or supervising professional staff members and other personnel.

SECTION B

The Board agrees not to negotiate with any administrators organization other than the Association for the duration of this Agreement. Nothing contained herein shall be construed to prevent any individual administrator from presenting a grievance and having the grievance adjusted without intervention of the Association, if the adjustment is not inconsistent with the terms of this Agreement.

SECTION C

Within thirty (30) days of the beginning of their employment hereunder, administrators may sign and deliver to the Board an assignment authorizing deduction of membership dues or assessments of the Association (including the National Education Association and the Michigan Education Association). Such sum shall be deducted as dues from the regular salaries of such administrator in 5 equal installments and remitted not less frequently than monthly to the Association.

ARTICLE II - ADMINISTRATOR RIGHTS

SECTION A

The Board hereby agrees that every administrator shall have the right freely to organize, join and support any organization for the purpose of engaging in professional negotiations, mutual aid, and protection. As a duly elected body exercising governmental power under code of law of the State of Michigan, the Board agrees that it will not directly or indirectly discourage or deprive or coerce any administrator in the enjoyment of his rights which have been conferred by the laws of the State of Michigan or the Constitution of the State of Michigan or the Constitution of the United States. The Board further agrees that it will not discriminate against any administrator with respect to hours, wages, or conditions of employment by reason of his membership in an administrative organization or collective professional negotiations with the Board, or his institution of any grievance, complaint or proceeding under this Agreement, or with respect to any other conditions of employment.

SECTION B

The Association shall have the privilege to use school building facilities at all reasonable hours for meetings and other activities in accord with proper procedures.

SECTION C

The Board agrees to furnish to the Association, in response to reasonable requests from time to time, all available public records concerning the financial resources of the district, tentative budgetary requirements and allocations, and such other public records as will assist the Association in developing intelligent, accurate, informed and constructive programs on behalf of the administrators and the students, together with public records which may be necessary for the Association to process any grievance or complaint.

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ARTICLE III - PROFESSIONAL COMPENSATION

SECTION A

The salaries of administrators covered by this Agreement are set forth in Appendix A which is attached to be incorporated in the Agreement. Such salaries shall remain in effect for the one-year term of this Agreement; provided, however, that upon written notice to the other party at least sixty (60) days prior to the first day of May of this Agreement, either party may request the opening of negotiations of such salary schedule for the next school year.

SECTION B

Administrators shall be entitled to, and receive, without loss of compensation, holidays according to a schedule which will be dependent upon the adoption of the 1968-1969 school calendar by the Board of Education. The schedule will use the same guidelines as the 1967-1968 schedule and will be similar in nature.

SECTION C

An authorized representative of the Association, and/or the grievant, engaged during the school day in the established grievance procedure, shall be released from regular duties without loss of pay.

SECTION D

The Board may allow administrators to attend appropriate annual State or National conferences and meetings. Approval may be given by the Board, using the following guidelines:

1. Written request to the Superintendent of Schools stating pertinent data concerning the conference.
2. Written statements of anticipated and actual expenses.
3. Length of absence.
4. A written and/or oral report of the conference, as requested by the Board, shall be given within 10 days after returning from a conference. Additional time may be granted by the Superintendent when necessary.
5. Salary will continue while an administrator is in attendance at an authorized conference.

The Board further agrees that all expenses for attendance at authorized conferences and meetings, including transportation, lodging, meals, conference registration and other incidental expenses, shall be paid by the Board, and that such attendance, including time spent in transit, shall not be charged to an administrator's leave-day bank, and that no administrator shall suffer any loss of compensation for such authorized attendance or travel. Any administrator absent in excess of the authorized length of absence shall be docked one day's pay for each day of excess absence. Emergency situations resulting in excess absences may be given special consideration by the Board.

SECTION E

Administrators shall be reimbursed at the rate of $.10 per mile when using their personal vehicles in the conduct of authorized school and school related affairs.

SECTION F

All administrators shall be allowed a duty-free lunch period away from their school or office not to exceed one hour.

SECTION G

If there are substantial changes proposed in the duties of any existing administrative position the Association shall have the opportunity to discuss, with the Board, the possible modification of the job description. Should it be mutually agreed that the job responsibilities have been significantly increased, the salary for such modified job description may be negotiated. In emergency situations such discussion and negotiation may take place following such modification.

ARTICLE IV - WORKING CONDITIONS

SECTION A

The provisions of this Agreement and the wages, hours, terms and conditions of employment shall be applied without regard to race, creed, religion, color, national origin, age, sex, or membership in or association with the activities of any employee organization. The Board and the Association pledge themselves to seek to extend the advantages of public education to every student without regard to race, creed, religion, sex, color or national origin and to seek to achieve full equality of educational opportunity for all pupils.

SECTION B

Notwithstanding their employment, administrators shall be entitled to full rights of citizenship and no religious or political activities, not limited by law, of any administrator or the lack thereof shall be grounds for any discipline or discrimination with respect to the professional employment of such administrator.

SECTION C

The very nature of school administration requires that, from time to time, administrators will make recommendations to the Board or its authorized representative regarding the program of the school, the conditions of buildings, grounds, equipment and material, and other factors important to the efficient management of a school plant or program. It is expected that such recommendations will be given careful consideration and expeditious handling.

Requisitions for equipment, materials and supplies necessary to the operation of the school and its program will be given prompt attention and will be answered in writing stating whether the requisition has been approved or not. Replies to requisitions which have been disapproved shall state the reason for such disapproval.

SECTION D

Each administrator shall have a parking space for his personal vehicle. For those administrators who desire it, such parking space shall be designated by a suitable sign or marker, erected and maintained by the Board, clearly reserving such space for the vehicle of said administrator.

SECTION E

The Board agrees that no member of the Association employed as a principal or assistant principal shall represent the Board in any negotiating or collective bargaining session with representatives of any other employee's bargaining agent. Such agreement will not hinder the participation of principals and assistant principals as consultants to the Board's bargaining team.

SECTION F

Both parties agree that efficient and capable management of the district's schools and curricular programs is their common goal. The superintendent may, when he deems it appropriate, recommend to the Board any additional administrative positions. It shall be the responsibility of the Association to bring such needs to the attention of the Superintendent and supply him with the necessary pertinent data.

ARTICLE V - LEAVE DAYS

SECTION A

All administrative personnel shall be allowed leave days without loss of pay according to the schedule in Article V.

SECTION B

Each administrator shall be permitted to accumulate, without limit, one (1) leave day per month (maximum of ten days) each school year in an accumulative leave-day bank.

SECTION C

Five (5) personal business leave days per school year will be granted in addition to Section B above. Any unused days will be added to the leave-day bank at the end of the school year.

SECTION D

A leave-day bank shall be established for each administrator in the following manner:

Administrators shall be credited only with leave days earned during the year. Any leave days accumulated at the close of the year shall be carried forward, as a balance, at the start of the next year. If an administrator is absent in excess of his earned leave-day bank, deductions, in the amount equal to one (1) day's pay for each day of excess absence shall be made from his salary check in the pay period following such excess absence. Reimbursement shall be made for such deductions at the end of the year if the administrator has earned leave days to his credit.

SECTION E

Absences which may be charged to an administrator's leave-day bank are as follows:

1. Administrator's personal illness or emergency illness in the immediate family.
2. Death in the immediate family, relatives, or close friends.
3. Administrator's own wedding or wedding in the immediate family.
4. Personal business or emergencies.

SECTION F

Qualifications for use of leave days.

1. Administrator's personal illness or emergency illness in the immediate family.
   a. Personal illness.
   b. Emergency illness in the immediate family (when no other arrangements can be made for necessary care). The time allowable shall not exceed five (5) working days. (Immediate family defined in 2-a below).
2. Death in the immediate family, relatives, or close friends.
   a. The immediate family includes spouse, children, father, mother, father-in-law, mother-in-law, grandfather, grandmother, brothers, sisters, and any other relatives or friends for whose funeral arrangements the administrator is responsible.
   b. The time allowable for each situation shall not exceed five (5) working days.
   c. Attendance at funerals of close relatives (other than the immediate family as defined in 2-a above), and friends. The time allowable shall not exceed three (3) working days.
3. Administrator's wedding or immediate family's wedding.
   a. The administrator's own wedding. The time allowable shall not exceed five (5) working days.
   b. Attendance at weddings in the immediate family. The time allowable shall not exceed three (3) working days.
4. Personal business or emergency.
   a. Leave days for personal business must be requested in writing in advance through the office of the Superintendent of Schools, or his designated representative, and must be given in ample time. Requests for leave days for personal business prior to, or immediately following, a holiday, and/or vacation shall be kept at a minimum and may not necessarily be granted.
   b. Other items of a nature of emergency approved by the Superintendent of Schools, or his designated representative.

SECTION G

Half-day Absences: Administrators reporting at the beginning of their work period shall be counted as absent one-half (1/2) day if they are forced to leave their work assignment because of illness or emergency situation any time after having been present three (3) hours, and the absence charged to their leave bank.

SECTION H

Jury Duty: Any administrator called to jury duty shall be considered to be fulfilling a basic duty of citizenship and, therefore, shall be on regular pay status, less the amount paid the administrator by the court for said jury duty. Absence for jury duty shall not be charged to the employee's leave-day bank.

SECTION I

Absences with pay not chargeable against the administrator's leave-day bank shall be granted for the following reasons:

1. Visitation of special programs in other schools and attendance at regional or state educational conferences as representatives of subject area departments, including sports clinics or curriculum study groups, may be approved. Said approval originates with a written request from an administrator for approval by the Board. Normally, only one representative will be approved for each visitation or conference. Requests must be made with sufficient time for adequate consideration for approval. Reimbursement of expenses for participation under this section is not the responsibility of the Board.

2. Time necessary to take selective service physical examination, not to exceed one day per year.

3. Administrators injured in the course of their job, said injury recognized under the provisions of the Michigan Workmen's Compensation Act. When said injury is the result of an accident, assault, or negligence on the part of the school district, the Board will continue pay at the daily rate per contract, less the amount paid by Workmen's Compensation, for a period up to a maximum of one hundred (100) days' pay.

4. Jury duty (see Article V, Section H).

5. Court appearance or when an administrator has been subpoenaed as a witness, less the amount received by the administrator for such court appearance.

   Any case of assault upon an administrator, while acting in a legal manner within the jurisdiction of his assignment, shall be promptly reported to the Board in writing or its designated representative. This representative shall then so inform the Board as soon as possible. The Board will provide legal counsel to advise the administrator of his rights and obligations with respect to such assault and shall render all reasonable assistance to the administrator in connection with handling of the incident by law enforcement and judicial authorities.

6. Items covered in Article III, Section D.

ARTICLE VI - LEAVE OF ABSENCE

SECTION A

Provisions for Leave of Absence: It shall be the policy of the Board to grant leaves of absence to administrators for the following reasons as listed and defined below:

1. Health

   a. Personal illness (physical or mental).
   b. Care of sick member of immediate family.

2. Maternity

3. Study in an institution of recognized rank.

4. Travel and work experience related to education.

5. Military service.

6. Sabbatical leave.

7. Any other leave deemed appropriate by the Board of Education.

8. Campaign for or serve in public office.

9. Peace Corps or National Teacher Corps (NTC).

SECTION B

Eligibility for Leave: Any administrator who has completed two or more years of service in the school district is eligible for a leave of absence (exception - military and sabbatical leaves).

SECTION C

Length of Leave: The original leave of absence may be for the remainder of a semester, the remainder of a school year, or for a complete school year. A leave of absence may be extended for one semester or one year upon written request made to the Board of Education. A leave of absence shall not end during a semester except by special permission.

SECTION D

Procedure for Application: All applications for a leave of absence shall be submitted, in writing, to the Board, who shall process said application. Applications shall be filed at least sixty (60) days before the first day of school. Failure to provide such notification will result in the denial of the request. Emergencies may be given consideration. An extension to a leave shall be requested at least one month before the termination of the original leave.

SECTION E

Status During Leave of Absence:

1. Except where otherwise provided, all leaves of absence shall be without pay.

2. Leave-day bank shall remain as of the balance at the beginning of the leave. The employee shall return on the same level of the salary schedule as of the beginning of the leave of absence.

3. Partial years shall be pro-rated according to procedures approved by the Board of Education.

4. Leave days and holidays shall not accrue during a leave of absence.

SECTION F

Return to Duty:

1. A leave of absence is granted with the expectation of the employee returning to an assignment at its termination. Since each position is usually manned during a leave of absence either by a temporary or permanent employee, it is therefore necessary to know the intent of the person on leave to make necessary arrangements. Therefore, it is the responsibility of an employee on leave of absence to give written notice to the Superintendent of Schools not less than sixty (60) days before the resumption of duty or the termination of leave, whichever is the later date. Failure to give such notice releases the Board of the responsibility of providing an assignment and employment.

2. The Board cannot guarantee the return of any employee to a specific building, grade level, or special assignment at the conclusion of a leave of absence. Every possible effort will be made to return an employee to the same or comparable assignment as that held prior to going on leave. "Returning tenure" administrators shall receive preference over first-year administrators.

3. The Board will require medical clearance when the leave has been for emotional or mental purposes. When advisable, the Board may require a physical examination when the condition would indicate it is needed. The Board shall pay for any required physical examination.

SECTION G - MATERNITY LEAVE

Maternity leave of up to one (1) year shall be granted, commencing not later than the end of the fifth (5th) month of pregnancy, except that when this date falls within one school month of the end of the semester, the administrator may be permitted to complete the semester. Return from such leave will be no earlier than six (6) weeks after the termination of the pregnancy. A female administrator adopting a child may receive a similar leave which shall commence upon entry of an order terminating the rights of the natural parents by the probate court. An administrator returning from leave provided in this paragraph shall be placed on that step of the salary schedule from which she went on leave.

SECTION H - MILITARY SERVICE

Any administrator who is required to serve in either active or inactive training duty or service in the Armed Forces of the United States will be given a leave of absence subject to the conditions herein. Seniority will accumulate during the period of such leave. Upon termination of such leave, the administrator shall be offered re-employment in his previous position or position of like seniority, status and pay, unless the circumstances have so changed as to make it impossible or unreasonable to do so, in which event he will be offered such employment in line with his seniority as may be available which he is capable of doing at the current rate of pay for such work provided he meets the following requirements:

1. He has not been dishonorably discharged.

2. Is physically able to do the work.

3. Reports for work within ninety (90) days of the date of such discharge or ninety (90) days after hospitalization continuing after discharge for not more than one (1) year. (Maximum time allowance is fifteen (15) months).

SECTION I - SABBATICAL LEAVE

1. Authorization

a. Sabbatical leave of absence may be granted to members of the administrative staff of Dearborn Township District #8. The granting of such leaves is subject to the approval of the Board, upon recommendation of the Superintendent, when in its considered judgment the professional competence and welfare of the schools will be benefited.

b. The rules and regulations of the Dearborn Township District #8 Sabbatical Leave Program shall be interpreted in accordance with Section 572, School Code of 1955--M.S.A. -15.35572.

2. Eligibility and Qualifications

a. Any administrator employed by the district who meets the qualifications shall be eligible to apply for Sabbatical Leave subject to the following conditions and requirements.

1) Applicant must hold a Life or Permanent Certificate.
2) Applicant must have seven (7) consecutive years of satisfactory service as a full-time employee in the district.
3) Sabbatical leaves of absence may be granted to not more than one (1) administrator in any one year.
4) Sabbatical leave may be granted for one (1) full semester or two (2) full consecutive semesters.
5) The applicant signs an agreement to return to service with the Dearborn Township District #8 Board of Education immediately on termination of his sabbatical leave and to continue service for a period of not less than one (1) year (unless causes beyond his control prevent it). Failure to comply must result in a refund of any compensation received from the Board while on leave plus interest at the annual rate of five (5) per cent. The refund shall be repaid within two (2) years of termination date of the sabbatical leave.

3. Purpose of Sabbatical Leave

a. Sabbatical leave is given to administrators to permit them to improve their ability to render educational service. Such improvement is usually achieved by formal study, research, and travel.

b. The following information shall be presented in the application:

1) For formal study - A program of study at an accredited college or university should be briefly outlined.
2) For research - A program of research under the guidance of competent research personnel should be briefly outlined.
3) For travel - A written plan, including the proposed itinerary, shall be submitted.
4) For other reasons - A written plan shall be submitted stating the professional objectives which are sought.

4. Application Requirements

a. Written application for sabbatical leave must be filed with the Superintendent not later than October 1st for a second semester leave; by April 14th for a first semester leave.

5. Requirements and Status While on Sabbatical Leave

a. Financial Policies.

1) Compensation for a staff member on sabbatical leave shall be one-half (1/2) of the salary he would receive were he not active staff status.
2) Payment of salary to a staff member on sabbatical leave shall be made in accordance with provisions of the Board for payment of salary to other members of the regular staff.

3) On returning from sabbatical leave, the employee shall be entitled to the automatic salary schedule increment as though he had been in continuous service in the school system.
4) The leave-day bank balance shall remain the same as the balance was at the beginning of the leave.

6. Reports Required

a. The Board shall require, and the administrator shall promptly furnish, a written report containing sufficient information to enable the Board to determine that the leave is being utilized in the approved manner. In the event the Board shall find that the administrator is not fulfilling the agreement, the entire sum paid to the administrator shall become immediately refunded to the Board. Failure to comply or refund any monies due shall be cause for the Board to take appropriate legal action.

7. Status Upon Returning

a. At the expiration of a sabbatical leave, the administrator shall be restored to his position or to a position of like nature, seniority, status, and pay, unless otherwise mutually agreed.

8. Recognition of Longevity

a. All other factors being equal the person with the greatest longevity shall be granted the leave if such leave is to be granted.

b. A written report shall be given to the Board within ten (10) days after reporting back to work.

ARTICLE VII - TERMINATION OF SERVICES

SECTION A

An administrator who terminates employment with the Board under the provisions of retirement shall also be eligible for severance pay on the basis of pay for one-half of the accumulated days in the administrator's leave-day bank. In case of death, the severance pay shall be paid to the estate of the administrator on the basis of pay for the accumulated days in the administrator's leave-day bank. Retirement shall be defined as age 55 or above, or a minimum of thirty (30) years' service, in district.

SECTION B

An administrator who terminates employment with the Board in accordance with the Michigan Teacher Tenure Act shall be eligible for severance pay on the basis of pay for one-half of the accumulated days in the leave-day bank, up to a maximum of thirty (30) days' actual pay.

SECTION C

An administrator who is discharged or who terminates his employment without at least sixty (60) days' notice of termination, or whose work record is unsatisfactory, shall not be eligible for benefits identified in Section A or B above. Special consideration shall be given for emergencies that may arise involving the voluntary termination of employment and the sixty (60) days' notice provision may be waived without penalty to the administrator.

SECTION D

All payments made under the provisions of this article shall be made at the rate of pay of the last full-time assignment of the employee in the school district.

ARTICLE VIII - INSURANCE PROTECTION

SECTION A

The Board shall provide Blue Cross Hospitalization, full coverage up to and including Family, Semi-Private, Master Medical, for each administrator.

SECTION B

The Board shall provide, without cost to the administrator, group life insurance protection which shall pay to the administrator's designated beneficiary the sum of $5,000 upon death with provision for double indemnity in the event of accidental death.

ARTICLE IX - EVALUATION OF ADMINISTRATORS

SECTION A

The Board recognizes that the process of evaluating administrative personnel is a complicated and difficult task requiring a thorough knowledge of both the skills being evaluated and the process by which such skills can be adequately measured. Because such knowledge and ability is, in itself a unique skill requiring specialized training and experience, the Board designates the superintendent of schools and any other administrative person that he may select to evaluate all administrators once a year prior to March 1.

SECTION B

All evaluations of any administrator shall be discussed with the administrator in question and shall be reduced to writing. The administrator shall receive a copy of each evaluation and a copy shall be placed on file in the Board office and be held in confidence and handled in an ethical manner.

SECTION C

No administrator shall be disciplined, reprimanded, reduced in rank or compensation, or deprived of any professional advantage without just cause. Any such discipline, reprimand, or reduction in rank, compensation or advantage, including adverse evaluation of administrator performance or violation of professional ethics asserted by the Board or any agent or representative thereof, shall be subject to the grievance procedure as provided in this contract.

ARTICLE X - VACANCIES, PROMOTIONS AND TRANSFERS

SECTION A

The Board shall give written notice of any administrative vacancies in the district to the Association. In selecting personnel to fill such vacancies, the Board with candidates of substantially equal qualification, will give preference to employees within the district and will also accord due weight to the years of service of each applicant with the district, whether as an administrator or otherwise. Vacancies shall be filled on the basis of the experience, competency and qualifications of the applicant, length of service in the district, and other relevant factors.

SECTION B

The Board recognizes that it is desirable in making assignments to consider the interests and aspirations of its administrators. Requests by an administrator for transfer to a different position or building shall be filed in writing with the Superintendent. The applicant shall set forth the reasons for transfer, the building or position sought and the applicant's qualifications. Such requests shall receive reasonable consideration by the Board.

SECTION C

An applicant with less service in the district shall not be awarded such position unless his qualifications shall be substantially superior. Service in the district, for purposes of this Agreement, shall mean continuous employment in the district, including substitute service, irrespective of tenure status, and shall include all periods when the administrator was on sabbatical or professional leaves of absence.

SECTION D

An involuntary transfer will be made only in case of emergency or to prevent undue disruption of the instructional program or to improve the operation of the district. The Board shall notify in writing the affected administrator and the Association of the reasons for such transfer. If the administrator objects to such transfer for the reasons given, the dispute may be resolved through the professional grievance procedure. When feasible, the Board agrees to transfer volunteers first. When involuntary transfers are necessary, the administrator's professional background and other qualifications shall be considered in determining which administrator is to be transferred. Administrators being involuntarily transferred will be transferred, if possible, to a comparable position and such transfer shall not result in a reduction of salary. An involuntary transfer will be made only after a meeting between the administrator involved and the Superintendent, at which time the administrator will be notified of the reason for the transfer.

SECTION E

Administrators shall be employed as administrators and made subject to the provisions of the Tenure Act.

ARTICLE XI - CREATION OF NEW POSITIONS

SECTION A

The Board shall give written notice of any new administrative position to be created to the Association.

SECTION B

Within ten (10) working days after the position has been filled the Board shall notify the Association in writing of the salary and duration of contract for such position.

SECTION C

The Association may within twenty (20) working days request in writing that the Board negotiate the above items.

SECTION D

The Board shall begin negotiation within twenty (20) working days of the request. The parties may extend this time limitation by mutual agreement.

SECTION E

Retroactive pay resulting from such negotiation shall commence sixty (60) working days after the first working day.

ARTICLE XII - PROTECTION OF ADMINISTRATORS

SECTION A

If any administrator, while acting in a legal manner as an administrator within the jurisdiction of his assignment, is complained against or sued, the Board will provide legal counsel and render all necessary assistance to the administrator in his defense. It shall be the responsibility of the administrator to bring any such complaints to the attention of the Board in writing as soon as possible.

SECTION B

Time lost by an administrator in connection with any incident mentioned in Section A of this Article shall not be charged against the administrator.

SECTION C

The Board shall reimburse administrators for any loss, damage or destruction of clothing or personal property of the administrator, while acting in a legal manner as an administrator. If an administrator is injured while acting in a legal manner as an administrator, expenses incurred for medical, surgical, and hospital care, in excess of those covered by hospitalization insurance provided by the Board, will be the responsibility of the Board.

ARTICLE XIII - GRIEVANCE PROCEDURE

SECTION A

The ultimate goal of a grievance procedure is to sincerely endeavor to resolve the problem at the first possible step. Every effort must be exhausted at each step before appealing to the next step.

SECTION B

A grievance is an unsettled complaint by a member of the bargaining unit, or by the Association on its own behalf, concerning:

1. Any alleged violation of this Agreement.
2. Any alleged violation of the policies, rules or regulations of the Board concerning conditions of employment.
3. Any disciplinary action.
4. Any alleged violation of any rule of law.

SECTION C

No grievances which claim back wages or other financial reimbursement by an employee covered by this Agreement, or by the Association, against the Board of Education, shall only be valid for a period of ten (10) working days prior to the date the grievance was first filed in writing. All back wages claimed shall have been earned.

SECTION D

If an appeal is not taken from a decision at any step of the following grievance procedure to the next step within five (5) working days of such decision, it shall be considered disposed of on the basis of the latest decision and not subject to further review or appeal.

SECTION E

Any administrator with a grievance, or the Association on its own behalf, may file a written statement of his grievance with the deputy superintendent within ten (10) working days from the initial time of the incident. Once a grievance has been filed it may not be altered except that the grieving party may delete items from the grievance.

SECTION F

Within ten (10) working days of receipt of the grievance, the deputy superintendent shall meet with the administrator, or his representative, in an effort to resolve the grievance. The deputy superintendent shall render his decision in writing and shall deliver one copy thereof to the grievant or his representative within ten (10) working days of such meeting.

SECTION G

If the administrator, his representative, or the Association is not satisfied with the decision of the deputy superintendent, or if the deputy superintendent fails to render a decision within the prescribed time, the administrator and/or the Association may appeal the grievance to the superintendent by filing notice thereof in writing within five (5) working days of receipt of the deputy superintendent's decision, and provide copies of all previous decisions and charges to the superintendent.

Within ten (10) working days of receipt of the grievance, the superintendent shall meet with the administrator, or his representative, in an effort to resolve the grievance. The superintendent shall render his decision in writing and shall deliver one copy thereof to the grievant or his representative within ten (10) working days of such meeting.

SECTION H

If the administrator, his representative, or the Association is not satisfied with the decision of the superintendent, or if the superintendent fails to render a decision within the prescribed time, the administrator and/or the Association may appeal the grievance to the Board of Education by filing notice thereof in writing within five (5) working days of receipt of the superintendent's decision, and provide copies of all previous decisions and charges to the Board of Education.

The administrator and/or the Association upon its request shall have the right to a formal hearing before the Board, either public, or private, at the option of the administrator.

The Board shall review the grievance at a regular meeting, a special meeting, or an executive session within twenty (20) working days from the time of the hearing. The Board shall render its decision in writing and shall deliver one copy to the administrator and one copy to the Association within ten (10) working days of such meeting.

SECTION I

If the administrator, his representative, or the Association is not satisfied with the decision of the Board, or if the Board fails to render a decision within the prescribed time, the administrator and/or the Association may process and appeal to the Michigan State Labor Mediation Board, which may or may not involve "Fact Finding" as the plaintiff may desire. The administrator or his representative shall notify the Board of Education, in writing, within ten (10) working days of the hearing authorized in Section H above, of such decision to appeal to the Labor Mediation Board and shall file such appeal within ten (10) working days following such notification. A copy of the original grievance and the written decisions at each step shall be provided for the State Labor Mediation Board. The Board of Education shall give ample consideration to the decision and/or recommendations of the State Labor Mediation Board and notify the Association of its decision.

SECTION J

If the Association is not satisfied with the decision of the Labor Mediation Board, or if the Board of Education fails to abide by the decision of the Labor Mediation Board, the Association may submit the grievance to arbitration before an impartial arbitrator selected by the parties. The Association shall notify the Board of Education, in writing, within ten (10) working days following the decision of the Labor Mediation Board, of its intent to submit the grievance to arbitration. If the parties cannot agree as to the arbitrator within fifteen (15) working days of the Association's notification, he shall be selected by the American Arbitration Association in accordance with its rules. The hearing before the arbitrator shall be governed by the rules of American Arbitration Association. The arbitrator shall have no power to alter, add to or subtract from the terms of this Agreement. Both parties agree to be bound by the award of the arbitrator and agree that judgment thereon may be entered in any court of competent jurisdiction.

SECTION K

The cost of any arbitration under this Article shall be borne by the parties on an equal basis. (Only official bills submitted by the arbitrator shall be considered as costs under this section.)

SECTION L

All records of grievances shall be kept entirely separate from the personnel files of the administrators, and no reference shall be included in such files to the fact that any administrator has initiated, pursued, failed to pursue, abandoned, or in any other way participated in proceedings under this Article.

SECTION M

If any administrator for whom a grievance is sustained shall be found to have been unjustly discharged, suspended or disciplined, he shall be reinstated with full reimbursement of all professional compensation lost. If he shall have been found to have been improperly deprived of any professional compensation, benefit or advantage, the same or its equivalent in money shall be paid to him.

ARTICLE XIV - NEGOTIATION PROCEDURES

SECTION A

It is contemplated that matters not specifically covered by this Agreement but which apply to rates of pay, wages, hours of employment or other conditions of employment shall be subject to professional negotiations between them from time to time during the period of this Agreement upon request by either party to the other. The parties agree to co-operate in arranging meetings, selecting representatives for such discussions, furnishing necessary information and otherwise constructively considering resolving any such matters.

SECTION B

In the event the salary schedule is opened for negotiation, by either party, as provided in Article III of this Agreement, the parties will promptly negotiate for the purpose of reaching an agreement upon a revised salary schedule for the next year. The parties will likewise begin negotiations for a new agreement covering wages, hours, terms and conditions of employment of administrators employed by the Board.

SECTION C

In any negotiations described in this Article, neither party shall have any control over the selection of the negotiating or bargaining representative of the other party, and each party may select its representatives from within or without the school district.

SECTION D

It is recognized that no final agreement between the parties may be executed without ratification by a majority of the Board and by a majority of the membership of the Association, but the parties mutually pledge that representatives selected by each shall be clothed with all necessary power and authority to make proposals, counter proposals, and concessions in the course of negotiations or bargaining, subject only to such ultimate ratification.

ARTICLE XV - MISCELLANEOUS PROVISIONS

SECTION A

This Agreement shall supersede any rules, regulations or practices of the Board which shall be contrary to or inconsistent with its terms. It shall likewise supersede any contrary or inconsistent terms contained in any individual administrator contracts heretofore in effect. All future individual administrator contracts shall be made expressly subject to the terms of this Agreement. The provisions of this Agreement shall be incorporated into and be considered part of the established policies of the Board.

SECTION B

Copies of this Agreement shall be printed at the expense of the Board and presented to all administrators now employed or hereafter employed by the Board.

SECTION C

If any provisions of this Agreement or any application of the Agreement be found contrary to law, then such provision or application shall not be deemed valid and subsisting except to the extent permitted by law, but all other provisions or applications shall continue in full force and effect.

SECTION D

It is the administrator's responsibility to be neat and well-groomed at all times when engaged in school responsibilities. It is the responsibility of the Board and/or its designated representatives to discuss any abuse of this responsibility with the individual involved. Any refusal to co-operate or repeated incidents after warning shall be subject to disciplinary action as outlined in this contract.

SECTION E

Essential records required as a part of employment shall be provided by the administrator. Examples, but not limited to these, are: teaching certificates, transcripts of college credits, health examinations, report of TB skin test or x-ray, etc. Failure to provide these records is subject to disciplinary action as outlined in this contract.

SECTION F

Disciplinary action may include, but is not limited to, written and/or verbal reprimand, docking of a day's wages, suspension, or other appropriate action.

The following reprimand procedures are to be established:

1. Verbal reprimand.
2. Written reprimand.
3. Docking of a day's wages and suspension.
4. Repeated offenses will result in loss of position and/or termination of employment.

SECTION G

Realizing that it is desirable for administrators to be cognizant of current philosophies, trends and techniques, the Board may provide in-service work shops for all administrators in areas deemed necessary, and assume responsibility for expenses for such in-service work shops.

SECTION H

In order to improve communications which are vital to a well-run school district, regular meetings will be held between the administrative personnel and the Board. Such meetings shall be held at least four times during each school year.

All meetings and discussions will be general in nature and shall not circumvent any areas of communications or any authority of the superintendent of schools. These meetings will be called by the superintendent when requested by the Board or by Administrative personnel.

SECTION I

Both parties agree that continued progress in this school district depends upon the good will of the administrators and the Board of Education. Good will is not to be taken for granted--it is to be earned and preserved by scrupulously giving fair treatment to all. We will treat each other with dignity, respect and fairness in all facets of the employment relationship.

ARTICLE XVI - DURATION OF AGREEMENT

THIS AGREEMENT shall be effective as of July 1, 1969 and shall be in effect until June 30, 1969. This contract shall further automatically extend from year to year thereafter, unless one hundred and twenty (120) days prior to any anniversary date either party gives to the other, in writing, notice of an intention to terminate or modify this Agreement.

DEARBORN 8 ADMINISTRATORS ASSOCIATION

By _____
President

By _____
Secretary

DEARBORN 8 BOARD OF EDUCATION

By _____
President

By _____
Vice-President

By _____
Secretary

By _____
Treasurer

By _____
Trustee

By _____
Trustee

By _____
Trustee

APPENDIX A - SALARY SCHEDULE

SECTION A - ADDITIONAL EDUCATION

Each administrator shall be compensated for additional hours of credit earned and approved by the Board, in excess of the highest degree held, at the rate of $15.00 per semester hour.

SECTION B - LONGEVITY PAY

Longevity pay shall be paid to each administrator according to the following schedule:

Full Years of Service Rendered to District 8	Rate of Pay
11 - 15	.01 of salary as listed in Appendix A
16 - 20	.02 of salary as listed in Appendix A
21 +	.03 of salary as listed in Appendix A

Longevity pay shall be paid each year on the first regular pay day in the month of December.

Position	Contract Weeks	Salary
Assistant Superintendent, Business	48	$18,000
Assistant Superintendent, Personnel	48	17,000
* Co-ordinator, Special Projects	48	
Reading Co-ordinator	44	10,500
* Director of Athletics & Physical Education	40	
High School Principal	46	16,300
High School Assistant Principal	42	13,000
Junior High Principal	44	14,000
* Junior High Assistant Principal	42	
* Junior High Assistant Principal	42	
Thorne Elementary Principal	44	15,100
Thorne Elementary Assistant Principal	42	12,800
Mokersky Elementary Principal	42	14,200
* McNair Elementary Principal	42	
Tomlinson Elementary Principal	42	12,800
Daly Elementary Principal	42	12,800

* Position now vacant.

Any administrative personnel who is authorized by the superintendent, and approved by the Board of Education to work beyond the administrator's contracted school year (before or after) shall be paid on a pro-rated basis. All requests for extra assignments of work weeks shall be made in writing and presented to the superintendent's office prior to the end of the school year.

GLOSSARY

PROFESSIONAL NEGOTIATION--the use of this term implies that the party will not withhold services.

Special Items

ARBITRATION AND PUBLIC EMPLOYEES*

Joseph Stone, Attorney-Arbitrator

To those in the field, it always comes as somewhat of a surprise that the arbitration process is either not understood or misunderstood. On several occasions this year, I have spoken to trainees of the Civil Service Commission very much along the lines of today. These talks have been directed toward labor people within the government who are dealing with personnel problems, who have been brought in by the Commission for a quick course in labor management relations. I give them a little talk in arbitration–the process, and what it constitutes. It's always an "eye-opener" that there is such a lack of understanding about it.

For those of you who are at all familiar with the process, perhaps my opening remarks may appear to be somewhat fundamental. But I think that before we discuss in any way its role or function, perhaps we ought to understand what the arbitration process is. It is a very old process. . . .

Those of us who do arbitrating hear enough screams from losing parties to know that, at least, we are not universally cutting the issue in half. Sometimes you have to and you have sound reasons for doing so, but in any event, it is not universally done despite allegations to that effect. The process has been utilized through the centuries.

I was very much interested–about three weeks ago there was an article in the *Wall Street Journal.* Apparently, a group of Rabbis had relied on Judaic law through the centuries to call together an arbitration session involving a slum, or several slum landlords and their tenants; and despite their absence of any subpoena power, they had taken whatever pressures they could generate as a consequence of their position in religious positions to get jurisdiction over these landlords, and they had worked out a settlement for the particular problem here.

In a labor relations sense, while there has been some arbitration through the years, in a very broad way, arbitration has really caught on since World War II. During the war, for those of you old enough to remember, the right to strike had been effectively abrogated.

But once you take away the right to strike, at least in a private sector, then you have no bargaining power on the part of an employee group. As a consequence of that, various boards were set up in various industries with the parent board, the War Labor Board. You had various boards in the maritime industry and construction industry and various other sectors to make sure that unwarranted employer action did not take place, or at least, that there be some kind of avenue provided for working out problems that arose in the industrial field.

It's interesting to note that many of the outstanding arbitrators of today got their start at that time with government agencies and are alumni of such agencies. But the utilization of the governmental agencies acting in a sense as arbitration boards instilled in both labor and management some readiness to accept arbitration in the years that have followed, so that today it's a highly accepted technique in private industry.

Now, what are we talking about when we talk about the arbitration process? Essentially, arbitration is nothing more than a trial or a hearing at which a conflict of views or positions are being resolved. All of you I'm sure, see enough TV with Judd for the Defense, Mr. Marshall, Perry Mason, and all the other wonderful characters who are involved in courtroom scenes generally starting somewhere around 25 minutes to the hour which end up in about 5 minutes to the hour with the culprit apprehended, as a result of brilliant cross examination, etc.

In a sense, the arbitration process is not much different. Arbitration is a trial, I've said. It's a trial very much along the lines of a courtroom trial; however, it is less formal.

Let me spend a few moments really outlining what an arbitration hearing would look like in a private sector. Generally speaking, it takes place in a hotel room or a meeting room in the office of a company, or in some governmental agency room set aside either by the Federal Conciliation Mediation Service or a State Mediation Service.

It is a room that has no American flag and no jury box. Normally, the tables are very much like the ones you are sitting at–sometimes without the green felt. Very often in a T-shape, with the arbitrators sitting here, the table going down there, union people on one side, management people on the other side. Most often they are represented by attorneys, sometimes represented by their union officials or their company personnel managers.

The arbitration starts with, normally speaking, an opening statement by the "moving" party. Now the moving party is the party which has to prove something first. It is normally the union. The unions file the grievance. They are complaining about "X" and they are saying that "X" constitutes a violation of the collective bargaining agreement. They are the moving party because they have to prove "X". The union comes in and makes an opening statement first. The opening statement may or may not be followed by an opening statement by the company or the management people. Management may reserve the right to make an opening statement after the union's case is in.

*Presented at the Seminar on Professional Negotiations in Public Education, Montgomery County Education Association, Rockville, Maryland, September 28, 1968.

After the opening statement, the union then proceeds to put on its case in the usual, traditional technique of witnesses and of presenting documentation. They examine the witness through direct examination. The company representative then cross-examines. The union lawyer then comes back for rebuttal testimony, and then the company for testimony, and very often, the arbitrator gets into the picture somewhere along the line because he wants to clarify for himself exactly what the testimony is about.

After a series of witnesses have been put on by the union and the union is satisfied it has established its case through its witnesses and through its documentation the other party–normally the company or management–tries to, in effect, destroy the union's case. They do it in the same way the union has put on its case, mainly through witnesses and documentation with the same procedure of examination and cross-examination, etc.

Normally speaking, you have very strict rules of evidence in a court of law. These rules of evidence are not slavishly followed in arbitration. The whole atmosphere is one of greater informality, both with respect to the atmosphere of physical set-up, itself as well as to the procedure being followed. Therefore, you will have testimony coming in very often in an arbitration that you wouldn't not have coming in in a court of law.

The safeguard primarily is that in an arbitration you do not have a jury and you do not have any appellate procedure whereby after a decision is rendered, it is then going up to a review court. Moreover, your arbitrator normally speaking is a man who has some training and experience has some knowledge and some expertise in evaluating testimony, so that both the materiality and relevancy of the testimony that he's hearing, which in a court may not be heard, is something that he can determine with a fair degree of accuracy overall.

Once the testimony and documentation has been submitted by both parties, you often have closing arguments. A sound closing argument ties together what the respective parties think they have proved factually, with what their theories and contentions and legal positions may be. There is a weaving together of the whole story.

It's a sales argument essentially that will try to demonstrate to you how persuasive and how valid their position is and how invalid the opposing party's position is. During this closing argument, they may make reference to other decisions of arbitrators which they have found in the books.

With respect to that particular aspect, that courtrooms more often follow previous decisions, or much more influenced by a previous decision. Arbitrators are not bound by a previous arbitrator's decision, even their own, and to a large extent may not follow it. However, I'm sure that where you have a novel or complex problem, and there is a decision by an arbitrator who is a highly regarded arbitrator, at least you're going to read the arbitrator's decision most carefully and if you are going to differ with it, you are going to make sure that your reasons appear pretty sound to you . . .

The arbitrator's decision is binding. There is no court review of any kind and nobody else has the right to say aye or nay to it–with one exception. You go into court to get an enforcement of an arbitration's decision, where the other party or the losing party refuses to go along with the decision. A court of law will enforce an arbitrator's decision.

In a very limited number of cases, where it can be demonstrated that there may have been fraud of some kind in the rendering of this decision, or if the arbitrator has substantially exceeded his authority to arbitrate any particular issue, then a court will intervene. But these are rare indeed. This, then, is the arbitration process, as we know it today.

I have given you a rather broad-brush view of this. Before we go on to assess the function of the arbitration process in public employment, perhaps we ought to do one further thing and that's to try and delineate arbitration process as a tool–from conciliation and mediation which are the other tools and techniques that are available and are sometimes confused in the minds of the public.

Conciliation is generally the first process that occurs in a labor management situation. It occurs at the time when the parties are in negotiation and have not yet had an agreement executed. The conciliator is essentially a wise or knowledgeable person in the labor management field, who has been through a lot of negotiations and a lot of management companies and unions. Because of his knowledge of a particular industry or problems that they are having, because of his knowledge of the people involved, he is very helpful.

The parties very often can work through a third party in ways they can not work face-to-face. In terms of jockeying for position for negotiation, the conciliator is a man who is there during negotiations, "flying by the seat of his pants", who is trying to be as helpful as he can possibly be–from anything like messenger boy service to some cajoling, perhaps to some advising.

It is difficult really to have an understanding of the role unless you're there watching how a conciliator works but that's essentially what he is doing. Maybe a "midwife" would be a good description, I don't know.

Once the conciliator's services have been utilized, but for one reason or another the parties have been unable to get together, they may move on to the mediation process. A mediation in many ways resembles the arbitration process. It's more of a fact-finding and advisory type of operation. The mediators actually make recommendations for resolving the impasse that has occurred, but these recommendations are not binding unlike arbitration where they are.

The mediator may be able to suggest a new path the parties themselves have not tried or he may be able to bring certain pressures to bear by virtue of the fact that a neutral third party looks at this situation in a particular way. Then, of course, if mediation doesn't do the trick, in some cases in private sector you can move on to arbitration.

Arbitration, however, for new terms in an agreement is not as widespread a technique or tool, as it is in a grievance procedure field which I will get to later. Nevertheless, if the parties so wish they can agree on arbitrating whatever their impasse is. Once that decision is rendered it's a binding and final decision. We should have some idea as to the arbitration process and where it fits in in the labor management picture as a tool. What is its function? What role does it have in terms of the kind of thing you are discussing in today's negotiations? Well, let's start back a little before we get to that question. I had lunch today with a number of people at a function in the course of which I had a few moments speaking with a highly regarded attorney in town here, who has the reputation of being a great liberal, etc.

"Well, Joe," he said, "I wasn't with the teachers last year on the strike. They were striking against an injunction."

Now this is the legal way to look at it. I suggested to him that perhaps we are looking at it a little superficially when we look at it that way. Perhaps, I said, we ought to at least philosophically think of one thing. Let us suppose that the avenue for airing employee complaints is not there, there is no avenue, there's no acceptable substitute for a strike, then what do employees do?

Strikes will always occur in the absence of an acceptable substitute for airing employee complaints. I think they will occur whether the law forbids them or not, and witness around the country, though the law does forbid them and the strikes occur. And they will occur, either in the traditional form of a strike or, if sanctions become so harsh that at least the outward manifestations of a strike are eliminated, mass slowdowns, mass resignations, mass sick leave and other work stoppages will occur.

In the absence of acceptable substitutes, the frequency with which strikes in the public sector will occur, will increase. When you have a strike, you have a community emergency situation. People are annoyed. Children don't go to school, garbage isn't collected and other things happen and the public gets quite annoyed. And you then have all kinds of demands by the public for suppression of the employees, or for a seeking of alternatives as to how to handle this situation.

You could handle it in many ways, I suppose. You could suppress the strike and break it. You face the problem of whether or not you have these other manifestations of resignation. Or you could seek legislation to meet the particular problem that is at hand. But then you are going to end up with the weirdest collection of laws on the books designed to meet particular problems.

I think there is a more realistic approach. This is not in terms of legislation to meet the particular problems, or in terms of suppression, but in terms of having the parties, themselves, agree. There must be established some technique for at least fact-finding as to what the issues and facts are and then moving on from there.

Experience with fact-finding bodies very often instills in the parties a desire to make some kind of arrangement for the settlement of disputes from a long-range point of view to avoid the same kind of crisis they have just come through. The day when the employer is the final arbitor as to what will be has just been abandoned in the private sector. The employer has become an advocate of his possessions, and this experience which we have had in the private sector where there has been a seeking-out of techniques for the settlement of their disputes by neutral, impartial third persons who have been mutually selected, is a process which I think is perfectly adaptable to public employment.

I visualize no reason why this cannot take place. As a matter of fact, we are beginning to see the utilization of fact-finding bodies, beginning to see the utilization of arbitration, at least on the federal level. Under Executive Order 10988, arbitration is one of the techniques being used.

Before anybody raises the question about it, federal arbitration is still of an advisory nature. I have sat in on 3 in determining applicable units, and after 3 or 4 days of hearings, have written long, 20-page decisions—all of which were advisory to the head of the agency.

If the opinion is well written and well reasoned, the arbitrator has done a conscientious job, then it's awfully difficult for the head of an agency to come and say "the heck with that," or "I'm not going to follow it" because then he's got some very sticky questions to answer—at least to the public.

I'm aware of the fact that some objection has been raised that arbitration in a sense would constitute a delegation of governmental authority to a person not authorized under law to be resolving questions. I have just indicated that advisory arbitrations under Executive Order 10988 are rendered and I see no reason why they could not be rendered at different levels. At least in that area, there can be no real basis for that kind of objection.

There may be other areas in which an arbitration decision does not, in any real true sense of the word, constitute a turning-over of governmental authority. For example, let's take the area of imposing discipline on a teacher for one reason or another. The teacher agrees that the discipline imposed was unwarranted. The case is heard by an arbitrator who decides "yes" or "no" as to whether discipline should have been imposed or not imposed. I don't believe there is a sound basis for concluding that we are thereby turning over governmental authority.

This whole area, it seems to me, is one which could utilize some exploration, but I have no question in my own mind that there are vast areas of employer or management decisions that lend themselves to the arbitration process without a giving-up of governmental authority that is imposed on this particular individual by law.

Now how does the arbitration process work as I think you are going to have to utilize it? One of your largest areas involves strikes where there is a complaint being made about employer action involving employees—good old fashioned grievances. This is the largest area which gives rise to strikes—even in a public sector.

The private sector's experience, and the handling of that type of grievance has virtually eliminated that whole area of strikes. The work stoppages have been eliminated during the course of collective bargaining agreement by virtue of grievance machinery that calls for a final determination by an impartial third party.

Normally, the grievance procedure that is set up in a collective bargaining agreement irrevocably calls for a two-three-four step process, whereby at least in a factory situation, for example, you would have the employee talking to his foreman. If they can't resolve the issue, then they go to step 2, where the head of that department will be talking to a union representative. If that can't be resolved it will then go to the plant manager, international representative of steelworkers or somebody at that level. Then if they can't resolve it the arbitrator handles it.

But where you have a final determination made by an impartial person, work stoppages have virtually been eliminated and I think this would be equally true in the public sector to a large extent.

Assuming you have obtained arbitration as a process in the settlement of a dispute in your agreement, then the whole arbitration process gives meaning, vitality and life to the agreement. An agreement is as good as the parties make it. To the extent that it defines the obligations and responsibilities of the parties, which they both agree to and work under, then everything is fine. But once the parties disagree, or once the parties will not live up to some provi-

sions in an agreement, then the agreement becomes worthless. This is where the arbitration process comes in to give meaning and substance to the agreement the parties themselves have worked out.

It would come as a surprise to you that thoroughly intelligent, highly articulate people very often write agreements that, at least, in part, would say something that is quite different from what they intended. It may say one thing on page one, and something else on page twelve, that is inconsistent. Immediately a situation arises where the company says "My rights are set forth on page one, and the union says, "No, what I have to do is set forth on page twelve."

The arbitrator at this point has the problem of resolving what the intention of the parties was at the time they executed this agreement. He may go back to the negotiation process itself in trying to find out what was being sought and what was being rejected.

The arbitrator's sole function is to give meaning to the intention of the agreement. He may have to resolve inconsistencies by reading the agreement as a whole. He may have to give meaning to a substance which otherwise does not have meaning if a particular position is upheld. But all of these activities, give a vitality and substance to an agreement which would otherwise be a dead letter—at least in this area.

Also, the arbitrator is your enforcement arm. Suppose the agreements were clear, and one party says, "The heck with it, I'm not going to do it." I suppose you could have a strike because there is generally some kind of a loophole but the very purpose of the arbitration provisions is eschew strikes. You then "grieve" by filing a grievance.

Let's say the company has breached the agreement. If you can demonstrate this to the arbitrator, and he upholds the grievance, you have something to take to court for enforcement. There would not be a work stoppage because of the dispute. So enforcement of the agreement is aided and abetted tremendously by the arbitration process.

Arbitration also shapes the manner in which the agreement is implemented. The very fact that there is a provision to have a third party look over the shoulder of each party, as to how they are going to carry out their obligations under the agreement, makes for a very careful second-look as to what you are going to do.

If the company is about to take an action, it's got to be aware of the fact that somebody else is going to take a look at it. On the union side, also, the fact that a third party is going to look at a situation, may dampen the ardor of some union people or some union officials from making a lot of frivolous and phony claims.

The arbitration process is not the most expensive process in the world, but by the same token, arbitrators do get paid, time and energy have to be expended, people get off from work and are very often compensated by their respective bodies, so that the union is in no position to just scream "bloody murder" about everything. It gets too expensive to do so, and they have to be making choices.

The very way that the agreement is implemented by this vague presence of a third party arbitrator who is going to be making a final decision, if called upon, in a way shapes the conduct of a party.

The arbitration process also constitutes a safety valve for letting off a lot of steam. It takes a lot of the steam out of a situation that otherwise could fester and become tense. By the time a hearing is over, if the arbitrator has been smart enough to get in a word to salve the consciences or the feelings of the parties, they can leave the hearing without the kind of animosity that may be created in other than a combat situation where everybody recognizes that certain kind of conduct is more permissible perhaps than at other times.

People are always surprised that lawyers seem to be so combative at the trial and so friendly after the trial. I think this is part of the psychology of the situation. So that the hearing, itself, offers the opportunity for letting off steam.

Somebody within the three-quarters of an hour used the term "human relations". Basically this is what labor relations are—human relations. I suggest to you if you read the newspaper on the labor-management situation and don't understand what is going on, that perhaps you start looking for the politics of the situation to find out what is going on.

Politics plays a tremendous role. The union is a political organization with its own internal politics. The company is a political organization with its interplay of people and situations.

Very often things are happening that require a decision which nobody wants to make. The arbitrator is a natural. Everybody agrees to let him make the decision. The losing party always has someone to point to. It represents an opportunity for an outsider to be blamed for the situation. Don't minimize this. There may be a time when blaming an outsider may be a very healthy thing.

So the arbitration process has these various functions, all of which are salutary in terms of the human relations situation.

I think that the successful development of grievance procedures terminating in arbitration of a binding nature has probably been one of the crowning achievements of collective bargaining in this country and witness the fact that your work stoppages have virtually been eliminated. I think that one of the reasons, if not the main reason, for this tremendous success is the fact that better than 90% of the estimated 150,000 collective bargaining agreements in this country provide for binding arbitration at the end of a grievance procedure. I would suggest to you, based on this experience, that there is a responsibility on the part of negotiators in the public sector, both union and management, to adopt and to utilize these techniques that have proven so successful.

Now, all I can say at this point is, "Anyone for arbitration?"

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Negotiation Research Digest

Volume 2, No. 7 March 1969

Unilateral Action by Newark, N.J., Board Upheld ..... Description: A-1
Text: C-1

The New Jersey Commissioner of Education rules that school boards in emergency situations may make unilateral changes in negotiated policies to promote the educational welfare of pupils.

Municipal Bargaining Not Required in Arkansas ..... Description: A-1
Text: C-5

The Arkansas Supreme Court reverses in the main the decision of the Sebastian Chancery Court that municipalities are required to bargain with employee unions.

Negotiated Agreements, 1967-68 ..... Data and Statistics: B-1

Summary of agreements on file in NEA Research Division depository for 1967-68 by number and type.

Evidence of Membership Required ..... Description: A-1
Text: C-8

The Amityville (N.Y.) Federation of Teachers was unsuccessful in its attempt to block certification of the Amityville Teachers Association without an election because authorization cards submitted by the Federation did not include evidence of membership.

Massachusetts Teacher Improperly Denied Sabbatical ..... Description: A-2
Text: C-10

A Chicopee teacher's employment was sufficiently "consecutive" and "full" despite two leaves of absence.

Agreement Bars Individual Salary Negotiations for Psychologists ..... Description: A-2
Text: C-13

The arbitrator in Yorktown, N.Y., rules that psychologists' salaries are to be negotiated through the Yorktown Faculty Association and not on an individual basis.

Michigan Fact-Finder Recommends Tax Increase ..... Description: A-2
Text: C-15

The fact-finder in the Swartz Creek negotiations impasse recommends millage election to finance salary increases. Other recommendations include agency shop, school calendar, and payment for exceeding class size maximum.

Decatur, Illinois, Agreement ..... Text: D-1

Agreement between the Board of Education, School District #61, and the Decatur Education Association, effective August 29, 1968, to August 28, 1969. Provisions include teachers' salary range from $6,300 to $12,285, separate index schedule for administrators' salaries, provisions for fact-finding in impasse, procedures for representation elections, and jointly determined school calendar.

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The "Master Contract" in Public Education ..... Special Item: E-1
Speech by Erwin B. Ellmann delivered before the annual meeting of National Organization on Legal Problems in Education, November 15, 1968, in San Diego, California.

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Description and Analysis

NEW JERSEY BOARDS MAY BREAK AGREEMENTS TO BETTER EDUCATIONAL WELFARE OF PUPILS

The New Jersey Commissioner of Education found that the Newark Board of Education was within its rights in unilaterally rescinding the promotion procedures which were included in the agreement with the Newark Education Association.

The Board felt that the educational welfare of the pupils was threatened by the shortage of Negro administrators in the city schools. In an attempt to correct this situation, the Board rescinded its established promotion list and created a promotional pool from which candidates were to be selected. Appointments were awarded on a temporary acting basis to persons who had not been on the prior eligibility list.

The Commissioner ruled that while a board is legally and morally bound to comply in good faith with the terms of an agreement entered into with its employees, "it cannot be foreclosed thereby from exercising its discretionary authority to take appropriate and necessary unilateral action when the educational welfare of the pupils requires such action." However, a board may so act "only in the face of a real threat or obstacle to the proper operation of the school system, or in an emergency of equal importance."

ARKANSAS MUNICIPALITIES NOT REQUIRED TO BARGAIN WITH EMPLOYEES' UNIONS

The Arkansas Supreme Court reversed the decision of the Sebastian Chancery Court that the City of Fort Smith was required to bargain with a union representing City sanitation department employees.

The right of public employees to join a union and the right of a union to present grievances to city officials were recognized. The decision of the Chancery Court that the employees dismissed because of union membership be reinstated was affirmed.

In concurring with the majority opinion, Justices Byrd and Jones and Chief Justice Harris maintained that municipal employees do have the right to bargain collectively but have no recourse to the courts should the city refuse their request. The concurring opinion is in accord with the opinion of Attorney General Joe Purcell, September 25, 1968, with respect to a contract entered into by the Arkansas Department of Labor with a union representing its employees. The Attorney General, citing the *Potts* and *Norwalk Cases*, found that public employees have the right to membership in labor unions without the right to strike, and in the absence of statutory prohibition, collective bargaining agreements are permitted.

EVIDENCE OF MEMBERSHIP REQUIRED FOR NEW YORK CERTIFICATION WITHOUT ELECTION

The New York Public Employment Relations Board certified the Amityville Teachers Association as exclusive bargaining agent for the teacher unit in Union Free School District No. 6, Towns of Babylon and Oyster Bay.

The Association was certified without an election on the submission of authorization cards by 55 percent of the eligible employees Each card indicated membership in the Association and designation of the Association as exclusive representative in negotiations.

The Amityville Federation of Teachers submitted cards signed by 10 percent of the eligible employees, a sufficient percentage to prevent certification without an election. The Federation was not successful in blocking certification of the Association because the cards submitted merely indicated designation of the Federation for negotiation purposes, and did not include evidence of membership.

MASSACHUSETTS TEACHER IMPROPERLY DENIED SABBATICAL LEAVE

The arbitrator in the Chicopee, Massachusetts, grievance case ruled that a teacher who had taught in the system since September 1959, and had been granted two leaves of absence for maternity reasons was eligible for sabbatical leave.

The agreement between the Chicopee School Committee and the Teachers Association provides that in order to be eligible for a sabbatical leave, a teacher must have "completed at least seven (7) consecutive full school years of service in the Chicopee School System. . . ."

Following each of her brief maternity leaves, the grievant had returned to the system as a substitute and was subsequently reinstated to regular full-time status. The arbitrator found that "her employment each year as a regular and as a substitute teacher was sufficiently 'substantial' (e.g. in this case, well more than one-half of each year) to the degree that her employment reasonably is concluded to have been 'continuous,' and hence consecutive and full in nature."

It was determined that the grievant had been improperly denied sabbatical leave, and should be considered as eligible for consideration for the following year.

INDIVIDUAL SALARY NEGOTIATIONS FOR PSYCHOLOGISTS PREVENTED BY AGREEMENT

The AAA arbitrator found that the Board of Education of Yorktown Central School District No. 2 violated its agreement with the Yorktown Faculty Association when it negotiated psychologists' salaries on an individual basis.

The Agreement did not include salary provisions for psychologists, but stated that the Association represented a unit of "all certified personnel" with exceptions specifically mentioned. The arbitrator found that psychologists are properly represented by the Association and ruled "that the Board should negotiate forthwith with the Association on the question of terms and conditions of employment for psychologists." He stated that the provisions need not be the same as those for other employees, so long as they are determined through negotiations between the two parties.

MILLAGE INCREASE RECOMMENDED BY SWARTZ CREEK FACT-FINDER; AGENCY SHOP AND SCHOOL CALENDAR ARE NEGOTIABLE

The Michigan Labor Mediation Board fact-finder in the impasse in negotiations between the Swartz Creek Board of Education and the Swartz Creek Teacher Association found that agency shop and school calendar are negotiable items which should be included in the agreement. Other recommendations included released time for the Association president, payment for exceeding class size maximum, starting salary of $6,675 for the first year of the agreement, to be raised to $7,375 for the second year, and payment of $6.00 or 1/6 of base salary for emergency substitute duty by regular teachers, driver training, and summer school assignments.

A millage increase was recommended. There has been no millage election since 1963, and "Swartz Creek is 17th out of 21 Genessee County school districts in utilizing available tax resources." The issues of special services and deferred payment upon retirement for length of service to the system were suggested as guidelines for future programs and were not recommended for inclusion in the current agreement. On the remaining issues of special committees and pay for coordinators, the parties were near agreement, and further bargaining was suggested.

Data and Statistics

NEGOTIATION AGREEMENTS, 1967-68

The analysis of the negotiation agreements which were filed in the NEA Research Division depository of agreements for 1967-68 has provided the summary table below.

There are two basic types of agreements, procedural and comprehensive. Procedural agreements contain combinations of three basic elements: (a) recognition of an organization or an elected negotiating committee as representing a unit of employees for negotiation purposes, (b) negotiation procedures and (c) procedures for the resolution of impasse. Comprehensive agreements may include all or some of the items found in procedural agreements, but in addition contain specific items negotiated and agreed upon by the parties, such as salary schedules, leave policies, and other items relating to personnel and conditions of employment.

For 1967-68 the depository of agreements contains 2,225 agreements from 2,212 school systems. The additional 13 agreements were obtained from school systems which filed more than one agreement; for example, in Winchester, Massachusetts, one agreement was filed for the Winchester Teachers Association and another was filed for the Winchester Principals Group. Each group negotiates separately with the school board.

This year's analysis covers 685 more agreements than the 1966-67 Survey; the number of procedural agreements increased by 480, and the number of comprehensive agreements increased by 205. The number of systems filing more than one agreement increased from 9 to 13. States which had comprehensive agreements for the first time during 1967-68 were Indiana, Maryland, Montana, Virginia, and the District of Columbia. Summary tables for 1966-67 agreements were reported in the November 1967 (Vol. 1, No. 3) issue of the *Negotiation Research Digest*.

The following table presents the numbers and types of agreements by state, by national affiliation of the recognized organization, by enrollment strata, and by regions (see below).

ENROLLMENT STRATA

Stratum	School system enrollment
1	100,000 or more
2	50,000–99,999
3	25,000–49,999
4	12,000–24,999
5	6,000–11,999
6	3,000– 5,999
7	1,200– 2,999
8	1,000– 1,199

REGIONS

Central: Arkansas, Kansas, Missouri, Oklahoma

East Coast: Delaware, New Jersey, New York, Pennsylvania

Mid-Atlantic: Maryland, Virginia, Washington, D.C., West Virginia

Midwest: Illinois, Indiana, Kentucky, Michigan, Ohio

Mountain: Arizona, Colorado, Nevada, New Mexico, Utah, Wyoming

New England: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont

North Central: Iowa, Minnesota, Nebraska, North Dakota, South Dakota, Wisconsin

Northwest: Alaska, Idaho, Montana, Oregon, Washington

Southeast: Alabama, Florida, Georgia, Louisiana, Mississippi, N. Carolina, S. Carolina, Tenn.

Southwest: Texas

West Coast: California, Hawaii

TABLE A-1
NUMBER OF AGREEMENTS

STATE 1	NO. OF AGREEMENTS 2	PROCEDURAL AGREEMENTS RECOGNITION ONLY NO. 3	PCT. 4	PROCEDURAL AGREEMENTS ENDING AT NEGOTIATION PROCEDURES NO. 5	PCT. 6	PROCEDURAL AGREEMENTS ENDING AT IMPASSES PROCEDURES NO. 7	PCT. 8	TOTAL PROCEDURAL AGREEMENTS NO. 9	PCT. 10	COMPREHENSIVE AGREEMENTS NO. 11	PCT. 12
ALABAMA	0	0	.0	0	.0	0	.0	0	.0	0	.0
ALASKA	4	0	.0	1	25.0	3	75.0	4	100.0	0	.0
ARIZONA	15	1	6.7	6	40.0	8	53.3	15	100.0	0	.0
ARKANSAS	2	0	.0	1	50.0	1	50.0	2	100.0	0	.0
CALIFORNIA	371	4	1.1	34	91.9	26	7.0	371	100.0	0	.0
COLORADO	22	1	4.5	10	45.5	10	45.5	21	95.5	1	4.5
CONNECTICUT	67	7	10.4	2	3.0	0	.0	9	13.4	58	86.6
DELAWARE	8	0	.0	1	12.5	7	87.5	8	100.0	0	.0
DISTRICT OF COLUMBIA	1	0	.0	0	.0	0	.0	0	.0	1	100.0
FLORIDA	14	0	.0	8	57.1	6	42.9	14	100.0	0	.0
GEORGIA	0	0	.0	0	.0	0	.0	0	.0	0	.0
HAWAII	0	0	.0	0	.0	0	.0	0	.0	0	.0
IDAHO	18	2	11.1	12	66.7	4	22.2	18	100.0	0	.0
ILLINOIS	102	6	5.9	29	28.4	44	43.1	79	77.5	23	22.5
INDIANA	48	5	10.4	24	50.0	17	35.4	46	95.8	2	4.2
IOWA	12	1	8.3	8	66.7	3	25.0	12	100.0	0	.0
KANSAS	40	0	.0	12	30.0	28	70.0	40	100.0	0	.0
KENTUCKY	12	0	.0	7	58.3	5	41.7	12	100.0	0	.0
LOUISIANA	0	0	.0	0	.0	0	.0	0	.0	0	.0
MAINE	12	0	.0	3	25.0	9	75.0	12	100.0	0	.0
MARYLAND	10	4	40.0	4	40.0	1	10.0	9	90.0	1	10.0
MASSACHUSETTS	121	1	.8	3	2.5	2	1.7	6	5.0	115	95.0
MICHIGAN	301	0	.0	0	.0	0	.0	0	.0	301	100.0
MINNESOTA	84	1	1.2	78	92.9	5	6.0	84	100.0	0	.0
MISSISSIPPI	1	0	.0	1	100.0	0	.0	1	100.0	0	.0
MISSOURI	28	1	3.6	19	67.9	8	28.6	28	100.0	0	.0
MONTANA	5	0	.0	3	60.0	0	.0	3	60.0	2	40.0
NEBRASKA	4	2	50.0	0	.0	2	50.0	4	100.0	0	.0
NEVADA	1	0	.0	1	100.0	0	.0	1	100.0	0	.0
NEW HAMPSHIRE	11	0	.0	11	100.0	0	.0	11	100.0	0	.0
NEW JERSEY	170	1	.6	118	69.4	47	27.6	166	97.6	4	2.4
NEW MEXICO	9	1	11.1	7	77.8	1	11.1	9	100.0	0	.0
NEW YORK	140	4	2.9	31	22.1	75	53.6	110	78.6	30	21.4
NORTH CAROLINA	1	1	100.0	0	.0	0	.0	1	100.0	0	.0
NORTH DAKOTA	7	0	.0	5	71.4	2	28.6	7	100.0	0	.0
OHIO	188	21	11.2	91	48.4	72	38.3	184	97.9	4	2.1
OKLAHOMA	4	0	.0	1	25.0	3	75.0	4	100.0	0	.0
OREGON	63	0	.0	38	60.3	25	39.7	63	100.0	0	.0
PENNSYLVANIA	90	3	3.3	35	38.9	47	52.2	85	94.4	5	5.6
RHODE ISLAND	18	0	.0	0	.0	0	.0	0	.0	18	100.0
SOUTH CAROLINA	1	1	100.0	0	.0	0	.0	1	100.0	0	.0
SOUTH DAKOTA	7	1	14.3	3	42.9	3	42.9	7	100.0	0	.0
TENNESSEE	3	0	.0	3	100.0	0	.0	3	100.0	0	.0
TEXAS	9	2	22.2	3	33.3	4	44.4	9	100.0	0	.0
UTAH	7	0	.0	7	100.0	0	.0	7	100.0	0	.0
VERMONT	4	0	.0	2	50.0	2	50.0	4	100.0	0	.0
VIRGINIA	4	0	.0	1	25.0	2	50.0	3	75.0	1	25.0
WASHINGTON	91	5	5.5	15	16.5	70	76.9	90	98.9	1	1.1
WEST VIRGINIA	3	1	33.3	2	66.7	0	.0	3	100.0	0	.0
WISCONSIN	87	9	10.3	22	25.3	20	23.0	51	58.6	36	41.4
WYOMING	5	1	20.0	2	40.0	2	40.0	5	100.0	0	.0
TOTAL	2,225	87	3.9	971	43.6	564	25.3	1,622	72.9	603	27.1
AFFILIATION											
N. F. A.	2,072	83	4.0	899	43.4	558	26.9	1,540	74.3	532	25.7
A. F. T.	75	3	4.0	5	6.7	0	.0	8	10.7	67	89.3
OTHER	78	1	1.3	67	85.9	6	7.7	74	94.9	4	5.1
TOTAL	2,225	87	3.9	971	43.6	564	25.3	1,622	72.9	603	27.1
STRATUM											
1	22	2	9.1	6	27.3	2	9.1	10	45.5	12	54.5
2	33	2	6.1	16	48.5	12	36.4	30	90.9	3	9.1
3	44	0	.0	22	50.0	9	20.5	31	70.5	13	29.5
4	166	5	3.0	80	48.2	36	21.7	121	72.9	45	27.1
5	356	10	2.8	167	46.9	89	25.0	266	74.7	90	25.3
6	587	25	4.3	261	44.5	145	24.7	431	73.4	156	26.6
7	859	37	4.3	358	41.7	236	27.5	631	73.5	228	26.5
8	145	6	4.1	61	42.1	35	24.1	102	70.3	43	29.7
ADMINISTRATORS, ETC.	13	0	.0	0	.0	0	.0	0	.0	13	100.0
TOTAL	2,225	87	3.9	971	43.6	564	25.3	1,622	72.9	603	27.1
NFA REGIONS											
CENTRAL	74	1	1.4	33	44.6	40	54.1	74	100.0	0	.0
EAST COAST	408	8	2.0	185	45.3	176	43.1	369	90.4	39	9.6
MID-ATLANTIC	18	5	27.8	7	38.9	3	16.7	15	83.3	3	16.7
MIDWEST	651	32	4.9	151	23.2	138	21.2	321	49.3	330	50.7
MOUNTAIN	59	4	6.8	33	55.9	21	35.6	58	98.3	1	1.7
NEW ENGLAND	233	8	3.4	21	9.0	13	5.6	42	18.0	191	82.0
NORTH CENTRAL	201	14	7.0	116	57.7	35	17.4	165	82.1	36	17.9
NORTHWEST	181	7	3.9	69	38.1	102	56.4	178	98.3	3	1.7
SOUTHEAST	20	2	10.0	12	60.0	6	30.0	20	100.0	0	.0
SOUTHWEST	9	2	22.2	3	33.3	4	44.4	9	100.0	0	.0
WEST COAST	371	4	1.1	341	91.9	26	7.0	371	100.0	0	.0
TOTAL	2,225	87	3.9	971	43.6	564	25.3	1,622	72.9	603	27.1

Judicial Decisions, Opinions, and Statutes

VICTOR PORCELLI, FRANCIS BIGLEY, ARTHUR SHAPIRO, ALLAN M. COHN, HELEN R. JUSTIN, MAXINE F. EDELSTEIN, ROBERT J. HICKEY, WILLIAM J. DUNNE, JR., WILLIAM C. LaRUSSO and JOSEPH CHAGNON,	:	
PETITIONERS,	:	COMMISSIONER OF EDUCATION
V.	:	DECISION
FRANKLYN TITUS, SUPERINTENDENT OF THE NEWARK BOARD OF EDUCATION and THE NEWARK BOARD OF EDUCATION, ESSEX COUNTY,	:	
RESPONDENTS.	:	

For the Petitioners, Bracken and Walsh
(Joseph F. Walsh, Esq., of Counsel)

For the Respondents, Victor A. DeFilippo, Esq.

In a decision dated October 22, 1968, the Commissioner remanded this matter for further consideration by both parties. In his decision the Commissioner pointed out that the ratification by the teachers' association of respondents' new promotion policy, which had been assured at the time of the hearing, had not in fact been realized and that as a result issues not raised or argued at the hearing of this matter emerged. The Commissioner took the position, therefore, that, in the light of this development, the parties should be afforded an opportunity to resolve the controversy or to be heard on the new issues raised before his final adjudication.

Apparently this course of action had no appeal to either side, both of whom preferred that the Commissioner decide the dispute without further attempts to work out a mutually agreeable solution. An appeal to the State Board of Education from the decision of the Commissioner to remand was filed on October 30, 1968. The State Board of Education, in a decision rendered November 13, 1968, remanded the matter to the Commissioner with a directive to render a decision within one month.

The factual situation underlying this controversy, the issues raised thereby, and the contentions of the parties have been set forth in detail in the Commissioner's interlocutory decision of October 22, 1968, and will not be repeated herein. Said decision is specifically incorporated herein and made an integral part of that which follows.

At a conference of counsel held November 20 at the Division of Controversies and Disputes, Trenton, agreements were reached that (1) this matter be submitted on the pleadings, argument and exhibits offered in connection with the original petition filed on August 19, 1968, supplemented by pertinent excerpts from minutes of the Board of its meetings on June 30, 1967, July 1, 1967, and July 11, 1968; (2) the decision herein be confined within the issues raised in the original pleadings and the further issues raised in the Commissioner's decision of October 22, 1968; (3) the membership of the N.T.A. did not ratify the proposal of its negotiating team and that such rejection occurred subsequent to the hearing on September 13, 1968; and (4) the Federal Court action alluded to on page 1 of the Commissioner's decision to remand was instituted after rather than prior to the filing of the petition herein on August 19, 1968. It should be noted further that neither party felt any necessity for inclusion of the Newark Teachers' Association as a party nor has that organization at any time requested leave to intervene in these proceedings.

Included in the adopted rules and regulations of the Newark Board of Education are rules setting forth the procedures by which promotions are made to administrative and supervisory positions. Such promotion procedures are included in an "Agreement between the Newark Board of Education and the Newark Teachers' Association covering the period Feb. 1, 1967 to Feb. 1, 1970" (hereinafter

"the agreement"). Petitioners contend that in changing the promotion practices, respondents violated their own rules and the agreement made with the staff.

There is no question of the right of the Board to make rules for the government of the school (*N.J.S.A.* 18A:11-1), but what of its power to enter into an agreement with its teachers covering matters of employment? The Commissioner is already on record that a board of education has an affirmative duty to meet with employee representatives and an obligation to take into account and give full consideration to their proposals with respect to salaries, working conditions and the general welfare of the employees. *Perth Amboy Teachers Association v. Perth Amboy Board of Education*, 1965 *S.L.D.* 159. Moreover, the State Board of Education by resolution dated March 2, 1966, has required each board of education to develop, in cooperation with its staff, a procedure for the disposition of grievances and to file and keep on record a written copy of such procedure. In the Commissioner's judgment, such action can extend by mutual consent to agreement on other matters involving employment, working conditions and similar mutual concerns. The Legislature has also recognized the existence of such agreements in its recent enactment of *Chapter* 303, *Laws* of 1968, the Employer-Employee Relations Act, wherein it provided:

> "Nothing in this act shall be construed to annul or modify, or to preclude the renewal or continuation of any agreement heretofore entered into between any public employer and any employee organization * * *."

A further question to be answered is whether the incumbent Board, which came into being on July 1, 1968, is subject to an agreement which was made by a predecessor and to which it was not a party.

The excerpts from the minutes referred to in stipulation (1) above disclose that each Newark Board of Education since the formulation of the agreement with the N.T.A. has taken formal action to adopt its terms. The 1967-68 Board at its first meeting on July 1, 1967, adopted "the Rules, By-Laws and Regulations for the Government of the Public Schools as codified February 1, 1963, with amendments and deletions made through June 30, 1967." These rules and regulations included modifications based on the agreement, *supra*. The 1968-69 Board took similar action at its initial meeting on July 1, 1968. Moreover, at no point in their defense in this matter have respondents asserted in any way that they do not consider themselves a party to the agreement made by their predecessor, or that they have not continued to accept and enjoy the benefits of such agreement. On the contrary, all acts of the Board and its officers in dealing with the appropriate negotiating officers of the Association, and the negotiation of a revised promotion procedure itself, lend support to the clear acceptance by all parties of the viability of the agreement. It is therefore the conclusion of the Commissioner that for the purposes of the decision herein he will accept the subject agreement as a proper basis for the claims made by petitioners.

Respondent Board saw fit, however, to suspend its rules governing promotions and to formulate a new procedure aimed at producing certain results which it believed would effect desirable changes in the school system. It suspended the eligibility lists, appointed persons not on any list to vacancies in a temporary acting status, and adopted a new procedure creating a promotional pool. Petitioners, although placed in the new pool, lost the advantage they had acquired by being on an eligibility list, and as a result filed this action to preserve the rights they claim.

Respondents defend their action on the grounds of educational necessity and statutory right. They contend that a condition had developed which was thwarting the satisfactory operation and development of the public schools in the city and as such required appropriate corrective action. They point out that they attempted to effect such corrective measures within the framework of the agreement with the majority representative and had reason to believe at the time of the hearing herein that those efforts had been successful. But whether or not the N.T.A. ultimately approved the proposed alteration in the promotion policy, respondents contend that the change had to be made in the best interests of the school system and that they were within the scope of their statutory powers in taking such action outside the terms of the agreement. They cite the powers and duties to make rules ascribed to boards of education in *N.J.S.A.* 18A:11-1 and assert that the actions herein are in accord with that statute. Respondent Board argues further that all of its teachers are employed under its own rules, as provided in *N.J.S.A.* 18A:27-4 and are subject to all of the regulations of the Newark Board of Education. It cites its rule 103.28 which provides:

> "Any rule of the Board may be suspended by a two-third majority of the entire Board * * *."

It contends that the action to adopt the new promotion procedure at its August 1968 meeting was accomplished by the invoking of such rule.

Petitioners disagree and contend that the Board breached its contractual obligations, and in so doing violated both the law and its own rules. They maintain that respondents' action was grounded in a purpose to appoint non-white personnel to administrative and supervisory positions and although such a result might be held to be desirable, under the circumstances herein it constitutes an unlawful discrimination based upon race and violates the rights of the petitioners.

We come then to the basic issue in this appeal. What is the legal effect of the Board's rules and of the agreement between the Board and the N.T.A. upon the statutory powers delegated to the Board by the Legislature? Since it has been held that the Board may enter into an agreement governing matters of employment and working conditions with the majority representative of its professional staff, can the Board by such an action and instrument give away or abdicate the responsibilities and duties assigned to it by law?

With respect to the Board's suspension and modification of its rules governing promotion, it is well established that a Board is not bound by its rules and may alter them as it deems necessary or appropriate. *Greenway v. Board of Education of Camden*, 1939-49 *S.L.D.* 151, affirmed State Board of Education 155, affirmed 129 *N.J.L.* 46 (*Sup. Ct.* 1942), 129 *N.J.L.* 461 (*E. & A.* 1943); *Flagg v. Board of Education of Newark*, 1963 *S.L.D.* 65, 69. It is to be noted that petitioners had not acquired any vested rights by being on a promotion eligibility list. Placement on such a list did not guarantee promotion or remove the necessity for the Board to make appointments to particular positions by formal action. None of petitioners had been so appointed and therefore none had acquired rights which were subsequently rescinded by Board action. Placement on the eligibility list entitled them at best to be considered for future vacancies, and that consideration was preserved when their names were automatically placed in the new promotion pool.

The Legislature of New Jersey has a mandate under the state constitution to provide for a thorough and efficient system of free

public schools. *New Jersey Constitution, Article* VIII, *Section* IV, *paragraph* 1. In carrying out this duty the Legislature has seen fit to delegate the operation of the public schools to local district boards of education. *N.J.S.A.* 18A:10-1 To accomplish its purpose the Legislature has further invested boards of education with broad discretionary powers with respect to the day-to-day functioning of the schools within their jurisdiction. That authority is clearly expressed in *N.J.S.A.* 18A:11-1:

"The board shall –

* * *

c. Make, amend and repeal rules, not inconsistent with this title or with the rules of the state board, for its own government and the transaction of its business and for the government and management of the public schools and the public school property of the district and for the employment, regulation of conduct and discharge of its employees * * *; and

d. Perform all acts and do all things, consistent with law and the rules of the state board, necessary for the lawful and proper conduct, equipment and maintenance of the public schools of the district."

The board's powers with respect to rules governing its professional staff are more expressly enunciated in *N.J.S.A.* 18A:27-4:

"Each board of education may make rules, not inconsistent with the provisions of this title, governing the employment, terms and tenure of employment, *promotion*, and dismissal, and salaries and time and mode of payment thereof of teaching staff members for the district, *and may from time to time change, amend or repeal the same*, and the employment of any person in any capacity and his rights and duties with respect to such employment shall be dependent upon and governed by the rules in force with reference thereto." (Emphasis added)

In the Commissioner's judgment these grants of authority do not preclude a board of education from consulting with representatives of its employees with respect to terms of employment, working conditions and like subjects, arriving at mutual understandings, and reducing such consensus to a written instrument of agreement. He does hold, however, that such an agreement, whatever it may be labeled, cannot constitute a surrender by the board of education of its responsibility to conduct the schools in its charge in the best interests of the children to be served. This overriding purpose of the public schools finds clear expression in *Bates v. Board of Education*, 72 *P.* 907 (*Calif. Sup. Ct.* 1903), quoted with approval in *McGrath v. Burkhart*, 280 *P. 2d* 864 (*Calif. App.* 1955) as follows:

" 'The public schools were not created, nor are they supported for the benefit of the teachers therein, * * * but for the benefit of the pupils and the resulting benefit to their parents and the Community at large.' "

As noted above the Legislature in its wisdom has invested each board of education with certain powers, and those powers can be neither increased nor diminished except by the Legislature. *Burke v. Kenney*, 6 *N.J. Super.* 524 (*Law Div.* 1949) A board of education may reach and enter into certain agreements with its employees in the interest of mutual understanding, harmonious relationships or other desirable objectives, but it cannot abdicate or delegate the obligations and responsibilities imposed upon it by law or surrender the authority conferred upon it to enact or amend such rules and regulations as may be needed for the proper and effective operation of the schools. It follows, then, that while a board of education may enter into agreements with its staff and must in good faith hold to and work within that accord, it cannot be foreclosed thereby from exercising its discretionary authority to take appropriate and necessary unilateral action when the educational welfare of the pupils requires such action.

This enunciation of the law is not to be construed to imply that a board of education is not legally and morally bound to comply in good faith with the terms of any agreement consummated with its employees. Nor is a board permitted to enter into such an agreement with the implicit reservation that it can abrogate the terms thereof on any pretext. Such drastic, unilateral action can be sustained only in the face of a real threat or obstacle to the proper operation of the school system, or in an emergency of equal importance.

In the subject instance, the Board deemed it essential to alter its method of selecting and appointing administrative and supervisory personnel for the reason that the educational needs and aspirations of its children and of the community were being thwarted by the dearth of representation by Negro staff members in its leadership councils. Respondents attempted to work out a new procedure to accomplish the desired result within the framework of the agreement with the staff. Apparently they had succeeded in doing so with a representative group, only to find that the membership at large found any change unacceptable. The Board was thus presented with a difficult choice. It could abide by its agreement and make no deviation of any kind in its rules and ignore public demand for change, or it could respond to what it conceived to be the needs of the school system and the desires of the community by modifying a part of its agreement against the wishes of a majority of the teachers' association. Faced with such a Hobson's choice the Board made its decision in terms of its overriding obligation to serve the needs of the children and the community. Under such circumstances the Commissioner finds that the Board's *ex parte* adoption of new rules despite lack of approval by a majority of the N.T.A. was warranted and appropriate and will be sustained.

It is well established that the Commissioner will not substitute his judgment for that of the appointed representatives of the community who constitute the Board of Education, or intervene in matters which fall within the exercise of its discretion, absent a clear showing of improper conduct. There is no such showing herein. The Commissioner will therefore decline to intervene.

Petitioners also raise but do not press a charge of unlawful discrimination by respondents on the basis of race. On the basis of what was presented by petitioners on this question, it would not be possible for the Commissioner to find that racial discrimination of any unconstitutional dimension was practiced by respondents in this case. The most that was presented by the record before the Commissioner is a clear indication that race was a consideration in the selection of the temporary acting appointees. The Commissioner will make no finding with respect to this issue, therefore, and will restrict himself to the observation that the mere consideration of the factor of race is not *per se* in conflict with established constitutional principles. *Morean v. Board of Education of Montclair*, 42 *N.J.* 237 (1964); see also *Fuller, et al. v. Volk, et al.*, 230 *F. Supp.* 25 (*D.C.N.J.* 1964). Petitioners have elected to press this issue under the Federal Civil Rights Act in the Federal District Court, and

therefore the Commissioner finds no necessity to deal more fully with this question.

For the reasons stated the Commissioner finds and determines that the action of the Newark Board of Education to suspend its promotion procedure and its eligibility lists and to institute a new system was a reasonable and lawful exercise of its discretionary authority and it is, therefore, sustained.

The petition is accordingly dismissed.

/s/ Edward W. Kilpatrick, III
ACTING COMMISSIONER OF
EDUCATION.

DECEMBER 13, 1968

ARKANSAS SUPREME COURT DECISION IN CASE OF FORT SMITH v. AFSCME

CITY OF FORT SMITH v. ARKANSAS STATE COUNCIL NO. 38, AFSCME AFL-CIO et al.

5-4736

Opinion delivered October 21, 1968

Appeal from Sebastian Chancery Court, Fort Smith District, Warren O. Kimbrough, Chancellor; affirmed in part, reversed in part.

James A. Gilker and Daily & Woods, for appellant.

Sam Sexton Jr., for appellees.

J. Gayle Windsor and Henry Spitzberg, amici curiae, for Associated Industries of Arkansas and Arkansas Hospital Association.

Glenn Zimmerman and William G. Fleming, amici curiae, for Arkansas Municipal League.

GEORGE ROSE SMITH, Justice. Under Amendment 34 to the Arkansas Constitution municipal employees have the right to belong to labor unions, but they do not have the right to strike against the government. Potts v. Hay, 229 Ark. 830, 318 S. W. 2d 826 (1958). The principal question here is whether a city is under a duty to engage in collective bargaining with a union representing city employees. This appeal is from a decree holding that the city must bargain in good faith with the union representatives. The other issues in the case are of comparatively minor importance.

The record runs to almost 500 pages, but the controlling facts are not really complicated. Many employees of the city of Fort Smith – the exact number is not now material – joined the appellee union, State Council No. 38 of the American Federation of State, County, and Municipal Employees, AFL-CIO. On June 17, 1968, Jeane Lambie, the state president of the union, sent a letter to the city officials, asking that the union be recognized by the city for the purpose of collective bargaining about wages, hours, and conditions of employment. On the same day Mrs. Lambie appeared at a meeting of the city directors and renewed her request for recognition. No formal action was then taken by the directors.

On the following day the directors unanimously adopted a written statement of policy which declared, among other points, (a), that the determination of hours of work, salary, etc., was the responsibility of the board of directors and not a matter to be negotiated, (b), that a personnel officer had been made available to hear grievances, (c) that city employees do not have a right to strike or to picket, and (d) that should city employees stop work or picket they would be treated as having quit their jobs and would be replaced.

That statement was approved on June 18. On the next day the city administrator (a position similar to that of a city manager) attempted to arrange a series of departmental meetings at which the city directors' statement of policy would be read to the municipal employees. The first meeting scheduled was to have been with the sanitation department employees, who collected trash and garbage. It is quite apparent from the testimony that those on each side of the dispute were maneuvering to make it appear that the opposite side was in the wrong. That is, the city wanted it to appear that the workers had quit their jobs, while the union wanted it to appear that some of its members had been discharged because of their union membership. On this issue of fact the chancellor upheld the union's position. We think the weight of the evidence supports that conclusion.

After the sanitation department meeting, at which about twenty employees were discharged, members of the union set up picket lines at several municipal facilities. A great many of the city's non-uniformed employees (the police and fire departments have not taken any part in the dispute) refused to cross the picket lines, so that some municipal services – especially garbage collection – were curtailed or discontinued entirely.

On June 20 the city filed this suit for an injunction against the picketing and other assertedly illegal acts. The union's answer and counterclaim asked that the city be required to bargain collectively with the union's representatives. Testimony was taken at several hearings.

The chancellor, eventually entered two temporary orders, a final order, and a supplemental to the final order, all of which are before us for review. The court found that the city's refusal to bargain with the union was contrary to law. The city was ordered to reinstate the discharged employees, and the employees were ordered to return to work. The city was enjoined from letting contracts to third persons for the performance of municipal services, such as garbage collection. The city was ordered to bargain collectively and in good faith with the union. To that end the court appointed three special masters in chancery, who were directed to assist the parties in their negotiations (in the manner of a mediation board) and to report progress to the court from time to time.

The court was in error in holding that the city was under a duty to bargain with the union's representatives. In the absence of a statute to the contrary the cases have held almost without exception that a municipality or other political subdivision is under no duty (which we take to mean a legally enforceable duty) to bargain collectively with its employees about wages, hours or working conditions.

Nutter v. City of Santa Monica, 74 Cal. App. (2d) 292, 168 P. 2d 741 (1946); Fellows v. Latronica, 151 Colo. 300, 377 P. 2d 547 (1962); Miami Water Works Local No. 654 v. City of Miami, 157 Fla. 445, 26 So. 2d 194, 165 A. L. R. 967 (1946); Local Union 283, International B. E. W. v. Robison, 91 Idaho 445, 423 P. 2d 999 (1967); Wichita Public Schools Employees v. Smith, 194 Kan. 2, 397 P. 2d 357 (1964); City of Springfield v. Clouse, 356 Mo. 1239, 206 S. W. 2d 539 (1947), distinguished but not overruled in State ex rel. Moore v. Julian, 359 Mo. 539, 222 S. W. 2d 720 (1949).

Basically, the reason for the rule is that the fixing of wages, hours, and the like is a legislative responsibility which cannot be delegated or bargained away. Several aspects of the matter were discussed in the Wichita case, supra, where the court said:

> The entire matter of qualifications, tenure, compensation and working conditions for any public employee involves the exercise of governmental powers which are exercised by or through legislative fiat. Under our form of government public office or public employment cannot become a matter of collective bargaining and contract.
>
> The objects of a political subdivision are governmental—not commercial. It is created for public purposes and has none of the peculiar characteristics of enterprises maintained for private gain. It has no authority to enter into negotiations with labor unions concerning wages and make such negotiations the basis for final appropriations. Strikes against a political subdivision to enforce collective bargaining would in effect amount to strikes against the government.

Some cases have held that a municipality or school district may voluntarily engage in collective bargaining. Norwalk Teachers' Assn. v. Board of Education, 138 Conn. 269, 83 A. 2d 482 (1951); Chicago Division of the Education Assn. v. Board of Education, 76 Ill. App. 2d 456, 222 N. E. 2d 243 (1966). Those cases do not assist the appellees, for here the city directors are unwilling to engage in such bargaining. In one case cited by the appellees, Local 266, International B. E. W. v. Salt River Project Agri. Imp. & Power Dist., 78 Ariz. 30, 275 P. 2d 393 (1954), the court did sustain the union's right to strike against an improvement district, but one of the reasons given was that the district was owned by private landholders; so the strike was not against the public.

We do not agree with the appellees' argument that the city is compelled by Ark. Stat. Ann. § 81-201 (Repl. 1960) to engage in collective bargaining. That section reads: "Freedom of organized labor to bargain collectively, and freedom of unorganized labor to bargain individually is declared to be the public policy of the State under Amendment 34 to the Constitution." That section is merely a preamble to Act 101 of 1947—the enabling act for Amendment 34. Except for that prefatory statement of policy the act, like the amendment, deals only with the dential of employment on the basis of the employee's membership or nonmembership in a labor union. We are unable to read into that preamble, which is merely a statement of policy expressed in the most general terms, a specific command that municipalities engage in collective bargaining when requested to do so. Had the General Assembly intended that change in the law it would certainly have used more explicit language to accomplish its purpose.

During the oral argument counsel for the appellees, envisaging the possibility that the city might not be compelled to bargain collectively, suggested that nevertheless the union's right to present its grievances to the city officials ought to be recognized. No doubt that right does exist. The Bill of Rights protects the right of the people to assemble and to petition the government by address or remonstrance. Ark. Const., Art. 2, § 4. The Colorado court in the Fellows case supra, made this pertinent observation, with which we agree:

> A proper exercise of the legislative function might well involve consultation and negotiation with spokesmen for public employees, but the ultimate responsibility rests with the legislative body and, under the record here presented, that responsibility cannot be contracted away.

We must decline the appellees' suggestion that we attempt to define precisely the extent to which the city officials are required to listen to the grievances of its employees, whether presented individually or collectively. There is no limit to the various fact situations in which the issue might arise. Experience has shown again and again that the courts' best course is to decide concrete cases as they are presented in adversary proceedings, rather than to speculate about theoretical or academic questions that may never arise in actual litigation.

We conclude that the court was in error in directing the city to bargain in good faith with the union, with the implication that a failure to do so might be punishable as a contempt of court. It follows from our decision upon the principal question that the court also erred in appointing what amounted to a mediation board and in enjoining the city from letting contracts for the performance of municipal services.

That part of the decree that directs the city to reinstate those employees who were wrongfully discharged is affirmed; in other respects the decree is reversed.

CONLEY BYRD, Justice, concurring. In concurring I place much more emphasis on the fact that Ark. Stat. Ann. § 81-201 (Repl. 1960), makes collective bargaining the public policy of this state and that the statute is also applicable to municipalities. It is true that Acts 1947, No. 101, of which § 81-201 is the first section, provides no sanction for an employer who refuses to recognize a union and does not attempt to change public policy prohibiting strikes against a municipality or other government agency.

However, I think the majority opinion is not exactly correct when it says the city has no duty to bargain collectively with its employees about wages, hours and working conditions. My understanding of the act is that the employees have no recourse to the courts for the enforcement of their right of collective bargaining where the city refuses their request.

This may be nothing more than the difference between accentuating the positive instead of the negative, but I certainly think that in view of the state's public policy, an employee of the city not only has the right to belong to a union, but has the correlative right to bargain over wages, hours and working conditions with the city through his union representative.

The lack of recourse to the courts or to the use of a strike may water down the effectiveness of the union's ability to represent him, but it does not prevent recourse to education of the public through publicity. It must be remembered that this phase of a union's activities has its effect upon community thinking. It is common knowledge that many people who work with their hands are incapable of expressing their grievances even after they have found the proper forum. Just as business finds it necessary to employ advertising agencies to sell its products or its message to the public, I think a man through his union dues should be entitled to the services of a union representative to settle or publish his grievances concerning the things most important to him, i.e., grievances concerning wages, hours and working conditions.

Concurring.

HARRIS, C. J., and JONES, J., join in this concurrence.

PUBLIC EMPLOYMENT RELATIONS BOARD OF THE STATE OF NEW YORK

In the Matter of

UNION FREE SCHOOL DISTRICT NO. 6,
TOWN OF BABYLON, SUFFOLK COUNTY,
AND TOWN OF OYSTER BAY, NASSAU COUNTY,

Employer,

and

AMITYVILLE FEDERATION OF TEACHERS,

Petitioner,

and

AMITYVILLE TEACHERS ASSOCIATION,

Intervenor.

Case No. C-0037

Before: ROBERT D. HELSBY, Chairman;
JOSEPH R. CROWLEY, GEORGE H. FOWLER

After a representation proceeding, the Board certified, without an election, the Amityville Teachers Association, an employee organization, as negotiating representative of a specified unit of employees of Union Free School District No. 6, Towns of Babylon and Oyster Bay.

DECISION

On November 30, 1967, the Amityville Federation of Teachers (hereinafter referred to as the petitioner) filed, in accordance with the Rules of Procedure (hereinafter referred to as the Rules) of the New York State Public Employment Relations Board (hereinafter referred to as the Board) a petition for decertification of the Amityville Teachers Association (hereinafter referred to as the intervenor) as the exclusive negotiating agent for the classroom teachers, auxiliary personnel, guidance counsellors, nurse teachers, reading teachers, psychologists, department chairmen, librarians, speech therapists, dental hygienists, and A-V director, employed by the Union Free School District No. 6, Town of Babylon, Suffolk County, and Town of Oyster Bay, Nassau County (hereinafter referred to as the employer)[1]. The petition alleges that petitioner requested recognition as negotiating representative on November 8, 1967, and that the employer recognized the intervenor as the negotiating representative on October 16, 1967. These allegations are uncontested, and the petition is clearly timely[2].

On December 11, 1967, an informal conference was held in this matter. Present at the conference were a trial examiner of the Board and representatives of all parties. At this conference, the parties entered into a consent agreement which provides, *inter alia*, that the appropriate unit shall consist of 245 employees within the following job classifications: classroom teachers, home school visitor, department chairman, directors, guidance counsellors, librarians, nurses, and the psychologist.

The consent agreement further provides that an election will be held unless the employee organizations who are parties thereto submit to the Director of Representation (hereinafter called the Director) of the Board within seven days from the execution date of the agreement "dues deduction authorizations and other evidences" sufficient to satisfy the requirements of Section 201.6(h)(1) of the Rules for certification without an election. The significance and meaning of this Section was carefully explained to all parties by the trial examiner prior to their entering into the consent agreement.

On December 13, 1967, the petitioner submitted to the Board 83 "authorization and designation" cards. These cards contained the following information: the name of the employee, the date of signing, the school involved, the position of the employee, the school district, and the home address and telephone number of the employee. The following statement is also included above the signature of the employee:

> I hereby designate and authorize the American Federation of Teachers as my exclusive agent and representative for the purpose of collective negotiations with respect to the terms and conditions of employment, the negotiation of collective agreements, and the administration of grievances arising thereunder.

[1] An amended petition, seeking certification as exclusive negotiating representative, was filed on December 15, 1967.

[2] Rules §§ 201.3(6), 208.1.

On December 18, 1967, the Director approved the aforesaid consent agreement.

By letter dated December 20, 1967, the intervenor, pursuant to the consent agreement, submitted to the Director 155 "cards" containing the following information: the name of the individual employee and his position, the school involved, the date of execution, and the following statement:

> This is to certify that as a paid member of the Amityville Teachers Association, I hereby designate and authorize the ATA as my exclusive representative for collective negotiations under the New York Public Employees' Fair Employment Act.

The Rules elaborately detail the circumstances under which an employee organization may be certified without an election. If an employee organization can demonstrate by "dues deduction authorizations and other evidences" that a sufficient proportion of the employees in the appropriate unit have designated it as the negotiating agent, it will be certified as long as a substantial proportion of the employees in the unit have not authorized a competing employee organization to represent them by executing dues deduction authorizations and other evidences[3]. The Rules specifically define "dues deduction authorizations and other evidences" as membership in an employee organization in addition to proof that such membership is for purposes of representation in collective negotiations[4]. Further, the Rules specify (a) the minimum proportion of employees in the negotiating unit which must support an employee organization by dues deduction authorizations and other evidences for that organization to be certified without an election, and (b) the minimum proportion of employees in the negotiating unit which must support a competing organization by dues deduction authorizations and other evidences to prevent certification without an election[5]. The following illustration, taken from Section 201.6(h)(1) of the Rules is pertinent:

Column I (Percentage necessary to be certified without an election)	Column II (Percentage necessary to prevent certification without an election)
55	10
60	15
65	20
70	25

In the instant case, while petitioner's submission of cards is sufficient to constitute a showing of interest, and did indeed satisfy the applicable 10% showing of interest requirement[6]. It is clear from the above that they do not satisfy the requirements of certification without an election, nor do they block the certification of the intervenor without an election, since evidence of membership is lacking.

On the other hand, the cards submitted by the intervenor satisfy the requirements for certification without an election in that they specify the two necessary ingredients: (1) membership, and (2) proof that such membership is for purposes of representation in collective negotiations[7]. Since these cards were executed by 55% of the employees in the unit agreed to in the consent agreement (this percentage has been computed without taking into consideration the twenty employees who signed cards on behalf of both competing employee organizations) and since the petitioner has not submitted any "dues deduction authorizations and other evidences," the Board finds that the Amityville Teachers Association is entitled to be certified as the exclusive[8] negotiating agent for the employees in the unit specified in the consent agreement.

Certification of Representative and Order to Negotiate

A representation proceeding having been conducted in the above matter by the Public Employment Relations Board in accordance with the Public Employees' Fair Employment Act and the Rules of Procedure of the Board, and it appearing that a negotiating representative has been selected;

Pursuant to the authority vested in the Board by the Public Employees' Fair Employment Act,

IT IS HEREBY CERTIFIED that the Amityville Teachers Association has been designated and selected by a majority of the employees of the above-named public employer, in the unit described below, as their exclusive representative for the purpose of collective negotiations and the settlement of grievances.

UNIT:

Included: Classroom teachers, home school visitor, department chairmen, directors, guidance counsellors, librarians, nurses, and the psychologist.

Further, IT IS ORDERED that the above-named public employer shall negotiate collectively with the Amityville Teachers Association and enter into a written agreement with such employee organization with regard to terms and conditions of employment, and shall negotiate collectively with such employee organization in the determination of, and administration of, grievances.

Dated: January 10, 1968
Albany, New York

[3]Rules § 201.6(h)(1).

[4]Ibid.

[5]Ibid.

[6]Rules § 201.3(b).

[7]These ingredients might conveniently be referred to as "membership plus."

[8]The consent agreement provides that "if an employee organization is certified, it shall be certified as an 'exclusive' negotiating agent."

In the Matter of the Arbitration Between:

Chicopee Teachers Association

and

Chicopee School Committee

Case Number 2-68

Opinion

and

Award

The Issue

As stipulated by the parties at the commencement of the arbitration hearing, the issue presented to the Arbitrator for a decision is:

> Was Mrs. Frances A. Bigda properly denied a sabbatical leave for the academic year 1968-69 under the terms of Article XX of the Agreement, and if not what shall the proper remedy be?

The Hearing

A hearing for the presentation of the factual position of each of the parties on this matter was held on October 28, 1968 in the Administrative Offices of the School Committee in Chicopee, Massachusetts. Present and representing each of the parties at this hearing were:

For the Chicopee Teachers Association (C.T.A.):

Rudolph Kass, Esq., Counsel
Frances A. Bigda, Grievant
Joseph Perlik, President
Henry B. Fay, Representative
Stephen R. Jendrysik, Vice-President
Robert T. Hendry, Corresponding Secretary

For the Chicopee School Committee (C.S.C.):

Robert L. Nowak, Esq., City Solicitor
Donald R. Heroux, Committee Member
George E. Membrino, Superintendent
Paul E. Sullivan, Committee Member
Theodore W. Les, Chairman
Sophie J. Chmura, Assistant Superintendent
William E. Millbe, Coordinating Secretary
Stanley J. Ziemba, Principal

At this hearing full opportunity was permitted each of the parties to present witnesses, exhibits and argument in support of their respective positions. By joint agreement of the parties the practice of swearing of an oath by witnesses was waived. Subsequent to the hearing a request was made of and granted by the parties for a waiver of the time limits within which the Award in this case was to be submitted.

Background Facts of the Case

Mrs. Frances A. (La Ferriere) Bigda, the grievant in this case, initially was appointed a teacher in the instant school system effective with the commencement of the school year in September 1959. Each year thereafter and up to the present she has served annually as a teacher in the system. The record indicates Mrs. Bigda was provided tenure in the school system in September 1962 by virtue of appointment to her fourth year of service.

Throughout the period of her employment as a teacher Mrs. Bigda applied for and was granted two official leaves of absence for maternity reasons. The first such leave began on June 4, 1962, three weeks before the conclusion of the school year 1961-62, and continued into the following school year. After the birth of a child in September 1962, Mrs. Bigda resumed teaching as a substitute teacher in various buildings in the latter part of October 1962, substituting on a full-time basis daily following Thanksgiving 1962 and up to March 4, 1963, at which latter time she was reinstated to regular status as a full-time teacher.

A second maternity leave of absence was granted Mrs. Bigda effective December 31, 1964. She resumed substitute teaching on April 2, 1965 and continued on this basis for the balance of the school year. Initially her teaching assignments were intermittent. Later in the period, however, she did assume full-time responsibility for a class. Effective with the beginning of the school year in September 1965, Mrs. Bigda was restored to full-time regular status as a teacher.

On November 20, 1967 Mrs. Bigda applied for a sabbatical leave for the school year 1968-69 in the manner provided for under the terms of Article XX of the Agreement. This request was reviewed in an interview between the applicant and the Superintendent on March 21, 1968. On March 28, 1968 the Superintendent notified Mrs. Bigda by letter of his support of and intent to recommend to the School Committee approval of her request for leave, noting however

the continued existance of an unresolved reservation relating to eligibility under Section C of Article XX of the Agreement. Subsequently, Mrs. Bigda was informed, first and orally by the Superintendent on May 23, 1968 and later officially by letter dated June 18, 1968, that her request for a sabbatical leave had been denied by the School Committee.

Relevant Contract Provisions and Rules and Regulations

Article XX – Sabbatical Leaves

Upon recommendation by the Superintendent of Schools, sabbatical leaves may be granted for study or travel to a member of the teaching staff by the Committee subject to the following conditions:

A. No more than three (3%) per cent of the eligible teaching staff will be absent on sabbatical leave at any one time.

B. Request for sabbatical leave must be received by the Superintendent of Schools in writing in such form as may be required by the Superintendent of Schools no later than April 1, of the school year preceding the school year for which the sabbatical leave is requested.

C. The teacher has completed at least seven (7) consecutive full school years of service in the Chicopee School System . . .

Chapter V – The Teachers (from Rules and Regulations)

a. Teachers with substitute experience of six months or more prior to their appointment as regular teachers will be given credit for this experience on the salary schedule.

Positions of the Parties

The Chicopee Teachers Association maintained that Mrs. Bigda, by virtue of the length and essential continuity of her service, qualified as eligible for a sabbatical leave under the terms of the Agreement between the parties and the Rules and Regulations of the School Committee. Said eligibility, it was claimed, was not invalidated by the leaves of absence that were granted her, especially in light of the relatively brief duration of time on each occasion that she was not actively involved in teaching in the school system. The Association therefore petitioned that the eligibility of Mrs. Bigda for a sabbatical leave be affirmed and that the situation be rectified by an award ordering that she be granted a sabbatical leave for the school year 1969-70 for the purpose of enrolling in a graduate degree program in History at the University of Massachusetts. To hold and rule otherwise, it was maintained, would frustrate and nullify the intent of the parties to the Agreement.

The position of the Chicopee School Committee is that the parties to the contract, by virtue of the several express limitations imposed on the eligibility of teachers for sabbatical leaves, clearly intended a strict and literal interpretation and application of the applicable contractual terms. On this basis, and particularly in light of the allegedly "substantial" duration of the absences from teaching on a regular and full-time status, Mrs. Bigda did not satisfy the ". . . seven (7) consecutive full school years of service . . ." required to qualify for eligibility for such a leave. Her appeal therefore, it was argued, should be denied as without merit under the provisions of the Agreement.

Discussion and Opinion

The intent of the parties as to the interpretation and application of the terms of the contract with respect to the matter in question is not patently clear from the language employed in the Agreement. Nor was there any evidence introduced in the hearing of a practice previously and consistently employed under similar circumstances which would reflect with a high degree of certainty the intent of the parties on the issue in dispute. Hence said intent will have to be imputed from the totality of the evidence at hand.

It was clearly established that the parties contemplated the possibility that maternity leaves might on occasion be necessary and would be made available. The letters of appointment to teaching positions expressly so provide. Nowhere, however, does the evidence indicate the precise effect of these on a teacher's eligibility for a sabbatical leave. In all probability, this omission was and is dictated as a matter of practicality in order that each case might be considered on its individual and unique merits. In some instances, it is conceivable, such a leave, particularly when involving principally a summer recess period, might involve no more than a few days or at most a few weeks of absence from regular full-time teaching. On other occasions, however, it is likewise possible that complications associated with birth, involving either the child or the mother or both, might require an extended absence of several month's duration. For the Agreement to provide for all such possible contingencies would be an unreasonable and impractical expectation. Hence it must be concluded that the parties intended a flexible interpretation and application of the relevant provisions of the Agreement according to the circumstances present in each individual case.

Similarly it also was established that the duration of Mrs. Bigda's formal absences from actual teaching in each of the three years involved were brief – of only a few weeks of time. In each of the years she taught a portion of the time on a full-time basis as a regular member of the faculty. With the exception of the periods of actual absence, she taught a portion of the remainder as a full-time substitute responsible for the administration of a class. In each of the periods of service as a substitute she was available for and requested reinstatement to regular status as a teacher. In each instance action on this request was delayed because of a technicality, that being a policy which prevented two teachers being assigned a classroom on a regular, full-time basis.

The effect of the periods of absence and of service as a substitute teacher during the years in question on the continuity of her employment record, and thereby on her eligibility for a sabbatical leave, is the heart of the issue in question. To the mind of the present Arbitrator, and consistent both with the evidence at hand relating to the grievant's actual service in the years in question and the spirit of the so-called Frye and Nester court cases introduced into the record by the parties, Mrs. Bigda satisfied the standard that her employment each year as a regular and as a substitute teacher was sufficiently "substantial" (e.g. in this case, well more than one-half of each year) to the degree that her employment reasonably is concluded to have been "continuous," and hence consecutive and full in nature.

In arriving at this interpretation and decision the Arbitrator recognizes that the aforementioned cases in law apply to tenure matters and not sabbatical leave questions. But the standard of reasonableness employed therein relating to the terms "continuous" and "substantial" have an appropriate analogy and thus an applicability to the interpretation of the words "consecutive" and "full" in the Agreement. Such a parallel and acceptability of the interchangeability of terms similarly was evidenced by the parties during the

hearing. Whereas, however, these statutory terms thus have been and are accorded a reasonable application in the case at hand, the fact that Mrs. Bigda was at all times throughout the period regarded as a regular teacher in the system (albeit on leave part of the time) and served without a formal and abrupt break in that capacity, indicates to the Arbitrator that neither the provisions of Section 5 (a) of the Rules and Regulations nor the circumstances and decision relating to the second teacher in the Nester case have any reasonable relevance in this case.

On the basis of the foregoing therefore it is held that Mrs. Bigda was properly entitled to and, on the grounds advanced, improperly denied a sabbatical leave of absence for the school year 1968-69. The conviction with which this judgement is reached and held is substantially reinforced by a major procedural defect by the School Committee in the processing of her request for leave. The defect is a sufficient import that under other circumstances it alone could and might well have sufficed to warrant an award in favor of the instant or even another grievant. It relates to the inordinate delay in responding to her request for leave, which in turn constituted a clear violation of both the spirit and express provisions of the contract. The general tone of encouragement in the letter she received dated March 29, 1968 and in the alleged and indisputed conversations with responsible school authority thereafter, together with the passage of several weeks without official intimation or decision to the contrary, might reasonably be interpreted to have created a sufficiently reasonable expectation that approval would be forthcoming to constitute a waiver of the right of the Committee to deny the eligibility of Mrs. Bigda for leave. This possibility is advanced herein only as information to the parties as to the responsibilities to which they might likely be held under the Agreement. Because their relationship in collective bargaining is of recent origin, their experience is limited, and such information might well be of considerable educational value. In any event, however, the decision in this case is based upon the previously described interpretation of Section C of Article XX.

The Association in this case requests the remedy of an award granting Mrs. Bigda a sabbatical leave of absence for the school year 1969-70. Under the terms of the Agreement this is not possible. The granting of teacher sabbaticals is permissive, not mandatory, on the part of the Committee by virtue of the use of the word "may" in the introductory paragraph of Article XX. There may well be other reasonable conditions which must be satisfied other than those expressly stated in Article XX. However it is possible, and is so ruled, that the question of Mrs. Bigda's eligibility for a sabbatical leave under Section C therein may not be advanced as sufficient reason for denying her such a leave. Further, it also is held that, on the grounds of reasonableness and equity, the delay in the submission of this Award, due to the fault of the Instant Arbitrator but agreed to by the parties, does not suffice to serve as a waiver should there be no more than a reasonable delay beyond December 31, 1968 in the filing by Mrs. Bigda of a new request for a sabbatical leave for the next academic year.

Award

Mrs. Frances A. Bigda was improperly denied a sabbatical leave for the academic year 1968-69 under the terms of Article XX of the Agreement. All other things being equal, she should be viewed as eligible for a sabbatical leave for the school year 1969-70.

Respectfully submitted,

/s/ John T. Conlon
Arbitrator

Amherst, Massachusetts
December 23, 1968

BOARD OF EDUCATION – YORKTOWN CENTRAL SCHOOL DISTRICT NO. 2	:	ARBITRATION OPINION AND AWARD
AND	:	AAA CASE NO. 1330-0829-68
YORKTOWN FACULTY ASSOCIATION	:	DATE OF DECISION: DEC. 20, 1968

The undersigned Arbitrator, designated by the American Arbitration Association pursuant to the terms of the parties' currently effective Agreement, held a hearing in Yorktown, N. Y. on November 20, 1968, at which time the issue set forth below was submitted to arbitration. The Board was represented by Eric Rosenfeld, Esq. of Poletti, Freidin, Prashker, Feldman and Gartner, Counsel and the Association by R. J. Margles, Esq. of Kibbe, Laber and Margles, Counsel.

THE ISSUE:

The parties agreed upon the issue to be decided as follows:

"Did the Board of Education violate Article II of the parties' 1968-1969 Agreement by negotiating separately with the psychologists of the District? If so, what shall be the remedy?

THE FACTS:

For several years prior to the parties' first collective bargaining agreement dated September 1, 1968, salaries for most educational staff were determined by the Board of Education after consultation with representatives of the teaching personnel. In the case of school psychologists, the salaries were also set by the Board upon the basis of individual negotiations with the psychologists concerned.

When the Yorktown Faculty Association was recognized as the bargaining agent for school personnel by the Board of Education, the parties agreed to the following recognition provision:

"The Board of Education of Yorktown Central School District Number 2 hereby recognizes the Yorktown Faculty Association as the exclusive employee organization representing all certified personnel except the District Principal, Assistant District Principal, Director of Pupil Personnel, High School Principal, High School Vice-Principal, High School Administrative Assistant, Junior High School Principal, Junior High School Vice-Principal, Crompond Principal, Mohansic Principal, Brookside Principal, Director of Elementary School Curricula, Co-ordinator of Physical Education, Superintendent of Buildings and Grounds, Director of Communications, Assistant Director of Communications and Project Director, High School Department Co-ordinators and Elementary Science Co-ordinator for the purpose of negotiating collectively the determination of the terms and conditions of employment, negotiating collectively the determination of, and administration of grievances arising under, terms and conditions of employment and for the purpose of entering into written agreements in determining such terms and conditions of employment . . . "

In the negotiations which led to the parties' current, and initial Agreement, there was, apparently, no reference to salary negotiations for psychologists when salaries and stipends were negotiated for teachers, coaches, and guidance counselors.

Sometime following the signing of the current Agreement, the Board of Education entered into individual negotiations with the psychologists for their salaries without participation of the Yorktown Faculty Association.

The Association filed the instant grievance protesting this action as a violation of its exclusive bargaining rights on behalf of all certified personnel. The Agreement, in Article IV Section 2. 1, defines a grievance as

". . . any dispute or claim by either party to this agreement or by any person covered by this agreement arising out of or in connection with this agreement . . . A grievance, however, excludes any matter which involves (a) non-approval for tenure, (b) Board discretion or Board policy, (c) any matter as to which a method of review is prescribed by law or applicable by law, rule or regulation having the force and effect of law."

Article XXVII of the Agreement states in part as follows:

"A. This Agreement shall constitute the full and complete commitments between both parties and may be altered, changed, added to, deleted from or modified only through the voluntary, mutual consent of the parties in a written and signed amendment to this Agreement. Should the Board effect a change in wages, hours, or any other condition of employment which is not covered by the terms of this Agreement and which has not been proposed by the Association, the Board, or its designee, will consult with the Association upon the Association's request in writing.

"C. . . . If any individual arrangement, agreement or contract contains any language inconsistent with this Agreement, this Agreement during its duration, shall be controlling."

The Association contends that the psychologists employed by the Board of Education are certified personnel, that they are not exempted from representation by the Association under the exclusions of Article II of the parties' Agreement, and that they must be

represented by the Association during their negotiation of terms and conditions of employment. Furthermore, it argues, that the psychologists were considered in the parties' negotiations (albeit no discussions were held regarding salaries); that they have a close community of interests with other represented personnel, and that the Public Employment Relations Board has consistently endorsed their inclusion in the same bargaining unit as teachers because of their community of interest.

The Board of Education contends that the Contract's recognition clause does not cover psychologists and that the whole contract really concerns "teachers." It argues that psychologists have never been grouped with teachers in salary discussions; that they have always negotiated their own rates which show no correlation to salaries of other educational personnel; and that since there was no discussion whatsoever of psychologists' salaries with the Association prior to the signing of the current Agreement, it is clear that the Association did not even intend to represent the psychologists at the time. Questions of inclusion in a bargaining unit are appropriately within the jurisdiction of the New York Public Employment Relations Board rather than within the jurisdiction of the Arbitrator, particularly in view of the language of Article IV Section II 2.1 (c) of the Agreement which excludes from the definition of a grievance any matter for which a procedure is already available under law. Finally, it argues that even if the psychologists be held to be included in the unit, it is clear under Article XXVII the Board is entitled to effectuate a change in psychologists' conditions of employment where, as here, it consulted with the Association upon its request. Since its arrangements with the psychologists are not inconsistent with the terms of the parties' Agreement, they should continue without interference.

DISCUSSION

Several questions are raised by this case. First, is this matter properly a grievance under the terms of Article IV Section II? If so, are psychologists included within the bargaining unit represented by the Association? If so, did the Board act improperly in negotiating separately with said psychologists? And, finally, if so, what shall the remedy be?

Initially, it is necessary to determine if this is properly a grievance under the terms of Article IV. Clearly it is a "dispute or claim by either party to this agreement . . . arising out of or in connection with this agreement," i.e., as to the application of this Agreement to the psychologists. Nor does this matter fall within the exclusions of that provision. A method of review is provided by law for disputes between rival organizations as to initial representation rights. But the Public Employment Relations Board, as well as the judiciary in innumerable cases, has respected the parties' Agreement to arbitrate issues such as this which concerns the interpretation and/or application of a parties' Agreement to a particular set of facts. Thus it must be considered that this has properly been submitted to arbitration as a grievance.

Turning to the question of whether psychologists are properly represented by the Association, we need go no further than Article II, the Recognition Clause of the Agreement, for an affirmative answer. Admittedly the psychologists are certified personnel. The parties agreed that the Association would be "the exclusive employee organization representing all certified personnel." Thus it must be concluded that the Board agreed to have such employees represented by the Association. The parties did agree to a list of positions which would not be represented by the Association, and included therein a number of administrative posts. Psychologists might well have been inserted into this list, but the parties failed to do so. If they failed to include psychologists on their exemption list, I am powerless to do so, particularly in light of the precise form of listing used in excluding positions from coverage of the Agreement. Despite the fact that the parties may have omitted discussions of psychologists' salaries during negotiations, there is no justification for excluding them from a unit which encompasses "all certified personnel." The language is clear and unambiguous, and it is beyond my authority to change it by adding psychologists to the list of exclusions. That type of change is reserved to the parties under the terms of Article XXVII of their Agreement.

In view of the inclusion of psychologists in the bargaining unit, it follows that the Association is the exclusive representative of such employees "for the purpose of negotiating collectively the determination of the terms and conditions of employment . . . and for the purpose of entering into written agreements in determining such terms and conditions of employment." Although psychologists' conditions need not be identical to those of employees included in this Agreement, the Board is obligated to negotiate thereupon with the Association. Unique conditions of employment for psychologists may result from such negotiations. This is permissible, as long as the negotiations are carried on between these two parties. This is authorized by, and is the real intent of Article XXVII A. and C.

Accordingly, I find that the Board should negotiate forthwith with the Association on the question of terms and conditions of employment for psychologists.

/s/ Arnold M. Zack, Arbitrator

MICHIGAN LABOR MEDIATION BOARD

X

In the Matter of Fact-Finding :

–between– :

SWARTZ CREEK BOARD OF EDUCATION :

Employer : REPORT and RECOMMENDATIONS

–and– :

SWARTZ CREEK TEACHERS ASSOCIATION :

Employee Organization :

X

APPEARANCES:

For the Association

Ben Munger
Research Assistant
Michigan Education Association
Jack B. Mundell
Chief Negotiator
Swartz Creek Teachers Association
Wendell Collver
Research Assistant
Michigan Education Association

For the Board

Robert H. Brown
Assistant Superintendent
Richard L. Johnson
High School Principal

INTRODUCTION

On August 31, 1968, Mr. Jack B. Mundell, Chief Negotiator for Swartz Creek Teachers Association, hereinafter referred to as the Association, and Mr. Robert H. Brown, Assistant Superintendent for Swartz Creek Board of Education, hereinafter to be referred to as the Board, sent a joint letter to Mr. Hyman Parker, Chief Mediation Officer for the Labor Mediation Board, which stated that the parties were "unable to reach agreement" in certain areas and that they joined "in a joint request for Fact Finding."

On September 3, 1968, the Labor Mediation Board designated the undersigned ". . . as its Hearings Officer and Agent to conduct a fact-finding hearing pursuant to Section 25 of Act 176 of Public Acts of 1939, as amended, and the Board's Regulations and to issue a report with recommendations with respect to the matters in disagreement."

Hearings were held in Swartz Creek on September 9, 20 and 27, 1968, at which time both parties to this dispute were afforded full opportunity to present testimony, evidence and arguments. At the September 9 meeting both parties agreed that the following unresolved issues should be submitted to fact-finding inasmuch as failure to agree on them had constituted the main obstacle to a successful negotiation of a new contract.

1. AGENCY SHOP
2. CALENDAR
3. CLASS SIZE
4. SPECIAL SERVICES
5. RELEASED TIME FOR ASSOCIATION PRESIDENT
6. SALARY
7. DEFERRED PAYMENT
8. SUBSTITUTE PAY
9. PAY FOR COORDINATORS
10. SPECIAL COMMITTEES

DISCUSSION AND RECOMMENDATIONS

1. AGENCY SHOP

The Association takes the position that an "Agency Shop Professional Representation" clause should be incorporated in the parties' Agreement. While recognizing that some "teachers" will "object to joining any organization engaged in collective bargaining . . . because of personal reasons," the clause notes that the Association must represent all teachers under the Michigan Public Employment Relations Act and that "it is recognized" that all teachers – being beneficiaries of the collective agreement – ought to share the expenses involved in negotiation and administration of the Agreement. Thus, the Association proposes that in the event that a teacher[1] does not join the Association and does not execute a dues deduction authorization "such teacher shall cause to be paid to the respective Association, a sum equivalent to the dues and assessments of the NEA, MEA and SCTA [Swartz Creek Teachers Association]." The Association has stated that discharge is the contemplated sanction in the event that the teacher does not comply with the contract and pay the above-noted "sum equivalent."

While disavowing any philosophical objection to the agency shop principle, the Board's position is that the agency shop is illegal under both Attorney General Opinion No. 418 (July 16, 1947) and the Teachers' Tenure Act. The Attorney General Opinion holds that ". . . the Attorney General is of the opinion that it would be contrary to Michigan statutes for the company to deduct dues from the wages of its employees without first obtaining individual authorization from the respective employees." The Teachers' Tenure Act in Article IV states that "discharge or demotion of a teacher on continuing tenure may be made only for reasonable and just cause and only after such charges, notice, hearing and determination thereof . . . is hereafter provided." This statute also states that any contract between a teacher and board which makes "continuance of employment of such teacher contingent upon certain conditions which may be interpreted as contrary to the reasonable and just causes for dismissals provided by the Act such section or sections of a contract or agreement shall be invalid and have no affect in relation to a determination of continuance of employment of such teacher."

The short answer to the first of the Board's two legal arguments is that the Attorney General's opinion deals with the circumstances under which dues deduction can be made by an employer and that that problem is distinct from the issue in dispute. The right of the parties to enforce through discharge, if necessary, an agency shop clause which requires the teacher to pay a sum equivalent to dues and assessments of the NEA, MEA and SCTA presents problems separate and apart from the questions involved in valid dues deduction authorization. For, as the Association has stated, a teacher, under its proposal would be given thirty days to pay the sum equivalent and if he or she does not authorize a dues deduction *or* does not pay through other means, the discharge penalty is to be invoked at some point. Thus, the fact that dues deductions from a nonconsenting employee is unlawful in Michigan[2] does not invalidate the agency shop principle.

Reliance upon the Teachers' Tenure Act by the Board presents a slightly more formidable legal obstacle. Yet, here also, in the opinion of the Fact-Finder, the legality of the agency shop in Michigan is sustained. In my judgment the Public Employment Relations Act, under which public employees are obligated to bargain collectively concerning wages, hours and other terms and conditions of employment, authorizes the agency shop proposal which the Association advocates. Indeed, the Michigan Labor Mediation Board, which is charged with jurisdiction for enforcing bargaining obligations under the Public Employment Relations Act has held that "union security" is a mandatory subject of bargaining under the Act and that therefore negotiation of the agency shop is valid in Michigan.[3]

The Board has held that the payment of a "sum equivalent" to defraying the costs of bargaining responsibilities; i.e., the agency shop, is neither "unlawful encouragement nor discouragement" within the meaning of the Act. With this ruling as precedent, I have stated that the agency shop cannot properly be regarded as "coercive" in the statutory sense.[4]

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[1]The proposal excludes substitutes.

[2]Even if the Attorney General Opinion was relevant to the issue in dispute between the parties, Michigan does not have jurisdiction to rule on the validity of dues deductions authorizations made by private employers in interstate commerce as it did in this case. See *San Diego Building Trades Council v. Garmon,* 359 U.S. 236 (1959). The Attorney General asserted jurisdiction pursuant to a now discarded doctrine of pre-emption.

[3]See *Oakland County Sherrif's Department and Oakland County Board of Supervisors,* Case No. C66 F-63 (1968).

[4]See *Board of Education of the Schools of the City of Inkster (Wayne County, Michigan),* 263 Government Employee Relations Report F-1 (1968).

Moreover, I am of the view that there is nothing inconsistent between the union security concept and the objectives of the Tenure Act – the latter being the elimination of political and arbitrary infringements upon the employment rights of teachers. The protection which the Public Employment Relations Act affords a negotiated agency shop arrangement does not distract from the Tenure Act.

Of course, this is not to say that no case will arise in which the statutes under discussion may each argue for different results or where they may be at variance with one another. Certainly the *potential* for conflict is present where resolution of employee grievances may be placed in the hands of more than one forum. (Article III of the parties' contract permits grievances to be submitted to "arbitration before either the State Mediation Board or the State Tenure Commission, whichever holds legal jurisdiction.) But what is important here is the lack of any inherent conflict between the objectives of agency shop and the Tenure Act. Agency shop does not, in and of itself, magnify the potential for political and arbitrary interference with the employment status of teachers.

It should be noted that my conclusions with regard to the agency shop and the Tenure Act are buttressed by the opinion of the Michigan Circuit Court (Macomb County) in *City of Warren v. International Association of Fire Fighters, Local No. 1383,*[5] where it was held that the Public Employment Relations Act must prevail over the general language of civil service law where conflict appears.

I am aware of the fact that the tradition of collective bargaining in the private sector cannot be transferred *in toto* to the public sector. I should also point out that other jurisdictions with different statutory schemes insofar as both public employee labor relations and civil service are concerned may pose other considerations.[6] But, in Michigan, as the Labor Mediation Board has said, ". . . the legislature, by enactment of the Public Employment Relations Act, determined that the industrial type of employer-employee relations and collective bargaining should apply to the public sector." Without commenting upon the limits of that dictum, I am content to find that the employer's legal objections must fail.

I am of the view that the parties should incorporate the Association's proposal on agency shop in their contract.[7] I am persuaded that this is the proper answer for this aspect of the parties' dispute for two reasons.

The first is that evidence submitted by the Association indicates that agency shop is rapidly achieving acceptability to both sides of the bargaining table in Michigan. An increasing number of school boards are stifling whatever objections they previously entertained.

Secondly, and more importantly, is the fact that the Association is obligated to *represent* all teachers within the bargaining unit under Michigan law.[8] If *all* teachers benefit from the collective bargaining process it seems reasonable that all should assume their fair portion of the costs of the service. Otherwise, a premium is placed upon nonmember status, since the nonmember receives the benefits but, unlike the member, does not pay the dues which finance negotiation and administration of the contract. (It should be noted that the Board's representatives do not disagree with this proposition.)

In the circumstances of this case, therefore, I recommend that the parties include the agency shop in their collective bargaining agreement.

2. CALENDAR

The Association proposes that the school calendar be a subject of negotiation and that it be placed in the collective bargaining agreement. The Association contends that the calendar is a part of wages, hours and terms and conditions of employment and, therefore, constitutes a mandatory subject of bargaining under the Public Employment Relations Act. In this connection, the Association contends that negotiated calendars are an accepted practice in many of the other school districts with which the Association has a bargaining relationship.

The Board's position is that since Section 340.575 of the Michigan General School Laws states that the Board shall decide the "length of school term," the calendar is not a negotiable item under the Public Employment Relations Act. Moreover, the Board relies upon the opinion of the Michigan Circuit Court (Lapeer County) in *Nickels v. Board of Education of the Imlay City*[9] for the proposition that a school district cannot delegate away such statutory authority through a collective bargaining agreement.

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[5] 68 LRRM 2977 (Michigan Circuit Court Macomb County 1968).

[6] See, however, the similar conclusion reached by the Supreme Court of New Hampshire in *Tremblay v. Berlin Police Department,* 237A 2d 668 (Supreme Court of New Hampshire, 1968) where a union security agreement was upheld despite civil service legislation which required that removal of personnel be for "sufficient cause."

[7] Of course the parties should place a separability clause in their contract which protects the validity of the entire contract if, for some unforeseen reason, the Michigan Supreme Court should declare the agency shop unlawful.

[8] See The United States Supreme Court's interpretation of the National Labor Relations Act in this respect. *Vaca v. Sipes,* 386 U.S. 171 (1967); *Ford v. Huffman,* 345 U.S. 330 (1953); *Humphrey v. Moore,* 375 U.S. 335 (1964).

[9] File No. 1546.

Secondly, the Board states that there is a practice of consultation concerning the establishment of the calendar between the teachers and the Board and that the Board offered to continue this practice while formulating the 1968-69 calendar. Although the Board holds the view that it cannot negotiate with the Association concerning the calendar it nevertheless states that it is "willing to accept" teacher recommendations.

Finally, the Board points out that the Association does not represent *all* the school district's employees and that, therefore, the views of non-Association personnel outside the bargaining unit will not be heard.

There is little difference in the respective proposals of the parties as to the calendar itself. The Board has adopted a calendar of 181 days and has stated that at the end of bad weather in the winter it will accept the teachers' recommendations concerning what day they wish to drop from the calendar. This will leave the District with 180 days, the amount required by Michigan law. The Association's position is substantially similar, the one difference consisting in its demand that all of Good Friday be a holiday; whereas the Board offers one-half day off.

In my judgment, negotiation of the calendar is a mandatory subject of bargaining within the meaning of the Public Employment Relations Act. Both the length of the calendar and the scheduling of holidays have a direct impact upon the teachers' working conditions. To some degree, such considerations may influence the position that teachers take on salary. Certainly, salary is not entirely meaningful until a teacher knows how long he or she will be at work during the year. And the question of what holidays are to be observed in the calendar are a matter of concern to any employee and part of his or her working conditions. I, therefore, view the calendar as a mandatory subject of bargaining under the Act.

I do not regard the general language of Section 340.545 as an obstacle to my conclusion. For the Board is not required to accept the Association's proposal on calendar or any other proposal concerning calendar. The Board must still meet its obligation to decide the length of the school term. But the effect of my recommendation is that the decision is to be the product of collective bargaining between the parties. I do not find in Section 340.545 any prohibition of the collective bargaining procedure as a means to arrive at a decision concerning calendar. Insofar as *Nickels v. Board of Education of the Imlay City* is concerned, that Michigan district court decision holds that a school district may not enter into a contract which requires it to take advantage of federal funds available for special and remedial programs. While there is dictum in the opinion which may be at variance with my conclusions, it is clear that the question of the negotiability of school calendars was not before that court. I, therefore, find that opinion inapposite.

I recommend that the parties include a calendar provision in the contract. I note that the Board has followed a practice of consulting with teachers and that it has stated that it is willing to accept teacher recommendations. There should, therefore, be little difficulty in implementing my recommendation. For the history on this subject presages an easy adjustment to collective bargaining.

I also recommend that the Association, in preparing its position on calendar, make every effort to take into account the views and wishes of school district employees outside the Association bargaining unit. While I express no firm opinion on this matter, the parties may find it desirable in the future to invite representatives of such employees to the bargaining table – or the Association may wish to invite them to their own meetings. Thus, the parties would be able to solicit the views and attitudes of other employees in a more structured form.

Finally, since the parties are not so far apart on the substantive calendar, I recommend that the salary differences noted above be resolved through the process of collective bargaining.

3. CLASS SIZE

The Association proposes that the "suggested maximum" class sizes in the contract[10] be converted into binding maximums. With the exception of physical education and study hall, the suggested maximum class sizes range from 25 to 32. The Association's concern with class size is reflected by data indicating that in kindergarten through sixth grade present class size exceeds the suggested class maximum on an average in any single grade. Moreover, present class size is far above the "recommended class size" in all grades and in the case of kindergarten the average class is 10.3 pupils over the recommended amount.

The Association also points out that a number of studies have indicated that class size has a profound impact upon educational achievement upon students as well as teacher moral at all levels in the school system. Further, the Association states that 123 of 333 Michigan school districts surveyed by the MEA have a specific class size limit and that 54.7% of Michigan elementary teachers have fewer than 30 students and 87.3% have fewer than 35 – whereas in Swartz Creek, 26.1% of the elementary teachers had fewer than 30 students and 76.8% had fewer than 35 pupils.

The Association therefore advocates a binding maximum and compensation for teachers assigned to classes which exceed the maximum in the amount of $300 per pupil annually in elementary sections (K-5) and $60 per pupil in secondary classes for each pupil in excess of the

[10]See Appendix A.

maximum. The Association also proposes that where student numbers within a particular building and grade level must exceed maximum numbers, students will be equally distributed among the teachers assigned to that grade level.

Finally, the Association contends that both parties should agree to make "continuing efforts" to eliminate any deviations from the maximums because any excess over that amount inhibits effective learning. The Board cites a research report, "Innovation in Education", issued by the Committee for Economic Development, which – according to a report in The New York Times (July 28, 1968) states that ". . . the money spent to reduce class size by a few students could be much better spent for research and development in educational technology and for buying new equipment that could make teaching more effective." (Unfortunately the parties have not supplied me with a copy of the report and, thus far, I have not been able to obtain one.)

However, the Board, in contending that the suggested maximum should not be changed to a binding maximum, argues that a number of factors make it impossible to give the type of commitment which the Association desires. The first of these is the very "rapid and irregular growth" which Swartz Creek has experienced during the past few years. According to the Board, this pattern has made it most difficult to engage in effective planning and thus, to keep class size within reasonable size. In this connection, it should be noted that one of the exaggerated areas of excess class size is to be found in kindergarten where growth is least predictable because these students are entering the system for the first time.

Secondly, the Board states that its efforts to deal with class size have been hampered by slow progress in construction of school facilities, a recent construction strike and the failure of the Legislature to give adequate state aid.

On the basis of the information supplied to the Fact-Finder, it is reasonable to conclude that class size is significant in terms of both educational achievement and teacher morale. I am concerned, however, with the fact that the Board is presented with unusual difficulties arising out of the community's rapid and irregular growth, and that, in light of this and other factors noted above, which the Board relies upon, conversion of suggested maxima into binding limitations, at this stage, would involve unforeseen and potentially astronomical costs to the community. I, therefore, recommend that the parties continue the past practice of suggested maximum class sizes in their current contract and that they jointly attempt to evaluate the problems involved in eventually establishing binding maximum class sizes. The parties ought to start working toward realization of this objective at the earliest possible time.

I am buttressed in my conclusions in respect to retaining the suggested maxima by data which indicates that Swartz Creek's average class sizes do not compare badly with the average for all schools in Genesee County. In 1967-68, Swartz Creek average was 25.4. Fourteen out of the twenty schools in Genesee County exceeded or equalled this average. (The Association has pointed out that this year the average is 26.3; but figures for the other districts were not yet available at the time of the hearings.)

The real problems with Swartz Creek class sizes are those instances of extreme discrepancy between the suggested maximum and the present class size. One kindergarten class has 36 students in a classroom of extremely small size. Fifth grade classrooms are even smaller and yet up to 37 students are to be found in these classrooms.

These are two of the worst examples. But I am persuaded that a binding limit beyond the maximum is needed to keep such obviously unsound practices from continuing. I, therefore, recommend that payments in the amount proposed by the Association be made to teachers assigned to any classroom other than physical education and study hall where the number of pupils exceeds 33. Moreover, in all instances of excess – both the suggested maximum and the extreme situation involving 33 pupils – the Board should make every effort to distribute the excess number of students among teachers equitably.

4. SPECIAL SERVICES

The Association proposes that the Board accept the following special services:

1. In remedial reading the Board should hire enough remedial reading teachers so that each teacher's load does not exceed 45 to 50 students;

2. In the area of libraries, there should be one 30-minute period per week with qualified librarians. There should be 10 books per student as recommended by the ALA, one librarian for each 500 students and a general improvement in physical facilities;

3. In physical education there should be two one-hour periods weekly for grades K-6 with qualified gym teachers;

4. In art there should be one hour period weekly with a qualified art teacher for grades K-6;

5. In music, in grades K-6, there should be a 30-minute period three times a week;

6. The Board should hire one counselor for each 600 students and improve the facilities;

7. There ought to be enough speech therapists so that each therapist's top load does not exceed 75 students;

8. The Board should establish an audio-visual center, properly staffed with one full time specialist and two semi-professional assistants.

9. The Board should hire two nurses for the elementary schools, one for the middle school and high school combined.

While submitting evidence indicating that much has been done in the past in the area of special services, the Board agrees that the Association's proposals are desirable objectives. However, the Board states that these objectives must be part of long-term planning and growth.

In view of the positions of the parties, I recommend that the Association's proposals should serve as the framework for improved special services during the next four-year period. The need for a period of time in which to completely realize the Association's objectives, is made clear by the Board's financial position, which is referred to below.

While this recommendation does not carry with it approval of every last aspect of the Association's proposals, I believe that those which are not effectuated as of the fall of 1972 should prove to be the extreme exception to the rule.

5. RELEASED TIME FOR ASSOCIATION PRESIDENT

The Association proposes that the Board ". . . provide time during working hours, without loss of time or pay, for the President of the Association to confer with the Board or its representatives or to promote the general welfare of the Swartz Creek school district." The Association states that in the case of a secondary teacher, the Board should assign one less class period per day. Under the Association's plan, preparation time and released time will be scheduled during consecutive periods. If the President is an elementary teacher, released time will be provided on the basis of one day per week "or any variation of this regular daily schedule mutually satisfactory to all parties."

The Board proposes that the Association President "use his conference hour, which is part of his regular working day, for Association business directly related to teacher problems." The Board's rationale for this is that the Association "has a responsibility also to assume part of the cost since the problems are directly related to their welfare." The Board has taken the same position at the bargaining table with the provision that where the administrator concerned with the problem "is not available during the conference period, the Assistant Superintendent for Personnel will provide an additional portion of the day off so that the Association President and the administrator can meet."

I recommend that the parties accept the Association proposal insofar as it permits the Association President to use the time for the investigation and processing of teacher grievances, the administration of the contract or amendments to the existing contract and preparation for negotiation for a new contract. I am not certain about what the Association contemplates when it proposes time off with pay to promote the general welfare of the Swartz Creek School District. But my recommendation is meant to establish a relationship between the parties which is quite common in private industry and which, in my opinion, will find increasing acceptance in public education.

It is in the interest of the Association, the Board and the community that the Association President have time to assist teachers and to confer with Board representatives in an attempt to make the employer-employee relationship a healthier one. For when the Association President is given the free time contemplated by this proposal, investigation of grievances at an early stage will reduce the potentially costly and time consuming issues which fester and become more exaggerated because they have been left unattended. I believe that my recommendation will assist both sides in turning their attention to the task of building a solid relationship for the future.

6. SALARY

The Association proposes a salary schedule containing a starting salary for a BA degree of $7,000 with a 4.5% vertical index and a 5.5% horizontal index. The current minimum salary is $6,050, the vertical index at 4% and the horizontal index at 5%. The parties calculate that the Association salary proposals would cost approximately $250,000.

The Board has made three salary proposals, the last of which would cost approximately $136,000. Although the Board's last proposal was a starting salary of $6,700, the schedule substituted an increment of $250 horizontally for the existing horizontal index of 5%. The Board contends that its ability to pay more than this offer is seriously limited by a deficit of $253,500.

The Association counters this with a number of arguments. The first of these is that there has been a "general historical decline" in the excess of assets over liabilities, or General Fund Equity, and that this should have prompted the Board to engage in "adequate planning to eliminate this trend before a sudden appearance of the deficiency." Moreover, the Association points out that while state aid has steadily increased from 1963-67, "local taxpayer participation has decreased steadily." There has been no increase in millage since 1963.

Further, the Association points out that current millage in Swartz Creek is inadequate in relation to the State median and as compared to districts "in the immediate area" which have "comparable State Equalized Valuation per pupil." Moreover, the Association points to the loss of purchasing power suffered by Swartz Creek teachers as the result of inflationary pressures reflected in the BLS consumer price index.

I am not convinced that the Association's proposals on index are warranted. In the first place, the present index appears to compare favorably with other districts in the County. I am unable to find one district in the immediate area with what can be regarded as a superior index. Secondly, an increase in the index poses special financial hazards to a growing and unpredictable district like Swartz Creek, hazards which cannot be fully measured at this juncture. I, therefore, recommend that the parties retain the current index of 4% and 5%.

On the basis of the evidence submitted it would appear that the average settlement in the County consists of a minimum salary in the range of $6,000 - $6,700. But Swartz Creek can afford to be a leader in the area. This is demonstrated by its S.E.V. (17,073) per pupil; which reflects, to some degree, a greater ability to pay than most communities in the area. For instance, the neighboring communities of Mount Morris and Grand Blanc have an inferior S.E.V. and yet are able to pay $6,675 and $6,700 with relatively comparable increment steps. This is to be compared with the Board's last offer of $6,757 with the present index.

If school districts with a poor property tax base can pay below average salaries,[11] those with the resources ought to pay salaries which are in excess of the average. Certainly Swartz Creek ought not pay less than communities with less money. Comparability is to be measured not only by what other districts in the area are paying but also in terms of tax resources which the districts in the area possess.

But despite Swartz Creek's strong S.E.V. it runs a deficit and thus claims an inability to pay. This "inability" is best explained by the reluctance of appropriate officials to risk a millage election since 1963. Such excessive caution will impair the reputation of Swartz Creek as a district which wants to pay teachers adequately. That caution is reflected not only by the absence of a millage election since 1963, but also by the fact that Swartz Creek is 17th out of 21 Genesee County school districts in utilizing available tax resources.

The Swartz Creek Board of Education must raise taxes to meet its obligations to its teachers – and to public education generally. At the same time I am aware of the fact that there is a current deficit and that adequate finances cannot be raised until the following year. I, therefore, recommend a two-year contract which would provide a starting salary of $6,675 in the first year, the existing index, and an additional $50 increment on the Master's degree side of the schedule at the last three steps.

In the second year, the starting salary should be $7,375. However, if the BLS consumer price index reflects an equivalent loss of purchasing power during the first nine months of 1969 as compared with the same period of time in 1968, the Association should have the right to reopen the contract and bargain for *more* than $7,375.

In my judgment these recommendations take into account both the Board's current deficit and the leadership position which Swartz Creek can assume once it raises necessary revenues through adequate taxation next year.

7. DEFERRED PAYMENT

The Association proposes that "teachers . . . be paid an amount upon retirement equal to the number of years taught at Swartz Creek multiplied by $100. The rationale for this proposal is that the cost is small, some school districts in Genesee and Lapeer Counties are offering deferred payment to their teachers and the Swartz Creek salary has been below the State Median during the past five years.

The Board states that while it recognizes "the efforts of people who have given long and faithful service to our school and the community" the cost is prohibitive at this time and longevity pay has already been negotiated.

I am of the view that longevity pay is a partial compensation for long service employees and that, therefore, the parties should review their positions on this matter during the summer of 1969. In short, the Association should have a right to reopen a contract on this subject at which time adequate revenues should be available for financing the Association's proposals. If the Fact-Finder's proposals regarding taxation are followed, I can see no reason why the Association's proposal cannot be implemented during the summer of 1969.

[11] See Board of Education of the Schools of the City of Inkster (Wayne County, Michigan) and The Inkster Federation of Teachers Local 1068, American Federation of Teachers – AFL-CIO, *supra*.

APPENDIX A

Class or Grade	Recommended Class Sizes	Suggested Maximum
Kindergarten	22	28
Elementary School Grades	25	30
Special Classes – Type A	15	(State Maximum)
Middle School (Grades 6, 7, 8)	25	32
High School		
English	22	28
Speech	22	28
Social Studies	25	32
Math		
General	25	32
Algebra I	25	32
Adv. Algebra	22	28
Geometry	24	30
Sr. Math (Analysis)	15	25
Science	25	32
(Up to the number of work, lab, stations – 32)		
Foreign Language	25	32
Business		
General	25	32
Beginning Typing	25	32
Adv. Typing	25	32
Beginning Shhd	20	32
Adv. Shhd	25	32
Business Math	25	32
Bkkpg	20	28
Business English	22	28
Business Law	25	32
Office Practice		Up to 24
Industrial Arts – Up to the number of student work stations.		
Homemaking – Up to the number of student work stations.		
Art I, II, III, & IV – Up to the number of student work stations.		
Art History	25	32
Health Ed. & Phys. Ed.	25	35
Phys. Ed. only	25	40
Study Hall – Cafeteria		Up to 80
Class Room		35
Library		25
Work stations may be added if room and class size will accomodate.		

8. SUBSTITUTE PAY

The Association proposes that qualified teachers who are called to do substitute teaching on an emergency basis during their conference hour, teachers of summer school, and teachers of driver education should be paid 1/6 of the regular contractual salary or $6 per hour.

The Board has proposed a rate of $5.25 per hour for emergency substitutes and 1/7 of the regular contractual salary per hour for summer school teachers.

The Association's proposals should not be unduly burdensome to the Board and I recommend their acceptance by the parties. Certainly, the Board should be willing to pay for substitute teaching which is, in effect, overtime; and, certainly it should be willing to pay for the amount of time in calls and preparation during summer school which is approximately 1/6 of the regular school year. Since, in my opinion, the Association's proposals have a more rational basis I recommend their inclusion in the parties' agreement.

9. PAY FOR COORDINATORS and

10. SPECIAL COMMITTEES

I am advised that the parties are near agreement on both of these issues and I, therefore, recommend that remaining differences be resolved by means of collective bargaining.

Respectfully submitted,

/s/ William B. Gould
Professor of Law
Wayne State University Law School

Detroit, Michigan
October 12, 1968

Negotiation Agreements

AGREEMENT BETWEEN THE BOARD OF EDUCATION
SCHOOL DISTRICT #61, DECATUR, ILLINOIS

AND

THE DECATUR EDUCATION ASSOCIATION

FROM

AUGUST 29, 1968 to AUGUST 28, 1969

This Agreement, developed and agreed to by the Board of Education for School District #61, Decatur, Illinois, hereinafter referred to as the "Board", and the Decatur Education Association, hereinafter referred to as the "Association", shall be in force for the school year 1968-69. It is agreed that this instrument supercedes those sections in the official manual of policies and administrative procedures which are in conflict with policies stated herein. It is further agreed that any revision of the agreement shall be in accordance with Article I, "Memorandum of Intent", which is considered a part of this Agreement.

ARTICLE I

MEMORANDUM OF INTENT

THIS MEMORANDUM OF INTENT Expressed this 1st day of December, 1966, by the BOARD OF EDUCATION OF DECATUR SCHOOL DISTRICT No. 61 in MACON COUNTY, ILLINOIS, hereinafter referred to as the "Board" and THE DECATUR EDUCATION ASSOCIATION, hereinafter referred to as the "Association", WITNESSETH:

Whereas, the parties hereto are agreed that the welfare of the children of the school district is of paramount importance and will be promoted by both parties and

Whereas, both parties recognize that teaching is a profession, and Whereas, both parties are desirous of formulating an orderly procedure and policy concerning dealing between the Board and the Teachers or their representatives,

Now, therefore, IT IS MUTUALLY AGREED AS FOLLOWS:

I. RECOGNITION

On condition that the Association presents unto the Board satisfactory evidence that it represents a majority of the certificated personnel, except substitute and non-contract teachers, the Board will recognize the Association as the representative of such certificated personnel, from time to time employed by the Board for the purpose of negotiation upon certain matters as hereinafter set forth.

On November 15, 1967, and each year thereafter re-determination of such majority status shall be made. If, in the opinion of the Board, the evidence of such majority status is at that time not satisfactory to the Board or in event that any other organization may also present evidence that it also represents a majority of such certificated personnel, then the Board may call an election to be held at the time and in the manner to be determined by it, but not later than December 15 of said year. All certificated personnel except substitute and non-contract teachers shall be eligible to vote at such election and the Board will then recognize the organization which receives a plurality of the votes at such election as the organization with which it will thereafter negotiate in the manner herein set forth.

II. GENERAL PRINCIPLES

A. Attaining Objectives
It is agreed that attainment of objectives of the educational program of the District requires mutual understanding and cooperation between the Board and the professional teaching personnel.

B. Professional Teaching Personnel
It is agreed that teaching is a profession requiring specialized qualifications, and the success of the educational program in the District depends upon the maximum utilization of the abilities of teachers who are satisfied with the conditions under which they work.

C. Membership Not Required
It is agreed that it is the individual right of the teachers to join or not to join any organization for their professional or economic improvement, and membership in the Association or any other organization shall not be required as a condition of employment.

D. Representation and Meetings
The Association shall provide the Board and the Superintendent with the names of its duly authorized representatives and from time to time shall notify them of any changes.

The Board or the Board and the Superintendent or designated representatives of the Board and/or administrative staff will meet with the representatives of the Association for the purpose of discussion and reaching mutually satisfactory agreements on salary, welfare provisions, and physical working conditions, and such other matters of professional concern as may be mutually agreed upon.

Before any Board meeting the Secretary of the Board shall provide at least one of the designated representatives of the Association with the same written information that he provides the press on the night of the meeting.

Nothing herein shall preclude individuals or other organizations from presenting their views and recommendations to the Board at any time.

III. OPERATING PROCEDURES

A. Request for Meetings
Requests by the Association for a meeting will be made to the Superintendent or his Assistant if available. Request by the Superintendent or the Board will be made to the President of the Association or his Assistant or representative, if available. A meeting of representatives as set forth in Paragraph II-D shall be held within 21 days after the date of the request for a

meeting, unless a mutually satisfactory later date is agreed upon. Any request for a meeting shall specify the subject matter to be discussed and shall be in writing.

Relevant data and supporting information, proposals, and counter proposals will be presented at the meeting.

B. Meetings

Meetings composed of members of the Association's negotiating committee, the Board or its authorized delegates, and the Superintendent shall be called at the written request of any one of the parties. Official minutes shall be kept by someone designated at the meeting and such minutes shall be subject to the approval of both parties. Such meetings shall be held in non-school hours, if possible, but in the event of a daytime meeting, teacher members shall be released from school to attend meetings.

C. Assistance

The parties may call upon competent professional and lay persons for information, advice, and suggestions. Such consultant's services will be used as deemed necessary by the parties retaining the consultant.

D. Study Committees

The parties may appoint special study committees for such purpose as they may desire in connection with any matters under consideration, and the committee shall report its findings to the parties.

E. Furnishing of Information

The Board agrees that the Superintendent's Office will, upon reasonable request, furnish the Association's negotiating committee all readily available pertinent information concerning the financial resources of the District including the tentative line budget at the time it is ready for the Board and preliminary budgetary proposals, requirements and allocations, and such other readily available and pertinent information as will assist the Association in developing intelligent, accurate, and constructive programs on behalf of the teachers, the students, and the education program. Nothing herein shall require the administrative staff to research and assemble information.

F. Sequence of Procedures

It is understood between the parties that the organization will first negotiate with the Superintendent or his representative. In the event of failure to reach agreement there shall be a meeting of organization representatives with representatives of the Board and the Superintendent. If agreement is not reached, the procedures in Section V shall be followed.

IV. FORM OF AGREEMENT

When agreement is reached, it shall be reduced to writing and, when approved by the Board, become a part of the official minutes of the Board. Subsequent changes shall also be incorporated in the official minutes of the Board. When necessary, provisions in the agreement shall be reflected in individual contracts. No agreement shall discriminate against any member of the staff based upon membership or non-membership in any organization.

V. MEDIATION AND APPEAL

A. Board of Education

If agreement is not reached and members of the Board have not participated directly in the deliberations, the Association's representative and the Superintendent or his representative may present separate reports to the Board and the procedure outlined in Section III-B, with the Board participating in the deliberations, shall then be followed.

B. Fact-finding Committee

1. In case of disagreement about the meaning or application of the agreement, or if an impasse is reached during negotiations, the matter will be presented to an advisory fact-finding committee within thirty (30) days after the request of either party to the other. The Board will name one member of this fact-finding committee, the Association will name another. A third member, who shall be chairman, shall be named by the first two named members.

2. The Fact-finding Committee will have authority to inquire into the issues and confer with any persons deemed advisable in seeking to effect a recommendation to resolve the issue.

3. The Fact-finding Committee may hold closed sessions and need not issue any news releases concerning its progress.

4. The Fact-finding Committee shall report its recommendations within fifteen (15) days. The recommendations shall be submitted to both parties and shall be made public by the Fact-finding Committee after this has been done.

5. Cost and expenses which may be incurred in securing and utilizing the services of members of the Fact-finding Committee shall be shared as follows:

(a) The expenses incurred by the Association shall be paid by the Association.
(b) The expenses incurred by the Board shall be paid by the Board.
(c) Expenses incurred in securing the third party shall be shared equally by the Board and the Association.

VI. LIMITATIONS

A. The Association shall agree not to strike.

B. The Association agrees that its members shall not picket in any manner which would tend to disrupt the operation of any public school in the District or the administrative offices of the Board.

C. The benefit of any and all decisions and conclusions the Board of Education may reach after having negotiated with the Association shall apply equally to all teachers and other educational personnel appointed by the Board.

D. The Association agrees that should negotiations fail to resolve differences, the decision of the Board of Education shall be final.

E. If any portion of this agreement is in violation of any law of the State of Illinois, that portion in disagreement shall be considered null and void.

VII. DURATION

This Memorandum of Intent shall be in force from year to year unless terminated by either party giving written notice to the other of such termination at least thirty days prior to December 1st of 1967 or any year thereafter, in which event such agreement shall terminate on December 1st of that year. Either party desiring changes in this agreement shall give written notice to the other party of such desired changes at least thirty days prior to December 1st of any year and if the other party disagrees with such changes, then the procedures herein enumerated shall be followed in seeking to resolve such differences and this Memorandum of Intent shall then be terminated when such procedures have been exhausted without agreement.

VIII. NO PERSONAL LIABILITY

This Memorandum of Intent shall create no personal or individual contractual obligation or liability on the part of any member or members of the Board of Education.

ATTEST: BOARD OF EDUCATION OF THE DECATUR SCHOOL DISTRICT NO. 61

By Richard W. Huff (signed)

DECATUR EDUCATION ASSOCIATION

By John Ahlenius (signed)

ARTICLE II

ELECTION PROCEDURES

1. Eligible Voters
All certificated personnel of Decatur School District #61, except substitute and non-contract teachers, who are employees listed on the payroll (final date of pay period, rather than date checks are distributed) immediately preceding the date of the election and who have not submitted a resignation to become effective on a date after the payroll or determination of eligibility shall be eligible to vote in recognition elections.

2. Polling Places
Voting space shall be provided at each junior high school.

3. Voting Hours
Voting hours shall be from 11:00 a.m. to 5:00 p.m. on a school day.

4. Election Judges
Judges for the election shall be neutral persons selected by the Board of Education. There shall be no fewer than two (2) judges at each polling place.

5. Poll Watchers
No more than one representative from each group on the ballot shall be permitted to serve as poll watchers. They shall in no way disturb the judges.

6. Counting the Ballots
Ballot boxes shall be sealed at 5:00 p.m. and delivered immediately to the office of the Board of Education by one or more of the judges where the official count shall take place. The Board shall appoint three or more neutral persons as judges to conduct the count. Upon completion of the count, the judges shall certify to the results of the election and sumbit all the ballots and certification of the results to the Board of Education or its representative as soon as the count is completed. Such certification shall contain a record of all ballots distributed to the polls and returned to the office of the Board of Education. After the final tally, the ballots shall be placed in a vault at the Keil Building.

7. Contesting of Election
Contesting of the election must be done in writing and include the reasons for contest to the Superintendent of Schools and within seven (7) days from the actual election date. The Board shall review the reasons for contesting. If the election is judged to be fair or if it is not contested, the ballots shall be destroyed.

8. Canvass by Board
The Board shall within seven (7) days review the canvass and determine the representative organization to be recognized by the Board for the purpose of negotiating under terms of the Memorandum of Intent.

9. Form of Ballot
The ballot shall be in the following form:

Official Secret Ballot

This ballot is for an election among the eligible employees of Decatur School District #61 to determine which organization shall represent them in negotiations (concerning salaries and working conditions) with the Board of Education.
****

Mark an "X" on this ballot in one square only.
Make no other mark.

I desire to be represented by the D. E. A.	I desire not to be represented	I desire to be represented by the _____
☐	☐	☐

****
This is a secret ballot and must not be signed.

10. Sample Ballots
Sample ballots (marked "Sample") may be circulated throughout the District prior to election day to help avoid confusion during balloting. The official ballot shall be a different color and shall be kept secret until election day.

11. Challenged Vote
If a voter's eligibility to vote is challenged, the following procedure shall be used:

(a) Voter shall be permitted to vote.
(b) The voter shall place the ballot in an unmarked envelope.
(c) The judges then shall seal this envelope in another envelope, on the outside of which they write the voter's name, the name of the challenger, and the reason for the challenge.
(d) Decisions on the challenged ballots shall be made by the judges appointed to count the ballots. They shall not be opened and counted until all other votes are counted. If they cannot alter the outcome of the election, they shall be destroyed without counting. If they can alter the outcome, a decision shall be made on each challenge. If it is decided that a ballot is eligible, the outer envelope is opened and destroyed; the inner envelope, still sealed, is mixed with other challenged ballots deemed eligible, later to be opened and included in the final count.

12. Declaration of Exclusive Representation
The organization receiving the plurality of those voting shall become the certificated employees' representative and negotiating party with the Board of Education under provisions stated in Memorandum of Intent.

ARTICLE III

RIGHTS AND RESPONSIBILITIES

A. The Board

1. The Board will make every effort to provide the best possible facilities within the limits of prudent expenditures. It will also make every effort to assist staff members in the advancement of skills and techniques.

2. The Board shall be responsible for providing a quality educational program, seeking improvement in teaching methods, in instructional tools, in professional

standards of excellence, in economy of operation, and in staff morale.

B. The Staff

1. The staff members shall be responsible for maintaining a continuous high level of professional service. The staff members, therefore, are responsible for discharging their assignments with professional proficiency.

2. The staff members shall have the right to have disciplinary interviews and reprimands held in private. An affected staff member will, however, have the right to request the presence of an Association Grievance Committee representative at said interview and, when such a request is made, the interview will not proceed until the representative is in attendance.

3. Staff members shall have the right to have annual membership dues for the Decatur Education Association, the Illinois Education Association, and/or the National Education Association deducted in nine (9) equal installments throughout the school year.

4. Staff members shall have the right to review the contents of their personal files as maintained by the Director of Personnel upon requesting in writing an appointment to be at the convenience of both parties. Privileged information, such as credentials and letters of reference, shall be specifically exempted from such a review. A representative of the Association may, at the staff member's request, accompany the staff member in such a review.

C. The Association

1. The Association shall have the right to post notices of its activities and matters of Association concern on school bulletin boards.

2. The Association shall have the right to use the District mail service and staff member mail boxes for communications to staff members.

3. The Association shall have the right to use school building facilities immediately at the close of school or at other times thereafter for business meetings, providing such facilities are available and providing prior permission has been granted.

4. Authorized Association representatives shall be granted time to attend state or national Association workshops, conferences, conventions, and other activities provided the total amount of time so taken does not exceed ten (10) days per school year. There shall be no deductions from salaries provided the Association pays for any necessary substitutes.

ARTICLE IV

GRIEVANCE PROCEDURES

A. Definition -- Any claim by the Association or by a staff member of a violation, misinterpretation, or misapplication of the terms of this agreement or of established policy thereunder shall be deemed a grievance when presented in writing.

B. Purpose -- The purpose of this procedure is to secure, at the lowest possible administrative level, equitable solutions to grievances which may arise from time to time. Both parties agree that proceedings, but not necessarily the grievance itself, will be confidential, and that the proceedings will be as informal as is mutually agreeable. Records shall be kept by both parties.

C. Grievance Representation -- Upon selection and certification by the Association, the Board shall recognize an Association Grievance Committee. The committee's composition shall be as follows: One elementary teacher, one junior high school teacher, one senior high school teacher, one administrator, and the Executive Director of the Association. The president of the Association shall notify the Director of Personnel of the persons appointed to the committee by May 31 of each year.

D. Procedure -- Since it is important that grievances be processed as rapidly as possible, the number of days indicated at each step shall be considered a maximum, and every effort will be made to expedite the process. Staff members having grievances must follow these steps:

Step 1: The parties acknowledge that it is usually most desirable for a staff member and his supervisor to resolve problems through informal oral discussions. Therefore, any claim shall first be presented orally to the immediate supervisor. The Association building representative shall be present to assist in the oral resolution of a difference. It shall be the responsibility of the staff member to see that the Association representative is present.

Step 2: If a settlement satisfactory to the staff member is not arrived at orally, he may file a written statement in quadruplicate on forms provided by the Board within four school attendance days of the oral discussion. In stating his grievance, the staff member must specify the document and the section which was allegedly violated, and must give tangible evidence in support of his grievance. This statement shall be signed by the staff member and presented to his principal or immediate supervisor who shall certify with his signature the date and the hour of its receipt. This certification shall be witnessed by the staff member. The principal or immediate supervisor shall, within four school attendance days, write his answer on this form, date it, and sign it. This answer shall be presented to the staff member who shall certify with his signature the date and the hour of its receipt. This certification shall be witnessed by the principal or immediate supervisor. The grievance will be regarded as settled and closed four school attendance days after receipt of the answer from the principal or immediate supervisor, providing the staff member has not signed the form for appeal of the grievance. Any decision accepted as satisfactory, or appealed to Step 3, shall be sent immediately to the Director of Personnel. At this time, the grievance will be numbered and two copies sent immediately to the Executive Director of the Association unless the staff member requests that the Association not be involved.

Step 3: If the staff member wishes to appeal the answer of the principal or immediate supervisor, the Association Grievance Committee will meet and render a decision within four school attendance days of receipt of the two copies from the Director of Personnel. If the Association Grievance Committee decides that the grievance is invalid, then the Association will consider the matter closed, and further appeal by the staff member shall be without participation by the Association. The Association Grievance Committee shall immediately send its decision to the Director of Personnel.

Step 4: If the staff member wishes to continue the appeal, he or a representative of the Association Grievance Committee, or both, must request, within four school attendance days of the receipt by the Director of Personnel of the decision of the Association Grievance Committee, a meeting with the Director of Personnel. The Director of Personnel will then schedule a meeting at a time convenient to both parties. The decision of the Director of Personnel shall be sent to the staff member within four school attendance days following the meeting.

Step 5: If the staff member wishes to continue the appeal, he or a representative of the Association Grievance Committee, or both, must request, within four school attendance days of receipt of the decision of the Director of Personnel, a meeting with the Board in personnel session. In addition to the staff member, this session may be attended by an Association representative. The session shall be held within a four-week period of receipt of the request. A decision shall be made within seven calendar days of the session, and copies of the written decision shall be sent immediately to the staff member, the chairman of the Association Grievance Committee, and the Director of Personnel.

ARTICLE V

STANDARDS FOR EMPLOYMENT

A. Every effort will be made by the Board to employ teachers having at least a bachelor's degree from an accredited institution of higher learning.

B. Only in times of emergency will teachers be employed who have provisional certificates.

ARTICLE VI

TEACHING DAYS AND HOURS

A. The teaching year shall consist of 185 days, of which 180 shall be made up of days with pupil attendance and/or institutes. The school calendar shall be in compliance with the Illinois School Code and subject to revisions therein.

B. The school calendar shall be prepared after conferring with the Association. After adoption the calendar shall be attached to this Agreement as Appendix #3.

C. The policy of establishing the hours in the school day for staff members shall be as follows:

1. The school day shall be determined within the building by cooperation between the principal and the faculty.

2. The teacher will assume the responsibility for a daily schedule that is commensurate with his professional obligation.

3. The principal will assume responsibility for scheduling that is necessary for the good educational planning and the legal safety of children.

D. Each staff member shall have a duty-free lunch period which complies with Section 24-9 of the Illinois School Code.

ARTICLE VII

TEACHING LOADS AND ASSIGNMENTS

A. Teaching loads shall be limited to no more than twenty-six (26) hours of assigned responsibilities per week. In addition, teachers will be expected to be on duty during scheduled passing time, including before and after school.

B. Staff member participation in extra-curricular activities for which no additonal compensation is paid shall be voluntary.

C. Staff members shall participate in building faculty meetings and department meetings as scheduled.

D. Travel time of staff members directly related to teacher duties shall be considered as a part of such teacher's teaching day.

E. Teachers shall be assigned only within their major and minor fields of study and only within the range of grade level as permitted under their certificate.

F. Reassignments of grade levels or subjects within a building may be made at any time with the mutual consent of the parties involved. Unilateral reassignments may be made when staff members are unavailable for consultation or when scheduling emergencies arise as long as such assignments do not create a vacancy which is filled by a person qualified to fill the original vacancy.

G. The Board through the principal will give written notice of assignments for the following school year by the end of the current school year.

H. Teachers shall:

1. Conduct the classes assigned in a way that will give the students the richest experiences the teacher is capable of providing for them.
2. Keep records as requested by the principal.
3. To the best of their ability, keep informed on the latest research findings in their field of teaching and in the area of the psychology of learning.
4. Prepare daily lesson plans and keep them in desk for use of substitutes in case of teacher's absence.

ARTICLE VIII

TEACHING CONDITIONS

A. As rapidly as it is possible to provide teachers and rooms, the size of classes shall be in accordance with the best known practice and in the interest of the greatest possible teacher efficiency. The Board will work toward these objectives: (1) Standard class size of 25 students, (2) Maximum class size of 30 students with exceptions made for music, physical education, and such other subjects. This shall not preclude the adoption of innovative patterns of classroom organizations.

B. The staff recognizes its responsibility to all students and shall agree to take that responsibility. However, at the secondary level no teacher shall be required to teach more than two (2) classes of students designated as individual or low ability classes without the consent of the teacher involved.

C. Staff members agree to assume responsibility to secondary students in vocational exploration in group work with children and to college students who are assigned for student teaching. However, no staff member shall be assigned one of these secondary students or a student teacher without first giving his consent.

ARTICLE IX

PROMOTIONS, VACANCIES, AND TRANSFERS

A. Information regarding positions which are to be available, either through creation or vacancy, shall be publicized to the staff by posting notices on all school bulletin boards with a copy to the Association office. Where specific training, experience, or other qualifications are prerequisites for any position that is to be available, such conditions shall be stated in the job description.

B. Staff members may apply for any vacancy. In filling vacancies, the Board agrees to give due weight to the professional background and attainments as well as other relevant factors of all applicants. The decision of the Board as to the filling of vacancies shall be final.

C. The responsibility for the selection of personnel to staff a building shall be vested in the principals or other personnel (such as department heads), designated by the superintendent, and the Director of Personnel.

D. The practice of employing married couples to teach in the same building shall be avoided when possible.

E. Any staff member presently employed in the district may apply for a transfer to another building.

F. All requests for transfer shall be submitted to the Director of Personnel on forms provided by the Board.

G. Any member of the staff who desires transfer from one building to another shall apply in writing to the Director of Personnel no later than April 1, if the transfer is to become effective the following September. If, in the judgment of the administrative personnel listed in paragraph C above, the transfer is in the best interest of the school system, the request will be granted. Notification of the decision will be made by the Director of Personnel.

H. Transfers may be made at any time with the mutual consent of parties involved. Unilateral transfers may be made when staff members are unavailable for consultation or when emergencies arise, as long as such transfers do not create a vacancy which is filled by a person qualified to fill the original vacancy.

ARTICLE X

SICK, EMERGENCY, AND PERSONAL LEAVE

A. Sick and emergency leave without loss of pay shall be credited annually to each full-time staff member on the first day of his employment year.

1. Ten (10) days for staff members on 39, 40, or 41 week contracts.
2. Eleven (11) days for staff members on 42 to 47 week contracts.
3. Thirteen (13) days for staff members on contracts of 48 weeks or longer.
4. Staff members under contract for less than full time but half time or more will be allowed one-half (1/2) the normal sick and emergency allowances provided full-time staff members.
5. Staff members who are hired after the opening date shall be credited with a proportionate number of sick and emergency leave days rounded off to the nearest one-half (1/2) day.

B. Emergency leave shall include quarantine, serious illness or death in the immediate family or household. (Immediate family shall include father, mother, brother, sister, spouse, or child of the staff member, and father, mother, brother, sister of spouse, or persons in loco-parentis)

C. Personal Leave

1. Staff members will be permitted a maximum of one day absence annually when necessary for personal reasons other than illness, with such absence to be charged against accrued sick leave. Substitute and staff members teaching less than one-half time will not be eligible for any personal leave days.
2. If possible, application for personal leave shall be made to the appropriate supervisor, at least one day in advance of taking the leave.
3. Except as provided below, the applicant need only state that he is taking personal leave under this paragraph.

   (a) Personal leave days may not be taken on the first day of school, on the first working day preceding or following a vacation day or holiday, or on days when final examinations are scheduled. Exceptions to this shall include a court appearance, graduation exercises, honors convocations honoring the staff member, or a religious holiday.

D. Staff members shall be permitted a maximum of one (1) day to attend their own college graduation exercises or that of their son, daughter, husband, or wife without a salary deduction, with such absence to be charged against accrued sick leave.

E. If the staff member does not use the full amount allowed for personal illness, emergency leave, personal leave, or graduation exercises leave, the amount unused shall accumulate to a total of 120 days, exclusive of the allowance for the current year.

F. The accumulated sick leave shall automatically terminate on the date that a staff member's resignation becomes effective.

ARTICLE XI

ABSENCES BEYOND ACCUMULATED SICK LEAVE

A. Deductions for absences for which leave is not granted shall be at the rate of 80% of the per diem salary rate according to the following three provisions:

1. For illness beyond accumulated sick leave time, the above provisions (80% deductions) shall extend until the teacher can qualify for temporary disability pension under the Illinois Teacher Retirement System, but not to exceed a total of thirty (30) days in any one year. For teachers not covered by the retirement system, the period of 80% deduction shall be limited to thirty (30) days illness beyond accumulated sick leave.

2. For illness or death in the immediate family, this provision shall be limited to ten (10) days beyond accumulated leave for this purpose.

3. The thirty (30) days and the ten (10) days referred to in 1 and 2 shall not be accumulated from year to year.

ARTICLE XII

LEAVES OF ABSENCE

A. Maternity Leave

1. Any married teacher on tenure who becomes an expectant mother shall give written notice of that fact to the Superintendent of Schools at least five (5) months before the expected confinement date.

2. The Board shall have power to determine in each case when the teacher concerned shall discontinue her school duties and shall go on leave of absence without pay, but in no case shall this be later than two (2) months prior to the expected confinement date. The maternity leave shall extend until such time as a written statement, indicating that the staff member is physically able to return to work, is provided by the attending physician, and providing there is a vacancy for which she may qualify.

3. Upon written request by the staff member, her maternity leave shall be extended to as much as two years beyond confinement.

4. If the absence from teaching of a teacher not on tenure would occur during the two-year probation period and would preclude the necessary observation of her work before being placed on tenure, the date on which she shall discontinue teaching as determined by the Board shall also be considered the date of resignation and termination of service by the teacher. If this date of termination should fall on or after April 1 of the second year of the probation period and she is recommended for tenure, the date of her possible return shall be determined by the same policy as governs the return of teachers on tenure.

5. Should a teacher who resigns under the above conditions wish to return to the staff, careful consideration will be given her application.

B. Military Leave

Staff members required to serve in the armed forces shall be granted a leave of absence without pay for the period in service. The time spent in the service shall be credited to them on the salary schedule upon their return to the school system. The staff member shall retain all accrued benefits while on leave.

C. Detached Service Leave

The Board may grant staff members detached service leave without pay to work for an educational institution, a foundation, or an official governmental agency, including the Peace Corps. A staff member who is on tenure and who is granted detached service leave shall not forfeit tenure status or other accrued benefits while on leave.

D. Study Leave

Upon application, the Board may grant leave of absence without pay for study not to exceed two years. A staff member who is on tenure and who is granted study leave shall not forfeit tenure status or other accrued benefits while on leave.

E. Extended Illness

Any staff member whose personal illness extends beyond the period compensated under Article XI will be granted a leave of absence without pay or increment until such time as a physician certifies the staff member is capable of returning to work. The Board may request an examination by a Board appointed physician. In no case shall extended illness leave extend beyond two (2) calendar years. The staff member shall retain all accrued benefits upon returning to work.

F. Extended Leaves

Staff members who are granted extended leaves of absences under Sections A through E above cannot be assured of placement in the same position when they return. The best possible assignment, however, shall be made within the existing vacancies.

G. Visiting Day

A staff member may be allowed one (1) visiting day each year with full pay.

1. Visitations may be within or outside the Decatur school system at such place or places as present the greatest opportunity for growth in the staff member's field or work, and must be mutually agreed upon by the staff member and the supervising principal.

2. Unused visitation days may accumulate to a maximum of three (3) days.

3. The plan and report of the visitation should be a cooperative enterprise between the staff member and the supervising principal.

4. On the approval of the supervising administrator, a staff member may use allowable visitation days for purposes of attending professional meetings.

H. Jury Duty and Court Subpoena

Any staff member summoned to jury duty or issued a court subpoena shall be paid his full salary for each working day of absence, provided that the staff member pays the district the jury fee or witness fee.

I. Accrued Benefits

Accrued benefits shall be defined to mean tenure status, accumulated sick leave, placement on the salary schedule (staff member retains full salary placement credit to which the staff member was entitled at the time the leave was granted), and accumulated visitation days.

ARTICLE XIII

INSURANCE PROTECTION

A. The Board will continue to provide for each certificated staff member the insurance plan presently in effect.

ARTICLE XIV

PROTECTION OF STAFF MEMBERS

A. The Board hereby declares its full support of student disciplinary procedures and policies which are presently in effect and those procedures and policies which may hereafter be adopted by the Board in the matter of student discipline. The Board, the administration, and the staff members recognize a mutual responsibility for the enforcement of such policies and procedures.

B. The Board hereby agrees to indemnify and protect staff members against death and bodily injury and property damage claims and suits, including defense thereof, when damages are sought for negligent or wrongful acts alleged to have been committed in the scope of employment or under the direction of the Board. This indemnity shall include judgments, interest, Court costs, reasonable attorney fees, and any costs necessarily expended in the defense of any suit heretofore described.

C. The Board does hereby agree to indemnify and protect staff members against the costs of defense of a criminal proceeding against any staff member by reason of any acts committed within the scope of employment by said staff member. The costs of defense shall include reasonable attorney fees and any other costs necessarily expended in the defense of such criminal action. The indemnity stated in this paragraph shall not apply in the event the staff member is found guilty by a jury or Court of the criminal charge brought against such staff member.

D. Any reasonable time, when a staff member would otherwise be attending to his teaching duties, spent in the preparation of the defense, or attendance at a judicial hearing, pertaining to a civil or criminal charge described in paragraphs B and C of Article XIV shall not result in a loss of salary or accrued benefits by such staff member.

E. In the event of an injury to a staff member while in the scope of his employment, the salary of such staff member shall continue in full, without reduction in accrued benefits, until

a. He is able to return to his full time teaching duties, or

b. The end of the contract of employment of the staff member with the Board, or

c. Such staff member qualifies for disability or pension benefits under the Illinois Teachers Retirement System,

whichever event occurs first. In the event Workmen's Compensation is payable by reason of such injury, the salary of such injured staff member may be reduced by the amount of the temporary incapacity payments payable under Workmen's Compensation.

F. The general policy, subject to emergency exceptions, shall be that no action against a staff member may be taken on the basis of a complaint by a parent of a student, or student, unless such proposed action is first reported in writing to such staff member affected thereby and the staff member given an opportunity for a hearing before a representative of the Board concerning the complaint and action proposed to be taken thereon.

G. Any staff member absent from teaching duties by reason of any of the events set forth in Article XIV shall be considered on leave of absence, provided, however, that such period of absence shall not exceed the time limitations as set forth in subparagraphs D and E of this Article.

ARTICLE XV

SUMMER SCHOOL

A. The summer school at the senior high level shall consist of two (2) four-week sessions.

B. The summer school at the elementary and junior high level shall consist of one (1) six-week session.

C. The salary of the staff member for summer school shall be $6.70 per hour. A full load is defined as four (4) contact hours in a classroom situation; five (5) contact hours for behind-the-wheel driving.

D. Application for summer school teaching may be made by a qualified staff member on forms which may be obtained from the school principal or the personnel office. Application shall be filed with the Director of Summer School or the Director of Personnel on the date announced by the Superintendent. Summer school staff will be selected by the first day of May.

E. Summer school positions will be filled by staff members regularly employed by the Board, unless a qualified applicant from the Decatur School System is not available. Preference will be given to those who, for the past two (2) years, have been teaching in the field of their major preparation, and who meet North Central Association requirements. Those who have taught in this program for the past three (3) summers will not be selected if there are sufficient other candidates applying. The following criteria will be considered in making the selection:

1. The staff members who are best trained to meet the needs of the curriculum to be offered.

2. The staff members who are satisfactorily rated by their principals.

3. Tenure staff members will be selected unless a particular teaching need cannot be filled from the list of applicants.

F. All applicants will receive notification from the Personnel Office:

1. That they have been appointed to a position.

2. That there is a possibility for appointment at a later date.

3. That they will not be appointed this summer.

ARTICLE XVI

COMPENSATION

A. The salaries of all staff members covered by this Agreement are set forth in Schedules A and B of the Appendix which is attached hereto and made a part hereof.

B. The Board agrees to adopt the individual staff member contract forms attached hereto as in Appendix 4.

ARTICLE XVII

MISCELLANEOUS PROVISIONS

A. Where it is practical in existing buildings, the Board shall make available in each school at least one room appropriately furnished and vented which shall be reserved for use as a faculty lounge in which smoking is permitted. Provisions for such facilities will be made in all future buildings.

B. Copies of this Agreement shall be reproduced at the expense of the Board and be presented to all staff members now employed or hereafter employed by the Board.

C. The Board agrees to make every reasonable effort to provide qualified substitute teachers, and the teachers shall be informed of a telephone number they may call to report unavailability for work. Teachers shall report unavailability for work at the earliest possible time and shall make every effort to report no later than 7:00 a.m.

D. In schools where continuous cafeteria service is not available for teacher use, the teachers, with prior consent of the principal, may arrange for the installation of vending machines for beverages and confections. The installation, operation, control, and maintenance of these machines shall be the responsibility of the teachers in that building. All proceeds therefrom shall be used in such a manner as the teachers in that building determine.

E. In the event that it becomes necessary to reduce the number of staff personnel through the cutting of programs in the School District, the Board agrees to give due weight to the professional background and attainments of all staff members. These staff members who are fully qualified to staff the positions kept active shall be retained.

F. This agreement may not be modified in whole or in part by the parties except by an instrument in writing duly executed by both parties, and no departure from a provision of this Agreement by either party, or by their officers, agents, or representatives, or by members of the negotiating committee, shall be construed to constitute a continuing waiver of the right to enforce such provisions.

ARTICLE XVIII

DURATION OF AGREEMENT

The provisions of this agreement will be effective as of August 29, 1968, and will continue and remain in full force and effect until August 28, 1969.

IN WITNESS WHEREOF, the parties hereunto set their hands and seals this _____ day of _____, 1968.

Decatur Education Association

By_____
President

Decatur Board of Education

By_____
President

SCHEDULE A

SALARY SCHEDULE FOR THE 1968-69 SCHOOL YEAR

1. Teachers' Salary Schedule

$6300 BASE 5% INDICES VERTICALLY AND HORIZONTALLY

Years Experience	B.A.	+16*	M.A.	+16	+32	+48	+64
0	$6300	$6615	$6930	$7245	$7560	$7875	$8190
1	6615	6930	7245	7560	7875	8190	8505
2	6930	7245	7560	7875	8190	8505	8820
3	7245	7560	7875	8190	8505	8820	9135
4	7560	7875	8190	8505	8820	9135	9450
5	7875	8190	8505	8820	9135	9450	9765
6	8190	8505	8820	9135	9450	9765	10080
7	8505	8820	9135	9450	9765	10080	10395
8	8820	9135	9450	9765	10080	10395	10710
9	9135	9450	9765	10080	10395	10710	11025
10	9450	9765	10080	10395	10710	11025	11340
11			10395	10710	11025	11340	11655
12					11340	11655	11970
13							12285
24	9765	10080	10710	11025	11655	11970	12600

Credit for outside experience: Maximum eight (8) years allowed, including military service as accepted by the Illinois Retirement System and teaching experience. Partial years outside Decatur will not be counted.

*These sixteen (16) hours must be accepted by a university or college and counted toward a master's degree. Credit after the master's degree must be approved by the Superintendent before allowable in the schedule.

2. Administrators' Index Schedule

Position	Weeks Employed	1	2	3	4	5
General Assistant Superintendent	52	1.7223	1.7639	1.8055	1.8471	1.8887
Assistant Supt. - Elementary	52	1.6927	1.7343	1.7759	1.8174	1.8590
Director of Personnel	52	1.4788	1.5204	1.5620	1.6036	1.6452
Business Manager	52	1.4788	1.5204	1.5620	1.6036	1.6452
High School Principal	52	1.4788	1.5204	1.5620	1.6036	1.6452
Administrative Assistant	52	1.3601	1.4017	1.4433	1.4848	1.5264
Director of Research	52	1.3601	1.4017	1.4433	1.4848	1.5264
Director of Compensatory Education	52	1.3601	1.4017	1.4433	1.4848	1.5264
Coordinator Adult-Post High Education	52	1.3601	1.4017	1.4433	1.4848	1.5264
Supervisor Area Adult Cont. Center	52	1.3472	1.3898	1.4314	1.4730	1.5145
High School Assistant Principal	52	1.3472	1.3898	1.4314	1.4730	1.5145
Coordinator Vocational - Indus. Educ.	46	1.2769	1.3159	1.3549	1.3939	1.4330
Junior High School Principal	46	1.2769	1.3159	1.3549	1.3939	1.4330
ESEA Director of Dem.	43	1.1935	1.2300	1.2665	1.3030	1.3395
Coordinator of Special Education	45	1.1935	1.2300	1.2665	1.3030	1.3395
Supv. Placement & Counselling A.A.C.C.	52	1.1831	1.2196	1.2561	1.2926	1.3291
Psychologist	43	1.1831	1.2196	1.2561	1.2926	1.3291
Group III Elem. Principals (20 or more teachers)	45	1.1831	1.2196	1.2561	1.2926	1.3291

Group II Elem. Principals (14-19 teachers)	44	1.1453	1.1810	1.2167	1.2524	1.2880
Coordinator Library Services	43	1.1380	1.1728	1.2076	1.2424	1.2772
Coordinators Art, Music, Phys. Ed.	42	1.1104	1.1443	1.1782	1.2121	1.2461
Dir. of Gift Dem. Center ESEA Dir. of Research	41	1.1082	1.1430	1.1778	1.2126	1.2474
Group I Elem. Principals (up to 13 teachers)	43	1.1082	1.1430	1.1778	1.2126	1.2474
Coordinator of Nurses	42	1.0519	1.0858	1.1297	1.2126	1.1976
Director of Program Development	41	1.0163	1.0494	1.0825	1.1156	1.1487
Coordinator Comp. Education	41	1.0163	1.0494	1.0825	1.1156	1.1487
Junior High & Elem. Asst. Prins.	41	1.0163	1.0494	1.0825	1.1156	1.1487
Supv. of Programs for Mentally Retard.	43	1.0163	1.0494	1.0825	1.1156	1.1487

The appropriate index shall be applied to the amount at the eleventh step of the master degree.

It will be the discretion of the Superintendent to place newly appointed administrators in columns 1, 2, 3, 4, or 5 of the administrators' salary index.

3. Salary Adjustments

Salaries of the certificated staff members shall be in accordance with the salary schedule adopted annually by the Board and the Association. Any change in salary shall be noted on new salary contracts at the time of change. Salaries shall be determined in accordance with a salary schedule based on training and experience. If a salary schedule adjustment is made during a school year, any staff member who is unable to complete that school year will receive an adjustment in proportion to that part of the school year that the staff member has been employed.

When a staff member earns a degree or earns sufficient semester hours to move from one salary sehedule step to another, adjustments on the salary schedule shall take place at the beginning of the ensuing semester. Full credit for teaching experience shall be given when adjustments are made. An official transcript of college credit and an application for adjustment must be filed with the Board to receive an adjustment.

4. Payroll Procedures

1. The first check received by the teaching staff will be the second Friday after the opening of school, and bi-weekly thereafter.

2. Contractual salaries will be multiplied by 10/200 to determine the gross bi-weekly amount. Staff members desiring to be paid on a twelve-months basis may request that a multiplier of 10/260 be applied. Any balance in the Board's contractual salary commitment to a staff member shall be paid on the last day of the school year.

3. Should a regular pay date fall during a period when school is not in session, staff members shall receive the pay due on that date on the last day prior to recess.

4. A deduction of 7% of each salary is made as the staff member's contribution to the Illinois Teacher's Retirement System. This is required by state law. There is a deduction for income tax on each salary payment to meet the terms of the Federal Withholding Tax. The amount of this deduction is determined by the salary and by the classification on the employee's Withholding Exemption Certificate.

5. All authorizations for payroll deductions will be made on one form.

6. Staff members required to drive personal automobiles in the course of their employment or otherwise using their automobiles in service to the District shall be reimbursed ten cents (10¢) per mile driven.

SCHEDULE B

COMPENSATION FOR SPECIAL ASSIGNMENTS

A. The amounts set opposite the following list of special assignments shall be added to the salary the person would get as a classroom teacher to cover responsibilities over and above those usually assigned during the nine (9) calendar months.

	% of Base $6,300
Junior High School Dean of Girls	6%
Junior High School Coaches	8%
Senior High School Dean of Boys	22%
Senior High School Dean of Girls	9%
Senior High School Coaches:	
Football	16%
Assistant Football	8%
Basketball	16%
Assistant Basketball	8%
Golf	7%
Baseball	8%
Junior Varsity Baseball	5%
Wrestling	8%
Assistant Wrestling	5%
Tennis	7%
Track	8%
Assistant Track	5%
Cross Country	7%
Senior High School Dramatics	7%
Senior High School Yearbook	7%
Senior High School Paper	7%
Senior High School Student Council	7%
Senior High School Music:	
Band	9%
Vocal	8%
Orchestra	5%
Senior High School Cheerleader Director	5%
Senior High School Department Heads	4%
Senior High School Athletic Director	20%
Special Education Teachers	4%

Any extra duty-extra pay assignment will be indicated on the individual salary schedule.

DECATUR PUBLIC SCHOOLS 4/9/68

Calendar, 1968-69

Starting Dates

Thursday, Aug. 1 -- Junior High Principals, Coordinator of Vocational-Indus. Educ.
Thursday, Aug. 8 -- Group III Elementary Principals, Coordinator of Special Educ.
Thursday, Aug. 15 -- Groups I and II Elementary Principals, Psychologist, Supervisor of Mentally Retarded, Coordinator of Library Services, Director of Title III Demonstration Center, Coordinators of Art, Music, Physical Education, Health Services, and High School Dean of Boys.
Thursday, Aug. 22 -- Elementary and Junior High Assistant Principals, Director of Program Development, Director of Research IDEA, Director of Gifted Demonstration Center, Coordinator of Compensatory Education, ESEA
Monday, Aug. 26 Teachers new to Decatur System
Thursday, Aug. 29 -- Teachers meet with principal in respective buildings
Thursday, Aug. 29 -- Student enrollment starts at 10:00 a.m.

Data Necessary for Preparation of Attendance Reports

Dates Abstract Periods	Days of Institute	Days of School	Holidays and Vacation Days
Aug. 29 - Sept. 28		21	1 - Labor Day
Sept. 30 - Oct. 28	2	19	
Oct. 29 - Nov. 28		21	2 - Veterans' Day, Thanksgiving
Nov. 29 - Dec. 28		15	6 - Christmas and Vacation
Dec. 30 - Jan. 28	1	18	3 - New Year's Day and Vacation
Jan. 29 - Feb. 28		22	1 - Lincoln's Birthday
Mar. 1 - Mar. 28		20	
Mar. 31 - Apr. 28		20	1 - Good Friday
Apr. 29 - May 29		22	
May 29 - June 4		4	1 - Memorial Day
	3	182	15

182 days of school with pupils attending, plus 3 days of Institute (School Code Section 10-19) Total days - 185

* Monday	September 2	Labor Day
* Friday	October 11	Institute
* Monday	October 21	County Institute
* Monday	November 11	Veterans' Day
* Thursday	November 28	Thanksgiving
Friday	November 29	Vacation
Friday	December 20	Christmas recess begins at usual closing time
Thursday	January 2	School resumes usual time
* Friday	January 24	Decatur Institute
* Wednesday	February 12	Lincoln's Birthday
* Friday	April 4	Good Friday
* Friday	May 30	Memorial Day

* Legal holidays and days of Institute

August 29, 1968 (registration) and June 4, 1969, will be counted as days of attendance for pupils.

Last dates of employment for 1968-69 year:

June 4, 1969 -- Teachers
June 11, 1969 -- Coordinators of Art, Music, Physical Education, and Health Services
Elementary and junior high assistant principals
Directors of program development
Director of Research IDEA
Director of Gifted Demonstration Center
Coordinators of Compensatory Education ESEA
High school deans of boys
June 18, 1969 - Group I Elementary Principals, Psychologist
Supervisor of Mentally Retarded
Coordinator of Library Services
Director of Title III Demonstration Center
June 25, 1969 -- Coordinator of Vocational-Industrial Education
Junior High Principals
Coordinator of Special Education
Group II and III Elementary Principals

The Decatur Education Association requests that two of the unused snow days be taken at Easter and the remainder at the end of the year.

TEACHER CONTRACT OF EMPLOYMENT

The following contract form shall be issued to each staff member annually.

DECATUR PUBLIC SCHOOLS
Board of Education
District No. 61, Macon County
Decatur, Illinois

_____
Date

_____
Name

As a teacher employed in the Decatur School District No. 61 you are hereby notified:

1. Your employment for the year 19__ to 19__ will begin _____, 19__ and end _____, 19__ and will consist of no more than 185 days on duty.

2. Your salary will be $_____.

3. You will be paid $_____ for _____.
extra duties

This individual contract is made pursuant to and subject to the terms and conditions of a master agreement between the Board of Education and the Decatur Education Association.

_____ _____

Staff Member Secretary, Board of Education

Special Items

THE "MASTER CONTRACT" IN PUBLIC EDUCATION

Erwin B. Ellmann

The following address was prepared for delivery November 15, 1968, before the annual meeting of the National Organization on Legal Problems of Education at San Diego, Calif. Mr. Ellmann has served for the past three years as counsel to the Michigan Education Association. He is a partner in the Detroit law firm of Levin, Levin, Garvett and Dill.

Former HEW Secretary John Gardner recently warned against the habit of educators "debating policy alternatives left behind five years ago." This is a particularly apt admonition in evaluating the so-called master contract as we know it at the present time in public education. When I first became involved with such problems in 1965 with the passage of Michigan's Public Employment Relations Act, the source book presented to me was a revised edition of an NEA pamphlet on professional negotiation, dated July 1965, collecting agreements then in force in different areas of the country. Those were the days when most teacher organizations mountainously labored with school boards to bring forth mice – pious declarations that teaching was a profession, that the teachers recognize and bow down before the board's legal powers, that everybody favors cooperation in principle so long as it doesn't disturb any existing practices, that the parties are anxious to talk to each other but that they can do so only after setting forth in fastidious detail how they are to begin to get started to commence the dialogue. These documents, which were usually only a few pages long, concentrated on how many chairs would be filled on each side of the table, who would call the meetings, and the procedures or instrumentalities for discussion. Rarely was there anything seriously said about substantive terms and conditions of employment of teachers.

Today such documents are as remote and outdistanced as medieval manuscripts. No one can take them seriously. They are curios of an age before teachers joined the revolution of our times. In a few years teachers have made a giant leap forward; they have passed from the stone age to the space age almost overnight. While in different states and communities there have been various rates of progress, the main body of the organized teachers of the country is, I think, moving from appalling naivete to high-geared sophistication. The collective bargaining agreement today in public education is no less detailed, comprehensive and imaginative than in the private sector.

In 1965 the Public Employment Relations Act of Michigan was given immediate effect. We had no "lead time," for both the statute and our competition were upon us. We had quickly to determine our bargaining objectives. There were few models. We borrowed liberally from pioneer contracts negotiated by the NEA in Newark and Rochester and New Haven and by the AFT in New York and Detroit. We appropriated ideas from industrial union agreements where applicable or suggestive. Mostly, we just went into an opium trance and improvised. Within a few weeks after the law became effective we distributed throughout the state a handbook on how to get recognition or certification, how to petition for an election, how to start negotiating, and a suggested model for what might be a first collective bargaining agreement.

Instead of a short memoranda in which boards and teachers promised to love the children, we suggested to our units a thirty-five page typewritten document, together with exhibits and attachments, as the bare bones of a contract between the parties. The proposal produced among teachers and administrators and MEA representatives a combination of vertigo, nausea and terror. It was too long. It was too complicated. It covered things no teacher had thought about or was interested in. It reiterated gobs of the statute and the rights of organization and negotiation which the Legislature had proclaimed.

Our first master contract may not have been a model of terse English prose but it provided the overnight means for educating everyone as to what the statute meant. It opened bargaining vistas. It suggested negotiable subject-matter. It showed the form and contour of a typical collective agreement. It let teachers see what was meant by negotiable terms and conditions of employment. And it outlined constructive, realistic solutions to some of the problems which teachers long had but did not know how to solve.

The importance of this basic contract can hardly be overemphasized. It was a written document which could be preserved and referred to later; it was a handy guide which saved creative thought at the local level.

It quickly helped get most teachers in most areas of the state thinking along somewhat parallel lines while at the same time encouraging reasonable diversity. For 1966-1967 we circulated a revised and expanded contract version with annotations—pointing out relevant decisions or statutory provisions supporting contract proposals, indicating similar provisions already in effect and giving incidental guidance to the negotiators. The following year the MEA put out a further revision and we are beginning work now on an edition for 1969-1970 with new proposals to keep pace with the rapidly changing scene and needs of public education.

We have eliminated some of the provisions which describe the statute and which were originally included mainly for missionary

purposes. But we have not shrunk from seeking contractual commitments from school boards which parallel their statutory obligations, for this can provide us with a choice of remedies—that is, unfair labor practices or breach of contract. Some of the provisions have become more spare while others have been expanded.

These basic materials have since been sent throughout the country by the Michigan Education Association. We are flattered that they are now being widely imitated. Agreements in Arizona, Indiana and New Jersey, I have recently noticed, contain familiar language, even down to the typographical errors. It is gratifying to discover that persons unknown and maybe yet unborn will, in Justice Holmes' phrase, be "marching to the measure" of our thought. Acknowledging our debt to those who preceded us, we are pleased if we can be of help to those who are just getting into this interesting and protean area. If viticultural allusion in California is not currently amiss, I am sure that all of the toilers in the MEA vineyard are gratified if you can save yourselves work by building on what we have begun.

Current agreements in Michigan run at least 40 or 50 pages and some are twice that size. They contain detailed provisions for the governance of all aspects of the employment relation between teachers, administrators and the board of education. Our bargaining units are all-inclusive but exclude supervisory personnel because of the necessities of our statute. Our conception of bargainable issues embraces everything which can affect the teacher on the job, including design of buildings, parking, restroom, telephone and research facilities. Our master contracts cover all phases of compensation, whether in terms of annual salaries, allowances for extra-curricular assignments, leave provisions, terminal pay or study allowances. A recent MEA study based on 333 questionnaires actually returned, shows that in most of our districts individual teacher contracts are expressly made subject to the master agreement and that binding arbitration of grievances is provided in 133 contracts. Teacher aides or para-professional assistants are encouraged in 88 contracts, 20 explicitly authorize extension of the school year, and 121 provide for joint teacher-board consultations on the fiscal problems of the school district. Survey of Selected Data from 333 Education Association Agreements, 1967-1968 (1968). We provide for professional evaluation of both tenure and probationary teachers and seek to safeguard job security against frivolous and irrational board action. You may have noted a recent decision of an arbitrator holding that a high school football coach could not be removed from this special assignment without reasons which were substantial and fairly demonstrated. *Board of Education, Warren Consolidated Schools, GERR-250* D-1, June 24, 1968. Our contracts cover problems of student discipline and teacher protection and methods for securing and expanding academic freedom within and outside the classroom. We negotiate a school calendar for the year and the length of the school day, including preliminary and postliminary activities. A recent study by a University of Michigan group suggests that while the average annual increase in teaching salaries in the years before negotiations was 3% at the B. A. minimum and 3.5% at the M. A. maximum, during the first two years the negotiation process has yielded average increases of 8% and 9% at the B. A. and 11% and 10% at the M. A. Rehmus and Wilner, "The Economic Results of Teacher Bargaining: Michigan's First Two Years" (1968). This last year the increase was 9% at the B. A. and 11% and 10% at the M. A. and our top salary range in Wayne County in the Detroit area is $7,500 at the B. A. minimum to $13,210 at the M. A. maximum in eleven years. Teachers who have increased their salaries some 30% in three years have little doubt as to the value of collective action.

Where bread and butter issues have been laid to rest, local associations are now devoting more time to renovating curricula, to implementing new techniques to cope with inner-city educational problems and are even taking the first cautious steps toward merit pay recognition for outstanding teacher performances. I have no doubt that in the months or years ahead there will be radical reexaminations of the classic teacher salary schedule which sets premiums upon the indiscriminate amassing of graduate credits in education courses that are often worse than worthless and which perpetually consigns the superior teacher to inferior pay if he will not play the school of education game. Indeed, the current indifference or hostility of schools of education to the aspirations of organized teachers may well produce the expected reaction; academic control over professional qualifications will be challenged and public education may yet see the introduction of the "union hiring hall." In the next few years there will also be revaluation of the blind faith reposed in tenure act procedures which, however well conceived, have now, like juvenile courts, become subject to constitutional infirmities. The persistent unwillingness of many school managements effectively to manage will no doubt be subject to corrective pressures at the bargaining table, just as alert managements will insist upon eliminating the dry rot from the ranks.

I will not pause to catalogue the provisions of a prototypical agreement. You can get that by consulting an index. But I would like to consider with you some provisions which seem worthy of the specialized attention of those who are concerned with the legal implications of the negotiation process.

Any workmanlike collective agreement should contain a recognition clause explicitly giving exclusive recognition to the designated organization as representative of all the employees in the bargaining unit for the term of the agreement. The specialized practices under the California Winton Act and the Minnesota statute are obviously peculiar – and in my judgment, wholly anomalous exceptions which need not long detain us. I understand that there is a movement to change Minnesota's law in the near future. The persistence with which our hosts defend a statutory monstrosity designed to paralyze action by perpetual competition and debate is, I should imagine, a product of the hot noonday California sun. Having one organization negotiating and administering a contract at one time is desirable from the standpoint of the employer and the employee organization. Under most statutes patterned after the federal law, the duty to bargain, as the Supreme Court has said, is an exclusive one and it "exacts the negative duty to treat with no other." *Medo Photo Supply Corp.* v. *NLRB*, 321 U.S. 678, 683, 684 (1944). This raises the question of the standing of the individual teacher, whether a member or non-member of an association representing all members of the bargaining unit, to make a personal complaint, or to invoke the grievance procedure. It likewise raises the question of the standing of the rejected rival organization to insist upon what it calls "equality of treatment" by the employer.

Our Michigan statute contains an explicit provision that an individual employee may present a complaint or grievance to his employer but assures the association a right to be present at any adjustment and provides that no disposition shall be inconsistent with the collective agreement. An overly cautious reading of this language induced us originally to give contractual confirmation to this individual right. School boards agreed with alacrity and often went out of their way to demand stronger assurances to permit the individual to negotiate quite independently of the bargaining representative. We soon realized that we had been unduly protective of the rights of dissident individuals. The federal law, containing similar statutory language, has been construed not to require an employer to entertain the complaint of an individual employee but only to permit it. *Broniman* v. *Great Atlantic and Pacific Tea Company*, 353 F. (2d) 559 (6th Cir., 1965). And there seems little doubt that an employer

may contract to confine grievance negotiations to the recognized bargaining representative. In several cases before our Labor Mediation Board we have established the principle that the Association may properly maintain control over its own grievance procedures, that a school board is not required to entertain a grievance submitted by an individual teacher through an outside attorney for a rival organization, *Matter of Avondale School District*, MLMB Case No. C66 F-71, 1968 Labor Operations 680, that dues deduction, access to mail facilities and bulletin boards and similar channels of communication may be properly confined to the authorized representative of the bargaining unit. A rejected organization representing a minority has no standing to demand privileges obtained through negotiations by the bargaining representative. *Matter of Avondale School District*, MLMB Case No. C66 K-131, July 15, 1968, *Matter of Melvindale-Northern Allen Park School District*, MLMB Case No. C66 F-57, 1967 Labor Opinions 167. Thus, the notion of equality of treatment has been subordinated to the indispensable need to distinguish between the successful organization and the one which has been outvoted. The right of the individual to petition for redress of grievances, in a constitutional sense, no doubt survives. But the constitutional right of petition does not give an individual teacher the right to complain under a contract which specifically confines the grievance procedure to the organization itself.

Whether you are comfortable with this result depends, of course, upon the theoretical preconceptions with which you view the collective bargaining agreement. If it is to be treated as a contract between the employer and the bargaining representative of which the employee is a third-party beneficiary, it is hard to deny the individual beneficiary the fruits of the agreement regardless of the position of the bargaining agent in the particular situation. On the other hand, if you accept Professor Cox's analogy to a trust, the trust beneficiary is not in a position to override the conscientious decisions of the trustee.[1] The unique aspects of the collective bargaining agreement which have defined easy analysis in the private sector are likely to persist when the government is the employer.

Of course, the problem of reconciling individual and group rights may well be aggravated in the public sector because the employer is not only bound by the provisions of the agreement but by the equal protection and due process clauses of the Federal Constitution. It can be argued, also, that employee associations or unions, given special status by a collective negotiation statute, are wielding a sufficient measure of governmental power to be subject to at least some constitutional limitations. In this context the developing "duty of fair representation" can take on special meaning. In a case arising from Warren, Michigan, the contract increased the allowance on the salary schedule for teaching experience performed in other school districts. The Board, when the contract became effective, began paying in accordance with such allowance all teachers newly hired, but refused to grant the same experience credit to teachers already in the system who had come to Warren when a less liberal credit had been accorded. We urged before the chairman of our Labor Mediation Board who was sitting as a private arbitrator, that it would be unconscionable and discriminatory to treat some members of the bargaining unit on a different basis from others, that this would offend the equal protection clause binding upon the board as well as the fundamental obligation of the association to represent fairly all members of the unit. The arbitrator agreed, finding the constitutional obligation overrode what he thought was a contrary provision of the agreement, and awarded approximately $50,000 additional salary to equalize treatment of all eligible teachers. *Warren Consolidated Schools*, 67-1 ARB § 8228 (Robert G. Howlett, 1967).

More recently it has been suggested that a "grandfather clause" which relieves existing personnel from burdens or requirements imposed upon others entering the bargaining unit may be subject to the same objection. In private industry it is commonplace for the parties to handle the problems of the old faithful employee by establishing a so-called "red circle rate" which affords special treatment to the individual so long as he is employed but which does not disrupt the general wage pattern in the plant. It is much more doubtful that this technique is available in public employment for a school board, the courts have said, may not pick and choose consistent with the Fourteenth Amendment. *Aebli* v. *Board of Education*, 62 Cal. App. (2d) 706, 145 P. (2d) 601, 625 (1944).

The relationship between the public employer and the dissident employee is also the subject of important litigation in our state arising out of the so-called "agency shop" or professional responsibility provisions which we have negotiated in many contracts. As you know, this means that if a teacher does not voluntarily join the association and agree to deduction of dues from his paycheck, he is required to pay an equivalent amount as a representation or service fee, upon pain of discharge from employment. Opposition to such provisions originally came from teachers themselves who rejected "union security" as immoral and unprofessional. After they realized that it took an annual budget of hundreds of thousands of dollars effectively to negotiate and administer master contracts in the State, they began to realize that it was more immoral and unprofessional for teachers to enjoy the vast benefits secured by such contracts without paying their fair share of the cost. Nowhere in the state have we encountered employees offering to work under a salary schedule in effect before a master contract was negotiated or who have disclaimed all the other benefits secured by such a contract. Accordingly, we have taken the position that one who receives the benefits should be willing to participate in the costs of the process which brings such benefits about. Parasitism is not a civil right.

In a landmark case in which the MEA participated, *Matter of Oakland County Sheriff's Department*, MLMB Case No. C66 F63 (Jan. 8, 1968), 1968 Labor Opinions 1, 227 GERR F-1 (Jan. 15, 1968), our Labor Mediation Board upheld the agency shop in public employment. Thereafter, the Michigan Federation of Teachers, which has about 20 or 25 units in the state compared to more than 500 districts where MEA units are the bargaining representative, sought to challenge the agency shop provision in public education, contending that it was inconsistent with the Tenure Act. So far all such efforts have been uniformly unsuccessful. *City of Warren Local No. 1383, International Association of Fire Fighters* (Macomb Co. Cir. Ct., No. S67-3311, 1968); *Clampitt* v. *Board of Education of the Warren Consolidated Schools*, 256 GERR E-1 (Macomb Co. Cir. Ct., 1968). See also *Tremblay* v. *Berlin Police Union*, 232 GERR D-1 (N. H. Sup. Ct. 1968). Our Tenure Commission is facing this problem this very morning in Lansing. We are confident that violation of the collective bargaining agreement by failing to pay a representation or service fee will be upheld as proper cause for termination in public employment just as in private employment.

Even in states which have no negotiation legislation, the right of employees to organize together, to express their views about terms of their employment, and to take cooperative action in their own self-interest is supported by constitutional guarantees. While a few courts are hostile to the whole notion of collective negotiation in the public service, most regard it as permissible even if not mandatory

[1] Cox, The Legal Nature of Collective Bargaining Agreements, 57 Mich. L. R. 1, 22 (1958).

for the employer to deal with an employee representative. See, e. g. *City of Fort Smith* v. *Arkansas State Council No. 38,* 269 GERR F-1 (Ark. Sup. Ct., 1968). Where no statutory guidelines exist, there is no reason why the parties themselves may not establish procedures for obtaining recognition, negotiation, resolving impasses, and submitting disputes to third parties for resolution.

Some states, it is true, have no mediation agency or local officials are disinclined to intervene in school disputes. In Hammond, Indiana, recently where a dispute threatened and no state assistance was forthcoming, we invoked the aid of the Federal Mediation and Conciliation Service. If, following *Maryland* v. *Wirtz,* _____ U. S. _____ 20 L. Ed (2d) 1020 (1968), employees of public school districts are engaged in interstate commerce or in the production of goods for interstate commerce within the meaning of the federal Fair Labor Standards Act, there is no reason why this national industry should not obtain federal mediation assistance when required. We took the position that the restricted definition of "employer" under the National Labor Relations Act, excluding governmental employers, had no application to the grant of authority to the mediation agency where the word "employer" does not appear.[2] Further, the mediation functions of the United States Conciliation Service which were transferred to the FMCS contained no restrictions disabling assistance to governmental employers and employees. The federal authorities indicated a willingness to intervene if state officials would not; in no time Indiana decided it could provide mediation help. Certainly, a contract provision in which both parties consent in advance to cooperate with the FMCS if its assistance is requested by either should provide effective mediation facilities even in states which have lagged in providing them.

There are virtually unlimited possibilities for imaginative and creative contract draftsmanship to fill the lacunae in the statutory scheme or to provide relief not otherwise available. This is true both in states with little or no legislation as well as in a state like Michigan. Indeed, it is important to emphasize that such progress as has been made by Michigan teachers has resulted from their own efforts and not from official gratuity or grace. The statute as it finally emerged was far from being congenial to the MEA but we have learned to live with it. Whenever he has occasion to issue opinions under this statute, our Attorney General acts as if there has been no change in labor-management relations since the last century. Some time ago he opined that it was illegal for public employers to contract to submit disputes concerning the interpretation or application of agreements to the binding judgment of an arbitrator. We ignored this nonsense and went about arbitrating cases. In the same *Oakland County Sheriff's* case, the Labor Mediation Board upheld such an arbitration procedure and the courts have followed suit.

More recently our Attorney General concluded that boards of education may not stipulate for terminal pay, for reimbursement of tuition for advanced courses in an "in service training" program or to redeem in cash unused personal sick or leave days. We have hundreds of these provisions presently in effect. While we face arguments from such opinions at the bargaining table, we will continue to negotiate these provisions and defend them if need be in the courts. Under a statute which specifically authorizes negotiation of all terms and conditions of employment of teachers, we see no reason for a grudging construction based upon school codes written long before public employment had to become competitive with private industry.

Our Labor Mediation Board, though competent and conscientious, is extremely conservative to the point where, in my judgment, employees are not receiving the protection which the Legislature contemplated they should have. For either ideological or fiscal reasons, or both, our Board, unlike the NLRB, has refused to investigate charges and to render any assistance in their prosecution. It merely provides a tribunal for adjudication, and the charging party has the burden of preparing his case and presenting it, and establishing that the public employer has committed an unfair labor practice. Pre-trial discovery depositions, suggested in the Board's recently announced procedural rules, are apparently unavailable. Accordingly, charging parties are placed under the heavy burden of having to stumble upon evidence in advance or at the hearing or to bear the consequences of dismissal. This problem has become acute in cases arising under the Michigan equivalent of Section 8(a)(3) where an employee is fired or not reappointed because of alleged organizational activities. In *Matter of Bullock Creek Board of Education,* MLMB Case No. C68 C-16 (July 15, 1968), the Board disclaimed any interest in determining whether there was just cause for the dismissal so long as it was not shown by a preponderance of the evidence that it was motivated by the employee's protected activities. The same conclusion was reiterated in *Matter of Clare County Road Commission,* MLMB Cases Nos. C67 K-149, C67 K-150 (1968) where arbitrary and capricious action was held in no way offensive to the PERA. 270 GERR B-1 (Nov. 11, 1968).

These cases uncritically import into public employment the traditional NLRB approach that a private employer can discharge for a poor reason or for no reason so long as it is not for union activity. But the Federal Constitution protects the tenured and non-tenured teacher alike from arbitrary, capricious or discriminatory discharge, regardless of the purported reason. *Bomar* v. *Keyes,* 162 F. (2d) 136 (2nd Cir., 1947); *Johnson* v. *Branch,* 364 F. (2d) 177 (4th Cir., 1966), cert. den. 385 U. S. 1003 (1967), *Rosenfield* v. *Malcolm,* 55 Cal. Rept. 505, 421 F. (2d) 697 (1967). We are thus faced with the anomaly that employees can achieve more sympathetic consideration of their grievances and more effective relief in a federal district court under the Civil Rights Act of 1871 than from the administrative agency specially set up and charged with the duty of protecting employees from anti-organizational reprisals. In the federal court extensive pre-trial discovery is of course permitted under the federal rules; the school board members can be required to answer interrogatories under oath, to produce relevant documents and to submit to pre-trial discovery depositions.

When a specialized labor relations agency such as the Michigan Labor Mediation Board, through a series of decisions ends up by practically excising 8(a)(3) from the statute, because it is unwilling to examine the implications of a rule for private employment in the public sector, it does no favor to either party. The employees, it is true, no longer have the advantage of a relatively prompt and relatively economical administrative remedy. They have to make a federal case of what could be a relatively routine proceeding. But the school boards are also faced with the expense of defending themselves in a federal courtroom which is less likely than state officials to be indulgent of state politicians. School board members are also subject to much more severe remedial consequences for not only may a federal judge issue an injunction or direct reinstatement of the employee with back pay, but under the Civil Rights Act there is personal liability for all damages occasioned by acts of defendants under color of law. In the recent case of *McLaughlin* v. *Tilendis,* 398 F. (2d) 287 (7th Cir., 1968) the two discharged probationary teachers are each suing for $100,000. It will be interesting to see what the recovery turns out to be. In two cases we have had in Michigan, in one of which suit was begun and in the other merely threatened, settlements provided for reinstatement with full back pay and an award of about 3/4 annual salary for a second year.

[2]Section 202 (d) of the Labor-Management Relations Act, 1947.

Whether the burden of such payments, occasioned by the misconduct of board members or their representatives, can be shifted back on the public taxpayers, is a nice question which I leave for future litigation.

We are seeking to have the Michigan Labor Mediation Board alter its exaltation of dry logic over practical realities, but meanwhile perhaps some help can be obtained from additional contract language provided by the parties themselves, such as:

> "In the event of the filing of any grievance under this Agreement or in the event the Association serves written notice on the Board that it intends to file a complaint in behalf of any employee under the Civil Rights Act of 1871, the Board agrees that its members, agents and employees may be subject, upon due notice from the Association, to pretrial discovery procedures enumerated in the Federal Rules of Civil Procedure, and in accordance with the terms thereof.
>
> "It is further agreed that in any proceeding involving the discharge or non-appointment of employee for alleged organizational activities, the Board shall have the burden of establishing that its action did not violate the Public Employment Relations Act. Action against an employee which is arbitrary, discriminatory or capricious shall not be deemed to satisfy such burden of justification."

Such a clause may not be the conventional stuff of collective bargaining agreements, but an imaginative draftsman will not want to neglect cat-skinning alternatives.

Another troublesome area where the ingenuity of contract draftsmen is invited involves the failure of employees to report for work. The Holland decision[3] earlier this year marked, I believe, the first authoritative indication that courts will not regard all strikes by public employees as automatically enjoinable. Professor Russell Smith of the University of Michigan Law School, who was chairman of Governor Romney's advisory committee which reviewed possible statutory changes, and who originally was an unconditional adherent of the Taylor Act in New York, has recently joined Theodore Kheel and others in considering a limited right to strike, 268 GERR E-5 (Oct. 28, 1968). The unequal treatment of public and private employees in the same situation would seem to raise profound equal protection arguments under the Fourteenth Amendment. The current review by the U.S. Supreme Court of Mr. Shanker's demand for a jury trial may illuminate this issue. In Michigan we have a final judgment granting a permanent injunction against a strike pending review in our Supreme Court, which will be argued before a court whose personnel has changed in the last few months.

Perhaps before the courts put to rest the "Volstead Act psychology" which has so long afflicted this field, the parties can negotiate more realistic approaches. How could the following provision be regarded as contrary to public policy or subversive of good order?

> The parties agree that upon expiration of the effective date of this Agreement and until there is a new collective bargaining agreement executed by them, the Board will not directly or indirectly seek to compel any teacher to perform teaching duties against his will, will not interfere with the right of any teacher freely to contract or not to contract for his personal services, or to associate with his fellows or to discuss terms and conditions of employment or other matters of concern to them. The Board will not, directly or indirectly, apply for any injunction or court order to prevent or interfere with any failure of any teacher to report for work except to prevent irreparable injury. For purposes of this provision, irreparable injury shall include the consequences of mass violence but shall not include inconvenience or damage which can be measured or compensated for in money. The postponement in the opening of the school year, so long as 150 days of instruction can be scheduled prior to July 1st of any year, shall not constitute irreparable injury.

You may think that this goes too far. But that is the subject of another discussion—at the negotiating table.

[3]School District for the City of Holland v. Holland Education Association, 380 Mich. 314 (1968).

Compiled by the Research Division

NATIONAL EDUCATION ASSOCIATION

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Negotiation Research Digest

Volume 2, No. 8 April 1969

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Article by Robert R. Bickal, director of Federal and State Relations, Alfred University.

Election Ground Rules . . . . . Special Item: E-5
Rules established for the employee representation election held in the Springfield, Ohio, schools on February 6, 1969.

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Description and Analysis

UNION SHOP NEGOTIATED IN CONNECTICUT

Nonprofessional school employees in Hartford and school cafeteria workers in Newington have negotiated union shop agreements through locals of the American Federation of State, County, and Municipal Employees, AFL-CIO.

Union shop clauses provide that all employees of the unit must join the recognized organization within a specified period of time following employment. This differs from the agency shop which has gained increasing acceptance in Michigan schools. Under an agency shop agreement, all employees in the unit who are not members of the recognized organization are required to pay a representation fee equivalent to the dues of the organization, but are not required to join, as they are under the union shop.

CENTRAL OFFICE ADMINISTRATIVE AND SUPERVISORY UNIT FORMED

The New York Public Employment Relations Board found a fifth negotiating unit to be appropriate in Union Free School District No. 17, Town of Oyster Bay. The new unit is comprised of the business manager, assistant business manager, transportation supervisor, cafeteria director, superintendent of buildings and grounds, assistant superintendent of buildings and grounds, supervisor of buildings and grounds, data processing supervisor, attendance director, and recreation assistant. A representation election for this unit was ordered.

The four other units in the district are: one for certificated classroom teachers, one for administrative certificated employees, one for clerical employees, and one for all nonsupervisory custodial, maintenance, and food service employees. With the formation of the central office unit, all employees of the district are in negotiating units, with the exception of the superintendent and two assistant superintendents.

ISSUANCE OF INDIVIDUAL CONTRACTS PENDING COMPLETION OF NEGOTIATIONS IS UNFAIR LABOR PRACTICE

A Michigan Labor Mediation Board trial examiner found that the Edwardsburg Public Schools refused to bargain in good faith with the Edwardsburg Education Association by breaking off negotiations before an impasse had been reached, refusing to provide relevant personnel and economic data to the Association, and requiring the return of individual teacher contracts when no collective bargaining agreement had been reached.

In ruling on the legal requirement for individual teacher contracts, the trial examiner stated, *"I conclude that the traditional teacher contract contemplated by section 569 of the School Code is merged into the collective bargaining process wherever teachers exercise their PERA right to designate a bargaining agent.* On this basis alone I conclude that a board of education technically violates its PERA section 15 bargaining duty and commits a PERA section 10 (e) unfair labor practice by the very act of offering salary contracts to individual teachers while negotiations are pending with the negotiating agent."

The school system was ordered to cease and desist from its unfair labor practices and to bargain in good faith with the Association concerning wages and working conditions.

REASONS FOR TAKING PERSONAL LEAVE NEED NOT BE SPECIFIED; CONDITIONS IN TWO DISTRICTS CANNOT BE COMPARED ON ONE ISSUE ALONE.

The New York Public Employment Relations Board fact-finding board in the Island Trees School District No. 26 negotiations impasse recommended the elimination of the requirement that teachers specify reasons for taking personal leave. The board ruled, ". . . teachers who are entrusted with America's greatest asset, its

children, and the molding of the minds of these future citizens, can be relied upon not to abuse the leave days provided for them." It was further recommended that such days which were unused should be added to the number of sick leave days allowed.

In the second issue at impasse, a request by the Island Trees Teachers Association for full pay for teachers on half-year sabbatical was denied. The Association cited other districts having a more liberal sabbatical leave policy, but the board found, ". . . the working condition in a district cannot be compared with the working condition in another district on one issue alone. The total picture must be measured and compared." The board concluded that the justification for the demand was insufficient.

$6800 SALARY BASE RECOMMENDED IN ANNE ARUNDEL COUNTY, MARYLAND

A negotiated agreement between the Board of Education and the Teachers Association of Anne Arundel County, Maryland, for the 1969-70 school year has been signed, following advisory arbitration proceedings.

The arbitration panel recommended a base salary of $6,800 and found that the 6 percent index agreed to by the parties prior to impasse, was not properly before the panel.

The 1968-69 agreement between the parties was modified following a cut in the school budget by the County Council (see *Negotiation Research Digest*, December 1968). The County Council has not yet approved the school budget for 1969-70.

COMMUNITY COLLEGE UNIT DETERMINED

The Michigan Labor Mediation Board found a Southwestern Michigan College unit of all full-time and regular part-time day faculty personnel to be appropriate for collective bargaining purposes. Included are classroom instructors, counselors, librarians, department chairmen, 12-month instructional personnel, and the director of nursing. Excluded are the president, vice-president, deans, director of continuing education, supervisors, and all other employees.

Justification for the exclusion of department chairmen and the director of nursing on the basis of their supervisory status was not found. Although they evaluate fellow employees and recommend their hire or retention, these recommendations are not automatically accepted, but are subject to further independent consideration by a higher authority.

The unit deemed appropriate was sought by the Southwestern Michigan College Education Association. An election was ordered whereby the eligible employees could indicate whether or not they wished to be represented by the Association.

Data and Statistics

TEACHER EVALUATION PROVISIONS IN NEGOTIATED AGREEMENTS

The procedures to be followed and the criteria to be used in the evaluation of teacher performance are being jointly determined through teacher-school board negotiations. The NEA Research Division's depository of negotiation agreements for the 1967-68 school year contains 603 comprehensive agreements. Of these, 379, or 62.85 percent, contain provisions on teacher evaluation.

Provisions on teacher evaluation are of several types. The most common includes a statement on procedures to be followed. Others include the actual criteria by which teachers are rated. Fourteen agreements establish a joint teacher-administrator committee to establish new procedures and/or criteria.

Evaluation Procedures

Although the content of the provisions differs widely among the agreements, the Marysville, Michigan, provision is comprehensive enough to represent most of the elements contained in the various provisions on evaluation procedures:

A. The work performance of all Teachers shall be evaluated in writing. Probationary Teachers shall be evaluated three times during the school year. It is recommended that probationary Teachers be evaluated twice within the first semester and once within the second semester. Tenure Teachers shall be evaluated at least once in every two years.

B. Evaluations shall be conducted by the Teacher's immediate supervisor or an administrator working in the same building or otherwise familiar with the Teacher's work, who shall be designated by the Board.

C. A minimum of thirty consecutive minutes is recommended for each observation. All monitoring or observation of the work of a Teacher shall be conducted openly and with full knowledge of the Teacher. The use of eavesdropping, closed circuit television, public address or audio systems and similar surveillance devices shall be strictly prohibited.

D. A copy of the written evaluation shall be submitted to the Teacher at the time of such personal interview or within a reasonable amount of time thereafter. The Teacher shall have the opportunity to review the evaluation report with the evaluator.

E. To assist the administration in formulating adequate and fair methods and criteria of evaluation, the Association may appoint one member on any group, committee, study, et cetera, whose concern shall be teacher evaluation.

F. A final written evaluation report will be furnished to the superintendent covering each probationary teacher and a copy shall be furnished to the teacher. In the event a probationary teacher is not continued in employment, he will be advised in writing of the reasons therefor.

Criteria for Evaluation

Provisions on criteria may indicate only the general categories to be observed, as in the following example from Capac, Michigan:

> Areas of concern are (a) command of subject matter, (b) effectiveness of instruction, (c) initiative, (d) cooperation, (e) participation, (f) reliability and personal responsibility, (g) leadership, (h) growth potential, (i) and participation in professional activities.

Other provisions include a rating scale to be applied to each category, superior, above average, average, etc. Still others further define each general category into specific observable subcategories. The Escanaba, Michigan, agreement contains the actual form to be used which divides four general categories into a number of subcategories, and includes a five level scale to be applied to each item:

TEACHER EVALUATION SHEET

DIRECTIONS: Check each factor in the square which best expresses the rating. Include further particulars under comments. The detailed outline will explain just what is included under each factor

		Superior	Above Average	Average	Needs Improvement	Unsatisfactory
I. Classroom Effectiveness						
A. Scholarship of Teacher	A					
B. Ability to convey to students	B					
C. Preparation	C					
D. Adaptability	D					
E. Uses a variety of instructional methods	E					
F. Meets individual needs	F					
G. Encourages self-motivation and independent thinking	G					
H. Evaluation	H					
I. Teacher-pupil rapport	I					
J. Discipline	J					
II. Professional Characteristics						
A. Degree of professional organization participation	A					
B. Inservice participation	B					
C. Good Ethics	C					
D. Assignment participation	D					
E. Staff relationships	E					
F. Overall management	F					
III. Community Relationships						
A. Effectively interprets the school program to public	A					
B. Participation in community non-school activities	B					
C. Community deportment (behavior)	C					
IV. Personal Qualities						
A. Ability to meet people	A					
B. Judgment and tact	B					
C. Health	C					
D. Personal grooming and appearance	D					
E. Poise and self control	E					
F. Cooperation	F					
G. Mental Attitude	G					
H. Sense of humor	H					
I. Dependability and integrity	I					

Comments:

Recommendations:

Date of Conference _____

_____
Principal's Signature

_____
Teacher's Signature

Seventeen negotiated agreements contain provisions on evaluation criteria. These agreements are:

District of Columbia			
Dst of Columbia Pub Schs	Washington, D. C.	Washington Tchrs AFT Lcl	AFT
Massachusetts			
Mt Greylock Reg Schs	Williamstown	Mt Greylock Fac Assn	NEA
Palmer Twp Schs	Palmer	Palmer Tchrs Organztn	NEA
Michigan			
Alcona Comm Schs	Lincoln	Alcona Tchrs Club	NEA
Capac Comm Schs	Capac	Capac Educ Assn	NEA
Clawson Pub Schs	Clawson	Clawson Educ Assn	NEA
Durand Area Schs	Durand	Durand Educ Assn	NEA
Escanaba Area Pub Schs	Escanaba	Escanaba Educ Assn	NEA
Essexville Hampton Pub S	Essexville	Essexville Hampton Ed Assn	NEA
Fraser Pub Schs	Fraser	Fraser Educ Assn	NEA
Northville Pub Schs	Northville	Northville Tchrs Assn	NEA
Okemos Pub Schs	Okemos	Okemos Educ Assn	NEA
Perry Pub Schs	Perry	Perry Educ Assn	NEA
Port Huron Area Schs	Port Huron	Port Huron Educ Assn	NEA
Traverse City Pub Schs	Traverse City	Traverse City Educ Assn	NEA
Vassar Pub Schs	Vassar	Vassar Educ Assn	NEA
Wyoming Pub Schs	Wyoming	Wyoming Educ Assn	NEA

Joint Committees

Fourteen of the 379 agreements containing teacher evaluation provisions do not include the actual negotiated wording, but provide for a joint committee of teachers and administrators to study this area and make recommendations. The following excerpt from the Flint, Michigan, agreement is an example of this type of provision:

A. The evaluation of the work of all teachers is a responsibility of the administration, but the development of an appropriate and fair instrument and procedure for evaluation is of proper concern of the teaching staff.

To this end, a professional study committee will be appointed as provided in Article XVII hereof.

ARTICLE XVII.

Professional Study Committee

A. There is hereby established a permanent "Professional Study Committee" (PSC) composed of six (6) members, three (3) of whom shall be teachers selected by the Association and three (3) of whom shall be appointed by the Board.

B. The PSC shall meet at least once each month to discuss and study subjects mutually agreed upon relating to the school system.

C. The PSC is empowered to appoint subcommittees composed of teachers and administrators to study and report upon any mutually agreed upon subjects.

D. All reports of the PSC or its subcommittees, including their recommendation, shall be submitted in writing to all members of the PSC.

E. Subject of study by subcommittees shall include but not be limited to:

1. Discipline policy

2. Evaluation of teachers

3. Development of curriculum

Upon completion of its study and report on the subject assigned to it, each subcommittee shall be considered dissolved, and once dissolved no subcommittee shall be reactivated except by mutual consent of the members to the PSC.

F. The parties agree that the PSC and its subcommittees serve in an advisory capacity only, and that the failure of the Board to place any of its recommendations in effect shall not constitute the basis for a grievance.

G. The clerical expenses of the PSC and its subcommittees shall be borne by the Board.

H. Association representatives on the PSC shall be released from school duties for one monthly meeting of the PSC without salary deduction. Any of its subcommittees may be excused from their regular work if authorized by the Board.

Table 1 shows the distribution of agreements containing provisions on teacher evaluation by type and by state.

TABLE 1. – DISTRIBUTION OF AGREEMENTS CONTAINING PROVISIONS ON TEACHER EVALUATION, BY TYPE AND BY STATE

	Negotiated provision on:			Joint committee to determine:			
State	Procedure	Criteria	Procedure + criteria	Procedure	Criteria	Procedure + criteria	Total
1	2	3	4	5	6	7	8
Colorado	1						1
Connecticut	30						30
District of Columbia			1				1
Illinois	6						6
Indiana	1						1
Massachusetts	40	1	1		1		43
Michigan	235		14	3	1	7	260
New Jersey	1						1
New York	14			1			15
Ohio	1						1
Pennsylvania						1	1
Rhode Island	13						13
Wisconsin	6						6
Total	348	1	16	4	2	8	379

Judicial Decisions, Opinions, and Statutes

PUBLIC EMPLOYMENT RELATIONS BOARD OF THE STATE OF NEW YORK

BOARD OF EDUCATION, UNION FREE SCHOOL DISTRICT
NO. 17, TOWN OF OYSTER BAY,

Employer,

and

NON-INSTRUCTIONAL ADMINISTRATIVE AND
SUPERVISORY STAFF ASSOCIATION,

Petitioner.

Case No. C-0245

A negotiating unit may be composed of middle management personnel if there exists the requisite community of interest. The fact that some members of the unit exercise supervision over others in the unit does not necessarily give rise to such a conflict of interest as to overcome the community of interest.

Decision

On April 16, 1968, the Non-Instructional Administrative and Supervisory Staff Association (hereinafter referred to as the petitioner) filed, in accordance with the Rules of Procedure (hereinafter referred to as the Rules) of the New York State Public Employment Relations Board (hereinafter referred to as the Board), a timely petition for certification as the exclusive negotiating representative for a group of ten supervisory and administrative employees of the Board of Education, Union Free School District No. 17, Town of Oyster Bay (hereinafter referred to as the employer).[1]

On May 22, 1968, a formal hearing[2] was conducted before William Duggan, a trial examiner of the Board, with all parties present.

The employer had previously created four negotiating units within which it apparently placed its entire staff, excluding only the superintendent of schools, two assistant superintendents, and the ten employees in dispute.[3] The petitioner contends that the proposed unit includes employees who share a substantial community of interest with regard to their terms and conditions of employment and, due to their exclusion by the employer from any existing negotiating unit, are being denied the rights accorded to public employees under the Public Employees' Fair Employment Act (hereinafter referred to as the Act).

The employer, in claiming that the unit petitioned for is not appropriate, contends that it contains a heterogeneous mixture of "managerial" and "technical" employees who do not share a community of interest. Further, the employer contends that the proposed unit contains supervisory personnel together with their subordinates, which necessarily creates a conflict of interest.

The employer is a school district governed by a board of education. Its chief administrative officer is the superintendent, who has two assistants. All employees within the proposed unit except the assistant superintendent of buildings and grounds, the supervisor of buildings and grounds, the assistant business manager, and the recreation assistant report to one of the assistant superintendents.

The business manager exercises control over the entire fiscal and business operations of the employer. The assistant business manager is specifically concerned with the purchasing program of the employer and is, of course, responsible to the business manager. The superintendent of buildings and grounds exercises general control over the maintenance and custodial programs of the employer. He is assisted by the assistant superintendent of buildings and grounds. The supervisor of buildings and grounds is

[1] The proposed unit consists of the following employees: business manager, assistant business manager, transportation supervisor, cafeteria director, superintendent of buildings and grounds, assistant superintendent of buildings and grounds, supervisor of buildings and grounds, data processing supervisor, attendance director, and recreation assistant.

[2] The rulings of the trial examiner at the hearing are affirmed, as no prejudicial error is apparent.

[3] These four units include one for certificated classroom teachers, one for administrative certificated employees, one for clerical employees, and one for all nonsupervisory custodial, maintenance, and food service employees.

concerned with custodial care and is responsible to the assistant superintendent of buildings and grounds. The remaining employees within the unit petitioned for appear to be in charge of separate operational departments, to wit: transportation, food service, data processing, recreation, and attendance and census.

Although many of the employees in the petitioned-for unit are in charge of or work in separate departments, there is a significant degree of consultation between them. Thus, the cafeteria director works closely with the superintendent of buildings and grounds in conveying food goods; the data processing supervisor works closely with the attendance director in establishing attendance registers and census programs; the transportation supervisor works closely with the business manager in preparing bids and requests for state aid; and the superintendent of buildings and grounds works closely with the business manager in preparing bids and payrolls.

The superintendent of buildings and grounds, the assistant superintendent of buildings and grounds, and the business manager all play a role in the "evaluation" of subordinates within the proposed unit. The record is devoid of evidence indicating the nature and extent of this "evaluation"; similarly, the record does not indicate the degree and nature of the supervision exercised.

All employees within the proposed unit are charged with the same mission, *i.e.*, to efficiently administer the school district, and all are entitled to the same fringe benefits with the exception of minor variations in vacation benefits. With regard to wages, it appears that each of the employees within the proposed unit is paid according to a fixed minimum and maximum salary applicable to his job classification.

For the reasons discussed below, I find that the unit claimed by the petitioner in this matter is appropriate for the purpose of collective negotiations. The employees therein constitute a readily identifiable, homogeneous grouping of "middle management" personnel. All are responsible for the efficient administration of the business affairs of the employer; they all work closely together to fulfill their common mission; most of them have supervisory responsibilities over "rank-and-file" employees; and they all receive substantially the same fringe benefits. Further, the employer has treated them identically for purposes of collective negotiations by excluding them from any of the units designated by it. Thus, to uphold the employer's contention that the unit petitioned for is not appropriate would result in the disenfranchisement of these employees and would clearly not effectuate the purposes of the Act.

I realize that a few of the employees included within this unit are subject to "supervision" by others within the unit. However, as the Board has previously stated:

> [T]he mere existence of supervisory responsibilities does not require a conclusion that there is present such a conflict of interest as to overcome or outweigh other facts or circumstances giving rise to a community of interest. Rather, it is the degree and the nature of the supervision. Supervisory functions such as the imposition of discipline, effective initiation of disciplinary procedures, or the evaluation of a subordinate's performance may indicate a conflict of interest.[4]

The record in this case is devoid of sufficient evidence with regard to "the degree and the nature of the supervision" exercised. Therefore, and inasmuch as the employer has not introduced evidence to offset the community of interest that these employees have with all other employees within the proposed unit, I shall allow the superintendent of buildings and grounds, the assistant superintendent of buildings and grounds, and the business manager, subject to challenge,[5] to be included in the unit for purposes of ascertaining the majority status of the petitioner.[6]

THEREFORE, IT IS DETERMINED that there shall be a unit of employees of the employer as follows:

UNIT:

Included: Business manager, assistant business manager, transportation supervisor, cafeteria director, superintendent of buildings and grounds, assistant superintendent of buildings and grounds, supervisor of buildings and grounds, data processing supervisor, attendance director, and recreation assistant.

Excluded: All other employees.

FURTHER, IT IS ORDERED that an election, by secret ballot, shall be held under the supervision of the undersigned among the employees in the unit determined above to be appropriate who were employed by the employer on the payroll date immediately preceding the date of this decision, UNLESS the petitioner submits to the undersigned within seven days from the date of receipt of this decision dues deduction authorizations and other evidences sufficient to satisfy the requirements of Section 201.6(h)(1) of the Rules for certification without an election.

IT IS FURTHER ORDERED that the employer shall submit to the undersigned within seven days from the date of receipt of this decision an alphabetized list of the employees within the negotiating unit set forth above who were employed on the payroll date immediately preceding the date of this decision.

Paul E. Klein
Director of Representation

Dated: October 8, 1968
Albany, New York

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[4] *In the Matter of New York State Division of State Police*, 1 PERB ¶ 1-399.32.

[5] See Rules § 201.6(i).

[6] Cf. *In the Matter of Town of Kent*, 1 PERB – (Case No. C-0215).

STATE OF MICHIGAN
LABOR MEDIATION BOARD
LABOR RELATIONS DIVISION

In the Matter of:

EDWARDSBURG PUBLIC SCHOOLS,
Respondent

– and –

Case No. C68 E-56

EDWARDSBURG EDUCATION ASSOCIATION,
Charging Party

DECISION AND ORDER

On November 21, 1968, Trial Examiner James R. McCormick issued his Decision and Recommended Order in the above-entitled matter, finding that the Respondent, Ewardsburg Public Schools, had engaged in, and was engaging in, certain unfair labor practices and recommended that it cease and desist therefrom and take certain affirmative action as set forth in the Trial Examiner's Decision and Recommended Order attached hereto.

The Trial Examiner's Decision and Recommended Order was issued and served upon the interested parties in accordance with Section 16 (b) of Act 336 of the Public Acts of 1947, as amended. The parties have had an opportunity to review said Decision and Recommended Order for a period of at least twenty days from date of service thereof on the parties, and no exceptions have been filed by any of the parties to the proceedings.

ORDER

Pursuant to Section 16 of the Act, the Board hereby adopts as its Order, the Order recommended by the Trial Examiner.

MICHIGAN LABOR MEDIATION BOARD

/s/ Robert G. Howlett
Robert G. Howlett, Chairman

/s/ Leo W. Walsh
Leo W. Walsh, Board Member

/s/ Morris Milmet
Morris Milmet, Board Member

Dated: December 20, 1968

TRIAL EXAMINER'S DECISION AND RECOMMENDED ORDER

APPEARANCES:

For the Respondent: Thomas L. Combs, Attorney

For the Charging Party: Webb A. Smith, Attorney

The above-entitled matter came on for hearing, pursuant to Section 16 of Act 336, Public Acts of 1947, as amended (Public Employment Relations Act, hereinafter referred to as PERA), before the undersigned Trial Examiner of the Labor Mediation Board, on July 16, 1968 at Niles, Michigan, as a result of charges filed on May 31, 1968 by the Edwardsburg Education Association (hereinafter referred to as the Association), against the Edwardsburg Public Schools (hereinafter referred to as Respondent) alleging unlawful practices prohibited by PERA Section 10. On the record as a whole, including testimony of witnesses, exhibits, stipulations, argument of counsel and post-hearing briefs filed by both parties on September 30, 1968, the undersigned makes the following findings of fact and conclusions of law, and recommends that the Board enter the following proposed order:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Respondent is a public employer within the meaning of PERA and the Association is a labor organization within the meaning of PERA. The Association is the certified exclusive bargaining agent for the certificated teaching personnel of Respondent. The charges, as amended, allege certain violations of the Respondent's duty to bargain with the Association. The charges also alleged that certain conduct of the Respondent interfered with, restrained and coerced teaching employees of the Respondent.

The Specific Charges:

In addition to alleging that the Respondent's entire course of bargaining in the Spring of 1968 was undertaken in bad faith and constituted "surface bargaining", the Association also alleges specific acts as being violative of the bargaining duty. The Association alleges that the Respondent refused to provide relevant data needed by the Association for use in bargaining. The Association alleges that this violation is further compounded by the fact that the Respondent informed the Association in writing that the data would not be provided as long as charges of unfair labor practices were on file or until the Association withdrew its expressed intent to file such charges. The Association also alleges that the Respondent's attorney coerced employees, at the bargaining table, into turning over to him copies of the Association's minutes of earlier bargaining sessions by asserting to them that the laws of the State of Michigan obligated the Association to turn over such minutes to the Respondent's bargaining team.

The Association alleges that after four collective bargaining sessions in the Spring of 1968 the Respondent's negotiators announced that all proposals had been discussed and answered and that Respondent felt no further need to bargain and in fact would not meet any further. The Association alleges that the parties had not reached an impasse and that there were further matters for discussion.

Finally, the Association alleges that the Respondent violated its bargaining duty and also engaged in coercion of teachers by issuing individual teacher contracts to the teachers in June, with instructions to the teachers to return the contracts by a certain date, with the express understanding that failure to return the contract signed by the specified date would cause the Respondent to conclude that the individual teacher intended to resign, thus causing that teacher's job to be declared open for replacement by a new teacher.

(a) *The May 8 Breakdown of Negotiations:*

The Association and the Respondent entered into negotiations for a 1968-1969 contract in the Spring of 1968. Four meetings were held: April 3, April 17, May 1 and May 8, 1968. As of the time that these charges were heard (July 16) no further sessions had been scheduled.

The Association submitted numerous proposals to the Respondent during the four bargaining sessions, and Respondent discussed all of these proposals and gave an answer to each of the proposals at one time or another. In a number of cases, the answer was a simple denial. At the conclusion of the fourth meeting, on May 8, 1968, the Respondent's chief negotiator informed the Association bargainers that there was no necessity for a further meeting since everything had been discussed and answered. When told by the Association that there were still some unfinished matters, the Respondent's chief negotiator replied that the Respondent did not see fit to meet further, and that the Respondent would not negotiate further. The following statement was made: "We have covered all of your items. The Board's position has been stated. There is no need to meet further." When asked if this meant that the Respondent refused to bargain, the reply was "Yes". It is clear from the record that the Respondent felt no necessity for a further meeting and was not agreeable to meet further at that time.

The undersigned Trial Examiner concludes from the record as a whole that an impasse had not been reached as of May 8, 1968 and that the Respondent was not justified in terminating negotiations at that point. *Detroit Board of Fire Commissioners*, 1968 Labor Opinions 492. I specifically reject Respondent's argument that the Association did not direct written requests for further bargaining meetings to the Respondent following May 8, 1968. The Respondent's orally stated position at that meeting rendered further requests futile. Accordingly, I conclude that Respondent violated its bargaining duty by refusing to continue negotiations beyond May 8, 1968.

(b) *The May 13 Refusal to Submit Information:*

Following the breakdown in negotiations the Association, on May 10, 1968, requested certain information from the Respondent. The request was put in writing in the following form:

> "Please furnish us the following items within four days: 1) annual statistical reports (Form A) for school years beginning Fall 1964 to present. 2) monthly budget reports – July 1967 through present. We also request permission to examine all current individual contracts and/or all those on file for next year."

By letter dated May 13, 1968 the Superintendent replied to the Association as follows:

> "I have been advised not to submit the information you requested on May 10 until your stated intention to file an unfair labor practice has been retracted or if you in fact have filed an unfair labor practice, that such charge be withdrawn.
>
> Please be advised that any future requests for information or arrangements for any other details regarding negotiations must be made directly to Mr. Combs."

The undersigned concludes that the information requested by the Association on May 10 was relevant to the collective bargaining process and to the matters under discussion and that it was not confidential information or privileged in any respect. The undersigned further concludes that the request was not an unreasonable imposition upon the Respondent and was not a matter that was readily available to the Association from other sources. Accordingly, I reject the arguments advanced by Respondent in defense of its refusal to provide this information

to the Association. Additionally, I find that the Respondent's reliance upon the filing or potential filing of unfair labor practice charges as a reason for refusal to tender the information to the Association constitutes a separate unfair practice. *East Lansing Board of Education*, 1968 Labor Opinions 209.

The general proposition that an employer is required by the bargaining duty to provide information that is needed by the bargaining representative for the proper performance of its duties is well settled in the federal arena. *N.L.R.B.* v. *Acme Industrial Company*, 355 U.S. 430, 87 S. Ct. 565 (1967); *Curtiss-Wright Corporation* v. *N.L.R.B.*, 347 F2d 61 (C.A. 3, 1965); *Taylor Forge and Pipe Works*, v. *N.L.R.B.*, 234 F2d 227 (C.A. 7, 1956); *N.L.R.B.* v. *Goodyear Aero Space Corporation*, 388 F2d 673 (C.A. 6, 1968); *J.I. Case Company* v. *N.L.R.B.*, 253 F2d 149 (C.A. 7, 1958); *Timken Roller Bearing Company* v. *N.L.R.B.* 325 F2d 746 (C.A. 6, 1963). The National Labor Relations Board has also held that insistence upon withdrawing charges or retracting statements of intention to file charges constitutes a separate refusal to bargain violation under the National Labor Relations Act, Section 8 (a) (5) *Kit Manufacturing Company, Inc.*, 142 NLRB 957; *American Stores Packing Company*, 142 NLRB 711; *Southland Cork Company*, 146 NLRB 906.

(c) *The Legal Opinion Concerning a Duty to Furnish Minutes to the Board of Education:*

It is uncontroverted on the record that the Respondent's attorney informed the Association bargainers at the third bargaining meeting that the Association was legally bound by the laws of the State of Michigan to turn over to Respondent the minutes which it had taken at various bargaining sessions. On the basis of this erroneous expression of legal opinion, the Association turned over minutes of its first three meetings to the Respondent at the fourth meeting which was held on May 8, 1968. The Association argues that this constitutes a violation. The Association argues as follows:

> "It is submitted that the statement under the guise of a 'legal opinion' of an attorney, when an attorney for the Association was not present, amounts to coercion, and a violation of the rights of the Association."

The undersigned specifically rejects the argument of the Association. It is obvious that the Association was not bound and should not reasonably have felt bound to abide by a legal opinion stated at the bargaining table by counsel for the Respondent. I see no reason why such a statement should be considered as coercive. It must be assumed that the representatives present for the Association, although not professional bargainers or attorneys at law, had sufficient independence to reject legal opinions from the opposite side of the table if they did not particularly subscribe to such opinions.

(d) *The Issuance of Teacher Contracts During Bargaining:*

The final charge involved in this case concerns a letter sent to the approximately twenty non-tenure teachers, on or about June 10, 1968,[1] and an accompanying document entitled "Probationary Teacher Contract of Employment." The text of the controversial letter is as follows:

> "We are pleased to offer you this teaching contract for the 1968-69 school year. We would ask that it be returned to my office by June 21, 1968.
>
> Contracts are being offered to all non-tenure teachers who are eligible for full year certification. We will assume that those who do not return contracts by June 21, 1968 are resigning and their job will be declared open.
>
> Because the total salary package has not yet been determined, we can offer only the base salary at this time. Extra curricular assignments will be offered as soon as the master contract is agreed upon.
>
> If you have any questions regarding this contract, please contact me as soon as possible."

The teacher contracts involved were on a printed probationary teacher contract form. The contracts provided the base annual salary for the teacher and included the following additional language, not contained on the form: "This contract is subject to the terms of the master contract." On June 13, 1968 the Superintendent agreed to extend the June 21, 1968 deadline for return of the contract to July 1, 1968.

The thrust of the charge is that the offer of teacher contracts in June, while the negotiations were in progress, undermined and ignored the bargaining process and tended to force the teachers to commit themselves in advance to work for a unilaterally-determined salary in the event that no collective agreement should ultimately be executed. The reference to jobs being declared "open" if contracts were not returned by June 21 injects the element of coercion, in the view of the Association.

There can be little doubt that in private industry or in other types of public employment a management attempt to get the individual employees to agree individually to salaries in advance of the employment period and at a time when negotiations for a collective bargaining contract were underway would be found to violate the duty to bargain. This conclusion would be even stronger were the employer to state a deadline after which it would begin looking for replacements. Such a procedure clearly undermines bargaining, despite the proviso making the contracts

[1] As discussed supra, negotiations on a master contract had been at a standstill since May 8 as a result of Respondent's refusal to meet any further and its refusal to provide requested information.

subject to any collective agreement that might later be reached, since there is no guarantee that any collective agreement will be reached. Here, however, the matter is further compounded by the fact that under section 861 of the School Code of 1955, CL '48, sec. 340.861, M.S.A. sec. 15.3861, a teacher who refuses to perform a teaching contract may be suspended, by action of the state board of education, from teaching anywhere in the State for the balance of the school year.

The issue, then, is whether there is any statutory or public policy basis for upholding the common school board practice of issuing teacher contracts and requiring that they be returned by a certain date at a time when the teachers' bargaining agent has not reached a collective agreement encompassing salaries and other conditions of employment. The statutory provisions which come into play here form a conundrum which all but defies solution. They include the following:

Mich. CL '48, sec. 423.215; M.S.A. sec. 17.455 (15); PERA sec. 15, added by Act 379 of 1965:

> A public employer shall bargain collectively with the representatives of its employees as defined in Section 11 and is authorized to make and enter into collective bargaining agreements with such representatives. For the purposes of this section, to bargain collectively is the performance of the mutual obligation of the employer and the representative of the employees to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment, or the negotiation of an agreement, or any question arising thereunder, and the execution of a written contract, ordinance or resolution incorporating any agreement reached if requested by either party, but such obligation does not compel either party to agree to a proposal or require the making of a concession.

Mich. CL '48, sec. 340.569; M.S.A. sec. 15.3569; School Code of 1955, sec. 569, derived from Act 319 of 1927:

> The Board of every district *shall hire and contract with* such duly qualified teachers as may be required. All contracts with teachers *shall be in writing* and signed by a majority of the board in behalf of the district **** The contracts *shall specify the wages agreed* upon **** (emphasis added)

Mich. CL '48 sec. 340.569 (b); M.S.A. sec. 15.3569 (2); School Code of 1955, sec. 569 (b), added by Act 82 of 1966, effective March 10, 1967:

> At any time, the board of any district, *by agreement* between the board and a teacher or *by agreement between the board and any organization representing the teacher* in accordance with Act No. 176 of the Public Acts of 1939, as amended, being sections 423.1 to 423.30 of the Compiled Laws of 1948, may terminate an existing contract for the services of the teacher and substitute a new contract which provides an *increased benefit* to the teacher. The new contract shall be binding without regard to any preexisting duties or obligations of either the school board or the teacher under the first contract. (emphasis added)

Mich. CL '48, sec. 340.861, M.S.A. sec. 15.3861; School Code of 1955, sec. 861, derived from Act 319 of 1927:

> The state board of education shall have authority to *suspend* *** any certificate issued to any teacher *who refuses* without *sufficient cause*, in the opinion of said board *to perform a lawful contract to teach* *** Such suspension shall not be for a longer period of time than the end of the school year in the district in which such contract was violated. During the time such certificate is suspended, such teacher shall not be qualified to teach in any school in this state in which teachers are required to hold a certificate to teach. (emphasis added)

Mich. CL '48, sec. 38.111; M.S.A. sec. 15.2011; Tenure of Teachers Act (Act 4 of 1937, ex. sess.), Article V, sec. 1:

> *No teacher* on continuing tenure *shall* discontinue his services with any controlling board except by mutual consent, without giving a written notice to said controlling board at least *sixty (60) days before September first* of the ensuing school year. Any teacher discontinuing his services in any other manner than as provided in this section shall forfeit his rights to continuing tenure previously acquired under this Act (emphasis added)

Mich. CL '48, sec. 38.83; M.S.A. sec. 15.1983; Tenure of Teachers Act (Act 4 of 1937, ex. sess.); Article II, sec. 3:

> **** Provided further, that any probationary teacher or teacher not on continuing contract *shall be employed for the ensuing year* unless notified at least sixty (60) days before the close of the school year that his services will be discontinued. (emphasis added)

Mich. CL '48, sec. 38.101, M.S.A. sec. 15.2001; Tenure of Teachers Act (Act 4 of 1937, ex. sess.), Article IV, sec. 1:

> Discharge or demotion of a teacher on continuing tenure may be made only for reasonable and just cause, and only after such charges, notice, hearing and determination thereof, as are hereinafter provided ****

Mich. CL '48, sec. 38.102; M.S.A. sec. 15.2002, Tenure of Teachers Act (Act 4 of 1937, ex. sess.), Article IV, sec. 2:

> **** Provided, that charges concerning the character of professional services shall be filed *at least sixty (60) days before the close of the school year* **** (emphasis added)

PERA obligates the board of education to negotiate wages and working conditions with the bargaining agent and to seek to reach a collective agreement (contract) covering wages and working conditions. This obligation rules out either unilateral imposition of a salary schedule or an attempt to reach salary agreements with the individual teachers. On the other hand, school boards have a duty to enter into a written contract with their teachers, specifying therein the "wages agreed upon."

I conclude that by selecting a bargaining agent pursuant to PERA section 12, the teachers delegate to that agent their power to negotiate an agreement as to wages and their concomitant power to enter into a written contract with the board of education specifying the wages agreed upon. *In other words, I conclude that the traditional teacher contract contemplated by section 569 of the School Code is merged into the collective bargaining process wherever teachers exercise their PERA right to designate a bargaining agent.*[2] On this basis alone I conclude that a board of education technically violates its PERA section 15 bargaining duty and commits a PERA section 10 (e) unfair labor practice by the very act of offering salary contracts to individual teachers while negotiations are pending with the bargaining agent.

What, then, is the effect of section 569 (b) of the School Code which permits a board of education, by collective bargaining, to substitute a new contract in place of an existing contract for the services of the teacher? This amendment, added in 1966 after the 1965 passage of PERA, appears to have been intended merely to remove any doubt concerning the supremacy of a collective bargaining agreement over individual teacher contracts containing lower wages. I do not read the 1966 amendment as an expression of legislative approval of the issuance of individual contracts setting forth wage figures which are expressly made subject to any later-negotiated collective bargaining agreement (contract).

Issuance of contracts, even when made subject to the results of later collective bargaining, materially interferes with the bargaining process because it requires teachers to make a decision as to whether they will return to the district at a time when they do not know what the wages and working conditions will be, and if no master contract should be successfully negotiated it binds them to the salary unilaterally set forth on their individual contracts. I conclude that the Respondent's legitimate interest in determining as early in the year as possible how many new teachers will have to be employed is no legal excuse for circumventing the determination of wages by collective bargaining. Of course, the Association could have waived its rights in this regard by agreeing in advance to the issuance of individual contracts, subject to the later master contract, but it did not waive any rights in this case.

If no master agreement has been reached by the start of the school year, the teachers are still obligated to report for work in the absence of individual teacher contracts, since, according to an operative majority of the Michigan Supreme Court in *School District for the City of Holland* v. *Holland Education Association*, 67 LRRM 2916, decided April 1, 1968, teachers continue to be employees of a school district in the absence of teacher contracts. Indeed, the prevailing opinion in the *Holland* case assumes that jurisdiction to mediate a master contract would attach in advance of the executing of any written contracts. If the wages have not been determined by collective agreement by the start of the school year, it would appear that the board of education would be justified in paying teachers according to the board's last offer (if an impasse exists), or according to the wages previously in effect (in absence of an impasse).

It is a well-recognized principle of statutory construction that statutes will not be regarded as conflicting where by any reasonable construction they can be reconciled. *People* v. *Buckley*, 302 Mich. 12. The undersigned concludes that the above represents the only reasonable construction which reconciles the School Code and Tenure of Teachers Act with the collective bargaining principle of PERA. As indicated above, this case presents a difficult question of application of statutory law. Since it is a case of first impression and involves a rather technical point, the Respondent can not be viewed too harshly for its actions. On the other hand, the breaking off of negotiations in May and the refusal to provide information constitute substantial noncompliance with the bargaining duty.

Accordingly, it is recommended that the Board enter the following order which will effectuate the policies of PERA:[3]

---

[2]The following language from *Garden City School District* v. *Labor Mediation Board*, 358 Mich. 258, strongly supports this conclusion: "The written contract provision was first adopted in 1927, and the legislature was certainly familiar with its requirements when it adopted P.A. 1947, No. 336, which we have quoted. We read these two acts together as allowing mediation of salary disputes *in advance* of the determination of the salary provisions of individual teacher contracts." (Emphasis supplied.)

[3]The undersigned rejects the Association's prayer for an order requiring the Superintendent to "publicly apologize" for his May 13, 1968 letter. Under our system of law even convicted murderers can not be forced to apologize, since coerced confessions are repugnant to the Constitution.

RECOMMENDED ORDER

The Respondent, Edwardsburg Public Schools, its officers and agents shall:

A. Cease and desist from refusing to bargain in good faith with the Association as the representatives of its teaching employees by:

(1) Issuing individual teacher contracts and by requiring them to be returned at a time when no collective bargaining agreement on wages and working conditions has been reached between the Respondent and the Association.

(2) Breaking off negotiations before reaching a genuine impasse.

(3) Refusing to provide the association with relevant personnel and economic data for use in the bargaining process.

B. Take the following affirmative action which, it is found, will effectuate the policies of PERA:

(1) Require its officers and agents to confer in good faith with the Association concerning wages and working conditions.

(2) Post, wherever notices to teaching employees of the Respondent are customarily posted, copies of the attached Notice, affixed on top of copies of the Board's Decision and Order, for a period of thirty (30) consecutive days. The Notices shall be signed by the Superintendent.

(3) Take reasonable steps to prevent the removal or defacement of said Notices.

(4) Notify the Board within twenty days of receipt of this Order what steps the Respondent has taken to comply therewith.

MICHIGAN LABOR MEDIATION BOARD

/s/ James R. McCormick
James R. McCormick
Trial Examiner

Dated: November 21, 1968

NOTICE TO EMPLOYEES OF EDWARDSBURG PUBLIC SCHOOLS

THE MICHIGAN LABOR MEDIATION BOARD, AFTER A PUBLIC HEARING, HAS FOUND THAT THE EDWARDSBURG PUBLIC SCHOOLS HAVE VIOLATED THE PUBLIC EMPLOYMENT RELATIONS ACT BY REFUSING TO BARGAIN IN GOOD FAITH WITH THE EDWARDSBURG EDUCATION ASSOCIATION BY: (1) ISSUING INDIVIDUAL TEACHER CONTRACTS AND REQUIRING THEM TO BE RETURNED AT A TIME WHEN NO COLLECTIVE BARGAINING AGREEMENT ON WAGES AND WORKING CONDITIONS HAD BEEN REACHED, (2) BREAKING OFF NEGOTIATIONS BEFORE REACHING A GENUINE IMPASSE, AND (3) REFUSING TO PROVIDE THE ASSOCIATION WITH RELEVANT PERSONNEL AND ECONOMIC DATA FOR USE IN THE BARGAINING PROCESS.

IN ORDER THAT YOU WILL KNOW THAT WE INTEND TO FULLY RESPECT THE ASSOCIATION'S RIGHT TO EFFECTIVELY REPRESENT YOU, PLEASE BE ADVISED THAT:

WE WILL NOT ISSUE TEACHER CONTRACTS EXCEPT IN ACCORD WITH A WAGE AGREEMENT NEGOTIATED BETWEEN US AND THE ASSOCIATION; WE WILL CONFER AT REASONABLE TIMES UNTIL REACHING AGREEMENT OR A GENUINE IMPASSE; AND WE WILL PROVIDE THE ASSOCIATION WITH RELEVANT PERSONNEL AND ECONOMIC DATA FOR USE IN THE BARGAINING PROCESS.

EDWARDSBURG PUBLIC SCHOOLS

By_____
Superintendent

Dated: _____

This Notice must remain posted for thirty consecutive days from the date of posting and must not be altered, defaced or covered by any other material.

PUBLIC EMPLOYMENT RELATIONS BOARD
OF THE STATE OF NEW YORK

Fact-Finding Report

In the Matter of

ISLAND TREES SCHOOL DISTRICT NO. 26, LEVITTOWN

and

ISLAND TREES TEACHERS ASSOCIATION

The totality of working conditions should be considered when determining whether an employee organization's requests are justifiable.

The fact that other school districts have a more liberal sabbatical leave policy is not justification by itself for changing a particular district's sabbatical leave policy.

Teachers should not have to specify a reason for taking personal leave days.

Sabbatical Schedule. – The current sabbatical program provides half pay for a full year or half pay for a half year after seven years in the district. The Island Trees Teachers Association is seeking the continuation of half pay for a full year, but seeks to improve the plan, however, by having full pay for a half year.

The district takes a "no comment" position.[1]

While sabbatical plans vary from district to district and while there are districts on Long Island where the practice sought by the Association is in fact in existence, it must be noted, however, that the working condition in a district cannot be compared with the working condition in another district on one issue alone. The total picture must be measured and compared. The sabbatical leave policy may very well be better in another district, but this may also be a district which does not have a ratio index. There was insufficient justification submitted to warrant granting of this demand and it is, accordingly, denied.

Personal Leave Days.–The district now provides three personal leave days for teachers which may be had on proper notice and with reason given as to why the time is needed. The Association requests that the need to offer reason for use of personal leave days be deleted and that the unused leave days be converted to sick days which teachers may accumulate.

The district takes a "no comment" position.

It is the view of the fact-finding board that teachers who are entrusted with America's greatest asset, its children, and the molding of the minds of these future citizens, can be relied upon not to abuse the leave days provided for them. There is a nonprofessional element in a requirement that teachers specify a reason for personal leave absence. Accordingly, we recommend that the requirement for specifying reasons for personal absences be eliminated.

Further, where such days are not used, we consider it equitable that the unused days be added to the ten sick leave days presently allowed, and we so recommend.

[1]The "no comment" position, in this and many other instances, taken by the district is obviously not intended to mean acquiescence or literally "no comment." It is a form of saying "no," although the rationale for the use of the phrase was not made explicit to the board. In any event, we take judicial notice that in this proceeding "no comment" is also not to be equated with *nolo contendere.*

In The Matter of

The

Advisory Arbitration

Between

The Board of Education of Anne Arundel County, Maryland,

and

The Teachers Association of Anne Arundel County, Maryland

RECOMMENDATIONS OF THE ARBITRATION PANEL

This proceeding was conducted pursuant to the provisions of The Professional Negotiations Act of 1968 of the State of Maryland.

The parties, in the fall of 1968, began professional negotiations the aim of which was to establish for the fiscal year beginning July 1, 1969 an agreement covering salaries, fringe benefits and other working conditions.

After a number of negotiating sessions, agreement was reached between the two negotiating teams on 144 items; this was a complete agreement. When the agreement was referred to the appropriate bodies for ratification, the Board of Education ratified the document in full. The Representative Council of the Association ratified 136 items but refused to ratify the other eight items.

Under the terms of the Procedure for the Implementation of Negotiations, which had previously been established and agreed to by both parties, negotiations were then resumed on the eight rejected items. Agreement was reached on six of these items but the parties became deadlocked on the remaining two.

The Association then on December 10, 1968 asked the State Superintendent of Schools to declare than an impasse existed in negotiations between the parties. This he did in a letter dated December 19, 1968.

The Board of Education named Mr. Richard G. Neal as its representative on the panel to aid in resolution of differences. The Association named Mr. Morris C. Jones. From a list of possible neutral third members for the panel, supplied to Mr. Neal and Mr. Jones, by the American Arbitration Association, they selected Mr. Morrison Handsaker as the neutral third member and chairman of the panel.

The panel met in preliminary session in Annapolis, Maryland on Thursday, January 2, 1969, and, on Friday, January 3, 1969 met with the parties in a mediation session, which began at 9:00 a.m. and concluded at 1:30 a.m. on January 4.

In the course of this mediation session, one issue was resolved by mutual agreement of the parties. This was the question of "extra pay for extra work" and involved compensation for teachers responsible for various extracurricular activities. Mediation efforts of the panel did not resolve the remaining issue, the matter of the salary scale.

On January 9, 10 and 11 the parties met with the panel in an advisory arbitration proceeding.

This document contains the recommendations of the panel on the matters presented to it in this latter proceeding.

Two aspects of the sala[illegible] were presented to the panel, on which it here ma[illegible] recommendations to the parties.

One relates to the "salary index". This is the percentage which is applied to the salary base to determine the annual amount of salary increase which added years of service bring to the teachers.

It was the position of the Association that this matter was, for reasons discussed below, not properly before the panel, and that the index had already been agreed upon.

It was the position of the Board, also for reasons discussed below, that the issue was properly before the panel.

After hearing the evidence and the arguments on this point, the panel, with Mr. Neal dissenting, makes the following recommendation: In our view the matter of the index was settled by the parties in their negotiations before impasse was declared and is therefore not properly before this panel for recommendation.

On the question of the base salary, (the starting salary for teachers with the bachelor's degree and no previous teaching experience) the position of the parties at the start of the mediation session on January 3, was as follows:

The Association urged a base salary of $6940 per year with a 6% index. (The base during the current academic year is $6300, with a 6% index.)

The Board urged the following three alternative proposals and indicated a strong preference for the third:

1. A $6,725 base with a 6% index
2. A $6,625 base with a 6% index plus a flat $175 for each teacher
3. A $7,000 base with a 5% index

During the mediation session the Association reduced the base it was seeking from $6940 with a 6% index to $6850 with a 6% index. The Board did not modify its position during the mediation session.

After considering all the evidence and arguments advanced by both parties, it is, for reasons discussed below, the majority recommendations of the panel with Mr. Neal abstaining, that the base salary be established at $6800 per year.

/s/ Morrison Handsaker
Morrison Handsaker
Chairman of the Panel,
concurring in the recommendation

/s/ Morris C. Jones
Morris C. Jones
Panel Member Appointed by the Association
concurring in the recommendation

/s/ Richard Neal
Richard Neal
Panel Member Appointed by the Board
dissenting on the recommendation of
the index and abstaining on the issue
of the base salary

January 13, 1969

OPINIONS OF THE MEMBERS OF THE PANEL

MAJORITY OPINION ON THE ISSUE OF THE INDEX

The undersigned recommend that it be accepted by the parties that the index has already been determined and is therefore not properly before the panel.

The position of the parties on this issue is as follows:

The Association stresses that the Representative council approved 136 of the 144 items referred to them for ratification and that one of the items which they approved was XIII A, which established a 6% index. In the Association's view, since the Board ratified the entire agreement, only those eight items rejected by the Council were subject to the new negotiation. The Association stresses that the mutually agreed-upon negotiation procedure provides as follows:

"7. Within ten days of the conclusion of negotiations the Association and the Board shall ratify or reject each of the items which were agreed upon by the negotiating teams. If either group fails to ratify any of the items negotiated, it shall state its objections in writing to the negotiating teams."

"8. New negotiations on rejected items shall commence immediately and continue for fifteen days unless agreement is reached before the end of that time . . . "

In the Association's view, the foregoing sections of the agreed-upon procedure clearly spell out that only rejected items are up for further negotiation. Since neither party

rejected item XIII A, dealing with the index, it is not open for any changes or discussion.

The Board's position was two-fold.

1. One cannot discuss the issue of base salary without considering the index which will be applied to that base. Since the base is up for negotiation the index also must be open for negotiation.

2. The Board also stresses the last sentences of Section 8 of the negotiating procedure. This sentence, which follows the part of Section 8 quoted above, reads as follows:

> "Within ten days of the conclusion of new negotiations, the Association and the Board shall ratify or reject the entire agreement, including those portions previously agreed to under Section 7 as well as those newly agreed to under Section 8."

In the view of the Board, negotiations were concluded when the Association asked the State Superintendent of Schools to declare an impasse. Since the parties did not accept or reject en toto the agreement, within ten days, there is no agreement and the issue of the index, along with anything else which either party wants to put in issue, is properly before the panel.

The majority of the panel finds the Association argument persuasive on the issue of the index. It appears to the majority of the panel that the language of Sections 7 and 8 of the agreed-upon procedure is clear and unambiguous and therefore speaks for itself. It states that the parties shall "ratify or reject each of the items which were agreed upon by the negotiating teams" and then goes on to state that "new negotiations *on rejected items* shall commence immediately . . . " (Underlining supplied.)

It seems clear to the majority of the panel that when the procedure states that "new negotiations on rejected items shall commence immediately", it must follow that items accepted by both sides are considered finally agreed upon and are not to be re-opened. No other construction of language appears possible to the majority.

With respect to the two arguments advanced by the Board, the majority of the panel make the following comments:

While base salary and index are, of course, related, the fact that both parties accepted the index and the fact that one party rejected the base when sent to them for ratification, means, for the reasons cited immediately above, that the base is up for negotiation but the index is not.

With respect to the argument that negotiations have been concluded for more than 10 days without either ratification or rejection by the parties, and that therefore anything a party wants to bring up, may be brought up, the majority of the panel finds that this puts an unwarranted construction on Section 8 of the procedure.

The phrase "within 10 days of the conclusion of negotiations" appears in both Section 7 and Section 8. The parties agree (by their actions at least) that in Section 7 it means "within ten days after the two negotiating teams agree on a document to be submitted to their parent bodies". It seems most logical therefore to assume that the same language mean the same thing in the very next paragraph. If this is so, the negotiations were not concluded when impasse was reached since there was no complete agreement on the once rejected items.

If further proof on this matter is needed, the majority of the panel would point out that certainly negotiations were not concluded when impasse was reached because the State law requires the impasse panel to "meet with the parties to aid in the resolution of differences." Such mediation activity, carried on by the panel over a sixteen hour period on January 3 (and into the early morning of January 4) clearly involves further negotiations between the parties in an effort to resolve differences.

/s/ Morrison Handsaker
Morrison Handsaker
Chairman of the Panel

/s/ Morris C. Jones
Morris C. Jones
Panel Member Appointed
by The Association

January 13, 1969

January 13, 1969

DISSENTING RECOMMENDATION OF THE ADVISORY ARBITRATION PANEL FOR THE IMPASSE BETWEEN THE ANNE ARUNDEL COUNTY TEACHERS ASSOCIATION AND THE ANNE ARUNDEL COUNTY SCHOOL BOARD

The first issue to be decided by the panel was whether or not the index of the teachers' salary schedule was a matter upon which the panel was to render a recommendation. The majority of the panel voted negatively for the reasons stated elsewhere in this report.

I dissent from the majority recommendation for the following reasons:

1. Despite arguments to the contrary it was quite obvious that the parties agreed to *all* issues in the proposed collective agreement except for *two* remaining items, the beginning salary and the index. The teachers rejected the beginning salary, and the school board rejected the index. Despite the confused "Procedures for Implementation of Professional Negotiations" agreed to by the parties, and the lack of understanding regarding basic terms used therein ("negotiations" and "impasse") this one point should have been clear to the other two panel members—the parties still disagreed on two items, the beginning salary and the index.

2. Paragraph number 8 of the "Procedures" states:

> "New negotiations on rejected items shall commence immediately and continue for fifteen days unless agreement is reached before the end of that time. Within ten days of the conclusion of new negotiations the Association and the Board shall ratify or reject the entire agreement, including those portions previously agreed to under section 7 as well as those newly agreed to under section 8."

"New negotiations on rejected items" ceased at the time impasse was declared and neither party ratified or rejected the "entire agreement" within ten days. Consequently, there was no agreement. Consequently, all items were in a state of rejection. Consequently, the panel should have set about to find out what items were still tentatively agreed to and which were rejected. Had the panel done so it would have found that the index was one of the rejected items. Consequently, the panel would have been able to help "aid in the resolution of differences" as required by the state law.

According to the Association's interpretation of the "procedures" and the Association's definition of "negotiations," there might well be no end to negotiations.

3. In light of the great confusion of the parties and the panel concerning the "Procedures", and the school board's responsibility to the total public (not just the teachers) I am unable to concur in a recommendation which would remove the index from final recommendations of this panel.

/s/ Richard G. Neal
Richard G. Neal

MAJORITY OPINION ON THE ISSUE OF THE BASE SALARY

The undersigned majority of the panel, with Mr. Neal abstaining, recommends to the parties that they establish $6800 per year as a base salary.

The majority makes this recommendation for the following reasons:

1. The evidence submitted at the hearing indicates that settlements in adjoining counties are being made at $6800 and $6900 per year. These counties are close competitors of Anne Arundel County for the services of teachers. Any figure less than the one which we have recommended would, in our view, represent an unfairly low salary, as far as the teachers are concerned, and would also mean, as far as the Board is concerned, that they would have serious problems in recruiting the considerable number of new teachers which they will need next fall. For this reason, we believe a base salary below $6800 would be inappropriate.

2. At the same time, the panel has been impressed with the costliness of the very necessary additional new

programs and additional staff which the Board plans. Our recommendation, if accepted and implemented, would cost the County about $218,000 more than the Board had indicated they believe is the maximum that can be provided for salary increases. We believe that these funds can be found but we are of the opinion that any recommendation in excess of $6800 would require an unrealistic increase in tax rates or the sacrificing of new and needed expenditures in other directions.

Had the panel believed that more funds for salary increases were available, we would unquestionably have recommended an increase higher than we have. Such a higher increase would have assisted the Board in its recruiting program and would have provided the teachers with a starting salary which would have given the teachers a merited increase in their income. It was the judgment of the majority of the panel, however, that such funds simply were not available.

January 13, 1969

/s/ Morrison Handsaker
Morrison Handsaker
Chairman of the Panel
Concurring

/s/ Morris C. Jones
Morris C. Jones
Panel Member
Appointed by the Association
Concurring

/s/ Richard G. Neal
Richard G. Neal
Panel Member
Appointed by the Board
Abstaining

STATE OF MICHIGAN
LABOR MEDIATION BOARD
LABOR RELATIONS DIVISION

In the Matter of:

SOUTHWESTERN MICHIGAN COLLEGE,
Employer

and –

Case No. R68 E-174

SOUTHWESTERN MICHIGAN COLLEGE
EDUCATION ASSOCIATION,
Petitioner

FINDINGS OF FACT, CONCLUSIONS OF LAW & DIRECTION OF ELECTION

APPEARANCES:

For the Employer: Thomas L. Combs, Esquire

For the Petitioner: Foster, Campbell, Lindemer and McGurrin
By James A. White, Esquire

The above-entitled matter, having come on for hearing before James R. McCormick, a Trial Examiner of the Labor Mediation Board, at Dowagiac, Michigan on September 27, 1968 and the Board, having considered the testimony, arguments of counsel, and briefs which were received from the Petitioner and the Employer on December 18 and December 23, 1968 respectively, hereby makes the following findings of fact, conclusions of law and direction of election:

FINDINGS OF FACT & CONCLUSIONS OF LAW

Southwestern Michigan College, hereinafter referred to as the College, is a public employer within the meaning of Act 336 of the Public Acts of 1947 as amended (Public Employment Relations Act, hereinafter referred to as PERA.

Southwestern Michigan College Education Association, hereinafter referred to as the Petitioner, is a labor organization within the meaning of PERA.

As refined during the course of the hearing, the Petitioner seeks a unit which is described as follows:

"All full time faculty personnel including classroom instructors, counselors, librarians, regular part time day-instructors, department chairmen, twelve-month instructional personnel, director of nursing, and director of athletics; but EXCLUDING the president, vice-president, deans, and director of continuing education."

Both parties agreed to the exclusion of the College's president, vice-president, deans and director of continuing education, as being executives or supervisors. In addition, both parties agreed to the exclusion of part time evening faculty members. The parties, however, are in disagreement as to the unit placement of the following categories of personnel:

"Part time day-instructors, counselors, department chairmen, director of athletics, director of nursing, librarian, and twelve-month teaching personnel who are employed in the vocational-technical fields."

Southwestern Michigan College is a relatively new institution designed to provide education beyond the high school level for the residents of the Cass County area of Michigan. It operates a Division of Arts and Sciences and a Division of Applied Sciences. The program of the Division of Arts and Science is designed primarily for students who expect to transfer their college credits to a four-year college or university to earn a baccalaureate degree, and for students who wish to complete a two-year general education program. This Division offers programs designed for students who intend to pursue degrees in accounting, business administration, engineering, forestry, journalism, library science, law, medicine, nursing, social work and numerous other fields. The Division of Applied Sciences, which awards the associate degree in applied science after two years' successful work, offers numerous courses in vocational-technical areas. The courses of study in this Division are planned to develop specific skills and knowledge and are terminal in nature rather than leading to further work at degree-granting colleges and universities. Among the programs included in this Division are agribusiness, automotive mechanics, business management and accounting, drafting technology, industrial technology, practical nursing, sales and marketing, secretarial studies, aviation mechanics, graphic arts, and industrial architecture. The College also operates a continuing education program with specific vocational-technical courses in the evening.

The part-time day-instructors teach, on the average, half of the number of class hours taught by the full time faculty members. They teach the same subject matter in the same manner as do full-time faculty members. They maintain office hours, counsel students, and attend faculty meetings. The only difference in the working conditions of the part-time day faculty members and the full-time faculty members is that the former work under a so-called "letter of appointment" rather than a regular teaching contract. We find this difference does not affect the community of interest between full-time and part-time faculty members and conclude that the part-time day-instructors are regular part-time employees who are invariably included in appropriate bargaining units. *Harper Hospital*, 1966 Labor Opinions 116, 126; *Saginaw County Hospital*, 1968 Labor Opinions 508, 510.

The College employs counselors who perform the duties which are generally performed by that specialized profession in educational institutions. We do not find that the counselors employed by the College are either supervisors over teaching faculty members or executive employees of the College.

Each academic department is directed by a department chairman. The department chairmen are appointed after being first chosen by the members of the particular academic department. The department chairmen participate in the interviewing and evaluation of applicants for teaching positions, upon request make an evaluation of members of their departments as to their teaching ability, and participate in the scheduling of classes for members of their department. The record establishes that the evaluation function at the College has not been systematized. As a result the department chairmen are not clearly designated the responsibility of making a recommendation as to the retention of faculty members. Furthermore, the record does not indicate that the recommendation concerning the hire or retention of faculty members which might at times be made by department chairmen are accepted without further investigation or consideration by the Dean. *The mere participation in observing and evaluating fellow employees, and even the existence of recommendations as to their hire or retention, are not in themselves indicia of true supervisory power as that concept is understood by this Board.* It is essential to a finding of supervisory status that the individual's recommendations and evaluations be "effective." This means that they are generally accepted on their own face without further independent consideration by higher authority. Since the record here does not indicate that the recommendations of department chairmen are given such weight, the mere existence of periodic or occasional evaluation or recommendation is not in itself sufficient basis for a determination that the department chairmen are supervisors within the meaning of PERA. Finally, it is noted that the department chairmen do not determine the teaching schedules of the members of their department, but rather "suggest" class schedules and assignments of instructors. The record indicates that the making of the teaching schedule is a combined effort in which all faculty members participate. On the basis of the above it is concluded that the department chairmen of the College do not possess or exercise the kind of supervisory authority which would require their exclusion from the teaching bargaining unit. *Utica Community Schools*, 1966 Labor Opinions 326. *While the department chairmen are included in the bargaining unit at this time, on the basis of the record made at the hearing, we note that a change in circumstances might lead to the opposite conclusion in the event that the College ultimately organizes its administration in such a manner as to designate the department chairmen as true supervisors.*

The Director of Athletics and Director of Nursing are actively engaged in instruction. In addition, they participate in the hiring, evaluation, and class scheduling of members of their respective departments. In this connection their authority is comparable to that possessed and exercised by department chairmen. Accordingly, we conclude that they are not true supervisors within the meaning of PERA. The Director of Athletics and the Director of Nursing each has responsibilities in connection with the general organization of their respective programs, including the preparation of budgets. However, the Board concludes that such administrative duties are not sufficient to designate these individuals as executive employees of the College. Therefore, they are included in the faculty bargaining unit.

The College also employs one professional librarian, an assistant librarian (who does not possess a degree and is

not sought to be included within the unit) and a number of student assistants. The College maintains that the professional librarian is an administrator and a supervisor and shares no community of interest with the teaching faculty. The Board concludes that the budgetary functions and organizational responsibilities of the librarian do not cause her to be an administrator of such a high level as to be designated an executive employee. Since she supervises no bargaining unit members, she may not be excluded from the unit as a supervisor. Finally, we conclude, consistent with prior holdings, that a librarian in an educational institution, as part of the overall educational team, shares a community of interest with classroom instructors. *Utica Community Schools*, supra. Accordingly, the College librarian is included within the bargaining unit.

The College would exclude instructors who teach on a twelve-month basis rather than on a nine-month academic year contract. It appears from the record that the twelve-month instructors are those who teach technical and vocational courses in the Division of Applied Sciences. These include instructors in practical nursing. While some twelve-month instructors possess academic degrees, it appears that the greater number of vocational and technical instructors do not possess degrees. The College asserts that such instructors share little community of interest with full-time instructors in traditional academic areas. While vocational and technical instructors are paid on a slightly different salary schedule and do not necessarily have formal academic degrees, it is nevertheless true that they lecture students, use text books, grade students, and counsel their students. They attend faculty meetings and in general their work is different from that of the academic instructors, primarily in the nature of the material taught. While there may be differences in the outlook and interests between instructors in certain academic areas and instructors in practical fields of endeavor of a non-academic nature, we conclude that there is a substantial community of interest among all persons who are engaged in the field of educational instruction. In *Alpena Public Schools*, 1967 Labor Opinions 187, 189, we held that there was not sufficient differentiation between the interests of teachers at the elementary and secondary level and community college instructors to warrant the severence of the community college instructors from an overall unit. The subject matter and teaching methods existing in the elementary grades is every bit as different from that which exists in the academic subjects at the college level as are the subject matter and teaching methods existing in the vocational-technical areas of the College. Accordingly, the reasoning and conclusion in the *Alpena Public Schools* case appears equally applicable to the question of including academic and vocational-technical instructors in the same unit. The circumstance that many of the vocational-technical courses are run on a twelve-month basis and the instructors are employed on a twelve-month basis rather than a nine-month basis seems insufficient grounds for creating separate bargaining units. Therefore, we will include within the petitioned-for unit the faculty members in the vocational-technical areas and all faculty members whether or not employed on a nine-month or twelve-month basis.

The Board finds that the unit appropriate for collective bargaining within the meaning of PERA is as follows:

> "All full-time faculty personnel and regular part-time day faculty personnel, of Southwestern Michigan College, including classroom instructors, counselors, librarians, department chairmen, twelve-month instructional personnel, director of nursing, but EXCLUDING the president, vice-president, deans, director of continuing education, supervisors and all other employees."

It has been administratively determined that the Petitioner has made a showing of at least thirty percent interest among the employees in the unit found appropriate for purposes of bargaining. A question of representation exists concerning employees of the College. Accordingly, it is ordered that an election shall be held pursuant to the attached Direction of Election. The employees in the aforementioned collective bargaining agreement eligible to vote shall vote as to whether or not they wish to be represented for the purposes of collective bargaining by the Southwestern Michigan College Education Association.

MICHIGAN LABOR MEDIATION BOARD

/s/ Robert G. Howlett
Robert G. Howlett, Chairman

/s/ Leo W. Walsh
Leo W. Walsh, Board Member

/s/ Morris Milmet
Morris Milmet, Board Member

Dated: January 22, 1969

DIRECTION OF ELECTION

IT IS HEREBY ORDERED that an election by secret ballot shall be conducted among the employees within the unit or units found to be appropriate in the Board's Decision in this matter. The choices on the ballots shall be as set forth in the Board's Decision.

Eligible to vote are those employees who were employed during the payroll period immediately preceding this direction of election, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are those employees in the military service of the United States, if they appear at the polls.

Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, and who have not been rehired or reinstated before the election date.

IT IS FURTHER ORDERED that the employer shall prepare an eligibility list in alphabetical order, containing eligible voters' names and addresses in accordance with the above description, and submit copies of such list forthwith to the Labor Mediation Board and to the other parties.

IT IS FURTHER ORDERED that the election shall be conducted on the premises of the Employer at such time and date as a Board Agent shall determine after consultation with the parties.

IT IS FURTHER ORDERED that the Employer shall cause to be posted in prominent places in and about the premises, sample ballots and notices of election (furnished by the Board), setting forth the time, date and place of the election, at least five days prior to said election.

MICHIGAN LABOR MEDIATION BOARD

Negotiation Agreements

PROFESSIONAL AGREEMENT

Between The

LIVONIA PUBLIC SCHOOLS

SCHOOL DISTRICT

And The

LIVONIA EDUCATION ASSOCIATION

MEA-NEA

This Agreement entered into this ___ day of _____, 1968, by and between the School District of Livonia, the City of Livonia, Michigan, hereinafter called the "Board", and the Livonia Education Association, hereinafter called the "Association".

WITNESSETH:

WHEREAS, the Board and the Association recognize and declare that providing equality of education for the children of the Livonia Public Schools school district is their mutual aim, and

WHEREAS, the parties have a mutual obligation pursuant to Act 379 of the Michigan Public Acts of 1965 to bargain in good faith with respect to hours, wages, terms and conditions of employment of its teaching personnel described in Article II, hereof, and

WHEREAS, the parties have reached certain understandings which they desire to confirm in this Agreement in consideration of the following mutual covenant it is hereby agreed as follows:

ARTICLE I

Recognition

A. The Board hereby recognizes the Association as the exclusive bargaining representative for all certificated personnel, whether under contract, on leave, employed by the Board, or upon employment by the Board, including primarily, but not limited to teacher certificated professional personnel, and specifically including all classroom teachers, permanent substitutes, guidance counselors, librarians, department chairmen, school psychologists and diagnosticians, social workers, special education teachers, helping teachers, speech, hearing and orthopedic teachers or therapists, advising or critic teachers, teachers of the homebound or hospitalized, E.I.P. consultants, high school directors, and teaching consultants whether or not assigned to a building, but excluding per diem substitutes, E.I.P. program intern teachers, administrators, supervisors, coordinators, executive personnel, and supervisory consultants and any other personnel who may incidentally hold a teaching certificate but for which a certificate is not required in their position.

High school directors' positions will be redefined during the 1968-69 school year. Such redefining will clearly establish the administrative responsibilities of these positions and they may not be eligible for membership in the bargaining unit in 1969-70.

The term teacher, when used hereinafter in this agreement, shall refer to all employees represented by the Association in the bargaining or negotiating units as defined and reference to male teachers shall include female teachers.

B. The Board agrees not to negotiate with any teacher's organization other than the Association for the duration of this agreement.

ARTICLE II

Association and Teacher Rights

A. Pursuant to the Michigan Public Employee Relations Act, the Board hereby agrees that every employee in

the bargaining unit shall have the right freely to organize, join and support the Association for the purpose of engaging in collective bargaining or negotiation and other concerted activities for mutual aid and protection.

The Board undertakes and agrees that it will not directly or indirectly discourage, deprive or coerce any teacher in the enjoyment of any rights conferred by the act or other laws of Michigan or the constitutions of Michigan and the United States. That it will not discriminate against any teacher with respect to hours, salaries, terms or conditions of employment, by reason of his membership in the Association, his participation in any activities of the Association or collective professional negotiations with the Board, or his institution of any grievance, complaint or proceeding under this agreement, or otherwise with respect to any terms or conditions of employment.

B. Nothing contained herein shall be construed to deny or restrict to any teacher rights he may have under the general Michigan school laws or other applicable laws and regulations. The rights granted to teachers hereunder shall be deemed to be in addition to those provided elsewhere.

C. The Association and its representatives shall have the right to use school building facilities at all reasonable hours for meetings without charges provided that when special custodial service is required, that the Board may make reasonable charges as provided in the Building Use Policies. The principal may designate a suitable and adequate place if there would be a conflict with other scheduled activities.

D. Duly authorized representatives of the Association and their respective affiliates shall be permitted to transact official Association business on school property at all reasonable times provided that this shall not interfere with or interrupt normal school operations.

E. The Board agrees to assist the Association in maintaining a secretarial staff, if necessary, and to provide printing shop and data processing services to the Association and permit the Association to use school equipment under the usual building use policies as long as it does not interfere with the regular operation of the school programs. Such services shall be paid for in full by the Association at the rates established by the Board.

F. The Association shall have the exclusive right as a teacher organization to post notices of activities and matters of Association concern on teacher bulletin boards. At least a portion of one or more shall be provided in each school building solely for that purpose. Such communications to employees shall be posted only on the bulletin board so designated. The Association shall have the exclusive right as a teacher organization for the use of the district mail services and teacher mail boxes for communications to teachers. Any communication posted on a bulletin board or sent through school means of distribution or placed in employee boxes by the Association shall have proper identification of the Association. Except for the Association's elections, political campaign literature shall not be posted on school bulletin boards or distributed through school mails by the Association or any of its members, unless approved by the Board and the Superintendent. All sections of this Article shall apply to both buildings and central office and to persons working where regular mail boxes do not exist.

G. The Board agrees to furnish the Association, on request, all available information concerning the financial resources of the district, including but not limited to, annual financial reports and audits, register of certificated personnel, preliminary budget requirements and allocations, including county allocation board budgets prior to adoption, agendas and minutes of all Board meetings, treasurer's reports, census and membership data, names and addresses of all teachers and such other information as will assist the Association in developing intelligent, accurate, informed and constructive programs on behalf of the teachers, together with information which may be necessary for the Association to process any grievance or complaint. Nothing contained in the above shall be construed to require that the Board provide any information not already available to it or to provide such information in any form other than it would normally be provided to the Board.

H. The Association shall be duly advised by the Board of fiscal, budgetary, tax, or legislative problems and programs affecting the district which are proposed or under consideration and the Board shall make every effort to provide the Association the opportunity in advance, to consult with the Board with respect, thereto, prior to general publication by the Board of any decision of such matters. The Association recognizes its responsibilities to give every possible assistance to the Board in regard to fiscal, tax, legislative and other such programs that affect the support of the school system. It is agreed and recognized, however, that except for expenditures contained in any annual budget which are required by the terms of this agreement, the authority to adopt all parts of the annual budget of the school district resides exclusively with the Board.

I. The parties agree that there shall be no discrimination against any employee or applicant for employment by reason of race, creed, color, marital status, age, sex or national origin and that the provisions of this agreement shall be applied in a manner which is not arbitrary, capricious or discriminate.

J. Teachers shall be entitled to full rights of citizenship and no exercising of such rights shall be grounds for discipline or discrimination with respect to the profes-

sional employment of such teacher. Consistent with the Code of Ethics of the Education Profession, the private and personal life of any teacher is not within the appropriate concern or attention of the Board except as it may reflect adversely on the teacher's responsibilities and relationships with students, parents, and the community.

K. As a condition of employment, all employees of the Board are required to have a physical examination and chest x-ray and/or tuberculin test. Chest x-rays and/or tuberculin tests shall be required annually and the Board shall make every effort to provide such chest x-ray and/or tuberculin test at a free clinic annually.

In recognition of the fact that by the very nature of their work teachers are more exposed to influenza, the Board agrees to provide up to $500 annually to the Association so that free influenza innoculation clinics may be held for employees. Any other preventive medical treatment which, in the Board's judgment, will protect the health and welfare of the students and teachers of the school district may be provided by the Board.

L. The Association shall be granted up to fifty (50) days released time per year for use by teachers participating in professional organization activities and conferences. If a substitute is required for more than twenty-five (25) of such days, then the Association shall reimburse the Board for the cost of the substitute. Any absence of a particular teacher will need to be approved by the immediate supervisor and Assistant Superintendent for Instruction at least one (1) week in advance of the absence.

M. The teacher who is elected president of the Association shall be released from a portion of his classroom responsibilities each day to fulfill his responsibilities to the Association and to the district. The time would be mutually agreed upon with the immediate supervisor. Any absences other than those mutually agreed upon under this clause would need to be approved by the immediate supervisor as well as the Assistant Superintendent for Instruction.

N. No polygraph or lie detector device shall be used on a teacher or witness in any investigation of any teacher unless expressly authorized by the teacher and the Association and the Board.

ARTICLE III

Rights of the Board

A. The Association recognizes that the Board has responsibility and authority to manage and direct, in behalf of the public, all the operations and activities of the school district to the full extent authorized by law, except where expressly limited by the provisions of this agreement.

ARTICLE IV

Membership, Fees, and Payroll Deductions

A. All teachers, as a condition of continued employment, shall either:

1. Sign and deliver to the Board an assignment authorizing deduction of membership dues and assessments of the Association (including the Michigan and National Education Association), and such authorization shall continue in effect from year to year, unless revoked in writing between June 1 and September 1 of a given year, or

2. Within thirty (30) days of the commencement of employment, cause to be paid to the Association either by authorizing payroll deduction or in cash, a representation fee equivalent to the dues and assessments of the Association (including the Michigan and National Education Associations). In the event the representation fee shall not be paid, the Board upon receiving a signed statement from the Association indicating that a teacher has failed to comply with this condition, shall immediately notify said teacher that his services shall be discontinued at the end of the current school year. The refusal of said teacher to contribute fairly to the costs of negotiation and administration of this and subsequent agreements is recognized as just and reasonable cause for termination of employment.

In any case in which a teacher or teachers contest a discharge under the provisions of this article, and it is necessary for the Board to defend its position and to engage legal counsel and to incur expenses in so doing, the Association agrees to pay such expenses so incurred by the Board, provided that the Association shall have the sole right to select the legal counsel for which they are assuming the expenses.

B. The deduction of membership dues shall be made in twenty (20) equal installments, beginning with the first pay check of each new school year, and the Board agrees to promptly remit to the respective Associations all monies so deducted, accompanied by a list of the teachers' names from whom such deductions have been made and the amount of the deduction. The balance of the annual dues or representational fees shall be deducted from the final pay check of any teacher resigning his position, receiving a leave of absence or terminating his employment after the opening of school.

The Association shall, at least sixty (60) days prior to the beginning of each school year, give written notifica-

tion to the Business Office of the amount of its dues and those of the MEA and NEA which are to be deducted in that school year under such authorizations. The amounts of the deductions for these dues or representation fees shall not be subject to change during the entire school year except that the dues or representation fees for second semester employees shall be reduced according to the regulations of the Association. For the purpose of this article, the term "school year" shall mean the twelve-month period beginning with the opening of school in the fall of each year.

The right to refund to teachers monies deducted from their salaries under such authorization shall lie solely with the Association. The Association agrees to reimburse any teacher for the amount of any dues deducted by the Board and paid to the Association, which deduction is by error in excess of the proper deduction, and agrees to hold the Board harmless from any claims of excessive deduction.

C. The Board shall also make payroll deduction, upon written request and authorization from teachers, for benefits in addition to Board sponsored insurance, annuities, credit union, savings bonds, charitable donations or any other plans or programs approved by the Board.

ARTICLE V

Professional Responsibilities Including Teaching Hours and Class Loads

A. It is agreed by the Board and the Association that teaching, by the very nature of the task, cannot be analyzed or circumscribed in finite limits of time and that some teacher responsibilities cannot, by their very nature, be fulfilled during the teacher's regular workday. Direct contact with students comprise the fundamental responsibilities of teachers. It is recognized that learning is not limited to the physical limits of the classroom, and that teachers have a responsibility for the mental, physical, and emotional growth of students at all times that school is in session including those extensions of the normal school day and other school activities as are set forth in the remaining sections of this Article, except as these responsibilities are limited by this Article.

The instructional responsibility includes the daily preparation for effective teaching, defining teaching goals in terms of the learner, having a wide knowledge of methods from which selection may be made, and the using of evaluative techniques that are consistent with those goals. However, these responsibilities are only one element of the total professional task. The success or failure of other instruction-related activities, professional activities, and social and/or recreational activities is to a large extent dependent upon the willingness of teachers to acknowledge the significance of such activities in the total educational program and to share responsibility for participation in and supervision of these activities.

In some instances such activities are requisite to the operation of the regular school program and teachers are subject to balanced assignment to the activities by the principal as indicated under Article III.

Illustrative of these activities are the following:

1. Commencement, Baccalaureate, Honors Night
2. Parent and student conferences to report and evaluate pupil progress
3. Conferences with other teachers and administrators regarding students
4. Research, development and evaluation of programs including accreditation
5. Participating in curriculum planning and activities
6. Committee assignments to improve the educational program at building and system level
7. College and Career Night
8. P.T.A. or parent club meetings

*9. Parent's Night
*10. Back-to-School Night
*11. Program orientation meeting for parents.

Whereas some of the above activities, such as those marked with an asterisk (*), require the participation of all teachers, others may be handled by only a few or may pertain, at a given time, to only one individual.

It is recognized that other activities which require an extensive amount of time beyond the normal school day should receive additional compensation beyond the regular salary schedule. Those which extend over all, or a considerable portion, of the school year are incorporated in Appendix B of this agreement. Others which may be quite limited in time assignment include the following:

1. Athletic events
2. Student dances
3. Activity nights
4. Other activities requiring student and/or crowd control
5. Similar activities determined through agreement between the Association and the Board.

All teachers not otherwise assigned to such events but interested in assisting with them should have the opportunity to do so. Such supervisory work will be remunerated according to the rates set forth in Appendix B.

A third kind of responsibility, related to instruction and the broad professional role of teachers, is the sponsorship of club activities. Since the potential value of such an activity can only be realized through the enthusiastic leadership of the teacher sponsor and the

interested participation of the students, such clubs will be initiated only when such student interest exists and when a qualified teacher volunteers to sponsor the activity without remuneration. Such necessary conditions and any other requirements must be approved by the principal prior to the initiation of the club. Among these activities are the following:

1. French Club
2. Future Nurses Club
3. Historical Society
4. Masque and Mike Club
5. Math Club
6. Model United Nations
7. Science Club
8. Young Moderns
9. Future Teachers Club
10. Chess Club

All teachers shall be given the opportunity to indicate interest in club sponsorship during the first few weeks of school in the fall and during the following May and June. The purpose of providing this opportunity to indicate an interest is to facilitate the planning for clubs.

B. The Association recognizes the right of the Board to develop complete job descriptions and to publish these descriptions in the Teacher Handbook, job postings, teacher evaluation materials, or other appropriate places. These job descriptions may not be in conflict with the expressed terms of this Agreement, but may be used for the purpose of evaluating a teacher's job performance, provided that the job description of any existing position in the bargaining unit will not be substantially altered or increased during the period of this Agreement without prior agreement of the Association. The future status of high school directors is covered by Article I.

C. The Board recognizes the principle of a minimum continuous seven and one-half hour teacher workday with no more than five clock hours required in the classroom supervision of students. The seven and one-half hour teacher workday is subject to the conditions of the remaining sections of this Article. The workday for part-time teachers shall be pro-rated according to the 1968-69 Teacher Handbook. In no instance shall a teacher be required to report earlier than seven a.m., nor remain later than six p.m., as a part of their regular teaching assignment unless contracted for individually with the teacher. Exceptions may be mutually agreed upon by the Board and the Association.

D. The normal weekly classroom teaching load for teachers, and specifically including librarians, counselors, and reading consultants in the junior-senior high schools shall include twenty-five teaching and supervised study hours and five hours for conferences, preparation of instructional materials, and similar instruction related activities. The twenty-five teaching and supervised study hours would normally be divided into five approximately equal periods per day.

The normal weekly teaching load in the elementary school shall include twenty-five teaching hours, excluding relief time. It is recognized that at the elementary level a portion of the extended lunch period and the additional time before and after school which secondary teachers do not have is for the purposes of conferences, preparation of instructional materials, and similar instruction related activities.

In addition to the above, teachers may be expected to spend some time in supervising halls, bus duty, homerooms, and similar responsibilities. This may be either before or after the student's day but shall be within the teacher's minimum seven and one-half hour day. In those elementary schools where the amount of bus duty exceeds the average of those elementary schools having buses, teachers shall be compensated according to Appendix B for the amount of time above the average.

E. In the establishment of experimental programs involving flexible modular schedules or other varying time blocks maxima established in D above shall not apply, but such programs shall not be established without the mutual consent of the Association and the Board. Such innovative programs shall be evaluated by May 1 of each year to determine further actions concerning such programs.

F. Elementary teachers shall have a minimum fifty-minute duty-free lunch period, while secondary teachers shall have a minimum twenty-five minute duty-free lunch period. The difference between elementary and secondary lunch time partially compensates for elementary teachers not having a regular daily conference or preparation period. If elementary classroom teachers desire to work a portion of their lunch period in the supervision of students, they shall be given the opportunity each fall to ask for such assignment and shall be employed prior to the employment of non-professional people for this job. It is understood that noon-hour supervision by teachers in elementary schools will be compensated for as agreed under the salary provisions for extra-duty pay in Appendix B.

G. Elementary classroom teachers and other elementary teachers who do not have periods of time free from direct student contact will be provided with a minimum of one fifteen-minute relief period per day. Such time may be taken at pupil recess or similar times, and the building principal will be responsible for establishing an appropriate schedule. In the event of inclement weather or other unusual circumstances which necessitate indoor recess, teachers may alternately monitor one another's classroom in order to insure a fifteen-minute relief period for each teacher each day.

H. No departure from the above provisions except in the case of emergency shall be made without prior consultation with the Association. In the event of any disagreement between the representatives of the Board and the Association as to the need and desirability of such deviation, the matter may be processed through the Professional Grievance Procedure hereinafter set forth.

I. No regularly assigned teacher shall be used as a substitute teacher unless it is a scheduled part of the total teaching hours except in case of emergency, it being expressly understood that failure of a substitute to arrive on schedule or the inability of the Board to secure a substitute shall be considered an emergency. Such emergency assignments shall be rotated among qualified available personnel. Such substituting would be in the areas of certification as far as possible.

In such emergency cases when a regular teacher has been assigned to substitute during a conference period or other available time, the teacher shall be reimbursed at the rate established in Appendix B of this Agreement. No teacher shall be assigned more than one hour of such substituting per day, nor shall be paid for more than one hour per day of such substituting.

J. Monday afternoon following the regular teachers' workday shall be reserved for Association meetings. Exceptions may be made when mutually agreed to by both parties. One Monday per month such meetings may be held fifteen minutes after the dismissal of students if there are no conflicts.

K. Teachers serving as delegates to the Association's Representative Assembly or members of the Association's Board of Directors shall be allowed to leave their respective buildings as soon as their responsibilities related to the health and welfare of children are completed on those Mondays when such meetings are regularly scheduled. The Association shall provide each building principal with a list of the Representative Assembly Delegates and/or Board of Directors members from their buildings along with a schedule of such meeting dates as soon as possible following the commencement of the school year.

L. Any teacher engaged in a formal meeting where his attendance is required in negotiating in behalf of the Association with any representative of the Board or participating in any professional grievance procedure shall be released from regular duties without loss of salary.

M. Teachers shall be expected to remain on duty as long as needed in the event of emergency situations. Such situations should be similar but not limited to severe weather warnings, civil or student disturbances or situations which may threaten health or safety of students.

N. Attendance at faculty meetings scheduled beyond the regular teacher's workday shall not be required except that a maximum of one faculty meeting per week may extend up to thirty minutes beyond the regular teacher's workday with attendance being required. Faculty meetings shall not be used for Association business except short announcements may be made by representatives of the Association.

O. The Board and the Association recognize the right for voluntary participation by teachers in in-service activities, and similar professional tasks which may go beyond these guidelines.

ARTICLE VI

Special Student Program

The parties recognize that children having special physical, mental and emotional problems may require specialized classroom experience and their presence in the regular classroom may place extraordinary demands on the teacher.

Teachers are encouraged to make referrals of students who appear to need specialized assistance to Pupil Personnel Services. Principals shall assist teachers in making appropriate referrals. Supportive personnel such as School Social Workers, Psychologists, Type "C" Consultants, Helping Teachers and other appropriate personnel from the Department of Pupil Personnel Services will be provided within budgetary limits. It is normal that a small percentage of these children may be present in any classroom, but occasionally the extraordinary demands required of classroom teachers becomes excessive because of the number of such children, the severity of their problem, or the inability to make immediate placement in a special classroom. In these cases reduction of total class size may be appropriate in addition to the other supportive help provided.

If, after exhausting all recognized avenues to minimize the extraordinary requirements in these situations, the teacher feels more help is needed, a request may be made to the principal for the Director of Pupil Personnel Services to initiate a complete evaluation of the situation and take additional appropriate action to reduce the extraordinary demands, if such further action is found needed.

ARTICLE VII

Teaching Conditions

A. Inasmuch as the pupil-teacher ratio is an important aspect of an effective educational program and is directly related to the volume of a teacher's work, it is agreed the following maximum class sizes and pupil-

teacher ratios will be adhered to. In the event of any disagreement between the representative of the Board and the Association as to the needs and desirability of deviation from these class sizes, it may be processed through the Professional Grievance Procedure set forth in Article XXVII. The Board recognizes that the pupil-teacher ratio established here is not an optimum pupil-teacher ratio and will give improvements in this area prime consideration as the finances of the district may allow for improvement.

1. Elementary - 33.5 classroom teachers per 1,000 students. Consultants, special education teachers, librarians, administrators, and other professionals at the elementary level who do not contribute to the reduction of class size shall not be included in the 33.5 classroom teachers per 1,000 students. Maximum class size at the elementary level shall be 35 in grades 3 through 6 and 32 in grades K, 1 and 2.

2. Secondary - 33.5 classroom teachers per 1,000 students. Only that portion of a teacher's day which contributes to the reduction of class size may be included in the 33.5 classroom teachers per 1,000 students.

   a. The maximum number of students to be assigned an individual teacher except in specially classified classes such as music, physical education, and study halls shall not exceed 175 students for a 5 period classroom teaching day. If a teacher has fewer than 5 classroom teaching periods, then the maximum per day shall be 35 times the number of teaching periods.

   b. The maximum number of students assigned to a given section of the above classes with the exception of the specifically classified classes shall be 35. Given sections of these classes shall not be smaller than 19 unless physical facilities or the most efficient use of personnel so dictates.

   c. The maximum number of students in laboratory classes (BUSINESS EDUCATION: Computer concepts, data processing, and business machines classes; HOME ECONOMICS: All foods and clothing classes except specifically excluding home and family classes; INDUSTRIAL ARTS: All woods, auto, and metals classes except specifically excluding drafting and graphics classes; SCIENCE: All science classes except specifically excluding general science in 7th and 8th grades) shall not exceed 140 students for a 5 period classroom teaching day. If a teacher has fewer than 5 classroom teaching periods then the maximum per day shall be 28 times the number of teaching periods.

   d. The maximum number of students assigned to a given section of such laboratory classes shall be 28.

3. *Special Education Classes* - Maximum class sizes and consultative loads shall not exceed the standards adopted as maximums by the Michigan Department of Education. When students normally assigned to a special education classroom are integrated into a regular classroom they shall be counted in computing the number of students in the regular classroom.

4. Exceptions to the preceding in this Article may be made but such exceptions must be mutually approved by representatives of the Association and the Board.

B. In the establishment of experimental education programs involving large group instruction or other organizational patterns with high pupil-teacher ratios, maxima established above will not apply, but such programs shall not be established without the mutual agreement of the Association and the Board. The development of mutual consent for such programs shall include full discussion by the principal and staff including representatives of the Association at the local building level. However, if an individual teacher is to receive or has a class load that exceeds the limits of this contract, that teacher must agree in writing to the exceeding of the maximum load. The Association's representative shall seek a statement of position from the Association. All information shall be forwarded to the appropriate director who shall give it the same consideration as any other proposal. The director may arrange for any further discussions deemed necessary prior to making any further recommendations following normal administrative channels. Innovative programs and/or courses shall be evaluated jointly by the appropriate Association and Board representatives by May 1 of each year to determine further action concerning such programs.

C. Recognizing the desirability of experimenting with flexible class sizes for various instructional situations, and under the auspices of the Professional Study Committee and with Board and Livonia Education Association approval there have been jointly selected six experimental advisory councils in six schools to advise the building principal and to help plan the staffing patterns in those schools. These six schools are Stevenson High School, Bryant and Emerson Junior High Schools, and Tyler, Garfield and Buchanan Elementary Schools. These six schools are to operate under guidelines approved by the Professional Study Committee. These six schools shall receive at least the minimum teacher allocation for the number of pupils in their schools, as provided in other sections of this contract.

   In these six schools class sizes may be varied by a joint agreement of the Staff Advisory Council and the principal of that school. However, if an individual teacher is to receive or has a class load that exceeds the limits of the contract, that teacher must agree in writing to the above the maximum load.

D. The ratio of pupils to counselors at the junior high school level shall not exceed 325 to 1 and the ratio at the senior high school level shall not exceed 300 to 1. Because of the nature of the counselor's work, the Board requires a counselor's school year to precede the regular teacher's contract year by one week and extend beyond the regular teacher's contract year by one week. Such additional weeks are to be prorated on the annual contract salary as set forth in Appendix A.

E. The Board recognizes the importance of Instructional Materials Centers as part of the total educational program. In a fully operating senior high school there shall be at least the equivalent of two and one-half librarians and a full-time director of Instructional Materials. At the junior high school level there shall be at least one full-time librarian, and in those junior high schools having over 1,000 students, one and one-half librarians. In addition, there shall be at least the equivalent of a full-time person in charge of Audio-Visual Instructional Materials. Minor exceptions to this policy may be necessary during the current school year. However, this person shall not be assigned more than one teaching period.

Depending upon their enrollment elementary schools shall have *at least:*

Two-fifths-time librarian for schools enrolling less than 500 students;
One-half-time librarian for schools enrolling 500 students or more;
A full-time librarian for schools enrolling more than 700 students

F. Department Chairmen in the secondary schools shall exercise the coordination of programs and materials and shall serve as instructional liaison between teachers of the department and the school administration. The duties, qualifications and method of selection of department chairmen in both junior and senior high schools shall be in accordance with established Board Regulations as approved on August 16, 1968.

Chairmen shall be selected for the following separate and distinct departments in the junior and senior high schools:

Senior High: art, business, counseling, English, foreign language, home economics, industrial education, mathematics, music, physical education, science, social studies.

Junior High: English-social studies, mathematics-science.

Department chairmen shall receive compensation in accordance with Appendix B.

G. The Board recognizes that appropriate text books, library reference facilities, maps, globes, laboratory equipment, audio-visual equipment, art supplies, athletic equipment, current periodicals, standardized tests, questionnaires and similar instructional materials are the tools of the teaching profession and the Board shall make every effort at all times to keep the schools reasonably and properly equipped with such material. The Board further recognizes the value of teacher participation in the selection and use of instructional materials and will confer from time to time with the Association for the purpose of improving the methods of selection and use of such educational tools. The Board will attempt to implement all joint decisions made by its representative and the Association, however, the Board reserves the right to approve final purchase and selection of such instructional materials.

H. The Board will provide a maximum of one pair of protective shoes per year to each teacher of welding, auto, wood and machine shop. The Board shall supply each science laboratory, industrial arts classroom, and art room with protective smocks, laboratory coats or shop coats for teacher's use while teaching in such classrooms. Such clothing may be laundered by the school laundering service.

I. The Board shall make available in each school, lunch room, restroom and lavatory facilities exclusively for adult use and at least one room which shall be reserved for use as an adult lounge. The lunch room and adult lounge may be the same room.

J. Telephone facilities shall be made available to teachers for their reasonable use according to Board regulations, dated November 28, 1967.

K. At the request of the Association, a vending machine for beverages may be installed by the Association in the faculty room, provided that no alteration to the building is necessary. All financial and operational arrangements shall be the responsibility of the Association and it shall be the responsibility of the LEA building organization to properly protect any such vending machines at all times.

L. Parking facilities, as far as possible, shall be made available to teachers and maintained for their use. The Board reserves the right to free certain parking locations for election day or other emergency building use.

ARTICLE VIII

Professional Qualifications and Assignments

A. The Board agrees to employ under contract, only those teachers who possess the minimum of a Bachelor's degree and the necessary qualifications for Provisional,

Permanent, Continuing or Life Certification; social workers and psychologists and psychological examiners, shall have approval as determined by the State of Michigan. Teachers hired as substitutes or for classes in adult education and extended school services would require certification, but would not necessarily require a Bachelor's degree. As vocational education programs expand, there may be added programs such as culinary arts for which there are very limited or no professional training programs. Prior to the employment of any person who does not have a Bachelor's degree but does have vocational certification for such a program, the Board will notify the Association of the recruitment efforts made for the position. It is the responsibility of each teacher to maintain proper certification.

B. Teachers shall not be assigned outside the scope of their teaching certificates and their major or minor field of study, except temporarily and for good cause, and the Association shall be so notified in each instance, along with written statement of reasons for such assignment.

C. Prior to the close of school each school year, teachers, other than newly appointed and substitute teachers, shall be notified in writing of their tentative programs for the coming year, including the schools to which they will be assigned, the grades and/or subjects that they will teach, any special or unusual classes that they will have and including tentative class lists for the elementary grades. Teachers affected by any subsequent changes in assignment shall be consulted, if possible, and any change in assignment will be made according to the provisions of Vacancies, Promotions and Transfers under Article IX of this Agreement.

D. Any scheduled extra-pay assignments in addition to the normal teaching schedule during the regular school year, including adult education courses, driver education, extra duties enumerated in Appendix B, and summer school courses outside the regular school year shall not be obligatory but shall be with the consent of the teacher. This restriction does not limit the professional activities as outlined in Article V of this Agreement.

E. Teachers are employed and assigned on the basis of their area of teaching competency. Extra-pay assignments are ordinarily offered to those people who have exhibited an interest in them and who have the ability to conduct this extra-pay assignment as evidenced by course work or experience. A third factor is the balancing of extra-duty assignments among those people with the interest and ability. Seldom would one individual have more than two (2) extra-duty pay assignments if anyone else has the ability and the interest. Method of appointment to extra-duty pay assignments shall be as follows:

1. A vacancy shall exist when a new position is created, when a person who has held the position leaves or requests not to have the position any longer, or when the principal declares the position vacant for reasonable and just cause.

2. When a vacancy exists for an extra-duty assignment, the principal shall post appropriate notices in the building soliciting written applications. The vacancy shall not be filled except in case of an emergency, and then only on a temporary basis until such vacancy shall have been posted for at least ten days.

3. When more than one person indicates an interest, ability and balance will become the prime factors of consideration. If these are essentially equal; then seniority in the Livonia Public Schools will become the deciding factor, with the person with greatest seniority given preference. Any person denied a position after indicating an interest in the vacancy may request the principal to state the reason(s) for such denial.

4. If there is no one with the ability and interest at a building for a particular extra-duty assignment, applications may be sought from other buildings.

5. It is recognized that tenure does not apply to any extra-duty assignment.

F. The Board agrees to maintain at all times an adequate list of substitute teachers. Teachers shall call to report unavailability for work at least one and one-half hours before their teaching day commences. Between the hours of 6:30 a.m. and 5:00 p.m. they may call 422-1200. Between the hours of 5:00 p.m. and 6:30 a.m. they may call 422-1810. When a teacher has reported unavailability for work it shall be the responsibility of the Superintendent to arrange for a substitute teacher.

G. Administrative, supervisory, and executive personnel will not be assigned any extra-curricular or summer school positions as a teacher as long as a qualified Livonia Public Schools teacher is available to fill the position. For any person appointed to such an administrative, supervisory, or executive position who has held such an extra-curricular or summer school position, there may be a one-year grace period on this provision. The Association shall be informed of any such assignments for this grade period and the reasons for the assignment.

ARTICLE IX

Vacancies, Promotions, and Transfers

A. *Vacancies and Promotions*

1. Whenever any vacancy in any promotional professional position in the District shall occur, the Board shall publicize the same by giving written notice of

such vacancy to the Association and provide for appropriate posting in all schools or through a staff newsletter. No vacancy shall be filled, except in case of an emergency, and then only on a temporary basis, until such vacancy shall have been publicized for at least ten days. A promotional position is defined as an advancement in salary other than normal increments. Extra-duty assignments are not promotional positions. Teachers are encouraged to submit in writing an indication of their intent to apply for a particular promotional position prior to the time that the position becomes vacant. All teachers submitting such an indication of their intent to apply shall be sent a copy of the job posting by the Personnel Office when the position does become vacant.

2. Whenever vacancies other than promotional positions shall occur, the Board shall publicize the same by giving written notice of such vacancy to the Association and provide for appropriate posting in all schools or through a staff newsletter within five days of the first day of November, December, January, February, March, and April. Up-to-date information regarding vacancies may be obtained from the Personnel Office at any time by an employee. Teachers may file applications for positions at any time.

3. The Association recognizes that, when vacancies occur during the school year, it may be difficult to fill them from within the district without undue disruption to the existing instructional program. If the Superintendent, in his reasonable judgment, so determines, such vacancy may be filled on a temporary or tentative basis until the end of the normal school year, at which time the position will be considered vacant. This position must be posted by March 1, or as soon as possible after the vacancy becomes known, if the vacancy occurs after March 1.

4. Any qualified teacher may apply for a vacancy. All applicants applying to fill a posted vacancy shall receive from the Personnel Office a form indicating that his application has been received and is being processed. Vacancies shall be filled on the basis of experience within and outside the system, training, certification, proven and potential ability, and other personal and professional qualifications considered pertinent by the Board for the position.

   Applicants for transfer shall be notified of the status of their application prior to the close of the teachers' school year. An applicant from outside the system, or an applicant with less service in the system, shall not be awarded such a position unless his qualifications are demonstrably superior to applicants within or with greater service in the system. When a teacher within the system is denied a position for which he has applied, he shall be entitled to a conference with the Superintendent or his designee, and the reasons for denying his application stated and discussed. After such discussion, if the conference is not satisfactory to the teacher, the teacher shall have recourse to the grievance procedure. "Service in the system", for purposes of this Agreement, shall mean continuous employment in the district, including permanent substitute teaching service, but shall exclude all periods when the teacher was on a nonprofessional leave of absence for any cause, except military service.

5. The parties recognize that the filling of vacancies at the supervisory and administrative levels and the filling of newly created supervisory and administrative positions according to job description posting is the prerogative of the Board, and the decision of the Board with respect to such matters shall be final.

6. Administrative intern positions are assignments developed to assist the Board in identifying potential administrators, supervisors, and instructional leaders. Such positions shall be open to all teachers as outlined in this article. Teachers placed in these positions shall serve in this capacity, full time if possible, for not more than two (2) years. If, at the end of the internship period, interns are not placed in an administrative, supervisory or instructional leadership position, they shall be returned to their previous or equivalent teaching assignments, and shall be personally informed by the Superintendent or his designee of their status in terms of promotion. An intern during the internship period shall advance on the salary schedule the same number of steps he would have advanced had he remained a teacher during that period.

   The Superintendent shall annually appoint a system-wide committee to coordinate the intern program. One member of this committee shall be appointed by the Superintendent upon receipt of recommendation from the Association. The responsibilities of this committee are delineated in *The Internship Program.* If the selection committee for interns is different than the system-wide committee, then the Association representative shall serve on both committees.

B. *Transfers*

Although the Board and the Association recognize that frequent transfers of teachers from one school to another are disruptive of the educational process and interfere with optimum teacher performance, they also recognize that relocation of staff personnel may become necessary to meet load conditions, to meet instructional requirements, to maintain a balance of experienced teachers on a particular staff, to honor the wishes of employees for service elsewhere in the system, and to provide a better opportunity for professional growth.

1. Each February, or as unusual vacancies occur, an opportunity shall be given to all tenure teachers to make an official request for a change in assignment for the following year on a form provided by the Personnel Office. Teachers may, however, file such transfer request forms at any time. All transfer requests received prior to March 15, shall be acted upon by the Superintendent in cooperation with all parties affected and considering instructional needs of all schools concerned, seniority, certification and other pertinent qualifications. The applicant shall be notified of the status of his application prior to the close of the teacher's school year. Transfer requests received after March 15 shall be acted upon the following school year, however, the Personnel Office will make every attempt to honor transfer requests to fill vacancies as they become known after that date.

2. All persons applying for a transfer shall receive from the Personnel Office a form indicating that his request has been received and is being processed.

3. Any teacher who shall be transferred to an administrative, supervisory or instructional leadership position, and shall later return to teacher status, shall be entitled to retain such rights as he may have had under this Agreement prior to such transfer. However, he is not automatically reinstated to such additional responsibilities as coaching or department chairman.

4. *Probationary assignment.* If practicable, probationary teachers will be retained in the same assignment throughout their probationary period. In those instances when the Board feels it is to the advantage of all parties concerned to transfer a probationary teacher during the period of probation, the Association shall be notified.

5. Transfers and changes of assignments will be on a voluntary basis, whenever possible. In making involuntary assignments and transfers, the convenience and wishes of the individual teacher will be honored to the extent that these considerations do not conflict with the instructional requirements and best interests of the school system and the pupils.

6. An involuntary transfer will be made only after notification of the teacher. Notice of such transfer will be given to the teacher not later than thirty (30) days prior to the end of the semester preceding the effective date of the transfer, if at all possible. The teacher being so transferred shall have the opportunity to meet with the Superintendent or his designee and a representative of the Association to discuss the need and desirability of such a move.

   A list of open positions in other schools will be made available to all teachers being involuntarily transferred. Adequate released time will be provided for visiting schools at which open positions exist. If not in conflict with the instructional requirements and best interests of the school system and the pupils, preference will be given in filling such positions on the basis of length of service in the school system. Disputes under this section will be subject to the grievance procedure.

C. In order to facilitate transfers, as well as general recruitment, the Association agrees to encourage teachers to communicate to their immediate supervisor their plans for the following year as soon as possible. The Board may survey the staff, using whatever means appropriate, to determine the employment status of teachers for the ensuing school year.

ARTICLE X

Illness and Disability

On an experimental basis during the period of this Agreement, the Board and the Association agree to incorporate a new concept of illness and disability protection for teachers. Such illness and disability protection shall be provided as hereinafter set forth:

A. *Coverage*

1. *Group I*

   a. Teachers who have less than three full years service with the Livonia Public Schools shall be known as Group I teachers for the purposes of this Article.

   b. Group I teachers shall be provided with ten (10) annual days leave per year for the purpose of illness, disability, and/or personal business. Such annual days shall not be cumulative; however, the unused portion of said annual days shall be remunerated from the Illness and Disability Bank, prior to June 30, in accordance with the formula prescribed in B. 2, of this Article.

   c. Group I teachers shall also be provided by the Board with salary continuation insurance protection in the amount of $50/wk., as provided by MESSA.

2. *Group II*

   a. Teachers who have three or more full years service with the Livonia Public Schools shall be known as Group II teachers for the purposes of this Article.

   b. Group II teachers shall be guaranteed a sum equal to the total amount of their annual salary

as set forth in Appendix A, in the event they are ill or disabled and unable to work. This salary guarantee shall be for any period of illness or disability up to one calendar year from the onset of the illness or disability. In no event, however, shall any teacher be paid under this provision an amount in excess of the total salary he would have earned had he been able to work during the period of the illness or disability.

c. Group II Teachers shall be allotted ten (10) computational days leave per year for the purpose of illness, disability, and/or personal business. Such computational days shall not be cumulative; however, the unused portion of said computational days shall be remunerated from the Illness and Disability Bank prior to June 30 in accordance with the formula prescribed in B.2, of this Article.

3. For any absence which exceeds three consecutive school days the teacher shall upon request provide the office of the Assistant Superintendent for Personnel with a written statement from a qualified physician as to the need for such absence.

a. Only in emergencies may leave days be taken under the provisions of this Article on the last two days of school or immediately preceding or following a holiday. Any use of leave days under this emergency provision must be approved by the Superintendent of Schools in advance if at all possible. The teacher shall furnish verification upon request from a qualified physician if they are ill on these days.

B. *Illness and Disability Bank*

1. *Funding**

a. For the purposes of administering the illness and disability protection for teachers, an Illness and Disability Bank shall be established in the amount of $_____ , (this sum having been determined by multiplying the number of members of the bargaining unit by the average number of days used for the purposes of illness, disability, and/or personal business, and in turn multiplying that figure by the current per diem substitute rate).

b. The Illness and Disability Bank shall have two (2) sections: A and B. The purposes of the A section shall be: (1) to charge all absences of Group I teachers actually requiring a substitute against; and (2), to provide Group I teachers with a base for remuneration of unused annual days. The purpose of the B section shall be: (1) to charge all absences of Group II teachers actually requiring a substitute against: and (2), to provide Group II teachers with a base for remuneration of unused computational days.

The amount of the A section shall be $_____ , and the amount of the B section shall be $_____ , the basis for said amounts having been determined according to Paragraph a. above.

c. Ninety per cent of the initial amount allocated to the respective sections (A and B) of the Illness and Disability Bank shall be used to remunerate teachers for unused days according to the following paragraphs of this Article. Ten per cent of the initial amount shall be reserved by the Board for use in this program in future years.

d. In addition, there shall be maintained a Reserve Illness and Disability Bank in the amount of $_____ . The Reserve Illness and Disability Bank shall be used expressly for the purpose of protecting the liability of the Board during the period of this Agreement, and shall not be included in the remuneration for the unused portion of annual days in the case of Group I teachers, nor the remuneration for the unused portion of computational days in the case of Group II teachers.

2. *Remuneration*

a. Teachers in Group I shall be remunerated for unused annual days according to the following formula:

(A-B-C) ÷ D = E, where

A = Total of Section A Bank
B = 10% for future years
C = Total number of days for which substitute was required x current substitute rate
D = Total number of unused annual days
E = Amount of remuneration per unused annual day.

b. Teachers in Group II shall be remunerated for unused computational days according to the following formula:

(A-B-C) ÷ D = E, where

A = Total of Section B Bank
B = 10% for future years
C = Total number of days for which substitute was required x current substitute rate

*NOTE: The dollar amounts cannot be filled in until the rate of pay for substitutes, number of teachers in the bargaining unit and average number of days used is determined. The dollar amounts shall be as set forth in these paragraphs.

D = Total number of unused computational days
E = Amount of remuneration per unused computational day.

C. *Evaluation*

1. In recognition of the experimental nature of the Illness and Disability Program contained herein, the Association and the Board agree to evaluate the program prior to the close of the school year in order to assess its effect upon reducing the usage of substitute days within the district and its attempt to provide increased benefits for teachers.

2. Such evaluation shall result in the mutual determination of the desirability of continuing the program in future years.

It is expressly understood that all members of the bargaining unit who have accumulated sick leave days under the provision of previous contracts shall retain that accumulation and, in the event that it is mutually agreed as a result of the evaluation to return to the plan set forth in the Agreement of 1966-68 or a similar plan involving the accumulation of sick leave days, such accumulation shall be restored in full. Toward this end, the Office of the Assistant Superintendent for Personnel shall forward a statement to this effect including the total accumulated days to each member of the bargaining unit having such accumulation, a carbon copy of which shall be placed in the teacher's personnel file.

It is further understood that such accumulation shall not be used during the period of this Agreement, except that a teacher in Group I who has exhausted his ten (10) annual days may use any portion or all of the days accumulated under previous contracts, should he so desire. In such an instance, the Board agrees not to charge days used from prior accumulation against the Illness and Disability Bank.

The Superintendent's office shall forward to the Association on a monthly basis a list indicating the actual number of days for which a substitute was required for both Group I and Group II teachers. No later than Wednesday following the last day of school, the Association shall be furnished with the data and computations necessary to determine remuneration to both Group I and Group II teachers on the basis of the formulas established in this Article.

ARTICLE XI

Insurance Protection and Annuities

A. Pursuant to the authority set forth in the Michigan School laws, the Board agrees to contribute for each teacher who requests such protection by filing the proper authorization form, the payment of premiums in the amounts hereinafter prescribed.

Teachers new to the district, or those who have not been covered by MESSA insurance, may take advantage of a choice of one of the two following plans of health care and life insurance under the current Michigan Education Special Services program.

Plan I

1. The Board shall contribute toward the payment of premiums for Super-Med hospitalization and major medical according to the following schedule:

a. Insured only	$10.20/mo.
b. Insured and spouse	20.85/mo.
c. Insured and children	17.00/mo.
d. Full family	25.25/mo.

2. The Board shall contribute full premiums to provide life insurance of $5,000 (over age 50 – $3,750).

3. The Board shall contribute full premiums to provide dependent life insurance.

4. Teachers new to Livonia, in order to have the benefits of Plan I, shall authorize payroll deduction for the following differences in the premiums between the above and Super-Med:

a. Insured only	$ 1.80/mo.
b. Insured and spouse	3.30/mo.
c. Insured and children	3.25/mo.
d. Full family	4.70/mo.

Plan II

1. The Board shall contribute full premiums to provide life insurance of $12,500 (over age 50 – $11,250).

2. The Board shall contribute full premiums to provide dependent life insurance.

B. Teachers having taught in the system prior to the ratification of this Agreement, and who have been covered by MESSA health insurance programs, shall have the option of selecting either the Super-Med coverage of their previous coverage with the exception of salary continuation. In those instances where a teacher shall elect to remain with previous MESSA health insurance programs, the Board shall contribute full premiums for up to full family coverage.

In those instances where a teacher shall elect the Super-Med coverage, the teacher shall authorize payroll deduction for the difference in premium between the two plans now available according to the amounts in A 4 above.

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C. During the month of September, the Board shall forward to all teachers having taught in the system prior to the ratification of this Agreement, notification of the increased benefits available under Super-Med so they may make a determination whether to remain with the previous MESSA health insurance coverage or file appropriate forms to revise their coverage to include Super-Med.

It shall be the responsibility of the teacher to file the appropriate form, including authorization for payroll deduction for this additional premium with the Insurance office prior to the close of the open period, November 1.

D. The Board shall make payment of insurance premiums for each teacher to provide insurance coverage for the full twelve-month period, commencing September 1 and ending August 31; when necessary, premiums in behalf of the teacher shall be made retroactively or prospectively to assure uninterrupted participation and coverage.

E. The Board shall provide Association members the right to benefits of the MEA and NEA Tax Deferred Annuity Programs on payroll deduction. Payroll deduction for other tax deferred annuity programs shall be allowed by the Board upon designation of intent on the part of a minimum of 100 teachers.

ARTICLE XII

Leaves of Absence

A. *Sabbatical Leave*

Pursuant to Michigan School Law, teachers who have continuously been employed by the Board for seven (7) years may be granted a sabbatical leave for one year. During a sabbatical leave, the teacher shall be considered to be in the employment of the Board, and shall be paid one-half his scheduled salary as set forth in Appendix A.

Up to 2% of the total teaching staff may be granted such leave. Determination of teachers to be granted such leave shall be made by a six member panel, composed of three representatives chosen by the Board and three representatives chosen by the Association, according to the following guidelines:

1. *Qualifications*

a. The applicant must possess a Michigan Life or Permanent Certificate.

b. The applicant must have been employed in the Livonia Public Schools School District for at least seven consecutive years. Absence from service for a period of not more than one year under a leave of absence without pay for professional improvement, restoration of health, or maternity shall not be deemed a break in continuity of service, but neither shall such a one-year leave be counted in the total of seven required by this qualification.

c. The applicant must not have been granted a sabbatical leave of absence from the Livonia Public Schools School District during the seven consecutive years of service immediately preceding current application.

d. The applicant must sign an agreement to return to service with the Livonia Public Schools School District immediately upon termination of the sabbatical leave and continue in such service for a period of two years (one year in the event of a half-year sabbatical leave), unless causes beyond his control prevent, or to refund all or part of any compensation received during the sabbatical leave from the Livonia Public Schools School District, according to the following schedule:

Years Service Following Leave	Refund
0	100%
0.5	75%
1	50%
1.5	25%
2	0%

A proportionate schedule shall be followed in the event of a half-year sabbatical leave. In the event of extenuating circumstances, the Board may, by special action, waive any obligation to refund compensation.

e. All applications shall be reviewed for recommendation to the Board by a committee consisting of six members, three appointed by the Superintendent and three appointed by the Association. The committee shall consider, among other qualifications, the following:

1) The proposed program of the applicant as related to professional graduate study, travel, writing or research.

2) The value of the proposed program to the Livonia Public Schools School District, its pupils, and the individual applicant.

3) The applicant's length of total service to the Livonia Public Schools.

4) When the number of applicants exceeds 2% of the teaching staff, the ratio of recipients should reflect the ratio of applicants, taking

into account the total number of teachers eligible for a sabbatical from the areas of elementary, secondary, and pupil personnel. The committee would be responsible for maintaining this balance.

2. *Application*

a. Applications shall be filed with the office of the Assistant Superintendent for Personnel by March 1, for leave beginning the following September. For leave beginning the second semester, applications shall be filed by October 1 of the preceding calendar year.

b. Applicants requesting sabbatical leave commencing in September shall be notified by April 1 as to the status of their application. Applicants requesting leave commencing the second semester shall be notified by November 1 as to the status of their application.

c. Applicants for sabbatical leave shall include with their application forms an outlined plan for the period requested for sabbatical leave. This plan shall be indicated on the application form or as an attached statement, and shall include details either for graduate study in an approved college or university or a project (research, writing, travel) to be pursued independently by the applicant.

3. *Compensation*

a. A teacher on sabbatical leave will be paid 1/2 of his salary as set forth in Appendix A, on either 21 or 26 pays, as he so indicates.

b. A teacher granted such leave shall advance on the salary schedule the same number of steps he would have advanced had he been on the staff in the Livonia Public Schools School District.

4. *Status while on Sabbatical Leave*

a. A teacher on sabbatical leave shall be considered to be in the employ of the Livonia Public Schools School District, and shall have a contract.

b. Full insurance benefits as set forth in Article XI shall be provided teachers on sabbatical leave.

c. Teachers on sabbatical leave shall be entitled to participate in any and all benefits that may be provided other contracted teachers by the Board.

d. Full-time employment by the recipient of sabbatical leave shall be prohibited. This does not, however, preclude the recipient's accepting grants, fellowships or remuneration for part-time work of any sort which does not interfere with the outlined sabbatical plan.

e. Teachers shall be responsible for notifying the Payroll Department of the Livonia Public Schools School District as to the place to which payroll checks should be addressed during the period of sabbatical leave.

5. *Status upon return from Sabbatical Leave*

a. A teacher, upon return from a sabbatical leave, shall be restored to his former teaching position, if possible, or to a position of like nature, retirement status, and seniority status; however, he is not automatically reinstated to such additional responsibilities as coaching, department chairman, etc.

b. A teacher returning from sabbatical leave shall file with the Assistant Superintendent for Personnel within 60 days a written report of his educational pursuits while on sabbatical leave and in the event the leave was granted for graduate study, a transcript from the college or university attended.

B. *Professional Leave*

1. A leave of absence without pay shall be granted for one year, renewable upon application, to any tenure teacher for the purpose of special teaching such as the Peace Corps, National Teacher Corps, exchange or overseas teaching. Upon return from such leave, a teacher shall be placed at the same position on the salary schedule as he would have been had he taught in the district during such period.

2. A leave of absence without pay shall be granted for one year, renewable upon application, to any tenure teacher for the purpose of study, travel, research, or other teaching or employment involving probable advantage to the school district. Upon return from such leave, a teacher shall be placed at the same position on the salary schedule as he would have been had he taught in the district during such period.

3. A leave of absence without pay shall be granted for one year, renewable upon application, to any tenure teacher for the purpose of serving as an officer or member of the staff of the Livonia Education Association, the Michigan Education Association or the National Education Association. Upon return from such leave, a teacher shall be placed at the same position on the salary schedule as he would have been had he taught in the district during such period.

4. A leave of absence without pay shall be granted for one year, renewable upon application, to any tenure

teacher for the purpose of study related to the teacher certification field or study to meet eligibility requirements for a certificate other than that held by the teacher.

5. Requests for professional leaves must be submitted by March 1 for the succeeding school year, or November 1 for the second semester of the year.

C. *Personal Leave*

1. A leave of absence without pay shall be granted for one year, renewable upon application, to any tenure teacher for the purpose of campaigning for, or serving in, a public office.

2. A leave of absence without pay shall be granted for one year, renewable upon application, to any tenure teacher for the purpose of maternity or adoption. The maternity leave shall commence not later than the sixth month of pregnancy, except that when this date falls within one school month of the end of a semester, the teacher may be permitted to complete the semester. Maternity leave requests must be filed not later than the end of the third month of pregnancy, and a doctor's certificate of pregnancy, stating the expected delivery date, must accompany the written request. The teacher shall be entitled to return to service with the Livonia Public Schools School District no sooner than six weeks following delivery, and only upon certification by a doctor that she is physically capable of performing the duties of teaching.

3. A leave of absence without pay shall be granted for one semester or one year, renewable upon application, to any tenure teacher who gives detailed information indicating family or personal hardship.

4. A teacher called during the school year for National Guard or Reserve duty necessary to the national security as shown by proper authority, shall be granted special leave for this purpose, and shall be compensated for the difference between the teaching pay and the pay received for the performance of such duty up to the end of the contract year. Such special leave shall not be deducted from either sick leave or personal business leave.

5. Requests for Personal Leave, except for maternity, must be requested as soon as the need for such a leave is known. The leave shall commence on a date determined by the Board when the request is received after March 1 for the succeeding school year, or November 1, for the second semester.

D. *Military Leave*

A military leave of absence without pay shall be granted to any regularly appointed teacher who shall be inducted, or shall, during a declared period of war or national emergency, enlist for military duty with any branch of the armed forces of the United States. Tenure status is not required.

A probationary teacher returning to employment from military service shall be regarded as retaining the period of probationary service achieved prior to his military service.

Teachers on military leave shall be given the benefit of any increments which would have been credited to them had they remained in active service with the school system, the Board reserving the right to give or to withhold increments or to deny extension of leave to those remaining in military service beyond the compulsory period. Sick leave allowance will be maintained but shall not accrue during military leave.

E. *Return from Leave*

Requests for reinstatement following a leave, for any reason, shall be filed in the Superintendent's office on or before December 1, for return at the beginning of the second semester, and on or before April 15, for the ensuing school year. Nothing contained herein shall obligate the Board to reinstate any teacher returning from leave if such a request for reinstatement is not filed on or before the above dates.

A teacher returning from an extended leave of absence will not be guaranteed his former assignment, but will be placed in a position for which he is certified and qualified, when such a vacancy exists. It is anticipated that a teacher would return from leave at the beginning of a semester, however, if a suitable vacancy arises at some other time during the year, he may be assigned to that vacancy.

A teacher returning from extended leave, for any reason, must present certification from a doctor that he is physically capable of performing the duties required in the position in which assignment is anticipated.

Sick leave allowance will be maintained but shall not accrue during any leave of absence with the exception of sabbatical and military leave.

Unless otherwise specified, all leaves of absence, for any reason, shall be for a period of one year. A leave may be extended for one additional year, and in unusual or extenuating circumstances a second additional year, if the request is received by April 15, for the ensuing school year, or by December 1, for the second semester.

F. *Bereavement Leave*

Three days leave with pay may be granted for death in the immediate family. The immediate family is defined

as father, mother, brother, sister, wife, husband, child, or persons in a similar relationship to the family household. Such days shall neither be deducted from the ten annual days for Group I teachers nor the ten computational days for Group II teachers. Further, no deductions shall be made from the Illness and Disability Bank for such days.

Additional time for death in the immediate family due to extenuating circumstances may be taken from the ten annual days for Group I teachers or the ten computational days for Group II teachers established in Article X.

ARTICLE XIII

Academic Freedom

A. The parties seek to educate young people in the democratic tradition, to foster a recognition of individual freedom and social responsibility, and to inspire meaningful awareness of and respect for the Constitution and the Bill of Rights. It is recognized that these democratic values can best be transmitted in an atmosphere which is free from censorship and artificial restraints upon free inquiry and learning, and in which academic freedom for teacher and student is encouraged.

B. Academic freedom, appropriate to the level of the learner, shall be guaranteed to teachers in the study, investigation, presentation, and interpretation of facts and ideas concerning man, human society, the physical and biological world, and other branches of learning subject to accepted standards of professional responsibility set forth in the Code of Ethics of the Education Profession.

C. The Board recognizes that children must be free to learn and teachers free to teach broad areas of knowledge, including those considered controversial, but according to policies and regulations of the Board.

Whenever any group or individual brings charges against a teacher in writing concerning the teacher's freedom to teach, the Board, at the request of the teacher or the Association, shall provide, without charge to the teacher, the necessary information and support as mutually agreed upon, for the protection of the teacher's academic freedom.

ARTICLE XIV

Teacher Evaluation

A. The parties recognize that the evaluation of teachers is a continuous process of primary concern to both the Association and the Board. In order to establish the type of climate most conducive to professional growth through objective evaluation, the parties are presently involved in a re-examination of policies, practices, and procedures currently in effect regarding teacher evaluation. In light of the preceding, the parties agree that for the duration of this Agreement, the existing *Teacher Tenure Evaluation Procedures* will remain in full force and effect subject to the following:

1. The Board shall provide each teacher in the district with the most recent copy of *Teacher Tenure Evaluation Procedures* published by the Livonia Public Schools, Livonia, Michigan.

2. Classroom observations and other contacts shall be of sufficient time and frequency for both the Tenure Coach and the Administrator to insure a valid assessment of performance. Although what is sufficient may vary, a minimum of two (2) thirty minute observations under a normal classroom situation shall be required prior to a written formal evaluation.

   All monitoring or observation of the performance of a teacher shall be conducted openly and with the full knowledge of the teacher. The use of any mechanical device shall be prohibited unless expressly authorized by the teacher in writing.

3. Written, formal evaluations shall be made a minimum of twice a year during the probationary period and at least once a year thereafter until the teacher has been employed by the Board for five years.

4. The written evaluation shall indicate those areas where growth is needed, if any, and suggestions for improvements in such areas shall be listed. Either the teacher, the Administrator, or the Tenure Coach may ask for consultants or other resource personnel to provide the kind of assistance required for optimum growth. The Board shall make every reasonable effort to provide such assistance.

5. Following each formal evaluation by either the Tenure Coach or the Administrator, which shall include a conference with the teacher, and may include a self-evaluation by the teacher, a written report shall be completed by the individual conducting the evaluation. The teacher being evaluated shall sign all such completed reports. A copy of all completed reports shall be given to the teacher. The teacher may submit any additional comments to any written evaluation in the event he does not agree with the contents of the evaluation. All written formal evaluations are to be placed in the teacher's personnel file. A teacher shall be entitled to confer with the Superintendent or his designee regarding his evaluation upon request.

6. In the event that the *Teacher Tenure Evaluation Procedures* and/or the sections of this Article are not adhered to in the evaluation of the performance

of a teacher, the teacher shall have recourse to the grievance procedure hereinafter set forth.

ARTICLE XV

Personnel Files

A. Each teacher shall have the right, upon request, to review the contents of his own personnel files maintained at the teacher's school or at the Administration Building. A representative of the Association may, at the teacher's request, accompany the teacher in this review. The review shall be made in the presence of the Administrator responsible for the safekeeping of these files.

Privileged information, such as confidential credentials and related personal reference normally sought at the time of employment are specifically exempted from review. The Administrator shall, in the presence of the teacher, remove these credentials and confidential reports from the file prior to a review of the file by the teacher.

Any complaints by a parent of a student, or any person, directed toward a teacher and deemed serious enough to become a matter of formal record, shall be promptly called to the teacher's attention. Teachers are entitled to know the identity or source of all such complaints.

B. No material derogatory to a teacher's conduct, service, character or personality shall be placed in either a teacher's building personnel file or in his personnel file in the Administration Building, unless the teacher has had an opportunity to read the material. The teacher shall acknowledge that he has read such material by affixing his signature on the actual copy to be filed, with the understanding that such signature merely signifies that he has read the material to be filed, and does not necessarily indicate agreement with its contents.

C. The teacher shall have the right to answer any material contained in the files, and his answer shall be attached to the file copy. In the event that charges made against a teacher are proven to be without substance, such teacher shall have the prerogative of deciding what shall be done with any records of such proceedings.

ARTICLE XVI

Professional Behavior

A. The Board recognizes that the Code of Ethics of the Education Profession is considered by the Association and its membership to define acceptable criteria of professional behavior. The Association shall accept responsibility to deal with ethical problems in accordance with the terms of such Code of Ethics of the Education Profession.

B. The Association recognizes that abuses of sick leave or other leaves, chronic absence or tardiness or willful deficiencies in professional performance by a teacher, reflect adversely upon the teaching profession and create undesirable conditions in the school system and may constitute failure on the part of the teacher to carry out his contractual responsibilities. Alleged breaches of discipline of the Code of Ethics of the Education Profession shall be promptly reported to the offending teacher and the Association. The Association will use its best efforts to correct breaches of professional behavior by any teacher and, in appropriate cases, may institute proceedings against the offending teacher.

C. The Board may adopt rules and regulations not in conflict with the terms and conditions of this agreement concerning the discipline of teachers, however, a teacher shall not be disciplined, reprimanded, suspended with or without pay, reduced in rank or compensation, demoted, discharged, nor deprived of any professional advantage without reasonable and just cause.

Any such discipline, reprimand, suspension or reduction in rank, compensation or advantage, including adverse evaluation of teaching performance asserted by the Board or representative thereof shall be subject to the professional grievance procedure hereinafter set forth. All information forming the basis for disciplinary action shall be made available to the teacher and the Association.

D. A teacher shall be entitled to have present a representative of the Association, if one is available when he is being reprimanded, warned or disciplined for any infraction of rules or delinquincy or professional performance. When a request for such representation is made, no action shall be taken with respect to the teacher until such representative of the Association is present.

ARTICLE XVII

Professional Improvement

A. The parties support the principle of continuous training of teachers, participation by teachers in professional organizations in the area of their specialization, leaves for work on advanced degrees or special studies, and participation in community educational projects.

B. At the request of the Association, or on the Board's initiative, arrangements may be made for: after-school courses, workshops, conferences, and programs designed to improve the quality of instruction. Compensation may be provided for such after school in-service training, according to Appendix B. Every effort will be

made to obtain people of the highest qualification to participate as consultants or resource people in such activities. Except as provisions may be made by the Board as a condition of employment prior to the hiring of a teacher, attendance at such after school in-service training activities, whether initiated by the Association, the Board, or jointly, shall be voluntary on the part of the teacher.

C. In addition to time which may be expended outside the student school day for the study and improvement of the instructional program, additional time for such purposes shall be provided as follows:

1. In the elementary schools, a substitute time bank equivalent to a minimum of one day per classroom teacher per building will be made available to each building staff. Such time may be used to enable the principal or curriculum representative to work with teachers, to permit teacher groups to do intensive planning, or to permit teachers to engage in other improvement efforts as may be determined cooperatively by the principal and teaching staff of each building with the approval of the Director of Elementary Education.

2. In the secondary schools, one half day will be provided to each school staff for curriculum study and instructional planning on the second Thursday of October, November, January, February, March, and May. Use of this time shall be planned cooperatively by the administrators and teachers of each building; or, by agreement between the administrative staff and groups of teachers with common interests, it may be used for such activities by area or system-wide groups.

D. Specific areas of the curriculum to be studied shall be determined by the staff of each building for building centered curriculum studies, and by the appropriate system-wide committee or group for system-wide curriculum studies.

System-wide curriculum committees composed of at least five teachers and at least one administrative representative shall be created to study and make recommendations to the Board and/or Association regarding the instructional program. Such committees may be organized on a grade level basis or on a subject matter basis or both, and should be representative of as many schools as possible.

ARTICLE XVIII

Reductions in Personnel and Annexations and Consolidations of Districts

A. To the full extent permitted by law, this Agreement shall be binding upon the Board and its successor personnel and upon any school district into which or with which this district shall be merged or combined.

B. Should substantial and unforeseen changes in student population or other conditions make necessary a general reduction in the number of teachers employed by the Board, the Board will retain, as nearly as possible those tenure teachers having the longest service in the district in accordance with the Michigan Tenure of Teachers' Act. The Board will further use its best efforts to assist all teachers whose positions are terminated for reasons of necessary reductions in personnel due to annexations or consolidation to secure employment in other school districts upon terms and conditions as nearly comparable as possible to those contained herein.

ARTICLE XIX

Continuity of Operations

A. Both parties recognize the desirability of continuous and uninterrupted operation of the instructional program during the regular school year and the avoidance of disputes which threaten to interfere with such operations. The Association, accordingly, agrees that it will not, during the period of this Agreement, directly or indirectly engage in or assist in any strike, as defined by Section 1 of the Public Employment Relations Act.

B. The Board also agrees that it will not, during the period of this Agreement, directly or indirectly engage in or assist in any unfair labor practice as defined by Section 10 of the Public Employment Relations Act.

C. Nothing in this Article shall require the Board to keep schools open in the event of severe inclement weather or other Acts of God. The parties recognize that those inclement weather conditions which are judged severe enough to prohibit the safe operation of buses for the transportation of youngsters shall also be considered severe enough to jeopardize the life, limb, and safety of the district's teachers. In those instances when it is judged appropriate not to operate the district's buses because of severe inclement weather, the schools shall be closed and teachers shall not be required to report for duty. The Superintendent or his designee shall make every effort to announce such school closings one hour before the earliest teacher reporting time by notifying radio stations WWJ, WJR, CKLW, WXYZ, and the main switchboard.

ARTICLE XX

School Calendar

A. For the term of this Agreement, the school calendar shall be as set forth in Appendix D. There shall be no

deviation from or change in the school calendar, except by mutual agreement of the Board and the Association.

ARTICLE XXI

Professional Compensation

A. The basic salaries of teachers covered by this agreement are set forth in Appendix A which is attached to and incorporated in this Agreement. Such salary schedule shall remain in effect during the term of this Agreement.

B. Teachers entering the system shall be given full credit for up to five years of outside teaching experience on the salary schedule as set forth in Appendix A. Additional years of credit for outside teaching experience may be recommended in the case of outstanding applicants for positions requiring unusual experience. Full credit shall be granted for all teaching experience in the Livonia Public Schools except for substitute teaching. Substitute teachers in the Livonia Public Schools may be credited in the same manner as contract teachers, however, no more than three year's credit may be granted for substitute teaching. One full semester, at least 90 days of teaching, shall be credited as one-half year on the salary schedule. Teachers allowed half-year credit shall be placed one-half way between the appropriate steps on the salary schedule. 135 days or more of teaching shall be credited as a full year on the salary schedule.

The Superintendent may recommend credit for other than public school or college teaching experience, if, in his opinion, it contributes to the qualification of the teacher for a particular assignment. This could include military service, Peace Corps, VISTA, and other job related experience which would be in the same field as the teaching area assigned and a direct relationship exists. Ordinarily this would be work which may be required for vocational certification. Any decision regarding related work experience shall be subject to review at the request of the Association or an individual teacher. However, the Superintendent's decision on related experience shall be final.

The credit which may be granted for other than public school or college teaching experience shall be no more than three years and the maximum credit allowed for both teaching and other experience shall be limited to five years unless additional years credit for total outside teaching and related experience has been recommended.

It is expected that beginning in 1969-70 the amount of credit allowable for outside teaching experience will be six years with the possibility of this being increased in subsequent years. This expected increase in 1969-70 and any further increases in subsequent years will be contingent upon the Board being able to do this without increasing the credit allowed to people employed prior to the time of the increase in allowable credit for outside experience.

C. For each semester hour of graduate work up to 20 semester hours taken beyond the Bachelor's degree the teacher will receive ten dollars. Credit shall be shown by an official transcript from a fully accredited college or university and shall be awarded in semester hours. All transcripts must be in the Superintendent's Office not later than October 31 in order to receive salary credit for the first semester or March 31 for the second semester. Degrees earned or other graduate work by members of the teaching staff must be in the field in which the teacher is teaching to be credited on the salary schedule unless a prior exception has been made by the Superintendent.

D. The salary schedule is based upon the regular school calendar as set forth in Appendix D and the normal teaching assignment as defined in this agreement. If a teacher shall teach more than the normal teaching load as set forth in Article V as a regular part of his assignment and be classified as a permanent substitute in such additional assignment, he will be compensated at 1 1/2 times his individual hourly rate. A permanent substitute is one who substitutes in the same assignment for two continuous school weeks or longer. If it is known that the assignment will be for two weeks or more when the teacher assumes this assignment, then permanent substitute status will begin immediately. In the event that a temporary substitute assignment over and above the normal teaching load as set forth in Article V becomes permanent, the permanent substitute rate shall begin immediately but shall not be retroactive. It is the responsibility of the building principal to notify the teacher and the personnel office immediately in such an instance.

E. A teacher's daily rate is to be determined by dividing his basic annual salary as set forth in Appendix A by 200 days. A teacher's hourly rate is to be determined by dividing his daily rate by 7.5. It is recognized that the numbers in this paragraph are for computational purposes only.

F. Teachers involved in extra-duty assignments and other activities which are recognized as calling for additional compensation are set forth in Appendix B of this agreement. All compensations shall be in accordance with the provisions of this agreement.

G. Teachers required in the course of their work to drive personal automobiles from one building to another shall receive a car allowance of ten cents per mile. The same allowance shall be given for use of personal cars for field trips or other approved business of the district when the teacher is required to use his personal car for such business. Mileage allowance is computed only after the person has reached his initial established work location for that day and specifically excludes traveling to and from such established work location.

H. Pay days shall be at the close of each two-week period during the school year. Employees working the school year only may elect the option of collecting the unpaid balance at the close of the regular school year provided that a written request for such payment has been made to the business office at least 30 days before the close of school. An employee on 26 pays who leaves during the year should not expect to receive the remaining portion of his pay until one pay period following his termination unless official notification of termination is submitted thirty days in advance and the request for complete payment made at that time. The employee will indicate in writing to the Superintendent of Schools his choice of method of payment before the effective date of the contract. If school is not in session on payday, the payroll office will prepare checks and deliver them to the buildings the last day school is in session.

I. When employees begin work after the opening of school in September, experience is determined by the amount of creditable year's experience the person would have been eligible for had they started work in September of that year.

J. There are some subject areas in which an Educational Specialist degree is not offered. If the Educational Specialist degree is offered in the subject area by the college where the teacher is doing graduate work, then no consideration shall be given to an "equivalent" of an Educational Specialist degree, unless such degree has been "by-passed" in order to receive a Doctor's degree. If the Educational Specialist degree is not offered, or if it has been by-passed as above, then the following shall be considered the equivalent of an Educational Specialist degree:

1. 30 graduate semester hours after completion of the Master's degree in the same field and in a planned program. The official transcript must be accompanied by a letter from the Dean of the Graduate School or the teacher's graduate advisor stating that in his judgment the work completed is equivalent to what is ordinarily required for an Educational Specialist degree at that institution.

2. 45 graduate semester hours after completion of the Master's degree in which at least 30 graduate semester hours are in the same subject area and identified as being appropriate to the teacher's field.

3. The Master of Social Work is considered the equivalent of an Educational Specialist degree for school social workers.

K. Occasionally other programs are taken by teachers which improve their competencies for teaching a technical or vocational subject but for which college credit is not offered. This would include apprentice training programs in the trades and other similar formal training programs. In such cases a combination of two years work and classroom experience shall be equated to one year of college and the teacher may be granted up to one additional degree equivalent on the salary schedule for such training according to the following:

Example:

B. A. ⟶ to M. A.

M. A. ⟶ to M. A. + 30

M. A. + 30 ⟶ to Ed. Spec.

Ed. Spec. ⟶ to Ph.D.

Any decision regarding additional training credited or to be credited on the salary schedule shall be subject to review at the request of the Association or an individual teacher, however, the Superintendent's decision on additional equivalent credit for training shall be final.

ARTICLE XXII

Retirement

A. The age at which retirement shall be considered automatic unless some specific action is taken by either the employee or the Board shall be 65. The Board of Education reserves the right to require retirement prior to age 65 when an employee's physical or mental health makes it impossible to meet the normal obligations of his regular assignment.

Teachers who will reach the retirement age of 65, and who desire to remain in the school system, will submit annually to the Board a written request for continuation of employment not later than March 1 of that year. The request for extension of contract may be granted on a one-year basis up to the age of 67, when recommended by the Superintendent and approved by the Board. Failure of the Board to give the teacher a written notification on a request for extension of contract prior to May 1 of that year shall constitute acceptance of the request to continue teaching. Failure of the teacher to request an extension prior to March 1, shall constitute sufficient reason for automatic retirement.

Teachers under 65 who intend to retire will submit to the Board a written notice of intention to retire at least sixty (60) calendar days prior to the date of retirement.

B. In appreciation for services to the school district, a terminal pay will be granted upon retirement or death. To qualify for terminal pay the teacher shall have been employed in the school district for at least ten (10)

consecutive years, shall be holding a full-time teaching assignment to the Livonia Schools and shall be eligible for Michigan School Employees Retirement Fund benefits. In the event of extenuating circumstances the Board may, by special action, waive any or all of the preceding qualifications. If an employee qualifies for terminal pay he shall receive $100.00 per year for each year of full-time teaching service.

The Assistant Superintendent for Personnel shall check official school records and forward a final financial statement to the retiree. Terminal pay will be paid when the applicant shows evidence of eligibility for the Michigan School Employees Retirement Fund benefits. If applicable, full terminal payment will be paid to the beneficiary of the employee in case of death.

ARTICLE XXIII

Summer School, Adult Education, and Extended School Services Selection of Personnel

A. Both parties recognized that there is a wide variety of skills and competencies needed for teachers in teaching Adult Education, Summer School, Driver Education, Swimming, and other programs under the direction of the Department of Extended School Services.

Factors which must be considered in the selection of personnel for these programs would include teacher aptitude, unique qualifications, and competencies needed for these specific programs. Experience in particular areas, training to teach in these areas, tenure in Livonia, a method of rotation among qualified personnel, and seniority in the Livonia Public Schools are also factors to be considered.

It is agreed that a committee comprised of three appointees of the Board of Education and three appointees of the Livonia Education Association shall study and make recommendations to the Board of Education prior to February 1, 1969 regarding the criteria for the selection of personnel in this area. Such guidelines and criteria shall be adopted as soon as possible by the Board of Education, and shall become the criteria upon which the selections are based.

ARTICLE XXIV

Student and Intern Teaching Assignments

A. Supervisory teachers of record of student, associate or pre-intern teachers shall be fully certificated tenured teachers, teaching in their major area of preparation and possessing, whenever possible, a minimum of a Master's degree in academic preparation, who voluntarily accept the assignment and shall be known as cooperating teachers. Cooperating teachers, in so far as possible, shall have previously taken a university course in the basic principles of supervising student teachers or shall indicate a willingness to accept such an academic learning experience when offered locally on a tuition free basis.

B. The Board shall notify the Association of the amount of money received from the various universities placing student, associate, or pre-intern teachers in the district. Funds made available to the district by the placing universities shall be administered by a joint committee composed of representatives of the cooperating teachers, and representatives of the Board. The following areas, which will contribute to the improvement of the associate teacher program, shall be considered by the committee as possible uses for the funds: in-service training programs, recognition of cooperating teachers, released time, material and equipment and direct payment to the cooperating teacher.

C. In recognition of its responsibility to provide the best possible training programs and experiences for pre-teachers, the Association agrees to accept a maximum of ten (10) EIP interns during the 1968-69 school year, provided that strict adherence to the ratio established by the university of one (1) intern consultant for each five (5) EIP intern teachers is observed, and provided that no more than two (2) EIP intern teachers be placed in any elementary school building.

D. The Board and the Association agree to evaluate the EIP program at least ninety (90) days prior to the expiration of this Agreement.

ARTICLE XXV

Student Discipline and Teacher Protection

A. It is the aim of the Board of Education, Administration and instructional staff to promote through its policies and regulations the highest possible standard of conduct and an atmosphere for good instruction. Policies and regulations are in the Teacher Handbook, Board of Education Policy Book, and various building teacher and student handbooks. Early in the 1968-69 school year, the Board with the assistance of the Association, will prepare a source booklet incorporating the existing guidelines, making additions and revisions where necessary, and shall distribute a copy of this booklet to all teachers. It is earnestly desired to have high standards of conduct, behavior and school achievement. Development of good habits in citizenship and conduct as individuals, requires a consistent, calm atmosphere which will promote the individual and group learning process.

B. It is the responsibility of the principal and staff members to maintain discipline and a climate for good instruction in our schools. Consistent with the Code of

Ethics, it is the teacher's responsibility to deal justly and considerately with each student. The superintendent and his administrative staff will support principals and teachers in all reasonable disciplinary measures in accordance with the policies and regulations referred to in Paragraph A of this Article.

C. After exhausting all avenues reasonably expected of a teacher in maintaining discipline in accordance with the policies and regulations referred to in Paragraph A of this Article a teacher may refer and/or send to an appropriate administrator a student who is causing disruptions and/or violating Board policies. The teacher and administrator shall communicate the necessary information regarding the problem including its disposition. Each school shall develop appropriate guidelines for teachers in the handling of discipline problems and providing for adequate communication between the teacher and the administrator. Suspension of a student from school may be imposed only by a principal or his designated representative.

D. A teacher may use such force as is necessary to protect himself from physical attack by a student, or other person, in pursuit of his employment or to prevent injury to another student. Any case of assault upon a teacher shall be promptly reported to the Board or its designated representative, in most cases the principal. Likewise, any time a teacher finds it necessary to use such force, he shall immediately report this to his immediate supervisor whether or not he considers this to be necessary to protect himself or a student. The Board will provide legal counsel to advise the teacher of his rights and obligations with respect to any such assault and shall promptly render all reasonable assistance to the teacher in connection with the handling of the incident with law enforcement and judicial authorities.

E. Time lost by a teacher in connection with any incident mentioned in this Article shall not be charged against the teacher as long as the teacher is held to be innocent. This provision is limited to 90 days and there must be competent medical verification that the teacher is unable to return to work.

F. It is agreed by the Board and the Association that a committee will be established to be composed of four members to be appointed by the Board and four members to be appointed by the Association. The purpose of this committee shall be to review existing discipline policies and procedures and to make recommendations to the Board regarding same.

ARTICLE XXVI

Professional Study Committee

There is hereby established a Professional Study Committee composed of not more than six (6) members selected by the Board and six (6) members selected by the Livonia Education Association.

The primary purpose of the Professional Study Committee shall be to investigate and review areas and problems related to the improvement of education for the students of the Livonia Public Schools, and for the improvement of understanding and relationships between teachers, administrators, and the Board.

Areas similar to the following are considered valid areas for study, but in no way are to be considered exclusive or complete: curriculum, communication, professional growth and in-service training, staffing patterns and class load and teacher-administrator-Board relationships. The parties agree that among the specific areas for study in 1968-69 shall be included: job descriptions of extra-duty assignments, development of student discipline procedures, supplemental salary schedule Appendix C including special education positions not presently covered, and selection of personnel for extended school services and summer school teaching. The Professional Study Committee may consider any problem or topic mutually agreed upon by both parties.

The Professional Study Committee is charged with:

1. Reviewing problems and areas agreed on by both parties of the Professional Study Committee

2. Setting priorities for dealing with these problems, and

3. Determining methods for studying these areas or problems and for implementing the recommendations from the studies.

The Committee may establish and/or recommend that the Board establish such sub-committee or other organizational structure necessary for adequate study of such problems.

The committee can request the use of existing administrative or association resources and personnel to carry out its work.

The Professional Study Committee is not to be considered the exclusive group to consider or deal with the areas it is considering. However, if the Professional Study Committee is considering an area in which action may take place, all significant recommendations for action to administrators or the Board should be communicated to the Professional Study Committee as soon as possible.

The Professional Study Committee shall advise, and make recommendations to, the respective parent groups in any area it is considering and work for the implementation of these recommendations.

Minutes shall be kept of the Professional Study Committee meetings and they shall be public and available upon re-

quest to anyone after approval by the Professional Study Committee. Minutes shall be sent to the Board of Education, administrative staff, and association leaders.

Progress reports shall be issued as the need develops. There shall also be a year-end report. Such reports shall be available, upon request, to all educators in the system, Board of Education members, administrative staff and the public.

The Board shall furnish for the committee:

1. Secretarial assistance
2. An adequate meeting place
3. Facilities for publishing and distributing minutes and reports
4. Upon request, subject to the approval of the Board or Superintendent, funds for released time, compensations for out-of-school work for the Professional Study Committee or its sub-committees, study workshops, resource personnel, or funds for other work or needs the Professional Study Committee may have.

ARTICLE XXVII

Professional Grievance Procedure

A. A claim by a teacher or the Association that there has been a violation, misinterpretation or misapplication of any provision of this Agreement or any rule, policy or regulation of the Board may be processed as a grievance as hereinafter provided.

B. *Procedure* — In the event that a teacher believes there is a basis for a grievance, he shall first discuss the alleged grievance with his building principal or immediate supervisor, either personally or accompanied by an Association Representative.

Step I

If, as a result of the informal discussion with the building principal, a grievance still exists, he may, as soon as possible, invoke, the formal grievance procedure on a form signed by the grievant and a representative of the Association, which forms shall be provided by the Board and shall be available from the Association Representative in each building. If the grievance involves more than one school building, or involves a central office administrator, it may be filed directly with the Board of Education through the Superintendent or his representative.

The principal shall indicate his disposition of the grievance in writing within three (3) school days, and shall furnish a copy thereof to the Association.

Step II

If the Association is not satisfied with the disposition of the grievance, or if no disposition has been made within three (3) school days of such meeting, the grievance shall be transmitted to the Association's Board of Reference for review. Within five (5) school days of receipt of the grievance, the Board of Reference shall decide whether or not there is a grievance. If the Board of Reference decides that no grievance exists, and so notifies the claimant, the teacher may continue to process his claim without Association support. If the Board of Reference decides there is a grievance, it shall immediately process the claim with the Board of Education, through the Superintendent or his representative. A meeting between a Board of Education representative(s) and the Association's Board of Reference may be requested by either party within the time limits established in this step. Within fifteen (15) school days, the Board of Education shall indicate its disposition of the grievance in writing, and shall furnish copies thereof to all parties involved.

Step III

If the Association is not satisfied with the disposition of the grievance by the Board of Education, or if no disposition has been rendered within the fifteen (15) days specified immediately above, the grievance shall be immediately transmitted to the State Labor Mediation Board for mediation, and subsequently, fact finding may be invoked if deemed necessary.

C. The time limits in this article shall be strictly observed, but may be extended by agreement of both parties. In the event a grievance is filed after May 15 of any year and strict adherence to the time limits may result in hardship to any party, the Board shall use its best efforts to process such grievance prior to the end of the school year, or as soon thereafter as possible.

D. If an individual teacher has a personal complaint which he desires to discuss with a supervisor, he is free to do so without recourse to the grievance procedure. However, no grievance shall be adjusted without prior notification to the Association and opportunity for an Association representative to be present, nor shall any adjustment of a grievance be inconsistent with the terms of this Agreement. In the administration of the grievance procedure, the interests of the teachers shall be the sole responsibility of the Association.

ARTICLE XXVIII

Negotiation Procedures

A. Representatives of the Board and the Association, including at least one (1) member of the respective bar-

gaining teams, will reserve up to two hours for a meeting on the last school Tuesday of each month, or such other day as mutually agreed upon, for the purpose of reviewing the administration of the contract and to discuss concerns which may arise. These meetings are not intended to by-pass the grievance procedure. Each party will submit to the other on or before Wednesday prior to the meeting, an agenda covering what they wish to discuss. All meetings between the parties will be scheduled to take place during the regular school day unless otherwise mutually agreed.

Should such a meeting result in a mutually acceptable amendment to the Agreement then the amendment shall be subject to ratification by the Board and the Association. During the term of this Agreement neither party will be required to negotiate with respect to any such matter, whether or not covered by this agreement and whether or not within the knowledge or contemplation of either or both of the parties at the time they negotiated or signed this agreement.

B. Beginning not later than March 15, nor earlier than March 1 of the calendar year in which this agreement expires, the Association and the Board agree to negotiate over a successor agreement in accordance with the provisions set forth herein in a good faith effort to reach agreement concerning teacher salaries, hours, and other terms or conditions of employment. Any agreements so negotiated shall apply to all teachers and shall be reduced to writing and signed by the Board and the Association.

C. The parties mutually pledge that their representatives will have all necessary power and authority to make proposals, consider proposals, and make concessions in the course of negotiations.

ARTICLE XXIX

Miscellaneous Provisions

A. This Agreement shall constitute the full and complete commitments between both parties and may be altered, changed, added to, deleted from or modified only through the voluntary, mutual consent of the parties in written and signed amendments to this Agreement.

B. Any and all individual contracts between the Board and teachers shall be subject to and consistent with this Agreement. If any individual contract contains language inconsistent with the terms of this Agreement, this Agreement during its period in force shall be controlling.

C. This Agreement shall supersede any rules, regulations or practices of the Board which shall be contrary to, or inconsistent with, its terms. The provisions of this Agreement shall be incorporated into and be considered part of the established policies of the Board.

D. If any provision of this Agreement or any application of the Agreement to any employee or group of employees shall be found contrary to law, then such provision or application shall not be deemed valid and subsisting except to the extent permitted by law, but all other provisions or applications shall continue in full force and effect.

E. Copies of this Agreement, titled "Professional Agreement between the Livonia Public Schools School District and the Livonia Education Association, MEA-NEA", shall be printed at the mutual expense of both parties within thirty (30) days of the signing of this Agreement and at that time shall be available in the Board of Education Offices or at the teacher's building assignment if school is in session at such time.

ARTICLE XXX

Duration of Agreement

This Agreement shall be effective as of September____, 1968, and shall continue in effect until the 15th day of August, 1969. This Agreement shall not be extended orally, and it is expressly understood that it shall expire on the date indicated.

LIVONIA EDUCATION ASSOCIATION

By _____
Its President

By _____
Executive Secretary

BOARD OF EDUCATION

By _____
Its President

By _____
Its Secretary

Dated this _____ day of
_____, 1968

APPENDIX A

Salary Schedule – 1968-69

B.A. Level I			B.A. Level II	
Years Experience	Salary	Index	Salary	Index
0	$ 6900.00	1.00		
1	7349.00	1.065		
2	7797.00	1.13		
3	8246.00	1.195		
4	8694.00	1.26	$ 8970.00	1.30
5	9143.00	1.325	9419.00	1.365
6	9591.00	1.39	9867.00	1.43
7	10040.00	1.455	10316.00	1.495
8	10488.00	1.520	10764.00	1.56
9	10937.00	1.585	11213.00	1.625

M.A. Level I			M.A. Level II	
Years Experience	Salary	Index	Salary	Index
0	$ 7590.00	1.10		
1	8039.00	1.165		
2	8487.00	1.23		
3	8936.00	1.295		
4	9384.00	1.36	$ 9660.00	1.40
5	9833.00	1.425	10109.00	1.465
6	10281.00	1.49	10557.00	1.53
7	10730.00	1.555	11006.00	1.595
8	11178.00	1.620	11454.00	1.660
9	11627.00	1.685	11903.00	1.725
10			12351.00	1.790
11			12800.00	1.855

IN ADDITION: Training for graduate level courses beyond the Master's Degree shall be compensated as follows:

30 S.H. – Master's Schedule plus $300.00
Ed. S. or Equivalent – Master's Schedule plus $600.00
Doctorate – Master's Schedule plus $900.00

Upon initial employment, teachers are placed on the basic (Level I) schedule. With the completion of four years teaching, including at least one year in Livonia, and the attainment of tenure, and with the recommendation of the Superintendent, teachers are placed on the Level II schedule, where they may continue until reaching the maximum, provided the level of performance is maintained.

APPENDIX B

Extra Duty Salary Schedule

LEVEL A – $1,020

H.S. Head Football Coach
H.S. Head Basketball Coach

LEVEL B – $960

H.S. Head Wrestling Coach
H.S. Vocal Director
H.S. Head Swimming Coach

LEVEL C – $840

H.S. Head Track Coach
H.S. Head Baseball Coach
H.S. Assistant Football Coach
H.S. Assistant Basketball Coach
H.S. Assistant Swimming Coach
H.S. Assistant Wrestling Coach
H.S. Bank Director

LEVEL D – $720

H.S. Reserve Football
H.S. Head Tennis Coach
H.S. Assistant Track Coach
H.S. Assistant Vocal Director
H.S. Head Cross Country Coach
H.S. Assistant Baseball Coach
J.H. Head Football Coach
J.H. Head Basketball Coach

LEVEL E – $660

J.H. Head Track Coach
J.H. Head Baseball Coach
J.H. Vocal Music
J.H. Student Council and Student Activities (with less than 1/2 released time)

LEVEL F – $600

H.S. Head Golf Coach
H.S. Literary Magazine (2 people will split amount)
H.S. Newspaper
H.S. Cheerleading
Sr. Class Sponsor (plus 1 hr released time)
J.H. Assistant Football Coach
J.H. Light Weight Football Coach
Jr. Class Sponsor (with assistant)

LEVEL G – $480

H.S. Debate
J.H. & H.S. Girls & Boys Intramurals
J.H. Newspaper
H.S. Drama Director (per production)
H.S. Musical Director (per production)
J.H. Band

LEVEL H – $360

H.S. Orchestra
Sophomore Class Sponsor
J.H. Musical Director (per production)
H.S. Forensics
J.H. Orchestra
H.S. Stage Set Production
H.S. Modern Dance
J.H. Cheerleading
H.S. Synchronized Swimming
H.S. Yearbook (with released time)
H.S. Play Director (with Assistant)
H.S. G.A.A.

LEVEL I – $240

Elementary Chorus
J.H. Play Director (with assistant)
Elementary Audio Visual
Elementary Service Squad
Safety Patrol
Assistant Junior Class Sponsor
Elementary Instrumental Music

LEVEL J – $120

J.H. Stage (per production)
J.H. Modern Dance
Assistant High School Play Director

NOTE: All positions above are for extra duty without released time, unless otherwise indicated. If released time, other than indicated, is granted for these positions, then the extra duty pay schedule shall not apply.

Supervision and Control of Students as set forth in Article V – $8 per event.

Lunchroom Duty Supervision – Elementary – $5 per hour.

Driver Education, Curriculum Production Work, Extended School Services, Emergency Substitute Assignments – $6.25 per hour.

Elementary Curriculum Representatives – $350.

Bus Duty – $5.00 per hour as approved in Article V, Paragraph D.

Approved In-Service Training Activities – $3.75 per hour.

Secondary School Department Chairmen – $1,000.
The Board agrees to give consideration to the granting of 1 hour of released time to the chairmen of those departments having 15 or more members.

APPENDIX C

Supplementary Salary Schedule

	1st Year	2nd Year	3rd Year
School Psychologist	$ 1,450.00	$ 1,950.00	$ 2,460.00
Psychological Examiner	600.00	1,050.00	1,560.00
Social Worker	600.00	1,050.00	1,560.00
High School Director	600.00	1,050.00	1,560.00
Elementary Resource Teacher	200.00	550.00	1,080.00
Specialist in Reading Improvement	200.00	550.00	1,080.00
*Teacher Counselor for the Gifted	200.00	550.00	
*Computer Specialist	200.00	550.00	

A requirement for positions receiving supplemental salary payments, and annual increments, is that teachers must meet the minimum special certification requirements of the Michigan Department of Education, or have a Master's degree. Teachers who do not meet this requirement may receive only the first increment.

All supplemental salaries, where applicable, are for the teacher's school year. Additional time, where applicable, shall be in addition to regular salary and pro-rated to total annual contract.

* Additional remuneration for these positions will be part of the study as specified in Article XXVI.

APPENDIX D

School Calendar, 1968-69

August 29	Thursday	Preschool Conference for new teachers
August 30	Friday	Preschool Conference for new teachers
September 2	Monday	Labor Day (Legal Holiday)
September 3	Tuesday	Preschool Conference for returning teachers
September 4	Wednesday	School begins for students

October 10	Thursday p.m.	One-half day for secondary Curriculum Day
November 6	Wednesday	Elementary teacher work day for parent-teacher conference preparation
November 7-13	Thurs.-Wed.	Elementary parent-teacher conferences, half days
November 14	Thursday p.m.	One-half day for secondary Curriculum Day
November 28-29	Thursday & Friday	Thanksgiving (Thursday Legal Holiday) School closes at usual hour on Wednesday, November 27
December 20	Friday	School closes at usual hour on Friday Christmas Holiday begins
January 2	Thursday	School opens at usual hour
January 9	Thursday p.m.	One-half day for secondary Curriculum Day
January 23	Thursday	Secondary teacher work day
January 24	Friday	Secondary teacher work day One-half day (p.m.) elementary teacher work day
January 27	Monday	Second semester begins. School opens at usual hour
February 13	Thursday p.m.	One-half day for secondary Curriculum Day
March 13	Thursday p.m.	One-half day for secondary Curriculum Day
March 19	Wednesday	Elementary teacher work day for parent-teacher conference preparation
March 20-26	Thurs.-Wed.	Elementary parent-teacher conferences, half days
April 3	Thursday	School closes at usual hour on Thursday. Spring vacation April 4-11
April 14	Monday	School opens at usual hour
May 8	Thursday p.m.	One-half day for secondary Curriculum Day
May 30	Friday	Memorial Day (Legal Holiday)
June 12	Thursday	Secondary teacher work day One-half day (p.m.) elementary teacher work day
June 13	Friday	School closes. Teacher work day for elementary and secondary. Report cards to be mailed.

NOTES:

1. Elementary curriculum work to be arranged at times outside the student day and through use of the substitute time bank days to be available to each building.

2. The days stated for elementary parent-teacher conferences, teacher work days, and secondary afternoons for Curriculum Days may be rescheduled with mutual agreement by the Board and the Association because of emergency circumstances or other unanticipated conditions.

Special Items

FACTS ABOUT FACT-FINDING

Robert R. Bickal*

It is best to avoid fact-finding, says PERB fact-finder Bickal, but if you have to resort to that stage, here are some tips which should prove helpful.

A board of education and its teachers share a considerable community of interest. The principal concern of both parties is to arrive at an agreement that will be the instrument for providing the best possible education for the children of the district and one which the patrons of the school district will support through their approval of the tax levy needed to finance it. Although in the heat of vigorous negotiations that community of interest may appear to be seriously diminished, it is well for both parties to remember that it does exist, although it may not always be politic for the board's representatives to invoke it.

My most important piece of advice regarding fact-finding as a means of concluding negotiations is to avoid it. Fact-finders—like lawyers, physicians, and undertakers—thrive on the misery of others; but like the practitioners of those more respectable professions, we would prefer that our prospective clients never needed our services.

If you can work out your own agreement without third party intervention, that is obviously ideal. However, if you run into problems, mediation is generally, I am persuaded, much more satisfactory than fact-finding. With mediation you resolve your own differences, with the mediator simply running interference for both parties. But with fact-finding, you turn your troubles over to someone else who—however able he may be and how much time he devotes to your case—will, at best, know considerably less about your situation than you do.

However, if you are going to be in a position to use the services of a mediator, both parties are under obligation to move the negotiations along rapidly enough so that, if problems develop, there is sufficient time to use mediation services before the proximity of the budget submission date mandates a fact-finding hearing and report.

I also think it a poor practice for either party artificially to push the negotiations into fact-finding in the hope that the fact-finder will present them with a better deal than they could get through direct negotiation. First, that is not bargaining in good faith; and second, the fact-finder may stab you in the back.

The Taylor Law requires that the mediation and fact-finding panel be made up of citizens "broadly representative of the public," and the approximately 160 individuals who comprise the present panel of the Public Employment Relations Board fulfill that mandate. Some are professional arbitrators who have had years of labor relations experience in the private sector. The others have a variety of backgrounds and qualifications, but presumably each has demonstrated some quality that suggests competence at pouring oil on troubled waters.

So far as the makeup of the panel is concerned, I want to emphasize one point in particular. The fact-finder appointed to help you resolve your impasse may have had little or no experience in the complexities and peculiarities of staff relations in the field of public education. And you must, therefore, keep in mind that public education employs a lexicon of jargon and a panoply of practices which have no counterpart in other areas of labor relations.

A typical teacher's salary schedule is a strange and mysterious thing to a person who has never seen one before, and when that schedule contains a variable index vertically and a fixed index horizontally, you have a device of wondrous complexity.

In many cases you may have to go to considerable lengths to explain what terms mean and why a particular issue is of major importance. A fact-finder can only make

*Robert R. Bickal is the director of Federal and State Relations at Alfred University. He is currently a member of the Public Employment Relations Board panel of mediators and fact-finders. This article is adapted from an address by the author at a meeting, part of a six-series program titled "The Taylor Act 1967-68: A Prologue," sponsored by the State Education Department and the Cornell University School of Industrial Labor Relations held in Elmira in November.

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competent recommendations if he understands the issues. It is your job to see that he does.

Let me set the scene of a typical fact-finding procedure. The fact-finding session is set for 7:30 in the evening. The fact-finder has driven for two hours over unfamiliar roads; has gotten lost twice; has had trouble finding the school building; has tried three doors before finding the one that is unlocked and is now wandering through murky corridors looking for the meeting room. He is 20 minutes late and he probably has to go to the toilet. At this point he wonders if he wouldn't be better off selling encyclopedias door to door. Anything you can do to make him feel needed and wanted will pay great dividends in good will.

From this point on everyone operates in pretty much his own way, and all I can really relay to you are my own practices and the little I have heard about those of my colleagues.

My experience last spring in a number of public school cases persuaded me that the parties rarely had much of an idea of what a fact-finding hearing was or how to prepare for it. My principal purpose here is to give you some insight into how to get ready for fact-finding, if and when you are faced with it, and how to make effective presentations to the fact-finder. Some parts of my counsel may seem obvious and others trivial. But I will suggest nothing that has not at one time or another been neglected and nothing which, in my judgment, does not contribute to a competent report.

A fact-finding hearing is a relatively formal, quasi-judicial proceeding, although the degree of formality with which it is conducted will vary with the circumstances and the fact-finder. The hearing, incidentally, may be much longer than you anticipate. The longest hearing at which I have presided lasted 13 hours beginning at noon on Sunday and concluding at one the following morning.

Who should be present? Generally, when negotiations reach the point of fact-finding, everyone wants to get in the act. It is not unusual for the entire employees. negotiating committee, the entire board, the superintendent and one or more members of his staff and the board's attorney to be present. I have no particular objection to a large delegation, but each party should identify the individuals who are principally responsible for making the presentation. This does not mean that others cannot make points and raise questions, but if the hearing degenerates into a free-for-all, it will go on endlessly and may become hopelessly confused.

I don't mean to suggest that the entire presentation must be made by one representative from each party. But responsibilities should be clearly assigned in advance of the hearing.

Initially, I think the fact-finder generally likes to know something about the school district for which he is working. Therefore, it is, in my judgment, a good idea to have prepared a brief profile of the district covering such things as the pupil population; the number of school buildings; the number of teachers and other staff; the nature of the community which the district serves and so on.

The fact-finder will usually want a brief history of the negotiations up to the point at which he enters the picture—how long negotiations have been in progress; how many meetings have been held; whether mediation preceded fact-finding.

Although I am not sure all fact-finders would agree on this point, I personally feel it essential to know what items have already been agreed upon and are, therefore, not before the fact-finder. I am also interested in whether those agreements represent the formalization of past practice or whether they represent new concessions.

It is extremely helpful if the parties agree on what the issues are which are in dispute. Before any specific discussion, I insist that the issues to be presented in the hearing be identified, agreed upon by both parties, and stated in writing. If this can be accomplished before the fact-finder arrives, a great deal of time can be saved and haggling avoided.

I find it convenient to classify issues into three categories.

The first category is those issues with significant economic implications—salary, fringe benefits, class size, teaching load, etc.

Second is those issues that are essentially non-economic—teachers' role in policy formation, the length and frequency of teachers' meetings, grievance procedure, use of bulletin boards, and things of that kind.

Finally, there are issues involving negotiability. The term "conditions of employment" does not define very precisely what matters must be accepted by the board for negotiation and what matters remain the exclusive prerogative of the board. Therefore, there may be a dispute over whether the substance of a demand falls within the scope of matters on which the board is required to negotiate.

The fact-finder may wish to organize the hearing in such a way that all of the items in one category are dealt with before moving to those of another.

The issues in dispute are not always as easy to classify as the paragraph above would suggest. Employers are often adroit at finding financial implications and demands that would appear to be totally unrelated to dollars. And, by the same token, employees are quite capable of mini-

mizing the economic implications of a demand in order to be able to include it in the non-economic column.

The question of negotiability causes considerable anxiety, particularly among employers, and it is an anxiety which cannot easily be allayed. There are no guidelines governing what must be negotiated and the variables which influence the matter are sufficiently complex so that, in my judgment, none can be drawn. In the first place, the negotiability of a particular issue may depend on past practice. Quite conceivably, for example, the policy governing teacher transfer may in one district be such that it is clearly negotiable. In the neighboring district past practice might well provide the board with a persuasive argument against negotiability. Also, the negotiability of an issue may depend in large part on the way in which the demand is stated.

The range of provisions which have appeared in negotiated agreements, though not infinite, is very long. Therefore, an employee organization can probably present as authority a clause from an existing contract that covers the matter around which a negotiability dispute revolves. Finally, it is important to keep in mind that negotiability is itself negotiable. That is to say that either party can trade off its position on a question of negotiability for something it considers a higher order of priority.

Anticipate the part of statistical information which the fact-finder will require. Have it prepared in understandable form and prepare enough copies for everyone involved in the hearing.

1. Operating budget, personnel, salaries and benefits.
2. Cost of economic items demanded and offered.
3. Cost of economic items already granted.
4. Gross budget increase represented by demands and offers.
5. Impact on *true* tax rate of demands and offers.
6. Impact of changes in state and formula on the districts' revenue.

It is most important to keep in mind that the fact-finder can develop his recommendations only on the basis of the information you present to him and the cogency and persuasiveness of the arguments you construct to defend your positions.

Generally, I would think the criteria on which the recommendations are based are:

1. Impact on the educational program.
2. Equity.
3. Practicality.
4. Comparative standards.
5. Future implications.
6. Ability to pay.
7. Compromise.

Let us examine each of these in a little more detail.

1. Impact on the Educational Program

If the fact-finder can be persuaded that the granting of a demand will result in an improvement in the educational program, he is likely to be justifiably impressed. If, on the other hand, it appears to him that the effect will be negative, he is likely to be unmoved. This factor applies both to economic and non-economic issues. For example, will the base salary offered by the board be adequate to recruit competent new teachers to fill in the classrooms? Or, will a change in the reporting time demanded by the teachers mean that the pupils will have less time to counsel with their instructors?

2. Equity

The factor of equity can be applied in a great number of situations. Example: A fact-finder is considering an impasse between the board and the school bus drivers. He is informed that the board has settled with the teachers at a salary increase averaging 15%. The board is offering the bus drivers a 5% increase. The fact-finder may push the board rather hard to justify the difference in the treatment of the two classes of employees.

Or: The board has agreed to grant high school teachers freedom from an administrative assignment for one semester of each school year. The elementary teachers ask equitable treatment through some relief during the course of the school day. Is their request justified?

3. Feasibility

Is a demand, however desirable, really practical? Example: In a large city district, the teachers demand that the maximum class size in the elementary schools be reduced from 33 to 25. They compute the cost of this demand in terms of the cost of organizing and staffing for 20% more elementary school classes than at present. The board points out that all of its existing classrooms are now in use, so that in order to implement the demand, it would have to build eight new school buildings before the opening of school in September. Is the demand, however desirable, feasible?

4. Comparative Standards

There is no question that your own school district is unique; there is none other exactly like it. On the other hand, it does have a good deal in common with other districts of comparable size in your geographic area. Therefore, your fact-finder is almost certainly going to be interested in salary schedules; policies and agreements in neighboring districts. It is very helpful if, in advance, the parties can agree on the accuracy and relevance of the comparative information they intend to present.

5. Future Implications

Once a provision is written into an agreement, it is very difficult to get it out. Therefore, the fact-finder must give some consideration to the long-range implications of his recommendations.

6. Ability to Pay

One of the great controversies among the professions in the field is whether ability to pay—which is not the same thing as willingness to pay—should be taken into consideration by the fact-finder. In my judgment this criterion is only a factor in New York State in those city school districts that operate under a constitutional tax limit which they cannot exceed. Here the question is, should the fact-finder recommend settlements which he is quite certain cannot be financed within the legal limits imposed on taxation. It depends.

7. Compromise

There is an old saying that an arbitrator is someone who has gone just far enough in school to be able to add two numbers together and divide by two. This really isn't altogether fair. But it is often the case that the fact-finder will find, on money questions, a home somewhere between the final demand of the employee organization and the final offer of the board.

However, the fact-finders have been known to recommend a salary schedule, for example, that is lower than that offered by the employer. There is some question as to whether this is ethical but it has been done.

In conclusion, there are some general points to remember:

1. The fact-finder is working for you. He is as eager as you are to find a resolution to your impasse. Help him to help you.
2. The competence of the fact-finder's report will vary inversely in relation to the number of issues with which he has to deal. If the number of issues are greater than he feels can be dealt with adequately, he may require the mediation of some issues before moving into the fact-finding procedure. The fact-finder may also refuse to make a recommendation on a particular issue. This reaction most frequently occurs when the issue is so localized that the fact-finder feels that it is impossible to make a judgment on it without more intimate knowledge of the district than the fact-finding procedure can possibly provide.
3. A fact-finder's report can help the passage of a budget.
4. Don't ask the fact-finder to make judgments or give opinions prior to the submission of his report.
5. Don't be too impatient about the submitting of the report. If time is pressing, he will do his best to get the report in your hands as soon as possible. But a good report takes time and he usually is occupied with matters other than your case.
6. If you have questions of clarification about the report, don't hesitate to call your fact-finder and ask. But on the other hand don't be offended if he doesn't respond. Some fact-finders feel that they should not deal with the parties after the report is submitted. Others are willing to review their reports with the parties.
7. Don't expect the fact-finder to intuit the merits of your position. His recommendations will almost certainly be profoundly influenced by the effectiveness and relevance of the presentations made on the issues in question.

GROUND RULES FOR EMPLOYEES REPRESENTATIVE ELECTION SPRINGFIELD BOARD OF EDUCATION

1. Employees eligible to vote shall constitute the voting unit.

Those eligible to vote shall consist of all persons employed by and under contract for a full teaching year to the Springfield Board of Education and holding a teacher's certificate from the State of Ohio, except.

(a) The Superintendent, Assistant Superintendent, Director of Curriculum and Instruction, Director of Personnel, Supervisors, all Principals, and all Assistant Principals.

2. A list of the names and addresses of those meeting the eligibility requirements set forth in #1 in each building shall be made available by the Board of Education to both organizations not later than two weeks prior to the election date.

3. The polls shall be open from 8:00 A.M. and closed at 10:30 A.M. The polls shall remain open for the full time irrespective of whether all eligible voters have voted or not.

4. Voting shall take place in each building wherein eligible voters work or are assigned.

One polling place shall be established in each of the buildings. Persons regularly assigned to more than one building shall vote in the building to which they are assigned on election day and the names and addresses of such persons shall be sent to the proper school on election day. Any persons unassigned to a building or for whom the assignment has not been made in time to send the name to the building shall vote at the central election headquarters, where two polling booths shall be installed.

5. Voters must show positive identification (driver's license or similar official document) which shall be checked by the voting official. Voters shall sign the voting roster as an eligibility test.

6. Voters shall vote by secret ballot and in a place devoid of campaign material.

7. Any persons, on the voting roster, challenged by either of the observers shall be permitted to vote a challenged ballot. Such ballot shall be placed in a challenged vote envelope with the cause of challenge noted thereon. Validity of all challenges shall be determined by the election referee.

8. Any persons unable by reason of sickness or disability to come to the polls may request, in writing, supplying verification of the sickness or disability, to vote at home or hospital. The election referee or one A.A.A. election official together with an observer from each organization in the election shall then take a ballot to the person so requesting it. The ballot shall be handed to such person by the election official and then all persons shall retire at least 20-feet from the voter to insure that the voting is secret. The ballot shall be handled only by the election official.

9. No unauthorized persons shall be permitted within 50-feet of the polling places during the voting hours. "Authorized persons" are all American Arbitration Association election officials, observers for the parties and persons in the process of voting.

10. The ballots shall be printed listing the areas for voter choice horizontally as follows:

Springfield Education Association (OEA-NEA)	Springfield Federation of Teachers (OFT-AFT)	No Organization

Such listing shall be rotated on the ballots.

11. A sample copy of the official ballot shall be given to each organization for approval not less than two weeks before the election.

12. The winner of the election shall be the one receiving the highest number of votes. In the event of a tie, another election shall be held within ten (10) school days.

13. The sealed ballot boxes for each building shall be taken to the central election headquarters. Tabulation of the election shall be completed at a place designated by

the A.A.A. with five observers from each of the competing parties present.

14. Only the over-all result including the vote count totals will be announced and that release will be made by the neutral third party from the central place where the votes are counted.

15. The election will be valid and final when the results are announced by the neutral third party. Such announcement shall follow rulings on any contested ballots.

16. The elected organization shall immediately become the sole and exclusive bargaining agent for the voting unit and such other certificated persons as shall request the elected organization to bargain for them.

17. The cost of the election shall be paid by the two competing organizations and the Board of Education; each contributing one-third.

18. These election ground rules shall be published by the A.A.A. and distributed to all certificated personnel no later than two weeks prior to the election.

19. After the election the minority group shall retain such rights as organization, meetings, mail, and distribution of newsletters.

20. Immediately following the election, the Board of Education will enter into negotiations with the elected organization and bona fidely bargain for a contract.

21. Classes shall not be interrupted and a teacher shall not be out of his classroom for campaign purposes while pupils are present in his class during the regular school day.

22. State and national representatives of the two organizations may visit the school buildings any time during the campaign so long as classes are not interrupted.

23. No posters or other campaign material may be displayed in school buildings except on bulletin boards and other areas as provided for the staff.

24. An election which has been conducted along the guidelines set forth in this presentation shall constitute a valid election.

25. The recognition gained by this election will commence with completion of the election and will continue for three years. At the end of three years, if 30% of the eligible voters petition for a new election, another election will be held. If no petitions are filed at the end of the three year period, the recognized organization will represent the teachers for another three years. Petitions for an election must be filed no sooner than 60-days nor later than 30-days prior to the election date set forth in these rules. The election requested by said petition will then occur the following September.

26. The Board of Education and administrative personnel shall not engage in campaigning for any party or position in the election, but shall remain entirely neutral.

27. Voting shall be by ballot marked by each voter.

28. The A.A.A. system and rules shall apply as to absentee voting.

29. State and national representatives and members of the voting unit are to be permitted to enter school buildings before and after school hours during the time preceding election as follows:

1. Classroom work and classes are not to be disturbed;
2. Meetings may be held in the buildings at convenient places including teachers' lounges;
3. Arrangements for meetings of more than six persons shall be made with the Principal or Assistant Principal or person having charge of such arrangements.
4. All meetings shall be orderly.

30. All procedural matters relating to the election shall be under A.A.A. rules and direction.

31. The election shall be held February 6, 1969.

32. Each organization shall be provided equal bulletin board space either in the central office, teachers' lounge area, or other central location for campaign literature.

33. All campaign literature must be removed from mailboxes and bulletin boards by the time school begins on the day of the election.

34. There shall be no campaigning on the day of the election.

35. Requests for building campaign meetings shall be made 24 hours prior to said building meeting.

36. The Principal shall supply space for meetings on a fair and equitable basis. When a campaign meeting is requested and the requested meeting is in conflict with a regularly scheduled meeting, the Principal shall assign a suitable alternate time and date.

37. Membership or non-membership in an organization is not necessary for voting.

38. Observers shall wear identification provided by the A.A.A. indicating they are "observers." The observers for

the two organizations shall be members of the voting unit.

39. A.A.A. representive(s) at the polling place(s) shall be properly identified.

40. The two teacher organizations shall provide the election judge with a list of observers and alternates at least five days before the election.

41. Students shall in no way be involved in organizational activities.

42. Attendance at organization meetings shall be entirely on a voluntary basis. Two meetings for competing organizations shall not be scheduled in the same school at the same time.

/s/ Robert G. McIntosh
Robert G. McIntosh
Election Referee

Cincinnati, Ohio,
January 3, 1969.

Compiled by the Research Division

NATIONAL EDUCATION ASSOCIATION

1201 Sixteenth Street, N.W., Washington, D.C. 20036

Negotiation Research Digest

Volume 2, No. 9 May 1969

Taylor Law Revised . . . . . Description: A-1
New York's public employee bargaining law has been amended to provide stiffer strike penalties. Text: C-1

Civil Rights Act of 1871 Invoked . . . . . Description: A-1
City employees discharged for union membership may file suit for damages and injunctive relief against the public official who discharged them. Text: C-10

North Carolina Statute Unconstitutional . . . . . Description: A-1
A U.S. District Court found a statute prohibiting public employees from holding union membership to be an abridgment of Constitutionally protected freedom of association. Text: C-14

Professional Growth and In-Service Training in Negotiated Agreements . . . . . Data and Statistics: B-1
The survey of negotiated agreements for the 1967-68 school year reveals that over one-third of the comprehensive agreements include specific provisions on professional growth and/or in-service training.

Five Procedural Agreements . . . . . Description: A-2
Arkansas, Kentucky, Maine, North Dakota and Wyoming. Text: D-1

Collective Negotiation in Curriculum and Instruction . . . . . Special Item: E-1
Speech presented by Robert J. Alfonso, Assistant Dean for Instruction and Graduate Studies, Kent State University, to the 101st annual meeting of the American Association of School Administrators, February 19, 1969.

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Description and Analysis

NEW YORK STIFFENS STRIKE PENALTIES

New York's Taylor Law has been amended to include stiffer penalties for strikes by public employees. The chief executive officer of the government involved (the superintendent or district principal in the case of school districts) will determine which employees were on strike, and appeals of this decision must be made to him. Any employee absent from work without permission during a strike will be presumed to have participated in the strike. Each striking employee will be placed on probation for one year, and he will lose two days' pay for each day he was on strike. In addition, he "may be subject to removal or other disciplinary action provided by law for misconduct."

Striking unions will lose dues deduction privileges "for such specified period of time as the board [Public Employment Relations Board] shall determine, or in the discretion of the board, for an indefinite period of time. . . ." Unions striking in defiance of a court injunction will be fined an amount limited only by the discretion of the court.

PUBLIC EMPLOYEES MAY SEEK RELIEF UNDER CIVIL RIGHTS ACT OF 1871

The U.S. Court of Appeals for the Eighth Circuit ruled that public employees, discharged for union membership, have a right of action for damages and injunctive relief under Section 1 of the Civil Rights Act of 1871, 42 U.S.C. §1983, against the public official who discharged them. This decision is in accord with the ruling in *McLaughlin v. Tilendis*, 398 F. 2d 287 (7th Cir. 1968), (see *Negotiation Research Digest*, January 1969).

The complaint was brought by the American Federation of State, County, and Municipal Employees, AFL-CIO, LeRoy Gage and John Engleman against the City Commissioner of the City of North Platte, Nebraska. Gage and Engleman, employees of the Street Department, claimed that they were discharged solely because they joined the Union. They claimed relief under the Civil Rights Act on the grounds that their Constitutional rights to free association as guaranteed by the First and Fourteenth Amendments had been violated.

The District Court had dismissed the case, stating that plaintiffs had failed to allege facts constituting a claim under the Civil Rights Act. This decision was reversed by the Court of Appeals and the case was remanded to the District Court for trial on its merits.

NORTH CAROLINA ANTI-UNION LAW STRUCK DOWN

The U.S. District Court for the Western District of North Carolina, Charlotte Division, declared that Section 95-97 of the General Statutes of North Carolina, which prohibits public employees from joining labor unions, is unconstitutional and therefore void on its face as an abridgment of freedom of association protected by the First and Fourteenth Amendments of the Constitution of the United States.

Section 95-98, which forbids collective bargaining agreements between units of government and labor unions was found to be a valid prerogative of the state. The Court stated, "There is nothing in the United States Constitution which entitles one to have a contract with another who does not want it." "The State is within the power reserved to it to refuse to enter into such agreements and so to declare by statute."

The case was brought by employees of the Charlotte Fire Department, with the International Association of Fire Fighters intervening.

PROCEDURAL AGREEMENTS

The following agreements are reproduced in *Section D: Agreements* of this issue:

Agreement	Personnel represented	State	Page
Little Rock Board of Directors and Little Rock Classroom Teachers Association	1,146	Arkansas	D-1
Board of Education of the Louisville Independent School District and the Louisville Education Association	2,394	Kentucky	D-4
Lewiston Board of Education and Lewiston Teachers Association	253	Maine	D-7
School Board of Bismarck Public School District and the Bismarck Education Association	387	North Dakota	D-9
Board of Trustees of Laramie County School District No. 1 and the Cheyenne Education Association	696	Wyoming	D-11

Data and Statistics

NEGOTIATION AGREEMENTS: QUALIFICATIONS FOR PROFESSIONAL GROWTH AND IN-SERVICE TRAINING

Do collective negotiations lead to an emphasis on high salaries for teachers and a corresponding neglect of professional training? Research shows that two areas of joint concern, qualifications for professional growth and in-service training, which bear directly upon the quality of teaching within a given school system are now being negotiated by teachers and school boards. Many school systems, therefore, are negotiating provisions designed to ensure the upgrading of educational instruction in addition to negotiating purely monetary matters.

The NEA Research Division's survey of 2,225 negotiated agreements for the school year 1967-68 shows that 603 agreements are comprehensive. Of these 603 comprehensive agreements, 238 (39.5 percent) have provisions relative to qualifications for professional growth and/or in-service training. Of the 238 provisions, 103 are found in Michigan; 42 in Massachusetts; 29 in Wisconsin; 22 in Connecticut; 15 each in Illinois and New York; 4 in Rhode Island; 2 in Ohio; and 1 each in Colorado, Indiana, Montana, New Jersey, Pennsylvania, and Washington.

Table 1 shows the distribution of these provisions by state and the number of professional personnel in school systems with agreements containing these provisions.

TABLE 1.–DISTRIBUTION OF PROFESSIONAL GROWTH AND IN-SERVICE TRAINING PROVISIONS IN NEGOTIATION AGREEMENTS, BY STATE 1967-68

State	Number of school systems having comprehensive agreements	Agreements having professional growth and/or in-service training provisions		Number of professional personnel in school systems having professional growth and/or in-service training provisions
		Number	Percent	
1	2	3	4	5
Colorado	1	1	100.0%	748
Connecticut	58	22	37.9	20,322
Illinois	23	15	65.2	27,439
Indiana	2	1	50.0	1,842
Massachusetts	115	42	36.5	13,331
Michigan	301	103	34.2	40,682
Montana	2	1	50.0	395
New Jersey	4	1	25.0	196
New York	30	15	50.0	66,206
Ohio	4	2	50.0	392
Pennsylvania	5	1	20.0	11,557
Rhode Island	18	4	22.2	985
Washington	1	1	100.0	360
Wisconsin	36	29	80.6	13,586
Total	600[a]	238[b]	c	198,041

a The *total* number of comprehensive agreements surveyed is 603. These 14 states have 99.5 percent of the *total* number of comprehensive agreements surveyed.

b All professional growth and in-service training provisions reported are in comprehensive agreements.

c 39.5 percent of the *total* number of comprehensive agreements (603) have professional growth and/or in-service training provisions.

Content of Provisions

Table 2 shows the content of the 238 professional growth and in-service training provisions. Each provision has been analyzed and its content categorized according to the requirements for professional growth or the method of achieving professional growth which has been negotiated. The total beside each heading indicates the number of agreements which contain each negotiated requirement or method. The number of *agreements* with each requirement or method and the number of *provisions* with each requirement or method are the same. For example, 34 of the 238 agreements have provisions listing travel as a possible method of meeting professional growth requirements. Thus 34 provisions deal at least in part with travel. The four major requirements or methods listed in the table are mutually exclusive. The subheadings under "specific requirements for, or methods of professional growth negotiated" are *not* mutually exclusive. Some provisions give several methods or requirements and may be counted in several categories.

Seven provisions are reprinted in this report: New London, Connecticut; Northampton, Massachusetts; Alpena, Michigan; Utica, Michigan; Patchogue-Medford, New York; Philadelphia, Pennsylvania; and Janesville, Wisconsin. These seven provisions are a sample selected on the following bases: variation in approach; all-inclusiveness; clear presentation; state of school system.

To qualify as having a provision relative to professional growth and/or in-service training, an agreement has to have at least one of the following: a committee established to study qualifications for professional growth and/or in-service training, a statement that professional growth and/or in-service training is encouraged or is necessary, a requirement abolished, a specific method of attaining professional growth negotiated, or the specific requirements necessary to qualify for professional growth negotiated. Since the first three major items in column 1, Table 2, are self-explanatory, only the specific requirements for, or methods of professional growth negotiated need be analyzed.

TABLE 2.—ANALYSIS OF 238 PROFESSIONAL GROWTH AND IN-SERVICE TRAINING PROVISIONS IN NEGOTIATION AGREEMENTS

Requirement or method of in-service training	Agreements with requirements or methods	
	Number	Percent
1	2	3
JOINT COMMITTEE ESTABLISHED TO STUDY REQUIREMENTS OR METHODS	5	2.1%
SPECIFIC REQUIREMENTS OR METHODS NOT GIVEN	3	1.3
SPECIFIC REQUIREMENT ABOLISHED	1	0.4
SPECIFIC REQUIREMENTS FOR OR METHODS OF PROFESSIONAL GROWTH NEGOTIATED	229	96.2
Total	238	100.0%
University or college courses	134	58.5%*
In-service training	130	56.8
Travel	34	14.8
Service to teaching profession	28	12.2
Evaluation of teaching	18	7.9
Committee work/non-teaching duties	16	7.0
Writing, research, publication	14	6.1
Related work experience	9	3.9
Service to the community	6	2.6
Extracurricular activities	3	1.3
School visitation	3	1.3
Exchange teaching	2	0.9

*This is the percentage of the 229 agreements with specific requirements for or methods of professional growth negotiated.

University or College Courses

Table 2 shows that 134 provisions list the taking of college or university courses in connection with professional growth. Seventy-six provisions state that in order to advance vertically from one step to another within a given salary classification (e.g., BA, MA, MA+30 credits), a teacher has to earn a specific number of college credits within a given time. One provision indicates that college credit is a means of attaining professional growth and refers to a professional growth procedure already established by the school system. Fourteen provisions mention college credit only in relation to a horizontal movement on the salary schedule, for example, the requirements to change classification from the BA level to the MA level. The remaining 43 provisions merely mention that college credit is a means of attaining professional growth. All seven of the sample provisions in this article contain statements concerning college or university credit.

In-Service Training

One-hundred and thirty provisions list in-service training as a means of attaining professional growth. Six of these provisions indicate that in-service training can be used as a substitute for college or university credit. Twenty-five provisions refer to in-service training as workshops. Two of these 25 provisions state that teachers must attend such workshops. One other agreement states that the school board will attempt to get courses for in-service training. The remaining 98 provisions merely indicate that some form of in-service training for professional growth is available. The Janesville, New London, Patchogue-Medford, and Philadelphia provisions contain statements relative to in-service training.

Travel

Thirty-four agreements list travel as a means of attaining professional growth. Two provisions state that only teachers who have already received a master's degree can use travel to qualify for professional growth increments. Five provisions specifically give the credit equivalency of educational travel or state which professional growth increments can be earned by travel (one of these five also restricts travel to those teachers who have MA Degrees). The remaining 28 provisions give educational travel as one of the means of achieving professional growth. The Alpena, Utica, Janesville, Patchogue-Medford, and Northampton provisions deal with travel.

Service to Teaching Profession

Twenty-eight provisions indicate that service to the teaching profession will count toward professional growth. This category is defined most frequently as attendance at educational conferences and working for educational groups or organizations. One agreement indicates that reading professional journals, and three agreements indicate that membership in professional organizations are ways of showing professional growth. The Alpena, Janesville, Utica, New London, and Patchogue-Medford agreements provide examples for this category.

Evaluation of Teaching

In eighteen provisions, evaluation of teaching is a factor in professional growth. Two provisions indicate that exceptionally good teaching will be recognized. Two other agreements state that a double increment will be the reward for outstanding teaching. The other 14 provisions indicate that a teaching evaluation is one factor considered in evaluating a teacher's professional growth. The Northampton agreement gives an example.

Committee Work/Non-Teaching Duties

Sixteen agreements have provisions which stipulate that some form of committee work or non-teaching duties are professional growth activities. Fourteen mention committee work in such areas as curriculum development, textbook selection, educational experimentation, personnel policies, and instructional improvement. Of the two others, one mentions only student teacher supervision; the other mentions only lunch room duty. Of the fourteen which did list committee work, one also mentions student teacher supervision and four others also indicate that other activities for the betterment of the school may count toward professional growth but do not specify the nature of these activities. The sample provisions which list committee work and/or non-teaching duties as professional growth activities are Alpena, Utica, and Patchogue-Medford.

Writing, Research, Publication

Fourteen provisions state that a teacher can earn professional growth credit by writing or research which deals with education or with the teacher's subject area. This writing and research must also be of the same caliber as a book or thesis, or it must be published in a magazine or professional journal. The Alpena and Patchogue-Medford agreements provide examples.

Related Work Experience

Nine agreements state that work experience relative to teaching in general, or to the teacher's specialty or subject area will be considered for professional growth credit. None of these nine provisions specifies exactly what type of work experience is considered relevant.

The Alpena, Janesville, and Utica agreements provide examples.

Service to the Community

Seven agreements give community service as an acceptable growth activity. Community service is defined in these provisions as the holding of a political office, free community service, charity work, work with cultural organizations, and work with youth groups. See the Alpena agreement for an example.

Extracurricular Activities

Three provisions list supervision of student extracurricular activities as a method of obtaining professional growth credit. Only one states that this type of activity is absolutely necessary. See the Alpena Agreement.

School Visitation and Exchange Teaching

Three provisions state that visiting other schools and observing other teachers constitute professional growth activity. The Patchogue-Medford and New London agreements give examples. Two provisions indicate that exchange teaching can count for professional growth credit. See the Janesville provision.

Table 3 presents a graphic analysis of the content of the *sample provisions* for easy reference. In reproducing the sample provisions, some sections which did *not* deal at all with anything relative to professional growth activity have been deleted. All sections dealing directly or indirectly with professional growth activity, however, *have* been retained and appear in full. The "other" category in Table 3 itemizes sections of these provisions which bear *indirectly* upon professional growth activity. No comprehensive analysis was made of provisions which have an indirect effect on professional growth and which do *not*

TABLE 3.—CONTENT OF SAMPLE PROVISIONS

Requirement or method of in-service training	School system						
	Connecticut New London	Massachusetts Northampton	Michigan Alpena	Michigan Utica	New York Patchogue-Medford	Pennsylvania Philadelphia	Wisconsin Janesville
1	2	3	4	5	6	7	8
College or university courses	X	X	X	X	X	X	X
In-service training	X	X	...	...	X	X	X
Travel	...	...	X	X	X	...	X
Service to teaching profession	X	...	X	X	X	...	X
Evaluation of teaching	...	X	...	...	...	...	...
Committee work/non-teaching duties	...	...	X	X	X	...	...
Writing, research, publication	...	...	X	...	X	...	...
Related work experience	...	...	X	X	...	...	...
Service to the community	...	...	X	...	...	...	X
Extracurricular activities	...	...	X	...	...	...	...
School visitation	X	...	...	...	X	...	...
Exchange teaching	...	...	...	...	...	...	X
Other	X	...	X[a,b,c]	X[c,d,e,f]	X[g]	X[h]	X[b]

a. Miscellaneous category.
b. Tuition reimbursement.
c. Evaluation committee.
d. Sabbatical leave.
e. Leave of absence.
f. Educational experience not carrying credit.
g. Grants from state or federal government and from foundations or professional associations.
h. Fellowships for college and university study.
i. Payment of expenses of teachers who attend conferences, workshops, seminars or other professional improvement sessions at the board's request.

appear within professional growth or in-service training provisions.

NEW LONDON PUBLIC SCHOOLS, NEW LONDON, CONNECTICUT

ARTICLE XVII

PROFESSIONAL DEVELOPMENT AND EDUCATIONAL IMPROVEMENT

A. *Professional Growth*

All employees shall be provided opportunities for the development of increased competence beyond that which they may attain through the performance of their assigned duties. In light of their impact upon the lives of students and in keeping with the breadth of experience and depth of training which they possess, opportunities for the professional staff shall be especially rich and varied. The Superintendent shall provide the staff with opportunities in areas such as the following: (1) Visits to other classrooms and other schools. (2) Conferences involving other personnel from the district, county, state, region, or nation. (3) Membership on committees drawing personnel from such sources. (4) Training in classes and workshops offered within the district. (5) Further training in institutions of higher learning at expense of teacher unless attendance is on a scholarship or fellowship basis.

B. The Board shall pay the reasonable expenses (including fees, meals, lodging and/or transportation) incurred by teachers who attend workshops, seminars, conferences, or other professional improvement sessions at the request and/or with the advance approval of their principal or immediate supervisor and the Superintendent of schools.

NORTHAMPTON SCHOOL DEPARTMENT, NORTHAMPTON, MASS.

F. Super-Maximum–Professional Increments

Four Professional increments of $100 each are available for professional study or its equivalent in travel.*

1. Hours of Study

Four semester hours of approved study with credit are required for one increment. Each four-hour credit must be earned by taking two courses. To receive credit for any professional work done, actual attendance at the required number of classes is necessary.

2. First Increment

The first increment must be earned through study.

3. Second, Third, Fourth Increment

The second, third, and fourth professional increment may be earned through study or its equivalent in travel.

4. Travel

Only two increments may be earned through travel. Four credits may be earned for domestic travel only when the trip consists of at least five consecutive weeks of travel and for foreign travel only when the trip covers at least four weeks of travel in foreign countries.

5. Approval

All courses and travel must be approved in advance by the superintendent of schools.

6. Time Limit on Courses

Only one $100 increment may be earned during any twelve-month period except through full-time study.

An excess of credits earned in any one year cannot be carried over to a succeeding year. For this purpose, the twelve-month period may be counted from July first or from September first. Credit obtained during the school year or during the summer may not be divided so as to apply in two different school years or for two different increments.

7. Time Limit on Increments

Once an increment is received for professional study, this increment remains as part of the teacher's salary as long as he is employed in the Northampton Public School system.

8. Professional Study

No teacher shall receive more than five annual increments in salary unless he presents evidence of approved professional study in his field of work equal to six college credits earned during each five year period. Travel and other factors worthy of recognition, such as courses in education will be evaluated by the Superintendent of Schools.

Withholding Increments

Any teacher whose work is judged unsatisfactory by the Superintendent of Schools, and the combined

*[Annual increments are provided. The super-maximum professional increment is *in addition* to the annual increments.]

evaluation of the Elementary Supervisor, Head of Department, and the Principal in charge of his work shall have his salary increases withheld even though he may be on tenure. This is, provided that the teacher has been given written notice of the reasons for withholding said increase at least sixty days in advance of the awarding of contracts and provided that the teacher, when on tenure, if he so desired, had been granted a hearing before the School Committee.

ALPENA PUBLIC SCHOOLS, ALPENA, MICH.

III. PROFESSIONAL SALARY:

A. The purpose of the salary schedule is to secure and retain quality teaching staff, to encourage improvement of teachers while in service, to give credit for training and experience, and to stimulate the continuous growth of all teachers. It further provides a definite basis for determining budget requirements.

F. In order that each teacher may be correctly located on the new salary schedule, staff members must provide evidence of the hours they have earned past their BA/BS and MA/MS degrees. When this data has been provided, a new contract reflecting the change in status will be issued.

1. An up-to-date transcript of credits showing total number of hours earned from each institution attended is required. Thereafter it will only be necessary to present a credit slip which will be photostated and attached to the transcript of credits.

2. Payment for credits earned toward placement on the salary schedule will be retroactive thirty (30) days from receipt of transcript.

3. A grandfather clause shall be included on the 1967-68 salary schedule whereby a Permanent Certificate and/or a Life Certificate with a BA/BS degree is for a one (1) year period, ending 1 September 1968, equivalent to ten (10) semester hours. The next five (5) toward the total of fifteen (15) hours of the BA + 15 scale must be graduate credit. At the end of the 1967-68 school year a staff member holding a Permanent or a Life Certificate who has not earned five (5) additional hours of graduate credit will be frozen at the final step on the BA/BS scale.

4. To qualify for compensation under this schedule, it is required that such training be directly related to the instruction program.

5. A form has been developed establishing the procedure for evaluation of criteria for placement on the MA/MS + 30 point category, as follows:

Points	Area
1	Each semester hour of graduate credit. To qualify, credit should be directly related to the instructional program.
1	Each semester hour of undergraduate credit (maximum 5 hours). To qualify, credit should be directly related to the instructional program.
1	Major Committee. A committee which would meet for the entire school year at regular intervals, e.g., Curriculum Committee, Personnel Policies.
1/3	Minor committee or sectional chairman of a professional meeting. Would meet for a specified duration or purpose, e.g., special building committee, American Education Week committee, Michigan Week committee, building press representative, local reading council.
1	Educational Travel. Prior approval by the building principal. Extended educational travel which is closely coordinated with the teacher's instructional program may be granted additional 1 to 5 points on the point system as evaluated by the point evaluation committee.
1	Organization Officer who spends a major portion of time in a position of educational leadership. (Member of Executive Committees.)
1	Work experience appropriate to teaching field. Prior approval by the building principal.
1/3	Membership in an organization in subject field of the teacher. (Credit not to exceed one organization per year, maximum credit will not exceed 2 points in this area.)
1/3	Community service-nonpaid (maximum 1 point.) To be evaluated by evaluation committee, e.g., United Fund, March of Dimes, Civic Theater, Civic Orchestra, Besser Chorus, Choral Society.
1/3	Publications in a professional magazine.
1	Research-prior approval.
2/3	Senior or Junior Class Sponsor.
1/3	Sophomore or Junior High School Class Sponsor.
1/3	Commencement and Class Night.
1	Club Sponsor. (Maximum 5 pts.)

Points	Area
1/3	Chairman of Mother's Night and Style Show; Science Fair; Book Fair; Art Show.
1/3	Critic teacher-per student teacher. (Not to exceed a total of 3 points.)
1/3 to 1 point to be given for Miscellaneous–as designated by the evaluation committee.	

No more than ten (10) points may be counted other than academic credit toward the MA + 30 step of the salary schedule.

Points will be evaluated prior to September 30 and February 28 of each school year by a committee made up of the Superintendent (or his representative), the building principal, the Association's building representative, and a member of the Professional Committee. Application for point credit must be made within one year after said credit has been earned.

H. Advanced Training:

Teachers who earn graduate credit from an accredited institution will be given expense money amounting to fifteen (15) dollars per semester credit hour for courses taken on campus and ten (10) dollars per semester credit hour for courses taken off campus up to a maximum of six (6) semester hours. No more than four (4) of these credit hours may be earned during the regular school year. To qualify for reimbursement the teacher must obtain prior written consent from the building principal. Work applying directly toward a graduate degree shall be approved. Payment will be made in May of each year for work completed prior to March 1.

UTICA COMMUNITY SCHOOLS, UTICA, MICHIGAN

PROFESSIONAL GROWTH CREDITS

Step	M.A.	Specialist	Doctors
1			
2			
3			
4			
5			
6	1st Qualifying Period		
7			
8	1st Professional Growth Supplement		
9	2nd Qualifying Period	$300.00	
10			
11	2nd Professional Growth Supplement		
12	3rd Qualifying Period	$300.00	
13			
14	3rd Professional Growth Supplement		
15		$300.00	
16			

I. To demonstrate professional growth a teacher will meet criteria set forth in one or more of the following areas to qualify for a Professional Growth Supplemental Increment:

1. Participation in Education Conferences beyond normal requirements.
2. Fellowships, grants and similar educational training experiences that do not carry credit.
3. Education Leaves of Absence.
4. Sabbatical Leave.
5. Service on Educational School Committees.
6. Contributions to Educational Journals.
7. Educational Travel.
8. University and College credits not allowed to qualify for higher preparational levels.
9. Work experience giving broader teaching background.

II. In order to qualify each person will need 20 points (one semester hour of college credit would be the equivalent to one point) from the above list. Criteria and evaluation of work will be done by the Evaluation Committee.

III. Not more than six (6) credit hours will be allowed from any one of the above areas to improve the teacher's competence or skill and be judged to qualify the teacher for a Professional Growth Supplement.

IV. A teacher may qualify only once during each Qualifying Period and will, upon completion of required criteria, receive the Professional Growth Supplement at the start of the following year.

V. To apply for a Professional Growth Supplement a teacher will submit in advance, an application to the Evaluation Committee, who will judge the value of each activity submitted for professional growth credit.

VI. The Evaluation Committee for professional growth credit will consist of:

1. The President of the Association or a designated representative.
2. The Superintendent of Schools or a designated representative.
3. The Director of Elementary Education.
4. The Director of Secondary Education.
5. One School Principal

VII. As of the date of ratification, all personnel presently employed, will be eligible for three (3) qualifying periods provided he fulfills the other criteria.

PATCHOGUE-MEDFORD PUBLIC SCHOOLS, PATCHOGUE, N. Y.

PROGRAM FOR PROFESSIONAL GROWTH

JOINT STATEMENT OF THE BOARD OF EDUCATION OF THE PATCHOGUE-MEDFORD PUBLIC SCHOOLS AND THE PATCHOGUE CLASSROOM TEACHERS ASSOCIATION

I. TO FACILITATE PARTICIPATION OF THE PROFESSIONAL STAFF OF UFSD #24 IN PROFESSIONAL GROWTH ACTIVITIES, THE BOARD OF EDUCATION AND THE ASSOCIATION SUGGEST THAT:

1. During each three-year period of service, each teacher enroll in and regularly attend two or more UFSD #24 sponsored or approved in-service training courses, graduate college or university courses or workshops, or some equivalent professional growth activity, such as curriculum development, a research project related to improvement of the educational system, preparation of articles and books in the educator's field, travel associated with classroom activities of the educator, etc. The Superintendent will consult with the Association periodically on the types of approvable activity to be included.

2. Each teacher limit his participation to no more than two organized in-service or university courses during the same Patchogue school semester.

3. Each teacher avail himself of the Board's intervisitation policy and arrange with the building principal to visit and observe one qualified teacher in this or another district for a full school day each year.

4. The Board of Education make every effort to hire only certifiable teachers; each teacher holding a provisional certificate during each year of employment prior to permanent certification will proceed to complete such courses as will lead to permanent certification within the time allowed by regulations of the Commissioner of Education.

5. Each teacher utilize the professional journals and other materials to be made available in the professional library of the curriculum materials center and personally subscribe to one or more professional journals the focus of which is related to the teacher's grade or subject assignment; members of the Board of Education utilize the journals made available by the New York State School Boards Association and the National School Boards Association.

6. Each teacher maintain membership in at least one national, state, or local professional organization the activities of which are related specifically to the teacher's subject or grade assignment; members of the Board of Education maintain membership and send representatives to the meetings of the Nassau-Suffolk School Boards Association, the New York State School Boards Association, and the National School Boards Association.

7. Teachers in each elementary school or secondary school or department undertake collectively, with the assistance of their principal or department chairman, to secure for individual teachers the maximum in available grants for advanced study from state or national government agencies, foundations, or professional associations.

PHILADELPHIA PUBLIC SCHOOLS, PHILADELPHIA, PA.

ARTICLE V—PROFESSIONAL IMPROVEMENT

1. The Board shall negotiate with local area colleges for an extension of in-service training in cooperation with the colleges whereby such course work will be recognized for purposes of teacher certification and advanced degrees.

2. (a) A sum of $600,000 shall be appropriated for the summer of 1967 and a like sum for the summer of 1968 for teacher fellowships for study in accredited colleges and universities under the criteria hereinafter set forth. The intent is to provide a grant of a sum equal to 70% of summer school teachers' salary. However, since the summer school sessions at the various school levels are substantially different in length, it is believed equitable to establish a fixed sum to be paid each teacher participating in this program.

(b) To allocate these fellowships equitably, the Superintendent shall in February of each year determine the ratio of the total possible participants to the total number of appointed teachers. The number of participants to be allocated to each school shall be determined by applying the same ratio to all appointed teachers on the payroll for such school, except that where a fraction of one-half or more results, the allocation shall be increased to the next higher whole number. However, the total number of participants shall not exceed 800.

(c) Where applications for more than the number of participants allocated to the given school are received, they shall be approved in the order of seniority in the school system of those who apply within that school, except that in the summer of 1968, applicants who participated in the program during the summer of 1967 shall be placed in the order of their seniority in the school system at the end of the list of eligible applicants in their respective schools.

(d) The criteria for operation of this program shall be as follows:

1. Participants shall be teachers who have completed two years of satisfactory service in the state of Pennsylvania.

2. The applicant will not during the same summer be a participant in another program in which he will be compensated $200 or more in which he will receive an equivalent of such sum in room, board or tuition.

3. The applicant will take an equivalent of six semester hours during the summer in courses to be approved by the Superintendent.

4. Courses must be related to applicant's subject of appointment or current assignment. In the event the courses selected by an applicant are not approved, timely notification of such fact shall be given to the applicant who shall with reasonable promptness notify the Superintendent of his substitute course selection.

(e) If there are insufficient applications to fill the total number of possible participants allocated to a school or in the school system, the Superintendent will designate the remaining balance of teacher participants within his discretion. If a teacher who was selected for the program withdraws before June 25 or for any other reason becomes ineligible to participate, a replacement from other applicants in the same school shall be selected in accordance with the above criteria.

(f) Each participant shall be paid the sum of $750 as a fellowship grant for participating in this program. Such participant shall be paid on a bi-weekly basis.

(g) An applicant shall agree to remain in the school system as a teacher for 5 years after completing a summer as a participant in this program. In the event a participant fails to remain in the school system as a teacher for 5 years, except by reason of disability, he shall refund the fellowship grant paid to him.

(h) Before the beginning of the school year following the summer study program, the participant shall deliver to the Superintendent a final transcript from the college or university he attended evidencing the taking of the course or courses under this program.

(i) The Superintendent will inform the faculties in each school of the number of fellowships allocated to such school by March 1 of each year. A list of the names of the teachers to whom fellowships hereunder are granted shall be posted in each school at the same time as the summer school and summer playground 80% lists. (See Article XXV, Section 5.)

(j) The applications, on forms to be furnished by the Superintendent, shall be submitted not later than March 15 of each year by each teacher desiring to participate in the program.

JANESVILLE PUBLIC SCHOOLS, JANESVILLE, WISC.

ARTICLE XI. PROFESSIONAL IMPROVEMENT REQUIREMENTS

Section 1. Teachers shall comply with the following professional growth requirements:

(a) Teachers holding a Bachelors Degree shall be required to complete 6 semester hours of approved study in a recognized college or university summer school program for each 4 year interval after receiving such degree. Updating of professional growth shall be completed within 4 years after completion of the preceding 4 year requirement.

(b) Teachers holding a Masters Degree shall be required to complete 6 semester hours of approved study in a recognized college or university summer school program for each 5 year interval after receiving such degree. Updating of professional growth shall be completed within 5 years after completion of the preceding 5 year requirement.

(c) Teachers who do not have a Bachelors Degree are required to make continuous advancement until a degree is obtained. The completion of 6 semester hours of study in a recognized college or university summer school program shall be required during each calendar year.

Section 2. During any four year period, professional staff members shall be reimbursed in an amount up to $200 for approved work toward a higher degree in a recognized summer school for only recognized semester credit hours. Payments shall be paid only for completed semester credit hours and shall be paid according to the following schedule:

Completed Semester Hours	*Amount of Reimbursement*
6	$200
5	170
4	135
3	100
2	70
1	35

Payments of $100 or more shall be made in two equal installments, in October and February following com-

pletion of the credit hours. In order to be entitled to such payments, the staff member must be an employee of the school system at the time the payment is to be made.

Section 3. The Board may permit the following to be used to satisfy the foregoing summer school requirements:

(A) Equivalent credits for completed courses of study in a recognized Extension Division, or by attending Saturday or evening classes in a recognized college or university. No reimbursement shall be paid for such studies.

(B) Eight professional growth equivalency credits by:

a. In-service credits for regular school year term workshops. These may consist of such things as math workshops, science workshops, guidance workshops, mental health workshops, etc. One professional growth credit may be permitted for each 16 hours that a workshop is in session. No reimbursement shall be paid for such studies.

b. In-service credit granted for workshops conducted by the Board of Education during summer vacation time. Two professional growth credits may be granted for each week that a workshop is in session. A week's session is defined as six (6) hours daily for five (5) days a week. Compensation is granted in accordance with the Board of Education specifications for that year's workshop.

(C) Credit granted for service on state committees and other unusual services. Employment experiences which may enrich the individual as a teacher in the judgment of the Board of Education, are included. No reimbursement shall be paid for such services. Conditions for granting credit are as follows:

a. Applications for such credit must be made to the Assistant Superintendent in Charge of Instruction immediately following such experience.

b. The application must be outlined in such form as may be required by the Assistant Superintendent in Charge of Instruction so that evaluation of such a request may be made.

(D) Exchange Teacher Policy. In case any teacher employed by the Janesville Public Schools serves overseas for one school year as a result of being accepted in the Exchange Teacher Program, he or she may receive full professional growth for one full professional growth period of four or five years as the case may be. This must meet the approval of the Assistant Superintendent in Charge of Instruction.

(E) A combination of three credit hours from a recognized college or university, plus four alternative professional growth credits may satisfy the summer school requirement for a four year period.

(F) Once every 12 years a teacher may satisfy the summer school requirement by meeting the following travel requirements:

a. One credit will be allowed for each week of travel and eight credits will satisfy the summer school requirement. Travel may be one eight-weeks trip, one six-weeks trip plus one two-weeks trip or two four-week trips. One week trips may not be used to satisfy this requirement.

b. The following procedures shall apply to travel which shall satisfy the summer school requirement.

(1) By May 1 of the year in which the teacher intends to travel, an outline of the proposed trip(s) must be presented to the Assistant Superintendent in Charge of Instruction who will in turn give it to the Chairman of the J.E.A. Travel Committee. This outline should include (a) approximate number of miles to be traveled, (b) map of the intended trip, (c) places or things to be seen, (d) duration of the trip, (e) the value of the trip to the job the teacher is performing.

(2) By May 15, the J.E.A. Travel Committee will pass judgment as to whether or not this trip has merit enough to be sanctioned. Should the possibility of a trip arise toward the close of school or during the summer, the same required outline should be left with the Assistant Superintendent In Charge of Instruction or with his Secretary. The Board of Education shall make the final determination as to whether credit for the trip will be allowed.

(3) A complete summary of the trip must be submitted after the trip (in booklet form, including pictures, etc.) following the outline submitted. It is desirable that a travelog of the trip be given before a group or groups. The deadline for filing the summary

of the trip with the Assistant Superintendent In Charge of Instruction is November 15 following the summer trip.

(4) After the written report has been evaluated by the J.E.A. Travel Committee, it will be placed on file in the office of the Assistant Superintendent In Charge of Instruction until the end of the school year.

(5) If a teacher can obtain semester credit hours for summer travel from a recognized college or university, he shall be reimbursed for such credits according to the schedule set forth in Section 2 above. Otherwise, there shall be no reimbursement.

(6) A combination of one four-week trip which qualifies for credit and three semester hours or four professional growth credits will satisfy summer school requirements.

Section 4. General Procedures

(a) In all instances, approval must be received from the Assistant Superintendent In Charge of Instruction prior to enrollment in a course (either at summer school or extension work), or prior to enrollment in workshops or prior to a trip. Special permission must be received from the Assistant Superintendent In Charge of Instruction prior to enrollment in a course which is not a requirement for a degree or which does not pertain to the teachers subject field.

(b) An official transcript of credits is to be on file in the office of the Superintendent of Schools before summer school expense will be paid and before advancement on salary schedule will be effected.

Judicial Decisions, Opinions, and Statutes

NEW YORK STATE PUBLIC EMPLOYEE BARGAINING ACT, AS AMENDED, 1969

PUBLIC EMPLOYEES' FAIR EMPLOYMENT ACT
Section 200. Statement of policy.

201. Definitions
202. Right of organization.
203. Right of representation.
204. Recognition and certification of employee organizations.
205. Public employment relations board.
206. Procedures for determination of representation status of local employees.
207. Determination of representation status.
208. Rights accompanying certification or recognition.
209. Resolution of disputes in the course of collective negotiations.
210. Prohibition of strikes.
211. Application for injunctive relief.
212. Local government procedures.

§ 200. Statement of policy. The legislature of the state of New York declares that it is the public policy of the state and the purpose of this act to promote harmonious and cooperative relationships between government and its employees and to protect the public by assuring, at all times, the orderly and uninterrupted operations and functions of government. These policies are best effectuated by (a) granting to public employees the right of organization and representation, (b) requiring the state, local governments and other political subdivisions to negotiate with, and enter into written agreements with employee organizations representing public employees which have been certified or recognized, (c) *encouraging such public employers and such employee organizations to agree upon procedures for resolving disputes*, (d) creating a public employment relations board to assist in resolving disputes between public employees and public employers, and (e) continuing the prohibition against strikes by public employees and providing remedies for violations of such prohibition.

§ 201. Definitions. As used in this article:

1. The term "board" means the public employment relations board created by section two hundred five of this article.

2. The term "budget submission date" means the date by which, under law or practice, a government's proposed budget, or a budget containing proposed expenditures applicable to such government, is submitted to the legislative or other similar body of the government for final action, and (a) in the case of a school district other than city school districts means the date of the annual meeting, and (b) in the case of city school districts means the first day of July.

3. The term "membership dues deduction" means the obligation or practice of a government to deduct from the salary of a public employee with his consent an amount for the payment of his membership dues in an employee organization. Such term also means the obligation or practice of a government to transmit the sums so deducted to an employee organization.

4. The term "chief legal officer" means (a) in the case of the state of New York or a state public authority, the attorney general of the State of New York, (b) in the case of a county, city, town or village, the county attorney, corporation counsel, town attorney or village attorney, as the case may be, and (c) in the case of any such government not having its own attorney, or any other government or public employer, the corporation counsel of the city in which such government or public employer has its principal office, and if such principal office is not located in a city, the county attorney of the county in which such government or public employer has its principal office.

5. The term "terms and conditions of employment" means salaries, wages, hours and other terms and conditions of employment.

6. The term "employee organization" means an organization of any kind having as its primary purpose the improvement of terms and conditions of employment of public employees, except that such term shall not include an organization (a) membership in which is prohibited by section one hundred five of this chapter, (b) which discriminates with regard to the terms or conditions of membership because of race, color, creed or national origin, or (c) which, in the case of public employees who hold

NOTE: Additions and changes in the 1967 law are in italics throughout.

positions by appointment or employment in the service of the board and who are excluded from the application of this article by rules and regulations of the board, admits to membership or is affiliated directly or indirectly with an organization which admits to membership persons not in the service of the board, for purposes of any provision of this article other than sections two hundred ten and two hundred eleven of this article.

7. The term "government" or "public employer" means (a) the state of New York, (b) a county, city, town, village or any other political subdivision or civil division of the state, (c) a school district or any governmental entity operating a public school, college or university, (d) a public improvement or special district, (e) a public authority, commission, or public benefit corporation, or (f) any other public corporation, agency or instrumentality or unit of government which exercises governmental powers under the laws of the state.

8. The term "public employee" means any person holding a position by appointment or employment in the service of a public employer, except that such term shall not include persons holding positions by appointment or employment in the organized militia of the state for purposes of any provision of this article than sections two hundred ten and two hundred eleven of this article.

9. The term "state public authority" means a public benefit corporation or public corporation, a majority of the members of which are (i) appointed by the governor or by another state officer or body, (ii) designated as members by virtue of their state office, or (iii) appointed or designated by any combination of the foregoing.

10. The term "strike" means any strike or other concerted stoppage of work or slowdown by public employees.

11. The term "chief executive officer" in the case of school districts, means the superintendent of schools in school districts employing their own superintendents, and in school districts under the jurisdiction of a district superintendent of schools, shall mean the principal of the district.

12. The term "legislative body of the government," in the case of school districts, means the board of education, board of trustees or sole trustee, as the case may be.

13. The term "agreement" means the result of the exchange of mutual promises between the chief executive officer of a public employer and an employee organization which becomes a binding contract, for the period set forth therein, except as to any provisions therein which require approval by a legislative body, and as to those provisions, shall become binding when the appropriate legislative body gives its approval.

§ 202. *Right of organization.* Public employees shall have the right to form, join and participate in, or to refrain from forming, joining, or participating in any employee organization of their own choosing.

§ 203. *Right of representation.* Public employees shall have the right to be represented by employee organizations to negotiate collectively with their public employers in the determination of their terms and conditions of employment, and the administration of grievances arising thereunder.

§ 204. *Recognition and certification of employee organizations.*

1. Public employers are hereby empowered to recognize employee organizations for the purpose of negotiating collectively in the determination of, and administration of grievances arising under, the terms and conditions of employment of their public employees as provided in this article, and to negotiate and enter into written agreements with such employee organizations in determining such terms and conditions of employment.

2. Where an employee organization has been certified or recognized pursuant to the provisions of this article, the appropriate public employer shall be, and hereby is, required to negotiate collectively with such employee organization in the determination of, and administration of grievances arising under, the terms and conditions of employment of the public employees as provided in this article, and to negotiate and enter into written agreements with such employee organizations in determining such terms and conditions of employment.

§ 204-a. Agreements between public employers and employee organizations. 1. Any written agreement between a public employer and an employee organization determining the terms and conditions of employment of public employees shall contain the following notice in type not smaller than the largest type used elsewhere in such agreement:

"It is agreed by and between the parties that any provision of this agreement requiring legislative action to permit its implementation by amendment of law or by providing the additional funds therefor, shall not become effective until the appropriate legislative body has given approval."

2. Every employee organization submitting such a written agreement to its members for ratification shall publish such notice, include such notice in the documents accompanying such submission and shall read it aloud at any membership meeting called to consider such ratification.

3. Within sixty days after the effective date of this act, a copy of this section shall be furnished by the chief fiscal officer of each public employer to each public employee. Each public employee employed thereafter shall, upon such employment, be furnished with a copy of the provisions of this section.

§ 205. *Public employment relations board.* There is hereby created in the state department of civil service a board, to be known as the public employment relations board, which shall consist of three members appointed by the governor, by and with the advice and consent of the senate from persons representative of the public. Not more than two members of the board shall be members of the same political party. Each member shall be appointed for a term of six years, except that of the members first appointed, one shall be appointed for a term to expire on May thirty-first, nineteen hundred sixty-nine, one for a term to expire on May thirty-first, nineteen hundred seventy-one, and one for a term to expire on May thirty-first, nineteen hundred seventy-three. The governor shall designate one member as chairman of the board. A member appointed to fill a vacancy shall be appointed for the unexpired term of the member whom he is to succeed.

2. Members of the board shall hold no other public office or public employment in the state. The chairman shall give his whole time to his duties.

3. Members of the board other than the chairman shall, when performing the work of the board, be compensated at the rate of one hundred dollars per day, together with an allowance for actual and necessary expenses incurred in the discharge of their duties hereunder. The chairman shall receive an annual salary to be fixed within the amount available therefor by appropriation, in addition to an allowance for expenses actually and necessarily incurred by him in the performance of his duties.

4. The board may appoint an executive director and such other persons, including but not limited to mediators, members of fact-finding boards and representatives of employee organizations and public employers to serve as technical advisers to such fact-finding boards, as it may from time to time deem necessary for the performance of its functions, prescribe their duties, fix their compensation and provide for reimbursement of their expenses within the amounts made available therefor by appropriation.

5. In addition to the powers and functions provided in other sections of this article, the board shall have the following powers and functions:

(a) To establish procedures consistent with the provisions of section two hundred seven of this article and after consultation with interested parties, to resolve disputes concerning the representation status of employee organizations.

(b) To resolve, pursuant to such procedures, disputes concerning the representation status of employee organizations of employees of the state and state public authorities upon request of any employee organization, state department or agency or state public authority involved.

(c) To resolve, pursuant to such procedures but only in the absence of applicable procedures established pursuant to section two hundred six of this article, disputes concerning the representation status of other employee organizations, upon request of any employee organization or other government or public employer involved.

(d) *To establish procedures for the prevention of improper employer and employee organization practices as provided in section two hundred nine-a of this article, provided, however, that in case of a claimed violation of paragraph (d) of subdivision one or paragraph (b) of subdivision two of such section such procedures shall provide only for the entry of an order directing the public employer or employee organization to negotiate in good faith. The pendency of proceedings under this paragraph shall not be used as the basis to delay or interfere with determination of representation status pursuant to section two hundred seven of this article or with collective negotiations. The board shall exercise exclusive nondelegable jurisdiction of the powers granted to it by this paragraph.*

(e) To make studies and analyses of, and act as a clearing house of information relating to, conditions of employment of public employees throughout the state.

(f) To request from any government, and such governments are authorized to provide, such assistance, services and data as will enable the board properly to carry out its functions and powers.

(g) To conduct studies of problems involved in representation and negotiation, including, but not limited to (i) whether employee organizations are to be recognized as representatives of their members only or are to have exclusive representation rights for all employees in the negotiating unit, (ii) the problems of unit determination, (iii) those subjects which are open to negotiations in whole or in part, (iv) those subjects which require administrative or legislative approval of modifications agreed upon by the parties, and (v) those subjects which are for determination solely by the appropriate legislative body, and make recommendations from time to time for legislation based upon the results of such studies.

(h) To make available to employee organizations, governments, mediators, fact-finding boards and joint study committees established by governments and employee organizations statistical data relating to wages, benefits and employment practices in public and private employment applicable to various localities and occupations to assist them to resolve complex issues in negotiations.

(i) To establish, after consulting representatives of employee organizations and administrators of public services, panels of qualified persons broadly representative of

the public to be available to serve as mediators, arbitrators, or members of fact-finding boards.

(j) To hold such hearings and make such inquiries as it deems necessary for it properly to carry out its functions and powers.

(k) For the purpose of such hearings and inquiries, to administer oaths and affirmations, examine witnesses and documents, take testimony and receive evidence, compel the attendance of witnesses and the production of documents by the issuance of subpoenas, and delegate such powers to any member of the board or any person appointed by the board for the performance of its functions. Such subpoenas shall be regulated and enforced under the civil practice law and rules.

(l) To make, amend and rescind, from time to time, such rules and regulations, including but not limited to those governing its internal organization and conduct of its affairs, and to exercise such other powers, as may be appropriate to effectuate the purposes and provisions of this article.

6. Notwithstanding any other provisions of law, neither the president of the civil service commission nor the civil service commission or any other officer, employer, board or agency of the department of civil service shall supervise, direct or control the board in the performance of any of its functions or the exercise of any of its powers under this article; provided, however, that nothing herein shall be construed to exempt employees of the board from the provisions of the civil service law.

§*206. Procedures for determination of representation status of local employees.* 1. Every government (other than the state or a state public authority), acting through its legislative body, is hereby empowered, to establish procedures, not inconsistent with the provisions of section two hundred seven of this article and after consultation with interested employee organizations and administrators of public services, to resolve disputes concerning the representation status of employee organizations of employees of such government.

2. In the absence of such procedures, such disputes shall be submitted to the board in accordance with section two hundred five of this article.

§*207. Determination of representation status.* For purposes of resolving disputes concerning representation status, pursuant to section two hundred five or two hundred six of this article, the board or government, as the case may be, shall

1. define the appropriate employer-employee negotiating unit taking into account the following standards:

(a) the definition of the unit shall correspond to a community of interest among the employees to be included in the unit;

(b) the officials of government at the level of the unit shall have the power to agree, or to make effective recommendation to other administrative authority or the legislative body with respect to, the terms and conditions of employment upon which the employees desire to negotiate; and

(c) the unit shall be compatible with the joint responsibilities of the public employer and public employees to serve the public.

2. Ascertain the public employees' choice of employee organization as their representative (in cases where the parties to a dispute have not agreed on the means to ascertain the choice, if any, of the employees in the unit) on the basis of dues deduction authorization and other evidences, or, if necessary, by conducting an election.

3. Certify or recognize an employee organization upon (a) the determination that such organization represents that group of public employees it claims to represent, and (b) the affirmation by such organization that it does not assert the right to strike against any government, to assist or participate in any such strike, or to impose an obligation to conduct, assist or participate in such a strike.

§*208. Rights accompanying certification or recognition.* A public employer shall extend to an employee organization certified or recognized pursuant to this article the following rights:

(a) to represent the employees in negotiations and in the settlement of grievances;

(b) to membership dues deduction, upon presentation of dues deduction authorization cards signed by individual employees; and

(c) to unchallenged representation status until the next succeeding budget submission date and, thereafter, for an additional period of either twelve months or, if the parties so agree, not less than twelve months nor more than twenty-four months, which period shall commence one hundred twenty days prior to such next succeeding budget submission date.

§*209. Resolution of disputes in the course of collective negotiations.* 1. For purposes of this section, an impasse may be deemed to exist if the parties fail to achieve agreement at least sixty days prior to the budget submission date of the public employer.

2. Public employers are hereby empowered to enter into written agreements with recognized or certified employee organizations setting forth procedures to be invoked in the event of disputes which reach an impasse in the course of collective negotiations. *Such agreements may include the undertaking by each party to submit unresolved issues to impartial arbitration.* In the absence or upon the failure of such procedures, public employers and employee organizations may request the board to

render assistance as provided in this section, or the board may render such assistance on its own motion, as provided in subdivision three of this section.

3. On request of either party or upon its own motion, as provided in subdivision two of this section, and in the event the board determines that an impasse exists in collective negotiations between such employee organization and a public employer as to the conditions of employment of public employees, the board shall render assistance as follows:

(a) to assist the parties to effect a voluntary resolution of the dispute, the board shall appoint a mediator or mediators representative of the public from a list of qualified persons maintained by the board;

(b) if the impasse continues, the board shall appoint a fact-finding board of not more than three members, each representative of the public, from a list of qualified persons maintained by the board, which fact-finding board shall have, in addition to the powers delegated to it by the board, the power to make public recommendations for the resolution of the dispute;

(c) if the dispute is not resolved at least *twenty* days prior to the budget submission date, the fact-finding board, acting by a majority of its members, (i) shall immediately transmit its findings of fact and recommendations for resolution of the dispute to the chief executive officer of the government involved and to the employee organization involved, *(ii) may thereafter assist the parties to effect a voluntary resolution of the dispute,* and (iii) shall *within five days of such transmission* make public such findings and recommendations;

(d) in the event that the findings of fact and recommendations are made public by a fact-finding board established pursuant to procedures agreed upon by the parties under subdivision two of this section, and the impasse continues, the public employment relations board shall have the power to take whatever steps it deems appropriate to resolve the dispute, including (i) the making of recommendations after giving due consideration to the findings of fact and recommendations of such fact-finding board, but no further fact-finding board shall be appointed *and (ii) upon the request of the parties, assistance in providing for voluntary arbitration;*

(e) in the event that either the public employer or the employee organization does not accept in whole or part the recommendations of the fact-finding board, (i) the chief executive officer of the government involved shall, within *ten* days after receipt of the findings of fact and recommendations of the fact-finding board, submit to the legislative body of the government involved a copy of the findings of fact and recommendations of the fact-finding board, together with his recommendations for settling the dispute; (ii) the employee organization may submit to such legislative body its recommendations for settling the dispute; *(iii) the legislative body or a duly authorized committee thereof shall forthwith conduct a hearing at which the parties shall be required to explain their positions with respect to the report of the fact-finding board; and (iv) thereafter, the legislative body shall take such action as it deems to be in the public interest, including the interest of the public employees involved.*

(f) If the board determines that an employee organization has violated the provisions of subdivision one of this section, the board shall order forfeiture of the rights granted pursuant to the provisions of paragraph (b) of section two hundred eight of this chapter, for a specified period of time, as the board shall determine, but in no event to exceed eighteen months; provided, however, that where a fine imposed on an employee organization pursuant to subdivision two of section seven hundred fifty-one of the judiciary law remains wholly or partly unpaid, after the exhaustion of the cash and securities of the employee organization, the board shall direct that, notwithstanding such forfeiture, such membership dues deduction shall be continued to the extent necessary to pay such fine and such public employer shall transmit such moneys to the court.

(g) An employee organization whose rights granted pursuant to the provisions of paragraph (b) of section two hundred eight of this chapter have been ordered forfeited pursuant to this section may be granted such rights after the termination of such forfeiture only after complying with the provisions of clause (b) of subdivision three of section two hundred seven of this article.

4. Orders of the board made pursuant to this article (including, but not limited to, orders made pursuant to subdivision three of this section) shall be (a) reviewable under article seventy-eight of the civil practice law and rules, and (b) enforceable, upon petition of such board, by the supreme court, which shall have jurisdiction of the proceeding and the power to grant such temporary relief or affirmative or restraining orders as it deems just and proper.

§ 209-a. *Improper employer practices; improper employee organization practices; application. 1. Improper employer practices. It shall be an improper practice for a public employer or its agents deliberately (a) to interfere with, restrain or coerce public employees in the exercise of their rights guaranteed in section two hundred two for the purpose of depriving them of such rights; (b) to dominate or interfere with the formation or administration of any employee organization for the purpose of depriving them of such rights; (c) to discriminate against any employee for the purpose of encouraging or discouraging membership in, or participation in the activities of, any employee organization; or (d) to refuse to negotiate in good faith with the duly recognized or certified representatives of its public employees.*

2. Improper employee organization practices. It shall be an improper practice for an employee organization or its agents deliberately (a) to interfere with, restrain or coerce public employees in the exercise of the rights granted in section two hundred two, or to cause, or attempt to cause, a public employer to do so; or (b) to refuse to negotiate collectively in good faith with a public employer, provided it is the duly recognized or certified representative of the employees of such employer.

3. Application. In applying this section, fundamental distinctions between private and public employment shall be recognized, and no body of federal or state law applicable wholly or in part to private employment, shall be regarded as binding or controlling precedent.

§210. Prohibition of strikes. 1. No public employee or employee organization shall engage in a strike, and no *public employee* or employee organization shall cause, instigate, encourage, or condone a strike.

2. Violations and penalties; presumption; prohibition against consent to strike; determination; notice; probation; payroll deductions; objections; and restoration. (a) Violations and penalties. A public employee shall violate this subdivision by engaging in a strike or violating paragraph (c) of this subdivision and shall be liable as provided in this subdivision pursuant to the procedures contained herein. In addition, any public employee who violates subdivision one of this section may be subject to removal or other disciplinary action provided by law for misconduct.

(b) Presumption. For purposes of this subdivision an employee who is absent from work without permission, or who abstains wholly or in part from the full performance of his duties in his normal manner without permission, on the date or dates when a strike occurs, shall be presumed to have engaged in such strike on such date or dates.

(c) Prohibition against consent to strike. No person exercising on behalf of any public employer any authority, supervision or direction over any public employee shall have the power to authorize, approve, condone or consent to a strike, or the engaging in a strike, by one or more public employees, and such person shall not authorize, approve, condone or consent to such strike or engagement.

(d) Determination. In the event that it appears that a violation of this subdivision may have occured, the chief executive officer of the government involved shall, on the basis of such investigation and affidavits as he may deem appropriate, determine whether or not such violation has occurred and the date or dates of such violation. If the chief executive officer determines that such violation has occurred, he shall further determine, on the basis of such further investigation and affidavits as he may deem appropriate, the names of employees who committed such violation and the date or dates thereof. Such determination shall not be deemed to be final until the completion of the procedures provided for in this subdivision.

(e) Notice. The chief executive officer shall forthwith notify each employee that he has been found to have committed such violation and the date or dates thereof; he shall also notify the chief fiscal officer of the names of all such employees and of the total number of days, or part thereof, on which it has been determined that such violation occurred. Notice to each employee shall be by personal service or by certified mail to his last address filed by him with his employer.

(f) Probation. Notwithstanding any inconsistent provision of law, any public employee who has been determined to have violated this subdivision shall be on probation for a term of one year following such determination during which period he shall serve without tenure.

(g) Payroll deductions. Not earlier than thirty days nor later than ninety days following the date of such determination, the chief fiscal officer of the government involved shall deduct from the compensation of each such public employee an amount equal to twice his daily rate of pay for each day or part thereof that it was determined that he had violated this subdivision; such rate of pay to be computed as of the time of such violation. In computing such deduction, credit shall be allowed for amounts already withheld from such employee's compensation on account of his absence from work or other withholding of services on such day or days.

(h) Objections and restoration. Any employee determined to have violated this subdivision may object to such determination by filing with the chief executive officer, (within twenty days of the date on which notice was served or mailed to him pursuant to paragraph (e) of this subdivision) his sworn affidavit, supported by available documentary proof, containing a short and plain statement of the facts upon which he relies to show that such determination was incorrect. Such affidavit shall be subject to the penalties of perjury. If the chief executive officer shall determine that the affidavit and supporting proof establishes that the employee did not violate this subdivision, he shall sustain the objection. If the chief executive officer shall determine that the affidavit and supporting proof fails to establish that the employee did not violate this subdivision, he shall dismiss the objection and so notify the employee. If the chief executive officer shall determine that the affidavit and supporting proof raises a question of fact which, if resolved in favor of the employee, would establish that the employee did not violate this subdivision, he shall appoint a hearing officer to determine whether in fact the employee did violate this subdivision after a hearing at which such employee shall bear the burden of proof. If the hearing officer shall determine that the employee failed to establish that he did not violate this subdivision, the chief executive officer shall so notify the employee. If the chief executive

officer sustains an objection or the hearing officer determines on a preponderance of the evidence that such employee did not violate this subdivision, the chief executive officer shall forthwith restore to the employee the tenure suspended pursuant to paragraph (f) of this subdivision, and notify the chief fiscal officer who shall thereupon cease all further deductions and refund any deductions previously made pursuant to this subdivision. The determinations provided in this paragraph shall be reviewable pursuant to article seventy-eight of the civil practice law and rules.

3. (a) An employee organization which is determined by the board to have violated the provisions of subdivision one of this section shall, in accordance with the provisions of this section, lose the rights granted pursuant to the provisions of paragraph (b) of section two hundred eight of this chapter.

(b) In the event *that it appears that* a violation of subdivision one of this section *may have occurred*, it shall be the duty of the chief executive officer of the public employer involved (i) forthwith to so notify the board and the chief legal officer of the government involved, and (ii) to provide the board and such chief legal officer with such facilities, assistance and data as will enable the board and such chief legal officer to carry out their duties under this section.

(c) In the event *that it appears that* a violation of subdivision one of this section *may have occurred*, the chief legal officer of the government involved, or the board on its own motion, shall forthwith institute proceedings before the board to determine whether such employee organization has violated the provisions of subdivision one of this section.

(d) Proceedings against an employee organization under this section shall be commenced by service upon it of a written notice, together with a copy of the charges. A copy of such notice and charges shall also be served, for their information, upon the appropriate government officials who recognize such employee organization and grant to it the rights accompanying such recognition. The employee organization shall have eight days within which to serve its written answer to such charges. The board's hearing shall be held promptly thereafter and at such hearing, the parties shall be permitted to be represented by counsel and to summon witnesses in their behalf. Compliance with the technical rules of evidence shall not be required.

(e) In determining whether an employee organization has violated subdivision one of this section, the board shall consider (i) whether the employee organization called the strike or tried to prevent it and (ii) whether the employee organization made or was making good faith efforts to terminate the strike.

(f) If the board determines that an employee organization has violated the provisions of subdivision one of this section, the board shall order forfeiture of the rights granted pursuant to the *provisions* of paragraph (b) of section two hundred eight of this chapter, for *such* specified period of time as the board shall determine, *or, in the discretion of the board, for an indefinite period of time subject to restoration upon application, with notice to all interested parties, supported by proof of good faith compliance with the requirements of subdivision one of this section since the date of such violation, such proof to include, for example, the successful negotiation, without a violation of subdivision one of this section, of a contract covering the employees in the unit affected by such violation;* provided, however, that where a fine imposed on an employee organization pursuant to subdivision two of section seven hundred fifty-one of the judiciary law remains wholly or partly unpaid, after the exhaustion of the cash and securities of the employee organization, the board shall direct that, notwithstanding such forfeiture, such membership dues deduction shall be continued to the extent necessary to pay such fine and such public employer shall transmit such moneys to the court. *In fixing the duration of the forfeiture, the board shall consider all the relevant facts and circumstances, including but not limited to: (i) the extent of any wilful defiance of subdivision one of this section (ii) the impact of the strike on the public health, safety, and welfare of the community and (iii) the financial resources of the employee organization; and the board may consider (i) the refusal of the employee organization or the appropriate public employer or the representative thereof, to submit to the mediation and fact-finding procedures provided in section two hundred nine and (ii) whether, if so alleged by the employee organization, the appropriate public employer or its representatives engaged in such acts of extreme provocation as to detract from the responsibility of the employee organization for the strike. In determining the financial resources of the employee organization, the board shall consider both the income and the assets of such employee organization. In the event membership dues are collected by the public employer as provided in paragraph (b) of section two hundred eight of this chapter, the books and records of such public employer shall be prima facie evidence of the amount so collected.*

(g) An employee organization whose rights granted pursuant to the provisions of paragraph (b) of section two hundred eight of this *article* have been ordered forfeited pursuant to this section may be granted such rights after the termination of such forfeiture only after complying with the provisions of clause (b) of subdivision three of section two hundred seven of this article.

(h) *No compensation shall be paid by a public employer to a public employee with respect to any day or part thereof when such employee is engaged in a strike against such employer. The chief fiscal officer of the government involved shall withhold such compensation upon receipt of the notice provided by paragraph (e) of subdivision two of section two hundred ten; notwithstanding the failure to have received such notice, no public employee or officer having knowledge that such employee*

has so engaged in such a strike shall deliver or cause to be delivered to such employee any cash, check or payment which in whole or in part represents such compensation.

4. Orders of the board made pursuant to this article (including, but not limited to, orders made pursuant to subdivision three of this section) shall be (a) reviewable under article seventy-eight of the civil practice law and rules, and (b) enforceable, upon petition of such board, by the supreme court, which shall have jurisdiction of the proceeding and the power to grant such temporary relief or affirmative or restraining orders as it deems just and proper.

The failure to perform the duties required by subdivisions two and three, of this section and by section two hundred eleven of this chapter shall be reviewable in a proceeding under article seventy-eight of the civil practice law and rules by any taxpayer, as defined in section one hundred two of this chapter. Any such taxpayer shall also have standing to institute any action described in subdivisions one and two of section one hundred two of this chapter.

5. Within sixty days of the termination of a strike, the chief executive officer of the government involved shall prepare and make public a report in writing, which shall contain the following information: (a) the circumstances surrounding the commencement of the strike, (b) the efforts used to terminate the strike, (c) the names of those public employees whom the public officer or body had reason to believe were responsible for causing, instigating or encouraging the strike and (d) related to the varying degrees of individual responsibility, the sanctions imposed or proceedings pending against each such individual public employee.

§211. *Applications for injunctive relief.* Notwithstanding the provisions of section eight hundred seven of the labor law, where it appears that public employees or an employee organization threaten or are about to do, or are doing, an act in violation of section two hundred ten of this article, the chief executive officer of the government involved shall (a) forthwith notify the chief legal office of the government involved, and (b) provide such chief legal office with such facilities, assistance and data as will enable the chief legal officer to carry out his duties under this section, and, notwithstanding the failure or refusal of the chief executive officer to act as aforesaid, the chief legal officer of the government involved shall forthwith apply to the supreme court for an injunction against such violation. If an order of the court enjoining or restraining such violation does not receive compliance, such chief legal officer shall forthwith apply to the supreme court to punish such violation under section seven hundred fifty of the judiciary law.

§212. Local government procedures. *1.* This article, except sections two hundred one, two hundred two, two hundred three, two hundred four, *paragraph d of subdivision five of section two hundred five,* paragraph b of subdivision three of section two hundred seven, section two hundred eight, *section two hundred nine-a,* subdivisions one and two of section two hundred ten, and section two hundred eleven, shall be inapplicable to any government (other than the state or a state public authority) which, acting through its legislative body, has adopted by local law, ordinance or resolution, its own provisions and procedures which have been submitted to the board by such government and as to which there is in effect a determination by the board that such provisions and procedures and the continuing implementation thereof are substantially equivalent to the provisions and procedures set forth in this article with respect to the state. *2. With* respect to the city of New York, such provisions and procedures need not be related to budget submission dates; and with respect to provisions and procedures adopted by local law by the city of New York no such submission to or determination by the board shall be required, but such provisions and procedures shall be of full force and effect unless and until such provisions and procedures, or the continuing implementation thereof, are found by a court of competent jurisdiction, in an action brought by the board in the county of New York for a declaratory judgment, not to be substantially equivalent to the provisions and procedures set forth in this article.

In order to promote harmonious and cooperative relationships between the city of New York and its employees, and thereby to protect the public from the interruption of vital public services, it is necessary that the city of New York adopt provisions and procedures which would effectuate the fundamental principles of the public employees fair employment act of nineteen hundred sixty-seven. Consequently, on or before August one, nineteen hundred sixty-nine the mayor of the city of New York shall submit to the temporary president of the senate, the speaker of the assembly and the public employment relations board a report of the steps taken and a plan designed to bring such practices of the city of New York into substantial equivalence with such state law. This report and plan shall, among other things, particularly deal with making effective the jurisdiction of the office of collective bargaining, the need for a specified final step in the impasse procedures, and the relation of negotiations and impasse procedures to budget submission dates. On or before December one, nineteen hundred sixty-nine the public employment relations board shall submit to the temporary president of the senate and speaker of the assembly its comments and recommendations regarding such report and plan. If the report of the mayor is not received as aforesaid, the special provisions relating to the city of New York contained in paragraph two of section two hundred twelve of the civil service law, shall cease on August one, nineteen hundred sixty-nine and such paragraph shall be deemed null and void. (McKinney's Consolidated Laws of New York Annotated, Civil Service Law, Secs. 200-212.)

Section seven hundred fifty-one of the judiciary law was also amended to read as follows:

§751. Punishment for criminal contempts. [punishment] 1. Except as provided in subdivision (2), punishment for a contempt, specified in section seven hundred and fifty, may be by fine, not exceeding two hundred and fifty dollars, or by imprisonment, not exceeding thirty days, in the jail of the county where the court is sitting, or both, in the discretion of the court. Where a person is committed to jail, for the nonpayment of such a fine, he must be discharged at the expiration of thirty days; but where he is also committed for a definite time, the thirty days must be computed from the expiration of the definite time.

Such a contempt, committed in the immediate view and presence of the court, may be punished summarily; when not so committed, the party charged must be notified of the accusation, and have a reasonable time to make a defense.

Subdivision two of section seven hundred fifty-one of the judiciary law, as added by chapter three hundred ninety-two of the laws of nineteen hundred sixty-seven, is hereby amended to read as follows:

2. (a) Where an employee organization, as defined in section two hundred one of the civil service law, wilfully disobeys a lawful mandate of a court of record, or wilfully offers resistance to such lawful mandate, in a case involving or growing out of a strike in violation of subdivision one of section two hundred ten of the civil service law, the punishment for each day that such contempt persists may be by a fine fixed in the discretion of the court. In the case of a government exempt from certain provisions of article fourteen of the civil service law, pursuant to section two hundred twelve of such law, the court may, as an additional punishment for such contempt, order forfeiture of the rights granted pursuant to the provisions of paragraph (b) of section two hundred eight of such law, for *such* specified period of time, as the court shall determine, *or, in the discretion of the court, for an indefinite period of time subject to restoration upon application, with notice to all interested parties, supported by proof of good faith compliance with the requirements of subdivision one of this section since the date of such violation, such proof to include, for example, the successful negotiation, without a violation of subdivision one of this section, of a contract covering the employees in the unit affected by such violation;* provided, however, that where a fine imposed pursuant to this subdivision remains wholly or partly unpaid, after the exhaustion of the cash and securities of the employee organization, such forfeiture shall be suspended to the extent necessary for the unpaid portion of such fine to be accumulated by the public employer and transmitted to the court. In fixing the amount of the fine and/or duration of the forfeiture, the court shall consider all the facts and circumstances directly related to the contempt, including, but not limited to: (i) the extent of the wilful defiance of or a resistance to the court's mandate (ii) the impact of the strike on the public health, safety *and* welfare of the community and (iii) the ability of the employee organization to pay the fine imposed; and the court may consider (i) the refusal of the employee organization or the appropriate public employer, as defined in section two hundred one of the civil service law, or the representatives thereof, to submit to the mediation and fact-finding procedures provided in section two hundred nine of the civil service law and (ii) whether, if so alleged by the employee organization, the appropriate public employer or its representatives engaged in such acts of extreme provocation as to detract from the responsibility of the employee organization for the strike. *In determining the ability of the employee organization to pay the fine imposed, the court shall consider both the income and the assets of such employee organization.*

(b) In the event membership dues are collected by the public employer as provided in paragraph (b) of section two hundred eight of the civil service law, the books and records of such public employer shall be prima facie evidence of the amount so collected.

(c) (i) An employee organization appealing an adjudication and fine for criminal contempt imposed pursuant to subdivision two of this section, shall not be required to pay such fine until such appeal is finally determined.

(ii) The court to which such an appeal is taken shall, on motion of any party thereto, grant a preference in the hearing thereof. *(McKinney's Consolidated Laws of New York Annotated,* Judiciary Law. Sec. 751.)

DECISION OF COURT OF APPEALS FOR EIGHTH CIRCUIT IN CASE OF AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES v. MILTON WOODWARD

No. 19,261

American Federation of State, County, and Municipal Employees, AFL-CIO, LeRoy Gage, and John Engleman, Appellants, v. Milton Woodward, as City Commissioner of the City of North Platte, Nebraska, Appellee.	Appeal from the United States District Court for the District of Nebraska.

[January 17, 1969.]

Before Van Oosterhout, Chief Judge; Mehaffy and Heaney, Circuit Judges.

Heaney, Circuit Judge.

The principal question raised on this appeal is whether public employees, discharged because they joined a labor union, have a right of action for damages and injunctive relief under Section 1 of the Civil Rights Act of 1871, 42 U.S.C. §1983,[1] against the public official who discharged them.[2] The answer to this question turns on whether public employees have a constitutionally protected right to belong to a labor union.[3]

[1]Section 1, Civil Rights Act of 1871, 42 U.S.C. §1983, provides:

"Every person who, under color of any statute, ordinance, regulation, custom, or usage of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."

[2]The defendant has not raised the issue of sovereign immunity on this appeal. In *Board of Trustees of Arkansas A & M College* v. *Davis*, 396 F.2d 730 (8th Cir. 1968), this Court reaffirmed the principle that state officials are not immune from suit when they transcend their lawful authority by invading constitutional rights.

[3]Nebraska law prohibits strikes by public employees, Reissue Revised Statutes of 1943, §48-821, and provides that no governmental subdivision can be compelled to enter into a collective bargaining agreement with a labor organization. Reissue Revised Statutes of 1943, §48-810.01. The Union does not contend on this appeal and we express no opinion as to whether a union has a federally protected right to engage in either activity.

The District Court dismissed the plaintiffs' complaint on the grounds that it failed to allege facts constituting a claim under 42 U.S.C. §1983. We reverse.

The complaint alleged: that LeRoy Gage and John Engleman had been employed by the Street Department of the City of North Platte, Nebraska; that in May 1967, the Union began an organizational campaign among the employees of the Street Department; that a number of employees, including Gage and Engleman, became members of the Union; that Defendant Woodward, the City Commissioner in charge of the Street Department, learned of the Union activities and of the fact that Gage and Engleman had become members of the Union; that Woodward "purposely and maliciously and solely for the purpose of discriminating against such employees of the Street Department * * * as joined or wanted to join a Union, threatened said employees with possible discharge; * * * [and] did in fact discharge * * * GAGE and ENGLEMAN" solely because they joined the Union; and that Woodward reduced the salaries of other employees for the same reason.

Engleman and Gage claimed damages in the sum of $5,000 and, along with the plaintiff Union, sought an injunction prohibiting the defendant from discriminating against any employee of the Street Department because of membership or nonmembership in a union and interfering with the organization of the employees of the department.

To invoke the remedies provided by the Civil Rights Act of 1871, the plaintiffs must show that the Commissioner deprived them of rights, privileges or immunities secured by the United States Constitution or by the laws of the United States, and that the Commissioner acted under color of law.[4] The plaintiffs argue that this was done here as the Commissioner deprived them of their right to freedom of association under the First Amendment made applicable to the states by the Fourteenth Amendment.

The First Amendment protects the right of one citizen to associate with other citizens for any lawful purpose free from government interference.[5] The guarantee of the "right of assembly" protects more than "the right to attend a meeting; it includes the right to express one's attitudes or philosophies by membership in a group or by affiliation with it or by other lawful means. * * *." *Griswold* v. *Connecticut*, 381 U.S. 479, 483 (1965); *N.A.A.C.P.* v. *Alabama*, 357 U.S. 449, 460-61 (1958).

Union membership is protected by the right of association under the First and Fourteenth Amendments. *Thomas* v. *Collins*, 323 U.S. 516 (1945); *McLaughlin* v. *Tilendis*, 398 F.2d 287 (7th Cir. 1968).

The Court commented in *Thomas*:

> "* * * Great secular causes, with small ones, are guarded. The grievances for redress of which the right of petition was insured, and with it the right of assembly, are not solely religious or political ones. And the rights of free speech and a free press are not confined to any field of human interest.
>
> "The idea is not sound therefore that the First Amendment's safeguards are wholly inapplicable to business or economic activity. * * *"

Id. at 531.

> "* * * This Court has recognized that 'in the circumstances of our times the dissemination of information concerning the facts of a labor dispute must be regarded as within that area of free discussion that is guaranteed by the Constitution. . . . For discussion concerning the conditions in industry and the causes of labor disputes appears to us indispensable to the effective and intelligent use of the processes of popular government to shape the destiny of modern industrial society.' *Thornhill* v. *Alabama*, 310 U.S. 88, 102, 103, * * *. The right * * * to discuss, and inform people concerning, the advantages and disadvantages of unions and joining them is protected not only as part of free speech, but as part of free assembly. * * *"

Id. at 532.

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[4]The defendant stated in his brief that he "was acting in his official capacity as Commissioner of the City of North Platte and was performing a function of his office in hiring and firing employees." Under *Monroe* v. *Pape*, 365 U.S. 167 (1961), the defendant was clearly acting under color of law.

[5]The right to free association under the First and Fourteenth Amendments as a bar to government interference has most frequently arisen in cases involving political and civil rights. The right to free association has been held to bar a state from: compelling local affiliates of the National Association for the Advancement of Colored People to disclose membership lists where disclosure might restrain citizens from joining, *Gibson* v. *Florida Legislation Investigation Committee*, 372 U.S. 539 (1963); *Bates* v. *Little Rock*, 361 U.S. 516 (1960); *N.A.A.C.P.* v. *Alabama*, 357 U.S. 449 (1958); requiring teachers to list all the organizations to which they belonged in the last five years as a condition of employment, *Shelton* v. *Tucker*, 364 U.S. 479 (1960); from permanently enjoining an association from doing business within the state even though it planned to organize a boycott of city buses, *N.A.A.C.P.* v. *Alabama*, 377 U.S. 288 (1964); and from exercising its traditional supervisory power over the legal profession, *United Mine Workers* v. *Illinois Bar Association*, 389 U.S. 217 (1967); *Brotherhood of R. Trainmen* v. *Virginia Bar Association*, 377 U.S. 1 (1964). The right to free association has been held to bar the federal government from denying employment in a defense facility to a member of the Communist Party without regard to the quality and degree of membership because "the operative fact upon which the job disability depends is the exercise of an individual's right of association, which is protected by the provisions of the First Amendment." *United States* v. *Robel*, 389 U.S. 258, 263 (1967).

In *Tilendis*, the Court held that a complaint alleging that a non-tenure teacher was dismissed because of his membership in a union stated a claim upon which relief could be granted under the Civil Rights Act of 1871. The Court stated:

> "It is settled that teachers have the right of free association, and unjustified interference with teachers' associational freedom violates the Due Process clause of the Fourteenth Amendment. * * * Public employment may not be subjected to unreasonable conditions, and the assertion of First Amendment rights by teachers will usually not warrant their dismissal. * * * Unless there is some illegal intent, an individual's right to form and join a union is protected by the First Amendment. * * *"

McLaughlin v. *Tilendis*, supra at 288-89 (citations omitted).

The defendant argues that the plaintiffs have no federally protected right to be continued in public employment. The Supreme Court disposed of his argument in *Wieman* v. *Updegraff*, 344 U.S. 183, 191-92 (1952):

> "* * * [T]he facile generalization that there is no constitutionally protected right to public employment is to obscure the issue. For, in United Public Workers, though we held that the Federal Government through the Hatch Act could properly bar its employees from certain political activity thought inimical to the interests of the Civil Service, we cast this holding into perspective by emphasizing that Congress could not 'enact a regulation providing that no Republican, Jew or Negro shall be appointed to federal office, or that no federal employee shall attend Mass or take any active part in missionary work.' 330 U.S. at 100. See also *In re Summers*, 325 U.S. 561, 571 (1945). We need not pause to consider whether an abstract right to public employment exists. It is sufficient to say that constitutional protection does extend to the public servant whose exclusion * * * is patently arbitrary or discriminatory."

This same theme has been repeated by the Supreme Court on a number of occasions. In *Beilan* v. *Board of Ed. of Phila.*, 357 U.S. 399, 405 (1958), the Court stated that, "By engaging in teaching in the public schools, petitioner did not give up his right to freedom of belief, speech or association. * * *" Again, in *Keyishian* v. *Board of Regents of New York*, 385 U.S. 589, 605 (1967), the Court specifically rejected the theory that public employment "may be conditioned upon surrender of constitutional rights which could not be abridged by direct government action." See, *Pickering* v. *Board of Education*, 391 U.S. 563 (1968).

No paramount public interest of the State of Nebraska or the City of North Platte warranted limiting the plaintiffs' right to freedom of association. To the contrary, it is the public policy of Nebraska that employment should not be denied on the basis of union membership. The Constitution of the State of Nebraska, Article XV, Section 13, and the laws of Nebraska, Reissue Revised Statutes of 1943, §48-217, specifically provide that "no person shall be denied employment because of membership in or affiliation with * * * a labor organization." Neither the Constitution nor the statute is limited by its terms to private employment and, in our view, it is not so limited. See, *Levasseur* v. *Wheeldon*, 112 N.W.2d 894 (So. Dak. 1962); *Potts* v. *Hay*, 229 Ark. 830, 318 S.W.2d 826 (1958). We further note that Reissue Revised Statutes of 1943, §48-224 provides that a municipal corporation may "check off" union dues if an employee so requests.

The defendant finally contends that the plaintiffs must exhaust available state judicial and administrative remedies prior to seeking relief in United States District Court. He argues that Nebraska law, Reissue Revised Statutes of 1943, §§48-810—48-836, establishing a court of industrial relations, provides an adequate judicial remedy and that Nebraska law, Reissue Revised Statutes of 1943, §§48-824—48-836, establishing a procedure for conciliation and arbitration of disputes between municipalities and unions, provides an adequate administrative remedy.

The plaintiffs argue that it is unnecessary to exhaust state judicial and administrative remedies, even though adequate, as a precedent to relief. See, *Damico* v. *California*, 389 U.S. 416 (1967); *McNeese* v. *Board of Education*, 373 U.S. 668 (1963); *Monroe* v. *Pape*, 365 U.S. 167 (1961); 68 Colum. L. Rev. 1201; Jaffe, Judicial Control of Administrative Action 438-440, 449, n. 106; Davis, Administrative Law Treatise Vol. 3, §20.07. They argue, in the alternative, that neither remedy suggested by the defendant is adequate.

We do not determine whether it is necessary to exhaust adequate state judicial and administrative remedies as the suggested remedies have not been shown to be adequate. See, *Marsh* v. *County School Board of Roanoke County, Va.*, 305 F.2d 94, 98-99 (4th Cir. 1962); *Farley* v. *Turner*, 281 F.2d 131 (4th Cir. 1960); *School Board of City of Charlottesville, Va.* v. *Allen*, 240 F.2d 59, 63-64 (4th Cir. 1956), *cert. denied*, 353 U.S. 910 (1957).

The court of industrial relations is one of limited powers. See, *International Bro. of Elec. Wkrs.* v. *City of Hastings*, 179 Neb. 455, 138 N.W.2d 822 (1965). It is neither authorized to restrain public officials from discriminating against public employees because of union membership nor empowered to correct the results of such discrimination. The defendant does not contend that Nebraska state courts of general jurisdiction have or

would exercise jurisdiction to protect the plaintiffs' rights under the Nebraska Constitution and Statutes to belong to a labor organization. Article XV, Sections 13, 14 and 15; Reissue Revised Statutes of 1943, §48-217. Nor has the plaintiffs' statement that "no Nebraska court or agency has ever ordered reinstatement and compensation of public employees discharged for joining a union or directed a public official to stop interfering with a union organizing campaign" been challenged.

The inadequacy of the administrative procedure for resolution of this dispute is obvious. Reissue Revised Statutes of 1943 §48-836 specifically provides that a decision or report of an arbitration board as to a dispute submitted to it shall be advisory only and shall not be binding on either party.

Reversed and remanded.

DECISION OF U.S. DISTRICT COURT, WESTERN DISTRICT, NORTH CAROLINA IN CASE OF INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS v. CITY OF CHARLOTTE

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

CIVIL NO. 2274

Jesse E. Atkins, T. W. Arant, J. B. Atkins, John Auten, C. R. Bacot, Lewis Bacot, et al.,
Plaintiffs

and

International Association of Fire Fighters, an International labor union,
Plaintiff-Intervenor,

versus

City of Charlotte, a municipal corporation; Walter J. Black, Chief of City of Charlotte Fire Department; John E. Ingersoll, Chief of City of Charlotte Police Department; Elliott M. Schwartz, Solicitor of 14-A Solicitorial District,
Defendants.

BEFORE A THREE JUDGE COURT

(Argued November 21, 1968 Decided Feb. 25, 1969)

Before CRAVEN, Circuit Judge and JONES and WARLICK, District Judges

J. LeVonne Chambers (Chambers, Stein, Ferguson & Lanning), Charlotte, N. C., and Reginald S. Hamel, Charlotte, N. C., for Plaintiffs;
H. L. Riddle, Jr. (Riddle & McMurray), Morganton, N. C., for Plaintiff-Intervenor;
W. A. Watts, Charlotte, N. C., for Defendants;
William W. Van Alstyne, Durham, N. C., Amicus Curiae.

CRAVEN, Circuit Judge:

This is a civil action brought to obtain a declaratory judgment and injunctive relief declaring unconstitutional and preventing enforcement of Sections 95-97, 95-98 and 95-99 of the General Statutes of North Carolina. We hold G.S. 95-97 unconstitutional on its face. We hold G.S. 95-98 a valid and constitutional exercise of the legislative authority of the General Assembly of North Carolina. As for G.S. 95-99, we hold it to be so related to G.S. 95-97 that it cannot survive the invalidation of that section.

Counsel have not been able to agree on findings of facts. We have carefully examined their separate submis-

sions, and, although we note variances, we are more impressed with the similarities. The differences are almost entirely those of degree and emphasis, and, we think, are without legal significance. From the pleadings, answers to interrogatories, depositions, exhibits, briefs and statements of counsel, the court finds the facts to be as follows:

FACTS

The statutes sought to be invalidated are these:

N.C.G.S. 95-97: Employees of units of government prohibited from becoming members of trade unions or labor unions. –No employee of the State of North Carolina, or of any agency, office, institution or instrumentality thereof, or any employee of a city, town, county, or other municipality or agency thereof, or any public employee or employees of an entity or instrumentality of government shall be, become, or remain a member of any trade union, labor union, or labor organization which is, or may become, a part of or affiliated in any way with any national or international labor union, federation, or organization, and which has as its purpose or one of its purposes, collective bargaining with any employer mentioned in this article with respect to grievances, labor disputes, wages or salary, rates of pay, hours of employment, or the conditions of work of such employees. Nor shall such an employee organize or aid, assist or promote the organization of any such trade union, labor union, or labor organization, or affiliate with any such organization in any capacity whatsoever. The terms "employee," "public employee" or "employees" whenever used in this section shall mean any regular and full-time employee engaged exclusively in law enforcement or fire protection activity.

N.C.G.S. 95-98: Contracts between units of government and labor unions, trade unions or labor organizations concerning public employees declared to be illegal. –Any agreement, or contract between the governing authority of any city, town, county, or other municipality, or between any agency, unit, or instrumentality thereof, or between any agency, instrumentality, or institution of the State of North Carolina, and any labor union, trade union, or labor organization, as bargaining agent for any public employees of such city, town, county or other municipality, or agency or instrumentality of government, is hereby declared to be against the public policy of the State, illegal, unlawful, void and of no effect.

N.C.G.S. 95-99: Penalty for violation of article.–Any violation of the provisions of this Article is hereby declared to be a misdemeanor, and upon conviction, plea of guilty or plea of nolo contendere shall be punishable in the discretion of the court.

All of the plaintiffs are members of the Charlotte Fire Department, and the gist of the complaint is that the statutes are overbroad and prohibit constitutionally guaranteed rights of the plaintiffs in violation of the First Amendment and the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the Constitution of the United States.

Specifically, plaintiffs want to become dues paying members of a Local which would become affiliated with International Association of Fire Fighters, the intervenor. Affidavits of some 400 fire fighters of the Charlotte Fire Department have been put into evidence to the effect that, if allowed to do so by law, affiants would join the Union.

The City of Charlotte is a municipal corporation which operates and maintains the Charlotte Fire Department pursuant to the City Chapter. The Chief of the Department is appointed by the City Council and is accountable to the Council for the faithful performance of his duties. He is responsible for the discipline and efficiency of the Department and for carrying out all orders, rules and regulations approved by the Council. He is also responsible for approving all promotions of members in the Department subject to the approval of the Civil Service Board.

The Department has approximately 438 employees, consisting of the Chief, two assistant chiefs, 14 deputy chiefs, 60 fire captains, and 56 fire lieutenants, with the remainder being fire fighters, inspectors, fire alarm personnel and office personnel. The plaintiffs consist of deputy chiefs, captains, lieutenants and fire fighters and range in service with the department from two to 40 years.

For many years prior to the enactment in 1959 of the North Carolina General Statutes complained of, the International Association of Fire Fighters operated or maintained a union made up of Charlotte Fire Department members and designated as Local 660, an affiliate of the International Association of Fire Fighters. A number of Fire Department members paid dues to that organization which was engaged in collective bargaining activity. Further, the City checked off dues for union membership.

During 1959, the North Carolina Legislature enacted General Statutes 95-97 through 95-99. Following the enactment of these statutes, Local 660 terminated its affiliation with the International Association of Fire Fighters and became, or took the name, Charlotte Fire Fighters Association. This organization continued the activities and representations very much as had been the practice with Local 660. The Fire Fighters Association continued to negotiate with the City and to represent the Charlotte firemen with respect to wages, grievances, and other conditions of employment, and the City continued its recognition of the association and permitted dues checkoff. This practice continued from 1959 until 1962. On January 29, 1962, the City Council received and approved a report compiled by the City Manager. One of the recommendations of this report as it was approved established as a condition of continued employment in the Fire Depart-

ment non-membership in the Fire Fighters Association or in any successor thereto. The City Council approved this report after having been advised by the City Attorney that the Fire Fighters Association was not illegal per se under the statutes complained of, but that the association and its recognition by the City was in violation of public policies of the State. Sometime after this action on the part of the City Council, the Fire Fighters Association terminated its activities and the City discontinued its recognition and dues check-off. A grievance procedure was established to allow individual employees to process grievances, but no provisions were made for group grievance procedure or for collective bargaining with respect to grievances, wages, and conditions of employment.

During March of 1967, members of the Charlotte Fire Department, the plaintiffs herein, organized the Charlotte Firemen's Assembly. This organization has as its purpose collective bargaining with the City of Charlotte with respect to wages, grievances, hours of employment and other conditions of employment. It would like to become a local affiliate of intervenor but is prevented by the statutes. The Firemen's Assembly has not been recognized by the City as a representative of firemen.

PROCEDURAL QUESTIONS AND PLEAS IN BAR

We resolve all procedural questions and pleas in bar against the defendants:

(1) As will appear more fully below, it is clear that the complaint states a claim for relief.

(2) We reject the argument that the statutes involved are within the sovereign power of the State of North Carolina under the Tenth Amendment to the Constitution of the United States and thus beyond the reach of other amendments to the Constitution. The attempted interposition of sovereignty is utterly lacking in merit, and is especially so on behalf of a municipal corporation.

(3) Contrary to Charlotte's contention, the Eleventh Amendment does not provide immunity for counties, cities or other governmental units smaller than the states themselves. Wright, Federal Courts §46 at 151 (Hornbook ed. 1963). Although notice of the pendency of this action was served upon the Attorney General of the State of North Carolina, he did not seek to intervene and is not a party, nor is the State.

(4) There is nothing to the contention that there is a misjoinder of parties defendant and parties plaintiff. Even if there were it would be of no moment, for the basis of jurisdiction is the presence of a federal question and not the alignment of parties under diversity jurisdiction.

(5) This case is properly before a three-judge court. The injunction is sought against the City of Charlotte, the Chief of the Charlotte Fire Department, the Chief of the Charlotte Police Department, and the Solicitor of the solicitorial district within which the City of Charlotte is located. It is true that none of these is an officer of the State of North Carolina, unless it be the solicitor of the 14-A solicitorial district, but in reaction to *Ex parte Young*, 209 U.S. 124, 52 L. Ed. 714 (1908), the statute, 28 U.S.C. §2281, has been broadly interpreted so as to require three judges where the statutes attacked are general statutes of statewide application and are reflections of state rather than local policy. *City of Cleveland v. United States*, 323 U.S. 329, 89 L. Ed. 274 (1945).

(6) The remedy of declaratory judgment is, of course, within the power of a three-judge federal court as it is within the power of a single district judge. 28 U.S.C. §2201.

(7) Although we think it not of controlling importance, for reasons set out below, we note the urgent contention of the City of Charlotte that the court lacks jurisdiction over it under 42 U.S.C. §1983 and 28 U.S.C. §1343. As for Section 1983, it is said that a municipality is not a "person" within the intention of the Congress in the enactment of the statute. We agree that a municipality is not within the ambit of the statute if the action brought is one to recover monetary damages.

Monroe v. Pape, 365 U.S. 167, 5 L.Ed. 2d 492 (1961). But here nothing is sought of the City except a declaratory judgment binding it as to the validity of the statutes and an injunction against their enforcement. For the reasons stated by the Seventh Circuit in *Adams v. City of Park Ridge*, 293 F.2d 585 (7th Cir. 1961), we hold, as did that circuit, that there is federal jurisdiction over the city for the limited purposes of the complaint and excluding the recovery of monetary damages. We are of the same opinion with respect to 28 U.S.C. §1343 (3). It is not necessary with respect to the latter statute to find a congressional intent to include municipalities within the word "person" for no such word appears in Section 1343 (3). It is the prior section, 1343 (2), referring to monetary damages, that allows recovery only from a "person". We do not believe it was the congressional purpose in the enactment of 28 U.S.C. §1343 to omit municipalities from subjection to suits to prevent deprivation of rights secured by the Constitution of the United States. *But cf. Fisher v. City of New York*, 312 F.2d 890 (2d Cir. 1963). Certainly such an intention does not plainly appear.

(8) But aside from these statutes, the plaintiffs rest their case upon a broader base: an alleged freedom of association protected by the First and Fourteenth Amendments to the Constitution of the United States. This is a federal question of constitutional dimension. Since 1875 the federal courts have been the primary forum for vindicating every right given by the Constitution, the laws and treaties of the United States. *Zwickler v. Koota*, 389 U.S. 241, 247, 19 L.Ed. 2d. 444, 449, (1967). This case, then, presents a federal question under 28 U.S.C. §1331 and we

judicially notice, if the monetary limitation be deemed important[1] that the economic impact upon so many plaintiffs of the grant or denial of the right to form and join a labor union may be far greater than $10,000.

ABSTENTION

It is urged upon us that in any event this court ought to abstain from decision as to the constitutionality of these statutes and either dismiss the complaint or retain jurisdiction (the better practice) to await state court determination and decision. We reject the contention. Abstention is a judge-made doctrine of comparatively recent vintage – most notably expressed in *Railroad Commission of Texas v. Pullman Co.*, 312 U.S. 496, 85 L.Ed. 971 (1941). Except as it may serve federalism, there is little justification for abstention from decision by a federal court. *See* Wright, Federal Courts §52 (Hornbook ed. 1963). Although abstention remains appropriate in some situations, the proper emphasis is that of Chief Justice Marshall, who said in 1821 in Cohens v. Virginia, 6 Wheat, 264, 404, 5 L.Ed. 257, 291:

> "We have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given. The one or the other would be treason to the Constitution."

It is now established beyond question that the *Pullman* doctrine sanctions escape from the duty of decision only in narrowly limited "special circumstances." *Zwickler v. Koota*, 389 U.S. 241, 248, 19 L.Ed. 2d 444, 450 (1967). No such special circumstances are urged upon us here. We are not asked, for example, to stop the prosecution of a criminal action already begun in a state court – an area where federalism requires that a federal district court be slow, indeed, to act. *Douglas v. City of Jeannette*, 319 U.S. 157, 162-64, 87 L.Ed. 1324, 1329 (1943). It is not seriously suggested that we have here a question of construction of these statutes and that a state court might so construe them as to avoid or modify the constitutional question. *Cf. Connally v. General Construction Co.*, 269 U.S. 385, 394-95, 70 L.Ed. 322, 330 (1926). Since there are no special circumstances that invoke a proper deference to state court adjudication, we have the constitutional duty to decide the federal questions presented. This is especially so here because the Supreme Court has squarely held that "the abstention doctrine is inappropriate for cases such as the present one where . . . statutes are justifiably attacked on their face as abridging free expression. . . ." *Dombrowski v. Pfister*, 380 U.S. 479, 480-90, 14 L.Ed. 2d 22, 30 (1965). There is danger in tolerating "in the area of First Amendment freedoms, the existence of a penal statute susceptible of sweeping and improper application." *NAACP v. Button*, 371 U.S. 415, 433, 9 L.Ed. 2d 405, 418 (1963). The danger is that the inhibiting effect of such a statute could be tested only by those hardy enough to risk criminal prosecution and a possible penalty of up to two years' imprisonment. *Cf. Ex parte Young*, 209 U.S. 123, 147, 52 L.Ed. 723, 724 (1908).

The "questions of abstention and injunctive relief are not the same." Zwickler v. Koota, 389 U.S. 241, 254, 19 L.Ed. 2d 444, 453 (1967). That we entertain doubt as to the propriety of an injunction, or even decline to issue the same, is entirely irrelevant to the question of abstention.

> "We hold that a federal district court has the duty to decide the appropriateness and the merits of the declaratory request irrespective of its conclusion as to the propriety of the issuance of the injunction." *Zwickler v. Koota*, 389 U.S. 241, 254, 19 L.Ed. 2d 444, 454 (1967).

THE CONSTITUTIONAL QUESTION AND THE REMEDY

We think N.C.G.S. 95-97 is void on its face as an abridgment of freedom of association protected by the First and Fourteenth Amendments of the Constitution of the United States. The flaw in it is an intolerable "overbreadth" unnecessary to the protection of valid state interests. *Cf. U.S. v. Robel*, ___ U.S. ___, 19 L.Ed. 2d 508 (1967). The Supreme Court of the United States has accorded "freedom of association" full status as an aspect of liberty protected by the Due Process Clause of the Fourteenth Amendment and by the rights of free speech and peaceful assembly explicitly set out in the First Amendment. In *NAACP v. Alabama, ex rel. Patterson*, the Court said:

> "It is beyond debate that freedom to engage in association for the advancement of beliefs and ideas is an inseparable aspect of the 'liberty' assured by the Due Process Clause of the Fourteenth Amendment, which embraces freedom of speech. [Citations omitted.] Of course, it is immaterial whether the beliefs sought to be advanced by association pertain to political, *economic*, religious or cultural matters, and state action which may have the effect of curtailing the freedom to associate is subject to the closest scrutiny." 357 U.S. 449, 460-61, 2 L.Ed. 2d 1488, 1498-99 (1958). (Emphasis ours.)

The Court had previously noted the close connection between the freedoms of speech and assembly. In *De Jonge v. Oregon*, 299 U.S. 353, 364, 81 L.Ed. 278, 283-84 (1937), the Court held that the right of peaceable assembly is a right cognate to those of free speech and free

[1] 28 U.S.C. §1331 incongruously still purports to put a $10,000.00 minimum price on federal questions. Professor Wright suggests the limitation is seldom of importance. Wright, Federal Courts §32 (Hornbook ed. 1963). "It would be unwise, as a matter of policy, to insist that all such cases in which less than $10,000 is in controversy be tried in state court." ALI Study of the Division of Jurisdiction Between State and Federal Courts, Commentary §1311 (Tent. Draft No. 6, 1968).

press and equally fundamental. It was said that the right is one that cannot be denied without violating fundamental principles of liberty and justice which lie at the base of all civil and political institutions. The Court made a careful distinction between the proper exercise of legislative power to protect against abuse of the right of assembly and legislative infringement per se of that right, holding that the latter is not permissible. Especially pertinent to the problem confronting us is the following:

> "[C]onsistently with the Federal Constitution, peaceable assembly for lawful discussion cannot be made a crime. The holding of meetings for peaceable political action cannot be proscribed. Those who assist in the conduct of such meetings cannot be branded as criminals on that score. The question, if the rights of free speech and peaceable assembly are to be preserved, is not *as to the auspices under which the meeting is held* but as to its purpose. . . ." *De Jonge v. Oregon*, 299 U.S. 353, 365, 81 L.Ed. 278, 284 (1937). (Emphasis ours.)

We would make the same distinction here. It matters not, we think, whether the firemen of the City of Charlotte meet under the auspices of the intervenor, a national labor union, but whether their proposed concerted action, if any, endangers valid state interests. We think there is no valid state interest in denying firemen the right to organize a labor union – whether local or national in scope. It is beyond argument that a single individual cannot negotiate on an equal basis with an employer who hires hundreds of people. Recognition of this fact of life is the basis of labor-management relations in this country. Charlotte concedes in its brief that the right of public employees to join labor unions is becoming increasingly recognized[2] (with the exception of firemen and policemen) and even admits that collective bargaining might be beneficial in many situations in the case of municipal firemen.

But Charlotte insists that the State has a valid interest in forbidding membership in a labor union to firemen. It is said that fire departments are quasi-military in structure, and that such a structure is necessary because individual firemen must be ready to respond instantly and without question to orders of a superior, and that such military discipline may well mean the difference between saving human life and property, and failure. The extension of this argument is, of course, that affiliation with a national labor union might eventuate in a strike against the public interest which could not be tolerated and the very existence of which would imperil lives and property in the City of Charlotte. This is the only state interest that can be validly asserted for N.C.G.S. 95-97. The thought of fires raging out of control in Charlotte while firemen, out on strike, [Sic] Neroicly watch the flames, is frightening.

We do not question the power of the State to deal with such a contingency.[3] We do question the overbreadth of G.S. 95-97, which quite unnecessarily, in our opinion, goes far beyond the valid state interest that is suggested to us, and strikes down indiscriminately the right of association in a labor union – even one whose policy is opposed to strikes.[4]

Since the only valid state interest suggested by defendants in support of the constitutionality of G.S. 95-97 is the quite legitimate fear that fire protection for the people of Charlotte might be disrupted by violence or by strike, it seems quite clear that the statute must be invalidated for "overbreadth."

The Supreme Court "has repeatedly held that a governmental purpose to control or prevent activities constitutionally subject to state regulation may not be achieved by means which sweep unnecessarily broadly and thereby invade the area of protected freedoms." *NAACP v. Alabama*, 377 U.S. 288, 307, 12 L.Ed. 2d 325 at 338 (1964).

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[2]The Charlotte Observer currently reports that city employees, including sanitation workers, have joined a national labor union.

[3]Although the question is not before us, we note the position of plaintiffs, including intervenor, on the power of the State to prevent strikes and/or violent conduct on the part of a labor union engaged in vital public employment. The following Article 22 was recommended as of January 10, 1968, for incorporation in the intervenor's constitution:

> "The International Association of Fire Fighters is a law abiding organization. Because of the public character of the work of its members and the protection of the lives and property of citizens and communities in case of fire and other hazard, no subordinate union or its members shall withhold fire protection services where collective bargaining, conciliation, mediation, fact finding with recommendations or voluntary binding conciliation or arbitration is available for resolution of of disputes involving grievances, wages, hours or conditions of work. Where such procedures for resolving disputes are not available the subordinate union shall not withhold fire protection service but shall refer the matter to the International President and the International Executive Board for such further handling as may be available or necessary to secure an acceptable settlement of the dispute."

From the plaintiffs' brief:

> The State "may quite properly prohibit employees from striking or using violence in the settlement of disputes." *Milkwagon Drivers Union v. Metamore Dairies*, 312 U.S. 278, 85 L.Ed. 836 (1941).

From the intervenor's brief:

> It is admitted that fire fighters' "official conduct and activities are subject to reasonable restriction by the General Assembly of North Carolina."

Our helpful and valued amicus curiae suggests that North Carolina may validly impose sanctions – even criminal ones – against strikes or other refusals to act imperiling the public safety, e.g., a statute making it a criminal offense for a fireman to refuse the call of duty; a statute providing for terminal discharge of any fireman who refuses to perform his duty.

[4]See footnote 3, *supra*.

Again, "even though the governmental purpose be legitimate and substantial, that purpose cannot be pursued by means that broadly stifle fundamental personal liberties when the end can be more narrowly achieved." *Shelton v. Tucker*, 364 U.S. 479, 488, 5 L.Ed. 2d 231, 237 (1960). As previously indicated,[5] the plaintiffs and intervenor do not question the power of the State to prohibit strikes against the public interest.

What we have said thus far supports our ultimate conclusion: that the firemen of the City of Charlotte are granted the right of free association by the First and Fourteenth amendments of the United States Constitution; that that right of association includes the right to form and join a labor union – whether local or national; that membership in such a labor organization will confer upon the firemen no immunity from proper state regulation to protect valid state interests which are, in this case, the protection of property and life from destruction by fire. We think such a conclusion flows inevitably from the enunciations of the United States Supreme Court set out above. Our decision is consistent with that of the Seventh Circuit according the same right to teachers. *McLaughlin v. Tilendis*, 398 F. 2d 287 (7th Cir. 1968). We do not think the *McLaughlin* decision is distinguishable on the asserted ground that the State in that case had not undertaken to prohibit membership in a teachers' labor union. The court's recitation that there was no such state legislation went to the question of whether there was a valid state interest. It held that there was no such state interest, and that the right of a teacher to join a labor union rested upon the First Amendment to the United States Constitution. In our case, we hold that the valid state interest may be served by more narrowly drawn legislation so as not to infringe the First Amendment.

We find nothing unconstitutional in G.S. 95-98. It simply voids contracts between units of government within North Carolina and labor unions and expresses the public policy of North Carolina to be against such collective bargaining contracts. There is nothing in the United States Constitution which entitles one to have a contract with another who does not want it. It is but a step further to hold that the state may lawfully forbid such contracts with its instrumentalities. The solution, if there be one, from the viewpoint of the firemen, is that labor unions may someday persuade state government of the asserted value of collective bargaining agreements, but this is a political matter and does not yield to judicial solution. The right to a collective bargaining agreement, so firmly entrenched in American labor-management relations, rests upon national legislation and not upon the federal Constitution. The State is within the powers reserved to it to refuse to enter into such agreements and so to declare by statute.

[5]See footnote 3, *supra*.

G.S. 95-99 provides that any violation of the provisions of "this article" is a misdemeanor punishable in the discretion of the court. We do not think the Legislature contemplated the criminal sanction of G.S. 95-99 as an assurance of compliance with G.S. 95-98. There is no way to punish a labor union or a city, town or county or other municipal corporation, (the only possible violators of G.S. 95-98) except by fine. G.S. 95-99 authorizes up to two years' imprisonment.[6] We doubt it was the legislative intent to authorize even a fine against North Carolina municipal corporations. Rather obviously, we think, the penalty portion of the article was an in terrorem provision intended to make certain that no employee of the State or its subordinate municipal corporations should so much as lift a finger to form or join a labor union. Since G.S. 95-97 has been held void, to uphold G.S. 95-99 would be to sustain it without surviving purpose, and thus to distort the legislative intent.

Finally, we are asked to enjoin the defendants from enforcing these statutes now adjudged to be unconstitutional, viz., N.C. G.S. 95-97 and 95-99. We decline to do so. There has not been the slightest intimation that our decision adjudging these statutes invalid will be ignored by the City of Charlotte or by any of the other defendants. If our decision should be thought wrong, we may properly assume it will be appealed – not ignored. There is no evidence that the solicitor of the district has sought indictments against any firemen or that he intends doing so. We adhere to the philosophy of federalism and think it unseemly that a federal court should issue its injunctive process against state or local officers except in situations of the most compelling necessity. Entry of a declaratory judgment decreeing G.S. 95-97 and 95-99 invalid because in violation of the First and Fourteenth Amendments of the United States Constitution seems to us, on the facts of this case, a fully sufficient remedy.

Declaratory Judgment Granted
Injunction Denied.

Addendum:

The Eighth Circuit has decided that public employees have a right, grounded in the Constitution, to join a labor union, in the absence of a "paramount public interest of the State of Nebraska or the City of North Platte [which] warranted limiting the plaintiffs' right to freedom of association." *See American Federation of State, County and Municipal Employees v. Woodward*, ___ F. 2d ___ (8th Cir. Jan. 17, 1969), 37 U.S.L.W. 2421 (Jan. 28, 1969).

[6]A misdemeanor punishable in the discretion of the court means a maximum of two years. *State v. Adams*, 266 N.C. 406, N.C. G.S. 14-3a.

Negotiation Agreements

PROFESSIONAL NEGOTIATION AGREEMENT

Between

THE LITTLE ROCK BOARD OF DIRECTORS

Little Rock School District

and the

LITTLE ROCK CLASSROOM TEACHERS ASSOCIATION

Little Rock, Arkansas

I. *Preamble.*

The Board of Directors of the Little Rock School District and the Little Rock Classroom Teachers Association agree that the educational welfare of the children of the district is paramount in the operation of the schools. The parties further agree that the development and fulfillment of educational programs of the highest quality require harmonious working relationships among the board, the administrative staff and the teaching staff. In order to promote maximum utilization of the ability, experience, and judgment of all parties sharing responsibility for the quality of instruction in the Little Rock School District, the parties do hereby agree as follows:

II. *Recognition.*

The Board and the Association recognize their responsibilities toward each other and to the community for negotiating in good faith to reach agreements which are mutually satisfactory.

The Board recognizes that teaching is a profession, that members of this profession have specialized education qualifications, and that their participation in policy development on matters relative to the professional services of teachers is of vital importance to the success of school programs. It further recognizes that free and open exchange of views between teachers and the Board is desirable in deliberations leading to policy decisions.

The association recognizes the Board as elected representatives of the people and further recognizes the responsibilities of the Board and the superintendent for the operation of the school district.

The Board recognizes the Little Rock Classroom Teachers Association as exclusive representative of all classroom teachers of the district provided that the association presents to the Board not later than December 1 of each year a statement from a certified public accountant verifying that the Association's membership has constituted more than fifty (50) percent of the classroom teachers of the district for two (2) consecutive years. The statement of verification must be based only upon the number of active members who are or were employed by the district for the years covered in the verification.

Any classroom teacher or group of classroom teachers may present a proposal to the Association for its consideration in negotiation. If the Association does not choose to present the proposal, a formal request by said individuals or groups may be presented in writing to the superintendent. If a hearing is granted, representatives of the Association will be given an opportunity to be present and participate in the hearing.

The recognized Association may not discriminate in its membership on the basis of race, creed, sex, marital status, grade level, or subject field.

III. *Procedures.*

A. *Subjects of Negotiation.*

The parties shall negotiate with respect to policies which affect the quality of professional services of the certificated staff, including but not limited to such matters of mutual concern as salaries, teaching conditions, class size, teacher load, textbook selection, curriculum, and special programs made possible through federal and state financing.

B. *Representation.*

The Board, the superintendent, and the Association shall be represented at all negotiating sessions.

C. *Requests for Meetings.*

Requests from the Association for meetings shall be made in writing directly to the president of the Board and to the superintendent. Requests from the Board or the superintendent shall be made in writing to the president of the Association. Requests shall contain the reasons for the meeting. A mutually agreeable time and place for the meeting must be set within 15 days of the request. The Association representatives shall be released from school duties to attend meetings. However, meetings shall be scheduled to interfere as little as possible with school activities.

D. *Meetings.*

When the request for the meeting originates with the Association, it shall be responsible for the agenda, a chairman, and a recorder. When the request originates with the Board or the superintendent, each shall be responsible for the agenda, a chairman and a recorder.

Additional meetings shall be arranged as may be necessary to complete consideration of agenda items. In such cases, copies of the minutes of the meeting shall be prepared by the recorder and distributed to all participants in ample time to be studied before the next meeting.

E. *Assistance.*

Consultants may be called upon by either party for advice and information on matters under consideration.

F. *Study Committees.*

Ad hoc committees may be appointed for research, study, and the development of reports. Such committees shall report only to the Board, the superintendent, and the Association's representatives.

G. *Exchange of Information.*

The Board agrees to furnish the Association, upon reasonable request, such information as will assist the Association in developing intelligent, feasible and constructive proposals in behalf of teachers, students, and the school system.

This requested information may include complete and accurate financial reports and the tentative budget for the next school year submitted for study by the Association at least forty-five (45) days prior to the date for Board action thereon.

The Association agrees to furnish the Board and superintendent, upon reasonable request, research information and data, gathered by the Association, that will assist the Board and superintendent in the development of sound educational programs.

IV. *Agreement.*

When agreement is reached, it shall then be reduced to writing and submitted for ratification to the Board and to the Association at a regular or a special meeting. When approved by both parties it shall be entered into the official minutes of the Board. Thereupon, the agreement shall constitute a revision of district policies. Such revisions would become effective immediately where applicable. Revisions of the agreement shall be incorporated by reference in the individual contract or statement of conditions of service as submitted to employees.

V. *Mediation and Appeal.*

When there has been persistent failure to reach agreement, either the Board or the Association may ask that the matter be submitted to an advisory board.

This advisory board shall be appointed within thirty (30) days following the request of either party to the other. It shall consist of one member named by the Board and one member named by the Association. A third member, who shall be chairman, shall be named by the first two named advisors.

The advisory board shall have authority to confer separately or jointly with the Board, the superintendent, and the Association, or to use any other source of information.

The advisory board shall make recommendations for resolution within thirty (30) days. The recommendations shall be submitted to both parties and made public.

VI. *Costs.*

Costs and expenses incurred in securing and utilizing the services of a consultant are the responsibility of the party engaging this service. In the event an advisory board is used, the Association will bear the expenses of its appointee, the Board will bear the expenses of its appointee, and both parties will share equally the cost of the third member.

VII. *Duration.*

This agreement shall be effective upon signing by the president of the Board and the president of the Association and shall continue in effect until revised according to the provisions of Article VIII (Amendment).

VIII. *Amendment.*

Either party desiring changes in this agreement shall notify the other party in writing and upon such notification, the proposed amendments shall become agenda items for negotiation and are final when ratified by the Board and the Association.

Attest:

Little Rock Classroom
Teachers Association

_____
President

_____
President

_____

_____

_____

Date. _____

Superintendent of Schools
Little Rock Public Schools

_____

Date. _____

Board of Directors
Little Rock Public Schools

_____
President

_____

_____

_____

_____

_____

_____

Date. _____

Agreement between the Board of Education of the Louisville Independent School District and the Louisville Education Association, Louisville, Kentucky

PREAMBLE

The Louisville Board of Education (hereinafter referred to as the Board) and the Louisville Education Association (hereinafter referred to as the Association) share a common concern for the development and operation of educational programs of the highest quality for the pupils, patrons, and community of the Louisville Independent School District.

The Board and the Association believe, further, that the primary purpose of education in the United States is the development of competence in individuals for maximum participation in the American democracy.

We recognize the unique role of the teaching profession in the planning, development, operation, and improvement of educational programs of a quality consistent with shared objectives. Moreover, we view the participation of teachers in the formulation of policy to be highly productive of increased efficiency, inasmuch as such shared decision-making promotes identification and release of valuable talent, creativity and energy.

The Association enjoys an unusually fine rapport with the Board. In establishing and maintaining this rapport, the Board and the Association have benefited from the invaluable role of the Superintendent of Schools who is both a leader of the profession and agent of the Board. The Association seeks to insure continuance of this excellent relationship as the Board and the Association pursue attainment of our mutual goals.

The Association believes that a formal commitment to professional agreement is of mutual benefit to the Board and to the Association. A fundamental principle of effective school personnel administration is that policies should be in writing, be widely disseminated, and be officially adopted by boards of education.

A written professional agreement clarifies the roles and the relationships of all those involved in the process of shared decision-making, outlines procedures to be followed, and tends to avoid likelihood of future misunderstanding on the part of individuals who may not have had a part in the original development of the procedure. Thus, a formal professional agreement will facilitate increased efficiency and productivity in a program of quality education.

The purpose of this agreement is to give certificated professional employees a formal voice in the development of educational policies which affect them and to improve the channels of communication between the Board and the Association.

In return, the Association pledges that it will exercise reasonableness and restraint in its requests and will follow professional channels and methods in seeking agreement.

The Association is fully aware of, and readily accepts, the responsibilities embodied in this agreement. The Association intends to continue to work in unity with the Superintendent and the Board for the betterment of the Louisville Public Schools. Paramount to all agreements are the education and well-being of the children in the district.

The Board and the Association do hereby agree as follows:

SECTION I. RECOGNITION

A. The Board will grant exclusive professional agreement rights to the organization that can substantiate the fact that it represents a majority of the certificated employees of the Louisville Independent School District. Such substantiation will be in the form of a letter of verification from a local certified public accountant or attorney by the last day of February each year.

B. The recognized organization will not discriminate in its membership requirements on the basis of race, religion,

national origin, sex, marital status, or professional assignment.

C. Certificated personnel shall have the right to join, or not to join, any organization for their professional or economic improvement.

D. The Board or any administrative officers thereof shall not discriminate against certificated employees because of their exercise of rights under this agreement.

E. Nothing in this agreement shall prohibit any certificated employee or group from appearing before the Board in their own behalf, after going through established administrative procedures.

SECTION II. PRINCIPLES

A. Attaining Objectives

Attaining objectives of the educational program requires mutual understanding and cooperation among the Board, the Superintendent and his staff, and the professional teaching personnel. Free and open exchange of views is desirable and necessary, with representatives of all parties participating in deliberations leading to the solution of problems of mutual concern.

B. Professional Teaching Personnel

Teaching is a profession requiring specialized qualifications, knowledge and skills. The success of the educational program depends to a large extent upon the maximum use of the abilities of teachers involved in improving the educational program and their conditions of employment.

C. Representation

The Board or the Superintendent (as the Board's chief administrative officer) or their authorized representatives shall meet and confer with authorized representatives of the Association and attempt to reach agreement on proposals and policies affecting the educational program.

Individuals and minority organizations may present their views and recommendations to the Board at regularly scheduled or called meetings of the Board after following established administrative procedures.

SECTION III. PROCEDURES

A. Professional Agreement Committees

Authorized representatives of the Association may confer with authorized representatives of any other organization prior to initiating procedures for reaching professional agreements. The purpose of these conferences will be to seek areas of common concern.

B. Directing Requests

Requests for meetings from the Association normally will be made directly to the Superintendent by the Association president. Requests from the Board or the Superintendent will be made to the president of the Association.

C. Meetings

Meetings composed of members of the Association's Professional Agreement Committee and the Board shall be called upon the written request of the Board or the Association. The initial request for a meeting shall contain the reason(s), the suggested date, and will be made in writing at least ten days prior to the suggested date for such meeting; and shall be held within thirty days following receipt of the request. Meetings shall be scheduled to interfere as little as possible with school schedules and during school hours only if no other time is available.

D. Study Committees

The Board and the Association may jointly appoint special sub-committees for research, study, development of projects, programs, and reports and making recommendations on matters under consideration. The committees shall report findings to representatives of the Board and the Association.

SECTION IV. AGREEMENT

A. The Association shall have the right, after using established administrative channels, to meet and confer, in good faith, to reach agreement with the Board, concerning policies relating to such matters as curriculum, in-service training, personnel policies, salaries and salary schedules, employee benefits, working conditions, professional stress, and other matters which affect the quality of the educational program.

B. When agreement on a proposal or policy is reached, it shall be reduced to writing and, when approved by the Association and the Board, shall be signified by the signing of both parties, and become a part of the official minutes of the Board. Every attempt should be made by both parties to expedite approval. The agreement shall constitute a modification of, or an addendum to, the Articles of this agreement.

SECTION V. MEDIATION AND APPEAL

A. Advisory Panel

In case of a disagreement about the meaning or application of this agreement, or if an impasse is reached in

arriving at a satisfactory solution to the proposal under study, the matter will be submitted to an Advisory Panel within thirty days after the request of either the Board or the Professional Agreement Committee. The Board will name one adviser, and the Association will name another. A third member, who shall be the chairman, shall be named by the first two named members within fourteen calendar days.

The Advisory Panel shall have authority to confer separately or jointly with the Superintendent, the Board and the Association, and to use any other source of information.

B. Final Authority of the Board of Education

The Association recognizes that under Kentucky law, the Board shall have and exercise the exclusive control of the public schools within the Louisville School District. This agreement in no way attempts to alter or diminish such statutory authority. The final decision will be made by the Board, subject only to the provisions of KRS 156.220, which gives the Superintendent of Public Instruction authority to decide all controversies and disputes involving the proper administration of the public schools.

SECTION VI. COSTS

Costs and expenses incurred by either party in striving for settlement of differences will be borne by that party.

In the event an Advisory Panel is used, the Association will bear the expenses of the adviser named by the Association, the Board will bear the expenses of the adviser named by the Board, and the expenses of the chairman will be shared equally by both parties.

SECTION VII. ARTICLES

Agreements reached as hereinabove provided will be attached as Articles.

SECTION VIII. DURATION

The provisions of this agreement shall be effective upon the date of signing by the two parties and shall continue in full force under the provisions of Section I in this agreement.

The provisions of each Article attached thereto shall be effective as of the date affixed to each Article, and shall continue in full force until revised. Either party desiring changes in this agreement shall notify the other party in writing within thirty days prior to April 1 of any year. Changes shall be made upon mutual consent of both parties.

This agreement is made and entered into on this 7th day of March, 1967, by and between the Louisville Board of Education and the Louisville Education Association.

Board of Education of The
Louisville Public Schools

By _____, Chairman

Louisville Education Association

By _____, President

Date _____

PROFESSIONAL DISCUSSION AGREEMENT

LEWISTON, MAINE

I. PREAMBLE

Recognizing that providing a high quality education for the children of the Lewiston public schools is the paramount aim of this school district, and that good morale in the teaching staff is necessary for the best education of the pupils, we do hereby declare that:

1. The Lewiston Board of Education, under law, has the final responsibility of establishing policies for the school system.

2. The superintendent and his staff have the responsibility of executing the policies established.

3. The professional teaching personnel has the responsibility of providing the best possible education in the classroom under existing conditions.

4. The efficient pursuit of the myriad tasks of education recognizes the line-staff relationship.

The Board of Education also recognizes that the best interests of public education will be served by establishing procedures to provide an orderly method for the Board of Education and representatives of the Lewiston Teachers Association to discuss matters of concern and to reach a mutually satisfactory agreement on these matters.

II. RECOGNITION

A. Attainment of objectives for the educational program of the Lewiston public schools requires mutual understanding and cooperation among the Board of Education, the Superintendent of Schools, his staff, and the teaching personnel. Therefore, free and open exchange of views is desirable and necessary with all parties participating in the deliberation leading to determination of matters of mutual concern.

B. It is recognized that teaching is a profession requiring the possession of specialized educational qualifications and that the success of the educational program depends upon qualified and competent professional staff who are rendering services in a desirable educational climate created by competent leadership.

C. Professional staff have the right to join or refrain from joining any organization for their professional or economic improvement and for the advancement of public education.

D. The Lewiston Teachers Association shall be open to membership to all State certified professional employees of the Lewiston Public schools.

E. The Board of Education recognizes the Lewiston Teachers Association for the purpose of discussing proposals concerning standards for employing personnel, community support for the school system, in-service training of personnel, curriculum concerns, class size, teacher assignments, personnel policies, salary, working conditions, extra-curricular assignments, communication within the school system, and other items of concern.

III. PROFESSIONAL DISCUSSION COMMITTEE

A. The Lewiston Public School system shall have a local Professional Discussion Committee, whose function will be to assist the Superintendent of Schools and the Board of Education to develop policies.

B. The Professional Discussion Committee shall include the Superintendent of Schools (Ex officio), the President of the Lewiston Teachers Association, and elected members on the basis of one representative for every 25 members or major fraction thereof in a school building; but every building shall be entitled to at least one member and shall elect its own representative.

IV. PROCEDURES OF THE PROFESSIONAL DISCUSSION COMMITTEE

A. A Chairman, Vice-chairman, and Secretary shall be elected by said committee, and the minutes of all meetings shall be kept, summarized and reported to the Board of Education and to the Teachers' Association.

B. There shall be monthly meetings to be held on or before the 25th day of the month from September to May inclusive.

C. The first meeting shall be one of planning the year's work. All proposals to be studied and discussed are to be presented at this time by the Board of Education, the Superintendent of Schools and the Teachers' Association, and the agenda of the year's work is to be adopted at this time. However, additional proposals for study may be added to the year's agenda by a two-thirds majority vote of the Professional Discussion Committee.

D. The Professional Discussion Committee may delegate to sub-committees any and all items on the approved agenda for study, said findings and recommendations of all appointed subcommittees shall be submitted to the Professional Discussion Committee.

E. Subsequent monthly meetings shall consist of (a) progress reports, (b) updating of facts and figures, (c) summary of studies made by the committee, (d) writing of recommendations and (e) plans for presentation to the Board of Education. Recommendations shall be approved by the Lewiston Teachers' Association Board of Directors, who may, if they deem it necessary, refer the matter to the whole association.

F. Except in emergencies, the Board of Education shall not attempt to decide questions affecting personnel policies without first examining the recommendations of the Professional Discussion Committee or the recommendations of those staff members affected by its decision.

G. The Board of Education does not relinquish its right at any time to call a meeting of the entire teaching staff to present its position in any matter that is under consideration.

H. All relevant data and supporting information while in the process of being developed or while discussions are in progress shall not be released to any news media unless mutually agreed upon by the Board of Education and the Professional Discussion Committee.

I. No resolution or decision of the Professional Discussion Committee shall be construed as binding on either the Board of Education or the Lewiston Teachers Association.

J. All final personnel policy decisions of the Board of Education shall be formally adopted at its regular or special meeting and shall become part of the official minutes of said meeting.

V. MEDIATION AND APPEAL

A. If the Board of Education and the Professional Discussion Committee are unable to resolve a problem, a consultant committee of three shall be established either by agreement or in the following manner: one person appointed by the Board of Education, one person appointed by the Professional Discussion Committee, and these persons shall elect the third member of the consultant committee, or in case of disagreement on the election of the third member, the third member shall be appointed by the Maine Commissioner of Education.

B. The consultant committee shall review the problem and all studies and discussions pertaining thereto and submit a recommendation or recommendations back to a joint meeting of the Board of Education and the Professional Discussion Committee and thereupon the consultant committee shall be dissolved.

C. Whatever the conclusion or conclusions that the consultants might reasonably arrive at can only be advisory or in the nature of recommendations to the Board of Education and the Lewiston Teachers Association.

D. Any cost or expense of the consultants shall be shared equally by the Board of Education and the Teachers Association.

VI. ARTICLES

The salary schedules and policy statements, attached hereto in the form of Articles, are made a part of this agreement, and shall be negotiated in conformance with the dates listed in the next section and with the procedures outlined above.

VII. DURATION

This agreement shall take effect at the time of signing of the agreement and will remain in effect until April 1, 1968. It is renewable by both parties through action taken on or before April 1 each year thereafter.

Either party desiring changes in this agreement must notify the other party in writing prior to March 1 or any contract year; however, changes may be made at any time by mutual agreement.

PROFESSIONAL NEGOTIATION CONTRACT

BISMARCK, NORTH DAKOTA

The parties hereto, the School Board of Bismarck Public School District and the Bismarck Education Association, do hereby agree that the welfare of the children of Bismarck Public Schools is paramount in the operation of the schools and will be promoted by both parties. The parties hereto do hereby agree as follows:

I

RECOGNITION

The School Board of Bismarck Public School District, hereinafter referred to as the Board, recognizes that teaching is a profession. The Board recognizes the Bismarck Education Association, hereinafter referred to as BEA, as the collective voice of all certificated personnel who notify both the Board and BEA in writing.

The BEA recognizes the Board as the elected representatives of the people of the Bismarck Public School District as the employer of the certificated personnel of the Bismarck School District and as such makes final determination on all matters. However, nothing in this agreement shall be interpreted to deny the right of an individual teacher to discuss or negotiate directly with the Board or superintendent on any matter whatsoever.

The purpose of the recognition is the mutual agreement that the parties hereto will negotiate in good faith in all matters of common concern.

II

PRINCIPLES

A. Attaining Objectives

Attainment of objectives of the educational program of the District requires mutual understandings cooperation among the Board, the Superintendent, his staff, and the professional teaching personnel. Free and open exchange of views is desirable and necessary, with all parties participating in deliberations leading to determination of matters of mutual concern.

B. Professional Teaching Personnel

It is recognized that teaching is a profession requiring specialized qualifications and that the success of the educational program in the school district depends upon the maximum utilization of the abilities of teachers who are reasonably well satisfied with the conditions under which their services are rendered.

It is further recognized that teachers have the right to join, or not to join, any organization for their professional or economic improvement and that membership in any organization shall not be required as a condition of employment.

C. Teacher Participation

The negotiating team of the BEA agrees to meet with the negotiating team appointed by the Board which shall include one Board member when requested by the Executive Board of BEA, for the purpose of discussion and to seek satisfactory agreements on salary, and other negotiable matters.

The following general areas are to be considered for professional negotiation:

1. Instruction load
2. Leaves of absence
3. Leaves of absence for attendance at professional meetings
4. Fringe benefit
5. Noninstructional duties of teachers
6. Salary schedule
7. Student teaching program
8. In-service program
9. Date of salary payment
10. Guidelines for textbook adoption
11. Guidelines for curriculum study
12. Guidelines for teacher dismissal

III

MEETING PROCEDURE

A. Initiating Meetings

Meetings may be initiated by the BEA negotiating team, the Superintendent, his representative, or the Board. Meetings initiated by the BEA negotiating team will be held with the negotiating committee appointed by the Board.

B. Initiating Full Board Meetings

When the negotiation committees are unable to agree and, when requested by either party, the Board shall meet with a BEA negotiating committee when said BEA negotiating committee shall have authority to make a binding agreement.

C. Request for Meetings

Meeting requests shall be in writing and shall contain specific statements pertaining to the purpose of such meeting and the subjects to be discussed or negotiated. The written request shall be directed to each member of the BEA Negotiating Team, the Superintendent and the Secretary of the Board. A mutually convenient meeting date shall be set to be held within fifteen days of the date of request and written notice thereof shall be given to each member of the BEA Negotiating Team, the Superintendent and the Secretary of the Board at least three days prior to the meeting date.

D. Presentation of Facts and Exchange of Views

Facts, opinions, proposals, and counter proposals will be exchanged freely during the meeting or meetings in an effort to reach mutual understanding and agreement.

E. Request for Assistance

The participants may call upon consultants and professional representatives to consider matters under discussion and to make suggestions in written form or by personal appearance and presentation at the meetings.

F. Agreement

Except when an agreement is reached under 3 B, the agreement will be reduced to writing and it shall be submitted to all of the certificated personnel who have designated BEA as their negotiating agent, for their approval or disapproval. Except when agreement is reached under 3 B, voting shall be by secret ballot – conducted in individual schools – and supervised by the BEA building representatives and the building principal. The said ballot for such a vote shall be prepared jointly by the teacher negotiating team and the superintendent, his representative and or the board of education. If the ballot shows a lack of support relative to the teacher negotiating team, the Executive Board of the BEA shall appoint a new team to carry on negotiations. If approved by a majority of the voting certificated personnel, it shall constitute the agreement of the BEA and the Board on the matters contained therein. When appropriate, provisions in the agreement shall be reflected in the individual teacher's contract.

After negotiation and in the event that an agreement between the negotiating committee and the board cannot be reached on a proposal agreeable to the board, the board shall reserve the right to present the problem to a vote of the certificated personnel. The agreement shall not discriminate against any member of the teaching staff because of membership or non-membership in any teachers organization.

IV

MEDIATION AND APPEAL

In the event that agreement is not reached, an advisory committee shall be established and will consist of one member appointed by the Board, one member appointed by the Local and one member selected by and agreeable to both who will serve as chairman. The Advisory Committee shall review the subject of disagreement and within five days make a written report to both parties. Any expense incurred by the Advisory Committee shall be shared equally upon prior approval of the local and the board. Such report shall be advisory only and not binding on the parties.

This contract shall remain in force until July 1, 1968, at eight o'clock in the morning. It may be amended by the agreement of the parties hereto or their successors in office. This agreement is automatically renewed for a period of one year from such expiration date unless one of the parties shall have notified the other at least sixty days before the expiration date that it will not accept renewal.

Dated at Bismarck, North Dakota, this _____ day of _____ 1967.

Signed: _____	Signed: _____
President of Local Association	President of School Board
_____	_____
Officer of Local Association	Member of School Board
_____	_____
Officer of Local Association	Member of School Board

PROFESSIONAL RELATIONS AGREEMENT
CHEYENNE PUBLIC SCHOOLS, SCHOOL DISTRICT #1,
CHEYENNE, WYOMING

The Board of Trustees of Laramie County School District Number 1, Cheyenne, Wyoming, and the Cheyenne Education Association believe that providing a high quality education for the children of the district is the paramount aim of both parties. They further believe that this objective can best be fulfilled when both work together in harmony and cooperation. The parties do therefore agree as follows:

I. RECOGNITION

The Board of Trustees of School District Number 1, hereinafter referred to as the Board, recognizes the Cheyenne Education Association, hereinafter referred to as the Association, as a professional association and as sole representative of the certified personnel employed by the district on all matters of general concern.

The Association recognizes the Board as the legal authority for School District Number 1 under the laws of Wyoming, as the elected representatives of the people, and as the employer of the certified personnel of the district.

Both parties recognize the Superintendent of Schools as the executive of the Board and as a member and leader of the professional staff, and that as such he has a central role in all efforts to promote agreement, harmony, and mutual respect between the Board and the Staff.

II. PRINCIPLES

A. Participation and Agreement

The best interests of public education in Cheyenne require mutual understanding and cooperation among the Board, the superintendent, the administrative staff, classroom teachers, and other professional personnel. To this end, free and open exchange of views is desirable and necessary, with all affected parties represented, leading to agreement on mutually satisfactory decisions and policies.

B. Professional and Administrative Channels

The professional channels of communication defined in this agreement cannot replace and should not be confused with normal administrative channels linking the individual teacher, his principal or supervisor, the superintendent, and the Board. Action within administrative channels, however, may at times become of concern to the profession as a whole and thus suitable for discussion through professional channels as outlined herein.

C. Professional Membership

Associations of the teaching profession at local, state, and national levels are established to advance the best interests of the profession and of public education. The Board encourages every teacher to join the organizations of his choice. It is recognized that teachers have the right to join, or not to join any organization compatible with the laws of Wyoming for their profession or economic improvement; and that membership in any organization shall not be required as a condition of employment.

D. Professional Service

Teaching is a profession requiring specialized qualifications, and the success of the educational program in the district depends upon the maximum utilization of the abilities of teachers who are reasonably well satisfied with the conditions under which their services are rendered.

III. PROCEDURES

A. Requests for Action

Requests by the Association for administrative action shall be directed to the superintendent; requests for Board action shall be directed to the Board through the superintendent. Requests from the superintendent in his own behalf or as the executive officer of the Board shall be directed to the president of the Association. All requests shall be in writing and shall specify the nature of the action requested.

If the superintendent and the Association shall fail to agree on a request, both parties may present separate reports to the Board stating their points of agreement and disagreement and requesting a meeting with the Board.

B. Requests for Meetings

The Board, the Association, or the superintendent may request a meeting of all three parties or between the Association and the superintendent alone. Within fifteen days of the request of any party for a meeting, a mutually acceptable date and place of the meeting shall be set. When a meeting is to include members of the Board, arrangement of the meeting shall be the responsibility of the superintendent or, if the superintendent should fail to arrange the meeting, of the president of the Association. All requests for meetings shall be in writing and shall specify the nature of the subjects to be discussed.

C. Conduct of Meetings

All meetings under this agreement the school administration shall be represented by the superintendent or his representative. The Association shall be represented by members named by the president in accordance with the by-laws of the Association. The Board shall be represented by a committee of its members unless a meeting with the Board has been specifically requested. These designated persons shall then constitute a Joint Committee to discuss the matter named in the request for meeting.

At meetings of a Joint Committee, facts, opinions, proposals, and counter-proposals will be exchanged freely in an effort to reach mutual understanding and agreement. Any party may call upon competent professional or lay consultants to present information and to make suggestions. The Joint Committee shall be chaired by a member of the Board.

Proceedings, findings, and recommendations of any Joint Committee under this agreement shall be released only in a manner determined by that Committee.

D. Advisory Committee

In case of disagreement about the meaning or application of this agreement, or if an impasse is reached, the matter will be submitted to an Advisory Committee not more than fifteen days after the request of either party. The Board will name one member, and another will be named by the Association. A third member, who shall be chairman, shall be named by the first two named members.

The Advisory Committee will be expected to report recommendations for settlement within fifteen days. The recommendations will be submitted to both parties. In the event agreement cannot then be reached, the Board shall make the final decision.

IV. TERM OF AGREEMENT

This agreement shall be in effect upon approval by both the Board and the Association and shall remain in force until July 1, 1966. It will be renewed automatically for a period of one year from the expiration date each year unless one of the parties shall have notified the other at least ninety days before the expiration date that it will not accept renewal. (Approved April 1, 1965)

Special Items

COLLECTIVE NEGOTIATION IN CURRICULUM AND INSTRUCTION*

Robert J. Alfonso, Assistant Dean for Instruction and Graduate Studies,
Kent State University, Kent, Ohio

Introduction

One can look back just a few years and the topic of collective negotiations is missing from the conference programs of AASA. The term and the process have sprung into general use in an amazingly short span of time. Perhaps the times were right, but educational institutions, historically slow to change, have been affected rapidly and significantly by collective negotiations. Every administrator in this room, and every careful observer of the contemporary scene, knows that collective negotiations has become the dominant concern of today's superintendent. It is unfortunate, but it is true.

The National Education Association officially entered the negotiations world in 1962 by action of their Representative Assembly at the Denver, Colorado convention. In four years (and this should give encouragement to Spiro Agnew) this relative unknown called negotiations did, indeed, become a household word.

Much has been written, spoken, and lamented about collective negotiations—so much so that one despairs of finding any new light to shed. Our task today, however, is not to review and debate the whole spectrum of controversy and difficulty in negotiations but to look at just one facet of it. A number of people, although I fear too few, have been concerned about the effect of negotiations in curriculum and instruction, and it is this particular concern that we are dealing with in this session.

Curiously, this concern has not had the attention which I think it should. Perhaps we have been too caught up in battles over the headline makers such as salaries, fringe benefits, and working conditions to have noticed the way in which negotiations has reached into the area of decision making about curriculum and instruction. Of course, there have been many superintendents who have been concerned about this; to my knowledge, however, it was not until 1966 that an article specifically dealing with this concern appeared in a national journal. The one I refer to was by William C. Miller in the April, 1966 copy of *Educational Leadership*. There has been some follow up since then. The April 1967 edition of *Impact* a journal of N.Y.A.S.C.D. was devoted to this concern; it was a major topic at several recent ASCD national and regional conferences; last month's *Educational Leadership* has an excellent article by William Young; and an ASCD Task Force on this concern has completed a document which will soon be published. The most thorough statement to date is probably the one written by Leslee Bishop and published by ASCD entitled "Collective Negotiations in Curriculum and Instruction: Questions and Concerns."

How Did We Get Where We Are?

Many administrators (if not most) are still a little bewildered by the rapidity of the negotiations blitzkrieg. We are still stunned and are trying desperately to regroup our forces. I am reminded of the sorrowful but bitter opening line of Robinson Jeffers poem "Black Out," written just a day or two after Pearl Harbor: "The war that we have carefully for years provoked comes on us unprepared, amazed and indignant."

This is, I think, analogous to our present situation. Amazed? Yes. Indignant? Yes. Unprepared? Very much so. The mystery of it all is that it took teachers so long to assert themselves.

Teachers and teacher organizations are now demanding the right to be involved in decision making about curriculum and instruction. Such involvement is being written in contracts; in many cases demands are made that specific procedures for involvement or representation be spelled out; and in some cases the decisions about curriculum and instruction have themselves become subjected to negotiations. My first reaction to such demands was one of considerable consternation. How did teachers ever get the notion that administrators, and curriculum directors, and supervisors did not want to involve them in decision making about curriculum and instruction?

We have given support to the general principle that people should be involved in the making of decisions that

*Presented at the 101st annual meeting of the American Association of School Administrators, Atlantic City, New Jersey, February 19, 1969.

will affect them, and in our schools we have long held to the belief that teachers should be involved in such decision making. What has gone wrong then? What brought about our Pearl Harbor? I think that if we could make a careful, objective analysis of the ways in which and the extent to which we have involved teachers in making decisions about curriculum and instruction that we would find that, in the main, they have systematically been excluded from involvement in the critical process of decision making, and that where they have been involved they have been so effectively managed that they have operated from a very weak power base.

There has been slippage, as there so often is, between our ideal behavior and our actual behavior. The discrepancy between what we said and what we did has surely contributed to the teacher's demand to be heard on these matters. What teacher, and what administrator for that matter, has not heard an explication of this decision making process in a curriculum course at his university? Involving teachers in decisions about curriculum and instruction is a basic tenet of every respectable text in curriculum that I have ever seen. The tragedy of this development is that we have to fight out in a negotiation contract an activity that we have advocated for 45 years.

There are some other factors also at work in the move by teachers to affect curriculum and instruction through negotiations. There is a convergence of forces composed of curriculum factors on one hand and of teacher or human factors on the other. These two developments have had a parallel development, and cover roughly the same period of growth. I am referring to the growth of teacher power as one force, and to the curriculum reform movement as the other.

On the one hand, then, we see the curriculum reform movement which has brought about some new dimensions in the process of curriculum change and in the traditional rules of the schools and of teachers in this process. For example, we have seen developing in the past ten years: (1) much more rapid curriculum change; (2) many new modes of organizing for teaching and learning; (3) an increasing amount of curriculum planning take place outside the school; (4) the curriculum package, complete with text and accompanying materials; (5) a new form of decision making about curriculum.

Now, keep in mind that these developments have occurred almost simultaneously with the development of the second force which consists of: (1) more sophisticated teachers (in a technical, educational sense); (2) teacher power, the desire to influence the school organization and the educational process, including curriculum and instruction; (3) a we-they dichotomy, in which teachers have placed themselves into an adversary relationship with administrators and curriculum workers.

This, then, represents a convergence of two forces: the desire of teachers to exercise their power and influence just at the time when curriculum decision making has become far more complex than ever before. At the same time that teachers feel a sense of power, they feel less able to influence. Teacher power appears to seek for simplistic decision making in curriculum, even though much of the decision making has already moved outside the arena of the public school and into the federally funded projects and into the great hardware-software combines.

The demands of the teacher-power force are not in keeping with the realities of the counter force. The nature of curriculum development today dictates not a labor model, not the traditional concept, but a completely new model of decision making about curriculum and instruction.

A third force, which I shall not discuss, but one which both the curriculum makers and the teacher-negotiator may yet have to reckon with is the force of student power in making decisions about curriculum. This force, already felt at the university level, will become increasingly influential in the public schools.

The Crux of the Issue

Of utmost concern in viewing negotiations in curriculum and instruction is whether this is an acceptable, viable process of decision making about such matters. My answer, obviously, is that it is not. The present model for negotiations, based on the labor model of collective bargaining is antithetical to all accepted principles of curriculum development.

In fact, when properly conceived of, curriculum issues defy negotiations. The nature of curriculum and instruction makes it axiomatic that they be treated openly, intellectually, experimentally, honestly, with all available wisdom and evidence brought to bear in the decisions. All of the elements affecting decision making in curriculum must be considered. I question whether such careful consideration can be made in a confrontation, in a situation in which sides are drawn and in which a desire to win a victory supplants rational decision making.

Although there is a substantial agreement that curriculum and instruction should not be negotiable items, one finds that in practice they are very much negotiated. The May 1968, NEA *Research Bulletin* lists numerous instructional and related concerns that are part of negotiation agreements. Perhaps we find ourselves negotiating in curriculum and instruction and not even knowing it, and this seems still more hazardous.

The struggle for power has created an understandable desire among teachers to affect if not control as many elements of the educational enterprise as possible, including the areas of curriculum and instruction. This power struggle has also divided people into two opposing camps;

teachers in one camp, and administrators, in the other. One group, supervisors and curriculum workers have been left out in no-mans-land, not sure which group to align themselves with, not even sure if they have a choice, observing their leadership functions being restricted by contract provision, and quite alarmed to discover that many questions about which they are uniquely qualified to speak are now being determined without them, through a process of collective negotiation in which they do not share.

Curriculum workers must work effectively with both sides if they are to be successful in improving curriculum and instruction. It is ironical that a major tenet of negotiations—to be involved in decision making on matters that affect them—has been denied to supervisors and curriculum workers.

Curriculum negotiations is a self defeating process. Correctly perceived, curriculum decisions must be characterized by change, flexibility, experimentation, evaluation, open-mindedness. To argue that we have not always had this does not deny the need. Negotiation and contractual agreements are (or have been at least, in the traditional labor model) the antithesis of this need, for the outcomes of negotiation usually result in frozen practices, legalized practices, and restriction on change.

In the light of present developments in curriculum and instruction we can ill afford to be hamstrung by a process of confrontation and side-taking which prevents an objective, dispassionate analysis. Nor can we afford to make partisan questions out of curriculum and instruction issues. Such matters must not be decided on the basis of what one power group or another happens to prefer. I don't want decisions in curriculum to be made by any power group. In many school districts there has been justified criticism of an overcentralization of decision making, but we run the danger in negotiations in curriculum of exchanging one form of centralization for another. It is not progress to move from decision making dominated by a Board and an administration to decision making dominated by teachers. Power groups come into being because of strong, motivating, self-interest. We must guard against any serving of self-interest in the matter of curriculum and instruction, an area in which we must make decisions not based on pressure or personal whim but based on the best we know about, instruction, learning, the nature of knowledge, the nature of our world and the nature of our students. I am concerned that when we decide curriculum and instruction questions on the basis of negotiation, bargaining, and compromise that we end up with a decision which is defensible as a compromise but completely indefensible in the light of the best we know about teaching and learning. In collective negotiations, who negotiates for kids? For good learning?

Some Predictions

What I have described is the situation as it now exists. Unless some significant shifts in attitude and in process occur, the situation can only worsen. If we do the right things now, however, such changes can occur. I would like to make a few predictions about some of these developments, some of which will occur almost certainly, others which will occur only if the profession seeks actively to bring them about.

1. After teachers achieve certain material and organizational goals, after they feel their work to be sufficiently rewarding in terms of financial reward, prestige, and working conditions, they will shift from a preoccupation with what are largely labor concerns and strategies to a more truly professional orientation and negotiation model.

2. In the race between teacher power and educational change, the power of educational change will win. New forms of organization, new staffing concepts, rapid and continuing curriculum change will demand a flexibility that invalidates the labor model in negotiations.

3. Master teachers will become much more "middle management" personnel, and will become increasingly concerned about the goals of the school organization and their facilitation.

4. As a result of new interest, and the influence of collective negotiations, teachers will be involved in decision making about curriculum and instruction to an extent never seen before. Such involvement will surely add greater strength to education.

5. Eventually, we will have teachers in our schools who are more sensitive to teaching and learning, more astute, more alive intellectually, and more aware of the need for rational rather than emotional decision making.

6. With more extensive involvement of teachers in decision making will come greater responsibility and accountability. They will be held accountable in a way they are not now (and have never been) for the outcomes of their instruction. We will no longer assume automatically that if a child fails it is his fault and has nothing to do with the instruction or the selection of learning activities. I call this "teacher accountability."

7. There will be an eventual easing of adversary relationships, when salaries and working conditions become acceptable. When the concerns that divide us are resolved then we will work together in a new way.

What Must Be Done Now

Now, these things will not just happen. If we wish to move out of our present stalemates of controversy, rigidity, and name-calling, then we must do so deliberately and purposefully.

The following are some briefly stated suggestions which will at least begin to move us in the right direction:

1. We need a redefinition of who should make curriculum decisions, taking into account the many forces and power groups.

2. We need to redefine the curriculum decision making process.

3. We need to develop curriculum councils in our school, deliberative, planning, decision-making bodies. This is hardly a new idea.

4. We, with teachers, must make a distinction between the teacher and his "work" problems and the teacher and his "professional" problems.

5. We must, with teachers, understand and be able to make a clear distinction between negotiating the process by which curriculum decisions will be made and negotiation curriculum issues per se. Questions of who should be involved, time allocation, and financing of curriculum study are quite appropriate for negotiation. Negotiating for the selection of texts or class size is quite a different matter.

6. We must work toward the development of a professional model for negotiations and move away from a model, which while appropriate for labor, has serious limitations for a profession and its peculiar needs.

7. All staff members need to be involved in the development of negotiation agreements so that wise decisions can be made in the developmental stages of a move toward negotiations. Curriculum and instruction must be kept out of the negotiable item category at the outset. It is almost impossible to get them out later.

8. Universities in their teacher education programs must assume some responsibility for telling-it-like-it-is. They must assume some responsibility for educating students about negotiations and its legitimate, helpful role in the school. They must assist in making teachers wise negotiators.

9. University professors must cease contributing to the cleavage between teachers and administrators by planting an anti-administration bias in their undergraduates as a result of their own derogatory and unethical comments about school administrators.

10. As a profession which is at present suffering from some disunity, we need to sit down, take stock of where we are, seek out areas of mutual concern and agreement, and move into a new and necessary cooperative relationship. It needs to happen at all levels, but I doubt that it can happen locally if it does not also happen at the national level.

A final comment. There must be no adversary relationships in the area of curriculum and instruction. We may differ (even strenuously) on matters of salary and related issues, but curriculum and instruction is not a matter of taking sides, of strong will opposing strong will. This is another ballgame altogether. The chief concern is not teachers, board, administrators, nor even parents—it is kids and what's best for them.

If teachers and all educators are to be true to their high calling, then in matters of curriculum and instruction, the students and their needs must come first. I have great fear when decisions about curriculum and instruction are determined on the basis of the exercise of power—no matter on which side the power resides. I don't want *any* decisions about curriculum and instruction made that way, and I believe that we can find a better way.

Compiled by the Research Division

NATIONAL EDUCATION ASSOCIATION

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Negotiation Research Digest

Volume 2, No. 10 June 1969

Comparison of 1967-68 and 1968-69 Negotiation Survey Data . . . . . Data and Statistics: B-1

Eight pages of detailed tabular comparisons of the two years' data, showing increases in number of school systems with agreements, number of personnel employed in school systems with and without agreements, plus regional and enrollment strata trends.

State Statutes . . . . . Description: A-1
Text: C-1

New laws affecting educational negotiations have been enacted in Nebraska, North Dakota, South Dakota and Vermont.

Former School Board Member Disqualified as Arbitrator . . . . . Description: A-1
Text: C-4

Connecticut Superior Court rules each arbitrator on "impartial Board of three arbitrators" must be impartial.

Michigan Court Finds Arbitration was Binding . . . . . Description: A-2
Text: C-7

Parties had agreed to be bound by decision of "advisory" arbitrator.

New York Board Acts in Reprisal Case . . . . . Description: A-2
Text: C-11

Public Employment Relations Board orders reinstatement of Ockawamick teacher dismissed for organization activities.

"Wages" Include All Compensation Items . . . . . Description: A-2
Text: C-14

Arbitrator in Warren, Michigan, rules that wage items include compensation for extra-duty assignments, insurance coverage, and automobile allowance, in addition to salary schedules.

Reallocation of Funds Recommended in Elmsford, New York . . . . . Description: A-2
Text: C-17

Fact-finder recommends money allocated for improvements be used for teacher pay raise.

Akron, Ohio, Agreement . . . . . Text: D-1

Agreement between the Akron Board of Education and the Akron Education Association, effective January 1, 1969 to June 30, 1970. Provisions include staff referendum on school calendar, "cadet" program to train teachers for position as principal, and salary schedule effective July 1 with $6,000 minimum for non-degree, $7,000 minimum for B.A., and $13,000 M.A. maximum.

Publication Year Ends . . . . The next issue of the Negotiation Research Digest will be published in September 1969. See the last page of this issue for an order form to renew your subscription now.

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Description and Analysis

NEBRASKA, NORTH DAKOTA, SOUTH DAKOTA, AND VERMONT ENACT NEW STATUTES

New laws affecting educational negotiations were received from Nebraska, North Dakota and Vermont just prior to press time. Full texts of these statutes will appear in the September 1969 *Negotiation Research Digest*. The new South Dakota statute appears in Section C of this issue.

Nebraska has enacted a public employee bargaining law (Legislative Bill 15) which extends the jurisdiction of the state's Court of Industrial Relations to cover labor disputes in public employment. The act specifies that "such court shall have no jurisdiction over any persons, organizations, or school districts subject to the provisions of the Nebraska Teachers' Professional Negotiations Act, sections 79-1287 to 79-1295, Revised Statutes Supplement, 1967, until all provisions of such act have been exhausted without resolution of the dispute involved."

The North Dakota statute (House Bill 175) grants negotiation rights to organizations representing teachers or administrators (an "administrator" must spend at least 50% of his time in administration), and establishes an "education fact finding commission" composed of three members, one appointed by the governor, one by the attorney general, and one by the superintendent of public instruction. The member appointed by the superintendent of public instruction shall be chairman. The commission is empowered to adopt rules and regulations, including those governing representation elections, and the commission may act as a fact-finding panel in impasse situations.

The South Dakota law (Senate Bill No. 150), grants public employees the right to be represented by "labor or employee organizations" in matters concerning grievances or conditions of employment. Agreements reached between employee organizations and the governing body of a governmental agency will be implemented "in the form of an ordinance, resolution, or memorandum of understanding as may be appropriate."

Strikes by public employees are prohibited. Any employee organization urging a strike may be fined an amount not to exceed $50,000. Any individual urging a strike may be fined an amount not to exceed $1,000, or imprisoned for a period not to exceed one year, or both, at the discretion of the court.

The Vermont statute (No. 127 of the Acts of 1969) grants negotiation rights to organizations representing teachers or administrators (excluding superintendent and assistant superintendent), and provides for mediation and fact-finding of impasses through the American Arbitration Association. The law, which does not prohibit strikes, specifies that "No restraining order or temporary or permanent injunction shall be granted in any case brought with respect to any action taken by a representative organization or an official thereof or by a school board or representative thereof in connection with or relating to pending or future negotiations, except on the basis of findings of fact made by a court of competent jurisdiction after due hearing prior to the issuance of the restraining order or injunction that the commencement or continuance of the action poses a clear and present danger to a sound program of school education which in the light of all relevant circumstances it is in the best public interest to prevent. Any restraining order or injunction issued by a court as herein provided shall prohibit only a specific act or acts expressly determined in the findings of fact to pose a clear and present danger."

FORMER SCHOOL BOARD MEMBER DISQUALIFIED AS IMPARTIAL ARBITRATOR

The Connecticut Superior Court, Hartford County, has interpreted the wording of the impasse resolution provision in the state teacher negotiation statute, "an impartial board of three arbitrators," to mean that each individual arbitrator must be impartial.

The case was brought by the West Hartford Education Association, requesting a temporary injunction restraining the Board of Education from continuing arbitration proceedings in which one member of the panel was a former school board member.

The court found for the Association, ruling that "with all due deference to his good faith and personal integrity," the former school board member could not be considered impartial, "and therefore he cannot serve as a member of the impartial board of arbitrators required by the statute."

MICHIGAN COURT FINDS ARBITRATION AWARD TO BE BINDING

The Michigan Circuit Court for the County of Wayne held that the award of the "advisory" arbitrator in the dispute between the City of Dearborn and the Teamsters Union is binding upon the parties.

The contract provides that the Civil Service Board will issue its decision within fifteen days following receipt of the advisory arbitration report. The court found that in the present case the parties had agreed to be bound by the decision of the arbitrator. Further, even if such stipulation had not been made, the Civil Service Board had only fifteen days in which to reject the decision. Since the Board did not act on the report within the fifteen day period, it had no choice but to accept the arbitrator's decision.

NEW YORK BOARD ORDERS REINSTATEMENT OF DISMISSED TEACHER ORGANIZATION PRESIDENT

The New York Public Employment Relations Board found that the president of the Ockawamick Faculty Organization was denied reappointment and tenure because of her organizational activities.

The Board upheld its jurisdiction to rule in the case, stating "The Legislature has mandated this Board to exercise such powers as may be appropriate to effectuate the purposes and provisions of this Act [Public Employees' Fair Employment Act]. Clearly . . . , the power to deal with acts of reprisals against public employees for exercising their rights is necessary to effectuate the purposes of this Act."

The Board ordered the Ockawamick school board to reinstate the teacher as of September 1, 1968 and to compensate her for wages lost as a result of the reprisal action.

"WAGES" INCLUDE ALL COMPENSATION ITEMS

The arbitrator in the Warren Consolidated Schools (Warren, Michigan), contract interpretation case found that the reopener clause for "wages only" provides for renegotiation of all items listed as compensation, and is not limited to the basic salary schedules. Other appropriate "wage" items include compensation for extra duty assignments, insurance coverage and automobile allowance.

The contract provides for reopening the wage package under three conditions, (1) if the average of the base rates of three neighboring districts exceeds the base of the Warren district on February 1, (2) if on February 1, the Bureau of Labor Statistics Cost of Living Index exceeds 4.5% for the preceeding 12 months, or (3) if the Improvement in the State Aid Formula exceeds the base established for 1967-68 by 15%. The Warren Education Association requested renegotiation in face of the increase in the Cost of Living Index. The arbitrator ruled that the request "is quite proper under the Contract between the parties and is hereby granted."

CUT IN ALLOCATION FOR IMPROVEMENTS RECOMMENDED

The fact-finder in the Elmsford, New York, negotiations impasse recommended the adoption of a $750 across-the-board teacher pay raise. He found that certain items in the district's capital improvement program could be eliminated from the budget and financed separately through bond issues. The reallocation of funds budgeted for improvements would make the pay raise possible without requiring an increase in taxes.

Data and Statistics

COMPARISON OF 1967-68 AND 1968-69 NEGOTIATION SURVEY DATA, PRELIMINARY

The eight pages of tables which follow provide comprehensive data for comparison of the two national surveys of teacher/school board written negotiation agreements conducted in 1967-68 and 1968-69. Both surveys were sent to all school systems with an enrollment of 1,000 or more; data for the two years are completely comparable.

In order to be counted as having a written negotiation agreement (or procedure), a copy of the agreement had to be sent to the NEA Research Division and meet established minimum criteria for an agreement. Further, each agreement from last year's survey had to receive positive validation for the current year by the school system as being unchanged, or be replaced by a copy of the new agreement. Thus, some school systems counted in last year's survey as having agreements are not counted in the 1968-69 survey for one of the following reasons: positive validation of last year's agreement was not received, a copy of the new agreement was not filed, no response was received from the school system to any communication sent to ascertain the status of a negotiation agreement in the system, or the agreement was rescinded. The NEA Research Division has made every effort to make the current study as nearly complete and as accurate as possible; however, data for 1968-69 are preliminary only. Final figures will be available in September 1969.

Systems with agreements in three out of four states (Nebraska, New York, and Texas) that enacted negotiation statutes during 1967 more than doubled during the 1967-68 school year. The fourth state, Minnesota, showed a 10 percent increase in systems with agreements. Maryland and New Jersey passed negotiation statutes late in 1968. A marked increase in systems with agreements is expected in these two states during the 1969-70 school year.

Some of the highlights of the comparison of data from the two surveys are:

- Number of school systems with agreements increased to 2,624 from 2,212 in 1967-68, up 18.6 percent.
- Instructional personnel employed in school systems with agreements increased to 1,043,565 from 909,976 last year, a gain of 14.7 percent.
- 43.4 percent of responding school systems in 1968-69 have negotiation agreements, as compared to 34.8 percent in 1967-68.
- While 52.2 percent of the instructional staff in 1967-68 were employed in school systems with agreements, the comparable 1968-69 figure is 58.7 percent.
- The response rate for the 1968-69 survey was 84.5 percent.
- In the realm of national affiliation of local teacher organizations, the teacher representation by the American Federation of Teachers (AFL-CIO) increased by 19,026, while the teacher representation of the National Education Association increased by 101,994; the NEA increase was sufficiently large to raise its share of the total national teacher representation from 79.3 percent to 79.9 percent.

When comparing percentages for the two years, one should be sure to take into account the fact that the base, e.g., personnel in systems with negotiation agreements, for 1968-69 is considerably larger than that for 1967-68; in each table the base for computation of percentages is indicated. Thus, a larger figure for 1968-69 may have a smaller percent than for 1967-68 because of the considerably larger base for the 1968-69 computations.

Data from the 1967-68 survey, reproduced here for comparison purposes, was originally published in the June 1968 Negotiation Research Digest.

Tables 6B and 7B provide data on the basis of geographic regions as established by the U.S. Bureau of the Census. The states comprising the eight regions are:

Northeast: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.

Mideast: Delaware, District of Columbia, Maryland, New Jersey, New York, Pennsylvania.

Southeast: Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, West Virginia.

Great Lakes: Illinois, Indiana, Michigan, Ohio, Wisconsin.

Plains: Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota.

Southwest: Arizona, New Mexico, Oklahoma, Texas.

Rocky Mountains: Colorado, Idaho, Montana, Utah, Wyoming.

Far West: Alaska, California, Hawaii, Nevada, Oregon, Washington.

TABLE 1.--SCOPE OF SURVEYS 1967-68 AND 1968-69

State	Systems surveyed 1967-68	Systems surveyed 1968-69	Systems responding 1967-68	Systems responding 1968-69	Response rates[a] 1967-68	Response rates[a] 1968-69	Instructional staff employed in responding systems 1967-68	Instructional staff employed in responding systems 1968-69
1	2	3	4	5	6	7	8	9
Alabama	115	115	83	98	84.32	88.13	29,587	30,807
Alaska	8	8	7	8	87.5	100.0	1,172	2,604
Arizona	62	62	53	57	85.7	91.9	15,500	16,166
Arkansas	108	109	90	74	83.3	68.5	11,851	9,601
California	492	489	458	473	90.2	96.5	189,868	186,987
Colorado	60	60	59	58	98.3	96.7	21,103	23,471
Connecticut	140	110	132	94	97.1	85.5	30,574	29,600
Delaware	31	31	28	26	83.9	83.9	4,337	5,400
District of Columbia	1	1	1	1	100.0	100.0	2,705	8,500
Florida	65	64	49	51	77.8	84.1	58,153	51,997
Georgia	181	181	125	125	69.1	69.1	36,854	37,725
Hawaii	1	1	1	1	100.0	100.0	7,892	8,423
Idaho	44	44	41	39	93.2	81.8	6,273	5,824
Illinois	409	405	384	379	94.8	88.6	86,944	87,006
Indiana	256	256	231	210	90.2	82.0	47,611	47,064
Iowa	147	147	140	140	95.2	95.7	22,854	23,760
Kansas	105	102	87	81	85.3	79.4	17,528	18,539
Kentucky	168	168	114	116	71.7	71.7	23,897	23,503
Louisiana	67	67	56	52	83.6	77.6	33,872	35,134
Maine	75	75	69	67	92.0	89.3	7,971	8,233
Maryland	24	24	23	23	95.8	95.8	38,254	42,323
Massachusetts	217	229	179	178	85.2	84.8	46,864	47,487
Michigan	394	396	347	328	88.1	83.2	84,930	83,775
Minnesota	437	437	143	134	91.1	85.4	31,085	31,697
Mississippi	142	145	106	99	74.6	69.2	18,593	17,880
Missouri	217	221	195	150	90.1	81.9	33,041	33,610
Montana	31	33	32	28	97.0	84.8	5,180	5,063
Nebraska	42	41	36	32	87.8	78.0	8,139	8,026
Nevada	15	12	10	9	90.9	81.8	5,156	5,309
New Hampshire	35	35	33	29	94.3	82.9	5,043	4,147
New Jersey	311	311	284	271	91.6	87.1	62,785	60,704
New Mexico	44	44	42	39	95.5	88.6	11,088	10,688
New York	512	510	468	443	91.8	86.9	176,703	180,910
North Carolina	163	158	143	134	87.7	84.8	48,977	50,409
North Dakota	17	15	16	17	94.1	100.0	3,093	3,055
Ohio	525	525	468	454	89.0	87.3	92,030	94,618
Oklahoma	86	86	69	71	80.2	82.6	15,951	13,471
Oregon	85	82	82	79	91.2	90.5	19,004	19,780
Pennsylvania	503	505	473	444	91.7	87.9	101,734	99,081
Rhode Island	30	30	25	26	83.1	86.7	6,868	8,013
South Carolina	102	94	72	71	70.6	75.5	18,473	23,231
South Dakota	29	29	25	24	89.3	85.7	3,083	3,849
Tennessee	229	229	187	190	82.9	83.3	33,292	33,868
Texas	458	458	408	394	88.8	82.1	71,004	91,154
Utah	31	31	28	26	90.3	83.9	11,306	10,321
Vermont	18	18	16	18	88.9	94.7	2,167	2,617
Virginia	127	127	107	96	85.7	75.6	43,610	42,066
Washington	121	121	113	109	93.4	90.1	33,370	34,591
West Virginia	54	54	49	47	90.7	87.0	16,413	15,951
Wisconsin	209	210	189	180	90.4	85.7	33,893	35,416
Wyoming	19	19	18	18	94.7	94.7	3,020	3,275
Total	7,173	7,161	6,352	6,049	88.53	84.53	1,743,449	1,776,749
Strata and weightings								
1 (100,000 or more)	25	25	23	25	92.0%	100.0%	258,228	283,981
2 (50,000-99,999)	54	53	53	51	98.1	92.7	163,859	165,052
3 (25,000-49,999)	98	93	84	84	93.3	90.3	129,138	137,372
4 (10,000-24,999)	368	359	314	319	90.8	88.9	244,937	258,550
5 (5,000-9,999)	857	853	777	731	90.7	85.7	313,733	305,938
6 (2,500-4,999)	1,879	1,869	1,479	1,378	88.1	82.6	304,454	294,852
7 (1,000-2,499)	3,190	3,175	2,984	2,840	88.0	84.1	289,789	291,941
8 (1,000-1,999)	794	732	639	631	87.1	85.8	37,291	39,063
Total	7,173	7,161	6,352	6,049	88.53	84.53	1,743,449	1,776,749

[a] Response rates are determined by comparing systems responding to systems surveyed.

TABLE 2.--STATUS OF WRITTEN NEGOTIATION AGREEMENTS: SCHOOL SYSTEMS

State	Responding systems 1967-68	Responding systems 1968-69	Systems with agreements: Number 1967-68	Systems with agreements: Number 1968-69	Systems with agreements: Percent[a/] 1967-68	Systems with agreements: Percent[a/] 1968-69	Systems without agreements: Number 1967-68	Systems without agreements: Number 1968-69	Systems without agreements: Percent[a/] 1967-68	Systems without agreements: Percent[a/] 1968-69
1	2	3	4	5	6	7	8	9	10	11
Alabama	97	98	0	0	0.00	0.00	97	98	100.00	100.00
Alaska	7	8	6	7	85.7	87.5	1	1	14.3	12.5
Arizona	53	57	15	25	27.2	43.9	40	32	72.7	56.1
Arkansas	90	74	2	4	2.2	5.4	88	70	97.7	94.5
California	445	421	371	375	83.3	89.1	74	46	16.6	10.8
Colorado	59	58	22	28	37.2	48.2	37	30	62.7	51.7
Connecticut	107	94	66	73	61.6	77.6	41	21	38.3	22.3
Delaware	26	26	8	8	30.7	30.7	18	18	69.2	69.2
District of Columbia	1	1	1	1	100.0	100.0	0	0	0.0	0.0
Florida	69	57	54	10	78.3	18.8	15	43	21.6	81.1
Georgia	125	125	0	0	0.0	0.0	125	125	100.0	100.0
Guam	1	1	0	0	0.0	0.0	1	1	100.0	100.0
Idaho	41	36	18	19	43.9	52.7	23	17	56.0	47.2
Illinois	356	359	143	142	36.8	39.5	281	217	73.1	60.4
Indiana	232	219	48	53	20.7	24.2	183	157	79.2	75.7
Iowa	140	140	13	14	9.2	10.0	127	126	90.7	90.0
Kansas	87	81	40	40	45.9	49.3	47	41	54.0	[illegible]
Kentucky	116	114	14	16	12.1	14.0	102	98	87.8	[illegible]
Louisiana	58	52	0	0	0.0	0.0	58	52	100.0	100.0
Maine	69	67	12	14	17.3	20.8	57	53	82.6	79.1
Maryland	23	23	10	13	43.4	56.5	13	10	56.5	43.4
Massachusetts	179	178	131	132	72.8	74.1	48	46	27.1	25.8
Michigan	167	129	121	111	86.5	94.8	46	17	13.7	5.1
Minnesota	145	134	84	92	58.7	68.6	59	42	41.7	31.3
Mississippi	298	99	1	5	4.9	5.0	103	49	99.0	100.0
Missouri	155	140	28	48	18.0	34.2	127	92	81.9	65.7
Montana	61	78	5	10	15.6	12.8	27	18	84.3	84.2
Nebraska	87	52	4	13	14.1	40.6	32	19	85.8	59.3
Nevada	25	9	1	1	12.0	11.1	8	8	90.0	88.8
New Hampshire	33	33	11	8	33.3	24.5	22	21	66.6	72.4
New Jersey	285	270	171	116	59.8	42.9	114	153	40.0	57.3
New Mexico	42	39	29	11	71.6	28.2	11	28	38.5	71.7
New York	488	443	135	352	28.6	79.5	353	91	71.3	20.5
North Carolina	143	136	1	1	0.6	0.7	142	135	99.3	99.2
North Dakota	18	17	7	8	43.7	47.0	9	9	56.2	52.9
Ohio	468	456	188	237	40.1	52.2	280	217	59.8	47.7
Oklahoma	89	71	4	4	5.2	5.6	85	67	94.7	94.3
Oregon	83	78	63	65	76.8	82.7	19	14	23.1	17.7
Pennsylvania	473	465	89	105	18.8	23.6	384	339	81.0	76.1
Rhode Island	25	26	18	22	72.0	84.6	7	4	28.0	15.3
South Carolina	72	71	1	1	1.3	1.4	71	70	98.6	98.5
South Dakota	24	24	7	4	28.0	16.6	18	20	72.0	83.3
Tennessee	107	110	3	4	2.8	3.6	104	106	97.1	96.3
Texas	306	294	9	25	2.9	8.5	299	269	97.0	91.4
Utah	28	26	7	5	25.0	19.2	21	21	75.0	80.7
Vermont	16	25	4	4	25.0	22.2	12	14	75.0	77.7
Virginia	107	96	4	7	3.7	7.2	103	89	96.2	92.7
Washington	111	109	91	92	80.5	84.4	22	13	19.4	15.5
West Virginia	53	47	3	4	6.1	8.5	46	43	93.8	91.4
Wisconsin	189	180	88	93	46.5	51.6	101	87	53.4	48.3
Wyoming	18	18	5	5	27.7	27.7	13	13	72.2	72.2
Total	8,192	8,049	2,212	2,624	34.82	43.45	4,140	3,425	65.25	56.65

Status and enrollment	Responding systems 1967-68	Responding systems 1968-69	Systems with agreements: Number 1967-68	Systems with agreements: Number 1968-69	Systems with agreements: Percent[a/] 1967-68	Systems with agreements: Percent[a/] 1968-69	Systems without agreements: Number 1967-68	Systems without agreements: Number 1968-69	Systems without agreements: Percent[a/] 1967-68	Systems without agreements: Percent[a/] 1968-69
1 (100,000 or more)	23	23	18	19	78.2%	76.0%	5	6	21.7%	24.0%
2 (50,000-99,999)	51	51	13	11	42.2	60.7	20	20	57.7	39.2
3 (25,000-49,999)	84	84	44	51	52.5	60.7	40	33	47.6	39.2
4 (12,000-24,999)	314	319	165	191	52.7	59.8	149	128	47.4	40.1
5 (6,000-11,999)	777	791	356	389	45.8	51.2	421	362	54.1	46.7
6 (3,000-5,999)	1,439	1,378	589	672	39.8	48.2	890	706	60.4	51.2
7 (1,200-2,999)	2,997	2,840	862	1,065	28.8	37.5	2,121	1,775	71.1	62.5
8 (1,000-1,199)	639	621	145	206	22.6	33.1	494	415	77.3	66.8
Total	8,192	8,049	2,212	2,624	34.82	43.45	4,140	3,425	65.25	56.65

a/ Computation of percents based on the number of responding school systems for the given year.

TABLE 1. ANALYSIS OF BOARDS WITH NEGOTIATION AGREEMENTS: INSTRUCTIONAL PERSONNEL

State	Instructional personnel in responding systems 1967-68	Instructional personnel in responding systems 1968-69	Instructional personnel in systems with agreements: Number 1967-68	Number 1968-69	Percentage 1967-68	Percentage 1968-69	Instructional personnel in systems without agreements: Number 1967-68	Number 1968-69	Percentage 1967-68	Percentage 1968-69
1	2	3	4	5	6	7	8	9	10	11
Alabama	29,787	30,807	0	0	0.00	0.00	29,787	30,807	100.00	100.00
Alaska	1,177	3,804	811	2,688	68.9	81.4	571	116	48.7	4.5
Arizona	17,180	24,188	7,828	11,244	45.5	46.9	8,471	5,922	54.8	31.8
Arkansas	12,851	9,401	1,216	2,017	9.5	21.5	10,637	7,384	89.2	78.5
California	199,868	186,387	175,261	179,529	87.7	96.3	24,607	3,868	7.7	1.9
Colorado	23,259	23,611	16,238	19,710	69.8	83.4	7,087	4,121	30.5	17.5
Connecticut	36,574	28,600	21,713	22,854	59.4	79.9	8,861	5,746	22.3	20.1
Delaware	4,757	5,495	1,294	1,367	27.2	24.9	3,463	3,838	72.8	69.8
District of Columbia	2,555	8,500	2,555	8,500	100.0	100.0	0	0	0.0	0.0
Florida	86,151	91,947	36,735	32,613	42.6	35.5	49,416	59,334	57.4	64.5
Georgia	56,626	67,725	0	0	0.0	0.0	56,626	67,725	100.0	100.0
Hawaii	7,892	8,421	0	0	0.0	0.0	7,892	8,421	100.0	100.0
Idaho	6,273	5,824	3,037	2,836	48.4	48.7	3,236	2,988	51.6	51.3
Illinois	86,941	80,906	48,040	37,823	55.2	46.7	38,901	43,083	44.7	53.3
Indiana	47,951	47,994	16,873	18,666	35.2	38.9	32,078	29,328	66.8	61.1
Iowa	22,826	23,765	6,312	5,884	28.7	24.7	16,732	17,880	73.2	75.2
Kansas	17,529	18,319	11,344	12,589	64.7	68.7	6,184	5,730	35.2	31.3
Kentucky	23,947	21,361	7,854	8,438	32.7	39.5	16,093	12,923	67.2	60.5
Louisiana	33,872	33,134	0	0	0.0	0.0	33,872	33,134	100.0	100.0
Maine	7,901	8,203	2,501	2,611	31.7	31.8	5,439	5,592	68.3	68.2
Maryland	38,254	42,323	32,673	37,008	85.4	86.9	5,581	5,315	14.6	12.5
Massachusetts	46,864	47,487	32,135	38,064	68.6	80.1	14,729	9,423	31.4	19.8
Michigan	84,930	83,773	80,534	81,993	94.8	97.9	4,396	1,780	5.1	2.1
Minnesota	35,095	33,847	28,366	29,226	81.5	82.7	11,525	5,673	36.4	17.3
Mississippi	17,595	17,885	601	3	3.4	0.0	16,990	17,880	97.6	100.0
Missouri	33,061	35,828	8,289	15,718	25.0	46.7	24,752	17,900	74.9	53.2
Montana	5,180	5,063	856	2,950	16.5	58.6	4,324	2,113	83.4	41.3
Nebraska	8,139	8,226	2,750	3,404	33.8	67.3	5,489	2,822	66.2	32.6
Nevada	5,138	5,809	1,208	1,252	23.4	21.5	3,948	4,557	76.5	78.4
New Hampshire	5,243	5,247	1,114	1,289	21.0	24.1	4,129	3,958	78.9	75.8
New Jersey	82,785	83,554	51,240	59,695	62.4	68.9	31,545	21,009	37.5	31.0
New Mexico	11,008	10,869	5,021	5,341	45.1	49.9	6,043	5,347	54.8	50.0
New York	236,701	185,910	150,489	144,886	62.5	81.1	86,216	35,024	37.4	8.8
North Carolina	48,977	50,409	336	853	0.6	1.7	48,641	49,522	99.3	98.2
North Dakota	3,993	4,053	1,942	1,831	59.2	39.9	1,261	1,222	40.7	60.0
Ohio	82,030	84,618	53,456	63,455	58.5	69.1	38,574	29,163	41.9	30.8
Oklahoma	13,432	13,492	8,853	7,869	65.9	12.3	11,094	11,803	84.5	87.6
Oregon	19,906	21,780	17,094	17,138	85.9	90.1	2,800	1,942	14.5	9.8
Pennsylvania	131,734	89,081	86,893	61,477	66.0	41.6	45,017	57,604	63.9	58.1
Rhode Island	8,868	8,253	7,902	7,467	85.9	92.4	966	608	14.0	7.5
South Carolina	18,471	23,231	590	725	6.7	3.1	17,783	22,506	96.2	96.8
South Dakota	3,883	3,849	1,467	1,033	47.5	26.8	2,416	2,816	52.4	73.1
Tennessee	31,292	35,868	9,688	9,949	29.1	29.1	21,[illegible]	21,9[illegible]	70.8	70.8
Texas	75,006	81,134	8,624	23,123	13.5	28.2	61,380	58,129	86.4	71.7
Utah	12,306	13,821	6,404	5,710	38.6	38.1	6,897	5,111	43.1	49.5
Vermont	2,182	2,821	420	692	19.3	26.4	1,747	1,925	80.6	73.5
Virginia	43,818	2,066	7,867	10,925	18.3	25.9	35,701	31,141	81.8	74.0
Washington	33,170	30,591	29,155	32,939	87.9	95.2	4,015	1,652	12.0	4.7
West Virginia	16,411	15,951	580	1,787	3.5	11.2	15,831	14,154	96.4	88.7
Wisconsin	33,991	35,416	15,709	25,146	49.9	72.2	18,184	9,820	50.0	27.7
Wyoming	3,000	3,171	1,713	1,758	57.1	55.4	1,287	1,413	42.6	44.5
Total	1,741,449	1,776,769	809,976	1,043,365	62.2%	58.7%	831,473	733,184	47.8%	41.3%

Interval and continued										
1 (100,000 or more)	158,229	283,981	231,419	249,014	89.6%	87.6%	26,803	34,967	10.3%	12.3%
2 (50,000-99,999)	165,854	169,551	108,147	102,791	65.2	62.2	57,712	62,759	34.7	37.7
3 (25,000-49,999)	129,138	139,372	67,306	82,317	52.1	60.0	61,832	54,855	47.8	39.9
4 (12,000-24,999)	244,852	258,650	116,575	139,398	53.7	62.7	113,182	98,952	46.2	38.2
5 (6,000-11,999)	313,731	305,918	149,651	170,203	47.7	55.6	164,082	135,735	52.2	44.3
6 (3,000-5,999)	304,456	294,852	125,423	151,394	41.3	51.4	179,031	143,258	58.8	48.5
7 (1,200-2,999)	288,389	291,341	82,873	114,846	28.3	39.4	205,916	177,095	69.6	60.6
8 (1,000-1,199)	37,291	34,063	9,578	13,000	25.6	33.2	28,713	26,063	76.9	66.7
Total	1,741,449	1,776,769	809,976	1,043,365	52.2%	58.7%	831,473	733,184	47.8%	41.3%

a/ Computation of percents based on the number of instructional personnel in responding school systems for the given year.

TABLE 4.—SUMMARY OF PROPOSALS, FORMAL RESPONSES OF NATIONAL AFFILIATES OF LOCAL ORGANIZATIONS FOR NEGOTIATION PURPOSES

	Number of Proposals						Number of Proposals Accepted						Number of Proposals Rejected					
	Total			Percent			Total			Percent			Total			Percent		
	1967-68	1968-69	1969-70	1967-68	1968-69	1969-70	1967-68	1968-69	1969-70	1967-68	1968-69	1969-70	1967-68	1968-69	1969-70	1967-68	1968-69	1969-70
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

TABLE 1.—SCHOOL SYSTEMS WITH EXCLUSIVE REPRESENTATION OF PROFESSIONAL STAFF IN NEGOTIATION BY NATIONAL AFFILIATION OF LOCAL ORGANIZATIONS(a)(b)/

PART A

State	Systems with organizational representation		National Education Association				American Federation of Teachers			
			Number		Percent c/		Number		Percent c/	
	1967-68	1968-69	1967-68	1968-69	1967-68	1968-69	1967-68	1968-69	1967-68	1968-69
1	2	3	4	5	6	7	8	9	10	11
Alabama	0	0	0	0	0.0%	0.0%	0	0	0.0%	0.0%
Alaska	4	3	4	3	100.0	100.0	0	0	0.0	0.0
Arizona	24	24	24	24	100.0	100.0	0	0	0.0	0.0
Arkansas	4	4	2	3	100.0	75.0	0	0	0.0	0.0
California	151	177	136	144	90.6	91.2	0	0	0.0	0.0
Colorado	22	28	22	27	100.0	96.4	0	0	0.0	0.0
Connecticut	68	73	62	67	91.9	91.8	1	1	4.5	1.4
Delaware	8	8	8	8	100.0	100.0	0	0	0.0	0.0
District of Columbia	1	1	0	0	0.0	0.0	1	1	100.0	100.0
Florida	14	10	14	9	100.0	90.0	0	0	0.0	0.0
Georgia	0	0	0	0	0.0	0.0	0	0	0.0	0.0
Hawaii	0	0	0	0	0.0	0.0	0	0	0.0	0.0
Idaho	17	18	16	18	94.1	100.0	0	0	0.0	0.0
Illinois	98	139	73	108	74.5	77.7	22	27	22.4	19.4
Indiana	47	53	42	48	89.4	90.6	2	4	4.3	7.5
Iowa	13	13	12	13	92.3	100.0	0	0	0.0	0.0
Kansas	39	39	39	39	100.0	100.0	0	0	0.0	0.0
Kentucky	9	14	9	14	100.0	100.0	0	0	0.0	0.0
Louisiana	0	0	0	0	0.0	0.0	0	0	0.0	0.0
Maine	14	14	12	14	100.0	100.0	0	0	0.0	0.0
Maryland	10	13	9	12	90.0	92.3	1	1	10.0	7.7
Massachusetts	111	133	106	127	95.5	96.2	3	3	2.7	2.3
Michigan	301	311	283	293	94.0	94.9	17	15	5.6	4.8
Minnesota	84	87	54	52	64.3	58.5	2	2	2.4	2.2
Mississippi	1	1	1	0	100.0	0.0	0	0	0.0	0.0
Missouri	27	46	27	45	100.0	97.8	0	1	0.0	2.2
Montana	4	9	2	7	50.0	77.8	2	2	50.0	22.2
Nebraska	4	13	4	13	100.0	100.0	0	0	0.0	0.0
Nevada	1	1	1	1	100.0	100.0	0	0	0.0	0.0
New Hampshire	11	8	11	8	100.0	100.0	0	0	0.0	0.0
New Jersey	159	154	157	151	98.7	97.4	0	0	0.0	0.0
New Mexico	9	11	9	11	100.0	100.0	0	0	0.0	0.0
New York	134	152	128	145	95.5	95.2	4	6	3.0	3.7
North Carolina	1	1	1	1	100.0	100.0	0	0	0.0	0.0
North Dakota	7	8	7	8	100.0	100.0	0	0	0.0	0.0
Ohio	184	234	181	230	98.4	98.3	2	3	1.1	1.3
Oklahoma	4	4	4	4	100.0	100.0	0	0	0.0	0.0
Oregon	0	0	0	0	0.0	0.0	0	0	0.0	0.0
Pennsylvania	88	104	86	103	97.7	99.0	1	0	1.1	0.0
Rhode Island	19	22	16	17	84.2	77.3	2	5	11.1	22.7
South Carolina	1	1	1	1	100.0	100.0	0	0	0.0	0.0
South Dakota	7	4	7	4	100.0	100.0	0	0	0.0	0.0
Tennessee	3	4	3	4	100.0	100.0	0	0	0.0	0.0
Texas	8	25	8	23	100.0	92.0	0	0	0.0	0.0
Utah	3	3	3	3	100.0	100.0	0	0	0.0	0.0
Vermont	4	4	4	4	100.0	100.0	0	0	0.0	0.0
Virginia	7	7	7	7	100.0	100.0	0	0	0.0	0.0
Washington	91	92	91	92	100.0	100.0	0	0	0.0	0.0
West Virginia	3	3	3	3	100.0	100.0	0	0	0.0	0.0
Wisconsin	90	93	85	88	94.3	94.6	5	5	5.7	5.4
Wyoming	5	5	5	5	100.0	100.0	0	0	0.0	0.0
Total	2,116	2,540	1,968	2,338	93.0%	92.0%	67	76	3.2%	3.0%
Version and enrollment										
1 (100,000 or more)	18	19	19	10	55.6%	52.6%	6	6	33.3%	31.6%
2 (50,000-99,999)	32	30	30	23	93.8	76.7	1	3	3.1	10.0
3 (25,000-49,999)	44	53	35	40	79.5	75.4	4	5	9.1	9.4
4 (12,000-24,999)	162	186	137	61	84.6	86.6	10	11	6.2	5.9
5 (6,000-11,999)	344	378	304	325	88.4	86.0	15	16	4.4	4.2
6 (3,000-5,999)	562	650	523	599	93.1	92.2	18	21	3.2	3.2
7 (1,000-2,999)	818	1,028	797	987	97.4	96.0	11	14	1.3	1.4
8 (300-1,999)	138	188	132	173	97.1	97.5	2	2	1.5	1.0
Total	2,116	2,540	1,968	2,338	93.0%	92.0%	67	76	3.2%	3.0%

a/ Exclusive representation. For purposes of this table, is based upon national affiliation. If two or more local organizations with the same national affiliation represent the professional staff, the school system is credited to the national organization.

b/ Information of percents is based upon the numbers of school systems with organizational representation for the given year.

c/ The Oregon education provides organizational representation.

TABLE 5.--SCHOOL SYSTEMS WITH EXCLUSIVE REPRESENTATION OF PROFESSIONAL STAFF IN NEGOTIATION BY NATIONAL AFFILIATION OF LOCAL ORGANIZATION(s)[a/]
PART B

State	Systems with organizational representation		Independent				Two or more organizations with mixed affiliation			
			Number		Percent[b/]		Number		Percent[b/]	
	1967-68	1968-69	1967-68	1968-69	1967-68	1968-69	1967-68	1968-69	1967-68	1968-69
1	2	3	4	5	6	7	8	9	10	11
Alabama	0	0	0	0	0.0%	0.0%	0	0	0.0%	0.0%
Alaska	4	7	0	0	0.0	0.0	0	0	0.0	0.0
Arizona	14	24	0	0	0.0	0.0	0	0	0.0	0.0
Arkansas	2	4	0	0	0.0	0.0	0	1	0.0	25.0
California	371	377	0	0	0.0	0.0	35	33	9.4	8.8
Colorado	22	28	0	0	0.0	0.0	0	1	0.0	3.6
Connecticut	66	73	0	0	0.0	0.0	1	5	1.5	6.8
Delaware	8	8	0	0	0.0	0.0	0	0	0.0	0.0
District of Columbia	1	1	0	0	0.0	0.0	0	0	0.0	0.0
Florida	14	10	0	0	0.0	0.0	0	1	0.0	10.0
Georgia	0	0	0	0	0.0	0.0	0	0	0.0	0.0
Hawaii	0	0	0	0	0.0	0.0	0	0	0.0	0.0
Idaho	17	18	0	0	0.0	0.0	1	0	5.9	0.0
Illinois	98	139	1	4	1.0	2.9	2	0	2.0	0.0
Indiana	47	53	1	0	2.1	0.0	2	1	4.3	1.9
Iowa	13	13	0	0	0.0	0.0	1	0	7.7	0.0
Kansas	39	39	0	0	0.0	0.0	0	0	0.0	0.0
Kentucky	9	14	0	0	0.0	0.0	0	0	0.0	0.0
Louisiana	0	0	0	0	0.0	0.0	0	0	0.0	0.0
Maine	11	14	0	0	0.0	0.0	0	0	0.0	0.0
Maryland	10	13	0	0	0.0	0.0	0	0	0.0	0.0
Massachusetts	111	132	0	0	0.0	0.0	2	2	1.8	1.5
Michigan	301	311	1	0	0.3	0.0	0	1	0.0	0.3
Minnesota	84	92	1	1	1.2	1.1	27	37	32.1	40.2
Mississippi	1	0	0	0	0.0	0.0	0	0	0.0	0.0
Missouri	27	46	0	0	0.0	0.0	0	0	0.0	0.0
Montana	4	9	0	0	0.0	0.0	0	0	0.0	0.0
Nebraska	4	13	0	0	0.0	0.0	0	0	0.0	0.0
Nevada	1	1	0	0	0.0	0.0	0	0	0.0	0.0
New Hampshire	11	8	0	0	0.0	0.0	0	0	0.0	0.0
New Jersey	159	114	0	0	0.0	0.0	2	3	1.3	2.6
New Mexico	9	11	0	0	0.0	0.0	0	0	0.0	0.0
New York	134	352	0	6	0.0	1.7	2	26	1.5	7.4
North Carolina	1	1	0	0	0.0	0.0	0	0	0.0	0.0
North Dakota	7	8	0	0	0.0	0.0	0	0	0.0	0.0
Ohio	184	234	0	1	0.0	0.4	1	0	0.5	0.0
Oklahoma	4	4	0	0	0.0	0.0	0	0	0.0	0.0
Oregon[c/]	0	0	0	0	0.0	0.0	0	0	0.0	0.0
Pennsylvania	88	104	0	0	0.0	0.0	1	1	1.1	1.0
Rhode Island	18	22	0	0	0.0	0.0	0	0	0.0	0.0
South Carolina	1	1	0	0	0.0	0.0	0	0	0.0	0.0
South Dakota	7	4	0	0	0.0	0.0	0	0	0.0	0.0
Tennessee	3	4	0	0	0.0	0.0	0	0	0.0	0.0
Texas	9	25	0	1	0.0	4.0	0	1	0.0	4.0
Utah	7	5	0	0	0.0	0.0	0	0	0.0	0.0
Vermont	4	4	0	0	0.0	0.0	0	0	0.0	0.0
Virginia	4	7	0	0	0.0	0.0	0	0	0.0	0.0
Washington	91	92	0	0	0.0	0.0	0	0	0.0	0.0
West Virginia	3	3	0	0	0.0	0.0	0	0	0.0	0.0
Wisconsin	88	93	0	0	0.0	0.0	0	0	0.0	0.0
Wyoming	5	5	0	0	0.0	0.0	0	0	0.0	0.0
Total	2,116	2,540	4	13	0.2%	0.5%	77	113	3.6%	4.4%
Stratum and enrollment										
1 (100,000 or more)	18	19	0	0	0.0%	0.0%	2	3	11.1%	15.8%
2 (50,000-99,999)	32	30	0	0	0.0	0.0	1	4	3.1	13.3
3 (25,000-49,999)	44	51	0	0	0.0	0.0	5	8	11.4	15.7
4 (12,000-24,999)	162	186	0	0	0.0	0.0	15	14	9.3	7.5
5 (6,000-11,999)	344	378	1	2	0.3	0.5	24	35	7.0	9.3
6 (3,000-5,999)	562	650	1	1	0.2	0.2	20	29	3.6	4.5
7 (1,200-2,999)	818	1,028	1	7	0.1	0.7	9	20	1.1	1.9
8 (1,000-1,199)	136	198	1	3	0.7	1.5	1	0	0.7	0.0
Total	2,116	2,540	4	13	0.2%	0.5%	77	113	3.6%	4.4%

a/ Exclusive representation for purposes of this table, is based upon national affiliation. If two or more local organizations with the same national affiliation represent the professional staff, the school system is credited to the national organization.

b/ Computation of percents is based upon the number of school systems with organizational representation for the given year.

c/ The Oregon statute precludes organizational representation.

TABLE 6A.--PERCENT OF SCHOOL SYSTEMS WHICH HAVE WRITTEN AGREEMENTS BY WHICH LOCAL TEACHERS NEGOTIATE FOR ALL OR PART OF THE PROFESSIONAL STAFF IN RESPONDING SCHOOL SYSTEMS

Item		Enrollment stratum								
		Total	1	2	3	4	5	6	7	8
1		2	3	4	5	6	7	8	9	10
Yes:	1967-68 ...	34.8%	78.3%	62.3%	52.4%	52.5%	45.8%	39.8%	28.9%	22.7%
	1968-69 ...	43.4	76.0	60.8	60.7	59.9	53.2	48.8	37.5	33.2
No:	1967-68 ...	65.2	21.7	37.7	47.6	47.5	54.2	60.2	71.1	77.3
	1968-69 ...	56.6	24.0	39.2	39.3	40.1	46.8	51.2	62.5	66.8
Total:	1967-68 ...	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
	1968-69 ...	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Total response:	1967-68 ...	6,352	23	53	84	314	777	1,479	2,983	639
	1968-69 ...	6,049	25	51	84	319	731	1,378	2,840	621

TABLE 7A.--PERCENT OF INSTRUCTIONAL STAFF IN SCHOOL SYSTEMS WHICH HAVE WRITTEN AGREEMENTS BY WHICH LOCAL TEACHERS NEGOTIATE FOR ALL OR PART OF THE PROFESSIONAL STAFF IN RESPONDING SCHOOL SYSTEMS

Item		Enrollment stratum								
		Total	1	2	3	4	5	6	7	8
1		2	3	4	5	6	7	8	9	10
Yes:	1967-68 ...	52.2%	89.6%	65.2%	52.1%	53.7%	47.7%	41.2%	30.3%	23.0%
	1968-69 ...	58.7	87.7	62.3	60.1	61.7	55.6	51.4	39.3	33.3
No:	1967-68 ...	47.8	10.4	34.8	47.9	46.3	52.3	58.8	69.7	77.0
	1968-69 ...	41.3	12.3	37.7	39.9	38.3	44.4	48.6	60.7	66.7
Total:	1967-68 ...	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
	1968-69 ...	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Total response:	1967-68 ...	1,743,449	258,228	165,859	129,138	244,957	313,733	304,454	289,789	37,291
	1968-69 ...	1,776,749	283,981	165,052	137,372	258,550	305,938	294,852	291,941	39,063

Stratum	School system enrollment
1	100,000 or more
2	50,000-99,999
3	25,000-49,999
4	12,000-24,999
5	6,000-11,999
6	3,000- 5,999
7	1,200- 2,999
8	1,000- 1,199

TABLE 6B.--PERCENT OF SCHOOL SYSTEMS WHICH HAVE WRITTEN AGREEMENTS BY WHICH LOCAL TEACHERS NEGOTIATE FOR ALL OR PART OF THE PROFESSIONAL STAFF IN RESPONDING SCHOOL SYSTEMS

Item		Enrollment grouping			Region							
		A (25,000 or more)	B (3,000 to 24,999)	C (1,000 to 2,999)	North-east	Mid-east	South-east	Great Lakes	Plains	South-west	Rocky Moun-tains	Far West
1		2	3	4	5	6	7	8	9	10	11	12
Yes:	1967-68 ...	59.4%	43.2%	27.8%	51.7%	32.4%	3.7%	44.9%	30.4%	7.8%	32.0%	80.4%
	1968-69 ...	63.1	51.6	36.7	61.1	49.1	5.2	54.5	38.3	14.5	41.1	86.1
No:	1967-68 ...	40.6	56.8	72.2	48.3	67.6	96.3	55.1	69.6	92.2	68.0	19.6
	1968-69 ...	36.9	48.4	63.3	38.9	50.9	94.8	45.5	61.7	85.5	58.9	13.9
Total:	1967-68 ...	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
	1968-69 ...	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Total response:	1967-68 ...	160	2,570	3,622	429	1,276	1,115	1,620	601	474	178	659
	1968-69....	160	2,428	3,461	414	1,198	1,083	1,531	566	462	168	627

TABLE 7B.--PERCENT OF INSTRUCTIONAL STAFF IN SCHOOL SYSTEMS WHICH HAVE WRITTEN AGREEMENTS BY WHICH LOCAL TEACHERS NEGOTIATE FOR ALL OR PART OF THE PROFESSIONAL STAFF IN RESPONDING SCHOOL SYSTEMS

Item		Enrollment grouping			Region							
		A (25,000 or more)	B (3,000 to 24,999)	C (1,000 to 2,999)	North-east	Mid-east	South-east	Great Lakes	Plains	South-west	Rocky Moun-tains	Far West
1		2	3	4	5	6	7	8	9	10	11	12
Yes:	1967-68 ...	73.5%	47.1%	29.5%	66.6%	58.3%	17.7%	63.9%	43.4%	23.4%	57.4%	87.1%
	1968-69 ...	74.1	56.0	38.6	75.5	71.5	15.9	71.3	55.2	34.6	64.4	90.8
No:	1967-68 ...	26.5	52.9	70.5	33.4	41.7	82.3	36.1	56.6	76.6	42.6	12.9
	1968-69 ...	25.9	44.0	61.4	24.5	28.5	84.1	28.7	44.8	65.4	35.6	9.2
Total:	1967-68 ...	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
	1968-69 ...	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Total response:	1967-68 ...	553,225	863,144	327,080	99,487	391,520	369,544	345,476	118,755	113,523	48,882	256,262
	1968-69 ...	586,405	859,340	331,004	100,407	395,055	373,853	347,511	122,884	131,349	48,395	257,295

Judicial Decisions, Opinions, and Statutes

SOUTH DAKOTA

SENATE BILL NO. 150

A BILL

FOR AN ACT ENTITLED, An Act prohibiting strikes by public employees, prohibiting consenting to strikes by supervisors; prohibiting inciting, agitating, influencing, coercing or urging public employees to strike; providing for proceedings to establish violations; providing for the right of complaint and to form or join labor or employee organizations; and providing for the implementation of settlements.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1.

Definitions.

1. Public Employees. The word "public employees" as used in this act shall mean any person holding a position by appointment or employment in the government of the State of South Dakota or in the government of any one or more of the political subdivisions thereof, or in the service of the public schools, or in the service of any authority, commission, or board, or any other branch of the public service.

2. Strike. The word "strike" as used in the act shall mean the failure to report for duty, the wilful absence from one's position, the stoppage of work, or the abstinence in whole or in part from the full, faithful and proper performance of the duties of employment by concerting action with others, and without the lawful approval of one's superior, or in any manner interferring with the operation of government of the State of South Dakota, the government of any of the political subdivisions thereof, the public schools or any authority, commission, board or branch thereof, for the purpose of inducing, influencing or coercing a change in the conditions or compensation or the rights, privileges or obligations of employment.

Section 2.

Strikes Prohibited. No public employee shall strike against the State of South Dakota, any of the political subdivisions thereof, any of its authorities, commissions, or boards, the public school system or any other branch of the public service. Provided, however, nothing contained in this act shall be construed to limit, impair or affect, the right of any public employee to the expression or communication of a view, grievance, complaint or opinion on any matter related to the conditions or compensation of public employment or their betterment with the full, faithful and proper performance of the duties of employment.

Section 3.

No person exercising any authority, supervision or direction over any public employee shall have the power to authorize, approve, or consent to a strike by one or more employees, and such person shall not authorize, approve or consent to such strike, nor shall any such person discharge or cause any public employee to be discharged or separated from his or her employment because of participation in the submission of a grievance in accordance with the provision of section 2 of this act.

Section 4.

Any state or national association or employee organization of public employees who shall knowingly incite, agitate, influence, coerce, or urge a public employee to strike shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed Fifty Thousand Dollars ($50,000).

Section 5.

Any employee or group of employees who shall knowingly incite, agitate, influence, coerce, or urge a public employee to strike shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed One Thousand Dollars ($1,000.00) or

imprisonment not to exceed one year, or both such fine and imprisonment in the discretion of the court.

Section 6.

The governing boards of the state and its political subdivisions shall apply for injunctive relief in Circuit Court immediately upon the existance of a strike or related activities, and the States Attorney of every county shall have the same duty and enforcement of the act.

Section 7.

Any public employee, upon request, shall be entitled, as hereinafter provided, to establish that he did not violate the provisions of sections 2 and 3. Such requests must be filed in writing with the officer or body having the power and authority over such employees, within ten days after any action has been taken against such employee, whereupon such officer, or body, shall within ten days commence a proceeding at which time such person shall be entitled to be heard for the purpose of determining whether the provisions of sections 2 and 3 of the Act have been violated by such public employee. Such proceedings shall be undertaken without any unnecessary delay. The decision of such proceedings shall be made within ten days. In the event that the employee involved is held to have violated this law and action is taken against him, he shall have the right of review by a trial de novo in the circuit court. Petition for such trial must be made within 20 days after the decision of the above proceedings is made known to the employee.

Subd. 1. Nothing contained in this act shall be construed to limit, impair, or affect the right of any public employee or his or her representative to the expression or communication of a view, grievance, complaint or opinion on any matter related to the conditions or compensation of public employment or their betterment, so long as the same is not designed to and does not interfere with the full, faithful and proper performance of the duties of employment; nor shall it be construed to require any public employee to perform labor or services against his will.

Subd. 2. Public employees shall have the right to form and join labor or employee organizations, and shall have the right not to form and join such organizations. Public employees shall have the right to designate representatives for the purpose of meeting and conferring with the governmental agency or representatives designated by it with respect to grievances and conditions of employment. It shall be unlawful to discharge or otherwise discriminate against an employee for the exercise of such rights, and the governmental agency or its designated representatives shall be required to meet and confer with the representatives of the employees at reasonable times in connection with such grievances and conditions of employment. It shall be unlawful for any person or group of persons, either directly or indirectly, to intimidate or coerce any public employee to join, or to refrain from joining, a labor or employee organization.

Subd. 3. Organizations of public employees shall be granted recognition by a governmental agency according to the extent to which they represent employees of the governmental agency. Informal recognition shall be granted to any labor or employee organization regardless of the recognition granted to any other labor or employee organization. Informal recognition shall give an organization the right to meet with, confer, and otherwise communicate with the governmental agency or its designated representatives on matters of interest to its members. Formal recognition shall be granted to any labor or employee organization representing a majority of the employees in an appropriate unit. Formal recognition shall give an organization the right to meet with, confer and otherwise communicate with the governmental agency or its designated representatives with the object of reaching a settlement applicable to all employees of the unit.

Subd. 4. When a governmental agency declines to grant formal recognition or when a question concerning the designation of a representation unit is raised by the governmental agency, labor or employee organization, or employees, the labor commissioner or any person designated by him shall, at the request of any of the parties, investigate such question and, after a hearing if requested by any party, rule on the definition of the appropriate representation unit. He shall certify to the parties in writing the proper definition of the unit. In defining the unit, the labor commissioner shall take into consideration, along with other relevant factors, the principles of efficient administration of government, the principles and the coverage of uniform comprehensive position classification and compensation plans in the governmental agency, the history and extent of organization, occupational classification, administrative and supervisory levels of authority, geographical location, and the recommendations of the parties.

Subd. 5. When a question concerning the representative of employees is raised by the governmental agency, labor or employee organization, or employees, the labor commissioner or any person designated by him shall, at the request of any of the parties, investigage such question and certify to the parties in writing, the name or names of the representatives that have been designated or selected. The filing of a petition for the investigation or certification of a representative of employees by any of the parties shall constitute a question within the meaning of this section. In any such investigation, the labor commissioner may provide for an appropriate hearing, and shall take a secret ballot of employees to ascertain such representatives for the purposes of formal recognition. If the labor commissioner has certified a formally recognized representative in a unit of employees as provided in this section, he shall not be required to consider the matter again for a period of one year unless it appears to him that sufficient reason exists. The labor commissioner may promulgate such rules

and regulations as may be appropriate to carry out the provisions of subdivisions 4 and 5 of this section.

Section 8.

If a tentative settlement is reached between a labor or employee organization or organizations and the designated representatives of the governmental agency, such representatives shall recommend such settlement to the governing body or officer having authority to take action. The governing body or officer shall as soon as practicable consider the recommendations and take such action, if any, upon them as it or he deems appropriate. If a settlement is reached with a labor or employee organization or organizations and the governing body, such governing body shall implement the settlement in the form of an ordinance, resolution, or memorandum of understanding as may be appropriate. If the settlement requires the adoption of a law or charter amendment to implement it fully, the governmental agency shall make every reasonable effort to propose and secure the enactment of the law or charter amendment.

EDUCATION ASSN. v. BOARD OF EDUCATION

Connecticut Superior Court,
Hartford County

WEST HARTFORD EDUCATION ASSOCIATION v. WEST HARTFORD BOARD OF EDUCATION et al.,
No. 153716, February 23, 1968

GOVERNMENT EMPLOYMENT

–Construction of statute–Connecticut Act ▶ 100.07 ▶ 94.56

Provision for an "impartial board of three arbitrators" in Connecticut Act granting certificated professional employees the right to organize (SLL 16:259) is construed to mean that each individual arbitrator must be impartial. – West Hartford Education Assn. v. West Hartford Board of Education (Conn SuperCt, 1968) 68:2371.

Former member and chairman of county board of education does not qualify as an "impartial" arbitrator, in dispute between professional employees association and board of education, under Connecticut Act requiring an "impartial board of three arbitrators" (SLL 16:259). –West Hartford Education Assn. v. West Hartford Board of Education (Conn SuperCt, 1968) 68:2371.

Prayer for temporary injunction restraining Board of Education from proceeding further with arbitration proceedings. Injunction granted.

Hoppin, Carey & Powell, Hartford, Conn., for plaintiff.

Shipman & Goodwin, Hartford, Conn., for defendants.

PALMER, Judge:–This is a proceeding held on the prayer in the plaintiff's complaint for a temporary injunction restraining the defendants from proceeding further with certain arbitration proceedings until the final determination of this cause. The plaintiff is a voluntary unincorporated association whose membership is composed of certificated professional employees of the defendant West Hartford board of education, hereinafter sometimes called the board. The defendant Charles O. Richter is the superintendent of schools in West Hartford.

The plaintiff has been designated as the exclusive representative of the certificated professional employees of the board for the purpose of negotiating with respect to salary schedules and personnel policies relative to the employment of certificated professional employees. On February 1, 1967 the board voted to designate Richter "as its authorized representative to meet with the teachers association [the plaintiff] for the purpose of bargaining as provided by § 10-153d of the General Statutes. The plaintiff and the board, acting through its representative Richter, have attempted to negotiate the terms and conditions of employment of the certificated professional employees of the board. They have twice disagreed as to the terms and conditions of employment, and have twice submitted the matters in disagreement to the secretary of the state board of education for mediation, pursuant to § 10-153f(a) of the General Statutes. These attempts at mediation failed to resolve their disagreement.

Section 10-153f(b) provides: "In the event mediation by the secretary of the state board of education . . . fails to resolve the disagreement, either party may submit the unresolved issue or issues to an impartial board of three arbitrators. Each party to the dispute shall designate one member of the board and the arbitrators so selected shall select the third. The decision of such board, after hearing all the issues, shall be advisory and shall not be binding upon the parties to the dispute" The plaintiff elected to submit the unresolved issues to such arbitration and has designated one arbitrator. The board has designated the defendant Willis G. Parsons, Jr., as an arbitrator. It is the plaintiff's claim that the board's designation of Parsons does not comply with the requirements of § 10-153f(b) because "Parsons is not impartial in respect to the matters at issue." At the hearing hereon, it was stipulated that the sole issue is the question of the impartiality of Parsons and that if the undersigned judge finds that Parsons is not impartial, then a temporary injunction should issue.

The defendant Parsons is an attorney who practices in Hartford and resides in West Hartford. He was a member

of the defendant board of education for a period of eight years from 1957 to 1965, and he was chairman of that board for six years from 1959 to 1965. He served with three members of the board whose terms expired just prior to the hearing hereon. The defendant Richter, who is the board's authorized representative to meet with the plaintiff for the purpose of bargaining, was hired as superintendent of schools when Parsons was chairman of the board. After Richter was hired as superintendent, Parsons acted as his personal attorney in connection with several matters. In the spring of 1966, when Parsons was no longer a member of the board, he acted as Richter's attorney in respect to the negotiation of the renewal of Richter's contract of employment with the board. In this connection, he communicated with one of the present members of the board (a defendant herein) who acted for the board on that occasion.

While Parsons was a member of the board, Richter invited the members of the school board to social functions at his home from time to time, and Parsons has been at Richter's home on such occasions. Richter has been at Parson's home as a guest, and they have met at many school functions, retirement parties and graduation ceremonies. About four or five months before the hearing hereon and before Parsons' selection as arbitrator by the board, he was invited to Richter's home with a number of other persons, including former members of the board, where there was a general discussion of the history of the controversy that later resulted in the present action. At that time, Richter and members of his staff put forward the board's position in respect to the chronology of events and the impasse between the board and the teachers. Parsons testified that at that time there was no question in his mind that he was getting the board's version of what happened; that he did not think it was an attempt to be totally dispassionate; and that he accepted it as such. Much of the discussion at the meeting related to the public relations aspect of the situation in the sense of the public's understanding of the problem between the board and the teachers. Comments from those present were solicited, and several suggestions were made.

During the time that Parsons was a member and chairman of the board, he had occasion to consider and deal with some of the issues which are now the subject of disagreement between the board and the teachers and will be presented to the board of arbitrators, although the exact items as to which there is now disagreement were not before the board during his incumbency. None of the present members of the board served during Parsons' membership, but three former members who did serve while Parsons was chairman were members of the board until shortly before the hearing hereon and consequently did participate in regard to the negotiations and discussions with the plaintiff until just before the hearing. The board's present stance in the disagreement with the teachers was determined by a board of which they were members.

As previously noted, § 10-153f(b) provides that if mediation fails, either party may submit the unresolved issues "to an impartial board of three arbitrators," one to be designated by each party to the dispute and the two so selected to select the third. This statute became effective on June 18, 1965, and does not appear to have been the subject of prior judicial consideration. It must first be determined what is meant by the words "impartial board of three arbitrators."

The thrust of the defendants' argument, as set forth in their brief, is that the obligations of strict impartiality are to be taken as applying only to the third or neutral arbitrator, that is, the arbitrator selected by the two arbitrators designated by the parties to the dispute. The defendants cite law to the effect that an arbitrator selected by one of the contesting parties is effectually an advocate of that party; the third party mutually selected is expected to be the impartial and final judge; and, unlike ordinary arbitration where the arbitrators are expected to be neutral and disinterested, it is anticipated that the labor and management members of a tripartite arbitration board will be somewhat partisan.

The statute in question, § 10-153f(b), does not admit of the construction urged by the defendants. "In the construction of the statutes, words and phrases shall be construed according to the commonly approved usage of the language. . . ." General Statutes § 1-1; State v. Benson, 153 Conn. 209, 214. The statutory language, "impartial board of three arbitrators," can only mean a board consisting of three arbitrators, each of whom is impartial. If one arbitrator is not impartial, then the board is not impartial, and the statute would be violated. Accordingly, the mandate of the statute is that each individual arbitrator must be impartial.

This conclusion is bulwarked by the fact that the statute was enacted in 1965 to deal with the specific problem of disputes between boards of education and their professional employees. Such disputes are the subject of intense public interest, because public school business is public business. The statute provides that the decision of the impartial board of three arbitrators "shall be advisory and shall not be binding upon the parties to the dispute." The principal value of an advisory decision lies not only in its effect on the immediate parties to the dispute but also, and of equal importance, in its effect on the educational community affected by the dispute.

Clearly, an advisory decision arrived at by a board of three genuinely impartial arbitrators will be much more persuasive and influential in respect to the board of education, the professional employees, and the general public of the affected community than a decision by a board consisting of two sympathizers representing the respective parties and one neutral impartial person selected by the other two arbitrators. The purpose of an advisory decision is to influence and persuade the parties to accept that

decision. Obviously, a decision by three impartial arbitrators will serve this purpose far better than a decision by a board with one impartial arbitrator. Just as obviously, a decision by a wholly impartial board will carry greater weight with the concerned public, and the attitude of the public is of crucial importance to both the board of education and the professional employees in the settlement of their disputes. The very fact that Richter held a meeting at his home where the public relations aspect of the situation and the public's understanding of the problems between the teachers and the board were discussed underlines and points up the extreme importance of public opinion in a situation of this kind. It may often be decisive. An advisory decision by three impartial arbitrators is more helpful and beneficial to the public than a decision by a board containing just one impartial arbitrator. The underlying legislative purpose of providing a means for the resolution of such disputes can best be served by a construction of the statute that requires a board of three impartial arbitrators.

The final question to be considered is whether Parsons qualifies as an impartial arbitrator within the meaning of the statute, and to make this determination it is necessary to ascertain the commonly approved usage of the word "impartial." General Statutes § 1-1. "Impartial" has been defined to mean not partial, not favoring one party more than another, unprejudiced, disinterested, indifferent, not biased in favor of one party more than another, not disposed to prefer one party more than another, and not subject to bias or influence. See Thompson v. Beacon Valley Rubber Co., 56 Conn. 493, 498; 42 C.J.S. 399; 20 Words & Phrases 289 (Perm. Bd.). "Impartiality" means "[f]reedom from bias, prejudice, passion or interest." 42 C.J.S. 399.

It should be emphasized that there is no question whatever about Parsons' honesty or his integrity. He is a highly respected practicing attorney, and no claim is made or can be made that he would be likely to be guilty of any conscious partiality or bias in performing his duties as arbitrator. But the issue is whether Parsons is impartial in the commonly approved usage and meaning of that word, and this determination must be made in the light of his relationship to the persons involved and the issues which are to be presented to the board of three arbitrators, of which he has been designated as one member by the defendant board of education. Parsons was a member of the defendant board for eight years, and its chairman for six years; he has been the personal attorney for Richter, the authorized representative of the board to bargain with the plaintiff, and is a friend of Richter of some years' standing. He attended a meeting at Richter's home at which Richter put forward the board's position with respect to the chronology of events which led to the present impasse between the board and the teachers. While a member of the board, he dealt with the teachers' association as an adverse party in respect to disputes with the board. Three former members of the board who served with Parsons participated in his selection by the board as an arbitrator. They participated in the board's determination of its position in regard to the issues in question.

In the face of these facts, Parsons would not be human if he could remain uninfluenced, unbiased and unprejudiced. It is almost inevitable that the effect of his relationship with the persons involved and with the issues in dispute is such that he would not act as arbitrator without an unconscious bias or interest in favor of the positions taken by the board in respect to the issues between the parties. He can hardly be said to be indifferent between the parties. In a word, and with all due deference to his good faith and personal integrity, he cannot under the facts of this case to be held to be impartial, and therefore he cannot serve as a member of the impartial board of arbitrators required by the statute.

As the parties stipulated that a temporary injunction should issue if the defendant Parsons is found not to be impartial, it is ordered that a temporary injunction may issue restraining the defendants from proceeding further with arbitration proceedings in accordance with § 10-153f(b) of the General Statutes until the final determination of this cause, or until further order of the court.

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY
OF WAYNE

State, County, and Municipal Local 214,
International Brotherhood of Teamsters, Chauffeurs,
Warehousemen and Helpers of America,
Plaintiff

-vs-

City of Dearborn,
Defendant

Civil Action
No. 127329

OPINION

By the HONORABLE HORACE W. GILMORE, Circuit Judge, Third Judicial Circuit of Michigan, Room 1807, City-County Building, Detroit, Michigan 48226, on Wednesday, February 26, 1969.

APPEARANCES:
GOLDBERG, PREVIANT & UELMEN
By: JOHN S. WILLIAMSON, JR.
211 W. Wisconsin Avenue
Milwaukee, Wisconsin 53203
On behalf of the Plaintiff
RALPH B. GUY, JR.
City Attorney
City Hall
Dearborn, Michigan 48126
On behalf of the Defendant

REPORTED BY:
BETTY JANE QUINLAN
Official Court Reporter

Detroit, Michigan
Wednesday, 2/26/69
Morning Session

OPINION

THE COURT: I am prepared to rule on what is before me now, and then, as I indicated, I have to adjourn until three o'clock. At that time I will say something about the negative bank matter.

The question we have reached in this petition for an order to show cause is whether the City should be required to carry out the terms of the findings of M. David Keefe. Now, the order to show cause does not make that very clear. It is ambiguous. But, clearly, the complaint makes it clear, and we have conducted this hearing on the basis of whether the finding of Mr. Keefe is binding or not. That will not solve the issue of what the findings mean, and that is something that we will have to look at later.

I think, of the two issues before the Court, the first is whether there was an agreement, as set forth on Page 6 of Mr. Keefe's document, that the parties stipulated that the decision would reflect the advisory arbitrator's findings of fact and recommendations. In other words, the question here is whether the Civil Service Commission agreed to be bound by them.

The second issue relates to the effect of the Civil Service Commission's failure to hold a meeting within fifteen days after the advisory arbitrator's report, which is required in Step 6 of the Collective Bargaining Agreement.

On the first issue, we have had the testimony of two people and several exhibits have been received. The testimony of M. David Keefe indicates it was the stipulation of all the parties to the agreement that his decision was to be issued by the Civil Service Commission, that the only thing the Civil Service Commission had to do was to formally adopt it.

He contends that all the parties agreed that they would be bound by his findings. He testified he was very upset with this when he got out there, because he felt he was being imposed upon, and the State was imposed upon in that he was called in as a fact finder and when he got out there he found himself in an arbitrator's position. He thought this was an anomalous position, but nonetheless, he went ahead. When he billed the City for his services, the bill was declined by the City, and he said that he did not press the bill.

Mr. Sherman, on the other hand, testified that there was no stipulation. He denied completely the remarks made by Mr. Keefe.

There is a clear issue framed here, a factual issue, as to what did happen.

The Court is going to accept the testimony of Mr. Keefe. I do so because the testimony that he has given is in complete accord with the language that he used and the observations he has made in his findings of February 1st, long before this matter was in litigation.

If you will note in the opinion explaining the award, Mr. Keefe takes the first five or six pages discussing the entire matter which is before us, pointing out its unusual nature in labor negotiations, and pointing out the stipulation of the parties. He testified to that under oath. He points out the unusual nature of the procedure and devotes a great deal of time in his discussion on this. He testified that he had this understanding.

I am not saying that Mr. Sherman is lying. I don't intend to say that. There may have been some ambiguity. But it seems to me, clearly, that what the parties intended was that the advisory arbitrator's recommendations and findings of fact would be the binding ones that would bind the Civil Service Board, and I will find, as a matter of fact, that this was the understanding.

But we must go further into this matter with reference to the legal questions, the effect of Step 6 of Article 6 of the Collective Bargaining Agreement. The Agreement provides, unequivocally, that after considering the report of the advisory arbitrator, the Civil Service Board shall issue a written decision with [sic] fifteen days. It has been testified that a meeting was attempted to be called on February 17th, fourteen days after the receipt of the arbitrator's report; that only one commissioner was there; that one commissioner was in Florida, on vacation, I presume, he having left on January 31st; that one commissioner was at home recuperating from serious surgery and unable to be there.

It appears to me that this language is mandatory, and the Civil Service Board has the duty to issue its decision within fifteen days. There is no out in the language of the contract at all. It says it shall issue a decision within fifteen days.

In addition, in this instance, I hold that, because of the stipulation, the Board had no authority to do anything except ratify the decision of Mr. Keefe.

Furthermore, even if they did have the authority, there was no adequate showing why a meeting could not have been held. The one commissioner who was on vacation, left January 31, 1969, and the testimony was that he would not be back until March the 7th. The fact remains, however, that he left knowing that this award was going to be in almost anytime, because the hearing had been held on the 17th. He left knowing his responsibility and knowing that the other commissioner was ill and would be unable to attend. It is perfectly possible to get back from Florida in a matter of less than a half a day by airplane.

I certainly don't think that the City of Dearborn can unilaterally avoid any responsibility under the fifteen day provision by having one of the commissioners out of town and not getting him back for the meeting so there can be a quorum.

I think the meeting has to be held in fifteen days, and I think it is the responsibility of the Civil Service Board to see that it is held in fifteen days. If it is not held within fifteen days, the Board waives any right to pass upon the determination of the arbitrator.

I also think it is very interesting to observe the comments of the arbitrator, Mr. Keefe, on the collective bargaining arrangement, where, after the award of the arbitrator, the Board, which represents one side of the dispute, is able to accept or reject it. It is true that this issue is not before me, but there is some question whether there is sufficient mutuality to make this provision of the contract valid.

For the reasons that I have given, I will find on this order to show cause that the award of the arbitrator is binding insofar as these proceedings are concerned, and that the City has a duty to carry out its terms.

I want to make one other comment. A question was raised yesterday as to the Court's jurisdiction in this matter. The claim was that an unfair labor practice had been filed with the Labor Board and, therefore, the administrative process has not been completed.

I feel that even though an unfair labor practice has been filed with the Labor Board, under *Smith v. Evening News,* 370 US 793, the Court retains jurisdiction on this matter insofar as the award of Mr. Keefe is concerned. The parties have gone as far as they can and there is no other forum where they can seek relief. They have gone through all of the steps of the Collective Bargaining Agreement, so I think, clearly, under *Smith v. Evening News,* I have jurisdiction.

I will hold on the order to show cause that the defendant will be ordered to comply with and fully carry out the terms of the award of Mr. Keefe.

This leaves other issues on this order to show cause undisposed of. Number one, which I will hear you on this afternoon, is the one raised by Mr. Guy at the end of his argument; namely, whether this means the negative bank is in or out. I don't know whether I have the right to interpret an award. This is a matter I will hear from you on this afternoon.

There are other matters raised by the counter-claim, and the motion for accelerated judgment. Obviously, the counter-claim cannot be disposed of in this type of hearing. The issue there will have to be framed and the matter will have to proceed in its normal way.

If there is anything more to be heard on the motion for summary judgment, I will hear that this afternoon at three o'clock. We will recess until three o'clock, at which time we will consider whether I have the power to interpret this agreement, and if I do, whether the agreement prohibits the so-called negative bank. I will also hear anything more that there is to say on the motion for accelerated judgment.

We will recess until three o'clock.

Detroit, Michigan
Wednesday, February 26, 1969
Afternoon Session

OPINION

THE COURT: All right, gentlemen, It is obvious that this Court does not have before it any interpretation of the contract as to whether there is a guarantee of forty hours work per week.

That is not before the Court, is not part of this lawsuit, and I want that to be absolutely clear. The determination of that is for another day. We are concerned solely in this lawsuit with the meaning of the arbitrator's award, with reference to compulsory time off furloughs. So, let me first look at that.

Now, I think the arbitrator's award is perfectly clear. It says that the City cannot compel an employee to accept compensatory time off furlough, unless the employee fails to elect a time of his own choosing in accordance with a formula which is spelled forth in some detail in the discussion of Mr. Keefe. Certainly, there is no question but what the City cannot compel compulsory time off furloughs of employees who elect a time of their own choosing in accordance with the formula set forth. That is absolutely clear, and I don't think it is in the slightest bit ambiguous. I think Mr. Keefe has put it in words of one syllable and his discussion supports it.

The other question is whether the award of Mr. Keefe is applicable to the dispute arising as of January 6th, where the 29 men were sent home when the shift was cancelled. It is the argument of the City of Dearborn that this arbitration award cannot be binding on that, that that happened prior to the time of the hearing and prior to the time of the award, that this was an administrative decision taken by the City and at that time entered into the payroll records.

It is the position of the Union that even though this is so, it was merely an administrative decision, that it is subject to change, and that until such time as it was communicated to the Union, the Union had no opportunity to do anything about it.

The Union further claims that if the City had done this, it had a clear obligation at the time of Mr. Keefe's hearing and prior to his determination to advise Mr. Keefe that this is what it was doing so that if there were any question of this being considered in the disposition of the matter, it could have been considered by Mr. Keefe. It was not brought to Mr. Keefe's attention by the City. It was not brought to his attention by the Union because the Union people at the time did not know about it.

Therefore, the basic question of whether the incident of January 16th is covered by this award boils down to the question of whether a decision to require compulsory time off furloughs is effective as of the time it is put on the payroll or until it is finally communicated to the employee. It is argued strongly by the Union that it could be changed at any time, that it was purely an internal matter and until it was known by the employee, the issue could not have been joined. They also claim the decision was not finally made until then because the City could always change its mind up until the time it actually communicated its decision to the employee.

I think the question is, on this phase of the dispute, a close one. I emphasize that my holding has nothing whatever to do with whether there was to be a mandatory payment for forty hours. That is not before me.

In view of the fact it was known to the City at the arbitration proceeding and not brought before the arbitrator, and in view of the further fact it was not communicated to the employees until after the arbitration award, the date of the communication to the employees would be the controlling date, and on this issue the arbitrator's award would apply.

I think the language of the award is absolutely clear and I couldn't put it any clearer. For the reasons given, I think it should apply to the January 6th situation because it was known to the City and not communicated to Mr. Keefe at the time of the hearing, and it was not communicated to the employees until after the award of Mr. Keefe. Further, until it was communicated to the employees, it could have been unilaterally changed by the City at any time.

You may present an order.

The only thing remaining is the counter-claim, which will have to be answered. It will work up the call in its usual time.

An order may be presented on the disposition I have made today.

MR. WILLIAMSON: Thank you.

CERTIFICATE OF COURT REPORTER

I, BETTY JANE QUINLAN, Official Court Reporter, do hereby certify that I have recorded stenographically in stenotype the proceedings had before the HONORABLE HORACE W. GILMORE, Circuit Judge, Third Judicial Circuit of Michigan, in the matter of STATE, COUNTY AND MUNICIPAL LOCAL 214, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA, Plaintiff, versus CITY OF DEARBORN, Defendant, Civil Action Number 127329, at the time and place hereinbefore set forth, and that the foregoing transcript is a full, true and correct transcription of my stenographic notes taken at said time and place.

/s/ BETTY JANE QUINLAN
Official Court Reporter
Third Judicial Circuit

Detroit, Michigan
March 13, 1969

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of FAITH GAGNIER and THE BOARD OF EDUCATION OF CENTRAL SCHOOL DISTRICT NO. 2 OF THE TOWNS OF CLAVARACK, GHENT, HILLSDALE, AUSTERLITZ, LIVINGSTON AND TAGHKANIC, COMMONLY KNOWN AS THE OCKAWAMICK CENTRAL SCHOOL DISTRICT	DECISION AND ORDER CASE NO. R-015

DECISION AND ORDER

Upon a charge filed by Faith Gagnier, employed as a teacher by the Board of Education of the Ockawamick Central School District, Counsel to the Public Employment Relations Board issued a complaint alleging that she was denied reappointment and tenure by her employer because of her activities on behalf of an employee organization, the Ockawamick Teachers Association.

The answer interposed by Respondent Employer denied that Gagnier was denied tenure because of her activities on behalf of the employee organization. Further, Respondent asserted the following defenses: (a) that the Public Employment Relations Board (herein referred to as the Board) lacks jurisdiction to hear or determine this claim; (b) that the denial of tenure was made pursuant to the provisions of Section 3013 of the Education Law and is not subject to review by this Board; (c) that if Gagnier feels aggrieved by Respondent's action, her sole remedy is that provided by Subdivision 4 of Section 3013 of the Education Law.

A hearing was held on this complaint before a hearing officer appointed by this Board. At the hearing, attorneys for Respondent declined to participate on the ground that this Board lacked jurisdiction. The hearing officer proceeded with the hearing and found that Gagnier was denied tenure "to punish Complainant for her association activities." He recommended that the Respondent be directed to employ Gagnier as of September 1, 1968.

The report and recommendation of the hearing officer are now before this Board. The attorneys for Respondent have not seen fit to file briefs with this Board on the issues of law raised in Respondent's answer. However, as this is the first time that this Board has had to consider these issues, we shall proceed to rule on the merits of said defenses.

Respondent asserts in its answer that Article 14 of the Civil Service Law (Public Employees' Fair Employment Act, hereinafter referred to as the "Act") does not confer or grant jurisdiction to this Board to hear or determine claims that a public employer is guilty of reprisal against an employee.

Admittedly, the Act does not *in haec verba* grant power to this Board to hear and determine claims of reprisal against public employees. However, Section 205.5(k) provides that this Board shall have the power "To make . . . such rules and regulations . . . and to exercise such other powers as may be appropriate to effectuate the purposes and provisions of this article."

The purpose of this Act is in part "to promote harmonious and cooperative relationships between government and its employees."[1] This purpose and policy was in the judgment of the legislature to be best effectuated by

[1]Section 200, Civil Service Law.

granting to public employees the right of organization and representation.[2] Thus, the Legislature, in Section 202 of the Act, granted to public employees the right to form, join and participate in any employee organization of their own choosing.

If this grant of rights is to be meaningful and to effectuate the purpose of the Act, then these rights must be exercised in an atmosphere of free choice and not in an area of intimidation or fear of reprisal. If a public employer could with impunity threaten a public employee or transfer, suspend, lay off or discharge him for exercising these rights, then the legislative enactment would be so meaningless as to constitute an act of supreme futility. Clearly this was not the intent of the Legislature.

This Board is charged with the administration and implementation of all of the provisions of the Act, which includes the grant of rights in Section 202. The Legislature has mandated this Board to exercise such powers as may be appropriate to effectuate the purposes and provisions of this Act. Clearly for the reasons stated above, the power to deal with acts of reprisals against public employees for exercising their rights is necessary to effectuate the purposes of this Act.

Public employees are prohibited from engaging in a strike; the public expects such employees to obey the law. Certainly when the same employees are granted rights, the public expects the public employers to recognize these rights, to act in accord with them, and not to act in derogation of them.

Respondent further asserts in its answer that the granting or denial of tenure is within the absolute discretion of the Board of Education and is, therefore, not reviewable by this Board.[3] This Board does not dispute that Respondent has broad discretion in granting or denying tenure. However, in this proceeding the Board is simply determining whether the employee was penalized for exercising the rights granted to her by the Legislature. The agency mandated to effectuate this Act is this Board, and not the public employer, be it a Board of Education or otherwise.

Thus, we conclude that this Board does have jurisdiction to hear and determine this claim.

On the merits of the claim, we agree with and adopt the conclusion of the hearing officer.

Gagnier has been employed as a teacher for nine years. She was first employed by Respondent for the academic year 1965-66. Prior to this, she had been employed for three years by the school district in Dover Plains, New York. Her supervising principal at Dover Plains described her as an "excellent teacher" and she was recommended by him to Respondent "without reservation."

At the conclusion of each of her first two years with Respondent, she was commended for her work by her supervisors. During her third year she was recommended for reappointment and tenure by Grade Supervising Principal Calvin and Supervising Principal Benson. On March 8, 1968, the District Superintendent Mapes recommended Gagnier along with six other teachers for tenure, stating he found these seven teachers to be "competent, efficient and satisfactory".

Respondent Board of Education, at a meeting held on March 11, 1968, accepted the recommendation as to the other six and granted them tenure but voted against tenure as to Gagnier. Two members of Respondent Board testified that this was the first time in their experience where tenure was denied countermanding the recommendation of the professional administrators.

Gagnier was President of the Ockawamick Faculty Organization, which organization was recognized by Respondent as the negotiating representative of the teaching faculty employed by Respondent. In the summer of 1967 Gagnier called Mr. Giannattasio, president of Respondent, concerning the mechanics of recognition. During the conversation, Giannattasio asked her her year of employment and she replied that it was to be her third year. He cautioned her that it was her most important year, obviously alluding to tenure.

In January of 1968, Gagnier was invited to speak to a faculty group in New Lebanon concerning negotiations "under the Taylor Law". After this talk, she was called in by her supervisor who told her that with reference to her talk at New Lebanon she was getting "quite a reputation as a rabblerouser".

On March 5, 1968, a letter was delivered to members of Respondent Board complaining that the negotiator for Respondent, Giannattasio, did not have the power to reach an agreement. This letter was signed by Gagnier. Giannattasio was described as angry at receiving this letter.

Shortly thereafter, Respondent Board voted to deny Gagnier tenure.

Giannattasio testified at the hearing herein. When questioned as to reasons for denying tenure over the recommendation of the professional administrators, he stated he relied upon what he had heard from other Board members and people on the outside. It was to the effect that Gagnier did not relate well to parents. However, Giannattasio was unable to identify the Board member or the source of the complaint. Similarly, he mentioned a report that complainant spent too much time away from her classroom, but could not identify who made the complaint. Giannattasio did not observe Gagnier in the classroom, rather the

[2]Ibid.

[3]Section 3013, Education Law.

only opportunity he had to observe her was at the negotiating table.

On the record, we find the conclusion of the hearing officer to be well supported by the record. Considering all of the facts herein, particularly Giannattasio's vagueness as to the basis for denial of tenure, coupled with the fact that her immediate supervisors found Gagnier to be competent and efficient, and that it was the first time Respondent rejected the recommendations of the professional administrators warrants a finding that Gagnier was denied tenure because of her activities on behalf of an employee organization.

IT IS THEREFORE ORDERED THAT Respondent offer to reinstate Gagnier to her former employment as of September 1, 1968 and to compensate her for wages lost as a result of Respondent's act.

Dated: December 11, 1968

/s/ Robert D. Helsby
/s/ Joseph R. Crowley
/s/ George H. Fowler

In the Matter of the Arbitration between WARREN CONSOLIDATED SCHOOLS Warren, Michigan -and- WARREN EDUCATION ASSOCIATION	Contract Interpretation

This arbitration proceeding was authorized under the provisions of the current Agreement between the parties. The undersigned Arbitrator was mutually selected by the parties to hear the instant case. A hearing was held in Detroit, Michigan on February 14, 1969.

APPEARANCES

For the Employer

Charles H. Earl, Esq.
Bus Bigham, Associate Superintendent, Employee Relations & Personnel
Kingsley Sears, Assistant Superintendent, Personnel

For the Association

Erwin B. Ellmann, Esq.
William Browne, WEA President
Robert Kowalczyk, Executive Secretary
Glen Piper, Negotiation

BACKGROUND AND POSITION OF THE PARTIES

The collective bargaining agreement between the Board of Education of Warren Consolidated Schools and the Warren Education Association was entered into on June 14, 1967, effective September 1, 1967, and continuing in effect until January 26, 1970. Article XXIII, Section 2 provides as follows:

> On or before November 1, 1969, either side may give the other notice, by certified mail, of its desire to terminate, amend or modify this Agreement. Upon receipt of this notice by the other side, arrangements shall promptly be made for negotiations to commence. In the event that neither side gives notice to the other of its intention to terminate, amend or modify the Agreements by November 1, 1969, then the Agreement shall automatically be extended on the same terms for another year and, similarly, from year to year thereafter, with the notification date of intent to terminate, amend or modify beginning November 1 of the successor year.
>
> It being agreed that in the event the average of the base rate of Pontiac School District, Utica Community School District, and Hazel Park School District exceeds the base rate of W.C.S. on any ensuing February 1, this agreement will be declared open for negotiations of wages only.
>
> Likewise negotiations will be reopened on any ensuing February 1 if during the preceeding 12 months prior to the particular February 1 the B.L.S. Cost of Living Index exceeds 4.5% or The Improvement in the State

Aid Formula exceeds the base established for the 67-68 school year by 15%.

The WEA points out that the B.L.S. Cost of Living Index having risen in excess of 4.5%, it requested, prior to February 1, 1969, further negotiations of "wages only" in accordance with the above quoted section. A dispute has arisen between the parties as to the scope of such negotiations and the following questions are before the Arbitrator:

1. Are "wages" as used in Section 2 of Article XXIII synonymous with "compensation" dealt with in Article XII, including the exhibits thereto?

2. If not, does the term "wages" include:
   (a) Schedule A, and/or
   (b) Schedule B, and/or
   (c) Schedule C, and/or
   (d) Schedule D, and/or
   (e) Insurance under Section 3 of Article XII, and/or
   (f) Automobile Allowance under Section 4 of Article XII, and/or
   (g) Compensation for department chairmen under addenda of September 1967 and September 1968?

The position of the WEA is that the term "wages" as used in Article XXIII, Section 2, is synonymous with the term "compensation" as used in the title to Article XII and includes all economic matters referred to in such Article and exhibits thereto, and other elements of teacher compensation.

The WEA says as to wages, a term which is not defined in Article XII, means in public education in Michigan a part of a "wage package" to include such annual salaries and other economic benefits which are part of the total remuneration teachers receive for professional services. The WEA says in this sense "wages" mean the total "compensation given or to be given by . . . an employer to a hired person or employee. . . ." (*Cookes* v. *Lymperis,* 178 Mich. 299, 304 (1913).)

"The words 'salary' and 'compensation' are, in general usage, interchangeable and are synonymous in most definitions." *Treu* v. *Kirkwood,* 255 P. (2d) 412 (Cal., 1953)

The WEA contends that in collective bargaining agreements "pay" and "wages" are recognized as meaning the same thing, and cites *Eagle Rubber Co.* 17 LA 379. It gives another example where a contract provided that "there shall be no reduction in salaries during the life of this agreement, and held that the employer could not discontinue a Christmas bonus which had come to be expected as part of the rewards of Service." (*Tonawanda Publishing Co.,* 43 LA 892) The WEA cites other results in other cases between various companies and unions where a bonus was discontinued in the face of a clause which preserved "wage rates," where "wages" includes a clothing allowance to the employee which is an integral part of compensation for services rendered; or a uniform allowance to public employees in the police department; and in *Brampton Wollen Co.* v. *Local Union 112,* 95 N.H. 255, 11 LAW 487, where the court noted that a collective agreement must be viewed as a whole, that the use of the word "pay" rather than "wages" was immaterial, and that vacation payments were properly included in the total compensation package.

The WEA says that the parties made it clear in Article XII what they intended to include in the teacher's wage package. It says the title "Compensation" was used to describe all types of benefits, both on an annual and hourly basis, including payments which were direct as well as indirect. Under "Compensation" in Article XII, the parties specifically dealt with "annual salaries" and referred to three Schedules, A-C, found in pages 23-27 of the Agreement. The WEA states that the schedules, explicitly incorporated by reference to the "Compensation" Article, cover a variety of economic matters including credit for outside teaching experience, vocational experience, and military service; differential for extra training, and compensation for non-curricular assignments and salary increment for work beyond the normal school day; plus in Section 2 of the "Compensation" Article, the parties dealt with certain hourly rates for teaching services and referred explicitly to Schedule D on page 28 of the Agreement. It points to Section 3 and its reference to insurance benefits furnished by the Board, while Section 4 of the same "Compensation" Article deals with an allowance for automobile expenses. The WEA maintains that all of these items are customarily embraced within the word "compensation" and describe various direct economic rewards for performing teaching services, and that all are properly open for renegotiation under Article XXIII.

As to Article XXIII, Section 2 confining the reopener to negotiation of "wages" only, the WEA says the purpose here was to prevent renegotiation during the contract term of any of the non-economic provisions of the Agreement and to confine discussions to economic matters.

The WEA says it agrees that non-economic provisions are not subject to reopening, but submits that the Board should be directed to bargain with the WEA on all "wage" items and that this includes every element of "compensation" in the teachers' pay check or the other fringes set forth in Article XII.

The WEA argues that decisions of the Michigan Labor Mediation Board, following decisions of the NLRB, make it clear that there is a continuing statutory duty of a public employer under the Public Employment Relations Act to bargain concerning all of the ingredients of teachers' compensation. It maintains that a determination that the Board is free to refuse to negotiate on any element of "wages" would only invite further litigation before the

Michigan Labor Mediation Board. It concludes that the Board of Education has the burden of showing that the Contract has relieved it of its statutory responsibility to negotiate on all economic matters with its employees.

The Board states that under the provisions of Paragraphs 2 and 3 of Article XXIII of the Agreement, the only factor which would open the Agreement for negotiations is that covering the B.L.S. Cost of Living Index. It is the Board's contention that if any of the conditions set forth in the aforementioned Paragraphs 2 and 3 of Article XXIII of the Agreement prevailed, the Agreement would be declared open for negotiations of wages only as set forth in Schedule A-1, Schedule A-2, and Schedule A-3 of the Agreement between the parties. The Board cites the opening paragraph of Schedule A of the Agreement which reads as follows:

> Schedules A1, A2 and A3 reflect wages to be prorated over the effective period.

The Board contends that it is the employees' request that if the Agreement is opened for negotiations under any of the provisions set forth in Paragraphs 2 and 3 of Section 2 of Article XXIII of the Agreement between the parties that the negotiations would involve not only Schedules A-1, A-2 and A-3 which apply to wages, but that it opens negotiations for all economic items between the parties hereto; the Board uses as an illustration the compensation for co-curricular assignments set forth in Schedule B of the Agreement.

Both the Board and the WEA invite the Arbitrator's attention to Article V, Paragraph 3, Section 5 of the Agreement which states:

> The arbitrator shall have no power to alter, add to, or subtract from the terms of this Agreement.

DISCUSSION

The word "wages" as used in Article XII covers what the parties meant to be included in the teachers' wage package. In this connotation, the term "Compensation" was used to describe various benefits, both on an annual and an hourly basis. The Schedules A-1, A-2 and A-3 are then covered, as are Schedules B, C and D. All are properly open for renegotiation under Article XXIII as they are properly provided for under Article XII, Compensation, which includes the pay package, and in this instance compensation for performing teaching service.

It is not uncommon in collective bargaining agreements in private as well as public agreements to leave an opener on economic matters. This the parties did under their own Contract, and as they have both said, the Arbitrator "shall have no power to alter, add to, or subtract from the terms of this Agreement."

The Association's request for an opener on wages under Article XXIII is quite proper under the Contract between the parties and is hereby granted.

/s/ E. J. FORSYTHE, ARBITRATOR

February 24, 1969

PUBLIC EMPLOYMENT RELATIONS BOARD OF THE STATE OF NEW YORK

In the Matter of

ELMSFORD SCHOOL FACULTY ASSOCIATION,

and

ELMSFORD SCHOOL DISTRICT NO. 9.

The fact-finder recommended that certain items be excised from the school district's capital improvement program in order to provide funds for an across-the-board wage increase for teachers without increasing taxes.

Background

There are at present 82 teachers employed in the school system, plus 6 administrators. In 1968-1969, there will be 85 teachers. ESFA is about thirty years old. It has been the sole teachers' association in the district. It was certified by PERB to represent the teachers, exclusive of administrators, in bargaining with the district, concerning wages, rates of pay, hours, and other conditions of employment. The parties have been bargaining since December, 1967 without success. Each of the principals herein takes a stand which to all purposes appears to be adamant, final, and conclusive. As a result, until the advent of Mr. Herold, there was a complete lack of understanding on the part of ESFA as to what it was entitled to. Likewise, the district had little or no understanding as to its rights.

There is an obvious resistance to the surrender of managerial prerogatives, which is understandable. However, this invasion will be understood by the district as negotiations are continued and reach a conclusion.

There are two other important factors that must be mentioned before we can undertake a discussion of the merits of the positions of the respective parties. One is the size of the community (and the assessed valuation, which is the source of taxes), and the other is on what the tax base is bottomed.

Taking the last first, we note that there is hardly any heavy or large industry in Elmsford which can establish a wide tax base. Consequently, the tax for the most part falls on the shoulders of the small householder. Unlike other communities, Elmsford is only one square mile in area. The assessed valuation in 1967-1968 was $34,717,125. The proposed assessed valuation for 1968-1969 is $35,603,525. As a general proposition, there is only light industry in Elmsford. It is not blessed with a platinum mile like its sister community Harrison, nor an area comparable to some of the other communities in Westchester County.

ESFA's Proposal

ESFA proposes that its teachers in all categories receive increases exclusive of increments of at least $1,500 for the period 1968-1969. They seek a one-year agreement. Budgetwise, this would mean a sum of at least $123,000 more for the period 1968-1969. Exhibit "A" shows the district's present salary structure and policy in detail. The variance between the figures submitted by ESFA and Exhibit "A" shows the chasm that separates both parties.

It is the district's contention that it cannot under any circumstances offer a major increase. Such a stand cannot be considered since in a market that seeks able and dedicated teachers, better paying districts will entice teachers away and leave this district without able leaders and instructors. Consequently, I am constrained to disregard the district's negative approach. I must seek a way in which the district can retain the teachers it has and bring to it more of the same kind.

ESFA offers in support of its proposal statistical matter to show what other school districts are paying their teachers in the county. For example, Irvington starts their B.A. at $6,700 compared to the district's $6,150; Hastings and Tuckahoe start the same classification at $6,800; and Briarcliff starts at $6,900; Scarsdale starts the B.A. at $6,800.

In my considered judgment, ESFA has made out its case for a wage increase. But it has not convinced me that it is entitled to the proposals it requests. The reason for rejecting the proposal is based to a large degree on budgetary problems and the ability to pay.

There is included as part of the budget a capital improvement of a track at the high school. The budget amount is $35,000. The district explained that the physical education department had requested the track over a long period of time. In 1967-1968, contract and repair projects grossed $30,125. Proposed for 1968-1969 contract repair projects are $78,000, an increase of $47,875 over 1967-1968.

There is a provision in the budget for three new teachers. $24,000 is budgeted for this item. There is also $72,000 set aside for increases to teachers now in the system.

Exhibit 3 which was offered by ESFA is a graphic view of median salaries paid in the county and the difference in the pay scales in the district. Exhibit 3 also presents the various school districts in summary. It indicates clearly that the district under consideration is on the low side.

While the capital improvements may be important to the department of physical education, and while the district is to be commended for trying to meet the department's request, it would seem to me that, first, the wage structure should be brought closer to other districts in the county, thereby giving faculty members a further incentive for remaining in the district's employ.

With this thought in mind, I conclude that I can safely recommend an increase to be paid to ESFA without disrupting the proposed budget. By excising certain items from the capital improvements program, which can be financed through a bond issue or note program, and with the money now in the budget to take care of increases, the district can safely, and without increasing the tax burden, grant an increase to its teachers.

It is my considered judgment, therefore, that an increase of $750 across-the-board for a one-year contract would bring all categories within reach of the schools described inExhibit 3 and Exhibit C. Exhibit 3 purports to show 1968-1969 "approved" salary changes, whereas Exhibit C, which was presented by the district, shows schedules through 1967-1968.

The district introduced Exhibit E to show the percent of budget instructional costs in prior years. The exhibit showed that for 1968-1969 instructional costs would be 70.4% of the budget, a .2% drop from 1967-1968.

The tax rate, according to the district, rises 2.8¢ per $1,000. But the figures submitted by the district do not convince me that by deleting certain capital items the budget cannot accommodate the recommended increase. While the increase is a modest one in "new" money, yet there are other demands of an economic nature to be disposed of. There should be a margin of safety in which the district can operate without straining the source of the tax dollar.

After the recommendations contained herein are acted upon, the parties can consider other demands and reach an agreement without being required to meet the pressure of budgetary requirements.

The gross figure to cover these increases, exclusive of increments which are now in the budget, would amount to $61,500. The sum of $61,500 is based on an increase this year to all categories of $750 per teacher, exclusive of increments.

In addition, I respectfully recommend that a gross figure of $45,000 be established in the budget to take care of items such as teachers' aides, cafeteria duty, bussing, etc.

Dated: April 29, 1968
Rye, New York

EXHIBIT A

SALARY SCHEDULE AND POLICY
CONCERNING ABSENCE
AND LEAVE
Board of Education
Union Free School District No. 9
Town of Greenburgh

Basic Principles

It is the policy of the board of education (a) to treat equitably all employees of the Elmsford Public Schools, (b) to provide compensation which is commensurate with the teachers' responsibilities, professional training, and experience in order to attract, retain and motivate a highly competent staff, (c) to grant credit for previous experience up to a maximum of nine years at the discretion of the board, (d) to grant credit for military service up to a maximum of three years at the discretion of the board.

A. Bachelor's Degree or less than four years training
B. Bachelor's Degree plus 30 graduate credits
C. Master's Degree
D. Bachelor's Degree plus 60 graduate credits
E. Master's Degree plus 30 graduate credits
F. Master's Degree plus 60 graduate credits
G. Doctor's Degree

Salary Schedule–See Below

In order to provide an incentive to further graduate study, the board will grant, effective September 1, 1965, to each teacher who thereafter successfully completes 15 credit hours of graduate study, such study to be approved in advance by the district principal, an increment of $150 upon presentation of transcripts to the district principal.

Teachers having served 25 years or more in the Elmsford Public Schools will be eligible for a special career teachers increment of $400. One increment will be granted at the beginning of the 26th year of service in the district and another at the beginning of the 31st year of service in the district.

Implementation of the Salary Schedule

1. Salary increases up to the maximum specified in this salary schedule may be given in reward for an employee's cooperation, satisfactory service, and loyalty to the school system. The board of education reserves the right to withhold increments in accordance with New York State Education Law whenever, in the opinion of the board and administrators, the withholding of such increment is justified and in the best interests of the school district.

2. Annual appraisal of the effectiveness and/or quality of the employee's service shall be made in accordance with the board's evaluation policy. A day's salary for teachers on a 10-month basis shall be defined as 1/200 of the annual salary, and 1/250 of the annual salary in the case of persons employed on a 12-month basis.

3. Adjustment of salaries from one schedule to another shall be made on presentation of college transcripts.

4. Following the satisfactory completion of graduate courses, teachers will be reimbursed up to $10 per course for the cost of books used in each course, provided that such books are turned over to the professional library located in the teachers room in the school of the respective teacher.

5. In addition to instructing students in a satisfactory manner, a teacher should be an active member of the school community, displaying his professional status at all times. He should attend and play an active role in school-sponsored activities.

Personal Illness

Sick leave with full pay during any school year shall be granted regular, full time employees of the board as follows, in accordance with the law of the State of New York.

1. Employees on a 10 or 12-month basis—10 days per year.

2. Any unused portion of the yearly allowance for a given employee shall be cumulative, up to a limit of 150 days.

3. Approved absence for sick leave in excess of that provided under 1 and 2 will be paid subject to the deduction of salary paid a substitute.

4. Application for payment for sick leave in excess of two consecutive days must be supported by certification from an attending physician.

Illness in Family

For absence due to illness of any member of the employee's immediate family, living in the employee's household, full pay for not more than five days in each school year shall be paid the employee.

Death

Absence for death in the immediate family is allowed for a total of three days per school year without salary deduction. This leave is not cumulative. In the event of the death of a relative outside of the immediate family or a close friend, allowance shall be made for absence at full pay for a period not to exceed one day. These absences shall not be deducted from sick leave.

Personal Business

Absence for personal business shall be allowed only by permission of the district principal. Such leave will not precede or follow vacation periods. It is the intent of the board of education that such leave be for purposes of conducting business which teachers cannot conduct at another time, such as after school hours, weekends, vacation periods, and holidays. Business such as the graduation of a relative, moving household effects, legal matters which cannot be handled during the above times, and various other personal matters are legitimate reasons. This leave shall not be taken for vocational or recreational purposes. Any leave under this section shall be applied for in writing and will be approved or disapproved by the district principal. A maximum of 3 days may be allowed per year. These absences are in no way to be interpreted as days due the employee.

Religious Holidays

Absence for religious holidays shall be granted at full pay.

Maternity Leave

Any tenure employee of the board of education shall, as soon as she is five months pregnant, apply to the board of education for a leave of absence without pay to begin as soon as a suitable substitute is found, and in any event within six weeks unless otherwise recommended by the district principal. The leave of absence shall extend for one year following the birth of the child and as much longer as may be required, to terminate on the next succeeding September first. The board of education will grant such leave of absence *without pay*. In the event that normal condi-

tions attendant upon pregnancy and birth do not prevail, the employee may apply to the said board for permission to return to her position prior to the termination of the period for which leave was granted. A teacher has the privilege of extending leave to two years upon application. Application of expected return must be submitted at least three months before the end of the school year. A teacher granted leave of absence or maternity leave shall upon her return resume her teaching with a salary at the next step higher than the one assigned to her at the time the leave began if more than one-half of the school year has elapsed before said teacher is granted leave.

Court Leave

Employees who are summoned by the court to appear for the purpose of qualifying for jury service will be granted leave to serve. It is the policy of the board of education to request release from jury duty for eligible employees only in exceptional situations where the public interest would be better served by an employee staying on the job. Before court leave is granted, an employee must submit a true copy of the official summons for jury duty prior to the beginning of such service. An employee serving jury duty shall be reimbursed the difference between his salary and court pay for all school days of absence. If an employee is a party to a suit, absence from school shall be with pay less deductions for substitutes.

On the recommendation of the district principal, absence in excess of that referred to in the preceding regulations may be reviewed by the board for special consideration. Full time administrative employees on a 12-month basis will receive a one month vacation with salary.

Quarantine in Contagious Disease

When such quarantine is not because of personal illness, the employee shall be allowed full pay providing the certificate is filed with the district principal. When the quarantine is because of personal illness, section one will apply.

ELMSFORD PUBLIC SCHOOLS
SALARY SCHEDULE — 1967-1968

	A B.S.		B B.S. + 30		C M.A.		D B.S. + 60		E M.A. + 30		F M.A. + 60		G Doctrate	
	Nonten.	Tenure	Nonten.	Tenure	Nonten.	Tenure	Nonten.	Tenure	Nonten.	Tenure	Nonten.	Tenure	Nonten.	Tenure
1.	$6,150		$6,450		$6,650		$6,850		$7,050		$7,450		$7,650	
2.	6,400		6,750		6,950		7,150		7,350		7,750		7,950	
3.	6,650		7,050		7,250		7,450		7,650		8,050		8,250	
4.	6,900	$7,050	7,350	$7,650	7,550	$7,850	7,750	$8,050	7,950	$8,250	8,350	$8,650	8,550	$8,850
5.	7,150	7,300	7,650	7,950	7,850	8,150	8,050	8,350	8,250	8,550	8,650	8,950	8,850	9,150
6.	7,400	7,550	7,950	8,250	8,150	8,450	8,350	8,650	8,550	8,850	8,950	9,250	9,150	9,450
7.	7,650	7,800	8,250	8,550	8,450	8,750	8,650	8,950	8,850	9,150	9,250	9,550	9,450	9,750
8.	7,900	8,050	8,550	8,850	8,750	9,050	8,950	9,250	9,150	9,450	9,550	9,850	9,750	10,050
9.	8,150	8,350	8,850	9,150	9,050	9,350	9,250	9,550	9,450	9,750	9,850	10,150	10,050	10,250
10.	8,400	8,650	9,150	9,450	9,350	9,650	9,550	9,850	9,750	10,050	10,150	10,450	10,350	10,650
11.	8,650	8,950	9,450	9,950	9,650	10,150	9,850	10,450	10,050	10,650	10,450	11,050	10,650	11,350
12.	8,950	9,250	9,750	10,250	9,950	10,450	10,150	10,750	10,350	10,950	10,750	11,450	10,950	11,650
13.		9,550		10,550		10,750		11,050		11,250		11,750		11,950
14.		9,850		10,850		11,050		11,350		11,550		12,050		12,250
15.		10,250		11,450		11,650		11,950		12,150		12,650		12,850

Fact-Finding Reports

B.A. SCHEDULE

DISTRICT	1963-1964	1964-1965	1965-1966	1966-1967	1967-1968
Elmsford	$5,300- 8,600	$5,400- 9,600	$5,600- 9,400	$5,800- 9,900	$6,150-10,250
Purchase	5,400- 9,000	5,400- 9,300	5,700- 9,700	5,900- 9,900	6,200-10,450
Pocantico Hills	5,200- 9,400	5,400-10,000	5,400-10,000	5,800- 9,000	6,200- 9,982
Hartsdale	5,100- 8,700	5,500- 8,800	5,500- 8,800	6,000- 9,600	6,200- 9,920
Tuckahoe	—	—	—	6,000- 9,400	6,400-10,500
Tarrytown	—	—	—	5,900- 9,600	6,200-10,000
Irvington	5,300- 8,600	5,400- 8,800	5,600- 9,000	5,800- 9,500	6,200- 9,900
Edgemont	5,300- 9,050	5,400- 9,150	5,600- 9,350	6,000- 9,750	6,400-10,250
Ridge Street	5,300- 9,250	5,400- 8,850	5,700- 9,350	5,850- 9,600	6,200-10,200
Rye Neck	—	—	—	5,900- 9,240	6,100- 9,800
Valhalla	5,300- 8,800	5,400- 8,950	5,570- 9,240	5,900- 9,430	6,260-10,030
Dobbs Ferry	—	—	—	5,800- 9,000	6,250- 9,950
Greenburgh 8	5,200- 8,100	5,500- 8,700	5,700- 8,900	5,850- 9,590	6,200- 9,777
Westlake	5,250- 8,700	5,500- 8,700	5,500- 8,800	5,800- 9,300	6,200- 9,700
Hastings	—	—	—	5,800- 9,000	6,200- 9,450
Ardsley	5,400- 8,900	5,500- 9,000	5,800- 9,000	6,000- 9,200	6,200- 9,810

M.A. SCHEDULE

DISTRICT	1963-1964	1964-1965	1965-1966	1966-1967	1967-1968
Elmsford	$5,700- 9,500	$5,800-10,000	$6,000-10,400	$6,300-11,300	$6,650-11,650
Purchase	5,800- 9,700	5,800-10,000	6,300-10,600	6,500-10,800	7,000-11,550
Pocantico Hills	5,700-10,200	6,200-11,200	6,200-11,200	6,500-11,500	6,944-12,772
Hartsdale	6,000-10,500	6,200-10,900	6,200-10,900	6,780-12,000	7,006-12,400
Tuckahoe	—	—	—	6,500-11,100	7,000-12,000
Tarrytown	—	—	—	6,600-11,000	7,000-12,100
Irvington	5,600-10,100	5,800-10,300	6,200-10,700	6,400-10,900	6,800-11,400
Edgemont	5,900-10,400	6,000-10,850	6,200-11,050	6,800-11,650	7,200-12,400
Rye Neck	—	—	—	6,600-11,200	6,950-12,000
Valhalla	5,900-10,000	6,000-10,400	6,160-10,780	6,620-11,320	7,020-12,075
Dobbs Ferry	—	—	—	6,400-11,125	6,900-11,750
Greenburgh 8	5,800- 9,580	6,100-10,000	6,350-10,250	6,550-11,420	6,950-11,692
Westlake	5,750-10,250	6,000-10,800	6,000-10,800	6,400-11,300	6,800-11,700
Hastings	—	—	—	6,400-11,125	6,900-11,900
Ardsley	5,900-10,150	6,100-10,500	6,500-11,100	6,700-11,590	7,000-12,100

Fact-Finding Reports

M.A. + 30 SCHEDULE

DISTRICT	1963-1964	1964-1965	1965-1966	1966-1967	1967-1968
Elmsford	$6,100- 9,900	$6,200-10,400	$6,300-10,800	$6,700-11,800	$7,050-12,150
Purchase	6,300-10,500	6,300-10,500	6,900-11,200	7,100-11,400	7,800-12,650
Pocantico Hills	6,200-11,000	6,700-11,700	6,700-11,700	7,000-12,000	7,502-13,392
Hartsdale	—	—	—	7,380-12,600	7,606-13,000
Tuckahoe	—	—	—	7,000-11,900	7,500-12,800
Tarrytown	—	—	—	7,300-12,000	7,600-12,500
Irvington	6,200-10,900	6,400-11,200	6,800-11,600	7,000-11,800	7,500-12,500
Edgemont	6,400-10,900	6,500-11,350	6,700-11,550	7,300-12,150	7,700-12,900
Ridge Street	6,100,10,050	6,400-10,350	6,700-11,500	6,950-11,750	7,400-12,450
Rye Neck	—	—	—	7,200-11,800	7,550-12,600
Valhalla	6,200-10,500	6,500-10,950	6,710-11,300	7,120-11,820	7,620-12,675
Dobbs Ferry	—	—	—	7,000-11,800	7,500-12,500
Greenburgh 8	6,300-10,660	6,600-11,100	6,900-11,400	7,100-12,360	7,525-12,683
Westlake	6,050-10,550	6,300-11,100	6,300-11,100	6,700-11,600	7,400-12,300
Hastings	—	—	—	7,000-12,050	7,500-12,850
Ardsley	6,400-11,400	6,700-12,000	7,100-12,300	7,300-12,620	7,600-13,120

M.A. + 60 SCHEDULE

DISTRICT	1963-1964	1964-1965	1965-1966	1966-1967	1967-1968
Elmsford	—	—	—	$7,100-12,300	$7,450-12,650
Purchase	—	—	$7,600-11,900	7,800-12,100	8,600-13,450
Pocantico Hills	—	—	7,200-12,200	7,500-12,500	7,998-13,950
Hartsdale	—	—	—	7,980-13,200	8,203-13,600
Tuckahoe	—	—	—	—	8,000-13,300
Tarrytown	—	—	—	8,900-12,900	8,200-13,400
Irvington	$11,600	$12,100	12,500	12,700	13,700
Edgemont	—	—	—	—	8,200-13,400
Ridge Street	$6,400-10,350	$6,800-10,750	7,100-11,900	7,350-11,890	7,800-12,850
Rye Neck	—	—	—	—	—
Valhalla	10,800	11,250	11,610	7,420-12,120	8,220-13,275
Dobbs Ferry	—	—	—	7,450-12,500	8,150-13,350
Greenburgh 8	7,000-11,940	7,400-12,500	7,500-12,500	7,700-13,360	8,160-14,046
Westlake	—	—	11,610	11,800	12,700
Hastings	—	—	—	7,450-12,500	8,050-13,500
Ardsley	—	—	—	7,600-13,120	7,900-13,630

Fact-Finding Reports

ELMSFORD PUBLIC SCHOOLS

SURVEY OF INSTRUCTIONAL COSTS AND TAX RATES IN PRIOR YEARS

Year	Instructional Costs	Percent of Budget	Tax Rates
1964-1965	$1,052,604	71.4	28.20
1965-1966	1,168,050	73.2	29.96
1966-1967	1,324,617	70.7	31.81
1967-1968	1,491,185	70.6	34.97
1968-1969	1,737,421	70.4	40.53 (Proposed)

Estimated % of budget for other school districts in area runs between 60% and 70%.

ESTIMATED COST VALUATION OF TEACHERS' SALARIES, FRINGE BENEFITS, AND INSTRUCTIONAL SERVICES

PROPOSED 1968-1969

		1968-1969 AMOUNT
(A)	Substitutes' Salaries	$20,000
(B)	Sabbatical Leaves	10,500
(C)	Longevity	2,000
(D)	Credit Points	4,000
(E)	Curriculum Development (Dept. Heads)	6,500
(F)	Clubs and Activities	12,500
(G)	Health Insurance	8,500
(H)	Retirement System	178,499
(I)	Social Security	35,000
(J)	Workshops—Conferences	2,000
(K)	Teachers Salaries	917,660
(L)	Other Expenses of Instruction	540,262
	Total	$1,737,421
	Percent of Budget	70.4%

Negotiation Agreements

MASTER AGREEMENT
between the
AKRON EDUCATION ASSOCIATION
and the
AKRON BOARD OF EDUCATION
effective
January 1, 1969

AKRON BOARD OF EDUCATION
AKRON EDUCATION ASSOCIATION
PROFESSIONAL NEGOTIATIONS AGREEMENT
CONTRACT

Article I–Preamble

The Akron City Board of Education is charged with the responsibility of providing the most effective public education possible for the children of this school district.

Staff morale being an essential factor in such achievement, the Board seeks and welcomes communications with its instructional staff. Therefore, the Board does declare that:

1. It is cognizant of Ohio law which directs in effect that the Board has the final authority and responsibility to make policy decisions, and to administer its schools, exercising in the process the best possible management of these responsibilities as entrusted to it by the school community including the most astute use of that same community's school funds.

2. The Superintendent and his staff are responsible for implementing the policies established.

3. The professional personnel has the responsibility of carrying out the best possible program of education under the policies of the Board of Education so as to provide a quality education for all pupils.

4. The Board, the Superintendent and his staff and other professional personnel can best carry out their respective responsibilities in an atmosphere of understanding and mutual respect.

5. It is recognized that the best interests of public education will be served by established procedures to provide an orderly method for the Akron Board of Education (hereinafter referred to as the Board), the Superintendent and his staff (hereinafter referred to as the Superintendent), and representatives of the Akron Education Association (hereinafter referred to as AEA), to discuss such matters as are specified herein, and for formalizing agreements reached on these matters.

6. If any portion of this agreement is in violation of any applicable laws, then that portion in disagreement shall be considered null and void, without however, impairing any other portion of this agreement.

Article II–Recognition

1. The Board, being in receipt of a certification of membership showing that the AEA has members constituting a majority of all certificated teachers and counselors employed in the Akron School District, eligible for membership in said AEA as presently specified in its constitution, hereby recognizes the AEA as the exclusive representative, for the purposes of this agreement, of all such certificated teachers and counselors in said School District, providing that this agreement shall not deny any certificated teacher or counselor his individual right to be heard through established administrative channels.

2. Recognition of the AEA by the Board shall be for the purpose of arriving at agreements concerning salaries, fringe benefits, working conditions, and all other items which are mutually agreed upon.

Article III–Personnel Policies

3.01 Absence of Employees

In accordance with the provisions of the Ohio Revised Code, the Board of Education has enacted rules and regulations for the welfare of teachers and counselors who must be absent from duty because of illness or other reasons authorized by the Board of Education or by the Superintendent of Schools.

3.02 Definitions

a. The "professional staff" includes teachers, supervising teachers, resource teachers, coordinators, psychologists, counselors, assistant principals, principals, directors, the architect, executive directors, assistent superintendents, the superintendent, and any other employees required to be certificated by the State Department of Education.

b. An "employee" is any person holding a position in the Akron Public Schools, subject to appointment, removal, promotion or reduction by the Board of Education or by the Superintendent of Schools or by his representative or by the Civil Service Commission. This term may include members of the professional staff; persons in coordinate, architectural and engineering services; persons in part-time teaching positions; members of the clerical and secretarial staff; members of the maintenance and operation staffs; and members of the food service staff.

c. "Teachers and/or counselors" indicate all certificated teachers and counselors employed in the Akron School District eligible for membership in the AEA, as presently specified in its constitution.

d. The "time schedule" covering the school year, the number of days within the school year and the calendar for the school year are established annually by the Board of Education for each classification of employees.

3.03 Annual Time Schedule

The following annual time schedule has been established for teachers and counselors:

Classification	*Time Schedule*	*Number of Days Used as Daily Deduction for Absence*
Teacher	Thirty-eight weeks, including 180 days with students, 3 days without students, and 7 paid holidays	190
Counselors	Forty weeks, including one week prior to the opening of school and one week following the close of school	200

3.04 Daily Rate of Pay

The "daily rate of pay" of a salaried employee is determined by dividing the total annual salary for the school year by the total number of days for the employment classification as established by the Board of Education.

3.05 Work Day

The "work day" is a day that an employee is assigned to duty.

The work day for elementary school teachers shall not exceed 435 minutes.

The work day for secondary school teachers shall not exceed 450 minutes.

The work day for counselors shall not exceed 480 minutes.

A committee shall be established consisting of five teachers and/or counselors selected by the President of the AEA and five members of the Professional Staff to be selected by the Superintendent of Schools, the Director of Elementary Education shall be an additional member of the committee and shall serve as chairman. The committee shall make recommendations to the AEA and the Board concerning the length of the lunch period at the elementary, junior high and senior high levels.

3.06 School Calendar

The "School Calendar" shall be adopted annually by the Akron Board of Education and shall designate 1) work days with students, 2) work days without students, 3) paid holidays and 4) non-paid days.

The School Calendar adopted by the Board of Education shall be the calendar receiving the greater number of votes in a referendum of the professional staff to be conducted by the Board of Education.

The two choices to be placed on the referendum ballot shall be negotiated annually by the AEA and the Board of Education or its representatives.

3.07 Immediate Family

The "immediate family" includes father, mother, sister, brother, husband, wife, child and in-laws bearing any of

these relationships, and any other person who is a member of the immediate household.

3.08 Other Relative

"Other relative" includes a grandparent, uncle, aunt, cousin, niece, nephew and in-laws bearing any of these relationships.

3.09 Authorized Absence

An employee may be properly absent from duty only with authorization. Absence from duty may be authorized only by the Board of Education or by the Superintendent of Schools or by his representative, and only as provided by these rules and regulations, and within the provisions of the law governing such absence. Partial or full compensation during a period of authorized absence may be paid within the limitations of these rules and regulations and/or the law governing such absence. Absence without pay may also be authorized.

3.10 Unauthorized Absence

Absence from duty not authorized by the Board of Education or by the Superintendent of Schools under these rules and regulations and/or the law governing absence of employees shall be considered unauthorized absence. No payment of a salary will be made for unauthorized absence. Unauthorized absence from duty may be considered by the Board of Education as grounds for suspension or dismissal of the employee.

3.11 Notification in Case of Absence

In case it is necessary for an employee to be absent from duty the employee shall notify his immediate superior as soon as the necessity for such absence has been determined or as soon thereafter as feasible. The employee shall also follow any other established procedures for notification in case of absence so that, if necessary, substitute personnel may be secured.

3.12 Certificate of Absence

The employee and his principal must certify to the Office of the Superintendent of Schools or to the Superintendent's representative the cause of the employee's absence. Such certification shall also constitute a request by the employee for authorization of absence. Approval by the Superintendent of Schools, or by his representative, of such request shall constitute an authorization of absence from duty. The appropriate form among the following, must be completed:

CERTIFICATION OF ABSENCE FOR PERSONAL ILLNESS (Form S-2a)
CERTIFICATION OF ABSENCE FOR ILLNESS IN FAMILY (Form S-2b)
CERTIFICATION OF ABSENCE FOR DEATH IN IMMEDIATE FAMILY OR OF OTHER RELATIVE (Form S-2c)
CERTIFICATION OF ABSENCE FOR CAUSES OTHER THAN ILLNESS OR DEATH (Form S-2d)
CERTIFICATION OF ABSENCE FOR JUSTIFIABLE PERSONAL ABSENCE (Form S-2g)

In cases of absence for illness or death, request for authorization of the absence may be made on Forms S-2a, S-2b, or S-2c not later than the second day after the employee's return to duty. In cases of absence for causes other than illness or death, authorization for the absence should be requested and secured on Form S-2d, in advance of the absence. Authorization for justifiable personal absence shall be secured on Form S-2g, the request shall be submitted at least five days prior to the absence. In cases of emergency situations the request shall be submitted no later than two days after the employee returns to work.

The filing by an employee of any willfully false statements concerning the cause of duration of any absence of that employee shall be considered by the Board of Education as ground for disciplinary action in such form and manner as the Board may deem proper.

3.13 Certificate of Health

When an employee has been absent for more than five consecutive work days because of personal illness, a Certificate of Health shall be filed with the Clerk of the Board of Education on Form S-2e, such certificate to be forwarded to the Clerk immediately upon the employee's return to work.

The Certificate shall be signed only by the employee and shall authorize his physician(s) to release, upon request, to the Superintendent of Schools or his representative, such information as is necessary to justify the absence and/or the physical or mental recovery necessary to resume his duties.

3.14 Epidemic or Other Public Calamity

Teachers and counselors shall be paid for all time lost when schools in which they are employed are closed owing to an epidemic or other public calamity. Public calamities shall be determined by the State Superintendent of Public Instruction.

In the case of absence resulting from travel difficulties between the teacher's or counselor's local residence and his place of employment, provided these difficulties are caused by flood, storm or other uncontrollable conditions, the Superintendent shall waive the salary deduction if, in his judgment, the employee has made every reasonable effort to get to his place of employment. In case of absence due to damage or serious and immediate threat of damage to the teacher's or counselor's residence resulting from flood,

storm or other uncontrollable conditions, the Superintendent shall waive the salary deduction if, in his judgment, such absence was imperative to the protection of property and personal safety of the employee and his immediate family.

3.15 Absence and Salary Increments

Annual salary increments are earned on the basis of the number of work days for which the employee is paid and are granted in accordance with the following schedule:

Time Schedule	*No. Annual Increment*	*One-Half Annual Increment*	*Full Annual Increment*
Teacher	Less than 60 days	60 to 119 days	120 days or more
Counselor	Less than 63 days	63 to 125 days	126 days or more

3.16 Credit for Sick Leave

Each full-time employee of the Board of Education shall be entitled to sick leave of one and one-fourth days with pay for each completed month of service.

All teachers and counselors shall be paid regular compensation for time lost due to illness or other cause as authorized by these rules and regulations, for not less than 5 days annually. This minimum benefit of 5 days shall become effective and available for use annually on the first day of the contract year on which the teacher or counselor is assigned to duty.

This minimum benefit shall not be construed to be in addition to the maximum benefit which may be earned on the basis of completed services and accumulated annually, but rather shall be considered to be a portion there of. Further, after an employee has used the full amount of credit for illness, provided either by regulation of the Board or earned by such employee on the basis of service at the rate of one and one-fourth days for each completed month of service, such employee may not be lawfully paid for further absence because of illness.

3.17 Accumulation of Sick Leave

Unused sick leave may be accumulated to a limit of 150 days. Sick leave credit may be retained during a leave of absence for military service. Additional sick leave credit may not be earned during a leave of absence for military service except in the case of temporary military service, said service not to exceed thirty-one days in any one calendar year.

Maximum annual accumulation as a teacher or counselor shall be 15 days, effective January 1, 1969.

3.18 Transfer of Sick Leave

An employee who transfers from one public agency in Ohio to another shall be credited with the unused balance of his accumulated sick leave. To receive such credit, a new employee shall present to the Clerk of the Board of Education a certification from the public agency in Ohio for which the employee most recently worked, stating the number of days of unused sick leave credited to that employee at the time of the termination of employment.

3.19 Use of Sick Leave

Employees of the Board of Education may use sick leave for absence due to illness, injury, exposure to contagious disease which could be communicated to other employees, or to school children, and to illness or death in the employee's immediate family or death of other relative as follows:

a. Personal illness or injury or exposure to contagious disease which could be communicated to other employees or to school children: no limit. However, an employee on sick leave for these or other causes may be paid only for the number of days of sick leave credited to or earned by the employee. Before salary payment can be made for absence because of personal illness, the employee must submit a CERTIFICATION OF ABSENCE FOR PERSONAL ILLNESS (Form S-2a) to the principal or the immediate superior of the employee. Absence of more than five consecutive work days for personal illness requires the filing of a CERTIFICATE OF HEALTH (Form S-2e).

b. Serious illness in the employee's immediate family: limit of five consecutive work days. Before salary payment can be made for absence because of serious illness in the immediate family, the employee must submit a CERTIFICATE OF ABSENCE FOR ILLNESS IN THE FAMILY (Form S-2b) to the principal or the immediate superior of the employee. The employee must also submit a STATEMENT OF NECESSITY FOR ABSENCE (Form S-2f), that the illness required the employee's absence from duty, if such absence extends beyond five consecutive work days.

   It is the intent of this regulation that leave be used only for serious illness or emergency.

c. Death in the employee's immediate family: limit of five consecutive work days except that the Superintendent of Schools may increase the number of days, if the circumstances justify authorization of additional absence with pay. Before salary payment can be made for absence because of death in the employee's immediate family, the employee must submit a CERTIFICATION OF ABSENCE FOR DEATH IN THE IMMEDIATE FAMILY OR OF OTHER RELATIVE (Form S-2c) to the principal or the immediate superior of the employee.

Notification should be given by the employee to the principal or immediate superior before absence from duty, except in extreme emergency. In such cases the claim must be submitted no later than the second day after the employee returns to work.

d. Death of other relative: limit of two consecutive work days, except that the Superintendent of Schools may increase the number of days if the circumstances justify authorization of additional absence with pay. Before salary payment can be made for absence because of death of other relative, the employee must submit a CERTIFICATION OF ABSENCE FOR DEATH IN IMMEDIATE FAMILY OR OF OTHER RELATIVE (Form S-2c) to the principal or the immediate superior of the employee.

Notification should be given by the employee to the principal or immediate superior before absence from duty, except in extreme emergency. In such cases, the claim must be submitted no later than the second day after the employee returns to work.

3.20 Absence to Attend Meetings and Conferences

Absence of a least one day per school year may be authorized by the Superintendent of Schools to permit each employee to visit another school or to attend local, district, state, national and international meetings or conferences of a professional nature. Authorization for such absence shall be obtained prior to the absence by a written request to the Superintendent.

Employees sent to such meetings or conferences on business of the Board of Education shall be considered assigned to duty with full payment of salary.

Only upon recommendation of the Superintendent and approval of the Board of Education may employees be reimbursed for expenses incurred in attending such meetings, except where appropriations for such expenses have previously been made.

3.21 Absence for Temporary Military Service

An employee of the Board of Education who is a member of the organized militia, or who is a member of another reserve component of the armed forces of the United States, is entitled to be absent from duty without loss of pay for such time as he is in the military service on field training or active duty for periods not to exceed thirty-one days in any one calendar year.

3.22 Absence for Jury Services

Certificated Personnel

In accordance with the exemption provisions of Section 2313.34 of the Ohio Revised Code a teacher who receives a notice to appear before the Jury Commission for examination to serve as a juror may be excused from such service by forwarding the notice to the Chief Attendance Officer of the Board, who will upon receipt of the notice, be responsible for obtaining exemption for the teacher from jury service.

A teacher or counselor who chooses to fulfill his civic obligation by serving on jury duty, shall file such a request with the Office of Pupil Personnel. The Office of Pupil Personnel shall attempt to arrange with the Clerk of Courts to postpone the jury duty until the summer term, so that the jury duty may be performed during the teacher's or counselor's summer vacation.

3.23 Absence for Other Causes

Absence caused by unusual and abnormal circumstances shall be authorized by the Superintendent of Schools if, in his judgment such absence is in the best interest of the schools.

3.24 Justifiable Personal Absence

All full time teachers and counselors shall be granted three school days leave for personal business during each calendar year without loss of pay or deduction from sick leave. Personal business is defined as any business that cannot be conducted at a time not in conflict with the employee's regular school day, or an emergency over which he has no control which requires immediate attention. Notice of such leave shall be given as far in advance as possible. In giving notice of such leave or upon return to school, if the leave was for an emergency, he shall submit a Certification of Absence for Justifiable Personal Absence which shall require only a check mark for items listed below.

Emergencies

Accidents in the immediate family or affecting family property.

Court appearances as litigant or witness.

Road conditions make it impossible to report to work. Every effort should be expended to report to work, even though the hour may be late.

Obligations

Observance of religious holidays where total abstinence from work is required.

Attendance at graduation exercises beyond high school involving an employee or a member of his immediate family.

Physical examination for induction for military service.

Meeting a member of the immediate family returning from a combat zone or accompanying a member of the immediate family to a terminal upon departing for a combat zone.

Attending a wedding involving the employee or a member of his immediate family.

Attendance at ceremonies where the employee or a member of his immediate family is receiving an award of major significance.

Appearance with civic, musical or drama groups on a non-paid basis.

The Superintendent or his representative may authorize justifiable personal absence for OTHER JUSTIFIABLE REASONS. The reason for such request shall be included in writing on the CERTIFICATION OF ABSENCE FOR JUSTIFIABLE PERSONAL ABSENCE.

3.25 Leave of Absence

Employees of the Board of Education may, under conditions specified herein, be granted leaves of absence for the following purposes: personal illness, maternity, teaching outside the United States, travel or professional improvement, Peace Corps, research and military service.

3.26 General Rules and Regulations

a. *Authorized Leave*

Leaves of absence may be authorized only by the Board of Education upon the recommendation of the Superintendent of Schools and only as provided by these rules and regulations and within the provisions of the Ohio Revised Code governing such leave.

Unauthorized absence from duty following the expiration of a leave of absence or a renewal thereof, or failure to comply with the provisions of the leave, may be considered by the Board of Education as termination of contract by the employee.

b. *Application for Leave of Absence*

The application for a leave of absence, or an extension or renewal thereof, must be made in writing to the Superintendent of Schools, stating the purpose of the leave and the period of the leave, and must be accompanied by certain specified supporting statements concerning the need for or desirability of said leave.

c. *Use of Leave*

A leave of absence shall be used essentially and primarily for the purpose stated by the employee in the application which was approved by the Superintendent of Schools and for which the leave was granted by the Board of Education. Any alteration of approved plans or purposes of the leave by the employee without the approval of the Superintendent may be considered as a termination of the employee's contract by that employee.

d. *Application for Reinstatement*

If the employee on leave of absence desires to be reinstated to duty with the Board of Education following the termination of a leave, application for reinstatement must be made in writing to the Superintendent before the expiration of the leave. The application shall be accompanied by certain supporting evidence or statements as hereinafter may be specified. The acceptance of such evidence or statements by the Board of Education shall be a condition of reinstatement.

e. *Reinstatement*

Reassignment of the employee to duty following a leave of absence shall be made as soon as feasible after the proper application has been received. Such assignment, however, shall be at the discretion of the Superintendent and in accordance with the needs of the schools. Upon return to service, the employee shall resume the contract status which he held prior to the leave of absence, except as may otherwise be specified by law or by these rules and regulations.

f. *Failure to Comply with Regulations*

Failure by an employee to comply with these rules and regulations may be considered as termination of contract by the employee.

g. *Compliance with Retirement System Regulations*

Authorized leave of absence shall be contingent upon compliance by the employee on leave with the mandatory provisions of the Ohio Revised Code and the regulations of the State Retirement System of which the employee may be a member, and with the optional provisions of the Ohio Revised Code and the regulations of the retirement system which the employee may elect to follow.

h. *Continuity of Service*

For the purpose of the regulations on leaves of absence, employees on authorized leaves of absence shall be considered as maintaining the characteristic of continuity of service, provided such leaves do not total more than two years. However, time spent on unpaid leaves of absence may not be included in meeting service requirements for future leaves of absence, earned annual increments, or retirement except that the time spent on an unpaid

leave of absence for military service or for professional improvement may be credited to the service required for annual increments. Leaves with partial pay may be credited to the service required for future leaves, earned annual increments and retirement.

3.27 Personal Illness

a. *Eligibility*

Any employee of the Board of Education who is unable to perform satisfactorily the duties of his position because of personal illness or of other disability, may be granted a leave of absence without pay for the remainder of the school year or for a full school year. Such leave of absence may be renewed for an additional school year.

b. *Application for Leave*

The application for such leave of absence or its renewal must be accompanied by a statement from the attending physician, subject to approval by the school physician, stating the nature of the illness or disability and definitely recommending that the employee be relieved of duties, unless such statement is waived by the Superintendent of Schools.

c. *Application for Reinstatement*

Application for reinstatement must be made at least thirty days before the expiration of a leave of absence for personal illness. Not less than ten days before the termination of the leave, the employee must submit a written statement from the attending physician, subject to approval by the school physician, certifying that the employee has been examined and that he is or will be able to resume his duties with the Board of Education when the leave of absence expires.

d. *Early Termination of Leave*

Termination of a leave of absence before its expiration date, provided the request for termination is made in writing by the employee and the request is accompanied by a statement from the attending physician, subject to approval by the school physician, recommending return to duty, shall be at the discretion of the Superintendent of Schools and in accordance with the needs and interests of the schools.

e. *Unrequested Leave of Absence*

If an employee of the Board of Education is unable to perform satisfactorily the duties of his position because of physical or other disability, or if the employee has been absent on account of personal illness for a continuous period of ninety days following the expiration of his sick leave, the Superintendent of Schools may recommend, without the request of the employee, a leave of absence for a part of the school year, for the remainder of the school year, or for a full school year, and renewals thereof, and the Board of Education may grant such leave in accordance with the provisions of the law.

f. *Reinstatement*

Upon return from such a leave, the teacher or counselor salary shall be the same as he would have received had the period of his leave been spent in the Akron Public School System, and he shall be returned to the same position that he held at the time said leave commenced, if available; if not, to an equivalent position.

3.28 Maternity Leave

a. *Eligibility*

Any married woman employee of the Board of Education who becomes pregnant after three or more consecutive years of regular service in the Akron Public Schools, immediately prior to her request for leave, and who desires to return to the employ of the Board at a future date, shall be granted a maternity leave of absence without pay. The absence shall extend for one calendar year following the birth of the child, plus any remaining portion of the school semester which may then be in progress. Such leave may be renewed for one or two semesters.

b. *Application for Maternity Leave*

The application for such leave of absence must be made not later than the end of the fourth month of pregnancy or at such earlier time as the employee's physical or emotional condition interferes with the regular and satisfactory performance of her duties, and must be accompanied by a statement from the attending physician, giving the approximate date of delivery.

It is the policy of the Board of Education that no woman employee remain at work beyond the sixth month of pregnancy (see 3.42) Termination of Contract, pertaining to resignation).

c. *Application for Reinstatement*

Application for reinstatement must be made at least thirty days before the expiration of a maternity leave of absence. The employee must also submit a statement from her attending physician certifying that the employee is both physically and emotionally

able to resume her duties with the Board of Education.

d. *Early Termination of Maternity Leave*

If the expected child does not survive, or if other conditions make desirable or necessary an earlier termination of a maternity leave, the employee may request termination of the leave before the expiration date of the leave.

The employee shall request such earlier termination of maternity leave in writing to the Superintendent of Schools, forwarding with the request a statement by the attending physician certifying that the employee is physically and emotionally able to resume her duties with the Board of Education.

e. *Reinstatement*

Upon returning to the school system, she shall be returned to the same position that she held at the time said leave commenced, if available; if not, to an equivalent position.

3.29 Teaching Outside the United States or Service in Peace Corps

a. *Eligibility*

Any member of the professional staff who has completed three or more consecutive years of regular service in the Akron Public Schools immediately prior to his request for leave, shall be granted a leave of absence without pay for teaching outside the United States, or for serving in the Peace Corps. A leave of absence for teaching outside the United States or for serving in the Peace Corps shall be limited to two school years.

b. *Application for Leave*

The application for leave for teaching outside the United States or for service in the Peace Corps must be made at least sixty days prior to the beginning of such requested leave. Contractual or other evidence verifying the employee's plan for the period of the leave shall be submitted with the application.

c. *Exchange Replacement of Employee*

If the proposed teaching in another school outside the United States involves an exchange and the use of some teacher from outside the Akron Public Schools as a replacement for the employee on leave, such replacement must be approved by the Superintendent of the Akron Public Schools before the requested leave will be granted.

d. *Notification of Intent to Return*

Notification of intent to resume employment must be made at least sixty days prior to the expiration of a leave of absence for teaching outside the United States or service in the Peace Corps. Supporting evidence must be presented showing the dates of the beginning and the termination of the employee's teaching service in the other school, and indicating that the plans under which the leave was granted were substantially carried out.

Upon reinstatement the teacher and/or counselor's salary shall be the same as he would have received had the period of his leave been spent in the Akron Public School System, and he shall be returned to the same position which he held at the time his leave commenced, if available; if not, to an equivalent position.

3.30 Professional Study, Travel or Research

a. *Eligibility*

1. *For Leave Without Pay*

Any professional employee who, immediately prior to his request for leave has completed three consecutive years as a member of the professional staff of the Akron Public Schools, excluding those years counted for obtaining a leave with pay under paragraph 2, *directly below*, may be granted a leave of absence without pay for study, travel or research for one full semester or two full semesters, but no longer than one school year.

2. *For Leave with Partial Pay*

Any professional employee who has completed five consecutive years as a member of the professional staff of Akron Public Schools, excluding those years counted for obtaining a leave of absence without pay under paragraph 1, *directly above*, may be granted a leave of absence with partial pay for professional improvement for one full semester or two full semesters, but not longer than one school year.

b. *Application for Leave*

Application for leave for professional study, travel, research or professional improvement must be made at least sixty days prior to the beginning of such requested leave. The application for such leave of absence must be accompanied by an outline of the program of study or research to be pursued, or the scope and nature of the travel to be undertaken, or the proposals for professional improvement.

Generally it is intended that study and other proposals for professional improvements shall include a full graduate load and shall lead to the completion of a degree in the employee's field or area of professional service, if such degree, either undergraduate or graduate, is not already held. Application for leave for travel shall outline in detail the scope and nature of the travel, shall make provision for an itinerary covering a minimum of four months or eight months, shall show clearly how such travel will contribute directly to improved classroom instruction or to improved professional services by the employee, and shall give reasons why such travel may not be accomplished when schools are not in session or when the employee is not on duty.

c. *Special Regulations Relating to Leave With Partial Pay*

The Board of Education may not grant a leave with partial pay unless there is available a satisfactory substitute.

The number of such leaves granted per year shall be at the discretion of the Superintendent of Schools, except that no more than 5 percent of the professional staff may be on leave for study, travel, research or professional improvement at any one time.

Leave for professional improvement may not be granted to any employee more often than once for each five consecutive years of service, nor may leave be granted a second time to the same individual when other members of the staff, in sufficient numbers to fill the quota for the period, have filed a request for, and are awaiting such leave.

The amount of partial pay which an employee may receive while on leave under the provisions of this section shall equal the difference between the pay to which the employee would be entitled if service had been rendered during the period of leave and the minimum salary of a teacher with the Bachelor's degree, or 50 percent of the amount of pay to which the employee would be entitled if service had been rendered during the period of leave, whichever is greater.

In case the employee on leave has been granted a scholarship, fellowship, award or other form of financial aid other than a repayable loan or a repayable grant-in aid the partial pay provided by the Board of Education during such leave shall be limited to an amount which, when combined with any other financial award the employee may receive, will not cause the total pay from these sources during such leave of absence to exceed 100 percent of the employee's regular salary had he been rendering his regular services to the Board of Education during such period.

Upon his return from leave, a teacher and/or counselor's salary and fringe benefits shall be the same as he would have recieved had the period of his leave been spent in the Akron Public School System, and he shall be returned to the same position that he held at the time said leave commenced, if available; if not, to an equivalent position.

All professional employees shall, as a condition of approval for leave of absence for professional growth, sign a written agreement to return to service in the Akron Public Schools for a period of at least one year immediately following satisfactory completion of the program for professional improvement within the specified period, or to refund to the Akron Board of Education all of the partial pay received during the period of leave. The refund requirement shall not apply in case of the death of the employee while on leave; in cases of illness or injury, the obligation will be deferred until the employee can resume his employment. Refund of pay received on leave may also be required if the employee fails to complete satisfactorily the program of professional improvement unless such failure was beyond the control of the employee. Obligations arising under this agreement may be deferred if the employee is granted a leave of absence under other provisions of these rules and regulations immediately following a leave of absence for professional improvement, or if other types of leaves are granted prior to the completion of the required year of service, such deferment not to extend beyond the other types of leave plus one year.

d. *Notice of Intent to Return*

Notice of intent to resume employment must be made at least sixty days prior to the expiration of a leave of absence for study, travel, research, or professional improvement. The application must be accompanied by supporting evidence or statements showing that the plan for study, travel, research or professional growth was substantially carried out.

Full credit on the salary schedule shall be granted for the time spent in approved study, travel, research or professional improvement.

3.31 Military Leave

a. *Eligibility*

Any employee of the Board of Education shall be granted a leave of absence to be inducted or otherwise enter military duty in accordance with the provisions of the law.

b. *Application for Leave*

The application for leave for military duty shall be made as far in advance of that duty as is feasible, but not later than the date upon which orders to report for military duty are received.

c. *Notice of Intent to Return*

Notice of intent to resume employment as an employee of the Akron Board of Education shall be given within ninety days after discharge from the military service for which leave was granted.

d. *Reinstatement*

Upon evidence of honorable separation from military service and upon proper application for reinstatement to duty, a member of the professional staff shall be reemployed at the beginning of the next school semester, subject to passing a physical examination, provided such application is made not less than thirty days prior to the first day of the next school semester, unless the Board of Education waives the requirement for such thirty day period, or unless the Board wishes to reassign the employee at an earlier date as requested by that employee.

For purposes of seniority and placement on the salary schedule, years of absence in the service of the armed forces of the United States, or the auxiliaries thereof, shall be counted as though teaching service had been performed during such time.

3.32 Non-Degree Teachers

The Board of Education may authorize the employment of teachers with less than Bachelor degree status, but with the provision that such teachers complete six semester hours of college credit per year toward a degree to be eligible for continuous employment.

3.33 Contracts of Professional Personnel

a. *Limited Contract*

A limited contract is in effect for one year and is entered into by the Board with each teacher who has been employed by the Board for less than three years and/or holds a temporary or provisional certificate.

b. *Continuing Contract*

A continuing contract is entered into by the Board with a teacher who holds a professional certificate or a permanent or life certificate, and who within the last five years has taught for at least three years in this school district; or, in the case of a teacher having attained continuing contract status elsewhere, who has completed two years of service in this district, or who is recommended for a continuing contract by the Superintendent at any time during such two years of employment. A continuing contract remains in effect until the teacher resigns, retires, or until the contract is terminated as prescribed by law.

3.34 Certification of Teachers

A teaching certificate, issued by the Ohio State Department of Education and valid for the specific assignment of the teacher should be on file in the Office of the Assistant Superintendent of Professional Personnel. After the first sixty days of a school year, no salary payment can be made to a teacher or counselor whose certificate is not on file. The necessary forms and general instructions for making applications for certification are available in the Office of the Assistant Superintendent for Professional Personnel.

3.35 Professional Certificates

The State Department of Education, Division of Teacher Education and Certification, may convert any provisional certificate into a professional certificate of like type valid for eight years, provided the candidate has had twenty-four months of successful teaching experience under the provisional certificate and, if the candidate has acquired eighteen semester hours of additional college credit.

Applications for the Professional Certificate may be obtained from the Assistant Superintendent for Professional Personnel and requires the signature of the Superintendent.

Refusal of the Superintendent to approve a certificate application after a twelve month period is subject to grievance procedure.

3.36 Permanent Certificates

The State Department of Education, Division of Teacher Education and Certification may convert any professional certificate into a permanent certificate of like type provided the candidate had had forty months of successful teaching experience under the professional certificate and has a Master's Degree.

Applications for the Permanent Certificate may be obtained from the Assistant Superintendent for Professional Personnel; and requires the signature of the Superintendent.

Refusal of the Superintendent to approve a certificate application after a twelve month period is subject to grievance procedure.

3.37 Pupil-Teacher Ratio

The pupil-teacher ratio for each building shall be determined annually on the first Monday in October, and shall be reported to the Board of Education at their next regular meeting.

For the purpose of computing the pupil-teacher ratio, superintendents, assistant superintendents, specially certified teachers of art, music and physical education in the elementary schools, resource teachers, supplementary personnel assigned to teaching programs under special funding, such as ESEA and Teacher Corps; principals, assistant principals, counselors, paraprofessionals, secretaries, clerks and all others, certified or otherwise, who are not assigned responsibility for instruction in the regular school curriculum, shall not be included as a teacher.

3.38 Professional Conferences

Members of the professional staff are encouraged to attend conferences that contribute to the educational program and professional growth. Teachers desiring to attend a professional conference must submit a request in writing to the Superintendent of Schools who is authorized to approve such requests without loss of pay, with loss of pay equivalent to the cost of a substitute teacher, or with full loss of pay. If authorized by the Board of Education, payment for transportation, lodging and registration may be made. All such cases involving absence from duty must be approved by the Superintendent prior to the absence.

3.39 Evaluation

Teacher or counselor evaluations shall be made without regard to race, creed, color, marital status, sex or national origin.

All evaluations pertaining to the performance of a teacher or counselor shall be conducted openly and with full knowledge of the teacher or counselor.

Teachers and/or counselors will be given their copy of any evaluation report.

At the request of the teacher or counselor a conference with the principal shall be held within five days and before the original is submitted to the teacher's or counselor's file.

Disciplinary interviews and reprimands shall be in private. An affected teacher and/or counselor may, if he deems it necessary, request the presence of an association representative, and when such a request is made, the interview shall not proceed until the representative is in attendance.

No teacher or counselor shall be disciplined (e.g. reprimanded, suspended with or without pay, demoted or discharged) without just cause. Just cause shall include but not be limited to: 1) Incompetence 2) Insubordination against reasonable Board rules 3) Moral misconduct.

The principal of each school is responsible for submitting to the Assistant Superintendent for Professional Personnel, not later than the last week of November, a written report concerning any teacher whose performance is not satisfactory and to give to the teacher a copy of the report which must include a statement of what has been done to help the teacher. Not later than the end of the first semester, the principal is required to make a second written report and to include a statement of further efforts to help the teacher. If the principal becomes convinced the teacher should be dismissed, the principal must submit a written report and recommendation for dismissal to the Assistant Superintendent for Professional Personnel, and must give a copy of the report to the teacher prior to March 15th.

3.40 Transfer of Teachers

A request for transfer of a teacher from one building to another or from one subject area to another, may be made by the teacher, by the principal, or by both and shall be submitted in writing to the Assistant Superintendent for Professional Personnel.

Teacher Initiated Request for Transfer

A teacher desiring to transfer from one subject area to another or from one building to another shall file a "Teachers Request for Transfer" (Form 3.46a) with the Assistant Superintendent for Professional Personnel before March 1st.

Requests for transfer will be considered primarily on the basis of years of service in the Akron Public Schools, except that every effort will be made to obtain a staff in every building which has at least 60% of its teachers with experience in the Akron Public Schools.

Whenever the request for transfer within a building exceeds 30% of the number of teachers within the building, an investigation of conditions within the building shall be made during the ensuing school year by a committee composed of the AEA Professional Problems Committee and a committee appointed by the Assistant Superintendent for Professional Personnel. The results of the study, with appropriate recommendations shall be forwarded to the Superintendent.

The necessity of maintaining staffing for extra curricular activities may constitute overriding reasons for transfers outside this established policy.

The Office of Professional Personnel shall notify each teacher of the disposition of his request by August 20th. Notification showing systemwide data of persons transferred and the positions to which they were assigned shall be sent to the president of the AEA by September 1st.

Transfer Due to Enrollment

Transfers initiated by the administration due to decreases in student enrollment shall be filed in the Office of Professional Personnel no later than May 1st.

When such reduction in the number of teachers in a school is necessary, all volunteers shall first be transferred, after which transfers will be made on the basis of years of service in the building. Those lowest in such service will be transferred first.

A conference between the teacher recommended for transfer and the building principal shall occur on or before May 1st.

The teacher recommended for transfer, may, if he desires, schedule a conference with the Assistant Superintendent for Professional Personnel at any time after May 1st.

Principal Request for Transfer

Transfer request initiated by a building principal must be preceded by a conference with the teacher affected on or before March 15th.

Principal initiated requests for teacher or counselor transfer must be filed in the Office of Professional Personnel no later than April 1st. Such request shall state the reasons the principal desires the transfer. All requests should bear the signature of the involved teacher, but such signature will not be interpreted as an agreement with the request. In the event the teacher refuses to sign the request, such refusal shall be noted thereon by the building principal.

3.41 Administrative Promotional Policy

a. *Promotion to Administrative Positions*

The normal promotion to an elementary school principalship is through the cadet-principal program. Secondary school principals are selected from assistant principals within the school system. Professional employees who are interested in becoming cadet-principals, or assistant principals at the secondary level, should communicate with the Assistant Superintendent for Professional Personnel. An application form for an administrative position shall be forwarded upon request.

b. *Administrators Written Examination*

Applicants for an administrative position shall be given a standardized examination, at a time and place to be specified by the Superintendent.

c. *Fee*

Professional employees of the Akron Public Schools who have completed five or more years of teaching service, and who have a Master's Degree and proper Ohio Certification, may participate in the testing program without charge.

Employees of the Akron Public Schools who do not meet the prerequisites for administrative appointment outlined previously, or administrative applicants from other school systems, may participate in the testing program upon receipt of a fee covering the cost of the test.

d. *Eligibility for Administrative Appointment*

1. Five years of successful teaching experience, two of which must be on the level of the position for which application is made.

2. Master's Degree and proper Ohio certification.

3. Satisfactory service in the position held at the time of application.

e. *Objective Evaluation*

An objective test in the general area of administration and supervision, will be administered each school year. Date, time and place will be announced.

A candidate must obtain a score at or about the fiftieth percentile to qualify for further administrative consideration.

A person failing to achieve the desired score may retake the examination after a lapse of one year. The expense of the examination must be borne by the candidate.

f. *Field Rating*

The field rating is based upon information obtained from evaluations made by principals and supervisors under whom the candidate has served. The rating will reflect the applicant's past performance in the classroom as well as his potential for administrative leadership.

g. *Credentials Committee*

The Credentials Committee shall consist of the Assistant Superintendent for Professional Personnel, two elementary principals, one junior high school principal, one senior high school principal, and two teacher representatives, to be appointed by the Superintendent of Schools. The Committee shall meet annually to review the credentials of interested administrative candidates. The Credentials Committee

shall prepare a list of names of various eligible candidates who shall appear before the Interview Committee.

h. *Intermediate Composite Score*

An initial ranking of candidates is determined by the results of the written examination and the field rating. The field rating has a weight of 60%; the objective examination, 40%.

i. *Interview Committee*

The Interview Committee shall consist of the Superintendent, Assistant Superintendent of Professional Personnel, directors of elementary and secondary education, and any additional members appointed by the Superintendent of Schools. The Committee shall meet annually to interview prospective administrative candidates and to nominate personnel for future administrative or supervisory positions.

j. *Final Composite Score*

Final rank in determining eligibility is based upon the following factors:

Factor	*Weight*
1) Intermediate Composite Score a) written examination b) field ratings	66-2/3
2) Interview with Screening Committee	33-1/3

k. *Annual Review*

An annual review of the eligibility lists will be conducted by the Superintendent and the Office of Professional Personnel. Candidates must understand that placement on the eligibility list does not guarantee promotion.

l. *Former Eligibility Lists*

Applicants who have successfully passed the objective examination need not participate in that phase of the selection process for a period of three (3) years. If a person has not been selected for an administrative position within the 3 year time interval, his name is removed from the list of eligible candidates. The person whose name has been withdrawn from consideration may reactivate his file by submitting to the standardized test for administrative selection and subsequent interview with the Screening Committee.

Separate eligibility lists will be made for elementary and secondary levels. Application for an administrative position may be made for one level only.

3.42 Termination of Contract

a. *Resignation or Termination of Contract by Teacher*

No teacher may terminate his contract after the tenth day of July or when the schools are in session without the consent of the Board of Education. Teachers who wish to resign at any other time must submit a resignation in writing to the Assistant Superintendent for Professional Personnel at least ten days before the effective date of the resignation.

b. *Termination of Contract by the Board of Education*

The contract of the teacher may be terminated by the Board of Education for gross inefficiency or immorality, for willful and persistent violation of reasonable regulations, or for other good and just cause. The procedures the Board of Education must follow in terminating a continuing contract of a teacher are outlined in the Ohio Revised Code, Section 3319.16.

c. *Resignation Due to Pregnancy*

It is the policy of the Board of Education that no woman employee remain in her position or working assignment beyond the sixth month of pregnancy. Not later than the end of the fourth month of pregnancy or at such time as the employee's physical or emotional condition interferes with the regular and satisfactory performance of her duties, the employee must file a letter of resignation if she is not eligible for a leave of absence. The letter of resignation shall be accompanied by a statement from the attending physician giving the approximate date of delivery.

d. *Policy Governing Retirement Age*

It shall be the policy of the Board of Education to terminate the contract of employment as of the thirtieth day of June or the thirty-first day of July, whichever is the end of the contract year, of any employee who has attained the age of seventy, or who will attain the age of seventy by the following thirty-first day of August.

3.43 Professional Personnel Records

The State Department of Education requires that certain personnel records be kept up-to-date and on file for reference at all times. These and other personnel records are filed in the Office of the Assistant Superintendent for Professional Personnel.

These personnel records include:

a. Application for employment, including references
b. Copy of latest contract, properly signed

c. Copy of latest salary notice
d. Health certificate card
e. Health history card
f. Ohio teaching certificate
g. Personal record card
h. Personal and professional data form
i. Transcript of college credits showing the official record of the degree granted, original or certified copy
j. Record of military service
k. Record of tuberculosis test or X-ray

Teachers and/or counselors shall have the opportunity to read any material which may be considered derogatory to the teacher's conduct, service, character or personality before it is placed in his personnel file. The teacher and/or counselor shall acknowledge that he has read the material by affixing his signature to the copy to be filed. His signature shall not indicate agreement with the content of the material, but indicates only that the material has been inspected by the teacher and/or counselor. He shall also have the opportunity to reply to such derogatory material in a written statement to be attached to the filed copy.

Teachers and/or counselors shall be informed of any complaint by a parent and/or student which is directed toward that teacher and/or counselor and which will become a matter of record.

Anonymous letters or materials shall not be placed in a teacher's and/or counselor's file nor shall they be made a matter of record.

Each teacher or counselor shall have the right, upon request, to review the contents of his own personnel file, with the exception of item a & i listed above. A representative of the association may, at the teacher's and/or counselor's request accompany the teacher or counselor in such a review.

3.44 Tuberculosis Test or X-Ray For All Employees

All employees of the Board of Education are requested to supply evidence of tuberculosis test or X-ray examination at intervals of not more than three years. This information becomes a part of the employee's health history records on file in the appropriate personnel office in the administration building.

Employees are notified annually concerning the routing of the mobile chest X-ray equipment so that they may conveniently fulfill this responsibility without personal expense.

Upon employment, the Health Certificate—(Form AS-14) signed by the physician will serve as appropriate evidence of examination until the next annual notice of availability of the mobile X-ray equipment for service to employees.

The Professional and the Classified Personnel Offices are responsible for keeping the records of tuberculosis tests and/or X-rays for all professional and classified employees, respectively, of the Board.

3.45 Principal's Advisory Council

A Principal's Advisory Council shall be formed in each building. Such Council shall have as two of its members, the building principal and the AEA building representative.

The principal of a school shall meet at least once a month, during the school term with the Principal's Advisory Council to discuss school operations.

3.46 Staff Meetings

All teachers and/or counselors shall attend the scheduled Tuesday building staff meetings. These shall be schedules to begin within ten to fifteen minutes following school dismissal and shall not exceed one hour. Staff meetings will be held monthly, except in September or May when weekly meetings will be held. When necessary, the principal may, with the consent of the Principal's Advisory Council, call additional Tuesday afternoon meetings. The agenda for all staff meetings shall be posted at least twenty-four hours prior to the meetings. However, in case of emergency the principal may, with the agreement of the AEA building representative, call additional meetings without notice.

In the interest of sound school community relations, teachers are encouraged to attend school functions and school related meetings. However, required attendance by teachers and counselors shall not exceed one evening meeting per year.

3.47 In-Service

It is expected that each teacher and/or counselor will seek to improve his professional skills through a yearly program of in-service.

One day annually, with full pay, shall be provided within the school calendar for purposes of in-service education. Such programs shall be planned by the Assistant Superintendent, Curriculum and Instruction in consultation with the professional staff.

Teachers and/or counselors are encouraged to fulfill the remainder of their in-service obligations by individually designed programs from the following list:

a) *University Credits*—accumulation of (4) four semester credit hours during the school year or during the preceding summer shall fulfill all requirements for the yearly in-service.

b) *University Attendance*–attendance at an accredited college or university shall exempt a teacher and/or counselor from in-service for the quarter or semester for which they are enrolled.

c) *Administrative and/or Curriculum Committees*–serving on a city-wide administrative or curriculum committee such as the Superintendent's Advisory Council or a Textbook Selection Committee shall fulfill the in-service requirements for the year or years for which the committee functions.

d) *Attendance of Professional Societies*–attendance of meetings of the professional society in the teacher's subject field, may be substituted for attendance at an in-service meeting.

Teachers and/or counselors who have not satisfied the in-service requirement on an individual basis shall attend three city-wide or departmental in-service programs which shall be scheduled between 3 PM and 4 PM on Tuesday afternoon. School shall be dismissed at 2:30 PM on in-service days.

3.48 Changes in Curriculum

Evaluation of curriculum is a continuous process. A request for a curriculum study may be initiated by a group of teachers or the Office of Curriculum. The Assistant Superintendent of Curriculum shall form committees of the appropriate disciplines to consider curriculum change. The Association shall be informed of the intent to form such committees and shall have the right to appoint at least one half of the membership of those committees and the Assistant Superintendent of Curriculum and Instruction shall appoint the balance of the committee, which may include administrative personnel. The Assistant Superintendent for Curriculum and Instruction or his designated representative, shall serve as chairman of all such committees. When a change in curriculum has been determined, the staff affected by such change shall be informed of the reasons for the change and the changes shall take place at the beginning of the semester, when possible, and a semester's notice shall precede the implementation of the change.

3.49 Discipline

Regardless of the cause of any pupil difficulty, no teacher or class is ever required to tolerate any act of gross misconduct, including flagrant discourtesy, abusive and vile language, acts of violence and/or deliberate insubordination. Such cases are referred immediately to the principal for appropriate action.

Corporal punishment may be administered by either the teacher or the principal. It should be preceded by a conference involving both. Corporal punishment should not be administered without an adult witness present, and should never be administered in the presence of other children. The severity of the punishment should fit the child rather than the offense and should be within the limits of good judgment. Striking a child on the face, ears or head is not sanctioned.

If, in spite of the teacher's best efforts at correction, which may include corporal punishment administered in accordance with the prescribed policy, a pupil continues to misbehave, the teacher should refer the case to the principal for further action.

When a pupil is sent to the office, the teacher should communicate the reason for his being sent and pertinent background information. Before a pupil is readmitted to class, a conference shall take place between teacher and principal. In case the teacher and principal do not reach mutual agreement about the disposition of the case, the matter may be referred, in writing, to the Executive Director, Pupil Personnel, who shall consider both statements and render a decision.

A disciplinary file, containing a complete record of each student's behavior problems and office referrals, shall be maintained in each school for the use of any member of the professional staff who is directly concerned in his professional capacity.

The disciplinary file of any pupil transferred for disciplinary reasons must accompany the pupil, and its contents must be presented to his teachers at the time he is enrolled in their classes.

A child suspected of being emotionally disturbed or socially maladjusted shall be referred by the teacher to the Child Study Department and if found to be emotionally disturbed or socially maladjusted, shall not be returned to a regular classroom except on the recommendation of the Director of Child Study.

3.50 Assault

All cases of assault, verbal or physical, suffered by teachers and/or counselors shall be reported immediately in writing to their principal. In cases where legal action may ensue, the principal shall obtain a list of the witnesses to the assault and a written statement of what each witness observed or heard. These statements shall be signed, dated and filed, with true and accurate copies given to the AEA building representative.

The principal shall report each case of assault on a teacher and/or counselor in connection with their employment to the Superintendent of Schools or his representative. The Superintendent or his representative shall acknowledge receipt of such a report and shall report this information to the Board of Education, and to the President of the AEA.

3.51 Facilities

The Board of Education is desirous of providing each student with an individual copy of all textbooks which, in the judgment of the professional staff, the student will need in the courses to which he is assigned. Questions about the desirability of individual texts shall be submitted to an advisory committee of six teachers appointed by the Assistant Superintendent of Curriculum and Instruction and the President of the AEA, each to appoint three. The Assistant Superintendent shall serve as chairman of committees and shall render the final decision.

As soon as possible, the Board shall make available in each school:

A Faculty Lounge—not less than one room appropriately furnished and vented shall be reserved for use as a faculty lounge in which smoking will be permitted.

Telephone—a telephone for the exclusive use of the professional staff shall be installed in each building when funds are available. The location of the telephone shall be determined by the Principal's Advisory Committee.

Parking Facilities—each school shall have adquate parking facilities accessible to the school for the exclusive use of the professional staff, during the working hours of the staff.

Equipment—each teacher and/or counselor shall be provided with a desk and chair for his use.

Rest Rooms—separate, clean, well-lighted faculty rest rooms will be provided for men teachers and for women teachers and/or counselors in each building.

Storage Facilities—adequate storage facilities in which teachers may safely store instructional supplies shall be provided in each classroom in each building.

Workroom—each school will have a workroom reserved for the use of the teacher and containing the equipment and supplies necessary in the preparation of instructional materials. Such equipment and supplies shall include but not be limited to ditto masters, ditto paper, a ditto machine and fluid, typewriter, work tables and chair.

Lunch Area—a reserved or separate lunch area shall be provided for teachers and counselors.

Whenever possible, classrooms used as student lunch rooms shall be cleaned by the custodial staff following the lunch period.

The buildings shall be kept in a safe, healthful condition with hallways and restrooms kept clean.

When all the above mentioned facilities cannot be immediately provided for a building, the administrative staff shall develop and present to the AEA and the Board of Education, a reasonable timetable for compliance with this section.

3.52 Teacher Work Load

Teacher schedules and/or assignment shall be made on the basis of certification and/or qualifications and shall be made without regard to race, creed, color, national origin, sex or marital status.

Service by teachers and/or counselors in addition to the days established in the school calendar related to, or sponsored by the Board of Education is not a part of the teacher and/or counselors work load and shall require compensation.

Teachers and/or counselors shall not be required to perform custodial duties.

Teacher work loads shall be within the limits established by the State Department of Education. In addition:

a) attendance in study halls shall not exceed one hundred (100) pupils per supervisor.

b) secondary teachers in academic subjects shall be assigned not more than six classes per day with an optimum of two preparations and a maximum of three preparations.

c) classroom teachers shall not be required to remain in their classroom when a teacher certified to teach in a special area such as music, art, shop, physical education and/or foreign language is in charge.

3.53 Promotion to Counselor Positions

The normal promotion to a counselor position is through the Intern Counselor program which is designed to admit to counseling those persons possessing the unique talents necessary to perform the counseling tasks.

Any teacher who successfully completes his one-year internship as an Intern Counselor shall be promoted to a counselor position.

To be appointed an Intern Counselor a teacher must have provisional certification in pupil personnel services.

No person shall be appointed to a counseling position who has not completed the internship or its equivalent.

3.54 Director of Child Study

Counselors shall be directly responsible to the principal and to the Director of Child Study in areas defined by *The Role of the Counselor.* The Director shall have the authority to interpret the role, to determine the relationship between the counselor and the building staff and

administration, and to supervise the counselors in any other areas.

3.55 Counselor-Community Relations

Knowledge of and contact with the surrounding community is required for the adequate performance of the counseling tasks; therefore, the counselor is encouraged to initiate community contacts which will increase his knowledge of the community resources, help relate the programs of the Akron Public Schools to the community, and make other neighborhood contacts which have professional validity.

When it is desirable for the counselor to leave the building during the school day to perform these duties, he shall make the necessary arrangements with the principal and/or the Director of Child Study.

3.56 Role of the Counselor

The role of the counselor shall be determined by a committee composed of: one senior high principal, one junior high principal, one counselor from a junior high school and an elementary representative, to be selected and chaired by the Director of Child Study.

This *Role of the Counselor* shall be completed by September 1, 1969 and shall become part of this agreement in full.

While drafting the Role of the Counselor the committee shall respect the position of the Akron Counselors Association and the AEA as listed below:

Discipline: Counselors may, where appropriate, enter into areas of discipline in order to accomplish a change in behavior. When the counselor becomes involved in the area of discipline, such involvement shall not involve the administering of punishment.

Attendance: In cases of problems relating to attendance, the counselor may become involved to the extent of assisting the student with problems of attendance by making calls to the home.

Scheduling: The counselor shall serve in the capacity of advisor to the student as to the appropriateness of individual schedules, and as a consultant to the principal and the staff of the building. The counselor may be involved cooperatively with the building administrator in the selection of students for courses, classes or other such needs of fitting the child to the appropriate schedule.

Extra-Curricular Activities: Counselors shall not be given extra-curricular assignments. However, counselors may, at their own discretion, become involved in extra-curricular activities.

3.57 Grievance and Complaints

A "grievance" is a claim by a teacher and/or counselor based upon an event which affects a condition of employment of a teacher and/or counselor or group of teachers and/or counselors and/or an alleged misinterpretation or misapplication of any of the provisions of this agreement.

An "aggrieved" person is the teacher, teachers, counselor, counselors having a grievance.

The purpose of the grievance procedure is to secure at the lowest possible level, proper solutions to grievances. Both parties agree that the grievance proceedings shall be kept confidential at all levels of the procedure.

It is important that grievances be processed as rapidly as possible, consequently, the number of days indicated at each level are maximum. Every effort should be made to expedite the procedures; however, the time limits may be extended by mutual agreements of both parties.

The aggrieved person or persons may be represented at all stages of the grievance procedure by any person of his own choosing.

The AEA shall have the right to have its representatives present at all stages of the grievance procedure affecting an AEA member.

Grievances shall be resolved as follows:

Level One

An aggrieved person shall first discuss his grievance with his principal, either by himself or in the company of an AEA representative, with the objective of resolving the grievance informally.

However, if the grievance is not initiated within 15 days after the aggrieved person knew, or should have known of the event or condition upon which it is based, the grievance shall be considered waived.

Level Two

If the aggrieved person is not satisfied with the disposition made at level one or if no disposition is made within five (5) days after such discussion, he may file a grievance in writing with his building principal with copies to the President of the AEA and the Assistant Superintendent for Professional Personnel. The principal shall within five (5) days after receiving the grievance submit

a written answer to the grievance to the Assistant Superintendent for Professional Personnel with copies to the President of the AEA and the aggrieved person.

Level Three

If the aggrieved person is not satisfied with the answer provided at Level Two the aggrieved person may request in writing that the AEA Professional Rights & Responsibilities Committee review the grievance and the answer, and if the PR & R Committee desires, it shall refer the matter in writing to the Assistant Superintendent for Professional Personnel.

Should the PR & R Committee decline to refer the grievance to the Assistant Superintendent for Professional Personnel, it shall notify the aggrieved person and the Assistant Superintendent for Professional Personnel in writing of such decision. In such event, the aggrieved person may forward the grievance in writing to the Assistant Superintendent for Professional Personnel independently. However, if the written grievance is not referred by the aggrieved person to the Assistant Superintendent for Professional Personnel within 30 days after the PR & R Committee has declined, in writing, to refer such grievance, the grievance shall be considered waived.

The Assistant Superintendent for Professional Personnel will within five (5) days after receipt of the grievance hold a conference involving the aggrieved person, the building principal, the Assistant Superintendent for Prof. Pers. and a representative of the AEA and/or an attorney for the aggrieved person. Within 48 hours after the conclusion of the conference the Assistant Superintendent for Professional Personnel shall give a written response to all persons concerned.

Level Four

If satisfaction is not achieved by the aggrieved person under level two or three, the aggrieved person or the AEA PR & R Committee may submit the grievance to the Superintendent of Schools.

The Superintendent of Schools shall request that the grievance be reviewed by a panel consisting of three (3) disinterested members of the administrative staff appointed by the Superintendent and three (3) disinterested members of the AEA appointed by the President of AEA.

Within ten (10) days after the grievance is submitted to the Superintendent the panel shall report its findings to the Superintendent and within 48 hours thereafter, the Superintendent shall give a written response to all parties concerned.

Level Five

If a satisfactory solution has not yet been attained, the aggrieved person and/or the AEA PR & R Committee may appeal in writing to the Board of Education requesting a formal hearing at which time the aggrieved person may represent himself, or be represnted by the AEA, or be represented by legal counsel, or be represented by any combination of the persons itemized above.

Within fifteen (15) days after such request, a committee of the Board shall meet with the aggrieved person for the purpose of resolving the grievance. The Board shall at its next meeting by official action make its answer to the grievance.

Level Six

Grievances not settled in level five shall, until a declaratory judgment action or the enactment of legislation will permit the Board to agree to binding arbitration, be processed as follows:

The AEA PR & R Committee may, if requested in writing by the aggrieved person, within fifteen days after the Board's answer, notify the Board of its intent to submit the grievance to an Advisory Panel.

An Advisory Panel shall be selected and shall function as stipulated in Article X of this agreement.

In the event a declaratory judgment action or the enactment of legislation defines the legal remedies available to the Board in cases of impasse, the AEA and the Board, or its representative, shall meet and draft a Level Six section of this Grievance Procedure within the guidelines set by the judgment or legislation.

Article IV—Rights of the Association

4.01 Professional Conferences and Association Activities

The Superintendent of School shall authorize up to 125 days with pay per year to teachers and/or counselors elected to represent their association or chosen to serve on programs or in any official capacity at association meetings, conferences or conventions additional days beyond 125 may be granted for teachers and/or counselors elected to official bodies of the OEA and/or NEA.

Request for these absences shall be submitted to the Superintendent of Schools by the President of the AEA.

4.02 Check Off of Dues

The Board shall provide payroll deductions of dues for membership in the Akorn Education Association, the North Eastern Ohio Teachers Association, the Ohio Education Association and the National Education Association.

The enrollment period for payroll deduction of association dues shall be from September 1st to October 15th of each year. Authorization for payroll deductions for associa-

tion memberships shall be on a continuing basis from year to year, unless a request for withdrawal is submitted in writing to the Clerk of the Board, with a copy to the AEA.

The Board shall, through the auspices of the AEA 26 Pay Plan, provide the teachers and/or counselors with the option of a 26 equal pay plan or the regular 19 pay plan.

The enrollment for the 26 Pay Plan shall be within the first 10 days of school in September and shall be on a continuing basis. Application for the 26 Pay Plan shall be filed with the AEA Building Representative during the first week of school in September.

Teachers and/or counselors wishing to withdraw from the plan shall do so in writing to the Clerk of the Board during the first 10 days of school in September.

4.04 Use of School Mails and Bulletin Boards

The AEA shall be authorized to use the school mails, "pony" and the teacher's mailboxes.

The Board shall designate a bulletin board in each building for the general use of the AEA. The bulletin board shall, when possible, be located in an area readily accessible to and normally frequented by teachers.

4.05 Use of School Facilities and Equipment

The AEA shall have the right to use school facilities and equipment when such facilities and/or equipment is not otherwise in use. The use of such facilities and/or equipment will be for legitimate association business. Supplies necessary for such equipment use will be furnished or paid for by the AEA.

4.06 Association Business

The AEA may conduct association business on school property during school hours. The conduction of such business shall not interfere with the program of instruction.

When the custodian is on duty the building may be utilized without cost to the association. At all other times the association may use the building according to the regulations established by the Business Office.

4.07 Extra Duties for Building Representatives

Building Representatives of the association are expected to carry a full teaching schedule (including study halls), but shall not be required to perform extra duties.

AEA Building Representatives shall be limited to one representative for each 50 teachers, and one for each additional major fraction thereof.

4.08 Released Time for the AEA Building Representative

The AEA Building Representatives Meeting shall be scheduled at a time other than the regular monthly professional staff building meeting. Building Representatives shall be excused from other building meetings to attend the monthly Building Representatives Meeting.

4.09 Financing of the Public Schools

As a courtesy to the AEA, the Board of Education or a committee thereof, will meet yearly with the association representatives to discuss the financial position of the schools. Such discussion shall occur each May and/or prior to a determination to seek additional financial support of the electorate.

4.10 Professional Problems Committee

The Assistant Superintendent for Professional Personnel shall meet monthly during the school year, with the AEA Professional Problems Committee and shall attempt to solve any problems, general or specific, which the committee may present.

Minutes of the meetings, and decisions reached shall be placed in writing and filed in both the AEA office and the Office of the Assistant Superintendent for Professional Personnel, for future reference.

The AEA Professional Problems Committee may submit, in writing, to the Superintendent of Schools any problem which they are unable to resolve with the Assistant Superintendent for Professional Personnel. The Superintendent shall respond to the problem within ten work days.

4.11 Job Position

Vacancies for the positions of visiting teachers, supervisors, coordinators, directors or for any new position in which a salary differential is included, will be publicized by sending a written notice to each building for posting in the principal's office, faculty lounge, or other appropriate place in each school or department.

The notice of vacancy will clearly set forth the qualifications for the position.

Teachers who desire to apply for such vacancies should file their application in writing with the Assistant Superintendent for Professional Personnel within the time limit specified in the notice.

All appointments will be made without regard to age, race, creed, color, religion, nationality, sex or marital status.

4.12 Leave of Absence for AEA President

At the request of the AEA Board of Directors a leave of absence with full pay shall be granted to the President of the AEA for the years for which he is elected. The AEA shall reimburse the Board of Education for the total cost of such leave, including the cost of fringe benefits and retirement.

A leave of absence, with full pay, shall be granted to any association member elected as president of any association of which AEA is an affiliate. The full cost to the Board for such a leave shall be reimbursed to the Board by the affiliated association or the individual.

4.13 Building Financial Statements

A signed copy of the monthly trial balance statement of each building shall be sent to the Office of Business Affairs as soon as completed, in no case later than the first of the following month. Copies of the monthly trial balance statement shall also be posted in the teacher's lounge(s) for at least three school days, within two weeks following the submission to the Office of Business Affairs.

Rules and regulations governing the transfer of funds from club accounts to the school general account shall also be posted in the teacher's lounge(s) in each building for the inspection of the general staff. Such posting shall be within two weeks following its submission to the Office of Business Affairs.

4.14 Staff Participation in School Design

Prior to the design of a school building or school building addition, the architect will meet with members of the school faculty, or a committee of teachers selected by the Superintendent or his representative, who shall be representatives of grade levels or disciplines to be housed in the building, to discuss educational requisities for the structure. The same group shall review the preliminary drawings prior to the preparation of working drawings. Should the architect determine not to pursue recommendations of the teachers committee, a written explanation shall be provided to the Board and the President of the AEA.

4.15 Rights of Teachers Under This Agreement

All existing Board policies, instructions, or handbooks shall in no way limit the rights granted teachers in this contract. Any portion of existing documents that are found to be inconsistent with the provisions of this contract shall be modified or deleted to correct the inconsistency.

Article V–Salaries

5.01 Salary Schedule

A. The Board shall adopt a salary schedule which will provide for all employees covered by this agreement the amount in salaries by June 30, 1969 that they would have recieved had grid schedule "A" been placed in effect on January 1, 1969.

Grid Salary Schedule "A"
January 1, 1969 through June 30, 1969

Yrs of Exp.	Non Degree	BA or Equivalent	BA/ 150 hrs.	MA or Equivalent
0	S	6,500	6,600	6,925
1/2	a	6,650	6,750	7,085
1	l	6,800	6,900	7,245
1-1/2	a	6,950	7,050	7,405
2	r	7,100	7,200	7,565
2-1/2	y	7,250	7,350	7,725
3		7,400	7,500	7,885
3-1/2	I	7,550	7,650	8,045
4	n	7,700	7,800	8,205
4-1/2	c	7,850	7,950	8,365
5	r	8,000	8,100	8,525
5-1/2	e	8,150	8,250	8,686
6	a	8,300	8,400	8,845
6-1/2	s	8,450	8,550	9,005
7	e	8,600	8,700	9,165
7-1/2		8,750	8,350	9,325
8	$250	8,900	9,000	9,485
8-1/2		9,050	9,150	9,645
9	A	9,200	9,300	9,805
9-1/2	n	9,350	9,450	9,965
10	n	9,500	9,600	10,125
10-1/2	u	9,650	9,750	10,285
11	a	9,800	9,900	10,445
11-1/2	l	9,950	10,050	10,605
12	l	10,100	10,200	10,765
12-1/2	y	10,250	10,350	10,925
13		10,400	10,500	11,085
13-1/2		10,400	10,500	11,245
14 &		10,400	10,500	11,400

B. The Board of Education shall adopt the following grid salary schedule for all employees covered by this agreement, effective July 1, 1969.

Grid Salary Schedule "B" July 1, 1969

Yrs. of Exp.	Non Degree	BA or Equ.	BA/ 150 hrs.	MA or Equ.
0	6,000	7,000	7,100	7,600
1/2	6,087.50	7,150	7,250	7,725
1	6,175	7,300	7,400	7,850
1-1/2	6,262.50	7,450	7,550	7,975
2	6,350	7,600	7,700	8,100
2-1/2	6,437.50	7,750	7,850	8,225
3	6,525	7,900	8,000	8,350
3-1/2	6,612.50	8,050	8,150	8,575
4	6,700	8,200	8,300	8,800
4-1/2	6,787.50	8,350	8,450	9,037.50
5	6,875	8,500	8,600	9,275
5-1/2	6,962.50	8,650	8,750	9,512.50
6	7,050	8,800	8,900	9,750
6-1/2	7,137.50	8,950	9,050	10,000
7	7,225	9,100	9,200	10,250
7-1/2	7,312.50	9,250	9,350	10,500
8	7,400	9,400	9,500	10,750
8-1/2	7,487.50	9,600	9,700	11,012.50
9	7,575	9,800	9,900	11,275
9-1/2	7,662.50	10,000	10,100	11,537.50
10	7,750	10,200	10,300	11,800
10-1/2	7,837.50	10,400	10,500	12,100
11	7,925	10,600	10,700	12,400
11-1/2	8,012.50	10,800	10,900	12,700
12	8,100	11,000	11,100	13,000
12-1/2	8,187.50	11,000	11,100	13,000
13+ *	8,275	11,000	11,100	13,000
20+	–	11,250	11,350	–
25+	–	11,500	11,600	–

*except for BA with 20 yrs. exp. and above; the BA with 25 yrs. exp. and above

5.02 Counselors and Visiting Teachers

The Visiting Teacher's ratio shall be 1.03 and the Counselor's ratio shall be 1.08.

5.03 Teachers in Other Areas

A. Home Instruction
Rate starting Feb. 1, 1969 $5.00
Rate starting July 1, 1969 $5.50

B. Teacher in charge, Adult Educational Center
Rate starting Feb. 1, 1969 $5.25
Rate starting July 1, 1969 $5.75

C. Teacher, Adult Education Center
Rate starting Feb. 1, 1969 $5.25
Rate starting July 1, 1969 $5.75

D. Teacher, Manpower Development Training Center
Rate starting Feb. 1, 1969 $5.50 to 6.00
Rate starting July 1, 1969 $6.00 to 6.50

E. Teacher, Adult Vocational Education Program
Rate starting Feb. 1, 1969 $5.50
Rate starting July 1, 1969 $6.00

F. Teacher, Adult Evening School
Rate starting Feb. 1, 1969 $5.50
Rate starting July 1, 1969 $6.00

G. Teacher, Summer School
Rate starting Feb. 1, 1969 $5.25
Rate starting July 1, 1969 $5.75

5.04 Substitute Teachers

Substitute teachers shall be paid at the following rate effective February 1, 1969.

a. $23.00 per day
b. $33.00 per day for each additional day beyond ten (10) continuous days on the same teaching assignment.

5.05 Psychologist and Psychologist Intern

The psychologist's ratio shall be 1.175 and psychologist Intern's ratio shall be 1.00.

5.06 Reopening of Negotiations

Items included in Article V and/or Article VI of this agreement may be reopened for negotiations in the event the State Legislature of Ohio or the United States Congress allocates to the Board, additional funds not contemplated by this agreement, provided that 1) such funds are not specifically designated for a particular non-salary and/or non-fringe benefit purpose or purposes, and 2) such funds may be utilized for salaries and/or fringe benefits covered by this agreement.

Article VI–Fringe Benefits

6.01 Hospital, Surgical and Major Medical Insurance

Hospital, Surgical, and Major Medical Insurance shall be provided at Board expense for all employees eligible for membership in AEA, and their dependents. This is to include a reasonable and customary surgical schedule with obstetrical benefits (schedule 1); Major Medical maximum $30,000; $75 non-scheduled X-ray and laboratory benefits; $150 supplemental accident benefit; unlimited anesthesia benefits.

Schedule 1	Normal Delivery	$112.50
	Caesarean Section	225.00
	Ectopic Pregnancy	187.50
	Miscarriage w/o D&C	50.00
	Miscarriage with D&C	75.00

The effective date of this clause shall be February 1, 1969.

6.02 Term Life Insurance

Term Life Insurance shall be provided at Board expense for all employees eligible for membership in AEA. The amount to be $2,000 per employee and includes those over age 65.

This section shall be effective as quickly as possible, but not later than April 1, 1969.

6.03 Income Protection Insurance

Payroll deductions for Income Protection Insurance shall be provided by the Board for all employees eligible for membership in AEA.

6.04 Tax Sheltered Annuities

The Board shall provide a reduction of salaries to all members of the teaching and/or counseling staff wishing to participate in a Tax Sheltered Annuity Program.

6.05 Deductions for Akron Teacher's Credit Union

Payroll deduction for Akron Teacher's Credit Union shall be provided by the Board for all members of the teaching and/or counseling staff eligible to participate in the Akron Teacher's Credit Union.

Note: Procedures for the implementation of sections 6.03, 6.04 and 6.05 shall be determined by a committee composed of two members of the administrative staff and two members of AEA. It is intended that these items be implemented by September 1, 1969.

Article VII–Summer School–Evening School

7.01 A. Application forms for summer school and evening school teaching may be obtained from the principals' office. Summer school applications must be submitted to the Office of Professional Personnel by April 1st, and evening school applications must be submitted by September 10th.

The summer school staff shall be selected during the month of April and concerned teachers shall be notified by May 5th of the disposition of their application.

B. Summer school and evening school positions shall be filled by teachers under contract to the Akron Board. In the event applicants from the Akron City School District are not available, teachers from other districts may be used to fill summer and evening school positions.

Preference shall be given to teachers who for the past two years have been teaching in the field of their major preparation. As of September, 1969, teachers who have taught in these programs during the past two evening and/or summer sessions shall not be selected if there are sufficient other candidates applying. The following criteria shall be considered in making the selection.

Teachers who are best prepared to meet the needs of the curriculum to be offered.

Tenure teachers shall be selected unless a particular teaching need cannot be filled from the list of candidates.

C. All applicants for summer school employment shall receive notification by May 5th from the Personnel Office:

1) that they have been appointed to a position
2) that there is a possibility for appointment at a later date.
3) that they will not be appointed this summer

7.02 Summer school teachers shall have July 4th as a paid holiday, effective January 1, 1969.

Article VIII–Negotiation Procedures

1. A written request for a negotiation meeting, stating the subject matter to be considered, as provided, in Article II, paragraph 2, and Article XI, paragraph 3, shall be submitted by the President of the AEA to the Superintendent, or by the Superintendent to the President of the AEA. Meetings between the AEA and the Superintendent shall be scheduled outside the regular school day, but for an agreed upon time and place.

2. The AEA shall designate a committee of five (5) members or fewer and the Superintendent shall designate a committee of five (5) members or fewer for the purpose of conducting negotiations. The aforementioned shall be employees of the Akron Board of Education.

3. Within five (5) working days after the receipt of said written request from either party, the Superintendent shall schedule a meeting, outside the regular school day, with the AEA–at an agreed upon time and place.

4. In the event the Superintendent and the AEA are unable to reach an agreement within thirty (30) working

days or a mutually agreed upon time, such failure shall be reported by the Superintendent to the Board.

5. Thereafter, the Board, or at the Board's discretion a committee of the Board together with its administrative representatives, if requested to do so in writing by the AEA or the Superintendent, shall meet with the representatives of the AEA as hereinbefore limited as to number, in Executive Session within ten (10) working days or a mutually agreed upon time.

6. Both parties will make every effort to conclude negotiations satisfactorily through the foregoing steps within ninety (90) working days from the time of receipt of the original written request referred to in Article VIII, paragraph 1, hereof.

a) In addition to the committees of the parties referred to in Article III,–paragraph 2, either party may use such consultants, in negotiation sessions, as it may deem necessary. The identity of the consultants, and the intent to use said consultants, must be provided to the other party at least three (3) working days in advance of such use.

b) During the process of negotiations, only such information as is mutually agreed upon in writing shall be distributed or given to the news media.

c) The chairman of either committee may recess his committee for independent caucus at any time.

d) Those understandings reached at each session shall be recorded and signed by the parties.

7. The Akron Board and the Superintendent agree to furnish the AEA, upon reasonable request, all compiled available information concerning financial resources of the district as will assist the AEA in helping to develop intelligent, accurate, and constructive programs on behalf of the professional personnel, the students, and the educational program.

a) In recognition that negotiation is a shared process, all parties shall negotiate in "Good Faith". "Good Faith" requires that the AEA and the Board representatives be willing to react to each other's proposals; if a proposal should prove unacceptable to one of the parties, that party is obligated to give its reasons therefor. In case of disagreement, procedures outlined in Article X will be in effect.

Article IX–Agreement

When the participants reach agreement, such agreement shall be reduced to writing and signed by members of each negotiating committee. Within five (5) working days thereafter, said agreement shall be submitted to a membership meeting of the AEA for ratification. If such membership ratifies said agreement by a majority vote of those voting thereon, upon written certification by the President of the AEA of such ratification to the Superintendent, the Board shall consider the ratification at its next meeting. The Board may also elect to defer consideration of the agreement to the following meeting, when seventy-two (72) hours have not passed between written notification of AEA ratification and the Board meeting.

Article X–Impasse

Should the AEA and the Board be unable to reach an agreement within ninety (90) working days (unless the parties mutually agree to an extension of time) either party may request, in writing and within thirty (30) working days, that the unresolved matter(s) be submitted to an Advisory Panel.

An Advisory Panel, composed of three (3) members, will be established within fifteen (15) working days after receipt of a written request by either party, unless both parties mutually agree to a later date. The AEA and the Board shall each appoint one Akron taxpayer to the Advisory Panel. In the event the two Advisory Panel members are unable to agree upon a third member, they shall ask the Judge of Probate Court to submit to them a list of five Akron taxpayers who have indicated their willingness to serve. Each member of the Advisory Panel shall alternately strike a name from the list, until only one remains; he shall become chairman. The striking of the first name shall be determined by the toss of a coin.

The Advisory Panel will be requested to report recommendations for settlement to the negotiating committee of each party. When possible, such recommendations shall be reported within fifteen (15) working days after the Panel's initial meeting. These recommendations shall not be made public until five (5) working days after their presentation by the Panel to the parties, unless an earlier mutually agreed upon time is specified.

Any conclusion of the Advisory Panel can be only in the nature of a recommendation. Costs incurred by the Chairman of the Advisory Panel will be shared equally by the AEA and the Board.

Any costs, other than those incurred by the Chairman of the Advisory Panel, will be paid by the Board or the AEA, whichever incurs the cost.

Article XI–Duration

1. The effective date for the first year of this agreement shall be January 1, 1969, and it shall remain in force until June 30, 1970, except that it may be altered by the reopening of negotiations as provided herein.

2. Within sixty (60) days to ninety (90) days before the original termination date hereof or within sixty (60) days to ninety (90) days before the end of any two-year renewal period hereof, the AEA shall certify to the Board a list of its membership. In the event any such certification reveals that an organization other than the AEA has as members a majority of those certificated teachers and counselors eligible for such membership, then this agreement and the recognition of the AEA contained herein, shall terminate at the end of such agreement period.

3. Negotiations under this agreement shall be initiated by written notification to the other party within sixty (60) days to ninety (90) days before the end of any calendar year, under the procedures set forth in Article III, hereof. The terms of this agreement, other than matters concerning salaries, fringe benefits and working conditions, shall be renegotiated only by written notification to the other party, and only within the last sixty (60) days of the original term ending June 30, 1970, or any renewal period hereof, unless such negotiating at a time other than that herein specified is agreed upon by both parties.

4. This agreement may be opened for negotiations at a time other than that provided in foregoing paragraph 3 only upon the mutual agreement of the parties.

5. Any agreements reached between the parties under the terms hereof shall, upon ratification thereof as provided herein, become a part of this agreement.

In witness whereof the parties have caused their names to be hereunto subscribed by their respective officers and attested by their respective secretaries, this

_____ of _____ , _____.
(day) (month) (year)

Signing for the Board of Education:

/s/ Conrad C. Ott, Superintendent

/s/ D. Eugene Dominic, Asst. Superintendent

/s/ Leon M. Friedman, Executive Director

Signing for the Akron Education Association:

/s/ E. Wade Underwood, President

/s/ Roberta M. Banker, 2nd Vice President

/s/ James B. Cole, Salary Chairman

/s/ John Gondorchin, PR & R Committee

/s/ B. G. Leach, Counselor Representative

NOTE: The parties recognize that there are many instances of poor grammar, ambiguity and redundancy in the document. In the near future, the form of the document will be modified; the content will not be altered.

NEGOTIATION RESEARCH DIGEST

ENDS PUBLICATION YEAR

The next issue of the *Negotiation Research Digest* will be published in September 1969. All subscribers are urged to renew their subscriptions at this time to ensure receipt of this valuable source of negotiation information during the next school year. Any subscriber who is not certain when his subscription expires may check with the NEA Records Division.

Please take this opportunity to extend your subscription *now* by returning the order form below to the NEA Records Division, 1201 16th Street, N.W., Washington, D.C. 20036.

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Compiled by the Research Division

NATIONAL EDUCATION ASSOCIATION

1201 Sixteenth Street, N.W., Washington, D.C. 20036

Negotiation Research Digest

Volume 3, No. 1 September 1969

New and Revised State Negotiation Statutes . . . . . Description: A-1
Text: C-1

Five states—Maine, Nevada, North Dakota, South Dakota, and Vermont—enact new negotiation statutes covering the teaching profession. Three states—Connecticut, Nebraska, and Oregon—revise teacher negotiation statutes. Full text of South Dakota law was reprinted in the June 1969 issue.

Nurses Allowed To Strike in Montana . . . . . Description: A-2

Montana law provides nurses in private or public employment with the right to self-organization, representation, bargaining, and striking under certain circumstances.

Teachers in Bargaining Unit Have Protected Rights . . . . . Description: A-2
Text: C-28

Federal court in Indianapolis defines five "federally protected rights and privileges" for teacher members in a bargaining unit. Preliminary injunction issued to prevent the school board from unilaterally determining salaries and benefits.

Winton Act Upheld by California Courts . . . . . Description: A-3

The Supreme Court of California upheld the decision that the employer-employee relations act does not impair rights guaranteed by the Constitution of the United States. According to the Court, the negotiating council procedure established in the law was a valid means for teachers to "meet and confer" with boards of education on employment and educational matters.

Florida Teachers Have Bargaining Rights . . . . . Description: A-4

According to the Florida Supreme Court, the Dade County Classroom Teachers Association had the right to negotiate with the board of education within the limitations under the present statute as defined by the court.

New York Court Finds Education Law Prevails over Taylor Act . . . . Description: A-4

The New York Supreme Court says the Taylor Act does not give the Public Employment Relations Board the power to order the Ockawamick School Board to reinstate a nontenure teacher dismissed for organization activities.

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Recent Settlement in New York City . . . . . Description: A-4

Agreement between the New York City Board of Education and the United Federation of Teachers, Local 2 (AFL-CIO) effective September 8, 1969, to September 8, 1972. The B.A. minimum salary increases from $6,750 to $7,950, effective October 1, 1969, $8, 450 on October 1, 1970, and $9,400 on October 1, 1971. Board contribution for supplemental welfare benefits increases from $190 a year per teacher to $205 the first year, $220 on September 1, 1970, and $270 on September 1, 1971. The board of education pledges to support legislative revision of the retirement system to include a reduction in years of service requirement before retirement and increased retirement allowance. Some other provisions include $500,000 teacher recruitment fund, special complaint procedure for teachers in cases of harassment and intimidation, and additional relief periods for chapter chairmen.

Index, April 1967 to June 1969 . . . . . Text: E-1

Resource Publications for Research in Negotiation . . . . . Description: B-1

An annotated bibliography of over 50 resource publications most often used in education negotiation research.

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Description and Analysis

NEW PUBLIC EMPLOYEE NEGOTIATION LAW IN MAINE PROVIDES BINDING ARBITRATION FOR CERTAIN MATTERS IN NEGOTIATION DISPUTES

The Governor of Maine singed into law on June 24, The Municipal Public Employees Labor Relations Law. Public employers covered are "any municipality or town or any subdivision thereof, or of any school, sewer or other district." All school employees are covered except the superintendent and assistant superintendent.

In the event of a dispute over the appropriate bargaining unit, the Commissioner of Labor and Industry shall make the determination. The appropriate unit shall insure employees the fullest freedom to exercise their rights guaranteed by the law and insure a community of interest among the employees. Nothing in this law "is intended to require the exclusion of principals, assistant principals, other supervisory employees from school system bargaining units which include teachers and nurses in supervisory positions." Unit determination decisions made by the Commissioner may be appealed to a three-member Public Employee Labor Relations Appeals Board created by the law.

School employers shall negotiate in good faith with respect to wages, hours, working conditions, and contract grievance arbitration which may provide for binding arbitration as the final step, and they shall meet and consult but not negotiate with respect to educational policies.

If the parties are unable to effect a settlement after mediation or fact-finding, they may jointly agree to an arbitration procedure. If the parties cannot agree on an arbitration procedure, either party may request the American Arbitration Association for assistance. A majority recommendation of the arbitrators on matters other than "salaries, pensions and insurance" shall be binding on both parties. Recommendations on salaries, pensions and insurance shall be "advisory only" and be made public at the discretion of the arbitrators.

The act prohibits public employees from engaging in work stoppages, slowdowns, strikes, or blacklisting of any public employer.

STRIKING PUBLIC EMPLOYEES MAY BE DISMISSED, FINED, OR IMPRISONED AS PROVIDED IN NEW NEGOTIATION LAW IN NEVADA

The Local Government Employee-Management Relations Act enacted in April by Nevada legislature covers any political subdivision or any public or quasi-public corporation in the state including school districts. Local government employees have the right to join or refrain from joining any employee organization. Local government employers shall negotiate concerning "wages, hours and conditions of employment" with recognized representatives of the employee organization. The act also specifies the rights to which local government employers are entitled without negotiation with public employees.

Each local government employer shall determine which group or groups constitute an appropriate unit or units for negotiation purposes. For an appropriate unit or units in a school district, the act provides: "A principal, assistant principal or other school administrator below the rank of superintendent, associate superintendent or assistant superintendent shall not be a member of the same negotiating unit with public school teachers unless the school district employs fewer than five principals but may join with other officials of the same specified ranks to negotiate as a separate negotiating unit."

The act provides as a condition for recognition, that an employee organization must pledge in writing not to strike against the local government employer, and that strikes are illegal. Any employee, employee organization, and officer of any employee organization found in violation of a court order to enjoin a strike may be dismissed, fined, or imprisoned by the court. The fines are to be not more than $50,000 a day against an organization and not more than $1,000 a day against individuals for each day of continued violation.

The act creates a three-member public board which is appointed by the governor. The local government employee-management relations board will hear appeals on unit determination disputes and provide mediation and fact-finding services when the parties cannot reach agreement in negotiation.

SECOND REVISION PASSED ON CONNECTICUT TEACHER NEGOTIATION LAW

The Connecticut negotiation statute for teachers originally enacted in 1965 (NRD, April 1967) has been revised again, effective July 1, 1969. The statute was previously amended in 1967 (NRD, September 1967). Major amendments of the act affect representation, duty to negotiate, strikes, and mediation and arbitration sections. In addition, a new section was enacted to provide that this act shall supercede the provisions of any local or municipal acts.

Prior to the recent amendment the act excluded the superintendent and temporary substitutes from organizational representation. In addition to these persons, the amendment excludes assistant superintendents, certified professional employees who act for the board of education for personnel relations or budget preparation, and all non-certified employees from coverage under the act. The statute retains the option for administrators to remain with the recognized teacher organization or to form a separate unit for bargaining purposes.

The section on duty to negotiate was amended to provide that the legislative body which is charged with making annual appropriations to be bound by the negotiated agreement between the board of education and the teacher organization unless such body rejects the signed agreement within 30 days.

The suplement to the section on strike prohibition provides that it may be enforced by a temporary injunction issued without a hearing by the Superior Court for any county. But if a motion is filed to dissolve the injunction, the court conducts a hearing within three days.

Amendments to the section on mediation and arbitration provide that if the parties are unable to reach agreement, the state board of education has the power to order mediation and/or arbitration. The act establishes an arbitration panel with which the state board of education may contract for services in resolving disputes. Additional powers and duties covered in Section 31-108 of the Labor Statutes are provided the state board of education and arbitrators for purposes of arbitration hearings. This section provides them with the power to administer oaths and to issue subpoenas for witnesses and documents. However, the decisions of the arbitrators remained "advisory."

OREGON AMENDS "MEET AND CONFER" LAW TO ALLOW ORGANIZATION REPRESENTATION FOR TEACHERS

The Oregon teacher negotiation statute (NRD, May 1967) has been amended, effective June 16, 1969. The amendment provides for recognition of an employee organization to represent certificated school employees. Not later than 30 days after the first day of the school year, the district school board shall establish election procedures to determine whether the certificated personnel shall be represented individually, by a committee of such personnel, or by a particular employee organization.

Organizations may be placed on the ballot by (a) certified membership of at least 40 percent of the certificated employees, or (b) signed petition by 15 percent of the certificated employees. Administrators or teachers may elect to be represented in separate units.

MONTANA LAW ALLOWS NURSES TO STRIKE

Montana passed a negotiation statute which gives nurses a limited right to strike. The Act, effective July 1, 1969, provides registered professional and licensed practical nurses employed in public or private health care facilities the right to self-organization, representation, bargaining, and striking. The strike section provides that nurses or their duly elected representative "must give the health care facility thirty (30) days written notice of any strike by them and must specify in the notice the day the strike is to begin." The section also provides that it shall be unlawful for any nurse "to participate in a strike if there is another strike in effect at another health care facility within a radius of 150 miles." (Chapter No. 320. Montana Session Laws 1969, House Bill No. 508. March 11, 1969.)

CONSTITUTION OF THE UNITED STATES PROTECTS RIGHTS OF BARGAINING UNIT MEMBERS ACCORDING TO DISTRICT COURT

The Indianapolis Education Association (IEA) was granted a preliminary injunction by the U.S. District Court of Southern Indiana, to prevent the Board of School Commissioners, City of Indianapolis, Indiana, from "bargaining individually" on teachers' salaries and other conditions of employment for

the 1969-70 school year with any member of the bargaining unit for which the IEA has been elected exclusive bargaining representative. The court found the school board had interfered with "federally-protected rights and privileges" of the fundamental rights of the represented teachers secured by the First and Fourteenth Amendments to the Constitution of the United States.

A complaint was filed by the IEA after the school board had agreed to recognize the winning organization as the exclusive bargaining agent for nonsupervisory teachers in an election to be held on May 21, 1969, and to bargain in good faith. On May 20, 1969, the school board unilaterally adopted a higher salary and benefit schedule for the 1969-70 school year, and thereafter, distributed individual contracts to the teachers reflecting the increase. The election results showed that approximately 95 percent of the ballots cast chose IEA as the exclusive bargaining agent. However, the school board continued its former customary procedures in the matter of unilaterally determining salaries and other benefits for the 1969-70 school year.

The court found the acts of the school board prior to negotiations with the IEA unjustifiably interfered with the "normal processes of good faith collective bargaining," and with the exercise by the teachers as members of a bargaining unit of the following rights and privileges:

"(a) The right to associate together through a chosen representative for the purpose of negotiating on an equal basis with their employer with respect to their economic and professional interests,

(b) The rights to be heard through a chosen representative in a meaningful and effective way with respect to their economic and professional interests,

(c) The right collectively to advance and further their ideas and beliefs on what they consider to be their economic and professional well-being,

(d) The right to petition the government in a meaningful and effective way for redress of economic and professional grievances,

(e) The liberty to contract for personal services by a bargaining process through a representative of their own choosing,

(f) The right of equality of opportunity enjoyed by citizens in private employment to bargain collectively with respect to terms and conditions of public employment."

The court further ordered the parties to report to it concerning the progress of good-faith negotiations.

HIGH COURT IN CALIFORNIA UPHOLDS WINTON ACT

The Supreme Court of California denied a hearing on the lower court's decision that upheld the constitutionality of California's employer-employee relations law (Winton Act NRD, April 1967) for public-school teachers and other employees. The Second District Court of Appeals had declared that the Winton Act does not impair rights guaranteed by the First Amendment of the Constitution of the United States.

The original lower court suit challenging the constitutionality of the law was filed against the Oxnard Elementary School District in 1966 by the California Federation of Teachers (AFL-CIO). Later the Oxnard Educators Association, an affiliate of the California Teachers Association (CTA), intervened on behalf of its members in support of the Act.

The Union claimed that the school district, its board members and administration were discriminating against Union members by insisting they "meet and confer" with school officials on employment and educational policy matters through the negotiating council procedure required by the Winton Act.

The Court ruled:

- The Winton Act does not impair rights of freedom of association, assembly and speech as protected by the First Amendment of the Constitution of the United States.
- The Act validly required that teachers "meet and confer" with the board of education on major employment and educational policy issues through the medium of the negotiation council.
- The Winton Act validly required that representation on the negotiating council shall be proportionate to the membership of organizations representing teachers in a school district.
- In spite of requirements that major issues of employment and educational policy affecting teachers be presented to the school board through the negotiating council, the Winton Act does not prevent teachers as individuals or through their organizations from discussing personal grievances or other issues with the board.

SCHOOL EMPLOYEES HAVE BARGAINING RIGHTS IN FLORIDA

The Florida State Supreme Court overruled a Dade County Circuit Court ruling which had invalidated a negotiation agreement between the Dade County Classroom Teachers and the Dade County Board of Public Instruction. The Supreme Court held that "with the exception of the right to strike, public employees have the same rights of collective bargaining as are granted private employees" under the present statutes. But the court found certain limitations on public employee-employer negotiation: (a) public employee organizations may bargain only for their members, (b) dues check-off can be made only with the authorization of the teacher and only during the term of the current agreement, (c) a school board may allow an employee organization to use school facilities so long as all employee organizations are granted such privileges, and (d) a grievance procedure contained in the agreement does not apply to nonconsenting teachers.

The Court declared "in the sensitive area of labor relations between public employee and public employer, it is requisite that the Legislature enact appropriate legislation setting out standards and guidelines" within these statutory limits. Or the present statute "may be modified by succeeding Legislatures in the light of experience and the needs of the times." (Dade County Classroom Teachers' Association, Inc., v Michael Ryan et al., Case No. 38,407. July 9, 1969.)

PERB ORDER CONFLICTS WITH EDUCATION LAW

The New York Supreme Court for the County of Columbia "finds no language in the statute [Taylor Act]which indicates an intention on the part of the Legislature to give PERB the power to exercise any control over the tenure provisions of the Education Law."

The PERB had found that the Ockawamick School Board had denied reappointment and tenure to a nontenure teacher because of her organizational activities. The PERB had ordered the School Board to reinstate the teacher as of September 1, 1968, and to compensate her for wages lost. (NRD, June 1969)

Since the Taylor Act did not expressly empower the PERB to order such action, the Court found that the Education Law prevailed because "it is well settled law that a teacher has no vested rights to tenure during the probationary period and that the services of a probationary teacher may be discontinued without a hearing and without giving the reasons therefor." The Court dismissed PERB's petition to enforce its order.

RECENT SETTLEMENT IN NEW YORK CITY

For the past two years, the New York City Schools have been closed down by teacher strikes during the first months of school—approximately 15 days in 1967 and 50 days in 1968. According to the *New York Times*, the political climate in New York City was right for an early settlement between the Board of Education and the United Federation of Teachers, Local 2. The New York City classroom teacher contract was reached by the parties over two months before the expiration date of their previous contract.

Except for the salary and fringe benefit increases previously briefed, there has been little change in the previous year's agreement. In addition to substantial increases in salary and fringe benefits to attract new teachers, the agreement contains the following new provision:

Improved Staff Recruitment

The Board of Education and the Union will join in an effort to attract new teachers and to achieve a better ethnic balance in the staff of the New York City Schools through improved recruitment procedures. A fund of $500,000 will be set aside for this purpose. A joint committee of the Union and the Board, consisting of the President of the Union and the Superintendent of Schools and an additional high-level staff person selected by each of them, will develop the procedures and supervise their application.

The new agreement provides for the continuation of the experimental education programs previously established, increases the number of the More Effective Schools, and establishes early childhood preschool centers. "Beginning in the 1970-71 school year, the Board will establish and maintain ten additional More Effective Schools. Starting February 1, 1970, the Board will establish early childhood pre-school centers in fifty (50) special service schools, affording an opportunity for mothers in the community to place

their children in an early educational environment. These centers will also provide an opportunity for teachers in the community on leave to return to active teaching by enrolling their children in such centers."

Separate provisions on the working conditions and on the transfer policies for the high schools, junior high schools, elementary schools, K-8 schools, and special education schools for the socially maladjusted and emotionally disturbed, homebound teachers, children with retarded mental development, health conservation, schools for the deaf, speech improvement, special reading service clinics, visually handicapped, and shelter and child care center schools, covered in the previous agreement, remain almost the same for the next three years.

Four of the new provisions covering recruitment, accountability, textbooks, and teacher harassment attempt to deal with certain problems directly related to the conflict that began erupting in the spring of 1968 in an experimental community control district, erupted city-wide in the fall of 1968, and has not been fully resolved to the present. Though the New York Legislature paved the way for the elimination of the controversial experimental districts by passing a bill that places strict limits on the community control aspect of decentralization, social conflict still exists and threatens to expand in disadvantaged neighborhoods. As already reported, the new recruitment procedures are to be developed to achieve a better ethnic balance in the staff, the other new provisions are:

Accountability

The Board of Education and the Union recognize that the major problem of our school system is the failure to educate all of our students and the massive academic retardation which exists especially among minority group students. The Board and the Union therefore agree to join in an effort, in cooperation with universities, community school boards and parent organizations, to seek solutions to this major problem and to develop objective criteria of professional accountability.

Improvement of Textbook

More textbooks reflecting the history of minority groups and relating to the experiences of urban children will be introduced into the schools.

Article XIX—Special Complaints

It is the declared objective of the parties to encourage the prompt and informal resolution of special complaints not covered by the Grievance Procedure and to dispose of such complaints as they arise and to provide resource to orderly procedures for their adjustment.

A. Definition

A "Special complaint" is a complaint by an employee in the bargaining unit that persons or groups are engaging in a course of harassing conduct, or in acts of intimidation, which are being directed against him in the course of his employment, and that the school principal or District Superintendent has not afforded the employee adequate relief against such course of conduct or acts of intimidation.

B. Filing and Priority Handling

A special complaint shall be promptly filed with the City Superintendent by the affected employee or, upon his request, by the Union. Such complaint shall receive expedited handling pursuant to this article.

C. Joint Investigation and Informal Resolution

Within twenty-four (24) hours after the special complaint is filed with the City Superintendent, a Joint Investigating Committee consisting of one representative designated by the City Superintendent and one representative designated by the Union shall investigate the complaint at the school level to ascertain the facts and bring about a prompt resolution of the problem without resort to formal procedures. In the course of its investigation, the Joint Committee shall confer with the principal of the school, the Community Superintendent and other persons involved in the controversy.

D. Administrative Hearing and Continued Attempt at Informal Resolution.

If the complaint is not resolved by the Joint Investigating Committee to the satisfaction of the affected employee, he may request a hearing before the City Superintendent. Within forty-eight (48) hours after receipt of the request for hearing, the City Superintendent, or a representative designated by him, shall hold a hearing at which the Joint Investigating Committee shall report its findings and all persons involved, including the affected employee, shall have an opportunity to be heard. The complaining employee may represent himself at the hearing or, upon request, may be represented by the Union or by a person of his own choosing other than an attorney.

At the hearing the City Superintendent or his representative shall make every effort to resolve the complaint informally and all persons involved shall cooperate toward this end.

E. Decision of the City Superintendent

Within seventy-two (72) hours following the close of the hearing, the City Superintendent shall notify all parties of his decision and the manner in which it shall be effectuated.

F. Fact Finding and Recommendations

If the complaint is not resolved by the City Superintendent, the affected employee, or the Union upon his request, may submit it for hearing and fact finding before an arbitrator selected in accordance with Article VII C of this

Agreement. The submission shall be made within ten (10) school days after the issuance of the City Superintendent's decision.

The voluntary labor rules of the American Arbitration Association shall apply to the proceeding insofar as they relate to the hearing, fees and expenses.

The fact finder shall render findings not later than seventy-two (72) hours from the date of the close of the hearings or, if oral hearings have been waived, then from the date of transmitting the final statements and proofs to the fact finder. The finding of fact shall be in writing. The fact finder shall limit his findings strictly to the question whether the employee's complaint has been substantiated by the evidence. If the fact finder finds the complaint to be substantiated and unremedied, he shall recommend an appropriate remedy.

The fact finder shall not interpret or apply the provisions of this Agreement or exercise any of the other functions specified in Article VII of this contract, nor shall he exercise any of the powers conferred upon trial examiners pursuant to Section 2590-j 7 (f) of the Education Law.

G. Board Consideration

Within ten (10) days after receipt of the fact finder's report, the Board shall make a determination.

Article XX—Trial Examiner Panel

Before designating the panel of trial examiners to be maintained by the Chancellor pursuant to Section 2590-j 7 (f) of the Education Law, the Chancellor will afford the Union an opportunity to challenge any proposed designee and the persons challenged shall not be designated. Members of the panel will serve in rotation unless the community board selects a particular person on the panel.

Because most of the content of the new agreement negotiated in New York City contains the same provisions relative to the working conditions and personnel policies covering the various school organizational patterns, professional staff classifications, and special education programs that were in effect last year, the DIGEST reports only the major revisions. As a service to our subscribers, the full text of the new classroom teacher agreement will be sent upon request.

Data and Statistics

RESOURCE PUBLICATIONS FOR RESEARCH IN NEGOTIATION

THIS ANNOTATED BIBLIOGRAPHY of resource publications can provide negotiators with valid and reliable statistical information necessary to analyze and present their local conditions in comparison with other school districts, communities, professions, occupations, states, and the nation. Most of these publications are periodically revised. This list also provides negotiators with the variety and types of information they should be looking for on a local basis.

National Education Association, 1201 Sixteenth Street, N.W., Washington, D.C.

Research Division

1. *Biennial Salary Survey of Public-School Professional Personnel* (biennial) gives mean and median salaries paid and distributions of all salaries paid teachers, principals, and superintendents and others in public school systems. (Latest publication: 1966-67 data. Research Report 1967-R12. 259 p. $3.75. #435-13326)

2. *Economic Status of the Teaching Profession* (annual) compares trends in salaries paid teachers and other instructional staff members with salaries of other professional and nonprofessional workers; includes family budgets and price index data. (Latest publication: 1968-69 data. Research Report 1969-R5. 67 p. $1.25. #435-13392)

3. *Estimates of School Statistics* (annual) reports the number of basic administrative units (school districts), board members, and school superintendents, population of school age, fall and cumulative enrollments, average daily membership and attendance, number of high-school graduates, number of teachers and instructional staff, salaries of teachers and instructional staff, revenue and nonrevenue school receipts, current expenditures per pupil in average daily membership and attendance, capital outlay, and interest on school debt for 50 states, the District of Columbia, and outlying areas. (Latest publication: 1968-69 data. Research Report 1968-R16. 36 p. $1.00. #435-13374)

4. *Evaluation of Teacher Salary Schedules* (annual) evaluates according to 10 tests teacher salary schedules by dollar amount, number and size of increments, and recognition of advanced preparation levels. (Latest publication: 1966-67, 1967-68, and 1968-69 data. Research Report 1968-R14. 161 p. $3.00. #435-13370)

5. *Negotiation Agreement Provisions* (1966-67; 1968-69 in process) provides a master subject index of over 300 items contained in comprehensive agreements and a system-by-system list of schools with 1,000 or more pupils enrolled which have negotiated each identified item. (Latest publication: 1966-67 edition. 406 p. $15.00. #841-24006)

6. *Negotiation Research Digest* (monthly, September-June) provides data and statistics on negotiation agreements; court, board, and arbitrator decisions, state negotiation statutes, contract provision analysis, and other material relative to public school negotiation. (Periodical: $3.00 single copy. $15.00 a year for NEA members; $30.00 a year for nonmembers)

7. *Rankings of the states* (annual) ranks the states on a variety of economic, demographic, and social statistics of the population, state, and local governments and education revenue and expenditures. (Latest publication: 1969 data. Research Report 1968-R1. 76 p. $1.50. #435-13378)

8. *Salary Schedules for Administrative Personnel* (annual) provides average and median salary summary tables and tables of individual school systems enrolling 6,000 or more pupils for minimum and

maximum schedules salaries for administrators and building supervisors and percent relationship to schedules salaries for classroom teachers. (Latest publication: 1968-69 data. Research Report 1968-R3. 92 p. $1.75. #435-13386)

9. *Salary Schedules for Teachers* (annual) provides summary tables and tables of individual school systems enrolling 6,000 or more pupils, on minimum and maximum salaries; increments scheduled for teachers with bachelor's degrees, master's degrees, 6 years of preparation, and doctor's degrees; maximum placement for experience on the bachelor's degree scale; provisions for recognizing superior service or merit; number of teachers; and number of days on duty. (Latest publication: 1968-69 data. Research Report 1968-R13. 122 p. $2.25. #435-13366)

10. *School Law Summaries: Tenure and Contracts* (biennial); *Retirement* (biennial); *Leaves of Absence* (biennial); and *Tort Liability and Liability Insurance* (irregular)—These four school law summaries provide a state-by-state summary of legislative and/or regulatory provisions relative to the particular topic. (Latest publications: *Tenure and contracts.* December 1967. loose-leaf series. complete set of 50 states and D.C., $3.00. *Retirement.* December 1967. loose-leaf series. complete set of 43 states and 15 local retirement systems for $3.00. *Leaves of absence.* December 1968. 26 p. $1.00. #431-13388. *Tort liability and liability insurance.* March 1969. 18 p. $.50. #431-22828)

11. *Selected Statistics of Local School Systems* (annual) provides data on enrollments in elementary and secondary schools, length of school year, number of teachers and distribution of level of preparation, teacher turnover, current expenditures per pupil and by purpose; and school bond, tax, and budget referendums for school systems with enrollments of 25,000 or more and selected small school systems. (Latest publication: 1966-67 data. Research Report 1968-R11. 119 p. $2.25. #435-13362)

Committee on Educational Finance

12. *Financial Status of the Public Schools* (annual) documents the trends in school enrollment, teacher supply and demand, teacher salaries, school revenues and expenditures, and property taxes and federal grants for school purposes. (Latest publication: 1969 data. 74 p. $1.50. #511-15480)

U.S. Government publications are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

U.S. Department of Commerce, Bureau of Census

13. *Census of Governments* (5-year intervals; 1967 now in progress) covers data concerning numbers and characteristics of governments in the United States, elective officials, value of taxable property, public employees and payrolls, and governmental revenues, expenditures, debt, and financial assets. (Latest publications: 1967 data. Vols. I through VII. Vol. 1. Government organization. $3.25; Vol. 2. Taxable property values. $1.50; Vol. 4. No. 1. Finances of school districts. $.75; Vol. 4. No. 3. Finances of county governments. $1.75; Vol. 6. No. 1. Popularly elected officials of state and local governments. $1.50; Vol. 6. No. 2. Employee-retirement systems of state and local governments. $.45; Vol. 6. No. 3. State reports on state and local government finances. $1.00; Vol. 6. No. 4. State payments to local governments. $1.00; other volumes scheduled for publication late 1969)

14. *Current Population Reports* (various reports annually) provides population estimates for selected counties and metropolitan areas, states, and United States for total resident population. (Latest publication: seven reports in the P series. July 1, 1967 and 1968. price varies for single copy of a series. $8.00 a year for complete series)

15. *Public Employment* (annually) covers public employment and payrolls of federal, state, and local governments by function and by type of government. (Latest publication: 1967 data. GE67 No. 1. 31 p. $.30)

16. *State government finances* (annually, several reports) covers federal, state, and local finances by revenue source, expenditure by type and function, indebtedness and debt transactions, and various

other governmental finance transactions. (Latest publication: 1967 data. Series GF67 No. 1. 60 p. $.45)

17. *State tax collections* (quarterly) covers national totals of state and local tax revenue by level of government and by type of tax. (Latest publication: 1968 summary. Series GF68 No. 1. 40 p. $.50)

18. *Statistical Abstract of the United States* (annually) covers numerous summaries of statistics on the social, political, and economic organization of the United States and provides a guide to source references. (Latest publication: 1968. 89th edition. 1034 p. $4.75-cloth)

19. *Taxable Property Values* – covers statistics for 1966 on assessed valuations of taxable property by state-assessed, and locally assessed real and personal property. Report shows gross, tax-exempt, and net taxable valuations for each state, county, and individual cities having 100,000 inhabitants or more. (Latest publication: 1967 Census of government. Vol. 2. 163 p. $1.50)

U.S. Department of Commerce, Office of Business Economics

20. *Survey of Current Business* (monthly) provides general business indicators and trends on national income and production statistics; commodity and consumer prices; construction and real estate; domestic and foreign trade; labor force, employment, and earnings; and finance and selected activities for various manufacturing industries. (Periodical: $1.00 single copy. $9.00 a year which includes weekly supplement)

U.S. Department of Health, Education, and Welfare, Office of Education

21. *Digest of Educational Statistics* (annual) covers selected statistics on instructional staff, graduates, and school expenditures related to personal income. (Latest publication: 1968 edition. 136 p. $1.75. #OE-10024-68)

22. *Statistics of State School Systems* (biennial) covers school-age population and enrollment, public-school employment, and revenues and expenditures for public school systems. (Latest publication: 1965-66 preliminary. 17 p. $.20. #OE-20006-66)

U.S. Department of Health, Education, and Welfare, Public Health Service

23. *Vital Statistics of United States* (monthly) covers selected statistics on births, deaths, marriages, and divorces. (Periodical: annual summary for the United States, July 26, 1968. 18 p. free upon request to National Center for Health Statistics as long as supply lasts)

U.S. Department of Health, Education, and Welfare, Social Security Administration, Office of Research and Statistics.

24. *Social Security Bulletin* (monthly) publishes regular statistics on public benefit plans for social security, medicare, unemployment insurance, and public assistance and special articles on private employee benefit plans and costs for health insurance and retirement. (Periodical: $.35 single copy. $4.00 a year)

U.S. Department of Labor, Bureau of Labor Statistics

25. *Analysis of health, insurance, pension, and other employee-benefit plans* (irregular; titles vary) covers prevalence of plans, digests of plan provisions, detailed analyses of selected provisions, and administrative and financial characteristics for all plans under Disclosure Act or selected plans. (Latest publications: *Benefits for active and retired workers age 65 and over, early 1968.* Bulletin 1502-1. 1968. 33 p. $.40. *Digest of 100 selected health insurance plans under collective bargaining, early 1966.* Bulletin 1502. September 1966. 152 p. $1.00. *Digest of 100 selected pension plans under collective bargaining, spring 1968.* Bulletin 1597. February 1969. 87 p. $1.00)

26. *Collective bargaining agreements analysis* (5-10 reports annually) covers prevalence of contract provisions by major industry groups, subject matter, and other classifications. (Latest publications: seven reports on Major Collective Bargaining Agreements: *Training and retraining provisions.*

Bulletin 1425-7. March 1969. 39 p. $.50. *Arbitration procedures.* Bulletin 1425-6. June 1966. 167 p. $1.00. *Management rights and union-management cooperation.* Bulletin 1425-5. April 1966. 68 p. $.60. *Deferred wage increases and escalator clauses.* Bulletin 1425-4. 65 p. $.40. *Supplemental unemployment benefit plans and wage-employment guarantees.* Bulletin 1425-3. June 1965. 108 p. $.70. *Severance pay and layoff benefit plans.* Bulletin 1425-2. March 1965. 110 p. $.60. *Grievance procedures.* Bulletin 1425-1. November 1964. 80 p. $.45)

27. *Consumer expenditure survey* (varies for different areas and population categories) covers income, expenditures, and changes in assets and liabilities by income class, family size, and other demographic and economic characteristics. (Latest publications: BLS Reports 237-1 through 237-93. Consumer units in urban population by individual city data, regional and U.S. summaries, 1960-61. Special cities, 1959 or 1963. BLS Reports 237-1 through 237-83. published in 1962, 1963, and 1964. Consumer units in rural farm and rural nonfarm population by regional and U.S. summaries. 1960-61. BLS Reports 237-84 through 237-88. published in 1966. Consumer units in combined urban and rural population by regional and U.S. summaries, 1960-61. BLS Reports 237-89 through 237-93. published in 1966. furnished upon request to BLS as long as supplies last)

28. *Consumer price index* (monthly) covers indexes for all items and major groups and subgroups for the United States and 23 large cities. (Releases: U.S. city average and selected areas, monthly. Selected items and groups, quarterly. furnished upon request to BLS as long as supplies last)

29. *Current Wage Developments* (monthly; quarterly summary) contains summaries of major wage developments by amount and nature of changes in wages and related benefits, identified by individual companies and unions, with number of workers affected, listed by industry group and location. (Releases: monthly. furnished upon request to BLS as long as supplies last)

30. *Employer Expenditures for Selected Supplementary Employee Compensation Practices* (annual for selected industries) covers percent of payroll and cents per hour employer expenditures for paid leave, premium pay, legally required payments, and private welfare plans for selected manufacturing and nonmanufacturing industries. (Latest publications: "Wages and benefit developments in manufacturing." reprint from *Monthly Labor Review.* p. 40-49. November 1968. *Wages and related benefits in metropolitan areas, 1966-67.* Bulletin 1530-87 pt. 1, 85 metropolitan areas, occupational earnings, and supplementary practices. November 1967. 96 p. $.50. pt. 2, metropolitan areas, United States and regional summaries, July 1968. 118 p. $.65. *Employer expenditures for selected supplementary compensation practices for production and related workers, composition of payroll hours, manufacturing industries, 1962.* Bulletin 1428. April 1965. 126 p. $1.00. *Supplementary compensation for nonproduction workers, 1963.* Bulletin 1470. December 1965. 110 p. $.70)

31. *Employment, Hours, and Earnings* (monthly) covers gross hours and earnings, spendable weekly earnings, and overtime for employees in mining. construction, manufacturing, trade, finance, and selected other industries. (Latest publications: monthly reports published in *Monthly Report on the Labor Force.* See item 32. Labor force. *Employment and Earnings statistics for states and areas,* 1939-67. August 1968. 500 p. $3.50)

32. *Labor Force* (monthly) covers employment status of the labor force by various demographic breakdowns. (Periodical: $.65 single copy. $7.00 a year)

33. *Monthly Labor Review* (monthly) publishes articles on industrial relations, labor problems, labor economics, the labor movement, and labor law; and summaries of major studies of Bureau of Labor Statistics. (Periodical: $.75 single copy. $9.00 a year)

34. *Occupational Outlook* (biennial; quarterly for selected items of interest) analysis of employment outlook, nature of the work, training, requirements for entry. line of advancement, location of jobs, earnings, and working conditions for 700 occupations and 30 major industries. (Latest publication: *Occupational outlook handbook,* 1968-69 edition. Bulletin 1550. 1968. 763 p. $4.25. reprints for specific occupations available at $.05 to $.15)

35. *Occupational Wages* (community wage surveys) - (monthly; each area surveyed annually) covers averages and distributions of wage and salary rates for clerical, skilled maintenance, custodial and

material handling jobs; work schedules; and supplementary benefits for approximately 85 metropolitan areas. (Latest publications: *Directory of area wage surveys, July 1965-June 1967.* 24 p. furnished upon request to BLS as long as supplies last. Latest area wage surveys for: *Sioux Falls, S. Dak.* Bulletin 1625-23. October 1968. 20 p. $.35. *Columbus, Ohio.* Bulletin 1625-24. October 1968. 28 p. $.35. *Omaha, Nebr.-Iowa.* Bulletin 1625-26. October 1968. 27 p. $.35. *Fort Worth, Tex.* Bulletin 1625-27. November 1968. 27 p. $.35. *Miami, Fla.* Bulletin 1625-29. December 1968. 28 p. $.35. *San Diego, Calif.* Bulletin 1625-32. November 1968. 15 p. $.30. *Louisville, Ky.-Ind.* Bulletin 1625-33. November 1968. 17 p. $.30.)

36. *Occupational Wages* – industry studies (monthly on a 2 to 5-year cycle) for 50 manufacturing and 20 nonmanufacturing industries covers averages and distributions of wage rates for representative jobs; work schedules; and supplementary benefits. (Latest publications: *Industry wage survey: Communications, 1967.* Bulletin 1615. March 1969. 14 p. $.30. *Industry wage survey: Basic iron and steel, September 1967.* Bulletin 1602. October 1968. 50 p. $.55. *Wage Chronology: Federal classification act employees, 1924-68.* Bulletin 1604. December 1968. 70 p. $.70. *Wage chronology: Bethlehem Atlantic Shipyards, 1941-68.* Bulletin 1607. November 1968. 24 p. $.35. *Scientific and technical personnel in industry, 1961-66.* Bulletin 1609. 1968. 54 p. $1.00)

37. *Professional, Administrative, Technical, and Clerical Pay* (annual) covers averages and distributions of salary rates for about 85 occupation work level categories of professional, administrative, technical, and clerical jobs. (Latest publication: June 1968 data. Bulletin 1617. January 1969. 80 p. $.75)

38. *Standard budgets* – 4-person city worker's family (irregular) covers estimated annual cost of budgets. (Latest publication: *Three standards of living for urban family of four persons, spring 1967.* Bulletin 1570-5. 1969. 92 p. $1.00)

39. *Union Wage Scale* (annual) covers averages and distributions of union scales of wages and hours by industry for the building and printing trades, local transit, and local trucking in cities with 100,000 or more population. (Latest publications: *Directory of industry wage studies and union scale studies, 1960-October 1968.* 1969. 21 p. $.20. Latest union wages and hours studies for: *Local-transit operating employees, July 1, 1967 and trend 1929-67.* Bulletin 1589. April 1968. 11 p. $.15. *Building trades, July 1, 1967 and trend 1907-67.* Bulletin 1590. 1968. 48 p. $.40. *Printing industry, July 1, 1967 and trend 1907-67.* Bulletin 1592. May 1968. 57 p. $.45. *Motortruck drivers and helpers, July 1, 1967 and trend 1936-67.* Bulletin 1591. May 1968. 39 p. $.35)

U.S. Department of Labor, Women's Bureau

40. *Handbook on Women Workers* (irregular) provides factual information on women in the labor force by employment, occupations, income and earnings, education and training, and laws governing women's employment and status. (Latest publication: 1965 handbook. Bulletin 290. 1966. 321 p. $1.00).

U.S. Treasury Department

41. *Annual Report of the Secretary of the Treasury on the State of the Finances for the Fiscal Year* (annual) covers total collections and refunds on individual income and employment; corporation income; excise tax; and estate and gift tax. (Latest publication: fiscal year 1968. 1969. 521 p. $2.50).

U.S. President

42. *Economic Report of the President* (annual) provides statistical data on a national basis for income or expenditure; population, employment, and wages; production and business activity; prices; money supply, credit, and finance; corporate profits and finance; and government finance. (Latest publication: January 1969. 332 p. $1.50)

Miscellaneous Agencies and Publications

43. Bureau of National Affairs. *Government Employee Relations Report* (weekly) provides information and developments on activities relative to public employer-employee relations for local, state, and federal employees and reprints Bureau of Labor Statistics and other agencies studies. (Periodical: $180 a year)

44. Chamber of Commerce. *Fringe Benefits.* Washington, D.C. (Biennial) covers selected fringe benefit costs for all industries and selected manufacturing and nonmanufacturing industries and compares industry variations for major types of fringe payments, regional variations, size of company, and growth of fringe benefits. (Latest publication: 1967 data. 1968. 36 p. $1.50)

45. College Placement Council. *Salary Survey, A Study of Beginning Offers.* Bethlehem, Pa. (annual) provides average annual beginning salary offers to bachelor's and master's degree candidates for various curriculum fields. (Latest publication: 1968-69 data. June 1969. 6 p. available only through Journal Publications Group. $10.00 a year)

46. Endicott, Frank S. *Trends in Employment of College and University Graduates in Business and Industry.* Evanston, Ill. (annual) provides average starting salaries for men and women graduates with bachelor's or master's degrees in various subject fields. (Latest publication: 23rd annual report. 1969. 11 p. furnished upon request)

47. International City Managers' Association. *Municipal Year Book.* Washington, D.C. (annual) contains regular sections on salaries of chief municipal officers, financial data, special census, and directories of officials for municipalities of over 5,000 or 10,000 population and reflects on contemporary problems relative to city government. (Latest publication: 1968 year book. $12.00)

48. *Sales Management* (periodical) "Survey of Buying Power" New York: (annual, June issue) provides demographic and economic information for population, per capita and household income, and total and type of retail sales for metropolitan areas, counties, regions, and states. (Periodical: $6.00 for June issue $12.00 a year)

49. *School Management* (periodical) "Cost of Education Index" Greenwich: Conn. (annual, January issue) provides statistics on public school district spending for current expenditures on administration, instruction, health, operation, maintenance, and other charges and services; capital outlay, and debt service on a regional and national basis. (Periodical: $1.00 single copy. $8.00 a year)

Published bibliographies of general information on negotiation in education

50. Department of Administration and Supervision, College of Education, University of Toledo. *Collective Negotiation in Education.* provides an extensive bibliography of 630 readings related to negotiation in education. (1968. 43 p. $1.00)

51. Markus, Frank W. *Negotiations Bibliography.* School of Education, University of Missouri, Kansas City; Mo. provides a list of numerous journal articles, pamphlets, and books on negotiations. (January 1968. unnumbered. $.50)

Judicial Decisions, Opinions, and Statutes

LEGISLATIVE BILL 15 – NEBRASKA

A BILL

FOR AN ACT to amend sections 48-801, 48-804, 48-810, 48-811, 48-816, and 48-818, Reissue Revised Statutes of Nebraska, 1943, relating to the Court of Industrial Relations; to enlarge the court and extend its jurisdiction as prescribed; to provide for organization of public employees and collective bargaining rights; and to repeal the original sections and also sections 48-810.02, 48-820, and 48-824 to 48-836, Reissue Revised Statutes of Nebraska, 1943.

Be it enacted by the people of the State of Nebraska.

Section 1.

That section 48-801, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-801. As used in sections 48-801 to 48-823, unless the context otherwise requires:

(1) Person shall include an individual, partnership association, corporation, business trust, or any other organized group of persons;

(2) Governmental service shall mean all services performed under employment by the State of Nebraska, any political or governmental subdivision thereof, any municipal corporation, or any public power district or public power and irrigation district;

(3) Public utility shall include any individual, partnership, association, corporation, business trust, or any other organized group of persons, any political or governmental subdivision of the State of Nebraska, any public corporation, or any public power district or public power and irrigation district, which carries on an intrastate business in this state and over which the government of the United States has not assumed exclusive regulation and control, that furnishes transportation for hire, telephone service, telegraph service, electric light, heat and power service, gas for heating or illuminating, whether natural or artificial, or water service, or any one or more thereof;

(4) Employer shall mean any political or governmental subdivision of the State of Nebraska, any municipal corporation, or any public power district or public power and irrigation district. It shall also include any public utility as defined in sections 48-801 to 48-823;

(5) Employee shall include any person employed by any employer as defined in sections 48-801 to 48-823;

(6) Labor organization shall mean any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work;

(7) Industrial dispute shall include any controversy concerning terms, tenure or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, or refusal to discuss terms or conditions of employment; and

(8) Courts shall mean the Court of Industrial Relations.

Section 2.

That section 48-804, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-804. The Court of Industrial Relations shall be composed of five judges who shall be appointed by the Governor, with the advice and consent of the Legislature. Such judges shall be representative of the public. Of the three judges first appointed, one shall be appointed for a term of two years, one for a term of four years, and one for a term of six years, the terms to begin simultaneously upon qualification of the persons to be appointed within thirty days after May 31, 1947.

Upon the expiration of the term of the three judges first appointed, each succeeding judge shall be appointed and hold office for a term of six years and until his successor shall have qualified. Two judges shall be appointed for six-year terms within thirty days after the effective date of this act, with their successors to be appointed for a term of six years and until their successors have been appointed and qualified. In case of a vacancy in the office of judge of the Court of Industrial

Relations, the Governor shall appoint his successor to fill the vacancy for the unexpired term.

Section 3.

This section 48-810, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-810. All industrial disputes involving governmental service, service of a public utility, or other disputes as the Legislature may provide shall be settled by invoking the jurisdiction of the Court of Industrial Relations; Provided, such court shall have no jurisdiction over any persons, organizations, or school districts subject to the provisions of the Nebraska Teachers' Professional Negotiations Act, sections 79-1287 to 79-1295, Revised Statutes Supplement, 1967, until all provisions of such act have been exhausted without resolution of the dispute involved.

Section 4.

That section 48-811, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-811. Any employer, employee, or labor organization, or the Attorney General of Nebraska on his own initiative or by order of the Governor, when any industrial dispute exists between parties as set forth in section 48-810, may file a petition with the Court of Industrial Relations involving its jurisdiction. No adverse action by threat or harassment shall be taken against any employee because of any petition filing by such employee, and the employment status of such employee shall not be altered in any way pending disposition of the petition by the court.

Section 5.

That section 48-816, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-816. After a petition has been filed under the provisions of section 48-811, the clerk shall immediately notify the members of the Court of Industrial Relations, which court shall promptly convene at its office to take such preliminary proceedings as may be necessary to insure a prompt hearing and speedy adjudication of the industrial dispute. The court shall have power and authority upon its own initiative to make such temporary findings and orders as may be necessary to preserve and protect the status of the parties, property and public interest involved, pending final determination of the issues. In the event of an industrial dispute between employer and employees of a privately-owned public utility or any public utility which is owned, managed, or operated by any political or governmental subdivision of the State of Nebraska, any public corporation, or any public power and irrigation district, where such employer and employees have failed or refused to bargain in good faith concerning the matters in dispute, the court may order such bargaining to be begun or resumed, as the case may be, and may make any such order or orders as may be appropriate to govern the situation pending such bargaining.

Before an industrial dispute with respect to representation is recognized as such, the parties may mutually agree to a secret ballot procedure to determine questions of representation for purposes of collective bargaining, for and on behalf of employees. The Court of Industrial Relations shall be immediately informed of the results, and the court shall inform the parties that the employees have designated a bargaining agent, and so shall certify the proper bargaining agent.

Public employers are hereby authorized to recognize employee organizations for the purpose of negotiating collectively in the determination of, and administration of grievances arising under, the terms and conditions of employment of their public employees as provided in this act, and to negotiate and enter into written agreements with such employee organizations in determining such terms and conditions of employment.

Where an employee organization has been certified or recognized pursuant to the provisions of this act, the appropriate public employer shall be and is hereby authorized to negotiate collectively with such employee organization in the settlement of grievances arising under the terms and conditions of employment of the public employees as provided in this act, and to negotiate and enter into written agreements with such employee organizations in determining such terms and conditions of employment.

The court shall have the authority (1) to make studies and analyses of, and act as a clearing house of information relating to, conditions of employment of public employees throughout the state; (2) to request from any government, and such governments are authorized to provide, such assistance, services and data as will enable the board properly to carry out its functions and powers; (3) to conduct studies of problems involved in representation and negotiations, including, but not limited to (a) whether employee organizations are to be recognized as representatives of their members only or are to have exclusive representation rights for all employees in the negotiating unit, (b) the problems of unit determination, (c) those subjects which are open to negotiation in whole or in part, (d) those subjects which require administrative or legislative approval of modifications agreed upon by the parties, and (e) those subjects which are for determination solely by the appropriate legislative body, and make recommendations

from time to time for legislation based upon the results of such studies; (4) to make available to employee organizations, governments, mediators, fact-finding boards and joint study committees established by governments and employee organizations statistical data relating to wages, benefits and employment practices in public and private employment applicable to various localities and occupations to assist them to resolve complex issues in negotiations; and (5) to establish, after consulting representatives of employee organizations and administrators of public services, panels of qualified persons broadly representative of the public to be available to serve as mediators or members of fact-finding boards.

Section 6.

That Section 48-818, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48.818. The findings and order or orders may establish or alter the scale of wages, hours of labor, or conditions of employment, or any one or more of the same. In making such findings and order or orders, the Court of Industrial Relations shall establish rates of pay and conditions of employment which are comparable to the prevalent wage rates paid and conditions of employment maintained for the same or similar work of workers exhibiting like or similar skills under the same or similar working conditions. In establishing wage rates the court shall take into consideration the overall compensation presently received by the employees, having regard not only to wages for time actually worked but also to wages for time not worked, including vacations, holidays, and other excused time, and all benefits received, including insurance and pensions, and the continuity and stability of employment enjoyed by the employees. Any order or orders entered may be modified on the court's own motion or on application by any of the parties affected, but only upon a showing of a change in the conditions from those prevailing at the time the original order was entered.

Section 7.

Public employees shall have the right to form, join, and participate in, or to refrain from forming, joining, or participating in, any employee organization of their own choosing. Public employees shall have the right to be represented by employee organizations to negotiate collectively with their public employers in the determination of their terms and conditions of employment, and the administration of grievances arising thereunder; Provided, that any such agreement with the State of Nebraska or any agency thereof shall cover a biennial period coinciding with the biennial budgeting period of the state and shall be subject to approval by the Legislature.

Section 8.

That original sections 48-801, 48-804, 48-810, 48-811, 48-816, and 48-818, Reissue Revised Statutes of Nebraska, 1943, and also sections 48-810.02, 48-820, and 48-824 to 48-836, Reissue Revised Statutes of Nebraska, 1943, are repealed.

NORTH DAKOTA

HOUSE BILL NO. 175

A BILL

TO PROVIDE PROCEDURES for representative organizations of public school teachers to negotiate with school boards with reference to employer-employee relations; to establish procedures to be used in the event of disagreement; and to establish an education fact finding commission.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA

Section 1. Purpose.

In order to promote the growth and development of education in North Dakota which is essential to the welfare of its people, it is hereby declared to be the policy of this state to promote the improvement of personnel management and relations between school boards of public school districts and their certificated employees by providing a uniform basis for recognizing the right of public school certificated employees to join organizations of their own choice and be represented by such organization in their professional and employment relationships with the public school districts.

Section 2. Definitions.

As used in this chapter:

1. "Teachers" means and includes all public school employees certificated under chapter 15-36 of the North Dakota Century Code and employed primarily as classroom teachers;

2. "Administrator" means and includes all public school employees employed primarily for administration of the school or schools of a school district and devoting at least fifty percent of their time in any one year to the duties of administration of the school or schools of a school district;

3. "Strike" means any concerted work stoppage, slowdown, or withholding of contracted services;

4. "Appropriate negotiating unit" means a group of teachers having common interests, common problems, a common employer, or a history of common representation, which warrants that group being represented by a single representative organization in negotiations with a school board;

5. "Appropriate negotiating unit" means a group of administrators having common interests, common problems, a common employer, or a history of common representation, which warrants that group being represented by a single representative organization in negotiations with a school board;

6. "Representative organization" means any organization authorized by an appropriate negotiating unit to represent the members of the unit in negotiations with a school board.

Section 3. Fact Finding Commission—Appointment—Terms—Quorum.

There is hereby created a commission to be known as the "education fact finding commission", hereinafter called "the commission", which shall consist of three members, one to be appointed by the superintendent of public instruction, one by the governor, and one by the attorney general. The appointee of the superintendent of public instruction shall be the chairman of the commission. The members of the commission shall be persons experienced in educational activities. The original appointment by the superintendent of public instruction shall be for a term of three years. The original appointment by the governor shall be for a term of two years. The original appointment by the attorney general shall be for a term of one year. Their successors shall be appointed for terms of three years each, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. At all times, two members of the commission shall constitute a quorum.

Section 4. Compensation of Commission and Fact Finders.

Members of the commission shall receive twenty-five dollars per day for their attendance at regular or special meetings of the commission or in the performance of such special duties as the commission may direct. In addition to such compensation, they shall receive an allowance for

actual and necessary travel and subsistence expenses while performing commission functions away from their places of residence. Fact finders, appointed by the commission, including commission members when so serving, shall be reimbursed for expense on the same basis as members of the commission and shall receive such compensation as the commission shall from time to time establish.

Section 5. Powers of the Commission.

The commission shall have the power to adopt its own rules and regulations. In addition to other powers authorized by law and under this Act, the members of the commission and any fact finder appointed by it, shall, in the performance of their duties, have the powers contained in sections 28-32-09, 28-32-10, 28-32-11, and 28-32-12 of the North Dakota Century Code.

Section 6. Cost of Fact Finding.

The cost of fact finding proceedings, including per diem, compensation, and other costs, shall be borne as follows:

1. In those cases where the proceedings to resolve an impasse arises under subdivisions a, b, c, or d of subsection 1 of section 13 of this Act, the cost shall be borne equally among the contending parties.

Section 7. Right to Organize or Not Organize.

1. Teachers, or administrators, shall have the right to form, join, and participate in the activities of representative organizations of their choosing for the purpose of representation on matters of employer-employee relations.

2. Teachers, or administrators, shall also have the right to refuse to join or participate in the activities of representative organizations.

Section 8. Right to Negotiate.

Representative organizations shall have the right to represent the appropriate negotiating unit in matters of employee relations with the school board. Any teacher, or administrator, shall have the right to present his views directly to the school board.

Section 9. Subject of Negotiations.

The scope of representation shall include matters relating to terms and conditions of employment and employer-employee relations, including, but not limited to salary, hours, and other terms and conditions of employment.

Section 10. Determination of Appropriate Negotiating Unit.

Representative organizations may be designated or selected by the majority of teachers, or administrators, employed in the public school district.

1. Any group of teachers, or administrators, employed in a public school district may determine an appropriate negotiating unit by filing with the school board a description of the grouping of jobs or positions which constitute the unit claimed to be appropriate. Upon receipt of such determination, the school board shall accept or reject the proposed appropriate negotiating unit. After the school board has accepted the appropriate negotiating unit, the teachers, or administrators, within such unit may designate or select a representative organization in the manner described in section 11 of this Act.

Section 11. Selection of Representative Organization.

1. Uncontested selection. Any organization having an interest in representing teachers, or administrators, may file with the school board a petition alleging that it represents a majority of teachers, or administrators, included within an appropriate negotiating unit. Such petition shall be accompanied by evidence substantiating the allegation contained in it. Within ten days after receipt of such petition, the school board shall publish a notice of intent to consider the petition, by posting such notice in each school building in which members of the appropriate negotiating unit are employed. Not less than ten nor more than twenty days after publication of the notice of intent to consider, the school board shall investigate the petition, determine the question of representation, and publish its determination in the same manner as it published its notice of intent to consider. If the petition has not been contested, the school board shall recognize the petitioner as the representative organization of the appropriate negotiating unit unless it finds in good faith that a reasonable doubt of such representation exists.

2. Contested selection. Any organization having an interest in repersenting teachers, or administrators, and contesting the claim of representation made in the petition must file with the school board its written statement of contest with its evidence substantiating the allegation within ten days after the publication of the notice of intent to consider.

3. The school board shall call an election to determine the question of representation not less

than twenty, nor more than thirty days after the posting of the notice of intent to consider, if:

(a) The school board has failed to make and publish its determination; or

(b) The school board has published its determination, and that determination has been contested by a petitioner or contestant.

4. The school board shall call an election to determine the question of representation not less than ten nor more than thirty days after twenty-five percent of the members of an appropriate negotiating unit petition for such election.

5. The conduct of the election shall be in the manner agreed to among the interested parties. If the interested parties cannot agree, the election shall be conducted in the manner determined by the commission under its rules and regulations.

6. When a representative organization has been selected, its authority to represent the negotiating unit shall continue for at least one year from the date of such selection.

Section 12. Good Faith Negotiations.

1. The school board, or its representatives, and the representative organization, selected by the appropriate negotiating unit, or its representatives, shall have the duty to meet at reasonable times at the request of either party and to negotiate in good faith with respect to:

(a) Terms and conditions of employment and employer-employee relations.

(b) The formulation of an agreement, which may contain provision for binding arbitration.

(c) Any question arising out of interpretation of an existent agreement.

2. The parties must execute a written contract incorporating any agreement reached if requested by either party.

3. Either party to a contract negotiated under this section may modify or terminate the contract on its annual anniversary date by giving notice of its desire to modify or terminate to the other party not less than sixty days prior to the annual anniversary date.

4. The obligations imposed in this section shall not compel either party to agree to a proposal or to make a concession.

Section 13. Impasse Procedures.

1. An impasse shall be deemed to exist under any of the following conditions:

(a) Where an agreement as set forth in subdivision b of subsection 1 of section 12 of this Act has not been formulated and after a reasonable period of negotiation regarding terms and conditions of employment or employer-employee relations, a dispute exists between a school board and any representative organization, an impasse may be deemed to exist.

(b) When both parties agree that an impasse exists.

(c) In the event that the written agreement reached under section 12 of this Act does not include procedures for resolving a dispute which arises, an impasse may be deemed to exist.

(d) Written agreements negotiated under section 12 of this Act may include procedures to be invoked in the event of disputes under the contract.

Where such procedures are inadequate to resolve the dispute an impasse may be deemed to exist.

2. An impasse may be resolved in the following manner:

(a) The parties may agree upon mediation of the controversy by mutually selecting a mediator or mediators, and agreeing to a distribution of the cost of the mediation.

(b) If mediation fails or is not attempted, the aggrieved school board or representative organization may request the commission to render assistance as provided in this section.

(1) Upon request of either contending party, and in the event that the commission determines that an impasse exists between a school board and a representative organization, the commission shall itself act as a fact finding commission or appoint a fact finder from a list of qualified persons maintained by the commission. If a fact finder is appointed, he shall have such powers as are designated to him by the commission and he shall make his recommendation to the commission. The commission shall consider the facts and make its findings and recommendation, or it shall consider the report and recommendation of its fact finder, and after such further investigation as it may elect to perform it shall make its findings and recommendation. Within twenty days after the request to render assistance is received, the findings and recommendation of the commission shall be transmitted to the contending parties and if the issue is not then resolved, shall ten days thereafter be made public.

(2) In the event that facts are found or

recommendations made under fact finding procedures agreed upon between the contending parties and the impasse continues, the commission may consider such findings and recommendation without instituting its own fact finding procedures and from them issue its own findings and recommendations to the contending parties, and if the issue is not then resolved the commission shall within ten days thereafter make its findings and recommendations public.

Section 14. General Provision.

1. No teacher, administrator or representative organization shall engage in a strike.

2. Nothing contained herein is intended to or shall conflict with, contravene, abrogate, or diminish the powers, authority, duties, and responsibilities vested in boards of education by the statutes and laws of the state of North Dakota.

3. School boards or administrative officers thereof shall not discriminate against teachers because of their exercise of rights under this Act.

4. A contract between the representative organization and the school board shall bar any other representative group from petitioning for recognition, or for the withdrawal of existing recognition, for the term of the contract or three years whichever is less.

5. Any teacher engaging in a strike or any other activity prohibited in subsection 1 hereof may be denied the full amount of his wages during the period of such violation.

Section 15. Savings Clause.

If any section, subsection, subdivision, sentence, or clause of this Act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Act.

VERMONT

NO. 127 OF THE ACTS OF 1969

IT IS HEREBY ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF VERMONT:

Section 1. PURPOSE

In order to forward the orderly growth and development of education in Vermont it is hereby declared to be the policy of the state to promote the improvement of communications and agreements between certificated employees of the schools within the state and the school boards of those schools by providing a procedure where certificated school employees may join associations of their choice and be represented by such associations in arriving at agreements with school boards on the terms and conditions of their professional service and other matters mutually agreed upon.

Section 2.

Chapter 57 of 16 V.S.A. is added to read:

CHAPTER 57. LABOR RELATIONS FOR TEACHERS

Subchapter 1. General Provisions

§ 1981. DEFINITIONS

As used in this chapter unless the context requires otherwise:

1. "Administrator" means any person so certified by the state board of education the majority of whose employed time in a school or a school district is devoted to serving as superintendent, assistant superintendent, assistant to the superintendent, supervisor, principal, assistant principal.

2. "Professional negotiations" means the meeting, conferring, consulting, discussing, and negotiating in good faith between a school board and a teachers' organization or an administrators' organization to reach agreement.

3. "School board" means the board of school directors of a school district or its equivalent in any quasi-public or private elementary or secondary school.

4. "School district" means any public school district or any quasi-public or private elementary or secondary school within the state which directly or indirectly receives support from public funds.

5. "Teacher" means any person certified employable as a teacher by the state board of education who is not an administrator as herein defined.

6. A "teachers' organization" or an "administrators' organization" means an organization, committee, council, group or separate unit thereof in which teachers or administrators participate and which exists, in whole or in part, for the purpose of professional negotiation.

§ 1982. RIGHTS

(a) Teachers shall have the right to or not to join, assist, or participate in any teachers' organization of their choosing.

(b) Principals, assistant principals, and administrators other than superintendent and assistant superintendent shall have the right to or not to join, assist, or participate in any administrators' organization or as a separate unit of any teachers' organization of their choosing.

(c) Neither the school board nor any employee of the school board serving in any capacity, nor any other person or organization shall interfere with, restrain, coerce, or discriminate in any way against or for any teacher or administrator engaged in activities protected by this legislation.

§ 1983. RIGHT TO BE HEARD

Nothing contained herein shall prohibit any individual or organization representative, subject to reasonable rules of procedure which may be adopted by the school board, from appearing before the school board to be heard, but not to negotiate, on any matters of school district operation.

Subchapter 2. Bargaining Agent

§ 1991. SELECTION OF REPRESENTATION

(a) Teachers and administrators may select organizations to represent them in collective negotiations with the school board. The school board shall recognize an organization as the exclusive representative of the teachers or of the administrators in the school district when that organization has proved its claim to sole and exclusive representative status of the respective group as hereinafter provided. The superintendent, the assistant superintendent and the principal shall not serve as negotiating agents for the teachers' organization.

(b) When close or disputed questions of eligibility to vote and inclusion in the unit to be repre-

sented by the teachers' organization arise, the general principle to be adhered to shall be that eligibility to vote and inclusion in that negotiating unit will be limited to all teachers in the school district under contract and actually engaged in full-time or part-time positions which are not that of administrator.

(c) The organizations selected to represent teachers or administrators shall represent without discrimination or prejudice all of those eligible for inclusion in the negotiating unit without regard to organizational affiliation or membership.

§ 1992. REFERENDUM PROCEDURE FOR REPRESENTATION

(a) An organization purporting to represent a majority of all of the teachers or administrators employed by the school board may be recognized by the school board without the necessity of a referendum upon the submission of a petition bearing the valid signatures of a majority of the teachers or administrators employed by that school board. Within fifteen days after receiving the petition the school board shall notify the teachers or administrators of the school district in writing of its intention to either require or waive a secret ballot referendum. If the school board gives notice of its intention to waive a referendum and recognize an organization, ten per cent of the teachers or administrators employed by the school board may submit a petition within fifteen days thereafter, objecting to the granting or recognition without a referendum, in which event a secret ballot referendum shall be held in the district for the purpose of choosing an exclusive representative according to the guidelines for referendum contained in this legislation.

(b) Recognition granted to a negotiating unit as exclusive representative shall be valid and not subject to challenge by referendum petition or otherwise for the remainder of the fiscal year in which recognition is granted and for an additional period of twelve months after final adoption of the budget for the succeeding fiscal year and shall continue thereafter until a new referendum is called for.

(c) A secret ballot referendum shall be held any time that twenty per cent of the teachers or administrators employed by the school board present a petition requesting a referendum on the matter of representation, except during a period of prior recognition, as hereinbefore provided. Any organization interested in representing teachers or administrators in the school district shall have the right to appear on the ballot by submitting a petition supported by ten per cent or more of the teachers or administrators in the school district.

(d) In the interest of expediting the referendum and minimizing the costs thereof, the petitioning party or parties and the school board may agree together to conduct cooperatively the referendum themselves. Alternatively, the parties may select an impartial person or agency to conduct or aid in the conducting of the referendum. Failing agreement among all interested parties on the conduct of the referendum, any of the petitioning parties or the school board may request that the referendum be conducted with the aid and assistance of the American Arbitration Association or its designee. The American Arbitration Association or its designee shall have the responsibility for making decisions on any and all matters in dispute regarding the mechanics of the referendum, eligibility and other necessary decisions relating to the conduct of the referendum.

(e) All costs incurred in conducting the referendum shall be borne jointly by the school board and the petitioners.

(f) The ballot used in any referendum shall include "no representation" among the choices. The organization designated by the majority of the votes cast shall be the negotiating representative. If the majority is "no representation," then the school board may not recognize any representative for at least twelve months thereafter. If no choice receives a majority vote, then a run-off referendum shall be conducted among the two choices receiving the greatest number of votes.

Subchapter 3. Negotiations

§ 2001. GOOD FAITH

The school board and the recognized teacher or administrator organization shall meet together at reasonable times, upon request of either party, and shall negotiate in good faith on all matters properly before them under the provisions of this chapter.

§ 2002. ACCESS TO MATERIALS AND FACILITIES

The school board shall permit teachers, administrators, and their respective organizations access at reasonable times to areas in which teachers and administrators work, and to use institutional bulletin boards, mail boxes, or other communication media subject to reasonable regulation by the school board, and to use school facilities at reasonable times for the purpose of meetings concerned with the exercise of rights guaranteed by this chapter.

§ 2003. TIME TO BEGIN

The teacher or administrator organizations holding exclusive negotiating rights shall make a request for commencement of negotiations no later than one hundred and twenty days prior to the school district's annual meeting.

§ 2004. AGENDA

The school board, either directly or through authorized representatives shall, upon request, negotiate with representatives of the recognized organizations on matters of salary, related economic conditions of employment, procedures for processing complaints and grievances relating to employment, and any mutually agreed upon matters not in conflict with the statutes and laws of the state of Vermont.

§ 2005. WRITTEN AGREEMENT

The school board and the recognized organization shall enter into a written agreement incorporating therein matters agreed to in negotiation.

§ 2006. MEDIATOR

If, after negotiation has taken place on all matters properly before them, the school board and a negotiating organization are unable to reach agreement on specific negotiable items, they may jointly agree upon the services and person of a mediator for the purpose of assisting them in reconciling their differences and resolving the controversy on terms which are mutually acceptable. If agreement cannot be reached upon the person of a mediator, then either party may request mediation upon any and all unresolved issues to be conducted by the American Arbitration Association or its designee. The parties shall meet with the mediator and make such information available as required.

§ 2007. FACT-FINDING COMMITTEE

(a) If mediation fails to resolve outstanding differences or is not requested and a continuing disagreement persists, either party may, after negotiation on all matters properly before them, request that any or all unresolved issues be submitted to a fact-finding committee by notifying the other party of their intention and setting forth in writing the issues to be submitted to fact-finding.

(b) The fact-finding committee, which shall be activated as soon as practicable upon request, shall be composed of one member selected by the school board, one member selected by the negotiating organization, and one member who shall serve as chairman, to be chosen by the other two members. In the event that agreement cannot be reached on a third member for the fact-finding committee, the American Arbitration Association shall be asked to appoint the third member.

(c) The fact-finding committee shall convene as soon as practicable after its appointment, hold informal hearings as necessary, and provide adequate opportunity to all parties to testify fully on, and present evidence regarding, their respective positions. All parties to the dispute shall furnish the fact-finding committee upon its request all records, papers and information in their possession pertaining to any matter properly in issue before the fact-finding committee. The fact-finding committee shall make a written report and shall deliver it to both parties recommending a reasonable basis for the settlement of the disagreement within thirty days after the appointment of all members of the committee.

(d) The report of the fact-finding committee shall be advisory only and shall not be binding on either party. The report shall be made public by the fact-finding committee if the issues in dispute have not been resolved within ten days of the delivery of the report.

(e) All expenses of fact-finding and mediation shall be borne jointly by the parties to the dispute.

§ 2008. FINALITY OF DECISIONS

All decisions of the school board regarding matters in dispute in negotiations shall, after full compliance with this chapter, be final.

§ 2009. DELEGATION OF AUTHORITY

School boards and negotiating organizations are empowered to delegate in whole or in part the responsibility for negotiation of the collective agreement to any persons they may choose. However, final ratification of any agreement on behalf of the school board shall remain the sole responsibility of the school board.

§ 2010. INJUNCTIONS

No restraining order or temporary or permanent injunction shall be granted in any case brought with respect to any action taken by a representative organization or an official thereof or by a school board or representative thereof in connection with or relating to pending or future negotiations, except on the basis of findings of fact made by a court of competent jurisdiction after due hearing prior to the issuance of the restraining order or injunction that the commencement or continuance of the action poses a clear and present danger to a sound program of school education which in the light of all relevant circumstances it is in the best public interest to prevent. Any restraining order or injunction issued by a court as herein provided shall prohibit only a specific act or acts expressly determined in the findings of fact to pose a clear and present danger.

Section 3.

This act shall become effective on September 1, 1969.

MAINE MUNICIPAL PUBLIC EMPLOYEES LABOR RELATIONS LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED SIXTY-NINE

H.P. 636–L.D. 824

AN ACT Establishing the Municipal Public Employees Labor Relations Law.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R.S., T. 26, c. 9-A, additional. Title 26 of the Revised Statutes is amended by adding a new chapter 9-A, to read as follows:

CHAPTER 9-A

MUNICIPAL PUBLIC EMPLOYEES LABOR RELATIONS LAW

§961. Purpose

It is declared to be the public policy of this State and it is the purpose of this chapter to promote the improvement of the relationship between public employers and their employees by providing a uniform basis for recognizing the right of public employees to join labor organizations of their own choosing and to be represented by such organizations in collective bargaining for terms and conditions of employment.

§962. Definitions

As used in this chapter the following terms shall, unless the context requires a different interpretation, have the following meanings:

1. Appeals board. "Appeals board" means the Public Employees Labor Relations Appeals Board referred to in section 968.

2. Bargaining agent. "Bargaining agent" means any lawful organization, association or individual representative of such organization or association which has as its primary purpose the representation of employees in their employment relations with employers, and which has been determined by the public employer or the commissioner to be the choice of the majority of the unit as their representative.

3. Commissioner. "Commissioner" means the Commissioner of Labor and Industry.

4. Department. "Department" means the Department of Labor and Industry.

5. Professional employee. "Professional employee" means any employee engaged in work:

A. Predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical or physical work;

B. Involving the consistent exercise of discretion and judgment in its performance;

C. Of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period; and

D. Requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual or physical processes.

6. Public employee. "Public employee" means any employee of a public employer except any person:

A. Elected by popular vote; or

B. Appointed to office pursuant to statute, ordinance or resolution for a specified term of office by the executive head or body of the public employer; or

C. Whose duties as deputy, administrative assistant or secretary necessarily imply a confidential relationship to the executive head, body, department head or division head of the applicable bargaining unit; or

D. Who is a department head or division head appointed to office pursuant to statute, ordinance or resolution for an unspecified term by the executive head or body of the public employer; or
E. Who is a superintendent or assistant superintendent of a school system; or
F. On a probationary or provisional status, or who is a temporary, seasonal, on-call or part-time employee.

7. Public employer. "Public employer" means any officer, board, commission, council, committee or other persons or body acting on behalf of any municipality or town or any subdivision thereof, or of any school, water, sewer or other district.

§963. Right of public employees to join labor organizations

No one shall directly or indirectly interfere with, intimidate, restrain, coerce or discriminate against public employees or a group of public employees in the free exercise of their rights, hereby given, voluntarily to join, form and participate in the activities of organizations of their own choosing for the purposes of representation and collective bargaining, or in the free exercise of any other right under this chapter.

§964. Prohibited acts of public employers, public employees and public employee organizations

1. Public employer prohibitions. Public employers, their representatives and their agents are prohibited from:
A. Interfering with, restraining or coercing employees in the exercise of the rights guaranteed in section 963;
B. Encouraging or discouraging membership in any employee organization by discrimination in regard to hire or tenure of employment or any other term or condition of employment;
C. Dominating or interfering with the formation, existence or administration of any employee organization;
D. Discharging or otherwise discriminating against an employee because he has signed or filed any affidavit, petition or complaint or given any information or testimony under this chapter;
E. Refusing to bargain collectively with the bargaining agent of its employees as required by section 965;
F. Blacklisting of any employee organization or its members for the purpose of denying them employment.

2. Public employee prohibitions. Public employees, public employee organizations, their agents, members and bargaining agents are prohibited from:
A. Interfering with, restraining or coercing employees in the exercise of the rights guaranteed in section 963, or a public employer in the selection of his representative for purposes of collective bargaining or the adjustment of grievances;
B. Refusing to bargain collectively with a public employer as required by section 965;
C. Engaging in
(1) A work stoppage;
(2) A slowdown;
(3) A strike; or
(4) The blacklisting of any public employer for the purpose of preventing it from filling employee vacancies.

3. Violations. Violations of this section may be enjoined upon complaint of any party affected by such violation. Section 5 and 6 shall apply to any such injunction proceedings except that neither an allegation nor proof of unavoidable substantial and irreparable injury to the complainant's property shall be required to obtain a temporary restraining order or injunction. In connection therewith, actions may be brought by or against any unincorporated employee organization in the name by which it is known.

§965. Obligation to bargain

1. Negotiations. It shall be the obligation of the public employer and the bargaining agent to bargain collectively. "Collective bargaining" means, for the purposes of this chapter, their mutual obligation:
A. To meet at reasonable times;
B. To meet within 10 days after receipt of written notice from the other party requesting a meeting for collective bargaining purposes, provided the parties have not otherwise agreed in a prior written contract;
C. To confer and negotiate in good faith with respect to wages, hours, working conditions and contract grievance arbitration except that by such obligation neither party shall be compelled to agree to a proposal or be required to make a concession and except that public employers of teachers shall meet and consult but not negotiate with respect to educational policies for the purpose of this paragraph, educational policies shall not include wages, hours, working conditions or contract grievance arbitration;
D. To execute in writing any agreements arrived at, the term of any such agreement to be subject to negotiation but shall not exceed 3 years; and

E. To participate in good faith in the fact-finding and arbitration procedures required by this section.

Whenever wages, rates of pay or any other matter requiring appropriation of money by any municipality are included as a matter of collective bargaining conducted pursuant to this chapter, it is the obligation of the bargaining agent to serve written notice of request for collective bargaining on the public employer at least 120 days before the conclusion of the current fiscal operating budget.

2. Mediation. Mediation procedures shall be followed whenever the parties jointly agree to use such services.

3. Fact-finding. If the parties, either with or without the services of a mediator, are unable to effect a settlement of their controversy, they may jointly agree either to call upon the Maine Board of Arbitration and Conciliation for fact-finding services with recommendations or to pursue some other mutually acceptable fact-finding procedure.

If the parties do not jointly agree to call upon the Maine Board of Arbitration and Conciliation or to pursue some other procedure, either party to the controversy may request the commissioner to assign a fact-finding board. If so requested, the commissioner shall appoint a fact-finding board, ordinarily of 3 members, in accordance with rules and procedures prescribed by the commissioner for making such appointment. The fact-finding board shall be appointed from a list maintained by the commissioner and drawn up after consultation with representatives of state and local government administrators, agencies with industrial relations and personnel functions and representatives of employee organizations and of employers. Any person who has actively participated as the mediator in the immediate proceedings for which fact-finding has been called shall not sit on that fact-finding board. The board shall hear the contending parties to the controversy. It may request statistical data and reports on its own initiative in addition to the data regularly maintained by the commissioner. The members of the fact-finding board shall submit their findings and recommendations to the parties only.

The parties shall have a period of 30 days, after the receipt of findings and recommendations from the fact finders, in which to make a good faith effort to resolve their controversy. If the parties have not resolved their controversy by the end of said period, either party may, but not until the end of said period unless the parties otherwise jointly agree, make the fact-finding and recommendations public.

4. Arbitration. In addition to the 30-day period referred to in subsection 3, the parties shall have 15 more days, making a total period of 45 days from the receipt of findings and recommendations, in which to make a good faith effort to resolve their controversy.

If the parties have not resolved their controversy by the end of said 45-day period, they may jointly agree to an arbitration procedure which will result in a binding determination of their controversy. Such determinations will be subject to review by a Justice of the Superior Court in the manner specified by section 7.

If they do not jointly agree to such an arbitration procedure within 10 days after the end of said 45-day period, then either party may, by written notice to the other, request that their differences be submitted to a board of 3 arbitrators. The bargaining agent and the public employer shall within 5 days of such request each select and name one arbitrator and shall immediately thereafter notify each other in writing of the name and address of the person so selected. The 2 arbitrators so selected and named shall, within 10 days from such request, agree upon and select and name a neutral arbitrator. If either party shall not select its arbitrator or if the 2 arbitrators shall fail to agree upon, select and name a neutral arbitrator within said 10 days, either party may request the American Arbitration Association to utilize its procedures for the selection of the neutral arbitrator. As soon as possible after receipt of such request, the neutral arbitrator will be selected in accordance with rules and procedures prescribed by the American Arbitration Association for making such selection. The neutral arbitrator so selected will not, without the consent of both parties, be the same person who was selected as mediator pursuant to subsection 2 nor any member of the fact-finding board selected pursuant to subsection 3. As soon as possible after the selection of the neutral arbitrator, the 3 arbitrators or if either party shall not have selected its arbitrator, the 2 arbitrators, as the case may be, shall meet with the parties or their representatives, or both, forthwith, either jointly or separately, make inquiries and investigations, hold hearings, or take such other steps as they deem appropriate. If the neutral arbitrator is selected by utilizing the procedures of the American Arbitration Association, the arbitration proceedings will be conducted in accordance with the rules and procedures of the American Arbitration Association. The hearing shall be informal, and the rules of evidence prevailing in judicial proceedings shall not be binding. Any and all documentary evidence and other data deemed relevant by the arbitrators may be received in evidence. The arbitrators shall have the power to administer oaths and to require by subpoena the attendance and testimony of witnesses, the production of books, records and other evidence relative or pertinent to the issues represented to them for determination.

If the controversy is not resolved by the parties themselves, the arbitrators shall proceed as follows: With respect to a controversy over salaries, pensions and insurance, the arbitrators will recommend terms of settlement and may make findings of fact; such recommendations and findings will be advisory only and will be made, if reasonably possible, within 30 days after the selection of the neutral arbitrator; the arbitrators may in their discretion, make such recommendations and findings public, and either party may make such recommendations and findings public if agreement is not reached with respect to such findings and recommendations within 10 days after their receipt from the arbitrators; with respect to a controversy over subjects other than salaries, pensions and insurance, the arbitrators shall make determinations with respect thereto if reasonably possible within 30 days after the selection of the neutral arbitrator; such determinations may be made public by the arbitrators or either party; and if made by a majority of the arbitrators, such determinations will be binding on both parties and the parties will enter an agreement or take whatever other action that may be appropriate to carry out and effectuate such binding determinations; and such determinations will be subject to review by a Justice of the Superior Court in the manner specified by section 7.

5. Costs. The costs for the services of the mediator, the members of the fact-finding board and of the neutral arbitrator including, if any, per diem expenses, and actual and necessary travel and subsistence expenses and the costs of hiring the premises where any mediation, fact-finding or arbitration proceedings are conducted, will be shared equally by the parties to the arbitration. All other costs will be assumed by the party incurring them. The services of the members of the State of Maine's Panel of Mediators and of the Maine Board of Arbitration and Conciliation are available to the parties without cost.

§ 966. Bargaining unit; how determined

In the event of a dispute between the public employer and an employee or employees as to whether a supervisory or other position is included in the bargaining unit, the commissioner shall make the determination, except that anyone excepted from the definition of public employee under section 962 may not be included in a bargaining unit. In determining whether a supervisory position should be excluded from coverage under this chapter, the commissioner shall consider, among other criteria, if the principal functions of the position are characterized by performing such management control duties as scheduling, assigning, overseeing and reviewing the work of subordinate employees, or performing such duties as are distinct and dissimilar from those performed by the employees supervised, or exercising judgment in adjusting grievances, applying other established personnel policies and procedures and in enforcing the provisions of a collective bargaining agreement or establishing or participating in the establishment of performance standards for subordinate employees and taking corrective measures to implement those standards. Nothing in this chapter is intended to require the exclusion of principals, assistant principals, other supervisory employees from school system bargaining units which include teachers and nurses in supervisory positions.

The commissioner shall decide in each case whether, in order to insure to employees the fullest freedom in exercising the rights guaranteed by this chapter, and in order to insure a clear and identifiable community of interest among employees concerned, the unit appropriate for purposes of collective bargaining shall be the public employer unit or any subdivision thereof and no unit shall include both professional and nonprofessional employees unless a majority of such professional employees vote for inclusion in such unit, except that teachers may be included in a unit consisting of other certificated employees.

§ 967. Determination of bargaining agent

1. Voluntary recognition. Any public employee organization may file a request with a public employer alleging that a majority of the public employees in an appropriate bargaining unit wish to be represented for the purpose of collective bargaining between the public employer and the employees' organization. Such request shall describe the grouping of jobs or positions which constitute the unit claimed to be appropriate and shall include a demonstration of majority support. Such request for recognition shall be granted by the public employer unless the public employer desires that an election determine whether the organization represents a majority of the members in the bargaining unit.

2. Elections. The commissioner upon signed request of a public employer alleging that one or more public employees or public employee organizations have presented to it a claim to be recognized as the representative of a bargaining unit of public employees, or upon signed petition of at least 30% of a bargaining unit of public employees that they desire to be represented by an organization, shall conduct a secret election to determine whether the organization represents a majority of the members in the bargaining unit.

The ballot shall contain the name of such organization showing written proof of at least 10% rep-

resentation of the public employees within the unit, together with a choice for any public employee to designate that he does not desire to be represented by any bargaining agent. Where more than one organization is on the ballot and no one of the 3 or more choices receives a majority vote of the public employees voting, a run-off election shall be held. The run-off ballot shall contain the 2 choices which received the largest and second-largest number of votes. When an organization receives the majority of votes of the unit, the commissioner shall certify it as the bargaining agent. The bargaining agent certified as representing a bargaining unit shall be recognized by the public employer as the sole and exclusive bargaining agent for all of the employees in the bargaining unit unless and until a decertification election by secret ballot shall be held and the bargaining agent declared by the commissioner as not representing a majority of the unit.

Whenever 30% of the employees in a certified bargaining unit petition for a bargaining agent to be decertified, the procedures for conducting an election on the question shall be the same as for representation as bargaining agent hereinbefore set forth.

No question concerning representation may be raised within one year of a certification or attempted certification. Where there is a valid collective bargaining agreement in effect, no question of representation may be raised except during the period not more than 90 or less than 60 days prior to the expiration date of the agreement.

The bargaining agent certified by the commissioner as the exclusive bargaining agent shall be required to represent all the public employees within the unit without regard to membership in the organization certified as bargaining agent, provided that any public employee at any time may present his grievance to the public employer and have such grievance adjusted without the intervention of the bargaining agent, if the adjustment is not inconsistent with the terms of a collective bargaining agreement then in effect and if the bargaining agent's representative has been given reasonable opportunity to be present at any meeting of the parties called for the resolution of such grievance.

All bargaining units officially recognized by public employers prior to the effective date of this Act shall be recognized as certified units and each collective bargaining agreement covering employees in any such bargaining unit shall be effective for its duration or not later than January 1, 1972.

§968. Right of appeal

Whenever any party is aggrieved by any ruling or determination of the commissioner under section 966 and 967, such party may appeal, within 15 days after the announcement of the ruling or determination, to the Public Employees Labor Relations Appeals Board hereinafter established. This appeal will be the sole means of review of such determinations, section 7 to the contrary notwithstanding.

1. Public Employees Labor Relations Appeals Board. The Public Employees Labor Relations Appeals Board shall consist of 3 members to be appointed by the Governor, with the advice and consent of the Council. The Governor, in making his appointments, shall name one to represent public employees, one to represent public employers and school systems and the 3rd to represent the public, who shall be its chairman. The term of each member shall be for a period of 4 years. The members of the appeals board shall receive necessary expenses on the approval of the Commissioner of Labor and Industry. The commissioner shall designate a member of the Department of Labor and Industry to be the permanent secretary to the appeals board, who shall maintain a record of all proceedings of the appeals board.

The appeals board shall from time to time adopt such rules of procedure as it deems necessary for the orderly conduct of its business, and shall annually, on or before the first day of July, make a report to the Governor and Council which shall be incorporated in and printed with the biennial report of the department. The appropriation for the appeals board shall be included in the department's budget and authorization for expenditures shall be the responsibility of the commissioner.

The appeals board shall sit at the call of the chairman to hear and decide appeals arising from determinations of the commissioner. Decisions of the appeals board shall be subject to review by a Justice of the Superior Court in the manner specified in section 7.

The appeals board shall have the authority to recommend to the Legislature changes or additions to this chapter or of related enactments of law.

2. Summoning witnesses; production of books and records. The appeals board may summon as witnesses any employee or any person in the department who keeps records of wages earned in the business in which the controversy exists and may require the production of books which contain the record of wages paid. Summonses may be signed and oaths administered by any member of the appeals board. Witnesses summoned by the appeals board shall be allowed the same fees as are paid to witnesses in the Superior Court. These fees together with all necessary expenses of the appeals board shall be paid by the Treasurer of State on warrants drawn by the State Controller.

3. Hearings. The appeals board shall, upon receipt of an appeal by the chairman and at the call

of the chairman, hold, within 10 days, a hearing on the appeal. The chairman shall give at least 7 days' notice in writing of the time and place of hearing to each of the other 2 members, the aggrieved parties, the labor organizations or bargaining agent and the public employer.

The hearings shall be informal, and the rules of evidence prevailing in judicial proceedings shall not be binding. Any and all documentary evidence and other data deemed relevant by the appeals board may be received in evidence. The chairman shall have the power to administer oaths and to require by subpoena the attendance and testimony of witnesses, the presentation of books, records and other evidence relative or pertinent to the issues presented to them for determination.

§969. Municipal personnel board or civil service authority

Nothing in this chapter shall diminish the authority and power of any municipal civil service commission or personnel board or its agents established by statute, charter or special act to conduct and grade merit examinations and to rate candidates in the order of their relative excellence from which appointments or promotions may be made to positions in the competitive division of the classified service of the municipal employer served by such a civil service commission or personnel board. The conduct and the grading of merit examinations, the rating of candidates and the establishment of lists from such examinations and the appointments from such lists shall not be subject to collective bargaining. If a collective bargaining agreement between a public employer and a bargaining agent contains provisions for binding arbitration of grievances involving the following matters: The demotion, lay-off, reinstatement, suspension, removal, discharge or discipline of any public employee, such provisions shall be controlling in the event they are in conflict with any authority and power, involving such matters, of any such municipal civil service commission or personnel board or its agents.

§970. Scope of binding contract arbitration

A collective bargaining agreement between a public employer and a bargaining agent may provide for binding arbitration as the final step of a grievance procedure but the only grievances which may be taken to such binding arbitration shall be disputes between the parties as to the meaning or application of the specific terms of the collective bargaining agreement. An arbitrator with the power to make binding decisions pursuant to any such provision shall have no authority to add to, subtract from or modify the collective bargaining agreement.

§971. Rules and regulations

The commissioner may issue such rules and regulations as the commissioner may consider necessary or appropriate for carrying out the purposes of sections 966 and 967.

Sec. 2. R.S., T. 26, c. 10, repealed. Chapter 10 of Title 26 of the Revised Statutes, as enacted by chapter 396 of the public laws of 1965, is repealed.

In House of Representatives, June 20, 1969

Read three times and passed to be enacted.

David J. Kennedy *Speaker*
In Senate, June 23, 1969

Read twice and passed to be enacted.

Kenneth P. MacLeod *President*

Approved June 24, 1969

Kenneth M. Curtis *Governor*

STATUTES OF NEVADA 1969

CHAPTER 650

AN ACT relating to public employees; providing for recognition of and negotiation with employee organizations in certain instances; prohibiting strikes; providing penalties; making an appropriation; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1.

Title 23 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 27, inclusive, of this act.

Section 2.

This chapter may be cited as the Local Government Employee-Management Relations Act.

Section 3.

As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 4 to 8, inclusive, of this act have the meanings ascribed to them in such sections.

Section 4.

"Board" means the local government employee-management relations board.

Section 5.

"Employee organization" means any:

1. Association, brotherhood, council or federation composed of employees of the State of Nevada or local government employees or both; or
2. Craft, industrial or trade union whose membership includes employees of the State of Nevada or local government employees or both.

Section 6.

"Local government employee" means any person employed by a local government employer.

Section 7.

"Local government employer" means any political subdivision of this state or any public or quasi-public corporation organized under the laws of this state and includes, without limitation, counties, cities, unincorporated towns, school districts, irrigation districts and other special districts.

Section 8.

"Strike" means any concerted:

1. Stoppage of work, slowdown or interruption of operations by employees of the State of Nevada or local government employees;
2. Absence from work by employees of the State of Nevada or local government employees upon any pretext or excuse, such as illness, which is not founded in fact; or
3. Interruption of the operations of the State of Nevada or any local government employer by any employee organization.

Section 9.

1. It is the right of every local government employee, subject to the limitation provided in subsection 3, to join any employee organization of his choice or to refrain from joining any employee organization. A local government employer shall not discriminate in any way among its employees on account of membership or nonmembership in an employee organization.
2. The recognition of an employee organization for negotiation, pursuant to this chapter, does not preclude any local government employee who is not a member of that employee organ-

ization from acting for himself with respect to any condition of his employment, but any action taken on a request or in adjustment of a grievance shall be consistent with the terms of an applicable negotiated agreement, if any.

3. A police officer, sheriff, deputy sheriff or other law enforcement officer may be a member of an employee organization only if such employee organization is composed exclusively of law enforcement officers.

Section 10.

1. It is the duty of every local government employer, except as limited in subsection 2, to negotiate through a representative or representatives of its own choosing concerning wages, hours and conditions of employment with the recognized employee organization, if any, for each appropriate unit among its employees. Where any officer of a local government employer, other than a member of the governing body, is elected by the people and directs the work of any local government employee, such officer is the proper person to negotiate, directly or through a representative or representatives of his own choosing, in the first instance concerning any employee whose work is directed by him, but may refer to the governing body or its chosen representative or representatives any matter beyond the scope of his authority.

2. Each local government employer is entitled, without negotiation or reference to any agreement resulting from negotiation:
   (a) To direct its employees;
   (b) To hire, promote, classify, transfer, assign, retain, suspend, demote, discharge or take disciplinary action against any employee;
   (c) To relieve any employee from duty because of lack of work or for any other legitimate reason;
   (d) To maintain the efficiency of its governmental operations;
   (e) To determine the methods, means and personnel by which its operations are to be conducted; and
   (f) To take whatever actions may be necessary to carry out its responsibilities in situations of emergency.

Section 11.

1. An employee organization may apply to a local government employer for recognition by presenting:
   (a) A copy of its constitution and by laws, if any;
   (b) A roster of its officers, if any, and representatives; and
   (c) A pledge in writing not to strike against the local government employer under any circumstances.

A local government employer shall not recognize as representative of its employees any employee organization which has not adopted, in a manner valid under its own rules, the pledge required by paragraph (c).

2. If an employee organization, at or after the time of its application for recognition, presents a verified membership list showing that it represents a majority of the employees in a negotiating unit, and if such employee organization is recognized by the local government employer, it shall be the exclusive negotiating representative of the local government employees in that negotiating unit.

3. A local government employer may withdraw recognition from an employee organization which:
   (a) Fails to present a copy of each change in its constitution or bylaws, if any, or to give notice of any change in the roster of its officers, if any, and representatives;
   (b) Disavows its pledge not to strike against the local government employer under any circumstances; or
   (c) Ceases to be supported by a majority of the local government employees in the negotiating unit for which it is recognized.

4. If an employee organization is aggrieved by the refusal or withdrawal of recognition, or by the recognition or refusal to withdraw recognition of another employee organization, the aggrieved employee organization may appeal to the board. If the board in good faith doubts whether any employee organization is supported by a majority of the local government employees in a particular negotiating unit, it may conduct an election by secret ballot upon the question. Subject to judicial review, the decision of the board is binding upon the local government employer and all employee organizations involved.

Section 12.

1. Each local government employer which has recognized one or more employee organizations shall determine, after consultation with such recognized organization or organizations, which group or groups of its employees con-

stitute an appropriate unit or units for negotiating purposes. The primary criterion for such determination shall be community of interest among the employees concerned. A local government department head shall not be a member of the same negotiating unit as the employees who serve under his direction. A principal, assistant principal or other school administrator below the rank of superintendent, associate superintendent or assistant superintendent shall not be a member of the same negotiating unit with public school teachers unless the school district employs fewer than five principals but may join with other officials of the same specified ranks to negotiate as a separate negotiating unit.

2. If any employee organization is aggrieved by determination of a negotiating unit, it may appeal to the board. Subject to judicial review, the decision of the board is binding upon the local government employer and all employee organizations involved.

Section 13.

1. Whenever an employee organization desires to negotiate concerning any matter which is subject to negotiation pursuant to this chapter, it shall give written notice of such desire to the local government employer. If the subject of negotiation requires the budgeting of money by the local government employer, the employee organization shall give such notice at least 120 days before the date fixed by law for the completion of the tenative budget of the local government employer for the first period for which the required budget is to be effective.

2. This section does not preclude, but this chapter does not require, informal discussion between an employee organization and a local government employer of any matter which is not subject to negotiation or contract under this chapter. Any such informal discussion is exempt from all requirements of notice or time schedule.

Section 14.

The parties shall promptly commence negotiation and if at the expiration of 45 days from the date of service of the notice required by section 13 of this act the parties have not reached agreement, the parties or either of them may so notify the board, requesting mediation and explaining briefly the subject of negotiation. The board shall, within 5 days, appoint a competent, impartial and disinterested person to act as mediator in the negotiation. It is the function of such mediator to promote agreement between the parties, but his recommendations, if any, are not binding upon an employee organization or the local government employer.

2. If a mediator is appointed, the board shall fix his compensation. The local government employer shall pay one-half of the costs of mediation, and the employee organization or organizations shall pay one-half.

Section 15.

1. If at the expiration of 75 days from the date of service of the notice required by section 13 of this act, the parties have not reached agreement, the mediator is discharged of his responsibility, and the parties shall submit their dispute to a factfinding panel. Within 5 days, the local government employer shall select one member of the panel, and the employee organization or organizations shall select one member. The members so selected shall select the third member, or if within 5 days they fail to do so, the board shall select him within 5 days thereafter. The third member shall act as chairman.

2. The local government employer shall pay one-half of the costs of factfinding, and the employee organization or organizations shall pay one-half.

3. The factfinding panel shall report its findings and recommendations to the parties to the dispute within 25 days after its selection is complete. These findings are not binding upon the parties, but if within 5 days after the panel has so reported the parties have not reached an agreement, the panel shall make its findings public.

Section 16.

1. For the purpose of investigating disputes, any factfinding panel may issue subpenas requiring the attendance of witnesses before it, together with all books, memoranda, papers and other documents relative to the matters under investigation, administer oaths and take testimony thereunder.

2. The district court in and for the county in which any investigation is being conducted by a factfinding panel may compel the attendance of witnesses, the giving of testimony and the production of books and papers as required by any subpena issued by the factfinding panel.

3. In case of the refusal of any witness to attend or testify or produce any papers required by such subpena, the factfinding panel may report to the district court in and for the county in which the investigation is pending by petition, setting forth:
   (a) That due notice has been given of the time and place of attendance of the witness or the production of the books and papers;
   (b) That the witness has been subpenaed in the manner prescribed in this chapter;
   (c) That the witness has failed and refused to attend or produce the papers required by subpena before the factfinding panel in the investigation named in the subpena, or has refused to answer questions propounded to him in the course of such investigation, and asking an order of the court compelling the witness to attend and testify or produce the books or papers before the factfinding panel.

4. The court, upon petition of the factfinding panel, shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in such order, the time to be not more than 10 days from the date of the order, and then and there show cause why he has not attended or testified or produced the books or papers before the factfinding panel. A certified copy of the order shall be served upon the witness. If it appears to the court that the subpena was regularly issued by the factfinding panel, the court shall thereupon enter an order that the witness appear before the factfinding panel at the time and place fixed in the order and testify or produce the required books or papers, and upon failure to obey the order the witness shall be dealt with as for contempt of court.

Section 17.

The following proceedings, required by or pursuant to this chapter, are not subject to any provision of chapter 241 of NRS:

1. Any negotiation or informal discussion between a local government employer and an employee organization or employees as individuals whether conducted by the governing body or through a representative or representatives.

2. Any meeting of a mediator with either party or both parties to a negotiation.

3. Any meeting or investigation conducted by a factfinding panel.

Section 18.

1. The local government employee-management relations board is hereby created, to consist of three members, broadly representative of the public and not closely allied with any employee organization or local government employer, not more than two of whom shall be members of the same political party. Except as provided in subsection 2, the term of office of each member shall be 4 years.

2. The governor shall appoint the members of the board. Of the first three members appointed, the governor shall designate one whose term shall expire at the end of 2 years. Whenever a vacancy occurs on the board other than through the expiration of a term of office, the governor shall fill such vacancy by appointment for the unexpired term.

Section 19.

1. The members of the board shall annually elect one of their number as chairman and one as vice chairman. Any two members of the board constitute a quorum.

2. The board may, within the limits of legislative appropriations:
   (a) Appoint a secretary, who shall be in the unclassified service of the state; and
   (b) Employ such additional clerical personnel as may be necessary, who shall be in the classified service of the state.

Section 20.

The members of the board shall serve without compensation, but are entitled to the expenses and allowances prescribed in NRS 281.160.

Section 21.

1. The board may make rules governing proceedings before it and procedures for factfinding and may issue advisory guidelines for the use of local government employers in the recognition of employee organizations and determination of negotiating units.

2. The board may hear and determine any complaint arising out of the interpretation of, or performance under, the provisions of this chapter by any local government employer or employee organization. The board, after a hearing, if it finds that the complaint is well taken, may order any person to refrain from the action complained of or to restore to the party aggrieved any benefit of which he has been deprived by such action.

3. Any party aggrieved by the failure of any person to obey an order of the board issued pursuant to subsection 2 may apply to a court of competent jurisdiction for a prohibitory or mandatory injunction to enforce such order.

Section 22.

1. For the purpose of hearing and deciding appeals or complaints, the board may issue subpenas requiring the attendance of witnesses before it, together with all books, memoranda, papers and other documents relative to the matters under investigation, administer oaths and take testimony thereunder.

2. The district court in and for the county in which any hearing is being conducted by the board may compel the attendance of witnesses, the giving of testimony and the production of books and papers as required by any subpena issued by the board.

3. In case of the refusal by any witness to attend or testify or produce any papers required by such subpena the board may report to the district court in and for the county in which the hearing is pending by petition, setting forth:
   (a) That due notice has been given of the time and place of attendance of the witness or the production of the books and papers;
   (b) That the witness has been subpenaed in the manner prescribed in this chapter;
   (c) That the witness has failed and refused to attend or produce the papers required by subpena before the board in the hearing named in the subpena, or has refused to answer questions propounded to him in the course of such hearing, and asking an order of the court compelling the witness to attend and testify or produce the books or papers before the board.

4. The court, upon petition of the board, shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in such order, the time to be not more than 10 days from the date of the order, and then and there show cause why he has not attended or testified or produced the books or papers before the board. A certified copy of the order shall be served upon the witness. If it appears to the court that the subpena was regularly issued by the board, the court shall thereupon enter an order that the witness appear before the board at the time and place fixed in the order and testify or produce the required books or papers, and upon failure to obey the order the witness shall be dealt with as for contempt of court.

Section 23.

Every hearing and determination of an appeal or complaint by the board is a contested case within the meaning of chapter 233B of NRS. Every such determination is subject to judicial review as provided in chapter 233B of NRS.

Section 24.

1. The legislature finds as facts:
   (a) That the services provided by the state and local government employers are of such nature that they are not and cannot be duplicated from other sources and are essential to the health, safety and welfare of the people of the State of Nevada;
   (b) That the continuity of such services is likewise essential, and their disruption incompatible with the responsibility of the state to its people; and
   (c) That every person who enters or remains in the employment of the state or a local government employer accepts the facts stated in paragraphs (a) and (b) as an essential condition of his employment.

2. The legislature therefore declares it to be the public policy of the State of Nevada that strikes against the state or any local government employer are illegal.

Section 25.

1. If a strike occurs against the state or a local government employer, the state or local government employer shall, and if a strike is threatened against the state or a local government employer, the state or local government employer may, apply to a court of competent jurisdiction to enjoin such strike. The application shall set forth the facts constituting the strike or threat to strike.

2. If the court finds that an illegal strike has occurred or unless enjoined will occur, it shall enjoin the continuance or commencement of such strike. The provisions of N.R.C.P. 65 and of the other Nevada Rules of Civil Procedure apply generally to proceedings under this section, but the court shall not require security of the state or of any local government employer.

Section 26.

1. If a strike is commenced or continued in violation of an order issued pursuant to section 25 of this act, the court may:
   (a) Punish the employee organization or organizations guilty of such violation by a fine of not more than $50,000 against

each organization for each day of continued violation.

(b) Punish any officer of an employee organization who is wholly or partly responsible for such violation by a fine of not more than $1,000 for each day of continued violation, or by imprisonment as provided in NRS 22.110.

(c) Punish any employee of the state or of a local government employer who participates in such strike by ordering the dismissal or suspension of such employee.

2. Any of the penalties enumerated in subsection 1 may be applied alternatively or cumulatively, in the discretion of the court.

Section 27.

1. If a strike is commenced or continued in violation of an order issued pursuant to section 25 of this act, the state or the local government employer may:

(a) Dismiss, suspend or demote all or any of the employees who participate in such strike.

(b) Cancel the contracts of employment of all or any of the employees who participate in such strike.

(c) Withhold all or any part of the salaries or wages which would otherwise accrue to all or any of the employees who participate in such strike.

2. Any of the powers conferred by subsection 1 may be exercised alternatively or cumulatively.

Section 28.

There are hereby appropriated from the general fund in the state treasury for the support of the local government employee-management relations board the following sums:

For the fiscal year ending June 30, 1969	$ 5,000
For the fiscal year ending June 30, 1970	15,000
For the fiscal year ending June 30, 1971	15,000

Section 29.

This act shall become effective upon passage and approval, but no employee organization, local government employer or other person may submit to the local government employee-management relations board before October 1, 1969, any appeal, complaint or other request for action by the board.

CONNECTICUT

AN ACT CONCERNING THE RIGHT OF CERTIFIED PROFESSIONAL EMPLOYEES TO NEGOTIATE WITH BOARDS OF EDUCATION

Public Act 298 of 1965, as amended by Public Act 811 of 1969.

Section 10-153a. RIGHT TO JOIN PROFESSIONAL ORGANIZATIONS. Members of the teaching profession shall have the right to join or refuse to join any organization for professional or economic improvement *free from interference, restraint, coercion or discriminatory practices by any employing board of education or administrative agents or representatives thereof.*

Section 10-153b. SELECTION OF TEACHERS' REPRESENTATIVES. (a) *Whenever used in sections 10-153b to 10-153f, inclusive, of the general statutes: (1) The "administrators' unit" means those certified professional employees in a school district who are employed in positions requiring an intermediate administrator or supervisor certificate, or the equivalent thereof, and are not excluded from the purview of this act. (2) The "teachers' unit" means the group of certified professional employees who are employed by a town or regional board of education in positions requiring a teaching or special services certificate and are not included in the administrators' unit or excluded from the purview of this act. (3) "Secretary" means the secretary to the state board of education. (4) "To post a notice" means to post a copy of the indicated material on each bulletin board for teachers in every school in the school district, or if there are no such bulletin boards, to give a copy of such information to each employee in the unit affected by such notice. (b) The superintendent of schools, assistant superintendents, certified professional employees who act for the board of education in negotiations with certified professional personnel or are directly responsible to the board of education for personnel relations or budget preparation, temporary substitutes and all non-certified employees of the board of education are excluded from the purview of this act.* (c) The employees in *either unit defined in this section* may designate *any* organization *of certified professional employees* to represent them in *negotiations concerning salaries and all other conditions of employment with the town or regional board of education which employs them* by filing, during the period between October first and April fifteenth of any school year, with the board of education a petition which requests recognition of such organization for purposes of negotiation under this section and sections 10-153c and 10-153d and is signed by a majority of the employees in such unit. Within three school days next following the receipt of such petition, such board shall post a notice of such request for recognition and mail a copy thereof to the secretary. Such notice shall state the name of the organization designated by the petitioners, the unit to be represented and the date of receipt of such petition by the board. If no petition which requests a *representation election* and is signed by twenty per cent of the employees in *such* unit is filed in accordance with the provisions of subsection (*d*) with the secretary within the thirty days next following the date on which the board of education posts notice of the designation petition, such board shall recognize the designated organization as the exclusive representative of the employees in *such* unit for a period of one year or until a representation *election* has been held *for such unit pursuant to* this section and section 10-153c, whichever occurs later. If a petition complying with the provisions of subsection (*d*) is filed within such period *of thirty days,* the town or regional board *of education* shall not recognize any organization so designated until an election has been held pursuant to said sections to determine which organization shall represent such unit. (*d*) *Personnel in an administrators' unit or teachers' unit may* file during the period between October first and the following April fifteenth of any school year with the secretary a petition requesting that a representation *election* be held to elect an organization *to represent such unit. The* secretary shall file notice of such petition with the town or regional board of education on or before the third school day following receipt of the petition. *The* secretary shall not divulge the names on such petition or any petition filed with him pursuant to this section to anyone except upon court order. Such notice shall state the name of the petitioning

group, the unit for which *an election* is sought and the date the petition was filed. Within three school days after receipt of such notice, the town or regional board of education shall post a copy of the notice. Any organization *interested* in representing *personnel* in *such unit* may intervene within ten school days after the board posts notice of such petition by filing with the secretary a petition signed by ten per cent of the employees *in* such unit. The secretary shall notify the town or regional board on or before the third day following receipt of the intervening petition, and such board shall post notice of the intervening petition within three days following receipt thereof. No intervening petition shall be required from any incumbent organization previously designated by the board or elected and such incumbent organization shall be listed on the ballot if a petition for a representation *election* is filed. The town or regional board, the petitioning organization, the incumbent organization, if any, and any intervening organization may agree on an impartial person or agency to conduct such *an election* consistent with the other provisions of this section, provided not more than one such *election* shall be held to elect an organization to represent the employees in such unit in any one school year. In the event of a disagreement on the agency to conduct the *election,* the method shall be determined by the board of arbitration selected in accordance with section 10-153c. *The person or agency so selected shall conduct* between twenty and forty-five days after the first petition requesting *an election* is filed with the secretary, *an election by secret ballot to determine which organization, if any, shall represent such unit.* The town or regional board of education shall pay the cost incurred by the impartial person or agency selected to conduct the *election. Such person or agency shall immediately report the results of the election to the secretary. If satisfied that the election has been conducted properly, the secretary shall certify that the organization receiving a majority of votes is the exclusive representative of the employees in such unit.* The representative designated or elected *in accordance with* this section shall be the exclusive representative of all the employees in such unit for the purposes of negotiating with respect to salary schedules and personnel policies relative to employment of *certified* professional employees, provided any *certified* professional employee or group of *such* employees shall have the right at any time to present any grievance to such persons as the town or regional board of education shall designate for that purpose. *(e) Any organization which has been designated or elected the exclusive representative of a unit which includes teachers and administrators shall continue to be the exclusive representative of such personnel upon expiration of the salary agreement in effect between such organization and the board of education employing such personnel on the effective date of this act, until or unless employees of such board of education in either of the units defined in this section initiate a petition for designation or election of an organization to represent them in accordance with the procedures set forth in this act.*

Section 10-153c. DISPUTES AS TO ELECTION. Any dispute as to the eligibility of personnel to vote in an election, or the agency to conduct the election required by section 10-153b, shall be submitted to a board of arbitration for a binding decision with respect thereto. If there are two or more organizations seeking to represent employees, each may name an arbitrator within five days after receipt of a request for arbitration made in writing by any party to the dispute. Such arbitrators, together with an equal number named by the board of education, shall select an additional impartial member thereof within five days after the arbitrators have been named by the parties. The impartial agency selected to conduct the election shall decide all procedural matters relating to such election and shall conduct such election fairly. Each organization shall have, during the election process, equal access to school mail boxes and facilities.

Section 10-153d. DUTY TO NEGOTIATE. The town or regional board of education and the organization designated or elected as the exclusive representative for the appropriate unit, through designated officials or their representatives, shall have the duty to negotiate with respect to salaries and other conditions of employment about which either party wishes to negotiate and such duty shall include the obligation of such board of education to meet at reasonable times, including meetings appropriately related to the budget-making process, and confer in good faith with respect to salaries and other conditions of employment, or the negotiation of an agreement, or any question arising thereunder and the execution of a written contract incorporating any agreement reached, if requested by either party, but such obligation shall not compel either party to agree to a proposal or require the making of a concession. *The board of education of any town school district shall file forthwith a signed copy of any such contract with the town clerk. Any regional board of education shall file a signed copy of any such contract with the town clerk in each member town. The terms of such contract shall be binding on the legislative body of the town or regional school district, unless such body rejects such contract at a regular or special meeting called for such purpose within thirty days of the signing of the contract. Any regional board*

of education shall call a district meeting to consider such contract within such thirty-day period if the chief executive officer of any member town so requests in writing within fifteen days of the receipt of the signed copy of the contract by the town clerk in such town. The body charged with making annual appropriations in any school district shall appropriate to the board of education whatever funds are required to implement the terms of any contract not rejected pursuant to this section. If the legislative body rejects such contract within such period, the parties shall renegotiate the terms of the contract in accordance with the procedure in this section. The town or regional board of education, and its representatives, agents and superintendents shall not interfere, restrain or coerce employees in derogation of the rights guaranteed by sections 2 *through 5 of this act and section 10-153c of the 1967 supplement to the general statutes,* and, in the absence of any recognition or certification as the exclusive representative as provided by section *2 of this act,* all organizations seeking to represent members of the teaching profession shall be accorded equal treatment with respect to access to teachers, principals, members of the board of education, records, mail boxes and school facilities and participation in discussions with respect to salaries and other conditions of employment.

Section 10-153e. STRIKE PROHIBITED. No *certified* professional employee shall, in an effort to effect a settlement of any disagreement with his employing board of education, engage in any strike or concerted refusal to render services. *This provision may be enforced in the Superior Court for any county in which said board of education is located by an ex parte temporary injunction issued by said court or a judge thereof; provided, however, that if such injunction is issued, such employee may file a motion to dissolve said injunction and a hearing upon said motion shall be held by the superior court not later than three days after service of said motion upon said board of education pursuant to an order of court or a judge thereof.*

Section 10-153f. MEDIATION AND ARBITRATION OF DISAGREEMENTS. (a) *The governor shall appoint not less than ten or more than twenty-five persons to serve on an arbitration panel as provided in subsection (c) of this section from the effective date of this act through December 31, 1970. Except as provided above, the governor shall appoint before the first day of December in the year of his election ten persons to serve on such panel, and he may appoint additional persons to the panel at any time provided the total number of persons serving on the panel shall not exceed twenty-five. Each appointee shall serve until the last day of December following the first gubernatorial election after his appointment. Persons appointed to the arbitration panel shall serve without compensation but each shall receive the per diem fee in lieu of expenses provided for arbitrators in section 31-94 for each day during which he is engaged in the arbitration of a dispute pursuant to this act. The parties to the dispute so arbitrated shall pay the fee in accordance with subsection (c) of this section. (b) If any town or regional board of education can not agree with the exclusive representatives of a teachers' or administrators' unit after negotiation concerning the terms and conditions of employment applicable to the employees in such unit, either party may submit the issues to the secretary for mediation. If the parties fail to initiate mediation and such failure is, in the opinion of the secretary, jeopardizing the education of the children in such school district, the secretary may order the parties to appear before him for mediation of the dispute. In either case,* the parties shall meet with him or his agents *or a mediator designated by him from a panel of mediators selected by the state board of education to assist him. For such purposes, the secretary may enter contracts for services with members of such panel, the terms of which shall be subject to approval by the state board of education. The parties shall* provide such information as *the secretary* may require. The secretary may recommend a basis for settlement but such recommendations shall not be binding upon the parties. *(c) If after mediation the parties have not reached agreement, the secretary may order the parties to appear before him on the fourth day next following the end of the mediation session. At such time the parties shall report their settlement of the dispute or each select and bring an arbitrator to such meeting. Such arbitrators may be members of the arbitration panel. Unless the parties have agreed to submit their dispute to one arbitrator, their designated arbitrators shall select a third arbitrator. If either party fails to bring an arbitrator, the secretary shall designate a member of the arbitration panel to serve and the two arbitrators shall select a third. If in either case the two arbitrators fail to agree on the selection of a third during such meeting, the secretary shall select the third from the arbitration panel. If both parties fail to bring an arbitrator and have not settled their dispute, the secretary shall designate one member of the arbitration panel to arbitrate the dispute. The arbitrators shall set the time and place for the hearing one week from the day on which the parties reported to the secretary except that if such day is Saturday, Sunday or a holiday, the hearing shall be held on the next Monday or the day following the holiday. After hearing all the issues, the arbitrators shall, within fifteen days,*

render a decision in writing, signed by a majority of the arbitrators, which states in detail the nature of the decision and the disposition of the issues by the arbitrators. The arbitrators shall file one copy of the decision with the secretary, each town clerk in the school district involved and the board of education and organization which are parties to the dispute. The decision of *the arbitrators* shall be advisory and shall not be binding upon the parties to the dispute. *The parties shall each pay the fee of the arbitrator selected by or for them and share equally the fee of the third arbitrator and all other costs incidental to the hearing. (d) The secretary and the arbitrators shall have the same powers and duties as the board under section 31-108 for the purposes of mediation or arbitration pursuant to this act, and all provisions in said section with respect to procedure, jurisdiction of the superior court, witnesses and penalties shall apply.*

Section 10-153g. PRECEDENCE OVER SPECIAL ACTS. *Notwithstanding the provisions of any special act, municipal charter or local ordinance, the provisions of sections 10-153a to 10-153f of the general statutes, as amended, shall apply to negotiations concerning salaries and conditions of employment conducted by boards of education and certified personnel.*

(Statutory Citation: *Connecticut General Statutes Annotated,* Title 10, secs. 10-153a–10-153g.)

OREGON

AN ACT RELATING TO WORKING RELATIONS BETWEEN BOARDS OF EDUCATION AND THE TEACHING PROFESSION

Chapter 390 of 1965, as amended by Chapter 647 of 1969.

Section 1.

The Legislative Assembly, recognizing that teaching is a profession, declares that in matters arising between district school boards and certificated school personnel, it is in the best interest of public education in this state to establish a procedure for the orderly, equitable and expeditious resolution of such matters. [Sec. 1 as amended by Ch. 647, L. 1969, approved and effective June 16, 1969.]

Section 2.

Certificated school personnel below the rank of superintendent in a school district shall have the right to confer, consult and discuss in good faith with the district school board by which they are employed on matters of salaries and related economic policies affecting professional services. The board may be represented by a committee of its members or may designate a representative. The certificated personnel may be represented individually, by a committee of such personnel elected by a majority of the certificated personnel below the rank of superintendent, or by an employee organization elected either by a majority of the certificated personnel below the rank of superintendent or by a majority of a category of certificated personnel as defined in subsection (4) of this section. In the event an employee organization is elected, the individuals representing the certificated employees in consultations with the district board must also be certificated employees of the district. However, nothing in this section is intended to affect the powers and duties of the district school board over matters of salaries and economic policies affecting professional services. [Sec. 2 as amended by Ch. 647, L. 1969, approved and effective June 16, 1969.]

Section 3.

Except as provided in this section, the district school board shall establish election procedures to ensure that certificated school personnel shall have the opportunity, not later than 30 days after the first day of the school year, to determine by one or more elections whether the certificated personnel shall be represented under this 1969 Act individually, by a committee of such personnel, or by a particular employee organization.

Organizations may be placed on the ballot either by certifying to the district board that an organization has a membership enrollment of at least 40 percent of the total number of certificated school employes below the rank of superintendent in the district, or by petition containing the signatures of 15 percent of the certificated employes of the district. At any election where organizations are placed on the ballot, the choice of representation by a committee of the employes shall be included.

Administrators, which include those individuals the majority of whose employed time is devoted to service as a supervisor, principal, vice principal, or director in a school district, or teachers, which include all other certificated employes, may separate for the purposes of representation under this 1969 Act by a majority vote of either category. Such an election may be called by submitting such a request containing the signatures of 10 percent of the certificated employes of the district.

The committee or organization elected by the certificated employes of the district shall be the exclusive representative of the certificated employes or category of certificated employes for the purposes of this 1969 Act. [Sec. 3 as amended by Ch. 647, L. 1969, approved and effective June 16, 1969.]

Section 4.

Whenever it appears to the district school board or the certificated school employees meeting with the board under this Act that a persistent disagreement over a matter of salaries or economic policies affecting professional services exists between the board and the employes, the board or the employes may request the appointment of consultants. The consultants shall consist of one member appointed by the board, one member appointed by the employes and one member chosen by the other two members.

The board and the employes shall each select their representative consultant within five days, and the third consultant shall be selected within 10 days after selection of the other consultants.

Within 10 days of the time of the final appointment, the consultants shall submit in writing to the board and to the employes representatives their recommendation of a reasonable basis for the settlement of the disagreement. [Sec. 4 as amended by Ch. 647, L. 1969, approved and effective June 16, 1969.]

Section 5.

ORS 243.710 to 243.750 shall not apply to certificated public school personnel. [This section removes certificated school personnel from collective bargaining law.]

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA–INDIANAPOLIS DIVISION

Indianapolis Education Association,
Maurice Huckleberry,
Preston Roney, and
Frederic M. Hadley, Jr.,
individually and on behalf of
teachers employed by the Board
of School Commissioners of the
City of Indianapolis, Indiana,

Plaintiffs

vs.

Marvin B. Lewallen,
Anna Margaret Alexander,
Sammy Dotlitch,
Mark W. Gray,
Robert DeFrantz,
Landrum Shields, and
Jerry Belknap,

Defendants

Civil Action
No. IP 69-C-252

PRELIMINARY INJUNCTION

This cause came on for hearing before the Court on June 12, 1969, on motion of the plaintiffs for a preliminary injunction pursuant to their verified complaint alleging that the defendants have interfered with rights of plaintiffs secured by the First and Fourteenth Amendments to the Constitution of the United States and praying that the defendants be enjoined from continuing to interfere with such rights pending final determination of the action, as set forth in said complaint and motion;

And having heard the testimony in support of said motion and having considered the pleadings, stipulations of the parties, exhibits introduced into evidence, and affidavits submitted by defendants in opposition to said motion, and having heard arguments of Counsel and being fully advised in the premises, the Court now makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. Plaintiff Indianapolis Education Association (hereinafter called "IEA") is an Indiana corporation with a membership of approximately 3,200 teachers employed in the Indianapolis public schools. It is a professional teachers' organization affiliated with the Indiana State Teachers' Association and the National Education Association.

2. The defendants are the duly elected members of the Board of School Commissioners of the City of Indianapolis, Indiana (hereinafter called "School Board"), which is a public school corporation authorized by Indiana law to administer the affairs of the Indianapolis public schools.

3. Since November of 1968, discussions had been held between the IEA and the School Board concerning collective bargaining on teachers' salaries and other conditions of employment for the 1969-70 school year. Thereafter, on May 14, 1969, the parties agreed to a consent election under supervision of the Department of Labor of the State of Indiana, by a bargaining unit composed of non-supervisory teachers, such election to be held on May 21, 1969. The School Board further agreed to recognize the winning organization as the exclusive bargaining agent for such teachers in respect to salaries and other conditions of employment, to bargain in good faith immediately following the announcement determining the agent, and that the winning organization should have the responsibility to represent all such teachers, regardless of membership in any organization.

4. Thereafter, on May 20, 1969, the School Board unilaterally adopted a salary and benefit schedule for the 1969-70 school year which gave such teachers a salary increase, and on May 21, 22, and 23, 1969, individual contracts reflecting the increase were mailed to such teachers for their signature and return. Some of the contracts have been signed and returned by such teachers and some have not.

5. The representation election was duly held on May 21, 1969, and the IEA was chosen as the exclusive bargaining agent for such teachers by ap-

proximately 95% of the valid ballots cast. The election results were announced on the evening of May 21, 1969, immediately following the tabulation of votes.

6. Thereafter, on May 26 and 27, 1969, the complete salary schedule previously adopted by the School Board was distributed to such teachers, together with a memorandum stating, among other things, that "we hope this will aid you in understanding the amount you will receive as well as the pay schedule".

7. The School Board's adoption of a salary schedule and distribution of individual teachers' contracts for the 1969-70 school year followed a pattern that has been part of School Board routine for many years.

8. Since May 29, 1969, bargaining meetings have been held between the parties, and the School Board has proposed, among other things, that the bargaining representative for the IEA be a teacher in the Indianapolis public schools.

9. With knowledge of such impending election and of its agreement to bargain in good faith, the School Board owed such teachers more than mere adherence to former customary procedures in the matter of determining salaries and other benefits for the 1969-70 school year.

10. The acts of the School Board after May 14, 1969, in submitting individual contracts to such teachers prior to negotiations with the IEA constitute an interference with the normal processes of good faith collective bargaining, and such acts, together with other acts both before and after May 14, 1969, as shown by the evidence constitute an unjustifiable interference by the defendants under their authority as members of the School Board with the exercise by teachers employed in the Indianapolis public schools who are members of such bargaining unit of federally-protected rights and privileges, as follows:

(a) The right to associate together through a chosen representative for the purpose of negotiating on an equal basis with their employer with respect to their economic and professional interests,

(b) The right to be heard through a chosen representative in a meaningful and effective way with respect to their economic and professional interests,

(c) The right collectively to advance and further their ideas and beliefs on what they consider to be their economic and professional well-being,

(d) The right to petition the government in a meaningful and effective way for redress of economic and professional grievances,

(e) The liberty to contract for personal services by a bargaining process through a representative of their own choosing,

(f) The right of equality of opportunity enjoyed by citizens in private employment to bargain collectively with respect to terms and conditions of public employment.

11. The individual plaintiffs are teachers employed in the Indianapolis public schools and members of the bargaining unit. Plaintiff Hadley is not a member of the Indianapolis Education Association. Such bargaining unit consists of approximately 4,200 teachers and is so large that joinder of each teacher in this action is impractical. Questions of law and fact with respect to all of such teachers are identical and the plaintiffs will fairly and adequately represent and protect their interests in this action.

CONCLUSIONS OF LAW

1. The Court has jurisdiction of this action pursuant to Title 18 of the United States Code Section 1343(3) and Title 42 of the United States Code, Section 1983, known as Section 1 of the Civil Rights Act of 1871.

2. This is a proper class action pursuant to Rule 23 of the Federal Rules of Civil Procedure.

3. The acts of the defendants constitute an unjustifiable interference under color of law with fundamental rights of teachers who are members of the bargaining unit of free speech, association, petition, equal protection, and due process of law guaranteed by the First and Fourteenth Amendments to the Constitution of the United States.

4. Such acts will, unless restrained, constitute continued interference with the rights of teachers, as aforesaid, and result in irreparable injury for which there is no speedy or adequate remedy at law, and a preliminary injunction is necessary to preserve the status quo of good faith negotiations with respect to teachers' salaries and other conditions of employment for the 1969-70 school year until the final determination of this action.

IT IS THEREFORE ORDERED AND DECREED that the defendants, and each of them, their agents, servants, employees, and all persons acting in concert and collaboration with them be enjoined from:

(a) Bargaining individually with any member of the bargaining unit for which the Indianapolis Education Association has been elected the exclusive bargaining representative;

(b) Validating any contract signed by any member of the bargaining unit for which the Indianapolis Education Association has been elected the exclusive bargaining representative until good faith negotiations on salary and other conditions of employment have been carried out;

(c) Recognizing as a valid legal document any contract signed by members of the bargaining unit for which the Indianapolis Education Association has been elected the exclusive bar-

gaining representative for the 1969-70 school year until good faith negotiations on salary and other conditions of employment have been carried out;

(d) In any other manner, directly or indirectly, interfering or attempting to interfere with any member of the bargaining unit for which the Indianapolis Education Association has been elected the exclusive bargaining representative in the exercise of his right to bargain collectively through the Indianapolis Education Association with respect to salary and other conditions of employment;

pending final determination of this action and until further order of this Court, provided that plaintiff Indianapolis Education Association forthwith gives a bond in the sum of *$25,000.00* dollars for the payment of such costs and damages as may be incurred or suffered by any party who shall be found to have been wrongfully enjoined or restrained, and such bond shall be approved by the Clerk of this Court.

IT IS FURTHER ORDERED that the parties report to the Court on or before August 1, 1969, concerning the progress of good faith negotiations.

The foregoing is not to be construed as preventing the defendants from employing new non-supervisory teachers for the 1969-70 school year by individual contracts, provided that such new employees will become members of the said bargaining unit and be bound by the terms of any collective bargaining agreement which may result from negotiations between the defendants and the Indianapolis Education Association.

IT IS FURTHER ORDERED that a copy of this Order be served upon Stephen W. Terry, Jr. and E. C. Ulen, Jr., of the firm of Baker and Daniels, 810 Fletcher Trust Building, Indianapolis, Indiana, attorneys for the defendants, and that such service shall have the same force and effect as if served upon the defendants in person.

Dated June 19, 1969.

/s/ William E. Steckler
United States District Judge

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Note to Subscribers

With this issue, NEGOTIATION RESEARCH DIGEST begins publication in a new format. It is hoped the change will enable the DIGEST to better inform its subscribers of the rapid developments in educational negotiation.

Negotiation in public education is growing and changing. Comprehensive agreements have increased from 398 in 1966-67 to 1,200 or more in 1968-69, an increase of 200 percent. The number of states with negotiation statutes has grown to 22—almost half the nation.

To cover this field and the important judicial decisions, legislation, board decisions, and subject areas, the DIGEST now comprises five new sections:

Case Reviews summarizes judicial decisions and legislative acts.
Board Findings and Rulings summarizes arbitration results and decisions of employee relations boards.
Negotiation Notes chronicles brief items of more limited significance to the field. All material will be drawn from the extensive research and reportorial services of the NEA Research Division's Negotiation Data Bank.
Statistics provides tables and analyses from NEA Research Division surveys of teachers and administrators in school districts across the country.
Special Reports consists of two basic types of articles: briefs of recent agreements, and unique provisions, providing essential information on agreements on file: and in-depth surveys of current issues. These surveys examine and trace the development of major subject areas in negotiation. Future issues of the DIGEST will include examination of strike penalties, case studies, agency shop, representation, funding of agreements, and other major areas as they arise.
Texts confines itself to reports, legislation, statements, or agreement provisions of outstanding consequence, or those which may not be readily available elsewhere.

Subscribers who request full text reprints of major articles in the Case Reviews will be sent copies, where available, or exact citations for judicial decisions.

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Case Reviews

CALIFORNIA

TEACHERS GRANTED RIGHT TO CIRCULATE PETITION IN OFF-DUTY HOURS

A school-board rule prohibiting teachers from circulating a petition during duty-free hours was struck down by the California Supreme Court, as a violation of First Amendment rights to free speech.

The Los Angeles Teachers Union Local asked the court to strike down a Los Angeles City Board of Education rule prohibiting teachers from circulating petitions during duty-free hours and teacher lunch periods. The petition contained a notation that it should be circulated only during "non-instructional" time.

The court said that the government has no right to infringe upon Constitutional rights, except in cases which rise "far above public inconvenience, annoyance or unrest." The court pointed out that the interruption for teachers who might be planning lessons, or be otherwise engaged, would be minimal in any case, and no greater than interruptions which teachers would encounter in duty-free hours anyway.

Citing other school free speech cases, the Court continued, "Harmony among public employees is undoubtedly a legitimate governmental objective as a general proposition; however, as we have seen, government has no interest in preventing the sort of disharmony which inevitably results from the mere expression of ideas."

CONNECTICUT

BOARD OF ALDERMEN CAN DENY FUNDS FOR IMPLEMENTING TEACHER AGREEMENT

A Connecticut court ruled that Waterbury City Charter provisions granting ultimate review and control of teacher's salaries to the Waterbury Board of Finance and Board of Aldermen, take precedence over a contract executed pursuant to the state's Teacher Negotiation Act. (see NRD, Sept. 1969, C-1).

Waterbury Teachers conducted a two-day strike in January 1968 when the Board of Aldermen refused to grant funds to carry out a negotiated salary agreement. The strike was ended when the school board agreed to join the teachers in taking the contract dispute to court.

The court's conclusion was that "until the legislature decrees otherwise, the final say as to teacher's salaries rests with the ultimate budgetary control of the Board of Finance and the Board of Aldermen." The court advised the teachers to seek a political solution, rather than a legal one, or "ask the legislature to change or better define the respective power of the boards involved."

The Court reasoned that because the act permitting teacher negotiations is silent as to repeal of local charter provisions, but the Connecticut Municipal Employee Relations Act is not, this "seems to indicate a definite legislative direction that agreements with municipal employees other than teachers, once ratified, must be funded and paid in accordance with the terms thereof; but that in the case of agreements with teachers, there is no such requirement of funding and no requirement that either party agree to any proposal or make a concession."

In considering the arguments and precedents cited by the school board and the Connecticut Education Association, the court found that although the school board may be considered an agency of the state, "by whatever road we detour, we seem to arrive at the same conclusion—that ultimate control of the amounts of teachers' salaries remains in the Board of Finance and Board of Aldermen" in Connecticut municipalities.

INDIANA

TEACHER COLLECTIVE BARGAINING NOT A CONSTITUTIONAL RIGHT

The "federally protected rights and privileges" for teachers, enunciated by a U.S. District Court for Indiana (NRD, Sept. 1969), were overruled by the U.S. Court of Appeals for the Seventh Circuit. The appeals court reversed the lower court opinion, finding that while teachers have a constitutional right to *associate* for collective bargaining, only a state statute can impose the *duty* to negotiate. According to the Indiana state attorney general, the absence of a state statute made the issue of whether

the school board had to negotiate with teachers "confusing."

The case arose initially when the Indianapolis Teachers Association was granted an injunction prohibiting the Board of School Commissioners of Indianapolis from bargaining individually with teachers. The court granted the injunction after the school board had failed to bargain collectively with the elected representative of the teachers when it had promised to do so. The lower court said that the unilateral action of the school board in mailing individual teacher contracts violated constitutional rights of teachers under the First and Fourteenth Amendments.

The appeals court, disagreeing with the lower court opinion, ruled, "There is no constitutional duty to bargain collectively with an exclusive bargaining agent; such duty, when imposed, is imposed by statute. . . . Nor does the fact that an agreement to collectively bargain may be enforceable against a state elevate a contractual right to a constitutional right."

The appeals court agreed with the school board's argument that there was a "pressing need" for the board to know "as soon as possible" how many incumbent teachers would renew their contracts.

The appeals court differed from the lower court, and ruled that teachers' constitutional rights did *not* extend "to the right of equality of opportunity enjoyed by citizens in private employment to bargain collectively with respect to terms and conditions of public employment," as the lower court had found. The higher court did assert, however, "There is no question that the right of teachers to associate for the purpose of collective bargaining is a right protected by the First and Fourteenth Amendments."

Following the appeals court decision, the state superintendent of public instruction issued a directive urging all boards and teachers to come to agreement as soon as possible, and said that, in his view, "teachers have a right to join in groups or organizations for the purpose of discussing with local boards, matters relating to their welfare, and other educational considerations."

Note: An Indiana State Legislative Committee is scheduled to hear proposals for teacher collective bargaining legislation at a session with the state teachers organization in September. The Committee hopes to prepare a bill for 1971. It is believed that although a bill granting public employee bargaining (excluding teachers) failed in the 1969 session, the Committee will draft it's own proposal, should the teachers associations and the Indiana School Boards Association fail to agree on a single proposal.

IOWA

EXPANSION OF COURT OPINION PROHIBITS PUBLIC EMPLOYEES FROM STRIKING

Expanding an opinion handed down in June 1969, that state law permits, but does not compel, public employers to enter into collective bargaining with their employees, the court ruled that public employees have no right to strike.

The Iowa state Board of Regents had requested further rulings in the case, which arose from a strike in February 1969 by the United Packinghouse Workers who were attempting to obtain recognition for physical plant employees at the University of Northern Iowa.

Noting that neither the Iowa legislature nor state supreme court have dealt with public employees strikes, the court said: "This question has been before the courts in numerous states, however, including many states with no express statutory provision covering this matter. The overwhelming authority throughout the United States holds that public employees have no right to engage in a strike against their public employer, irrespective of whether this 'public policy' has been articulated by legislative enactment or by judicial decision."

The court dismissed the Regents' request that the union be enjoined from picketing the campus, and from inducing employees of other employers to cease work (secondary boycott) because the judge found no evidence that the unions engaged in either of these activities. The court thus concluded that "they cannot be enjoined from doing what they have not done or threatened to do."

MICHIGAN

CURTAILMENT OF LEGALLY NEGOTIABLE AREAS FOR TEACHERS OVERTURNED

A Michigan circuit court ruled curtailment of legally negotiable areas for teachers erroneous.

An October 1968 opinion of the attorney general had eliminated school-board agreements on terminal leave, payment for accumulated sick leave, and reimbursement of tuition credits for graduate study. This opinion was based on the premise that the Michigan Public Employment Relations Act is a general law, and therefore overruled by specific laws, such as the School Code and the Teachers Retirement Act.

In overruling the opinion of the attorney general, the circuit court noted that PERA "creates a monumental change in this State," and defined the purpose of PERA as granting "many of the rights and kinds of contractual benefits gained by workers in private employment by the collective bargaining process." The court said further that the purpose of the legislature in PERA "is to make

the provisions of the Public Employment Relations Act controlling on the subject of the authorized scope of public collective bargaining and resulting employment contracts . . . . We find no necessary repugnancy between [PERA and other statutes]. On the contrary, none of the other statutes pertains to the permissible scope of public employment collective bargaining agreements nor irreconcilably limits the negotiable subjects."

Indicating the implied limitations of PERA for teachers, the court noted: "Public Employees and teachers cannot strike to support their demands, and the economic benefits of school contracts are necessarily limited to available funds which are controlled by legislative appropriation and public approval of extra millage proposals."

NEW YORK

APPEAL OF CONTEMPT CONVICTIONS FOR STRIKING TURNED DOWN

An appeal by New York sanitationmen of a criminal contempt conviction was denied by the New York Court of Appeals, and was refused a hearing by the Supreme Court of the United States.

The New York Court of Appeals found the Taylor Law constitutional, and said that the guidelines of the Supreme Court of the United States for illegal strikes indicate that the state, "in governing its internal affairs had the power to prohibit any strike if the prohibition was reasonably calculated to achieve a valid state policy in an area which was open to state regulation."

Taking this criterion as the main question in the case, the court of appeals found that the prohibition against strikes "is reasonably designed to effectuate a valid state policy in an area where it has authority to act."

"The striking employees," the court reasoned, "by paralyzing a city through the exercise of naked power, could obtain gains wholly disproportionate to the services rendered by them . . . . The consequence would be the destruction of democratic and legislative processes."

The sanitationmen then appealed the case to the Supreme Court of the United States, charging that the Taylor Law was unconstitutional in depriving public employees of due process in the denial of a jury trial and the denial of liberty and property without due process.

The Supreme Court of the United States declined to review the decision of the New York Court, "for want of a properly presented federal question."

STATE COURT HOLDS NONTENURE TEACHERS MAY GRIEVE

The New York Supreme Court of Suffolk County ruled that public employee organizations may submit grievances to binding arbitration for nontenure teachers, if the teacher's termination violated terms of the contract.

An apparent contradiction arose over two clauses in the agreement: one stated that nontenure teachers must be notified of termination by March 1; the other specified that "in the case of a nontenured teacher, termination shall not be grievable."

The Board of Education of the Union Free School District No. 3 contested arbitration of a grievance filed by the Associated Teachers of Huntington over the dismissal, after March 1, of a nontenure teacher, citing the clause that "in the case of a non-tenured teacher, termination shall not be grievable," and the State Education Law, which does not *require* termination by March 1.

The court found that the Education Law "allows termination of employment of a non-tenure teacher at any time during his probationary period without a hearing." but, the court continued, it is "indisputable that this section does not *forbid* providing a non-tenure teacher with prior notice of termination," as specified in the subsequent contract.

The contradiction between the two clauses cited by the board, the court said, is resolved by the fact that the clause which says "termination shall not be grievable" for a nontenure teacher refers to termination of a tenure teacher's contract. The Court concluded that it had been unable to find "any language" in the contract "which would imply that the procedure used in the termination of a non-tenure teacher was prohibited from being the subject of an arbitration proceeding."

PENNSYLVANIA

VOLUNTARY TRANSFER CLAUSE HELD INVALID

A Philadelphia teacher contract clause allowing only voluntary reassignments to schools was declared invalid by a Philadelphia court, because such a clause removes the publicly delegated responsibility from the superintendent.

The clause, negotiated by the Philadelphia Federation of Teachers, under threat of a strike, was supported by the school superintendent, who maintained the clause would resolve the problems of racial imbalance and fair distribution of teachers. The clause aroused considerable controversy and instigated an investigation by the Pennsylvania Human Relations Commission.

In its decision, the court confined itself to consideration of "whether the 'Board' by permitting this to be a subject for collective bargaining, abused its discretion." The court found that the policy of assignment and transfer of teachers must remain with those invested with those powers by the legislature, and that the Philadelphia Charter places this power specifically with the superintendent.

Although it recognized that this decision could have a negative effect on "the need to maintain a cadre of experienced and qualified teachers," the court said this "obviously does not justify the 'Superintendent's' surrender of his obligation to design the policy."

While recognizing the "right of teachers to bargain collectively," the court concluded that these considerations do not "prevent the curtailing of the latter right where overriding policies so dictate. Where the State's educational system is involved, the range of appropriate subjects for collective bargaining must be circumscribed by the public interest in carrying out, in a meaningful way, the objectives of the overall educational policies."

RHODE ISLAND

BINDING ARBITRATION FOR PUBLIC EMPLOYEES HELD CONSTITUTIONAL

The Rhode Island Supreme Court held that an arbitration panel, called under the authority of the Fire Fighters Arbitration Act, can make decisions on bargaining issues, which will be binding on both the bargaining agent and the municipality.

The lower court had held that arbitration panel decisions were an invalid delegation of the police power of the state to private persons, i.e., the arbitrators. The court ruled against this contention on the grounds that the function of an arbitration panel relates to "the public safety, and to the public's interest in an uninterrupted operation of the public safety services."

Note: The case will effect the Rhode Island School Teacher's Arbitration Act (NRD), May 1967), which calls for binding arbitration in nonmonetary matters.

WASHINGTON

PROFESSIONAL NEGOTIATION LAWS HELD VALID

The validity of state laws governing teacher/school board negotiation for wages was upheld by the Washington Supreme Court.

The Yakima Local (AFT) brought the suit, following a bargaining election in which the Yakima Education Association was the sole teacher organization participating. The suit charged that the negotiation act unconstitutionally delegated legislative power to the school boards.

The state supreme court ruled that "the Legislature may properly grant broad powers to municipal corporations . . . so long as those powers relate to local purposes of regulation or administration."

WISCONSIN

SCHOOL BOARD PROHIBITED FROM GRANTING EXCLUSIVE CHECK-OFF OR PROFESSIONAL LEAVE FOR MAJORITY TEACHER'S REPRESENTATIVE

A majority union cannot negotiate an exclusive dues check-off, according to a recent ruling of the Wisconsin Supreme Court, which overturned a decision of the Wisconsin Employment Relations Commission.

In an appeal brought by the Milwaukee Teachers Union, after the school board negotiated with the Milwaukee Teachers Education Association for an exclusive check-off, and a concomitant request by the school board for a declaratory judgement in the case, the validity of the following issues was raised: the legitimacy of exclusive dues check-off under the state's public employees law, the minority union's right to speak on negotiable items at public meetings of the negotiating group, and whether names and addresses of new employees should be made available to the minority union.

WERC had ruled that exclusive check-off is permissible, that a minority union's right to discuss negotiable items in public meetings could be denied, and that the employee list, as a matter of public record, was available to all interested parties.

The state supreme court first considered whether the certified majority representative of municipal employees is the exclusive bargaining agent for all employees in the unit, a question not specified by the law. The court noted, "All the parties to this appeal, including the minority union, concede that it should be so interpreted, or there would be little point in having an election to determine the majority union representative."

In the matter of exclusive check-off, the court ruled, "The sole and complete purpose of *exclusive* check-off is self-perpetuation and entrenchment. While a majority representative may negotiate for check-off, he is negotiating for all the employees, and if check-off is granted for any, it must be granted for all."

In the matter of the minority union's right to speak in public negotiating meetings, the court ruled that because of Wisconsin's state Anti-Secrecy Law, "the open meeting is the necessary and final step in the 'negotiation' process between the school board and the majority teachers' union." Therefore, the court concluded that the minority union should not be permitted to speak at the open negotiation meetings, because, "if the minority union representative met privately with the municipal employer to discuss negotiable topics, i.e., wages, hours and conditions of employment, the employer would certainly have committed a prohibited practice. To permit such a discussion under the guise of a public meeting is just as improper." The court reversed WERC's ruling.

Board Findings and Rulings

MICHIGAN

INDIVIDUAL CONTRACTS MAILED BEFORE MASTER AGREEMENT REACHED

The Michigan Employment Relations Commission, overruling a trial examiner's report, held that a Bullock Creek School Board had not committed an unfair labor practice when it mailed individual employment contracts to teachers before collective bargaining had been completed.

The trial examiner had found mailing the contracts unfair because it required the teachers to make a decision before they knew what the conditions, wages, hours for the next year would be.

The board found that requiring teachers' signatures on contracts before completion of collective bargaining was not unfair because "in the event of collective bargaining agreement providing increased benefits for a teacher should be entered into after an individual contract has been signed, the collective bargaining agreement prevails and modifies the individual contract to the extent that the two documents vary."

SCHOOL BOARD ORDERED TO FURNISH INDIVIDUAL TEACHERS' NAMES AND SALARIES TO ASSOCIATION

The Michigan Labor Mediation Board ruled that the Traverse City Public School District violated the Public Employment Relations Act by refusing to furnish the Traverse City Education Association with the name and salary of each teacher in the system.

The Association said this information was necessary in order to formulate bargaining demands and to bargain collectively for the following school year. The Association also requested, but was denied, the salaries of 70 administrators not in the bargaining unit.

The school board said it would withhold individual teachers names and salaries from the Association, unless given signed releases by the individual teachers involved.

The trial examiner, noting that the school board had provided the Association with detailed budget summaries, found that "as extensive as the information provided by the Traverse City School Board has been, it does not give sufficient information as to allow the bargaining agent to police the agreement and to 'intelligently fulfill its statutory obligatio as a bargaining agent.' "

In finding that the school board had erred in not providing individual teachers' names and salary scales, the trial examiner noted that the board had gone to "extensive effort" to comply with the Association's request and that the record did not "disclose or indicate any willful attempt to avoid its statutory duty to bargain."

The examiner also ruled that the school board was not obligated to disclose salaries or names of those not in the bargaining unit, i.e., administrators.

WISCONSIN

PAID LEAVE FOR ATTENDING CONVENTION OF MINORITY GROUP

The Wisconsin Employment Relations Commission reversed a ruling by its examiner, holding that a contract provision granting paid leave for attendance at the majority teachers' representative's state convention also must grant paid leave for teachers wishing to attend other conventions on the same dates.

The Commission found that to allow paid leave only for attendance at the majority convention "exceeds the bounds of the permissive cooperation which Local 1275 was priviledged to receive as a result of its majority status."

The dissenting commissioner held that while "state" conventions (the majority union's meeting was a state convention) were specifically mentioned in the contract, "regional" conventions (the minority group's meeting) were not.

The majority of the Commission overruled this objection, reasoning that "to avoid an act of prohibited favoritism to the majority organization members of the minority organization should have been permitted to attend their regional convention on the same dates, without loss of pay."

MICHIGAN

SCHOOL BOARD'S SUBJECTIVE SELECTION OF TEACHER HELD A VIOLATION OF AGREEMENT

The arbitrator found that the Bay City Board of Education did not fully comply with the selection standards specified in the agreement with the Bay City Education Association when it selected a candidate known to the board member responsible for the final selection, without taking into account the other candidates' "experience, training, tenure and other objective factors required to be considered by the labor agreement."

According to the arbitrator, the grievant, one of the candidates not selected, had "a clear edge" over the other two applicants, one of whom was chosen for the position.

While the arbitrator found that "the Administration's judgment in these matters must be accepted," he pointed out that the Administration's "broad discretion" also carried with it "an obligation to exercise fairness . . . . In a case such as the instant one where the judgment turns on subjectively determined personality traits, and where those making the judgment have substantial personal knowledge of one applicant and little or none of a second applicant who ranks higher in most objective factors, fairness requires that a vigorous effort be made . . . to inquire into the personality traits of the second applicant." The arbitrator ordered that the applicants be reconsidered because, "the record indicates that this was not done here."

TEACHER JUSTLY ASSIGNED EXTRA DUTY NOT MENTIONED IN CONTRACT

The arbitrator ordered that the sponsorship of a Girls Athletic Association, not specifically mentioned in the employment contract, was justly assigned to the teacher who had previously sponsored it, becaue the contract provided a method for her to request another assignment prior to the beginning of the school year, which she did not use, and because the sponsorship of the G.A.A. was not mentioned in the master contract.

The teacher in question had voluntarily sponsored the Girls Athletic Association the previous year. The case arose the following year when the teacher was ordered to continue her sponsorship when she had not planned to.

The board of education contended the question was not grievable, because the grievance was not submitted in writing and filed within the time required by the master contract, and the sponsorship of the Girls Athletic Association was not included with the items to "be retained for further consideration for additional compensation at the time the contract was negotiated."

The arbitrator said that the timeliness question was open, but denied the grievance, saying, "The request must be denied as it is a well understood and established fact in collective bargaining that the parties cannot obtain at arbitration what they were unsuccessful in obtaining at collective bargaining."

NEW JERSEY

PERC DEFINES UNIT FOR REPRESENTATION

The Public Employees Commission of New Jersey defined the state university teachers unit for representative purposes as "all full-time professional employees, including teaching, research, administrative and academic support personnel at each state college, but excluding all managerial executives, supervisors having the power to hire, discharge, discipline or to effectively recommend the same (other than peer judgement) part-time and all other personnel." To maintain the autonomy and independence of each college, each of the separate state colleges and university each college was also defined as a single unit.

NEW YORK

CONTRACT LANGUAGE ALLOWED TEACHERS TO GO DIRECTLY TO STEP 2 OF GRIEVANCE PROCEDURE

The Falconer Education Association did not violate its contract when it went directly to step 2 of the specified grievance procedure by applying the clause, "if a grievance affects a group of teachers and appears to be associated with system-wide policies, it may be submitted by the Association directly at Stage 2."

The policy in question was a directive by the school principal, that all teachers were required to attend a PTA program.

The teachers, contending that the directive had "precedent-setting potential," throughout the district, took the grievance to the supervising principal (step 2), who refused to accept it.

The arbitrator, noting that "it is axiomatic in contract interpretation that all words in an agreement should be given effect," found that "the parties recognized the inherent difficulty in precisely defining the phrase 'associated with system-wide policies' and qualified its meaning by the word 'appears'."

The arbitrator found that the association had so interpreted the contract, and had genuinely felt

that the directive could have "system-wide" implications; and therefore, the Association had not violated the agreement by carrying the grievance directly to the second step.

NEW YORK

RULING ON REPRESENTATION ORGANIZATIONS FOR STATE UNIVERSITY TEACHERS

The Director of Representation of the New York Public Employees Relations Board ruled that the multi-campus State University of New York constitutes a proper single unit. The SUNY unit consists of 11,000 faculty and 3,554 nonteaching professionals in the state's four university centers, 11 four-year colleges, two medical centers, and other affiliated institutions.

The single-unit finding for SUNY denied the request of the State University Federation of Teachers for a dual-unit determination, one local and one state.

In the matter of the proper bargaining agent for the unit, the Federation opposed the Faculty Senate as a candidate, charging that the Senate was "employer dominated." PERB's Director of Representation replied that if the Senate is "employer-dominated," it should be dealt with under the "improper practices" provision of the Taylor Law.

The Senate and the Civil Service Employees Association, as joint petitioners, have pledged to adopt whatever financial arrangement PERB might require, should they be chosen bargaining agent for the SUNY teachers.

In ruling for the Senate as a possible bargaining agent, the Director of Representation found that the Senate "in its role as faculty governor, has represented the faculty position with regard to economic goals as well as a number of matters of educational concern such as admissions policies, faculty hiring, promotion and tenure procedures, curriculum, and class size . . . there is no basis in fact for finding that the Senate's primary purpose is other than the improvement of terms and conditions of employment."

RHODE ISLAND

REFUSAL TO GRANT SEVERANCE PAY A VIOLATION OF AGREEMENT

The Providence School Committee's refusal to give retiring teachers the negotiated amount of severance pay was a violation of its contract, according to an arbitration panel ruling.

The school committee had voted to omit severance pay after the mayor and the city council failed to appropriate enough funds to cover the school budget.

The arbitration panel said the school committee's contentions that the severance pay contract was an illegal "gratuity" and that the committee could therefore "unilaterally disallow" it, "is at war with the collective bargaining scheme set forth in the Teachers Arbitration Act." (NRD, May 1967, C-7)

The panel also said the union's role in determining conditions is "not [that of] an advisory group," but that of a "co-architect of those terms and conditions." It drew two distinctions in regard to the school committee's argument that the arbitration clauses are invalid delegations of power, saying that it is possible that third party compulsory determinations in negotiation impasse disputes of what a municipal body's obligations are, could be construed as an invalid delegation of power. But in a contractual situation, where the questions concern whether the municipal body has violated contractual obligations voluntarily incurred, and voluntarily agreed on grievance arbitration as the dispute-settling mechanism arising under the contract, "should not one insist upon a strong showing of legislative desire to exclude from the realm of bargaining a process [grievance arbitration] which has so commonly been accepted and which has so much to recommend it?"

The panel rejected the school committee's contention that the contract did not take effect immediately, saying that the severance pay itself is not an illegal "gratuity" because the "clause does not purport to apply to teachers who had retired before the effective date of the contract" but "the teacher's performance after the effective date is a critical factor in determining payment," and "it is perfectly possible that a teacher with a potential severance pay in a substantial amount as of the effective date would retire six months later with no severance pay due, and this because of intervening absence."

Negotiation Notes

CALIFORNIA

SAN DIEGO MUNICIPAL EMPLOYEES STRIKE

The California Superior Court ruled that public workers have a constitutional right to strike.

The case involved an appeal by San Diego State County and Municipal Employees against an injunction granted to the City of San Diego, prohibiting a threatened strike.

The court based its decision on the fact that the California legislature had specifically outlawed strikes by firemen and policemen but had left the issue of whether other public employees can legally strike open. The court also noted that the Supreme Court of the United States ruled that the rights of public workers, as citizens, cannot be taken away "without imperative necessity" or substantial threat to the public safety.

KANSAS

SCHOOLS MAY PAY FOR FRINGE BENEFITS

Local school boards in Kansas may now pay for fringe benefits, according to an opinion by the state attorney general. Basing his opinion, a reversal of previous statutes, upon laws enacted by the state legislature's 1969 session, the attorney general stated, in part, that "it would now appear that all of the more popular employment benefits, including tax sheltered annuities, liability and group life and health insurance, are properly authorized for inclusion in school employment contracts."

MASSACHUSETTS

AGENCY SHOP LEGALIZED IN GREATER BOSTON

The acting Massachusetts governor signed an act legalizing agency shop for public employees in Boston and surrounding Suffolk county, effective June 22, 1969.

The act provides that the contract, with stipulation of fees involved, must be accepted by a majority of all employees in the bargaining unit, whether or not they belong to the union; the agency service fee must be "proportionally commensurate with the cost of collective bargaining and contract administration"; and the fee may be deducted only "during the life of the collective bargaining agreement so providing."

MICHIGAN

LABOR MEDIATION BOARD CHANGES NAME

The name of the Michigan Labor Mediation Board was changed to Employment Relations Commission in an act passed August 5, 1969. The new law also provides for rewording definitions in existing legislation, without altering their meaning.

FINDINGS OF TRIAL EXAMINER INADEQUATE

The Michigan Supreme Court ruled that the School District of North Dearborn Heights had engaged in unfair labor practices against the North Dearborn Heights Federation of Teachers because the board did not examine the transcript of testimony or admit oral or written arguments, but acted solely upon the findings of the trial examiner; and this violated the provisions of Michigan's Administrative Procedures Act. The court said this Act "places the duty upon a majority of the officials who are to render the decision to personally consider the whole record or portions thereof as may be cited by the parties."

Statistics

SCHOOL-BOARD MEMBERS AND SCHOOL ADMINISTRATORS AS NEGOTIATORS

For the past three years, the NEA Research Division has conducted a national survey of written negotiation agreements and procedures in school systems with 1,000 or more pupils. All the surveys—1966-67, 1967-68, 1968-69—have yielded national statistics on the involvement of school-board members and school administrators in negotiation sessions with teacher representatives.

Three Year Patterns

These three surveys indicate several significant changes in the character and participants of teacher/school board negotiation sessions. Some of the most salient trends have been:

- The percentage of negotiation units for classroom teachers only, has increased while that of all-inclusive units has decreased.
- The number of school systems with two or more organizations representing certain categories of professional staff has more than doubled.
- Whereas, five superintendents in 10 described their role in negotiation sessions as school-board negotiators or advisors three years ago, now almost seven in 10 indicate this is their role.
- The percentage of negotiating teams made up of school-board members only, has consistently declined while mixed teams of school-board members and school administrators have consistently increased.
- The percentage of negotiating teams made up exclusively of other school administrators, excluding the superintendent, has risen consistently.

The three surveys asked similar questions: who negotiates for the board? What is the role of the superintendent in negotiation sessions? For states which reported 50 or more school systems with negotiation agreements, tables on these patterns in negotiation were developed: Table L, Role of the Superintendent in Negotiation Sessions, Table M, Negotiator for the School Board, and the table on Patterns in Negotiations. Corresponding tables for 1966-67 data were reported in the September 1967, December 1967, January 1968, and September 1968 issues of NEGOTIATION RESEARCH DIGEST.

Role of the Superintendent

Nationally, only one significant change in the role of the superintendent from 1966-67 or 1967-68 was reported: about 10 percent have switched from being advisors for both the board and the teachers to being advisors for the board only. California and Michigan still reported a modal response that the superintendent has full authority in negotiation. These superintendents who "negotiate with full authority" have dropped from two-fifths (in 1966-67 and 1967-68) to one-fifth in 1968-69.

Mandatory negotiation statutes which were passed in Minnesota and New York seem to have effected some change in their school systems' responses in the past two years. In both states, the percentage of responses for the superintendent as advisor to board negotiators *only*, has shown a significant increase, from about 20 percent in 1967-68 to 50 percent in 1968-69. Some of the change, though by no means all, may have been affected somewhat by the greater number of systems with negotiation agreements.

The responses by enrollment strata still indicate that as the size of the system increases, the superintendent's role shifts from that of negotiator with full authority to that of advisor to the negotiators for both the teachers and the school board; and further, the largest systems show the superintendent as advisor to the *board* only.

Negotiators for the School Board

The percentages of school systems which reported that in negotiation sessions the boards are represented by board members only, or by the superintendent only, *decreased* from 1966-67 to 1967-68, through 1968-69. The percentage reporting board representation jointly by board members and the other school administrators increased slightly.

The data presented by enrollment strata show some shifting of representation for the board in negotiation sessions. Stratum 1 systems (100,000 or more pupils) reported that school administrators other than the superintendent predominantly represent the board. Most often Strata 2 through 4 systems (12,000-99,999 pupils) reported that superintendents, together with other school officials, represent the board in negotiation sessions, and the smallest systems (1,000-11,999 pupils) reported most frequently that

the board and the superintendent represent the board jointly.

Patterns in Negotiation

Thirteen states reported 50 or more school systems with written negotiation agreements in 1968-69 (the same number as in 1967-68). Data on the role of the superintendent in negotiation and on who negotiates for the school board were tabulated in separate contingency tables for each of these states and for the nation. When these data are considered together, many differences appear among the states.

The bottom portions of Tables L and M provide comparable data on the basis of school system enrollment. The eight enrollment strata used are:

Stratum	*School System Enrollment*
1	100,000 or more
2	50,000-99,999
3	25,000-49,999
4	12,000-24,999
5	6,000-11,999
6	3,000- 5,999
7	1,200- 2,999
8	1,000- 1,199

TABLE L

ROLE OF SUPERINTENDENT IN NEGOTIATION SESSIONS

STATE OR STRATUM	NUMBER OF AGREEMENTS		NEGOTIATOR WITH: FULL AUTHORITY		NEGOTIATOR WITH: LIMITED AUTHORITY		ADVISOR TO NEGOTIATORS: SCHOOL BOARD ONLY		ADVISOR TO NEGOTIATORS: BOARD AND TEACHERS		ADVISOR TO NEGOTIATORS: NEUTRAL RESOURCE PERSON		ADVISOR TO NEGOTIATORS: NONPARTICIPANT	
	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
ALABAMA	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
ALASKA	7	100.1	0	.0	2	28.6	1	14.3	3	42.9	1	14.3	0	.0
ARIZONA	25	100.0	4	16.0	5	20.0	6	24.0	9	36.0	1	4.0	0	.0
ARKANSAS	4	100.0	2	50.0	0	.0	0	.0	2	50.0	0	.0	0	.0
CALIFORNIA	371	100.0	152	41.0	125	33.7	29	7.8	49	13.2	9	2.4	7	1.9
COLORADO	27	99.9	5	18.5	13	48.1	6	22.2	3	11.1	0	.0	0	.0
CONNECTICUT	81	100.0	6	7.4	7	8.6	37	45.7	26	32.1	5	6.2	0	.0
DELAWARE	6	100.1	0	.0	1	16.7	1	16.7	4	66.7	0	.0	0	.0
DISTRICT OF COLUMBIA	1	100.0	0	.0	0	.0	1	100.0	0	.0	0	.0	0	.0
FLORIDA	10	100.0	1	10.0	2	20.0	1	10.0	5	50.0	0	.0	1	10.0
GEORGIA	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
HAWAII	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
IDAHO	18	100.1	2	11.1	3	16.7	3	16.7	9	50.0	1	5.6	0	.0
ILLINOIS	143	100.1	14	9.8	19	13.3	38	26.6	63	44.1	7	4.9	2	1.4
INDIANA	50	100.0	3	6.0	13	26.0	13	26.0	17	34.0	3	6.0	1	2.0
IOWA	14	99.9	1	7.1	1	7.1	4	28.6	7	50.0	1	7.1	0	.0
KANSAS	38	100.0	6	15.8	7	18.4	2	5.3	22	57.9	1	2.6	0	.0
KENTUCKY	16	100.2	3	18.8	2	12.5	1	6.3	7	43.8	3	18.8	0	.0
LOUISIANA	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
MAINE	13	100.1	0	.0	3	23.1	5	38.5	2	15.4	3	23.1	0	.0
MARYLAND	12	100.0	2	16.7	0	.0	9	75.0	1	8.3	0	.0	0	.0
MASSACHUSETTS	138	100.0	4	2.9	8	5.8	69	50.0	30	21.7	23	16.7	4	2.9
MICHIGAN	336	100.1	117	34.8	46	13.7	140	41.7	17	5.1	6	1.8	10	3.0
MINNESOTA	91	100.0	3	3.3	11	12.1	56	61.5	16	17.6	3	3.3	2	2.2
MISSISSIPPI	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
MISSOURI	46	99.9	3	6.5	11	23.9	4	8.7	25	54.3	3	6.5	0	.0
MONTANA	10	100.0	0	.0	0	.0	1	10.0	7	70.0	2	20.0	0	.0
NEBRASKA	13	100.0	0	.0	1	7.7	3	23.1	8	61.5	1	7.7	0	.0
NEVADA	1	100.0	0	.0	0	.0	0	.0	1	100.0	0	.0	0	.0
NEW HAMPSHIRE	8	100.0	0	.0	0	.0	3	37.5	2	25.0	3	37.5	0	.0
NEW JERSEY	113	100.0	6	5.3	6	5.3	39	34.5	52	46.0	9	8.0	1	.9
NEW MEXICO	11	100.0	1	9.1	1	9.1	2	18.2	7	63.6	0	.0	0	.0
NEW YORK	353	100.0	64	18.1	34	9.6	186	52.7	48	13.6	7	2.0	14	4.0
NORTH CAROLINA	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
NORTH DAKOTA	8	100.0	0	.0	1	12.5	1	12.5	6	75.0	0	.0	0	.0
OHIO	228	99.9	89	39.0	70	30.7	22	9.6	41	18.0	5	2.2	1	.4
OKLAHOMA	4	100.0	2	50.0	0	.0	0	.0	2	50.0	0	.0	0	.0
OREGON	63	100.0	0	.0	1	1.6	10	15.9	44	69.8	6	9.5	2	3.2
PENNSYLVANIA	102	100.0	9	8.8	16	15.7	21	20.6	44	43.1	10	9.8	2	2.0
RHODE ISLAND	21	100.2	1	4.8	3	14.3	9	42.9	6	28.6	1	4.8	1	4.8
SOUTH CAROLINA	1	100.0	1	100.0	0	.0	0	.0	0	.0	0	.0	0	.0
SOUTH DAKOTA	4	100.0	0	.0	0	.0	2	50.0	1	25.0	1	25.0	0	.0
TENNESSEE	4	100.0	0	.0	0	.0	1	25.0	2	50.0	0	.0	1	25.0
UTAH	23	99.9	8	34.8	5	21.7	4	17.4	5	21.7	1	4.3	0	.0
TEXAS	5	100.0	2	40.0	1	20.0	1	20.0	1	20.0	0	.0	0	.0
VERMONT	3	100.0	0	.0	0	.0	0	.0	3	100.0	0	.0	0	.0
VIRGINIA	7	100.0	0	.0	0	.0	7	100.0	0	.0	0	.0	0	.0
WASHINGTON	91	100.1	19	20.9	19	20.9	12	13.2	37	40.7	3	3.3	1	1.1
WEST VIRGINIA	4	100.0	1	25.0	1	25.0	0	.0	2	50.0	0	.0	0	.0
WISCONSIN	94	99.9	2	2.1	13	13.8	43	45.7	23	24.5	10	10.6	3	3.2
WYOMING	5	100.0	0	.0	1	20.0	3	60.0	1	20.0	0	.0	0	.0
TOTAL	2,623	99.9	533	20.3	452	17.2	79[illegible]	30.3	660	25.2	129	4.9	5[illegible]	2.0
1	17	99.9	3	17.6	0	.0	10	58.8	0	.0	1	5.9	3	17.6
2	30	100.0	10	33.3	6	20.0	11	36.7	2	6.7	0	.0	1	3.3
3	50	100.0	14	28.0	7	14.0	17	34.0	7	14.0	2	4.0	3	6.0
4	183	99.9	57	31.1	27	14.8	57	31.1	29	15.8	6	3.3	7	3.8
5	384	100.2	82	21.4	84	21.9	112	29.2	77	20.1	16	4.2	13	3.4
6	677	100.0	134	19.8	124	18.3	206	30.4	165	24.4	32	4.7	16	2.4
7	1,076	100.0	196	18.2	174	16.2	318	29.6	319	29.6	61	5.7	8	.7
8	206	100.1	37	18.0	30	14.6	65	31.6	61	29.6	11	5.3	2	1.0
TOTAL	2,623	99.9	533	20.3	452	17.2	796	30.3	660	25.2	129	4.9	53	2.0

TABLE M

NEGOTIATOR FOR THE SCHOOL BOARD

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
	NO. OF AGREEMENTS		BOARD MEMBERS ONLY		SUPT. OF SCHOOLS ONLY		OTHER SCHOOL ADMINISTRA-TORS		BOARD MEMBERS AND SUPT.		BOARD MEMBERS AND OTHER SCHOOL ADMINISTRA-TORS		BOARD MEMBERS, SUPTS., AND OTHER SCHOOL ADMINISTRA-TORS		SUPT. AND OTHER SCHOOL ADMINISTRA-TORS	
STATE	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.
ALABAMA	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
ALASKA	7	100.1	1	14.3	1	14.3	1	14.3	2	28.6	1	14.3	1	14.3	0	.0
ARIZONA	24	99.9	3	12.5	2	8.3	3	12.5	5	20.8	2	8.3	5	20.8	4	16.7
ARKANSAS	3	100.0	0	.0	2	66.7	0	.0	1	33.3	0	.0	0	.0	0	.0
CALIFORNIA	374	100.0	7	1.9	184	49.2	29	7.8	48	12.8	5	1.3	15	4.0	86	23.0
COLORADO	28	100.0	0	.0	6	21.4	5	17.9	6	21.4	1	3.6	3	10.7	7	25.0
CONNECTICUT	80	100.2	19	23.8	4	5.0	2	2.5	39	48.8	4	5.0	9	11.3	3	3.8
DELAWARE	8	100.0	0	.0	0	.0	0	.0	4	50.0	0	.0	4	50.0	0	.0
DISTRICT OF COLUMBIA	1	100.0	0	.0	0	.0	0	.0	0	.0	1	100.0	0	.0	0	.0
FLORIDA	10	100.0	3	30.0	1	10.0	1	10.0	4	40.0	0	.0	1	10.0	0	.0
GEORGIA	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
HAWAII	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
IDAHO	19	100.1	1	5.3	2	10.5	0	.0	14	73.7	0	.0	1	5.3	1	5.3
ILLINOIS	145	100.0	22	15.2	5	3.4	4	2.8	64	44.1	12	8.3	30	20.7	8	5.5
INDIANA	53	99.9	6	11.3	4	7.5	6	11.3	24	45.3	2	3.8	5	9.4	6	11.3
IOWA	14	99.9	0	.0	1	7.1	0	.0	8	57.1	1	7.1	4	28.6	0	.0
KANSAS	39	100.1	6	15.4	6	15.4	0	.0	19	48.7	1	2.6	4	10.3	3	7.7
KENTUCKY	16	100.2	1	6.3	2	12.5	0	.0	6	37.5	1	6.3	5	31.3	1	6.3
LOUISIANA	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
MAINE	13	100.1	4	30.8	2	15.4	0	.0	5	38.5	0	.0	1	7.7	1	7.7
MARYLAND	13	100.0	0	.0	0	.0	11	84.6	0	.0	0	.0	2	15.4	0	.0
MASSACHUSETTS	141	99.9	68	48.2	4	2.8	5	3.5	42	29.8	7	5.0	12	8.5	3	2.1
MICHIGAN	339	99.9	18	5.3	22	6.5	51	15.0	75	22.1	11	3.2	82	24.2	80	23.6
MINNESOTA	91	100.0	14	15.4	1	1.1	0	.0	53	58.2	12	13.2	10	11.0	1	1.1
MISSISSIPPI	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
MISSOURI	47	100.0	7	14.9	8	17.0	1	2.1	22	46.8	0	.0	7	14.9	2	4.3
MONTANA	10	100.0	1	10.0	0	.0	0	.0	8	80.0	0	.0	1	10.0	0	.0
NEBRASKA	13	100.1	3	23.1	0	.0	1	7.7	6	46.2	0	.0	2	15.4	1	7.7
NEVADA	1	100.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	1	100.0
NEW HAMPSHIRE	8	100.0	4	50.0	0	.0	0	.0	4	50.0	0	.0	0	.0	0	.0
NEW JERSEY	116	100.0	32	27.6	3	2.6	0	.0	63	54.3	2	1.7	14	12.1	2	1.7
NEW MEXICO	11	100.1	1	9.1	3	27.3	0	.0	2	18.2	0	.0	2	18.2	3	27.3
NEW YORK	351	100.0	57	16.2	8	2.3	52	14.8	71	20.2	55	15.7	65	18.5	43	12.3
NORTH CAROLINA	1	100.0	1	100.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
NORTH DAKOTA	8	100.0	3	37.5	0	.0	0	.0	4	50.0	0	.0	1	12.5	0	.0
OHIO	232	100.0	7	3.0	58	25.0	7	3.0	72	31.0	5	2.2	22	9.5	61	26.3
OKLAHOMA	4	100.0	0	.0	1	25.0	0	.0	1	25.0	0	.0	1	25.0	1	25.0
OREGON	65	99.9	32	49.2	1	1.5	0	.0	27	41.5	3	4.6	2	3.1	0	.0
PENNSYLVANIA	102	100.0	19	18.6	5	4.9	1	1.0	44	43.1	7	6.9	22	21.6	4	3.9
RHODE ISLAND	21	100.0	7	33.3	0	.0	1	4.8	8	38.1	0	.0	3	14.3	2	9.5
SOUTH CAROLINA	1	100.0	0	.0	1	100.0	0	.0	0	.0	0	.0	0	.0	0	.0
SOUTH DAKOTA	4	100.0	0	.0	0	.0	0	.0	2	50.0	0	.0	1	25.0	1	25.0
TENNESSEE	4	100.0	0	.0	1	25.0	2	50.0	0	.0	0	.0	1	25.0	0	.0
TEXAS	23	99.9	1	4.3	3	13.0	0	.0	12	52.2	0	.0	1	4.3	6	26.1
UTAH	5	100.0	0	.0	0	.0	0	.0	1	20.0	0	.0	1	20.0	3	60.0
VERMONT	4	100.0	2	50.0	0	.0	0	.0	2	50.0	0	.0	0	.0	0	.0
VIRGINIA	7	100.1	0	.0	1	14.3	0	.0	3	42.9	1	14.3	2	28.6	0	.0
WASHINGTON	90	99.9	18	20.0	11	12.2	3	3.3	39	43.3	4	4.4	8	8.9	7	7.8
WEST VIRGINIA	4	100.0	0	.0	1	25.0	0	.0	1	25.0	0	.0	2	50.0	0	.0
WISCONSIN	97	100.0	20	20.6	2	2.1	2	2.1	49	50.5	8	8.2	14	14.4	2	2.1
WYOMING	5	100.0	0	.0	0	.0	0	.0	2	40.0	0	.0	2	40.0	1	20.0
TOTAL	2,652	100.0	388	14.6	356	13.4	188	7.1	862	32.5	146	5.5	368	13.9	344	13.0
STRATUM																
1	19	100.0	2	10.5	0	.0	10	52.6	0	.0	4	21.1	1	5.3	2	10.5
2	32	100.2	2	6.3	3	9.4	10	31.3	2	6.3	4	12.5	2	6.3	9	28.1
3	51	100.0	3	5.9	5	9.8	17	33.3	6	11.8	3	5.9	2	3.9	15	29.4
4	193	100.1	14	7.3	27	14.0	42	21.8	24	12.4	9	4.7	34	17.6	43	22.3
5	393	100.1	51	13.0	49	12.5	39	9.9	80	20.4	29	7.4	58	14.9	87	22.1
6	678	99.9	93	13.7	95	14.0	49	7.2	194	28.6	49	7.2	106	15.6	92	13.6
7	1,079	100.0	175	16.2	143	13.3	20	1.9	461	42.7	42	3.9	149	13.8	89	8.2
8	207	100.0	48	23.2	34	16.4	1	.5	95	45.9	6	2.9	16	7.7	7	3.4
TOTAL	2,652	100.0	388	14.6	356	13.4	188	7.1	862	32.5	146	5.5	368	13.9	344	13.0

PATTERNS IN NEGOTIATION

CALIFORNIA - 369 RESPONSES

NEGOTIATORS FOR THE SCHOOL BOARD

ROLE OF THE SUPERINTENDENT	BOARD MEMBERS		BOARD MEMBERS AND SUPERINTENDENT		BOARD MEMBERS AND SCHOOL ADMINISTRATORS		SUPERINTENDENT		SCHOOL ADMINISTRATORS	
	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.
NEGOTIATOR WITH FULL AUTHORITY	0	.0	9	2.4	4	1.1	96	26.0	44	11.9
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	20	5.4	1	.3	70	19.0	34	9.2
ADVISOR TO NEGOTIATORS FOR BOARD	2	.5	4	1.1	5	1.4	1	.3	16	4.3
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	4	1.1	13	3.5	7	1.9	13	3.5	12	3.3
NEUTRAL RESOURCE PERSON	1	.3	2	.5	3	.8	2	.5	0	.0
NONPARTICIPANT	0	.0	0	.0	0	.0	0	.0	6	1.6

CONNECTICUT - 79 RESPONSES

NEGOTIATOR WITH FULL AUTHORITY	0	.0	2	2.5	0	.0	4	5.1	0	.0
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	3	3.8	2	2.5	0	.0	2	2.5
ADVISOR TO NEGOTIATORS FOR BOARD	5	6.3	18	22.8	9	11.4	0	.0	3	3.8
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	12	15.2	13	16.5	1	1.3	0	.0	0	.0
NEUTRAL RESOURCE PERSON	2	2.5	2	2.5	1	1.3	0	.0	0	.0
NONPARTICIPANT	0	.0	0	.0	0	.0	0	.0	0	.0

ILLINOIS - 143 RESPONSES

NEGOTIATOR WITH FULL AUTHORITY	0	.0	4	2.8	1	.7	4	2.8	5	3.5
NEGOTIATOR WITH LIMITED AUTHORITY	1	.7	8	5.6	6	4.2	1	.7	3	2.1
ADVISOR TO NEGOTIATORS FOR BOARD	3	2.1	19	13.3	14	9.8	0	.0	2	1.4
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	12	8.4	32	22.4	19	13.3	0	.0	0	.0
NEUTRAL RESOURCE PERSON	5	3.5	1	.7	1	.7	0	.0	0	.0
NONPARTICIPANT	0	.0	0	.0	0	.0	0	.0	2	1.4

INDIANA - 50 RESPONSES

NEGOTIATOR WITH FULL AUTHORITY	0	.0	0	.0	0	.0	0	.0	3	6.0
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	6	12.0	2	4.0	3	6.0	2	4.0
ADVISOR TO NEGOTIATORS FOR BOARD	1	2.0	5	10.0	2	4.0	0	.0	5	10.0
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	2	4.0	12	24.0	2	4.0	1	2.0	0	.0
NEUTRAL RESOURCE PERSON	1	2.0	1	2.0	1	2.0	0	.0	0	.0
NONPARTICIPANT	0	.0	0	.0	0	.0	0	.0	1	2.0

PATTERNS IN NEGOTIATION

MASSACHUSETTS - 136 RESPONSES

ROLE OF THE SUPERINTENDENT	NEGOTIATORS FOR THE SCHOOL BOARD: BOARD MEMBERS NO.	BOARD MEMBERS PCT.	BOARD MEMBERS AND SUPERINTENDENT NO.	BOARD MEMBERS AND SUPERINTENDENT PCT.	BOARD MEMBERS AND SCHOOL ADMINISTRATORS NO.	BOARD MEMBERS AND SCHOOL ADMINISTRATORS PCT.	SUPERINTENDENT NO.	SUPERINTENDENT PCT.	SCHOOL ADMINISTRATORS NO.	SCHOOL ADMINISTRATORS PCT.
NEGOTIATOR WITH FULL AUTHORITY	0	.0	2	1.5	1	.7	1	.7	0	.0
NEGOTIATOR WITH LIMITED AUTHORITY	1	.7	4	2.9	1	.7	0	.0	2	1.5
ADVISOR TO NEGOTIATORS FOR BOARD	24	17.6	24	17.6	13	9.6	3	2.2	3	2.2
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	19	14.0	8	5.9	3	2.2	0	.0	0	.0
NEUTRAL RESOURCE PERSON	13	13.2	4	2.9	1	.7	0	.0	0	.0
NONPARTICIPANT	2	1.5	0	.0	0	.0	0	.0	2	1.5

MICHIGAN - 333 RESPONSES

NEGOTIATOR WITH FULL AUTHORITY	0	.0	20	6.0	30	9.0	14	4.2	53	15.9
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	15	4.5	18	5.4	3	.9	10	3.0
ADVISOR TO NEGOTIATORS FOR BOARD	10	3.0	30	9.0	37	11.1	5	1.5	56	16.8
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	5	1.5	7	2.1	5	1.5	0	.0	0	.0
NEUTRAL RESOURCE PERSON	3	.9	1	.3	1	.3	0	.0	0	.0
NONPARTICIPANT	0	.0	0	.0	1	.3	0	.0	9	2.7

MINNESOTA - 90 RESPONSES

NEGOTIATOR WITH FULL AUTHORITY	0	.0	2	2.2	1	1.1	0	.0	0	.0
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	6	6.7	3	3.3	1	1.1	0	.0
ADVISOR TO NEGOTIATORS FOR BOARD	11	12.2	33	36.7	11	12.2	0	.0	1	1.1
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	3	3.3	9	10.0	4	4.4	0	.0	0	.0
NEUTRAL RESOURCE PERSON	0	.0	2	2.2	1	1.1	0	.0	0	.0
NONPARTICIPANT	0	.0	0	.0	2	2.2	0	.0	0	.0

NEW JERSEY - 112 RESPONSES

NEGOTIATOR WITH FULL AUTHORITY	0	.0	3	2.7	0	.0	2	1.8	1	.9
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	5	4.5	0	.0	0	.0	1	.9
ADVISOR TO NEGOTIATORS FOR BOARD	8	7.1	21	18.8	10	8.9	0	.0	0	.0
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	14	12.5	31	27.7	5	4.5	1	.9	0	.0
NEUTRAL RESOURCE PERSON	6	5.4	2	1.8	1	.9	0	.0	0	.0
NONPARTICIPANT	1	.9	0	.0	0	.0	0	.0	0	.0

PATTERNS IN NEGOTIATION

NEW YORK - 348 RESPONSES

ROLE OF THE SUPERINTENDENT	NEGOTIATORS FOR THE SCHOOL BOARD: BOARD MEMBERS NO.	BOARD MEMBERS PCT.	BOARD MEMBERS AND SUPERINTENDENT NO.	BOARD MEMBERS AND SUPERINTENDENT PCT.	BOARD MEMBERS AND SCHOOL ADMINISTRATORS NO.	BOARD MEMBERS AND SCHOOL ADMINISTRATORS PCT.	SUPERINTENDENT NO.	SUPERINTENDENT PCT.	SCHOOL ADMINISTRATORS NO.	SCHOOL ADMINISTRATORS PCT.
NEGOTIATOR WITH FULL AUTHORITY	0	.0	8	2.3	18	5.2	7	2.0	30	9.6
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	12	3.4	13	3.7	0	.0	9	2.6
ADVISOR TO NEGOTIATORS FOR BOARD	30	8.6	39	11.2	65	18.7	1	.3	48	13.8
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	21	6.0	12	3.4	14	4.0	0	.0	1	.3
NEUTRAL RESOURCE PERSON	3	.9	0	.0	4	1.1	0	.0	0	.0
NONPARTICIPANT	2	.6	0	.0	5	1.4	0	.0	6	1.7
OHIO - 226 RESPONSES										
NEGOTIATOR WITH FULL AUTHORITY	0	.0	12	5.3	6	2.7	39	17.3	31	13.7
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	20	8.8	6	2.7	15	6.6	28	12.4
ADVISOR TO NEGOTIATORS FOR BOARD	2	.9	10	4.4	6	2.7	0	.0	4	1.8
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	5	2.2	24	10.6	7	3.1	3	1.3	2	.9
NEUTRAL RESOURCE PERSON	0	.0	4	1.8	1	.4	0	.0	0	.0
NONPARTICIPANT	0	.0	0	.0	0	.0	0	.0	1	.4
OREGON - 63 RESPONSES										
NEGOTIATOR WITH FULL AUTHORITY	0	.0	0	.0	0	.0	0	.0	0	.0
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	0	.0	0	.0	1	1.6	0	.0
ADVISOR TO NEGOTIATORS FOR BOARD	4	6.3	5	7.9	1	1.6	0	.0	0	.0
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	20	31.7	20	31.7	4	6.3	0	.0	0	.0
NEUTRAL RESOURCE PERSON	4	6.3	2	3.2	0	.0	0	.0	0	.0
NONPARTICIPANT	2	3.2	0	.0	0	.0	0	.0	0	.0
PENNSYLVANIA - 98 RESPONSES										
NEGOTIATOR WITH FULL AUTHORITY	0	.0	3	3.1	3	3.1	2	2.0	1	1.0
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	6	6.1	6	6.1	2	2.0	2	2.0
ADVISOR TO NEGOTIATORS FOR BOARD	4	4.1	9	9.2	7	7.1	0	.0	1	1.0
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	9	9.2	22	22.4	10	10.2	0	.0	0	.0
NEUTRAL RESOURCE PERSON	4	4.1	3	3.1	3	3.1	0	.0	0	.0
NONPARTICIPANT	1	1.0	0	.0	0	.0	0	.0	0	.0

PATTERNS IN NEGOTIATION

WASHINGTON - 89 RESPONSES

NEGOTIATORS FOR THE SCHOOL BOARD

ROLE OF THE SUPERINTENDENT	BOARD MEMBERS		BOARD MEMBERS AND SUPERINTENDENT		BOARD MEMBERS AND SCHOOL ADMINISTRATORS		SUPERINTENDENT		SCHOOL ADMINISTRATORS	
	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.
NEGOTIATOR WITH FULL AUTHORITY	0	.0	7	7.9	3	3.4	6	6.7	3	3.4
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	9	10.1	2	2.2	4	4.5	4	4.5
ADVISOR TO NEGOTIATORS FOR BOARD	3	3.4	5	5.6	2	2.2	0	.0	0	.0
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	13	14.6	17	19.1	4	4.5	1	1.1	2	2.2
NEUTRAL RESOURCE PERSON	2	2.2	1	1.1	0	.0	0	.0	0	.0
NONPARTICIPANT	0	.0	0	.0	0	.0	0	.0	1	1.1
WISCONSIN - 93 RESPONSES										
NEGOTIATOR WITH FULL AUTHORITY	0	.0	0	.0	0	.0	2	2.2	0	.0
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	10	10.8	1	1.1	0	.0	2	2.2
ADVISOR TO NEGOTIATORS FOR BOARD	8	8.6	23	24.7	11	11.8	0	.0	1	1.1
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	8	8.6	10	10.8	4	4.3	0	.0	0	.0
NEUTRAL RESOURCE PERSON	4	4.3	5	5.4	1	1.1	0	.0	0	.0
NONPARTICIPANT	0	.0	0	.0	2	2.2	0	.0	1	1.1
UNITED STATES - 2,593 RESPONSES										
NEGOTIATOR WITH FULL AUTHORITY	0	.0	82	3.2	70	2.7	192	7.4	187	7.2
NEGOTIATOR WITH LIMITED AUTHORITY	4	.2	149	5.7	67	2.6	117	4.5	113	4.4
ADVISOR TO NEGOTIATORS FOR BOARD	122	4.7	282	10.9	209	8.1	12	.5	159	6.1
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	171	6.6	301	11.6	125	4.8	29	1.1	26	1.0
NEUTRAL RESOURCE PERSON	62	2.4	37	1.4	22	.8	2	.1	3	.1
NONPARTICIPANT	10	.4	0	.0	10	.4	0	.0	30	1.2

Special Reports

BRIEFS OF RECENT AGREEMENTS

Newington, Connecticut

Between the Newington Teachers' Association (NEA) and the Newington Board of Education, effective September 1, 1969, to August 31, 1970. Approximately 382 certificated professional employees.

Compensation: B.A., $6,800 to $10,400, 13 increments; M.A., $7,300 to $11,650, 14 increments, $13,375 maximum; longevity pay of $100, $200, $300, and $400 for 20, 25, 30, and 35 years; Differentials: principals who work an extra six weeks, 24% to 52%; department chairmen, 4% plus $20 for each person under chairman; football coach, from $968 to $1,452, in 5 steps; cheerleader supervisor from $321 to $484, in 5 steps.

Leaves: 15 days' annual sick leave, 135 days' accumulation; 5 separate days for personal business or religious holidays; sabbatical leave after 4 consecutive years' service, half-pay.

Insurance: Employer-paid individual and family coverage for hospitalization, medical-surgical and major medical insurance; employer-paid $10,000 life insurance and accidental death and dismemberment insurance.

Miscellaneous: Grievance procedure ends with binding arbitration; dues check-off for both association and federation members; retirement pay, 80% of accumulated unused sick leave; in case of death, 45% of accumulated unused sick leave paid to employee's estate; tuition reimbursement of 50%.

Berea, Ohio

Between Berea Education Association (NEA) and Berea City Board of Education, effective September 1, 1969. Approximately 801 certificated personnel.

Compensation: B.A., $6700 to $10,830, 15 increments; M.A., $7,300 to $12,760 with 15 increments, $13,700 maximum; longevity pay of $250 for each four-year period of service after maximum, until 38th year; Differential for department chairmen of $435 for six or fewer teachers and $600 for more than 6; supplementary pay for football coach, $935, cheerleader coach of $325. Credit for military or teaching experience up to 6 years.

Leaves: 15 days' annual sick leave, 165 days' accumulation; personal leave not deducted from accumulated sick leave; Sabbatical leave after 6 years' service, difference between substitute's and teacher's salary.

Insurance: Employer-paid full cost of individual or family coverage for hospitalization, surgical, and major medical; employer-paid $10,000 life insurance.

Miscellaneous: Evaluation of administrators and supervisors by faculty; joint committee to review budget allocations and appropriation for senior, junior, and elementary schools; each building to have adequate number of custodial staff to maintain each building.

South Bend, Indiana

Between Community Education Association (NEA) and South Bend Community School Corporation; August 15, 1969, to August 15, 1970; approximately 1,600 teachers.

Compensation: B.A., $6,525 to $10,179 annual, 15 increments; M.A., $7,047 to $12,267, 19 increments, $14,094 maximum increases effective January 1, 1970; extracurricular compensation from $100 (cheerleader sponsor) to $1,300 for football coach; department heads, $200-$300 differential, dependent upon number of classes.

Leaves: 10 days' annual sick leave, 120 accumulation; 2 separate days for personal business; 5 separate days' bereavement leave; professional leave granted by superintendent; 5 separate days for court subpoenas; sabbatical after 6 years, half-pay for one year.

Insurance: Individual coverage for hospitalization, medical, major-medical, 10% per year employee-paid; employer contributes $10 per month for family plan; employer provides $10,000 life insurance and income-protection insurance, half-pay to age 65 for total disability, at $1.00 per month. Benefits effective January 1, 1970.

Miscellaneous: Retirement severance—one day's pay at bachelor base for each year of service; association president shall have a telephone in his classroom; parking facilities for teachers to be provided in new building plans; the board will not employ any teacher who is not eligible and has not instituted necessary procedure to receive a proper certificate.

Ocean City, New Jersey

Between Ocean City Education Association (NEA) and the Board of Education, July 1, 1969, to June 30, 1970. Approximately 80 certificated personnel including principals, vice-principals, directors, and nurses.

Compensation: B.A., $6,700 to $11,169 annual, 13 increments; M.A., $7,4444 to $12,281 with 14 increments, maximum, 13.775; credit for previous teaching experience up to maximum step of any level; additional $500 to department coordinators; joint committee to study compensation for extracurricular activities.

Leaves: 10 days' annual sick leave, unlimited accumulation; 3 separate days for personal business; 3 separate days for religious holidays; 5 separate days for school visitations or educational conferences; 5 separate days for bereavement; sabbatical leave after 7 years at half pay for leave period.

Miscellaneous: Grievance procedure ends with binding arbitration; agreement grants association rights and privileges for financial data, transacting association business during school day, use of buildings, school facilities and equipment; inter-school mail facilities granted exclusively to association.

Amherst, New York

Between Amherst Education Association (NEA) and Central High School District #1, School District #13, and School District #18; approximately 324 teachers 1 year, July 1, 1969, to June 30, 1970.

Compensation: B.A., $6,750–$11,880, 13 increments; M.A., $7,425–$13,028, 14 increments, $14,580 maximum; longevity increments—20, 25, and 30 years, at $300 each; extracurricular compensation from $100 (cheerleader supervisor) to $1,100 (football coach); department chairmen, $200–$400 extra, dependent upon department size.

Leaves: 10 days' annual sick leave, 150 days' accumulation; 3 separate days for personal business; 3 separate days for religious holidays; sabbatical after 7 years; full pay for half year or half pay for full year.

Insurance: 90% employer-paid individual or family, medical, and hospitalization; fully paid individual or family major medical; fully paid $5,000 life insurance.

Personnel clauses: grievance procedure ending with binding arbitration; joint study committee on new teacher evaluation and selection, recommendations no later than February 2, 1970.

Text

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF EDUCATION

Report of the Task Force on Collective Bargaining in Public Education to the Massachusetts Board of Education

The enactment of Chapter 763 of the Acts of 1965, amending Section 178 of Chapter 149 of the General Laws of the Commonwealth, has changed the traditional relationship between public school administrations and their employees. The Board of Education of the Commonwealth, recognizing the impact of this law on these groups and concerned with its lasting effects, in January of 1968, appointed this Task Force on Collective Bargaining in Public Education, "to examine the problems associated with Chapter 763 of the Acts of 1965 (the Collective Bargaining Act)."

The Task Force, consisting of fifteen members from the fields of education and labor relations, met on a bi-monthly basis. It concentrated its efforts principally in two areas:

(1) educational programs aimed at instructing the general public, as well as those directly involved, in the collective bargaining process as it relates to the Massachusetts public schools; and

(2) guidelines and recommendations intended to make collective bargaining in public education under Chapter 763 most effective.

To meet these goals, the Task Force set up two committees.

The Committee on Guidelines

Early in its deliberations the Task Force determined that one of the primary needs of educators, teachers, school committees, other employees of school departments, and employee organizations, was some sort of coherent, concise, but comprehensive, guide to the law. The Committee on Guidelines, under the chairmanship of George McInerny, prepared such a manual, which was approved by the Task Force and forwarded to the Board of Education for its approval and dissemination. This guide takes the reader chronologically step-by-step through the various phases that almost invariably occur in the process of collective bargaining. It should be consulted for comprehensive guidelines and for elaboration on the matters considered in this report.

The Committee on Seminars

At its inception the Task Force also decided to hold a series of one-day seminars in five geographical areas of the Commonwealth for the broad purpose of educating school committee members, administrators, teachers, and interested parties in the nature of collective bargaining and their responsibilities under the law. These seminars were held in the Fall of 1968 under the direction of the Committee on Seminars, chaired by Marcia L. Greenbaum and Harvey L. Friedman, and in cooperation with the School of Education and the Labor Relations Research Center of the University of Massachusetts. These seminars drew a total of approximately 550 persons.

Continuing Education

As a result of the success of these seminars and the apparent need for further educational programs, the Task Force hopes that appropriate institutions will undertake the conduct of summer workshops, annual conferences and regular courses on collective bargaining.

The Deliberations and Recommendations Of The Task Force

The members of the Task Force, who represent diverse interests, spent a considerable period of time proposing, discussing, probing, counterproposing, modifying and agreeing upon a series of procedural and substantive recommendations aimed at making collective bargaining in public education more effective. The following is the result of those deliberations.

The Effect of the Statute

Before the enactment of Chapter 763 there was no guaranteed right of municipal employees or employers to select their own bargaining representative or obligation to bargain collectively with respect to wages, hours and conditions of employment. The employer's rights were relatively unfettered and in many areas it was free to act unilaterally without consulting the employees.

The passage of the statute imposed a new set of rules, which changed this. Section 178H gave, and protected employees in the exercise of "... the right to self-organization, to form, join or assist any employee organization, to bargain collectively through representatives of their own choosing on questions of wages, hours and other conditions of

employment. . . ." It also imposed on "the municipal employer and the employee organization recognized or designated as exclusive representative of employees in an appropriate unit . . . the duty to bargain collectively." Section 1781 further specified:

For the purposes of collective bargaining, the representative of the municipal employer and the representative of the employees shall meet at reasonable times, including meetings appropriately related to the budget making process, and shall confer in good faith with respect to wages, hours and other conditions of employment, or the negotiation of an agreement, or any question arising thereunder, and shall execute a written contract incorporating any agreement reached, but neither party shall be compelled to agree to a proposal or to make a concession. . . .

The existence of such a law dictates that public employers and their employees familiarize themselves with its provisions and their rights and responsibilities under the law, for things are not as they were before. For example, it is not yet widely known that when an employee organization is designated, whether by recognition or certification, as the bargaining agent for a particular group of employees, even before actual bargaining takes place, the employer has a duty to refrain from unilateral action on matters affecting wages, hours and conditions of employment, the matters bargainable under the law. Thus, after recognition or certification, even though it has not yet commenced bargaining, a School Committee cannot unilaterally raise wages, or shorten or lengthen working hours, or institute any other changes affecting such matters unless it first bargains with the designated representative of the group affected by a proposed change. Similarly, it is little known that the exclusive representative, even though selected by only a majority of the employees in a particular unit, is nevertheless required to represent all employees in the bargaining unit, whether or not they are members of the particular employee organization involved.

The law is a fact the parties must accept and live with. The first step is for the parties to familiarize themselves with its terms and their implications for future action.

In carrying out the mandate of the Board of Education, the members of the Task Force have done this. From the beginning they have accepted the statute as it now exists and within which the parties must operate. They have concerned themselves with making collective bargaining under that statute as effective as possible. They have acknowledged that effective collective bargaining involves more than adherence to just the letter of the law. They have recognized that it also involves the development of attitudes and a frame of mind conducive also to living within the spirit of the law.

The Approach of the Parties to the Collective Bargaining Process

It is the belief of the Task Force that effective collective bargaining is largely dependent upon the development of positive attitudes to the negotiations process.

- For the employer this means an acceptance of the employees' right to select their own bargaining representative as provided for in Chapter 763 and the right to bargain collectively with respect to wages, hours and other conditions of employment.
- For the employees it means recognition of the employer's duty and responsibility with respect to providing public education, as well as the employer's right to designate its own bargaining representative for the negotiating process.
- For both parties this means acceptance of the principle of bargaining in good faith, and maintenance throughout the negotiating process of an intent to reach agreement and to reduce agreed upon terms to writing. (As stated in the manual: "Essentially good faith involves an attitude of mind which accepts the existence of the other party, warts and all and encompasses a real desire to come to agreement. Good faith involves also the willingness to try to understand the objectives and the reasoning of the other side, plus a willingness to compromise, even sometimes on the most important issues, in order to reach agreement.")

Collective Bargaining Procedures

The Task Force also believes that effective collective bargaining is in part dependent upon the procedures followed by the parties.

Timeliness of Negotiations

To avoid the conflict possible when the parties in public education collective bargaining are unable to reach agreement on monetary matters in time to have them included in the school committee budget for the coming year and acted upon by the appropriate body, the Task Force recommends:

- That negotiations for initial contracts be commenced promptly after the employee representative has been designated.
- That negotiations for successor contracts and under reopener clauses be commenced not later than October 1 of the year prior to that in which the successor contract or amendment is to take effect.
- That negotiations proceed with due dispatch toward the reaching of an agreement in time

for any necessary budget implementation.
- That when negotiations commence, the parties recognize the desirability of providing for settlement by mediation and/or fact finding of unresolved disputes in time to include necessary funds in the budget.
- That in cases where, because of special circumstance, the foregoing recommendations are not appropriate to a particular budget deadline, the parties should commence negotiations, complete negotiations, and, if necessary, engage in mediation and/or fact finding in time to meet the deadline.

Designating Representatives, Time and Place

Bargaining should take place between the "designated representatives" of labor and management in a place and at a time agreeable to both parties.

On the management side of the table, the school committee has prime responsibility for the conduct of collective bargaining. In carrying out this responsibility, the members may all serve as the negotiating team, may appoint a subcommittee of one or more persons of the school committee and administration, may employ a professional consultant or negotiator, or may utilize any combination of the foregoing to act in its behalf.

The role of the superintendent and his assistants in collective bargaining should be made clear. They are members of management and should participate in negotiations and caucuses as advisers and resource persons to the school committee's negotiators. The Task Force believes, however, that to designate them as chief negotiators may, except in unusual cases, detract from their ability to perform their primary executive functions.

Authority to Negotiate

Regardless of who is chosen to represent either party, the participants should have authority to explore, to negotiate, and to make temporary agreements which they will support with voice and/or vote upon return to their respective principal bodies.

Setting up the Negotiating Sessions

Collective bargaining should be the only item on the agenda at any negotiating session.

Negotiations sessions should involve only the official representatives of the parties. Such meetings should not be regular school committee meetings. Experience has shown that best results are obtained in closed sessions without the presence of the press or public.

Before the commencement of bargaining both parties should undertake considerable preparation and should come to the bargaining table adequately prepared.

Press releases, if they are to be given, should be issued jointly. It is preferable to conduct negotiations at the bargaining table rather than in the newspapers.

Conduct at the Negotiating Sessions

Collective bargaining sessions, like any business meeting, should be conducted in an orderly manner with observance of common courtesies. The parties should be punctual and meetings should commence on time.

Each party, while it may be represented by a committee, should have one chief spokesman. Each should be a good listener and hear the other party out. Proposals should not be rejected out of hand. Each should consider what is proposed and respond to it with meaningful, reasonable and well-considered views. Discussions should be honest and deceitful practices avoided. Unclear points should be questioned and explained. What are the facts? If a spokesman is not sure of his committee's feeling on a point, a caucus should be called. The parties should concentrate on problems and particulars rather than principles. How will the proposed clause operate in particular cases?

When a matter has been fully discussed and the parties are not making headway, but covering the same ground with rising tempers, the subject should be changed, and the matter under discussion held for future action. Finally, while perhaps demanding the moon, the stars and a few planets as initial positions, both parties should have a realistic approach to what is ultimately attainable at the given time.

Give and take and trading are the name of the game. While, of course, nothing in the statute compels either side to agree to something it considers unreasonable, neither party should unreasonably take refuge in the language "neither party shall be compelled to agree to a proposal or make a concession."

The Substance of Collective Bargaining

Effective collective bargaining is obviously affected by the parties' approach to the substantive issues. Essentially the Task Force believes that controversial subjects should be treated more as problems in need of solution rather than as prerogatives in need of protection.

What is Negotiable?

The Task Force was asked by the Board of Education to consider "what is negotiable?" or "what is meant by the term 'condition of employ-

ment'?" because the Board had received requests for a definitive statement on these questions. The members of the Task Force discussed these subjects and came to the conclusion that it would not be proper nor possible for it to precisely define, delineate or delimit these areas.

The basic problem stems from the inherent conflict between a school committee's previous relatively free discretion to set educational policy and the teachers' newly granted right to bargain over conditions of employment. These two areas are not easily separable domains.

There are a number of ways to view the issue. In one sense anything two parties mutually agree to discuss at the bargaining table is "negotiable." Conditions of employment is admittedly a broad term, which can be interpreted to encompass virtually anything affecting the conditions under which teachers teach. Presumably excluded from it would be matters set by law or state regulations. However, even some of these do not necessarily mean restriction of the scope of bargaining.

For example, the state minimum number of school days is now set at 180 days per year. A number of communities have inferred from this that teachers may not bargain over number of school days. In one sense this is correct. The state regulates the number of school days, that is, days school must be in session. However, it does not regulate the number of days or hours a teacher must work. Similarly, while the state may regulate minimum ratios of professional employees to pupils, the parties may bargain to exceed such a standard, that is, contract for higher ratios.

In practice, communities differ with respect to what is considered negotiable. What is acceptable in one community may very well be anathema to another, and what is anathema to a community at any one time may very well be acceptable to it at another time. At any point in time there are in every community some matters which the bargainers would agree are clearly negotiable, some clearly not negotiable, and others over which they would have an honest difference of opinion. These last fall into a gray area from which in time they could possibly emerge and be accepted by the bargainers as negotiable matters.*

In the last analysis whether a subject is negotiable is a matter either for the good will of the parties or for determination by the Massachusetts Labor Relations Commission and the courts. While the Task Force takes no position on what is or should be a negotiable condition of employment, it does recommend that the parties establish a dialogue and discuss matters even though controversial, rather than to object to such discussion on principle and to litigate. The Task Force believes it desirable that the scope of negotiations focus on the development of attitudes rather than specific conditions to be negotiated, for only free and open discussion among the parties will resolve the issue. Neither party should close its mind or ears, for even "what is negotiable?" is negotiable.

Resolution of Impasses

The Task Force recognizes that despite the best of intentions, two parties, who have earnestly bargained in good faith, may nonetheless come to an honest disagreement, and a resultant impasse. The Municipal Collective Bargaining Law sets forth mediation and fact finding procedures to be followed in such circumstances. These procedures are governed by the rules of the Massachusetts Board of

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* Moreover, this Task Force has neither the duty nor authority to define or delimit the term "conditions of employment," this being a matter for the Massachusetts State Labor Relations Commission. In the legal sense, the question of what is negotiable or what is meant by conditions of employment becomes the question whether a refusal to bargain on a particular subject constitutes a prohibited practice under the law.

Under the Massachusetts Municipal Employees Collective Bargaining Law, the parties are required to bargain collectively "in good faith with respect to wages, hours and other conditions of employment. . ." This language is similar to that contained in the National Labor Relations Act, which has been interpreted and enforced in the private sector by the National Labor Relations Board and the courts. For more than thirty years that agency and the courts have developed a body of labor law. They have differentiated between so-called "mandatory" bargaining subjects, that is, matters which can be negotiated to the point of impasse (a strike) and on which refusal to bargain may be found to be an unfair labor practice per se; and so-called "permissive" bargaining subjects, which may be discussed and bargained, if both parties agree, but not to the point of impasse, and which insistence upon by one party over the objections of the other can be found to be an unfair labor practice per se.

In Massachusetts the State Labor Relations Commission is charged with interpreting and enforcing this aspect of the Municipal Employees Collective Bargaining Act, which makes a refusal to bargain collectively in good faith a prohibited practice. It is this Commission and the courts which are authorized to delineate the mandatory subjects of bargaining, and a party refusing to bargain on such matters or pushing to the point of impasse a permissive subject may be found to have committed a prohibited practice. To date there has been no test of whether certain subject matter relating to teacher negotiations is legally negotiable, that is, a mandatory subject and bargainable to point of impasse and presumable subject to fact finding. Hence there is not yet any law which can be consulted for a ready answer to these questions.

Conciliation and Arbitration, which administers this portion of the Act. Both the procedures and the rules are explained in the manual.

Selecting a Process and a Neutral

However, the parties are not legally obligated to turn exclusively to the State Board, if they reach an impasse. They may, if they wish, develop their own impasse resolution arrangements, including provisions for mediation, fact finding and/or voluntary arbitration of new contract terms by impartial third parties.**

Thus, for example, when a dispute arises and and time is of great importance the parties may agree upon an "ad hoc" mediator and/or fact finder of their own choosing, call him directly, and ascertain his immediate availability. Or they may agree at the outset of negotiations that if they fail to reach agreement by a specific date they will call in a specifically named mediator or fact finder. Or they may make such provisions during one round of negotiations for the next round of negotiations and incorporate this in the collective bargaining agreement along with the future negotiations procedure.

Or they may wish to avail themselves of one of the agency rosters of neutrals. The New England Plan is a service developed by the American Arbitration Association to assist the parties in making and carrying out their own mutually agreed to impasse resolution procedures. The Federal Mediation and Conciliation Service, like the American Arbitration Association, also has a roster of skilled neutrals who can assist the parties in resolving disputes arising in public employment.

Carrying out the Process Most Effectively

No matter which process the parties select they should continue to attempt to reach agreement.

Where possible, all matters should have been discussed before going to fact finding. Those which are not in dispute should have been earmarked by the parties as tentatively agreed to, and subject to ratification, should the parties reach a total agreement. Unresolved matters should have been delineated as subject to mediation and fact finding. In this way, it is possible to utilize these adjustment processes to resolve all that remains in dispute and arrive at a total agreement without the parties subsequently having to bargain over matters not previously mentioned or thoroughly discussed.

Each party should analyze why an impasse has been reached. Is it money, prerogatives, personality conflicts, the need to save face? Is it one side holding back its final offer?

Frequently, parties go to fact finding when it is really mediation that they need. Fact finding should not be treated as a perfunctory step. Rather it should be viewed, as the statute intended it, namely as a last resort.

In most cases mediation should precede fact finding. Both parties should cooperate with the mediator in an effort to reach agreement. While mediation may not resolve all issues in dispute, it usually serves several useful functions. It may resolve some of the issues and narrow down what is left for the fact finder. It may clarify the parties' views of what is actually in dispute. It may bring out facts the parties overlooked or misconstrued. And the parties will have honed their arguments on the impartial third party, as well as learned how to view the dispute more objectively.

If mediation by the mediator and/or fact finder fails, the parties should waste no time in going to fact finding. However, they should adequately prepare their cases, seeking the advice of experts, if necessary, so that they come "armed" with the facts, a clear view of what is in dispute, and their positions on those issues.

Again, it cannot be stressed too strongly, that fact finding should not be entered into lightly by the parties. The fact finding report should contain recommendations, based on the record of facts, which reasonable persons can accept or at least regard as realistic points upon which the parties can reach agreement with little further bargaining.

Inasmuch as this is the last formal step in the adjustment process, the parties should do their utmost to make it the end of the road to agreement. After the report is issued, they should meet with their respective committees, carefully analyze the report and recommendations, and then meet with each other in a sincere attempt to use the terms of the report as a basis for settlement. If settlement is not forthcoming, they should continue to use the services of the mediator, fact finder, or other impartial third party.

Finally, the parties should reduce agreed upon terms to writing as soon as possible, while they are still fresh in the minds of both. Of course, no total agreement is reached until there is no longer an impasse, all matters are resolved, and the agreement is ratified. The parties should have their respective members ratify the agreement and it should be signed as soon as possible. Such pro-

** It is not yet clear what specific authority a school committee has to pay impartial third parties other than those designated by the State Board. However, a bill is now pending in the General Court, which would clarify this point.

cedure may avoid a dispute over what was agreed to, a dispute caused by delay and lapse of memory.

Contract Administration

In collective bargaining, the relationship of the parties does not end with the signing of a contract. It is an on-going relationship governed by the terms of the agreement. Hence, it is crucial that both parties live up to the terms of the contract.

To make this possible it is imperative that the parties educate their respective personnel with respect to the contents of the contract, the implications of the provisions, the desirability of abiding by these terms, and the mechanics of administering the agreement.

When a dispute arises during the term of the contract, which cannot be resolved informally, it is important that the parties use contractually agreed to processes for the resolution of disputes over the interpretation and/or application of its terms.

To make this process of dispute settlement most effective, the Task Force recommends that for the resolution of disputes concerning the interpretation and/or application of the terms of the agreement, the parties incorporate in their contract a multi-level grievance procedure terminating in final and binding arbitration by an impartial third party or board.

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CASE REVIEWS

CALIFORNIA

Public Employees Have No Right To Strike

A California Court of Appeals held that, in the absence of specific legislative authorization, a 1967 dismissal of 127 Sacramento County social workers who engaged in a work stoppage was valid.

The social workers had left their jobs because, they said, the county had "refused to meet and confer and negotiate in good faith." The social workers were subsequently dismissed for "absence without leave." Upon appeal to the county Civil Service Commission, the dismissal was upheld. The union then petitioned for a superior court order, for reinstatement with back pay, which was denied. They then brought the suit before the California Court of Appeals for the Third District.

The court first considered judicial precedent. It found "the rule, that absent an authorizing statute, a public employee has no right either to bargain collectively or to strike is well settled." This, the court said, is "settled by decision of the Supreme Court itself and by that court's denial of hearings in courts of appeal decisions. . . and this court is bound by the rule."

As to the question of whether the social workers are entitled to reinstatement, the court held:

> As we have shown, provisions of the county charter supplemented by the rules of the Civil Service Commission authorize the removal of an employee who is absent without leave. An employee cannot be said to come within that status if he had a right to strike and is justifiably exercising that right. On the other hand if *no* right to strike exists, the absence was without leave, the appointing authority had the right to discharge, and the Commission had jurisdiction to affirm the removal and did so without abuse of discretion since substantial evidence (in fact actual admissions) showed unauthorized absence from work with a refusal to return except upon payment of unearned salaries.

The court then reviewed the California statutes to determine if the right to strike had been granted implicitly. In examining a then (1967) effective "meet and confer" law, the court pointed specifically to a section of that law, and noted that it "is the section which gives the right of collective bargaining to *private* employees. Thus, by the terms of the legislation in effect when appellants struck, the right of collective bargaining—hence the right to strike—had been expressly withheld from them." And although later statutes authorized memorandum agreements, the court concluded that "our analysis of both the pre-1968 acts, therefore, compels us to, and we do, hold that the Legislature has not declared the right of these appellants to strike."

Note: In considering the decisions which the social workers cited to support their claim that California public employees do have the right to strike, the appeals court differed from a recent California Superior Court decision concerning San Diego public employees (NRD October 1969). In considering the social workers' case, the appeals court said the Superior Court's finding *in favor* of San Diego employees (other than police and firemen) "infers a legislative grant to all other public employees to strike, drawn from the fact that that right is forbidden to firemen and policemen." In the extant case of the social workers, however, the appellate court ruled:

> In our view such a broad inference is impermissible—particularly under the history of legislation and case law we have given. The ruling seems to be based upon 'a fundamental right to strike.' We find no case law holding that a public employee enjoys that right.

LOUISIANA

No Violation of Equal Protection in Refusal To Bargain

The American Federation of Teachers local in New Orleans was denied an injunction to compel the administration of Delgado College (an agency of the city) to bargain collectively with the teachers. The union claimed that the refusal of the city to bargain with a teachers organization, while engaging in collective bargaining with other unions representing city employees, was a violation of equal protection under the Fourteenth Amendment.

The U.S. District Court refused the union's request, saying, "Here no 'intentional or purposeful discrimination has been shown'. . .nor have 'conspicuously artificial lines' been established." The court drew a distinction between teachers and other public employees, reasoning, "Public education is a basic function of American state and local government, and the teachers to whom this task is imparted have rightly been considered deserving of special consideration." But, the court

continued, these "special considerations" also carry different responsibilities and conditions surrounding teacher negotiation. "Defining 'conditions of employment' for a teacher may involve matters of educational policy imparted by law for decision to an administrative board. And these public officials may think that public sovereignty is more important in matters of education than in connection with other municipal problems." The court concluded that for a municipality to bargain with all public employee unions, excluding teachers, might constitute a denial of equal protection but that an opinion on Louisiana law issued by the attorney general "neither commands municipal corporations to, nor prohibits them from, bargaining collectively with unions representing groups of municipal employees." Because New Orleans had engaged only in limited bargaining, a denial of equal protection could not be proved.

The court also found that the facts were insufficient to warrant a requested union injunction against dismissal of a union leader and alleged harassment of the union in New Orleans.

MICHIGAN

Non-member Contribution to Scholarship Fund in "Agency Clause" Legal

A trial court overruled a decision of a civil service board by upholding a union contract which required union membership or payment by check-off of the equivalent of union dues.

Agreements between the city of Grand Rapids and three unions representing city employees required voluntary union membership as a condition of employment. Those who chose not to join the union were required to pay the equivalent of monthly union dues to a scholarship fund (whose establishment pre-dated the agreement), which provided financial assistance to children of city employees for educational purposes.

The case arose when two city employees refused either to join the local union or to contribute to the fund. In addition, they refused the city's offer to transfer them to jobs outside the bargaining unit, preferring to appeal their case to the civil service board. The board ruled that the city had no cause for dismissal and ordered that the two employees be reinstated with back pay. The city appealed the case to a circuit court.

The circuit court, in reviewing the facts of the case, found it involved four essential questions:

1. Are modified agency shop provisions of the local contract valid?
2. Is the city bound by the decisions of the Civil Service Board to reinstate the employees?
3. Were the union provisions for reconstitution of the Grand Rapids Civil Service Board valid?
4. Are the acts of the city commission in the exercise of its powers controlling of boards established by the City Charter?

The court found that although the local contract "differs slightly from the agency shop arrangements approved in [previous] decisions... this difference gives rise to no more of a conflict with the Public Employment Relations Act than the pure agency shop." The court noted that PERA's provisions were designed only to prevent "employer discrimination, not bargained-for contract provisions," i.e., under PERA, the unit may vote or decide to discriminate within itself or for itself; but an *employer* may not impose such discrimination upon the unit. On this point the court concluded, "Finally, this court finds no more tendency of the modified agency shop to encourage or discourage membership in a labor union, as proscribed by the PERA, than the straight agency shop."

The court also ruled that the scholarship contribution provision was not illegal in itself, because "authority to bargain on 'conditions of employment' includes the prerequisite conditions as well as the environmental conditions of employment," and, "thus, the contributions to the scholarship fund required of [the employees] were constructively authorized by them through their exclusive bargaining agent. . . .In substance, binding effect on the minority must be given to decisions of the majority."

The court also said that neither it nor the Civil Service Board was authorized to comment upon the *policy* of check-off:

> The most persuasive arguments of defendants. . .go to the *policy* of the check-off, not to its legality. This court, no matter what its private reactions to the wisdom of such a policy decision, has no business substituting its policy judgment for that of the representatives of the people on the Grand Rapids City Commission. It can interfere only when it finds illegal exercise of their judgment, and it finds no illegality here. Its answer, then, to the question, "Are the modified agency shop provisions of the Local 1061 contract valid?" is "Yes."

The board, it found, can rule only upon the question of whether or not the discharge of a civil service employee was "for cause"; it cannot, as it did in this case, base its ruling upon an evaluation of policy: "But the Board has no power, and this Court so holds, to alter the City Commission's judgment as to what shall be a condition of employment within the factual framework presented in this litigation."

NEW JERSEY

Discrimination Claim Denied

A U.S. District Court ruled that the Newark School Board did not discriminate against white teachers when it appointed more Negroes than whites to principalships and vice-principalships in elementary schools. The issue arose after the Newark School System changed its procedures for filling vacancies by eliminating the previous procedure of using competitive examinations to choose among applicants.

The 10 white teachers who brought the suit—none of whom were appointed—charged that the change had been made in order to appoint Negroes to positions for which they might not otherwise be qualified, and that appointments made subsequent to the procedural change were made solely on the basis of race.

Although the school board maintained that eliminating the examination procedure was a valid action to improve the promotional means, it also admitted that "even if the court should find that the purpose behind the abolition of the examination system was to make available more Negroes for promotional appointments, this was a legitimate goal of the Board in light of the past racial imbalance that existed in the administrative ranks of the Newark school system."

The court, in its reasoning, found that discrimination against the white teachers could not be proved, and further, it concluded that even if the effect of the procedural change was to increase the number of black administrators in the school system, "in such a situation, and in light of the evidence adduced in court that the absence of meaningful representation on the administrative level was retarding the educational development of the school population, the action taken by the board in this case can only be viewed as a legitimate function of the Board. . . .And this is especially so where the proofs fall short of showing that qualified white applicants were excluded from consideration or discriminated against."

The court found the motivation for the board's policy, rather than being one of discrimination against white applicants because of skin color, was an intention to obtain for these positions "qualified persons, white or black, whose qualifications were based on an awareness of, and sensitivity to, the problems of educating the Negro school population."

In ruling on the school board's policy, the Court also considered the testimony of Dr. Richard Trent, Associate Professor of Urban Education at Brooklyn College. The court stated, "Dr. Trent's testimony is relevant in this case because the record indicates that these are precisely the concepts that motivated the board in the actions it took." The court took special notice of the following statements: "If you want significant change in the school performance of the ghetto population, it is highly advisable to involve as much as you can, competent black professionals." And, "The presence of a black man in authority is evidence to the children that if they study, they too, can achieve."

The court refused to make a distinction between the school board's hiring practices in elementary schools and its practices in secondary schools, as the teachers had urged. Noting that in Newark secondary schools, where no promotion lists existed, 31 white applicants and 13 Negroes were appointed, the court concluded that the board's hiring practices as a whole must be considered, and that in this instance:

> As has already been indicated, defendants admit that one of the criteria used in making the appointments in the instant case was the color of the applicant's skin. However, this does not, in and of itself, demonstrate discrimination against white applicants. In fact, the record shows that the Board has no intention of limiting appointments to Negroes, or that consideration was given only to black applicants. The great preponderance of the evidence supports the contention of defendants that the persons recommended and eventually appointed were considered by the appointing authority to be the best qualified individuals for the available positions. Indeed, when the Board considered the recommendations of the Superintendent and his staff, some members of the Board were not even aware of the race of those whom they voted to appoint.

The court added that while "it is true that the criteria for appointments to promotional positions had not yet been established when this case was heard, . . .it is the Court's understanding that such criteria will be worked out by the Superintendent and his staff and representatives of the Newark Teachers' Association." After reaching such an agreement, the court said, "There is no reason to believe that when such criteria are established, appointments will not be made in a manner that will provide the Newark School System with persons best qualified to perform their respective tasks." *(Victor Porcelli et al. v. Franklyn Titus, Superintendent of Schools of the City of Newark;* U.S. District Court for New Jersey Civil Action No. 864-68, August 14, 1969).

Note: For another school district's experiences with measures to improve racial balance among teachers and administrators, see the following two NRD articles on the Philadelphia history: NRD, March 1969, page C-1; and NRD, October 1969, page 5.

VERMONT

Supervisory Unions May be Used in Negotiation

The state attorney general issued a declaration that school directors are permitted under Vermont

law to use supervisory unions for negotiating with teacher organizations, and that such agreements, subject to local board ratification, are binding upon the local school districts. The opinion, issued in July, states in part:

The statute has clearly given the district board authority to delegate responsibility for negotiating but the result of such negotiation must be ratified before it becomes binding upon each board. Consequently, it is conceivable that the supervisory union could negotiate the contract with the teachers and then each local school board in ratifying it may find it necessary to suggest minor changes which would apply to the situation in their district.

This would result, in effect, in several contracts but the major portion of negotiations could be conducted by the supervisory union. Therefore, inasmuch as the school board makes the final decision, it should be made clear that negotiations by the supervisory union are not binding until ratified by the school boards.

Note: In 1968-69 there were 21 operating supervisory unions in Vermont, whereby a superintendent administered two or more school districts for separate local school boards for each district.

BOARD FINDINGS AND RULINGS

MICHIGAN

Contract Covers Non-classroom Positions

A Michigan arbitrator awarded reinstatement and restitution of compensation to a Kent City social studies teacher who was removed from his extra-duty position as head football coach.

The school board had contended that as long as the teacher continued to hold tenure for his classroom position, the school board could deny or withhold tenure for non-classroom activities. The board said it had implied authority under the Michigan Tenure Act "to unilaterally decide whether or not to employ any particular teacher in any extra-duty post."

The school board also said that because it had not dismissed the coach, but had only allowed his coaching contract to expire, it had not violated its contract with the Kent City Education Association.

The arbitrator found that a disagreement over a non-classroom position was to be dealt with as a grievance procedure, because the dismissal from a classroom position was excluded from the grievance procedure, "by a statute specifically establishing procedure for redress." But because non-classroom positions are not covered by statutory redress, it is to be assumed that they are grievable.

The arbitrator found that unless the school board can show cause for removal, a teacher in such a non-classroom position is entitled to reinstatement and restitution:

> To remove such an incumbent, "just cause" must be shown. This is so, because, while the statutes of the State of Michigan do not require that the Board grant tenure "for extra-duty positions" (such as coaching), it does not inhibit the Board from extending committment, in collective bargaining under PERA, that unjust deprivation of said "professional compensation or advantage" is grievable and that the affected ex-incumbent in such position shall be made whole and reinstated unless "just cause" is demonstrated.

MICHIGAN

Full Pay For Striking Coaches

A Michigan arbitrator ruled that football coaches who were docked for a three-week strike during the football season were entitled to full pay because they completed the season "as fully as possible."

The arbitrator ruled in favor of the coaches, who had signed side agreements with the school board for "extra pay" athletic work, because the strike was an accomplished fact at the time of the negotiated agreement: "The specific listing of the. . .figures for the '1968-69' season, must be taken to mean that this is what coaches would *actually* receive," the arbitrator said.

The arbitrator also based his decision on the fact that the season, despite the three-week break, had contained a number of practices "comparable" to the previous year, and "of additional significance. . .is that the coaches here involved completed the football season *as fully as was possible for them to do.*"

NEW YORK

Reprisal Findings Reversed

The New York Public Employment Relations Board refused to accept the findings of a hearings officer that a Monroe Community College teacher was the victim of reprisal for union activities when she was denied promotion. The Board ordered the faculty committee to review the teacher's "complete and official" file, and to re-evaluate her promotion "de novo."

A hearing officer had determined that the *faculty promotions committee* had been free from evidence of reprisal in the teacher's case; but the hearing officer *did* find evidence of reprisal *in the refusal of the Department Chairman to recommend her for promotion*—although he "admitted satisfaction" with her teaching; and in his inclusion of a departmental file containing union newsletters supposedly written by the teacher, "without making sure that the Committee also received the official file, which would round out [the teacher's] performance picture and which did not, as far as [the Department Chairman] knew, contain union newsletters."

The Board, however, interpreted the facts differently, and reasoned,

> The gist of the matter is that the Committee did not have before it pertinent and material evidence in her official file and did have before it material such as union newsletters which may have been prejudicial. However, we cannot say that if the complete facts had been before the Committee, they would have recommended . . . [her] for promotion.

The PERB also pointed out that department chairmen, in making recommendations for promotion are "mandated" to "consult with and report the consensus of a tenured departmental committee."

In concluding its decision, the PERB rejected the hearing officer's recommendation, it said, because:

> There is nothing in the record to indicate that the Committee did not exercise fair and impartial judgment based on the material before them.
>
> The question, rather, is would the Committee have made a favorable recommendation if the proper materials had been before it. This is a judgment that this Board cannot make.

The PERB, in rejecting the hearing officer's recommendation that the teacher be promoted and reimbursed for pay lost, ordered the promotions committee to review the case, including the official file on her performance as a teacher.

Note: In a similar New York case, (NRD, June 1969, page C-11) the Board determined that the president of the Ockawamick Faculty Organization was unjustly denied reappointment and tenure because of her union activities. In that case, the Board ordered the school district to reinstate the teacher and to compensate her for loss of wages as a result of the "reprisal."

NEGOTIATION NOTES

CALIFORNIA

Los Angeles Teachers Strike

Los Angeles Teachers staged a one-day walkout to protest the school board's lack of action on teacher demands for higher pay. The strike was led by the 19,200-member Association of Classroom Teachers, and supported by the 3,000-member Los Angeles Federation of Teachers.

The teachers demanded pay raises of 14 to 23 percent, based on a 5 percent "cost of living" increase recently granted by the city school board. (Current starting pay for the B.A. is $7,000 annually.)

Teacher supporters, according to some sources, pressed their demands because the school board unexpectedly found an additional $3-million to conduct some special education programs which had been eliminated from the budget because of an earlier shortage of funds. Some teacher leaders believed that the board deliberately made its financial situation appear worse than it actually was at that time (by cutting the special programs) to avoid having to submit to teacher demands for higher salaries. The school board denied this allegation, but the teacher leaders hoped that a vigorous dramatization of their situation—the strike—might lead the school board to find the funds to increase teacher salaries.

HAWAII

Panel Drafting Bargaining Legislation

A 1968 Constitutional Convention amended Hawaii's constitution to give civil service employees the right to organize and bargain collectively. Because implementing legislation is needed, a 17-member committee was appointed to draft legislative proposals for public employee bargaining. The proposals will be presented to the 1970 session of the state legislature.

ILLINOIS

Granting Personal Leave Days Valid

In a motion for summary judgment filed against the South Stickney Township School District by the local American Federation of State, County and Municipal Employees, a Circuit court overruled the state superintendent's ruling that the granting of personal leave days by the local board of education was illegal.

In reversing the state superintendent's opinion, the court found that the "Board of Education has the right under the laws of the State of Illinois and, in particular, the School Code of the State of Illinois to contract for or grant personal leave days" for teachers represented by the bargaining unit. The court also ordered that the board of education "shall honor requests for personal leave by its employees in accordance with. . .the subject collective bargaining agreement."

MASSACHUSETTS

Teachers Fined for Walkout

A New Bedford judge fined the New Bedford Teachers Association a total of $50,000 for an eight-day strike conducted in September. The teachers, who had been working without a contract for 22 months, struck over several disputed issues, including salaries for advanced degrees, work schedules, curriculum development, and lunchroom duty. Before the strike the teachers had agreed to a $6,000 starting salary.

The court that levied the fine said the strike had cost the city of New Bedford $100,000. The court ordered that the bulk of the fine could be paid by the teachers collectively, but that the field director of the Massachusetts Education Association must pay $5,000 of the total.

The Association's attorney said that he was considering appealing the fine to a higher court, and that since the judge found both the school committee and the Association responsible for the strike, the school committee should be ordered to pay the other $50,000.

NEW JERSEY

Cost of Living Adjustments Provided

An unusual New Jersey law enacted recently will provide automatic cost-of-living adjustments for pensioners with total annual incomes under $6,000 after three years of retirement. The new pensions will be adjusted according to the consumer price index of the U.S. Department of Labor.

Officials estimate the increases will be slightly more than 2 percent the first year, beginning January 1970, for the approximately 27,000 state and local pensioners who retired before January 1, 1967. Approximately 4,000 employees who retired before 1955 will receive adjustments unrelated to the consumer price index and their total income.

NEW YORK

Longevity Pay Based on Transfer Credit

The New York State Commissioner of Education upheld the claim of a Westchester County school teacher for longevity pay, based on transfer credit for years served in another school district.

The teacher claimed she was entitled to a longevity increment in 1967-68. She had been employed in September 1949, and had been granted three years' transfer credit after five years' service. A 1968-69 amendment changed the longevity increment requirement to 20 years in the same district.

The Commissioner ruled that the teacher was entitled to the increment because:

> Notwithstanding the optional nature of the longevity increment, the Education Statute clearly mandates parity between actual service within a school district and service rendered outside the school district once transfer credit has been voluntarily granted.

STATISTICS

TEACHER STRIKES IN 1968-69

The number of teacher strikes and work stoppages recorded from August 1968 through June 1969 reached an all-time high of 131. These strikes occurred in 24 states and the District of Columbia. Of the total man-days involved in strikes or work stoppages, 90 percent were recorded in New York, a state which enacted a strike penalty law about two years ago. Man-days involved in teachers' strikes in the state of New York exceeded 7 percent of the estimated total man-days of instruction.

In the remaining 23 states and the District of Columbia, the number of man-days involved in strikes was 0.6 percent or less of the estimated total instructional man-days for each area.

Although 2.7 million man-days were involved in strikes last year, they equaled less than 1 percent of the total estimated 384 million man-days of instruction scheduled for the entire United States.

During the 1968-69 school year, four new states—Iowa, Nevada, North Dakota and South Dakota—were added to the list of states in which teacher strikes had occurred since 1960, when the NEA Research Division began collecting strike information.

In addition, Nevada and South Dakota passed mandatory negotiation statutes which included penalty provisions against teachers and teachers organizations involved in strikes. The man-days involved in teachers' strikes recorded in these two states accounted for less than 0.6 percent of the total man-days of instruction in each state.

The total number of man-days of instruction in 1968-69 was calculated by multiplying the estimated total instructional staff by the constant figure of 180 days of instruction for the year. While the minimum number of instructional days mandated by state law varies, most state laws require 180.

Further details on teacher strike activity since 1940 and a system-by-system listing for 1968-69 are given in a Research Memo in process.

TABLE 1.--TEACHER STRIKES AND WORK STOPPAGES, BY TYPE OF ORGANIZATION, BY MONTH, AND BY STATE, 1968-69 SCHOOL YEAR

Type of organization and month	Number of strikes an and work stoppages a/	Estimated number of personnel involved	Estimated number of man-days involved
1	2	3	4
TYPE OF ORGANIZATION			
Teacher union	24	75,272	2,620,299
Professional association	99	53,326.5	113,046.5
No organization	8	290	456
MONTH			
August	1	37	185
September	31	57,820.5	2,564,899
October	12	2,503	6,117.5
November	4	1,930	11,000
December	0	0	0
January	7	3,014	13,064
February	4	1,129	2,514
March	13	24,636	31,044
April	13	6,247	31,316
May	36	27,729	64,404
June	10	3,843	9,258
STATE			
California	12	2,633	3,138
Connecticut	4	2,330	8,660
District of Columbia	3	111	111
Illinois	10	19,864	55,322
Indiana	3	21,639	26,089
Iowa	1	35	70
Kentucky	1	150	150
Louisiana	2	1,550	13,650
Maryland	3	3,505	7,255
Massachusetts	3	953	1,731
Michigan	24	6,061.5	46,630.5
Missouri	2	79	350
Nevada	2	3,200	5,600
New Hampshire	1	90	90
New Jersey	9	4,456	17,221
New York	3	50,523	2,503,130
North Dakota	1	200	4,400
Ohio	18	5,628	13,196
Pennsylvania	22	4,396	17,907
Rhode Island	1	250	500
South Dakota	1	441	3,969
Tennessee	1	500	4,000
Utah	1	175	350
West Virginia	2	44	132
Wisconsin	1	75	150
TOTAL	131	128,888.5	2,733,801.5

a/ Based on instructional days involved by full-time teachers during the regular school year rather than teacher report-in days. Data on strike estimates were compiled from published and unpublished information collected by the Bureau of Labor Statistics, U.S. Department of Labor, and the NEA Research Division.

b/ State-wide strikes counted as one strike each. In 1968-69, Indiana was the only state in which a state-wide strike was called.

c/ Excluded is one strike by substitute teachers in Chicago, Illinois.

d/ Excluded is a lockout in Wichita, Kansas.

TABLE 2.--MAN-DAYS INVOLVED IN TEACHER STRIKES OR WORK STOPPAGES AS A PERCENT OF TOTAL MAN-DAYS OF INSTRUCTION, 1968-69

State	Estimated total instructional staff a/	Assumed number of man-days of instruction (180 days) b/	Estimated number of man-days involved in teacher strikes c/	Man-days involved in teacher strikes as a percent of man-days of instruction d/
1	2	3	4	5
California	195,000	35,100,000	3,138	0.01%
Connecticut	34,221	6,159,780	8,660	0.14
District of Columbia	8,500	1,530,000	111	0.01
Illinois	106,963	19,253,340	55,322	0.29
Indiana	55,200	9,936,000	26,089	0.26
Iowa	37,000	6,660,000	70	e/
Kentucky	32,075	5,773,500	130	e/
Louisiana	40,600	7,308,000	13,650	0.19
Maryland	41,923	7,546,140	7,255	0.10
Massachusetts	54,200	9,756,000	1,731	0.02
Michigan	96,900	17,442,000	46,630.5	0.27
Missouri	47,129	8,483,220	350	e/
Nevada	5,555	999,900	5,600	0.56
New Hampshire	7,171	1,290,780	90	0.01
New Jersey	77,500	13,950,000	17,221	0.12
New York	198,000	35,640,000	2,503,130	7.02
North Dakota	7,475	1,345,500	4,400	0.33
Ohio	105,555	18,999,900	13,196	0.07
Pennsylvania	103,960	18,712,800	17,907	0.10
Rhode Island	8,970	1,614,600	500	0.03
South Dakota	9,204	1,656,720	3,969	0.24
Tennessee	36,700	6,606,000	4,000	0.06
Utah	12,940	2,329,200	350	0.02
West Virginia	18,475	3,325,500	132	e/
Wisconsin	47,546	8,558,280	150	e/
24 states and D. C.	1,388,762	249,977,160	2,733,801.5	1.09
Remaining 25 states	743,271	133,788,780	...	...
United States	2,132,033	383,765,940	2,733,801.5	0.71%

a/ National Education Association, Research Division. Estimates of School Statistics, 1968-69. Research Report 1968-R16. Washington, D.C.: the Association, 1968. p. 29.

b/ Assumes a constant of 180 minimum days of public-school instruction for the year. While the number of instructional days varies from state to state, the majority of states require a minimum of 180.

c/ Based on instructional days involved by full-time teachers during the regular school year rather than teacher report-in days. Data on strike estimates are compiled from published and unpublished information collected by the Bureau of Labor Statistics, U.S. Department of Labor, and the NEA Research Division.

d/ Assumes that the man-days involved in teacher strikes are not rescheduled.

e/ Less than 1/100 of 1 percent.

SPECIAL REPORTS

BRIEFS OF RECENT AGREEMENTS

Little Rock, Arkansas

Agreement between Board of Directors, Little Rock School District and Little Rock Classroom Teachers Association, effective October 1969 to June 1971; 1,042 classroom teachers. (First comprehensive agreement negotiated in Arkansas.)

Compensation:
B.A., $5,700 to $7,082, 13 increments, maximum $9,234; extra-duty pay for football coach, $2,000; credit for 7 years' previous teaching experience.

Leaves:
Sick leave allowance at 5 days' full pay with an additional 10 days at half pay accumulative to 80 and 160 days, respectively; personal leave of 5 days, temporary leave of up to 5 days for teacher visitations, 1 day for school visitations, 5 days for educational conferences, and time necessary for employment-connected legal proceedings; sabbatical leave after 7 years for 1 year at half pay or ½ year at one-fourth pay.

Miscellaneous:
Teachers must hold bachelor's degree and state teaching certificate to be eligible for employment. Salary credit evaluation committee established which will be composed of 8 teachers, 2 principals, and 2 administrators. Grievance procedure ending with advisory recommendations. Minimum facilities for classrooms are student desks (ample, serviceable, and suitable), serviceable teacher's desk and chair, filing cabinet, storage space for instructional materials and supplies, ample bulletin board and blackboard space, well-lighted and properly ventilated, and properly maintained room.

Richmond, California

Between the Association of Richmond Educators (NEA) and the Richmond School Board for the 1969-70 school year. Provides for an estimate of $1.4 million, excluding salaries. Approximately 1,300 certified professional employees.

Compensation:
B.A., 6,862 to $10,378, 13 increments; M.A., $7,658 to $12,014, 13 increments; $14,480 maximum; senior high principal range from $18,641 to $22,192, 5 steps at 4% of the maximum salary.

Miscellaneous:
Maximum class size ($550,000 budgeted) of 28 in the primary grades, 30 in grades 4 through 6, 27 in secondary-school English classes, 30 in other academic subjects, with automatic adjustment procedure whenever these limits are exceeded by 10 percent; budget allocations of $395,000 to promote integration of school's plan, $80,000 for employment of additional teacher aides; $40,000 to provide special help for continually disruptive students, $120,000 for improvement of instructional scheduling, $150,000 additional to improve facilities and maintenance in schools, $295,000 for reevaluation and reform of curriculum; $165,000 for instructional supplies and material; budgetary review committee established with representatives from the teacher organizations and laymen; joint review and compliance. Study committee will meet each January on the implementation of negotiated items.

Indianapolis, Indiana

Agreement between the Board of School Commissioners of the Indianapolis Public Schools and the Indianapolis Education Association (NEA) covering approximately 4,300 teachers, effective from August 28, 1969, to July 31, 1970.

Compensation:

B.A., $6,094 to $9,727, 15 increments; M.A., $6,597 to $10,956, 16 increments, $11,851 maximum, effective August 28, 1969; B.A., $7,000 to $10,458; M.A., $7,500 to $11,773, $12,731 maximum on January 1, 1970; longevity increments after 18 to 20 years, extra-duty pay of $920 for football coach, $3.45 per hour for after-school activity supervision.

Leave:

Sick leave of 10 days with pay the first year and 7 days each year thereafter accumulative to 120 days; 2 leave days may be used for personal business; bereavement leave of 5 separate days with pay.

Insurance:

Board contribution effective January 1, 1970, is $119.00 per employee for hospital surgical and major medical insurance, $5,000 life insurance for teachers at $9.00 per year.

Miscellaneous:

Association shall have the right to use school building, facilities, and equipment, bulletin boards and mailboxes, and to be furnished financial statements and adopted budget. Grievance procedure ending in advisory arbitration. Duty-free lunch period of not less than 40 minutes for all teachers. Association president shall be allowed five days' leave for association business. Retirement pay of $50 for each year of service in the school. Procedures to achieve and maintain teacher racial balance shall be in the following sequence: volunteers, newly hired personnel, involuntary transfers. Board and association shall actively seek a multiethnic representation of personnel for employment.

Jefferson County (Louisville), Kentucky

Between Jefferson County Board of Education and Jefferson County Teachers Association (NEA) effective August 25, 1969, until June 30, 1971. Representing about 3,850 professional employees. Calendar and salary for 1970-71 to be negotiated this year.

Compensation:

B.A., $6,200 to $9,920, 14 increments; M.A., $6,758 to $10,540, 15 increments; $11,036 maximum. Base salary for secondary principals ($11,408), secondary assistant principal ($10,478), secondary counsellors ($10,354), elementary principals ($10,726), elementary counsellors ($8,990), assistant directors of pupil personnel ($9,548), supervisors ($14,508); extra-duty pay for football coach ranges from $800 to $1,100 in 4 steps, cheerleading ranges from $175 to $245; longevity increment of $250 for 20 years' service.

Miscellaneous:

Association will seek to correct and institute proceedings against teachers in violation of discipline *by teachers* and breaches of professional behavior; years of service for supervisors who return to classroom are counted as teaching experience. Unusual provisions on citizen complaint procedure and forms on teaching material and textbooks:

MATERIALS REEVALUATION PROCEDURE

I. Individuals, organizations, or groups who challenge or criticize instructional materials shall be asked to complete the form "Citizen's Request for Reevaluation of Material." (See Appendix B)

II. After completing the above mentioned form, a school committee composed of the teacher in the subject area, the principal, and the supervisor (or the librarian where appropriate) shall review with the complainant the written criticisms and attempt to reach a decision of the complaint.

III. If a decision is not reached which is satisfactory to the complainant, the principal shall request the Associate Superintendent for Instruction to delegate a Central Committee to review and make a final decision concerning the disposition of the complaint. This decision will be reported back to the principal by the Associate Superintendent for Instruction. This Central Committee shall be composed of an administrator, a supervisor in the subject area under

question (or the librarian where appropriate), a classroom teacher in the subject area, and a mature* parent, preferably from the school district from which the complaint originates. No member of the Central Committee shall have been a member of the local school committee with the exception of the supervisor.

IV. The materials involved shall have been withdrawn from general circulation and use pending a decision in writing by the Central Committee.

BOOK SELECTION AND REEVALUATION POLICY

I. **Objectives**
   A. The primary objective of the school materials center is to implement, enrich, and support the educational program of the school.
   B. The school materials center should contribute to the social, intellectual, cultural, and spiritual development of the students.

II. **Selection**
   A. Materials for the school materials center should be selected by librarians in consultation with administrators, supervisors, faculty members, students, and parents.
   B. Reputable, unbiased, professionally-prepared selection aids should be consulted as guides.

III. **Criteria for selection**
   A. Selection should consider the needs of the individual school based on a knowledge of the curriculum and on requests from administrators and teachers.
   B. Consideration should be given to individual students on a knowledge of elementary and secondary youth and on requests of parents and students.
   C. Selection should provide for a wide range of materials on all levels of difficulty with a diversity of appeal and the presentation of different points of view.
   D. The instructional materials should have high literary value.
   E. Materials should have superior format.

IV. **Challenged materials**
   A. Individuals or groups who challenge or criticize materials shall be asked to complete a form comparable to that suggested by the National Council of Teachers of English. (The Student's Right to Read)
   B. A school committee composed of the teacher in the subject area, the principal, and the librarian shall review with the complainant the written criticisms and attempt to reach a decision on the complaint.
   C. If a decision is not reached which is satisfactory to the complainant, the principal shall request the Associate Superintendent for Instruction to delegate a central committee to review and make a final decision concerning the disposition of the complaint. This decision will be reported back to the principal by the Associate Superintendent for Instruction. The committee shall be composed of an administrator, a supervisor in the subject field, the Coordinator of Library Services, and a mature* parent, preferably from the school district from which the complaint originates.
   D. The books or materials involved shall be withdrawn from the library pending a decision in writing by the above committee.

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*The word mature in this context applies to all members of the committee and means highly developed or advanced in intellect, moral qualities, and outlook.

Appendix B

CITIZEN'S REQUEST FOR REEVALUATION OF MATERIAL

Type of Material _____ Book _____ Filmstrip _____ Lecture
_____ Film _____ Record _____ Other

Author (if known) _____

Title _____

Publisher (if known) _____

Request initiated by _____

Telephone _____ **Address** _____

Complainant represents:

_____ **himself**

_____ **organization (Name)**_____

_____ **other group (Name)**_____

1. **To what in the material do you object? (Please be specific)**_____

2. **What do you feel might be the result of exposure to the material?**_____

3. **For what age group would you recommend this material?**_____

4. **Is there anything good about this material?**_____

5. **Did you inspect all of this material carefully?**_____ **What parts?**_____

6. **Are you aware of the judgment of this material by critics?**_____

7. **What do you believe is the theme or main idea in this material?**_____

8. **Which of the following would you like the school to do with this material?**

   _____ **refrain from assigning it to your child**

   _____ **withdraw it from all students**

   _____ **refer it to the committee for reevaluation**

9. **In its place, what material, if any, would you recommend that would convey as valuable a picture and perspective of our civilization?**_____

Signature of Complainant _____

Seattle, Washington

Between the Seattle Alliance of Educators and the Seattle School District effective for 1969-70 school year. Approximately 4,600 certificated professional employees.

Compensation:

B.A., $6,800 to $8,500, 5 increments; M.A., $7,450 to $10,860, 11 increments, $14,010 maximum; administrative salary ranges from $9,912 for the first step in salary Class 1 for 182 days to $28,720 in salary Class 15 after 10 service increments for 227 days; extra-duty pay for football coach of $1,310; new teachers will be allowed full credit for all creditable teaching experience but not to exceed the maximum in their lane.

Leaves:

Sick leave allowance equal to one day for each month, 180 days' accumulation; 3 separate days for bereavement leave; 2 days separate for personal leave; 1 day to appear before legislature; substitutes' salary to be paid by individual or organization; sabbatical leave at 50% of contract salary.

Insurance:

Maximum permitted by statute for approved group plans; $500,000 liability insurance fully paid by district.

Miscellaneous:

An *ad hoc* committee of 9 members to include at least 5 association members is established to study and make recommendations to the district on any academic freedom problem presented to it; Association provided 100 substitute days for official delegates or participation in a program; protection of educators, students, and property provides sections on preservation of order, benefits to educator, such as legal service, reimbursement for personal and property expenses incurred due to an incident, and leave with pay not deducted from sick or personal leave, and reporting procedures; grievance procedure amended to provide for final and binding arbitration.

TEXT

REPORT OF COMMITTEE ON STATE LABOR LAW TO AMERICAN BAR ASSOCIATION, AUGUST 1969

Each year, the Committee opens its report with a brief discussion of a current and significant problem on the labor law scene. This year, the Committee on State Labor Law has decided to focus its attention on the total area of public employee relations.

A. THE RIGHT TO ENGAGE IN CONCERTED ACTIVITY

Public employment bargaining laws may be divided into three basic categories. This division is accomplished on the basis of the employer's permissive ("may") or mandatory ("must") obligation to confer or bargain with employee representatives. A third category is established for those laws allowing employees to "present proposals" regarding wages, hours and working conditions, without expressing any form of employer obligation to discuss such proposals.

By early 1969, "present proposal" laws existed in Alabama (firemen); California (firemen); Florida (state and local); and Pennsylvania (state and local).

There were eight permissive obligation laws in the states of Alaska (state and local); Delaware (municipal); Nebraska (teachers); New Hampshire (towns); North Dakota (cities); Ohio (public utilities); Oregon (state and local); and Washington (public utilities and port districts).

Mandatory obligation laws have been enacted in California (local); Connecticut (local); Delaware (local transit authorities, state and local); Florida (firemen); Georgia (Chatham County only); Hawaii (state and county); Louisiana (public transportation); Maine (firemen); Maryland (teachers); Massachusetts (state and local); Michigan (local); Minnesota (state and local); Missouri (state and local, except teachers and police); Montana (nurses); Nebraska (state and local); New Jersey (state and local); New York (state and local); North Dakota (teachers); Oregon (teachers and nurses); Pennsylvania (transit authorities, police and firemen); Rhode Island (state and local); South Dakota (state and local); Vermont (state and municipal, except professionals); Washington (state and local); Wisconsin (state and local); and Wyoming (firemen).

The number of states currently allowing some or all of their public employees some voice in the determination of their wages, hours and working conditions has now reached thirty.

1. *State Legislation*

In 1968 and early 1969, several states authorized their public employees to engage in some type of collective activity. Nine states enacted public employee relations statutes, while New York, Nebraska, California, and Delaware amended their statutes.

The Alaska statute (T. 23, Chapter 40) is permissive. Political subdivisions, including schools, may contract with labor organizations. Grievance arbitration is specifically authorized.

Georgia (House Bill 1645) vests public employees in Chatham County with the right to bargain collectively; the County, and the City of Savannah, have a duty to bargain which includes reducing any agreement to writing.

The Maryland act (Section 175, H.B. 274) covers all certified employees in public schools, excluding superintendents and persons designated to serve on a school negotiating committee. The act allows employees to form and join any organization intending to represent the employees in bargaining for wages, hours and working conditions. The State Board of Education administers representation elections, and issues certifications which terminate at the end of two years. The composition of the statutory countywide unit is a subject of bargaining. Employer unfair labor practices, as well as tri-partite (combination mediation—fact finding) impasse panels are provided.

In New Jersey, the Legislature overrode the Governor's conditional veto (partially based on the absence of a strike prohibition) of the New Jersey Employee-Employer Relations Act. The bill (264 GERR F-1) created a seven-member public employment relations commission to administer representation and bargaining procedures under the act. The commission defines appropriate units, but there are neither unfair labor practices nor strike prohibitions. The statute extends to all public employees except elected officials, supervisors and managerial employees (except under extraordinary situations). Also, policemen are precluded from joining any general labor organization. A chancery court denied a preliminary injunction restraining the operation of the law. Lullo *v.* IAFF, Local 1066 (N.J. Supr. Ct., Hudson Cnty., 1968).

Pennsylvania enacted S.B. 1343, L. 1968, 48 SLL 240d, authorizing policemen and firemen employed by the Commonwealth, or political subdivision thereof, to bargain through organizations designated by fifty per cent or more of the employees. Bargaining regarding terms and conditions of employment, as well as grievances, is to be conducted on a statutory timetable. There is a mutual duty to bargain in good faith which includes reducing any agreement to writing. In impasses, the law provides for binding compulsory arbitration of the contract.

The State of Rhode Island also enacted police and firemen compulsory arbitration laws (Title 28, Chapter 9.1, Section 28-9.1-2, et. seq., and Title 28, Chapter 9.2, Section 28-9.2-2, et seq.), for all permanent uniformed members of paid police and fire departments up to and including the rank of chief. These employees have the right to organize, bargain collectively, and to select a majority representative as exclusive bargaining agent.

Required good faith bargaining must follow a statutory timetable, with all unresolved issues submitted to binding arbitration. Written contracts may not exceed one year.

Shortly before this report was finalized, North Dakota, South Dakota and Vermont passed statutes regarding their public employees.

North Dakota's recent law (H.B., L. 1969) requires school boards to meet and negotiate in good faith with recognized bargaining agents of units of classroom teachers or administrators. School boards conduct elections, with certification lasting one year. The bargaining parties may select mediators, or petition the education fact finding commission established by the law. Strikes are prohibited, and strikers may not be paid for the time they are on strike.

South Dakota's law (S.B. 150, L. 1969) provides a system of fines for strikes by state and local employees and their representative organizations. The Labor Commissioner administers the representation procedure, and the employer government is required to meet and confer regarding grievances and conditions of employment. Employees are protected from discharge or discrimination for exercising their rights under the Act.

The Vermont State Employees Labor Relations Act (Ch. 27, L. 1969, Section 901, et seq.) establishes a board to determine issues regarding representation, unfair labor practices and grievances of state employees.

California amended its statute dealing with state and local employees (Ch. 1390, Govt. Code, Sections 3500, et seq.) to specifically add the mutual duty to bargain in good faith, and to define such obligation. Recognition of employee organizations was added by what was titled the Meyer-Milias-Brown Act. The amendments are not applicable to state employees.

Pursuant to Section 1312 of the Delaware public employee relations statute (Del. Code, Tit. 19, Ch. 13, s. 1301, et seq.), the state established a merit system which state employee unions assailed as in derogation of their collective bargaining rights under the statute. By H.B. 624, L. 1968, the legislature repealed the offending section, and provided that nothing in the merit system could deprive state employees or their representatives of the full exercise of collective bargaining rights. The amendment required good faith bargaining regarding wages, leaves, promotions and classifications, vested in employees a cause of action to enforce the Law; and provided that union negotiated grievance procedures supersede those established by the merit system.

Nebraska (L.B. 15, L. 1969) recently amended its court of industrial relations statute (Section 48-801, et seq., Reissue Revised Statutes of Nebraska, 1943), expanding that court's compulsory arbitration powers over state and local government employees.

On March 4, 1969, New York Governor Rockefeller signed amendments to the state's Taylor law which impose stiffer penalties on striking public employee unions by removing the statutory limits on both fines and loss of check-off. Also, the new version of the law states that individual employees absent from work without permission on the day of a strike are presumed to be on strike. Striking employees lose two days' pay for each day they are off the job, and are placed on probation without tenure for one year. Taxpayers are granted the right to prefer charges against employers who fail to institute proceedings before PERB. Other sections of the new law grant authority for impartial arbitration of impasse issues, and permit the legislative body affected by an impasse to require the bargaining parties to appear and report on their positions. The law also contains employer and employee unfair labor practices, and prohibits payment of wages to a public employee for any day he was on strike.

2. *Local Legislation*

A number of local governments have adopted ordinances granting their public employees representation and collective bargaining rights.

The Baltimore Municipal Employee Relations Ordinance (Article I, Sections 110 through 125 of the Baltimore City Code, 1966 Edition, as amended; 266 GERR E-1) covers all municipal employees in the classified service of the Mayor and City Council except school, police, fire, confidential and clerical employees. This ordinance requires mutual good faith negotiation, and creates a mayor-appointed position of labor commissioner to administer the ordinance and to serve as a permanent member of the city's bargaining team. The labor commissioner processes representation petitions, and defines appropriate units. Any unresolved representation issues are submitted to binding arbitration by a tripartite panel. The commissioner may order a secret ballot election upon a thirty per cent showing of interest, with ten per cent required for intervention. If an organization receives a majority of the votes cast, the commissioner shall certify the organization as exclusive bargaining agent. The ordinance provides for a two-year election

free period, tripartite fact finding, checkoff, employer and union unfair labor practices, and permits advisory arbitration of grievances. Strikes and secondary boycotts are prohibited with the penalties being revocation of recognition and checkoff.

The Los Angeles Ordinance (261 GERR F-1) created the Employee Relations Commission of the County of Los Angeles which was given authority to determine appropriate bargaining units and to certify employee organizations as representative of the employees in such units. The ordinance was challenged in a suit filed by the Los Angeles County Employees' Association in the Los Angeles Superior Court, Case No. 939557. Claiming to represent some 34,000 of the approximately 60,000 public employees in Los Angeles, The Association attacked the ordinance on a variety of grounds, including improper delegation of authority to the Commission, conflict with state law, and conflict with the local Los Angeles Charter. The Association sought to prevent the establishment of appropriate units smaller than a unit of all of the 60,000 employees in Los Angeles in order to preclude any organization representing crafts or classes of employees within the County from securing representation rights. In January, 1969, the court upheld the validity of the ordinance, and dissolved a temporary injunction against implementation of the ordinance (281 GERR B-8). The Association has appealed.

The City of Portland, Oregon (Ordinance No. 128056, 269 GERR B-1), requires good faith bargaining re-employment relations, which includes monetary benefits, hours, vacations, sick leave, grievances, and other conditions of employment. Employees have the privilege to form or join labor organizations and are protected from coercion in the exercise of these rights. Unions may petition the City Council for recognition on a thirty per cent showing of interest. The auditor then reports on the petition, and the Council holds a hearing. Recognition may be granted for up to one year; or the petition may be transferred to the Bureau of Labor for advice on the acceptance or rejection of the representation claim, the conduction of an election, or the holding of a hearing to determine an appropriate bargaining unit. The City may suspend recognition at any time if the union fails to represent all employees equally without regard to membership or activities in the union.

Also adopting ordinances related to their public employees were the City of Lakewood, Ohio (271 GERR F-1), and the City of Louisville, Kentucky (265 GERR B-13).

3. Court Decisions and Attorney General Opinions

During the past year, courts and attorneys general, with the exception of Nevada Attorney General Opinion No. 494, were unanimous in holding that public employees have a constitutionally protected right to join unions which cannot be abolished by statute. There was little agreement, however, as to the nature and scope of public employee rights beyond the bare right to join unions, and the degree to which further rights are dependent upon statutes.

Federal court jurisdiction was invoked by public employees seeking constitutional protection of their union activities, McLaughlin *v.* Tilendis, 398 F.2d 287 (7th Cir., 1968), involved Chicago school teachers discharged for attempting to form a union. The teachers brought suit under the 1871 Civil Rights Act, alleging that the discharges interfered with their freedom of association and thus abridged the due process clause of the fourteenth amendment. In remanding the court held that the first amendment permitted public employees to form and join labor unions as a matter of right. The court reaffirmed the principle of Keyishian *v.* Board of Regents of New York, 385 U.S. 589 (1967), that teachers have free association rights which may not be unreasonably restricted as a condition of employment. Non-tenure teachers, the court held, were also protected under the Civil Rights Act; and teacher-school board collective bargaining contracts were held not contrary to public policy.

AFSCME *v.* Woodward, 406 F.2d 137 (8th Cir., 1969), involved a similar issue. North Platte, Nebraska, municipal employees were discharged for engaging in union activities. The court followed McLaughlin reasoning to establish that public employee union association is protected by the first and fourteenth amendments. Wieman *v.* Updegraff, 344 U.S. 183 (1952), was cited for the concept that public employees, while having no constitutional right of employment, are constitutionally protected from patently arbitrary and discriminatory discharge. The Eighth Circuit could find no paramount public interest justifying the City's limitation on free association, particularly when a state statute provided that employment was not to be denied because of union membership. Contrary to the City's contention, the court concluded that neither the state statute nor the Constitution are limited to private employment.

Subsequently, a three-judge federal court held unconstitutional the North Carolina statute prohibiting public employees from belonging to unions. Atkins, et al., IAFF *v.* City of Charlotte, 296 F. Supp. 1068 (W.D.N.C., 1969). However, the court decreed that statutory prohibition of contracting with public employee unions was a valid exercise of legislative power. The court found the statute overbroad in its restrictions upon protected freedom of association, and too prohibitive of legally exercisable rights despite its legitimate purpose of preventing public strikes. Firemen union activity was found to be within the protections of the first and fourteenth amendments, with a citation to both McLaughlin and Woodward.

In City of Fort Smith *v.* Arkansas State Council 38, AFSCME, 245 Ark. 398, 433 S. W. 2d 153 (1968), the Arkansas Supreme Court reversed a chancery court's order that the City bargain with its striking employees. The court reasoned that while municipal employees have a right to join unions,

municipal governments may not be required to recognize and bargain with such unions. A somewhat similar conclusion was reached by the Blackhawk County, Iowa, District Court in State Board of Regents *v.* United Packinghouse, Food & Allied Workers Local 1258, 68 LRRM 2677, 251 GERR D-1 (1968). That court held that in the absence of a state collective bargaining statute, public employers have the power to bargain collectively and contract with their employees, but the employees may not compel an employer to do such.

Attorney General opinions were as diverse in reasoning and conclusion as court decisions. Minnesota Attorney General's Opinion 270-D (33 SLL 248c) held that academic teaching staffs of state colleges and junior colleges are subject to the state's Public Employee Labor Relations Act. The Arkansas Attorney General advised (255 GERR B-12) that State Labor Department employees may join a union and bargain collectively since there are no laws prohibiting collective bargaining by state employees. At the opposite side of the spectrum is Nevada Attorney General's Opinion No. 494 (243 GERR D-1) which concluded that a public employer may adopt a policy prohibiting its employees from belonging to any organization which has collective bargaining as an object. The Nevada rationale is that you cannot have collective bargaining without the strike threat. Since public strikes are illegal, public collective bargaining with the strike as an inherent part is also illegal. Since unions have historically demonstrated an intent to engage in such illegal activities, public employers may prohibit their employees' membership in unions.

Attorneys General in Delaware (205 GERR B-8) and Missouri (Opinion No. 276, 35 SLL 212) held that while teachers may organize and present proposals, their exclusion from state bargaining laws precludes school boards from signing legally enforceable collective bargaining contracts with them.

B. REPRESENTATION ISSUES

1. Supervisory Units

A prime issue in 1968 was whether both supervisors and non-supervisors are, or should be, covered by a public employment relations act; and, if covered, whether both may be included in the same unit.

The Indiana Attorney General, in Opinion No. 25 (261 GERR B-11; 249 GERR B-12), concluded that freedom of association under both federal and state constitutions permits both supervisory and professional employees to join unions of which their subordinates are members. The Attorney General limited the scope of this principle by noting that public departments need not tolerate disloyalty; hence they may discipline and discharge supervisors in rank and file units if there is evidence of conflicting loyalties.

The Governor of Rhode Island vetoed a bill which would have allowed public school administrators below the rank of superintendent to engage in collective bargaining. The veto rationale was that administrators, as management personnel, are entrusted with effectuation of school policies and enforcement of teacher contracts (250 GERR B-8).

The Michigan Labor Mediation Board, in Hillsdale Community Schools, 274 GERR G-1 (1968), reaffirmed its previous decision in Saginaw County Roads Commission, 192 GERR B-1 (1967), that supervisors are entitled to engage in concerted activities under the Public Employment Relations Act. Hillsdale held that the principal and administrators' organization's affiliation with the Michigan Education Association did not per se establish domination or assistance of, or by, the organization representing the classroom teachers. The issue of dominance or assistance would be determined only in an unfair labor practice proceeding during which evidence of actual domination or assistance may be adduced. MLMB qualified its rule on supervisors' coverage:

> "Before this position is interpreted as allowing the organization of 'vice presidents' mentioned in the Packard Motor Car Company *v.* NLRB, 330 U.S. 485 case, we note that there is a level at which organization must end. That level consists of 'executive' employees, and is limited to those employees who formulate, determine and effectuate management policies."

This exclusion standard was defined in City of Detroit and Governmental Analysts and Accountants Association, Case No. R67 D-125 (1969). MLMB, noting that the Michigan statute uses the words "executive" and "supervisor," held that employees closely identified with policy determination are not covered by PERA.

The Wisconsin Employment Relations Commission dismissed a petition filed by supervisors under that state's municipal employees statute. Milwaukee County, 250 GERR B-1 (1968). Though the definition of "employee" does not expressly exclude supervisors, the Commission held that the statute does not provide protection or processes for supervisors. Thus, the dismissal was premised on the interpretation that supervisors cannot be included in a unit with the supervised employees, and cannot constitute an appropriate unit by themselves.

In a case currently on appeal to the Wisconsin Supreme Court, the Milwaukee Circuit Court upheld the WERC ruling that city attorneys have the right to organize and affiliate with an organization of their own choice. The court and commission rejected the executive-supervisor-confidential exclusionary argument because the management and labor relations information available to the attorneys did not directly apply to relations between the city and the attorney association. City of Milwaukee *v.* Wisconsin Employment Relations Commission, 274 GERR C-3 (Milwaukee Cir. Ct. 1968).

2. Legality of Exclusive Recognition

In early 1969, the Dade County, Florida, Circuit Court voided a teacher-school board contract recognizing one teacher organization as sole representative

because Florida law does not permit exclusive recognition of any public employees' representative (284 GERR B-10).

In Mayor and City Council of Cumberland *v.* Municipal Employees Local 812, 284 GERR B-5 (Allegany Cnty., Md., Cir. Ct., 1969), the Laborers' Union challenged the legality and constitutionality of a city ordinance authorizing elections to determine whether employees wished to be represented by an exclusive bargaining agent. The court distinguished Mugford *v.* City of Baltimore, 185 Md. 266, 44 A. 2d 745 (1945), on the basis that Mugford precluded a city department from recognizing a union, not the City itself. Since the City had the charter power to change wages, hours and working conditions, there was no delegation of a city's legislative power by a department, as in Mugford, when the City acted itself. The court concluded that a city has power to execute collective bargaining agreements, so long as the contract does not discriminate against non-union employees.

A recent decision of the Missouri Supreme Court upheld the constitutionality of the state's statute giving public employees the right to select exclusive bargaining agents. The court held that mandamus was a proper procedure to seek reinstatement of employees discharged for union activity and to require a city to recognize a union chosen by employees. State ex rel. Missey *v.* City of Cabool, 70 LRRM 3394 (1969).

When a New York City Executive Order permitted checkoff only to exclusive bargaining agents, a minority union challenged the change in a policy that formerly allowed checkoff to all unions. Bauch (Local 832, Teamsters) *v.* City of New York, 21 N.Y. 2d 599, 237 N.E. 2d 211 (N.Y. Ct. App., 1968). The court found no requirement that a city checkoff to a minority union in either the municipal law's permissive checkoff provision, or the Taylor law's required checkoff, if requested by an exclusive bargaining agent. Due process and equal protection were not violated since the order had a permissible objective of stabilizing bargaining relations, and a reasonable basis in the history of private and public labor relations. The court found no substance in the union's position that loss of checkoff challenged its existence, thus jeopardizing employees' right to free association. Checkoff, the court found, has no necessary relation to the right to support an organization, and the first amendment does not entitle any organization to the City's aid in collecting dues.

3. *State Agency Jurisdiction in Representation Cases*

In City Manager of Medford *v.* State Labor Relations Commission, 228 GERR B-5 (Mass. Supr. Jud. Ct., 1968), a city sought to challenge certain inclusions in a unit of foremen ordered by the Massachusetts Labor Relations Commission. The court dismissed the suit as premature because under national and state (private sector) precedent a unit determination is not a final, reviewable order.

Teamsters Local 97 *v.* City of Orange (N.J. Supr. Ct., Essex County), involved a union action to enjoin a city from recognizing a rival union and to obtain exclusive recognition for itself. The New Jersey Public Employment Relations Commission intervened to urge that the issue of unit determination was within its primary jurisdiction. The court ordered the case transferred to the Commission.

The Wisconsin Supreme Court held that state courts have no jurisdiction to review the WERC Chairman's letters refusing to process a petition filed by a supervisors' union. The letter, the court held, did not satisfy the requirements for an administrative decision since it was nothing more than the Chairman's "estimate" of policies and practices. Universal Organization of Municipal Foremen *v.* Wisconsin Employment Relations Commission, 166 N.W. 2d 239 (1969).

4. *Other Representation Issues*

In City of Medford *v.* Local 446, Teamsters and Wisconsin Employment Relations Commission, 267 GERR B-2 (1968), the Taylor County Circuit Court held that the statutory language allowing police to be represented by unions in fact finding may not be expanded to permit union representation of police at the bargaining table. Since the City met with the police but refused to negotiate with a union representing the police, the court found no refusal to bargain. Thus, the court enjoined WERC from proceeding with fact finding because of the WERC determination that the City had failed to negotiate in good faith with the union representing the police.

The Wisconsin Commission, in University of Wisconsin—Milwaukee, 222 GERR B-1 (1967), expressed its preference for larger units in state employment. This principle was put to the test in Department of Industry, Labor and Human Relations, et al., Decisions Nos. 8304, 8345, 8346 (1968), when the agencies involved opposed nurse and attorney-examiner units' petitions with an all-employee unit contention. Since professionals are the equivalent of craft employees in Wisconsin, the Commission found the attorney-examiners and nurses to each be recognizable and identifiable professions entitled to units apart from an all-employee unit. The Commission determined that the policy of the act would be best effectuated if units did not cut across agency lines and muddle management. Thus, the Commission found appropriate units of each profession within each agency.

By decision, the Wisconsin Commission changed its rules regarding election petitions where there is an established bargaining agent. In the past, WERC had not required a showing of interest in support of petitions because few petitions had been filed in bad faith. A study disclosed that an increasing number of petitions where there was little likelihood of success had an adverse effect on the bargaining relationship. Thus, in Wauwatosa Board of Education, Decision

No. 8300-A (1968), the Commission dismissed an employer's decertification petition where there was no supporting showing of interest. The Dane County Circuit Court affirmed the dismissal. Wauwatosa Board of Education *v.* WERC, 69 LRRM 2241 (1968).

C. UNFAIR LABOR PRACTICES

1. Conduct of Bargaining

Two opinions hold that public sector collective bargaining may be conducted in private. The California Attorney General, in Opinion No. 68177 (266 GERR B-1), stated that there is a limit on the public's right to know; thus, public sector collective bargaining is legal if conducted in private. The Michigan Labor Mediation Board, in Menominee Board of Education, 245 GERR B-6 (1968), ruled that insistence on public bargaining constitutes refusal to bargain. In its opinion, MLMB said:

> "Collective bargaining cannot be effective in the presence of either press or public. Representatives of employers and labor organizations (perhaps because they are human) tend to speak for the public and the news media rather than engage in the collective bargaining procedure."

2. Mandatory Subjects of Bargaining

a. Arbitration of Grievances

The Missouri Supreme Court, in State of Missouri ex rel Burke *v.* Cervantes, 423 S.W. 2d 281 (1968), held that a state law providing for advisory arbitration of firemen grievances was unconstitutional as applied to constitutional charter cities (St. Louis), because it imposed duties on a municipal office not authorized by the city charter.

In determining grievances, the court declared, the City was not required to go beyond the comprehensive provisions of its charter which deal with employees. To the contrary is Opinion of the Oregon Attorney General No. 6571 (45 SLL 234a) holding that binding arbitration of grievance clauses in collective bargaining contracts are valid, and a Mahoning, Ohio, Common Pleas Court decree that a binding arbitration clause in a contract between the City of Youngstown and the firefighters is valid and enforceable (276 GERR Local Notes).

However, the enforceability of the arbitration clause may depend on contract language. In Local 572, AFSCME *v.* City of Dover, 249 A. 2d 681 (N.H. Sup. Ct., 1969), the court found that a contract providing arbitration by a public advisory arbitration board could not be construed to enlarge the charter authority of the arbitration board. As the charter provided that the arbitration board was authorized to issue only non-binding recommendations, it could not be interpreted to provide for binding arbitration.

Public sector arbitration is an area fraught with the concepts of delegation of sovereign authority and conflicts between statutes governing the acts of officials or agencies and contracts negotiated pursuant to public collective bargaining laws.

Of the several challenges to Wyoming's compulsory arbitration for firemen law (Wyom. Stat. Sec. 27-265, et seq., 1965 Cum. Supp.) raised in State of Wyoming ex rel *v.* City of Laramie, 437 P. 2d 295 (Wyom. Sup. Ct., 1968), the major thrust was the unconstitutional delegation of municipal powers. The court gave two answers to this contention. The first was that the city, as a creation of the legislature, has only such powers as the legislature grants it. Thus, as the legislature can authorize the city to employ and pay firemen, the legislature can place limits on the manner in which wages and working conditions are determined. In the second answer, the court quoted with approval the Pennsylvania Supreme Court's opinion in Erie Firefighters Local 293 *v.* Gardner, 406 Pa. 395, 178 A. 2d 691 (1962). The principle involved was that non-delegable power is power to enact a law exercising discretion as to what the law should be; whereas, delegable power involves authority to execute a law already determined.

Both unlawful delegation of authority and conflict with governing statutes were raised in a petition for declaratory judgment of the validity of an existing contract in Tremblay *v.* Berlin Police Union, 108 N.H. 416, 237 A. 2d 668 (N.H. Sup. Ct., 1968). One of the contract clauses under attack provided for binding arbitration of grievances, but subject to the state's arbitration law. The court held that there was no delegation or conflict, but the rationale may limit the effect of the holding. Binding arbitration of grievances by itself might raise problems, the court reasoned, but the clause at issue was approved because it was made subject to the state law which provided that a party may give notice not to be bound by an arbitrator's award.

The delegation and conflict arguments were raised before the Michigan Labor Mediation Board in Oakland County Sheriff's Department, 227 GERR F-1 (1968). Raised as a defense to a refusal to bargain charge, the Michigan Board held that the collective bargaining obligation imposed by subsequent statute modified the Sheriff's statutory authority where it was in derogation of his bargaining obligation. Adding the philosophy of the Steelworkers Trilogy or the legislature's intent to import private industry practices into the public sector resulted in a final conclusion that binding arbitration as the terminal point in a grievance procedure was a mandatory subject of bargaining.

This decision applied only to non-civil service counties. In subsequent litigation, Michigan circuit courts have held that civil service or other local laws must yield when in conflict with provisions which are mandatory subjects of bargaining contained in contracts negotiated pursuant to the bargaining law. Civil Service Commission *v.* Wayne County Board of Supervisors (Wayne County Cir. Ct. Case No. 85654, 1968); Local 666, AFSCME *v.* City of Hamtramck (Wayne County Cir. Ct. Case No. 119814, 1968), pet. for leave to appeal denied, 381 Mich. 808 (1969);

City of Detroit, Civil Service Commission *v.* AFSCME, Council 77, 71 LRRM 2026 (Wayne County Cir. Ct., 1969).

b. Union Security

The Oakland and Tremblay cases, supra, were also significant for their discussion of union security. The New Hampshire Supreme Court found the union shop clause before it qualified by its terms, which the court found to impose a financial obligation only and not a requirement to maintain membership in good standing. The union could seek the discharge of an employee only for his withdrawal of checkoff. Since the law decreed collective bargaining to be a proper public purpose, the court found that municipalities are vested with discretion as to the desirability and propriety of the union shop in the operation of the city. Once agreed upon, there is no unlawful delegation of authority because the city has, in its discretion, found such a provision essential for the effective operation of the city.

In the Michigan case, the sheriff contended that the absence of an (8a) (3) type proviso authorizing a union shop (among other arguments) in the Public Employment Relations Act rendered illegal any type of union security. There were three separate opinions, with two of the members concurring that agency shop was the only type of union security legal under the statute (the equivalent of s 8(3), Wagner Act) prohibiting employers from discriminating to encourage or discourage union membership. The two-member majority concluded that agency shop does not involve membership, while eliminating free riders. A dissent on the membership question was premised primarily on NLRB *v.* General Motors Corporation, 373 U.S. 734 (1963).

Later in the year, Michigan circuit courts held that a contractual agency shop violates neither the Public Employment Relations Act prohibition against discrimination to encourage membership nor conflicts with the Cities' Civil Service Act, City of Warren *v.* Local 1383 Firefighters, 68 LRRM 2977 (Macomb County Cir. Ct., 1968); nor Teachers Tenure Act, Clampitt *v.* Board of Education of Warren, 68 LRRM 2996, 256 GERR E-1 (Macomb County Cir. Ct., 1968); Smigel, et al. *v.* Southgate Community Schools, et al., 70 LRRM 2042 (Wayne County Cir. Ct., 1968).

3. Strikes With Concurrent Unfair Labor Practices: Agency Jurisdiction

In Wauwatosa Board of Education, 256 GERR C-3 (1968), the employer contended that a one-day strike brought about by the union's instigation constituted unlawful interference with employee rights. The Wisconsin Commission stated that while strikes are prohibited, there is no statutory provision regarding penalties or making the strike a prohibited practice. Thus, the Commission held that only courts have jurisdiction to enjoin strikes; but where a strike is accompanied by acts of employee interference, such acts, excluding striking, may be restrained as prohibited practices.

Wisconsin's decision in State of Wisconsin, Department of Health and Social Services, Division of Corrections 288 GERR B-3 (1969), is believed to be the first in the country to sustain a prohibited practice charge against a state agency. Employees boycotted a conference because of their displeasure at the Governor for not calling a special legislative session to consider their wage claims. The Commission determined that the boycott was not a strike because attendance was voluntary; and that a dispute over wages was not unprotected activity, because wages are a voluntary and non-bargainable subject. A post boycott transfer of the union president was declared discriminatory. The employer's requirement that employees take vacation time instead of working a regular day on conference days was declared to be a unilateral change of a mandatory subject of bargaining, but not discrimination of interference.

D. STRIKES

In Board of Education, Borough of Union Beach *v.* New Jersey Education Association, 53 N.J. 29, 247 A. 2d 867 (1968), the New Jersey Supreme Court affirmed an order that the Education Association cease its sanctions and coercive activity against a school system that had refused to rehire three non-tenure teachers active in association activities. After imposing the sanctions, NJEA sent copies to all of its 57,000 members, to building representatives in key surrounding districts, and to placement directors of teachers colleges in New Jersey and surrounding states. Additionally, letters were sent to teachers considering jobs with the sanctioned board warning them of a breach of professional ethics for accepting employment. Similar warnings appeared in the local press.

In answering NJEA's contention that a sanction is not a strike, the court declared that the public demand for services renders strikes against government illegal; thus, any concerted action designed to make government unable to function by denying it the necessary manpower, is illegal concerted activity. The NJEA argued that the injunction, barring all coercive acts intended to coerce the board to act according to NJEA's desires, was so broad and imprecise as to violate freedom of speech. The court was in agreement with the basic right to persuade government to act as desired, but stated that this legitimate exercise of freedom of speech did not extend to illegally disabling the public body from acting at all—which standard the NJEA activities satisfied. In reply to the contention that equitable relief was not appropriate, the court held that it would not invoke "clean hands" when to do so would injure the public.

Injunctive restriction of free speech was also before the California Supreme Court in In re Berry et al., 65 Cal. Rptr. 273, 436 P. 2d 273 (1968). The court held an injunction against striking Sacramento County social workers to be "a model of overreaching and

confusion." Assuming without deciding that public strikes could be enjoined, the court found the injunction's proscriptions broad enough to encompass both enjoinable strike activity and constitutionally protected free speech in the form of informational picketing and demonstrations to mobilize public sentiment. The court adopted the reasoning of Thornhill *v.* Alabama, 310 U.S. 88 (1940), that the injunction's sweeping language was "too blunt an instrument" to effect the legitimate aim of enjoining public strikes, and further refused to read "in context" language which was not specifically enough drawn to prevent "repression" of free speech. Additionally, the court found the injunctive language so vague as to permit application to persons not associated with the union, and thus violative of due process.

The issue of involuntary servitude in teacher strike injunctions was before two courts during 1968. In Pinellas County Classroom Teachers *v.* Board of Public Instruction, Pinellas County, 214 S. 2d 34 (Fla. Sup. Ct., 1968), the court upheld an injunction against teachers who went on strike after returning their individual contracts. The court found no involuntary servitude involved because, once a teacher has signed and returned a contract, he is required to comply with the contract, terminate it legally, or subject himself to the penalties for resigning in violation of the contract. The court emphasized the point that teachers may not strike and retain the contract benefits.

Many substantial issues, in addition to involuntary servitude, were raised before the Supreme Court of Michigan in School District for the City of Holland, etc. *v.* Holland Education Association, et al., 380 Mich. 314, 157 N.W. 2d 206 (1968).

The court vacated a circuit court's restraining order which had been entered on affidavits and oral argument proving only that school would not open on the appointed date with teachers in the classrooms. Of the four opinions issued, the prevailing opinion reaffirmed the constitutionality of the Public Employment Relations Act, including the strike prohibition;[1] held teachers to be employees subject to the strike prohibition even though neither individual contracts nor a collective bargaining agreement had been executed; and decreed that trial courts, in deciding complaints for public strike injunctions are to exercise traditional equity power—which was to include taking evidence to determine (a) whether the employees are on strike; (b) whether irreparable harm will be done to the public health, safety and welfare; and (c) whether there had been good faith bargaining by both employer and employees.[2]

Two judges held that the striking teachers were not employees because they had not signed individual contracts and there was no collective bargaining agreement. The latter two judges, however, recognized that in a "proper" case, equity is the means to enforce the strike prohibition in the statute.

[Part II, Private Sector, omitted.]

Robert G. Howlett, Co-Chairman
Mary Ellen Krug, Co-Chairman
John Paul Jennings, Co-Chairman

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[1] The Hutchinson Act, of which the Public Employment Relations Act was an amendment, had been held constitutional in City of Detroit *v.* Amalgamated Association of Street, Electric Railway & Motor Coach Employees Association, 322 Mich. 237, 51 N.W. 2d 228 (1952).

[2] This phraseology is the interpretation of the language of the Supreme Court by circuit courts called upon to interpret the language in meting out selective injunctions. The Supreme Court said "We here hold it is insufficient merely to show that a concert of prohibited action by public employees has taken place and that ipso facto such a showing justifies injunctive relief. We so hold because it is basically contrary to public policy in this state to issue injunctions in labor disputes absent a showing of violence, irreparable injury, or breach of the peace. . . . We suggest that such proceedings inquire into whether, as charged by the defendants, the plaintiff's school district has refused to bargain in good faith, whether an injunction should issue at all, and if so, on what terms and for what period in light of the whole record to be adduced."

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CASE REVIEWS

DISTRICT OF COLUMBIA

NO-STRIKE OATH RULED UNCONSTITUTIONAL

An oath demanded of federal employees as a stipulation of employment that they will not "assert" their right to strike against the government was ruled unconstitutional in a unanimous decision rendered by a three-judge panel of the U.S. District Court for the District of Columbia.

The case was brought against the Postmaster General by the National Association of Letter Carriers (NALC) in seeking a declaratory judgment that portions of a U.S. statute and the required implementing Post Office employment oath violated First Amendment freedoms.

The district court heard the case on application from the government for a preliminary injunction, which was denied. In its brief, the government initially contested NALC's standing as the exclusive representative of some 6,000 postal employee bargaining units and thousands of individual members on the basis of the statute's wording:

> *An individual* [emphasis added] may not accept or hold a position in the Government of the United States or the government of the District of Columbia if he—
>
> . . .
>
> (3) participates in a strike, or asserts the right to strike, against the Government of the United States or the government of the District of Columbia;
> [or]
>
> (4) is a member of an organization of employees of the Government of the United States or of individuals employed by the government of the District of Columbia that he knows asserts the right to strike against the Government of the United States or the government of the District of Columbia. [5 U.S.C. §7311 (3) and (4)].

Accordingly, the government urged that only individual NALC members could challenge the statute and the employment oath.

The court, however, ruled that the government's strict view . . . ignores the trend of courts "increasingly to recognize the standing of associations to raise in some circumstances the rights of their members." . . .

Here, as in [*United Federation of Postal Clerks v. Watson*], the NALC is the authorized spokesman of its membership and recognized as such by Executive Order . . . . NALC's interest, for itself and on behalf of its membership, especially in light of the recent case law, is quite sufficient to give it standing.

In addition, the court found that "if NALC openly 'asserts' the right to strike, its members may be put at hazard since the statute carries criminal sanctions . . . and they could be barred from Government employment because of NALC's activities. And other letter carriers may be inhibited from joining because of the possible sanctions."

A second issue raised in the case involved a question of semantics. In its complaint, the NALC said its various elected officers and spokesmen had "urged and supported the right of postal employees, along with other federal employees, to strike," and that many of its members "desire to repudiate" portions of the oath forbidding them from asserting "the right to strike against the Government of the United States or any agency thereof while an employee of the Government of the United States or any agency thereof."

The government argued that such a "wish" did not constitute a justiciable controversy, and that a court test would be necessary only when action against a worker for legitimate First Amendment activity had begun or was imminent.

The court acknowledged that "superficially, this argument has great appeal," but cited the "chilling effect" doctrine as evidence that First Amendment precedents set in *United Public Workers v. Mitchell* (upon which the government based its argument) have been weakened by subsequent case law:

> More recent cases indicate that where freedoms of expression and association are involved, the threat alone of loss of job, criminal sanction or other penalty may inhibit, or "chill" their exercise and thus require court intervention to preserve them. In short, "immediate and real injury is done to the plaintiff's interests if he does *not speak* or act as he says he wants to . . . [because of] the threat of enforcement."

The court established the justiciable nature of this case by stating that "the chilling effect may well be quite pervasive if 'asserts' is given its ordinary dictionary meaning. . . . To the ordinary citizen, the word 'assert' evokes the image of advocacy or reasoned argument. It is defined by [the dictionary] to mean, 'to state or declare positively.'"

The government, however, contended that "'asserts' refers only to 'overt conduct to incite others' to strike and that 'asserts' has never been thought to forbid advocacy of 'a change in the law to legalize strikes by government employees.'" Its reasoning was based upon a supposed ambiguity inherent in the "idiomatic nature of the statute," and a House debate in which the statute's wording

was changed from "believe" to "assert" so that the area of prohibition would apply only to incitement.

The court termed this argument "ingenious but unacceptable":

> It is absurd to think that the ordinary employee will carefully parse the oath, grasp the suggested semantic subtlety, and conclude that he may argue for the right to strike with impunity. It is more ridiculous still to imagine that he will resort to this scrap of legislative history to resolve any ambiguity if perceived. Nor can the Postmaster's interpretation, never publicized or embodied in regulations and not binding on his successor, be relied upon to any extent to remove the ambiguity.
>
> The short of the matter is that the language of the statute, reinforced by the identical phrasing of the oath, is not ambiguous. There is consequently no occasion to examine the legislative history. Even if there were an ambiguity, the isolated colloquy the Government cites would not satisfactorily eliminate it. One would be left with words so incurably vague that men would have to guess at their meaning. In the First Amendment area, this defect is as fatal as outright prohibition of free speech.

In ruling that the challenged statutory provisions and the implementing oath violated the First Amendment, the court struck the words, "or asserts the right to strike," from 5 U.S.C. § 7311(3) and struck the entire text of 5 U.S.C. § 7311(4). It also enjoined the Postmaster General from requiring, either directly or indirectly, the Post Office employment oath, and declared that "all existing executed oaths are of no force and effect." (*The National Association of Letter Carriers v. Winton M. Blount*, U. S. District Court for the District of Columbia, October 30, 1969).

MICHIGAN

BENCHMARK *HOLLAND* RULING AFFIRMED

Affirmation of the Michigan Supreme Court's precedent-setting 1968 *Holland* ruling occurred with the high court's October 1969 reversal of an anti-strike injunction issued by a circuit court against the Crestwood Education Association.

The court's *Holland* decision established the principle of equity in the issuance of an injunction by suggesting that future courts determine whether the plaintiff school district refused to bargain in good faith prior to a strike, or the issuance of an injunction against a strike. It also found that strikes which are devoid of a showing of "violence, irreparable injury, or breach of the peace" are not, in themselves, enough to warrant automatic issuance of an injunction.

In the case of *Crestwood School District v. Crestwood Education Association*, the district filed a complaint in the Wayne Circuit Court seeking injunctive relief against striking teachers on grounds that they were public employees who had not reported to work, and that they were consequently "on strike" according to provisions of the Hutchinson Act.

The defendant association (certified bargaining representative of some 180 district teachers) filed motion for accelerated judgment of dismissal, arguing that as a result of a negotiation impasse between the district and the association, there were no agreements stating the beginning of the 1967-68 school year, and most district teachers had not signed contracts for that year. Furthermore the district had refused to submit to the jurisdiction of a mediation board and had not proved it would suffer "irreparable damages" from the strike. Accordingly, the association denied "the jurisdiction of the court to enter any relief under the [Public Employment Relations Act], contending that plaintiff was obligated first to exhaust administrative remedies and [denied] that defendants were employees or subject to any employment obligations and [denied] they were 'on strike' within the meaning of the Act."

The circuit court, however, "permanently restrained and enjoined" the Crestwood Education Association and others "from encouraging, inducing, or persuading teachers to strike under any guise whatsoever. . . ." It also ordered that

> any other persons who have been or who are actively engaged in contract negotiations with plaintiff or in encouraging any work stoppage, affirmatively counsel and instruct teachers who are members of the defendant association to return to their classrooms forthwith and resume their teaching duties.

Although most of the district's teachers submitted formal resignations, some returned to work in compliance with the judgment.

In its May 1969 appeal before the Michigan Supreme Court, the association sought reversal of the lower court's judgment and dismissal of the entire proceedings on grounds that the circuit court

> erroneously concluded that Crestwood teachers, who had never voluntarily contracted or agreed to work in that school district for the 1967-1968 school year, were "on strike" within the meaning of the [Public Employment Relations Act] and that the court had jurisdiction under that Act to issue an injunction against them though statutory administrative remedies had not been availed of or exhausted.

Noting that the school district had not filed a brief in the appeal and that its counsel did not intend "to appear in this matter or to take any part in the appeal proceedings," the high court reversed the circuit court's judgment and remanded the case to that court "for further proceedings consistent with the result ordered in the case of *Holland*. . . ." It also ordered that since the strike had been resolved, the lower court "dismiss the plaintiff's complaint with prejudice." (*Crestwood School District v. Crestwood Education Association et al.*, Michigan Supreme Court, October 6, 1969).

U. S. GOVERNMENT

NEW EXECUTIVE ORDER ISSUED

Executive Order 11491, signed by President Nixon on October 29 and due to take effect January 1, 1970, will make "sweeping changes for improving the federal labor-management relations program," according to the White House. The new order replaces President Kennedy's Executive Order 10988.

White House sources added that the new document will "substantially strengthen the federal labor relations system by bringing it more into line with practices in the private sector of the economy."

Eight major changes are included in the order:

- A Federal Labor Relations Council (FLRC) will administer the program outlined in the order, prescribe regulations, and serve as a final appeals body on all labor-management issues except negotiation impasses. This central authority will consist of the chairman of the Civil Service Commission, the Secretary of Labor, an Executive Office official, and other executive branch officials the President may appoint.
- A second organization and FLRC agency, the Federal Service Impasse Panel, will be authorized to consider, provide recommendations, or settle negotiation impasses when mediation and other voluntary efforts fail. The parties involved may use arbitration or third party fact-finding as a means of assisting in the resolution of an impasse only when directed or authorized by the panel. This body will consist of at least three members appointed by the President.
- The new order abolishes formal and informal recognition, as well as national formal recognition. However, labor organizations which qualify under standards to be determined by the FLRC may be granted national consultation rights. No labor organization already holding exclusive recognition at the national level shall be accorded national consultation rights. Exclusive recognition no longer will be a product of a showing of majority membership, for the new order requires secret ballot elections in all cases.
- The Assistant Secretary of Labor for Labor-Management Relations will decide questions about the appropriate exclusive recognition unit, supervise and certify elections determining an exclusive recognition unit, and decide questions concerning the eligibility of labor organizations for national consultation rights.
- Final authority for resolving complaints within agencies about unfair labor practices, grievances, and standards of conduct for employee organizations will now reside with the FLRC and the Assistant Secretary, instead of agency heads.
- The exclusive employee representative may negotiate a grievance procedure which is the only procedure available to unit employees, if the agreement so provides.
- Exclusive recognition for units of supervisors is terminated by the new order, and will be replaced by agency systems for "intra-management communication and consultation with its supervisors or associations of supervisors."
- Government unions will now be subject to financial reporting and disclosure requirements similar to those found in the private sector.

The full text of the President's order is printed in the "Texts" section of this issue of the DIGEST.

BOARD FINDINGS AND RULINGS

MICHIGAN

CRITICAL REMARKS RULED HARMLESS

The Michigan Labor Mediation Board ruled that a college administrator's remarks on the competence of a faculty bargaining agent were not serious enough to form the basis for an unfair labor practices charge.

An agent for the Macomb County Community College Faculty Organization, who had inquired about "discrepancies" in the college's interpretation of faculty insurance policies, objected to portions of an administrator's reply which characterized the inquiry as misinformed and uncomprehending.

The trial examiner said some of the administrator's remarks might be construed as "injudicious and imprudent." But he ruled that the entire reply was "hardly more than an honest reply to a question, and cannot seriously be considered as a calculated, coercive attempt on the part of the college administration to undermine the union by belittling the bargaining agent." (*Matter of Board of Trustees of the Community College District of the County of Macomb and Macomb County Community College Faculty Organization*, Michigan Employment Relations Commission, September 9, 1969).

NEW JERSEY

OPEN-ENDED CONTRACT NO BAR TO ELECTION

A New Jersey Public Employment Relations Commission decision found that an existing contract with no termination date and only a pledge to negotiate in the future is open-ended, and therefore no bar to a representation election.

The commission's ruling resulted when officials of the Port Authority Transit Corporation (PATCO), a state agency falling within the definition of "public employer," refused to recognize any employee representatives as the exclusive representative of certain PATCO employees.

Citing a portion of the state's Employer-Employee Act which says that "the best interests of the people of the State are served by the prevention or prompt settlement of labor disputes," the commission ruled that open-ended contracts are incapable of fostering the employer-employee peace outlined by the act. (*Matter of Port Authority Transit Corporation and Teamsters Local Union 676*, New Jersey Public Employment Relations Commission, September 23, 1969).

OHIO

SCHOOL BOARD MAY ENTER COLLECTIVE BARGAINING AGREEMENT

A three-pronged, binding decision rendered by an Ohio arbitrator established the implied authority of the Toledo Board of Education to enter into a collective bargaining agreement with the Toledo Federation of Teachers, Local 250.

The arbitrator found that an *existing* collective bargaining agreement between the parties resulted from policies adopted by the board during October 1968 negotiations with Local 250 over the working conditions of local teaching employees. Article II of the agreement outlined a three-step grievance procedure with arbitration as the final step, and the parties agreed in May of 1969—over and above the agreement's provisions—that the arbitrator's decision would be "final and binding."

During arbitration, however, the board contended that its previous recognition of Local 250 as the exclusive bargaining agent of its teachers was "beyond the scope of its authority," thus making the policy agreement "null and void." The arbitrator ruled:

> Where state law [empowers] a school board to enter into contracts, to engage the services of teachers under limited and continuing contracts, and to discharge continuing contract teachers for cause, there is no statutory prohibition against entering into a collective bargaining agreement with the representative organization of teachers, in addition to the individual teacher contracts, over work conditions so long as the collective agreement does not alter the terms of individual contracts.

The case arose when the grievant, a probationary teacher hired under a limited contract for the 1968-69 school year, objected to the board's refusal to renew his contract for the 1969-70 school year. According to the Teacher Tenure Act of Ohio, boards of education may enter into limited contracts "with each teacher who has not been in the employ of the Board for at least three years."

Any teacher employed under a limited contract and not eligible to be considered for a continuing contract is, at the expiration of such limited contract, deemed re-employed under the provisions of this section . . . unless the employing Board, acting on the Superintendent's recommendation as to whether or not the teacher should be re-employed, give[s] such teacher written notice of its intention not to re-employ him on or before the 30th day of April.

The statute establishes no standards for deciding whether to renew the limited contract of a probationary teacher, so the Toledo Board argued that it could refuse "to renew the contract of a probationary teacher for any reason or for no reason."

The arbitrator noted, however, that the Toledo Board had established a Teacher Personnel Office empowered to "evaluate probationary teachers employed under a limited contract" by means of a series of standardized Evaluation Documents. And he ruled that since the board had statutory discretion over the renewal of probationary teacher contracts, it had the implied right to determine criteria for evaluating those employees:

Such governmental agencies have many powers which are not specifically delegated by the Legislature but which are necessarily implied from the general directives contained in the enabling legislation. To indulge in the presumption that because the Legislature did not establish criteria for the evaluation of probationary teachers before renewal of their teaching contracts, it intended that Boards of Education should refuse to renew such contracts for no reason or for reasons other than the efficient operation of the school system and quality education for the children of the state is tantamount to presuming that the Legislature did not intend to establish an effective and workable system of public education.

Written evaluations of the grievant's teaching performance were made on six different occasions during the 1968-69 school year; the third and sixth documents were filed with the Teacher Personnel Office. And the sixth and final evaluation contained a recommendation that the grievant's contract not be renewed on the basis of "certain alleged deficiencies in teaching skills and improper behavior of the grievant."

In an examination of the evaluation forms, the arbitrator found that they "yielded a generally satisfactory performance evaluation." He also observed that the grievant had participated in a one-day work stoppage in January 1969, had "displayed a lack of discretion and good judgment" in handling several students, and had been "slow to act on the recommendations of his evaluator."

The criteria for evaluation state that a teacher who receives a majority of satisfactory ratings in his evaluations "is to be considered for future employment." As such, the arbitrator concluded:

the performance of the grievant as a teacher should be and apparently was fully encompassed in the evaluations filed with the Teacher Personnel Office . . . . The decision of the evaluator to recommend that the grievant's contract not be renewed is contrary to the written evaluations prepared by him and not in accord with the Criteria for Evaluation of First and Second Year Teachers of the Teacher Personnel Office of the Board.

In addition, the arbitrator decided that various detrimental "incidents" in which the grievant had been involved "do not justify the recommendations to the Board and the Board action declining to renew the contract of the grievant."

The arbitrator ruled that the grievant be reinstated as a probationary teacher with the Toledo Board of Education, although the grievant's partial fault in the matter did not entitle him to reimbursement for lost back pay. (*Toledo Board of Education and Toledo Federation of Teachers*, October 20, 1969).

NEGOTIATION NOTES

GEORGIA

BARGAINING LAW RULED UNCONSTITUTIONAL

The Supreme Court of Georgia declared unconstitutional a 1968 bargaining statute on grounds that it is a "special law" in conflict with a 1962 general law having state-wide application.

The high court's decision hinged upon a provision in the state constitution that "no special law shall be enacted in any case for which provision has been made by an existing general law."

In striking down the 1968 special law, which granted collective bargaining rights to Chatham County and city of Savannah public employees, the court ruled that powers delegated to the city by the 1962 general law were "full and complete," and did not require the city to bargain collectively.

The ruling derived from a petition by the International Association of Fire Fighters Local 574 to require the city of Savannah to recognize an employee labor organization and bargain collectively with it.

NORTH CAROLINA

PUBLIC EMPLOYEE AGREEMENT ILLEGAL

An opinion filed by the attorney general of North Carolina prohibits the Greensboro Housing Authority from entering into any bargaining contract or agreement with a labor organization representing any Housing Authority public employees.

The ruling adhered to a state general statute which declares "illegal and void" any agreement between an agency of the state and a labor union serving as a bargaining agent for the public employees of that agency.

NORTH DAKOTA

FACT-FINDING GUIDELINES PROPOSED

A set of bargaining guidelines proposed for use by the North Dakota Fact-Finding Commission has been announced, although commission members say they are open to suggestions for modifications.

The commission, established under the state's new teacher negotiation law, is to be used only when local level mediation procedures fail, and its findings are not binding.

The procedures are as follows:

1. Written notification of an impasse from the board and teachers' organization
2. Commission acknowledgment of the notice
3. Submission of a statement of problems by both sides to the commission
4. Submission of a "fee of good faith" which is charged to ensure that all other means of agreement have been tried
5. Commission securance of independent reports on the problem from community members
6. Designation of a commission member or other individual to gather the facts involved
7. Private consideration of the facts presented by both sides
8. Public announcement of the facts if the impasse remains

The commission emphasized that neither side involved in negotiations may make any statements to the press once notice is served to the commission. Also, commission meetings with both sides will be considered executive sessions in order to bar the press.

OTHER ITEMS OF INTEREST

MEDIATORS CHALLENGED BY CHANGING BARGAINING ENVIRONMENT

In an address outlining major areas of change in the collective bargaining arena, J. Curtis Counts, director of the Federal Mediation and Conciliation Service (FCMS), emphasized that "it is the policy of the present Administration to make collective bargaining work and to minimize governmental intervention.

"No longer can the parties at the bargaining table in national-interest bargaining situations look to the government or someone else to 'get them off the hook' should bargaining become deadlocked," he said.

In addition to this first area of change, Counts discussed four others:

- The rapidly expanding scope of the collective bargaining environment, particularly in the

public sector, is laden with problems found by FCMS to be "generally susceptible" to solution through mediation.

- Increasing concern with social issues constitutes perhaps the most important area of bargaining change, but third-party demands are complicating the labor-management bargaining process.
- Economic factors in general and inflation in particular are of primary importance to the current bargaining climate. Counts said the Administration's policy is to "reach this problem [inflation] through fiscal controls and without resort to guidelines, wage and price controls, and other regulatory measures."
- Work stoppages and the increasing number of negotiated settlement rejections constitute one of today's greatest mediation problems. Counts said the "impact of such rejections on the bargaining process is immeasurable," and added that the amount of lost time in 1970 will be "monumental" if stoppages increase at the current rate.

PUBLIC EMPLOYMENT SECTOR SLATED FOR RESEARCH

Geoffrey H. Moore, Commissioner of Labor Statistics, has named labor-management relations in the public employment sector as a long-range research concern of the Bureau of Labor Statistics (BLS).

Explaining that employment rates in state and local governments are greater than in any other major segment of the economy, Moore said all government employee organizations "are faced with problems of negotiation and dispute settlement in which they have had relatively little, if any, experience."

Moore said BLS will attempt to aid all parties involved in public employment bargaining by establishing "a collection of bargaining agreements covering federal and other public employees and [undertaking] a series of studies of their provisions, focusing on grievance issues and the way they are handled, arbitration, and resolution of contract impasses."

GREATER FEDERAL INVOLVEMENT NEEDED

Labor Secretary George P. Schultz constructed his concept of federal involvement in federal and state public employee negotiations on the premise that "the number and nature of these negotiations has national impact and . . . a federal policy of non-involvement is no longer satisfactory."

Schultz suggested three roles the federal government can undertake in the negotiations field: providing impartial fact-finders and mediators, collecting and disseminating data derived from existing public employee bargaining agreements, and providing research for use in developing workable public employee negotiation systems.

But he emphasized that expansion of federal services such as those provided by the Federal Mediation and Conciliation Service "will have to be a function of the state and local units themselves."

STATISTICS

PROVISIONS FOR PAID LEAVES OF ABSENCE IN COMPREHENSIVE AGREEMENTS

A newly published report[1] by the NEA Research Division indicates that 91.2 percent of the 603 comprehensive negotiation agreements in NEA Research Division files contain paid leaves of absence provisions. These agreements are recorded in 15 states and the District of Columbia.

Statistics on paid short-term and extended leaves of absence contained in comprehensive agreements were derived from the Research Division's 1967-68 negotiation survey of more than 7,000 school systems enrolling 1,000 or more pupils. In 586 of the 603 comprehensive agreements, the bargaining units included classroom teachers and represented a total of 299,781 professional personnel. The remaining 17 comprehensive agreements covered 3,915 administrators, supervisors, and other paraprofessional personnel.

[1] *Paid Leave Provisions for Teachers in Negotiation Agreements.* Research Report 1969-R9. 95 p. $1.75. #435-22884.

Almost 90 percent of the 603 comprehensive agreements included some type of negotiated short-term leave provisions, and a similar percentage contained cumulative short-term leave provisions. Annual short-term leave granted amounted to 10-14 days in 71.1 percent of the provisions, with a maximum accumulation of 90 days or more in 69.3 percent of the provisions. A majority of the agreements provided 1 to 10 days' additional leave in excess of the annual allowance. And more than 50 percent of the agreements annually allotted at least 15 leave days for various absences.

Short-term leave provisions most often reported included those for sick leave (89.1 percent), personal business (68.3 percent), and bereavement leave (56.7 percent). Modal numbers of days annually allowed for these leaves were 10 days of sick leave (59.2 percent), 2 days for personal business (39.1 percent), and 5 days for bereavement leave (45.9 percent). Approximately two-thirds of the leave provisions for personal business, bereavement leave, and religious holidays were separate from annual, cumulative short-term leave provisions.

TABLE 1 – NUMBER AND PERCENT OF COMPREHENSIVE AGREEMENTS, BY REASON FOR WHICH LEAVE OF ABSENCE WITH FULL OR PART PAY IS PROVIDED, 1967-68

Reasons for leave	Comprehensive agreements with provision	
	Number	Percent
1	2	3
Short-term leaves		
Sick leave	537[1]	89.1%
Personal business	412	68.3
Bereavement leave	342	56.7
Jury duty	214	35.5
Family illness	179	29.7
Court summons	168	27.9
School visitations	168	27.9
Educational conferences	143	23.7
Selective service examination	105	17.4
Professional organization meetings	91	15.1
Religious holidays	66	10.9
Graduation exercises	52	8.6
Reserve training	52	8.6
Communicable diseases	46	7.6
General leave unspecified	24	4.0
Personal legal suit	18	3.0
Weather, flood, etc.	12	2.0
License examination	10	1.7
Medical or dental examination	7	1.2
Long-term leaves of absence		
Sabbatical leave	244	40.5
Extended sick leave	97	16.1
Total comprehensive agreements, 1967-68	**603**	**100.0%**

[1] Five sick leave provisions were noncumulative: Bloomfield Hills, Mich.; Nankin Mills, Mich.; Anaconda, Mont.; Scituate, Mass.; and Warwick, R.I.

Sabbatical leave was reported in 40.5 percent of the comprehensive agreements, and consisted most often of 2 semesters at part pay. Paid long-term sick leaves—those extending beyond the maximum accumulation—were covered by provisions contained in 16.1 percent of the agreements, although most extended sick leave provisions with full or part pay were left undefined regarding the length of time of continuous payments. Sick leave banks were provided for in 31 of the comprehensive agreements.

A table summarizing the number and percentage of comprehensive agreements containing provisions for various types of leaves of absence with full or part pay follows.

GRIEVANCE PROCEDURES

Data collected in the NEA Research Division's 1967-68 negotiation survey revealed that the number of comprehensive agreements containing grievance procedures represented an increase of 55.8 percent over the number reported in 1966-67. At the same time, the number of comprehensive agreements collected increased 51.5 percent.[1]

The number of grievance procedures containing provisions for final appeal to a party outside the school system remained at about 84 percent during the two years. But a 10 percent rise appeared in 1967-68 in the number of procedures providing for binding decision in a final appeal outside the system; procedures calling for advisory decision in an outside final appeal fell 10 percentage points in that year. Of the 603 comprehensive agreements for 1967-68 in NEA Research Division files, 53 percent provide for binding decision, and approximately 47 percent provide for advisory decision.

A shift also occurred in the designation by grievance procedures of an impartial third party for outside appeal. Seven sources of third party assistance were identified in the negotiation survey: parties specifically named in the agreement (named), parties jointly selected by the parties to the agreement (joint), state departments or commissioners of education (education), state public employee or labor boards (labor), the U. S. Mediation and Conciliation Service (USMCS), the American Arbitration Association (AAA), and "other."

In 1966-67, 47 percent of the procedures designated state public employee or labor boards for outside appeal, and 38 percent named the AAA. But comparable percentages for 1967-68 indicate approximately 40 percent for public employee or labor boards, and approximately 45 percent for the AAA. Over 60 percent of the agreements providing for advisory decision by an outside party specify the state public employee or labor board, while more than 68 percent of the agreements providing for binding grievance decision by an outside party designate the AAA.

The following table summarizes the distribution of grievance procedures among the various third parties identified for outside final appeal, and indicates whether the decision rendered by each party is advisory or binding. Comparative figures are derived from negotiation surveys taken during the 1966-67 and 1967-68 school years, and are based upon 398 comprehensive agreements in 1966-67, and 603 comprehensive agreements in 1967-68.

[1] *Grievance Procedures for Teachers in Negotiation Agreements.* Research Report 1969-R8. 37 p. $1.00. #435-22882.

TABLE 2 – DISTRIBUTION OF GRIEVANCE PROCEDURES WITH ADVISORY OR BINDING DECISION BY THIRD PARTY, 1966-67 AND 1967-68

Third party	Final appeal outside				Advisory decision by third party				Binding decision by third party			
	1966-67		1967-68		1966-67		1967-68		1966-67		1967-68	
	Number	Percent[1]	Number	Percent[1]	Number	Percent[1]	Number	Percent[1]	Number	Percent[1]	Number	Percent[1]
1	2	3	4	5	6	7	8	9	10	11	12	13
Named	3	1.0%	4	0.9%	2	0.7%	3	0.7%	1	0.3%	1	0.2%
Joint	28	9.3	39	8.5	15	5.0	25	5.4	13	4.3	14	3.0
Education	3	1.0	9	2.0	3	1.0	6	1.3	...	...	3	0.7
Labor	141	47.0	184	39.9	116	38.7	135	29.3	25	8.3	49	10.6
USMCS	5	1.7	6	1.3	...	...	...	...	5	1.7	6	1.3
AAA	114	38.0	209	45.3	29	9.7	41	8.9	85	28.3	168	36.4
Other	6	2.0	10	2.2	5	1.7	6	1.3	1	0.3	4	0.9
Total	**300**	**100.0%**	**461**	**100.0%**	**170**	**56.7%**	**216**	**46.9%**	**130**	**43.3%**	**245**	**53.1%**

[1] Computations of percents based on total number of procedures with final appeal outside the system for each year.

SPECIAL REPORTS

BRIEFS OF RECENT AGREEMENTS

Decatur, Illinois

Between the Decatur Education Association and School District No. 61, Decatur, Illinois, effective August 27, 1969, to August 28, 1970. Approximately 1,105 certificated professional employees represented.

Compensation: B.A., $6,800 to $10,200, 10 increments; M.A., $7,480 to $11,220, 11 increments; maximum $13,260; longevity pay of $340 for 24th year. Differentials: 4% of base for special education teachers to 16% for football coaches as extra assignment pay; administrator's salary index; credit for outside experience of 8 years.

Leaves: 12 days for 10-month contracted employees for sick and emergency leave, 150 days' accumulation; 1 extra day for personal leave; 1 visiting day, 3 days' accumulation.

Insurance: Health insurance provided each employee with board contributing $10 per month per teacher.

Miscellaneous: 10 days per year authorized for association conferences less cost of substitutes; duty-free lunch periods; tax sheltered annuity program; 1969-70 school calendar; full pay "without reduction in accrued benefits" for absence caused by employment injury; maximum of 2 low ability classes for secondary teachers; board agrees to indemnify teachers against any costs in employment cases.

Stoneham, Massachusetts

Between the Stoneham Teachers Association and the Stoneham School Committee, effective July 1, 1969, to June 30, 1971. Approximately 211 classroom teachers represented.

Compensation: B.A., $6,700 to $10,400, 11 increments; M.A., $7,300 to $11,400, 12 increments; maximum $11,900. Differentials: teaching principals, $1,200; supervisors, $1,000; department chairman, $1,000; assistant department chairmen, $500; extracurricular assignment pay of $200 (junior high student council advisor) to $2,600 (head varsity coach).

Leaves: 15 days' annual sick leave and personal leave, 140 days' accumulation; 3 extra days for school visitations, meetings or conferences; sabbatical leave for 1 year at half-pay after 7 years' service, or one-half year at full pay less grants-in-aid.

Insurance: Maximum percentage permitted by town meeting for individual or family coverage for Blue Cross-Blue Shield and $2,000 term life insurance.

Miscellaneous: Grievance procedure ends with binding arbitration; summer study, tuition reimbursement; duty-free lunch period of 22 minutes; 15-day posting of any vacancy; 10-day posting of all summer school openings and adult education positions; each classroom pupil will have textbooks for his own use; changes in textbooks or reference texts will be discussed with teachers concerned; code of ethics of the education profession; code of ethics for school committee (see below).

APPENDIX D

to

CONTRACT AGREEMENT

STONEHAM SCHOOL COMMITTEE
AND
STONEHAM TEACHERS ASSOCIATION

SCHOOL COMMITTEE CODE OF ETHICS
(As approved at the Annual Meeting, Massachusetts Association of School Committees, May 22, 1964)

PREAMBLE

The acceptance of a Code of Ethics implies the understanding of the basic organization of School Committees under the Laws of the Commonwealth of Massachusetts. The oath of office of a School Committee member binds the individual member to adherence to those State Laws which apply to School Committees, since School Committees are Agencies of the State.

AREAS OF RESPONSIBILITY

This Code of Ethics delineates three areas of responsibility of School Committee members in addition to that implied in the preamble: (1) community responsibility; (2) responsibility to school administration; and (3) relationship to fellow committee members.

1. A School Committee member in his relations with his community should:
   a. Realize that his primary responsibility is to the children.
   b. Recognize that his basic function is to be policy making and not administrative.
   c. Remember that he is one of a team and must abide by, and carry out, all committee decisions once they are made.
   d. Be well informed concerning the duties of a committee member on both a local and state level.
   e. Remember that he represents the entire community at all times.
   f. Accept the office as a committee member as a means of unselfish service with no intent to "play politics," in any sense of the word, or to benefit personally from his committee activities.
2. A School Committee member in his relations with his school administration should:
   a. Endeavor to establish sound, clearly-defined policies which will direct and support the administration.
   b. Recognize and support the administrative chain of command and refuse to act on complaints as an individual outside the administration.
   c. Act only on the recommendations of the chief administrator in all matters of employment or dismissal of school personnel.
   d. Give the chief administrator full responsibility for discharging his professional duties and hold him responsible for acceptable results.
   e. Refer all complaints to the administrative staff for solution and only discuss them at committee meetings if such solutions fail.
3. A School Committee member in his relations to his fellow Committee members should:
   a. Recognize that action at official meetings is binding and that he alone cannot bind the committee outside of such meetings.
   b. Realize that he should not make statements or promises of how he will vote on matters that will come before the committee.
   c. Uphold the intent of executive sessions and respect the privileged communication that exists in executive sessions.
   d. Not withhold pertinent information on school matters or personal problems, either from members of his own committee or from members of other committees who may be seeking help and information on school problems.
   e. Make decisions only after all facts on a question have been presented and discussed.

Manchester, New Hampshire

Between the Manchester Education Association and the Manchester Board of School Committee effective July 1, 1969, to July 1, 1970. Approximately 576 certificated professional employees. Two representative units recognized: Unit A—principals, assistant principals and curriculum coordinators, Unit B—classroom teachers.

Compensation: B.A., $6,000 to $9,600, 12 increments; M.A., $6,600 to $10,200, 12 increments, $10,800 maximum; Unit A salaries range from $11,400 to $15,600; full credit for outside teaching experience (salaries payable from December 1, 1969).

Leaves: 15 days' annual sick leave, 60 days' accumulation; 3 separate days for personal business; 5 separate days' bereavement leave; 2 days and a maximum of 10 teachers granted leave to attend association conferences and conventions; sabbatical leave at half-pay after 7 years' service.

Insurance: Health insurance plan provided at $5.00 per month per teacher.

Miscellaneous: Grievance procedure ends with binding arbitration; dues check-off for the Association and the Federation; mediation and fact-finding used in case of negotiation impasse; work year of 180 pupil days and 3 orientation days; 12 cents per mile for use of teacher's automobile.

Middletown Township, New Jersey

Between the Middletown Township Education Association and the Board of Education of Middletown, effective July 1, 1969, to June 30, 1970. Approximately 560 certificated professional employees. Representative unit includes classroom teachers, guidance counselors, librarians, audio-visual aid coordinators, nurses, cocurriculum coordinators, and department chairmen.

Compensation: B.A., $6,650 to $11,172, 13 increments; M.A., $7,315 to $11,837, 13 increments, $12,436 maximum; nurses on salary schedule.

Leaves: 10 days' annual sick leave, no maximum accumulation; extended sick leave with pay may be granted but may not exceed the number of days to be accumulated the following year; 3 extra days' personal leave with pay; 5 days' bereavement leave; 5 days for marriage; time off

for court subpoenas, school visitations, legal suits; sabbatical leave at half-pay after 7 years' service.

Insurance: Employer-paid family coverage for Blue Cross-Blue Shield and major medical.

Miscellaneous: Dues deduction for Association; grievance procedure ends with nonbinding arbitration; board furnishes upon request data concerning financial resources, including tentative line budget and budgetary proposals.

Port Jefferson, New York

Between the Port Jefferson Station Teachers Association and the Board of Education of U.F.S.D. No. 3, effective July 1, 1969, to June 30, 1971. Approximately 152 certificated teachers represented.

Compensation: B.A., $7,350 to $11,910, 12 increments; M.A., $8,490 to $14,478, 15 increments, maximum $16,022; extracurricular pay for nonathletic positions ranges from $165 (elementary newspaper advisor) to $440 (senior high council advisor); $935 for head football coach; differential of 5% or 8% above base for department chairmen depending upon number of members supervised; longevity increments of 5% at 20th, 21st, 25th, and 30th years.

Leaves: 10 days' annual sick leave, accumulating to 150 days and 200 days effective July 1, 1970; 5 separate days' bereavement leave; 3 extra days' personal leave; catastrophic sick leave (extended leave with pay up to 1 year after 15 calendar days); 10 professional days allocated and administered by Association; sabbatical leave at half-pay after 7 years' service, at full pay after 10 years' service.

Insurance: Board pays 100% of premium for individual and 90% for family hospitalization and major medical; dental plan to be furnished by board on July 1, 1970.

Miscellaneous: Dues deduction for Association; building representative will receive 45-minute period per day for Association business; grievance procedure ends with binding arbitration; nontenure teacher notified at least 90 days prior to June 30 of termination of services; medical and X-ray examinations paid by board; pay period of 10 or 12 month option; 50% of value of accumulated sick leave upon retirement, effective July 1, 1970; provisions for promotions, vacancies and transfers (see below).

PROMOTIONS, VACANCIES & TRANSFERS

A. All vacancies in positions, including specialists and/or special project teachers, shall be filled pursuant to the following procedure:

(1) Such vacancies shall be adequately publicized, which shall mean, as a minimum, that a notice shall be posted in every school clearly setting forth a description of and the qualifications for the position, including the duties and salary range. During summer recess, notices shall be distributed to the staff by mail.

(2) Such notices shall be posted as far in advance as possible, ordinarily at least thirty (30) days before the final date when applications must be submitted, and in no event less than two weeks before such date.

(3) Teachers who desire to apply for such vacancies shall submit their applications in writing to the District Principal, or his authorized agent, within the time limit specified in the notice.

(4) Such vacancies shall be filled on the basis of qualifications for the vacant post, provided, however, that where there are two or more applicants who are equally qualified, in the opinion of the District Principal, seniority in the Port Jefferson Station School System shall prevail. When a promotion or assignment is denied a teacher, that teacher will be entitled, upon request, to an explanation from the District Principal or his representative.

B. All appointments to the aforesaid vacancies and openings shall be made without regard to age, race, creed, color, religion, nationality, sex, or marital status.

C. *Voluntary Transfers and Assignments*

(1) No later than March 1st of each school year, the District Principal shall post in all school buildings a list of the known vacancies which will occur during the following school year.

(2) Teachers who desire a change in grade and/or subject assignment or who desire to transfer to another building shall file a written statement of such desire with the District Principal not later than March 15th. Such statement shall include the grade and/or subject to which the teacher desires to be assigned and the school or schools to which he desires to be transferred, in order of preference.

(3) No later than May 10th of each school year, the District Principal shall post in all school buildings, a supplemental list of known vacancies which will occur during the following school year.

(4) No later than May 20th, teachers may file an application for reassignment or transfer, to positions listed on the supplemental list of vacancies.

(5) No assignments of new teachers in the school system shall be made until all pending requests for reassignment or transfer have been acted upon.

(6) The District Principal shall discuss with the Association, information pertaining to individual reassignments and/or transfer.

(7) In determination of requests for voluntary reassignment and/or transfer, the convenience and wishes of the individual teacher will be honored to the extent that they do not conflict with the instructional requirements and best interests of the school system. If more than one teacher has applied for the same position, the teacher best qualified for that position shall be appointed, and qualifications being substantially equal in the opinion of the District Principal, seniority in the school system shall prevail. When a position is filled, the District Principal shall promptly advise all unsuccessful applicants for the position.

D. *Involuntary Transfer and Assignments*—The Port Jefferson Station Teachers Association recognizes that some involuntary transfer of teachers from one school to another or reassignment within a school is unavoidable. They also recognize that under normal circumstances, transfer or reassignment of teachers should be held to a minimum. Therefore:

(1) Notice of an involuntary transfer or reassignment shall be given to teachers as soon as practicable and, under normal circumstances, no later than June 15th. The district will make every effort to provide such information by May 1st.

(2) When involuntary transfer or reassignment is necessary, volunteers from among those affected will be transferred or reassigned first. A teacher's area of certification, major and/or minor field of study, quality of teaching performance, and length of service in the school system will be considered in determining which teacher is to be transferred or reassigned.

(3) An involuntary transfer or reassignment will be made only after a meeting between the teacher involved and the District Principal, at which time the teacher will be notified of the reasons therefor. In the event that a teacher objects to the transfer or reassignment at this meeting, upon the request of the teacher, the Association will be notified and the District Principal will meet with the Association's representative to discuss the matter.

(4) Openings in the school system will be discussed with the teachers being involuntarily transferred or reassigned. Such teachers may request the positions to which they desire to be transferred. Teachers being involuntarily transferred or reassigned shall have preference over those seeking voluntary transfer or reassignment. In consideration of involuntary transfers, those best qualified for a particular position shall receive priority, and, qualifications being substantially equal, seniority in the school system shall prevail.

(5) The District Principal shall discuss with the Association, information pertaining to individual reassignments and/or transfers.

Dayton, Ohio

Between the Dayton Classroom Teachers Association and the Dayton City Board of Education, effective September 1, 1969, to August 31, 1970. Approximately 2,485 certificated teachers represented.

Compensation: B.A., $7,100 to $11,580, 14 increments; M.A., $7,700 to $12,740, 14 increments; maximum without doctorate, $13,140; salary range of $8,394 to $15,462 for teachers of vocational and shop-related subjects; extracurricular pay of $65 (cheerleader sponsor), $1,225 for athletic director.

Leaves: 1-1/4 days per calendar month accrued sick leave, 180 days' accumulation; 3 extra days' bereavement leave; 1 extra day personal leave with no explanation upon 2 days' notice; 4 extra emergency leave days; 2 days for school visitation; 80 days per year allocated to Association; sabbatical leave at half-pay after 7 years' service.

Insurance: Board pays full cost for individual and dependents for hospital and medical-surgical, and $30,000 ($100.00 deductible) for major medical.

Miscellaneous: Released time for Association president handling organization business; grievance procedure ends with binding arbitration; in-service training; guidelines for development of differentiated staff program; rights granted only to Association include payroll deduction, use of bulletin boards, announcements in faculty meetings or over public address system; academic freedom; orientation program for new teachers; school calendar; joint monthly meeting between administration and Association to discuss matters of educational policy and the implementation of agreement.

TEXTS

EXECUTIVE ORDER #11491

LABOR-MANAGEMENT RELATIONS IN THE FEDERAL SERVICE

WHEREAS the public interest requires high standards of employee performance and the continual development and implementation of modern and progressive work practices to facilitate improved employee performance and efficiency; and

WHEREAS the well-being of employees and efficient administration of the Government are benefited by providing employees an opportunity to participate in the formulation and implementation of personnel policies and practices affecting the conditions of their employment; and

WHEREAS the participation of employees should be improved through the maintenance of constructive and cooperative relationships between labor organizations and management officials; and

WHEREAS subject to law and the paramount requirements of public service, effective labor-management relations within the Federal service require a clear statement of the respective rights and obligations of labor organizations and agency management:

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and statutes of the United States, including sections 3301 and 7301 of title 5 of the United States Code, and as President of the United States, I hereby direct that the following policies shall govern officers and agencies of the executive branch of the Government in all dealings with Federal employees and organizations representing such employees.

GENERAL PROVISIONS

Section 1. *Policy.*

(a) Each employee of the executive branch of the Federal Government has the right, freely and without fear of penalty or reprisal, to form, join, and assist a labor organization or to refrain from any such activity, and each employee shall be protected in the exercise of this right. Except as otherwise expressly provided in this Order, the right to assist a labor organization extends to participation in the management of the organization and acting for the organization in the capacity of an organization representative, including presentation of its views to officials of the executive branch, the Congress, or other appropriate authority. The head of each agency shall take the action required to assure that employees in the agency are apprised of their rights under this section, and that no interference, restraint, coercion, or discrimination is practiced within his agency to encourage or discourage membership in a labor organization.

(b) Paragraph (a) of this section does not authorize participation in the management of a labor organization or acting as a representative of such an organization by a supervisor, except as provided in section 24 of this Order, or by an employee when the participation or activity would result in a conflict or apparent conflict of interest or otherwise be incompatible with law or with the official duties of the employee.

Section 2. *Definitions.*

When used in this Order, the term—

(a) "Agency" means an executive department, a Government corporation, and an independent establishment as defined in section 104 of title 5, United States Code, except the General Accounting Office;

(b) "Employee" means an employee of an agency and an employee of a nonappropriated fund instrumentality of the United States but does not include, for the purpose of formal or exclusive recognition or national consultation rights, a supervisor, except as provided in section 24 of this order;

(c) "Supervisor" means an employee having authority, in the interest of an agency, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to evaluate their performance, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of authority is not of a merely routine or clerical nature, but requires the use of independent judgment;

(d) "Guard" means an employee assigned to enforce against employees and other persons rules to protect agency property or the safety of persons on agency premises, or to maintain law and order in areas or facilities under Government control;

(e) "Labor organization" means a lawful organization of any kind in which employees par-

ticipate and which exists for the purpose, in whole or in part, of dealing with agencies concerning grievances, personnel policies and practices, or other matters affecting the working conditions of their employees; but does not include an organization which—

(1) consists of management officials or supervisors, except as provided in section 24 of this Order;

(2) asserts the right to strike against the Government of the United States or any agency thereof, or to assist or participate in such a strike, or imposes a duty or obligation to conduct, assist or participate in such a strike;

(3) advocates the overthrow of the constitutional form of government in the United States; or

(4) discriminates with regard to the terms or conditions of membership because of race, color, creed, sex, age, or national origin;

(f) "Agency management" means the agency head and all management officials, supervisors, and other representatives of management having authority to act for the agency on any matters relating to the implementation of the agency labor-management relations program established under this Order;

(g) "Council" means the Federal Labor Relations Council established by this Order;

(h) "Panel" means the Federal Service Impasses Panel established by this Order; and

(i) "Assistant Secretary" means the Assistant Secretary of Labor for Labor-Management Relations.

Section 3. *Application.*

(a) This Order applies to all employees and agencies in the executive branch, except as provided in paragraphs (b), (c) and (d) of this section.

(b) This Order (except section 22) does not apply to—

(1) the Federal Bureau of Investigation;

(2) the Central Intelligency Agency;

(3) any other agency, or office, bureau, or entity within an agency, which has a a primary function intelligence, investigative, or security work, when the head of the agency determines, in his sole judgment, that the Order cannot be applied in a manner consistent with national security requirements and considerations; or

(4) any office, bureau or entity within an agency which has as a primary function investigation or audit of the conduct or work of officials or employees of the agency for the purpose of ensuring honesty and integrity in the discharge of their official duties, when the head of the agency determines, in his sole judgment, that the Order cannot be applied in a manner consistent with the internal security of the agency.

(c) The head of an agency may, in his sole judgment, suspend any provision of this Order (except section 22) with respect to any agency installation or activity located outside the United States, when he determines that this is necessary in the national interest, subject to the conditions he prescribes.

(d) Employees engaged in administering a labor-management relations law or this Order shall not be represented by a labor organization which also represents other groups of employees under the law or this Order, or which is affiliated directly or indirectly with an organization which represents such a group of employees.

ADMINISTRATION

Section 4. *Federal Labor Relations Council.*

(a) There is hereby established the Federal Labor Relations Council, which consists of the Chairman of the Civil Service Commission, who shall be chairman of the Council, the Secretary of Labor, an official of the Executive Office of the President, and such other officials of the executive branch as the President may designate from time to time. The Civil Service Commission shall provide services and staff assistance to the Council to the extent authorized by law.

(b) The Council shall administer and interpret this Order, decide major policy issues, prescribe regulations, and from time to time, report and make recommendations to the President.

(c) The Council may consider, subject to its regulations—

(1) appeals from decisions of the Assistant Secretary issued pursuant to section 6 of this Order;

(2) appeals on negotiability issues as provided in section 11 (c) of this Order;

(3) exceptions to arbitration awards; and

(4) other matters it deems appropriate to assure the effectuation of the purposes of this Order.

Section 5. *Federal Service Impasses Panel.*

(a) There is hereby established the Federal Service Impasses Panel as an agency within the Council. The Panel consists of at least three members appointed by the President, one of whom he designates as chairman. The Council shall provide the services and staff assistance needed by the Panel.

(b) The Panel may consider negotiation impasses as provided in section 17 of this Order and may take any action it considers necessary to settle an impasse.

(c) The Panel shall prescribe regulations needed to administer its function under this Order.

Section 6. *Assistant Secretary of Labor for Labor-Management Relations.*

(a) The Assistant Secretary shall—

(1) decide questions as to the appropriate unit for the purpose of exclusive recognition and related issues submitted for his consideration;

(2) supervise elections to determine whether a labor organization is the choice of a majority of the employees in an appropriate unit as their exclusive representative, and certify the results;

(3) decide questions as to the eligibility of labor organizations for national consultation rights under criteria prescribed by the Council; and

(4) except as provided in section 19 (d) of this Order, decide complaints of alleged unfair labor practices and alleged violations of the standards of conduct for labor organizations.

(b) In any matters arising under paragraph (a) of this section, the Assistant Secretary may require an agency or a labor organization to cease and desist from violations of this Order and require it to take such affirmative action as he considers appropriate to effectuate the policies of this Order.

(c) In performing the duties imposed on him by this section, the Assistant Secretary may request and use the services and assistance of employees of other agencies in accordance with section 1 of the Act of March 4, 1915, (38 Stat. 1084, as amended; 31 U.S.C. § 686).

(d) The Assistant Secretary shall prescribe regulations needed to administer his functions under this Order.

(e) If any matters arising under paragraph (a) of this section involve the Department of Labor, the duties of the Assistant Secretary described in paragraphs (a) and (b) of this section shall be performed by a member of the Civil Service Commission designated by the Chairman of the Commission.

RECOGNITION

Section 7. *Recognition in general.*

(a) An agency shall accord exclusive recognition or national consultation rights at the request of a labor organization which meets the requirements for the recognition or consultation rights under this Order.

(b) A labor organization seeking recognition shall submit to the agency a roster of its officers and representatives, a copy of its constitution and by-laws, and a statement of its objectives.

(c) When recognition of a labor organization has been accorded, the recognition continues as long as the organization continues to meet the requirements of this Order applicable to that recognition, except that this section does not require an election to determine whether an organization should become, or continue to be recognized as, exclusive representative of the employees in any unit or subdivision thereof within 12 months after a prior valid election with respect to such unit.

(d) Recognition, in whatever form accorded, does not—

(1) preclude an employee, regardless of whether he is a member of a labor organization, from bringing matters of personal concern to the attention of appropriate officials under applicable law, rule, regulations, or established agency policy; or from choosing his own representative in a grievance or appellate action;

(2) preclude or restrict consultations and dealings between an agency and a veterans organization with respect to matters of particular interest to employees with veterans preference; or

(3) preclude an agency from consulting or dealing with a religious, social, fraternal, or other lawful association, not qualified as a labor organization, with respect to matters or policies which involve individual members of the association or are of particular applicability to it or its members.

Consultations and dealings under subparagraph (3) of this paragraph shall be so limited that they do not assume the character of formal consultation on matters of general employee-management policy, except as provided in paragraph (e) of this section. or extend to areas where recognition of the interests of one employee group may result in discrimination against or injury to the interests of other employees.

(e) An agency shall establish a system for intra-management communication and consultation with its supervisors or associations of supervisors. The communications and consultations shall have as their purposes the improvement of agency operations, the improvement of working conditions of supervisors, the exchange of information, the improvement of managerial effectiveness, and the establishment of policies that best serve the public interest in accomplishing the mission of the agency.

(f) Informal recognition shall not be accorded after the date of this Order.

Section 8. *Formal Recognition.*

(a) Formal recognition, including formal recognition at the national level, shall not be accorded after the date of this Order.

(b) An agency shall continue any formal recognition, including formal recognition at the national level, accorded a labor organization before the date of this Order until—

(1) the labor organization ceases to be eligible under this Order for formal recognition so accorded;

(2) a labor organization is accorded exclusive recognition as representative of employees in the unit to which the formal recognition applies; or

(3) the formal recognition is terminated under regulations prescribed by the Federal Labor Relations Council.

(c) When a labor organization holds formal recognition, it is the representative of its members in a unit as defined by the agency when recognition was accorded. The agency, through appropriate officials, shall consult with representatives of the organization from time to time in the and implementation of personnel policies and practices, and matters affecting working conditions that affect members of the organization in the unit to which the formal recognition applies. The organization is entitled from time to time to raise such matters for discussion with appropriate officials and at all times to present its views thereon in writing. The agency is not required to consult with the labor organization on any matter on which it would not be required to meet and confer if the labor organization were entitled to exclusive recognition.

Section 9. *National consultation rights.*

(a) An agency shall accord national consultation rights to a labor organization which qualifies under criteria established by the Federal Labor Relations Council as the representative of a substantial number of employees of the agency. National consultation rights shall not be accorded for any unit where a labor organization already holds exclusive recognition at the national level for that unit. The granting of national consultation rights does not preclude an agency from appropriate dealings at the national level with other organizations on matters affecting their members. An agency shall terminate national consultation rights when the labor organization ceases to qualify under the established criteria.

(b) When a labor organization has been accorded national consultation rights, the agency, through appropriate officials, shall notify representatives of the organization of proposed substantive changes in personnel policies that affect employees it represents and provide an opportunity for the organization to comment on the proposed changes. The labor organization may suggest changes in the agency's personnel policies and have its views carefully considered. It may confer in person at reasonable times, on request, with appropriate officials on personnel policy matters, and at all times present its views thereon in writing. An agency is not required to consult with a labor organization on any matter on which it would not be required to meet and confer if the organization were entitled to exclusive recognition.

(c) Questions as to the eligibility of labor organizations for national consultation rights may be referred to the Assistant Secretary for decision.

Section 10. *Exclusive recognition.*

(a) An agency shall accord exclusive recognition to a labor organization when the organization has been selected, in a secret ballot election, by a majority of the employees in an appropriate unit as their representative.

(b) A unit may be established on a plant or installation, craft, functional, or other basis which will ensure a clear and identifiable community of interest among the employees concerned and will promote effective dealings and efficiency of agency operations. A unit shall not be established solely on the basis of the extent to which employees in the proposed unit have organized, nor shall a unit be established if it includes—

(1) any management official or supervisor, except as provided in section 24;

(2) an employee engaged in Federal personnel work in other than a purely clerical capacity;

(3) any guard together with other employees; or

(4) both professional and nonprofessional employees, unless a majority of the professional employees vote for inclusion in the unit.

Questions as to the appropriate unit and related issues may be referred to the Assistant Secretary for decision.

(c) An agency shall not accord exclusive recognition to a labor organization as the representative of employees in a unit of guards if the organization admits to membership, or is affiliated directly or indirectly with an organization which admits to membership, employees other than guards.

(d) All elections shall be conducted under the supervision of the Assistant Secretary, or persons designated by him, and shall be by secret ballot. Each employee eligible to vote shall be provided the opportunity to choose the labor organization he wishes to represent him, from among those on the ballot, or "no union." Elections may be held to determine whether—

(1) a labor organization should be recognized as the exclusive representative of employees in a unit;

(2) a labor organization should replace another labor organization as the exclusive representative; or

(3) a labor organization should cease to be the exclusive representative.

(e) When a labor organization has been accorded exclusive recognition, it is the exclusive representative of employees in the unit and is entitled to act for and to negotiate agreements covering all employees in the unit. It is responsible for representing the interests of all employees in the unit without discrimination and without re-

gard to labor organization membership. The labor organization shall be given the opportunity to be represented at formal discussions between management and employees or employee representatives concerning grievances, personnel policies and practices, or other matters affecting general working conditions of employees in the unit.

AGREEMENTS

Section 11. *Negotiation of agreements.*

(a) An agency and a labor organization that has been accorded exclusive recognition, through appropriate representatives, shall meet at reasonable times and confer in good faith with respect to personnel policies and practices and matters affecting working conditions, so far as may be appropriate under applicable laws and regulations, including policies set forth in the Federal Personnel Manual, published agency policies and regulations, a national or other controlling agreement at a higher level in the agency, and this Order. They may negotiate an agreement, or any question arising thereunder; determine appropriate techniques, consistent with section 17 of this Order, to assist in such negotiation; and execute a written agreement or memorandum of understanding.

(b) In prescribing regulations relating to personnel policies and practices and working conditions, an agency shall have due regard for the obligation imposed by paragraph (a) of this section. However, the obligation to meet and confer does not include matters with respect to the mission of an agency; its budget; its organization; the number of employees; and the numbers, types, and grades of positions or employees assigned to an organizational unit, work project or tour of duty; the technology of performing its work; or its internal security practices. This does not preclude the parties from negotiating agreements providing appropriate arrangements for employees adversely affected by the impact of realignment of work forces or technological change.

(c) If, in connection with negotiations, an issue develops as to whether a proposal is contrary to law, regulation, controlling agreement, or this Order and therefore not negotiable, it shall be resolved as follows:

(1) An issue which involves interpretation of a controlling agreement at a higher agency level is resolved under the procedures of the controlling agreement, or, if none, under agency regulations;

(2) An issue other than as described in subparagraph (1) of this paragraph which arises at a local level may be referred by either party to the head of the agency for determination;

(3) An agency head's determination as to the interpretation of the agency's regulations with respect to a proposal is final;

(4) A labor organization may appeal to the Council for a decision when—

(i) it disagrees with an agency head's determination that a proposal would violate applicable law, regulation of appropriate authority outside the agency, or this Order, or

(ii) it believes that an agency's regulations, as interpreted by the agency head, violate applicable law, regulation of appropriate authority outside the agency, or this Order.

Section 12. *Basic provisions of agreements.*

Each agreement between an agency and a labor organization is subject to the following requirements—

(a) in the administration of all matters covered by the agreement, officials and employees are governed by existing or future laws and the regulations of appropriate authorities, including policies set forth in the Federal Personnel Manual; by published agency policies and regulations in existence at the time the agreement was approved; and by subsequently published agency policies and regulations required by law or by the regulations of appropriate authorities, or authorized by the terms of a controlling agreement at a higher agency level;

(b) management officials of the agency retain the right, in accordance with applicable laws and regulations—

(1) to direct employees of the agency;

(2) to hire, promote, transfer, assign, and retain employees in positions within the agency, and to suspend, demote, discharge, or take other disciplinary action against employees;

(3) to relieve employees from duties because of lack of work or for other legitimate reasons;

(4) to maintain the efficiency of the Government operations entrusted to them;

(5) to determine the methods, means, and personnel by which such operations are to be conducted; and

(6) to take whatever actions may be necessary to carry out the mission of the agency in situations of emergency; and

(c) nothing in the agreement shall require an employee to become or to remain a member of a labor organization, or to pay money to the organization except pursuant to a voluntary, written authorization by a member for the payment of dues through payroll deductions.

The requirements of this section shall be expressly stated in the initial or basic agreement and apply to all supplemental, implementing, subsidiary, or informal agreements between the agency and the organization.

Section 13. *Grievance procedures.*

An agreement with a labor organization which is the exclusive representative of employees in an

appropriate unit may provide procedures, applicable only to employees in the unit, for the consideration of employee grievances and of disputes over the interpretation and application of agreements. The procedure for consideration of employee grievances shall meet the requirements for negotiated grievance procedures established by the Civil Service Commission. A negotiated employee grievance procedure which conforms to this section, to applicable laws, and to regulations of the Civil Service Commission and the agency is the exclusive procedure available to employees in the unit when the agreement so provides.

Section 14. *Arbitration of grievances.*

(a) Negotiated procedures may provide for the arbitration of employee grievances and of disputes over the interpretation or application of existing agreements. Negotiated procedures may not extend arbitration to changes or proposed changes in agreements or agency policy. Such procedures shall provide for the invoking of arbitration only with the approval of the labor organization that has exclusive recognition and, in the case of an employee grievance, only with the approval of the employee. The costs of the arbitrator shall be shared equally by the parties.

(b) Either party may file exceptions to an arbitrator's award with the Council, under regulations prescribed by the Council.

Section 15. *Approval of agreements.*

An agreement with a labor organization as the exclusive representative of employees in a unit is subject to the approval of the head of the agency or an official designated by him. An agreement shall be approved if it conforms to applicable laws, existing published agency policies and regulations (unless the agency has granted an exception to a policy or regulation) and regulations of other appropriate authorities. A local agreement subject to a national or other controlling agreement at a higher level shall be approved under the procedures of the controlling agreement, or, if none, under agency regulations.

NEGOTIATION DISPUTES AND IMPASSES

Section 16. *Negotiation disputes.*

The Federal Mediation and Conciliation Service shall provide services and assistance to Federal agencies and labor organizations in the resolution of negotiation disputes. The Service shall determine under what circumstances and in what manner it shall proffer its services.

Section 17. *Negotiation impasses.*

When voluntary arrangements, including the services of the Federal Mediation and Conciliation Service or other third-party mediation, fail to resolve a negotiation impasse, either party may request the Federal Service Impasses Panel to consider the matter. The Panel, in its discretion and under the regulations it prescribes, may consider the matter and may recommend procedures to the parties for the resolution of the impasse or may settle the impasse by appropriate action. Arbitration or third-party fact finding with recommendations to assist in the resolution of an impasse may be used by the parties only when authorized or directed by the Panel.

CONDUCT OF LABOR ORGANIZATIONS AND MANAGEMENT

Section 18. *Standards of conduct for labor organizations.*

(a) An agency shall accord recognition only to a labor organization that is free from corrupt influences and influences opposed to basic democratic principles. Except as provided in paragraph (b) of this section, an organization is not required to prove that it has the required freedom when it is subject to governing requirements adopted by the organization or by a national or international labor organization or federation of labor organizations with which it is affiliated or in which it participates, containing explicit and detailed provisions to which it subscribes calling for—

(1) the maintenance of democratic procedures and practices, including provisions for periodic elections to be conducted subject to recognized safeguards and provisions defining and securing the right of individual members to participation in the affairs of the organization, to fair and equal treatment under the governing rules of the organization, and to fair process in disciplinary proceedings;

(2) the exclusion from office in the organization of persons affiliated with Communist or other totalitarian movements and persons identified with corrupt influences;

(3) the prohibition of business or financial interests on the part of organization officers and agents which conflict with their duty to the organization and its members; and

(4) the maintenance of fiscal integrity in the conduct of the affairs of the organization, including provision for accounting and financial controls and regular financial reports or summaries to be made available to members.

(b) Notwithstanding the fact that a labor organization has adopted or subscribed to standards of conduct as provided in paragraph (a) of this section, the organization is required to furnish evidence of its freedom from corrupt influences or influences opposed to basic democratic principles when there is reasonable cause to believe that—

(1) the organization has been suspended or expelled from or is subject to other sanction by a parent labor organization or federation of organizations with which it had been affiliated because it has demonstrated an unwillingness or inability to comply with governing requirements comparable in purpose to those required by paragraph (a) of this section; or

(2) the organization is in fact subject to influences that would preclude recognition under this Order.

(c) A labor organization which has or seeks recognition as a representative of employees under this Order shall file financial and other reports, provide for bonding of officials and employees of the organization, and comply with trusteeship and election standards.

(d) The Assistant Secretary shall prescribe the regulations needed to effectuate this section. These regulations shall conform generally to the principles applied to unions in the private sector. Complaints of violations of this section shall be filed with the Assistant Secretary.

Section 19. *Unfair labor practices.*

(a) Agency management shall not—

(1) interfere with, restrain, or coerce an employee in the exercise of the rights assured by this Order;

(2) encourage or discourage membership in a labor organization by discrimination in regard to hiring, tenure, promotion, or other conditions of employment;

(3) sponsor, control, or otherwise assist a labor organization, except that an agency may furnish customary and routine services and facilities under section 23 of this Order when consistent with the best interests of the agency, its employees, and the organization, and when the services and facilities are furnished, if requested, on an impartial basis to organizations having equivalent status;

(4) discipline or otherwise discriminate against an employee because he has filed a complaint or given testimony under this Order;

(5) refuse to accord appropriate recognition to a labor organization qualified for such recognition; or

(6) refuse to consult, confer, or negotiate with a labor organization as required by this Order.

(b) A labor organization shall not—

(1) interfere with, restrain, or coerce an employee in the exercise of his rights assured by this Order;

(2) attempt to induce agency management to coerce an employee in the exercise of his rights under this Order;

(3) coerce, attempt to coerce, or discipline, fine, or take other economic sanction against a member of the organization as punishment or reprisal for, or for the purpose of hindering or impeding his work performance, his productivity, or the discharge of his duties owed as an officer or employee of the United States;

(4) call or engage in a strike, work stoppage, or slowdown; picket an agency in a labor-management dispute; or condone any such activity by failing to take affirmative action to prevent or stop it;

(5) discriminate against an employee with regard to the terms or conditions of membership because of race, color, creed, sex, age, or national origin; or

(6) refuse to consult, confer, or negotiate with an agency as required by this Order.

(c) A labor organization which is accorded exclusive recognition shall not deny membership to any employee in the appropriate unit except for failure to meet reasonable occupational standards uniformly required for admission, or for failure to tender initiation fees and dues uniformly required as a condition of acquiring and retaining membership. This paragraph does not preclude a labor organization from enforcing discipline in accordance with procedures under its constitution or by-laws which conform to the requirements of this Order.

(d) When the issue in a complaint of an alleged violation of paragraph (a)(1), (2), or (4) of this section is subject to an established grievance or appeals procedure, that procedure is the exclusive procedure for resolving the complaint. All other complaints of alleged violations of this section initiated by an employee, an agency, or a labor organization, that cannot be resolved by the parties, shall be filed with the Assistant Secretary.

MISCELLANEOUS PROVISIONS

Section 20. *Use of official time.*

Solicitation of membership or dues, and other internal business of a labor organization, shall be conducted during the non-duty hours of the employees concerned. Employees who represent a recognized labor organization shall not be on official time when negotiating an agreement with agency management.

Section 21. *Allotment of dues.*

(a) When a labor organization holds formal or exclusive recognition, and the agency and the organization agree in writing to this course of action, an agency may deduct the regular and periodic dues of the organization from the pay of members of the organization in the unit of recognition who make a voluntary allotment for that purpose, and shall recover the costs of making the deductions. Such an allotment is subject to the regulations of the Civil Service Commission, which shall include provision for the employee to re-

voke his authorization at stated six-month intervals. Such an allotment terminates when—

(1) the dues withholding agreement between the agency and the labor organization is terminated or ceases to be applicable to the employee; or

(2) the employee has been suspended or expelled from the labor organization.

(b) An agency may deduct the regular and periodic dues of an association of management officials or supervisors from the pay of members of the association who make a voluntary allotment for that purpose, and shall recover the costs of making the deductions, when the agency and the association agree in writing to this course of action. Such an allotment is subject to the regulations of the Civil Service Commission.

Section 22. *Adverse action appeals.*

The head of each agency, in accordance with the provisions of this Order and regulations prescribed by the Civil Service Commission, shall extend to all employees in the competitive civil service rights identical in adverse action cases to those provided preference eligibles under sections 7511-7512 of title 5 of the United States Code. Each employee in the competitive service shall have the right to appeal to the Civil Service Commission from an adverse decision of the administrative officer so acting, such appeal to be processed in an identical manner to that provided for appeals under section 7701 of title 5 of the United States Code. Any recommendation by the Civil Service Commission submitted to the head of an agency on the basis of an appeal by an employee in the competitive service shall be complied with by the head of the agency.

Section 23. *Agency implementation.*

No later than April 1, 1970, each agency shall issue appropriate policies and regulations consistent with this Order for its implementation. This includes but is not limited to a clear statement of the rights of its employees under this Order; procedures with respect to recognition of labor organizations, determination of appropriate units, consultation and negotiation with labor organizations, approval of agreements, mediation, and impasse resolution; policies with respect to the use of agency facilities by labor organizations; and policies and practices regarding consultation with other organizations and associations and individual employees. Insofar as practicable, agencies shall consult with representatives of labor organizations in the formulation of these policies and regulations, other than those for the implementation of section 7(e) of this Order.

Section 24. *Savings clauses.*

(a) This Order does not preclude—

(1) the renewal or continuation of a lawful agreement between an agency and a representative of its employees entered into before the effective date of Executive Order No. 10988 (January 17, 1962); or

(2) the renewal, continuation, or initial according of recognition for units of management officials or supervisors represented by labor organizations which historically or traditionally represent the management officials or supervisors in private industry and which hold exclusive recognition for units of such officials or supervisors in any agency on the date of this Order.

(b) All grants of informal recognition under Executive Order No. 10988 terminate on July 1, 1970.

(c) All grants of formal recognition under Executive Order No. 10988 terminate under regulations which the Federal Labor Relations Council shall issue before October 1, 1970.

(d) By not later than December 31, 1970, all supervisors shall be excluded from units of formal and exclusive recognition and from coverage by negotiated agreements, except as provided in paragraph (a) of this section.

Section 25. *Guidance, training, review and information.*

(a) The Civil Service Commission shall establish and maintain a program for the guidance of agencies on labor-management relations in the Federal service; provide technical advice and information to agencies; assist in the development of programs for training agency personnel and management officials in labor-management relations; continuously review the operation of the Federal labor-management relations program to assist in assuring adherence to its provisions and merit system requirements; and, from time to time, report to the Council on the state of the program with any recommendations for its improvement.

(b) The Department of Labor and Civil Service Commission shall develop programs for the collection and dissemination of information appropriate to the needs of agencies, organizations and the public.

Section 26. *Effective date.*

This Order is effective on January 1, 1970 except sections 7(f) and 8 which are effective immediately. Effective January 1, 1970, Executive Order No. 10988 and the President's Memorandum of May 21, 1963, entitled Standards of Conduct for Employee Organizations and Code of Fair Labor Practices, are revoked.

RICHARD NIXON

THE WHITE HOUSE

October 29, 1969

Ida Klaus, Director of Staff Relations for the New York City Board of Education, traces in the following article an administrator's view of the development of a collective bargaining relationship between the board and its public education employees. The article is reprinted with permission from the March 1969 issue of the *Michigan Law Review*, pages 1033-66.

THE EVOLUTION OF A COLLECTIVE BARGAINING RELATIONSHIP IN PUBLIC EDUCATION: NEW YORK CITY'S CHANGING SEVEN-YEAR HISTORY

*Ida Klaus**

I. EARLY FORCES

The bargaining relationship between the New York City Board of Education and its teachers had its roots in the social forces of the mid-fifties and its formal origins in the events of the early sixties. The relationship came about without benefit of law or executive policy. No law permitting public employees to bargain collectively was in effect anywhere in those years, and Mayor Wagner's 1958 Executive Order—the culmination of three years of study and public inquiry—did not apply to teachers.[1] Instead, the impetus came directly from the persistent and increasingly powerful drive of the teachers themselves. They demanded a substantial voice in the determination of their salaries and, through improvement of their working conditions, enhancement of their stature as professionals. Ignoring the prohibitions of state law, they chose the strike as their pressure technique.[2] Two work stoppages[3] in the 1959-60 period signaled three important facts: (1) that the teachers were grimly serious about obtaining im-

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[1] Executive Order on City employee Relations (March 1958). This order covers only those city employees who were under the direct control of the Mayor. It established for those employees a system of labor relations similar in many fundamental respects to that prevailing under federal and state law for private workers. Although Board of Education employees were not among those who would be covered by the Mayor's program, two organizations representing New York City teachers nevertheless participated in the public hearings which led to the adoption of the order. The one, representing only high school teachers and since defunct; stressed the separate professional, rather than trade-union, interest of teachers. The other, since merged into the present dominant United Federation of Teachers, expressed the hope that the hearings would point the way to effective collective bargaining for all nonsupervisory pedagogical employees in a single unit. *See* I. Klaus, Report on a Program of Labor Relations for New York City Employees (New York City Department of Labor, June 1957).

[2] The so-called Condon-Wadlin Law, Law of March 27, 1947, ch. 391, [1947] N.Y. Laws 842, *as amended*, Law of April 23, 1963, ch. 702, [1963] N.Y. Laws 2432 (repealed 1967), adopted in 1947 as a part of the Civil Service Law, banned all strikes by public employees and imposed severe penalties upon individual workers for engaging in the proscribed conduct. The Governor's message accompanying his approval of the measure declared the philosophy underlying the legislation to be that the public service, in all its aspects, is "a public trust in behalf of all the people" and that "a trustee cannot strike or falter in the performance of his duties."

[3] The first strike, which lasted for about three and a half weeks in February 1959, was limited to evening high school teachers who sought an increase in their rates of pay.

The second strike was called on November 7, 1960, by the American Federation of Teachers affiliate and predecessor of the present United Federation of Teachers. It sought to obtain for the teachers' representatives some form of recognition in dealing with the Board on salaries and on the improvement of working conditions. The strike was terminated after one day when a three-man panel of prominent labor leaders was appointed to inquire into the basic causes of the strike and the areas of teacher dissatisfaction. Thereafter, the panel was to make recommendations for the improvement of teacher-Board relations. The panel recommended a policy and program for the recognition and participation of teacher organizations. For months thereafter, the Board refused to declare and implement an unequivocal policy. Instead, it sought by various means to ascertain preliminarily the sentiments of its teachers and other pedagogical employees. Finally, in June 1961, it formulated a proposed policy for collective bargaining founded upon exclusive recognition of a bargaining agent chosen by the majority of employees. The policy was to become operative, however, only if it were established in a referendum that a majority of employees actually wished to have collective bargaining. Over 70 per cent of those participating in the preliminary referendum voted in favor of collective bargaining as defined by the Board. *See* 1962-1963 Agreement Between The Board of Education of the City of New York and United Federation of Teachers, AFL-CIO, Covering Classroom Teachers (signed Oct. 18, 1962) (a copy of this agreement is on file with the *Michigan Law Review*).

provements in their welfare; (2) that they were strongly determined to achieve those improvements through collective bargaining by a duly chosen representative; and (3) that they would not tolerate further vague promises and tactical delays by the City Board of Education.

A. *Basic Attitudes and First Steps*

In 1961, a newly constituted and appointed New York City School Board gave highest priority to meeting the teachers' requests. Within a few months, the new Board had declared a clear policy of exclusive recognition for collective bargaining purposes; had implemented that policy by formal hearing and election procedures; had overcome earlier obstacles to determining appropriate bargaining units, voting eligibility requirements, and qualifications for organization participation; and had recognized the employees' majority choice, the United Federation of Teachers, Local 2, American Federation of Teachers, AFL-CIO,[4] as the exclusive bargaining representative of all classroom teachers.[5]

Then, early in 1962, the Board of Education and the Union took the first steps toward establishing what is now probably the most advanced and critical collective bargaining relationship anywhere in public education, if not in the public service generally. The relationship—and especially the collective bargaining agreements by which it has been governed—have served as the model for school districts and other teacher groups.[6] Most teacher-board agreements in other large cities which are executed as the result of negotiations are plainly molded in the image of the basic New York City parent agreement.[7]

The New York City relationship was founded as much on the solid commitment of the Board of Education to the conceptual and practical responsibilities of collective bargaining as it was on the firm dedication of the teacher leadership to the correspondingly full harvest of substantive and procedural advantages which collective bargaining was expected to bring. Thus, each side entered upon this novel joint endeavor with its own understanding of how both would work together to fashion a new employee-relations "constitution" to govern the special public enterprise of which they were a part. It is hard to say whether either party foresaw at that time how the dynamics of the continuing relationship and the shadows already cast by oncoming social changes would expand the framework of the "constitution" and foster the emergence of a solid "common law" of the enterprise.

Trial, conflict, and combat—resolved in the end by a basic determination on both sides to make the joint venture work—have marked the seven-year history of the relationship and shaped the characteristics it has assumed in the process of continuing growth and cautious adjustment. For the teachers, this seven-year history has been a story of how from the beginning they won important psychic and economic gains, and found new professional freedoms and security. For the Union, it has been a series of encounters in the teachers' behalf along the road to tremendous power in the administration of the school system. For the Board and the administrators, it has been an account of how they met new challenges to

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[4] This organization is referred to hereinafter as the Union, the United Federation of Teachers, or the UFT.

[5] The Board members turned the resolution of the representation question and all related matters over to the City Department of Labor. The two most difficult issues which had blocked a rational and expeditious application of the new policy in favor of exclusive recognition were the designation of an appropriate unit and the qualification of contending organizations to represent employees for bargaining. A system-wide unit of classroom teachers was found most conducive to the prompt and effective institution of collective bargaining. Contending organizations were deemed qualified if they met three basic tests: (1) nondiscriminatory admission to membership; (2) capacity to act as a collective bargaining representative for all employees involved; and (3) capacity and disposition to represent equally all within the unit. A mail-ballot election among the then approximately 40,000 teachers in the unit resulted in a majority vote for the United Federation of Teachers as against two other organizations and a "none" choice. For a more detailed account of the technical aspects of the resolution of the preliminary issues, *see* 1963 PROCEEDINGS OF THE AMERICAN BAR ASSOCIATION, SECTION OF LABOR RELATIONS LAW, REPORT OF THE COMMITTEE ON LAW OF GOVERNMENT EMPLOYEE RELATIONS.

[6] Upon the conclusion of the second agreement in 1963, the American Federation of Teachers prepared and distributed in other areas of the country a special bulletin entitled *Collective Bargaining for Teachers—the New York City Contract*. The bulletin pointed out the highlights of the new agreement and noted: "Teachers everywhere are studying the contract in expectation of future advancement in their own school districts."

[7] The model has been followed by both American Federation of Teachers and National Education Association affiliates. *See, e.g.*, contracts in Detroit, Boston, Philadelphia (all American Federation of Teachers affiliates) and Newark, New Jersey, and New Haven, Connecticut (the former a National Education Association constituent and the latter a National Education Association constituent for a time). While the substance of the New York City agreement has not yet been borrowed by other countries, a possible first known step in that direction has been taken in Japan where one of the early New York agreements has been translated into Japanese.

established concepts and practices in the governance of the schools, and how they reshaped attitudes in the conduct of their relations with teachers. For the community, it has provided not merely a perennial source of anxiety about whether and when the schools would open, but also an impetus toward asserting its own separate interests in the outcome of the bargaining.

B. The Growing Process and the Stages of Evolution

The teacher-board relationship developed through three distinct but interrelated processes: (1) joint negotiation at the bargaining table by which the basic terms and conditions of teacher service are determined and then reduced to a written collective bargaining agreement; (2) actual day-to-day application and administration at the school (and other) levels of the terms and conditions agreed upon; and (3) active consultation between appropriate representatives of both sides on matters of mutual concern which are either not properly within the scope of collective bargaining, or are not susceptible to appropriate adjustment at the bargaining table, or should not be deferred for consideration until the opening of formal periodic negotiations. This Article deals primarily with the first process. But where important, it also attempts to show the interaction of all three.

The New York City Board of Education has negotiated four classroom teacher agreements:[8] the first in 1962,[9] for a one-year term commencing July 1, 1962; the second in 1963,[10] for a two-year term beginning on July 1, 1963; the third in 1965, covering a two-year period starting on July 1, 1965;[11] and the fourth and current one[12] for a twenty-six-month period commencing July 1, 1967, and ending with the beginning of the next school year in September 1969. Each agreement has built upon and expanded its predecessor. Each agreement, and the negotiations from which it emerged, marks a distinct and progressive stage in the evolution of the Board-Union relationship. As original documentary sources, the four agreements themselves provide much internal evidence of the organic growth of the relationship. However, the agreements alone do not reflect the complete history out of which they arose. The form, the style, and the content of these documents have their origins in external surrounding circumstances which serve to illuminate the writings and, hence, the relationship itself.

II. THE FIRST STAGE: EXPLORATION AND EXPERIMENTATION

The first stage in the relationship, which commenced early in 1962, consisted of the initial encounter between School Board and Union, the course of the negotiations between them, and the emergence of the first agreement. Although far from amateurs, both the Board as employer and the Union as agent for the teachers entered upon their respective responsibilities in a relatively simple and comparatively primitive way. Almost immediately after a formal ceremony in which the Board officially recognized the Union's status as the exclusive bargaining representative for all of New York's then 43,000 public school teachers, the UFT presented some 160 demands to the Superintendent of Schools. At that point, the Board was faced with the hard realities of translating into practice the theory of its new policy. What were the basic mechanics and the guiding substantive principles for the initiation and conduct of a bargaining relationship in public education? Other spheres of public employment offered little, if any, guidance. It was a matter of breaking new ground—as much for the Union as for the Board. A number of Board members were well acquainted with the process and the institution of collective bargaining in the world of industry. The UFT, indeed, drew considerable advice and assistance from the trade union movement of which it was a part. Hence, both sides set about adapting established private-sector concepts to the peculiar characteristics of this special public enterprise; the process of accommodation was a pragmatic one of

[8] In addition to the agreements covering classroom teachers, the AFL-CIO has also entered into agreements with the board covering school secretaries, psychologists and social workers, laboratory assistants and laboratory technicians, day school counselors and per session counselors, auxiliary teachers (bi-lingual teachers), and attendance teachers.

[9] 1962-1963 Agreement, *supra* note 3.

[10] 1963-1965 Agreement Between The Board of Education of the City of New York and United Federation of Teachers, AFL-CIO, Covering Classroom Teachers (signed Feb. 10, 1964) (a copy of this agreement is on file with the *Michigan Law Review*).

[11] 1965-1967 Agreement Between The Board of Education of the City of New York and the United Federation of Teachers, AFL-CIO, Covering Day School, Classroom Teachers and Per Session Teachers (signed Nov. 24, 1965) (a copy of this agreement is on file with the *Michigan Law Review*).

[12] 1967-1969 Agreement Between The Board of Education of the City of New York and United Federation of Teachers, AFL-CIO, Covering Day School, Classroom Teachers and Per Session Teachers (signed Dec. 6, 1967) (a copy of this agreement is on file with the *Michigan Law Review*).

informed improvisation. On the Board's side, the heaviest burden fell first on the Superintendent and then on the nine Board members, all of whom became personally involved in the negotiations.

The most important issue was, of course, salary. On this subject, Board members met with the Union committee far into the night in numerous negotiating sessions. A significant difference between government and private industry brought on an early disagreement about the timing of the salary negotiations in relation to the budget-making process.[13] The final allocation of funds to the Board for the next fiscal year had not yet been made when the negotiations began. The Board nevertheless felt that it could proceed to discuss salaries and other monetary items within the framework of realistic estimates of future income based on experience. The Union disagreed. It regarded negotiations under circumstances short of fiscal certainty as a mere game which gave little promise that the chips would ever be cashed in. Nevertheless, the bargaining on salaries proceeded, moving into high gear after the Mayor advised the Board of its operating budget for the following school year. The Union thereupon insisted on a substantial upward revision of the salary schedules, and the Board offered what it felt it could afford to pay within the limitations of its budget and of anticipated additional funds. The stalemate brought on a one-day strike that closed most New York City schools. The Union terminated the work stoppage in obedience to a court injunction and decision which declared the strike illegal under the state's so-called Condon-Wadlin Law.[14] Following the strike, the parties agreed on a very favorable salary structure after the Governor discovered that he could make additional state funds available to the Board for that year.[15]

Other teacher demands for long-awaited improvements in working conditions presented the challenge of how to accommodate collective bargaining to the Board's internal budget-making responsibility. That responsibility required the Board, once monies were made available to it for the ensuing fiscal year, to adopt its own internal operating budget for the year by allocating specific funds for designated school-system purposes. Among other important benefits, the Union sought during the first year of bargaining a reduced teaching schedule for teachers in the elementary and junior high schools, relief from unpleasant custodial and monitorial tasks known as "nonteaching chores," and a daily duty-free lunch period in the elementary schools. The Board acknowledged both the need for these changes and its willingness to bring them about. The problem was how to accomplish those objectives through the new mechanism of collective bargaining and at a cost which the Board could afford. The solution agreed upon was that both parties would jointly assume the burden of internal budgetary allotments within the limits of existing funds. The parties thus proceeded to negotiate a schedule of the amounts of money which the Board would spend on each desired improvement. The scheduled amounts agreed upon as well as the new salary terms were embodied as separate budget items in a formal Board resolution adopted in June 1962, just before the commencement of the next fiscal year. The resolution authorized the expenditure of stated sums of money for specified purposes to accomplish nine types of improvement in teacher working conditions. Three examples will illustrate how the parties subsequently translated the jointly negotiated budget into teacher benefits in the collective bargaining agreement: (1) the budget authorized the sum of 523,276 dollars to hire 116 additional teachers in order to accomplish a "Reduction of Teacher Instructional Load" in certain kinds of junior high schools from twenty-five to twenty-three or twenty-four periods per week;[16] (2) it authorized the sum of 1,903,000 dollars to hire school aides in the elementary and high schools and, on a limited basis, in the junior high schools, "[t]o perform other than teaching chores now carried out by instructional staff";[17] and (3) it authorized the sum of 1,831,466 dollars to hire 406 elementary school teachers in specialized areas in order "to make time available for relief of the classroom teacher, one . . . period per week."[18] When the parties drew up the first contract in September, they incorporated the items already specified in the budget resolution for the improvement of working conditions into the collective bargaining agreement as teacher benefits tied in amount to the budgetary allotments made in the resolution.

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[13] For a discussion of this and other aspects of the special problems connected with public sector bargaining, *see* Address by Ida Klaus, The Emerging Relationship, Conference on Public Employment and Collective Bargaining, University of Chicago, Feb. 5, 1965. *See also* Rehmus, *Constraints on Local Government and Public Employee Bargaining*, 67 MICH. L. REV. 919 (1969).

[14] Law of March 27, 1947, ch. 391, [1947] N.Y. Laws 842, *as amended*, Law of April 23, 1963, ch. 702, [1963] N.Y. Laws 2432 (repealed 1967). This was the only occasion on which the Union was to heed a court directive forbidding a strike.

[15] The Union, which claimed credit for unearthing the Governor's cache, evinced an early talent for the game of the political treasure hunt in public employment negotiations.

[16] *See* 1962-1963 Agreement, *supra* note 3, art. IV, §A(1).

[17] *See id.*, art. IV, § A(3).

[18] *See id.*, art. IV, § A(2).

For example: the collective bargaining agreement provided for the reduction of teaching periods in certain junior high schools "to the extent permitted by" the June budget allotment for that purpose.[19] Similarly, the Board undertook in the agreement to grant relief from non-teaching chores through implementation of "the budgetary item as to school aides" authorizing the hiring of non-teaching personnel to perform those tasks.[20] Finally, the obligation to grant preparation periods in the elementary schools was tied to the amount of money made available in "the budgetary item as to increased specialized service."[21] In this way the parties negotiated from knowledge of the amount of money available, and the Board was not committed to promoting improvements beyond its budgetary capacity. However, each individual teacher had no assurance of any specific benefit.

Another aspect of the first bargaining experience was the formulation of a grievance procedure. The parties agreed upon a very detailed procedure which ended, for all grievances based on the application or interpretation of the "working conditions" terms of the contract, with a carefully prescribed resource to final arbitration by a neutral outsider chosen by both sides. Arbitration of this kind was at that time a bold and pioneer experiment in government;[22] both sides were aware that they were breaking new ground. The Board was ready to defend the arbitration provision against the possible attack of illegal delegation of its authority. In return, it sought and obtained from the Union the inclusion of a broad no-strike clause in the agreement.[23] The Union hailed the grievance procedure as the most significant aspect of the new relationship.[24] It assured its members, however, that "we have not renounced our right to take whatever action we deem to be the most effective in support of the negotiations for a new contract when this contract expires."[25]

Upon completion of the negotiations, all items of agreement were brought together into a single document in the form and style of a collective bargaining agreement[26] covering thirty-eight printed pages. On October 18, 1962, the Union and the Board formally signed the agreement[27]—the first document of its kind in the history of public education. The Union framed the signed agreement and hung it on its headquarters wall to commemorate the genesis of the bargaining relationship and perhaps to symbolize the solemnity of its pledge to its members that "[f]rom this time on, a Union contract will be a condition and the basis under which we perform our professional duties and set our professional standards."[28]

III. THE SECOND STAGE: CRISIS AND TURNING POINT

Negotiations for the second agreement started earnestly in January of 1963, about three months after the first agreement had been signed. The Union submitted salary proposals and demands for further improvements in working conditions and changes in established practice.

The first-round problems of accommodating the changes in working conditions to the Board's budget-making authority and financial ability assumed different proportions in the second stage. The negotiations were now looking toward an agreement for a two-year term. The Union, moreover, was asking for definite commitments on salaries and working conditions in each year—without conditioning their extent on the availability of

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[19] *Id.* art. IV, § B(2)(b).

[20] *Id.* art. IV, § B(3)(c).

[21] *Id.* art. IV, § B(3)(b).

[22] On the status of arbitration in government employment as of that time, *see* New York City Department of Labor, Unresolved Disputes in Public Employment (1955); President's Task Force on Employee-Management Relations in the Federal Service, A Policy for Employee-Management Cooperation in the Federal Service 18-19, 22-23 (1961).

[23] The provision, entitled "No-Strike Pledge," read as follows:

> The Union and the Board recognize that strikes and other forms of work stoppages by teachers are contrary to law and public policy. The Union and the Board subscribe to the principle that differences shall be resolved by peaceful and appropriate means without interruption of the school program. The Union therefore agrees that there shall be no strikes, work stoppages, or other concerted refusal to perform work, by the employees covered by this agreement, nor any instigation thereof.

1962-1963 Agreement, *supra* note 3, art. XIV.

[24] The October 1962 monthly bulletin of the United Federation of Teachers, United Action, reported to its members:

> The Grievance Procedure is the heart of the union contract. To most teachers, the effectiveness of the United Federation of Teachers will be judged by its ability to settle grievances. The grievance procedure reflects, more clearly than anything else, the great change made since the day when the Board made all the decisions; when the teacher was strictly at the mercy and whim of his principal.

[25] United Federation of Teachers, United Teacher, Oct. 1962.

[26] 1962-1963 Agreement, *supra* note 3.

[27] The contract was for a term of one year, retroactive to July 1, 1962.

[28] United Federation of Teachers, United Teacher, Oct. 1962.

funds. In other words, the teachers now wished to negotiate directly for improvements in their welfare. They wanted the substance of change and were leaving the financial means and budgetary consequences to the Board's ingenuity. As a result, the Board not only had to anticipate the amount of operating funds it might receive for the second year, but it was also faced with the necessity of obligating those future undetermined funds. Ability to pay thus remained a fundamental factor in the Board's negotiating position. For example, on the question of additional nonteaching and preparation periods, the dispute centered on the Board's ability to provide a definite number of such periods. In the end, the parties reached a compromise: for the first year of the agreement the Board would provide the elementary school teachers with a specific number of preparation periods "to the extent possible";[29] however, for the second year of the agreement the teachers had an outright guarantee of a given number of periods which was subject to the grievance procedure.[30] In the junior high schools, the Board promised a definite number of periods during the first year and a further limited increase in the second year "to the extent that funds are made available."[31]

Although the parties remained far apart on the matter of salaries until the eleventh hour, they did not face the same tactical problems of synchronization with the budget-making process as they had met the year before. In order to obtain a two-year contract and to absorb most of the increased salary costs in the second year, the Board was prepared to take its chances that its estimates of future financial ability were accurate. If necessary, it would have to divert to salaries and other negotiated items funds that would otherwise be utilized for other educational needs and services.[32] The result was a shift in the order of priorities.[33]

The main field of conflict during the second year concerned an extremely grave and difficult area in public education: the proper scope and boundaries of collective bargaining. Where is the line between what is primarily within the sphere of working conditions and hence subject to negotiation and bilateral decision, and what is essentially within the realm of educational policy and hence within the exclusive authority of the Board or the Superintendent and not subject to negotiation and agreement?[34] The Union sought to extend collective bargaining to new aspects of educational administration, and the Board rejoined that such matters were reserved exclusively to the discretionary professional judgment and policy-making authority of the Board and of the Superintendent. The stalemate hardened on three principal issues.

The first area of concern was the assignment of teachers to special classes and duties. The Union contended that all teachers should be presumed to be equally qualified for assignment to classes for the intellectually gifted and to certain special nonteaching positions (such as student guidance or counseling) carrying a lighter teaching load. It further maintained that the school's principal

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[29] 1963-1965 Agreement, *supra* note 10, art. IV, § A(3)(b).

[30] *Id.*

[31] *Id.* art. IV, § A(2)(b).

[32] *See* Rehmus, *supra* note 13.

[33] The Board in fact negotiated with the Union the order of priorities for the disbursement of the moneys that would be made available to the Board in its budget for the second year of the agreement. The arrangement read as follows:

BASIC FORMULATION OF
SALARY INCREASE POLICY

Expense budget funds made available to the Board for the 1964-65 fiscal year will be allocated in the following order: First, funds will be allotted to continue programs and activities at the level in operation during 1963-64. Second, funds will be allotted for salary increases for the bargaining unit as stipulated in this agreement, and twice this amount will be allotted for derivative costs and increases as determined by the Board and for other educational improvements. Third, any residual funds will then be allotted in the same proportion as provided in the preceding sentence.

In the application of residual funds to teacher salary schedules priority will be given to equalizing steps and to increasing the promotional differential and then the first and second differentials.

[34] The issue was similar to, although the legal implications were different from, that presented by a proposal for a "management rights" clause in private industry negotiations. The first agreement between the Board and the teachers contained no so-called "management rights" clause. However, the area left open by law to the Board for negotiations had been indicated as follows by the Board in the preliminary referendum on collective bargaining conducted by the Board on June 12, 1961:

Various governmental agencies have in recent years voluntarily adopted modified forms of collective bargaining for government employees. These, because of the legal limitations and responsibilities placed upon governmental bodies, necessarily differ in certain essential respects from industrial collective bargaining.

. . . .

(a) As to certain subjects such as, for example, matters relating to hours, working conditions, holidays, vacations and allocation of funds within the total appropriated, the Board is advised that it has substantial powers. As to others, its powers are limited, particularly those calling for the appropriation of public funds, since it may make only recommendations of the total amount believed necessary for budgetary purposes.

(b) As to those areas which, under law, are removed from the Board of Education's power, the Board of Education may commit itself to recommending any agreed action to the appropriate public agencies.

should have no discretion to make teacher selections on the basis of his judgment of relative qualifications; instead, assignments should be made only in accordance with seniority. To this, the Board answered that qualifications were indeed relevant, and that their determination was within the exclusive domain of the principal. The Union replied that qualifications for special assignments should be negotiated and included in the agreement.

Second, there was considerable debate about class size. The Union insisted on a commitment as to maximum class size based not on what was a reasonable working condition for teachers but rather on what produced the best learning conditions for children. That judgment, the Board maintained, was one of educational policy which was committed to the sole discretion of the Board and could not be negotiated.

Third, the crucial question of improvement of "difficult" schools was raised. Late in the course of the negotiations, the Union submitted as a basis for negotiation and agreement a plan for the "effective" organization and administration of schools in low-income areas. The plan called for experimental educational policies and instructional programs. Component features of the proposal included the selection of teachers, principals, and superintendents "with the advice and consent" of the Union, and joint faculty-supervisor administration of the pilot schools. The Superintendent of Schools charged publicly that the Union was attempting to take over the administration of the schools, and he refused even to discuss the matter with the Union.

The clash over these issues led to the first serious breakdown in the teacher-Board relationship. Threats of strike were heard once more. This time the Union's leadership warned that, like freedom riders and other civil rights protesters, they would defy what they regarded as an unconstitutional state law prohibiting strikes by public employees.[35] The seriousness of these issues to both sides derived in large part from the Union's insistence that the desired changes be written into the collective bargaining agreement under the section on teacher "working conditions." In this way the changes would be subject to the full scope of the grievance procedure, including arbitration. For the Board, this meant compounding its delegation of authority to make educational policy—first, to the Union in the agreement, and then, possibly, to a third-party outsider. The Board was willing to enter into discussions with the Unions on the questions of qualifications for teacher assignments and class size, but it reserved the right to make its own policy decisions on these subjects. The Board did offer, however, to incorporate its final policy determinations in a superintendent's circular to be distributed to all the schools. Complaints of arbitrary departure from the policy prescribed in this circular would then be subject to the agency steps of the grievance procedure, but not to arbitration.[36]

With the aid of a mediation panel, the Board and the Union finally resolved the foregoing issues on the eve of the opening of school. The parties negotiated those elements of the basic demands which primarily concerned teacher working conditions and included them in the collective bargaining agreement. For example, the Board conceded that a class might be so large as to constitute an undue physical burden on a teacher. In that sense, class size could be regarded as a "working condition" subject to negotiation to determine the maximum number of pupils which a teacher could reasonably be required to handle.[37] Since class-size limitations became part of the working conditions section of the contract, any claimed departure from those limitations was subject to all phases of the grievance procedure, including arbitration. On the other hand, teacher assignments and qualifications for assignments remained within the discretion of the school principals. Still, the parties devised special procedures to promote fair and objective selection of teachers for coveted nonteaching assignments carrying a lower teaching load. Under these provisions, seniority was to be the controlling factor only where qualifications, as determined by the principal, were equal. In order to preserve its discretionary and policy-making authority, the Board insisted that teacher programs and assignments be covered in a separate article of the contract entitled "Statement of

[35] The reference was to the modified Condon-Wadlin Law, passed in the 1963 session of the State Legislature and to remain in effect until July 1, 1965. Law of April 23, 1963, ch. 702, §§ 1, 2, [1963] N.Y. Laws 1732, *amending* Law of March 27, 1947, ch. 391, [1947] N.Y. Laws 842 (repealed 1967). The principal changes made were a reduction in the tenure and promotion forfeitures imposed on individual employees for striking, the imposition of monetary fines for striking, and the strengthening of enforcement procedures.

[36] The term "grievance" was defined to cover two types of complaints: (1) "a violation, misinterpretation or inequitable application *of any of the provisions of this agreement*"; or (2) unfair or inequitable treatment "by reason of any act or condition which is *contrary to established policy or practice* governing or affecting employees." 1965-1967 Agreement, *supra* note 11, art. VII, § A (emphasis added). Only the first type of complaint was subject to arbitration.

[37] For a description of the Union's strategy on its class-size negotiations and the meaning it placed upon the final outcome by the then director of organization for the United Federation of Teachers, *see* Selden, *Class Size and the New York Contract*, Phi Delta Kappan, March 1964, at 283.

Policy." This special article expressly provided that its provisions were deemed to be a part of "established policy and practice" within the meaning of the definition of "grievance."[38] This meant that complaints of arbitrary or discriminatory application of the policy were subject to the agency steps of the grievance procedure—but not to arbitration.

On questions of teacher recruitment and the improvement of difficult schools—essentially matters of school administration and educational policy—the Union ultimately demanded a medium for expressing the views of the majority of teachers, even if not through the normal channels of collective bargaining. The critical stalemate over that issue was resolved when the Board agreed to establish a system of periodic joint *consultation*—not negotiation—between the Superintendent of Schools and the Union on educational matters of mutual interest and concern. This meant that the Board, while reserving to itself the final decision in these matters, would permit the Union to press its position in separate discussions away from the bargaining table. The parties expressed this new consultative role for the Union in a formal declaration included as a "Preamble" to, but not a part of the substantive terms of, the second collective bargaining agreement. In the "Preamble," the Board of Education and the Union "recognize that they have a common responsibility beyond their collective bargaining relationship," and they "declare their mutual intent to work together toward the achievement of common aims of educational excellence." For this purpose, they agreed to "meet and consult" once a month during the school year "on matters of educational policy and development." One of the specific subjects of joint consultation was the development of a program for the improvement of "difficult schools."[39]

A related clash of positions demonstrated another limitation on the scope of collective bargaining in public education. The Union demanded that the agreement include specific provisions concerning the length of the school year, the length of teacher vacations, and related matters, all of which the Board had previously regulated by means of bylaw. The Board conceded that these matters had a direct bearing on working conditions but insisted that they were essential to its discretionary authority to manage the school system and hence could not be bargained away for a fixed period. The Union then sought definite assurance that the existing bylaws would not be changed during the term of the agreement; accordingly, it asked that the provisions of the bylaws be incorporated into the contract. The Board, asserting its continuing legal obligation to govern the school system according to changing educational needs, refused to yield the freedom to amend its bylaws when necessary. One salient example of the need for continued flexibility, the Board suggested, was the possibility that the school year would have to be lengthened or varied to make up for lost school time due to teachers' strikes. In the end, the parties resolved the dispute by narrowing the subjects of controversy to sick leave, sabbatical leaves, vacations, and holidays. The Board expressly agreed that it would continue its "present policy" as to these subjects, "except insofar as change is commanded by law."[40]

So critical to both sides were the implications of the fundamental issues resolved in the second round of negotiations that a serious public dispute arose between the Board and the Union as to what the one had yielded and the other had won. The parties met this threat to the completion of a final agreement by adding to the contract an epilogue entitled "Conclusion." This conclusion, reproduced here in part, provides significant internal evidence of the serious struggle which characterized the second phase of the bargaining history:

> In a field of collective bargaining which presents new and unresolved problems, the parties have successfully defined the proper area of interest on the part of the teachers in their rates of pay and conditions of work while providing simultaneously a mechanism for the teachers through their union to convey to the Board their views based on their knowledge and experience on matters of educational policy and professional concern. This agreement provides terms and conditions for the joint relationship which will redound not only to the benefit of the Board and teachers but more particularly to the students as well. At the same time it makes clear that the Board has complete authority over the policies and administration of the school system which it exercises under the provisions of law and in the fulfilling of its responsibilities under this agreement.[41]

The second agreement, eighteen printed pages longer than its predecessor, was not signed until February 10, 1964.

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[38] The Statement of Policy contained the following introduction:

> Following discussions with the Union, the Board, exercising its authority under the Education Law to manage and administer the school system, adopted the following policies, which are deemed to be a part of "established policy and practice" within the meaning of the definition of "grievance" contained in Section A, Article VII, of this agreement to the extent that such definition is otherwise applicable.

1963-1965 Agreement, *supra* note 10, art. V.

[39] 1963-1965 Agreement, *supra* note 10.

[40] *Id.* art. XIV.

[41] 1963-65 Agreement, *supra* note 10.

IV. THE THIRD STATE: MATURITY AND UNION POWER

By the early winter of 1965, when negotiations commenced for a third agreement, collective bargaining had become the accepted technique for determining the salaries and working conditions of New York City teachers. The grievance procedure had become the principal mechanism for resolving complaints by teachers that they were not receiving the benefits assured them by the collective bargaining contract or by established practice.[42] When the grievance process failed, the Union submitted numerous cases to arbitration for final and binding decisions by neutral third parties chosen by both sides.[43]

The process of regular joint consultation on a year-round basis added a new and broader dimension to the teacher-Board relationship. Through this process the Union became a truly powerful force in school administration. The earliest product of joint consultation was the completion, through a joint committee, of the "More Effective Schools Plan" (MES), which was put into operation in a few schools on an experimental basis.[44] As a further aspect of the Union's new role in administrative and policy matters, it participated in planning the Board's internal procedures for administering the provisions of the collective bargaining agreement. Moreover, it appeared before school administrators and Board committees on the issuance of new licenses, the creation of new positions in the schools, and other matters of educational import. During this period the Union also awoke to its responsibility to enforce that provision of the contract under which the Board undertook to make no changes with respect to "matters not covered by this agreement which are proper subjects for collective bargaining" without "appropriate prior consultation and negotiation with the Union."[45] On several occasions, the Board withdrew items appearing on the calendar for action at a public meeting upon the Union's insistence that the matter was a proper subject for collective bargaining and that "prior consultation and negotiation" had not taken place.[46]

In the negotiations for a third agreement, the Union fared well in its salary demands and in obtaining other benefits for the teachers. Thus, the third contract made benefits less conditional on budgetary limitations. It afforded regular substitute teachers,[47] who had limited rights under law and a tenuous hold on their employment, rights of assignment under uniform and objective procedures and a reasonable measure of job security. Moreover, the new contract accorded regularly appointed teachers, generally unable to transfer to another school except through personal arrangements, the benefits of a transfer plan based on reasonable standards to be uniformly applied. It made the grievance procedure less formal, and opened recourse to arbitration for some complaints based upon policy provisions of the agreement. In addition, the contract expanded the classroom teacher unit for which the Union had obtained recognition to include those who served in part-time teaching programs conducted by the Board.[48]

But much more was at stake in the third set of negotiations than just wages and teacher benefits. The new theme in forging the third agreement was enhancement of the Union's *status* in the schools

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[42] By the end of the school year in June 1965, 285 grievances had been filed at the last agency step of the grievance procedure.

[43] Twenty cases were taken to arbitration by the end of the school year in June 1965.

[44] *See* text accompanying notes 71-77 *supra*.

[45] 1963-1965 Agreement, *supra* note 10, art. XIV.

[46] An example of an item withdrawn from a public calendar upon protest by the Union at a public meeting was a proposed resolution for commencing the 1966-67 school year two days earlier than usual and requiring teachers to report for duty two days earlier than in prior years. The Union claimed that the proposal would, in fact, shorten the summer vacation of teachers and hence would violate that part of the agreement in which the Board undertook "to continue its present policy with respect to . . . vacations." *See* text accompanying note 40 *supra*. The Board took the position that its interpretation of the language in question permitted the proposed action. It asked the Union to take the matter to arbitration under the grievance procedure. The Union refused and threatened to keep the teachers out of school on the two days of proposed early reporting. The Board subsequently abandoned the proposal.

[47] These teachers constituted about one-third of the teaching staff.

[48] The broadened unit included, in addition to all classroom teachers in the regular day school instructional program, "all those employed as per session teachers." 1965-1967 Agreement, *supra* note 11, art I. The new grouping, among whom the Union had established majority representation, was composed of all those who were employed as teachers in one or more of the numerous after-school, evening, and summer programs conducted by the Board of Education.

The designation of "per session" teacher derives from the fact that each work period, consisting of a stated number of hours, is known as a "session," for which teachers are paid a "per session" rate. Except for a small number of teachers in summer day camps and in evening adult classes, the per session assignments are held by day school teachers. At the time of the third agreement, a number of these teachers were multiple per session jobholders filling after-school, evening, and summer positions. The Board pondered the wisdom of extending bargaining rights for these extra jobs and then decided to treat them up as though they were separate, regularly employed, full-time workers. The Board was thus involved in negotiating separate sets of working conditions for the same employees—as though they were in fact different persons than those employed in the day schools.

and in the school system. By now the Union was representing more than 45,000 teachers in the day-school system, and thousands among them who were serving in additional part-time assignments, as well as other units of collateral pedagogical employees.[49] The Union was seeking security for itself as an organization; it wanted the prestige and power which would attract and retain a growing membership. Accordingly, it asked the Board for the favored treatment that would give it that prestige and power. In short, the Union was seeking some of the incidents and advantages of exclusive representation which were already commonplace in private employment but which had not been completely accepted in the public sector. In part, this difference between the public and private sectors was due to conflict between the principles of the merit system and the closed shop or union shop.[50] In part, it was due to the generally recognized obligation upon government to spend public money only for public purposes.

In its earlier agreements, the Union had obtained some of the more common privileges attendant upon exclusive bargaining status. Thus, it had obtained the exclusive use of at least one bulletin board in each school "for purposes of posting material dealing with proper and legitimate Union business."[51] The Board had accorded a limited number of leaves of absence without pay but with service credit for salary increment and retirement purposes to teachers who were officers or staff members of the Union.[52] While union activity on working time was prohibited, the Board had assured members of the Union's negotiating committee and its special consultants that they would be excused "without loss of pay" for working time in negotiations with the Board or its representatives.[53] At the individual school level, organized by the Union as a "chapter," prior agreements had granted the following perquisites of exclusive bargaining status: chapter chairmen were allowed "reasonable time during school hours" to investigate grievances,[54] meetings of the school chapter were permitted within the school "under circumstances which will not interfere with the instructional program";[55] and the principal of the school was required to meet with the chapter committee once a month during the school year "to consult on matters of school policy and on questions relating to the implementation of this agreement."[56]

In the third round of negotiations, the Union did not demand any of the conventional union security clauses.[57] It sought the following forms of special treatment: First, it wanted the Board to abolish completely an established professional employee organization—the Policy Consultation Council— with which the Board had consulted for many years on various matters of educational and school policy. The Council was part of a Staff Relations Plan issued by the Board in 1956 following consultation with employee organizations and professional groups. In some structural respects, the Council resembled some of the company-devised employee representation plans encountered in private industry at an earlier time. The Union, insistent upon becoming the sole voice for teachers on matters of educational policy at the individual school level, also asked for the abolition of the Staff Relations Committees—the organs of the Staff Relations Plan at the individual schools.

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[49] Attendance teachers, psychologists and social workers, school secretaries, guidance counselors, and laboratory assistants—totaling approximately 4,000 employees as of that time.

[50] The Federal government's position was clearly stated in President's Task Force, *supra* note 22, at 25:

> The Task Force wishes to state its emphatic opinion that the union shop and the closed shop are contrary to the civil service concept upon which Federal employment is based, and are completely inappropriate to the Federal service.

[51] This provision was contained in both of the previous agreements. 1962-1963 Agreement, *supra* note 3, art. X; 1963-1965 Agreement, *supra* note 10, art. X.

[52] This provision was also contained in both of the previous agreements. 1962-1963 Agreement, *supra* note 3, art. VIII; 1963-1965 Agreement, *supra* note 10, art. VIII.

[53] 1962-1963 Agreement, *supra* note 3, art. VII; 1963-1965 Agreement, *supra* note 10, art. II.

[54] 1962-1963 Agreement, *supra* note 3, art. VI, § B(8); 1963-1965 Agreement, *supra* note 10, art. VI. § B(8).

[55] This provision was not contained in the first agreement covering the 1962-1963 school year, but was incorporated into the second contract, 1963-1965 Agreement, *supra* note 10, art. XI.

[56] This provision was first added in the second contract covering the 1963-1964 and 1964-1965 school years, 1963-1965 Agreement, *supra* note 10, art. XII.

[57] Nor could it ask for the right of exclusive representation of all teachers in the unit in grievance prosecution and arbitration. Special legislation pertaining only to teachers, enacted by the state legislature in 1964 and presumably still in effect, had vitiated the exclusive representation right for grievance prosecution which had been given to the Union in prior agreements. This was accomplished by means of language stating that the representative of "the public school teacher" in the presentation of his grievance "shall be designated by the public school teacher at the time he presents his grievance or at a subsequent date." Gen. Munic. Law, § 603-a (McKinney 1965).

The legislation was directed at a prior decision of the State Commissioner of Education that upheld the Union's exclusive right, as against any minority organization, to represent teachers under the grievance procedure prescribed in the first agreement. Matter of City Teachers Association of New York, Decision No. 7262 (Aug. 13, 1963). Hence, a teacher-grievant may select a minority organization to represent him in pursuit of the benefits negotiated in the agreement by the exclusive bargaining agent.

Such groups, the Union argued, were a threat to its exclusive bargaining status and should no longer be permitted to exist alongside a collective bargaining representative; even if, as the Board maintained, these groups were purged of all negotiating and grievance functions, they were still anachronisms whose survival could not be justified. The Union also sought favored status for the chapter chairman at each school. It asked the Board to make the office more attractive by arranging a lighter program of school duties for the chapter chairman in order to allow him more time during the school day for the tasks of his union office. Finally, and most significantly, the Union wished to administer unilaterally a welfare fund to which the Board was the sole contributor.

The Union won each of these demands either entirely or to a substantial degree. It won them on the theory that the privileges were an accepted perquisite of exclusive representation and that they would promote a stable and responsible collective bargaining relationship in the school system. The third agreement expressly stripped the Policy Consultation Council of all functions, and the Board undertook to adopt an appropriate resolution for its disestablishment."[58] The Staff Relations Committees were to be discontinued in any school where, as evidenced by valid check-off authorization,[59] a majority of the faculty were members of the Union. Moreover, the agreement granted to chapter chairmen a stated number of duty-free periods during the week for handling grievances and union business. The Union also acquired two additional leaves of absence for its teacher-officers or staff members.

But the grant of authority to administer unilaterally a welfare fund consisting entirely of Board contributions was the most unexpected concession to the Union. Welfare benefits were granted for the first time in the third agreement. That agreement stipulated that the Board would provide funds at the rate of 100 dollars per teacher per year during the first year of the agreement, and at the rate of 140 dollars per year during the second year, prorated on a monthly basis "for the purpose of making available for each day school teacher" supplemental welfare benefits "under a plan to be devised and established jointly by representatives of the Union and of the Board."[60] The details of the plan were to be left to later negotiation. The Board had earlier informed the Union of its intention to establish a welfare fund to be jointly administered under a plan whereby both sides would appoint trustees in a manner similar to the requirements of federal law for welfare funds in private industry.[61] Such a plan would have been modeled after the administration of the welfare fund for employees of the City Transit Authority, an autonomous agency established for the City of New York by state law. After accepting the Board's earlier proposal, however, the Union learned that the New York City government had approved a standard welfare fund arrangement with unions representing its employees which provided for unilateral union administration and management. The United Federation of Teachers then insisted upon the City's standard unilateral arrangement. The Board, concerned about the public policy and legal aspects of the payments and of the unilateral union administration of the fund, sought the opinion of the New York City Corporation Counsel. The Corporation Counsel advised early in 1966 that the Board's contributions to the proposed welfare fund were for a proper public purpose and that the proposed arrangement for unilateral administration would not violate the Board's fiduciary responsibility in the expenditure of public monies. The Board thereupon entered into a supplemental agreement with the Union requiring it to pay into the "United Federation of Teachers Welfare Fund"[62] the amounts specified in the third basic contract. The supplemental agreement provided that "the Fund shall be administered and managed by five Trustees, who shall be appointed by the Administrative Committee of the Union." The Union anticipated that the Board's contributions to the Fund during the term of the new agreement would reach a rate of eight million dollars per year for all units which it represented.

The strict accounting, auditing, and reporting requirements of this welfare-fund agreement, its controls on administration, and its emphasis on the fiduciary responsibilities of trustees afforded reasonable assurance against misuse of Board contributions. Thus, the Union's power did not turn on mere control over the disposition of large sums of money. The important thing was that new and

[58] The supervisors were the dominant groups remaining in the Policy Consultation Council at that time. However, they had already formed another organization, the Council of Supervisory Associations (CSA), composed of constituent organizations of supervisors at various levels of authority. On May 5, 1965, in a joint "Memorandum of Agreement," the Board recognized the CSA as the exclusive representative of all supervisors eligible for membership in each of its constituent organizations and agreed to meet and consult with it "on matters of educational policy and development" and on the working conditions, salary schedules, and grievances of the supervisors.

[59] The job was finished in the next agreement, when all remaining Staff Relations Committees were abolished.

[60] 1965-1967 Agreement, *supra* note 11, art. III, § E(2).

[61] Welfare & Pension Plans Disclosure Act, 29 U.S.C. §§ 301-09 (1964).

[62] Hereinafter referred to as the "UFT Welfare Fund" or the "Fund."

highly valuable benefits were available to teachers through an administrative facility designated as "the United Federation of Teachers Welfare Fund." This undoubtedly afforded the Union the greater measure of prestige and power which it needed to gain and retain substantial numbers of new members.[63]

While the benefits were expressly available under the collective bargaining agreement to all employees in the unit without regard to their membership in the Union, there is reason to assume that the impression was nevertheless created that membership was either a condition precedent to receipt of benefits or an advantage in their dispensation. The fact that the Fund was designated as the "United Federation of Teachers Welfare Fund" might reasonably have led the uninformed to suppose that the Union was actually expending its own money and hence would limit its largesse to its members. The Union's simultaneous grant of additional benefits from its own funds to union members only might well have heightened the confusion. Even those who understood that the Board provided the contributions to the "UFT Welfare Fund" might still have been uncertain as to whether nonmembers were intended beneficiaries; nor would it be unreasonable for them to assume that the disbursement of Board funds controlled by the Union might tend to favor union members.

The Union's administration of the Fund at the school level tended to strengthen the association in some teachers' minds between eligibility for welfare benefits and union membership. Thus, the chapter chairmen at the individual schools were the sole distributors of benefit application and fund enrollment forms. Employees complained to the Board of Education that the chapter chairmen in some schools gave the necessary forms only to union members. Schools having no union members, and hence no chapter chairman, were overlooked initially. Moreover, chapter chairmen were responsible for distributing literature on welfare-fund benefits, initially to all employees in each school and then regularly to new employees. Those unaccustomed to careful textual scrutiny may well have wondered whether union membership was not a condition of access to the valuable coverage described in the publications. The lack of clarity stemmed from the language of the basic booklet, which was entitled "Health and Welfare Benefits" and subtitled "For members of the fund and their families/UFT Welfare Fund." In its opening statement, the booklet asserted that all employees for whom the Board contributes money to the "UFT Welfare Fund, are hereinafter referred to interchangeably as 'covered employees', members of the Fund, or members." While the term "members" was thus technically tied to the Fund, its usage in connection with the availability of particular benefits may have led some teachers to believe that the term referred to union membership.[64] Although the Board brought to the Union's attention complaints by nonmembers of their disparate treatment by chapter chairmen, and even though the Union investigated and corrected instances of discriminatory action, it can scarcely be denied that the Union retained a fundamental advantage in its unilateral administration of the welfare fund. Indeed, the October 7, 1966, issue of the Union's official publication reported a "startling jump" in membership in the first month of the new school year.[65]

V. THE FOURTH STAGE: THE EMERGENCE OF PUBLIC-INTEREST ISSUES PECULIAR TO THE ENTERPRISE

The negotiations for the fourth, and current, agreement between the teachers and the Board emphasized the fundamental importance of the public-interest factor in public employment bargaining. Two basic components of the public-interest factor had, of course, appeared in earlier negotiating encounters: setting priorities among competing demands upon available Board funds for the administration of educational programs and the general operation of the school system; and separating the realm of wages, hours, and working conditions from the domain of governmental policy and public management.

The first public-interest component concerns the public agency's judgment as to what part of its total budget it can conscientiously commit to employee gains and benefits consistent with the public interest. In collective bargaining on eco-

[63] For a discussion of the importance of this Fund to the Union, *see* Foreword, Message from the Chairman of the Board of Trustees, in Health and Welfare Benefits (published and distributed to New York City Schools by the Union): "New York City teachers are justly proud in the achievement represented by the United Federation of Teachers Welfare Fund. The United Federation of Teachers Welfare Fund is an historic first. It is the first teacher welfare fund in the history of American education.'

[64] As an example of the later carry-over of the special term "member" to other literature, several statements in the Fund News (published and distributed to all schools in February 1968) explained that new benefits made possible by the fourth agreement with the Board would be granted to "our eligible members," or to "members," or to "the eligible employee-member." The Board received a number of inquiries from some employees seeking clarification of eligibility for the benefits and from others complaining of the exclusion of nonmembers of the UFT from the new benefits.

[65] United Federation of Teachers, United Teacher. Other issues showed that membership increased by 8,000 from September of the first year of the third agreement to December of its second year.

nomic demands—wages, fringe benefits, and working conditions—the Board has repeatedly asserted that its first concern in the fiduciary allocation of public funds must be the "good of the children." The Union's typical reply has been: "Teachers want what children need." In the end, the public has acquiesced in the final budgetary allocations for teacher gains and benefits—an acceptance based either on the perceived value of economic benefits as forces in educational improvement or on their worth in avoiding the educational and social hazards of a deferred school opening.

The second public-interest component is more fundamental: how can bilateral collective bargaining be limited in scope to matters directly affecting the employment relationship? How can it be kept from intruding upon the essential mission of a governmental agency such as the Board of Education, which has been entrusted with a nondelegable duty to design and operate an educational system in the public interest? As noted earlier, the precise scope of collective bargaining has not been easy to define. Previous differences have been resolved when the Union withdrew certain items from the bargaining table, when the Board ceded some of its authority in twilight-zone disputes, or when the parties devised other mechanisms of union participation, such as consultation and discussion. It was during the negotiations for the fourth agreement, however, that the sharpest and most stubborn public-interest conflicts emerged.

By the winter of 1967, the Board and parent and community groups had become persuaded that the improved working conditions granted to teachers in past agreements had impeded the attainment of higher educational goals for children. At the center of their concern were the children in the "special service schools" located in the low socioeconomic areas of the city. For these children, learning sights and educational achievements were concededly low. The Board was convinced that the interaction of three factors—a general teacher shortage, inability to recruit a conscientious career staff, and unrealistic working conditions prescribed by prior collective bargaining agreements—was hampering its efforts to provide a better education where it was needed most. In order to attract competent and experienced teachers to special service schools and retain them there, the Board had previously agreed with the Union to reduce the amount of teaching time required of teachers during their six and one-third hours of daily attendance in those schools; it had correspondingly increased the number of preparation periods. The third agreement had granted to teachers in the special service elementary schools two additional preparation periods per week (for a total of four) during which they were relieved of teaching duties and were expected to devote themselves to unsupervised and unassigned professional tasks. In the special service junior high schools, the Board reduced teaching time from twenty-four to twenty-two forty-five minute periods per week and increased preparation periods from six to eight per week. Three other provisions of past agreements also contributed to the Board's dilemma: the increase in the number and succession of paid sick-leave days for regular and substitute teachers for which no authenticating physician's certificate was required; the commitment to relieve teachers of teaching duties during preparation periods—except in an "emergency"; and the agreement to give teachers general control over the use of their preparation periods.

The practical impact of these four categories of improved working conditions on the education of children in special service schools became evident during the second year of the third agreement. The effect of the reduction in teaching time was to require the Board to increase the number of teachers in each school at a rate sufficient to provide each child with a full day's instruction. This meant recruiting several thousand new teachers. The system's experienced teachers did not find the lighter teaching schedules a sufficient inducement to lure them into the special service schools. Hence, the Board had to tap whatever sources of new teachers were available outside the school system. The tremendous expansion in staff brought to many special service schools untried and unseasoned recruits as well as a large number of casual or trnasient substitutes unwilling or unprepared to qualify for regular appointment. At best, the staffs which were recruited for these schools were often inadequate to the educational challenges presented. Nor was there any time during nonteaching periods which the Board could utilize for sustained teacher training and orientation. Still worse, the comparative rate of staff absenteeism for alleged illness increased markedly in these schools—particularly on the days preceding and following week-ends and holidays. If the principal exhausted the roster of neighborhood substitute teachers willing to "fill in" on a daily basis, he was forced to assign other teachers in the school to "cover" the teacherless class. For the children, the excessive absences meant intermittent breaks in the continuity of their badly needed instruction. For the teachers who were required to "cover" the teacherless class, it meant the reluctant surrender of one or more highly prized preparation periods.[66] Faced with these consequences, the

[66] While teacher grievances on loss of preparation periods for class coverage were not sustained because of the "emergency" nature of the assignment an arbitrator nevertheless observed that a continuing state of emergency due to teacher shortage might not be a valid defense to excessive class coverages. He suggested better planning for recruitment.

Board became convinced that the four types of teacher benefits negotiated in the third contract were in fact educationally unprofitable and that their monetary cost could be put to substantial productive use if diverted to other needs of the system. Accordingly, it appeared to the Board that a return to pre-existing conditions and the introduction of new restrictions might be a partial answer to its dilemma.

To achieve its own goals and to meet the objections of parent groups, the Board prepared a set of demands incorporating proposals for changes in the new agreement which would, among other things: (1) increase the number of teaching periods and reduce the number of preparation periods in the special service elementary and junior high schools; (2) reduce the number and succession of paid sick-leave days for which no authenticating physician's certificate was required; (3) revise the transfer plan to encourage transfers of experienced teachers to schools having a low experience index; (4) require teachers to attend training and orientation courses after school hours and during their preparation periods; and (5) favor the novice teacher with less difficult class assignments. The Union, on the other hand, sought a further reduction in teaching time at all levels and an expansion in the number of nonteaching preparation and professional periods,[67] such nonteaching time to be used at the complete discretion of the teacher. As compensation for loss of preparation periods because of teacherless classes, or for any reason, the Union requested the Board to contribute to the welfare fund "at twice the maximum hourly per session rate for the time lost." Moreover, the Union wanted five additional days of paid sick-leave allowance and the complete abolition of the need for an authenticating physician's certificate. It also sought five additional days per year of paid leave for "personal business."

The clash of positions on these and other public-interest issues remained persistently intractable through three separate phases of mediation efforts conducted successively during the period following expiration of the third agreement on June 30, 1967.[68] Among the public-interest differences were two which proved to be particularly divisive: the problem of the so-called "disruptive" pupil and the controversy over the More Effective Schools program (MES). The conflict over these issues illustrated again how difficult it is to separate the realm of collective bargaining from the domain of governmental policy-making, and how delicate the balance is between the pull of public-interest concerns and the force of special group demands.

The Union submitted for incorporation in the fourth agreement a new section entitled "A Program To Remove Disruptive Children from Regular Classrooms." The proposal consisted of three subsections, which respectively recited the objectives of the program, set forth procedures for the effectuation of those objectives, and defined the role of the Union and the specific responsibilities of the Board to the Union. The principal objective was to vest in the classroom teacher a major share of the discretion to decide whether a child's behavior was so "disruptive" as to warrant his transfer from a regular classroom to other facilities more "appropriate" to his educational needs. The subsection on procedure began with the statement, "A teacher may exclude from his class a child whose behavior is causing serious disruption in the classroom." It then set forth the following three grounds for the exclusion of a "disruptive" child: (1) "Endangering the health and/or safety of (himself and) other children (*e.g.*, fighting, smoking)"; (2) "Intimidation of the teacher and/or fellow students"; and (3) "Inciting to violence." Finally, the subsection described the steps to be pursued following a child's exclusion from the classroom. These steps included a report by the teacher and a conference between the teacher and members of the school's behavioral and supervisory staff to plan the necessary remedial measures. The subsection called for an interview with the child and a meeting with his parents, both in the presence of the teacher. It also prescribed mandatory remedies of permanent removal from the teacher's class or of suspension from the school under specified circumstances. The teacher was to have the right "to be accompanied by a United Federation of Teachers representative through all phases of this procedure."[69]

The Union's policy justification for the demand was that the behavior of disruptive children in some of the city's "difficult" schools so seriously undermined the stability of the normal classroom situation as to make it almost impossible for the teacher to teach and for other children to learn. The Union's explanation for placing the subject on the bargaining agenda was that violence and threats of violence by pupils against fellow-students and teachers, as well as other types of unmanageable pupil conduct, were so widespread as to affect seriously the working conditions of

[67] The "professional" period is a period in which the teacher is relieved of an administrative assignment, as differentiated from a "preparation" period in which the relief is from teaching duties.

[68] The Union submitted altogether 670 demands on which over 100 negotiating sessions had been held by the expiration of the agreement on June 30, 1967; by then, an accord had been reached on only a few items.

[69] The Union's proposal was a modified version of a provision obtained by its sister American Federation of Teachers Local in Detroit, Michigan, in the latter's 1966-1967 collective bargaining agreement.

teachers. The Union claimed that the Board had no effective central policy for dealing with the plight of the teachers and that school administrators were consequently unwilling to remove disruptive pupils from regular classrooms and place them in other facilities. The Union saw the teacher as the victim of a grave injustice against which he had no recourse and no effective remedy. Hence, the Union sought to negotiate both the procedure of the recourse and the substance of the remedy; in so doing, it placed the greatest emphasis upon the teacher's right to take the initial self-help step himself and then to participate in all phases of the decision on the ultimate outcome.[70]

To the Board, the proper placement of the disruptive child in the school system was a matter of educational policy. And the role of educational policy maker, the Board insisted, could not be ceded to an individual teacher or to an outside body. Moreover, the Board did not share the Union's view that the teacher was necessarily an innocent victim of antisocial pupil habits in the classroom. The Board suggested that a poor or inexperienced teacher might well generate disruptive behavior because of inability to establish the relationships with pupils necessary to command their respect and retain attention. Parent groups shared the Board's views and foresaw in the Union's plan the possibility of placing in the hands of weak or hostile teachers the power to determine the educational fate of children already in need of intensive instructional care. As the negotiations reached the second mediation phase, the Board offered to prepare, in consultation with the Union, a Superintendent's circular for school administrators which would establish appropriate procedures for handling serious student behavior problems. The Board was not willing, however, to make the circular or its procedures contractually binding. For its part, the Union indicated a willingness to have an outside panel on which the Union would be represented make the final decission on the disposition of the pupil, but it stood firm in its demand to negotiate the procedures and include them in the agreement.

A similar stalemate developed around the MES program.[71] The Board had adopted the program in 1964 for a limited number of elementary schools as an experiment in elevating pupil achievement levels in slum areas through changes in school organization and structure. Briefly stated, the salient features of the plan for each school included: a relatively small total number of pupils, reduced class sizes, an increased ratio of classroom teachers and guidance counselors to pupils, additional small-group instruction, increased funds for educational materials and school supplies, and frequent consultation between faculty and administrators on teaching and supervision goals and techniques. Moreover, each school was to have on its staff a full-time team of experts in pupil-personnel services—psychologist, social worker, attendance teacher, speech therapist, and community coordinator. Apart from the obvious improvements in working conditions afforded teachers by the experimental MES design, the plan offered them additional advantages in the form of more preparation periods, freedom from secretarial tasks, freedom from nonteaching duties, and the ability to hold conferences during school hours. The Union regarded itself as the real architect of the fundamental design of the plan. It had looked upon the plan as the best "school-by-school approach to the problem of providing schools which can really educate children in spite of any environmental handicaps they may bring to school with them."[72] It also viewed the plan as a model for other city school systems faced with the challenge of achieving academic and social progress for their children. As noted above, the Union had in 1963 insisted upon placing its proposals for the improvement of "difficult" schools on the bargaining table.[73] The Board's position at that time was that the subject was not within the ambit of collective bargaining. The parties resolved the dispute through the mechanism of a "Preamble" to the agreement which provided for regular joint consultation sessions between the Union and the Superintendent of Schools. The MES program grew out of those joint consultations.

Twenty-one MES program schools were in operation when the parties began their negotiations for a fourth agreement. Now the Union asked that "every elementary school located in a ghetto or disadvantaged area of the City shall be made a More Effective School." This would mean the reorganization of about 300 elementary schools in accordance with the MES plan. The Union also sought from the Board a definite contractual commitment in behalf of the expanded program, together with assurances that the Board would not modify the elements of the program without the concurrence of the Union. While not unaware of the substantial improvements in working

[70] The dispute was essentially over the so-called unmanageable or disruptive child, as distinguished from the pupil who engages in acts of violence against the teacher or a fellow student. The Board had a definite policy covering acts of violence.

[71] *See* text accompanying note 44 *supra*.

[72] *See* American Federation of Teachers, Effective School Schools for All Children (1964); American Federation of Teachers, The More Effective Schools Program in New York City (1964).

[73] *See* text accompanying note 68 *supra*.

conditions that would inure to teachers from expansion of the plan, the Board saw the fundamental issue as one of educational policy affecting children—an area of decision-making in which parents and the community had the greater stake. The Board consequently took the position that the bargaining process was not the appropriate technique for formulating educational programs of this type, and that a collective bargaining agreement was not the suitable medium for recording them. Moreover, although cognizant of the Union's commitment to MES as its special professional contribution in the search for an answer to the ghetto school problem, the Board was not convinced that the twenty-one-school experiment was demonstrating its cost effectiveness. In the Board's view, other Board-instituted programs aimed at developing the learning abilities of children in the early school years held greater promise for a larger number of children at a lower comparative cost. As the negotiations ground through the second mediation phase, the Board indicated its willingness to assure the Union that it would not reduce the number of schools then involved in the MES program, and that it would not modify the elements of the existing programs without prior consultation with the Union.

A special mediation panel named by Mayor Lindsay[74] attempted from mid-August to one week before the opening of school in September to provide a basis for a peaceful resolution of the critical public-interest issues still in dispute: teaching time, preparation time and its use, teacher training, absence allowances, the disruptive pupil, and MES. In its report to the Mayor on September 4, 1967, the panel made the following recommendations as to all matters other than the disruptive pupil and MES:

(1) The number of preparation and other nonteaching professional periods should remain unchanged.

(2) The assignment of a teacher to "cover" a teacherless class should be recognized as a proper "emergency" measure provided that compensatory time be given for preparation periods (beyond a stated minimum) lost by reason of such assignment.

(3) Preparation time and other professional nonteaching time should be subject generally to the teacher's control, except that a new teacher without prior professional experience could be directed during his first year of employment to devote "a reasonable number of his preparation periods, not to exceed twenty, to observing classes conducted by more experienced teachers or to consulting others familiar with classroom problems."

(4) The existing sick leave provisions should remain in effect pending agreement on a new kind of leave plan proposed in the report. This new plan, the panel suggested, would not only reduce the opportunity for abuse and encourage the provident utilization of paid leave allowances, but would also eliminate a physician's authenticating certificate in most instances.

(5) A new teacher without prior professional experience could be favored in classroom assignments and could be directed by the Superintendent of Schools to participate in an afterschool training program for a specified number of hours during the year.

(6) The teacher-transfer plan should be revised to take into account a better distribution of the more experienced teachers.

As to the disruptive pupil and MES, the mediation panel reported that, because of the complexity of the issues and the unusual and serious social considerations involved, it would be unwise to attempt to resolve the disputes "as part of crisis negotiations over the more conventional terms of a labor contract." The panel proposed, therefore, that each of the issues be settled on an interim procedural basis which, without prejudicing the rights of either party, would allow for continued study over a period of time by experts as well as by such interested persons as parents and other groups who "cannot share in labor negotiations." The mediators contemplated as an interim procedural device the establishment of two separate special advisory committees composed of representatives of the Union, the Board, and the Mayor. These special committees would study separately the disruptive pupil and MES problems, consult with interested persons, and from time to time make recommendations to the Board. The panel noted that under this kind of interim disposition, the Union would not surrender any collective bargaining rights if, in the end, it were dissatisfied with the committees' proposals as to either of the matters under study.

On September 6, 1967, the Board accepted the mediators' report and prepared, as its last offer, a proposed new agreement incorporating the panel's recommendations. On September 10, the eve of the scheduled opening of schools, the Union membership rejected the Boards offer after the Union's officials had also turned it down. From September 11 to September 28, when the membership ratified the final proposed agreement, the City experienced the longest teacher strike in its history as of that

[74] The panel was composed of Professor Archibald Cox, chairman, Professor Walter Gellhorn, and Dean Russell D. Niles.

time.[75] During the strike, the parties conducted further negotiations within the framework of the mediation panel's recommendations and under the watchful eye of the Mayor and two other mediators designated by him. The number of public-interest issues was reduced somewhat by agreement or by modification or withdrawal. The Union's position had now hardened around the following last-ditch residue of its earlier demands: (1) an additional preparation period per week in the special service elementary schools; (2) additional sick leave allowances and elimination of the need for a physician's authentication; (3) utilization of the nonteaching professional period in the junior high and high schools at the teacher's discretion; (4) specified procedures for handling the "disruptive" pupil; and (5) expansion of the MES program by contractual commitment.

In the end, a settlement was reached in which the Union achieved most of its final substantive demands directly affecting teacher working conditions, and the Board abandoned or modified its original stance in those areas. Thus, the Union won its fifth preparation period in the special service elementary schools, effective as of the second year of the agreement. But it yielded to the Board's insistence on using preparation periods and after-school time for training new teachers. The negotiators devised a new sick-leave plan under which a physician's certificate was required only after ten days absence for illness in any school year, as contrasted with the previous four-day limit. Nonteaching "professional" periods in the secondary schools were to be used at the teacher's discretion, but with certain exceptions.

The Board salvaged its position on the disruptive pupil when the Union agreed that the specific procedures both sides had worked out in the negotiations be drawn up as a "Special Circular" of the Board to be appended to, but not made a part of, the contract. The special procedures agreed upon granted the teacher the right to initiate a complaint regarding a "disruptive" student with the principal of his school. Thereafter, the teacher could appeal unsatisfactory action to successively higher levels of administrative authority and to a specially constituted panel of Union, Board, and community representatives. But the final disposition of the case was to be made by the Superintendent of Schools. At the same time, however, the Board committed itself by way of a specific undertaking in the agreement not to change the procedures or policies set forth in the Special Circular without the consent of the Union. The Board also agreed that the circular would be subject to the grievance procedure and to arbitration only for the purpose of resolving complaints of failure to comply with the procedures prescribed in the circular—not to review the substance of a decision as to any individual pupil.

The parties resolved the MES issue by incorporating three paragraphs in the Preamble of the agreement. Essentially, these paragraphs declared that the Board would continue various specified intensive experimental programs for educational excellence, including MES, and that it would set aside a fund of 10 million dollars for the 1968-1969 school year "for the purpose of making further progress in the development of new programs for the elementary schools."[76] Moreover, a work group headed by an outside eminent educator selected by the Superintendent and composed of representatives of both sides and of parent or community groups would make recommendations to the Board and the Superintendent of Schools for the utilization of the special fund. However, not less than half the fund was to be used by the Board "for intensive programs for the reorganization and improvement of additional schools."[77]

On this basis the Union and the Board concluded the final agreement, and the teachers returned to their classrooms on September 29 for the commencement of the 1967-1968 school year. The parties and the public then settled down to what they expected to be a two-year period of quiet enjoyment of the fruits of the bargaining and the new phase of the bargaining relationship. As is well known, however, before that first year was over, warning signals were up for the most serious crisis in the history of the school system and the city community. That account must be left to another kind of chronicle or perhaps to the next chapter of this history, to be written when the fifth collective bargaining agreement has been concluded.

VI. CONCLUSIONS AND FUTURE DIRECTIONS

The history of collective bargaining between the New York City Board of Education and the United Federation of Teachers has brought into sharp focus the special problems inherent in any effort to adapt established industrial relations models to the public education enterprise. These problems

[75] Six United Federation of Teachers units of pedagogical employees other than classroom teachers were also involved in the negotiations and in the strike. They were school secretaries, guidance counselors, psychologists and social workers, attendance teachers, laboratory assistants and auxiliary (bi-lingual) teachers. Because each of these units had its own special interests, separate negotiations were conducted for each of them. This Article has considered only the classroom teacher unit.

[76] 1967-1969 Agreement, *supra* note 12.

[77] *Id.*

are compounded when that enterprise is a vast urban school system comprised of large numbers of children in need of intensive instructional services. Essentially, two main types of problems and their attendant dilemmas have characterized this particular bargaining history: problems arising out of demands for so-called "bread and butter" economic items of primary benefit to the teachers—including salaries, fringe benefits, and improved working conditions; and problems arising out of demands for bilateral formulation of policies and standards relating directly to the education of children—ranging all the way from teacher qualifications for particular assignments, to placement of difficult children, to the expenditure of Board funds for experimental educational programs.[78]

The dilemma presented by the first type of problem has been how to satisfy teachers' demands for increased salaries while at the same time meeting other educational and operating school system needs within budgetary limitations. The solution has often necessitated the reordering of priorities and the diversion of funds intended for other important educational services to teachers' salaries. While such a course may serve well the expedience of the moment, it places a progressively heavy strain on the Board's ability to fulfill its fundamental commitment to educational improvement.

The dilemma presented by the second type of problem has been how to retain in the Board the essential aspects of its public trust and mission to serve the legitimate interests of the community, while at the same time satisfying the Union's demands in order to avoid a deferred commencement of the school year. In this area, the solutions have been altogether pragmatic, dictated by the relative force of countervailing pressures at the moment. The result has been a progressive expansion of the process of joint decision-making to the point where the Union enjoys equal status with the Board in the formulation of those aspects of educational management having any impact, however slight, on teacher welfare or Union prestige. This has been the outcome even as to policy matters plainly outside the realm of collective bargaining; as to these matters, there has often been full bilateral negotiation and agreement even though the final accord has not actually been incorporated within the physical framework of the contract.

The emergence of these significant characteristics of the relationship between the Board and the Union raises two questions of overriding importance: (1) whether government as an employer can protect its exclusive policy terrain against invasion by the collective bargaining process once that process has been set in motion by a powerful employee representative; and (2) whether the resolution of public-interest issues in serious collective bargaining clashes can in fact be guided by the just and proper needs of the public and the community. These are challenges not only for the New York City Board of Education, but also for governmental employers generally—particularly those entrusted with functions in an area of great social concern.

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[78] *See generally* Wollett, *The Coming Revolution in Public School Management*, 67 Mich. L. Rev. 1017 (1969).

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Case Reviews

INDIANA

PUBLIC EMPLOYEE STRIKES RULED UNLAWFUL

Declaring that "the overwhelming weight of authority in the United States is that government employees may not engage in a strike for any purpose," the Indiana Supreme Court ruled that strikes by state public employees are illegal. The high court's narrow 3-2 decision upheld a contempt of court order issued by the Superior Court of Madison County against the Anderson Federation of Teachers, Local 519, for violation of a temporary restraining order.

Some Anderson teachers went on strike and picketed various city schools on May 1, 1969, because of dissatisfaction with salary schedule negotiations for the following year. A temporary restraining order issued by the superior court on May 2 was disregarded by the strikers. This led to the trial court's judgment after a May 6 hearing that Local 519 was in contempt of court for violating the restraining order. The Indiana Supreme Court ruled that the trial court "was in all things correct in its finding and judgment of contempt of court."

In rejecting a contention by Local 519 that Indiana's anti-injunction statute was applicable to the case, the court said the Supreme Court of the United States "clearly enunciated the proposition that public employees did not have a right to strike and that the injunctive processes might properly be used to prevent or halt such strikes in the case of *United States v. United Mine Workers*. . . . This case has never been overruled or modified." The court further maintained that portions of the federal Norris-LaGuardia Act (as interpreted by the Supreme Court) are fully applicable to the Indiana anti-injunction statute:

"The purpose of the [Norris-LaGuardia] Act is said to be to contribute to the worker's 'full freedom of association, self-organization and designation of representatives of his own choosing, to negotiate the terms and conditions of his employment, and that he shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives. . . for the purpose of collective bargaining. . . .' These considerations, on their face, obviously do not apply to the Government as an employer or to relations between the Government and its employees." We are in total accord with the above language and hold that it is equally applicable to the Indiana statute.

This same proposition has been followed generally in most of the other state jurisdictions where it has been repeatedly held that strikes by public employees are or should be prohibited and that injunctions should be granted to halt or prevent them.

In a vigorous and lengthy dissent, however, Indiana Supreme Court Justice C. J. DeBruler argued:

This teachers' strike was completely peaceful and minimally disruptive of the public service rendered by the schools. Only a small percentage of the public school teachers participated in the strike, [and] the schools were never closed by the strike. . . .The non-striking teachers and the students entered and left the building freely.

In spite of this the majority labels this strike "illegal" and states that, therefore, the injunctive process may be used to halt it. The strike is called illegal because it is in violation of *an alleged public policy of this State against all strikes by public employees.* [emphasis added]

However, there has never been such a public policy in this State and there was none in May, 1968, when the teachers in this case went on strike.

Justice DeBruler contended that none of the cases cited by the majority supported "a *per se* rule against strikes by public employees," and emphasized that

to avoid being in violation of the equal protection clause of the Fourteenth Amendment to the United States Constitution the dichotomy between public and private employees must have a rational basis in light of the purpose of the no-strike prohibition. . . . To justify such a prohibition against every strike by any public employees the results of a strike by such employees must be different from and more disruptive than a strike by private employees. . . . It is naive to think that *every* strike by *any* public employees will upset the whole operation of government.

The minority concluded:

Indiana needs a comprehensive labor relations act which would provide a mechanism to help settle labor disputes involving both public and private employees, without recourse to a strike. It is obvious the courts cannot create this machinery. It is equally obvious that the Court should not create an apparent substitute in the form of a *per se* rule against peaceful strikes by public employees regardless of the impact of the strike. . . . I believe that until the Legislature acts further, the Court should apply the anti-injunction act in cases of strikes by public employees and not a judicial version of martial law. . . . To prohibit a strike in a context where this amounts to ending any

pressure on the employer to bargain in good faith with representatives of the employees. . .may do long lasting damage to the community.

(*Anderson Federation of Teachers, Local 519 v. School City of Anderson, et al.*, Indiana Supreme Court, October 1, 1969).

MICHIGAN

CONSTITUTIONALITY OF HUTCHINSON ACT AFFIRMED

The Michigan Court of Appeals affirmed the constitutionality of the state's Hutchinson Act in a decision which found that the Board of Control of Eastern Michigan University is a public employer and its employees are public employees within the meaning of the act. The appeals court stated that the Hutchinson Act is "within the authority granted by the constitution and it promotes the general welfare of the people of the State of Michigan by attempting to resolve labor disputes of public employees."

The board of control, plaintiff in the case, is granted power to supervise and control the university by Art. 8, §6 of the 1963 state constitution:

Other institutions of higher education established by law having authority to grant baccalaureate degrees shall each be governed by a board of control which shall be a body corporate. The board shall have general supervision of the institution and the control and direction of all expenditures from the institution's funds.

Defendant was the Michigan Labor Mediation Board (MLMB) which previously had ruled that the board of control was a public employer under the Hutchinson Act and fell within its jurisdiction. The MLMB's ruling resulted from a petition by the American Federation of State, County and Municipal Employees, Local 1666, for certification as the exclusive bargaining representative of non-teaching, physical plant employees of the university.

Objecting to the MLMB's assumption of jurisdiction and subsequent ruling in the certification matter, the board of control sought a declaratory judgment to the effect that it was not a public employer within the meaning of the act, and that application of the act to the board was a violation of Art. 8, §6. Plaintiff argued that the constitutional provision "prohibits the legislature from passing any act which in any way interferes with plaintiff's general supervision of the university," and alleged that the Hutchinson Act violated the constitutional rights of the board and university employees.

Following a trial court ruling that the act could be applied to plaintiff and that university employees are public employees, the board of control appealed the matter. In upholding the trial court's decision, the appeals court cited an opinion issued in a similar case involving the University of Michigan:

It is the opinion of this Court that the legislature can validly exercise its police power for the welfare of the people of this State, and a constitutional corporation such as the board of regents of the University of Michigan can lawfully be affected thereby. The University of Michigan is an independent branch of the government of the State of Michigan, but it is not an island. Within the confines of the operation and the allocation of funds of the University, it is supreme. Without these confines, however, there is no reason to allow the regents to use their independence to thwart the clearly established public policy of the people of Michigan.

(*Board of Control of Eastern Michigan University v. Labor Mediation Board*, Michigan Court of Appeals, July 30, 1969).

NEW HAMPSHIRE

WRIT OF PROHIBITION DENIED TEACHERS ASSOCIATION

The Supreme Court of New Hampshire denied a petition by the Manchester Education Association and others for a writ of prohibition enjoining enforcement of a temporary injunction issued by the Hillsborough County Superior Court. Citing an earlier decision reached in *County of Hillsborough v. Superior Court*, the high court ruled:

"Prohibition is an extraordinary writ, the purpose of which is to prevent subordinate courts or other tribunals, officers or persons from usurping or exercising jurisdiction with which they are not vested. The grant of such a writ is within the discretion of this court and should be used with caution and forbearance and then only when the right to relief is clear.". . . Without passing on the contentions of any of the parties to the controversy we hold that a writ of prohibition should not issue in this case.

A temporary injunction order was issued by the superior court on September 2, 1969, on petition from the city of Manchester, which claimed that Association members were public employees who had voted to strike. Following a brief, non-evidentiary hearing, the lower court held that a public employee strike was illegal and properly enjoinable by the court. It therefore enjoined all public-school teachers in the city from participating in or supporting a work stoppage, and directed Association officers to instruct their members to report for work on the specified date. A full hearing on the matter was scheduled for September 15.

In seeking appeal of the temporary injunction, the Association entered a petition with the state supreme court, claiming that "petitioners' bargaining position with the City would be completely destroyed by this order and any opportunity for negotiations terminated." The Association argued that the trial court had exceeded and abused its jurisdiction by issuing a temporary restraining

order without an evidentiary hearing, without inquiring into the irreparable injury claimed by the city, and without allowing petitioners due process of law. Moreover, the Association contended that its members had no contractual obligations to the city, were not city employees, and could not be guilty of a work stoppage because the 1969-70 school year had not yet begun.

The state supreme court, however, denied the petition, observing that the temporary injunction instructed Association members "to report for work on [a] specified date that was less than two weeks away from [a] hearing on [the] merits of petition for injunction."
(*Manchester Education Association, et al. v. Superior Court, et al.*, Supreme Court of New Hampshire, September 3, 1969).

NEW YORK

GRIEVANCE ARBITRATION LEGAL IN PUBLIC SECTOR

In denying a school district's motion for a stay of arbitration in a dispute with teachers associations, the New York Supreme Court for the County of Onondaga ruled that "once a valid agreement has been entered into providing for arbitration, any controversy arising between the parties to the contract which is within the compass of those provisions must go to arbitration." The agreement between the parties to this case provided that an arbitrator's decision "shall be final and binding."

The court handed down its decision on a dispute over a contract provision on "teacher load" between the East Syracuse-Minoa Teachers Associations and Central School District No. 1. The contract stipulated that "the Board of Education shall make every effort to maintain the 1968-69 teacher specialist-pupil ratio," but this ratio increased during the 1969-70 school year when the number of nurse-teachers was reduced, and dental hygienists were eliminated. Claiming that the district failed to comply with this contract provision, the Associations unsuccessfully attempted to initiate grievance proceedings and then arbitrate the matter; the school system sought a court stay of arbitration.

Noting that "there exists a dispute between the parties to this contract under which respondents make a reasonable claim of arbitrability," the court explained that the school system could not contest the claim:

> It is for the arbitrator to interpret the contract and to determine whether or not the dispute is arbitrable. It is the national public policy, recognized by this state, that labor disputes under collective bargaining contracts are presumptively arbitrable and it is for the arbitrators to determine the procedural and substantive issues of arbitrability. . . . The court's function is limited to finding that a dispute of some kind under a valid contract does, in fact, exist. If the contracting parties would avoid this presumption, then they must use carefully drafted words of exclusion.
>
> It is said that rules developed in the private sector, in this case, the presumption of arbitrability, are not and should not automatically be adopted for public employer-employee relations. That is the broad statement of *Civil Service Employees Association v. Helsby*. . . . It has been codified by the legislature in *Civil Service Law* Section 209-a(3). But that decision referred to and the statute deals with unfair labor practices. . . . It would fly in the face of the state policy of the legislature found in *Civil Service Law* Section 200 which encourages grievance and arbitration procedures to hold that the ruling of *Long Island Lumber Company v. Martin*, supra, was limited to the private sector.

The court stressed that "if the issue involved is solely one of construction or interpretation, it is for the arbitrators to decide the meaning of the contract." Moreover, it pointed out that "the only exceptions in which a court will enjoin arbitration are: (1) where there is fraud or duress, (2) where there is no bona fide dispute between the parties, (3) where the performance which is the subject for the demand for arbitration is prohibited, or (4) where a condition precedent to arbitration under the contract has not been fulfilled."

The school system had argued that the contract deprived an arbitrator of jurisdiction, and that no valid contract existed because the agreement delegated non-delegable duties to an arbitrator. In rejecting the first argument, the court held that contract provisions defining an arbitrator's authority merely "limit the arbitrator's power and do no more than state his legal duty." The school system's second argument also was rejected on grounds that "the courts have recognized the authority of governmental units to bind themselves to commercial arbitration," and that "the exercise of sovereignty includes the power to contract and to contract to arbitrate disputes."
(*Central School District No. 1 of the Towns of Dewitt, Manlius and Cicero v. Stanley L. Litz, et al.*, New York Supreme Court for the County of Onondaga, October 16, 1969).

Board Findings and Rulings

MARYLAND

NEGOTIATED SALARIES NOT TO BE ARBITRARILY REDUCED

Local school boards cannot reduce negotiated teacher salaries when fiscal officials allocate enough money to meet salary requirements outlined in negotiated agreements, according to a decision by the Maryland State Board of Education. In so ruling, the board recommended that future "negotiated agreements as to salary set forth the number of professional positions upon which negotiated salary base is predicated, so that, in the event of a budget cut, the parties can renegotiate in a clearly delineated frame of reference."

The case before the state board involved a contention by the Teachers' Association of Anne Arundel County (TAAAC) that officials of the county board of education were legally obligated to provide the $6,800 salary base negotiated in a March 1968 agreement. In the agreement no mention was made of the contemplated number of teachers to be hired during the 1969-70 school year. When the board submitted its 1969-70 budget, the county executive made significant reductions in the proposed monetary amount, and the number of professional, secretarial, and clerical positions. Moreover, the county council expressed its "intention" that the board reduce the salary base to $6,600.

Although the county council appropriated enough money for the board to provide the $6,800 salary base and still increase its staffing ratio over the previous year, the board proceeded to implement the $6,600 salary base. TAAAC filed suit in the Circuit Court for Anne Arundel County in an attempt to enforce the negotiated $6,800 salary base, but the court denied relief, saying that TAAAC had not exhausted all administrative solutions before the state board.

Despite complications in the case which resulted from July 1969 changes in state school law, the state board ruled that

> the Board should have implemented the negotiated $6,800 salary base, since this would still have permitted an increased staffing ratio of at least 1.7 over the previous year. We are also cognizant that at the present time it may be financially impossible to restore fully the $6,800 salary base for the current fiscal year. . . . However, the Board has stated that not all of the contemplated 3,574.5 positions have been filled. . . . We are of the opinion, therefore, and hereby direct the Board to utilize all surplus funds in the total budgeted category of Instructional Salaries toward the immediate implementation of so much of the $6,800 salary base as is possible.

The state board parenthetically noted that, according to a previous decision, "it is incumbent upon the local school board to negotiate such reallocations with the exclusive bargaining agent insofar as the reallocations relate to 'salaries, wages, hours and other working conditions.' "
(*Teachers' Association of Anne Arundel County v. Board of Education of Anne Arundel County*, Maryland State Board of Education, November 13, 1969).

MASSACHUSETTS

SEPARATE ACADEMIC AND NONACADEMIC BARGAINING UNITS ESTABLISHED

The Massachusetts Labor Relations Commission ruled that separate collective bargaining units should represent the academic and nonacademic professional employees of Boston State College. In rejecting the single, over-all unit proposed by the American Federation of Teachers, AFL-CIO, Local 1943, and supported by the college's faculty senate, the commission explained:

> We do not approve of unnecessary fragmentation of employees into a multitude of bargaining units. However, in the case before us and from the evidence in the record, it is apparent that the differences between the Academic personnel and the Non-Academic professional personnel warrant their separation into separate bargaining units. The community of interest and harmony of relationship would be more consistent than an overall inclusion. The trend in education of the future is to expand further the number of non-academic, full time personnel to carry out the business and administration of these multi-million dollar education institutions. The day of the combination Professor-Business Manager is over. Therefore we find the two (2) UNITS as suggested by the State Agency Employer (the College) to be the most appropriate.

Unit I consists of teaching faculty and professional personnel holding the titles of professor, associate professor, assistant professor, instructor and associate dean, and 10-month librarians having academic rank. The commission noted that all employees included in Unit I have academic rank and

can achieve tenure, serve students in an instructional capacity, work an academic week averaging 12 hours plus some designated office hours but are otherwise free to engage in other activity, and work a 10-month year normally running from September 1 to June 30 with the exclusion of several weeks during which classes are not scheduled.

Unit II employees, however, do not have academic rank and cannot obtain tenure, perform noninstructional functions and render service to the entire college community, work a 40-hour week, and are classified as 12-month employees. Nonteaching, professional service personnel holding the following titles are included in Unit II: state college librarian, assistant librarian-cataloger, library reference assistant, senior library assistant bursar, assistant or associate registrar, associate admissions director, chief accountant, superintendent of buildings and grounds, college counselor, financial aid director, computer programmer, nurse, and laboratory technicians with a bachelor's degree.

The commission directed that a secret ballot election be held to determine whether a majority of employees in each unit wished to have Local 1943, the faculty senate, or neither organization serve as that unit's collective bargaining representative. (*Boston State College of the Division of State Colleges and Boston State College Faculty Federation (AFT Local 1943) and The Faculty Senate of Boston State College,* Massachusetts Labor Relations Commission, October 10, 1969).

MICHIGAN

DISMISSAL FOR UNION ACTIVITY PROHIBITED

A probationary teacher whose contract was terminated for "rather vague" reasons was awarded reinstatement and full compensation for lost back pay in a Michigan Employment Relations Commission decision which held that "a reason (and perhaps *the* reason)" for the teacher's discharge "was his aggressiveness as a representative of the labor organization which bargained for the teachers."

In overturning the trial examiner's decision, the commission ruled that the Summerfield School District's termination of a probationary teacher's employment "interfered with, restrained and coerced him in the exercise of his rights guaranteed by Section 9 of the Public Employment Relations Act in breach of Section 10(a)." Section 9 guarantees public employees the right to join and participate in the activities of labor organizations for collective bargaining purposes; Section 10(a) prohibits public employers from abridging the rights guaranteed public employees in Section 9.

Citing *National Labor Relations Board v. Vail Manufacturing Company,* the commission also held that "it may not be an unreasonable inference from the discharge to hold that other teachers 'would have every good reason to fear the same treatment meted out to [the teacher] if they were aggressive in their work with the union.' "

The probationary teacher was discharged by the Summerfield Board of Education on March 12, 1968, although his retention as a teacher had been recommended by both his principal and the school superintendent. The commission found that "on no other occasion during the five-year tenure of the Superintendent had the board of education ever overruled his recommendation on retention or termination of a teacher." Moreover, in this case, the superintendent's recommendation was overruled by a unanimous decision, and no reasons for the board's action were given publicly or to the Summerfield Education Association.

In examining three school-board members' reasons for the teacher's discharge, the commission found the testimony to be "so 'vague' as to be not credible." The board members testified that the teacher's employment was terminated because of "the way the classes were conducted; the way people felt about him, the way the public felt about him—everything in general of the district." They did not tell how the classes were conducted, little information about public opinion of the teacher was presented, and the commission found no evidence that any board member had ever observed the teacher in the classroom. Citing *Wilson v. Flint Board of Education* as evidence that the board's dismissal of the teacher violated the Michigan Teacher Tenure Act, the commission said:

> The thrust of the [Wilson] decision is that there are situations where due process requires notice, even though a statute does not specifically require it. We are of the opinion that due process required more information for Wadsworth than the school board afforded him.

One board member testified that he voted to terminate the probationary teacher's employment because in 1967 the teacher had not notified the superintendent that he was returning for the 1967-68 school year. The teacher maintained that he could not submit the contract because of pending collective bargaining. The commission ruled that "aside from the fact that grievant's failure to return a contract in 1967 would not appear to be a basis for termination in 1968, the omission may, it can be urged, be a protected activity under Section 9."

During a discussion the teacher had with the superintendent about his dismissal, the superintendent said, "I don't believe you are getting the message." The commission was

> convinced that the "message" was that grievant had irritated members of the board by his aggressive representation of the teachers. Because of his representational activities, he was discharged.

In this context, the discharge interfered with, restrained and coerced [the teacher] in the exercise of his responsibilities as an Education Association representative.
(*In the Matter of Summerfield School District and Summerfield Education Association,* Michigan Employment Relations Commission, August 21, 1969).

NEW YORK

CHECK-OFF SUSPENSION IMPOSED UPON STRIKING TEACHERS ORGANIZATION

The New York Public Employment Relations Board (PERB) imposed a three-month dues deduction forfeiture on the Island Trees Teachers Association (ITTA) for a two-day strike in June 1968. In doing so, it took exception to the hearing officer's conclusion as to the major cause of the strike, and extended the hearing officer's recommended two-day check-off interruption.

After considering seven charges leveled by the ITTA against the school board as evidence that "extreme provocation by the district" caused the strike, the hearing officer ruled that only one charge—the board's six-month inaction on a Professional Employment Agreement—had actual merit:

On the basis of the record, considered as a whole, therefore, I find and conclude that the public employer in this instance engaged in extremely provocative conduct in refusing to sign the Professional Employees Agreement without giving a reason, without actually rejecting the agreement, and without offering any real explanation for the six-month delay. I further find that this refusal was a major precipitating cause of the strike, because the issue remained a live and principal one through the fact-finding procedure, up to the very eve of the strike, and in the settlement itself. And I think it fair to conclude that this particular type of conduct should be deemed extremely provocative because it cannot help but undermine the confidence of the parties in the kind of peaceful collective bargaining which the Taylor Law seeks to foster; for how can the parties hope to achieve agreement when, once their negotiators agree upon the terms, their principals refuse either to sign or react at all? Certainly nothing could be more likely to induce the use of force, and that appears to be just what happened in this case.

The PERB affirmed the hearing officer's finding that only one ITTA claim provided possible evidence of extreme provocation by the school board, but it disagreed that the board's six-month delay in considering the agreement was the major cause of the strike. Instead, the PERB ruled that the delay merely had "some bearing" on the work stoppage, and that "it was the refusal of the employer to accept the recommendations of the fact-finders that precipitated the strike. Clearly such refusal under the circumstances of this case does not constitute extreme provocation."

As such, the PERB concluded:

The fact that strikes by public employees are prohibited does not give a license to public employers to be intransigent in negotiating with their employees or to frustrate the negotiating process by refusing to sign an agreement negotiated by the parties. Rather, this prohibition would appear to impose a higher duty of good faith negotiating on the part of public employers than employers in the private sector.

In the light of all the factors in this case, we accept the finding of the hearing office that the existence of extreme provocation was such as to mitigate the penalty that would otherwise be imposed for such a strike. We do not agree, however, with the recommendation of a two-day dues deduction forfeiture. Rather, we conclude that the dues check-off privileges of the respondent Association should be suspended for the period of three months.
(*In the Matter of Island Trees Teachers Association,* New York Public Employment Relations Board, September 23, 1969).

NEW YORK

FIREMEN NOT PENALIZED FOR STRIKE

For the first time in its two-year history, the New York Public Employment Relations Board (PERB) declined to order suspension of check-off privileges for a public employee strike, ruling that the public employer's lack of good faith bargaining constituted extreme provocation.

A four-hour work stoppage called by the City of Troy Uniformed Firemen's Association on November 22, 1969, violated the Taylor Act's anti-strike provision. But a hearing officer found that the association's request for negotiations with the city in late August 1969 was not met until late September, and that the city manager offered an economic package in early October saying, "This is it. I'm not going to make any other offers. I'm not listening to any counter-proposals. This is what I can pay, and I won't pay anything else. Take it or leave it."

The impasse was submitted to fact-finding and resulted in a report which the city manager promised to "follow and adopt" but then rejected. From late October through mid-November the association was unable to arrange a meeting with the city, called the PERB daily for assistance, and received another promise that the report would be adopted. The strike was called following a November meeting in which the city again delayed its response; it ended after four hours in compliance with an injunction issued by the state supreme court.

The PERB ruled that

public employers of this State are mandated by the State Legislature to negotiate in good faith with representatives of their employees. On the record before us, we find that the public employer herein has not discharged this responsibility. We do find that the public employer herein did engage in acts of extreme provocation so as to detract from the responsibility of the respondent for the strike.

Although noting that the brevity of the strike "does not of itself remove the presence of peril and danger to the citizens of this municipality," the PERB concluded that the peril was eliminated because "all of the firemen who left their posts stayed nearby their posts listening to radio monitors and, in the event of any alarm, would have responded." The record therefore justified no forfeiture of check-off privileges. (*City of Troy Uniformed Firemen's Association upon the Charge of Violation of Section 210.1 of the Civil Service Law*, New York Public Employment Relations Board, November 3, 1969).

WISCONSIN

ADVISORY ARBITRATION OF GRIEVANCES TERMED "AN EXERCISE IN FUTILITY"

In delivering an advisory opinion on a complicated case between the Superior Board of Education and the Superior Federation of Teachers, an independent arbitrator strongly criticized advisory arbitration:

> Nothing has been accomplished other than to deepen frustrations and do violence to the collective bargaining relationship. So-called "Advisory Arbitration" is, in the opinion of the undersigned, an exercise in futility. It has the potential to become, in and of itself a part of the problem that final and binding arbitration is designed to mitigate.

The case before the arbitrator involved four disputes; the arbitrator sustained the board in two and the federation in two, even though "the parties. . .indicated no intent whatsoever to either accept or reject the opinion of the arbitrator."

The initial dispute concerned conflicting contract provisions which stated first that previous teaching experience "shall be considered as experience within the district on a year for year basis to a maximum of five (5) years," and second that "newly employed teachers shall be placed on the salary schedule according to degrees held and credits earned and given full year for year credit for actual teachers." Five teachers who were employed at the beginning of the school year after teaching outside the district for a half-year contended that their salaries should be based upon a full year's teaching experience. They referred to a third contract provision which held that "one-half year of experience shall be considered a full year of experience in determining position on the salary schedule." The arbitrator upheld the teachers and the federation by deciding that the third provision determined the salaries of teachers hired at the start of the agreement, while the other two provisions applied only to teachers hired during the course of the agreement.

In the second dispute, however, the arbitrator sustained the board in its denial of reimbursement for a third day of personal leave when the contract specified only two days' personal leave each school year. A teacher had taken a third day of personal leave to attend the federation's state convention, and the union claimed that because leave always had been granted for the convention, the two days' leave provided in the contract were additional days. Explaining that personal leave is a negotiable item, the arbitrator found that the contract provided no reopener on any negotiable items discussed in the process of negotiating the agreement.

The third dispute involved a union request for above-scale pay for a teacher of visually handicapped students. An agreement had been reached with a previous superintendent, but the board then rescinded the agreement. Finding that the contract provides higher pay for specialized instructors, the arbitrator sustained the union's claim.

In the fourth issue, the arbitrator sustained the board in finding no contract support for the union's claim that veterans of less than 24 months' military service be credited with such service for purposes of pay and experience. But he suggested that the board and the federation clarify future agreement provisions applying to military veterans with previous teaching experience.

In concluding his opinion, the arbitrator discussed advisory arbitration, stating that his observations were intended "to be neither facetious nor offensive":

> As the parties hereto surely understand, final and binding arbitration is a mutually-embraced, orderly and expeditious process for the disposition of issues arising during the term of their agreement. It is a creature of their contract. As such it is not an adversary proceeding in the commonly accepted sense. What does it do? It settles disputes at least for the life of the contract. It provides immediate guidance to the parties and it may also define and clarify issues for future negotiations. A panacea it is not. No one, least of all the undersigned, would proclaim it a cure-all; however, it is no longer seriously argued that final and binding arbitration is not a desirable substitute for "trial-by-combat" in the troublesome arena of labor relations.
>
> What about "Advisory Arbitration?" What does it do? The more kindly disposed among us might say that it is a step in the right direction and that it can pin-point issues to be resolved at some future date. The undersigned, however, is persuaded that its inherent shortcomings far outweigh any benefits inuring to parties who would indulge in the proceeding. Why? The submitted issues, as in the instant case where the parties have indicated no intent whatsoever to either accept or reject the opinion of the arbitrator, are not settled. Furthermore, the grievants involved, having had their day in court, are nonetheless denied relief. Neither party—winner or loser—is able to "breathe easier," so to speak, because nothing has been determined.

(*Board of Education, Joint City School District No. 1, City of Superior, Wisconsin, and Superior Federation of Teachers*, September 4, 1969).

Negotiation Notes

DELAWARE

TEACHER NEGOTIATION LAW GREETED WITH DISPLEASURE

Delaware's new "Professional Negotiations and Relations" law, enacted on October 31, 1969, prompted a Delaware State Education Association vote to impose sanctions on the state while meeting on November 3. A "sanctions alert" had been in effect since February because of the state's failure to pass a bargaining law.

Teacher discontent reportedly focused on the law's anti-strike provisions, which declare it "unlawful for any public school employee to engage in any tactic which circumvents any provision of his teaching contract." The act states that "the word 'strike' shall be deemed an unexcused absence" and specifically provides that "no public school employee shall strike while in the performance of his official duties." Although no penalty fines are established, the act holds that any exclusive negotiating representative which violates the provisions forfeits its status as exclusive representative for two years and loses its privileges of dues check-off for one year.

The act stipulates that any contracts or agreements reached are in effect for a minimum period of two years with no reopener. And it limits negotiable subjects to "all matters relating to salaries, employee benefits, and working conditions." Salaries are defined as "direct compensation of the employee for his (her) professional services;" employee benefits are "those items contributing to the employee's welfare, paid by the local school district and . . . not subject to income taxation of the employee," and include "a 'dues check-off' system;" and working conditions refer to "physical conditions of facilities in the school district building such as, but not limited to heat, lighting, sanitation and food processing."

Moreover, the act provides that

> no contract or agreement executed between the two parties shall specify directly or indirectly binding arbitration or decision-making by a third party or parties. The rights of the public through their legally elected or appointed Board of Education in final policy making is not subject to negotiation.

In the event of an unsettled dispute, either party may request mediation by any method mutually agreed upon, or through a three-member mediation committee whereby each party selects a representative and the third must be "selected by mutual agreement of both parties." And if fact-finding is requested by either party, a fact-finding committee is to be selected by the same method.

Supervisory and staff personnel are excluded from the bargaining unit, for the act defines a public school employee as "any certificated non-administrative employee employed by a school district." In addition, strict requirements are placed upon labor organizations seeking certification as the exclusive bargaining representative: to be certified, an organization must receive "an affirmative vote by a majority of the total number of public school employees eligible to vote in [an] election." Organizations wishing to intervene in a representation election must have a certified membership enrollment "of at least 30 percent of the total members of public school employees of the school district."

The act allows teachers complete freedom to join or refrain from joining a labor organization, and states that "membership in any specific organization shall not be required as a condition of employment." It further declares that "nothing in this Act shall prohibit any certificated employee from appearing in his own behalf on matters relating to his employment relations with the school district."

The full text of the Delaware Teacher Negotiations Law is printed in the "Texts" section of this issue of the DIGEST.

FLORIDA

EXCLUSION OF ADMINISTRATORS FROM TEACHERS ORGANIZATIONS RULED UNCONSTITUTIONAL

A decision handed down by the U.S. District Court for the Southern District of Florida ruled unconstitutional a Florida law which prohibited administrative and supervisory personnel of the Palm Beach County school system from membership in organizations whose activities included "the collective representation of members of the teaching profession with regard to terms, tenure or conditions of employment."

The law defined an administrator or supervisor as "all principals and assistant principals," and "all persons employed in [a] non-teaching capacity except librarians, coaches, clerks, maintenance personnel, custodial personnel, and food services personnel." It provided that any administrator or supervisor violating the law would be subject to dismissal by the superintendent of schools.

The court held that the law, which affected only Palm Beach County educators, violated the First and Fourteenth Amendments by denying administrators and supervisors the right freely to join associations of their own choosing.

FLORIDA

PROFESSIONAL NEGOTIATION LAW ENACTED FOR ONE COUNTY

The Florida state legislature enacted a Teachers Professional Negotiations Law applicable only to counties with a population of 390,000 to 450,000. As such, Hillsborough County alone will be affected by the new law, which provides that

> teachers have the right to negotiate professionally with the board and to be represented by a professional association in such professional negotiations as to salaries, hours, wages, rates of benefits and other terms of employment, curriculum, student discipline, personnel policies and all other items that affect rights and responsibilities of teachers.

The act empowers a school board to "recognize the Professional Association elected by a majority of the teachers in the County as the sole and exclusive negotiating agent for all the teachers of the County," and mandates the board to "meet and confer in good faith" with the exclusive negotiation representatives.

It further provides for arbitration in the event of an unsettled dispute; each party to the dispute is to select its own arbitrator, and then the two arbitrators are to select and agree upon a third arbitrator to serve as chairman of the arbitration board. If the two arbitrators are unable to agree upon a third, either the negotiating agent or the board may request that the American Arbitration Association select the third arbitrator. All written findings and opinions reached by the arbitrators in an informal hearing are to be advisory.

The new law holds that "any professional negotiating agreement negotiated under the terms and provisions of this act shall specifically provide that the teachers who are subject to its terms shall have no right to engage in any work stoppage or strike, the consideration for such provisions being the right to a resolution of disputed questions."

LOUISIANA

BARGAINING BY POLICE OFFICERS LEGAL

An opinion issued by the Louisiana attorney general affirmed the right of ranking police department members to join unions for the purpose of negotiating agreements, but held that a strike or slow-down called by a union of police officers "would be a willful neglect of duty and would subject the officers, who participated in the strike or slow-down, to removal from office or other disciplinary action by the appointing authority."

Stating that there is "substantial authority in Louisiana which indicates that police officers or other municipal employees may become members of a labor union," the attorney general held that there is "no reason to distinguish between higher ranking members of the police and patrolmen. All are employees of the city and would be free to become members of the union."

The opinion was issued in reply to a number of questions submitted by the public safety commissioner and police chief of Bogalusa. In reply to an inquiry about union authority "to usurp the authority and power" of civil service or departmental rules and regulations, the attorney general referred to an earlier opinion which held that "in any collective bargaining contract between a public agency and a labor organization, such contracts must contain a clause recognizing the rights of municipal employees under civil service."

A full-text presentation of the attorney general's opinion appears in the "Texts" section of this issue of the DIGEST.

NEBRASKA

TEACHER SALARIES NOT TO BE SET BY COURT

Nebraska's Court of Industrial Relations will not set teacher salaries in the state "as a matter of good judgment," according to a judge of the court. Speaking before the Nebraska State School Boards Association, the judge explained that the court is empowered to fix teacher salaries at rates comparable to "persons in similar situations," but it would prefer to see teachers engage in the collective bargaining rights granted them by the Nebraska Teachers' Professional Negotiations Act.

The Nebraska court consists of five judges appointed by the governor, and has full power to conduct hearings and trials relevant to public employee bargaining under the rules of evidence used in state civil trials. It has no jurisdiction "over any persons, organizations, or school districts subject

to the provisions of the Nebraska Teachers' Professional Negotiations Act. . . until all provisions of such act have been exhausted without resolution of the dispute involved." The state's professional negotiations act states that once a school board recognizes a teachers organization, it shall engage in "good faith negotiations" with that organization. The act also provides for fact-finding procedures in the event of an unsettled dispute.

Objections to court intervention in the determination of teacher salaries had been voiced by both school-board representatives and the state education association, as both preferred that teachers bargain for agreements on wages and working conditions without third party aid. The judge emphasized that the court's existence is important to teachers only as a means of prodding stubborn school boards to review their labor-management position and dealings. But in the event of an unsettled dispute in which all provisions of the act have been exhausted, he said the court could declare an industrial dispute and order the resumption of good faith bargaining, or decide the matter itself.

NEW JERSEY

GREATER VOLUNTARY SETTLEMENT EFFORTS NEEDED

In reviewing the activities of the New Jersey Public Employment Relations Commission (PERC) since its December 1968 initiation, its executive director asked public employers and employee organizations to settle their disputes voluntarily so that the need for PERC intervention would diminish.

Stating that the commission is staffed by only five professional and six clerical employees, the executive director said that by mid-October 1969 the PERC had "docketed a total of 156 requests for mediators, 32 requests for fact-finders, 154 representation matters, 22 charges alleging violations of the [New Jersey Public Employee Relations Act of 1968], and three requests for the submission of lists of names of arbitrators." He explained that the heavy work load resulted from "a substantial influx of mediation cases in school districts throughout the state which were affected by a February budget deadline."

The PERC had reached 19 decisions by mid-October, and the director felt that "the fact that only six work disruptions occurred in cases in which the commission was involved speaks well of its early success in administering a new law."

OTHER ITEMS OF INTEREST

COLLECTIVE BARGAINING SETTLEMENTS INCREASING

The Labor Department's Bureau of Labor Statistics (BLS) reported that during the first nine months of 1969, major collective bargaining settlements affected more than two million workers and showed a considerable increase over the corresponding period in 1968.

Average annual increases in wage rates for the duration of a contract were 6.6 percent of straight-time average hourly earnings, as compared with 5.2 percent for the full year 1968. Wage increases, particularly in the nonmanufacturing sector, continued to accelerate, and the median first-year negotiated wage increase stood at 10.4 percent. In manufacturing industries, the first-year increase amounted to 6.9 percent.

BLS noted, however, that if the construction industry was excluded from computations of first-year wage-rate increases, the figures would decline to 7.3 percent for all industries, and 8.0 percent for the nonmanufacturing sector. Likewise, wage changes averaged over the life of a contract would drop to 6.1 percent for all industries, and 7.2 percent for nonmanufacturing.

Initial estimates indicated that median wage and benefit packages negotiated during the first nine months of 1969 showed an increase of 7.4 percent a year, compared with 6.0 percent for the full year 1968. If the actual timing of wage and benefit changes was considered, BLS said the median increase would amount to 8.1 percent.

Statistics

NEGOTIATION AGREEMENTS, 1968-69

Analysis of 2,605 negotiation agreements filed in the NEA Research Division's depository of agreements has been completed for the 1968-69 school year. These agreements, which cover only classroom teachers, were validated or effective during 1968-69, and represent an increase of 393 agreements over the previous year. In addition, over 100 administrator and supervisor or paraprofessional agreements were reported, but these have not been included in the 1968-69 edition of the *Negotiation Agreement Provisions*. All data were derived from the NEA Research Division's negotiation survey of school systems enrolling 1,000 or more pupils during the 1968-69 school year.

Two basic types of agreements, procedural and comprehensive, were analyzed and coded. Procedural agreements contain combinations of three elements: (a) recognition of an organization or elected committee which represents a unit of employees for negotiation purposes, (b) procedures for negotiation, and (c) procedures providing for the resolution of impasse. Comprehensive agreements may include some or all of the provisions found in procedural agreements, but they also contain specific items relating to personnel and conditions of employment which are negotiated and agreed upon by the parties involved.

Of the 2,605 agreements analyzed, 1,627 (62.5 percent) were procedural, and 978 (37.5 percent) were comprehensive. In 1966-67, comparable figures were 1,142 procedural agreements (74.6 percent), and 389 comprehensive agreements (25.4 percent) representing classroom teachers. Over the two-year period, the percent of comprehensive agreements rose, while the percent of procedural agreements fell. Comprehensive agreements increased by 151.4 percent. Eight new states—Arizona, Arkansas, California, Kansas, Missouri, Nebraska, Utah, and Wyoming—reported at least one comprehensive agreement during the 1968-69 school year.

The tables summarize on a state-by-state basis the number of personnel represented by types of agreements (Table A-1), and the number of agreements analyzed (Table 2-A). In addition, both tables provide the appropriate data by type of affiliation, enrollment stratum, and region.

Table A-1 shows that 75.1 percent of all classroom teachers represented in recorded agreements are affiliated with the NEA, 17.4 percent are affiliated with the American Federation of Teachers (AFT), and 7.5 percent are affiliated with "other" independent organizations. Of the total number of classroom teachers covered by comprehensive agreements, 60.8 percent are represented by the NEA, 39.0 percent by the AFT, and 0.2 percent by other organizations.

Table 2-A indicates that 93.5 percent of all agreements analyzed were negotiated by NEA affiliates, 3.2 percent by AFT affiliates, and 3.3 percent by other representatives. Of the 978 comprehensive agreements recorded in 1968-69, 91.3 percent are attributed to the NEA, 8.0 percent to the AFT, and 0.7 percent to other organizations. This table also shows that the greatest increase in comprehensive agreements occurred in the East Coast region where 291 more agreements were reported in 1968-69 than the previous year. New York State was mainly responsible for this increase.

ENROLLMENT STRATA

Stratum	School system enrollment
1.	100,000 or more
2.	50,000 - 99,999
3.	25,000 - 49,999
4.	12,000 - 24,999
5.	6,000 - 11,999
6.	3,000 - 5,999
7.	1,200 - 2,999
8.	1,000 - 1,199

REGIONS

Central: Arkansas, Kansas, Missouri, Oklahoma

East Coast: Delaware, New Jersey, New York, Pennsylvania

Mid-Atlantic: Maryland, Virginia, Washington, D.C., West Virginia

Midwest: Illinois, Indiana, Kentucky, Michigan, Ohio

Mountain: Arizona, Colorado, Nevada, New Mexico, Utah, Wyoming

New England: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont

North Central: Iowa, Minnesota, Nebraska, North Dakota, South Dakota, Wisconsin

Northwest: Alaska, Idaho, Montana, Oregon, Washington

Southeast: Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee

Southwest: Texas

West Coast: California, Hawaii

TABLE A-1
NUMBER OF PERSONNEL REPRESENTED BY TYPE OF AGREEMENT

	PERSONNEL COVERED BY AGREEMENTS	PROCEDURAL AGREEMENTS RECOGNITION ONLY		PROCEDURAL AGREEMENTS ENDING AT NEGOTIATION PROCEDURES		PROCEDURAL AGREEMENTS ENDING AT IMPASSE PROCEDURES		TOTAL PROCEDURAL AGREEMENTS		COMPREHENSIVE AGREEMENTS	
		NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.
1	2	3	4	5	6	7	8	9	10	11	12
ALABAMA	0	0	.0	0	.0	0	.0	0	.0	0	.0
ALASKA	2,240	0	.0	1,767	78.9	473	21.1	2,240	100.0	0	.0
ARIZONA	10,281	152	1.5	2,301	22.4	5,562	54.1	8,015	78.0	2,266	22.0
ARKANSAS	1,585	0	.0	278	17.5	265	16.7	543	34.3	1,042	65.7
CALIFORNIA	169,841	917	.5	154,128	90.7	8,559	5.0	163,604	96.3	6,237	3.7
COLORADO	17,232	253	1.5	3,723	19.3	4,481	26.0	8,057	46.8	9,175	53.2
CONNECTICUT	21,988	722	3.3	324	1.5	0	.0	1,046	4.8	20,942	95.2
DELAWARE	1,427	0	.0	698	48.9	729	51.1	1,427	100.0	0	.0
DISTRICT OF COLUMBIA	8,000	0	.0	0	.0	0	.0	0	.0	8,000	100.0
FLORIDA	16,644	0	.0	5,185	31.2	11,459	68.8	16,644	100.0	0	.0
GEORGIA	0	0	.0	0	.0	0	.0	0	.0	0	.0
HAWAII	0	0	.0	0	.0	0	.0	0	.0	0	.0
IDAHO	2,572	388	15.1	2,042	79.4	142	5.5	2,572	100.0	0	.0
ILLINOIS	51,342	2,069	4.0	5,326	10.4	13,097	25.5	20,492	39.9	30,850	60.1
INDIANA	16,711	449	2.7	3,353	20.1	7,134	42.7	10,936	65.4	5,775	34.6
IOWA	5,656	924	16.3	2,543	45.0	2,189	38.7	5,656	100.0	0	.0
KANSAS	11,210	0	.0	2,001	17.9	5,981	53.4	7,982	71.2	3,228	28.8
KENTUCKY	8,563	0	.0	761	8.9	7,802	91.1	8,563	100.0	0	.0
LOUISIANA	0	0	.0	0	.0	0	.0	0	.0	0	.0
MAINE	2,304	0	.0	91	3.9	2,213	96.1	2,304	100.0	0	.0
MARYLAND	35,937	3,385	9.4	22,178	61.7	494	1.4	26,057	72.5	9,880	27.5
MASSACHUSETTS	36,419	0	.0	316	.9	1,164	3.2	1,480	4.1	34,939	95.9
MICHIGAN	76,193	0	.0	0	.0	0	.0	0	.0	76,193	100.0
MINNESOTA	24,815	76	.3	19,616	79.0	5,123	20.6	24,815	100.0	0	.0
MISSISSIPPI	0	0	.0	0	.0	0	.0	0	.0	0	.0
MISSOURI	15,135	3,502	23.1	5,954	39.3	4,829	31.9	14,285	94.4	850	5.6
MONTANA	1,419	0	.0	360	25.4	546	38.5	906	63.8	513	36.2
NEBRASKA	5,254	2,464	46.9	81	1.5	2,637	50.2	5,182	98.6	72	1.4
NEVADA	1,100	0	.0	1,100	100.0	0	.0	1,100	100.0	0	.0
NEW HAMPSHIRE	1,157	0	.0	1,157	100.0	0	.0	1,157	100.0	0	.0
NEW JERSEY	26,652	645	2.4	14,111	52.9	6,368	23.9	21,124	79.3	[illegible],528	20.7
NEW MEXICO	4,148	0	.0	3,834	92.4	314	7.6	4,148	100.0	0	.0
NEW YORK	148,937	433	.3	889	.6	4,812	3.2	6,134	4.1	142,803	95.9
NORTH CAROLINA	800	0	.0	800	100.0	0	.0	800	100.0	0	.0
NORTH DAKOTA	1,790	0	.0	1,267	70.8	523	29.2	1,790	100.0	0	.0
OHIO	59,830	2,339	3.9	14,382	24.0	27,204	45.5	43,925	73.4	15,905	26.6
OKLAHOMA	1,667	0	.0	315	18.9	1,352	81.1	1,667	100.0	0	.0
OREGON	17,486	0	.0	13,284	76.0	4,202	24.0	17,486	100.0	0	.0
PENNSYLVANIA	38,555	780	2.0	10,568	27.4	13,214	34.3	24,562	63.7	13,993	36.3
RHODE ISLAND	6,412	0	.0	0	.0	0	.0	0	.0	6,412	100.0
SOUTH CAROLINA	725	725	100.0	0	.0	0	.0	725	100.0	0	.0
SOUTH DAKOTA	902	275	30.5	0	.0	627	69.5	902	100.0	0	.0
TENNESSEE	9,762	0	.0	9,762	100.0	0	.0	9,762	100.0	0	.0
TEXAS	26,198	300	1.1	15,362	58.6	10,536	40.2	26,198	100.0	0	.0
UTAH	5,055	0	.0	717	14.2	0	.0	717	14.2	4,338	85.8
VERMONT	685	0	.0	70	10.2	615	89.8	685	100.0	0	.0
VIRGINIA	10,700	0	.0	2,279	21.3	6,121	57.2	8,400	78.5	2,300	21.5
WASHINGTON	31,660	483	1.5	4,735	15.0	25,729	81.3	30,947	97.7	713	2.3
WEST VIRGINIA	1,792	0	.0	1,792	100.0	0	.0	1,792	100.0	0	.0
WISCONSIN	24,891	758	3.0	3,491	14.0	3,061	12.3	7,310	29.4	17,581	70.6
WYOMING	1,597	0	.0	125	7.8	889	55.7	1,014	63.5	583	36.5
TOTAL	965,269	22,039	2.3	332,666	34.5	190,446	19.7	545,151	56.5	420,118	43.5
AFFILIATION											
N. E. A.	724,710	18,749	2.6	265,428	36.6	185,065	25.5	469,242	64.7	255,468	35.3
A. F. T.	167,671	3,290	2.0	626	.4	0	.0	3,916	2.3	163,755	97.7
OTHER	72,888	0	.0	66,612	91.4	5,381	7.4	71,993	98.8	895	1.2
TOTAL	965,269	22,039	2.3	332,666	34.5	190,446	19.7	545,151	56.5	420,118	43.5
STRATUM											
1	226,683	0	.0	71,780	31.7	16,295	7.2	88,075	38.[illegible]	138,608	61.1
2	96,373	5,622	5.8	31,586	32.8	26,867	27.9	64,075	66.[illegible]	32,298	33.5
3	75,026	0	.0	26,821	35.7	15,197	20.3	42,018	56.0	33,008	44.0
4	147,360	5,283	3.6	56,284	38.2	30,444	20.7	92,011	62.4	55,349	37.6
5	160,217	3,422	2.1	61,495	38.4	37,460	23.4	102,377	63.9	57,840	36.1
6	141,470	4,670	3.3	47,836	33.8	32,708	23.1	85,214	60.2	56,256	39.8
7	106,183	2,863	2.7	32,898	31.0	28,445	26.8	64,206	60.5	41,977	39.5
8	11,957	179	1.5	3,966	33.2	3,030	25.3	7,175	60.[illegible]	[illegible]	40.0
TOTAL	965,269	22,039	2.3	332,666	34.5	190,446	19.7	545,151	56.5	420,118	43.5
NEA REGIONS											
CENTRAL	29,597	3,502	11.8	8,548	28.9	12,427	42.0	24,477	82.7	5,120	17.3
EAST COAST	215,571	1,858	.9	26,266	12.2	25,123	11.7	53,247	24.7	162,324	75.3
MID-ATLANTIC	56,429	3,385	6.0	26,249	46.5	6,615	11.7	36,249	64.2	20,180	35.8
MIDWEST	212,639	4,857	2.3	23,822	11.2	55,237	26.0	83,916	39.5	128,723	60.5
MOUNTAIN	39,413	405	1.0	11,400	28.9	11,246	28.5	23,051	58.5	16,362	41.5
NEW ENGLAND	68,965	722	1.0	1,958	2.8	3,992	5.8	6,672	9.7	62,293	90.3
NORTH CENTRAL	63,308	4,497	7.1	26,998	42.6	14,160	22.4	45,655	72.1	17,653	27.9
NORTHWEST	55,377	871	1.6	22,188	40.1	31,092	56.1	54,151	97.8	1,226	2.2
SOUTHEAST	27,931	725	2.6	15,767	56.4	11,459	41.0	27,931	100.0	0	.0
SOUTHWEST	26,198	300	1.1	15,362	58.6	10,536	40.2	26,198	100.0	0	.0
WEST COAST	169,841	917	.5	154,128	90.7	8,559	5.0	163,604	96.3	6,237	3.7
TOTAL	965,269	22,039	2.3	332,666	34.5	190,446	19.7	545,151	56.5	420,118	43.5

TABLE A-2
NUMBER OF AGREEMENTS

STATE	NO. OF AGREEMENTS	PROCEDURAL AGREEMENTS RECOGNITION ONLY		PROCEDURAL AGREEMENTS ENDING AT NEGOTIATION PROCEDURES		PROCEDURAL AGREEMENTS ENDING AT IMPASSE PROCEDURES		TOTAL PROCEDURAL AGREEMENTS		COMPREHENSIVE AGREEMENTS	
		NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.
1	2	3	4	5	6	7	8	9	10	11	12
ALABAMA	0	0	.0	0	.0	0	.0	0	.0	0	.0
ALASKA	7	0	.0	3	42.9	4	57.1	7	100.0	0	.0
ARIZONA	25	1	4.0	10	40.0	12	48.0	23	92.0	2	8.0
ARKANSAS	4	0	.0	2	50.0	1	25.0	3	75.0	1	25.0
CALIFORNIA	372	5	1.3	337	90.6	29	7.8	371	99.7	1	.3
COLORADO	27	2	7.4	7	25.9	14	51.9	23	85.2	4	14.8
CONNECTICUT	61	3	4.9	2	3.3	0	.0	5	8.2	56	91.8
DELAWARE	7	0	.0	1	14.3	6	85.7	7	100.0	0	.0
DISTRICT OF COLUMBIA	1	0	.0	0	.0	0	.0	0	.0	1	100.0
FLORIDA	10	0	.0	4	40.0	6	60.0	10	100.0	0	.0
GEORGIA	0	0	.0	0	.0	0	.0	0	.0	0	.0
HAWAII	0	0	.0	0	.0	0	.0	0	.0	0	.0
IDAHO	18	2	11.1	14	77.8	2	11.1	18	100.0	0	.0
ILLINOIS	144	9	6.3	26	18.1	76	52.8	111	77.1	33	22.9
INDIANA	52	4	7.7	22	42.3	18	34.6	44	84.6	8	15.4
IOWA	14	1	7.1	7	50.0	6	42.9	14	100.0	0	.0
KANSAS	40	0	.0	11	27.5	28	70.0	39	97.5	1	2.5
KENTUCKY	16	0	.0	5	31.3	11	68.8	16	100.0	0	.0
LOUISIANA	0	0	.0	0	.0	0	.0	0	.0	0	.0
MAINE	14	0	.0	1	7.1	13	92.9	14	100.0	0	.0
MARYLAND	13	4	30.8	5	38.5	2	15.4	11	84.6	2	15.4
MASSACHUSETTS	137	0	.0	4	2.9	4	2.9	8	5.8	129	94.2
MICHIGAN	312	0	.0	0	.0	0	.0	0	.0	312	100.0
MINNESOTA	92	1	1.1	85	92.4	6	6.5	92	100.0	0	.0
MISSISSIPPI	0	0	.0	0	.0	0	.0	0	.0	0	.0
MISSOURI	48	3	6.3	27	56.3	17	35.4	47	97.9	1	2.1
MONTANA	10	0	.0	3	30.0	5	50.0	8	80.0	2	20.0
NEBRASKA	13	2	15.4	1	7.7	9	69.2	12	92.3	1	7.7
NEVADA	1	0	.0	1	100.0	0	.0	1	100.0	0	.0
NEW HAMPSHIRE	8	0	.0	8	100.0	0	.0	8	100.0	0	.0
NEW JERSEY	116	4	3.4	73	62.9	33	28.4	110	94.8	6	5.2
NEW MEXICO	10	0	.0	8	80.0	2	20.0	10	100.0	0	.0
NEW YORK	350	3	.9	7	2.0	21	6.0	31	8.9	319	91.1
NORTH CAROLINA	1	0	.0	1	100.0	0	.0	1	100.0	0	.0
NORTH DAKOTA	8	0	.0	5	62.5	3	37.5	8	100.0	0	.0
OHIO	234	16	6.8	79	33.8	127	54.3	222	94.9	12	5.1
OKLAHOMA	4	0	.0	1	25.0	3	75.0	4	100.0	0	.0
OREGON	64	0	.0	43	67.2	21	32.8	64	100.0	0	.0
PENNSYLVANIA	105	3	2.9	45	42.9	52	49.5	100	95.2	5	4.8
RHODE ISLAND	19	0	.0	0	.0	0	.0	0	.0	19	100.0
SOUTH CAROLINA	1	1	100.0	0	.0	0	.0	1	100.0	0	.0
SOUTH DAKOTA	4	1	25.0	0	.0	3	75.0	4	100.0	0	.0
TENNESSEE	4	0	.0	4	100.0	0	.0	4	100.0	0	.0
TEXAS	25	1	4.0	16	64.0	8	32.0	25	100.0	0	.0
UTAH	5	0	.0	1	20.0	0	.0	1	20.0	4	80.0
VERMONT	4	0	.0	1	25.0	3	75.0	4	100.0	0	.0
VIRGINIA	7	0	.0	3	42.9	2	28.6	5	71.4	2	28.6
WASHINGTON	91	2	2.2	15	16.5	71	78.0	88	96.7	3	3.3
WEST VIRGINIA	4	0	.0	4	100.0	0	.0	4	100.0	0	.0
WISCONSIN	98	5	5.1	18	18.4	22	22.4	45	45.9	53	54.1
WYOMING	5	0	.0	2	40.0	2	40.0	4	80.0	1	20.0
TOTAL	2,605	73	2.8	912	35.0	642	24.6	1,627	62.5	978	37.5
AFFILIATION											
N. E. A.	2,436	71	2.9	838	34.4	634	26.0	1,543	63.3	893	36.7
A. F. T.	84	2	2.4	4	4.8	0	.0	6	7.1	78	92.9
OTHER	85	0	.0	70	82.4	8	9.4	78	91.8	7	8.2
TOTAL	2,605	73	2.8	912	35.0	642	24.6	1,627	62.5	978	37.5
STRATUM											
1	19	0	.0	7	36.8	3	15.8	10	52.6	9	47.4
2	31	2	6.5	10	32.3	9	29.0	21	67.7	10	32.3
3	50	0	.0	19	38.0	10	20.0	29	58.0	21	42.0
4	188	6	3.2	75	39.9	39	20.7	120	63.8	68	36.2
5	390	9	2.3	134	39.5	91	23.3	254	65.1	136	34.9
6	668	22	3.3	235	35.2	160	24.0	417	62.4	251	37.6
7	1,059	31	2.9	344	32.5	283	26.7	658	62.1	401	37.9
8	200	3	1.5	68	34.0	47	23.5	118	59.0	82	41.0
TOTAL	2,605	73	2.8	912	35.0	642	24.6	1,627	62.5	978	37.5
NEA REGIONS											
CENTRAL	96	3	3.1	41	42.7	49	51.0	93	96.9	3	3.1
EAST COAST	578	10	1.7	126	21.8	112	19.4	248	42.9	330	57.1
MID-ATLANTIC	25	4	16.0	12	48.0	4	16.0	20	80.0	5	20.0
MIDWEST	758	29	3.8	132	17.4	232	30.6	393	51.8	365	48.2
MOUNTAIN	73	3	4.1	29	39.7	30	41.1	62	84.9	11	15.1
NEW ENGLAND	243	3	1.2	16	6.6	20	8.2	39	16.0	204	84.0
NORTH CENTRAL	229	10	4.4	116	50.7	49	21.4	175	76.4	54	23.6
NORTHWEST	190	4	2.1	78	41.1	103	54.2	185	97.4	5	2.6
SOUTHEAST	16	1	6.3	9	56.3	6	37.5	16	100.0	0	.0
SOUTHWEST	25	1	4.0	16	64.0	8	32.0	25	100.0	0	.0
WEST COAST	372	5	1.3	337	90.6	29	7.8	371	99.7	1	.3
TOTAL	2,605	73	2.8	912	35.0	642	24.6	1,627	62.5	978	37.5

Special Reports

BRIEFS OF RECENT AGREEMENTS

Massasoit, Massachusetts

Between the Massachusetts Board of Regional Community Colleges for Massasoit Community College and the Massasoit Community College Faculty Association, effective September 1969 to June 1970.

Compensation: Starting salaries for instructors, $7,670; assistant professors, $8,997.80; associate professors, $10,758.80, full professors, $13,410.80, maximum $19,099.60.

Leaves: 5 days' leave for professional meetings with expense reimbursement; sabbatical leave after 6 years' service, full-pay for 1 semester or half-pay for 2 semesters.

Insurance: College-paid accident and sickness coverage providing salary continuation; comprehensive liability insurance, life insurance, and group health policies.

Miscellaneous: Faculty participation in selection of college president and other administrators; faculty participation in revision of student handbook, college catalogue, and faculty handbook and bylaws; tuition waived for faculty members auditing courses or taking courses for credit.

ARTICLE VIII—Faculty Participation In Selection Process

A. Selection of the President of the College
   1. A Faculty member selected by the Association shall serve on the Regional Community College Board Personnel Selection Committee and shall assist in the selection and evaluation of candidates for the Presidency of Massasoit Community College.

B. Selection of Academic Administrative Personnel other than the Presidency.
   1. The President of the Association shall appoint three faculty members to serve as the Faculty Selection Committee.
   2. The Faculty Selection Committee shall assist in the selection of all candidates for all college academic administrative positions.
   3. The person recommended to the Board for appointment shall be selected by the President of the College from not more than three nominees submitted to the President by the Faculty Selection Committee in accordance with the following procedure:
      a. Applications for all administrative positions may be forwarded to the Faculty Selections Committee by the President or from other appropriate sources.
      b. The Faculty Selection Committee shall evaluate the applications so received and recommend to the President not more than three nominees for each vacancy.
      c. The nominees shall be ranked in accordance with the Selection Committee evaluation. The first name shall be that of the candidate that the Selection Committee deems to be most qualified for the particular vacancy. The remaining names shall be listed in accordance with the position of rank determined by the Faculty Selection Committee.
      d. The President shall select from the not more than three names submitted by the Faculty Selection Committee the nominee he desires to recommend to the Board for appointment.
      e. The President shall consult with the Faculty Selection Committee in an attempt to determine the outstanding candidate for nomination to the Board from the three nominees selected by the Faculty Selection Committee.

C. Division Chairmen shall be designated by the President and/or Dean in consultation with the Faculty of the particular division involved.

D. Selection of Faculty

The Dean of Faculty, Division Chairmen, and/or Department Heads and a departmental selection committee shall assist in screening candidates for instructional vacancies within the department as with the procedures for selection of academic administrative personnel.

Copiague, Long Island, New York

Between the Board of Education of Union Free School District No. 5 and the Copiague Teachers Association, effective July 1, 1969, to June 30, 1970. Approximately 330 certificated professional employees.

Compensation: B.A., $7,300 to $11,715; M.A., $8,375 to $13,915, 15 increments; M.A. plus 60 hours, $15,375 maximum; Ph.D., $15,575 maximum. Differentials: guidance counselors, $600 additional; special education teachers, $240 additional; varsity football coach, $780 additional; junior and senior high-school intramural coach, $90 additional.

Leaves: 10 days' annual sick leave, unlimited accumulation; additional 20 days' paid sick leave which may be replaced later; 5 separate days for bereavement leave.

Insurance: Employer-paid dental plan for individual and dependents; employer-paid long-term disability and life insurance plans for individual; tax sheltered annuity plan.

Miscellaneous: Association dues deduction; cafeteria aides provided for student supervision during lunch period; grievance procedure ends with binding arbitration; joint building and school district curriculum councils.

District No. 25, Merrick, New York

Between the Board of Education of Union Free School District No. 25, Town of Hempstead, New York, and the Merrick Faculty Association, Inc., effective July 1, 1969, to June 30, 1970, with supplement made on June 17, 1969. Total of 164 certificated professional employees.

Compensation: B.A., $7,364 to $12,231; M.A., $8,123 to $14,042 maximum, 14 increments; M.A. plus 45 hours, $15,165 maximum; M.A. plus 60 hours, $250 additional; Ph.D., $500 additional; longevity pay after 19 years.

Leaves: 10 days' annual sick leave, 150 days' maximum accumulation; 7 separate days for personal business; sabbatical leave after 7 years' service, half-pay or three quarter-pay for full year.

Insurance: Employer-paid group health and dental coverage for individual; long-term disability insurance covering accidents and sickness; tax deferred annuity plan.

Miscellaneous: Grievance procedure ends with binding arbitration; Association may use school facilities, including equipment, mail services, and public address system; free exchange of budget data between Association and board; nondiscrimination in teacher employment; maintenance of standards; professional dues deduction; joint committee to review and modify school calendar; lump-sum payment of unused sick leave allowance upon termination or retirement.

Cincinnati, Ohio

Between the Board of Education of the City of Cincinnati and the Cincinnati Teachers Association, effective January 16, 1969, to January 31, 1971. Total of 3,945 certificated professional employees.

Compensation: B.A., $6,500 to $10,670, 12 increments; M.A., $7,200 to $11,370; M.A. plus 30 hours, $11,620 maximum; Ph.D., $12,320 maximum; longevity pay of $390 after 17 years' service, $310 after 22 years' service. Differentials: teacher corps team leaders, $1,000 additional; junior high volleyball coach, $25 additional, to head football coach, $600 additional.

Leaves: Sick leave accrued at rate of 1¼ days per month of service, 195 days' accumulation; 2 separate days for school visitation; 2 separate days for personal leave; paid professional conference leave; sabbatical leave after 5 years' service, half-pay.

Insurance: Employer-paid Blue Cross-Blue Shield and major medical coverage for individual; tax sheltered annuity plan.

Miscellaneous: Association dues deduction; paraprofessional assistants provided for nonteaching duties; continuing contract teacher not required to be evaluated, except by specific request of teacher or principal; screening committee including teacher representatives to interview supervisory and administrative candidates for promotion.

Alexandria, Virginia

Between the Board of Education of the Alexandria City Public Schools and the Education Association of Alexandria, effective July 1, 1969, to June 30, 1970. Total of 1,079 certificated professional employees.

Compensation: B.A., $7,050 to $11,958, 13 increments; M.A., $8,108 to $13,395; M.A. plus 15 hours, $14,100 maximum; Ph.D., $14,805 maximum; added increment during year of retirement.

Leaves: 12 days' annual sick leave, unlimited accumulation; 1½ days' sick leave for summer school teachers; 3 separate days for personal leave; paid professional conference leave; sabbatical leave after 6 years' service, 75% of salary for half year or full year.

Insurance: Employer pays 50% of group hospitalization and major medical coverage for individual; tax sheltered annuity plan.

Miscellaneous: Association dues deduction; provisions for 8 additional teacher aides at both the elementary and secondary levels; joint committee to assist in drafting school calendar; voluntary 12-month employment plan with 20% additional pay and fringe benefits.

Plymouth, Wisconsin

Between the Board of Education of Joint School District No. 8, City of Plymouth, Wisconsin and the Plymouth Education Association, effective July 1, 1969, to June 30, 1970. Total of 130 certificated professional employees.

Compensation: B.A., $6,750 to $9,990, 12 increments; M.A., $7,150 to $10,725; M.A. plus 12 hours, $11,110 maximum; M.A. plus 12 hours and 48-week contract, $12,760 maximum. Differentials: head football coach, 8% of B.A. base; wrestling coach, 4% of B.A. base; senior class play director, 2% of B.A. base; department heads, $100 additional.

Leaves: 12 days' annual sick leave, 72 days' accumulation; paid professional conference leave.

Insurance: Employer-paid Blue Cross-Blue Shield health coverage for individual or family head; payroll deductions for accident and sickness insurance.

Miscellaneous: Tuition reimbursement; grievance procedure ends with binding arbitration; Association may use school facilities, and is allowed visitation rights to investigate grievances.

CONSUMER PRICE INDEX, NOVEMBER 1969

Data published by the Bureau of Labor Statistics (BLS) indicate that the November 1969 Consumer Price Index (CPI) all items figure showed an 0.5 percent rise over the previous month. The November index reached 130.5, as compared to an October index of 129.8 (1957-59=100). Increases in nearly all kinds of consumer services and higher food and apparel prices accounted for most of the rise in the November index, which stood 5.8 percent higher than a year ago.

The CPI is designed to measure "average changes in prices of goods and services usually bought by urban wage earners and clerical workers, both families and single persons living alone." Prices of some 400 items which represent the price movements of all goods and services purchased by wage earners and clerical workers regularly are obtained in urban portions of 39 Standard Metropolitan Statistical Areas (SMSA) and 17 selected small cities. Price changes used in calculating the CPI are averaged and then weighted according to their importance in spending. In the total index, all SMSA and city data are combined and weighted according to the 1960 populations of SMSA's and the cities they represent. Index numbers are computed on the base 1957-59=100, and the CPI is rounded to one decimal point.

BLS estimates that approximately 161,000 workers will receive cost-of-living pay increases based upon the November CPI. Hourly pay increases ranging from 6 to 9 cents and based upon the May to

November rise in the national CPI will affect some 86,500 workers, primarily those in the meatpacking industry; 55,000 workers will receive hourly increases of 1 to 5 cents according to the increase in the national index since August. And about 11,400 employees of various industries will receive hourly pay raises of 7 or 8 cents resulting from the change in the CPI since October 1968.

BLS noted that food prices, which usually decline slightly in November, rose 0.7 percent from October primarily because of significant increases in the prices of fresh vegetables and eggs. Most types of services rose during November with the greatest increases occurring in services connected with home-ownership. Medical care services registered a "relatively moderate advance" over October, according to BLS, and a significant rise in transportation services mainly was attributed to auto insurance rates and repair costs.

November prices of nondurable commodities, excluding food, rose 0.3 percent over the previous month, as the costs of feminine apparel, cigarettes, and alcoholic beverages jumped significantly. BLS noted, however, that these November increases partially were offset by a drop in gasoline prices in some areas. Consumer durables experienced a less than seasonal rise during November, and BLS said this reflected a decline in used car prices.

The tables provide a comparative study of the CPI all items index for 25 selected SMSA's or cities from 1959 to 1968 (Table 1), and for the first 11 months of 1969 (Table 2).

TABLE 1—CONSUMER PRICE INDEX, ALL ITEMS, SELECTED CITIES OR SMSA'S, 1959-1968 (1957-1959=100)

SMSA/city	All Items									
	1959	1960	1961	1962	1963	1964	1965	1966	1967	1968
U.S. City Average[a]	101.5[b]	103.1[b]	104.2[b]	105.4[b]	106.7[b]	108.1[c]	109.9	113.1	116.3	121.2
Atlanta, Ga.	102.1	102.7	103.4	104.1	105.1	106.7	108.1	111.5	115.0	119.6
Baltimore, Md.	102.5	103.4	104.4	105.2	106.8	107.9	109.6	113.4	116.1	120.9
Boston, Mass.	102.3	103.6	105.4	107.4	109.5	111.1	113.2	117.0	119.8	124.7
Buffalo, N.Y. (November 1963=100)	(NA)	(NA)	(NA)	(NA)	(NA)	101.1	103.5	107.0	109.9	114.8
Chicago, Ill.-Northwestern Ind.	102.3	103.0	103.8	104.6	105.7	106.1	107.6	110.7	113.6	118.5
Cincinnati, Ohio-Ky.	101.7	102.2	102.6	103.6	104.7	106.3	107.2	110.3	113.5	118.9
Cleveland, Ohio	101.8	102.3	103.1	103.5	104.7	105.2	106.9	109.7	112.9	119.6
Dallas, Texas (November 1963=100)	(NA)	(NA)	(NA)	(NA)	(NA)	100.1	101.4	105.0	108.1	113.0
Detroit, Mich.	100.6	101.3	100.9	102.2	103.2	104.0	106.4	111.1	114.9	119.8
Honolulu, Hawaii (December 1963=100)	(NA)	(NA)	(NA)	(NA)	(NA)	100.2	102.0	104.9	107.8	111.9
Houston, Texas	101.8	102.1	103.9	104.6	105.6	107.2	108.5	111.5	114.4	119.3
Kansas City, Mo.-Kansas	102.6	103.1	104.6	106.1	107.2	109.8	113.3	116.3	118.7	123.5
Los Angeles-Long Beach, Calif.	103.4	104.1	105.8	106.6	108.2	110.2	112.5	114.7	117.6	122.2
Milwaukee, Wis.	(NA)	101.8	(NA)	103.9	104.9	106.0	108.2	110.6	112.9	116.8
Minneapolis-St. Paul, Minn.	102.3	103.1	104.4	105.5	107.0	108.0	109.5	112.2	115.9	121.2
New York, N.Y.-Northeastern N.J.	103.1	103.9	105.3	106.4	108.7	110.4	112.2	116.0	119.0	124.1
Philadelphia, Pa.-N.J.	103.0	103.2	104.8	105.2	107.2	108.8	110.6	113.7	116.8	122.4
Pittsburgh, Pa.	102.9	104.1	105.0	105.9	107.1	108.5	110.2	113.0	115.0	120.4
Portland, Oreg.	101.9	102.9	104.6	104.6	106.6	109.0	111.8	115.3	118.2	122.3
St. Louis, Mo.-Ill.	102.0	102.4	104.4	105.1	106.2	108.1	109.9	113.5	116.8	121.5
San Diego, Calif. (February 1965=100)	(NA)	(NA)	(NA)	(NA)	(NA)	(NA)	100.1	102.1	105.1	109.4
San Francisco-Oakland, Calif.	103.9	104.5	106.5	107.4	108.9	110.6	112.7	115.6	119.0	124.3
Scranton, Pa.	101.8	102.5	104.6	105.9	107.3	109.3	111.0	114.9	118.0	122.8
Seattle, Wash.	102.8	103.3	105.7	106.5	108.2	109.7	111.0	114.1	117.5	122.3
Washington, D.C.-Md.-Va.	101.1	102.2	104.2	104.6	106.4	108.1	109.6	113.3	116.5	122.0

Sources: *Monthly Labor Review*, Vol. 92, No. 11, U.S. Department of Labor, Bureau of Labor Statistics, Washington, D.C.: U.S. Government Printing Office, November 1969.

Statistical Abstract of the United States, U.S. Department of Commerce, Bureau of the Census, Washington, D.C.: U.S. Government Printing Office, 1966 and 1969.

[a]Excludes Portland, Oreg., and Scranton, Pa. For 1965, excludes Houston, Texas; Kansas City, Mo.-Kansas; Milwaukee, Wis.; Minneapolis-St. Paul, Minn.; and San Diego, Calif.

[b]Excludes Alaska and Hawaii.

[c]Beginning in 1964, the index structure was revised to reflect the buying patterns of urban wage earners and clerical workers in the 1960's, including single workers living alone as well as families with two or more persons. Indexes for prior years apply only to families of two persons or more.

TABLE 2—CONSUMER PRICE INDEX, ALL ITEMS, SELECTED CITIES OR SMSA'S, 1969 BY MONTH (1957-1959=100)

SMSA/city	All Items—1969[b]										
	Jan.	Feb.	March	April	May	June	July	Aug.	Sept.	Oct.	Nov.
U.S. City Average[a]	124.1	124.6	125.6	126.4	126.8	127.6	128.2	128.7	129.3	129.8	130.5
Atlanta, Ga.	–	–	124.9	–	–	126.1	–	–	128.6	–	–
Baltimore, Md.	–	–	125.7	–	–	127.9	–	–	130.4	–	–
Boston, Mass.	127.9	–	–	129.8	–	–	132.1	–	–	134.7	–
Buffalo, N.Y. (November 1963=100)	–	117.3	–	–	120.2	–	–	121.2	–	–	(NA)
Chicago, Ill.-Northwestern Ind.	121.4	121.9	122.9	123.2	123.6	124.6	125.3	126.1	127.2	126.9	127.7
Cincinnati, Ohio-Ky.	–	–	122.7	–	–	124.6	–	–	125.5	–	–
Cleveland, Ohio	–	123.1	–	–	125.3	–	–	127.3	–	–	129.5
Dallas, Texas (November 1963=100)	–	116.8	–	–	119.4	–	–	121.2	–	–	(NA)
Detroit, Mich.	122.8	123.4	125.1	125.7	126.4	127.3	127.6	128.5	128.6	129.2	129.8
Honolulu, Hawaii (December 1963=100)	–	–	115.6	–	–	116.6	–	–	(NA)	–	–
Houston, Texas	123.2	–	–	125.5	–	–	127.0	–	–	129.8	–
Kansas City, Mo.-Kansas	–	–	128.1	–	–	130.4	–	–	131.4	–	–
Los Angeles-Long Beach, Calif.	124.7	125.2	126.6	126.9	126.9	127.9	128.6	128.9	129.6	130.1	130.0
Milwaukee, Wis.	–	120.8	–	–	122.8	–	–	123.9	–	–	127.0
Minneapolis-St. Paul, Minn.	122.9	–	–	125.1	–	–	128.0	–	–	130.3	–
New York, N.Y.-Northeastern N.J.	127.8	128.3	129.6	130.5	130.8	131.6	132.1	132.5	133.5	134.1	134.6
Philadelphia, Pa.-N.J.	125.2	126.0	127.0	127.6	127.5	128.2	129.2	130.2	131.0	131.2	131.7
Pittsburgh, Pa.	124.0	–	–	126.0	–	–	127.7	–	–	128.5	–
Portland, Oreg.	(NA)	(NA)	(NA)	(NA)	(NA)	(NA)	(NA)	(NA)	(NA)	(NA)	(NA)
St. Louis, Mo.-Ill.	–	–	125.4	–	–	127.0	–	–	129.2	–	–
San Diego, Calif. (February 1965=100)	–	112.8	–	–	114.4	–	–	116.0	–	–	(NA)
San Francisco-Oakland, Calif.	–	–	128.9	–	–	130.8	–	–	132.8	–	–
Scranton, Pa.	(NA)	(NA)	(NA)	(NA)	(NA)	(NA)	(NA)	(NA)	(NA)	(NA)	(NA)
Seattle, Wash	–	125.9	–	–	127.6	–	–	129.5	–	–	130.0
Washington, D.C.-Md.-Va.	–	126.3	–	–	128.8	–	–	130.8	–	–	132.0

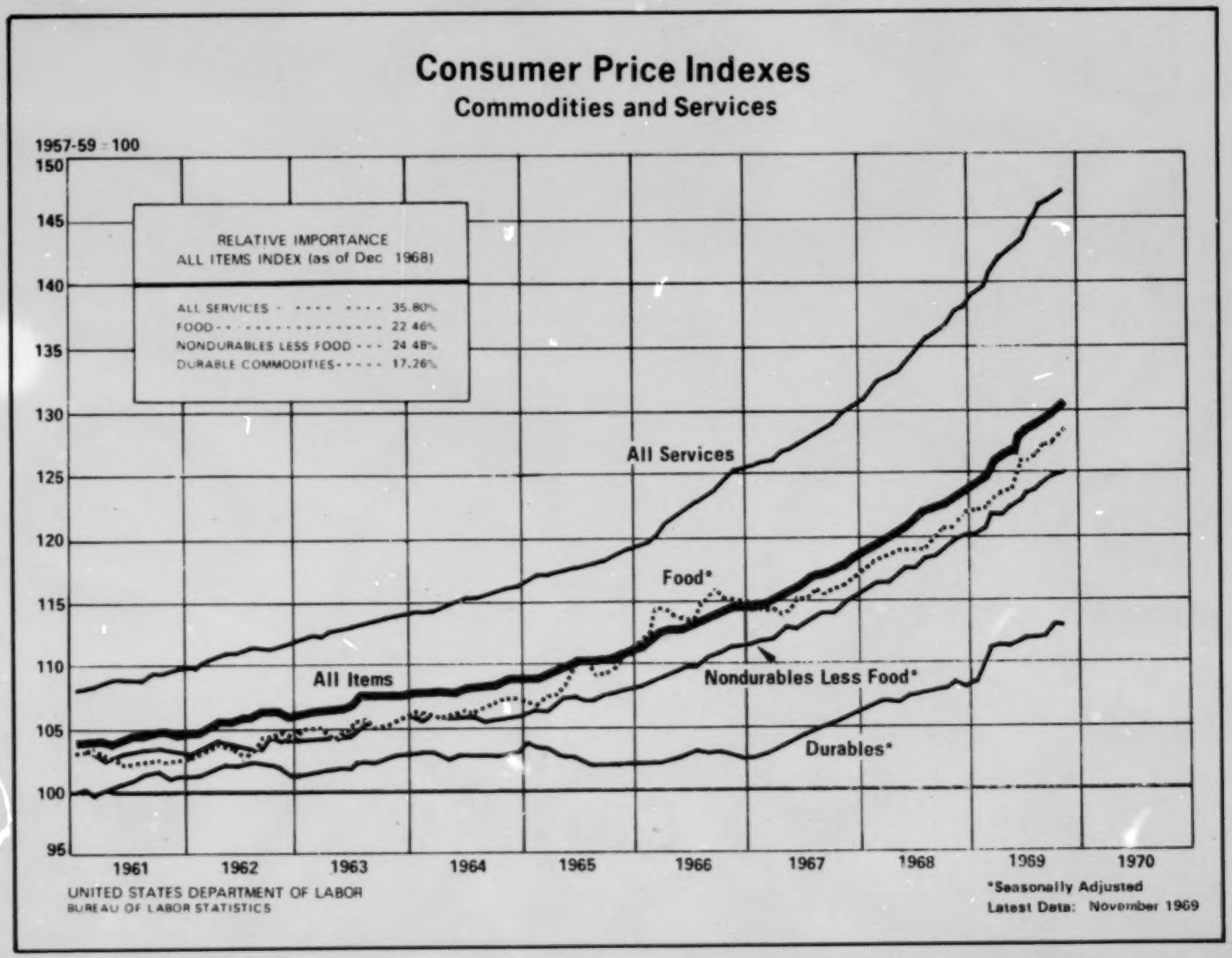
Sources: *Labor Law Reports,* Supplemental Reports 64 and 68, Commerce Clearing House, Inc., Chicago, Ill.: Commerce Clearing House, Inc., November 21, 1969, and December 19, 1969.

Monthly Labor Review, Vol. 92, No. 11, U.S. Department of Labor, Bureau of Labor Statistics, Washington, D.C.: U.S. Government Printing Office, November 1969.

[a]Excludes Portland, Oreg.; and Scranton, Pa.

[b]Foods, fuels, and several other items are priced every month in all cities. Most other goods and services are priced according to the following schedule:

1. Every month—city average; Chicago, Ill.-Northwestern Ind.; Detroit, Mich.; Los Angeles-Long Beach, Calif.; New York, N.Y.-Northeastern N.J.; and Philadelphia, Pa.-N.J.
2. January, April, July, October—Boston, Mass.; Houston, Texas; Minneapolis-St. Paul, Minn.; and Pittsburgh, Pa.
3. February, May, August, November—Buffalo, N.Y.; Cleveland, Ohio; Dallas, Texas; Milwaukee, Wis.; San Diego, Calif.; Seattle, Wash.; and Washington, D.C.-Md.-Va.
4. March, June, September, December—Atlanta, Ga.; Baltimore, Md.; Cincinnati, Ohio-Ky.; Honolulu, Hawaii; Kansas City, Mo.-Kansas; St. Louis, Mo.-Ill.; and San Francisco-Oakland, Calif.


Consumer Price Indexes
Commodities and Services
1957-59 = 100
150
145
140
135
130
125
120
115
110
105
100
95
RELATIVE IMPORTANCE
ALL ITEMS INDEX (as of Dec 1968)
ALL SERVICES 35.80%
FOOD 22.46%
NONDURABLES LESS FOOD 24.48%
DURABLE COMMODITIES 17.26%
All Services
Food*
All Items
Nondurables Less Food*
Durables*
1961
1962
1963
1964
1965
1966
1967
1968
1969
1970
UNITED STATES DEPARTMENT OF LABOR
BUREAU OF LABOR STATISTICS
*Seasonally Adjusted
Latest Data: November 1969

Texts

DELAWARE TEACHER NEGOTIATIONS LAW

SENATE SUBSTITUTE NO. 1
FOR
SENATE BILL NO. 228
AS AMENDED BY
SENATE AMENDMENT NOS. 2, 6, 8, 9
AND
HOUSE AMENDMENT NOS. 3, 5, 11

AN ACT TO AMEND TITLE 14, DELAWARE CODE, RELATING TO EDUCATION BY PROVIDING FOR NEGOTIATIONS AND RELATIONS BETWEEN BOARDS OF EDUCATION AND ORGANIZATIONS OF PUBLIC SCHOOL EMPLOYEES.

WHEREAS, certified professional employees of the public school system of this State are presently prohibited from organizing and bargaining under Chapter 13, Title 19, Delaware Code:

NOW THEREFORE, BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1.

Title 14, Delaware Code, is amended by adding a new chapter thereto as follows:

CHAPTER 40
PROFESSIONAL NEGOTIATIONS
AND RELATIONS

§ 4001. **Definition of terms**

As used herein:

(a) "Employee organization" means any organization of certified employees of a public school district and which has as one of its purposes the representation of such employees in their relations with the Board of Education of the district.

(b) "School district" means any school district or reorganized school district of the State.

(c) "Public school employee" means any certificated nonadministrative employee employed by a school district. Supervisory or staff personnel shall not be included within the meaning of the term "public school employee" as used herein.

§ 4002. **Purpose**

The purpose of this Act is to promote the improvement of personnel management and employer-employee relationships within the public school system by recognizing the right of the public employees to join organizations of their own choice and to be represented by such organizations in their professional and employment relationships with Boards of Education. To this end, a free and open exchange of views between the Board of Education of the school district and public school employees is deemed desirable and in the public interest.

§ 4003. **Public school employees organizations**

(a) Public school employees have the right to join any organization for their professional or economic improvement, but membership in any specific organization shall not be required as a condition of employment.

(b) Organizations that seek to represent a certificated school district employee in Professional negotiations shall so specify on membership applications.

(c) Dues shall be deducted by the employer for organizations representing employees only with the request and assent of the employee in writing.

§ 4004. **Certification of Exclusive Negotiating Representative**

(a) Any employee organization may petition the Board of Education for certification as the exclusive negotiating representative of the public school employees of a school district. Any such petition shall be dated and shall have annexed to it a list of the current members of said employee organization, certified as correct by an officer of said employee organization authorized to make such certification, and delivered to the Secretary of the Board of Education. Copies of such petition (but not of the list of members) shall be posted on the door of every school house in the district and in one other prominent place inside each school house in the district. The original petition, including list of members, shall be filed with the Secretary of the Board of Education for permanent record. Employee organizations shall submit promptly for inspection of the Board of Education, all of its membership applications in order that the Board may be definitively assured that a majority of the membership of the employee organization have indicated their desire to be represented by the organization in collective bargain-

ing negotiations, as prescribed by Section 4003 (b) hereof.

(b) In the event the Board of Education determines that a majority of its public school employees are listed as members of said organization, and the majority of such members have indicated a desire to be represented by the employee organization in collective bargaining negotiations as prescribed by Section 4003 (b) hereof, the Board of Education shall certify in writing not less than thirty days and not later than forty-five days after the filing and posting of said petition, that said organization is the exclusive negotiating representative of the public school employees of the school district, unless within said thirty day period a petition requesting the holding of an election is filed as hereinafter provided.

(c) If within 30 days after the filing and posting of said petition at least 30 percent of the total number of the public school employees of the school district file with the Secretary of the Board of Education a petition requesting that an election be held to determine the exclusive negotiating representative, such election shall be held not less than 30 days of receipt of the petition by the Secretary of the Board of Education, between the dates of September 1 and June 15.

(d) The local Board of Education may order an election to determine the exclusive negotiating representative.

(e) In the event that the Board of Education determines in good faith that an organization does not have the requisite membership for certification, or that an organization does not have the right to an election under Section 4004 (c), the organization shall have the right to appeal within thirty (30) days to the State Board of Education.

§ 4005. **Conduct of Election**

(a) Whenever an election to determine the exclusive negotiating representative shall be held it shall be the responsibility of the Board of Education to conduct the election, to set the time, location (locations) of the polls and to act as officers or to appoint officers, except that no officer appointed shall be a member of any organization that appears on the ballot.

(b) The ballot at said election shall contain the name of the employee organization which filed the petition under § 4004 (a) and the name of any other employee organization which, not less than 20 days before said election, files with the Secretary of the Board of Education written certified evidence of membership enrollment of at least 30 percent of the total members of public school employees of the school district. The ballot shall also contain an appropriate space for the public school employee to indicate "No negotiating unit desired."

(c) When an election is held the exclusive negotiating representative shall not be certified which does not receive an affirmative vote by a majority of the total number of public school employees eligible to vote in the election.

(d) An employee organization denied certification in an election as the exclusive negotiating representative of the public school employees of a school district under the provisions of this section shall be ineligible to petition said school district under Section 4004 for a period of one year from the date of such denial.

§ 4006. **Exclusive Negotiating Representative**

(a) An organization certified as the exclusive negotiating representative shall have the right to be the exclusive negotiating representative of public school employees of the school district in all matters relating to salaries, employee benefits, and working conditions.

(a-1) For the purpose of this Act:

"Salaries" are defined as the direct compensation of the employee for his (her) professional services.

"Employee benefits" are defined as those items contributing to the employee's welfare, paid by the local school district and are not subject to income taxation of the employee, i.e., medical and life insurance. "Employee Benefits" also include a "dues check-off" system.

"Working conditions" are defined as physical conditions of facilities in the school district building such as, but not limited to heat, lighting, sanitation and food processing.

(b) Professional Relations. Nothing in this Chapter shall be construed as to prohibit the Board of Education and the exclusive negotiating representative from mutually agreeing upon other matters for discussion, except as prohibited in Section 4011 (c).

(c) The certification of an exclusive negotiating representative either by election or otherwise, shall be for a minimum period of 24 months from the date of certification. At least 30 calendar days prior to the expiration of said certification, the exclusive negotiating representative may apply for renewal of its certification by submitting a certified count of its members, or any other employee organization may apply for certification as the exclusive negotiating representative of the public school employees as provided for in § 4004 or 30 percent of the total number of the other school employees of the school district may petition for a new election as provided for in § 4004 (c).

§ 4007. **Rights of individual employees**

Nothing in this Act shall prohibit any certificated employee from appearing in his own behalf

on matters relating to his employment relations with the school district.

§ 4008. **Obligation of both parties**

(a) The Board of Education or its representative and the exclusive negotiating representative of the public school employees, through their designated officials or representatives, and upon the request of either party, shall have the duty to negotiate in good faith with respect to salaries, employee benefits, and working conditions.

(b) Such duties shall also include the obligation of the Board of Education or its representative and the exclusive negotiating representative of the public school employees to meet at reasonable times and to confer in good faith with respect to the matters of § 4006 of this chapter.

(c) No contract or agreement executed between two parties shall specify directly or indirectly binding arbitration or decision-making by a third party or parties. The rights of the public through their legally elected or appointed Board of Education in final policy making is not subject to negotiation.

(d) Any contract or agreement reached between the two parties shall be for a minimum period of two years from the effective date of such contract or agreement and negotiations concerned with the terms of such contract or agreement shall not be reopened during that time.

§ 4009. **Rights guaranteed**

The Board of Education and/or its designated representative(s) shall not interfere, restrain or coerce employees in the right to organize guaranteed by this Act, and in the absence of any certification as the exclusive bargaining representative all organizations seeking to represent public school employees shall be accorded equal treatment with respect to access to such employees.

No representative of any employee organization shall be permitted to solicit membership therein, or to solicit petitions or votes for the purpose of obtaining a collective bargaining agreement, on school property at any time, unless he shall be a bona fide employee of the particular school district involved and a member of the local employee organization whom he purports to represent. All election campaigning on school property during school hours shall be restricted to those areas reserved exclusively for teacher use.

§ 4010. **Submission to an Impartial Committee**

Whenever it appears to the Board of Education or the exclusive negotiating representative that a persistent disagreement exists with respect to salaries, employee benefits and working conditions as defined in Section 4006 (a-1) concerning which the parties have been negotiating, either the Board of Education or the exclusive negotiating representative may request mediation by any method mutually agreed upon. In the absence of such an agreement and within 10 days, the Board of Education and the exclusive negotiating representative should select a mediator by mutual agreement. In the absence of such agreement, and within another 10 days, a mediation committee, which shall consist of three persons, one selected by the exclusive negotiating representative, one selected by the Board of Education, and a third person selected by mutual agreement of both parties, shall be formed. The third person mentioned above will serve as chairman of the mediation committee.

In the event that fact-finding is requested by either party a fact finding committee will be selected by the method described above for mediation.

Within 21 calendar days of its existence, the mediation committee will issue a report setting forth the circumstances of the impasse and their recommendations for settling the dispute.

Any costs involved in resolving such an impasse shall be divided equally between the parties.

§ 4011. **Observance of teaching contract**

(a) It shall be unlawful for any public school employee to engage in any tactic which circumvents any provision of his teaching contract.

(b) If an employee organization designated as exclusive representative shall violate the provisions hereof, its designation as exclusive representative shall be revoked by the public school employer, and said employee organization and any other employee organization which violates any of the provisions hereof, shall be ineligible to be designated as exclusive representative for a period of two (2) years thereafter. If any employee organization violates the provisions hereof, the public school employer shall refrain from making payroll deductions for that organization's dues for a period of one (1) year thereafter.

(c) No public school employee shall strike while in the performance of his official duties. For purposes of this section, the word 'strike' shall be deemed an unexcused absence.

§ 4012. **Existing agreements**

Nothing herein shall be deemed as a termination or invalidation of existing agreements between a Board of Education and an organization of public school employees, except to the extent that they are in conflict with provisions of this chapter.

§ 4013. **Other statutes**

The Act is intended to be in addition and supplementary to other laws of the State and shall

not be construed to repeal any of the other provisions of Title 14, Delaware Code. If there is a conflict between any agreement arising under the provisions of this Act and a provision arising under any other Chapter of this Title, the provision arising under any other Chapter of the Title shall prevail.

LOUISIANA ATTORNEY GENERAL OPINION

Honorable Elmer G. Smith, Commissioner
Department of Public Safety
Bogalusa, Louisiana 70427

Honorable Thomas J. Mixon
Chief of Police
Bogalusa, Louisiana 70427

Gentlemen:

I have your letter of October 14, 1969, in which you request our opinion on the following questions which are quoted from your letter:

"1. Do police officers working for a municipality under Civil Service have any authority to join a labor union?

2. Are ranking members of the police department, which are considered part of management, entitled to join a labor union?

3. Does a labor union, at any time, have the authority to usurp the authority and power of a) the Municipal Fire and Police Civil Service Rules and Regulations, b) Departmental Orders and Rules and Regulations of the Police Department?

4. Could the union in which police officers here are members call a slow-down, picket line, or strike by police officers? Is this not expressly prohibited by law?

5. If in this State police officers are prohibited from being members or a part of any labor-union organization, then any contract signed between the Union and the City would be null and void, is this not right?"

There is substantial authority in Louisiana which indicates that police officers or other municipal employees may become members of a labor union. For example the case, *New Orleans Fire Fighters Association Local 632, AFL-CIO and Oliver Bayard v. City of New Orleans,* (1967) 204 So. 2d 690 upheld the validity of a contract entered into between the Association and the City of New Orleans, which contract pertained to the maximum hours of work of the firemen. Furthermore, R.S. 42:457 authorizes the state, parishes, and municipalities to deduct union dues from the pay of an employee when requested by the employee. This statute is legislative recognition of the right of public employees to belong to labor organizations. Therefore, the first question is answered in the affirmative.

The second question, likewise, is answered in the affirmative. We see no reason to distinguish between higher ranking members of the police and patrolmen. All are employees of the city and would be free to become members of the union.

A labor union cannot legally usurp the authority and power of either the Municipal Fire and Police Civil Service Board nor can a union legally usurp the powers of a Police Department regarding the making of rules and regulations. In a recent opinion of this office to Mr. M. J. Israel, Superintendent, Bogalusa City Schools, it was our conclusion that in any collective bargaining contract between a public agency and a labor organization, such contracts must contain a clause recognizing the rights of municipal employees under civil service. The clause should state that the contract is not detrimental to the rights of such employees, which rights are protected by Civil Service statutes or constitutional amendments. The third question is answered in the negative.

In answer to the fourth question, it is our conclusion that if a labor union of police officers called a strike or slow-down, this would be a wilful neglect of duty and would subject the officers, who participated in the strike or slow-down, to removal from office or other disciplinary action by the appointing authority (Constitution, Article XIV, Section 15.1 [30]. The tenure of permanent police employees under the Constitution is "during good behavior" and the refusal of a police officer to be present for duty at the proper time would be a violation of the following provisions of the Constitutional Amendment.

"(1) Unwillingness or failure to perform the duties of his position in a satisfactory manner.

(2) The deliberate omission of any act that it was his duty to perform.

(3) The commission or omission of any act to the prejudice of the departmental service or contrary to the public interest or policy.

(4) Insubordination."

In reply to the final question, since, as above indicated, a collective bargaining contract between a labor union and a city is legal, it is unnecessary to answer this question.

I trust that the above will sufficiently answer your inquiries, and I am

Very truly yours,
/s/ JACK P. F. GREMILLION
Attorney General

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NEGOTIATION RESEARCH DIGEST

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Case Reviews

MICHIGAN

AGENCY SHOP PROVISION IN PUBLIC EMPLOYMENT CONTRACT UPHELD

The Michigan Court of Appeals denied four Wayne County General Hospital nurses leave to appeal a circuit court decision which upheld the validity of agency shop provisions in public employee contracts. The Wayne County Circuit Court had refused to enjoin the discharge of nurses unwilling to comply with an agency shop provision found in a contract between Wayne County and the American Federation of State, County and Municipal Employees, District Council 23. And the appellate court refused to grant an appeal on grounds that "plaintiffs have failed to demonstrate an abuse of discretion by the trial court." (*Barbara Pullen, et al. v. County of Wayne, Michigan, and American Federation of State, County and Municipal Employees, District Council 23*, Michigan Court of Appeals, December 2, 1969.)

NEW JERSEY

SCHOOL BOARD'S UNILATERAL ADOPTION OF NEW PROMOTION POLICY DEEMED LAWFUL

Ruling on an appeal of a New Jersey Board of Education decision, the Appellate Division of New Jersey Superior Court held that the Newark education board's unilateral adoption of a promotion policy differing from one contained in a negotiated agreement constituted "a lawful exercise of discretionary authority." In so ruling, the court affirmed the state board's opinion that the Newark board properly "made its decision in terms of its overriding obligation to serve the needs of the children and the community."

In earlier district court litigation 10 white Newark teachers who stood at the head of promotion eligibility lists had contested the Newark board's change in promotion procedures after they had been bypassed for promotion to elementary-school principalships and vice-principalships. The teachers contended that procedural changes were instituted for the purpose of promoting more Negroes to positions for which they otherwise would not have been qualified, and that appointments made subsequent to the changes were based solely on race.

The district court ruled on August 14, 1969, that the Newark board did not discriminate against white teachers by suspending its competitive examinations and appointing more Negroes under the new procedure, which placed final promotion decisions in the hands of the Newark superintendent. (See page 5 of the November 1969 NRD for a summary of the district court's ruling.)

During the district court proceeding, the teachers also alleged that the board's unilateral adoption of a promotion policy which modified the terms of an outstanding agreement with the Newark Teachers Association (NTA) constituted a breach of contract. The superior court addressed itself to this allegation, ruling that "there can be no doubt" as to the enforceable nature of the NTA's contract, even though the New Jersey Employer-Employee Relations Act was enacted after the signing of the contract. It cited with approval the state education board's decision that "the law is not to be construed to imply that a board of education is not legally and morally bound to comply in good faith with the terms of any agreement consummated with its employees." Moreover, the superior court emphasized the state board's finding that "drastic, unilateral action can be sustained only in the face of *a real threat or obstacle* [emphasis added] to the proper operation of the school system, or in an emergency of equal importance."

While not contesting the enforceability of the contract, the Newark board maintained that its statutory authority to make and amend its rules applying to teachers empowered it to unilaterally change procedures. The board justified its action "on the grounds of statutory authority and educational necessity." As such, the superior court held that "the critical issue before us is whether the Newark Board had the right to adopt unilaterally an educational policy relating to promotions which was inconsistent with the procedure contemplated by an agreement voluntarily entered into with its employees."

In considering this issue, the court found it "significant that the challenged action of defendants eventuated after the period between July 13

and 17, 1967, when the city of Newark was violently shaken by widespread civil disorders." The court thus held it "only reasonable to assume that the city and state school authorities were seriously concerned about the impact of such disturbances upon the students and their parents, the community at large, and the general administration of the school system throughout the city." In so deciding, the court focused on the fact that since 72.5 percent of Newark's students are Negroes, "sound educational policy, philosophy and procedure requires minority group representation on the administrative policy-making level," and that "in order to appoint qualified Negroes, it was necessary to suspend the promotional lists."

In its conclusion, however, the superior court based its decision on the law of contracts, citing the state education board's ruling that the negotiated agreement "could not constitute a surrender by the Newark Board of its responsibility under the law to conduct the schools under its charge 'in the best interests of the children to be served' ":

> We endorse the principle. . . "that faculty selection must remain for the broad and sensitive expertise of the School Board and its officials," and this we do notwithstanding an existing employment agreement where subsequent conditions make impossible a literal performance of all of its terms. The essence of the modern defense of impossibility is that the promised performance was at the making of the contract, or thereafter became, impracticable owing to some extreme or unreasonable difficulty or the like "rather than that it is scientifically or actually impossible." . . .
>
> *A fortiori*, the concept of impossibility should prevail where a particular provision in a school contract is rendered impracticable by subsequent events demanding changes in an educational program in order to give meaningful effect to an overriding public policy. Moreover, it is well settled that specific performance will not be decreed if the performance to be compelled is contrary to public welfare.
>
> Implicit in the agency's decision here under review are findings that the Newark Board was in fact faced with "a real threat or obstacle" to the proper administration of its school system. The record before us, and the attendant public events that may be judicially noticed, support the findings of the Commissioner that the *ex parte* adoption of new promotional rules by the Newark Board, notwithstanding lack of approval by a majority of the NTA, was "warranted and appropriate."

(*Victor Porcelli, et al. v. Franklyn Titus, Superintendent, and the Newark Board of Education*, Superior Court of New Jersey, Appellate Division, November 7, 1969.)

PENNSYLVANIA

ARBITRATORS' FINAL AND BINDING AWARD JUDGED IN EXCESS OF ARBITRATION POWERS

An arbitrators' award which required the third-class city of Washington, Pa., to provide hospitalization coverage for families of city police department members at a rate "equal to the coverage now provided . . . for the member himself" was ruled an excessive exercise of adjudicatory power and vacated by the Pennsylvania Supreme Court. Although the Pennsylvania policemen and firemen collective bargaining act holds that an arbitrators' decision "shall be final on the issue or issues in dispute and shall be binding upon the public employer and the policemen . . . involved," the court emphasized that arbitration panels "may not mandate that a governing body carry out an illegal act."

When no voluntary agreement could be reached between the city of Washington in negotiation with its policemen, arbitration was entered into, and the award handed down on December 11, 1968. No procedural irregularities occurred in the arbitration process, but the city argued that the award was illegal and entered an appeals action in the Court of Common Pleas of Washington County. The trial court ruled that the city had no right to appeal the award.

The city then filed an appeal of the trial court's decision, and simultaneously petitioned the Pennsylvania Supreme Court to allow a direct appeal of the arbitration award under Rule 68½. It urged that the alleged illegal portion of the arbitration award be vacated on grounds that the arbitrators engaged in an excessive exercise of power.

The high court initially ruled that the "Court of Common Pleas of Washington County had no jurisdiction to hear this cause," because of the state statute authorizing final and binding arbitration on issues involving policemen and a public employer. Moreover, the court rejected the city's contention that Article V, Section 9 of the Pennsylvania Constitution allowed the city the right of appeal, saying that the constitutional provision was "inapplicable to the case at hand [because] an arbitration panel is neither a court nor an administrative agency."

But the state supreme court decided to hear the city's petition under Rule 68½ which states:

> If an appeal is prohibited by an Act, or the decision of the Agency is stated to be final or conclusive, the law is well settled that an appeal will lie to the Courts in the nature of a narrow certiorari, and this Court will review only (1) the question of jurisdiction; (2) the regularity of the proceedings before the agency; (3) questions of excess in exercise of powers; (4) constitutional questions.

In attempting to determine the limitations on an arbitration panel's adjudicatory power, the court found that "the enabling legislation which created the arbitration system here in question contains no explicit reference to the scope of the arbitrator's power." But the court decided:

> In spite of the fact that neither the relevant constitutional provision [Article III, Section 31, which provides in part that arbitration panel findings be "in accordance with

law"] nor the enabling legislation clearly delineates the power of the arbitration panels, we are of the opinion that such panels may not mandate that a governing body carry out an illegal act. We reach this result by quite frankly reading into the enabling legislation the requirement that the scope of the submission to the arbitrators be limited to conflicts over legitimate terms and conditions of employment. . . . The essence of our decision is that an arbitration award may only require a public employer to do that which it could do voluntarily.

In addition, the court noted that third-class cities are non-sovereign bodies whose only powers are those expressly delegated by the legislature:

[A third class city may] make contracts of insurance . . . insuring its elected or appointed officers, officials and employees, or any class or classes thereof, under a policy or policies of group insurance covering . . . hospitalization [P.L. 927, 53 P.S. §37403-53].

As such, the high court ruled that

the plain meaning of 53 P.S. §37403-53 makes it illegal for the city to comply fully with the arbitration award. We therefore hold that the panel committed an excess in exercise of power and we vacate that portion of the award directing the city to pay hospitalization insurance premiums for members of the policemen's families.

(*Matter of Arbitration Between City of Washington, Pennsylvania, and Police Department of City of Washington,* Pennsylvania Supreme Court, November 28, 1969.)

U.S. GOVERNMENT OVERSEAS TEACHERS' BACK PAY CLAIM REJECTED

In a decision adhering closely to legislative and judicial precedent, the U.S. District Court for the Eastern District of Virginia rejected a back pay claim filed by overseas teachers employed by the Department of Defense (DOD). The teachers had contended that the 1966 amendment and clarification of compensation provisions contained in the Overseas Teachers Pay and Personnel Practices Act of 1959 entitled them to reimbursement for alleged differences in pay from 1959 to 1966. But the court held that Congressional appropriation measures were meant to limit the expenditures of DOD's overseas dependents' school systems, rather than make overseas teachers' pay equal to stateside teachers' pay through the act.

Essential to the case was the court's interpretation of the 1959 act (Public Law 86-91), which authorized the Defense Secretary to issue implementing regulations governing "the fixing of the rates of basic compensation for teaching positions *in relation to* [emphasis added] the rates of basic compensation for similar positions in the United States" (5 U.S.C. §2352(2).

When originally issued, DOD's implementing regulations provided for an annual review of compensation schedules in comparison to rates of compensation in U.S. urban school jurisdictions with a school population of 100,000 or more. Then in 1966 PL 86-91 was amended to provide that overseas teachers' salaries "be equal to" comparable teacher salaries in U.S. school districts having a population of 100,000 or more.

Funds for the operation of overseas schools are allocated in DOD budgets on the basis of a "per pupil limitation," which is obtained by multiplying the aggregate expense per pupil by the total number of pupils. Teacher salaries are among the many costs chargeable to this limitation. Since 1960, DOD has asked Congress to increase the limitation, thus providing salary increases for teachers, but the court found that only in fiscal 1960-61 were sufficient funds appropriated to allow the Defense Secretary to pay salaries according to the act's implementing regulations. As such, the court emphasized that appropriations for DOD's overseas school systems seldom provide enough money to pay overseas teachers' salaries equivalent to those paid in U.S. urban school districts, once all other program expenses are paid.

The court also relied heavily upon a decision rendered by the U.S. Court of Claims in the case of *Crawford, et al. v. United States* (March 17, 1967). In this case, 2,975 teachers sought back pay from 1959 to 1966, contending that the 1959 act required "the secretary of each military department to fix the salaries of teachers in his department so that they would be *equal* to the salaries paid to teachers in similar positions in schools located in the District of Columbia." Moreover, they claimed that the "Secretary of Defense had no discretion except to pay the salaries as fixed by the Congress in the Act, and that continuing readjustment was mandatory without regard to the per pupil limitation contained in the appropriation acts of the Congress during the years that are relevant here."

In dismissing the case the Court of Claims rejected the teachers' argument that the words "in relation to" in the act actually meant "equal to," explaining:

It is a cardinal principle of statutory construction to give effect to every clause, sentence and word of a statute, if possible, rather than to distort the language so as to defeat the plain intent of the Congress. . . . When this is done with respect to Public Law 86-91, it is clear that it nowhere *fixes* [emphasis added] the salaries of overseas teachers equal to the salaries of teachers occupying comparable positions in the District of Columbia. To place such a construction upon the Act, we would be required to read into it words which are not there.

The court noted that Congress "merely set the boundaries of the program allowing the Secretary of Defense to fill in the details," and that Congress neither set salaries in PL 86-91 nor defined "the positions which were to be looked into in the United States as similar to those occupied by the overseas teachers." The Defense Secretary

therefore exercised his "discretionary powers" in establishing salary procedures.

As to the teachers' claim that their salaries continually should have been adjusted, the Court of Claims said the act's legislative history provides no support for this argument, because appropriation guidelines made salaries subject to the per-pupil limitation, and Congress was aware of the Defense Secretary's interpretation of the act in appropriation hearings. Finally, the court rejected the argument that DOD had "unobligated funds" available for salary increases:

> Since we have recognized that increments to teachers salaries were limited by the congressional appropriations as set forth each year in the per pupil limitation, suffice it to say that the Department of Defense would have no authority to expend funds except for the purposes for which an appropriation was made....

In subsequent litigation, the Court of Claims' *Crawford* ruling was sustained by a federal appeals court, and the U.S. Supreme Court refused to review the case.

Teachers involved in the present case (those whose claims were not considered in *Crawford*) charged that the 1966 amendment to PL 86-91 merely restated salary obligations retroactive to 1959, i.e., that overseas teachers' pay should be equal to that of comparable teachers in U.S. school districts with a school population of 100,000 or more. The district court disagreed, saying, "Such is not the law. The views of a subsequent Congress do not provide any basis for inferring the intent of an earlier one."

In addition, the court rejected the argument that equal salaries (within the per-pupil limitation) could have been paid if the Defense Secretary had cut other nonsalary expenses. It cited the Court of Claims' ruling that such a determination is left to the "sound discretion" of the Defense Secretary and should not be overruled. Finally, the court rejected the teachers' last objection, explaining, "The fact that tuition fees paid in the Canal Zone are higher than the per pupil limitation does not alter the decision here made.... The per pupil limitation is only an average amount that can be spent for each pupil—not a limitation applicable to every area or school." (*Homezell Chambers, et al. v. United States,* U.S. District Court, Eastern District of Virginia, November 21, 1969.)

U.S. SUPREME COURT CRIMINAL CONTEMPT PROCEEDING DISMISSED

An appeal of a $250 fine and 15-day jail sentence levied against the president of the United Federation of Teachers (UFT) for his activity in the seven-week New York City teachers' strike of 1968 was dismissed "for want of a substantial federal question" by the U.S. Supreme Court. The high court's December 8 decision came on an appeal of a New York Court of Appeals ruling which upheld a criminal contempt conviction levied against the UFT president in February 1969 for violation of a court injunction against the strike.

In his appeal the UFT official argued that the New York state statutes, which have been interpreted to hold that public employees have no right to a jury trial in contempt of court proceedings, unconstitutionally denied him due process and equal protection of the laws. He accordingly urged the high court to overturn the New York statutes.

The Supreme Court issued only a per curiam decision granting the motion for dismissal, although two of the high court's judges were "of the opinion that probable jurisdiction should be noted." (*Shanker, et al. v. Rankin,* U.S. Supreme Court, December 8, 1969.)

Board Findings and Rulings

MASSACHUSETTS

ASSISTANT PRINCIPALS' BARGAINING UNIT RULED APPROPRIATE

The Massachusetts Labor Relations Commission (MLRC) ruled that a bargaining unit consisting only of assistant principals and excluding all other employees of the Boston School Committee was appropriate. In so deciding, the MLRC found that an existing contract did not bar a petition for election by the Assistant Principals Association of the Boston Public Schools.

In considering this representation question, the MLRC noted that the Boston School Committee had recognized and negotiated with an employee unit comprising assistant principals, department heads, division foremen, division heads, guidance counselors, and others. But the MLRC ruled this unit inappropriate, finding that assistant principals primarily are involved in administrative duties, while other unit employees are not. Moreover, assistant principals alone are eligible for promotion to principal.

The MLRC therefore held that a proposed bargaining unit composed of approximately 250 assistant principals employed by the school committee was appropriate. (*Matter of City of Boston School Committee and Assistant Principals Association, Boston Public Schools, et al.*, Massachusetts Labor Relations Commission, October 24, 1969.)

MICHIGAN

DECERTIFICATION PETITION FILED BEFORE END OF CERTIFICATION YEAR FOUND TIMELY

A decertification petition filed before the end of a certification year during which a short-term contract had expired was ruled timely by the Michigan Employment Relations Commission (MERC). Although the contract between the International Union of Operating Engineers, AFL-CIO, Local 547, and the Lakeville Community Schools had been reopened for modification, no complete and legally enforceable written contract had been reached by the parties prior to the filing of the petition. The MERC therefore held that the permissible date for filing a decertification petition was governed by the expiration date of the short-term contract, rather than the certification year bar doctrine.

The case before the MERC involved a Lakeville Schools employee who was represented by Local 547 and had filed a decertification petition indicating that 30 employees did not want to be in the bargaining unit. An elections officer determined that sufficient interest in the matter had been shown to require a formal hearing.

When a question arose as to whether the petition was premature, the employee filed a second decertification petition on July 14, 1969, showing that 33 employees did not want to be represented in the bargaining unit. An informal election conference was held to consider the second petition, and Local 547 contended that the elections officer failed to check the showing of interest attending the second petition, even though the number of unit employees had been reestimated. The MERC rejected the union's argument, saying that once the showing of interest had been administratively determined, it was not open to a redetermination. Moreover, the second petition was filed within two weeks of the first, and the change in the bargaining unit's size was so little as to make it unnecessary for the MERC to recheck the showing of interest.

Although Local 547 had informed the Lakeville Schools that it wished to reopen the contract to negotiate some changes, the MERC found that the contract was in force only until June 30, 1969, and that the contract did not name that date. Both petitions consequently were timely, because they were filed after the expiration date of the contract, and no other written contract had been reached between the parties before the petitions were filed. In addition, the MERC found no evidence that Local 547 reopened the contract merely to extend its duration to the three-year limit allowed by the Michigan Public Employment Relations Act.

The union argued that it had no protection against a public employer who stalled negotiations until a contract expired, because public employees are prohibited from striking. But the MERC held that the remedy for such a situation is to file an unfair labor practices charge. (*Matter of Lakeville Community Schools and Marjorie M. Walker, et al.*, Michigan Employment Relations Commission, November 7, 1969.)

NURSES INCLUDED IN TEACHER BARGAINING UNIT

The Michigan Employment Relations Commission (MERC) decided that a bargaining unit composed of teachers also should include four school nurses in order to avoid unnecessary fragmentation of negotiation units. In so ruling, the MERC combined two employee units which formerly had been represented separately by the Taylor Federation of Teachers.

Finding that school nurses work closely with classroom teachers and perform duties which are an integral part of the educational program, the MERC determined that the appropriate single bargaining unit is the largest unit compatible with law and comprising all similar functions. (*Matter of Taylor Township School District Board of Education and Taylor Federation of Teachers*, Michigan Employment Relations Commission, December 2, 1969.)

PUBLIC EMPLOYER'S REFUSAL TO BARGAIN UPHELD

A school board's refusal to bargain when an impasse resulted in the negotiation of salary, calendar, and probationary period for school nurses was judged lawful by the Michigan Employment Relations Commission (MERC). The MERC found no evidence that the Taylor Township Board of Education displayed a lack of good faith bargaining in negotiation with the Taylor Federation of Teachers (TFT), because neither party to the dispute was obliged to make concessions or agree to a proposal.

The TFT, representative of Taylor Township School District nurses, contended that the board refused to schedule bargaining meetings, failed to introduce counterproposals to the union's demands, and refused to bargain on the matter of wages for time worked. However, during the first year the TFT represented the nurses, no contract covering the nurses was negotiated with the board. When negotiation ensued the following year, some 100 issues were submitted and resolved through bargaining; three issues—salary, calendar, and probationary period—remained outstanding.

Although the board offered to pay school nurses on the basis of teacher salary schedules (as it had the previous year), a dispute arose regarding time worked. Nurses were required to work a 210-day year, as compared to the teachers' 184-day work year, and the board refused to adjust the nurses' pay schedule so they would be paid at a proportionate daily rate for all days worked in excess of 184. An impasse resulted. In regard to the probation issue, the board requested a two-year probationary period which the TFT reportedly agreed to. But, the TFT also asked that nurses be granted tenure following the probationary period.

A meeting between the board and the TFT was arranged in an attempt to resolve the three outstanding issues. At that time the board continued to propose the 210-day work year for nurses, and offered the nurses a salary schedule identical to that of district teachers. The proposed two-year probationary period was not altered.

As such, the MERC ruled that an impasse on three outstanding issues had developed, and that the board had not unlawfully refused to bargain. (*Matter of Taylor Township School District Board of Education and School Nurses Division of Taylor Federation of Teachers*, Michigan Employment Relations Commission, December 3, 1969.)

NEW JERSEY

BOARD TO FURNISH EMPLOYEE REPRESENTATIVES WITH VOTER INFORMATION

A New Jersey Public Employment Relations Commission (PERC) decision required the Newark Board of Education to furnish employee representatives with the names and addresses of eligible voters prior to the date of a representation election. The PERB also directed that a secret ballot election be conducted among the appropriate units of board employees.

The dispute before the PERC concerned a question of public employee representation in which the Newark Teachers' Union, American Federation of Teachers, Local 481, had filed a petition for certification, and the Newark board had refused to recognize the union as exclusive representative of certain teachers employed by the board. (*Matter of Newark Board of Education and Newark Teachers' Union, Local 481, American Federation of Teachers, AFL-CIO*, New Jersey Public Employment Relations Commission, October 21, 1969.)

NOTE: In an election held on November 18, 1969, Local 481 received 2,020 votes, the Newark Teachers Association received 571 votes, and 428 votes were cast for an organization of Negro educators.

NEW YORK

ELECTION DIRECTED IN MULTI-CAMPUS EMPLOYEE UNIT

The New York Public Employment Relations Board (PERB) affirmed the August 12 ruling of its director of representation by directing that an election be held in a multi-campus unit of faculty

and professional personnel employed by the State University of New York (SUNY). In overruling an argument advanced by the State University Federation of Teachers (SUFT), the director had held that a single, state-wide unit of SUNY employees was appropriate for purposes of bargaining. The SUFT had urged creation of a "dual unit" so local issues could be negotiated separately at each campus, while issues common to all campuses could be negotiated jointly.

In rejecting the SUFT's objections to the director's unit determination, the PERB nevertheless agreed "with the argument advanced by the Federation in support of its contention for a 'dual unit' that in the course of negotiations there will evolve statewide issues and local or campus issues." But the PERB held that "it does not follow .... that the dual unit structure of bargaining sought by the Federation is a necessary or even a desirable approach":

> Rather the route urged upon us by the Federation would seem to lack the stability and responsibility necessary in the negotiating relationship. We feel on the record before us that a single state unit can provide meaningful and effective representation for the employees involved on both statewide and local issues.

The unit determined by the PERB's director includes more than 11,000 faculty and 3,554 non-teaching professionals at four state university centers, 11 four-year colleges, two medical centers, the College of Forestry at Syracuse, the Maritime College at Fort Schuyler, and six two-year agricultural and technical colleges. Excluded from the unit are community colleges, four Cornell University contract colleges, and the Alfred University contract college of ceramics.

The case before the PERB was complicated by confusion as to whether a representation or improper practices proceeding was involved. For, a major reason for the SUFT's appeal of the director's ruling was its objection to a decision that the SUNY's Faculty Senate and the Civil Service Employees Association appear jointly on the ballot and be certified jointly as unit representative if successful in the election. The SUFT contended that the Faculty Senate is a "creature of the employer," its operations are financed by the employer, and its constitution is part of the official policies of SUNY's Board of Trustees thus making any constitutional changes subject to employer approval.

Stating that the SUFT's whole argument "actually involves two questions," the PERB held that only "the first question is properly raised" in representation proceedings under the 1969 amendments to the Civil Service Law:

> (1) Is the Senate an employee organization within the meaning of Section 201.6 of the Act?
>
> (2) Has the Employer dominated or interfered with the formation or administration of the Senate?

The PERB explained:

> We do not believe that the question of employer domination or interference is properly raised in this proceeding.
>
> This conclusion is at variance with prior decisions of this Board wherein we did consider the issue of employer domination on the question of the qualification of an employee organization to participate in a representation proceeding.
>
> We feel that this change in Board policy is mandated by the legislative policy enunciated in the 1969 amendments to the Act effective September 1, 1969, relating to improper practices on the part of public employers and employee organizations.... Accordingly, it would appear to be the intent of the legislature that charges of improper practices be handled in a proceeding separate and apart from a representation proceeding.

In conclusion the PERB found that "an employer's domination or interference with an employee organization so as to deprive public employees of the free exercise of the rights granted to them by the Act is specifically proscribed by the legislature as an improper practice." Any such charges therefore should be brought in an improper practice proceeding over which the PERB has jurisdiction, according to the 1969 amendments. (*State of New York (State University of New York) and State University Federation of Teachers, Locals 1733, 1655, 1669, 1679 and Delhi Tech. Federation of Teachers Local 1736 and Faculty Senate and Civil Service Employees' Association and Council of Affiliated Chapters of the American Association of University Professors in the State University of New York*, New York Public Employment Relations Board, October 6, 1969.)

WISCONSIN

SCHOOL BOARD MUST PROVIDE EQUAL POSTING PRIVILEGES

The Wisconsin Employment Relations Commission (WERC) ruled that a school board may not grant a majority teachers organization exclusive use of bulletin boards and mailboxes for the purpose of posting and distributing information dealing only with organizational business. A prohibited practice complaint filed by the Milwaukee Teachers Union (MTU) against the Milwaukee Board of School Directors resulted in the decision.

In its complaint the MTU contended that its organizational rights had been violated by the Milwaukee board's enforcement of a contract provision negotiated between the board and the Milwaukee Teachers Education Association (MTEA). According to the contract, the MTEA was allowed to post and distribute materials relevant to its organizational matters, such as membership applications, promotional material, insurance information, and meeting notices. The MTU, how-

ever, alleged that its representatives were prohibited from distributing similar materials.

In ordering the Milwaukee board to discontinue enforcement of the contested contract provision, the WERC explained:

> The materials posted and distributed by the MTEA . . . did not pertain to its function as the exclusive bargaining representative of the teachers employed in the bargaining unit. . . but, rather, related to organizational and internal affairs of the MTEA; and that by permitting the MTEA to post said materials on the bulletin boards and to distribute said materials to the teachers through the use of teacher mailboxes, while denying to the Complainant the same opportunity to post and distribute the printed matter. . . the Respondent, by its agents, aided and assisted the MTEA and thus interfered with the rights of its teachers to engage in concerted activity and membership, in and on behalf of the Complainant.

The WERC ordered the board to "permit Milwaukee Federation of Teachers, Local 252 to post on bulletin boards and to distribute in teacher mailboxes, for a period of one week, within thirty (30) days from the date hereof, printed fliers with respect to its insurance programs, and with respect to benefits secured through its membership, and at least one notice of a meeting of said organization." (*Milwaukee Teachers Union, Local 252 v. Milwaukee Board of School Directors,* Wisconsin Employment Relations Commission, October 8, 1969.)

Negotiation Notes

CALIFORNIA

EMPLOYEE RELATIONS BOARD PROPOSED FOR LOS ANGELES

A draft ordinance submitted to the Los Angeles City Council on November 12, 1969, proposed the adoption of policies for formal recognition of employee organizations, and recommended that a three-member Los Angeles City Employee Relations Board be created to oversee implementation of a local labor relations program complying with the state's meet and confer statute. Members of the board would be appointed by the mayor from a list of seven names submitted by a nominating committee and confirmed by the council. Each member would be required to have "broad experience" in employee relations and to "represent neither a city management nor employee point of view."

The city ordinance, similar to one adopted by Los Angeles County in 1968, constituted phase two of a three-phase program which would affect some 18,000 city employees in departments directly controlled by the council and the mayor, and also could be extended to independent and semi-independent departments. Under phase one, which began in 1968, city employee organizations were granted "informal acknowledgment" and interim consultation privileges.

According to the state's public employee bargaining act,

"Meet and confer in good faith" means that a public agency, or such representatives as it designates and representatives of recognized employee organizations, shall have the mutual obligation personally to meet and confer in order to exchange freely information, opinions, and proposals, and to endeavor to reach agreement on matters within the scope of representation.

The proposed city ordinance grants the board power to designate meet- and-confer employee representatives, but city representation would occur on two levels: the city council would act on city-wide issues, while a departmental level decision would rest with the body involved or its manager. Other functions of the proposed board include holding hearings, making findings and issuing unit determination orders, ensuring fair secret ballot elections, investigating charges of unfair labor practices, and furnishing the names of third parties to aid in impasse resolution.

The proposed ordinance provides for mediation as the first step in the resolution of impasse. Should mediation prove unsuccessful, the parties involved may turn to fact-finding or "other appropriate measures" short of binding arbitration, but mutual agreement of the parties is required to involve a third party.

Employee organizations seeking formal recognition under the draft ordinance would be required to submit written proof that they represent "at least 30 percent of the regular employees in the proposed unit." And the board is directed to consider the following points in determining employee representatives:

1. The community of interest of employees.
2. The history of employee representation in the unit, among other employees of the City and in similar employment.
3. The effect of the unit on the efficient operation of the City and sound employee relations.
4. The extent to which employees have common skills, working conditions, job duties or similar educational requirements.
5. The effect on the City's classification and compensation system so that, to the extent feasible, no class is included in more than one representation unit.
6. The right of professional employees to be represented separately from nonprofessional employees.
7. That management, confidential or supervisory employees shall not be included in the same unit with other employees.

Once the board selects a representation unit, the ordinance requires a secret ballot election in which the unit must obtain a majority of the votes cast, provided that at least 60 percent of all eligible voters cast ballots. If less than 60 percent of the voters cast ballots, a majority of eligible voters would be required for the unit to be accorded formal recognition.

The proposed ordinance specifically provides that city employees have the right to "form, join and participate in the activities of employee organizations of their own choosing," but also may "refuse to join or participate in the activities of employee organizations," or may "represent themselves individually in their employment relations with the City."

LOS ANGELES COUNTY PROFESSIONALS FAVOR ASSOCIATION IN BARGAINING

Results of a series of representation elections conducted in professional and other white-collar employee units in Los Angeles County indicate strong support for collective bargaining, with most units choosing independent associations as their representatives. Announcement of the results was made by the Los Angeles County Employee Relations Commission, created in 1968 by an ordinance granting bargaining rights to county employees.

The Los Angeles County Employees Association (LACEA) was elected representative of one unit of librarians, and a unit of supervisory deputy probation officers through affiliation with the Supervising Deputy Probation Officers Association. These victories added 592 names to the LACEA roster, and combined the voting strengths of the LACEA and the association.

In other elections the California Association of Professional Employees (CAPE) gained four units covering 3,136 engineering and technical personnel, and the California Nurses Association (CNA) was granted bargaining rights for two of the country's largest nursing units which comprise 2,739 employees.

MINNESOTA

PUBLIC EMPLOYMENT RELATIONS COUNCIL CREATED

Announcement of a newly created Advisory Council on Public Employment Relations was made by the governor of Minnesota on November 23, 1969. The council will "examine the techniques and structures of wage and working condition negotiations between governmental agencies" and public employees, the governor said. In addition, it will submit recommendations for legislative and executive action to the governor, and state and local government agencies.

The governor explained that "the main thrust of council work during the next few months will be directed at existing shortcomings in the Public Employees Labor Relations Act and the Teacher-School Board Negotiations Law, plus extra-legal improvements in the standards of negotiations in school districts" and other governmental units.

MISSOURI

LIMITED PUBLIC EMPLOYEE BARGAINING LAW ENACTED

A 1969 amendment to the Missouri Revised Statutes excludes teachers from certain classes of public employees granted the right to organize and bargain collectively, and specifically prohibits public employee strikes. The act provides:

> Employees, except police deputy sheriffs, Missouri State Highway Patrolmen, Missouri National Guard, all teachers of all Missouri schools, colleges and universities, of any public body shall have the right to form and join labor organizations and to present proposals to any public body relative to salaries and other conditions of employment through the representative of their own choosing.

An exclusive bargaining representative is defined by the act as "an organization which has been designated or selected by majority of employees in an appropriate unit as the representative of such employees in such unit for purposes of collective bargaining." And the act holds that a public agency or its designated representative "shall meet, confer and discuss such proposals relative to salaries and other conditions of employment of the employees of the public body with the labor organization which is the exclusive bargaining representative of its employees in a unit appropriate." Discussion results are to be submitted in writing to the proper governing body "for adoption, modification or rejection."

The act further provides that unit determination and majority representative questions be resolved by the State Board of Mediation, with state circuit courts hearing appeals of board decisions.

NEW JERSEY

CONTRACT NEGOTIATED UNDER STATE PUBLIC EMPLOYEE ACT ENFORCED

A November 10 decision by the New Jersey Commissioner of Education enforced a contract negotiated under the state's Employer-Employee Relations Act by ordering the Trenton City Council to restore more than half of the $1.3 million it cut from the city's 1969-70 school budget. Among the budget items now to be restored are $328,545 for salary adjustments and $20,000 for major medical insurance premiums, both of which were negotiated last winter by the Trenton Education Association (TEA).

The commissioner's ruling resulted from an April 1969 Trenton school-board appeal of the budget cut, which was imposed by the city council in February. When the council instituted the cut, it reportedly was concerned about board approval of $400 across-the-board raises for Trenton teachers following a one-day teachers' strike on February 14.

In the appeal before a State Department of Education examiner, the city council alleged that "it was not consulted with respect to the negotiated [TEA] agreement, and is not therefore bound by it." The examiner said he found "no need to make

a finding or recommendation on this contention," and ruled:

Testimony of witnesses and evidence stipulated by counsel . . . clearly demonstrate that the salary schedule provided by the Board is no more than competitive with those of four other school districts in the Mercer County area. It is the conclusion of the hearing examiner that the funds provided by the Board in its budget for salary adjustments are essential to enable the Board to compete for teachers as an urban district and to retain its experienced staff. The hearing examiner recommends the restoration of $348,545 for salary adjustments.

The examiner used the same "competitive position" argument in his recommendation that the major medical insurance funds also be restored. But this argument worked to the benefit of the council as well, for the examiner recommended that the council's cut of $30,000 for reimbursing teachers for graduate courses be sustained. The commissioner affirmed this finding.

RHODE ISLAND

ARBITRATION AWARD IN PROVIDENCE ACCEPTED AFTER STRIKE AND COURT PROCEEDINGS

A 12-day teachers' strike which began November 24 and affected 26,000 students in the Providence school system ended December 11 when the Providence Teachers Union (PTU), American Federation of Teachers, Local 958, accepted an estimated $1.9 million package contracted through August 31, 1971. Some 1,400 PTU members originally voted to "withhold services" following the Providence School Committee's request for a third extension of the 1968-69 contract, and its refusal to accept the award of a three-man arbitration panel which was announced publicly on November 19.

The arbitration panel, which is prohibited from making binding decisions on economic matters by state statute, had recommended a salary schedule for teachers with bachelors degrees progressing from $6,850 to $10,600 in 11 steps. It also recommended adoption of a two-year contract with a reopener on wages and other economic matters during the second year. The PTU accepted the award, but the city turned it down saying there were insufficient funds to finance the increase.

In the panel's report, the head of the arbitration panel, asked:

What is to be said of the fact that, in advance of submission of the matter to arbitration, the city "locked up" its budget so that, whether the effect was intended or not, the hands of the arbitration board might be effectively tied if it accepted this city's contention that it had no money to pay salary increases in the budget? Were that principle to be accepted, the Teacher Arbitration Act, and indeed any related measure, would soon cease to be of service.

He concluded that "it would seem that it would set a very bad precedent indeed if this board were to agree that its award should be governed by a claim that a budget was closed."

On December 2 the PTU issued an ultimatum calling for school committee concurrence with the findings of the arbitration panel, and stating that the PTU would demand its original salary proposal of a nine-step bachelors scale for 1969-70 proceeding from $8,500 to $17,300 if the arbitrators' award was not accepted. The ultimatum followed a Providence School Committee offer of a two-year salary package providing increases in the 1969-70 and 1970-71 school years. Although this offer represented an improvement over the committee's original proposal for a one-year extension of the 1968-69 contract, it was rejected by the PTU. On December 7, negotiations between the committee and the PTU were revived when a mediation panel appointed by the governor entered the dispute.

However, the city filed a court complaint against the PTU and its leaders which resulted in the December 4 issuance of a temporary restraining order enjoining any further strike activity by a superior court judge. The union and its leaders refused to comply with the order. On December 9 the city petitioned the court for a preliminary injunction against the strike. In granting the preliminary injunction, the judge held that nothing in the state Teachers' Arbitration Act should be construed to give teachers the right to strike. Again, however, teachers represented by the PTU voted to continue "withholding services."

Then on December 10 the judge issued a bench decision finding the PTU president and local treasurer (chairman of the PTU negotiating committee) guilty of civil contempt:

The Supreme Court of Rhode Island has twice declared unequivocally and clearly that governmental employees, in general and municipal school teachers, in particular, do not have the right to enforce their demands for increased salaries and better working conditions by the ultimate weapon of a strike. The legislature of this state has confirmed and republished this principle as recently as 1966 in the Teachers' Arbitration Act. There can be no doubt that under the present state of the law a strike by such municipal employees is illegal. . . . Their [the union leaders] conduct is worthy of the most severe and unequivocal condemnation. Let there be no mistaken belief that the members of the Providence Teachers' Union are battling for altruistic principle. They have in effect declared war upon the basic principle of our society—that the rule of law must govern. . . . The aspirations and aims and personal desires of segments of our society, however powerful or influential they may be, or however numerous they may be, cannot be permitted to impede or override the exercises of the judicial function.

The judge placed the two union officials in custody of the court, but later released them after they apologized to the court and expressed their determination to seek an end to the strike.

The settlement finally agreed upon on December 11 will implement the arbitrators' pay scale on January 22. Teachers also received assurances that there would be no reprisals for the walkout, and that they would be able to make up all lost time during the remainder of the school year.

OTHER ITEMS OF INTEREST

NLRB ASSERTS JURISDICTION OVER PROFESSIONAL BASEBALL

The National Labor Relations Board (NLRB) issued an opinion on December 15, 1969, to the effect that professional baseball is subject to NLRB jurisdiction under the National Labor Relations Act (NLRA). Citing lengthy Congressional and U.S. Supreme Court precedents, the NLRB held that "the effect on interstate commerce of a labor dispute involving professional baseball is not so insubstantial as to require withholding assertion of the Board's jurisdiction, under Section 14(c) of the [NLRA], over Employers in that industry, as a class."

The NLRB's opinion resulted from a dispute between the Association of National Baseball League Umpires and the American League of Professional Baseball Clubs in which the association sought an election in a unit of umpires employed by the league. The league, a nonprofit employer comprising 12 member clubs in 10 states and the District of Columbia, contended that application of the NLRA to it violated national labor policy because baseball's internal self-regulation is sanctioned by Congress, and any labor dispute occurring in such a self-regulated field is unlikely to have a substantial effect on interstate commerce. In addition, the league asserted that the association was not a labor organization within the meaning of Section 2(5) of the NLRA, and sought dismissal of the petition on grounds that the umpires seeking representation were supervisors as defined in Section 2(11) of the NLRA.

In denying the league's motion for dismissal, the NLRB found that "it will best effectuate the mandates of the Act, as well as national labor policy, to assert jurisdiction over this Employer":

> Baseball's system for internal self-regulation of disputes involving umpires . . . appears to have been designed almost entirely by employers and owners, and the final arbiter of internal disputes does not appear to be a neutral third party freely chosen by both sides, but rather an individual appointed solely by the member club owners themselves. We do not believe that such a system is likely either to prevent labor disputes from arising in the future, or, having once arisen, to resolve them in a manner susceptible or conducive to voluntary compliance by all parties involved. Moreover, it is patently contrary to the letter and spirit of the Act for the Board to defer its undoubted jurisdiction to decide unfair labor practices to a disputes settlement system established unilaterally by an employer or group of employers. Finally, although the instant case involves only umpires employed by the League, professional baseball clubs employ, in addition to players, [numerous other categories of employees] . . . . As to these other categories, there is no "self-regulation" at all. This consideration is of all the more consequence for . . . those [other] employees in professional baseball whose interests are likely to call the Board's processes into play . . . .

In addition, the board found "persuasive reason to believe that future labor disputes—should they arise in this industry—will be national in scope," because millions of dollars of interstate commerce are involved in the normal business operations of professional baseball, and the industry relies upon interstate travel.

The board also ruled that the association "is a labor organization within the meaning of Section 2(5) of the Act," and that baseball umpires are not supervisors:

> The record indicates that an umpire's basic responsibility is to insure that each baseball game is played in conformance with the predetermined rules of the game. . . . It is the manager and not the umpire who directs the employees in their pursuit of victory.
>
> Accordingly, we find that the umpires are not supervisors, and . . . we further find that the following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:
>
> All persons employed as umpires in the American League of Professional Baseball Clubs, but excluding all other employees, office clerical employees, guards, professional employees and supervisors as defined in the Act.

The NLRB consequently directed that a secret ballot election be conducted among employees in the appropriate unit "as early as possible."

Statistics

WHAT ARE TEACHERS NEGOTIATING?

The NEA Research Division's biennial analysis of teacher/board negotiation agreement provisions has been completed, and yields extensive data about classroom teacher agreements effective during the 1968-69 school year. Data for the 1968-69 analysis were compiled from documents in the NEA Research Division's depository of agreements with the aid and cooperation of local school systems and state NEA affiliates. A large portion of the classroom teacher agreements in the state of New York were analyzed by the New York State Teachers Association.

Of the 7,161 school systems with enrollments of 1,000 or more surveyed during the 1968-69 school year, 2,624 returned the survey questionnaire and validated negotiations with a copy of *an* agreement. Only those responding systems which filed a copy of their *1968-69 agreement* were included in this analysis. In addition, only those agreements covering classroom teacher units were included in this report; administrator and paraprofessional agreements will be analyzed separately. Of the 2,605 classroom teacher agreements analyzed, 37.5 percent (978) were comprehensive. These comprehensive agreements covered 43.5 percent (420,118) of all teachers employed in school systems with negotiation agreements.

A comparison with similar data compiled in the 1966-67 analysis[1] reveals that the number of 1968-69 classroom teacher agreements increased 70.2 percent over the 1,531 agreements in the earlier survey. In addition, the number of 1968-69 comprehensive agreements covering classroom teacher units increased 151.4 percent over the 389 comprehensives surveyed in 1966-67. While only 13 states reported comprehensive agreements in 1966-67, 24 states and the District of Columbia reported comprehensives in the 1968-69 survey.

To date, the full impact of professional negotiation laws passed in eight states during the 1967-68 and 1968-69 school years probably has not been felt. New Jersey and Maryland were experiencing their first year under mandatory negotiation laws during the 1968-69 school year. Delaware, Maine, Nevada, North Dakota, South Dakota, and Vermont passed professional negotiation laws as the 1968-69 analysis was being compiled. Since the 1966-67 analysis the total number of professional negotiation laws has increased from 15 to 23.

In the 1966-67 analysis, agreements were coded for approximately 150 content items. The 1968-69 analysis, however, coded over 300 content items. More than 48 of these items are new provision categories, while others are details of items included under broad topics in the earlier analysis. In addition, the 1968-69 analysis provides detailed information concerning leaves, salaries, insurance policies, committees, and grievance and negotiation procedures as they appeared in the various agreements. The exact number of leave days is given, as well as an indication of the rate of compensation. On the salary schedule certain benchmarks are recorded in figures rounded off to the nearest $10. The nature of board participation is indicated under insurance policies. For grievance and negotiation procedures, the arbitrator's decision is listed as either binding or advisory. For all joint committees the specific area of study is given.

In addition to this new information, the 1968-69 analysis provides (as did the former analysis) the name of each school system, the name and affiliation of each teachers organization, the number of personnel, the agreement's effective, reopener, and termination dates, and the page number in the agreement on which each provision is found.

It must be emphasized that if an item is *not* included in an agreement, it may be included in a state statute, or may be specifically *excluded* by a court ruling, state statute, or for some other reason. Certain items which have not been negotiated or changed by negotiation may continue in effect and be found in a given school system's policies. As such, this analysis is *only* a listing of provisions contained in 1968-69 negotiation agreements, *not* an all-inclusive listing of school system policies and practices.

The tables summarize the data contained in 1968-69 comprehensive agreements covering classroom teacher units. The number of comprehensive agreements and the number of agreements containing an indicated provision are presented on a state-by-state basis. A complete analysis is available in the three-volume *Negotiation Agreement Provisions, 1968-69 Edition* (for NEA affiliated associations, Stock No. 841-24058; for others, Stock No. 841-24056).

[1] Summary tables for the 1966-67 survey of negotiation agreement provisions were published in the February 1968 *Negotiation Research Digest.*

TABLE 1.—NUMBER OF 1968-69 COMPREHENSIVE AGREEMENTS CONTAINING CERTAIN PROVISIONS

State	Number of agreements	Scope of agreement: General statement of parties to agreement or recognition	Classification of persons covered or excluded	Lists specific items included or excluded	No discrimination clause	Maintenance of standards	Savings clause	Waiver clause	Effect on prior rules and policies	Effect on future changes in board policies and regulations	Mergers of school districts	Distribution of agreement
1	2	3	4	5	6	7	8	9	10	11	12	13
Arizona	2	2	1	0	1	0	2	0	1	1	0	2
Arkansas	1	1	0	0	0	0	0	0	1	1	0	0
California	1	0	0	0	0	0	0	0	3	0	0	0
Colorado	4	4	3	0	3	0	3	0	3	3	0	22
Connecticut	56	56	52	1	12	0	33	8	33	35	0	0
District of Columbia	1	1	1	0	1	0	1	0	1	1	0	1
Illinois	33	33	29	5	20	8	21	5	11	13	0	13
Indiana	8	8	5	0	4	0	4	2	2	3	0	1
Kansas	1	1	0	0	1	0	1	0	1	0	0	0
Maryland	2	2	0	0	0	0	1	0	1	0	0	1
Massachusetts	129	123	118	0	13	4	56	17	44	37	0	27
Michigan	312	309	306	2	190	33	236	27	203	96	31	204
Missouri	1	1	1	1	0	0	0	0	0	0	0	0
Montana	2	1	1	0	0	0	0	0	0	0	0	0
Nebraska	1	1	1	0	0	0	0	0	0	0	0	0
New Jersey	6	6	5	1	2	0	3	2	1	0	0	2
New York	319	315	243	33	44	43	188	48	146	76	2	167
Ohio	12	12	4	1	1	1	8	2	2	0	0	2
Pennsylvania	5	5	4	0	1	0	2	1	0	0	0	1
Rhode Island	19	19	14	2	1	0	7	2	2	0	0	3
Utah	4	4	2	0	2	1	2	0	0	0	0	1
Virginia	2	2	0	0	0	0	2	0	2	0	0	0
Washington	3	3	1	0	0	1	0	0	0	0	0	0
Wisconsin	53	53	30	5	3	4	32	5	8	1	0	8
Wyoming	1	1	0	0	0	1	0	0	0	0	0	0
Total	978	963	821	51	299	96	602	119	465	267	33	455

TABLE 1.–NUMBER OF 1968-69 COMPREHENSIVE AGREEMENTS CONTAINING CERTAIN PROVISIONS (Continued)

State	Negotiation procedure[a]				Rights of representative organization								
	Provisions for negotiation sessions	Procedure for impasse	Advisory decision on impasse and method of selecting third party	Binding decision on impasse and method of selecting third party	Nondiscrimination clause against membership in employee organization	Check-off or dues deduction	Use of building facilities, e.g., assembly hall	Use of school equipment, typewriters, and duplicating machines	Use of school communication system, bulletin boards, and mailboxes	Information pertinent to negotiations, e.g., financial and budgetary reports made available to representative organization	Time off to negotiate	Time off for grievance hearings	Conducting official organization business during the school day
1	14	15	16	17	18	19	20	21	22	23	24	25	26
Arizona	1	1	1	0	2	1	1	0	1	0	0	1	0
Arkansas	1	1	1	0	0	0	1	0	1	1	2	0	0
California	1	0	0	0	0	0	0	0	0	0	0	0	0
Colorado	4	3	3	0	4	2	2	0	2	3	1	1	2
Connecticut	38	27	27	0	32	34	10	1	11	24	19	19	10
District of Columbia	0	0	0	0	1	1	1	0	1	1	1	1	1
Illinois	24	8	8	0	28	25	17	8	20	27	13	9	15
Indiana	5	4	4	0	5	4	3	1	5	2	2	2	2
Kansas	0	0	0	0	0	0	0	0	0	0	0	1	0
Maryland	1	0	0	0	0	0	0	0	0	0	0	1	0
Massachusetts	91	70	70	1	47	93	57	18	55	31	22	28	10
Michigan	245	164	156	0	214	274	261	102	231	251	127	111	120
Missouri	1	1	0	0	0	0	0	0	0	1	0	0	0
Montana	1	0	0	0	0	2	0	0	0	0	0	0	0
Nebraska	1	1	1	0	0	0	0	0	0	1	0	0	0
New Jersey	6	4	4	0	1	2	1	0	2	5	3	3	2
New York	198	182	181	0	47	219	156	67	137	103	47	29	56
Ohio	7	6	6	0	3	6	4	1	5	7	3	0	6
Pennsylvania	3	0	0	0	1	2	1	0	2	3	2	1	2
Rhode Island	16	4	0	4	3	10	13	1	12	8	5	6	4
Utah	3	3	3	0	1	2	1	0	1	2	2	0	0
Virginia	0	0	0	0	0	1	0	0	0	0	0	1	1
Washington	1	1	1	0	0	0	0	0	0	0	0	0	0
Wisconsin	39	22	24	0	3	17	15	5	14	17	5	1	5
Wyoming	1	1	1	0	0	1	1	0	1	0	0	0	0
Total	688	503	491	5	392	696	545	204	501	487	254	215	236

[a]For both negotiation and grievance procedures, the *NAP* lists the source from which the impartial arbitrator is selected.

TABLE 1.—NUMBER OF 1968-69 COMPREHENSIVE AGREEMENTS CONTAINING CERTAIN PROVISIONS (Continued)

State	Rights of representative organization (Cont.)						Teacher activity						
	Time off to attend professional organization conferences or conventions	Leave of absence for full-time service to organization without loss of tenure	Wearing insignia or pins	No-strike clause	Building representative provisions	Agency shop clause	Individual or minority representation to the administration	Teachers' rights not abridged	Personal activities outside school	Employment outside school	Political activities outside school	Academic freedom	Polygraph tests
1	27	28	29	30	31	32	33	34	35	36	37	38	39
Arizona	0	1	0	1	0	0	1	1	1	0	1	1	0
Arkansas	0	1	0	0	0	0	0	1	0	0	0	0	0
California	0	0	0	0	0	0	0	0	0	0	0	0	0
Colorado	0	2	1	0	3	0	0	0	0	0	0	1	0
Connecticut	3	9	0	8	5	0	2	9	6	5	4	0	0
District of Columbia	0	1	0	1	1	0	0	0	1	0	0	0	0
Illinois	6	4	0	18	11	1	8	5	5	1	1	9	0
Indiana	0	4	0	3	3	0	0	1	0	0	2	1	0
Kansas	0	0	0	0	1	0	0	0	0	0	0	0	0
Maryland	0	1	0	0	0	0	0	0	0	0	0	0	0
Massachusetts	38	36	21	49	4	0	0	29	6	2	28	1	0
Michigan	116	119	121	147	30	65	0	213	105	11	133	60	44
Missouri	0	0	0	0	0	0	0	0	0	0	0	0	0
Montana	0	0	0	0	0	1	0	0	0	0	0	0	0
Nebraska	0	0	0	0	0	0	1	1	0	0	0	0	0
New Jersey	1	1	0	1	0	0	1	0	0	0	0	1	0
New York	46	62	3	106	67	0	33	38	20	7	13	49	1
Ohio	3	2	0	2	4	0	3	0	0	0	0	3	0
Pennsylvania	1	2	0	4	1	0	0	0	0	0	0	1	0
Rhode Island	2	8	0	1	1	0	0	0	0	0	0	0	0
Utah	1	0	0	0	1	0	0	1	0	1	1	1	0
Virginia	1	0	0	0	0	0	0	0	0	1	0	0	0
Washington	0	0	0	1	0	0	1	0	1	0	1	1	0
Wisconsin	4	1	0	8	1	0	0	6	3	3	4	0	0
Wyoming	1	1	1	1	0	0	0	0	0	0	1	0	0
Total	223	255	147	351	133	67	50	305	148	31	129	129	45

TABLE 1.—NUMBER OF 1968-69 COMPREHENSIVE AGREEMENTS CONTAINING CERTAIN PROVISIONS (Continued)

State	Board rights	Committees established in agreement		One or more specific subject joint committees established in agreement[b]	Instructional program								
	General board rights	Committee which meets regularly	General or professional study committee		Curriculum review	Teacher qualifications	Development of special education programs	Hiring of specialists	Development of tax or bond programs	Application of state and federal funds	Evaluation and application of testing programs	Distribution of budgetary items	Evaluation of teachers' performance
1	40	41	42	43	44	45	46	47	48	49	50	51	52
Arizona	1	1	1	0	0	0	2	0	0	0	0	0	0
Arkansas	0	0	0	0	0	0	0	0	0	0	0	0	0
California	0	0	1	1	1	0	0	0	1	0	0	0	0
Colorado	0	3	0	2	1	0	0	1	0	0	0	1	1
Connecticut	24	7	6	12	14	0	2	9	0	3	0	0	3
District of Columbia	0	1	0	1	1	1	1	1	0	0	0	0	1
Illinois	21	16	8	18	9	8	3	6	0	3	0	3	1
Indiana	4	1	1	6	1	4	2	1	1	1	0	0	1
Kansas	0	0	0	0	0	0	0	0	0	0	0	0	0
Maryland	0	0	0	1	0	0	1	0	0	1	0	0	0
Massachusetts	71	10	14	30	12	14	4	23	0	3	0	0	4
Michigan	247	59	79	84	62	131	50	23	60	14	2	2	20
Missouri	1	0	0	0	0	0	0	0	0	0	0	0	0
Montana	0	0	0	1	0	1	0	0	0	0	0	0	0
Nebraska	1	0	0	0	0	0	0	0	0	0	0	0	0
New Jersey	2	2	2	4	2	0	1	3	0	2	0	1	0
New York	81	85	85	112	57	48	15	36	0	6	11	11	25
Ohio	3	4	2	5	2	0	0	2	0	1	1	1	0
Pennsylvania	4	1	0	3	3	1	0	1	0	0	0	0	0
Rhode Island	4	0	1	6	0	2	3	6	0	1	1	0	1
Utah	1	1	2	0	0	0	0	1	0	1	0	0	1
Virginia	0	0	0	1	0	0	0	0	0	0	0	0	0
Washington	0	0	1	0	1	0	0	0	0	0	0	0	0
Wisconsin	33	2	2	6	7	11	0	8	0	2	1	0	4
Wyoming	0	1	0	1	0	0	0	0	0	0	0	0	0
Total	498	194	205	294	173	221	84	121	62	38	16	19	62

[b]In the *NAP*, the area of study is given for each joint committee. There are 96 possible areas of study.

TABLE 1.—NUMBER OF 1968-69 COMPREHENSIVE AGREEMENTS CONTAINING CERTAIN PROVISIONS (Continued)

State	Instructional program (Cont.)											
	Selection and distribution of textbooks	Pupil-teacher ratio and class size	Instructional aids available for the teachers' use in the development, planning, and teaching in classroom	Teacher aides for extraneous duties	Secretarial and clerical assistance	School calendar or year	Pupil progress reports, promotion, and policies	Supervision of student extracurricular activities	Selection of supervisors	Assignment of department chairmen	Parent-teacher conferences	Integration of education for textbooks, pupils, and staff
1	53	54	55	56	57	58	59	60	61	62	63	64
Arizona	0	1	1	1	0	2	0	1	0	1	1	0
Arkansas	1	1	0	0	0	1	0	0	0	0	0	0
California	1	0	0	0	0	1	0	0	0	0	0	1
Colorado	1	1	2	0	0	1	0	0	0	0	1	0
Connecticut	28	34	10	14	8	26	6	14	0	4	12	1
District of Columbia	0	1	0	1	1	0	1	1	0	0	1	1
Illinois	17	16	6	8	11	16	8	15	4	5	6	4
Indiana	4	4	4	3	3	4	3	1	0	2	2	1
Kansas	0	0	0	0	0	1	0	0	0	0	0	0
Maryland	0	2	0	1	0	0	0	0	0	0	1	0
Massachusetts	39	56	8	32	8	7	4	51	1	1	17	0
Michigan	154	245	163	78	37	192	15	73	1	30	84	6
Missouri	0	0	0	0	0	0	0	0	0	0	0	0
Montana	0	0	0	0	0	1	0	0	0	0	0	0
Nebraska	0	0	0	0	0	0	0	0	0	0	0	0
New Jersey	1	2	0	2	0	1	0	1	0	1	0	0
New York	56	175	45	130	37	145	27	46	3	26	66	3
Ohio	2	4	1	3	3	4	1	2	0	1	1	1
Pennsylvania	1	2	1	1	1	0	1	1	0	2	0	1
Rhode Island	12	12	3	7	1	9	2	1	0	0	2	0
Utah	0	0	0	0	0	1	0	0	0	0	0	0
Virginia	0	1	0	0	1	2	0	0	0	0	0	0
Washington	0	0	0	0	0	0	0	0	0	0	0	0
Wisconsin	0	19	0	4	4	26	1	2	0	4	6	0
Wyoming	0	1	0	0	0	1	0	0	0	0	0	0
Total	317	577	244	285	115	441	69	209	9	77	200	19

TABLE 1.—NUMBER OF 1968-69 COMPREHENSIVE AGREEMENTS CONTAINING CERTAIN PROVISIONS (Continued)

State	Personnel policies and practices											
	Individual contract terms	Issue and return of individual contract	Employment year—12-month contracts	Reporting procedures	Teaching hours	Teaching load or schedule of class periods	Teaching assignment in subject areas	Teaching assignment for special education programs	Hours of service before and after regular class periods	Planning period—elementary	Planning period—secondary	Lunch period for elementary teachers
1	65	66	67	68	69	70	71	72	73	74	75	76
Arizona	0	0	0	0	1	1	1	2	0	1	1	0
Arkansas	0	0	0	0	1	1	1	1	0	1	1	0
California	0	0	0	0	0	0	0	1	0	0	0	0
Colorado	0	0	0	0	3	2	2	1	1	3	3	3
Connecticut	17	11	0	0	27	14	31	19	26	15	26	38
District of Columbia	0	0	0	1	1	0	1	1	1	1	1	1
Illinois	6	2	0	2	16	14	11	11	10	8	11	13
Indiana	0	0	1	1	2	3	4	4	1	4	4	4
Kansas	0	0	0	0	0	0	1	0	0	1	1	1
Maryland	0	0	0	0	1	0	1	0	1	1	1	1
Massachusetts	14	0	0	0	63	56	64	55	64	29	55	60
Michigan	21	16	5	3	189	184	226	73	189	150	205	265
Missouri	0	0	0	0	0	0	0	0	0	0	0	0
Montana	2	1	0	0	2	1	1	0	0	1	0	1
Nebraska	0	0	0	0	0	0	0	0	0	0	0	0
New Jersey	0	0	0	0	2	1	2	1	0	0	1	1
New York	18	5	2	17	167	179	128	76	102	98	111	152
Ohio	1	0	0	0	2	3	7	3	4	6	6	6
Pennsylvania	0	0	0	0	1	1	1	1	0	1	0	0
Rhode Island	4	2	0	0	9	15	14	10	12	5	11	12
Utah	3	2	0	0	1	1	2	2	1	1	1	3
Virginia	1	0	0	0	0	0	1	0	1	0	1	0
Washington	0	0	0	0	1	0	1	0	1	0	0	0
Wisconsin	21	8	0	0	22	16	16	7	10	7	10	22
Wyoming	0	0	0	1	2	0	1	1	1	1	1	1
Total	108	47	8	25	513	492	517	269	425	334	451	584

TABLE 1.–NUMBER OF 1968-69 COMPREHENSIVE AGREEMENTS CONTAINING CERTAIN PROVISIONS (Continued)

State	Personnel policies and practices (Cont.)											
	Lunch period for secondary teachers	Supervision of student teachers	Non-classroom duties	Regular teacher as a substitute	Qualifications for professional growth	Inservice training	Regular teacher meetings	Promotion to higher classification, supervisor or administrator	Temporary assignment to higher classification	Vacancies	Transfers	Layoff and recall
1	77	78	79	80	81	82	83	84	85	86	87	88
Arizona	1	0	1	2	1	1	1	0	1	1	1	0
Arkansas	1	0	0	0	0	0	1	0	0	0	1	0
California	0	0	0	0	1	1	0	0	0	1	1	0
Colorado	3	0	3	1	3	1	1	1	0	2	3	0
Connecticut	36	3	28	10	40	13	20	39	1	41	38	0
District of Columbia	1	0	1	1	0	0	1	1	0	1	1	0
Illinois	18	3	14	17	14	11	18	9	2	19	17	2
Indiana	5	1	4	0	2	4	3	3	0	5	5	0
Kansas	1	0	0	1	0	0	0	1	0	1	1	0
Maryland	1	0	2	0	1	0	1	1	0	1	1	0
Massachusetts	64	9	57	19	81	21	42	63	3	80	65	0
Michigan	255	54	153	107	121	77	133	176	124	274	242	76
Missouri	0	0	0	0	1	0	0	0	0	0	0	0
Montana	0	0	1	0	2	1	0	1	1	2	0	0
Nebraska	0	0	0	0	0	0	0	0	0	0	0	0
New Jersey	2	0	2	3	1	2	3	2	1	1	2	0
New York	140	33	114	54	81	94	119	133	10	144	138	7
Ohio	6	2	6	0	4	6	7	5	1	5	6	0
Pennsylvania	0	1	1	0	2	2	2	1	1	2	1	0
Rhode Island	15	2	12	2	4	1	11	17	1	18	15	0
Utah	3	0	1	0	2	0	2	2	0	2	3	4
Virginia	1	0	0	1	0	0	0	2	0	2	2	0
Washington	0	0	0	1	3	1	0	1	0	0	0	0
Wisconsin	21	2	20	9	33	13	7	4	2	14	14	3
Wyoming	1	0	1	1	0	0	1	1	0	1	1	0
Total	575	110	421	229	397	249	373	463	148	617	558	92

TABLE 1.–NUMBER OF 1968-69 COMPREHENSIVE AGREEMENTS CONTAINING CERTAIN PROVISIONS (Continued)

State	Personnel policies and practices (Cont.)											
	Dismissal procedure	Resignation procedure	Retirement procedure	Grievance procedures[a]				Professional code of ethics	Teacher discipline or reprimand	Teacher's personnel file	Protection of teachers against assault, etc.	Pupil discipline
				Grievance procedure	Binding decision and method of selecting third party	Advisory decision and method of selecting third party	Provisions for cost of third party					
1	89	90	91	92	93	94	95	96	97	98	99	100
Arizona	0	1	0	2	0	2	1	1	1	2	1	2
Arkansas	0	0	0	1	0	1	1	0	1	1	1	0
California	0	0	0	0	0	0	0	0	0	0	0	0
Colorado	0	0	0	4	0	4	4	1	1	2	3	1
Connecticut	2	6	4	51	27	16	36	30	4	37	29	4
District of Columbia	0	0	0	1	1	0	1	0	0	1	0	1
Illinois	5	2	4	30	10	12	17	3	8	27	16	21
Indiana	1	0	2	6	1	4	3	2	2	5	3	5
Kansas	0	0	0	1	0	1	0	0	1	1	1	1
Maryland	0	0	0	1	0	1	1	0	0	1	0	1
Massachusetts	8	14	9	123	107	13	103	14	49	97	61	10
Michigan	28	25	109	308	131	152	142	169	199	229	238	245
Missouri	0	0	0	0	0	0	0	0	0	0	0	0
Montana	1	0	0	1	0	1	0	0	1	0	0	0
Nebraska	0	0	0	0	0	0	0	0	0	0	0	0
New Jersey	0	0	0	5	2	2	4	0	0	2	1	1
New York	24	27	22	273	98	90	149	66	55	130	129	95
Ohio	2	1	1	7	3	0	1	2	4	6	3	4
Pennsylvania	0	0	0	4	1	1	2	1	1	1	0	2
Rhode Island	1	3	1	19	3	12	1	0	11	15	14	2
Utah	3	0	1	4	0	2	1	2	1	3	2	2
Virginia	1	0	0	2	0	2	2	1	0	1	1	1
Washington	1	0	0	1	0	0	0	1	1	1	0	0
Wisconsin	15	11	32	44	14	12	10	4	1	12	6	5
Wyoming	0	0	0	1	0	1	1	1	1	1	1	1
Total	92	90	185	889	398	329	480	298	342	575	510	404

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TABLE 1.—NUMBER OF 1968-69 COMPREHENSIVE AGREEMENTS CONTAINING CERTAIN PROVISIONS (Continued)

State	Personnel policies and practices (Cont.)									Salary policy[c]		
	Liability case procedures	Damaged or stolen property	Absence report procedure	Procedure for teacher evaluation	Teacher facilities, e.g., lounge	Probationary period	Seniority	Substitute teachers	Health requirements	Salary schedule	Salary credits for prior growth and experience	Salary credit for military experience
1	101	102	103	104	105	106	107	108	109	110	111	112
Arizona	0	0	0	1	0	1	0	0	0	2	1	0
Arkansas	0	0	0	1	0	1	1	0	0	0	0	0
California	0	0	0	1	0	0	0	0	0	1	1	1
Colorado	1	0	0	2	2	2	0	0	0	4	2	1
Connecticut	25	9	3	27	29	5	29	25	8	53	30	35
District of Columbia	0	1	0	1	1	1	1	1	0	1	0	0
Illinois	7	5	4	11	17	4	19	12	6	31	23	13
Indiana	1	0	2	4	4	3	4	3	3	8	2	4
Kansas	1	0	0	1	0	1	0	0	0	1	1	1
Maryland	0	0	0	1	1	0	0	2	0	2	0	0
Massachusetts	48	25	11	70	55	6	43	44	10	127	66	57
Michigan	143	138	179	266	242	115	133	189	126	308	260	185
Missouri	0	0	0	0	0	0	0	0	0	1	1	0
Montana	0	0	1	0	0	0	1	1	0	2	2	0
Nebraska	0	0	0	0	0	0	0	0	0	1	0	0
New Jersey	1	0	2	2	0	0	1	3	1	5	1	0
New York	67	46	64	172	123	105	22	132	75	310	153	130
Ohio	2	2	1	5	6	2	1	4	1	12	7	5
Pennsylvania	0	0	0	1	2	2	1	2	0	4	2	0
Rhode Island	13	9	1	12	12	1	5	6	1	17	10	4
Utah	0	1	0	2	2	3	3	1	1	4	3	3
Virginia	1	0	0	1	0	1	1	0	0	1	1	1
Washington	0	0	0	0	0	0	0	1	0	3	1	0
Wisconsin	5	2	7	13	9	15	8	16	24	52	38	17
Wyoming	0	0	1	1	1	0	0	0	0	1	1	0
Total	315	238	276	595	506	268	273	442	256	951	606	457

[c]In the *NAP* the following salary benchmarks are given: B.A. minimum; M.A. maximum; M.A. Step 10; Non-doctorate maximum. The number of steps also is provided.

TABLE 1.—NUMBER OF 1968-69 COMPREHENSIVE AGREEMENTS CONTAINING CERTAIN PROVISIONS (Continued)

State	Salary policy[c] (Cont.)									Fringe benefits		
	Salary increments for professional preparation	Deviation from salary schedule	Extra duty pay for special activities	Premium pay	Overtime pay	Part-time pay	Longevity pay	Incentive pay	Pay period	Tuition reimbursement	Physical examination	Holidays
1	113	114	115	116	117	118	119	120	121	122	123	124
Arizona	2	0	2	1	0	0	0	0	0	0	0	1
Arkansas	0	0	0	0	0	0	0	0	0	0	0	1
California	1	1	1	0	0	1	0	0	0	0	0	0
Colorado	4	2	4	0	2	1	0	0	1	0	0	0
Connecticut	53	12	48	2	10	10	20	2	14	15	5	12
District of Columbia	0	0	1	0	0	0	0	0	1	0	0	0
Illinois	24	3	27	9	10	1	9	2	20	8	5	6
Indiana	8	0	5	0	1	1	5	0	3	42	2	1
Kansas	1	0	1	0	0	0	0	0	0	0	0	1
Maryland	0	0	1	0	1	1	1	0	1	0	0	0
Massachusetts	127	37	91	0	24	24	36	13	58	83	1	8
Michigan	264	39	285	97	160	78	78	9	130	0	49	90
Missouri	0	0	0	0	0	0	0	0	0	0	0	0
Montana	2	0	2	0	0	1	2	0	2	0	0	1
Nebraska	0	0	0	0	0	0	0	0	0	0	0	0
New Jersey	0	2	3	0	0	1	2	0	1	1	0	1
New York	239	59	243	80	61	41	203	34	113	58	12	13
Ohio	3	1	7	1	1	3	2	1	5	0	0	2
Pennsylvania	5	0	3	0	0	0	1	0	2	1	0	0
Rhode Island	10	3	14	0	1	3	9	2	14	3	0	2
Utah	1	2	2	1	1	0	0	0	4	0	0	0
Virginia	0	0	1	0	0	0	2	0	0	0	0	0
Washington	2	0	3	2	1	1	0	0	1	0	0	0
Wisconsin	27	26	48	30	8	12	12	7	25	27	16	3
Wyoming	0	0	1	0	1	0	0	0	1	0	0	0
Total	773	185	793	223	282	179	382	69	396	238	90	142

TABLE 1.–NUMBER OF 1968-69 COMPREHENSIVE AGREEMENTS CONTAINING CERTAIN PROVISIONS (Continued)

State	Fringe benefits (Cont.)										
	Vacation	Health services	Payroll deductions	Terminal leave or severance pay	Employment injury benefit	Travel allowances	Conference and meeting fees	Mileage allowance	Payment of subject organization dues	Tax-sheltered annuity	Workmen's compensation
1	125	126	127	128	129	130	131	132	133	134	135
Arizona	0	0	0	0	0	0	0	1	0	1	0
Arkansas	0	0	0	0	1	0	0	0	0	0	1
California	1	0	0	0	0	0	0	0	0	0	0
Colorado	0	0	0	0	1	0	0	1	0	0	2
Connecticut	9	1	15	28	19	23	21	8	0	24	29
District of Columbia	0	0	0	1	0	0	0	1	0	1	0
Illinois	1	4	8	12	10	13	8	12	0	13	5
Indiana	1	0	3	3	4	4	4	1	0	5	3
Kansas	0	0	0	0	0	0	0	0	0	0	0
Maryland	0	0	0	1	0	0	0	0	0	0	0
Massachusetts	12	0	29	17	46	46	45	36	0	53	46
Michigan	24	2	124	133	104	108	103	124	2	82	191
Missouri	0	0	0	0	0	0	0	0	0	0	0
Montana	0	0	1	2	0	0	0	0	0	0	0
Nebraska	0	0	0	0	0	0	0	0	0	0	0
New Jersey	0	0	0	1	1	0	0	0	0	0	2
New York	1	10	60	50	94	54	92	79	1	84	66
Ohio	0	0	3	2	1	2	3	2	0	3	1
Pennsylvania	1	0	1	1	1	0	0	0	0	2	1
Rhode Island	2	1	5	4	10	0	0	6	0	4	6
Utah	0	0	2	2	2	1	0	0	0	2	2
Virginia	0	0	0	1	1	0	0	0	0	0	1
Washington	0	0	0	0	0	1	0	0	0	0	0
Wisconsin	0	1	6	5	6	11	6	18	0	8	18
Wyoming	0	0	0	0	1	1	1	1	0	1	0
Total	52	19	257	263	302	264	283	290	3	283	374

TABLE 1.—NUMBER OF 1968-69 COMPREHENSIVE AGREEMENTS CONTAINING CERTAIN PROVISIONS (Continued)

State	Insurance coverage[d]					Long-term leaves of absence[e]							
	Group health insurance	Group life insurance	Group liability insurance	Group income protection or disability	Pension or retirement	General leave	Sabbatical leave	Sick leave bank	Extended sick leave	Holding public office or conducting political campaigns	Exchange teaching—general	Foreign exchange teaching	Domestic exchange teaching
1	136	137	138	139	140	141	142	143	144	145	146	147	148
Arizona	0	0	0	0	0	0	1	0	0	1	1	0	0
Arkansas	0	0	0	0	0	0	0	0	0	1	0	0	0
California	1	1	0	0	0	0	0	0	1	0	1	0	0
Colorado	3	4	2	1	0	0	3	0	1	2	0	1	1
Connecticut	48	30	0	3	5	11	37	1	17	1	5	7	7
District of Columbia	1	1	0	0	0	0	1	0	0	0	0	0	0
Illinois	25	11	6	4	4	9	26	0	5	1	4	2	0
Indiana	6	5	2	1	2	0	5	0	0	3	3	0	0
Kansas	0	0	0	0	0	0	0	0	0	0	0	0	0
Maryland	1	1	0	0	0	1	0	0	0	1	1	1	1
Massachusetts	62	52	2	11	7	28	83	1	14	21	15	4	3
Michigan	255	120	42	66	6	50	128	47	18	121	32	45	38
Missouri	0	0	0	0	0	0	0	0	0	0	0	0	0
Montana	2	0	0	0	0	2	1	0	0	0	0	0	0
Nebraska	0	0	0	0	0	0	0	0	0	0	0	0	0
New Jersey	3	0	1	0	0	1	2	0	1	0	0	0	0
New York	212	40	11	16	8	42	238	9	41	31	66	19	9
Ohio	9	2	0	1	1	2	3	0	0	1	1	0	0
Pennsylvania	4	3	0	0	0	0	2	0	1	0	0	0	0
Rhode Island	19	1	3	0	0	9	16	1	5	0	9	1	0
Utah	4	1	1	0	1	2	3	0	0	2	0	0	0
Virginia	2	0	0	0	2	1	2	0	0	0	0	0	0
Washington	2	0	0	0	0	2	2	0	0	1	0	0	0
Wisconsin	52	31	9	2	5	13	10	0	1	3	6	0	0
Wyoming	1	0	0	1	0	1	0	0	0	0	0	0	0
Total	712	103	79	100	41	174	563	59	105	190	144	80	59

[d]The *NAP* indicates the extent and nature of board participation in the various group insurance plans. The types of health insurance are itemized.

[e]The *NAP* gives the lengths of extended and sabbatical leaves and indicates whether they are at full or partial pay.

TABLE 1.–NUMBER OF 1968-69 COMPREHENSIVE AGREEMENTS CONTAINING CERTAIN PROVISIONS (Continued)

State	Long-term leaves of absence[e] (Cont.)								Short-term leaves of absence[f]			
	Department of Defense schools	VISTA	Peace Corps	Maternity leave	Military leave	Health (recovery)	Research, study, travel (unpaid)	Public service appointment	General leave	Sick leave	Bereavement leave	Personal business leave
1	149	150	151	152	153	154	155	156	157	158	159	160
Arizona	0	0	1	1	1	1	0	0	0	1	0	0
Arkansas	0	0	1	1	1	1	0	0	0	0	0	0
California	0	0	0	0	1	0	1	0	0	1	0	0
Colorado	0	0	2	2	2	2	3	0	1	3	3	4
Connecticut	2	3	14	37	29	15	25	1	6	48	40	47
District of Columbia	0	0	0	0	1	0	0	0	1	1	0	0
Illinois	0	0	4	25	12	8	14	0	2	32	26	26
Indiana	1	1	4	4	4	2	3	1	2	7	6	7
Kansas	0	0	0	0	0	0	0	0	0	0	0	0
Maryland	0	1	1	1	1	1	2	0	0	2	0	1
Massachusetts	2	2	49	64	61	49	12	1	23	110	90	87
Michigan	32	16	127	270	237	188	175	13	28	308	258	281
Missouri	0	0	0	0	0	0	0	0	0	0	0	0
Montana	0	0	0	0	0	0	0	0	0	2	1	1
Nebraska	0	0	0	0	0	0	0	0	0	0	0	0
New Jersey	0	0	0	2	1	0	0	0	0	2	1	2
New York	7	45	59	212	118	82	44	9	8	275	216	271
Ohio	0	0	2	5	4	3	3	0	0	11	5	9
Pennsylvania	0	0	0	2	0	0	0	0	0	3	1	3
Rhode Island	1	0	8	14	12	8	4	0	3	19	16	12
Utah	0	0	0	2	2	1	0	0	1	4	3	2
Virginia	0	0	0	2	1	0	0	0	0	1	0	1
Washington	0	0	0	1	1	1	1	0	0	2	1	1
Wisconsin	0	0	2	20	14	10	8	3	2	52	31	28
Wyoming	0	0	0	1	1	0	0	0	1	1	0	0
Total	45	68	274	660	504	372	295	28	78	885	698	783

[f]In addition to the four short-term leaves listed here, the *NAP* contains information concerning 17 other types of short-term leaves (exact length of leave, with or without pay, deducted from other leave or separate), and lists the amount and maximum accumulation of annual leave.

Special Reports

BRIEFS OF RECENT AGREEMENTS

Bridgeport, Connecticut

Between the Bridgeport Education Association and the Bridgeport Board of Education, effective September 1, 1969, to June 30, 1970. Approximately 1,000 certificated professional employees.

Compensation: B.A., $7,100 to $10,500, 11 increments; M.A., $7,500 to $12,400, 13 increments; M.A. plus 30 hours, $13,400 maximum. Differentials: teachers of mentally retarded children, $300 additional; teachers of physically handicapped students, $200 additional; maximum credit for previous teaching experience.

Leaves: 15 days' sick leave, unlimited accumulation; teachers may also earn up to 5 additional days' sick leave credited at the rate of 1 day for each period of 10 consecutive school days worked without absence, for each such period worked in excess of 13 such periods and up to 18 such periods, inclusive; 3 separate days' bereavement leave; 2 separate days' personal leave; 2 separate leave days for religious holidays; sabbatical leave for 1 year at 75% of regular salary after 7 years' service.

Insurance: Board-paid Blue Cross, medical service, and major medical for individual coverage; board and employee contribute to $3,000 group life insurance coverage.

Miscellaneous: Grievance procedure ends with binding arbitration; dues deduction for Association; joint committee for curriculum revision; school calendar with school terms, holidays, and marking and reporting dates noted; maternity leave providing that teachers "starting their leave on or after February 1, will be placed on the next step on their return to active status;" duty-free lunch period or $6 per hour.

Auburn, Massachusetts

Between the Auburn Teachers Association and the Auburn School Committee, effective September 1, 1969, to June 30, 1970. Approximately 213 certificated professional employees. Two separate representative units recognized: Unit A—Teacher Group, Unit B—Administrative and Supervisory Group.

Compensation: B.A., $6,500 to $9,900, 9 increments; M.A., $7,200 to $11,000, 10 increments; M.A. plus 30 hours, $12,200 maximum, 11 increments. Differentials: $300 upon completion of 15 hours of approved credit; doctorate, $300; special education teacher, $500 additional; department chairmen range from an additional $850 (English) to $350 (language) depending upon subject; head football coach, $900 additional; principals' differential ranges from $1,300 to $3,800.

Leaves: 10 days' sick leave, 15 days for tenure teachers, 120 days' maximum accumulation; 2 extra days for personal business; 3 extra days' family bereavement leave; 3 extra days for care of resident with critical illness; 2 extra days for religious holidays; sabbatical leave for one-half year or full year at half-pay after 7 years' service.

Miscellaneous: Grievance procedure ends with advisory arbitration; 30 calendar days' full pay less workman's compensation for work-related injury or accident; dues deduction for Association; tuition reimbursement for professional improvement; Association right to use school facilities; if the board does not provide legal counsel in a work-related civil action in which a teacher prevails, the board will reimburse the teacher for counsel fees incurred; joint committee on teaching materials.

Bay City, Michigan

Between the Bay City Education Association and the Bay City Board of Education, effective September 1, 1969, to August 15, 1971. Approximately 650 certificated professional employees.

Compensation: (1969-70) B.A., $7,350 to $11,760, 11 increments; M.A., $8,152 to $12,862, 11 increments; M.A. plus 30 hours, $13,230 maximum. Differentials: overload assignments which extend a teacher's day by one period in high school, 8.3% of B.A. base per semester; head football or basketball coach, 18% to 22% of B.A. base; band director, $300 additional; science supply coordinator, 5% of B.A. base; counselors, 2% to 4% of B.A. base; high-school newspaper advisor, 3% to 5% of B.A. base; noon duty supervisor, 4% of B.A. base per semester; Current Improvement stipend for approved credits at 5% of B.A. base after maximum step reached (see below).

(1970-71) B.A., $8,000 to $12,800, 11 increments; M.A., $8,873 to $14,000, 11 increments; M.A. plus 30 hours, $14,400 maximum.

Leaves: 8 days' sick leave per semester, 96 days' accumulation; 3 separate days' bereavement leave; approved school visitation and conference days; 1 separate day for selective service examination; 5 days deducted from accumulation for family illness; sick leave bank.

Insurance: Board-paid health insurance for individual coverage, 50% of cost of dependent coverage, and full family coverage after December 1969; $2,500 group term life insurance for each employee; optional family life insurance; tax sheltered annuities; school district-paid "income protection" coverage under insurance allowance; employment injury and workman's compensation.

Miscellaneous: Grievance procedure ends with binding arbitration; in-service training; tuition reimbursement; Current Improvement stipend as professional growth incentive; academic freedom; student teacher provisions; duty-free lunch period of 60 minutes for all teachers; school calendar; issuance of school bonds for construction; agency shop; dues deduction for Association; teacher evaluation score card; terminal pay of one day's pay for each sick leave day accumulated to maximum of $1,000 upon retirement, and an additional $50 per year of service after 15 years to maximum of $500; tenure procedure.

TENURE PROCEDURES

The administration will be responsible for appointing sponsors; Tenure Form 1; (five specific meetings for purposes of counseling the probationer and evaluating the situation); Tenure Forms 2, 5 and 6.

The B.C.E.A. Tenure Committees will be responsible for their own committees, assignments and reports - Tenure Forms 3 and 4.

It is assumed that the specific meetings between the Principal and the Probationer and the Sponsor-Teacher do not preclude the possibility of any number of Teacher-Principal conferences as circumstances and situations may require. The essential purpose of the specific meetings will be to bring all the resources of the school system to bear upon any problems which may arise.

During the two-year probationary period five specific meetings are suggested in which the Probationer, the Sponsor-Teacher, the Department Chairman, and the Principal, or Principal's Representative from the administrative staff, are involved. The first meeting prior to the eighth week shall be for the purpose of checking with the Probationer and the Sponsor to be sure arrangements are satisfactory. There shall be two evaluating sessions each year: the first, prior to the eighteenth week; the second, prior to the twenty-sixth week. At the evaluating sessions, the Probationer and the Principal will arrive at a composite assessment of the Probationer's position. The department chairman shall submit his separate evaluation of the performance of the Probationer from the department's point of view, on Tenure Form 9. The Probationer and the Principal will both have prepared their personal appraisal in advance of the meeting using Tenure Form 6. The composite assessment submitted to the Superintendent's office may be supplemented with additional comments or information by the Probationer, Principal, Department Chairman, and/or the Teacher-Sponsor. With the approval of the building Principal, the Teacher-Sponsor shall be freed from time to time to assist his Probationer.

Schedule:

First Week

1. Principal appoints sponsors.

Second Week

1. Building Committee Election.
2. First Meeting of the Building Committee.
3. Meeting of the City-Wide Committee.
4. Verification Form.

Third Week
1. City-Wide Meeting.
2. First Conference List.
3. Special Education Eligibility List.

Eighth Week
First Conference Completed.

Eighteenth Week
Second Conference Completed.

Twenty-Sixth Week
Third Conference Completed.

Twenty-Eighth Week
Recommendations from City Committee to Superintendent.

The above-named forms are entitled:

Tenure Form 1—Probationers-Sponsors List: to be prepared by the Principal and submitted to the Building Committee Chairman during the second week of the school term.

Tenure Form 2—Principal-Probationer-Sponsor Meetings: to be completed after each conference deadline by the Principal and submitted to the Building Committee Chairman.

Tenure Form 3—Probationer-Sponsor Assignment: to be prepared by the Chairman of the Building Tenure Committee and submitted to the Chairman of the City-Wide Tenure Committee.

Tenure Form 4—Sponsors Report.

Tenure Form 5—(Omitted from agreement.)

Tenure Form 6—A Score Card for Teaching Services.

Tenure Form 7—Recommendations to the Superintendent.

Tenure Form 8—Principal's Recommendation to the Superintendent.

Tenure Form 9—Department Chairman's Recommendation.

Washtenaw, Michigan

Between the Washtenaw Community College Education Association and the Washtenaw Community College Board of Trustees, effective July 1, 1969, to August 31, 1971. Approximately 130 certificated professional employees.

Compensation: Each member of the bargaining unit is allocated points (credited according to experience, educational attainment, and certificates or teaching licenses held) which place him on salary step and range from $8,000 (5-9 points) to $15,200 (27 points) in 18 increments; completion of three-year project to improve either instruction or counseling for an Extra Effort Increment (EEI), $900 additional; completion of any EEI phase, $300 additional; each employee verifies his point standing as per agreement, and may be eligible for retroactive payments in adjustment of salary to schedule.

Leaves: 1 sick day per contracted month, 100 days' maximum accumulation; sick leave bank for extended illness; 5 separate days, not to exceed 2 consecutive days, for personal leave; 5 separate days' bereavement leave; 5 days for professional meetings; sabbatical leave at full pay for 1 semester or half-pay for 2 semesters after 5 years' service.

Insurance: Board-paid hospitalization, surgical, medical, and master medical insurance for individual and family coverage; term life insurance amounting to twice the value of employee's annual salary; accidental death insurance coverage based upon annual salary; liability insurance coverage of $500,000 for each instructor; long-term disability insurance; travel accident coverage; tax sheltered annuities.

Miscellaneous: Grievance procedure ends with binding arbitration; teacher performance evaluation; board provides all employees with photo I.D. cards; Association use of school facilities; each employee furnished with personal office space and equipment by board; 12-month contract provision; benefits maintained during advanced study leave; faculty has citizen's right to criticize the institution's operation; faculty evaluation procedure.

Portsmouth, Rhode Island

Between the Portsmouth Education Association and the Portsmouth School Committee, effective September 1, 1969, to August 31, 1970. Approximately 201 certificated professional employees.

Compensation: B.A., $6,500 to $9,750, 9 increments; M.A., $7,100 to $10,350, 9 increments; M.A. in field plus 30 hours, $10,750 maximum; home teachers, $6 per hour for a maximum of 4 hours per week. Differentials: special education teachers, $500 additional; student teacher supervision, $100 additional; remedial teachers, $300 additional.

Leaves: 10 days' sick leave, 15 days after 3 years, 90 days' accumulation; separate days for quarantine absences; 2 extra days' personal business leave; 3 separate days' bereavement leave; 2 weeks' leave for military reserve training; 2 separate days' professional leave for attending summer institute or summer college sessions; sabbatical leave for 1 year at half-pay after 7 years' service.

Insurance: Employer-paid Blue Cross health insurance, including surgical and major medical for individual or family coverage; optional tax sheltered annuities.

Miscellaneous: Grievance procedure ends with advisory arbitration; graduate study reimbursed at $30 per course, $90 maximum per year; class size maximum for grades 1-12; teaching hours not to exceed 6 hours in elementary schools, and 6½ hours in secondary schools; joint committee to study supervision of nonteaching duties; duty-free lunch period for all teachers; office area for Association; dues deduction for Association; released time for Association representatives.

Windsor, Vermont

Between the Windsor Southeast Education Association and the Windsor School Board effective July 1, 1969, to July 1, 1970. Approximately 110 certificated professional employees.

Compensation: B.A., $6,000 to $9,000, 10 increments; B.A. plus 30 hours, $9,270 maximum; M.A., $6,420 to $9,630, 10 increments. Differentials: department heads, 10% of B.A. schedule; varsity football coach, 8% of B.A. schedule; freshman football coach, 4% of B.A. schedule; cheerleader advisor, 3% of B.A. schedule.

Leaves: 15 days' sick or personal leave, 60 days' maximum accumulation.

Insurance: Board-paid health insurance for individual coverage.

Miscellaneous: Grievance procedure ends with binding arbitration; tuition reimbursement; provision for teacher aides; school calendar; Association makes recommendations regarding curriculum development, program coordination, and special in-service training programs.

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RESEARCH DIVISION
NATIONAL EDUCATION ASSOCIATION

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Case Reviews

MICHIGAN

STATE CIVIL SERVICE COMMISSION CANNOT REVOKE CHECK-OFF FOR STRIKE

A Michigan Civil Service Commission (CSC) order which revoked dues deduction privileges of the American Federation of State, County and Municipal Employees, Local 1342, following a strike was vacated by the Wayne County Circuit Court on grounds that the order was an "arbitrary exercise of power." A bench decision issued by the court held that the CSC's order was "invalid" because CSC rules, regulations, and policies contained no provision for such a penalty.

In the first public employee strike defying Michigan's bargaining law (Hutchinson Act), a majority of the 80 order fillers and checkers at the Lincoln Park Liquor Control Commission warehouse participated in a 12-day walkout during September 1968. The strike ended when members of Local 1342 agreed to comply with a CSC back-to-work order which offered amnesty to the strikers, but threatened to fire any employees refusing to return.

Then the CSC issued a June 27, 1969, order which revoked the union's dues deduction privileges, rather than rescinding recognition of the union, because the commission found that all strikers had been suspended without pay or fringe benefits for the duration of the strike.

During the court proceeding the CSC argued that revocation of check-off privileges was a penalty implicit in a section of the commission's December 1, 1964, State Employee Relations Policy, which states:

> The Civil Service Commission is a public agency charged by the Constitution with the regulation of all conditions of employment with responsibility for the public interest of all citizens equally, granting recognition to employee organizations coming within the definition stated within this policy, and submitting to the Civil Service Commission: (1) a written request for recognition; (2) a roster of its officers and official representatives; (3) a copy of its objectives, its constitution and by-laws accepting the responsibilities set forth in this statement. Recognition shall continue so long as such organization satisfies the criteria for such recognition. Recognition will only be extended to those organizations which have a substantial and stable membership of employees of the agency.

But the court disagreed, finding that "under such statement of policy the only sanction that may be imposed by the Commission is the cessation of recognition of the particular employee organization, which organization was previously recognized under the policy." The court therefore concluded that the CSC order was invalid, explaining that

> it imposes a penalty against a labor organization which is not expressly or impliedly provided for by the State Civil Service Commission in any of its rules, regulations, or policies.
>
> It appears to the Court that there is a hiatus or omission in the rules, regulations and policies of the State Civil Service Commission, insofar as penalizing labor organizations or employee organizations and that the State Civil Service Commission simply promulgated a decision imposing a penalty to meet the exigencies of the particular situation before it.

In vacating the CSC order, the court noted that its order could "only be prospective in action" because the check-off revocation had been in effect some six months prior to the court's ruling. (*Michigan Civil Service Commission v. AFSCME Local 1342*, Wayne County Circuit Court, December 8, 1969.)

NEW YORK

NEGOTIATED PROCEDURE WITH FINAL GRIEVANCE DECISION BY SCHOOL BOARD UPHELD

In dismissing a petition filed by six members of the Baldwin Faculty Association for additional compensation for extra work, the New York Supreme Court for Nassau County upheld a negotiated grievance procedure providing that a decision by the Baldwin Board of Education (USFD No. 10) "shall be final and binding upon the grievant, the administration, and the Association."

The case arose when six Association members who were guidance counselors employed by the board asked that they be reimbursed for collectively performing the work of an absent colleague. Contending that an agreement negotiated between the board and the Association entitled them to compensation for additional duties performed, they entered a claim on November 18, 1968. This claim was denied. Then they initiated a grievance according to the negotiated procedure by filing a memorandum with the Baldwin superintendent;

the grievance was dismissed by the superintendent on December 30, 1968. Finally, the six members appealed the grievance to the board, which affirmed the superintendent's decision on February 21, 1969.

Claiming that the board's decision was "totally unsupported by a fair reading of the. . .agreement," the grievants entered a court petition. But the court dismissed the petition as "insufficient in law," explaining:

> The petitioner has moved to obtain rights which derive solely from the agreement between the parties, and it is doubtful that an Article 78 proceeding lies. In any event, however, the basis for such a proceeding here would have to be that the acts of the Board were arbitrary, capricious or unreasonable. Although the petitioner has not claimed this in *haec verba*, this appears to be implicit in its petition. . . . In such posture, the Court cannot disturb the Board's finding unless it find[s] that there is no reasonable basis for it. . . . The Court determines that under the circumstances shown in this proceeding, it cannot find that the Board acted unreasonably, and the petition is to be dismissed.

Although the court dismissed the Article 78 proceeding, it acknowledged that "the grievants may have individual causes of action based on a breach of their employment agreement." But the court held that the present petition could not be treated as a suit for breach of contract. *(Baldwin Faculty Association, et al. v. Board of Education, Union Free School District No. 10, et al.*, New York Supreme Court for Nassau County, September 30, 1969.)

PENNSYLVANIA

COURT UPHOLDS SCHOOL BOARD'S ACTION IN INTEGRATING FACULTY

Ruling that school officials are immune from civil liability when executing their official duties, the U.S. District Court for the Eastern District of Pennsylvania upheld the Philadelphia education board's denial of a white teacher's request for transfer from a predominately black school to a predominately white school. In so deciding, the court granted a motion for summary judgment to the Philadelphia board and superintendent, and rejected a $4 million suit brought by the teacher for alleged violation of his Fourteenth Amendment rights of due process and equal protection.

The teacher, a physical education instructor at a predominately black Philadelphia high school, had requested a transfer to a similar, vacant position at another area high school on February 11, 1969. His application was rejected "because he is Caucasian," and because the faculty at the second high school was more than 90 percent white at the time. Arguing that "the Fourteenth Amendment precludes any and all state action predicated on race," the teacher filed suit seeking $1 million in compensatory damages and $3 million in punitive damages.

During litigation the Philadelphia board and superintendent contended that "their action was mandated by an order of the Pennsylvania Human Relations Commission and by the terms of the 1968 Collective Bargaining Agreement between the Board and the Philadelphia Federation of Teachers." The court found that a complaint filed by the commission on October 19, 1967, alleged that transfer provisions contained in a 1966 contract between the Federation and the Philadelphia board "perpetuated racially imbalanced faculties." Prior to the commission's final decision, however, the 1968 Philadelphia contract was negotiated, providing for transfers to achieve faculty racial balance.

According to the 1968 agreement, first-year teachers could be transferred by the board without their consent, and starting teachers would be assigned in a manner compatible with achieving the maximum faculty racial balance possible. As a result of these provisions, the court found that "the Commission decided not to require any immediate action concerning the 1968 agreement."

But the court emphasized that the commission issued two conclusions of law which were binding on the board:

> 5. The provisions. . . [of] the Pennsylvania Human Relations Act require the respondent, School District of Philadelphia, to take affirmative steps to achieve racial balance of public school facilities.
>
> 6. The provisions of the collective bargaining agreement between the respondent, School District of Philadelphia, and the respondent, Philadelphia Federation of Teachers . . . may not provide procedures or rules governing the transfer of teachers where such procedures or rules prevent the effective achievement of racial balance in the public school faculties within a reasonable time.

The court accordingly concluded that "there is no doubt that the Board's action was mandated by the decision of the Commission," explaining:

> Under the statutory scheme, the Commission's orders are binding upon the parties to the adjudication. Enforcement thereof merely adds the possible sanction of contempt proceedings for violation of the enforcing court's decree, while at the same time insuring the respondent in the litigation an opportunity for judicial review before enforcement.

But the court was dissatisfied with the arguments advanced by both the Philadelphia board and the plaintiff teacher. Acknowledging that the board provided a reason for its denial of the teacher's request for transfer, the court nevertheless held

that "the Board has not seen fit to articulate in this Court the precise legal significance of this fact." The plaintiff's Fourteenth Amendment argument also was problematic, because the court found that a corollary to this argument "would seem to be that state action designed to eradicate or alleviate existing *de facto* segregation or related conditions by affirmative measures which require consideration of race in their implementation are unconstitutional."

As a result, the court applied the doctrine of immunity to this case, declaring that "the law is now clear that when immunity is properly invoked, it constitutes a defense to an action for damages" such as those brought by the teacher. Moreover, the court held that "it is also clear that a person or entity acting pursuant to a court order is clothed with immunity derivatively." The court consequently found it "simply inconceivable that a municipal entity and its chief executive officer could be held liable in damages for actions which the Commission's decision required them to take." (*Vincent J. DeFelice, Jr. v. Philadelphia Board of Education and Mark R. Shedd, Superintendent,* U.S. District Court for the Eastern District of Pennsylvania, December 18, 1969.)

WISCONSIN

AMNESTY CLAUSE PREVENTS DISCIPLINARY ACTION AGAINST STRIKERS

A strike-ending amnesty agreement negotiated under Wisconsin's collective bargaining statute barred the Madison Board of Police and Fire Commissioners from taking disciplinary action against striking firemen, according to a decision of the Circuit Court for Dane County. Although the board previously had unlimited statutory authority to discipline strikers, the court held that "the good-faith promises of the City—whether rightfully or wrongfully made and contained in the amnesty clause—cannot and should not be permitted to be rendered meaningless by the Board."

The court's decision came on an appeal of a board order to suspend a fire captain said to have engaged in "contumacious conduct endangering the public safety" during a three-day strike which began March 27, 1969. Although the board originally chose not to bring charges against any of the strikers, it took disciplinary action when a city elector filed a formal complaint against the fire captain on June 30.

Local 311, International Association of Fire Fighters, appealed the suspension order on grounds that it violated the amnesty clause contained in the strike-ending agreement negotiated with the Madison Common Council:

> It is agreed that all legal proceedings commenced by the City presently pending against the Union and its members shall be dismissed with prejudice and without costs. It is further agreed that all causes of action whatsoever by the City which may arise or have arisen as a result of the negotiation and the strike by Union members in March, 1969, are hereby waived.
>
> Consistent with appropriate Wisconsin Statutes, it is the express policy of the City that it will not directly or indirectly commence an action that will in any way discipline any member of the Union or any employee represented by the Union for having participated in the events leading to the said strike or the participation therein or for any conduct in connection therewith.

During the court proceedings the union argued that the amnesty clause was binding, while the board contended that "the city had no authority to agree to such a clause and, in any event, it could not deprive the Board of its disciplinary powers under section 62.13, Wisconsin Statutes." The court rejected the board's argument, noting that previous decisions made it "quite clear that section 111.70, Wisconsin Statutes, authorizing collective bargaining, sanctions such an agreement."

Explaining that the state bargaining statute is to be "harmonized by construction" with earlier conflicting statutes, the court found that "it follows that the contract here is a valid one, even though its effect is to tie the hands of the City for a period of time in the proper exercise of certain governmental functions." The court therefore ruled that the board's previous statutory disciplinary authority must "yield to the power and responsibility of the City Council," according to the bargaining statute "which has been more recently enacted."

But the Court commented that "the more crucial question" was the effect the amnesty clause would have upon the "powers of the respondent herein":

> It must be borne in mind in resolving this question that the Common Council of the City possesses broad powers to act for the health, safety and welfare of its citizens. . . . In order to restore the fire protection and to provide for the public safety in the face of the firemen's strike, a settlement was finally negotiated. . . . As a concession to achieve an end to the dispute, the Council made a policy decision that it would not be in the public interest to take disciplinary action of any kind against the men who engaged in the strike.
>
> The decisions embodied in the agreement were made during mediation sessions while the strike progressed, and their obvious intent and purpose was to re-establish peaceful labor relations between the parties without revenge or recrimination. . . . In our increasingly complex society, the law should recognize and encourage the peaceful solution of any strike, whether it is in the arena of labor relations or elsewhere.

(*Edward D. Durkin v. Board of Police and Fire Commissioners, City of Madison,* Wisconsin Circuit Court for Dane County, December 15, 1969.)

Board Findings and Rulings

DISTRICT OF COLUMBIA

BUILDING SENIORITY UPHELD IN PARKING SPACE ASSIGNMENT

An arbitrator for the American Arbitration Association denied a grievance entered by a Washington, D.C., Negro teacher who contended that building seniority policies at Woodrow Wilson High School resulted in the racially discriminatory assignment of parking spaces on school property. Explaining that the principle of seniority "has been found to serve a useful and salutary purpose by giving priority in status or opportunity to employees with longer years of service," the arbitrator held that the high school's use of seniority to determine teachers' parking spaces "has not been shown to be an unfair practice under existing laws or Board of Education rules and regulations."

Wilson High School was an all-white school until 1967, so the grievant argued that the school's assignment of parking spaces on the basis of building seniority resulted in a racially discriminatory system. Moreover, she emphasized that 33 of the 37 parking spaces on school grounds were held by white teachers, that 15 of the white teachers with parking spaces had less system-wide seniority than she, and that 14 of those 15 teachers came to Wilson prior to 1967.

As Wilson teachers had voted for the building seniority system as a means of determining parking space allocations, the principal suggested that the grievant poll or petition the faculty for a change in the system before entering a grievance. Declining to do so, the teacher entered a grievance and was represented by her own counsel, because the Washington Teachers Union chose not to associate itself with the grievance.

In determining whether "the Board of Education [should] be required to overturn a parking assignment plan which satisfies all the teachers at Wilson, except one, and satisfies their union as well," the arbitrator explained that seniority is a "universally recognized" principle of labor-management relations. He also observed that the seniority rule "was adopted many years ago by the democratic process of voting by Wilson faculty members themselves, and. . .was re-confirmed by the faculty members between 1955 and 1967."

As to the racial discrimination issue, the arbitrator acknowledged that the figures presented by the grievant "are indeed striking," but held that

> they do not establish that a discriminatory pattern was intended by the Board of Education, which . . . did not dictate or establish the building seniority system used at Wilson and six other senior high schools, as well as at some eight junior high schools. Nor is there any basis in the evidence for holding that there is a "discriminatory pattern" in the system voted by the teachers themselves and approved over the years, and acquiesced in by all the teachers, of both races, except the grievant. It can surely not be called a scheme or tactic to perpetuate an objectionable system, since it has been and is open to them to change or abolish it by their votes. Indeed it was open to [the grievant] to initiate such a move, and, as has been already stated, she was twice invited to do so . . . and she twice declined to do so, for the stated reason that she did not have the time.
>
> The assignment of parking spaces to teachers based on seniority at Woodrow Wilson High School has not been shown to be an unfair practice under existing laws or Board of Education rules and regulations, and the grievance . . . must be denied.

(*Woodson and District of Columbia Board of Education*, American Arbitration Association, March 5, 1969.)

MICHIGAN

SCHOOL BOARD'S FAILURE IMMEDIATELY TO REPORT BUDGET ERROR CONSTITUTES LACK OF GOOD-FAITH BARGAINING

The Michigan Employment Relations Commission (MERC) found that a school board's refusal to acknowledge, communicate, and assume responsibility for a negotiation error constituted a refusal to bargain in good faith. Noting, however, that the school-board members who testified before the commission exhibited a genuine inexperience in collective bargaining, the MERC declined posting a notice, and ordered the parties to return to the bargaining table.

The case arose when the Big Bay De Noc Education Association charged the local school district with an unfair labor practice after the district refused to implement an agreement agreed upon by the parties. At a certain bargaining meeting, the school board president had introduced monetary figures which he indicated were the substance of a board offer to the Association. These figures were put into writing, and the re-

sultant document was signed by both parties. Then on the same day, school-board members discovered that the offer was erroneous, because the salaries of the high school principal and the superintendent of schools mistakenly were included in the base figure offered and agreed upon.

Four days after the bargaining meeting the board president told Association negotiators that the proposal agreed upon had been rejected by the board. Two days later the proposed economic agreement was accepted by district teachers, and the superintendent informed the teachers that the agreement had been rejected by the board.

The MERC accordingly concluded that the board's failure immediately to notify the Association of the error, its rejection of the proposed agreement, and its attempt to shift the blame from its own error to the Association constituted a lack of good-faith bargaining. (*Matter of Big Bay De Noc School District and Big Bay De Noc Education Association,* Michigan Employment Relations Commission, December 16, 1969.)

STUDENT EMPLOYEE GROUP CONSTITUTES A LABOR ORGANIZATION

In deciding that an *ad hoc* group is eligible for recognition as a labor organization, the Michigan Employment Relations Commission (MERC) assumed jurisdiction over an organization of student employees at Wayne State University which sought a representation election. The MERC explained that, although the Michigan Public Employment Relations Act does not define a labor organization, the definition contained in the Michigan Labor Mediation Act has consistently been applied:

> The term "labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

Members of the Wayne State University Board of Governors had contended that the University Workers Organization Committee is not a labor organization because it is "composed entirely of students and would not have the permanence, experience, or strength necessary." The MERC rejected this objection, saying that "the fact that Petitioner has an informal structure is irrelevant." Moreover, the MERC determined that the committee is a "labor organization within the meaning of the statute," because "the Petitioner is an employee representation committee or plan in which employees of the Employer participate and which exists for the purpose of dealing with the Employer concerning wages, hours, and working conditions."

But the MERC dismissed the committee's petition for a representation election in ruling that the appropriate unit had not been determined. The committee had sought an election among a unit of student assistants and technicians employed by the university press, the mail room, the receiving department, and the printing and addressograph department. During the hearing, it revised its petition to include all 54 student assistants working in the university's general services division on grounds that this constituted an appropriate "residual" bargaining unit.

The university, however, argued that the division-wide unit was inappropriate since it would be composed entirely of students, and that the requested unit was only a fragment of an appropriate, single, all-student bargaining unit. Declining to rule on the university's first argument, the MERC determined that the appropriate unit is one of *all* student assistants employed by Wayne State, because "all of the student assistants and technicians employed by the University are under the same general policy . . . and they work under similar working conditions and rates of pay."

In so ruling, the MERC explained that the 1,500 to 1,700 student assistants and technicians employed in the university's 12 divisions assist regular full-time employees, work fewer hours and earn less than regular employees, receive none of the normal employment benefits, do not expect full-time employment, and work an average of two academic quarters in the same job.

The MERC therefore concluded that "to establish the appropriateness of the unit it seeks, Petitioner herein must show that there is a community of interest among the employees in the sought-for unit, and that the community of interest of these employees is different from those in the unit proposed by the Employer." (*Wayne State University Board of Governors and University Workers Organization Committee,* Michigan Employment Relations Commission, December 16, 1969.)

NEW JERSEY

DIRECT DISCRIMINATORY EVIDENCE LACKING IN UNFAIR LABOR PRACTICE CHARGE

An unfair labor practice charge brought by a teacher whose contract was not renewed was dismissed by the New Jersey Public Employment Relations Commission (PERC) on grounds that "the Complainant has failed to meet its burden proving

the allegations of the charge by a preponderance of the evidence." A majority of the commission's members ruled that "the [school board's] failure to explain its refusal to grant [the teacher] a contract, despite favorable recommendations and absent unfavorable comments, may not, standing alone, be viewed as conclusive evidence that the [New Jersey Employer-Employee] Act has been violated."

The teacher, an employee of the West Deptford Township Board of Education, was denied a teaching contract for a fourth, tenure-conferring year, although her principal and the superintendent had recommended that she be rehired. She accordingly charged that she was a victim of reprisal because her husband, president and chief negotiator for the West Deptford Education Association, was involved in difficult contract negotiations at the time.

During the PERC hearing, testimony on the teacher's behalf alleged that three board members had shown antagonism toward the teacher's husband in negotiation, that an acting principal and former teacher believed reprisal was evident in the teacher's dismissal, and that the school board had not allowed the teacher to resign, although it had done so with three other teachers. The PERC, however, rejected this testimony as inconclusive, explaining:

> The statements made in this case, which were ambiguous at best and uttered in the context of negotiation sessions, are not found to be violations of the Act nor are they found to be antithetical to the purposes of the Act. Similarly, these remarks do not warrant an assumption that the Board exhibited an animus toward the Association or [the teacher's husband] so as to justify a presumption that action against [the teacher] was an act of reprisal predicated upon her husband's activities. Furthermore, none of the statements expressly or impliedly indicate a threat or suggestion of reprisal against [the teacher] or any adherent of the Association.

Noting that only one of the three board members who participated in negotiations and allegedly displayed antagonism toward the teacher's husband actually vetoed renewal of the teacher's contract, the PERC held that "there is no evidence in the record that any of the other three Board members who voted against renewing [the teacher's] contract exhibited a predilection to engage in reprisals against any employee because of his activities on behalf of an employee organization." Although the PERC found that the board's failure to explain its dismissal action "may be viewed with suspicion," it ruled that

> this does not warrant a finding that it was violative, *per se*. However, the Commission believes that it would have been better practice for the Board to have set forth its reasons. Its failure to do so, though not condoned, does not require a finding that the Board's action constitutes an act of reprisal. . .because of her husband's activities on behalf of the Association.

The PERC also dismissed the acting principal's testimony because it did "not warrant a finding that she spoke for the Board in this instance." And in considering the allegation that the board did not allow the teacher to resign, the PERC held that "the record. . .does not reveal that [the teacher] sought this opportunity or that others were given this right in similar circumstances without their making such a request." As such, the commission concluded that "the evidence on this point does not establish that [the teacher] was treated in a discriminatory fashion because of her husband's activity." Moreover, the PERC noted that the board "did, in fact, renew [the contract of the teacher's husband] and did, in fact, execute a collective negotiation agreement."

Two PERC members, however, dissented from the majority opinion, stating that they did "not believe that the Commission should insist upon evidence of a direct nature and reject evidence from which inference may be drawn." Arguing that "to do so would be to deny employees the basic protection" against unfair practices provided by the state's bargaining act, they commented:

> In the instant matter, the undisputed evidence presented to the Hearing Officer leaves no doubt that [the teacher] was an excellent and able teacher and that her supervisors recommended that her employment be continued. It is also clear from the uncontested evidence that [the teacher's] husband did engage in negotiations with the Board on behalf of the Association which was the majority representative of the unit of its employees representing its teachers during which strong feelings were aroused.
>
> There is some evidence to show that the failure to retain this excellent teacher was because of her husband's activities on behalf of the Association to which she also belonged. The Board had every opportunity to refute this by showing its reasons or those of its members.
>
> Its failure to do so lends credence to the conclusion that it was because of Associational Membership and activities and therefore in violation of . . . the law.

(*West Deptford Township Board of Education and Caroline L. Ford*, New Jersey Public Employment Relations Commission, November 21, 1969.)

LENGTHY NEWARK SALARY IMPASSE JEOPARDIZES SCHOOLS

The Newark education board's refusal to accept a report submitted by a New Jersey Public Employment Relations Commission (PERC) fact-finder on March 25, 1969, prolonged a salary impasse between the board and the Newark Teachers Association (NTA), and caused the PERC to conclude after a second fact-finding inquiry on June 20, 1969, that

> the duty and obligation of the Board is to maintain, operate and supervise an adequate public school system for some 74,000 children. The Board's concern for the finan-

cial condition of the City, while commendable, was beyond the scope and authority of the Board. The Board should not be concerned about the source of revenue, the allocation of funds by the City or the possible difficulty in levying taxes to meet the City's obligations. . . . The people, the school children and the teachers in Newark should have assurance that the schools will be open this fall and that the teachers will be paid salaries which are fair, reasonable and competitive with the surrounding communities. It is the duty and obligation of the Board of Education to do this and it is the duty and obligation of the City Council to provide the funds to accomplish this result through a non-political re-examination of all of its administrative costs and the elimination of all non-essential services, plus convincing appeals to the state and federal authorities for assistance in providing all essential services to avoid the interruption or breakdown of the Newark public school system. Neither the City of Newark nor the State of New Jersey can afford to let this happen.

On June 19, 1967, the Newark board and the NTA entered into a written agreement covering the period from February 1, 1967, to February 1, 1970, and providing a reopener after December 1 of each year on "all budget items concerning teachers' salaries, fringe benefits, working conditions and related matters in the school budget for the following fiscal year." The contract further stipulated that negotiation on such items terminate on February 1 of each year—"the statutory date for submission of the budget to the Board of School Estimate"—and that either party might request appointment of a mediator in the event of impasse.

Four negotiation meetings dealing with salary schedule and other items accordingly were held in December 1968 and January 1969, but no agreement was reached. Pursuant to provisions in the negotiated agreement, the NTA notified the PERC on January 30, 1969, that an impasse had been reached, and requested appointment of a mediator. Then on February 4, the Newark board submitted a budget totaling $65,287,000, but providing no salary increases for teachers, to the Board of School Estimate. On the same date a mediator was appointed by the PERC.

The Board of School Estimate approved a budget of $63,287,000—$2 million less than the requested amount—on February 11. Meanwhile, mediation proved unsuccessful, and the PERC appointed a fact-finder on February 28. Then on March 10 the Newark City Council reduced the board's budget by an additional $2 million to $61,287,000. Eight days later the PERC fact-finder submitted a report finding that the parties "disagree on the items that are properly in these negotiations," and suggesting that "our recommendations be confined to the salary schedules for teachers, cafeteria managers, school clerk stenographers and recreation directors at this time on the assumption that the resolution of these issues will enable the parties to negotiate a settlement of all the other issues as well."

In considering the salary schedule data submitted by the NTA and the Newark board, the fact-finder noted the "evident need of the Newark school system to remain competitive with other communities," and the city's particular financial difficulties. He accordingly recommended a salary schedule (effective September 1, 1969) which "would represent a fair and equitable basis for settlement of the salary schedule, a basis that meets the teachers' legitimate salary needs, is within the fiscal limits of the City's capability, and is adequate to permit the effective continuation of public education in Newark":

- $700 increase at each step of the B.A. schedule
- $800 increase at each step of the B.A. plus 32 hours' schedule
- $900 increase at each step of the M.A. plus 32 hours' schedule
- Differential for recreation directors of $40 per month ($400 per year) above maximum when reached
- $400 increase at each step of the school clerk stenographers' schedule
- $400 increase at each step of the cafeteria managers' schedule.

The NTA accepted the fact-finder's report on March 11. That same day, a public hearing on the school budget was held, and the president of the Newark board said that "the only reason the Board has not negotiated an increase in salaries for its staff is its acute sensitivity to Newark's financial crisis."

Following the public hearing, the Newark City Council restored $2 million to the school budget, raising the total to $63,287,000. But the Newark board rejected the fact-finder's recommendations on March 25 pleading "a lack of funds." As a result, the PERC reconvened the fact-finding inquiry on June 20. Subsequent to this inquiry, the second fact-finder determined:

The record supports the fact that the [original] Fact Finders' recommendations are reasonable and in line with surrounding communities. The Board contends that the Fact Finders' recommendations are erroneous in stating that the recommendations are within the fiscal limits of the City's capabilities. The Board admits salary increases are justified and that the salaries paid to teachers in Newark should be higher than surrounding communities to attract qualified teachers.

The Board could have adopted a salary policy, including salary schedules, for all full-time members of its teaching staff in an amount sufficient to assure quality education in the Newark public schools. Such a policy, when adopted, would have been binding for a period of two years. Every school budget thereafter approved by the Board, the voters of the district, the Board of School Estimate, the City Council or the Commissioner of Education, as the case may be, would have to contain amounts of money necessary to implement the salary policy. This procedure would have as-

sured the Board of the necessary funds and it could have entered into agreements with the teachers. Thus this impasse would have been resolved.

The fact-finder outlined a five-point recommendation in his report, which was adopted by the entire PERC on July 24:

- Appointment of "a little Hoover commission" composed of leading Newark businessmen and city administration experts for the purpose of investigating and studying "all items in the expense budget of the City and [reporting] to the people with all deliberate speed"
- Reconsideration and adoption of the fact-finder's recommendations by the Newark board
- Board review of its budget "in order to see if there are any items which can be cut down, cut out, deferred or delayed," followed by the preparation and submission of a new budget to the Board of Estimates if the present budget was found to be inadequate
- NTA reaffirmation of its acceptance of the fact-finder's recommendations
- In the event the city cannot balance its budget after implementing the fact-finder's recommendations, then extensive appeals should be made to the state and federal governments for the necessary funds.

The education board, however, again rejected the fact-finder's recommendations, and the 1969-70 school year opened with no salary increases. Then on November 18 the Newark Teachers' Union, American Federation of Teachers, AFL-CIO, Local 481, won a local representation election. (*Matter of Board of Education of the City of Newark and Newark Teachers' Association*, New Jersey Public Employment Relations Commission, July 24, 1969.)

NOTE: A similar situation faces the Jersey City public schools, for city officials reportedly have taken action to suspend all future funds for the city's schools in an effort to force the state to finance public education. The Jersey City Board of Estimates, supported by the mayor and the city council, rejected the education board's proposed budget of $28,670,227, and the mayor announced that he would file suit in Hudson County Superior Court "to require the state to live up to what we believe to be its constitutional obligation to support public education in this state."

Negotiation Notes

COLORADO

SCHOOL BOARDS MAY NOT ENGAGE IN COLLECTIVE BARGAINING ACCORDING TO ATTORNEY GENERAL

An opinion issued by the Colorado attorney general on November 17, 1969, held that state school boards may not negotiate with employee organizations "if the process results in the surrender of any of the discretionary authority of the board of education." In response to a series of five questions raised by the state commissioner of education, the attorney general explained that

> when we discuss "bargaining" and "negotiating" we mean a procedure whereby the parties attempt to reach an agreement on points of mutual interest which will be binding on both sides and which by its very nature will allow or require a school board to act contrary to its free choice, or to otherwise surrender any of its lawful duties, responsibilities, or authority.

Noting that "local school boards. . .are subdivisions of state government created for the purpose of carrying out the educational policies of the state," the attorney general emphasized that "school boards have only those powers expressly conferred by the Constitution or statutes of the state." And he specifically stated that "there is no [state] statute granting school boards the power or duty to recognize groups of employees for collective bargaining purposes, or to engage in such bargaining."

The opinion also cited a Colorado Supreme Court decision in *Fellows v. LaTronica* which held that "a proper exercise of the legislative function (of fixing standards of qualifications, tenure, compensation, and working conditions) might well involve consultation and negotiation with spokesmen for public employees, but the *ultimate responsibility* [emphasis added] rests with the legislative body and, under the record here presented, that responsibility cannot be contracted away." As such, the attorney general determined that

> a local school board may, in the exercise of its authority to set standards of employment, entertain the suggestions of any person, group, or organization, relating to the content of next year's teachers' contracts. Moreover, the board may properly adopt any or all of such suggestions, and incorporate them into the teacher contracts, so long as the board does so through the unfettered exercise of its own discretion. However, because there is no statutory authority, no person, group, or organization has the right to tell the board how, and to what limits, it will exercise its legislative function. Nor can the board be made to listen to, or accept, the suggestions, advice, or demands of any person, group, or organization which the board does not wish to hear or to accept.

The attorney general further held that "absent specific statutory authority, a school board may not negotiate or bargain with representative groups concerning the employment or discharge of teachers." Citing a Colorado court decision reached in *Snider v. Kit Carson School District*, he said the "power to employ or discharge teachers is exclusively vested in the school board and [can] not be delegated to any other body or official."

CONNECTICUT

TEACHERS FOUND INELIGIBLE FOR UNEMPLOYMENT COMPENSATION DURING SUMMER

The Connecticut attorney general ruled that since teachers are employees of school boards, rather than municipalities, they are ineligible for unemployment compensation benefits during their jobless summer months. Explaining that school boards are legally "creatures of the state," the attorney general overruled arguments dealing with the duration of teachers' contracts:

> Because the contract of employment between the public school teachers and the boards of education is a continuing contract and because the teachers are subject to the control of the boards of education during the various periods of the year in which the schools are not in session, the teachers are on vacation as a matter of law and hence disqualified from receiving unemployment compensation benefits in respect to such absences from their regular employment.

The attorney general's opinion responded to an inquiry from the Connecticut Labor Commissioner as to whether legislation which extended unemployment compensation benefits to employees of state political subdivisions could also be applied to teachers during the summer months.

DELAWARE

LAW REVOKING SCHOOL ADMINISTRATORS' TENURE IS INTERPRETED

An opinion issued by the Delaware attorney general's office concluded that a recently enacted law which amends the Delaware Code and redefines "teacher" by excluding school administrators "removes from the Teacher's Tenure Law school administrators who had acquired tenure at the time of the passage of this Act as well as school administrators employed after the passage of the Act."

Ruling that the administrative personnel excluded from the law "will not acquire tenure as long as they remain in the administrative position category," the opinion explained that the act "gives to any administrator who has or shall acquire the equivalent of tenure the right to be assigned as a teacher in the employ of the Board, and also the right to negotiate with the State for a term contract up to five years."

The controversial law (House Bill 318) amends Section 1401, Title 14, Delaware Code to read:

> "Teacher" means and includes all persons certified to teach and who are employed by a Board as a teacher. It shall not include persons employed as assistant principal, principal, supervisor, administrative assistant, director, assistant superintendent, or superintendent; except that any such person who has completed three years of service in the State, two years of which shall have been in the employ of the same Board, may at his option elect and he shall be granted the right to be assigned as a teacher in the employ of said Board.

In addition, H.B. 318 amends Chapter 13, Title 14, Delaware Code by inserting a new Section 1328, which provides that "nothing in this title shall be construed as prohibiting the Board and any assistant principal, principal, supervisor, administrative assistant, director, assistant superintendent, or superintendent from entering into an employment contract for a period of up to five years."

In response to an inquiry made by an official in the Dover Department of Public Instruction, the attorney general's office explained that the new act contains two provisions indicating that it "was intended to have a retrospective application." These provisions are the alternatives available to administrative personnel excluded from the act: (a) the right to be assigned as a teacher, and (b) the right to enter into an employment contract with the state for up to five years. As such, the opinion held that

> these two exceptions in the Act. . .indicate a legislative intent to afford some protection to those who lose tenure rights by the Act and to those who therefore may acquire the equivalent of tenure rights. In our opinion it appears from the Act in its entirety that the Legislature intended to take away any tenure rights that the specified persons have already obtained and to reclassify such persons so as to exclude them from tenure rights afforded a "teacher" as newly defined.

Given the retrospective application of the law to administrative personnel who had acquired tenure prior to its enactment, the opinion then determined that tenure rights can be withdrawn by statute:

> We believe that the Delaware tenure statute and similar statutes in other states set up tenure as a status rather than as a contractual right and thus create a policy which can be withdrawn. The Delaware tenure statute contains no reference to any contract or contractual right.
>
> A teacher's tenure statute of New Jersey similar in principle to the Delaware teacher's tenure statute was held by the United States Supreme Court in *Phelps v. Board of Education* . . . not to be violated by a late amendment removing rights that had been acquired under the statute to which it was an amendment. According to the court, the teacher's tenure statute "established a legislative status for teachers" but not a contractual one that the Legislature might not modify or abolish, [although] the Delaware teacher's tenure statute like the New Jersey statute before the Court in *Phelps* . . . sets up a policy whereby a teacher who acquires tenure status shall be given certain rights before his services can be terminated.

Delaware teachers reportedly are alarmed by the opinion because they fear their own tenure may be subject to revocation or modification if the legislature can revoke the tenure of administrators by altering the definition of "teacher."

IOWA

NO-STRIKE CLAUSE IN DRAFT BARGAINING BILL VOTED DOWN

In drafting a bargaining bill to be considered by the 1970 state legislature, an Iowa committee of legislators and laymen voted on December 12 to exclude a strike ban from its proposal. The 8-5 vote upheld the committee's present proposal which grants the right to strike to all public employees except policemen, firemen, peace officers, security police at state institutions, and other employees whose work is "necessary for the public health, safety, and welfare."

As the committee still is attempting to define which jobs are essential to the public health, safety, and welfare, it has yet to determine the status of the state's 33,073 classroom teachers. In its present form, the committee's proposal would permit strikes only if all negotiation and mediation efforts fail, and wildcat walkouts would be prohibited.

Moreover, the present proposal would not allow state employees to bargain until one year after the measure's effective date, so that the difficulties of coordinating public employee bargaining with the state's merit system could be resolved.

NEW JERSEY

VOLUNTARY DISPUTE SETTLEMENT URGED

The executive director of the New Jersey Public Employment Relations Commission (PERC) emphasized the "tremendous need for public employers, public employees and employees organizations to educate themselves as to the procedures available to them to resolve disputes." Speaking before a conference of the New Jersey State League of Municipalities, he said that the PERC

> is one government agency which would be happy to grow no larger and would be most pleased to return money to the Treasury .... An agreement of the parties, bilaterally achieved, is more beneficial in the long run than any solution of a third party. We therefore implore all parties to exercise good faith and an honest desire to achieve agreement and thereby stop our growth.

In reviewing the activities of the PERC during its first year of operation, the director discussed procedures for resolving unit determination disputes. Stating that the PERC "is charged with giving due regard to the community of interest among the employees concerned," he explained:

> Thousands of decisions have been written in the public and private sector dealing with community of interest. A listing of the factors would at best be incomplete.... Some factors which have been utilized by some public employee labor relations agencies [include]: (1) similarity of duties, (2) skills and working conditions, (3) job classifications, (4) employee benefits, (5) the amount of interchange or transfer of employees, (6) the integration of the employer's physical operations, (7) the centralization of administrative and managerial functions, (8) the degree of central control of operations, including labor relations, (9) promotional ladders used by employees, (10) supervisory hierarchy, (11) common supervision. The parties should, therefore, be prepared to present evidence bearing on these factors, among others. The parties should also be prepared to fully set forth their respective positions and arguments in support of such positions.

While noting that the commission provides other dispute settlement avenues such as mediation and fact-finding, the PERC director emphasized that confidential mediation costs are borne by the PERC, but public fact-finding efforts must be paid for by the parties involved. He added that if "the parties continue to fail to reach an agreement, the Commission may then take whatever steps it deems appropriate to effect a joint settlement, including a public inquiry."

The PERC director also summarized four of the Commission's important decisions:

- In a ruling on state colleges, the PERC deemed appropriate separate bargaining units at each of the six colleges. "This decision was predicated upon a finding that the employees looked to the individual college for their day-to-day supervision, each college affected the tenure of its staff and governed its working conditions, and there was a measure of local autonomy in each of the State Colleges," the director said.
- The PERC also found appropriate an employee unit at the Orange, N.J., Department of Public Works, because "the employees in that Department did not interchange with employees in another department, they had their own supervisor and they were not functionally related to the employees in the other departments of the City."
- In a case involving the Middlesex Welfare Board, the PERC decided that casework supervisors "were not supervisors within the meaning of the [New Jersey Employer-Employee Act] where the authority possessed by these individuals did not comport with the definition contained in the Act, and that the title of supervisor did not impart authority standing alone."
- Finally, the PERC ruled that "where the Act specifically excluded the superintendent of a Board of Education as being a managerial executive, somebody acting as a coordinator of elementary education was not a superintendent of schools or his equivalent and was, therefore, not precluded from being represented by an employee organization."

NEW YORK

CATHOLIC LAY TEACHERS NEGOTIATE FIRST CONTRACT

A newly organized Catholic Lay Teachers Group, Inc., certified by the state labor relations commission in October 1969, approved on January 19 a contract covering 2,500 lay teachers in the New York City Catholic schools. The two-year contract reportedly represents the first contract providing for both elementary and secondary teachers in Catholic schools. The Archdiocesan Association of Parish Elementary and Parish Secondary Schools, an organization of 301 schools conducted by parishes and religious orders in New York City and seven upstate counties, is the second party to the agreement.

Salary scales for elementary teachers will rise from the current scale of $5,000-$8,000 to $5,800-$8,800, according to the new agreement, which is retroactive to September 1, 1969. In addition, the contract provides for a second-year pay increase of $500 for elementary teachers. Secondary-school teachers' salaries will rise from the current $5,300-$11,300 to $6,800-$12,800 per

year, and a $400 increase is provided during the second year of the contract.

The contract further provides for employee-paid Blue Cross-Blue Shield medical coverage for dependents, major medical coverage, and $2,000 of life insurance coverage. Leave days consist of eight days' sick leave, and two "personal days" per year, with a possible accumulation of 45 days. Moreover, teachers may accumulate a sick leave bank at the rate of three days per year with a maximum accumulation of 75 days after 25 years' service.

A grievance procedure ending in arbitration also is contained in the contract. And, as of 1971, tenure will be granted to all teachers with three or more years of experience.

U.S. GOVERNMENT

EXECUTIVE DIRECTOR OF LABOR RELATIONS COUNCIL APPOINTED

M. Vernon Gill has been named executive director of the Federal Labor Relations Council (FLRC) created by Executive Order 11491. According to the FLRC chairman, Gill will serve as staff director and chief operating officer for the FLRC.

A federal employee for more than 30 years, Gill has been acting as assistant to the Civil Service Commission chairman for labor-management relations, and chairman of the National Wage Policy Committee. He also served as an alternate to the 1969 study committee which produced recommendations resulting in Executive Order 11491. Prior to this he served on a 1967-68 Johnson administration committee studying the government's labor relations program, and on a 1961 task force which provided the foundation for President Kennedy's Executive Order 10988, predecessor of the new order.

OTHER ITEMS OF INTEREST

CONSUMER PRICE INDEX, DECEMBER 1969

Figures released by the Bureau of Labor Statistics (BLS) indicate that the Consumer Price Index all items figure for December rose 0.6 percent over the previous month to 131.3 (1957-59=100). The December 1969 all items index stood 6.1 percent higher than a year ago. BLS attributed about one-half of the December increase to higher food prices (particularly eggs and fresh vegetables), while increases in services were responsible for the remainder of the rise.

BLS estimates that approximately 134,000 workers will receive cost-of-living increases based upon the December index. Some 85,000 workers will receive pay increases based upon the rise in the national index since December 1968, and another 24,000 workers will receive hourly wage increases of 3 to 5 cents based upon the rise in the national index from September to December 1969.

As of December, the purchasing power of the consumer dollar stood at $0.762 (1957-59=100), according to BLS computations.

NEW PUBLICATION ANNOUNCED

Arbitration in the Schools, a new monthly publication which first appeared in February 1970, provides brief summaries of numerous grievance arbitration awards and fact-finding recommendations handed down throughout the country. The eight-page report is published by the American Arbitration Association (AAA) in cooperation with the National Education Association, the American Federation of Teachers, AFL-CIO, and the National School Boards Association.

Each issue also contains a listing of the cases and arbitrators reported. And each summary is coded according to the subject matter of the arbitration case. Periodic indexes will be published according to subject matter and arbitrator.

The full texts of all awards reported in *Arbitration in the Schools* are kept on file at the AAA, and photo copies may be obtained from the AAA at 30 cents per page.

A single subscription to *Arbitration in the Schools* is available at $60 per year from the American Arbitration Association, 140 West 51st Street, New York, N.Y. 10020.

POLL SHOWS RISE IN MEDIAN MINIMUM SALARY FOR POLICE PRIVATES

A survey conducted by the Washington, D.C., Personnel Office found that the median minimum salary for police privates in cities with a population of over 500,000 was $617 higher than 1968 salaries. The median figure for 1969 was $7,722; for 1968, $7,105. In addition, median maximum pay for privates increased from $8,700 in 1968 to $9,213 in 1969, a rise of $513.

The survey, similar to one conducted in 1968, studied salary trends, fringe benefits, recruitment, and promotion policies in 23 U.S. cities with a population of over 500,000, and six suburban jurisdictions in the Washington, D.C., metropolitan area. Noting that 16 of the 23 cities gave salary increases in 1969, and that six of the remaining seven cities are considering granting pay raises soon, the survey report concluded that the

"vigorous upward movement of police salaries" is the result of a "continuous reexamination of police salaries by jurisdictions."

Median starting salaries for higher police positions showed bigger increases in the cities than in previous years. In the suburban jurisdictions surveyed, salaries for higher police jobs were found to be competitive with or a little higher than salaries in comparable city jobs, except in the highest classifications.

Five of the six D.C. surburban areas surveyed granted raises in 1969, but the median starting salary for police privates in those suburbs did not increase as much as the salary of privates in the cities. However, median maximum pay for privates in the suburbs climbed over $1,200—from $8,758 in 1968, to $9,993 in 1969—and now stands more than $700 higher than salaries in comparable city jobs.

The 1969 survey again pointed to regional disparities in police salaries, with far western cities paying the highest salaries, southern cities the lowest, and midwestern and eastern cities ranging in between. Starting salaries for police privates in the Far West ranged from $8,340 to $9,936, while maximum salaries ran from $9,600 to $10,668. In the Midwest and the East, starting pay for privates ranged from $6,384 to $9,499, and maximum salaries varied between $8,148 and $11,004. Starting salaries for police privates in southern cities ran from $6,227 to $7,200, and maximum salaries varied between $7,080 and $9,660. In the suburbs surveyed, the pay range was much narrower, with starting pay ranging from $7,696 to $8,112, and maximum pay varying between $9,852 and $10,316.

ERRATUM: The November 1969 DIGEST printed a summary of an Illinois circuit court decision which ruled legal a local school board's granting of personal leave days "for teachers represented by the bargaining unit." This is erroneous, for the court carefully stipulated that its order pertained only to "the class of employees represented by the plaintiffs." Plaintiffs in the case were custodial employees, *not* teachers. Moreover, an Illinois education official states that "it is still the opinion of the Office of the Superintendent of Public Instruction of the State of Illinois that this ruling does not apply to teachers and, since the jurisdiction of the court rendering the opinion is rather limited, this would not apply to other than teaching personnel in most of [the] state."

Statistics

JOINT COMMITTEES ESTABLISHED IN COMPREHENSIVE CLASSROOM TEACHER AGREEMENTS

Joint committees comprised of classroom teachers, administrators and/or school-board members frequently are established in teacher-board negotiation agreements. The NEA Research Division's analysis of 1968-69 negotiation agreements effective in school systems with 1,000 or more enrollment reveals that, of the 978 comprehensive classroom teacher agreements, 513 (52.45 percent) contain provisions establishing *at least one* joint committee.[a]

Three different types of joint committees have been identified according to the purpose for which they were created. The first committee is one meeting regularly for the purpose of dissolving potential areas of conflict through continuous discussion between teachers or their representatives and the school board. The second type of committee is a general study committee usually designed to engage in continuing or long-range investigations of a wide variety of subjects affecting the teacher-board relationship, of the school system itself.

The third classification is that of specific joint committees. These consist of teacher-administrator-board committees which are established to study or plan within specific, narrowly defined areas. For example, teacher and school-board negotiators may decide to negotiate a provision concerning the development of special education programs, but find they are unable to determine the exact nature of the program, the amount of money needed to run it, or the type of personnel needed to staff it. Instead of postponing the problem, they negotiate a provision for a specific joint committee. Two purposes thereby are accomplished: an agreement provision which can be developed in future negotiation sessions is established, and a vehicle for planning the program with joint cooperation and a free exchange of ideas is created.

Other types of joint committees may be established when the specific area of concern is expected to be a continuing one. For instance, joint committees to review applicants for sabbatical leave commonly appear to be ongoing committees which apply staff expertise to a specific problem requiring continuous evaluation and administration. Inasmuch as these committees have an administrative function, they were *not* recorded *as committees* in the 1966-67 or 1968-69 analyses of negotiation agreements. They were recorded as regular provisions.[b]

Of the 513 comprehensive classroom teacher agreements providing for at least one joint committee, some have one committee fitting only one of the three categories of committees. Others have many committees which fit more than one category. Each agreement was analyzed for only *one* committee which meets regularly, and only *one* general or professional study committee. Thus, the number of agreements with these two types of committees is identical to the total number of these committees established. In

AGREEMENTS		COMMITTEES	
Total number of agreements establishing at least one committee	513	Total number of committees established	902
Committee which meets regularly	194		194
General or professional study committee	205		205
Specific joint committees	294		503

[a]Additional explanations of the 1968-69 analysis of negotiation agreements are presented in the January and February 1970 issues of the DIGEST.

[b]Negotiated provisions contained in 1968-69 classroom teacher agreements are analyzed in the February 1970 issue of the DIGEST.

addition, each agreement was analyzed for a total of *eight* different specific joint committees, consequently making the number of agreements with this type of committee and the total number of these committees different. The above table shows the relationship between the number of agreements and the number of committees established.

The two-year comparison (1966-67 and 1968-69) in Table 1 shows the number of comprehensive classroom teacher agreements establishing committees. Table 2 presents a slightly different perspective on the two-year comparison by indicating the number of committees of each type as a percentage of the total number of committees established by agreements. General or professional study committees constitute a smaller percentage of the total number of committees established in 1968-69, than in 1966-67. However, committees which meet regularly and specific joint committees have increased as a percentage of the total number of committees.

Table 3 gives the number of 1968-69 agreements in each state with the various types of committees, and the percentage of comprehensive agreements in each state which provide for the various types of committees. The categories established in this table are not mutually exclusive.

TABLE 1.—TWO-YEAR COMPARISON OF COMPREHENSIVE CLASSROOM TEACHER AGREEMENTS ESTABLISHING COMMITTEES

Item	1966-67		1968-69	
	Number	Percent[a]	Number	Percent[a]
1	2	3	4	5
Total number of comprehensive classroom teacher agreements	389	—	978	—
Total number of agreements establishing at least one committee	167	42.93%	513	52.45%
Agreements establishing committees which meet regularly	42	10.80	194	19.84
Agreements establishing general or professional study committees	88	22.62	205	20.96
Agreements establishing one or more specific joint committees	b	b	294	30.06

[a]Computed from the total number of comprehensive classroom teacher agreements analyzed in each of the two years.
[b]Currently unavailable.

TABLE 2.—TWO-YEAR COMPARISON OF TYPES OF COMMITTEES ESTABLISHED IN COMPREHENSIVE CLASSROOM TEACHER AGREEMENTS

Item	1966-67		1968-69	
	Number	Percent[a]	Number	Percent[a]
1	2	3	4	5
Committees which meet regularly	42	15.39%	194	21.51%
General or professional study committees	88	32.23	205	22.73
Specific joint committees	143	52.38	503	55.76
Total committees established	273	100.00%	902	100.00%

[a]Computed from the total number of committees established in agreements in each of the two years.

TABLE 3.—TYPES OF COMMITTEES ESTABLISHED IN 1968-69 COMPREHENSIVE CLASSROOM TEACHER AGREEMENTS, BY STATE

State	Number of comprehensive classroom teacher agreements	Agreements establishing a committee which meets regularly		Agreements establishing a general or professional study committee		Agreements establishing one or more specific joint committees	
		Number	Percent[a]	Number	Percent[a]	Number	Percent[a]
1	2	3	4	5	6	7	8
Arizona	2	1	50.00%	1	50.00%	0	0.00%
Arkansas	1	0	0.00	0	0.00	0	0.00
California	1	0	0.00	1	100.00	1	100.00
Colorado	4	3	75.00	0	0.00	2	50.00
Connecticut	56	7	12.50	6	10.71	12	21.43
District of Columbia	1	1	100.00	0	0.00	1	100.00
Illinois	33	16	48.48	8	24.24	18	54.55
Indiana	8	1	12.50	1	12.50	6	75.00
Kansas	1	0	0.00	0	0.00	0	0.00
Maryland	2	0	0.00	0	0.00	1	50.00
Massachusetts	129	10	7.75	14	10.85	30	23.26
Michigan	312	59	18.91	79	25.32	84	26.92
Missouri	1	0	0.00	0	0.00	0	0.00
Montana	2	0	0.00	0	0.00	1	50.00
Nebraska	1	0	0.00	0	0.00	0	0.00
New Jersey	6	2	33.33	2	33.33	4	66.67
New York	319	85	26.65	85	26.65	112	35.11
Ohio	12	4	33.33	2	16.67	5	41.67
Pennsylvania	5	1	20.00	0	0.00	3	60.00
Rhode Island	19	0	0.00	1	5.26	6	31.58
Utah	4	1	25.00	2	50.00	0	0.00
Virginia	2	0	0.00	0	0.00	1	50.00
Washington	3	0	0.00	1	33.33	0	0.00
Wisconsin	53	2	3.77	2	3.77	6	11.32
Wyoming	1	1	100.00	0	0.00	1	100.00
Total	978	194	19.84%[b]	205	20.96%[b]	294	30.06%[b]

[a]These figures show the number of agreements providing for committees as a percentage of the total number of comprehensive agreements *in each state.*

[b]These figures indicate the total number of agreements with each type of committee as a percentage of *all* comprehensive agreements (978) effective for the 1968-69 school year.

Table 4 shows the area of study or planning for all specific joint committees established in agreements effective for the 1966-67 and 1968-69 school years. This table indicates that the number of different areas of study or planning has increased from 30 in 1966-67, to 57 in 1968-69. In both school years the greatest number of specific joint committees was established in the areas of instructional program, and personnel policies and practices. In 1968-69, the number of committees in these two areas rose slightly more than 14 percent above the number in 1966-67, and comprised nearly 90 percent of all specific joint committees established.

Provisions from agreements which establish various types of committees are reprinted here. These provisions represent a *sample* selected on the following bases: variation in approach, extent of detail concerning structure or guidelines, types of committees, and geographical distribution. All provision sections dealing directly or indirectly with the committee established are reproduced in full.

TABLE 4.—TWO-YEAR COMPARISON OF TYPES OF SPECIFIC JOINT COMMITTEES ESTABLISHED IN COMPREHENSIVE CLASSROOM TEACHER AGREEMENTS

Area of study or planning	Committees established			
	1966-67		1968-69	
	Number	Percent[a]	Number	Percent[a]
1	2	3	4	5
INSTRUCTIONAL PROGRAM[b]	72	50.35%	288	57.26%
Curriculum review	22	15.39	93	18.49
Development of special education program	8	5.59	7	1.39
Hiring of specialists	0	0.00	19	3.78
Development of tax/bond programs	0	0.00	3	0.60
Application of state/federal funds	2	1.40	7	1.39
Distribution of budget items	0	0.00	2	0.40
Evaluation of teacher performance	14	9.79	5	0.99
Textbook selection/distribution	5	3.50	34	6.76
Pupil ratio and class size	5	3.50	40	7.95
Instructional aids	3	2.10	9	1.79
Teacher aides	4	2.80	35	6.96
Secretarial and clerical assistant	3	2.10	3	0.60
School calendar	2	1.40	8	1.59
Pupil progress reports	0	0.00	10	1.99
Pupil extracurricular activities	0	0.00	6	1.19
Assignment of department chairmen	0	0.00	4	0.80
Integration of education	0	0.00	2	0.40
Miscellaneous instructional programs	4	2.80	1	0.20[c]
PERSONNEL POLICIES AND PRACTICES[b]	35	24.48	161	32.00
Employment year of 12-month contract	0	0.00	2	0.40
Hours or day	3	2.10	9	1.79
Load/schedule of class periods	5	3.50	7	1.39
Special education program assignments	0	0.00	2	0.40
Planning periods—elementary	3	2.10	3	0.60
Student teacher supervision	0	0.00	3	0.60
Non-classroom service duties	0	0.00	18	3.58
Qualifications for professional growth	11	7.69	18	3.58
In-service training	0	0.00	15	2.98
Promotion to higher classification	5	3.50	3	0.60
Professional code of ethics	0	0.00	6	1.19
Teacher discipline or reprimand	0	0.00	6	1.19
Pupil discipline	0	0.00	27	5.37
Absence report procedure	0	0.00	5	0.99
Procedure for teacher evaluation	0	0.00	24	4.77
Teacher facilities	0	0.00	2	0.40
Teacher tenure	3	2.10	0	0.00
Miscellaneous personnel policies & practices	5	3.50	11	2.19[c]
SALARY POLICY[b]	18	12.59	29	5.77
Salary schedule	7	0.00	3	0.60
Salary credit for military	0	0.00	5	0.99

TABLE 4.—TWO-YEAR COMPARISON OF TYPES OF SPECIFIC JOINT COMMITTEES ESTABLISHED IN COMPREHENSIVE CLASSROOM TEACHER AGREEMENTS (Continued)

Area of study or planning	Committees established			
	1966-67		1968-69	
	Number	Percent[a]	Number	Percent[a]
1	2	3	4	5
Deviation from salary schedule	0	0.00	9	1.79
Longevity pay	0	0.00	7	1.39
Incentive pay	5	4.20	b	b
Pay period	0	0.00	2	0.40
Extra pay for special activities	6	4.20	0	0.00
Miscellaneous salary policies	0	0.00	3	0.60[c]
FRINGE BENEFITS[b]	0	0.00	12	2.39
Payroll deduction	0	0.00	3	0.60
Workmen's compensation	0	0.00	8	1.59
Miscellaneous fringe benefits	0	0.00	1	0.20[c]
GROUP INSURANCE COVERAGE	6	4.20	13	2.58
LONG TERM LEAVES OF ABSENCE	12	8.39	0	0.00
TOTAL NUMBER OF COMMITTEES	143		503	

[a]Computed from the total number of committees established in agreements in each of the two years.

[b]The figures beside each major heading are totals for all minor headings which follow.

[c]One joint committee was established in the 1968-69 agreements in each of the following areas: teacher qualifications, subject area assignment, planning periods—secondary, lunch period—elementary, lunch period—secondary, transfers, resignation procedure, grievance procedure, binding decision on grievance appeal, damaged or stolen property, substitute teachers, health requirements, premium pay, overtime pay, incentive pay, and payment of subject organization dues. Information as to the nature of committees in the miscellaneous categories is unavailable for 1966-67 at this time.

COMMITTEE WHICH MEETS REGULARLY

School District of the City of Niagara Falls, New York

Article V—*Teacher/Administration Liaison*

A. 1. The Association shall select a Building Committee of no less than two teachers per school, and no more than one teacher per twenty teachers from each school, which shall be responsible for liaison with the principal in the implementation of this Agreement within the school.

2. The principal and the Building Committee shall meet regularly once a month and at such other times as may be mutually agreeable, and, if held during the school day shall not be scheduled during class time, and shall not interfere with instruction. The meetings shall be for the purpose of reviewing and discussing local school problems and practices, and matters relating to the implementation of this Agreement.

3. The principal shall provide ten (10) minutes of time at all building faculty meetings for the Association to report on matters involving representation of the teachers by the Association.

4. Members of the Building Committee who are free from assigned duties shall be permitted to meet with teachers at times and places in the school mutually convenient, provided such meetings do not impair or curtail the instructional responsibilities to the pupils of any teacher. The Association and its officers recognize and agree that this privilege shall not be abused.

B. 1. The Association shall select a Central Committee of not more than six (6) members which shall meet with the Superintendent and other such administrators as he may designate regularly once a

month and at such other times as may be mutually agreeable to review and discuss current school problems and matters concerning implementation of this Agreement.

2. When it is necessary for the President of the Association or his designee to engage in Association activities directly relating to the Association's duties as representative of the teachers which cannot be performed other than during school hours, upon approval of the Superintendent or his designated representative upon reasonable notice, he shall be given such time, without loss of pay, as is necessary to perform any such activities. The President of the Association or his representative shall be allowed to visit schools to investigate terms and conditions of employment relating to this contract. Upon the arrival of the President or his representative at any school, the principal, or in his absence, his representative, shall confer with the President in order to facilitate the purpose of the visit. Whenever possible, the President shall give advance notice of his visit and, on his arrival, report his presence to the office. The teaching schedule of the President of the Association shall be so arranged as to give him the last period free to conduct Association business when necessary. The Association and its officers recognize and agree that this privilege shall not be abused.

C. 1. The Association shall be provided with copies of the agenda for Board meetings and copies of the tentative budget at the same time as they are transmitted to Board members. The Association shall be provided with five (5) copies of the minutes of Board meetings as soon as they are available after such meetings.

2. The Association shall have the right to have two (2) members present at all regular Board and Committee-of-the-Whole meetings.

GENERAL OR PROFESSIONAL STUDY COMMITTEE

Quincy School District, Quincy, Massachusetts

Article VII—*Conditions of Professional Service*

The Committee and the Association have deliberately agreed not to include provisions in this Contract respecting some of the conditions affecting the performance by members of their professional duties. Such omitted matters include, by way of illustration and not of limitation, the teaching loads of individual teachers and the basis upon which parent-teacher conferences, professional workshops and curriculum planning sessions may be held in the light of regulations promulgated by the state Board of Education regarding the length of school day. Such matters are omitted not because the parties regard them as unimportant but because the parties believe that they require further careful joint study since they are affected by the rapid pace of change in educational technology and theory and, in part, are subject to rules and regulations promulgated by agencies of the Commonwealth. In addition to such conditions, the Committee and the Association consider that there are a number of areas affecting the performance by members of their professional duties, as to which practices not now in effect in the Quincy school system and practices not yet developed by any public school system may make great contributions toward improving not only the quality but also the efficiency of the educational process in the Quincy public school system. Such areas include, by way of illustration and not of limitation, the use of nonprofessionally trained personnel to perform pupil supervision tasks outside the classroom, clerical tasks, the reproduction of instructional materials, and the like. They also include the possibility of measuring the obligatory portion of a teacher's work day in terms of the time required to perform professional functions rather than a stated number of hours, the possibility of a separate contract year and separate compensation arrangements different from the academic year and compensation related thereto for volunteer professionals who might undertake special professional leadership and development assignments, the possibility of so reorganizing the classroom teaching function as to permit more effective use of superior classroom teachers and the possibility of identifying and describing characteristics of professional performance so as to permit more meaningful evaluation thereof.

Accordingly the parties agree that a Professional Conditions Committee (PCC) shall be established to consist of twelve members of whom six shall be designated by the Association and six by the Committee and of which there shall be co-chairmen, one chosen by the Association designees and the other by the Committee designees. The PCC shall establish its own times of meeting and rules and procedure and shall have the right to meet with the Committee at reasonable times, not more often than once every two months unless by mutual agreement. The PCC may establish sub-committees to consider particular matters and particular matters within the jurisdiction of the PCC may be considered by others, but all proposals

respecting such matters shall come to the PCC for consideration and presentation to the Committee and the Association. The PCC shall consider as priority matters cited above by way of illustration but shall have the power to consider, and to make recommendations to the Committee respecting, any matter relating to the hours and conditions of employment of members. The Committee and the Association shall give serious consideration to the recommendations of the PCC and shall discuss the same as they may mutually find appropriate.

Except in case of emergency or order from superior authority or as permitted by Article VIII, the Committee shall not make any change in the length of the school day or in any policy or practice, not the subject of specific agreement in this Contract, relating to the conditions of employment of members unless the same shall first have been referred to the PCC with a reasonable time for consideration and report thereon by said Committee.

GENERAL OR PROFESSIONAL STUDY COMMITTEE/SPECIFIC JOINT COMMITTEES

Saginaw School District, Saginaw, Michigan

Article XXV—*Professional Study Committees*

The Board of Education and the Saginaw Education Association agree that there are many parts of the educational program which require study and improvement. Therefore, the Board and Association agree to organize the following Study Committees which will meet on a regular basis and submit progress reports to the Superintendent, the Board and the Association in December, 1967, and each month thereafter. The Board and the Association will give every consideration to the recommendations of these committees with the intent of improving the educational program as rapidly and as judiciously as possible.

A. A Professional Study Committee consisting of three (3) members selected by the Board and three (3) members selected by the Association shall be established. This shall be a continuing committee which shall meet on a regular basis to consider problems of mutual concern and to recommend methods of improving the Saginaw educational program. Among other things, the committee shall consider federal grants to be requested by the Board.

B. Joint committees consisting of three representatives of the administration and three representatives chosen by the Association shall be established. Function and powers of each committee shall be as specified.

1. In-service Education. This committee shall develop or review all in-service education programs and recommend the implementation thereof.
2. Controversial Issues. This committee shall establish guidelines and make recommendations for the teaching of such issues as race, religion, politics and sex.
3. Controversial Books and Teaching Materials. All teaching tools questioned on racial, religious, political, ethnic or moral grounds shall be reviewed by this committee. The committee shall make recommendations on the continuance or discontinuance of use of said materials.
4. Curriculum. This committee shall study and make recommendations concerning curriculum development and improvement. It shall serve as a clearing house for ongoing projects which have significance throughout the district. It shall assist the Superintendent and/or his agents in district-wide curriculum planning. Sub-committees may be appointed by this committee as needed.
5. Class Size. The Board and the Association agree that further reductions in class size limitations set forth in Article VI are desirable. This committee will consider priorities in class size reduction and make recommendations concerning such reduction.
6. Job Description and Compensation. This committee will study the prerequisites, duties, possible functions, responsibilities, monetary and released time compensation of such activities as secondary department heads; industrial, commercial and vocational teachers; special teachers such as art, music and reading; and coaching of athletics. This committee will make recommendations concerning job descriptions and compensation.
7. Non-teaching and Co-curricular Activities. This on-going committee shall be empowered to recommend for immediate implementation actions which will reduce non-teaching functions required of teachers. It shall also review co-curricular activities and recommend means of recognizing their value to the district on an equitable basis.
8. Teacher Evaluation. This committee shall study the procedure and forms for teacher evaluation as presently in use here and in other districts, as well as other professional improvement procedures and make recommendations for a program.

9. Teacher Recognition. This committee shall explore means, such as those used in other systems, to reward outstanding service.

SPECIFIC JOINT COMMITTEES

Curriculum Review

Airport Community Schools, Carleton, Michigan

Article XIV—*Curriculum Review Committee*

A. At the request of the Board or the Association, a curriculum review committee may be established. Its membership shall be composed of teachers concerned with the topic under review and administrators concerned. No committee will be concerned with more than one topic. The goals and objectives of the committee will be set forth in writing. When the committee report is completed, the report will be presented to that group of teachers and administrators concerned, for discussion, by the committee chairman. Thereafter, a final report, in the form of a recommendation, will be made to the Board of Education, by the chairman.

B. A half day will be used during the first week of October, for a general meeting of all teachers. From this meeting shall come suggestions of "topics for review." A committee of the administration and the Association shall pick out the most urgent topics and form committees of study.

C. One half day will be used during the first week of April, for a general meeting of all teachers. At this meeting a report will be given to all the teachers, by each committee chairman.

D. During the school year, committees will meet whenever their time allows them. Special requests may be made to the superintendent, for released time of committee members, for the purpose of completing committee assignments.

Hiring of Specialists

Foster-Glocester Regional Schools, North Scituate, Rhode Island

Article IX—*Specialists*

A. The Committee and the Association recognize that an adequate number of competent specialists is essential to the operation of an effective educational program. The parties agree to establish a joint committee to study the needs for specialists in the school system and to report their findings and recommendations to the Superintendent when complete.

B. Within ten (10) days after the execution of this Agreement, the Committee and the Association shall each appoint at least two (2) persons to serve on the joint committee and those persons shall select a chairman from among themselves.

Development of Tax/Bond Programs

San Diego Unified School District, San Diego, California

Article III—*Tax and Bond Elections*

Section 1: The Board of Education recognizes the importance of involving staff members individually and through employee organizations on a voluntary basis in any program designed to strengthen the financial resources of the district. Therefore, whenever the Board of Education begins planning for a tax or bond election, the Board representative shall invite the Negotiating Council to participate with the district in a joint study on the subject.

Section 2: The San Diego Certified Employee Negotiating Council and the Superintendent shall authorize establishment of a joint study dealing with plans for a school district bond election. The scope of the study shall include, but not be limited to, the following provisions:

A. The amount of the bond issue and the extent to which it should provide for:
   1. Room darkening facilities in each classroom so as to permit adequate use of audio-visual equipment.
   2. Water in all portable elementary classrooms.
   3. Adequate student restroom facilities at all sites and Children's Centers.
   4. The expansion of playground space at overcrowed sites.
   5. Library facilities at each elementary site.

6. A shaded lunch area at each school site.
7. Adequate ventilation and sound proofing for classrooms where proper ventilation and acoustics are deemed to be inadequate.
8. Space in each classroom in which teachers may safely store instructional materials and supplies.
9. Well-lit and ventilated teacher restrooms.
10. A room in each school with provision for telephone service which will insure privacy of conversation for use of district counselors and other specialists assigned to a school on a part-time or full-time basis.
11. A workroom for teachers containing equipment and supplies to aid in the preparation of instructional materials.
12. At least one room, of appropriate size, adequately furnished and vented, which shall be reserved for use as a faculty lounge in which smoking shall be permitted.

B. The time at which the bond issue is to be presented to the electorate.

Textbook Selection

Akron Public Schools, Akron, Ohio

Article III, Section 3.51—*Facilities*

The Board of Education is desirous of providing each student with an individual copy of all textbooks which, in the judgment of the professional staff, the student will need in the courses to which he is assigned. Questions about the desirability of individual texts shall be submitted to an advisory committee of six teachers appointed by the Assistant Superintendent of Curriculum and Instruction and the President of the [Akron Education Association], each to appoint three. The Assistant Superintendent shall serve as chairman of committees and shall render the final decision.

Class Size

Highland School District, Highland, Indiana

Article XX, Section 20.1—*Teaching Conditions and Facilities*

The Board, through its Administration, will sincerely foster the dedication expected of the teachers by planning constructively to provide the best possible teaching conditions and teacher facilities attainable within the limits of educationally sound expenditures.

Class size is an important aspect of an effective educational program and is directly related to the volume of a teacher's work. It is agreed that class size should be lowered whenever possible to reasonable standards.

The Board and the Association agree to establish a joint committee to study and make recommendations as to the appropriate number of students per teacher in the Highland school system. The Superintendent and the Association shall each appoint two persons to serve on the joint committee and these persons shall elect a chairman from among themselves. The joint committee shall be established as soon as practicable. The report and recommendations of this committee shall be presented to the Board and the Association by January 1, 1969, and subsequent to approval become a part of this Agreement.

Teacher Aides

Union Free School District No. 3, East Meadow, New York

Article 6, Section 6.1—*Teachers' Aides*

The sum of $26,000, in addition to the amount heretofore contemplated for the annual budget, shall be made available for teachers' aides in the secondary and elementary schools for cafeteria and playground duty. The use and allocation of such funds in the secondary and elementary schools shall be determined by a Joint Committee of Teachers' Aides to be composed of representatives to be named by the Superintendent of Schools and [the East Meadow Teachers Association], respectively.

Non-Classroom Service Duties

Buffalo Public Schools, Buffalo, New York

Article VIII—*Teaching Conditions*

I. It is recognized that the time of teachers should be utilized for professional teaching activity and that non-teaching duties shall be eliminated whenever possible. Toward this end, it is agreed that a joint Administration-Federation committee shall be established by February 1, 1968, to study this matter, including the degree to which the following activities are presently being performed by teachers and which of these activities can be eliminated as responsibilities of the teacher by the end of the school year:

1. Collection of money.
2. Recording, transferring or transmitting information which does not have a direct bearing on the learning experiences of the child, such as:
   (a) grading and recording the results of school-wide testing programs;
   (b) making routine entries such as marks and attendance data on Pupil Permanent Record Cards;
   (c) issuing and inventorying textbooks and supplies;
   (d) supervision of hallways, restrooms, lunchrooms and children while they are waiting for their bus.

Professional Growth

Madison School District, Madison, Wisconsin

Crossing Improvement Levels, Item 4

A Professional Advancement Study Committee shall be established of six members. Three members shall be appointed by the Superintendent of Schools and three by the President of Madison Teachers. This committee shall have the duty to establish professional advancement courses, the conditions necessary to obtain credits, and the credits allotted for each course.

Teacher Evaluation

East Patchogue Central School District No. 4, East Patchogue, New York

Article XIV—*Teacher Evaluation*

A. A standardized form will be used in the evaluation of all teachers in C.S.D. #4. A committee shall be formed with the purpose of developing an evaluation form or forms mutually acceptable to the Administration and the Association. This committee shall consist of teachers from each grade unit, two administrators, and other special subject personnel as designated by the District Principal. Such meetings shall be called monthly by the chairman.

Workmen's Compensation and Other Insurance Coverage

Natrona County High School District and District No. 2, Casper, Wyoming

Article XXIII—*Insurance and Annuities*

D. An insurance committee shall be established consisting of six (6) members, three (3) appointed by the Board and three (3) appointed by the [Casper-Midwest Classroom Teachers' Association].

The committee, as it deems proper, shall consider, review and make recommendations to the Board on all aspects of the school system's teacher insurance programs, including Health, Life, Job Related Injury, and Private Vehicle Liability.

Insofar as the present Health and Life Insurance coverage and carrier is concerned, the committee is directed by the parties to specifically make recommendations as to re-bidding or not, and the Board agrees to ask for bids or not, as the committee recommends.

Special Reports

BRIEFS OF RECENT AGREEMENTS

District No. 86 (Will County), Joliet, Illinois

Between the Board of School Inspectors of School District No. 86, Will County, Illinois, and The Teachers of School District No. 86, American Federation of Teachers, AFL-CIO, Local 604, effective September 1969 to June 1970. Approximately 550 certificated professional employees.

Compensation: B.A., $7,200 to $10,774, 14 increments; M.A., $7,730 to $11,289, 14 increments; M.A. plus 30 hours, $12, 493 maximum. Differentials: instrumental music teacher, $650 additional; football coach, $325 additional; intramural coaches, $600 additional. Substitute teachers, $22 per day.

Leaves: 15 days' annual sick leave, 176 days' maximum accumulation; 3 separate noncumulative emergency leave days; special leave policy providing full salary for one-year period (not charged to accumulation) for absence or injury incurred in course of employment; released time for Federation president.

Miscellaneous: Grievance procedure ends with binding arbitration; Federation dues deduction; joint committee for school calendar; pupil progress report; pupil discipline provision; class size ratio; in-service training provision; tuition reimbursement.

Bridgeport, Michigan

Between the Board of Education, Bridgeport Community Schools, Bridgeport, Michigan, and the Bridgeport Education Association, effective August 27, 1969, to June 30, 1971. Approximately 177 certificated professional employees.

Compensation: (1969-70) B.A., $7,150 to $10,850, 11 increments; M.A., $7,550 to $11,850, 12 increments; M.A. plus 30 hours, $12,050 maximum. Differentials: head high-school football coach, base of $700 additional; junior high-school head football coach, base of $310 additional; special education teachers, base of $600 additional; senior class advisor, $150 additional; cheerleading instructor, $200 additional; chaperoning bus (outside school hours), $5 per hour; chaperoning school dances, $5; driver education, $5.50 per hour. Substitute teachers, $25 per day. Longevity pay: $300 after 15 years' service; $400 after 20 years' service; $500 after 25 years' service.

(1970-71) B.A., $7,800 to $11,500, 11 increments; M.A., $8,200 to $12,500, 12 increments; M.A. plus 30 hours, $12,700 maximum.

Leaves: 13 days' annual sick leave, 126 days' maximum accumulation; 2 separate days for business reasons; request for extended sick leave days granted upon review by board; 10 days' annual leave for Association business.

Insurance: Board contributes to Blue Cross and Association super-medical benefits for individual or family coverage; $1,000 term life insurance provided for all teachers during 1969-70, and $5,000 term life insurance provided during 1970-1971.

Miscellaneous: Grievance procedure ends with binding arbitration; agency shop provision effective in 1970-71; Association dues deduction (1969-70); duty-free lunch period of 30 minutes; merit rate of $1 per student per day for each student in classes exceeding the class size limitation; tuition reimbursement; joint curriculum study groups; school calendar.

Paramus, New Jersey

Between the Board of Education of the Borough of Paramus, New Jersey, and the Education Association of Paramus, effective July 1, 1969, to June 30, 1970. Approximately 425 certificated professional employees.

Compensation: B.A., $7,000 to $12,125, 11 increments; B.A. plus 32 hours, $13,339 maximum; M.A., $7,600 to $13,763, 11 increments; M.A. plus 32 hours, $14,914 maximum. Differentials: head teachers, $300 additional; senior high-school department chairmen, 1.1 ratio of salary.

Leaves: 10 days' annual sick leave, unlimited accumulation; 5 separate days' family bereavement leave; 1 day for emergency family illness; sabbatical leave for 1 year at half-pay after 7 years' service.

Insurance: Board pays two-thirds of health care insurance premium for individual or family coverage, and full cost of major medical insurance premium.

Miscellaneous: Grievance procedure provides for fact-finding; duty-free lunch period of 50 minutes for elementary teachers; tuition credit; service credit program provision; academic freedom in regard to controversial issues; joint committee for selection of instructional materials; joint monthly meetings of Association and administration representatives; school calendar; provision for absence report procedure.

Newtonville, New York

Between the North Colonie Central School Board of Education, Newtonville, New York, and the North Colonie Teachers Association, effective July 1, 1969, to June 30, 1970. Approximately 360 certificated professional employees.

Compensation: B.A., $6,650 to $11,150, 13 increments; M.A., $7,300 to $11,800, 13 increments; M.A. plus 30 hours, $13,050 maximum; M.A. plus 60 hours, $13,500 maximum. Differentials: doctoral degree, $200 above payment received for graduate hours and master's degree; department chairmen, ratio of 1.05 applied to base salary, as well as a differential based upon the number of teachers supervised; junior high-school department coordinator, $450 additional for supervision of fewer than 5 teachers, and $800 additional for supervision of more than 5 teachers; head varsity football coach, base of $600 additional; head varsity baseball coach, base of $400 additional; varsity cheerleading instructor, base of $250 additional; senior high-school newspaper advisor, $450 additional; band director, $300 additional. Longevity increments of $400 each after 18 and 22 years' service.

Leaves: 15 days' annual sick leave, 250 days' maximum accumulation; 5 personal leave days deducted from accumulation; 3 separate days for religious holidays; 5 separate days' family bereavement leave; leave as necessary for Association representative to attend conferences or convention; 6-month paid extended sick leave; sabbatical leave for 1 year at half-pay or one-half year at full pay after 7 years' service.

Insurance: Board pays 100% of hospital insurance for individual coverage, and 40% of family coverage; disability insurance provision.

Miscellaneous: Grievance procedure ends with binding arbitration; Association dues deduction; class load provision; curriculum study provision; academic freedom; student teacher supervision; tuition credit; provision for lunch period aides; weekly relief time for Association president.

Milwaukee, Wisconsin

Between the Milwaukee Board of School Directors, Milwaukee, Wisconsin, and the Milwaukee Teachers Education Association, effective January 1, 1969, to December 31, 1970. Approximately 5,400 certificated professional employees.

Compensation: (effective January 1970) B.A., $7,700 to $12,250, 12 increments; M.A., $8,018 to $12,840, 12 increments; M.A. plus 64 hours, $14,019 maximum. Differentials: disrupter class teachers, $800 additional; intramural leader, $990 additional; music director, $627 additional; academic enrichment project sponsor, $840 per school per year. Longevity provisions: one $100 increment prorated each payroll period during the year following the fifteenth year of service; a second $100 increment prorated each payroll period during the year following the twentieth year of service.

Leaves: 12½ days' sick leave, 120 days' accumulation at full pay, with an unlimited accumulation thereafter at half-pay; 3 separate days' family bereavement leave; 2 personal leave days deducted from sick leave accumulation; sabbatical leave for 1 year at half-pay after 7 years' service.

Insurance: Board-paid hospital, surgical, and major medical benefits for individual or family coverage; board contributes $3.60 per thousand per year toward employee's group life insurance; board-paid liability insurance for teacher protection; tax sheltered annuities.

Miscellaneous: Grievance procedure ends with mediation; Association dues deduction; duty-free lunch periods; class size provision; tuition reimbursement for courses taken to teach special education classes; joint committee to study over-all student teacher program; new teacher provision; building representative provision; provision for hiring specialty teachers within budgeted limits.

Text

FINAL REGULATIONS IMPLEMENTING DUTIES ASSIGNED TO ASSISTANT SECRETARY OF LABOR UNDER E.O. 11491

TITLE 29 – LABOR

Subtitle B – Regulations Relating to Labor
Chapter II – Office of the Assistant Secretary for Labor-Management Relations, Department of Labor

Labor Relations in Federal Service

On December 20, 1969, there was published in the Federal Register (34 F.R. 19986) a notice of proposed rule making to revise 29 CFR Part 25 in order to implement the duties delegated to the Assistant Secretary of Labor for Labor-Management Relations by Executive Order 11491. Interested persons were invited to submit written comments, suggestions, or objections regarding the proposed regulations not later than January 9, 1970. After consideration of all relevant matter presented, I have decided to adopt the proposed regulations, with extensive changes. As adopted, the rules are set forth below in a new chapter of Title 29 of the Code of Federal Regulations, designated Chapter II.

Accordingly pursuant to section 6(d) and 18(d) of Executive Order 11491 (34 F.R. 17605), I hereby amend Title 29 of the Code of Federal Regulations by adding thereto a new Chapter II to read as follows:

PART
201 – GENERAL
202 – REPRESENTATION PROCEEDINGS
203 – UNFAIR LABOR PRACTICE PROCEEDINGS
204 – STANDARDS OF CONDUCT FOR LABOR ORGANIZATIONS [RESERVED]
205 – MISCELLANEOUS

PART 201 – GENERAL
SUBPART A – PURPOSE AND SCOPE

Sec.
201.1 Purpose and scope

SUBPART B – MEANINGS OF TERMS IN THIS CHAPTER

Sec.
201.10 Order
201.11 Agency, employee, labor organization, council, panel, Assistant Secretary.
201.12 National consultation rights, exclusive recognition, unfair labor practices.
201.13 Standards of conduct for labor organizations.
201.14 Activity.
201.15 Regional Administrator.
201.16 Area Administrator.
201.17 Director.
201.18 Party.
201.19 Intervenor.
201.20 Certification.
201.21 Appropriate unit.
201.22 Secret ballot.
201.23 Hearing Officer.
201.24 Hearing Examiner.
201.25 Chief Hearing Examiner.
201.26 Showing of interest.

AUTHORITY: The provisions of this PART 201 issued under secs. 6, 18, E.O. 11491, 34 F.R. 17605.

SUBPART A – PURPOSE AND SCOPE

§ 201.1 Purpose and scope.

The regulations contained in this chapter are designed to implement the provisions of sections 6, 9, 10, 18 and 19 of Executive Order 11491 of October 29, 1969, "Labor-Management Relations in the Federal Service" (34 F.R. 17605). They prescribe procedures and basic principles which the Assistant Secretary of Labor for Labor-Management Relations will utilize in:

(a) Deciding questions as to the appropriate unit for the purpose of exclusive recognition and related issues submitted for his consideration;

(b) Supervising elections to determine whether a labor organization is the choice of a majority of the employees in an appropriate unit as their exclusive representative, and certifying the results;

(c) Deciding questions as to eligibility of labor organizations for national consultation rights under criteria prescribed by the Federal Labor Relations Council;

(d) Effectuating the standards of conduct required of labor organizations by section 18 of the Order;

(e) Deciding complaints of alleged unfair labor practices, and alleged violations of the standards of conduct for labor organizations.

SUBPART B – MEANINGS OF TERMS IN THIS CHAPTER

As used in this chapter:

§ 201.10 Order

"Order" means Executive Order 11491, entitled "Labor-Management Relations in the Federal Service."

§ 201.11 Agency, employee, labor organization, council, panel, Assistant Secretary.

"Agency," "employee," "labor organization," "Council," "Panel," and "Assistant Secretary" have the meanings set forth in section 2 of the Order.

§ 201.12 National consultation rights, exclusive recognition, unfair labor practices.

"National consultation rights," "exclusive recognition," and "unfair labor practices" have the meanings as set forth in sections 9, 10, and 19, respectively, of the Order.

§ 201.13 Standards of conduct for labor organizations.

"Standards of conduct for labor organizations" shall have the meaning as set forth in section 18 of the Order, as amplified in Part 204 of this chapter.

§ 201.14 Activity.

"Activity" means any facility, geographical subdivision, or combination thereof, of any agency, as that term is defined in section 2 of the Order.

§ 201.15 Regional Administrator.

"Regional Administrator" means the Administrator of a region of the Labor-Management Services Administration, with geographical boundaries as fixed by the Assistant Secretary.

§ 201.16 Area Administrator.

"Area Administrator" means the Administrator of an area office within a region of the Labor-Management Services Administration, with geographical boundaries as fixed by the Assistant Secretary.

§ 201.17 Director.

"Director" means the Director of the Office of Labor-Management and Welfare Pension Reports.

§ 201.18 Party.

"Party" means any person, employee, group of employees, labor organization, agency, or activity: (a) filing a complaint, petition or request; (b) named as a party in a complaint, petition or request; or (c) whose intervention in a proceeding has been permitted or directed by the Assistant Secretary; Regional Administrator, Area Administrator, Director, Hearing Officer, or Hearing Examiner, as the case may be.

§ 201.19 Intervenor.

"Intervenor" means a party in a proceeding whose intervention has been permitted or directed by the Assistant Secretary, Regional Administrator, Area Administrator, Director, Hearing Officer, or Hearing Examiner, as the case may be.

§ 201.20 Certification.

"Certification" means the determination by the Assistant Secretary, Regional Administrator, or Area Administrator of the results of an election held under the Order and the regulations in this chapter, including a certification of representative for exclusive recognition under the Order.

§ 202.21 Appropriate unit.

"Appropriate unit" means that grouping of employees found to be appropriate for purposes of exclusive recognition consistent with the provisions of section 10(b) and (c) of the Order.

§ 201.22 Secret Ballot.

"Secret ballot" means the expression by ballot, voting machine or otherwise, but in no event by proxy, of a choice with respect to any election or vote taken upon any matter, which is cast in such a manner that the person expressing such choice cannot be identified with the choice expressed, except in that instance in which any determinative challenged ballot is opened.

§ 201.23 Hearing Officer.

"Hearing Officer" means the individual designated to conduct a hearing in a unit dispute or such other representation matters as may be assigned.

§ 201.24 Hearing Examiner.

"Hearing Examiner" means an individual designated by the Chief Hearing Examiner to conduct the hearing in cases under sections 18 and 19 of the Order and such other matters as may be assigned.

§ 201.25 Chief Hearing Examiner.

"Chief Hearing Examiner" means the Chief Hearing Examiner, United States Department of Labor, Washington, D.C., 20210.

§ 201.26 Showing of Interest.

"Showing of interest" means a designated percentage of Federal employees in a unit claimed to be appropriate or a unit determined to be appropriate, who are members of a labor organization or have designated it as their exclusive representative or have signed and dated a petition or cards requesting an election to determine whether a labor organization should cease to be the exclusive representative because it does not represent a majority of the employees. Such designations shall consist of written authorization cards or petitions, signed and dated by employees, authorizing a labor organization to represent such employees for purposes of exclusive recognition,

executed allotment of dues forms, current dues records, an existing or recently expired agreement, current exclusive recognition or certification, or other evidence approved by the Assistant Secretary.

PART 202—REPRESENTATION PROCEEDINGS

Sec.
202.1 Who may file petitions.
202.2 Contents of petition; challenge to petitions.
202.3 Timeliness of petition.
202.4 Investigation of petition and posting of notice of petition.
202.5 Intervention.
202.6 Withdrawal, dismissal or deferral of petitions; consolidation of cases.
202.7 Agreement for consent election.
202.8 Notice of hearing.
202.9 Conduct of hearing.
202.10 Motions.
202.11 Rights of the parties.
202.12 Duties and powers of the Hearing Officer.
202.13 Objections to conduct of hearing.
202.14 Filing of briefs.
202.15 Transfer of case to Assistant Secretary; contents of record.
202.16 Decision.
202.17 Election procedure.
202.18 Challenged ballots.
202.19 Tally of ballots.
202.20 Objections to election; determination on objections and challenged ballots.
202.21 Runoff elections.
202.22 Inconclusive elections.

AUTHORITY: **The provisions of this PART 202 issued under sec. 6 E.O. 11491, 34 F.R. 17605.**

§ 202.1 Who may file petitions.

(a) A petition for exclusive recognition may be filed by a labor organization requesting an election to determine whether it should be recognized as the exclusive representative of employees of an agency in an appropriate unit or should replace another labor organization as the exclusive representative of employees in an appropriate unit.

(b) A petition for an election to determine if a labor organization should cease to be exclusive representative because it does not represent a majority of employees in an appropriate unit may be filed by an agency or by an employee(s) or any individual acting on their behalf.

(c) A petition for clarification of an existing unit or amendment of certification may be filed by an agency or labor organization which is currently recognized by the agency as an exclusive representative.

(d) A petition for a determination as to the eligibility of a labor organization for national consultation rights under criteria prescribed by the Council may be filed by an agency or labor organization.

§ 202.2 Contents of petition; challenge to petition.

(a) Petition for exclusive recognition. A petition by a labor organization for exclusive recognition shall be submitted on a form prescribed by the Assistant Secretary and shall contain the following:

(1) The name of the agency and the activity involved, their addresses, telephone numbers, and the persons to contact and their titles, if known;

(2) A description of the unit appropriate or claimed to be appropriate for purposes of exclusive representation by the petitioner. Such description shall indicate generally the geographic locations and the classifications of employees sought to be included and those sought to be excluded and the approximate number of employees in the unit claimed to be appropriate;

(3) Name, address, and telephone number of the recognized or certified representative, if any, and the date of such recognition or certification and the expiration date of any applicable agreement, if known to the petitioner;

(4) Names, addresses, and telephone numbers of any other interested labor organizations, if known to the petitioner;

(5) Name and affiliation, if any, of the petitioner and its address and telephone number;

(6) A statement that the petitioner has submitted to the activity a current roster of its officers and representatives, a copy of its constitution and bylaws, and a statement of its objectives;

(7) A declaration by the person signing the petition, under the penalties of the Criminal Code (18 U.S.C. 1001) that its contents are true and correct to the best of his knowledge and belief;

(8) The signature of the petitioner's representative, including his title and telephone number;

(9) The petition shall be accompanied by a showing of interest of not less than thirty (30%) percent of the employees in the unit claimed to be appropriate and an alphabetical list of names constituting such showing;

(10) A statement that the petitioner is in full compliance with the requirements of the Order and the regulations under this chapter.

(b) Petition for an election to determine if a

labor organization should cease to be the exclusive representative.

(1) A petition by an agency shall contain the information set forth in paragraph (a) of this section except subparagraphs (6), (9) and (10) thereof and a statement that the agency or activity has a good faith doubt that the currently recognized or certified labor organization represents a majority of the employees in the unit;

(2) A petition by employees or an individual acting on behalf of employees shall contain the information set forth in paragraph (a) of this section, except subparagraphs (6), (9) and (10) thereof, and it shall be accompanied by a showing of interest of not less than thirty (30%) percent of the employees in the unit indicating that the employees no longer desire to be represented for the purpose of exclusive recognition by the currently recognized or certified labor organization and an alphabetical list of names constituting such showing.

(c) Petition for clarification of unit or amendment of certification. A petition for clarification of unit or amendment of certification shall contain the information required by paragraph (a) of this section, except subparagraphs (2), (6), (9), and (10), and shall set forth:

(1) A description of the present unit and the date of recognition or certification;

(2) The proposed clarification or amendment of the certification; and

(3) A statement of reasons why the proposed clarification or amendment is requested.

(d) Petition for National Consultation Rights. [Reserved]

(e) Filing and service of petition and copies.

(1) An original and four copies of a petition shall be filed with the Area Administrator for the area in which the unit exists, or, if the claimed unit exists in two or more areas the petition shall be filed with the Area Administrator for the area in which the headquarters of the activity is located.

(2) The petitioner shall supply with its petition a statement of any other relevant facts and two (2) copies of all correspondence relating to the question concerning representation.

(3) Simultaneously with the filing of a petition, copies shall be served by the petitioner on all known interested parties, and a written statement of such services shall be furnished to the Area Administrator. The showing of interest submitted with the petition shall not be furnished to any of the parties or organizations listed in the petition.

(f) Adequacy and validity of showing of interest. The Area Administrator shall determine the adequacy of the showing of interest administratively, and such decision shall not be subject to collateral attack at a unit or representation hearing. Any party challenging the validity of showing of interest must file his challenge with the Area Administrator within ten (10) days after the initial date of posting of the notice of petition as provided in § 202.4(b) and support his challenge with evidence. The Area Administrator shall investigate the challenge and report his findings to the Regional Administrator who shall take such action as he deems appropriate.

(g) Challenges to status of a labor organization. Any party challenging the status of a labor organization under the Order must file its challenge with the Area Administrator within ten (10) days after the initial date of posting of the notice of petition as provided in § 202.4(b) and support its challenge with evidence. The Area Administrator shall investigate the challenge and report his findings to the Regional Administrator who shall take such action as he deems appropriate.

§ 202.3 Timeliness of petition.

(a) When there is no recognized or certified exclusive representative of the employees, a petition will be considered timely filed provided there has been no valid election within the claimed unit within the preceding twelve (12) month period and provided further that the claimed unit is not a subdivision of a unit in which a valid election has been held within such period.

(b) When there is a recognized or certified exclusive representative of the employees, a petition will not be considered timely if filed within twelve (12) months after the grant of exclusive recognition or certification as the exclusive representative of employees in an appropriate unit, unless a signed agreement covering the claimed unit has been entered into in which case paragraph (c) of this section shall be applicable.

(c) When there is a signed agreement covering a claimed unit, a petition for exclusive recognition or other election petition will not be considered timely if filed during the period within which that agreement is in force or awaiting approval at a higher management level, but not to exceed an agreement period of two (2) years, unless (1) a petition is filed not more than ninety (90) days and not less than sixty (60) days prior to the terminal date of such agreement or two (2) years, whichever is earlier, or (2) unusual circumstances exist which will substantially affect the unit or the majority representation.

(d) When a challenge to the representation status of an incumbent exclusive representative has been filed not more than ninety (90) days and not less than sixty (60) days prior to the terminal date of an agreement, and such challenge is subsequently dismissed or withdrawn, the activity and incumbent exclusive representative shall

be afforded a ninety (90) day period free from rival claim within which to consummate an agreement.

(e) When an extension of agreement has been signed more than sixty (60) days before its terminal date, such extension shall not serve as a basis for the denial of a petition submitted in accordance with the time limitations provided herein.

(f) A petition for exclusive recognition or other petition for an election will not be considered timely if filed within a twelve (12) month period following the close of a hearing conducted pursuant to § 202.9 concerning the unit or any subdivision thereof.

§ 202.4 Investigation of petition and posting of notice of petition.

(a) Upon the filing of a petition the Area Administrator shall make such investigation as he deems necessary.

(b) Upon the request of the Area Administrator, after the filing of a petition, the activity shall post copies of a notice to all employees in places where notices are normally posted affecting the employees in the unit involved in the proceeding.

(c) Such notice shall set forth: (1) The name of the petitioner, (2) the description of the unit involved, and (3) a statement that all interested parties are to advise the Area Administrator in writing of their interest within ten (10) days from the date of posting such notice.

(d) The notice shall remain posted for a period of ten (10) days. The notice shall be posted conspicuously and shall not be covered by other material, altered or defaced.

(e) The activity shall furnish the Area Administrator with the names, addresses and telephone numbers of all labor organizations known to represent any of the employees in the claimed unit.

(f) The parties are expected to meet as soon as possible after the filing of the petition and use their best efforts to secure agreement on an appropriate unit, including, where appropriate, consulting with higher authority within the agency and the organization.

(g) Within thirty (30) days following the receipt of a copy of the petition, the activity shall file a response thereto with the Area Administrator raising any matter which is relevant to the petition. A copy of such response shall be furnished to other parties and organizations.

(h) The Area Administrator shall report the essential facts and positions of the parties to the Regional Administrator.

(i) The Regional Administrator shall take appropriate measures which may consist of the approval of a withdrawal request or dismissal of the petition, or the supervision of an election in an approved agreed-upon appropriate unit or the conduct of a hearing.

§ 202.5 Intervention.

(a) No labor organization will be permitted to intervene in any proceeding pursuant to this part unless it has submitted a showing of interest of ten (10%) percent or more of the employees in the unit involved in the petition or has submitted a current or recently expired agreement with the activity covering any of the employees involved.

(b) A labor organization seeking exclusive recognition in a unit which encompasses any portion of the unit petitioned for must file a petition with the Area Administrator supported by a showing of interest of thirty (30%) percent or more of the employees in the unit it claims to be appropriate within ten (10) days after the initial date of posting of the notice of petition as provided in § 202.4(b) unless good cause is shown for extending the period.

(c) No labor organization may participate to any extent in any representation proceeding unless it has notified the Area Administrator of its desire to intervene within ten (10) days after the initial date of posting of the notice of petition as provided in § 202.4(b) unless good cause is shown for extending the period.

(d) Any labor organization intervening for the purpose of seeking exclusive recognition by an activity or retaining its status as exclusive representative must supply a statement to the Area Administrator that it is in full compliance with the Order and these regulations and that it has submitted to the activity a current roster of its officers and representatives, a copy of its constitution and bylaws and a statement of its objectives.

§ 202.6 Withdrawal, dismissal or deferral of petitions; consolidation of cases.

(a) If the Regional Administrator determines after an investigation that the petition has not been timely filed, that the claimed unit is not appropriate, that the petitioner has not made a sufficient showing of interest or the petition is not otherwise actionable, he may request the party filing such a petition to withdraw the petition or in the absence of such withdrawal within a reasonable time, he may dismiss the petition.

(b) If the Regional Administrator determines, after investigation, that a valid issue has been raised by a challenge under § 202.2(f) and (g), he may take such action as he deems appropriate including a request to the party filing such a petition to withdraw the petition, dismissal of the petition, deferral of action upon the petition until such time as those issues have been resolved pursuant to this part, or consolidation of such issues with the representation matter for a resolution of all issues.

(c) If the Regional Administrator dismisses the petition, he shall furnish the petitioner with a written statement of the grounds for the dismissal, sending a copy of such statement to the activity and any intervenors.

(d) The petitioner may obtain a review of such action by filing a request for review with the Assistant Secretary within ten (10) days of service of the notice of dismissal. Copies of the requested review shall be served on the Regional Administrator and the other parties, and statement of service shall be filed with the request for review. The request shall contain a complete statement setting forth facts and reasons upon which the request is based.

(e) A petitioner who withdraws a petition after the issuance of a notice of hearing and before the close of the hearing or after the approval of an agreement for a consent election shall be barred from filing another petition for the same unit or any subdivision thereof for six (6) months.

§ 202.7 Agreement for consent election.

(a) The parties may stipulate subsequent to the filing of a petition that a secret ballot election shall be conducted and such stipulation shall be filed with the Area Administrator. If the Area Administrator approves the stipulation, the election shall be conducted by the agency or activity as appropriate, under the supervision of the Area Administrator, in accordance with § 202.17, among the employees in an agreed upon appropriate unit, to determine whether the employees desire to be represented for purposes of exclusive recognition by any or none of the labor organizations involved. The parties to such proceedings shall be the agency or activity, the petitioner, and any intervenors who have complied with the requirements set forth in § 202.5.

(b) The parties shall stipulate the eligibility period for participation in the election, the date(s), hour(s), and place(s) of the election, the designations on the ballot and other related election procedures.

(c) In the event that the parties cannot agree on the matters contained in paragraph (b) of this section, the Area Administrator acting on behalf of the Assistant Secretary shall decide these matters.

§ 202.8 Notice of hearing.

The Regional Administrator may cause a notice of hearing to be issued if, after the filing of a petition, the petitioner, the agency or activity, and all intervenors, within the purview of § 202.5 are unable to resolve issues of appropriateness of unit or related matters. A notice of hearing providing at least ten (10) days notice shall be served on all interested parties and shall include:

(a) A statement of the time, place and nature of the hearing;

(b) A statement of the unit claimed by the petitioner to be appropriate;

(c) The name of the agency or activity, petitioner and intervenors, if any;

(d) A statement of the authority and jurisdiction under which the hearing is to be held.

§ 202.9 Conduct of hearing.

(a) Hearings shall be conducted by a Hearing Officer and shall be open to the public unless otherwise ordered by the Hearing Officer. At any time another Hearing Officer may be substituted for the Hearing Officer previously presiding. It shall be the duty of the Hearing Officer to inquire fully into all matters in issue and necessary to obtain a full and complete record upon which the Assistant Secretary may make an appropriate decision. An official reporter shall make the only official transcript of such proceedings. Copies of the official transcript will not be provided to the parties but may be purchased by arrangement with the official reporter or may be examined in the Area Office during normal working hours.

(b) Hearings under this section are considered investigatory and not adversary. Their purpose is to develop a full and complete factual record. The rule of relevancy and materiality are paramount; there are no burdens of proof and the technical rules of evidence do not apply.

(c) The Hearing Officer may continue the hearing from day to day, or adjourn it to a later date or to a different place, by announcement thereof at the hearing or by other appropriate notice.

§ 202.10 Motions.

(a) All motions shall be in writing or, if made at the hearing may be stated orally on the record and shall briefly state the order or relief sought and the grounds for such motion. An original and two copies of written motions shall be filed and a copy thereof simultaneously shall be served on the other parties to the proceedings. Motions made prior to the transfer of the case to the Assistant Secretary shall be filed with the Regional Administrator, with a copy to the Area Administrator, except that motions made during the hearing shall be filed with the Hearing Officer. After the transfer of the case to the Assistant Secretary, all motions shall be filed with the Assistant Secretary. Other parties may file responses to such motions within five (5) days of service. The Regional Administrator may rule upon all motions filed with him, causing a copy of said ruling to be served on the parties, or he may refer the motion to the Hearing Officer: *Provided*, that if the Regional Administrator prior to the close of the hearing grants a motion to dismiss the petition, the petitioner may obtain a

review of such ruling in the manner prescribed in § 202.6(d). The Hearing Officer shall rule, either orally on the record or in writing, upon all motions filed at the hearing or referred to him as hereinabove provided, except that all motions to dismiss petitions shall be referred for appropriate action at such time as the entire record is considered by the Regional Administrator or the Assistant Secretary, as the case may be.

(b) Motions to intervene will not be entertained by the Hearing Officer. Intervention will be permitted only to those who have met the requirements set forth in § 202.5.

(c) All motions, rulings, and orders shall become a part of the record. Rulings by the Regional Administrator or by the Hearing Officer shall be considered by the Assistant Secretary when the case is transferred to him for decision.

(d) The right to make motions or to make objections to rulings on motions shall not be deemed waived by participation in the proceeding.

§ 202.11 Rights of the parties.

(a) Any party shall have the right to appear at any hearing in person, by counsel, or by other representative, and any party shall have power to examine and cross-examine witnesses and to introduce into the record documentary and other evidence. Stipulations of fact may be introduced in evidence with respect to any issue.

(b) Any party shall be entitled, upon request, to a reasonable period at the close of the hearing for oral argument, which shall be included in the stenographic report of the hearing.

§ 202.12 Duties and powers of the Hearing Officer.

It shall be the duty of the Hearing Officer to inquire fully into the facts as they relate to the matter before him. With respect to cases assigned to him between the time he is designated and the transfer of the case to the Assistant Secretary, the Hearing Officer shall have the authority to:

(a) Grant requests for appearance of witnesses or production of records;

(b) Rule upon offers of proof and receive relevant evidence;

(c) Take or cause depositions to be taken whenever the ends of justice would be served thereby;

(d) Limit lines of questioning or testimony which are immaterial, irrelevant or unduly repetitious;

(e) Regulate the course of the hearing and, if appropriate, exclude from the hearing persons who engage in misconduct;

(f) Strike all related testimony of witnesses refusing to answer any questions ruled to be proper;

(g) Hold conferences for the settlement or simplification of the issues by consent of the parties or upon his own motion;

(h) Dispose of procedural requests, motions, or similar matters which shall be made part of the record of the proceeding, including motions referred to the Hearing Officer by the Regional Administrator and motions to amend pleadings;

(i) Examine and cross-examine witnesses and to introduce into the record documentary or other evidence;

(j) Request the parties at any time during the hearing to state their respective positions concerning any issue in the case or theory in support thereof;

(k) Continue, in his discretion, the hearing from day-to-day, or adjourn it to a later or to a different place, by announcement thereof at the hearing or by other appropriate notice;

(l) Take any other action necessary under the foregoing and not prohibited by these regulations.

§ 202.13 Objections to conduct of hearing.

Any objection to the introduction of evidence may be stated orally or in writing and shall be accompanied by a short statement of the grounds of such objection, and included in the record. No such objection shall be deemed waived by further participation in the hearing. Automatic exception will be allowed to all adverse rulings.

§ 202.14 Filing of briefs.

Any party may file a brief with the Assistant Secretary within seven (7) days after the close of the hearing provided, however, that prior to the close of the hearing and for good cause, the Hearing Officer may allow time not to exceed fourteen (14) additional days for the filing of briefs with the Assistant Secretary. Copies thereof shall be served simultaneously on all other parties to the proceeding. Requests for additional time in which to file a brief under authority of this section not addressed to the Hearing Officer during the hearing shall be made to the Regional Administrator, in writing, and copies thereof shall be served simultaneously on the other parties. Requests for extension of time shall be received not later than three (3) days before the date such briefs are due. No reply brief may be filed except by special permission of the Assistant Secretary.

§ 202.15 Transfer of case to Assistant Secretary; contents of record.

Upon the close of the hearing the Hearing Officer shall transfer this case to the Assistant Secretary. The record of the proceeding shall include the petition, notice of hearing, service sheet, motions, ruling, orders, official transcript of the hearing, stipulations, objections, depositions, exhibits, documentary evidence, and any briefs or other documents submitted by the parties.

§ 202.16 Decision.

The Assistant Secretary will issue a decision determining the appropriate unit, and directing an

election, or dismissing the petition, or making other disposition of the matter.

§ 202.17 Election procedure.

This section governs all elections conducted under the supervision of an Area Administrator, pursuant to § 202.7 or § 202.16.

(a) Appropriate notices of election shall be posted by the activity. Such notices shall set forth the details and procedures for the election, the appropriate unit, the eligibility period, the date(s), hour(s), and place(s) of the election and shall contain a sample ballot.

(b) The reproduction of any document purporting to be a copy of the official ballot, other than one completely unaltered in form and content and clearly marked "sample" on its face, which suggests either directly or indirectly to employees that the Assistant Secretary endorses a particular choice, may constitute grounds for setting aside an election upon objections properly filed.

(c) All elections shall be by secret ballot. An exclusive representative shall be chosen by a majority of the valid ballots cast.

(d) Whenever two or more labor organizations are included as choices in an election, any labor organization may request, in writing, the Area Administrator to remove its name from the ballot. The request must be received not later than seven (7) days before the date of the election. Such request shall be subject to the approval of the Area Administrator, whose decision shall be final; provided however, that in a proceeding involving a petition filed under § 202.2(b) an organization currently recognized or certified may not have its name removed from the ballot without giving the aforementioned notice in writing to all parties and the Area Administrator, disclaiming any representation interest among the employees in the unit.

(e) Any party may be represented at the polling place(s) by observers of his own selection, subject to such limitations as the Area Administrator may prescribe.

§ 202.18 Challenged ballots.

Any party or the representative of the Assistant Secretary may challenge, for good cause, the eligibility of any person to participate in the election. The ballots of such challenged persons shall be impounded.

§ 202.19 Tally of ballots.

Upon the conclusion of the election, the Area Administrator shall cause to be furnished to the parties a tally of ballots.

§ 202.20 Objections to election; determination on objections and challenged ballots.

(a) Within five (5) days after the tally of ballots has been furnished, any party may file with the Area Administrator an original and four (4) copies of objections to the conduct of the election or conduct affecting the results of the election, supported by a short statement of the reasons therefore. Such filing must be timely whether or not the challenged ballots are sufficient in number to affect the results of the election. Copies of such objections shall be served simultaneously on the other parties by the party filing them, and a statement of service shall be made.

(b) If no objections are filed within the time set forth above, if the challenged ballots are insufficient in number to affect the results of the election, and if no runoff election is to be held, the Area Administrator shall forthwith issue to the parties a certification of the results of the election, including certification of representative, where appropriate.

(c) If objections are filed to the conduct of the election or conduct affecting the results of the election, or if the challenged ballots are sufficient in number to affect the results of the election, the Area Administrator shall investigate the objections or challenges, or both.

(d) The Area Administrator shall report the essential facts and positions of the parties to the Regional Administrator. Where it appears to the Regional Administrator that the objections or challenged ballots raise any relevant question of fact which may have affected the results of the election, the Regional Administrator shall cause to be issued a notice of hearing designating a Hearing Examiner, to take evidence, make factual findings and recommendations with respect to the objections and/or challenged ballots, and shall report these findings and recommendations to the Assistant Secretary and the parties. The objecting party shall bear the burden of proof regarding all matters alleged in its objections to conduct affecting the results of the election.

(e) When the Regional Administrator determines that no such relevant issue of fact exists, he shall (1) find whether improper conduct occurred which affected the results of the election and indicate his intention to set aside the election, or (2) if the Regional Administrator finds no such improper conduct occurred affecting the election, he shall rule on challenges to ballots, if any. The Regional Administrator shall simultaneously serve any such finding upon all parties to the proceeding and shall include therein any additional pertinent matters such as his intent to rerun the election or count ballots at a specified date, time, and place. When the Regional Administrator determines that no relevant question of fact exists, but that a substantial question of interpretation or policy exists, he shall notify the parties and transfer the case to the Assistant Secretary in accordance with § 205.5(b).

(f) Any party aggrieved by findings and recommendations of a Hearing Examiner or findings of a Regional Administrator with respect to objections to an election or challenged ballots, may obtain a review of such action by the Assistant Secretary by following the procedure set forth in § 202.6(d), which review may include an objection to the failure of the Regional Administrator to direct a hearing on the ground that a relevant question of fact exists.

(g) The Assistant Secretary shall decide whether to adopt or modify the Hearing Examiner's recommendation, whether to grant review of the Regional Administrator's findings, or any substantial issue of interpretation of policy transferred by the Regional Administrator. In accord with the Assistant Secretary's final determinations, the Regional Administrator shall cause to be issued a certification of representative, or a decision setting aside the election or directing the opening and counting of challenged ballots, whichever is appropriate.

§ 202.21 Runoff elections.

(a) The activity shall conduct a runoff election under supervision of the Area Administrator when an election in which the ballot provided for not less than three (3) choices (i.e., at least two representatives and "neither" or "none") results in no choice receiving a majority of the valid ballots cast, and any objections which had been filed have been disposed of, and any challenged ballots have been disposed of or are not sufficient in number to affect the results of the election, as provided herein. Only one runoff election shall be held pursuant to this section.

(b) Employees who were eligible to vote in the original election and who also are in an eligible category on the date of the runoff election shall be eligible to vote in the runoff election.

(c) The ballot in the runoff election shall provide for a selection between the two choices receiving the largest and second largest number of votes.

§ 202.22 Inconclusive elections.

(a) An inconclusive election is one in which none of the choices on the ballot has received a majority of the valid ballots cast. If there are no challenged ballots that would affect the results of the election, the Area Administrator may declare the election a nullity and may order another election, providing for a selection from among the choices afforded in the previous ballot in the following situations:

(1) the ballot provided for a choice among two or more representatives and "neither" or "none," and the votes are equally divided among the several choices;

(2) the number of ballots cast for one choice in an election is equal to the number cast for another choice but less than the number cast for the third choice; or

(3) the runoff ballot provided for a choice between two representatives and the votes are equally divided.

(b) Only one further election pursuant to this section may be held.

PART 203—UNFAIR LABOR PRACTICE PROCEEDINGS

Sec.
203.1 Who may file complaints.
203.2 Action to be taken before filing a complaint with the Assistant Secretary.
203.3 Contents of the complaint.
203.4 Filing and service of copies.
203.5 Investigation of the complaint.
203.6 Action by Regional Administrator.
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203.9 Contents of the notice of hearing.
203.10 Conduct of hearing.
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203.12 Rights of parties.
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203.15 Duties and powers of the Hearing Examiner.
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203.17 Objection to conduct of hearing.
203.18 Motions before or after a hearing.
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203.21 Decision of Hearing Examiner.
203.22 Submission of the Hearing Examiner's report and recommendations to the Assistant Secretary; exceptions.
203.23 Contents of exceptions to Hearing Examiner's report and recommendations.
203.24 Briefs in support of exceptions.
203.25 Action by the Assistant Secretary.
203.26 Compliance with decisions and orders of the Assistant Secretary.

AUTHORITY: The provisions of this PART 203 issued under sec. 6 E.O. 11491, 34 F.R. 17605

§ 203.1 Who may file complaints.

A complaint to the Assistant Secretary that an agency, activity or labor organization has engaged in any act prohibited under section 19 of the Order or has failed to take any action required by the Order, may be filed by an employee, an agency, activity, or a labor organization.

§ 203.2 Action to be taken before filing a complaint with the Assistant Secretary.

Any charge of an alleged unfair labor practice occurring after January 1, 1970, shall be filed directly with the party or parties against whom the charge is directed within six (6) months of the occurrence of the alleged unfair labor practice. The alleged unfair labor practice shall be investigated by the parties involved and informal attempts to resolve the matter shall be made by the parties. If informal attempts are unsuccessful in disposing of the matter within thirty (30) days, (a) the parties may agree to stipulate the facts to the Assistant Secretary and request a decision without a hearing or (b) a party may file a complaint requesting the Assistant Secretary to issue a decision in the matter, provided, however, that a complaint to the Assistant Secretary shall not be considered timely unless filed within nine (9) months of the occurrence of the alleged unfair labor practice or within thirty (30) days of the receipt by the charging party of the final decision, whichever is the shorter period of time.

§ 203.3 Contents of the complaint.

A complaint alleging a violation of section 19 of the Order shall be submitted on forms prescribed by the Assistant Secretary and shall contain the following:

(a) The name, address, and telephone number of the employee, agency or activity or labor organization making the complaint (hereinafter referred to as the complainant);

(b) The name, address, and telephone number of the agency or activity or labor organization against whom the complaint is made (hereinafter referred to as the respondent);

(c) A clear and concise statement of the facts constituting the alleged unfair labor practice, including the time and place of occurrence of the particular acts and a statement of the portion or portions of the Order alleged to have been violated;

(d) A statement of any other procedures invoked involving the subject matter of the complaint and the results, if any, of their invocation including whether the subject matter raised in the complaint has been referred to the Council, Panel, or Federal Mediation and Conciliation Service for consideration or action;

(e) The entire report of investigation by the parties, pursuant to § 203.2, shall be filed with the complaint;

(f) A declaration by the person signing the complaint, under the penalties of the Criminal Code (18 U.S.C. 1001), that its contents are true and correct to the best of his knowledge and belief.

§ 203.4 Filing and service of copies.

(a) An original and four copies of a complaint shall be filed with the Area Administrator for the area in which the alleged unfair labor practice occurred or if it occurred in two or more areas, the complaint shall be filed with the Area Administrator for the area in which the headquarters of the respondent is located.

(b) Simultaneously with the filing of a complaint and the parties' report of investigation, copies shall be served by the complainant on the respondent, and a written statement of such service shall be furnished to the Area Administrator.

§ 203.5 Investigation of the complaint.

Upon the filing of a complaint the Area Administrator shall make such additional investigation as he deems necessary, and shall report the essential facts, the positions of the parties, and any offers of settlement to the Regional Administrator.

§ 203.6 Action by Regional Administrator.

The Regional Administrator shall take appropriate measures which may consist of the approval of a withdrawal request or dismissal of the complaint, approval of a satisfactory offer of settlement, or the issuance of a notice of hearing.

§ 203.7 Withdrawal or dismissal of complaint.

(a) If the Regional Administrator determines that the complaint has not been timely filed, that a reasonable basis for the complaint has not been established, or that a satisfactory offer of settlement has been made, he may request the complainant to withdraw the complaint or in the absence of such withdrawal, within a reasonable time, he may dismiss the complaint.

(b) If the Regional Administrator dismisses the complaint, he shall furnish the complainant with a written statement of the grounds for dismissal, sending a copy of the statement to the respondent. If the dismissal is based on approval of an offer of settlement which is satisfactory to the Regional Administrator, such statement shall set forth the terms of settlement and the implementation thereof.

(c) The complainant may obtain a review of such action by filing a request for review with the Assistant Secretary within ten (10) days of service of such notice of dismissal and simultaneously serving a copy of such request on the Regional Administrator and the respondent. Statement of service shall be filed with the Assistant Secretary. The request for review shall contain a complete statement setting forth facts and reasons upon which the request is based.

§ 203.8 Notice of hearing.

The Regional Administrator may cause a notice of hearing to be issued if, after the filing of a complaint, he finds, based on the allegations and the report of investigation by the parties and any additional investigation by the Area Administrator, which has been reported to the parties, that there

is a reasonable basis for the complaint and that no satisfactory offer of settlement has been made.

§ 203.9 Contents of the notice of hearing.

(a) The notice of hearing shall include:

(1) A copy of the complaint;

(2) A statement of the time and place of the hearing which shall be not less than ten (10) days after service of the notice of hearing, except in extraordinary circumstances;

(3) A statement of the nature of hearing;

(4) A statement of the authority and jurisdiction under which the hearing is to be held;

(5) A reference to the particular sections of the Order and regulations involved.

(b) The reports of investigation referred to in § 203.8 shall be furnished to the Hearing Examiner.

§ 203.10 Conduct of hearing.

(a) Hearings shall be conducted by a Hearing Examiner and shall be open to the public unless otherwise ordered by the Hearing Examiner.

(b) An official reporter shall make the only official transcript of such proceedings. Copies of the official transcript will not be provided to the parties but may be purchased by arrangement with the official reporter or may be examined in the Area Office during normal working hours.

§ 203.11 Intervention.

Any person desiring to intervene in any proceeding shall file a motion in writing or, if made at the hearing, may move orally on the record, stating the grounds upon which such person claims an interest. Prior to the hearing, such a motion shall be filed with the Regional Administrator issuing the notice of hearing; during the hearing such motion shall be made to the Hearing Examiner. An original and two copies of written motions shall be filed. Simultaneously upon filing such motion, the moving party shall serve a copy thereof on the other parties. The Regional Administrator shall rule upon all such motions filed prior to the hearing, and shall cause a copy of such rulings to be furnished to the other parties, or may refer the motion to the Hearing Examiner for ruling. The Hearing Examiner shall rule upon all such motions made at the hearing or referred to him by the Regional Administrator.

When the Hearing Examiner rules, before the hearing, on a motion referred to him by the Regional Administrator, he shall furnish copies of such ruling to the parties. The Regional Administrator or Hearing Examiner, as the case may be, may permit intervention in person or by counsel or other representative to such extent and upon such terms as he may deem proper.

§ 203.12 Rights of parties.

Any party shall have the right to appear at such hearing in person, by counsel, or by other representative, to examine and cross-examine witnesses, and to introduce into the record documentary or other relevant evidence, except that the participation of any party shall be limited to the extent prescribed by the Hearing Examiner; and provided further, that two (2) copies of documentary evidence shall be submitted.

§ 203.13 Rules of evidence.

The technical rules of evidence do not apply. Any evidence may be received, except that a Hearing Examiner may exclude any evidence or offer of proof which is immaterial, irrelevant, unduly repetitious or customarily privileged. Every party shall have a right to present his case by oral and documentary evidence and to submit rebuttal evidence.

§ 203.14 Burden of proof.

A complainant in asserting a violation of the Order shall have the burden of proving the allegations of the complaint by a preponderance of the evidence.

§ 203.15 Duties and powers of the Hearing Examiner.

It shall be the duty of the Hearing Examiner to inquire fully into the facts as they relate to the matter before him. Upon assignment to him and before transfer of the case to the Assistant Secretary, the Hearing Examiner shall have the authority to:

(a) Grant requests for appearance of witnesses or production of documents;

(b) Rule upon offers of proof and receive relevant evidence;

(c) Take or cause depositions to be taken whenever the ends of justice would be served thereby;

(d) Limit lines of questioning or testimony which are immaterial, irrelevant, or unduly repetitious.

(e) Regulate the course of the hearing and, if appropriate, exclude from the hearing persons who engage in misconduct and strike all related testimony of witnesses refusing to answer any questions ruled to be proper;

(f) Hold conferences for the settlement or simplification of the issues by consent of the parties or upon his own motion;

(g) Dispose of procedural requests, motions, or similar matters which shall be made part of the record of the proceeding, including motions referred to the Hearing Examiner by the Regional Administrator and motions to amend pleadings, also to recommend dismissal of cases or portions thereof, and to order hearings reopened prior to issuance of the Hearing Examiner's report and recommendations;

(h) Examine and cross-examine witnesses and to introduce into the record documentary or other evidence;

(i) Request the parties at any time during the hearing to state their respective positions concerning any issue in the case or theory in support thereof;

(j) Continue, at his discretion, the hearing from day-to-day, or adjourn it to a later date or to a different place, by announcement thereof at the hearing or by other appropriate notice;

(k) Prepare, serve and submit his report and recommendations pursuant to § 203.22.

(l) Take official notice of any material fact not appearing in evidence in the record, which is among the traditional matters of judicial notice and also concerning which the Department by reason of its functions is presumed to be expert; *Provided*, that the parties shall be given adequate notice, at the hearing or by reference in the Hearing Examiner's decision of the matters so noticed and shall be given adequate opportunity to show the contrary.

(m) Take any other action necessary under the foregoing and not prohibited by these regulations.

§ 203.16 Unavailability of Hearing Examiners.

In the event the Hearing Examiner designated to conduct the hearing becomes unavailable, the Chief Hearing Examiner shall designate another Hearing Examiner for the purpose of further hearing or issuance of a report and recommendations on the record as made, or both.

§ 203.17 Objection to conduct of hearing.

(a) Any objection with respect to the conduct of the hearing, including any objection to the introduction of evidence, may be stated orally or in writing accompanied by a short statement of the grounds for such objection, and included in the record. No such objection shall be deemed waived by further participation in the hearing. Such objection shall not stay the conduct of the hearing.

(b) Automatic exceptions will be allowed to all adverse rulings. Rulings by the Hearing Examiner shall not be appealed prior to the transfer of the case to the Assistant Secretary, but shall be considered by the Assistant Secretary only upon the filing of exceptions to the Hearing Examiner's report and recommendations in accordance with § 203.22.

§ 203.18 Motions before or after a hearing.

(a) All motions made before a hearing shall be made in writing to the Regional Administrator. All motions made after the transfer of the case to the Assistant Secretary shall be made in writing to the Assistant Secretary. The moving party shall serve simultaneously a copy of all motion papers on all other parties. A statement of service shall accompany the motion. Answering affidavits, if any, must be served on all parties and the original thereof, together with two (2) copies and statement of service, shall be filed with the Regional Administrator before the hearing or the Assistant Secretary after the hearing, within five (5) days after service of the moving papers unless it is otherwise directed.

(b) The Regional Administrator may rule upon all motions filed with him, causing a copy of such ruling to be served on the parties, or he may refer such motions to the Hearing Examiner or Chief Hearing Examiner. Rulings by the Regional Administrator shall not be appealed prior to the transfer of the case to the Assistant Secretary, but shall be considered by the Assistant Secretary when the case is transferred to him for decision.

§ 203.19 Waiver of objections.

Any objection not duly urged before a Hearing Examiner shall be deemed waived.

§ 203.20 Oral argument at the hearing.

Any party shall be entitled, upon request, to a reasonable period prior to the close of the hearing for oral argument, which shall be included in the official transcript of the hearing.

§ 203.21 Filing of brief.

Any party desiring to submit a brief to the Hearing Examiner shall file the original and one copy within seven (7) days after the close of the hearing: Provided, however, that prior to the close of the hearing and for good cause, the Hearing Examiner may grant a reasonable extension of time. Copies thereof shall be served simultaneously on all other parties to the proceeding. Requests for additional time in which to file a brief under authority of this section not addressed to the Hearing Examiner during the hearing shall be made to the Chief Hearing Examiner, in writing, and copies thereof shall be served simultaneously on the other parties. A statement of such service shall be furnished. Requests for extension of time shall be received not later than three (3) days before the date such briefs are due. No reply brief may be filed except by special permission of the Hearing Examiner.

§ 203.22 Submission of the Hearing Examiner's report and recommendations to the Assistant Secretary; exceptions.

(a) After the close of the hearing, and the receipt of briefs, if any, the Hearing Examiner shall prepare his report and recommendations expeditiously. The report and recommendations shall contain findings of fact, conclusions, and the reasons or basis therefor including credibility determinations, and recommendations as to the disposition of the case including, where appropriate, the remedial action to be taken and notices to be posted.

(b) The Hearing Examiner shall cause his report and recommendations to be served promptly on all parties to the proceeding. Thereafter, the

Hearing Examiner shall transfer the case to the Assistant Secretary including his report and recommendations and the record. The record shall include the complaint, notice of hearing, service sheet, motions, rulings, orders, official transcript of the hearing, stipulations, objections, depositions, exhibits, documentary evidence and any briefs or other documents submitted by the parties.

(c) An original and two (2) copies of any exceptions to the Hearing Examiner's report and recommendations may be filed by any party with the Assistant Secretary within ten (10) days after service of the report and recommendations; *Provided,* however, that the Assistant Secretary may for good cause shown extend the time for filing such exceptions. Requests for additional time in which to file exceptions shall be in writing, and copies thereof shall be served simultaneously on the other parties. Requests for extension of time must be received no later than three (3) days before the date the exceptions are due. Copies of such exceptions and any supporting briefs shall be served simultaneously on all other parties, and a statement of such service shall be furnished to the Assistant Secretary.

§ 203.23 Contents of exceptions to Hearing Examiner's report and recommendations.

(a) Exceptions to a Hearing Examiner's report and recommendations shall:

(1) Set forth specifically the questions upon which exceptions are taken;

(2) Identify that part of the Hearing Examiner's report to which objection is made;

(3) Designate by precise citation of page the portions of the record relied on, state the grounds for the exceptions, and include the citation of authorities unless set forth in a supporting brief.

(b) Any exception to a ruling, finding, conclusion, or recommendation which is not specifically urged shall be deemed to have been waived. Any exception which fails to comply with the foregoing requirements may be disregarded.

§ 203.24 Briefs in support of exceptions.

(a) Any brief in support of exceptions shall contain only matters included within the scope of the exceptions and shall contain, in the order indicated, the following:

(1) A concise statement of the case containing all that is material to the consideration of the questions presented;

(2) A specification of the questions involved and to be argued;

(3) The argument, presenting clearly the points of fact and law relied on in support of the position taken on each question, with specific page reference to the transcript and the legal or other material relied on.

(b) Answering briefs to the exceptions and cross-exceptions and supporting briefs may be filed at the discretion of the Assistant Secretary.

§ 203.25 Action by the Assistant Secretary.

After considering the Hearing Examiner's report and recommendations, the record, and any exceptions filed, the Assistant Secretary shall issue his decision affirming or reversing the Hearing Examiner, in whole or in part, or making such other disposition of the matter as he deems appropriate.

(a) Upon finding a violation of the Order the Assistant Secretary may order the respondent to cease and desist from conduct violative of the Order and may require the respondent to take such affirmative corrective action as he deems appropriate to effectuate the policies of the Order.

(b) Upon finding no violation of the Order, the Assistant Secretary shall dismiss the complaint.

(c) The Assistant Secretary may refer cases or any issue(s) therein involving major policy questions to the Council for decision or general ruling in accordance with its regulations.

§ 203.26 Compliance with decisions and orders of the Assistant Secretary.

When remedial action is ordered, the respondent shall report to the Assistant Secretary, within a specified period that the required remedial action has been effected. When the Assistant Secretary finds that the required remedial action has not been effected, he may order cancellation of dues deduction, withdrawal of recognition or referral to the Council as appropriate.

PART 204 – STANDARDS OF CONDUCT FOR LABOR ORGANIZATIONS [RESERVED]

PART 205 – MISCELLANEOUS

Sec.
205.1 Computation of time for filing papers.
205.2 Additional time after service by mail.
205.3 Documents in a proceeding.
205.4 Service of pleading and other papers under this chapter.
205.5 Transfer of case to Assistant Secretary.
205.6 Request for appearance of witnesses and production of documents at hearing.
205.7 Rules to be liberally construed.
205.8 Petitions for amendment of regulations.

AUTHORITY: **The provisions of this PART 205 issued under sec. 6, 18, E.O. 11491, 34 F.R. 17605.**

§ 205.1 Computation of time for filing papers.

In computing any period of time prescribed by or allowed by these regulations, the day of the

act, event, or default after which the designated period of time begins to run, shall not be included. The last day of the period so computed is to be included unless it is a Saturday, Sunday or Federal legal holiday in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, or a Federal legal holiday. When the period of time prescribed, or allowed is less than seven (7) days, intermediate Saturdays, Sundays, and Federal legal holidays shall be excluded from the computations. When these regulations require the filing of any paper, such document must be received by the Assistant Secretary or the officer or agent designated to receive such matter before the close of business of the last day of the time limit, if any, for such filing or extension of time that may have been granted.

§ 205.2 Additional time after service by mail.

Whenever a party has the right or is required to do some act pursuant to these regulations within a prescribed period after service of a notice or other paper upon him and the notice or paper is served on him by mail, three (3) days shall be added to the prescribed period, provided, however, that three (3) days shall not be added if any extension of time may have been granted.

§ 205.3 Documents in a proceeding.

(a) Title. Documents in any proceeding under these regulations including correspondence shall show the title of the proceeding and the case number, if any.

(b) Number of copies; form. Except as otherwise provided in these regulations any documents or papers shall be filed with four (4) copies in addition to the original. All matters filed shall be printed, typed, or otherwise legibly duplicated; carbon copies of typewritten matter will be accepted if they are clearly legible.

(c) Signature. The original of each document required to be filed under these regulations shall be signed by the party or by an attorney or representative of record for the party, or by an officer of the party and shall contain the address and telephone number of the person signing it.

§ 205.4 Service of pleading and other papers under this chapter.

(a) Method of service. Notices of hearing, decisions, orders and other papers may be served personally or by registered or certified mail or by telegraph.

(b) Upon whom served. All papers except complaints, petitions and papers relating to requests for appearance of witnesses or production of documents shall be served upon all counsel of record and upon parties not represented by counsel or by their agents designated by them or by law and upon the Assistant Secretary, or his designated officer or agent or examiner, where appropriate. Service upon such counsel or representative shall constitute service upon the party, but a copy also shall be transmitted to the party.

(c) Statement of service. The party or person serving the papers or process shall submit simultaneously to the Assistant Secretary or other designated representative, or to the individual conducting the proceeding, a written statement of such service; failure to file a statement of service shall not affect the validity of the service. Proof of service shall be required only if subsequent to the receipt of a statement of service a question is raised with respect to proper service.

§ 205.5 Transfer of case to Assistant Secretary.

(a) In any case under parts 202 and 203 in which the Regional Administrator determines that no material issue of fact exists, he may transfer the case to the Assistant Secretary who shall decide the case on the basis of the papers alone after having allowed ten (10) days for the filing of briefs and/or requests for review of the Regional Administrator's action; or the Assistant Secretary may remand the case to the Regional Administrator if he determines that material fact questions exist. Orders of transfer and remand shall be served on all parties.

(b) In any case under parts 202 and 203 in which it appears to the Regional Administrator that the proceedings raise questions which should be decided by the Assistant Secretary, he may, at any time, issue an order transferring the case to the Assistant Secretary for decision or other appropriate action. Such an order shall be served on the parties.

§ 205.6 Request for appearance of witnesses and production of documents at hearing.

The Regional Administrator, Hearing Officer or Hearing Examiner as appropriate may request the attendance of witnesses and the production of documents at a hearing held pursuant to this chapter. A party may file a written application for such request with the Regional Administrator before the opening of a hearing or with a Hearing Officer or Hearing Examiner during the hearing. The application for request shall name and identify the witness or the documents sought, or both, and the reason therefor.

Notice of an application for request need not be communicated to the parties. The Regional Administrator, Hearing Officer or Hearing Examiner shall grant the request provided the anticipated testimony or documents appear to be reasonably related to the matters under investigation and describes with sufficient particularity the documents sought. If the Regional Administrator, Hearing Officer or Hearing Examiner denies such request he shall set forth the basis for his ruling, which shall become a part of the record.

Upon the failure of any party or officer of any party to comply with such a request the Regional Administrator, the Hearing Officer, Hearing Examiner, or the Assistant Secretary may disregard all related evidence offered by the party failing to produce such evidence.

§ 205.7 Rules to be liberally construed.

(a) The regulations in this chapter shall be liberally construed to effectuate the purpose and provisions of the Order.

(b) When an act is required or allowed to be done at or within a specified time the Assistant Secretary may at any time order the period altered where it shall be manifest that strict adherence will work surprise or injustice or interfere with the proper effectuation of the Order.

§ 205.8 Petitions for amendment of regulations.

Any interested person may petition the Assistant Secretary in writing for amendments to any portion of these regulations. Such petition shall identify the portion of the regulations involved and provide the specific language of the proposed amendment together with a statement of grounds in support of such petition.

Effective date. This chapter shall become effective on the date of its publication in the Federal Register.

Signed at Washington, D.C. this
28th day of January, 1970.

/s/ W. J. Usery, Jr.
W. J. Usery, Jr.
Assistant Secretary of Labor
for Labor-Management Relations

Publication Date: This chapter was published in the *Federal Register* February 4, 1970.

DEPARTMENT OF LABOR

Labor-Management Services Administration Addresses and Jurisdiction of Regional and Area Administrators

In Chapter II of Title 29 of the Code of Federal Regulations, which is published in the Federal Register on this date, there are various references to the duties of Regional and Area Administrators. Set forth below is a listing of the addresses and jurisdiction of the Regional and Area Administrators.

(a) The addresses of the Regional Administrators and Area Administrators of the Labor-Management Services Administration are listed below:

(1) Regional Administrator - Atlanta
Room 323
1371 Peachtree St., NE.
Atlanta, Ga. 30309
- (i) Area Administrator - Atlanta
  Room 317
  1371 Peachtree St., NE.
  Atlanta, Ga. 30309
- (ii) Area Administrator - Miami
  Room 1517
  51 SW. First Ave.
  Miami, Fla. 33130
- (iii) Area Administrator - Nashville
  786 U.S. Court House Bldg.
  801 Broadway
  Nashville, Tenn. 37203

(2) Regional Administrator - Chicago
770 Federal Office Bldg.
219 S. Dearborn St.
Chicago, Ill. 60604
- (i) Area Administrator - Chicago
  773 Federal Office Bldg.
  219 S. Dearborn St.
  Chicago, Ill. 60604
- (ii) Area Administrator - Cleveland
  821 Federal Office Bldg.
  1240 E. 9th St.
  Cleveland, Ohio 44199
- (iii) Area Administrator - Detroit
  1906 Washington Boulevard Bldg.
  234 State St.
  Detroit, Mich. 48226
- (iv) Area Administrator - Minneapolis
  110 Federal Courts Bldg.
  110 S. Fourth St.
  Minneapolis, Minn. 55401

(3) Regional Administrator - Kansas City
2511 Federal Office Bldg.
911 Walnut St.
Kansas City, Mo. 64106
- (i) Area Administrator - Dallas
  Rooms 1005-1006
  1416 Commerce St.
  Dallas, Tex. 75201
- (ii) Area Administrator - Denver
  323 New Custom House
  721 19th St.
  Denver, Colo. 80202
- (iii) Area Administrator - Kansas City
  2503 Federal Office Bldg.
  911 Walnut St.
  Kansas City, Mo. 64106
- (iv) Area Administrator - New Orleans
  940 Federal Office Bldg.
  600 South St.
  New Orleans, La. 70130

(v) Area Administrator - St. Louis
4919 Federal Office Bldg.
1520 Market St.
St. Louis, Mo. 63103

(4) Regional Administrator - New York
233 West 49th St.
New York, N.Y. 10019
(i) Area Administrator - Boston
E-329 John F. Kennedy Federal Bldg.
Government Center
Boston, Mass. 02203
(ii) Area Administrator - Buffalo
435 Federal Bldg.
121 Ellicott St.
Buffalo, N.Y. 14203
(iii) Area Administrator - Newark
635 Federal Bldg.
970 Broad St.
Newark, N.J. 07102
(iv) Area Administrator - New York
233 W. 49th St.
New York, N.Y. 10019
(v) Area Administrator - Santurce
706 San Alberto Condominium
1200 Ponce de Leon Ave.
Santurce, Puerto Rico 00907

(5) Regional Administrator - Philadelphia
710 Penn Square Bldg.
1317 Filbert St.
Philadelphia, Pa. 19107
(i) Area Administrator - Philadelphia
704 Penn Square Bldg.
1317 Filbert St.
Philadelphia, Pa. 19107
(ii) Area Administrator - Pittsburgh
2002 Federal Office Bldg.
1000 Liberty Ave.
Pittsburgh, Pa. 15222
(iii) Area Administrator - Washington, D.C.
509 Vanguard Bldg.
1111 - 20th St., N.W.
Washington, D.C. 20210

(6) Regional Administrator - San Francisco
10140 Federal Office Bldg.
450 Golden Gate Ave.
San Francisco, Calif. 94102
(i) Area Administrator - Honolulu
Room 601
1833 Kalakaua Ave.
Honolulu, Hawaii 96815
(ii) Area Administrator - Los Angeles
7731 Federal Bldg.
300 N. Los Angeles St.
Los Angeles, Calif. 90012
(iii) Area Administrator - San Francisco
9403 Federal Office Bldg.
450 Golden Gate Ave.
San Francisco, Calif. 94102
(iv) Area Administrator - Seattle
3301 Smith Tower Bldg.
506 Second Ave.
Seattle, Wash. 98104

(b) The geographic jurisdictions of the Regional Administrators and Area Administrators of the Labor-Management Services Administration are listed below:

REGIONAL AND AREA ADMINISTRATORS JURISDICTION

State	Area	Regional
Alabama	Atlanta	Atlanta
Alaska	Seattle	San Francisco
Arizona	Los Angeles	San Francisco
Arkansas	New Orleans	Kansas City
California	Los Angeles/ San Francisco	San Francisco

(San Francisco includes following California counties: Monterey, Kings, Tulare, Inyo and all counties north thereof—also includes all of Nevada except Clark County which is in the Los Angeles jurisdiction.)

Colorado	Denver	Kansas City
Connecticut	Boston	New York City
Delaware	Philadelphia	Philadelphia
District of Columbia	Washington, D.C.	Philadelphia
Georgia	Atlanta	Atlanta
Guam, Wake Island, American Samoa	Honolulu	San Francisco
Hawaii	Honolulu	San Francisco
Idaho	Seattle	San Francisco
Illinois	Chicago	Chicago
Indiana	Chicago	Chicago
Iowa	St. Louis	Kansas City
Kansas	Kansas City	Kansas City
Kentucky	Nashville	Atlanta
Louisiana	New Orleans	Kansas City
Maine	Boston	New York City
Maryland	Washington, D.C.	Philadelphia
Massachusetts	Boston	New York
Michigan	Detroit	Chicago
Minnesota	Minneapolis	Chicago
Mississippi	Nashville	Atlanta
Missouri	Kansas City/ St. Louis	Kansas City

(St. Louis includes following Missouri counties: Putnam, Sullivan, Linn, Chariton, Saline, Pettis, Benton, Hickory, Polk, Greene, Christian, Stone and all counties east thereof.)

Montana	Denver	Kansas City
Nebraska	Kansas City	Kansas City
Nevada	San Francisco (Except Clark County which is in Los Angeles jurisdiction)	San Francisco
New Hampshire	Boston	New York City
New Jersey	Newark	New York City
New Mexico	Dallas	Kansas City
New York	New York City/ Buffalo	New York City

(New York City includes following New York counties: Ulster, Sullivan, Greene, Columbia and all counties south thereof.)

North Carolina	Atlanta	Atlanta
North Dakota	Kansas City	Kansas City
Ohio	Cleveland	Chicago
Oklahoma	Dallas	Kansas City
Oregon	Seattle	San Francisco
Pennsylvania	Philadelphia/ Pittsburgh	Philadelphia

(Pittsburgh includes following Pennsylvania counties: Potter, Clinton, Centre, Mifflin, Huntingdon, Franklin and all counties west thereof.)

Puerto Rico	Santurce	New York City
Rhode Island	Boston	New York City
South Carolina	Atlanta	Atlanta
South Dakota	Kansas City	Kansas City
Tennessee	Nashville	Atlanta
Texas	Dallas	Kansas City
Utah	Denver	Kansas City
Vermont	Boston	New York City
Virginia	Washington, D.C.	Philadelphia
Washington	Seattle	San Francisco
West Virginia	Pittsburgh	Philadelphia
Wisconsin	Minneapolis/ Chicago	Chicago

(Chicago includes following Wisconsin counties: Vernon, Columbia, Sauk, Dodge, Fond Du Lac, Sheboygan and all counties south thereof.)

Wyoming	Denver	Kansas City
Virgin Islands	Santurce	New York City
Canal Zone	Santurce	New York City
All overseas installations except Virgin Islands, Canal Zone, Guam, Wake Island and American Samoa.	Washington, D.C.	Philadelphia

Signed at Washington, D.C.
this 28th day of January 1970.

Public Date:
This chapter was published in the
Federal Register February 4, 1970

/s/ W. J. Usery, Jr.
Assistant Secretary of Labor for
Labor-Management Relations

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NRD
NEGOTIATION RESEARCH DIGEST

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NATIONAL EDUCATION ASSOCIATION

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1968-69 Edition

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Address communications regarding the DIGEST to Donald P. Walker, Chief, Negotiation Research Unit, or Ann T. McLaren, Staff Associate, Research Division, National Education Association. 1201 Sixteenth Street, N. W., Washington, D. C. 20036.

Case Reviews

IOWA

STATE SUPREME COURT UPHOLDS BARGAINING AUTHORITY OF REGENTS

The Iowa Supreme Court modified and affirmed a trial court decision involving the Iowa State Board of Regents by defining the term "collective bargaining" in the "full industrial sense." Determining that the trial court "treated collective bargaining as meeting with and discussing wages, working conditions and grievances rather than the full industrial sense," the high court modified the earlier decision "only insofar as we have attempted to spell out in more detail the limitations on the power of the Board of Regents in this particular area."

The case originally arose when University of Northern Iowa physical plant employees who belonged to the United Packing House Food and Allied Workers of America, AFL-CIO, Local 1258, went on strike against the regents (administrative authority over the university), and established picket lines. Following the February 20, 1968, strike, the regents brought an action in the Black Hawk District Court (reported in the October 1969 DIGEST) which eventually resulted in the issuance of a permanent injunction

> enjoining and restraining the defendants, and each of them individually and collectively from engaging in a strike or concerted work stoppage against the University of Northern Iowa and from picketing on or near the campus or in the vicinity of the campus . . . in furtherance of any strike or concerted work stoppage or for the purpose of coercing plaintiff to bargain collectively with the defendant union Local No. 1258 . . . except that nothing contained herein shall be deemed to prevent informational picketing which in no way interferes with or impedes the operation of the University of Northern Iowa.

The regents appealed that portion of the lower court's order which held that the board had "the power to enter into collective bargaining and collective bargaining agreements" (reported in the October 1968 DIGEST). And Local 1258 cross-appealed that portion of the injunctive order prohibiting it from picketing for any purpose other than informational.

According to the high court, three propositions "are accepted as the law of the case":

1. Public employees have the right to organize and join labor organizations.
2. Public employees do not have the right to strike.
3. Defendants have the right to picket for informational purposes if the picketing does not interfere with or impede the operation of the university.

In addition, the court determined that the power and authority of the regents to bargain collectively with the union depend upon how the term "collective bargaining" is defined. Local 1258 acknowledged that no specific legislation gave the regents such authority, but claimed that such authority

> is necessarily implied [under the rule of statutory construction] in section 262.9(2)(4)(7)(11), Code of Iowa which gives the Regents the general power to hire employees, fix their salaries and wages, direct the expenditure of money and to perform all other acts necessary and proper for the execution of the powers and duties conferred by law upon it.

However, the high court held that

> there is a vast difference between implying authority in the Regents to meet with selected representatives of a group of employees to discuss wages, working conditions and grievances on behalf of those who have agreed to such representation and implying authority in the Regents to recognize the union as the exclusive employee representative for collective bargaining on behalf of all employees.

Explaining that collective bargaining agreements "in the industrial sense . . . almost without exception . . . include a provision making the union the exclusive bargaining agent," the high court held:

> We cannot imply [the authority of the regents] under these general powers to agree to exclusive representation, depriving other employees of the right to be represented by a group of their choosing or an individual the right to represent himself . . . . The power to fix the terms and conditions of public employment is a legislative function which, with proper guidelines from the legislature, can be delegated to its administrative agencies.

In the absence of specific legislation granting public employees "the advantages of collective bargaining in the full sense as it is used in private industry," the high court established that the board of regents has the authority to bargain collectively *only within the context of* its

> power and authority to meet with representatives of an employee's union to discuss wages, working conditions and grievances *if it so desires* [emphasis added]. It can do so without becoming obligated to meet with the representatives of any other group of employees. The agreed terms could be adopted by the Regents in a proper legislative manner. Such action does not involve an im-

proper delegation of legislative powers to private persons as there is no compulsion to sign an agreement and the final decision remains in the Board of Regents.

Moreover, the high court held that *within this context* "we can see no reason why the Regents, if they so desire, could not enter into one written contract with the union binding all members of the union agreeing to such representation as long as the terms of the contract are within the statutory authority of the board and contain no terms of employment which could not be included in a standardized contract for individual employees."

In considering that portion of the trial court's order which was cross-appealed by the union, the high court upheld the earlier decision, explaining,

> We have heretofore held that the Board of Regents has no authority to enter into collective bargaining or collective bargaining agreements in the industrial context. We have also held the Board of Regents may voluntarily meet and consult with representatives of groups of employees to discuss wages, working conditions and grievances. The decision whether to do so or not remains that of the Board of Regents. Therefore, any picketing to coerce the Board of Regents to bargain collectively against its better judgment would either be illegal, against public policy or both.

In a specially concurring minority opinion, two high court justices argued that "the issues of exclusive bargaining and mandatory recognition of multiple bargaining agencies [as ruled upon in the majority opinion] are not in this case." The minority pointed out that "nothing in the record indicates the defendants contend they must be recognized as the *exclusive* bargaining agent," that the trial court's decision was silent on the matter, that the various briefs filed by plaintiff and defendant were also silent on the subject, and that the three amicus curiae briefs filed in the appeal "repeatedly" note that defendant's right to bargain exclusively was not at issue.

Given, however, the fact that "the opinion and concurrence are written on a point not argued," the minority disagreed

> that public collective bargaining must be interpreted to prohibit exclusive bargaining with one recognized agency. Within limits, this court can tell an administrative agency what it can and cannot do under the law. But we cannot, and normally do not, attempt to tell the agency *how* to do what it can do.
>
> This is what we are doing here. We say they may bargain collectively but they may not bargain exclusively. In the same breath we say the agency has the right to refrain from bargaining with any groups of employees it chooses. The positions are inconsistent. If the agency can recognize one group and refuse to bargain with all others isn't it bargaining exclusively? . . . As a practical matter we are placing public agencies in an impossible position.
>
> One of the phrases most often used in the majority opinion is "collective bargaining in the industrial sense." There is an implication that if the employee's bargaining unit is recognized as an exclusive agent there is collective bargaining "in an industrial sense." This is not true. The legal right to strike has been eliminated. The *legal necessity* to bargain has been eliminated. The *right* to deal with nonunion individuals is preserved. The open shop—as it is commonly known—is preserved. So that even if the public agency finds it more efficient—or even necessary—to bargain exclusively, there are many factors which remove the process from bargaining "in the industrial sense." If this phrase is a short-handed way of making a point it is an oversimplification that commands a poor result.

(*State Board of Regents, State of Iowa, Appellant v. United Packing House, Food and Allied Workers, Local 1258, affiliated with United Packing House Workers of America, AFL-CIO, et al., Appellees,* Iowa Supreme Court, February 10, 1970.)

NEW JERSEY

SCHOOL BOARD MAY NOT AMEND BUDGET TO PROVIDE SALARY INCREASES ONCE BUDGET HAS BEEN ADOPTED

The New Jersey Superior Court of Essex County denied the Newark Teachers Association (NTA) a motion for summary judgment in a case which grew out of a February 1969 salary impasse between the NTA and the Newark education board. In ruling upon a four-count complaint brought by the NTA against the Newark board and others in an attempt to implement new salary schedules for teachers and other nonprofessional employees prior to the 1969-70 school year, the court determined that

> a basic question in this case . . . is whether the Board was empowered to require the board of school estimate [composed of two education board members, two members of the governing body of the municipality, and the mayor] to certify to the City and to require the City to raise and pay over to the Board the amount of money necessary to meet increases in salaries granted by the Board to all employees during a current school year, no provision for any of which had been made in the Board's annual budget for that year.

According to a three-year contract negotiated between the NTA and the Newark board and effective through February 1, 1970, the NTA was granted the right "by written request made after December 1 of each year of the contract to negotiate with the Board over all budget items concerning teachers' salaries and other related matters in the school budget for the following fiscal year." However, such negotiations were to end on February 1 of each year, the statutory date for submission of the school budget to the board of school estimate. The NTA and the Newark board accordingly entered negotiations on teachers' salaries and salary schedule revisions in December 1968. Negotiations continued until the February 1, 1969, cutoff date, at which time the board submitted a budget of $65,000,000

for the year beginning July 1, 1969, to the board of school estimate; this budget provided no increases in the existing salary schedules (reported in the March 1970 DIGEST).

In keeping with the statutory plan for determining and eventually funding the annual budget of a type I school district, the board of school estimate held a public hearing on the budget, and by February 15 publicly fixed and determined the amount of money necessary to be appropriated for the ensuing year at $63,000,000. This amount then was certified to the Newark board and the city of Newark, which has the statutory power to appropriate the amount certified and include that amount in its tax ordinance, *if* that amount does not exceed 1½ percent of the assessed valuation of the municipality's ratables. As the certified amount exceeded this limitation and therefore was not binding upon the city without its consent, the city reduced the budget to $61,000,000. However, it ultimately approved a budget of $63,000,000.

After the budget was approved, the NTA requested mediation of its dispute with the Newark board (according to provisions of the state's negotiation statute); when mediation proved unsuccessful, a fact-finder was appointed. Both the mediator and the fact-finder recommended specific salary increases and revisions in the salary schedules, which resulted in a resolution adopted by the Newark board on August 5, 1969:

> Whereas, the Board deems that salary increases for all its employees are both warranted and necessary for the best interests of this school district, and
>
> Whereas, in order to implement this policy, I hereby move that the Board adopt the following salary schedules, the effective date of both this policy and salary schedules to be the date of receipt of a proper appropriation or the receipt of funds from such other sources which may be available for the implementation of this policy .... Resolved that the Board of School Estimate be asked for an appropriation of $4,700,000 to implement the salary schedules.

The Newark board submitted its resolution and a statement of the money requested to the board of school estimate. On August 13, 1969, the board of school estimate rejected the request by not determining the amount necessary to implement the new salary schedules, and therefore not certifying any amount to the city as required by statute. The NTA consequently entered a September 8 action in superior court seeking summary judgment on four counts:

1. That the portion of the board's resolution stating that "the effective date of both this policy and salary schedules [will be] the date of a proper appropriation or the receipt of funds from such other sources which may be available for the implementation of this policy" should be declared void, and that the effective date of the board's policy (as outlined in the resolution) and the new salary schedules was the date of their passage (August 5).

2. That the Newark board should pay teachers in accordance with the August 5 salary schedules.

3. That the board of school estimate should "fix and determine the amount necessary for the purpose contained in the Board's statement and [should] certify this amount separately to the Board and to the City."

4. That the sum of $4,700,000 should be considered as having been certified to the Newark board and the city, and that the city therefore should "immediately appropriate such sum and pay it over to the custodian of school moneys of Newark in accordance with New Jersey Statutes 18A:22-23."

The court initially emphasized the "significant differences" between the two methods by which boards of education may seek and receive municipal appropriations. The first and principal way is through an annual budget which, according to statute, "must indicate . . . amounts estimated to be necessary for 'current expenses,' which include salaries of all personnel." The board of school estimate fixes and determines the amount to be expended, and has discretionary authority to reduce the budget submitted by the education board only after a public hearing. The city also has the right to reduce the amount certified to it by the board of school estimate if that amount exceeds the 1½ percent limitation.

Under the second method of raising funds (as prescribed in New Jersey Statutes 18A:22-21 to 23), a school board may request additional appropriations over and above those set forth in any given school budget for specified reasons which include "meeting emergencies arising since the making of such budget." In this case, "the board of school estimate must, as required by Section 22, fix, determine and certify the amount necessary for the purpose and the governing body must, as required by Section 23, appropriate and raise the moneys so certified." Moreover, if "the need and circumstances come within the purview of Section 21 [which includes the 'emergency' clause] neither body has any discretion in the matter and . . . the 1½% limitation does not apply." But, citing the case of *The Board of Education of the City of Elizabeth v. the City of Elizabeth*, the court emphasized that "a board, in requesting an additional appropriation after its budget has been settled, cannot be certain that the purpose for which it seeks funds falls within the purview of N.J.S. 18A:22-21."

In the present case, the court ruled that there was no "legislative plan which disabled the Board from postponing the effective date of

salary raises to a date on which moneys for them were appropriated or otherwise received. Therefore, the so-called 'offensive language' [as claimed in the NTA's first count] will not be declared void; nor may I declare that the effective date of the new schedule was August 5, 1969." Although the NTA argued that the term "effective date" as it appears in New Jersey Statutes 18A:29-4.1 means date of adoption and that the court had ruled to that effect in the case of *Rall v. Board of Education of the City of Bayonne*, the court held that its "use of the word 'adoption' cannot therefore be considered as an intentional and authoritative equation by it with the words 'effective date.' The statute does not require that a new salary schedule shall go into effect on the date of its adoption. It says that the salary policy shall be binding on the board of education for two years from the effective date of the policy—not from the date of its adoption."

In its second count the NTA claimed that the Newark board knew the salary dispute would have to be resolved, and that the board's intention upon adopting its resolution and the new salary schedules was to amend its current 1969-70 budget in the area of "current expenses." The court, however, ruled:

> There is no statutory provision permitting a board of education to amend its annual budget after it has been approved. Additional funds may be requested and appropriated only under N.J.S. 18A:22-21 to 23 . . . . In the case of [*Elizabeth*] the court held that a board of education may resort to Section 21 only in the case of an emergency. It held that even though a request is made under the "under-estimate" clause of N.J.S. 18A:22-21 and not the "emergency" clause of that statute, it cannot be allowed except in case of an emergency and that a general salary increase does not constitute an emergency.
>
> The [NTA] does not say that an emergency existed on August 5, 1969. In fact, it has specifically disclaimed the existence of one. Since there is none, I am obliged by the *Elizabeth* case to hold that the Board was precluded from endeavoring to raise moneys for the increased salaries for the current school year. Furthermore, it bound itself to pay only upon receipt of the necessary funds.
>
> Plaintiff's final contention against the Board is that by failing to honor the new salary schedule, the Board has deprived the teachers of their proper salary, the effect of which constitutes a reduction in compensation in violation of the tenure statute . . . . The claim is without merit. The failure to receive an increase in salary does not constitute a reduction in compensation.

The court additionally determined that since no emergency existed when the Newark board adopted its resolution and the new salary schedules on August 5, "the board of school estimate could not lawfully compute the total of the increases for the current school year and call on the City to raise and pay over the moneys to the Board. Had it done so, its requisition would [have] had to be set aside, as was done by the court in the *Elizabeth* case, *supra*." The court finally ruled that New Jersey Statute 18A:29-4.1 "does not purport to apply to, amend or modify the additional appropriation provisions of the school laws." As such, the court held that the statute "is not applicable to a request for an additional appropriation for non-budgeted salary increases [and] cannot be employed to compel defendant board of school estimate to certify [sic], and defendant City to raise and pay over moneys for salary increases for the school year 1969-70."

(*Newark Teachers Association, Plaintiff v. Board of Education of Newark, County of Essex, et al. Defendants*, New Jersey Superior Court of Essex County, December 12, 1969.)

OHIO

TEACHERS' STRIKE ENDS WITH PRETRIAL AGREEMENT TO RESUME NEGOTIATION

An eight-day walkout staged by about 66 of the 77 regular teachers employed by the Springfield Township Local School District (Mahoning County) ended when representatives of the Springfield education board and the Springfield Local Education Association (SLEA) agreed in a pretrial conference to resume negotiations.

The strike began on December 16, 1969, when the education board refused to meet with representatives of the SLEA for the purpose of renegotiating contract terms dealing with teacher salaries, length of school year, teacher participation in curricular decisions, and supplies, equipment and textbooks. Also at issue were inadequate negotiation and grievance procedures.

The education board sought an injunction against the striking teachers in the Mahoning County Court of Common Pleas, contending that district schools would have to close unless the court restrained the teachers "from their unlawful and illegal acts." In addition, the board asked that the temporary injunction be made permanent upon the court's final hearing on the matter.

A settlement was reached, however, during a pretrial conference in which the parties agreed to provide negotiation representatives, and continue negotiations "for a reasonable time." The

court further ordered that "if these [negotiations] terminate without any agreement, the matter will again be called to the attention of the Court." The striking teachers accordingly agreed to return to work on January 9, 1970, and counsel for the education board agreed to recommend that the school year be extended by eight days so the teachers could make up all pay lost during the strike.

(*Dr. Irene Houk, President, et al. v. The Springfield Local Education Association*, Mahoning County Court of Common Pleas.)

Board Findings and Rulings

MASSACHUSETTS

REPRESENTATION ELECTION DIRECTED AFTER TWO ELECTION PETITIONS FILED WITHIN 10-MONTH PERIOD

The Massachusetts Labor Relations Comission (MLRC) determined that a representation election was warranted after the Springfield Federation of Teachers, American Federation of Teachers, AFL-CIO, Local 484, filed a second election petition within a 10-month period. Ruling that the second petition was evidence of "substantial unrest in the Springfield school system," the MLRC directed that an election be held "to determine whether or not the [Springfield Education Association (SEA)] still represents a majority of employees in [the] unit or whether the Springfield Federation of Teachers, Local 484 . . . represents a majority of the employees."

The SEA, certified in June 1966 as bargaining representative for two units of Springfield school system employees, negotiated a contract with the Springfield School Committee which was effective from March 28, 1967, to August 31, 1969. Article XXIX of the contract provided: "The parties agree that, not later than November 15, 1968, they shall enter into negotiations for a successor contract to become effective as of September 1, 1969."

In late October 1968 Local 484 entered its first election petition, seeking certification as bargaining representative for a unit of all classroom teachers, guidance counselors, and department heads in the city's elementary, junior high, and senior high schools. At that time the MLRC dismissed the petition, saying that "it seems unfair to unbalance the labor relations in a community school system some ten months in advance of the expiration of a contract that was to last some 29 months." While acknowledging that the contract's renegotiation provision "invited" the Federation's petition and that a "very zealous, dedicated and loyal minority opposition group" existed in the Springfield school system, the MLRC nevertheless held that there was not an "adequate showing of interest" to warrant an election at that time.

Then on June 26, 1969, the SEA and the Springfield committee entered into another agreement effective from September 1, 1969, to August 31, 1970, and containing a renegotiation provision identical to the previous one. Shortly before the 1969-70 contract was signed, Local 484 filed a second election petition supported by some 475 authorization cards. Noting that the filing "was no guarantee that such an election would take place," the MLRC held that even if the SEA and the school committee were aware of the second petition, they were not bound to refrain from entering into the 1969-70 agreement. Moreover, the Massachusetts bargaining statute provides that "no election shall be directed during the term of a collective bargaining agreement; except that for good cause shown the Commission may direct an election."

However, the MLRC determined that the filing of a second election petition in less than a year's time was evidence of "good cause," explaining:

> While the Labor Relations Commission is aware of the impressive improvements in the conditions of employment, as well as the educational improvements which were negotiated by the [Springfield Education Association] for the teachers in the Springfield School Department, the Commission finds that the filing of petitions on October 29, 1968 and again on June 18, 1969 is evidence of substantial unrest in the Springfield school system, which is under the statute, good cause for conducting an election because it raises a very crucial question of representation which the Commission cannot ignore. While the Commission is aware that [the statute prohibiting an election during the term of a contract except for good cause shown] was made a part of the Municipal Bargaining Law to accomplish stability in labor relations in the public sector, we cannot use this section to defeat the rights of employees where such stability does not exist and where strife and unrest exist among the employees of the Springfield School Department.

(*City of Springfield, School Committee of the Springfield Public Schools, and Springfield Federation of Teachers, Local 484, AFT, and Springfield Education Association,* Massachusetts Labor Relations Commission, January 30, 1970).

NOTE: In a representation election held on March 19, 1970, Local 484 defeated the SEA by a vote of 677 to 625.

MICHIGAN

MERE NONDISCRIMINATION IN RECRUITMENT INADEQUATE; SCHOOL BOARD DIRECTED TO "ACTIVELY RECRUIT" INTEGRATED STAFF

A grievance submitted to final and binding arbitration by the East Detroit Federation of Teachers, AFL-CIO, Local 698, resulted in a finding that the East Detroit education board had failed to comply with a negotiated contract provision stating that the board "shall seek out and hire a certified integrated Staff reflective of all races." In interpreting the language of the contract provision, the American Arbitration Association arbitrator paraphrased testimony delivered by the Secretary of Labor before a Senate subcommittee, explaining that "there is an important difference between passive nondiscrimination and pursuing actively the goal of equal employment opportunity, and . . . to insure equal employment opportunity, there must be activity in the form of affirmative action to overcome patterns of discrimination."

The contract provision in question (Article III, Paragraph E) first was included in the 1968-69 agreement between Local 698 and the Detroit board, and since has been continued in the 1969-71 agreement. Article III, entitled "Fair Employment Practices," provides:

> A. This Agreement shall be applied uniformly to all employees within the Bargaining Unit and there shall be no discrimination among the employees in the Bargaining Unit as regards terms or conditions of employment.
>
> B. Neither the Board nor its agents shall discriminate against any teacher on the basis of race, creed, color, national origin, sex, marital status, political activities or membership or participation in the activities of any employee organization.
>
> C. The Union agrees that it shall admit all teachers to its membership without discrimination by reason of race, creed, color, national origin, sex, marital status or prior membership or past participation in the activities of any employee organization.
>
> D. Membership in any employment group shall not be required as a condition of employment of any teachers with the Board. Further, nothing herein shall prohibit or require any teacher from being a member of or participant in the activities of any Union group except as required by the provisions of this Contract.
>
> E. The Board of Education shall seek out and hire a certified integrated staff reflective of all races.

According to testimony presented during the arbitration hearing, Paragraph E was submitted to school-board representatives by the Federation bargaining committee during a May 1968 bargaining session, and agreed upon by both parties following little discussion. The Federation president testified that during the bargaining meeting the assistant superintendent of schools said the board "does not discriminate," agreed that the district staff should be integrated, and maintained that minority group teachers should be sought and hired. In addition, the chairman of the Federation's 1968-69 bargaining committee testified that the Federation "desired the language, 'seek out and hire,' because it meant that the School Board would try to hire teachers from minority races in every possible way." Board representatives raised no objections to the language of Paragraph E, and the assistant superintendent of schools testified that the language enunciated "the ongoing policy of the District." There was no discussion of the mechanics of implementation during the bargaining session.

Then on April 29, 1969, the two Federation officials met with the superintendent and assistant superintendent of schools to discuss specific hiring practices for the fall of 1969. According to the school officials, approximately 80 teachers were needed for the 1969-70 school year, and 35 had been hired at that time. None of these 35 were members of a minority group. Moreover, 300 interviews had been conducted up to that time, and only one of the interviewees was a member of a minority group. The two school officials maintained that school policy adhered to federal and state fair employment practices statutes, and that Paragraph E had not been violated. Following the meeting, the school board added the phrase "an equal opportunity employer" to its college recruitment bulletins, but no other action was taken.

A grievance charging a continuing violation accordingly was entered by the Federation, which contended that the district had failed to comply with Paragraph E, and that immediate changes in the district's recruitment policies were needed to implement the contract provision. In denying the grievance, the East Detroit assistant superintendent of instruction outlined at length the education board's "legal and ethical responsibilities," and reviewed its recruitment policies:

> First of all, our teacher needs are written and posted approximately every three weeks in all nineteen (19) Michigan teacher training institutions . . . . This bulletin is also sent approximately three (3) times per year to teacher training colleges in Ohio and Pennsylvania. Since all of these colleges are integrated, our staff needs are made known to certified, integrated teachers, reflective of all races.
>
> Secondly, we visit the campuses of the major Michigan universities during March, April, and May of each year. The campus placement offices set up schedules of candidates to interview with no set conditions whatever, as required by law. We may *not* request to see candidates of one race or another, nor may we request pictures of the candidates, etc.
>
> Thirdly, to gain broader coverage our school district posts notices and invites applications through ASCUS (Association of School, College and University Staffing) . . . .

As a result of this process, our employment to date does include minority group representation for September 1969.

In our opinion our personnel employment procedures do comply with the Fair Employment Practices Act and the terms of our Collective Bargaining Agreement, and on the basis of our record as outlined the grievance does not have validity and is herewith denied.

An appeal to the superintendent of schools was denied on similar grounds. And a second appeal to the education board resulted in a July 8, 1969, denial "on the basis that the School District of the City of East Detroit has fulfilled the terms of the East Detroit 1968-69 Teachers Contract."

The Federation then submitted its grievance to arbitration, contending that Paragraph E was proposed and agreed to "because there are no Black or other minority group teachers in the School System," and that Paragraph E "requires affirmative action by the School Board [and] has not been implemented by [the board]." On the other hand, the board argued that Paragraph E "is a restatement of the policy which the School Board had been following prior to its adoption, and has been following ever since its adoption," that the purpose of the clause was to *reiterate* school board policy, and that the school board "has complied with Paragraph E and is continuing to do so."

Noting that there are no black students in the East Detroit system and that only one black teacher (of a total of 550 teachers) was employed for the 1969-70 school year, the arbitrator emphasized that "there is no charge that the School Board has discriminated, or is discriminating, against any teacher on the basis of race, color or national origin." But he determined that a study of the contract and the evidence established that Paragraph E requires action beyond that specified in Paragraph B of Article III.

While there was little discussion at the May, 1968, bargaining session concerning the meaning of Paragraph E, the evidence persuades that it was submitted for the purpose of requiring affirmative School Board action beyond the practice then in effect, and beyond strict legal requirements.

Paragraph B is a passive provision. It means that the School Board will not take any affirmative action to discriminate against a teacher, but requires no affirmative action by the School Board. It requires compliance with applicable Fair Employment Practices statutes. Also, Paragraph B is not applicable to *applicants* for teaching positions. While, as the Board noted at the hearing, both Federal and State Law prohibit discrimination in hiring, the statutes do not require *affirmative action to seek out* [emphasis added] minority group teachers.

The Board urges that it intended Paragraph E solely as a reiteration of its existing policy. There would be no need to adopt this affirmative clause to restate existing policy. I agree with Counsel for the Federation that if this had been the intent, it is likely that the language would have read, "The Board of Education shall *continue* to seek out and hire a certified integrated staff reflective of all races.

Contrary to the contention of the School Board, the evidence discloses that the School Board did not, prior to May, 1968, have an active program of seeking out teachers from minority races. The phrase "seek out" is an active expression which requires affirmative action. "Seek" means "to go in search of: look for: to try to discover."

Turning to the testimony of the assistant superintendent of schools, the arbitrator noted that of the 800 to 900 candidates interviewed for the 1969-70 school year, only about 25 were black. Moreover, the school official stated that he usually does not ask college placement offices to provide black students for interviews; although he had asked the University of Michigan placement office to provide black students for interviews, he had not done so at Wayne State University (which has a larger black population). The arbitrator therefore concluded that "while there is no evidence of discrimination, there has been a lack of any affirmative effort to find Black teachers." Pointing to the mandatory "shall" contained in Paragraph E, the arbitrator held:

The evidence established that the School Board is *not* doing as much as it legally can to recruit Black teachers and persons of other minority races in the colleges of education. I know of no rule which renders it illegal for an East Detroit recruiter to ask placement directors at colleges and universities for an opportunity to interview Black students, and students of other minority races.

Concluding that the East Detroit Board had not complied with the requirements of Paragraph E, the arbitrator directed that the following action be taken.

A. Request that placement officers at Michigan colleges and universities where there are a substantial number of Black students in the schools of education attempt to secure Black students to interview with a representative of the East Detroit Board of Education for teaching positions in the East Detroit system;

B. Actively recruit at colleges and universities outside of the State of Michigan which have large Black student bodies . . . [with the suggestion that the number of colleges and universities] be not less than two, with a top limit of eight. The Board and Administrative Staff is not required to take unreasonable action in complying with Paragraph E;

C. Place at least three advertisements during the recruiting season in a newspaper, or newspapers, published primarily for Black readers.

While not directing the East Detroit board to take any action with respect to nonwhite groups other than blacks, the arbitrator suggested that the Board and the Federation "explore this matter and, if feasible, that efforts be made to secure non-white persons from other than the Negro race." He also suggested that the board's ASCUS advertisement include the phrase "an equal opportunity employer," as does its college recruitment bulletin.

(*East Detroit Board of Education and East Detroit Federation of Teachers*, American Arbitration Association, January 20, 1970.)

NEW YORK

BARGAINING UNIT OF TOP-LEVEL ADMINISTRATORS AND SUPERVISORS RULED APPROPRIATE

In compliance with the provisions of New York's Taylor Law, an independent arbitrator ruled appropriate a bargaining unit comprised of 30 assistant superintendents, administrative directors, supervising directors, coordinators, and other top administrative personnel employed by the Rochester school system. Following the arbitrator's January 9 unit determination, an election was held, and the Association of Central Office Administrators (ACOA) was unanimously selected and accordingly certified as bargaining representative for the unit.

The ACOA first was established in October 1969 when salary increases for four assistant superintendents were passed and then nullified by a Rochester school board resolution. In mid-November the ACOA petitioned for a representation election, and a professor at the New York State School of Industrial and Labor Relations at Cornell University was selected to hear the petition.

The arbitrator subsequently determined that "there is no prohibition in the Taylor Law against the recognition of organizations of managerial and executive personnel." Explaining that the act defines "public employee" broadly enough to include recognition of top-level administrators, the arbitrator found that the proposed unit met the act's "criteria of appropriateness" in that the community of interest of all employees in the proposed unit was similar. In addition, the arbitrator held that "although the members of the proposed unit have historically had different fringe benefits and salary increases . . . this factor possesses merely the significance of tradition" and does not affect the appropriateness of the unit, because "no evidence has been offered to suggest that there is any conflict of interest between or among the members of the proposed unit."

Referring to a provision of the Taylor Law which states that "the unit shall be compatible with the joint responsibilities of the public employer and public employees to serve the public," the arbitrator held that "so far as any potential conflict of interest with other units is concerned, it should be noted that [the ACOA] is not affiliated, directly or indirectly, with organizations representing members of other units." The arbitrator emphasized this point because "some members of the proposed unit are involved as representatives of the Board and the Superintendent in collective negotiations with the other units."

As of the ACOA election, the arbitrator noted that all Rochester school system employees were "in negotiating units with the exception of the Superintendent and the confidential secretaries." Members of the latest bargaining unit originally were excluded from a unit of administrative and supervisory personnel which was found appropriate in November 1967, because "their responsibilities in evaluating and supervising the administrators below them would [have created] an inherent conflict of interest."

WISCONSIN

FEDERALLY PAID TEACHERS APPROPRIATELY ARE INCLUDED IN UNIT OF MUNICIPALLY PAID TEACHERS

In response to a petition for clarification of a Milwaukee teachers' bargaining unit certified on June 17, 1963, the Wisconsin Employment Relations Commission (WERC) decided that teachers who are teaching under federally funded programs are "regular teaching personnel," and appropriately are included in a single, over-all teachers' bargaining unit.

The Milwaukee Vocational Teachers Union, American Federation of Teachers, AFL-CIO, Local 212, entered a petition before the WERC stating that the Milwaukee Board of Vocational and Adult Education "refused to recognize the petitioner as the representative of those of its employees who are teaching in programs sponsored by the Government of the United States under Acts of Congress, such as, by way of illustration, the Manpower Defense Trainee Act [MDTA] and the Adult Basic Education Act [ABEA]." Although the employer did not dispute the fact that federally paid teachers are eligible for inclusion in an appropriate bargaining unit, it argued that such employees should comprise a separate unit because their community of interest differs from that of teachers in the over-all unit.

Citing an earlier decision reached in *Superior Vocational, Technical and Adult School* as controlling of the present case, the WERC held that teachers paid under the MDTA and teaching at least half of a full teaching schedule appropriately are included in a bargaining unit consisting of all regular teaching personnel. Noting that the teachers in the present case met this work load specification, the WERC explained that teachers paid by the MDTA and ABEA programs have working conditions, duties, and functions similar to board-paid teachers, are considered to be professional teachers, and form a segment of the public employer's teaching staff. Moreover, they

teach under the same rules and regulations as other teachers, have their salaries determined in a like manner, and are eligible for the same retirement, health insurance, sick leave, and holiday benefits. Although federally paid teachers may be subject to different life insurance benefits, and certification and tenure requirements, the WERC determined that these differences are outweighed by the homogeneous nature of the entire profession.

In addition, the WERC noted that when the 1963 representation election was held, the public employer submitted a list of the names of all teachers employed under the MDTA program, and these teachers voted without challenge. The number of Milwaukee MDTA teachers since has increased, but the WERC found no changes in the duties and responsibilities of such teachers which would warrant their exclusion from the over-all teachers' bargaining unit. (*Matter of Milwaukee Vocational Teachers Union Local 212, American Federation of Teachers, AFL-CIO*, Wisconsin Employment Relations Commission, November 21, 1969.)

OTHER ITEMS OF INTEREST

NLRB SAYS EMPLOYERS MAY JOIN UNIONS WHICH REPRESENT THEIR EMPLOYEES

In a syllogistic exercise involving several alleged violations of the National Labor Relations Act (NLRA), a National Labor Relations Board (NLRB) trial examiner found that it was not unlawful for employers to join employee unions and accordingly contribute membership dues and fees to the unions, because such payments did not threaten the unions' independence, and the employers had joined the unions for reasons of economic self-preservation. Conversely, the unions did not commit a violative act by accepting the employers' membership payments.

Provisions of the NLRA which allegedly were violated included:

Sec. 8(a)(1)—It shall be an unfair labor practice for an employer . . . to interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in section 7.

Sec. 8(a)(2)—It shall be an unfair labor practice for an employer . . . to dominate or interfere with the formation or administration of any labor organization or contribute financial or other support to it.

Sec. 8(b)(1)(A)—It shall be an unfair labor practice for a labor organization or its agents . . . to restrain or coerce . . . employees in the exercise of the rights guaranteed in section 7: *Provided*, That this paragraph shall not impair the right of a labor organization to prescribe its own rules with respect to the acquisition or retention of membership therein.

Sec. 7—Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and shall also have the right to refrain from any or all of such activities except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in section 8(a)(3).

The charges before the NLRB examiner involved two associations of employers which represented their employer-members in negotiating and executing contracts with two unions. The Eastern Missouri Contractors' Association (EMCA), an organization of employers in the construction industry, negotiated with the Congress of Independent Unions, Local 77, which represented employees of the EMCA's employer-members. Another similar employer association designated MCA bargained with the Congress of Independent Unions, Local 99, which represented the employees of the MCA's employer-members. Employers represented by the EMCA and the MCA had paid the fees and dues of membership for themselves in the union locals, and the locals had accepted these membership payments. Charges accordingly were brought against both the associations and the unions for interfering with, restraining, and coercing employees in the exercise of their rights to self-organization.

Specifically, the EMCA and the MCA were charged with allegedly violating Sections 8(a)(2) and (1) of the NLRA because their employer-members had given financial assistance to Locals 77 and 99, in the form of dues and fees paid to defray the costs of the employers' memberships in the unions. In addition, it was alleged that Locals 77 and 99, had violated Section 8(b)(1)(A) of the NLRA by admitting the employers to membership and accepting their fees and dues. One further charge alleged that one of the MCA's employer-members violated Sections 8(a)(2) and (1) of the NLRA by paying Local 99 the membership fees and dues of two of its employees—and, conversely, that Local 99 violated Section 8(b)(1)(A) of the NLRA by accepting the payments.

Noting that the EMCA and the MCA did not answer the allegations, the trial examiner found that the associations' "non-denials were admissions [binding only on themselves] that membership payments were made." But he held that "there was no evidence that such payments were in fact made for any reason other than to obtain protection against picketing of the associations' jobs [i.e., the jobs of the associations' employer-members] while they worked at their trade." Moreover, both locals had entered denials of these allegations, and the examiner found that

"there was no evidence that the Locals were dominated by the employers or that they represented an uncoerced majority of the employees in the bargaining units." The examiner accordingly dismissed the allegations charging violation of Sections 8(a)(2) and (1), and 8(b)(1)(A) of the NLRA, explaining:

> It was clear that the payment of dues and fees by management was not a direct threat to the unions' independence, particularly where the employers had joined the unions as a matter of economic self-preservation. This was based on prior findings that sanction membership by supervisors in unions, which necessarily implied that nothing in the [NLRA] could be construed to prohibit supervisors from qualifying for union membership by paying union initiation fees and dues. Therefore, if that treatment of the problem was feasible in the case of supervisors, it was clear that the same could be true in the case of employers.
>
> It was alleged that since the payment of the employer contributions constituted a violation of Section 8(a)(2) then the acceptance by the unions of those payments constituted a violation of Section 8(b)(1)(A) of the [NLRA]. Having found that such payments did not constitute unlawful assistance, there was no basis, under the syllogism, for finding that the acceptance was unlawful.

As to the charge brought against the MCA alone, the examiner determined that "the thrust of the allegation was that it was the substantiality of the employers' payments involved that was the gravamen of the offense." He noted, however, that the "only evidence was that the [MCA employer-member] paid to Local 99 twenty-four dollars to cover a three-month dues period for two employees." Stating that the NLRB "has found no violation [of Sections 8(a)(2) and (1)] where there was no other evidence of union assistance and the amount involved was insubstantial," the examiner dismissed the allegation against the MCA. Moreover, the charge against Local 99 for receiving the payment was dismissed, because "no case has held that a union violates Section 8(b)(1)(A) by accepting such payment."

One additional alleged violation of the NLRA concerned a union security clause contained in the first contract (effective from August 1, 1964, to July 31, 1966) negotiated between the EMCA and Local 77. Although the clause was retained in the contract beyond the June 1965 cutoff date specified in the NLRA, the examiner held that

> the mere existence of the clause after that date would not be unlawful, if there were no employees to whom it could have possibly applied between that date and July 31, 1966, when the contract expired.
>
> Such a violation could not be found as based upon the EMCA's non-denial which really was an admission as to the terms of the clause and was not an admission that employees were actually subject to the clause's application.

(*Eastern Missouri Contractors' Association, et al. and Carpenters District Council of St. Louis and Vicinity, AFL-CIO, et al.*, National Labor Relations Board, December 31, 1969.)

Negotiation Notes

ILLINOIS

TEACHER CONTRACTS MAY CONTAIN BINDING GRIEVANCE ARBITRATION PROVISIONS

The Illinois Office of the Superintendent of Public Instruction issued a January 14, 1970, opinion holding that "a school which enters into an agreement or contract may have as a part of the contract a provision in regard to binding [grievance] arbitration." The opinion cited three Illinois court cases which established that a municipality may enter into binding grievance arbitration, that a school board has the power to enter into collective bargaining agreements, and that such a power enables a school board to include a binding grievance arbitration provision in agreements it negotiates.

MAINE

GRIEVANCE PROCEDURE ESTABLISHED FOR STATE EMPLOYEES

An amendment to Title 5 of the Maine Revised Statutes established a three-member State Employees Appeals Board empowered "to mediate the final settlement of all grievances and disputes between individual state employees, both classified and unclassified, and their respective state agencies, except in matters of classification and compensation." Members of the board are to be appointed by the governor with the advice and consent of the executive committee, and the board is to "report bienially to the Governor and Legislature facts and recommendations relating to the administration and needs of the board."

All decisions rendered by the board "shall be final and binding upon the state agency and state employees involved in the dispute, and shall supersede any prior action taken by the state agency with reference to the employment and working conditions of such employees." The board is granted the power to subpoena any witnesses or documentary evidence pertinent to its investigations, and may request a superior court order to force compliance with a subpoena.

Any public employee who seeks settlement of a grievance through the established procedure may be represented at each step by his chosen representative. The grievance procedure outlined in the statute consists of six steps:

1. Voluntary, oral attempt by the grievant or his representative and the grievant's immediate supervisor to settle the grievance.
2. Grievant's submission of his grievance in writing to his supervisor, followed by the supervisor's written decision within three working days.
3. Written appeal to the grievant's department head, followed by the department head's written decision within three working days.
4. Meeting between the department head and the grievant or his representative in an attempt to adjust the dispute.
5. Written appeal to the director of personnel, who shall issue a written reply based upon the state's personnel rules and laws to the grievant and his department head within six working days.
6. Submission of the dispute to the State Employees Appeals Board, which "shall investigate the matters in controversy, shall hear all interested persons who come before it, and make a written decision thereof, which shall be binding on the parties involved." The board's decision is to be rendered within 30 days after the dispute is submitted unless the parties to the dispute agree to an extension of the specified time limit.

MINNESOTA

NATURE OF STUDENT TEACHER PROGRAM COMPENSATION DEFINED

In response to several questions raised by a local school district attorney, the Minnesota attorney general determined that compensation for supervisory work in a student teacher program must be specified as additional compensa-

tion in an individual teacher's contract. In addition, he held that funds made available for compensating supervising teachers are public funds which are subject to certain restrictions placed upon their expenditure, and that the distribution of such funds to the local education association is gratuitous and unlawful.

Independent School District No. 147 of Dilworth had a contractual arrangement with Moorhead State College whereby the college sent student teachers to practice under the supervision of district teachers, and remitted funds to the district for use in compensating the supervising teachers. Normal teaching functions performed by the district's teachers were compensated in accordance with a schedule contained in a negotiated agreement between the district and the local education association.

Citing a portion of the Minnesota statutes which holds that written contracts between a school board and its teachers "shall specify the wages per year and the general assignment of the teacher," the attorney general determined that a supervising teacher's "general assignment and the total compensation therefor [must] be specified in the teacher's contract. The contract must be such that the teacher's wages can be determined with absolute certainty from the contract itself." He added that since "school districts are organized solely for public purposes," any funds remitted by Moorehead State College and received by the district "are held and expended only on behalf of the public and for the public good."

Noting that the local education association "renders no service in the practice teacher program," the attorney general found that "any payments to it by the school district would not be in the nature of compensation or reimbursement . . . . It can only be concluded that the payments would constitute a gratuity. Such an expenditure is unauthorized and unlawful."

NEVADA

STATE EMPLOYEES DENIED BARGAINING RIGHTS UNDER PRESENT LAW

An opinion issued by the Nevada attorney general on January 19, 1970, held that state law currently prohibits *state* employees from bargaining collectively with their *state* employers. Although *local* government employees are granted bargaining rights under the Local Government Employee-Management Relations Act, the attorney general ruled that the act does not apply to state employees "regardless of improper class legislation and invidious discrimination, which cast doubt on the constitutional validity of the act."

The opinion was handed down when staff nurses of the Nevada Division of Health joined the Nevada Nurses Association and asked that the association be designated as their bargaining agent. As the nurses are state employees, the attorney general ruled that "such activity is illegal until specifically authorized by the legislature."

NEW MEXICO

PUBLIC EMPLOYEES DENIED EXCLUSIVE REPRESENTATION AND BARGAINING RIGHTS

An opinion issued by the New Mexico attorney general on January 23, 1970, held that, in the absence of specific legislation, state or political entities may not recognize a union as exclusive bargaining agent for an employee unit, even though a majority of the employees in that unit elect to be represented by the union. According to state public policy as set forth in a 1959 attorney general opinion, "employees of a state, municipality, or subdivision thereof can probably belong informally to unions, but they cannot engage in collective bargaining, picket, or strike against the government."

NORTH DAKOTA

INDIVIDUAL TEACHERS PERMITTED TO NEGOTIATE DIRECTLY WITH SCHOOL BOARD, BUT BOARD MAY REFUSE

The North Dakota attorney general issued a January 9, 1970, opinion, finding that any teacher who does not wish "to join or participate in the activities of any organization authorized by an appropriate negotiating unit to represent the members of the unit in negotiations with a school board . . . has the [individual] right to present his views directly to the school board . . . [and] must have the right to negotiate directly with the school board." However, while a school board must allow an individual teacher to present his views, the board "*on its own volition* could determine it will not negotiate independently with any teacher and that any teacher who is a part of such negotiation unit *must accept* the contract negotiated with the representative organization of such negotiation unit" [emphases added].

In making this determination, the attorney general noted Sections 15-38.1-07 and 15-38.1-08 of the North Dakota Teacher Representation and Negotiation Act:

1. Teachers, or administrators, shall have the right to form, join, and participate in the activities of representative organizations of their choosing for the purpose of representation on matters of employer-employee relations.
2. Teachers, or administrators, shall also have the right to refuse to join or participate in the activities of representative organizations [15-38.1-07].
3. Representative organizations shall have the right to represent the appropriate negotiating unit in matters of employee relations with the school board. Any teacher, or administrator, shall have the right to present his views directly to the school board [15-38.1-08].

An "appropriate negotiating unit" is defined by the act as "a group of teachers having common interests, common problems, a common employer, or a history of common representation, which warrants that group being represented by a single representative organization in negotiations with a school board." And the term "representative organization" is defined as "any organization authorized by an appropriate negotiating unit to represent the members of the unit in negotiations with a school board."

The opinion was issued in response to a request by the state superintendent of public instruction for clarification of the phrase "present his views." The attorney general initially explained that there is

a significant distinction between an appropriate negotiating unit and a representative organization. A teacher may be classified as a part of an appropriate negotiating unit by virtue of his position in a school system since it would appear to be the position rather than the teacher which is being classified. The individual teacher, once such classification has been determined as provided by the statutes, does not have an individual option as to the negotiating unit in which his position is classified. However, the above quoted statutes do authorize the individual teacher the choice of not joining or participating in the activities of the representative organization authorized by the appropriate negotiating unit in which his position is classified to represent the members of the unit in negotiations with a school board.

Any teacher who declines participation in the representative organization accordingly has the individual right to present his views to the school board, and to negotiate directly with the board. Although the school board "must permit the individual teacher to present his view," the attorney general held it "possible" that a school board may refuse to negotiate independently with an individual teacher and require that teacher to accept the contract negotiated by the organization representing his unit.

In addition, the attorney general explained that any teachers who decline to associate themselves with the organization representing their negotiating unit

would not be entitled to have a separate organization represent them as a unit since the unit has already selected its representative organization. In other words, if one or more teachers do not wish to join or participate in the activities of the representative organization selected by their negotiating unit, such teachers may then only negotiate with the school board on an individual basis, and not as a separate representative organization basis.

Another question raised was whether teachers who decline membership in the representative organization publicly should be identified. The attorney general deemed such identification practical, necessary, and unavoidable, and found "nothing in the statutes which prevent a teacher who presented his views directly to the school board rather than through a representative organization from being identified."

OHIO

PUBLIC EMPLOYEES TERMINATED FOR STRIKING ALLOWED APPEAL ONLY TO COURTS

The Ohio Court of Appeals ruled that public employees who are terminated for engaging in a strike may appeal their cause only to the courts, because of legislative intent inherent in the state's anti-strike statute. In so ruling, the court differentiated between the words "removal" and "termination," and held that public employees who are terminated for striking *do not* have the right of appeal to the State Personnel Board of Review granted classified civil service employees who are reduced, suspended, or removed on the basis of specified grounds *other than* striking.

More than 100 employees of the Lawrence County General Hospital were terminated by the hospital's board of trustees for allegedly striking in violation of provisions of Chapter 4117, Revised Code, which hold that "no public employee shall strike," and that violations "will result in termination of employment and loss of rights for the employee." Following a hearing at which termination of the appellants' employment was affirmed, the appellants appealed their cause to the Lawrence County Common Pleas Court. The trial court, however, dismissed the appeal on grounds that the appellants "had failed to exhaust their administrative remedies by appeal to the State Personnel Board of Review pursuant to Section 143.27, Revised Code."

The appellants then instituted an appeal before the Ohio Court of Appeals in which the court determined that

the final question dispositive of this appeal . . . is whether a classified civil service employee has the right to appeal

to the State Personnel Board of Review pursuant to Section 143.27, Revised Code, after the termination of his employment under Chapter 4117, Revised Code, in as much as Section 143.27, Revised Code, provides for appeals from removal from employment by employees in the classified service.

Noting that the appellants had not clarified the nature of their civil service status and that appeals to the State Personnel Board of Review under Section 143.27 are limited to classified civil service employees who are reduced, suspended, or removed for specified reasons that do not include striking, the appeals court concluded that

it would be a tenuous and improper construction of the appeal provision in Section 143.27, Revised Code, to read into it a right of appeal of classified employees from terminations under Chapter 4117 . . . . Is a termination under Chapter 4117, Revised Code, a "removal" as that term is used under Section 143.27, Revised Code? We hold that it is not. Section 4117.05, Revised Code, provides that any public employee who violates the sections therein "shall thereby be considered to have abandoned and terminated his appointment or employment and shall no longer hold such position, or be entitled to any of the rights or emoluments thereof." We have no doubt that most public employees who strike do not actually intend to abandon their employment. The legislative intent in the enactment of this chapter is clear. It was intended to prevent strikes by public employees and to terminate their employment if they do so. Regardless of his subjective intention, every public employee presumptively knows that if he strikes he will, by this section, be deemed in law to have abandoned and terminated his employment. In effect, by striking he resigns his position. In *Rieke, Gdn., v. Hogan* . . . the Ohio Supreme Court has stated that "abandonment may be treated as a constructive resignation" . . . . We observe nothing in the statute allowing an appeal by a public employee, under Section 143.27, Revised Code, who has abandoned, in law, his employment, by virtue of Chapter 4117.

The appeals court further explained that Chapter 4117 is applied broadly to public employees, because the definition of public employees contained in the statute is not restricted to persons employed in the classified service. As the main purpose of Chapter 4117 is to prohibit public employee strikes, the court held that "it does not seem a logical interpretation . . . to provide an additional administrative hearing to those accused of the same act, to wit, striking, if they were in the classified service, and deny it to those not in that classification."

As such, the appeals court ruled that the appellants, "irrespective of the status as classified or unclassified employees of the state civil service, had no right of appeal pursuant to Section 143.27, Revised Code." Moreover, the court reversed the dismissal order rendered by the Lawrence County Common Pleas Court as "contrary to law," and remanded the case for further proceedings according to law.

OREGON

PERB ADOPTS REPRESENTATION AND DISPUTE RESOLUTION RULES GOVERNING STATE EMPLOYEES

Procedures outlining the determination of public employee representation and the resolution of public employee labor disputes in the *state* classified service were adopted by the Oregon Public Employee Relations Board (PERB) on January 12, 1970, pursuant to the state's bargaining law. In setting the groundwork for its rules, the PERB defined collective bargaining as

the performance of the mutual obligation of a public employer and the representative of its employes to meet at reasonable times and confer in good faith with respect to employment relations, or the negotiation of an agreement, or any question arising thereunder, and the execution of a written contract incorporating any agreement reached if requested by either party. However, this obligation does not compel either party to agree to a proposal or require the making of a concession.

According to the rules, " 'employment relations' includes, but is not limited to, matters concerning direct or indirect monetary benefits, hours, vacations, sick leave, grievance procedures and other conditions of employment."

The rules specifically provide that public employees have the right to "form, join and participate in the activities of labor organizations of their own choosing for the purpose of representation and collective bargaining with their public employers on matters concerning employment relations." And public employers are prohibited from interfering with, intimidating, restraining, coercing, or discriminating against public employees in the exercise of those rights.

In determining the appropriateness of a bargaining unit, the PERB

shall consider whether the proposed unit of employes is a distinct and homogeneous group, with significant problems which can be negotiated and adjusted without regard to the other employes of the employer, and it may consider the relationship of the proposed unit to the total organizational pattern of the employer. Neither the extent to which employes have been organized by a labor organization nor the desires of a particular group of employes to be represented separately or by a particular organization shall be controlling on the question of whether a proposed unit is appropriate.

Excluded from a bargaining unit are: "(1) management and supervisory employes designated by the employer to represent, advise or assist him in collective bargaining; (2) employes who occupy a position of a confidential nature relating to employe relations; and (3) persons appointed on a temporary or emergency basis

who will not be employed for more than 90 calendar days." However, the rules also provide that once a bargaining unit is established and its representative elected and certified, nothing "shall prohibit consultation and agreement regarding changes in the composition of the list of excluded positions."

Petitions for representation or decertification (both of which must be supported by the signatures of 30 percent of the employees in a proposed or existing bargaining unit) may not be filed "for a unit or a subdivision of one in which a valid election has been held during the preceding 12-month period." Moreover, the existence of "a valid collective bargaining contract with a term of up to two years' duration shall be a bar to any election involving employes covered by the contract for its entire term."

When a representation election is sought, all organizations wishing to intervene must be supported by 10 percent of the employees in the proposed or existing unit. All bargaining unit employees who have been on pay status for 40 calendar days prior to an election are eligible to vote, and the secret ballot election must provide "an opportunity to vote for any one of the candidates on the ballot or for no representation."

The labor organization receiving a majority of the votes cast will be certified by the PERB as exclusive bargaining representative. In the event that no choice receives a majority of the votes cast in a election where there are three or more choices, "a run-off election shall be conducted . . . between the two choices receiving the largest and second largest number of votes cast in the previous election."

The rules further provide that the PERB investigate unfair labor practice charges, assist in mediating labor controversies, and initiate fact-finding upon the request of either party to an impasse, or if the PERB itself determines that an impasse has been reached. As fact-finding is left to the discretion of the PERB, a fact-finding committee will not be appointed "if there has not been a sincere attempt to mediate the dispute." All conclusions reached by a fact-finding committee are to be in the form of "written findings of fact and recommendations for solution of the dispute," and are to be made public "not later than the fifth day after [being] submitted . . . unless the parties, before that time, reach agreement on the matters in dispute."

OTHER ITEMS OF INTEREST

CONSUMER PRICE INDEX, JANUARY 1970

Figures reported by the Labor Department's Bureau of Labor Statistics (BLS) indicate that the Consumer Price Index (CPI) all items figure for January 1970 stood at 131.8 (1957-59=100), an 0.4 percent rise over December 1969. The January figure represented a 6.2 percent rise above the all items figure of a year ago. BLS also reported that, as of January, the purchasing power of the consumer dollar stood at $0.759 in relation to its average buying power in 1957-59.

Consumer service charges, which accounted for a major part of the January rise, "rose by an accelerated 0.9 percent, largely because of a sharp rise in transportation services." Medical care service charges progressed at a rate comparable to that of December, although hospital daily service charges continued to rise. BLS attributed a slower upward movement in household service charges during January to "a drop in prices of residential telephone services." Food prices rose a greater than usual 0.6 percent in January, and BLS noted that beef prices posted their first increase since July 1969.

Commodities other than food declined less than seasonally in January, while the prices of nondurable goods rose 0.2 percent. Consumer durables exhibited "a contraseasonal increase as prices of new cars failed to decline as much as usual and house prices climbed fairly sharply," according to BLS.

An estimated 100,000 workers, primarily in the automotive and aircraft equipment, and office machinery industries, will receive cost-of-living wage increases based upon the January CPI.

Statistics

NEGOTIATION AGREEMENTS: SICK LEAVE BANK PROVISIONS

The NEA Research Division's analysis of 978 comprehensive classroom teacher agreements effective during the 1968-69 school year indicates that 49 of these agreements (5 percent) contain sick leave bank provisions. The 49 provisions vary in scope and structure: two establish joint teacher-board committees to study and plan sick leave banks, while the other 47 provisions establish formally structured sick leave banks. Of the 49 agreements containing negotiated sick leave banks, 42 are found in Michigan, four in New York, and one each in Connecticut, Massachusetts, and Rhode Island. Distribution of these agreements according to enrollment strata is as follows:

Stratum	School system enrollment	Number of agreements with sick leave bank provisions
1	100,000 or more	0
2	50,000-99,999	0
3	25,000-49,999	2
4	12,000-24,999	10
5	6,000-11,999	12
6	3,000- 5,999	11
7	1,200- 2,999	13
8	1,000- 1,199	3

A sick leave bank is a plan for pooling sick leave days or a sum of money to be shared by school-board employees who are qualified to participate in the program. All participating employees thereby are able to obtain sick leave days over and above their own annual, accumulated sick leave for use in cases of prolonged illness or disability. All days obtained through a sick leave bank are paid leave days, and the employee is not required to repay them in money, or replace them through a donation of his own sick leave days. Provisions whereby *each individual employee* accumulates extra emergency leave or is granted leave for extended illness *are not* sick leave bank provisions.

Of the 49 agreements containing sick leave bank provisions, 47 also provide for the accumulation of sick leave days annually allotted to individual employees. Three agreements do not define a maximum accumulation of annual sick leave days, and 12 agreements allow board employees an unlimited accumulation of such days. Of the agreements specifically limiting the maximum accumulation of annual sick leave days, 11 set the maximum between 50 and 99 days, 10 provide a maximum ranging between 100 and 149 days, and 11 establish a maximum ranging between 150 and 200 days. As such, the sick leave bank is not a substitute for cumulative leave in a majority of the 49 school systems with agreements containing sick leave banks.

Tables 1, 2, and 3 present a system-by-system listing of the 49 sick leave bank provisions according to negotiated content. The analysis is limited to what appears in written negotiation agreements; it is not concerned with actual practices or verbal agreements reached by school boards and teachers groups. Table 1 provides general information about sick leave bank provisions, including a definition of board employees eligible to participate in the bank, the nature of participants' contributions to the bank, and the body administering or making decisions about the use of the bank. Since all sick leave bank provisions appear in classroom teacher agreements, it is assumed that they apply to classroom teachers; only 15 agreements specifically define the employees eligible to participate in the bank. Twelve provisions state that the employee's contribution to the bank is voluntary, while 20 provisions call for required contributions to the bank. Of the 17 provisions which do not indicate the nature of employee contributions, nine provide that only the school board contributes to the bank, and one states that teachers may vote on the nature of their contributions. Thirty-eight of the 49 agreements contain negotiated items concerning the body which administers the bank or makes decisions concerning its

use: 13 sick banks are administered by employees or their representatives; four are administered by the school administration; 20 are administered jointly by employees or their representatives and the school administration; and one is administered by an undefined committee.

Table 2 summarizes the negotiated amount and source of contributions to the sick leave bank. Of the 46 provisions specifying the amount and source of days or money contributed to the bank, 13 indicate that both the board and its employees contribute to the bank, 22 indicate that only employees contribute to the bank, and 11 provide that only the board contributes to the bank. A maximum or minimum number of days to be maintained in the sick leave bank is negotiated in 27 of the provisions.

Table 3 presents the negotiated regulations governing the use of the sick leave bank. In 39 provisions an employee's use of the bank is predicated upon the prior exhaustion of all of his annual and cumulative sick leave. In one provision an employee may draw leave from the bank after using only a stipulated number of his own leave days. Five provisions require a medical examination before use of the bank, and eight provisions state that the administering agent may request a medical examination during an employee's use of leave from the bank. In 25 provisions a maximum possible waiting period before use of the sick leave bank is negotiated, specifying either the number of days an employee must wait after the exhaustion of his own leave, or the number of days an employee must be sick before using the bank. (All figures relative to the maximum possible waiting period were derived by assuming that an employee has no sick leave of his own.) Twenty-eight provisions indicate the maximum number of days per year or per illness which can be drawn from the bank by an individual employee.

In addition to the three tables, three of the 49 negotiated sick leave bank provisions are printed in their entirety.

TABLE 1—NEGOTIATED GENERAL STRUCTURE OF SICK LEAVE BANK

School system	Definition of board employees eligible to use sick leave bank	Nature of employee contribution to sick leave bank	Administration of and/or decisions concerning use of sick leave bank
1	2	3	4
CONNECTICUT			
West Haven	All tenured certificated staff below superintendent	Voluntary	...
MASSACHUSETTS			
Framingham	...	...	...
MICHIGAN			
Ann Arbor	...	...	Association
Bay City	All certificated staff except supervisors	Required	Joint
Berkley City	...	Required	Administration
Big Rapids	...	Required	...
Bloomfield Hills	...	Required	...
Brighton Area	...	Voluntary	Association
Carman (Flint)	...	Required	Association
Cedar Springs	...	Voluntary	Association
Center Line	Professional personnel whose jobs require a teaching certificate	Voluntary	Administration
Chesaning Union	...	...	Undefined committee
Chippewa Valley	...	...	Association
Clinton Community	...	...	Joint
Dearborn Heights District No. 7	All certificated staff including superintendent	Required	Joint
Dexter Community	...	...	Joint
East Detroit City	All members of bargaining unit employed 1 year	Voluntary	Union-board veto
Ferndale City	All teachers employed more than 1 year	Required	Association
Fitzgerald	...	...	...
Grand Blanc Community	All certificated staff below supervisors	...	Joint
Hamtramck	...	...	Joint
Harper Woods City	...	...	Joint
Haslett	...	Voluntary	Administration-Assn. advice
Kelloggsville	Tenured teachers and administrators	Voluntary	Joint
L'Anse Creuse	...	...	Association
Livonia	...	...	...
Melvindale-Northern Allen Park	All professional staff below rank of assistant principal	Required	Union

TABLE 1–NEGOTIATED GENERAL STRUCTURE OF SICK LEAVE BANK (Continued)

School system	Definition of board employees eligible to use sick leave bank	Nature of employee contribution to sick leave bank	Administration of and/or decisions concerning use of sick leave bank
1	2	3	4
Montrose Township	...	Required	...
Mt. Clemens Community	...	Required	Association
Mt. Pleasant	...	Required	Joint
Novi Community	...	Required	Association
Roseville	...	Required	Joint
Saginaw City	...	...	Joint
Saline Area	...	Required	Association
Sandusky Community	...	...	...
Southfield	...	Required	Joint
Southgate Community	...	Required	Joint
Standish-Sterling Community	All teachers with at least 2 years in system	Required	Joint
Traverse City	Any teacher who contributes days	Voluntary	Joint
Utica Community	All tenured certificated staff except supervisors	Voluntary	Joint
Van Dyke	All certificated personnel	Required	...
Walled Lake	...	Required	Joint
Wayland Unified District No. 4	...	...	Joint
Wayne Community	...	...	Administration-Assn. advice
NEW YORK			
Candor Central	All full-time certificated teachers	Required	Joint
North Syracuse Central District No. 3	...	...	...
Oswego	...	Voluntary	Association
Syracuse City	...	Voluntary	...
RHODE ISLAND			
Pawtucket	Any teacher who contributes days	Voluntary	Joint

TABLE 2–NEGOTIATED AMOUNT AND SOURCE OF CONTRIBUTIONS TO SICK LEAVE BANK

School system	Maximum number of days contributed to sick leave bank per year or when bank at minimum			Total number of days maintained in sick leave bank	
	Per employee by board	Per employee by employee	Lump sum given by board	Maximum	Minimum
1	2	3	4	5	6
CONNECTICUT					
West Haven	...	1 day	...	1,500 days	1,000 days
MASSACHUSETTS					
Framingham	...	...	...	...	...
MICHIGAN					
Ann Arbor	1 day	...	...	...	...
Bay City	...	Varies 1 to 2 days	400 days during first year	...	750 days
Berkley City	1 day	...	...	500 days	...
Big Rapids	...	1 day	...	180 days	...
Bloomfield Hills	...	1 day	...	...	...
Brighton Area	...	3 days	...	...	...
Carman (Flint)	...	2 days	...	1,500 days	1,000 days

TABLE 2—NEGOTIATED AMOUNT AND SOURCE OF CONTRIBUTIONS TO SICK LEAVE BANK (Continued)

School system	Maximum number of days contributed to sick leave bank per year or when bank at minimum			Total number of days maintained in sick leave bank	
	Per employee by board	Per employee by employee	Lump sum given by board	Maximum	Minimum
1	2	3	4	5	6
Cedar Springs	...	2 days	...	...	...
Center Line	...	Varies 1 to 2 days	...	1,500 days	1,000 days
Chesaning Union	1 day	...	...	c	...
Chippewa Valley	...	1 day	...	...	...
Clinton Community	1 day	...	...	...	...
Dearborn Heights District No. 7	...	1 day	...	600 days	...
Dexter Community	2 days	...	...	300 days	...
East Detroit City	Varies	1 day	...	c	...
Ferndale City	...	Varies 2 to 3 days	...	Number of days equals 2(number of teachers)[d]	c
Fitzgerald	...	...	125 days	125 days	...
Grand Blanc Community	...	...	...	c	...
Hamtramck	½ day	May vote	...	...	...
Harper Woods City	...	2 days	...	200 days	...
Haslett	1 day	1 day	...	1,000 days	...
Kelloggsville	...	1 day	...	...	...
L'Anse Creuse	...	1 day	...	...	Number of days equals 2/3 (staff contributing)[d]
Livonia	...	...	b	...	...
Melvindale-Northern Allen Park	1 day	1 day	...	...	...
Montrose Township	...	1 day	...	...	...
Mt. Clemens Community	...	1 day	...	...	...
Mt. Pleasant	1 day	1 day	...	...	150 days
Novi Community	...	1 day	...	120 days	...
Roseville	1 day	1 day	...	...	...
Saginaw City	...	Undefined	...	c	...
Saline Area	...	1 day	...	...	...
Sandusky Community	...	...	50 days	...	...
Southfield	...	1 day	Varies	...	...
Southgate Community	1 day	1 day	...	Original total	...
Standish-Sterling Community	...	1 day	25 days during first year	...	70 days
Traverse City	...	1 day	...	500 days	...
Utica Community	...	1 day	...	1,500 days	1,000 days
Van Dyke	...	Varies 1 to 2 days	Varies	...	Number of days equals 2.5(number of members)[d]
Walled Lake	2 days	2 days	...	400 days	...
Wayland Unified District No. 4	...	...	$2,000 per year	...	...
Wayne Community	...	...	500 days	...	...
NEW YORK					
Candor Central	...	1 day	...	150 days	50 days
North Syracuse Central District No. 3	...	...	...	...	...
Oswego	...	Undefined	...	...	...
Syracuse City	3 days	3 days	$10,000 line item in 1969 budget	3,000 days	...
RHODE ISLAND					
Pawtucket	a	a	...	...	...

[a] Each teacher contributes $5 per year, and the board matches this contribution.

[b] The formula applied is: each year the board contributes a sum equal to the number of teachers in the bargaining unit times the average number of days used for illness, disability, and personal business times the per diem substitute rate.

[c] The maximum total number of days maintained in the sick leave bank is equal to the total number of employees.

[d] The style used is that of an algebraic formula.

TABLE 3—NEGOTIATED REGULATIONS GOVERNING USE OF SICK LEAVE BANK

School system	Exhaustion of own sick leave reserve required	Medical examination required: Before using bank	Medical examination required: During use on request of administering agent	Maximum possible waiting period before use of sick bank	Maximum amount to be withdrawn from sick leave bank per year or per appeal	Miscellaneous data
1	2	3	4	5	6	7
CONNECTICUT						
West Haven	X	...	...	60 days	60 days	...
MASSACHUSETTS						
Framingham	...	...	...	...	...	Joint committee to establish sick leave bank
MICHIGAN						
Ann Arbor	X	...	...	...	...	Pro-rated participation by part-time employees
Bay City	X	...	X	15 days	180 days	Waiting period days paid retroactively; maximum may be waived
Berkley City	X	...	...	...	...	...
Big Rapids	X	...	X	...	90 days	...
Bloomfield Hills	X	...	...	39 weeks	12 weeks	...
Brighton Area	X	...	...	...	...	...
Carman (Flint)	X	...	...	30 days	Remainder of year	...
Cedar Springs	X	...	...	...	...	...
Center Line	X	...	...	20 days	60 days	...
Chesaning Union	X	...	...	...	...	...
Chippewa Valley	X	X	...	10 days	20 days	May waive 20-day maximum
Clinton Community	X	...	...	...	2(amount contributed)[d]	...
Dearborn Heights District No. 7	X	...	...	7 days	20 to 200 days	Waiting period days paid retroactively
Dexter Community	X	...	...	...	...	...
East Detroit City	X	...	...	None	100 days	...
Ferndale City	X	...	...	15 days	90 days	Waiting period may be waived for recurrence
Fitzgerald	X	...	...	3 days	...	Teachers must repay ⅓ of bank days used
Grand Blanc Community	...	...	...	...	60 days	...
Hamtramck	X	...	...	...	50 days	Disputes subject to grievance and arbitration
Harper Woods City	X	...	Intervals	10 days	100 days	Waiting period may be waived for recurrence
Haslett	X	...	...	20 days	1 year	...
Kelloggsville	X	...	...	35 days	50 days	Paid at B.A. Step 5; 50-day maximum may be waived
L'Anse Creuse	...	...	...	...	...	...
Livonia	...	...	...	...	1 year	Employees share unused money in bank each year
Melvindale Northern Allen Park	X	X	...	10 days	200 days	Pro-rated participation by part-time employees
Montrose Township	X	X	...	20 days	30 days	Pro-rated participation by part-time employees
Mt. Clemens Community	X	X	...	10 days	40 days	Pro-rated participation by part-time employees
Mt. Pleasant	X	...	X	5 days	180 days	Paid at 80% of salary; may waive 180-day maximum
Novi Community	X	X	...	2 days	10 days	...
Roseville	Not all	...	X	20 and 15 days	30 and 60 days	20-day waiting period may be waived
Saginaw City	X	...	...	...	...	...
Saline Area	X	...	...	...	...	...
Sandusky Community	X	...	...	3 days	...	...
Southfield	X	...	...	...	...	...
Southgate Community	X	...	...	½ school year	...	...
Standish-Sterling Community	X	...	X	15 days	30 days	...
Traverse City	X	...	...	...	15 to 30 days	Teachers may draw own share contributed after maximum withdrawn
Utica Community	...	...	...	30 days	157 days	...
Van Dyke	X	...	...	15 days	180 days	...
Walled Lake	X	...	X	2 days	...	...
Wayland Unified District No. 4	X	...	...	...	...	Employees share unused money in bank each year
Wayne Community	X	...	...	...	...	...
NEW YORK						
Candor Central	...	...	...	...	...	New teachers may use bank before contributing
North Syracuse Central District No. 3	...	...	...	...	...	Board and Association to plan sick leave bank program
Oswego	...	...	...	...	...	...
Syracuse City	X	...	X	...	40 to 90 days	...
RHODE ISLAND						
Pawtucket	...	...	...	...	...	...

City of Ferndale School District, Ferndale, Michigan
Schedule C–Master Sick Bank Plan

1. Master Sick Bank Plan. The procedure for the establishment and administration of the Master Sick Bank shall be in accordance with the following provisions and shall be for the use and benefit of all eligible teachers who apply and their applications are subsequently approved for sick day benefits.

2. Funding of Sick Bank. The Master Sick Bank shall be funded in accordance with the following provisions:

a. All teachers employed in the Ferndale School District for more than a year shall have two (2) sick days of their accumulated current allowance transferred to the Master Sick Bank.

b. Teachers newly employed by the school district shall have two (2) sick days of their advanced ten (10) days of current allowance transferred to the Master Sick Bank at the beginning of the school year. Teachers employed subsequent to February 1 of the school year shall have only one (1) day of their current allowance transferred to the Master Sick Bank. The additional day of the two (2) day requirement will be transferred from their current allowance at the beginning of the new school year in September.

c. The maximum number of sick days in the Master Sick Bank shall be twice the number of teachers in the bargaining unit.

d. The above two (2) sick days transferred to the Master Sick Bank from the current allowance of a teacher, or any other sick days so transferred, shall not be deducted from the days remaining in the Master Sick Bank at the time a teacher terminates his employment with the School District.

e. If the number of days in the Master Sick Bank falls below 50% of the maximum funding of days prior to the end of any school year, the Association will notify the Board to make a transfer of one (1) more day from each teacher's current allowance to the Master Sick Bank.

3. Eligibility Master Sick Bank. Any teacher shall be eligible to make application to the Sick Bank Committee for sick days of benefit after he has been incapacitated for fifteen (15) consecutive working days and has used all of his own current allowance. If a teacher is incapacitated for at least fifteen (15) working days in any one (1) year and there is a further incapacitation which appears to be a recurrence of the same illness or accident and the same doctor who handled the case originally verifies by written statement that such incapacitation is a recurrence, then the fifteen (15) days' eligibility requirement could be waived in this instance at the discretion of the Sick Bank Committee.

4. Application. Each application for sick days of benefit from the Master Sick Bank must be submitted on the Sick Bank Application form to the Sick Bank Committee, and such application will be approved or rejected on the basis of the individual teacher's circumstances. All applications must be accompanied by supporting doctor's statements.

5. Sick Bank Committee. The Sick Bank Committee shall be composed of five (5) teachers to be selected in any manner determined by the Association who shall hold membership on the Committee for such terms as the Association may determine. Any application approval by the Committee shall be by a majority vote of the entire committee.

6. Administration. The Master Sick Bank shall be administered by the Sick Bank Committee in accordance with the following provisions:

a. No teacher shall be allowed more than ninety (90) days from the Sick Bank.

b. The form authorizing an award of sick days from the Master Sick Bank to a teacher which is sent to the Board for payment must be accompanied by supporting doctor statements used by the Committee in making their decision (for Board review) and signed by three (3) members of the Sick Bank Committee and one of the following:

(1.) President of Ferndale Education Association
(2.) Executive Secretary of Ferndale Education Association

c. The administration records of the Master Sick Bank shall be audited at the end of each school year by a Committee composed of three (3) members, with one member each to be appointed by the Board, by the Association, and by the Sick Bank Committee.

d. This plan and its application to the current allowance of teacher sick days shall be retroactive to September 6, 1966.

7. Board Retention of Sick Days. All sick leave days accumulated by any teacher in his current allowance or those days transferred to the Master Sick Bank from his current allowance shall be subject only to the contingent liability of actual sick claim use by the teacher or the Master Sick Bank. All sick leave days which are not used by the teacher or the Master Sick Bank during the period of his employment shall not be subject to any other type or kind of claim in any form whatsoever by the teacher or the Association when his employment has terminated.

8. Board Indemnification. The Association will indemnify and hold harmless the Board and assume and discharge the full and complete liability of the Board arising out of or in connection with the administration of the Master Sick Bank, by their duly designated Sick Bank Committee as well as any and all claims for payment of compensation involving litigation or proceedings brought against the Board, by any teacher or group of teachers who had sick days transferred from their current allowance, or were the recipient of or were denied an award of sick days from the Master Sick Bank.

9. No Increase in Board Liability. Nothing herein contained shall alter or extend, or in any manner increase, the liability of the Board to any teacher in respect to sick day compensation presently existing in any plan or agreement to which the Board is a party.

10. Termination of Master Sick Bank. The Master Sick Bank shall terminate and become null and void on the same date the Agreement between the Board and the Association terminates.

Dearborn Heights District No. 7, Dearborn Heights, Michigan
Article XI, Section E—Sick Leave Bank

All members of the certificated staff, including principals, assistant principals, assistant and deputy superintendents, and the superintendent shall assign one (1) leave day per year to a central sick leave bank. A certificated staff member may, when his own personal leave accumulation is exhausted, draw from this bank in cases of extended continuous absence due to personal illness or accident.

A committee composed of the superintendent of schools, the president, vice president, and secretary of the Association, the assistant superintendent for instruction, and one building principal shall determine the validity of any request to draw from the central sick leave bank. The committee shall determine the procedures under which it shall operate, subject to the following conditions:

1. A member of the certificated staff must be absent seven (7) consecutive days *after* his own personal leave is exhausted before his application to the central sick leave bank will be considered. If the application is approved, he will be paid retroactive to and including the first day after his personal leave is exhausted.

2. No applications will be considered for the purposes of cosmetic or other surgical procedures that could without danger to the patient, be postponed to a time when school is not in session.

The above-named committee shall periodically review each case to determine future eligibility. The maximum period between reviews shall be thirty (30) calendar days. All committee decisions shall be in writing and a copy sent to all persons involved.

All committee decisions pertaining to eligibility or renewal of benefits, after initial benefits are granted, shall be final and are not subject to appeal.

The committee shall also have the authority to grant a year of grace during which no additional contributions are made to the central sick leave bank if, in their opinion, the bank is of sufficient size to guard against future emergencies. The year of grace shall be mandatory when the bank exceeds six hundred (600) days. The year of grace shall not apply to first year teachers.

If the occasion should ever arise when the central sick leave bank is exhausted, no applications will be considered until the following year.

The maximum number of consecutive school days any one employee may draw from the bank shall be as follows:

1. Probationary teachers—twenty (20) consecutive school days.

2. Tenure teachers with less than five (5) years' service in District No. 7—sixty (60) consecutive school days.
3. Tenure teachers with five (5) but less than ten (10) years' service in District No. 7—one hundred (100) consecutive school days.
4. Tenure teachers with ten (10) years' service in District No. 7—two hundred (200) consecutive school days.

Syracuse City School District, Syracuse, New York
Article XIII, Section E—Temporary Leaves of Absence, Sick Leave Bank

Each member of the unit shall be permitted to contribute up to three (3) days from his sick leave accumulation reserve each school year to a "Sick Leave Bank," which shall be established to aid teachers who suffer prolonged illness and whose sick leave accumulation has been exhausted. The Board shall match each such contribution up to a maximum total reserve of 3,000 days. The line item in the 1969 budget shall be $10,000.00.

1. A teacher with three years or less in the District may be permitted, on written application and adequate justification, to draw up to forty (40) days against the bank after his own accumulation has been exhausted, but only for illness of a prolonged nature, as provided in the introductory paragraph, above.
2. A teacher with tenure in the District may be permitted, on written application and adequate justification, to draw up to ninety (90) days against the bank after his own accumulation has been exhausted, but only for illness of a prolonged nature, as provided in the introductory paragraph, above.
3. Medical reports, as required in other portions of this article, may be requested by the Superintendent in the administration of the Sick Leave Bank.
4. Regardless of the number of days accumulated in the Sick Leave Bank reserve, expenditures from the Bank shall be limited to the line item in the budget appropriated therefor.

Special Reports

BRIEFS OF RECENT AGREEMENTS

Stamford, Connecticut

Between the Stamford Board of Education and the Stamford Education Association, effective July 1, 1968, to June 30, 1970. Approximately 1,243 certificated professional employees. Provision for reopener during interim year at which time negotiations will be confined to school calendar, and the financial aspects of extra pay for extra work, sabbatical leave, retirement, curriculum study, life insurance, and longevity.

Compensation: (1969-70) B.A., $7,300 to $11,315, 11 increments; B.A. plus 15 hours, $11,470 maximum; M.A., $7,700 to $12,705, 13 increments; M.A. plus 30 hours, $13,600 maximum; Ph.D., yearly increments of 5½% of $8,500, not to exceed 15 increments; longevity pay of $200 for 25 to 29 years' service, and $400 for 30 or more years' service, severance pay of $250. Differentials: summer curriculum committee teachers, $30 per diem; curriculum committee chairman, $35 per diem; high-school men's track coach, $700 to $1,300 additional; high-school girls' track coach, $200 to $440 additional; psychological examiners and social workers, $500 additional; salary ratio differentials of 1.52 to 1.08 for school directors, principals, assistant principals, coordinators, and department heads.

Leaves: 15 days' annual sick leave, 135 days' maximum accumulation; 60 days' extended sick leave at partial pay; 2 days for personal business; 2 days for family illness; 1 day for religious holiday; time as needed for professional conference leave; sabbatical leave at half-pay for 1 semester or 1 year after 7 years' service.

Insurance: Board-paid Blue Cross medical service and major medical for family coverage; board-paid $4,000 life insurance with "indemnity for death, dismemberment, and loss of sight accident" for individual; tax sheltered annuity plan; board-paid physical examination every 5 years.

Miscellaneous: Grievance procedure ends with fact-finding; Association dues deduction; Association representatives given free time with no loss of pay for Association activities during school day; joint committee on educational development; joint "work-saver planning committee" for relief from nonteaching duties; joint textbook selection committee; tuition reimbursement by board; in-service training; provisions for class size, duty-free lunch periods, and teacher and clerical aides; 5 preparation periods per week for secondary-school teachers; summer school program; code of ethics; school calendar guidelines; teacher protection.

Grand Ledge, Michigan

Between the Grand Ledge Board of Education and the Grand Ledge Education Association, effective July 1, 1969, to June 30, 1970. Approximately 225 certificated professional employees.

Compensation: B.A., $7,000 to $8,000, 4 increments; B.A. plus 20 hours, $11,000 maximum; M.A., $7,600 to $11,200, 9 increments. Differentials: head football coach, 10% of B.A. base; freshman baseball coach, 4% of B.A. base; band director, 10% of B.A. base; secondary-school vocal music director, 5% of B.A. base; debate coach, 5% of B.A. base; counselors, $100 additional "per school hour for year"; special education teachers, $300 additional.

Leaves: 10 days' annual sick leave, unlimited accumulation; 2 separate days for personal business; 5 days' bereavement leave deducted from accumulation; time as necessary for professional conference leave; time for school visitations; provisions for jury duty and selective service physical examination.

Insurance: Board pays $20 per year toward comprehensive state health care for individual coverage.

Miscellaneous: Agency shop provision; Association dues deduction; released time for Association president of 280 minutes per week; joint curriculum committee; joint professional growth committee; 1-hour duty-free lunch period for elementary teachers; teacher aides for oversized classes; promotion policy from within; development of special education program; school calendar.

APPENDIX B–CURRICULUM COUNCIL COMMITTEE

There shall be established a Curriculum Council which shall be broadly representative of all curriculum needs in the Grand Ledge Public Schools.

A. Definitions

1. The "administrative council" includes the Superintendent of schools, and all other administrators.
2. The term "staff" includes any or all certificated teachers in the Grand Ledge School System.
3. The term "ex-officio" refers to those members who may be called in as a result of their position, but are not permanent members of the committee.
4. "Grade levels" represents grades Kindergarten through six as established in the school system. These would be found in the various "elementary buildings."

B. Its Objectives and Purposes Include

1. To bring about staff communication with the administration and the Board; and in turn, the administrative communication with the staff.
2. This council will act as a clearing house for ideas and communications from all areas of study between the parties in "A" before presentation to the Board.
3. To plan, implement and evaluate suggestions for various fields of study.
   a. New and revised instructional programs with emphasis on special studies, textbook selections, coordinate groups, team teaching, etc.
   b. In-service activities which would include such projects as workshops and pre-school conference.
   c. Building planning in joint communication is an important part of having adequate housing for implementing any and all ideas as set forth in this committee.

C. Structure

1. Members of this Curriculum Council shall be appointed jointly by the Administrative Council and the Association Building Representatives for one and two-year terms to provide continuity. A meeting of Building Representatives and the Administrative Council will be scheduled by the Superintendent in September to make joint appointments.
2. The number of members shall be somewhat flexible, with the recommendation that the committee not exceed twenty-seven (27) members.

   Assignments from such group shall be as follows:
   a. There shall be eight (8) members from the elementary building and grade levels with such a distribution making for the best total representation.
   b. There shall be those members appointed from these school departments and special service groups.
      (1.) There shall be one (1) each from the Social Studies, Mathematics, Science, English, Foreign Languages and Fine Arts, and Library Services.
      (2.) There shall be members from each of these groupings as follows:
         (a.) There shall be two (2) members from the vocational group which includes Industrial Arts, Home Economics, Agriculture, Commercial subjects and the Co-op program.
         (b.) There shall be one (1) member from the Physical Education group which includes health, recreation and all athletics.
         (c.) There shall be two (2) members from the special services group which includes Counseling, Special Reading and Special Education.
         (d.) Student Representatives. There shall be two High School Student representatives selected by the Student Council, one appointed each year for 2 years, except that in 1969-70 there shall be one junior and one senior. In so far as possible students should be selected to represent all areas of the curriculum.

c. There shall be two members of the Board who will act as members of this committee.
d. The Administrative Council shall provide two (2) members, the Superintendent and Assistant Superintendent or their delegates.
e. Other members of the Administrative Council may attend when interested in reports or proposals.
f. At those times deemed necessary in particular studies or committee activity as appropriate, members shall be chosen from and by their own groups in PTA, PTSA, GLEA, or student groups to serve as ex-officio members on this committee.

D. Procedure

1. The number of meetings shall be at least seven (7). Suggested times are in September, October, November, January, February, April and May. The October meeting of the council shall be devoted to a report and analysis of class size and pupil distribution and the efforts that have been made to reserve and balance larger classes.

2. The Superintendent or his representative and a teacher elected by a vote of the teacher representatives shall serve as co-chairman of each council meeting. They shall jointly prepare and distribute to each council member a tentative agenda one week in advance of each meeting.

3. All proceedings shall be put in writing and given to all professional staff members. The chairman will designate the person responsible for this task.

4. The committee shall hear, discuss and act upon reports and recommendations from special study committees, departments, grade levels, and all professional groups concerned.

5. The Assistant Superintendent will then present these approved recommendations and proposals to the Board which shall act on all proposals and subsequently shall present their reasons for approval or rejection in a written statement to all professional staff members.

6. Individual committee members shall keep co-workers in their area informed on council activities and actively encourage proposals and ideas for curriculum improvement to be presented to the council.

7. A quorum of two-thirds of the members of the Council shall be present to transact business.

APPENDIX D–PROFESSIONAL GROWTH PLAN

A. Introduction and Definitions

Teaching today is a science as well as an art, and knowledge about it is being acquired rapidly. The day has passed when the informed citizen thinks that "just anyone" can teach school. He has a new image of the teacher. The teacher who wishes to walk in this image must keep in step with this new knowledge through professional growth.

Professional growth is defined as: Improvement in understanding and application of our current trends of subject matter and methodology, and appreciation of cultures–present and past.

A portion of this growth should be formal–that is in definite units of study offered by a university or other institution. This formal study best enables the teacher to keep up with subject matter, teaching methods, aids and approaches to learning.

A portion of this growth is also informal. Informal growth shall be in all other areas which can be established as beneficial to the teacher.

B. Types of Professional Growth Units

1. Formal

College course work can satisfy all units at the ratio of one semester hour to one unit of professional growth credit. Units for auditing college courses will be given at the ratio of one semester hour to ½ unit. Units for workshops will be given at the ratio of 30 clock hours of workshop time to ½ unit.

2. Informal

Professional growth units will be given for travel. If travel is individually planned, the teacher may, if he so desires, insert in his professional growth folder the plans for his trip. When he has returned, the teacher will be required to submit a written report, summarizing his travel and how it will be of value to him. A maximum of 3 units may be earned in a single trip or during a three-month period. If accepted, a trip will have a value of at least ½ unit, as explained in the accompanying form.

C. Professional Growth Plan

Professional growth units will be given for work experiences in areas related to the teaching field or that will be valuable to the teacher as a person. The teacher may ask for prior approval of credit for work experience. Upon completion, he should submit in writing a summary of the experience and its value to him. ½ to 3 units will be given for work experience, as explained on the accompanying form.

Long term curriculum study committees that meet regularly for a period of approximately one year and complete their studies with a written report, will earn professional growth credits. 30 hours' work will be worth ½ unit, not to exceed 1 unit per year.

If a teacher is responsible for a student teacher, he will earn ½ unit of professional growth credit for each term. Only three supervising teacher experiences will be counted.

Professional growth credit will be given for professional association work. Officers, committee chairman, and members who apply for credit will be expected to meet regularly, carry out a program, and submit a report, as explained in the accompanying form.

G L E A President		2 units
G L E A President-elect		½ unit
G L E A Secretary		½ unit
G L E A Treasurer		½ unit
Committees that meet for a least 30 hours		½ unit
	(not to exceed)	1 unit
Chairman will earn		1 unit
	(not to exceed)	2 units
Region President		2 units
Region President-elect		2 units
Region Secretary		1 unit
Region Treasurer		1 unit

Region committees will be evaluated on the same 30 hour basis as local committees.

Teachers holding office in departments or at the state level will be eligible for professional growth units.

Unusual personal experiences that have not been included in the categories above will be considered for professional growth; for example: significant work in community service, individual study and research, publication, lectures, etc. If a teacher feels he qualifies in these or other areas, application should be made to the professional growth committee.

D. Professional Growth Operation

This professional growth plan began March 9 for the 1965-1966 contract year.

Each teacher will give a written report of his informal professional growth experience by no later than April 1st. Evidence of work completed is to be attached to the report. e.g. proof of credit received for college course work, written reports of travel or work experiences, etc. It is recommended that professional growth experiences be submitted for evaluation as they are completed. Formal credit units counted for any succeeding year will be submitted by August 1.

E. Professional Growth Committee

1. Composition
   a. 1 school board member (the chairman of the personnel committee).
   b. 1 administrator (assistant superintendent).
   c. 4 teachers (one k-3; one 4-6; one middle school; one senior high school) elected by Grand Ledge Education Association for three year staggered terms.
   d. The chairman will be elected by the committee in May, for a 12 months period, from June 1 to May 31, the following year. A quorum of two-thirds of the committees is required to take action. All action will be by majority vote of those present.
2. Duties

Meetings will be held as necessary, at least three times each school year. To accept or reject in writing individual programs, no later than 45 days after being submitted to the committee, or by May 15th. At the request of any teacher whose record is unapproved, to arrange a meeting of the teacher and the members of the professional growth committee. The purpose of this meeting will be to give the teacher an opportunity to present additional information or individuals to clarify his report.

3. Records and Forms

All records pertaining to professional growth will be kept in a folder, filed in the personnel file maintained by the office of the Superintendent of schools. Such records will be available to the committee or to the individual teacher concerned through the superintendent or Ass't. Supt.

The following forms are suggested and will be revised by the Professional Growth Committee as the need arises.

F. Travel

The exact evaluation of units of credit for trips shall be decided by the Professional Growth Committee. Listed are a few of the requirements for trips.

1. A trip must warrant the number of units given it. (A maximum of three units to be awarded except in unusual instances. These would be trips for educational purposes and only with a great deal of preparation, study and formal work. Credit above three units should be awarded on only unusual and infrequent occasions.)
2. No trip shall be given credit solely upon the duration of time, but rather include the evaluation of knowledge learned by the teacher as expressed by him in his formal presentation to the committee. The larger the number of units allowed for the trip, the more extensive the formal presentation shall be.
3. A teacher may request a commitment from the committee as to whether or not a trip will receive credit before he embarks on said trip. (Such request must be made at least 45 days prior to the proposed trip.)
4. If the teacher states in his report the number of units he deserves, and if the committee does not award this number, it shall be the committee's responsibility to give its reasons for not awarding full credit.
5. For minimum credit (½ unit) a trip must include:
   a. 48 hours length of time. (Shorter trips may be presented for possible approval.)
   b. A formal presentation of said trip to the Professional Growth Committee.
   c. The committee must accept a trip for at least ½ unit of credit if all the preceding requirements are met.

G. Forms

1. Professional Growth—Outline for Travel Experience
   a. Characteristic of trip
      (1.) time spent
         (a.) preparation
         (b.) actual travel
      (2.) places visited (of interest to the Committee)
         (a.) location
         (b.) significance of each place to the teacher
   b. Evaluation of the trip
      (1.) direct learning to the person as a teacher
      (2.) indirect learning experience for the teacher
   c. (If desired) Number of units the teacher believes his trip should be worth, with an explanation of why

_____
Signature of Teacher

2. Professional Growth—Work Experience

Certain job and work experiences may be given credit for professional growth at the ratio of ½ to 3 units. Such jobs or work experiences as counselling or other work in youth camps; forest rangers; park attendants; special teaching positions; work with newspapers or other publications; positions in special offices; etc., may be counted. In order to receive credit, the following form should be completed:

Exact Name or Title of Position_____

Location_____

Dates: From_____ To_____

Duties:_____

How Was This Experience Beneficial to You?_____

_____

(If Desired) Number of units the teacher believes his work experience should be worth, with an explanation of why.

_____
Signature of Teacher

3. Professional Growth—Professional Association Work

Name or Title of Office or Work _____

Of What Professional Organization?_____

Dates: From_____ To_____

Duties and Activities:_____

Number of Hours Work Involved:_____

(If desired) Number of units the teacher believes his work experiences should be worth.

_____
Signature of Teacher

Manahawkin (Ocean County), New Jersey

Between the Southern Regional High School District of Ocean County Board of Education and the Southern Regional Education Association, effective January 1, 1970, to June 30, 1972. Approximately 104 certificated professional employees.

Compensation: (effective July 1, 1970) B.A., $7,650 to $12,679, 12 increments; B.A. plus 30 hours, $13,143 maximum; M.A., $8,307 to $13,826, 12 increments; M.A. plus 30 hours, $14,837 maximum; Ph.D., $15,958 maximum; after 12 years' service one-half increment will be added every second year until retirement.

(1970-71) Differentials: athletic director, $1,421 additional; newspaper advisor, $628 additional; senior band director, $383 additional; cheerleading advisor, $437 additional; homebound instruction, $7.65 per hour; faculty substitutes, $3 per hour; school nurses, $6,140 to $9,234, 10 increments.

(effective July 1, 1971) B.A., $8,262 to $13,693, 12 increments; B.A. plus 30 hours, $14,194 maximum; M.A., $8,972 to $14,932, 12 increments; M.A. plus 30 hours, $16,024 maximum; Ph.D., $17,235 maximum; after 12 years' service one-half increment will be added every second year until retirement.

Leaves: 15 days' annual sick leave, unlimited accumulation; 2 separate days for personal business; 4 separate days' bereavement leave; 3 separate days for religious holidays; 3 separate days' professional conference leave; sabbatical leave at half-pay for 1 year after 7 years' service.

Insurance: Board pays half of health care insurance premium for individual or family coverage; hospital costs reimbursed for work-related injury; $150 reimbursement for damage to or loss of teachers' personal effects.

Miscellaneous: Grievance procedure ends with fact-finding; Association dues deduction; Association may use school facilities and equipment; Association makes recommendations regarding school calendar; joint committee to discuss health insurance program; joint instructional council; tuition reimbursement; duty-free lunch period; provisions for specialists and clerical aides; summer school program; "fair dismissal procedure"; teacher protection; academic freedom.

District No. 13, Town of Islip, Central Islip, New York

Between the Board of Education, Union Free School District No. 13, Town of Islip, New York, and the Central Islip Teachers Association, effective July 1, 1969, to June 30, 1970. Approximately 365 certificated professional employees.

Compensation: B.A., $7,300 to $12,775, 15 increments; B.A. plus 30 hours, $13,505 maximum; M.A., $8,395 to $13,870, 15 increments; M.A. plus 30 hours, $14,600 maximum; Ph.D., $15,695 maximum; longevity pay of $500 after 20 years' service, and an additional $500 after 25 years' service. Differentials: senior high yearbook advisor, $375 additional; senior high class advisor, $300 additional; senior high band director, $425 additional; guidance counselor base of $300 additional plus an index scale of 5% of $300; evening school instructors, $6.50 per hour.

Leaves: 14 days' annual sick leave, 180 days' maximum accumulation; 4 days for personal business deducted from sick leave; 3 separate days' bereavement leave; 2 days' professional conference leave; 6 days for Association representative to attend conventions; sabbatical leave at two-thirds pay for 1 year after 7 years' service.

Insurance: Board pays full premium for Blue Cross-Blue Shield and major medical for individual coverage, and 60% of premium for dependent coverage with employee paying remaining 40%; $2,500 life insurance policy for tenure teachers with an additional $500 of coverage for each additional complete year of service to a maximum of $4,000 coverage.

Miscellaneous: Grievance procedure ends with binding arbitration; Association dues deduction; Association has right to use school facilities; joint textbook selection committee; 30-minute duty-free lunch period for elementary teachers; provision for a specific number of specialists to be shared by school system and individual schools; academic freedom; disruptive child program; provision for substitute teachers; definition of guidance counselor duties and separate salary index.

ARTICLE XXXIV—GUIDANCE

A. Duties of Guidance Counselors

The counselor is professionally trained to meet the guidance needs of pupils and to provide adjunctive services to the school staff, parents and the community. His primary role is in student counseling, but he also carries responsibilities in such areas as pupil appraisal; interpretation of test results; organization of programs for increasing student knowledge of vocational information; utilization of community resources; placement; and evaluation. His duties are as follows:

1. Counsels pupils individually, and in groups, helping them to gain insight into their educational, vocational, and personal-social problems and to develop skill in arriving at decisions.
2. Studies pupil needs through the use of records, tests, observation, consultation and interviews. Assists pupils in evaluation of their abilities and interests, and interprets same to pupils, parents, and teachers. Enlists pupils' cooperation in carrying out plans to promote better adjustment. Gives support to pupils in helping them to resolve difficult situations.
3. Assists in screening individual pupils to identify those having special needs, such as gifted and talented pupils, underachiever and potential dropouts; pupils to be referred to the psychologist; potentially maladjusted pupils; and other groups of pupils with specific needs.
4. Makes recommendations to the principal concerning placement, interclass transfers and placement in special classes. Interviews new pupils and after testing and completing evaluation, the counselor recommends appropriate class placement for them.
5. Interprets pupil personnel data to staff members and cooperates with teachers in planning and carrying out measures to overcome learning difficulties and help pupil adjustment.
6. Works along with all specialists in order to help a particular child. Arranges case conferences when necessary.
7. Interprets pupil data to parents and enlists parental cooperation in carrying out educational plans. Helps parents explore opportunities and resources for the pupils' growth and development. Participates in parent meetings whenever necessary.
8. Cooperates with other agencies which provide services to pupils and their parents.
9. Maintains required records.
10. Is responsible for group guidance programs.

11. Conducts articulation activities on all academic levels and works to help pupils make a smooth transition from one school level to the next. Makes available information on educational offerings and occupational requirements.

12. Has a responsibility of reviewing all student course selections and appraising the appropriateness of choice to both student and parent.

13. Conducts follow-up and other evaluation activities concerned with the study of pupil needs and effectiveness of school program in meeting these needs.

B. Counselor-Pupil Ratio

The number of pupils for whom a counselor is responsible should be such that he can carry out his functions effectively for all of them. It is agreed that the pupil load per counselor will conform with the provisions of Article IX.

C. Secretarial Assistance

Ample secretarial assistance will be available for the counselors. It is agreed that where possible a ratio of one (1) secretary to seven hundred (700) students in the senior high school and one (1) secretary to one thousand (1000) students in the middle or junior high schools will be maintained.

D. Working Conditions

In order for the counselor to function in the school setting the following conditions should prevail:

1. He should have the physical facilities appropriate to his work—
   a. Private office visual as well as auditory.
   b. . Office should offer a relaxed and comfortable atmosphere.
2. The housing of discipline cases in the guidance office and the interruptions during counseling interviews should not exist.
3. Discipline cases should be referred to the counselor, not to administer discipline, but as a follow-up to the actions of the disciplinarian. This would give the counselor ample time to review past records and discuss with teachers the child in question.

E. Salaries

In light of the fact that guidance counselors hold additional certification to the classroom teacher and in light of the fact that the guidance counselors of Central Islip Public Schools have traditionally worked a longer day (7½ hours) and a longer school year (September 1-June 30), than the classroom teacher, the guidance counselors of the Central Islip School District will receive the following:

APPENDIX E—"EXTRA COMPENSATION," GUIDANCE

5% Index "Increments"—5% of $300 or $15

STEP	BS	BS 15	BS 30	MA	BS 60 MA 15	MA 30	MA 45	MA 60	DR. DR.
1	300	315	330	345	360	375	390	405	420
2	315	330	345	360	375	390	405	420	435
3	330	345	360	375	390	405	420	435	450
4	345	360	375	390	405	420	435	450	465
5	360	375	390	405	420	435	450	465	480
6	375	390	405	420	435	450	465	480	495
7	390	405	420	435	450	465	480	495	510
8	405	420	435	450	465	480	495	510	525
9	420	435	450	465	480	495	510	525	540
10	435	450	465	480	495	510	525	540	555
11	450	465	480	495	510	525	540	555	570
12	465	480	495	510	525	540	555	570	585
13	480	495	510	525	540	555	570	585	600
14	495	510	525	540	555	570	585	600	615
15	510	525	540	555	570	585	600	615	630
16	525	540	555	570	585	600	615	630	645

East Providence, Rhode Island

Between the East Providence School Committee and the East Providence Education Association, effective November 1, 1969, to October 31, 1971. Approximately 450 certificated professional employees.

Compensation: B.A., $6,400 to $10,000, 9 increments; M.A., $7,100 to $10,700, 9 increments; M.A. plus 30 hours, $10,875 maximum; Ph.D., $11,700 maximum; longevity pay of $50 for 11 to 19 years' service, $200 for 20 to 24 years' service, and $300 after 25 years' service; severance pay of $400 after 25 years' service. Differentials: senior high head football coach, $1,500 additional; senior high yearbook advisor, $400 additional; senior high newspaper advisor, $200 additional; extra science classes at senior high level, $5.25 per hour; special education teachers, $315 additional; cheerleader adivsors, $150 additional; junior high science fair coordinators, $100 additional; elementary school safety patrol teacher-supervisors, $50 additional.

Leaves: 20 days' annual sick leave, 120 days' maximum accumulation over 6-year period; extended sick leave provision; full pay during quarantine absence; 1 day of personal leave; 5 days' bereavement leave; 2 days for religious holidays; leave for jury duty at full pay less amount received for jury service; sabbatical leave at half-pay for 1 year after 6 years' service.

Insurance: Board-paid Blue Cross, physicians service, and major medical for family coverage; board-paid $2,000 group life insurance for individual coverage, with employee option to pay for coverage in amounts of $5,000 to $10,000.

Miscellaneous: Grievance procedure ends with binding arbitration; Association dues deduction; incentive pay plan whereby all teachers and administrators pursuing an M.A. degree, sixth-year diploma, or Ph.D. degree at an accepted institution will receive $175 per year for a period of not more than 6 years; teacher has right to duplicate material in his personal file; 25-minute duty-free lunch period for elementary teachers; 15 minutes of relief time for elementary teachers; class size provision.

ARTICLE II, SECTION B—EXTENDED SICK LEAVE

Extended sick leave, with full pay, shall be allowed to all regularly employed certified personnel during period of long or serious illness in accordance with the following stipulations and schedules:

1. For teachers from the beginning of the first (1st) year to the end of the tenth (10th) year of service—ten (10) days' extended sick leave.
2. For teachers from the beginning of the eleventh (11th) year to the end of the twentieth (20th) year of service—twenty (20) days' extended leave.
3. For teachers with over twenty (20) years of service—thirty (30) days' extended leave.
4. Extended sick leave is granted only after the expiration of all accumulated regular sick leave or after the first ten (10) days of an illness period, which ever is the longer period, but in no case will extended sick leave commence before the eleventh (11th) day of any period of illness.
5. Unexpended extended sick leave remains credited to a teacher after any portion has been used up in an illness period, to accumulate beyond that point with the addition of one (1) day for each year of additional service to a total not to exceed the limits imposed by Sections 1 through 3 above.
6. Each regularly employed teacher shall receive one (1) day of extended sick leave for every five (5) days of regular sick leave not used each year (for a maximum of three (3) days per year) for a maximum of twenty (20) years. These days to be computed retroactively to the beginning of employment in East Providence.
7. Certification of illness by a physician shall be required in all cases in which extended sick leave is granted.
8. In extreme cases of protracted illnesses extending beyond all of the above allowances, additional time may be allowed at the discretion of the School Committee.

Text

AGREEMENT BETWEEN THE BRENTWOOD PUBLIC SCHOOLS, USFD NO. 12, BRENTWOOD, NEW YORK, AND THE BRENTWOOD PRINCIPALS AND SUPERVISORS ORGANIZATION, JULY 1, 1969, TO JUNE 30, 1970

PREAMBLE

In order to effectuate the provisions of Chapter 392 of the Laws of 1967 (the Public Employees Fair Employment Act), to encourage and increase effective and harmonious working relationships between the Brentwood Board of Education (hereinafter referred to as the Board) and its administrative and supervisory employees represented by the Brentwood Principals and Supervisory Organization (hereinafter referred to as the B.P.S.O.). To continue the administrative and supervisory employees participation and contribution to the development of policies for the school district so that the cause of public education may best be served in Brentwood.

THIS AGREEMENT IS MADE AND ENTERED INTO on this first day of July, 1969, by and between the Board and the B.P.S.O.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals this 7th day of July, 1969.

BOARD OF EDUCATION

By: _____
President

B.P.S.O.

By: _____
President

ARTICLE I

Recognition

The Board recognizes and certifies the B.P.S.O. for the purposes of collective negotiations, pursuant to the Public Employees Fair Employment Act, as the exclusive representative of a unit consisting of all members of the administrative and supervisory staff and other certificated employees of the Board on tenure, probation or interim appointment, with the exception of the District Principal, Assistant District Principals, and employees represented by the Brentwood Teachers Association.

Unless otherwise indicated, employees in the B.P.S.O. unit will hereinafter be referred to as "B.P.S.O. members", and references to male personnel will include female personnel unless otherwise specified.

If a new position is created during the life of this Contract, the inclusion of said position will be determined by mutual agreement of the parties. Recognition shall extend until one hundred and twenty (120) days prior to the annual meeting date in 1971 and for successive periods of two (2) years thereafter.

The Board agrees not to negotiate with any other administrative and supervisory organization other than the B.P.S.O. for the duration of the Agreement.

ARTICLE II

B.P.S.O. and Board Rights

A. The Board, the District Principal and the B.P.S.O. agree to exchange all existing information for the development of proposals on the matters to be negotiated under this Agreement. All pertinent records of U.F.S.D.#12 shall be made available to both parties which do not infringe upon the rights of individuals.

B. The District Principal and representatives of B.P.S.O. shall meet regularly on at least a monthly basis to discuss matters relating to the implementation of this Contract and other matters of concern. The agenda will be drawn up by the District Principal and the President of B.P.S.O. at least one (1) day in advance of meetings. If the District Principal is not available, upon mutual agreement he shall designate his representative, or the meeting shall be rescheduled for the earliest date on which he is available.

C. Members of the B.P.S.O. shall have the right to have their membership dues deducted from their pay checks for the Brentwood Teachers Association, New York State Teachers Association, National Education Association, and any other approved professional associations. Annual membership dues for these associations shall be deducted according to a plan agreed upon by the Board and B.P.S.O. Methods for implementation will be summarized the same as Article XXXI of the Teachers Contract.

D. The Board will provide the B.P.S.O. opportunity to meet with either the Board or other representatives as the Board may select to discuss the proposed school budget. The B.P.S.O. shall have representation on the District Budget Professional Advisory Committee.

E. The B.P.S.O. shall be given an early place on the agenda of the meetings of the Board when it is necessary for the B.P.S.O. to represent itself at such meetings.

F. The President of the B.P.S.O. can review any committee appointed by the District Principal or his Assistants when he feels the committee would not serve in the best interests of the school district and the Association.

G. The B.P.S.O. will be represented on all committees dealing with policy change or the modification of existing policies.

H. Copies of this Contract shall be printed and distributed at the expense of the Board to all B.P.S.O. members employed or hereafter employed by the Board.

I. The B.P.S.O. and its members shall be granted all fringe benefits as the Teachers Association and its members had been granted in addition to the areas specified in their Contract:

Health Insurance
Sick Days and Extended Sick Leave Policy
Personal Leave Days
Death in the Immediate Family
Payroll Savings Bonds & Loan Deductions
thru Business Office

J. Any member(s) of the B.P.S.O. needed beyond his specific time of employment shall receive notifcation by June 1st of each year.

ARTICLE III

Relationship to Board of Education

A. The B.P.S.O. and its members shall work through all normal channels of procedure and protocol as defined in this Contract and in district policy and procedures.

B. The B.P.S.O. shall have the right and opportunity to represent their views directly to the Board as it is deemed by the B.P.S.O. when "normal channels" no longer afford the opportunity for productive dialogue, adequate change, or clear understanding of its rationale prior to the final decision of the Board of Education.

ARTICLE IV

Job Description

A. All positions, current and future, shall have full job descriptions and evaluation procedures. The B.P.S.O. will have representation on all committees establishing these job descriptions.
B. No job description shall be changed without consultation with representatives of B.P.S.O.
C. Evaluation procedures for supervisors and/or principals will be established with representation from the B.P.S.O.
D. Any B.P.S.O. member shall have the right to hold employment with the District outside of his regular job description with permission of the District Principal.

ARTICLE V

Transfers

A. 1. Individuals must be informed in writing thirty (30) days prior to a transfer with a second copy submitted to the President of the B.P.S.O.
2. Any transfer must be accompanied with a specific assignment and outline the rationale for transfer.
3. Individuals have the right to appeal through the B.P.S.O. before finalization.
B. Individuals with tenure who are transferred will not lose that tenure status in accord with State Education regulations.
C. If transfer is involuntary, individual has the right to ask for instant tenure in the new position.

ARTICLE VI

Vacancies

A. 1. Whenever a vacancy shall occur in the District, the Board shall duly publicize said position in Administration Buildings and in each school building. This notice shall clearly set forth a description of the qualifications for the position, including duties, salary and the procedures for the interview and any other assessments of merit.
2. When school is in session, such notice shall be posted as far in advance as practicable, ordinarily at least thirty (30) days before the final date when applications must be submitted, but in no event less than ten (10) school days before such date. Members who desire to apply for a promotional position which may be filled during the summer vacation shall submit their names to the Director of Personnel together with the position or positions they wish to apply for and an address where they can be reached. The Director of Personnel shall notify such member in writing of any vacancy in a position for which they have applied. Three (3) weeks notice shall be given during the summer months up to August 15th. Such notification shall include descriptions as provided for in Paragraph 1. Such notice shall be sent as far in advance as practicable, but in no event less than ten (10) days prior to the final date for the submission of applications. In addition, such notice shall be posted in Administration Buildings and the President of the Association shall be notified in writing. Vacancies shall not be filled on a temporary basis unless the provisions herein stated have been complied with.
3. Members who desire to apply for a position shall submit their applications in writing to the designated Administrator within the time limit specified.
4. Any qualified member may apply for such vacation. In filling such vacancies, the Board agrees to adhere to the policy of soliciting candidates from within the Brentwood School System

whenever practicable. Applicants from outside the District shall not be considered or solicited until after an initial screening of applicants from within the District. The Board furthermore agrees to give due weight to professional background and attainments of all applicants without regard to age, race, creed, color, religion, marital status or ancestry unless based upon a bona fide occupational qualification.

B. An applicant shall receive a letter acknowledging receipt of his application.

C. All candidates shall be notified as to the disposition of their applications.

ARTICLE VIII

Mileage

A committee will be established jointly between Central Administration and B.P.S.O. to re-evaluate the District's flat rate mileage policy for the 1969/70 school year.

ARTICLE IX

Curriculum

A. The B.P.S.O. will have representation on the Curriculum Development Committee.

B. A group will be established to evaluate and review the total education program for a thorough analysis of the problems and needs including achievement as it relates to curriculum development.

ARTICLE X

Academic Freedom

A. 1. The private and personal life of a B.P.S.O. member is not ordinarily within the appropriate concern or attention of the School Board. Conduct or practices or habits of a B.P.S.O. member which reflect adversely on prevailing norms of ethics may become a matter of concern if it is determined to be related to effecting his role in the educational system or conduct inimical to the maintenance of a sound educational system. The determination should be made by the Professional Council.

2. B.P.S.O. members shall be entitled to full rights of citizenship.

3. Academic freedom shall not be circumscribed but B.P.S.O. members shall comply with all regulations of the Commissioner of Education of the State of New York. An interpretation necessary shall be made by the Professional Council. Two (2) members of the Academic Freedom Committee will be recommended by B.P.S.O.

B. The individual building may have its own unique character and manner protected with District policy and its philosophy.

ARTICLE XI

Field Trips and Cultural Experiences

A field trip policy and procedures for implementation will be established.

ARTICLE XII

School Calendar

A. A committee of B.P.S.O. members will work in the development of the school calendar.

B. All members of the B.P.S.O. will be granted holidays, days of religious observance and vacation days granted to teaching personnel, as long as all tasks for those time periods are handled and the person is on call for emergencies.

C. Employment in the Brentwood School System outside of the regular contract school year for that position for an administrator or supervisor shall be determined by the School Board based on recommendations by the District Principal. Establishment for employment outside of the school year will be determined on proposals based on needs of schools and/or areas involved. Personnel

selected for extra employment will be notified at least one (1) month before employment begins by the Office of the District Principal. Approved employment as specified above with the School District will be paid at a rate commensurate with the approved scale.

D. An administrator or supervisor who is asked to work beyond his regular contract year shall have the right to accept or refuse such commitment.

E. School Calendar (Appendix 3)

ARTICLE XIII

Hiring, Dismissal & Disciplinary Actions Regarding Certified Personnel

A. The Building Principal shall have primary responsibility for recommending to the District Principal the hiring, dismissal and disciplinary actions regarding all certified personnel in his building.

1. The principal shall seek the advice and consultations of coordinators, directors, department heads and Central Administration personnel in those cases where such advice and consultation are deemed necessary.
   a. The certified personnel will have the right to request the opinion of a coordinator, director or other such person.
2. The principal shall be responsible for presenting his rationale with regard to hiring, dismissal and disciplinary actions in accordance with District policy.

ARTICLE XIV

Substitute Teachers

A. Every effort will be made to fill positions which shall be vacant for at least one (1) semester with personnel who have met the State certification requirements.

B. District Central Office will make available to building principals, a list of certified teachers, substitute personnel, to replace regular teacher absentees.

C. Substitute teachers will continue to be assigned on a daily basis through a person hired by the District.

D. The Director of Personnel will be responsible for providing an evaluation form for principals on substitute teachers. A substitute teacher should not be rehired or employed if two (2) principals have given her negative evaluations.

ARTICLE XV

Hiring, Dismissal & Disciplinary Actions Regarding Non-Certified Personnel

A. All non-certified personnel shall be hired by the Director of the area involved after consultation and approval of the building principal.

B. Dismissal of non-certified personnel can be made by the principal after consultation with the area director.

C. Working hours and conditions of employment of all non-certified personnel shall be established by area directors within approved district contract agreements. Any request in time change for non-certified employees by building principal or area director will have to be approved by the Assistant District Principal for Administration.

D. Non-certified personnel shall not be transferred without consultation between area Director, principals (sending & receiving) and Assistant District Principal for Administration.

ARTICLE XVI

Supervision & Evaluation of Non-Certified Personnel

A. All non-certified personnel employed full or part-time in the school shall be supervised and evaluated by the principal.

1. Criteria for the supervision and evaluation shall be established by a committee composed of three (3) members of B.P.S.O. and three (3) non-certified administrators.

B. Non-certified personnel not assigned to a building or principal are responsible to the person assigned for evaluation and supervision.

ARTICLE XVII

Personnel

A. A committee made up of three (3) members of B.P.S.O. and three (3) members appointed by Central Administration shall meet to decide the criteria for professional and non-professional assignments to buildings. This shall include ratios, type of personnel, substitutes, etc.
B. This Committee shall commence September, 1969, or sooner.
C. Assignment for additional personnel will be filled as positions are established by the Committee.

ARTICLE XVIII

Summer School–Adult Education

The building principal shall be consulted on any and all activities that are to be assigned to his building after school, in the evening, or during the summer. The principal will be consulted on choice of activities in the building.

ARTICLE XIX

Federal & State Projects

A. Federal and State programs subsidized by grants shall be developed when possible with personnel to be affected. Upon request, the B.P.S.O. may review such programs with the District Principal or his designated representative. Whenever such grants call for the appointment of an administrator and/or supervisor, and shall subsidize such administrator or supervisor, this shall be allowed by the Brentwood Public School System.
B. In schools employing special federal programs, the administrators are to be involved in evaluations and making recommendations affecting the program.

ARTICLE XX

Budgeting, Requisitioning, Purchasing & Bidding

A. Supply and purchase requisitions shall not be changed in any form or manner without the knowledge of the requisitioner.
B. Specifications for items on bids shall not be changed nor shall substitutions be made without the knowledge of the person responsible for the request.
C. Preparation of the building budget shall be the responsibility of the principal.
   1. He shall consult with all sources appropriate to a proper building budget.
D. A method and manner for budget preparation and bidding shall be established prior to November 30th, 1969 with the aid and consultation of the B.P.S.O.
   1. This shall be communicated in written form.
E. A method and manner for requisitioning and purchasing shall be established prior to September 1st, 1969 with the aid and consultation of the B.P.S.O.
   1. This shall be communicated in written form.
   2. All requisitions shall be expedited as soon as possible.
F. No school budget shall be changed without every effort for consultation with the building principal or his representative.
G. A committee of three (3) B.P.S.O. members and three (3) representatives from Central Administration shall meet to establish a formula for the replacement of equipment within the school building and district.
H. The warehouse, business office or any other source will supply the building principal with a copy of any and all written communications regarding orders. This will be done automatically and immediately without request.

ARTICLE XXI

Construction

A B.P.S.O. committee will be included in all planning for new buildings and construction for the Brentwood Public Schools.

ARTICLE XXII

Security

The Board of Education is responsible for providing a security system for the Brentwood Public Schools.

ARTICLE XXIII

School Community Relations

A definition and description of the Brentwood School-Community Relations program will be discussed with a committee of B.P.S.O. members and Central Administration.

ARTICLE XXIV

Transportation

The job description and role of the Transportation Supervisor will be available to members of the B.P.S.O.

ARTICLE XXV

Grievance Procedures

A. Declaration of Purpose:
WHEREAS, the establishment and maintenance of a harmonious and cooperative relationship between the Board of Education and its administrators and supervisors is essential to the operation of the schools, it is the purpose of this procedure to secure equitable solutions to alleged grievances.

B. Definitions:
A "grievance" is a complaint by one or more administrators or supervisors, of a violation, a misapplication or misinterpretation of this Contract. The denial of tenure is in no way to be construed as a grievance.
1. The Chief Executive Officer is the District Principal or his designee.
2. The Association shall mean Brentwood Principals and Supervisors Organization (B.P.S.O.)
3. The Aggrieved Party shall mean any person or group of persons in the negotiating unit filing a grievance against central administration.
4. The Party in Interest shall mean the Grievance Committee of the Association and any party named in a grievance who is not the aggrieved party.
5. The Grievance Committee is the committee created and constituted by the Brentwood Principals and Supervisors Organization. This committee will be composed of the President, Vice-President and Legal Committee Chairman of the B.P.S.O.

C. Procedures:
1. All grievances shall include the name and position of the aggrieved party, the identity of the provision of law, or the section of this agreement involved in the said grievance, the time when and the place where the alleged events or conditions constituting the grievance existed, the identity of the party responsible for causing the said events or conditions, if known to the aggrieved party, and a specific statement of the nature of the grievance and the redress sought by the aggrieved party.
2. This information shall be submitted to the Grievance Committee for screening. If the committee deems the grievance valid, they will in turn seek consultation with the District Principal.

3. If a mutually agreed upon decision is not reached by the Grievance Committee and the District Principal, the B.P.S.O. reserves the right to meet with the Board of Education as per contractual agreement.

D. Time Limits:

1. Since it is important to good relationships that grievances be processed as rapidly as possible, every effort shall be made by all parties to expedite the process within two (2) weeks. The time limits specified for either party may be extended by mutual agreement.

ARTICLE XXVI

Personal Injury Benefits

A. 1. Whenever a member of B.P.S.O. is absent from school as a result of personal injury caused by an assault occurring within the scope of his responsibilities, he shall be paid his full salary, (less the amount of Workmen's Compensation award made for temporary disability due to said injury) for the period of such absence, and no part of such absence shall be charged to his sick leave. The cost of medical, surgical or hospital services, (less the amount of any insurance reimbursement) incurred as the result of this assault sustained in the course of his employment shall be reimbursed by the Board.

2. Whenever a member of B.P.S.O. has an accident on school property, the member shall report to the school nurse, who is required to submit the Accident Report to school insurance carrier, of such claim.

3. Whenever a member is absent from work due to a personal injury caused by an accident on school property, he shall be compensated under the rules and regulations of the New York State Compensation Board. Members who are out on compensation shall first receive full credit for the accumulated sick days prior to the injury prior to Workmen's Compensation payments. Upon return to work, the member shall receive full credit for all sick days used while under New York State Workmen's Law.

ARTICLE XXVII

Sabbatical Leave

A. B.P.S.O. will have the right to have three (3) members on selection committee for sabbatical leave.

B. Members of the B.P.S.O. will be selected for sabbatical leave at the same percentage, two (2%) percent, as is approved in the Teachers Contract.

ARTICLE XXVIII

Sick Leave

A. All members of the B.P.S.O. shall be entitled to ten (10) sick leave days each school year, accumulated as earned—one (1) a month—up to a total of ten (10). Absence of more than three (3) consecutive days shall require a doctor's certificate for returning to work. Sick leave days shall be accumulated year to year up to a maximum of 150 days.

B. Extended Illness Plan:

The Board agrees to provide tenure B.P.S.O. members with the following Extended Illness Plan:

1. In the event a tenure member shall be absent from school due to an illness or accident of an extended nature which has been verified by the school district physician to be thirty (30) days or longer in duration, he or she shall be entitled to the benefits under the Extended Illness Plan.

2. Such tenure members who comply with the above procedure shall be entitled to an additional number of sick days equal to the number of his accumulated sick days at the inception of the illness.

3. The rate of compensation for his normal accumulated sick leave shall be full pay in accordance with current district policy. The rate of compensation for the additional days in accordance with the above plan shall be calculated by multiplying his or her daily rate of pay times the ratio of actual accumulated sick days over the total possible accumulated sick days.

4. Upon return of an extended illness, a tenure member shall continue to be eligible for the Extended Illness Plan under the following regulations:

Said member shall be entitled to additional sick days equal to the number of accumulated sick days since his return to work. Said days shall be compensated at a rate of pay calculated by multiplying his or her daily rate of pay times the ratio of actual accumulated sick days since his illness over total possible accumulated sick days since his illness.

ARTICLE XXIX

Leaves of Absence

The term "immediate family" as used hereunder, shall include husband, wife, children, mother, father, brothers, sisters, mother-in-law, father-in-law, and any member of the permanent household of which the member is a part.

A. Personal Leave:
Each member shall be allowed up to two (2) days of leave with full pay during each school year for the purpose of transacting or attending to personal, legal business or family matters which require absence during school hours, or for religious observance, or at the birth of his child, or to attend funeral services for personal friends. Except in emergencies, the member taking leave hereunder shall give his appropriate supervisor notice of his intention to take this leave at least three (3) school days in advance of the day he proposed to be absent.

B. A tenure member may be granted an extended leave of absence without pay up to one (1) year for the purpose of caring for a seriously ill member of the immediate family at the discretion of the Board.

C. Death in the Immediate Family:
1. Each member will be granted up to five (5) days of leave, exclusive of personal leave days, with full pay during each school year for death in the immediate family. Such leave shall not be cumulative and shall not be charged against sick leave.
2. Each member shall be allowed one (1) day of leave exclusive of personal leave for death of relatives other than the immediate family.

D. Jury Duty:
Each member shall be granted such leave with full pay as may be necessary in order to perform jury duty and testifying under subpoena. All monies, except mileage, that is received from judicial agency, while serving on any jury, must be turned over to the Board of Education.

E. Military Obligations:
A member who is a voluntary member of any force of the organized militia or any reserve force or reserve component of the armed forces of the United States is entitled to be absent from his duties and deemed to have a leave of absence from his duties. Leave for military duty does not constitute an interruption of continuous employment and a member is not to be subjected to any loss of diminution of service time, increment, vacation or holiday privileges or any other right or privilege by reason of such absence. Compensation for such military obligations shall be given at full pay for the first thirty (30) days.

F. Professional Conferences:
Members who are designated by the Association to attend the conference of the New York State Teachers Association House of Delegates shall be granted such leave with pay. With the prior approval of the District Principal, other conferences of recognized professional value may be granted such leave with pay. Such leave shall not be charged against sick leave. The number of such delegates shall not exceed the number selected pursuant to the practice in effect on the date this Agreement is executed. Members may also be excused to attend educational visitations, conferences, trips or meetings without loss in salary or charge against sick leave, provided that the supervisor and the District Principal approve such absence in advance. Educational visitations, conferences, trips or meetings for which members expect reimbursement for necessary expenses must be approved in advance by the District Principal or his designee. Written application for such approval shall be made on forms prescribed by the District Principal. Request for reimbursement shall be filed with the District Principal, together with supporting receipts and other pertinent documents. Mileage reimbursement for transportation by personal automobile shall be made at the rate of ten (10) cents per mile.

ARTICLE XXX

Employment Credits and Rights

A. Any B.P.S.O. member who resigns from the Brentwood School System and returns shall be placed upon the proper step in the salary agreement, taking into account relevant experience gained outside Brentwood.
   1. This member shall have all accumulated sick leave restored.
   2. This member shall be granted all benefits currently in effect for other B.P.S.O. members.

ARTICLE XXXI

Accounting

The Business Office will maintain adequate accounting procedures in order to permit each building principal to be informed of his budget balance and expenditures.

It will be the responsibility of the building principal to maintain a record of all Purchase Requisitions that he authorizes. The budget balance in any one area may be substantiated by calling the Business Office.

ARTICLE XXXII

Purchasing

All Purchase Requisitions originating from within a school building must be signed by the building principal. All purchases that are to be charged to a school building must be approved by the building principal. The Purchase Requisitions will flow through the following channels:

A. Building Principal (retains requisitioner's copy)
B. Purchasing Agent
   1. Forwards pink copy to subject area coordinator
   2. Prepares Purchase Order
   3. Retains yellow copy and forwards white copy with Purchase Order to Business Office
C. Business Manager
   1. Approves Purchase Order
   2. One copy sent to Purchasing Agent and one copy sent to requisitioner

ARTICLE XXXIII

After School Activities

A Committee will be established to investigate how personnel will be utilized in spectator events.

ARTICLE XXXIV

Evaluation

Evaluation procedures for all principals and supervisors shall be established and approved by both parties by January 1st, 1970.

ARTICLE XXXV

Duration of Agreement

This Agreement shall be effective as of July 1st, 1969 and shall continue in effect through June 30th, 1970 subject to an annual reopening. No existing Board policies, instructions, notices or handbooks, shall in any way limit the rights granted B.P.S.O. members or the School Board under this Agreement. The Board shall take no action in violation of, or inconsistent with, any provisions of this Agreement.

Dated this 27th day of June, 1969.

APPENDIX 1

Salary Agreement

The M.A.+30 teacher schedule is used strictly at the 6th step.

The following indexes and corresponding school years are used:

Area Position	Index	Level	Length of School Year
1. Principals			
a. High School	1.4	MA+30	11 months
b. Junior High School	1.3	MA+30	11 months
c. Elementary	1.3	MA+30	10½ months
2. Ass't Principals			
a. High School	1.18	MA+30	10½ months
b. Junior High School	1.18	MA+30	10½ months
c. Elementary	1.18	MA+30	10¼ months
3. Directors			
a. Elementary	1.4 + $500	MA+30	11 months
b. Pupil Personnel	1.3 + $500	MA+30	11 months
c. Personnel	1.3 + $500	MA+30	11 months
4. Coordinators	1.25	MA+30	10 months
5. Ass't Coordinators	1.13	MA+30	10 months
6. Consultants (Reading)	.05 of base B.A.		

7. Department Heads:

   Teachers salary + $1100 and an adjustment in teaching load in accord with number of teachers to be supervised.

   Usually, Department Heads of larger departments will teach three (3) periods and Department Heads of smaller departments will teach four (4) periods; except under special circumstances, this ratio may be changed upon request of the High School principal and approval of the Assistant District Principal for Instruction.

8. A salary scale shall be established for operational supervisors in the following manner:

   Category A:

   Superintendent of Buildings & Grounds, Data Processing Supervisor and School Lunch Manager.

   This category will be placed on the Coordinators scale.

   Category B:

   Assistant Superintendent of Buildings, Assistant Superintendent of Grounds, Transportation Supervisor and Purchasing Agent.

   This category will receive 83% of maximum raise in Category A and will be placed on Step 1 of this salary scale.

   Category C:

   Assistant Lunch Supervisor, Foreman.

   This category will receive 83% of maximum raise in Category B and will be placed on Step 1 of this salary scale.

9. Administrative salary contracts are based on a pro-rated salary scale. Individuals terminating services before the conclusion of the contract year (June 30th) will be adjusted accordingly.

APPENDIX 2

Salary Schedules

	High School Principal	Directors Elementary & Secondary Education	Junior High School Principal	Directors Personnel PPS, Research	Elementary Principal
1.	$17,680	$18,230	$16,415	$16,965	$15,670
2.	18,639	19,188	17,305	17,855	16,520
3.	19,598	20,146	18,195	18,745	17,370
4.	20,557	21,104	19,085	19,635	18,220
5.	21,516	22,062	19,975	20,525	19,070
6.	22,475	23,020	20,865	21,415	19,920
7.	23,434	23,978	21,755	22,305	20,770
8.	24,395	24,936	22,650	23,200	21,620

	Assistant Principal Jr. & Sr. H.S. 10½ months	11 months	Assistant Elementary Principal 10 months and 1 week
1.	$14,225	$14,900	$13,530
2.	14,996	15,708	14,264
3.	15,767	16,516	14,998
4.	16,538	17,324	15,732
5.	17,309	18,132	16,466
6.	18,080	18,940	17,200
7.	18,851	19,748	17,934
8.	19,625	20,560	18,670

	Coordinators A.	B.	C.	Assistant Coordinators
1.	$14,350	$11,910	$ 9,885	$12,970
2.	15,128	12,556	10,421	13,674
3.	15,906	13,202	10,957	14,378
4.	16,684	13,848	11,493	15,082
5.	17,462	14,494	12,029	15,786
6.	18,240	15,140	12,565	16,490
7.	19,018	15,786	13,101	17,194
8.	19,800	16,435	13,640	17,900

Consultants (.05%)

$365.

IMPLEMENTATION:

A. The salary schedule for administrators has been established by multiplying step 6 of the MA+30 schedule by 1.3 and step 16 of the MA+30 schedule by 1.5. The difference between these two amounts is divided into 8 equal steps. All schedules for administrators were developed in the same fashion. Administrators presently in the District and future administrators from within the District will be placed on schedule according to the following criteria.
   1. Full credit will be given for experience as a principal or coordinator. In cases where appointments were made during the year, administrators will receive credit for a full year of experience only if the tenure of appointment was half year or more.
   2. Assistant Principals (coordinators) will receive one year of credit for each two (2) years of service in that role when applied to a principalship (coordinatorship). Credit for

experience as a coordinator or assistant coordinator toward a principalship or vice versa shall be negotiated by the applicant and the District Principal.

3. Any administrator shall be placed on schedule, taking into account his experience as a teacher. Those who have experience as a teacher beyond six (6) years shall receive credit for one (1) year of experience as an administrator for each three (3) years as a teacher or major fraction thereof to a maximum of two (2) years. Hence, credit for one (1) step on the administrative schedule will be given for teaching experience of 8, 9, or 10 years. Two (2) years of credit on the administrative schedule will be given for 11 years or more of teaching.

B. The maximum raise in one (1) year will be $2,800 for building principals and directors and a maximum raise of $2,000 for assistant building principals, coordinators and assistant coordinators.

C. The law clearly specifies that a principal will be placed on the teacher salary schedule according to the number of years he has occupied that position. This amount will be multiplied by 1.3. Essentially, this applies to personnel of experience on the MA+60 or Doctorate level. Administrators will be held "save harmless" under this law.

APPENDIX 3

School Calendar
1969-70

SEPTEMBER, 1969	
2	ORIENTATION
3	First Day of School
22	Yom Kippur
26	1st Attendance Period ends
OCTOBER	
13	In honor of Columbus Day
31	2nd Attendance Period ends
NOVEMBER	
4	Election Day
11	Veterans Day
26	3rd Attendance Period ends
27 & 28	Thanksgiving Recess
DECEMBER	
23	4th Attendance Period ends
24 - 31	Christmas Recess
JANUARY, 1970	
1 - 2	Christmas Recess
5	Schools Reopen
15	Martin Luther King's Birthday
30	5th Attendance Period ends
FEBRUARY	
12	Lincoln's Birthday
23	Washington's Birthday
27	6th Attendance Period ends
MARCH	
25	7th Attendance Period ends
26 - 31	Easter Recess
	Conference Day

APRIL	
1 - 3	Easter Recess
6	Schools Reopen
24	8th Attendnace Period ends
MAY	
28	9th Attendance Period ends
29	Memorial Day
JUNE	
19	10th Attendance Period ends
19	Last Day of Classes
TOTAL DAYS:	182 School Days + 1 Conference

APPENDIX 4

Insurance and Annuities

A. The School Board shall afford the opportunity for members to participate in tax sheltered annuity programs according to present regulations. This will be expanded, if necessary, to include variable annuity plans.

B. 1. ALL members will receive 100% full paid up hospitalization covering those hospitalization plans which each employee has in effect as of June 30th, 1969.
   2. ALL NEW employees hired after June 30th, 1969 are to receive full paid hospitalization on the Statewide Hospitalization Plan ONLY for both individual and family.
   3. A Disability Income Protection Insurance Plan costing up to $20,000 will be provided for members. The Association will choose the plan.

C. The School Board shall provide Health Insurance for members according to the revised schedule for those plans in effect June 30th, 1969.

New York State Employees Health Insurance Program

		Employee	Employer
Under 65			
Statewide Plan			
Individual		$ .00	$10.15
Individual & dependent		.00	27.96
GHI Option			
Individual		.08	10.15
Individual & dependent		3.65	27.96
HIP Option			
Individual		4.66	10.15
Individual & dependent		15.55	27.96
65 and Over			
Statewide Plan			
Individual	Cr.	4.00	14.15
Individual & dependent			
one 65 and over	Cr.	4.00	31.96
two 65 and over	Cr.	8.00	35.96
GHI Option			
Individual	Cr.	3.92	14.15
Individual & dependent			
one 65 and over	Cr.	.35	31.96
two 65 and over	Cr.	4.35	35.96
HIP Option			
Individual		.66	14.15
Individual & dependent			
one 65 and over		11.55	31.96
two 65 and over		7.55	35.96

5

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RESEARCH DIVISION
NATIONAL EDUCATION ASSOCIATION

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Case Reviews

ILLINOIS

FEDERAL COURT DENIES HEARING ON STATE COURT INJUNCTION AGAINST PUBLIC EMPLOYEE STRIKE

A ruling handed down by the U.S. Court of Appeals for the Seventh Circuit held that federal court jurisdiction cannot be asserted in a case where public employees enter insufficiently specific claims that their constitutional civil rights are being violated by a state court anti-strike injunction. Pointing to the criteria used to permit removal of a case from state to federal court jurisdiction, the court ruled:

> The pertinent allegations made [in the present case] are of violations of general constitutional amendments. The Supreme Court has held that First Amendment rights are not among those included under "equal rights" .... And there is no allegation [here] that defendants have been denied specific rights accorded others similarly situated in the State of Illinois so as to invoke the Fourteenth Amendment. The "broad contentions" based on the Thirteenth Amendment claim cannot support a valid claim for removal under Section 1443 because they are "phrased in terms of general application available to all persons or citizens, rather than in the specific language of racial equality."

When employees of the Evanston Department of Streets and Refuse went on strike, the city sought and was granted a temporary injunction against the strike by the Cook County Circuit Court. Shortly afterward, the sanitationmen (as defendants) petitioned the U.S. District Court for the Northern District of Illinois for removal of the case to a federal court prior to the state court's hearing on a permanent injunction. When the district court remanded the case to the state court, the sanitationmen appealed their cause, asserting that the city

> alleges that defendants illegally demanded negotiations on wages, hours and working conditions, and seeks to compel defendants to work; and that by virtue of the [city's] allegations, defendants' First Amendment right to free association, Fifth Amendment right to due process, Thirteenth Amendment right to be free from involuntary servitude, and Fourteenth Amendment right to equal protection are "being violated."

While noting possible jurisdiction "on the ground of the denial of civil rights," the U.S. Appeals Court cited a U.S. Supreme Court decision which clarified the criteria for removal of a case under the statute which grants federal jurisdiction:

> On review, the Supreme Court in *Georgia v. Rachel*, 384 U.S. 780 (1966), construed Section 1443 as requiring a showing of two elements: that "the right . . . is a right under any law providing for . . . equal civil rights," and that petitioner is "denied or cannot enforce" that right in the state courts. . . . The Court also said that the first element "must be construed to mean any law providing for specific civil rights stated in terms of racial equality."

Measuring the sanitationmen's allegations against the first criterion, the U.S. Appeals Court ruled that "the Petition for Removal does not allege violation of a right under 'any law providing for . . . equal civil rights stated in terms of racial equality' . . . and that the district court therefore was not in error in remanding the cause." (*City of Evanston v. Lee Buick, Jr., et al.*, U.S. Court of Appeals for the Seventh Circuit, January 22, 1970.)

MAINE

HIGH COURT INTERPRETS FIRE FIGHTERS ARBITRATION LAW TO ALLOW BINDING GRIEVANCE ARBITRATION

The Maine Supreme Court ruled that although the state's 1965 Fire Fighters Arbitration Law authorizes arbitration (which "shall not be final and binding") only in cases of negotiation impasses, "the Legislature intended the Fire Fighters to have all the rights of labor organizations except those specifically withheld." Referring to section 981 of the statute which holds that fire fighters are accorded "all of the rights of labor other than the right to strike, or engage in any work stoppage or slowdown," the high court decided that these rights include the right to submit unsettled grievances to binding arbitration, if so negotiated.

In so ruling, the state supreme court reversed and remanded the Knox County Superior Court's dismissal of an application by the Rockland Professional Fire Fighters Association for enforcement of a grievance arbitration award which found that the discharge of an Association member for alleged insubordination lacked "sufficient cause." The lower court denied judgment on

grounds that "as the Fire Fighters Arbitration Law provided only for arbitration of disputes surrounding the *making* of a contract . . . the Fire Fighters had been given no right to arbitration of disputes arising *subsequent* to the contract and therefore had no right to enforcement of an award."

But the state supreme court adopted a broader interpretation of the statute, noting that "in section 951, years earlier, the Legislature had given all labor organizations the right to provide in their contracts for arbitration of grievances arising out of such contracts." The high court accordingly ruled:

> Applying the *in pari materia* rule of construction and reading in connecting with the Fire Fighters Arbitration Law the 1957 general arbitration statute having the same general purpose, it appears clear that the grant to the fire, fighters of "all of the rights of labor other than the right to strike, or engage in any work stoppage or slowdown" found in section 981 included the right to submit grievances to binding arbitration. We hold that the [Association] was entitled to submit to arbitration grievances arising under the labor contract and was not limited to the specific issue of formation of a contract.

(*Rockland Professional Fire Fighters Association v. City of Rockland*, Maine Supreme Court, February 2, 1970.)

MASSACHUSETTS

PETITION FOR REVIEW OF MLRC'S DIRECTION OF ELECTION DISMISSED BY STATE SUPREME COURT

Noting that "in ordinary cases judicial review of certification issues may take place only after there has been a commission decision based upon an unfair labor practice," the Massachusetts Supreme Court dismissed as premature a petition seeking judicial review of a direction of election made by the Massachusetts Labor Relations Commission (MLRC) in 1967.

The case originally arose when the Worcester Vocational Teachers Association sought certification as bargaining representative for some 120 day-school teachers employed at three schools by the Worcester Vocational School Department, and filed a petition with the MLRC. Intervening in the proceeding, the Worcester Industrial Technical Institute Instructors Association proposed that the larger over-all unit be divided into two separate units of 16 and 19 teachers at two of the schools, as these teachers were "professional employees" dissimilar to the remaining teachers.

Following a hearing, the MLRC determined that there was "no compelling reason for separating these employees into two small units," as all of the teachers in the proposed unit were certified, professional employees with a community of interest, identical over-all supervision, and attendance at common faculty meetings. As such, the MLRC directed that an election be held in the over-all unit.

In hearing the appeal of the MLRC's decision brought by the Worcester Industrial Technical Institute Instructors Association, the state supreme court found that "a commission decision and order for an election has been held not to be a final decision in an adjudicatory proceeding subject to judicial review." As such, only "extraordinary circumstances making certification questions of vital significance may permit other avenues of review." Finding no "extraordinary circumstances" in the instant case, the high court ruled that "the parties must first exhaust their other available remedies before they resort to judicial review."

However, the court explained that if the MLRC's decision "has resulted in a prohibited practice, there are courses open to the appellant before the Commission following which, and after denial of complaint, judicial review might properly take place." Specifically, the court noted that Section 178L of the Massachusetts Municipal Employee Relations Act prohibits municipal employers from "interfering with, restraining or coercing employees in the exercise of [their] rights," one of which is that "no unit shall include both professional and nonprofessional employees unless a majority of such professional employees vote for inclusion in such unit [Section 178H(4)]." (*Worcester Industrial Technical Institute Instructors Association, Inc. v. Labor Relations Commission, et al.*, Massachusetts Supreme Court, March 4, 1970.)

MICHIGAN

AGENCY SHOP PROVISION RULED VALID BY CIRCUIT COURT

The Michigan Circuit Court for Wayne County delivered a January 19, 1970, opinion confirming the validity of an agency shop clause contained in the 1969-71 contract between the Detroit education board and the Detroit Federation of Teachers, AFL—CIO, Local 231. Finding it "patent that this Court . . . conclude that the agency shop provision is not repugnant to any statute or constitutional provision," the court granted a motion for summary judgment entered by the Detroit board and Local 231, defendants in the case.

On November 7, 1969, the 600-member Detroit Teachers Opposed to Compulsory Unionism (DTOCU) filed suit as a class action on behalf of

all "school teachers who object to the requirement that they authorize deduction of service fees equal to the regular union dues or be terminated from employment." The 40 Detroit teachers involved in the suit claimed that they were entitled to declaratory relief in the determination of the validity of the agency shop provision. The Michigan Citizens for Right to Work, an affiliate of the National Right to Work Committee, supported the suit.

The disputed provision, which became effective on January 26, 1970, states that within 60 days all bargaining unit employees must either become union members and pay union dues, or "pay to the Union each month a service fee in an amount equal to the regular monthly Union membership dues uniformly required of employees of the Board who are members." If an employee does not comply with the provision, the board

shall immediately notify said employee that his services shall be discontinued at the end of the current semester, and shall dismiss said employee accordingly . . . [following] the dismissal procedure of the Michigan Tenure Act, as applicable. The refusal of a teacher to contribute fairly to the costs of negotiation and administration of this and subsequent agreements is recognized as just and reasonable cause for termination of employment under the Michigan Tenure Act.

In their complaint the plaintiffs alleged that the agency shop clause is invalid for four reasons:

1. This provision violates the constitutional guarantees of freedom of association and right to privacy.

2. It denies plaintiffs due process and equal protection as required by both State and Federal Constitutions.

3. Use of collected monies for purposes other than that germane to the contract itself is illegal as to [the plaintiffs].

4. The clause is contrary to state statutes; namely, the Public Employment Relations Act [PERA], Michigan Teachers Tenure Act, Section 353, Chapter LI, Penal Code (MSA 28.585), and the Michigan General School Laws.

The court, however, rejected the first contention in noting that "the provision for an agency shop does not require plaintiffs or any of them to become members or join the defendant union." Moreover, the court rejected the second contention in finding no evidence of any arbitrary or discriminatory provisions in the principle of the disputed agency shop clause:

No employee will be prejudiced in or be deprived of his employment without the safeguards of due process. The contract itself provides for the following of the dismissal procedure of the Michigan Tenure act . . . . On the issue as to whether the plaintiffs are being denied equal protection as guaranteed by the constitution, it does not appear that any employee in the bargaining unit is being in any manner discriminated against whether or not he is a union member. Each employee has all the rights and privileges of a member and all the protections and benefits guaranteed to members. He pays no more (or less) than a member for the services rendered to him.

Plaintiff's third contention represented a "somewhat novel issue," according to the court. Citing the federal case of *I.A.M. v. Street*, the court noted that there, "as a matter of statutory construction, the court held that the monies could not be used for certain purposes, but even in this case the Supreme Court held an injunction to restrain the collection was not to be permitted." Dismissing the contention as not really an issue in the instant proceeding, the court submitted that in another "suitable proceeding it may be decided that any expenditure in furtherance of legitimate union purposes may be permissible."

As to the plaintiffs' argument that the agency shop clause violates the PERA, the court held that although the PERA is silent on agency shop,

it authorizes contracts between employees and their public employers to cover conditions of employment. The agency shop is apparently a condition of employment agreed upon by the contracting parties and where not violative of any individual rights will be sustained. As to the issue whether this clause encourages or discourages membership in a union, this Court would conclude that the clause does not violate this provision of P.E.R.A. Nothing encompassed in the agency shop clause encourages anyone to do any more than contribute to the organization selected by a majority of the group to represent it. This contribution merely spreads among all the beneficiaries the cost of representation.

Moreover, the court determined that the agency shop clause can be reconciled with the Michigan Teacher Tenure Act, because the Detroit contract contains the constitutional safeguards of due process required by the tenure act. The court explained that "the cases are myriad in holding that where the agency shop clause is violated an employee's discharge for violation of the clause was reasonable." In addition, the court rejected the plaintiffs' contention that the agency shop clause violates a provision of the state penal code, because such a clause does not fall within the purview of the criminal statute.

The court finally ruled that although the state's school laws do not authorize an agency shop clause, those statutes "must be read in conjunction with P.E.R.A. . . . [and] it would be indeed a narrow construction of the school laws to hold that nothing not specifically authorized there in is prohibited."

The DTOCU reportedly plans to appeal the circuit court's decision. (*Christine Warczak, et al. v. Board of Education, School District of City of Detroit, et al.*, Michigan Circuit Court for Wayne County, January 19, 1970.)

NOTE: In another agency shop case reported in this issue of the DIGEST, the Michigan Employment Relations Commission (MERC) upheld the validity of an agency shop clause contained in the Southgate Community School District contract, and dismissed a series of unfair labor practice charges which alleged that the clause violated

Section 10 of the Michigan Public Employment Relations Act (PERA). Most importantly, the MERC determined that a valid agency shop clause under the PERA need not contain any of the specific safeguards relative to agency shop which are contained in the National Labor Relations Act. In a third agency shop case reported in this issue the Michigan Teacher Tenure Commission sustained the dismissal of a Grand Blanc teacher for refusing to comply with a negotiated agency shop provision. Urging that provisions of the Michigan Teacher Tenure Act can be reconciled with the PERA, the commission held that refusal to comply with an agency shop provision "is 'reasonable and just cause' for dismissal, as that phrase is used in the Teacher Tenure Act."

Other Michigan agency shop cases reported in previous issues of the DIGEST include the following:

- In the case of *Oakland County Sheriff's Department and the Oakland County Board of Supervisors and Metropolitan Council No. 23, American Federation of State, County, and Municipal Employees, AFL–CIO,* the then Michigan Labor Mediation Board held that union security provisions are not in opposition to the PERA:

  A requirement that employees pay their share of the cost of negotiating and administering a collective bargaining agreement neither discourages nor encourages *membership* in the labor organization selected by the majority of employees in the bargaining unit to represent them. It is not discriminatory, as the requirement that each employee pay his pro rata share of the costs applies alike to all employees in the bargaining unit, whether they are, or are not, members of the union. (NRD, 3-68, A-2, C-1)

- The Wayne County Circuit Court ruled in *Jean Smigel, et al. v. Southgate Community School District, et al.* that an agency shop clause "is a valid bargainable issue in contract negotiations between public employees and employers," and does not conflict with the Teacher Tenure Act. Determining that such a provision "serves the purpose of allocating indiscriminately the cost of representation for collective bargaining among all those participating in the benefits received . . . [and] eliminates the 'free riders,'" the court held that discharge for failure to comply with an agency shop clause constitutes "reasonable and just cause" as used in the Tenure Act. (NRD, 2-69, A-1, C-5)

- A Michigan circuit court overruled a civil service board decision by upholding a Grand Rapids contract clause which required union membership or the payment by check-off of the equivalent of monthly union dues to a scholarship fund. Although the agency shop clause in dispute "differs slightly from the agency shop arrangements approved in [previous] decisions," the court held that the scholarship contribution provision was not in itself illegal, and that there was "no more tendency of the modified agency shop to encourage or discourage membership in a labor union, as proscribed by the PERA, than the straight agency shop." (NRD, 11-69, 4)

- The Michigan Court of Appeals denied four Wayne County General Hospital nurses leave to appeal a circuit court decision which upheld the nurses' discharge for refusal to comply with an agency shop provision, explaining that "plaintiffs have failed to demonstrate an abuse of discretion by the trial court." (NRD, 2-70, 3)

- The Macomb County Circuit Court dismissed as premature a challenge brought by an unaffiliated teacher who asked the court to declare the agency shop clause in the Warren agreement as contrary to the Teacher Tenure Act. The clause provided that any teacher who refused to authorized deduction of a sum equivalent to Association dues and assessments would be notified that his employment would be terminated at the end of the school year. The court declared the teacher's plea premature, since all administrative remedies under the contract had not been exhausted. (NRD, 10-68, A-2, C-8)

In addition, several fact-finders seeking to resolve negotiation impasses have recommended that agency shop clauses be negotiated and included in teacher contracts. One such recommendation was reprinted in the February 1969 DIGEST, p. A-1, C-1.

NEW JERSEY

STATE SUPREME COURT UPHOLDS CONSTITUTIONALITY OF PUBLIC EMPLOYEE BARGAINING STATUTE

In a lengthy historical opinion the New Jersey Supreme Court affirmed the constitutionality of the state's 1968 Employer–Employee Relations Act, reiterated the proven necessity for exclusive bargaining representation, and discussed the dichotomous nature of collective bargaining as it is understood and applied in the private and public sectors. Moreover, the high court emphasized that the bargaining statute under attack in the present case

is novel legislation for New Jersey. The Commission established to administer it is working in unploughed ground. We expect that many problems both administrative and substantive will confront it in due course. In our judgment the judicial approach must be a gradualistic one calling for the withholding of judgment unless a justiciable issue is actually before us.

The case before the high court came on an appeal by the Firemen's Mutual Benevolent Association (FMBA), Branch #1, and others of a a decision rendered by the Superior Court of

New Jersey. The FMBA, as described by the state supreme court, is

an incorporated association [whose] membership has always been made up of Jersey City firemen who desired to join. It is not a labor organization in the usual sense and has never held itself out as a negotiating agent for all the firemen of the City. However, on a purely voluntary basis it has interceded for and spoken on behalf of its members with the proper City representatives in matters affecting salaries, working conditions and grievances.

Following enactment of the bargaining statute in 1968, the International Association of Fire Fighters (IAF), Local 1066, sought a representation election among eligible Jersey City firemen pursuant to provisions of the statute. Although the FMBA was notified of the election, it declined to participate, because it regarded the statute as unconstitutional. Instituting an action in superior court, the FMBA asked that the statute be declared invalid, and that the representation election be temporarily and permanently enjoined. The trial court, however, sustained the statute, declined issuing a temporary injunction, and directed that the election be held, although the election's result was not to be certified until disposition of the court proceeding. When the election was held, 399 of the 430 eligible Jersey City firemen cast their votes for IAF representation.

In its appeal before the state supreme court, the FMBA challenged the constitutionality of the bargaining statute on two grounds: (a) that the representative elected by a majority of the public employees in an appropriate unit is to be designated the *exclusive representative* of all unit employees, and (b) that the duly elected exclusive representative and the employer are authorized to engage in *collective negotiations* regarding the terms and conditions of employment of bargaining unit members. The FMBA alleged that these two provisions (contained in section 7 of the bargaining statute) are repugnant to Article 1, paragraph 19, of the 1947 New Jersey constitution, which holds:

Persons in private employment shall have the right to organize and bargain collectively. Persons in public employment shall have the right to organize, present to and make known to the State, or any of its political subdivisions or agencies, their grievances and proposals through representatives of their own choosing.

Specifically, the FMBA urged that designation of the IAF as exclusive bargaining representative of the appropriate Jersey City firemen's unit violated the constitutional provision because

the pluralistic significance of "persons" [as contained in the constitutional provision] . . . authorizes any "person" in public employment to present *his* grievances and proposals through a representative of his own choosing . . that each public employee has been vested with the basic right to present his proposals and grievances to employer through his individually chosen representative, and this right, being entrenched in the organic charter, is beyond the power of the Legislature to qualify or dilute. Consequently . . . section 7 of the statute is invalid because it undertakes to place effectuation of this right exclusively in the hands of a representative elected by a majority of an individual's fellow employees in the designated unit, even though the individual did not vote with the majority or does not belong to the organization selected as the representative.

The high court, however, found such a narrow view of the constitutional purpose unacceptable. Recounting in detail the historical and philosophical groundwork resulting in the state constitution and the bargaining statute, the court held that the two are "harmonious and may stand together," and that

the very general language of Article 1 paragraph 19 was oriented toward collectivity. The purpose was to secure to employees collectively in the various employer divisions and agencies of government the right to get together—to organize—and to select representatives to present their (*i.e.*, all employees in all divisions and agencies) proposals and grievances. The use of the plural form—"representatives"—signifies an awareness that there would be many different organizations involved and that they would represent many different groups or units of employees in many separate divisions or agencies of government. It is not reasonable to say that the delegates to the Constitutional Convention . . . intended the broad language they employed in paragraph 19 to prevent the Legislature from establishing a commonly known means of giving potency and practical effect to the guaranteed right to organize. . . . Such delegates would have known that "multiplicity of organizations claiming or possessing representation rights for the same group or unit of employees has long been regarded as undesirable."

Emphasizing the fact that the "exclusivity doctrine [is] at the heart of the national employer-employee labor relations policy in the private employment sector," the high court found it "significant" that the state legislature adopted in section 7

almost the identical language of the federal [Labor–Management Relations Act], 29 *U.S.C.A.* §159(a) in mandating that the representative selected by the majority of the employees in an appropriate unit for purposes of collective negotiation shall be the exclusive representative of all the employees for that purpose.

The legislative aim in writing section 7 was to aid, not to hinder, public employees in their relationship with their employers. The purpose was to discourage rivalries among individual employees and employee groups and to avoid the diffusion of negotiating strength which results from multiple representation. On the positive side the Legislature was seeking through the medium of the collective agreement to supersede separate agreements with employees and to substitute a single compact with terms which reflect the strength, negotiating power and welfare of the group. The benefits and advantages of the collective agreement are then open to every employee in the unit whether or not he is a member of the representative organization chosen by the majority of his fellow workers.

He can be certain also that in negotiating with the employer the representative is obliged to be conscious of the statutory obligation to serve and protect the interests of all the employees, majority and minority, equally and without hostility or discrimination.

The FMBA further contended that the constitutional provision conflicted with section 7 of the bargaining statute in respect to the handling of grievances, in that the constitutional provision "confers an unqualified right on each individual public employee or minority group of employees to process his or their own grievances either personally or by a representative of his or their own choosing other than the majority representative." The FMBA accordingly urged that "the Legislature cannot constitutionally require, as it seeks to do by section 7 . . . that individual or minority group grievances be processed by the majority representative in accordance with a collective agreement negotiated by such representative."

Declining to rule upon the FMBA's argument because "under the circumstances . . . the grievance issue [is] hypothetical," the state supreme court nevertheless noted that

in the private employment sector it is long since settled that the majority representative is the exclusive agent for all the employees in the unit in negotiating the agreement respecting grievances and procedures for handling them. Moreover, when so provided by the agreement, the majority representative has the exclusive right to process all employees' grievances in accordance with the procedure provided therein, so long as the representative acts in complete good faith toward the employee in doing so.

In addition, the court referred at length to a brief entered by the New Jersey Public Employee Relations Commission (a defendant-respondent in the case) which urged that portions of section 7 relating to the handling of grievances provide "persuasive support for the claim that the authorization for exclusive representation by the majority representative also includes the handling of grievances. . . . . In short . . . sole representation in the grievance area not only enhances administrative efficiency but increases the responsibility of the elected majority representative as well as its power to act in the interest of all the employees."

In considering the FMBA's attempt to equate "collective negotiation" as used in section 7 with "collective bargaining" as it is known in the private sector and nationally, the high court found the argument to be "patently without merit." Declining to rule upon the issue because the present case called for no exploration of the specifics of "collective negotiation," the court explained:

Obviously it was a Legislature fully aware of the absence of the right to strike in the public employment sector that adopted [the state bargaining statute]. It did not grant the right expressly and every reasonable inference from the four corners of the Act demonstrates that it did not do so by implication. . . . Thus we see no substance to plaintiffs' claim that the broad scope of the 1968 Act envisions collective bargaining with all the implications the term carries in the private employment sector, including the right to strike. This conclusion also disposes of the contention based on the further unsound claim that since section 7 grants the right to strike it is unconstitutional because Article 1, paragraph 19, bans strikes in public employment. . . . In our judgment. . . the authorization for "collective negotiations" in the 1968 Act was designed to make known that there are salient differences between public and private employment relations which necessarily affect the characteristics of collective bargaining in the public sector. Finally, it signified an effort to make public employers and employees realize that the process of collective bargaining as understood in the private employment sector cannot be transplanted into the public service.

Finally the court dismissed the FMBA's allegation that the results of the representation election should be set aside, because the court found that there was no showing of prejudice or any inaccuracies in the election which could have affected its outcome adversely. (*Alfred Lullo, et al. v. International Association of Fire Fighters, Local 1066, et al.*, New Jersey Supreme Court, March 9, 1970.)

Board Findings and Rulings

MICHIGAN

MERC SUSTAINS VALIDITY OF AGENCY SHOP CONTRACT CLAUSE

In concurring with the prior findings of a trial examiner, the Michigan Employment Relations Commission (MERC) sutained the validity of an agency shop provision contained in the 1968-70 contract between the Southgate Community School District and the Southgate Education Association (SEA). As such, the MERC dismissed a series of unfair labor practice charges brought by a district teacher who alleged that the agency shop provision violated Section 10 of the Michigan Public Employment Relations Act (PERA), which states:

> It shall be unlawful for a public employer or an officer or agent of a public employer (a) to interfere with, restrain or coerce public employees in the exercise of their rights guaranteed in section 9; (b) to initiate, create, dominate, contribute to or interfere with the formation or administration of any labor organization . . . (c) to discriminate in regard to hire, terms or other conditions of employment in order to encourage or discourage membership in a labor organization; (d) to discriminate against a public employee because he has given testimony or instituted proceedings under this act; or (e) to refuse to bargain collectively with the representatives of its public employees, subject to the provisions of section 11.

The provision in dispute states that "all teachers as a condition of employment shall" *either* authorize deduction of Association dues and assessments within a given time period, *or* authorize "deduction of a representation fee equivalent to the dues and assessments of the Association" within the same time period. "Association" is defined as including "the National and Michigan Education Associations." The clause further stipulates that

> in the event the representation fee shall not be paid, the Board upon receiving a signed statement from the Association indicating the teacher has failed to comply with this condition, shall immediately notify said teacher that his services shall be discontinued at the end of the current semester. The Board shall follow the dismissal procedure of the Michigan Tenure Act. The refusal of said teacher to contribute fairly to the costs of negotiation and administration of this and subsequent agreements is recognized as just and reasonable cause for termination of employment.

Some 50 Southgate teachers who refused to pay either the SEA membership dues or the "representation fee" filed suit in Wayne County Circuit Court in 1968 seeking a class action injunction and damages after the SEA asked the school district to notify them that they would be discharged for noncompliance with the agency shop provision. At that time the district declined discharging the teachers, because the provision states that no employees are to be discharged while legal proceedings concerning the validity of the agency shop are pending. Assuming jurisdiction over the case (*Smigel, et al. v. Southgate Community School District, et al.*), the circuit court denied the injunction in a November 22, 1968, opinion finding that such an agency shop clause did not constitute unlawful discrimination in violation of the PERA, and that termination for failure to pay the agency shop fee violated neither the PERA nor the Michigan Teacher Tenure Act. An appeal of that decision currently is pending in the Michigan Court of Appeals.

The teacher in the present case (who was *not* involved in the 1968 class action) filed an unfair labor practice complaint on February 7, 1969, charging that "since on or about September 3, 1968 [the effective date of the agreement] the Employer has violated the [PERA] by executing and enforcing a collective bargaining agreement which was improperly ratified by the Association, thereby improperly aiding and assisting a labor organization." She further alleged that as of the same date,

> the Employer agreed to and has enforced a provision in the Agreement (a) that requires myself and all other teachers to sign an authorization for deduction from our pay of all dues and assessments, or an amount equivalent thereto, for the labor organization, including the State and National Education Associations; (b) that discriminates against me and the teachers in regard to my hire and terms and conditions of my employment; (c) that encourages membership in the labor organization; (d) that aids and assists the labor organization; and (e) interferes with, restrains, and coerces myself and other teachers in our rights under Act 336, as amended, and other laws.

In response to the improper ratification charge, the trial examiner found that "no provision of PERA requires that statutorily-designated bargaining agents submit their agreements to ratification by employees in the bargaining unit." Although the SEA had *agreed* with the school

district to hold a ratification vote, the examiner held that such an agreement was beyond the SEA's statutory authority:

A decision as to whether or not contractual agreements should be submitted for ratification, either by the membership or by all employees in the bargaining unit, is an internal decision which must be made by the bargaining agent. If the responsible leaders of the bargaining agent choose to be guided by a ratification vote, that is well and good. However, if the leaders of the bargaining agent do not choose to pursue this sort of "participatory democracy," the employees working in the bargaining unit have no cause of action under PERA. . . .

Therefore, I find that the rights of [the teacher] under PERA sec. 10 (a) and (c) were not infringed by the alleged action of the School District in entering into a collective bargaining contract with the Association without first permitting the entire bargaining unit to vote on that agreement. For the same reasons, I find and conclude that the School District did not unlawfully "aid and assist" the Association in violation of PERA sec. 10 (b) by allegedly entering into a collective bargaining agreement without proper ratification. . . . The question of holding a ratification vote is an issue between the organization and the employees, not between the organization and the employer. Therefore, it is not a mandatory subject of collective bargaining. . . . These conclusions are consistent with federal cases concerning the right of a labor organization to be free from attacks on purely internal procedures, whether from non-members or employers.

In addition, the trial examiner denied a motion for dismissal brought by the intervening SEA according to the doctrines of *res judicata* and *collateral estoppel* and based upon *Smigel*. Arguing that the interests of the plaintiffs in *Smigel* "appear identical" to those of the teacher in the instant case, and that plaintiffs in both actions were represented by the same attorney, the SEA moved for dismissal of the instant case on grounds that a matter once conclusively determined by a jurisdictional body cannot be relitigated in a subsequent proceeding based upon a different cause of action. Submitting that the circuit court "lacked jurisdiction over the subject matter" in *Smigel* because the unfair labor practice issues decided by that court "were not merely incidental to a case grounded on other rights," the trial examiner denied the motion for dismissal, explaining:

The [MERC] possesses exclusive primary jurisdiction to interpret and apply and enforce the unfair labor practice provisions of Sec. 10 of PERA. The statute which creates unfair labor practices delegates complete responsibility for the initial determination of unfair labor practice issues to the [MERC] . . . . A civil action seeking an injunction and damages [as in *Smigel*] is not res judicata in a later unfair labor practice complaint case. . . . Lack of jurisdiction over the subject matter [as submitted by the examiner in reference to *Smigel*] can not be waived, and no "estoppel" or "election of remedies" argument has merit in these circumstances. . . . Conclusive evidence that the legislature did not wish to confer concurrent jurisdiction over unfair labor practices on circuit courts is provided by Sec. 22 (c) of the Labor Mediation Act . . . which provides that "any appropriate legal or equitable remedy" may be pursued in circuit courts with respect to all provisions of the LMA *except those* which define unfair labor practices. This makes the [MERC's] procedure in unfair labor practice cases under LMA exclusive of other remedies. Since the [MERC's] unfair practice complaint procedures under PERA and LMA are identical and were enacted almost simultaneously in 1965, it seems evident that the [MERC's] complaint procedures under PERA were also intended to be exclusive.

Reiterating the fact that "the charges filed herein are limited to a specific attack on the agency shop," the trial examiner rejected as unsupported and untimely an allegation that the SEA required nonmembers to pay a lump sum in cash which was greater than the amount charged to members. In addition, the examiner rejected an allegation that the agency shop is unlawful because noncertificated teachers are not allowed to vote or hold office in the SEA's parent bodies; he noted that "an accusation of this sort goes to the entire question of the right of the local Association to be certified as a bargaining agent. . . [and] has no place in connection with an attack on the legality of the agency shop clause, since the agency shop does not require membership but only requires that everyone pay a share of the cost of their representation by the bargaining agent."

The thrust of the teacher's attack on agency shop centered upon her contentions that a valid agency shop under the PERA "(1) must contain a *grace period*, (2) must require that the bargaining agent have *majority status*, (3) must provide that *membership* in the bargaining agent be available to all employees *on an equal basis*, (4) must provide that the employee will not be fired if he '*tenders*' his dues or fees, and (5) must be *limited to regular dues and fees* as opposed to fines or assessments." Referring to various federal cases which require some or all of these specific safeguards for valid agency shops under the National Labor Relations Act, the teacher asked that the MERC rule invalid an agency shop under the PERA which does not "set forth explicitly on the face of the contract" all of the enumerated safeguards.

Stating that none of the safeguards "are contained in the specific language of PERA, since PERA says nothing on the subject of union security or agency shops," the trial examiner dismissed the teacher's second contention as not at issue in the case, because "the Association is admittedly the majority (and therefore exclusive) bargaining agent of the teachers in question." He also dismissed the third contention as irrelevant to a specific attack on agency shop, because "the availability of membership to all on an equal

basis . . . is a question which goes to the very right of the organization to be a recognized, certified bargaining agent."

The teacher's first contention was based upon the majority MERC opinion rendered in the case of *Oakland County Sheriff's Department, et al. and Metropolitan Council 23, American Federation of State, County and Municipal Employees, AFL–CIO,* in which the MERC chairman referred to the lawfulness of "traditional" agency shop arrangements. The teacher argued that such a traditional arrangement contemplates the enumerated safeguards, but the trial examiner held that the *Oakland County* decision

> does not stand, even by implication, for the proposition that any agency shop which deviates from the "traditional" agency shop language is, *ipso facto,* unlawful.
>
> [I am] not persuaded that a specific grace period, as such . . . must be permitted under an agency shop contract before public employees may be discharged for noncompliance. . . . The agency shop clause contained in Article II of the [Southgate contract] contains no express grace period, although a reasonable period for employee compliance may be inferred as a matter of law. . . . I conclude that the absence of express language in this contract guaranteeing a grace period does not render the agency shop clause unlawful.

As to the teacher's fourth contention, the trial examiner found that the agency shop clause in dispute "does not fall because of failure to expressly provide that a non-member need only '*tender*' dues. . . . It stands to reason that it would be a violation of the anti-discrimination provisions of PERA sec. 10 (c) if a non-member were to tender his representation fees and then be fired because the bargaining agent refused to accept the money. However, the agency shop clause itself need not so state."

The examiner also rejected the fifth contention, determining that the "inclusion of assessments along with dues . . . does not render this agency shop clause unlawful." He cited a portion of the majority decision rendered in *Oakland County* which held:

> A requirement that employees pay their share of the cost of negotiating and administering a collective bargaining agreement neither discourages nor encourages membership in the labor organization selected by the majority of employees in the bargaining unit to represent them. It is not discriminatory, as the requirement that each employee pay his pro rata share of the costs applies alike to all employees in the bargaining unit, whether they are, or are not, members of the union.

Finally the examiner rejected "out of hand" all of the teacher's arguments which sought to show "that agency shop, *per se*, discriminates against non-members or encourages membership." Conceding that the inability of nonmembers to participate in the union's internal affairs "operates as an encouragement to join," the trial examiner held that the inducement to join exists whether or not an agency shop situation is involved. He explained:

> The encouragement is *produced* by the legal right of the exclusive bargaining agent to keep non-members out of its affairs and decisions. As long as the law permits the bargaining agent to do this, there is a built-in advantage in joining a union once it achieves exclusive status. But the requirement of paying a dues equivalent does not add any incentive which is not already there by virtue of the recognized right of the union to exclude non-members from participation in its affairs and decisions.
>
> The problem here is created by the fact that, while the Southgate Education Association is the lawfully recognized bargaining agent and the party to the master contract, the non-members are required to pay "a representation fee equivalent to the dues and assessments of the Association *(including the National and Michigan Education Associations).*" As a matter of fact, of the $81.50 which agency employees or members must pay annually, only $19.50 represents local dues retained by the [SEA]. (The record does not reveal how the remaining $62.00 is divided between the NEA and the MEA.) Thus, over three-fourths of the "representation fee" goes to parent bodies which have no statutory duty to provide representation to those employees at all. . . . Under the [present] circumstances, [I make] no recommendation to the [MERC] concerning the lawfulness of the provision requiring payment of a "representation fee" to the NEA and MEA, except to observe that if no representation is received in return for the agency shop fee, then the payment requirement does encourage membership in NEA and MEA.

In an opinion issued on February 6, 1970, the MERC sustained the trial examiner's findings and dismissed the charges and complaint in their entirety. (*In the Matter of Southgate Community School District, and Linda Morrison, and Southgate Education Association,* Michigan Employment Relations Commission, February 6, 1970.)

STATE TENURE COMMISSION SUSTAINS DISMISSAL OF TEACHER WHO VIOLATED AGENCY SHOP PROVISION

By a 3–2 vote the Michigan Teacher Tenure Commission upheld the June 1969 dismissal of a Grand Blanc teacher who refused to comply with an agency shop provision contained in the 1968-70 agreement between the local education board and the Grand Blanc Education Association. Referring to a similar 1969 case which involved the dismissal of two Saginaw teachers, the majority found itself "persuaded" that refusal to comply with an agency shop provision "is 'reasonable and just cause' for dismissal, as that phrase is used in the [Michigan] Teacher Tenure Act."

Article XIX, Section A-3, of the current Grand Blanc contract provides that if a teacher does not pay a fee equivalent to the authorized Association

membership dues and assessments within 60 days after the beginning of a given school year

the Board, upon receiving a signed statement from the Association certifying the teacher has failed to comply with this condition and that the teacher has been so notified by the Association, shall immediately notify said teacher that his services shall be discontinued at the end of the current school year providing such action is not contrary to state law. The refusal of said teacher to contribute fairly to the costs of negotiation and administration of this Agreement is recognized as just and reasonable cause for termination of employment.

In upholding the Grand Blanc education board's firing of a high-school English teacher who had taught for 23 years but refused to pay the agency shop fee, the tenure commission adopted the rationale propounded by a Wayne County Circuit Court judge in the case of *Smigel, et al. v. Southgate Community School District, et al.* There the court determined that the Michigan Teacher Tenure Act, which "permits in explicit language the discharge of an employee 'for reasonable and just cause,'" was reconcilable with portions of the Michigan Public Employment Relations Act (PERA) authorizing public employee bargaining. For the court held that "the purpose of PERA, under which agency shop provisions may be bargained, is to benefit the employees with a sound, secure, unified approach to employee representation. Thus we see a common unified goal precluding an interpretation of the tenure act urging a conflict with PERA." The court further held that

the claim that an agency shop provision violates statutory law in that it forces one to join a union, and is discriminatory, is without merit. Such provision in an agreement serves the purpose of allocating indiscriminately the cost of representation for collective bargaining among all those participating in the benefits received. Such a provision eliminates the "free riders."

In the present instance the tenure commission supported its decision with a portion of the *Smigel* ruling which held that

any action which would weaken the bargaining power of the Association and tend to reduce its strength is very well a proper subject for the parties to consider as reasonable grounds for discharge. Such activity disturbs the delicately balanced relationships between the bargaining parties, thus creating hardships greater in magnitude than provisions such as those setting forth hours of attendance and responsibilities in the classroom. Violation of these provisions certainly could be interpreted by the parties and Tenure Commission to constitute reasonable grounds for discharge under Article IV, Section 1 of the Tenure Act.

However, the two dissenting members of the tenure commission argued that the phrase " 'reasonable and just cause' relates only to a tenure teacher's fitness or capacity to discharge the duties of his position." Contending that "since the sole purpose of the agency shop clause is to protect and strengthen employee organizations, it bears no relation to the teacher's competence, and therefore may not be, upon a teacher's failure to comply, the basis of dismissal," the dissenting members explained:

School boards in Michigan have only such powers as are conferred upon them by statute, either expressly or by necessary implication. Section 569 of the School Code of 1955 confers upon boards of education the power to hire and contract with teachers. It does not, in terms, or by implication, confer upon boards the power to enter into a contract with an employee organization requiring teachers, regardless of their own wishes in the matter, to pay dues or fees to that employee organization. This lack of power is not supplied by the Public Employment Relations Act, which is silent on the subject. . . . If anything, the Public Employment Relations Act forbids an agency shop agreement when, in Section 10(c), it makes it unlawful for a public employer to "discriminate in regard to hire, terms or other conditions of employment in order to encourage or discourage membership in a labor organization." It is difficult to see how an employer could encourage membership in a labor organization by any means more forceful than compelling the employee to pay dues to that labor organization.

(*Carol S. Applegate v. Grand Blanc Community Schools*, Michigan Teacher Tenure Commission, February 29, 1970.)

NEW YORK

HEARING OFFICER RECOMMENDS DISMISSAL OF REPRISAL CHARGES FOUND TO BE UNTIMELY FILED

A Public Employment Relations Board (PERB) hearing officer determined that although the LeRoy Central School District No. 1 had engaged in "active reprisal" against seven school bus drivers, the drivers' complaint of reprisal should be dismissed because the charge was filed untimely. PERB rules of procedure hold that any public employee who charges an act of reprisal in violation of Section 202 of the Taylor Law must file that complaint "within sixty days of the alleged act." In the present case, the examiner found that "a fair reading of the record indicates that the district engaged in acts of reprisal against each of the complainants well before" the date when it became "crystal clear" that the acts of reprisal were "completely executed," and following which the drivers filed their complaint. As such, the examiner recommended that the complaint be dismissed in its entirety, and that no remedial order be issued.

In February 1968 the drivers who always executed their contracts with the LeRoy board individually, sought an increase in pay. No action was taken on the request until mid-April, when the drivers received 1968-69 contracts containing a daily raise of 75 cents above the previous year.

Dissatisfied with the raise, the drivers authorized two of their representatives to return the contracts to the board unsigned, but accompanied by a letter stating that the drivers would "be glad to meet with the board or its representatives." On about May 15 the board decided to alter its original offer. Throughout this period a representative for the drivers stated that "it was the intention of the bus drivers to work in the fall."

Shortly afterward the drivers authorized a spokesman for the Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employees, AFL–CIO, to ask the board for recognition and negotiations. The Brotherhood's June 3 request for recognition was considered unactionable by the board on grounds that "recognition for bargaining under the Taylor Law would not be applicable since the bus drivers were part-time employees not working twenty plus hours." In late June the board advertised for bus drivers to apply for jobs with the district, with the intention that the applicants selected begin work on September 3, 1968. And with the end of the board's 1968 fiscal year on June 30, the board considered the drivers' employment terminated.

On August 16, a day after the Brotherhood petitioned the PERB for certification as representative of the bus drivers and other noncertified school employees, the former drivers (through the Brotherhood spokesman) delivered facsimiles of their April contract to the school attorney. Each contract was signed indicating acceptance of the earlier offer, but all were dated August 18, 1968 (instead of April 18, 1968), and a line was added to each contract stating that "the above wage rate is subject to collective bargaining." The district took no action upon the return of these contracts.

Moreover, the board entered on August 30 recognition agreement with the LeRoy Non-Teachers Association, which sought recognition as representative of all noncertified district personnel. After the Association filed a petition for certification with the PERB on September 24, a PERB trial examiner informed all parties involved that the Association had filed "an adequate showing of interest for the non-professional unit," and that he was treating its petition as a motion to intervene in the Brotherhood's August 15 representation hearing.

On September 3 the new bus drivers began work. Although the former drivers appeared at the board's October 8 meeting to protest the board's whole series of actions, the board declined to alter its position with respect to the former drivers. The charge of reprisal accordingly was filed on November 21.

In light of all the evidence presented, the hearing officer determined that

> the LeRoy central school district has engaged in active reprisal against the charging employees . . . on account of their having exercised their rights guaranteed them by CSL §202. More specifically, the district, through its governing body, the LeRoy board, from the time it received the request for an increase from the bus drivers in February 1968, acted without any consideration of the fact that the bus drivers were a clearly identifiable group acting together to seek economic betterment through unionization and collective bargaining. . . . The whole strategy clearly was to place the bus drivers on the horns of an impossible dilemma of either on the one hand signing a 1968-69 contract on the board's terms, without any recognition of the group as a unit for bargaining, or without permitting them to bargain at all in any meaningful way, or on the other hand losing their jobs. . . . . [It] is difficult to see what the charging parties or the brotherhood could have done to protect their position short of an abject surrender by agreeing that the drivers should work at the board's last offered rate.

However, in considering four motions to dismiss entered by counsel to the district at the outset of the hearing (three of which ultimately were denied), the PERB examiner found that "on the face of it, the [drivers'] complaint should be dismissed because it is based upon a charge that is not timely filed." Noting the PERB's 60-day limitation on the filing of reprisal charges, the fact that the district had engaged in acts of reprisal well before September 3, and the board's refusal to reinstate the former drivers at its October 8 meeting, the examiner cited federal court rulings under the Labor Management Relations Act (LMRA) to the effect that "an employer does not commit a new unfair labor practice when he refuses reinstatement." That is, federal courts not only uphold the LMRA's six-month limitation on filing unfair labor practice charges as an absolute bar, but also hold that "such bar cannot be lifted merely on the theory of 'continuing tort' i.e., that a new period of limitation can run from the subsequent time that the discharged employee seeks reinstatement and is refused." Adopting this point of view as applicable to the PERB's 60-day limitation, the examiner recommended dismissal of the entire complaint. (*Gladys Hackett, et al. and LeRoy Central School District*, New York Public Employment Relations Board, August 19, 1969.)

Negotiation Notes

ALASKA

MANDATORY TEACHER BARGAINING LAW ENACTED

A law mandating school boards to meet with recognized teacher bargaining representatives for the purpose of negotiating agreements was enacted on March 9, 1970, without the governor's signature. Although the Alaska governor acknowledged that the house bill "appears to be free of legal deficiencies," he had reservations about "a number of [definitional] uncertainties which will have to be resolved by judicial construction unless remedial legislation is enacted."

The law provides that "each school board, and the state Board of Education for the state-operated schools, shall negotiate with its certificated employees in good faith on matters pertaining to their employment and the fulfillment of their professional duties." Within 20 days after a recognized employee bargaining organization enters a written request for meeting with a school board, the board is to meet with that organization at a time and place mutually agreed upon. Each party may select a maximum of five negotiating representatives, and the bargaining meetings may be held in executive session upon mutual agreement. All final agreements, however, are to be made public at a school-board meeting.

Procedures for determining the bargaining representative provide that

> when a majority of the certificated employees in a school district have designated an educational organization of their own choosing to bargain for them, the organization shall be recognized by the school board as the bargaining agent for all the certificated staff, except superintendents of schools. The membership of any such recognized educational organization shall be composed principally of those employed in the teaching profession in Alaska.

A school board's recognition of an employee organization "is valid for one year or a term agreed upon by the two parties to an agreement, unless a majority of certified staff votes to request the termination of recognition of the employee bargaining agency." The board is entitled to receipt of a membership affidavit from the bargaining representative once each year. In the event that 25 percent of a district's certificated employees request a representation election, the school board must hold a secret ballot election of all certificated employees within 20 days; the results of this election are binding for one year.

The new law also provides mediation procedures upon the written request of "an employee bargaining agency or a school board, and upon certification by the requesting party that good faith negotiations have terminated in a stalemate." Each party to the dispute is to choose two mediation board members within 10 days, and the four members so selected jointly are to select a fifth member to serve as chairman. All mediation board members serve without compensation, and the law provides that teachers who serve on such a board "must have attained tenure under AS 14.20.150 and are to be released from school duties without penalty or loss of pay from public funds." The mediation board is charged with hearing evidence from both parties, and submitting its findings and recommendations to both parties, the education commissioner, and the public within 30 days after the initial hearing, although the reporting period may be extended upon mutual agreement of the parties.

Other provisions of the new law mandate the inclusion of "grievance procedures for the certificated staff" in negotiation agreements, and hold that nothing in the law "prohibits an employee from addressing a school board, as an individual, through the regular procedures of the school board for hearing individual cases." In addition, nothing in the law's provisions "shall be construed as an abrogation or delegation of the legal responsibilities, powers, and duties of the School Board including its right to make final decisions on policies."

The full text of the Alaska bargaining statute is reprinted in the "Texts" section of this issue of the DIGEST.

MAINE

PUBLIC EMPLOYEE BARGAINING LAW AMENDED

A February 9, 1970, amendment to the Maine Municipal Public Employees Labor Relations Law

allows either party to a dispute to "seek a review by the Superior Court of a binding determination by an arbitration panel or a decision of the Public Employees Labor Relations Appeal Board." Prior to the amendment the statute held that an appeal of a unit determination or bargaining representative dispute to the state appeal board was "the sole means of review of such determinations." The amendment further provides that

> the binding determination of an arbitration panel or arbitrator or the decision of the Public Employees Labor Relations Appeal Board, *in* the absence of fraud, upon all questions of fact shall be final. The court may, after consideration, affirm, reverse or modify any such binding determination or decision based upon an erroneous ruling or finding of law. An appeal may be taken to the law court as in any civil action.

Portions of the definition of "public employee" as contained in the statute also were amended to exclude individuals who are employed less than six months, and "temporary, seasonal or on-call" employees. The statute previously had excluded from the definition employees who are "on a probationary or provisional status, or who [are] temporary, seasonal, on-call or part-time" employees.

Another amendment to the statute provides that in a unit determination dispute the commissioner of labor and industry may decide "the appropriateness of a unit for purposes of collective bargaining," as well as whether a supervisory or other position should be included in a given bargaining unit. Section 967 of the statute, which outlines the determination of a bargaining representative, was amended to provide that in the event of a run-off election between two choices, the organization receiving "the majority of votes of those voting," rather than "the majority of votes of the unit," will be certified by the commissioner as bargaining representative. In addition, Section 967 was amended to provide that "where there is a valid collective bargaining agreement in effect, no question concerning unit or representation may be raised except during the period not more than 90 nor less than 60 days prior to the expiration date of the agreement." The statute previously had held that only questions of representation were barred under the stated conditions.

A final amendment to the statute provides compensation for members of the Public Employees Labor Relations Appeal Board at the rate of $50 apiece for each day in which they are "actually employed in the discharge of their official duties."

The full text of the Maine statute is reprinted in the "Texts" section of this issue of the DIGEST. All amendments to or changes in the statute are italicized.

NEW YORK

BARGAINING REPRESENTATIVE FOR CITY UNIVERSITY OF NEW YORK VOTES NEA AFFILIATION

The Legislative Conference of the City University of New York (CUNY), recognized bargaining agent for some 6,500 full-time instructional staff members at numerous state colleges, voted on April 16 to affiliate with the New York State Teachers Association and the NEA. The vote for affiliation was 1,238 to 477. Bargaining units of CUNY employees represented by the Legislative Conference exist at Baruch College, Hunter College, Lehman College, Brooklyn College, Queens College, York College, John Jay College, Richmond College, Staten Island Community College, Kingsboro Community College, Hostos Community College, New York City Community College, Bronx Community College, Manhattan Community College, Queensboro Community College, New York City College of Applied Arts and Sciences, the Mt. Sinai School of Medicine, the Board of Higher Education, Division of Teacher Education, and the University Graduate Center.

THREE LOCAL MINI-PERB LAWS REPEALED

According to the New York Public Employment Relations Board (PERB), three local ordinances creating local mini-PERB's have been repealed, and a fourth is expected to go out of existence. State officials report that the city of Buffalo repealed its mini-PERB enactment on February 15, 1970, and the city of Lackawanna repealed its on December 30, 1969. In addition, Oswego County and the city of Middletown were disestablished by the PERB on December 31, 1969, for failure to amend their local laws.

Following 1969 amendments to the state's Taylor Law, all local governments which had enacted laws establishing local mini-PERB's were required to amend such laws and regulations to bring them into substantial compliance with state public employee procedures. As of early March 1970, 16 local mini-PERB's had been approved by the PERB; these were effective in the counties of Broome, Delaware, Erie, Monroe, Nassau, Onondaga, and Westchester, and the towns of Freeport, Harrison, North Castle, North Hempstead, Oyster Bay, Port Chester, Rye, Syracuse, and the Syracuse City School District. Two other counties were in the process of amending their local ordinances to provide for local mini-PERB's at that time.

WISCONSIN

MAYOR WHO RESIGNS DURING ELECTED TERM ELIGIBLE TO BECOME CITY NEGOTIATOR

An amendment to Chapter 370, Section 111.70(5), of the Wisconsin municipal employment bargaining statute provides that any mayor of a first-, second-, or third-class city who resigns during the term of his elected office is eligible to represent the city in negotiations, if selected to do so by the city council. Effective February 13, 1970, the amendment extends the former statute which held that only a city council member of a first-class city who resigned during his elected term was eligible to be designated as negotiator for the city.

OTHER ITEMS OF INTEREST

AFL–CIO URGES UNIONS TO SEEK 10 PERCENT WAGE INCREASE IN 1970

Adding the record 5.6 percent deferred increase due to be paid some five million workers this year to an estimated 4 percent price rise, the AFL–CIO executive council urged unions to seek a "minimum" 10 percent increase in 1970 settlements "to offset increased living costs and advance living standards." Although the 10 percent figure represents a sharp rise above last year when first-year settlement gains averaged 8.2 percent, a report produced by the union's economic policy committee warned that owing to "the inflation that has plagued the economy in the past few years . . . rising prices erode workers' buying power, and many workers have experienced declines in real wages. . . . Under these conditions, workers have no other recourse than to seek substantial wages gains."

According to figures reported by the Department of Labor, Bureau of Labor Statistics in January, the renegotiation or reopening of settlements covering at least 1,000 workers will affect more workers this year than in any year during the previous decade. Some five million workers will be affected this year, compared with 2.7 million last year. Major contracts subject to renegotiation this year include those in the automobile manufacturing, trucking, rubber, meatpacking, apparel, construction, and retail trade industries. Another five million workers will be affected by agreements which neither expire nor reopen this year, but provide for deferred increases during the year.

CONSUMER PRICE INDEX, FEBRUARY 1970

Figures released by the Bureau of Labor Statistics (BLS) indicate that the Consumer Price Index (CPI) all-items figure for February rose 0.5 percent above the previous month to 132.5 (1957-59=100). The February 1970 all-items index stood 6.3 percent higher than a year ago. In addition, BLS reported that the February 1970 purchasing power of the consumer dollar stood at $.755 based upon its average buying power in 1957-59.

BLS attributed most of the February increase to "larger than seasonal increases in food and apparel prices and . . . charges for consumer services, particularly home mortgages." Medical care services, which rose 0.8 percent in February, registered their sharpest monthly increase in nearly a year. Transportation service charges rose substantially less than in the previous two months, while the costs of durables remained unchanged instead of registering the usual slight seasonal decline.

BLS estimates that some 67,000 workers will receive cost-of-living wage increases based upon the February CPI. Nearly 33,000 workers in the farm equipment, chemical, and household appliance industries will receive hourly pay increases varying from two to five cents and based upon the increase in the national index since November 1969. In addition, 23,000 workers in the electronics and automobile equipment industries will receive hourly increases of two or eight cents based upon the rise in the CPI since February 1969. And some 3,100 other workers will receive hourly pay increases of six or seven cents, according to the change in the CPI since August 1969.

Statistics

NEGOTIATION AGREEMENTS: TRANSFER PROVISIONS

The NEA Research Division's analysis of 978 comprehensive classroom teacher agreements effective during the 1968-69 school year indicates that 558 of these agreements (57 percent) contained negotiated transfer provisions. These provisions are found in agreements in school systems with enrollments of 1,000 or more in 21 of the 25 states which filed comprehensive classroom teacher agreements with the NEA Research Division's depository of agreements. The number of professional school system personnel represented by the 558 agreements with transfer provisions is 331,291. Comprehensive agreements containing transfer provisions are found in all enrollment strata, but the percentage of comprehensive agreements with such provisions increases with the size of enrollment. Distribution of the 558 agreements according to enrollment strata is:

Stratum	School system enrollment	School systems with comprehensive agreements	Professional personnel in school systems with comprehensive agreements	School systems with comprehensive agreements having transfer provisions		Professional personnel in school systems with comprehensive agreements having transfer provisions	
				Number	Percent	Number	Percent
1	100,000 or more	9	138,608	8	88.9%	129,308	93.3%
2	50,000 - 99,999	10	32,298	9	90.0	29,798	92.3
3	25,000 - 49,999	21	33,008	19	90.5	29,123	88.2
4	12,000 - 24,999	68	55,349	59	86.8	49,236	89.0
1-4		108	259,263	95	88.0%	237,465	91.6%
5-8	1,000 - 11,999	870	160,855	463	53.2%	93,826	58.3%
Total		978	420,118	558	57.1%	331,291	78.9%

Of the 108 comprehensive agreements reported for school systems with enrollments of 12,000 or more, transfer provisions are contained in 95 (88.0 percent) of these agreements. The 95 school systems with negotiated transfer provisions represent approximately 237,465 professional employees. Only these transfer provisions are analyzed in the following article.

A transfer provision is a negotiated procedure governing the movement of an employee from one assignment to another without a change of rank. Although similar procedures may be followed for promotions, assignments, layoffs, and recalls, these contingencies are not considered transfers. There are two basic types of transfer provisions, voluntary and involuntary. Voluntary transfers are transfers initiated at the request of the individual teacher; involuntary transfers are transfers initiated by the school administration.

Of the 95 transfer provisions, 92 contain various specific negotiated regulations or guidelines governing transfer procedures. Two of the remaining three provisions establish joint teacher-board study committees to recommend transfer policies, and the other one provides that the formerly negotiated transfer provision will be deleted pending court action. A review of the 92 specific transfer provisions shows 77 (83.7 percent) contain provisions for both voluntary and involuntary transfers, 14 (15.2 percent) cover only voluntary transfers, and 1 (1.1 percent) covers only involuntary transfers.

Tables 1 and 2 list the contents of the 91 voluntary and 78 involuntary transfer provisions containing specific negotiated regulations governing transfers. This analysis is limited to what appears in written negotiation agreements; it is not concerned with other school-board policies, rules, and regula-

tions, or verbal agreements reached by school boards and teacher groups. In addition, the information in Tables 1 and 2 is limited strictly to the data found in the transfer provisions. For example, the grievance procedure in many agreements covers all other provisions in the agreement. No attempt is made in this analysis to cross-reference provisions. Thus, the five agreements listed in Table 1 as allowing teachers recourse to the grievance procedure in matters concerning transfers consist only of the five agreements which so state in the transfer provision itself. Teachers covered by other agreements may also have recourse to the grievance procedure for violations of or inequities in the transfer procedures, but they are not listed. Furthermore, the categories in Table 1 and in Table 2 are not mutually exclusive. The provisions nearly always contain more than one feature. Also, the categories are based on subject matter, not on types of provisions.

Content of Voluntary Transfer Provisions

Specific negotiated regulations governing transfer procedures under the 91 voluntary transfer provisions can be grouped into five broad categories: notification of transfer vacancies, procedures for making application, criteria for the selection of applicants, notification of action taken on the application, and the appeal process.

In reference to the time at which vacancies are posted, most agreements provide for the posting or listing of all school system vacancies before a given annual date. This date usually falls in February, March, April, or May. Some agreements provide for a supplemental posting following the initial posting, while others state only that vacancies will be posted as they occur. Still other agreements stipulate the number of days vacancies must be posted before they may be filled; this number varies from three to 14. Vacancies most frequently are to be posted in each school building, but some agreements provide that vacancies be posted only in a central location, the personnel office, or the superintendent's or assistant superintendent's office. In four agreements teachers who previously have placed their names on transfer lists are to be notified of vacancies individually. In about 25 percent of the agreements the representative organization is given comprehensive lists (usually by the end of the year) of the system-wide status of current vacancies and the number of teachers transferred.

The majority of the provisions specifying how applications for transfers are to be made state that an application must be filed by a certain annual date, which usually falls in March, April, or May. A comparison of these dates with annual posting dates indicates that a teacher usually must file his application within two weeks of the posting date. In those agreements stipulating that a teacher must file within a given number of days of posting, the time period varies from one to three weeks. A teacher most often applies in writing directly to the central office or to the administrator in charge of system-wide transfers; in some agreements a teacher first notifies his immediate supervisor. A few agreements state that a teacher desiring a transfer must have a conference with the administrator in charge of transfers. In other agreements the receiving principal or supervisor is made aware of applicants through interviews or information provided by the central administration, and exerts some influence on the selection process.

The criteria used to select applicants usually are defined in broad, somewhat flexible terms. Of the 44 agreements naming seniority as one selection criterion, seven list seniority alone, 20 list seniority and one other criterion, 12 list seniority and two other criteria, four list seniority and three other criteria, and one lists seniority and four other criteria. Seniority usually is the deciding factor when all other qualifications are equal.

In some agreements notification of an action first occurs when a teacher is given written assurance that his application has been received. Those agreements naming the given annual date by which a teacher is to be notified of the acceptance or rejection of his application most frequently specify the end of the school year. A few agreements state that notice be given in August, at the very latest. When notice is to be given according to when a decision is made, the agreements stress expediency. Only one agreement indicates that a teacher must be notified within a stipulated number of days of the receipt of his application. Although the manner of notification frequently is undefined, a number of agreements state that a notice is to be delivered in writing. Ten agreements grant teachers the right to know the reasons for their rejection, or for a delay in the processing of their applications; sometimes the reasons are given in writing, while other agreements provide that the teacher personally be informed by the superintendent or his principal. Five voluntary transfer provisions specify that a teacher has recourse to the grievance procedure if he believes the agreement has been violated, or there has been an inequity in the handling of his transfer request.

Content of Involuntary Transfer Provisions

Data derived from the 78 involuntary transfer provisions which contain specific regulations governing transfer procedures can be grouped into five categories: notification of the pending transfer, the reasons for involuntarily transferring a teacher, the criteria governing the selection of teachers to be transferred, special considerations given to teachers being transferred involuntarily, and the appeal process.

When teachers are notified by an annual date that they will be transferred involuntarily, such notification usually occurs in May or June. Some agreements indicate that notice may be given as late as July or August. The number of days before the effective date of a transfer by which a teacher must be notified varies from five to 60, but most frequently is given as 30. Some agreements merely provide that notification of a pending transfer is to be given as soon as possible. Only one agreement states that teachers may be transferred involuntarily at any time without notice. Notice most often is given personally during a conference where the teacher is informed of the reasons for his transfer. In three agreements the representative organization is to be notified of involuntary transfers directly by the school administration. The person most often responsible for directing involuntary transfers is the superintendent, or the assistant superintendent in charge of personnel.

Although the reasons for involuntary transfers usually are stated broadly, the most common reason is shifts in the enrollment patterns of individual schools within a system. The second most common reason is that the best interests of the school system and the instructional program necessitate some involuntary transfers; the term "best interests" is not explained. A few agreements name unexpected disruptions of the instructional program as a cause for transfer. The three agreements which name racial imbalance as a possible cause for transfer do not mandate involuntary transfers when an imbalance exists; they merely state that racial imbalance may be a factor influencing such transfers.

Seniority is the major criterion influencing most involuntary transfers. In 13 agreements seniority is the only factor influencing selection; seniority and one other criterion form the basis for selection in 19 agreements; seniority and 2 other criteria influence selection in 10 agreements. When the transference of a large number of teachers is necessitated by enrollment shifts and mergers, seniority usually is the most influential factor; unless enough volunteers are found, teachers with the least seniority are transferred first. Other important selection criteria include the availability of volunteers, and a teacher's qualifications and experience. When a teacher is needed to fill a particular instructional opening, seniority rules only when qualifications and experience are equal.

Teachers who are transferred involuntarily frequently are given special consideration; this most commonly consists of the chance to select an opening from those existing in the school system. In some agreements involuntary transferees are given preference over voluntary transferees in their choice of openings. In other agreements involuntary transferees are guaranteed a comparable position if transferred. In five agreements teachers who have been transferred involuntarily are given priority when openings occur in the school from which they were transferred. Four of these agreements provide that involuntary transferees may return in the reverse order in which they were transferred. One agreement allows involuntarily transferred teachers priority in transferring to any school of their choice. Three agreements allow teachers to be released from their contracts if such is preferable to being transferred involuntarily.

An appeal of an involuntary transfer usually consists of discussions between the superintendent (or other administrators in charge of transfers) and representatives of the teachers' organization. About one-third of the agreements providing for an appeal specifically state that the grievance procedure may be used.

Four examples of transfer provisions are reprinted here. These samples show variations in the handling of transfer procedures and are not intended to be evidence of exemplary transfer procedures.

TABLE 1.—NEGOTIATED CONTENT OF 91 VOLUNTARY TRANSFER PROVISIONS

Content of transfer provision	Agreements containing designated content	
	Number	Percent
1	2	3
Number of Voluntary Transfer Provisions	**91**	**100.0%**
Notification of transfer vacancies	60	65.9
Teacher notified by given annual date	37	40.7
Vacancies posted as they occur	16	17.6

TABLE 1.–NEGOTIATED CONTENT OF 91 VOLUNTARY TRANSFER PROVISIONS (Continued)

Content of transfer provision	Agreements containing designed content	
	Number	Percent
1	2	3
Vacancies posted for minimum time period	14	15.4
Vacancies posted in individual school buildings	28	30.8
Vacancies listed in a central office location	10	11.0
Teacher notified individually	4	4.4
Representative organization apprised of system-wide status of vacancies and transfers	23	25.3
Procedures for making application	82	90.1
Teacher applies before given annual date	56	61.5
Teacher applies within given number of days of posting	8	8.8
Teacher applies to central office	36	39.6
Teacher first informs his principal or immediate supervisor	13	14.3
Application made in writing	43	47.3
Required conference with representative of central administration	8	8.8
Receiving principal or supervisor participates in selection of applicants	13	14.3
Criteria for selection of applicants	65	71.4
Seniority	44	48.4
Qualifications and experience	36	39.6
Best interests of school system and instructional program	32	35.2
Staff balance in terms of experience	9	9.9
Staff balance in terms of race	2	2.2
Tenure	6	6.6
Employment for specific number of years	3	3.3
Applications from teachers currently employed considered before new teachers are hired	6	6.6
No discrimination to be shown	5	5.5
Notification of action taken on application	32	35.2
Teacher given written receipt of application	10	11.0
Notice given by stipulated annual date	17	18.7
Notice given as decision is made	7	7.7
Notice given in writing	12	13.2
Teacher apprised of reasons for rejection or delay	10	11.0
Transfer action may be appealed through grievance procedure	5	5.5

TABLE 2.–NEGOTIATED CONTENT OF 78 INVOLUNTARY TRANSFER PROVISIONS

Content of transfer provision	Agreements containing designated content	
	Number	Percent
1	2	3
Number of Involuntary Transfer Provisions	**78**	**100.0%**
Notification of pending transfer	54	69.2
Teacher notified by given annual date	19	24.4
Notice given by a specific number of days before transfer is effective	9	11.5
Notice given as soon as possible	9	11.5
No notice need be given	1	1.3
Teacher must be notified in writing	11	14.1
Representative organization notified	3	3.8
Teacher confers with office or administrator in charge of involuntary transfers	36	46.2
Teacher informed of reasons for involuntary transfer	44	56.4
Possible reasons for transfer	40	51.3
Enrollment changes causing over- or understaffing	27	34.6
Best interests of school system and instructional program	19	24.4
Prevention of disruption of instructional program	7	9.0

TABLE 2.–NEGOTIATED CONTENT OF 78 INVOLUNTARY TRANSFER PROVISIONS (Continued)

Content of transfer provision	Agreements containing designed content	
	Number	Percent
	2	3
Achievement of staff racial balance	3	3.8
Criteria for selection of transferees	54	69.2
Seniority	42	53.8
Qualifications and experience	25	32.1
Volunteers taken first when transfers necessitated by school conditions	16	20.5
Possible avoidance of transferring probationary teachers	7	9.0
No discrimination to be shown	6	7.7
Special consideration given involuntary transferees	35	44.9
Allowed preference of system openings	19	24.4
Given priority over voluntary transferees in choice of openings	8	10.3
Given new position comparable to former	7	9.0
Allowed option of release from contract	3	3.8
Allowed priority in future transfers	6	7.7
Transfer action may be appealed	35	44.9
Appeal by representative organization through administrative channels	26	33.3
Appeal through grievance procedure	11	14.1

Little Rock School District, Little Rock, Arkansas

Article IX–*Voluntary Transfers and Reassignments*

A. 1. No later than April 15th of each school year, the Superintendent shall cause to be published a complete list of all known vacancies which shall occur during the following school year.

2. Tenure teachers who desire a change in grade, subject, and/or school shall file a written statement of such desire with the Assistant Superintendent-Personnel not later than May 1st. Such statement shall include the grade, subject, and school to which the teacher desires to be assigned, in order of preference.

3. No assignment of new teachers in the school system shall be made until all pending requests for reassignment or transfer have been acted upon either by granting or denying the requests.

4. Notification of transfer or reassignment shall be made personally and confirmed in writing, such notice to be made immediately after such decision to transfer has been reached.

B. In the determination of requests for voluntary reassignments and/or transfer, the convenience and wishes of the individual teacher will be honored to the extent that they do not conflict with the instructional requirements and best interests of the school system. If more than one teacher has applied for the same position, seniority in the school system shall be a primary consideration.

Article X–*Involuntary Transfers and Reassignment*

The Board and the Association recognize that some involuntary transfer of teachers from one school to another or reassignment within a school is unavoidable. They also recognize that under normal circumstances transfer or reassignment of teachers should be held to a minimum. Therefore, they agree as follows:

A. Notice of an involuntary transfer or reassignment shall be given to teachers as soon as practicable and, under normal circumstances, not later than June 1st.

B. An involuntary transfer or reassignment will be made only after a meeting between the teacher involved and the Deputy Superintendent and/or the Assistant Superintendent-Personnel, at which time the teacher will be notified of the reasons therefor. In the event that a teacher objects to the transfer or reassignment at this meeting, upon request of the teacher the Association will be notified and the Deputy Superintendent and/or the Assistant Superintendent-Personnel will meet with the Association's

representative to discuss the matter. In the event the differences cannot be resolved, provisions of the grievance procedure will be employed. [NOTE: Grievance procedure ends with advisory arbitration.]

C. Openings in the school system will be discussed with the teachers being transferred or reassigned. Such teachers may request positions to which they desire to be transferred. Within time limitations, teachers being involuntarily transferred or reassigned shall have selection preference over those seeking voluntary transfers under Article IX. In consideration of involuntary transfers seniority in the school system shall be primary.

Gary City School District, Gary, Indiana

Article VIII–*Transfer Procedures*

A. A teacher requesting a transfer shall file the completed forms available from the principal and/or the personnel department.

B. Whenever possible, a teacher should list more than one school to which a transfer is desired in order to improve the possibility of effecting such a transfer.

C. A teacher may request a transfer to a different organizational level of the school system, to a different subject matter field, to a special field (e.g. counseling, instructional materials center, special education) provided he has the proper certification for the requested position.

D. A list of vacancies shall be posted in each school building by October 1 and revised periodically thereafter to keep it up-to-date until March 1 of the school year. A current list of vacancies will be kept available in the Personnel Department.

E. A request for a transfer made by a teacher will remain active until the transfer is effected or withdrawn, but in no event for a period to exceed two years from the date of filing.

F. When filling vacant positions, after following the procedures for making assignments within a building, teacher transfer requests will be processed before new personnel are hired.

G. When a vacancy for the ensuing school year exists between March 1 and September 1, transfer requests currently on file shall be processed first in the filling of that vacancy. If said vacancy cannot be filled from the transfer requests currently on file, the School City may fill the vacancy with a new employee. Such vacancies existing after March 1 which cannot be filled by the transfer procedure or new employees shall be posted each two weeks in each school building until the close of school.

H. When a position which is, or becomes, open for which two or more teachers who are equally qualified have requested a transfer, length of service in the School City shall be the determining factor in effecting the transfer. When only one qualified staff member applies for a transfer to an open position, he shall receive the transfer. If the vacancy occurs within the school year it may be filled according to the procedures above ten days after the vacancy has been posted in each building or it may be filled temporarily until the end of the year at which time it will be filled according to the procedures outlined above.

I. When a vacancy is filled and a transfer applicant did not succeed in filling the vacancy, he shall have access to the grievance procedure. [NOTE: Grievance procedure ends with advisory arbitration.]

J. When a teacher receives a voluntary transfer he shall have no seniority rights to a subsequent transfer for a period of two years.

K. Involuntary transfers will be made only when new buildings are opened, when an old facility is closed, or when staff needs cause a reduction in staff.

L. When a new school is opened, the staff, when staff members are properly qualified, shall be drawn first from schools affected by the opening of the new school. When involuntary transfers are required because part of the student body is moving to the new school, teachers, when qualifications are equal, with the least system-wide seniority shall be transferred first. Remaining vacancies shall be posted in each building and filled with requests for transfers. New teachers will be assigned only after all transfer requests have been considered.

M. When there is a reduction in the number of teaching assignments within a building due to changes in course offerings, or a reduction in pupil enrollment which results in the necessity of an involuntary transfer for a teacher, the teacher with the least length of service within a building when qualifications are equal will be transferred first. Any teacher so affected, when properly qualified, shall be given a preference in a transfer assignment and shall, when equally qualified, have the first right of return to

vacant positions to the school from which he was transferred. Such teachers shall take their building seniority to the new building.

N. The foregoing transfer procedures are subject to the following modifications in an effort to promote further staff integration at all levels and in all sections of the city.

1. Prior to February 1, of each school year a list of schools having the greatest need of improvement in staff racial balance and all vacant positions within those schools shall be posted in each building and revised periodically to keep it up-to-date. The list will include all schools with a faculty composed of more than seventy-five per cent of one racial group.

2. The Board and the Union will cooperate to encourage transfers which will improve the racial balance within those schools.

3. A teacher requesting a transfer to improve racial staff balance, when qualified, shall receive preference in filling a vacant position.

4. A teacher accepting such a transfer shall have the right to return to his original position at the end of the year and the right to return to the same position if it is open at the end of two years or to a comparable position in the original school.

5. A teacher accepting a staff balance transfer will be permitted to carry with him his building seniority from the school from which he is transferring, and shall have the opportunity to participate in incentive plans developed to encourage transfers to improve staff balance.

6. No transfer request shall be considered a transfer to improve racial staff balance unless the transfer request specifically denotes such purpose at the time of filing same.

O. Workshop for teachers who transfer to help achieve improved staff racial balance.

1. A two-week workshop will be held during the summer of 1969 for teachers who have already accepted transfers to improve racial balance for the 1969-1970 school year.

2. Each teacher will receive a stipend of twenty dollars ($20.00) per day for the ten-day workshop.

P. Other incentives to encourage staff-racial balance transfers will be developed jointly by the Union and the Administration if other funds become available.

New Bedford School District, New Bedford, Massachusetts

Article XII–*Voluntary Transfers and Assignments*

A. The Superintendent shall assign all newly-elected personnel to their specific positions which, except for long term substitute teachers, shall be within the type of service for which the teacher has been elected by the Committee. The Superintendent shall give notice of assignments to new teachers as soon after election as practicable.

B. 1. No later than May 1st of each school year, the Superintendent shall post in all school buildings a list of the known vacancies which will occur during the following school year.

2. Teachers who desire a change in grade and/or subject assignment or who desire to transfer to another building shall file a written statement of such desire with the Superintendent not later than May 15th. Such statement shall include the grade and/or subject to which the teacher desires to be assigned and the school or schools to which he desires to be transferred, in order of preference.

3. As soon as practicable, and whenever possible at least one week prior to the close of the school term, the Superintendent shall post in each school and deliver to the Association a system-wide schedule showing the names of all teachers who have been reassigned or transferred and the nature of such reassignment or transfer. If such schedule is not available before the close of the school term, it shall be posted on a bulletin board at the Administration's office on William Street and sent to the Association as soon as it is available and posted in each school at the opening of school the next September. In addition, it shall be sent to any teacher who leaves a stamped, self-addressed envelope with the Superintendent, for that purpose.

C. In the determination of requests for voluntary reassignment and/or transfer, the wishes of the individual teacher will be honored to the extent that they do not conflict with the instructional requirements and best interests of the school system. If more than one teacher has applied for the same position, seniority shall be a significant factor in determining which teacher shall be given the position.

Article XIII–*Involuntary Transfers and Assignments*

A. Notice of an involuntary transfer or reassignment shall be given to teachers as soon as practicable.

B. When an involuntary transfer or reassignment is necessary, qualified volunteers, if any, will be transferred or reassigned first. A teacher's area of competence, major or minor field of study and length of service in the New Bedford School System will be considered in determining which teacher is to be transferred or reassigned.

C. An involuntary transfer or reassignment shall be made only after a meeting between the teacher involved and the Superintendent, or his designee, at which time the teacher will be notified of the reasons therefor, except that a temporary transfer or reassignment up to thirty (30) school days can be made in an emergency without such a meeting. In the event that a teacher objects to the transfer or reassignment at this meeting, upon the request of the teacher, the Association will be notified and the Superintendent, or his designee, will meet with the Association's representative to discuss the matter.

D. If a transfer or reassignment is caused by a reduction in force at a particular school or schools then a list of open positions in the school system will be made available to all teachers being involuntarily transferred or reassigned. Such teachers may request the positions, in order of preference, to which they desire to be transferred. Teachers being involuntarily transferred or reassigned because of a reduction in force shall have preference over those seeking voluntary transfer or reassignment. Where such involuntary transfer or reassignment is being made because of a reduction in force a teacher will be placed in as nearly a comparable position as possible if one is available.

Flint Community Schools, Flint, Michigan

Article IX–*Vacancies and Transfers*

A. Although the Board and the Association recognize that frequent transfers of teachers from one school to another are disruptive of the educational process and interfere with optimum teacher performance, they also recognize that some transfers for administrative purposes and to insure a fair distribution of experienced and qualified teachers throughout the system will be necessary.

B. Transfers and changes of assignments shall be on a voluntary basis whenever possible. In making involuntary assignments and transfers, the convenience and wishes of the individual teacher will be honored to the extent that these considerations do not conflict with instructional requirements and the best interests of the school system and the pupils. Teachers will be given thirty (30) days notice of involuntary transfers, and the reasons therefor if the teachers so request, except that in those cases in which a transfer must be made in less than thirty (30) days, such notice will be given as time will allow. All involuntary transfers shall be reviewed by the Personnel Office and teachers will be given an opportunity to state in writing the reasons for their objection to the transfer.

C. Teachers shall be given an opportunity to apply, without giving reasons, for transfers to be effective the next school year if their application is made by April 7; provided, that if the application is made after April 7, the teacher shall state the reasons for the transfer request or if the request is for transfer to a particular school, the teacher shall be obligated to state the specific reasons for the choice of the school. The Board will maintain in the Personnel Office a current list of vacancies in positions on the K-12 and College salary schedules until April 7. A duplicate list of vacancies on the College salary schedule shall be kept in the Office of the Associate Dean until April 7. If a teacher requests a transfer under this Paragraph and is refused, he shall be notified in writing of the reasons therefor if he so requests.

D. Teachers may apply for transfers to be effective during the school term in which application is made, provided that in such case the teacher will be required to state the reasons for the transfer request

E. An involuntary transfer or the denial of a request for transfer may be challenged through the grievance procedure solely on the ground that the decision made was unreasonable. [NOTE: Grievance procedure ends with binding arbitration.]

Special Reports

BRIEFS OF RECENT AGREEMENTS

Denver, Colorado

Between the Denver City Public Schools and the Denver Classroom Teachers Association, effective December 18, 1969, to April 6, 1972. Provision for reopener after March 1 of each year, provided negotiation terminates no later than June 1 of each year unless extended by mutual consent. Approximately 4,599 certificated professional employees.

Compensation: (effective September 1, 1970) B.A., $7,000 to $11,200, 12 increments; B.A. plus 45 hours, $11,760 maximum; M.A., $8,190 to $13,000, 12 increments; M.A. plus 45 hours, $13,580 maximum; Ph.D., $15,050 maximum; longevity pay of $400 after 15 years' service, and $400 following each 5-year period of service thereafter. Differentials: head football coach, $700; assistant baseball coach, $490; senior high band director, $840; senior high forensics director, $945; television teachers, additional pay of 10% of residual on gross sale or rental of their series outside school district; curriculum development assignments, $7.50 per hour; after school chaperoning, $5 for afternoon events and $10 for evening events. Substitute teachers (16 days or more), $36.85 per day.

Leaves: 10 days' annual sick leave, unlimited accumulation; 15 days' extended sick leave at half-pay; 2 separate days for personal business; 3 separate days for religious holidays; 2 separate days for school visitation; up to 10 days' paid leave for all teachers to attend educational meetings; sabbatical leave at half-pay for 1 year after 5 years' service; after 10 years' active service a teacher may be granted a 1-year leave of absence at half-pay for "restoration of health."

Insurance: Board participation in group life insurance; board-paid liability insurance coverage for individual; joint committee for development of health care insurance coverage for individual.

Miscellaneous: Grievance procedure ends with advisory arbitration; Association dues deduction; Association president granted paid leave for 1 year with board and Association contributing jointly; joint committee to study class size and teaching load; 45-minute duty-free lunch period; 1 planning period per teacher per day; provision for teacher and clerical aides to relieve teachers of non-teaching duties; provision for purchase of instructional materials which are not readily available; provision for school building committees; copies of materials in teachers' files to be made available to teachers at no cost; summer and evening school program assignments; promotional vacancies listed; teacher protection; pupil conduct policies; academic freedom, as well as teachers' "right and obligation" to select controversial issues for study and discussion.

East Hartford, Connecticut

Between the East Hartford Board of Education and the East Hartford Education Association, effective January 1970 to June 30, 1971. Approximately 700 certificated professional employees.

Compensation: B.A., $6,900 to $10,695, 11 increments; B.A. plus 30 hours, $12,351 maximum; M.A., $7,383 to $12,627, 13 increments; M.A. plus 30 hours, $13,524 maximum; Ph.D., $13,938 maximum; longevity pay of $200 after 15 years' service and $200 following each 5-year period of service thereafter. Differentials: head football coach, $1,360; band director, $379.50; head teacher, $1,380; department chairman, $138 per teacher supervised; guidance counselor, $414; senior class advisor, $340; newspaper advisor, $475; home instruction, $8 per hour. Retirement severance pay after 15 years' service of up to 30 days' unused sick leave at rate of 1/200 of annual salary in retirement year.

Leaves: 15 days' annual sick leave, unlimited accumulation; 3 separate days' bereavement leave; 2 separate days for religious holidays; 1 day for school visitation or professional conference; sabbatical leave at 75% of salary for 1 semester or 1 year after 7 years' service, although board at its discretion may reimburse the teacher for travel or other expenses related to the sabbatical leave.

Insurance: Board-paid Blue Cross, medical service, and major medical health insurance for individual and family coverage; board-paid $10,000 life insurance for individual coverage; board-paid $3,000 life insurance coverage for retiring teachers.

Miscellaneous: Grievance procedure ends with binding arbitration; Association representatives granted time off with pay during negotiations; joint curriculum development and revision committee; 30-minute duty-free lunch period for elementary teachers; provisions for class size, specialists, and teacher protection; all teachers shall be assigned a preparation or conference period at least 5 times per week; summer school program assignments.

Anne Arundel County, Maryland

Between the Board of Education of Anne Arundel County and the Teachers Association of Anne Arundel County, effective July 1, 1970, to June 30, 1971. Approximately 3,390 certificated professional employees.

Compensation: B.A., $7,200 to $11,500, 10 increments; M.A., $7,900 to $12,650, 11 increments; M.A. plus 30 hours, $13,375 maximum; Ph.D., $14,100 maximum; administrators' salary schedule based upon variable multiple applied to teacher's basic salary; longevity pay of $425 after 10 years' service in county. Differentials: noncoaching athletic director, $1,000; head football coach, $825; head soccer coach, $500; newspaper advisor, $300; band director, $450; cheerleader advisor, $200; club advisor, $125; teachers in extra instructional programs which are compensated, minimum of $5 per hour.

Leaves: 10 days' annual sick leave, unlimited accumulation for 10-month teachers; 12 days' annual sick leave, unlimited accumulation for 12-month teachers; 1 separate day for personal business; 4 days' bereavement leave; 3 separate days for religious holidays; paid professional conference leave; paid leave for jury duty or court summons; 1 day of paid leave to receive graduate degree; after 11 months' service, 12-month teachers entitled to a full calendar month of vacation; special leave until recovery, at full pay less workmen's compensation granted teachers injured in the line of duty; sabbatical leave at half-pay for 1 semester or 1 school year after 6 years' service.

Insurance: Board pays at least 50% of premium for Blue Cross—Blue Shield insurance for individual or family coverage; board-paid major medical plan and $5,000 term life insurance policy for individual coverage; tax deferred annuities.

Miscellaneous: Grievance procedure ends with fact-finder's recommendations; Association dues deduction; Association-board exchange of fiscal information; monthly faculty council meetings to be held at each school; joint committee to recommend expansion of remunerated professional programs for all teachers; tuition reimbursement for maximum of 6 semester hours per year; duty-free lunch period for all teachers; minimum of 30-minute preparation period for elementary teachers; provisions for academic freedom, pupil discipline support, and political freedom as regards campaigning for or serving in public office; transfer request procedure; teacher evaluation; promotion procedure; summer workshops.

ARTICLE X – PROMOTION PROCEDURES

A. Positions to be Covered

These procedures shall apply to appointments to all positions of an administrative or supervisory nature requiring classroom experience for certification except those positions reporting directly to the superintendent.

B. Advertising

1. The Promotional Examination

The time and place of the examination shall be announced at least eight weeks prior to its administration. The announcement shall be sent to each school for posting and to the Association.

Any teacher who holds a Standard Professional or an Advanced Professional Certificate shall be eligible to take the promotional examination administered annually by the Personnel Department.

No teacher shall be recommended for an administrative or supervisory position or for a training position leading to the same, except as a pupil personnel worker, unless he has taken the promotional examination.

The examination may be taken a second time after a two-year period has elapsed. The examination may not be taken thereafter until five years have elapsed, and then at the candidate's expense.

2. The Vacancy

As soon as practical after a vacancy is known to exist each school shall be sent an announcement containing the minimum requirements needed for the position and a job description including duties and responsibilities, qualifications, and the applicable salary scale. An announcement of each vacancy shall also be sent to the Association.

Vacancies created by the filling of advertised positions need not be advertised provided they are filled by persons who have established candidacy in accordance with the procedures outlined herein.

This item shall become effective on ratification of this agreement.

C. Application

Teachers wishing to be considered for vacancies in administrative or supervisory positions shall apply in writing within the time limits established in the announcements.

D. Screening of Applications

The applications shall be screened by the Personnel Department to ascertain the eligibility of each applicant for consideration for the position, after which each applicant shall be notified of the time and place of the interview or the reason for his ineligibility.

E. References

Confidential references shall be requested from four persons of the applicant's choice who can evaluate his professional background and competence for the position sought. The Director of Personnel shall request any other references deemed appropriate. All such references shall be considered by the interview committee.

F. Interview Committee

1. The appropriate department head shall appoint to the interview committee from five to seven members who shall be broadly representative of the various departments with which the position is involved.

2. In addition, each applicant who wishes to do so may select a principal to be present at the interview. The principal shall not, however, participate in the evaluation of the applicant for the position.

3. A classroom teacher shall be appointed to the committee from a list of 20 elementary and 20 secondary tenured teachers submitted by the Association.

G. Interviewing of Applicants

All eligible applicants shall be interviewed by the committee. Each member shall make an evaluation of the candidate's acceptability for the position based on:

- promotional examination scores
- professional preparation
- teaching and related experience
- certification status
- references
- oral interview

Each committee member's evaluation shall be expressed as one of the following:

- recommended highly
- recommended
- recommended with reservations
- not recommended

H. Selection of Applicant

Using the recommendations of the interview committee, the appropriate department head shall select an applicant to be recommended for the Board's appointment.

I. Notification of Applicants

Each applicant shall be notified of the committee's evaluation of his acceptability for the position. The report shall include the number of members who gave him each of the four ratings. Applicants not selected who wish to have an explanation of the reasons shall upon request be granted a conference for this purpose.

J. Although under normal conditions these procedures shall be followed, under emergency conditions created by late resignations, illness, or death, vacancies shall be filled from a list of candidates previously interviewed by a promotion committee.

Shrub Oak, New York

Between the Lakeland Board of Education and the Lakeland Faculty Association, effective July 1, 1969, to June 30, 1971. Provision for reopener during 1970–71 fiscal school year on basic teacher and coaches salary schedules and 1 fringe benefit. Approximately 440 certificated professional employees.

Compensation: B.A., $7,200 to $11,016, 11 increments; B.A. plus 30 hours, $12,600 maximum; M.A., $8,352 to $14,256, 14 increments; M.A. plus 30 hours, $15,120 maximum; Ph.D., $15,984 maximum; longevity pay of $300 after 20 years' service, $600 after 25 years' service, and $900 after 30 years' service. Differentials: head football coach, $1,000 after 4 years' experience; junior varsity baseball coach, $500 after 4 years' experience; chief senior high yearbook advisor, $600; high-school musical director, $400; high-school newspaper advisor, $500. Teachers compensated at rate of $6 per hour or fraction thereof for assignments in excess of regular school calendar and normal teaching load.

Leaves: 12 days' annual sick leave, 150 days' maximum accumulation; 5 separate days for personal business; paid leave for jury duty; sabbatical leave at 75% of salary for 1 year, or 25% of salary per summer for 4 summers within 6 consecutive summers after 7 years' service.

Insurance: Board pays 75% of premium for Blue Cross–Blue Shield and major medical for individual coverage, and 50% of premium for family coverage; comprehensive general liability insurance covering teachers "while acting on school business within the scope of their authority."

Miscellaneous: Grievance procedure ends with advisory arbitration; Association dues deduction; Association has right to use school facilities and equipment; released time with pay for Association president when engaged in Association business; joint committee for improvement and selection of teaching tools and textbooks; completion of approved in-service courses compensated at rate of 50% of each credit earned; duty-free lunch period for all teachers; provisions for maximum class size, cafeteria aides, pupil discipline, and promotion from within; preparation time of 4 hours per week for elementary teachers; released time with pay for teachers involved in grievance procedure; faculty cafeteria committee to recommend improvement in service; academic freedom; teacher evaluation forms; in-service workshops; board will pay reasonable sum for school membership dues in recognized professional organizations; teacher I.D. cards; code of ethics; school calendar.

Newport, Rhode Island

Between the Newport School Committee and the Teachers' Association of Newport, effective July 1, 1969 to June 30, 1971. Provision for reopener on salaries and insurance if either party requests such in writing before December 1, 1969. Approximately 350 certificated professional employees.

Compensation: B.A., $6,500 to $9,700, 10 increments; B.A. plus 30 hours, $10,025 maximum; M.A., $7,150 to $10,350, 10 increments; M.A. plus 30 hours, $10,675 maximum. Differential: special education teachers, $350. Substitute teachers paid $22 per day for the first 5 consecutive days, $27 per day for the second 5 consecutive days, and $32 per day for all days thereafter.

Leaves: 12 days' annual sick leave, 120 days' maximum accumulation; 30 days' extended sick leave for teachers with 15 years' service; 2 days for personal business; 5 days' bereavement leave; time as needed for professional conference leave; sabbatical leave at $3,000 per year for 1 semester or 1 year after 7 years' service.

Insurance: Board-paid comprehensive health insurance for individual coverage; board pays $25 per month toward premium for Blue Cross, physicians service and major medical insurance for family coverage; tax sheltered annuity plan.

Miscellaneous: Grievance procedure ends with binding arbitration; Association dues deduction; Association right to use school facilities; 30-minute duty-free lunch period for elementary teachers; 1 preparation period per day for secondary teachers; teachers may reproduce materials from their personal files.

West Allis, Wisconsin

Between the Board of Education of the West Allis–West Milwaukee Joint City School District No. 1 and the West Allis–West Milwaukee Education Association, effective August 27, 1969, to December 31, 1970. Approximately 694 certificated professional employees.

Compensation: (effective January 1, 1970) B.A., $7,200 to $11,232, 9 yearly increments with each divided into semiannual payments; B.A. plus 15 hours, $11,520 maximum; M.A., $7,704 to $12,600, 11 yearly increments with each divided into either annual or semiannual payments; M.A. plus 15 hours, $12,960 maximum; longevity pay of $150 after 15 years' service, $200 after 20 years' service, and $250 after 25 years' service. Differentials: senior high head football coach, $936; senior high chorus director, $504; senior high club advisor, $288; junior high band director, $360; junior high intramural supervision, $4 per hour; curriculum development (summer session), $5 per hour.

(effective September 2, 1970) B.A., $7,400 to $11,543.96, 9 yearly increments with each divided into semiannual payments; B.A. plus 15 hours, $11,840.01 maximum; M.A., $7,918 to $12,950, 11 yearly increments with each divided into semiannual payments; M.A. plus 15 hours, $13,320 maximum.

Leaves: 10 days' annual sick leave, 200 days' maximum accumulation; 1 day for personal business; 3 separate days' bereavement leave; paid leave for jury duty or court subpoena.

Insurance: Board-paid Blue Cross–Blue Shield and major medical for individual coverage; effective September 1970, board-paid group life insurance for all eligible teachers; retired teachers eligible for partial health and life insurance plans; $150 outpatient insurance coverage per family or individual.

Miscellaneous. Grievance procedure ends with binding arbitration; Association has right to use school facilities; joint committee to study differentiated teaching assignments; 30-minute duty-free lunch period for all teachers; 25-minute preparation period for elementary teachers; provisions for special teachers in elementary classes, class size standards, and teacher aides; department chairman duties defined; in-service workshops; curriculum development; school calendar for 1969–70 and 1970–71; board may provide monetary assistance to teachers unjustly charged in criminal proceedings; effective September 1970, development of a program for emotionally disturbed children.

A brief of the 1969-71 agreement between the Washtenaw Community College Board of Trustees, Ann Arbor, Michigan, and the Washtenaw Community College Education Association was published in the February 1970 issue of the DIGEST. Reprinted below is a noteworthy excerpt from that agreement designated "Article X – Faculty Evaluation, Contract Procedures."

A. Contracts: Issuance and Termination

1. A new appointee to the College falling within the bargaining unit will be given a one-year probationary contract. This contract will be renewed for a second probationary year unless a charge including a request for dismissal is made against the holder of the probationary contract which is upheld by the Board after Due Process, but no holder of a probationary contract will be dismissed or refused a second year contract for reasons arising solely from the Evaluation Procedure.

2. On successfully completing his probationary contracts, the new appointee shall be given a Continuing Contract. This shall be issued yearly on or before March 15 except when cancelled through the procedures of Due Process explained below.

3. It is recognized here that the Board of Trustees has the inherent right to suspend any member of the bargaining unit from active performance of his duties while under contract to the Board in order that the Board may exercise Due Process. During the period of suspension, the members of the unit will receive full salary and all benefits he would enjoy if not under suspension.

4. All charges against members of the bargaining unit which include a request for dismissal of the member from the College at the end of his contract period or at the end of his contract year, except for recommendations not to grant continuing contract after evaluation, must be first submitted to the Board who will initiate Due Process as explained below to determine the validity of the charge.

If a charge is submitted against a member of the bargaining unit at any level in the College which does not include a request for dismissal, and later that charge is found to include or should include a request for dismissal, it shall immediately be presented to the Board if it has not already been. The Board shall then initiate the procedures of Due Process to determine the validity of the charge. The Board shall begin Due Process by convening the Professional Practices Committee within forty-eight (48) hours to hear the charge.

B. Contract Continuation

1. A member of the bargaining unit holding a probationary contract receiving a recommendation for continuing contract will be granted a continuing contract.

2. A member of the bargaining unit who has received one continuing contract will receive succeeding annual continuing contracts unless specific charges shall be placed against him including a request for dismissal from the College. If such a charge is placed the procedures for Due Process shall begin as specified in "A (4)" above, but his right to his present continuing contract or the succeeding one shall not be infringed until Due Process has been undertaken and final action by the Board has been delivered to him in writing. After final action by the Board, he shall still have the right to arbitration and such other legal rights as may be his for the recovery of his contract.

C. Evaluation of Performance: Probationary Contracts

1. The Division Director will be responsible for convening the evaluation team for each new member of the bargaining unit holding a probationary contract. He will form such a committee on or before October 1 of the first year of the probationary contract.

2. The evaluation team shall consist of three (3) people, all holding continuing contracts if in the bargaining unit, or having been at the College on appointment a minimum of two (2) years if not members of the bargaining unit. One of the three may be the Division Director if he chooses, or, at his

option, another appointee of the College which he shall choose. The second and third members of the team will be chosen by the continuing contract members of the Division.

3. The Division Director shall call a meeting of the evaluation committee and the member of the bargaining unit being evaluated on or before October 15 of the first year of the probationary contract.

4. At this first meeting the evaluation committee will agree upon the methods to be used.

5. The methods and time schedule for carrying out the evaluation will be reduced to writing and shall become an initial record of the work of the team. A record of all subsequent work by the team shall be preserved in writing and shall be included with its final appraisal of the professional effectiveness of the instructor being evaluated.

6. The first written report in the evaluation procedure must be completed by March 15 of the first year of the contract. It shall be signed by all members of the evaluation team and the Division Director if he was not a member of the team. In addition to all written records of the work of the team it must include:

a. A statement of the methods and procedures used in the evaluation.
b. Who participated and when.
c. The appraisal of the member's professional effectiveness.

The member of the bargaining unit evaluated and his Division Director shall receive a copy of the report. A copy shall also be placed temporarily in his Personnel File.

The member of the bargaining unit being evaluated shall have the right to answer the evaluation report in writing. His reply shall become a part of all copies of the report.

7. If the evaluation team has decided that the member of the bargaining unit evaluated is inadequate in some area which could lead to a desire on the part of the College not to renew his contract, they must communicate this concern, to the member evaluated and to his Division Director in a separate written memorandum. This memorandum will not become a part of his personnel file. On receipt of the memorandum, the Division Director must call a meeting including the evaluation team, the member evaluated, and the Division Director at which steps will be considered that can be taken by the member evaluated to correct his inadequacies.

8. Following this required conference, the evaluation team shall undertake a second evaluation which shall be completed by October 1 of the second year of the probationary contract.

9. The second report of the evaluation team shall include a recommendation for the granting of continuing contract or a recommendation for separation from the College at the conclusion of the probationary contract.

A copy of the recommendation shall be delivered to the member evaluated, the Secretary of the Association, and the Division Director on or before October 15.

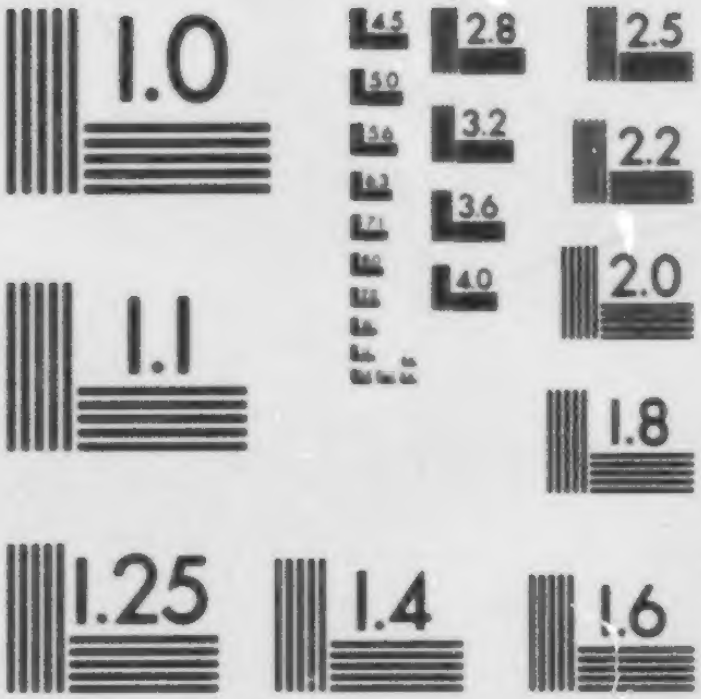
If the evaluation team has recommended separation from the College at the conclusion of the probationary contract, the Division Director after consultation with his Dean will forward the recommendation, with his additional recommendation if he so desires, to the Professional Practices Committee as the first step in Due Process on or before November 1.

10. Dates used above or other such dates used in this agreement shall be appropriately adjusted if a member joins the College in the second semester of any academic year.

11. Members of the bargaining unit with contracts beginning in September 1969 will serve two (2) year probationary contracts and will be evaluated as herein provided.

Members of the bargaining unit beginning the second year of a three (3) year probationary contract as provided for in the previous Master Agreement will be evaluated as herein provided, except that if the Division Director has reason to believe the first year evaluation gave evidences of inadequacies serious enough to lead to dismissal if not corrected, the Division Director shall so state in writing to the member on or before October 15, 1969, and begin the process of evaluation as here explained by November 1, 1969. If performance in the first year was satisfactory, the Division Director may, at his option, declare the process of Evaluation complete, not continuing with a second year of evaluation, and recommend by December 15, 1969, the member be awarded a continuing contract in September, 1970.

Members of the bargaining unit beginning the third year of a probationary contract as provided for in the previous Master Agreement will not be evaluated, it being assumed this process is now complete. If the evaluation is affirmative, they shall be notified by December 15, 1969, that they will be granted a Continuing Contract beginning September, 1970. If the evaluation is one recommending dis-



MICROCOPY RESOLUTION TEST CHART
NATIONAL BUREAU OF STANDARDS
STANDARD REFERENCE MATERIAL 1010a
(ANSI and ISO TEST CHART No. 2)

missal, the Division Director will begin the Due Process following evaluation as provided in this Article beginning with a request for a review of the charge by the Professional Practices Committee.

Due Process as specified here either after evaluation or at any other time will govern procedures employed in separation of any member of the bargaining unit from the College on and after September 1, 1969, and for the life of this Contract.

Members of the bargaining unit who were given Letters of Intent that they would be granted Continuing Contracts beginning September, 1969, shall be awarded Continuing Contracts which shall then be governed by the procedures of Due Process specified in this Article.

D. Due Process for Contract Termination

1. There shall be created a Professional Practices Committee consisting of four (4) members of the bargaining unit holding continuing contracts appointed by the Executive Board of the Association and one (1) member of the Administrative Council appointed by the Board of Trustees. Each of the three areas of the College, Occupational Studies, General Studies, and Student Personnel Services, shall be equally represented in the WCCEA group of appointees. The fourth bargaining unit member shall be designated a member-at-large and not counted in figuring the equal representation by the major College divisions.

2. The Committee shall meet for the following purposes:

a. To review the evaluation of a member of the bargaining unit holding a probationary contract who has been recommended for dismissal from the College at the end of his second probationary contract. In this case they shall determine:
(1) Whether or not an acceptable evaluation has been performed.
(2) Whether or not the evaluation process has been implemented.
(3) Whether or not the member was given written warning as provided in this document and adequate time and support in correcting the deficiencies that formed the basis for the recommendation for dismissal.
(4) Whether or not the evidence submitted warrants the dismissal of the member.

b. To hear a charge including a request for dismissal from the College against a member of the bargaining unit holding continuing contract or a charge which is not a part of the evaluation process against a member holding probationary contract, either of which charges have been referred to it by the Board of Trustees prior to its consideration of the charge.

3. The committee shall conduct all hearings in accordance with the same manner as the Board of Trustees as specified in Section 8.

4. At the conclusion of its hearings, the committee will prepare a written report within three (3) days or, in the case of a member of the bargaining unit on probationary contract having received a recommendation for dismissal, at least fifteen (15) days prior to the February meeting of the Board of Trustees in the second year of the probationary member's contract.

A copy of the written report will be delivered immediately to the member of the bargaining unit concerned, the president of the College, and the president of the Association.

This report shall be accompanied by all prior written materials in the case.

5. The College will furnish a secretary to record and transcribe all hearings held by the committee.

6. On receipt of the report from the committee the president of the College shall, within forty-eight (48) hours, transmit copies of all the written materials including the report to each member of the Board of Trustees; he shall schedule a hearing on the case on the agenda of the next meeting of the Board of Trustees.

If he has not received the report by the committee fifteen (15) days before the next meeting of the Board, the hearing shall be placed on the agenda of the second Board meeting from the day of his receipt of the report. The Board at its own option may shorten the fifteen (15) day time limit in this clause, or schedule a special meeting prior to its next regular meeting to hear the case.

7. The Board of Trustees will notify the member and the Association of the date, time and place of the hearing at least ten (10) days prior to the meeting.

8. The hearing will be open or closed at the option of the member, the usual legal requirements will apply to all proceedings, including the right to legal counsel and representation, the right of facing the individual(s) originating the charges, and cross examination.

9. The hearing will be concluded within seven (7) reporting days from the date of the start of the hearing.

10. In no instance will the Board terminate a member of the bargaining unit's employment without first receiving the written report of the Professional Practices Committee.

11. The Board will notify the member of the bargaining unit and the Association of its decision within forty-eight (48) hours after the conclusion of the hearing. Should the Board's decision be for termination of appointment, the member or the Association, or both together, may appeal the decision to binding arbitration as elsewhere provided in this agreement or exercise whatever additional legal rights may be theirs.

Texts

HOUSE BILL NO. 391
IN THE LEGISLATURE OF THE
STATE OF ALASKA
SIXTH LEGISLATURE SECOND SESSION
A BILL

For an Act entitled: "An Act relating to mediation and negotiation procedures for teachers."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

Section 1. AS 14.20 is amended by adding new sections to read:

ARTICLE 6. NEGOTIATION.

Section 14.20.550. Negotiation with certified employees.

Each school board, and the state Board of Education for the state-operated schools, shall negotiate with its certificated employees in good faith on matters pertaining to their employment and the fulfillment of their professional duties.

Sec. 14.20.560. Teachers' bargaining groups.

1. When a majority of the certificated employees in a school district have designated an educational organization of their own choosing to bargain for them, the organization shall be recognized by the school board as the bargaining agent for all the certificated staff, except superintendents of schools. The membership of any such recognized educational organization shall be composed principally of those employed in the teaching profession in Alaska.

2. The organization representing a majority of the certificated employees of a school district shall, upon the request of the school board, submit an affidavit verifying that it does represent a majority of the certificated employees. Recognition of the employee bargaining agency by a school board is valid for one year or a term agreed upon by the two parties to an agreement, unless a majority of certified staff votes to request the termination of recognition of the employee bargaining agency. The school board is entitled to an affidavit of membership from the employee bargaining agency once each year.

3. Upon the request of 25 per cent of the certificated employees in a district, the school board shall hold, within 20 days, an election by secret ballot of all the certificated employees in order to determine their choice of a bargaining agency. The results of this section are binding for one year.

4. A school board shall, upon the written request of the employee bargaining organization, meet with the representative of the organization within 20 days of the request at a time and place to be mutually agreed upon. In the same manner, representatives of an employee bargaining organization are required to meet with a school board or its representatives within 20 days after receiving a written request. The school board and the employee organization may not select more than five representatives each to negotiate for them.

5. The negotiating meeting may be held in executive session upon mutual agreement of both parties, but all final agreements shall be made at a public meeting of the school board.

Sec. 14.20.570. Mediation Board.

1. Upon the written request for mediation by an employee bargaining agency or a school board, and upon certification by the requesting party that good faith negotiations have terminated in a stalemate, each party shall choose two mediation board members within 10 days. Within seven days of their selection, the four members shall meet to select jointly a fifth member. No more than three days may be used in selecting the fifth member.

2. The mediation board shall hold its initial hearing within seven days of the selection of the fifth member. The fifth member shall serve as chairman.

3. Teachers serving as members of a mediation board established by this section must have attained tenure under AS 14.20.150 and are to be released from school duties without penalty or loss of pay in those instances where representatives of the board are receiving pay from public funds.

4. Mediation board members serve without compensation.

Sec. 14.20.580. Duties of mediation board.

1. In a dispute between certificated employees and a school board, a mediation board shall hear the evidence from both parties and from such other witnesses as it may choose to hear.

2. Within 30 days of its initial hearing, a mediation board shall submit its findings and recommendations to both parties and to the Commissioner of Education. This information shall also be available to the public. Upon mutual agreement by both parties, the reporting period may be extended.

Sec. 14.20.590. Grievance procedures.

Negotiation agreements shall provide for grievance procedures for the certificated staff.

Sec. 14.20.600. Individual cases.

Nothing in secs. 550-590 of this chapter prohibits an employee from addressing a school board, as an individual, through the regular procedures of the school board for hearing individual cases.

Sec. 14.20.610. Legal responsibilities of boards.

Nothing in the foregoing provisions shall be construed as an abrogation or delegation of the legal responsibilities, powers, and duties of the School Board including its right to make final decisions on policies.

MAINE

MUNICIPAL PUBLIC EMPLOYEES LABOR RELATIONS LAW

The following is the full text, as amended, of Chapter 9-A, as added to Title 26 of the Revised Statutes by Ch. 424, L. 1969, approved June 24, 1969, and effective September 30, 1969.

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Sec. 961. Purpose.

It is declared to be the public policy of this State and it is the purpose of this chapter to promote the improvement of the relationship between public employers and their employees by providing a uniform basis for recognizing the right of public employees to join labor organizations of their own choosing and to be represented by such organizations in collective bargaining for terms and conditions of employment.

Sec. 962. Definitions.

As used in this chapter the following terms shall, unless the context requires a different interpretation, have the following meanings:

1. Appeals Board. "Appeals board" means the Public Employees Labor Relations Appeals Board referred to in section 968.

2. Bargaining agent. "Bargaining agent" means any lawful organization, association or individual representative of such organization or association which has as its primary purpose the representation of employees in their employment relations with employers, and which has been determined by the public employer or the commissioner to be the choice of the majority of the units as their representative.

3. Commissioner. "Commissioner" means the Commissioner of Labor and Industry.

4. Department. "Department" means the Department of Labor and Industry.

5. Professional employee. "Professional employee" means any employee engaged in work.

A. Predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical or physical work;

B. Involving the consistent exercise of discretion and judgment in its performance;

C. Of such a character that the output produced or the result accomplished cannot be standardized in relation to a given time period; and

D. Requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual or physical processes.

6. Public employee. "Public employee" means any employee of a public employer except any person:

A. Elected by popular vote; or
B. Appointed to office pursuant to statute, ordinance or resolution for a specified term of office by the executive head or body of the public employer; or
C. Whose duties as deputy, administrative assistant or secretary necessarily imply a confidential relationship to the executive head, body, department head or division head of the applicable bargaining unit; or
D. Who is a department head or division head appointed to office pursuant to statute, ordinance or resolution for an unspecified term by the executive head or body of the public employer; or
E. Who is a superintendent or assistant superintendent of a school system; or
F. *Who has been employed less than 6 months.*
G. *Who is a temporary, seasonal or on-call employee.* [Subsec. 6, as amended by Ch. 578, L. 1970, approved and effective February 9, 1970.]

7. Public employer. "Public employer" means any officer, board, commission, council, committee or other persons or body acting on behalf of any municipality or town or any subdivision thereof, or of any school, water, sewer or other district.

Sec. 963. Right of public employees to join labor organizations. No one shall directly or indirectly interfere with, intimidate, restrain, coerce or discriminate against public employees or a group of public employees in the free exercise of their rights, hereby given, voluntarily to join, form and participate in the activities of organizations of their own choosing for the purposes of representation and collective bargaining, or in the free exercise of any other right under this chapter.

Sec. 964. Prohibited acts of public employers, public employees and public employee organizations.

1. Public employer prohibitions. Public employers, their representatives and their agents are prohibited from:
A. Interfering with, restraining or coercing employees in the exercise of the rights guaranteed in section 963;
B. Encouraging or discouraging membership in any employee organization by discrimination in regard to hire or tenure of employment or any term or condition of employment;
C. Dominating or interfering with the formation, existence or administration of any employee organization;
D. Discharging or otherwise discriminating against an employee because he has signed or filed any affidavit, petition or complaint or given any information or testimony under this chapter;
E. Refusing to bargain collectively with the bargaining agent of its employees as required by section 965;
F. Blacklisting of any employee organization or its members for the purpose of denying them employment.

2. Public employee prohibitions. Public employees, public employee organizations, their agents, members and bargaining agents are prohibited from:
A. Interfering with, restraining or coercing employees in the exercise of the rights guaranteed in section 963, or a public employer in the selection of his representative for purposes of collective bargaining or the adjustment of grievances;
B. Refusing to bargain collectively with a public employer as required by section 965;
C. Engaging in (1) A work stoppage; (2) A slowdown; (3) A strike; or (4) The blacklisting of any public employer for the purpose of preventing it from filling employee vacancies.

3. Violations. Violations of this section may be enjoined upon complaint of any party affected by such violation. Sections 5 and 6 shall apply to any such injunction proceedings except that neither an allegation nor proof of unavoidable substantial and irreparable injury to the complainant's property shall be required to obtain a temporary restraining order or injunction. In connection therewith, actions may be brought by or against any unincorporated employee organization in the name by which it is known.

Sec. 965. Obligation to bargain.

1. Negotiations. It shall be the obligation of the public employer and the bargaining agent to bargain collectively. "Collective bargaining" means, for the purposes of this chapter, their mutual obligation:
A. To meet at reasonable times;
B. To meet within 10 days after receipt of written notice from the other party requesting a meeting for collective bargaining purposes, provided the parties have not otherwise agreed in a prior written contract;
C. To confer and negotiate in good faith with respect to wages, hours, working conditions and contract grievance arbitration except that by such obligations neither party shall be compelled to agree to a proposal or be required to make a concession and except that public employers of teachers shall meet and consult but not

negotiate with respect to educational policies for the purpose of this paragraph, educational policies shall not include wages, hours, working conditions or contract grievance arbitration;

D. To execute in writing any agreements arrived at, the term of any such agreement to be subject to negotiation but shall not exceed 3 years; and

E. To participate in good faith in the fact-finding and arbitration procedures required by this section.

Whenever wages, rates of pay or any other matter requiring appropriation of money by any municipality are included as a matter of collective bargaining conducted pursuant to this chapter, it is the obligation of the bargaining agent to serve written notice of request for collective bargaining on the public employer at least 120 days before the conclusion of the current fiscal operating budget.

2. Mediation. Mediation procedures shall be followed whenever the parties jointly agree to use such services.

3. Fact-finding. If the parties, either with or without the services of a mediator, are unable to effect a settlement of their controversy, they may jointly agree either to call upon the Maine Board of Arbitration and Conciliation for fact-finding services with recommendations or to pursue some other mutually acceptable fact-finding procedure.

If the parties do not jointly agree to call upon the Maine Board of Arbitration and Conciliation or to pursue some other procedure, either party to the controversy may request the commissioner to assign a fact-finding board. If so requested, the commissioner shall appoint a fact-finding board, ordinarily of 3 members, in accordance with rules and procedures prescribed by the commissioner for making such appointment. The fact-finding board shall be appointed from a list maintained by the commissioner and drawn up after consultation with representatives of state and local government administrators, agencies with industrial relations and personnel functions and representatives of employee organizations and of employers. Any person who has actively participated as the mediator in the immediate proceedings for which fact-finding has been called shall not sit on that fact-finding board. The board shall hear the contending parties to the controversy. It may request statistical data and reports on its own initiative in addition to the data regularly maintained by the commissioner. The members of the fact-finding board shall submit their findings and recommendations to the parties only.

The parties shall have a period of 30 days, after the receipt of findings and recommendations from the fact finders, in which to make a good faith effort to resolve their controversy. If the parties have not resolved their controversy by the end of said period, either party may, but not until the end of said period unless the parties otherwise jointly agree, make the fact-finding and recommendations public.

4. Arbitration. In addition to the 30-day period referred to in subsection 3, the parties shall have 15 more days, making a total period of 45 days from the receipt of findings and recommendations, in which to make a good faith effort to resolve their controversy.

If the parties have not resolved their controversy by the end of said 45-day period, they may jointly agree to an arbitration procedure which will result in a binding determination of their controversy. Such determinations will be subject to review *by the Superior Court* in the manner specified by *section 972.*

If they do not jointly agree to such an arbitration procedure within 10 days after the end of said 45-day period, then either party may, by written notice to the other, request that their differences be submitted to a board of 3 arbitrators. The bargaining agent and the public employer shall within 5 days of such request each select and name one arbitrator and shall immediately thereafter notify each other in writing of the name and address of the person so selected. The 2 arbitrators so selected and named shall, within 10 days from such request, agree upon and select and name a neutral arbitrator. If either party shall not select its arbitrator or if the 2 arbitrators shall fail to agree upon, select and name a neutral arbitrator within said 10 days, either party may request the American Arbitration Association to utilize its procedures for the selection of the neutral arbitrator. As soon as possible after receipt of such request, the neutral arbitrator will be selected in accordance with rules and procedures prescribed by the American Arbitration Association for making such selection. The neutral arbitrator so selected will not, without the consent of both parties, be the same person who was selected as mediator pursuant to subsection 2 nor any member of the fact-finding board selected pursuant to subsection 3. As soon as possible after the selection of the neutral arbitrator, the 3 arbitrators or if either party shall not have selected its arbitrator, the 2 arbitrators, as the case may be, shall meet with the parties or their representatives, or both, forthwith, either jointly or separately, make inquiries and investigations, hold hearings, or take such other steps as they deem appropriate. If the neutral arbitrator is selected by utilizing the procedures of the American Arbitration Association, the arbitration proceedings will be conducted in accordance with the rules and procedures of the American Arbitra-

tion Association. The hearing shall be informal, and the rules of evidence prevailing in judicial proceedings shall not be binding. Any and all documentary evidence and other data deemed relevant by the arbitrators may be received in evidence. The arbitrators shall have the power to administer oaths and to require by subpoena the attendance and testimony of witnesses, the production of books, records and other evidence relative or pertinent to the issues represented to them for determination.

If the controversy is not resolved by the parties themselves, the arbitrators shall proceed as follows: With respect to a controversy over salaries, pensions and insurance, the arbitrators will recommend terms of settlement and may make findings of fact; such recommendations and findings will be advisory only and will be made, if reasonably possible, within 30 days after the selection of the neutral arbitrator; the arbitrators may in their discretion, make such recommendations and findings public, and either party may make such recommendations and findings public if agreement is not reached with respect to such findings and recommendations within 10 days after their receipt from the arbitrators; with respect to a controversy over subjects other than salaries, pensions and insurance, the arbitrators shall make determinations with respect thereto if reasonably possible within 30 days after the selection of the neutral arbitrator; such determinations may be made public by the arbitrators of either party; and if made by a majority of the arbitrators, such determinations will be binding on both parties and the parties will enter an agreement or take whatever other action that may be appropriate to carry out and effectuate such binding determinations; and such determinations will be subject to review *by the Superior Court in the manner specified by section 972.* [Subsec. 4, as amended by Ch. 578, L. 1970, approved and effective February 9, 1970.]

5. Costs. The costs for the services of the mediator, the members of the fact-finding board and of the neutral arbitrator, including, if any, per diem expenses, and actual and necessary travel and subsistence expenses and the costs of hiring the premises where any mediation, fact-finding or arbitration proceedings are conducted, will be shared equally by the parties to the arbitration. All other costs will be assumed by the party incurring them. The services of the members of the State of Maine's Panel of Mediators and of the Maine Board of Arbitration and Conciliation are available to the parties without cost.

Sec. 966. Bargaining unit; how determined.

In the event of a dispute between the public employer and an employee or employees *as to the appropriateness of a unit for purposes of collective bargaining or between the public employer and an employee or employees* as to whether a supervisory or other position is included in the bargaining unit, the commissioner shall make the determination, except that anyone excepted from the definition of public employee under section 962 may not be included in a bargaining unit. In determining whether a supervisory position should be excluded from coverage under this chapter, the commissioner shall consider, among other criteria, if the principal functions of the position are characterized by performing such management control duties as scheduling, assigning, overseeing and reviewing the work of subordinate employees, or performing such duties as are distinct and dissimilar from those performed by the employees supervised, or exercising judgment in adjusting grievances, applying other established personnel policies and procedures and in enforcing the provisions of a collective bargaining agreement or establishing or participating in the establishment or performance standards for subordinate employees and taking corrective measures to implement those standards. Nothing in this chapter is intended to require the exclusion of principals, assistant principals, other supervisory employees from school system bargaining units which include teachers and nurses in supervisory positions.

The commissioner shall decide in each case whether, in order to insure to employees the fullest freedom in exercising the rights guaranteed by this chapter, and in order to insure a clear and identifiable community of interest among employees concerned, the unit appropriate for purposes of collective bargaining shall be the public employer unit or any subdivision thereof and no unit shall include both professional and nonprofessional employees unless a majority of such professional employees vote for inclusion in such unit, except that teachers may be included in a unit consisting of other certificated employees. [Sec. 966, as amended by Ch. 578, L. 1970, approved and effective February 9, 1970.]

Sec. 967. Determination of bargaining agent.

1. Voluntary recognition. Any public employee organization may file a request with a public employer alleging that a majority of the public employees in an appropriate bargaining unit wish to be represented for the purpose of collective bargaining between the public employer and the employees' organization. Such request shall describe the grouping of jobs or positions which constitute the unit claimed to be appropriate and shall include a demonstration of majority support. Such request for recognition shall be granted by the public employer unless the public employer desires that an election determine whether the

organization represents a majority of the members in the bargaining unit.

2. Elections. The commissioner upon signed request of a public employer alleging that one or more public employees or public employee organizations have presented to it a claim to be recognized as the representative of a bargaining unit of public employees, or upon signed petition of at least 30% of a bargaining unit of public employees that they desire to be represented by an organization, shall conduct a secret election to determine whether the organization represents a majority of the members in the bargaining unit.

The ballot shall contian the name of such organization and that of any other organization showing written proof of at least 10% representation of the public employees within the unit, together with a choice for any public employee to designate that he does not desire to be represented by any bargaining agent. Where more than one organization is on the ballot and no one of the 3 or more choices receives a majority vote of the public employees voting, a run-off election shall be held. The run-off ballot shall contain the 2 choices which received the largest and second-largest number of votes. When an organization receives the majority of votes *of those voting,* the commissioner shall certify it as the bargaining agent. The bargaining agent certified as representing a bargaining unit shall be recognized by the public employer as the sole and exclusive bargaining agent for all of the employees in the bargaining unit unless and until a decertification election by secret ballot shall be held and the bargaining agent declared by the commissioner as not representing a majority of the unit.

Whenever 30% of the employees in a certified bargaining unit petition for a bargaining agent to be decertified, the procedures for conducting an election on the question shall be the same as for representation as bargaining agent hereinbefore set forth.

No question concerning representation may be raised within one year of a certification or attempted certification. Where there is a valid collective bargaining agreement in effect, no question *concerning unit or* representation may be raised except during the period not more than 90 nor less than 60 days prior to the expiration date of the agreement.

The bargaining agent certified by the commissioner as the exclusive bargaining agent shall be required to represent all the public employees within the unit without regard to membership in the organization certified as bargaining agent, provided that any public employee at any time may present his grievance to the public employer and have such grievance adjusted without the intervention of the bargaining agent, if the adjustment is not inconsistent with the terms of a collective bargaining agreement then in effect and if the bargaining agent's representative has been given reasonable opportunity to be present at any meeting of the parties called for the resolution of such grievance.

All bargaining units officially recognized by public employers prior to the effective date of this Act shall be recognized as certified units and each collective bargaining agreement covering employees in any such bargaining unit shall be effective for its duration or not later than January 1, 1972. [Subsec. 2, as amended by Ch. 578, L. 1970, approved and effective February 9, 1970.]

Sec. 968. Right of appeal.

Whenever any party is aggrieved by any ruling or determination of the commissioner under sections 966 and 967, such party may appeal, within 15 days after the announcement of the ruling or determination, to the Public Employees Labor Relations Appeals Board hereinafter established.

1. Public Employees Labor Relations Appeals Board. The Public Employees Labor Relations Appeals Board shall consist of 3 members to be appointed by the Governor, with the advice and consent of the Council. The Governor, in making his appointments, shall name one to represent public employees, one to represent public employers and school systems and the 3rd to represent the public, who shall be its chairman. *Members of the board shall each receive $50 a day for their services, for the time actually employed in the discharge of their official duties.* The term of each member shall be for a period of 4 years. The members of the appeals board shall receive necessary expenses on the approval of the Commissioner of Labor and Industry. The commissioner shall designate a member of the Department of Labor and Industry to be the permanent secretary to the appeals board, who shall maintain a record of all proceedings of the appeals board.

The appeals board shall from time to time adopt such rules of procedure as it deems necessary for the orderly conduct of its business, and shall annually, on or before the first day of July, make a report to the Governor and Council which shall be incorporated in and printed with the biennial report of the department. The appropriation for the appeals board shall be included in the department's budget and authorization for expenditures shall be the responsibility of the commissioner.

The appeals board shall sit at the call of the chairman to hear and decide appeals arising from determinations of the commissioner. Decisions of the appeals board shall be subject to review by the Superior Court in the manner specified in *section 972.*

The appeals board shall have the authority to recommend to the Legislature changes or additions to this chapter or of related enactments of law. [Sec. 968 (intro.) and Subsec. 1, as amended by Ch. 578, L. 1970, approved and effective February 9, 1970.]

2. Summoning witnesses; production of books and records. The appeals board may summon as witnesses any employee or any person in the department who keeps records of wages earned in the business in which the controversy exists and may require the production of books which contain the record of wages paid. Summonses may be signed and oaths administered by any member of the appeals board. Witnesses summoned by the appeals board shall be allowed the same fees as are paid to witnesses in the Superior Court. These fees together with all necessary expenses of the appeals board shall be paid by the Treasurer of State on warrants drawn by the State Controller.

3. Hearings. The appeals board shall, upon receipt of an appeal by the chairman and at the call of the chairman, hold, within 10 days, a hearing on the appeal. The chairman shall give at least 7 days' notice in writing of the time and place of hearing to each of the other 2 members, the aggrieved parties, the labor organizations or bargaining agent and the public employer.

The hearings shall be informal, and the rules of evidence prevailing in judicial proceedings shall not be binding. Any and all documentary evidence and other data deemed relevant by the appeals board may be received in evidence. The chairman shall have the power to administer oaths and to require by subpoena the attendance and testimony of witnesses, the presentation of books, records and other evidence relative or pertinent to the issues presented to them for determination.

The hearings conducted by the appeals board shall be concluded within 20 days of the time of commencement of the hearings. Within 10 days after the conclusion of the hearings the appeals board shall make written findings and a written statement upon the appeal presented, a copy of which shall be mailed or otherwise delivered to the labor organization or bargaining agent or its attorney or other designated representative and the public employer.

Sec. 969. Municipal personnel board or civil service authority.

Nothing in this chapter shall diminish the authority and power of any municipal civil service commission or personnel board or its agents established by statute, charter or special act to conduct and grade merit examinations and to rate candidates in the order of their relative excellence from which appointments or promotions may be made to positions in the competitive division of the classified service of the municipal employer served by such a civil service commission or personnel board. The conduct and the grading of merit examinations, the rating of candidates and the establishment of lists from such examinations and the appointments from such lists shall not be subject to collective bargaining. If a collective bargaining agreement between a public employer and a bargaining agent contains provisions for binding arbitration of grievances involving the following matters: The demotion, lay-off, reinstatement, suspension, removal, discharge or discipline of any public employee, such provisions shall be controlling in the event they are in conflict with any authority and power, involving such matters, of any such municipal civil service commission or personnel board or its agents.

Sec. 970. Scope of binding contract arbitration.

A collective bargaining agreement between a public employer and a bargaining agent may provide for binding arbitration as the final step of a grievance procedure but the only grievances which may be taken to such binding arbitration shall be disputes between the parties as to the meaning or application of the specific terms of the collective bargaining agreement. An arbitrator with the power to make binding decisions pursuant to any such provision shall have no authority to add to, subtract from or modify the collective bargaining agreement.

Sec. 971. Rules and regulations.

The commissioner may issue such rules and regulations as the commissioner may consider necessary or appropriate for carrying out the purpose of sections 966 and 967.

Sec. 972. Review.

Either party may seek a review by the Superior Court of a binding determination by an arbitration panel or a decision of the Public Employees Labor Relations Appeal Board. Such review shall be sought in accordance with Rule 80 B of the Rules of Civil Procedure.

The binding determination of an arbitration panel or arbitrator or the decision of the Public Employees Labor Relations Appeal Board, in the absence of fraud, upon all questions of fact shall be final. The court may, after consideration, affirm, reverse or modify any such binding determination or decision based upon an erroneous ruling or finding of law. An appeal may be taken to the law court as in any civil action.

[Sec. 972, as added by Ch. 578, L. 1970, approved and effective February 9, 1970.]

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Case Reviews

NEW YORK

COURT SETS ASIDE RECOGNITION GRANTED TO SUMMER SCHOOL EMPLOYEES UNIT

The New York Supreme Court for Dutchess County set aside a June 11, 1969, determination of the state Public Employment Relations Board (PERB) that recognition under the Taylor Law be granted to the Poughkeepsie Area Summer School Teachers' Association. Ruling that summer school teachers do not fall within the scope of the term "employees" as used in the bargaining statute, the court explained that a six-week summer school program

is too short a period for summer school teachers to have a real opportunity to form, join and participate in an employee organization or to meaningfully negotiate collectively with a public employer or to form an organization which will be certified or recognized to represent the summer school teachers. Since summer school would end before effective negotiations could be completed, recognition of a summer school teachers association as an "employee organization" under [the Taylor Law] is meaningless.

On November 7, 1968, the Association sought certification as exclusive representative of a unit comprised of summer school teachers, librarians, supervisors, and the summer school principal. Following a February 7, 1969, hearing before a PERB examiner, the PERB director of representation determined that the Association was an employee organization under the Taylor Law, and that it should be accorded recognition as representative of a unit of all summer school teachers and librarians, but excluding the principal and other employees. Specifically, he found that the summer school program had existed for 33 years, that it provided academic credit, that teachers involved in the program "were either year round employees of the [Poughkeepsie education board] or of neighboring school districts and that for the last four years such teachers constituted sixty percent of the summer school teaching staff," that some 50 percent of the 1966 summer school teachers were rehired in 1967, and that 60 percent of the 1967 teachers were rehired in 1968. His decision was affirmed by the PERB on June 11 in its finding that "the teachers herein have a sufficient continuity of employment so as to warrant their inclusion within a negotiating unit."

The Article 78 proceeding before the court was brought by the PERB in an attempt to enforce its order directing the Poughkeepsie board to comply with the recognition accorded the Association, and furnish a list of eligible voters in the representation unit. The board, however, moved to dismiss the petition for certification entered by the Association before the PERB examiner on grounds that "there was no power or jurisdiction to conduct the hearing since there were no summer school employees at the time the petition was filed."

Considering the progression of events resulting in a summer school program, the court noted that summer school teachers are not recruited until April or May of each year, and that they actually are not employed until after the summer school budget is adopted in late June. While the PERB argued that "it makes no difference that when a petition is filed there are no summer school employees since a recognition and representation of such teachers is a continuing process effective the year round," the court found it "implicit" in the statutory criteria used to determine appropriate representation units

that there be in existence employees. It is clear that petitioners deviated from the statutory standards in determining that the Poughkeepsie Area Summer School Teachers was entitled to recognition where in fact there did not exist any persons who were employed as summer school teachers when the petition was filed. Section 207(1) [of the Taylor Law] requires an employee-employer relationship before a negotiating unit can be recognized.

There is an uncertainty as to whether a summer school program will operate and whether a teacher will be accepted if the summer school program is conducted. The summer school program is, by its nature, of very short duration, and from year to year, there are changes in its curriculum. After the summer school terminates, the great majority of the summer school teachers employed therein return to their regular full time positions as teachers in the public school system. Their involvement with the summer school program has ceased and does not begin again until a summer school program is established for the following summer.

The Court finds no language in the statute . . . which indicates an intention on the part of the legislature to give PERB the power to exercise any control over non

employees . . . . Accordingly, the petition is dismissed and the findings and order of PERB are hereby set aside. (*Matter of Robert D. Helsby, et al. v. The Board of Education of the City School District of the City of Poughkeepsie*, New York Supreme Court, Dutchess County, September 26, 1969.)

COURT UPHOLDS TAYLOR LAW'S PROVISION FOR FINING STRIKERS THROUGH PAYROLL DEDUCTION

The New York Supreme Court for Westchester County dismissed a petition which sought to enjoin the New Rochelle education board from fining (through payroll deductions) certain teachers who had engaged in a June 1969 strike in violation of Section 210 of the Taylor Law. In addition to claiming that the law's payroll deduction provision is unconstitutional, petitioners alleged that the entire statute is unconstitutional because the prohibition against public employee strikes contained therein is violative of their rights to free association, free speech, and equal protection. But the court denied all of petitioners' allegations, most of which had been passed upon and rejected in previous court cases.

Specifically the court held that Section 210 does not infringe upon public employees' rights of free association and free speech because

the ability to strike is not essential to the right of association and it is certainly subordinate to the right of the State to prohibit such activity, this latter right having been repeatedly upheld by the courts . . . . The fact that the prohibition is against all strikes by public employees without classification among various public employee groups does not affect the constitutionality since it is within the State's power to determine that all strikes by public employees are harmful without distinguishing between them as to degree . . . . There is no claim here that the petitioners' rights of free speech have in any way been restricted. Even if [the act's strike] prohibition were construed to be violative of free speech, it would not affect the statutory prohibition against strikes.

Conceding that "an arguable question" was raised by petitioners' contention that their right of association is rendered meaningless when a school board "is both negotiator and ultimate arbiter of disputes arising out of negotiation," the court nevertheless pointed out that the statute provides dispute settlement machinery, and that a school board may "take such action as it deems to be in the public interest" only when such machinery fails to resolve a conflict. The court thus held that the delegation of such "ultimate" power to a school board neither is unreasonable nor does it render petitioners' right of association meaningless.

In regard to petitioners' claim to denial of equal protection because of "disparate treatment between public and private employers," the court noted that such a claim had been rejected in the cases of *Rankin v. Shanker* (NRD, February 1970) and *City of New York v. DeLury* (NRD, October 1969).

Finally the court rejected for lack of merit petitioners' allegation that provisions of Section 210 authorizing payroll deductions of two days' pay for each day a public employee engages in a strike "operate as a bill of attainder and deprive the petitioners of property without due process of law." Explaining the procedures by which a public employee may object to a determination that he has engaged in a strike, the court concluded that "these procedures constitute sufficient due process and as stated in *Matter of DiMaggio v. Brown* . . . concerning the Condon-Wadlin Act, predecessor to the Taylor Act, 'it cannot reasonably be said that the law constitutes a bill of attainder, a legislative act which inflicts punishment without a judicial trial'." (*Matter of Application of Stephen Zeluck, et al. v. Board of Education, City School District, City of New Rochelle, New York*, New York Supreme Court for Westchester County, January 9, 1970.)

OHIO

AGENCY SHOP PROVISION IN MUNICIPAL EMPLOYEE CONTRACT DECLARED INVALID

In a decision bound by an Ohio Supreme Court precedent, the Montgomery County Common Pleas Court ruled that an agency shop clause contained in an agreement between the city of Dayton and the Dayton Public Service Union, Local 101, "is in direct conflict with the general law of this State and . . . does not accomplish a governmental, public or municipal purpose as distinguished from private, and, in consequence thereof, is ultra vires and invalid." As such, the court permanently enjoined the city and the union from effectuating the agency shop clause, deducting any agency shop fees without an employee's express written authorization, and taking any disciplinary action against employees who do not voluntarily authorize such deductions.

The case before the court was brought by a single nonunion city employee, but was also a class action involving a "substantial number" of city employees and a taxpayers' action to "enjoin the carrying out of a contract alleged to be improper as not being substantially in accordance with statutory and constitutional law and thus invalid and illegal." The plaintiff, a painter

employed by the city's department of parks and recreation, specifically complained against the deduction of agency shop fees without written authorization and disciplinary action for failure to so authorize. Although the city and the union maintained that the plaintiff had an adequate remedy at law, the court established jurisdiction in the case by finding that a taxpayers' action is "proper," and that the "facts and circumstances . . . clearly indicate that legal remedy was not presently available in a single action and as such would not be certain and complete."

On May 13, 1969, the city and Local 101 entered into an agreement providing that within 30 days

> all present employees within the unit shall either join the Union or in lieu thereof pay a monthly service charge to the union in an amount equal to the Union's regular monthly dues, as a contribution toward the administration of this contract. The above provision shall be applicable to new employees thirty (30) days after date of hire.
>
> Upon written notice from the Union, the City shall discipline an employee covered herein, for failure to pay such contract administration charge up to and including discharge, but in no event less than a suspension of one day for each month the employee fails to make such payment.

As the plaintiff and some 95 other nonunion city employees neither authorized such deductions nor intended to do so, the union asked the city to institute disciplinary measures. And the court found that the city "has clearly demonstrated that it will pursue and impose the provisions of the Union Security as against all employees failing to abide thereby . . . [and that such employees] will be irreparably damaged if they do not comply with the Union Security agreement."

While the court did not disagree with the union's contention that no city employee "should reap the benefits derived from the efforts of the Union without paying his fair share," it pointed to a constitutional provision and various court decisions which conclude that any municipal police regulation is rendered void if it directly conflicts with the general police power of the state. Moreover, Section 9.41 ORC provides that "any person employed by a political subdivision, such as a municipality, cannot check-off wages of a public employee unless an authorization in writing is first obtained from such employee which may be revocable at any time."

Questioning what municipal acts fall within the definition of "local police regulations," the court found itself bound by judicial precedent established in the case of *Hagerman v. City of Dayton*. There the Ohio Supreme Court defined "local police regulations" as the "enactment of any ordinance which is aimed at the preservation of the health, safety, welfare or comfort of citizens of a municipality," and concluded that a city ordinance providing for the check-off of city employees' union dues was a local police regulation conflicting with state statutes. In addition, the high court determined in *Hagerman* that check-off constituted an improper delegation of power and served no municipal purpose:

> We must be realistic and take judicial notice of what is generally known, that the check-off is a means of maintaining membership. Indeed, the record in this case shows that each so-called contract member is required to give a cognovit note for twenty months dues in advance and these proposed check-off payments are to be applied to such notes. The check-off is contrary to the spirit and purpose of the Civil Service Laws of the State.

Finding the legal conclusions rendered in *Hagerman* "inescapable," the common pleas court ruled in the instant case that

> a municipal ordinance which provides for a check-off of wages or a salary of a member of the Civil Service, classified section, is a police regulation, and contrary to the general laws of the State of Ohio unless it subordinates itself. Section 9.41 ORC.
>
> Furthermore, it would appear that the *Hagerman* case dictates the conclusion that since the Union Security Agreement under consideration does not accomplish a governmental, public or municipal purpose but serves merely to promote the private interests of a non-public organization, that it is ultra vires and invalid.
>
> The only difference between this case and the *Hagerman* case is that the parties are endeavoring to accomplish by contract in this case what they attempted to accomplish by ordinance in the *Hagerman* case.

Although the court voiced its cognizance of and sympathy with the argument that "public employees are not on a parity with employees in private industry as compared with the growth and development of Union causes in the private sector," it held that

> this court is not the proper forum for a commitment to invoke a change in the mandated pronouncements of the law as interpreted and enforced by the Supreme Court of Ohio.
>
> It therefore must be left to the Legislature to alter or amend the laws in conflict with the Union Security Agreement and to the Supreme Court of Ohio to determine whether the spirit and scope of the *Hagerman* case applies today or whether time dictates a change in its earlier decision.

(*Walter Foltz v. City of Dayton, et al.*, Ohio Court of Common Pleas, Montgomery County, November 6, 1969.)

OTHER ITEMS OF INTEREST

ILLEGALITY OF PUBLIC EMPLOYEE STRIKES DECLARED AXIOMATIC UNDER WEST VIRGINIA COMMON LAW

In denying relief to employees of the West Virginia State Road Commission who had been

terminated for engaging in a March 1969 strike, the U.S. District Court for the Southern District of West Virginia ruled that under a portion of the state constitution "which makes the 'common law' the law of this State . . . it is axiomatic that a strike by public employees for any purpose is illegal . . . and no statutory declaration of their illegality is necessary." The court further determined that "the Governor and the State Road Commissioner had the right, if not indeed the responsibility, to terminate the plaintiffs' employment with the State. This action by the defendants . . . not only comported with the law of the State, but it violated no federal constitutional rights of the employees so discharged." In so ruling, the court concluded that it lacked jurisdiction over the subject matter, and granted several motions for dismissal entered by the defendants.

The complaint before the court was instituted by an official of the Charleston Laborers' District Council, Laborers' International Union of North America, AFL-CIO, the council itself, and 20 individual citizens "on behalf of themselves and 'all of the approximately 3,300 employees of the West Virginia State Road Commission'" under the Civil Rights Act of 1871. On March 3, 1969, numerous commission employees who were concerned about their job security following a change in state administration, the commission's failure to recognize the council as their representative, and other grievances "engaged in a refusal to work and went on strike." Despite two appeals to return to work, most employees remained on strike through March 11 (a period of heavy snowfall and hazardous road conditions), at which time the governor ordered "the immediate discharge of all Road Commission employees who are off their jobs at this moment. This action is taken with the firm and widespread belief that a strike by employees of State Government is illegal in the first instance, but more importantly, the situation can no longer be tolerated."

In alleging violation of their rights under the First, Fifth, and Fourteenth Amendments, and the constitution and laws of West Virginia, plaintiffs charged that the governor lacked authority to order their discharge, that their discharge "was the result of their union affiliation and activity . . . [and] was for the purpose of effectuating the 'spoils system' of political patronage in West Virginia," that the state road commissioner had refused "to meet and confer with [plaintiffs'] representatives . . . relative to the redress of grievances arising out of their employment," and that they were denied various rights of procedural due process in their discharge. Plaintiffs, therefore, sought an order nullifying their discharge, reimbursement for lost pay resulting from their discharge, a "mandatory injunction" requiring the road commissioner to "meet and confer" with the union official, an injunction prohibiting the road commissioner and the county supervisor "from discriminating among employees or applicants for employment of the Commission on the basis of political or union affiliation or activity," and an award of $250,000 in exemplary damages.

Defendants in the case—the governor, the state road commissioner, the county supervisor, and the road commission itself—moved to dismiss plaintiffs' complaint on grounds that it stated no claim upon which relief could be granted, and that the court lacked jurisdiction over the subject matter. Specifically, defendants contended that plaintiffs were discharged "for their willful refusal to perform services on the highways of the State at a time when such services were necessary for the health, safety and welfare of the citizens of the State," that the complaint outlined no rights "secured and guaranteed to the plaintiffs by the laws or Constitution of the United States," that defendants were immune from the suit, and that "the alleged grounds of federal jurisdiction are frivolous and unsubstantial."

In reducing the case to its "primary and . . . dispositive issue [of] whether the plaintiffs had a right to engage in a strike against the State of West Virginia under either federal or state law," the court noted several federal appellate court rulings which neither sanction nor suggest "that the right to strike or even the right to obtain a collective bargaining agreement from the sovereign falls within the ambit of federal constitutional protection." In addition, the court pointed to the exclusion of public employees from coverage by the federal Labor-Management Relations Act, various attorneys general opinions which "have consistently stated that public employees in West Virginia have neither the right of collective bargaining nor the right to strike," and the fact that public employee strikes axiomatically are prohibited by West Virginia common law.

As to plaintiffs' contention that their rights of procedural due process were violated by the manner in which they were discharged, the court found this argument "patently lacking in merit":

> The plaintiffs and other striking employees were absent from their jobs, had refused to return to work and well knew when and for what reason they were fired. Under these circumstances if the plaintiffs had any rights to procedural due process, they forfeited such rights through their own misconduct.
>
> Additionally, however, the plaintiffs' employment by the State was not "property" and was not protected by

the due process clause. This principle has been uniformly recognized by the courts .... The plaintiffs were employed in a classification which was not covered by the West Virginia Civil Service Act and accordingly they had no job tenure under the law of this State. Their argument that this exclusion from the Civil Service statute violates the equal protection clause of the 14th amendment has been rejected in a number of cases .... The exclusion of the plaintiffs' job classifications from Civil Service coverage involved no invidious discrimination but was the result of legislative choice.

Another factor resulting in the dismissal of plaintiffs' charges was the "insuperable barrier" posed by the Eleventh Amendment, "since it is now well settled that under the amendment a state is immune from suit in a federal court by its own citizens." Explaining that a suit against a state is determined "by the character of the proceeding and the relief sought rather than the mere names of the titular parties to the litigation," the court concluded that

the thrust of the relief sought is directed at the State of West Virginia and could be granted only by requiring the nominal defendants, as officers of the State, to take affirmative action to provide such relief. Thus it is clear that the State is the real party in interest and the 11th amendment immunity bars any consideration of the complaint in this court.

Finally, in regard to the alleged liability of the defendants in their individual capacity for damages in an action under [the Civil Rights Act of 1871], the recent Fifth Circuit opinion in *Martone v. McKeithen* ... stated the law clearly and succinctly: "A. The Governor of the State has immunity from damage suits for acts within the sphere of executive activity .... As Judge Learned Hand said in *Gregoire v. Biddle* ... : 'The justification for doing so is that it is impossible to know whether the claim is well founded until the case has been tried, and that to submit all officials, the innocent as well as the guilty, to the burden of a trial and to the inevitable danger of its outcome, would dampen the ardor of all but the most resolute, or the most irresponsible, in the unflinching discharge of their duties.'"

(*Lyle Kirker, et al. v. Arch A. Moore, Jr., et al.*, U.S. District Court, Southern District of West Virginia, January 12, 1970.)

PROBATIONARY TEACHER DENIED TENURE RAISES "SUBSTANTIAL FEDERAL QUESTIONS" WARRANTING THREE-JUDGE FEDERAL COURT HEARING

The U.S. District Court for the Eastern District of New York ordered that a three-judge federal court be convened to hear the case of a probationary teacher who, having been denied tenure, argued that the state's tenure statute deprived him of his "rights of free speech and free assembly under the First Amendment." In a lengthy, heavily cited opinion raising considerations of academic freedom, the "chilling effect" doctrine, public employees' constitutionally protected rights, and the determination of standards by which teachers are granted or denied tenure, the court found that the case raised "substantial federal questions [which] should not be decided by a single judge."

Plaintiff in the case, a probationary humanities teacher first employed by UFSD No. 15 in the fall of 1964, was denied tenure in the spring of 1967 despite the fact that "'all reports and evaluation of the plaintiff by his superiors, including the defendant [superintendent], consistently rated the plaintiff as superior in virtually every aspect of his performance.'" The denial of tenure allegedly occurred after the local superintendent "'became aware that plaintiff had become the contract negotiator for the Jericho Teachers Association.'" In seeking to compel the superintendent to recommend him and the local school board to consider him for tenure, plaintiff asked that Section 3012(2) of the New York Education Law be declared invalid under the U.S. Constitution. The challenged paragraph reads:

At the expiration of the probationary term of a person appointed for such term, subject to the conditions of this section the superintendent of schools shall make a written report to the board of education recommending for appointment on tenure those persons who have been found competent, efficient and satisfactory. Such persons, and all others employed in the teaching, examining or supervising service of the schools of such union free school district, who have served the probationary period as provided in this section, shall hold their respective positions during good behavior and efficient and competent service, and shall not be removed except for any of the following causes: (a) insubordination, immoral character or conduct unbecoming a teacher; (b) inefficiency, incompetency, physical or mental disability, or neglect of duty. Each person who is not to be recommended for appointment on tenure, shall be so notified by the superintendent of schools in writing not later than sixty days immediately preceding the expiration of his probationary period.

Initially denying defendants' motion to dismiss the complaint "for failure to state a claim on which relief can be granted," the court asserted jurisdiction under the Civil Rights Act. Citing numerous cases involving the protection of First and Fourteenth Amendment rights, the court explained that while

it will be difficult to prove that this teacher was denied tenure in a public school because he exercised his constitutional freedom as a citizen to speak and not because of the myriad reasons of taste and personal predilections ... it cannot be said that no possible set of circumstances can be visualized where a constitutional violation was involved, so it cannot be held that this plaintiff cannot possibly succeed in this action.

In their brief defendants argued that Section 3012 "'does not furnish any standards to be applied by a superintendent of schools in refus-

ing to recommend . . . for tenure' . . . [and that] 'the New York State Courts and the State Commissioner of Education consistently have held' that a probationary teacher may be fired 'at any time . . . without the necessity of providing for a hearing and without assigning any reasons.'" Defendants further maintained that under the New York law a probationary teacher cannot appeal an adverse decision, and that his constitutional right of due process is not violated thereby, "because there is no right to government employment and 'due process of law is not applicable unless one is being deprived of something to which he has a right.'"

While agreeing that the phrase "competent, efficient, and satisfactory" (as used in Section 3012(2)) does not restrict the superintendent's power, plaintiff nevertheless contended that the allowance of such authority "'violates . . . due process of law . . . by arbitrarily and capriciously depriving plaintiff of his employment.'"

One difficulty in the case was that Section 3012(2) "has never been construed by the New York State Courts, [although] no Article 78 proceeding has apparently ever been successfully brought to force a superintendent to recommend a teacher for tenure." Refusing to be bound by either parties' construction of the statute, the court found legal support for both parties' arguments, while nevertheless maintaining that "alternative statutory interpretations are not foreclosed to the three-judge court."

Specifically, the court found that "the position of the Department of Education, the body charged with administering the law, that the superintendent has unlimited power cannot be rejected as untenable," because several New York courts held in the 1948 case of *McMaster v. Owens* "that a board of education has full and untrammeled discretion in granting tenure." Other state courts have ruled that even a tenured teacher may be suspended for circulating a letter critical of a school board (*In the Matter of Puentas v. Board of Education*, 1965), or for being found "incompetent and inefficient" in allowing his religious beliefs to interfere with his teaching (*McDowell v. Board of Education*, 1918). The court additionally cited a 1957 report of the state education department in relation to *Matter of Board of Education, Union Free School District No. 15* which stated that if a superintendent "were required to state the reasons for a failure to recommend" an individual for permanent appointment, "the whole statutory scheme would be set at nought."

On the other hand, these examples of New York law lend "considerable substance to plaintiff's position"—i.e., that "it would take a bold teacher indeed who would risk his appointment to tenure, and the stigma of failure to be so appointed, by speaking out in favor of causes unpopular with the superintendent." Although the state's "statutory scheme of teacher selection might reasonably be interpreted to protect the rights of employees generally," the court found that defendants' "extravagant claims" to a superintendent's "unrestricted" right to deny tenure give added weight to "the contention that a school superintendent's power has a significant inhibiting effect on the free speech of probationary teachers":

> The mere statement of defendants' position that the job of school teacher in public schools is not life, liberty or property within the meaning of the Fourteenth Amendment and that therefore no fair process is due the teacher establishes its untenability. As then Circuit Judge Thurgood Marshall put it, "the theory that public employment which may be denied altogether may be subjected to any conditions, regardless of how unreasonable, has been uniformly rejected."
>
> Whether we state the matter in traditional terms—that government largess is a property right within the meaning of the Fourteenth Amendment . . . —or whether we say that to deprive a government employee of his job for exercising constitutionally protected rights is to deprive him of the liberty guaranteed by that Amendment, or whether we merely reason that all government action with respect to its employees must meet the standards imposed by the Amendment, our conclusion is the same: the federal constitution requires every level of government to afford non-discriminatory and fair treatment, both substantively and procedurally, to all its employees; conditions of governmental employment may not stifle fundamental liberties.

The court further noted that although federal court adjudication of plaintiff's rights pursuant to the Civil Rights Act may satisfy some "minimal requirement" for the vindication of a constitutional right, "the lesson of the evolving body of Supreme Court law protecting fundamental First Amendment rights of free speech and association is that the ultimate availability of such relief to the courageous few who choose to pursue the tortuous and dangerous path leading to it is not sufficient protection for freedoms guaranteed by our Constitution." Doubting whether "a single federal judge should undertake to construe a state statute so as to avoid a major constitutional issue," the court ruled:

> If it is the purpose of the three-judge court statute to prevent a single federal judge from making such pervasive rulings, it would appear that the necessity of making the question-avoiding construction would be sufficient reason to convene a three-judge court.

In assessing the substantiality of plaintiff's claims, the court noted that the U.S. Supreme Court "has been a particularly jealous guardian of First Amendment rights when academic freedom is threatened" (*Barenblatt v. United States*, 1959; *Sweezy v. New Hampshire*, 1957). Al-

though most academic freedom issues have dealt with the universities, the court emphasized that "the effect of procedures which stultify grade school teachers cannot be ignored":

> The considerations which militate in favor of academic freedom—our historical commitment to free speech for all, the peculiar importance of academic inquiry to the progress of society, the need that both teacher and student operate in an atmosphere of open inquiry, feeling always free to challenge and improve established ideas—are relevant to elementary and secondary schools as well as to institutions of higher learning . . . . In the present case, no speech or conduct by the probationary teacher is specifically prohibited. Both plaintiff and defendants contend however that the statute vests in the superintendent the power to choose at his pleasure what standards he will follow. If the superintendent does in fact have such power, it could be argued that the danger to free speech is even greater than would be vague standards. In any case, the allowance of such broad discretion is vulnerable to the same attack advanced in other chilling cases: "When one must guess what conduct or utterance may lose him his position, one will 'steer far wider of the unlawful zone'" (*Speiser v. Randall; Keyishian v. Board of Regents*).

The court also discussed the "delicate and difficult questions" tenure decisions pose for an educational system, explaining that the state "must be given substantial authority to choose its teachers on the basis of intangibles," and emphasizing the difficulty of formulating "precise standards . . . for determining who shall be appointed to tenure." Citing several cases and interpretive articles involving teachers' rights and "'the delicate operation of assessing a professional person,'" the court concluded:

> As one commentator has put it, however, "the impossibility of defining with precision the scope of the employer's appropriate control over the employee is insufficient reason for treating that control as boundless."
>
> Where the delicate balance between the individual's First Amendment rights and the state's great interest in the effective administration of public schools is to be struck, meeting such a challenge is no easy task . . . . The ultimate decision will turn on whether the state has achieved its legitimate objective in a way that does not necessarily impinge on free speech and whether the Constitution requires that the unavoidable "chilling effect" on probationary employees be minimized by the articulation of more definite standards and the assurance of effective remedies to enforce these standards.

(*Elvin Albaum v. Thomas F. Carey, et al.*, U.S. District Court, Eastern District of New York, March 15, 1968.)

Board Findings and Rulings

MICHIGAN

DECERTIFICATION ELECTION DIRECTED WHERE SHORT-TERM CONTRACT EXTENSIONS BAR TIMELY PETITION FILING

When Walter Winchester Hospital (Genesee County) and the Service Employees Union (SEIU), Local 21-M, extended their old contract week by week while negotiating a new contract, the Michigan Employment Relations Commission (MERC) ruled that such short-term extensions unfairly could bar rival unions from ever entering timely election or decertification petitions. Determining that a contract so extended "is not a contract which will bar an election," the MERC granted a decertification petition entered by the hospital, and clarified its own policy so that a contract extension serving as an election bar shall be at least 150 days long.

The SEIU contract, which covered an over-all hospital unit of regular clerical, technical, and custodial workers, was effective from May 1, 1968, to December 31, 1969, but provided for automatic 12-month renewals unless either party notified the other (at least 60 days before expiration) of a wish to modify the contract. An addendum to the contract recognized the SEIU as exclusive representative of a separate unit of licensed practical nurses (LPN's).

When renegotiation began, the parties agreed on December 24, 1969, to extend the contract to January 6, 1970, on January 5 to extend it to January 13, and on January 12 to extend it to January 16. The SEIU maintained that the extension to January 6 acted as an election bar, while the hospital contended that the extension applied only to that portion of the contract covering the over-all unit, and did not extend the LPN addendum.

Declining to rule upon what sections of the contract were affected by the extension to January 6, the MERC pointed to its February 8, 1968, policy statement, which holds that "petitions for election filed by rival labor organizations, or decertification petitions under the provisions of the Public Employment Relations Act, must be filed with the [MERC] no earlier than 150 days and no later than 90 days prior to termination date of the collective bargaining agreement." The MERC explained that this policy allows rival unions to file decertification petitions before the expiration of a contract, and also provides a 90-day insulation period during which the parties to an agreement can bargain without interference from rival petitions. Moreover, if an agreement is reached within this 90-day period, an election petition filed subsequent to the expiration date of the original contract is barred.

Former MERC policy—which allowed contract extensions of less than 90 days—made it impossible for rival organizations to file in time to beat the 90-day insulation period. And the parties to a contract could continue acquiring new 90-day insulation periods, thus barring the timely filing of any petitions. The MERC's *new* policy, however, provides both insulation and filing periods by holding that any contract extension serving as an election bar cannot be less than 150 days' duration.

In the instant case the MERC ruled that

> the extension entered into on December 24, extending the contract from December 31 to January 6, and the [subsequent extensions] are merely extensions of the agreement from negotiation session to negotiation session. To allow such extensions, shorter than 90 days, could result in our February 8, 1968 policy declaration relative to the filing of petitions by rival organizations, or employees seeking decertification, being utilized to bar forever rival organizations or employees from an election conducted by this Commission. We find that the extension of the collective bargaining agreement advanced as a bar to an election in this matter is not a contract which will bar an election.

The MERC accordingly granted the hospital's decertification petition, and directed a representation election among members of the LPN unit. (*Walter Winchester Hospital and Service Employees Local 21-M*, Michigan Employment Relations Commission, March 3, 1970.)

LOCKOUT INSTITUTED BY SCHOOL BOARD FOUND VIOLATIVE OF HUTCHINSON ACT'S STRIKE PROHIBITION

A Michigan Employment Relations Commission (MERC) trial examiner found that the Genesee Intermediate School District's unilat-

eral extension of the opening day of the 1969-70 school year unlawfully influenced contract negotiation with the Genesee Intermediate Education Association, and effectively constituted a lockout violative of the no-strike provision contained in the state's bargaining statute (Hutchinson Act). Explaining that the "dominant public interest" rationale applied in cases prohibiting public employee strikes also is applicable to a public employer's duty to continue operations during a labor dispute, the examiner concluded that the use of a lockout as an offensive bargaining weapon is prohibited by the act. Since the act's strike prohibition is absolute, the prohibition against lockouts also is absolute, whether or not a negotiation impasse has occurred.

Negotiation of a 1969-70 contract was undertaken by the Genesee board and the Association on May 8, 1969, and continued to August 20 when the board signed three of four items comprising the contract, but refused to sign the fourth because of disagreement with its language. The Association sought mediation of the unresolved item, which included the 1969-70 school calendar. During this period local teachers were sent a July 31 letter informing them that the opening day for the ensuing school year would be September 2.

Early in August, however, the superintendent cancelled a workshop planned for September 4-5; an Association negotiator was told that the reason for the cancellation was "you might go on strike." Then on August 28 all bargaining unit members were sent letters reading in part:

> We regret that progress toward final ratification on a master agreement with our professional employees has been painstakingly slow, and we have not reached accord.
>
> In view of this discouraging development we have cancelled our opening day orientation, Tuesday, September 2, 1969 and subsequent work day duties until the revised contract is agreed.
>
> Please do not report for work on September 2, 1969 or any following days until officially notified. No payment will be made for professional services any days prior to contract ratification.
>
> We trust this situation will be resolved with promptness and dispatch, and we may embark upon the new school year with optimism and purpose.

A meeting between the district and the Association ensued, at which time the district said it assumed teachers would "withhold services" because of a similar condition the previous year. Although the Association attempted to discuss terms for temporary return, the district said the schools would not open until ratification of the 1969-70 contract.

Staff members reported to work on September 2, but no business was conducted and no official phone calls were accepted until September 9. Also on September 2 the superintendent issued a memo stating in part that "members of the professional staff are welcome to use the facilities of the building as you meet today with other members of your association. It is hoped that your deliberations will be fruitful." Then on September 7 the school board adopted a resolution deferring the 1969-70 opening date to September 9, establishing a 1969-70 pay rate identical to that of the previous year until ratification of the new contract, and reiterating that "no retroactive payments will be forthcoming."

During a hearing before the MERC examiner the district denied locking out its employees because the school calendar had not been established, public employees have no bargaining rights, common law allows locking out employees who exercise such rights, and public employees are not statutorily protected from a lockout. Moreover, the district contended that since its staff members had not signed their contracts, they were not employees, and that the lack of a master contract allowed the district to defer the opening date at will, as well as refuse payment to staff members who reported a week ahead of time.

The Association, however, argued that since public employee strikes are prohibited by law, public employer lockouts are not a legitimate weapon in labor disputes. Pointing to the fact that no legitimate impasse existed, the Association charged that the district unjustifiably used the lockout as an economic weapon interfering with employees' bargaining rights, discouraging union activity, and disrupting bargaining efforts.

In concluding that lockouts statutorily are prohibited and that the district engaged in unfair labor practices "by unilaterally changing the opening date of the school year for the purpose of influencing the collective bargaining negotiations" with the Association, the MERC examiner explained:

> In the instant case there was no evidence of any indication that the [Association] threatened or intended to strike or "withhold its services" in the event that a collective bargaining agreement was not reached. Nor was there any evidence that the parties had yet engaged in any extensive negotiations over the 1969-70 school calendar, or that any particular issue had arisen over the employer's setting of the traditional date for opening the school year . . . September 2. [I] find no justification in the record which would support a conclusion that the employer's decision to change the opening date of school was a necessary and proper act.
>
> In the employer's August 28 letter the cancellation of the September 2 opening date was explicitly based upon the failure of the parties to reach a collective bargaining agreement, despite the fact that there had been only two meetings between the parties, August 14 and 20, since the [Association] had completed the presentation of its proposals, and one of these two meetings was devoted in part to the presentation of the counter-

proposals of the employer. The wording of the August 28 letter . . . lends substance to the conclusion that the employer's reason for cancellation of the opening day was for the purpose of influencing the collective bargaining negotiations. This conclusion is further reinforced by the September 2 memorandum to the staff members, in which the employer generously offered the use of its facilities in the hope that "deliberations will be fruitful," but reminding the staff members at the same time that without an agreement on contract items in dispute "it is difficult to see how the school year can officially be opened." Further, the resolution dated September [7], establishing the new opening date . . . couched as it is in terms of the failure of the parties to reach a collective bargaining agreement, does nothing to dispel the conclusion that the employer was attempting to begin the school year and the compensation of the staff on the traditional opening day.

On February 16, 1970, the examiner accordingly recommended that the district be ordered to cease its illegal conduct, and that all employees who were unable to work during the week of September 2 because of the change in the opening date be reimbursed for pay lost, with interest at 6 percent. A month later the MERC adopted the findings and recommendations of the trial examiner. (*Genesee Intermediate School District and Genesee Intermediate Education Association*, Michigan Employment Relations Commission, March 16, 1970.)

NEW YORK

SEPARATE RADIO AND TELEVISION TEACHERS NEGOTIATING UNIT RULED INAPPROPRIATE

The New York Public Employment Relations Board (PERB) dismissed a bid by the Association of Teachers in Broadcasting for certification as exclusive bargaining representative of a unit comprised solely of 40 teachers assigned to the New York City education board's Bureau of Radio and Television. Noting that a conflict of interest must be established "in order to warrant fragmentation among employees having a substantial community of interest," the PERB ruled that the "basic community of interest between [the radio and television] teachers and teachers in the 'classroom teachers' negotiating unit is not overshadowed by any demonstrable conflict of interest."

During a formal hearing before a PERB trial examiner on May 6, 1969, both the New York City board and the intervening United Federation of Teachers, American Federation of Teachers, AFL-CIO, Local 2, argued that the substantial community of interest between teachers assigned to station WNYE of the bureau and teachers in the city's over-all classroom teachers negotiating unit precluded separate representation. While conceding that the terms and conditions of employment of WNYE teachers were substantially the same as those of classroom teachers, the petitioning Association contended that WNYE teachers work longer hours than classroom teachers (and are compensated accordingly), and outlined several policy changes it would attempt to negotiate for WNYE teachers.

Noting that the city's deputy superintendent of instruction "is responsible for all 'classroom teachers' as well as WNYE teachers," and that WNYE teachers "are recruited from the employer's general body of 'classroom teachers' and assigned to the bureau for a minimum period of six months," the PERB determined that the unit sought "is not the most appropriate unit claimed in this proceeding":

The record before me makes it abundantly clear that the WNYE teachers who petitioner seeks to represent and teachers in the "classroom teachers" negotiating unit have a substantial community of interest inasmuch as their terms and conditions of employment are determined in the same manner and are substantially similar . . . . While WNYE teachers would seek to negotiate special items such as salary differential, seniority rights within the bureau, extension of the six-month period of guaranteed return to school of origin, and residual rights to programs, there is nothing in the record to indicate that their desire to negotiate these matters would establish a conflict of interest with the "classroom teachers" and thus, prevent meaningful negotiations as contemplated by the [Taylor] Act. Indeed, the existing collective agreement concerning "classroom teachers" is a veritable compilation of special provisions covering special groups of "classroom teachers."

(*In the Matter of Board of Education of the City of New York, and The Association of Teachers in Broadcasting, and United Federation of Teachers, Local 2, American Federation of Teachers, AFL-CIO*, New York Public Employment Relations Board, August 28, 1969.)

WISCONSIN

INDIVIDUAL CONTRACTS MUST RECOGNIZE COLLECTIVE AGREEMENT

A Wisconsin Employment Relations Commission (WERC) trial examiner found that the Elmbrook School District unlawfully required local teachers to sign individual contracts containing negotiable salary items when the contracts did not specify that such items would be superseded by any subsequent collective agreement negotiated by the Elmbrook Education Association (EEA). Moreover, the district illegally required teachers to sign their individual contracts on school premises, threatened teachers who did

not sign with termination and no summer school employment, and actually denied a summer school position to one teacher who did not sign in time. Such conduct on the part of the school district undermined the EEA's position, created an atmosphere of intimidation, and generally interfered with teachers' statutory bargaining rights, according to the WERC examiner.

The EEA and the Elmbrook board engaged in 1969-70 contract negotiation from January to May of 1969. On March 13, however, the district notified local teachers that individual contracts for the ensuing year had to be signed by April 15 in compliance with state statute, although the teachers would benefit from any improvements negotiated by the EEA and the board. Then on April 14 some 350 of the district's 550 teachers informed the board in writing that they planned to accept 1969-70 employment under the terms of an EEA-negotiated agreement, but would not be coerced into signing individual contracts which might undermine negotiation.

As some confusion arose regarding the signing date, the district deferred the deadline to April 16, but said that any contracts not signed by that date "will be deemed unaccepted and a vacancy declared in the staff for that position which may thereafter be filled by a new staff member." In addition, the district required teachers to sign their contracts in the principal's office and not take them off school property, and required signed contracts as a condition of summer school employment.

When the EEA and the board reached a collective agreement in May, a form of the individual contract was incorporated in the collective settlement. This form, however, contained an additional sentence stating that "this contract may be subject to and/or supplemented by a collective bargaining agreement covering certified teaching personnel and/or board resolutions or policy statements not inconsistent therewith." The EEA accordingly urged that the individual contracts previously proffered by the board under threat of loss of employment were coercive and interfered with the teachers' statutory right to organize. Arguing that the issues in the case were not moot, the EEA contended that the teachers suffered a monetary loss which should be remedied, and said it was vital that the parties know their negotiation rights and obligations.

On the other hand, the school board argued that the issues were moot because the collective agreement signed on May 5 contained an amended form of the individual contracts, provided that the contracts be returned by April 15, and required signed contracts as a condition of summer school employment. The board further contended that its prior conduct was sanctioned by statutes regulating school operations, and that it had not interfered with the teachers' statutory organizing rights.

Noting that "this question is of first impression and of public importance since the propriety of individual contracts in the context of collective bargaining is of concern to school districts throughout the state, and the problem is of a recurring nature," the examiner held that the statutes in question can be construed together to allow individual contracts to be proffered in such a manner as not to interfere with teachers' organizing and representation rights. But he cited a U.S. Supreme Court ruling in the case of *J. I. Caso Co. v. NLRB* which held that "the individual contract cannot be effective as a waiver of any benefit to which the employee otherwise would be entitled under the trade agreement. The very purpose of providing by statute for the collective agreement is to supersede the terms of separate agreements of employees with terms which reflect the strength and bargaining power and serve the welfare of the group." And he found that the Elmbrook district's conduct in the instant case did constitute interference with teachers' rights:

> The requirement that the employees sign an individual contract containing negotiable items [wages] which does not mention the collective bargaining representative or that said items will be superseded by any collective bargaining agreement impedes and has a debilitating effect on the right of teachers to organize and be represented in *collective* negotiations. The employer informed the individual teachers in its letter of March 13, 1969 that if negotiations with the Association resulted in further improvements, the teachers would receive those benefits, but said letter does not have the binding effect of a contract, and the fact remains that the illegal document the employee was required to sign made no reference to the collective bargaining representative or the possibility of a collective bargaining agreement which would supersede the terms of the individual agreement. An employee should not be required to understand the intricacies of labor law to know that any agreement reached collectively would supersede the terms contained in his individual contract. This fact should be stated not in a mere letter but in the contract itself.

The examiner further determined that state law sanctions neither the district's requirement that individual contracts be signed in the principal's office, nor the district's threats to vacate staff positions and deny summer school employment to teachers who refused to sign. He accordingly recommended that the Elmbrook district be ordered to cease its illegal conduct, and that the teacher who was denied a summer school position be reimbursed for pay lost during summer school minus any compensation he may have received during that period. The examiner finally held that the collective agreement did not

render the issues moot because there was a monetary loss "which must be remedied," and the contract in question "covers the 1969-70 school year and not the 1970-71 school year, so the problem could recur again." (*Elmbrook Education Association v. Elmbrook Schools, Joint Common School District No. 21,* Wisconsin Employment Relations Commission, March 10, 1970.)

OTHER ITEMS OF INTEREST

NLRB ASSERTS JURISDICTION OVER A UNIT OF THE NEW YORK CIVIL SERVICE EMPLOYEES ASSOCIATION

In a decision made public in late March the National Labor Relations Board (NLRB) asserted jurisdiction over the Field Staff Association, a unit of field representatives and collective bargaining specialists employed by the New York Civil Service Employees Association (CSEA), and directed that an election be held. Citing previous findings and definitions furnished by the 1957 *Oregon Teamsters* case and the 1958 *Siemons* case, the NLRB ruled that the CSEA is an employer who, by virtue of its group insurance program, is engaged in commerce within the meaning of the Taft-Hartley Act, and, therefore, is subject to NLRB jurisdiction.

The CSEA, a New York state labor organization representing some 175,000 public employees, provides a group insurance program with premiums amounting to about $6 million annually. As the insurance policies originate outside New York state, and the premiums are deducted from the employee-members' wages, transmitted to a local agent, and then transmitted to a Connecticut carrier, the NLRB found that such activity constitutes "indirect inflow."

This term was defined by the *Siemons* case (which involved an integrated nonretail enterprise) as "the purchase of goods or services which originated outside the employer's state but which he purchased from a seller within the State who received such goods or services from outside the state." And the term was incorporated in a 1958 NLRB jurisdictional yardstick, whereby the NLRB could no longer refuse to hear cases involving nonretail businesses where yearly outflow or inflow, whether direct or indirect, amounted to $50,000.

In the *Oregon Teamsters* case the NLRB asserted jurisdiction over the union's security fund on grounds that "indirect outflow" was evidenced in the union's direct, annual transmittal of $2 million in premium payments to an out-of-state insurance carrier. Citing that case as a basis for its assertion of jurisdiction in the instant case, the NLRB concluded that the CSEA-purchased insurance policies constitute indirect inflow, that the amount involved meets the NLRB's $50,000 outflow-inflow standard for nonretail enterprises, and that the CSEA therefore is engaged in commerce within the meaning of the Taft-Hartley Act. (*Civil Service Employees Association, Inc. and Field Staff Association,* National Labor Relations Board, March 26, 1970.)

Negotiation Notes

CALIFORNIA

AMNESTY AGREEMENT FOUND TO BAR BONUS BENEFITS FOR NON-STRIKING EMPLOYEES

An arbitrator determined that an October 1969 ordinance which provided bonuses for Vallejo police and firemen who remained on the job during a July 1969 walkout violated the "sweeping provisions" of an amnesty agreement which ended the walkout. Finding that the city council "had never before awarded a cash or vacation bonus for 'meritorious and outstanding service,' and that it had never before even made a commendation for 'meritorious and outstanding service' for merely working overtime, on holidays, or for extended periods of service," the arbitrator held that the council's enactment of the ordinance in the face of the amnesty agreement constituted a punitive action which should be restrained.

A four-day strike called by Vallejo police and firemen last summer ended on July 21, 1969, with an amnesty agreement providing a 7 percent salary increase and other fringe benefits. Stating that it would "do or perform no acts contrary to the letter and spirit of this agreement," the city council agreed to two amnesty provisions:

> (a) No punitive, repressive, harassing, intimidating or coercive act or activity shall be taken, initiated, or sanctioned against any member by the Council, or its servants, agents, officers, or employees because of or on account of the members' concerted economic activities;
>
> (b) No disruption, alteration or change shall be made or sanctioned by the Council, or its servants, agents, officers, or employees in respect to any member's seniority, vacation, sick leave, pay scale probationary status, or any other facet of the employment status because of the member's concerted economic activities.

Then on October 27, 1969, the city council enacted the contested ordinance, which provided a five-day vacation or annual leave bonus for non-striking police and firemen due to their "meritorious and outstanding service." To support its bonus ordinance, the city council cited the case of *Social Workers' Union Local 535 v. County of Los Angeles* in which the California Court of Appeal for the Second Appellate District upheld an ordinance providing a one-time bonus for social workers who manned their jobs during a strike. In that case the amnesty provision held that "employees who have been absent from their work assignment, without prior approval . . . will not incur disciplinary action because of their absence. Such employees will be entitled to promotional opportunities and other employment considerations without prejudice." The appellate court approved the bonus ordinance because the amnesty provision "was concerned solely with how the strikers and other employees remaining away from work during the strike would be treated on their return to work; it did not concern itself in any way whatsoever with the future treatment of the nonstrikers."

Questioning whether the appellate court's holding was controlling of the Vallejo situation, the arbitrator explained that

> the court's statement that the [amnesty provision] did not concern itself "in any way whatsoever" with future treatment of nonstrikers must be construed very carefully. Suppose the nonstrikers had been promoted ahead of strikers on the basis of their having remained on the job. Surely the court did not intend to hold that such action would be valid in face of the agreement that returning strikers should enjoy "promotional opportunities . . . without prejudice." Similar situations could be posited wherein treatment of nonstrikers would clearly be controlled by limitations set forth or implied in the amnesty agreement. One of the chief purposes of an amnesty agreement is to control the relationship between two groups of workers, strikers and nonstrikers, and to assure equality of treatment in certain respects between the two groups.

Finding that the Vallejo amnesty agreement "is considerably more detailed, and extends far greater protection to returning strikers" than the Los Angeles agreement, the arbitrator concluded that the "total effect of all of the provisions of the Vallejo Agreement is to place a very heavy burden of justification on the Respondent City Council for any act which in any way treats returning strikers differently from those who remained at work during the strike." He especially noted the "particular significance" of the last clause of the Vallejo amnesty agreement:

> Its prohibition of any change in "employment status" recognizes that it is the *relationship* between strikers and nonstrikers which is involved in any meaningful

amnesty agreement. Just as nonstrikers could not henceforth be paid more than strikers, on the basis of their having remained on the job, so other treatment of both groups must be equal in order to maintain their existing employment status. No such provision appeared in the Los Angeles amnesty agreement.

The arbitrator accordingly held that the Vallejo bonus ordinance violated the strike settlement, and that the city should be restrained from implementing the ordinance, explaining:

To say in these circumstances that the bonus vacation is being given to some employees, while it is withheld from others, on the basis of "meritorious and outstanding service" does nothing to disguise the resulting discrimination against those who do not receive the bonus. On the contrary such terminology emphasizes the fact that those who did not strike are being rewarded, and those who did strike are, by comparison, being penalized.

The necessary and natural effect of the Council's action is punitive. The natural consequence of such action is to harass and intimidate the returning police officers and fire fighters on account of their strike activities, with the effect of repressing Union activity in the future. This is prohibited by paragraph (a) of the Amnesty Agreement.

KANSAS

PROFESSIONAL NEGOTIATION STATUTE ENACTED

A mandatory Professional Negotiations Act for Teachers was signed into law by the Kansas governor on March 23, 1970. The act grants "professional employees" of a school district or community junior college the right "to form, join or assist professional employees' organizations, to participate in professional negotiation with boards of education through representatives of their own choosing for the purpose of establishing, maintaining, protecting or improving terms and conditions of professional service." "Professional negotiation" is defined by the act as "meeting, conferring, consulting and discussing in a good faith effort by both parties to reach agreement with respect to the terms and conditions of professional service." Once an employee organization duly has been recognized as exclusive representative of an employee unit, an education board and the representative organization are mandated to "enter into professional negotiations prior to issuance of the annual teachers' contracts or renewal of the same on request of either party."

An organization seeking certification as exclusive representative of an appropriate bargaining unit by the state board of education must demonstrate "majority support through verified membership lists." Any organization wishing to intervene in a representation election must file a competing claim of majority support within 10 calendar days after notice of the original request for recognition is posted, and must be supported by at least 30 percent "of the professional employees in the appropriate negotiating unit." A request for recognition is barred if a lawful, negotiated, written agreement currently is in effect (unless the expiration date of the agreement is less than 60 days after the filing of the recognition request), or if an education board has, within the previous 36 months, "lawfully recognized a professional employees' organization other than the petitioner as the exclusive representative of any professional employees included in the unit described in the petition."

The act stipulates that "a unit including classroom teachers shall not be appropriate unless it includes all such teachers employed by the board of education, except administrative employees. A unit including administrative employees shall include all administrative employees employed by the board of education." If unit determination questions arise, the state board of education will decide the appropriate unit, according to the community of interest of the professional employees involved, established practices, the nature of the employees' duties, and the extent to which employees have joined a professional organization. The act emphasizes, however, that nothing shall prevent professional employees, "individually or in concert . . . from presenting or making known their positions and/or proposals to a board of education, a superintendent of schools or other chief executive officer employed by a board of education."

Once the exclusive representative of an appropriate negotiating unit is selected, an education board and the representative "may enter into an agreement covering terms and conditions of professional service." The agreement becomes binding when ratified by a majority of the members of both parties, and shall be effective for a period not to exceed two years. In addition, such an agreement may include "procedures for final and binding arbitration of such disputes as may arise involving the interpretation, application or violation of such agreement." If either party to an agreement "is aggrieved by the failure, neglect or refusal of the other party to proceed to arbitration in the manner provided . . . such aggrieved party may file a complaint in court for a summary action without jury seeking an order directing that the arbitration proceed in the manner provided for in such agreement."

Although the act mandates professional negotiation, it emphasizes that nothing "shall be construed to change or affect any right or duty conferred or imposed by law upon any board of education." It also provides that written notices to negotiate new items or amend an existing

contract must be filed by either party on or before December 1 of any school year, and must contain "in reasonable and understandable detail the purpose of the new or amended items desired." Strikes by professional employees specifically are prohibited by the act.

The full text of the Kansas Professional Negotiations Act for Teachers is reprinted in the "Texts" section of this DIGEST. A portion of K.S.A. 72-5411 which was deleted by Sec. 13 of the act is indicated by strike-overs.

MICHIGAN

FIRST NEA LOCAL ASSOCIATION CONTRACT WITH FOUR-YEAR COLLEGE NEGOTIATED

Faculty members at Central Michigan University have negotiated the first agreement with a four-year college involving an NEA local association. This agreement reportedly is only the second such contract in the country. The contract covers all 547 members of the university faculty from instructors to full professors (including department chairmen), and provides an average salary increase of more than 12 percent. In addition, a number of special features which reportedly are unique in higher education negotiation are contained in the contract. One such feature creates a series of joint committees which will study various problems and submit findings to the faculty and administration bargaining teams for use in future negotiation.

The local association representing Central Michigan University faculty members is affiliated with the Michigan Higher Education Association, a unit of the Michigan Education Association and the NEA's National Society of Professors.

NEW YORK

CIRCUMSTANCES SURROUNDING EXCUSED EMPLOYEE ABSENTEEISM CAUSE COURT TO ANNUL STRIKE PENALTY

The New York Supreme Court, Appellate Division found that state hospital employees who absented themselves from work for several days in March of 1968 and subsequently received excused leave with full compensation from their supervisors for the period of absence had not engaged in a strike within the meaning of the Taylor Law. As a result, the court annulled an "excessive" penalty imposed by the state's Public Employment Relations Board (PERB) upon the employee's representative organization, the Civil Service Employees Association (CSEA). Noting, however, the "other perplexing features of this administrative proceeding," the court held that "under different circumstances, absenteeism, as such, might constitute the basis for a finding of 'strike' under the statute."

On November 15, 1967, shortly after the Taylor Law was enacted, the New York state governor recognized the CSEA as representative of a "general unit" of state hospital employees, which included some of the allegedly striking employees in the present case. Then on November 30 the PERB issued an order which interrupted negotiations between the governor and the CSEA, and which effectively precluded the CSEA from acting as representative of its members; this order was annulled by the court in the present case on February 14, 1968, following an Article 78 proceeding brought by the CSEA. While the PERB was appealing the annullment of its order to the state court of appeals, the state division of classification handed down a March 1 decision on the appeal of some 30,000 clerical and stenographic employees seeking reallocation to higher salary grades.

When this decision of the division of classification became known to some 129 clerks, stenographers, and telephone operators employed at the Bronx, Brooklyn, and Manhattan State Hospitals, these employees absented themselves from work for three days (March 5-7) to express their dissatisfaction with the decision. According to the court,

> many of the employees obtained permission to be absent from work prior to leaving and it is not disputed that following the absences nearly all of the employees involved were permitted by their supervisors and the Department of Mental Hygiene to charge the absences as [various excused leaves] and that with such excused leave, nearly all of the employees received full compensation for the period of absence.

Some two months after the excused absenteeism, however, the Department of Mental Hygiene decided that the incident had been a strike, accordingly docked the employees' pay, and directed that disciplinary proceedings be instituted against the individual employees. At a hearing relative to the disciplinary proceedings a hearing officer determined that the employees' absences "were not unauthorized or otherwise contrary" to the Taylor Law.

In the interim the PERB filed charges alleging that the CSEA had violated Section 210, Subdivision 1, of the Taylor Law in that "'it caused, instigated, encouraged, condoned and engaged in strikes' by certain employees in the named hospitals in the City of New York." Noting that the pertinent section of the statute specifies a *strike*, the court held that

> unless upon the present record it can be found that there was a strike by the employees as charged, there

can be no penalty imposed in this proceeding because of the familiar rule that the scope of a punishment or penalty proceeding before an administrative board is limited to the charges and specifications as served upon the alleged wrongdoer prior to a hearing.

The hearing officer in this case found that the evidence was insufficient to establish that CSEA either caused or instigated the strike, however, PERB reversed this finding and found that there was sufficient participation by the officials of CSEA to hold that CSEA did instigate or encourage the employees' actions. The activities relied upon by PERB were not conducted or condoned by the officials of CSEA at a State level. Beyond doubt the local chapter officials of CSEA did participate in the employee meetings and did convey to the employees the fact that *CSEA members* are entitled to legal representation from CSEA in *any* disciplinary proceeding. Upon the record in its entirety, there are no inferences available that responsible officials of CSEA at the State or local level actually participated by way of instigation in the absenteeism. Such activity as might be termed encouragement is remote from the absenteeism and cannot be considered as being a *precipitating* factor in the absenteeism.

The court additionally emphasized that since the disciplinary proceedings against the individual employees were determined in their favor, "the finding that CSEA instigated or encouraged a *strike* would be a non sequitur," and the imposition of sanctions in the face of such a favorable determination "would be an inequitable result." Moreover, since the "limbo in which CSEA was cast" by PERB intervention in the union's negotiations with the state was not removed until the March 7 decision of the court of appeals, the court found that during the period of the employees' absenteeism

CSEA was not in a position to act as a union under the Taylor Law to secure employment benefits to its members... [and] it is difficult to perceive the basis by which PERB can consider [the CSEA] to have been the recognized employee organization of the subject employees... within the meaning of subdivision 1 of section 210 of the [Taylor Law] for purposes of instigating or encouraging a strike. We do not, however, pass upon this particular preliminary question.

In addition... it is established that not all of the employees were members of CSEA, but that in fact some were members of a competing union and some were not members of any union.

In light of the background of the case and the fact that the Taylor Law was quite new when the employees' absenteeism occurred, the court ruled that the six-month dues deduction forfeiture imposed by the PERB upon the CSEA was excessive and should be annulled without costs.

TAYLOR LAW AMENDED

An amendment which became effective February 27, 1970, extends Section 205, subdivision five, paragraph (d), of the Taylor Law to provide that the "exclusive nondelegable jurisdiction" granted to the Public Employment Relations Board in establishing "procedures for the prevention of improper employer and employee organization practices" shall not apply to New York City prior to March 1, 1971.

OREGON

ATTORNEY GENERAL CLARIFIES TEACHERS' CONSULTATION RIGHTS, COMPENSATION, AND BENEFITS

In response to a question submitted by a state senator, the Oregon attorney general held that the consultation rights of certified school personnel below the rank of superintendent statutorily are limited to "matters of salaries and related economic policies affecting professional services." Noting that ORS 342.460 "is rather narrowly drawn" in comparison to other state and federal bargaining statutes, the attorney general explained that items such as paid holidays, the amount of severance pay, school calendar, and in-service days could be subjects for consultation under the statute, because they "are generally considered to be closely related to salaries," or comprise economic policies related to salaries. Working conditions, class size, grievance procedures, and the phraseology of employment contracts, however, "would appear to be only remotely related to salaries," and the possibility of their being matters for consultation under the statute "would depend on the particular facts under consideration."

Another question raised by the state senator was whether teachers must be paid for the Christmas and New Year's Day holidays. The attorney general referred to ORS 336.010(5), which provides that "when a holiday occurs on what would otherwise be a school day, teachers shall be allowed full pay for the holiday." Explaining that most school calendars provide a Christmas vacation beginning before Christmas and extending beyond New Year's Day, the attorney general held that this period "is not considered to be a part of the school year under the teacher's contract." As the two holidays "do not occur on days which 'would otherwise be a school day,'" he concluded that "in school districts which observe 'Christmas vacation'... as part of the school calendar, a teacher would not be entitled to pay for Christmas day and New Year's day."

In response to a question raised by an official of the state education department, the attorney general determined that school boards may pay premiums on life insurance policies for

community college employees, because such payments "can properly be considered as part of the employe's compensation." ORS 332.505 allows district school boards to "define the duties, terms and conditions of employment and fix the compensation" of its employees; the word "compensation," according to the attorney general, "is a term broader than 'salary' or 'wages,' and clearly includes various non-monetary fringe benefits such as payment of life insurance premiums."

While earlier attorneys general opinions had held that a school board could not pay various benefits without specific statutory authority, the attorney general found that such a "strict construction . . . is inconsistent with the legislative grant giving broad discretion to school districts to fix the terms of compensation for their employes." He cited *Hendryx v. School District No. 4* in which a court upheld "reasonable exercises of discretion within the broad framework of enabling statutes." Applying that philosophy to the instant matter, the attorney general concluded that a school district's authority "to fix the terms of compensation for its employes . . . includes the discretion to pay life insurance premiums as a part of that compensation."

SOUTH DAKOTA

BARGAINING STATUTE AMENDED TO ALLOW NEGOTIATION OF GRIEVANCE PROCEDURES

Two amendments to the South Dakota bargaining statute define grievances and grievance procedures, allow public employees to negotiate grievance procedures, further clarify the word "strike" as applied to public employees, and establish a procedure for the resolution of contract negotiation impasses. S.B. 89 was signed by the South Dakota governor on February 18, 1970, and S.B. 108 was signed into law on February 24, 1970.

S.B. 89 amends SDCL 3-18-2 to provide that public employees or their representatives and governmental agencies or their representatives shall have the right to meet and negotiate "with respect to grievance procedures and conditions of employment." The bill also amends item 3-18-3 of the bargaining statute to provide that "formal recognition shall give an organization the right to meet with, *negotiate* and otherwise communicate with the governmental agency or its designated representatives with the object of reaching a settlement applicable to all employees of the unit" [emphasis added]. S.B. 89 finally adds a new section to the statute which allows either party to a contract negotiation impasse to "request the commissioner of labor to intervene under the provisions of 60-10-1 to 60-10-3," although neither party is prohibited "from adopting any other procedure to facilitate a settlement that may be mutually agreeable."

The second amendment to the bargaining statute, S.B. 108, adds a new section to the statute defining a grievance as "a complaint by a public employee or group of public employees based upon an alleged violation, misinterpretation, or inequitable application of any existing agreements, contracts, ordinances, policies, rules or regulations of the government of the state . . . or the government of any one or more of the political subdivisions thereof . . . as they apply to the conditions of employment." Excluded from the definition are "negotiations for, or a disagreement over, a nonexisting agreement, contract, ordinance, policy, rule or regulation." The governing officer of each governmental agency is required by the amendment to enact "a procedure which its employees may follow for prompt informal dispositions of their grievances." If an employee grievance remains unresolved following enactment of a grievance procedure, it may be appealed to the labor commissioner, who shall conduct an investigation and hearing and render a binding order. And if no grievance procedure is enacted as required by the amendment, the labor commissioner may be asked to enter the grievance. Finally, the amendment stipulates that nothing shall prevent "a governmental agency from legally changing any ordinance, policy, rule or regulation which is currently the subject matter of a grievance procedure. However, any prior contractual rights shall not be affected by a subsequent change of any ordinance, policy, rule, or regulation."

S.B. 108 additionally amends SDCL 3-18-8 to provide that the implementation of any agreement reached between a labor organization and a governing body shall be "consistent with the powers of the governing body." And SDCL 3-18-9 was amended by the new act to provide that the word "strike" as used in the statute refers to "coercing a change in the conditions or compensation or the rights, privileges or obligations of employment," rather than "inducing, influencing or coercing a change."

Both amendments to the South Dakota bargaining statute are reprinted in their entirety in the "Texts" section of this DIGEST. Additions to the statute are italicized; deletions are indicated by strike-overs.

VERMONT

EXPIRATION DATE OF STATE EMPLOYEES' BARGAINING STATUTE REPEALED

Effective March 5, 1970, a provision which originally held that the Vermont State Employees Labor Relations Act would expire on July 1, 1970, was repealed by H.B. 409, L. 1970. The statute, which became effective July 1, 1969, grants collective bargaining rights to state employees and employees of Vermont state colleges. Teachers employed in quasi-public or private elementary and secondary schools are granted bargaining rights under another statute which became effective September 1, 1969, and is entitled "Labor Relations for Teachers."

OTHER ITEMS OF INTEREST

CONSUMER PRICE INDEX, APRIL AND MARCH 1970

Figures reported by the Labor Department's Bureau of Labor Statistics (BLS) indicate that the Consumer Price Index (CPI) all-items figure for April 1970 stood at 134.0 (1957-59=100), an 0.6 percent rise above the previous month. BLS attributed about 40 percent of the rise in the April all-items index to increased consumer service charges associated with housing, mortgage interest, and utilities. The April figure represented a 6.0 percent rise above the all-items figure of a year ago. BLS also reported that the purchasing power of the consumer dollar stood at $.746 in April, based upon its average buying power in 1957-59.

The CPI all-items figure for March 1970 was reported as 133.2 (1957-59=100), an 0.5 percent rise above February 1970, and a 6.1 percent increase over the all-items index of March 1969. BLS attributed about 70 percent of the March CPI advance to increased consumer service charges associated with home mortgage interest payments, property taxes, home repair service, and residential telephone, water, and sewerage services. BLS additionally noted that charges for medical care services posted their largest monthly rise since 1966 in March.

GOVERNMENT WORK STOPPAGES, 1958 TO 1968

A report produced by the Labor Department's Bureau of Labor Statistics (BLS) reveals that from 1958 to 1968, government employee strikes rose from 15 to 254, as the workers involved increased from 1,700 to 202,000, and the resultant man-days of idleness increased from 7,500 to 2.5 million. In providing an over-all picture of government work stoppages during the 11-year span and comparing activity in the public sector with that in the private sector, BLS reported that by 1968 government employee strikes comprised 4.9 percent of all strikes, involved 7.6 percent of all workers, and resulted in 5.2 percent of all man-days of idleness.

In 1968, school employee strikes accounted for 34.6 percent of all government employee strikes, involved 71.8 percent of all government employees who engaged in strikes, and comprised 85.6 percent of all man-days of idleness lost during government strikes that year. The size of the latter two figures partially is attributed to the intensity and duration of the 1968 New York teachers' strike, which was included in BLS computations.

BLS noted that although teachers were once "less likely to leave their jobs than were other school employees," since 1964 "the majority of all public school stoppages have involved teachers, who made up over 80 percent of school employees involved in stoppages and 75 percent or more of the idleness in public schools." According to BLS, the two major issues contributing to school employee strikes during the 11-year period were general wage changes and supplementary benefits, and union organization and security matters.

Other data reported by BLS included:

- Strike activity in the public sector has increased at a "gradual but erratic" rate, although BLS found that such activity "is still low relative to that in the private sector." More government employees engaged in stoppages in 1968 than in any previous year, but these employees comprised only 1.7 percent of all public employees; workers involved in *all* strikes that year constituted 3.8 percent of *total* employment, a figure more than twice the government figure. BLS noted, however, that individual "work stoppages directed against public agencies are, on the average, larger than those involving private firms."
- Public employees "lag well behind the private sector" in terms of man-days of idleness figured as a percent of estimated total working time. Although the average days of idleness in the public sector increased from 2.6 days to 9.8 days from the 1958-64 period to the 1965-68 period, BLS found that the measure of duration for public employee strikes "has remained substantially below

that for private industry, although the variation has not been consistent."

- In regard to the major issues contributing to work stoppages, BLS reported that the longest government stoppages usually are caused by general wage change disputes, while union organization disputes cause the longest strikes in private industry. During the 11-year period, government stoppages resulting from wage disputes registered an average of 6.8 days of idleness per worker; in private industry, however, the rate was 20.5 days. Although stoppages caused by interunion or intraunion disputes are relatively few in the government sector, they tend to result in relatively long periods of idleness per worker, an average of 5.8 days during the 11-year span. Stoppages caused by union organization and security disputes have resulted in about 4.2 days of idleness per worker in the government sector, as compared to an average of 26 days in the private sector.
- During the 1966-1968 period the Midwest, Northeast, and West experienced large increases in idleness per worker rates resulting from government stoppages, in comparison to the 1958-65 period. Government stoppages in the Midwest increased from 3.8 days of idleness to 6.3 days between the two periods; in the Northeast, average days of idleness per government worker increased from 3.5 days to 13.2 days; in the West, days of idleness caused by government stoppages increased from 2.9 days to 5.2 days. In the South, however, BLS found that the average days of idleness resulting from government stoppages was "considerably higher" during the 1958-1965 period (5.7 days) than during the 1966-68 period (6 days).

Copies of BLS Report 348, entitled *Work Stoppages in Government, 1958-68*, are available from the U.S. Department of Labor, Bureau of Labor Statistics, Washington, D.C. 20212.

Statistics

CLASSROOM TEACHER NEGOTIATION AGREEMENTS: THREE YEARS' EXPERIENCE

National surveys of teacher-board negotiation were conducted by the NEA Research Division during the 1966-67, 1967-68, and 1968-69 school years. In each year all school systems with enrollments of 1,000 or more were sent survey questionnaires which they were asked to return with copies of their agreements. The surveyed systems comprised approximately one-third of all U.S. school systems, and employed approximately 90 percent of all professional public-school personnel. Systems reporting negotiation in 1966-67, and all systems reporting negotiation for the first time in each subsequent survey were required to validate such negotiation by sending a copy of their agreement to the NEA Research Division's depository. In the 1968-69 survey school systems which previously filed agreements validated those agreements which were still in effect.

Table 1 presents year-by-year totals of the number of systems surveyed, the number of systems with classroom teacher agreements, the number of systems with comprehensive classroom teacher agreements, and the number of personnel covered by classroom teacher agreements. Table 2 indicates the number of systems in each state which reported classroom teacher agreements at least once during the three years surveyed. The figures presented in these tables differ somewhat from those published in previous tables, for they represent the *first* accounting of *classroom teacher* agreements found in all systems surveyed during the three-year period.

A classroom teacher agreement is one to which a classroom teacher bargaining unit is party, whether this unit consists exclusively of classroom teachers or includes classroom teachers and other school-board employees, such as central-office administrators or principals. Agreements for both inclusive and exclusive classroom teacher units are shown in the tables.

As Table 1 indicates, the number of systems surveyed changed little over the three-year period. In addition, the survey response rate remained substantially the same: 85.4 percent in 1966-67, 88.5 percent in 1967-68, and 84.5 percent in 1968-69. A comparison of the data derived from the three surveys, therefore, provides a reliable indication of the growth in the number of school systems having classroom teacher negotiation agreements.

The number of systems reporting classroom teacher agreements in each survey increased 71.4 percent between the school years 1966-67 and 1968-69, as the number of personnel covered by these agreements increased 71.3 percent. Over the same three-year period the number of systems with *comprehensive* classroom teacher agreements grew 167.4 percent, and the number of personnel covered by these agreements increased 144.1 percent. A comprehensive agreement is one which contains some or all of the provisions found in procedural agreements (recognition of an employee organization, negotiation procedures, and procedures for the resolution of impasse), as well as specific items relating to personnel and conditions of employment which are negotiated and agreed upon by the parties involved. The number of states reporting school systems with *comprehensive* classroom teacher agreements increased from 13 to 25 over the three-year period.

A study of the individual school systems recorded in each survey reveals that 3,045 systems filed at least one classroom teacher agreement for one of the three years surveyed. During the 1966-67 school year, 1,531 school systems reported agreements; in the 1967-68 survey 809 systems reported agreements for the first time; systems reporting agreements for the first time in the 1968-69 survey numbered 705.

The number of systems reporting agreements in the 1967-68 and 1968-69 surveys falls short of the number of systems with negotiation experience because a number of systems which previously reported agreements had to be eliminated from the statistics. Some were eliminated because their agreements had been rescinded, others were eliminated by mergers or consolidations, and still other systems were eliminated for failure to respond to the survey questionnaires. In addition, some systems were unable to verify the existence of a current agreement because of the passage of new or revised negotiation legislation, bargaining impasses, representation disputes, the extension of an expired agreement, or uncompleted negotiation. Thus, while the number of school systems reporting classroom teacher agreements increased

71.4 percent over the three-year span, the number of systems which had experienced negotiation at least once during the same period rose 98.9 percent.

TABLE 1.—SCOPE OF CLASSROOM TEACHER NEGOTIATION AGREEMENTS: A THREE-YEAR COMPARISON

Year of survey	Number of systems surveyed	Systems with classroom teacher agreements			Systems with comprehensive classroom teacher agreements		
		Number	Percent of systems surveyed	Professional personnel represented	Number	Percent of systems with agreements	Professional personnel represented
1	2	3	4	5	6	7	8
1966-67	7,157	1,531	21.4%	609,034	389[a]	25.4%	208,433
1967-68	7,175	2,212	30.8	897,651	586[a]	26.5	299,781
1968-69	7,161	2,624	36.6	1,043,565	1,040[b]	39.6	508,740

[a]The figures for these school years *exclude* agreements covering personnel other than classroom teachers.

[b]The figures for this school year include all school systems which verified the existence of a comprehensive agreement in their system. Although 1,040 systems negotiated an agreement for the 1968-69 school year, *only* the 978 systems which filed a copy of their 1968-69 comprehensive agreement in the NEA depository were *analyzed* in the *Negotiation Agreement Provisions.*

TABLE 2.—SCHOOL SYSTEMS HAVING WRITTEN CLASSROOM TEACHER AGREEMENTS: THREE YEARS' EXPERIENCE

State	Systems reporting at least one classroom teacher agreement during the three years				Percent of systems surveyed for 1968-69 reporting at least one classroom teacher agreement during the three years	Systems with comprehensive classroom teacher agreements		
	Systems reporting by April 15, 1967[a]	Systems reporting by April 15, 1968	Systems reporting by April 15, 1969[b]	Systems surveyed for school year 1968-69		1966-67[c]	1967-68[c]	1968-69[d]
1	2	3	4	5	6	7	8	9
Alabama	0	0	0	115	0.0%	0	0	0
Alaska	3	5	7	8	87.5	0	0	0
Arizona	10	17	26	62	41.9	0	0	2
Arkansas	0	2	4	108	3.7	0	0	1
California	301	384	421	489	86.1	0	0	1
Colorado	17	22	29	60	48.3	1	1	4
Connecticut	55	71	89	110	80.9	42	57	65
Delaware	7	9	11	31	35.5	0	0	0
District of Columbia	0	1	1	1	100.0	0	1	1
Florida	5	14	16	63	25.4	0	0	0
Georgia	0	0	0	181	0.0	0	0	0
Hawaii	0	0	0	1	0.0	0	0	0
Idaho	14	22	26	44	59.1	0	0	0
Illinois	62	110	158	405	39.0	10	23	36
Indiana	29	49	64	256	25.0	0	2	8
Iowa	8	14	17	147	11.6	0	0	0
Kansas	26	42	51	102	50.0	0	0	1
Kentucky	1	12	21	159	13.2	0	0	0
Louisiana	0	0	0	67	0.0	0	0	0
Maine	5	14	19	75	25.3	0	0	0
Maryland	5	10	13	24	54.2	0	1	2
Massachusetts	64	118	148	210	70.5	55	105	140
Michigan	238	307	345	394	87.6	237	301	339
Minnesota	19	86	109	157	69.4	1	0	0
Mississippi	1	1	1	143	0.7	0	0	0
Missouri	20	30	51	171	29.8	0	0	1
Montana	5	6	12	33	36.4	0	2	2
Nebraska	2	4	14	41	34.1	0	0	1
Nevada	1	1	1	11	9.1	0	0	0
New Hampshire	6	13	14	35	40.0	0	0	0
New Jersey	151	182	192	311	61.7	1	4	7
New Mexico	5	10	13	44	29.5	0	0	0
New York	74	151	377	510	73.9	8	25	324
North Carolina	1	1	2	158	1.3	0	0	0
North Dakota	1	7	8	17	47.1	0	0	0
Ohio	117	198	269	520	51.7	1	4	12

TABLE 2.—SCHOOL SYSTEMS HAVING WRITTEN CLASSROOM TEACHER AGREEMENTS: THREE YEARS' EXPERIENCE (Continued)

State	Systems reporting at least one classroom teacher agreement during the three years			Systems surveyed for school year 1968-69	Percent of systems surveyed for 1968-69 reporting at least one classroom teacher agreement during the three years	Systems with comprehensive classroom teacher agreements		
	Systems reporting by April 15, 1967[a]	Systems reporting by April 15, 1968	Systems reporting by April 15, 1969[b]			1966-67[c]	1967-68[c]	1968-69[d]
1	2	3	4	5	6	7	8	9
Oklahoma	3	5	6	86	7.0	0	0	0
Oregon	55	72	81	87	93.1	0	0	0
Pennsylvania	42	91	117	505	23.2	1	4	6
Rhode Island	9	20	25	30	83.3	9	18	19
South Carolina	1	1	1	94	1.1	0	0	0
South Dakota	4	7	8	28	28.6	0	0	0
Tennessee	1	3	4	129	3.1	0	0	0
Texas	6	11	26	358	7.3	0	0	0
Utah	3	8	10	31	32.3	0	0	4
Vermont	6	7	8	19	42.1	0	0	0
Virginia	2	4	7	127	5.5	0	1	2
Washington	73	96	103	121	85.1	1	1	3
West Virginia	2	3	5	54	9.3	0	0	0
Wisconsin	68	94	110	210	52.4	22	36	58
Wyoming	3	5	5	19	26.3	0	0	1
Total	1,531	2,340	3,045	7,161	42.5%	389	586	1,040

[a]As the 1966–67 school year was the first year in which the NEA Research Division conducted a negotiation survey, the figures in this column represent all systems reporting negotiation for the first time.

[b]Forty-seven school systems which were late in their response to the survey have been added to the compilation of survey statistics since the preliminary report on the status of negotiation agreements published in the June 1969 DIGEST.

[c]The figures for these school years *exclude* agreements which do not cover classroom teachers.

[d]The figures for this school year include all school systems which verified the existence of a comprehensive agreement in their system. Although 1,040 systems negotiated a comprehensive agreement for the 1968–69 school year, *only* the 978 systems which filed a copy of their 1968–69 comprehensive agreement in the NEA depository were *analyzed* in the *Negotiation Agreement Provisions.*

Special Reports

BRIEFS OF RECENT AGREEMENTS

Durham, Connecticut

Between Regional School District No. 13 and the Regional District No. 13 Education Association, effective July 1, 1970, to June 30, 1971. Approximately 119 certificated professional employees.

Compensation: B.A., $7,400 to $11,200, 11 increments; B.A. plus 30 hours, $12,100 maximum; M.A., $8,000 to $12,400, 12 increments; M.A. plus 30 hours, $13,000 maximum. Differentials: senior high varsity basketball coach, $1,000; senior high varsity soccer coach, $600 additional; senior high junior varsity track coach, $300; yearbook advisor, $300; senior class advisor, $200; senior high newspaper advisor, $250; fine arts coordinator, $800; math/science coordinator, $800; music activity instructor, $150.

Leaves: 15 days' annual sick leave, unlimited maximum accumulation; partial pay for extended illness; 3 separate days for personal leave; 5 separate days' bereavement leave; 3 separate days for religious holidays; leave as needed for attendance at professional conferences with board paying reasonable expenses incurred; early release without loss of pay to begin study program in advance of close of school year.

Insurance: Employer pays 75% of premium for Blue Cross-Blue Shield and $40,000 major medical coverage for individual; employer pays 75% of premium for $5,000 life insurance coverage for individual; tax sheltered annuity plan.

Miscellaneous: Grievance procedure ends with binding arbitration; Association dues deduction; Association has right to use school facilities; joint professional growth committee to study severance pay, sabbatical leave, and employment in critical areas; tuition reimbursement for up to 3 semester hours per school year; duty-free lunch period for all teachers; provisions for class size maintenance, promotion from within school system, and periodic, informal consultation meetings between the board and Association negotiating teams; code of ethics with procedure for Association representation and assistance in case of a complaint against a teacher; board provides legal counsel to defend a teacher in an assault action, or an action arising out of disciplinary measures taken by a teacher; Association to participate in the planning and formulation of programs for the utilization of state and federal funds.

Fitchburg, Massachusetts

Between the Fitchburg School Committee and the Fitchburg Teachers Association, effective February 4, 1970, to August 31, 1972. Provision for reopener on salary schedules prior to October 1, 1970. Two representative units recognized: Unit A—all duly appointed classroom teachers, including guidance personnel, department heads, librarians, and home teachers; Unit B—all principals, assistant and teaching principals, directors, supervisors, and coordinators. Approximately 255 certificated professional employees.

Compensation: (Unit A) B.A., $7,050 to $11,250, 10 increments; B.A. plus 15 hours, $11,500 maximum; M.A., $7,550 to $11,750, 10 increments; M.A. plus 30 hours, $12,250 maximum; M.A. plus 60 hours, $12,750 maximum. Differentials: department chairmen, $600; special education teachers, $500; head high-school football coach, $1,600; head high-school baseball coach, $600; junior high intramurals, $500; junior high and elementary intramurals, $200. Retirement year salary credited at rate of 1/20 of 1% of final year's salary for each day of attendance exceeding 170 days' service in each year worked.

(Unit B—differential added to salary of administrator as teacher) Senior high principal, $5,050; junior high principals, $2,650; directors, $1,800; elementary supervisory principals, $1,800; coordinator of mathematics, $1,350; guidance director, $1,100.

Leaves: 15 days' annual sick leave, 150 days' maximum accumulation; 3 days for personal business; 3 days' bereavement leave; sabbatical leave at half-pay for 1 year after 7 years' service; leave for school visitation or educational

meetings with reimbursement for "reasonable expenses"; leave with or without pay for Association officers or delegates to attend Association conferences and conventions.

Insurance: Tax sheltered annuity plan.

Miscellaneous: Grievance procedure ends with binding arbitration; Association dues deduction; Association has right to use of school facilities; provisions for teacher transfers (voluntary and involuntary), promotion to administrative positions, and legal assistance for teachers; school calendar; duty-free lunch period for all teachers; average of 5 preparation periods per week for secondary teachers; class size provision.

River Rouge, Michigan

Between the River Rouge City School District and the River Rouge Education Association, effective September 1, 1969, to August 31, 1971. Provision for reopener on salary schedules prior to March 31, 1970. Approximately 200 certificated professional employees.

Compensation: B.A., $7,600 to $13,000, 9 increments; M.A., $8,100 to $14,200, 9 increments; second M.A., $14,850 maximum; Ph.D., $15,500 maximum. Differentials: varsity head football coach, $1,000; junior high head football coach, $525; cross country varsity coach, $600; class advisors, $200; school social worker, $700; newspaper sponsor, $350; safety patrol supervisor, $200; cheerleader coach, $550. Substitute teachers, $32 per day; additional compensation for extra classes paid at rate of $7.25 per class hour for temporary substitution (15 teaching days or less), and 20% of daily salary for permanent substitution (more than 15 teaching days).

Leaves: 10 days' annual sick leave, 200 days' maximum accumulation; 2 separate days for personal business; 10 days' bereavement leave deducted from sick bank accumulation; 5 days' paid leave per year for attendance at professional workshops, conferences or siminars with board paying "reasonable expenses incurred"; sabbatical leave at full pay less substitute's base pay for 1 semester or 1 year after 7 years' service; upon death of teacher, accumulated leave paid at cash value of 50% of teacher's current salary.

Insurance: Employer-paid hospitalization, Blue Cross-Blue Shield, and master medical for individual coverage; employer-paid $5,000 life insurance for individual coverage.

Miscellaneous: Grievance procedure ends with binding arbitration; Association dues deduction; Association has right to use school facilities; specific joint committee to study pupil-teacher ratio; joint study committee to recommend in-service human relations training program and "a plan for systematic inclusion of curriculum content that deals with minority groups in both elementary and secondary schools"; duty-free lunch period of no less than 50 minutes for all teachers; provision for in-service training programs; strike and lockout prohibitions; provision for maintenance of standards; system-wide ratio of approximately 21.1 students per teacher; school calendar; regularly employed teachers given preference in summer school assignments; provision to fill vacancies from within system; 5 unassigned preparation periods per week for all junior and senior high teachers; teacher personnel files; regular teacher meetings; pupil discipline provision.

Las Vegas, Nevada

Between the Clark County School District, Las Vegas, Nevada, and the Clark County Classroom Teachers' Association, effective July 1, 1970, to June 30, 1971. Provision for reopener at least 60 days prior to November 1, 1970. Approximately 2,530 certificated professional employees.

Compensation: B.A., $7,430 to $8,770, 6 increments; B.A. plus 32 hours, $10,470 maximum; M.A., $8,430 to $10,950, 10 increments; M.A. plus 32 hours, $12,630 maximum.

Leaves: 15 days' annual sick leave, 75 days' maximum accumulation; 3 days' bereavement leave deducted from sick leave; extended sick leave after 5 years' service; paid leave for conventions or conferences; paid leave for jury duty or court subpoena; Association president granted a minimum of 15 days' paid leave with per-diem and travel allowances during term of office for professional development, community projects, or school visitation.

Insurance: Board pays a maximum of $10.50 per month per employee toward group hospitalization and medical insurance coverage for individual.

Miscellaneous: Grievance procedure ends with binding arbitration; Association dues deduction; Association has right to use of school facilities; nondiscrimination for Association activity; joint committee to study existing school facilities and plan future facilities; faculty advisory committee elected at each

school to discuss school operation and implementation of agreement; inservice training and workshops credited toward salary schedule advancement; 7-hour work day; duty-free lunch period of no less than 30 minutes for all teachers; legal assistance provided for teachers involved in work-related litigation; teacher personnel files.

Neenah, Wisconsin

Between the Neenah Joint School District and the Neenah Education Association, effective January 1, 1970, to December 31, 1970. Approximately 335 certificated professional employees.

Compensation: (effective January 1, 1970) B.A., $7,100 to $10,944, 13 increments; B.A. plus 30 hours, $12,539 maximum; M.A., $7,810 to $12,771, 15 increments; M.A. plus 30 hours, $13,933 maximum; Ph.D., $14,283 maximum; career recognition factor of 4% of base salary in respective training level awarded to teachers with M.A. or Ph.D. degrees and more than 15 years' experience. Differentials (effective September 1, 1969, and figured as a given percentage of a $6,700 base): varsity head football coach, $938; varsity head wrestling coach, $804; junior varsity baseball coach, $402; varsity volleyball coach, $536; athletic director, $402; high-school drama director, $670; high-school debate chairman, $536; Honor Society sponsor, $134; high-school activities director, $268; lunch hour duty, $3 per hour; driver training, $5-$5.50 per hour; department chairmen, 5% or 2.5% of salary, according to size of department.

Leaves: 12 days' annual sick leave, 120 days' maximum accumulation; 2 days' personal leave deducted from accumulation; 5 days' bereavement leave deducted from accumulation; 5 days for family illness deducted from accumulation; sabbatical leave at half-pay for 1 year after 5 years' service.

Insurance: Employer-paid Blue Cross, Blue Shield, or major medical for individual or family coverage; board contributes to employee group life insurance coverage equal to employee's salary for the previous calendar year increased to the next highest thousand; payroll deductions for group income protection plan; comprehensive liability insurance and workman's compensation coverage for all employees; tax sheltered annuity plan.

Miscellaneous: Grievance procedure ends with advisory arbitration; tuition reimbursement for any credit approved in professional growth plan; teacher aides; school vacancies posted and notification sent to Association president; reimbursement for required physical examination and chest X ray; experience credit for teachers entering from other schools; school calendar; teacher personnel files; employee credit union; sabbatical leave and professional growth plans.

1969-70 SURVEY OF WRITTEN NEGOTIATION AGREEMENTS

Preliminary results of the NEA Research Division's annual survey of written negotiation agreements indicate that 3,294 public school systems with an enrollment of 1,000 or more were operating under a written negotiation agreement during the 1969-70 school year. Of the 7,142 school systems surveyed, 6,182 systems employing 1,894,301 instructional personnel responded to the survey, an 86.4 percent response rate. The number of systems with negotiation agreements comprised 53.2 percent of all responding systems, and employed 66.2 percent of all instructional personnel employed in responding systems.

Systems responding in the survey were required to validate the existence of a written teacher-school board conferral procedure, or a negotiation agreement meeting established minimum criteria by filing a copy of that document in the NEA depository.

An increase of 670 systems with negotiated agreements was noted in the 1969-70 survey. A portion of this increase can be attributed to the 1969 enactment of teacher negotiation statutes in Maine, Nebraska, Nevada, North Dakota, South Dakota, and Vermont. In addition, the Oregon statute was amended during that year to allow certificated school employees exclusive representation rights, the Connecticut statute was amended in the areas of representation and duty to negotiate, and a PN law for teachers affecting only one county was enacted in Florida. Delaware enacted a teacher negotiation statute in late October 1969, and Kansas and Alaska enacted new statutes in March 1970, but these recent laws exerted no significant influence upon the survey results. Alabama, Georgia, Hawaii, Louisiana, and Mississippi have no school systems reporting negotiated agreements.

Highlights of the preliminary survey results include:

- The number of systems with negotiated agreements rose from 2,624 in 1968-69 to 3,294 in 1969-70, a 25.5 percent increase.
- Instructional personnel employed in systems with agreements increased from 1,043,565 in 1968-69 to 1,255,364 in 1969-70, a 20.3 percent rise.
- Of the 3,294 systems which validated written negotiation agreements in the 1969-70 survey, 3,257 systems (98.9 percent) indicated organizational representation with a national affiliation. NEA affiliates were the exclusive bargaining representatives in 2,974 systems with negotiated agreements; American Federation of Teachers, AFL-CIO, locals represented instructional personnel in 91 systems with agreements; a mixed affiliation of two or more representative organizations negotiated agreements in 184 school systems.
- National teacher representation figures indicate that the NEA represented 176,208 more teachers in 1969-70 than in the previous year, while representation by American Federation of Teachers locals increased by 22,335 over the same period. Considered in conjunction with the greater number of school systems responding in the 1969-70 survey, the rise in NEA representation pushed the NEA's share of total national teacher representation up to 81.1 percent.
- More than 75 percent of all instructional personnel employed in the nation's largest school systems (enrollments of 12,000 or more) were working under negotiation agreements, according to the 1969-70 survey.
- The Far West remains the region with the greatest proportion of instructional personnel employed in systems with negotiation agreements (93.8 percent). But the 1969-70 survey revealed that only the Southeast and Southwest regions now have less than 60 percent of their professional public school personnel employed in systems with negotiation agreements.

REGIONS	STRATUM	SCHOOL SYSTEM ENROLLMENT
Northeast: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont	1	100,000 or more
Mideast: Delaware, District of Columbia, Maryland, New Jersey, New York, Pennsylvania	2	50,000-99,999
Southeast: Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, West Virginia	3	25,000-49,999
Great Lakes: Illinois, Indiana, Michigan, Ohio, Wisconsin	4	12,000-24,999
Plains: Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota	5	6,000-11,999
Southwest: Arizona, New Mexico, Oklahoma, Texas	6	3,000-5,999
Rocky Mountain: Colorado, Idaho, Montana, Utah, Wyoming	7	1,200-2,999
Far West: Alaska, California, Hawaii, Nevada, Oregon, Washington	8	1,000-1,199

TABLE A

SCOPE OF SURVEY

STATE 1	SYSTEMS SURVEYED 2	SYSTEMS RESPONDING NUMBER 3	SYSTEMS RESPONDING PERCENT 4	TOTAL CLASSROOM TEACHERS EMPLOYED 5	TOTAL INSTRUCTIONAL STAFF EMPLOYED 6
			SYSTEMS RESPONDING		
ALABAMA	115.	93.	80.9	27839.	30088.
ALASKA	8.	8.	100.0	2418.	2791.
ARIZONA	62.	60.	96.8	15392.	17151.
ARKANSAS	108.	83.	76.9	11543.	12386.
CALIFORNIA	488.	450.	92.2	179905.	203123.
COLORADO	60.	57.	95.0	22279.	24615.
CONNECTICUT	110.	103.	93.6	29998.	33637.
DELAWARE	30.	24.	80.0	5369.	5778.
DISTRICT OF COLUMBIA	1.	1.	100.0	8100.	8745.
FLORIDA	63.	52.	82.5	54621.	60756.
GEORGIA	180.	105.	58.3	29115.	32602.
HAWAII	1.	1.	100.0	7573.	8759.
IDAHO	44.	39.	88.6	6021.	6522.
ILLINOIS	405.	364.	89.9	85963.	94635.
INDIANA	255.	227.	89.0	47879.	52201.
IOWA	147.	137.	93.2	21927.	24235.
KANSAS	93.	90.	96.8	18388.	20621.
KENTUCKY	159.	112.	70.4	22086.	24668.
LOUISIANA	67.	43.	64.2	30123.	31609.
MAINE	75.	70.	93.3	8501.	9240.
MARYLAND	24.	20.	83.3	36416.	42517.
MASSACHUSETTS	210.	187.	89.0	48855.	54111.
MICHIGAN	394.	364.	92.4	83712.	92662.
MINNESOTA	157.	142.	90.4	32698.	35844.
MISSISSIPPI	143.	85.	59.4	15308.	16367.
MISSOURI	171.	142.	83.0	32493.	34848.
MONTANA	33.	30.	90.9	5191.	5579.
NEBRASKA	40.	38.	95.0	8718.	9654.
NEVADA	11.	9.	81.8	4686.	5215.
NEW HAMPSHIRE	35.	33.	94.3	5469.	6143.
NEW JERSEY	311.	276.	88.7	59437.	67328.
NEW MEXICO	43.	39.	90.7	10249.	11421.
NEW YORK	511.	455.	89.0	168083.	187993.
NORTH CAROLINA	151.	125.	82.8	44984.	48489.
NORTH DAKOTA	17.	16.	94.1	2934.	3133.
OHIO	521.	459.	88.1	89508.	98415.
OKLAHOMA	86.	69.	80.2	15022.	16443.
OREGON	89.	87.	97.8	19526.	21350.
PENNSYLVANIA	505.	458.	90.7	96953.	107608.
RHODE ISLAND	30.	27.	90.0	8179.	9076.
SOUTH CAROLINA	94.	66.	70.2	22422.	24654.
SOUTH DAKOTA	28.	23.	82.1	3647.	4009.
TENNESSEE	128.	107.	83.6	32606.	34796.
TEXAS	358.	288.	80.4	84780.	95677.
UTAH	31.	28.	90.3	11376.	12784.
VERMONT	20.	19.	95.0	2492.	2765.
VIRGINIA	127.	106.	83.5	44393.	47519.
WASHINGTON	120.	114.	95.0	31533.	35813.
WEST VIRGINIA	54.	47.	87.0	15270.	16593.
WISCONSIN	210.	185.	88.1	34797.	37904.
WYOMING	19.	19.	100.0	3107.	3429.
TOTAL	7142.	6182.	86.4	1709884.	1894301.

STRATUM	SYSTEMS SURVEYED	SYSTEMS RESPONDING NUMBER	SYSTEMS RESPONDING PERCENT	TOTAL CLASSROOM TEACHERS EMPLOYED	TOTAL INSTRUCTIONAL STAFF EMPLOYED
			SYSTEMS RESPONDING		
1	2	3	4	5	6
1	26.	26.	100.0	265229.	298663.
2	56.	55.	98.2	161855.	180301.
3	104.	98.	94.2	140578.	156740.
4	369.	336.	91.1	246114.	272280.
5	844.	755.	89.5	291691.	321526.
6	1665.	1432.	86.0	287523.	317894.
7	3364.	2880.	85.6	281769.	308475.
8	714.	600.	84.0	35125.	38422.
TOTAL	7142.	6182.	86.4	1709884.	1894301.

TABLE 8

STATUS OF WRITTEN NEGOTIATION PROCEDURES

STATE	TOTAL SYSTEMS SURVEYED	RESPONDING SYSTEMS		SYSTEMS WITH PROCEDURES				SYSTEMS WITHOUT PROCEDURES			
		NUMBER	INSTR. STAFF	NUMBER	PERCENT	INSTR. STAFF NUMBER	INSTR. STAFF PERCENT	NUMBER	PERCENT	INSTR. STAFF NUMBER	INSTR. STAFF PERCENT
	1	2	3	4	5	6	7	8	9	10	11
ALABAMA	115	93.	30088.	0.	0.0	0.	0.0	93.	100.0	30088.	100.0
ALASKA	8	8.	2791.	7.	87.5	2671.	95.7	1.	12.5	120.	4.2
ARIZONA	62	60.	17151.	28.	46.6	12160.	70.8	32.	53.3	4991.	29.1
ARKANSAS	108	83.	12386.	6.	7.2	2668.	21.5	77.	92.7	9718.	78.4
CALIFORNIA	488	450.	203123.	418.	92.8	197801.	97.3	32.	7.1	5322.	2.6
COLORADO	60	57.	24615.	33.	57.8	21499.	87.3	24.	42.1	3116.	12.6
CONNECTICUT	110	103.	33637.	92.	89.3	31474.	93.5	11.	10.6	2163.	6.4
DELAWARE	30	24.	5778.	9.	37.5	2857.	49.4	15.	62.5	2921.	50.5
DISTRICT OF COLUMBIA	1	1.	8745.	1.	100.0	8745.	100.0	0.	0.0	0.	0.0
FLORIDA	63	52.	60756.	11.	21.1	24222.	39.8	41.	78.8	36534.	60.1
GEORGIA	180	105.	32602.	0.	0.0	0.	0.0	105.	100.0	32602.	100.0
HAWAII	1	1.	8759.	0.	0.0	0.	0.0	1.	100.0	8759.	100.0
IDAHO	44	39.	6522.	18.	46.1	2789.	42.7	21.	53.8	3733.	57.2
ILLINOIS	405	364.	94635.	189.	51.9	70593.	74.5	175.	48.0	24042.	25.4
INDIANA	255	227.	52201.	65.	28.6	27153.	52.0	162.	71.3	25048.	47.9
IOWA	147	137.	24235.	16.	11.6	6710.	27.6	121.	88.3	17525.	72.3
KANSAS	93	90.	20621.	48.	53.3	13144.	63.7	42.	46.6	7477.	36.2
KENTUCKY	159	112.	24668.	18.	16.0	9386.	38.0	94.	83.9	15282.	61.9
LOUISIANA	67	43.	31609.	0.	0.0	0.	0.0	43.	100.0	31609.	100.0
MAINE	75	70.	9240.	22.	31.4	3968.	42.9	48.	68.5	5272.	57.0
MARYLAND	24	20.	42517.	20.	100.0	42517.	100.0	0.	0.0	0.	0.0
MASSACHUSETTS	210	187.	54111.	170.	90.9	51528.	95.2	17.	9.0	2583.	4.7
MICHIGAN	394	364.	92662.	358.	98.3	92029.	99.3	6.	1.6	633.	0.6
MINNESOTA	157	142.	35844.	123.	86.6	33170.	92.5	19.	13.3	2674.	7.4
MISSISSIPPI	143	85.	16367.	0.	0.0	0.	0.0	85.	100.0	16367.	100.0
MISSOURI	171	142.	34848.	54.	38.0	18029.	51.7	88.	61.9	16819.	48.2
MONTANA	33	30.	5579.	17.	56.6	4146.	74.3	13.	43.3	1433.	25.6
NEBRASKA	40	38.	9654.	20.	52.6	6912.	71.5	18.	47.3	2742.	28.4
NEVADA	11	9.	5215.	3.	33.3	4512.	86.5	6.	66.6	703.	13.4
NEW HAMPSHIRE	35	33.	6143.	12.	36.3	3084.	50.2	21.	63.6	3059.	49.7
NEW JERSEY	311	276.	67328.	230.	83.3	58948.	87.5	46.	16.6	8380.	12.4
NEW MEXICO	43	39.	11421.	12.	30.7	5507.	48.2	27.	69.2	5914.	51.7
NEW YORK	511	455.	187993.	432.	94.9	183792.	97.7	23.	5.0	4201.	2.2
NORTH CAROLINA	151	125.	48489.	3.	2.4	1646.	3.3	122.	97.6	46843.	96.6
NORTH DAKOTA	17	16.	3133.	9.	56.2	2016.	64.3	7.	43.7	1117.	35.6
OHIO	521	459.	98415.	278.	60.5	77958.	79.2	181.	39.4	20457.	20.7
OKLAHOMA	86	69.	16443.	7.	10.1	8704.	52.9	62.	89.8	7739.	47.0
OREGON	89	87.	21350.	74.	85.0	19806.	92.7	13.	14.9	1544.	7.2
PENNSYLVANIA	505	458.	107608.	133.	29.0	52309.	48.6	325.	70.9	55299.	51.3
RHODE ISLAND	30	27.	9076.	22.	81.4	7884.	86.8	5.	18.5	1192.	13.1
SOUTH CAROLINA	94	66.	24654.	2.	3.0	1195.	4.8	64.	96.9	23459.	95.1
SOUTH DAKOTA	28	23.	4009.	10.	43.4	2447.	61.0	13.	56.5	1562.	38.9
TENNESSEE	128	107.	34796.	4.	3.7	10639.	30.5	103.	96.2	24157.	69.4
TEXAS	358	288.	95677.	38.	13.1	35743.	37.3	250.	86.8	59934.	62.6
UTAH	31	28.	12784.	8.	28.5	7547.	59.0	20.	71.4	5237.	40.9
VERMONT	20	19.	2765.	7.	36.8	1225.	44.3	12.	63.1	1540.	55.6
VIRGINIA	127	106.	47519.	7.	6.6	10873.	22.8	99.	93.3	36646.	77.1
WASHINGTON	120	114.	35813.	104.	91.2	34973.	97.6	10.	8.7	840.	2.3
WEST VIRGINIA	54	47.	16593.	7.	14.8	2832.	17.0	40.	85.1	13761.	82.9
WISCONSIN	210	185.	37904.	141.	76.2	33395.	88.1	44.	23.7	4509.	11.8
WYOMING	19	19.	3429.	8.	42.1	2158.	62.9	11.	57.8	1271.	37.0
TOTAL	7142	6182.	1894301.	3294.	53.2	1255364.	66.2	2888.	46.7	638937.	33.7

TABLE 8

STATUS OF WRITTEN NEGOTIATION PROCEDURES

STRATUM	TOTAL SYSTEMS SURVEYED	RESPONDING SYSTEMS		SYSTEMS WITH PROCEDURES				SYSTEMS WITHOUT PROCEDURES			
		NUMBER	INSTR. STAFF	NUMBER	PERCENT	INSTR. STAFF NUMBER	INSTR. STAFF PERCENT	NUMBER	PERCENT	INSTR. STAFF NUMBER	INSTR. STAFF PERCENT
	1	2	3	4	5	6	7	8	9	10	11
1	26	26.	298663.	20.	76.9	263313.	88.1	6.	23.0	35350.	11.8
2	56	55.	180301.	39.	70.9	131034.	72.6	16.	29.0	49267.	27.3
3	104	98.	156740.	61.	62.2	96367.	61.4	37.	37.7	60373.	38.5
4	369	336.	272280.	234.	69.6	193487.	71.0	102.	30.3	78793.	28.9
5	644	755.	321526.	461.	61.0	205910.	64.0	294.	38.9	115616.	35.9
6	1665	1432.	317894.	812.	56.7	189803.	59.7	620.	43.2	128091.	40.2
7	3364	2880.	308475.	1403.	48.7	157961.	51.2	1477.	51.2	150514.	48.7
8	714	600.	38422.	264.	44.0	17489.	45.5	336.	56.0	20933.	54.4
TOTAL	7142	6182.	1894301.	3294.	53.2	1255364.	66.2	2888.	46.7	638937.	33.7

TABLE D-1

NUMBER OF PROFESSIONAL PERSONNEL REPRESENTED BY NATIONAL AFFILIATION OF LOCAL ORGANIZATIONS FOR NEGOTIATION PURPOSES

STATE	PERSONNEL REPRESENTED NO.	PERSONNEL REPRESENTED PCT.	N. E. A. NO.	N. E. A. PCT.	A. F. T. NO.	A. F. T. PCT.	INDEPENDENT NO.	INDEPENDENT PCT.
1	2	3	4	5	6	7	8	9
ALABAMA	...	...	...	...	...	...	...	...
ALASKA	2,053	100.0	2,053	100.0	...	...	...	...
ARIZONA	10,580	100.0	10,580	100.0	...	...	...	...
ARKANSAS	2,535	100.0	2,535	100.0	...	...	...	...
CALIFORNIA	164,497	100.0	157,360	95.7	4,602	2.8	2,535	1.5
COLORADO	19,538	100.0	19,260	98.6	78	.4	200	1.0
CONNECTICUT	30,352	100.1	25,494	83.9	4,487	14.8	411	1.4
DELAWARE	2,650	100.0	1,800	67.9	850	32.1	...	...
DISTRICT OF COLUMBIA	8,100	100.0	...	...	8,100	100.0	...	...
FLORIDA	18,528	100.0	17,778	96.0	...	...	750	4.0
GEORGIA	...	...	...	...	...	...	...	...
HAWAII	...	...	...	...	...	...	...	...
IDAHO	2,574	100.0	2,574	100.0	...	...	...	...
ILLINOIS	63,834	100.1	31,581	49.5	31,700	49.7	553	.9
INDIANA	24,835	100.0	21,715	87.4	3,120	12.6	...	...
IOWA	5,086	100.0	5,086	100.0	...	...	...	...
KANSAS	12,600	100.0	12,600	100.0	...	...	...	...
KENTUCKY	9,083	100.0	9,083	100.0	...	...	...	...
LOUISIANA	...	...	...	...	...	...	...	...
MAINE	3,697	100.0	3,697	100.0	...	...	...	...
MARYLAND	40,237	100.0	31,437	78.1	8,800	21.9	...	...
MASSACHUSETTS	49,393	99.9	42,988	87.0	6,338	12.8	67	.1
MICHIGAN	85,194	100.0	67,395	79.1	16,682	19.6	1,117	1.3
MINNESOTA	30,028	100.0	21,224	70.7	8,198	27.3	586	2.0
MISSISSIPPI	...	...	...	...	...	...	...	...
MISSOURI	16,542	99.9	13,372	80.8	2,952	17.8	218	1.3
MONTANA	3,663	100.0	3,315	85.6	548	14.2	...	...
NEBRASKA	6,204	100.0	6,204	100.0	...	...	...	...
NEVADA	3,833	100.0	3,833	100.0	...	...	...	...
NEW HAMPSHIRE	2,867	100.0	2,429	84.7	438	15.3	...	...
NEW JERSEY	54,349	100.0	49,291	90.7	4,900	9.0	158	.3
NEW MEXICO	4,972	100.0	4,972	100.0	...	...	...	...
NEW YORK	172,670	100.0	97,293	56.3	72,970	42.3	2,407	1.4
NORTH CAROLINA	1,270	100.0	1,270	100.0	...	...	...	...
NORTH DAKOTA	1,933	100.0	1,933	100.0	...	...	...	...
OHIO	70,884	100.0	61,047	86.1	9,443	13.3	394	.6
OKLAHOMA	7,445	100.0	7,445	100.0	...	...	...	...
OREGON	15,530	100.0	15,530	100.0	...	...	...	...
PENNSYLVANIA	47,240	100.0	32,560	68.9	14,680	31.1	...	...
RHODE ISLAND	7,268	100.0	3,651	50.2	3,617	49.8	...	...
SOUTH CAROLINA	1,150	100.0	1,150	100.0	...	...	...	...
SOUTH DAKOTA	2,273	100.0	2,273	100.0	...	...	...	...
TENNESSEE	10,544	100.0	10,544	100.0	...	...	...	...
TEXAS	30,822	100.0	29,588	96.0	...	...	1,234	4.0
UTAH	6,793	100.0	6,793	100.0	...	...	...	...
VERMONT	1,166	100.0	1,166	100.0	...	...	...	...
VIRGINIA	10,726	100.0	10,726	100.0	...	...	...	...
WASHINGTON	34,400	100.0	34,400	100.0	...	...	...	...
WEST VIRGINIA	2,650	100.0	2,650	100.0	...	...	...	...
WISCONSIN	31,055	100.0	29,835	96.1	1,220	3.9	...	...
WYOMING	2,000	100.0	2,000	100.0	...	...	...	...
T O T A L	1,135,823	99.9	921,470	81.1	203,723	17.9	10,630	.9

TABLE D-1

NUMBER OF PROFESSIONAL PERSONNEL REPRESENTED BY NATIONAL AFFILIATION OF LOCAL ORGANIZATIONS FOR NEGOTIATION PURPOSES

STRATUM	PERSONNEL REPRESENTED NO.	PERSONNEL REPRESENTED PCT.	N. E. A. NO.	N. E. A. PCT.	A. F. T. NO.	A. F. T. PCT.	INDEPENDENT NO.	INDEPENDENT PCT.
1	2	3	4	5	6	7	8	9
1	225,347	100.0	86,812	38.5	135,339	60.1	3,196	1.4
2	116,879	100.0	93,070	79.6	21,850	18.7	1,958	1.7
3	88,643	99.9	80,161	90.4	7,566	8.5	916	1.0
4	178,254	100.0	160,695	90.1	16,213	9.1	1,346	.8
5	190,443	100.0	175,561	92.2	12,941	6.8	1,941	1.0
6	175,260	100.0	168,042	95.9	6,792	3.9	426	.2
7	145,025	100.1	141,487	97.6	2,867	2.0	671	.5
8	15,973	100.0	15,642	97.9	155	1.0	176	1.1
T O T A L	1,135,823	99.9	921,470	81.1	203,723	17.9	10,630	.9

TABLE D-2

NATIONAL AFFILIATION OF ORGANIZATIONS REPRESENTING PROFESSIONAL STAFF IN NEGOTIATION

STATE	SYSTEMS WITH ORGANIZATIONAL REPRESENTATION NO.	PCT.	N. E. A. NO.	PCT.	A. F. T. NO.	PCT.	INDEPENDENT NO.	PCT.	TWO OR MORE ORGANIZATIONS WITH MIXED AFFILIATIONS NO.	PCT.
1	2	3	4	5	6	7	8	9	10	11
ALABAMA	...	...	...	...	...	...	...	...	...	...
ALASKA	7	100.0	7	100.0	...	...	...	...	...	...
ARIZONA	27	100.0	27	100.0	...	...	...	...	...	...
ARKANSAS	6	100.0	6	100.0	...	...	...	...	...	...
CALIFORNIA	418	99.9	373	89.2	...	...	1	.2	44	10.5
COLORADO	32	100.1	30	93.8	...	...	...	...	2	6.3
CONNECTICUT	92	100.0	81	88.0	2	2.2	...	...	9	9.8
DELAWARE	9	100.0	8	88.9	1	11.1	...	...	...	...
DISTRICT OF COLUMBIA	1	100.0	...	...	1	100.0	...	...	...	...
FLORIDA	11	100.0	10	90.9	...	...	...	...	1	9.1
GEORGIA	...	...	...	...	...	...	...	...	...	...
HAWAII	...	...	...	...	...	...	...	...	...	...
IDAHO	18	100.0	18	100.0	...	...	...	...	...	...
ILLINOIS	186	99.9	155	83.3	29	15.6	1	.5	1	.5
INDIANA	65	100.0	59	90.8	5	7.7	...	...	1	1.5
IOWA	15	100.0	15	100.0	...	...	...	...	...	...
KANSAS	47	100.0	47	100.0	...	...	...	...	...	...
KENTUCKY	17	100.0	17	100.0	...	...	...	...	...	...
LOUISIANA	...	...	...	...	...	...	...	...	...	...
MAINE	22	100.0	22	100.0	...	...	...	...	...	...
MARYLAND	20	100.0	19	95.0	...	...	...	...	1	5.0
MASSACHUSETTS	170	99.9	158	92.9	6	3.5	...	...	6	3.5
MICHIGAN	358	100.0	337	94.1	15	4.2	1	.3	5	1.4
MINNESOTA	123	99.9	71	57.7	3	2.4	1	.8	48	39.0
MISSISSIPPI	...	...	...	...	...	...	...	...	...	...
MISSOURI	52	100.0	51	98.1	...	...	...	...	1	1.9
MONTANA	17	100.0	15	88.2	2	11.8	...	...	...	...
NEBRASKA	20	100.0	20	100.0	...	...	...	...	...	...
NEVADA	3	100.0	3	100.0	...	...	...	...	...	...
NEW HAMPSHIRE	12	100.0	11	91.7	1	8.3	...	...	...	...
NEW JERSEY	230	100.0	221	96.1	2	.9	...	...	7	3.0
NEW MEXICO	12	100.0	12	100.0	...	...	...	...	...	...
NEW YORK	432	100.1	374	86.6	5	1.2	3	.7	50	11.6
NORTH CAROLINA	2	100.0	2	100.0	...	...	...	...	...	...
NORTH DAKOTA	9	100.0	9	100.0	...	...	...	...	...	...
OHIO	275	100.1	267	97.1	4	1.5	...	...	4	1.5
OKLAHOMA	7	100.0	7	100.0	...	...	...	...	...	...
OREGON	53	100.0	53	100.0	...	...	...	...	...	...
PENNSYLVANIA	131	100.0	125	95.4	3	2.3	...	...	3	2.3
RHODE ISLAND	22	100.0	16	72.7	6	27.3	...	...	...	...
SOUTH CAROLINA	2	100.0	2	100.0	...	...	...	...	...	...
SOUTH DAKOTA	10	100.0	10	100.0	...	...	...	...	...	...
TENNESSEE	4	100.0	4	100.0	...	...	...	...	...	...
TEXAS	38	99.9	36	94.7	...	...	1	2.6	1	2.6
UTAH	8	100.0	8	100.0	...	...	...	...	...	...
VERMONT	7	100.0	7	100.0	...	...	...	...	...	...
VIRGINIA	7	100.0	7	100.0	...	...	...	...	...	...
WASHINGTON	104	100.0	104	100.0	...	...	...	...	...	...
WEST VIRGINIA	7	100.0	7	100.0	...	...	...	...	...	...
WISCONSIN	141	100.0	135	95.7	6	4.3	...	...	...	...
WYOMING	8	100.0	8	100.0	...	...	...	...	...	...
T O T A L	3,257	99.9	2,974	91.3	91	2.8	8	.2	184	5.6

TABLE D-2

NATIONAL AFFILIATION OF ORGANIZATIONS REPRESENTING PROFESSIONAL STAFF IN NEGOTIATION

STRATUM	SYSTEMS WITH ORGANIZATIONAL REPRESENTATION NO.	PCT.	N. E. A. NO.	PCT.	A. F. T. NO.	PCT.	INDEPENDENT NO.	PCT.	TWO OR MORE ORGANIZATIONS WITH MIXED AFFILIATIONS NO.	PCT.
1	2	3	4	5	6	7	8	9	10	11
1	20	100.0	10	50.0	4	20.0	...	...	6	30.0
2	39	100.0	27	69.2	3	7.7	...	...	9	23.1
3	61	100.0	51	83.6	2	3.3	...	...	8	13.1
4	232	100.0	190	81.9	10	4.3	...	...	32	13.8
5	458	99.9	384	83.8	24	5.2	1	.2	49	10.7
6	803	100.0	735	91.5	25	3.1	...	...	43	5.4
7	1,385	100.0	1,326	95.7	21	1.5	5	.4	33	2.4
8	259	100.0	251	96.9	2	.8	2	.8	4	1.5
T O T A L	3,257	99.9	2,974	91.3	91	2.8	8	.2	184	5.6

TABLE J-1

PERCENT OF SCHOOL SYSTEMS WHICH HAVE WRITTEN PROCEDURES BY WHICH LOCAL TEACHERS NEGOTIATE FOR ALL OR PART OF THE PROFESSIONAL STAFF IN RESPONDING SCHOOL SYSTEMS

ITEM	ENROLLMENT STRATUM								
	TOTAL	1	2	3	4	5	6	7	8
1	2	3	4	5	6	7	8	9	10
YES	53.3	76.9	70.9	62.2	69.6	61.1	56.7	48.7	44.0
NO	46.7	23.1	29.1	37.8	30.4	38.9	43.3	51.3	56.0
TOTAL	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
TOTAL RESPONSE	6,182	26	55	98	336	755	1,432	2,880	600

TABLE J-2

PERCENT OF SCHOOL SYSTEMS WHICH HAVE WRITTEN PROCEDURES BY WHICH LOCAL TEACHERS NEGOTIATE FOR ALL OR PART OF THE PROFESSIONAL STAFF IN RESPONDING SCHOOL SYSTEMS

ITEM	ENROLLMENT GROUPING			REGION							
	1,2,3 A	4,5,6 B	7,8 C	N.E.	MIDEAST	S.E.	G.L.	PLAINS	S.W.	R.M.	FAR WEST
1	2	3	4	5	6	7	8	9	10	11	12
YES	67.0	59.7	47.9	74.0	66.9	5.7	64.5	47.6	18.6	48.6	90.6
NO	33.0	40.3	52.1	26.0	33.1	94.3	35.5	52.4	81.4	51.4	9.4
TOTAL	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
TOTAL RESPONSE	179	2,523	3,480	439	1,234	1,023	1,600	588	457	173	668

TABLE K-1

PERCENT OF INSTRUCTIONAL STAFF IN SCHOOL SYSTEMS WHICH HAVE WRITTEN PROCEDURES BY WHICH LOCAL TEACHERS NEGOTIATE FOR ALL OR PART OF THE PROFESSIONAL STAFF IN RESPONDING SCHOOL SYSTEMS

ITEM	ENROLLMENT STRATUM								
	TOTAL	1	2	3	4	5	6	7	8
1	2	3	4	5	6	7	8	9	10
YES	66.3	88.2	72.7	61.5	71.1	64.0	59.7	51.2	45.5
NO	33.7	11.8	27.3	38.5	28.9	36.0	40.3	48.8	54.5
TOTAL	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
TOTAL RESPONSE	1,894,301	298,663	180,301	156,740	272,280	321,526	317,894	308,475	38,422

TABLE K-2

PERCENT OF INSTRUCTIONAL STAFF IN SCHOOL SYSTEMS WHICH HAVE WRITTEN PROCEDURES BY WHICH LOCAL TEACHERS NEGOTIATE FOR ALL OR PART OF THE PROFESSIONAL STAFF IN RESPONDING SCHOOL SYSTEMS

ITEM	ENROLLMENT GROUPING			REGION							
	1,2,3 A	4,5,6 B	7,8 C	N.E.	MIDEAST	S.E.	G.L.	PLAINS	S.W.	R.M.	FAR WEST
1	2	3	4	5	6	7	8	9	10	11	12
YES	77.2	64.6	50.6	86.2	83.1	16.7	80.1	62.3	44.1	72.1	93.8
NO	22.8	35.4	49.4	13.8	16.9	83.3	19.9	37.7	55.9	27.9	6.2
TOTAL	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
TOTAL RESPONSE	635,704	911,700	346,897	114,972	419,969	380,237	376,026	132,344	140,982	52,929	276,842

Texts

KANSAS

PROFESSIONAL NEGOTIATIONS ACT FOR TEACHERS

House Bill No. 1647

An Act concerning public schools and community junior colleges; collective negotiation and conferences concerning terms and conditions of employment; making arbitration provisions; amending K.S.A. 72-5411 and repealing the existing section.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF KANSAS:

New Section 1.

When used in this act, unless the context otherwise requires:

(a) The term "person" includes one or more individuals, organizations, associations, corporations, boards, committees, commissions, agencies, or their representatives.

(b) "Board of education" means any board of education of any school district or the board of trustees of any community junior college of Kansas.

(c) "Professional employee" means any person employed by a board of education in a position which requires a certificate issued by the state board of education or employed in a professional educational capacity by a board of education.

(d) "Administrative employee" means any professional employee who is employed by a board of education in an administrative capacity.

(e) "Professional employees' organizations" means one or more organizations, agencies, committees, councils or groups of any kind in which professional employees participate, and which exist for the purpose, in whole or part, of meeting, conferring, consulting and discussing with boards of education with respect to the terms and conditions of professional service.

(f) "Representative" means any professional employees' organization or person it authorizes or designates to act in its behalf.

(g) "Professional negotiation" means meeting, conferring, consulting and discussing in a good faith effort by both parties to reach agreement with respect to the terms and conditions of professional service.

New Section 2.

Professional employees shall have the right to form, join or assist professional employees' organizations, to participate in professional negotiation with boards of education through representatives of their own choosing for the purpose of establishing, maintaining, protecting or improving terms and conditions of professional service. Professional employees shall also have the right to refrain from any or all of the foregoing activities. In professional negotiations under this act the board of education may be represented by an agent or committee designated by it.

New Section 3.

The representative designated or selected for the purposes of professional negotiation by the majority of the professional employees, except administrative employees, in an appropriate negotiating unit shall be the exclusive representative of all the professional employees, except administrative employees, in such unit for such purpose. The representative designated or selected for the purpose of professional negotiation by the majority of the administrative employees in an appropriate negotiating unit shall be the exclusive representative of all the administrative employees in such unit for such purpose. Nothing in this section shall be construed to prevent professional employees, individually or in concert or through such representatives as they may choose collectively or individually, from presenting or making known their positions and/or proposals to a board of education, a superintendent of schools or other chief executive officer employed by a board of education.

New Section 4.

Any professional employees' organization may file a request with a board of education alleging that a majority of the professional employees in an appropriate negotiating unit wish to be represented for the purposes of professional negotiation by such organization and asking such

board of education to recognize it as the exclusive representative under section 3 of this act. Such request shall describe the grouping of jobs or positions which constitute the unit claimed to be appropriate and shall include a demonstration of majority support through verified membership lists. Notice of such request shall immediately be posted by the board of education on a bulletin board at each school or other facility in which members of the unit claimed to be appropriate are employed. Such request for recognition shall be granted by the board of education unless:

(a) The board of education has a good faith doubt as to the accuracy or validity of the evidence demonstrating majority support; or

(b) another professional employees' organization files with the board of education a competing claim of majority support within ten (10) calendar days after the posting of notice of the original request and submits as evidence of its claim of majority support verified membership lists demonstrating support of at least thirty percent (30%) of the professional employees in the appropriate negotiating unit; or

(c) there is currently in effect a lawful written agreement negotiated by the board of education and a professional employees' organization, unless the expiration date of such agreement is less than sixty (60) days after the filing of the request for recognition; or

(d) the board of education has, within the previous thirty-six (36) months, lawfully recognized a professional employees' organization other than the petitioner as the exclusive representative of any professional employees included in the unit described in the petition.

New Section 5.

A petition may be filed with the state board of education, in accordance with such rules and regulations as it may prescribe for such filings, asking it to investigate and decide the question of whether professional employees of an appropriate negotiating unit have selected or designated an exclusive representative under section 3 of this act, by:

(a) A board of education alleging that it has received a request for exclusive recognition from a professional employees' organization and has a good faith doubt as to the accuracy or validity of the claims made in such request; or

(b) by a professional employees' organization alleging that it has filed a request for recognition as exclusive representative with a board of education and that such request has been denied.

New Section 6.

Upon receipt of such a petition the state board of education or its agents shall conduct such inquiries and investigations or hold such hearings as it shall deem necessary in order to decide the questions raised by the petition. The state board of education's determination may be based upon the evidence adduced in such inquiries, investigations, or hearings as it or its agents shall make or hold, or upon the results of a secret ballot election that it shall direct and conduct if deemed necessary: *Provided,* That the state board of education shall dismiss, without determining the questions raised therein, any petition filed pursuant to subsection (b) of section 5 of this act if:

(a) The petition is not supported by credible evidence that at least thirty percent (30%) of the professional employees in the unit described therein are members of the organization seeking recognition; or

(b) the board of education has, within the previous twelve (12) months, lawfully recognized a professional employees' organization other than the petitioner as the exclusive representative of any professional employees included in the unit described in the petition.

New Section 7.

If the state board of education decides that it is necessary to direct and conduct a secret ballot election in order to resolve the questions raised by such petition, it shall order such election held, but in no event shall the name of a professional employees' organization appear on such ballot unless it has submitted to the state board of education satisfactory evidence demonstrating that at least thirty percent (30%) of the professional employees in the appropriate unit are members in good standing of such organization.

New Section 8.

In each case where the question is in issue, the state board of education shall decide, on the basis of the community of interest between and among the professional employees of the board of education, except administrative employees, their wishes and/or their established practices including, among other things, the extent to which such employees have joined a professional employees organization, whether the unit appropriate for the purposes of professional negotiation shall consist of all persons employed by the board of education who are engaged in teaching or performing other duties of an educational nature, except administrative employees, or some subdivision thereof: Provided, That a unit including classroom teachers shall not be appropriate unless it includes all such teachers employed by the board of education, except administrative employees. A unit including administrative employees shall include all adminis-

trative employees employed by the board of education.

New Section 9.

A board of education and a representative selected or designated pursuant to the provisions of sections 3 to 8 of this act may enter into an agreement covering terms and conditions of professional service. Such agreements become binding when ratified by a majority of the members of the board of education and a majority of the members of the applicable negotiating unit.

New Section 10.

Except as otherwise expressly provided herein, this act shall not operate so as to annul, modify or preclude the renewal or continuation of any lawful agreement heretofore entered into between a board of education and a professional employees' organization covering terms and conditions of professional service.

New Section 11.

(a) Nothing in sections 1 to 12, inclusive, of this act shall be construed to change or affect any right or duty conferred or imposed by law upon any board of education, except that boards of education are required to comply with this act in recognizing professional employees' organizations, and when such an organization is recognized, the board of education and the professional employees' organization shall enter into professional negotiations prior to issuance of the annual teachers' contracts or renewal of the same on request of either party: Provided, That notices to negotiate on new items or to amend an existing contract must be filed on or before December 1 in any school year by either party, such notices to be in writing and delivered to the superintendent of schools or to the representative of the bargaining unit and containing in reasonable and understandable detail the purpose of the new or amended items desired.

(b) Nothing in this act shall be construed to authorize a strike by professional employees.

(c) Any agreement lawfully made under the provisions of this act may be adopted by reference and made a part of the employment contract between any professional employee of the applicable negotiating unit and a board of education for a period of not to exceed two years.

New Section 12.

(a) A board of education and a professional employees' organization who enter into an agreement covering terms and conditions of professional service may include in such agreement procedures for final and binding arbitration of such disputes as may arise involving the interpretation, application or violation of such agreement.

(b) Where a party to such agreement is aggrieved by the failure, neglect or refusal of the other party to proceed to arbitration in the manner provided for in such agreement, such aggrieved party may file a complaint in court for a summary action without jury seeking an order directing that the arbitration proceed in the manner provided for in such agreement.

Section 13.

K.S.A. 72-5411 is hereby amended to read as follows: All contracts of employment of teachers in the public schools in the state, shall continue in full force and effect during good behavior and efficient and competent service rendered by the teacher, and all such contracts of employment shall be deemed to continue for the next succeeding school year unless written notice of intention to terminate the contract be served by the governing body upon any such teacher on or before the fifteenth day of March or the teacher shall give written notice to the governing body of the school district on or before the fifteenth day of April that the teacher does not desire continuation of said contract: ~~Provided, That in common school districts and rural high school districts the continuation of such contracts shall be subject to the annual school meeting voting to maintain school for the next succeeding year, and subject to the adoption of a sufficient budget: Provided further, That.~~ Terms of a contract may be changed at any time by mutual consent of both the teacher and the governing body of the school district.

New Section 14.

If any provision of this act shall be held invalid, other provisions of this act shall not be affected thereby.

Section 15.

K.S.A. 72-5411 is hereby repealed.

Section 16.

This act shall take effect and be in force from and after its publication in the statute book.

AMENDMENTS TO THE SOUTH DAKOTA BARGAINING STATUTE

S.B. 89

An Act

ENTITLED, An Act to amend SDCL 3-18-2, 3-18-3, and 3-18 by adding a new section thereto, all concerning public employees' unions.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1.

That SDCL 3-18-2 be, and the same is hereby, amended to read as follows:

3-18-2. Public employees shall have the right to form and join labor or employee organizations, and shall have the right not to form and join such organizations. Public employees shall have the right to designate representatives for the purpose of meeting *and negotiating* with the governmental agency or representatives designated by it with respect to *grievance procedures* and conditions of employment. It shall be unlawful to discharge or otherwise discriminate against an employee for the exercise of such rights, and the governmental agency or its designated representatives shall be required to meet *and negotiate* with the representatives of the employees at reasonable times in connection with such *grievance procedures* and conditions of employment. It shall be unlawful for any person or group of persons, either directly or indirectly to intimidate or coerce any public employee to join, or refrain from joining, a labor or employee organization.

Section 2.

That SDCL 3-18-3 be, and the same is hereby, amended to read as follows:

3-18-3. Organizations of public employees shall be granted recognition by a governmental agency according to the extent to which they represent employees of the governmental agency. Informal recognition shall be granted to any labor or employee organization regardless of the recognition granted to any other labor or employee organization. Informal recognition shall give an organization the right to meet with, confer, and otherwise communicate with the governmental agency or its designated representatives on matters of interest to its members. Formal recognition shall be granted to any labor or employee organization representing a majority of the employees in an appropriate unit. Formal recognition shall give an organization the right to meet with, *negotiate* and otherwise communicate with the governmental agency or its designated representatives with the object of reaching a settlement applicable to all employees of the unit.

Section 3.

That SDCL 3-18 be, and the same is hereby, amended by adding thereto a new section reading as follows:

In case of an impasse or failure to reach an agreement in negotiations conducted under the provisions of this chapter, either party may request the commissioner of labor to intervene under the provisions of 60-10-1 to 60-10-3. Nothing in this section shall prohibit the parties to such an impasse from adopting any other procedure to facilitate a settlement that may be mutually agreeable.

S.B. 108

An Act

ENTITLED, An Act relating to SDCL 3-18 and providing for grievance procedures and their enactment by the political subdivisions of, and the state of, South Dakota, and amending 3-18-8 and 3-18-9 relative to public employees' unions.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1.

The word "grievance" as used in this Act and SDCL 3-18 shall mean a complaint by a public employee or group of public employees based upon an alleged violation, misinterpretation, or inequitable application of any existing agreements, contracts, ordinances, policies, rules or regulations of the government of the state of South Dakota or the government of any one or more of the political subdivisions thereof, or of the public schools, or any authority, commission, or board, or any other branch of the public service, as they apply to the conditions of employment. Negotiations for, or a disagreement over, a nonexisting agreement, contract, ordinance, policy, rule or regulation is not a "grievance" and is not subject to this section.

The governing officer or board of each governmental agency shall enact, by agreement, ordinance, regulation, rule or resolution, and make known to its employees a procedure which its employees may follow for prompt informal dispositions of their grievances.

If, after following the grievance procedure enacted by the governing body, the grievance remains unresolved, it may be appealed to the labor commissioner, who shall conduct an inves-

tigation and hearing and shall issue an order covering the points raised, which order shall be binding on the employees and the governmental agency.

If no grievance procedure is enacted as provided in this section, the labor commissioner may be requested to enter the grievance pursuant to SDCL 60-10.

Nothing in this Act shall be construed as preventing a governmental agency from legally changing any ordinance, policy, rule, or regulation which is currently the subject matter of a grievance procedure. However, any prior contractual rights shall not be affected by a subsequent change of any ordinance, policy, rule, or regulation.

Section 2.

That SDCL 3-18-8 be, and the same is hereby, amended to read as follows:

3-18-8. If a settlement is reached with a labor or employee organization or organizations and the governing body, such governing body shall implement the settlement in the form of an ordinance, resolution, or memorandum of understanding as may be appropriate *and consistent with the powers of the governing body.* If the settlement requires the adoption of a law or charter amendment to implement it fully, the governmental agency shall make every reasonable effort to propose and secure the enactment of the law or charter amendment.

Section 3.

That SDCL 3-18-9 be, and the same is hereby, amended to read as follows:

3-18-9. The word "strike" as used in *this chapter* shall mean the failure to report for duty, the willful absence from one's position, the stoppage of work, or the abstinence in whole or in part from the full, faithful and proper performance of the duties of employment by concerting action with others, and without the lawful approval of one's superior, or in any manner interfering with the operation of government of the state of South Dakota, the government of any of the political subdivisions thereof, the public schools or any authority, commission, board or branch thereof, for the purpose of ~~inducing, influencing or~~ coercing a change in the conditions or compensation or the rights, privileges or obligations of employment.

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RESEARCH DIVISION
NATIONAL EDUCATION ASSOCIATION

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Case Reviews

COLORADO

EXCLUSIVE PRIVILEGES GRANTED TO BARGAINING REPRESENTATIVE UPHELD

A constitutional challenge to the Denver County School District's grant of exclusive privileges to the Denver Classroom Teachers Association (DCTA) was rejected by the U.S. District Court for the District of Colorado in finding that such a grant did not violate the minority organization's First and Fourteenth Amendment rights. Noting that the challenge brought by the American Federation of Teachers, AFL-CIO, Local 858, presented "a departure from classic labor law in that the employer is a public entity . . . and the place of employment is a public institution of a character presenting special yet distinct opportunities for the exercise of First Amendment rights," the court essentially concluded that the issue involved labor relations, rather than impairment of constitutional rights.

After the DCTA again was elected bargaining representative of Denver teachers in the spring of 1969, the DCTA and the district began negotiating a renewal agreement. Local 858 subsequently filed suit against the district for injunctive and declaratory relief, claiming that the district's grant of check-off and other exclusive privileges to the DCTA and its denial of the same to Local 858 violated the local's rights of free speech and equal protection under the law.

The court initially determined that three questions were at issue: whether the court had jurisdiction over the action, whether the denial of exclusive privileges to Local 858 violated the First Amendment, and whether the denial violated the local's right to equal protection under the Fourteenth Amendment. In examining case law and emphasizing that the suit was an action for injunctive and declaratory relief rather than damages, the court ruled that the district was a "person" within the meaning of 42 U.S.C.A. 1983, and that the court had subject-matter jurisdiction over the cause of action.

Plaintiffs' contention that the district's grant of exclusive privileges to the DCTA violated plaintiffs' rights of free speech and association under the First Amendment was not supported "with convincing authority," according to the court. Explaining that "we must carefully distinguish the exercise of those rights peculiarly involved in the employer-employee relationship from broader rights of speech and association," the court found that plaintiffs' brief "generally alleges . . . interference with organizational rights [while] their argument . . . is directed to a claim of impairment of broader rights of free speech." The court rejected the latter claim, explaining:

> The parties are so situated and the controversy arose under such circumstances that plaintiffs seek to utilize certain facilities that are clearly distinct from pure speech rights. This case presents a problem of labor relations, and although the problem is in the context of public employment, this does not alter its essential character. Plaintiffs are a labor union and its officials and members, and they are seeking to utilize only those internal channels of school communication which are not traditionally of a public nature for the purpose of furthering the goals of their union. The privilege of dues check off which they claim is peculiarly a matter of labor relations. Thus, we do not accept plaintiffs' characterization of the issue as one of alleged impairment of broad First Amendment rights. Rather, the case presents the precise issue of whether or not the granting of . . . exclusive privileges to the DCTA impairs the right to organize and form unions of Denver teachers who are not members of the DCTA.

Freedom of association, according to the court, is a First Amendment freedom "which may be impaired by state action when the state can show a compelling interest which, when balanced against the substantive right to be protected, outweighs that right." In finding that plaintiffs proved no "significant interference" with their freedom of association, the court elaborated upon the balancing of state interests and individual constitutional rights:

> The grant of exclusive privileges to one of two competing unions after that union has won a representation election serves several interests. It allows the effective exercise of the right to form and join unions in the context of public employment. It provides the duly elected representative ready means of communicating with all teachers, not just the DCTA membership. This is essential, since the DCTA represents *all* teachers, not just its membership. It eliminates inter-union competition for membership within the public schools except at time of representation elections. This has several salutary aspects. Orderly functioning of the schools as education institutions is insured through the limiting of the time span when they may become a labor battlefield.

The representative union is not subjected to competition within the schools, and thus is better able to function as a representative, its efforts not spent in constant competition with the union that lost the representation election. The fact that the representative's strength is not bled away by such constant high intensity inter-union conflict allows the public employees better representation, providing a more beneficial exercise of the right of association. Finally, all of these benefits resulting from the grant of exclusive privileges to the elected representative serve the principal policy of insuring labor peace in public schools. . . .

Against these interests we must balance the limited interference with plaintiffs' right to associate. The interference is that they are not granted equal access to internal channels of communication, nor are they granted a check off. There is no allegation that plaintiffs' normal means of communication with teachers is impaired. Defendant and intervener argue that if in fact the defendant can lawfully deny access to these facilities to all persons, then there exists no *right* to their use. We find this argument compelling. Plaintiffs do not contend that they have a *right* to a dues check off as a part of their right to associate. . . . We find no action on the part of the defendant denying the plaintiffs' right to meet, to speak, to publish, to proselytize or to collect union dues. Plaintiffs have the right to do these things through the means employed by other organizations. We agree with . . . *Baruch v. City of New York* . . . that neither the First Amendment nor any other constitutional provision entitles a public employees' union which has lost a representation election to the special aid of a public employer's collection and disbursing facilities.

Plaintiffs' Fourteenth Amendment claim alleged that the grant of exclusive privileges to the DCTA amounted to granting special privileges to certain members of the teaching profession while arbitrarily denying them to others and thereby constituting a denial of equal protection of the law. Acknowledging that a distinction between the DCTA and Local 858 was created when the DCTA won the representation election, the court nevertheless held that "the facts do not show that the distinction exists among members of the teaching profession in Denver schools. All members of the profession are represented by the DCTA in dealings with the School District and none are represented by [Local 858], since [Local 858] does not deal with the District." Even assuming that some distinction among members of the Denver teaching profession results from different union membership, the court concluded that the grant of exclusive privileges to the duly elected bargaining representative "promotes a compelling government interest . . . [and] satisfies the strictest test for constitutional equal protection."

The court accordingly denied a motion for summary judgment entered by plaintiffs, and granted like motions entered by the district and the DCTA. (*Local 858 of the American Federation of Teachers, et al. v. School District No. 1, et al.*, U.S. District Court for the District of Colorado, June 3, 1970.)

FLORIDA

TEACHERS' CHALLENGE TO STATE STATUTE REMANDED FOR DETERMINATION OF MERITS

The U.S. Court of Appeals for the Fifth Circuit reversed and remanded a decision of the U.S. District Court for the Southern District of Florida which dismissed an action for damages filed by a group of public-school teachers seeking to have a Florida statute declared unconstitutional. Unable to determine from the record whether the statute excluding Palm Beach County administrators and supervisors from union representation also deterred public-school teachers from joining labor organizations, the appeals court remanded the case "for the normal process of development of the facts and determination of the real merits of the case."

In the prior civil rights action, plaintiffs sought declaratory and injunctive relief from enforcement of a state statute which "in substance [authorized] dismissal of any administrative or supervisory personnel of Palm Beach County who [joined] professional organizations whose function [was] the collective representation of the teaching profession with regard to terms, tenure, or conditions of employment" (NRD, 1-70, 10). At that time, the lower court determined that the action was also a class action, members of which class included "all organizations whose activities include the collective representation of Palm Beach County, Florida, with regard to terms, tenure or conditions of employment, and all individuals who may be prohibited from participation or membership in any such organization by the provisions of [the contested statute]."

Asserting jurisdiction over the case, the lower court determined that the contested statute was "a classic example of a Fourteenth Amendment denial of equal protection claim"; since it applied only to members of the Palm Beach County teaching profession, defendants could not justify separating Palm Beach County teachers from teachers in other counties of the state, and no "compelling State concern [was] shown to underly this statute." Furthermore, the district court held that the statute violated "the basic freedoms of expression and association protected by the First and Fourteenth Amendments." But the lower court dismissed the teachers' complaint for failure to state a claim upon which relief could be granted.

In the instant case, the appeals court examined relations between the Palm Beach County Board of Public Instruction (defendant in the case), and the local representative organization, the Palm Beach County Teachers Association. Following a contro-

versy between the two bodies in early 1968 which resulted in a work stoppage and mass resignations, the board began to develop its "Professional Affairs Policy, Number 8342.2," which provided that the board would hear representations only by individual teachers or committees established by the policy, but not by organizations such as the Association.

The Association alleged that board members had conceded that the policy was created to destroy the Association. Moreover, Association members could no longer obtain paid or unpaid leave to attend meetings of their parent associations (the Florida Education Association and the National Education Association), while non-Association members still received such permission. The Association also alleged that it could no longer perform its usual function of welcoming new teachers to the system, informing them of various benefit programs, and inviting them to join the Association, that agents for the board had threatened Association members with discriminatory treatment, and that they actually had fulfilled such a threat in one instance. Finally, one plaintiff whose name was on a promotion list alleged that the superintendent told him he would not be promoted because he was "a leader of an 'antagonistic' organization," and that when racial unrest was threatened he eventually received a position lower than expected.

Under the circumstances, the court reversed and remanded the case for further proceedings, explaining:

> We cannot escape the conclusion that the plaintiffs have alleged discrimination that could significantly deter freedom of association. It may be that there is adequate explanation and justification for each of these alleged actions, but in this posture of the case we cannot tell. It is equally possible that [Association] members are being unnecessarily penalized for their choice of organization. We have no doubt that teachers possess constitutionally protected rights of free association and that section 1983 provides a remedy against state interference. . . . The fact that here the discrimination has not extended to actual discharge does not preclude a remedy for the discrimination that has occurred.
>
> We expressly preclude discussion of what remedy is appropriate if the plaintiffs prove their case. The remedy will vary with what they prove, and we consider it unwise to speculate about appropriate action on such a sparse record.
>
> The defendants argue that we should sustain the district court's dismissal for three other reasons: that the members of the school board acting in their official capacities are not within the coverage of section 1983; that the plaintiffs' true remedy is in the Florida courts under Florida statutes and the federal courts should therefore abstain; and that the complaint does not meet the standards for a class action. We reject each of these contentions. . . . The plaintiffs have stated a federal cause of action and do not seek to interpret or attack Florida statutes. Finally, the defendants have shown no good reason why this action should not be sustained as a proper class action.

(*Joseph A. Orr, Jr., et al. v. A. D. Thorpe, et al.*, U.S. Court of Appeals for the Fifth Circuit, June 10, 1970.)

NEW YORK

MINI-PERB'S REPRISAL RULING UNFOUNDED

The New York Supreme Court for Westchester County annulled a determination of the Westchester County Public Employment Relations Board (a mini-PERB) in finding that the mini-PERB's ruling on an alleged reprisal charge was not supported by the record. Denying the mini-PERB's petition for enforcement of its order, the court held that it clearly was not the intent of Article 14 of the state's Civil Service Law to require a county "to establish 'good cause' every time it elected not to renew the contract of a teacher who also happened to be an active member of the union."

An assistant professor at Westchester Community College who was hired in 1965 and employed on a year-to-year basis through the 1968-69 academic year filed a reprisal charge with the mini-PERB when the college did not renew her contract for the 1969-70 school year. A charter member of the United Federation of College Teachers, AFL-CIO, Local 1460, the teacher alleged that the nonrenewal of her contract was in retaliation for her organizational activities.

On May 21, 1969, counsel to the mini-PERB filed a complaint alleging in part that the teacher was informed of the nonrenewal of her contract after she had actively participated in representation proceedings at which Local 1460 was designated bargaining representative for the college's employees, and that the college's action constituted an act of reprisal. The college answered that its decision was not motivated by the teacher's union activity.

Following a hearing, a mini-PERB hearing officer determined that there was no evidence of reprisal in the college's decision and recommended that "the action of the College administration in not offering reemployment be left undisturbed." The mini-PERB, however, rejected the hearing officer's findings, determined that reprisal was evident in the college's action, and ordered the college to reinstate the teacher with back pay.

When the college failed to comply with the order, the mini-PERB instituted the present proceeding seeking enforcement of its order. The college argued that the mini-PERB lacked power to issue the order because pertinent statutes did not grant the mini-PERB jurisdiction "to hear and determine claims that a public employer was guilty of an un-

fair labor practice or of reprisal against a public employee." In addition, the college contended that the mini-PERB's findings and order were "arbitrary and capricious and unsupported by any evidence."

After reviewing the record and assuming that the mini-PERB possessed jurisdiction to hear the reprisal proceeding and issue the order, the court concluded that the order could not stand because it was unsupported by the record:

> In a proceeding such as this, the employer is not required to exonerate himself of the unfair labor practices charged. Rather, the burden of proof rests with the board, which must prove the charges affirmatively and by substantial evidence. . . . There is no dispute herein but that [the teacher] was engaged in organization activities on behalf of the union of which she was a charter member. PERB seized upon that fact and reasoned that since there had been no showing to its satisfaction that good cause existed for letting [the teacher] go, that therefore the decision to renew her contract must have been based upon her union activities. PERB concedes that [the teacher] did not hold a tenured position on the College teaching staff. It follows that the duration of her employment was solely for the limited annual periods for which she and the College contracted. She had no right or claim either to continued employment beyond the contractual periods, to the extension or renewal of such periods, or to any specification of reasons for the non-renewal of her contract.

(*Matter of Baylis*, New York Supreme Court for Westchester County, April 21, 1970.)

WISCONSIN

PROCEDURAL SAFEGUARDS NECESSARY TO PROTECT NONTENURED TEACHER FROM UNJUST DISCHARGE

A nontenured assistant professor who brought suit for alleged violation of his constitutional rights of free speech and due process when Wisconsin State University decided not to retain him was granted partial summary judgment by the U.S. District Court for the Western District of Wisconsin. Explaining that "substantive constitutional protection . . . is useless without procedural safeguards," and that the university's decision not to rehire "may not rest on a basis wholly unsupported in fact, or on a basis wholly without reason," the court ordered the university to give the professor a statement of reasons for nonretention and a hearing on the merits of the decision, or offer him a contract for the ensuing year.

The professor, a critic of the university administration and the board of regents during school disturbances, was told after the 1968-69 academic year of the university's decision not to rehire him. The university offered no reasons for its decision, and failed to hold a hearing on the merits. Alleging violation of his First Amendment right of free speech, and his Fifth and Fourteenth Amendment right to due process, the professor brought suit seeking summary judgment and an order directing the university to re-employ him. He additionally contended that the university's decision would damage his professional reputation and standing.

In denying violation of a constitutional right, the university said it had not acted against the professor for his expressions of opinion, and alleged that the professor was guilty of neglect, violation of duty, violation of university rules, and insubordination. It further argued that under state law a university may remove a nontenured teacher "at pleasure," that a decision not to rehire may be based upon "no reason or any reason," and that university discretion in such matters is necessary to maintain high levels of faculty "competency, responsibility, and devotion to duty."

At issue was whether the Constitution requires procedural safeguards (in the form of due process) against nonretention based on First Amendment rights, and "arbitrary" nonretention. The court found it "crystal clear" that observance of a professor's substantive First Amendment rights demands procedural protection so that "the employment of a teacher in a public school cannot be terminated because he has exercised that freedom secured to him by the Constitution." Arbitrary nonretention, however, assumes a situation where the basis for nonretention does not involve the exercise of constitutional freedoms. As such, the question becomes "whether the Fourteenth Amendment permits non-retention on a basis wholly without factual support, or wholly unreasoned."

Finding itself bound by the U.S. Supreme Court decision in *Cafeteria Workers v. McElroy*, the court proceeded to "undertake the balancing process described there: that is, to determine 'the precise nature of the government function involved as well as of the private interest that has been affected by governmental action.' " Noting that the "interest of the university in assembling and preserving a community of teachers and scholars" necessarily demands that the university be arbitrarily free to decide whether to retain a nontenured professor, the court pointed out that

> if the university is forbidden, constitutionally, to rest its decision [not to retain a professor] on . . . an arbitrary basis, the question arises: in practice will the university become so inhibited that the available spectrums of reasons for non-retention in the two situations will merge, the distinction between tenure and absence of tenure will shrink and disappear, and the university will be unable to rid itself of newcomers whose inadequacies are promptly sensed and grave but not easily defined?

Counterposed to this danger are the interests of the individual new professor. According to the court, "there can be no question that, in terms of

money and standing and opportunity to contribute to the educational process, the consequences to [a professor exposed to nonretention because of a mistaken point of fact, or a decision which is wholly without reason] will be serious and prolonged and possibly will be severe and permanent." While the balancing test employed in *Cafeteria Workers v. McElroy* binds a court to "respect bases for non-retention enjoying minimal factual support and bases for non-retention supported by subtle reasons," the court explained that the case "compels the conclusion that under the due process clause of the Fourteenth Amendment the decision not to retain a professor employed by a state university may not rest on a basis wholly unsupported in fact, or on a basis wholly without reason."

In concluding that procedural safeguards are necessary to ensure protection against nonretention in violation of First Amendment rights and arbitrary nonretention, the court held that minimal procedural due process

> includes a statement of the reasons why the university intends not to retain the professor, notice of a hearing at which he may respond to the stated reasons, and a hearing if the professor appears at the appointed time and place. At such a hearing the professor must have a reasonable opportunity to submit evidence relevant to the stated reasons. The burden of going forward and the burden of proof rests with the professor. Only if he makes a reasonable showing that the stated reasons are wholly inappropriate as a basis for decision or that they are wholly without basis in fact would the university administration become obliged to show that the stated reasons are not inappropriate or that they have a basis in fact.

Since the university neither informed the professor of the reasons for his nonretention nor provided a hearing, the court dismissed the university's motion for summary judgment. The court also denied the professor's motion for complete summary judgment and an order compelling the university to offer him a contract for the following year due to the professor's contention that a nontenured employee "is constitutionally entitled to be told in advance that . . . if he does abide by . . . previously announced standards of conduct, he will be entitled to a contract for the following year." Emphasizing that a university "should enjoy the widest possible latitude consistent with protection against arbitrariness and . . . invasion of . . . First Amendment rights" in deciding whether to retain a nontenured teacher, the court held:

> To accept the plaintiff's contention would be to erect a constitutional requirement even more severe than the showing of "cause" now required by Wisconsin law in the case of tenured professors. So far as the federal constitution is concerned . . . I have held that due process affords professors (tenured or nontenured) protection only against nonretention based on arbitrariness. To provide this limited protection it is not necessary to require that the university enunciate in advance a code of conduct for professors, violation of which will result in nonretention and compliance with which will result in retention.

However, the court granted the professor's motion for partial summary judgment, and stayed the proceedings and a determination of whether the professor's nonretention was based upon his criticism of the administration or was arbitrary pending the university's response to the court order. (*David F. Roth v. Board of Regents of State Colleges, et al.*, U. S. District Court for the Western District of Wisconsin, March 12, 1970.)

Board Findings and Rulings

CONNECTICUT

SCHOOL BUS DRIVERS COMPRISE APPROPRIATE UNIT

In rendering a modified interpretation of the definition of "employee" as found in the Connecticut Municipal Employee Relations Act, the State Board of Labor Relations held that "all regular school bus drivers employed by the Thompson Board of Education . . . constitute a unit appropriate for the purpose of collective bargaining in fact and within the meaning of . . . the Act." Although eight of the 11 bus drivers involved were not considered employees under the act, the state board decided that "no legitimate interest would be protected and no apparent purpose of the Act would be served by disfranchising the overwhelming majority of the school bus drivers."

When the American Federation of State, County, and Municipal Employees, Local 1303, petitioned for an election in a unit of bus drivers employed under annual contract by the Thompson education board, the state board found that the drivers' tasks did not demand 20 hours per week, and that only three of the drivers worked an average of 20 or more hours per week.

State statute defines an "employee" as "any employee of a municipal employer . . . except . . . part-time employees who work less than twenty hours per week . . . ." This 20-hour rule originated entirely with the state labor board, and was created to protect (when necessary) the voting strength of a large group of full-time workers from dilution or distortion by the votes of part-time workers whose stake in the job was relatively slight compared with that of the full-time workers. Emphasizing the fact that the rule was not developed to disfranchise part-time workers, the state board added that exceptions to the rule have been adopted whereby it is not applied when all or a majority of the employees are part-time, or where employment practices dictate a different number of hours as the proper determining factor.

Local 1303 argued that the 20-hour rule does not apply to full-time employees who work less than 20 hours per week, and that the bus drivers are full-time employees because the task assigned to each is measured not in time, but in performance of the whole of the task. While finding this argument "ingenious," the state board felt that it did not reflect legislative intent:

> The question here is whether the language of the Municipal Employee Relations Act is to be interpreted rigidly and literally or . . . as embodying the exceptions and limitations which had been built into the rule by the very sort of common law process that gave it birth. Where a legislature intends to adopt or modify a rule which has evolved from custom or some other kind of common-law process, its reference to the rule in summary fashion (without specifically detailing all the exceptions and limitations) should be read in the light of the rule's history and not with literal rigidity . . . .
>
> We believe that in the language of . . . the Act, the legislature intended to incorporate the Board's administratively adopted 20-hour rule and thus to provide for uniform administration (in this respect) of the state's twin labor relations statutes. This intent can be fulfilled only if the same flexibility is given to the rule in the public sector as in the private sector.

Applying the rationale and spirit of the 20-hour rule to the instant case, the state board found that the bus drivers' situation fell within the "majority part-time" exception, rather than the 20-hour cut-off rule. The board accordingly directed an election within the unit of bus drivers "in order to insure to the employees concerned the full benefit of their right to self-organization, to collective bargaining, and otherwise to effectuate the policies of the Act." (*Thompson Board of Education and AFSCME, Local 1303, Council 4*, Connecticut State Board of Labor Relations, May 12, 1970.)

MASSACHUSETTS

EXTENSION OF EXISTING CONTRACT INEFFECTUAL AS CONTRACT BAR

When the Billerica School Committee and the Billerica Federation of Teachers, American Federation of Teachers, AFL-CIO, Local 1677, agreed to extend their existing contract after a rival union filed a representation petition supported by a sufficient showing of interest, the Massachusetts Labor Relations Commission (MLRC) ruled that the extended contract did not create a new contract barring the petition.

According to the MLRC, an existing contract with a fixed duration constitutes a bar to a representation petition for as much of its term as does not exceed three years. Contracts with a fixed term exceeding three years are regarded for purposes of contract bar as having a fixed term of three years. Timely representation petitions must be filed more than 60 days but less than 120 days before the terminal date of an existing contract.

In the present case, the MLRC found that the school committee and Local 1677 did not terminate their old contract, and that their attempt to create a new contract was ineffectual, because the rival representation petition was timely filed. (*Matter of Town of Billerica School Committee and Billerica Federation of Teachers, Local 1677, American Federation of Teachers, AFL-CIO, et al.*, Massachusetts Labor Relations Commission, April 13, 1970.)

MICHIGAN

OVER-ALL UNIT OF SUPERVISORY AND ADMINISTRATIVE PERSONNEL IN INSTRUCTIONAL SERVICES RULED APPROPRIATE

An over-all unit of instructional supervisory and administrative personnel employed by the Birmingham School District was ruled appropriate by the Michigan Employment Relations Commission (MERC), despite the employer's contention that the supervisors did not share a community of interest because some unit members exercised supervisory control over others. Noting that the employer's contention might be arguable in a smaller district where greater authority would be concentrated in the highest levels of supervisors, the MERC found the community of interest among the supervisors sufficient to preclude invocation of the prohibition against including supervisors and nonsupervisors in a single unit.

According to the MERC, the chief administrative officer of the Birmingham district was the superintendent. Reporting to him were two deputy superintendents, and several assistant superintendents. The deputy superintendent for instructional services supervised four directors, one each for elementary education, secondary education, curriculum, and pupil services. Instructional supervisory personnel below the directors' level included individual school principals and department heads, and various administrative personnel responsible for particular subject-matter areas or activities in more than one school or throughout the district.

Both parties agreed that noninstructional supervisors under the direction of the deputy superintendent for administrative services did not share a community of interest with the supervisors in the unit sought.

Noting that supervisors on all but the highest level are accorded recognition rights under the Michigan Public Employment Relations Act and that previously-determined appropriate units have included all supervisory personnel within a single unit, the MERC held that in the instant case the differences between supervisors and nonsupervisors were greater than the differences between higher and lower levels of supervisors. Moreover, the MERC found a highly complex, structured administrative organization with numerous checks and balances in the Birmingham district. As such, an election was directed in the over-all instructional supervisory and administrative unit. (*Matter of Birmingham School District and Association of Birmingham School Administrative and Supervisory Personnel*, Michigan Employment Relations Commission, April 14, 1970.)

UNILATERAL CHANGE IN COUNSELORS' POSITION RULED UNFAIR LABOR PRACTICE

The Michigan Employment Relations Commission (MERC) ruled that the Gibraltar School District committed an unfair labor practice in violation of the state's Public Employment Relations Act by refusing to bargain a change in the terms and conditions of employment relative to school counselors. Pointing out that a change in title and job description do not change a nonsupervisory position into a supervisory one, the MERC held that the district had the duty to bargain the change, rather than take unilateral action.

A collective agreement negotiated by the district and the Gibraltar Federation of Teachers covered all nonsupervisory district personnel; as nonsupervisors, counselors were included in the bargaining unit prior to April 7, 1969. On that date, the district eliminated the position of counselor, and afterwards referred to the position as that of "counselor-supervisor." In addition, the job description was rewritten to include the added duty of attendance program administration.

The Federation consequently charged the district with unilaterally changing the counselors' conditions of employment. A MERC trial examiner determined that a representation question existed, concluded that the counselors were not supervisors, and ordered the district to negotiate the counselors' wages and conditions of employment.

While agreeing that counselor-supervisors are not supervisors, the MERC determined that the issue in

question was whether the district had committed an unfair labor practice by its unilateral action. As counselor-supervisors performed the same duties as counselors, even though the work was now done by counselors acting as supervisors and outside the bargaining unit, the MERC held that the change in title and job description constituted a change in terms and conditions of employment which the district had a duty to bargain. (*Matter of Gibraltar School District and Gibraltar Federation of Teachers*, Michigan Employment Relations Commission, April 2, 1970.)

OTHER ITEMS OF INTEREST

NLRB ASSERTS JURISDICTION OVER PRIVATE NONPROFIT UNIVERSITIES

In a unanimous decision rendered on June 12, 1970, the National Labor Relations Board (NLRB) asserted jurisdiction over private, nonprofit colleges and universities, and directed an election among a state-wide unit of nonsupervisory, nonprofessional employees of Cornell University. Documenting the highly commercial nature of higher education institutions, the NLRB determined that "assertion of jurisdiction is required over those private colleges and universities whose operations have a substantial effect on commerce to insure the orderly, effective and uniform application of the national labor policy." The board accordingly overruled its 1951 *Columbia University* decision, stating that "the underlying considerations [existing then] no longer obtain two decades later."

Cornell University and Syracuse University filed representation petitions before the NLRB seeking elections among certain of their nonacademic, library, and professional employees. Urging the NLRB to reconsider its *Columbia University* doctrine, they argued that

> the operations and activities of educational institutions as a class, and of Cornell and Syracuse in particular, have an overwhelming impact and effect on interstate commerce, that the operations of universities and colleges have increasingly become matters of Federal interest, and that this interest coupled with the failure of the States adequately to recognize and legislate for labor relations affecting these institutions and their employees now justifies the Board in asserting jurisdiction.

Prior to the *Columbia University* decision, Section 2(2) of the National Labor Relations Act (NLRA) was amended by the 1947 Taft-Hartley Act specifically to exclude nonprofit hospitals from the NLRA's coverage. While private, nonprofit educational institutions were not excluded from NLRA coverage and Columbia University's activities satisfied the NLRB's requirements for "normal exercise of its jurisdiction, the NLRB declined asserting jurisdiction over the university "as a discretionary matter." The NLRB's resultant decision in *Columbia University* was that it would not "effectuate the policies of the [NLRA] for the Board to assert its jurisdiction over a nonprofit, educational institution where the activities involved are noncommercial in nature and intimately connected with the charitable purposes and educational activities of the institution."

In the instant case, however, the NLRB found that "to carry out its educative functions, the university has become involved in a host of activities which are commercial in character." In 1969, the operating budgets of the country's approximately 1,450 private institutions totaled an estimated $6 billion, with income derived not only from traditional sources, but from "the purely commercial avenues of securities investments and real estate holdings." During the 1966-67 fiscal year, revenues of private institutions amounted to over $6 billion ($1.5 billion of which came from government appropriations), and such institutions realized a commercial profit of nearly $71 billion from housing and food services, many of which were obtained through interstate commerce channels.

The NLRB pointed to the expanded role of federal aid to education as "another phenomenon clearly distinguishing the current situation from the one which existed in 1951." Federal outlays for private and public education in 1969 totaled $5 billion, and the NLRB noted that such federal financial involvement

> is paralleled by an expanding congressional recognition that employees in the nonprofit sector are entitled to the same benefits which Federal statutes provide to employees in the profitmaking sphere. Of particular pertinence here is the amendment of the Fair Standards Act [FLSA] in 1966 extending coverage to nonprofit private universities and hospitals. In 1968, the Supreme Court upheld the constitutionality of the amendments, holding that such institutions are engaged in commerce . . . .
> Given the congressional amendments to the FLSA and the Supreme Court decision upholding them, it is no longer sufficient to say that merely because employees are in a nonprofit sector of the economy, the operations of their employers do not substantially affect interstate commerce.

Emphasizing the fact that "with or without Federal regulation, union organization is already a *fait accompli* at many universities," the NLRB additionally noted the inadequacy of state labor-management legislation. According to the board, 15 states have enacted such legislation to date, but "in only eight of these States has the legislation been written or interpreted so as to expressly cover employees of private educational institutions . . . . To put it another way, there are 35 states without labor codes under which matters such as union organization, collective bargaining, and labor disputes may be determined."

The NLRB also examined legislative history subsequent to the Taft-Hartley Act and found that while the 1959 Landrum-Griffin Act

is completely silent on the matter of nonprofit employers, we are not persuaded . . . that congressional silence may be construed as indicating continued congressional approval of either the 1947 legislative history or Board reliance on it. The fact remains that Section 2(2) [of the NLRA] contains no express exemption for nonprofit employers. More to the point is that in 1959 Congress enacted Section 14(c) which for the first time both authorized and set limits on the Board's discretionary refusal to exercise jurisdiction.

Two years before the enactment of Section 14(c), the Supreme Court ruled in *Guss v. Utah Labor Relations Board* that the States were powerless to entertain cases which fell within the NLRB's statutory jurisdiction, even though the Board had declined to assert such jurisdiction. Thus, a "no man's land" was created where employers and employees were denied a Federal forum for the resolution of labor disputes and yet were unable to turn to the States for alternative relief . . . . Ample evidence in the legislative history reveals that Section 14(c) was the congressional response designed to eliminate the "no-man's land." Toward this end, 14(c)(1) states that the Board in its discretion may "decline to assert jurisdiction over any labor dispute involving any class or category of employers, where, in the opinion of the Board, the effect of such labor dispute on commerce is not sufficiently substantial to warrant the exercise of its jurisdiction . . . ." Conversely, it impliedly confirms the Board's authority to expand its jurisdiction to any class of employers whose operations substantially affect commerce. Section 14(c)(2) further attempts to narrow the "no-man's land" gap by empowering the States to exercise jurisdiction when the Board declines to so assert.

Reiterating its belief that "the Board has statutory jurisdiction over nonprofit educational institutions whose operations affect commerce," the NLRB determined that it would "no longer decline to assert jurisdiction over such institutions as a class," and concluded:

Petitioners introduced extensive evidence at the hearing to document their claim that educational institutions as a class have not only a substantial, but massive impact on interstate commerce . . . . Consequently, we are convinced that assertion of jurisdiction is required over those private colleges and universities whose operations have a substantial effect on commerce to insure the orderly, effective and uniform application of the national labor policy.

In view of all the foregoing considerations, we can no longer adhere to the position set forth in the *Columbia University* decision. Accordingly, that case is overruled . . . . At this time, the Board is not prepared to establish jurisdictional standards for nonprofit colleges and universities as a class for the instant proceedings do not give us a sufficient basis for selecting an appropriate measure by which to determine whether the policies of the [NLRA] will be effectuated by the exercise of jurisdiction in a particular case. Therefore, we leave the development of an appropriate jurisdictional standard for subsequent adjudication.

Finally, the NLRB dismissed the representation petition filed by Syracuse University for lack of a representation question. Since the Service Employees International Union, AFL-CIO, Local 200, already had been certified by the New York State Labor Relations Board as representative of an appropriate unit of full-time and regular part-time service and maintenance employees of the university, the NLRB (according to its established policy) ruled that it would "accord the same effect to the results of the State election as we would attach to a determination of representatives based upon an election conducted by the Board."

The Cornell University petition, however, raised a question affecting commerce under the NLRA. While the university sought an election in a statewide unit of all nonacademic, nonsupervisory employees and the Civil Service Employees Association agreed that this unit was appropriate, two other unions requested separate units comprised of nonprofessional, nonsupervisory employees of the university libraries on the Ithaca campus, and professional and nonprofessional employees of the university's School of Industrial Relations located in New York City.

But the NLRB found "considerable evidence that the operations of Cornell's facilities scattered throughout the State are integrated and centralized . . . that a community of interests is shared by all of its nonprofessional employees . . . and that Cornell has developed uniform guidelines covering such matters as attendance, leaves of absence, vacations, holidays, tardiness, discipline, overtime, and seniority applicable to all its employees." The state-wide unit accordingly was ruled appropriate, and an election was directed among "all nonsupervisory, nonprofessional employees of Cornell University within the State of New York, excluding employees of the medical college and nursing school in New York City, skilled trades employees on the Ithaca campus who are currently represented, guards, confidential employees, professional employees and supervisors as defined in the Act." (*Cornell University, et al., and Civil Service Employees Association, Inc., and Service Employees International Union, Local 200,* National Labor Relations Board, June 12, 1970.)

Negotiation Notes

FLORIDA

GOVERNOR ISSUES ORDER ON PUBLIC EMPLOYEE BARGAINING

An executive order issued by the Florida governor on May 13, 1970, held that "no agency of state government or any officer or employee of the state shall have the authority to negotiate or bargain with any labor organization . . . however organized or constituted, which represents or seeks to represent any public employee or group of public employees for the purpose of negotiating or bargaining."

As chief budget officer of the state, the governor declared that "union bosses cannot put themselves between the people and their employees nor usurp the power entrusted by the people in their duly elected officials, who are responsible to the people." And he served notice that any bargaining measure passed by the legislature "would be vetoed by the Governor in order to preserve the orderly processes of government." In addition, he required each state agency to cooperate fully with the secretary of administration and "to report to the Governor, through the Secretary of Administration, any efforts whatsoever to organize employees under its jurisdiction."

HAWAII

MANDATORY PUBLIC EMPLOYEE BARGAINING LAW ENACTED

A mandatory bargaining statute permitting public employee strikes under carefully defined conditions was signed into law by the Hawaii governor on June 30, 1970. Effective July 1, the new statute recognizes "the right of public employees to organize for the purposes of collective bargaining," mandates public employers "to negotiate with and enter into written agreements with exclusive representatives on matters of wages, hours, and other terms and conditions of employment," and creates a Public Employment Relations Board (PERB) to administer the law.

"Strike," as defined by the statute, is a public employee's "refusal, in concerted action with others, to report for duty, or his wilful absence from his position, or his stoppage of work, or his abstinence in whole or in part from the full, faithful, and proper performance of the duties of employment, for the purpose of inducing, influencing, or coercing a change in the conditions, compensation, rights, privileges, or obligations of public employment." While participation in a strike is unlawful for employees who are not members of a certified appropriate bargaining unit, or who are included in a unit for which the process of dispute resolution ends with final and binding arbitration, the law holds that

> it shall be lawful for an employee, who is not prohibited from striking . . . and who is in the appropriate bargaining unit involved in an impasse, to participate in a strike after (1) the requirements of section -12 relating to the resolution of disputes have been complied with in good faith, (2) the proceedings for the prevention of any prohibited practices have been exhausted, (3) sixty days have elapsed since the fact-finding board has made public its findings and any recommendation, [and] (4) the exclusive representative has given a ten-day notice of intent to strike to the board and to the employer.

Employees covered by the statute include all persons employed by a public employer except

> elected or appointed [officials, members] of any board or commission, [representatives] of a public employer; including the administrative officer, director, or chief of a state or county department or agency, or any major division thereof as well as his deputy, first assistant, and any other top-level managerial and administrative personnel, [individuals] concerned with confidential matters affecting employee-employer relations, part time [employees] working less than twenty hours per week, temporary [employees] of three months duration or less, or any commissioned and enlisted personnel of the Hawaii national guard.

Section 3 of the statute grants public employees

> the right of self-organization and the right to form, join, or assist any employee organization for the purpose of bargaining collectively through representatives of their own choosing on questions of wages, hours, and other terms and conditions of employment, and to engage in lawful, concerted activities for the purpose of collective bargaining or other mutual aid or protection, free from interference, restraint, or coercion. An employee shall have the right to refrain from any or all of such activities, except to the extent of making such payment of service fees to an exclusive representative as provided in section -4.

For purposes of unit determination, all employees throughout the state falling within a specific category are considered an appropriate bargaining unit.

Compensation plans, salary schedules, and appointment and classification procedures outlined in other sections of state law provide the bases for "differentiating blue collar from white collar employees, professional from nonprofessional employees, supervisory from nonsupervisory employees, teachers from educational officers, and faculty from nonfaculty." Teachers and other education department personnel under the same salary schedule comprise an appropriate bargaining unit, as do educational officers and other department personnel under the same salary schedule.

When an election petition is filed (after January 1, 1971) by an organization seeking certification by the PERB as exclusive representative of an appropriate bargaining unit, the organization must show written proof that it represents at least 30 percent of the employees in the desired unit. The PERB shall direct that a secret ballot election be held among employees of the appropriate unit, and the ballot also shall contain the names of any organizations showing written proof of at least 10 percent representation of the employees within the desired unit, and a provision for "no representation." If no organization receives a majority of the votes cast, the PERB shall direct a run-off election, and shall certify as exclusive representative the organization receiving a majority of the votes in that election.

According to the statute, election bars will be effective in "any appropriate bargaining unit within which (1) a valid election has been held in the preceding twelve months; or (2) a valid collective bargaining agreement is in force and effect, except upon a petition as provided herein not more than ninety days, but not less than sixty days, prior to the expiration of the agreement." The PERB will develop rules and regulations defining contract bars.

Once an organization is certified as exclusive bargaining representative, "it shall have the right to act for and negotiate agreements covering all employees in the unit and shall be responsible for representing the interests of all such employees without discrimination and without regard to employee organization membership." The employer and the exclusive representative are mandated to "meet at reasonable times, including meetings in advance of the employer's budget-making process," negotiate in good faith, and render a written agreement (subject to ratification by the employees concerned), provided that "such obligation does not compel either party to agree to a proposal to make a concession."

Excluded from negotiation are "matters of classification and reclassification, retirement benefits and the salary ranges and the number of incremental and longevity steps now provided by law, provided that the amount of wages to be paid in each range and step and the length of service necessary for the incremental and longevity steps shall be negotiable." In addition, the parties

> shall not agree to any proposal which would be inconsistent with merit principles or the principle of equal pay for equal work . . . or which would interfere with the rights of a public employer to (1) direct employees; (2) determine qualification, standards for work, the nature and contents of examinations, hire, promote, transfer, assign, and retain employees in positions and suspend, demote, discharge, or take other disciplinary action against employees for proper cause; (3) relieve an employee from duties because of lack of work or other legitimate reason; (4) maintain efficiency of government operations; (5) determine methods, means, and personnel by which the employer's operations are to be conducted; and take such actions as may be necessary to carry out the missions of the employer in cases of emergencies.

The statute stipulates that a negotiated agreement may contain both "a grievance procedure and an impasse procedure culminating in final and binding arbitration," and that all cost items contained therein "shall be subject to appropriations by the appropriate legislative bodies." If a legislative body rejects any of the cost items submitted to it, those items are to be renegotiated by the parties to the agreement. The statute further declares it to be in the public interest for the parties to "make every reasonable effort to conclude negotiations, and include provisions for an effective date, a reopening date, and an expiration date, at a time to coincide, as nearly as possible, with the period during which the appropriate legislative bodies may act on the operating budget of the employers."

Dispute resolution machinery provided by the statute in the event of impasse and administered by the PERB includes mediation, fact-finding (followed by publication of any findings and recommendations if the dispute remains unresolved after a given period of time and is not referred to final and binding arbitration), and submission of any unresolved differences to final and binding arbitration by mutual consent of the parties involved. The PERB will bear the costs of mediation and fact-finding, while the parties to the dispute must share the costs of arbitration. If the parties do not agree to binding arbitration, "either party shall be free to take whatever lawful action it deems necessary to end the dispute; provided that no action shall involve the disruption or interruption of public services within sixty days after the fact-finding board has made public its findings of fact and any recommendations for the resolution of the dispute."

Other provisions of the statute define prohibited practices, authorize payroll deductions (including "reasonable service fees" requested by the exclusive representative as "necessary to defray the costs for its services rendered in negotiating and administering an agreement and computed on a pro rata

basis among all [unit] employees"), and outline the nature, composition, powers, and functions of the newly-created PERB. The full text of the Hawaii statute is reprinted in the "Texts" section of this DIGEST.

IOWA

DUES DEDUCTIONS PROHIBITED

An opinion issued by the Iowa attorney general on April 13, 1970, held that in the absence of statutory authorization, school boards could not contract with their employees to withhold or deduct designated sums from teachers' pay checks for the purpose of returning such amounts to payees such as teachers' organizations and credit unions. The opinion was rendered in reference to Section 79.15 of the Iowa Code.

MINNESOTA

PROCEDURES FOR HEARINGS ON NO-STRIKE VIOLATIONS OUTLINED

In reference to Sections 179.51 to 179.58 of the Minnesota State Labor Relations Act which deal with public employee grievances, the Minnesota attorney general issued an April 29, 1970, opinion clarifying procedures to be used in hearings on absences which allegedly do not violate the state's anti-strike laws, but involve essentially that situation.

Specifically, a school board may hold joint hearings on such absences provided each individual teacher involved waives his right to an individual hearing. In determining whether the teachers involved have a common reason, the board may receive evidence in affidavit form, and then proceed with cases which can be considered jointly. The attorney general emphasized, however, that this initial hearing procedure is only a recommendation, and is not intended to be exclusive.

Holding that hearings need not be conducted before an entire school board, the attorney general explained that a committee consisting of only one board member may conduct a hearing. In addition, various committees may hold different hearings, and outsiders may be engaged as hearing examiners for the purpose of making findings of fact and recommendations to the board. The Board, however, independently must review evidence presented at a hearing, and has both the power and obligation to decide the case.

While the attorney general could find no statutory procedures for notifying the parties involved of the commencement of proceedings, he suggested that a satisfactory procedure meeting the requirement of fair play would consist of mailing a notice to each claimant informing him that his claim had been received, that arrangements were being made for an early hearing, and that he would be informed of the time and place of the proceedings in the near future. He additionally noted that time factors governing such procedures are contained in Section 179.56 of the Minnesota Statutes.

Both the school board and the claimants may be represented by counsel at the hearing. Counsel may present the school board's evidence, and cross-examine teachers and witnesses provided by the teachers. Explaining that the burden of proof that a teacher did not strike lies with the teacher, the attorney general held that the teacher's burden need only be established by a preponderance of the evidence, need not be established beyond a reasonable doubt, and is met by a prima facie showing if no rebuttal evidence is offered. If there are doubts against a teacher, these must be resolved against him, and the school board may not waive, alter, or amend the statutory conditions of re-employment. Moreover, in the event of a doubtful case, the school board may not reach a compromise decision.

NEW JERSEY

PERC CHAIRMAN RESIGNS

Walter F. Pease, chairman of the New Jersey Public Employment Relations Commission since its 1968 inception, resigned his position effective July 1, 1970. Pease announced his resignation during testimony before a joint legislative committee considering changes in the statute establishing the commission, and examining budgetary matters affecting the commission's operation.

PENNSYLVANIA

TEACHERS TRADE PAY RAISE FOR KINDERGARTEN PROGRAM

Pennsylvania teachers belonging to the Apollo-Ridge Education Association swapped a pay raise for a local kindergarten program. In rejecting the Apollo school board's final offer of a $200 increase in pay per year, the 165-member Association approved a counter-proposal asking the board to utilize the estimated $45,000 in establishing a kindergarten program and facilities sought by a local citizens' group.

SOUTH DAKOTA

EDUCATION BOARD MAY NOT REQUIRE SECRET NEGOTIATING SESSIONS

An opinion issued by the South Dakota attorney general on April 15, 1970, held that while an education board may hold secret meetings during the consideration of employee and personnel matters, it has no right to require secrecy on the part of union representatives, and may not hold secret meetings with the joint negotiating committee. The opinion interpreted the recently amended Section 3-18-3 of the South Dakota Compiled Laws (NRD, 6-70, 37).

UTAH

COURT HOLDS SCHOOL EMPLOYEES MAY SUE STATE

Determining that the state of Utah waived its constitutional immunity to suit by private parties in its continued operation of a state-owned school for the mentally deficient after the effective date of amendments to the commerce clause of the Fair Labor Standards Act (FLSA), the Tenth Circuit Court of Appeals ruled that employees of the school may sue the state to recover overtime pay and liquidated damages.

As amended effective February 1, 1967, the FLSA partially defines an enterprise engaged in commerce as one "engaged in the operation of . . . a school for mentally or physically handicapped or gifted children, an elementary or secondary school, or an institution of higher education (regardless of whether or not such . . . institution, or school is public or private or operated for profit or not for profit)." Then in the 1968 case of *Maryland v. Wirtz* (NRD, 11-68, A-7), the Supreme Court of the United States upheld amendments to the FLSA which extended the act's coverage to certain state school employees.

In the instant case, four employees of the American Fork Training School brought suit against the state of Utah (which had operated the school since 1961) for themselves and others similarly situated. The U.S. District Court for the District of Utah dismissed the case on grounds that the state had not waived its immunity to suit in a federal court by its own citizens, and that the court, therefore, lacked jurisdiction under the Eleventh Amendment.

The appeals court, however, cited a 1964 Supreme Court decision in *Parden v. Terminal Railway of the Alabama State Docks Department* as controlling of the instant case. There the high court held that under the Federal Employers Liability Act, Congress intended "to condition the states' right to operate railroads in interstate commerce upon a waiver of the states' soverign immunity to private suits in a federal forum." The minority in *Parden* interpreted the majority to hold that "with regard to sovereign immunity, waiver of a constitutional privilege need be neither knowing nor intelligent."

In argument before the appeals court, the state of Utah contended that because "it was not originally put to the choice of entering the [interstate commerce] field and thereby waiving its immunity, or staying out of the endeavor, subsequent amendments to the FLSA should not impose an immediate waiver on the basis of continued activity." But the appeals court rejected the argument and remanded the case for further proceedings, explaining:

> When Congress constitutionally hinges the right of a state to engage in interstate commerce upon its amenability to a federal court suit by private parties, the states must decide *eo instante* whether to continue or withdraw. If, because of an immediate effective date on an enactment, a state is unable to make a timely withdrawal, and is caught in a bona fide attempt to withdraw, a situation might be presented so as to call for different results. But here it was never made manifest by Utah's actions that it had not decided to continue and thus render itself suable. In fact, the contrary appears quite clearly from its subsequent adherence to the substantive portions of the FLSA.
>
> Utah, by having continuously operated the American Fork Training School after the February 1, 1967, effective date of the FLSA amendments, has indulged in an endeavor subject to federal regulation and having done so, has waived its immunity and consented to suits permitted by the FLSA.

OTHER ITEMS OF INTEREST

CONSUMER PRICE INDEX, JUNE AND MAY 1970

Figures released by the Labor Department's Bureau of Labor Statistics (BLS) indicated that the June 1970 Consumer Price Index (CPI), all-items figure, rose 0.4 percent above the previous month to 135.2 (1957-59=100). The June figure put the all-items index 6.0 percent above a year ago. A substantial increase in consumer services contributed heavily to the June advance, as did continued increases in the prices of used cars and houses.

In May, the CPI all-items index also registered an 0.4 percent rise above the previous month, and stood at 134.6 according to the 1957-59 base. That figure put the index 6.2 percent above a year ago. While charges for services and commodities other than food were smaller in May than in April, BLS noted that used car prices rose sharply in May, and house prices indicated a more rapid rise than in pre-

vious months. In addition, food prices rose an unseasonal 0.3 percent. BLS also reported that the purchasing power of the dollar stood at $0.743 in May, based upon its average buying power in 1957-59.

KEY POSITIONS ON FEDERAL LABOR RELATIONS COUNCIL FILLED

Appointments to five top positions on the Federal Labor Relations Council (FLRC) created by Executive Order 11491 have been announced by W. Vernon Gill, executive director of the council. Andrew G. Wolf, former vice-president for personnel and industrial relations at Oscar Meyer and Company, was named deputy executive director of the FLRC, and will be empowered to act in the executive director's stead.

As FLRC general counsel, John R. Hill will interpret laws, regulations, and executive orders for the council, and issue advisory opinions on issues before the council. Hill formerly served as director of personnel legal affairs for United Air Lines, and also has acted as an attorney with the National Labor Relations Board (NLRB).

Henry B. Frazier was named chief of the council's Program Division, which is responsible for developing policies to implement E.O. 11491, providing guidance to agencies and unions, and producing status reports for the President. Frazier moved to the FLRC from the Department of the Army where he served as chief of civilian personnel policy and pay review in the office of the Assistant Secretary for Manpower and Reserve Affairs.

Robert J. Freehling, onetime general counsel for the Federal Coal Mine Safety Board of Review, was named chief of the FLRC's Appeals Division, which will review exceptions to arbitrators' awards, appeals of agency heads' negotiability determinations, and appeals of decisions made by the Assistant Secretary of Labor for Labor-Management Relations. Freehling also has served as an attorney with the U.S. Tax Court, and a supervisory attorney with the NLRB.

David T. Roadley was appointed executive secretary of the Federal Service Impasses Panel, a separate body within the FLRC structure authorized to consider negotiation impasses and settle them itself if necessary. Roadley has served as a national representative for the Federal Mediation and Conciliation Service, worked with the Missile Sites Labor Relations Commission, and was site mediator and chairman of the Cape Kennedy Labor Relations Committee.

Statistics

AN ANALYSIS OF NEGOTIATED TUITION REIMBURSEMENT PROVISIONS, 1968-69

Negotiated provisions relative to per-unit allowances for professional study tend to be somewhat confusing. An investigation of provisions relating to allowances for credits, hours, or courses of professional study generally indicates that there are two ways of providing allowances to teachers for such study: per-unit allowances credited toward higher salary (salary credit) and reimbursement of part or all of the money expended (tuition reimbursement). In many negotiated provisions both types of allowance provisions are included in the same major articles covering either salary and related benefits or professional development and growth (Table 1). In addition, since both types of allowances are computed on a per-unit basis such as credit, semester hour, or course, it is often difficult to determine whether the payment for professional study is made once, as in tuition reimbursement, or is cumulative as in salary credit.

Per-unit allowances for professional study were provided in 233 (24 percent) of the 978 comprehensive teacher-school board agreements negotiated for the 1968-69 school year in systems with a pupil enrollment of 1,000 or more. Salary credit allowances were provided in 88 agreements. Tuition reimbursement allowances were identified in 145 agreements (Table 1).

TABLE 1.—TYPES OF NEGOTIATED ARTICLES CONTAINING PER-UNIT ALLOWANCE PROVISIONS, 1968-69

Type of article	Salary credit allowance		Tuition reimbursement allowance	
	Number	Percent	Number	Percent
1	2	3	4	5
Salary, compensation, and/or related benefits	56	63.6%	51	35.2%
Professional development and growth	8	9.1	52	35.9
Tuition reimbursement or graduate credit	8	9.1	21	14.5
Miscellaneous (mainly untitled articles)	16	18.2	21	14.5
Total	88	100.0%	145	100.1%

While both salary credit and tuition reimbursement provisions contain similar allowances and procedural policies, the reason for separating the two forms is that the former is cumulative and relates more to the administration of the salary schedule. An analysis of salary credit allowances consequently would entail an analysis of an entire salary structure. For the purposes of this analysis, *only* tuition reimbursement provisions which reimburse the teacher for part or all of the money expended for professional study are included.

Of the 145 tuition reimbursement provisions, four established joint teacher-administrator study committees to investigate and recommend programs and procedures for reimbursement of tuition costs. The remaining 141 provisions contained specific coverage relative to allowances, participants and programs, and procedures.

Amount of Allowances

Allowance items found in tuition reimbursement provisions can be separated into three different sections: per-unit allowances, types of expenses covered, and maximum allowable. Per-unit allowances re-

lated to full cost, percent of cost, or fee per credit, hour, course, or other time period. All 141 provisions contained some item relative to the amount of allowance. Types of expenses covered by reimbursement were identified in 86 provisions, and a maximum allowable was specified in 57 of the provisions (Table 2).

TABLE 2.–ANALYSIS OF ALLOWANCES CONTAINED IN 141 NEGOTIATED TUITION REIMBURSEMENT PROVISIONS, 1968-69

Nature of allowance items	Comprehensive agreements	
	Number	Percent
1	2	3
Amount of allowance	141	100.0%
Full cost	52	36.9
Fee or flat amount	54	38.3
Percent of cost	33	23.4
Combination of percent and fee	2	1.4
Types of expenses covered	86	61.0%
Tuition only	61	43.3
Tuition and other expenses	25	17.7
Maximum allowable	57	40.4%
Total number of credits	20	14.2
Total amount	18	12.8
Budget allocation	4	2.8
Combination of above items	15	10.6

Full cost of tuition was defined in 52 (36.9 percent) of the 141 reimbursement provisions. While such statements varied, they were similar to the following example:

The committee will pay the full cost of tuition for in-service courses or courses at accredited colleges, universities or professional training schools which are taken with advance approval or request of the Superintendent of Schools. Such approval will not be unreasonably withheld. (Greenfield, Massachusetts)

The fee or flat amount of allowance provided in 54 (38.3 percent) of the provisions varied according to credit, hour, course, semester, or year. In several instances, higher rates were paid for degree or graduate courses and lesser rates for nondegree or undergraduate courses. Of the 54 provisions, 42 provisions specified a fee per hour of study, or could be computed on this basis. While the amounts ranged from $8 to $38.50 per hour, the most common amounts were $10, $15, $20, and $25 per hour (Table 3).

TABLE 3.–ARRAY OF AMOUNTS PER HOUR PAID FOR TUITION REIMBURSEMENT IN 42 NEGOTIATED PROVISIONS, 1968-69

Amount per hour	Number of tuition reimbursement provisions
1	2
$9 or less	2
$10 - $14	10
$15 - $19	11
$20 - $24	10
$25 - $30	7
Over $30	3

An example of a provision specifying payment of a fee per hour is:

Certified teachers shall be entitled to receive a single payment of Fifteen ($15.00) dollars per semester hour for graduate credit, provided, that the instruction is designed to promote the professional status of the teacher, the best interests of the School District and if furnished by an institution approved by the Board. (Gull Lake, Kalamazoo, Michigan)

In the remaining 35 provisions, 33 paid a percentage of the cost, and the other two combined a percentage of the cost with an amount contingent upon the grade level or number of classes applied for during

the school year. In the 33 provisions providing a percentage of the cost, the percentage ranged from 33-1/3 to 75 percent; the majority (26 provisions) provided 50 percent of the cost, as in the following example:

The Board shall pay one-half (1/2) of the cost of tuition for inservice courses at accredited colleges, universities or professional training schools providing, they have the approval of the Superintendent of Schools. (Old Lyme, Connecticut)

Types of expenses covered usually were identified in provisions which paid the full cost or a percent of the cost of professional study. In the fee or flat amount provisions, the dollar amount allotted controlled the reimbursement. Tuition alone was paid most often, and the following provision indicates a precise definition of tuition costs:

Tuition costs only are eligible for reimbursement. Registration fees, parking fees, travel expenses, textbooks, supplies and all other incidental costs are not eligible. (Catskill, New York)

The maximum allowable usually was established on a yearly basis, although some agreements established different maximums for courses taken during the school year and summer courses. The yearly maximum allowable was specified according to number of credits, amount per teacher, school budget allocation, or a combination of these factors. Examples of each of the several factors used to establish over-all reimbursement maximums are:

A maximum of three credit hours will be eligible for reimbursement each academic semester. During summer sessions a teacher may take up to six approved college credits for reimbursement. (Catskill, New York)

No teacher shall receive more than $350.00 per fiscal year under this provision. (Nankin Mills, Westland, Michigan)

It is agreed then, for the duration of this contract, the Committee's obligation will be limited to $10,000 per year (September 1 to August 31). (Chelmsford, Massachusetts)

Participants and Programs

While the majority of the provisions analyzed indicated that any teacher or professional program would be reimbursed within the allowances specified (with the approval or upon request of the school administration), guidelines for approval were included in the provisions. These guidelines can be grouped into three categories: requirements for participation by teachers, general specifications of sponsoring institutions, and specific factors relative to the content of the program (Table 4).

TABLE 4.—NEGOTIATED CONTENT RELATIVE TO PARTICIPANTS AND PROGRAMS CONTAINED IN 141 TUITION REIMBURSEMENT PROVISIONS, 1968-69

Content of provision	Comprehensive agreements	
	Number	Percent
1	2	3
Requirements for teacher participation in program	127	90.1%
Any regular teacher	75	53.2
Certified teachers	23	16.3
Minimum B.A. degree teachers	11	7.8
Tenure teachers or minimum years of service	6	4.2
Combination of above items	5	3.5
Non-degree teachers	2	1.4
Miscellaneous items relative to salary placement, higher degrees and other combinations	5	3.5
General specifications of sponsoring institutions	141	100.0%
Upon approval of school administration	58	41.1
Accredited colleges or universities only	27	19.1
Directed or required by school administration	24	17.0
Colleges or universities generally	18	12.8
Colleges, in-service courses, and other professional programs	14	9.9
Specific factors programs must be relative to	67	47.5%
Degree or graduate hours	27	19.1
Professional growth	16	11.3
Teaching assignment	13	9.2
Miscellaneous, or combination of above items	11	7.8

TABLE 4.–NEGOTIATED CONTENT RELATIVE TO PARTICIPANTS AND PROGRAMS CONTAINED IN 141 TUITION REIMBURSEMENT PROVISIONS, 1968-69 (Continued)

Content of provision	Comprehensive agreements	
	Number	Percent
1	2	3
Specific factors programs must *not* be relative to	17	12.1%
Certification courses	7	5.0
Change in salary	6	4.3
Required for certain degrees	3	2.1
Correspondence courses	1	0.7

Procedures

The two procedural issues which received the most attention in tuition reimbursement provisions were application and payment for professional study. While formal application was required in only 21 (14.9 percent) of the 141 provisions, some form of application was implied, since the majority of the programs had to be approved by the school administration. The following provision is an example of a more formal application:

Application for such reimbursement must be submitted in writing to the Office of the Superintendent of Schools at least sixty days prior to the start of the session. The application shall include a statement of purpose, description of content, and endorsement of the supervisor to which the applicant is assigned. (Glastonbury, Connecticut)

Eight provisions established a specific time period in which application for reimbursement or notification of a request for reimbursement had to be filed. The time period was designated variously as a particular date, a specific number of days prior to the start of the course, or a specific number of days after completion of the course. The following example demonstrates two procedures depending upon the formality of the course work:

Administrative approval must be obtained prior to enrollment in a course for which compensation is desired unless the course is being taken to satisfy the requirements for a graduate degree. Upon enrollment in a course taken to meet the requirements of a graduate degree, notification of such enrollment shall be given the administration within one week of the date of enrollment. (Granite City, Illinois)

The school administration approved, directed, or required the course of study in 128 of the 141 tuition reimbursement provisions. Of the 104 provisions which required administrative approval, 45 provisions required approval prior to undertaking professional study. In 24 provisions, professional study had to be directed or required by the school administration; the full cost of the study usually was paid by the school board in such instances. In the following provision, a selection committee screens the applicants before final approval is granted by the school administration:

An impartial committee will be established to review the applications and to select the recipients. The committee shall be composed of two administrators (one of whom is to be the District Principal), the Marcellus Faculty Association president or delegate, and one faculty member designated by the Marcellus Faculty Association. (Marcellus, New York)

Statements about payments which were found in reimbursement provisions specified types of evidence required before payment, time of payment, reasons for no payment, and circumstances which require refund of payment. A variety of types of evidence upon completion of professional study was required in 57 (40.4 percent) of the tuition reimbursement provisions and included satisfactory completion (28 provisions), receipt (10 provisions), transcript (10 provisions), and combinations of these items (9 provisions). The following provision requires evidence other than "satisfactory" or "acceptable" completion:

Forms requesting reimbursement for such courses, transcript of credits or original grade report, for the courses and evidence of payment for them must be submitted to the Assistant Superintendent for Instruction after taking the courses. (Niles, Michigan)

Only 24 reimbursement provisions indicated when payment was to be made. Generally, payment was made once a year, after completion, and upon approval. Six provisions specifically provided for more frequent payments: two times a year in four provisions, and three times a year in two provisions. The following example provides exact dates when teachers may expect payment:

Reimbursement of tuition will be made twice each year–at the first payday in March for courses taken during the first semester, and at the first payday in October for courses taken during the second semester or in summer session. (Escanaba, Michigan)

In addition to the previously discussed factors to which a program must or must not be relative before being acceptable, some reimbursement provisions established other conditions which had to be met before payment. Major conditions under which no payment was made included failure to complete course work at a specified achievement grade, failure to return to or be employed by the school district for a specified period of time, and acceptance of other financial assistance.

A minimum achievement grade level for completed professional study was reported in 20 provisions. Grade standards established by the college involved generally were considered acceptable in 10 provisions. In the remaining 10 provisions, the minimum acceptable grade was distributed about equally between the "B" or "C" grade level. An example of payment contingent upon a specified grade is:

Payment will be made upon successful completion of any such course with a grade of B or better. (Middleboro, Massachusetts)

Before a teacher can receive payment, certain employment conditions were mandated in 12 provisions. While some provisions delayed payment for a year, most required a commitment by the teacher to be employed by or to return to the school district for a period of time varying from one semester to three years. The following provision is an example:

No payment will be made for second semester courses to teachers who do not return the following year. (Center Line, Michigan)

If other financial assistance was received as payment for courses requested for reimbursement, 14 provisions specified no payment would be made by the school board. A more liberal statement was comained in four provisions. If the financial assistance was less than that provided in the reimbursement provision, two provisions specified that the difference would be paid. In the other two provisions, one specified that payment would be made in addition to assistance received through the G. I. bill only, and the other said the teacher would be reimbursed in addition to any other financial assistance. The following provision is an example of a no-payment clause:

No payment shall be in addition to tuition paid under fellowship, institute, or scholarship grant. (Grandville, Michigan)

In four provisions, the teacher had to refund part or all of the payment under conditions usually predicated upon continued employment for a specified period of time. One provision made payment prior to the completion of professional study, but required the teacher to refund the money within 10 days of completion if the work was not satisfactorily performed. The example below indicates a specific repayment requirement:

In the event that the teacher does not return for the second year following the courses, the teacher agrees to repay fifty percent (50%) of the tuition reimbursement. (Stoneham, Massachusetts)

Special Reports

BRIEFS OF RECENT AGREEMENTS

Lowell, Indiana

Between the Board of School Trustees of the Tri-Creek School Corporation and the Tri-Creek Teachers Organization, effective January 1970 to December 31, 1970. Approximately 146 certificated professional employees.

Compensation: B.A., $7,000 to $9,750, 11 increments; M.A. $7,400 to $11,500, 15 increments; M.A. plus 30 hours, $11,700 maximum. Differentials: football coach, $1,000 plus 2 week's salary; basketball coach, $1,000 plus 1 week's salary; golf coach, $400; wrestling coach, $600 plus 1 week's salary; athletic director, $600 plus 1 free period; high-school G.A.A. sponsor, $500; sponsor of all school show, $150; pep club sponsor, $150; bookstore director, $150; department chairmen, $500; high-school band director, $900. Retirement pay: 25% of accumulated sick leave (not to exceed 60 days) after 20-24 years' service, 50% of accumulated sick leave after 25-29 years' service, and 100% of accumulated sick leave after 30 or more years' service.

Leaves: 10 days' annual sick leave during first year and 7 days' annual sick leave thereafter, 120 days' maximum accumulation; 2 days for personal business; 5 days' bereavement leave; paid leave less per-diem allowance for jury duty; time as needed for professional conference leave with board paying room, board, fees, and mileage; sabbatical leave at half-pay for 1 year after 6 years' service with half of that amount paid during the year the teacher returns, and the second half paid during the second year the teacher has returned.

Insurance: Board pays full amount of hospital and major medical premium for individual coverage, less $1 as per state law; board pays full amount of premium for $5,000 term life insurance policy.

Miscellaneous: Grievance procedure ends with fact-finding recommendations; Association dues deduction and right to use school facilities; joint committee to study a differentiated staffing system; inservice workshop committee; textbook adoption committee; educational improvement committee to discuss and investigate educational changes; tuition reimbursement for every 3 semester hours of credit earned beyond master's degree or life license; provisions for teacher evaluation, maximum teacher-pupil ratio, pupil discipline, and addition of teacher aides; 30-minute duty-free period for elementary teachers daily; voluntary supervision of student teachers; voluntary and involuntary transfer provisions; academic freedom clause.

Belfast, Maine

Between the Board of Directors of Maine School Administrative District No. 34 and the Maine School Administrative District No. 34 Teachers Association, effective September 1, 1970, to August 31, 1971. Approximately 75 certificated professional employees.

Compensation: B.A., $6,250 to $9,375, 10 increments; M.A., $6,750 to $10,125, 10 increments; longevity pay of $125 after 10 years' service, $250 after 20 years' service, and $375 after 30 years' service; administrative position pay scales are determined as a percentage of teachers' salary schedule according to first, second, and third years of service in position. Differentials: (first-year compensation, with increases in second and third years of service) athletic director, $1,250; varsity football coach, $1,125; assistant football coach, $625; baseball coach, $500; junior varsity basketball coach, $500; girls' athletic director, $437.50; girls' softball coach, $250; yearbook advisor, $187.50.

Leaves: 15 days' annual sick leave, 90 days' maximum accumulation; 3 days' personal leave deducted from accumulation.

Insurance: Board pays $150 toward cost of medical coverage.

Miscellaneous: Grievance procedure ends with binding arbitration; Association dues deduction and right to use school facilities; Association may request district financial data; Association representative may speak at faculty meetings; specific joint committee to study class size ratio; tuition reimbursement of $150 for 6 credit hours earned within a 2-year period; teacher has right to review personnel file; school calendar; teacher evaluation; provisions for reduction of nonteaching duties, and employment of teacher aides when possible; teachers may suggest items for staff meeting agendas; duty-free lunch period as possible; pupil discipline provision; voluntary transfer and reassignment clause; teacher suspension under reprimand with pay.

Montgomery County, Maryland

Between the Montgomery County (Rockville) Board of Education and the Montgomery County Education Association, effective July 1, 1970, to June 30, 1971. Approximately 6,637 certificated professional employees.

Compensation: (10-month employees) B.A., $7,250 to $9,860, 6 increments; B.A. plus 15 hours, $11,455 maximum; M.A., $8,120 to $14,718, 13 increments; M.A. plus 30 hours, $15,298 maximum; longevity pay of 5% of base salary after 19 years' service, 10% of base after 24 years' service, and 15% of base after 29 years' service. After 5 years' service and at time of termination, employee receives termination pay at current salary rate for 25% of accumulated sick leave.

Leaves: annual sick leave accrued at rate of 1 day per month, unlimited maximum accumulation; sick leave to be earned during a given year is advanced at start of school year, but employee is liable for all advanced leave; sick leave may be used for medical, dental, or optical examinations impossible to schedule on nonduty days; 3 separate days for personal business; leave for family illness is deducted from accumulation and may not exceed the number of sick leave days earned per year; 4 separate days' bereavement leave; disability leave at full pay less workmen's compensation for injury incurred in line of duty; paid professional conference leave; paid leave less monies received for jury duty; sabbatical leave at 60% of salary for 1 year after 7 years' service if teacher agrees to return for 3-year period immediately following leave.

Insurance: Boards pays 50% of life and health insurance premiums for individual coverage during first 3 years of service, 60% of such premiums during the fourth through sixth years of service, and 70% of such premiums during the seventh and following years of service; tax sheltered annuity plan.

Miscellaneous: Grievance procedure ends with binding arbitration; Association dues deduction and right to use school facilities; Association president granted leave at half-pay during term of office; Association officers and/or representatives may draw on bank of 150 paid days for internal or external Association business; professional development committees; committees to study student teacher training program, and differentiated teaching program; 30-minute daily preparation period for elementary teachers; 1 daily preparation period for secondary teachers; provisions for reduction in class size, additional specialists, and clerical and teacher aides; voluntary and involuntary transfer provisions; promotional policy; 12-month employment program; teacher evaluation; pupil discipline; salary and leave benefits for conscientious objectors; academic freedom clause; legal assistance provided when teacher charged with job-related personal liability.

Endicott, New York

Between the Board of Education of Union-Endicott Central School District No. 1 and the Endicott Teachers Association, effective July 1, 1970, to June 30, 1971. Approximately 425 certificated professional employees.

Compensation: (certificated teachers) B.A., $7,802 to $11,299, 11 increments; B.A. plus 30 hours, $12,025 maximum; M.A., $8,544 to $12,368, 11 increments; M.A. plus 30 hours, $13,164 maximum. Differentials: (step 1 on a 5-step classification scale) head football coach, $1,000; head wrestling coach, $750; head baseball, soccer, and track coaches, $600; assistant varsity football coach, $500; assistant varsity track coach, $400; junior varsity head football, basketball, and wrestling coaches, $450; junior varsity assistant football coach, $350; junior high head football coach, $400; junior high baseball coach, $300; ticket manager, $500; yearbook co-advisor, $750; marching band director, $1,000; assistant marching band director, $500; history club advisor, $300; music production director, $300.

Leaves: (10-month employees) 10 days' annual sick leave, unlimited maximum accumulation; reasonable time shall be granted at full pay for personal business leave, bereavement leave, and religious holidays; reasonable time for professional conference leave with board paying expenses incurred; 2 separate days

for family illness; sabbatical leave at half-pay for 1 year after 7 years' service; during unpaid maternity leave, teacher may be credited with advancement of pay and privileges at discretion of board.

Insurance: Board pays 75% of major medical premium for individual coverage.

Miscellaneous: Grievance procedure ends with binding arbitration; Association dues deduction and right to use school facilities; Association president will be relieved of nonteaching duties during term of office; Association president may request district staff and business data; standing Association committee to make recommendations to superintendent about the educational program; monthly curriculum council meetings; textbook selection committee; principal's advisory council in each school; specific joint committee to study teacher absenteeism and existing practices and procedures; tuition reimbursement for professional growth credits earned; teacher has right to review personnel file and respond to unfavorable material; 30-minute duty-free lunch period; summer school positions filled from within district; provisions for teacher aides, promotion from within, teacher evaluation, and in-service training program; 1 daily preparation period for secondary teachers; class size guidelines; 3 days per semester for elementary teacher-parent conferences; code of ethics; voluntary and involuntary transfer provisions; all field trip expenses incurred by faculty chaperones will be assumed by board; reimbursement for damaged personal property.

Viroqua, Wisconsin

Between the Board of Education of the Viroqua Area Schools and the Viroqua Education Association, effective July 1, 1970, to June 30, 1971. Approximately 104 certificated professional employees.

Compensation: B.A., $7,000 to $10,519, 12 increments; B.A. plus 36 hours, $11,194 maximum; M.A., $7,600 to $12,103, 14 increments; M.A. plus 36 hours, $12,818 maximum. Differentials: head football, basketball, and wrestling coaches, $770; assistant football, basketball, and wrestling coaches, $490; head track and baseball coaches, $350; high-school athletic director, $700; junior high athletic director, $280; intramurals sponsor, $100; senior high student council advisor, $220; camera club advisor, $100; debate advisor, $220; junior high newspaper advisor, $110; extra pay activities including photographer, scorer, and dance and bus chaperones paid at rate of $5 per activity. Summer school pay of 80% of teacher's base salary plus experience and service factors computed on the basis of total contract days. Substitute pay of $25 per day for the first 15 days, followed by placement on regular salary schedule retroactive to first day.

Leaves: 10 days' annual sick leave, 90 days' maximum accumulation; 5 separate days for personal emergencies; paid personal business leave less substitute's pay.

Insurance: Board pays 80% toward cost of health and accident insurance premium for individual coverage; liability insurance coverage provided by board.

Miscellaneous: Grievance procedure ends with advisory arbitration; committees to develop teacher evaluation criteria, and study merit pay; tuition reimbursement of $25 per semester credit earned at rate of 6 credits per year or summer; teacher has right to review personnel file and may respond to unfavorable material; professional growth requirements; summer school positions filled from within system; teachers with seniority given preference in filling vacancies; school calendar; mandatory retirement at age 65; preparation period for all teachers of no less than 30 minutes per day; duty-free lunch period for all teachers of at least 30 minutes; failure to attend in-service days and professional meetings will result in loss of pay; board will pay legal fees incurred by teacher found innocent in school-related litigation.

SELECTED MATERNITY LEAVE PROVISIONS CONTAINED IN COMPREHENSIVE AGREEMENTS

Of the 978 comprehensive agreements analyzed in the 1968-69 *Negotiation Agreement Provisions*, 660 school systems reported a negotiated maternity leave provision. While the language of such provisions varies, maternity leave basically is defined as an extended unpaid leave of absence with guaranteed return to a similar position and no loss of accrued benefits, such as accumulated sick leave, or retirement and service credit. Some school boards include maternity leave items in their board policies or guidelines, but only negotiated maternity leave provisions contained in comprehensive agreements and guaranteeing the teacher's right to return from such leave to her former job or a comparable one are referred to here.

In 1968, six states had statutory provisions regarding maternity leaves of absence: California, Delaware, the District of Columbia, Kentucky, Louisiana, and Tennessee. The Delaware, Kentucky, and Louisiana statutes were mandatory.

Specific items contained in maternity leave provisions include:

- Maternity leave or adoptive leave generally is available only to tenure teachers, although some provision may be made for probationary teachers as well.
- Early notification of pregnancy (generally meaning close to the time of conception) accompanied by a physician's statement indicating the expected date of delivery is required of teachers requesting maternity leave. Failure to notify may cause a teacher to lose her leave or her right to return to her former position or a comparable one.
- Pre-natal time limits vary, but a teacher generally is required to leave her position about five or six months prior to delivery.
- Post-natal time limits vary from three months to one year after delivery (depending upon extenuating circumstances), with usual return at the beginning of a semester or similar academic period.
- Upon return from maternity leave, a teacher is either placed on her former salary step or advanced to the next step in an identical or similar position.
- Maternity leave provisions indicate that teachers receive benefits such as medical insurance while on leave.

Six examples of maternity leave provisions taken from comprehensive agreements are reprinted below. These are sample provisions only; they are not intended to be regarded as exemplary.

Bridgeport School District, Bridgeport, Connecticut
Article V, Section E(9)—*"Maternity Leave Policy"*

a. A teacher must accept maternity leave by the time she has reached the fifth month of her pregnancy.
b. Once accepting maternity leave, the teacher must be maintained on this status for a minimum of two years.
   (1.) In case of miscarriage or death of infant during leave, the teacher may be eligible for reinstatement when an opening exists.
   (2.) The Superintendent may, in case of need, request that a teacher return to active status before the two-year mandatory period expires. The teacher so requested may decline without prejudice to her position.
c. Three one-year extensions of this leave may be granted at the request of the teacher.
   (1.) Any teacher requesting reinstatement under the terms of this policy must have maintained her state certification.
   (2.) The responsibility for maintenance of certification rests solely with the teacher.
d. Teachers on probationary status must complete their probation under the following conditions:
   (1.) If less than one year of active service has been completed, an entire three-year probationary period must be fulfilled upon return.
   (2.) If more than one full school year has been completed, the returning teacher must complete two full years on probationary appointment.
      (a.) In no case will service of a fraction of a year be taken into consideration. Only full school years completed will be considered.
e. Salaries of returning teachers will be based on the following consideration:
   (1.) Teachers starting their leave prior to February 1, will retain their previous step-status on their return.
   (2.) Teachers starting their leave on or after February 1, will be placed on the next step on their return to active status.
f. All teachers returning from leave return as regular staff members.

Somerville Public Schools, Somerville, Massachusetts
Article XXI, Section 3—*"Extended Leaves of Absence"*

As a condition of employment and retention of position, a married woman employee on tenure, who becomes pregnant, shall request a leave of absence without pay, which shall become effective not later than six (6) months before the date of the expected birth, provided that up to that time she can perform her duties satisfactorily, the leave to terminate one year from the first of September following the birth of the child. The Application must be accompanied by a physician's certificate stating the expected date of delivery.

Teachers not on tenure will not be granted leaves of absence for pregnancy.

Any teacher who is pregnant and does not wish to request a maternity leave of absence shall submit her resignation not less than six months before the date of the expected birth of the child.

The teacher must notify the Superintendent of Schools by the first of April of the year in which her maternity leave expires of her intention either to return in September or her intention to retire from the school system. Failure to comply with this requirement will be considered as her resignation from the school system.

In the event that the child does not live, the teacher may make written application for reinstatement, accompanied by a physician's statement of good health. Such reinstatement may be granted by the Committee, in case an acceptable vacancy occurs, upon the recommendation of the Superintendent of Schools and the approval of the Committee.

A teacher returning from maternity leave, whether regular or abbreviated, will be given a salary at the same level for the remaining months of a year as she was receiving prior to withdrawal.

Norway-Vulcan Area Schools, Norway, Michigan
Article VII, Section A—*"Leave Policy—Maternity Leave"*

a. A maternity leave without pay or fringe benefits may be granted for a period of one (1) year. The employee requesting such leave should file her request in writing six (6) months before the expected birth of the child. When the employee can furnish a physician's statement certifying her fitness to perform her tasks, she shall be allowed to continue her position until the beginning of the twenty-second (22nd) week prior to the expected birth of the child.
b. Eligibility for a maternity leave of absence requires a minimum of two (2) years continuous employment by the school district immediately prior to such leave of absence.
c. A further extension of a leave of absence or a second leave of absence may be granted at the will of the Board of Education upon the recommendation of the superintendent of schools.
d. While an employee is granted a leave of absence, she shall retain the following employment rights held by her before such leave was granted:
   (1.) The same position on the salary schedule as held when the leave was granted.
   (2.) Unused sick leave as held at the start of the leave of absence.
e. An employee on a leave of absence must give written notice to the superintendent of school by April 1st of the year the leave expires of her intention to return or resign unless an extension of leave or a new leave has been granted. Failure to furnish such written notice shall constitute a notice of resignation.
f. Reemployment during the school year shall be at the discretion of the Board, and reemployment for the beginning of a new school year shall be dependent upon an opening on the staff for which the employee is qualified. In the event there is no opening, the teacher shall be given priority for substitute work if she so desires.

Monroe Township Public Schools, Williamstown, New Jersey
"Extended Leaves of Absence—Maternity Leave of Absence"

a. **Eligibility.** All tenure personnel.
b. **Notification.** The Superintendent shall be informed in writing of the employee's condition no later than the third month of pregnancy.
c. **Beginning of Leave.** Leave shall begin any time during the term of pregnancy upon the written request of the employee at least 30 days before the leave is to become effective, *or* at any time during the term of pregnancy upon 30 days written notice to the employee by the Superintendent. A written statement from a physician shall be required stating that the employee is able to perform all duties required by her position up to the time leave is to begin.
d. **Extent of Leave.** Initial leave shall be granted until June 30 of the school year leave began. Additional school years of leave may be granted upon the written request of the employee received no later than July 1 for the succeeding year.
e. **Reinstatement.** Employees shall return to active duty in September upon written request received no later than the previous July 1. Reinstatement may take place during the school year only at the convenience of the school system.
f. **Benefits.**
   (1.) Tenure employees shall retain tenure during the period of leave.

(2.) Blue Cross/Shield benefits for tenure employees shall be continued for a period of 12 months, beginning with the effective date of leave.

(3.) Employee shall not advance on the salary guide while on leave. However, if leave begins during a school year, credit shall be granted as follows: leave beginning Dec. 1 - March 31, ½ year; leave beginning April 1 or later. 1 full year.

g. **Accumulated Sick Leave.** At the option of the employee, such leaves may be used, the leave of absence becoming effective when all sick leave is exhausted.

h. **Non-tenure Personnel.** Although this policy applies specifically to tenure personnel, non-tenure personnel must follow the same procedures for notification and may be granted leave and other benefits at the discretion of the Board of Education.

North Syracuse Central School District No. 3, North Syracuse, New York
Items 128-130—*"Maternity Leave"*

Women teachers will be granted maternity leave upon written application to the Superintendent of Schools which shall, so far as possible, be made at least six (6) months before the expected birth of the child. Ordinarily such leaves will commence more than four (4) months before such expected birth and shall continue for the remainder of the then current school year and the duration of the following school year. Mutually satisfactory arrangements will be made between the teacher and the building administrator. Such leave may be extended for an additional year upon the teacher's written request to the Superintendent of Schools.

A teacher will not accumulate additional leave days during a maternity leave of absence, however, upon return from such leave of absence prior accumulated leave days will be restored, and any such teacher whose leave began after January 31 will be placed on the step of the salary schedule she would have achieved in the year immediately following the commencement of the leave of absence.

For non-tenure teachers, maternity leave shall be an interruption of the probationary period and not in lieu of service in meeting the requirements for serving this probationary period.

Akron School District, Akron, Ohio
Article III, Section 28—*"Personnel Policies—Maternity Leave"*

a. **Eligibility.** Any married woman employee of the Board of Education who becomes pregnant after three or more consecutive years of regular service in the Akron Public Schools, immediately prior to her request for leave, and who desires to return to the employ of the Board at a future date, shall be granted a maternity leave of absence without pay. The absence shall extend for one calendar year following the birth of the child, plus any remaining portion of the school semester which may then be in progress. Such leave may be renewed for one or two semesters.

b. **Application for Maternity Leave.** The application for such leave of absence must be made not later than the end of the fourth month of pregnancy or at such earlier time as the employee's physical or emotional condition interferes with the regular and satisfactory performance of her duties, and must be accompanied by a statement from the attending physician, giving the approximate date of delivery.

It is the policy of the Board of Education that no woman employee remain at work beyond the sixth month of pregnancy (see 3.42, Termination of Contract, pertaining to resignation).

c. **Application for Reinstatement.** Application for reinstatement must be made at least thirty days before the expiration of a maternity leave of absence.

The employee must also submit a statement from her attending physician certifying that the employee is both physically and emotionally able to resume her duties with the Board of Education.

d. **Early Termination of Maternity Leave.** If the expected child does not survive, or if other conditions make desirable or necessary an earlier termination of a maternity leave, the employee may request termination of the leave before the expiration date of the leave.

The employee shall request such earlier termination of maternity leave in writing to the Superintendent of Schools, forwarding with the request a statement by the attending physician certifying that the employee is physically and emotionally able to resume her duties with the Board of Education.

e. **Reinstatement.** Upon returning to the school system, she shall be returned to the same position that she held at the time said leave commenced, if available; if not, to an equivalent position.

Text

HAWAII

AN ACT RELATING TO COLLECTIVE BARGAINING IN PUBLIC EMPLOYMENT

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The purpose of this Act is to implement the constitutional mandate of Article XII, Section 2, which grants public employees the right to organize for the purpose of collective bargaining as prescribed by law.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

COLLECTIVE BARGAINING IN PUBLIC EMPLOYMENT

Section 1. Statement of findings and policy. The legislature finds that joint-decision making is the modern way of administering government. Where public employees have been granted the right to share in the decision-making process affecting wages and working conditions, they have become more responsive and better able to exchange ideas and information on operations with their administrators. Accordingly, government is made more effective. The legislature further finds that the enactment of positive legislation establishing guidelines for public employment relations is the best way to harness and direct the energies of public employees eager to have a voice in determining their conditions of work, to provide a rational method for dealing with disputes and work stoppages, and to maintain a favorable political and social environment.

The legislature declares that it is the public policy of the State to promote harmonious and cooperative relations between government and its employees and to protect the public by assuring effective and orderly operations of government. These policies are best effectuated by (1) recognizing the right of public employees to organize for the purpose of collective bargaining, (2) requiring the public employers to negotiate with and enter into written agreements with exclusive representatives on matters of wages, hours, and other terms and conditions of employment, while, at the same time, (3) maintaining merit principles and the principle of equal pay for equal work among state and county employees pursuant to Sections 76-1, 76-2, 77-31, and 77-33, and (4) creating a public employment relations board to administer the provisions of this chapter.

Section 2. Definitions. As used in this chapter:

(1) "Arbitration" means the procedure whereby parties involved in an impasse mutually agree to submit their differences to a third party for a final and binding decision.

(2) "Appropriate bargaining unit" means the unit designated to be appropriate for the purpose of collective bargaining pursuant to Section 6.

(3) "Board" means the Hawaii public employment relations board created pursuant to Section 5.

(4) "Certification" means official recognition by the Hawaii public employment relations board that the employee organization is, and shall remain, the exclusive representative for all of the employees in an appropriate bargaining unit for the purpose of collective bargaining, until it is replaced by another employee organization, decertified, or dissolves.

(5) "Collective bargaining" means the performance of the mutual obligations of the public employer and the exclusive representative to meet at reasonable times, to confer and negotiate in good faith, and to execute a written agreement with respect to wages, hours, and other terms and conditions of employment, except that by any such obligation neither party shall be compelled to agree to a proposal, or be required to make a concession.

(6) "Cost items" includes wages, hours, and other terms and conditions of employment, the implementation of which requires an appropriation by a legislative body.

(7) "Employee" or "public employee" means any person employed by a public employer except elected and appointed officials and such other employees as may be excluded from coverage in Section 6(c).

(8) "Employee organization" means any organization of any kind in which public employees participate and which exists for the primary pur-

pose of dealing with public employers concerning grievances, labor disputes, wages, hours, and other terms and conditions of employment of public employees.

(9) "Employer" or "public employer" means the governor in the case of the State, the respective mayors in the case of the city and county of Honolulu and the counties of Hawaii, Maui, and Kauai, the board of education in the case of the department of education, and the board of regents in the case of the university of Hawaii, and any individual who represents one of these employers or acts in their interest in dealing with public employees.

(10) "Exclusive representative" means the employee organization, which as a result of certification by the board, has the right to be the collective bargaining agent of all employees in an appropriate bargaining unit without discrimination and without regard to employee organization membership.

(11) "Fact-finding" means identification of the major issues in a particular impasse, review of the positions of the parties and resolution of factual differences by one or more impartial fact-finders, and the making of recommendations for settlement of the impasse.

(12) "Impasse" means failure of a public employer and an exclusive representative to achieve agreement in the course of negotiations.

(13) "Legislative body" means the legislature in the case of the State, the city council in the case of the city and county of Honolulu, and the respective county councils in the case of the counties of Hawaii, Maui, and Kauai.

(14) "Mediation" means assistance by an impartial third party to reconcile an impasse between the public employer and the exclusive representative regarding wages, hours, and other terms and conditions of employment through interpretation, suggestion, and advice to resolve the impasse.

(15) "Professional employee" includes (A) any employee engaged in work (i) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work, (ii) involving the consistent exercise of discretion and judgment in its performance, (iii) of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time, (iv) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual, or physical processes; or (B) any employee, who (i) has completed the courses of specialized intellectual instruction and study described in clause (A)(iv), and (ii) is performing related work under the supervision of a professional employee as defined in (A).

(16) "Service fee" means an assessment of all employees in an appropriate bargaining unit to defray the cost for services rendered by the exclusive representative in negotiations and contract administration.

(17) "Strike" means a public employee's refusal, in concerted action with others, to report for duty, or his wilful absence from his position, or his stoppage of work, or his abstinence in whole or in part from the full, faithful, and proper performance of the duties of employment, for the purpose of inducing, influencing, or coercing a change in the conditions, compensation, rights, privileges, or obligations of public employment; provided, that nothing herein shall limit or impair the right of any public employee to express or communicate a complaint or opinion on any matter related to the conditions of employment.

(18) "Supervisory employee" means any individual having authority in the interest of the employer, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or the responsibility to assign work to and direct them, or to adjust their grievances, or effectively to recommend such action, if, in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

Section 3. Rights of employees. Employees shall have the right of self-organization and the right to form, join, or assist any employee organization for the purpose of bargaining collectively through representatives of their own choosing on questions of wages, hours, and other terms and conditions of employment, and to engage in lawful, concerted activities for the purpose of collective bargaining or other mutual aid or protection, free from interference, restraint, or coercion. An employee shall have the right to refrain from any or all of such activities, except to the extent of making such payment of service fees to an exclusive representative as provided in Section 4.

Section 4. Payroll deductions.

(a) The employer shall, upon receiving from an exclusive representative a written statement which specifies an amount of reasonable service fees necessary to defray the costs for its services rendered in negotiating and administering an agreement and computed on a pro rata basis among all employees within its appropriate bargaining unit, deduct from the payroll of every employee in the appropriate bargaining unit the amount of service fees and remit the amount to the exclusive representative. A deduction permitted by this section, as determined by the board to be reasonable, shall extend to any

employee organization chosen as the exclusive representative of an appropriate bargaining unit. If an employee organization is no longer the exclusive representative of the appropriate bargaining unit, the deduction shall terminate.

(b) In addition to any deduction made to the exclusive representative under subsection (a), the employer shall, upon written authorization by an employee, deduct from the payroll of the employee the amount of membership dues, initiation fees, group insurance premiums, and other association benefits and shall remit the amount to the employee organization designated by the employee.

(c) The employer shall continue all payroll assignments authorized by an employee prior to the effective date of this chapter and all assignments authorized under subsection (b) until notification is submitted by an employee to discontinue his assignments.

Section 5. Hawaii public employment relations board.

(a) There is created a Hawaii public employment relations board composed of five members of which (1) two members shall be representatives of management, (2) two members shall be representatives of labor, and (3) a fifth member, the chairman, shall be representative of the public. All members shall be appointed by the governor for terms of six years each, except that the terms of members first appointed shall be for two, three, four, five, and six years respectively as designated by the governor at the time of appointments. Public employers and employee organizations representing public employees may submit to the governor for consideration names of persons representing their interests to serve as members of the board and the governor shall first consider these persons in selecting the members of the board to represent management and labor. Each member shall hold office until his successor is appointed and qualified. Because cumulative experience and continuity in office are essential to the proper administration of this chapter, it is declared to be in the public interest to continue board members in office as long as efficiency is demonstrated, notwithstanding the provision of Section 26-34, which limits the appointment of a member of a board or commission to two terms.

The members shall devote full time to their duties as members of the board. The chairman of the board shall be paid a salary at the rate of ninety-five per cent of the salary of a circuit court judge. Each of the other members shall be paid a salary at a rate of ninety per cent of the chairman's salary. No member shall hold any other public office or be in the employment of the State or a county, or any department or agency thereof, or any employee organization during his term.

Any action taken by the board shall be by a simple majority of the members of the board. All decisions of the board shall be reduced to writing and shall state separately its finding of fact and conclusions. Three members of the board, consisting of the chairman, at least one member representative of management, and at least one member representative of labor, shall constitute a quorum. Any vacancy in the board, shall not impair the authority of the remaining members to exercise all the powers of the board. The governor may appoint an acting member of the board during the temporary absence from the State or the illness of any regular member. An acting member, during his term of service, shall have the same powers and duties as the regular member.

The chairman of the board shall be responsible for the administrative functions of the board. The board may appoint an executive officer, mediators, members of fact-finding boards, arbitrators, and hearings officers, and employ other assistants as it may deem necessary in the performance of its functions, prescribe their duties, and fix their compensation and provide for reimbursement of actual and necessary expenses incurred by them in the performance of their duties within the amounts made available by appropriations therefor.

The board shall be within the department of labor and industrial relations for budgetary and administrative purposes only. The members of the board and the employees of the board shall be exempt from Chapters 76 and 77.

At the close of each fiscal year, the board shall make a written report to the governor of such facts as it may deem essential to describe its activities, including the cases and their dispositions, and the names, duties, and salaries of its officers and employees. Copies of the report shall be transmitted to the legislative bodies and to the public management committee.

(b) In addition to the powers and functions provided in other sections of this chapter, the board shall:

(1) Establish procedures for, investigate, and resolve, any dispute concerning the designation of an appropriate bargaining unit and the application of Section 6 to specific employees and positions;
(2) Resolve any dispute concerning cost items;
(3) Establish procedures for, resolve disputes with respect to, and supervise the conduct of, elections for the determination of employee representation;
(4) Conduct proceedings on complaints of prohibited practices by employers, employees, and employee organizations and take such actions with respect thereto as

it deems necessary and proper;

(5) Hold such hearings and make such inquiries, as it deems necessary, to carry out properly its functions and powers, and for the purpose of such hearings and inquiries, administer oaths and affirmations, examine witnesses and documents, take testimony and receive evidence, compel attendance of witnesses and the production of documents by the issuance of subpoenas, and delegate such powers to any member of the board or any person appointed by the board for the performance of its functions;

(6) Establish, after reviewing nominations submitted by the public employers and employee organizations, lists of qualified persons, broadly representative of the public, to be available to serve as mediators, members of fact-finding boards, or arbitrators;

(7) Establish daily or hourly rates at which mediators, members of fact-finding boards, and arbitrators are to be compensated and apportion the costs of arbitration to the parties involved;

(8) Conduct studies on problems pertaining to public employee-management relations, and make recommendations with respect thereto to the legislative bodies; request information and data from state and county departments and agencies and employee organizations necessary to carry out its functions and responsibilities; make available to the public management committee, employee organizations, as may exist, mediators, members of fact-finding boards, arbitrators, and other concerned parties statistical data relating to wages, benefits, and employment practices in public and private employment to assist them in resolving issues in negotiations;

(9) Promulgate rules and regulations relative to the exercise of its powers and authority and to govern the proceedings before it in accordance with Chapter 91.

Section 6. Appropriate bargaining units.

(a) All employees throughout the State within any of the following categories shall constitute an appropriate bargaining unit:

(1) Nonsupervisory employees in blue collar positions;

(2) Supervisory employees in blue collar positions;

(3) Nonsupervisory employees in white collar positions;

(4) Supervisory employees in white collar positions;

(5) Teachers and other personnel of the department of education under the same salary schedule;

(6) Educational officers and other personnel of the department of education under the same salary schedule;

(7) Faculty of the University of Hawaii and the community college system;

(8) Personnel of the University of Hawaii and the community college system; other than faculty;

(9) Registered professional nurses;

(10) Nonprofessional hospital and institutional workers;

(11) Firemen;

(12) Policemen; and

(13) Professional and scientific employees, other than registered professional nurses.

Because of the nature of work involved and the essentiality of certain occupations which require specialized training, units (9) through (13) are designated as optional appropriate bargaining units. Employees in any of these optional units may either vote for separate units or for inclusion in their respective units (1) through (4). If a majority of the employees in any optional unit desire to constitute a separate appropriate bargaining unit, supervisory employees may be included in the unit by mutual agreement among supervisory and nonsupervisory employees within the unit; if supervisory employees are excluded, the appropriate bargaining unit for such supervisory employees shall be (2) or (4), as the case may be.

The compensation plans for blue collar positions pursuant to Section 77-5 and for white collar positions pursuant to Section 77-13, the salary schedules for teachers pursuant to Section 297-33 and for educational officers pursuant to Section 297-33.1, and the appointment and classification of faculty pursuant to Sections 304-11 and 304-13, existing on the effective date of this chapter, shall be the bases for differentiating blue collar from white collar employees, professional from nonprofessional employees, supervisory from nonsupervisory employees, teachers from educational officers, and faculty from nonfaculty. In differentiating supervisory from nonsupervisory employees, class titles alone shall not be the basis for determination, but, in addition, the nature of the work, including whether or not a major portion of the working time of a supervisory employee is spent as part of a crew or team with nonsupervisory employees, shall also be considered.

(b) For the purpose of negotiations, the public employer of an appropriate bargaining unit shall mean the governor or his designated representatives

of not less than three together with not more than two members of the board of education in the case of units (5) and (6), the governor or his designated representatives of not less than three together with not more than two members of the board of regents of the university of Hawaii in the case of units (7) and (8), and the governor or his designated representatives together with the mayors of all the counties or their designated representatives in the case of the remaining units.

(c) No elected or appointed official, member of any board or commission, representative of a public employer; including the administrative officer, director, or chief of a state or county department or agency, or any major division thereof as well as his deputy, first assistant, and any other top-level managerial and administrative personnel, individual concerned with confidential matters affecting employee-employer relations, part time employee working less than twenty hours per week, temporary employee of three months duration or less, or any commissioned and enlisted personnel of the Hawaii national guard, shall be included in any appropriate bargaining unit or entitled to coverage under this chapter.

(d) Where any controversy arises under this section, the board shall, pursuant to Chapter 91, make an investigation and, after a hearing upon due notice, make a final determination on the applicability of this section to specific positions and employees.

Section 7. Elections. Whenever, in accordance with regulations as may be prescribed by the board pursuant to Chapter 91, a petition is filed by an employee organization after January 1, 1971, showing written proof of at least thirty per cent representation of the public employees in an appropriate bargaining unit, the board shall hold an election by secret ballot to determine whether and by which employee organization the employees desire to be represented for the purpose of collective bargaining. The ballot shall contain, in addition, both the name of any candidate showing written proof of at least ten per cent representation of the public employees within the unit, and a provision for marking "no representation".

In any election in which none of the choices on the ballot receives a majority of the votes cast, a runoff election shall be conducted, the ballot providing for a selection between the two choices receiving the largest number of valid votes cast in the election. The board shall certify the results of the election, and where an employee organization receives a majority of the votes cast, the board shall certify the employee organization as the exclusive representative of all employees in the appropriate bargaining unit for the purpose of collective bargaining.

No election shall be directed by the board in any appropriate bargaining unit within which (1) a valid election has been held in the preceding twelve months; or (2) a valid collective bargaining agreement is in force and effect, except upon a petition as provided herein not more than ninety days, but not less than sixty days, prior to the expiration of the agreement.

The board shall adopt rules and regulations governing the conduct of elections to determine representation, including the time, place, manner of notification, and reporting the results of elections, and the manner for filing any petition for an election or any petition concerning the results of an election. No mail ballots shall be permitted by the board except when for reasonable cause a specific individual would otherwise be unable to cast a ballot. The board shall have the final determination on any controversy concerning the eligibility of an employee to vote.

Section 8. Recognition and representation.

(a) The employee organization which has been certified by the board as representing the majority of employees in an appropriate bargaining unit shall be the exclusive representative of all employees in the unit. As exclusive representative, it shall have the right to act for and negotiate agreements covering all employees in the unit and shall be responsible for representing the interests of all such employees without discrimination and without regard to employee organization membership.

(b) An individual employee may present a grievance at any time to his employer and have the grievance heard without intervention of an employee organization; provided that the exclusive representative is afforded the opportunity to be present at such conferences and that any adjustment made shall not be inconsistent with the terms of an agreement then in effect between the employer and the exclusive representative.

Section 9. Scope of negotiations.

(a) The employer and the exclusive representative shall meet at reasonable times, including meetings in advance of the employer's budget-making process, and shall negotiate in good faith with respect to wages, hours, and other terms and conditions of employment which are subject to negotiations under this Act and which are to be embodied in a written agreement, or any question arising thereunder, but such obligation does not compel either party to agree to a proposal to make a concession.

(b) The employer or the exclusive representative desiring to initiate negotiations shall notify the other in writing, setting forth the time and place of the meeting desired and generally the nature of the business to be discussed, and shall mail the notice

by certified mail to the last known address of the other party sufficiently in advance of the meeting.

(c) Except as otherwise provided herein, all matters affecting employee relations, including those that are, or may be, the subject of a regulation promulgated by the employer or any personnel director, are subject to consultation with the exclusive representatives of the employees concerned. The employer shall make every reasonable effort to consult with the exclusive representatives prior to effecting changes in any major policy affecting employee relations.

(d) Excluded from the subjects of negotiations are matters of classification and reclassification, retirement benefits and the salary ranges and the number of incremental and longevity steps now provided by law, provided that the amount of wages to be paid in each range and step and the length of service necessary for the incremental and longevity steps shall be negotiable. The employer and the exclusive representative shall not agree to any proposal which would be inconsistent with merit principles or the principle of equal pay for equal work pursuant to Sections 76-1, 76-2, 77-31 and 77-33, or which would interfere with the rights of a public employer to (1) direct employees; (2) determine qualification, standards for work, the nature and contents of examinations, hire, promote, transfer, assign, and retain employees in positions and suspend, demote, discharge, or take other disciplinary action against employees for proper cause; (3) relieve an employee from duties because of lack of work or other legitimate reason; (4) maintain efficiency of government operations; (5) determine methods, means, and personnel by which the employer's operations are to be conducted; and take such actions as may be necessary to carry out the missions of the employer in cases of emergencies.

Section 10. Written agreements; appropriations for implementation; enforcement.

(a) Any collective bargaining agreement reached between the employer and the exclusive representative shall be subject to ratification by the employees concerned. The agreement shall be reduced to writing and executed by both parties. The agreement may contain a grievance procedure and an impasse procedure culminating in final and binding arbitration, and shall be valid and enforceable when entered into in accordance with provisions of this chapter.

(b) All cost items shall be subject to appropriations by the appropriate legislative bodies. The employer shall submit within ten days of the date on which the agreement is ratified by the employees concerned all cost items contained therein to the appropriate legislative bodies, except that if any cost items require appropriation by the State legislature and it is not in session at the time, the cost items shall be submitted for inclusion in the governor's next operating budget within ten days after the date on which the agreement is ratified. The State legislature or the legislative bodies of the counties acting in concert, as the case may be, may approve or reject the cost items submitted to them, as a whole. If the State legislature or the legislative body of any county rejects any of the cost items submitted to them, all cost items submitted shall be returned to the parties for further bargaining.

(c) Because effective and orderly operations of government is essential to the public, it is declared to be in the public interest that in the course of collective bargaining, the public employer and the exclusive representative shall make every reasonable effort to conclude negotiations, and include provisions for an effective date, a reopening date, and an expiration date, at a time to coincide, as nearly as possible, with the period during which the appropriate legislative bodies may act on the operating budget of the employers.

(d) All existing rules and regulations adopted by the employer, including civil service or other personnel regulations, which are not contrary to this chapter, shall remain applicable. If there is a conflict between the collective bargaining agreement and any of the rules and regulations, the terms of the agreement shall prevail; provided that the terms are not inconsistent with Section 9(d).

Section 11. Resolution of disputes; grievances; impasses.

(a) A public employer shall have the power to enter into written agreement with the exclusive representative of an appropriate bargaining unit setting forth a grievance procedure culminating in a final and binding decision, to be invoked in the event of any dispute concerning the interpretation or application of a written agreement. In the absence of such a procedure, either party may submit the dispute to the board for a final and binding decision. A dispute over the terms of an initial or renewed agreement does not constitute a grievance.

(b) A public employer shall have the power to enter into written agreement with the exclusive representative of an appropriate bargaining unit setting forth an impasse procedure culminating in a final and binding decision, to be invoked in the event of an impasse over the terms of an initial or renewed agreement. In the absence of such a procedure, either party may request the assistance of the board by submitting to the board and to the other party to the dispute a clear, concise statement of each issue on which an impasse has been reached together with a certificate as to the good faith of the statement and the contents therein. The board, on its own motion, may determine that an impasse exists on any matter in a dispute. If the

board determines on its own motion that an impasse exists, it may render assistance by notifying both parties to the dispute of its intent.

The board shall render assistance to resolve the impasse according to the following schedule:

(1) Mediation. Assist the parties in a voluntary resolution of the impasse by appointing a mediator or mediators, representative of the public, from a list of qualified persons maintained by the board, within three days after the date of the impasse, which shall be deemed to be the day on which notification is received or a determination is made that an impasse exists.

(2) Fact-finding. If the dispute continues fifteen days after the date of the impasse, the board shall appoint, within three days, a fact-finding board of not more than three members, representative of the public, from a list of qualified persons maintained by the board. The fact-finding board, shall, in addition to powers delegated to it by the public employment relations board, have the power to make recommendations for the resolution of the dispute. The fact-finding board, acting by a majority of its members, shall transmit its findings of fact and any recommendations for the resolution of the dispute to both parties within ten days after its appointment. If the dispute remains unresolved five days after the transmittal of the findings of fact and any recommendations, the board shall publish the findings of fact and any recommendations for public information if the dispute is not referred to final and binding arbitration.

(3) Arbitration. If the dispute continues thirty days after the date of the impasse, the parties may mutually agree to submit the remaining differences to arbitration, which shall result in a final and binding decision. The arbitration panel shall consist of three arbitrators, one selected by each party, and the third and impartial arbitrator selected by the other two arbitrators. If either party fails to select an arbitrator or for any reason there is a delay in the naming of an arbitrator, or if the arbitrators fail to select a neutral arbitrator within the time prescribed by the board, the board shall appoint the arbitrator or arbitrators necessary to complete the panel, which shall act with the same force and effect as if the panel had been selected by the parties as described above. The arbitration panel shall take whatever actions necessary, including but not limited to inquiries, investigations, hearings, issuance of subpoenas, and administering oaths, in accordance with procedures prescribed by the board to resolve the impasse. If the dispute remains unresolved within fifty days after the date of the impasse, the arbitration panel shall transmit its findings and its final and binding decision on the dispute to both parties. The parties shall enter into an agreement or take whatever action is necessary to carry out and effectuate the decision. All items requiring any monies for implementation shall be subject to appropriations by the appropriate legislative bodies, and the employer shall submit all such items agreed to in the course of negotiations within ten days to the appropriate legislative bodies.

(4) The costs for mediation and fact-finding shall be borne by the board. All other costs, including that of a neutral arbitrator, shall be borne equally by the parties involved in the dispute.

(c) If the parties have not mutually agreed to submit the dispute to final and binding arbitration, either party shall be free to take whatever lawful action it deems necessary to end the dispute; provided that no action shall involve the disruption or interruption of public services within sixty days after the fact-finding board has made public its findings of fact and any recommendations for the resolution of the dispute. The employer shall submit to the appropriate legislative bodies his recommendations for the settlement of the dispute on all cost items together with the findings of fact and any recommendations made by the fact-finding board. The exclusive representative may submit to the appropriate legislative body its recommendations for the settlement of the dispute on all cost items.

Section 13. Strikes, rights and prohibitions.

(a) Participation in a strike shall be unlawful for any employee who (1) is not included in an appropriate bargaining unit for which an exclusive representative has been certified by the board, or (2) is included in an appropriate bargaining unit for which process for resolution of a dispute is by referral to final and binding arbitration.

(b) It shall be lawful for an employee, who is not prohibited from striking under paragraph (a) and who is in the appropriate bargaining unit involved in an impasse, to participate in a strike after (1) the requirements of Section 12 relating to the resolution of disputes have been complied with in good

faith, (2) the proceedings for the prevention of any prohibited practices have been exhausted, (3) sixty days have elapsed since the fact-finding board has made public its findings and any recommendation, (4) the exclusive representative has given a ten-day notice of intent to strike to the board and to the employer.

(c) Where the strike occurring, or is about to occur, endangers the public health or safety, the public employer concerned may petition the board to make an investigation. If the board finds that there is imminent or present danger to the health and safety of the public, the board shall set requirements that must be complied with to avoid or remove any such imminent or present danger.

(d) No employee organization shall declare or authorize a strike of employees, which is or would be in violation of this section. Where it is alleged by the employer that an employee organization has declared or authorized a strike of employees which is or would be in violation of this section, the employer may apply to the board for a declaration that the strike is or would be unlawful and the board, after affording an opportunity to the employee organization to be heard on the application, may make such a declaration.

(e) If any employee organization or any employee is found to be violating or failing to comply with the requirements of this section or if there is reasonable cause to believe that an employee organization or an employee is violating or failing to comply with such requirements, the board shall institute appropriate proceedings in the circuit in which the violation occurs to enjoin the performance of any acts or practices forbidden by this section, or to require the employee organization or employees to comply with the requirements of this section. Jurisdiction to hear and dispose of all actions under this section is conferred upon each circuit court, and each court may issue, in compliance with Chapter 380, such orders and decrees, by way of injunction, mandatory injunction, or otherwise, as may be appropriate to enforce this section.

Section 13. Prohibited practices; evidence of bad faith.

(a) It shall be a prohibited practice for a public employer or its designated representative wilfully to:

(1) Interfere, restrain, or coerce any employee in the exercise of any right guaranteed under this chapter;
(2) Dominate, interfere, or assist in the formation, existence, or administration of any employee organization;
(3) Discriminate in regard to hiring, tenure, or any term or condition of employment to encourage or discourage membership in any employee organization.
(4) Discharge or otherwise discriminate against an employee because he has signed or filed an affidavit, petition, or complaint or given any information or testimony under this chapter, or because he has informed, joined, or chosen to be represented by any employee organization;
(5) Refuse to bargain collectively in good faith with the exclusive representative as required in Section 9;
(6) Refuse to participate in good faith in the mediation, fact-finding, and arbitration procedures set forth in Section 11;
(7) Refuse or fail to comply with any provision of this chapter; or
(8) Violate the terms of a collective bargaining agreement.

(b) It shall be a prohibited practice for a public employee or for an employee organization or its designated agent wilfully to:

(1) Interfere, restrain, or coerce any employee in the exercise of any right guaranteed under this chapter;
(2) Refuse to bargain collectively in good faith with the public employer, if it is an exclusive representative, as required in Section 9;
(3) Refuse to participate in good faith in the mediation, fact-finding and arbitration procedures set forth in Section 11;
(4) Refuse or fail to comply with any provision of this chapter; or
(5) Violate the terms of a collective bargaining agreement.

Section 14. Prevention of prohibited practices. Any controversy concerning prohibited practices may be submitted to the board in the same manner and with the same effect as provided in Section 377-9. All references in Section 377-9 to "board" shall include the Hawaii public employment relations board and "labor organization" shall include employee organization.

Section 15. Financial reports to employees. Every employee organization shall keep an adequate record of his financial transactions and shall make available annually, to the employees who are members of the organization, within sixty days after the end of its fiscal year, a detailed written financial report thereof in the form of a balance sheet and an operating statement, certified as to accuracy by a certified public accountant. In the event of failure of compliance with this section, any employee within the organization may petition the public employment relations board for an order compelling such compliance. An order of the board on such petition shall be enforceable in the same

manner as other orders of the board under this chapter.

Section 16. Public records and proceedings. The complaints, orders, and testimony relating to a proceeding instituted by the public employment relations board under Section 377-9 shall be public records and be available for inspection or copying. All proceedings pursuant to Section 377-9 shall be open to the public.

Section 17. List of employee organizations and exclusive representatives. The public employment relations board shall maintain a list of employee organizations. To be recognized as such and to be included in the list, an organization shall file with the board a statement of its name, the name and address of its secretary or other officer to whom notices may be sent, the date of its organization, and its affiliations, if any, with other organizations. No other qualifications for inclusion shall be required, but every employee organization shall notify the board promptly of any change of name or of the name and address of its secretary or other officer to whom notices may be sent, or of its affiliations.

The board shall indicate on the list which employee organizations are exclusive representatives of appropriate bargaining units, the effective dates of their certification, and the effective date and expiration date of any agreement reached between the public employer and the exclusive representative. Copies of the list shall be made available to interested parties upon request.

Section 18. Penalty. Any person who wilfully assaults, resists, prevents, impedes, or interferes with a mediator, member of the fact-finding board, or arbitrator, or any member of the public employment relations board or any of the agents or employees of the board in the performance of duties pursuant to this chapter shall be fined not more than $500 or imprisoned not more than one year, or both.

Section 19. Chapter takes precedence, when. This chapter shall take precedence over all conflicting statutes concerning this subject matter and shall preempt all contrary local ordinances, executive orders, legislation, rules, or regulations adopted by the State, a county, or any department or agency thereof, including the departments of personnel services or the civil service commission.

Section 20. Chapter inoperative, when. If any provision of this chapter jeopardizes the receipt by the State or any county of any federal grant-in-aid or other federal allotment of money, the provision shall, insofar as the fund is jeopardized, be deemed to be inoperative.

Section 21. Severability. If any provision of this chapter, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

SECTION 3. Chapter 86, Hawaii Revised Statutes, is repealed.

SECTION 4. Appropriations. There is appropriated out of the general revenues of the State of Hawaii the sum of $274,242 for the establishment and operation of the Hawaii public employment relations board in fiscal year 1970-71. In subsequent years, the governor shall include in his operating budget such sum as may be necessary for the continuation and operation of the Hawaii public employment relations board.

SECTION 5. Effective date. This Act shall take effect on July 1, 1970.

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NRD
NEGOTIATION RESEARCH DIGEST

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NATIONAL EDUCATION ASSOCIATION

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Case Reviews

CALIFORNIA

PUBLIC EMPLOYEES MAY NOT STRIKE ABSENT STATUTORY AUTHORITY

The California Court of Appeal for the Fourth District reversed a decision of the San Diego County Superior Court which vacated a temporary restraining order in a case involving striking utilities and public works employees. In a heavily cited opinion emphasizing that "the employer-employee relationship in public employment is the product of law—constitutional, legislative and decisional—rather than the product of a contract," the appeals court determined that the trial court's decision resulted from "an erroneous concept of law," and held:

> The common law rule public employees do not have the right to bargain collectively or to strike is predicated expressly on the necessity for and lack of statutory authority conferring such right. Where a statute authorizes collective bargaining and strikes it includes them within the methods authorized by law for fixing the terms and conditions of employment. Those who advocate the right of public employees to strike should present their case to the Legislature.

When members of the American Federation of State, County and Municipal Employees, Local 127, went on strike against the city of San Diego in the spring of 1969, a superior court judge denied the city's application for a temporary injunction on grounds that public employees lawfully may strike (NRD, 10-69, 10). Citing a Supreme Court of the United States ruling to the effect that "the public policy of any state is to be found in its Constitution, acts of the Legislature, and decision of its courts," the trial court decided that

> the Legislature has expressly prohibited certain public employees [fire fighters and law enforcement personnel] from striking and has left to the Courts the question of whether or not in that cast of the situation the public employee does have a fundamental right to strike. . . . The Legislature has expressly permitted the organization of public employees for the purpose of pursuing objectives relating to wages and terms of employment, conditions of employment. It has not withdrawn any of the traditional weapons of labor other than the right to strike as to two classes of employees.

On appeal, the city asserted that the issue was whether public employees have a right to strike; the union asserted that an additional issue was whether the denial of a temporary injunction was a proper exercise of the trial court's discretion. Defining the right to strike as "a coercive practice to compel acceptance of collective bargaining demands," the appeals court found that all California cases on the subject "support the rule as stated in *Almond v. County of Sacramento*." In that case the Supreme Court denied a hearing on a California appeals court ruling which held it "well settled" that "absent an authorizing statute, a public employee has no right either to bargain collectively or to strike. . . . It is settled by decisions of the Supreme Court itself and by that court's denial of hearings in courts of appeal decisions. This court (and we imply neither agreement nor disagreement) is bound by the rule."

In an extensive examination of case law, the appeals court found that the California common law prohibition of public employee strikes generally is accepted in many jurisdictions and has been "adopted or confirmed statutorily by 20 states and the federal government." The court explained that

> the reasons for the rule are many; apply public policy; relate generally to the fundamental differences between private and public employment as regards the processing and settlement of labor demands and disputes; take into account the authority of the public employer respecting both the method for fixing and the substance of the terms and conditions of public employment is limited to that prescribed by law; include a consideration of the overriding duty of the public employer to perform prescribed governmental functions; and furnish a constitutionally approved basis for classification in the premises. . . . The terms and conditions of public employment are fixed by the public through the processes of law, and acceptance of such employment requires acceptance of the processes by which the terms and conditions of employment are fixed, i.e., by law rather than by contract; . . . confers benefits not available to the private employee which are the product of the processes of law, such as civil service tenure status and a vested right to retirement benefits . . . but also imposes a distinct responsibility attendant upon public service . . . and results in the relinquishments of certain rights enjoyed by private employees.

The union argued for review of the rule that public employees may not strike without statutory authorization because of recent decisions extending the requirements essential to a deter-

mination of whether legislation involving "fundamental interests" applicable only to a particular class (such as public employees) guarantees equal protection under the law. That is, the union noted comparisons between a number of public and private sector job classifications and contended that "in cases involving a law affecting 'fundamental interests' [denial of such employees' right to strike] not only must reasonably relate to the purpose of the law but also must be 'a necessary means of accomplishing a legitimate state interest' and the law must serve 'to promote a compelling state interest.'" Applying such requirements, the union argued that the rule prohibiting public employee strikes absent statutory authorization violates equal protection of the law, because that rule "is not necessary to accomplish nor does it promote any legitimate compelling state interest." But the court found the union's argument to be

> premised on the fallacious application of the equal protection of the law requirements to a comparison of job classifications in public employment with job classifications in private employment rather than to a comparison of the characteristics fundamental to public employment pertinent to a determination of the terms and conditions of such employment, and the resolution of demands and disputes respecting such, with the characteristics fundamental to private employment pertinent to the same subjects. . . . The reasons for the law denying public employees the right to strike while affording such rights to private employees are not premised on differences in types of jobs held by these two classes of employees but upon differences in the employment relationship to which they are parties. The legitimate and compelling state interest accomplished and promoted by the law denying public employees the right to strike is not solely the need for a particular governmental service but the preservation of a system of government in the ambit of public employment and the proscription of practices not compatible with the public employer-employee relationship.

Although the union additionally argued that the trial court's denial of a temporary injunction should be sustained because there was no showing of irreparable damage, the appeals court reversed and concluded that

> the trial judge, as evidenced by his memorandum opinion, did not deny injunctive relief because there was no showing of irreparable damage, but because of an erroneous conclusion public employees have a right to strike. . . . Whether a preliminary injunction should issue is a matter within the discretion of the trial court. . . . In the case at bench the evidence would have supported an order granting a preliminary injunction. The trial court did not exercise its discretion in the premises. Its decision was the exclusive product of an erroneous concept of the law.

(*City of San Diego v. American Federation of State, County and Municipal Employees, Local 127*, California Court of Appeal for the Fourth District, May 28, 1970.)

MICHIGAN

AGENCY SHOP PROCEEDING REVERSED AND REMANDED FOR LACK OF FACTUAL RECORD

When a number of Southgate teachers appealed a decision of the Wayne County Circuit Court (NRD, 2-69, A-1, C-5) which ruled agency shop "a valid bargainable issue in contract negotiations," the Michigan Court of Appeals reversed and remanded the case because "the record before us does not permit determination of the validity or invalidity of this agency shop provision." Raising the question of what constitutes a nonmember's proportionate share of the cost of negotiating and administering a contract, the appeals court additionally commented that "it is not clear . . . that agency shop or any form of union security agreement is a valid 'condition of employment' and subject to collective bargaining in the public employment sector."

Article II, Section A, of the 1968-70 contract between the Southgate Education Association (SEA) and the Southgate Community School District provided that all teachers as a condition of continued employment pay either membership dues and assessments of the SEA and its parent associations (the Michigan Education Association and the National Education Association), or pay a representation fee equivalent to such dues and assessments. The provision further stipulated that "in the event the representation fee shall not be paid, the Board upon receiving a signed statement from the Association indicating the teacher has failed to comply with this condition, shall immediately notify said teacher that his services shall be discontinued at the end of the current semester."

On September 26, 1968, shortly after all non-Association members were informed of the options available to them in regard to the agency shop requirements, plaintiffs filed an action in the Wayne County Circuit Court seeking to restrain application of Article II of the agreement. In denying the relief sought, the trial court found that the "discontinuation" portion of the agency shop clause did not conflict with the state's Teacher Tenure Law and ruled:

> The claim that an agency shop provision violates statutory law in that it forces one to join a union, and is discriminatory, is without merit. Such provision in an agreement serves the purpose of allocating indiscriminately the cost of representation for collective bargaining among all those participating in the benefits received. Such a provision eliminates the "free riders."

In examining state law, the appeals court found no "controlling precedent in this field of public employment and negotiated agency shop

provision in a collective bargaining agreement," and no provision in the state's Public Employment Relations Act (PERA) which specifically authorizes union security agreements, as does MCLA § 423.14 (a portion of the Michigan Labor Mediation Act). Assuming, however, that agency shop is a condition of employment and is subject to public employee bargaining, the court held that such bargaining is restricted by MCLA § 423.210 (a portion of the PERA), which states in part: "It shall be unlawful for a public employer or an officer or agent of a public employer . . . (c) to discriminate in regard to hire, terms or other conditions of employment in order to encourage or discourage membership in a labor organization."

While such language "mandates . . . a position of neutrality" on the part of the public employer when dealing with its employees, the appeals court held that in the context of the rest of the statute it did not indicate a legislative intent to eliminate agency shop provisions in public employee agreements:

> MCLA § 423.211 . . . requires the selected representative to bargain for all employees, union and non-union. If benefits derive from such bargaining, non-union as well as union members enjoy those benefits, and it would be inequitable not to require non-union members to pay their proportionate share of the cost of obtaining and administering such benefits.
>
> It is apparent from reading article 2, § A . . . of the [Southgate] contract here involved that the validity of this agency shop provision hinges on the relationship between payment of a sum equivalent to the dues of SEA, MEA and NEA and a non-member's proportionate share of the cost of negotiating and administering the contract involved. If that payment is greater than or less than that proportionate share, the agency shop provision is in violation of MCLA § 423.210.

Finding that the case's record lacked proofs permitting a determination of the validity or invalidity of the Southgate agency shop provision, the appeals court reversed and remanded the case "for proceedings consistent with this opinion." In addition, the court ordered the state board of education "to join the action as a party according to its constitutional obligation and its interests," since "the question presented by this action is of major significance to all public education of this state." (*Jean Smigel, et al. v. Southgate Community School District, et al.*, Michigan Court of Appeals, May 28, 1970.)

NEW YORK

TEACHERS' STRIKE DURING CONTRACT RENEGOTIATION RULED ILLEGAL

When members of the Massapequa Federation of Teachers, Local 1442, went on strike during negotiation of a 1970-71 contract with the education board of Union Free School District No. 23, the New York Supreme Court for Nassau County ruled that the strike violated both the current contractual agreement between the parties and the state's Taylor Law. In enjoining the strike and limiting the union's liability for striking to $1,000, the court observed that "there is no reason why the parties, through their representatives as assisted by the appointed mediator, cannot and should not press their negotiations leading to a just solution of their problems."

Recognized as exclusive representative of a unit of local classroom teachers through the period ending June 30, 1970, Local 1442 had bargained a contract effective through that date. Negotiation of a successor contract commenced on March 2, 1970, and continued to May 10 without "a meeting of minds." At the end of April, however, union members authorized a strike, and approximately one-half of the district's teachers subsequently went on strike on May 7.

According to the court, the strike crippled the educational process "at the critical period preceding final examinations," and constituted an action which was "part and parcel of a concerted effort to exert pressure to achieve a new contract effective July 1, 1970. It is, therefore, crystal clear to this court that the strike . . . violates the existing contractual arrangements between the parties." The court additionally determined that the union and its members were "engaged in activities constituting an illegal strike by public employees against a public employer" in violation of the Taylor Law.

In enjoining the strike "pending the final determination in this action," the court explained that while the "right to legally and peacefully picket is beyond question, [it is] limited however, to restraint in avoiding and desisting from any conduct which causes or is part of public disorder, or which is calculated to and does prevent free access to the school properties by those who have a right to be there." (*In Re Board of Education, Union Free School District No. 23, Town of Oyster Bay (Massapequa Federation of Teachers)*, New York Supreme Court for Nassau County, May 18, 1970.)

WISCONSIN

UNIVERSITY TEACHING ASSISTANTS' STRIKE RULED ILLEGAL AT COMMON LAW; CONTEMPT CHARGES ASSESSED

A strike by graduate teaching assistants, research assistants, and fellows employed by the

University of Wisconsin was enjoined by the Dane County Circuit Court as illegal under common law. The court's "first impression" ruling, rendered more than a week before settlement of a 25-day strike conducted by some 1,000 members of the Teaching Assistants Association (TAA) during contract negotiation with the university, found that "the public policy of this state and the common law of every other American jurisdiction is that public employee strikes are illegal." Although a contract ratified by the parties eventually ended the strike, 21 TAA members received contempt of court convictions for continuing strike activity following the court's injunction and grant of declaratory relief to the university.

Defendant TAA had been recognized by the university as bargaining agent for all university graduate teaching assistants; by mutual agreement, the parties began bargaining specified items in the summer of 1969. Negotiation continued unsuccessfully until March 16, 1970, when TAA members struck, and many refused to perform their regularly assigned teaching duties. The university regents accordingly brought a circuit court action seeking declaratory and injunctive relief.

Ruling that TAA members are public employees, the court examined portions of the state's Municipal Employment Relations Act, and found it "fair to say that every time our legislature has dealt with the question of strikes by public employees it has, in effect, declared them to be against public policy." Moreover, reported decisions in other jurisdictions have resulted in the "uniform rule" that public employee strikes are illegal at common law.

During litigation, the TAA asserted that even if the strike was illegal, it was not enjoinable, because an injunction would violate defendants' First Amendment rights, and the strike caused "no harm sufficient to invoke the equitable power of the court." Defendants further urged that the anti-injunction provisions of state statutes relating to private employment should be applied to the instant situation. The university, on the other hand, argued that "harm need not be shown to enjoin an illegal act," that the strike itself clearly was enjoinable, and that picketing in support of the strike was enjoinable because it was not protected by the First Amendment.

In rejecting defendants' arguments and finding a sufficient showing of harm, the court explained that while statutory anti-injunction provisions affecting private employment

> are premised on a declaration that concerted work stoppages are *legal* in private employment . . . here . . . we have illegal activity in the form of an illegal strike by public employees. Conditions imposed on enjoining otherwise lawful activity in private employment are not helpful in deciding the tests to be applied where the activity concerned is illegal *per se*.
>
> The more persuasive argument is based on the fact that illegal activity is enjoinable without further showing of harm. . . . The need for vindication of the public interest obviates the need for an express showing of harm.
>
> However, the decision here need not rest on the mere illegality of the strike. The plaintiffs [showed] that the strike itself was causing harm to the University, its various departments, and to the student body. This latter aspect is perhaps the more serious. . . . Further continuation of the strike will make it impossible—if it is not already so—to make up missed classes. Based on this evidence, the court is of the opinion that the plaintiff has shown sufficient immediate irreparable, and continuing harm to entitle them to an injunction against the strike and activity in furtherance thereof.

But the "most difficult question," according to the court, was the scope of injunctive relief to be granted the university. Plaintiffs sought relief from the strike proper and "any concerted activity with others in participation or furtherance of such strike or work stoppage"; the court found that under the law the university was entitled to an injunction against any action furthering the illegal strike, even though such activity might involve speech and assembly. The TAA, however, attempted to show that the university was not entitled to injunctive relief because it did not have "clean hands" in regard to good-faith bargaining. But the court concluded that

> the University, which was not obligated to do so, agreed to bargain in April of 1969, and since then has bargained with the TAA in good faith and with the goal of reaching an agreement. Whatever the merits of the particular issues on which the parties disagree, the defendants failed to prove that the University acted unreasonably.
>
> There has, however, been no evidence presented to this court of physical obstruction or intentional blocking of entrances. Local and University officials . . . testified that the picketing was peaceful and nonobstructive. Therefore, it appears that there is no present need for a judgment limiting picketing activities as such. All picketing in support of the strike has already been found to be enjoinable.
>
> This court finds the plaintiffs entitled to declaratory relief adjudging the strike and related activity to be illegal under the common law of Wisconsin. . . . [But the injunction to which plaintiff is entitled] should include a paragraph expressly indicating that it shall not be construed to cover peaceful protests or picketing unrelated to the illegal strike.

Subsequent to the court's April 3, 1970, issuance of a permanent injunction against the strike, two other proceedings were brought at which 21 TAA members were cited for civil contempt for refusal to comply with the terms of the injunction and individually assessed with a $250 fine or 30 days in jail. In the interim,

the strike ended when the TAA voted on April 10 to accept the university's last contract offer, and the university regents approved the contract the same day. Hailed as a landmark though controversial settlement, the contract is effective through September 1, 1971, and contains both a no-reprisal clause and a no-strike clause. (*Regents of University of Wisconsin on Behalf of University of Wisconsin v. Teaching Assistants Association, et al.*, Dane County Circuit Court, April 1, 1970.)

OTHER ITEMS OF INTEREST

SUPREME COURT DECLINES RULING ON TEACHER STRIKE ISSUES

On June 27, 1970, the Supreme Court of the United States denied a petition for certiorari entered in the case of some Anderson, Indiana, teachers who struck and picketed various city schools on May 1, 1969. The high court accordingly left standing a narrow decision of the Indiana Supreme Court (NRD, 1-70, 3) which ruled public employee strikes illegal, and upheld a contempt citation issued by the Madison County Superior Court against the Anderson Federation of Teachers, Local 519, for violation of a temporary restraining order.

The Federation's petition for writ of certiorari posed two questions:

1. Does an order enjoining public school teachers from striking and picketing, entered without notice or hearing, and without a finding of possible substantial and irreparable injury or interference with the public health, safety or welfare, violate the due process clause of the Fourteenth Amendment?
2. Is an injunction, entered without notice and hearing, enjoining all concerted work stoppages, picketing and related activities by public school teachers solely because they are public employees, violative of the equal protection clause of the Fourteenth Amendment where under similar circumstances private employees could not be enjoined?

In reference to the first question, the petition noted that the high court "has never considered whether the due process clause of the Fourteenth Amendment requires some finding of interference with the public health, safety or welfare, or with some essential governmental activity, as a necessary consequence of the particular work stoppage or other concerted activity, before a blanket injunction of the type entered here can properly be issued." While Anderson teachers engaged in peaceful activities which neither closed the schools nor "substantially" disrupted the city's education program, the Indiana Supreme Court "nevertheless upheld the action of the lower court in enjoining all such concerted activities, including peaceful picketing. The majority held that any such activity when engaged in by employees of a public agency is per se illegal and therefore subject to immediate injunction and consequent contempt proceedings for any violation of such an exparte order."

As to the second issue raised, the petition emphasized that "the dissenting judges of the Supreme Court of Indiana pointed out that no rational basis has been suggested for a rule prohibiting all strikes by public employees per se, where the impact upon the community is no greater than the impact of strikes involving private employers providing similar services." It urged the high court to consider whether there is any rational basis consistent with the Fourteenth Amendment's equal protection clause for such a rule.

The Federation's petition additionally asked the high court to clarify its majority opinion in *United States v. United Mine Workers*, a decision upon which the Indiana Supreme Court relied in finding that "the Supreme Court of the United States clearly enunciated the proposition that public employees did not have the right to strike and that the injunctive process might properly be used to prevent . . . such strikes." Arguing that the state court's interpretation of *United Mine Workers* constituted "an unduly broad reading," the petition asserted that the high court "did not there purport to rule on the substantive rights of public employees to engage in concerted union activities." Moreover, the petition contended that the *United Mine Workers* case (in which a national emergency existed) erroneously has been used by courts as authority for the rule that public employees may not strike.

The high court, however, declined to rule upon the issues presented by the petition. (*Anderson Federation of Teachers, Local 519 v. School City of Anderson, et al.*, U.S. Supreme Court, cert. denied, July 27, 1970.)

Board Findings And Rulings

CONNECTICUT

EMPLOYEES OF FEDERALLY FUNDED BUT SCHOOL DIRECTED PROGRAM COVERED UNDER BARGAINING LAW

Since ultimate control over the conditions of employment of Waterbury school integration program aides and assistants rests with the Waterbury education department, rather than the state or federal agency providing program funds, the Connecticut Board of Labor Relations ruled that the department is an employer within the meaning of the state's Municipal Employee Relations Act. The board accordingly asserted jurisdiction over the integration program aides and assistants under the Act, and denied the education department's motion to dismiss representation petitions filed by the Service Employees International Union, Local 531.

Citing two earlier decisions reached in similar cases, the board pointed out that the Act's procedure for municipal employee bargaining expressly defines "a municipal employer [as] a district school board, housing authority, or other authority established by law, which by statute, charter, special act, or ordinance has *sole and exclusive control* over the appointment of and the wages, hours, and working conditions of employment of its employees" (emphasis added).

In *New Britain Office of Economic Opportunity and Council #4, AFSCME, AFL-CIO,* the board dismissed for lack of jurisdiction a petition filed on behalf of certain employees of the New Britain OEO in finding that the OEO, a federal agency, did not fall within the Act's definition of "employer." That is, when the New Britain OEO administered a project financed by federal funds, it was not compelled to bargain collectively with project personnel because it was not an employer under the Act which had "sole and exclusive control over the . . . wages, hours, and conditions of employment of its employees."

The board also dismissed for jurisdictional reasons a petition filed by AFSCME Council #4 in a case involving the New Haven Housing Authority. Finding that the Authority did not have exclusive control over the pay and working conditions of employees working on a locally administered but federally funded project, the board held that the bargaining relationship involved in that sort of situation was not contemplated by the Act.

In the instant case, however, the board found that the Waterbury education department did control the hours, pay, and working conditions of its integration program aides and assistants, despite state or federal funding of the program. As such, the New Britain and New Haven rulings were inapplicable to the present petitions, and the education department's motion to dismiss was denied. (*Department of Education, Waterbury, and Service Employees International Union, Local 531,* Connecticut Board of Labor Relations, June 8, 1970.)

MICHIGAN

GRIEVANCE ON ELIMINATED POSITION FOUND TIMELY AND PARTIAL BACK PAY AWARDED

A January 12, 1970, grievance filed by Clintondale department heads who continued to perform their duties after notification in mid-October 1969 that their job classification and extra pay were being eliminated was ruled timely by a Michigan arbitrator. Determining that the grievance was a "continuing" one and, therefore, did not violate a contractual 20-day limit on filing grievances, the arbitrator directed the Clintondale Community Schools to pay the department heads for services rendered from 20 days prior to the filing of the grievance through the end of the 1969-70 school year.

On October 14, 1969, the school administration notified department heads in writing that

> due to financial problems, a need for reorganization, and role definition, the supplemental classification of "department head" will be eliminated for the remainder of this school year.
>
> Those persons who have served in this capacity will be reimbursed for time spent in this capacity through October 17, 1969.
>
> As soon as possible a meeting will be held with secondary [principals] and certain [Clintondale Education Association] CEA members and the assistant superintendent for the purpose of mapping the department head development program for the future.

Then on January 12, 1970, a CEA official filed a grievance claiming that the administration had violated the parties' September 4, 1969, contract by "arbitrarily and unilaterally and without consultation with the Association [removing] department heads from payroll status." In addition, he contended that "the contract states that department heads shall exist," that the position of department head "shall not be deleted," and that "department heads shall be reinstated and be given full pay per the Articles and Sections of the contract that apply."

Pointing to Article XXIV, Section E(1) of the contract which provided in part that "a complaint shall . . . within 20 days of the incidence of the alleged grievance be brought to the attention of the Administration," the school argued that since the "incidence" grieved occurred in October, the grievance was untimely filed. The CEA, however, contended that the grievance was a continuing one, because the contract provided for both a specified salary differential for department heads and the maintenance of standards, i.e., maintenance of the department heads' positions.

In examining the parties' contract, the arbitrator found that it recognized the existence of the position of department head as a condition of employment, and specified compensation for that position at a stated percentage of salary. Moreover, the contract provided for the continuance of all conditions of employment at a level no lower than the highest minimum standards effective when the contract was signed, and held that the responsibilities of any bargaining unit position would not be altered without prior notification to the teacher. According to the arbitrator, use of the word "altered" indicates that elimination of a position was not covered by the pertinent contract clause.

The arbitrator thereby found that

> the language of the grievance supports the thesis that it is a continuing grievance as it refers to "payroll status." Payroll is a continuing thing. The complaint is not directed solely against the removal of the department heads as of October 17, 1969, but against their being continually kept off the payroll.
>
> In addition, the evidence is unrefuted that the department heads were requested by the high school and junior high school principals to perform as department heads and that they continued to do so from the time of the announced termination date.
>
> If there is a violation, the violation occurs each day that a department head is serving in that capacity and not being paid the 4 percent or 3 percent of base pay as required by . . . the contract. The situation differs from a single isolated completed transaction. . . .
>
> Had the duties of the department heads been reassigned to the principals, or eliminated completely, there might be rationale for denying the grievance. But the duties of the department heads were not eliminated and were not reassigned. . . . In addition to the act of the high school and junior high school principals who represented their employer, the Clintondale Community Schools, the language of the contract supports the CEA position that department heads are to be continued during the term of the contract.

While directing the school to pay department heads for duties performed from December 24, 1969, through the end of the school year, the arbitrator reserved jurisdiction in the event the parties were unable to determine the amount entitled each grievant. (*Clintondale Community Schools and Clintondale Education Association*, May 22, 1970.)

ILLEGAL FOR SCHOOL BOARD TO WITHHOLD BENEFITS TO FORCE SIGNING OF CONTRACTS

The Michigan Employment Relations Commission (MERC) found that during negotiation of a collective agreement the Gibraltar School District illegally withheld fringe benefits from teachers who refused to sign individual contracts, while paying benefits to teachers who signed. In adopting the trial examiner's unfair labor practice determination and recommendation that the district be ordered to cease its illegal conduct, the MERC qualified its earlier decision in *Bullock Creek School District of Midland County and Bullock Creek Education Association* (NRD, 10-69, 7).

During a 1968 dispute over contract terms, Gibraltar teachers went on strike from November 13 through late December, when a circuit court ordered the schools to stay open during Christmas. Teachers were notified by the district to interview for re-employment, and the strike ended on December 26 when most teachers reported for work.

On December 24, however, the district bargaining team offered the Gibraltar Federation of Teachers a proposal stating that if the strikers signed individual contracts for the remainder of the school year, they would be reinstated and their fringe benefits restored. The individual contracts provided the former strikers with per-diem rates of 1/190th of their yearly salary, and specified that the terms of the individual contracts would be subject to those of the master contract. A 1968-69 collective agreement never was executed.

When the circuit court issued another order on January 3, 1969, prohibiting the district from demanding signed contracts as a condition of employment, the district maintained that former strikers who worked during Christmas but did not sign the individual contracts could

not teach after January 6. The present charges accordingly were brought by the Federation on behalf of three teachers who alleged that the district required signed individual contracts of them, withheld fringe benefits from nonsigners, issued a memorandum prohibiting classroom discussion of the strike, and fired one teacher for engaging in such discussion.

The trial examiner in the instant case (whose unfair labor practice finding in *Bullock Creek* was reversed by the MERC) had explained at the time of *Bullock Creek* that the traditional teacher contract under the School Code "merged into the collective bargaining process wherever teachers [exercised] their Public Employment Relations Act [PERA] right to designate a bargaining agent." By virtue of this reasoning, the trial examiner concluded that the Bullock Creek School District had violated the unfair labor practices section of the PERA "by the very act of offering salary contracts to individual teachers while negotiations [were] pending with the bargaining agent." Likening *Bullock Creek* to the present situation, the trial examiner found that in the former case

> the employer indicated that failure to return the contracts would be tantamount to insubordination. Therefore, the element of coercion to obtain signed contracts was involved in the case. [I am] of the opinion that the employer in the instant case, by refusing to pay regular fringe benefits to those teachers who [had] not signed individual contracts, [was] using the same kind of coercion as the employer in the *Bullock Creek* case. In fact the element of coercion here [was] far more effective. It may be assumed that the approximately 120 teachers who . . . refused to execute individual teacher contracts [were] not being paid for days on which they [were] sick and [were] not eligible for Blue Cross benefits in the event that they [were] sick or hospitalized.
>
> [I conclude] that the employer, by tendering individual teacher contracts to all of the former strikers at a time when negotiations were still in process on a master agreement, violated the duty to bargain. . . . It is further and separately concluded that the use of coercion, to wit, the denial of regular fringe benefits to those teachers who . . . failed to sign individual contracts, [was] a further violation of the duty to bargain, independently of whether the original offer of contracts constituted a violation. . . . The employer is permitted under the law to require that job applicants who have not previously been employed by the Board of Education, enter into individual teacher contracts without regard to the status of collective bargaining negotiations. I would make this exception to the general rule on the basis of the pervading necessity of individual contracts in order that prospective new employees will be assured of jobs, and in order that boards of education will be able to effectively recruit new teachers.

The trial examiner consequently recommended that the Gibraltar district be ordered to cease refusing to bargain by demanding signed individual contracts during collective negotiation, cease discriminating against nonsigners by withholding benefits, and make the nonsigners whole for benefits coercively denied. In adopting the recommendations, the MERC explained the rationales underlying its divergent rulings in *Bullock Creek* and the instant case:

> In *Bullock Creek* . . . we held that a school board requirement that teachers sign individual contracts between the school board and each teacher did *not* breach . . . PERA. . . . We said: "The enactment of PERA does *not* . . . affect a merger of the two sections [PERA and the School Code]." We [disagreed] with the Trial Examiner's approval . . . that "the traditional teacher contract contemplated by . . . the School Code, merged into the collective bargaining process wherever teachers [exercised] their PERA rights to designate a bargaining agent."
>
> The individual contracts sought by the Bullock Creek School Board were part of normal continuing hiring practices of the school district. The Bullock Creek individual contracts were those contemplated by [the] School Code. . . . Here, however, the Gibraltar School Board's attempt to secure individual contracts was part of a policy and program to discriminate between groups of teachers. Those who signed individual contracts were assured of their fringe benefits; those who refused were not.
>
> The submission of the contracts by the Gibraltar School District in the context disclosed by the evidence is not the type of individual contracts contemplated by [the] School Code.

While the Federation sought costs of the litigation and damages for alleged injuries, the MERC held it was not empowered to make such awards. And when the district argued that it could not comply with the "make whole" order, the MERC ruled that the case would be reassigned to a trial examiner if the parties could not agree upon the amount due teachers who were deprived of fringe benefits.

As to the memorandum prohibiting classroom discussion of the strike and the allegation that one teacher was fired for such discussion, the trial examiner determined that "if the right of free speech concerning labor affairs can be curtailed during working time, then it certainly can be prohibited during a classroom situation." He accordingly concluded that the district had a right to attempt to remove students from the labor-management dispute, and that the teachers had no right under the PERA to involve students in the controversy. (*Gibraltar School District and Iris Osinski, et al., and Gibraltar Federation of Teachers,* Michigan Employment Relations Commission, April 2, 1970.)

• In a previously reported case (NRD, 6-70, 12), a Wisconsin Employment Relations Commission trial examiner recommended that the Elmbrook School District be ordered to cease requiring signed individual contracts of local teachers when those contracts contained negotiable salary items and did not specify that such

items would be superseded by any subsequent collective agreement negotiated by the Elmbrook Education Association. Such activity on the part of the district "impedes and has a debilitating effect on the right of teachers to organize and be represented in *collective* negotiations," according to the examiner.

NEW JERSEY

REPRESENTATION ELECTION SHALL NOT BE CONDUCTED BEFORE EXPIRATION OF INITIAL AGREEMENT

The New Jersey Public Employment Relations Commission (PERC) ruled untimely an election petition filed by Teamsters Local Union 676, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, in finding that no election can be conducted until the expiration of an initial agreement, even though the statutory one-year recognition bar is effective only for that portion of a year needed to reach an initial agreement.

Pertinent sections of the PERC's rules and regulations upon which the decision hinged include:

> 19:11-15(b) Where there is a certified or recognized representative, a petition will not be considered as timely filed if during the preceding twelve (12) months an employee organization has been certified . . . as the majority representative of employees in an appropriate unit or an employee organization has been granted recognition by a public employer pursuant to section 19:11-14.
>
> (c) No election shall be conducted within 12 months after the effective date of an agreement provided such agreement is for a period of 12 months or more.
>
> (d) During the period of an existing written agreement. . . a petition for certification of public employee representative or a petition for decertification of public employee representative involving those employees normally will not be considered timely filed unless the petition is filed not less than 120 days and not more than 150 days before the last date, if any, for budget submission of the public employer immediately preceding the expiration or renewal date of such agreement or two (2) years from the effective date of the agreement, whichever is earlier. . . .

When Local 676 sought recognition as exclusive representative for certain employees of the Deptford Township Board of Education, the board refused to recognize the union on grounds that the employees already were represented by another employee organization. Interpretation and application of Section 19:11-15 of the PERC's rules and regulations additionally were disputed.

The PERC pointed out that the one-year recognition bar provided in subsection (b) allows an employer and an employee organization ample time in which to reach an initial agreement. However, if such an agreement is reached in less than a year's time, whatever portion of the one-year immunity remaining is extinguished, since the reason for it no longer exists. Subsection (d) thereafter applies, and the affected employees may seek representation or choose a different representative by filing a petition.

Since the union's petition was filed within one year of the recognition of the other employee organization, the PERC held that

> the timeliness of the instant petition . . . was determined by sub-section (d) rather than (b).
>
> Accordingly, Section 19:11-15(c) of the Rules was given effect, since it forbids the conduct of an election within the first twelve months of the effective term of an agreement. Consequently, no election could be conducted until after the expiration date of the initial agreement between the employer and the employee association.

(*Matter of Deptford Township Board of Education and Teamsters Local Union No. 676, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America,* New Jersey Public Employment Relations Commission, April 7, 1970.)

Negotiation Notes

DELAWARE

ATTORNEY GENERAL SAYS TWO-YEAR PUBLIC SCHOOL AGREEMENTS ARE MANDATORY

An opinion issued by the office of the Delaware attorney general on July 7, 1970, elaborated upon the two-year agreement provision contained in the state's public-school employee bargaining statute. Specifically, the attorney general held that Section 4008(d) of the statute

> makes it quite clear that once an agreement is reached, it shall be for a minimum period of two years from its effective date and such agreement shall not be renegotiated prior to the second anniversary of its effective date.
>
> In other words the [board of education of a school district and the exclusive negotiating representative of the certified nonadministrative employees of that district] are free at any time to negotiate regarding a new agreement; they may also confer at any time with respect to the matters of [salaries, employee benefits, and working conditions]; but once an agreement has been reached it must be for a period of at least two years and negotiations concerned with its terms may not be reopened during the two-year period beginning as of its effective date.

NEW YORK

REQUIREMENT THAT EMPLOYEE ORGANIZATIONS NOT "ASSERT" THE RIGHT TO STRIKE DECLARED CONSTITUTIONAL

The New York Supreme Court, Appellate Division, upheld the constitutionality of a portion of the Taylor Law and a rule of the New York City Office of Collective Bargaining which require an employee organization seeking certification as exclusive bargaining representative to affirm that it does not "assert" the right to strike. While finding "undoubted points of similarity" between the instant case and that of *National Association of Letter Carriers v. Blount* (NRD, 12-69, 3), the court held that the federal case is "not necessarily controlling" of the instant case, because the statute and rule under attack here cannot be construed to infringe upon First Amendment rights, and do not produce a substantial "chilling effect" on free expression.

Section 207(3)(b) of the Taylor Law provides in part that when resolving representation status disputes the New York Public Employment Relations Board shall "certify or recognize an employee organization upon . . . the affirmation by such organization that it does not assert the right to strike against any government, to assist or participate in any such strike, or to impose an obligation to conduct, assist or participate in such a strike." Rule 2.17(b) of the Office of Collective Bargaining makes the filing of such an affirmation "a condition precedent to certification of a public employee organization as exclusive bargaining representative."

In an order-judgment rendered on December 19, 1968, the New York County Supreme Court at Special Term granted a motion by plaintiff (president of Local 371, American Federation of State, County and Municipal Employees, AFL-CIO) for summary judgment to the extent of declaring the statute and rule unconstitutional "insofar as they inhibit or prevent the open discussion and advocacy of lawful change." When plaintiff moved to modify that order on grounds that it "was ambiguous and did not clearly reflect the decision of the court," the court issued an April 22, 1969, order-judgment prohibiting the New York City Office of Collective Bargaining (defendant in the case) "from requiring from the plaintiff an affirmation that it does not assert the right to strike against any government, to assist or participate in any such strike, or to impose an obligation to conduct, assist or participate in such a strike." An appeal of that order was dismissed on August 28, 1969.

During the present appeal, the city argued that the affirmation requirement is constitutional in light of the stated purpose of the Taylor Law, while plaintiff contended that the requirement violates rights of free speech under the state and federal constitutions. In construing the statute, the court explained that

> the question, boldly stated, is whether the public employer may reasonably require the employee organization to state as true, or to declare or maintain . . . that it has no right to do that which is declared illegal or prohibited by law, i.e., strike against or assist in a strike against the public employer.

[Plaintiff] contends that the section in question prohibits even advocacy of change, or a declaration that employees have the right to strike, and additionally is vague. Attention is directed to *National Association of Letter Carriers v. Blount* . . . where a three-judge federal district court declared challenged statutory provisions and an implementing oath unconstitutional. In that case the attacked portions of the statute provided that an individual may not accept or hold a governmental position if he asserted the right to strike or was a member of an organization so asserting such right. The oath similarly bound the individual. . . . Here the problem is not job acquisition or retention, but certification with its attendant benefits. The whole scheme of the statute is for the protection of the public, assuring the orderly operation of the functions of government and the development of harmonious relations between public employer and employee. Certainly the condition imposed is reasonable for the benefits conferred, and is reasonably calculated to achieve the ultimate desired end.

Finding the affirmation requirement "neither burdensome or unreasonable," the high court reversed the April 22 order-judgment of the lower court, declared both the statute and the rule constitutional, and granted defendants' motion for summary judgment.

OHIO

AGENCY SHOP CONTRARY TO STATE CONSTITUTION

A municipal agency shop clause was declared invalid by the Summit County Court of Common Pleas on grounds that it violated the Ohio state constitution and constituted "a denial of equal protection of the law." While finding "nothing illegal about policy statements or similar informal expressions of attitude by public officials," the court held that "to the extent . . . 'agreements' purport to bind the city or to control civil service employees they are invalid."

The contested clause, contained in an agreement between the Civil Service Personnel Association, Local 1360, and the city of Akron provided that new employees who chose not to join the union were subject to mandatory check-off of a sum equal to union membership dues. The provision did not apply to employees who were not union members at the time the agreement was signed.

During litigation, the Akron mayor (defendant in the case) argued that the agreement was a private contract between himself and the union and did not, therefore, bind the city. The union, however, asserted that the agreement bound the city and was enforceable because the mayor was acting as chief executive officer of the city when he signed it. The court found that "a mayor has no more right to privately agree to fire a civil service employee because he will not pay money to a particular union than he does to fire a civil service employee because he will not contribute to a particular political party. Therefore, to the extent the subject 'agreement' purports to do so [it] is invalid." In addition, the court determined that no city is authorized to enter into an agency shop agreement because

the mandatory dues checkoff of persons who have not consented in writing is prohibited by the statutes of Ohio. . . . The fact that the checkoff is for an amount equal to the dues rather than for dues per se is a distinction without a difference.

The constitution of Ohio provides that appointments and promotions in the civil service of the state, the counties, and the cities shall be according to merit and fitness. . . . There is no apparent relationship between the payment of dues to a union, and merit and fitness. If a city may threaten to discharge employees in order to extract dues from an unwilling employee for a particular interest group, there is no limit to the abuse that could follow.

The unequal treatment of nonunion members before and after the date of signing of the agreement is a denial of equal protection of the law.

PENNSYLVANIA

PUBLIC EMPLOYEE BARGAINING STATUTE ENACTED

A bill mandating professional negotiation, permitting public employee strikes under specific circumstances, and providing amnesty for any public employees against whom actions are pending was signed into law by the Pennsylvania governor on July 23, 1970. Effective October 21, the Pennsylvania Public Employee Relations Act grants public employees the right to "organize, form, join or assist in employe organizations or . . . engage in lawful concerted activities for the purpose of collective bargaining or other mutual aid and protection or . . . bargain collectively through representatives of their own free choice and . . . refrain from any or all such activities."

"Public employer" is defined by the statute as all state and political subdivisions, including school districts. A public employee is "any individual employed by a public employer," except elected officials, management level employees, confidential employees, policemen, and firemen. According to the statute, "collective bargaining is the performance of the mutual obligation of the public employer and the representative of the public employes to meet at reasonable times and confer in good faith with respect to wages, hours and other terms and conditions of employment, or the negotiation of an agreement . . . and the execution of a written

contract . . . [although] such obligation does not compel either party to agree to a proposal or require the making of a concession." Public employers are not required to negotiate "matters of managerial policy," and are mandated only to "meet and discuss" with first level supervisors (defined as "the lowest level at which an employe functions as a supervisor") or their representatives.

Any employee organization seeking certification as exclusive bargaining representative by the Pennsylvania Labor Relations Board (PLRB) must request the public employer's consent to an election and indicate a 30 percent showing of interest among employees in an appropriate bargaining unit. The parties then jointly must petition the PLRB for an election. Decertification petitions also must be supported by a 30 percent showing of interest. The statute specifies that "any employe representatives in existence on January 1, 1970, shall so continue without the requirement of an election and certification until such time as a question concerning representation is appropriately raised. . .; or until the board would find the unit not to be appropriate."

For purposes of unit determination, the PLRB shall take into consideration the employees' "identifiable community of interest and . . . the effects of over-fragmentization." A unit shall not be appropriate if it includes both professional and nonprofessional employees, "unless a majority of such professional employees vote for inclusion in such unit." In addition, the statute does not permit first level supervisory employees to be included in any other public employee units, although such personnel may form their own "separate homogenous units." In instances where the state is the employer, the statute holds that multi-unit bargaining shall not be prohibited.

To be certified as exclusive representative, an employee organization must receive a majority of the valid ballots cast in an election which also provides the employees voting a choice of "no representative." If no choice on the ballot receives a majority, the PLRC shall conduct a runoff election and certify the organization winning that election. Rules and regulations guiding the conduct of representation elections are to be developed by the PLRC.

Election bars will be effective "in any appropriate bargaining unit within which in the preceding twelve-month period an election shall have been held [or] during the term of any lawful collective bargaining agreement . . . [although this latter] restriction shall not apply to that period of time covered by any . . . agreement which exceeds three years." Petitions for representation elections must be filed with the PLRC no sooner than 90 days nor later than 60 days before the expiration date of an agreement "or after the expiration date until such time as a new written agreement has been entered into."

In the event of a contract negotiation impasse, the parties voluntarily may submit to mediation if no agreement is reached within 21 days after the commencement of negotiation. However, mediation is mandated by the statute no later than 150 days prior to the "budget submission date" established by law or an employer's practices. A refusal to submit to mediation constitutes a refusal to bargain in good faith under the statute and may be restrained as an unfair labor practice. If mediation is unsuccessful, the PLRB at its discretion may appoint a fact-finding panel of one to three members empowered to make findings of fact and recommendations to the parties; such findings are to be published if the parties do not accept the panel's recommendations.

Public employee strikes are prohibited "during the pendency of collective bargaining procedures" established by the statute, but once those procedures have been "utilized and exhausted, [a strike] shall not be prohibited unless or until [it] creates a clear and present danger or threat to the health, safety or welfare of the public." The statute stipulates that "an unfair practice by a public employer shall not be a defense to a prohibited strike." If a public employee or employee organization willfully disobeys a court order, the punishment for contempt may be by fine or imprisonment. In addition, no public employee "shall be entitled to pay or compensation from the public employer for the period engaged in any strike."

Other portions of the act outline additional duties and powers of the PLRC, enumerate unfair labor practices and appropriate remedies, stipulate that maintenance of membership and dues deductions are proper subjects for negotiation, and mandate final and binding grievance arbitration. Section 2201 of the statute, which repeals a previous law prohibiting public employee strikes, renders null and void "any penalties or other limitations currently in force or presently pending against any public employees."

The full text of the Pennsylvania Public Employee Relations Act is published in the "Texts" section of this DIGEST.

RHODE ISLAND

NONTENURE TEACHER MAY NOT BE ARBITRARILY DISMISSED

A May 20, 1970, opinion of the Rhode Island Commissioner of Education repudiated the con-

cept that "a school committee may act in an arbitrary, capricious, or unreasonable manner with impunity in the termination of a teacher's contract." In response to an appeal entered by a nontenure teacher whose contract was terminated without a statement of charges or a hearing, the commissioner rejected any distinction between dismissal during the term of a contract and nonrenewal of a contract, explaining:

> A teacher in the public schools qualifies for his position only after having met standards established by the State which standards require years of professional preparation. Dismissal from his position, whether it be during a school year or at the end of a school year can mean the end of his professional career. Thus it is our opinion that simple justice as provided not only by the laws of this State but by the Constitution of the United States demands that he know the cause for dismissal or nonrenewal of contract and have an opportunity to be heard on it.

The matter before the commissioner was brought by a nontenure teacher who had been employed continuously by the Smithfield School Committee since September 1967, but was informed on February 13, 1970, that the committee had voted not to renew his contract for the 1970-71 school year. Although the teacher requested a statement of the charges against him and a hearing on the decision not to renew, his request was denied by the committee in a letter dated March 19.

According to the commissioner, Rhode Island law provides that a "school committee of any town may, on reasonable notice and hearing of such teacher, dismiss any teacher for refusal to conform to the regulations by them made, or for other just cause" (Section 16-12-6, General Laws, 1956, as amended). But no teacher shall be dismissed "unless he has received a written copy of the charge or charges against him not less than thirty (30) days before the meeting at which such charge or charges are to be considered, and unless the teacher if he so requests it has been given a hearing before said school committee, and unless the charge or charges has or have been admitted or substantiated" (Section 16-12-6, General Laws, 1956, as amended). Moreover, the commissioner noted that "a teacher who has given evidence of satisfactory teaching service for three successive years shall not be dismissed except for good and just cause" (Section 16-13-3, General Laws, 1956, as amended).

While the school committee contended that only tenure teachers are entitled to a hearing and statement of charges under Section 16-13-3 and that the statutory procedure for dismissal applies only to dismissals during a school year, the commissioner rejected both arguments:

> We believe that a "dismissal during a school year" and a "decision not to renew a contract for the ensuing year" are in each instance in fact a *dismissal* . . . and that the only difference between the two is the point in time at which the termination of service occurs. Thus, it is our opinion that . . . the appellant is entitled to a statement of the charge or charges and a hearing before the school committee as he has requested.
>
> Moreover, it is our opinion that the due process provision of the Fourteenth Amendment to the Constitution of the United States . . . guarantees him the right to a statement of the charge or charges and hearing before the school committee notwithstanding the omission of the provision for this in Section 16-13-2 of the General Laws. The provision in Section 16-13-3 of the General Laws which states that a teacher who has acquired tenure shall not be dismissed without good and just cause should not be construed to imply that a teacher who has not acquired tenure may be dismissed without cause.

The commissioner accordingly sustained the teacher's appeal, and directed the school committee to give him a statement of the charges against him and a hearing on the matter.

Statistics

AN ANALYSIS OF NEGOTIATED PROVISIONS COVERING PUPIL PROGRESS REPORTS, PROMOTION, AND OTHER PUPIL EVALUATION POLICIES

The NEA Research Division's analysis of 978 comprehensive classroom teacher agreements effective during the 1968-69 school year in districts with a pupil enrollment of 1,000 or more indicates that 71 of these agreements (7.3 percent) have provisions pertaining to pupil progress reports, promotion, and other pupil evaluation policies. Although the 71 provisions vary in content and emphasis, four areas of concern can be identified: the methods of evaluating pupil progress, the process of reporting pupil progress, the process of resolving conflicts over pupil grades, and the procedures for passing or failing and promotion or retention.

Table 1 divides these major areas of concern into subheadings which specifically define negotiated provision content. The categories listed are not mutually exclusive since most of the provisions contain more than one feature. In addition, this analysis is limited to what appears in *written* negotiation agreements; it makes no attempt to cross-reference the 71 pertinent provisions with other provisions in a given agreement which may indirectly affect pupil progress reports, promotion, and policies.

TABLE 1.—NEGOTIATED CONTENT OF 71 PROVISIONS PERTAINING TO PUPIL PROGRESS REPORTS, PROMOTION, AND OTHER PUPIL EVALUATION POLICIES

Content of provision	Agreements containing designated content	
	Number	Percent
1	2	3
TOTAL NUMBER OF PROVISIONS PERTAINING TO PUPIL PROGRESS REPORTS, PROMOTION, AND POLICIES	71	100.0%
JOINT STUDY COMMITTEE ESTABLISHED	6	8.5
NEGOTIATED RULES AND GUIDELINES GOVERNING PUPIL PROGRESS REPORTS, PROMOTION, AND POLICIES	65	91.5
Methods of evaluating pupil progress	33	50.8[1]
Teacher makes initial judgment through evaluating daily work, testing, and observation	33	50.8
Evaluation method used	3	4.6
Process of reporting pupil progress	56	86.2
Method of reporting pupil progress	6	9.2
Teacher keeps cumulative records	11	16.9
Who fills out pupil progress reports	34	52.3
Teacher given time off for grading	6	9.2
Number or dates of marking periods	17	26.2
Time when teacher's evaluations submitted to administration	8	12.3
Rules for issuance and return of pupil progress reports	4	6.2
Process of resolving conflicts over pupil grades	20	30.8
Conditions making review or change necessary	11	16.9
Review procedures with teacher participation	12	18.5
Who makes final decision on pupil grades	10	15.4
Teacher notified of or given reasons for change in grade	5	7.7
Expression of dissenting opinion after grade is given	2	3.1
Passing or failing and promotion or retention processes and guidelines	17	26.2
Parents notified if pupil in danger of failing or being retained	17	26.2
Guidelines for passing or failing pupils	5	7.7
Guidelines for promotion or retention of pupils	3	4.6

[1] This figure and all succeeding percentages are based on the 65 agreements with negotiated rules and guidelines.

Of the 71 provisions analyzed, six established joint teacher/board study committees to examine current policies and recommend additions or changes. Some committees were given specific guidelines to follow in the proposed study; others were not. An example of a provision establishing a joint study committee is:

A committee will be established before November 1, 1968, to examine the present philosophy of evaluating and reporting each child's performance in this district. All levels of the professional staff will be represented on this committee. The report of this committee will be presented to the professional staff on or before April 1st, 1969. Upon acceptance of this report, the findings of this committee will be presented to the Supervising Principal and through him to the Board of Education for final action. The membership of this committee will be appointed jointly by the Supervising Principal and the President of the Association. (Albany, New York)

Evaluating and Reporting

Sixty-five of the 71 provisions contained negotiated rules and guidelines governing pupil progress reports, promotion, and policies. Of these 65 provisions, 50.8 percent concerned the methods of evaluating pupil progress, 86.2 percent dealt with the process of reporting pupil progress, 30.8 percent concerned the process of resolving conflicts over pupil grades, and 26.2 percent contained procedures for passing or failing and promoting or retaining pupils.

All provisions outlining the methods of evaluating pupil progress specified that the classroom teacher makes the initial evaluation. Mention of the evaluation system to be used was found in three provisions; such mention included an explanation of the numerical marking system and some philosophical guidelines, a reference to the school board's policy handbook, and an authorization for the principal to determine the system used.

The process of reporting pupil progress was the most commonly negotiated area of concern. Procedures specifically mentioned varied from stipulations as to types of forms, grading periods, and the posting of records, to provision for special conferences and interim reports. Although only a small percentage of the provisions specified the form for reporting, the majority *implied* that some type of record, account, or report card was used. All pertinent provisions designated the teacher as the person responsible for keeping cumulative pupil records.

Thirty-three of the 34 provisions mentioning the person who fills in pupil progress reports delegated that responsibility to the teacher; one provision stipulated that the teacher was *not* to perform this task.* Of the provisions allowing teachers time off for grading, one provided the daily conference period for that purpose, and the other five allowed teachers one to five days of released time throughout the year for making end-of-term evaluations.

While the provisions concerning marking periods varied, most specified the initial and terminal dates of the marking periods, or the number of marking periods per year. Three of those provisions referred to district policies or stated that a joint study committee was to review policy on marking periods.

Provisions dealing with the time at which teachers were to submit pupil evaluations variously specified the end of a marking period (three provisions), certain times during a marking period at which interim progress reports were due (two provisions), a date after the end of a marking period (two provisions), and only once per marking period (one provision). A few provisions mentioned the times or manner in which pupil progress reports were to be issued to and returned by pupils and their parents.

Sample provisions concerning the procedures for evaluating and reporting pupil progress are reprinted below:

The school year is divided into four marking periods. Two report card marks and the examination mark which counts not more than 25% constitute the semester mark. The average of the semester marks will produce the year mark for any year course.

Report cards will be marked in the following manner: Students will be given their report cards during the homeroom period on Wednesday following the close of the marking period. They will take the cards to each class and teachers will collect and mark them during each class period. They will be taken home by the students and returned to homeroom teachers by 8:00 A.M. on the following Friday. Teachers will arrange them alphabetically and send them to the office during homeroom Friday together with a list of unreturned cards, made out on the proper form.

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*Other contract provisions covering items such as nonclassroom duties and secretarial or clerical assistance also may contain references to the marking of pupil progress reports.

The Thomaston High School system of marking is as follows:

A+	95 - 100	Excellent	B+	85 - 89	Above Average
A	90 - 94		B	80 - 84	
C+	75 - 79	Average	D+	65 - 69	Below Average
C	70 - 74		D	60 - 64	
F+	55 - 59	Failure			
F	Below 55				

A numeral next to the letter grade indicates a measure of effort—interpreted as follows:

1 = Excellent 2 = Average 3 = Unsatisfactory

The mark of "C" is one which will most commonly be given since it represents the middle or "average" group. This mark should be understood as wholly "respectable", representing expected achievement for the class in which the pupil is enrolled. The "C" grade is the point of reference to gain the best perspective of the range of other marks. "B" is above average, "D" is below average, "A" is excellent, and "F" is failure.

At any time during the marking period, teachers will make out notices to parents/guardians for all students whose work is below their ability. Requests for conferences by parents of failing students should be arranged by the Guidance Office.

It is the opinion of the administration that those who try should be given ample encouragement and those who will not try should be failed. It should, with the proper motivation and adequate study conditions plus a reasonable effort and some inherent intelligence, be possible for every student to get a passing mark. A teacher should fail those who are obviously lazy or who have the ability and refuse to use that inherent intelligence. "Give a break" to the student who *tries* and can't quite make it. You can always fail such a student if he lets down but a very low mark is often the end for those students.

"B" or better in any subject in grades nine through twelve will qualify a student for college certification in that subject. Although "B" may seem to be rather a high grade for college certification, the experience of Thomaston school administrators throughout the past three decades shows that this minimum mark provides a reasonable guarantee of successful college work.

The Superintendent or Principal may recommend a student to college when the mark of that student is below "B" in certain subjects. The certification mark, however, represents the school's confidence of ability to do college work.

The sole responsibility for grading pupils shall remain with the teacher based on the above system wide philosophy of marking. (Thomaston, Connecticut)

Elementary Level—At the elementary level, teachers will formally report pupil achievement to parents once per semester. The equivalent of three (3) days the first semester and two (2) days the second semester of released-time will be made available to teachers for preparing these reports and conferring with parents, except that for kindergarten teachers the released-time shall be five (5) days and four (4) days, respectively. One such equivalent day the first semester shall be reserved for preparation. No other responsibilities shall be assigned during such released-time periods. Such periods, with respect to other Personnel, shall be reserved for meetings approved by the Office of Instruction, planning and preparation, or administrative work.

Secondary Level—At the secondary level, teachers will report to parents pupil achievement two (2) times each semester, and will provide additional reports at two (2) scheduled interim periods per semester for all students whose achievement is not satisfactory. (Ann Arbor, Michigan)

All report cards in all secondary schools shall be placed on data processing and formalized so that parents do not have to return duplicates. (Niagara Falls, New York)

A committee composed of two (2) secondary school principals selected by the Superintendent of Schools and two (2) secondary school teachers selected by the Association has recommended that four report periods per year with four interim reports, if necessary, are appropriate for reporting secondary school pupil progress to parents. This recommendation has been approved by the Superintendent of Schools and adopted by the Board of Education for the school year beginning September 1968. There shall be a review of this new system which has been instituted after one year's experience. (Rochester, New York)

Grading Conflicts

Twenty provisions provided various methods for resolving conflicts about grades assigned to a student. In 11 provisions review or change of a pupil's grades were provided under conditions such as a principal's challenge to a teacher's grades if he disagrees with the teacher or finds evidence of questionable judgment, evidence of error or failure of the teacher to meet professional standards, or the surfacing of new factors influencing a student's performance. Some provisions stated that grades were not to be changed, or that they would be changed only under unusual circumstances.

Of the 12 agreements outlining procedures to be followed in reviewing a student's grades, nine indicated that the teacher involved consults with the administrator in charge, two called for a review by

the representative organization building committee, and the remaining provision designated a joint review committee. Teacher involvement in the process of reviewing or changing a challenged grade varied among the 12 provisions from consultation about the change, consent to the change, or participation on the review committee, to initiation of a request for a grade change, or involvement in all final grading decisions. Of the ten provisions indicating who finally resolves a grading conflict, five delegated such authority to the principal, two named the teacher involved, two designated the superintendent, and one provision specified the representative organization building committee.

After a grade is changed, two provisions stated that the teacher is to be notified of the change, and three provisions specified that the teacher is to be given reasons for the change. One clause allowed the teacher to note his disagreement with the change in the student's file, while another permitted the teacher's supervisor to file a letter of dissent. Examples of provisions containing grading conflict resolution procedures are:

The responsibility for grading pupils shall reside with the teacher. If the teacher is overruled, the teacher shall have the right to appeal to the superintendent for final determination. (Mt. Vernon, New York)

Any mark rendered by a teacher concerning the work of a student is the record of the teacher's evaluated judgment of the student's performance. The teacher shall be considered the final evaluator of the work of his student and the integrity of the teacher in rendering marks to the student shall be inviolate. The mark given by a teacher shall not be changed by any other person and no minimum nor maximum limitation shall be required on the number of students of the teacher who pass or fail. . . . (Wyandanch, New York)

The grade entered into the pupil's record by the teacher represents his evaluative judgment. The teacher shall be considered to be expert in evaluating the work of the student and his integrity in grading the pupil shall be respected. The grade given by the teacher shall not be changed by another person, except as follows:

In cases where differences of opinions arise out of the possibility of changing a student's grade, the case shall be submitted to a special "grades committee" consisting of the principal, assistant superintendent from the area involved, the teacher involved, and the Chairman of the Educational Policy Committee of the Providence Teachers Union. In the event the problem cannot be resolved by this special committee, the case will be submitted to the Superintendent for a final decision. (Providence, Rhode Island)

Passing or Failing, Promoting or Retaining

Procedures and guidelines for either passing or failing pupils in a subject or promoting or retaining them in a grade were given in 17 provisions. Nine of these stipulated that a pupil's parents are to be informed by some unspecified means when the student is in danger of failing or of being retained. Eight other provisions stipulated that parents be informed by means of conferences or interim reports. The five provisions containing rules for passing or failing pupils placed no limitations on the number of students a teacher may pass or fail. Of the three provisions specifying rules for the promotion or retention of pupils, two stated that such action is solely the teacher's responsibility, and one contained guidelines for retention in grade and promotion to a higher grade. Two examples of such provisions follow:

The teacher shall at all times regularly and frequently inform parents of the standing of children whose work is unsatisfactory or who are not meeting the standards for promotion or who are in danger of being retained or demoted subject to the established standards of the schools. (Danbury, Connecticut)

I. The following procedures shall be followed in order to fulfill the criteria of the Elementary Grade Placement Policy.

1. During February, after the second report card, a Pupil Evaluation Sheet should be completed in duplicate by the teacher for each child who appears to be a possible candidate for retention. Both copies should then be turned in to the Elementary Principal's office. The parents will be notified by the Elementary Principal that retention is a possibility and a conference will be arranged.

2. A conference will be scheduled with each teacher who submits evaluation forms to discuss the individual child and to determine what help can be given to the child.

3. After the third report card period, the Pupil Evaluation Sheets will be returned to the teacher for re-evaluation. These will be returned to the Elementary Principal within one week, and another conference held. If it then appears that retaining a child at his present grade level will best serve the continuous growth of the child, parents will be contacted immediately. If possible a conference will be arranged.

4. Whether or not a child is retained, one copy of the Pupil Evaluation Sheet will be filed in the child's folder. The other copy will remain with the Elementary Principal.

5. Although the teacher's recommendations have priority in the decision to be made, once the decision is made, the responsibility for the decision rests upon the school.

II. These procedures shall be followed in order to fulfill the criteria for Secondary Grade Placement Policy.

1. Promotion or retention in grade of pupils in seventh and eighth grades shall be determined by the teachers meeting with the high school principal. A preliminary retention list will be prepared at a May meeting. This list will be reviewed and a final retention list completed after final examinations. The effort made by any pupil during the year will weigh heavily in the decision to promote or retain pupils with failing marks.

2. No pupil shall be retained in seventh and eighth grade more than once.
3. The passing mark for all subjects in seventh and eighth grades shall be 75 and 65 in grades nine through twelve.
4. No pupil shall be compelled to take any required high school subject more than two years but no credit toward graduation shall be allowed for subjects not passed. (Moriah, New York)

For a comprehensive analysis of methods used in marking pupils and reporting their progress to parents see NEA Research Summary 1970-S1, *Marking and Reporting Pupil Progress.* 55 p. $1.25. #434-22854.

CONSUMER PRICE INDEX, JULY 1970

Data published by the U.S. Department of Labor, Bureau of Labor Statistics (BLS), indicated that the July 1970 Consumer Price Index (CPI) all-items figure rose 0.4 percent above the previous month to 135.7 (1957-59=100). July was the third month in which the percent change in the CPI registered 0.4 percent. The July increase put the all-items index 5.9 percent above a year ago. Higher food and services prices—particularly household, transportation, and medical care services—were responsible for most of the July increase, while a slowdown was evidenced in the advance of prices of commodities other than food. An estimated 70,000 workers will receive cost-of-living wage increases resulting from the July CPI. BLS also reported that the purchasing power of the consumer dollar stood at 73.7 cents in that month, according to its average buying power in 1957-59.

The CPI is designed to measure "average changes in prices of goods and services usually bought by urban wage earners and clerical workers, both families and single persons living alone." Prices of some 400 items which represent the price movements of all goods and services purchased by wage earners and clerical workers regularly are obtained in urban portions of 39 Standard Metropolitan Statistical Areas (SMSA's) and 17 selected small cities. Price changes used in calculating the CPI are averaged and then weighted according to their importance in spending. In the total index, all SMSA and city data are combined and weighted on the basis of the 1960 populations of SMSA's and the cities they represent. Index numbers are computed on the base 1957-59=100, and the CPI is rounded to one decimal point.

The following tables provide a comparative study of the CPI all-items index for 25 selected SMSA's or cities from 1960 to 1969 (Table 1), and for the first seven months of 1970 (Table 2).

TABLE 1.—CONSUMER PRICE INDEX, ALL ITEMS, SELECTED CITIES OR SMSA'S, 1960-1969 (1957-1959=100)

SMSA/city	All Items									
	1960	1961	1962	1963	1964	1965	1966	1967	1968	1969
U.S. City Average[1]	103.1[2]	104.2[2]	105.4[2]	106.7[2]	108.1[3]	109.9	113.1	116.3	121.2	127.7
Atlanta, Ga.	102.7	103.4	104.1	105.1	106.7	108.1	111.5	115.0	119.6	126.7
Baltimore, Md.	103.4	104.4	105.2	106.8	107.9	109.6	113.4	116.1	120.9	128.3
Boston, Mass.	103.6	105.4	107.4	109.5	111.1	113.2	117.0	119.8	124.7	131.8
Buffalo, N.Y. (November 1963=100)	(NA)	(NA)	(NA)	(NA)	101.1	103.5	107.0	109.9	114.8	120.5
Chicago, Ill.-Northwestern Ind.	103.0	103.8	104.6	105.7	106.1	107.6	110.7	113.6	118.5	124.9
Cincinnati, Ohio-Ky.	102.2	102.6	103.6	104.7	106.3	107.2	110.3	113.5	118.9	124.6
Cleveland, Ohio	102.3	103.1	103.5	104.7	105.2	106.9	109.7	112.9	119.6	126.3
Dallas, Texas (November 1963=100)	(NA)	(NA)	(NA)	(NA)	100.1	101.4	105.0	108.1	113.0	120.3
Detroit, Mich.	101.3	100.9	102.2	103.2	104.0	106.4	111.1	114.9	119.8	127.1
Honolulu, Hawaii (December 1963=100)	(NA)	(NA)	(NA)	(NA)	100.2	102.0	104.9	107.8	111.9	117.0
Houston, Texas	102.1	103.9	104.6	105.6	107.2	108.5	111.5	114.4	119.3	127.0
Kansas City, Mo.-Kansas	103.1	104.6	106.1	107.2	109.8	113.3	116.3	118.7	123.5	130.1
Los Angeles-Long Beach, Calif.	104.1	105.8	106.6	108.2	110.2	112.5	114.7	117.6	122.2	128.0
Milwaukee, Wis.	101.8	(NA)	103.9	104.9	106.0	108.2	110.6	112.9	116.8	123.6
Minneapolis-St. Paul, Minn.	103.1	104.4	105.5	107.0	108.0	109.5	112.2	115.9	121.2	127.4
New York, N.Y.-Northeastern N.J.	103.9	105.3	106.4	108.7	110.4	112.2	116.0	119.0	124.1	131.8
Philadelphia, Pa.-N.J.	103.2	104.8	105.2	107.2	108.8	110.6	113.7	116.8	122.4	128.9
Pittsburgh, Pa.	104.1	105.0	105.9	107.1	108.5	110.2	113.0	115.0	120.4	127.0
Portland, Oreg.	102.9	104.6	104.6	106.6	109.0	111.8	115.3	118.2	122.3	128.4
St. Louis, Mo.-Ill.	102.4	104.4	105.1	106.2	108.1	109.9	113.5	116.8	121.5	127.5
San Diego, Calif. (February 1965=100)	(NA)	(NA)	(NA)	(NA)	(NA)	100.1	102.1	105.1	109.4	115.1
San Francisco-Oakland, Calif.	104.5	106.5	107.4	108.9	110.6	112.7	115.6	119.0	124.3	131.1
Scranton, Pa.	102.5	104.6	105.9	107.3	109.3	111.0	114.9	118.0	122.8	129.2
Seattle, Wash.	103.3	105.7	106.5	108.2	109.7	111.0	114.1	117.5	122.3	128.3
Washington, D.C.-Md.-Va.	102.2	104.2	104.6	106.4	108.1	109.6	113.3	116.5	122.0	129.5

Sources:

U.S. Department of Commerce, Bureau of the Census. *Statistical Abstract of the United States.* Washington, D.C.: Government Printing Office, 1965 and 1969, p. 362 and p. 346.

U.S. Department of Labor, Bureau of Labor Statistics. "Current Labor Statistics." *Monthly Labor Review* 93, 8: 119; August 1970.

[1] Based on 46 cities through 1963, 50 urban areas for 1965, and 56 urban areas beginning in 1966. Excludes Portland, Oreg., and Scranton, Pa. For 1965, excludes Cincinnati, Ohio-Ky.; Houston, Texas; Kansas City, Mo.-Kansas; Milwaukee, Wis.; Minneapolis-St. Paul, Minn.; and San Diego, Calif.

[2] Excludes Alaska and Hawaii.

[3] Beginning in 1964, the index structure was revised to reflect the buying patterns of urban wage earners and clerical workers in the 1960's, including single workers living alone as well as families with two or more persons. Indexes for prior years apply only to families of two persons or more.

TABLE 2.—CONSUMER PRICE INDEX, ALL ITEMS, SELECTED CITIES OR SMSA'S, 1970 BY MONTH (1957-59=100)

SMSA/city	All Items—1970[2]						
	Jan.	Feb.	March	April	May	June	July
U.S. City Average[1]	131.8	132.5	133.2	134.0	134.6	135.2	135.7
Atlanta, Ga.	...	...	131.9	...	...	133.6	...
Baltimore, Md.	...	...	133.5	...	...	135.2	...
Boston, Mass.	136.1	...	...	137.9	...	...	139.5
Buffalo, N.Y. (November 1963=100)	...	125.3	...	...	127.0	...	...
Chicago, Ill.-Northwestern Ind.	129.1	129.3	129.9	130.2	131.1	131.5	132.3
Cincinnati, Ohio-Ky.	...	...	129.2	...	...	131.2	...
Cleveland, Ohio	...	132.3	...	...	134.3	...	...
Dallas, Texas (November 1963=100)	...	125.6	...	...	127.1	...	...
Detroit, Mich.	131.1	132.2	133.1	133.8	134.9	135.2	133.5
Honolulu, Hawaii (December 1963=100)	...	...	122.0	...	...	123.3	...
Houston, Texas	130.9	...	...	132.9	...	...	133.7
Kansas City, Mo.-Kansas	...	...	134.6	...	...	137.9	...
Los Angeles-Long Beach, Calif.	131.2	131.6	132.2	133.5	133.8	133.9	135.1
Milwaukee, Wis.	...	128.5	...	...	130.0	...	...
Minneapolis-St. Paul, Minn.	132.8	...	...	135.1	...	...	136.7
New York, N.Y.-Northeastern N.J.	137.0	138.1	139.1	140.1	140.7	141.6	142.1
Philadelphia, Pa.-N.J.	132.9	134.1	135.4	135.7	136.5	137.0	137.4
Pittsburgh, Pa.	129.4	...	...	132.4	...	...	134.6
Portland, Oreg.	130.7	...	...	133.4	...	...	(NA)
St. Louis, Mo.-Ill.	...	...	132.4	...	...	134.1	...
San Diego, Calif. (February 1965=100)	...	118.6	...	...	120.9	...	...
San Francisco-Oakland, Calif.	...	...	136.1	...	...	137.5	...
Scranton, Pa.	...	134.4	...	...	136.9	...	...
Seattle, Wash.	...	132.2	...	...	133.9	...	...
Washington, D. C.-Md.-Va.	...	134.6	...	...	136.7	...	...

Sources:

U.S. Department of Labor, Bureau of Labor Statistics. *Consumer Price Index—July 1970.* Washington, D.C.: Government Printing Office, August 21, 1970.

U.S. Department of Labor, Bureau of Labor Statistics. "Current Labor Statistics." *Monthly Labor Review* 93, 8: 119; August 1970.

[1] Based on 56 urban areas. Excludes Portland, Oreg., and Scranton, Pa.

[2] Foods, fuels, and several other items are priced every month in all cities. Most other goods and services are priced according to the following schedule:

1. Every month—city average: Chicago, Ill.-Northwestern Ind.; Detroit, Mich.; Los Angeles-Long Beach, Calif.; New York, N.Y.-Northeastern N.J.; and Philadelphia, Pa.-N.J.
2. January, April, July, October: Boston, Mass.; Houston, Texas; Minneapolis-St. Paul, Minn.; and Pittsburgh, Pa.
3. February, May, August, November: Buffalo, N.Y.; Cleveland, Ohio; Dallas, Texas; Milwaukee, Wis.; San Diego, Calif.; Seattle, Wash.; and Washington, D.C.-Md.-Va.
4. March, June, September, December: Atlanta, Ga.; Baltimore, Md.; Cincinnati, Ohio-Ky.; Honolulu, Hawaii; Kansas City, Mo.-Kansas; St. Louis, Mo.-Ill.; and San Francisco-Oakland, Calif.

Special Reports

BRIEFS OF RECENT AGREEMENTS

San Diego, California

Between the Board of Education of the San Diego Unified School District and the San Diego Certificated Employee Negotiating Council (San Diego Teachers Association), effective August 15, 1970, to August 14, 1971. Approximately 6,350 certificated professional employees.

Compensation: B.A., $7,400 to $10,532, 9 increments; B.A. plus 18 hours, $11,434 maximum; M.A., $8,362 to $12,354, 11 increments; M.A. plus 36 hours, $14,246 maximum; M.A. plus 54 hours or Ph.D., $15,220 maximum. Day-to-day substitute teachers, $29; long-term substitute teachers, $39. Differentials: advisors and counselors, $200; Class I head counselor, $560; Class II head counselor, $740; exceptional child programs, $100; driver training teachers and military science instructors with B.A. degree, $7,400 to $9,444, 5 increments; drug and narcotics education teachers, $200; teachers of honors courses, resource teachers, team leaders, and specially assigned teachers, $200; children's center teachers with B.A. degree, $570 to $766, 4 increments; teacher assistants, $2.23 per hour; supervisors and chaperones of after school activities, $6.58 for late afternoon events, $13.16 for evening events.

Leaves: 10 days' annual sick leave, unlimited maximum accumulation; extended sick leave at half-pay to a total of 110 days beyond accumulation in any fiscal year.

Insurance: Board-paid health insurance for individual and family coverage, with latter effective November 1, 1970.

Miscellaneous: Grievance procedure ends with advisory arbitration; Association dues deduction and right to use school facilities; released time for Association president, negotiating council members, and Association representatives participating in grievance procedure; joint committee to study teacher evaluation procedures; joint committee to study in-service training program for target area schools; tuition reimbursement granted on a half credit basis for work or study in a related field; teacher has right to review personnel file and any derogatory material before placement therein; assignment and transfer procedures; class size limitations; target area school program; 30-minute duty-free lunch period for all teachers; regular faculty meetings; pupil discipline provision; academic freedom; school calendar; professional study leave; teacher protection, including reimbursement for personal articles damaged in line of duty.

Ipswich, Massachusetts

Between the Ipswich School Committee and the Ipswich Teachers Association, effective September 1, 1970, to September 1, 1971. Approximately 162 certificated professional employees. Two separate representative units recognized: Unit A—All personnel not covered in Unit B; Unit B—Director of Elementary Education, principals, assistant principals, Director of Pupil Personnel Services, and Director of Athletics. Provision for automatic renewal of contract for successive one-year terms unless reopened by either party by October of contract year involved.

Compensation: B.A., $6,800 to $9,200, 11 increments; B.A. plus 15 hours, $9,750 maximum; M.A., $7,200 to $11,600, 11 increments; M.A. plus 30 hours, $12,550 maximum; teachers being paid on B.A. plus 15 hours schedule who contemplate retirement (and notify the school committee 3 years prior to retirement) will receive "double increments according to the salary schedules each year for the inclusive two-year period." Substitute teachers, $20 per day. Differentials: head football coach, $2,000; head basketball coach, $1,050; head track coach, $450; lacrosse coach, $350; cheerleader advisor, $200; home economics advisor, $500; audiovisual director, $500; senior play advisor, $300; senior class advisor, $250; director of world affairs, $200; classroom driver education, $5 per hour.

Leaves: (10-month employees) 10 days' annual sick leave, 120 days' maximum accumulation; unspecified number of days for personal leave deducted from sick leave; 5 separate days' bereavement leave; sabbatical leave at half-pay for 1 year at discretion of school committee.

Insurance: "Payments for the premiums for insurance and Blue Cross-Blue Shield coverage as provided under Chapter 32B of the Statutes of the Commonwealth shall be as voted by the Town."

Miscellaneous: Grievance procedure ends with advisory arbitration; Association dues deduction; joint committee to study the "feasibility of recognized specialized areas of teaching"; joint consultative Committee on Mutual Concerns; tuition reimbursement for authorized in-service training; duty-free lunch period and daily preparation period for all teachers; provisions for regular staff meetings, professional growth, class size limitations, and teaching hours and load; teacher protection; teacher assignment and transfer provision; required teacher attendance at PTA affairs; no-strike clause; school calendar to be determined by school committee after consultation with Association, if requested by latter.

Harper Creek (Battle Creek), Michigan

Between the Harper Creek Community Schools and the Harper Creek Education Association, effective August 27, 1969, to August 26, 1971. Approximately 149 certificated professional employees. Provision for reopener by mutual consent of the parties.

Compensation: (1970-71) B.A., $7,444 to $12,082, 15 increments including 5 semiannual increments; M.A., $7,928 to $13,446, 13 increments including 1 semiannual increment; specialist degree, $14,175 maximum; teachers with 25 years' service in system will receive retirement pay of 50% of current daily rate for each day of unused sick leave up to 60 days. Differentials: head coach, $40 per week times the number of activity weeks plus (4.5% times the number of years of coaching experience) plus $35 per assistant; assistant athletic directors, $800 plus released time for 40 weeks; senior high band concert director, $892.50; junior high cheerleading supervisor, $105; class advisors, $131.25; senior high dramatics director, $183.75; Girls' Athletic Association sponsor, $498.75; driver training, $5.25 per hour; foreign language travel seminar leaders, $183.75 each plus $157.50 for expenses.

Leaves: 10 days' annual sick leave, unlimited accumulation; 2 separate days for personal leave; 5 days' bereavement leave deducted from accumulation; partial pay for jury duty; sabbatical leave at half-pay for 1 year at board's discretion; teacher who is absent because of an injury or illness which is compensable under the Michigan Workmen's Compensation Law shall receive the difference between his regular salary and the workmen's compensation allowance for up to 10 months with no sick leave deductions.

Insurance: (1970-71) Board pays $15 per month toward Blue Cross-Blue Shield or major medical coverage for individual, and $22.50 per month toward family coverage; board-paid $2,000 group life insurance.

Miscellaneous: Grievance procedure ends with binding arbitration; Association dues deduction; joint Administrative Review Board to maintain desirable class load and size levels; advisory tenure committee; establishment of a joint Professional Study Committee to meet "at least once each month to discuss and study subjects mutually agreed upon relating to the school system"; tuition reimbursement for credit hours earned above B.A. or M.A. degree; provision for professional growth credits; 30-minute duty-free lunch period for all teachers; teacher participation in PTA or PTSA urged; teachers released from specific nonteaching duties; provision for staff facilities as well as other specialized areas in future building; provision for teacher evaluation conferences.

Monroe Township (Williamstown), New Jersey

Between the Monroe Township Board of Education and the Monroe Township Teachers Association, effective September 1, 1970, to August 31, 1971. Approximately 145 certificated professional employees.

Compensation: B.A., $7,500 to $11,850, 12 increments; B.A. plus 15 hours, $12,150 maximum; M.A., $8,100 to $12,450, 12 increments; Ph.D., $12,950 maximum. Teachers may elect a payroll deduction of 10% of monthly salary with total amount to be paid on final pay day in June, or 50% on July 15 and 50% on August 15.

Leaves: 10 days' annual sick leave, unlimited maximum accumulation; 3 separate days for personal leave; 5 separate days' bereavement leave; sabbatical leave to be negotiated and implemented after 1971-72 school year; tenured teacher who resigns or retires receives lump-sum payment for unused accumulated leave at rate of (¼ x accrued leave) (1/200 x last contractual salary received).

Insurance: Board-paid Blue Cross-Blue Shield and major medical coverage for individual and

family; health care benefits continued for 1 year during maternity leave.

Miscellaneous: Grievance procedure ends with advisory arbitration; Association right to use school facilities; released time for Association business; Joint Instructional Council to study "matters related to education" and make recommendations; tuition reimbursement of $300 per year for tenured teachers earning professional growth credits; teachers may review own personnel files; provisions for class size and additional part-time teacher aides; 30-minute duty-free lunch period for all teachers; regular staff meetings; teacher evaluation procedure; reimbursement for travel expenses incurred while on school business; transfer, reassignment, and promotion procedures.

Pardeeville, Wisconsin

Between the Pardeeville Area Board of Education and the Pardeeville Area Education Association, effective September 1, 1970, to August 31, 1971. Approximately 55 certified professional employees. All conditions in salary schedule subject to annual review.

Compensation: B.A., $6,950 to $9,730, 10 increments; B.A. plus 24 hours, $10,584 maximum; M.A., $7,550 to $11,174, 12 increments; M.A. plus 12 hours, $11,470 maximum; longevity payment granted to superior teachers at top of scale for 3 or more years without an increase; severance pay of $5 per day of accumulated sick leave if termination occurs at end of school year. Certified degree substitute teachers, $20 per day; summer school pay, 80% of regular base for period worked. Differentials: (first year of 3-year schedule) head football and basketball coaches, $400; assistant football and basketball coaches, $200; head track and baseball coaches, $200; head curling coach, $100; play director, $100; yearbook sponsor, $100; class advisors, $50; band director, $200; chorus director, $150.

Leaves: 10 days' annual sick leave, 100 days' maximum accumulation; 2 days for personal leave less substitute's pay; 5 separate days for bereavement leave or family illness; employee not using sick leave in any one year will have 2 additional days added to his accumulation.

Insurance: Board-paid hospital coverage for individual; board pays 66.66% of family hospital coverage; board pays $10 toward cost of physical examination required every 3 years.

Miscellaneous: Grievance procedure ends with binding arbitration; tuition reimbursement; in-service training program; professional growth credits for salary advancement; teacher evaluation and performance criteria; copies of evaluations and supervisory reports will be given to teacher before inclusion in personnel file; 30-minute duty-free lunch period for all teachers; provisions for additional specialists to maintain minimum standards in certain curriculum offerings, and addition of paraprofessionals to relieve teachers of nonteaching duties; school calendar; minimum workload standards; minimum teacher-pupil ratios; faculty meetings extending beyond employment hours will result in compensatory time for teachers; reimbursement for travel expenses incurred while on school business; provision for accelerated advancement on salary schedule in cases of exceptional performance.

SELECTED TEACHER ASSISTANCE PROVISIONS FOUND IN COMPREHENSIVE AGREEMENTS

Recent teacher/school board negotiation agreements illustrate a trend toward the inclusion of clauses providing teacher assistance in the form of instructional aids and/or additional personnel who assist classroom teachers with noninstructional duties or relieve them of such. Of the 978 comprehensive agreements surveyed in 1968-69 by the NEA Research Division, 477 (48.8 percent) contained such a provision. While many agreements may stipulate the types of noninstructional duties a teacher shall not be required to perform, provisions of this nature are not reported or discussed here.

Some negotiated teacher assistance provisions establish committees to study the feasibility of hiring additional personnel to personally aid the classroom teacher, or allocating funds for the purchase of instructional aids and materials to be used by teachers and/or pupils.

Additional personnel hired may be delegated both pupil supervision and clerical duties which relieve the classroom teacher of certain nonclassroom or noninstructional tasks. Pupil supervision assignments include the supervision of lunchroom or recess activities, study hall supervision, chaperoning student activities and field trips, classroom housekeeping, corridor duty, and overseeing the loading and unloading of school buses. Aides performing clerical and secretarial duties personally assist the classroom teacher by duplicating or reproducing tests or teaching materials, taking attendance, entering and averaging pupil grades, collecting money for noneducational purposes, distributing and collecting textbooks and other classroom materials, and keeping general classroom records.

Instructional aids provided in teacher assistance clauses include audiovisual materials, reference facilities, laboratory equipment, duplicating equipment, and provision for the purchase of specialized or difficult to obtain materials or equipment.

Of the 477 comprehensive agreements for 1968-69 containing teacher assistance provisions, 161 (33.8 percent) specifically negotiated pupil supervision assistance, 38 (8.0 percent) negotiated only clerical assistance, 132 (27.7 percent) provided for instructional aids, and 146 (30.6 percent) provided for various combinations of pupil supervision assistance, clerical assistance, or instructional aids. Table 1 provides a state-by-state breakdown of the types of items negotiated in the 477 teacher assistance provisions analyzed:

TABLE 1.—CONTENT OF NEGOTIATED TEACHER ASSISTANCE PROVISIONS CONTAINED IN 1968-69 COMPREHENSIVE AGREEMENTS, STATE-BY-STATE

State	Instructional aids only	Teacher aides only	Clerical assistance	Instructional and teacher assistance	Teacher and clerical assistance	Instructional and clerical assistance	Instructional, teacher and clerical assistance	Any assistance
1	2	3	4	5	6	7	8	9
Arizona	...	...	...	1	...	...	...	1
Colorado	2	...	...	...	...	...	...	2
Connecticut	3	7	1	2	2	2	3	20
District of Columbia	...	...	...	...	1	...	...	1
Illinois	2	4	9	...	2	...	2	19
Indiana	1	2	...	...	...	2	1	6
Maryland	...	1	...	...	...	...	...	1
Massachusetts	4	23	3	4	5	...	...	39
Michigan	104	28	10	38	6	15	6	207
New Jersey	...	2	...	...	...	...	...	2
New York	15	83	8	20	19	2	8	155
Ohio	...	2	1	...	1	1	...	5
Pennsylvania	...	...	...	...	...	...	1	1
Rhode Island	1	5	1	2	...	...	...	9
Virginia	...	...	1	...	...	...	...	1
Wisconsin	...	4	4	...	...	...	...	8
Total	132	161	38	67	36	22	21	477
Percent	27.7	33.8	8.0	14.0	7.5	4.6	4.4	48.8

A 1967 teacher opinion poll conducted by the NEA Research Division revealed that almost 1 in 5 public school teachers (19 percent) has assistance from a teacher aide. Of these, 14 percent share the services of one or more aides with other teachers; 5 percent have one or more aides of their own. More than twice as many elementary school teachers (20 percent) as secondary school teachers (9 percent) said they were assisted by aides they shared with other teachers . . . . Small school systems as well as large ones use teacher aides. No significant difference exists

between the proportion of teachers in small systems and the proportion in large systems who reported that they had aides.[1]

In May 1970 an arbitrator found that the Binghamton (N.Y.) education board violated a contractual obligation to hire paraprofessionals as soon as possible in order to implement a "pilot program," because the board delayed three months and then hired only four or five paraprofessionals for elementary-school lunchrooms and two for high-school study halls. Civil service regulations hampered implementation of the program, but the arbitrator found it doubtful that the board needed to delay three months before hiring. Moreover, the arbitrator held that the delay and the limited number of personnel hired did not satisfy the contractual requirement for a "pilot" program: "If a 'trial' or 'pilot' operation is to be such it must be conducted under conditions which resemble the pattern of that which is being tested." He accordingly directed the board to hire 22 elementary-school paraprofessionals and four secondary-school paraprofessionals by October 15, 1970, unless the board and the Binghamton Teachers Association agree upon another paraprofessional program provision for inclusion in their 1970-71 contract.

Selected teacher assistance provisions taken from comprehensive agreements are reprinted below. These are sample provisions only; they are not intended to be regarded as exemplary.

Scottsdale Public Schools, Scottsdale, Arizona
Article XI, Section 10–*Personnel Policies and Procedures–Teacher-Aides and Clerks*

The primary responsibility of a classroom teacher is to organize and guide instruction for students. Clerical and semi-clerical functions are necessary to the instructional program, but detract from instructional time when performed by the classroom teacher.

Therefore, it is agreed to employ within the limits of funds deemed available, sufficient instructional and noninstructional aides and clerks to perform clerical, semi-clerical, and other duties such as noon supervision, collection of funds, delivering and sorting educational supplies, and other such similar duties.

More complete utilization of teacher-aides and clerks will be considered in the study of the feasibility of differentiated staffing.

School District No. 1, Denver, Colorado
Article 13–*Instructional Materials*

The Board will endeavor to provide sufficient instructional materials and equipment, within budgetary limitations, to insure that each pupil and teacher will have the best possible access to them. Teachers agree that these materials will be used wisely.

Each school will be allocated a revolving fund through their budget account to be used for the purchase of instructional materials that are not otherwise readily obtainable by the teachers. Each teacher may request of the principal authorization for such items as specially needed in his class.

The Board and Association agree that matters concerning instructional materials need continuing study and investigation. This will be taken up by the Professional Council.

The Board will make every effort within budgetary limitations to make sure all instructional equipment is in working condition and up to date.

Derby Public Schools, Derby, Connecticut
Article XII, Section L–*Working Conditions–Teacher Aides*

The Board and the League agree that a teacher's primary responsibility is to teach and his energy should, to the extent possible, be utilized to this end. The Board and the League recognize that teacher aides and part time clerical employees are useful and necessary in order to implement this principle. Therefore, the Board agrees that, subject to the availability of competent personnel and adequate Federal Aid Funds or other funds, it will employ:

1. Teacher aides sufficient in number to relieve teachers in Kindergarten through 8th grade who have more than thirty (30) students within the class. A full-time aide will be assigned to a class when

[1] National Education Association, Research Division. "How the Profession Feels About Teacher Aides." *NEA Journal 56:* 16-17; November 1967.

the enrollment reaches 35 students. The responsibilities of the teacher aide will include and not be limited to the following: non-teaching and instructional assignments, supervision of recess period, playground activities, corridors, lunch duties, buses, collecting money for non-educational purposes, taking attendance, entering marks in marking books, averaging academic marks.

2. Part-time clerical personnel, 1 for every 8 teachers, to assist with duplication of instructional material, care of registers and their tabulation, and similar functions which do not require professional judgment.
3. Aides will be assigned to the Derby High School and Derby Middle School to assist with supervision of the cafeteria, study halls and library. Additional clerical help will be provided in all schools to eliminate teachers collecting monies and to reduce other non-instructional duties.

Niles Township High School District, Skokie, Illinois
Article XXII–*Clerical Assistance*; **Article XXIII**–*Lay Assistance*

(Article XXII) Section 1. Clerical Assistance. Clerk-typists shall be assigned to each division at the ratio of one for every thirty (30) classroom teachers or major fraction thereof to provide clerical assistance for teachers. The assignment of such clerks shall be in consultation with the Divisional Principal and Department Chairmen. All the time of these clerks shall be assigned to clerical assistance for classroom teachers.

Section 2. Clerical Assistance–Counseling Department. One additional clerk shall be assigned to each guidance department.

(Article XXIII) Section 1. Lay Assistance. The present lay assistance provided the English Department shall be continued. That part of this assistance that is not used by the English Department shall be made available to other departments, as determined in consultation with the Departmental Chairmen and teachers.

Section 2. Lay Assistance–Science. Full effort shall be made to employ one competent lay assistant for each Science Department.

Bloomfield Hills School District, Bloomfield Hills, Michigan
Article IX, Section A(6)(7)(8)–*Teaching Conditions–Physical Environment*

The Board recognizes that appropriate texts, library reference facilities, maps and globes, laboratory equipment, audio-visual equipment, art supplies, athletic equipment, current periodicals, standard tests questionnaires, and classroom facilities and materials, and similar materials are necessary for the fullest professional performances. Teachers will be consulted from time to time for the purpose of improving the selection and use of such educational tools and the Board undertakes to give careful consideration to any teacher or Association recommendation. The Board agrees at all times to keep the schools reasonably equipped and maintained.

The Board and the Association mutually recognize the importance of continuous use of adequate teaching reference material in maintaining a high level of professional performance. In furtherance of that recognition, and where feasible, the Board shall provide teacher reference materials in each school in the district and include all texts which are reasonably requested by the teachers of that school.

The Board agrees to make available, on a reasonable basis for the preparation, duplication, or reproduction of instructional material, its typing, duplicating, stenciling, mimeographing and reproducing equipment. Wherever possible, or practicable, as determined by the building administration, clerical personnel shall be made available for the preparation, duplication, or reproduction of written tests, work sheets, study sheets, maps, transparencies, excerpts from books, periodicals or other reference materials on the basis of equality within levels.

Brewster Central School District, Brewster, New York
Article IV, Section B(8)–*Conditions of Employment–School Aides*

The Board and the Association acknowledge that a teacher's primary responsibility is to teach and that his energies should be utilized to this end. Therefore, in order that a teacher may pursue his primary responsibility, the Board agrees to reduce the following non-teaching duties by the beginning of the school year 1968-69:

1. Bus Duty
2. Cafeteria supervision
3. Playground supervision
4. Supervision of halls

In order to study and to make recommendations for the best means of achieving the above goal, a joint School Aide Committee, composed of three representatives selected by the District Principal and three representatives selected by the Association, will be established.

Toward the accomplishment of the foregoing objectives, the number of school aides for the 1968-69 school year will be increased.

School aides are to be used for the relief of teachers and not to relieve clerical or administrative staff members of their duties.

The School Aide Committee will conduct studies and make recommendations effective September, 1969, for the relief of teachers engaged in other non-teaching duties such as:

1. Attendance clerk.
2. Collection of monies.
3. Management of records, material and equipment.
4. Study hall supervisor.
5. Typing and mimeographing.

Herricks Union Free School District No. 9, New Hyde Park, New York
Article VII, Sections A, B, E—*Para-Professional Assistance and Non-Teaching Duties*

A. The Board agrees to employ aides in the elementary school libraries for two hours per day in Center, Denton and Searingtown schools and one hour per day in Park and Wickshire schools.

B. The Board agrees to employ sufficient aides for cafeteria duty so that only one teacher in each secondary building shall be on cafeteria duty during each lunch period. However, if after a reasonable trial period, the Principal of the Senior High School determines that one teacher per period is insufficient in the Senior High School after consultation with the Association, the number may be increased to two teachers per lunch period so that each lunch room is covered by a teacher.

E. Duplication of Report Cards—An attempt will be made so that grade reporting on the elementary level can be accomplished by the use of the district's data processing equipment in such a way as to reduce clerical work to a minimum. After one year this will be re-evaluated.

Middletown Public Schools, Middletown, Rhode Island
Article IX

Teacher aide/clerks shall be provided for all elementary schools on a ratio of at least one for every eight (8) teachers.

Joint City School District No. 1, West Allis, Wisconsin
Article VII—*Teacher Assistance*

The Board shall, in the 1969-70 school year, employ six additional teacher aides.

Beginning September, 1970, the Board shall expand the teacher aide program by employing not less than twenty-nine additional teacher aides to be assigned in the following manner: three teacher aides in a selected elementary school, six teacher aides in a selected junior high school, six teacher aides in a selected senior high school, and one teacher aide in each of the other schools of the system.

The Superintendent shall determine job descriptions for teacher aides and shall establish an in-service training program for both teachers and teacher aides.

Text

PENNSYLVANIA

Public Employee Relations Act

ARTICLE I

Public Policy

Section 101. The General Assembly of the Commonwealth of Pennsylvania declares that it is the public policy of this Commonwealth and the purpose of this act to promote orderly and constructive relationships between all public employers and their employes subject, however, to the paramount right of the citizens of this Commonwealth to keep inviolate the guarantees for their health, safety and welfare. Unresolved disputes between the public employer and its employes are injurious to the public and the General Assembly is therefore aware that adequate means must be established for minimizing them and providing for their resolution. Within the limitations imposed upon the governmental processes by these rights of the public at large and recognizing that harmonious relationships are required between the public employer and its employes, the General Assembly has determined that the overall policy may best be accomplished by (1) granting to public employes the right to organize and choose freely their representatives; (2) requiring public employers to negotiate and bargain with employe organizations representing public employes and to enter into written agreements evidencing the result of such bargaining; and (3) establishing procedures to provide for the protection of the rights of the public employe, the public employer and the public at large.

ARTICLE II

Short Title

Section 201. This act shall be known and may be cited as the "Public Employe Relations Act."

ARTICLE III

Definitions

Section 301. As used in this act:

(1) "Public employer" means the Commonwealth of Pennsylvania, its political subdivisions including school districts and any officer, board, commission, agency, authority, or other instrumentality thereof and any non-profit organization or institution and any charitable, religious, scientific, literary, recreational, health, educational or welfare institution receiving grants or appropriations from local, state or federal governments but shall not include employers covered or presently subject to coverage under the act of June 1, 1937 (P.L. 1168), as amended, known as the "Pennsylvania Labor Relations Act," the act of July 5, 1935, Public Law 198, 74th Congress, as amended, known as the "National Labor Relations Act."

(2) "Public employe" or "employe" means any individual employed by a public employer but shall not include elected officials, appointees of the Governor with the advice and consent of the Senate as required by law, management level employes, confidential employes, clergymen or other persons in a religious profession, employes or personnel at church offices or facilities when utilized primarily for religious purposes and those employes covered under the act of June 24, 1968 (Act No. 111), entitled "An act specifically authorizing collective bargaining between policemen and firemen and their public employers; providing for arbitration in order to settle disputes, and requiring compliance with collective bargaining agreements and findings of arbitrators."

(3) "Employe organization" means an organization of any kind, or any agency or employe representation committee or plan in which membership includes public employes, and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, employe-employer disputes, wages, rates of pay, hours of employment, or conditions of work but shall not include any organization which practices discrimination in membership because of race, color, creed, national origin or political affiliation.

(4) "Representative" means any individuals acting for public employers or employes and shall include employe organizations.

(5) "Board" means the Pennsylvania Labor Relations Board.

(6) "Supervisor" means any individual having authority in the interests of the employer to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward or discipline other employes or responsibly to direct them or adjust their grievances; or to substantial degree effectively recommend such action, if in connection with the foregoing, the exercise of such authority is not merely routine or clerical in nature but calls for the use of independent judgment.

(7) "Professional employe" means any employe whose work: (i) is predominantly intellectual and varied in character; (ii) requires consistent exercise of discretion and judgment; (iii) requires knowledge of an advanced nature in the field of science or learning customarily acquired by specialized study in an institution of higher learning or its equivalent; and (iv) is of such character that the output or result accomplished cannot be standardized in relation to a given period of time.

(8) "Unfair practice" means any practice prohibited by Article XII of this act.

(9) "Strike" means concerted action in failing to report for duty, the wilful absence from one's position, the stoppage of work, slowdown, or the abstinence in whole or in part from the full, faithful and proper performance of the duties of employment for the purpose of inducing, influencing or coercing a change in the conditions or compensation or the rights, privileges, or obligations of employment.

(10) "Person" includes an individual, public employer, public employe, authority, commission, legal representative, labor organization, employe organization, profit or nonprofit corporation, trustee, board or association.

(11) "Membership dues deduction" means the practice of a public employer to deduct from the wages of a public employe, with his written consent, an amount for the payment of his membership dues in an employe organization, which deduction is transmitted by the public employer to the employe organization.

(12) "Budget submission date" means the date by which under the law or practice a public employer's proposed budget, or budget containing proposed expenditures applicable to such public employer is submitted to the Legislature or other similar body for final action. For the purposes of this act, the budget submission date for the Commonwealth shall be February 1 of each year and for a nonprofit organization or institution, the last day of its fiscal year.

(13) "Confidential employe" shall mean any employe who works: (i) in the personnel offices of a public employer and has access to information subject to use by the public employer in collective bargaining; or (ii) in a close continuing relationship with public officers or representatives associated with collective bargaining on behalf of the employer.

(14) "Wages" means hourly rates of pay, salaries or other forms of compensation for services rendered.

(15) "Commonwealth employe" means a public employe employed by the Commonwealth or any board, commission, agency, authority, or any other instrumentality thereof.

(16) "Management level employe" means any individual who is involved directly in the determination of policy or who responsibly directs the implementation thereof and shall include all employes above the first level of supervision.

(17) "Meet and discuss" means the obligation of a public employer upon request to meet at reasonable times and discuss recommendations submitted by representatives of public employes: Provided, That any decisions or determinations on matters so discussed shall remain with the public employer and be deemed final on any issue or issues raised.

(18) "Maintenance of membership" means that all employes who have joined an employe organization or who join the employe organization in the future must remain members for the duration of a collective bargaining agreement so providing with the proviso that any such employe or employes may resign from such employe organization during a period of fifteen days prior to the expiration of any such agreement.

(19) "First level of supervision" and "first level supervisor" means the lowest level at which an employe functions as a supervisor.

ARTICLE IV

Employe Rights

Section 401. It shall be lawful for public employes to organize, form, join or assist in employe organizations or to engage in lawful concerted activities for the purpose of collective bargaining or other mutual aid and protection or to bargain collectively through representatives of their own free choice and such employes shall also have the right to refrain from any or all such activities, except as may be required pursuant to a maintenance of membership provision in a collective bargaining agreement.

ARTICLE V

Pennsylvania Labor Relations Board

Section 501. The board shall exercise those powers and perform those duties which are specifically provided for in this act. These powers and duties shall be in addition to and exercised completely independent of any powers and duties specifically granted to it by other statutory enactments.

Section 502. The board shall have authority from time to time to make, amend and rescind such rules and regulations as may be necessary to carry out the provisions of this act. Such rules and regulations shall be effective upon publication in the manner which the board shall prescribe.

Section 503. The board shall establish after consulting representatives of employe organizations and of public employers, panels of qualified persons broadly representative of the public to be available to serve as members of fact-finding boards.

ARTICLE VI

Representation

Section 601. Public employers may select representatives to act in their interest in any collective bargaining with representatives of public employes.

Section 602. (a) A public employer may recognize employe representatives for collective bargaining purposes, provided the parties jointly request certification by the board which shall issue such certification if it finds the unit appropriate.

(b) Any employe representatives in existence on January 1, 1970, shall so continue without the requirement of an election and certification until such time as a question concerning representation is appropriately raised under this act; or until the board would find the unit not to be appropriate after challenge by the public employer, a member of the unit or an employe organization. The appropriateness of the unit shall not be challenged until the expiration of any collective bargaining agreement in effect on the date of the passage of this act.

Section 603. (a) A public employe, a group of public employes or an employe organization may notify the public employer that thirty per cent or more of the public employes in an appropriate unit desire to be exclusively represented for collective bargaining purposes by a designated representative and request the public employer to consent to an election.

(b) If the public employer consents, the public employe, group of public employes or employe organization whichever applicable may submit in a form and manner established by the board an election request. Such request shall include a description of the unit deemed to be appropriate, the basis upon which it was determined that thirty per cent or more of the employes desired to be represented and a joinder by the public employer. The board may on the basis of the submissions order an election to be held or it may at its discretion investigate or conduct hearings to determine the validity of the matters contained in such submissions before determining whether or not an order should issue.

(c) If a public employer refuses to consent to an election, the party making the request may file a petition with the board alleging that thirty per cent or more of the public employes in an appropriate unit wish to be exclusively represented for collective bargaining purposes by a designated representative. The board shall send a copy of the petition to the public employer and provide for an appropriate hearing upon due notice. If it deems the allegations in the petition to be valid and the unit to be appropriate it shall order an election. If it finds to the contrary it may dismiss the petition or permit its amendment in accordance with procedures established by the board.

(d) If a public employer receives notification that thirty per cent or more of the public employes desire to be exclusively represented for collective bargaining purposes by a designated representative and the party giving notice does not thereafter seek an election the public employer may file a petition for the same with the board. The board shall then follow the procedures as established for petitions filed under subsection (c) of this section.

Section 604. The board shall determine the appropriateness of a unit which shall be the public employer unit or a subdivision thereof. In determining the appropriateness of the unit, the board shall:

(1) Take into consideration but shall not be limited to the following: (i) public employes must have an identifiable community of interest, and (ii) the effects of over-fragmentization.

(2) Not decide that any unit is appropriate if such unit includes both professional and nonprofessional employes, unless a majority of such professional employes vote for inclusion in such unit.

(3) Not permit guards at prisons and mental hospitals, employes directly involved with and necessary to the functioning of the courts of

this Commonwealth, or any individual employed as a guard to enforce against employes and other persons, rules to protect property of the employer or to protect the safety of persons on the employer's premises to be included in any unit with other public employes, each may form separate homogenous employe organizations with the proviso that organizations of the latter designated employe group may not be affiliated with any other organization representing or including as members, persons outside of the organization's classification.

(4) Take into consideration that when the Commonwealth is the employer, it will be bargaining on a Statewide basis unless issues involve working conditions peculiar to a given governmental employment locale. This section, however, shall not be deemed to prohibit multi-unit bargaining.

(5) Not permit employes at the first level of supervision to be included with any other units of public employes but shall permit them to form their own separate homogenous units. In determining supervisory status the board may take into consideration the extent to which supervisory and nonsupervisory functions are performed.

Section 605. Representation elections shall be conducted by secret ballot at such times and places selected by the board subject to the following:

(1) The board shall give no less than ten days notice of the time and place of such election.

(2) The board shall establish rules and regulations concerning the conduct of any election including but not limited to regulations which would guarantee the secrecy of the ballot.

(3) A representative may not be certified unless it receives a majority of the valid ballots cast.

(4) The board shall include on the ballot a choice of "no representative."

(5) In an election where none of the choices on the ballot receives a majority, a run-off election shall be conducted, the ballot providing for a selection between the two choices or parties receiving the highest and the second highest number of ballots cast in the election.

(6) The board shall certify the results of said election within five working days after the final tally of votes if no charge is filed by any person alleging that an "unfair practice" existed in connection with said election. If the board has reason to believe that such allegations are valid, it shall set a time for hearing on the matter after due notice. Any such hearings shall be conducted within two weeks of the date of receipt of such charge. If the board determines that the outcome of the election was affected by the "unfair practice" charged or for any other "unfair practice" it may deem existed, it shall require corrective action and order a new election. If the board determines that no unfair practice existed or if it existed, did not affect the outcome of the election, it shall immediately certify the election results.

(7) (i) No election shall be conducted pursuant to this section in any appropriate bargaining unit within which in the preceding twelve-month period an election shall have been held nor during the term of any lawful collective bargaining agreement between a public employer and an employe representative. This restriction shall not apply to that period of time covered by any collective bargaining agreement which exceeds three years. For the purposes of this section, extensions of agreements shall not affect the expiration date of the original agreement.

(ii) Petitions for elections may be filed with the board not sooner than ninety days nor later than sixty days before the expiration date of any collective bargaining agreement or after the expiration date until such time as a new written agreement has been entered into. For the purposes of this section, extensions of agreements shall not affect the expiration date of the original agreement.

Section 606. Representatives selected by public employes in a unit appropriate for collective bargaining purpose shall be the exclusive representative of all the employes in such unit to bargain on wages, hours, terms and conditions of employment: Provided, That any individual employe or a group of employes shall have the right at any time to present grievances to their employer and to have them adjusted without that intervention of the bargaining representative as long as the adjustment is not inconsistent with the terms of a collective bargaining contract then in effect: And, provided further, That the bargaining representative has been given an opportunity to be present at such adjustment.

Section 607. If there is a duly certified representative: (i) a public employe or a group of public employes may file a petition for decertification provided it is supported by a thirty per cent showing of interest, or (ii) a public employer alleging a good faith doubt of the majority status of said representative may file a petition in accordance with the rules and regulations established by the board, subject to the provisions of clause (7) of section 605.

ARTICLE VII
Scope of Bargaining

Section 701. Collective bargaining is the performance of the mutual obligation of the public

employer and the representative of the public employes to meet at reasonable times and confer in good faith with respect to wages, hours and other terms and conditions of employment, or the negotiation of an agreement or any question arising thereunder and the execution of a written contract incorporating any agreement reached but such obligation does not compel either party to agree to a proposal or require the making of a concession.

Section 702. Public employers shall not be required to bargain over matters of inherent managerial policy, which shall include but shall not be limited to such areas of discretion or policy as the functions and programs of the public employer, standards of services, its overall budget, utilization of technology, the organizational structure and selection and direction of personnel. Public employers, however, shall be required to meet and discuss on policy matters affecting wages, hours and terms and conditions of employment as well as the impact thereon upon request by public employe representatives.

Section 703. The parties to the collective bargaining process shall not effect or implement a provision in a collective bargaining agreement if the implementation of that provision would be in violation of, or inconsistent with, or in conflict with any statute or statutes enacted by the General Assembly of the Commonwealth of Pennsylvania or the provisions of municipal home rule charters.

Section 704. Public employers shall not be required to bargain with units of first level supervisors or their representatives but shall be required to meet and discuss with first level supervisors or their representatives, on matters deemed to be bargainable for other public employes covered by this act.

Section 705. Membership dues deductions and maintenance of membership are proper subjects of bargaining with the proviso that as to the latter, the payment of dues and assessments while members, may be the only requisite employment condition.

Section 706. Nothing contained in this act shall impair the employer's right to hire employes or to discharge employes for just cause consistent with existing legislation.

ARTICLE VIII

Collective Bargaining Impasse

Section 801. If after a reasonable period of negotiation, a dispute or impasse exists between the representatives of the public employer and the public employes, the parties may voluntarily submit to mediation but if no agreement is reached between the parties within twenty-one days after negotiations have commenced, but in no event later than one hundred fifty days prior to the "budget submission date," and mediation has not been utilized by the parties, both parties shall immediately, in writing, call in the service of the Pennsylvania Bureau of Mediation.

Section 802. Once mediation has commenced, it shall continue for so long as the parties have not reached an agreement. If, however, an agreement has not been reached within twenty days after mediation has commenced or in no event later than one hundred thirty days prior to the "budget submission date," the Bureau of Mediation shall notify the board of this fact. Upon receiving such notice the board may in its discretion appoint a fact-finding panel which panel may consist of either one or three members. If a panel is so designated or selected it shall hold hearings and take oral or written testimony and shall have subpoena power. If during this time the parties have not reached an agreement, the panel shall make findings of fact and recommendations:

(1) The findings of fact and recommendations shall be sent by registered mail to the board and to both parties not more than forty days after the Bureau of Mediation has notified the board as provided in the preceding paragraph.

(2) Not more than ten days after the findings and recommendations shall have been sent, the parties shall notify the board and each other whether or not they accept the recommendations of the fact-finding panel and if they do not, the panel shall publicize its findings of fact and recommendations.

(3) Not less than five days nor more than ten days after the publication of the findings of fact and recommendations, the parties shall again inform the board and each other whether or not they will accept the recommendations of the fact-finding panel.

(4) The Commonwealth shall pay one-half the cost of the fact-finding panel; the remaining one-half of the cost shall be divided equally between the parties. The board shall establish rules and regulations under which panels shall operate, including, but not limited to, compensation for panel members.

Section 803. If the representatives of either or both the public employes and the public employer refuse to submit to the procedures set forth in sections 801 and 802 of this article, such refusal shall be deemed a refusal to bargain in good faith and unfair practice charges may be filed by the submitting party or the board may on its own, issue an unfair practice complaint

and conduct such hearings and issue such orders as provided for in Article XIII.

Section 804. Nothing in this article shall prevent the parties from submitting impasses to voluntary binding arbitration with the proviso the decisions of the arbitrator which would require legislative enactment to be effective shall be considered advisory only.

Section 805. Notwithstanding any other provisions of this act where representatives of units of guards at prisons or mental hospitals or units of employes directly involved with and necessary to the functioning of the courts of this Commonwealth have reached an impasse in collective bargaining and mediation as required in section 801 of this article has not resolved the dispute, the impasse shall be submitted to a panel of arbitrators whose decision shall be final and binding upon both parties with the proviso that the decisions of the arbitrators which would require legislative enactment to be effective shall be considered advisory only.

Section 806. Panels of arbitrators for bargaining units referred to in section 805 of this article shall be selected in the following manner:

(1) Each party shall select one member of the panel, the two so selected shall choose the third member.

(2) If the members so selected are unable to agree upon the third member within ten days from the date of their selection, the board shall submit the names of seven persons, each party shall alternately strike one name until one shall remain. The public employer shall strike the first name. The person so remaining shall be the third member and chairman.

Section 807. The cost of the arbitrators selected under the provisions of section 806 shall be paid by the Commonwealth under rules and regulations established by the board.

ARTICLE IX

Collective Bargaining Agreement

Section 901. Once an agreement is reached between the representatives of the public employes and the public employer, the agreement shall be reduced to writing and signed by the parties. Any provisions of the contract requiring legislative action will only be effective if such legislation is enacted.

Section 902. If the provisions of the constitution or bylaws of an employe organization requires ratification of a collective bargaining agreement by its membership, only those members who belong to the bargaining unit involved shall be entitled to vote on such ratification notwithstanding such provisions.

Section 903. Arbitration of disputes or grievances arising out of the interpretation of the provisions of a collective bargaining agreement is mandatory. The procedure to be adopted is a proper subject of bargaining with the proviso that the final step shall provide for a binding decision by an arbitrator or a tri-partite board of arbitrators as the parties may agree. Any decisions of the arbitrator or arbitrators requiring legislation will only be effective if such legislation is enacted:

(1) If the parties cannot voluntarily agree upon the selection of an arbitrator, the parties shall notify the Bureau of Mediation of their inability to do so. The Bureau of Mediation shall then submit to the parties the names of seven arbitrators. Each party shall alternately strike a name until one name remains. The public employer shall strike the first name. The person remaining shall be the arbitrator.

(2) The costs of arbitration shall be shared by the parties. Fees paid to arbitrators shall be based on a schedule established by the Bureau of Mediation.

Section 904. Any provision of any collective bargaining agreement in existence on January 1, 1970 which is inconsistent with any provision of this act but not otherwise illegal shall continue valid until the expiration of such contract. The parties to such agreements may continue voluntarily to bargain on any such items after the expiration date of any such agreement and for so long as these items remain in any future agreement.

ARTICLE X

Strikes

Section 1001. Strikes by guards at prisons or mental hospitals, OR employes directly involved with and necessary to the functioning of the courts of this Commonwealth are prohibited at any time. If a strike occurs the public employer shall forth with initiate in the court of common pleas of the jurisdiction where the strike occurs, an action for appropriate equitable relief including but not limited to injunctions. If the strike involves Commonwealth employes, the chief legal officer of the public employer or the Attorney General where required by law shall institute an action for equitable relief, either in the court of common pleas of the jurisdiction where the strike has occurred or the Commonwealth Court.

Section 1002. Strikes by public employes during the pendency of collective bargaining procedures set forth in sections 801 and 802 of Article VIII

are prohibited. In the event of a strike during this period the public employer shall forthwith initiate an action for the same relief and utilizing the same procedures required for prohibited strikes under section 1001.

Section 1003. If a strike by public employes occurs after the collective bargaining processes set forth in sections 801 and 802 of Article VIII of this act have been completely utilized and exhausted, it shall not be prohibited unless or until such a strike creates a clear and present danger or threat to the health, safety or welfare of the public. In such cases the public employer shall initiate, in the court of common pleas of the jurisdiction where such strike occurs, an action for equitable relief including but not limited to appropriate injunctions and shall be entitled to such relief if the court finds that the strike creates a clear and present danger or threat to the health, safety or welfare of the public. If the strike involves Commonwealth employes, the chief legal officer of the public employer or the Attorney General where required by law shall institute an action for equitable relief in the court of common pleas of the jurisdiction where the strike has occurred or the Commonwealth Court. Prior to the filing of any complaint in equity under the provisions of this section the moving party shall serve upon the defendant a copy of said complaint as provided for in the Pennsylvania Rules of Civil Procedure applicable to such actions. Hearings shall be required before relief is granted under this section and notices of the same shall be served in the manner required for the original process with a duty imposed upon the court to hold such hearings forthwith.

Section 1004. An unfair practice by a public employer shall not be a defense to a prohibited strike. Unfair practices by the employer during the collective bargaining processes shall receive priority by the board as set forth in Article XIV.

Section 1005. If a public employe refuses to comply with a lawful order of a court of competent jurisdiction issued for a violation of any of the provisions of this article the public employer shall initiate an action for contempt and if the public employe is adjudged guilty of such contempt, he shall be subject to suspension, demotion or discharge at the discretion of the public employer, provided the public employer has not exercised that discretion in violation of clauses (1), (2), (3) and (4) of subsection 1201, Article XII.

Section 1006. No public employe shall be entitled to pay or compensation from the public employer for the period engaged in any strike.

Section 1007. In the event any public employe refuses to obey an order issued by a court of competent jurisdiction for a violation of the provisions of this article, the punishment for such contempt may be by fine or by imprisonment in the prison of the county where the court is sitting or both in the discretion of the court.

Section 1008. Where an employe organization wilfully disobeys a lawful order of a court of competent jurisdiction issued for a violation of the provisions of this article, the punishment for each day that such contempt persists may be by a fine fixed in the discretion of the court.

Section 1009. In fixing the amount of the fine or imprisonment for contempt, the court shall consider all the facts and circumstances directly related to the contempt including but not limited to (i) any unfair practices committed by the public employer during the collective bargaining processes; (ii) the extent of the wilful defiance or resistance to the court's order; (iii) the impact of the strike on the health, safety or welfare of the public, and (iv) the ability of the employe organization or the employe to pay the fine imposed.

Section 1010. Nothing in this article shall prevent the parties from voluntarily requesting the court for a diminution or suspension of any fines or penalties imposed. Any requests by employe representatives for such participation by the public employer shall be subject to the requirements of "meet and discuss."

ARTICLE XI

Picketing

Section 1101. Public employes, other than those engaged in a nonprohibited strike, who refuse to cross a picket line shall be deemed to be engaged in a prohibited strike and shall be subject to the terms and conditions of Article X pertaining to prohibited strikes.

ARTICLE XII

Unfair Practices

Section 1201. (a) Public employers, their agents or representatives are prohibited from:

(1) Interfering, restraining or coercing employes in the exercise of the rights guaranteed in Article IV of this act.

(2) Dominating or interfering with the formation, existence or administration of any employe organization.

(3) Discriminating in regard to hire or tenure of employment or any term or condition of em-

ployment to encourage or discourage membership in any employe organization.

(4) Discharging or otherwise discriminating against an employe because he has signed or filed an affidavit, petition or complaint or given any information or testimony under this act.

(5) Refusing to bargain collectively in good faith with an employe representative which is the exclusive representative of employes in an appropriate unit, including but not limited to the discussing of grievances with the exclusive representative.

(6) Refusing to reduce a collective bargaining agreement to writing and sign such agreement.

(7) Violating any of the rules and regulations established by the board regulating the conduct of representation elections.

(8) Refusing to comply with the provisions of an arbitration award deemed binding under section 903 of Article IX.

(9) Refusing to comply with the requirements of "meet and discuss."

(b) Employe organizations, their agents, or representatives, or public employes are prohibited from:

(1) Restraining or coercing employes in the exercise of the rights guaranteed in Article IV of this act.

(2) Restraining or coercing a public employer in the selection of his representative for the purposes of collective bargaining or the adjustment of grievances.

(3) Refusing to bargain collectively in good faith with a public employer, if they have been designated in accordance with the provisions of this act as the exclusive representative of employes in an appropriate unit.

(4) Violating any of the rules and regulations established by the board regulating the conduct of representation elections.

(5) Refusing to reduce a collective bargaining agreement to writing and sign such agreement.

(6) Calling, instituting, maintaining or conducting a strike or boycott against any public employer or picketing any place of business of a public employer on account of any jurisdictional controversy.

(7) Engaging in, or inducing or encouraging any individual employed by any person to engage in a strike or refusal to handle goods or perform services; or threatening, coercing or restraining any person where an object thereof is to (i) force or require any public employer to cease dealing or doing business with any other person or (ii) force or require a public employer to recognize for representation purposes an employe organization not certified by the board.

(8) Refusing to comply with the provisions of an arbitration award deemed binding under section 903 of Article II.

(9) Refusing to comply with the requirements of "meet and discuss."

ARTICLE XIII

Prevention of Unfair Practices

Section 1301. The board is empowered, as hereinafter provided, to prevent any person from engaging in any unfair practice listed in Article III of this act. This power shall be exclusive and shall not be affected by any other means of adjustment or prevention that have been or may be established by agreement, law, or otherwise.

Section 1302. Whenever it is charged by any interested party that any person has engaged in or is engaging in any such unfair practice, the board, or any member or designated agent thereof, shall have authority to issue and cause to be served upon such person a complaint, stating the charges in that respect, and containing a notice of hearing before the board or any member or designated agent thereof, at a place therein fixed, not less than five days after the serving of said complaint. Any such complaint may be amended by the board, member or agent conducting the hearing at any time prior to the issuance of an order based thereon. The person so complained of shall have the right to file an answer to the original or amended complaint and to appear in person, or otherwise, to give testimony at the place and time set in the complaint. In the discretion of a member or agent conducting the hearing or of the board, any other person may be allowed to intervene in the said proceeding and to present testimony. In any such proceeding, the rules of evidence prevailing in courts of law or equity shall be followed but shall not be controlling.

Section 1303. Testimony shall be taken at the hearing and filed with the board. The board upon notice may take further testimony or hear argument. If, upon all the testimony taken, the board shall determine that any person named in the complaint has engaged in or is engaging in any such unfair practice, the board shall state its findings of fact, and issue and cause to be served on such person an order requiring such person to cease and desist from such unfair practice, and to take such reasonable affirmative action, including reinstatement of employes, discharged in violation of Article XII of this act, with or without back pay, as will effectuate the policies of this act. Such order may further require such person to make reasonable reports, from time to time, showing the extent to which the order has been complied with. If, upon all the testimony, the board shall be of the opinion that the person or

persons named in the complaint has not engaged in or is not engaging in any such unfair practice, then the board shall make its findings of fact and shall issue an order dismissing the complaint. A copy of such findings of fact, conclusions of law, and order shall be mailed to all parties to the proceedings.

Section 1304. Until a transcript of the record in a case shall have been filed in a court as hereinafter provided, the board may at any time, upon reasonable notice, and in such manner as it shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by it: Provided, That any agreement made between an employer and a bona fide employe organization, and all the provisions thereof, shall be entitled to full force and effect unless the board specifically finds that these provisions involve the commission of an unfair practice within the meaning of Article XII of this act.

Section 1305. The proceedings before the board or before any of its examiners shall be conducted with speed and dispatch. No findings shall be made on the basis of evidence relating to acts which occurred prior to the original passage of this act.

Section 1306. All cases in which complaints are actually issued by the board, shall be prosecuted before the board or its examiner, or both, by the representatives of the employe organization or party filing the charge, and, in addition thereto or in lieu thereof if the Department of Justice sees fit, by a deputy attorney general especially assigned to this type of case. No examiner shall have any other position with the government of this State or of the United States or with the Pennsylvania Labor Relations Board while in the employ of the board.

ARTICLE XIV

Unfair Practices During Article VIII Procedures

Section 1401. Notwithstanding any of the provisions of Article XIII, the board upon the filing of a charge alleging the commission of an unfair labor practice committed during, or arising out of the collective bargaining procedures set forth in sections 801 and 802 of Article VIII of this act, shall be empowered to petition the court of competent jurisdiction for appropriate relief or restraining order.

Upon the filing of any such petition the board shall cause notice thereof to be served upon such person and thereupon the court shall have jurisdiction to grant to the board such temporary relief or restraining order as it deems just and proper.

ARTICLE XV

Judicial Review

Section 1501. The board shall except where an employe of the Commonwealth is involved have power to petition the court of common pleas of any county wherein the unfair practice in question occurred, or wherein any person charged with the commission of any unfair practice resides or transacts business, for the enforcement of such order and for appropriate temporary relief or restraining order, and shall certify and file in the court a transcript of the entire record in the proceeding, including the pleadings and testimony upon which such order was entered and the findings and order of the board. In the instance of the exception involving the said Commonwealth employes, the board shall file its petition in the Commonwealth Court. Upon such filing, the court shall cause notice thereof to be served upon such person, and thereupon shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to grant such temporary relief, restraining or mandamus order as it deems just and proper or requisite to effectuate the policies of this act and to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree enforcing, modifying and enforcing as so modified, or setting aside, in whole or in part, the order of the board. The parties before the court shall be the board, the person charged with the commission of any unfair labor practice, and may include the charging party. No objection that has not been urged before the board, its members or agents shall be considered by the court unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. The findings of the board as to the facts, if supported by substantial and legally credible evidence, shall be conclusive. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court, that such additional evidence is material, and that there were reasonable grounds for the failure to adduce such evidence at the hearing before the board, its members or agent, the court may order such additional evidence to be taken before the board, its members or agent, and to be made a part of the transcript. The board may modify its findings as to the facts or make new findings by reason of additional evidence so taken and filed, and it shall file such modified or new findings which, if supported by substantial and legally

credible evidence, shall be conclusive, and shall file its recommendations, if any, for the modification or setting aside of its original order. The jurisdiction of the court of common pleas, or the Commonwealth Court, as the case may be, shall be exclusive within the limits of its jurisdiction, and its judgment and decree shall be final, except that the same shall be subject to review by the Supreme Court on appeal by the board or any party in interest, irrespective of the nature of the decree or judgment or the amount involved. Such appeal shall be taken within a period of thirty days from the date of court's order and otherwise prosecuted in the same manner and form and with the same effect as is provided in other cases of appeal to the Supreme Court, and the record so certified shall contain all that was before the court of common pleas or the Commonwealth Court, as the case may be.

Section 1502. Any person aggrieved by a final order of the board granting or denying, in whole or in part, the relief sought in any unfair practice case, or by an order certifying or refusing to certify a collective bargaining agent of employes in any representation case, may obtain a review of such order in the court of common pleas of any county where the unfair practice in question was alleged to have been engaged in, or wherein such person or employer in a representation case resides or transacts business, or in the instance of Commonwealth employes in the Commonwealth Court, as the case may be, by filing in such court, within thirty days after the final order has been issued by the board, a written petition praying that the order of the board be modified or set aside. A copy of such petition shall be forthwith served upon the board, and the board shall file in the court a transcript of the entire record in the proceeding certified by the board, including the pleadings and testimony and order of the board. Upon such filing, the court shall proceed in the same manner as in the case of an application by the Board under section 1501, and shall have the same exclusive jurisdiction to grant to the board such temporary relief, restraining or mandamus order as it deems just and proper or requisite to effectuate the policies of this act, and in like manner to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside, in whole or in part, the order of the board, and findings of the board as to the facts, if supported by substantial and legally credible evidence, shall in like manner be conclusive. The parties before the court shall be any person aggrieved by an order of the board, as aforesaid, and the board and any other party to the board proceeding. The jurisdiction of the court of common pleas, or the Commonwealth Court, as the case may be, shall be exclusive within the limits of its jurisdiction, and its judgment and decree shall be final, except that the same shall be subject to review of the Supreme Court on appeal by the person aggrieved, or the board, irrespective of the nature of the decree or judgment or the amount involved. Such appeal shall be taken within thirty days of the date of the court's order and otherwise prosecuted in the same manner and form, and with the same effect, as is provided in other cases of appeal to the Supreme Court, and the record so certified shall contain all that was before the court of common pleas or the Commonwealth Court, as the case may be.

Section 1503. The commencement of proceedings under sections 1501 or 1502 of this article shall not, unless specifically ordered by the court, operate as a stay of the board's order.

Section 1504. When granting appropriate temporary relief, a restraining or mandamus order or making and entering a decree enforcing, modifying, or enforcing as so modified, or setting aside, in whole or in part, an order of the board, as provided in this section, the jurisdiction of courts sitting in equity shall not be limited by acts pertaining to equity jurisdiction of courts. The act of June 2, 1937 (P.L. 1198), known as the "Labor Anti-Injunction Act," shall not be applicable to orders of the board, or to court orders enforcing orders of the board, or any provision of this act, or to violations of any order of the board, or of court orders enforcing orders of the board, or any provisions of this act.

Section 1505. Petitions filed under this act shall be heard expeditiously and, if possible, within ten days after they have been docketed. No petitions or charges involving questions arising under clause (2) of subsection (a) of section 1201 of Article XII shall relieve the board of determining any questions arising under sections 603, 604 and 605 of Article VI immediately, and in their regular and normal order, and the making of a certification thereon if such is warranted. No petition or charge shall be entertained which relates to acts which occurred or statements which were made more than four months prior to the filing of the petition or charge.

ARTICLE XVI

Investigatory Powers

Section 1601. For the purpose of all hearings and investigations which, in the opinion of the board, are necessary and proper for the exercise of the powers vested in it by Article VI and Article XIII, and for the purpose of investigating and considering disputes, other than a question

concerning the representation of employes, which it shall be the duty of the board to undertake whenever petitioned so to do by either an employe organization, an employer, or the representative of any unit of employes, the board shall have the investigatory powers granted in this article.

Section 1602. The board or its duly authorized agents shall at all reasonable times have access to, for the purpose of examination and the right to copy, any evidence of any person being investigated or proceeded against that relates to any matter under investigation or in question. Any member of the board shall have the power to issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation or in question before the board, its members or agent conducting the hearing or investigation. Such subpoenas shall be issued as a matter of right upon the request of either party at any time during the pendency of a proceeding. Any member of the board, or any agent designated by the board for such purposes, may administer oaths and affirmations, examine witnesses, and receive evidence.

Section 1603. If any witness resides outside of the Commonwealth or through illness or other cause is unable to testify before the board or its members or agent conducting the hearing or investigation, his or her testimony or deposition may be taken within or without this Commonwealth, in such manner and in such forms as the board or its members or agent conducting the hearing, may by special or general rule prescribe.

Section 1604. In case of contumacy or refusal to obey a subpoena issued to any person except to any person representing the Commonwealth as an employer, when jurisdiction will be in the Commonwealth Court, the court of common pleas of any county within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the board, shall have jurisdiction to issue to such person an order requiring such person to appear before the board, its members or agent, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation or in question, and any failure to obey such order of the courts may be punished by said court as a contempt thereof.

Section 1605. No person shall be excused from attending and testifying or from producing books, records, correspondence, documents or other evidence in obedience to the subpoena of the board on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture, but no individual shall be prosecuted or subjected to any penalty or forfeiture for, or on account of, any transaction, matter or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

Section 1606. Complaints, orders and other process and papers of the board, its members or agent may be served, either personally or by registered mail or by telegraph or by leaving a copy thereof at the principal office or place of business of the person required to be served. The verified return by the individual so serving the same, setting forth the manner of such service, shall be proof of the same and the return post office receipt or telegraph receipt therefor when registered and mailed or telegraphed as aforesaid, shall be proof of service of the same. Witnesses summoned before the board, its members or agent shall be paid the same fees and mileage that are paid witnesses in the courts of this Commonwealth, and witnesses whose depositions are taken and the person taking the same shall severally be entitled to the same fees as are paid for like services in the courts of this Commonwealth.

Section 1607. All process of any court to which application may be made under this act may be served in the county wherein the defendant or other person required to be served resides or may be found.

ARTICLE XVII

Employe Organizations

Section 1701. No employe organization shall make any contribution out of the funds of the employe organization either directly or indirectly to any political party or organization or in support of any political candidate for public office.

The board shall establish such rules and regulations as it may find necessary to prevent the circumvention or evasion of the provisions of this section.

If an employe organization has made contributions in violation of this section it shall file with the board a report or affidavit evidencing such contributions within ninety days of the end of its fiscal year. Such report or affidavit shall be signed by its president and treasurer or corresponding principals.

Any employe organization which violates the provisions of this section or fails to file any required report or affidavit or files a false report or affidavit shall be subject to a fine of not more than two thousand dollars ($2,000).

Any person who wilfully violates this section, or who makes a false statement knowing it to be false, or who knowingly fails to disclose a material fact shall be fined not more than one thousand dollars ($1,000) or imprisoned for not more than thirty days or both. Each individual required to sign affidavits or reports under this section shall be personally responsible for filing such report or affidavit and for any statement contained therein he knows to be false.

Nothing herein shall be deemed to prohibit voluntary contributions by individuals to political parties or candidates.

ARTICLE XVIII

Conflict of Interest

Section 1801. (a) No person who is a member of the same local, State, national or international organization as the employe organization with which the public employer is bargaining or who has an interest in the outcome of such bargaining which interest is in conflict with the interest of the public employer, shall participate on behalf of the public employer in the collective bargaining processes with the proviso that such person may, where entitled, vote on the ratification of an agreement.

(b) Any person who violates subsection (a) of this section shall be immediately removed by the public employer from his role, if any, in the collective bargaining negotiations or in any matter in connection with such negotiations.

ARTICLE XIX

Penalties

Section 1901. Any person who shall wilfully resist, prevent, impede or interfere with any member of the board, or any of its agents, in the performance of duties pursuant to this act, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not more than five thousand dollars ($5,000), or by imprisonment for not more than one year, or both.

ARTICLE XX

Savings Provisions

Section 2001. The rights granted to certain public employes by the following acts or parts thereof shall not be repealed or diminished by this act:

(1) Section 24 of the act of August 14, 1963 (P.L. 984), known as the "Metropolitan Transportation Authorities Act of 1963."

(2) The act of November 27, 1967 (P.L. 628), entitled "An act protecting the rights of employes of existing transportation systems, which are acquired by cities of the third class or any authority thereof or certain joint authorities; requiring cities of the third class or any authority thereof or any such joint authority to enter into contracts with labor organizations acting for such employes, and providing for arbitration in case of disputes."

(3) Section 13.2 of the act of April 6, 1956 (P.L. 1414), known as the "Second Class County Port Authority Act."

Section 2002. This act shall not be construed to repeal the act of June 24, 1968 (Act No. 111), entitled "An act specifically authorizing collective bargaining between policemen and firemen and their public employers; providing for arbitration in order to settle disputes, and requiring compliance with collective bargaining agreements and findings of arbitrators."

Section 2003. Present provisions of an ordinance of the City of Philadelphia approved April 4, 1961, entitled "An Ordinance to authorize the Mayor to enter into an agreement with District Council 33, American Federation of State, County and Municipal Employes, A.F.L.-C.I.O., Philadelphia and vicinity regarding its representation of certain City Employes," which are inconsistent with the provisions of this act shall remain in full force and effect so long as the present provisions of that ordinance are valid and operative.

ARTICLE XXI

Separability

Section 2101. If any clause, sentence, paragraph or part of this act, or the application thereof to any person or circumstances, shall, for any reason, be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this act and the application of such provision to other persons or circumstances, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof, directly involved in the controversy in which such judgment shall have been rendered and to the person or circumstances involved. It is hereby declared to be the legislative intent that this act would have been

adopted had such invalid provisions not been included.

ARTICLE XXII

Repeals

Section 2201. The act of June 30, 1947 (P.L. 1183), entitled "An act relating to strikes by public employes; prohibiting such strikes; providing that such employes by striking terminate their employment; providing for reinstatement under certain conditions; providing for a grievance procedure; and providing for hearings before civil service and tenure authorities, and in certain cases before the Pennsylvania Labor Relations Board," is hereby repealed as to those public employes covered by the provisions of this act, and any penalties or other limitations currently in force or presently pending against any public employes, shall be deemed null and void.

ARTICLE XXIII

Effective Date

Section 2301. This act shall take effect in ninety days, except that the provisions of Article V and the amnesty provisions of the repealer shall take effect immediately.

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RESEARCH DIVISION
NATIONAL EDUCATION ASSOCIATION

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Case Reviews

FLORIDA

TEACHER STRIKES PROHIBITED ABSENT STATUTORY AUTHORITY; CRIMINAL CONTEMPT CHARGES UPHELD

The Florida Supreme Court affirmed a lower court's criminal contempt conviction of the Dade County Classroom Teachers Association and its officers for violation of a temporary injunction issued during a "massive work stoppage" in February 1968. In finding the injunction "appropriate even in the absence of any showing of violence or a threat of violence," the high court referred to its *Pinellas County* decision (NRD, 12-68, A-2, C-14) which held that "in the absence of specific statutory authority. . . teachers as employees of the government [have] no right to strike in order to coerce a change in compensation or conditions of employment."

On February 20, 1968, one day after the statewide strike began, a taxpayer filed a class action suit in the Dade County Circuit Court seeking injunctive relief against the Association for allegedly causing member teachers to breach their employment contracts and refuse to perform their teaching functions. That same day the court directed the Association to appear at a February 22 hearing to show cause why a temporary injunction should not issue. After the hearing a temporary injunction was issued, followed by the circuit court's issuance of a second injunction "substantially identical to the first" on February 23.

An order for a contempt hearing then was entered by the circuit court on February 26, alleging that the Association had violated its injunctive orders. During the hearing (held on February 28) a motion to dissolve the temporary injunction was denied, and the Association and its officers were found guilty of civil contempt and fined $30,000. The Association appealed the contempt judgment to the state supreme court which reversed the judgment and remanded the case because the Association was entitled to a jury trial under a portion of the Florida Rules of Civil Procedure which since has been deleted.

In subsequent contempt proceedings, the circuit court entered a show cause contempt rule alleging that the Association willfully had disobeyed the February 23 injunction; the Association moved to quash the rule on grounds that a jurisdictional dispute existed when the temporary injunction was issued, that the injunction was entered without notice and pursuant to an unconstitutional statute (§ 839.221 F.S.A.), and that the injunction violated its First, Thirteenth, and Fourteenth Amendment rights. However, the circuit court denied the motion to quash, a jury found the Association guilty of a number of criminal contempt charges, and the court levied contempt fines similar to the earlier ones on April 24, 1969.

The instant matter before the state supreme court was a direct appeal by the Association of the circuit court's denial of the motion to quash the show cause contempt rule. Counsel to the Association contended that since the original cause was removed to a U.S. district court on the morning of February 22, 1968, the circuit court lacked jurisdiction until an order of remand was entered by the U.S. district court. But the high court found that "the record does not contain the petition for removal nor does it appear from the record that the Association gave written notice of the petition for removal to the adverse parties and filed a copy of the petition with the Clerk of the State Court" (as required by federal law). Moreover, since the hearing resulting in the first injunction was held on February 22 and the U.S. district court's order of remand was entered on February 23, the high court held that

> the burden was upon the Association to show by the record that the removal to the United States District Court was effected prior to the hearing of February 22, 1968, and was not remanded prior to the hearing of February 23, 1968, when the second injunction. . . was entered . . . The Association failed to meet this burden and the record fails to show that the State Court was without jurisdiction to enter each of the temporary injunctions. . . . The Association contends that the injunction of February 23, 1968, was entered ex parte and without giving the available adversary parties or their counsel the opportunity to be heard or to participate in the proceedings.
>
> The record clearly shows that the Association received notice of the application for the injunction entered February 22, 1968, and an opportunity to participate in the proceedings. . . . The entering of another injunction [on February 23] substantially the same as the previous one was appropriate under the circumstances of the case.
>
> Aside from the fact that in the prior appeal of this case the Association acknowledged that the injunction of

February 23, 1968 was merely a reissuance of the one of February 22, 1968. . .it is clear that because of their willful violations of the injunction and the absence of any resort to their legal remedies for testing the validity of the injunction, the Association and its officers have no standing to raise that issue, in the absence of a showing that the injunction was void. The Association did not seek to challenge the validity of the injunction until the very day of the original contempt hearing. Under these circumstances, the Association cannot now claim the injunction was invalid, for the proper procedure was to seek judicial review of the injunction and not to disobey it, no matter how well-founded their doubts might be as to its validity.

On appeal the Association additionally alleged violation of its constitutional rights of speech and assembly, attacked the validity of § 839.221 F.S.A. (which prohibits public employees from joining organizations asserting the right to strike), and complained that the injunction was issued even though the work stoppage produced neither violence nor the threat of such. The high court, however, rejected these arguments in holding that the factual differences between public and private employment "furnish reasonable justification for different treatment in considering the right to strike":

The orderly functioning of our democratic form of representative government and the preservation of the right of our representatives to make budgetary allocations, free from the compulsion of crippling strikes, require the regulation of strikes by public employees whereas there is no similar countervailing reason for prohibition of strikes in the private sector.

Public employment does not vest in such employees any fixed or permanent rights of employment. As individuals or in groups public employees may discontinue their employment, but they should not be allowed to use this as a screen to effect a work stoppage and engage in a conspiracy to secure higher wages or other benefits.

To hold otherwise would result in public agencies being powerless to render public service and to effectively administer public affairs. The public would thereby be deprived of its right to efficient government.

In affirming the circuit court's order, the state supreme court concluded that inherent in its remand of the earlier appeal was a determination that the circuit court had jurisdiction to enter the temporary injunction and properly had done so. As such, the earlier decision became " 'the law of the case' and questions so settled on the earlier appeal are no longer open to question on a subsequent appeal." (*Dade County Classroom Teachers Association, Inc. v. Leonard H. Rubin, et al.*, Florida Supreme Court, July 29, 1970.)

NEW JERSEY

COURT UPHOLDS ISSUANCE OF NONTENURE TEACHER CONTRACTS DURING IMPASSE

In the face of an unresolved negotiation impasse involving wages and working conditions, a superior court judge upheld the Fair Lawn education board's unilateral imposition of a salary schedule upon the school system and its subsequent mailing of contracts to nontenure teachers. Explaining that his decision was governed by a "weighing of equities," the judge held that the impasse here represented "a type of emergency that calls for a decision at once." The state's Employer-Employee Relations Act mandates collective negotiation, but the judge commented that "unfortunately [the Act] is lacking in teeth. . . . If the parties don't want to accept what [the Act] suggests to them, they are free to reject it."

Following lengthy negotiation, fact-finding, and mediation, the Fair Lawn board and the Fair Lawn Education Association remained in disagreement as to the terms of a salary schedule, grievance procedure, and fair dismissal procedure to be contained in their 1970-71 contract. In the process, however, the parties became aware of Article 9, paragraph C, of their existing agreement, which provided that "teachers shall be notified of their contract and salary status for the ensuing year not later than ten school days following the regular April public monthly meeting of the Board of Education. Teachers offered contracts must return the contract to the Board of Education by ten school days after receiving the contracts."

No agreement had been reached by the date of the "regular April public meeting," but the parties agreed on April 15 to waive the requirements of Article 9 for tenure teachers, and delay a determination of the article's effect upon nontenure teachers until April 28. On May 19, however, the board reversed its position, notified the Association of its intention to apply the article to nontenure teachers on May 21, and offered the Association an economic package which was rejected. Then on May 21, the board unilaterally determined a salary schedule for all district teachers and mailed contracts to nontenure teachers.

The Association accordingly filed suit directing the local board to show cause why it should not be restrained from sending contracts to nontenure teachers and requiring signed, returned contracts as a condition of employment while negotiation was pending. Moreover, the Association sought an injunction against the board's unilateral determination of a 1970-71 salary schedule.

Noting that school boards are mandated by state law to "provide free education for school children in the state," the judge rejected the Association's argument that the board's unilateral action was unlawful under the Act. He acknowledged that the action "suggests less than full compliance with the spirit of [the Act]," but held that under certain circumstances "there is no alternative but to permit such an action." The judge explained that

while I cannot conclude that either party has been bargaining in bad faith, there exists not only the possibility, but the temptation, that if the negotiations continue to drag on until they approach the commencement of the new school year, there could possibly be some bad faith bargaining. . . . If, while negotiations are going on, the board cannot hire teachers but must take the risk that, come September, they may not have one single contract of employment, particularly in the area of nontenure teachers, who represent 25 percent of the work force, it could well be that a complete obstruction of the maintenance of a free public school system in the Borough of Fair Lawn [would result] . . . . If I grant plaintiff's prayer for a restraint, I believe I am lending the weight of the law to what I seriously believe can be an obstruction of the mandate to the board of education to provide a free public school system in Fair Lawn in September.

I have therefore decided that I shall permit the board to continue to submit contracts to nontenured teachers, with this condition (to be included in the contract): that any basic contract negotiated between the board and the association shall inure to the benefit of the nontenured teachers who now accept employment with the Borough of Fair Lawn.

(*Fair Lawn Education Association and Fair Lawn Board of Education*, New Jersey Superior Court for Bergen County, June 3, 1970.)

NEW YORK

TEACHERS ASSOCIATION FOUND IN CONTEMPT FOR STRIKING DESPITE COURT RESTRAINING ORDER

The Lindenhurst Teachers Association and its two chief officers were found guilty of criminal contempt by the New York Supreme Court for Suffolk County following a May 1970 teachers' strike which lasted for 11 school days. Ruling that there was no justification for the strike, which was conducted in "willful disobedience" of a temporary restraining order and despite a no-strike pledge, the court fined the Association $4,000, and individually assessed the Association president and vice-president with $250 fines and 10-day jail sentences. The court additionally censured Association members for cooperating in the strike, even though contempt proceedings had not been brought against them.

When negotiation of a 1970-71 contract between the Association and the UFSD No. 4 education board reached a stalemate and the court was "furnished with satisfactory proof that a 'teachers strike' was imminent," the court entered a May 5 order requiring the Association to show cause why a temporary injunction should not be issued. The order contained a temporary restraining provision enjoining the strike until the show cause hearing, and was returnable on May 11. However, on May 6 the threatened strike occurred, and the court subsequently found that more than 400 teachers

absented themselves from their classes resulting in almost complete paralysis of the school system. The strike continued until May 20, 1970. On May 21, 1970 the members of the defendant association returned to the classrooms having reached an agreement with the board of education to submit all remaining differences to arbitration.

Thus, the strike lasted for eleven school days during which the operations of the school system were, for all practical purposes, completely halted. Nine elementary schools, one junior high school and one senior high school ceased to function. Over 11,000 students had no classes to attend. The record herein discloses that this strike was conducted in willful and deliberate defiance of the mandate of this court contained in its order of May 5, 1970 as extended by further order of the court dated May 11, 1970.

The Association argued that the local board was guilty of acts of extreme provocation detracting from its responsibility for conducting the strike, but the court ruled that there was no justification for a strike occurring "before the legal procedures provided by law for the resolution of such dispute had been exhausted and. . .in disregard of the provisions of the Civil Service Law, of the mandate of this court, and of the no-strike pledge." In levying the fines and jail sentences, the court recorded its awareness that

this strike could not have taken place without the cooperation, active or passive of many teachers who belong to the defendant association. Contempt proceedings have not been initiated against such persons. Their actions are no less subject to reproach on that account. Teachers not infrequently invoke the protection of the law against arbitrary action by school authorities, and should be equally ready to obey a court mandate designed to protect the public against an arbitrary and unlawful strike.

(*In Re Board of Education, Union Free School District No. 4*, New York Supreme Court for Suffolk County, June 3, 1970.)

WISCONSIN

APPROPRIATENESS OF SUBSTITUTE TEACHERS' BARGAINING UNIT AFFIRMED

A memorandum decision of the Dane County Circuit Court upheld a determination of the Wisconsin Employment Relations Commission (WERC) that substitute per-diem teachers are employees under the state's municipal bargaining statute and that a unit comprised solely of such teachers is appropriate for purposes of negotiation. Specifically, the court found a rational and supportable basis for the WERC's decision, and held that the disputed decision was "fully consistent with the objectives and purpose of the statute involved."

Sec. 111.70(1)(b) of the Wisconsin Statutes defines a "municipal employee" as "any employe

of a municipal employer except city and village policemen, sheriff's deputies, and county traffic officers." Sec. 111.70(2) then provides that

municipal employes shall have the right of self-organization, to affiliate with labor organizations of their own choosing and the right to be represented by labor organizations of their own choice in conferences and negotiations with their municipal employers or their representatives on questions of wages, hours and conditions of employment, and such employes shall have the right to refrain from any and all such activities.

In early 1969 the Milwaukee Teachers Education Association (MTEA) petitioned the WERC for certification as representative of a substitute teacher bargaining unit. Such teachers served as temporary replacements for regular teachers, and were drawn from a list compiled annually to indicate what individuals were available for substitute work and how they rated on the basis of experience and training. The Milwaukee education board neither entered into a contract with the listed individuals nor guaranteed them any work during a given school year. Moreover, the majority of the persons listed did not meet the requirements for a full-time teaching position in the Milwaukee system, but were given special permits by the State Department of Public Instruction.

According to a February 1969 determination of the WERC, substitute per-diem teachers are municipal employees within the meaning of Section 111.70 and are entitled to representation for collective bargaining purposes. In addition, the WERC ruled that a unit comprised only of substitute per-diem teachers is appropriate, and that those substitute teachers employed at least 30 days during a school year are regular employees (either part-time or full-time) and are eligible to vote. Following an election conducted by the WERC, the MTEA was certified as representative of the substitute teachers' bargaining unit.

The matter before the court involved the Milwaukee board's contention that substitute teachers are independent contractors ineligible for coverage by sec. 111.70, and that such employees do not constitute an appropriate bargaining unit. Stating that "the proper standard of review in this case is whether there is a supportable basis for the conclusions reached by the Commission and whether its conclusion is consistent with the purpose of sec. 111.70, Stats.," the court cited two excerpts from a prior decision which noted that

the application of the municipal employment law . . . is one of the areas of the law requiring expertise. Therefore, the only determination this court should make is whether the WERC's interpretation of "municipal employee" is consistent with the purpose of sec. 111.70. . . . The broad definition of "municipal employe" found in sec. 111.70, Stats., clearly indicates a legislative desire to make collective bargaining units available for as many municipal employees as is consistent with sound municipal government.

In finding the facts of the instant case to indicate that the WERC's decision was both reasonable and consistent with statutory purposes, the court explained that

substitute teachers are, in fact, employees of the [Milwaukee] School Board. The "right of control" test used by the [WERC] in arriving at its decision is a proper one. The Board had complete control over the manner and the means by which the job of substitute teaching was achieved. All of the other facts present warranted the interpretation given to the statute by the [WERC] and it is consistent with the purpose of sec. 111.70, Stats.

The petitioner also challenges the appropriateness of the bargaining unit. There is a very rational basis for the decision made. The substitute teachers, as shown by the evidence, constitute a clearly identifiable and separate group. Their conditions of employment differ from those of the regular teachers. Substitute teachers do not have the fringe benefits accorded the regular personnel, such as insurance, pension rights, pay increments and a variety of leaves of absence, among others. These facts certainly point up the propriety of allowing a separate bargaining unit. It would further appear that the determination of eligibility was a reasonable one under all of the circumstances and founded upon a rational basis.

The decisions of the [WERC] herein are not contrary to law . . . and the orders are affirmed.

(*Board of School Directors of City of Milwaukee v. Wisconsin Employment Relations Commission*, Dane County Circuit Court, June 22, 1970.)

OTHER ITEMS OF INTEREST

NONTENURE TEACHER MAY NOT BE DENIED RENEWAL FOR MAKING CRITICAL REMARKS DURING NEGOTIATION

The U.S. District Court for the Northern District of Indiana ruled "constitutionally impermissible" a school board's decision not to renew the contract of a nontenure teacher who had made statements critical of the administration during 1970-71 contract negotiation. Finding that the board had accorded excessive weight to administrative efficiency (as opposed to the constitutional rights of the individual teacher), the court ordered the board to renew the elementary teacher's contract and retained jurisdiction to consider additional relief.

At an April 21, 1970, negotiation meeting between the Lake Central (Indiana) School Corporation and the local teachers association plaintiff warned the teachers he represented that the administration was attempting to "buy them off" by conceding small issues at the expense of larger ones. The principal later called plaintiff to his office, charged that the statement was untrue

and reflected upon him, and demanded an apology, which was refused. A similar session subsequently occurred between plaintiff, the principal, and the superintendent; as plaintiff would not retract his statement, the superintendent recommended that his contract not be renewed. Plaintiff was informed of the decision in a letter stating that he was not being rehired because he had "exhibited a general attitude which discloses a refusal to cooperate with school authorities on matters relating to school administration."

During litigation the court stated that it "must weigh the interests of the teacher in commenting on issues of concern to him and the interests of the state, as an employer, in promoting the efficiency of the public services it performs through its employees." While plaintiff's statement may have caused some friction, the court found that in the context of negotiation "it is not extraordinary that plaintiff would caution the people he represented against being 'bought off' by concessions on small items by the administration." Moreover, the court held that the statement was not so critical as to adversely affect the administration, and that any ill will caused was "in large part . . . the result of an oversensitivity to criticism on the part of the administration."

Neither plaintiff's status as a nontenure teacher nor the board's contention that it "merely refused to renew his contract rather than dismissing him during the period of a contract" were of any consequence as far as plaintiff's right to a remedy for abridgment of his constitutional rights. For the court noted that in *McLaughlin v. Tilendis* (NRD, 1-69, A-1, C-1) it was held that the Civil Rights Act of 1871 gives nontenure teachers "a remedy if their contracts were not renewed because of their exercise of constitutional rights." The court concluded that if school boards could refuse to rehire a teacher because he made critical statements, "there would be a serious impairment in the freedom of teachers to speak out on issues concerning them." (*Walter L. Roberts v. Lake Central School Corporation*, U.S. District Court for the Northern District of Indiana, June 11, 1970.)

Board Findings and Rulings

NEW JERSEY

TRIAL INCLUSION OF ADMINISTRATORS IN TEACHER BARGAINING UNIT IS NO EXCEPTION TO STATUTORY PROHIBITION

Finding a pattern of "inconsistency rather than uniformity" in the Willingsboro education board's "trial" inclusion of administrators in the local teacher bargaining unit, the New Jersey Public Employment Relations Commission (PERC) ruled that such an experiment was not a legitimate exception to the statutory rule that "no unit shall be appropriate which includes . . . both supervisors and nonsupervisors." The PERC accordingly rejected the recommendation of a hearing examiner and excluded several categories of administrators from the teacher unit because their trial inclusion did not meet the established practice, prior agreement, or special circumstances requirements of the law.

The Willingsboro Education Association (WEA) was recognized as representative of all professional district employees in 1962. Over the next eight years local school administrators received pay raises in proportion to teacher salary increases and occasionally utilized the WEA's grievance procedure, but the question of whether the WEA negotiated for the administrators remained uncertain. Then in 1964 the Willingsboro board adopted a policy (submitted by the administrators as a group) stating that administrative and supervisory personnel were to deal directly with the superintendent.

In 1968, however, the parties negotiated their first comprehensive agreement covering the wages, hours, and working conditions of all professional employees, including principals, vice-principals, assistant principals, district coordinators, guidance directors, and reading supervisors. The agreement was a trial venture, and both parties later admitted that it had proved workable. But when negotiation of a renewal contract commenced, the board objected to continued representation of the six classes of administrators. A successor agreement was reached with the understanding that the status of the administrators would be resolved by the PERC.

During a hearing on the matter, the WEA contended that the specified administrative categories should continue to be included in the bargaining unit, while the board argued that its 1968 recognition of the all-inclusive unit was merely temporary and, therefore, did not constitute prior agreement to such a unit or evidence of established practice. Article 8, Section (d) of the state's Employer-Employee Relations Act provides in pertinent part that "except where dictated by established practice, prior agreement, or special circumstances, no unit shall be appropriate which includes . . . both supervisors and nonsupervisors."

Interpreting the board's argument to mean that it claimed a unilateral right to determine whether recognition of the over-all unit should continue, the hearing examiner determined that the statutory exceptions applied "in the circumstances of the on and off recognition since 1962, and expecially in light of the successful trial of the all-inclusive unit in 1968." He found that all administrative categories except guidance directors and reading supervisors enjoyed a community of interest with the teachers and recommended that they be included in the teacher unit.

The Willingsboro board, however, disagreed with the hearing officer and contended that the guidance and reading personnel were supervisors, that insufficient evidence precluded the application of any statutory exceptions permitting the inclusion of supervisory and nonsupervisory employees in a single unit, and that a community of interest between the six administrative categories and the teachers was not shown.

Explaining that a minimum requirement for the application of the "established practice" exception is a clear showing of supervisory inclusion for such a period of time that experience dictates that inclusion as desirable and proper, the PERC explained that such a minimum showing was not evident here:

> The parties' relationship with respect to the representation of administrators has been plagued with uncertainty. . . . The pattern that emerges is one of inconsistency rather than uniformity. [I conclude] that no practice has been established during the eight-year relationship requiring the inclusion of supervisors in the teacher unit.
>
> We consider next the exception of "prior agreement" . . . [an] exception which is construed to refer, minimally, to a particular kind of agreement, namely, a written agreement, reached in the context of collective

negotiations, executed by both parties, and providing for the inclusion, in a single unit, of supervisors and nonsupervisors. The [Willingsboro] agreement meets these minimal requirements.

The question remains, however, whether this agreement of the parties dictates a unit determination which would combine teachers and supervisors. The record is clear that it was not so much the parties' agreement to include the administrators as it was the parties' acquiescence in letting the administrators decide the question themselves and thereby decide for the parties. . . . Furthermore, once the administrators' reaction was made known, both parties understood that the Association's representation of this group was on a probationary basis. It is immaterial who would determine the success or failure of the trial period. The significant fact is the parties' realization that the question of representation for administrators still had not been resolved with finality and was subject to being reopened.

These conditions are not the sort of compelling circumstances which will support an exception to the general rule; the agreement produced merely deferred the question and offered clear prospect for later stability. The assertion that upon the expiration of that contract the administrators desired to continue the arrangement is of no consequence to the issue that the now-expired contract should dictate their inclusion. . . . [I conclude] that the prior agreement does not dictate the inclusion of supervisors in a unit of nonsupervisory teachers. [I further conclude] that nothing in this record would support a finding that the third statutory exception, "special circumstance," has been satisfied.

Determining that the reading supervisors and guidance directors did share a community of interest with the teachers and did not exert any effective degree of supervisory power, the PERC included only those job categories in the existing teacher bargaining unit. (*Willingsboro Board of Education and Willingsboro Education Association*, New Jersey Public Employment Relations Commission, May 18, 1970.)

NEW YORK

ASSOCIATION OBLIGED TO SIGN AGREEMENT WHEN UNIT CHALLENGE IS NEITHER TIMELY NOR NEGOTIATED

When the Somers Faculty Association refused to sign a 1969-70 contract negotiated with Central School District No. 1, the New York Public Employment Relations Board (PERB) held that the Association had failed to bargain in good faith and thereby violated the improper practices section of the state's Taylor Law. While the law specifically requires employers "to negotiate and enter into written agreements," it contains no equivalent provision in regard to employee organizations. The PERB, however, adopted the hearing officer's recommendation that the law's stated purpose of promoting "harmonious and cooperative relationships between government and its employees" requires, in my opinion, the imposition of an identical obligation of entering into written agreements on employee organizations. The duty to reduce an agreement to writing following negotiations has long been recognized in the private sector, and recently also in the public sector, as the culminating step in the negotiating process.

The Association's refusal to sign the contract hinged upon its opposition to the exclusion of department chairmen from a bargaining unit comprised of "all instructional, nonsupervisory members of the professional staff." It contended that it was not required to sign because the parties had no specific agreement to exclude chairmen from the unit. Moreover, department coordinators had been included in the parties' 1968-69 agreement (when the title of chairman was not assigned to any position), and teachers who performed departmental administrative duties during the 1967-68 school year were known as department heads.

In September 1967, however, Association and board representatives first had met to discuss the scope of the bargaining unit prior to Association recognition and had agreed to a resolution concerning department chairmen. Specifically, when the district said it intended to assign supervisory functions to department heads and reclassify them as department chairmen, the parties reached a compromise resolution specifically excluding the title of chairman from the unit. In addition, the district agreed not to create the position of chairman until July 1, 1969, nor without giving the Association prior notice.

In the instant matter, the PERB examiner held that the district's recognition of and adherence to the 1967 resolution was proper, explaining:

The [Association's] reasoning founders on a misapprehension that the recognition clause of the contract has a life apart from the initial, uncontested recognition resolution promulgated by the charging party. An employer has the right initially to define a negotiating unit by official resolution. The recognized employee organization may then contest the employer's unit determination within 30 days from publication thereof by filing a petition with [the PERB]. If no such petition is filed, the unit is immune from challenge under Section 208(c) of the [Taylor Law] for a minimum period of approximately two budget submission dates minus 20 days.

As the Association neither attempted to negotiate the inclusion of department chairmen in the unit nor filed a timely challenge to the original unit determination, the PERB examiner concluded that the Association

again had acquiesced in the exclusion of department chairmen from the unit, barring the charging party's agreement to include them, for the duration of the new period of unchallengeability.

It was therefore legally powerless to withhold its agreement to the 1969-70 contract on the ground that the contract's recognition clause defined the unit to ex-

clude department chairmen, in accordance with the recognition resolution.

The PERB accordingly directed the Association to bargain in good faith by signing the agreement and to post notice that it would do so. (*Somers Faculty Association and Central School District No. 1, Town of Somers, New York*, New York Public Employment Relations Board, June 29, 1970.)

WISCONSIN

ARBITRATOR RECOMMENDS MODIFICATION OF TEACHER DISMISSAL CLAUSE FROM "JUST CAUSE" TO "WITHOUT REASON"

An advisory arbitrator appointed by the Wisconsin Employment Relations Commission to arbitrate a negotiation impasse over the inclusion of a "just cause" provision in a teacher dismissal clause recommended that the language of the clause be modified to read "without reason." Applying a ruling of the U.S. District Court for the Western District of Wisconsin in *Roth v. Board of Regents* (NRD, 9-70, 6) to the instant impasse, the arbitrator held that teachers must be provided substantive guarantees of procedural due process in dismissal proceedings, but that a "just cause" dismissal provision encroaches too greatly upon the already diminished discretionary rights of school boards.

The dispute centered upon whether a contract being negotiated by the Boscobel education board and the Boscobel Education Association should contain a clause reading: "No teacher will be disciplined or deprived of any professional advantage without just cause." The Association argued that the "just cause" provision was necessary because "those concepts which underlie our democratic society demand that no one be condemned to suffer injury at the hands of the government unless said condemnation is based on good reason." Moreover, the Association pointed out that public-school teachers constitutionally are guaranteed substantive and procedural due process of law, and argued that nontenure teachers may not be dismissed "for just any reason, for no reason, or for a reason that is based upon whim or caprice."

The Boscobel board, however, contended that the "just cause" provision was unnecessary because state law already afforded teachers protection from dismissal during the term of a contract except for good and sufficient cause. The board also maintained that the "just cause" concept would result in a legal and administrative morass since proving "just cause" in nonrenewal cases would involve prohibitive costs, would expose the board to extensive litigation for breach of contract suits, would harass the board with costly, time-consuming pretrial activities before a determination of the merits of a case, and would mean that a decision not to renew would have to be predicated upon a willingness to engage in costly and lengthy proceedings in order to provide necessary proofs. In addition, the board pointed out that if an administrator's judgment of a teacher's competency were overruled by a third party, his ability to discipline and work with teachers would be diminished. Finally, the board argued that the concept would cause an excessive teacher-problem orientation resulting in an imbalance in its concern for all aspects of the school system.

The arbitrator found it "clear that a teacher's contract cannot be terminated" because of his substantive First Amendment rights, such as race, religion, or political affiliation. Independent of these substantive guarantees, however, is the question of procedural due process; under Article XIV of the Constitution, no person may be deprived "of life, liberty, or property without due process of law," and the arbitrator noted that "enjoyment of a professional position has long been recognized as property even though it may involve a nontenure position." He accordingly determined that public-school teachers must "be accorded procedural due process when their employment is either terminated during the term of their contract or if said contract is not renewed."

In *Roth* the district court referred to a decision of the Supreme Court of the United States in *Cafeteria Workers v. McElroy* and concluded that

> the decision not to retain a professor employed by a state university may not rest on a basis wholly unsupported in fact, or on a basis wholly without reason. This standard is intended to be considerably less severe than the standard of "cause" as it has been applied to professors with tenure. . . . To be more direct, in applying the constitutional doctrine, the court will be bound to respect bases for non-retention enjoying minimal factual support and bases for non-retention supported by subtle reasons.

Applying the *Roth* reasoning to the instant matter, the arbitrator recommended that "a modification of the language used in the *Roth* case should be substituted . . . and that such substituted language should read as follows: 'No teacher will be disciplined or deprived of any professional advantage based upon a decision which is unsupported in fact or without reason.'" Explaining that this language (as compared to that in *Roth*) makes no attempt to define the quality of fact and reason necessary to support a decision not to renew, the arbitrator called for *ad hoc* application of the language because the

rules of "minimal factual support" and "subtle reasons" outlined in *Roth* expose a teacher "to changes in his employment status predicated almost exclusively on pretextual reasons."

The arbitrator finally recommended inclusion of a final and binding arbitration clause in the parties' contract in order to provide exclusive machinery for resolving possible contract interpretation and application disputes. He explained:

> If the Board's decision of termination or nonrenewal is based upon fact and good reason, they have ample opportunity to exercise their administrative prerogatives. Also, by adoption of the proposed final and binding arbitration the Board would effectively protect itself against expensive and extensive trial and pretrial procedures, for it is the rare arbitration which in total runs more than one to two days. This is in contradistinction to a collective bargaining agreement without final and binding arbitration where, as pointed out by the Board, pre-trial activity alone can continue for several days.

(*Boscobel Board of Education and Boscobel Education Association*, July 10, 1970.)

OTHER ITEMS OF INTEREST

UNIT OF YALE UNIVERSITY NON-FACULTY MEDICAL DEPARTMENT EMPLOYEES RULED INAPPROPRIATE BY NLRB

The National Labor Relations Board (NLRB) rejected an election petition filed by the Yale Non-Faculty Action Committee (YNFAC) Unit No. 1 in finding the unit sought inappropriate. Although the NLRB asserted jurisdiction over private nonprofit colleges in a June 1970 decision involving Cornell University and Syracuse University (NRD, 9-70, 10), it ruled in the instant case that the proposed 109-member unit of clerical and technical personnel employed in a department of the Yale University School of Medicine was insufficiently separate from the rest of the university to warrant its own bargaining representative. However, the NLRB did accept the petitioning YNFAC as an employee organization under the National Labor Relations Act (NLRA).

The Federation of University Employees, Local 35, intervenor in the case and current representative of a campus-wide unit of maintenance and service employees, contended that the YNFAC was "not sufficiently organized" to act as a bargaining representative and, therefore, was not a labor organization. But the NLRB determined that the YNFAC meets NLRA requirements for a labor organization because it has elected officers, holds regular meetings, and has the allegiance of a majority of the employees it claims to represent. Moreover, the organization's stated purpose is "to enhance the quality of life of all people under its jurisdiction; to establish fair wage scales and working conditions and protect the welfare of all its members in any manner necessary under the law."

But the NLRB agreed with Yale University, Local 35, and another intervening union that the unit sought was inappropriate, explaining:

> We fail to be persuaded by the testimony submitted as to the geographical and functional separateness of the [medical department in question]. Although it is housed in its own building, it is thoroughly integrated into the Yale School of Medicine and the University both by virtue of its location, educational program and administrative operations.

Although the department involved has self-contained facilities and conducts employment practices separate from other university departments, the NLRB found that "personnel policies and employment practices are standardized for the entire University." Specifically, the department may request additional personnel and do its own hiring, but a central university personnel office and three auxiliary offices recruit applicants, assign classifications and pay grades, maintain personnel files, and administer fringe benefits. And while the department prepares its own budget, it must be approved by four superior bodies or individuals. The NLRB also found that the wages of some 90 percent of the university's unorganized nonfaculty employees are established by a campus-wide classification scale, that all employees are paid monthly by a university paycheck, and that fringe benefits, work hours, overtime, and sick leave are applied on a campus-wide basis.

As to the proposed clerical and technical unit, the NLRB found that none of the unit's 26 job classifications is unique to the medical department involved, and that the work in which department employees "are engaged is essentially similar to work performed by employees in the same job classifications outside the Department, and for the same salary." Moreover, the NLRB pointed out that "one-third of the staff housed in [the department] are actually employees of other University Departments."

In rejecting the petition on grounds that department employees "do not share a sufficiently special community of interests which would justify creating a separate unit for them," the NLRB concluded:

> Apart from the desire of these employees to be represented, indicated by past attempts to organize, there is scant evidence which justifies establishing a separate unit for them. They are subject to the same working conditions as all other Yale employees. While the research conducted in the Department may vary from that undertaken elsewhere, the skills and techniques employed by [department] personnel do not vary substantially from those of other Yale employees holding parallel jobs.

(*Yale University and Yale Non-Faculty Action Committee Unit No. 1*, National Labor Relations Board, made public August 14, 1970.)

Negotiation Notes

KENTUCKY

STATE COURT UPHOLDS LEGALITY OF LOUISVILLE BARGAINING ORDINANCE

In the absence of state legislation to the contrary, the city of Louisville, Kentucky, may enter into collective bargaining agreements with its employees, according to a ruling of the Jefferson Circuit Court. The precedent-setting decision upheld a city ordinance authorizing public employee bargaining and urged that there is a "need of supplemental legislation setting forth the mechanics for carrying out the original permissive ordinance." It reportedly paves the way for eventual payment of an estimated $3 million in fringe benefits to some 1,600 city employees whose negotiated contracts provided for overtime, vacations, and holidays which city officials refused to pay.

The court's decision resulted from a June 26, 1969, suit filed by the International Association of Fire Fighters, Local 345, which charged the Louisville mayor and various city department heads with failure to implement the terms of a voluntary agreement entered into by the city and its firemen. That agreement, as well as several others, had been incorporated into ordinances by the local board of aldermen. Other contracts affected by the fire fighters suit included those between the aldermen and the Greater Louisville Public Employees Union, Local 678 (for civilian police department employees), the Fraternal Order of Police, Lodge 6 (for regular policemen), and a union representing 30 electrical workers in the city's traffic engineering department.

In determining the statutory restrictions placed upon a city's authority to contract, the court noted that "a municipal corporation has only those powers arising from the laws creating it and defining the scope of its authority, or necessarily inferred therefrom," and that a city "has no right or power to enter into contracts which curtail or prohibit the exercise of its legislative or administrative authority." While the powers granted to the city by the legislature do not *specifically* authorize the city to enter into collective bargaining agreements, the court held that "there is no statute forbidding or prohibiting such a contractual arrangement, nor is the public policy of this state adverse to such a collective bargaining agreement. It appears to the Court that the Legislature meant to and did confer home rule upon the City of Louisville except where specifically denied by statute."

Turning to recent legislative enactments indicating that "the Legislature has yielded to the voice of the change in society" by allowing cities to provide certain benefits for their public employees, the court explained that governmental employees should no longer "be without voice in considering wages, working conditions, fringe benefits and other social problems. Too long that has been the situation, and for too long has government had to content itself with underpaid employees." But the court placed limitations on its determination of the legality of the Louisville bargaining ordinance by explaining that

> city ordinances dealing with employment relations of city employees are of comparatively recent origin. The nature and character of these ordinances by different methods generally provide for the public employees to join a labor organization of their own choosing or to refuse to join a labor organization, to designate representatives to intervene in their behalf in negotiations concerning wages, hours or conditions of work, to enter into collective bargaining agreements and to provide a method of overcoming an impasse. It is universally conceded that the employees may not be afforded the right to strike the employer or to do anything or perform any acts which would interfere with the orderly operation of the city government.

The court additionally upheld the legality of the ordinances incorporating the terms of the various voluntary agreements between the city and its employees in finding that they are "valid enactments for a legislative purpose," and that they give "life and meaning" to the bargaining ordinance. Absent a showing of cause to the contrary, the court concluded that city officials are "bound by the provisions" of those ordinances.

City officials twice have unsuccessfully attempted to have the court's decision reconsidered and reportedly plan to take it to the Kentucky Court of Appeals for clarification. The court retained jurisdiction of the case, but declined issuing an order for mandatory city action on the understanding that the city's new mayor would be bound by the decision.

NEW YORK

APPOINTMENT POWERS OF PERB EXTENDED BY TAYLOR LAW AMENDMENTS

Two amendments to the New York Public Employees' Fair Employment Act (the Taylor Law) restrict the appointment of fact-finding panels to the Public Employment Relations Board (PERB), and allow the PERB to appoint attorneys as technical advisors to fact-finding boards and as representatives of the PERB in litigation.

Sec. 209(3)(d) of the Act, which concerns negotiation dispute resolution machinery, was amended in part by Ch. 414, L. 1970 to read that "the findings of fact and recommendations are made public by a fact-finding board *appointed by the board*." Sec. 205(4) of the Act was amended in part by Ch. 1020, L. 1970, effective May 20, 1970, to provide that the PERB may appoint attorneys "to serve as technical advisers to . . . fact-finding boards . . . [and that] attorneys appointed under this section may, at the direction of the board, appear for and represent the board in any case in court."

OHIO

PAYMENT OF RAISES TO STRIKERS PROHIBITED BY STATUTE AND ENJOINED BY COURT

In what reportedly was the first application of Ohio's Ferguson Act to public employee strikes, the Hamilton County Court of Appeals restrained and enjoined the city of Cincinnati from executing the terms of a strike settling agreement reached in early February 1970 which granted an average 7 percent pay raise to more than 1,300 city employees who conducted a month long walkout. While a lower court had dismissed a prior suit to enjoin the city's payment of raises to the strikers, the appeals court ruled that public employee supervisors statutorily are prohibited from authorizing or approving a strike and thereby have no choice but to impose provisions of the Act forbidding wage increases for striking public employees for one year after the end of a strike.

Sec. 4117.02 of the Ohio Revised Code states in part that "no public employee shall strike"; it further stipulates that "no person exercising any authority, supervision, or direction over any public employee shall have the power to authorize, approve, or consent to a strike by one or more public employees, and such person shall not authorize, approve, or consent to such strike." Sec. 4117.03(A) then provides that a striking employee may be reappointed or re-employed if "his compensation shall in no event exceed that received by him immediately prior to the time of such violation." Subsec. (B) adds that the striking employee's compensation "shall not be increased until after the expiration of one year from such appointment or reappointment, employment or re-employment."

The strike conducted by Cincinnati sanitationmen, highway maintenance personnel, and others represented by the American Federation of State, County, and Municipal Employees, Council 51, ended on February 8, 1970, with the ratification of a 13-month contract providing the strikers with pay raises, various increases in fringe benefits, and a promise that the city would drop all suits and contempt litigation. The contract also contained a no-reprisal clause allowing the strikers to keep their jobs, even though the city manager earlier had mailed each striker a letter advising him that he was no longer in the city's employ.

Shortly afterward, an attorney brought a taxpayer's suit in the Hamilton County Court of Common Pleas charging that the city was "coerced and intimidated" into paying raises to the strikers, and seeking invocation of the Act's strike penalties. While determining that the strike "was unlawful," the court found itself "compelled" to dismiss the petition to enjoin the city from paying the raises because "the city did not invoke the . . . Act."

On appeal, the higher court found no dispute as to the controlling facts of the case, including the city's understanding that its employees were on strike to influence a change in their conditions of employment and compensation. Focusing upon the question of whether public employees may strike, the court held that public employee strikes are illegal at common law, and that the Ferguson Act, "an expression of the common law," is constitutional under both the state and federal constitutions. As to the contention that the Act could not be imposed upon the city unless its officials chose to invoke the Act's provisions, the court ruled that under the restrictions of R.C. 4117.02,

> it is apparent that no one in authority over the public employees here involved could authorize, approve, or consent to the strike. The vacillation of the city officials demonstrated by the testimony cannot be justified in law. Their refusal to follow the controlling statutes when the employees themselves advised the city they were on strike, when the officials knew the employees had struck illegally causing the officials to seek and to obtain injunctive relief from the courts, and when the officials understood from the outset the purpose of the strike was to induce, influence or coerce a change in conditions and compensation, amounts to a passive or implied consent to such strike. Upon the facts here, uncontroverted and stipulated as they are, the city had no choice but to obey the directive of the Legislature.

When the city stipulates that it knew the employees were striking, it cannot be heard to say that it has a discretion to choose to call the illegal acts of the employees by some other name or refuse to recognize what it has stipulated in relation to the strike.

In addition, the court found that under R.C. 4117.03(A)(B) granting and paying increments to the strikers was prohibited. It accordingly concluded that

the city of Cincinnati and all its officers must be and are restrained and enjoined from executing or performing the agreement so as to pay any compensation, direct or indirect, in the form of salary, wages or otherwise to any and all persons who were employees of the city and then participated in a strike against the city in excess of that compensation, received by such person immediately prior to such strike for at least one year from the date of appointment, reappointment, employment or re-employment of such person.

In compliance with the appeals court order (officially entered on June 29), the city first withheld pay increases from the strikers' checks on July 2. The money so retained is to be held in escrow pending a final determination of the dispute by the Ohio Supreme Court.

RHODE ISLAND

CERTAIN STATE POLICE DEPARTMENT PERSONNEL GRANTED BARGAINING RIGHTS

An amendment to the Rhode Island state employee bargaining statute (Title 36, Chapter 11, sec. 36-11-1(a), General Laws of Rhode Island) extends the definition of "state employee" to include state police department members and employees below the rank of lieutenant. Effective April 30, 1970, the amended portion of the law now reads:

State employees shall have the right to organize and designate representatives of their own choosing for the purpose of collective bargaining with respect to wages, hours and other conditions of employment. State employees, as used herein, shall include employees and members of the department of state police below the rank of lieutenant.

Rhode Island also has a mandatory teacher negotiation statute (NRD, 5-67, C-7) which was enacted on May 11, 1966, effective the same date.

OTHER ITEMS OF INTEREST

CONSUMER PRICE INDEX, AUGUST 1970

Data reported by the Labor Department, Bureau of Labor Statistics (BLS) indicate that the August 1970 Consumer Price Index (CPI) all-items figure stood at 136.0, an 0.2 percent rise above the previous month and the smallest month-to-month change registered since December 1968. The August figure put the all-items index 5.7 percent above that of a year ago. BLS noted that increased charges for consumer services (especially household services other than rent and mortgage interest charges) accounted for most of the August rise. Commodity prices rose slightly that month, while food prices and charges for transportation services declined in comparison to July rates. An estimated 146,000 workers will receive cost-of-living salary increases based upon the August CPI.

PUBLIC HEARINGS ON EXECUTIVE ORDER 11491 HELD

A review of the first year of operations under Executive Order 11491 began in October and is scheduled to be completed by January 1, 1971. Enacted on October 29, 1969 (NRD, 12-69, 5, 16), the Order provides for periodic review in its requirement that the Civil Service Commission "from time to time, report to the [Federal Labor Relations] Council on the state of the program with any recommendations for its improvement." The review was conducted as a public hearing so that the interests of agencies, unions, employees, and the general public could be considered.

Issues currently before the Council involving changes in Executive Order 11491 prompted the decision to schedule hearings, according to the Council chairman. Considerable dissatisfaction reportedly has arisen over a portion of sec. 20 of the Order which prohibits pay for employees spending time as union representatives in negotiation with management. The hearings were designed to provide a medium through which individuals and organizations officially could record criticism of the Order.

Statistics

SCHOOL-BOARD MEMBERS AND SCHOOL ADMINISTRATORS AS NEGOTIATORS

For the past four years, the NEA Research Division has conducted a national survey of written negotiation agreements and procedures in school systems with a pupil enrollment of 1,000 or more. Each year survey respondents were asked similar questions regarding the involvement of school-board members and school superintendents in negotiation with teachers organizations. Four years ago negotiation sessions most often were conducted only by school-board members or superintendents, with the superintendent advising both the board and teacher negotiators. Today, the majority of negotiation sessions are being conducted by a team of board members, superintendents, and other school administrators, with the superintendent advising only the board's negotiators. The percentage of school systems in which the superintendent negotiates with full or limited authority has remained fairly constant over the four-year period; the number of superintendents acting as neutral resource persons has diminished slightly, while more superintendents are becoming nonparticipants in negotiation sessions. Other school administrators who participate in negotiation constitute the only personnel category which has registered a slight increase each year. Table 1 provides comparative percentages for the four survey years.

TABLE 1.—ROLE OF SUPERINTENDENT AND SCHOOL-BOARD MEMBERS IN NEGOTIATION SESSIONS, 1966-67 TO 1969-70

Item	Survey response year			
	1966-67	1967-68	1968-69	1969-70
1	2	3	4	5
Role of superintendent				
Negotiator with full authority	21.7%	20.2%	20.3%	19.4%
Negotiator with limited authority	16.0	17.7	17.2	16.1
Advisor to school board negotiators only	13.4	19.8	30.3	37.8
Advisor to school board *and* teacher negotiators	41.1	34.6	25.2	19.6
Neutral resource person	6.8	6.4	4.9	4.3
Nonparticipant	1.1	1.3	2.0	2.8
Response	100.1%	100.0%	99.9%	100.0%
Negotiators for school board				
Board members only	33.2%	17.4%	14.6%	13.3%
Superintendent only	26.3	17.7	13.4	10.5
Other school administrators	3.6	4.3	7.1	9.4
Board members and superintendent	21.2	32.9	32.5	31.4
Board members and other school administrators	0.9	2.9	5.5	6.7
Board members, superintendent and other school administrators	6.8	12.8	13.9	15.4
Superintendent and other school administrators	8.0	12.1	13.0	13.4
Response	100.0%	100.1%	100.0%	100.1%

Fourteen states reported 50 or more school systems with written negotiation agreements in 1969-70. Data on the role of the superintendent in negotiation and on who negotiates for the school board were tabulated in separate contingency tables for each of these states and for the country. Survey data for previous years on the role of the superintendent in negotiation sessions, negotiators for the school board, and state patterns in negotiation were reported in the September 1967, December 1967, January 1968, September 1968, and October 1969 issues of the DIGEST.

Stratum	School System Enrollment
1	100,000 or more
2	50,000-99,999
3	25,000-49,999
4	12,000-24,999
5	6,000-11,999
6	3,000-5,999
7	1,200-2,999
8	1,000-1,199

TABLE L

ROLE OF SUPERINTENDENT IN NEGOTIATION SESSIONS

STATE OR STRATUM	NUMBER OF AGREEMENTS		NEGOTIATOR WITH: FULL AUTHORITY		NEGOTIATOR WITH: LIMITED AUTHORITY		ADVISOR TO NEGOTIATORS: SCHOOL BOARD ONLY		ADVISOR TO NEGOTIATORS: BOARD AND TEACHERS		ADVISOR TO NEGOTIATORS: NEUTRAL RESOURCE PERSON		ADVISOR TO NEGOTIATORS: NONPARTICIPANT	
	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
ALABAMA	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
ALASKA	7	100.0	1	14.3	1	14.3	0	.0	4	57.1	0	.0	1	14.3
ARIZONA	25	100.0	4	16.0	5	20.0	7	28.0	7	28.0	2	8.0	0	.0
ARKANSAS	6	100.0	3	50.0	2	33.3	0	.0	1	16.7	0	.0	0	.0
CALIFORNIA	396	100.1	131	33.1	161	40.7	47	11.9	35	8.8	7	1.8	15	3.8
COLORADO	29	99.8	7	24.1	9	31.0	7	24.1	5	17.2	1	3.4	0	.0
CONNECTICUT	90	99.9	1	1.1	3	3.3	57	63.3	20	22.2	3	3.3	6	6.7
DELAWARE	7	100.0	0	.0	0	.0	5	71.4	2	28.6	0	.0	0	.0
DISTRICT OF COLUMBIA	1	100.0	0	.0	1	100.0	0	.0	0	.0	0	.0	0	.0
FLORIDA	10	100.0	1	10.0	2	20.0	3	30.0	3	30.0	0	.0	1	10.0
GEORGIA	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
HAWAII	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
IDAHO	15	100.0	3	20.0	4	26.7	2	13.3	6	40.0	0	.0	0	.0
ILLINOIS	177	99.9	22	12.4	20	11.3	68	38.4	52	29.4	10	5.6	5	2.8
INDIANA	58	100.0	13	22.4	7	12.1	14	24.1	19	32.8	3	5.2	2	3.4
IOWA	13	100.1	0	.0	2	15.4	6	46.2	5	38.5	0	.0	0	.0
KANSAS	38	100.0	7	18.4	8	21.1	4	10.5	17	44.7	2	5.3	0	.0
KENTUCKY	16	100.1	4	25.0	3	18.8	2	12.5	5	31.3	2	12.5	0	.0
LOUISIANA	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
MAINE	21	99.9	4	19.0	0	.0	11	52.4	4	19.0	2	9.5	0	.0
MARYLAND	20	100.0	1	5.0	3	15.0	13	65.0	0	.0	0	.0	3	15.0
MASSACHUSETTS	169	100.0	4	2.4	8	4.7	87	51.5	44	26.0	17	10.1	9	5.3
MICHIGAN	351	100.1	118	33.6	47	13.4	149	42.5	19	5.4	2	.6	16	4.6
MINNESOTA	123	100.0	5	4.1	11	8.9	82	66.7	19	15.4	2	1.6	4	3.3
MISSISSIPPI	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
MISSOURI	50	100.0	2	4.0	12	24.0	5	10.0	24	48.0	7	14.0	0	.0
MONTANA	17	100.1	1	5.9	2	11.8	5	29.4	8	47.1	1	5.9	0	.0
NEBRASKA	19	100.0	0	.0	2	10.5	7	36.8	9	47.4	1	5.3	0	.0
NEVADA	3	100.0	0	.0	2	66.7	1	33.3	0	.0	0	.0	0	.0
NEW HAMPSHIRE	11	100.0	0	.0	1	9.1	7	63.6	2	18.2	1	9.1	0	.0
NEW JERSEY	224	100.0	14	6.3	10	4.5	119	53.1	62	27.7	18	8.0	1	.4
NEW MEXICO	12	100.0	3	25.0	5	41.7	1	8.3	2	16.7	1	8.3	0	.0
NEW YORK	421	100.1	82	19.5	43	10.2	226	53.7	44	10.5	14	3.3	12	2.9
NORTH CAROLINA	2	100.0	0	.0	0	.0	0	.0	2	100.0	0	.0	0	.0
NORTH DAKOTA	8	100.0	0	.0	1	12.5	1	12.5	5	62.5	1	12.5	0	.0
OHIO	257	100.0	112	43.6	65	25.3	44	17.1	31	12.1	5	1.9	0	.0
OKLAHOMA	7	100.1	1	14.3	1	14.3	2	28.6	3	42.9	0	.0	0	.0
OREGON	61	100.1	1	1.6	0	.0	14	23.0	32	52.5	12	19.7	2	3.3
PENNSYLVANIA	121	100.0	10	8.3	12	9.9	45	37.2	42	34.7	7	5.8	5	4.1
RHODE ISLAND	22	99.9	3	13.6	3	13.6	10	45.5	4	18.2	1	4.5	1	4.5
SOUTH CAROLINA	1	100.0	1	100.0	0	.0	0	.0	0	.0	0	.0	0	.0
SOUTH DAKOTA	9	100.0	0	.0	1	11.1	8	88.9	0	.0	0	.0	0	.0
TENNESSEE	4	100.0	0	.0	1	25.0	2	50.0	1	25.0	0	.0	0	.0
UTAH	35	100.0	10	28.6	6	17.1	7	20.0	11	31.4	1	2.9	0	.0
TEXAS	8	100.0	3	37.5	0	.0	4	50.0	1	12.5	0	.0	0	.0
VERMONT	5	100.0	0	.0	1	20.0	2	40.0	2	40.0	0	.0	0	.0
VIRGINIA	7	100.0	0	.0	0	.0	6	85.7	1	14.3	0	.0	0	.0
WASHINGTON	104	100.1	29	27.9	18	17.3	24	23.1	32	30.8	0	.0	1	1.0
WEST VIRGINIA	6	99.9	2	33.3	2	33.3	0	.0	2	33.3	0	.0	0	.0
WISCONSIN	139	100.0	6	4.3	18	12.9	75	54.0	25	18.0	10	7.2	5	3.6
WYOMING	8	100.0	0	.0	2	25.0	4	50.0	1	12.5	1	12.5	0	.0
TOTAL	3,133	100.0	609	19.4	505	16.1	1,183	37.8	613	19.6	134	4.3	89	2.8
1	19	100.1	2	10.5	4	21.1	9	47.4	0	.0	1	5.3	3	15.8
2	39	100.1	9	23.1	3	7.7	20	51.3	4	10.3	0	.0	3	7.7
3	58	100.0	16	27.6	7	12.1	21	36.2	3	5.2	2	3.4	9	15.5
4	219	100.0	50	22.8	40	18.3	92	42.0	16	7.3	5	2.3	16	7.3
5	441	100.0	68	15.4	73	16.6	187	42.4	80	18.1	16	3.6	17	3.9
6	767	100.1	165	21.5	127	16.6	282	36.8	144	18.8	29	3.8	20	2.6
7	1,344	99.9	262	19.5	206	15.3	484	36.0	303	22.5	70	5.2	19	1.4
8	246	100.0	37	15.0	45	18.3	88	35.8	63	25.6	11	4.5	2	.8
TOTAL	3,133	100.0	609	19.4	505	16.1	1,183	37.8	613	19.6	134	4.3	89	2.8

TABLE M

NEGOTIATOR FOR THE SCHOOL BOARD

	NO. OF AGREEMENTS		BOARD MEMBERS ONLY		SUPT. OF SCHOOLS ONLY		OTHER SCHOOL ADMINISTRA-TORS		BOARD MEMBERS AND SUPT.		BOARD MEMBERS AND OTHER SCHOOL ADMINISTRA-TORS		BOARD MEMBERS, SUPTS., AND OTHER SCHOOL ADMINISTRA-TORS		SUPT. AND OTHER SCHOOL ADMINISTRA-TORS	
1 STATE	2 NO.	3 PCT.	4 NO.	5 PCT.	6 NO.	7 PCT.	8 NO.	9 PCT.	10 NO.	11 PCT.	12 NO.	13 PCT.	14 NO.	15 PCT.	16 NO.	17 PCT.
ALABAMA	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
ALASKA	7	100.0	0	.0	1	14.3	1	14.3	1	14.3	0	.0	4	57.1	0	.0
ARIZONA	25	100.0	1	4.0	2	8.0	6	24.0	9	36.0	1	4.0	4	16.0	2	8.0
ARKANSAS	5	100.0	0	.0	2	40.0	0	.0	3	60.0	0	.0	0	.0	0	.0
CALIFORNIA	398	100.0	5	1.3	164	41.2	40	10.1	65	16.3	6	1.5	16	4.0	102	25.6
COLORADO	30	99.9	1	3.3	3	10.0	7	23.3	4	13.3	1	3.3	3	10.0	11	36.7
CONNECTICUT	89	99.9	22	24.7	1	1.1	5	5.6	39	43.8	5	5.6	16	18.0	1	1.1
DELAWARE	8	100.0	0	.0	0	.0	0	.0	3	37.5	0	.0	4	50.0	1	12.5
DISTRICT OF COLUMBIA	1	100.0	0	.0	0	.0	0	.0	0	.0	0	.0	1	100.0	0	.0
FLORIDA	10	100.0	2	20.0	2	20.0	1	10.0	3	30.0	1	10.0	1	10.0	0	.0
GEORGIA	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
HAWAII	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
IDAHO	15	100.0	0	.0	1	6.7	0	.0	12	80.0	0	.0	2	13.3	0	.0
ILLINOIS	179	100.0	26	14.5	6	3.4	10	5.6	61	34.1	14	7.8	48	26.8	14	7.8
INDIANA	60	99.9	4	6.7	2	3.3	8	13.3	26	43.3	1	1.7	8	13.3	11	18.3
IOWA	14	99.9	0	.0	0	.0	1	7.1	10	71.4	1	7.1	2	14.3	0	.0
KANSAS	38	100.1	2	5.3	5	13.2	1	2.6	18	47.4	1	2.6	6	15.8	5	13.2
KENTUCKY	16	100.2	0	.0	3	18.8	1	6.3	7	43.8	1	6.3	2	12.5	2	12.5
LOUISIANA	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
MAINE	21	100.1	9	42.9	2	9.5	1	4.8	7	33.3	0	.0	1	4.8	1	4.8
MARYLAND	19	100.0	0	.0	0	.0	16	84.2	2	10.5	0	.0	1	5.3	0	.0
MASSACHUSETTS	164	100.0	61	37.2	8	4.9	7	4.3	54	32.9	11	6.7	22	13.4	1	.6
MICHIGAN	348	100.1	16	4.6	18	5.2	70	20.1	72	20.7	18	5.2	81	23.3	73	21.0
MINNESOTA	123	100.0	27	22.0	1	.8	1	.8	61	49.6	19	15.4	13	10.6	1	.8
MISSISSIPPI	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
MISSOURI	52	100.0	8	15.4	7	13.5	1	1.9	22	42.3	1	1.9	11	21.2	2	3.8
MONTANA	17	100.0	3	17.6	1	5.9	0	.0	11	64.7	0	.0	1	5.9	1	5.9
NEBRASKA	19	100.0	5	26.3	0	.0	3	15.8	8	42.1	1	5.3	2	10.5	0	.0
NEVADA	3	100.0	0	.0	0	.0	1	33.3	0	.0	0	.0	0	.0	2	66.7
NEW HAMPSHIRE	11	100.0	2	18.2	0	.0	0	.0	7	63.6	1	9.1	1	9.1	0	.0
NEW JERSEY	224	99.9	56	25.0	3	1.3	1	.4	101	45.1	17	7.6	43	19.2	3	1.3
NEW MEXICO	12	99.9	1	8.3	3	25.0	1	8.3	5	41.7	0	.0	1	8.3	1	8.3
NEW YORK	423	100.1	43	10.2	18	4.3	78	18.4	91	21.5	63	14.9	68	16.1	62	14.7
NORTH CAROLINA	2	100.0	0	.0	0	.0	0	.0	1	50.0	0	.0	1	50.0	0	.0
NORTH DAKOTA	8	100.0	2	25.0	0	.0	0	.0	4	50.0	0	.0	2	25.0	0	.0
OHIO	258	100.2	11	4.3	46	17.8	12	4.7	75	29.1	4	1.6	27	10.5	83	32.2
OKLAHOMA	7	100.1	1	14.3	1	14.3	2	28.6	0	.0	0	.0	2	28.6	1	14.3
OREGON	59	100.1	27	45.8	1	1.7	0	.0	24	40.7	2	3.4	5	8.5	0	.0
PENNSYLVANIA	123	100.1	28	22.8	0	.0	6	4.9	46	37.4	16	13.0	20	16.3	7	5.7
RHODE ISLAND	22	99.9	7	31.8	1	4.5	0	.0	5	22.7	1	4.5	6	27.3	2	9.1
SOUTH CAROLINA	1	100.0	0	.0	0	.0	0	.0	0	.0	0	.0	1	100.0	0	.0
SOUTH DAKOTA	9	100.0	0	.0	0	.0	0	.0	7	77.8	1	11.1	1	11.1	0	.0
TENNESSEE	4	100.0	0	.0	0	.0	1	25.0	3	75.0	0	.0	0	.0	0	.0
TEXAS	36	100.0	3	8.3	7	19.4	1	2.8	14	38.9	1	2.8	4	11.1	6	16.7
UTAH	8	100.0	0	.0	0	.0	2	25.0	1	12.5	1	12.5	0	.0	4	50.0
VERMONT	5	100.0	1	20.0	0	.0	0	.0	2	40.0	1	20.0	1	20.0	0	.0
VIRGINIA	7	100.1	0	.0	0	.0	1	14.3	3	42.9	0	.0	3	42.9	0	.0
WASHINGTON	103	99.9	18	17.5	17	16.5	6	5.8	33	32.0	2	1.9	13	12.6	14	13.6
WEST VIRGINIA	7	100.0	0	.0	0	.0	0	.0	4	57.1	0	.0	1	14.3	2	28.6
WISCONSIN	139	100.0	22	15.8	3	2.2	3	2.2	60	43.2	18	12.9	28	20.1	5	3.6
WYOMING	8	100.0	2	25.0	0	.0	0	.0	1	12.5	0	.0	5	62.5	0	.0
TOTAL	3,137	100.1	416	13.3	329	10.5	295	9.4	985	31.4	210	6.7	482	15.4	420	13.4
STRATUM																
1	19	100.0	1	5.3	0	.0	9	47.4	2	10.5	2	10.5	2	10.5	3	15.8
2	39	100.1	1	2.6	1	2.6	20	51.3	2	5.1	4	10.3	1	2.6	10	25.[illegible]
3	58	99.9	2	3.4	6	10.3	24	41.4	1	1.7	3	5.2	8	13.8	14	24.1
4	222	100.0	13	5.9	28	12.6	60	27.0	24	10.8	13	5.9	32	14.4	52	23.4
5	439	100.0	47	10.7	40	9.1	68	15.5	78	17.8	48	10.9	80	18.2	78	17.8
6	770	99.9	94	12.2	78	10.1	76	9.9	212	27.5	57	7.4	132	17.1	121	15.7
7	1,342	100.0	214	15.9	139	10.4	36	2.7	553	41.2	71	5.3	197	14.7	132	9.8
8	248	99.9	44	17.7	37	14.9	2	.8	113	45.6	12	4.8	30	12.1	10	4.0
TOTAL	3,137	100.1	416	13.3	329	10.5	295	9.4	985	31.4	210	6.7	482	15.4	420	13.4

PATTERNS IN NEGOTIATION

UNITED STATES - 3,102 RESPONSES

NEGOTIATORS FOR THE SCHOOL BOARD

ROLE OF THE SUPERINTENDENT	BOARD MEMBERS		BOARD MEMBERS AND SUPERINTENDENT		BOARD MEMBERS AND SCHOOL ADMINISTRATORS		SUPERINTENDENT		SCHOOL ADMINISTRATORS	
	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.
NEGOTIATOR WITH FULL AUTHORITY	4	.1	108	3.5	81	2.6	165	5.3	246	7.9
NEGOTIATOR WITH LIMITED AUTHORITY	4	.1	159	5.1	88	2.8	126	4.1	128	4.1
ADVISOR TO NEGOTIATORS FOR BOARD	173	5.6	402	13.0	345	11.1	10	.3	240	7.7
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	143	4.6	275	8.9	123	4.0	23	.7	39	1.3
NEUTRAL RESOURCE PERSON	66	2.1	30	1.0	29	.9	3	.1	4	.1
NONPARTICIPANT	22	.7	2	.1	16	.5	1	.0	47	1.5
CALIFORNIA - 394 RESPONSES										
NEGOTIATOR WITH FULL AUTHORITY	0	.0	9	2.3	1	.3	78	19.8	41	10.4
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	28	7.1	9	2.3	76	19.3	48	12.2
ADVISOR TO NEGOTIATORS FOR BOARD	1	.3	15	3.8	3	.8	0	.0	28	7.1
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	1	.3	13	3.3	5	1.3	7	1.8	9	2.3
NEUTRAL RESOURCE PERSON	2	.5	0	.0	3	.8	2	.5	0	.0
NONPARTICIPANT	1	.3	0	.0	1	.3	1	.3	12	3.0
CONNECTICUT - 88 RESPONSES										
NEGOTIATOR WITH FULL AUTHORITY	0	.0	0	.0	0	.0	1	1.1	0	.0
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	2	2.3	1	1.1	0	.0	0	.0
ADVISOR TO NEGOTIATORS FOR BOARD	13	14.8	27	30.7	11	12.5	0	.0	4	4.5
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	6	6.8	7	8.0	7	8.0	0	.0	0	.0
NEUTRAL RESOURCE PERSON	2	2.3	1	1.1	0	.0	0	.0	0	.0
NONPARTICIPANT	1	1.1	1	1.1	2	2.3	0	.0	2	2.3
ILLINOIS - 176 RESPONSES										
NEGOTIATOR WITH FULL AUTHORITY	0	.0	4	2.3	3	1.7	3	1.7	12	6.8
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	7	4.0	9	5.1	2	1.1	2	1.1
ADVISOR TO NEGOTIATORS FOR BOARD	5	2.8	22	12.5	32	18.2	0	.0	8	4.5
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	12	6.8	27	15.3	10	5.7	1	.6	2	1.1
NEUTRAL RESOURCE PERSON	5	2.8	1	.6	4	2.3	0	.0	0	.0
NONPARTICIPANT	3	1.7	0	.0	2	1.1	0	.0	0	.0

PATTERNS IN NEGOTIATION

INDIANA - 58 RESPONSES

ROLE OF THE SUPERINTENDENT	NEGOTIATORS FOR THE SCHOOL BOARD: BOARD MEMBERS NO.	PCT.	BOARD MEMBERS AND SUPERINTENDENT NO.	PCT.	BOARD MEMBERS AND SCHOOL ADMINISTRATORS NO.	PCT.	SUPERINTENDENT NO.	PCT.	SCHOOL ADMINISTRATORS NO.	PCT.
NEGOTIATOR WITH FULL AUTHORITY	0	.0	4	6.9	0	.0	0	.0	9	15.5
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	4	6.9	1	1.7	1	1.7	1	1.7
ADVISOR TO NEGOTIATORS FOR BOARD	1	1.7	4	6.9	4	6.9	0	.0	5	8.6
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	3	5.2	13	22.4	3	5.2	0	.0	0	.0
NEUTRAL RESOURCE PERSON	0	.0	0	.0	1	1.7	1	1.7	1	1.7
NONPARTICIPANT	0	.0	0	.0	0	.0	0	.0	2	3.4

MASSACHUSETTS - 164 RESPONSES

NEGOTIATOR WITH FULL AUTHORITY	0	.0	3	1.8	0	.0	1	.6	0	.0
NEGOTIATOR WITH LIMITED AUTHORITY	1	.6	5	3.0	1	.6	1	.6	0	.0
ADVISOR TO NEGOTIATORS FOR BOARD	24	14.6	28	17.1	22	13.4	5	3.0	5	3.0
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	20	12.2	13	7.9	7	4.3	1	.6	1	.6
NEUTRAL RESOURCE PERSON	11	6.7	4	2.4	2	1.2	0	.0	0	.0
NONPARTICIPANT	5	3.0	1	.6	1	.6	0	.0	2	1.2

MICHIGAN - 346 RESPONSES

NEGOTIATOR WITH FULL AUTHORITY	0	.0	20	5.6	34	9.8	11	3.2	52	15.0
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	13	3.8	19	5.5	6	1.7	9	2.6
ADVISOR TO NEGOTIATORS FOR BOARD	11	3.2	31	9.0	40	11.6	1	.3	64	18.5
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	2	.6	8	2.3	5	1.4	0	.0	3	.9
NEUTRAL RESOURCE PERSON	1	.3	0	.0	0	.0	0	.0	0	.0
NONPARTICIPANT	2	.6	0	.0	1	.3	0	.0	13	3.8

MINNESOTA - 123 RESPONSES

NEGOTIATOR WITH FULL AUTHORITY	1	.8	3	2.4	1	.8	0	.0	0	.0
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	7	5.7	3	2.4	1	.8	0	.0
ADVISOR TO NEGOTIATORS FOR BOARD	18	14.6	39	31.7	24	19.5	0	.0	1	.8
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	6	4.9	10	8.1	3	2.4	0	.0	0	.0
NEUTRAL RESOURCE PERSON	0	.0	2	1.6	0	.0	0	.0	0	.0
NONPARTICIPANT	2	1.6	0	.0	1	.8	0	.0	1	.8

PATTERNS IN NEGOTIATION

NEW JERSEY - 221 RESPONSES

NEGOTIATORS FOR THE SCHOOL BOARD

ROLE OF THE SUPERINTENDENT	BOARD MEMBERS		BOARD MEMBERS AND SUPERINTENDENT		BOARD MEMBERS AND SCHOOL ADMINISTRATORS		SUPERINTENDENT		SCHOOL ADMINISTRATORS	
	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.
NEGOTIATOR WITH FULL AUTHORITY	1	.5	6	2.7	3	1.4	1	.5	3	1.4
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	6	2.7	2	.9	2	.9	0	.0
ADVISOR TO NEGOTIATORS FOR BOARD	25	11.3	53	24.0	39	17.6	0	.0	1	.5
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	16	7.2	33	14.9	12	5.4	0	.0	0	.0
NEUTRAL RESOURCE PERSON	13	5.9	3	1.4	1	.5	0	.0	0	.0
NONPARTICIPANT	1	.5	0	.0	0	.0	0	.0	0	.0

NEW YORK - 417 RESPONSES

NEGOTIATOR WITH FULL AUTHORITY	0	.0	12	2.9	19	4.6	11	2.6	40	9.6
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	11	2.6	14	3.4	4	1.0	14	3.4
ADVISOR TO NEGOTIATORS FOR BOARD	22	5.3	55	13.2	75	18.0	3	.7	68	16.3
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	14	3.4	11	2.6	12	2.9	0	.0	7	1.7
NEUTRAL RESOURCE PERSON	5	1.2	2	.5	6	1.4	0	.0	1	.2
NONPARTICIPANT	0	.0	0	.0	4	1.0	0	.0	7	1.7

OHIO - 256 RESPONSES

NEGOTIATOR WITH FULL AUTHORITY	0	.0	18	7.0	7	2.7	26	10.2	60	23.4
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	16	6.3	10	3.9	16	6.3	23	9.0
ADVISOR TO NEGOTIATORS FOR BOARD	8	3.1	16	6.3	10	3.9	0	.0	10	3.9
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	3	1.2	21	8.2	2	.8	3	1.2	2	.8
NEUTRAL RESOURCE PERSON	0	.0	3	1.2	2	.8	0	.0	0	.0
NONPARTICIPANT	0	.0	0	.0	0	.0	0	.0	0	.0

OREGON - 58 RESPONSES

NEGOTIATOR WITH FULL AUTHORITY	0	.0	0	.0	1	1.7	0	.0	0	.0
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	0	.0	0	.0	0	.0	0	.0
ADVISOR TO NEGOTIATORS FOR BOARD	3	5.2	10	17.2	1	1.7	0	.0	0	.0
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	13	22.4	12	20.7	3	5.2	1	1.7	0	.0
NEUTRAL RESOURCE PERSON	9	15.5	2	3.4	1	1.7	0	.0	0	.0
NONPARTICIPANT	2	3.4	0	.0	0	.0	0	.0	0	.0

PATTERNS IN NEGOTIATION

PENNSYLVANIA - 120 RESPONSES

NEGOTIATORS FOR THE SCHOOL BOARD

ROLE OF THE SUPERINTENDENT	BOARD MEMBERS		BOARD MEMBERS AND SUPERINTENDENT		BOARD MEMBERS AND SCHOOL ADMINISTRATORS		SUPERINTENDENT		SCHOOL ADMINISTRATORS	
	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.
NEGOTIATOR WITH FULL AUTHORITY	0	.0	4	3.3	2	1.7	0	.0	4	3.3
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	6	5.0	3	2.5	0	.0	3	2.5
ADVISOR TO NEGOTIATORS FOR BOARD	8	6.7	16	13.3	16	13.3	0	.0	5	4.2
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	11	9.2	18	15.0	11	9.2	0	.0	1	.8
NEUTRAL RESOURCE PERSON	5	4.2	1	.8	1	.8	0	.0	0	.0
NONPARTICIPANT	3	2.5	0	.0	2	1.7	0	.0	0	.0

WASHINGTON - 103 RESPONSES

NEGOTIATOR WITH FULL AUTHORITY	0	.0	5	4.9	5	4.9	11	10.7	8	7.8
NEGOTIATOR WITH LIMITED AUTHORITY	1	1.0	6	5.8	1	1.0	4	3.9	6	5.8
ADVISOR TO NEGOTIATORS FOR BOARD	8	7.8	6	5.8	7	6.8	0	.0	3	2.9
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	9	8.7	16	15.5	2	1.9	2	1.9	2	1.9
NEUTRAL RESOURCE PERSON	0	.0	0	.0	0	.0	0	.0	0	.0
NONPARTICIPANT	0	.0	0	.0	0	.0	0	.0	1	1.0

WISCONSIN - 139 RESPONSES

NEGOTIATOR WITH FULL AUTHORITY	0	.0	2	1.4	2	1.4	1	.7	1	.7
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	10	7.2	5	3.6	1	.7	2	1.4
ADVISOR TO NEGOTIATORS FOR BOARD	12	8.6	34	24.5	28	20.1	0	.0	1	.7
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	6	4.3	10	7.2	7	5.0	1	.7	1	.7
NEUTRAL RESOURCE PERSON	4	2.9	4	2.9	2	1.4	0	.0	0	.0
NONPARTICIPANT	0	.0	0	.0	2	1.4	0	.0	3	2.2

Special Reports

BRIEFS OF RECENT AGREEMENTS

Portland, Maine

Between the School Committee of the City of Portland and the Portland Teachers Association, effective September 1, 1970, to August 31, 1971. Approximately 700 certificated professional employees. Provision for negotiation of a successor agreement by October 1, 1970.

Compensation: B.A., $6,500 to $9,750, 10 increments; M.A., $7,150 to $11,050, 12 increments; M.A. with planned program leading to a degree or certificate of Advanced Graduate Study, $11,700 maximum; Ph.D., $12,350 maximum.

Leaves: 15 days' annual sick leave, 180 days' maximum accumulation; 2 days for personal business deducted from accumulation; 2 days for family illness deducted from accumulation; 5 days' bereavement leave; paid school visitation and professional conference leave as requested and approved by superintendent; paid leave for jury duty or court summons; 17 days' paid leave for military reserve training; sabbatical leave at half-pay for one-half year or a full school year after 7 years' service; retirement pay at rate of $20 per day of unused sick leave.

Insurance: Board pays $8.27 per month toward hospital, surgical, and major medical coverage for individual.

Miscellaneous: Grievance procedure ends with binding arbitration; Association dues deduction, right to use school facilities, and access to school financial data; joint committees to study nonteaching duties and group liability insurance programs; joint committee in each school building will meet monthly to review educational policies and practices and recommend changes; textbook selection committee; joint committee to meet at least once per month to exchange ideas on 12 listed subjects (other than negotiable items) affecting system and suggest changes in administrative policy; tuition reimbursement for any 6 credit hours earned in a two-year period while completing additional professional work; full cost of tuition and expenses paid by school committee for required workshops and seminars; teacher has right to examine personnel file and may discuss inaccurate or misleading material with superintendent prior to its insertion in or deletion from file; duty-free lunch period for all teachers; provisions recognizing the need for specialists and ensuring maintenance of the present number of teacher aides and assistants; teacher evaluation procedure; voluntary and involuntary transfer provisions; provision specifying some seven nonteaching duties teachers shall not be required to perform; teacher load and class size provisions with latter ranging from 15-30 according to grade level; teacher protection clause; professional improvement provision; no-strike clause; procedure for negotiating successor agreement includes a list of 19 negotiable subjects and an impasse procedure progressing through mediation to an advisory arbitration panel whose recommendations may be made public.

Allegany County (Cumberland), Maryland

Between the Board of Education of Allegany County and the Allegany County Teachers Association, effective July 1, 1970, to June 30, 1971. Approximately 750 certificated professional employees. Provision for renegotiation on or before December 1, 1970.

Compensation: B.A., $6,270 to $10,560, 13 increments; M.A., $6,900 to $11,385, 13 increments; M.A. plus 30 hours, $11,880 maximum; Ph.D., $12,870 maximum; longevity pay of $200 annually after 20 years' service for teachers holding an Advanced Professional Certificate. Differentials: head football coach, $900; assistant football coach, $585; head basketball coach, $675; baseball, soccer, track, and wrestling coaches, $360. Summer curriculum workshop teachers, $100 per week.

Leaves: 10 days' annual sick leave, unlimited maximum accumulation; 3 days for personal business deducted from accumulation; 4 successive days' bereavement leave; leave with pay for school visitation; sabbatical leave at half-pay for 1 year after 7 years' service; upon retirement teacher receives $10 per day of un-

used, accumulated sick leave or $10 per year of service, whichever is greater.

Insurance: Board-paid Blue Cross-Blue Shield coverage for individual; board-paid major medical coverage for individual and dependents; tax deferred annuity plan; if workmen's compensation is awarded to a teacher who is absent following an injury incurred in line of duty, board will provide additional compensation to equal 80 percent of teacher's per-diem salary.

Miscellaneous: Grievance procedure with optional appeal to advisory committee panel prior to appeal to superintendent, and final appeal to state board of education; Association dues deduction and right to use school facilities; Association president may attend regular board meetings without loss of leave or pay; joint sabbatical leave screening committee; joint exploration of development of professional improvement program; tuition reimbursement of $15 per credit hour for no more than 6 semester hours earned while renewing certificate; teacher has right to review personnel file and may respond to any derogatory material before placement therein; 30-minute duty-free lunch period for all teachers; 5 preparation periods per week for secondary teachers; 150 minutes of preparation time per week for elementary teachers; provision for hiring additional specialists in 8 identified areas "where practical and possible"; academic freedom clause; teacher participation in textbook selection; voluntary and involuntary transfer clause; each school to develop a written classroom control and discipline policy with teacher participation; reimbursement of 10¢ per mile for interschool travel.

Albuquerque, New Mexico

Between the Board of Education of the Albuquerque Public Schools and the Albuquerque Classroom Teachers Association, effective April 1, 1970, to August 25, 1971. Approximately 3,000 certificated professional employees. Provision for automatic renewal of contract contingent upon Association recognition.

Compensation: $6,100 to $9,394, 12 increments; B.A. plus 15 hours, $9,669 maximum; M.A., $6,649 to $10,218, 13 increments; M.A. plus 30 hours, $11,041 maximum; Ph.D., $12,048 maximum; longevity pay of $200 at 21st, 26th, and 31st steps on salary schedule. Differentials: senior high head football coaches, $500; senior high head basketball coaches, $300; assistant basketball coaches, $200; assistant wrestling coaches, $175; senior high head track coaches, $300; senior high cross country coaches, $125; senior high speech, drama, band, and orchestra teachers, $100; junior high speech, drama, band, and orchestra teachers, $75; senior high student activity directors, $400; consultants, $500; senior high department heads, $150.

Leaves: 10 days' annual sick leave, 200 days' maximum accumulation; 1 separate day for personal business; maximum of 5 separate days per year for personal emergency leave; 3 days for family illness deducted from accumulation; 3 separate days' bereavement leave; paid leave for jury duty; paid professional conference leave; sabbatical leave at half-pay for 1 year after an undefined length of service at board's discretion.

Insurance: Board pays 20 percent of cost of comprehensive group health insurance coverage (including major medical plan) for individual and family; health care plan includes out-patient psychiatric limitation providing 50 percent reimbursement of charges to a maximum of $10 per visit, with a further limitation of $500 per individual per 12-month period; board-paid life insurance for individual coverage to a maximum of $4,000, with board contributing 20 percent of cost of any additional coverage; provision for dependent group life insurance with employee paying 70¢ per month; board contributes 20 percent of cost of dental insurance coverage for individual and family; disability income plan in addition to accumulated sick leave pay or workmen's compensation indemnity; tax deferred annuity plan; teacher retirement plan with employee contributing 4 percent of total salary on monthly deduction basis and board contributing 6½ percent.

Miscellaneous: Grievance procedure with fact-finder's report to board; Association dues deduction and right to use school facilities; joint committee to study unlimited accumulation of sick leave and severance pay based upon unused sick leave; establishment of network of elementary, secondary, area, and district-wide joint curriculum coordinating councils; joint committee to develop "a continuum of relevant inservice programs"; joint sabbatical leave screening committee; joint committee to study possibility of teacher access to personnel files; voluntary and involuntary transfer provisions; assignment and promotion policies; 30-minute duty-free lunch period for all teachers; pupil-teacher ratios; 200 minutes of preparation time per week for all teachers; teacher evaluation procedure, including detailed forms; pupil progress report procedure; pupil discipline pro-

vision; academic freedom; code of ethics; school calendar; special education program; provisions for substitute teachers and student teacher training; minimum standards for teacher and counselor facilities; provision for parent-teacher conferences; definition of duties and services performed by school nurses and guidance counselors; provision for across-the-board supplementary increase in all employees' salaries if current millage rate is increased.

Springfield, Ohio

Between the Springfield Board of Education and the Springfield Education Association, effective September 1, 1970, to August 31, 1972. Approximately 767 certificated professional employees. Provision for reopener on "salaries and matters of economic welfare," procedures for employing teacher aides and specialists, and sabbatical leave by January 4, 1971.

Compensation: B.A., $6,550 to $9,975, 13 increments; B.A. plus 20 hours, $10,850 maximum; M.A., $7,150 to $11,640, 14 increments; for 20 semester hours beyond M.A. degree, $255 added to each step of M.A. schedule; for 40 semester hours beyond M.A. degree, $510 added to each step of M.A. schedule. Inservice training differential of $100 for each 80 clock hours of prescribed course work to a maximum of $600. Differentials: head football coach, $1,600; assistant football coach, $1,090; head basketball coach, $1,190; assistant basketball coach, $545; head junior high sports coach, $955; head dramatics coach, $1,190; cheerleading supervisor, $215; marching band director, $1,130; senior high vocal music director, $700; senior high newspaper and yearbook advisors, $215; senior high counselors, $770; specialists, $330; home instruction teachers, $6.15 per hour. Day-to-day substitute teachers, $23.10 per day.

Leaves: Unspecified annual sick leave allotment, 180 days' maximum accumulation; 2 separate days for personal emergency leave; 5 days' bereavement leave deducted from accumulation; 5 days' paid leave deducted from accumulation in case of family illness; 30-day personal leave allowance (in lieu of sick leave) in event of disabling injury incurred in line of duty; provision for sick leave bank pending investigation of legality of such; unpaid professional leave of absence not to exceed 2 years.

Insurance: Board-paid Blue Cross-Blue Shield and major medical coverage for individual; employee desiring family coverage will pay the difference between the single and family rates.

Miscellaneous: Grievance procedure ends with advisory arbitration; Association right to use school facilities; 6 days of professional leave per year for Association president when conducting official business; joint curriculum study, textbook selection, and building design committees; joint professional study committee meeting monthly; joint committee to study the feasibility of a reciprocal arrangement with a university whereby all district teachers would be granted tuition-free graduate study in exchange for student teaching assignments in local schools; 30-minute duty-free lunch period for all teachers; 30 minutes of preparation time per day for elementary teachers; transfer and assignment policy; provision for increased accessibility to audio-visual supplies and better servicing of such; teacher evaluation procedure; inservice training program; provision for improved teacher facilities; code of ethics; school calendar; regular staff meetings; provision for parent-teacher conferences.

Maple, Wisconsin

Between the Board of Education of Common Joint School District No. 1 and the Maple Federation of Teachers, effective July 1, 1970, to June 30, 1971. Approximately 69 certificated professional employees. Provision for renegotiation by December 1, 1970, "or any anniversary thereof" at request of either party.

Compensation: B.A., $6,900 to $10,350, 10 increments; B.A. plus 16 hours, $10, 590 maximum; M.A., $7,452 to $11,661, 11 increments. Overtime pay of 65% of regular salary per month for work beyond regular school year. Elementary principals receive an additional $125 per year for each teacher supervised. Differentials: head football coach, $550 plus $200 for pre-season work; assistant football coaches, $450 plus $175 for pre-season work; head basketball coach, $900 plus $50 tournament expenses; track coach, $350; junior high basketball coaches, $350; yearbook sponsor, $200; one-act play director, $150; cheerleading and pep club sponsor, $100 plus mileage allowance; art, music, and physical education specialists, $250; special education teacher, $400; audiovisual instructor, $150; driver education teachers, $6 per hour; special noninstructional duties, $3.50 per hour; bus duty, $4 per hour. Teachers of night school classes, $10 per each two-hour class. Degree substitute teachers, $25 per day.

Leaves: 10 days' annual sick leave, 105 days' maximum accumulation; 2 separate days for

personal business deducted from accumulation; 3 days' bereavement leave deducted from accumulation; 2 separate days for selective service physical examination; employee injured on job receives difference between workmen's compensation and regular salary for a period not to exceed 105 working days or the total sick leave days accumulated, whichever is lesser.

Insurance: Board provides hospital and medical coverage for individual and family; board contributes to group life insurance coverage for individual with employee paying 20¢ per month for each $1,000 of coverage to age 30, 40¢ per month to age 40, and 60¢ per month thereafter to age 65; mandatory Wisconsin Teachers Retirement Plan with combined plan or variable annuity plan options; tax sheltered annuity plan.

Miscellaneous: Grievance procedure ends with mediation as provided by statute; Federation dues deduction and right to use school facilities; 7 days of paid leave allowed for Federation business; continuing committee study of need for improved teacher facilities; tuition reimbursement of $15 per credit for a maximum of 30 credits earned beyond the M.A. degree; two-year probationary period; professional growth requirements; high-school advisorships to be assigned after consultation with faculty committee; provisions for parent-teacher conferences, in-service training, and change of assignment; reimbursement for required physical examination; mandatory retirement at completion of contract following attainment of age 65, although a noncontinuing, year-to-year contract may be issued if satisfactory applicants are unavailable.

NEGOTIATED PROFESSIONAL IMPROVEMENT LEAVES CONTAINED IN COMPREHENSIVE CLASSROOM TEACHER AGREEMENTS

The following analyses of four short-term and long-term, paid and unpaid professional improvement leaves drawn from 978 comprehensive classroom teacher agreements effective during the 1968-69 school year present an over-all picture of the nature and incidence of such leaves in contracts negotiated in school systems with a pupil enrollment of 1,000 or more. Of the 978 reported agreements, 765 (78.2 percent) offered either individually or in various combinations long-term sabbatical, and research, study, and travel leaves and/or short-term school visitation and educational conference leaves. Table 1 presents the incidence of the four types of leaves among the 978 agreements analyzed, and indicates the paid or unpaid nature of each leave.

TABLE 1.—PROFESSIONAL IMPROVEMENT LEAVES CONTAINED IN 978 COMPREHENSIVE AGREEMENTS, 1968-69

Type of leave	Agreements containing designated content	
	Number	Percent
1	2	3
TOTAL NUMBER OF COMPREHENSIVE AGREEMENTS	978	100.0%
TOTAL AGREEMENTS CONTAINING PROFESSIONAL IMPROVEMENT LEAVE PROVISIONS	765	78.2
Long-term leaves	692	70.8
Sabbatical (with pay)	563	57.6
Research, study, and travel (without pay)	295	30.2
Short-term leaves	428	43.8
Educational conferences (with or without pay)	322	32.9
School visitation (with or without pay)	325	33.2

Short-term leaves for school visitation and educational conferences were negotiated in 428 (43.8 percent) of the 978 agreements. These leaves most always were paid and were granted as needed (and approved) for a few days per school year. A majority (90.6 percent) of the agreements containing short-term leave provisions also offered one or both long-term leaves; of this majority, 64.3 percent offered sabbatical leaves.

Long-term sabbatical, and research, study, and travel leaves were found in 692 (70.8 percent) of the 978 agreements analyzed. Sabbatical leave (always with pay) was contained in 563 agreements (57.6 percent) thereby making it the most frequently negotiated type of professional improvement leave. Research, study, and travel leaves were negotiated in 295 agreements; of these, 166 agreements (56.3 percent) also offered sabbatical leave. Both types of long-term leaves generally were granted for one semester or more, for similar purposes, and under similar conditions. However, those research, study, and travel leaves found in agreements *without* sabbatical leave provisions tended to have stringent requirements nearly identical to sabbatical leave requirements. Conversely, research, study, and travel leaves contained in agreements which also had sabbatical leave provisions tended to have more lenient requirements; for instance, the years of prior service required before leave often were fewer than for sabbatical leave, and the teacher taking leave usually was under no obligation to return to the school system.

Of the 563 agreements containing sabbatical leave provisions, 348 (61.8 percent) also granted teachers one or more of the other three types of professional improvement leaves. Table 2 indicates the various combinations of professional improvement leaves found in agreements with sabbatical leave provisions.

TABLE 2.—PROFESSIONAL IMPROVEMENT LEAVES CONTAINED IN AGREEMENTS WITH SABBATICAL LEAVE PROVISIONS, 1968-69

Leave combinations	Agreements containing designated content	
	Number	Percent
1	2	3
TOTAL AGREEMENTS CONTAINING PROFESSIONAL IMPROVEMENT LEAVE PROVISIONS	765	100.0%
TOTAL AGREEMENTS CONTAINING SABBATICAL LEAVE PROVISIONS	563	73.6
Sabbatical leave only	215	38.2
Sabbatical and research, study, and travel	74	13.1
Sabbatical and school visitation	48	8.5
Sabbatical and educational conference	46	8.2
Sabbatical, educational conference, and school visitation	88	15.6
Sabbatical, school visitation, and research, study, and travel	26	4.6
Sabbatical, educational conference, and research, study, and travel	15	2.7
Sabbatical, school visitation, educational conference, and research, study and travel	51	9.1

NEGOTIATION AGREEMENTS: SABBATICAL LEAVE PROVISIONS

The NEA Research Division's analysis of 978 comprehensive agreements effective during the 1968-69 school year in systems with an enrollment of 1,000 or more reveals that 563 agreements (57.6 percent) contained sabbatical leave provisions. Sabbatical leave is defined as a leave of absence with full or partial pay for one semester or more for the purpose of improving the professional skills of teachers, administrators, or other professional school system personnel. Table 1 presents a state-by-state breakdown of the number of comprehensive agreements containing sabbatical leave provisions.

TABLE 1.—SABBATICAL LEAVE PROVISIONS CONTAINED IN COMPREHENSIVE CLASSROOM TEACHER AGREEMENTS, 1968-69

State	Number of 1968-69 comprehensive agreements	Agreements with sabbatical leave provisions	
		Number	Percent
1	2	3	4
Arizona	2	1	50.0%
Colorado	4	3	75.0
Connecticut	56	37	66 1
District of Columbia	1	1	100.0
Illinois	33	26	78.8
Indiana	8	5	62.5
Massachusetts	129	83	64.3
Michigan	312	128	41.0
Montana	2	1	50.0
New Jersey	6	2	33.3
New York	319	238	74.6
Ohio	12	3	25.0
Pennsylvania	5	2	40.0
Rhode Island	19	16	84.2
Utah	4	3	75.0
Virginia	2	2	100.0
Washington	3	2	66.7
Wisconsin	53	10	18.9
17 states and the District of Columbia	970	563	58.0%
7 remaining states	8	0	0.0
Total	978	563	57.6%

All sabbatical leave provisions found in the 563 agreements were analyzed for rate of pay and length of leave. A comparison with similar data derived from agreements effective during the 1967-68 school year reveals that the percentage of comprehensive agreements with sabbatical leave provisions increased 17.1 percentage points between the two school years. Table 2 relates the rate of pay to the length of leave and compares these data for the 1967-68 and 1968-69 school years. The salient difference between the provisions analyzed each year is the 16.2 percentage point increase in provisions allowing a combination of full pay for one semester and partial pay for two semesters of sabbatical leave.

TABLE 2.—LENGTH OF SABBATICAL LEAVE AND PAYMENT OF SALARY DURING LEAVE, 1967-68 AND 1968-69

Salary and leave content	Agreements containing designated content			
	1967-68		1968-69	
	Number	Percent*	Number	Percent*
1	2	3	4	5
TOTAL NUMBER OF COMPREHENSIVE AGREEMENTS	603	...	978	...
TOTAL AGREEMENTS CONTANING SABBATICAL LEAVE PROVISIONS	244	40.5%	563	57.6%
Full payment of salary	13	5.3	31	5.5
Leave for 1 semester	3	1.2	9	1.6
Leave for 2 semesters	9	3.7	19	3.4
Leave for undefined period	1	0.4	3	0.5
Partial payment of salary	218	89.3	401	71.2
Leave for 1 semester	3	1.2	0	0.0
Leave for 2 semesters	171	70.1	320	56.8
Leave for undefined period	44	18.0	81	14.4
Combination of partial and/or full payment of salary	13	5.3	124	22.0
Full pay 1 semester/partial pay 2 semesters	13	5.3	121	21.5
Full pay 2 semesters/partial pay 2 semesters	0	0.0	3	0.5
Undefined	0	0.0	7	1.2
Total	244	99.9%	563	99.9%

*These figures are based upon the total number of comprehensive agreements containing sabbatical leave provisions.

A sample of 140 sabbatical leave provisions was selected for further analysis of written, negotiated content. The selected provisions were taken from every fourth agreement of the 563 agreements containing sabbatical leave provisions, and the analysis herein makes no attempt to cross-reference these provisions with any other pertinent content found in a given agreement. Of the 140 selected provisions, two established joint teacher-board study committees to review or formulate sabbatical leave policy, and two tied existing board policy into the agreement. The remaining 136 provisions contained specific negotiated content concerning sabbatical leaves.

As indicated in Table 3, specific provisional content governing sabbatical leaves can be classified into five broad areas: the reasons for which leave is granted, requirements governing a teacher's eligibility

TABLE 3.—GENERAL NEGOTIATED CONTENT OF 140 SELECTED SABBATICAL LEAVE PROVISIONS, 1968-69

General content	Agreements containing designated content	
	Number	Percent
1	2	3
TOTAL SELECTED SABBATICAL LEAVE PROVISIONS	140	100.0%
JOINT COMMITTEE ESTABLISHED TO STUDY SABBATICAL LEAVE POLICY	2	1.4
EXISTING BOARD SABBATICAL LEAVE POLICY TIED INTO AGREEMENT	2	1.4
SPECIFIC NEGOTIATED POLICIES GOVERNING SABBATICAL LEAVE	136	97.2
Purpose for which leave is granted	95	67.9
Qualifications for leave	124	88.6
Procedures for selection of candidates	126	90.0
Benefits during leave	136	97.2
Conditions on return from leave	134	95.7

for such leave, procedures for the selection of leave recipients, benefits received during the leave, and conditions upon return from sabbatical leave. The categories listed in Table 3 (as well as those in succeeding tables) are not mutually exclusive since the 140 sabbatical leave provisions nearly always contained more than one feature.

Purposes

Sabbatical leaves generally are granted for a number of purposes. Of the 140 selected provisions, 95 (67.9 percent) stipulated that the leave could be used for professional study, 50 (35.7 percent) provided sabbatical leave for purposes of travel, and 39 (27.9 percent) mentioned research as a purpose for such leave. In 10 provisions (7.1 percent) writing served as a possible purpose for sabbatical leave, while 15 provisions (10.7 percent) allowed leave for professional improvement purposes, including participation in "worthwhile programs" deemed beneficial to the school or system. In addition, five provisions (3.6 percent) considered employment in another teaching position or in a related field of work as purpose for sabbatical leave. Rather than strictly defining the purposes for which leave could be granted, 12 agreements allowed leave for "other" purposes contingent upon approval of the designated person or body. Forty-five provisions simply referred to the leave as sabbatical without further definition.

Requirements

As indicated in Table 4, 121 agreements containing eligibility requirements for sabbatical leave specified that the teacher seeking leave must have served a certain number of years in the school system. Of these provisions, 83 stipulated that the service be continuous, and the remaining 38 provisions did not indicate the nature of service. A majority (118) of the 121 provisions required prior service of five to seven years. In an August 1969 arbitration case a contract clause stating that "teachers who have served seven years of full service . . . shall be eligible to apply for sabbatical leave" was interpreted to mean that a teacher could apply for leave during his seventh year of service, but would be ineligible to take the leave until completion of that year. The arbitrator accordingly directed the Putnam Valley (N.Y.) education board to consider the merits of a sabbatical leave application filed by a teacher during her seventh year of service.

Some provisions stipulated that the teacher seeking leave be tenured, while others required the teacher to have a life or permanent certificate. A few provisions specified that the teacher must have achieved a certain professional level (an M.A. degree or the equivalent in credit hours) before applying for sabbatical leave. Another selection criterion was the stipulation that the applicant be a 12-month employee. Only three of the 140 provisions analyzed set a maximum age limit for eligible sabbatical leave applicants.

When applicants' personal qualifications were found equal, they could be selected according to various combinations of factors such as seniority, whether they previously had taken a long-term leave, and the order in which they made application. In most cases, seniority was a deciding factor only when all other qualifications were equal; a few agreements stipulated that seniority was the dominant selection criterion. A second Putnam Valley, New York, arbitration case involved the local board's violation of a negotiated clause providing that if sabbatical leave applications exceeded 5 percent of the teacher unit, "seniority of service in this district and date of application" would determine leave recipients. When the board denied leave to a teacher whose application was received three weeks prior to that of a teacher with equal seniority, it contended that additional factors such as age and loyal service to the district also could be considered in evaluating the application. But the arbitrator held that since the parties "chose to confine the solution [to excessive applications] to the two criteria indicated and no others" and since the disputed 1969-70 clause was merely carried over from the previous agreement, acceptance of the board's interpretation of the clause "would be tantamount to reverting to 1967-68, ignoring thereby the obvious purpose for the introduction of the clause, i.e. to delineate the criteria to be applicable in place of the discretion of the Board."

Another commonly negotiated criterion to be used in determining the eligibility of sabbatical leave applicants was program of study. Of the 69 provisions including this requirement, 36 indicated that the proposed program would be reviewed before candidate selection, and 33 provisions stated that the program would be judged according to its potential value to the school system. The quality of the teacher's previous service was a factor in 19 provisions, although none named the criterion for evaluation. Another requirement appearing in some agreements was the stipulation that the applicant be accepted in a grant-

in-aid program. Table 4 indicates the incidence of specific eligibility requirements among the 140 pertinent provisions.

TABLE 4.—REQUIREMENTS GOVERNING ELIGIBILITY FOR SABBATICAL LEAVE, 140 SELECTED PROVISIONS, 1968-69

Eligibility requirements	Agreements containing designated content	
	Number	Percent
1	2	3
TOTAL NUMBER OF SABBATICAL LEAVE PROVISIONS	140	100.0%
Specific length of previous service in system necessary	121	86.4
Continuous service	83	59.3
5 years	3	2.1
6 years	12	8.6
7 years	65	46.4
Over 7 years	3	2.1
Continuous service not specified	38	27.1
5 years	3	2.1
7 years	35	25.0
Program of study	69	49.3
Seniority	29	20.7
Permanent or life certificate	21	15.0
Quality of previous service	19	13.6
Order in which application is made	11	7.9
Whether previous long-term leave taken	8	5.7
Tenure	5	3.6
M.A. degree or equivalent in credit hours	5	3.6
Maximum age limit	3	2.1
Other	3	2.1

Screening and Selection

Of the 140 selected agreements, 126 contained provisions outlining various procedures for the selection of sabbatical leave recipients. Eighty-six provisions specified the final date for filing a leave application; six of these provisions additionally allowed the closing date to be waived under unusual circumstances, such as late acceptance in a financial aid program. Although all but two of the 62 provisions indicating who ultimately selects leave recipients stated that this power rested with the school board, applicants usually were to be initially screened and approved by the superintendent or other administrators. Less frequently a joint teacher-administrator committee conducted the preliminary screening, and in a few agreements a teacher committee performed that function.

The maximum number of teachers allowed to take sabbatical leave in any one year was stipulated in 107 provisions as either a negotiated figure, or a percentage differing between and ranging from 1 percent of the teaching staff to 5 percent of the total professional staff. In addition, some provisions stated that sabbatical leaves were to be apportioned among various buildings, administrative areas, or professional categories. Although the grievance procedures in many agreements apply to sabbatical leave provisions, only two provisions directly referred to use of the grievance procedure: one prohibited it, and one permitted it. Table 5 lists the various screening and selection procedures.

TABLE 5.—PROCEDURES FOR SCREENING AND SELECTING SABBATICAL LEAVE RECIPIENTS, 140 SELECTED PROVISIONS, 1968-69

Screening and selection procedures	Agreements containing designated content	
	Number	Percent
1	2	3
TOTAL NUMBER OF SABBATICAL LEAVE PROVISIONS	140	100.0%
Application filed by given date or time	86	61.4

TABLE 5.—PROCEDURES FOR SCREENING AND SELECTING SABBATICAL LEAVE RECIPIENTS, 140 SELECTED PROVISIONS, 1968-69 (Continued)

Screening and selection procedures	Agreements containing designated content	
	Number	Percent
1	2	3
Recommendation or approval by school administration	54	38.6%
Superintendent	39	27.9
Principal or other supervisor	12	8.6
Administration committee	3	2.1
Recommendation or approval by joint teacher-board committee	28	20.0
Recommendation or approval by committee of peers	6	4.3
Limitation on number of recipients	107	76.4
Specific maximum number	45	32.1
Percent of professional staff	35	25.0
Percent of teaching staff	27	19.3
Apportionment of leaves among various categories, buildings, grade levels, or departments	18	12.9
Final decision	62	44.3
School board	60	42.9
Superintendent	2	1.4
Reference to grievance procedure	2	1.4

Benefits

Benefits negotiated for sabbatical leave recipients most frequently concerned salary. All but four of the selected provisions (those establishing committees and referring to board policies) allowed teachers a stated amount while on sabbatical leave: 10 provided only full pay, 34 provided full or partial pay, and 70 agreements provided only partial pay. While the rates of partial pay varied, 96 provisions (a majority of those providing only partial pay and those providing a combination of full or partial pay) stipulated payment at 50 percent of the teacher's regular salary. Others provided rates of pay at 33-1/3 percent, 55 percent, 60 percent, 66-2/3 percent, 70 percent, 75 percent, and 90 percent of salary. A few provisions did not define the rate of pay, and four gave either mathematical formulas or a flat rate. Of the 104 provisions analyzed, 51 stated that a teacher retains some fringe benefits during sabbatical leave; some made a general statement, while others listed specific benefits. Table 6 provides a breakdown of the payments provided and fringe benefits retained during sabbatical leave.

TABLE 6.—SALARY AND FRINGE BENEFITS PROVIDED DURING SABBATICAL LEAVE, 140 SELECTED PROVISIONS, 1968-69

Benefits	Agreements containing designated content	
	Number	Percent
1	2	3
TOTAL NUMBER OF SABBATICAL LEAVE PROVISIONS	140	100.0%
Full pay only	10	7.1
Full and part pay	34	24.3
50 percent	33	23.6
Undefined	1	0.7
Part pay only	92	65.7
24 percent and under	0	0.0
25-49 percent	2	1.4
50-74 percent	70	50.0
75 percent and over	8	5.7
Undefined	8	5.7
Other	4	2.9
Fringe benefits retained during sabbatical leave	51	36.4
General statement	19	13.6
Leave accrual	5	3.6
Retirement	23	16.4
Various insurance programs	17	12.1
Tuition reimbursement	3	2.1

Return

In a number of agreements, negotiated conditions relative to a teacher's return from sabbatical leave included a statement that the teacher must submit to school authorities a report or records and transcripts which describe, evaluate, or verify his leave. A majority (117) of the 140 selected provisions required the teacher to serve a certain number of years in the school system (usually one to three years) for each year of sabbatical leave taken, unless unusual circumstances prevented fulfillment of such an obligation. Most provisions mentioning job placement upon return from leave specified that the teacher would have his same position or be given a position comparable to his former one. Five provisions guaranteed the same job on return. Of the four provisions listed in the "other" job placement catetory in Table 7, one stated that the returning teacher was not guaranteed his same position, two provided that the position on return was to be one of benefit to the school and its pupils, and one provision offered the teacher the same or a better position. All but one of the 68 agreements mentioning salary on return from sabbatical leave stipulated that the leave period was to be considered as teaching experience. Table 7 indicates the nature and incidence of various conditions affecting teachers returning from sabbatical leave.

TABLE 7.–CONDITIONS ON RETURN FROM SABBATICAL LEAVE, 140 SELECTED PROVISIONS, 1968-69

Conditions	Agreements containing designated content	
	Number	Percent
1	2	3
TOTAL NUMBER OF SABBATICAL LEAVE PROVISIONS	140	100.0%
Teacher submits own report or evaluation of leave	30	21.4
Teacher submits records or transcripts	8	5.7
Required period of future service	117	83.6
Per year of leave		
1 year	27	19.3
2 years	69	49.3
3 years	12	8.6
Over 3 years	3	2.1
Undefined	6	4.3
Job placement	42	30.0
Same position	5	3.6
Same or comparable position	33	23.6
Other	4	2.9
Salary	68	48.6
Sabbatical leave considered teaching experience	67	47.9
Sabbatical leave not considered teaching experience	1	0.7

Four selected sabbatical leave provisions are reprinted below. These are sample provisions only; they are not intended to be regarded as exemplary.

Westport School District, Westport, Connecticut
Sabbatical Leave

I. Authorization

A. Sabbatical leave of absence shall be granted to members of the Westport public school professional and administrative staff subject to provisions of Sections II to VI below. The granting of such leave is subject to the approval of the Board of Education upon the recommendation of the Superintendent of Schools, when, in their considered judgment, the professional competence of the staff member and the general welfare of the public schools will be benefited.

B. Sabbatical leave shall be granted for a period of not less than one (1) full semester nor for more than two (2) full consecutive semesters.

II. Eligibility and Qualifications

A. An applicant must hold a life or permanent certificate.

B. An applicant must have seven (7) consecutive years of service as a full-time staff member in the Westport public school system.

C. Subsequent sabbatical leaves will be authorized only after eligibility has been re-established by an additional seven (7) years of service as a full-time staff member.

D. No more than two per cent (2%) of the professional employees will be granted sabbatical leave for any school year.

E. Insofar as possible, a proportionate division of leaves shall be granted to the various groups of the professional staff.

F. The applicant must file with the Secretary of the Board of Education a written agreement that he will remain in the service of the Westport Public School system, subject to Section VII below, for a period of one school year after the expiration of the leave. Conditions governing default of this agreement are given in Section VII below.

III. Purpose of Sabbatical Leave

A. Sabbatical leave is granted to professional personnel to permit them an opportunity for improving their ability to render educational service. Such improvement is usually achieved by formal study, research and/or writing, and travel. Applications for other types of experiences will be considered on their merits and may be approved by the Board of Education upon the recommendation of the Superintendent.

B. Application requirements and procedures:

1. Applications for sabbatical leave must be filed on the prescribed form prepared by the Assistant Superintendent.
2. Applications are to be filed with the Sabbatical Leave Committee through the Assistant Superintendent for Personnel.
3. Applications for leaves beginning in September must be filed by December 1 of the previous year. The Board of Education, however, reserves the right to grant exceptions.
4. The Superintendent shall give notice to the applicant whether the request is granted or rejected within sixty (60) days after the due date of filing the application.
5. The application shall contain:
   a. A statement of the purpose of the leave both with regard to the teacher and the Westport schools.
   b. An outline and discussion of the program.
   c. Evidence of professional sponsorship as indicated in Section C following.
   d. Written comments on the purpose of the leave by the administrator (principal, director, department chairman) with whom the matter appropriately rests.
   e. A statement regarding any compensation the teacher expects to earn or be awarded during the period of the leave and of the conditions to be fulfilled by the candidate in this condition.

C. Each applicant shall offer, whenever possible, evidence of professional sponsorship. In the case of formal study, such evidence would be a statement of acceptance by a university in a planned program.

For research programs a statement of the awarding of a grant, or a statement from a recognized authority that he has reviewed the proposal and will undertake to sponsor it, should be submitted.

Proposals for writing should present evidence of prior commitment by a publisher, or a commitment from a recognized authority to serve as an editorial consultant.

For travel where professional sponsorship is inappropriate, the applicant shall present a statement of the outcomes expected to be useful to the teacher and/or his colleagues in the school program.

D. Exceptions shall be granted at the discretion of the Superintendent and the Board of Education.

IV. Sabbatical Leave Committee

A. Applications and reports relative to sabbatical leave shall be handled by the Sabbatical Leave Committee. It shall be the duty of the Committee to make recommendations to the Superintendent on all applications for sabbatical leave.

B. The Sabbatical Leave Committee shall be constituted as follows:

1. There shall be six (6) members.

2. The Assistant Superintendent for Personnel shall be a member and act as chairman.
3. The President of the Westport Education Association shall be a member.
4. Two additional members shall be appointed by the Superintendent of schools.
5. Two additional members shall be appointed by the Executive Board of the Westport Education Association.

V. Requirements and Status While on Leave

A. Financial

1. Compensation shall be three-quarters of the salary which would be received if the staff member were performing his normal duties in the school system.
2. Grants and/or other subsidies obtained by the staff member during the period of leave shall not reduce the above compensation.
3. Payments including all benefits (Blue Cross, CMS, Major Medical, retirements, etc.) shall be made in the same manner and at the same time as the payments to other staff members.
4. The staff member shall keep the Business Office informed of his mailing address.
5. The leave shall also operate as a leave of absence without pay from all other school activities.

B. Reports

1. The staff member shall immediately request approval from the Sabbatical Leave Committee for any substantial changes in the original approved planned program, including the award of a grant or other compensation not contained in the original application. Full particulars about and reasons for the change must be supplied. A change will be approved only if it does not substantially alter the original purposes of the leave or change is required and is beyond the control of the staff member.

   The Committee's reaction to the change in plans shall be submitted to the Superintendent and the Board of Education so that they may take any necessary action. The candidate shall be notified of the decision of the Superintendent and the Board at the earliest possible moment.

   Reports shall be filed with the Sabbatical Leave Committee, through the Assistant Superintendent for Personnel, as follows:

   a. Sometime between June 15 and July 15, a report confirming the status of the leave as originally approved. Any changes should be reported at this time.
   b. In February, a progress report at the approximate mid-point of the program, containing sufficient information to confirm that the leave is proceeding according to the approved plan.
   c. In June, or at the completion of the program, a final report, containing sufficient information to demonstrate that the leave has fulfilled the approved plan and the general purpose for which the sabbatical leave is granted.

C. Termination

1. A sabbatical leave, once granted, may not be terminated before the date of expiration of the approved plan, except as otherwise provided herein.

   The leave may be terminated by mutual agreement of the staff member and the Board of Education.

   The leave may be terminated by the Board of Education if the staff member is discharged under the terms of the so-called tenure law. In this instance, the staff member shall be required as part of the agreement to make restitution of funds paid to him while on leave.

VI. Requirements and Status Upon Returning

A. At the expiration of a sabbatical leave, the staff member shall be restored to his position or to a position of like nature, seniority, status, and pay, provided that the staff member remains eligible for reinstatement.

B. A term of sabbatical leave shall entitle a staff member to an automatic salary schedule increment, or to any other salary increases which would normally have accrued to him at the beginning of the next full year of school following his return to service in the system.

C. If a staff member does not remain in the Westport School System for one (1) year immediately following his sabbatical leave, he shall, within one (1) year repay to the Board of Education an amount

of money which shall bear the same relation to the compensation paid as the unexpired position portion of service bears to one school year (figured as 10 months).

D. Each staff member returning from sabbatical leave shall file a final report with the Sabbatical Leave Committee not later than one (1) month after the day on which the staff member again takes up active service. The report shall include the names of the institutions attended, courses or activities pursued, credits received, experience gained, or the itinerary of travel, together with an appraisal of the professional value of the activities while on leave and the manner in which the knowledge and experience gained may be applied to the benefit of the school system. A staff member shall not be considered as having completed the requirements of the sabbatical leave until his final report has been approved by the Sabbatical Leave Committee. This final report shall be transmitted to the Board of Education.

Dracut School System, Dracut, Massachusetts

Section 17–*Sabbatical Leave Policy*

1. The Dracut School Committee, upon the recommendation of the Superintendent of Schools, may grant a Sabbatical Leave of Absence for approved study, research or travel to members of the Professional Staff who have completed at least six (6) consecutive years of experience in the Dracut Public Schools.

2. Prior to the granting of such a Sabbatical Leave of Absence, the member of the Professional Staff shall enter into a written agreement with the School Committee that upon the termination of such leave he will return to service in the Dracut Public Schools for a period equal to twice the length of such leave and that, in default of completing such service, he will refund to the town of Dracut an amount equal to such proportion of salary received by him while on leave as the amount of service not actually rendered as agreed bears to the whole amount of service which was agreed to be rendered. If his failure to serve in the Dracut Public Schools for a period equal to twice the length of his Sabbatical Leave following the official termination of such leave is due to his illness, disability, or death, or if he be discharged from his position by the Dracut School Committee, the member of the Professional Staff shall be released from the terms of the aforesaid agreement.

3. The purpose of the Sabbatical Leave Policy shall be:
   a. Recognition of professional excellence as a teacher or administrator.
   b. Encouragement of professional growth for teachers and administrators.
   c. Improvement of the Dracut Public Schools.

4. Applications for Sabbatical Leave shall be submitted to the Superintendent of Schools in writing, and in such form as may be required by the Superintendent, no later than November 1st of the school year previous to the school year for which the leave is being requested.

5. Not more than three Sabbatical leaves of absence shall be granted for any school year.

In case the number of applications shall exceed the number of Sabbatical Leaves of Absence that the School Committee plans to grant for a particular school year, the recommendation of the Superintendent shall be made in accordance with the following principles of selection considered as a collective entity:
   a. Length of Service, with preference in the selection process being given to those longest in the service of the Dracut Public Schools.
   b. The award of scholarships, fellowships or grants by a college or university.
   c. Participation in an approved program of Advanced Graduate Study leading to a higher degree, certificate, or level of academic concentration.
   d. Educational value of the proposed Sabbatical Leave of Absence to the Dracut Public Schools.
   e. Distribution of Sabbatical Leaves of Absence by Grade Level or Administrative Areas of Responsibility, with care being taken that the allocation of grants to any particular group shall not be comparatively excessive.

6. During the course of a Sabbatical Leave of Absence, summary monthly reports of progress should be made to the Superintendent of Schools.

Upon completion of a Sabbatical Leave of Absence, the member of the Professional Staff shall submit a comprehensive report to the Superintendent of Schools containing transcripts of all college or university work done while on leave, or any other pertinent data or interpretative material considered essential to an evaluation of his program.

7. The period of time associated with the Sabbatical Leave of Absence shall be considered an equivalent period of regular professional service in the Dracut Public Schools for purposes of salary determination, and the scheduled annual increments will be given on this basis.

8. Members of the Professional Staff on a Sabbatical Leave of Absence shall retain tenure status, and all other prescribed rights or benefits which would otherwise be theirs if they were actively teaching in the Dracut Public Schools during the period of leave.

9. Sabbatical Leaves of Absence may be combined with programs of study, research, writing, or travel which are financed by outside, non-commercial agencies or organizations such as colleges, universities or foundations.

10. A member of the Professional Staff who has been granted a Sabbatical Leave of Absence must serve for an additional six (6) consecutive years of service in the Dracut Public Schools before being eligible for consideration for a second Sabbatical Leave.

11. Sabbatical Leaves of Absence shall not be granted for less than one full semester nor more than one full school year.

12. A member of the Professional Staff on Sabbatical Leave of Absence shall be entitled to receive as compensation the amount of one-half (½) the salary which he would have earned in the service of the Dracut Public Schools if he had not been on a Leave of Absence.

For Teachers, "salary" will be interpreted to mean the total annual salary, excluding any supplemental payments for special assignments such as extra-curricular duties, that they would have been paid for the particular year during which they were on Sabbatical Leave.

For Administrators, "salary" will be interpreted to mean the total annual salary that they would have been paid for the particular year during which they were on Sabbatical Leave.

13. Members of the Professional Staff on Sabbatical Leave of Absence shall not engage in remunerative work while on leave except as hereinafter provided. Scholarships and fellowships in approved colleges and universities which do not interfere with the prescribed program of professional improvement are excepted. If other remunerative work is desired by the member of the Professional Staff while on a Sabbatical Leave of Absence, arrangements satisfactory to the Superintendent of Schools shall be made.

Nothing in this Sabbatical Leave Policy is to be interpreted as guaranteeing a Sabbatical Leave of Absence to any member, or group of members, of the Professional Staff, and the School Committee reserves the right to limit the number of such leaves to be granted in any given school year.

The Dracut School Committee shall effect a decision on all applications for Sabbatical Leave by the following designated date in any calendar year: no later than the Regular April meeting.

UFSD No. 10, Baldwin, New York

Article XI–*Sabbatical Leave*

Beginning in the 1969-1970 school year the following terms will become effective and replace the Board's existing policy:

A. Sabbatical leave will be granted for purposes of Board-approved programs of study. After every seven (7) years of full time continuous employment, a teacher shall be eligible for a sabbatical leave during one or both terms in the school year. During this leave, the teacher shall be considered to be in the employ of the District. Teachers who are on sabbatical leave for a single semester shall receive full salary for the duration of the leave; teachers who are on sabbatical for both semesters of a school year shall receive one half of their annual salary for the duration of the leave. Applications for sabbatical leave must be filed on or before March 1, 1969. Each application shall detail the program of study that is to be followed.

No more than 12 sabbatical leaves during any one school year will be approved by the Board. Of these 12 leaves, no more than six (6) shall be for a single semester at full pay. Should applications in either or both categories (i.e. full and/or half year) exceed the limitations set forth herein, preference will be given on the basis of length of continuous service in the District, and the number of years of service without a sabbatical leave or since the last such leave.

B. A teacher, upon return from sabbatical leave, shall be restored to his former position, if possible, or to a position of like nature and status, and shall be placed at the same position on the salary schedule as he would have been on had he taught in the District during such period.

C. Upon return from sabbatical leave, a teacher must serve in the District at least one school year.

Greece Central School District No. 1, Rochester, New York

Article XIII–*Sabbatical Leave*

In the interest of rewarding professional performance and encouraging independent research, achievement and professional growth, the Board shall adhere to the following policies in respect to granting sabbatical leaves to teachers who have served Greece Central School District #1 for five (5) or more cumulative years.

1. No more than three (3) per cent of the staff, with tenure, will be granted sabbatical leave at any one time.
2. A leave may be granted for a time not to exceed one (1) year. All leaves shall be at full pay. When a full year of leave is granted, full tuition shall be reimbursed by the District for courses undertaken at an accredited university or college and providing the tuition is not paid for by a source other than the teacher himself. Teachers on leave shall be at full pay or reimbursement at a rate which is offset by fellowship, grant or other remuneration.
3. All persons taking leave shall remain an employee of the school district and shall be entitled to all benefits.
4. A recommending committee of sabbatical leave applicants will be composed of three (3) teachers appointed by the executive committee of the GCTA and three (3) representatives chosen by the Superintendent.
5. In passing on applications for sabbatical leave, the committee will apply the following criteria: benefit to district; improvement of instruction.
6. Any teacher who desires to apply for sabbatical leave shall make such application on a form prescribed by the Superintendent and shall submit such application to the Superintendent by January 15 immediately prior to the beginning of the school year for which the leave is sought. Notification of sabbatical leave shall be made known to the applicant by March 15.
7. Unsuccessful applicants for sabbatical leave shall be informed in writing of their rejection, at the same time successful applicants are notified.
8. A teacher on sabbatical leave may not engage in remunerative activities without express permission of the school board.
9. A teacher who takes a sabbatical leave shall not voluntarily terminate his employment in Greece Central School District #1 for a three (3) year period following the expiration of such leave.

SELECTED RESEARCH, STUDY, AND TRAVEL LEAVE PROVISIONS FOUND IN COMPREHENSIVE AGREEMENTS

An analysis of the 978 comprehensive agreements reported in school systems with a pupil enrollment of 1,000 or more in 1968-69 indicates that 295 systems (30.2 percent) negotiated a long-term unpaid leave of absence for research, study, and travel. Similar in *purpose* to a sabbatical leave, this type of professional improvement leave often is granted to teachers who are unable to fulfill sabbatical leave requirements. Upon a written request and at the discretion of the school board, teachers with a minimum of two to three years' teaching experience or service in the system may be granted a research, study, and travel leave for one to two years. The minimum length of time allowed generally is one semester. As such a leave is considered a period of active duty, the teacher returns to his same position or a comparable one, and either remains on his same salary step or is raised to the next highest step on the salary schedule. Some provisions stipulate that, upon expiration of the leave, a teacher's accumulated sick leave shall be returned to him, while others pay health care and retirement benefits during the leave of absence. Generally, a research, study, and travel leave must directly benefit the school system and lead to an increase in teaching effectiveness.

Specific items contained in various negotiated provisions include:

- Application for leave must be made well in advance (30 to 60 days) of the actual leave date and/or by a specified annual date so that a suitable replacement can be obtained.
- Leaves generally will be granted only on a school-year basis, although the board may, at its discretion and in the interests of the school system, allow a leave to begin or end in mid-year.

- Many provisions stipulate that only tenured teachers are eligible for research, study, and travel leaves, but some also extend eligibility to probationary teachers.
- Reasons for which leave may be granted include a program of formal study at an accredited institution, educational research, either foreign or domestic travel, and in the event a teacher receives a fellowship, internship, or scholarship.
- A teacher requesting such leave must submit a written plan of study or travel to the specified administrator for approval.
- A joint committee will be responsible for recommending such leaves and working out the details of each leave.
- Only a specified maximum number of teachers (ranging from six to ten) will be granted leave in any given school year. Seniority and the quality of the program submitted are factors to be considered in selection.
- A requested leave may not be unreasonably denied, but if a denial is deemed unreasonable it may be grieved.
- In some provisions, a leave may be renewed for a specified period of time, or may be extended for one additional year.
- Failure to return to active service upon expiration of the leave shall be considered a resignation, barring mitigating circumstances.

Reprinted below are six negotiated research, study, and travel leave provisions. These are sample provisions only; they are not intended to be regarded as exemplary.

Cheshire Public Schools, Cheshire, Connecticut

Article XII, Section 12.1–*Leaves of Absence*

Educational leaves of absence: Teachers who have demonstrated superior capacity for five years under the provisions of the Cheshire Evaluation Plan may apply for an extended leave of absence without pay for purposes of increasing professional competence by making written application to the Superintendent. The Board, on recommendation of the Superintendent, may grant such leave for not less than one semester and not longer than one school year.

a. All applications for educational leave of absence must be submitted to the Superintendent not less than sixty (60) school days before the leave is to begin.

b. Applicants must satisfy the Board that the study and/or travel or work experiences for which leave is to be granted will benefit the school system and lead to an increase in teaching effectiveness.

c. A recipient of educational leave of absence will also:

1. Be guaranteed the right to return to the teaching position or equivalent that he/she has occupied during the school year prior to the year of leave, and,
2. On return from leave, be placed on the salary schedule step which he would occupy had he been teaching during the leave time.

Joliet Public Schools, Joliet, Illinois

Article V, Section V–*Leave Policies–Professional Improvement Leave*

All tenure teachers shall be eligible for a one year leave of absence, without pay, for professional improvement. The applicant for such leave shall show a program of formal study, research work, or travel, either foreign or domestic. This type of leave of absence may be granted to a maximum of six (6) teachers per school year. All requests for such leave must be submitted in writing prior to March 1.

A Professional Improvement Leave Committee will be formed to work out details of leave and to recommend such leaves. This Committee will consist of the Superintendent, a principal and three (3) Union representatives. The Superintendent will chair the Committee. Seniority within District 86 and quality and relevance of the program presented shall be considered in granting such leaves.

Dartmouth Public Schools, North Dartmouth, Massachusetts

Article XX, Section B–*Extended Leaves of Absence*

A leave of absence without pay of up to two (2) years will be granted to any tenured teacher enrolled full time in an accredited college or university for graduate study in the individual's field of instruction, if such study will directly benefit the school system. Upon return from such leave, a teacher

will be considered as if he were actively employed by the Committee during the leave and will be placed on the salary schedule at the level he would have achieved if he had not been absent. Such leaves will be granted on a school year basis unless the Committee feels it would be in the best interests of the school system to allow them to begin or end in mid-year.

Flint Community Schools, Flint, Michigan

Article XIV, Section 1–*Leaves of Absence–Study Leave*

A teacher may submit a plan for a year of fully scheduled academic study which substantially contributes to his competence in his teaching assignment. Such plan will be reviewed by the division head and if approved the leave shall be granted. One year experience credit will be granted upon presentation of evidence of successful completion of the plan as previously approved by the division head.

Only one such leave will be granted to a teacher unless he is requested to take additional study leave by the Board.

No more than ten study leaves for which experience increments are granted will be approved in any one academic year. Denial of study leave may be grieved on the grounds that such denial is unreasonable, provided that no denial shall be unreasonable if ten study leaves have been granted in that academic year.

Buffalo Public Schools, Buffalo, New York

Article X, Section A(1)–*Leaves of Absence for Study, Travel, and Special Services*

A. Leaves of Absence–Leaves of absence may be granted to permanent and probationary employees of the Board of Education as follows:

1. Leaves of Absence for Study, Travel, and Special Services–Leaves of absence with, or without, pay may be granted to probationary and permanent employees of the Board for study, travel or special services when approved in advance by the Superintendent of Schools under the following conditions:

a. Leaves for Study–Study for which leaves may be granted shall be limited to study in an accredited institution of higher learning or under a fellowship grant from a recognized foundation or a research organization engaged in educational research. Plans for such study shall be submitted to the Superintendent in writing in advance, and shall be so designed as to improve the individual's skill and competence in his area of service.

b. Leaves for Travel–Leaves for travel may be granted for the following reasons:
   1. Travel conducted by an accredited institution of higher learning for which course credit is granted by the institution.
   2. Travel planned cooperatively with the Superintendent of Schools, plans for which shall have been submitted in writing and approved in advance. Such plans shall constitute a predetermined program designed to improve the individual's competence.

c. Leaves for Special Service–Special service leaves may be granted for full time service when such service is directly related to the teacher's area of work. Such leaves shall be limited to special services performed for or with an institution of higher learning, a foundation or research organization, a state education department, the United States Office of Education, the Peace Corps, or similar institutions or organizations, plans for which shall have been submitted in writing and approved in advance. Such plans shall constitute a predetermined program designed to improve the individual's competence. Leaves may not be granted for the purpose of accepting a regular position in another school system, except for approved participation in an exchange teacher program.

d. Time during which the individual is on leave for study, travel or special service, as described in this Article, or on political leave as described below, shall be credited toward increment. Sick time allowance may not be used, nor does it accrue in connection with leave for study, travel or special service.

2. Application for Leaves–Formal application for leaves of absence specified in Paragraphs (a.), (b.) and (c.) of this subdivision are to be submitted to the Superintendent on prescribed forms at least thirty (30) days before the effective date of leave; provided that application for leaves effective

September 1 must be filed no later than the preceding July 1. Such application shall certify (i) purpose of the leave, (ii) plans for the use of the leave, (iii) date upon which the individual shall return to service, and (iv) agreement that failure to return to active service on the expiration of the leave granted shall be deemed by the Board of Education and the individual to constitute a resignation unless such failure is the result of illness or some other factor that precludes the good intentions of the teacher to return to service on the date of expiration.

Bristol Public Schools, Bristol, Rhode Island

Article X, Section 3–*Leaves of Absence–Extended Leaves*

A. Leaves of absence without pay may be granted upon application, by teachers on regular appointment for the following purposes:

1. Study related to teacher's certification field.
2. Study to meet eligibility requirements for a certification in the teaching field, other than that held by the teacher.

B. Upon return from any excused leave, a teacher will resume all retained credits that were held at the time that the excused leave was granted. Upon the teacher's return he will be assigned to the same position which he held at the time said leave commenced, if available, or if not, to a substantially equivalent position, if available, or if not, to be assured the first occurring vacancy in any position from which he is qualified and which he requests.

SELECTED SCHOOL VISITATION AND EDUCATIONAL CONFERENCE LEAVE PROVISIONS CONTAINED IN COMPREHENSIVE AGREEMENTS

Of the 978 school systems which filed a copy of their 1968-69 comprehensive agreement in the NEA Research Division depository, 428 (43.8 percent) negotiated a short-term paid professional improvement leave for the purpose of school visitations, educational conferences, or both. Such leaves generally are granted upon the individual teacher's request, with the prior approval of the supervising principal or the superintendent, and in the interest of providing an opportunity for professional improvement. Table 1 presents a state-by-state breakdown of the number of agreements containing such provisions.

TABLE 1.–COMPREHENSIVE AGREEMENTS CONTAINING SCHOOL VISITATION AND/OR EDUCATIONAL CONFERENCE LEAVE PROVISIONS, 1968-69

State	Number of agreements analyzed	School visitation only	Educational conference only	School visitation and/or educational conference	Agreements containing designated content	
					Number	Percent
1	2	3	4	5	6	7
Arizona	2	0	1	1	2	100.0%
Arkansas	1	0	1	0	1	100.0
Colorado	4	0	0	1	1	25.0
Connecticut	56	4	9	20	33	58.9
District of Columbia	1	0	0	1	1	100.0
Illinois	33	2	7	2	11	33.3
Indiana	8	0	2	2	4	50.0
Massachusetts	129	11	11	30	52	40.3
Michigan	312	26	42	101	169	54.2
New Jersey	6	0	0	1	1	16.6
New York	319	54	25	52	131	41.0
Ohio	12	3	0	2	5	41.6
Pennsylvania	5	0	1	0	1	20.0
Rhode Island	19	3	0	6	9	47.3
Utah	4	0	3	0	3	75.0
Wisconsin	53	3	1	0	4	7.5
15 states and the District of Columbia	964	106	103	219	428	44.4%
9 remaining states	14	0	0	0	0	0.0
Total	978	106	103	219	428	43.8%

School visitation leaves allow the teacher to observe new or different teaching techniques, and gain ideas for improving his own classroom instruction methods; these leaves usually are granted for one or two days and include visits within the teacher's school, within the system, or outside the system. Educational conference leave also generally allows the teacher one to two days of paid leave to attend or participate in professional and educational meetings, departmental and state education department conferences, or specialized panels and lectures. Many provisions stipulate that the visit or conference for which the teacher requests leave must be of personal value and/or related to the teacher's area of expertise, or must benefit the over-all effectiveness of the system's instructional program.

School visitation and educational conference leaves most often are specified as separate leaves. In some provisions leave is deducted from the teacher's sick leave accumulation or from other leaves, such as personal business leave or a professional leave allowance. Table 2 indicates the number of agreements specifying the length and nature of the leave allowance.

TABLE 2.—AGREEMENTS SPECIFYING THE LENGTH AND NATURE OF SCHOOL VISITATION AND/OR EDUCATIONAL CONFERENCE LEAVES, 1968-69

Length of leaves	Separate leave allowance	Leave allowance deducted from		Agreements containing designated content	
		Sick leave accrual	Other leave	Number	Percent
1	2	3	4	5	6
School visitation					
1 day	57	3	9	69	21.2%
2 days	37	...	9	46	14.2
3 or more days	12	...	...	12	3.7
Unspecified	163	3	32	198	60.9
Total	269	6	50	325	100.0%
Educational conference					
1 day	10	...	...	10	3.1%
2 days	12	...	...	12	3.7
3 or more days	11	1	1	13	4.0
Unspecified	156	1	130	287	89.1
Total	189	2	131	322	100.0%

Many provisions state that reasonable expenses incurred during attendance at an educational conference will be reimbursed by the local school board following approval of a request accompanied by a voucher. Some agreements allow reimbursement only if funds have been budgeted for that purpose, while others provide a flat daily rate to defray the costs of travel, lodging, meals, and registration fees. In a recent arbitration case the contractual right of the Griffith (N.Y.) Institute Faculty Association to participate in policy changes was found violated by the superintendent's unilateral determination that the local board would no longer reimburse teachers for expenses incurred while attending a state-wide departmental conference. Although the Association agreed that the superintendent was to make the final decision on policy changes, the arbitrator held that under a contract allowing teachers to "participate cooperatively" in discussions leading to policy changes, the superintendent could not unilaterally depart from past practice.

Specific items negotiated in selected school visitation and educational conference leave provisions include:

- Requests for leave must be filed with the principal or superintendent and approved well in advance of the actual leave day so that a teacher's absence will not interfere with the school's educational program.
- Leave will be granted subject to the availability of substitute teachers.
- If permission for a requested leave is denied, the teacher will be given written reasons for the denial. However, permission shall not be unreasonably withheld.
- Some provisions allow leave only for tenure personnel, while others grant additional leave days to probationary teachers.

- Leave will not be granted immediately preceding or following a vacation or holiday, or during the first and final weeks of the school year.
- Unused visitation days may accumulate to a specified maximum, or may be used for attending professional and educational conferences.
- Oral or written reports must be submitted after the visitation or conference day.

Examples of negotiated school visitation and educational conference leave provisions are reprinted below. These are sample provisions only; they are not intended to be regarded as exemplary.

Scottsdale Public Schools, Scottsdale, Arizona

Article XI, Section 4(D)–*Personnel Policies and Procedures, Leaves of Absence–Professional Day Leaves*

1. Two days leave with full pay will be granted to each member of the certificated staff for the following purposes:
   a. School and classroom visitations
   b. Participation in an educational panel or lecture
   c. Graduate Testing
   d. Other requests are considered on individual merit
2. Procedures and Limitations–The following shall be adhered to in the granting of Professional Day Leaves:
   a. All leaves will be limited to those which do not interfere with the educational program of the school and that the teacher, principal, and either Director of Elementary or Director of Secondary Education agree are of value to the staff member or to the school system.
   b. Leaves are to be planned so that a majority of teachers in a department or grade level in an individual school is not absent at the same time.
   c. The number of staff on leave on a given day is subject to the availability of qualified substitutes.
   d. Because of the uniqueness of the first week and final two weeks of the school year, only in extreme circumstances will Professional Day Leaves be granted during these times.
   e. All requests for Professional Day Leaves are submitted to the principal for approval at least two weeks prior to the date of the leave and three weeks for out-of-state requests.

Decatur School District No. 61, Decatur, Illinois

Article XI, Section I–*Leaves of Absence–Visiting Day*

A staff member may be allowed one (1) visiting day each year with full pay.

1. Visitation may be within or outside the Decatur School system at such place or places as present opportunity for growth in the staff member's field of work and must be mutually agreed by the staff member and the supervising administrator.
2. Visiting days may not be taken on the first or last day of school, on the first or second working day preceding or following a vacation or holiday or on days when final examinations are scheduled.
3. Unused visitation days may accumulate to a maximum of three (3) days.
4. The plan and report of the visitation should be a cooperative enterprise between the staff member and the supervising administrator.
5. On the approval of the supervising administrator, a staff member may use allowable visitation days for purposes of attending professional meetings.

Fort Wayne Community Schools, Fort Wayne, Indiana

Article XIV, Section B(6)–*Absence and Paid Leave Policy–Paid Leave, Paid Professional Leave Days*

An allocation of one (1) day for each five (5) teachers will be made to establish a bank of paid days to be assigned to each unit to be administered by the unit head. The total number of days allocated will not be less than the number of days obtained by dividing five (5) into the total number of full-time classroom teachers. The allocation for each unit will be rounded to the nearest whole number of days. After the total unit allocations are made, any unused remaining days will be administered by the Instruction Department under the Assistant Superintendent for Instruction to teachers who are not physically

located in one particular unit. A teacher wishing to attend a professional meeting, workshop, conference, or seminar may request permission through his unit head to the Assistant Superintendent for instruction. If permission is granted, a substitute will be provided to replace the teacher using paid professional leave day or days.

The individual unit head may request professional leave days for a teacher without using the established bank of days so long as a substitute is not required to fill the vacancy created by the teacher who is attending a professional meeting, and so long as the educational program is not negatively affected.

A ten (10) dollar per day allowance will be made to supplement expenses incurred in using paid professional leave days if travel is outside a fifty-mile radius of Fort Wayne.

Buchanan Public Schools, Buchanan, Michigan

Article VIII, Section B(1)(2)(3)–*Leave Pay–Absences Other Than Illness*

1. A maximum of three school days per school year in addition to ten days annual sick leave shall be allowed for interschool visiting, intraschool visiting, professional meetings and conventions, according to the individual's need or affiliation. It shall be understood, however, that any member of the faculty officially designated by the school administration to attend a meeting or convention sponsored by an educational or professional organization shall be allowed all reasonable expenses. The time thus used shall not be considered part of the regular three-day allowance, and no deduction from salary shall be made for such absence. Any teacher wishing to use the above three days or any part of same should make arrangements with the administration in plenty of time to arrange for a substitute, etc.
2. This three-day allowance shall not be cumulative in any way.
3. Any half-day absence due to legitimate causes cited in the above paragraphs shall be considered a portion of this three-day allowance.

Niskayuna Public Schools, Schenectady, New York

Article XI, Sections E and F–*Leaves–Educational Visitation; Educational Conferences and Out-of-District Travel*

(Section E) As an opportunity for professional improvement, a teacher may be allowed three full days each year for educational visitation with no loss in pay. This will be granted on advance approval of the principal. Educational visitation includes visits to classrooms within or outside the Niskayuna System.

(Section F) Attendance at conferences called by the State Department is always encouraged and is automatically granted over and above the three days of Educational Visitation.

The Superintendent of Schools is authorized to approve out-of-district travel of teachers on school business under the following conditions:

1. Application is submitted in advance on forms provided by the district.
2. The application is approved by the principal.
3. Funds budgeted for this purpose.
4. The cost in time, in substitute service, if any, and in reimbursement of expense is consistent with the probable benefit to the educational program of the schools.

Cincinnati Public Schools, Cincinnati, Ohio

Article VI, Section 2–*Teacher Absence–Visiting Days*

Teachers may, with permission of the superintendent, be absent for not to exceed two days in any one year without loss of pay, except in the case of a beginning teacher who may be absent for not to exceed three days without loss of pay, for the purposes of studying the work of some other school or in some other place or institution in Cincinnati or elsewhere. The work to be observed shall be closely related to the regular duties of the teachers and there shall be good reason for believing that the visits will be of value to the schools.

No visiting day shall be allowed during the three school days immediately preceding or following a vacation or holiday, except under specific assignment by the superintendent, nor in any case or at any time when the work of the schools will be unduly interrupted or hampered thereby.

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Case Reviews

MASSACHUSETTS

DISMISSAL OF PROBATIONARY TEACHERS WITHOUT SPECIFIC CHARGES AND A HEARING UPHELD

Taking issue with recent decisions dealing with the dismissal of nontenure teachers, the Massachusetts Supreme Court upheld the Boston School Committee's dismissal of six nontenure teachers without prior notice of specific charges and without an opportunity for a hearing on the merits of the decision to dismiss. While plaintiffs produced two cases ruling that a probationary teacher constitutionally is entitled to a hearing upon dismissal, the court found no denial of due process or equal protection of the laws in the instant dismissals and held that "most of the cases in which the question has been considered have concluded that in the absence of a statute to the contrary, a probationary teacher may be dismissed without a hearing."

The six probationary teachers had been assigned to a predominately black elementary school which became the object of a community control controversy at the beginning of the 1968-69 school year. On September 5, 1968 (the second day of school), police prevented demonstrators from entering the school building; the demonstrators led pupils to a neighboring community school. The six probationary teachers joined the pupils and taught classes at the "liberation school" for the entire day "without informing, consulting with, or obtaining the consent of their superiors at the school."

As a result, the six teachers were refused admittance to the elementary school on September 6 and were informed by the superintendent of a seven-day suspension for their "unauthorized absence" of the previous day. Later that day, plaintiffs were told that a hearing "on your suspension" would be held September 11. No additional notice was given the teachers, nor were any specific charges levied against them.

At the September 11 hearing, plaintiffs sought a continuance and requested a public hearing. The Boston School Committee, however, voted to terminate their employment 30 days after delivery of notice and additionally suspended the six for the 30-day period for "conduct unbecoming teachers." While a closed hearing *was* granted by the committee on September 25, plaintiffs filed suit rather than attend.

According to the court, the teachers argued that "a governmental agency may not constitutionally discharge *any* employee, regardless of his probationary status, without first providing him an opportunity to be heard." In addition, plaintiffs contended that the Massachusetts state tenure law which grants "the right to hearing on discharge or suspension only to teachers on tenure, [denies] probationary or nontenure teachers the equal protection of the laws."

In examining recent precedents holding that a probationary teacher constitutionally is entitled to a hearing on a dismissal decision, the court found itself "unsure of the precise constitutional basis" used in *Lucia v. Duggan* in which a U.S. district court ruled improper the dismissal of a nontenure teacher for refusal to shave his beard. The court pointed out that in *Lucia* the federal district court had refused to declare the Massachusetts tenure law "unconstitutional as denying nontenure teachers equal protection" because "there are valid reasons for treating the probationary teacher differently from the permanent teacher." But the court found *Lucia* irrelevant to the instant proceeding because the hearing given plaintiff in *Lucia* was found lacking in due process by virtue of its dual rule-making and adjudicatory nature. While the federal district court in *Lucia* would not rule that plaintiff had a constitutional right to wear a beard, it did hold that plaintiff's appearance was "at least an interest . . . which may not be taken from him without due process of law."

The court also examined *Roth v. Board of Regents of State Colleges* (NRD, 9-70, 6) in which the U.S. District Court for the Western District of Wisconsin held that a decision not to retain a teacher "may not rest on a basis wholly unsupported in fact, or on a basis wholly without reason." While the federal district court recognized that there may be "a very wide spectrum of reasons [for nonretention], some subtle and difficult to articulate and to demonstrate," it held that such reasons should be articulated and respected. The court in the instant case, however, concluded that

> such reasons are not amenable to proof at a hearing or to review by the judiciary. We therefore choose to follow the greater weight of authority [i.e., that absent a statute to the contrary, a probationary teacher may be dismissed without a hearing.] We note, however, that in the instant case the

judge found, on sufficient evidence, that the school committee terminated the contracts of the six plaintiffs because of their leaving the [elementary school] on September 5, 1968, and that the plaintiffs "were not in any way penalized by the committee" on account of their views on community control of or participation in the direction of the school system.

(*Anne Decanio, et al. v. School Committee of Boston*, Massachusetts Supreme Court, July 3, 1970.)

- Two other cases reported in recent issues of the DIGEST also have dealt with the dismissal of probationary teachers. In *Michael A. Domenicone v. School Committee of the Town of Smithfield* (NRD, 10-70, 14), the Rhode Island Education Commissioner repudiated the concept that "a school committee may act in an arbitrary, capricious, or unreasonable manner with impunity in the termination of a teacher's contract" and sustained the appeal of a nontenure teacher who was discharged without a statement of charges or a hearing. The commissioner found that "simple justice as provided not only by the laws of this State but by the Constitution of the United States demands that [the teacher] know the cause for dismissal or nonrenewal of contract and have an opportunity to be heard on it." Then in *Elvin Albaum v. Thomas F. Carey, et al.* (NRD, 6-70, 7) the U.S. District Court for the Eastern District of New York found that "substantial federal questions" were raised by a probationary teacher who, having been denied tenure, argued that the New York tenure statute deprived him of his First Amendment rights of free speech and free assembly. Specifically, the court questioned the "chilling effect" exerted upon teachers' academic freedom by court decisions allowing education boards "full and untrammeled discretion in granting tenure" and discussed the "intangibles" and difficulties involved in tenure decisions. Doubting whether "a single federal judge should undertake to construe a state statute so as to avoid a major constitutional issue," the court ordered that a three-judge federal court be convened to hear the matter.

NEW YORK

TENURE MATTERS EXCLUSIVE TO STATE EDUCATION LAW AND OUTSIDE PERB JURISDICTION

A decision of the New York Supreme Court, Appellate Division, found that the New York Public Employment Relations Board (PERB) exceeded its jurisdiction by adopting regulations for hearing and determining a reprisal charge, and ordering a school board to reinstate a discharged nontenure teacher. Ruling that the teacher's remedies lay under the state's Education Law rather than the public employee bargaining statute (the Taylor Law), the appellate court held that

in our opinion the Taylor Act as enacted in 1967 was not so designed as to imply that PERB would have the responsibility and duty of regulating and securing all of the rights of public employees either expressly or inherently granted therein. The fractionalizing of remedies available to teachers does not appear necessary in view of the remedies available under the Education Law . . . to protect such rights as teachers may be granted under the Taylor Act . . . . It is difficult to perceive that [the 1969 unfair labor practice] amendment to the Taylor Act . . . which was subsequent to the institution of the present proceedings, was intended by the Legislature to take from an administrative agency (such as the Education Department) the right to settle disputes within its own framework, as has been the practice for many years, and grant PERB the power to assume such authority. It would result in opening the door to invasions by PERB of all administrative agencies which, by statute and regulations, have established practice and procedures relied upon by both the agency and its employees. The Taylor Act notably does not purport to mandate literal enforcement of orders made by PERB.

The case at bar was initiated on April 26, 1968, when a probationary teacher employed by Ockawamick Central School District filed a reprisal charge with the PERB alleging that the local education board unlawfully had denied her tenure "because of her organizational activities and for no lawful reasons." A complaint against the board subsequently was entered by the PERB on July 25, 1968, alleging that the teacher's appointment "was terminated and she was not granted tenure because of her activities on behalf of the Ockawamick Faculty Association."

Employed on a probationary status since 1965, the teacher was commended for her work following each of her first two years in the Ockawamick district; during her third year she was recommended for tenure by her supervisors and the district superintendent. Then at a March 11, 1968, meeting, the local board denied her tenure and terminated her employment effective September 1, 1968. Two board members later said that was the first time in their experience where tenure was denied in the face of favorable recommendations by professional administrators.

The teacher also served as local Association president and actively had engaged in contract negotiation with the district. In the summer of 1967 while discussing the mechanics of Association recognition with the local board president, the teacher was told that the coming year when her tenure would be considered was "a most important year." Then in January 1968 after the teacher had discussed negotiation under the Taylor Law with another faculty group, she was told by her supervisor that she was getting "quite a reputation as a rabblerouser." Two months later a letter signed by the teacher was sent to the local board complaining that the board's negotiator (and president) did not have the power to

reach an agreement; the board negotiator expressed his displeasure with the letter at a March 7 negotiating session. Four days later the teacher was denied tenure, although she was not notified of the action until April 9.

On the basis of evidence presented during the August hearing, a PERB hearing officer found that "as the record now stands . . . it reveals a classic case of reprisal . . . . In the opinion of the hearing officer the motivation underlying refusal of the board to grant tenure was to punish the complainant for her association activities." Finding the local board's defense of its action to be "skimpy, vague and unconvincing," the hearing officer recommended on October 18, 1968, that the PERB direct the Ockawamick board to employ the teacher effective September 1, 1968.

During the hearing, however, the local board moved to dismiss the teacher's complaint and declined to participate in the hearing on grounds that the PERB lacked jurisdiction to proceed in the matter. Specifically, the board asserted that the Taylor Law confers no power upon the PERB to determine reprisal charges involving a public employer, that the teacher was dismissed under provisions of the Education Law, that such a dismissal is not subject to review by the PERB, and that the teacher's sole remedy was under the Education Law. The hearing officer denied all motions to dismiss.

In subsequent proceedings the PERB determined that it had jurisdiction to hear and determine the teacher's claim, explaining:

> Admittedly, the [Taylor] Act does not *in haec verba* grant power to this Board to hear and determine claims of reprisal against public employees. However, §205.5(k) provides that this Board shall have the power "To make . . . such rules and regulations . . . and to exercise such other powers as may be appropriate to effectuate the purposes and provisions of this article."
>
> The purpose of this Act is in part "to promote harmonious and cooperative relationships between government and its employees". . . . Thus, the Legislature, in §202 of the Act, granted to public employees the right to form, join and participate in any employee organization of their own choosing.
>
> If this grant of rights is to be meaningful and to effectuate the purpose of the Act, then these rights must be exercised in an atmosphere of free choice and not in an area of intimidation or fear of reprisal . . . . Clearly . . . the power to deal with acts of reprisal against public employees for exercising their rights is necessary to effectuate the purposes of this Act. . . . This Board does not dispute that [the Ockawamick board] has broad discretion in granting or denying tenure. However, in this proceeding the Board is simply determining whether the employee was penalized for exercising the rights granted to her by the Legislature. The agency mandated to effectuate this Act is this Board, and not the public employer, be it a board of education or otherwise.

Having asserted jurisdiction, the PERB found the hearing officer's conclusion to be "well supported by the record" and agreed that the teacher "was denied tenure because of her activities on behalf of an employee organization." The PERB accordingly ordered the Ockawamick board on December 11, 1968, to restore the teacher to her former employment as of September 1, 1968, and compensate her for wages lost as a result of the board's action.

Several months later the PERB brought an action in the Supreme Court for Columbia County, seeking a judgment enforcing its December order. The Ockawamick board asked that the PERB's petition be dismissed and its findings and order set aside on grounds that the PERB had no jurisdiction to hear and decide the alleged reprisal, that the teacher followed a procedure contrary to the Education Law, and that the hearing officer's recommendation and the PERB's order were not supported by the evidence. In ruling upon the jurisdictional question, the court noted that the teacher was on probationary status at the time she was dismissed and

> her right to an appointment on tenure was subject to the provisions of §3013 of the Education Law. This section provides that before a teacher shall be granted an appointment on tenure, the teacher shall serve a probationary period of not to exceed five years and that the services of a probationary teacher "may be discontinued at any time during such probationary period." It is well settled law that a teacher has no vested rights to tenure during the probationary period and that the services of a probationary teacher may be discontinued without a hearing and without giving the reasons therefor.

The PERB, however, contended that an education board's right to deny tenure to a probationary teacher "must now bow to the provisions of the Taylor Law to the extent that such a denial of tenure must not be in violation of a teacher's right to organize, join and participate in employee organizations." But the court found no provisions in the Taylor Law (*as originally enacted* in 1967) relating to acts of reprisal or other unfair labor practices by public employers and no express authorization for the PERB to prevent unfair labor practices. The PERB argued that such authority was implicit in the statute and was necessary to effectuate the statute's purpose and protect public employees' organization rights under the statute, but the court concluded:

> This argument is not persuasive in respect to the case at hand, wherein the effect of the hearing was to require the board of education to state its reasons for denying tenure to a teacher, and the result of the determination and order would be to compel the board of education to reinstate a teacher who had previously been denied tenure. . . . The court finds no language in the statute which indicates an intention on the part of the Legislature to give PERB the power to exercise any control over the tenure provisions of the Education Law. . . . Accordingly, the court concludes that PERB did not have authority under [the Taylor Law] . . . to hear and determine the complaint of [the teacher] and to issue an order directing the board of education to reinstate her.
>
> The petition is dismissed, and the findings and order of PERB are hereby set aside.

In affirming the lower court's judgment on appeal, the appellate division of the state supreme court concluded that while amendments to the Taylor Law ostensibly prohibit unfair employer practices and specifically empower the PERB to "establish procedures for the prevention of improper employer and employee organization practices," the Education Law expressly provides procedures whereby probationary teachers may seek review of their dismissal by appeal to the Commissioner of Education and/or article 78 of the CPLR to the courts. In the absence of a clear grant of power to PERB to *enforce* statutory rights of teachers the statutory rule of construction [that where one thing is expressed another is excluded] . . . requires that the statutory remedies provided in the Education Law are exclusive. (*In the Matter of Robert D. Helsby, et al. v. Board of Education, Central School District No. 2 of the Town of Claverack, and Other Towns*, New York Supreme Court, Appellate Division.)

NORTH DAKOTA

TEACHERS JUDGED GUILTY OF CRIMINAL CONTEMPT FOR DELIBERATELY STRIKING AND PICKETING IN VIOLATION OF PERMANENT INJUNCTION

A trial court's summary criminal contempt conviction of three teachers who violated a permanent injunction by conducting an illegal strike, remaining absent from their positions, and picketing their school was upheld by the North Dakota Supreme Court in finding no infringement of defendants' rights of free speech and peaceable assembly. Despite defendants' arguments to the contrary, the high court ruled that persons charged with petty criminal contempts may be punished summarily and have no constitutional right to a jury trial. Moreover, the court held that the nonviolent nature of defendants' picketing was immaterial, explaining:

The evidence established, beyond any reasonable doubt, that the defendants violated [the injunctive] order by conducting picketing and striking against their school district and by remaining unlawfully absent from their posts as teachers. The fact that this was done peaceably and without violence is immaterial. The deliberate conduct of the defendants was in willful violation of the order of the court, and it therefore was contemptuous. Picketing, even though it is peaceful and without violence and disorder, and even though it does not actually obstruct a governmental function, if used for the purpose of fostering and supporting an illegal strike against a governmental employer, is unlawful and may be enjoined.

On April 2, 1969, more than 100 teachers employed by Minot Public School District No. 1 went on strike, thereby forcing the schools to close. The district filed a civil suit seeking to enjoin the strike; a temporary restraining order was issued by the district court on April 7. At an April 9 hearing, defendants were found to have engaged in an illegal strike and conducted unlawful picketing in intentional violation of the court's temporary restraining order, which was made permanent on that date.

Defendants in the instant appeal before the state supreme court were found to have violated and disobeyed the district court's permanent restraining order by remaining absent from their positions and picketing, either with or without signs, various school buildings. At an August 18 contempt hearing, the district court found the three teachers guilty of criminal contempt, sentenced each to 30 days in jail, and levied fines of $250 plus $15 costs (the maximum sentence provided under Section 27-10-02, North Dakota Century Code). The jail sentences subsequently were suspended on condition of good behavior and with the proviso that defendants refrain from further unlawful picketing.

On appeal, defendants asserted that Section 27-10-13, North Dakota Century Code, is illegal because it allows the court to decide whether the accused has committed the offense charged and thereby denies the defendant his constitutional right to a jury trial. In examining case law, the state supreme court found that criminal contempt is a crime "in the ordinary sense" and is punishable by fine, imprisonment, or both, that the state "has held that one charged with contempt is not entitled to a jury trial as a matter of right," and that in criminal contempt cases "a judge sits as both judge and jury, and his decision has the effect of a jury verdict."

The court also cited *Bloom v. Illinois* in which the Supreme Court of the United States held that serious criminal contempts should be subject to constitutional provisions for trial by jury, while petty contempts may be tried without a jury. Applying *Bloom* to the instant proceeding, the court explained that in *Bloom* the Supreme Court

went on to say that when the Legislature has not expressed a judgment as to the seriousness of an offense by fixing a maximum penalty, the best evidence of the seriousness of the offense is the penalty which actually is imposed upon the defendant in the action.

Our statute provides a specific penalty for criminal contempt, under which . . . any person guilty of an act punishable as for criminal contempt may be punished by a fine of not more than $250 and by imprisonment in the county jail for not more than thirty days. Although the United States Supreme Court, in *Bloom*, did not define petty or serious offenses, that Court, in the case of *Cheff v. Schnackenberg* . . . held that a defendant charged with criminal contempt, where the penalty was six months' imprisonment, was not entitled to a jury trial. . . . Where the Legislature, in the statute under which the defendants in these cases were charged, has fixed the maximum penalty for the offense of criminal contempt at thirty days in jail and a $250 fine, we find such criminal contempt to be petty criminal contempt. Therefore, the defendants were not entitled to a jury trial as a matter of right.

Defendants additionally asserted that the district court's permanent restraining order was void because

it restricted their fundamental constitutional rights of freedom of speech and assembly. The state supreme court, however, found no merit in the contention, emphasizing that "the overwhelming weight of authority in this country holds that the State may deny its employees the right to strike, and it constitutionally may enjoin peaceful picketing. Such denial is not an infringement of the constitutional rights of such employees." The court also reprimanded defendants for their deliberate violation of the permanent injunction, pointing out that "orderly judicial procedure would require anyone who disagrees with an order of the court, and who believes such order to be invalid, to test the validity thereof in court. He should not deliberately violate such order merely because he, personally, does not agree with it."

Finally, defendants argued that the district court erred in finding them guilty of criminal contempt for picketing, because such activity did not impede or obstruct a governmental function and was not violent or disorderly. The state supreme court, however, determined that the picketing, "even though it was peaceful, was for an unlawful purpose [an illegal strike] and may be enjoined." The court thus affirmed the district court's final order and warrant of commitment entered against each defendant. (*State of North Dakota v. Mary Heath, et al.*, North Dakota Supreme Court, June 2, 1970.)

OTHER ITEMS OF INTEREST

SCHOOL DISTRICT'S EXCESSIVELY STRICT DISSEMINATION POLICY RULED UNCONSTITUTIONAL AND VOID

The U.S. District Court for the Eastern District of New York ruled unconstitutional a school district's administrative rule prohibiting the use of school mailboxes and all other school facilities for the dissemination of any materials other than strictly defined "routine internal distributions" of the exclusive bargaining representative. Finding the district's rule overly prohibitive, the court declared it void on its face and held that local teachers "were put in a position of having to pay (literally and figuratively) for their First Amendment rights. This is a price that the state is constitutionally prohibited from extracting."

The suit before the court was brought by the president of the Bay Shore (N.Y.) Classroom Teachers Association (BSCTA) in an attempt to prevent UFSD No. 1 officials from acting against teachers for distributing a BSCTA publication and other literature on school property. At issue was Section 11F-21 of the district's administrative manual which prohibited the use of "faculty mailboxes, as well as all other school building facilities" for disseminating all literature except the "routine internal distribution of any exclusive negotiating agent." "Routine internal distributions" were further defined by the manual as "notices of meetings, elections, results of elections and social events. The distribution of newsletters, position papers, materials of other organizations, or any other communications which do not concern themselves with the routine operation of an exclusive negotiating agent shall be prohibited."

While the dissemination rule had been discussed during negotiation and incorporated by reference into the settlement reached, the court held that it "was never agreed to in any collective bargaining sense—it was already a part of the '[Administrative] Manual' when the parties sat down to negotiate." The court accordingly dismissed the district's contention that since the BSCTA had acquiesced in the rule during negotiation, it had no remedy other than through negotiation or arbitration.

As to the district's argument that no constitutional issue was raised by the rule and that the district had authority under the New York Education Law "to establish rules and regulations concerning the order and discipline of the schools," the court cited *Tinker v. Des Moines Independent Community School District* in which the Supreme Court of the United States held that the exercise of "comprehensive authority" by school officials must be consistent with "fundamental constitutional rights." That is, the high court ruled in *Tinker* that "where there is no finding and no showing that engaging in the forbidden conduct would 'materially and substantially interfere with the requirement of appropriate discipline in the operation of the school', the prohibition cannot be sustained." The U.S. District Court additionally held that the mere "vesting of title to school property in the Board . . . cannot *ipso facto* support its promulgation of 11F-21."

While the district argued that the distribution of BSCTA material during negotiation is disruptive, the court found no "specific allegation that such disruption ever took place" and determined that the district's rationale "does not comport with the requirements of *Tinker*." For the high court made it clear in that case that "the mere fear of disturbance will not suffice; that a regulation must be based on '. . . facts which might reasonably have led school authorities to forecast substantial disruption or material interference with school authorities.' " The federal district court accordingly concluded in the instant case that "the fact that 'tension and turmoil' surround the collective bargaining process, although undoubtedly true, is not the kind of interference that would save this wide prohibition."

Noting that in *Tinker* "a particular expression was involved" whereas in the present matter "a whole range of possible speech is forbidden by 11F-21 without the slightest justification," the court rejected the district's contention that the dissemination rule prevented it from becoming a censor of material distributed on school property. The court pointed out

that the district "can accomplish the same objective by permitting all distribution, to the extent that such distribution does not materially and substantially interfere with the school's operation," and parenthetically noted that "the present board policy permits any mailed item to be distributed through the faculty mailboxes." Finding the "entire Board rationale . . . undermined" by that interpretation of the disputed rule, the court held:

> It can hardly be argued that the fear of litter and/or disturbance is any less by the requirement that literature come into the school enclosed in an envelope or wrapper bearing a postage stamp. As to such mail the Board is not burdened with a censorship function since all such mail is placed directly in the appropriate faculty mailbox. The court has refrained from going off on this ground for the very reason that, even if the Board were to revise its present policy by not permitting mailed items to be placed in the faculty mailboxes, 11F-21 would still fall as an unwarranted prohibition of free speech rights which the Board may not deny to its teachers.

The federal district court ruled the dissemination rule void on its face as an "overbroad prohibition of . . . First Amendment rights," enjoined enforcement of the rule, and awarded the BSCTA costs and disbursements. (*Michael Friedman v. Union Free School District No. 1*, U.S. District Court for the Eastern District of New York, June 15, 1970.)

Board Findings and Rulings

MICHIGAN

ISSUANCE OF INDIVIDUAL PROBATIONARY CONTRACTS DURING NEGOTIATION NEITHER ILLEGAL NOR COERCIVE

A Michigan Employment Relations Commission (MERC) trial examiner found that the Kearsley Community School District did not commit a violative act by requiring probationary teachers to sign individual employment contracts for the ensuing year while negotiation of collective economic matters was pending with the Kearsley Education Association (KEA). Noting that the "legality and usefulness of [individual] contracts is generally conceded as long as they do not circumvent a collective bargaining agreement," the examiner cited the *Bullock Creek* decision (NRD, 10-69, 7) as controlling of the instant case since it was held there that "the issuance of individual employment contracts is not a refusal to bargain or interference with employee rights." The MERC subsequently agreed that *Bullock Creek* disposed of the present matter and ordered the charges dismissed.

A 1968-70 contract between the KEA and the local board contained no salary schedules for the 1969-70 school year, so the parties reopened the contract in 1969 for negotiation of 1969-70 economic matters. In June 1969, however, the board asked the system's approximately 35 probationary teachers to sign contracts for the coming year; the letter of notification added that "if you do not come to the [administrative] office [to sign a contract], we will assume that you are not planning on coming back to Kearsley School next year." The parties' then current agreement contained a sample "special probationary contract" which left blank the salary to be paid and indicated that any individual contract "shall be expressly made subject to and consistent with the terms of this or subsequent agreements."

Following the district's action, the KEA charged that requiring probationary teachers to sign individual contracts during salary schedule negotiation interfered with and undermined the bargaining process. Moreover, the KEA alleged that the district's assumption that a teacher would not be returning for the coming year if he failed to sign was coercive and constituted a veiled threat. On the other hand, the district claimed that the individual contracts met the specifications of the collective agreement, that its action did not violate the state's Public Employment Relations Act (PERA), and that the Association's charges were arbitrary and capricious attempts to undermine negotiation.

Noting that the Association did not support its argument that individual employment contracts interfere with or undermine the bargaining process, the trial examiner discussed the parties' employment relationship, pertinent provisions of the state's school code, and the unique nature of probationary teaching contracts:

> The fact that an employment contract is enforceable by both parties is an inherent right and obligation under any bilateral contract and in no way impinges upon the collective bargaining relationship, since even where strikes, lockouts, or withholding of services are permitted the law presumes, even without an employment contract, the continuance of the employment relationship and the bargaining status of the union. Thus, the existence of an employment relationship is separate and distinct from the rights and benefits that may accrue by means of collective bargaining after that relationship is established.
>
> The Michigan Legislature has seen fit to provide in . . . the School Code that even non-tenure teaching personnel may have the benefit and protection of both a private employment contract and a collective bargaining agreement. Further, as fully discussed in *Bullock Creek*, the Legislature specifically provided in . . . the School Code . . . enacted after PERA that there could not be any conflict between the private employment contract and the collective bargaining agreement, and this new section gives due supremacy to the collective agreement if any inconsistency develops in the provisions of the two contracts.
>
> The [KEA] in its brief notes that the employment of school teachers, especially non-tenure teachers, is somewhat unique in that they do not usually contract for a full calendar year and do not enjoy continuous employment as do most employees. It is obvious that the Legislature recognized this unique characteristic of teacher employment when it enacted the aforesaid Sections . . . of the School Code. These sections . . . are recognition of the fact that the intent of a non-tenure teacher to return the following school year is not presumed in view of the regular three-month hiatus between duties. These sections enable a school [illegible] to ascertain what teachers it will have available i[illegible] [illegible]aber and to give it an opportunity to recruit replacem[illegible] [illegible]ere needed. Thus, [I do] not see any basis for holding t[illegible] the existence of private employment contracts interferes with and undermines the collective bargaining process.

As to the KEA's allegations of coercion, the trial examiner found that a similar charge was advanced

in *Bullock Creek* and had been rejected by the MERC. There the district had told the Association bargaining committee that teachers who failed to return signed contracts by a given date would be considered "insubordinate" and subject to discharge; in the instant case the MERC examiner held that the Kearsley district did not go so far in its assumption that teachers who failed to come to the office did not plan to return the coming school year. Rather, the district's statement was "a logical assumption which follows from the very right to ask for an individual contract in the first place." The examiner thus concluded that the district's action in reaching that assumption could not "in any way violate any right protected by PERA" and that even if the action was coercive, it was not related to the KEA or to teachers' protected activities under the PERA:

> The individual employment contracts requested or demanded by [the district] in no way impinged upon the right of the [KEA] to bargain collectively in regard to wages, hours and working conditions, nor has any viable argument been advanced as to how much individual employment contracts frustrate in any way the collective bargaining process. In the instant case the contract was in a form prescribed by the collective bargaining agreement between the parties, and the blank space for the designation of the salary was expressly left to the negotiation of the collective bargaining agreement. It might just as easily be argued herein that the [district] would have been derelict in its contractual (and statutory) obligations if it had failed to secure such individual employment contracts.

The examiner accordingly recommended that the KEA's charges be dismissed; this recommendation later was adopted by the MERC in its agreement that the *Bullock Creek* decision was controlling of the instant matter. (*Kearsley Community School District and Kearsley Education Association*, Michigan Employment Relations Commission, June 5, 1970.)

- Three other cases reported in recent issues of the DIGEST also have dealt with the relationship between individual employment contracts and collective agreements during negotiation. In *Elmbrook Education Association v. Elmbrook Schools, Joint Common School District No. 21* (NRD, 6-70, 12), a Wisconsin Employment Relations Commission trial examiner held that the district unlawfully required local teachers to sign individual contracts containing negotiable salary items when the contracts did not specify that such items would be superseded by any subsequent collective agreement negotiated by the Association. According to the examiner, such activity on the part of the district "impedes and has a debilitating effect on the right of teachers to organize and be represented in *collective* negotiations."

Then in a case involving the Gibraltar (Mich.) School District (NRD, 10-70, 9), the Michigan Employment Relations Commission (MERC) determined that during negotiation of a collective agreement the district illegally withheld fringe benefits from teachers who refused to sign individual contracts while paying benefits to teachers who signed. Finding that the district's "attempt to secure individual contracts was part of a policy and program to discriminate between groups of teachers," the MERC held that contracts submitted in this context are "not the type of individual contracts contemplated by [the state] School Code."

Finally, in the face of a negotiation impasse, a New Jersey superior court judge (NRD, 11-70, 4) upheld the Fair Lawn education board's unilateral imposition of a salary schedule upon the school system and its subsequent mailing of contracts to nontenure teachers because the situation involved "a type of emergency that calls for a decision at once." Stating that a school board cannot risk having no nontenure teachers under contract because of a negotiation impasse, the judge stipulated that the individual contracts provide that the terms of any collective agreement reached would inure to the nontenure teachers' benefit.

NEW JERSEY

SINGLE UNIT FOR SCHOOL NURSES AND TEACHERS RULED APPROPRIATE

In resolving a representation question involving school nurses employed by the South Plainfield education board, the New Jersey Public Employment Relations Commission (PERC) decided that a one-year contract negotiated with the South Plainfield Education Association (SPEA) and covering the nurses should be given full effect, despite the nurses' attempts to change their bargaining representative. Finding that the board's grant of recognition to the SPEA was made in good faith at a time when that organization's majority status as representative of a unit including school nurses was not disputed, the PERC held that the board "was free to pursue contract negotiations to a conclusion . . . and no evidence of a contrary intent [by the nurses] can operate to alter the express terms of the agreement." The PERC also determined that it would be inappropriate to separate the nurses from the existing unit since "it is not enough to observe that nurses enjoy a community of interest among themselves."

The case arose when the New Jersey State Nurses' Association filed a June 17, 1969, petition with the PERC seeking certification as representative of the South Plainfield nurses. During hearings before a PERC trial examiner, it was found that when the board and the SPEA began negotiation of a 1969-70 contract in November 1968, the SPEA asked that school nurses be placed on the teachers' salary schedule. On December 12, 1968, the parties agreed that

the bargaining unit would include school nurses, and a board resolution of January 14, 1969, recognized the SPEA as majority representative of a unit comprised of teachers, school nurses, guidance counselors, and two other job classifications. At that time the majority status of the SPEA was not questioned, because the SPEA had represented local teachers for some six or seven years. Moreover, there was no evidence that the school nurses did not wish to be included in the recognized unit.

Also on January 14, the board made an offer with respect to the nurses. Dissatisfied with the offer, the nurses urged the SPEA to negotiate a better offer; the SPEA attempted unsuccessfully to do this at least until March 1969. A 1969-70 settlement eventually was reached by the parties on June 11, 1969, and contained a separate nurses' salary schedule incorporated by reference into the contract.

In the meantime, however, the school nurses joined the New Jersey State Nurses' Association in February 1969. The SPEA subsequently agreed to release the nurses in a March 21, 1969, letter sent to the nurses' association, but the South Plainfield board was not officially notified of this action until October 31, 1969. The nurses' association asked the PERC for recognition on April 11 and then filed its representation petition on June 17, six days after the SPEA and the board had reached the agreement covering school nurses.

During the hearings, the trial examiner found that SPEA action "may not have been completely consistent. On one hand, they released the nurses from the negotiating unit. On the other hand, they concluded and signed a collective agreement which covers the nurses." While regarding "stability—but not inflexibility—as an important consideration in the development and implementation of the policy desired by the legislature" when the New Jersey Employer-Employee Relations Act was enacted, the examiner held that

> to deny a recognized negotiating agent—such as the South Plainfield Education Association in the instant case—a reasonable opportunity to negotiate a contract after being recognized would not contribute to stability. This conclusion is not based upon the Rules and Regulations of the [PERC] which became effective August 29, 1969—several months *after* the petition in this case was filed. However it is evident that the Commission recognized this consideration because the Rules which they did adopt do make provision for a protected period during which negotiations may take place following recognition.
>
> Nevertheless, [I agree] that the Rules should not be applied retroactively. To find otherwise would require a finding that the [SPEA] is *not* entitled to a protected period . . . because the conditions precedent thereto . . . were not satisfied in this instance.
>
> The Board of Education acted in good faith in recognizing the unit which included nurses. They signed this agreement which covered nurses. The majority representative of the employees also signed an agreement covering nurses . . . . Based upon the above, [I find] that the contract signed June 11, 1969 by the Board and the [SPEA] should continue in effect. However, this finding does not preclude the possibility of a recommendation that an election be directed at some future time *if* the unit is found to be appropriate.

As to whether the eight nurses involved constituted an appropriate unit, the trial examiner found that teachers and school nurses share a community of interest and have no apparent conflict of interest, as evidenced in another PERC case in which both classifications were included in a single unit. But the examiner also noted "a number of factors which set the nurses off," thereby making the single unit not "the *only* appropriate unit." In recommending that the nurses be found to constitute an appropriate unit, the examiner held that "no election should be directed during the term of the current agreement between the [SPEA] and the Board. . . . Therefore, there would be no election until sometime after June 30, 1970."

Both the board and the nurses' association filed exceptions to the trial examiner's recommendations, but the PERC held that the board's grant of exclusive recognition to the SPEA for a unit including school nurses was made in good faith. As such, the board "was not obligated to yield to the nurses' request for severance . . . . nor was it obligated to recognize the [SPEA's] attempted disclaimer of representation for nurses . . . [which was] immaterial in view of the [board's] refusal to depart from the boundaries of the recognition it had granted."

In adopting the recommendation that the contract be given its full effect, the PERC explained that the parties' bilateral agreement was not altered by the nurses' intent to appeal their inclusion in the SPEA unit in that such an intent

> is not a reservation by the signatories to the contract whereby the nurses' status is undetermined or held in abeyance pending the [PERC's] determination.
>
> This is not, therefore, a situation where the parties to this contract, the public employer and the [SPEA], have inserted a unit reservation. Rather, the provision merely sets forth a fact relating to a third party beneficiary of the contract. We do not construe this provision in the agreement as creating any infirmity in the binding nature of the contract relating to the nurses nor do we conclude that this requires the granting of a severance election to the nurses.
>
> It is axiomatic in labor relations that in determining an appropriate unit or in achieving an agreement, the specific wishes of each group may not always be satisfied. . . . However, one of the principles of labor relations is that employees who are found to constitute an appropriate unit are governed by the contract negotiated by their exclusive negotiating representative. . . . Whether this unit is one established by this Commission or is one agreed upon by the parties to a contract is not material providing it is basically an appropriate unit. Thus, where as here, the parties to a contract have agreed upon an appropriate unit without a reservation, the existence of some dissatisfaction by [members] of the unit will not constitute a basis to separate or sever a dissatisfied group from an appropriate unit.

Noting that the contract at issue already had expired, the PERC additionally disposed of the unit

question by finding it inappropriate "to permit the separation of nurses from the contract unit":

It is not enough to observe that nurses enjoy a community of interest among themselves. . . . The issue is whether their interests are so distinct from those with whom they were formerly grouped as to negate a community of interest. It is true that a nurse's training and qualifications differ from that of a teacher but she is not limited thereby, for the school nurse functions in both the medical and educational spheres. . . . The medical characteristics of the job are dominated by educational interests and integrated with the teaching process in order to achieve a common object, the education of students. In addition to this overriding interest, nurses share with teachers a variety of common conditions such as hours, fringe benefits, daily supervision by the school principal, as well as formal classroom instruction duties. . . . Furthermore, in this case, the nurses have been included with the teachers for purposes of representation for approximately six years. . . . Accordingly, the nurses should not be removed from the existing unit.

(*In the Matter of South Plainfield Board of Education and New Jersey State Nurses' Association and South Plainfield Education Association*, New Jersey Public Employment Relations Commission, August 28, 1970.)

UNCHALLENGED PRIOR INCLUSION OF DEPARTMENT CHAIRMEN IN TEACHER UNIT RULED "ESTABLISHED PRACTICE" EXCEPTION TO STATUTORY PROHIBITION

The New Jersey Public Employment Relations Commission (PERC) held that department chairmen employed by the Henry Hudson Regional School District should continue to be represented in the existing teacher bargaining unit since the local board voluntarily and without challenge had "discussed" economic matters from 1963 to 1968 with an employee organization representing a unit of teachers and chairmen. Although the state's mandatory Employer-Employee Relations Act was not enacted until 1968 and a hearing officer determined that the chairmen in question were supervisors under the Act, the PERC found that the district's bargaining history constituted an "established practice" exception to the statutory exclusion of supervisors from units of nonsupervisory personnel.

Section 7 of the Act provides in pertinent part that the right to

form, join and assist any employee organization or to refrain from any such activity . . . shall not extend to any managerial executive . . . nor, except where established practice, prior agreement or special circumstances, dictate the contrary, shall any supervisor, having the power to hire, discharge, discipline, or to effectively recommend the same, have the right to be represented in collective negotiations by an employee organization that admits nonsupervisory personnel to membership.

On January 15, 1969, the local board recognized the Henry Hudson Regional Education Association as representative of a unit comprised of teachers, department chairmen, and four other job classifications. Negotiation of a 1969-70 agreement ensued, but the district questioned inclusion of department chairmen in the existing unit due to their alleged supervisory status. A 1969-70 agreement covering department chairmen was negotiated, but the district informed the Association that it would dispute continued unit representation of department chairmen with the commencement of 1970-71 contract negotiation. As a result, the district filed a December 12, 1969, petition with the PERC seeking clarification of the existing unit.

During April 1970 hearings before a PERC hearing officer, it was found that department chairmen interview and recommend applicants for teaching positions, evaluate teacher performance and submit recommendations to the local board for consideration in retention, dismissal, and tenure decisions, and effectively recommend the granting or withholding of increments through teacher evaluations. Determining that such duties essentially empower the department chairmen here involved "to effectively recommend with regard to . . . [the] hire, discharge, [and] discipline of teachers in the district," the hearing officer found the department chairmen to be supervisors within the meaning of sec. 7 of the Act.

The hearing officer then examined testimony relative to the relationship between the local board and the Association since 1963, when the board voluntarily undertook "discussions" of salaries and fringe benefits affecting an unchallenged unit of teachers and department chairmen represented by the Association. He noted that before the 1964 school year department chairmen received no pay differential; sometime afterward, however, additional payments for chairmen were set at $150 and then rose to $300 plus $25 per teacher supervised. Finding that "give and take," "haggling," considerable discussion, and changes in the parties' positions admittedly had occurred, the hearing officer concluded that

what transpired from 1963 through 1968 was collective negotiation on behalf of teachers and chairmen, not as extensive in range of subject matter as under the Act, but substantively significant for the salary and money items covered. Furthermore . . . I find that in fact this was not really different from the later negotiation under the Act—the indispensable process of "give and take" remained the same, only formality and detail took hold.

In considering whether any of the statutory exceptions to the prohibition against including supervisors in a unit of nonsupervisory personnel were applicable to the instant matter, the hearing officer determined that the "prior agreement" exception was inapplicable because the parties' 1969-70 agreement

was concluded without prejudice to the right of the Board to raise the question of the propriety of the inclusion of department chairmen in the unit under the Act. Moreover, the pre-Act negotiations were not formalized in a collective agreement because, in the state of the law as it then existed, the Board

was not *required* to recognize the Association as the exclusive representative or to negotiate concerning terms and conditions of employment or to enter into a contractually binding agreement.

This is not to say, however, that conduct short of *imposed* or enforcible representation in a unit of teachers and department chairmen for collective negotiations could not and did not characterize the relationship of the parties during the pre-Act years of 1963-68 involved herein. . . . Clearly . . . while it could be said that Article I, paragraph 19 [of the state constitution which allows public employees to "present to and make known to the State . . . their grievances and proposals through representatives of their own choosing"] did not mandate good faith "collective bargaining," the right to public employee good faith "collective negotiations" in the aspects material herein certainly lodged within the constitutional guarantee in the period before the Act. And while such right was *effectuated* with [the Act] in 1968, there was no legal impediment to the recognition of this right by *implementation in practice* such as *voluntarily* occurred on the part of this Public Employer in the period 1963-68.

As department chairmen had been represented in the bargaining unit without challenge from 1963 to 1968 and the parties had engaged in a "give and take, proposal and counter proposal, type of extended discussions of economic issues eventuating in understandings," the hearing officer held that a pattern of collective negotiation had evolved "that in substance is equatable in practice to that prescribed in the state of the law as it now exists." He accordingly determined that the exception of "established practice" was evident, explaining:

In my opinion the legislature intended by the use of "established practice" as an exception to the unit exclusion of supervisors, to signify that the normal unit standard of "community of interest" could be discounted where, as here, the actual experience over a period of time evidences the feasibility of commingling for purposes of collective negotiations. . . . Manifestly, to give force and effect to "established practice" during the infancy of the Act requires that resort be had to the years preceding the effective date of the Act in 1968, there being no separate effective date or stay for implementation of the exceptions. It follows . . . that pre-Act negotiations may be employed as background evidence to test the occurrence of the commingling of supervisors and nonsupervisors in the same unit and the manner in which such negotiations were conducted albeit the Public Employer was not obligated, as a matter of law, to conduct itself in the fashion later mandated by the Act.

Further, I am convinced and find that five years is a sufficient period of time to warrant the description of "established". . . [and] find . . . that continued inclusion is "dictated" within the meaning of . . . the Act.

The PERC subsequently adopted the hearing officer's findings and recommendations in full. (*In the Matter of Henry Hudson Regional School District Board of Education and Henry Hudson Regional Education Association, Inc.*, New Jersey Public Employment Relations Commission, August 14, 1970.)

Negotiation Notes

CALIFORNIA

WINTON ACT AMENDED

Amendments to the Winton Act, California's public-school teacher "meet and confer" law, define the terms "meet and confer" and "persistent disagreement," provide procedures for the resolution of "persistent disagreements," authorize written agreements, and extend the Act's coverage to community college employees. In addition, all references in the Act to employee negotiating councils have been amended to read "certificated employee council." The amendments, enacted by the state legislature in Assembly Bill 820 and Senate Bill 293, became effective November 24, 1970.

Sec. 1 of the Act (sec. 13060 of the Education Code) was amended by a new paragraph allowing "any academic senate or faculty council established by a school district in a community college to represent the faculty in making recommendations to the administration and governing board of such school district with respect to district policies on academic and professional matters."

An amendment to sec. 3 of the Act (sec. 13081 of the Education Code) defined "meet and confer" as meaning that a public-school employer or its representatives and employee organization representatives "shall have the mutual obligation to exchange freely information, opinions, and proposals; and to make and consider recommendations under procedures in a conscientious effort to reach agreement by written resolution, regulation, or policy of the governing board effectuating such recommendations."

Sec. 3 also now defines a "persistent disagreement" as a dispute arising under the meet and confer article "that has not been resolved to the mutual satisfaction of the parties . . . within a reasonable period of time after the initial presentation of proposals, which shall be not less than 30 days, except by mutual consent." Sec. 5 of the Act (which adds sec. 13087.1 to the Education Code) then provides that parties meeting and conferring under sec. 4 shall adopt "a procedure for the resolution of persistent disagreements which may include factfinding and shall adopt rules and regulations establishing such a procedure, which procedure shall be mutually acceptable to the parties."

If the parties cannot agree upon a procedure, they are mandated (at the request of either party) to refer the persistent disagreement "to a committee of three persons, one selected by the school employer, one selected by the employee organization or the certificated employee council . . . and in turn those persons shall select the third member." The committee's findings, which shall not be binding, are to be reported at a public meeting of the parties; public reportage of the committee's recommendations (which also are advisory) is contingent upon prior written agreement of the parties.

Other amendments to the Act extend the definition of "public school employer" to include "the governing board of a school district," allow the employer to designate certificated or classified employees as its meet-and-confer representatives, provide that nothing in the Act shall prohibit a public-school employer from making the final decision regarding all meet-and-confer matters specified in sec. 4 of the Act, and specifically name the Act. The full text of the Winton Act, as amended, is reprinted in the "Texts" section of this issue of DIGEST; all amendments are italicized.

DISTRICT OF COLUMBIA

BOARD OF LABOR RELATIONS ESTABLISHED TO ENSURE PUBLIC EMPLOYEE ORGANIZATION AND BARGAINING RIGHTS

By order of the District of Columbia commissioner, a five-member Board of Labor Relations was established, effective June 19, 1970, to ensure the "orderly and efficient operation of government by encouraging the practice of collective bargaining, by protecting the right of employees to organize and to designate representatives of their own choosing, and by providing procedures for preventing the interference by employers and employees with the legitimate rights of the other."

The Board is empowered to resolve disputes concerning unit determination among public employees, conduct representation elections, certify exclusive bargaining representatives, and hear unfair labor practice charges and "issue an appropriate remedial order binding on the parties, or . . . make recommendations to the Mayor" (officially referred to as the Commissioner of the District of Columbia). In addition, the board shall resolve negotiation impasses "through factfinding or final and binding arbitra-

tion," determine negotiability questions, and decide whether a dispute is grievable. It may review appeals of arbitration awards pursuant to a grievance procedure, but only if "the arbitrator was without or exceeded his jurisdiction; the award on its face is contrary to law and public policy, or was procured by fraud, collusion, or other similar and unlawful means." The board also is to establish a list of mediators, factfinders, and arbitrators.

Two board members were to be chosen by the District of Columbia Commissioner from lists of three names each submitted by "each labor organization representing a significant number of District Government employees." Two management members also were to be selected by the commissioner from a list of five names proposed by "an ad hoc committee representing management within the District Government." The four members so selected then were to submit a list of three names to the commissioner for selection of an impartial fifth member to serve as board chairman. According to the order, all board members shall hold office for three years, will be eligible for reappointment, shall hold no other full- or part-time positions paid by District or federal funds during the term of appointment, and shall be compensated by the District when actually performing services as board members. The order further provides that the board may delegate any of its functions to three-member panels comprised of the chairman, one labor member, and one management member.

The full text of the commissioner's order is reprinted in the "Texts" section of this DIGEST.

FLORIDA

ATTORNEY GENERAL HOLDS PUBLIC EMPLOYEES MAY NOT BE DEPRIVED OF ORGANIZATION RIGHTS UNDER STATE CONSTITUTION

In an advisory opinion, the Florida attorney general found "there can be little doubt that the state or any of its political sub-divisions may not . . . deprive public employees of their right of freedom of association, self-organization or the right to join or to continue as members of any employee or labor organization." While emphasizing that recent state court decisions (NRD, 11-70, 3) have prohibited public employee strikes, the attorney general held that the state constitution guarantees public employees the right to organize for purposes of collective bargaining.

However, the Florida governor stated in a May 1970 executive order (NRD, 9-70, 12) that he would veto any bargaining measure passed by the legislature "in order to preserve the orderly processes of government." According to the governor, "union bosses cannot put themselves between the people and their employees nor usurp the power entrusted by the people in their duly elected officials, who are responsible to the people."

NEW YORK

PUBLIC EMPLOYER MAY DELEGATE ITS NEGOTIATING AUTHORITY TO A DESIGNATED PERSON OR BODY, ACCORDING TO PERB COUNSEL

An advisory opinion issued by counsel to the New York Public Employment Relations Board (PERB) supported a public employer's prerogative under the Taylor Law to designate who will negotiate on its behalf, so long as negotiation is conducted in good faith. In response to an attempt by the representative organization at Onondaga Community College to gain direct access to the college's board of trustees for purposes of discussing academic matters, counsel to the PERB pointed out that community college teachers are employed by the county, not by the board of trustees. As the county in this case had left responsibility for the negotiation of academic matters to the board and the college president (who acted as a liaison to the board), it was found that "if the academic matters . . . are negotiable . . . the [college] president may properly act as negotiator on behalf of the employer and the union would not have a right of direct access to the board of trustees."

OTHER ITEMS OF INTEREST

CONSUMER PRICE INDEX, SEPTEMBER 1970

Data released by the Labor Department, Bureau of Labor Statistics (BLS), indicated that the Consumer Price Index (CPI) all-items index rose 0.4 percent in September to 136.6 (1957-59=100). The September figure put the CPI 5.6 percent above that of a year ago, reportedly the smallest year-to-year increase since October 1969. Most of the September increase was attributed to an 0.6 percent advance in consumer services charges, a substantial rise in apparel prices, and the fact that the prices of houses "rose significantly for the second month in a row." Prices of commodities other than food registered an 0.6 percent rise that month, compared with an 0.2 percent increase in July and August. According to BLS, an estimated 70,000 workers will receive cost-of-living increases based upon the September CPI.

SUPREME COURT TEST OF FEDERAL EMPLOYMENT OATH ABANDONED

A Justice Department appeal of a decision rendered by the U.S. District Court for the District of

Columbia in the case of *National Association of Letter Carriers v. Blount* (NRD, 12-69, 3) was dismissed by agreement of the parties on September 1, 1970, and accordingly removed from the docket of the Supreme Court of the United States. The action left standing the 1969 ruling by a three-judge federal district court panel which declared unconstitutional portions of a federal statute (5 U.S.C. § 7311) and the implementing Post Office employment oath which prohibited government employees from asserting the right to strike or holding membership in any organization asserting the right to strike.

Statistics

NEGOTIATION AGREEMENTS: SELECTION AND ASSIGNMENT OF DEPARTMENT CHAIRMEN OR SUPERVISORS

The NEA Research Division's analysis of 978 negotiated classroom teacher agreements effective during the 1968-69 school year in systems with a pupil enrollment of 1,000 or more identified 84 agreements (8.6 percent) with provisions covering various policies and practices relative to the selection and assignment of department chairmen or supervisors. Although the majority of the provisions concerned department chairman, other members of the administrative and supervisory staff occasionally were covered.

Of the 84 pertinent provisions, four established joint teacher-board committees to study or review the appointment of department chairmen; these provisions have been eliminated from the following content analysis. The remaining 80 provisions contained specific negotiated content falling into four broad subject areas: authorization or justification for the position; requirements and responsibilities of the position; procedures for screening and selecting applicants for the position; and compensation for and length of service in the position.

Table 1 indicates the incidence of the major negotiated content areas among the 80 provisions analyzed, while succeeding tables present a detailed analysis of each broad subject area. Categories listed in the tables are not mutually exclusive since most provisions contained more than one feature. The analysis is limited to what appears in written negotiation agreements, and no attempt is made to cross-reference the analyzed provisions with other negotiated content which indirectly may affect the selection and assignment of department chairmen or supervisors. In addition, many of the sample provisions reprinted here represent only the pertinent portion(s) of negotiated articles containing peripheral and/or unrelated subject matter.

TABLE 1.—GENERAL NEGOTIATED CONTENT OF 80 PROVISIONS PERTAINING TO THE SELECTION AND ASSIGNMENT OF DEPARTMENT CHAIRMEN OR SUPERVISORS, 1968-69

General content	Agreements containing designated content	
	Number	Percent
1	2	3
TOTAL NUMBER OF PROVISIONS	84	...
PROVISIONS ESTABLISHING JOINT COMMITTEES	4	...
PROVISIONS CONTAINING SPECIFIC NEGOTIATED CONTENT	80	100.0%
Authorization or justification for position		
Specific position titled or identified	80	100.0
Departments named or criteria for establishing departments identified	32	40.0
Requirements and responsibilities of position		
Qualifications	24	30.0
Special duties	46	57.5
Screening and selection process	59	73.8
Compensation and length of service		
Financial compensation	33	41.3
Released time to perform duties	28	35.0
Term of service	18	22.5

Authorization or Justification for Position

The majority (74) of the 80 pertinent provisions dealt only with various types of department chairmanships. The remaining six provisions individually applied to principals and department chairmen, principals, superintendents, principals and superintendents, all supervisory staff, and all administrators below the rank of superintendent. Of the 74 provisions concerning department chairmen only, 41 simply identified the position,

while 33 provisions additionally indicated whether the position was system-wide, confined to one building, or applicable to elementary and/or secondary schools. Nine of these 33 provisions stipulated that two positions of varying degrees of responsibility were involved in the department chairmanship; differentiations between building chairmen and system-wide chairmen were found in two of the nine provisions, while the remaining clauses simply provided for two positions which *seemed* to be in departments within one building. Ten of the 74 provisions applying to department chairmen stated that the position was not considered to be supervisory, two held that it was supervisory or administrative, and two provisions allowed unit representation for department chairmen.

All provisions (32) which specifically named the position's area of authority or identified criteria for establishing it pertained to department chairmen. The unit of authority (i.e., the department) was delimited either by naming each department according to subject area, or by providing the conditions under which various sectors of the instructional program might become departments. The establishment of departments usually was predicated upon achieving a minimum number of teachers in a given subject area; this minimum figure ranged between two and five, with most agreements specifying four or five. Table 2 indicates the number of agreements containing subject matter naming the departments or identifying criteria for establishing departments. Reprints of four sample negotiated provisions follow the table.

TABLE 2.—IDENTIFICATION OF DEPARTMENTS OR CRITERIA FOR ESTABLISHING DEPARTMENTS, 80 PERTINENT PROVISIONS, 1968-69

Item	Agreements containing designated content	
	Number	Percent
1	2	3
TOTAL NUMBER OF PERTINENT PROVISIONS	80	...
Provisions naming departments or identifying criteria for establishing departments	32	100.1%
Each subject area or specific subject areas named	12	37.5
Minimum number of staff or teaching hours required	12	37.5
Subject areas named and minimum number of staff required	4	12.5
Department determined by board or superintendent	2	6.3
Areas needing departments to be studied by joint committee	2	6.3

Sample negotiated provisions are:

6.1 Each major department within the high school—English, mathematics, social studies, and science shall have a department head.

6.8 A department chairman may become a department head when there are five or more teachers in a department, including the department chairman. (Thomaston, Connecticut)

* * *

A. In all departments of the junior and senior high schools, having five members or more, the principal shall appoint a department member as chairman. Departments of a school having less than five members, except for those departments identified in C below, may be combined with other departments in that school. The physical education department in the junior high school shall continue to have a department chairman. The department chairman shall exercise such coordinating and administrative functions as have heretofore been performed, including serving as liaison between the teachers of the department and the school administration. A department chairman shall not be considered a supervisory employee.

C. In each junior high school, there shall be appointed a coordinating teacher in industrial arts, home economics and art. Each of these teachers shall be released from one period of non-instructional duties, the equivalent of one class period. Should a scheduling conflict prevent the implementation of this paragraph, the parties shall confer as to a solution. (Southfield, Michigan)

* * *

B. Department Chairmen

1. There will be a department chairman in each subject area of the Junior-Senior High School.
   e. Department chairmen shall be appointed on a district-wide basis in the following subject areas: (1) Music; (2) Health, Physical Education and Driver and Safety Education.
   Special Note: *Art*—every effort will be made to coordinate the activities of the art teachers in grades K-12 during the 1968-69 school year so that the Art Department may possibly become a district-wide department in the 1968-69 school year. (Valatie, New York)

A. There shall be a chairman in the senior high schools for each of the following departments when deemed necessary or desirable by the superintendent: English; Science; Math; Social Studies; and Business Education.

B. Each teacher in the department is a member of that department. Where the number of teachers in a department is less than three, the department may be combined with a related department as determined by the building principal. (West Allis, Wisconsin)

Requirements and Responsibilities of Position

Of the 24 provisions stating required qualifications for the position, 23 applied to department chairmen and one to all administrators below the rank of superintendent. The most common requirements of prospective chairmen included being a member of the department in question, achievement of a certain level of academic preparation, and prior teaching experience of a specified number of years. Of the 18 provisions referring to various academic qualifications, 10 required an M.A. degree or the equivalent in credit hours; a majority of these 10 provisions required that the degree or credit hours be in the department's subject area. Several other provisions required some graduate work and preparation in the field, or named specific courses to be taken.

Prior service qualifications outlined in 21 agreements varied according to the length and nature of service or experience required. Six provisions required experience, but did not indicate the exact nature of the experience; two of these provisions, however, stipulated subject area experience. Eight provisions individually specified three or five years of subject area experience, three provisions respectively called for one, two, and five years of experience in the department involved or the school system, and two provisions required total teaching experience of four and five years, respectively. The remaining clauses merely stated that length of prior service was a consideration.

Other qualifications included ability to work with the staff, teaching performance, and work in program development. In one instance, a joint committee was to study the required qualifications. Table 3 outlines the various position qualifications specified in agreements and is followed by excerpts from two pertinent negotiated provisions.

TABLE 3.—QUALIFICATIONS FOR POSITION, 80 PERTINENT PROVISIONS, 1968-69

Qualifications	Agreements containing designated content	
	Number	Percent
1	2	3
TOTAL NUMBER OF PERTINENT PROVISIONS	80	...
Provisions specifying qualifications for position	24	100.0%
Teacher in department	10	41.7
Tenure teacher	8	33.3
Certified or eligible for certification	5	20.8
Minimum academic preparation	18	75.0
Experience or length of service	21	87.5
Leadership	5	20.8
Other	10	41.7
Negotiated qualifications may be modified under certain circumstances	4	16.7

Sample negotiated provisions are:

The criteria for the selection of the department chairmen are:

1. Be a tenure teacher.
2. Have at least three years of teaching experience in their subject area, one of which must be in the Madison District.
3. Have the ability to communicate effectively with members of their department and work harmoniously with members of the administration.
4. Have a major in the subject area in which they are teaching.
5. Normally have at least 20 semester hours beyond their Bachelor's Degree.
(Madison Heights, Michigan)

Minimum requirements for the position of coordinator:

1. Five years satisfactory experience as a teacher in the subject area;
2. Permanent certification, or working toward permanent certification, as a teacher;
3. A master's degree or enrollment in a master's degree program;
4. At least six hours of graduate work in supervision which may be completed within one year after appointment; (Suggest courses in principles of supervision and curriculum development.)
5. Active membership in a professional organization in the subject area;
6. A demonstrated ability to work easily and efficiently with staff members;
7. Faculty personnel who have *filled* such positions in past three years but who do not meet the above requirements will be considered to have continued eligibility for appointment to the position. Such a person shall serve in an "acting" capacity with the same benefits and responsibilities as those who meet the requirements.

Minimum requirements for the position of department chairman:

1. At least three years of satisfactory experience as a teacher in the subject area;
2. Certification as a teacher in his subject area;
3. Active membership in a professional organization in the subject area;
4. A demonstrated ability to work easily and efficiently with staff members;
5. Faculty personnel who have *filled* such positions in past years but who do not meet the above requirements will be considered to have continued eligibility for appointment to the position. Such a person shall serve in an "acting" capacity with the same benefits and responsibilities as those who meet the requirements. (Sodus, New York)

* * *

Only those provisions applying to department chairmen named duties and requirements adhering to the position. While the nature and language of the 46 provisions covering department chairmen's duties varied greatly, department chairmen usually serve in an advisory capacity vis à vis the administration and relieve the administration of direct supervision and coordination of each department. In some cases the functions of department chairmen overlapped or included functions traditionally reserved for the administration, but the bounds of authority were not always clearly defined. Department chairmen generally were required to act as a liaison between their department staffs and the administration, coordinate programs, materials, curricula, and staff work, aid in the review and development of curricula, and oversee the inventory and storage of equipment and supplies. Other responsibilities included assisting the administration in hiring new teachers, assisting new staff members, observing and evaluating teachers in the department, and working with department fiscal matters.

Table 4 indicates the incidence of the various duties assigned to department chairmen among the provisions analyzed. The categories conform closely to contractual language, but they are not mutually exclusive. The three "Miscellaneous" categories refer to infrequently negotiated items such as reviewing duties (e.g., teacher lesson plans, grading policies), coordinating functions (e.g., field trips), past practices which were not explained, and instances in which department chairmen's duties were to be determined by an individual or a group. Reprints of sample negotiated provisions follow the table.

TABLE 4.—SPECIAL DUTIES AND RESPONSIBILITIES OF DEPARTMENT CHAIRMEN, 80 PERTINENT PROVISIONS, 1968-69

Special duties	Agreements containing designated content	
	Number	Percent
1	2	3
TOTAL NUMBER OF PERTINENT PROVISIONS	80	...
Provisions naming special duties and responsibilities of department chairmen	46	100.0%
General functions		
Liaison between teachers in department and administration	18	39.1
Coordination of programs, materials, curricula, and staff work	13	28.3
Liaison between given department and other departments	7	15.2
Formulation of departmental policies	2	4.3
Community or public relations	2	4.3
Emergency decisions in principal's absence	1	2.2

TABLE 4.–SPECIAL DUTIES AND RESPONSIBILITIES OF DEPARTMENT CHAIRMEN, 80 PERTINENT PROVISIONS, 1968-69
(Continued)

Special duties	Agreements containing designated content	
	Number	Percent
1	2	3
Department staff functions		
Aiding in recruitment and selection of new staff members	8	17.4
Orientation of new teachers	8	17.4
Assigning teachers	3	6.5
Assisting teachers	3	6.5
Classroom observation	7	15.2
Aiding in teacher evaluation	3	6.5
Conducting department meetings	8	17.4
Miscellaneous	4	8.7
Instructional program functions		
Review and development of curricula	14	30.4
Scheduling classes	6	13.0
Miscellaneous	3	6.5
Department finance functions		
Formulating and recommending budget	9	19.6
Purchasing and requisitioning	8	17.4
Functions with regard to texts, equipment, and supplies		
Evaluation and selection of texts, equipment, and supplies	13	28.3
Inventory and storage of texts, equipment, supplies, and tests	13	28.3
Miscellaneous	14	30.4

Sample negotiated provisions are:

4. Department Head Duties:
   a. He shall be a member of the building curriculum committee if such a committee does exist.
   b. He shall hold regular meetings with the members of the department to keep them informed on matters of concern to them.
   c. He shall assist new teachers in becoming familiar with the school and the department and their particular responsibilities.
   d. He shall forward requisitions and requests from within the department to the building principal.
   e. He shall be responsible for the supervision and coordination of the curriculum of the department.
   f. He shall serve as an intermediary between the individuals of the department and the administration when necessary.
   g. He shall perform such other miscellaneous duties that are requested of him by the members of the department and the administration that may be deemed reasonable and proper.
   h. He shall serve as a member of the Secondary Curriculum Committee. (Troy, Michigan)

* * *

II. Function and Role:

1. The department chairman is directly responsible to building principals for the program carried out in the respective buildings.
2. The following responsibilities are assigned:
   1) Hold periodic departmental meetings to plan, organize, and evaluate program.
   2) Arrange conferences with and classroom observations of all department probationary staff.
   3) Work with the department in developing the departmental budget.
   4) Review with the building principals all recommendations for changes in departmental policy.
   5) Be responsible for program 7-12 unless the elementary level is stipulated.
   6) Maintain a file of curriculum and instructional materials.
   7) Be responsible for knowing, communicating, and interpreting state and local policies to staff and administrators. (Clinton, New York)

2. Department supervisors, who may not be assigned to other administrative positions, have a dual and major responsibility, including classroom visitation and evaluation of staff in respective departments plus the functions of department chairmen.

3. Major responsibilities of supervisors in the departments for which they are responsible involve:
   a. Sufficient classroom visitation to observe teaching;
   b. Individual conference following visitation to set up ways of improving teaching and noting strength;
   c. Assisting in planning classroom activities;
   d. Explaining procedures, school policies, etc., to teachers;
   e. Assisting teachers with problems;
   f. Working with the superintendent and principals and committees in course construction and revision—setting up objectives, studies of subject matter and learning activities, experimental testing materials, (including texts) recommended for adoption;
   g. Evaluation of teaching efficiency—submission of reports on scheduled basis.

4. Responsibilities of department chairmen. The time required for classroom visitation and other activities for evaluation of personnel is beyond that which can be provided for department chairmen at this time. Primary responsibilities will be as follows:
   a. Holding monthly department meetings devoted to matters of a professional nature and common interest;
   b. Assistance to teachers in planning classroom activities, assignments, etc.;
   c. Working with the superintendent, principal and/or committees in course construction and revision, setting up objectives, studies of subject matter and learning activities, experimental testing of materials, evaluation of instructional materials;
   d. Explaining procedures, school policies, etc., to teachers. On occasion, substitute teacher arrangements may be made to permit days of classroom visitation for department chairmen for auditing purposes in order to observe the department program in action. The primary responsibility for staff evaluation in these departments, however, is not the department chairman's. (Mt. Pleasant, New York)

* * *

C. Department chairmen shall have the following duties:
   1. Coordinate departmental activities.
   2. Provide liaison between departmental teachers and supervisory personnel.
   3. Preside over monthly departmental meetings and submit minutes of such meetings to the building principal.
   4. Collect, review, collate and synthesize ideas and recommendations of departmental teachers for presentation to the committee responsible for the selection of instructional materials and supplies.
   5. Make studies and recommendations for text book selections or revisions and for curriculum.
   6. Assist in the orientation and guidance of new departmental teachers.
   7. Maintain the departmental inventory and submit a recommended budget to the building principal.
   8. Maintain and recommend acquisition of new departmental equipment.
   9. Perform such other duties related to the foregoing duties as may be assigned from time to time by the building principal. (West Allis, Wisconsin)

Screening and Selection Procedures

Fifty-eight provisions pertinent to department chairmen, principals, superintendents, or other supervisory staff contained procedures for screening and selecting applicants for the position. Final authority for appointing department chairmen rested (in descending order of frequency) with the school board, the superintendent, teachers in the department, the principal, and "the administration." In the 29 provisions placing final selection of department chairmen with *any* administrative body or administrator, teachers in the department were allowed to make recommendations to the person(s) making the decision. Three other provisions also allowed teachers to make recommendations in the appointment of principals and superintendents.

Final authority for the selection of department chairmen rested with one person or a single staff classification in 15 provisions. Teachers in the department made the selection in seven provisions, the board in three provisions, the principal in three provisions, the superintendent in one provision, and the administration in

one provision. Seven provisions indicated that the selection of department chairmen was the combined responsibility of the board, various administrators, and/or the faculty, but the role of each group or individual in the decision-making process was not specified.

In two agreements seniority was named as a factor in the selection of department chairman; one stipulated that seniority in the district was the determining qualification when all other qualifications were equal. Miscellaneous rules applying to the selection of both department chairmen and supervisors included the posting of vacancies, the date or time of year when selection is made, the date of notification of action, and notification to unsuccessful applicants of the reasons for their rejections. Table 5 provides a breakdown of screening and selecting procedures as separately applied to department chairmen and other supervisory personnel. Reprints of sample negotiated provisions setting forth such procedures follow the table.

TABLE 5.—PROCEDURES FOR SCREENING AND SELECTING APPLICANTS FOR POSITION, 80 PERTINENT PROVISIONS, 1968-69

Screening and selection procedures	Agreements containing designated content	
	Number	Percent
1	2	3
TOTAL NUMBER OF PERTINENT PROVISIONS	80	...
Provisions containing screening and selection procedures	58[1]	100.0%[a]
Pertinent to department chairmen	53	91.4
Pertinent to superintendent, principals, and other supervisors	6	10.3
Screening and selection of department chairmen	53	100.0%
Elected by department members	7	13.2
Final appointment by board	17	32.1
Board only	3	5.7
Recommendation by superintendent and/or principal	8	15.1
Recommendation by superintendent and/or principal and teachers in department	6	11.3
Final selection by superintendent or administration	9	17.0
Superintendent or administration only	2	3.8
Recommendation by principal	3	5.7
Recommendation by principal and teachers in department	2	3.8
Recommendation by teachers in department	2	3.8
Final selection by principal	3	5.7
Final authority not indicated	7	13.2
According to regular promotional policy	3	5.7
Seniority considerations	2	3.8
Miscellaneous rules	19	35.8
Screening and selection of superintendent, principals, and other supervisors	6	100.0%
Board appoints principals and superintendents after faculty committee is consulted	3	50.0
Board appoints principals and supervisory staff after recommendation of superintendent	3	50.0
Miscellaneous rules	1	16.7

[a]One additional agreement contained screening and selection procedures for both department chairmen and principals.

Sample negotiated provisions are:

A. Selection. Before selecting a department chairman, the building administrator will meet with the department concerned to ascertain its preferences. Any department that wishes to do so may hold an election in order to determine the preferences of the teachers involved. The department may indicate to the building administrator the results of the election as their preferences. Such preferences shall have great weight with the building administrator when he selects the department chairman. No person will be appointed department chairman without the consent of the teacher involved. Department chairmen shall be selected from within the building personnel of the department concerned, and whenever possible will be selected by May 1 of each school year for the following year. Department chairmen are members of their department system-wide curriculum committee. (Dearborn, Michigan)

* * *

A. The teachers in any department or grade level in elementary, junior high or senior high may each year select from among their number a Department Chairman. The Department Chairman may exercise such coordinating and administrative functions as have heretofore been performed including serving as liaison between teachers of the department and the school administration. Such chairmen shall not be considered supervisory or executive employees.

D. The provisions of this Article shall apply to both building department chairmen and system-wide department chairmen. (Farmington, Michigan)

* * *

E. Appointments for the foregoing positions shall be made for a period of one year as follows:

1. The principal shall submit a recommendation to the Superintendent;
2. An advisory committee selected by the Association shall make its recommendation by October 1, 1968 to the Superintendent;
3. The Superintendent shall appoint the secondary department chairmen. The decision of the Superintendent is final and not subject to the grievance procedure if the above procedure is followed. (Orchard Lake, Michigan)

* * *

O. Hiring and Assigning Principals. Prior to the hiring and/or assignment of any building principal, the Ithaca Teachers Association will be notified and will appoint a committee of not more than 5 members from the building involved to investigate and recommend relative to the applicants. After the initial screening by the administration, the committee will be advised of the names and qualifications of the candidates being considered for the position and will be afforded an adequate opportunity to interview any or all of said candidates upon its request. After said interviews and such other inquiry as the committee shall deem fit to conduct, and consultation with the Superintendent, the committee will make a confidential report of its evaluation and recommendations to the Superintendent for consideration in hiring and assigning.

P. Hiring and Assigning Superintendent of Schools. Prior to the hiring and/or assigning of a Superintendent of Schools, the Ithaca Teachers Association will be notified and will appoint a committee of not more than 9 members to review and recommend relative to the applicants. The committee will be advised of the names and qualifications of the final candidates being considered for the position and afforded an adequate opportunity to interview any or all of said candidates upon its request. After said interviews and such other inquiry as the committee shall deem fit to conduct, and consultation with the appropriate committee of the Board, the Ithaca Teachers Association committee will make a confidential report of its evaluation and recommendations to the Board for its consideration in hiring and assigning. (Ithaca, New York)

Compensation and Length of Service

All provisions which stipulated the position's term of service, allowed some released time for the performance of duties, and provided additional financial compensation applied to department chairmen. Eighteen provisions variously stated the department chairman's term of service as one year (nine provisions), two years (five provisions), three years (two provisions), five years (one provision), and permanent contingent upon satisfactory performance (one provision).

Provisions granting released time and/or financial compensation for department chairmen numbered 46. Those granting a specific amount of released time for the performance of duties provided one period per day (eight provisions), two periods per day (two provisions), or one day per month to secondary-school department heads and one-half day per month to elementary-school department heads (one provision). Several of these provisions also allowed teachers to be released from homeroom duty or extra duties. Agreements granting varying amounts of released time according to the number of teachers in a department or the nature and amount of departmental work usually provided a range of daily teaching assignments for department chairmen varying from one to five classes. In those instances where the assignment of teaching periods to chairmen depended upon the number of teachers in the department, a specific number of teaching periods was assigned in relation to a specific number of teachers.

Of the provisions allowing additional compensation for department chairmen, 22 provided a flat amount above regular salary stated either as an exact sum (18 provisions) or as a percentage of salary (four provisions). Seven provisions allowed varying amounts of additional compensation according to the number of teachers in a department or the department's subject area. Four provisions did not define the amount of compensation. Table 6 indicates the number of agreements containing various released time and/or financial compensation provisions relative to department chairmen. Excerpts from five sample negotiated provisions are reprinted following the table.

TABLE 6.–COMPENSATION FOR DEPARTMENT CHAIRMEN, 80 PERTINENT PROVISIONS, 1968-69

Item	Agreements containing designated content	
	Number	Percent
1	2	3
TOTAL NUMBER OF PERTINENT PROVISIONS	80	...
Provisions granting released time and/or financial compensation	46	100.0%
Financial compensation only	18	39.1
Released time only	13	28.3
Financial compensation and released time	15	32.6
Provisions granting released time	28	60.9
Specific amount of time off	12	42.9[a]
Number of teaching assignments varies according to number of teachers in department	6	21.4
Number of teaching assignments varies according to nature and amount of department work	5	17.9
Relieved of homeroom, extra duties	2	7.1
Possible study of released time	3	10.7

[a]This figure and all succeeding percentages are based upon the 28 agreements granting released time.

Sample negotiated provisions are:

In most circumstances, these teachers would hold the position of department chairman for at least two years. (Madison Heights, Michigan)

* * *

A. Department chairmen shall be released from normal teaching loads as follows:

Number of teachers (excluding chairman)	*Released time*
1 - 10	One period
11 - 20	Two periods

B. In addition to the foregoing, Department Chairmen will be relieved of homeroom and other special duties. However, all Department Chairmen shall have at least one regular classroom teaching assignment.

C. The professional period of Department Chairmen shall be used for supervision.

D. Clerical assistance shall be provided departments as follows: One additional clerk-typist shall be assigned to the High School for staff use. The Superintendent shall be authorized to hire additional temporary clerical assistance during peak periods. The Department Head shall request this additional assistance through the Principal. Present clerical employees shall be assigned to each academic department. (Huntington, New York)

* * *

The following should serve as suggestions in providing equitable professional loads for the department chairmen in the East Irondequoit School System. The suggestions are made with awareness that most department chairmen would feel a greater need for department supervision than the district is presently able to afford. Therefore, it should be recognized that these suggestions are made within the light of the present financial commitments of the district.

The department chairman's load would normally vary, depending upon the following three factors:

1. Number of personnel to be supervised in the department.
2. Size of departments' annual budget and amount of specialized supplies and equipment to be cared for.
3. Other unusual situations that might exist within the department. This would exclude such things as a large number of inexperienced teachers, experimental programs, departments that cut across disciplinary lines.

There is also the practical problem that there are a certain number of sections to be covered in each department, and this may mean that a department chairman will have to take an extra section one year, or may be freed of a regular section during a year.

In calculating the schedule for department chairmen, the following general rules should be considered:

Assuming a 35-period week, excluding lunch, department chairmen should have the following assignments:

1. 5 periods *per week* for general departmental supervision.

2. 1 period *per week* for each member of the department to be supervised.
3. 1 preparation and planning period per week for each class assignment.

Therefore, the daily assignments of chairmen in various size departments would follow the pattern as outlined below:

Teachers to be supervised	*Daily schedule*
1 to 5	From 5 teaching assignments to 4 teaching assignments
6 to 10	From 4 teaching assignments to 3 teaching assignments
11 to 15	From 3 teaching assignments to 2-1/2 teaching assignments
16+	2 teaching assignments

(Rochester, New York)

* * *

The appointment of Department Chairmen is authorized in each of the Secondary Schools in each of the subject areas on the following basis:

Number of teachers in department	*Differential*	*Class load*
1	$ 470	5
2-3	565	4
4-5	660	4
6-7	755	4
8-9	850	3
10-11	945	2
12-13	1,040	2
14-15	1,135	2
16-17	1,230	2
18-19	1,325	2
20 or more	1,500	1

The number of teachers in any given Chairman's Department is to be determined by counting each full time teacher and each part-time teacher including himself as one teacher. (Spring Valley, New York)

* * *

D. The chairman of each department shall be appointed for a three-year term on a rotating basis by the principal with the approval of the superintendent. (West Allis, Wisconsin)

Special Reports

BRIEFS OF RECENT AGREEMENTS

Derby, Connecticut

Between the Derby Board of Education and the Derby Teachers' League, effective January 1, 1970, to January 1, 1971. Approximately 130 certificated professional employees. Provision for negotiation of a succesor agreement to begin no later than March 1, 1970.

Compensation: B.A., $7,150 to $10,800, 11 increments; B.A. plus 30 hours or M.A., $12,400 maximum; M.A. plus 30 hours, or second M.A., or sixth year certificate, $9,400 to $13,400, 11 increments; Ph.D., $14,000 maximum. Retirement pay of no more than one month's salary after 25 years' service in system. Differentials: head varsity football coach, $1,500; assistant varsity football coaches, $750; head basketball and baseball coaches, $950; varsity golf coaches, $350; head cross country and swimming coaches, $350; freshman baseball coach, $400; music director, $475; speech teacher, $250; teachers of mentally retarded children, $400; guidance counselor, $300; department heads and curriculum coordinators, $200; library supervisor, $250. Certified substitute teachers paid $25 per day, others paid $22 per day.

Leaves: 15 days' annual sick leave, unlimited maximum accumulation; 3 separate days for personal leave, religious holidays, family illness, court appearance, or bereavement leave with prior permission of superintendent; professional conference and school visitation leave as approved with board reimbursing teacher for expenses incurred; paid leave less any workmen's compensation received for teachers absent due to a job-related physical injury; sabbatical leave at half-pay for 1 semester or 1 year after 5 years' service; upon retirement or death, a teacher is paid 1/200 of current salary per day of accumulated unused sick leave to a maximum of 30 days from and after January 1, 1970.

Insurance: Board pays Blue Cross and C.M.S. membership premiums; payroll deductions for Teachers' Retirement Fund; board maintains a public liability insurance policy covering certified personnel acting within the scope of their jobs.

Miscellaneous: Grievance procedure ends with arbitration, the nature of which is undefined; League dues deduction for local, state, and national associations; released time for League president while conducting official business; joint Administrative Screening Committee; joint curriculum review committee to develop a tentative curriculum outline for board consideration, write and publish the curriculum if approved, and "constantly evaluate and study both established and new curriculum"; tuition reimbursement of $30 per semester hour for a planned, approved program leading to an M.A. degree or its equivalent; tuition reimbursement of a minimum of $50 for 6 semester hours of study leading to a second M.A. degree or an M.A. plus 30 hours; teacher has right to review personal evaluation files and may discuss any "locally originating evaluation reports"; duty-free lunch period for all teachers equivalent to students' lunch period; 1 preparation period per day for all secondary teachers; elementary teachers may be absent from their rooms during special teaching periods; desirable class size limitations (with provision for further reduction of limitations) set at 25 students per kindergarten and first grade class, 30 students per regular elementary and secondary class, and 15 students per special education class; provisions for teacher aides to relieve teachers in kindergarten through the eighth grade when class enrollment reaches more than 30, and supervise the high-school cafeteria, study halls, and library; provision for 1 part-time clerical employee for every 8 teachers; if criminal proceedings are brought against a teacher in a job-related assault case, the board will provide the teacher with counsel or reimburse the teacher for counsel fees if he is found not guilty.

Fort Wayne, Indiana

Between the Fort Wayne Community Schools and the Fort Wayne Education Association, effective August 15, 1970, to August 14, 1971. Approximately 1,725 certificated professional employees. Provision for reopener during the contract year by mutual consent. Provision for renegotiation to begin no later than the second week in January.

Compensation: B.A., $7,350 to $12,348, 17 increments; M.A., $8,085 to $13,818, 17 increments; credit earned beyond the M.A. degree is paid at the additional rate of 1 percent of the B.A. base per 5 semester hours to a maximum of 60 hours; Ph.D., $14,920.50 maximum. Differentials: head football, basketball, and track-cross country coaches, $1,367.10; all senior high assistant coaches, $661.50; junior high head football, basketball, and track-cross country coaches, $617.40; vocal music instructor, $330.75; speech and publications advisors, $661.50; theatre arts coach, $330.75; junior high department heads, $220.50; senior high department heads, $661.50. Licensed substitute teachers, $25 per day; nonlicensed substitute teachers, $22 per day.

Leaves: 10 days' annual sick leave, 120 days' maximum accumulation; accumulated sick leave (120 days' maximum) transferred from another system will be credited in full at the beginning of the second year of employment but may be effected during the first year in the event of a "proven emergency"; 2 separate days for personal business which may be taken in half-day units or, if unused, may be added to accumulation at the end of a school year; 5 separate days' bereavement leave; bank of paid professional leave days available with daily allowance of $10; paid leave for jury duty less per-diem court allowance; leave for teachers fulfilling military reserve obligations with board paying the difference between the teacher's regular salary and his military pay for no more than 15 calendar days per month; sabbatical leave at half-pay for 1 year after tenure is achieved.

Insurance: (effective January 1, 1971) Board contributes $100 toward Blue Cross-Blue Shield coverage for individual or family; board pays full cost (less $1) of $5,000 term life insurance policy for each full-time teacher; payroll deduction for tax sheltered annuities; compulsory retirement at age 66 with teacher who has 10 or more years' experience in system receiving terminal pay of $73.50 (.01 of B.A. base) for each year of total credited teaching experience; retiring teachers who have less than 10 years' experience in the system receive terminal pay of $73.50 (.01 of B.A. base) for each year of system experience; board provides a long-term disability insurance policy for all full-time teachers with coverage for 52 weeks of the year, maximum benefit payments of $1, 250 per month, and benefits equalling 60 percent of earnings after 6 calendar months of disability.

Miscellaneous: Grievance procedure ends with advisory arbitration; Association has access to board meeting agendas and minutes; joint sabbatical leave committee empowered to recommend candidates to superintendent; joint periodic reviews of pupil-teacher ratios; joint meetings no less than once per month at request of either party in order to maintain "good relations" through "regular dialogue and communication"; provision for the appointment of a "representative joint committee" to study and discuss designated areas of mutual concern; provision for tuition reimbursement for undergraduate credits earned after the M.A. degree; 1 preparation period for all junior and senior high school teachers; duty-free lunch period for all teachers to be "in no instance less than that specified by law"; provision for the addition of elementary physical education, music, and art teachers as feasible and in order to provide elementary teachers with increased preparation time; professional growth requirement whereby each teacher should earn a minimum of 5 semester hours of credit each 5-year period of employment; pupil-teacher ratios of no more than 30 students per elementary class, 23 students per junior high class, and 25 students per senior high class; negotiation impasse resolution machinery proceeding through mediation (at the request of either or both parties) and advisory fact-finding to mandatory advisory arbitration with parties sharing the costs.

Paducah, Kentucky

Between the McCracken County Board of Education and the McCracken County Education Association, effective July 1, 1970, to June 30, 1973. Approximately 210 certificated professional employees. Provision for annual reopener on the salary schedule for the ensuing year to begin no later than April 1 of each calendar year for the duration of the agreement. Provision for the negotiation of a successor agreement to begin no later than January 15, 1973.

Compensation: B.A., $5,800 to $7,950, 10 increments; B.A. plus 15 hours, $8,100 maximum; M.A., $6,250 to $8,600, 12 increments; M.A. plus 30 hours, $9,050 maximum. Differentials: high-school athletic coach, $1,600; assistant high-school athletic coach, $750; junior high-school coach, $350; high-school cheerleader sponsor, $250; high-school band director, $700; school play coach, $100 per play; vocal music director, $350.

Leaves: 2 separate days' bereavement leave; paid professional conference leave.

Insurance: Workmen's compensation for job-related accidents or injuries.

Miscellaneous: Grievance procedure ends with advisory arbitration; Association access to staff data and right to use school facilities; where possible, released time during last period for Association officers; joint committee to study curriculum innovations; provision for system and building joint meetings to discuss areas of mutual concern;

standing Association committee is to make recommendations regarding the educational program to the superintendent; teacher has right to review personnel file and may submit a written response to any personally descriptive material prior to placement therein; professional staff meetings every Monday; Association and board to provide orientation program for new teachers; board-paid required physical examination every other year; summer school positions are to be posted; provision for the equitable assignment of teachers to specialized duties; impasse resolution machinery consisting of advisory mediation with the mediator's recommendations made public upon agreement of the parties; exploration and study of innovative programs shall be encouraged; every teacher has authority over any pupil while on school grounds and is expected to exercise such authority when necessary.

Baldwinsville, New York

Between Central School District No. 1 and the Baldwinsville Faculty Association, effective July 1, 1970, to June 30, 1972. Approximately 325 certificated professional employees. Provision for renegotiation of specified items (including compensation, teacher aides, leaves, and term of agreement) at request of either party by December 31, 1970. In addition, after submission of its proposals to a joint committee and by March 1, 1971, either party may elect to request the addition of two new subjects to 1971-72 negotiation, request the amendment of two current articles not covered under the renegotiation clause, or request negotiation of one new article and renegotiation of one such existing article.

Compensation: (1970-71) B.A., $7,100 to $9,850, 11 increments; B.A. plus 30 hours, $11,558 maximum; M.A., $7,550 to $11,963, 11 increments; M.A. plus 42 hours, $13,467 maximum. Differentials: (for coaches, first step of a 7-step schedule) head basketball, wrestling, gymnastics, and swimming coaches, $565; head football coach, $420; assistant football coaches, $350; head soccer and cross country coaches, $530; assistant soccer and cross country coaches, $460; head tennis coach, $350; special education teacher, $500; certified elementary reading coordinator, $600; summer school teachers, $450 per secondary class and $625 per elementary class; driver education teachers, $6.90 per hour. Itinerant substitute teachers' salary schedule; B.A. or less, $5,200 to $8,000, 10 increments; M.A., $5,500 to $8,500, 10 increments; M.A. plus 40 hours, $9,000 maximum.

Leaves: 10 days' annual sick leave, unlimited maximum accumulation; extended sick leave of 30 days per year at partial pay, 10 of which days not used "will be cumulative to a total of ninety (90) school days in one year. After a Teacher has been in the system ten (10) years, these days may accumulate to one hundred twenty (120) days"; provision for establishment of a sick leave bank pending determination of the statutory legality of such; 3 separate days' personal leave, plus 7 additional personal leave days at partial pay; 2 separate days for family illness, 3 separate days' bereavement leave; paid leave for jury duty less per-diem court allowance; paid professional conference leave with reimbursement for travel and lodging expenses incurred if conference is more than 50 miles from system; sabbatical leave at full pay for 1 semester or half-pay for 1 year after 7 years' service.

Insurance: Maintenance of New York Life Insurance Group Plan; payroll deduction savings plan; tax sheltered annuity plan; continuance of New York State Teachers Retirement System Plan.

Miscellaneous: Grievance procedure ends with binding arbitration; Association dues deduction, right to use school facilities, and access to district budgetary data; state Association delegate granted 3 days' paid leave; Joint Work Committees to study accountability, school calendar, school day, teacher evaluation, career teacher salary plan, and teacher aides, with proviso that other committees may be introduced upon mutual agreement; joint curriculum committee; provision for no more than 4 joint Informal Discussions per year at the written request of either party in order to provide "a forum for airing of matters relating to terms and conditions of employment not specifically covered" by the agreement; 1 preparation period per day for all teachers; teacher has right to review personnel file and respond to any derogatory material before placement therein; summer school selection procedures providing for the hiring of teachers within the district before those from outside; teacher evaluation at least once per year; vacancies will be posted twice a year; compliance committee formed by Association to investigate and act upon instances of noncompliance with terms of agreement alleged by administration; required teacher participation in inservice training program measured in terms of college hour equivalency; school calendar; average district class size goals to range from 20-25 pupils per elementary class to 27 pupils per secondary class; required physical examination every 2 years by school-appointed doctor or personal doctor with teacher paying fee in latter instance; teacher aides to be provided according to the recommendations of a 1968-69 Joint Work Committee studying the subject; substitute teachers will be hired in elementary schools according to the number of classes having more than 27 students in order to enable teachers to participate in parent-teacher conferences.

ELEMENTARY PARENT-TEACHER CONFERENCE

In order to promote the welfare of elementary students through contact with their parents, the District and the Association hereby acknowledge the need for elementary parent-teacher conferences. Teachers shall participate in such conferences upon the following basis:

A. All elementary school classroom Teachers, excluding special education and kindergarten, shall be relieved of classes for two half days for the purpose of reporting to and conferring with parents.

B. All kindergarten Teachers shall be relieved of classes for two half days per session taught for the purpose of reporting to and conferring with parents.

C. For Teachers who have in excess of 27 students, substitutes shall be employed as follows:

1. Where the aggregate number of students in excess of 27 for all "excess" classes in any one elementary school equals at least six but not more than fifteen, one substitute shall be provided for one day.
2. For each additional ten "excess" students beyond 15, one (1) substitute shall be hired.
3. The "excess" students shall be totaled separately for each elementary school.
4. The substitutes so hired shall be used only for the purpose of relieving Teachers having such "excess" students, to enable their participation in parent-teacher conferences.
5. An equitable amount of substitute time shall be assigned among Teachers having "excess" students.
6. Any elementary classroom Teacher who has a full slate of conferences (four (4) in a two hour evening block) for two (2) or more evenings, shall be provided a substitute for the afternoon of the second and subsequent such days, commencing at 1:30 P.M.
7. Preparation for and scheduling of parent-teacher conferences shall be accomplished as follows:
   a. Prior to faculty meeting: The Administration shall have all family cards updated, shall prepare a separate stack for each Teacher, each stack to have an approximate equal number of cards, and shall band and mark each stack with the appropriate Teacher's name.
   b. At the faculty meeting:
      (1) The Administration shall review with the faculty the directions for procedure and distribute to the Teachers the appropriate banded and marked family cards.
      (2) Teachers attending the meeting shall remain at the meeting until completion of scheduling for multi-teacher conferences and shall return their assigned pack of family cards to the Principal before leaving. The time required for this scheduling should be approximately 1¼ to 1½ hours.
      (3) Multi-teacher scheduling: At the Faculty Meeting the family cards distributed to each Teacher will contain the names of some of his pupils and siblings in other classrooms. Each Teacher will be responsible for initiating the cooperative scheduling of those parents who will have more than one conference. In the span of the month set aside for conferences, each Teacher should be able to schedule these parents consecutively. The Principal is to be notified of any problems, which problems are to be resolved prior to the time a Teacher leaves the meeting. A parent should not be scheduled for more than three (3) conferences on one day and should not be scheduled cooperatively more than once.
      (4) Single conferences are those for parents with one child in the building and are to be scheduled after multi-conferences to fill in any gaps.
      (5) Teachers will be required to have tentative conference sheets, class lists and pencils for the faculty meeting.
      (6) Where afternoon conferences are scheduled, students will be dismissed at noon on that day.
      (7) Where evening conferences are to be held, the last conference shall be completed no later than 9:00 P.M.
      (8) All other conferences may be scheduled on regular school days when the Teacher has adequate time.
      (9) Contacting the parents: It is the Teacher's professional responsibility to make the initial and one additional attempt if necessary to schedule the parent. If unsuccessful after these two attempts, the names of unscheduled parents are to be sent to the Principal who will then assume responsibility for the scheduling.

      Teachers in notifying parents of scheduling are not to provide on the return slip a place for parents to indicate their choice of time for a conference. Proposed conference time is to be indicated on the notice.

Parents who find the scheduling inconvenient can then request a more appropriate time. (Baldwinsville, New York)

Racine, Wisconsin

Between Unified School District No. 1 of Racine County and the Racine Education Association, effective August 25, 1970, to August 25, 1971. Approximately 1,460 certificated professional employees. Provision for automatic renewal of contract for consecutive yearly periods unless either party notifies the other in writing by January 1 of any year of a desire to negotiate a new agreement.

Compensation: B.A., $7,500 to $11,681, 13 increments; B.A. plus 24 hours, $12,542 maximum; M.A., $8,250 to $13,631, 13 increments; M.A. plus 24 hours, $14,682 maximum. Differentials: (for coaches, first step of a three-step schedule) senior high-school head football coach, $954.33; senior high-school head basketball, track, and wrestling coaches, $895.60; senior high-school G.A.A. programs, $293.64 per activity; junior high-school head football coach, $573.49; junior high-school head basketball, wrestling, and gymnastics coaches, $440.46, teacher of the deaf, $660.69; high-school department chairmen, $646; high-school instrumental music instructor, $646; debate and forensics advisors, $264.28; high-school dramatics coaches, $1,600 for 2 major productions and 1 minor production. Teachers of the mentally handicapped are paid a salary differential equal to 2 steps above their normal step. Teachers assigned to an extra class as a substitute teacher are paid a differential of 20 percent of their regular salary per class per day excluding extra-duty pay; teachers assigned an additional class on a full-time basis are paid a differential of 20 percent of their regular salary excluding extra-duty pay.

Leaves: 10 days' annual sick leave, 130 days' maximum accumulation; 1 separate day for personal business; 5 separate days for critical family illness; 3 separate days (at superintendent's discretion) in case of extreme emergency; 5 separate days' bereavement leave; 1 separate day for male teachers for delivery or adoption of child; paid professional conference leave; paid leave for jury duty less per-diem court allowance; 10 days' leave for military reserve training with board paying the difference between the teacher's regular salary and his military pay.

Insurance: Board-paid group hospitalization and surgical-medical plan for individual coverage; after 6 months' employment, teachers automatically are included in a state life insurance group plan whereby the board pays an amount equal to 32 percent of teacher contributions, and teachers pay 20¢ per month per $1,000 of coverage to age 30, 40¢ per month to age 40, and 60¢ per month after age 40; 3 state teacher retirement programs available for all teachers; tax sheltered annuity plan; board provides liability insurance covering the costs of "legal defense and judgments for tort liability incurred in the course of employment."

Miscellaneous: Grievance procedure ends with binding arbitration; Association dues deduction and right to use school facilities; joint job description committee to define each extra-pay or extra-duty position if requested by either party; joint determination of use of aides for supervisory duties; joint advisory committee to discuss texts and supplementary materials, curricula, student-teacher ratios, and pupil progress reporting; teacher has access to personnel file when subject to discipline, a reduction in rank or compensation, non-renewal, or dismissal; 1 class period per day for preparation for all secondary teachers; 30-minute duty-free lunch period available unless teacher contracts for duty at 11¢ per minute payable annually; 3-year probationary period; tenure teachers returning from a leave of absence retain their tenure; board provides legal assistance to teachers in job-related assault cases; monthly building, subject area, and special staff meetings; professional growth requirement cycle whereby each teacher must complete 5 semester hours of credit each 5 years; board-paid physical examination required every third year; dismissal of tenure teachers subject to grievance procedure; optimum class size maximums of 30-32 pupils per elementary class and 35 pupils per secondary class.

SELECTED NEGOTIATED PROVISIONS GOVERNING TEACHER PROMOTIONS AND TEMPORARY ASSIGNMENTS TO HIGHER CLASSIFICATIONS

An analysis of 978 comprehensive agreements effective during the 1968-69 school year in systems with a pupil enrollment of 1,000 or more indicated that 360 agreements (36.8 percent) contained a negotiated provision relative to the promotion of teachers to higher classifications, 45 agreements (4.6 percent) provided negotiated procedures for the temporary assignment of teachers to higher classifications, and 103 systems (10.5 percent) negotiated both promotion and temporary assignment provisions. Table 1 provides a state-by-state breakdown of the incidence of teacher promotion and temporary assignment provisions among the agreements analyzed.

TABLE 1.—TEACHER PROMOTION AND TEMPORARY ASSIGNMENT PROVISIONS CONTAINED IN COMPREHENSIVE AGREEMENTS, 1968-69

State	Number of agreements analyzed	Promotion provision only		Temporary assignment provision only		Promotion and temporary assignment provisions		Agreements containing designated content	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent
1	2	3	4	5	6	7	8	9	10
Arizona	2	...	...	1	50.0%	...	...	1	50.0%
Arkansas	1	...	...	...	...	...	...	...	...
California	1	...	...	...	...	...	...	...	...
Colorado	4	1	25.0%	...	...	...	...	1	25.0
Connecticut	56	38	67.9	...	...	1	1.8%	39	69.6
District of Columbia	1	1	100.0	...	...	...	...	1	100.0
Illinois	33	8	29.6	1	3.0	1	3.0	10	30.3
Indiana	8	3	37.5	...	...	...	...	3	37.5
Kansas	1	1	100.0	...	...	...	...	1	100.0
Maryland	2	1	50.0	...	...	...	...	1	50.0
Massachusetts	129	60	46.5	...	...	3	2.3	63	48.8
Michigan	312	91	29.2	39	12.5	85	27.2	215	68.9
Missouri	1	...	...	...	...	...	...	...	...
Montana	2	...	...	...	...	1	50.0	1	50.0
Nebraska	1	...	...	...	...	...	...	...	...
New Jersey	6	2	33.3	1	16.6	...	...	3	50.0
New York	319	124	38.9	1	0.3	9	2.8	134	42.0
Ohio	12	4	33.3	...	...	1	8.3	5	41.6
Pennsylvania	5	...	...	...	...	1	20.0	1	20.0
Rhode Island	19	16	84.2	...	...	1	5.3	17	89.5
Utah	4	2	50.0	...	...	...	...	2	50.0
Virginia	2	2	100.0	...	...	...	...	2	100.0
Washington	3	1	33.3	...	...	...	...	1	33.3
Wisconsin	53	4	7.5	2	3.8	...	...	6	11.3
Wyoming	1	1	100.0	...	...	...	...	1	100.0
Total	978	360	36.8%	45	4.6%	103	10.5%	508	51.9%

Promotions are permanent assignments to higher classifications, while temporary assignments are expedient measures designed to maintain the continuity of school operations when persons in higher classifications are temporarily absent for reasons of emergency, leaves of absence, or while screening and selecting candidates to fill vacancies. Temporary assignments generally do not last more than a few days or weeks, but they may extend longer under extraordinary circumstances. Teachers assigned to higher positions on a trial basis who later return to the teaching ranks may be excluded from the recognized bargaining unit (depending upon the bounds of recognition) for the period of the assignment, but regain unit representation upon return to teaching, and retain their tenure status and all prior accumulated benefits. Specific contractual mandates concerning temporary teacher assignments to higher classifications include:

- Higher positions to which teachers may be temporarily assigned generally are stipulated as those of principal (where there is no assistant principal or other comparable administrator) and department chairman.
- Persons eligible for temporary assignment may include the entire teaching staff, teachers with the greatest seniority, or the most senior department members.

- Some agreements allow a principal to delegate his authority to particular teachers when necessary, while others simply state that teachers will be appointed to undertake temporary assignments.
- Conditions necessitating temporary assignments may include a principal's short-term absence, various emergency situations, and administrative or departmental vacancies.
- Compensation for temporary higher assignments variously is designated as a specified hourly rate, as payment at the administrator's hourly rate if the assignment lasts one full day or more, or as payment on a pro-rated basis. Some agreements simply specify that the teacher will suffer no loss in pay.
- Temporary assignments may be performed without compensation if a teacher is willing to undertake the responsibility without pay, if the assignment lasts less than one day or does not involve one or more consecutive days, or if the teacher is expected to handle only emergency situations requiring immediate attention.
- The length of the temporary assignment period is governed by the length of the absence, emergency, or vacancy involved, although some agreements provide that temporary assignments to vacant positions shall last no longer than a specified period of time.

Promotional positions generally are defined as positions paying a salary differential and/or those of a supervisory or administrative nature. They may include the positions of coordinator, department chairman, counselor, administrative assistant, assistant principal, principal, assistant superintendent, and occasionally specialist. As a vacancy in a higher job classification occurs, the school board or superintendent generally publicizes the opening on school bulletin boards, in periodic bulletins or newsletters, in the administrative office, or through notices enclosed with paychecks. Summer vacancies and/or vacancies occurring at the end of a school year are publicized through letters to officers of the representative organization and teachers who previously asked to receive such notices.

In an April 1970 arbitration award, a contract clause providing for the posting of vacancies occurring in positions "other than classroom teacher" was interpreted to require the Kingston (N.Y.) City School District to post an opening for the position of superintendent. While the district contended that certain appointments were left solely to its discretion, the arbitrator was unable to sustain the contention in the absence of any negotiated exceptions to the clause.

Posting periods vary from five days to 30 or more days with most agreements specifying that notice be posted as far in advance as possible or practicable. Some agreements require the posting of all vacancies by a particular date or month of the year. In the event of temporary emergency vacancies, posting periods may be waived or significantly reduced. Posting notices generally set forth the date by which application must be made, procedures for applying for the vacancy, required job qualifications, and a job description including salary.

Requirements governing a teacher's eligibility for promotion include appropriate degree and certification status, satisfactory prior service, the length of prior service in the system, an appropriate professional and experiential background, and good references or recommendations. In some school systems a standardized promotional test is administered and a minimum acceptable score specified. Subjective considerations include health, character, personality, administrative capabilities, and the applicant's ability to relate to students, his peers, and the public.

Specific negotiated items concerning application, selection, and appointment procedures include:

- Applicants from within the system are encouraged, and a number of agreements state that they will be given preference or first consideration during the selection process.
- Teachers generally must apply in writing to the superintendent or his designated representative within a time limit specified in the posting notice. Many systems provide a formal application blank, and the applicant receives written acknowledgment of his application.
- In some instances, an application must be accompanied by a transcript of the applicant's academic work and/or an attached list of qualifications for the position.
- Eligibility lists or application files are maintained in some systems with the requirement that a teacher maintain his eligibility by submitting to a new interview every other year, or bring his application up to date or submit a new application when applying for a specific promotional position. An arbitrator held, however, that the New Haven, Connecticut, school board was not barred from hiring two outside administrators who were not on the local eligibility list to fill positions of principal when the promotion clause referred "clearly and compellingly" to promotional eligibility requirements for *teachers* alone. While the clause stipulated that outside applicants for promotion "must meet the same conditions" as applicants from within the system, the arbitrator ruled that a literal reading of that phrase could not be sustained within the "teacher" context of the entire clause.
- Once eligible candidates for an opening are identified, many agreements outline various preliminary screening procedures including testing, evaluation or rating by an immediate supervisor or principal, and initial consideration by a three- to five-member joint committee.

- In most agreements, candidates are to be interviewed by a joint evaluation or selection committee which then recommends one to three candidates to the superintendent, personnel director, or school board for final consideration and/or selection. Teachers applying for several promotional positions usually are to be interviewed only once. If no final candidates are recommended at this step, notice of the position vacancy is to be reposted.
- Criteria used in recommending and/or selecting appointees include supervisors' evaluations, references or recommendations, merit considerations or ratings, and seniority. If two applicants are equally qualified, the tenure teacher with greater seniority often is selected. Most agreements specify that no discrimination will be shown. In an arbitration case involving the Boston School Committee, a teacher was found wrongfully denied promotion to a supervisory position because of a low biennial merit rating which left him with an inadequate number of "points" for promotion. The arbitrator found it sufficient, however, to say that a corrected biennial rating and a corrected rating list for supervisor would assure the teacher's candidacy for any future promotion. Another arbitrator held that the Warwick (R.I.) School Committee improperly denied promotion to a senior applicant for a science department chairmanship under a promotion clause stating that "where qualifications are considered equal, [system] seniority . . . shall prevail." Ruling that the committee had not produced "tangible evidence" that the grievant was less qualified for the position than the teachers promoted, the arbitrator said that "a mere count of science courses in undergraduate and graduate study does not represent sufficient evidence to warrant a conclusion that one individual with a generally fine record is not equal to others."
- The final appointment decision usually is made by the school board upon the superintendent's recommendation. If no appointee is named, notice of the vacancy is to be reposted.
- Candidates who are not selected for a promotion generally are given written notification of their rejection prior to public announcement of the final appointment. In some agreements, the applicant so rejected may request the reasons for his rejection or confer with the personnel director or superintendent.
- A number of agreements specify that neither the procedures for applying for a promotion nor an actual appointment to a promotional position may be grieved or submitted to arbitration, barring extraordinary circumstances such as a school board's unilateral action in violation of contractual guarantees.

Reprints of selected provisions governing teacher promotions and temporary assignments to higher classifications follow. These are sample provisions only; they are not intended to be regarded as exemplary.

Temporary Assignments to Higher Classifications

Community Unit School District No. 9, Granite City, Illinois
Article XXX

At the beginning of each school year, someone from the staff in each building, where there is no designated assistant principal, shall be designated to act as principal at times when the regular principal or some other member of administration is not present. The person so designated shall be known to the entire staff and shall be compensated at a rate of $5.18 per hour payable to the nearest accumulated hour at the end of each school year. In cases of absence of the principal for a full day or more, the person designated to act as principal during the absence of the principal shall, unless some other administrator is present, receive payment for the days work on the basis of his position on the principals' salary schedule.

Revere Public Schools, Revere, Massachusetts
Article IX, Section H—*Teacher Assignment*

Principals, in the event of their short-term absence, will be empowered to delegate authority within their buildings to teachers with seniority who are willing to accept the responsibility without compensation.

Clintondale School District, Mt. Clemens, Michigan
Article VIII, Section D—*Transfers*

Any teacher who shall be transferred to a supervisory or executive position, and shall later return to a teacher status, shall be entitled to retain such rights as are prescribed by the State Tenure Law.

Metuchen Public Schools, Metuchen, New Jersey

Item 1(b)–*Agreements to be Implemented Through Board Policy–Department Chairman*

In case of vacancy, the senior member of the department in terms of service within the district, will become Acting Department Chairman until such a time as a regular appointment is made by the Board. He will be compensated on a pro-rated basis. No vacancy will exist for more than one full school year.

Buffalo Public Schools, Buffalo, New York

Article V, Sections E and F–*Compensation and Expenses*

Whenever a teacher is appointed Acting Principal for one day or more, the teacher shall be relieved of his classroom duties for the period of the principal's absence. When a principal is absent for less than one day, and no substitute is provided, the teacher designated as Acting Principal shall not be expected to handle any matters coming into the principal's office other than emergency situations which require immediate attention.

When a teacher temporarily assumes the duties of another position for two or more consecutive days, the teacher shall suffer no loss in pay and shall be paid at the daily rate of the assumed position, if higher, for all such consecutive days.

Promotions

Derby Public Schools, Derby, Connecticut

Article XII, Section C–*Working Conditions–Promotions*

1. All vacancies in promotional positions caused by death, retirement, resignation, or by the creation of a new promotional position shall be filled pursuant to the following procedure:
   a. Such vacancies shall be adequately publicized, including a notice in every school (by posting, through the Superintendent's bulletin or otherwise) as far in advance of the date of filling such a vacancy as possible (ordinarily, at least thirty (30) days in advance and in no event less than two (2) weeks in advance.
   b. Said notice of vacancy shall clearly set forth the qualifications for the position.
   c. Teachers who desire to apply for such vacancies shall file their applications in writing with the Office of the Superintendent within the time limit specified in the notice.
      (i) If in the determination of the Superintendent the qualifications of applicants are substantially equivalent, preference should be given to qualified teachers employed by the Board.
      (ii) Promotional positions are defined as follows: positions paying a salary differential and/or positions on the administrator-supervisory level, including, but not limited to, positions as Superintendent, assistant superintendent, supervisor, assistant supervisor, director, assistant director, principal, assistant principal, department chairman, guidance director, counselor, and administrative assistant.
      (iii) All vacancies (as defined above in the case of promotional positions) for specialists and/or special project teachers shall also be filled pursuant to the procedure set forth in Paragraph (a) above.
      (iv) All appointments to the aforesaid vacancies and openings shall be made without regard to age, race, creed, color, religion, nationality, sex or marital status.

Bridgewater School District, Bridgewater, Massachusetts

Article IX–*Promotions*

1. For purposes of this Article, a "promotional position" is defined as any position paying a locally funded salary differential and/or any position on the Administrator-supervisor level.

2. Whenever any vacancy in a promotional position occurs during the school year, notice thereof shall be placed on a bulletin board in every school as far in advance of the date of filling the vacancy as possible. Written notice of any such vacancy occurring during the months of July and August will be sent to each teacher who shall have filed his name and summer address with the Superintendent for the purpose of receiving such notices. Notices of a vacancy shall state the qualifications for the position, its duties and the

rate of compensation and a date, not earlier than fourteen (14) days after the notice is posted or mailed, by which any teacher desiring to apply for the position may file his written application with the Superintendent. Except on a temporary basis, vacancies will not be filled within fourteen (14) days from the date the notice is posted or mailed, as the case may be.

3. The Committee shall fill vacancies on the basis of merit and may seek applicants to fill the same in any manner and from any source it deems appropriate. When, in the opinion of the Committee, all other factors involved in merit are substantially equal, preference in appointment will be given to qualified teachers already employed by the Committee. Each teacher applicant not selected will receive a written notification of the action taken by the Committee. Appointments to promotional positions shall not be subject to grievance procedure or arbitration. Wherever reasonably practicable, appointments will be made not later than sixty (60) days after the notice is posted or mailed.

4. Appointments to promotional positions will be made without regard to the race, color or creed of the appointee or, except where the qualifications for the position may otherwise require, to his sex or marital status.

Lincoln Park School District, Lincoln Park, Michigan

Article VIII—*Promotions*

A. The Board shall be responsible for the selection of the Superintendent of Schools and all other members of the central office staff. All other positions in the school system carrying contractual compensation in lieu of the regular teacher contract and providing such position is one of an administrative and/or executive nature shall be considered as a promotional position within the meaning of this Article. This section shall also apply to high school and junior high school department heads, summer school and night school directors.

B. The Board of Education shall declare a position vacant and the Superintendent shall post a notice of the vacancy in the Office of the Superintendent and additional postings, accompanied by a job description, shall be made available to each school office where there may be eligible candidates. Any qualified candidate may apply at the Office of the Superintendent on the proper application form. No vacancy shall be filled, except in case of emergency on a temporary basis, until such vacancy shall have been posted for at least seven (7) days. Temporary appointments shall not extend beyond the current school year. During the summer, available positions shall be the subject of notice mailed to teachers' homes.

C. The Superintendent shall make the recommendation for a specific promotion to the Board of Education in open session after having sought the help and advice of an Evaluation Committee of five (5) people, three (3) selected by him and two (2) selected by him from a panel of seven (7) named teachers provided by the Association. Any committee may function if at least four (4) of its members are present to evaluate candidates.

D. The Superintendent shall consider the committee's opinions and evaluations in arriving at his decision in making his recommendation to the Board.

E. The Evaluation Committee shall make an objective evaluation of all qualified candidates and shall include the following criteria in reaching their final evaluations: academic background; personality; health; character; total teaching and administrative experience; length of service in Lincoln Park; ability to relate with children, the public and his peers; a demonstrated willingness toward community service, and an interview, if the committee deems necessary, of all interested candidates by said committee. However, preference shall be given to candidates from within the local system, providing qualifications are essentially equal.

F. In case there is no applicant for a vacancy, the Superintendent may recommend to the Board a person to fill the vacancy, provided the individual appointed meets the qualifications as posted and consents to the appointment.

G. The Evaluation Committee shall recommend the top three candidates, where possible. If the Superintendent or the Board cannot recommend or appoint one of the top three candidates recommended by the Evaluation Committee for the position, the position shall automatically be reposted and the promotional procedure repeated.

H. Ground rules for the functioning of the Evaluation Committee shall be established, printed, and distributed to committee members by the Superintendent or his designate.

I. Central office promotional positions will be subject only to paragraph B of this Article.

J. Promotional appointments will be made by the Board after the Superintendent's recommendation.

Dayton Public Schools, Dayton, Ohio

Article XX–*Teacher Promotions*

20.01 Definition. Promotional positions are defined as follows: Positions paying a salary differential and/or positions on the administrator-supervisory level, including, but not limited to the following positions: assistant director, principal, assistant principal, community school coordinator, administrative intern, and administrative assistant. The Board shall give first consideration to qualified candidates from within its own staff of employees when filling vacancies above the teacher level.

20.02 Publicity. Whenever a vacancy occurs in a position for which teachers are qualified, the Board will publicize the position by special bulletins to each school. Such bulletins shall include information concerning general responsibilities, qualifications, procedures for obtaining the position, and the deadline for filing the application. Basic criteria to be considered for each position will be indicated on all publicity.

20.03 Eligibility for Administrative Appointment:
1. Appropriate degree and certification status.
2. Satisfactory service on the position held at the time of application.
3. Appropriate experience background.

20.04 Promotional Examination. A promotional examination will be administered each school year, such examination being provided and graded by the Educational Testing Service of Princeton, New Jersey. Date, time, and place will be announced. A candidate must obtain a score over the 50th percentile to qualify for further administrative consideration. A person failing to achieve the desired score may retake the examination after a lapse of one year.

20.05 Fee. There will be no charge for this examination to any Dayton Public School teacher who wishes to take it.

20.06 Field Analysis. The field analysis is based upon information obtained from evaluations made by principals and supervisors under whom the candidate has served. The rating will reflect the applicant's past and present performance in the classroom.

20.07 Initial Consideration. An initial consideration of candidates is determined by the results of the written examination and the field analysis.

20.08 Interview Committee. The interview committee shall consist of heads of three or more departments. The committee shall meet as needed to interview prospective administrative candidates and to nominate personnel for future administrative and supervisory positions.

20.09 Eligibility List. An annual review of the eligibility list, consisting of all who are interviewed, will be conducted by the Superintendent and the Personnel Department. *Candidates must understand that placement on the eligibility list does not guarantee promotion. Every applicant must be interviewed at least every other year.

20.10 Miscellaneous:
1. Final decision is the responsibility of the Superintendent who makes recommendations to the Board for personnel appointments.
2. The Superintendent may make temporary assignments of personnel to fill a permanent position. Such appointments shall extend until selection procedures are completed, but not beyond the current school year.
3. Reclassification or retitling of existing positions or the combination of two or more positions shall not require advertising of vacancies.
4. One interview may be held for more than one position in cases of teachers with more than one interest.

Cranston Public Schools, Cranston, Rhode Island

Article XVII–*Promotions*

A. Promotional positions are defined as positions requiring state certification and paying a salary differential over the regular teachers' salary schedule.

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*Upon request, the Personnel Department will indicate to an interviewee his relative eligibility placement by quartile.

B. All vacancies in promotional positions shall be filled pursuant to the following procedures:
   1. A notice shall be posted in every school building clearly setting forth a description of, and the qualifications for, the positions, including duties and salary.
   2. Such notices shall be posted as far in advance as practicable, and at least ten school days before the final date for submission of applications.
   3. Teachers who desire to apply for such vacancies shall submit their applications in writing to the Superintendent or his specified representative within the time limit specified in the notice. Applications shall include qualifications for the position as well as other data requested in the notice and/or helpful in evaluating the applications.
   4. Teachers who apply and are qualified for such position shall be interviewed by a committee which shall include one person from the negotiating unit appointed by the Superintendent after consultation with the President of the CTA. Interview ratings for each qualified applicant shall be prepared independently by each member of the committee. Such ratings shall not be subject to the provisions of Article XIII. Recommendation for a vacancy shall be made by the Superintendent from among the top three applicants unless he decides to make no recommendation from such applicants.

C. Promotional positions shall be filled on the basis of the best qualified person available provided, however, that where two or more candidates are substantially equal in qualification, the applicant with the greatest seniority in the Cranston School System shall be given preference. The decision of the Committee, unless arbitrary, capricious, and without basis in fact, will be final.

D. The Association will be notified within a reasonable time when a promotional position becomes vacant after the end of the regular school year but before the opening of the fall semester. Teachers who wish to be notified of any vacancies in promotional positions occurring after the close of the school year but before the opening of the following school year may leave their name and a mailing address with the Superintendent. The administration shall send a notice of vacancy in promotional position to all teachers exercising such option. Applications from such teachers must be received by the Superintendent or his specified representative within ten (10) calendar days of the postmark date on the administration's notice to the candidate to be eligible for consideration.

E. All teachers who apply and are qualified for a promotional position shall be interviewed and shall subsequently be notified of the disposition of their application before the appointment is made.

Texts

CALIFORNIA WINTON ACT

As amended effective November 24, 1970

Sec. 1. Sec. 3501 of the Government Code is amended to read:

3501. As used in this chapter:

(a) "Employee organization" means any organization which includes employees of a public agency and which has as one of its primary purposes representing such employees in their relations with that public agency.

(b) Except as otherwise provided in this subdivision, "public agency" means the State of California, every governmental subdivision, every district, every public and quasi-public corporation, every public agency and public service corporation and every town, city, county, city and county and municipal corporation, whether incorporated or not and whether chartered or not. As used in this chapter, "public agency" does not mean a school district or a county board of education or a county superintendent of schools or a personnel commission in a school district having a merit system as provided in Chapter 3 (commencing with sec. 13580 of Division 10 of the Education Code.

(c) "Public employee" means any person employed by any public agency excepting those persons elected by popular vote or appointed to office by the Governor of this state.

Sec. 2. Article 5 (commencing with sec. 13080) is added to Chapter 1 of Division 10 of Part 2 of the Education Code, to read:

Article 5. Employee Organizations

Sec. 13080 of the Education Code is amended to read:

13080. It is the purpose of this article to promote the improvement of personnel management and employer-employee relations within the public school systems in the State of California by providing a uniform basis for recognizing the right of public school employees to join organizations in their professional and employment relationships with public school employers and to afford certificated employees a voice in the formulation of educational policy. Nothing contained herein shall be deemed to supersede other provisions of this code and the rules and regulations of public school employers which establish and regulate tenure or a merit or civil service system or which provide for other methods of administering employer-employee relations. This article is intended, instead, to strengthen tenure, merit, civil service and other methods of administering employer-employee relations through the establishment of uniform and orderly methods of communication between employees and the public school employers by which they are employed.

It is the further intention of the Legislature that nothing contained in this article shall be construed to restrict, limit, or prohibit the full exercise of the functions of any academic senate or faculty council established by a school district in a community college to represent the faculty in making recommendations to the administration and governing board of such school district with respect to district policies on academic and professional matters.

Sec. 13081 of the Education Code is amended to read:

13081. As used in this article:

(a) "Employee organization" means any organization which includes employees of a public school employer and which has as one of its primary purposes representing such employees in their relations with that public school employer.

(b) "Public school employer" means *the governing board of a school district,* a school district, a county board of education, a county superintendent of schools, or a personnel commission of a school district which has a merit system as provided in Chapter 3 of this division.

(c) "Public school employee" means any person employed by any public school employer excepting those persons elected by popular vote or appointed by the Governor of this state.

(d) *"Meet and confer" means that a public school employer, or such representatives as it may designate, and representatives of employee organizations shall have the mutual obligation to exchange freely information, opinions, and proposals; and to make and consider recommendations under procedures in a conscientious effort to reach agreement by written resolution, regulation, or policy of the governing board effectuating such recommendations.*

(e) *"Persistent disagreement" means a disagreement between the parties to meeting and conferring required by this article that has not been resolved to the mutual satisfaction of the parties through such meeting and conferring within a reasonable period of time after the initial presentation of proposals, which shall be not less than 30 days, except by mutual consent.*

13082. Except as otherwise provided by the Legislature, public school employees shall have the right to form, join and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations. Public school employees shall also have the right to refuse to join or participate in the activities of employee organizations and shall have the right to represent themselves individually in their employment relations with the public school employer.

13083. Employee organizations shall have the right to represent their members in their employment relations with public school employers. Employee organizations may establish reasonable restrictions regarding who may join and may make reasonable provisions for the dismissal of individuals from membership. Nothing in this section shall prohibit any employee from appearing in his own behalf in his employment relations with the public school employer.

13084. The scope of representation shall include all matters relating to employment conditions and employer-employee relations, including, but not limited to wages, hours and other terms and conditions of employment.

Sec. 13085 of the Education Code is amended to read:

13085. A public school employer, *or such representatives as it may designate who may, but need not be, subject to either certification requirements or requirements for classified employees as set forth in this code,* shall meet and confer with representatives of *certificated and classified* employee organizations upon request with regard to all matters relating to employment conditions and employer-employee relations, and in addition, shall meet and confer with representatives of employee organizations representing certificated employees upon request with regard to *procedures* relating to the definition of educational objectives, the determination of the content of courses and curricula, the selection of textbooks, and other aspects of the instructional program to the extent such matters are within the discretion of the public school employer or governing board under the law. The designation of *representatives,* as provided herein shall not preclude an employee organization from meeting with, appearing before, or making proposals to the public school employer at a public meeting if the employee organization requests such a public meeting.

Notwithstanding the provisions of sec. 13082 and 13083, in the event there is more than one employee organization representing certificated employees, the public school employer shall meet and confer with the representatives of such employee organizations through a *certificated employee* council with regard to the matters specified in this section, provided that nothing herein shall prohibit any employee from appearing in his own behalf in his employment relations with the public school employer. The *certificated employee* council shall have not more than nine or less than five members and shall be composed of representatives of those employee organizations who are entitled to representation on the *certificated employee* council. An employee organization representing certificated employees shall be entitled to appoint such number of members of the *certificated employee* council as bears as nearly as practicable the same ratio to the total number of members of the *certificated employee* council as the number of members of the employee organization bears to the total number of certificated employees of the public school employer who are members of employee organizations representing certificated employees. Each employee organization shall adopt procedures for selecting its proportionate share of members of the *certificated employee* council, provided that such members shall be selected no later than October 31 of such school year. Within 10 days after October 31, the members of the *certificated employee* council shall meet and select a chairman, and thereafter such *certificated employee* council shall be legally constituted to meet and confer as provided for by the provisions of this article. Employee organizations shall exercise the rights given by sec. 13083 through the *certificated employee* council provided for in this section.

13086. Public school employers and employee organizations shall not interfere with, intimidate, restrain, coerce or discriminate against public school employees because of their exercise of their rights under sec. 13082.

Sec. 13087 of the Education Code is amended to read:

13087. A public school employer shall adopt reasonable rules and regulations for the administration of employer-employee relations under this article.

Such rules and regulations shall include provision for verifying the number of certificated employees of the public school employer who are members in good standing of an employee organization on the

date of such verification, and where a *certificated employee council* is required by sec. 13085, for the size of the *certificated employee council.* The public school employer may require an employee organization to submit any supplementary information or data considered by the public school employer to be necessary to the verification of the number of members in an employee organization and such information or data shall be submitted by the organization within 10 days after request, provided that membership lists, if requested, shall not be used as a means of violating sec. 13086. In addition, such rules may include provisions for (a) verifying the official status of employee organization officers and representatives, (b) access of employee organization officers and representatives to work locations, (c) use of official bulletin boards and other means of communication by employee organizations, (d) furnishing complete and accurate nonconfidential information pertaining to employment relations to employee organizations and (e) such other matters as are necessary to carry out the purposes of this article.

Sec. 13087.1 is added to the Education Code, to read:

13087.1 *A public school employer shall meet and confer with representatives of employee organizations or the certificated employee council pursuant to sec. 13085 with regard to a procedure for the resolution of persistent disagreements which may include fact finding and shall adopt rules and regulations establishing such a procedure, which procedure shall be mutually acceptable to the parties meeting and conferring. In the event the parties cannot agree on a procedure for the resolution of persistent disagreements, the parties, at the request of one of them, shall refer any persistent disagreement to a committee of three persons, one selected by the school employer, one selected by the employee organization or the certificated employee council, as the case may be, and in turn those persons shall select the third member. The committee shall report its findings to the parties at a public meeting of the parties. The committee may report recommendations to the parties at a public meeting upon the prior written agreement of both parties. Such findings and recommendations shall not be binding on the parties.*

Sec. 13088 of the Education Code is amended to read:

13088. The enactment of this article shall not be construed as making the provisions of sec. 923 of the Labor Code applicable to public school employees *and shall not be construed as prohibiting a public school employer from making the final decision with regard to all matters specified under sec. 13085.*

Sec. 13089 is added to the Education Code, to read:

13089. *This article shall be known and may be cited as the Gordon H. Winton, Jr. School Employer-Employee Relations Act or the Winton Act.*

DISTRICT OF COLUMBIA

Order of the Commissioner No. 70-229, effective June 19, 1970, establishing a

BOARD OF LABOR RELATIONS

Part I. Policy. The Government of the District of Columbia firmly supports the principle that, consistent with the paramount public interest, the efficient administration of the D.C. Government and the well being of employees require that an orderly and constructive relationship be maintained between employees and management.

Unresolved disputes in the public service are injurious to the public, the government and the employees. Protection of the right of employees to organize and bargain collectively safeguards the public and employees from injury, impairment and interruptions and removes certain recognized sources of strife and unrest by encouraging practices fundamental to the friendly adjustment of disputes.

It is the policy of the District of Columbia Government to eliminate the causes of obstructions to the orderly and efficient operation of government by encouraging the practice of collective bargaining, by protecting the right of employees to organize and to designate representatives of their own choosing, and by providing procedures for preventing the interference by employers and employees with the legitimate rights of the other.

Part II. Composition and membership. Sec. 1. The board of Labor Relations shall consist of five members. The members of the Board shall have expertise in the field of labor-management relations and shall possess the integrity and impartiality necessary to protect the public interest as well as the interest of the District of Columbia and its employees. Members shall hold no other full or part-time office for which compensation is paid from District funds or from Federal grants to the District of Columbia; nor shall members receive compensation from labor organizations representing District Government employees.

Sec. 2. The members of the Board shall be appointed by the Mayor in the following manner: a. Two members shall be chosen from lists of three names proposed by each labor organization representing a significant number of District Government employees or units of employees in agencies subject to the labor-management relations program of the Mayor, as set forth in the District Personnel Manual. Both labor members shall not be appointed from a list submitted by the same labor organization, unless that person's name appears on more than one list. b. Two members shall be chosen from a list of five names proposed by an ad hoc committee representing man-

agement within the District Government. This committee shall be selected from among the directors of those departments and agencies subject to the labor-management relations program of the Mayor in which there is a substantial degree of representation by labor organizations. c. The four members selected as above shall propose a list of three names to the Mayor, from which the Mayor shall select an impartial fifth member, who shall be Chairman. If the members cannot agree on a list of nominees within 30 days, the Mayor shall select a Chairman. d. The Mayor may ask that additional names be submitted.

Sec. 3. The terms of office shall be three years. In the case of the initial selections, the Chairman shall serve for three years, one labor and one management representative shall serve for two years, and one of each shall serve for one year. The short terms shall be chosen by lot. All members shall be eligible for reappointment

Sec. 4. Any member of the Board may be removed for cause, after having been given a copy of the charges against him and an opportunity to be heard in person or by counsel in his defense upon not less than 10 days' notice.

Sec. 5. The procedure for filling a vacancy resulting from the expiration of a term of office shall be initiated at least 30 days prior to the expiration. Each member shall hold office until his successor is appointed and has qualified. If a vacancy occurs during a term, the new appointee shall hold office for the remainder of the unexpired term and until a successor is appointed and has qualified.

Sec. 6. If at any time any matter comes before the Board in which any member has any interest, direct or indirect, other than that of a taxpayer, the member shall publicly so state and his statement shall be recorded in the minutes of the meeting. He shall thereafter be disqualified from participation in the consideration of said matter.

Part III. Duties and Powers. Sec. 1. To determine in disputed cases appropriate bargaining units and related issues.

Sec. 2. To resolve appeals concerning the method of determining majority status and over the conduct of elections, and to certify exclusive bargaining representatives.

Sec. 3. To decide whether unfair labor practices have been committed and issue an appropriate remedial order binding on the parties, or to make recommendations to the Mayor as provided in paragraph 18(d)(2) of Chapter 25A, District Personnel Manual.

Sec. 4. To resolve impasses through factfinding or final and binding arbitration; to remand disputes if it believes further negotiations are desirable or if the matter comes under the jurisdiction of another authority.

Sec. 5. To make a final determination as to whether a matter is within the scope of collective bargaining.

Sec. 6. To decide whether a dispute shall be subject to a grievance procedure, and to consider appeals from arbitration awards pursuant to a grievance procedure. Such awards may be reviewed only for reasons that the arbitrator was without or exceeded his jurisdiction; the award on its face is contrary to law and public policy, or was procured by fraud, collusion, or other similar and unlawful means.

Sec. 7. To conduct investigations, hear testimony, and take evidence under oath at hearings on any matter subject to its jurisdiction.

Sec. 8. To administer oaths or affirmations and to require the attendance of witnesses with any necessary records or other records which have a bearing on the dispute. However, regulations dealing with the confidentiality of personnel files shall not be abrogated.

Sec. 9. To make final decisions and to take appropriate action on charges of failure to adopt, subscribe or comply with the Standards of Conduct for Labor Organizations.

Sec. 10. To make recommendations concerning desirable revisions or amendments to Chapter 25A, District Personnel Manual.

Sec. 11. To adopt rules and regulations for the conduct of its business, and the carrying out of its powers and duties.

Sec. 12. To consider matters that would otherwise be within its jurisdiction arising in agencies not subject to Chapter 25A, District Personnel Manual under such terms and conditions as the Board by regulation may prescribe.

Sec. 13. To delegate any of the functions of the Board to panels of three of its members, each panel consisting of the Chairman, one labor member and one management member.

Sec. 14. To establish and maintain a list of mediators, factfinders and arbitrators, and to appoint same as provided in Chapter 25A, District Personnel Manual.

Part IV. Compensation. Members of the District of Columbia Board of Labor Relations shall be intermittent employees of the District of Columbia, and shall receive compensation when actually performing services as members of the Board.

Part V. Oath of Office. Each member of the Board before entering upon the discharge of his duties as such member shall take an oath or affirmation to support the Constitution of the United States and to faithfully discharge the duties imposed upon him as such member.

Part VI. Staff. The Board may appoint such staff as it determines necessary within the limits of available appropriations. Interim staff assistance may be furnished by the Personnel Office.

Part VII. Effective Date. The provisions of this order shall become effective immediately.

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NATIONAL EDUCATION ASSOCIATION

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Case Reviews

ILLINOIS

CRIMINAL CONTEMPT CONVICTION OF TEACHERS UNION FOR VIOLATION OF ANTI-STRIKE INJUNCTION UPHELD

The Illinois Appeals Court upheld a lower court's refusal to dissolve a temporary anti-strike injunction and its issuance of a show cause rule which resulted in the criminal contempt conviction of the Cook County College Teachers Union, Local 1600, and its president. Although the employer, the Cook County Board of Junior College District No. 508, moved to dissolve the injunction after a strike settling agreement was reached, the trial court denied the motion, and its decision was affirmed by the appeals court in holding that

> we must remind teachers and public employees that the interests of unionism do not justify standing in defiance of law. If we do not do this, and if contemptuous and illegal conduct by teachers were condoned, either by school boards or by courts meekly acceding to requests made under pressure, there would be erosion and ultimately destruction of the high place in public esteem that unions enjoy in our society.

Local 1600 was recognized on October 11, 1966, as exclusive bargaining representative for a unit of full-time academic faculty employed by the board. Negotiation of a collective agreement began shortly afterward, but on November 30 the board filed a complaint seeking declaratory judgment and an injunction, alleging that the union was threatening to strike. The Cook County Circuit Court issued a temporary injunction on that date restraining the union from

> participating in, or causing, inducing or encouraging, any strike or other concerted withholding of service, or interference with the performance of service, by any employee of plaintiff, or from picketing, parading or patrolling at or in the vicinity of the junior college campuses maintained and operated by plaintiff for the purposes of inducing such strike or other concerted withholding of services.

Although the president of Local 1300 did not see or receive a copy of the injunctive order, he knew it had been issued on November 30. Nevertheless, the union held a meeting of its membership that evening, and an estimated two-thirds of the board's teaching staff subsequently struck and picketed the board's campuses on December 1 and 2, 1966. The union's president was seen either picketing or in the vicinity of picketing during the strike.

Then on December 20, counsel to the board moved to dissolve the temporary injunction because the parties reportedly had settled their dispute. The circuit court, however, denied the motion and directed the board's attorney to file a petition for a rule on the union and its officers to show cause why they failed to comply with the temporary injunction. A petition was filed on December 21 and a rule was issued that day. Following other legal proceedings and the parties' ratification of a one-year agreement effective January 1, 1967, a hearing on the show cause rule was held on May 22, 1967. At the conclusion of the hearing, the union and its president were found guilty of criminal contempt; the circuit court imposed sentences of a $5,000 fine on the union, and a $1,000 fine and 30 days in jail upon the union president.

On appeal, the union alleged that the injunction was unconstitutional and void, that the board waived its right to seek punishment for contempt by its motion to dissolve the injunction, that the union's cause was prejudiced by the trial court's refusal to grant a change of venue, that the union president arbitrarily was singled out for punishment, and that the evidence presented did not prove the union guilty of contempt. The Illinois Appeals Court disposed of the first contention by finding that the trial court had jurisdiction of the subject matter and that "the questions defendants can raise in this appeal are whether the order finding them guilty of contempt is supported by evidence and whether it conforms to those rules of law which govern such proceedings."

As to the contempt issue, the union argued essentially that the injunction was directed at a labor dispute which, when settled, satisfied the party obtaining the injunctive order and thereby rendered the contempt moot at the time of its prosecution and strictly civil in nature. The appeals court, however, disagreed, explaining that

> a useful test by which a civil contempt can be distinguished from a criminal one is the punishment imposed. When punishment is purely punitive: imprisonment for a definite term, fine for a certain sum of money, the con-

tempt is said to be criminal. When punishment is a remedial or coercive measure: commitment of a contumacious party until he complies with the mandate of the court, a fine until there is obedience to the court's order, the contempt is said to be civil. . . . In the case before us no coercive order was issued for the benefit of [the Board]; no request for the contempt proceedings was made by Board. The trial judge . . . directed issuance of the rule in order to determine if [the union] had willfully violated a duly issued court order. Punishments the court imposed were fines in sums certain and imprisonment of [the union president] for a definite period. Thus. . . the proceedings were to determine whether defendants were guilty of criminal contempt of court. . . . Under no theory can a party that obtains an injunction bind the issuing court with condonation of contemptuous or illegal acts of those who violate the court's order.

In rejecting the union's third contention, the appeals court found the union's petition for a change of venue untimely since it had been filed long after the trial court had ruled on substantive issues in the case. The court also found no merit to the assertion that the union president arbitrarily had been selected for punishment in ruling that "it was not abuse of discretion for the trial judge to order proceedings against only [the president] and Union even though other individuals may have engaged in the same conduct." As to the adequacy of the evidence presented, the court concluded that "the recited evidence, none contradicted by defendants, proved beyond a reasonable doubt that defendants were guilty of contempt of court. . . . The fines and sentence of imprisonment which the trial court imposed manifest exercise of reasonable discretion." (*Board of Junior College District No. 508, County of Cook and State of Illinois v. Cook County College Teachers Union, Local 1600, et al.*, Illinois Appeals Court, First District, June 26, 1970.)

MICHIGAN

APPEALS COURT REFUSES TO CLARIFY PREVIOUS AGENCY SHOP RULING

A May 28, 1970, decision of the Michigan Court of Appeals (NRD, 10-70, 4) which ruled agency shop "a valid bargainable issue in contract negotiations" was made final August 3 with the court's denial of a motion for clarification and a request for reconsideration and rehearing en banc. Stating that "proceedings in this court in this cause have now been terminated," the case as previously reversed and remanded eventually will come before the Wayne County Circuit Court for a determination of the relationship between payments to be made by Southgate Education Association (SEA) members and nonmembers under an agency shop clause contained in an agreement between the SEA and the Southgate Community School District.

As previously reported, the court of appeals had raised the question of what constitutes a nonmember's proportionate share of the cost of negotiating and administering a contract, and commented that "it is not clear . . . that agency shop or any form of union security agreement is a valid 'condition of employment' and subject to collective bargaining in the public employment sector." While holding that the state's public employee bargaining statute (the Hutchinson Act) did not indicate a legislative intent to eliminate agency shop provisions in public employee agreements, the court had explained that

MCLA §423.211 [a portion of the Hutchinson Act) . . . requires the selected representative to bargain for all employees, union and non-union. If benefits derive from such bargaining, non-union as well as union members enjoy those benefits, and it would be inequitable not to require non-union members to pay their proportionate share of the cost of obtaining and administering such benefits.

It is apparent from reading article 2, § A . . . of the [Southgate] contract here involved that the validity of this agency shop provision hinges on the relationship between payment of a sum equivalent to the dues of SEA, MEA and NEA and a non-member's proportionate share of the cost of negotiating and administering the contract involved. If this payment is greater than or less than that proportionate share, the agency shop provision is in violation of MCLA §423.210 [a portion of the Hutchinson Act which prohibits public employers from discriminating "in regard to hire, terms or other conditions of employment in order to encourage or discouage membership in a labor organization"].

As the case's record at that time lacked proofs permitting a determination of the validity or invalidity of the Southgate agency shop provision, the court of appeals reversed and remanded the case and ordered the state board of education to join the action as a party. (*Jean Smigel, et al v. Southgate Community School District, et al.*, Michigan Court of Appeals, August 3, 1970.)

TENURE NOT AUTOMATIC UPON SATISFACTORY EVALUATION OF PROBATIONARY TEACHER FOR TWO YEARS

The Michigan Supreme Court split 4-3 in favor of denying a probationary teacher's action seeking contract renewal and other relief following the Elk Rapids school board's decision not to rehire him for a third consecutive (and tenure-conferring) year. Relying upon the court's 1960 decision in *Wilson v. Flint Board of Education*, the teacher argued that under the Michigan Teacher Tenure Act tenure employment confers after satisfactory completion of the two-year statutory probationary period. The court, however, ruled

that *Wilson* "does not settle the question here," and that plaintiff's constitutional rights of due process and equal protection of the laws were violated neither by the Act nor by the board's action.

Under the Michigan Tenure Act "all teachers during the first two school years of employment shall be deemed to be in a period of probation [Art. II, § 1] . . . [and] a third year of probation may be granted by the controlling board upon notice to the tenure commission" (Art. II, § 2). Art. III, § 1 then provides in pertinent part that "after the satisfactory completion of the probationary period, a teacher shall be employed continuously by the controlling board under which the probationary period has been completed, and shall not be dismissed or demoted except as specified in this act." Discharge, demotion, and appeals procedures applicable to tenure teachers specifically "shall not apply to any teacher deemed to be in a period of probation" (Art. II, § 4). Finally, Art. II, § 3 of the Act provides:

> At least 60 days before the close of each school year the controlling board shall provide the probationary teacher with a definite written statement as to whether or not his work has been satisfactory. Failure to submit a written statement shall be considered as conclusive evidence that the teacher's work is satisfactory. Any probationary teacher or teacher not on continuing contract shall be employed for the ensuing year unless notified in writing at least 60 days before the close of the school year that his services will be discontinued.

Plaintiff first was employed as a probationary high-school teacher in September 1966, and taught during the 1966-67 and 1967-68 school years. In late November 1967, the high-school principal evaluated plaintiff's teaching and found it satisfactory in every respect, stating that he would "not hesitate to recommend [plaintiff] for tenure at the end of this year." Plaintiff again was deemed a satisfactory teacher after a second evaluation in mid-January 1968, and the principal recommended that he be given a tenure contract for the 1968-69 school year. Nevertheless, plaintiff received a February 20, 1968, letter from the local board stating: "I regret to inform you that on February 12, 1968, the Elk Rapids School Board directed me to notify you that you would not be offered a contract for the 1968-69 school year."

In bringing an action seeking a writ of mandamus in the Antrim County Circuit Court, plaintiff alleged that the board had violated the requirements of Art. II, § 3, of the Act by not sending him "a definite written statement as to whether or not his work has been satisfactory." He contended that "a mere letter stating that he would not be given a contract does not meet the express statutory requirement." Furthermore, he alleged that

> defendants' action in attempting to discharge plaintiff [has] been unreasonable, arbitrary and capricious, and defendants have attempted to deprive plaintiff of his employment without according him either the substantive or procedural due process of law to which he is entitled under the equal protection and due process clauses of the United States and Michigan Constitutions or the Michigan Teacher Tenure Act.

The board maintained it had a reason for denying plaintiff tenure, had acted according to its statutory rights, and was not bound to divulge the reason for its decision not to rehire. Counsel for the defense contended:

> It is the privilege and within the discretion of the school board to determine whether or not they will give a contract to anybody who is a probationary teacher, whether their work is satisfactory or unsatisfactory. The school board acted, and they told him he was not to get a contract for the next year. He complains as to not getting notice as to why.
>
> I don't believe that is necessary. This is a discretionary matter with the school board; and what plaintiff is asking this court to do is to substitute the orders of the school board by ordering the school board to give this tenure contract; and this is not within the provisions of the law or the Tenure Act itself, or the intention of the legislature.

On July 16, 1968, the trial court denied mandamus, emphasizing that plaintiff was not on a continuing contract for the ensuing school year, and that the school board's notice was neither a dismissal nor a termination of contract. The Michigan Court of Appeals affirmed that decision on May 26, 1969, in finding that the case was one of "not rehiring plaintiff, which the board could decide to do, and its action is controlling on the facts of this case."

In the instant appeal plaintiff contended that Art. II, § 3, and Art. III, § 1, of the Act "dictate that once it is established that a probationary teacher's work is satisfactory . . . the School District is obligated to rehire said teacher and, after two years of satisfactory service, a school board must grant him tenure in that School District, absent some compelling reason." In addition, he argued that under the express provisions of Art. II, § 3, a school board's decision

> as to whether to renew the contract of a probationary teacher must be related to the satisfactoriness of the teacher's work in that District during the probationary period. Therefore, when plaintiff completed his second year of probation and the Board did not give him any notification that his work was unsatisfactory, he gained tenure status and, pursuant to the Tenure Act, the Elk Rapids Board had a clear duty to offer him a contract for the next school year.

Plaintiff cited *Wilson* as supportive of his interpretation for there the Michigan Supreme Court approved an order of the state tenure commission

reversing the Flint board's dismissal of a teacher who had completed a three-year probationary period (as statutorily *permitted*), but had received no written statement regarding the nature of her work following her first two years of employment (the *required* statutory probationary period). The court emphasized that while a school board may grant a third year of probation *for the benefit of the teacher*, the Act does not specify that a board may require three years of probation in all cases. In the absence of a written statement assessing the teacher's work at the close of either her first or second year of service, the court ruled that the teacher satisfactorily had completed the probationary period at the end of her second year and was entitled to tenure status. As such, she could be dismissed only for reasonable and just cause and in compliance with portions of the Act adhering for tenure teachers.

However, the court found *Wilson* dissimilar to the case at bar because in *Wilson* "the issue . . . was whether the [school] board could establish a three-year probationary period," and then discharge a teacher at the end of that period without written notification of the quality of her work following her first and second years of employment. Pointing to the legal distinctions between tenure and probationary teachers, the court held that "the right to challenge a board's decision granted to the teacher who has acquired 'continuing tenure' is not granted to the probationary teacher." As plaintiff was not on a continuing contract, "the Board's notice was not a dismissal or termination of contract . . . and . . . the Board's action notifying plaintiff in writing that he would not be offered a contract for 1968-69 was authorized by statute."

The due process issue raised by plaintiff was rejected by the court in its finding that the Act violates neither the federal constitution nor the state constitution. Citing portions of a New Jersey Supreme Court decision in *Zimmerman v. Board of Education of the City of Newark*, the Michigan Supreme Court denied plaintiff's appeal on grounds that his contract relationship with the local board was not continuing. According to the *Zimmerman* ruling,

> teacher tenure is a statutory right imposed upon a teacher's contractual employment status. In order to acquire the status of a permanent teacher under a tenure law and with it the consequent security of permanent employment, a teacher must comply with the precise conditions articulated in the statute. . . . Except for statutory conditions, a teacher is retained solely on a contract basis during his probationary employment. At the expiration of an annual contract period, the employment relationship ceases to exist unless a new contract has been entered into. . . . And except to the extent of constitutional or statutory limitations, there is no legal duty on the part of a board to re-employ a teacher at the end of a contract term.

The three dissenting Michigan Supreme Court judges, however, urged that a writ of mandamus should issue, and stated that the instant case "if not controlled by the letter, is certainly controlled by the spirit of *Wilson*." Summarizing the thrust of the *Wilson* decision, the minority explained that there the court held

> that while the board *might* grant a third year of probation for the benefit of the teacher, it could not *require* it, and that the failure to give written notice as to whether or not the work was satisfactory during the statutorily provided two year probationary period was not conclusive evidence that the work was satisfactory.
>
> "The result of the above" we said, "is that the teacher *has satisfactorily completed the probationary period, is entitled to the status of tenure*, and may not be dismissed save for reasonable and just cause, and then only in compliance with the provisions of the act" . . . (emphasis added).
>
> Under the clear intendment of *Wilson* the plaintiff here is entitled to the status of tenure.

Examining the purpose of the Act as given in detail in various cases and interpretive material, the minority opinion asserted that "the whole thrust of the act is to *limit* the local board's power in its employment of teachers." The dissenting judges explained:

> We are not saying that the board lacks any discretion to retain or not to retain a probationary teacher. The probationary period is just that—a period of proof. We are saying that the intent of the *entire* act was to eliminate capricious and arbitrary employment policies of local school boards. This includes the probationary as well as the tenure period of employment. . . . The act spells out that probation is a period of trial. Its satisfactory completion requires that a teacher who completes his probation must be hired. At this point the board's discretion has been removed, and thereafter, cause must be shown for a teacher's removal. . . . Art. III Sec. 1 provides in part that "after the *satisfactory* completion of the probationary period a teacher *shall* be employed continuously by the controlling board under which the probationary period has been completed, and shall not be dismissed or demoted except as specified in this act." (Emphasis added.)
>
> The only fair reading of this section is that upon "satisfactory completion of the probationary period" the teacher is entitled to be given tenure by that board.
>
> "Shall be employed by the controlling board" takes it out of the boards' hands to decide whether or not to accord tenure.

Under the majority opinion, however, plaintiff was denied re-employment and a requested award of monetary damages, and the earlier decision of the Court of Appeals was affirmed. (*Scott Munro v. Elk Rapids Schools, et al.*, Michigan Supreme Court, July 17, 1970.)

WISCONSIN

PROBATIONARY TEACHER'S NONRENEWAL GRIEVANCE DEEMED SUBJECT TO NEGOTIATED ARBITRATION PROCEDURES

In response to a dispute regarding the language and scope of a negotiated grievance arbitration clause, a Milwaukee County Circuit Court judge ruled that the clause should be construed liberally to allow employees "a fair opportunity to be heard on vital matters concerning their employment." Specifically, the court held that a grievance over the discharge of a probationary teacher is subject to arbitration for, while such a grievance was not named as an arbitrable matter in an agreement between the Greenfield Education Association (GEA) and Joint School District No. 6, neither was it specifically excluded. The court explained:

> One could argue that since the main purpose of these arbitration agreements is to avoid strikes, a premise that does not apply to city and municipal employees as they cannot legally strike, strict construction would be required. This court would adopt the reasoning that liberal construction should be adopted because they cannot legally strike and these employees should be aided by the arm of arbitration.

When a probationary teacher with three years' experience was denied renewal by the district, the GEA instituted normal grievance proceedings. The district, however, refused to go to arbitration, claiming that contract nonrenewal was neither a grievable nor an arbitrable subject under the parties' contract. During subsequent litigation, the GEA argued that owing to the broad language of the arbitration clause, the grievance must be covered by the agreement unless specifically excluded. The district cited a portion of a 1953 attorney general's opinion to the effect that a collective agreement made with a municipality should be strictly construed because "if not so interpreted [it] may tend to be detrimental to a vital government function."

In allowing the discharged teacher access to negotiated arbitration procedures, the court held that "legislative silence" regarding the enforcement of collective agreements cannot be equated "with a meaning that municipal employees can make valid collective bargaining agreements and then fail to honor them, unless each and every particular dispute is listed with particularity." Once a municipal employer has engaged in collective bargaining "the courts cannot allow a government agency to rely on the proposition that it should not abide by its own adopted resolutions . . . . Thus this court decides that arbitration agreements with municipalities are to be interpreted under the same standards as those of private employees and those agreements should be given liberal construction when interpreted by the court."

Although the district attempted to argue that nonrenewal of a contract was not the same as an arbitrary dismissal, the court concluded that the merits of the probationary teacher's claim would have to be determined by an arbitrator and, therefore, were outside the province of the court. (*Greenfield Education Association v. Joint School District No. 6, City of Greenfield*, Milwaukee County Circuit Court, July 24, 1970.)

OTHER ITEMS OF INTEREST

NO DENIAL OF DUE PROCESS OR EQUAL PROTECTION FOUND IN COLLEGE'S REFUSAL TO BARGAIN WITH UNION

The U.S. Court of Appeals, Fifth Circuit, upheld a federal district court's denial of a petition for a mandatory injunction seeking to compel state-financed Delgado College to bargain collectively with a union as exclusive representative of some, but not all, of the college's faculty members. Pointing out that the state "has no statute permitting or requiring publicly owned educational institutions to bargain collectively with its teachers," the appeals court agreed with the U.S. District Court for the Eastern District of Louisiana that "this case presents no cognizable issue of due process or equal protection."

The ruling affirmed the federal district court's holding (NRD, 11-69, 3) that, while Delgado College is an agency of the city of New Orleans and the city had bargained with other unions representing municipal employees, no discrimination, anti-union bias, or denial of equal protection was evident in the college's refusal to bargain collectively with the American Federation of Teachers, AFL-CIO, Local 1130. That court had explained that

> when a government official grants rights to some and denies them to others, this may constitute a denial of equal protection. But the executive branch is entitled no less than the legislature to reasonable discretion in handling its affairs and to a range of experiment in determining its course. Here no "intentional or purposeful discrimination has been shown". . . nor have "conspicuously artificial lines" been established. . . . School teachers have been legislatively classified differently from other public employees in many ways. . . . It is therefore not unreasonable and hence not unconstitutional for a legislature to exclude public school teachers from a public employees' labor relations act, which gives other state employees the right to bargain collectively. . . . It would appear that equal latitude may be exercised by executive officials in determining whether they should bargain col-

lectively with school teachers as well as with various other classes of public employees. This is particularly true when public officials are presented with a demand that one union be recognized as exclusive bargaining agent for *all* teachers, whether or not the teachers are union members. (*Janelle Beauboeuf, et al. v. Delgado College, et al.*, U.S. Court of Appeals, Fifth Circuit, July 6, 1970.)

Board Findings and Rulings

MICHIGAN

MERC NO LONGER WILL RELITIGATE ITS UNIT DETERMINATIONS AS JUDICIAL APPEALS NOW ARE PERMITTED

As a result of a Michigan Supreme Court decision and in response to a refusal to bargain charge entered by the Southgate Principals and Supervisors Association against the Southgate Community School District, the Michigan Employment Relations Commission (MERC) issued a policy statement declaring:

> Henceforth, this Commission will not, absent extraordinary circumstances, relitigate the appropriateness of a bargaining unit resulting from a Commission ordered election since the parties to the representation proceedings have the right to appeal the Commission's determination of an appropriate unit or the direction of election to the Michigan Court of Appeals, and thereafter to the Michigan Supreme Court. In the absence of an appeal to the Court of Appeals, the Commission's bargaining unit decision has become final, and not subject to collateral attack.

While acknowledging that under the National Labor Relations Act "an appropriate collective bargaining unit determination may be litigated in the form of a refusal to bargain unfair labor practice case," the MERC explained that a June 10, 1968, decision of the Michigan Supreme Court (*Michigan State University Board of Trustees v. State Labor Mediation Board*) "held that the Michigan [Hutchison] Act provides for judicial review of representation cases by the Court of Appeals. . . . Therefore, the necessity of refusal to bargain litigation in order to obtain judicial review of appropriate unit determinations of Commission decisions is eliminated."

In the instant matter, the Southgate district refused to bargain with its principals following a January 21, 1970, determination of the MERC that principals and assistant principals (as well as several other job categories) "are all supervisors within the meaning of [the Hutchinson Act], and are properly includable in a supervisory bargaining unit." Relying upon its *Hillsdale Community Schools* decision (NRD, 2-69, A-2, C-14), an appeal of which then was pending in the Michigan appellate courts, the MERC had ruled that a unit of "all professional supervisory employees" was appropriate and accordingly directed an election among eligible employees of the Southgate district.

In *Hillsdale* the MERC found that supervisory and executive public employees are eligible for representation under the Hutchinson Act, and that the Act contains no specific prohibition against supervisory units. Moreover, while the Act refers to sec. 423.9e of the state's Labor Mediation Act (LMA) which specifically excludes executives and supervisors in the private sector from LMA coverage, the MERC held that sec. 423.9e "is incorporated into [the Act] only for standards of unit determination and to provide a prohibition against supervisors and executives being included in the same unit with employees they supervise."

According to a trial examiner, the Southgate district in the instant action refused to negotiate in order to challenge the MERC's decision since the Michigan Supreme Court had not finally determined whether principals and assistant principals are supervisors and whether they are entitled to representation under the Act. Moreover, the district claimed that in the absence of such a ruling it had not committed an unfair labor practice by refusing to bargain. But the MERC emphasized that the Michigan Court of Appeals twice has upheld similar unit determinations. In dismissing the district's objections, the MERC held that its refusal to bargain constituted an unfair labor practice and ordered the district to negotiate with the Association. (*Southgate Community School District Board of Education and Southgate Principals and Supervisors Association*, Michigan Employment Relations Commission, July 13, 1970.)

NEW YORK

PERMISSIVE LANGUAGE OF LEAVE CLAUSE ALLOWS SCHOOL BOARD TO DENY LEAVE ONLY IF SPECIFIC CONTRACTUAL CRITERIA ARE NOT MET

An advisory arbitrator determined that the permissive language of a negotiated academic leave of absence clause does not allow a school board absolute discretion to grant or deny such leave. Rather, use of the word "may" indicates that academic leave may not be granted if specific

contractual criteria are not met, but that the board will grant leave following a good-faith determination that said criteria are met. In upholding grievances entered by two Fairport School District teachers who were denied academic leaves for the 1970-71 school year, the arbitrator additionally found that the local board exceeded the scope of its contractual discretion by allowing considerations (which were not contractual criteria per se) to become the "dominant motive" behind its denials of the teachers' leave applications.

At issue were portions of sec. IV(I) of a collective agreement negotiated by the district and the Fairport Education Association (FEA):

> 1) An academic leave of absence may be granted by the Board upon recommendation of the Superintendent of Schools to a teacher who has taught in the district for five years or more, for one academic year at one-half of the salary rate determined by the scale and step of the year of application on the salary schedule of the year of absence . . .
>
> 2) An academic leave of absence may be granted as above to a teacher who has taught in the district for ten years or more, for one academic year at the full salary rate determined by the scale and step of the year of application on the salary schedule of the year of absence . . .
>
> 4) A teacher may qualify to apply by:
>
> a. Having taught in the district for the number of years specified above;
>
> b. Submitting a written program of purposes, activities and benefits to the district. . . .
>
> 5) Criteria for determining the selection will include:
>
> a. Date of application.
>
> b. Availability of a qualified substitute.
>
> c. Value of the proposed study.
>
> d. Seniority of applicant.
>
> 6) The total number of staff members on any leave of absence shall be restricted to 2 percent of the teaching staff of any one building.

In late February 1970, two district high-school teachers filed applications with the superintendent for academic leaves of absence during the ensuing school year. One teacher proposed to conduct advanced study in health and physical education as preparation for eventual certification as a health instructor and in order to better qualify himself to deal with contemporary health and related issues. The other teacher planned to study a specific method of music instruction in Canada and Europe, as well as foreign schools' usuage of educational and closed circuit television. Their applications were denied by the local board, and the teachers' resultant grievances failed at three successive steps of the grievance procedure.

When the dispute was submitted to advisory arbitration, the Fairport board contended that it could grant leave if warranted, and that its discretion in denying the teachers' applications was exercised because of the district's fiscal condition and the fact that no funds had been allocated for 1970-71 academic leaves. It further maintained that the merits of the teachers' applications were "questionable as to both immediate and long range value to the district." The FEA, however, argued that use of the word "may" in the disputed contract clause was to "give the board reasonable [rather than absolute] discretion in determining whether an applicant meets the qualifications enumerated in the contract. In addition, since the only contractual fiscal condition was the 2 percent limitation and since academic leave was a negotiated benefit, the FEA contended that the district budget should provide for such leave. The FEA finally pointed out that the merits of the teachers' leave applications were not really questioned until the arbitration hearing.

Explaining that "ambiguous clauses in a collective agreement should not be construed narrowly and technically, but broadly so as to accomplish their evident aims," the advisory arbitrator disagreed with the district's claim to absolute discretion in denying a leave application: "Under this interpretation, the clause is deprived of any function at all, for the district would not be bound to any real contractual obligation." That is, since a contract's purpose is "to bind a party to something it might not do in the absence of that contract," the arbitrator held that disregard for the binding effect of the disputed clause would "render the clause meaningless." Finding the FEA's construction of the clause to be "the correct one," the arbitrator pointed out that allowing the board's discretion to extend only to criteria which are named in the contract

> gives the board the final and determining voice in deciding if any applicant is qualified to receive academic leave, and who, among conflicting applicants is best qualified. On the other hand, it gives meaning to the clause by assuring that teachers receive, as partial consideration for the signing of the contract, a promise that the board will not act arbitrarily or capriciously, and that it will base its decision only on standards related to the criteria set forth in the collective bargaining agreement.

As to whether the board acted within its limited scope of discretion provided by the contract, the arbitrator found the district "extremely reluctant" to discuss the merits of the teachers' leave proposals, and noted that through all prior grievance proceedings the board "relied on the assumption that it had absolute discretion under the . . . agreement." The arbitrator thereby gained "a strong feeling that fiscal considerations were the dominant motive behind the denial of the applications." The district argued that even if this were true, a reasonable application of fiscal policy would be "sufficient to conform with contractual obligations of the proper use of discretion" because the criteria listed in the clause are not exclusive, and new criteria may be developed "if

they are not arbitrary or capricious." While agreeing that the enumerated criteria are not exclusive, the arbitrator pointed out that they indicate the parties' intent and "any new standard must bear a reasonable relationship to these criteria." He concluded:

> Fiscal problems do not bear such a relationship, for, as the association made clear, the district's protection against financial hardship lies in the fact that only 2 percent of the teaching staff in any building may be granted such leave. To rule otherwise would put the association in the unfair bargaining position of listening to the board allocate sums to academic leave when it costed out association demands, only to discover later that no budgetary provision had been made. Academic leave is a cost item, and presumably the association surrendered one or another of its demands to get it into the contract. It is the responsibility of the district to either allocate funds to such items or not to consent to them in the first place. Since the district chose to obligate itself to grant academic leave when reasonable standards were met, it cannot say later that fiscal problems prevent it from living up to its obligation.

(In the Matter of Arbitration between Fairport Central School District and Fairport Education Association, August 10, 1970.)

WISCONSIN

TEACHER MAY NOT BE TRANSFERRED FOR ENGAGING IN PROTECTED UNION ACTIVITY

In a two-sided case involving a teacher's transfer after his activities on behalf of the Milwaukee Teacher's Education Association (MTEA) and administrative criticism of his control of students, a Wisconsin Employment Relations Commission (WERC) trial examiner recommended that the teacher be restored to his former position or an equivalent one in finding that the transfer was motivated in part by the teacher's "protected union activity." Noting that an adverse evaluation just prior to the teacher's transfer was his first "below average" rating and that subsequent testimony "was vague as to the reasons for the criticisms," the examiner ruled: "It has been held by this commission that regardless of how many valid reasons exist for action taken against an employee, if said action is partly motivated by protected union activities, then said action is unlawfully discriminatory and violates Section 111.70 of the Wisconsin Statutes."

First employed at Wells Junior High School in the Milwaukee school system in February 1968, the teacher was transferred at the beginning of the 1969-70 school year upon the recommendation of his principal. An evaluation of the teacher conducted by the principal in the spring of 1969 initially stated that "there can be no adverse criticism of [the teacher's] work in the classroom. He continues to plan well and to provide good learning activities for his pupils." However, the principal went on to say that the teacher

> has displayed an overzealous attitude which on occasion has led to questionable judgment in dealing with matters outside his classroom. He has taken an active leadership role in criticism of the administration [and] the school, as well as of the superintendent's staff policies. This led to a polarization of this teaching staff which has caused considerable concern.

During testimony before a WERC trial examiner, it was found that criticism of the teacher's control of students occurred in the spring of 1969 after his confused handling of an incident where he was assaulted and injured by a female student; the girl's suspension a day after the incident occurred resulted in a parental inquiry and subsequent complaint. On other occasions the teacher had sent "referral cards to the office with with the word 'suspended' written on it, which amounts to a demand on the administration of the school to suspend said student. At the time a policy of clarification had been made to the staff by the administration wherein the staff was advised that suspension was not to be considered as a cure for all disciplinary problems."

The examiner found "sufficient evidence . . . seemingly supporting [the principal's] criticisms . . . [and supporting his] claim that the criticisms were based solely on [the teacher's] deficiencies in the area of student discipline and control." But he also found it "significant" that the principal's testimony as to the reasons for the criticisms was vague, and that "much of [his] explanation related to [the teacher's] alleged deficiencies in student control even though said deficiencies were subject to specific criticisms in another part of the evaluation."

In addition, the examiner held that the principal's recommendation that the teacher be transferred was motivated in part by the teacher's Association activities during the spring of 1969 when he processed two grievances dealing with local teachers' heavy teaching loads. In one instance, the teacher drafted a letter demanding a meeting between the faculty and the administration or teachers would stop taking extra classes (necessitated by a flu epidemic and a chronic shortage of substitute teachers); the principal reportedly was upset that he had not been asked to participate in the meeting resulting in the letter, and also indicated that the MTEA should not have gone over his head by writing the letter. This grievance was resolved several weeks after the epidemic when more substitute teachers were hired. The second grievance was entered by a gymnasium teacher who threatened to resign if her teaching load was not reduced. The teacher

discussed this grievance with the principal who said that this teacher always had been a problem and that staff assignments were not the responsibility of the MTEA. The teacher's class load late was altered by the administration.

Based upon the principal's comments in reference to these two grievances, the trial examiner concluded that the principal's transfer recommendation was motivated in part by the teacher's MTEA activities and accordingly was discriminatory. (*Milwaukee Teachers Education Association v. Milwaukee Board of School Directors*, Wisconsin Employment Relations Commission, September 16, 1970.

Negotiation Notes

CALIFORNIA

VALLEJO CITY CHARTER REVISED BY POPULAR VOTE TO PROVIDE COMPULSORY, BINDING ARBITRATION OF NEGOTIATION DISPUTES

Following passage of a public referendum, the city of Vallejo, California, revised its charter to include compulsory, binding arbitration as the final step in a three-step negotiation impasse resolution procedure. Voters approved by a wide margin sec. 809 of the new charter which provides for mandatory mediation in the event of negotiation disputes, followed by mandatory submission of any remaining unresolved matters to a three-member fact-finding committee whose report and recommendations are to be made public. By a considerably smaller margin, voters also passed sec. 810 of the charter which stipulates that

> if the parties do not reach agreement within 10 days of the report and recommendations of the fact-finding committee, the issues shall be submitted to arbitration. . . . The [three] arbitrators shall consider all factors relevant to the issues from the standpoint of both the employer and the employee, including the City's financial condition. To the extent permitted by law, the decision of a majority of the Board of Arbitrators shall be final and binding upon the parties.

Sec. 810 additionally contains a no-strike clause holding that "any employee who fails to report for work without good and just cause during negotiations or who participates in a strike against the City of Vallejo will be considered to have terminated his employment with the City." In July 1969, Vallejo was the site of the state's first combined strike of police and firemen; the four-day walkout terminated with an amnesty agreement providing a 7 percent salary increase and various fringe benefits (NRD, 6-70, 15).

Although the city's charter was adopted by the local electorate earlier in 1970 and approved by the state legislature in August, the newly approved provisions will not become effective until April 27, 1971, following the results of a general municipal election.

DELAWARE

LABOR LAWS AMENDED TO REFLECT ESTABLISHMENT OF STATE DEPARTMENT OF LABOR

Amendments to the Delaware State Labor Relations Act, the public employee bargaining statute (which excludes school employees), and the Minimum Wage Act of the State of Delaware corrected statutory language to reflect the establishment of a State Department of Labor to function in place of the former state mediation service, the employment security commission, and the department of labor and industrial relations. The amendments were enacted by S.B. 660 and became effective July 6, 1970.

NEW YORK

DUES DEDUCTION FORFEITURE IMPOSED UPON STRIKING UNION NEITHER RECOGNIZED NOR CERTIFIED UNDER BARGAINING STATUTE

Finding no evidence of bad faith or extreme provocation on the part of the state of New York in its negotiation with one union representing state mental hygiene employees to the exclusion of another, the New York Public Employment Relations Board (PERB) imposed a six-month dues deduction forfeiture upon the American Federation of State, County, and Municipal Employees (AFSCME) for an illegal series of strikes conducted at four state mental hospitals in mid-November 1968. In so ruling, the PERB reversed its hearing officer, although it did adopt the recommendation that penalties be confined to the four AFSCME locals representing employees at the strike locations.

A PERB hearing officer found that some 2,000 AFSCME members employed at the Creedmoor, Bronx, Buffalo, and Manhattan State Hospitals conducted walkouts because of alleged dissatisfaction with working conditions. Although the

executive director of AFSCME Council 50 (an umbrella organization servicing the four locals involved) opposed the strikes, it was found that leaders and staff of Council 50 and the international union issued strike threats and actively participated in the strikes.

The precipitating cause of the strikes, however, was not grievances or working and economic conditions, but the fact that the governor's negotiating committee had begun formal negotiation with a competing union (the Civil Service Employees Association [CSEA]) of a 1969-70 contract covering mental hygiene employees at the four hospitals. Prior to the strikes, AFSCME agents had protested the state's continued recognition of and dealings with the CSEA as representative of the disputed bargaining unit; such recognition had been granted approximately a year earlier, but was to last only a year, at which time representation elections were to be conducted among state hospital employees. After the strikes began, Council 50 spokesmen indicated that they would end with the state's "breaking off negotiations with CSEA [and] endorsing . . . the [AFSCME] mental hygiene unit."

Despite contentions to the contrary, the PERB hearing officer determined that the AFSCME had caused, instigated, encouraged, condoned, and engaged in strikes by employees at the four state hospitals in violation of the Taylor Law. But, while finding no bad faith evident in the state's action, the hearing officer did find that the state had engaged in such acts of extreme provocation as to detract from or mitigate the union's responsibility for the illegal strikes.

In subsequent proceedings, the PERB agreed that Council 50 had participated in the work stoppages, noting that a union legally is responsible for prohibited strikes if any of its officers or agents are involved. Moreover, the PERB held that while the union was not recognized or certified pursuant to the Taylor Law, the law's strike prohibition and attendant penalties legislatively were intended to be applied beyond other statutory provisions, including those relative to representation rights. But the PERB rejected the hearing officer's finding of extreme provocation on the part of the state, explaining:

It is perhaps a logical application of the concept that extreme provocation detracts from the responsibility of the employee organization, to evaluate the alleged provocative acts of the employer from the subjective viewpoint of the affected employee organization. However, we do not believe that this was the approach intended by the legislature. The statutory formulation: ". . . the appropriate employer or its representatives engaged in such acts of extreme provocation as to detract from the responsibility of the employee organization for the strike," has a pejorative connotation which was not inadvertent. The legislature's intent was to codify the common-law prohibition against strikes by public employees, but to permit the mitigation of the penalty to be imposed against the employee organization where the strike was provoked by the misbehavior of the public employer.

The employer herein was not guilty of illegal conduct; indeed, the legality of the conduct complained of was specifically upheld by the New York State Court of Appeals. [*See* NRD, 6-70, 17, for background information on this point.] Further, according to the hearing officer, the conduct of the employer did not constitute bad faith; rather, he found that the actions complained of were dictated by valid administrative concerns. The criticism with which the employer can be charged is that it might have negotiated simultaneously with both [the AFSCME] and CSEA, as it did after the settlement of the strike. This non-exclusive negotiating procedure was ordered by PERB on November 30, 1967, but that order was overruled by the Court of Appeals and then rejected by the employer. Having accepted the hearing officer's findings of fact that the employer did not behave in bad faith or in violation of its obligation under the Act, we cannot find it guilty of extreme provocation.

QUESTIONS OF ARBITRABILITY PRESUMPTIVELY ARE ARBITRATOR'S RESPONSIBILITY IN BOTH PUBLIC AND PRIVATE SECTORS

A five-judge panel of the New York Supreme Court, Appellate Division, unanimously reversed a trial court's determination that arbitration of a grievance should be stayed because one of the issues in the grievance was untimely. Although contract language determines whether time limitations on grievances are "conditions precedent" to arbitration, the appellate court held that where contracts presume arbitrability and/or provide for arbitration, questions of arbitrability are to be determined by the arbitrator, not the courts (*Matter of Long Island Lumber Company v. Martin*).

As *Long Island Lumber Company* was a private sector ruling, the court examined public sector case law and the state's public employee bargaining statute (the Taylor Law) to determine whether that ruling is applicable to the public sector. According to the court, the three legal preconditions to binding arbitration of minor disputes are a statute or ruling enabling bargaining, standards for arbitration, and the limitation of arbitrable issues to the "law of the contract." The court pointed out that the Taylor Law mandates public employee bargaining, requires written agreements between public employers and recognized exclusive employee representatives, and authorizes the Public Employment Relations Board to establish mediation, fact-finding, and voluntary arbitration panels to resolve disputes.

The court also cited *Central School District No. 1 v. Litz, et al.* (NRD, 1-70, 5) in which the Onondaga County Supreme Court held that "it

would fly in the face of the state policy of the legislature found in [the Taylor Law] which encourages grievance and arbitration procedures to hold that the ruling of *Long Island Lumber Company v. Martin* . . . was limited to the private sector." That opinion further stated that "the exercise of sovereignty includes the power to contract and to contract to arbitrate disputes," and concluded that "once a valid agreement has been entered into providing for arbitration, any controversy arising between the parties to the contract which is within the compass of those provisions must go to arbitration."

As such, the court in the instant matter held that the motion to stay arbitration should be denied, explaining that voluntary arbitration "long . . . [has been] accepted as a significant and effective method of resolving employer-employee disputes."

OHIO

VOTER DEFEAT OF SCHOOLS' OPERATING LEVY REQUESTS TERMED "DISASTEROUS"

Of a total of 243 operating levy requests for new property taxes entered on Election Day ballots across Ohio, only 68 new levies (28 percent) were approved by state voters making the November 1970 election "the most disasterous election in school history," according to the Ohio Education Association (OEA). Complete but unofficial election statistics reported by the OEA indicated that only four of the 175 operating levies subject to renewal were defeated by voters, but the OEA noted that "this marked the first time in recent history" that such had happened. School bond issues for the construction of new facilities registered a mere 23 percent approval rate in the election. Of all 484 bond and levy issues submitted to voters, 253 were passed for an approval rate of 52.3 percent, "the lowest over-all approval rate in Ohio history," OEA officials said.

Prior to the election, the OEA reported that 88 school districts were returning to the polls with operating levy requests which previously had been defeated. Forty-one systems had experienced one previous defeat, 22 districts had been on a ballot twice before, and 11 systems were returning for the fourth time. One of the remaining systems (Lancaster) was attempting for the seventh time to gain approval of a levy request, an effort which proved successful when local voters passed a 22.4 mill package which included a 10 mill renewal issue.

OREGON

REPRESENTATION ELECTION PERMITTED WHERE AUTOMATIC RENEWAL OF CONTRACT FORESTALLED BY RENEGOTIATION NOTICE

The Oregon Public Employment Relations Board (PERB) determined that a request for renegotiation under a contract's automatic renewal clause effectively constituted a timely "opening notice" which forestalled automatic renewal of the contract and nullified any prexisting contract bar to a representation election. While the Port of Astoria was not a public employer within the meaning of the state's bargaining statute when the International Longshoremen's and Warehousemen's Union (ILWU), Local 50, petitioned the PERB for an election among certain port employees, the PERB held that a renegotiation request entered by the then recognized employee bargaining agent under the existing contract's automatic renewal clause opened the way for the rival union's election petition. An election accordingly was directed.

A contract between the port and the Clatsop-Tillamook Counties Building and Construction Trades Council became effective July 1, 1969, and was scheduled to expire June 30, 1970. The agreement contained a clause providing that it would "continue in effect from year to year thereafter," except that "if either party hereto desires to amend, modify or terminate this agreement upon the expiration date, a notice shall be required 60 days prior to such annual expiration date."

On April 30, 1970 (60 days prior to the contract's expiration), the trades council sent a letter to the port mentioning the "notice" required to forestall automatic renewal of the contract, requesting a wage increase, and asking that the agreement be amended by extending its effective date for an additional year. The ILWU's election petition, supported by pledge cards signed by a majority of unit employees, was filed with the PERB on the same date. According to PERB rules, a valid collective agreement with a term of up to two years serves as a contract bar to any election involving unit employees, although an election petition "may be filed not more than 90 calendar days and not less than 60 calendar days before the end of the two-year period.

In subsequent proceedings before the PERB, the ILWU argued that its petition met PERB filing requirements because the petition was entered 60 days before scheduled expiration of the existing agreement. But the PERB pointed out that the port did not become a public employer within the meaning of the state's bargaining statute until

June 26, 1970, when it requested the use of PERB services and facilities. As such, the port was not subject to PERB rules when the ILWU petition was filed in April, and the ILWU "demand for recognition at that time was of no legal effect."

However, the PERB concluded that the trades council letter of April 30 (as conceded by the council) "constituted an 'opening notice' and did forestall the automatic renewal of the contract. The contract therefore terminated on June 30, 1970, and there is no contract now in effect between the port and the trades council that would bar an election under the rules of this board." The PERB explained that "the legal effect of [the automatic renewal] provision is the same as though it were worded 'shall continue in effect from year to year thereafter unless *notice* of amendment, modification or termination is given by either party to this agreement at least 60 days prior to the termination of this contract.' "

WISCONSIN

COURT SAYS WERC VESTED WITH EXCLUSIVE JURISDICTION TO HEAR PROHIBITED PRACTICES COMPLAINTS IN MUNICIPAL EMPLOYMENT

In construing a seemingly ambiguous portion of Wisconsin labor law, the Milwaukee County Circuit Court (Branch 5, Civil Division) held that the legislature intended to vest in the Wisconsin Employment Relations Commission (WERC) "the exclusive jurisdiction of controversies concerning unfair labor practices and prohibited practices in municipal employment." To interpret the disputed statutory language to allow concurrent WERC and court jurisdiction would be "an unreasonable interpretation" which "would lead to unwise and impracticable consequences. It would eliminate the expertise of the commission, frustrate the development of a policy in employment relations, result in conflicting decisions and duplication of jurisdiction," according to the court.

Under sec. 111.70(4) of the Wisconsin municipal employment bargaining statute, the WERC is granted jurisdiction to hear prohibited practices complaints arising in municipal employment, although the procedure to be used in all such actions is governed by sec. 111.07 of the state's Employment Peace Act. That section, as amended in 1969, provides that "(1) any controversy concerning unfair labor practices may be submitted to the Commission in the manner and with the effect provided in this chapter, but nothing herein shall prevent the pursuit of legal or equitable relief in courts of competent jurisdiction."

When a fire fighter who was active in the local union was transferred by the West Milwaukee fire department and allegedly demoted thereby, the West Milwaukee Fire Fighters' Association, Local 1417, IAFF, brought a prohibited practices complaint in the circuit court charging that the transfer was calculated to discourage union membership and discriminate against plaintiff with regard to his terms and conditions of employment. Contending that sec. 111.07(1) vests the WERC and the circuit courts with concurrent jurisdiction to hear and determine prohibited practices controversies in municipal employment, the union sought an injunction against the transfer and an order restoring plaintiff to his former position. On the other hand, the employer argued that plaintiff had not utilized the provisions of a negotiated grievance procedure, and that sec. 111.70 vests exclusive jurisdiction in the WERC for hearing and determining prohibited practices complaints in municipal employment.

Noting that the question raised by the case "is apparently novel," the court determined that sec. 111.07(1), when construed in conjunction with declared public policy, "expresses the legislative intention to vest in the commission the exclusive jurisdiction" of prohibited practices disputes arising in municipal employment. While the union argued that the word "may" (as used in sec. 111.07) ordinarily implies permissiveness and/or the availablility of an option, the court held that

> the word "may" in its permissive sense is not controlling. In statutory construction it is to be considered in connection with its context and subject matter and is to be construed as mandatory when such construction is necessary to give effect to the purpose and intent of the statute. . . . It is also a general rule that when the public interests or rights are concerned and where the public or third persons have a claim de jure to the exercise of the power, the word is construed as mandatory.

Citing an educator's interpretation of the word "may" as meaning that the WERC "is powerless to act until an alleged wrong is formally called to the attention of the commission by the filing of a complaint," the court agreed with that construction as applied to sec. 111.07(1)

> in the sense that it provides the remedy and the procedure to be followed by the complainant to invoke the jurisdiction of the [commission] with respect to statutorily created unfair labor practices.
>
> The provision that nothing in the section shall prevent the pursuit of legal or equitable relief in the courts is not irreconciliable with exclusive jurisdiction of the WERC in unfair labor practices. While the position of this provision in the statute appears in connection with the jurisdiction of the commission, concededly an unfair labor practice may also violate common law rights over which the courts retain jurisdiction. Such instances would include a breach of contract suit or actions for injunctive relief for the prevention of breach of contract or violation of property rights. . . . In the case of a breach of a collective bar-

gaining contract there may be a suit for breach of contract in the circuit court or a proceeding before the commission on a complaint charging an unfair labor practice. In the first case the suit would be brought for breach of contract in the traditional form of action, in the second on a proceeding before the commission on a complaint charging the violation of the terms of a collective bargaining agreement. . . . There is a very clear distinction between the suit in the circuit court and the proceedings before the commission.

Finding support for its interpretation of the statute in cases involving the New York Public Employment Relations Board and in various rulings pertinent to the powers and jurisdiction of the National Labor Relations Board, the circuit court concluded that it was without jurisdiction in the instant prohibited practices proceeding and accordingly dismissed it.

OTHER ITEMS OF INTEREST

CONSUMER PRICE INDEX, OCTOBER 1970

Figures reported by the Labor Department, Bureau of Labor Statistics (BLS), indicate that the Consumer Price Index (CPI) all-items figure for October 1970 stood at 137.4 (1957-59=100), an 0.6 percent rise above the previous month. BLS attributed most of the October rise to the fact that "prices of commodities other than food rose about twice as much as they usually do in October." In addition, new car prices advanced more than seasonally (reflecting price changes for both 1970 and 1971 models), and consumer services charges rose 0.5 percent. The October figure represented a 5.9 percent rise above the CPI all-items index of a year ago.

BLS also reported that the purchasing power of the consumer dollar stood at $.728 in October, based upon its average buying power in 1957-59; this means that items costing $1 at the end of the 1950's now cost $1.27. An estimated 338,000 workers will receive cost-of-living wage increases based upon the October CPI.

Statistics

AN ANALYSIS OF NEGOTIATED PROVISIONS PERTAINING TO ELEMENTARY TEACHER LUNCH PERIODS

The NEA Research Division's analysis of 978 comprehensive classroom teacher agreements effective during the 1968-69 school year in districts with a pupil enrollment of 1,000 or more indicated that 578

TABLE 1.—NEGOTIATED CONTENT OF 578 PROVISIONS PERTAINING TO ELEMENTARY TEACHER LUNCH PERIODS, 1968-69

Content	Agreements containing designated content	
	Number	Percent
1	2	3
Total number of provisions pertaining to elementary teacher lunch periods	578	100.0%
Teachers covered by provision		
Teachers of all grade levels	427	73.9
Elementary teachers only	151	26.1
Identification of lunch period		
Duty-free	490	84.8
Qualified duty-free	50	8.7
Scheduled but not specified as "duty-free"	38	6.6
Factors allowing full implementation of duty-free lunch period		
Teachers aides and/or community volunteers perform duties	33	5.7
Teachers may volunteer for duties	29	5.0
Teachers must not perform certain regular duties	7	1.2
Teachers assume duties in emergencies, inclement weather	49	8.5
Not indicated	373	64.5
Factors restricting full implementation of duty-free lunch period		
Teachers may have to assume regular duties	32	5.5
Teachers always perform regular duties	12	2.1
Teachers perform duties with aides, if available	6	1.0
Teachers supervise aides	4	0.7
Length of teacher lunch period		
Exact amount of time specified	406	70.2
Less than 30 minutes	18	3.1
30 minutes	238	41.2
Between 30 and 45 minutes	31	5.4
45 minutes	47	8.1
Between 45 and 60 minutes	39	6.7
60 minutes or more	33	5.7
As long as students' lunch or noon recess period	53	9.2
Not indicated	119	20.6
Teachers may leave school premises during lunch period	23	4.0
Separate teacher lunch facilities provided	5	0.9

agreements (59.1 percent) contained provisions pertaining to elementary teacher lunch periods. The majority (73.9 percent) of the agreements provided for a teachers' lunch period under a general clause covering teachers of all grade levels in a given school system; the remaining provisions (151) dealt with lunch period criteria affecting only elementary teachers. Negotiation of such lunch periods generally covered three major issues: whether the time was duty-free; the persons to whom duties would be assigned; and the exact amount of time available to teachers for lunch. Table 1 outlines in detail the specific negotiated content of the provisions. The categories are not mutually exclusive and the analysis is limited to what appears in written negotiation agreements; it makes no attempt to cross-reference the 578 pertinent provisions with other provisions in a given agreement which indirectly may affect elementary teacher lunch periods.

Duty-Free Lunch Period

The majority (64.5 percent) of the 490 provisions allowing teachers a duty-free lunch period simply indicated to whom the provision applied, the amount of time allotted, and stipulated that the time was duty-free. Some typical sample provisions are:

D. Teachers will have a duty-free lunch period of at least the following lengths:

1. Elementary School, Grades K-6	45 minutes
2. Upper Elementary	25 minutes
3. Senior High School	25 minutes

(North Andover, Massachusetts)

* * *

6. All teachers shall have a duty free lunch period of at least thirty (30) minutes per school day. (Brighton, Michigan)

* * *

I. Each teacher shall have at least a 30-minute duty free, uninterrupted lunch period daily, starting no earlier than 11:00 a.m. and ending no later than 1:30 p.m. (Croton-on-Hudson, New York)

* * *

4. Duty-Free Lunch Period. All teachers shall be entitled to a duty-free lunch period of thirty minutes in the high schools, and a minimum of one hour in the elementary schools.

5. Flexible Noon Hour. Nothing above provided, however, shall prevent elementary schools from experimenting with shortening noon hour within existing staff limitations. Such plans shall be developed by the Principal in consultation with the RTA Building Representative and his committee and shall be subject to the approval of the Assistant Superintendent for Administration. (Rochester, New York)

Of the 490 duty-free lunch provisions, 117 (23.9 percent) stated how the duty-free lunch was to be implemented in that they provided some indication as to how the pupils' lunch period was supervised. On the other hand, 49 provisions (8.5 percent) specified emergency or circumstantial exceptions to the regular duty-free lunch period which would necessitate some supervision by teachers. Some provisions required that at least one teacher be available at all times to handle emergencies. Sample provisions include:

I. Noon-Hour Supervision: All teachers shall be given duty-free lunch periods of at least thirty (30) minutes except in emergency situations, e.g., tornado warnings, fires, serious accidents, etc. Where teachers do not have access to full cafeteria service, the time limits for duty-free lunch shall be extended at the discretion of the Superintendent. Staff members shall be expected to be on duty at least five (5) minutes prior to the return of their pupils. (Alpena, Michigan)

* * *

E. All teachers shall be entitled to a duty-free, uninterrupted lunch period of at least 25 minutes in length. In elementary buildings this shall be one hour in length during the 1968-1969 year, except that on days of inclement weather when students are confined to the building, sharing arrangements may be worked out in each building in cooperation with teachers and principals. (Grand Ledge, Michigan)

* * *

D. All teachers shall be entitled to a duty-free lunch period equivalent to the regular scheduled student non-eating noon period, except in case of emergency. (Horton, Michigan)

* * *

1. Elementary school teachers shall have a lunch period of at least one hour. In compliance with State Law, one certified teacher shall be on duty in each building to handle emergencies. In no case shall this involve supervision of lunchroom or playground activities. (Royal Oak, Michigan)

Necessary regular duties were to be performed by teacher aides in 31 provisions and by teacher aides and/or community volunteers in two provisions. Four of these provisions stated that teachers would supervise the aides. Teachers were allowed the option of volunteering for some noontime duties in 29 provisions; in such cases, 23 agreements stated that the volunteers would be paid, while six provisions did not indicate whether they would be compensated. Volunteers were allowed to rotate duties in three agreements. Although most of the provisions designated no procedures for carrying out duties, the language of a few provisions indicated that students normally went home for lunch or that building administrators were to implement a duty-free plan. Sample provisions are:

C. The Board of Education believes that all teachers should have at least a one-half hour duty-free lunch period, in addition to the planning period. To that end, principals are expected to make whatever arrangements are necessary and possible, recognizing that the time may not be precisely 30 minutes because of restrictions imposed by the program or the length of the school day.

D. The intent of this policy is to formalize existing arrangements while permitting flexibility. (Westport, Connecticut)

* * *

D. 1. Teachers will have a duty-free lunch period of at least the length of a regular student lunch period.

a. The Association commends the Committee for implementing the "Noontime Mothers" program. The Committee agrees to continue this program to assure each teacher a duty-free lunch period.

b. In the event of an emergency, the provisions of Section D, number 1 (above) may be suspended for a period of one (1) day per week. If this number of emergency suspensions should reach four (4) days per month in any building, then teachers in that building will not be required to perform lunchroom duty.

Nothing in this Section is intended to permit the regular assignment of teachers to lunchroom duty; nor is this emergency provision intended in any way to defeat the purposes of Section D, number 1. (Revere, Massachusetts)

* * *

All teachers shall have the entire period of time between the dismissal of class for lunch and resumption of class following that period free of all duties. (Parma, Michigan)

* * *

A. It is the intent of the Board to release all teachers from lunch and playground duty at the earliest practicable time, and no later than September 1969. In emergency situations, when it is necessary for a teacher to perform lunch or playground duty, the teacher shall be compensated as described below, after September 1969.

B. The Board agrees to begin recruiting and training lunch aides immediately, and, in any event, not later than August 1, 1968. The Board further agrees that teachers will be relieved as soon as trained aides become available, according to a priority schedule established jointly by the Association and the Board. The Association shall have the right to check the implementation of this program.

C. In the event that any teacher is still performing lunch or playground duty in September 1969, such duty shall be on a compensatory time basis, or at an hourly rate which shall be twice the rate paid a lunch aide or recreation supervisor for the same responsibility, whichever shall be elected by the teacher. The option of a teacher to perform lunch or playground duty shall not be available if an aide can be provided.

D. Every teacher shall have at least a thirty (30) minute duty-free lunch period, as provided by the New York State Education Law.

E. Elementary teachers shall have a one (1) hour duty-free lunch period, inclusive of necessary and reasonable supervisory duties scheduled on an equitable basis to maintain order and discipline in the building while children are passing to and returning from the lunch period, provided, however, that the provision of Paragraph D, above shall, in no instance, be violated other than in an emergency. (Syracuse, New York)

* * *

A. All members of the professional staff shall be provided with a daily duty-free lunch period of at least 30 continuous minutes or,

B. Should a teacher volunteer to serve in a supervisory capacity during either a hot or bag lunch program, such duty shall be compensated for at a rate to be later agreed upon and such teacher shall waive his right to A. above. (Madison, Wisconsin)

Qualified Duty-Free Lunch Period and Unspecified Lunch Period

Of the 50 provisions allowing teachers a qualified duty-free lunch period, 32 indicated that all teachers might be required to perform regular noontime duties under certain conditions. While many of these provisions intended to provide some duty-free time, it was recognized that insufficient numbers of aides, scheduling difficulties, or budgetary restrictions prevented the guarantee of a daily duty-free lunch period. Twelve provisions indicated that teachers always must perform certain regular duties, and six provisions stated that teachers were to perform duties with the help of any available aides. Sample provisions include:

C. It is agreed that teaching personnel shall be in charge of noon hour supervision of students. It is further agreed that all elementary teachers shall have one-half hour duty-free noon hours on days of supervision assignments. There shall be one teacher or administrator supervisor for each 100 children. In addition, one supervisor shall be provided for each 50 students in excess of 100. Yearly average noon hour attendance will be used as a basis of calculation. The following plans will be used for the appointment of noon hour supervisors:

1. Plan A
   a. Full-time teacher supervision shall be used in all buildings whenever possible. Such teachers will be acquired from each building staff on an annual voluntary basis by the building principal.
   b. In buildings where there is a volunteer teacher supervisor for noon hour, the salary shall be $500.00 per year, plus meals for each supervisor.

2. Plan B
   a. Plan B should be used only if there are no volunteer or volunteers under Plan A.
   b. Full-time teaching personnel including special teachers assigned to buildings will be given noon-hour supervision assignments on a scheduled basis. This will be a platoon system with one team of teachers taking 30 minutes of the planned noon hour, and another team taking the remaining 30 minutes.
   c. Under Plan B, each teacher will be paid $2.50 per clock hour plus meals for supervision assignment work.
   d. Principals shall make out assignment schedules at least one week in advance.

3. Plan C
   If necessary to fulfill the student-supervisor ratio required, a combination of both Plan A and Plan B will be used. For the purposes of making operative the noon hour provisions, elementary school shall open at 9:00 A.M. and close for the noon hour at 12:00 noon. All classroom teachers who are not on supervision assignments will have from 12:00 P.M. until 12:45 P.M. for the noon hour. School shall reopen at 1:00 P.M. for the afternoon session. In the event the administration alters the beginning time from 9:00 A.M. then this schedule shall be altered accordingly. (Coldwater, Michigan)

* * *

1. Elementary school teachers shall have a thirty (30) minute duty-free lunch period insofar as it can possibly be arranged within the limitations of facilities, staff and within budgetary limitations. (Valatie, New York)

* * *

C. 1. All staff members shall have an uninterrupted duty-free lunch period of at least one half hour daily, wherever possible. (Castroville, New York)

* * *

D. All elementary teachers shall have a lunch hour free from duties, except in cases mutually agreed upon by the Board of School Trustees, the Butte Teachers' Union, and the Superintendent of Schools.

Rule 24 (additions):

Paragraph 4 is supplemented by the following conditions and exceptions:

1. That elementary teachers shall supervise during the lunch period in a schoolroom assigned therefor, and for such time as is necessary, children in the following classifications:

a. Children who are transported to and from the school by duly authorized school buses and carry their lunches.
b. Children who carry their lunches during inclement weather. The condition of inclement weather shall be determined by the school principal and the Superintendent.
c. Children who reside more than one mile from school and carry their lunches.

2. That the duty of supervising children during the lunch period shall rotate among all of the teachers of each elementary school. Each teacher shall perform the duty for a period of one week at a time.

3. The period of lunch hour supervision shall not exceed thirty (30) minutes in the elementary schools.

4. That teachers shall not be required to supervise the playgrounds during the lunch hours. (Butte, Montana)

Thirty-eight provisions indicated that a lunch period for teachers was scheduled but did not specify whether teachers were granted a duty-free lunch or whether they regularly were responsible for some noontime duties. Typical provisions of this sort are:

A. The Elementary schedule of classes shall commence at 9:00 a.m. and end at 3:30 p.m. The lunch period for students will be scheduled from 12:00 noon to 1:30 p.m. During this time the teachers lunch period and a 45 minute preparation period will be scheduled. Preparation periods will be cancelled during inclement weather at which time teachers will be responsible for their own assigned students. (Fowlerville, Michigan)

* * *

Each teacher will be granted a full thirty (30) minute period for lunch and will have the opportunity to eat in the Teachers' Dining Room at Odessa and the Teachers' Room at Montour Falls during said period. In addition to the thirty-minute lunch period, each teacher will have one unassigned period per day. (Odessa, New York)

Miscellaneous negotiated items relative to teacher lunch periods included mention that teachers' dining facilities were to be separate from students', and a statement in 23 duty-free lunch provisions that teachers normally would be allowed to leave school premises during the lunch period. Provisions illustrating such items are:

2.1 Each teacher shall be allowed a 30-minute period each day for lunch. This period shall be at a time that is considered to be the normal lunch period (11:00 a.m. to 1:00 p.m.).

2.2 Teachers should have dining facilities separate from the students.

* * *

24.1 All teachers shall have an uninterrupted duty-free lunch period daily. For secondary teachers the lunch period shall be 30 minutes and for elementary teachers the lunch period shall be at least 30 minutes.

24.2 All teachers shall be permitted to leave the school for the duration of their lunch period. Those teachers wishing to leave the building shall notify the school office beforehand. (Thomaston, Connecticut)

* * *

B. Lunch Period—All teachers shall have a duty-free lunch period at least equal to the length of, and taken at the same time as, the pupil's lunch period. In no event shall the duty-free lunch period of any teacher be less than 30 minutes. A duty-free lunch period shall not require the teacher to supervise students or perform any duty whatsoever, and teachers are free to leave the school premises during their duty-free lunch period. (Jamestown, New York)

Special Reports

BRIEFS OF RECENT AGREEMENTS

Hastings, Michigan

Between the Hastings Board of Education and the Hastings Education Association, effective July 1, 1970, to June 30, 1973. Approximately 140 certificated professional employees. Provision for reopener from time to time at the request of either party to negotiate "matters not specifically covered by this Agreement but of common concern to the parties." In addition, provision for reopening the salary schedule, extra-duty pay schedule, health insurance benefits, and sick leave clause for the 1971-72 school year by mutual agreement only, and for the 1972-73 school year at the request of either party. Provision for the negotiation of a successor agreement to begin at least 60 days prior to the expiration date of the current agreement.

Compensation: (1970-71) B.A., $7,400 to $10,717, 8 increments; B.A. plus 20 hours, $11,597 maximum; M.A., $8,140 to $12,349, 9 increments; M.A. plus 30 hours, $13,000 maximum; longevity pay of $333 (.045 of B.A. base) granted at the 15th year and $666 (.09 of B.A. base) at the 20th year providing the last 5 and 10 years, respectively, have been served in the system and the teacher is at the salary schedule maximum; terminal pay of $740 (.10 of B.A. base) after 15 years' service. Differentials: athletic director, head football coach, band director, and vocal music director, $888; head wrestling coach, $814; head junior varsity football coach, junior varsity basketball coach, head baseball coach, and cheerleading sponsor, $592; orchestra director and newspaper advisor, $370; summer school and classroom driver education teachers, $7.40 per hour (.001 of B.A. base); department heads, .006 of individual salary. Substitute teachers, $30 per diem.

Leaves: 15 days' annual sick leave the first year and 10 days annually thereafter, 100 days' maximum accumulation; permissible sick leave accumulation to extend to 110 days in 1971-72 and 120 days in 1972-73; paid leave for serious illness in immediate family, emergency illness in family, and necessary funeral attendance deducted from accumulation; 1 separate day for personal business; 3 separate days' bereavement leave; paid leave for professional conferences (including Association meetings) or school visitation; paid leave for jury duty, court summons, and selective service examination; teachers absent due to mumps, scarlet fever, measles, or chicken pox (as certified by a doctor) suffer no loss in compensation and are not charged with sick leave; sabbatical leave at partial or full pay for 1 year after 7 years' service.

Insurance: Board pays $20.35 per month for full medical coverage for individual, $21.15 per month for individual and children, or $29.95 per month for married teachers who are both on the staff and have children; board-paid $5,000 term life insurance for individual coverage.

Miscellaneous: Grievance procedure ends with binding arbitration; payroll dues deductions for local, state, and national associations; all available district budgetary and financial data shall be made available to the Association upon request, and the Association shall have the opportunity to consult with the board regarding tax programs prior to the board's final adoption of such programs; Association president receives 1 hour per day of released time on a shared cost basis; a teacher certified by the Association and negotiating on its behalf or participating in a grievance procedure during the school day shall be released from his regular duties with no loss of salary or benefits; joint textbook and instructional materials selection committee to meet as the need arises; board recognition of the need for "integrated textbooks and supplementary materials dealing with minority group contributions"; joint School System Advisory Council established to "recommend solutions to school-related problems" which the board is to act upon and report all such action within 1 month after the recommendation is made; tuition reimbursement of $30 per semester hour of on-campus credit, $17.50 per semester hour of off-campus credit outside the town, and $8.50 per semester hour of off-campus credit in the town; building staff meetings scheduled every third Monday, with department meetings to be called at the department head's discre-

tion; lunch period of 25 minutes for secondary teachers and 45 minutes for elementary teachers; 5 preparation periods per week for secondary teachers and the equivalent of 5 unassigned preparation hours per week for elementary teachers; procedure for the selection of a tenured elementary teacher to serve for 1 year as an evaluator of elementary probationary teachers at least once each semester and in conjunction with an administrator's evaluation; maximum pupil-teacher ratio of 25-1 in all academic classes, not to be "set until the second Friday in October"; vacancy and promotion procedures with applicants from within given "top priority" in assignments to supervisory positions; board-paid flu shots, as well as chest X rays for positive tuberculin test reactors; at the end of the first and second semesters, the board hires extra secretarial help to mark records.

Reno, Nevada

Between the Washoe County School District and the Washoe County Teachers Association, effective July 1, 1970, to June 30, 1971. Approximately 1,173 certificated professional employees. Provision for automatic renewal of contract unless either party notifies the other in writing of a desire to renegotiate at least 60 days prior to November 1, 1970, or 60 days prior to that date in any succeeding year.

Compensation: Salary schedule established by Board of School Trustees. Differentials in large schools: head football and basketball coaches, $700; head track and field and baseball coaches, $575. Differentials in small schools: head football and basketball coaches, $475; head track and field coach, $250; skiing coach, $250. General differentials: cheerleader and pep club sponsors, $300 allocation per school; senior high forensic sponsor, $250; senior high drama coach, $150 per play with no more than 4 plays per year; senior high marching band director, $800; senior high choral directors, $250; senior high yearbook sponsor, $250 or $400 depending upon whether the work to be accomplished is part of the curriculum; senior high newspaper sponsor, $150 or $300 depending upon whether the work to be accomplished is part of the curriculum; junior high counselors, $500 for 10 days' extended duty beyond the regular teaching contract; department chairmen, $100 to $250 according to the size of the department supervised (1-7 or more teachers).

Leaves: 15 days' annual sick leave are credited at the beginning of both the first and second years of employment, and each following year that portion of 15 days will be credited which will bring the cumulative total to 75 days in accordance with law; 1 separate day for personal business; 10 days' leave for family illness deducted from accumulation; 7 days' bereavement leave deducted from accumulation; paid leave (plus per-diem or travel expenses) for attending professional conferences, Association meetings, and conventions with the approval of the principal, the superintendent, and the board; paid school visitation leave; 5 days' leave at partial pay for civic or community activities; after 5 years' service and upon return from maternity leave, all unused sick leave accumulated to the time of the leave will be credited.

Insurance: Board contributes $100 towards employee's cost of group medical insurance coverage.

Miscellaneous: Grievance procedure ends with a final decision by the Board of School Trustees *if* either party files a written objection to the recommendations of an advisory arbitrator. However, if no objections to the arbitrator's decision are filed within 10 days, his decision becomes final; payroll dues deduction for local, state, and national associations; Association president granted 15 days' paid leave during term of office for educational services rendered to district; six-member joint committee to recommend books and/or other education resource materials for purchase; six-member joint committee to be established annually and shall meet a minimum of 4 times per school year to study existing facilities and recommend future priorities for renovating, replacing, or remodeling existing facilities; uninterrupted duty-free lunch period of no less than 30 minutes for all teachers, barring emergencies and/or special events; 5 standardized grievance procedure forms appended to agreement; board provides legal assistance to teachers involved in job-related assault cases; a teacher "may restrain a pupil when it is essential for self-defense, or for the protection of other persons or property."

Nutley, New Jersey

Between the Nutley Township Board of Education and the Nutley Teachers Association, effective July 1, 1970, to June 30, 1971. Approximately 266 certificated professional employees.

Compensation: B.A., $7,700 to $12,705, 13 increments; B.A. plus 15 hours, $13,117 maxi-

mum; M.A., $8,300 to $14,110, 14 increments; M.A. plus 30 hours, $15,575 maximum.

Leaves: 10 days' annual sick leave, unlimited maximum accumulation; board will grant additional sick leave credit of up to 30 days for teachers who bring an unused sick leave accumulation from another district; 5 separate days' personal leave; all unused personal leave will be added to the teacher's sick leave accumulation; 4 separate days' bereavement leave; sabbatical leave at half-pay for 1 year after 7 years' teaching service with 5 years spent in local schools.

Insurance: Board-paid Blue Cross-Blue Shield and major medical program for individual and family coverage.

Miscellaneous: Grievance procedure ends with binding arbitration; payroll dues deduction for local, state, and national associations; Association representatives may speak at building faculty meetings; orientation programs for new teachers to be undertaken jointly by the Association and the board; joint consultation on 1971-72 school calendar to begin "on or about" March 1, 1971; agreement of the parties to establish on or before September 30, 1970, joint committees to set up criteria for outstanding contributions to the school program and develop criteria and procedures for teacher evaluation with the recommendations of said committees to be forwarded to the superintendent on or before April 1, 1971; teacher tardiness shall result in a deduction of one-half day's pay after 5 unexcused tardy marks, deduction of a full day's pay for the sixth through tenth unexcused tardy marks, and "tardiness beyond this point may be considered reason for termination of the contract"; teacher has right to review his personnel file and any derogatory material before placement therein; maximum class sizes of 25 pupils in kindergarten through the third grade and 30 pupils in the upper elementary and secondary grades "to the extent that funds, facilities, and scheduling permit"; efforts shall be made to provide each elementary teacher with some released time in both the morning and afternoon sessions "to the extent that funds, facilities, and scheduling permit"; all teachers employed for both the morning and afternoon sessions "shall be entitled to" a duty-free lunch period of "not less than 40 minutes when practicable"; the use of regular teachers as substitutes "is undesirable and shall be discouraged"; maximum reduced teaching loads specified for secondary-school teacher sponsors of drama activities, the senior benefit, the yearbook and literary publication, and the senior class advisor.

Chester, Pennsylvania

Between the Chester Board of School Directors and the Chester Education Association, effective September 1, 1970, to August 31, 1971. Approximately 545 certificated professional employees. Provision for reopener "whenever state and/or federal funds in addition to and/or in excess of those amounts previously anticipated for the school year covered by this Agreement have been appropriated." Provision for negotiation of a successor agreement to begin no later than November 16, 1970.

Compensation: B.A., $7,100 to $11,000, 13 increments; B.A. plus 24 hours, $11,700 maximum; M.A., $7,700 to $11,900, 14 increments; M.A. plus 30 hours, $12,300 maximum; Ph.D., $12,700 maximum; longevity pay of $20 per year of service in the district after a minimum of 10 years' service in the district; severance pay of $10 per day of unused sick leave after 6 years' service in the district. Differentials: head high-school football and basketball coaches, $1,200; assistant high-school football and basketball coaches, $675; head high-school soccer, track, and baseball coaches, $775; head high-school cross country coach, $450; head high-school gymnastics coach, $550; head junior high football and basketball coaches, $350; faculty athletics manager, $1,200; head cheerleader coach, $300; head girls' basketball and hockey coaches, $450; junior high band director, $725; one-year assignment to junior high department chairmanship, $200.

Leaves: 1 day of personal leave annually, 5 days' maximum accumulation (effective 1970-71); paid leave for court appearances; paid leave of no more than 30 days per school year to fulfill military reserve obligations; paid leave for absences resulting "when a teacher can be used to enhance the image of the district, serve on an evaluation committee, provide an added educational service to the district, [or] aid in the recruitment of personnel."

Insurance: Board-paid Blue Cross-Blue Shield benefits for individual coverage; effective 1970-71, board provides a $7,000 life insurance policy for each employee; payroll deduction for tax sheltered annuities if desired.

Miscellaneous: Grievance procedure ends with submission of the dispute to advisory arbitration followed by submission of the arbitrator's written decision and "findings of fact, reasoning and conclusions on the issues" to the local school board for action which "shall be final and binding on the parties"; teacher has right to review his personnel file and respond to any derogatory material before placement therein; teacher protection clause providing that "the

only valid causes for termination of a contract . . . entered into with a professional employe shall be immorality, incompetency, intemperance, cruelty, persistent negligence, mental derangement, persistent and willful violation of the schools laws of this Commonwealth on the part of the professional employe"; optimal weekly teaching load for secondary teachers shall not exceed 25 teaching periods and 30 periods of pupil contact; school calendar to be negotiated each year; 5 standardized grievance procedure forms included in contract; effective at the beginning of the 1970-71 school year, the board shall have hired 2 additional elementary guidance counselors and 2 additional remedial reading specialists; provision for the establishment ("when facilities are available") of a school "for those students who are socially alienated or emotionally disturbed or who are not profiting from the presently established orthogenic backward classes"; procedures for establishing 3 junior high department chairmanships, as well as criteria for selecting applicants for the positions.

Wood River Junction, Rhode Island

Between the Chariho School Committee and the Chariho Teachers Association, effective September 1, 1970, to August 31, 1972. Approximately 75 certificated professional employees. Provision for reopener "for the sole purpose of negotiating the salary schedule for the 1971-72 school year" if the Association so requests in writing by August 31, 1970. Provision for automatic renewal of agreement for successive one-year periods unless either party requests renegotiation in writing prior to August 31, 1971, or the expiration date of any successive agreement

Compensation: (1970-71) B.A., $6,800 to $10,470, 9 increments; B.A. plus 15 hours, $10,670 maximum; M.A., $7,500 to $11,170, 9 increments; M.A. plus 30 hours, $11,620 maximum. Differentials: (for coaches, the schedule is effective in 1970-71 and is applicable only to persons with prior coaching experience) head basketball coach, $950; baseball coach, $850; track coach, $700; assistant track coach, $400; wrestling coach, $500; junior high basketball coach, $400; girls' intramurals director, $500; girls' cheerleader sponsor, $300; adult education advisor, $500; yearbook advisor, $600; newspaper advisor, $300; dramatics advisor, $500; senior class advisors, $200; department heads, 4 percent to 10 percent of B.A. base depending upon the number of teachers supervised (1 to more than 12, excluding the department head).

Leaves: 15 days' annual sick leave, 90 days' maximum accumulation over and above the annual allotment in any given year; 4 separate days' bereavement leave; 1 separate day for professional leave; 1 day for graduation; 1 day for school visitation; paid leave for jury duty less per-diem court allowance.

Insurance: Board-paid Blue Cross-Blue Shield benefits for individual and family coverage; liability insurance coverage for teachers assigned to field trips; if a teacher is absent due to a personal injury caused by an assault occurring in the course of employment, he will be paid the difference between his salary and any workmen's compensation benefits for a maximum period of 1 year.

Miscellaneous: Grievance procedure ends with the appeal of the School Committee's disposition of the grievance to higher state bodies (the state education commissioner, the state education board, and the state supreme court) according to law; 2 days' paid professional leave for each of 3 official Association delegates to attend conferences, workshops, or hearings; payroll dues deduction for local, state, and national associations, which monies are to be forwarded to the local association at the end of the second and third quarters of each fiscal year; during his term of office, the Association president is relieved of all extra duties over and above his normal teaching assignment; financial responsibility statement; joint committee to study salary schedule differentials for special area teachers; joint committee to be formed to plan a district in-service training program; teacher has right to review his personnel file and may respond to any derogatory material before placement therein; voluntary summer curriculum workshop for teachers selected to participate with compensation of $7.50 per hour; School Committee will make every effort to provide all teachers with at least 5 unassigned periods per week in addition to their lunch period; provision for reducing the size of secondary English classes to enable teachers to evaluate students' compositions in greater detail with the student; required teacher attendance at a parents' night scheduled after each quarterly pupil progress report; School Committee to provide $125 per teacher during each quarter of the school year for 6 teachers who volunteer to take afternoon bus duty on a rotating basis; where candidates for promotional positions or voluntary transfers and assignments are substantially equal in qualifications, the applicants with the greatest system seniority shall be given preference; School Committee provides legal counsel for a teacher involved in criminal or civil proceedings arising from his employment if, after investigation, the Committee feels the teacher is innocent.

SELECTED NEGOTIATED PROVISIONS PERTINENT TO TEACHING HOURS, TEACHING LOAD, PREPARATION PERIODS, AND TEACHER LUNCH PERIODS

A study of 978 comprehensive agreements effective during the 1968-69 school year in systems with a pupil enrollment of 1,000 or more indicates that 758 systems (77.5 percent) negotiated provisions defining four major segments of the teacher's workday which are dictated by time and designated as teaching hours, teaching load, preparation period, and lunch period. Of the provisions analyzed, 182 (18.6 percent) contained a combination of all four elements, 40 provisions (4.1 percent) dealt only with teaching hours, 18 agreements (1.8 percent) contained a provision referring to teaching load only, 40 agreements (4.1 percent) provided for preparation periods alone, and 51 provisions (5.2 percent) dealt only with lunch periods. Table 1 provides a breakdown of the designated provisions and/or combinations of provisions contained in the agreements analyzed.

TABLE 1.—NEGOTIATED PROVISIONS RELATING TO TEACHING HOURS, TEACHING LOAD, PREPARATION PERIODS, AND LUNCH PERIODS, 1968-69

Item	Agreements containing designated content	
	Number	Percent
1	2	3
Total number of agreements analyzed	978	100.0%
Total number of pertinent provisions	758	77.5
Teaching hours, load, preparation, and lunch period	182	18.6
Teaching hours, preparation, and lunch period	93	9.5
Teaching load, preparation, and lunch period	73	7.5
Teaching hours and lunch period	58	5.9
Teaching hours, load, and lunch period	53	5.4
Lunch period only	51*	5.2
Preparation and lunch periods	43	4.4
Teaching hours only	40	4.1
Preparation period only	40*	4.1
Teaching hours, load, and preparation period	26	2.7
Teaching hours and load	22	2.2
Teaching load and lunch period	21	2.1
Teaching hours and preparation period	19	1.9
Teaching load and preparation period	19	1.9
Teaching load only	18	1.8

*This figure includes provisions for elementary and/or secondary teachers.

Teaching hours refer to a stipulated amount of time a teacher is required to spend in school daily while students are in attendance. While many agreements include in the number of total daily teaching hours time spent before and after classes, in chaperoning, at evening meetings, and in extracurricular activities, these segments of the teacher's day have been omitted from the discussion here since they will be covered in a future *Digest* article. Teaching hours variously are stated as hours per day, hours per week, instructional hours alone, on a school-by-school basis, or in terms of student hours or student report-in and dismissal times. In addition, time allocated for preparation periods and/or lunch periods may be included in or excluded from the negotiated teaching hours figure; some systems specified a daily maximum of seven and one-half hours including lunch and preparation periods, while others designated a maximum eight-hour day including only the lunch period. The minimum number of daily teaching hours indicated among the agreements analyzed was five and one-half hours. Teachers are not required to be on duty longer than specified, nor are they asked to substitute unless adequately compensated. Special area teachers are on the same work schedule as the school to which they are assigned and/or are required to work at least the length of the regular teacher's workday.

In an arbitration case involving the Chippewa Falls (Wis.) Joint School District No. 1, the district was found to have violated a negotiated clause providing that teachers will be present for a school day

of "7 hours 45 minutes" except for "their 30 minute duty-free lunch period" by scheduling a school day of eight hours and 15 minutes. As the parties clearly intended to include the lunch period as part of the school day, the district was ordered to cease scheduling the longer day, shorten the school day by 30 minutes, and pay each affected bargaining unit member an amount equivalent to 30 minutes' pay for each day worked according to the violative schedule.

Another arbitrator found that the Jamestown (N.Y.) superintendent violated a teaching hours' clause by issuing a directive requiring teachers to be in their rooms 10 minutes before the start of the school day. The disputed clause provided that teachers' hours would be determined by "the fulfillment of the professional responsibility and obligations of the teacher." As the board failed to negotiate a seven-hour work day beginning 30 minutes prior to student arrival, the arbitrator held this "clearly implies" that the intent of the clause was to allow each teacher to determine the length of the work day.

In most agreements, modifications in the negotiated daily work schedule are to be made only after consultation with the recognized employee bargaining representative. An arbitrator held that the Georgetown (Mass.) School Committee was barred from adding 20 minutes to the working day due to a provision stating that the hours effective at the time the agreement was signed "shall continue to be applicable." Although the Committee argued that its policy decision to enlarge the music, art, and activities program necessitated the 20 additional minutes, the arbitrator held that the Committee's right to determine policy must be exercised within the framework of the collective agreement. That is, by signing the contract, the Committee agreed to share its authority regarding the setting of hours with the teachers' organization.

Those provisions relative to teaching load variously specified a teacher's assigned load as the number of teaching periods per day or week and/or maximum pupil-teacher contact per day or week. Teacher load figures or ratios usually exclude consideration of preparation periods, but sometimes include the homeroom supervision period. Some systems establish a maximum daily student contact rate per teacher of 150 or 160 students in a five-period workday exclusive of lunch or preparation periods. For secondary teachers, the standard maximum requirement generally is five daily teaching periods or 25 assigned teaching periods per week. The daily teaching load for elementary teachers usually is not to exceed five and one-quarter hours of instructional time daily and 30 teaching periods per week.

In most cases, teachers are required to teach a minimum of two subject or preparation areas and a maximum of three preparations. The sole Russian teacher in the Milford (Conn.) Public Schools was entitled to compensation of 20 percent more than base salary according to an arbitrator who found that the teacher taught world history in addition to Russian I, II, III, and IV and thereby was responsible for five preparations. Under the parties' contract, no teacher other than "the sole teacher of the subject" could be assigned more than three preparations. The board argued that this contractual limit was not exceeded because Russian I and II were taught simultaneously, as were Russian III and IV. But the arbitrator held that while it was permissible to require more than three Russian class preparations of the teacher because he was the only teacher of this language, it was a violation also to require a world history course preparation of him.

Specific negotiated items dealing with teaching load include:

- Study hall supervision is considered a teaching period.
- Teaching load also may include a weekly extracurricular assignment.
- Academic area teachers generally are assigned four to five teaching periods daily, while special area teachers may be assigned six teaching periods per day when relieved of homeroom duty. Under a contract stating "clearly and unequivocally" that secondary teachers with six daily instructional periods would not be assigned a homeroom, it was ruled a violation for the Massapequa (N.Y.) board to assign homerooms to science teachers who taught two laboratories on certain days in addition to four regular classes. The board contended that laboratory classes are not instructional periods, but the arbitrator held that "absent a stated exception, we must assume that the parties intended the conventional meaning of laboratory technique as but one more method of instruction."
- Classroom teachers shall not be required to teach or supervise in any specialists' areas.
- A teacher voluntarily may assume an extra load or assigned teaching period at additional compensation (one and one-half times his hourly rate) and may be relieved of supervisory assignments such as lunch duty or homeroom supervision.
- Some agreements specify that no secondary teacher shall be required to teach more than three consecutive periods without a break equal to the length of one class period.

Time devoted to planning, preparing tests, improving curriculum, previewing instructional material, conducting parental conferences, maintaining records, and correcting papers comprises a segment of the teacher's workday known as a preparation or planning period. A minimum of five unassigned preparation

periods per week, each of 55 minutes' duration, often is provided for secondary teachers; a minimum of five preparation periods per week of 30 to 40 minutes' duration is provided for elementary teachers in some systems. Relief periods for elementary teachers often are dependent upon the utilization and scheduling of special area teachers or teacher aides.

Under a contract providing that when special classes were in session elementary teachers would be relieved of duty and might use the time for preparation and consultation, it was a violation for the Dearborn (Mich.) board to require female teachers to oversee the girls' locker rooms, thereby reducing the teachers' preparation time by five to 10 minutes. The arbitrator accordingly directed the board to cease making such assignments after 10 days. In another arbitration case, a teacher preparation period clause stated that each Chelsea (Mich.) junior high-school teacher would have the same number of preparation periods in the current school year as he had the previous year. As such, a teacher who had two preparation periods in the previous year when he used one to travel between schools was entitled to two preparation periods in the current year, even though all his assignments were now in one school. According to the arbitrator, the contractual "requirement is mandatory and inflexible. There are no exceptions or loopholes through which the administration's position could be sustained."

Specific negotiated items dealing with teacher preparation periods include:

- Teachers are not assigned any specific duties during their planning periods except in cases of emergency.
- In some systems, individual principals are to determine and assign the length of the preparation period.
- Preparation time for elementary teachers also may be scheduled by rotating morning or afternoon recess duties with other teachers. An agreement requiring 175 minutes of free time per week for all teachers of kindergarten through fourth grade was not violated when the West Hempstead (N.Y.) board asked kindergarten teachers to take double classes for 20 minutes each day so that other kindergarten teachers could have free time. Although specialists were available in grades 1 to 4 to relieve teachers without doubling up, the arbitrator held this did not mean the contract was violated with respect to kindergarten teachers. Limiting his determination to the "simple language of the contract," the arbitrator ruled that as long as kindergarten teachers received 175 minutes of free time weekly, their contractual rights were not violated.
- If a teacher has a specified number of teaching assignments per week, he may be asked to volunteer as a substitute (at a substitute's rate of pay) during his unassigned period.
- Specialists and special education teachers usually are provided relief time equal to that of regular classroom teachers.

Teacher lunch periods variously are designated as duty-free (except in cases of emergency), as equal in length to the students' lunch period, or as provided by law. While the duty-free lunch periods provided in the agreements analyzed varied greatly in length, elementary teachers generally were granted lunch periods of 30 to 60 minutes, and secondary teachers were allowed a minimum of 25 minutes for lunch. In 1969, legislation in nine states guaranteed teachers a duty-free lunch period of at least 30 minutes. To provide teachers with a duty-free lunch period, some systems hired additional aides or utilized parent volunteers as lunchroom supervisors; those systems unable to provide a daily duty-free lunch period generally required teachers to supervise lunchroom activity on a rotating basis. Teachers often are allowed to leave the school building during a duty-free lunch period as long as they have no assignment, notify their supervisor or principal, and return to the building five to 10 minutes before classes resume.

The Somerville (Mass.) School Committee violated a collective agreement when it refused to allow elementary school teachers to leave their buildings during their "duty-free" lunch periods. Although the teachers were not assigned specific lunchroom duties, an arbitrator held that their lunch periods were not really duty-free within the contract's meaning because the teachers were expected to "support the disciplinary system in the school" and "reinforce the aides in the performance of their supervisory duties." On the other hand, it was not a violation of a clause providing teachers with "a duty free lunch period, except in emergency situations" for elementary principals to require two teachers always to be available on a rotating basis during lunch periods to handle possible emergencies. An arbitrator upheld this practice of the Wayne (Mich.) schools because local bargaining history indicated that the parties agreed emergency availability could be scheduled, that prior to inclusion of the clause in the contract it was past practice in several schools to schedule teachers for emergency duty, and no teachers grieved the emergency scheduling during the first year the clause was in the agreement.

In one other arbitration case a provision stating that teachers would have a duty-free lunch period "of the same length of time as students" was not construed to mean that only teacher aides could be assigned lunchroom duties. While Cranston (R.I.) teachers must have the same amount of time to eat as

students, the arbitrator found nothing in the agreement to suggest that a teacher's lunch period "must be coincident in time with that of the students."

Reprinted below are excerpts from negotiated provisions relative to teaching hours, teaching load, preparation periods, and teacher lunch periods. These are sample provisions only; they are not intended to be regarded as exemplary.

Teaching Hours

Colorado Springs School District, Colorado Springs, Colorado

Article 12, Section 3—*Teacher Hours and Teacher Load*

The workday for teachers, with the exception of meetings as provided in Article 12-4, shall be as follows:

(a) Teachers shall not be required to report earlier than twenty (20) minutes before the first class in the morning.

(b) Teachers shall not be required to remain longer than thirty (30) minutes after the school's regular dismissal time.

(c) The workday for teachers shall be no longer than seven and one-half (7½) hours including the lunch period and preparation periods.

Southington, School District, Southington, Connecticut

Article XIV, Section A—*Teaching Hours and Teaching Load—Work Day*

1. The starting and dismissal times of all schools and the workday of all personnel covered by the Teachers' Salary Schedule shall be as follows:
   a. High school: School opens at 7:55 a.m. and closes at 2:20 p.m. The school day for teachers is from 7:35 a.m. to 2:50 p.m.
   b. Junior high schools: School opens at 8:25 a.m. and closes at 2:50 p.m. The school day for teachers is from 8:05 a.m. to 3:20 p.m.
   c. Elementary schools:
      Elementary school hours shall be: (1) 8:45 a.m. to 3:15 p.m. (preferred) or, (2) 9:00 a.m. to 3:30 p.m. (if necessary).
      Kindergarten dismissed at (1) 11:30 a.m. or (2) 11:45 a.m.
      Special classes: As nearly the same as regular classes as possible.
      Teachers' schedule: (1) 8:25 a.m. to 3:45 p.m. or (2) 8:40 a.m. to 4:00 p.m.

The foregoing starting and dismissal times are subject to modification by State Statute or regulation by the Board, provided, however, that no modification made by the Board shall increase the length of the work day.

2. The normal working day for persons covered by the Directors', Principals' and Supervisors' Salary Schedule shall be not less than a half hour before and a half hour after the regular school day.

It is recognized, however, that the proper performance of their duties may require these persons to work longer than the normal working day. The exact daily schedule shall be worked out on an individual basis, subject to the approval of the Superintendent.

Stratford School District, Stratford, Connecticut

Article V, Section A—*Teaching Hours and Teaching Load—Work Day*

1. The starting and dismissal times of all schools and the workday of all personnel covered by the Teachers' Salary Schedule shall be as follows:
   a. High schools: School opens at 8:00 a.m. and closes at 2:15 p.m. The school day for teachers is from 7:45 a.m. to 2:45 p.m.
   b. Junior high schools: School opens at Wooster 8:30 a.m. and closes at 3:00 p.m. School opens at Johnson 8:35 a.m. and closes at 3:05 p.m. The school day for teachers is from 8:15 a.m. to 3:15 p.m.

c. Elementary schools; special classes:

Chapel special classes:	8:00 a.m. to 2:00 p.m.
Teachers' shedule:	7:45 a.m. to 2:15 p.m.
Lordship and Center	
Adjustment classes:	9:00 a.m. to 2:00 p.m.
Teachers' schedule:	8:45 a.m. to 2:15 p.m.
Lordship trainables	
Primary classes:	8:45 a.m. to 2:00 p.m.
Teachers' schedule:	8:30 a.m. to 2:15 p.m.
Advanced classes:	8:15 a.m. to 1:45 p.m.
Teachers' schedule:	8:00 a.m. to 2:00 p.m.
Lordship physically handicapped	
Classes:	9:00 a.m. to 2:00 p.m.
Teachers' schedule:	8:45 a.m. to 2:15 p.m.
Lordship perceptually handicapped	
Classes:	8:30 a.m. to 11:15 a.m.
	12:30 p.m. to 3:00 p.m.
Teachers' schedule:	8:15 a.m. to 11:30 a.m.
	12:15 p.m. to 3:15 p.m.
Great Neck and Lordship Schools	
Classes:	8:30 a.m. to 11:30 a.m.
	12:30 p.m. to 3:00 p.m.
Teachers' schedule:	8:15 a.m. to 3:15 p.m.
Regular classes:	
Chapel Street classes:	8:45 a.m. to 3:30 p.m.
Kindergarten:	Dismissed at 11:45 a.m.
Afternoon opening:	12:45 p.m. to 3:30 p.m.
Teachers' schedule:	8:30 a.m. to 3:45 p.m.
All other elementary schools:	
Classes	8:30 a.m. to 11:30 a.m.
	12:45 p.m. to 3:15 p.m.
Teachers' schedule:	8:15 a.m. to 3:30 p.m.

The foregoing starting and dismissal times are subject to modification by State statute or regulation by the Board, provided, however, that no modification made by the Board shall increase the length of the work day.

2. Persons covered by the Directors', Principals' and Supervisors' Salary Schedule shall work at their assigned duties for eight (8) hours per day. It is recognized, however, that the proper performance of their duties may, on occasion, require these persons to work longer than the normal working day. The exact daily schedule shall be worked out on an individual basis, subject to the approval of the Superintendent.

Bradley-Bourbonnais Community High School District No. 307, Bradley, Illinois

Appendix III, Item A–*Teaching Schedule and Conditions*

The teachers' work year and day are set by the Board of Education in harmony with the State Law of Illinois. Teachers shall report no later than 8:00 A.M. and may leave at 3:45 P.M. The student class day begins at 8:10 A.M. and terminates at the end of the seventh period at 3:10 P.M., however, students may be asked to or may ask to stay after school for extra help from teachers until 3:45 P.M.

Rockford School District No. 205, Rockford, Illinois

Article XXIII, Section A—*Staff Hours and School Calendar*

1. The official length of the day for elementary school students shall be 5½ hours with up to one hour reserved for the noon lunch period and the schedule of those hours to be determined by the principal and the staff of each school to meet the peculiarities and/or transportation problems of each school. Kindergarten sessions may be up to 2¾ hours in length.
2. The secondary school day will be 7 hours and 10 minutes for the junior high schools, grades 7, 8 and 9; and 7 hours and 40 minutes for the senior high schools, grades 10, 11 and 12 conducted with a closed campus organization for students with schedules to be determined by the principal and the staff of each school to meet the peculiarities and/or transportation problems of each school.
3. Modifications for student dismissals, double sessions, etc. will be made with prior consultation with and notification to the Association.

Danvers School District, Danvers, Massachusetts

Article V, Section A—*Teaching Hours and Teaching Load*

1. The starting and dismissal times for students will be as follows:

Elementary School (Grades 1 through 6)	8:30 A.M. to 2:00 P.M.
Junior High School	7:55 A.M. to 2:05 P.M.
Senior High School	7:55 A.M. to 2:05 P.M.

2. The workday of classroom teachers will begin 30 minutes before the aforesaid starting times and will end 30 minutes after the aforesaid dismissal times. Said starting and dismissal times are subject to modification by the Committee, provided however, that no such modification will increase the length of the teacher's workday.
3. Personnel other than classroom teachers will work their assigned tasks for at least the length of the regular teacher's workday. It is recognized, however, that the proper performance of their duties may, on occasion, require these persons to work longer than the normal working day. The exact daily schedule will be worked out on an individual basis.

Escanaba Area Public Schools, Escanaba, Michigan

Article IV, Sections A and B—*Teaching Hours*

A. The teacher's normal teaching hours in the secondary schools shall be as follows:

	Senior High	Junior High
1. Teachers check in no later than	8:15 a.m.	8:10 a.m.
2. Teachers at assigned place of duty not later than	8:25 a.m.	8:20 a.m.
3. Teachers shall leave school no earlier than	3:30 p.m.	3:20 p.m.

4. Any alteration in the school day will result in a corresponding change of the closing time.
5. In order to initiate a more flexible high school schedule, some classes will begin one period earlier than the regular high school day and some will be held after the present 6th period. The majority of the teachers will continue to teach on the present schedule, but some will begin at 7:30 A.M. and teach until 2:15 P.M. while others will begin at 9:00 A.M. and teach until 4:15 P.M. Teachers will be given an opportunity to volunteer for early or late assignments, and every attempt will be made to honor their preferences. This is to be on a one-year trial basis.

B. The daily time schedule for starting and ending classes in the elementary schools must be necessarily flexible depending on the grade level of the children involved and whether or not bus children are on the school's enrollment. The teacher's required hours in the elementary schools shall be as follows:

1. Teachers report to school ½ hour before starting time, ¼ hour before afternoon session and remain ½ hour after dismissal in the afternoon.

Teaneck Public Schools, Teaneck, New Jersey

Article 25—*Teaching Hour and Teaching Load*

It is the agreement of both parties that concern for students, and, therefore, length of the school day or week cannot end with a dismissal bell or a fixed number of hours and minutes written into a contract. As professionals, teachers are expected to devote to their assignments the time necessary to meet their responsibilities, but they shall not be required to "clock in or clock out" by hours and minutes. Teachers shall indicate their presence for duty by placing a check mark in the appropriate column of the faculty sign-in and sign-out roster. They shall also indicate their absence from the building at the close of school in the same manner.

1. The total in-school work week for secondary teachers will be thirty-five and one-half (35½) hours (four (4) seven-hour days and one (1) seven and one-half hour day) exclusive of lunch.

Warren Local School District, Marietta, Ohio

Article III, Section 1—*Teaching Hours and Teacher Load—Work Day*

A. On each school day between October first and April first, and on each other school day when the weather is inclement, each school building shall be open to pupils thirty (30) minutes before the beginning of the school day. Each principal shall see that a sufficient number of teachers, equitably assigned, is in attendance for proper supervision.

B. Subject to other provisions of this section, each teacher in Warren School District shall be in his school building and available for duty at least fifteen minutes before the beginning of each school day in his building.

C. Subject to other provisions of this section, every elementary school day in each building shall begin not later than 8:30 AM. each school day, and every elementary school day shall end not later than 3:30 P.M.

D. Each teacher shall remain in the building to which he has been assigned and be available for duty following the closing of the school for a period of time which shall be sufficient to take care of those details which usually are connected with the closing of the daily session. The parties agree that additional time will be needed, on occasions, for a teacher to meet with the principal if requested to do so, to meet with pupils who may wish assistance or advice, to supervise detention sessions in accordance with present administrative practice, and to assist with situations beyond the control of school officials.

E. Subject to other provisions of this section, the secondary school day shall begin not later than 8:00 A.M. each school day and every secondary school day shall end not later than 3:45 P.M.

F. Special teachers and special project teachers shall observe the same working hours as teachers of the same level. (i.e., elementary school, junior high school, senior high school.)

Teaching Load

Little Rock School District, Little Rock, Arkansas

Article XXI, Section B—*Teaching Hours and Load*

The normal weekly teaching load in the junior and senior high schools will be 25 teaching periods, five unassigned preparation periods, and a 15-minute homeroom period at the beginning of the school day. This shall not exceed 5¼ hours of pupil contact per day. Assignment to a supervised study period shall be considered a teaching period for purposes of this Article. The normal weekly teaching load in the elementary schools will be 30 teaching periods not exceeding 6 hours of pupil contact per day (excluding 30 minutes for lunch and 15 minutes for recess).

East Hartford School District, East Hartford, Connecticut

Article IV, Section 5(F)–*Teaching Hours and Teacher Load–Further Working Conditions*

In addition to homeroom or equivalent duty, academic subject area secondary teachers shall not be assigned annually more than five (5) teaching periods per day, except English teachers who will be assigned not more than four (4) teaching periods per day. Elementary special teachers who teach grades seven and eight (art, music, etc.) may not be assigned annually more than six (6) teaching periods per day.

Stratford School District, Stratford, Connecticut

Article V, Section F–*Teaching Hours and Teaching Load*

1. Academic subject area secondary school teachers shall not be assigned more than five (5) teaching periods per day. Special subject area secondary school teachers (*e.g.*, art, music, physical education) may be assigned six (6) teaching periods per day provided they are relieved of home room duties.
2. Academic area secondary school teachers shall not be required to teach more than three teaching preparations at any one time. Classes which require different syllabi, teaching materials or textbooks shall be considered different teaching preparations.

Trenton School District, Trenton, New Jersey

Article XII, Section D–*Teaching Conditions–Teaching Load*

1. Secondary teachers assigned on a departmental basis shall not be required to prepare more than two (2) subject matter teaching preparations.
2. Teachers in the Junior and Senior High Schools shall not have more than five (5) teaching periods.
3. The daily teaching load in the elementary school shall not exceed five and one-quarter (5¼) hours of instructional time.
4. Department heads shall not be assigned more than two (2) student instruction periods each day and shall be excluded from regular study hall duties and home room assignment wherever practicable. A student instructional period means any period during which a teacher is responsible for directing student learning.

Fallsburgh Central School District, Fallsburgh, New York

Article II, Section 3–*Teaching Conditions–Teacher Load*

A. The normal weekly load in the Junior-Senior High School shall be a maximum of 25 teaching periods and 5 assigned periods and 5 unassigned preparation periods per week. Teachers of self-contained classes shall not be required to teach more than three consecutive hours.

B. The normal weekly load in the Elementary School for all teachers shall not be more than 30 teaching periods or the equivalent thereof. This shall be allocated at the rate of 6 teaching periods and one unassigned preparation per day with one club activity period per week. No classroom teacher shall be required to teach or supervise in any specialist's area.

In any departure from these guides, the Principal will advise the Teacher of any such departures and the reasons for such change. If the reasonableness of the Principal's determination is questioned, the matter shall be referred to the Superintendent of Schools. If the reasonableness of the Superintendent of Schools' determination is questioned, the Association shall have the right to discuss with the Board (or, at the option of the Board, a committee thereof) an appropriate load for the case in question.

Lakeland Public Schools, Shrub Oak, New York

Article VIII, Section C—*Teaching Hours and Class Load*

The normal weekly teaching load in the high and middle schools shall be twenty-five (25) teaching periods, five (5) supervisory periods, and at least five (5) unassigned preparation periods. Such periods in the high school shall be of forty-two (42) minutes duration plus four (4) minutes passing time, for a total of forty-six (46) consecutive minutes. Should scheduling problems require assigning a teacher to a weekly teaching load above said normal teaching loads, any teacher who voluntarily accepts such assignment shall have no supervisory assignments. In the case of science teachers, where class and laboratories exceed twenty-five (25) periods per week, no supervisory assignment shall be made and in no event shall such assignment exceed twenty-eight (28) such periods per week. Teachers of language, art, home economics, industrial art, music, and physical education may accept as a normal teaching load thirty (30) teaching periods per week rather than twenty-five (25) teaching and five (5) supervisory periods. However, if they have a total student load of less than ninety (90) pupils, such teachers must accept thirty (30) teaching periods per week in their subject field(s). A teaching period equals approximately one and one-half middle school modules. For the purpose of comparing teaching load among sections (and for no other purpose) actual time involved in teaching rather than the number of classes shall be the measure. Each class shall be continuous and uninterrupted. Classes for children who have learning disabilities shall be scheduled in accordance with recommended standards promulgated by the New York State Education Department.

Natrona County High School District and District No. 2, Casper, Wyoming

Article VII, Section 4—*Teaching Hours and Teaching Load*

A. Senior high teachers shall not be assigned more than five (5) student supervision periods per day. Junior high teachers shall not be assigned more than six (6) student supervision periods per day. Home room assignments may be in addition to said five (5) and six (6) periods.

B. When a special subject teacher is in charge of a home room elementary school teacher's class, the home room teacher shall have the right to leave the classroom.

C. Teachers shall not be required to teach beyond the endorsements of their certificates, and secondary teachers shall not have more than three (3) teaching preparations within said subjects at one time, with the exception of language teachers.

Preparation Period

Arapahoe School District, Littleton, Colorado

Article XI, Section 5—*Conditions of Employment—Planning and Preparation*

A. All elementary teachers shall have a minimum of 150 minutes of planning time per week. Secondary teachers will have a minimum of one planning period daily. Administrators will make every effort not to assign other duties to teachers during this period.

B. A Certified Staff member shall not be required to teach more than two academic areas (e.g., English and Business). Nor shall such person have more than three course preparations within these academic areas separately or jointly. Different levels of sequential courses (e.g., French I, French II; or Woodworking I, Woodworking II) and different ability levels (e.g., Honors, Regular, Basic Skills) shall not constitute different course preparation. However, nothing shall prevent a teacher from *freely* assuming additional teaching responsibilities.

Rockford School District No. 205, Rockford Illinois

Article XXII, Section E–*Minimal Standards and Professional Growth*

Two preparation periods per teaching day shall be provided for secondary staff members. Preparation periods for elementary staff members shall be provided as frequently as specialists can be scheduled and on those occasions when the presence of the teacher is not necessary to the program.

Clintondale School District, Mt. Clemens, Michigan

Article IV, Sections D and E–*Teaching Hours and Class Load*

D. Elementary teachers will be provided one fifteen-minute relief period each day. In addition, elementary teachers may use for preparation all time during which their classes are receiving instruction from various teaching specialists.

E. Supportive and special education teachers shall receive planning and relief time comparable to other teachers working at their grade level (ie) elementary, secondary.

Trenton School District, Trenton, New Jersey

Article XII, Section C–*Teaching Conditions–Preparation Periods*

1. All secondary teachers shall, in addition to their lunch period, have at least one (1) preparation-conference period each day, during which they shall not be assigned to any other duties except in times of emergencies.
2. In elementary classes, building principals shall be encouraged to utilize specialists in a manner which would make available preparation periods. When an elementary class is receiving instruction from a teaching specialist on a regularly assigned basis, the regularly assigned teacher may use this time for preparation, subject to permission first obtained from the building principal, at any place in the school building.

Ithaca School District, Ithaca, New York

Article XI, Sections H and I–*Teaching Hours and Teaching Load*

H. Preparation Time in Elementary Schools. As soon as possible, elementary school teachers will, in addition to their lunch period, have at least 1 preparation period each day of at least 40 minutes during which they will not be assigned to any other duties. Such preparation period may be scheduled when the pupils in the teacher's class are being instructed by a specialist. Except by mutual consent of the teacher, specialist and principal involved, the elementary school teachers will not be required to remain in the classroom when their pupils are being instructed by such specialists.

There will be a 15-minute recess period each day in each elementary school. Every elementary school teacher will be off duty at least ½ of each such recess period and may be required to supervise two classes during the other ½ of each such recess period. Such recess period will be in addition to the teacher's lunch period and preparation period. The building principal in cooperation with his staff will be responsible for implementing this section of Article XI.

I. Teaching Periods and Preparation Time in Secondary Schools.

1. There shall be 4 conditions which govern the utilization of subject area teachers in the secondary schools:
   a. Preparation of the teaching schedule shall be the task of the principal and his staff, cooperating fully in a way that is mutually agreeable.
   b. An equitable class load and student load in keeping with the availability of staff and the specific nature of the subject area shall be established each year within the building schedule.
   c. Time for preparation (at least 1 full period or its equivalent) during each school day shall be maintained.

d. Innovations leading to the most effective use of teacher time and talents and innovations in the scheduling of classes shall be recognized as essential if optimum educational goals are to be achieved.

2. When no other method of balancing the teaching load is possible, and as recommended by the building principal or supervisor, and if the teacher agrees to be assigned to extra student teaching periods, he shall be compensated at the rate of 1/6 of a day's salary for each such additional period. Such extra teaching periods will be on a voluntary basis and will be utilized only to meet special temporary situations and will not be permanent in nature. Except as herein modified, existing policy in this area shall remain in effect.

Lunch Period

Wilmington School District, Wilmington, Delaware

Article IV, Section B(1)–*Working Conditions*

The Board agrees that, except for an emergency, elementary teachers shall have a forty-five (45) minute duty-free lunch period and middle school and senior high school teachers shall have a thirty (30) minute duty-free lunch period.

District of Columbia Public Schools, Washington, D.C.

Article XXV, Section A(3,4)–*Policies Relating to Working Conditions of Teachers–General*

3. Each teacher shall have a duty-free lunch period as follows:
   a. In elementary schools, not less than 45 minutes, except in inclement weather. Teachers and teacher aides shall be rotated for lunch duty on an equitable basis throughout the school year. The rotation system shall be arranged in consultation between the head of the school and the School Chapter Advisory Committee.
   b. In secondary schools, a full teaching period.

4. Teachers may leave the building during the school day, provided that they have no assignment scheduled, and that the head of the school or his designee is notified. A teacher so leaving will return to the building at least ten minutes before the next regular scheduled assignment which shall include the close of the school day for his students.

Bloomfield Hills School District, Bloomfield, Michigan

Article XIII, Sections B and J–*Teaching Hours and Loads–Lunch Period and Leaving Building for Lunch*

B. All members of the bargaining unit at the Senior High shall be entitled to a duty free uninterrupted lunch period of no less than twenty-five (25) minutes. All members of the bargaining unit at the Junior High shall be entitled to a duty free uninterrupted lunch period of no less than thirty (30) minutes. All members of the bargaining unit at the Elementary Level shall be entitled to a duty free lunch period of at least thirty-five (35) minutes in each full school day. In the case of Physical Education teachers, this period may be divided into two segments.

J. All teachers are permitted to leave the buildings during the lunch period provided that they return no less than five (5) minutes before classes resume. In the event of abuse of this privilege, the Building Administrator may bring it to the attention of the Association which shall verbally bring it to the attention of the teacher. Repeated abuse will require joint written communication to the teacher involved. If the abuse is continued, the teacher shall be subject to appropriate disciplinary action.

Ramapo-Indian Hills Regional High School District, Franklin Lakes, New Jersey

Article VII, Section C–*Teaching Hours and Teaching Load*

1. Teachers shall have a daily duty-free lunch period of at least forty (40) consecutive minutes.
2. Teachers may leave the building without requesting permission during their scheduled duty-free lunch periods, provided they clock out and clock in.

Herricks Union Free School District, New Hyde Park, New York

Article XXI–*Duty Free Lunch*

A. All teachers in elementary school shall continue to be entitled to an uninterrupted duty free lunch period of one (1) hour.

B. Every effort will be made to insure that all secondary teachers shall have one full class period as a lunch hour at or as close to the noon hour as possible.

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Case Reviews

CALIFORNIA

ORDINANCE MANDATING PUBLIC EMPLOYEE SALARIES COMPARABLE TO PRIVATE SALARIES LEAVES CITY NO DISCRETION IN MATTER

Some 10,000 Los Angeles city employees were awarded $1.8 million in back pay and interest at 7 percent by the California Supreme Court in a ruling which held that when a city legally is mandated to fix its employees' salaries according to prevailing comparable rates in private industry, it has "no discretion to provide less" than the rates ascertained by standard procedures or substitute procedures which are "fair and equitable." Finding that the city's adoption of "unreasonable and unfair" procedures for determining 1962 wage increases failed to keep city employees' salaries comparable for half of that year, the high court affirmed a trial court's order that the city "proceed at once" to provide increases once properly ascertained but vetoed by the mayor for invalid reasons.

Sec. 425 of the city's charter provides:

> In fixing the compensation to be paid to persons in the city's employ, the Council and every other authority authorized to fix salaries or wages, shall, in each instance, provide a salary or wage at least equal to the prevailing salary or wage for the same quality of service rendered to private persons, firms or corporations under similar employment, in case such prevailing salary or wage can be ascertained.

In 1945 that section of the charter was implemented by Salary Standardization Ordinance No. 89,000, as amended, which provides in part that

> the City Administrative Officer is hereby directed to make a salary survey at least once each year and to present his report on such salary survey to the City Council on or before April 10 of each year by filing the same with the City Clerk. Such report shall contain summary findings on prevailing salaries or wages of positions in a representative sample of business establishments in the City of Los Angeles metropolitan area and the positions in other governmental agencies which have positions comparable to those in the city service, together with recommendations, if any, for changes in salary schedules applicable to all classes of positions in the city service [and the salaries so fixed are to be enacted by the council's passage of an ordinance to become effective as of July 1 of each year].

Following a salary survey conducted in 1962 according to established procedures and utilizing standard formulas for computing wage increases, the city administrative officer recommended to the city council that salary increases totaling more than $3.5 million be provided for some 10,000 nonuniformed city employees, and that increases of approximately $3.5 million be paid to city police and firemen for the 1962-63 fiscal year. The council approved the recommendations and adopted an appropriate ordinance on July 16, 1962; the ordinance was vetoed by the mayor for budgetary reasons, and the council did not override the veto. Several weeks later the same ordinance was readopted by the council, but it was given an effective date of January 5, 1963 (later changed to January 6), thereby creating a six-month period during which city employees failed to receive wage increases necessary under the charter's comparability mandate.

Lengthy litigation ensued by virtue of two actions (*Sanders, et al.* and *Forbes, et al.*) brought against the city on behalf of certain city employees seeking declaratory relief and writs of mandate. Substantially identical judgments and writs were issued ordering the city's wage-fixing authorities to

> ascertain through any appropriate administrative procedure . . . the prevailing salary or wage for the same quality of service rendered to private persons . . . under similar employment . . . [and] you . . . shall provide additional salaries and wages to each person to whom you are authorized to fix a salary or wage . . . where additional salaries or wages are necessary so as to provide a salary or wage at least equal to the prevailing salary or wage for the same quality of service rendered to private persons . . . under similar employment . . . retroactive to July 1, 1962.

When defendants reported to the trial court (in 1963) that it had been ascertained and recommended to the city council that city employees' salaries were "factually and legally sufficient" and no increases were warranted, the court discharged the writ. Plaintiffs in *Sanders* appealed the discharge, which was reversed by an appellate court in finding that the standard formula for determining wage increases for city employees was fair and adequate, that the city's disregard of that formula and adoption of new formulas was "arbitrary in the extreme" and for the "obvious pur-

pose" of convincing the city council that the original recommended increases were a "mistake," and that the city failed to justify its " 'about-face' in recommending on the same facts that no increases were due."

The original writ was reissued, but the city (in 1968) again discarded standard formulas and applied new formulas with the result that salary increases totaling $155,000 were recommended for approximately 1,000 city employees. Finally, on August 14, 1968, the trial court in *Sanders* ordered the city "to proceed at once to provide the increases to salaries and wages for the period of July 1, 1962, to January 5, 1963, inclusive, that would have been provided by the Ordinance of July 16, 1962, had it been made effective as of July 1, 1962." The court pointed out that literal compliance with the requirements of the city's charter "could be excused only if the in lieu procedures were fair and adequate," that budgetary objections to the implementation of the ascertained increases "could not be considered," and that once the increases were ascertained as required, the city council "must provide them."

In the present appeal by the city, the state supreme court affirmed the trial court's August 14 ruling that the city had not complied with the original writ and that the action directed by the August 14 order was required by the original writ. The state supreme court explained:

The writ provided that defendants may use "any appropriate administrative procedures" to make the required ascertainment. The ascertainment originally made used procedures that the appellate court in *Sanders* found to be fair and equitable, but the ordinance providing the increases so ascertained was vetoed for invalid reasons .... It is mandatory for defendants under section 425 of the charter to ascertain the prevailing wages paid in private industry and to provide them for employees in the city's employ. Ascertainment is a fact-finding function. It may precede or accompany the legislative act of providing the prevailing wages found .... This fact finding and determination was made by the city council in 1962 (and again on April 30, 1968) .... The peremptory writ expressly stated that it was the duty of defendants to ascertain and to provide the salary or wages ascertained. All that remained was for the city to provide by effective ordinance the prevailing wage so ascertained. There must be an end to litigation and it would be an idle and futile act to command defendants to once again ascertain the salaries and wages that prevail in private industry . . . as of July 1, 1962.

Finally, the California Supreme Court upheld the trial court's October 22, 1968, order that the city pay prejudgment interest (from July 1, 1962) at the rate of 7 percent per annum on the base sum of approximately $1.8 million. According to the court,

an action to recover retroactive pay increases is an action for damages within the meaning of section 3287 of the Civil Code .... The damages due, here—namely, the ascertainment of increases in salaries and wages due for the period in question, were capable of being made certain and were made certain by defendants in applying the standard methods and formulas to the 1962 survey data. All of the alternative methods of calculation attempted were rejected by the courts. The declaratory relief judgment clearly set forth that due salaries must be adjusted as of a certain date, July 1, 1962, and the peremptory writ required that they be provided effective as of that date. In a contested action interest may be awarded, if the plaintiff is entitled thereto, even though the complaint contains no prayer for interest.

(*Eugene R. Sanders, et al. v. The City of Los Angeles, etc., et al.*, California Supreme Court, filed October 14, 1970.)

STATE SUPREME COURT DECLINES TO REVIEW PUBLIC EMPLOYEE NO-STRIKE RULE

A petition by the American Federation of State, County, and Municipal Employees, AFL-CIO, Local 127, for review of an appellate court determination that municipal employees have no right to strike was declined without comment by the California Supreme Court. As such, a decision by the state's Court of Appeals for the Fourth Appellate District (NRD, 10-70, 3), which was issued on May 28, 1970, is left standing. That ruling reversed a decision of the San Diego County Superior Court (NRD, 10-69, 10) which vacated a temporary restraining order in a case involving striking utilities and public works employees. Emphasizing that "the employer-employee relationship in public employment is the product of law—constitutional, legislative and decisional—rather than the product of a contract," the appellate court determined that the trial court's decision resulted from "an erroneous concept of law" and held:

The common law rule public employees do not have the right to bargain collectively or to strike is predicated expressly on the necessity for and lack of statutory authority conferring such right. Where a statute authorizes collective bargaining and strikes it includes them within the methods authorized by law for fixing the terms and conditions of employment. Those who advocate the right of public employees to strike should present their case to the Legislature.

(*City of San Diego v. American Federation of State, County and Municipal Employees*, California Supreme Court, review denied.)

CONNECTICUT

SCHOOL BOARD'S POWER TO ACT IN EMERGENCIES NEITHER GRIEVABLE NOR ARBITRABLE

A decision of the Hartford County Superior Court enjoined the Hartford Federation of Teachers (HFT) from proceeding to arbitration with a grievance over the local board's institution of an emergency plan designed to deal with student disturbances and allegedly depriving teachers of their one unassigned period per day. The court held that while state statute authorizes the board of education

> to negotiate a collective bargaining agreement with respect to salaries and other conditions of employment of its certificated professional employees, this does not mean that the board is free to bargain away its power to act in an emergency with all of the personnel at its command. The power of a governmental body to enter into binding agreement does not include the power to render itself helpless in a crisis.

When the Hartford board effected "Emergency Plan S" (which outlined emergency duties for teachers at a particular high school), the HFT filed a grievance contending that the plan violated a specific provision of the parties' negotiated agreement which provided all high-school teachers with one unassigned period per day. Moreover, the HFT insisted that the grievance be resolved by arbitration, a procedure the board refused to submit to in its assertion that Plan S was established as board policy and, therefore, was not subject to arbitration under the agreement.

During litigation, the HFT argued that no board decision (whether policy or not) could violate a specific clause in the parties' contract, that the board's argument was a misapplication of the provision allowing teachers one unassigned period per day, and that the parties' disagreement in interpretation of the contract was arbitrable under the agreement's grievance procedure. The court, however, felt that "both parties paint the issues involved in this case with too broad a brush," explaining that the "narrow question . . . involves the power of the board to act in an emergency and the extent to which such power is circumscribed by the arbitration provisions of the collective bargaining agreement."

While concluding that a school board is not free to bargain away its authority to act in an emergency, the court additionally pointed out that the parties' contract was "silent on the assignment of teachers to corridor duty during emergencies occasioned by internal disturbances." As such assignments were outside the scope of the agreement, the court ruled that they were not subject to arbitration under the grievance procedure. The court accordingly issued an injunctive order restraining the HFT "from instituting or maintaining a grievance or arbitration with respect to Emergency Plan 'S'." (*Board of Education of the City of Hartford v. Hartford Federation of Teachers, et al.*, Connecticut Superior Court for Hartford County, August 24 1970.)

ILLINOIS

CONTEMPT CONVICTION OF TEACHERS FOR VIOLATION OF EX PARTE ANTI-STRIKE INJUNCTION UPHELD

The Illinois Supreme Court upheld criminal contempt sentences levied against members of the Kankakee Federation of Teachers (KFT), American Federation of Teachers, AFL-CIO, Local 886, for willful noncompliance with a temporary restraining order prohibiting them from engaging in an unlawful strike against Kankakee School District No. 111. Although defendants alleged that the restraining order was issued without notice or a hearing and thereby deprived them of due process of law, the state supreme court ruled that the trial court had the "authority and duty" to issue the order and explained that

> where a court of equity issues an injunction, with jurisdiction of the subject matter and the persons and upon pleadings properly invoking its action, the injunction must be obeyed, however erroneous the action of the court may be, until it is reversed for error by orderly review, either by the court itself or a higher court. Disobedience of such an injunction is contempt of the lawful authority of the court, and punishable as such.

When contract negotiation between the KFT and the Kankakee board reached a stalemate in April 1969, the union informed the board that it would "withhold teaching services beginning Friday, April 25, 1969, until satisfactory agreements on a new contract and other matters are reached." A majority of the district's teachers subsequently went on strike and picketed the schools; only one of the 15 local schools was able to operate. On April 26, an attorney for the board entered a complaint in the Kankakee County Circuit Court seeking a temporary injunction, "without notice or bond, restraining defendants from striking and picketing, and from inducing or encouraging others to do so." The restraining order was issued and served on that day with no prior notice.

The teachers continued their strike on April 28 with no effort to vacate or dissolve the restraining order or seek other judicial relief. On the same day, the board filed a motion for a preliminary injunction, a hearing on which was set for May 2. Defendants appeared at the hearing but in no way attempted to attack the legal basis for the tem-

porary order or the preliminary injunction. The injunction was issued and subsequently ignored by defendants. Then on May 12 the circuit court convicted defendants of criminal contempt, levied a $12,000 on the union and lesser fines on individual union members, and levied 60-day jail sentences against some individual defendants.

On appeal, defendants' attempt to obtain a reversal was based principally upon *Carroll v. President and Commissioners of Princess Anne* in which the officials of a town were granted an *ex parte* restraining order to prevent a public rally scheduled by a "white supremacist" organization. The case eventually reached the Supreme Court of the United States which found the 10-day order improper

> because of a basic infirmity in the procedure by which it was obtained. It was issued ex parte, without notice to petitioner and without any effort, however informal, to invite or permit their participation in the proceedings. There is a place in our jurisprudence for ex parte issuance, without notice, of temporary restraining orders of short duration; but there is no place within the area of basic freedoms guaranteed by the First Amendment for such orders where no showing is made that it is impossible to serve or to notify the opposing parties and to give them an opportunity to participate.

In the instant case, defendants contended that picketing is "the precise legal equivalent of free speech" and that a similar infirmity in the order here obtained required that it and the contempt convictions be set aside. The Illinois Supreme Court, however, found it "clear that *Carroll* is inapposite, and of no persuasion here":

> We are not dealing with a prior restraint, nor was the trial court . . . confronted with a constitutionally protected area of free speech. Picketing, while a mode of communicating ideas, is not dogmatically equated with constitutionally protected speech . . . and it is settled that the first and fourteenth amendments do not afford the same kind of freedom to those who communicate ideas by picketing, as they afford to those who communicate ideas by pure speech . . . . Here, the unlawful strike of the teachers was already in progress when the temporary order was sought, and the picketing the Board was seeking to restrain was being carried on for the purpose of fostering and supporting such unlawful strike. Accordingly, the first amendment considerations which controlled in *Carroll* were not present in this case. And there is another factual distinction worthy of note. Those against whom the order was directed in *Carroll* obeyed it and then judicially challenged its validity . . . ; in the case at hand defendants deliberately defied the court by ignoring and disobeying its order instead of seeking judicial relief from its consequences, and the single issue on appeal is whether defendants could properly be found in contempt for their disobedience.

In concluding that defendants' disobedience of the temporary restraining order "merited their punishment for contempt," the state supreme court dismissed defendants' contentions that the show cause contempt rule and subsequent order gave defendants insufficient notice of the charges against them. (*Board of Education of Kankakee School District No. 111 v. Kankakee Federation of Teachers, Local No. 886*, Illinois Supreme Court, September 22, 1970.)

NORTH DAKOTA

TEACHERS JUDGED GUILTY OF CRIMINAL CONTEMPT FOR PICKETING IN VIOLATION OF RESTRAINING ORDER

Twenty-two Minot Public School teachers were convicted of criminal contempt by the Ward County District Court for striking local schools in April 1969 and "wilfully and flagrantly violating and disobeying the lawfully issued restraining order of this court by engaging in picketing." In levying individual fines of $250 plus $15 costs, as well as 30-day jail sentences, upon each defendant, the court emphasized that the North Dakota Supreme Court has "ruled that picketing, though peaceful, when for the purpose of fostering and supporting an illegal strike against a government employer is for an unlawful purpose and that restraining orders may issue to enjoin and prohibit such strike and picketing."

More than 100 Minot teachers began a strike on April 2, 1969, which forced several schools to close. Five days later the district initiated a civil action to enjoin the strike, alleging contract violations, danger to the public health, safety, and welfare, unlawful interference with a governmental function, and a detrimental effect upon the general welfare of students and the community. A temporary restraining order issued the same day followed by the teachers' issuance of a public statement announcing that they "decline to comply with the Court's injunction." Picketing began at the schools on April 8 and 9, and counsel for defendants conceded at an April 9 hearing that the teachers were on strike. The court then issued a permanent restraining order enjoining and restraining all of the defendants individually and the Minot Federation of Teachers (MFT), American Federation of Teachers, AFL-CIO, from striking or picketing. The court repeatedly warned defendants of the consequences for disobeying the order.

On April 14 the court commenced contempt proceedings against five teachers for striking, although the proceedings were postponed due to extreme weather conditions. Then on April 21 the MFT placed an advertisement in the local newspaper asking nonstriking teachers not to cross the picket lines or take jobs as substitute teachers. Between April 25 and 29 the court sentenced and fined 22 teachers who admitted pick-

eting and carrying signs at various schools. The strike ended on May 1.

In the instant criminal contempt proceeding, defendants denied the offenses charged and were ordered by the court on April 29 to make written answer to the complaints by affidavit or other proof. Counsel for defendants raised four procedural objections to the contempt proceedings, two of which were overruled and denied by the court. Counsel for defendants additionally argued that peaceful picketing by teachers is a protected constitutional activity, and that the court's restraining order prohibiting "any picketing" was constitutionally vague and too all encompassing.

The court, however, cited numerous state and federal court rulings to the effect that striking and picketing by public employees are illegal, and that "an order issued by a court with jurisdiction over the subject matter and person must be obeyed by the parties until it is reversed by orderly and proper proceedings. This is true without regard even for the constitutionality of the act under which the order is issued" (*United States v. United Mine Workers*). Concluding that its restraining order was valid and legal and that it did not violate any of defendants' constitutional rights, the court pointed out that "if defendants believed or contended that the restraining order was in any way irregular the matter could have been clarified by motions to this Court or by an appeal to the Supreme Court of this State in the injunction proceedings." As defendants instead violated the order by engaging in continued picketing, they were judged guilty of criminal contempt and fined and sentenced for "wrongful conduct and acts . . . [which] impeded and obstructed a vital government function, the proper and efficient education of the children." (*State of North Dakota v. Mary Heath, et al.*, North Dakota District Court, Ward County, June 6, 1969.)

WISCONSIN

TEACHERS UNLAWFULLY DENIED LEAVE FOR MINORITY ORGANIZATION CONVENTION ORDERED REIMBURSED

The Ashland County Circuit Court upheld a determination of the Wisconsin Employment Relations Commission (WERC) that the Ashland school board unlawfully discriminated against its employees by granting paid leave for attendance at the majority organization's state convention, while denying such leave to teachers attending the minority organization's regional convention on the same dates. The court accordingly ordered the board to cease giving effect to the violative contract clause and to pay 28 teachers lump sums illegally deducted from their paychecks while attending a 1968 regional convention of the Ashland Education Association, the minority organization.

The WERC's ruling (NRD, 10-69, 7) resulted from a charge filed by the Association that the Ashland board's refusal to grant paid leave for attendance at conventions outside the scope of the board's agreement with the Ashland Federation of Teachers, American Federation of Teachers, AFL-CIO, Local 1275, was prohibited by state statute. Although there was some question as to the similarity of state and regional teachers' conventions, the WERC determined that Local 1275, as bargaining agent, "had the privilege of negotiating and reaching an agreement with the . . . board of education with respect to dates on which teachers would be permitted to attend teachers' conventions." *However*, the contractual limitation to attendance at the Wisconsin Federation of Teachers (WFT) state convention was found to exceed "the bounds of the permissive cooperation which Local 1275 was privileged to receive as a result of its majority status."

The present action was brought by the Association when the board refused to comply with the WERC's order of full restitution of pay for teachers denied paid leave while attending the minority organization's convention. In affirming the WERC's order, the court noted that the parties' contract must allow teachers to attend either a state or other convention (the choice of which is left to the school board) held by teachers' organizations other than the WFT. (*Board of Education of Unified School District No. 1, et al. and Ashland Federation of Teachers, Local 1275 v. Wisconsin Employment Relations Commission, Raymond Kovala and Ashland Education Association*, Wisconsin Circuit Court for Ashland County, October 1970.)

Board Findings and Rulings

MASSACHUSETTS

FINAL NEGOTIATING AUTHORITY IS A NONDELEGABLE POWER OF SCHOOL COMMITTEE

The Massachusetts Labor Relations Commission (MLRC) held that the Lawrence School Committee did not commit an unfair labor practice by refusing to adopt the recommendation of its legal representative that a contract negotiated with the Service Employees International Union, AFL-CIO, Local 310, be retroactive. Although the representative personally had agreed to the retroactivity of the contract during negotiation with the union, the MLRC determined that the school committee was not bound by that agreement since Massachusetts law prohibits a school committee from delegating its management powers. While a school committee may seek the advice of a legal representative, any final decision affecting the general management of the schools remains with the elected members of the committee. (*Matter of City of Lawrence School Committee and Local No. 310, Service Employees International Union, AFL-CIO,* Massachusetts Labor Relations Commission, August 31, 1970.)

MICHIGAN

SCHOOL BOARD ORDERED TO CEASE BARGAINING TO IMPASSE ON INDIVIDUAL CONTRACT RETURN DATE

The Michigan Employment Relations Commission (MERC) held that the Coleman school board committed an unfair labor practice by insisting upon bargaining to impasse over the inclusion in an agreement with the Coleman Education Association (CEA) of a specific deadline by which individual teaching contracts had to be returned to the board. While the MERC determined in *Bullock Creek* (NRD, 10-69, 7) that during negotiation a school board could issue and require the return of individual contracts by established dates (subject to modification by any subsequently executed collective agreement), it concluded that such dates are *voluntary* subjects of bargaining whose inclusion in an agreement cannot be insisted upon to impasse. The MERC concurred with a trial examiner's findings on this matter and his recommended issuance of a cease and desist order against the Coleman board, but it modified the language of the proposed order owing to a disagreement over a fine point of law.

Throughout lengthy 1969 negotiation, mediation, fact-finding, and subsequent mediation, the Coleman board insisted upon bargaining a specific date by which individual teaching contracts would be returned. The CEA eventually filed charges alleging that the board had violated its duty to bargain under the state's Hutchinson Act by insisting upon bargaining the inclusion of a nonmandatory item in a collective agreement. The board replied that it did not demand the return of individual contracts by any one specified date (i.e., it would negotiate any of several possible dates), and contended that the CEA would not agree to any clause providing for the return of individual contracts prior to the ratification of a master agreement. In addition, the board argued that it did not negotiate to impasse on the return dates of individual contracts because there were three other issues open when the parties went to fact-finding.

During hearings before the MERC trial examiner, the CEA relied upon the *Bullock Creek* decision and the National Labor Relations Board "impasse" doctrine in its contentions that the return date for individual contracts is a nonmandatory bargaining subject and that such a subject cannot be bargained to impasse. Citing pertinent portions of the *Bullock Creek* ruling, the trial examiner found that such a subject is nonmandatory and held that in the instant matter "a contract would have been reached after fact-finding, but for the Employer's insistence on the contract clause." He explained that "it does not matter whether other items were not agreed upon at the same time the Employer was insisting on the inclusion of the contract return date clause. It is the insistence upon the inclusion—or no contract—of the nonmandatory matter that is the crux of the violation."

The examiner accordingly concluded that "by insisting to impasse upon the inclusion of a contract clause setting the return date of individual contracts prior to the statutorily provided date of July 1, the [Employer] has violated its obligation to bargain as imposed by [portions of the Hutchinson Act]." He recommended that the Coleman Community Schools be ordered to "cease and desist from insisting that a clause be included in any collective bargaining agreement reached between itself and the [CEA] that provides for the return of individual teacher contracts prior to July 1." Moreover, he ordered the board to bargain in good faith with the CEA and post a notice stating in part that "we will not insist upon the inclusion of a clause providing for a return date of individual teacher contracts earlier [than] July 1."

In subsequent proceedings, the CEA took exception to those portions of the trial examiner's recommendations referring to the return of individual contracts by the "statutorily provided date of July 1," maintaining that they were inconsistent with the conclusion that the return date was a nonmandatory subject of bargaining, and that they were incorrect on two counts as a matter of law. The Coleman board then argued that since the law requires individual contracts to be returned by July 1, the trial examiner's reference to that date was in accordance with law and with the MERC's decision in *Bullock Creek*.

However, the MERC determined that its references to a "July 1 deadline" in *Bullock Creek* (which deadline refers to when tenure teachers must give written notification of the discontinuation of their services) were misread, explaining:

> We know of no statutory requirement that individual teacher contracts must be signed and returned to the school board at any particular time, and none has been brought to our attention. However, it would seem to be implicit in [sections of] the Michigan School Code . . . that the individual teacher contract should be executed and returned to the school board before the commencement of the school term . . . . We agree with the Trial Examiner's conclusion that the [Employer] was in violation . . . in insisting upon the inclusion of a contractual provision establishing a deadline for the signing and returning of individual tenure teacher contracts to an impasse. We do not concur with his conclusion that the setting of a deadline date for tenure teachers to give written notification to the school board of their intention not to return is material in disposing of the issues presented in the instant case.

In effectuating its modification of the trial examiner's findings, the MERC ordered the Coleman board to "cease and desist from bargaining to an impasse on a clause . . . that provides for the signing and return of individual tenure teacher contracts *by any specific date*" (emphasis added) and altered the posting notice accordingly. (*In the Matter of Coleman Community Schools and Coleman Education Association*, Michigan Employment Relations Commission, August 28, 1970.)

NEW JERSEY

TIMELINESS RULES VOLUNTARILY ADOPTED WHEN NO PERC RULES EFFECTIVE HELD VALID AND BINDING

An election petition was ruled untimely by the New Jersey Public Employment Relations Commission (PERC) under both PERC rules and regulations and a timeliness rule voluntarily adopted by the parties to the original representation election at a time when no PERC procedures were effective. In upholding the validity and applicability of the voluntary rule, as well as its binding nature upon the parties, the PERC pointed out that

> it fulfills the same basic requirements as the Commission's Rules; it establishes a period of unchallenged representation coupled with a date certain after which the incumbent may be displaced. Both rules seek and achieve the same result; a balance between stability of labor relations, and the employee's right to replace the incumbent organization after a fixed period of time.
>
> Furthermore, since the Commission favors voluntarism and the sanctity of contractual relationships, we believe parties should be held to the performance of their joint obligations to which they have previously agreed.

In February 1969 the Paterson Education Association, the local board, and the Paterson Teachers Union (PTU), American Federation of Teachers, AFL-CIO, Local 482, agreed to hold a consent election to determine the bargaining representative for local teachers. In the absence of any PERC rules and regulations, the parties adopted the following timeliness rule (which varied from those adopted by the PERC in late August 1969):

> If no contract is made between the winner of this election and the Board of Education within 14 months after the American Arbitration Association certifies the results of the election, then upon a showing of thirty per cent (30%) by the eligible voters so petitioning, an organization may request a new election.
>
> A petition for a new election supported by not less than thirty per cent (30%) of the eligible voters may be presented to PERC by an organization not more than ninety days (90) and no less than sixty (60) days prior to the expiration date of the contract or June 30, 1971, whichever date comes first.

The Association was certified as exclusive bargaining representative by the PERC on June 26, 1969. Then on March 13, 1970, the Association and the local board entered into an agreement with a termination date of June 30, 1971. The PTU filed an election petition on the same day,

but that petition was dismissed as untimely by the PERC.

The instant election petition was filed by the PTU on September 23, 1970; the union contended that an election should be directed since the petition was filed within the period of 150 to 120 days prior to the last date for budget submission immediately preceding the expiration or renewal date of the contract, as provided in sec. 19:11-15(d) of the PERC's rules and regulations. The Association, however, argued that the voluntary timeliness rule should be applied here (despite its inconsistency with sec. 19:11-15) since another portion of the PERC rules provides that "any valid action by parties prior to the effective date of the Rules and Regulations will not be held invalid because of a failure to comply with the procedural requirements set forth herein."

The PTU contended that application of the voluntary rule in the instant proceeding "would be prejudicial and inconsistent with the dismissal of the March 13, 1970 petition" since that dismissal was based upon PERC rules and regulations. However, the PERC found that the March 13 petition would have been untimely under both the voluntary rule and PERC rules. Moreover, the PERC found no prejudice to the union in its "alleged reliance upon the [March 13] dismissal for guidance as to which rule would apply" since that action in no way denied the PTU the opportunity of filing a future timely petition under the voluntary rule.

The PERC concluded that since the voluntary timeliness rule was agreed upon in good faith and with the understanding it would be adhered to, the PTU should be bound by the contractual relationship it entered into, absent a clear contravention of the Act or the Commission's policies.

> In this instance the agreement reached by the parties is not in such conflict with the policies and concepts of the Act or the Commission's policies so that it should not be given full effect under Section 19:19-2 of the Rules as a "valid action".... As written, the [voluntary] rule merely establishes a period of unchallengeability for the representative chosen as a result of the March 1969 election. After that period the . . . rule expires, and the timeliness rules as set out in the Rules and Regulations of this Commission will control the time for filing any subsequent petitions.... The Commission rules that the agreement . . . adopting the [voluntary] timeliness rule constituted a valid action by the parties prior to the effective date of the Rules and Regulations and is binding on the parties and the Commission. Accordingly, we hereby dismiss the petition as being untimely filed.

(*In the Matter of Paterson Board of Education and Paterson Teachers Union, Local 482, New Jersey Federation of Teachers and Paterson Education Association, New Jersey Education Association*, New Jersey Public Employment Relations Commission, November 4, 1970.)

OTHER ITEMS OF INTEREST

NLRB ASSERTS JURISDICTION OVER EDUCATIONAL RADIO STATIONS

In a November 25, 1970, ruling, the National Labor Relations Board (NLRB) asserted jurisdiction over a nonprofit foundation operating a number of educational radio stations whose gross annual volume of business met the NLRB standard of $100,000 for radio stations and whose operations were considered related to the educational system over which the board previously asserted jurisdiction. The board had determined in its *Cornell University* decision (NRD, 9-70, 10) that "assertion of jurisdiction is required over those private colleges and universities whose operations have a substantial effect on commerce to insure the orderly, effective and uniform application of the national labor policy." In the instant case, the NLRB saw "no reason for withholding the exercise of its powers over employers whose operations are adjunctive to the educational system" and meet the board's standard. It accordingly directed that an election be held in the appropriate bargaining unit.

The Pacifica Foundation, a nonendowed educational organization, primarily is engaged in owning and operating three FM radio stations in California, one station in New York, and a news bureau in Washington, D.C. The National Association of Broadcast Employees and Technicians, recognized by the foundation in 1962 and party to several collective bargaining agreements since then, claimed to represent a majority of unit employees. When the foundation sought an election among its employees to determine whether the Association still was majority representative, the Association argued that the NLRB should deny its jurisdiction since the foundation was a nonprofit, noncommercial organization engaged only in disseminating knowledge as part of the general educational system.

The NLRB found, however, that during the 1968 calendar year the foundation's tax exempt gross income totaled nearly $1 million, and that the combined gross income of two of the radio stations was $225,000, nearly $215,000 of which derived from private contributions and listener subscriptions. The board also noted that the foundation makes its broadcast facilities available to higher learning institutions for training purposes. Referring to its *Cornell University* decision, the NLRB decided to assert jurisdiction over adjunctive educational operations which have a substantial impact on interstate commerce. (*Pacifica Foundation—KPFA and National Association of Broadcast Employees and Technicians, et al.*, National Labor Relations Board, November 25, 1970.)

Negotiation Notes

IOWA

ARBITRATION STATUTE MAY NOT BE APPLIED TO MUNICIPAL DISPUTES

An August 19, 1970, opinion of the Iowa attorney general held that the Iowa governor lacked authority to appoint a board of arbitration in a dispute involving nurses and a municipal hospital, because arbitration procedures provided by state statute are inapplicable to municipal corporations.

MICHIGAN

UNFAIR PRACTICE CHARGE MUST BE SERVED ON MERC AND RESPONDENT WITHIN SIX MONTHS OF VIOLATION

In a first impression ruling pertinent to the statute of limitations under the Michigan Labor Mediation Act (MLMA), the Michigan Employment Relations Commission (MERC) held that an unfair labor practice charge must be served upon *both* the MERC and the respondent within the statutory six-month period of limitations. In the instant case, the MERC was compelled to dismiss a complaint which it had received exactly six months after the alleged unfair labor practice, but which was not served upon the respondent until after the statute of limitations had expired. While the MERC's decision was rendered in a private sector case under sec. 23(b) of the MLMA, identical language appears in sec. 423. 216(a) of the state's public employee bargaining statute, the Hutchinson Act.

Sec. 23(b) of the MLMA provides in part that "no complaint shall issue based upon any unfair labor practice occurring more than six months prior to filing of the charge with the board and the service of a copy thereof upon the person against whom the charge is made." A hospital worker claiming that she was unjustly fired filed a timely complaint with the MERC exactly six months after the date of firing; however, the charge was not served upon the hospital by the MERC until eight days later, thereby resulting in respondent's motion to dismiss the complaint for lack of timely service.

Before a MERC trial examiner, counsel for the charging party argued that sec. 23(b) is unclear whether "filing of the charge" and the "service of a copy thereof" upon respondent both must be completed within the six-month period of limitations. He further argued that under sec. 5856 of the state's Revised Judicature Act (RJA), the statute of limitations is tolled (for no longer than 90 days) once "the complaint is filed and a copy of the summons and complaint in good faith are placed in the hands of an officer for immediate service." As such, the charging party contended that she had 90 days from the date the complaint was received by the MERC in which to serve the charge upon her former employer.

The trial examiner, however, questioned whether sec. 5856 "can be held to apply to administrative proceedings," and concluded that "it does not, in the absence of a specific indication by the Legislature to that effect." Pointing out that MERC procedures generally are governed by the Administrative Procedures Act of 1969, "which contains no specific requirements in regard to initiating agency proceedings and the service of documents in contested cases," the examiner held that

> we are left strictly with the construction of Section 23(b) of the LMA and [MERC Rule 53(1) which reads: "Upon filing of a charge, the charging party shall be responsible for the timely and proper service of a copy thereof upon the charged party, against whom such charge is made."] The language of which I conclude requires both filing and service of the charge within the six-month period before the Commission can make a finding of an unfair labor practice under Section 16 of the LMA.

The examiner accordingly dismissed the charge, and the MERC adopted his decision and recommended order, stating:

> It does not matter whether the Commission or the Respondent is served first. However, it is equally clear that both services, the one on the Commission and upon the Respondent, must be made within the six-month statutory limitation .... In the future, the Commission will administratively dismiss all charges where the Respondent and the Commission have not been served with a copy of the charge within the six-month Statute of Limitations.

NEW YORK

TAYLOR LAW REQUIREMENT THAT UNION DISAVOW STRIKE RIGHT BEFORE CERTIFICATION DECLARED CONSTITUTIONAL

The New York Supreme Court, Appellate Division, granted summary judgment to the New York City Office of Collective Bargaining (OCB) in upholding the constitutionality of a portion of the state's Taylor Law requiring public employee unions to disavow the right to strike as a prerequisite to certification as exclusive bargaining representative. Concluding that within the context of certification "the condition imposed is reasonable for the benefits conferred, and is reasonably calculated to achieve the ultimate desired end," the court ruled that if properly construed, the requirement does not infringe upon the exercise of First Amendment rights and exerts no " 'chilling effect' on free expression so evident as to warrant [its] rejection as unconstitutional." The court accordingly declared constitutional the implementing OCB rule and thereby reversed an April 1969 ruling by a Special Term judge.

Sec. 207(3)(b) of the Taylor Law states in pertinent part that "for purposes of resolving disputes concerning representation status . . . the board of government . . . shall . . . certify or recognize an employee organization upon . . . the affirmation by such organization that it does not assert the right to strike against any government, to assist or participate in any such strike, or to impose an obligation to conduct, assist or participate in such a strike."

The American Federation of State, County and Municipal Employees, AFL-CIO, Local 371 (plaintiff in the case) argued that the requirement violated its right to free speech under both the federal and state constitutions; the union supported its position by citing *National Association of Letter Carriers v. Blount* (NRD, 12-69, 3) in which a three-judge federal district court panel unanimously declared unconstitutional portions of a federal statute and the implementing Post Office employment oath which prohibited government employees from asserting the right to strike or holding membership in any organization asserting the right to strike. An appeal of that decision to the Supreme Court of the United States later was dismissed by agreement of the parties (NRD, 12-70, 15).

While finding "undoubted points of similarity" between the decision and the instant matter, the court held that the letter carriers' case is not controlling because "here the problem is not job acquisition or retention, but certification with its attendant benefits." Explaining that certain rights accompany recognition or certification and that the public employer assumes a certain burden by granting recognition, the court found it reasonable that the requirement be imposed. Moreover, since sec. 210 of the Taylor Law "flatly prohibits public employees or employee organizations from engaging in a strike," the court ruled that in construing the disputed section, it must "consider the general scheme of the statute and reject an interpretation not warranted by its language and which offends ordinary common sense."

OTHER ITEMS OF INTEREST

AFT FOUND TO HAVE VIOLATED AFL-CIO NO-RAIDING PROVISION BY IMPINGING UPON SEIU TEACHER AIDE UNIT

According to an AFL-CIO impartial umpire, the American Federation of Teachers (AFT) violated the no-raid provision of the Federation's constitution by attempting to represent all teacher aides employed by the Cleveland (Ohio) school board when some aides were members of the Service Employees International Union (SEIU), AFL-CIO, Local 47. Although the SEIU was not exclusively recognized as representative for teacher aides, library aides, clerks, and bath attendants employed by the board (owing to a lack of enabling legislation in Ohio), it had been granted an ad hoc form of recognition by the board as the only representative of such employees since 1965. As a bargaining relationship of this nature is protected by Art. XX of the Federation's constitution and by the extension of that article through the *Massillon* decision, the umpire held it incumbent upon the AFT "to take affirmative steps to assure teachers' assistants who were prior members of SEIU that AFT would not impinge upon SEIU's relationship. AFT's failure to do this is ground for finding a . . . violation."

Art. XX provides that no AFL-CIO affiliate shall attempt to organize employees in instances where another affiliate enjoys an "established collective bargaining relationship." This relationship is defined as a situation where a union has been recognized as bargaining representative for one or more years or has been certified by the proper body. The *Massillon* doctrine extended the application of the AFL-CIO's internal disputes plan (Art. XX) to the public sector generally in instances where exclusive recognition is unavailable. That is, the protection afforded an established bargaining relationship by Art. XX is applied by *Massillon* to "whatever bargaining relationship a given union has been successful in establishing

with the employing governmental agency" where exclusive representation is not allowed.

In the present matter, the SEIU did not claim to represent a majority of nonteaching employees, had no written agreement as to the type of recognition the board had granted it, had never obtained exclusive recognition for teacher aides, and had a relationship with the Cleveland board on behalf of teacher aides that was "a *Massillon* type relationship for *members* only." Nevertheless, the umpire held that the SEIU had held a general *Massillon* type of recognition since 1965. As such, the union's relationship with the board for its members who were teacher aides constituted an established collective bargaining relationship entitled to Art. XX protection. To the extent that the AFT attempted to represent all teacher aides without specifically excluding SEIU members, it impinged upon the SEIU's *Massillon* type of established collective bargaining relationship and thereby violated the AFL-CIO internal disputes plan, according to the umpire.

CONSUMER PRICE INDEX, NOVEMBER 1970

Data released by the Labor Department, Bureau of Labor Statistics (BLS), indicated that the Consumer Price Index (CPI) all-items index rose 0.3 percent in November to 137.8 (1957-59=100). The November figure put the CPI 5.6 percent above that of a year ago. According to BLS, an 0.6 percent advance in consumer services charges (particularly those associated with housing), as well as higher prices for apparel, houses, and cars accounted for most of the November increase. On the other hand, lower gasoline prices and a "substantial decline" in food prices moderated the November rise. An estimated 46,000 workers will receive cost-of-living increases based upon the November CPI.

JURY PAY RECEIVED WHILE PERFORMING REGULAR JOB NEED NOT BE SUBTRACTED FROM SALARY

A September 9, 1970, ruling of the Comptroller General determined that a Chicago Treasury Department employee who did not attend court but worked for two days while serving as a juror was permitted to retain her jury duty pay for those days without having the amount deducted from her salary. As the court recessed for two days during a legal conference and the employee had been told to work on any full days of absence from the courtroom, she worked the two days in dispute. The judge, however, had notified the jurors that they would be paid for the two recess days. In interpreting a portion of federal law stating that any jury pay received by federal employees is to be subtracted from their salaries, the Comptroller General held that if they receive jury pay without missing any work, that amount does not have to be subtracted. He explained:

> The fact that [the employee] will receive juror's fees in addition to her pay for the days in question does not render the retention of the juror's fees improper. The statute contemplates crediting against pay only the amount received by an employee from a State on account of jury service for any period he otherwise would be performing the duties of his ordinary position.

NLRB SETS $1 MILLION JURISDICTIONAL STANDARD FOR PRIVATE NONPROFIT COLLEGES AND UNIVERSITIES

Pursuant to its July 1970 determination to assert jurisdiction over private nonprofit colleges and universities as a class (NRD, 9-70, 10), the National Labor Relations Board (NLRB) decided to include all such institutions with a gross annual operating revenue of no less than $1 million within its jurisdiction. Stating that this standard "will bring within the Board's jurisdiction those labor disputes in the industry which exert or tend to exert a pronounced impact on commerce," the NLRB pointed out that "some 80 percent of all private colleges and universities and approximately 95 percent of all full- and part-time nonprofessional personnel" now will be "within reach" of the National Labor Relations Act (NLRA).

While acknowledging that the $1 million standard adopted for private, nonprofit colleges and universities is "higher on its face" than the highest gross revenue standard ($500,000) adopted for other enterprises, the board explained that the

> practical effect [of the newly established standard] is to extend the protections of the [NLRA] to a greater proportion of the employers and employees in the affected class. Further, the industries to which the Board applies gross revenue standards of $500,000 or less conduct their business through large numbers of relatively small units, a substantial number of which must be embraced by the relevant jurisdictional standard if the Board effectively is to regulate the labor relations of the industry. Here, in contrast, effective regulation of the labor relations of the industry can be achieved, in our opinion, under the higher standard.

The $1 million jurisdictional standard became effective December 3, 1970, with its publication in the *Federal Register*.

Statistics

NEGOTIATION AGREEMENTS: THE HIRING OF SPECIALISTS AND DEVELOPMENT OF SPECIAL EDUCATION PROGRAMS

The NEA Research Division's analysis of 978 negotiated classroom teacher agreements effective during the 1968-69 school year in systems with a pupil enrollment of 1,000 or more identified 119 agreements (12.2 percent) with provisions governing the hiring of specialists, and 84 agreements (8.6 percent) with provisions covering the development of special education programs. Of these agreements, 27 contained provisions concerning both subject areas.

Tables 1 through 9 present data derived from the analyzed provisions; the categories listed in these tables are not mutually exclusive. Moreover, this analysis is limited to what appears in written negotiation agreements, and makes no attempt to cross-reference the analyzed provisions with other negotiated content which indirectly may affect the hiring of specialists or the development of special education programs. Sample provisions reprinted here are not intended to be regarded as exemplary and may, in some cases, be only pertinent excerpts.

The Hiring of Specialists

Of the 119 provisions pertinent to the hiring of specialists, 16 (13.4 percent) established joint teacher-board committees to study the need for specialists and make recommendations for hiring them. The remaining 103 provisions (86.6 percent) committed the school board to hire various types of specialists in that they usually contained a statement of the intention to hire such personnel, guidelines for the hiring procedure, and an indication of the type(s) of specialist(s) desired. Table 1 indicates the general negotiated content of the 119 provisions analyzed. Sample provisions establishing joint study committees are reprinted following the table.

TABLE 1.—GENERAL NEGOTIATED CONTENT OF 119 PROVISIONS PERTAINING TO THE HIRING OF SPECIALISTS, 1968-69

General content	Agreements containing designated content	
	Number	Percent
1	2	3
TOTAL NUMBER OF PROVISIONS	119	100.0%
PROVISIONS ESTABLISHING JOINT COMMITTEES	16	13.4
PROVISIONS CONTAINING A COMMITMENT TO HIRE SPECIALISTS	103	86.6
Hiring guidelines and policies	77	74.7[a]
Identification of specialists	77	74.7
To teach handicapped or temporarily disabled pupils	52	50.5
To teach culturally different pupils	5	4.9
To provide pupil services	49	47.6
To teach nonacademic subjects	49	47.6
To teach academic subjects	10	9.7

[a]This percentage and all succeeding percentages are based upon the 103 agreements containing a commitment to hire specialists.

The Parties agree that a joint Administrator-Association subcommittee consisting of three members appointed by the School Committee and three members appointed by the Association will be established to study the number of specialists needed to make more effective the operation of our educational program in the following areas:

ELEMENTARY—Adjustment Counselor; Guidance Counselor; Art; Music; Reading (Developmental and Remedial); Librarians; Speech Therapists; Special Classes for Perceptual Skills

JUNIOR HIGH SCHOOL—Adjustment Counselor; Guidance Counselor; Reading (Developmental and Remedial)

SENIOR HIGH SCHOOL—Adjustment Counselor; Guidance Counselor; Reading (Developmental and Remedial)

The Parties further agree that the joint study will commence by October 1, 1967 and a report will be issued by December 15, 1967. (Chelmsford, Massachusetts)

* * *

The Committee and the Association recognize that an adequate number of competent specialists is essential to the operation of an effective educational program. Accordingly, the parties agree to establish a joint committee whose purpose will be to meet from time to time to study the needs for the addition or elimination of specialists. The Committee and the Association will each appoint two persons to serve on this joint committee and those persons will elect a chairman from among themselves. This joint committee will report the findings and recommendations of its studies to the Superintendent. (North Kingston, Rhode Island)

Guidelines and policies for hiring specialists were found in 77 (74.7 percent) of the provisions analyzed. Of these, 36.4 percent philosophically recognized the necessary role of specialists in an effective educational program and stated an intention to hire an adequate number of specialists. Many provisions, however, designated the number of specialists to be hired: 19 provisions named an exact number, five provisions indicated the intended ratio of specialists to pupils, and five other provisions specified a combination of an exact system-wide number, a ratio, and the number of specialists per building. An example of a provision calling for a specified number of specialists per building is:

The Board agrees to make reasonable effort to locate and assign three special education teachers with special education certificates and eligible for state reimbursement, to the Ann J. Kellogg School to assist in the teaching of physical education, art and music. These teachers are also to be trained in their special field. Teachers who have limited training will be considered if the teacher will work toward certification in the special area. (Battle Creek, Michigan)

Some provisions indicated that the number of specialists already employed was to be increased; others provided that specialists would be hired within the limits of the budget. Both types of provisions are found in the following example:

The District will make every effort at the beginning of the second semester of the 1968-69 school year to hire additional specialists and auxiliary teachers within the resources and at the professional discretion of the administration.

In the spring of 1969, the District will submit to the voters of the Midland School District a millage proposal for the purpose of employing fifteen (15) additional specialists and auxiliary teachers in 1969-70 and fifteen (15) more specialists and auxiliary teachers in 1970-71.

In the event that the millage for the proposal in [the above section] is not obtained, the District and the Association will consult as to what action is to be taken in the areas of specialists and auxiliary teachers. (Midland, Michigan)

Although most of the provisions containing hiring guidelines and policies set no time limitation on hiring, 13 agreements indicated that the hiring process should be completed by the end of a specific school year, usually the year the agreement was effective. A sample negotiated posting procedure provided that "all openings for specialists and/or special project teachers shall be adequately publicized in every school as far in advance of the appointment as possible and ordinarily at least thirty (30) days in advance" (Newark, New Jersey). The few provisions mentioning necessary qualifications for specialists' positions generally stated that personnel should be properly trained or meet some existing standards. One provision held that "openings shall be filled after interviews and, in filling such openings, length of service in the Newark School System shall be a major but not exclusive factor" (Newark, New Jersey). Of those provisions containing negotiated hiring procedures, one stated that regular procedures would be followed, and the remaining provisions required that the teachers' organization be consulted to one degree or another, as in the following example:

The determination to employ personnel for specialized programs and/or increases to the staff, shall remain the sole prerogative of the School Committee as authorized by law.

The Superintendent shall give due consideration to each request presented and substantiated by the Burlington Educators Association study. The Superintendent will adjudicate each request on a priority basis giving due consideration to the educational needs of the district and the community's ability and willingness to support additional specialized personnel. He will then submit his recommendations to the School Committee. (Burlington, Massachusetts)

Table 2 indicates the prevalence of various hiring guidelines and policies among the 77 provisions analyzed.

TABLE 2.—GUIDELINES AND POLICIES FOR HIRING SPECIALISTS, 1968-69

Hiring guidelines and policies	Agreements containing designated content	
	Number	Percent
1	2	3
TOTAL NUMBER OF PERTINENT PROVISIONS	103	...
Provisions containing hiring guidelines and policies	77	100.0%
Philosophy	28	36.4
Number of specialists to be hired	29	37.7
Existing staff of specialists to be increased	16	20.8
School year in which specialists will be hired	13	16.9
Fiscal limitations on hiring specialists	8	10.4
Hiring procedures	5	6.5
Qualifications	5	6.5

Of the 103 provisions containing a commitment to hire specialists, 77 (74.7 percent) named the type(s) of specialist(s) according to five general categories or types of programs: teachers of the handicapped, pupil services personnel, teachers for special education programs, teachers of specialized academic subjects, and teachers of culturally different pupils. Specialists involved in teaching or training handicapped pupils were to be hired more often than any other type of specialist. The term "handicapped" includes pupils with permanent or temporary physical, mental, or emotional problems of a magnitude warranting specialized educational programs and/or training by specially qualified personnel. As indicated in Table 3, the personnel most often sought among the 52 provisions were teachers of the mentally retarded, specialists trained to deal with speech and auditory handicaps, and teachers of emotionally disturbed pupils. Agreements providing for the hiring of teachers able to aid pupils who face substantial cultural barriers in mastering the regular curriculum also are identified in Table 3. Five provisions called for the employment of teachers trained to work with pupils whose native language is not English, or who are identified as "educationally disadvantaged."

TABLE 3.—SPECIALISTS TEACHING HANDICAPPED AND CULTURALLY DIFFERENT PUPILS, 1968-69

Types of specialists	Agreements containing designated content	
	Number	Percent
1	2	3
TOTAL NUMBER OF PERTINENT PROVISIONS	103	...
Provisions identifying specialists to teach handicapped pupils	52	100.0%
Mentally retarded pupils	23	44.2
Pupils with speech impediments	18	34.6
Emotionally disturbed pupils	11	21.2
Pupils with hearing impairments	10	19.2
Homebound pupils	7	13.5
Physically handicapped pupils	6	11.5
Pupils with visual handicaps	5	9.6
Provisions identifying specialists to teach culturally different pupils	5	100.0%
Non-English speaking pupils	4	80.0
Educationally disadvantaged pupils	2	40.0

Pupil services specialists providing regular, continuing assistance of a certain nature to all pupils were to be added to school staffs by 49 negotiated provisions. Of these, 61.2 percent provided for the hiring of psychologists or psychiatrists, and 26.5 percent stipulated that social workers be hired; all three types of specialists were to be employed for the purposes of identifying, evaluating, and assisting pupils with emotional and mental difficulties. Table 4 indicates the incidence of agreements providing for the employment of these and other pupil services personnel.

TABLE 4.—PUPIL SERVICES SPECIALISTS, 1968-69

Types of specialists	Agreements containing designated content	
	Number	Percent
1	2	3
TOTAL NUMBER OF PERTINENT PROVISIONS	103	...
Provisions identifying pupil services specialists	49	100.0%
Psychologists and psychiatrists	30	61.2
Guidance and adjustment counselors	28	57.1
Librarians	22	44.9
Nurses and dental hygienists	17	34.7
Social workers	13	26.5

Table 5 indicates that specialists working with special education programs were to be hired in 49 agreements, and specialized teachers of academic subjects were to be hired in 10 agreements. Special education teachers most often mentioned were music, art, and physical education instructors; the "other" category includes health, safety, speech, and driver education teachers. Also included in Table 5 are reading specialists who were to be hired in 32 provisions for the purpose of conducting remedial, developmental, and other specialized reading programs which are adjunctive to the academic curriculum.

TABLE 5.—SPECIALISTS TEACHING SPECIAL EDUCATION PROGRAMS, ACADEMIC SUBJECTS, AND READING PROGRAMS, 1968-69

Types of specialists	Agreements containing designated content	
	Number	Percent
1	2	3
TOTAL NUMBER OF PERTINENT PROVISIONS	103	...
Provisions identifying specialists to teach special education programs	49	100.0%
Music	48	98.0
Art	42	85.7
Physical education	37	75.5
Home arts, industrial arts, vocational education	7	14.3
Other	10	20.4
Provisions identifying specialists to teach academic subjects	10	100.0%
Foreign languages	5	50.0
Science, mathematics, social studies	4	40.0
Provisions identifying reading specialists	32	100.0%

Of the 103 provisions containing a commitment to hire specialists, 41 (39.8 percent) contained peripheral subject matter dealing with salary differentials, class size and class load, the use of aides and clerical help, relief time, whether the specialist enters the regular classroom, and the question of a specialist's relief from some duties. Only 25 of the 77 provisions identifying the type(s) of specialist(s) to

be hired indicated the assigned school level for some of the specialists: 14 provisions referred to elementary schools, 10 provisions referred to both elementary and secondary schools, and one provision mentioned hiring specialists only for secondary schools. Sample provisions illustrating the categories of specialists to be hired and other miscellaneous negotiated content are reprinted below.

A. The Committee and the Association recognize the fact that an adequate number of competent specialists are essential to the operation of an effective educational program. Accordingly, there will be at least the following number of qualified specialists in each of the listed categories:

1. Elementary Schools: School Adjustment Counselors (8); Art (3); French (4); Guidance Counselors (1); Music (6); Reading, Developmental and Remedial (2); Physical Education (7); Science (3).

2. Junior High Schools and Grammar Schools: French (4); Guidance Counselors (6); Reading, Developmental and Remedial (4).

3. Senior High School: Guidance Counselors (4); Reading, Developmental and Remedial (2).

B. The number of specialists presently employed in categories not listed above will not be reduced during the term of this Agreement.

4. Systemwide: Psychologist (1, 3 days per week); Psychiatrist (1, ½ day per week); Speech Improvement (3); Lip Reading (1); Handicapped Children at home (1); Vision and Hearing Technicians (2).

5. a. Suggested Teacher Aide for Special Classes: Each building having more than one mentally retarded class (1); each class for emotionally disturbed children (1); each class for trainable retarded (1); each class for handicapped children (1).

b. Suggested Teacher Aide for each School Building (1).

C. It is understood, furthermore, that the number of qualified specialists will increase with the needs of the school system. (Fall River, Massachusetts)

* * *

For School Librarians. The system-wide ratio of professional school librarians to students shall be maintained at no less than the 1967-68 ratio of 1: approximately 1100 and the goal shall be 1: approximately 600 elementary students, 2 per Junior High School building and 1: approximately 1000 High School students.

For Speech Therapists. The assigned work load shall be not less than 75 nor more than 100 cases. Including non-public-school students.

For School Nurses. The system-wide ratio of school nurses to students shall be maintained at no less than the 1967-68 ratio of 1: approximately 3000 including non-public school students, and the goal shall be one nurse to each 1800 elementary school pupils and one full-time nurse at each Junior High School and Senior High School.

For Diagnosticians. The current employment of five (5) diagnosticians to serve the total school population, including non-public school students, shall be maintained. The Board will seek to employ qualified students or other persons, on an hourly basis, to assist the diagnosticians, up to a maximum total expenditure of $1,500 per year.

For Social Workers. The system wide ratio of social workers to pupils shall be maintained at no less than the 1967-68 ratio. The goal shall be one social worker for each Junior High School and one male and one female social worker for each High School and an overall ratio of one social worker to twelve hundred pupils including non-public school pupils.

For Type A Special Education Teachers, Personalized Program. The total enrollment in a personalized program (Type A) shall not exceed a pupil-teacher ratio of fifteen to one (15-1). It shall be the goal of the Board to obtain the services of a full-time Coordinator to act as consultant and to coordinate all personalized programs.

For Teachers of the Emotionally Disturbed, class size shall be in the range of six (6) to eight (8) pupils.

For Secondary Guidance Department Personnel. The ratio of Secondary Guidance Department Personnel to system-wide secondary pupils shall be maintained at no less than the current ratio and the goal shall be a ratio of one (1) to 250. Secondary Guidance Personnel shall have no other regular assignment during the school day.

The position of teacher consultant for the perceptually handicapped shall be maintained. (Ann Arbor, Michigan)

* * *

F. 1. The services of the psychologist will be available for any pupils in the public schools of the District.

2. The psychologist is available for formal and informal consultation with teachers and parents regarding individual pupils. He offers help with questions of academic achievement, behavior problems, emotional difficulties and social adjustment. He helps evaluate mental retardation and exceptional mental ability.

3. Psychological service includes all or some of the following:

a. Individual study of the child with analysis of intellectual functioning, personality factors, peer and family relationships, and school attitudes.

b. Consultation with teachers and school staff.

c. Individual work with pupils.

d. Work with parents.

e. Referral to outside agencies where indicated.

4. Before formal referral of a pupil for psychological service, the classroom teacher should discuss this with the Principal, and make provision for obtaining agreement of the parent for testing, whenever possible. Referral forms can be obtained from the psychologist or from the Principal's office.

5. The schedule for the psychologist will be given to him at the beginning of each school year and may be changed by the Superintendent from time to time in order to meet the needs of the schools and pupils.

6. The psychologist's work day will conform to that of the teachers day in the school in which he is working.

G. 1. The Remedial Reading Teacher will guide the reading instruction program of the primary grades. She will work with teachers and pupils in kindergarten, Grade 1 and Grade 2 in the Cooke, Duggan and Chase Schools to attempt to insure that a good start is achieved in reading before the pupil leaves the primary level.

2. The Remedial Reading Teacher will devote full time to teaching remedial reading and continuing the developmental program at the intermediate level. She will work with Grades 3, 4 and 5 in the Rutherford, Duggan and Chase Schools.

3. The Remedial Reading Teacher, under Title I, will teach classes in Reading and Study Skills to selected pupils of Grades 6 and 7 in the Middle School.

H. 1. The services of the Speech and Hearing Correction teacher are available for any pupils in the public schools of the District who have deficiencies which require such services.

2. Teachers should feel free to refer pupils to the Speech and Hearing Correction Teacher for study and assistance. Referral slips will be provided.

3. The schedule for the Speech and Hearing Correction Teacher will be given to him at the beginning of each school year and may be changed by the Superintendent from time to time in order to meet the needs of the schools and pupils.

4. The work day of the Speech and Hearing Correction Teacher will conform to that of the teachers day in the school in which he is working.

5. Requests for teacher or parent conferences may be made directly to the Speech and Hearing Correction Teacher or the Administrative Offices of the School District.

I. School Nurse Teachers are employed to care for the needs of the District. Each year they will receive assignments made by the Superintendent of Schools which may be changed from time to time to meet the needs of the school system and pupil needs.

J. 1. The School Dental Hygienist's work includes not only inspection and cleaning of teeth, but also classroom instruction in dental care.

2. The School Dental Hygienist's main office will be in the Middle School where she can be contacted by calling 794-4410. Her work will be in all of the schools for such periods of time as may be necessary to complete in consecutive fashion the examinations and cleanings required.

3. Her work day will conform to that of the teachers day in the school in which she is working. (Monticello, New York)

* * *

Specialists should be available in order to provide an effective educational program. The following pupil-specialist ratios are considered to be desirable goals. The utilization of facilities, personnel, and future planning shall be such as to attain these goals:

Counselor	1 for every 350 pupils enrolled
Psychologist	1 for every 2500 pupils enrolled
Visiting Teacher	1 for every 1500 pupils enrolled
Librarian	1 for every 200-999 pupils enrolled
	2 for every 1000-1999 pupils enrolled
	3 for every 2000 and over pupils enrolled

Centralized cataloguing and processing shall be initiated as soon as possible.

Qualified clerical assistance should be made available to all specialists. (Cincinnati, Ohio)

The Development of Special Education Programs

Of the 84 agreements with negotiated content applying to the development of special education programs, 10 (11.9 percent) created joint teacher-board committees to study or plan special programs for children with behavior and learning problems, mentally retarded children, and educationally disadvantaged children. Two other agreements stated only that teachers would be involved in the development of any contemplated special education programs. Sample provisions establishing joint committees are:

During the 1968-69 school year, the Professional Study Committee shall meet to determine the needs at all levels for the Mentally Retarded and the Socially Maladjusted. Their findings are to be considered as the recommendations to the Board of Education. (Mt. Pleasant, Michigan)

* * *

An ad hoc committee shall be organized immediately after the start of the 1968-69 school year to study the development of a special program for the slow learner in the Junior High School in the district.

This committee shall have as its chairman, the Junior High School Guidance Counselor, who shall work with the Building Principal, the school psychologist and the teachers, in the development of a special program for the slow learners. This committee shall propose recommendations for such a program to the Board of Education through the District Principal. (Spackenkill, New York)

The remaining 72 provisions (85.7 percent) contained specific negotiated content falling into four broad categories: the types of special programs to be established, pupils eligible for the programs, means of identifying and evaluating pupils needing special programs, and specialists made available through the programs. Table 6 indicates the incidence of major negotiated content areas among the 84 provisions analyzed.

TABLE 6.—GENERAL NEGOTIATED CONTENT OF 84 PROVISIONS PERTAINING TO THE DEVELOPMENT OF SPECIAL PROGRAMS, 1968-69

General content	Agreements containing designated content	
	Number	Percent
1	2	3
TOTAL NUMBER OF PROVISIONS	84	100.0%
PROVISIONS ESTABLISHING JOINT COMMITTEES	10	11.9
TEACHERS TO BE INVOLVED IN PROGRAM DEVELOPMENT	2	2.4
PROVISIONS CONTAINING SPECIFIC NEGOTIATED CONTENT	72	85.7
Types of special programs to be established	58	80.6[a]
Pupils eligible for special programs	66	91.7
Identification and evaluation of pupils needing special programs	26	36.1
Specialists available through special programs	30	41.7

[a]This percentage and all succeeding percentages are based upon the 72 provisions containing specific negotiated content pertaining to the development of special education programs.

Of the 72 provisions with specific negotiated content, 58 (80.6 percent) indicated the nature of the program(s) being established, expanded, or endorsed. As shown in Table 7, programs usually involving the establishment of special facilities or alterations in regular classroom conditions most often were planned for children with various handicaps. Of the 23 provisions referring to special facilities, one established special schools and all the rest indicated that special classrooms would be furnished. Fifteen of the 21 provisions allowing for classroom adjustments specified a reduction in class size; the other six provisions stipulated more preparation time for the teacher, a modified daily program for the student, the creation of a crisis committee to aid teachers with children who are disciplinary problems, equitable distribution of children with problems among various teachers, in-class instruction by a specialist, and an unspecified "adjustment." Two of the programs for handicapped or problem children were to have aides.

The seven provisions which added various special education programs to the curriculum mentioned shop, typing, speech, band, art, music, vocational, health, physical education, and home arts classes. Of the remedial courses established, only two were identified as remedial reading classes. One of the provisions establishing summer school programs stated that special education was to be offered. Provisions in the "other" category included federally financed projects, follow-up services, psychological services, and an individualized program.

TABLE 7.–SPECIAL PROGRAMS ESTABLISHED, 1968-69

Types of programs	Agreements containing designated content	
	Number	Percent
1	2	3
TOTAL NUMBER OF PERTINENT PROVISIONS	72	...
PROVISIONS ESTABLISHING TYPES OF SPECIAL PROGRAMS	58	100.0%
Separate facilities for handicapped or problem pupils	23	39.7
Adjustment of regular classroom when handicapped or problem children are present	21	36.2
Various special education subjects added to curriculum	7	12.1
Remedial courses	6	10.3
Enrichment courses	5	8.6
Summer session	3	5.2
Other	4	6.9

Of the 72 agreements with content pertaining to the development of special education programs, 66 (91.7 percent) identified the types of pupils eligible for such programs, as summarized in Table 8. Emotionally disturbed students most often were named as needing special programs, followed by mentally retarded students and pupils with physical handicaps, including visual and hearing deficiencies. Students with various minor learning difficulties were described as nonachieving pupils, aphasiac children, those not prepared for the first grade, and those having "learning problems." The "all students" category refers to the fact that all students were eligible for special education courses such as music, art, and physical education which were to be added to the curriculum.

TABLE 8.–STUDENTS ELIGIBLE FOR SPECIAL PROGRAMS, 1968-69

Types of students	Agreements containing designated content	
	Number	Percent
1	2	3
TOTAL NUMBER OF PERTINENT PROVISIONS	72	...
PROVISIONS IDENTIFYING PUPILS ELIGIBLE FOR SPECIAL PROGRAMS	66	100.0%
Emotionally disturbed pupils	43	65.2
Mentally retarded pupils	36	62.1
Physically handicapped pupils	32	48.5
Pupils with minor learning problems	15	22.7
All pupils	11	16.7
Pupils with behavior problems	7	10.6
Educationally disadvantaged pupils	2	3.0

Procedures for identifying and evaluating pupils needing special programs were negotiated in 26 (36.1 percent) of the 72 provisions, as indicated in Table 9. Once the classroom teacher identified the pupil, he was to inform the principal and/or various special departments in six provisions, and supply information to persons who would evaluate the pupils in two provisions. Tests to be given pupils were described as psychological tests in four provisions and were undefined in two other provisions. In one agreement an evaluation of the pupil was to be conducted by the school psychologist; three other agreements referred to the school diagnostic services or special services department as the evaluation agent. The "other" category includes general statements that the pupil would be evaluated, that state education department regulations would be followed, and that the teacher would be informed of the disposition of the matter.

Specialists provided by special education programs were essentially the same as those mentioned in agreements providing for the hiring of specialists. Of the 30 provisions designating the types of specialists available through special programs, 27 provided for hiring them, and three provisions referred to specialists already employed.

Three provisions dealing with the development of special education programs are reprinted following the table. These are sample provisions only; they are not intended to be regarded as exemplary.

TABLE 9.—IDENTIFICATION AND EVALUATION OF PUPILS NEEDING SPECIAL PROGRAMS, 1968-69

Procedures	Agreements containing designated content	
	Number	Percent
1	2	3
TOTAL NUMBER OF PERTINENT PROVISIONS	72	...
Provisions with procedures for identifying and evaluating pupils needing special programs	26	100.0%
Teacher refers pupil to administration or special department	8	30.8
Pupil is tested	6	23.1
School psychologist or diagnostic services evaluate pupil	4	15.4
Outside specialists make evaluation	3	11.5
Other	7	26.9

A. The Board and the Association recognize that students having special problems of a physical, mental, or emotional nature may need a program designed to meet the needs the problem presents.

B. A teacher who is suspicious of such exceptional children will immediately inform the building principal. The building principal will provide the teacher with the proper referral form as well as a listing of information required by the professional specialist.

C. The parties further agree that the individual student has the right to a professional diagnosis by the medical or professional specialist defined by law prior to any judgment as to his condition.

D. The results of all diagnosis will be referred to the District Coordinator of Special Education who will forward such information to the building principal. The building principal will in turn inform the student's teacher of the availability of the diagnosis.

E. The student with a positive diagnosis will be presented to the District screening committee which will cooperatively develop an educational plan for the student.

F. The District screening committee shall be composed of:

1. The Building Principal
2. The Referring Teacher
3. The Intermediate School District Consultant
4. The Professional Specialist (or his report)
5. The Receiving Principal where applicable
6. The Receiving Teacher
7. The Coordinator of Special Education shall serve as executive officer of the screening committee.

(Anchor Bay, Michigan)

* * *

B. Handicapped Children

1. State and/or Federal funds shall be used to make special education classes an integral part of the Detroit summer school program.

2. A joint Administration-Federation Committee shall formulate (for implementation not later than the second semester of the 1967-68 school year) plans for the utilization of two special education rooms of the same category in a selected number of schools to be designated by the Superintendent on a trial basis. This committee shall evaluate the educational benefit of such organization during the second semester of the school year 1967-68 and shall submit a report of such evaluation to the Superintendent no later than June 1, 1968.

C. Summer School Programs

1. To the extent that Federal funds are available for such purpose, free remedial summer school classes shall be provided to any elementary school child who fails a regular grade. The Board shall also continue to develop and implement programs which will provide free summer school classes to some needy children each summer.

2. The school social work program and the psychological testing program shall be expanded into the summer school period. (Detroit, Michigan)

* * *

A. The Board of Education shall maintain a continuous classification and reclassification program and shall provide adequate facilities for children of serious dissimilar learning abilities in the school year of 1968-69. The Board of Education recognizes a current need of 8 classes.

B. When feasible the Board of Education shall hire only certified teachers to teach any special class.

C. The Board of Education shall instruct the administrators of each building to schedule special classes for instructions in all special areas such as: music, art, library, homemaking, and industrial arts.

D. The Board of Education shall continue to provide adequate psychological, neurological, and psychiatric personnel in order to develop and maintain an effective screening process for placement of children with special problems in special classes.

E. The Board of Education recognizing the need for attention to facilities for transition grades shall conduct studies with the Association with a view to making appropriate space available in new construction.

F. Whenever feasible, the Board of Education shall provide an aide in each special class.

G. In order that the classroom teacher may arrange the program to give the fullest aid to those children with outstanding problems specialists participating in screening children shall give a written and oral report to the child's teacher concerning the areas of the pupil's greatest need. This would include perceptual, physical, neurological, or emotional difficulties. Such a screening by specialists would precede the placement of any child in a special, or learning, disability class.

H. In considering the reorganization of any classes, the Board of Education shall give equal consideration to the urgency of stability of classroom time and space for special classes. Should any reorganization result in curtailed sessions, special classes shall be exempt from such curtailment. (East Patchogue, New York)

Special Reports

BRIEFS OF RECENT AGREEMENTS

Champaign, Illinois

Between the Board of Education of Community Unit School District No. 4 and the Champaign Education Association, effective August 24, 1970, to June 30, 1972. Approximately 780 certificated professional employees. Provision for automatic renewal of contract for a one-year period unless either party requests negotiation by February 1, 1972; such negotiation to begin no later than March 15, 1972.

Compensation: (1970-71) B.A., $7,400 to $11,000, 11 increments; B.A. plus 15 hours, $11,600 maximum; M.A., $8,600 to $13,000, 11 increments; M.A. plus 30 hours, $14,200 maximum; Ph.D., $15,500.

(1971-72) B.A., $7,700 to $11,600, 11 increments; B.A. plus 15 hours, $12,200 maximum; M.A., $9,600 to $14,000, 11 increments; M.A. plus 30 hours, $15,200 maximum; Ph.D., $16,500 maximum.

Differentials: (1970-71, first year of a five-year schedule) senior high football and basketball coaches, $1,184 (.16 of B.A. base); senior high track, baseball, and swimming coaches, $592 (.08 of B.A. base); senior high dramatics and band directors, $444 (.06 of B.A. base); junior high choral, dramatics and band directors, $370 (.05 of B.A. base); senior high yearbook and newspaper advisors, $222 (.03 of B.A. base); senior and junior high department chairmen with 10 or more teachers in department, $444 (.06 of B.A. base); psychologists, $1,924 (.26 of B.A. base).

Leaves: 12 days' annual sick leave, unlimited maximum accumulation; 2 days for personal business deducted from sick leave; time as necessary for professional conference leave with provision for board-paid travel and "essential expenses" if the teacher is on the program and receives no pay from another group; paid leave for jury duty less per-diem court allowance; maximum of 2 weeks' paid leave for military reserve training; sabbatical leave at full pay less substitute's pay (with the resultant amount being no less than one-half of the teacher's basic salary, as provided by law) for one-half year or 1 year after 6 years' service.

Insurance: Board-paid hospital, medical, surgical, and major medical benefits for all full-time certified employees; board-paid $1,000 group term life insurance policy for all certified employees; payroll deduction for tax deferred annuity plan; teachers who reach age 65 on or before June 30 of a given school year may not permanently be employed after that date, except under emergency conditions.

Miscellaneous: Grievance procedure ends with binding arbitration; payroll dues deduction for local, state, and national associations; Association president granted one-half day of released time per week with the Association contributing to the cost of a substitute teacher for that period; upon request, the Association president will be granted up to one-half released time at full pay, provided that the Association reimburse the board for that time; Association is allowed the free use of district buildings for no more than 1 organizational meeting per month; upon request, the Association shall be placed on the agenda for board meetings and that agenda shall be made available late in the afternoon prior to each meeting; Association shall have the opportunity to advise the board with respect to "any new or modified fiscal, budgetary or tax programs, construction programs, or major revisions of educational policy, which are proposed or under consideration"; the board and the Association shall meet twice each year at the request of either party to review the budget; teacher has right to review his personnel file, respond to and/or grieve any material therein, and must give his permission (either during or after his service in the district) to have any of the file's contents copied or otherwise made known; no-strike clause; qualified teachers employed by the district shall be given preference in filling summer and evening school positions so long as such positions require work normally performed by the teacher; duty-free lunch period of no less than 30 minutes for all teachers; any requested change in a student's grades must be preceded by a conference between the principal and the teacher; board-paid required physical examination once every 4 years after the initial examination paid by the teacher; upon the teacher's request, a confi-

dential description of his service may be provided to another district, prospective employers, and placement services with no reflection on his current status and evaluation; academic freedom clause providing for the "dispassionate, unbiased, unprejudiced, and scientific study of controversial issues" related to the subject matter of a course; corporal punishment may be administered by teachers "in a reasonable manner which will not do great or continuing bodily injury . . . only after consultation with the administrative head of the school, with some other staff member acting as a witness, and in the role of *in loco parentis.*"

Highland, Indiana

Between the Highland Board of School Trustees and the Highland Classroom Teachers Association, effective September 1, 1970, to May 31, 1973. Approximately 310 certificated professional employees. Provision for reopeners between February 1 and March 1, 1971, and between February 1 and March 1, 1972, at which time the items to be negotiated shall be limited to salary, school calendar, compensable leave policies, and fringe benefits. Provision for the negotiation of a successor agreement to begin between October 1 and November 15, 1972.

Compensation: (effective January 1, 1971) B.A., $7,455 to $11,555, 15 increments; B.A. plus 15 hours, $11,779 maximum; M.A., $7,902 to $13,270, 18 increments; M.A. plus 30 hours, $13,568 maximum. Differentials: (1970-71) head football and basketball coaches, $1,725; head wrestling and swimming coaches, $850; head baseball and track coaches, $900; speech, drama, and debate directors, $500; high-school and junior high-school publications directors, $400 and $200, respectively; special education teachers, $375; high-school marching band director, $1,425; high school and junior high-school vocal music directors, $375.

Leaves: 10 days' annual sick leave, unlimited maximum accumulation; teachers with accumulated sick leave from another system shall have those days added to their present accumulation at the rate of 3 days per year during the second and each succeeding year of employment in Highland until the previous accumulation is exhausted; 2 separate days' personal leave; unused personal leave days shall be added to the sick leave accumulation as of July 1 following each school year; 5 separate days' bereavement leave; released time as approved for inter-class and inter-school visitations, attendance at professional conferences and workshops, and regular scheduled and/or unscheduled inservice meetings; paid leave for jury duty less per-diem court allowance; maximum of six weeks' leave may be granted for an approved inservice sabbatical leave program intended for "the study of some *specific* identified school problem, concern, or situation that *directly* benefits the School Town" (*see* following provision reprint); severance pay based upon accumulated sick leave and years of service in system shall be granted to any teacher who is 30 years of age and has 6 years' service in district.

Insurance: Board-paid Blue Cross-Blue Shield group hospitalization and major medical plans for individual coverage; group term life insurance provided by board to nearest $1,000 of teacher's contracted annual salary; disability coverage in case of job-related injury and in conjunction with workmen's compensation.

Miscellaneous: Grievance procedure ends with advisory arbitration; payroll dues deduction for local, state, and national associations; Association right to use school calculators, typewriters, duplicating machines, and audiovisual equipment when such equipment is not otherwise in use; Association is permitted to present brief reports and announcements at building faculty meetings at the discretion of the building principal, and may participate in the orientation program for new teachers if prior arrangements are made with the superintendent; joint committee to study differentiated staffing and its implications for the system and report its recommendations to the board by April 1, 1971; teacher has right to review his personnel file and may respond to any evaluative material before placement therein; duty-free lunch period of at least 30 minutes for all teachers; elementary teachers shall not be required to supervise pupils during regularly scheduled art, music, and physical education activities and may use such time as a preparation period; planning period for secondary teachers shall be equal in length to a regular class period and scheduled four or five times per week; a secondary teacher shall not be required to teach more than 2 academic areas, nor shall he have more than 3 course preparations within these areas, either separately or jointly, without his written agreement; regular building faculty meetings or activities are scheduled each Tuesday after student dismissal; pupil discipline provision allowing a teacher to "use such force as is necessary to protect himself or to prevent injury to another student" and "administer corporal punishment within reason and only in the presence of the principal, assistant principal, or his designee"; transfer and assignment

procedure, granting presently employed personnel first consideration and providing that system seniority shall control when applicants for a position have substantially equal qualifications; upon the recommendation of a building principal and the superintendent's determination, a teacher may be directed to participate in an after-school inservice training program held no more than 2 hours per week for a maximum of 6 school weeks; teachers presently employed shall receive first consideration for summer school and adult education positions and shall have priority over administrators.

IN-SERVICE SABBATICAL

A. Statement of Purpose – The in-service sabbatical leave program of the School Town of Highland is intended for the study of some *specific* identified school problem, concern, or situation that *directly* benefits the School Town. The in-service sabbatical days are in addition to days granted for inter-school visitations and for professional conference days.

B. Application Procedures –

1. Eligibility–Any fully certified employee (tenure not required) of the School Town of Highland may submit an application (See Appendix VII).

2. Duration–The in-service sabbatical shall have a maximum duration of six (6) weeks unless otherwise stipulated by the Board of School Trustees. No minimum time is stipulated.

a. Preparation of application in accordance with suggested outline (Appendix A). Anyone submitting an application should feel free to consult with other teachers, building principals, coordinators, or central office personnel.

b. Proposal should be presented informally to the building principal (where applicable) prior to formal presentation to *Sabbatical Approval Committee*. The building principal should offer *constructive* criticism and suggestions where deemed necessary. In addition, the building principal may, if he so chooses, submit to the *Sabbatical Approval Committee* a separate written recommendation either for or against acceptance of the proposal.

c. A written request should be made to the Assistant Superintendent for Curriculum and Instruction to make a formal presentation of the proposal to the *Sabbatical Approval Committee*. A meeting of the committee will be arranged by the Chairman within one week after the request has been made unless members of the committee find it impossible to agree on an acceptable meeting time.

d. Within two weeks from the date of formal hearing the In-Service Sabbatical Approval Committee will render a recommendation on the proposal.

(1) If the recommendation is positive and approval is given, the proposal will be submitted to the Superintendent of Schools for final approval. The Superintendent will render a decision within no more than one week.

(2) If the recommendation is negative and approval is not given, the proposal will not be given further consideration unless the committee decision is appealed.

(3) The decision of the In-Service Sabbatical Approval Committee can be appealed directly to the Superintendent of Schools. Appeals must be made within the two week period following the committee decision.

e. If the proposal is given final approval by the Superintendent, the recipient of the sabbatical leave will be released from regular duties thirty (30) days following the date of final approval. If mutually agreeable, the thirty (30) day waiting period may be adjusted to a shorter length.

4. Reporting and Accountability During In-Service Sabbatical Leave Period

a. Each sabbatical leave recipient will be held accountable to the Assistant Superintendent for Curriculum and Instruction during the period of time he is on leave.

b. Progress reports (during the course of the sabbatical leave) will be arranged with the Assistant Superintendent for Curriculum and Instruction.

c. Final report of the project will be written and copies submitted to the following persons:

1. One copy to building principal.
2. Four copies to Superintendents (one each).
3. Three copies to the Board of School Trustees.

The appropriate administrator will be responsible for making ten copies of the report with the two extras going to the teacher. (Highland, Indiana)

Teaneck, New Jersey

Between the Teaneck Board of Education and the Teaneck Teachers Association, effective September 2, 1970, to September 2, 1971. Approximately 425 certificated professional employees. Provision for the negotiation of a successor agreement to begin between October 1 and October 15, 1970.

Compensation: (effective September 1, 1970) B.A., $7,800 to $12,008, 11 increments; M.A., $8,300 to $14,370, 14 increments; M.A. plus 30 hours, $15,849 maximum; teachers who have reached the maximum on the M.A. plus 30 hours training level may present their experience and qualifications to a review and evaluation committee in order to qualify for a super-maximum salary step which must be approved periodically. Differentials: senior high athletics director, $780 (.10 of B.A. base); senior high head football coach, $702 (.09 of B.A. base); senior high head baseball, basketball, soccer, track, and wrestling coaches, $546 (.07 of B.A. base); junior high head coaches, $390 (.05 of B.A. base); senior high musical director and drama coach, $375; senior high newspaper sponsor, $455; senior high debate coach, $330; senior high marching band director, $700; junior high newspaper sponsors, $375; junior high yearbook advisors, $100; junior high drama coaches, $150. School nurses without a B.A. degree or the approved equivalent are placed on the proper step of the teachers' B.A. salary schedule minus a differential of $650 until a B.A. degree or an approved equivalent are obtained, credits for which will be paid by the board.

Leaves: Unlimited annual sick leave allowance for a one-year probationary period during 1970-71, 10 days' maximum annual accumulation; if an employee uses less than 10 days' sick leave during 1970-71, the remaining days shall be credited to his account; newly employed teachers receive 1 day of sick leave per month during the first 90 working days and may be granted unlimited sick leave status following that period at the discretion of the superintendent in consultation with the Association; 1 separate day for personal business; 3 separate days for family illness; 5 separate days' bereavement leave, each leave to begin with the day after the death; 1 day of leave to attend the funeral of a relative other than the immediate family; 1 day of leave at partial pay to attend the funeral of someone other than a relative; leave for religious holidays at partial pay; paid leave for compliance with court summons; sabbatical leave at half-pay for one-half year or 1 year after 7 years' service.

Insurance: (effective 1970-71) Board-paid Blue Cross-Blue Shield and major medical benefits for individual and family coverage; tax-sheltered annuity plan.

Miscellaneous: Grievance procedure ends with advisory arbitration pursuant to law, although the parties mutually may consent to binding arbitration; payroll dues deduction for local, county, state, and national associations, with deduction authorization form included in agreement; board's office assistance extended to Association in connection with latter's purchase of expendable office supplies and other materials from board's suppliers; 1 day per week will be reserved for Association activities which shall commence no sooner than 30 minutes after pupil dismissal, and 5 days per year shall be designated by the Association as official meeting days on which meetings may begin immediately after pupil dismissal; joint sabbatical leave advisory committee to review all applications and advise superintendent; joint committee including representatives of parents and pupils is to study the feasibility of a 12-month school year; Joint Specialist Staffing Needs Committee to continue studying the duties, functions, and size of the specialist staff needed and submit a report to the board by October 15, 1970, with a board decision on the report due by January 15, 1971; teacher has the right to review his personnel file (accompanied by an Association representative if desired), respond to any derogatory material before placement therein, and may indicate at least once every 3 years those materials deemed obsolete or otherwise inappropriate to retain; preparation time of 5 hours per week for secondary teachers; elementary teachers shall have a minimum of 30 minutes' preparation time per week "wherever practicable"; "goal" of a 45-minute lunch period for secondary teachers; teachers may leave the building during their scheduled duty-free lunch periods without permission and may leave during their preparation periods after notifying the office; secondary teachers shall not be required to teach more than 2 disciplines or 2 preparations; in situations of ability grouping, no teacher shall be limited to above or below average classes (effective 1970-71); board will "exert every effort" to establish a ratio of 4 teachers to 100 pupils; 1 day per week reserved for administrative or departmental meetings which shall not exceed 1 hour in length; schools will close at the end of a 4-hour session on the day of Back to School Night for parents; effective September 1, 1971, to qualify for salary increments and/or adjustments, all teachers must take a

minimum of 1 inservice course every 3 years, although an approved college, university or other course may meet the requirement; education credit repayment plan whereby approved education improvement credits earned at an accredited institution will be paid at the rate of no more than 6 credits per semester during the school year with no limitation on the number of credits taken during the summer; school calendar adopted by board after consultation between the superintendent, the administrators association, teachers, the Association, and representatives of parents and pupils.

STUDENT EVALUATION OF TEACHERS

The Student-Teacher-Administrator-Board Committee shall develop a program for student evaluation of teachers and shall render a report to the Board and to the Teachers' Association by October 15, 1970. The purpose of such evaluation shall be to provide teachers with a measure of their success in selected components of good educational practices as defined by the Committee.

The Committee shall be charged with the responsibility of developing a system that guarantees the anonymity of both student and teacher since the intent of this evaluation is to provide additional information for teacher self-evaluation and improvement and not a criterion for affecting salary increments or adjustments.

Implementation of this provision during the life of this contract shall be only by mutual agreement. (Teaneck, New Jersey)

Union Springs, New York

Between the Chief School Administrator of the Union Springs Central School System and the Union Springs Teacher Association, effective July 1, 1970, to June 30, 1972. Approximately 95 certificated professional employees.

Compensation: (1970-71) B.A., $6,920 to $10,020, 11 increments; B.A. plus 24 hours, $10,420 maximum; M.A., $7,520 to $11,765, 13 increments; M.A. plus 60 hours, $12,565 maximum; extra $400 increment (in addition to regular increment) granted to teacher who attains tenure, regardless of step in schedule on which teacher is placed, and renewed yearly upon the recommendation of the district principal and the board; teachers who have obtained an M.A. degree or approved hours beyond that degree may, upon ultimate board action, advance to the first of 3 "super" levels (each containing 2 steps) whereby they receive an extra $400 increment (which is subject to annual renewal) and are required to work a specified number of weeks or clock hours between July 1 and September 1 of the year the level is reached and each year thereafter. Salary schedule for 1971-72 will be based upon the change in the cost-of-living index published for the Syracuse, New York area. Differentials: (stated as ranges) athletic director and varsity football coach, $450-$700; soccer, baseball and track coaches, $250-$450; cheerleading sponsor and girls' intramurals coach, $150-$300; senior class advisor and yearbook advisor, $150; audiovisual coordinator, $500; dramatics coach, $100 per performance.

Leaves: 10 days' annual sick leave, 150 days' maximum accumulation; 1 day for personal business leave in 1970-71 and 2 days in 1971-72; 1 separate day for family illness; 3 separate days' bereavement leave; at least 1 day for school visitation; paid professional conference leave as needed; upon the principal's approval, a teacher may be granted the equivalent of 2 paid days for observing other teachers; sabbatical leave at half-pay for a period up to 1 year after 7 years' service; teachers with both permanent certification and an M.A. degree may request summer sabbatical leave at 12½ percent of base school year salary for 1 to 4 summers (not necessarily consecutive) after 7 years' service.

Insurance: Board-paid health insurance program for all teachers with board paying 50 percent of dependent coverage; teachers reimbursed for damage to personal property on school premises and the cost of medical, surgical, or hospital services incurred as a result of a job-related injury (less the amount of any insurance reimbursement); disability pay plan providing that a teacher absent due to a job-related injury will receive paid leave for up to 1 year from the date of injury with only that part of such absence not covered by compensation insurance charged to his annual sick leave.

Miscellaneous: Grievance procedure ends with a request by the Association to submit the grievance to a fact-finding panel followed by a final decision by the board in light of the panel's findings and opinion; paid leave as necessary for an Association representative to attend required meetings; Association is to provide the chief school administrator with criteria for identifying "professional competence" or "incompetence" 3 months prior to the presentation of the next annual budget; 30-minute duty-free lunch period for all elementary teachers "insofar as possible"; duty-free lunch

period for all secondary teachers of at least 30 minutes between the end of one teaching period and the beginning of another, "insofar as possible"; equivalent of at least 1 preparation period per day for secondary teachers, and a daily preparation period of at least 40 minutes for elementary teachers, "insofar as possible"; where applicants for a promotional position are equally qualified, system seniority "will be considered"; prior to the end of the school year, the administration will meet with teachers from each school to plan the opening week of the ensuing year; if habitually late teachers continue such a practice after one written warning, their names are to be submitted to the Association executive board for corrective action; professional improvement requirement that teachers accumulate the equivalent of 3 courses each 5-year period.

Tacoma, Washington

Between the Board of Directors of Tacoma School District No. 10 and the Tacoma Alliance of Educators, effective July 1, 1970, to June 30, 1971. Approximately 2,140 certificated professional employees. Provision for the negotiation of a successor agreement to begin on February 1 of each year and terminate no later than April 1 of each year, unless extended by mutual consent.

Compensation: B.A., $6,980 to $10,470, 10 increments; B.A. plus 45 hours, $11,517 maximum; M.A., $8,376 to $12,564, 12 increments; M.A. plus 30 hours, $13,611 maximum; Ph.D., $14,309 maximum. Salary schedule for administrators contains 8 experience steps and 14 classifications based upon academic preparation for the position and the job's number of contract days. Longevity pay for teachers and administrators of $349 (.05 of B.A. base) after 20 years' extended service. Substitute teachers receive $29 per day. New certificated staff members participating in orientation sessions of at least 2 days prior to the beginning of the contract period should be paid a $50 stipend.

Leaves: 10 days' annual sick leave, 180 days' maximum accumulation; 2 separate days for emergency leave involving a sudden problem of a serious nature which is not connected with or an extension of any other form of authorized leave; 5 separate days for family illness; 5 separate days' bereavement leave; paid leave for attendance at professional meetings with possible reimbursement of "certain expenses" by board; up to 15 days' paid leave for military reserve duty; paid leave for jury duty less per-diem court allowance; unpaid maternity leave which shall not extend beyond 18 months is available to a certificated employee who legally is adopting a preschool child (4 years or younger); sabbatical leave at half-pay for 1 semester or 1 year after 7 years' service; certificated employees with 20 or more years' service in the district and 3 or more years' time before reaching the compulsory retirement age may be granted a sabbatical leave for recuperation.

Insurance: Board pays $10 per month toward cost of several available health insurance plans for individual coverage; workmen's compensation insurance provided for industrial arts teachers; board shall purchase comprehensive public liability insurance covering bodily injury and property damage in the amount of $1 million per occurrence; tax sheltered annuity plan.

Miscellaneous: Grievance procedure ends with a written decision by the full board; payroll dues deductions for organizations comprising the Alliance; upon request, the board shall furnish the Alliance with budget plans, staffing requirements, building proposals, and site considerations in order to permit participation by the Alliance in the development of planning and budgeting needs; joint leave committee will be appointed each year before the end of the first week of school to make recommendations to the assistant superintendent for personnel on sabbatical leave, emergency leave, or special adoption leave applications referred to it by the personnel department; a joint committee representing all school levels and several experience levels shall recommend procedures for new teacher orientation and be in existence from October 1, 1970, to September 30, 1971; a joint Instructional Materials Committee composed of 3 permanent administration members, as well as 3 principals and at least 3 teachers representative of each school level whose terms of service shall be on a rotating basis, shall approve procedures for the selection of all instructional materials used in the district and review such materials at the request of any selection committee; teacher has right to see any written material prior to its inclusion in his personnel file; daily planning period for secondary teachers is to be the equivalent of 1 hour of the pupil school day; provision for the development of a computerized transfer bank to handle the mechanics of personnel assignments, transfers, reclassifications, and promotions; educational materials developed for use in the school program and "as a part of regular employment" are district property; provision for the early dismissal of elementary students

on 5 days (dates to be determined by each school) in order to schedule parent conferences; provision for a survey of staff interest in formal classes, the results of which will be utilized in the formulation of a 1971-72 staff development program; four-step procedure whereby certificated teachers whose work repeatedly is unsatisfactory or whose actions are violative of the contract or board policy or regulations may be placed on probation by and under the supervision of the assistant superintendent for personnel; teachers being assigned student teachers shall have taught at least 2 years overall, at least 1 year in the district, and should have only 1 student teacher per year; instructional materials which formally and precisely are challenged in writing by an individual or a group shall not be restricted in any way until final disposition of the complaint has been made by the appropriate building level or district level joint review committee, although individual students may be excused from using challenged materials upon a formal request by a parent or guardian.

THE GROWTH IN GRIEVANCE PROCEDURES AND NATURE OF FINAL GRIEVANCE APPEALS, 1966-67 TO 1968-69

A three-year comparison of the percentage of classroom teacher negotiation agreements effective in districts with a pupil enrollment of 1,000 or more which contained grievance procedures indicates an increase of 39.7 percent from 1966-67 to 1968-69, while the percentage of comprehensive agreements entered in the NEA depository during that same period rose 40.7 percent. In 1966-67, 88.7 percent of the agreements surveyed (398) contained a grievance procedure. This figure rose to 91.2 percent during the 1967-68 school year when 550 of the 603 agreements surveyed were found to have negotiated grievance procedures. In 1968-69, 90.8 percent of the 978 agreements analyzed contained grievance procedures.

An analysis of final appeal provisions contained in negotiated grievance procedures shows that the percentage of agreements providing for final appeal within the school system increased slightly from 15.0 percent in 1966-67 to 18.8 percent in 1968-69. On the other hand, the percentage of agreements allowing a final appeal outside the school system decreased slightly from 85.0 percent in 1966-67 to 81.2 percent in 1968-69. Table 1 presents state by state the growth in the number of negotiated grievance procedures over the three-year period, as well as the percentage of those procedures in each year which provided final appeals within or outside the school system.

Final grievance appeals outside the system may be advisory or binding and involve a number of types of third-party assistance. As indicated in Table 1, the percentage of agreements providing for advisory grievance decision fell significantly from 48.2 percent in 1966-67 to 35.0 percent in 1968-69; however, provision for final and binding grievance decision by a third party rose steadily during that period from 36.8 percent to 46.2 percent of the agreements analyzed.

Table 2 provides a three-year comparison of the types of third-party assistance utilized as final appeals bodies in the resolution of grievances. Throughout the three-year period, state labor board personnel most often were to be utilized as advisory arbitrators, although significant increases in the percentages of grievance procedures calling for the joint selection of an advisory arbitrator and the utilization of American Arbitration Association (AAA) personnel in an advisory capacity were evident in 1968-69. Third-party personnel empowered to render final and binding grievance decisions most often were to be selected from AAA rosters during the three-year period, but a marked increase in the percentages of agreements providing for the joint selection of an impartial arbitrator and "other" methods for determining outside assistance were indicated in 1968-69. The "other" category in the table includes agreements providing alternative methods for selecting an arbitrator, a choice of sources of outside parties, or impartial assistance from a source other than the specific categories listed.

Grievance Procedures, An Overview

Grievance procedures are negotiated for the general purpose of preventing and/or resolving promptly, equitably, and at the lowest possible administrative level problems or differences affecting the conditions of professional teaching service. Grievances may be brought by an individual teacher or group of teachers, by the representative organization, or by the local school board; according to negotiated definitions and/or conditions, a grievance may involve alleged violations, misinterpretations, or misapplications of negotiated provisions, violations of board rules, orders, or written policies, statutory violations, or alleged unfair treatment, personal loss, injury or inconvenience resulting from such violations. Most grievance procedures state that each step of the procedure should be as informal as is appropriate, that every effort should be made to resolve the grievance informally before invoking the formal procedure, and that the grievance should be processed as rapidly as possible. Moreover, the proceedings are to be free from interference, coercion, restraint, discrimination, or reprisal, and many agreements specifically provide that all records of grievance proceedings be filed separately from the grievant's personnel file.

The grievant usually is allowed to be represented at all stages of the formal grievance procedure by a person of his own choosing, often a representative of the teachers' bargaining organization. While a teacher may grieve a matter himself, most agreements stipulate that the representative organization shall have the opportunity to be present and state its views at certain stages of the formal procedure. In addition, decisions reached at each step of the formal procedure generally are to be rendered in writing and promptly transmitted to the grievant and the representative organization. In some agreements the teachers' organization is allowed to process a grievance through all levels of the procedure, even though the

TABLE 1.—THREE-YEAR COMPARISON OF AGREEMENTS CONTAINING GRIEVANCE PROCEDURES AND THE NATURE OF NEGOTIATED FINAL GRIEVANCE APPEALS, STATE-BY-STATE, 1966-67 TO 1968-69

State	Agreements containing grievance procedures			Appeal inside the system			Appeal outside the system: Advisory			Appeal outside the system: Binding		
	1966-67	1967-68	1968-69	1966-67	1967-68	1968-69	1966-67	1967-68	1968-69	1966-67	1967-68	1968-69
1	2	3	4	5	6	7	8	9	10	11	12	13
Arizona	...	...	2	...	...	...	...	...	100.0%	...	...	...
Arkansas	...	...	1	...	...	...	...	...	100.0	...	...	...
Colorado	1	1	4	...	...	...	100.0%	100.0%	100.0	...	...	...
Connecticut	33	49	51	39.4%	16.3%	13.7%	30.3	38.8	31.4	30.3%	44.9%	54.9%
District of Columbia	...	1	1	...	...	...	...	...	...	...	100.0	100.0
Illinois	7	19	30	57.1	31.6	26.6	28.6	47.3	40.1	14.3	21.1	33.3
Indiana	...	2	6	...	...	16.6	...	50.0	66.8	...	50.0	16.6
Kansas	...	...	1	...	...	...	...	...	100.0	...	...	...
Maryland	...	1	1	...	...	...	...	...	...	...	100.0	100.0
Massachusetts	54	105	123	11.1	5.7	2.6	12.9	11.4	10.5	76.0	82.9	86.9
Michigan	227	295	308	9.7	13.9	8.1	60.4	51.6	49.4	29.9	34.5	42.5
Montana	...	1	1	...	...	...	...	...	...	...	100.0	100.0
New Jersey	1	4	5	...	50.0	20.0	...	25.0	40.0	100.0	25.0	40.0
New York	11	22	273	18.2	27.3	31.8	36.3	36.3	32.9	45.5	36.4	35.3
Ohio	...	2	7	...	100.0	57.1	...	...	...	...	...	42.9
Pennsylvania	1	3	4	...	66.7	50.0	...	...	25.0	100.0	33.3	25.0
Rhode Island	6	17	19	...	17.6	21.0	66.7	35.2	5.2	33.3	41.2	73.8
Utah	...	...	4	...	...	50.0	...	...	50.0	...	...	...
Virginia	...	1	2	...	...	...	...	100.0	100.0	...	...	...
Washington	...	...	1	...	...	100.0	...	...	...	...	...	...
Wisconsin	12	27	44	50.0	48.1	40.9	41.7	22.2	27.2	8.3	29.7	31.9
Wyoming	...	...	1	...	...	...	...	...	100.0	...	...	...
Total	353	550	889	15.0%	16.2%	18.8%	48.2%	39.2%	35.0%	36.8%	44.6%	46.2%

TABLE 2.—THREE-YEAR COMPARISON OF PROVISIONS FOR THIRD-PARTY ASSISTANCE IN FINAL GRIEVANCE RESOLUTION, 1966-67 TO 1968-69

Third party	1966-67		1967-68		1968-69	
	Number	Percent	Number	Percent	Number	Percent
1	2	3	4	5	6	7
Agreements containing grievance procedures	353	100.0%	550	100.0%	889	100.0%
Final appeal outside system	300	85.0	461	83.8	721	81.2
Advisory arbitration	170	48.2	216	39.2	312	35.0
Selection of arbitrator						
Specifically named	2	0.7	3	0.7	5	0.6
Jointly selected	15	5.0	25	5.4	63	8.7
State education department	3	1.0	6	1.3	9	1.2
State labor board	116	38.7	135	29.3	140	19.4
American Arbitration Association	29	9.7	41	8.9	81	11.2
Other	5	1.7	6	1.3	14	1.9
Binding arbitration	130	36.8	245	44.6	409	46.2
Selection of arbitrator						
Specifically named	1	0.3	1	0.2	7	0.9
Jointly selected	13	4.3	14	3.0	55	7.5
State education department	...	...	3	0.7	2	0.2
State labor board	25	8.3	49	10.6	50	6.9
Federal mediation and conciliation service	5	1.7	6	1.3	18	2.4
American Arbitration Association	85	28.3	168	36.4	255	35.0
Other	1	0.3	4	0.9	22	3.0

aggrieved does not wish to pursue the matter beyond a particular level; other provisions allow only the representative organization to pursue a grievance to the highest level of appeal.

In many cases, the teachers' organization representative engaged in processing a grievance is released from his regular duties without loss of pay. However, some agreements provide that parties involved in grievance proceedings must avoid interrupting classroom activity and should not allow pupil involvement in the proceedings. In an arbitration case involving the construction of a clause allowing "fellow teachers" to visit a classroom without the permission of the principal's office, it was found that fou. New Haven (Mich.) Education Association officials from another school briefly could speak to a teacher during class hours about a grievance they believed she had. Although the officials had failed to find a relief teacher to substitute during the visit, the arbitrator held that the relief teacher stipulation was not controlling here as the local board had failed to inform the Association of changes in the policy allowing personnel free access to school buildings during class hours. While a school administration has the right to establish reasonable rules regulating visits by Association representatives, the arbitrator held that decisions as to whether a matter is so urgent that it must be discussed during school hours are ones which the Association has a "basic right" to make.

The confidential nature of grievance procedures specifically is mentioned in many agreements. In an arbitration case involving the Huntington (N.Y.) education board, it was found that a principal improperly revealed the facts about a grievance (without the grievant's permission) to the school's building committee which, while it often acted as representative in grievance proceedings, was not the representative here. Although the principal was new to grievance handling, the arbitrator held that this did not justify his disclosing the grievance to anyone other than the parties directly involved. However, any action against the principal was left to the board as the arbitrator had no power under the agreement to discipline a grievance representative. Another arbitrator found a violation when the superintendent of the Belleville (N.Y.) public schools discussed a grievance with the local board and his administrative staff prior to issuing a formal reply and contrary to a negotiated policy which empowered the superintendent alone to reach final decisions on grievances.

Most agreements provide that following an alleged violation, the grievant discuss the matter on an informal basis with his immediate supervisor, generally the building principal; some emphasize that a

teacher should feel free to discuss a personal complaint without recourse to the actual grievance procedure. If discussions prove unsatisfactory, the formal grievance procedure is invoked by entering a written grievance or completing a standardized grievance form and submitting it to a specified supervisor. At this point designated time limits placed upon each level of the procedure and usually stated as maximums are to be strictly observed, unless extended by written mutual agreement of the parties. Although negotiated grievance procedures vary widely in terms of the numbers of levels of appeal, persons or bodies to which appeals are made, time limits at various levels of appeal, and the final disposition of grievances, a formal grievance generally must be initiated within a certain number of days of the alleged violation (30 calendar days to 60 school days) and/or a "reasonable" number of days following the grievant's informal discussion with his immediate supervisor (five to 20 school days). Grievances brought by the representative organization or a group or class of teachers often may be initiated at levels above the first level of the procedure.

The formal written grievance specifically must set forth the charge(s) or nature of the grievance, the provisions or rules allegedly violated and the relief sought. An arbitrator upheld the Highland Park (Mich.) education board's motion to dismiss a grievance for lack of specificity under a clause stating that appeals to the next highest step of the grievance procedure shall "set forth specifically" the grounds for the grievance. While the local Federation had claimed a contract violation in regard to class size and demanded that several classes be reduced to their prescribed size during earlier stages of the procedure, it did not notify the district until the arbitration hearing of its claim that the contract was violated because the classes were not of equal size. In dismissing the grievance although he felt the class size problem should be heard on its merits, the arbitrator explained that "when the parties in the contract use the term 'set forth specifically' and very carefully set forth various steps in the grievance procedure, they were . . . treating the arbitration function as an appellate process, reviewing facts and circumstances that had been previously revealed in the grievance procedure."

Time Limits

Once a formal grievance is initiated, time limits placed upon decision and appeal procedures variously are stated as school days or calendar days measured from the date the grievance or appeal was filed at a certain level, from the date of disposition at the previous level, from the date of receipt of the decision at a previous level, or from the date of the conclusion of a meeting of the parties, a regular board meeting, or various types of hearings. A failure by the appropriate individual or body to reach and/or transmit its decision with the specified time limits automatically permits the aggrieved to proceed to the next step of the procedure. Conversely, a failure by the aggrieved to appeal a decision at any step within the designated time limits is deemed acceptance of that decision, thereby discontinuing the grievance and barring any further appeal.

A Nassau County (N.Y.) teacher's failure to file a grievance claiming that she was in the wrong salary classification until a year after returning to teaching did not bar an arbitrator from considering the merits of her case as the purpose of the arbitration clause involved was to "secure equitable solutions to teachers' complaints rather than to rely on technical obstructions." Another arbitrator rejected as untimely a demand for arbitration filed two and one-half months after the Hammond (Ind.) Board of School Trustees had reported its final decision on a grievance to the local Association. Although the parties' agreement provided no specific time limit for filing an arbitration demand, the arbitrator held that since other portions of the grievance procedure contained time limits "it is logical to imply that the parties intended the filing [of a demand for arbitration] would be within a reasonable time after the completion of the third step in the grievance procedure." In one other case a grievance was rejected on grounds that it was not submitted to arbitration within the 30-day time limit specified by the agreement. While the Portage (Mich.) Education Association "thought" the superintendent would extend the deadline, this did not justify its failure to comply with the provision.

Several other arbitration cases have ruled upon the applicability of time limit clauses in the face of "continuing" grievances. When the Clintondale (Mich.) Education Association grieved the local board's unilateral elimination of the position of department chairman, the grievance was ruled arbitrable even though the Association failed to grieve within 20 days after notification that the position would be abolished, as required by contract. Since the department chairmen were asked to continue performing their duties without the negotiated compensation, the grievance was continuing, thereby rendering the time limit clause inapplicable. An appeal of a grievance protesting the health insurance deduction from a teacher's salary after its rejection by the district principal was found timely since the Deer Park (N.Y.) board's failure to mention time limits prior to the arbitration hearing indicated that "there was an effec-

tive waiver." In addition, the grievant's claim that excessive deductions were made each month resulted in a continuing grievance, and the failure to grieve a deduction in November does not bar challenging the March deduction.

In one other arbitration case, a failure by the Ann Arbor (Mich.) Education Association to file for arbitration within contractual time limits did not bar arbitration where there was a "reasonable misunderstanding" as to whether a grievance had been rejected by the principal or passed on to the local personnel department for consideration. Moreover, the grievance was of a continuing nature since it dealt with claims that the grievant was being underpaid for his work, a new basis for which arose every week. Finally, the education board waived its objections since it had failed to follow grievance procedure.

When grievances are entered late in a school year (usually May 1 or later) many agreements urge that every effort be made to process and resolve the grievance by the end of the school year or as close thereafter as possible. To expedite the handling of such grievances, provision often is made for altering, waiving, or otherwise adapting contractual time limits by mutual agreement of the parties and as appropriate. Use of the term "school day" as applied to grievances processed after the school year generally means "work day." Under a clause stating that grievance decisions of the Melvindale Northern Allen Park (Mich.) school board must be appealed "within ten school days," an arbitrator held that he was not barred from considering the merits of a grievance arising near the end of the school year and appealed to arbitration during the summer recess. He explained that since the contract's use of "school days" was ambiguous, "fairness mandated" that the grievance be arbitrated. Another grievance dealing with the Harpursville (N.Y.) board's unilateral establishment of an extra-duty pay schedule for coaches was rejected as untimely since it was not submitted to arbitration within the contractual 15-day time limit. Although the board's alleged violative action occurred in July, the local Association waived its right to arbitration by failing to grieve the matter until November.

Some grievance procedures specifically provide that no grievances may be entered under a previously effective agreement after a certain date. An arbitrator pointed out, however, that "the intervention of a contract negotiation during the processing of a case to arbitration should not be permitted to alter alleged violations of the right of employees or the employer which took place under an earlier contract, particularly since the substance of such intervening negotiations are bound to be affected by pending grievances." The ruling came in a case where it was found that a clerical employee's grievance that certain hiring practices of the Warwick (R.I.) School Committee violated the 1969-70 contract was subject to a decision under that contract (which was effective when the grievance arose), rather than the somewhat different provisions of the 1970-71 contract effective when the case went to arbitration.

Three grievance procedures ending with final and binding arbitration by various outside parties are reprinted in their entirety below. These are sample provisions only; they are not intended to be regarded as exemplary.

Union Free School District No. 7, Great Neck, New York

Article XIX—*Grievance Procedures*

A. Declaration of Purpose

In order to provide the best possible educational climate and program for the Great Neck Public Schools, and to establish harmonious and effective relationships among those working toward this goal, these grievance procedures have been established consistent with law and with this agreement to resolve satisfactorily group or individual differences which would tend to unsettle or undermine the effective functioning of the school system. These procedures are based on sound, comprehensive, and generally available personnel practices. It is their purpose to secure under this contract, at the lowest possible administrative level, equitable solutions to grievances of teachers through procedures under which they may present grievances free from coercion, interference, restraint, discrimination or reprisal, and by which the Board of Education and the faculty are afforded adequate opportunity to dispose of their differences without the necessity of time consuming and costly proceedings before administrative agencies and/or in the courts.

B. Definitions

1. "Grievance" shall mean any claimed violation, misinterpretation or inequitable application of existing laws. Board policies, rules, procedures, regulations, administrative orders or rules governing con-

ditions of professional service to the extent provided by law; or of the provisions of this agreement.

2. "Teacher" shall mean any member of the unit represented by the Association and covered by the Agreement.

3. "Supervisor" shall mean any principal, assistant principal, immediate superior, or other administrative or supervisory officer responsible for the area in which an alleged grievance arises, except for the chief executive officer.

4. "Association" shall mean Great Neck Teachers Association.

5. "Aggrieved Party" shall mean any person or group of persons in the negotiating unit filing a grievance.

6. "Party in Interest" shall mean the Grievance Committee of the Association and any party named in a grievance who is not the aggrieved party.

7. "Grievance Committee" is the committee created and constituted by the Great Neck Teachers Association, and composed of those members of the Association certified in writing to the Board of Education by the Association as Committee members.

8. "Hearing Officer" shall mean any individual or board charged with the duty of rendering decisions at any stage on grievances hereunder.

C. Procedures

1. All written grievances shall include the name and position of the aggrieved party, the identity of the provision of law, this agreement, policies, etc., involved in the said grievance, the time when and the place where the alleged events or conditions constituting the grievance existed, the identity of the party responsible for causing the said events or conditions, if known to the aggrieved party, and a general statement of the nature of the grievance and the redress sought by the aggrieved party.

2. Except for informal decisions at Stage 1A, all decisions shall be rendered in writing at each step of the grievance procedure, setting forth findings of fact, conclusions and supporting reasons therefor. Each decision shall be promptly transmitted to the grievant and the Association.

3. A grievance may be submitted by the Association directly at Stage 2 described below.

4. The preparation and processing of grievances shall be conducted so as to avoid interruption of classroom activity, except in emergency situations, and to avoid involvement of students in any phase of the grievance procedure.

5. The Board of Education and the Association agree to facilitate any investigation which may be required and to make available any and all material, relevant documents, communications and records concerning the alleged grievance that would be subject to judicial subpoena at the instance of the party requesting same.

6. Except as otherwise provided in paragraphs 5.1(a) and 5.1(b) below, any party in interest shall have the right at all stages of a grievance to confront and cross examine all adverse witnesses, to testify and to call witnesses on his own behalf, and to be furnished with a copy of any minutes of the proceedings made at each and every stage of this grievance procedure.

7. No interference, coercion, restraint, discrimination or reprisal of any kind will be taken by the Board or by any member of the administration against the aggrieved party, any party in interest, any representative, any member of the Grievance Committee or any witness by reason of such grievance or lawful participation therein in accordance with this procedure.

8. Forms for filing grievances, serving notices, taking appeals, and making reports and recommendations, and other necessary documents will be jointly developed by the Board and the Association. The Chief Executive Officer shall then have them reproduced and distributed to the Association for its members so as to facilitate operation of the grievance procedure.

9. All documents, communications, and records dealing with the processing of a grievance as specified in paragraph 12 below shall be filed separately from the personnel files of the participants.

10. Nothing contained herein will be construed as limiting the right of any teacher having a grievance to discuss the matter informally with any appropriate member of the administration and having the grievance adjusted without intervention of the Association, provided the adjustment is not inconsistent with the terms of this Agreement and existing laws, procedures, regulations, administrative orders or rules governing conditions of professional service, and provided the Association has been given an opportunity to be present at such adjustment and to state its views, except as otherwise provided in Paragraph 5.1(a) and 5.1(b) below.

11. If any provision of this grievance procedure or any application thereof to any teacher or group of teachers in the negotiating unit shall be finally determined by any court to be contrary to law, then

such provision or application shall not be deemed valid and subsisting except to the extent permitted by law, but all other provisions or applications will continue in full force and effect.

12. The Superintendent of Schools shall be responsible for accumulating and maintaining an Official Grievance Record which shall consist of the written grievance, all exhibits, transcripts, communications, minutes and/or notes of testimony, as the case may be, written arguments and briefs considered at all levels other than Stage 1A and all written decisions at all stages. Official minutes will be kept at Board expense of all proceedings in Stages 2 and 3, except that where the services of a public stenographer are required (if mutually agreed by the parties at each stage) expenses shall be shared equally by the Board and the Association. A copy of such minutes will be made available to the aggrieved party and the Grievance Committee after the conclusion of hearings at Stages 2, 3 and 4, prior to the rendering of the decision, and the recipient will advise the appropriate hearing officer of any errors in said minutes. Any claim of error in the minutes shall become a part of the Official Grievance Record and the hearing officer shall indicate the determination made respecting such claimed error. The Official Grievance Record shall be available at reasonable times for inspection and/or copying by the Aggrieved Party, the Grievance Committee and the Board, and shall not be deemed a public record.

13. To promote the more efficient and effective operation of this grievance procedure, the Board of Education will supply the following summary information for the preceding school year to the President of the Great Neck Teachers Association by the first day of the ensuing school year:

a. the general nature and categories of the grievances and the number filed in each category;
b. the decisions rendered, the reasons for same, and the level at which settlement was made.

14. The existence of the procedure hereby established shall not be deemed to require any teacher to pursue the remedies here provided and shall not, in any manner, impair or limit the right of any member of the teaching faculty to pursue any other remedies available by law.

15. Costs of personnel and record-keeping will be borne by the Board of Education except as otherwise provided in this agreement.

D. Time Limits

1. Since it is important to good relationships that grievances be processed as rapidly as possible, every effort will be made by all parties to expedite the process. The time limits specified for either party may be extended only by mutual agreement.

2. No written grievance will be entertained as described below, and such grievance will be deemed waived unless a written grievance is forwarded at the first available stage within sixty (60) school days after the teacher knew or should have known of the act or condition on which the grievance is based.

3. If a decision at one stage is not appealed to the next stage of the procedure within the time limit specified, the grievance will be deemed to be discontinued and further appeal under this agreement shall be barred.

4. Failure at any stage of the grievance procedure to communicate a decision to the aggrieved party, his representatives and the Association within the specified time limit shall permit the lodging of an appeal at the next stage of the procedure within the time which would have been allotted had the decision been communicated by the final day.

5. In the event a grievance is filed on or after June 1, the time limits specified in this Agreement may be adjusted as the result of consultations involving the aggrieved party, the Association's Grievance Committee (if requested by the aggrieved party) and any other party named in the grievance. The objective shall be to process the grievance prior to the end of the school year or as soon thereafter as possible.

5.1 Stage 1: Supervisor

a. A teacher having a grievance will discuss it with his supervisor, either directly or through a representative, with the objective of resolving the matter informally. If the teacher submits the grievance through a representative, the teacher may be present during the discussion of the grievance.
b. If the grievance is not resolved informally, it shall be reduced to writing and presented to the supervisor. Within four school days, except in emergencies requiring the absence of the supervisor from his office, after the written grievance is presented to him, the supervisor shall render a decision thereon, in writing, and present it to the teacher, his representative and the Association.

5.2 Stage 2: Superintendent of Schools

a. If the teacher initiating the grievance is not satisfied with the written decision at the conclusion of Stage 1 and wishes to proceed further under this grievance procedure, the teacher

or the Association's Grievance Committee on his behalf, shall file a written appeal of the decision at Stage 1 with the Superintendent of Schools within twenty (20) school days after the teacher has received such written decision. Copies of the written decision at Stage 1 shall be submitted with the appeal.

b. Within two (2) school days after receipt of the appeal, the Superintendent of Schools, or his duly authorized representative, shall schedule a hearing with the grievant and the Grievance Committee or its representative and all other parties in interest, for a date within five (5) school days of said receipt, except in emergency situations or professional commitment.

c. The Superintendent of Schools shall render a decision in writing to the grievant and the Grievance Committee or its representative within five (5) school days after the conclusion of the hearing.

5.3 Stage 3: Board of Education

a. If the teacher or the Association are not satisfied with the decision at Stage 2, the teacher or the Grievance Committee will file an appeal in writing with the Board of Education within fifteen (15) school days after receiving the decision at Stage 2. The official grievance record maintained by the Superintendent of Schools shall be available for the use of the Board of Education.

b. Within ten school days after receipt of an appeal, the Board of Education shall hold a hearing on the grievance. The hearing shall be conducted in executive session.

c. Within five school days, except in emergency situations, after the conclusion of the hearing, the Board of Education shall render a decision, in writing, on the grievance.

5.4 Stage 4: Arbitration

a. After such decision at Stage 3, if the grievant and the Association or the Association (are) (is) not satisfied with the decision at Stage 3c, the grievance may be submitted to an arbitrator for hearing and recommendation as provided below, by written notice to the other party within fifteen (15) working days of the decision at Stage 3.

b. Within five (5) school days after such written notice, the Board of Education and the Association or teacher will agree upon a mutually acceptable arbitrator. If the parties are unable to agree, a request for appointment may be made to the American Arbitration Association by either party.

c. The rules of the American Arbitration Association will apply insofar as they relate to procedure and selection of arbitrator.

d. The arbitrator's report and recommendations will promptly be furnished to all parties.

e. The arbitrator shall have no power or authority to offer any recommendation which is prohibited by law or which is violative of the terms of this Agreement.

f. No provision in Stage 4 (Arbitration) is to be interpreted to stop either party to the grievance, under limitation of the law, from appealing to the Commissioner of Education, the Civil Service Commissioner, or the courts, except that any and all disputes and controversies arising under or in connection with or relating to the application or interpretation of the terms and provisions hereof, shall be submitted to arbitration, at the request of either party. The decision of the arbitrator in such cases shall be final and binding upon the parties, provided the decision of the arbitrator is not contrary to or inconsistent with and does not modify or vary in any way the terms of the Agreement or of applicable law or of rules and regulations having the force and effect of law.

g. Cost of the arbitration, excluding expenses of the parties, will be borne equally by the Board and the Association.

6.1 The filing or pendency of any grievance shall in no way operate to impede, delay, or interfere with the right of the Board of Education to take the action complained of, subject, however, to the final decision on the grievance.

6.2 A grievance dispute involving Board policy or discretion may be submitted only on the question whether the Board policy was disregarded, or was applied in so discriminatory, arbitrary, or capricious a manner as to constitute an abuse of discretion.

Tacoma School District No. 10, Tacoma, Washington

Article III—*Grievance Procedure*

A. Definition

A "grievance" shall mean a complaint by a teacher that there has been to him a personal loss, injury or inconvenience because of a violation, misinterpretation or inequitable application of Board policy, this Agreement or an administrative decision affecting teachers.

A grievance to be considered under this procedure must be initiated by the teacher within thirty (30) calendar days from the time when the teacher knew or should know of its occurrence.

B. Procedure

1. a. Failure at any step of this procedure to communicate the decision on a grievance within the specified time limits shall permit the aggrieved teacher to proceed to the next step. Failure at any step of this procedure to appeal a grievance to the next step within the specified time limits shall be deemed to be acceptance of the decision rendered at that step.
   b. It is understood that teachers shall, during and notwithstanding the pendency of any grievance, continue to observe all assignments and applicable rules and regulations of the Board until such grievance and any effect thereof shall have been fully determined.

2. The Association may process a grievance through all levels of the grievance procedure even though the aggrieved person does not wish to do so.

3. Any teacher who has a grievance shall discuss it first with his principal (or immediate superior or department head, if applicable) in an attempt to resolve the matter informally at that level.

4. If, as a result of the discussion, the matter is not resolved to the satisfaction of the teacher within five (5) school days, he shall set forth his grievance in writing to the principal specifying:
   a. the nature of the grievance
   b. the nature and extent of the injury, loss or inconvenience
   c. the results of previous discussions
   d. his dissatisfaction with decisions previously rendered.

The principal shall communicate his decision to the teacher in writing within three (3) school days of receipt of the written grievance.

5. The teacher, no later than five (5) school days after receipt of the principal's decision, may appeal the principal's decision to the Superintendent of Schools. The appeal to the superintendent must be made in writing reciting the matter submitted to the principal as specified above and his or her dissatisfaction with decisions previously rendered. The superintendent shall attempt to resolve the matter as quickly as possible, but within a period not to exceed ten (10) school days. The superintendent shall communicate his decision in writing to the teacher and the principal.

6. a. If the grievance is not resolved to the teacher's satisfaction, he, no later than five (5) school days after receipt of the superintendent's decision, may request a review by the Board of Education. The request shall be submitted in writing through the Superintendent of Schools who shall attach all related papers and forward the request to the Board of Education. The Board, or, a committee thereof, shall review the grievance and shall, at the option of the Board, hold a hearing with the teacher. The Board shall render a decision in writing within thirty (30) calendar days of receipt of the grievance by the Board.
   b. In the event of a grievance by a non-tenure teacher which arises by his not being reemployed, the Board shall hold a grievance meeting with the non-tenure teacher if such teacher requests it.

7. If the decision of the Board does not resolve the grievance to the satisfaction of the Association and the Association wishes review by a third party, they shall so notify the Board through the superintendent within ten (10) school days of receipt of the Board's decision, except in the case of grievance involving any of the following points:
   a. Any matter for which a method of review is prescribed by law or any rule or regulation of the State Commissioner of Education or any matter which according to law is either beyond the scope of the Board authority or limited to action by the Board alone.
   b. A complaint of a non-tenure teacher which arises by reason of his not being re-employed.
   c. A complaint by any certificated personnel occasioned by appointment to or lack of appointment to, retention in or lack of retention in any position for which tenure is either not possible or not required.

8. a. The following procedure will be used to secure the services of an arbitrator:
      1. A joint request will be made to the American Arbitration Association to submit a roster of persons qualified to function as an arbitrator in the dispute in question.

2. If the parties are unable to determine a mutually satisfactory arbitrator from the submitted list, they will request the American Arbitration Association to submit a second roster of names.
3. If the parties are unable to determine, within ten (10) school days of the initial request for arbitration, a mutually satisfactory arbitrator from the second submitted list, the American Arbitration Association may be requested by either party to designate an arbitrator.

b. The arbitrator shall limit himself to the issues submitted to him and shall consider nothing else. He can add nothing to, nor subtract anything from the Agreement between the parties or any policy of the Board of Education. The decision of the arbitrator shall be final and binding upon both parties. Only the Board and the aggrieved and his representatives shall be given copies of the arbitrator's award. This shall be accomplished within thirty (30) days of the completion of the arbitration proceedings.

c. Rights of teachers to representation:
1. Any aggrieved person may be represented at all stages of the grievance procedure by himself or, at his option, by a representative selected or approved by the Association.
2. When a teacher is not represented by the Association in the processing of a grievance, the Association shall at the time of submission of the grievance to the superintendent or any later level, be notified that the grievance is in process, have the right to be present and present its position in writing at all hearing sessions held concerning the grievance and shall receive a copy of all decisions rendered. A copy of the principal's written decision made in response to a written grievance shall be given to the Association immediately.
3. The Board and the Association shall assure the individual freedom from restraint, interference, coercion, discrimination or reprisal in presenting his appeal with respect to his personal grievances.

d. The parties shall be responsible for all costs incurred by each and only the fee and expenses, if any, of the arbitrator shall be shared by each party paying one-half.

Madison School District, Madison, Wisconsin

Article II, Section B—*Grievance Procedure*

1. The Board of Education and Madison Teachers each recognize the legal right of any individual employee or any minority group of employees at any time to present a grievance to their employer in person or through representatives of their own choosing and the corresponding legal duty of the employer to confer with them in relation thereto, providing that Madison Teachers has been afforded the opportunity to be presented in conferences concerning grievances other than with the employer's immediate supervisor and that any adjustment resulting from such conferences is not inconsistent with the conditions of employment established in Agreements then in effect between the parties to this Agreement. Without limiting the preceding legal right and duty, the parties to this Agreement agree as follows:

a. Definition—A "Grievance" is defined to be a dispute concerning the interpretation or application of any of the terms of any written Agreement establishing salaries, hours, or other conditions of employment for the employees of the Board of Education for whom Madison Teachers is the negotiating representative. Aggrieved parties may be Madison Teachers or the Board of Education or any such employees.

b. Procedural Steps for Madison Teachers and Employees—Grievances to be presented by Madison Teachers shall commence at Step 2. The term "school day" used herein shall mean weekdays during the summer months.
1. An aggrieved party shall attempt to resolve the grievance by oral discussion with the principal or principals or supervisor or supervisors of such aggrieved party.
2. To the extent grievances are not settled, they shall be reduced to writing by the aggrieved party who shall deliver a copy of such writing to the principal or supervisor involved, the President, the chairman of the Professional Rights and Responsibilities Committee, the Executive Secretary of Madison Teachers and the Superintendent of Madison Schools. Meetings for discussing the grievances shall be held at mutually acceptable times and places; however, such meetings shall be held within five (5) school days after receipt of the written grievances by the Superintendent. Representatives of Madison Teachers and the Superintendent and/or his designated representatives shall attend such meetings. The Superintendent

shall give his answer in writing within ten (10) school days after the final meeting to the President and Executive Secretary of Madison Teachers and to the aggrieved party.

3. If the grievances are not resolved in Step 2, then Madison Teachers, and only Madison Teachers, may present grievances in writing to the Board of Education within ten (10) school days after the receipt of the Superintendent's answer. The Board of Education shall at its next regular meeting or the following regular meeting determine whether it shall consider the grievances, it shall give written notice of the fact to the Executive Secretary and the President of Madison Teachers within five (5) school days after this meeting. If the Board of Education decides to consider the grievances it shall do so at its next following regular meeting, or at a special meeting called for that purpose. The Board of Education shall submit its answer in writing to the President and to the Executive Secretary of Madison Teachers within five (5) school days after such meeting.
4. If the Baord of Education declines to consider the grievances, Madison Teachers may call for arbitration hereunder within five (5) school days after receipt of the notice.
5. If the Board of Education considers the grievance then to the extent grievances remain unresolved after review by the Board of Education, a call for compulsory, final and binding arbitration may be made by Madison Teachers within five (5) school days after the receipt of Madison Teachers of the Board of Education's answer. The arbitration panel shall consist of three arbitrators—one appointed by the Board of Education, one by Madison Teachers, and the third by agreement of the other two. The party calling for arbitration shall submit the name of their arbitrator with the call. Within five (5) school days after one of the parties to this Agreement gives to the other written notice and the name and address of its appointee, such other party shall appoint its arbitrator and give written notice to the first party of the name and address of its appointee. Should the two (2) arbitrators be unable to agree on the third arbitrator within five (5) school days after the appointment of the last of the two (2), either party may request the Wisconsin Employment Relations Commission to submit a panel of five (5) arbitrators from which the parties shall alternately strike names until one (1) name shall remain. The aggrieved party shall strike first. Each party shall be responsible for any costs which might arise from the employment of its own appointee, and the two parties agree to share equally the costs arising from the employment of the third agreed upon arbitrator and all other costs of the arbitration proceedings. The neutral arbitrator shall be selected within five (5) school days after receiving suggestions from the Wisconsin Employment Relations Commission. The neutral or agreed upon arbitrator shall act as the chairman of the arbitration panel. Proceedings of the arbitration panel shall be final and binding on all parties except as forbidden by law.

c. Procedure for the Board of Education—If the Board of Education is the aggrieved party the Board of Education shall submit its grievances in writing to the President and Executive Secretary of Madison Teachers. Madison Teachers shall give its answer in writing to the Board of Education within fifteen (15) school days after receipt. If the grievances remain unresolved, the Board of Education may call for arbitration in the manner provided herein, except that the Board of Education in calling for arbitration shall not be limited by any time limit expressed, nor by acts related to such time limits.
d. Employment Complaint—An "Employment Complaint" is a complaint founded upon some incident of the employment relation not covered by any Agreement between the parties to this Agreement but which involves a question of salaries, hours or other conditions of employment. Such complaints shall be processed through Step 2 only of the above grievance procedure upon presentation by an aggrieved party.

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Case Reviews

CALIFORNIA

DEDUCTIONS FOR ABSENCES BASED UPON SCHOOL YEAR RATHER THAN INSTRUCTIONAL DAYS

In construing a portion of the California Education Code relative to deductions from the salaries of teachers who serve "less than a full school year," the California Court of Appeal, First District, ruled that the Richmond Unified School District erred in failing to apply that formula to deductions made from the salaries of striking teachers. Finding no legislative intent to restrict the application of that portion of the Education Code only to authorized absences, the appeals court reversed a trial court's judgment and remanded the matter for compliance with the code.

During September 1966, appellants and other teachers went on strike for approximately a week. The district subsequently deducted from their paychecks an amount equal to 1/179 of their annual salaries for each day they were on strike. This ratio was based upon the fact that the Richmond schools were in actual session for 179 days of the 1966-67 school year. However, appellants argued that the deduction formula used by the district and upheld by the trial court violated Sec. 13520 of the Education Code which states:

> A person in a position requiring certification qualifications who serves less than a full school year shall receive as salary only an amount that bears the same ratio to the established annual salary for the position as the time he serves bears to the annual school term. For the purpose of this section, the school term as it applies to each certificated employee shall include each day the schools of the district are in session, each school holiday as defined in Sections 5201 to 5210, inclusive, and Sections 5713, 5901, and 6362 of this code, each day of teachers' institute and any other day when the employee is required by the governing board to be present at the schools of the district or to perform services for the district, and the employee shall be deemed to have served the district on each of said days unless he fails to perform the duties required of him for the day and is not entitled to leave of absence from such duties with pay. This section shall not be so construed as to prevent the payment of compensation to a person while on leave of absence when the payment of the compensation is authorized by law.

According to the court's interpretation of sec. 13520, the school term "would include week ends for school holidays, as well as the actual days on which teaching took place." As such, the 1966-67 school year consisted of a 282-day period, rather than merely the 179 days on which teachers actually performed their duties. As to whether sec. 13520 applies to unauthorized absences, the court held that the statute "makes no distinction between authorized and unauthorized absences. Its general language . . . indicates that both are included. Appellants served 'less than a full school year.' " Finding no indication of legislative intent to make the statute applicable only to authorized absences, the court concluded that "any inequities that might result from adding to the plain words of the statute are a proper subject for legislative improvement rather than judicial interference." (*Jack McNickels, et al. v. Richmond Unified School District,* California Court of Appeal, First District, Division Three, October 15, 1970.)

INDIANA

PARTIES' PAST CONDUCT DEFINES SCOPE OF NEGOTIATION WHERE CONTRACT LANGUAGE IS AMBIGUOUS

The Wayne County Circuit Court upheld the legality of an agreement negotiated by the Richmond Association of Classroom Teachers and the Richmond Community Schools in the absence of a state bargaining statute, but declined enjoining the district from requiring signed individual teacher contracts prior to the completion of 1970 negotiation. Finding that ambiguous contract language not unreasonably delayed negotiation, the court held that past practice must delineate the scope of bargaining and denied a motion for a preliminary injunction against the required return of individual contracts because "the evidence provides no means by which the court could extend the contract deadline to any time prior to the opening of school and be assured that fact finding [the contractually specified means of impasse resolution] would be completed."

In initially affirming the legality of the 1967 Richmond contract, the court pointed out that "recent developments elsewhere in the law would indicate that such agreements have been recognized and upheld as long as they represent a reasonable means of aiding the public organization . . . in carrying out any of its responsibilities under the law, when the method for so doing is left specifically or by implication to the discretion of that organization." The court held that the agreement here did not encroach upon or constitute a delegation of the district's responsibilities, that "the culmination of the negotiating process . . . is in no way meant to be binding upon either party," and that there was "obvious recognition that the school corporation has a public responsibility regarding the staffing of schools with an adequate supply of teachers."

Negotiation in the summer of 1970 was delayed owing to the parties' disagreement over the meaning of the term "welfare provisions" as used in a portion of the then existing contract which provided:

> RCS and RACT hereby agree to negotiate in good faith with each other on matters of salaries, welfare provisions, and related economic conditions of employment. Nothing contained herein shall be construed as requiring RCS to negotiate matters of assignment, promotion, demotion, employment or dismissal, of individual teachers or administrators.

The district contended that the term applied only to economic conditions of employment, while the Association argued that the term included various noneconomic working conditions and policy matters which the parties had negotiated in past years. Determining that the language was so ambiguous as possibly to render the contract unenforceable, the court found itself "inclined to resolve the ambiguity by looking at the construction the parties have placed on the agreement by their past conduct." Since the parties had negotiated both economic and noneconomic matters in previous years, their conduct dictated a broader construction of the disputed term than the district acknowledged. However, the court pointed out that "it would appear after three years that the parties would have covered the 'welfare provisions' that were intended and that the 1969 agreement would delineate certainly the outside limits of subject matters which ought to be considered."

As to the district's demand that local teachers individually return their 1970 contracts by August 1 (while negotiation of the 1970 contract was under way), the court noted that the then effective contract established a specific negotiation schedule with the resolution of impasse by fact-finding to be completed on or before the middle of July. If the negotiation schedule were met and completed as contractually specified, the court held that the district reasonably and properly could expect to send out contracts and have them returned by certain dates. Moreover, the schedule recognizes by implication that the district "has the obligation to satisfy its responsibilities under the law in such areas as preparing a proper budget and providing an adequate school staff in sufficient time to avoid uncertainty and turmoil . . . . When the [district's] responsibilities under the law are read into this agreement and considered in its construction, this time schedule must be strictly construed and adhered to."

Although both parties contributed to the violation of the contractual time schedule for negotiation, the court ruled that "it is encumbent upon the party who desires to pursue the negotiating procedure to completion, and who ultimately complains that the agreement has not been met, to see that the schedule is maintained." The court accordingly rejected the Association's argument that since the district's refusal to bargain delayed negotiation, the Association was unable to maintain the schedule. It explained that "the delay caused by the [district's] construction of the agreement and the position which the [district] took as a result of that construction, though found to be incorrect by the Court, was not an unreasonable position in light of the ambiguity of the contract" for which the Association also was responsible. The court thereby refused to enjoin the return of individual teacher contracts, stating that

> the desire for judicial elimination or extension of a contract return date at this point, with the opening of school fast approaching and under all the circumstances attending this action, carries the risk of exerted pressure by use of a time factor which violates the intent of the agreement and concerted withholding of contracts, perhaps with the mistaken notion that the court, by its action, approved such concerted action.

(*Richmond Association of Classroom Teachers v. Richmond Community Schools*, Indiana Circuit Court for Wayne County, July 24, 1970.)

KENTUCKY

TEACHERS' RIGHT TO STRIKE PROSCRIBED BY LEGISLATIVE INTENT; INJUNCTION SUSTAINED

An injunction issued by the Jefferson Circuit Court against striking Jefferson County (Louisville) teachers last year was sustained by the Kentucky Court of Appeals which held that under common law and in accordance with legislative intent, public employees do not have the right to strike. While the Jefferson County

Teachers Association and others who participated in the February 1970 walkout argued that the injunction violated their constitutional and statutory rights and that no irreparable injury was shown, the appeals court found that the "record contains ample proof of serious and irreparable impairment of the school system of Jefferson County" warranting an injunction.

According to the court, appellants did not dispute the general common law rule that public employees do not have the right to strike or engage in concerted work stoppages. However, "in a rather oblique manner," appellants contended that the Kentucky legislature had recognized that right in KRS 336.130, which provides in part:

> Employes may, free from restraint or coercion by the employers or their agents, associate collectively for self-organization and designate collectively representatives of their own choosing to negotiate the terms and conditions of their employment to effectively promote their own rights and general welfare. Employes, collectively and individually, may strike, engage in peaceful picketing, and assemble collectively for peaceful purposes.

Finding no statutory definition of the word "employees," the court examined legislative intent in the enactment of employer-employee relations legislation eventually resulting in the passage in question. It concluded that "the original Act . . . clearly and expressly excluded public employees from the granted right to strike. The apparently inadvertent omission of this exclusion in Chapter 336 when the statutes were revised cannot be held to have changed the legislative policy and the law. Therefore appellants cannot properly claim the legislature has granted them such right, and their principal contention must fall."

Appellants also argued that the denial of their right to strike violated due process principles, their right to equal protection of the laws under the Fourteenth Amendment, the Thirteenth Amendment, and their constitutional rights of free speech and public assembly. The court disposed of the equal protection issue by pointing out that "there is a reasonable basis for distinguishing between private and public employees, particularly in this area [of the right to strike]. Therefore, to treat them differently is not a denial of equal protection in the constitutional sense." As to the argument that the denial of appellants' right to strike violated the Thirteenth Amendment by imposing involuntary servitude upon them, the court cited several rulings indicating that "an injunction of the kind before us does not 'compel performance of personal service against the will of the employee' because he can terminate his contract if he so desires."

The court also disposed of the free speech and assembly issues by holding that

> such rights are not absolute but are limited by the countervailing rights of others. The injunction enjoins appellants from "participating in a concerted work stoppage or strike by the teachers in the public schools of Jefferson County." It prohibits the commission of illegal acts, and the rights of free speech and public assembly do not license violation of law. In *City of Los Angeles v. Los Angeles Building and Construction Trades Council* . . . it is said: ". . . illegality of purpose provides a complete basis for injunctive relief against conduct which would otherwise be deemed a permissible exercise of fundamental rights. Where such illegality consists of violation of settled public policy, as well as in other cases of illegal conduct, the injured party has a right to be protected from the imminent harmful consequences of such action.

Although appellants argued that their negotiated agreements with the Jefferson County education board gave them the same bargaining rights as unions in private industry, the court found "no authority for the proposition that the right to collectively bargain gives the right to strike, particularly when the right to strike is otherwise inhibited." Finally, the court pointed out that a contract between one of the appellants and the local board "specifically provides for arbitration, and by implication this would foreclose the right to strike as a means of settling a grievance." (*Jefferson County Teachers Association, et al. v. Board of Education of Jefferson County, Kentucky*, Kentucky Court of Appeals, October 30, 1970.)

OREGON

SCHOOL BOARD MAY BIND ITSELF TO CONTRACT NONRENEWAL RULES MORE STRINGENT THAN LAW

An opinion of the Oregon Court of Appeals, Department 2, held that where state law governing contract renewal establishes only minimum standards, a school district "may properly bind itself to follow higher standards and can be found liable for failure to comply with those rules." In reversing and remanding the case of a teacher whose contract nonrenewal was in accordance with state law but did not conform to the rules provided in a contract between the Hermiston Association of Teachers and Umatilla County School District No. 8R, the appeals court ruled that a school board's

> power to employ personnel is express; the power to remove is necessarily implied therefrom, and no express restrictions on this power have been pointed out to us nor are we able to find any in the Oregon statutes or decisions . . . . We conclude that the adoption by the school district of the rules and regulations . . . and their inclusion in plaintiff's contract is not a transgression of the express statutory rights mentioned, nor inconsistent with other statutes pertaining to the subject.

In 1964 the Association and the district reached an agreement containing various rules and regulations pertaining to grievances and teacher dismissals which then were incorporated in a three-year contract offered plaintiff. District teachers are extended three-year contracts after the satisfactory completion of three consecutive one-year contracts, and the parties' negotiated rules provided that an unsatisfactory teacher could be discharged at the conclusion of a probationary one-year contract. The rules further provided that

> any decision not to renew the contract shall be based solely upon the cause or causes for non-renewal specified in the notice to employee and proved and established at the hearing. If such notification and opportunity is not timely given by the board, the employee entitled thereto should be conclusively presumed to have been re-employed by the district for the next term upon contractual terms identical with those which would have prevailed if his employment had actually been renewed by the board of education for such ensuing term.

State statute requires only that a teacher whose contract is not to be renewed be given written notice by March 15 of the year in which the contract is to terminate, and that the teacher has a right to know the reason for nonrenewal, as well as have that reason entered in district records. Plaintiff in the present matter was informed that his contract would not be renewed for the 1969-70 school year in compliance with statutory requirements but not with the negotiated rules.

Confining the issue to whether state statute establishes only minimum standards or takes precedence over any rules a school district might promulgate or agree to, the court found that a district statutorily may "establish rules for the government of the schools and pupils," as well as commit itself to rules which are not inconsistent with state laws or state education board rules. The express statutory authority granted a school district to employ personnel also implies the power to remove, but the court held that "since the statute is silent on removal, it places no express restrictions on the district board concerning removal of personnel."

Concluding that the nonrenewal procedures established by law are not a grant of power to a school board but a statement of the board's duty to its teachers, the court ruled that the Umatilla district properly adopted contract nonrenewal rules stricter than those provided by law. While reversing the trial court's decision and remanding the case for proceedings consistent with its opinion, the appeals court observed that it had not passed upon the question of due process raised on behalf of plaintiff, nor the question of compliance with the statutory provisions involved. (*Owens v. School District No. 8R of Umatilla County*, Oregon Court of Appeals, Department 2, August 13, 1970.)

OTHER ITEMS OF INTEREST

COURT SUGGESTS IMPARTIAL ACADEMIC REVIEW IN NONRENEWAL OF NONTENURE TEACHER'S CONTRACT

The U. S. Court of Appeals, Fifth Circuit, reversed and remanded the case of a nontenured junior college professor who brought suit alleging violation of his rights of expression, association, and petition, as well as violation of procedural due process when the college notified him of its decision not to renew his contract for 1969-70. Finding that the district court's grant of summary judgment to the college was "inappropriate and erroneous" in light of a fifth circuit decision postdating the district court's ruling, the appeals court remanded the case on procedural grounds and for further development of the basic facts which "were in total dispute." It further commented upon plaintiff's due process contention, pointing out that

> if a teacher determines to assert that such non-renewal is really a form of punishment for his exercise of constitutional rights or otherwise constitutes some actionable wrong, the teacher should notify the institution with reasonable promptness of his claim in sufficient detail to fairly enable the institution to show any error that may exist and request a hearing. Upon the receipt of this notice and request the institution should constitute a tribunal to conduct such a hearing that both possesses some academic expertise and has an apparent impartiality toward the charges. This hearing must include the right to produce witnesses and evidence and the right to confront and cross-examine witnesses produced by the opposition.

Plaintiff first was employed by Odessa Junior College in September 1965, and remained a faculty member until the end of the 1968-69 school year by virtue of a series of one-year contracts. A portion of the college's official faculty guide relating to teacher tenure provides that "Odessa College has no tenure system. The Administration of the College wishes the faculty member to feel that he has permanent tenure as long as his teaching services are satisfactory and as long as he displays a cooperative attitude toward his co-workers and his superiors, and as long as he is happy in his work." In the spring of 1969, the college issued an 11-page press release recounting the difficulties of its relationship with plaintiff, and on May 19, plaintiff was informed that the board of regents had voted not to renew his contract for 1969-70. Sixteen days later he filed an action with the U.S. District Court for

the Western District of Texas and contemporaneously requested that college authorities give him a hearing (which had not been granted at the time of the appeals court ruling).

Plaintiff's apparent competency had been recognized by his appointment as co-chairman of the social science department with an increase in pay; after circulating lengthy letters to department members, however, he was dropped as co-chairman in the fall of 1968, although there was no corresponding reduction in pay. Then in February 1969, plaintiff was elected president of the Texas Junior College Teachers Association, an organization which had administration approval. He accepted the office without consulting any Odessa College officials and thereupon requested student clerical help, a reduction in teaching load, and time off to visit other junior colleges; former faculty members who had held the same post had not made such requests.

Plaintiff additionally became involved with The Committee to Elevate Odessa College which sought to gain four-year status for the college in opposition to the regents' official policies. Despite administration refusals on at least four occasions, plaintiff absented himself from his duties to testify before state legislature committees on a bill dealing with academic freedom and tenure. All of these incidents were documented in the press release which preceded plaintiff's official notice of nonrenewal.

In his complaint, plaintiff alleged that the regents' nonrenewal decision was in retaliation for his expressions of opinion, that he was a competent teacher, that he had not been offered an impartial hearing regarding the nonrenewal decision, that the action taken against him had a chilling effect upon other faculty members, and that his professional reputation and standing had been damaged. He sought compensatory and punitive damages and attorneys fees, a declaratory judgment "adjudicating that the Regents' action violated his constitutional rights and that he was entitled to a hearing," and a mandatory injunction requiring his reinstatement for the 1969-70 school year at the same level of responsibility and function as previously held. All defendants moved for summary judgment which the U.S. district court granted in concluding:

> I. Plaintiff has no cause of action against the Defendants since his contract of employment terminated May 31, 1969, and Odessa Junior College has not adopted the tenure system ["which fact was known to the plaintiff at the time he entered into his original contract with the college"].
>
> II. Plaintiff has no contract with the Defendant college.
>
> III. Plaintiff has no right which would require Defendants to execute a contract with Plaintiff, or to employ Plaintiff.
>
> IV. Defendants have not violated any constitutional rights of the plaintiff.

Shortly after the district court's summary judgment was appealed, the federal appeals court decided *Pred v. Bd. of Public Instruction* which classified "the rights of persons circumstanced such as plaintiff as constitutional rather than contractual." Applying *Pred* to the instant matter, the appeals court held that it "invalidates the basic legal premise of the Court's summary judgment" and cited a portion of that decision:

> Equally unpersuasive is the related argument that since there is no constitutional right to public employment, school officials only allowed these teachers' contracts to expire, and thus they cannot be liable for a violation of any rights protected by §1983. But in the posture of this case this misconceives the whole thrust of their claim. The right sought to be vindicated is not a contractual one, nor could it be since no *right* to reemployment existed. What is at stake is the vindication of constitutional rights—the right not to be punished by the State or to suffer retaliation at its hand because a public employee persists in the exercise of First Amendment rights.

The federal court of appeals explained further that the controlling effect of *Pred* was not lessened by the present circumstances wherein plaintiff

> requested permission to be absent from his teaching duties to exercise constitutional rights . . . such permission was refused and . . . he deliberately disobeyed administrative directions. The inquiry still comes back to be whether the college refused to renew the teaching contract on an impermissible basis—as a reprisal for the exercise of constitutionally protected rights. We reject the sophistry which would recognize that the college could not withhold renewal of [plaintiff's] contract because of his association with the Committee to Elevate Odessa College or because of his exercise of a reasonable right to petition the legislature by attending committee hearings but, at the same time, recognize a right in the college administration to direct him not to exercise these rights then refuse to renew his contract for disobedience of their orders.

In finding the prior disposition on summary judgment "totally inappropriate in the case at bar," the federal appeals court pointed out that "the truth of [plaintiff's] constitutional position was far from clear. The basic facts, as well as the material inferences to be drawn therefrom, were in total dispute." It accordingly remanded the case on procedural grounds and indicated that a determination must be made "as to whether the teacher involved has tenure or an expectancy of reemployment under the policies and practices of the institution." It further commented that if the trial court should conclude that plaintiff

> did have an expectancy of reemployment, then the applicable notice and hearing standards are now established in [*Ferguson v. Thomas*]. On the other hand, if the court resolves that [plaintiff] did not have an expectancy of reemployment which would require the college to

show cause for the decision not to renew his contract [some doubts about which were raised in the court's mind due to the uncertainty of the college's tenure statement], a different procedure would be indicated. In such a situation, upon receipt of notice that a new contract will not be offered, the teacher must bear the burden both of initiating the proceedings and of proving that a wrong has been done by the collegiate action in not rehiring him. It is incumbent upon such a teacher, not the college, to shoulder these responsibilities because the college may base its decision not to reemploy a teacher without tenure or a contractual expectancy of reemployment upon any reason or upon no reason at all.

(*Robert P. Sindermann v. Charles R. Perry, et al.*, U.S. Court of Appeals, Fifth Circuit, August 10, 1970.)

REINSTATEMENT OF TEACHERS ORDERED WHERE TERMINATION IS BASED UPON UNION MEMBERSHIP

Nine teachers employed by the Hanover school system whose contracts were terminated in April 1970 were ordered reinstated by the U.S. District Court for the Northern District of Indiana in concluding that "but for plaintiffs' association with the union, their contracts would have been renewed. By discharging the nine teachers for exercising that freedom of association guaranteed by the Constitution, the defendants have violated the civil rights of these plaintiffs." The court additionally reached the "strong inference" that the local high-school principal was hired "not for the primary purpose of being the administrative head of the school, but rather for the purpose of destroying the teachers union."

The Hanover Township Federation of Teachers, AFL-CIO, Local 1945, was organized during the 1968-69 school year and conducted two short strikes at the end of that year and the beginning of the following school year. Then in April 1970 seven probationary high school teachers, one tenured high-school teacher, and a probationary elementary teacher were notified that their contracts would not be renewed for the 1970-71 school year. All of the teachers were union members and among them were the union leaders, a number of negotiating committee members, and some of the union's most active members generally.

Following their termination, the teachers brought suit against the school board and others under two Civil Rights Acts [42 U.S.C.A. § 1983 and 28 U.S.C.A. § 1343(3) and (4)] alleging infringement of their First Amendment rights of association. The court dismissed additional allegations that the school board breached its duty to negotiate with the union, and that the nonrenewal of plaintiffs' contracts failed to comply with procedural due process requirements. While initially noting that "a school board has a great degree of discretion in making determinations as to the hiring and firing of its teachers," the court cited *Roth v. Board of Regents of State Colleges* (NRD, 9-70, 6) to the effect that "the employment of a teacher in a public school cannot be terminated because he has exercised that freedom secured to him by the Constitution of the United States . . . . This substantive constitutional protection is unaffected by the presence or absence of tenure under state law." The court stated further that

the issue here is not whether the plaintiffs have a constitutional right to be teachers or to receive payment for extracurricular activities. The question is whether the termination of the plaintiffs' contracts for teaching and extracurricular activities deprived the plaintiffs of the freedom of association guaranteed them by the Constitution. It is the opinion of the Court that the actions of the defendants were motivated by a desire to retaliate against members of the union, and that, in terminating the contracts of the plaintiffs, the defendants deprived them of their constitutional rights in violation of 42 U.S.C.A. §1983 and 18 U.S.C.A. §1343.

According to the court, most of the teachers had several years' teaching experience, had been praised and/or honored upon numerous occasions, and their competency had been demonstrated; in fact, prior to September 1969, there were no complaints in any of plaintiffs' files. While defendants presented various reasons for firing plaintiffs, the court found that

the unimportance of most of the items is demonstrated by the fact that [the superintendent] had never, and [the high-school principal] only rarely, discussed any of these matters with the teachers themselves. The evidence showed that when problems had been discussed with the teachers, in most instances the matters were corrected . . . . [T]he Court is convinced that those reasons are merely illusory and intended to cover up the real motives for the termination of the teachers. The activities of both [the high-school principal and the superintendent] indicate that their intention to have the union teachers discharged was formed prior to the incidents upon which the school board supposedly relied.

During the trial, the superintendent admitted that he collected notes in his personal files on the union teachers who later were terminated, even though he had never collected such notes on any other teachers since his appointment. The high-school principal (newly hired effective August 1, 1969) took home the files of 13 high-school teachers within two months after the beginning of the 1969-70 school year, although there was no evidence at that time that the teachers warranted such special attention. All 13 were union members and eight of those were teachers whose contracts were terminated the following April. The court additionally found that during the past few years, only three teachers were ter-

minated, all of whom were asked to resign by the superintendent; no such request was made of plaintiffs here.

Due to these actions and various discrepancies in the testimony and other actions of the high-school principal and the Hanover superintendent, the court determined that

> immediately after taking his position, [the high-school principal] began a clandestine operation to accumulate information on a select group of union members, even though there was nothing in the files to indicate that these teachers might be incompetent. The failure of [the principal and the superintendent] to discuss any problems with the teachers is further evidence of their goal of fabricating a basis for discharge. The efforts of the administration to stifle the union movement and then cover up their actions was never more clear than in the testimony of [the principal which was] . . . at times evasive, at times fatuous, and often both.

Reaching the "inevitable conclusion that the plaintiffs' teaching contracts were terminated in retribution for their union activities," the court nevertheless warned that it did not wish "to leave the impression that a person involved in union activities is somehow immune from having his teaching or extracurricular activities terminated. Certainly, a school board has the authority to release any teacher who engages in activities which prove to be seriously detrimental to his classroom work, even where those activities are on behalf of a union or other association."

In so finding, the court ruled that plaintiffs' contracts unlawfully were terminated and ordered the Hanover board to offer plaintiffs contracts for the 1970-71 school year "on terms and conditions no less favorable than in their contracts for the 1969-70 school year, including responsibilities for extracurricular activities." The court also enjoined defendants from discriminating against union members in violation of their First Amendment right of association. (*Hanover Township Federation of Teachers, et al. v. Hanover Community School Corporation, et al.*, U.S. District Court, Northern District of Indiana, August 14, 1970.)

TENURE SECTION OF NEW YORK EDUCATION LAW RULED CONSTITUTIONAL BY FEDERAL COURT PANEL

A three-judge panel of the U.S. District Court for the Eastern District of New York dismissed a probationary teacher's constitutional challenge to a portion of the New York Education Law and allegations that he was denied tenure after becoming contract negotiator for the Jericho Teachers Association. Although a single judge previously decided that plaintiff's allegations raised "substantial federal questions" (NRD, 6-70, 7), the three-judge panel found the language of the New York law valid and enforceable, and concluded that plaintiff's denial of tenure "was caused by a desire on the part of . . . the school superintendent, to eliminate from the school system a nettlesome individual who created annoying administrative problems."

Plaintiff, a probationary humanities teacher first employed by UFSD No. 15 in the fall of 1964, was denied tenure in the spring of 1967 despite the fact that "'all reports and evaluation of the plaintiff by his superiors, including the defendant [superintendent], consistently rated the plaintiff as superior in virtually every aspect of his performance.'" The denial of tenure allegedly occurred after the superintendent became aware of plaintiff's position as Association negotiator. In seeking to compel the local school board to recommend him for tenure, plaintiff asked that sec. 3012(a) of the New York Education Law be declared unconstitutional, arguing that it deprived him of his constitutional rights of free speech, free assembly, and due process, and that it provides no standards to be applied by a superintendent in refusing to recommend a teacher for tenure. The challenged paragraph reads:

> At the expiration of the probationary term of a person appointed for such term, subject to the conditions of this section the superintendent of schools shall make a written report to the board of education recommending for appointment on tenure those persons who have been found competent, efficient and satisfactory. Such persons, and all others employed in the teaching, examining or supervising service of the schools of such union free school district, who have served the probationary period as provided in this section, shall hold their respective positions during good behavior and efficient and competent service, and shall not be removed except for any of the following causes: (a) insubordination, immoral character or conduct unbecoming a teacher; (b) inefficiency, incompetency, physical or mental disability, or neglect of duty. Each person who is not to be recommended for appointment on tenure, shall be so notified by the superintendent of schools in writing not later than sixty days immediately preceding the expiration of his probationary period.

In a lengthy, heavily cited opinion the single judge raised questions of academic freedom, the "chilling effect" doctrine, public employees' constitutionally protected rights, and the determination of standards by which teachers are granted or denied tenure. The three-judge panel here, however, dismissed plaintiff's challenge to sec. 3012(a) in finding that "the 'competent, efficient and satisfactory' language of the section refers to definite criteria enforceable in New York courts through an Article 78 proceeding [and] the requirements of the federal and state constitutions are read into the provision." In addition, the panel held that

> plaintiff was not denied tenure because of the exercise of any of his constitutional or statutory rights. Although

he was a devoted, highly skilled, and imaginative teacher, he had difficulties in developing new programs and in carrying out school policies because of substantial and continuing disagreements with administrators and supervisors . . . . Nothing the plaintiff said or did in connection with labor negotiations on behalf of the Jericho Teachers Association contributed to [the superintendent's] decision. The superintendent was entitled, under section 3012(a), to decline to recommend tenure during a teacher's probationary period in order to reduce the possibility of dissension with administrators and supervisory personnel. Since plaintiff was not denied tenure as a punishment for statements or actions in connection with his union activities . . . the second cause of action must be dismissed.

(*Elvin Albaum v. Thomas F. Carey, et al.*, U.S. District Court, Eastern District of New York, December 18, 1969.)

Board Findings and Rulings

ILLINOIS

TRANSFER CLAUSE VIOLATED WHERE MALE WAS HIRED INSTEAD OF MORE QUALIFIED FEMALE

An arbitrator determined that a female teacher who had applied for an elementary physical education position but was turned down in favor of a male teacher actually was more qualified for the position than the male and should be transferred to the position at mid-term. While "convinced" that Community Unit School District 205 "had no intention to violate the existing agreement on sex discrimination" with the Galesburg Education Association, the arbitrator held that the district's refusal to place grievant in the position constituted a violation of the agreement's transfer clause. He also pointed to and discussed "a trend to make of the elementary school physical education classes too much of a male image."

When a physical education teaching job opened at Gale Middle School, the local board hired the male applicant on grounds that "it was educationally sound to have more of a male image at the elementary school." The board further maintained that at such a late date (August 1970) it would be difficult to find a replacement for grievant's junior high-school teaching position. The resultant grievance charged sex discrimination in violation of the parties' agreement and also claimed violation of a contract clause providing that "during the summer vacancies . . . shall be filled on the basis of experience, competency, and qualifications of the applicant and length of service in the district, and other relevant matters."

The arbitrator initially discussed sex discrimination and recent rulings of the Equal Employment Opportunity Commission, stating that

> many prominent educators have spoken and written to the effect that elementary schools presented too much of the female image and that more male elementary teachers were needed at such level. It has been stressed that the boys in school needed more of the male image and that indeed girls too could benefit.
>
> We have, however, in recent times seen arbitrators, administrative bodies and courts construing prohibitions against sex discrimination very strictly. Particularly significant is the ruling of the federal Equal Employment Opportunity Commission in August, 1969 . . . that Title VII of the Civil Rights Act of 1964 overrides state laws that purport to protect women against certain hours of work, time of day of work, lifting of certain weights and other matters. In essence the commission decided that the state laws designed to protect females were no longer relevant in a society that is attempting to put all its citizens on an equal footing in all aspects of life . . . . As an arbitrator I can simply express the opinion that I will not ignore the philosophy of the Equal Employment Opportunity Commission when it comes to discussing what constitutes sex discrimination.

In response to the district's "male image" argument, the arbitrator ruled:

> I am not willing to uphold the board on its claim of wanting to improve the male image at Gale Middle School. When I look at the facts introduced I see too much of a male image in physical education at the elementary levels in the Galesburg system. I feel that elementary children may not benefit from such top heavy male image in physical education. An elementary school could very well desire to improve the male image, but I am not going to approve any plan which could connote that the improvement could be done mostly through the route of physical education.

The arbitrator also pointed out that grievant had more teaching experience than the male who was hired, and that she had "more to offer for a position of teaching in the middle school than does the man . . . . She had specific training in such areas as dance for children, gymnastics, camping, badminton and bowling games for elementary children, and archery. The training of the male who was hired was more in the area of track, football and basketball." Finding that "there was honesty and sincerity on the part of the board and its employees and the grievant presently has a position which she is perfectly capable of handling," the arbitrator held that "an award should be fashioned which will not produce any results which might not be in the interests of students by bringing disruption in mid term." He accordingly ordered that

> if a physical education position is open to which [the male teacher] can be transferred at the semester the transfer is to be made at that time, and [grievant] is to be given the position she applied for at the Gale School provided a replacement can be hired for her . . . . If the transfer is not made at the semester, [grievant] is to be transferred to teach physical education in the Gale Middle School for the beginning of the academic year 1971-72.

(*Community Unit School District 205, Galesburg, Illinois and Galesburg Education Association,* American Arbitration Association, October 7, 1970.)

MICHIGAN

ELECTION DIRECTED WHERE NEW UNIT CREATED BY MERGER OF TWO SCHOOL SYSTEMS NOT ACCRETIVE

When the Southgate Community School District annexed the neighboring Heintzen Public School District, the Michigan Employment Relations Commission (MERC) found that the situation involved "the formation of one unit from the merger of two former bargaining units," instead of an expanding unit situation. Moreover, the MERC held that "the bargaining unit of the annexing district has been so substantially changed that it can no longer be considered the same bargaining unit so as to be governed by the contract bar provisions" of the state's bargaining statute. The MERC accordingly directed that an election be held to determine whether the Southgate Education Association (representative of the former Southgate teachers) or the Southgate Federation of Teachers (which represented former Heintzen teachers as the Heintzen Federation of Teachers) would represent teaching employees of the merged district.

Constituents of the Heintzen district, which operated seven schools and employed about 150 teachers, voted on May 4, 1970, to merge with the Southgate district, operator of eight schools and employer of approximately 210 classroom teachers. Effective that date, the Heintzen district became incorporated into the Southgate district, although former Heintzen teachers continued to be paid according to the terms of a contract between the Heintzen Federation of Teachers and the former Heintzen district which was entered into on April 10, 1970. Former Southgate teachers, on the other hand, were represented by the Association under a contract ending June 30, 1970; negotiation of a successor contract culminated in a May 2, 1970, settlement which was ratified and entered into by the Association and the Southgate district on May 4, the day of the Heintzen annexation vote.

The present action was initiated by the Southgate Federation of Teachers on May 25, 1970, when it petitioned for an election among all certificated teaching personnel of the Southgate district, including employees of the annexed Heintzen district. The Federation claimed that due to the merger, a question of representation was raised and that the normal rules of contract bar were inapplicable. The Association, however, contended that the petition was barred because it was filed during the 90-day insulation period prior to the June 30 expiration date of its contract with the Southgate district. Moreover, the Association argued that the merger did not create such a change in the bargaining unit as to justify finding the normal contract bar rules inapplicable.

Finding that the annexation involved the formation of one bargaining unit from the merger of two former units, rather than a situation of accretion as the two employee organizations contended, the MERC cited the reasoning of the National Labor Relations Board in *National Carloading Corp.* as applicable to the accretion arguments:

> Also important is the fact that we are here confronted with legitimate management action merging categories of employees historically represented by different labor organizations into a single operation in which these employees will work side by side, in similar job classifications and performing like functions. It is also plain that neither group of affected employees is sufficiently predominant to remove any real question as to the overall choice of a representative. In these circumstances, statutory policies will not be effectuated if, through application of ordinary principles of accretion, a bargaining agent is imposed on either segment of the newly integrated operation. Rather, it is our opinion that influences disruptive to industrial peace and a harmonious bargaining relationship will be eliminated only if the conflicting representation claims are resolved through the processes of a Board-conducted election.

The MERC concluded that an election necessarily should be ordered because, while the former Southgate district employed approximately 60 more teachers than the former Heintzen district, "neither group of employees in our opinion is [too] predominant as to remove any real question as to the overall choice of a bargaining representative." As to the Association's contract bar argument, the MERC pointed out that

> the fact that the new contract between the [Association] and the [Southgate district] anticipated in certain provisions the proposed merger of the two school districts cannot serve to extend representative status to the [Association] after the merger . . . . Thus, to hold the new contract executed by the [Southgate district] and the [Association] during the insulated period bars an election herein would mean that the Federation would not be accorded an opportunity to test the representation of the employees of the merged districts until the expiration of the new contract, which result we find to be repugnant to the policy and purposes of [the bargaining statute]. To find a contract bar in such circumstances would, in effect, prevent the employees of the annexed district, who had no voice in the contract alleged as bar, from exercising a meaningful choice as to who should be their collective bargaining representative for a period up to three years, and would thwart rather than further the objective of labor peace which the election provisions of [the bargaining statute] attempt to promote.

The Association won the October 1970 representation election when it received 181 votes to the Federation's 170 votes. Three votes were cast for neither organization. (*In the Matter of Southgate Community School District and Southgate Federation of Teachers and Southgate Education Association*, Michigan Employment Relations Commission, September 22, 1970.)

TEACHING FELLOWS UNIT REPRESENTATION DISPUTE REMANDED FOR LACK OF SUFFICIENT RECORD

Representation proceedings "must be supported by 'competent, material and substantial' evidence" for which the party seeking a favorable ruling ultimately is responsible, according to the Michigan Employment Relations Commission (MERC). In considering a petition by the University of Michigan Teaching Fellows Union for an election in a unit of teaching fellows, the MERC held that a record comprised only of a petition and a stipulation as to the existence of a particular job classification constitutes insufficient evidence for determining the appropriateness of the unit sought and directing an election. However, under the circumstances of the case and the "first impression" nature of the procedural issue raised, the MERC remanded the matter to the trial examiner for further hearing, instead of dismissing the union's petition.

In seeking an election among teaching fellows at the university's Ann Arbor and Dearborn campuses, the union presented "a very limited case" by asking that the original petition be received as an exhibit and obtaining the university's "agreement to a stipulation to the existence of a teaching class at the University entitled 'teaching fellows.'" The university, however, took the position that persons in this job classification are students rather than employees within the meaning of the state's Public Employment Relations Act (PERA), disputed the appropriateness of the unit, and argued that the union had placed no evidence in the record establishing the appropriateness of its unit. In addition, the university argued that the union's case was so inadequate as to provide no basis for requiring a university response; it accordingly moved that the petition be dismissed.

The union asserted that it had met any evidentiary burden placed upon it and that the record supported the direction of an election because it contained no evidence in opposition to the petition. According to the MERC, the union

> argued that it need merely show a "recognizable" unit and that it has done so by eliciting the stipulation that a classification of teaching fellows exists. It is then the obligation of the objecting party to respond and prove that the unit is not appropriate. The [union] appears to concede that it does have a burden of going forward but it maintains that it has satisfied that burden by the evidence it has put in . . . . The [union] would have the Employer support its objections by evidence. The [union] argues that it does not have to show that other classifications are not in the unit, but, rather, the Employer "has the burden of coming forward to show that the petition does not lie." Absent this, there is no occasion for the taking of evidence until the Employer raises an issue.

In response, the university argued that the union had the minimal obligation of establishing the fact that there was a community of interest sufficient to warrant the unit finding sought in its petition. "Only after that has been established does the Employer come under the burden, if it objects to the unit, of going forward with evidence rebutting the [union's] evidence. Merely offering the petition and identifying the classification does not meet the burden required of the [union]," according to the university.

Examining the "basic elements of procedure in a representation case," the MERC pointed out that the premise fundamental to proceedings under the PERA is that "representation proceedings are investigatory and not contested or adversary proceedings." However, "it is clear" in representation cases that "the ultimate product of the hearing must be a record upon which the Commission may properly act." The MERC explained that

> the minimum amount of evidence which the petitioner must place in the record is sufficient evidence that, if nothing further were added, the record would support the finding sought by the petitioner. In this sense there is a burden or obligation upon the Petitioner to go forward with the evidence to the point that, absent contradictory evidence, a finding could be made in favor of the Petitioner . . . . If the Petitioner neglects to place in the record facts supporting the appropriateness of the unit and the Employer chooses not to supply further evidence, then the sum total of record evidence may not support the petition and it must fall.

The MERC concluded that it is the petitioner's responsibility initially to define and establish the existence of an appropriate unit, explaining that

> the fact that the petition seeks a unit limited to certain classifications, by its own terms puts the Commission on notice that other classifications exist. If other classifications exist, then the appropriate unit must be defined and appropriateness shown. Even if no objection is raised by the opposite party, in the absence of a specific stipulation, any position asserted is subject to our appraisal . . . . [The union] avers that the petition, together with the stipulation that the classification named therein exists, is sufficient evidence. We do not so find. The petition is only an initiatory document and is not dispositive of the issue of representation.

Determining that "the dispute appears to have arisen out of good faith actions by the parties," the MERC remanded the action for further hear-

ing because "the record contains insufficient evidence to support a finding that the unit is appropriate." (*In the Matter of University of Michigan and University of Michigan Teaching Fellows Union*, Michigan Employment Relations Commission, August 10, 1970.)

NEW JERSEY

NEWARK TEACHERS RELEASED FROM NONPROFESSIONAL DUTIES FOR REMAINDER OF SCHOOL YEAR

Of four grievances submitted to arbitration and dealing with teachers' nonprofessional duties, personal leave for permanent substitute teachers, make-up time for striking teachers, and the interpretation of a contractual welfare provision, an arbitrator sustained the Newark education board in one and the Newark Teachers Union in the other three. The arbitrator's awards were final and binding according to the parties' 1970-71 negotiated grievance procedure (which expired January 31, 1971) and were rendered during negotiation of a successor contract.

In regard to the first grievance, the arbitrator found himself bound to enforce contractual provisions distinguishing between professional and nonprofessional employees, establishing functions and responsibilities common to each, and specifying that "professional employees shall be released from assignments involving non-professional duties." Determining that hall duty, playground duty, and similar activities complained of by the union "are surely not those of a professional class, and are, therefore, excluded from responsibilities of the professional teacher," the arbitrator directed that the teachers "be immediately released from all nonprofessional duties" for the remainder of the 1970-71 school year.

A claim by long-term substitute teachers that they should receive the three days of personal leave provided by the 1970-71 contract was, however, denied by the arbitrator. He found it "quite evident" that the agreement classified and treated long-term substitutes and teachers differently, thereby compelling the "inevitable conclusion" that substitutes were exempt from the contract's personal leave provisions.

During a lengthy strike conducted by the union in February 1970, a state mediator working with the parties indicated in his notes that the school board agreed to assign volunteering teachers a maximum of 10 days' make-up time so they could earn back pay lost during the strike. The board later refused to assign make-up time on grounds that such a provision was not written into the contract. The arbitrator here pointed out that memoranda and letters of understanding reached by contracting parties are included by reference in the agreement proper. Thus, the "memorandum notes of [the mediator] must be treated with the dignity and value commensurate to the importance of his participation in the negotiations," and must be considered part of the agreement "by reference." The arbitrator accordingly held that Newark teachers were entitled to 10 days' pay "or the difference between the time permitted them and the ten days provided for in the letter of understanding."

The fourth grievance submitted to arbitration arose from a dispute over Art. XIII of the parties' agreement, which provides that

> the board and the union agree to research the structure and operation of a Joint Welfare Fund for the benefit of the employees in the unit to be jointly administered by the board and the union. The parties agree to negotiate concerning implementation and amount of the fund in contract negotiations scheduled to begin on or about October 1, 1970.

According to the Newark board, it never had agreed to the fund in principle, despite the mediator's memorandum to the contrary. The arbitrator, however, found that he could not support an argument "which in effect states that only the recollection of the Board of Education is accurate and that the notes of [the mediator] and the union are incorrect. The findings of [the mediator] must be regarded as accurate and truly reflect the agreements and understandings of the parties." Concluding that the provision's language "accurately reflects the agreement of the parties," the arbitrator held:

> I find that the board of education has violated [the welfare] provision in its refusal to comply with its terms.
>
> I direct the board of education to cease and desist in its refusal to research the structure and operation of the joint welfare fund and to negotiate in good faith the implementation and amount of the fund in accordance with Article XIII of the collective bargaining agreement.

(*In the Matter of Arbitration between Newark Teachers Union, Local 481 and Newark Board of Education*, October 15, 1970.)

RHODE ISLAND

MISUNDERSTANDING OF SCHOOL BOARD NEGOTIATOR'S ACTIVITY NOT AN UNFAIR LABOR PRACTICE

A decision of the Rhode Island State Labor Relations Board (SLRB) held that the North Providence School Committee did not commit an unfair labor practice by failing to implement a proposed contract clause dealing with the detention duties of high-school teachers. As a "misunderstanding" arose over the legal effect of a

"Work Agreement" signed by the school committee's chairman, the SLRB ruled that the school committee had not "intentionally committed an act which would make them guilty of an unfair labor practice." In so ruling, the SLRB merely ordered the school committee to implement all of the terms of the agreement signed by it and representatives of the North Providence Federation of Teachers, AFL-CIO, Local 920.

During contract negotiation, the detention duty clause was initialed by both parties' bargaining representatives. Then when a document designated the "Work Agreement of the Parties" and containing the clause was drawn up on September 17, 1969, it was signed by the president of Local 920 and the chairman of the school committee; although all school committee members (except one) and many members of the union's negotiating committee were present at this session, no one else signed the document.

In October 1969, a dispute arose as to whether the detention duty clause was included in the contract, and the union entered an unfair labor practice charge with the SLRB. During a hearing, the school committee chairman testified that he had not intended to bind the committee when he signed the work agreement, and that he thought the entire committee had to sign the final agreement before it was official. Committee members also testified that they believed "that any proposals initialed or approved by the committee's negotiator must be resubmitted to them for final approval before it was official."

Concluding that a misunderstanding had arisen, the SLRB explained that

> the Committee thought that any final agreement would have to have their ultimate approval and that [its negotiator] had to bring all proposals back to them. The teachers thought [the school committee's negotiator] could bind the Committee by initialing proposals and also that the Chairman of the Committee could bind it by signing the Work Agreement. The Board feels that all the evidence presented shows that the Committee entered into a legally, enforceable agreement at least on September 17 when its Chairman signed the Work Agreement. Because of the misunderstanding over the legal effect of this action, however, . . . the Board finds that the Respondents are not guilty of an unfair labor practice but does order them to implement all of the terms of the agreement signed on September 17, 1969.

(*In the Matter of Rhode Island State Labor Relations Board and North Providence School Committee,* Rhode Island State Labor Relations Board, March 31, 1970.)

Negotiation Notes

ILLINOIS

STATE ANTI-INJUNCTION STATUTE RULED APPLICABLE TO COUNTY NURSING HOME EMPLOYEES

While vacating a permanent injunction issued by a circuit court against striking and picketing nonsupervisory employees of a county nursing home, the Illinois Supreme Court nevertheless held that the employees' violation of the injunction's "prohibitions and restraints warranted punishment for contempt." Citing *Peters v. South Chicago Community Hospital* in which the Illinois anti-injunction act was ruled applicable to employees of a nonprofit hospital, the court determined that the act similarly was applicable here; consequently, the preliminary injunction erroneously was issued. However, the court emphasized that an injunction "must be obeyed . . . until it is reversed for error by orderly review . . . . Disobedience of such an injunction is contempt of the lawful authority of the court and punishable as such." The state supreme court accordingly affirmed various fines and jail sentences levied by the circuit court against certain employees of the Peoria County Bel-Wood Nursing Home for contempt.

MASSACHUSETTS

MUNICIPAL EMPLOYEE BARGAINING STATUTE AMENDED TO ALLOW NEGOTIATION OF AGENCY SHOP CLAUSES

An amendment to sec. 178L of the Massachusetts Municipal Employee Relations Act provides that nothing shall prohibit a municipal employer from requiring payment of an agency service fee as a condition of employment if such a clause is contained in a negotiated agreement. Enacted by H.B. 4658, L. 1970, the amendment became effective September 22, 1970, and reads:

and (6) nothing in this chapter shall prevent a municipal employer, which has duly accepted section seventeen G of chapter one hundred and eighty, from requiring, as a condition of employment, during the life of a collective bargaining agreement so providing, the payment on or after the thirtieth day following the beginning of such employment or the effective date of such agreement, whichever is later, of an agency service fee to the employee organization whichever, in accordance with the provisions of this chapter, is duly recognized by the employer or designated by the state labor relations commission as the exclusive bargaining agent for the unit in which such employee is employed; provided, however, that such agency service fee shall not be imposed unless the collective bargaining agreement requiring its payment as a condition of employment has been formally executed, pursuant to a vote of a majority of all employees in such bargaining unit present and voting. Such agency service fee shall be proportionately commensurate with the cost of collective bargaining and contract administration.

Three other amendments to the act modified portions of the statute relative to a school board's designation of its bargaining representative, the costs adhering in arbitration proceedings, and the force of collective agreements in the face of police and fire regulations. Specifically, S.B. 1225, L. 1969, deleted a portion of sec. 178I of the act which had provided that a "school committee shall not designate an attorney as its [bargaining] representative unless it is so authorized by vote of the city council, in the case of a city, or of the town meeting, in the case of a town."

Sec. 178K of the act was amended by Ch. 445, L. 1970, to provide that the cost for the use of arbitration tribunals other than the state board of conciliation and arbitration "shall be divided equally between the municipal employer and the employee organization." This amendment became effective September 14, 1970.

The fourth amendment, effective August 18, 1970, altered sec. 178I of the act to provide that if any provision of a negotiated municipal employment agreement conflicts with any law, ordinance, or bylaw, such law, ordinance or bylaw shall prevail "over any regulation made by a chief of police pursuant to section ninety-seven A of chapter forty-one or by the chief or other head of a fire department under the provisions of chapter forty-eight."

NEBRASKA

STATE LABOR TRIBUNAL POWERLESS TO INTERVENE IN CONSENT ELECTIONS ABSENT AN INDUSTRIAL DISPUTE

The Nebraska Court of Industrial Relations dismissed a motion seeking its authorization of

election notice and ballot forms and its appointment of an election supervisor in finding that, in the absence of a dispute between the parties to an election, it has "no duty, power, or authority to do anything until it is informed of [the] results of an election." In examining portions of the state's public employee bargaining law (which is separate from the teachers' bargaining law) and interpreting a state supreme court decision, the court voiced its "conviction that the legislative system of leaving balloting procedure to the imagination and convenience of the parties by agreement rather than straitjacketing every single case into a uniform rule should be given a chance to work."

Prior to enactment of the statute, the Nebraska Supreme Court held in *IBEW v. City of Hastings* that

> in the absence of express statutory authority . . . the Court of Industrial Relations has no power to compel . . . government . . . to bargain or negotiate with a labor union . . . and [no] power to require the parties, by "communication" in good faith, to eliminate or define their controversies . . . . However desirable . . . a court encouraged voluntary settlement might seem in effectuating the policies of the statutes, the statutory grant of power does not extend to the order here.

In the instant matter the court noted that its jurisdiction statutorily may be invoked when any industrial dispute exists between certain public employee parties, and that it is granted authority to engage in five specifically defined actions and/or services. Moreover, a portion of sec. 48-816 of the statute, as amended, provides:

> Before an industrial dispute with respect to representation is recognized as such, the parties may mutually agree to a secret ballot procedure to determine questions of representation for purposes of collective bargaining, for and on behalf of employees. The Court of Industrial Relations shall be immediately informed of the results, and the Court shall inform the parties that the employees have designated a bargaining agent, and so shall certify the proper bargaining agent.

Finding that "here there is no allegation of controversy . . . and no industrial dispute of which the court has jurisdiction," the court determined that the actions urged by the parties

> do not come within any of the five numbered grants of authority . . . extended [by statute] to the court . . . . It seems to us that under the [statute] the court has no duty, power, or authority to do anything until it is informed of results of an election. The [employer's] argument as we construe it is that the setting by the court of formal rules of election and ballot procedures will be helpful to governmental units and employees thereof in this and future cases thus avoiding the arising of an industrial dispute or controversy. It seems to us that the legislature quite reasonably might have provided such authority to make state-wide rules which the parties could easily follow, but that the legislature did not do so, preferring to leave each and every detail of the balloting "procedure" free for resolution by mutual agreement of the parties, so that such procedures could vary from place to place and time to time as the parties would mutually agree was most expedient and convenient for them. Only when a detail could not be agreed upon would a controversy or industrial dispute arise.

Commenting "by way of dictum or any extrajudicial duty we may have . . . to effectuate the public policy," the labor court found "no plain error" in the election notice and ballot forms involved, and no reason why a court member in his private capacity could not be engaged by the parties as an election supervisor.

NEW JERSEY

NEW DIRECTOR APPOINTED TO PERC

Maurice J. Nelligan, Jr. was appointed executive director of the New Jersey Public Employment Relations Commission (PERC), replacing Louis Aronin, who resigned December 16 to move to a position with the Civil Service Commission. Nelligan previously served as a National Labor Relations Board attorney in Baltimore, Md., and Newark, N.J., and acted as deputy executive director of the PERC during the past year. John J. Harper, former New Jersey State Nurses' Association counsel, replaced Nelligan as deputy executive director.

OHIO

LOWER COURT'S INVALIDATION OF MUNICIPAL AGENCY SHOP CLAUSE AFFIRMED

The Montgomery County Appeals Court upheld a decision of the county common pleas court (NRD, 6-70, 4) which ruled that an agency shop clause contained in an agreement between the city of Dayton and the Dayton Public Service Union, Local 101, "is in direct conflict with the general law of this State and . . . does not accomplish a governmental, public or municipal purpose as distinguished from private, and, in consequence thereof, is ultra vires and invalid." The appeals court likewise found itself bound by judicial precedent in the case of *Hagerman v. City of Dayton* wherein the Ohio Supreme Court concluded that a city ordinance providing for the check-off of city employees' union dues was a local police regulation conflicting with state statutes, and that check-off constituted an improper delegation of power and served no municipal purpose.

The agency shop clause in question provided that bargaining unit members not paying regular

monthly dues to the union should pay a monthly service charge in an amount equal to union dues. Failure to do so would result in the employee's suspension for a minimum of one day for each month he failed to make the payment. When plaintiff and some 95 other nonunion city employees neither authorized the deductions nor intended to do so, the union asked the city to institute disciplinary measures.

The lower court action was brought by plaintiff as an individual, a taxpayer, and a representative of a class of persons similarly situated. That court permanently enjoined the city and the union from effectuating the agency shop clause, deducting any agency shop fees without an employee's express written authorization, and taking any disciplinary action against employees who did not voluntarily authorize such deductions. It cited a portion of the *Hagerman* ruling stating that "we must be realistic and take judicial notice of what is generally known, that the check-off is a means of maintaining membership . . . . The check-off is contrary to the spirit and purpose of the Civil Service Laws of the State."

On appeal, the city and the union argued that the city's action in adopting a rule for disciplining an employee who failed to pay a monthly service charge to a union as required by an agreement was a proper exercise of its constitutional powers of local self-government. The appeals court found the argument "cogent" and additionally noted that a city's civil service employees "have a right to bargain collectively with the city respecting their wages, hours and conditions of their employment and have a right to designate a union to represent them in such bargaining."

However, in limiting the question to whether the agency shop portion of the city's agreement with the union was a police regulation in conflict with provisions of the Ohio Revised Code or was a valid exercise of the city's powers of local self-government, the appeals court ruled that in light of *Hagerman* the lower court's ruling must be sustained. In a separate concurring opinion, one judge noted "considerable merit in the appellants' argument that time has had a depreciating influence upon the holding in the *Hagerman* case, but under the doctrine of stare decisis, any change in existing law must emanate from the Supreme Court of Ohio." Another judge observed in a concurring opinion that *Hagerman* often is cited

> as illustrative of a definitely conservative point of view. Vast changes have occurred and are still occurring in the social, economic and governmental structure which tend to weaken the philosophical basis of that decision . . . . Whether, in the light of present trends, without a wage assignment, the city may observe the agency shop agreement by requiring all employees to support the bargaining agent, is a question which now deserves careful review. It is no longer valid to say that these deductions support only a private, personal and selfish purpose. Satisfactory relations between government and its employees is a matter of the utmost public concern, directly conducive to the general welfare.

PENNSYLVANIA

CERTIFICATIONS UNDER RECENTLY EFFECTIVE BARGAINING STATUTE REPORTED

By late January 1971, the Pennsylvania Labor Relations Board (PLRB) had certified 325 local education associations as representatives of professional bargaining units upon the joint request of the parties involved and according to provisions of the state's Public Employee Relations Act (NRD, 10-70, 13, 30) which became effective October 21, 1970.

According to a Pennsylvania State Education Association (PSEA) tally, PSEA locals have won 15 elections, lost one, won a plurality in one election, tied one, and won all eight "no organization" elections. Of the 10 elections against the American Federation of Teachers (AFT), AFL-CIO, PSEA locals won seven; two run-off elections with AFT locals are to be held soon, according to the PSEA report.

An investigation of 26 unit certifications indicated that 15 involved a unit of classroom teachers, nurses, librarians, and counselors; of these, nine units included various other job classifications. Five more certifications involved units of classroom teachers, nurses, counselors, and other classifications, while the remaining six units comprised various combinations of the job classifications named. As such, teachers were included in all 26 units analyzed, although only full-time teaching personnel under regular contract were to be represented in two units, and part-time personnel were included in one unit. Schools nurses were to be represented in 25 of the 26 units, school librarians were included in 18 of the units, and school counselors were allowed unit representation in 23 instances.

Various other job classifications which gained unit representation included home and school visitors (seven units), dental hygienists (six units), school psychologists (three units), and audio-visual directors (three units). In one instance, department heads and head teachers were included in the teacher bargaining unit, while another unit included attendance personnel.

OTHER ITEMS OF INTEREST

BLS REPORTS RISE IN WHITE COLLAR UNEMPLOYMENT RATES

A report on December 1970 unemployment rates released by the Labor Department, Bureau of Labor Statistics (BLS), revealed that the unemployment rate for white-collar workers rose to 3.7 percent that month from 3.5 percent in November. The number of unemployed white-collar workers was 1,213,000 in December, nearly double the number reported a year ago. Unemployment rates for professional and technical workers rose to 3.0 percent in December from 2.4 percent the previous month, while the rate for clerical employees fell from 5.2 percent to 5.1 percent in December.

On a seasonally adjusted basis, the unemployment rate for all job classifications in December reached a nine-year high of 6.0 percent with the number of unemployed persons at 4.6 million.

The annual unemployment rate for white-collar workers in 1970 rose to 2.8 percent from 2.1 percent in 1969; the rate for professional and technical workers was reported as 2.0 percent in comparison with a 1.3 percent figure in 1969. For clerical workers, the annual unemployment rate rose from 3.0 percent in 1969 to 4.0 percent in 1970.

BLS noted that white-collar unemployment rates, particularly those for professional and clerical workers, registered a pronounced rise during the last quarter of 1970 after remaining unchanged between the second and third quarters.

CONSUMER PRICE INDEX, DECEMBER 1970; NEW BASE FOR STATISTICAL INDEXES ANNOUNCED

Data released by the Labor Department Bureau of Labor Statistics (BLS), indicated that the Consumer Price Index (CPI) all-items figure for December 1970 rose 0.5 percent above the previous month to 138.5 (1957-59=100). The December figure put the CPI 5.5 percent above a year ago, as compared to a 6.1 percent increase registered in the 12 months ending in December 1969.

BLS attributed a large part of the December rise to 0.3 percent advances in the prices of food purchased for home consumption and the prices of nonfood commodities. New car prices rose 1.4 percent that month, and gasoline prices rose again after a November decline. In addition, an 0.6 percent rise in consumer services charges (particularly household services prices) was reported in December, and the costs of medical care services continued to rise significantly. According to BLS, an estimated 107,000 workers will receive cost-of-living wage increases based upon the December CPI; and 68,000 workers will receive pay increases based upon the change in the index since December 1969.

Effective with the release of monthly data for January 1971, a new base reference period—1967=100—will be used for calculating all BLS statistical indexes. For the past nine years, the reference period base used for all federal government indexes has been 1957-59=100. BLS emphasized that only statistical series expressed as indexes will be affected by the change in base, and that the rebasing of an index does not alter percentage changes between index figures over time except for rounding differences.

FEDERAL EMPLOYEES RECEIVE 6 PERCENT PAY INCREASE

Salary increases averaging nearly 6 percent and costing the government an estimated $1 billion this year were granted some 1.3 million federal employees with the January 8, 1971, enactment of the Federal Pay Comparability Act of 1970. Members of the uniformed services will, under existing law, receive raises matching those in the General Schedule as adjusted by the act, and such increases are expected to add another $1 billion to the cost of the act this year.

While attempting to bring more order and regularity into the determination of federal pay by establishing a system of regular, semi-automatic adjustments, the act retains a 1962 Congressional policy declaration that federal salaries be comparable to private wage rates for the same or similar jobs. Comparability is measured by the annual survey of white-collar salaries conducted by the Labor Department, Bureau of Labor Statistics (BLS).

When the machinery of the act becomes fully operative in 1972, the President, with the assistance of an agent of his choosing and two new committees, will make comparability adjustments indicated by the BLS survey in October of each year. No Congressional action will be required unless the President determines that conditions affecting the general welfare require preparation of an alternative to the comparability adjustment system; in this event, Congress must approve or disapprove the President's alternative plan.

HEAVY BARGAINING TO CONTINUE IN 1971

The Labor Department, Bureau of Labor Statistics (BLS), reported that collective bargaining during 1971 will continue to be heavy as some

10 million workers are covered by major agreements which either expire or contain wage reopeners, or provide for deferred wage increases this year. BLS stated that the average package increase—wage hikes plus deferred benefit improvements—will be 8.3 percent this year in agreements covering 5,000 or more workers; the comparable figure for 1970 was 5.6 percent.

Contracts providing for deferred wage increases this year affect 5.2 million workers, and BLS reported that such increases will average 38.1 cents per hour or 7.8 percent of straight-time earnings. In 1970, the comparable figure was 5.6 percent. An estimated 2.5 million workers will benefit from normal cost-of-living escalator reviews, compared to 1.4 million workers in 1970.

Statistics

NEGOTIATION AGREEMENTS: TEACHER PERFORMANCE OF NONINSTRUCTIONAL SERVICE DUTIES

The NEA Research Division's analysis of 978 negotiated classroom teacher agreements effective during the 1968-69 school year in systems with a pupil enrollment of 1,000 or more identified 416 (42.5 percent) with provisions concerning teacher performance of noninstructional service duties. Of the 416 provisions, 21 established joint committees to study the need for noninstructional service duties and/or the personnel who should perform these duties. The remaining 395 provisions contained specific content relative to the performance of duties which generally can be categorized as the supervision of students and student extracurricular activities, the collection and tabulation of money, administrative and clerical tasks, and miscellaneous assignments.

A majority (52.4 percent) of the 395 pertinent provisions designated both the duties teachers would be required to perform, and those they would not be required to perform. Of the remaining provisions, 42.8 percent indicated only those duties teachers were not required to perform, while 4.8 percent listed only the duties teachers were required to perform.

Table 1 indicates the general content of the 416 provisions analyzed. Succeeding tables present a detailed analysis of the four major content areas and compare the number of agreements requiring or not requiring teacher performance of a specific duty. The categories listed in the tables are not mutually exclusive, and the analysis is limited to what appears in written negotiation agreements; no attempt is made to cross-reference the analyzed provisions with other negotiated content which indirectly may affect the performance of noninstructional service duties. In addition, peripheral and/or unrelated subject matter has been deleted from some sample provisions reprinted here.

TABLE 1.—GENERAL NEGOTIATED CONTENT OF 416 PROVISIONS PERTAINING TO TEACHER PERFORMANCE OF NONINSTRUCTIONAL SERVICE DUTIES, 1968-69

General content	Agreements containing designated content	
	Number	Percent
1	2	3
TOTAL NUMBER OF PROVISIONS	416	...
PROVISIONS ESTABLISHING JOINT COMMITTEES	21	...
PROVISIONS CONTAINING SPECIFIC NEGOTIATED CONTENT	395	100.0%
Teachers required to perform noninstructional service duties	19	4.8
Teachers not required to perform noninstructional service duties	169	42.8
Teachers required to perform some noninstructional service duties and not others	207	52.4

Many of the provisions analyzed were prefaced with a statement of teacher-board philosophy recognizing that a teacher's primary responsibility is teaching and that the various noninstructional duties diminish the amount of time and energy a teacher can devote to instruction. As such, 126 (31.9 percent) of the 395 pertinent provisions provided for teacher aides and/or secretarial, clerical, and data processing assistance; of these, 23 provisions indicated that paraprofessionals or mechanical aids would *assist* teachers with noninstructional duties, and 103 provided aid to *relieve* teachers of all responsibility for such duties. Forty-three agreements provided that when teachers were required to perform non-instruc-

tional service duties, these duties *were* assigned on a rotating or other equitable basis. Twelve of the provisions which did not require teacher performance of noninstructional tasks stated that in cases of emergencies, inclement weather, or other unusual circumstances, teachers would be expected to perform the tasks. Sample provisions are:

A. The Board and the Association acknowledge that a teacher's primary responsibility is to teach and that his energies should, to the extent possible, be utilized to this end. Therefore, the Board agrees to make every effort to reduce the following non-teaching duties through the use of teacher aides and part-time clerical assistants:

1. Non-teaching assignments including supervision of building and grounds, cafeterias, and study halls.
2. Duplicating instructional and other materials and calculating attendance records.
3. Issuing return slips.
4. Collecting money from students for non-educational purposes. (Phoenix, Arizona)

* * *

When a teacher assumes a position in the Old Lyme School System it should be understood that his duties and responsibilities are not limited to just those involved in classroom teaching. A teacher has special responsibilities within the school or school system. These include supervision of students in the cafeteria; on the playground and in the school building; membership on committees such as curriculum development; chaperoning of social activities and trips; and any others deemed necessary by the administration. The administrative staff is charged with assigning those responsibilities equitably.

The Board and the Association further agree that a teacher's primary responsibility is to teach and that his energy should, to the extent possible, be utilized to this end. The Board and the Association recognize that teacher aides and part-time clerical and non-teaching employees are useful and necessary in order to implement this principle. (Old Lyme, Connecticut)

* * *

A. The Committee and the Association acknowledge that a teacher's primary responsibility is to teach and that his energies should, to the extent possible, be utilized to this end. Therefore, they agree that every effort will be made to insure that, in the shortest possible time, teachers will not be required to perform the following duties:

1. Non-professional assignments, including but not limited to milk distribution and supervision of play-grounds, cafeterias, corridors, sidewalks and busses.
2. Health services, such as administering eye or ear examinations and weighing and measuring pupils.
3. Collecting money from students for non-educational purposes. Although teachers may be required to collect and transmit money to be used for educational purposes, they will not be required to tabulate or account for such money, nor shall they be held responsible for the loss of any such money.
4. Delivering books and other materials to classrooms, duplication of instructional and other materials, keeping registers and cumulative record cards, preparing report cards and other similar clerical functions.

* * *

C. A Study Committee composed of three (3) members appointed by the Association and three (3) members appointed by the School Committee will be established within at least thirty (30) days of the date on which this Contract becomes effective to determine the most effective ways of utilizing teacher aides, and the recommendations will be submitted to the Superintendent of Schools for transmission to the Committee. Said Study Committee will submit a progress report not later than sixty (60) days after the committee is established. (Greenfield, Massachusetts)

* * *

A. The Board and the Association recognize that a teacher's primary responsibility is to teach and that his energy should, to the extent possible, be utilized to this end. The Board and the Association recognize that teacher aides and school aides are useful and necessary in order to implement this principle. Therefore, the parties agree to establish the following programs as of February 1, 1967 and to fully implement tham as soon as practicable thereafter:

1. A teacher aide program funded under Title I of the Elementary and Secondary Education Act of 1965 providing for at least 214 teacher aides to work in designated schools six (6) hours per day to assist teachers and relieve them of such duties as supervision of cafeterias, play-grounds, halls, sidewalks and buses; attendance, typing, record keeping and similar clerical duties; preparation, duplication and mimeographing of instructional materials; distribution and inventorying of books and library assistance; collecting and tabulating money; and preparing and showing audio-visual materials.
2. A school aide program providing for at least 115 school aides to work three (3) hours per day in schools not covered by the program described in paragraph 1, to relieve teachers of such duties as supervision of cafeterias, playgrounds, halls, sidewalks and buses; attendance, typing, record keeping and similar clerical duties; preparation, duplication and mimeographing of instructional materials; distribution and inventorying of books and library assistance; collecting and tabulating money; and preparing and showing audio-visual materials.

B. Negotiations over expansion of the programs described in Section A, shall not take place until the negotiations under Article II commencing in December 1968 for the 1969-1970 school year. (Newark, New Jersey)

Supervision of Students and Extracurricular Activities

The category of noninstructional duties most often mentioned was supervision of pupils during the regular school day, either on school property or in transit to and from school. Table 2 lists the duties according to the area of supervision and indicates that while teachers were required to perform such tasks in 98 provisions, they were relieved of responsibility in 122 provisions. Moreover, these were the duties for which aides most often were hired. Teachers tended to be required to perform supervisory duties necessitating the exercise of professional discretion or involving activities which took the place of regularly scheduled classes. Outdoor duties and indoor cafeteria duties most often were not required of teachers.

Table 2 also indicates that teachers were required to perform duties related to student extracurricular activities in 64 provisions, but were relieved of such responsibilities or allowed voluntary participation in 21 provisions. The duties most often mentioned were supervision, chaperoning, and sponsorship of student activities; the only task which teachers most often were not required to perform was collecting tickets. Sample provisions relative to teacher performance of noninstructional supervisory duties are reprinted following the table.

TABLE 2.—DUTIES RELATED TO THE SUPERVISION OF STUDENTS AND EXTRACURRICULAR ACTIVITIES, 395 PERTINENT PROVISIONS, 1968-69

Supervisory duties	Agreements containing designated content			
	Duties required		Duties not required	
	Number	Percent	Number	Percent
1	2	3	4	5
TOTAL NUMBER OF PERTINENT PROVISIONS	395	100.0%	...	...
Teacher performance of student supervision duties	98	24.8	122	30.9%
On school property generally	8	2.0	1	0.3
Cafeteria	48	12.2	94	23.8
Playground	44	11.1	72	18.2
Bus loading	35	8.9	42	10.6
Corridors	40	10.1	25	6.3
Study halls	29	7.3	13	3.3
Patrol or traffic duty	1	0.3	15	3.8
Sidewalks	1	0.3	10	2.5
Detention room	9	2.3	2	0.5
Lavatories	5	1.3	5	1.3
Student assemblies	9	2.3	1	0.3
On buses	2	0.5	2	0.5
Library, locker room, off-campus areas	...	...	3	0.8
Teacher performance of extracurricular activities duties	64	16.2	21	5.3
General supervision	34	8.6	11	2.7
Sponsorship of clubs or classes	30	7.6	5	1.3
Chaperoning	17	4.3	6	1.5
Attendance at events	8	2.0	3	0.8
Collecting tickets	2	0.5	7	1.8

B. Teachers are expected to assume the responsibility for the sponsorship of at least one extra-curricular activity. Such assignment should be within the teacher's field of interest to the extent possible. First year teachers may be exempt from extra curricular assignments by the recommendation of the Campus Committee. Student demand and interest in the activity, teacher interest, experience or skill in the activity, and the contribution the activity makes to the school program are factors to be reconciled by the Campus Committee and Professional Council in reviewing the record of extra-curricular program and teacher assignment for 1969-70. (Phoenix, Arizona)

* * *

D. Teacher participation in extra curricular activities will be strictly voluntary and teachers will be compensated for all such participation in accordance with the provisions of Appendix "A" of this Agreement. (Greenfield, Massachusetts)

* * *

1. Teachers will be expected to perform pupil supervisory tasks as assigned on an equitable basis by the Principal or Director.
2. Teachers will be expected to act as advisors to a class and to sponsor some worthwhile club activity.
3. It is also expected that all teachers will support student activities by frequent appearance at musical programs, plays, sports events, open house, etc. (Wrentham, Massachusetts)

* * *

Section 3: Teachers shall not be assigned, with or without extra compensation, to tasks which are essentially non-professional, specifically:

a. Selling and taking tickets at athletic events;
b. "Crowd handling" at athletic events;
c. Chaperoning and/or driving buses to athletic events;

. . .

f. Chaperoning student activities of a predominantly social nature.

Section 4: Nothing in this agreement shall prevent teachers from voluntarily performing such tasks as set forth in Section 3 above outside regular school hours at compensation satisfactory to them. A volunteer list for performance of duties is to be circulated by the building principal at the beginning of the school year. (Battle Creek, Michigan)

* * *

4. The Board and the Association recognize a teacher's duties as professional duties which cannot be confined to a fixed number of hours per day or per week. The teachers' responsibilities to their students and their profession entail the performance of duties and the expenditure of a reasonable amount of time beyond regular classroom duty hours and the teachers will continue to . . . assist in student extracurricular activities, supervise student functions, and perform similar assignments which are a part of this basic professional responsibility. (Pontiac, Michigan)

Collection and Tabulation of Money

The second most frequently mentioned category of duties involved the collection and tabulation of various monies. Such duties were required in 50 provisions and not required in 79 provisions, as indicated in Table 3. With the exception of charities, all of the collections mentioned were for school related programs. Although the provisions most often relieved teachers of monetary responsibilities, there was no clear tendency to abolish certain duties and retain others. However, when provision language distinguished between collecting and tabulating money for "educational" and "noneducational" purposes, the tendency was to require teacher participation for educational purposes and not require it for noneducational purposes.

Administrative and Clerical Duties

Teachers generally were not required to perform administrative and clerical duties which did not require professional judgment and which could be performed outside the classroom. Of the 78 provisions relieving teachers of various clerical tasks, 20 provided for the hiring of secretarial and clerical aides, four stated that standardized tests would be machine scored, and three provided for the computerization of records. Forty-four provisions required teacher performance of clerical tasks, but some provided assistance in the form of secretarial and clerical aides (four provisions), the computerization of records (one provision), and the machine scoring of standardized tests (one provision). As indicated in Table 4, teachers more often were not required to perform each type of clerical duty than they were required to perform them, except in the areas of attendance taking and marking report cards. In those instances, however, teachers usually were required to make the initial tabulation or evaluation, but often were relieved of keeping cumulative records.

TABLE 3.—DUTIES RELATED TO THE COLLECTION AND TABULATION OF MONEY, 395 PERTINENT PROVISIONS, 1968-69

Monetary duties	Agreements containing designated content			
	Duties required		Duties not required	
	Number	Percent	Number	Percent
1	2	3	4	5
TOTAL NUMBER OF PERTINENT PROVISIONS	395	100.0%	...	...
Teacher performance of monetary duties	50	12.7	79	20.0%
All monies generally	6	1.5	14	3.5
Money for noneducational purposes	11	2.7	44	11.1
Money for educational purposes	21	5.3	6	1.5
Lunch or milk money	14	3.5	13	3.3
School insurance payments	9	2.3	11	2.7
Student contributions to charities	6	1.5	5	1.3
Student picture money	2	0.5	7	1.8
Money for school bank	4	1.0	2	0.5
Various student fees	...	...	5	1.3
PTA dues	1	0.3	3	0.8
Book rental fees	...	...	4	1.0
Payments for school magazines and albums	...	...	3	0.8

Of the provisions pertaining to administrative assignments, one stated that under unusual conditions teachers could be asked to assume a principal's duties for one day only. Four of the six provisions which did not require teacher performance of administrative duties defined the duties only in general terms, while the remaining two provisions identified the duties as office assistance. Examples of provisions dealing with teacher performance of various administrative, clerical, and instructional materials duties are reprinted following Table 4.

TABLE 4.—ADMINISTRATIVE AND CLERICAL DUTIES, 395 PERTINENT PROVISIONS, 1968-69

Administrative and clerical duties	Agreements containing designated content			
	Duties required		Duties not required	
	Number	Percent	Number	Percent
1	2	3	4	5
TOTAL NUMBER OF PERTINENT PROVISIONS	395	100.0%	...	...
Teacher performance of clerical duties	44	11.1	78	19.8%
General clerical work	6	1.5	15	3.8
Attendance taking	11	2.7	4	1.0
Keeping or computing attendance records	19	4.8	32	8.1
Marking report cards	8	2.0	3	0.8
Keeping or computing pupil progress records	5	1.3	17	4.3
Scoring standardized tests	3	0.8	25	6.3
Typing and duplicating	13	3.3	31	7.9
Collecting, sending, and issuing various forms; correcting tests and papers	3	0.8	17	4.3
Teacher performance of instructional materials duties	14	3.5	38	9.6
Collection and distribution	7	1.8	30	7.6
Inventory	10	2.5	22	5.6
Teacher performance of administrative duties	1	0.3	6	1.5

d. The school committee recognizes the fact that the keeping of attendance registers and the making of monthly, semi-annual, and annual attendance reports is an administrative responsibility rather than a responsibility of a classroom teacher, and agrees as soon as possible within the school year 1968-1969 to remove this from the classrom teacher; however, teachers are responsible to report absences, tardiness, and dismissals to the properly designated authority. (Beverly, Massachusetts)

* * *

A. The Committee and the Association agree that a teacher's primary responsibility is to teach and that his energy should, to the extent possible, be utilized to this end. The Committee and the Association recognize that teacher-aides and part-time clerical employees and others are useful and necessary in order to implement this principle. Therefore, to the extent that funds are available for the employment of teacher-aides and part-time clerical employees, the parties agree to the following priority objectives:

. . .

2. Teachers shall be relieved of distribution and inventorying of books and supplies except in their own classrooms, preparing and sending form letters to parents and other similar clerical functions, which do not require the exercise of professional judgment.

. . .

7. Teachers shall be relieved of duplicating instructional and other materials, keeping registers and cumulative record cards, preparing report cards and other similar functions. (North Reading, Massachusetts)

* * *

2(a). The Committee agrees to employ fifteen (15) teacher aides for three (3) hours each day beginning with the 1967-68 school year in order to relieve teachers, to the extent possible, from performing non-teaching administrative and clerical tasks.

(b). A joint School Committee-Association Study Committee will be established as soon as practicable to determine the most effective method of utilizing said aides. (Pittsfield, Massachusetts)

* * *

N. The Board and the Association agree that a teacher's primary responsibility is to teach, and that his energies should be utilized to this end. The Board and the Association recognize that there are certain non-teaching and clerical responsibilities in relation to the orderly conduct of his classroom which are a part of the school program and which the teacher must perform; however, the teacher shall not perform the following: money collecting; book inventories; correction and recording of standardized tests; transferring of grades; end of period attendance totals on CA-10's and mailing of report cards, except that teachers shall collect for pictures, weekly news magazines, and book clubs and shall correct end of basal reading book tests. Non-machine scorable tests shall be scored by persons qualified by virtue of teacher training and experience, other than regularly assigned employees of the district and paid at a reasonable rate. (North Dearborn Heights, Michigan)

* * *

Pupil attendance record keeping will be done by aides or by machines with the exception of taking roll call and reporting attendance. (Philmont, New York)

* * *

A. The Board and the Association agree to study the problem of pupil attendance record keeping, with the objective or relieving each teacher of as much of the clerical responsibility as is consistent with adequate attendance and census administration. This study will also investigate the possibilities of automating the record keeping, especially the register. (Syracuse, New York)

* * *

No teacher shall be asked to assume the duties of acting principal in the absence of an appointed principal for more than one day unless a qualified replacement has been assigned to relieve the teacher. (Milwaukee, Wisconsin)

Miscellaneous Duties

Table 5 identifies miscellaneous noninstructional service duties which teachers generally were not required to perform. However, 38 provisions required teacher attendance at meetings such as parent-

teacher conferences, general faculty meetings, open houses, PTA meetings, and departmental, civic, and professional meetings and conferences. Of the five provisions stating that teacher attendance was not required, three referred to attendance at PTA meetings, one specified attendance at civic meetings, and two did not define the type of meeting involved. All 116 provisions mentioning the transportation of students specifically stated that this was not required of teachers; 49 provisions stated such in general terms, 63 provisions relieved teachers of driving buses, and one provision specified that teachers were not required to transport students in their personal automobiles. Sample provisions are reprinted following Table 5.

TABLE 5.–MISCELLANEOUS NONINSTRUCTIONAL SERVICE DUTIES, 395 PERTINENT PROVISIONS, 1968-69

Item	Agreements containing designated content			
	Duties required		Duties not required	
	Number	Percent	Number	Percent
1	2	3	4	5
TOTAL NUMBER OF PERTINENT PROVISIONS	395	100.0%	...	...
Teacher performance of miscellaneous duties	15	3.8	40	10.1%
Pupil health services and tests	4	1.0	25	6.3
Custodial duties	...	...	10	2.5
Milk distribution	1	0.3	8	2.0
Library work, special educational services, maintenance of displays	3	0.8	6	1.5
Teacher attendance at meetings	38	9.6	5	1.3
Teacher transportation of students	...	...	116	29.4

B. Teachers will not be required to drive pupils to activities which take place away from the school building. Teachers may do so voluntarily, however, with the advance approval of their principal or immediate supervisor. In such event, the teacher will be relieved of all personal liability for any accident which may occur in connection with said trip. When transportation is necessary, it shall be by public carrier or Town-owned vehicle. (Greenfield, Massachusetts)

* * *

3. Health services, such as administering eye or ear examinations and weighing and measuring pupils will be performed by appropriate professional personnel.

4. Teachers will not be required to drive pupils to activities which will take place away from school buildings. Teachers may do so voluntarily, however, in authorized vehicles and with the advanced approval of their principal or immediate supervisor. In no event will the School Committee be responsible for the unauthorized driving of pupils. (North Reading, Massachusetts)

* * *

J. Under no conditions shall a teacher be permitted to drive a school bus as part of his regular assignment, unless in extreme emergency such as a tornado or nuclear attack. (Petersburg, Massachusetts)

* * *

Section 1. The Committee and the Association acknowledge that a teacher's primary responsibility is to teach and that his energies should, to the extent possible, be utilized to this end. Therefore, the Committee agrees to employ sufficient teacher aides within the limitation of budget by the opening of school in September, 1967, so that teachers will not be required to perform the following duties:

1. Non-instructional assignments, including but not limited to milk distribution, supervision of cafeterias, buses, lavatories, except for minimum teacher aide supervision necessary for the health and safety of the students.

2. Health services, such as administering eye or ear examinations and weighing and measuring pupils except where directly related to area of teaching.

3. Collecting money from students.

4. When done on a school wide basis, delivery of books to classrooms, preparing text book inventories, duplicating instructional and other materials. However, in direct classroom work, the teachers will still retain responsibility for books assigned to that particular class. Any materials to be duplicated that develop as the teacher's personal requirements dealing with that teacher's class room will continue to be the responsibility of the teacher, and can be made part of their preparation period.

5. Scoring of tests where machine scoring is feasible.

Section 2. Teachers will not drive pupils to activities which take place away from the school building. (Bristol, Rhode Island)

RISE IN AVERAGE ANNUAL SALARIES OF PATROLMEN AND FIREFIGHTERS REPORTED

A study conducted by the Labor Department, Bureau of Labor Statistics (BLS), indicated that the average annual salaries of police patrolmen and firefighters rose approximately 9 percent during the year ending in January 1970. Minimum salary scales for patrolmen averaged $8,477 in January 1970, a 9.1 percent increase above the previous year; maximum salary scales averaged $10,040, an 8.9 percent rise. For firefighters, the minimum and maximum average annual salary scales of $8,076 and $9,508 constituted advances of 8.7 percent and 8.8 percent respectively above the figures recorded in January 1969. The BLS study covered cities with populations of 100,000 or more and found that while minimum and maximum annual salaries for both groups were highest in cities with populations of more than 999,999, the greatest percentage increases in salaries from January 1969 occurred in cities with populations ranging from 250,000 to 499,999.

Regional statistics revealed that in January 1970, the highest annual minimum and maximum salaries for police patrolmen and firefighters were paid by Western states, while the lowest salary scales were found in the South. Minimum annual salary scales for firefighters and patrolmen in the West were $8,854 and $8,987, while comparable figures in the South were $6,737 and $7,029. Maximum scales for firefighters and patrolmen averaged $10,381 and $10,626 in the West, as compared to averages of $8,200 and $8,602 in the South.

The greatest percentage gains in minimum scales over the year for both groups occurred in the North Central region where average annual salaries increased 10.9 percent to $8,577 for patrolmen and 10.0 percent to $8,218 for firefighters. The largest percentage advance over the year in maximum pay for patrolmen (10.2 percent to $10,457) also occurred in the North Central region, while the largest gain for firefighters (9.6 percent) was recorded in the West.

Table 1 presents the average annual minimum and maximum salary scales for police patrolmen and firefighters by city size and region for the period 1965 to 1970.

TABLE 1.—AVERAGE MINIMUM AND MAXIMUM ANNUAL SALARY SCALES OF FIREFIGHTERS AND POLICE PATROLMEN BY CITY SIZE AND REGION, 1965 to 1970

Employee group and year	All cities 100,000 and over	City size group				Region[1]			
		Over 999,999	500,000 to 999,999	250,000 to 499,999	100,000 to 249,999	North-east	South	North Central	West
	Minimum annual scales								
Firefighters:									
1965	$5,633	$6,293	$5,646	$5,310	$5,046	$5,810	$4,678	$5,611	$6,703
1966	5,945	6,808	5,827	5,586	5,265	6,278	4,908	5,830	6,946
1967	6,264	7,033	6,227	5,915	5,614	6,439	5,286	6,365	7,199
1968	6,774	7,672	6,775	6,254	6,061	7,136	5,710	6,722	7,669
1969	7,445	8,618	7,518	6,732	6,584	7,979	6,225	7,472	8,170
1970	8,076	9,354	8,126	7,441	7,085	8,631	6,737	8,218	8,854
Police patrolmen:									
1965	$5,763	$6,193	$5,603	$5,404	$5,134	$5,927	$4,871	$5,655	$6,732
1966	6,173	6,756	5,851	5,746	5,396	6,465	5,111	6,027	7,044
1967	6,482	6,999	6,224	6,061	5,758	6,611	5,482	6,561	7,293
1968	7,039	7,655	6,821	6,412	6,203	7,315	5,935	7,022	7,779
1969	7,768	8,591	7,392	6,903	6,750	8,223	6,518	7,733	8,251
1970	8,477	9,340	8,105	7,670	7,347	8,945	7,029	8,577	8,987
	Maximum annual scales								
Firefighters:									
1965	$6,689	$7,630	$6,607	$6,297	$5,892	$7,054	$5,632	$6,460	$7,816
1966	6,998	8,079	6,835	6,558	6,154	7,439	5,813	6,816	8,090
1967	7,464	8,601	7,356	6,978	6,523	7,865	6,271	7,449	8,401
1968	7,988	9,058	8,049	7,400	7,057	8,357	6,890	7,959	8,886
1969	8,749	10,157	8,830	7,947	7,680	9,224	7,491	8,906	9,470
1970	9,508	10,961	9,695	8,779	8,270	9,934	8,200	9,741	10,381
Police patrolmen:									
1965	$6,919	$7,559	$6,659	$6,390	$6,007	$7,248	$5,891	$6,637	$7,928
1966	7,327	8,007	7,048	6,802	6,321	7,663	6,165	7,178	8,216
1967	7,823	8,547	7,541	7,220	6,717	8,108	6,585	7,865	8,567
1968	8,324	8,998	8,201	7,650	7,235	8,535	7,231	8,394	9,061
1969	9,216	10,154	8,833	8,308	7,914	9,511	7,858	9,485	9,673
1970	10,040	10,985	9,829	9,127	8,560	10,265	8,602	10,457	10,626

Source: U.S. Department of Labor, Bureau of Labor Statistics. "Pay Scales for Firefighters and Police Patrolmen Rose 9 Percent Between January 1969 and January 1970." (News Release) November 30, 1970.

[1] Regions used in these studies are: *Northeast*—Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island and Vermont; *South*—Alabama, Arkansas, Delaware, District of Columbia, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia; *North Central*—Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Wisconsin; and *West*—Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming. Data relate only to cities that had a population of 100,000 or more in 1960.

Special Reports

BRIEFS OF RECENT AGREEMENTS

Boulder, Colorado

Between Boulder Valley School District No. RE-2 and the Boulder Valley Education Association, effective January 1, 1971, to August 31, 1971, except that all compensation matters are effective through December 31, 1971. Approximately 1,200 certificated professional employees. Provision for automatic renewal unless either party reopens any provisions by February 15 of the succeeding year.

Compensation: (stated as a salary schedule index with B.A. base equal to 1.00) B.A., $6,600 (1.00) to $9,768 (1.48), 7 increments; B.A. plus 24 hours, $10,890 (1.65) maximum; M.A., $7,128 (1.08) to $12,078 (1.83), 12 increments; M.A. plus 24 hours, $13,012 (1.97) maximum; Ph.D., $14,124 (2.14) maximum; separate salary index for teachers with experience outside the district and no more than 3 years' experience in Boulder Valley beginning with a B.A. base of $6,864 (1.04); separate salary index for psychologists and social workers allowing for level of preparation and experience and beginning with an M.A. base of $8,448 (1.28); separate salary index for counselors beginning with M.A. base of $8,118 (1.23). Differentials: (for athletics personnel, first year of an eight-year schedule and stated as a percentage of B.A. base) senior high head football and basketball coaches, $646.80 (.098 of B.A. base); senior high head cross country, tennis, and golf coaches, $303.60 (.046 of B.A. base); junior high wrestling and baseball coaches, $231 (.0350 of B.A. base); (for the play, choir or orchestra, and band directors, first year of a nine-year schedule) three-act play directors, $160 per play; choir or orchestra director, $200; band director, $300; radio program director, $350 for approximately 30 programs; audiovisual aids supervisor, $360; weekly newspaper sponsor, $300 if on school time, $600 if after school; yearbook sponsors, $300 to $750 according to school enrollment; student council advisors, $150 in junior high school and $360 in high school.

Leaves: 10 days' annual sick leave (credited at beginning of contract year), unlimited maximum accumulation; 20 additional, consecutive, noncumulative days of personal sick leave per year may be granted at half-pay after the annual sick leave allotment is exhausted; 2 separate days for personal business with such days added to sick leave if not used; absences for bereavement leave and/or serious illness in the immediate family deducted from sick leave accumulation; 2 days' leave at partial pay for "good and sufficient reasons"; paid leave as approved to attend instructional area conferences with board paying "appropriate expenses" incurred and the cost of a substitute teacher; released time as approved to visit schools and industries; leave at half-pay to fulfill military reserve obligations; time off with pay for voting if arranged in advance; paid leave for jury duty or court subpoena.

Insurance: Board provides hospitalization, health, and long-term disability insurance; board-paid liability insurance policy covers district employees acting within the scope of their employment; workmen's compensation and retirement plans as established by state statute shall be provided.

Association: Payroll dues deduction for local association; Association president shall be granted a leave of absence without loss of salary, seniority, or fringe benefits during his term of office with Association reimbursing the district for the cost of his replacement; "information packet" prepared for each board meeting shall be made available to the Association; Association shall be granted 100 days of paid leave for its representatives to attend workshops, conferences, and other organization activities with additional days made available at partial pay; the Association president or his designee shall be allowed to visit schools on organization business provided his presence is made known to the building administrator; building representatives shall be allowed to schedule meetings during lunch periods.

Instruction: Goal of a class size maximum of 25 students in each kindergarten and first grade

class; in all secondary classes except physical education and music, "every reasonable effort shall be made so that the total load shall not exceed a maximum of 750 students per week, exclusive of study hall"; 1 three-hour aide shall be provided in the following instances: every 2 kindergarten sections with an enrollment of 26-28 students, every kindergarten class with an enrollment of 29 or more students, every class in grades 1-3 with an enrollment of 28 or more students, and every class in grades 4-6 with an enrollment of 30 or more students; 1 six-hour aide shall be provided for each elementary class with an enrollment of 35 or more students.

Personnel: Grievance procedure ends with advisory arbitration; teacher has right to review his personnel file and may respond to any derogatory material before placement therein; elementary teachers shall have a minimum of 180 minutes of planning time per week, while secondary teachers shall have no less than 1 planning period daily; 60-minute duty-free lunch period for kindergarten teachers, and no less than 30 minutes for all elementary and secondary teachers; required physical examination every 3 years and a tuberculin test every 2 years at employee's expense; teachers holding a state "Life Certificate" are required to complete 6 semester hours of college credit every 5 or 10 years, depending upon the level of academic achievement; teachers temporarily assigned administrative duties in a principal's absence shall be paid $200 annually in buildings where there is less than a full-time principal, and $100 annually in buildings to which a full-time principal is assigned; educational improvement leave whereby teachers with 5 years' district experience may be granted a leave of absence without pay but possibly with a scholarship for 1 quarter ($500), 1 semester ($750), or 1 year ($1,500) for the purpose of professional study; tuition reimbursement to a maximum of $500 in any 1 calendar year for tenure employees who are not on a leave of absence.

Hillsborough County (Tampa), Florida

Between Hillsborough County School District No. 1 and the Hillsborough Classroom Teachers Association, effective November 9, 1970 (noneconomic matters) and July 21, 1970 (economic matters) to June 31, 1971. Approximately 4,025 certificated professional employees. Provision for automatic extension of agreement unless either party submits a renegotiation proposal by April 1, 1971.

Compensation: B.A., $6,400 to $10,000, 15 increments; M.A., $7,100 to $10,700, 15 increments; M.A. plus 30 hours, $11,050 maximum; separate salary schedules for evening and summer school teachers. Differentials: athletic director, and head football and basketball coaches, $1,620 to $1,860, depending upon the school to which assigned; head junior high coach, $720; business managers, $540 to $660, depending upon the school to which assigned; school psychologists, counselors, and certified social workers, $467.50; coordinators, $880; senior high instrumental director, $1,100; senior high vocal director, $770; senior high department heads, $660 to $880, according to the number of teachers supervised; vocational agriculture teacher, $880. Regular substitute teachers are paid $13.50 to $21.50 per day according to an unexplained ranking schedule.

Leaves: 10 days' annual sick leave, 120 days' maximum accumulation; sick leave days accrued in another Florida district may be transferred to the Hillsborough district at the rate of 10 days per year until all are credited, although the total sick leave days shall not exceed 120 days; 2 days' emergency leave deducted from sick leave; 2 days for religious holidays deducted from sick leave; paid professional conference leave; 10 separate days for "illness-in-line-of-duty" leave when "uncommon diseases such as meningitis and scarlet fever" are contracted in the course of school work; paid temporary duty leave may be granted by the superintendent for absences involving the performance of "other educational services, such as participating in school surveys, professional meetings, study courses, workshops, etc."; paid leave for military reserve duty; paid leave for jury duty or court subpoena; 30-day temporary leave without pay may be granted "when extenuating circumstances dictate"; terminal leave payment at normal retirement or to beneficiary upon death at employee's daily rate multiplied by one-half the total number of accumulated sick leave days credited at that time.

Insurance: Board contributes $14.68 monthly toward hospitalization and major medical coverage for individual; tax sheltered annuity plan; income protection plan provided by approved carrier but paid by employee; in work-related assault cases resulting in temporary absences, the employee shall be paid his full salary less any workmen's compensation payments for absences of up to 12 months, and such absences shall not be charged to sick leave.

Association: Payroll dues deduction for local Association; Association president shall be granted leave during his term of office with the Asso-

ciation providing the board with revenue to pay the president's salary, taxes, retirement, and fringe benefits; no-strike clause; board meeting agendas are to be made available to the Association at least 36 hours prior to all regular meetings; released time without loss of pay for persons assigned to joint study committees created by the negotiating teams.

Personnel: Grievance procedure ends with a decision by the county superintendent; appeals of contract nonrenewal decisions involving instructional personnel under annual contract specifically are excluded from the grievance procedure; Grievance Adjustment Board (level III of procedure) comprised of 2 Association members, 2 representatives of the organization representing administrators and supervisors, and chaired by the Assistant Superintendent for Administration, all of whom shall serve one-year terms with no restrictions placed upon the number of terms for which they may be reappointed; teacher has right to review personnel file and may respond to any derogatory material before placement therein; provision setting forth the qualifications for and procedures to follow when applying for any of 17 different administrative, supervisory, and guidance positions, as well as a detailed listing of the personnel comprising the screening committees for 11 such positions; each new teacher and each teacher returning from a leave of absence must pass an authorized medical examination before being granted a contract; all instructional personnel must submit verification of a chest X-ray or tuberculin skin test by October 1 of each year; clause providing that "no teacher, principal, or other employee shall be appointed or reappointed to a school in which his father, mother, brother, sister, husband, wife, son or daughter is employed"; all district administrative, supervisory, instructional, and classified employees, whether full-time, part-time, or temporary, must be fingerprinted before the first salary payment; "safety" clause providing that teachers "shall not be required to serve as security personnel during a period of civil disobedience, bomb threats, or assaults on students or teachers by trespassers," that teachers "have the duty to see that their students are protected at all times," and authorizing school authorities to seek outside help and/or provide security guards as needed to maintain order.

Miscellaneous: The "accepted and desirable" teaching load for secondary teachers should include classes in no more than 2 subject areas nor more than 3 preparations; educational travel leave policy allowing teachers to earn professional credit for a trip of at least three weeks' duration provided that they submit either a written report about the educational value of the trip (which report shall become school property), or submit a minimum of 50 slides or 2 rolls of movie film illustrating the educational and cultural values of the trip (which materials shall become the property of the Educational Media Center).

Duluth, Minnesota

Between Independent School District No. 709 and the Duluth Teachers' Council, effective August 31, 1970, to August 31, 1971. Approximately 1,072 certificated professional employees. Provision for reopener by February 1, 1971.

Compensation: B.A., $7,200 to $11,500, 11 increments; B.A. plus 30 hours, $11,800 maximum; M.A., $8,200 to $14,000, 11 increments; M.A. plus 30 hours, $14,300; Ph.D., $15,000 maximum; 11-step salary schedule ranging from $11,534 to $14,534, for social workers with an M.A. plus 30 hours and under a 42-week contract. Differentials: (annual extracurricular pay of $500 or more shall be part of monthly salary, while all lesser amounts shall be paid at the activity's completion; percentages for computing the full value of extracurricular compensation for each activity shall remain the same through the end of the 1974-75 school year although the actual amounts of compensation will vary in accordance with adjustments to the B.A. base) senior high head football, basketball, and hockey coaches, $1,295; senior high assistant football, basketball, and hockey coaches, $900; senior high cheerleader advisors, $385; senior high band director, $645; junior high band, vocal, and orchestra directors, $130; senior high speech advisor, $580; junior high newspaper advisor, $65 per issue with a maximum of 6 issues per school year; homebound teachers, $5 per hour; certified counselors, 1.10 of their basic salaries; special education teachers, $200. Effective June 14, 1971, driver education, summer school, and adult education teachers shall receive $7.50 per hour (currently $6.87 per hour). Substitute teachers receive $20 per day if they have less than a B.A. degree, $22.50 per day with a B.A. degree, and $25 per day with an M.A. degree.

Leaves: 10 days' annual sick leave or bereavement leave, 180 days' maximum accumulation; no more than 5 days allowed for any one death in the family; 3 days for serious family illness deducted from accumulation; 1 separate day at partial pay for personal leave; school visitation and professional conference leave as approved; paid leave to submit to one selective service physical examination per year; paid leave of ab-

sence to fulfill military reserve obligations, although any wages received during military duty shall be paid to the district.

Insurance: Continuation of present group hospital and medical insurance benefits with board paying 100 percent of individual coverage and 50 percent of dependents' coverage; mandatory retirement as of August 31 following an employee's 68th birthday with provision for earlier mandatory retirement pending the enactment of appropriate legislation.

Instruction: Daily released time of 1-3 hours provided at named schools for speech, newspaper, and audiovisual activities; building principals are authorized to assign some secondary teachers to an extra curriculum development period, although teachers unwilling to accept that assignment may be assigned to a study hall, hall duty, or the lunch room; building principals shall appoint an activity council each year to review and evaluate each building's extracurricular program; 1970-71 class size maximums of 32 students per regular elementary or secondary class, 28 students per industrial education or homemaking class, 60 students per physical education class, and 15 students per special education class; for 1971-72, the maximum size of regular classes is set at 30 students; if a teacher is required to teach a split grade for 2 or more consecutive years, he may use the grievance procedure to obtain a review of his status and an explanation as to why rotation was not made.

Personnel: Grievance procedure ends with board acceptance of a final and binding decision by a board committee; 30-minute duty-free lunch period for all teachers; daily preparation time of 1 class period (approximately 60 minutes) for all secondary teachers and a minimum of 50 minutes for all elementary teachers; teacher has right to review his personnel file; teachers new to the system are required to attend a 3-day conference during the week preceding the beginning of the school year without compensation; system teachers will receive priority in summer school appointments over any teacher not under contract; required physical examination every 3 years with board paying a maximum of $15; inservice training program (*see* following provision reprint); professional growth requirement whereby teachers must complete a minimum of 5-9 quarter hours of college credit or an equivalent number of credits through the negotiated inservice training program each 5-7 years of district employment according to the level of academic achievement reached; $100 scholarships are to be awarded to 4 elementary, 4 secondary, and 1 vocational teacher during each quarter of the 1970-71 school year, and 23 $125 scholarships are to be awarded to 10 elementary, 10 secondary, and 3 vocational teachers during the summer of 1971, with payment to be made upon completion of 5 quarter hours of credit during the year the scholarship is awarded.

TEACHER IN-SERVICE TRAINING PROGRAM

This program presents an opportunity to involve classroom teachers in the development of the curriculum and in the methods for its implementation. It also provides a channel through which they can encourage those programs and procedures they find practical and workable, and gives them an avenue to present ideas and methods they find are successful in their own classes.

Another consideration involves continuity and quality. Duluth's participation in E.S. '70 provides a link with other school districts that can aid us in developing the kind of quality education we all desire. The E.S. '70 project also has stated goals which offer positive direction for a professional staff development program described in this paper. It is important that those charged with the operation of the program do not use the shot gun technique and send the training program off in many different directions.

This in-service training program will be divided into three general areas:

1. Workshops for special interest areas.
2. Publications by members of the staff.
3. Independent study by members of the staff.

The program will be structured in the following manner:

I. Standing Committee.

A. A Standing Committee of teachers and administrators will be formed for the purpose of establishing the program, reviewing the budgets, and evaluating the progress of the program.

B. The Standing Committee will consist of seven permanent members and three ex-officio members. Prior to October 1 of each year four teachers shall be appointed by the teachers' council. One of these will be designated as Teacher Coordinator by the Superintendent. The Teacher Coordinator will chair all meetings of the Standing Committee and will also be responsible for directing that portion of the in-service training program concerned with teacher trainers.

The Administration will be represented on the Committee by the (1) Assistant Superintendent for Instruction, (2) the Assistant Superintendent for Special Services, (3) a Director of Elementary, Secondary, Vocational or Special

Education, depending on what area of instruction is being considered.

The ex-officio members would be:

1. The person requesting the (a) program, (b) independent study, (c) publication.
2. Director of Personnel for Duluth Public Schools.
3. Director of Development.

C. The duties of the Standing Committee will be as follows:

1. Make an over-all assessment of where Duluth stands now in terms of staff training in order to make a determination of where the biggest needs lie, and to formulate a general objective for the direction of the program.
2. Establish operational rules and exact time schedules.
3. Develop forms for applications to the program. Forms will include the following:
   a. Objectives of the program.
   b. Program description.
   c. Time required for program.
   d. Estimated cost or proposed budget of program.
   e. Certification of completion for teachers involved.
   f. Method of follow-up upon completion.
   g. Area for committee's approval of program.
   h. Area for Superintendent's final approval.
4. Select staff for operation of on-going in-service program.
5. Aid in providing resources and consultants for programs.
6. Monitor programs and provide evaluation of their worth.
7. Perform periodic review of total program in order to establish and re-direct goals.
8. Notify staff of time and nature of workshops and opportunities for credit.

NOTE: Five of the seven voting members must approve any proposed program before submitting it to the Superintendent.

II. Determination of Credits (All credits granted will also be credited to Professional Growth.)

A. On-going and Special Area In-Service Workshops.

1. Ten hours of school sponsored in-service classroom training = 1 credit for salary purposes.
2. Maximum individual workshop credit = 6 credits per year.
3. All participants must achieve at least 90% of attendance to qualify for credit.
4. All workshops must have 15 participants in order to function and should not exceed 30.
5. No partial credits will be granted.
6. All participation will be voluntary and notices will be distributed to all staff members.

B. Publications—Subject to review by Standing Committee.

1. At the time of application for credit for publication, applicant will give a description of objectives, estimate the time involved and number of credits requested.
2. Credits will be granted upon completion of the publication and approval of the Committee if the final product meets the intent of the original application.
3. Maximum credit for individual publication = 3 credits per year.

C. Independent Study—Same procedure as used for publications.

III. Other Considerations.

A. Maximum credits to be granted for school year 1970-1971 = 2,250.

1. In-service workshops = 1,350
2. Publications = 450
3. Independent Study = 450

B. Number of credits granted to individual teachers.

1. Maximum number per teacher per year = 6.
2. Total maximum number per teacher for salary schedule purposes = 15.
3. Restrictions—M.A. degree must be received or held to move beyond the M.A. equivalent lane.

C. All credits must be earned prior to September 1 to receive salary credit for coming year.

D. All certified employees of the school district may apply for or request in-service training.

IV. Budget for fiscal year 1970-1971:

1 Teacher Coordinator
12 Instructors—Fall in-service
Winter, spring, summer institutes
Consultants and resource persons
Supplies and equipment
Total $14,500.00

V. Control of Funds.

A. The determination of the funds to be allocated to the teacher training program will be

made by the School Board. The Committee will be authorized to make all expenditures within each budget classification.

B. The Committee shall maintain minutes of its meetings with all approved programs and expenditures fully noted in the minutes.

C. All requests for materials and equipment will follow the Board's established purchasing and payment procedures even though the priorities for purchase may be established by this Committee within its budget funds. (Duluth, Minnesota)

Syosset, New York

Between Central School District No. 2 and the Syosset Teachers Association, effective July 1, 1970, to June 30, 1971. Approximately 600 certificated professional employees. Provision for the negotiation of a successor agreement at the written request of either party with the parties' full proposals to be presented by December 31.

Compensation: ("Degree holding teachers hired on or after July 1, 1965 can go only to the 11th step on the B.A. and B.A. + 15 schedules and to the 12th step on the B.A. + 30 schedule"; the maximum indicated here is the 12th step on the B.A. schedule) B.A., $8,100 to $13,200, 10 increments; B.A. plus 45 hours, $14,050 maximum; M.A., $9,450 to $15,550, 15 increments; M.A. plus 30 hours, $16,150 maximum; Ph.D., $17,050 maximum; longevity pay of $400 to $450 after 20 years' service (10 years' service in district plus 10 years' prior credit) and 25 years' service (15 years' service in district plus 10 years' prior credit). Differentials: varsity football coach, $1,711; varsity wrestling coach, $1,372; varsity baseball, lacrosse, and spring track coaches, $1,291; junior varsity baseball and lacrosse coaches, $904; girls' varsity cheerleading coach, $626; girls' varsity basketball coach, $565; high-school driver education teacher, $936; high-school dramatics coach, $1,517; junior class advisor, $565; high school science coach, $646; high-school newspaper advisor, $1,420; elementary safety patrol advisor, $242.

Leaves: Pursuant to the appropriate education law, up to 180 days' leave for personal illness; 5 separate days for personal business; paid leave for religious holidays; paid professional conference leave upon the prior approval of the superintendent; sabbatical leave at half-pay for 1 year or full pay for one-half year after 7 years' service.

Insurance: Three health insurance plan options with board contributing 66 percent plus $40 toward annual cost of individual coverage, and 50 percent plus $45 toward cost of dependent coverage; board-paid $7,000 life insurance policy for all teachers, although the individual teacher may purchase additional insurance up to the amount of his salary rounded off to the nearest $1,000; dental insurance plan with maximum dental benefit of $1,000 and maximum orthodontic benefit of $500 in any policy year (*see* following provision reprint); board provides liability insurance whereby all teachers shall be protected from financial loss owing to accidental bodily injury occuring within the scope of employment.

Association: Payroll dues deduction for local, state, and national associations; no-strike clause; liaison committee composed of the superintendent, the assistant superintendents, 2 principals, the Association president, and 7 teachers designated by the Association president and the superintendent will meet regularly to discuss items of mutual interest.

Personnel: Grievance procedure ends with final and binding arbitration, except that the arbitrator's decision shall be advisory only in grievances involving 7 negotiated articles which it is the board's intent to carry out unchanged for the duration of this agreement. The pertinent articles include sabbatical leave policy, inservice education policy and procedure, class size policy, annual teacher evaluations, staff meetings, the selection of instructional materials, and policy regarding the development of curriculum and facilities; provision establishing a "teacher interest committee" at each school which shall meet with the building principal at least once a month to resolve problems affecting that school; teacher has right to review his personnel file and may be accompanied by an Association representative; duty-free lunch periods of at least 55 minutes for all elementary teachers and equal in length to one full class period for all secondary teachers; all administrative positions first will be advertised to district teachers, and district candidates will be screened before other personnel; inservice education program whereby teachers may earn one-fifth of a credit to 1 full credit per course which then may be applied toward salary advancement; provision for "priority" faculty, departmental, grade level, and Association meetings on the 4 Thursdays of each month; probationary teachers must submit evidence of a physical examination (at district expense if performed by a district-appointed physician) by September 30 of each of the first 3 years of employment; tenure teachers must submit evidence of a physical examination (at district expense if

performed by a district-appointed physician) at least once every 2 years after acquiring tenure; board-paid chest X ray is required of all teachers every 2 years.

Miscellaneous: Elementary teachers "will not be required to remain in the library solely to maintain discipline or to sit by as idle spectators"; class size policy based upon current school organization and determined prior to the development of budget requirements for personnel each year with resultant maximums of 25 students in grades K-2, 30 students in grades 3-12, and 20 students in special education classes, grades 7-12.

APPENDIX 5–DENTAL INSURANCE

Schedule of Benefits –

Plan Effective Date: September 18, 1970

Employees Included: All professional employees whose bargaining unit negotiated for Dental Expense Benefits.

Contributory Dental Expense Insurance for you and your Dependents:

Maximum Dental Benefit (in any policy year) ..... up to $1,000.

Maximum Orthodontic Benefit (in any policy year) . up to $500, for orthodontic treatment and any orthodontic diagnosis and evaluation and pre-orthodontic care in connection with such treatment.

Note: This is in addition to the Maximum Dental Benefit.

Dental Deductible Amount.... a cash deductible of $25.

Note: If during a policy year three or more members of the same family incur covered dental charges in excess of $75.00 then on or after the date covered charges are incurred in excess of such $75.00, no cash deductible will be applied during such policy year to charges incurred by any member of the family, except that no one insured person may contribute more than $25.00 towards the satisfaction of such $75.00.

Dental Co-insurance Factor (after satisfying the Deductible Amount) .... up to 80%.

Policy Year ..... for the purposes of this plan, a policy year is defined as a period of time commencing on July 1 of any calendar year and ending on June 30 of the following calendar year.

When Your Insurance Begins –

Becoming Eligible

You will be eligible on the Plan Effective Date shown in the Schedule of Benefits or the date of your employment, whichever is the later date. If you are absent from work on the day on which you would normally become eligible, you will become eligible on the day you return to active work.

Becoming Insured

If you renroll for insurance on or before the day you become eligible, you will be insured on the day you become eligible. If you enroll for insurance on or before the thirty-first day following the day you become eligible, you will be insured on the day that you enroll. If you are absent from work on the day that you enroll, you will become insured on the day you return to active work. You should enroll promptly. If you enroll more than thirty-one days after the date you become eligible, you must satisfy The Equitable Life Assurance Society that you are in good health before you can become insured. In that case, you may be asked to submit a medical examination at your own expense.

When Your Dependents' Insurance Begins

Dependents Defined

If you become insured your dependents are:

1. Your wife or husband except if you are legally separated.
2. Your unmarried children under age 19.
3. Your unmarried children 19 years of age and under age 23 provided they are full-time students.

No person is a "dependent" if he is eligible for this plan as an employee.

Note: If your child is mentally retarded or physically handicapped when his insurance would terminate due to his age, insurance may be continued under the circumstances described in the Group policy. For complete information, consult your Employer within 31 days before his insurance terminates for the appropriate form to continue coverage.

Becoming Eligible

Each dependent will be eligible beginning with the later of these dates:

1. The day on which your insurance begins.
2. The date he becomes an eligible dependent.

Any dependent confined to a hospital (except for birth) when he would normally become eligible, will become eligible only upon discharge from the hospital.

Becoming Insured

If you enroll for dependents' insurance on or before the day they become eligible, they will be insured beginning with the day they become eligible. If you enroll for dependents' insurance after they become eligible but on or before the thirty-first day following the date they become eligible, they will be insured beginning with the date that you enroll them. Insurance on any dependent who is hospital confined (except for birth) when his insurance would normally begin, will begin on discharge from the hospital. Enroll promptly. If you enroll your dependents more than 31 days after their date of eligibility, they will not be insured for at least 3 months after the date you enroll them.

Dental Expense Insurance

What is Covered

Covered Dental Charges incurred while insured and in connection with non-occupational disease or defect, or expenses resulting from non-occupational accident causing injury to teeth.

Definitions

For the purposes of Dental Expense Insurance:

1. Dentist means a Doctor of Dental Surgery or a Doctor of Medical Dentistry.
2. Physician means a legally qualified physician.
3. Treatment Plan means a written report made by the dentist or physician describing the findings of his examination and recommended treatment for the insured's dental disease or defect or accident causing injury to teeth.
4. Policy Year means the period of time commencing on July 1 of any calendar year and ending on June 30 of the following calendar year.

What are Covered Dental Charges

Covered Charges are the regular and customary charge for, or the fair and reasonable value of (as determined by the Society) the following services, supplies and treatment:

1. Routine oral examinations, (including diagnosis, x-ray and prophylaxis) but not more than one examination for the same insured person in any six months period, extractions, fillings, inlays, crowns, root-canal therapy and periodontal treatment, oral surgery, drugs requiring a prescription by a dentist or physician.
2. Initial installation of, or addition to, full or partial dentures or fixed bridgework, if the impression for such dentures and bridgework is taken on or after the effective date of the insured person's coverage.
3. Replacement or alteration of full or partial dentures or fixed bridgework.
4. Repair of dentures or bridgework, or replacement of lost or stolen dentures or bridgework.
5. Orthodontic appliances and treatment.

Note: A "Treatment Plan" is necessary for orthodontic treatment and fixed bridgework and may be required in any other instance. It must be submitted within 20 days following the examination which reveals the need for treatment.

What is a Benefit Period

A Benefit Period is the period of time during which an insured person may receive benefits. It is established with respect to an insured individual when, during a policy year, he incurs Covered Dental Charges in excess of the Dental Deductible Amount shown in the Schedule of Benefits. Any expenses incurred during the last 3 months of any policy year which were applied toward the Deductible for such policy year count toward the Deductible for the following policy year.

When Does a Benefit Period Begin and End

It begins on the date on which accumulated Covered Charges exceed the Deductible. It ends on the date insurance terminates or on the june 30 of the policy year in which it begins, whichever is earlier.

Multiple Benefit Periods

When a Benefit Period ends, another may be established in any succeeding policy year by satisfying the requirements for a new Benefit Period.

How Much

Reimbursement during a Benefit Period for Covered Dental Charges in excess of the Deductible will be made at the rate (Co-insurance Factor) shown in the Schedule. The Maximum Dental Benefit payable for any one person during any policy year shall be that shown in the Schedule. The Maximum Orthodontic Benefit payable for any one person during any policy year for orthodontic treatment (including diagnosis, evaluation, and pre-care) shall be that shown in the Schedule.

If There Is An Accident

If an insured family incurs Covered Dental Charges due to an accident occurring while insured, a single cash deductible will apply to the combined Covered Dental Charges of the family for that accident during the following policy year. If during any policy year one of the family incurs Covered Dental Charges not due to the common accident, he may use toward the cash deductible of such charges any Covered Dental Charges which he incurred during the policy year and which were applied to the common accident cash deductible.

Not Covered

Covered Dental Charges shall not include expenses for services, supplies and treatment:

1. unless they were prescribed as necessary by a dentist or physician,
2. incurred in a Veterans' Administration Hospital, or which in the absence of insurance, would have been furnished without cost, or which are furnished under conditions which the insured person has no legal obligation to pay, or if the expenses are reimbursable by any local or other governmental agency,
3. incurred on account of . . . war, declared or undeclared, including armed aggression . . . received from a dental or medical department maintained by an employer, a mutual benefit association, labor union, trustee or similar type of group . . . injury or sickness connected with employment with any employer . . . performed by a member of the insured person's immediate family,
4. for installation, replacement or alteration of, or additions to, dentures or fixed bridgework except as provided in "Covered Dental Charges" . . . for dentistry for cosmetic purposes, including the alteration or extraction and replacement of sound teeth to change appearance,
5. for installation, replacement or alteration of, or additions to, dentures or fixed bridgework, or for orthodontic diagnosis and evaluation and pre-orthodontic care, if such expenses are incurred, or if expenses are incurred for a course of orthodontic treatment if such treatment commences
   - (a) for you during the first two years after the effective date of your Dental Expense Insurance, if you enroll for your own Dental Expense Insurance more than thirty-one days after you become eligible, or if you enroll again for insurance after previous termination of your Dental Expense Insurance while remaining in the eligible classes;
   - (b) for your dependent—during the first two years after the effective date of your dependent's Dental Expense Insurance, if his Dental Expense Insurance became effective more than thirty-one days after the date of his eligibility for such insurance because
     - (i) you enrolled your dependents more than thirty-one days after the later of the date you became eligible for Dental Expense Insurance, and the date you first had dependents eligible for such insurance, or
     - (ii) you enrolled for your own Dental Expense Insurance more than thirty-one days after you were eligible, or enrolled again for such insurance after previous voluntary termination of your Dental Expense Insurance while remaining in the eligible class.

Extended Benefits

If a person's insurance terminates before the completion of dental work which began before such termination, then, Dental Expense Benefits will be payable for Covered Dental Charges incurred as if they were incurred while insured.

EXCEPTION: In no event shall such benefits be payable for Covered Dental Charges incurred more than (1) one month after the Dental Expense Insurance terminates because of termination of the group policy or its amendment to terminate the Dental Expense Insurance of the class of

which he is a member, or (2) three months after the Dental Expense Insurance terminates for any other cause.

General Information

Non-Duplication of Benefits

If an insured person is entitled to any medical, dental care or major medical benefits or services from another source (excluding any individual policy which is not issued under an arrangement of coverage for individuals in a group), such benefits under this plan may be reduced to an amount, which, together with all such other benefits, will not exceed 100% of any necessary, reasonable and customary item of expense covered under this plan or any such other plan.

Your Certificate

The insurance briefly described in this booklet is subject to the terms of the group policy issued by the Equitable. When you become insured you will receive a certificate.

When Insurance Terminates

Your insurance terminates when you leave our employ, when you are no longer eligible or when the group policy terminates, whichever happens first. A dependent's insurance terminates when your insurance terminates or when he is no longer an eligible dependent, whichever happens first.

Note: If you cease active work, inquire as to what arrangements, if any, may be made to continue insurance.

Procedure for Filing Dental Claims

1. Secure two claim forms and mailing envelope from your school office. Give dentist forms so he may complete reverse side of forms. Be sure all dates and information are included and that the form is signed by the dentist. A duplicate claim form is for his records. YOU ONLY SEND THE ORIGINAL TO THE PLAN ADMINISTRATORS.
2. Complete all questions listed in the section on the form entitled CLAIM FOR BENEFITS—TO BE COMPLETED BY CLAIMANT. Item 5 pertains to any other Dental Insurance you or your family may be covered for. Leave policy number and certificate number blank.
3. Complete questions 1, 2, 4, 5 and 7 only of section entitled POLICYHOLDERS STATEMENT. Leave space for certificate number blank. Where the name of the policyholder is requested insert the name of your school district.
4. Return one (1) claim form to Plan Administrator in the envelope provided.

Key Points to Remember

1. Be sure dentist completes his portion of the claim form.
2. If Bridgework or Orthodontic Treatment is necessary, the Treatment Plan which the dentist completes must be submitted within 20 days of the examination.
3. If drugs in connection with the Dental Expenses are needed, and these charges are made by someone other than the dentist, the bill should show the name of the patient, a description of what the drug was prescribed for and date incurred. The bill should be signed by the dentist and submitted along with the claim form.
4. You may pay the Dentist direct and receive reimbursement from the Equitable.
5. You may assign your benefit to the Dentist in which case payment will be made to him.

Important

Any questions in reference to Benefits or Claims should be directed to the Plan Administrator: [name, address, telephone number] (Syosset, New York)

SELECTED CURRICULUM REVIEW AND TEXTBOOK SELECTION PROVISIONS CONTAINED IN NEGOTIATION AGREEMENTS

An analysis of the 978 negotiation agreements effective during the 1968-69 school year in districts with a pupil enrollment of 1,000 or more reveals that 529 agreements (54.1 percent) provided for some process of curriculum review and/or textbook selection. As shown in Table 1, 123 agreements (12.6 percent) established only a general or professional study committee through which teachers possibly might discuss curriculum review and textbook selection. Provisions relating directly to curriculum review were found in 172 agreements (17.6 percent), while 309 agreements (31.6 percent) referred specifically to textbook selection. Both curriculum review and textbook selection provisions were found in 75 (7.7 percent) of the agreements analyzed.

TABLE 1.—NEGOTIATED PROVISIONS RELATING TO CURRICULUM REVIEW AND TEXTBOOK DISTRIBUTION, 1968-69

Item	Agreements containing designated content	
	Number	Percent
1	2	3
Number of agreements analyzed	978	100.0%
Agreements containing pertinent provisions	529	54.1
General study committee only	123	12.6
Curriculum review and joint curriculum committee	97	9.9
Textbook selection and joint textbook committee	234	23.9
Curriculum review and textbook selection	75	7.7

Curriculum review provisions often set forth the rationales for reevaluating the educational program and establish specific joint committees primarily for the purpose of reviewing and recommending curriculum proposals. Other agreements set forth specific procedures for review, including mention of the person(s) initiating the review process, the person(s) responsible for directing or coordinating the review program, program participants and their compensation, the frequency of meetings, details regarding the final decision on the completed report, and the implementation of curriculum change.

Teacher involvement in curriculum study may be accomplished through regular or ad hoc meetings on a building-wide, area-wide, or system-wide basis during the school year proper or as a specified summer program. Teachers may be granted released time or compensatory time for curriculum study during the school year, while summer program participants may be compensated at an hourly rate or by a specified stipend. When curriculum change is to be implemented, some agreements establish pilot programs, others guarantee teacher involvement prior to the change, and still others call for inservice training programs for teachers.[1]

In many agreements, textbook selection is understood simply to be part of the curriculum study or review process or briefly is mentioned as one of several subjects for possible discussion by a curriculum review committee. Other agreements establish procedures for textbook selection in varying degrees of specificity and usually in conjunction with a joint committee composed of three to six members appointed by the representative teachers' organization and a similar number of members appointed by the superintendent or the school board. Textbook discussions may be initiated by contractual mandate, by a specific committee, by the school board or the administration, or by the representative organization at the suggestion of teachers. While a few state laws provide that the state education board shall establish required textbooks, most state laws provide that the state board shall recommend textbooks, or that textbook selection shall be left entirely to the individual school district's discretion.

[1] For a more detailed analysis of negotiated curriculum review provisions see: National Education Association, Research Division. "Curriculum Review in Negotiation Agreements." *NEA Research Bulletin* 48:106-108; December 1970.

Teachers generally are guaranteed involvement in the selection process, and some agreements provide that the representative organization be cognizant of teacher involvement and be consulted prior to any change in the selection procedure itself. However, such involvement varies widely from the research, review, and evaluation functions of committees or study groups to meeting and discussing changes with the administration to guaranteed direct involvement in the actual selection of textbooks. Some agreements provide that textbook suggestions or changes will be considered only if proposed by more than one teacher; others state that principals or department heads are to discuss changes with the teachers affected. Occasional agreements allocate funds for pilot programs whereby textbook projects can be implemented or studied and evaluated.

Recommendations or proposals for textbook selection or change most always are advisory, whether they are the product of a majority opinion of the teachers involved, the findings of a departmental or grade level study, or the result of committee review or study efforts. Such recommendations generally are submitted to the school board for a final decision and in some cases the board must provide the committee with an explanation of any actions taken. If textbook changes are to be implemented, some agreements provide that adequate materials and/or equipment shall be provided prior to the implementation, while others state that appropriate inservice education programs will precede the changes.

Miscellaneous considerations negotiated in various agreements include released time and/or compensation for textbook selection or study work at a prorated amount of regular salary or a stated percentage of the B.A. base. Some agreements stipulate the frequency of committee meetings as well as the times at which they are to be held; others provide that teacher involvement in the study and development of instructional materials outside regular teaching hours shall be voluntary, while involvement during school hours shall be as equal as possible and practical. More recent agreements provide for the involvement of lay and/or student representatives in both curriculum review and textbook selection procedures and recommend the inclusion of or set forth guidelines for the consideration of materials dealing with minority groups.

Examples of negotiated curriculum review and textbook selection provisions are reprinted below. These are sample provisions only; they are not intended to be regarded as exemplary.

Derby School District, Derby, Connecticut

Article XVI

Curriculum revision shall be thoroughly researched by a joint committee of the League and the Board. The teachers shall play an active role in the preparation, implementation, and evaluation of curriculum.

A. The procedures for developing new curricula shall include the following:

1. The appointment from among teachers who volunteer to a new curricula planning committee.
2. There shall be at least one teacher, but not more than two from each grade level for which the curriculum is designed.
3. At least one administrator, but not more than two will be appointed from the administrative staff.

B. The planning committee will complete a tentative curriculum outline for presentation to the Board of Education for approval.

C. If approved by the Board, the Superintendent will nominate from among the planning committee members, a curriculum writing team, for summer employment to write and publish the curriculum.

D. Materials needed to implement the new curriculum should be made available to the teachers concerned prior to the start of the new program.

E. The Board will encourage and support in-service training programs to prepare teachers for the new curriculum and will consider the use of released time when in the judgment of the administration it is required for an effective in-service workshop.

F. The advisability of pilot programs rather than full implementation will be considered.

G. Both the Board and the League will constantly evaluate and study both established and new currriculum and either may suggest modifications or changes.

Freeport Town Schools, Freeport, Maine

Article VI–*Textbooks*

A. The Committee guarantees that it will provide sufficient textbooks to insure that each pupil in a classroom has textbooks for his own use.

B. Before the Administration changes textbooks or selects new textbooks, the administration will notify the Association and the Educational Development Committee that it is considering such a change or selection. The EDC will have the right to meet and discuss with the administration such change or selection. Similarly, the EDC may, if it desires initiate discussion over a change in a textbook or the selection of a new textbook.

C. It is expressly understood that in granting the Educational Development Committee the right to discuss changes in and selections of textbooks, the School Committee in no way waives its right to make the final decision in regard to these matters.

Article XXI–*Educational Development Committee*

A. The Educational Development Committee: Until those in Education reach the state whereby they can unanimously declare that all the proper educational objectives necessary to fulfill the needs of the students whose education depends upon an adequately functioning school system have been correctly defined and the proper procedures for obtaining those objectives been initiated and implemented, it is obvious that education must always undergo a continuous process of evaluation, modification and growth in order to satisfy the educational needs of the students. Such a process will necessarily so include such elements as curriculum changes, materials changes, and procedural changes.

Since all of these aforementioned changes affect teachers' behavior and since the collective wisdom of practicing teachers promises greater effectiveness in the discovery, initiation, evaluation and implementation of such changes, it is logical and reasonable that the Freeport School Department give assurances of a direct relationship and responsibility of teachers in the necessary process of educational change. In this light, therefore, the Freeport Teachers Association asserts that a committee called "The Educational Development Committee," shall be formed whose responsibility it shall be to represent the teachers in the process of educational change.

1. Structure of Committee (Proportionate Representation). The committee shall consist of two (2) students, two (2) lay people, two (2) School Committee members, one (1) superintendent, and three (3) teachers representing (a) high school, (b) junior high school, and (c) elementary levels. Principals will be included as ex-officio members of the Educational Development Committee (EDC).
2. Selection of Educational Development Committee
   a. The Teachers Association will name five (5) lay people and the School Committee will name five (5) lay people. Both parties must select and mutually agree on two (2).
   b. Each party agrees to accept the two (2) student-elected representatives to the EDC from the senior high school.
   c. The teacher members of the EDC will be chosen annually by the President of the Freeport Teachers Association and approved by the Executive Board. A certified list of the teachers on the committee will be submitted to the Superintendent of Schools each year so that the necessary administrative steps can be taken. Specifically, said teachers will have their nonteaching load (supervision of study halls, recess, hall, bus duty, etc.) reduced in order to pursue their new duties relating to the committee (EDC).

B. Duties/Responsibility of Educational Development Committee

1. They shall use their "released time" period for duties related to EDC work.
2. They shall attend all joint meetings.
3. This committee shall encourage and consider all proposals from any source respecting curriculum, teaching techniques, aids and materials, educational facilities, design and equipment of new and re-

modeled school construction and any matters pertaining to the improvement of the educational programs carried on or proposed to be carried on in the Freeport School Department.

4. They shall discuss, investigate, evaluate and make suggestions to the members of the administration pertinent to problems regarding curriculum. Such suggestions will be considered public.

5. No proposals for changes in curriculum, scheduling or buildings or any other matters having widespread or significant effect on learning will be implemented until they have been referred to this committee for review and recommendation. Specific experimental curriculum projects are encouraged throughout the system providing the immediate supervisor, and this committee is cognizant of the undertaking.

6. They will cooperate and assist the administration in development of procedures for implementation of educational revisions which the EDC considers useful to the students of Freeport.

7. This committee shall have the right to meet with the School Committee at reasonable times, not more often than once per month unless by mutual agreement.

8. The Educational Development Committee will issue an annual report to the President of the Freeport Teachers Association, Superintendent of Schools, and Chairman of the Freeport School Committee concerning their activities, and said report will include the minutes of each meeting, a summary of the work of the year, and suggestions and conclusions to and the work of future committees. The report is due June 1 of each year.

9. This committee may establish sub-committees to consider particular matters within this committee's jurisdiction, but all proposals respecting such matters shall come to this committee for the consideration and recommendation.

10. The Freeport Teachers Association, the Administration, and the Freeport School Committee shall give serious consideration to the recommendations of the Educational Development Committee.

Warren Consolidated Schools, Warren, Michigan

Article XXIII, Section 1–*Curriculum and Materials–Curriculum Review and Revision*

The program described in this Section will exist on an experimental pilot basis for the duration of this contract and will be evaluated by the parties on or before June 12, 1971. The Board agrees to involve teachers in curriculum change through a steering committee of seven (7) people, consisting of four (4) WEA members including the President, and three (3) Administrators, which will be set up to allocate funds ($50,000) to teacher projects and curriculum concerns through the establishment of teacher curriculum study groups. The steering committee will determine its organizational structure and procedures. Established study groups will have the opportunity to report directly to the Board of Education. Teacher study groups will be set up to study the following list of topics. This list may be expanded at the discretion of the steering committee.

Field Trips	Teaching Supplies
Learning Disabilities	Enrichment Materials
Drop-outs and Graduate Follow-up	Textbook Selection and Review
Testing	Experimental Elementary School
Reading Program	Individual Research Projects

Rochester City School District, Rochester, New York

Section III, Item 20(a)–*Teaching Conditions–Quality Integrated Education*

In order to assure positive action designed to implement the commitments as expressed in Board resolutions of March 7, 1963 (Appendix B), August 27, 1963 (Appendix C), and March 16, 1967 (Appendix D) and the Preamble of this agreement, the Association and the Administration will continue and will accelerate their efforts to provide quality integrated education in the following manner:

a. Text Book and Curriculum Improvement. The Council on the Improvement of Instruction shall study and make recommendations concerning:

(1.) Use of multi-racially oriented textbooks at all levels as part of the basic reading program.

(2.) Use of textbooks and other curriculum material for each pupil in all American history classes in order to cover in depth the contribution of Negro and other minority groups in each unit taught; and the inclusion of such material as part of the course of study in Curriculum Guides.

(3.) Use of supplemental reading materials dealing with Negro and other minority groups contributions, e.g., Jews, Chinese, and American Indians.
(4.) Use of Comprehensive units which cover African, Asian and Latin American history at appropriate grade levels.

Tacoma School District No. 10, Tacoma, Washington

Article IV, Section J–*Instruction–Selection of Instructional Materials*

The Board of Education has delegated to the Superintendent the responsibility for appointing and supervising an Instructional Materials Committee; and in addition, to establish regulations for selection of instructional materials in accordance with the School Instructional Materials Law (RCW 28.23 and RCW 28.58.100).

The permanent members of the Instructional Materials Committee shall consist of the Deputy Superintendent, the Administrator for Elementary Education, and the Administrator for Secondary Education. Other members of the committee will be three principals and at least three teachers, one each from the elementary level, the junior high level, and the senior high level. The terms of service for these committee members shall be organized on a rotating basis.

It shall be the duty of the Instructional Materials Committee to approve procedures for the selection of all instructional materials used in the district. The committee shall also be available to review instructional materials at the request of any selection committee.

For all practical purposes the definition of instructional materials will include all materials used by teachers and students in the process of education. This definition shall include gifts and sponsored materials. Instructional materials purchased by students to be used in the schools must be selected in the same manner as those purchased by the district. Instructional materials is an all inclusive term and shall include such items as books, magazines, pamphlets, programmed materials, tapes, records, films and microforms.

It shall be the duty of each director, assistant, supervisor, or other individual responsible for an instructional area to establish and submit to the Instructional Materials Committee procedures for the review, study and selection of materials in that area of responsibility.

Changes in the methods of selection of materials shall be approved by the Instructional Materials Committee.

Reading lists for individual teachers or departments shall be compiled by responsible professional staff members. These lists shall be on file and available for review by interested parties on request.

All department chairmen or curriculum specialists serving a school shall submit their departmental or curriculum needs to the principal prior to the time the principal must prepare the building budget.

The procedures for selecting instructional materials shall reflect the following philosophy:

To provide materials that will stimulate growth in factual knowledge, practical skills, literary appreciation, aesthetic values, and ethical standards.

To provide a background of information which will enable pupils to make intelligent judgments in their daily lives.

To provide materials that will enrich and support the curriculum, taking into consideration the varied interests, abilities, and maturity levels of the pupils served.

To provide materials on opposing sides on controversial issues so that young citizens may develop under guidance the practice of critical thinking and analysis.

To provide materials representative of the many religious, ethnic, and cultural groups and their contributions to our American heritage.

To place principle above personal opinion and reason above prejudices in the selection of materials of the highest quality in order to assure a comprehensive collection appropriate for the instructional materials.[2]

Reconsideration of Challenged Instructional Materials.

It is recognized that opinions differ concerning appropriateness of instructional materials. Occasionally an individual or group may find instructional materials used in the Tacoma Public Schools in conflict with their views. Therefore, in accordance with provisions of the Instructional Materials Act, the following procedures have been established "to provide a system for receiving, considering and acting upon written complaints regarding instructional materials used by the Tacoma School District."

[2] Adapted from the Library Bill of Rights and Freedom to Read Statements.

All complaints must be presented in writing to the building principal (see Citizen's Request Form) and will include the name of the author, title, the publisher, and the objections by pages and items; or in case of materials other than printed material, written information specifying the precise nature of the objection shall be given. The statement must be signed and identified in such a way that a proper reply will be possible.

When a complaint is received by a principal, the principal will acknowledge the receipt of the complaint and answer any questions regarding procedure. The principal will then notify the Administrator for Elementary or Secondary Education, the department chairman and the teacher or teachers involved. The Administrator for Elementary or Secondary Education will determine whether the complaint should be considered an individual request or if a building or district level review committee should be activated to reevaluate the material.

An individual student may be excused from using challenged materials after the parent or guardian has completed the Citizen's Request form. The teacher will then assign the student alternate materials of equal merit.

The building level review committee shall be under the direction of the Administrator for Elementary or Secondary Education and composed of the building principal and four or more members selected by him from school or district personnel directly concerned.

The district level review committee shall be under the direction of the Deputy Superintendent and composed of the Administrator for Elementary Education or the Administrator for Secondary Education and five or more members selected by the Administrator for Elementary or Secondary Education from the administrative and instructional areas directly concerned.

The use of challenged materials by class, school or district shall not be restricted until final disposition has been made by the appropriate review committee. Individuals may be excused from using challenged materials according to the Procedure for Individual Request.

In the deliberations of challenged materials, the committee shall consider the educational philosophy of the school district, the professional opinions of other teachers of the same subject and of other competent authorities, reviews of the materials by reputable bodies, the teacher's own stated objections in using the materials, and the objections of the complainant.

The finding of the building review committee and/or district review committee shall be a matter of written record and transmitted to the Deputy Superintendent and the Administrator for Elementary or Secondary Education who will determine how interested parties shall be notified.

SELECTED PROVISIONS RELATIVE TO TEACHER INVOLVEMENT OUTSIDE THE REGULAR INSTRUCTIONAL DAY

Of the 978 comprehensive agreements effective in systems with a pupil enrollment of 1,000 or more during the 1968-69 school year, 644 (65.8 percent) contained negotiated provisions relative to the noninstructional hours of classroom teachers. The analysis indicated that 425 provisions (43.5 percent) referred to time requirements before and after school hours, 373 provisions (38.1 percent) mentioned regular teacher meetings, 200 clauses (20.4 percent) provided for parent-teacher conferences, and 209 provisions (21.4 percent) specifically referred to teacher supervision of student extracurricular activities (unscheduled extra-duty pay). Table 1 presents the number and percent of agreements containing various combinations of the four items pertaining to the teacher's noninstructional day; only 28 of the 644 agreements referred to all four.

TABLE 1.—NEGOTIATED PROVISIONS RELATIVE TO TEACHERS' NONINSTRUCTIONAL HOURS, 1968-69

Item	Agreements containing designated content	
	Number	Percent
1	2	3
Number of provisions analyzed	978	...
Total number of pertinent provisions	644	100.0%
Before and after school hours only	113	17.5
Before and after school hours, regular teacher meetings	98	15.2
Regular teacher meetings only	83	12.9
Parent-teacher conference only	63	9.8
Parent-teacher conference, before and after school hours, regular teacher meetings	61	9.5
Student extracurricular supervision, before and after school hours, regular teacher meetings	59	9.2
Student extracurricular supervision, before and after school hours	35	5.4
Student extracurricular supervision only	30	4.7
Student extracurricular supervision, parent-teacher conference, before and after school hours, regular teacher meetings	28	4.3
Regular teacher meetings, parent-teacher conference	26	4.0
Student extracurricular supervision, regular teacher meetings	25	3.9
Parent-teacher conference, before and after school hours	23	3.6

Time required of teachers before and after a system's instructional hours varies from five to 30 minutes with some agreements providing that a teacher may leave his building at the end of the day when he has met his commitments or finished performing his professional duties. Teachers may be required to arrive at school early so they will be in their classrooms when students arrive, or so they may perform bus duty, corridor duty, or take care of homeroom responsibilities. In some agreements time before and after classes is allocated for purposes of preparation or consultation with students requiring special assistance. Other agreements specify that teachers remain after student dismissal for workshops, inservice programs, staff meetings, parental conferences, various student extracurricular activities, and for student detention or discipline purposes. On Fridays or the day before a holiday, teachers generally are permitted to leave when students are dismissed.

According to a 1969 arbitration case involving the Trenton (Mich.) education board, it was not a violation for a principal to require homeroom teachers to be in their classrooms at 8:10 a.m. when the new contract provided that homeroom would begin at 8:20 a.m. Although the contract clause specified the time at which "official" homeroom activities such as announcements and attendance taking began, it was not inconsistent with past practice for the principal to require teachers to meet students in their

homerooms at 8:10 a.m. Moreover, the contract's management rights clause authorized the principal to assign teachers to noninstructional duties once they had reported at 7:55 a.m.

Another arbitration case involved construction of a clause reading: "Teachers are normally expected to remain for periods of 30 minutes beyond the dismissal time of students as the teacher finds—or the principal instructs him—is necessary to the administrative details of closing." As it had been pre-contract practice for teachers to remain in school for the specified period of time, the arbitrator held that the language of the Needham (Mass.) contract did not indicate an intention that the 30-minute period be a voluntary matter with teachers. He accordingly determined that principals need not "evaluate and instruct" each teacher separately, but could direct all teachers to remain after school each day for the full 30 minutes.

Regularly scheduled staff meetings, whether on a building-wide, department-wide, or system-wide basis, are negotiated in many agreements and are to be held on designated days of the week or month with a maximum of three such meetings per month. Time limits ranging from 45 minutes to 90 minutes often are placed upon such meetings, although some provisions state that students will be released early if additional time is needed. In the event that faculty meetings are held too often or are too lengthy, occasional agreements allow teachers to protest or grieve the matter. Teachers often are permitted to suggest items for the agenda of a meeting, and a representative of the teachers' organization may speak at the meeting for five or 10 minutes upon prior request. If a meeting is not regularly scheduled, the teachers involved are to be given at least two or three days' advance notice.

Teachers generally are encouraged and in some instances required to confer with parents at least once each school term or more often if mutually desired, or if necessitated by achievement or discipline problems. Some agreements provide the teacher's preparation period for parent-teacher conferences, while others allow a block of time at the end of a grading period or permit conferences during school hours with the principal's approval and if they do not interrupt classroom instruction time. Such conferences may be used to discuss pupil progress, a pupil's problems, and any disciplinary difficulties. Teacher participation in or attendance at various school functions (such as an open house or back to school night), special public programs of the schools, and evening Parent-Teacher Association (PTA) meetings usually is strongly encouraged but remains a voluntary matter with the individual teacher. In some agreements, teachers are required to attend a specific PTA-related function such as a back to school night, while participation in all other PTA meetings is optional.

Teacher supervision of student extracurricular activities for which no additional compensation specifically is scheduled generally is on a voluntary basis. In the event that an appropriate volunteer cannot be found, some agreements stipulate that an administrator may appoint a teacher for a period not to exceed two successive years. An arbitrator found that the Indianapolis (Ind.) education board violated its contractual relationship with the Indianapolis Education Association when it did not prepare a list of uncompensated extracurricular activities far enough in advance for five teachers to select their assignments. Although the principal could make final assignments without a teacher's consent, past practice dictated that the board allow teachers to choose the activities they preferred and that it comply with those selections when practicable.

Uncompensated extracurricular activities include supervising intramural sports, chaperoning after school events, sponsoring club activities, accompanying students on field trips, chaperoning dances, and directing concerts, exhibits, plays, and dinners. Teachers are not required to drive students to activities away from school, but often may do so voluntarily with prior approval by the appropriate administrator. Some agreements provide that no teacher shall be required to supervise more than one extracurricular activity during the school year.

An arbitrator held that it was improper to impose a two-day disciplinary suspension on a Groton (Conn.) teacher who refused to accept an assignment as chaperone at a Saturday night dance when the contract stated that a teacher's responsibility "requires the performance of duties that involve the voluntary expenditure of time beyond the normal school day." Although the preceding agreement had omitted the word "voluntary," the arbitrator determined that the clause "must be given the meaning intended by the *last amendment* of the parties."

In another arbitration case it was found that the Newburgh (N.Y.) board did not violate a clause providing that "the working day for teachers shall not exceed seven hours and twenty minutes" when it required certain teachers' attendance at an evening school concert. In rejecting the contention that the evening assignment was barred by the work day clause, the arbitrator explained that such a clause pertains to the limitations on a teacher's "classroom" activities and does not constitute a "ban on mandatory teacher services outside the classroom day." Furthermore, past practice indicated a long history of teacher participation in activities outside the normal day, and the arbitrator held that this practice could be halted only through relevant contractual terms.

Provisions illustrative of the way in which items relative to teachers' noninstructional hours have been negotiated are reprinted below. These are sample provisions only; they are not intended to be regarded as exemplary.

Before and After Instructional Hours

Hammond City School District, Hammond, Indiana

Article IX, Section B–*Teaching Conditions*

No teacher will be required to be in school more than ten (10) minutes before the students' official day begins. All teachers may leave their respective buildings when they have met their commitments for that day.

Freeport Town Schools, Freeport, Maine

Article VIII, Section 3–*Teaching Hours and Teaching Load*

No teacher shall be required to report for duty earlier than fifteen (15) minutes before the opening of the pupils' school day, and shall be permitted to leave fifteen (15) minutes after the close of the pupils' school day except on duty days. On Fridays or on days preceding holidays or vacations, the teachers' day shall end at the close of the pupils' day except on duty days.

Swampscott School District, Swampscott, Massachusetts

Article IX, Sections 3 and 5–*Teachers' Duties*

The work day of classroom teachers (except, however, teachers at the junior high and senior high school, who shall report ten (10) minutes before the scheduled starting time) will begin fifteen (15) minutes before the starting time and will end fifteen (15) minutes after the final dismissal time as described in Section two (2) above; except, however, that a teacher may be required to remain reasonable amounts of time after final dismissal for the purpose of giving extra instruction or special help to students in need of assistance and/or for make-up work or for such other purposes specifically defined in this Agreement; except also, in their discretion, that the librarians will remain on duty for as long as their professional services are required up to 4:00 p.m.

Teachers may be required to remain after the end of the regular work day for up to one and one-half (1½) hours to attend a reasonable number of departmental, individual school, or system-wide staff meetings (which shall not include special help or assistance at student corrective or remedial interviews) each school year. Meetings in excess of twenty-five (25) in a school year however, may be referred to PR&R Committee for a determination of the need and/or justification for said meetings. Teachers will be notified of such meetings (and subject matter of same) a reasonable time in advance of the meeting. In case of extraordinary programs, or the introduction and/or implementation of new programs in the system, by agreement of the parties, the requirements of this subsection may be waived.

Teaneck Public Schools, Teaneck, New Jersey

Article 25, Section 7–*Teaching Hour and Teaching Load*

Elementary teachers shall report one-half hour before school starting time in the morning and five minutes before school starting time in the afternoon. They shall remain one-half hour after school closing with the exception of No. 4 above [which relates to administrative or department meetings after school one day per week].

Regular Teacher Meetings

New Fairfield School District, New Fairfield, New Jersey

After School Meetings

A. Teachers are not required to remain longer than one hour for staff meetings:

1. First Monday of each month—General Staff Meetings or other meetings called by the Superintendent of Schools.
2. Second Monday of each month—Building Meetings called by the Principal of each school.
3. Third Monday of each month—Subject Field Groups, Grade Level Groups or Special Groups authorized by the Superintendent of Schools.
4. Emergency or special meetings called by the Administration as designed essential for the proper operation of the school.

Freeport Town Schools, Freeport, Maine

Article VIII, Section D—*Teaching Hours and Teaching Load*

1. Building-based teachers may be required to remain after the end of the regular workday, without additional compensation, for the purpose of attending faculty or other professional meetings twelve (12) days each year. Such meetings shall begin no later than fifteen (15) minutes after the student dismissal time and shall run for no more than ninety (90) minutes. If additional time is needed, students shall be dismissed early.
2. An Association representative may speak to the teachers at any meeting referred to in paragraph 1 above for at least ten (10) minutes on the request of the representative.
3. The notice of and agenda for any meetings shall be given to the teachers involved at least three (3) days prior to the meeting, except in an emergency. Teachers shall have the opportunity to suggest items for the agenda.

Jersey City Public Schools, Jersey City, New Jersey

Article 14—*Teacher Meetings*

Principals of individual schools or other duly authorized personnel shall notify the faculty of any meeting to be held at which their attendance is required at least two (2) days in advance of the meeting date, except in emergencies. Notice of the meeting shall include the proposed agenda.

The Board and the Association recognize that meetings requiring attendance of the entire faculty of a building after regular school hours should only be called for such items as those which relate to the safety and welfare of students and teachers and for other significant purposes.

Normally, no more than two (2) meetings per month shall be called and, normally, such meetings shall not exceed forty-five (45) minutes. If, in the judgment of the principal, it is necessary to hold any additional meetings, the Association representative will be notified, under normal circumstances, two (2) days in advance and, in all circumstances, in advance.

The Association Director shall have an opportunity to speak during any meeting for a period normally not longer than five (5) minutes.

Should the teachers in any building feel that an excessive number of meetings are being called, they may act according to the Grievance Procedure beginning at Step III.

Penns Grove-Upper Penns Neck Regional School District, Penns Grove, New Jersey

Article VII, Section D—*Teaching Hours and Teaching Load*

1. Building-based teachers may be required to remain after the end of the regular workday, without additional compensation, for the purpose of attending building faculty or other professional meetings one day each month. Such meetings shall begin no later than ten (10) minutes after the student dismissal time and shall run for no more than forty-five (45) minutes. Except in cases of an emergency involving the health and safety of students and teachers, if additional time is needed, students shall be dismissed early.

2. Meetings which take place after the regular in-school workday and which require attendant shall not be called on Fridays or on any day immediately preceding any holiday or other day upon which teacher attendance is not required at school.

3. An Association representative may speak to the teachers after any meeting referred to in paragraph 1 above for at least ten (10) minutes on the request of the representative.

4. The notice of and agenda for any meeting shall be given to the teachers involved at least two (2) days prior to the meeting, except in an emergency. Teachers shall have the opportunity to suggest items for the agenda.

Parent-Teacher Conferences

Baltimore County School District, Towson, Maryland

Article XI, Section 13–*Teaching Conditions–PTA Meetings*

Teacher attendance at PTA meetings provides a vital link in promoting the total educational program to the parents. It gives an opportunity for parents and teachers to explore jointly their responsibility to their children and to public education. Teachers should be present when the nature of the program indicates a need for their participation. Should professional or personal responsibilities conflict, the problem should be resolved with the local principal. Teachers are encouraged to participate in the executive board activities of their PTA as teacher representatives and to carry a voice in the establishment of program and budget for local school PTA's.

Article XII, Section 6–*Maintenance of Classroom Control and Discipline–Suspension Policies*

a. Required Parent Conference Notification Forms. In cases where it is desired by school administrators that parents come to the school for a conference, a Required Parent Conference Notification Form will be sent home. The new form will specify that if the parent does not appear for the conference, a formal suspension will be issued. It will not be necessary to send copies of the Required Parent Notification Form to the Office of Pupil Personnel; however, copies will be kept on file in the school. This form will become a standard county parent notification form.

b. Notice of Temporary School Suspension. A student may be suspended as a corrective measure for a period up to five school days at the discretion of the principal or his designee. A parent conference is required as one of the steps taken toward reinstatement.

Hartford County Public Schools, Bel Air, Maryland

Article XI, Section N–*General Provisions–Teachers' Meetings*

Teachers are expected to attend faculty meetings, support and attend the Parent-Teacher Association, and participate in the special public programs of their schools. From time to time they are asked to attend meetings planned by staff meembers of the Board of Education. . . . A teacher working in two schools will be expected to attend both P.T.A.'s unless an unusual circumstance occurs. A teacher working in more than two schools will be expected to schedule his attendance at P.T.A.'s to cover all schools at a rate of two meetings per month.

A teacher may be excused from attendance at a P.T.A. meeting by his principal to attend an approved and/or required class, provided that an acceptable alternative plan for all conferences which are desired by parents is developed by the teacher and approved by the principal. In all such exceptions, the parents of all students taught by the teacher shall be notified of the alternative plan. Conferences will be scheduled for and held with all parents who wish to take advantage of the alternative plan. In general, such excuses from P.T.A. meetings shall not be granted for two consecutive years. Exceptions may be granted for cause by the principal with the approval of the Director of Personnel.

Colonie Central School District No. 1, Albany, New York

Article 17–*Elementary Parent Conferences*

A. Elementary classroom teachers shall have at least one conference during the school year with each child's parents. If the teacher is unable to get the parent to come in for a conference, the teacher shall refer the matter to the principal. Should both teacher and principal be unable to get the parents in for a conference, the teacher will complete the conference form, note the parent's unwillingness to come in, and file the conference form in the child's permanent file.

B. The present conference form will continue to be used for all conferences. Upon completion of a conference, this form will be placed in the child's permanent file.

C. In each elementary school, grades 1-6 shall have four half-days allotted to parent conferences; kindergarten shall have six half-days. These days shall be scheduled by the Director of Elementary Education; every effort will be made to schedule these conferences during the second and third quarters of the school year. Conferences will not be scheduled on report card days or the days immediately preceding or immediately following these days.

D. There will be no lunch program on these days. Pupils will be dismissed as early as possible to provide a maximum amount of time for the writing up of and participation in these conferences.

Binghamton City School District, Binghamton, New York

Article XIII, Section 1307–*Student Discipline–Parent Cooperation in Discipline*

Teachers have the right and are encouraged to enlist the cooperation of parents in handling discipline problems. After consultation with the principal involved, teachers may request parental attendance at a parent-teacher conference to be held during school hours at the school. Teacher conferences are not to be scheduled so as to interrupt classroom instruction time.

Supervision of Student Extracurricular Activities

Freeport Town Schools, Freeport, Maine

Article XI, Section A(4a.)–*Nonteaching Duties*

Teachers shall not be required to drive students to activities which take place away from the school building. A teacher may do so voluntarily, however, with the advance approval of his principal or immediate supervisor. He shall be compensated at the rate of ten (10¢) cents per mile for the use of his own automobile.

Auburn School District, Auburn, Massachusetts

Article III, Section D(7)–*Teaching Hours and Teaching Load–Working Conditions*

Assignments to extra-curricular activities shall be voluntary. In the event that no appropriate volunteers are forthcoming for a given etxra-curricular activity, a teacher may be appointed by the administrator, provided that no teacher shall be required to accept such appointment for two (2) successive years.

Colonie Central School District No. 1, Albany, New York

Article 12–*Extra-Curricular Activities*

A. Teachers shall not be required to participate in any extra-curricular activity. All participation shall be voluntary.

B. Creation of new extra-curricular activities or the abolition of existing extra-curricular activities are the Board's responsibility.

C. On or before April 1 of each year, the Board will post the basic list of all extra-curricular activities for the following year on the bulletin boards agreed upon in Article 8A. Should additional positions be created after April 1, or if vacancies occur in the basic list of approved activities, the Board will post the positions on the agreed upon bulletin boards for at least 10 school days prior to the last day on which applicants will be accepted. (The only exception will be if a position must be filled more quickly than the 10 day time allowed. In this case, the posted notice will give the reason for the shortened time of posting.) This list will include the rate of compensation for each position.

D. The Board will not eliminate any extra-curricular activities after June 1 except upon adoption of a contingency budget or upon a showing of a lack of sufficient interest on the part of students.

Union Free School District No. 7, Great Neck, New York

Article VII—*Chaperoning and Supervising Extracurricular Activities*

The Association acknowledges that the educational values inherent in such extracurricular programs as dances, proms, parties, picnics, dinners, concerts, art exhibits, dramatic presentations, and athletic events contribute significantly to the full development of youth. It is agreed that henceforward no teacher shall be required to supervise more than one such activity during a given school year.

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NATIONAL EDUCATION ASSOCIATION

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Case Reviews

CALIFORNIA

LOS ANGELES STRIKE SETTLEMENT DECLARED ILLEGAL; ASSOCIATION-UNION MERGER INVALIDATED

The Los Angeles County Superior Court permanently enjoined the Los Angeles City education board from effectuating the terms of an agreement which ended a 23-day strike conducted by district teachers in the spring of 1970. Concluding that the board's adoption of the agreement constituted an unlawful delegation of its authority, the court stated that "except for the strike, the Board would not have considered execution of the contract nor adoption of Rule 3700." The court additionally decided that the "merger" of the Associated Classroom Teachers of Los Angeles (ACTLA) and the Los Angeles Teachers Union (LATU) into an organization known as the United Teachers–Los Angeles (UTLA) was improper under the state's corporation laws.

The present litigation involved the consolidation of four cases arising from negotiation between the board, the negotiating council, and UTLA representatives and resulting in a May 11, 1970, board vote to finalize and execute an agreement submitted by a mediator. On May 20 the board decided to execute the contract, and on the same date defendants in two actions consolidated here (*Grasko, et al. v. Board of Education, et al.* and *Miles, et al. v. United Teachers–Los Angeles, et al.*) were restrained and enjoined from entering into that contract.

Nevertheless, the board proceeded to draft Board Rule 3700, which was substantially the same document as the contract except that it was "in the form of a unilateral statement of policies, employment relation procedures and goals; instead of a bilateral binding agreement." On June 4, the board indicated by formal resolution its intention to "sign the recently negotiated agreement when legal restrictions [i.e., the injunctions] confronting the Board were removed." Rule 3700 became the subject of a third case consolidated here (*Citizens Legal Defense Alliance, Inc. v. Los Angeles City Board of Education*), while the fourth case (*Hayes v. ACTLA*) involved an aspect of the merger.

Sec. 13085 of the California Education Code (a portion of the Winton Act) provides that a school board shall meet and confer with a negotiating council "with regard to all matters relating to the definition of educational objectives, the determination of the content of courses and curricula, the selection of textbooks, and other aspects of the instructional program to the extent such matters are within the discretion of the public school employer or governing board under the law." The court pointed out that amendments to the act which became effective November 24, 1970 (NRD, 12-70, 14), substantiated "everything that has been heretofore said by the courts as to limitations upon school boards in employment relations procedures," deleted the "in good faith" requirement of the act, and established a procedure for advisory third-party resolution of "persistent disagreements."

Determining that the Los Angeles board did not have the power and authority to enter into a contract with the UTLA, the court ruled that the defendants in *Grasko* and *Miles* be permanently restrained, explaining that

> the Board was required to *meet and confer* with the negotiating council. However, the meeting and conferring is confined to the subjects above indicated, and does not, in the opinion of this Court, permit the hardcore bargaining and labor negotiations which took place, nor contracting as contemplated by the execution of the subject contract.
>
> The contract, . . . both in form and in substance, undertakes to recognize the Negotiating Council as the sole bargaining agent for certificated teachers. The Agreement also recognizes UTLA as the agent of the Negotiating Council.
>
> This Court has concluded that the Negotiating Council is not an entity legally qualified to enter into a contract.
>
> The Court has further concluded that the Board is without express statutory authority, or necessarily implied authority, to enter into a binding bilateral agreement. . . . The results of meeting and conferring sessions under the present state of the law cannot result in more than a unilateral determination of policy in the form of rules or resolutions in regard to the subjects above enumerated. The rules and policies of the Board must be subject to change and modification at its pleasure, with the possible exception of those rules which by implication are a part of an employers contract of employment.

While expressing understanding of the board's hope of developing a "package deal" in regard to employment relations and teachers' concern for

educational policies, as well as their own working conditions, the court commented that the teachers' remedy "is clear, namely legislation via the legislative process."

The *Citizens Legal Defense Alliance* case involved a claim that Rule 3700 was invalid and could not be implemented because, while it was unilateral in form, it was "in substance a contract, and . . . the rule making power of the Board was resorted to merely in order to circumvent the restrictions of the Law against collective bargaining and the preliminary injunctions of this Court." Plaintiffs asserted that the rule constituted an invalid delegation of the board's administrative powers and duties, and that it was "the fruit of the poisoned tree, contaminated by an illegal strike and illegal collective bargaining."

The court initially found "as a fact that Rule 3700 would not have been adopted, nor would it have been considered for adoption by the Board, except for the strike." Furthermore, in examining portions of the contract at length, the court found numerous violations of statutory provisions setting forth the administrative powers and duties of school boards; it particularly cited provisions for equal representation on joint committees, work day, a grievance procedure ending in binding arbitration, the restoration of certain educational programs and services without further meet and confer sessions, the appointment of school representatives by the negotiating council, and the creation of three additional negotiating entities performing essentially the same function but on different levels.

Concluding that defendants in this case should be restrained permanently from effectuating Rule 3700, the court noted and commented upon defendants' assertion

> that no harm can be done because of the nature of a rule, namely that it can be repealed, modified or amended by the Board at any time it pleases. But if the rules of the Board in existence at the time of the execution of a teacher's contract are to be considered by implication, a part of that contract, does the Board, by adopting Rule 3700, to that extend bind itself to abide by the provisions thereof? We would have, then, more than a moral obligation on the part of the Board not to change or repeal the rule. . . . To violate the Rule or to suspend it . . . would amount to such a breach of faith with the Board [of] Certificated Employees as would result in a breakdown in employee-employer relations. . . . We are inclined to agree with the County Counsel when he states in his brief Amicus Curiae:
>
> ". . . the Board of Education in an attempt to establish a 'collective bargaining relationship,' has effectively abdicated its statutory responsibility to control and manage the school district". . . . While it is true that one might point to specific provisions in Rule 3700 that are within the rule-making powers of the Board, those provisions that are not valid are, in our opinion, so numerous as to invalidate the entire Rule.

The court also pointed out that "one of the inducements to the board was that they were creating a package deal" and that the teachers indicated a goal of reaching an encompassing agreement. From this evidence, the court inferred that neither party intended for some portions of the agreement or the rule to be implemented and others abandoned and stated: "Let the board reenact those portions that are valid, if they see fit, in an atmosphere free of strife and duress, following its customary rule-making processes."

In attempting to "unscramble" the nature and effect of the January 14, 1970, "Merger Agreement" entered into by ACTLA and LATU after a joint membership vote in which a "majority of those voting" approved the "merger," the court found that there was in fact no merger of the two associations and that ACTLA continued to exist although it was functionally defunct. The California Corporation Code provides that "any corporation may elect to wind up its affairs and voluntarily dissolve by the vote or written consent of its shareholders or members representing 50 percent or more of the voting power." As an incorporated body, ACTLA had to abide by this rule. But the court found that the results of the ACTLA membership vote on adoption of the Merger Agreement—6,760 yes votes and 4,997 no votes out of an active membership of 18,200—"cannot be tortured into a consent of the members representing '50 percent or more of the voting power,' " thereby invalidating the presumed dissolution of ACTLA.

Moreover, the transfer of ACTLA's assets to UTLA "was unauthorized because it was without the consent of a majority of the membership" as required by the ACTLA Articles of Incorporation. The court also noted testimony of the UTLA president (former ACTLA president) to the effect that the Merger Agreement "did not effect a merger but was intended as an Agreement between ACTLA and UTLA to create and appoint an agent, namely UTLA, to represent them on the negotiating council . . . and, in turn, to represent the two associations in their negotiations with the school board." According to the court, "incorporated and unincorporated associations can engage in joint enterprises, and we assume they can jointly appoint an agent; thus we may be able to give UTLA legitimacy, rather than have to consider it an offspring of a putative union."

Deciding that "ACTLA does exist, has not been dissolved, nor has any merger been effected, but that a dissolution at the end of the interim period [February 1, 1970 to January 1, 1971] is contemplated, the court ruled in *Hayes* that the contemplated

dissolution and termination of ACTLA on January 1, 1971 . . . can only be done legally with a consent of the majority of the voting power of ACTLA. . . . Therefore . . . the Court has found that the defendants [in *Hayes*] unless enjoined will terminate ACTLA without the authority required by the statutes applicable.

It further concludes that funds and properties have been wrongfully appropriated. We do not mean in this finding to imply a dishonest taking but rather that funds and properties have been transferred mistakenly and without legal authority.

The defendant individuals responsible for such transfer should be required . . . to account for such funds and properties. Further, they should be enjoined from continuing to transfer to UTLA, ACTLA membership dues deducted by the Board and remitted to it by ACTLA. (*George F. Hayes, et al. v. Association of Classroom Teachers–Los Angeles, et al.; Natalie Grasko, et al. v. Los Angeles City Board of Education, et al.; Farrel T. Miles, et al. v. United Teachers–Los Angeles, et al.; Citizens Legal Defense Alliance, Inc., et al. v. Los Angeles City Board of Education, et al.*, Los Angeles County Superior Court, October 20, 1970.)

MICHIGAN

COURT AFFIRMS APPROPRIATENESS OF UNIT OF SCHOOL SUPERVISORY PERSONNEL

The Michigan Court of Appeals upheld a decision of the then Michigan Labor Mediation Board (MLMB) which found that supervisory personnel are public employees within the meaning of the state's Public Employment Relations Act (PERA) and that a unit of supervisory personnel employed by the Hillsdale Community Schools was appropriate for collective bargaining purposes (NRD, 2-69, A-1, C-14).

At issue on appeal was the interpretation of MCLA 423.9e (a portion of the Michigan Labor Mediation Act) which is incorporated by reference into sec. 13 of the PERA. Sec. 13 provides that the state labor board "shall decide in each case, in order to insure public employees the full benefit of their right to self organization, to collective bargaining and otherwise to effectuate the policies of this act, the unit appropriate for the purposes of collective bargaining as provided in Section 9e of Act No. 176." Sec. 9e then states:

The board, after consultation with the parties, shall determine such a bargaining unit as will best secure to the employees their right of collective bargaining. The unit shall be either the employees of 1 employer in 1 plant or business enterprise within this state, not holding executive or supervisory positions, or a craft unit, or a plant unit, or a subdivision of any of the foregoing units: Provided, however, that if the group of employees involved in the dispute has been recognized by the employer or identified by certification, contract or past practice, as a unit for collective bargaining, the board may adopt such unit.

When the Hillsdale Community Schools Principals and Supervisory Association sought an election in a proposed unit of "high school, junior high, and elementary school principals, curriculum coordinator, reading coordinator, ESEA coordinator, cooperative education coordinator, head librarian, and physical education director," the district objected (in part) on grounds that supervisors and executives have no collective bargaining rights under the PERA. The MLMB, however, determined that there is no prohibition against units of supervisory personnel. Moreover, since the personnel included in the proposed unit were not employees "who formulate, determine and effectuate management policies," they would not fall within the "executive or supervisory" exclusion of sec. 9e.

Finding itself bound by that determination, the appeals court explained that sec. 9e presents 4 choices of bargaining units; (1) a unit consisting of all of the employees employed in one plant or business enterprise within the state, (2) a craft unit, (3) a plant unit, and (4) a subdivision of any of the foregoing units.

The language in § 9e ". . . not holding executive or supervisory positions, . . .", is a modification of only the first type of unit listed. It does not modify the remaining units defined, nor is it in itself a prohibition against executive or supervisory employees constituting a bargaining unit. In its decision in *Saginaw County Road Commission* . . . the LMB held supervisory personnel to be covered by the terms of PERA:

"The words 'public employee' are to identify the employees *other than private* and does not define public employee so as to exclude supervisory personnel."

The court of appeals concluded that a sufficient community of interest existed in the proposed unit and accordingly affirmed the MLMB's unit determination. (*Hillsdale Community Schools v. Michigan Labor Mediation Board and Hillsdale Community Schools Principals and Supervisory Association and Michigan Education Association*, Michigan Court of Appeals, Division 2, May 26, 1970.)

NEW JERSEY

SALARY INCREASES ADOPTED AFTER BUDGET SUBMISSION BECOME EFFECTIVE ONLY WITH FUTURE BUDGETS

Teacher pay increases adopted by the Newark education board on August 5, 1969, but refused implementation by the board of school estimate for the 1969-70 school year were ruled applicable only to future school budgets by the New Jersey

Supreme Court. As the 1969-70 school budget had been adopted prior to the August resolution, implementation of the resolution would have called for salary increases beyond the scope of that budget. A lower court had held that barring requests for additional funds which were of an "emergency" nature or fell within the "underestimate" category, "there is no statutory provision permitting a board of education to amend its annual budget after it has been approved." This finding was affirmed by the state supreme court in its interpretation of a seeming inconsistency in applicable statutory language.

Following a lengthy salary impasse (NRD, 3-70, 7) and subsequent mediation, the Newark board adopted the following resolution on August 5, 1969, some six months after the board statutorily had submitted a budget for the 1969-70 school year which contained no salary increases:

> Whereas, the Board deems that salary increases for all its employees are both warranted and necessary for the best interests of this school district, and
>
> Whereas, in order to implement this policy, I hereby move that the Board adopt the following salary schedules, the effective date of both this policy and salary schedules to be the date of receipt of a proper appropriation or the receipt of funds from such other sources which may be available for the implementation of this policy. . . .
> Resolved that the Board of School Estimate be asked for an appropriation of $4,700,000 to implement the salary schedules.

When the board of school estimate refused to certify to the city the amount necessary to implement the new salary schedules, the Newark Teachers Association (bargaining representative at that time) entered a superior court action seeking immediate implementation of the new salary schedules (NRD, 4-70, 4). That court denied the Association's motion for summary judgment in finding that the term "effective date" as used in N.J.S.A. 18A:29-4.1 "does not require that a new salary schedule shall go into effect on the date of its adoption. [The statute] says that the salary policy shall be binding on the board of education for two years from the effective date of the policy—not from the date of its adoption."

In the instant matter, the state supreme court found the Newark board's view of N.J.S.A. 18A:29-4.1 correct under both the statute's original terms and the slightly different language of its revision in that the board "acted upon the premise that a salary schedule could be effective only with respect to an annual budget thereafter adopted." As originally enacted, the statute provided in part that "every school budget *thereafter* adopted, certified or approved . . . shall contain such amounts as may be necessary to fully implement such policy and schedules for that budget year" (emphasis added). According to the court, "the theme of the act was that a new policy or schedule shall not upset a budget already adopted . . . that the time sequence would be (1) the adoption of a resolution by the board of education, followed by (2) the incorporation of the salary needs in a budget thereafter adopted."

Although the revised version of the statute omitted the word "thereafter," the state supreme court determined that "there is no reason to assume a substantive change was intended. . . . The likely explanation is that the reviser thought the word 'thereafter' was redundant because under the terms of the statute the implementing budget would necessarily be adopted after the adoption of a new policy and schedule by a board of education."

Noting that the present litigation involved only the 1969-70 school year but that the budget for the following school year incorporated the new salary schedules, the court commented that

> it is evident from what we have said in dealing with the issue presented in this case that we gather the statute was intended to mean that the employees shall not be denied the promise of a new schedule adopted by a board of education. Thus to enable the board of education to have the final word does depart from the historic statutory plan, but that seems to be the thrust of the measure. We state this tentative view to the end that the Legislature may quickly clarify its intent if we have misconceived it.

(*Newark Teachers Association v. Board of Education of Newark, County of Essex, et al.*, New Jersey Supreme Court, October 26, 1970.)

NEW YORK

PROVISION FOR PAYMENT OF UNUSED SICK LEAVE TO ESTATE UPON TEACHER'S DEATH RULED VALID

A decision of the New York Supreme Court, Appellate Division, ruled valid and constitutional a negotiated article providing for the payment of a percentage of accumulated personal sick leave to a teacher's estate upon his death. In so ruling, the court reversed a lower court's decision and affirmed an arbitrator's award made pursuant to an agreement between the Central High School District No. 3 Teachers Association and the local board. The appellate court additionally determined that in the absence of "an express legislative restriction" against the negotiation of such a provision, a school board already is broadly and impliedly vested with the statutory authority to provide for payment of unused sick leave.

Schedule C of the parties' 1968-70 agreement provided that upon an employee's death, his estate would receive the increase in salary (based upon unused accumulated sick leave) to which he

would have been entitled. That increase would amount to 20 percent of accumulated personal sick leave for employees with up to and including 15 years' service.

The instant matter was brought by the Association on behalf of a teacher who died in 1968 after having served less than 15 years with the district and accumulating 15 days' sick leave. An arbitrator determined that Schedule C was enforceable, and that the teacher's estate should receive a sum equal to 20 percent of the pay for the 15 days of accumulated leave. The New York Supreme Court at Special Term ruled to the contrary, stating that payment of the sum would violate Art. VIII, sec. 1 of the state constitution. That article provides in part that "[n]o county, city, town, village or school district shall give . . . any money or property to or in aid of any individual, or private corporation or association."

On appeal, the higher court traced the development of case law dealing with pensions and allowances for public employees in the face of the constitutional prohibition and concluded that

> the courts have recognized that the State and its municipalities . . . are not conferring gifts upon their employees, but that essentially the promised rewards are conditions of employment—a form of compensation withheld or deferred until the completion of continued and faithful service. . . . In our opinion, sick leave as a condition of employment enjoys the same shelter from the constitutional bar. It offers an inducement to competent and efficient workers to enter public service; and the right to accumulate unused sick leave encourages the employee to stay in public service and at the same time deters absenteeism for trifling ailments. . . . Nor do we see any constitutional barrier to the payment of a sum equivalent to a percentage of accumulated unexercised sick leave when the employee dies in service or severs his relationship.

The school board urged that it lacked authority to negotiate such a payment, citing a statement of counsel to the state education department which held that a school district may pay employees for unused vacation time, but not for unused sick leave (sec. 92 of the General Municipal Law). But the appellate court found that "nowhere in the statutes has the Legislature withdrawn from a board of education the power to pay for unused sick leave" and held that

> the authority to provide for such payment resides in the respondent under the broad powers and duties delegated by the statutes. Were it otherwise, a board of education would not be able to bargain collectively and to make agreements concerning terms of employment with its teachers unless specific statutory authority for each provision of the agreement existed. . . . Section 92 does indeed sanction the granting of vacations and sick leave and the payment for unused vacation time, without providing for the payment of unused sick leave. In those terms the statute merely express[es] the power of the respondent to do that which it was already empowered, either expressly or impliedly, to do. . . . [N]either the absence of express power in section 92 nor the veto of a bill to make the power express in section 92 changes the essential character of the powers already broadly vested in the respondent by the provisions of the Education Law and the Civil Service Law. The undertaking by the respondent to pay for unused sick leave in the collective bargaining agreement was an exercise of reasonably implicit power pendent to its express power and duty to contract with its teachers and to determine the compensation and conditions of employment under which the teachers were to perform their services.

(*Teachers Association, Central High School District No. 3 and Board of Education, Central High School District No. 3, Nassau County,* New York Supreme Court, Appellate Division, Second Judicial Department, June 22, 1970.)

OTHER ITEMS OF INTEREST

DECISION NOT TO RENEW NONTENURE TEACHER'S CONTRACT BASED UPON PERFORMANCE, NOT UNION ACTIVITIES

The U.S. District Court for the Northern District of Indiana dismissed a suit brought by a nontenure Griffith, Indiana, teacher who contended that the local board's refusal to grant him tenure was in retribution for his union activities and violated his constitutional rights of free speech and association. The court found itself "convinced that the decision of the defendants not to place plaintiff on tenure status was based on a reasoned appraisal of plaintiff's abilities and shortcomings." Citing a portion of the decision rendered in *Parker v. Bd. of Education of Prince George's County, Md.*, the court held that "where the abridgement of the abstract right of free speech results from government action taken for the protection of other substantial public rights, no constitutional deprivation will be found to exist."

Plaintiff taught social studies at the Griffith High School from September 1965 through June 1970 and would have attained tenure under Indiana law if his contract had been renewed for the 1970-71 school year. After being notified on April 29, 1970, that his contract would not be renewed, plaintiff brought suit under 42 U.S.C. § 1983. In hearing the matter on its merits, the court pointed out that a school board's "latitude of discretion" in granting or denying tenure "must necessarily be quite broad," but that a decision not to renew "is impermissible if it deprives a teacher of constitutionally protected rights."

Plaintiff established that he was an active member of the Griffith Federation of Teachers in that he had been a member of several union committees, was vice-president of the union during the 1968-69 school year, was unsuccessful in his bid for union president in 1969, was an alternate member of the union's negotiating committee, and had been a primary instigator of a one-day strike held in the fall of 1969. But the court found no "credible evidence that there was a causal connection" between plaintiff's union activities and the board's decision not to renew his contract. Citing instances in which other union members had been promoted or granted tenure, the court held it

> incongruous that a school board with a bias against the union, as alleged by the plaintiff, would exercise that bias by preventing only one union member from attaining tenure while elevating several others to permanent status and promoting other members of the union. The Court is convinced that the school administration was not acting under a bias against the union generally, or against the plaintiff in particular because of his union activity.

In examining the board's reasons for not retaining plaintiff, the court found "a substantial basis" for the nonrenewal decision and decided that "the motives of the defendants were proper." Specifically, plaintiff's tardiness had been noted, his "tendency toward insubordination" was documented in three instances, one of which involved his advising students to violate the school's dress code, and his lack of concern for parents was pointed out in two other instances. Moreover, plaintiff had caused "dissension and divisiveness" among the staff by criticizing and embarrassing other teachers, displaying "a bellicose attitude," drinking heavily and using profanity at various social functions, refusing to cooperate with other teachers, and contributing to the friction between the union and the Griffith Teachers Organization.

The school board's final reason for denying plaintiff tenure was the "significant difference" between plaintiff's educational philosophy and that sought by the board. The court found "substantial evidence . . . that [plaintiff] had abused his teaching position by using his classroom 'as his personal forum to promote union activities, to sanction polygamy, to attack marriage, to criticize other teachers and to sway and influence the minds of young people without a full and proper explanation of both sides of the issue.'" Moreover, plaintiff belittled the opinions of students who challenged him, used inappropriate language in the classroom, and told his class that "if his statements were repeated outside of the classroom he would deny, under oath, having made them."

Pointing out that defendants' reasons for denying renewal to plaintiff "all relate directly to plaintiff's performance in the classroom and/or the smooth functioning of the school system," the court concluded that

> the school administrators were not acting with a desire to deprive plaintiff of his freedoms of speech and association. The First Amendment freedoms of a teacher are necessarily affected by the right of the school board to retain only those teachers who adequately discharge their teaching responsibilities and do not disrupt the efficient operation of the school. To the extent that this is a restriction on the freedom of a teacher, it is only incidental to the exercise of the school board's duty to maintain good schools. It is a question of balancing the interest of the teachers with that of the State. . . . There is no credible evidence to support plaintiff's contention that defendants acted with a bias toward the union or an intent to deprive plaintiff of his constitutional rights. The complaint therefore must be dismissed on the merits.

(*Thomas C. Knarr v. Board of School Trustees of Griffith, Indiana, et al.*, U.S. District Court, Northern District of Indiana, September 25, 1970.)

Board Findings and Rulings

CONNECTICUT

PARAPROFESSIONALS MAY BE REPRESENTED BY TEACHERS' STATE OR NATIONAL ORGANIZATION BUT MUST HAVE FULL MEMBERSHIP RIGHTS

A petition by the New Haven Federation of Teachers, AFL-CIO, Local 933, for certification as representative of all paraprofessionals except supervisors employed by the New Haven education board was dismissed without prejudice by the Connecticut State Board of Labor Relations. As the union's proposed relationship with the paraprofessionals did not allow such employees their statutory right to full union membership, the state board held that recognition of the unit would violate that right. Moreover, the state's statutory bargaining scheme calls for separate and separately represented local units of certified teachers and/or administrators and municipal employees (including paraprofessionals).

The New Haven board objected to the union's petition for certification on grounds that paraprofessionals were ineligible for membership in the union. Shortly afterward, the union altered its constitution to provide for the establishment of a paraprofessional unit whose members would have no vote in union affairs and thus no voice in the choice of union officers or negotiation representatives. Moreover, members of the paraprofessional unit would not be permitted to withhold union dues against the union's will.

Emphasizing that the statutory right to join a labor organization entails the right to "full membership," the state board ruled that the relationship contemplated did not afford the paraprofessionals that right. It additionally held that since teachers and paraprofessionals are covered by separate bargaining statutes, they may not be included in the same unit, nor may separate units be represented by the same union local. The state board explained that the implicit policy of the statutes is that teachers and/or administrators and municipal employees be substantially independent of each other. While they may be represented by the same state or national union, representation on a local level must be by different, entirely independent union locals. (*Matter of City of New Haven Board of Education and New Haven Federation of Teachers, Local 933, AFL-CIO*, Connecticut State Board of Labor Relations, December 30, 1970.)

ILLINOIS

DEATH BENEFITS AWARDED WHERE UNION FAIRLY PRESUMED RETROACTIVITY OF INSURANCE CLAUSE

An arbitrator awarded $2,000 in death benefits to the estates of 37 teachers in a dispute involving the retroactivity of a life insurance clause negotiated by the Chicago Teachers Union (CTU) and the Chicago education board. In examining the parties' intent regarding the language of the clause, the arbitrator held that the union "was entitled to rely" upon the superintendent's statements as to the January 1, 1969, effective date of the clause during 1969 contract negotiation. Thus, while the clause itself mentioned no effective date, the board was obligated to make payments to the estates of unit members who died between January 1 and September 1, 1969, the date of actual benefit coverage.

During negotiation of a group life insurance plan for bargaining unit members, the Chicago board agreed to the plan in principle and appropriated $225,000 for its implementation. Following various insurance company delays, the policy was effectuated on July 9, and the board subsequently established a September 1 date of benefit coverage. Prior to this, the parties agreed on May 28 to a one-year contract made retroactive to January 1 and extending through December 31, 1969.

When the CTU learned on July 3 of the board's action regarding the insurance clause, it objected on grounds that it had understood the policy to be retroactively effective to January 1. The board failed to act upon the objection, so the union filed a grievance charging that the board's delay in the effective date of the policy violated the parties' agreement.

The board initially contended that the arbitration proceedings were invalid because a circuit

court had ruled in *Illinois Education Association v. Board of Education* that an education board may bargain collectively with a union only under three conditions, one of which is that if negotiation fails "to resolve differences, the decision of the board shall be final." The board accordingly argued that the binding arbitration provision in the parties' agreement violated this condition and constituted an illegal delegation of authority. In addition, the board denied any intention to make the insurance coverage retroactive, since the contract clause was not specifically backdated to January 1, as were other negotiated provisions. Finally, the board maintained that the CTU knew there would be a delay in effectuating the insurance coverage, and that it had not inquired about the effective date of coverage prior to July 3.

The union responded with the argument that the circuit court ruling referred to the resolution of differences during the negotiation process, not the arbitration of grievances. It also contended that the board should be estopped from raising the question of arbitrability because in four prior negotiation situations the board had agreed to a binding grievance arbitration clause without disputing its legality.

As to the issue of retroactivity, the CTU maintained that the parties had intended in their May 28 settlement for every article to be effective as of January 1, except those designated to take effect on September 1. It quoted a statement made by the superintendent at the April 1 negotiating session:

> We have a number of items in this supplemental agreement, if I can call it that.
>
> Let me give one example, group life insurance, which at this time the board committee is, as you know, working on and trying to get effective as soon as we can. My understanding, I think it is January 1, when it was supposed to be effective.

Then on April 2, when the superintendent noted that union fringe benefit proposals contained no effective dates, a union representative said that all items not specifically designated as taking effect in September were to be effective as of January. The superintendent answered: "That's all I wanted to hear." The union finally asserted that no board representative had informed a union representative of the effective date of the insurance coverage prior to July 3. Moreover, the board's $225,000 appropriation for 1969 benefit coverage indicated to the union that a January 1 effective date had been intended, since $75,000 would have sufficed for the September through December 1969 period.

In discussing the issue of arbitrability, the arbitrator stated that "the issue of legality [raised by the union's estoppel argument] cannot be disposed of in that fashion since an illegal commitment remains invalid regardless of the number of times that the issue of legality might have been raised but was not." While the word "negotiation" as used in the circuit court's opinion may be applied to the grievance procedure, the arbitrator noted that the word usually refers to the process for determining wages, hours, and conditions of employment, and that the judge in *Illinois Education Association* had not specifically mentioned grievance arbitration:

> By [the judge's] decision authorizing the board to engage in collective bargaining he must have intended it to negotiate typical collective bargaining clauses; certainly his failure to prohibit the arbitration of grievances strongly suggests that the board had power, under his decision, to negotiate such a clause if it so desired. One of the other conditions in [the judge's] decision, it should be noted, required the union to agree not to strike. If it could neither strike nor arbitrate grievances, any agreement made would be subject to unilateral interpretation by the board, a most unsatisfactory system in labor-management affairs and one that might vitiate the entire collective bargaining process. It would be a most unusual system of interpretation that would read this result into [the judge's] decision, in the absence of clear language to that effect.

The substantive issue "turns primarily on the intent of the parties," according to the arbitrator, and "the question is whether some mutual agreement can fairly be inferred from everything they said and did." Noting the board's $225,000 budgetary action, the arbitrator found it "suggestive as to [the board's] intent at that time, but not conclusive" since the board could not have known in January when an insurance company would be selected and how the insurance clause (including its effective date) would be phrased.

However, he did find conclusive the April 1 and 2 statements of the superintendent which, while somewhat equivocal, represented an understanding of the union's position and established a presumption that the insurance policy would be effective as of January 1. The arbitrator thus concluded that

> the union's intent that the life insurance program be retroactive to January 1 was known to the board, and that the union was entitled to rely on [the superintendent's] statement on April 1. . . . The arbitrator finds, under the circumstances of this case, that the board's negotiators had an obligation to make their change in position, from that stated by [the superintendent] known to the union before the agreement was signed on May 28. He therefore finds that the board incurred an obligation to have payments of $2,000 made to the estates of all members of the bargaining unit who died between January 1 and September 1.

(*In Re Arbitration between Chicago Teachers Union and Chicago Board of Education*, November 3, 1970.)

MICHIGAN

FACT-FINDER BLAMES DISTRICT'S FINANCIAL CRISIS ON PUBLIC'S DEFEAT OF MILLAGE REQUESTS

A Michigan Employment Relations Commission (MERC) fact-finder appointed to resolve a negotiation impasse between the Lansing Education Association (LEA) and the Lansing education board warned the public to "make up its mind" with respect to financing local education. Naming four factors responsible for the Lansing schools' financial crisis—all of which were "beyond the control of the board and the association"—the fact-finder placed most of the blame for the situation on the public's defeat of two millage requests in June and August 1970. Pointing out that the August defeat deprived the board of some $3.3 million previously available, the fact-finder said that

> the Lansing School District is in a financial crisis . . . purely because 109 people in June, 1970, refused to renew an existing tax millage. . . . By refusing to renew the 4.6 millage, the public has engaged in false economy. It has caused cutback in programs. It has caused the announced elimination of extracurricular programs so valuable to many students. It has begun the process of making Lansing education inferior. It has caused the prospects of additional cutbacks. . . . Perhaps the Lansing taxpayer may be overjoyed by the fact that in the current year the total operating millage is 25.65 as compared to last year's operational millage of 30.85, but his children are being short changed.

During reopener talks specified in the parties' 1969-71 agreement, an impasse on salary increases, extracurricular pay, and class size limitations arose, and the parties jointly sought fact-finding. A comparison of the parties' salary proposals with comparable school districts and the Lansing district's ability to pay resulted in the fact-finder's appraisal that both groups' proposals were unrealistic. Specifically, he held that the board's offer of a B.A. base of $7,750 and an M.A. maximum of $14,105 was too low, while the LEA's demand for a $8,175 base and an M.A. maximum of $15,287 was too high.

In testing the competitive nature of Lansing's B.A. base (which represents an index of 1.00 and thereby sets the entire salary schedule), the fact-finder rejected the LEA's contention that the districts used for comparison should include higher-paying systems within the influence of the Detroit metropolitan area. Instead, he adopted the board's proposal that Lansing salaries be compared with "out-state" districts which already had negotiated their 1970-1971 salaries, were outside the Detroit influence, contained about the same number of students, and had similar tax bases.

In so doing, he found that the board's B.A. base and M.A. maximum offers would cause Lansing teachers to forfeit their relative position compared with other districts, while the LEA's demand for a B.A. minimum attempted to place Lansing teachers within the Detroit metropolitan area influence. Furthermore, no district had negotiated a salary increase as high as the $800 sought by the LEA, and all comparable districts (except one) had agreed upon a rise in the B.A. base which exceeded the board's offer by $50. Citing the need for "market place compensation" and a "fair, adequate teacher salary," the fact-finder recommended that the B.A. minimum be "$7,850.00 or a $100.00 increase over the board's offer. Based upon the present index in the contract, which this fact-finder is recommending be continued with the same tracks, the M.A. minimum at a 1.82 index would become $14,287.00."

He adopted the board's proposal that no changes be made in the existing extracurricular pay scale owing to the district's financial situation, increases built into the existing schedule, and the "concept of protecting the integrity of a two-year contract."

In regard to class size reductions, the fact-finder found the LEA's demands financially unfeasible despite its "very eloquent educational reasons for reducing class size particularly in the elementary grades." He recommended maximums of 29 students per kindergarten class, 27 students in grades one and two, 32 students in grades three through six, 35 students (with exceptions) per secondary class and a maximum pupil contact figure of 160 students per day, and 27 students per class in combination grades.

The fact-finder's recommendations were adopted by the parties in a one-year agreement effective through June 30, 1971. (*Lansing Board of Education and Lansing Schools Education Association*, Michigan Employment Relations Commission, October 8, 1970.)

FACULTY UNIT AT ONE MICHIGAN STATE UNIVERSITY COLLEGE FOUND INAPPROPRIATE

A petition for an election in a unit of some 220 teaching personnel in all academic ranks employed at one Michigan State University (MSU) college was rejected by the Michigan Employment Relations Commission (MERC) as insufficiently different from the approximately 1,800 teaching personnel employed at 14 other MSU colleges. Citing its decision in *Wayne State University Board of Governors* (NRD, 3-70, 7), the MERC pointed out that "the record must show that the

sought-for unit has inherent cohesiveness, that is, an internal community of interest among the employees in the proposed unit, and a cleavage between the community of interest of those employees and all other employees of the employer."

In seeking an election, the University College chapter–MSU District, Michigan Association for Higher Education argued that a unit of University College faculty was appropriate because the college "enrolls and is responsible for the academic progress of substantially all freshmen and sophomores in the University" and offers four courses required as a condition of graduation for most all students. Moreover, it maintains a department which provides testing services for other MSU colleges and is one of the few colleges which does not grant a degree. The Association additionally noted that the MSU catalog and other publications refer to University College as a separate college, that the college has its own quarterly journal, and that it has established a set of bylaws governing its internal procedures.

In opposition, the American Association of University Professors, MSU Chapter, and MSU itself argued that the only appropriate unit would be a university-wide unit of teaching personnel.

According to the MERC, the college's bylaws "refer primarily to intra-college matters and are authorized and controlled by the bylaws of the University." College faculty members are subject to uniform MSU salary scales and fringe benefits, and "many aspects of academic policy, admissions, evaluations, counseling, allocation of equipment and classroom space are administered centrally for the University." Moreover, the MSU president and board of trustees must authorize decisions regarding hiring, promoting, and the granting of tenure, and university-wide faculty committees handle major curriculum, tenure, faculty, and educational policy matters. Finally, the MSU budget is centrally prepared and managed, and monies are allocated by the legislature to MSU, rather than individual colleges.

While "dual levels of administrative authority" reflecting "significant departmental freedom in many areas" were evident here, the MERC emphasized that "centralized authority and control is retained" by MSU. Unable to "discover factors that will create a cognizable line of demarcation between the employees in the proposed unit and the balance of the faculty," the MERC rejected the petition. (*Michigan State University College Chapter–MSU District, Michigan Association for Higher Education and American Association of University Professors, MSU Chapter,* Michigan Employment Relations Commission, November 25, 1970.)

NEW YORK

EMPLOYER'S REFUSAL TO EXECUTE WELFARE FUND PROVISION CONSTITUTES AN IMPROPER PRACTICE

In response to an improper practices charge brought by the New Rochelle Federation of Teachers, AFL-CIO, against the New Rochelle school district, the New York Public Employment Relations Board (PERB) held that the district's refusal to execute a negotiated contract containing a welfare fund provision constituted a lack of good-faith bargaining. Although the district questioned the intent and meaning of the provision and felt that it was illegal, the PERB ruled that once an agreement is reached the parties are mandated "to execute a written agreement incorporating the terms and conditions negotiated." The PERB thereby reversed the findings of a hearing officer.

Negotiation of a 1969-70 contract proceeded through the spring of 1969, but when no agreement had been reached by June 12, district teachers engaged in a five-day work stoppage. During the strike, the parties continued "lengthy and intensive" negotiation of several unresolved items, one of which was a "union welfare trust fund." Early on the morning of June 18 the parties reached a package settlement including a welfare fund proposal which the district's chief negotiator had agreed to and initialed. The strike ended, and the parties agreed that their chief negotiators would meet in July to incorporate their agreement into a final contract for execution. The welfare fund clause read:

> The Board will provide $60.00 per teacher per year toward the purchase of welfare benefits. Said moneys are to be paid to a trust fund similar to those established for Yonkers and Mt. Vernon teachers.
>
> In the event the establishment of such a fund is judicially declared unlawful, then said moneys shall be used to purchase benefits from an insurance carrier licensed to do business in the State of New York and a committee consisting of an equal number of members designated by the Board and the Union shall determine the kind and the nature of the benefits. In the event of an impasse, the matter shall be referred to arbitration in accordance with the arbitration procedures set forth in this agreement.

At a July 23 meeting of the parties, the district stated that it would not accept the proposed declaration of trust submitted by the union owing to disagreement about the nature of the Yonkers trust fund. Furthermore, it maintained that it would not sign the negotiated agreement until the union would agree to a collateral agreement which specifically would limit the use to be made of district monies paid into the welfare fund.

The district also questioned the legality of the fund without the collateral agreement and submitted the proposed declaration of trust to the state education department for an opinion. Counsel to the state education department responded that the "transmittal of public funds pursuant to the proposed union welfare trust fund agreement would constitute a gift or loan of public funds and is therefore prohibited by Art. VIII, § 1 of the State Constitution."

On September 8, 1969, the union entered its improper practices charge alleging that the district had violated portions of the state's Taylor Law by refusing to execute a negotiated agreement. At a subsequent hearing, the hearing officer noted that the parties eventually reached agreement on a declaration of trust and a collateral agreement limiting the use of monies paid into the fund and executed the contract on February 9, 1970. Included in this contract was the original welfare fund proposal. He concluded that the district had not refused to negotiate in good faith and that the charge should be dismissed in its entirety since the district's chief negotiator believed the fund would be illegal without the collateral agreement, the meaning of the welfare fund provision was unclear, and the district "at no time withdrew its commitment to provide the agreed upon funds for the purchase of welfare benefits."

The PERB, however, pointed out that "the whole structure of collective negotiations depends upon the incorporating into a written agreement of all of the terms and conditions of employment agreed upon by the parties during the course of collective negotiations." The district's reliance upon the opinion of counsel to the state education department "would not appear to preclude the signing of the negotiated agreement or even excuse a refusal to sign [since] . . . the welfare trust fund [provision] contained an alternative procedure to provide welfare benefits if the establishment of the fund was 'declared unlawful.'"

Moreover, the PERB found that if the negotiated Yonkers agreement

> placed limitations upon the use of the money contributed to the fund by the employer, it would appear unlikely that the Declaration of Trust would not reflect such limitations and the trust fund proposed here was identical to the one in Yonkers. In any event, the agreement reached between the parties here provided that the New Rochelle Teachers trust fund would be similar to the trust fund in Yonkers, thus the implementation of the agreement here would appear to require a trust fund similar in all respects to the fund in Yonkers.

While negotiation here reached a "crisis point," the PERB concluded that an agreement reached under stress

> may not be reneged on or subject to second thoughts prior to its incorporation into a written contract. Otherwise, collective negotiations would be unending if not meaningless. In fairness, we must state that we do not accuse [the district] of willful bad faith. However, the fact remains that the parties reached agreement during collective negotiations, which agreement was not incorporated into a written contract until sometime subsequent to the filing of charges herein.
>
> Section 209-a of the Act under which the improper practice charge herein was filed did not become effective until September 1, 1969. Therefore, the initial refusal of [the district] prior to the date to execute the contract herein did not constitute a violation. However, the evidence establishes the fact that subsequent to September 1, the [union] did make repeated demands that [the district] execute the contract agreed upon. We find that the refusal of the [district] to accede to this demand did constitute a refusal to negotiate in good faith. In fashioning a remedy we realize that the parties have signed a final agreement and . . . [the district] has accepted the proposed declaration of trust. Therefore, no remedial order would appear to be required. However, we do make a finding of a violation here to indicate . . . to all public employers and employee organizations generally that the Act mandates that both . . . organizations involved are under a solemn duty to execute a written agreement incorporating the terms and conditions negotiated.

(*In Re The City School District of The City of New Rochelle, New York and New Rochelle Federation of Teachers,* New York Public Employment Relations Board, October 2, 1970.)

Negotiation Notes

MASSACHUSETTS

NEGOTIATED ECONOMIC ITEMS ALONE ARE SUBJECT TO REVIEW BY LOCAL LEGISLATIVE BODIES

A town manager's unilateral institution of personnel policies and practices in breach of a collective agreement and upon the rejection of budgetary amounts requested to effectuate that agreement "clearly manifested" a violation of the Massachusetts Municipal Employee Relations Act, according to the Massachusetts Labor Relations Commission (MLRC). The statute provides that if funds requested for implementation of a written agreement are rejected by the legislative body, "the matter shall be returned to the parties for further bargaining." It was not intended to mean

> that the legislative body of the municipality should have the right to veto in its entirety a valid collective bargaining contract. . . . We must take a pragmatic approach—only those items of the contract which are economic, i.e., require implementation by the appropriation of funds are subject to the review of the legislative body. . . . We are dealing with municipalities with a budget-making process that is geared to a tax rate. The responsible individuals on the management side do not possess the discretion required in the private sector relative to the raising of money. Therefore, it is incomprehensible to us to destroy the entire contract and voiding all of the noneconomic items agreed upon, where a legislative body has not seen fit to adopt the economic package agreed upon.

When the funds necessary to fully implement salary increases and adjustments under an agreement between the town of Saugus and the American Federation of State, County, and Municipal Employees, AFL-CIO, Local 262, were reduced by the Town Meeting in the spring of 1970, the new town manager considered the contract a nullity. Despite lengthy past practice and the terms of the current and previous agreements, he unilaterally increased the working hours of clerical employees and denied them increased vacation time. The MLRC held that such

> a labor relations policy . . . is aimed at defeating and destroying the Union as the collective bargaining agent of these employees. [The town manager] has had a long career in the labor relations field in the private sector . . . [and] has the expertise coupled with the technical statutory requirements relating to municipal finance and appropriation to engage in a sublime plan to create protracted litigation and labor dispute, the practical consequences of which will be to frustrate these employees in their guaranteed rights under this Statute.
>
> [The town manager] . . . by his action and conduct has clearly manifested a violation of the collective bargaining law Section 178L, section (1) by interfering with, restraining or coercing employees in the exercise of their rights under the Statute; (2) dominating or interfering with the formation, existence or administration of any employee organization and (4) refusing to bargain collectively in good faith with the exclusive representative of employees in an appropriate unit.

The MLRC ordered the city to cease and desist from refusing to bargain collectively with the union, immediately effectuate all noneconomic portions of the negotiated agreement, and "reimburse, compensate, or otherwise make whole by compensation, payment for the harm suffered by clerical employees in the deprivation and loss of time and extra vacation leave" as provided in the agreement. Moreover, the city was to engage in good-faith bargaining with the union in regard to the economic items reduced by the Town Meeting, with such items becoming retroactively effective on January 1, 1970.

MICHIGAN

PUBLIC EMPLOYER MUST BARGAIN BEFORE SUBCONTRACTING UNIT WORK

A Michigan Employment Relations Commission (MERC) trial examiner held that a union "should have the right to bargain with the employer in cases where a public employer feels it must contract out the unit work because there are no available unit employees for the vacant jobs." While the Lenawee County Road Commission could have eliminated three vacant janitor-watchman positions without bargaining with the International Union of District 50, its unilateral decision to subcontract the work was a violation of its duty to bargain. Moreover, this action left the union in "the unusual position of having the right to bargain concerning the wages, hours and other conditions of employment of janitor-watchman one day and not the next, with the same work still being done." The examiner concluded that

the union should at least know, in advance of subcontracting, that their contractual right to bargain for unit work may be curtailed or ended. The employer should bargain prior to subcontracting existing unit work because such a basic union right of representation cannot be changed, altered, or eliminated by unilateral action. If the public employer wants the right to subcontract work without first bargaining with the union . . . then the employer should put such an agreement in the contract itself.

When Lenawee County found that it could not fill the janitor-watchmen positions and that the work would have to be contracted out, the union should have been contacted and told of the problem. If the problem remained after bargaining, the employer could still subcontract in order to get the job done. The union would at least have had an opportunity to know and find out why their contractual right to bargain for the work of janitor-watchman might be, or would be, altered or abrogated.

The MERC subsequently agreed with the examiner's findings and sustained his order that the road commission invite the union to bargain the return of janitor-watchman duties to bargaining unit employees "or explain why such work should not or cannot be done by public employees represented by District 50." In addition, the commission was ordered to take measures aimed at returning the work to bargaining unit employees at the end of contracts with private companies performing the subcontracted work.

WISCONSIN

ELECTOR'S RIGHT TO FILE CHARGES UPHELD BUT CASE REMANDED FOR LACK OF DUE PROCESS

The Wisconsin Supreme Court affirmed in part and reversed in part a circuit court decision (NRD, 3-70, 5) which found that a strike-ending amnesty agreement negotiated under the state's bargaining statute barred the Madison Board of Police and Fire Commissioners from taking disciplinary action against striking firemen. While not reaching the question of whether the board was bound by the amnesty agreement between the city and the International Association of Fire Fighters, Local 311, "since the facts of this case do not dictate such a decision," the high court in effect upheld the circuit court's reversal of a board order to suspend a fire captain (respondent in the case) for his "contumacious conduct" during the strike.

However, the state supreme court reversed that part of the lower court's judgment which ordered the Madison fire department to reinstate respondent and pay him as though he had been in continuous service. The court found that respondent originally had been denied due process during board proceedings resulting in his suspension and accordingly remanded the case to the board for further proceedings consistent with this opinion.

One other issue upon which the state supreme court ruled was whether an amnesty agreement "abrogates the statutory right of an elector to file a complaint" with the board. That is, the complaint against respondent here was brought by a city elector, despite the fact that the board had inquired into the firemen's conduct during the strike and chosen not to bring any charges and despite the amnesty agreement. In that agreement the city agreed to dismiss all legal proceedings against the union and its members, "waive all other causes of action arising out of the negotiations or the strike, and . . . refrain from directly or indirectly commencing an action that would in any way discipline any employee for participation in the strike." The court pointed out that the amnesty agreement

> specifically refers to proceedings commenced by the City and to causes of action by the City. The filing of a complaint by an elector with the Board constituted neither. . . . It is the contention of the [board] that the processing of the elector's complaint by the [board] constitutes the City indirectly commencing an action to discipline the [fire captain]. However, the elector has a statutory right to file charges and if the city council could somehow foreclose the right of the Board to process charges filed by the elector, it follows that the lawful right of an elector to file charges . . . would be rendered meaningless. . . . [H]aving determined that the city council cannot enter into an agreement which would foreclose an elector from filing charges with the Board, we do not reach the question of whether the Board is bound by the contract between the City and the Union.

OTHER ITEMS OF INTEREST

CONSUMER PRICE INDEX, JANUARY 1971

Figures reported by the Labor Department, Bureau of Labor Statistics (BLS), indicated that the Consumer Price Index (CPI) all-items index rose 0.1 percent in January to 119.2 of the 1967 base which became effective that month (NRD, 3-70, 19). The January figure placed the index 5.2 percent above that of a year ago, reportedly the smallest 12-month rise since March 1969.

BLS noted that the prices of food purchased in grocery stores declined somewhat in January, while the prices of food consumed away from home rose more than in recent months. On a seasonally adjusted basis, nonfood commodity prices rose "at a slower pace in January primarily because of declines for apparel commodities and used cars." New car prices, on the other hand, rose for the second consecutive month instead of registering the usual seasonal decline. According to BLS, consumer services charges "continued

their uptrend in January despite a substantial drop in mortgage interest rates . . . [and] the rate of increase in transportation service prices accelerated sharply . . . primarily because of a substantial rise in auto insurance premiums." Prices for medical services advanced 0.6 percent that month.

An estimated 67,000 workers will receive cost-of-living wage increases based upon the January CPI.

SCHOOL BOARD EMPLOYEES RECOVER OVERTIME WAGES UNDER FAIR LABOR STANDARDS ACT

Central office employees of the Chicago education board who brought a class action to recover overtime wages and liquidated damages under sec. 216(b) of the Fair Labor Standards Act (FLSA) were granted relief by the U.S. Court of Appeals for the Seventh Circuit. Citing *Maryland v. Wirtz* (NRD, 11-68, A-7) in which the Supreme Court of the United States upheld the constitutionality of amendments to the FLSA which brought school boards within the definition of "employer" and school-board employees within the overtime provision, the federal appeals court ruled:

> We fail to see how the Board, after the Supreme Court decision in *Maryland v. Wirtz* . . . and after receiving the October 18 bulletin [of the Wage and Hour Administrator which rescinded former "tentative" opinions that central office school employees "would not seem to be within the coverage" of the FLSA], can be held to have reasonable grounds for believing that it was not in violation of the Act. Its obligation to pay the overtime, at least from October 18, was clearly established by the Administrator's bulletin and must have been clear to the Board, even if it was in the midst of litigation for periods prior to that date.

In reversing a federal district court's judgment, the appellate court ruled that plaintiffs were entitled to the recovery of overtime wages since February 1, 1967, the effective date of amendments to the FLSA; the district court had held that the Chicago board was liable only for overtime wages after the October 18, 1968, bulletin of the Wage and Hour Administrator. The appellate court additionally held that plaintiffs were entitled to liquidated damages after October 18, 1968, because the board "had no good reason for believing it was not in violation of the Act by refusing to pay overtime." Sec. 216(b) of the FLSA provides that liquidated damages in an amount equal to the overtime claimed automatically are awarded as a penalty for wrongful failure to pay overtime.

Statistics

NEGOTIATION AGREEMENTS: PUPIL TESTING PROCEDURES AND PROGRAMS

The NEA Research Division's analysis of 978 classroom teacher agreements effective during the 1968-69 school year in systems with a pupil enrollment of 1,000 or more identified 28 agreements (2.9 percent) with provisions concerning pupil testing procedures and programs. These provisions generally were subsections of other negotiated articles dealing with working conditions, noninstructional duties, special education programs, and integration policies. Moreover, they usually singled out a particular aspect of the testing program and established regulations governing it.

Table 1 indicates the frequency with which various subjects relative to pupil testing programs were negotiated. Categories listed in the table are not mutually exclusive, and the analysis is limited to what appears in written negotiation agreements; no attempt is made to cross-reference the analyzed provisions with other negotiated content which indirectly may affect pupil testing procedures and programs. Many of the sample provisions reprinted here represent only portions of negotiated articles because peripheral and/or unrelated subject matter has been deleted.

TABLE 1.—PUPIL TESTING PROCEDURES AND PROGRAMS, 28 PERTINENT PROVISIONS, 1968-69

Content	Agreements containing designated content	
	Number	Percent
1	2	3
TOTAL NUMBER OF PERTINENT PROVISIONS	28	100.0%
Program to which testing is related	26	92.9
General evaluation of aptitude and achievement	18	64.3
Placement of pupils in special educational programs	6	21.4
Integration/elimination of bias	2	7.1
Tests administered	20	71.4
Standardized	9	32.1
Intelligence	5	17.9
Psychological	4	14.3
Regular classroom tests	3	10.7
Achievement	3	10.7
Aptitude, minimum competency, college entrance tests	3	10.7
Testing procedures	18	64.3
Scheduling	3	10.7
Administration	2	7.1
Scoring	14	50.0
Use and interpretation of results	3	10.7
Mandated study or change of tests	6	21.4
Evaluation	2	7.1
Revision	4	14.3
Elimination	1	3.6

A majority of the provisions (64.3 percent) concerned the regular program for testing pupils' academic aptitude and achievement through the use of tests identified as "standardized," intelligence, aptitude,

achievement, and regular classroom tests. Prior to effecting the program, one provision involved the staff in determining the schedule by which standardized tests would be given during the ensuing year:

Teachers shall be consulted at the building level and teacher recommendations shall be considered in the development of testing schedules so that the test results can be used to maximum advantage by the classroom teachers. (Plainview, New York)

Regulations governing the scheduling of regular classroom tests and standardized tests were provided in two clauses as follows:

Regularly scheduled testing shall be set for a time which will be least disruptive to the instructional program. (Clintondale, Michigan)

* * *

Tests should be staggered so that several are not planned for the same day. This would hold particularly true in the high school classes where teachers might not be too aware of what other teachers are doing. An extra effort would have to be made here to coordinate testing. (Richfield Springs, New York)

Only two provisions included information concerning the personnel who administered the tests. One stated that "trained testing personnel shall be used to their best advantage. In-service training shall be provided for training of teachers for both classroom and standardized testing" (Clintondale, Michigan). The second clause provided in part that teachers "assist in the administration of objective tests during the school day" (Rye, New York).

The most commonly negotiated item concerning testing was the scoring or grading of tests. Of the 14 provisions (50.0 percent) which indicated who scored the tests or how they were scored, 10 stated that various standardized tests would be machine scored; one of these specifically stated that teachers would not be involved in the process and one provided paraprofessional aid. Of the remaining four provisions, three stated that tests variously were scored by paraprofessionals, by teachers, and by a so-called Directorate of Pupil Personnel Services, and one provision stated only that teachers would not score tests. Sample provisions concerning the scoring of both standardized and regular classroom tests are:

Each teacher will be responsible to grade, mark or return all test and homework assignments required from the students. (Fallsburgh, New York)

* * *

Schoolwide testing programs shall, whenever possible, be limited to machine graded tests. (Rolling Hills, Ohio)

* * *

Teachers will not be required to perform the following duties: (5) Scoring of tests where machine scoring is feasible. (Bristol, Rhode Island)

* * *

All standardized tests given system-wide shall be machine scored or scored by teacher aides. (Ashland, Wisconsin)

Only two provisions indicated guidelines for interpreting and utilizing pupil test results:

The improvement of instruction and the proper evaluation of each student necessitates the meaningful interpretation of subject matter and standardized test results by the teacher. (Dunkirk, New York)

* * *

In professional conferences with guidance counselors teachers on the secondary level shall be informed as to test scores of achievement tests, differential aptitude tests, Otis Group Intelligence tests, college qualifying tests, and minimum competency tests. (Yonkers, New York)

Of the six provisions which mandated the study of and/or changes in the testing program, four were related to the regular testing program under existing school conditions, and two others concerned integration policies. One clause provided that "a Clintondale Testing Committee shall continue to evaluate the testing program periodically" (Clintondale, Michigan). Another provision indicated that the evaluation of tests might occur when school programs in general were evaluated with the aid of teachers. Examples of provisions referring to the evaluation of testing programs and the elimination of certain standardized tests are:

Teachers shall be required to serve on revision and evaluation committees (report cards, testing, curriculum, textbooks). Contributions in these areas made by the teachers shall be noted in their personal files. (Dunkirk, New York)

* * *

The Massapequa-Berner standardized examinations shall be eliminated upon establishment of agreed-on guidelines to replace them, after approval by a subcommittee of the EAC which subcommittee shall make its report by November 1, 1968. (Massapequa, New York)

In addition to the provisions dealing with the school's regular testing program, eight provisions concerned other school programs such as the placement of pupils in special education programs and integration policies. All of the agreements referring to psychological tests stated that such tests would be administered to pupils with suspected emotional problems which might necessitate their placement in special education classes, but they were in no case to be administered to all pupils across the board. Two clauses providing for the use of tests in identifying and placing special pupils are:

The parties, accordingly, will cooperate to increase the psychological testing program, and to correlate their activities with the regular classroom activities of the teachers so as better to meet the needs of special students in the community. (Athens, Michigan)

* * *

Requests of teachers that certain students be tested will be formally processed on forms prescribed by the board. No such teacher request will be disregarded. Teachers will be informed of the psychologists' recommendations. The Administration shall make such arrangements as may be necessary to insure that psychological testing of students is accomplished, as soon as possible, when requested. (Lake Orion, Michigan)

Two of the analyzed provisions reconsidered the character of regularly administered achievement and intelligence tests in light of integration policies. Both provisions called for the review and revision of these tests in order to eliminate cultural bias:

There shall be a complete review and revision wherever necessary of the existing testing program in an effort to eliminate culturally biased tests. (Detroit, Michigan)

* * *

Currently our students are subjected to class-oriented achievement and intelligence test programs. The Federation calls for a complete revision of the existing testing program which will take into account culturally different students. (Inkster, Michigan)

NATIONAL SURVEY OF WHITE-COLLAR PAY JUNE 1970

Salary increases in white-collar occupations registered an average 6.2 percent increase between 1969 and 1970 and represented the largest advance for any year of the 10 years that the Labor Department's Bureau of Labor Statistics (BLS) has surveyed the salaries of selected professional, administrative, technical, and clerical personnel in private industry. The 1969 to 1970 figure was up from the 5.7 percent average increase reported between 1968 and 1969. As indicated in Table 1, increases in nine of the 11 professional, administrative, and technical support occupations ranged from 5.5 percent to 7.4 percent, while the average increase for all such occupations was 6.2 percent. In the clerical occupations, the overall average also was 6.2 percent, while eight of the nine job categories advanced between 5.5 percent and 6.4 percent.

TABLE 1.—PERCENT INCREASES IN AVERAGE SALARIES, 1968-69 AND 1969-70, AND AVERAGE ANNUAL RATE OF INCREASE FROM 1961 TO 1970

Occupation and group	Average salaries, percent increases		Average annual rate of increase, 1961 to 1970
	1969 to 1970	1968 to 1969	
1	2	3	4
Professional, administrative, and technical support:			
Accountants	6.7%	7.0%	4.5%
Auditors	7.0	7.2	4.6
Chief accountants	7.1	5.8	4.5
Attorneys	7.1	[a]	[b]
Buyers	6.1	6.6	[c]
Job analysts	4.1	2.1	3.7
Directors of personnel	7.4	5.4	4.5
Chemists	5.9	6.5	4.6
Engineers	5.5	6.2	4.2
Engineering technicians	6.3	5.8	4.1[d]
Drafting	4.9	5.8	[b]
Average percent increase[e]	6.2	5.8	4.3
Clerical:			
Accounting clerks	6.2	4.7	3.6
File clerks	5.5	5.5	4.2[d]
Keypunch operators	6.4	5.3	4.1[d]
Office boys or girls	6.3	6.7	4.2
Secretaries	6.4	5.3	[c]
Stenographers	5.8	5.9	3.9[d]
Switchboard operators	5.8	4.8	[b]
Tabulating-machine operators	7.1	5.4	3.9
Typists	6.0	5.7	4.0
Average percent increase[e]	6.2	5.5	3.9

Source: U.S. Department of Labor, Bureau of Labor Statistics. *National Survey of Professional, Administrative, Technical, and Clerical Pay, June 1970.* Bulletin 1693. Washington, D.C.: Government Printing Office, 1971. p. 4.

[a]Comparable data not available for both years.

[b]Comparison over this period was not possible because of changes in the definition of the occupation.

[c]Not surveyed.

[d]First surveyed in 1962; therefore, the average annual rate of increase relates to the 1962 to 1970 period.

[e]Data for one administrative occupation, managers of office services last surveyed in 1968, and one clerical occupation, bookkeeping-machine operators last surveyed in 1964, not shown above, are included in the average percent increases for the periods during which they were surveyed.

The BLS survey "provides nationwide salary averages and distributions for 81 work level categories covering 13 broad occupational groups" which account for nearly one-fourth of the estimated total employment in professional, administrative, clerical, and related occupations in all establishments within the scope of the survey. Its coverage includes "establishments in all areas of the United States except Alaska and Hawaii in the following industries: manufacturing; transportation, communication, electric, gas, and sanitary services; wholesale trade; retail trade, finance, insurance, and real estate; engineering and architectural services; and research, development, and testing laboratories operated on a commercial basis." According to BLS, "the minimum size of establishment requirements varied by industry division roughly equalizing minimum size scope in terms of white-collar employment. These requirements ranged from 50 employees in the finance, insurance, and real estate division, which is almost entirely composed of white-collar workers, to 250 employees in the manufacturing and retail trade divisions."

While the survey covers both metropolitan and nonmetropolitan areas, BLS pointed out that about 80 percent of total employment and approximately 90 percent of employment in professional, administrative, clerical, and related occupations within the survey's scope was accounted for by establishments located in metropolitan areas. Moreover, nearly 90 percent of the employees in the selected occupations were employed in metropolitan areas.

Table 2 presents monthly and annual salary data for selected professional, administrative, technical, and clerical occupations surveyed between 1969 and 1970. As indicated, the average monthly salaries for the 81 occupational levels varied from a low of $343 for clerks engaged in routine filing work to a high of $2,753 for the top level in the attorney series. In engineering, the largest professional occupation surveyed, average monthly salaries ranged from $851 for recent graduates employed in trainee positions to $2,116 for the highest level of engineers, whose responsibilities typically could include direction of highly complex and diversified engineering programs comprised of many large and important projects. The four keypunch supervisor levels were new to the survey in 1970 and indicated an average salary of $574 per month at the lowest level and $824 per month at the highest level. Keypunch workers were classified according to a combination of their level of supervisory responsibility, the difficulty of the keypunch work supervised, and the number of employees supervised. BLS noted that most all salary levels in metropolitan areas and large establishments were higher than in all establishments within the scope of the survey. In addition, salary levels in finance and the retail trade industries generally were lower than in the other major industry divisions surveyed.

Within each occupation indicated in Table 2, employees were classified according to appropriate work levels or classes which were defined in terms of duties and responsibilities. The Roman numeral I is assigned to the lowest level within an occupational class. Most of the occupational definitions used in the survey were graded by the U.S. Civil Service Commission in accordance with standards established for each grade under the Federal Classification Act. The equivalent classification grade for each work level surveyed and graded is identified in the final survey report.

While the BLS survey originally was designed to compare federal and private pay, it is used as a benchmark by business, labor unions, professional societies, trade associations, schools, and state and local government agencies. Moreover, it is a basic reference source for salary administrators, recruiters, educators, career counselors, employee placement workers, and planners. Copies of BLS Bulletin No. 1693, entitled *National Survey of Professional, Administrative, Technical, and Clerical Pay, June 1970,* may be obtained at $1 each from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

TABLE 2.—EMPLOYMENT AND AVERAGE SALARIES FOR SELECTED PROFESSIONAL, ADMINISTRATIVE, TECHNICAL, AND CLERICAL OCCUPATIONS IN PRIVATE INDUSTRY,[a] UNITED STATES EXCEPT ALASKA AND HAWAII, JUNE 1970, AND PERCENT INCREASE IN MEAN SALARIES DURING THE YEAR[b]

Occupation and class	Number of employees[c]	Monthly salaries[d]				Annual salaries[d]				Percent increase in mean salaries[b]
		Mean	Median	Middle range[e]		Mean	Median	Middle range[e]		
				First quartile	Third quartile			First quartile	Third quartile	
1	2	3	4	5	6	7	8	9	10	11
Accounts and auditors										
Accountants I	4,795	$ 709	$ 710	$ 650	$ 765	$ 8,503	$ 8,520	$ 7,800	$ 9,180	6.3
Accountants II	10,414	801	800	730	871	9,609	9,600	8,760	10,452	6.6

TABLE 2.–EMPLOYMENT AND AVERAGE SALARIES FOR SELECTED PROFESSIONAL, ADMINISTRATIVE, TECHNICAL, AND CLERICAL OCCUPATIONS IN PRIVATE INDUSTRY,[a] UNITED STATES EXCEPT ALASKA AND HAWAII, JUNE 1970, AND PERCENT INCREASE IN MEAN SALARIES DURING THE YEAR[b] (Continued)

Occupation and class	Number of employees[c]	Monthly salaries[d]				Annual salaries[d]				Percent increase in mean salaries[b]
		Mean	Median	Middle range[e]		Mean	Median	Middle range[e]		
				First quartile	Third quartile			First quartile	Third quartile	
1	2	3	4	5	6	7	8	9	10	11
Accountants III	25,777	891	875	800	973	10,686	10,500	9,600	11,676	6.6
Accountants IV	17,559	1,063	1,050	955	1,166	12,755	12,600	11,460	13,992	6.6
Accountants V	6,331	1,290	1,260	1,151	1,400	15,477	15,120	13,812	16,800	7.7
Auditors I	804	741	726	674	816	8,894	8,712	8,088	9,792	6.3
Auditors II	1,842	830	800	735	917	9,955	9,600	8,820	11,004	7.2
Auditors III	4,323	956	937	850	1,041	11,475	11,244	10,200	12,492	7.0
Auditors IV	2,243	1,170	1,166	1,044	1,274	14,044	13,992	12,528	15,288	7.0
Chief accountants I	599	1,160	1,166	1,000	1,295	13,917	13,992	12,000	15,540	5.3
Chief accountants II	1,260	1,304	1,308	1,123	1,426	15,647	15,696	13,476	17,112	6.9
Chief accountants III	703	1,565	1,540	1,390	1,667	18,780	18,480	16,680	20,004	6.0
Chief accountants IV	287	1,928	1,933	1,666	2,104	23,133	23,196	19,992	25,248	12.4
Attorneys										
Attorneys I	634	988	1,000	856	1,083	11,859	12,000	10,272	12,996	7.6
Attorneys II	1,249	1,132	1,110	978	1,250	13,585	13,320	11,736	15,000	6.3
Attorneys III	1,775	1,407	1,403	1,250	1,518	16,884	16,836	15,000	18,216	6.3
Attorneys IV	1,659	1,692	1,666	1,456	1,875	20,304	19,992	17,472	22,500	6.0
Attorneys V	793	2,116	2,083	1,845	2,332	25,391	24,996	22,140	27,984	7.2
Attorneys VI	458	2,753	2,667	2,414	3,073	33,032	32,004	28,968	36,876	12.3
Buyers										
Buyers I	2,490	709	696	639	775	8,512	8,352	7,668	9,300	8.1
Buyers II	10,137	813	800	723	895	9,759	9,600	8,676	10,740	5.3
Buyers III	13,091	972	958	870	1,069	11,665	11,496	10,440	12,828	6.6
Buyers IV	4,968	1,158	1,135	1,025	1,274	13,895	13,620	12,300	15,288	5.7
Personnel management										
Job analysts I	123	745	736	666	835	8,938	8,832	7,992	10,020	9.8
Job analysts II	370	798	803	725	862	9,571	9,636	8,700	10,344	5.4
Job analysts III	609	932	924	839	1,026	11,183	11,088	10,068	12,312	5.5
Job analysts IV	626	1,086	1,091	983	1,191	13,035	13,092	11,796	14,292	1.6
Directors of personnel I	1,057	1,049	1,050	925	1,150	12,593	12,600	11,100	13,800	6.3
Directors of personnel II	1,963	1,236	1,188	1,096	1,350	14,832	14,256	13,152	16,200	6.5
Directors of personnel III	1,035	1,535	1,477	1,356	1,666	18,419	17,724	16,272	19,992	10.0
Directors of personnel IV	409	1,827	1,833	1,550	2,013	21,920	21,996	18,600	24,156	6.5
Chemists and engineers										
Chemists I	1,601	764	765	700	825	9,164	9,180	8,400	9,900	4.9
Chemists II	5,211	853	850	784	911	10,233	10,200	9,408	10,932	6.3
Chemists III	9,158	978	965	880	1,060	11,737	11,580	10,560	12,720	6.1
Chemists IV	11,143	1,185	1,175	1,055	1,307	14,218	14,100	12,660	15,684	6.4
Chemists V	7,407	1,422	1,408	1,275	1,558	17,066	16,896	15,300	18,696	6.1
Chemists VI	4,249	1,642	1,625	1,480	1,813	19,700	19,500	17,760	21,756	6.3
Chemists VII	1,700	1,911	1,843	1,675	2,081	22,937	22,116	20,100	24,972	2.1
Chemists VIII	483	2,311	2,249	2,037	2,542	27,731	26,988	24,444	30,504	2.4
Engineers I	13,028	851	850	806	900	10,209	10,200	9,672	10,800	5.7
Engineers II	32,117	923	917	865	975	11,077	11,004	10,380	11,700	5.9
Engineers III	85,759	1,029	1,025	950	1,100	12,350	12,300	11,400	13,200	5.5
Engineers IV	114,365	1,225	1,216	1,117	1,320	14,695	14,592	13,404	15,840	5.8
Engineers V	78,391	1,417	1,412	1,275	1,540	17,004	16,944	15,300	18,480	5.6
Engineers VI	41,259	1,623	1,621	1,465	1,760	19,471	19,452	17,580	21,120	4.8
Engineers VII	15,460	1,861	1,850	1,674	2,020	22,328	22,200	20,088	24,240	5.3
Engineers VIII	3,884	2,116	2,068	1,851	2,300	25,393	24,816	22,212	27,600	5.7
Technical support										
Engineering technicians I	4,685	525	525	469	576	6,298	6,300	5,628	6,912	6.0
Engineering technicians II	14,546	627	619	570	678	7,520	7,428	6,840	8,136	7.3

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Occupation and class	Number of employees[c]	Monthly salaries[d]				Annual salaries[d]				Percent increase in mean salaries[b]
		Mean	Median	Middle range[e]		Mean	Median	Middle range[e]		
				First quartile	Third quartile			First quartile	Third quartile	
1	2	3	4	5	6	7	8	9	10	11
Engineering technicians III	26,998	712	706	650	769	8,541	8,472	7,800	9,228	6.2
Engineering technicians IV	31,478	820	815	747	883	9,837	9,780	8,964	10,596	5.8
Engineering technicians V	16,621	920	915	846	991	11,043	10,980	10,152	11,892	7.0
Draftsmen-tracers	4,992	473	458	407	525	5,675	5,501	4,883	6,299	7.1
Draftsmen I	19,932	567	560	491	626	6,805	6,719	5,892	7,510	5.4
Draftsmen II	32,752	697	688	624	765	8,364	8,254	7,486	9,177	4.7
Draftsmen III	28,343	850	833	756	916	10,204	9,990	9,072	10,993	4.6
Clerical supervisory										
Keypunch supervisors I	1,190	574	570	500	650	6,883	6,840	6,000	7,800	(f)
Keypunch supervisors II	1,444	647	625	563	735	7,763	7,500	6,756	8,820	(f)
Keypunch supervisors III	889	691	666	595	769	8,297	7,992	7,140	9,228	(f)
Keypunch supervisors IV	281	824	815	726	917	9,894	9,780	8,712	11,004	(f)
Clerical										
Clerks, accounting I	87,609	439	424	374	489	5,268	5,087	4,484	5,866	6.6
Clerks, accounting II	60,169	568	554	485	641	6,815	6,648	5,826	7,691	5.7
Clerks, file I	31,145	343	331	305	369	4,119	3,968	3,659	4,432	6.1
Clerks, file II	29,941	381	369	330	413	4,571	4,432	3,963	4,953	5.6
Clerks, file III	8,772	459	446	388	517	5,508	5,347	4,659	6,207	3.5
Keypunch operators I	64,645	426	412	366	469	5,114	4,945	4,391	5,631	6.6
Keypunch operators II	49,024	485	478	430	534	5,820	5,735	5,159	6,403	6.2
Office boys or girls	28,845	379	369	332	411	4,548	4,432	3,983	4,934	6.3
Secretaries I	90,862	522	520	460	579	6,259	6,239	5,524	6,943	6.6
Secretaries II	90,995	582	578	513	652	6,979	6,935	6,153	7,821	6.0
Secretaries III	51,723	625	623	543	700	7,506	7,471	6,518	8,398	6.7
Secretaries IV	15,991	679	675	582	766	8,147	8,098	6,987	9,188	5.8
Stenographers, general	68,301	456	448	394	513	5,478	5,370	4,727	6,155	5.5
Stenographers, senior	58,912	521	515	455	587	6,247	6,179	5,459	7,039	6.2
Switchboard operators I	14,146	426	417	359	486	5,109	5,005	4,311	5,830	6.0
Switchboard operators II	11,641	501	497	435	556	6,010	5,965	5,219	6,674	5.6
Tabulating-machine operators I	3,515	461	445	400	504	5,531	5,339	4,799	6,048	10.2
Tabulating-machine operators II	7,950	538	529	474	600	6,462	6,351	5,683	7,195	6.6
Tabulating-machine operators III	4,328	651	639	576	704	7,813	7,665	6,911	8,447	6.0
Typists I	83,788	393	385	348	428	4,717	4,614	4,171	5,140	6.0
Typists II	45,156	456	445	400	499	5,471	5,339	4,799	5,987	6.1

Source: U.S. Department of Labor, Bureau of Labor Statistics. *National Survey of Professional, Administrative, Technical, and Clerical Pay, June 1970.* Bulletin 1693. Washington, D.C.: Government Printing Office, 1971. pp. 16-17.

[a]Industries covered are: manufacturing; transportation, communication, electric, gas, and sanitary services; wholesale trade; retail trade, finance, insurance, and real estate; engineering and architectural services; and research, development, and testing laboratories operated on a commercial basis.

[b]Changes in average salaries reflect not only general salary increases and merit or other increases given to individuals while in the same work level category, but they also may reflect other factors such as employee turnover, expansions or reductions in the work force, and changes in staffing patterns within establishments with different salary levels. Occupations most likely to reflect such changes in the salary averages are the higher levels of professional and administrative occupations and single-incumbent positions such as chief accountant and director of personnel.

[c]Occupational employment estimates relate to the total in all establishments within scope of the survey and not to the number actually surveyed.

[d]Salaries reported relate to the standard salaries that were paid for standard work schedules; i.e., the straight-time salary corresponding to the employee's normal work schedule excluding overtime hours. Nonproduction bonuses are excluded, but cost-of-living payments and incentive earnings are included.

[e]The middle range (interquartile) used here is the central part of the array excluding the upper and lower fourths of the employee distribution.

[f]Not surveyed in 1969.

Special Reports

BRIEFS OF RECENT AGREEMENTS

Scottsdale, Arizona

Between Scottsdale Elementary District No. 48 and Scottsdale High School District No. 212 and the Scottsdale Education Association, effective October 15, 1970, to October 15, 1971. Approximately 1,222 certificated professional employees. Provision for automatic renewal of agreement unless either party notifies the other in writing no later than six months prior to October 15 of a desire to reopen the agreement.

Compensation: (stated as an index of B.A. base which is 1.00) B.A., $6,350 (1.00) to $9,779 (1.54), 9 increments; B.A. plus 15 hours, $10,414 (1.64) maximum; M.A., $6,858 (1.08) to $11,811 (1.86), 12 increments; M.A. plus 45 hours, $13,811 (2.175) maximum; Ph.D., $14,891 (2.345) maximum; summer school teachers, $104 per week for elementary teachers with 16 hours of class per week and 5 weeks of classes, and $130 per week for secondary teachers with 20 hours of class per week and 8 weeks of classes. Differentials: (stated as a percentage of the M.A. minimum where indicated) high-school head football coach, $822.96 (.12 of M.A. minimum); high-school head track, wrestling, and baseball coaches, $617.22 (.09 of M.A. minimum); elementary-school coaches, $150 per sport; high-school varsity choral and drama directors, $685.80 (.10 of M.A. minimum); high-school yearbook and newspaper advisors, and driver education coordinator, $342.90 (.05 of M.A. minimum); high-school department chairmen receive $342.90 to $1,028.70 (.05 to .15 of M.A. minimum according to the number of teachers supervised) and a daily department period in the larger departments. Extra-duty pay of $3.50 per hour with minimums and maximums placed upon certain events and activities. Three separate schedules for financing various athletic activities which set forth the jobs required (e.g., timers, announcers, ticket takers, photographers, scorekeepers, student control personnel, scouts), the maximum number of personnel to be hired in each position, the rate of compensation, and the rate of compensation per activity "level" (i.e., varsity, junior varsity, sophomore, freshman).

Leaves: 10 days' annual sick leave credited at the beginning of the school year, unlimited maximum accumulation; 5 days for bereavement leave or a serious illness in the immediate family deducted from sick leave; 2 separate days' leave for school and classroom visitation, participation on educational panels, lectures, and graduate testing; time as needed for professional conference leave; sabbatical leave at half-pay for an undefined length of time after 7 years' service.

Insurance: Board-paid medical insurance program for individual coverage, with employee paying dependent coverage if desired; board provides a life insurance policy for individual coverage.

Instruction: Within funding limitations, every effort will be made to limit elementary and secondary classes to 30 students, and secondary teachers shall have a daily pupil contact rate of no more than 150 pupils; academic freedom "shall be guaranteed to teachers in order to create in the classroom an atmosphere of freedom, which permits students to raise questions dealing with critical issues of the time and which maintains an atmosphere conducive to the study, investigation, presentation, and interpretation of facts which stress the interplay of ideas"; provision calling for a comprehensive study of differentiated staffing; provision encouraging the use of students as "teacher assistants" (*see* following provision reprint); any review of, or major alterations or additions to curriculum shall result from the efforts of a joint committee which may include lay and student representatives.

Personnel: Effective August 15, 1970, grievance procedure ends with the submission of the recommendations of a jointly selected, three-member advisory committee to the board for final action; teacher has right to review personnel file and respond to any locally originating material before placement therein; every effort will be made to provide a duty-free lunch period of no less than 30 minutes for all teachers, as well as a 50-minute daily preparation period for elementary teachers, and a 55-

minute daily preparation period for secondary teachers; a principal equitably may assign teachers to cover a class on a temporary emergency basis, but a teacher may refuse that assignment if it will interfere with "necessary preparation for classes immediately following the preparation period"; provision for teacher involvement in the staff selection process (*see* following provision reprint); probationary teachers shall be evaluated no less than twice per year, and tenure teachers shall be evaluated once per year; elementary grade level chairmen are to be appointed by the principal from a list of candidates recommended by teachers of an appropriate level, while high-school department chairmen shall be appointed by the principal from recommended candidates screened and selected by department members; involuntary transfers may be grieved; industrial arts, home economics, and women physical education teachers are to meet with the principals of their schools at a general meeting in May of the preceding school year "to assure they carry no larger load in subject area assignment, professional meetings, and community activities than the teacher assigned to one school" and are given no duty assignments except those related to their subject areas; professional growth requirement that 3 semester hours of credit be earned every 3 years; teachers may be granted 3 professional growth credits for each year of participation on the negotiation commission, 3 credits for each year of participation as president of a recognized teachers organization, and 3 credits for an accepted contribution to the literature of the profession; a Professional Growth Advisory Committee composed of the superintendent, one elementary and one secondary principal or assistant principal, 2 district administrators, 3 elementary teachers, and 2 high school teachers shall meet at least 3 times per school year (September, January, and May) to advise teachers on requests for interpretation of the professional growth plan, consider requests to depart from the plan's requirements, suggest additional professional growth activities, make recommendations to the superintendent for final approval, and prepare necessary informational bulletins.

Staff Selection

A. The classroom teaching staff of the school district represents a rich source of guidance and assistance in the recruiting, selection, and placement of new staff members.

B. Therefore, recruiting and interviewing of potential certificated employees shall, wherever possible, be done by a screening team including representative classroom teachers, department chairmen, and principals. For high school candidates, the department chairman shall assist the principal in selection and placement. For elementary school candidates, the appropriate grade level chairman shall assist the principal in selection and placement.

C. Further development of this concept of staff selection and placement will occur in the study of the feasibility of differentiated staffing. (Scottsdale, Arizona)

Student Use

A. High School. Students who are used as teacher assistants can gain much, both educationally and in appreciation of the teacher's role. These students may be capable of assisting others to learn through reading, preparation of learning materials, etc. Lab assistants, team managers, etc., are examples of advantageous use of students where opportunities can be offered to that student for important incidental learning.

B. Elementary School. The opportunities for using students, particularly in the upper grades, to assist other children in the learning process should be encouraged. Such activities as reading for appreciation to lower grade children, assisting in the library, serving as P.E. assistants and team managers are useful. Every effort should be made to limit the use of students for non-learning activities. (Scottsdale, Arizona)

Park Forest, Illinois

Between School District No. 227 and the Rich Township High School Education Association, effective July 1, 1970, to June 30, 1971. Approximately 190 certificated professional employees. Provision for negotiation of a successor agreement which shall begin in January 1971.

Compensation: B.A., $8,200 to $11,000, 9 increments; B.A. plus 15 hours, $12,075 maximum; M.A., $8,900 to $13,300, 11 increments; M.A. plus 30 hours, $14,250 maximum; Ph.D., $15,200 maximum. Differentials: head varsity football and basketball coaches, $900; head varsity baseball and track coaches, $600; head yearbook, newspaper, debate, speech, and drama advisors, $700; cheerleader sponsor and girls' gymnastics head, $300; lunchroom and hall supervisors, $300; bus supervisors, $125; most club sponsors, $150; school publicity director, $400. Extra-duty special pay schedule setting forth salary per day for ticket sellers,

gatekeepers, timers, scoreboard operators, and crowd control personnel, $10; testing examiners and proctors, $12; bus chaperones, $10; debate judges, $25; speech judges, $20.

Leaves: 10 days' annual sick leave credited at beginning of school year, 200 days' maximum accumulation; sick leave may be used for quarantine at home, or a death or serious illness in the immediate family or household; maternity leave applicants must report pregnancy by the end of the third month and take leave by the end of the fifth month or failure to do so shall be considered just cause for dismissal; sabbatical leave at 70 percent of salary for 1 year after 6 years' service.

Insurance: Board contributes 40 percent of cost of group medical insurance program which is administered by the Association and provides both individual and family coverage; tax sheltered annuity plan offered.

Association: Payroll dues deduction for local, state, and national associations; board is not required to pay unit members for time spent in processing grievances; no-strike clause.

Personnel: Grievance procedure ends with binding arbitration; teacher has right to review personnel file and respond to any derogatory material before placement therein; board shall provide indemnification and protection against claims and suits brought against teachers and, in the event civil or criminal proceedings are brought, shall provide a teacher with counsel at the trial court level if the alleged assault or battery arose out of the teacher's employment and the teacher was not acting clearly in violation of the law; citizenship clause providing that a teacher shall be guaranteed the right to be politically active as long as he acts as a private individual and does not conduct such activity on school premises during working hours, or involve students of his school on school property.

Cape Elizabeth, Maine

Between the Cape Elizabeth School System and the Cape Elizabeth Faculty Association, effective September 1, 1970, to September 1, 1971. Approximately 90 certificated professional employees. Negotiation of a successor agreement is to begin no later than October 1 and terminate no later than November 1, unless extended by mutual consent.

Compensation: (stated as an index of B.A. base which is 1.00) B.A., $6,400 (1.00) to $9,920 (1.55), 11 increments; M.A., $7,040 (1.10) to $10,880 (1.70), 12 increments; M.A. plus 30 hours, $11,200 (1.75) maximum; severance pay after serving no less than the last 10 consecutive years in the system is computed by multiplying the number of years of system service by 1 percent of the B.A. base prevailing during the last year of service. Differentials: (stated as a percentage of B.A. base) high-school basketball coach, $1,152 (.18 of B.A. base); high-school baseball and soccer coaches, $896 (.14 of B.A. base); high-school tennis coach, $704 (.11 of B.A. base); boys' gymnastics coach, $256 (.04 of B.A. base); high-school cheerleading advisor, $320 (.05 of B.A. base); high-school newspaper advisor, $512 (.08 of B.A. base); high-school yearbook advisors, $256 (.04 of B.A. base); high-school dramatics coach, $640 (.10 of B.A. base); choral director, $320 (.05 of B.A. base); audiovisual coordinator, $384 (.06 of B.A. base); "computermaster," $960 (.15 of B.A. base).

Leaves: 15 days' annual sick leave, 120 days' maximum accumulation; teachers whose effective date of appointment is before the beginning of the second semester will be credited with the full annual sick leave allowance, while those whose appointment falls after the beginning of that semester will be granted 7.5 days' sick leave; 1 separate day for personal business; 5 separate days for bereavement leave or a serious illness involving a member of the immediate household; 3 separate days' bereavement leave in cases of a death outside the immediate family; 2 separate days' leave for the illness of one's children or spouse; time as necessary for appearances in legal proceedings connected with employment or as required by law; 15 days' leave for military reserve duties; sabbatical leave at half-pay for 1 year after 7 years' service.

Insurance: Board-paid Blue Cross-Blue Shield and major medical coverage for individual; board pays up to $10,000 or first $10,000 of any amount of Maine State Group Life Insurance and Accident and Dismemberment Insurance coverage for individual.

Association: When available, the school board will provide the Association with a proposed budget for the next fiscal year and make available preliminary budget information and proposals affecting the negotiation of economic items; if negotiation is conducted during the school day, persons involved shall be released from their regular duties with no loss in pay; payroll dues deduction for local Association; 2 teachers designated by the Association will,

upon request, be granted an unpaid leave of absence for up to 2 years for the purpose of engaging in Association activities.

Miscellaneous: Certified teachers may be granted a permanent increment of $50 (limit of 4) for any 6 hours earned in a planned degree program; certified teachers who complete 6 hours of professional improvement credit in a degree or other approved program will be paid $125, although the amount will be increased to $200 if such a program is undertaken while in residency at a college; proposal to establish a Policy Committee composed of 2 school-board members, 4 Association members, 1 member of the Administrative Council, and the superintendent to study and propose policies relating to district administration, which proposals shall become policy upon approval by the school board. Topics "to be discussed and resolved" during the 1969-70 school year include teacher evaluation, teacher permanent records and files, transfer policy, school calendar and length of school year, teaching hours and load, non-teaching duties, transportation allowances, teacher facilities and use of school facilities.

Portland, Oregon

Between School District No. 1, Multnomah County, and the Portland Association of Teachers, effective July 1, 1970, to June 30, 1971. Approximately 3,560 certificated professional employees.

Compensation: B.A., $7,000 to $9,950, 12 increments; B.A. plus 30 hours, $10,270 maximum; M.A., $8,060 to $11,360, 12 increments; M.A. plus 30 hours, $12,320 maximum; Ph.D., $13,250 maximum; longevity factor whereby teachers who were on the maximum of the B.A. or M.A. column during the 1965-66 school year and will be on the maximum of any column of the 1970-71 schedule will receive as of July 1, 1976, an amount equal to 1½ percent of salary on the B.A. column through the B.A. plus 75 hours or M.A. plus 15 hours column, and 2 percent of salary on the B.A. plus 90 hours or M.A. plus 30 hours column and the B.A. plus 105 hours or M.A. plus 45 hours column. Differentials: (stated as a percentage of B.A. base where indicated) athletic director, $1,820 (.26 of B.A. base); department chairmen, $840 (.12 of B.A. base); drama coach, and instrumental and vocal music instructors, $840 (.12 of B.A. base); yearbook and newspaper advisors, $630 (.09 of B.A. base); pep club advisor, $420 (.06 of B.A. base); safety patrol director, $210 (.03 of B.A. base); television producers and directors, $350 (.05 of B.A. base); head teachers, $840 (.12 of B.A. base); teachers in Model School program with 3 or more years' teaching experience, $1,000; home instruction teachers with degrees, $6.75 per hour. Day-to-day substitute teachers with a B.A. degree receive $31 per day, while those with an M.A. degree receive $34 per day.

Leaves: 10 days' annual sick leave credited at beginning of school year, unlimited maximum accumulation; upon exhaustion of his sick leave allowance, a teacher shall receive a maximum of 20 extra days' leave per school year at 66-2/3 percent of salary; sick leave days accumulated in another district will be credited to a maximum of 180 days; absences due to injuries incurred in the course of employment will not be charged to sick leave; 3 separate days' emergency leave; 3 separate days for illness in the immediate family; bereavement leave of 3 separate days for a death in the immediate family, 1 day for the funeral of a distant relative or a funeral which occurs more than 15 miles from the city, and one-half day for the funeral of a relative or friend which occurs within the city limits or a 15-mile radius of the city; possible paid leave in cases of quarantine; paid leave for court appearances or jury duty less witness fee or per-diem court allowance; 2 days for school visitation or professional meetings; paid professional conference leave as approved; sabbatical leave at half-pay or at the B.A. base, whichever is greater, for a maximum of 1 school year after each 5 years' service (study or research leave), each 10 years' service (travel leave), and each 20 years' service (rest and recuperation leave).

Insurance: Board pays $9.95 per month toward cost of medical-hospitalization insurance for individual coverage; board shall provide insurance premium payroll deductions for all teachers enrolled in any negotiated district insurance programs; board provides bodily injury liability and property damage insurance "for the use of automobiles owned, leased, or hired by a teacher while in the normal course of his duties"; long-term income protection insurance program; tax sheltered annuity plan.

Association: Payroll dues deduction for local, state, and national associations; brief announcements may be included on agenda for faculty meetings; unpaid released time for chief Association representative on Consultation Committee; released time without loss of pay for Association representatives to participate in grievance proceedings; a leave of absence up to 1 year shall be granted to any teacher for the purpose of serving as an Association officer or

staff member; if consultation meetings between the parties are scheduled during the school day, no more than 5 Association representatives shall be relieved of all regular duties without loss of pay in order to permit their attendance at such meetings.

Personnel: Grievance procedure ends with a binding decision by the superintendent; provision stating the parties' intention mutually to selection in October of 1971 a third party who shall conduct a review and evaluation of the grievance procedure then in effect in November of 1971, and submit a written report of that review by January of 1972; teacher has right to review personnel file and may respond to any material therein; probationary teachers shall be evaluated at least 3 times per year and no later than October 20, December 1, and January 15; tenure teachers shall be evaluated at least once every 5 years, and the evaluation report should be submitted by January 7 of the year of evaluation; any probationary teacher who receives a second or third evaluation in a school year which he considers substantially negative may request evaluation of his performance by a tenure teacher assigned by the Association, and the district also may request such an evaluation if a probationary teacher files an objection to or institutes a grievance proceeding with respect to a second or third evaluation; professional growth incentive program requires a teacher to file a planned program of study which has been accepted by his supervisor prior to beginning work; a joint six-member committee shall be appointed by October 1, 1970, to evaluate the goals, results, and procedures of the professional growth incentive program and report its findings to the parties by May 1, 1971; a joint eight-member appeals committee annually shall be appointed during May to resolve any disagreement regarding any phase of the professional growth program, although a disagreement not so resolved may be grieved; a joint committee shall screen all candidates for administrative and supervisory positions; provision stating that the board "agrees to budget a fund of $25,000" to pay the expenses (transportation, meals, lodging, registration) of teachers attending professional conferences; sabbatical leave committee of 6 members (4 classroom teachers, 1 representative of the Portland Educators Conference committee, and 1 building administrator) shall make selections for sabbatical leaves, notify applicants of the approval or rejection of their requests, receive and consider the appeals of applicants previously denied leaves, and determine the amount of money to be reserved for leaves of rest and recuperation before granting other leaves; provision stating that once every 3 years the district "shall undertake a comprehensive review and evaluation of the activities listed on the extended responsibility schedule . . . in order to determine whether compensation, compensatory time off, and other provisions have kept pace with the responsibilities of teachers."

North Scituate, Rhode Island

Between the Scituate School Committee and the Scituate Teachers Association, effective September 1, 1970, to August 31, 1972, although the salary and extracurricular pay schedules are effective only through August 31, 1971. Approximately 100 certificated professional employees. Provision for automatic renewal of agreement for one-year periods unless either party notifies the other in writing no later than 120 days prior to March 31, 1971, of a desire to reopen the agreement.

Compensation: (compensation in all lanes above the B.A. degree is stated as a flat amount added to the B.A. scale and varies according to whether credits are earned in an advanced degree program (as indicated here) or an advanced degree program in one's field) B.A., $6,850 to $10,400, 9 increments; B.A. plus 30 hours, $10,750 maximum; M.A., $7,450 to $11,000, 9 increments; M.A. plus 30 hours, $11,350 maximum; Ph.D., $11,900 maximum; longevity pay of $400 after 20 years' service. Differentials: athletic director, $787.50; head football coach, $945; head track and cross country coaches, $315; girls' cheerleader advisor, $450; girls' softball coach, $150; senior drama coach, $250; yearbook literary advisor, $400; school newspaper advisor, $150; senior class advisor, $400; department chairmen, $300 to $750; audiovisual aides, $200; adult education teachers, no less than $5 per hour and a minimum of $12.50 per evening.

Leaves: Sick leave bank created whereby Committee annually appropriates an amount equal to the number of teachers multiplied by the salary of a substitute teacher for 3 days, and teachers may be paid through the 70th day of absence in the case of long illnesses. In the event there is a deficiency in the fund, deductions shall be made from teachers' salaries during the school year according to the amount needed for substitute salaries minus the annual appropriation set forth above divided by the number of certified personnel. Once the proper amount of deduction has been determined,

teachers whose school year absences have exceeded 70 days will be paid in July and August for the balance of those days of absence up to a maximum of 90 days per year; 5 separate days' bereavement leave; 3 separate days for family illness; 3 separate days for religious holidays; time as needed for professional conference leave; 2 days for school visitation; paid leave for jury duty less per-diem court allowance; up to 10 days' leave for military reserve training; sabbatical leave at half-pay for one-half year or 1 full year after 7 years' service.

Insurance: Effective with the 1969-70 school year, board-paid Blue Cross-Blue Shield and major medical insurance for individual coverage, with board paying 50 percent of cost of family coverage; effective with the 1971-72 school year, board will pay the full cost of family plan medical coverage; tax sheltered annuity plan.

Association: Payroll dues deduction for "unified teacher association dues"; no fewer than 3 Association representatives shall be relieved of all regular duties without loss of pay for attendance at negotiation meetings held during the school year.

Instruction: No teacher shall be assigned a total load of more than 125 pupils; provision for a maximum of 25 pupils per regular class and 20 pupils per special education class "wherever feasible"; provision for the continuance of a teacher aide program under the direction of the superintendent and with no fewer than 7 aides; secondary teachers shall not be required to teach more than 2 subject matter areas; secondary teachers are required to reserve 1 afternoon per week for giving students individual help for a period of 1 hour after the closing of the school day.

Personnel: Grievance procedure ends with the appeal to the state education commissioner, the state board, and the state supreme court for a final and binding decision pursuant to statute; teacher has right to review his personnel file and all personal evaluation reports prior to placement therein; where applicants for transfers or promotions are equally qualified, system seniority shall control; for all teachers a duty-free lunch period which shall be equal in length to that of the students; secondary teachers shall have no fewer than 5 planning periods per week; teachers "will be responsible to attend" regular monthly building and department meetings, as well as 2 evening meetings per year for open house or parent visitation; provision for the implementation of the following policies as long as no additional personnel and/or monetary expenditures are required: "No department chairman who has four (4) or more teachers in his or her department will teach more than sixteen (16) class hours per week. All department chairmen shall have a minimum of nine (9) unassigned class hours for departmental supervision and business."

SELECTED TEACHER PROTECTION PROVISIONS CONTAINED IN NEGOTIATED AGREEMENTS

Provisions pertinent to teacher protection—i.e., liability protection and procedures, protection from personal property loss or damage, employee injury benefits, and workmen's compensation—were found in 632 (64.6 percent) of the 978 comprehensive agreements effective during the 1968-69 school year in systems with an enrollment of 1,000 or more. As used here, the term "teacher protection" refers to a statement of board support of its employees in the event that any complaint, claim, action, or injury arises in connection with and out of their employment; such a statement may be supplemented by the more definitive supportive measures and provisions mentioned above. An analysis of the 632 pertinent provisions indicated that 127 agreements (20.1 percent) contained a combination of all of the elements mentioned, 63 provisions (10.0 percent) referred only to teacher protection, 37 (5.9 percent) dealt only with workmen's compensation benefits, and 12 provisions (1.9 percent) mentioned only property loss or damage. Table 1 indicates the nature of the teacher protection provisions analyzed.

TABLE 1.—NEGOTIATED TEACHER PROTECTION PROVISIONS, 1968-69

Item	Agreements containing designated content	
	Number	Percent
1	2	3
Total number of agreements analyzed	978	...
Agreements containing pertinent provisions	632	100.0%
Teacher protection, liability procedure, property loss or damage, employee injury benefits, and workmen's compensation	127	20.1
Teacher protection, liability procedures, and workmen's compensation	105	16.6
Teacher protection, employee injury benefits, and workmen's compensation	79	12.5
Teacher protection, liability procedures, and property loss or damage	78	12.3
Teacher protection only	63	10.0
Teacher protection and employee injury benefits	40	6.3
Workmen's compensation only	37	5.9
Employee injury benefits and workmen's compensation	36	5.7
Property loss or damage, employee injury benefits, and workmen's compensation	22	3.5
Employee injury benefits only	17	2.7
Liability procedures and workmen's compensation	16	2.5
Property loss or damage only	12	1.9

Teacher protection provisions variously are negotiated as separate items, as sections of a student discipline provision, or as articles relative to liability insurance, employee injury benefits, or temporary or long-term disability leave. While they vary widely in scope, definition, and requirements, most recognize that to some extent a teacher should be guaranteed protection from threats, harassment, interference, or badgering by any group or individual, as well as personal assault, injury, or damage to property, and liability claims resulting from student injuries. However, such protection is applicable only to a teacher's actions within the scope of his employment, i.e., his involvement and activities during the regular school day, within or outside the school building, and his involvement in any other board-approved, school-related activities. Moreover, board fiscal support of a teacher in the event an action is brought usually is contingent upon the absence of negligence in the teacher's action and teacher compliance with board and/or negotiated rules and guidelines.

If a complaint is brought against a teacher by a student or parent, most provisions state that no action may be taken until the teacher is notified of the complaint in writing and/or has the opportunity to reply to the complaint at a hearing. In cases of a serious parental complaint, some agreements authorize the building principal to decide whether to involve the teacher. Many provisions state that if the

complaint is to be inserted in the teacher's personnel file, the teacher shall have the right to submit a written response to the complaint.

Since parental complaints can result from disciplinary actions taken by a teacher, many agreements attempt to define carefully the nature of the limitations upon student discipline, procedures to be followed in dealing with disruptive students and chronic troublemakers, and parental involvement in the discipline process. It often is emphasized, however, that within the scope of his employment, a teacher may use such force as is reasonable and necessary to quell a disturbance which threatens physical injury to others, obtain possession of weapons or other dangerous objects, protect himself, and protect other persons or property.

Some systems indemnify their teachers against any damages, fines, legal fees, or other matters arising from the use specifically of corporal or other means of punishment according to board policy. Many other systems carry a more broadly based liability insurance which indemnifies teachers against personal responsibility for pupil injuries and protects the teachers themselves in the case of personal injuries sustained within the course of employment. In some instances, teachers are encouraged to provide their own comprehensive public liability insurance coverage by participating in Association- or board-sponsored plans.

In the event a civil or criminal suit or threat of the same is brought against a teacher, he promptly must submit a written report of the matter and/or deliver the original copy of the summons, complaint, or other legal paper to his immediate supervisor or the superintendent, who then will submit the matter to the school board. A similar procedure generally is to be followed in cases of personal assault, and some agreements require the written report to be dated and to set forth the full particulars of the incident. Most teacher protection provisions state that the board will render all reasonable assistance to the teacher and/or comply with any reasonable request for information relating to the incident or the people involved which is not privileged under the law; in addition, the board often will act as a liaison between the teacher, law enforcement officials, and the courts.

Many agreements state that the board will provide the teacher with legal counsel or reimburse him for his legal fees or a specified portion thereof in the event of a favorable judgment. If a teacher is found guilty of a criminal charge, he may be asked to reimburse the board for all costs expended in providing counsel, or all fiscal responsibility on the part of the board will be waived. Most provisions hold that a teacher involved in school-related legal proceedings shall suffer no loss of wages, leaves, or benefits.

Benefits adhering in the event of a school-related injury or disability generally are governed by state employee injury and/or workmen's compensation laws. As such, negotiated provisions variously allow leave at full salary for a period of three to six months (or until workmen's compensation payments begin), or at full salary less any workmen's compensation payments received for the period of the absence or for a period of up to one year. In general, the absence is not to be charged to any of the employee's leave accruals, and the employee will suffer no loss of benefits. In some agreements, the teacher is to be examined by a board-appointed doctor to determine the length of absence required by the disability; other agreements provide that the board may request periodic examinations during the absence. If the employee or the school system carries no insurance covering such school-related injuries, some provisions state that the board will pay all hospital, medical, and surgical costs.

Personal property which is lost or damaged on school duty, on school premises, or during school-related activities and in the absence of teacher negligence often is to be replaced by the board, or the teacher is to be reimbursed for the value of the property in amounts ranging up to $300. Articles which may be included within such coverage are books, clothing, glasses, dentures, hearing aids, and automobiles.

Examples of negotiated teacher protection provisions are reprinted below. These are sample provisions only; they are not intended to be regarded as exemplary.

Newtown Public Schools, Newtown, Connecticut

Article 17—*Protection of Teachers*

Teachers shall report immediately in writing to their principal and to the central office all cases of assault suffered by them in connection with their employment.

Such report shall be forwarded through the Superintendent to the Board which shall comply with any reasonable request from the teacher for information in its possession not privileged under law which relates to the incident or the persons involved.

The Board agrees to provide legal counsel to defend any teacher in any action arising out of any claim, demand, suit or judgment by reason of alleged negligence or other act resulting in accidental

bodily injury to or death of any person, or in accidental damage to or destruction of property, within or without the school building, providing such teacher, at the time of the accident resulting in such injury, damage or destruction, was acting in the discharge of his duties within the scope of his employment or under the direction of the Board.

Whenever a teacher is absent from school as a result of personal injury compensable under Connecticut Workmen's Compensation Laws, and caused by an assault arising out of and in the course of his employment, be shall be paid his full salary for the period of such absence for up to one calendar year without having such absence charged to the annual sick leave or accumulated sick leave. Any amount of salary payable pursuant to this Section shall be reduced by the amount of any workmen's compensation award for temporary disability due to the said assault injury for the period for which such salary is paid. The Board shall have the right to have the teacher examined by a physician designated by the Board for the purpose of establishing the length of time during which the teacher is temporarily disabled from performing his duties; and, in the event that there is no adjudication in the appropriate workmen's compensation proceeding for the period of temporary disability, the opinion of the said physician as to the said period shall control.

Decatur School District No. 61, Decatur, Illinois

Article XV–*Protection of Members of the Bargaining Unit*

A. The Association recognizes that each member bears the primary responsibility for maintaining the proper control and discipline in the classroom and wherever else on duty. The Board hereby declares its full support of student disciplinary procedures and policies which are presently in effect and those procedures and policies which may hereafter be adopted by the Board in the matter of student discipline. The Board, the administration, and the members recognize a mutual responsibility for the enforcement of such policies and procedures.

B. The Board hereby agrees to indemnify and protect members against death and bodily injury and property damage claims and suits, including defense thereof, when damages are sought for negligent or wrongful acts alleged to have been committed in the scope of employment or under the direction of the Board. This indemnity shall include judgments, interest, court costs, reasonable attorney fees, and any costs necessarily expended in the defense of any suit heretofore described.

C. The Board does hereby agree to indemnify and protect members against the costs of defense of a criminal proceeding against any staff member by reason of any acts committed within the scope of employment of said member. The costs of defense shall include reasonable attorney fees and other costs necessarily expended in the defense of such criminal action. The indemnity stated in this paragraph shall not apply in the event the member is found guilty by a jury or court of the criminal charge brought against such member.

D. All members of the bargaining unit shall be protected against any harassment, interference, or badgering by any group or individual on the school premises. It shall be the responsibility of the building principal and the Superintendent of Schools to take whatever actions are deemed necessary to provide members adequate protection in such situations. This does not preclude the responsibility of the member to work with parents or guardians in resolving school problems.

E. In the event of an injury to a member of the bargaining unit while in the scope of his employment, the salary of such member shall continue in full, without reduction in accrued benefits, until

1. He is able to return to his full-time teaching duties, or
2. The end of the contract of employment of the member with the Board, or
3. Such member qualifies for disability or pension benefits under the Illinois Teachers retirement System,

whichever event occurs first. In the event Workmen's Compensation is payable by reason of such injury, the salary of such injured member may be reduced by the amount of the temporary incapacity payments payable under Workmen's Compensation.

F. The general policy, subject to emergency exceptions, shall be that no action against a member of the bargaining unit may be taken on a complaint by a parent of a student, or student, unless such proposed action is first reported in writing to such member affected thereby and the member given an opportunity for a hearing before a representative of the Board concerning the complaint and action proposed to be taken thereon.

G. Any member of the bargaining unit absent from teaching duties by reason of any of the events set forth in Article XV shall be considered on leave of absence, provided, however, that such period of absence shall not exceed the time limitations as set forth in sub-paragraphs E and H of this Article.

H. Any reasonable time, when a member of the bargaining unit would otherwise be attending to his teaching duties, spent in the preparation of the defense, or attendance at a judicial hearing, pertaining to a civil or criminal charge described in paragraphs B and C of Article XV shall not result in a loss of salary or accrued benefits by such member.

Arlington School District, Arlington, Massachusetts

Article XX–*Legal Assistance*

A. Teachers will immediately report all cases of assault suffered by them in connection with their employment to their immediate supervisor and the Superintendent in writing.

B. This report will be forwarded to the Committee which will comply with any reasonable request from the teacher for information in its possession relating to the incident or the persons involved, and will act in appropriate ways as liaison between the teacher, the police, and the courts.

C. If criminal or civil proceedings are brought against a teacher alleging that he committed an assault within the scope of his employment, the Committee will furnish legal counsel to defend him in such proceeding if he requests such assistance and provided the Committee has legal authorization to employ such counsel. The rights of a teacher to indemnification in certain actions and claims, and to legal assistance will be governed by General Laws, Chapter 41, Section 100 (c).

Article XXI–*Personal Injury Benefits*

A. Whenever a teacher is absent from school as a result of a personal injury caused by an accident or an assault occurring within the scope of his employment, he will be paid his full salary (less the amount of any workmen's compensation award made for temporary disability due to said injury) for the period of such absence, and no part of such absence will be charged to his annual or accumulated sick leave.

B. The Committee will make every effort to reimburse teachers for:

1. Any clothing or other articles of personal adornment or educational equipment or material (authorized in writing by the immediate supervisor to be used) which is damaged or destroyed while acting within the scope of his employment, not to exceed the cost of $300. Within the limits set forth above, there is the intent to make the party whole for the replacement value of the article specified. In the event any losses covered by this section are also covered by insurance, the insurance money will first be applied to cover the replacement value and any deficiency or deductible on the insurance premium will then be covered by this section.

2. The cost of medical, surgical, or hospital services (less the amount of any insurance reimbursement) incurred as the result of any injury sustained within the scope of his employment.

Cheboygan Area Schools, Cheboygan, Michigan

Article XII–*Protection of Teachers*

A. Since the teacher's authority and effectiveness in his classroom is undermined when students discover that there is insufficient administrative backing and support of the teacher, the Board recognizes its responsibility to give all reasonable support and assistance to teachers with respect to the maintenance of control and discipline in the classroom. The Board further recognizes that the teacher may not fairly be expected to assume the role of warden or custodian for emotionally disturbed students nor to be charged with responsibility for psychotherapy. Whenever it appears that a particular pupil requires the attention of special counselors, social workers, law enforcement personnel, physicians or other professional persons, the Board will take reasonable steps to relieve the teacher of responsibilities with respect to such pupil.

B. Any case of assault upon a teacher shall be promptly reported to the Board or its designated representative. The Board may provide legal counsel to advise the teacher of his rights and obligations with

respect to such assault and render reasonable assistance to the teacher in connection with the handling of the incident by law enforcement and judicial authorities, provided that it has determined that the teacher has acted within the scope of the Board policy.

C. If any teacher is complained against or sued by reason of disciplinary action taken by the teacher against a student, the Board may provide legal counsel to advise the teacher of his rights and obligations and render reasonable assistance to the teacher in connection with the handling of the incident by law enforcement and judicial authorities, provided that it has determined that the teacher has acted within the scope of the Board policy.

D. Time and money lost by a teacher in connection with any incident mentioned in this Article shall not be charged against the teacher, provided the teacher has acted in a professional and legal manner. The Board may provide legal counsel to advise the teacher of his rights and obligations and render reasonable assistance to the teacher provided that it has determined that the teacher has acted within the scope of the Board policy.

E. The Board will reimburse teachers for any loss, damage or destruction of clothing or personal property of the teacher (value of which is in excess of five dollars [$5.00] and less than one hundred dollars [$100.00] while engaged in assigned school business. If a teacher is injured arising out of, or in the course of his employment, free medical, surgical, or hospital care will be furnished by the Board at a designated hospital provided that the teacher does not have hospital or medical insurance which would cover his expenses.

F. Any complaints by a parent of a student directed toward a teacher shall be promptly called to the teacher's attention.

G. Teachers shall be expected to exercise reasonable care with respect to the safety of pupils and property, but shall not be individually liable, except in the case of negligence or neglect of duty, for any damage or loss to person or property.

Grand Ledge Public Schools, Grand Ledge, Michigan

Article XI–*Protection of Teachers*

A. LEGAL and PHYSICAL

1. Since the teacher's authority and effectiveness in his classroom is undermined if there is insufficient administrative backing and support of the teacher, the Board recognizes its responsibility to give all reasonable support and assistance to teachers with maintenance of control and discipline in the classroom.

2. Teachers are encouraged to provide for their protection comprehensive public liability insurance in an amount not less than $100,000.00 for each occurrence or accident, similar to protection provided its members by the MEA. Teachers who are not members of the MEA may pay for this protection under the broad liability policy carried by the Board of Education at a cost estimated to be $3.00 to $5.00 per year.

3. All cases of accidents, injury or assault involving teachers or students growing out of the exercise of teachers duties or school activities shall be reported to the principal promptly.

4. Complaints by parents or students directed toward a teacher shall immediately be called to the attention of the teacher, in writing, when such complaints are of a nature to be recorded in the personnel record or the subject of critical evaluation follow-up, and in the judgement of the principal such information will be of help to all concerned.

5. Teachers shall not be required to search for bombs when a building has been alerted for a "bomb scare". Teachers who volunteer for such activity, while others supervise students in approved locations, shall be covered by employee insurance.

West New York School District, West New York, New Jersey

Article XXVII–*Protection of Teachers, Students and Property*

A. A teacher may use reasonable force as is necessary to protect himself from attack, to protect another person or property, to quell a disturbance threatening physical injury to others, or to obtain possession of weapons or other dangerous objects upon the person or within control of a pupil.

B. Whenever any action is brought against a teacher before the Board or before the Commissioner of Education of the State of New Jersey which may affect his employment or salary status, the Board of Education shall reimburse him for the cost of his defense if the action is dismissed or results in a final decision in favor of the teacher.

C. 1. The Board shall give full support including legal and other assistance for any assault upon the teacher while acting in the discharge of his duties.

2. When absence arises out of or from such assault or injury, the teacher shall not forfeit any sick leave or personal leave.

3. Benefits derived under this or subsequent Agreements shall continue until the complete recovery of any teacher when absence arises out of or from assault or injury. During this period of absence the Board may request periodic examinations by the school physician.

D. 1. Teachers shall immediately report cases of assault suffered by them in connection with their employment to their principal or other immediate superior.

2. Such notification shall be immediately forwarded to the superintendent who shall comply with any reasonable request from the teacher for information in the possession of the superintendent relating to the incident or the persons involved, and shall act in appropriate ways as liaison between the teacher, the police, and the courts.

E. A school nurse shall be scheduled to be in each building for the entire school day.

F. The Board may reimburse teachers for any loss, damage, or destruction of clothing or personal property of the teacher while on duty in the school, on the school premises, or on a school-sponsored activity.

G. The Board may reimburse a teacher for the cost of medical, surgical or hospital services (less the amount of any insurance reimbursement) incurred as the result of any injury sustained in the course of his employment.

Plattsburgh City School District, Plattsburgh, New York

Article XXIII–*Teacher Protection*

Teachers will immediately report assault and harrassment suffered by them in connection with their employment to their principal or immediate supervisor, in writing. This report will be forwarded to the Assistant to the Superintendent for Business Affairs who will comply with any reasonable request from the teacher for information in his possession relating to the incident or the person involved.

The School District agrees to hold teachers harmless from any financial loss, including reasonable attorneys' fees arising out of any claim, demand, suit or judgement by reason of any act or omission to act by such teacher within or without the school building, provided such teacher, at the time of the act or omission complained of, was acting in the discharge of his duties within the scope of his employment or under the direction of the School District. This shall include financial loss resulting to a teacher from taking students on trips authorized by the administration or the School District, provided the teacher was acting in the discharge of his duties within the scope of his employment. Teachers shall notify the Assistant to the Superintendent for Business Affairs of any accident or claim against them which might be covered by this section within ten (10) days after the accident occurs or the teacher knows of the claim. In addition, a teacher shall not be entitled to the protection of this article unless within ten (10) days of the time he is served with any summons, complaint, process, notice, demand, or pleading, he shall deliver the original or a copy thereof to the Assistant for Business Affairs.

Article XXIV–*Personal Injury Benefits*

A. Whenever a teacher is absent from his employment and unable to perform his duties as a result of personal injury caused by an accident or an assault occurring in the course of his employment and received workman's compensation payments for such absence, he will be paid his full salary during his absence from employment (less the amount of any workman's compensation award made for temporary disability due to said injury) and no part of such absence will be charged to his annual or accumulated sick leave.

B. The School District shall reimburse teachers for reasonable costs of replacing or repairing dentures, eyeglasses, hearing aids, or similar bodily appurtenances not covered by workman's compensation which are damaged, destroyed, or lost as a result of an injury sustained in the course of the teacher's employment.

C. The School District will reimburse teachers for reasonable cost of any clothing or other personal property damaged or destroyed as a result of an assault suffered by a teacher while the teacher was acting in the discharge of his duties within the scope of his employment.

Arlington County School District, Arlington, Virginia

Article 13–*Disability Leave*

All permanent and probationary unit members and limited term employees who are eligible for sick leave and who are temporarily disabled in line of duty receive full pay for the period of disability without charge against their annual or sick leave, subject to the following conditions:

1. Provided that the disability resulted from an injury or illness sustained directly in the performance of the employee's work, as provided in the State Workman's Compensation Act.
2. If incapacitated for his regular assignment, the employee may be given other duties with the school system for the period of recuperation. Unwillingness to accept such an assignment as directed by the Division Superintendent results in the employee's ineligibility for disability leave during the time involved.
3. A physician determines the physical ability of the employee to continue working or to return to work.
4. Disability leave is limited to 90 working days for any one injury.
5. So long as an employee is on the payroll while on disability leave, sick leave or annual leave, he must endorse any Workman's Compensation checks over to the Arlington County School Board and forward them to the business office.

Article 28–*Employee Protection*

A. Furnishing Legal Counsel. The Board will furnish legal counsel to unit members in defense of legal action arising out of the discharge of their duties within the scope of their employment in the school system, provided:

1. The unit member is not entitled to such legal counsel by virtue of its availability through a personal or group insurance policy.
2. Such counsel, when provided, is selected from a list; provided, however, in the event the School Board has any policy of insurance which would provide legal defense in the circumstances, then the unit member must accept legal counsel selected by the insurance carrier unless he pays for his personally selected counsel.
3. If such counsel is furnished in a criminal proceeding and the unit member is found guilty, the unit member shall reimburse the Board for all costs involved in providing counsel.

B. Reporting of Incidents. It is the responsibility of all unit members to report immediately, in writing, to their principal or supervisor all significant incidents of alleged assault, whether involving situations between pupils or between pupils and employees. It is the responsibility of the principal or supervisor to call promptly all significant complaints of parents, students or others to the attention of the employee or employees concerned when such complaints involve assault.

C. Absence from Duties for Reasons of Injury. Whenever an employee is absent from school as a result of personal injury caused by an unjustified assault arising out of or in the course of his employment, he shall be paid his full salary for the period of such absence or the balance of that fiscal year, whichever is shorter, without having such absence charged to the annual sick leave or accumulated sick leave.

1. Any amount of salary payable pursuant to this section shall be reduced by the amount of any workmen's compensation award for temporary disability due to said assault injury for the period for which such salary is paid.
2. The Board shall have the right to have the employee [examined] by a physician designated by the Board for the purpose of establishing the length of time during which the employee is temporarily

disabled from performing his duties and, in the event that there is no adjudication in the appropriate workmen's compensation proceeding for the period of temporary disability, the opinion of the said physician as to the said period shall control.

D. Suspensions Pending Legal Action. If an employee is suspended or temporarily relieved of his duties because of pending legal action, such employee shall receive all pay and other benefits of his position until such action is resolved, but not beyond the end of the current fiscal year.

E. Contingent upon the strict compliance with the no corporal punishment policy of the School Board as set forth in the Administrative Manual which reads, "Corporal punishment is not permitted," administrators, teachers, and nurses will be provided professional liability protection in the amount of $100,000 per employee for action related to their official duties.

F. In case of any disciplinary action, unit members will receive their salary and fringe benefits until the case is decided by the Board.

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NATIONAL EDUCATION ASSOCIATION

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Case Reviews

CALIFORNIA

INJUNCTION AGAINST 1969 COLLEGE FACULTY STRIKE AFFIRMED

The California State Court of Appeals sustained an injunction issued against the violent strike conducted by San Francisco State College faculty in January 1969. It held that "California follows and applies the common law rule that public employees do not have the right to strike in the absence of a statutory grant thereof; (2) that no such grant exists; (3) that the strike at the college, enjoined by the present judgment, was unlawful (in the sense that it was violative of state policy, although not attended by criminal sanctions); and (4) that the judgment is accordingly valid in all substantive respects and must be affirmed."

Following bargaining sessions with the college in December 1968, the American Federation of Teachers, AFL-CIO, Local 1352, conducted a strike and picketed the campus in a dispute over tenure matters, dismissal rules, academic policies, and other working conditions. The college sought a temporary restraining order which was granted in February after the trial court found that "masses of pickets" substantially interfered with and impeded campus operations, attempted physically and by threats to frustrate the movements of other persons on campus, and refused to disperse upon request, thereby resulting in police intervention. After the arrival of the police, there were episodes of violence which included bombings and resulted in numerous personal injuries and arrests.

During further litigation at the trial court level, the college moved for summary judgment; as the union filed no counter-affidavits opposing the motion, the trial court granted the college's motion on October 2, 1969, after hearing arguments. The union's appeal of that judgment to the state appeals court here caused the higher court to observe that under the summary judgment appellants "and their agents, servants, employees, and representatives, and all persons and associations acting in concert or participating with them, shall be and hereby are enjoined and restrained from engaging in or performing, directly or indirectly, any and all of the following acts: 1. Striking or calling or inducing a strike or work stoppage in the nature of a strike against plaintiff at San Francisco State College; 2. Picketing the plaintiff's facilities, buildings, and properties at San Francisco State College in support, promotion, or advocacy of a strike or work stoppage in the nature of a strike against plaintiff at San Francisco State College; 3. Hindering, delaying or interfering with, in any manner or by any means or device, the work at the facilities, buildings, and properties of plaintiff at San Francisco State College, for the purpose of supporting, promoting, or advocating a strike against plaintiff at San Francisco State College; and 4. Coercing, compelling, inducing, or encouraging the employees of plaintiff at San Francisco State College to engage in a strike against plaintiff at San Francisco State College or in picketing in support of said strike."

In concluding that public employees have no right to strike in the absence of authorizing legislation, the appeals court rejected the union's argument that its members thereby are denied equal protection of the laws and that the right to strike is to be inferred from sections of the state's government code. It also held that the judgment here does not prohibit withdrawal of labor in violation of the involuntary servitude proscription of the Thirteenth Amendment because each individual appellant is free to "withdraw" his labor by quitting his job. However, "the right of a public employee to do so. . . does not mean that he has a right to strike," the court said.

The union further contended that the trial court's judgment was too broad because it enjoined all picketing. But the appellate court held that while peaceful picketing clearly is an adjunct of the First Amendment right of free speech, it is equally clear that the right to picket constitutionally is subject to limitation where required by the interests of the state. As the picketing here supported a strike which was illegal under state law and involved violence and disruption of college operations, the appellate court ruled that it properly was enjoined. Moreover, since the judgment enjoined only picketing in support of an actual strike at the college itself, it was ruled constitutional in scope. (*The Trustees of the California State Colleges v. San Francisco State College Federation of Teachers Local 1352, et al.*, Court of Appeals of the State of California, First Appellate District, Division Four, December 18, 1970.)

NEW YORK

APPROPRIATENESS OF STATE-WIDE UNIVERSITY BARGAINING UNIT IS CONFIRMED

A state-wide bargaining unit of academic and professional employees of the State University of New York (SUNY) which had been ruled appropriate by the New York Public Employment Relations Board (PERB) was confirmed by the New York Supreme Court, Appellate Division. It found that the PERB "clearly complied with the statutory criteria in defining the appropriate negotiating unit. . . and [that] there is unquestionably substantial evidence in the record to support its determination establishing a State wide unit" (NRD, 10-69, 9; 2-70, 8).

The court additionally found no merit to petitioners' contention that the record lacked a basis for including associate and assistant deans in the state-wide unit. While petitioners argued that proof demonstrating a community of interest among all titles within the term "professional employees" should have been offered, the court ruled that

> this is not the posture in which the hearings were conducted, nor as a practical matter could they have been, considering the multiplicity of positions involved, and there is ample evidence of a community of interest among all professional employees of the State University. Accordingly, the board was not unreasonable in rejecting petitioners' evidence to the contrary. The fact that there may be some conflict of interest between the dean and the faculty, due to the supervisory duties of the deans, does not compel their exclusion from the negotiating unit.

(*Matter of Samuel E. Wakshull v. Robert D. Helsby*, New York Supreme Court, Appellate Division, Third Department, November 10, 1970.)

NOTE: The Senate Professional Association, bargaining representative of SUNY faculty, voted 628 to 122 early this year to affiliate with the National Education Association and the New York State Teachers Association. Negotiation of the first SUNY contract, which will cover some 15,000 faculty members employed on 26 campuses, is in progress.

PERB POWERS IN PROSECUTING STRIKERS UPHELD

A local government's determination that public employees did not engage in a strike did not bar the New York Public Employment Relations Board (PERB) from prosecuting an employee organization for striking in violation of the state's Taylor Law, according to the New York Supreme Court, Appellate Division. In addition, the court found no denial of due process in the statutory procedure whereby investigatory, prosecutory, and quasi-judicial functions are combined in a single administrative agency such as the PERB. The court's ruling affirmed in all respects a judgment of the New York Supreme Court, Albany County, and granted the PERB's motion to dismiss the matter in point of law.

The present appeal was brought by the Buffalo Teacher's Federation, Inc. (an NEA affiliate) in an effort to restrain the PERB from prosecuting a charge that the Federation had "caused, instigated, encouraged, condoned and engaged in strikes on March 5, 6, 12 and 13, 1970 by certain employees of the public school system of the City of Buffalo." A notice of the charge and the charge itself had been mailed on July 1, 1970, to the Federation president and were received on July 6. While the Federation contended that personal service of such a charge statutorily is required and that any other method lacks due process, the court pointed out that

> PERB, acting under the authority of subdivision 5(e) of section 205 to make rules and regulations, has adopted a rule permitting service to be made either personally or by mail. . . . Due process does not require personal service, and where the statute does not explicitly mandate such service, PERB, as authorized by the statute, had implied power to adopt a rule authorizing service by mail.

Sec. 210(1) of the Taylor Law provides that "no public employee or employee organization shall engage in a strike, and no public employee or employee organization shall cause, instigate, encourage, or condone a strike." Subdivisions 2 and 3 of sec. 210 then *separately* provide procedures for determining whether a public employee and a public employee organization have violated the anti-strike clause. Sec. 210(2) authorizes the chief executive officer of the government to investigate and determine whether individual public employees have violated the statute, but does not grant the PERB any responsibility with respect to any violations found. Sec. 210(3), on the other hand, authorizes the PERB "to institute proceedings on its own motion to determine whether an employee organization has violated the statute" and whether that organization should lose its dues deduction right.

As the procedures for determining public employee and public employee organization violations "are separate and distinct," the appellate court ruled that the PERB here was entitled to institute proceedings against the Federation, even though the chief executive officer of the local government found that individual Buffalo teachers had not committed violative acts. It explained that "the determination of the chief executive officer was administrative, without a hearing, and not binding on the board in a proceeding against an employee organization."

The court also concluded that PERB's actions as both prosecutor and hearing office statutorily are authorized, and that the statute's anti-strike provision and procedures are "clear and definite" and constitute no violate of equal protection. (*Matter of Buffalo Teachers' Federation, Inc. v. Robert D. Helsby, et al.*, New York Supreme Court, Appellate Division, Third Department, December 7, 1970.)

OHIO

CITY SCHOOL DISTRICT TEACHER AIDES HAVE NO TENURE RIGHTS; STAFF REDUCTION RULED LAWFUL

As educational aides employed by a city school district have no tenure rights, the Columbus education board acted lawfully in its decision not to rehire 322 of its 600 aides for the 1970-71 school year. In so ruling, the Franklin County Court of Appeals affirmed a lower court's denial of a permanent injunction sought by the Ohio Association of Public School Employees against the staff reduction. The appeals court explained that the application of tenure laws to nonteaching personnel depends upon the type of school district in which such personnel work; aides employed by a city school district effectively fall within the unclassified service, so they are excluded from statutory tenure protection.

When the Columbus board instituted the reduction among educational aides, it did not give written notice of its intention to those aides who were not to be rehired. The Association accordingly entered an action charging the board with violation of the state's tenure laws and asserting that the aides had been denied protection of the laws. Following the trial court's determination that R.C. 3319.088 "confers no tenure rights upon educational aides employed by a city school district," the Association filed a class action appeal, urging that teacher aides are entitled to the tenure protection of Ohio civil service laws. But the court of appeals held:

> By the express language of R.C. 3319.088, educational aides are not entitled to the tenure protection afforded by R.C. 143.01 to 143.48, the general civil service laws applicable to city school districts.
>
> Thus, while R.C. 3319.088 first states that educational aides shall have the rights, benefits, and legal protection available to the nonteaching employees, the exception takes some of these rights, benefits, and legal protection away from those educational aides employed by a city school district.

Moreover, in declaring constitutional the categorization of educational aides created by the statute indicated, the court noted that Ohio school districts are classified as three types (local, exempted village, and city) and explained:

> The classification of educational aides is the same as the classification of other nonteaching employees in that those employed by city school districts are placed in one class and those employed by local and exempted village school districts are placed in a different class. In other words, the classification is of school districts rather than employees. . . . A classification of employees by the type of school district by which they are employed is not clearly unreasonable. Therefore, the court must conclude that the classification of educational aides by R.C. 3319.088. . . is not unreasonable nor violative of either the Ohio Constitution. . . or of the Fourteenth Amendment to the United States Constitution.

As to the Association's argument that educational aides are denied equal protection of the laws because they are deprived of the tenure protection afforded other nonteaching city school district employees, the appeals court found that

> it is only those nonteaching employees of a city school district that are in the classified service who are afforded tenure protection. Those in the unclassified service of a city school district have no statutory tenure protection.
>
> Thus, when the Legislature in R.C. 3319.088 provided that educational aides have the same rights, benefits, and legal protection available to other nonteaching employees in the school district, it was necessary with regard to city school districts to clarify whether this was to be the rights, benefits, and legal protection of nonteaching employees in the classified service or that of nonteaching employees in the unclassified service. This the General Assembly did by the exception expressly providing that R.C. 143.01 to 143.48, inclusive, shall not apply to educational aides. Thus, the effect of the exception was to place educational aides employed by a city school district in the unclassified service.

The court concluded that city school district aides are not denied equal protection of the laws because they are "in effect afforded the rights, benefits, and legal protection available to the nonteaching employees of a city school district who are in unclassified service rather than those available to [such] employees. . . who are in the classifield service." (*Ohio Association of Public School Employees, et al. v. Board of Education of the City of Columbus, Ohio,* Court of Appeals of Franklin County, Ohio, December 15, 1970.)

WASHINGTON

COLLEGE MUST NEGOTIATE, NOT JUST MEET AND CONFER

As an agreement between Seattle Community College and the local teachers' union was to continue in effect until the parties had negotiated a successor agreement, the college trustees' adoption of conflicting policies at a special public meeting breached that agreement and such policies were "not properly adopted or finally adopted, and are subject to be negotiated." The King County Superior Court consequently denied the trustees'

motion for summary judgment in one action, and enjoined the trustees' adoption of those policies and ordered the college to bargain such matters with the union in a second action. It also commented upon the relationship between general and special contractual provisions and the right of teachers to engage in collective bargaining, rather than mere meet and confer procedures.

In the first action, the union sought a declaratory judgment and certain equitable relief to clarify its negotiation rights under the state's teacher bargaining act (which is separate from another act relating to municipal employees). The action was brought after the community college trustees adopted on August 31, 1970, policies which "conflict with or purport to abrogate, supplant or otherwise take the place of provisions of the 1969-1970 Agreement," which was intended to be effective through June 1970.

That agreement, however, contained a provision stating that "except as otherwise provided elsewhere herein [the agreement] shall become effective July 1, 1969 and shall continue in effect thereafter until a new agreement is effected between the legal bargaining agent and the Board." In light of that language, the court concluded that the 1969-70 agreement "continues in effect until another contract is executed," and explained that

> in the construction of a written instrument the special provision controls over the general provision. I would consider the special provision within that rule, however, to be the one [quoted above]. . . . This is the "special" provision because it is the more specific provision as to this question, i.e.: the status of the parties and subject matter of the agreement during the period following the end of the nominally intended term of the agreement and until the execution of a new agreement for the following year. To constitute an exception to this within the clause "except as otherwise provided elsewhere herein," some other section in the agreement would have to be more specific in saying that the agreement *must not extend past the date of June 30, 1970;* and no other section is specific enough to say that. The period intended to be covered by the agreement was of course the school year of September, 1969, through June, 1970, but the provision in Art. I, Sec. C must be considered to be the emergency clause to provide for the contingency that no new contract is negotiated and agreed upon as intended in time for the beginning of the school year following June, 1970.

In examining the teachers' bargaining act, the court said it "appears basically to be a labor negotiations and bargaining act but with somewhat different wording" than the municipal employees statute. However, the Court found no "clearly significant difference" in the general purpose of the two acts and commented:

> If the Professional Negotiations Act did not give the teachers the usual rights of collective bargaining which other public employees are given but merely gave them the right to meet and confer, as defendants claim, the act would have very little purpose and would be out of keeping with the clear trend of legislation giving such rights to public groups generally.
>
> Nor does such an act providing for negotiation and bargaining constitute an infringement of the Board of Trustees' legislative authority. . . . If the Act means the usual collective bargaining in good faith, it does not compel any concessions on the part of the College any more than do other bargaining statutes compel concessions on the part of management.

The court finally held that the union's complaint presented a proper case for relief under the Declaratory Judgment Act since "there is a justifiable issue between the two parties to this action over the construction of a statute and of a contract." But in denying the trustees' motion for summary judgment, the court found it could not grant a judgment in favor of the union because the union had made no corresponding motion for summary judgment on the questions raised.

Following the court's September 29 ruling, the union did enter a motion for summary judgment; the court then determined that since the 1969-70 agreement "is now in full force and effect and remains in full force and effect until a new agreement is effected," the trustees' August 31 adoption of policies constituted a breach of that agreement. As the statutory right to negotiate "is the right to meet at reasonable times with the Board to bargain in good faith for the purpose of reaching and executing a written agreement with respect to matters defined [therein], prior to final adoption by the Board of policies relating to such matters," the court ruled that the trustees' unilateral adoption of policies was an infringement of the union's bargaining rights.

It accordingly enjoined the trustees from adopting policies relating to matters defined by statute "unless and until such policies have been duly proposed and negotiated" with the union and ordered the trustees to "commence negotiations in good faith. . . for the purpose of reaching and effecting, at the earliest possible date, an agreement with respect to matters defined [by statute]." The union was awarded costs and disbursements. (*Seattle Community College Federation of Teachers, et al. v. Arthur Siegal, et al.*, Washington Superior Court, King County, November 4, 1970.)

Board Findings and Rulings

CONNECTICUT

STATE LABOR BOARD ASSERTS JURISDICTION OVER SMALL PRIVATE COLLEGE

While the National Labor Relations Board (NLRB) recently has asserted jurisdiction over nonprofit colleges and universities meeting its $1 million jurisdictional standard, the Connecticut State Board of Labor Relations concluded that it had jurisdiction over proceedings involving New Haven College and the college's Faculty Federation. The state board explained that the college has no out-of-state facilities, and that its out-of-state students and purchases are minimal by comparison with schools over which the NLRB has asserted jurisdiction. Furthermore, the stated primary function of the college, in addition to providing services for its students, is to serve local businesses, industries, and institutions. (*Matter of New Haven College and NHC Faculty Federation, AFT, et al.*, Connecticut State Board of Labor Relations, November 24, 1970.)

NEW JERSEY

CO-CURRICULAR ACTIVITY "JOB ACTION" ORDERED RESCINDED; BOARD DIRECTED TO NEGOTIATE RELIGIOUS HOLIDAY POLICY CHANGES

Two separate grievances submitted to arbitration by the Matawan Regional Teachers Association and the regional board resulted in determinations that both parties had violated provisions of their collective agreement. The Association, ordered to rescind a "job action" whereby teachers were urged not to perform uncompensated co-curricular work, was found to have confused "the professional obligation to perform co-curricular assignments with the question of compensation." In the second grievance, the board was directed to bargain changes in the system's religious observance policy with the Association and compensate Jewish teachers for pay lost during Passover holidays when the board had refused to grant paid leave.

During a bargaining impasse in the fall of 1969, the Association instituted a job action policy characterized as "no more than a permissible refusal by its members to render voluntary services to the school district." Arguing that teacher participation in activities outside school hours (such as attendance at faculty meetings and conferences and chaperoning of extracurricular activities) is noncompensable and consequently free and voluntary, the Association asserted that such services may be terminated at any time. The job action was suspended when the parties signed their 1970-71 agreement in May of 1970, but the Association maintained that the action could be reactivated.

The board grieved the matter, charging that the teachers' refusal to participate in noncompensable extracurricular activities constituted a contract violation. The Association countered with the argument that the board had not complied with the requirement for submitting unresolved negotiation issues to arbitration and that the matter was in any case moot since the job action had been suspended. According to the arbitrator, the Association's contention that the job action merely was suspended and could be reactivated comprised the "antithesis of a moot controversy." Moreover, while the board had postponed arbitration proceedings during the negotiation impasse, it sought resolution of the dispute within appropriate time limits.

While the parties' agreement provided that the teachers' day shall precede and extend beyond the students' day by 15 minutes in each case, the arbitrator held that normal activities such as faculty and curriculum development meetings and parent conferences cannot be considered "voluntary activities simply because they cannot be conducted practically during, or within 15 minutes before or after, the pupils' school day."

He noted another contract provision stating that "the association agrees that teachers have professional and statutory obligations. . . [and] during the life of this agreement. . . will not condone violation of any such obligation by an employee in the bargaining unit." In addition, a board's authority to require teacher performance of co-curricular assignments legally has been affirmed, and the state education commissioner has ruled that teachers' hours include the minimum hours

established by the board "plus the amount of time required for discharge of such duties and services as may reasonably be expected and required of a member of the professional staff."

Concluding that the Association's interpretation of the contractual teaching hours and load provision was unduly strict, the arbitrator ordered the Association to rescind its job action policy and stated that

> the association apparently confuses the professional obligation to perform co-curricular assignments with the question of compensation. The association is obviously aware that since the enactment of [the New Jersey Employer-Employee Relations Act], compensation, including additional pay for performing co-curricular assignments, is unquestionably a mandatory collective bargaining subject. . . . If the association understandably desires to expand the list of compensated co-curricular activities, it has a statutory forum for negotiating its demands.

The second grievance was brought by the Association, charging that board Rule 7.19 had not been applied properly to Jewish teachers who requested leave without pay for up to three days to observe Passover holidays. That rule states: "[T]eachers may be excused without loss of pay for no more than three days per year if such days in the teacher's religion require him to be absent from his duties." During the 1969-70 school year, the Jewish holidays of Rosh Hashanah and Yom Kippur did not fall on school days; the first two and last two days of Passover did fall on school days, but the board refused the teachers' request for unpaid leave and docked the salaries of teachers who did take leave.

The superintendent denied the grievance, as did the board upon appeal. At the same time, however, the board announced a new policy with respect to Rule 7.19. Three days' leave with pay would be granted for the two-day Rosh Hashanah holiday and the one-day Yom Kippur holiday, but no additional days would be allowed if the three holidays fell on weekends or days on which school was not scheduled.

Arguing that teachers, rather than the board, should have the right to decide which three Jewish holidays to observe on a paid leave basis, the Association charged that the board's unilateral restriction of such observance to three specific holidays constituted a failure to negotiate on terms and conditions of employment. The Association pointed out that during 1970-71 negotiation, the board refused to meet its demand that a clause allowing up to three days' paid leave for observance of religious holidays be included in the contract. Moreover, the board did not indicate its intention to restrict application of Rule 7.19 to Rosh Hashanah and Yom Kippur. Finally, the Association maintained that a survey of paid leaves for religious holidays granted to Jewish teachers between 1965 and 1970 indicated no restriction of such leaves to Rosh Hashanah and Yom Kippur, and that the board's action violated the teachers' constitutional rights to free religious exercise.

In opposition, the board maintained that it held absolute discretion to determine how many holidays and which specific holidays would be granted, and that it reserved the right to alter the interpretation of Rule 7.19 "at will," despite past policy. Furthermore, its new policy of restricting paid religious holidays to Rosh Hashanah and Yom Kippur was mandated because some teachers had requested paid leave on days unrelated to the requirements of their religion.

Dismissing the Association's constitutional rights charge, the arbitrator pointed out that teachers have no constitutional right to paid leave for religious holidays, and that the board did not order them to work on such days under threat of discipline or discharge. Rather, they were "carefully advised that teachers choosing to be absent from school to observe the Passover holidays would not be paid for those days."

As to the survey regarding past board policy with respect to granting paid leave for religious holidays, the arbitrator held that such past practice is not nullified by the board's new policy restricting leave to Rosh Hashanah and Yom Kippur. Since past application of Rule 7.19 "demonstrates that the parties intended to give the teachers a voice in the selection of the specific religious holidays," the board had no right to make the Rosh Hashanah and Yom Kippur holidays nontransferable. Moreover, the arbitrator disagreed with the board's contention that it reserved the right to alter the application of Rule 7.19, observing:

> In order to *timely* exercise its acknowledged discretion under Rule 7.19 to set the number of religious observance days for the 1969-70 school year, the board had to act at the beginning of that school year, or at the very latest, during the early stages of the 1970-71 contract negotiations. The board did not satisfy this standard. Furthermore, in its attempt to unilaterally change the policy in June, 1970, the board expressed the intention to continue to grant three excused absences each year, albeit under severely restricted conditions. Therefore, the arbitrator finds that despite the board's acknowledged discretion under Rule 7.19 it did not effectively change its past interpretation and application of the rule during the 1969-70 school year.

The arbitrator also rejected the board's contention that its new policy was necessary because the Jewish faith variously asks its adherents to observe holidays ranging in number from three to 13 days, and it is "irrelevant that some teachers have designated different holidays in different school years." Concluding that the board's unilateral institution of a new policy after refusing the Association's negotiation demand violated the Association's right to bargain on an "undisputable term and condition of employment," the arbitrator ordered the

board to reimburse teachers for pay lost during observance of Passover holidays. In addition, the board was directed to rescind its restriction of paid leave to Rosh Hashanah and Yom Kippur and bargain with the Association on any changes in Rule 7.19. (*Matawan Regional Teachers Association and Matawan Regional Board of Education*, December 3 and 29, 1970.)

NEW YORK

UNIT DEFINITION AND PAST PRACTICE OBLIGATE BOARD TO BARGAIN SUMMER SCHOOL EMPLOYMENT

Despite an "inherent ambiguity in the unit definitions," a hearing officer for the New York Public Employment Relations Board (PERB) decided that past negotiation practices of the Westbury Classroom Teachers Association and the education board of UFSD No. 1 "clearly [demonstrate]. . . that they considered summer school employees to be included within the defined negotiating unit." That finding subsequently was affirmed by the PERB in its conclusion that the board had committed an improper practice under the Taylor Law by refusing to negotiate the terms and conditions of summer school employment. The board accordingly was ordered to negotiate in good faith on such matters with the Association and post notice of its intention to do so.

The Association, first recognized by the board as bargaining representative of district "teaching personnel" in 1968, negotiated a 1968-69 agreement with the board which contained a recognition clause stating: "The term 'teaching personnel' shall include all classroom teachers, including those classroom teachers who are department heads or department chairmen, regular substitute teachers, nurse-teachers, librarians, guidance couselors, psychologists, special teachers and attendance teachers." That agreement also contained an article setting forth the terms and conditions of employment relative to elementary, intermediate, and secondary level summer school teachers, and elementary summer school playground directors.

A successor contract covering the 1969-70 school year contained a recognition clause which was identical in all relevant respects to its predecessor, as well as an article on summer employment with salary and hour items similar to those in the previous agreement. The 1969-70 contract additionally stated that district teachers would be given first preference in filling summer school positions, that former summer school teachers would be offered the same summer position or allowed their preference among open positions in their subject area, and that teachers on sabbatical leave would be granted a leave of absence from one year's summer school without forfeiting the right to that summer position the following year. The contract also provided summer school teachers with two noncumulative paid days of sick leave during the summer session.

When negotiation of a 1970-71 contract commenced, the board notified the Association that it did

> not choose to include [the existing article on summer employment] in negotiations. Under the provisions of the Taylor Law, negotiations are required only with full-time employees and not with part-time teaching faculties in special schools.
>
> The Board of Education recognizes the fact that in past contracts many items not mandated to be negotiated have been negotiated at the option of the Board of Education. For the contract year 1970-71, the Board of Education will not exercise this option, and will remove this Article from negotiations.

The Association eventually filed an improper practices charge with the PERB contending that "the terms and conditions of summer school employment are subject to mandated negotiations. . . [because] the [board] has designated the [Association] as the negotiating representative of the summer school teachers." Alternatively it argued that summer school employment for regular school year teachers is a fringe benefit similar to extracurricular activities, and that the board's unilateral withdrawal of summer school employment from 1970-71 negotiation constituted a violation of its obligation to bargain in good faith. The board maintained that the Association represents only academic year teaching personnel and that summer school employment is an optional subject of negotiation.

Referring to the recognition clauses contained in the parties' 1968-69 and 1969-70 agreements, the hearing officer held that "while neither unit definition specifically includes summer school teachers. . . both employ the term 'classroom teachers', which is sufficiently broad to encompass them." Accordingly,

> it must follow that the [board] had an obligation under [the Taylor Law] to negotiate with the [Association] about terms and conditions of summer school employment. . . . The parties' conduct in negotiating terms and conditions of summer school employment from the inception of their negotiating relationship clearly demonstrates, and I so find, that they considered summer school teachers to be included within the defined negotiating unit. I therefore find that. . . [the board's] admitted refusal to negotiate on this matter constitutes a violation. . . . I recommend that the [board] be ordered to negotiate in good faith with the [Association] concerning terms and conditions of summer school employment for the summer of 1970.

(*In Re Board of Education, Union Free School District No. 1, Westbury and Westbury Classroom Teachers Association*, New York Public Employment Relations Board, October 16, 1970.)

RHODE ISLAND

SEPARATE UNIT OF EXTRACURRICULAR AND SUMMER SCHOOL EMPLOYEES RULED APPROPRIATE

An order of the Rhode Island State Labor Relations Board (SLRB) found appropriate for collective bargaining purposes a unit composed of all coaches, certified summer educational employees, and extracurricular employees of the Pawtucket School Department and directed that an election be held. While the Pawtucket Teachers Alliance, American Federation of Teachers, AFL-CIO, Local 930, argued that such employees are not entitled to a bargaining unit separate from that of classroom teachers, the SLRB found that extracurricular activities do not constitute teaching duties and that individuals employed in such a capacity do not have to be certified teachers.

The union's first petition to the SLRB requested certification for all coaches; following two amendments of the petition, the proposed unit was comprised of coaches, certified summer educational employees, and all extracurricular personnel. Contending that employees performing extracurricular activities also are engaged in performing teaching duties, the union urged that the employees in question were not entitled to a separate unit for the performance of extracurricular duties under the Rhode Island School Teachers' Arbitration Act. It also contended that these employees were not part-time personnel within the meaning of the state's Municipal Employees' Arbitration Act and consequently were not excluded from its coverage.

At the outset, the SLRB pointed out that the state education department "does not require certification in the matters covered in these extracurricular activities. . . [and] participation in said extracurricular activities is not a condition of employment required by the School Committee." As such, the activities engaged in by the personnel in the proposed unit did not constitute teaching duties under the teachers' bargaining statute.

Referring to the municipal employees' bargaining statute, which excludes from its coverage "part-time employees who work less than twenty hours per work," the SLRB also determined that the personnel here involved "were not hired on a part-time basis but rather on a full-time basis to fulfill these positions. The Board feels that the twenty hour limitation applies only to part-time employees and is not applicable to the employees presently in question."

Therefore, in order "to insure to the employees concerned the full benefits of their rights to self-organization, to collective bargaining, and otherwise to effectuate the policies of the Act," the board ordered an election among all personnel in the proposed unit "to determine whether they desire to be represented. . . by. . . Local 930. . . or by no organization." (*In Re Pawtucket School Department and Pawtucket Teachers Alliance, Local 930, AFT, AFL-CIO,* Rhode Island State Labor Relations Board, July 21, 1970.)

OTHER ITEMS OF INTEREST

ELECTION DIRECTED AMONG CERTAIN EMPLOYEES OF NONPROFIT RESEARCH CENTER

A direction of election was issued by the National Labor Relations Board (NLRB) in a proposed unit of testing and interviewing personnel employed at an office of the University of Chicago's National Opinion Research Center. The NLRB determined that the center met the $1 million jurisdictional standard established for nonprofit colleges and universities (NRD, 2-71, 13) and additionally held that the interviewers involved were neither independent contractors nor casual employees. But, since "a substantial number of these employees worked as regular part-time employees," the Board took "particular care to ensure that our determination of voter eligibility takes into account the special pattern of employment evidenced here."

The center, a nonprofit Colorado corporation affiliated with the University of Chicago, grossed $1.8 million during the fiscal year ending August 1967 for services performed for universities, foundations, and private agencies; it now has a $2.5 million contract with the U.S. Department of Labor and the U.S. Office of Economic Opportunity.

A representation petition filed by the American Federation of State, County, and Municipal Employees sought an election in a proposed unit of assistant supervisors (whom the parties agreed did not fall with the definition of supervisor under the Taft-Hartley Act), test administrators, and interviewers employed at the center's Los Angeles office. That office currently is surveying federal manpower programs.

In response to the employer's contention that interviewers should be excluded from the proposed unit because they are independent contractors, the NLRB applied the act's "right to control" test, explaining:

> Where any person for whom services are performed retains the right to control the manner and means by which the result is to be accomplished, the relationship is one of employment; while, on the other hand, where control is

reserved only as to the result sought, the relationship is that of an independent contractor. The resolution of this question depends on the facts of each case, and no one factor is determinative.

The NLRB noted that here the employer withheld no tax deductions from the interviewers' paychecks, made no social security payments, provided no vacations, holidays, or other fringe benefits, and that the interviewers had some discretion in rejecting certain assignments. While some of these factors indicated that the interviewers were independent contractors, the board held that they were "outweighed by others which amply demonstrate the effective control the employer maintains over the day-to-day duties of the interviewers, and which, on balance, support a finding that they are employees both in law and as a 'matter of economic reality.'" The NLRB named six other considerations it found decisive:

(1) All interviewer applicants are interviewed and if accepted must take an orientation course prior to their actual hiring; (2) the employer sets a definite time schedule in which an interview must be completed; (3) the interviewers are solicited for employment by the employer through the usual channels used by employers to secure the necessary help; (4) the employer may terminate an interviewer at will; (5) interviewers are required to submit a record of hours worked and mileage at regular intervals which are subject to review and adjustment by the employer; and (6) the employer maintains, through its supervisor and assistant supervisors, complete supervisory control over the interviewers.

Although the employer argued alternatively that the interviewers were casual employees, that contention also was rejected since from September 1969 through March 1970, some 24 interviewers "worked a total of 147 pay periods which varied from six to 21 payroll periods during each time." Also, about 56 interviewers worked four or more payroll periods from January through March 1970.

Concluding that many of the interviewers were regular part-time rather than casual employees, the NLRB noted that while the center's current porject is scheduled for completion in 1971, surveys are conducted almost continually and interviewers who have not quit or been terminated are eligible for re-employment. The board accordingly decided to limit its voting eligibility standard to "all interviewers, excluding the office employees, who have been employed not less than four weekly pay periods during the 90-calendar-day period from January 1 through March 1970." Interviewers who had worked at least four weekly pay periods during the 90-calendar day period preceding the board's direction of election also were found eligible to vote. (*National Opinion Research Center and American Federation of State, County, and Municipal Employees,* National Labor Relations Board, made public January 6, 1971.)

Negotiation Notes

MINNESOTA

STRIKE PROHIBITION DOES NOT DEPRIVE REAPPOINTED TEACHERS OF PREVIOUSLY NEGOTIATED BENEFITS

A February 26, 1971, opinion of the Minnesota attorney general held that the public employee strike prohibition contained in the state's labor relations act was not intended to deny striking teachers who were reappointed the benefits of a prenegotiated contract. Sec. 179.55 of the act provides that a public employee who strikes or participates in a strike

> may, subsequent to such violation, be appointed, or reappointed, employed or reemployed, as a public employee but only upon the following conditions: (a) his compensation shall in no event exceed that received by him immediately prior to such violation, (b) the compensation of such person shall not be increased until after the expiration of one year from such appointment or reappointment, employment or reemployment, and (c) the said person shall be on probation for two years with respect to such civil service status, tenure of employment, or contract of employment, as he may have theretofore been entitled.

While the statutory provision deprives a striking teacher of his tenure rights, the attorney general stated that it did not deny striking teachers (upon reappointment) any increased compensation in the succeeding year which automatically was granted to them under a previously negotiated contract.

MONTANA

MANDATORY TEACHER BARGAINING STATUTE ENACTED

A "Professional Negotiations Act for Teachers" which states that it "shall be the duty" of all school districts and teachers' representatives "to negotiate and bargain for agreement on. . . matters relating directly to the employer-teacher relationship such as salary, hours and other terms of employment" was signed by the Montana governor on March 18, 1971, and will become effective July 1, 1971. The act extends bargaining rights to principals, as well as certificated teachers, and allows principals to be included in an appropriate unit of all teachers employed by a single employer, or to establish a separate appropriate unit.

In addition, the act provides exclusive representation rights for organizations representing a majority of the teachers in an appropriate unit as verified by affidavit, or those which win contested representation elections conducted by secret ballot. Determinations resulting from such elections "shall remain in effect for one (1) year after the date of the election and thereafter until the employer or thirty (30) percent or more of the teachers in the appropriate unit shall apply to the board for another election."

The representative organization must serve written notice of its intention to negotiate upon the employer no later than November 1 of the last year an agreement is effective and must state specifically the items to be negotiated. The act stipulates, however, that "the matters of negotiation and bargaining for agreement shall not include matters of curriculum, policy of operation, selection of teachers and other personnel, or physical plant of schools or other school facilities." If the teachers' organization does not serve the required notice, "the employer shall not be required to negotiate any terms of the employer-teacher relationship for the following school year." No agreement reached under the act shall be effective for a period of more than two years, and all settlements "must be ratified by a majority of the teachers in the appropriate unit before becoming binding upon the parties."

In the event of a negotiation impasse after 50 days from the commencement of negotiation, the act states that either party may submit the unresolved issues to a panel of three persons, one selected by the representative organization, one by the employer, and the third selected by the other two members. The panel shall issue findings of fact and recommendations which, if not accepted by both parties, shall be made public.

The act additionally enumerates unfair practices, prohibits teachers and teacher organizations from "instituting, maintaining or participating in a strike or boycott against any employer, or picketing any school or school facility," and provides that any teacher who violates the no-strike clause "shall forfeit his salary for every day that he is in

violation." The full text of the Montana teacher bargaining statute is reprinted in the "Text" section of this DIGEST.

OREGON

PERB MAY APPOINT OWN MEMBER OR OTHER AGENT AS HEARING OFFICER

An addition to the rules of practice and procedure of the Oregon Public Employe Relations Board (PERB) provides that the PERB may appoint one of its own members or any other agent to hold any hearings required by law or by PERB rules. The paragraph, which became effective November 4, 1970, states in its entirety:

> The board may appoint a member of the board or any other agent to hold any hearing that the law or rules require the board to hold. The board agent shall make findings of fact, conclusions of law and recommendations and serve a copy upon each party to the proceedings. The affected parties shall have ten calendar days after receipt to file written objections with the board. The board shall review the findings of fact, conclusions of law, recommendations and objections, if any, and shall permit the parties to present oral argument. If a party desires to submit a written argument in lieu of oral argument, it must be filed with the board prior to the date set for oral argument. If no objections are received, the board will make its decision without argument. Review by the board of findings of fact, conclusions of law and recommendations shall be confined to the record. The findings and order of the board shall be certified in writing to the affected parties.

PENNSYLVANIA

PROXIMITY OF BUDGET SUBMISSION DATE DOES NOT RELIEVE CITY OF DUTY TO BARGAIN

A city's refusal to bargain in the face of an imminent budget submission date was not justified under Pennsylvania's new Public Employee Relations Act (NRD, 10-70, 13, 30) and constituted a violation of its duty to bargain, according to the Pennsylvania Labor Relations Board (PLRB) in its first decision on an unfair labor practice charge brought under the act.

The city of Williamsport contended that it was not obligated to bargain because the statutory deadline for submitting disputes to mediation (at least 150 days prior to the local government's budget submission date) had not been met. But the PLRB ruled that failure to comply with that deadline did not relieve the city of its duty to continue negotiating in good faith, including agreeing to mediation and other voluntary impasse resolution procedures provided by the act as conditions precedent to legal public employee strikes.

According to the PLRB, the city's noncompliance with the act and its refusal to invoke the act's dispute resolution machinery rendered the union incapable of compliance, violated both the spirit and the letter of the act, and thwarted the act's basic purpose of promoting, protecting, and effectuating good-faith bargaining:

> To accept the position of the respondent, i.e., that the shortage of time excuses compliance with the act, is equivalent to saying that the rights accorded employees by. . . provisions of the act only become effective as to those employees when the time schedule can be met. Such an interpretation is contrary to the act. . . . The failure of either party to comply with the good faith collective bargaining requirements of the act cannot be condoned even if based upon a good faith belief that compliance is not required under the circumstances existent in the instant case. . . . Even if the fact that the "Final Budget Submission Date" of December 31, 1970, might justify the respondent's reluctance to bargain on salary and other similar cost items, there are still many other unresolved issues which undoubtedly could be resolved by having continued bargaining. It is, therefore, clear that the respondent had an obligation to meet with the complainant and continue to bargain at least with respect to other terms and conditions of employment which would be nonmonetary in nature.

The PLRB ordered the city to bargain in good faith with the union and embody any agreement reached in a signed, written contract, and required it to submit to the act's impasse procedures.

WISCONSIN

REORGANIZATION OF COUNTY WELFARE DEPARTMENT IS NEGOTIABLE, ACCORDING TO WERC

Reorganization of the Milwaukee County Department of Public Welfare, including the elimination of some bargaining unit positions and the creation of other jobs, properly is a subject for collective bargaining, according to the Wisconsin Employment Relations Commission (WERC). Despite evidence of extensive state authority in the matter and the county's contention that "there remains virtually no flexibility relating to wages, hours and conditions of employment for the employees involved," the WERC affirmed an earlier order and appointed a fact-finder to investigate the dispute between the county and the American Federation of State, County, and Municipal Employees, AFL-CIO, Local 594.

The union, representative of both professional and nonprofessional welfare department personnel, had worked with the county in developing a survey for use in planning the reorganization, and the

parties had engaged in some discussions of the matter. However, the department director discontinued the discussions and subsequently refused to bargain matters pertaining to the reorganization. The union petitioned the WERC to initiate fact-finding, which was ordered on September 11, 1970, with the WERC's determination that the county's action constituted a failure to bargain in good faith.

After a delay in naming the fact-finder and some legal maneuvering by the county, the WERC reopened the hearing to allow the county's presentation of additional evidence based upon the facts that the state had decided to assume jurisdiction over the organizational structure of welfare departments and that it then was determining the "appropriate structuring" for the Milwaukee department (including position classification and pay ranges). Specifically, the county presented an opinion of the Wisconsin attorney general which held that the state has authority to prescribe compensation standards for county welfare workers, that these standards must make options available to the counties, that the county must conform to state standards in its choice of options, and that under the state's municipal employee bargaining statute, welfare department workers have "a legitimate interest in being represented in conferences and negotiations at the county level" which deal with salaries and fringe benefits.

However, the attorney general asserted that the state cannot delegate the formulation of pay scales to counties with a civil service system since the law "is specific as to the functions which may be delegated, and formulation of the compensation standards to be applicable to county welfare department employees is not included." The county accordingly contended that fact-finding would be "hopelessly inappropriate" because any areas of local flexibility permitting negotiation would be very limited and subject to further state regulation. But the WERC concluded that the evidence did not warrant

> a determination by the commission to set aside its fact finding order and to dismiss the fact finding petition. If we were to accept the Municipal Employer's argument as a basis for dismissing the petition, the Municipal Employer could unilaterally establish salaries and working conditions for its welfare department employees and thus eliminate one of the statutory grounds for fact finding.
>
> As stated in the Attorney General opinion, Section 111.70 of the Wisconsin statutes, applies to county welfare employees as it pertains to salaries and fringe benefits. Such matters could possibly be affected by the reorganization of the Welfare department.

OTHER ITEMS OF INTEREST

CONSUMER PRICE INDEX, FEBRUARY 1971

The Consumer Price Index (CPI) all-items figure rose 0.2 percent in February to 119.4 as computed on the base reference period of 1967=100 instituted in January. According to the Labor Department, Bureau of Labor Statistics (BLS), the February advance represented the smallest rise in the CPI in nearly four years. The February figure placed the index 4.8 percent above that of a year ago and resulted in the smallest 12-month rise in the CPI since February 1969.

BLS reported that food prices increased 0.4 percent that month, the largest rise since May of 1970, while the prices of commodities other than food declined slightly (0.1 percent) for the first time since July of 1965. Consumer services charges registered an 0.2 percent advance in February, reportedly the smallest rise since mid-1967. Cost of medical care services rose 0.7 percent, approximately the same rate as the average monthly rise over the past year.

An estimated 551,000 workers will receive cost-of-living wage increases based upon the national or city CPI figures for February.

GEORGIA RIGHT-TO-WORK CLAUSE FOUND VIOLATIVE OF FEDERAL CHECKOFF IRREVOCABILITY PROVISION

The Supreme Court of the United States affirmed a judgment of the U.S. Court of Appeals for the Fifth Circuit which held that a portion of the Georgia right-to-work law conflicted with the period of irrevocability of dues checkoff authorizations provided by the National Labor Relations Act and must yield to it. The high court thereby nullified sec. 54-906 of the Georgia Code which reads: "No employer shall deduct from the wages or other earnings of any employee any fee, assessment, or other sum of money whatsoever, to be held for or to be paid over to a labor organization, except on the individual order or request of such employee, revocable. . . [at] the will of the employee."

An action brought by the National Maritime Union, AFL-CIO, sought injunctive relief from the failure of an employer to deduct and remit dues (under the parties' agreement) from the wages of employees who had provided valid deduction authorizations conforming to sec. 302(c)(4) of the Taft-Hartley Act. That section, which makes it unlawful for an employer to pay money to any labor organization or officer thereof, makes an exception

> with respect to money deducted from the wages of employees in payment of membership dues in a labor organization: *Provided*, That the employer has received from each employee, on whose account such deductions are made, a written assignment which shall not be irrevocable for a period of more than one year, or beyond the termination date of the applicable collective agreement, whichever occurs sooner.

The employer argued that checkoff authorizations are revocable at any time under the Georgia statute, that the statute is part of a state policy to regulate compulsory unionism as sanctioned by Congress, and that employees "who execute authorizations revocable only after one year but who within twelve months revoke same become forced members of the union." The union pointed to the one-year irrevocability clause of the Taft-Hartley provision.

Finding that the Georgia provision and the federal statute "are completely at odds. . . [and] cannot co-exist," the U.S. District Court for the Southern District of Georgia (whose opinion later was adopted by the Fifth Circuit) held that

> the state regulation must yield. The area of checkoff of union dues has been federally occupied to such an extent under §301 [of the Taft-Hartley Act] that no room remains for state regulation in the same field. . . . Congress acted with considered purpose in limiting the period of irrevocability to not more than a year. . . conceivably [thinking] that a period of a year would better protect the union's position from deterioration through revocation of checkoff authorizations.
>
> I am confident Congress did not conceive that checkoff of dues for a limited time after an employee's revocation of authorization therefor would amount to compulsory union membership as interdicted by state "Right-to-Work" laws. . . . I do not agree that the one year irrevocability provision in the Act can be varied by a state legislature under the reservation to the states of the power to prohibit "agreements requiring membership in a labor organization as a condition of employment." Section 14(b) [of the National Labor Relations Act]. . . contemplates state regulation only as to forms of union security which are "the practical equivalent of compulsory unionism". . . . Checkoff authorizations irrevocable for one year after date do not amount to compulsory unionism as to employees who wish to withdraw from membership prior to that time.

NEW YORK CITY SCHOOL SUPERVISORS VOTE AFL-CIO AFFILIATION; ORGANIZING COMMITTEE CHARTER ISSUED

New York City school supervisors who are members of the city's Council of Supervisors and Administrators (CSA) recently voted 1,653 to 126 in favor of affiliating with the AFL-CIO. Then at its mid-winter meeting, the AFL-CIO Executive Council moved to encourage the formation of a new AFL-CIO national union of supervisors and administrators by issuing a charter for an organizing committee reportedly comprised of representatives of the CSA and its counterparts in Chicago and San Francisco. If the organizing efforts of the supervisors' groups prove successful, AFL-CIO President George Meany said a permanent charter may be granted in a few years.

The CSA has a membership of more than 3,000 of the 4,000 principals, assistant principals, department chairmen, bureau directors, administrative assistants, and other supervisors employed by the New York City school system. Membership in the Chicago and San Francisco locals is reported at 800 and 300, respectively, although a number of San Francisco's school administrators have joined the Teamsters, maintaining that immediate union protection is needed and that the formation of an independent union would take too long.

Statistics

NEGOTIATION AGREEMENTS: COMPOSITION OF CLASSROOM TEACHER NEGOTIATING UNITS

An NEA Research Division survey of 7,161 school systems with an enrollment of 1,000 or more identified 978 classroom teacher bargaining units which had negotiated comprehensive agreements with school boards effective during the 1968-69 school year. These units comprised 37.5 percent of the 2,605 systems in which active classroom teacher negotiating units were reported and included 420,118 instructional personnel, 43.5 percent of all instructional personnel in active negotiating units. A subsequent investigation of the recognition clauses contained in the 978 comprehensive agreements revealed that while all units represented classroom teachers, most of them also represented school employees in other job classifications. The analysis was confined to the 978 bargaining units since comprehensive agreements usually contain a more definitive statement on the job classifications included in or excluded from the negotiating unit.

Of the 978 agreements, 150 (15.3 percent) lacked recognition clauses defining unit membership. In addition, 99 agreements (10.1 percent) merely referred generally to "all professional personnel," "all certificated staff," "all teaching staff," or "all professional staff excluding administrators and supervisors." Another problem was that the specific job classifications included in and/or excluded from a given negotiating unit were listed in only 729 of the agreements, and the list often was obviously incomplete. For instance, although it was verified by questionnaire that all units included classroom teachers, only 307 agreements specifically referred to them. One other problem was the difficulty in identifying the nature of particular job titles owing to varying nomenclature; this was particularly true of lists of administrative and supervisory jobs wherein it was impossible to distinguish consistently between line and staff positions or to identify exact lines of authority. No attempt was made to compare the organizational charts of the 978 school systems.

The major criterion used in analyzing the bargaining units was the presence or absence of administrative and supervisory staff in classroom teacher units. For purposes of this analysis, department chairmen were *not* considered to be administrators or supervisors. Table 1 indicates that 53.2 percent of the negotiating units *excluded all* administrators and supervisors, another 15.6 percent *included some*, and only 9.9 percent of the units *included all* administrators and supervisors below the rank of superintendent. Superintendents never were included in negotiating units. Among the states, the portions of units including administrative and supervisory staff varied according to state law and the wishes of local members.

Tables 2 through 6 list the exact job classifications included in and/or excluded from classroom teacher negotiating units. Although 729 agreements mentioned one or more job classifications with respect to negotiating unit membership, it is evident from columns 2 and 3 in each table that no job titles were mentioned in a *majority* of the agreements. The agreements recognized a professional staff organization which negotiated terms and conditions of employment for its members, but the organization's membership (i.e., the job classifications represented) was left undefined. (Since classroom teacher information previously was obtained by questionnaire, teachers are indicated as included in all 978 units.) Therefore, the percentages of units including and excluding various job classifications (columns 5 and 7 in each table) indicate how often those agreements which *did* mention a job title included it or excluded it.

As indicated in Table 2, 15 administrative and supervisory job classifications at both the central office and building level were *excluded* from at least three-fourths of the units. Superintendents, assistant superintendents, business managers, administrative assistants (at the central office level), special program directors, all central office personnel, principals, and assistant principals were excluded from 90 percent or more of the units.

Table 3 then shows that seven of the 12 teaching classifications identified were *included* in at least four-fifths of the units; these seven classifications were regular teachers, department chairmen, traveling teachers, special education teachers, long-term substitutes, teachers on leave, and supervising teachers. In

TABLE 1.—COMPOSITION OF CLASSROOM TEACHER BARGAINING UNITS, 978 COMPREHENSIVE AGREEMENTS, 1968-69

State	Total number of units in state	Units excluding all administrators and supervisors		Units including some administrators and supervisors[a]		Units including all administrators and supervisors[a]		Unit composition undefined	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent
1	2	3	4	5	6	7	8	9	10
Arizona	2	1	50.0%	...	...	...	...	1	50.0%
Colorado	4	3	75.0	...	...	...	...	1	25.0
Connecticut	56	13	23.2	12	21.4%	26	46.4%	5	8.9
District of Columbia	1	1	100.0	...	...	...	...	...	...
Illinois	33	14	42.4	11	33.3	2	6.1	6	18.2
Indiana	8	3	37.5	...	...	...	...	5	62.5
Massachusetts	129	40	31.0	36	27.9	33	25.6	20	15.5
Michigan	312	264	84.6	40	12.8	1	0.1	7	2.2
Missouri	1	...	...	1	100.0	...	...	...	...
Nebraska	1	1	100.0	...	...	...	...	...	...
New Jersey	6	2	33.3	2	33.3	...	...	2	33.3
New York	319	135	42.3	52	16.3	29	9.1	103	32.3
Ohio	12	4	33.3	...	...	...	...	8	66.7
Pennsylvania	5	1	20.0	1	20.0	1	20.0	2	40.0
Rhode Island	19	12	63.2	1	5.3	...	...	6	31.5
Utah	4	1	25.0	1	25.0	...	...	2	50.0
Washington	3	...	...	...	...	1	33.3	2	67.7
Wisconsin	53	25	47.2	...	...	...	...	28	52.8
Arkansas, California, Kansas, Maryland, Montana, Virginia, Wyoming	10	...	...	...	...	...	...	10	100.0
Total United States	978	520	53.2%	153	15.6%	97	9.9%	208	21.3%

[a]Below the rank of superintendent.

addition, all of these classifications except supervising teachers and department chairmen were included in 90 percent or more of the units. The remaining five teaching classifications—all substitutes, short-term substitutes, intern and student teachers, and part-time teachers—more frequently were excluded from the classroom teacher bargaining unit than included.

The 12 job classifications for pupil personnel staff found in Table 4 were *included* in teacher negotiating units at least two-thirds of the time, except that physicians never were included. Librarians, guidance counselors, specialists, therapists, social workers, dental hygienists, and attendance teachers were included in about 90 percent or more of the units. As evident in Table 5, the six special program staff job classifications showed little trend as to inclusion or exclusion. While they were *included* in at least one-half of the units, they never were included in more than two-thirds of the units. Finally, Table 6 shows that the eight job classifications for auxiliary and other personnel also varied with regard to inclusion or exclusion. Secretaries and clerks, teacher aides, custodial and maintenance workers, transportation personnel, and cafeteria workers usually were *excluded* from teacher units, while library aides or clerks and playground teachers generally were *included*.

TABLE 2.—ADMINISTRATIVE AND SUPERVISORY STAFF IN CLASSROOM TEACHER UNITS, 978 AGREEMENTS, 1968-69

Job classification	Agreements mentioning job classification		Units including job classification		Units excluding job classification	
	Number	Percent[a]	Number	Percent[b]	Number	Percent[b]
1	2	3	4	5	6	7
CENTRAL OFFICE PERSONNEL						
Superintendents	413	42.2%	...	...	413	100.0%
Assistant superintendents	234	23.9	1	0.4%	233	99.6
Directors of regular programs	199	20.3	33	16.6	166	83.4
Business managers	100	10.2	...	...	100	100.0
Coordinators of regular programs	106	10.8	26	24.5	80	75.5
Supervisors	111	11.3	19	17.1	92	82.9
Administrative assistants	66	6.7	2	3.0	64	97.0
Directors of special programs	35	3.6	2	5.7	33	94.3
All central office personnel	25	2.6	...	...	25	100.0
Deans	19	1.9	4	21.1	15	78.9
Coordinators of special programs	12	1.2	3	25.0	9	75.0
BUILDING PERSONNEL						
Principals	342	35.0	20	5.8	322	94.2
Assistant principals	261	26.7	14	5.4	247	94.6
Administrative interns	16	1.6	5	31.2	11	78.8
Administrative assistants	11	1.1	2	18.2	9	81.8

[a]Stated as a percentage of the total 978 agreements analyzed.
[b]Stated as a percentage of the corresponding number of agreements indicated in column 2.

TABLE 3.—TEACHING STAFF IN CLASSROOM TEACHER UNITS, 978 AGREEMENTS, 1968-69

Job classification	Agreements mentioning job classification		Units including job classification		Units excluding job classification	
	Number	Percent[a]	Number	Percent[b]	Number	Percent[b]
1	2	3	4	5	6	7
Regular classroom teachers	978	100.0%	978	100.0%	...	...
Department chairmen	116	11.9	92	79.3	24	20.7%
Traveling or homebound teachers	79	8.1	75	94.9	4	5.1
Special education teachers	61	6.2	57	93.4	4	6.6
All substitutes	124	12.7	57	46.0	67	54.0
Long-term substitutes	45	4.6	43	95.6	2	4.4
Short-term substitutes	68	7.0	5	7.4	63	92.6
Teachers on leave	36	3.7	34	94.4	2	5.6
Part-time teachers	25	2.6	11	44.0	14	56.0
Supervising teachers	5	0.5	4	80.0	1	20.0
Intern teachers	6	0.6	2	33.3	4	66.7
Student teachers	1	0.1	...	...	1	100.0

[a]Stated as a percentage of the total 978 agreements analyzed.
[b]Stated as a percentage of the corresponding number of agreements indicated in column 2.

TABLE 4.–PUPIL PERSONNEL STAFF IN CLASSROOM TEACHER UNITS, 978 AGREEMENTS, 1968-69

Job classification	Agreements mentioning job classification		Units including job classification		Units excluding job classification	
	Number	Percent[a]	Number	Percent[b]	Number	Percent[b]
1	2	3	4	5	6	7
Guidance counselors	260	26.6%	246	94.6%	14	5.4%
Librarians	219	22.4	219	100.0	...	...
Various specialists	157	16.1	141	89.8	16	10.2
Psychologists and psychiatrists	129	13.2	105	81.4	24	18.6
Various therapists	92	9.4	91	98.9	1	1.1
Nurses	100	10.2	77	77.0	33	33.0
Social workers	82	8.4	77	93.9	5	6.1
Attendance teachers	63	6.4	59	93.7	4	6.3
Dental hygienists	16	1.6	15	93.8	1	6.3
Truant officers	5	0.5	4	80.0	1	20.0
Testers	3	0.3	2	66.7	1	33.3
Physicians	5	0.5	...	...	5	100.0

[a]Stated as a percentage of the total 978 agreements analyzed.
[b]Stated as a percentage of the corresponding number of agreements indicated in column 2.

TABLE 5.–SPECIAL PROGRAM STAFF IN CLASSROOM TEACHER UNITS, 978 AGREEMENTS, 1968-69

Job classification	Agreements mentioning job classification		Units including job classification		Units excluding job classification	
	Number	Percent[a]	Number	Percent[b]	Number	Percent[b]
1	2	3	4	5	6	7
Summer school staff	19	1.9%	12	63.2%	7	36.8%
Adult school staff	15	1.5	8	53.3	7	46.7
Evening school staff	13	1.3	8	61.5	5	38.5
Staff of federally funded programs	8	0.8	5	62.5	3	37.5
Work/study program staff	6	0.6	4	66.7	2	33.3
Staff of all special programs	1	0.1	1	100.0	...	...

[a]Stated as a percentage of the total 978 agreements analyzed.
[b]Stated as a percentage of the corresponding number of agreements indicated in column 2.

TABLE 6.–AUXILIARY STAFF AND OTHER PERSONNEL IN CLASSROOM TEACHER UNITS, 978 AGREEMENTS, 1968-69

Job classification	Agreements mentioning job classification		Units including job classification		Units excluding job classification	
	Number	Percent[a]	Number	Percent[b]	Number	Percent[b]
1	2	3	4	5	6	7
AUXILIARY PERSONNEL						
Secretaries and clerks	112	11.5%	5	4.5%	107	95.5%
Teacher aides	11	1.1	1	9.1	10	90.9
Library aides or clerks	6	0.6	5	83.3	1	16.7
Playground teachers	2	0.2	2	100.0	...	...
Computer programming personnel	4	0.4	2	50.0	2	50.0
OTHER PERSONNEL						
Custodial and maintenance workers	35	3.6	...	...	35	100.0
Transportation division workers	30	3.1	...	...	30	100.0
Cafeteria workers	26	2.7	1	3.8	25	96.2

[a]Stated as a percentage of the total 978 agreements analyzed.
[b]Stated as a percentage of the corresponding number of agreements indicated in column 2.

Special Reports

BRIEFS OF RECENT AGREEMENTS

Dekalb, Illinois

Between the Board of Education of School District No. 428 and the Dekalb Classroom Teachers Association, effective July 1, 1970, to June 30, 1971. Approximately 280 certificated professional employees.

Compensation: B.A., $7,100 to $10,650, 9 increments; teachers whose probationary period is extended for a third year as provided by law reach the top of the B.A. lane in 10 increments after being granted tenure; B.A. plus 16 hours, $11,360 maximum; M.A., $8,875 to $12,780, 10 increments; M.A. plus 30 hours, $15,123 maximum; mandatory retirement at age 65 in accordance with law. Differentials: (1970-71 only) senior high athletic director, $1,360; senior high head basketball coach, $1,020; senior high head football coach, $884; senior high head tennis, golf, and intramurals coaches, $544; junior high head track and cross country coaches, $340; senior high cheerleading supervisor, $476; senior high theatre director, $1,088; senior high chorus director, $428.40; elementary school band director (2 schools), $102. Substitute teachers receive $20 per day, except that after 20 consecutive days they shall be paid $25 per day. Teachers who daily must travel in the district as a condition of employment are allowed $50 annually plus 10¢ per mile on a semester basis.

Leaves: Unlimited sick leave for 1 year from the date of illness or injury with a maximum of 1 year of culminating benefits for the same disability, provided that after 5 consecutive working days of absence, a physician's affidavit be submitted stating that the teacher is unable to perform his assigned duties, giving the nature of the illness, and indicating the approximate length of time necessary for recovery; 2 separate days' personal leave for handling legitimate business, professional, religious, and family obligations which cannot be met outside the regular school day; time as needed for professional conference leave with district paying "allowable expenses incurred"; paid leave for jury duty less per-diem court allowance; sabbatical leave at no less than the district minimum ($7,100) or one-half of the teacher's current base salary, whichever is greater (after deduction for substitute service), for 1 or 2 semesters after 6 years' service.

Insurance: Board-paid comprehensive medical and hospitalization plan for individual coverage; board-paid $2,000 life insurance policy for individual coverage; employee's dependents may be insured, but premium must be paid in full by employee and only through a payroll deduction plan; employment injury benefit plan whereby board will pay the difference between a teacher's regular salary and any workmen's compensation benefits received for 1 year from the date of disability.

Association: Payroll dues deduction for local, state, and national associations; Association business may be transacted on school property at all reasonable times provided that it does not interfere with the operation of the schools; in order to fulfill the responsibilities of his office, the Association president "should be granted time when necessary"; at the mutual agreement of the administration and the Association's Professional Relations Committee, paid leave may be granted teachers who are appointed to a state or national Association committee or elected to an Association office.

Personnel: No new staff member normally shall be assigned to a building unless representatives of the teaching staff have an opportunity to interview and make recommendations regarding the employment of candidates; during planning time, teachers shall not be required to remain in their buildings as long as they notify the building principal of their absence and that absence is of a professional nature; no spouse will be assigned to the same building, nor will the spouse of any supervisor be assigned under his jurisdiction; professional growth requirement that 6 semester hours of credit be earned every 3 years by teachers and administrators with less than a B.A. degree, every 4 years by those with a B.A. degree but not an M.A. degree, and every 5 years by those with an M.A. degree; teachers may apply to have workshop or educational travel experience weighed and credited toward their professional growth requirement

at the rate of 1 semester hour of credit per 16 hours of workshop participation, and 1 semester hour of credit per week of travel (a description of and itinerary for which must be submitted and approved in advance); professional development plan allowing credits for an extensive reading program, active professional organization membership and service, and active community participation (*see* following provision reprint); the Professional Relations Committee shall review and recommend approval or disapproval of all course work beyond the M.A. degree as applied for by a teacher, and shall meet regularly with the superintendent to discuss matters affecting the welfare of pupils and/or teachers, alleged injustices developing from a lack of board or admininstrative policy, and staff conduct.

PROFESSIONAL DEVELOPMENT

A staff member who wishes to develop an extensive reading program which goes beyond his current readings may do so by following these procedures.

1. Submit a statement which includes a rationale for reading the books listed, an annotated bibliography of the books (exclusive of college course readings).
2. State a time period during which the books will be read and file these with the Superintendent and the Professional Relations Committee requesting the amount of credit desired. (Maximum of 3 per year).
3. Upon completion of the program, write a statement which summarizes the value of the content to one's professional development or classroom activities.

PROFESSIONAL RESPONSIBILITIES

Developed by the teacher for a 3 year period, 6 credits granted upon completion.

Maintain a complete unified professional membership in local, state and national organizations as well as one additional membership in a related curriculum area, and

Maintain *active service* in at least one of these areas:

1. Service on professional committees or hold an office.
2. Publication of materials or conduct research. Credit will be reviewed and the proper schedule placement determined.
3. Service on a curriculum committee.
4. Service on a building committee.

ACTIVE COMMUNITY PARTICIPATION
(A 3-Year Program—6 Credits)

The emphasis here is placed on participation, rather than just belonging. One must submit a statement of involvement as a contributor to the activities listed below (2 is a minimum).

1. Boy-Girl Scouts
2. Y.M.C.A.
3. Service Clubs
4. Fraternal-Sorority Groups
5. Church
6. Political
7. Civic

INCENTIVE INCREMENT PROGRAM

Upon completion of C and D over a three year period, the teacher at the top of the salary schedule would receive 10% of his current index salary for the next three years. If a person desires, he may recycle the program by continuing his participation in C and D thereby maintaining the salary increment. This benefit would also be extended to step 10-D of the salary schedule. (Dekalb, Illinois)

Holden, Massachusetts

Between the Wachusett Regional School District Committee and the Wachusett Regional Teachers' Association, effective September 1, 1971, to August 31, 1972. Approximately 105 certificated professional employees. Two employee units represented: Unit A—classroom teachers, and Unit B—principals, assistant principals, and guidance director. Provision for automatic renewal of agreement for successive one-year terms unless either party notifies the other in writing by September 1 prior to expiration of the contract year of its desire to modify or terminate the contract.

Compensation: (Unit A) B.A., $7,500 to $11,300, 10 increments; B.A. plus 15 hours, $11,650 maximum; M.A., $8,200 to $12,700, 10 increments; M.A. plus 30 hours, $13,400 maximum; Ph.D., $14,200 maximum. Unit B: principal, $12,000 to $19,250, 6 increments; first assistant principal, $11,500 to $17,500, 6 increments; second assistant principal, $11,000 to $16,500, 6 increments; guidance director, $11,500 to $17,500, 6 increments.

Leaves: 10 days' annual sick leave earned at the rate of 1 day per month worked, 135 days' maximum accumulation; teachers with 10 years of district service shall earn sick leave at the rate of 1.5 days per month, and tenure teachers automatically are to have 10 days' leave advanced at the beginning of each school year; 1 day of emergency and personal business leave

per each 3 months worked, 5 days' maximum accumulation; teachers with no earned emergency and personal business leave days may be advanced a maximum of 5 days at the discretion of the superintendent in the event of a death in the immediate family; teachers who have used all earned accumulated days in one classification may request that their accumulated earned days be combined before a payroll deduction is made; after an individual with 3 or more years' district service has used all of his accumulated sick and emergency leave days, he may be placed on extended sick leave for a period not to exceed 6 months at his current salary rate less a substitute's per-diem pay; sabbatical leave for teachers with an M.A. degree who have been accepted in an approved graduate program at one-half of salary for 1 year after 6 years' service.

Insurance: Board pays 50 percent of Blue Cross—Blue Shield municipal and state employees' plan for individual coverage.

Association: Teachers and Association representatives involved in grievance proceedings during the school day shall be allowed released time without loss of pay; no-strike clause providing that teachers who commit a violation "will at the discretion of the Committee be subject to disciplinary action, including discharge, suspension, or complete loss of seniority."

Personnel: Grievance procedure ends with final and binding arbitration; 30-minute duty-free lunch period for all teachers; teachers shall be evaluated annually by their department heads (and each department head or administrator by his immediate superior), although each third year the evaluation shall be conducted by the department head and a member of the administration and shall be used as a basis for selecting teachers for a performance commendation to be established by the Committee; NEA Code of Ethics adopted and accompanied by a statement that "if any member of the professional staff involves the student body in any matters which are properly the sole concern of the Association and the School Committee or agitates, incites, or provokes any action on behalf of the teachers, he will be censured by the Association, and the Administration informed of said action"; teachers are to be available for 30 minutes following the close of each school day in order to help and consult with students; teachers shall attend 1 faculty meeting per month which shall not last more than 75 minutes (2:45 p.m. to 4:00 p.m.), except that 2 meetings may begin at 1:00 p.m. "to allow for in-depth work on school programs or problems", when the administration is unable to secure a substitute teacher, regular teachers shall be assigned as substitutes during their free periods and on a rotating basis, but any teacher who substitutes more than 10 periods per year will be paid 1/900 of his base pay for each period beyond 10; a five-member Association elected Sabbatical Leave Screening Committee shall screen leave applicants and make recommendations to the superintendent by April 15 of each year; in order to advance on the salary schedule, a teacher with a B.A. degree must earn a minimum of 6 semester hours of credit for graduate study, travel, or other professional improvement activities within 6 years, while a teacher with an M.A. degree must earn a minimum of 3 semester hours in 6 years; after the first $40 of tuition for graduate study courses which are related to his subject or degree program and have been approved by his department head, the principal, and the superintendent, a teacher shall be fully reimbursed for up to 9 credit hours in 1 year (no more than 1 course per district semester) on completion of the course(s) with a passing grade(s); teachers enrolled in degree granting programs may leave the district high school early 1 afternoon per week on the day of the course and upon prior approval, and may request in advance an early departure at the end of the school year of a maximum of 5 days, provided the plans covering that final required week of work be approved and that the teacher return to the district for 1 academic year or forfeit the salary paid for those days of early departure.

Miscellaneous: Provision for a joint seven-member committee "to plan ways of scheduling the academic program and associated external educational activities" (*see* following provision reprint); provision for the formation of a special joint committee composed of the Association president and 2 teachers designated by him, the principal or his designee, the superintendent or his designee, and 2 pupils selected by the student council to draft any required modifications of school discipline regulations (including those relating to detention hall and cafeteria supervision) and submit a progress report to the superintendent by June 1, 1972; the administration "shall exert every effort to adhere to the class size recommended by the area department head"; costs of approved attendance at subject area workshops and conferences on nonschool days and on school days (limited to 2 such conferences per subject area department per year) shall be reimbursed at the rate of 10¢ per mile plus tolls for the use of a personal vehicle (or actual expenditures for commercial transportation), $9 per day for meals, lodging expenses, and subject area association membership dues if

the membership is maintained in the name of the district high school.

INTRODUCTION OF CHANGE

1. The Association agrees that the District School Committee shall introduce at any time it feels such action to be desirable, such technological educational improvements and/or new programs of instruction and organization as designed to improve and to facilitate the educational program of the District. No teacher will be removed from the payroll as a result of these changes.

2. Recognizing the educational potential that exists in our surrounding communities, in their citizens, in their government and in their industries, the W.R.T.A., the School Administration and the School Committee plan to establish a program which will use this capability to increase the Resourcefulness, Relevance and Responsibility of our educational operations and at the same time make even more effective use of our existing teaching staff and facilities.

To accomplish this the Chairman of the School Committee, Superintendent of Schools, Principal, and President of the Wachusett Regional Teachers' Association shall appoint a committee of no less than seven people to plan ways of scheduling the academic program and associated external educational activities. These appointments to be made as follows: No less than one appointment by the Chairman of the School Committee; no less than one appointment by the Superintendent, no less than one appointment by the Principal; and no less than four appointments by the President of the W.R.T.A. This committee shall be responsible for implementing the R.R.R. program and for recommending other programs to insure that there will be no need to make additions to the faculty of the Wachusett Regional High School in the academic year 1971-1972. Therefore, the present number of teachers will be expected to assume responsibility for a greater number of students and a greater number of sections but shall retain five preparation periods per week. To enable this program to be organized in advance of the start of the 1971-1972 school year the School Committee will immediately budget up to $5,000. to be used for studies and other necessary research to implement this program. This committee shall have the responsibility of following through with their recommendations with the appropriate personnel in the school. This committee to make recommendations in writing no later than March 1, 1971 to the School Committee, Administration and Faculty. (Holden, Massachusetts)

Jersey City, New Jersey

Between the Jersey City Board of Education and the Jersey City Education Association, effective September 1, 1970, to August 31, 1972. Approximately 1,700 certificated professional employees. Provision for the negotiation of a successor agreement which shall begin no later than November 1, 1971.

Compensation: (1970-71) B.A., $8,000 to $13,200, 11 increments; $8,500 to $13,700, 11 increments; M.A. plus 32 hours, $14,200 maximum; Ph.D., $14,700 maximum; longevity pay of $300 after 20 years' service and after 25 years' service. Differentials: (1970-71) head football and track coaches, $1,300; assistant football and track coaches, $675; head basketball coach, $1,100; girls' bowling coach, $500; school social worker; $500; speech correction teachers and teachers of pupils with learning disabilities, $300; remedial arithmetic teacher, $200; home instruction teachers, $100; summer school teachers, $9 per hour; part-time teachers assigned to evening high school, $6 per period. Substitute teachers, $30 per day. Coaches receive an extended service increment of $100 after 10 years' service.

(1971-72) B.A., $8,700 to $14,000, 11 increments; M.A., $9,200 to $14,600, 11 increments; M.A. plus 32 hours, $15,100 maximum; Ph.D., $15,600 maximum; longevity pay of $400 after 20 years' service, 25 years' service, and 30 years' service.

Leaves: 14 days' annual sick leave, unlimited maximum accumulation; "permissive personal illness leave" plan whereby teachers who have exhausted their current and cumulative sick leave may receive 1 additional day for each year of district service (with a minimum of 10 days unless fewer are required), which days shall not be cumulative, shall not be granted more than twice, and shall be granted only once in any given school year; if a teacher's entire permissive leave allowance is not used in a school year, he may request the superintendent "to apply the unused days within that school year (to June 30) to a new illness leave (five (5) days or more), if such is necessary, prior to expiration of that current school year"; extended sick leave (beyond accumulation and permissive leave allowance) of 40 days in any one school year at full salary less one-half of a substitute's per-diem pay for teachers who have served one to 10 years in the district, and 80 days for teachers who have served 10 or more years in the system; 2 separate days for personal business with any unused days transferred to sick leave accumulation; 4 separate days for a death in the immediate family, and 1 separate day for

funeral of relative; 3 days for religious holidays at full salary less one-half of substitute's per-diem pay; 2 weeks' paid leave for military reserve duty; a teacher absent in compliance with a court order shall suffer no deduction in pay provided he is served with a subpoena or summons, supplies evidence of such to his principal or department head, and the absence is approved by the superintendent; sabbatical leave at half-pay per month of leave for 12 months beginning with September 1 (although a teacher may request cancellation of the leave at any time) after 7 years' service in the case of a study leave, or after 15 years' service in the case of a rest and recuperation leave; upon resignation after 10 years' service or upon retirement, a teacher or the teacher's estate in the event of death before retirement shall receive "a lump sum payment equivalent to one-half (½) of the current substitute per diem pay for each unused day accumulated in his personal illness leave bank after July 1, 1956."

Insurance: Board-paid comprehensive medical plan for individual and family coverage; board-paid $2,500 life insurance policy and $2,500 death and dismemberment policy for each teacher.

Association: Payroll dues deduction for local, county, state, and national associations; released time without loss of pay for Association representatives participating in negotiation and grievance proceedings; Association building directors shall be permitted to speak at any faculty meetings for a period normally not exceeding 5 minutes; Association president shall have the exclusive right to designate Association representatives to serve on joint committees; if faced with an emergency situation requiring immediate attention, an Association building director may ask his immediate supervisor to relieve him temporarily; Association members may wear their membership pins or other identification; 1 Association member appointed by the Association president shall serve on and be a voting member of the Board of Examiners.

Instruction: Secondary teachers shall not be assigned more than 2 subject matter preparations per day "without full and sufficient cause"; a joint instructional committee composed of 4 board representatives, 2 Association members, and 1 representative of the Jersey City Parents Council shall meet bimonthly during the school year to advise the board and the Association on matters such as textbook evaluation and curriculum revision; the desirable median class size in elementary and secondary schools shall be 30 pupils for the 1970-71 school year; board agrees to hire and retain during the life of this agreement at least 25 elementary school specialists in the areas of art, music, physical education, reading, learning disabilities, and remedial arithmetic, 2 secondary school guidance counselors, 8 nurses (4 each in the elementary and secondary schools), 6 system-wide assistant psychologists and 1 psychiatrist, 10 teachers of the educable retarded, 3 teachers of the trainable retarded, 4 teachers of brain-injured children, and 6 school social workers; the number of teachers in the substitute pool shall be increased to 40; according to "qualification and availability," 10 more bilingual teachers shall be hired in 1970-71, and an additional 10 shall be hired in 1971-72.

Personnel: Grievance procedure ends with final and binding arbitration; a teacher shall have the right to examine his personnel file and respond to any derogatory material to be placed therein; duty-free lunch period of at least 45 minutes for secondary teachers, 60 minutes for elementary teachers, and 30 minutes for special education teachers; no more than 2 monthly faculty meetings of 45 minutes' duration normally shall be required of teachers, and notification of such meetings shall be given at least 2 days in advance, except in emergencies; if teachers feel there are an excessive number of faculty meetings, the matter may be grieved; vacancies in extra-compensation positions shall be posted with a notice of the position's requirements and duties, and the board shall give preference to applicants presently employed when selecting personnel to fill such vacancies; administrative and supervisory positions shall be filled by the board in order of numerical ranking from appropriate eligibility lists, which ranking is determined by a competitive promotional examination (40 percent written and 60 percent oral) administered by the Board of Examiners; all teachers are to have a daily preparation period when possible, and the parties "agree to strive for a goal of three (3) on-call periods per week in the elementary schools" whereby classroom teachers will be relieved of their responsibilities by specialists; classroom teachers who are required to cover for absent teachers shall be given 1 sick leave bank day for every 5 periods taken in the secondary schools and every 5 on-call periods given to covering service in the elementary schools, as well as an additional sick bank day for every 5 days on which extra pupils are taken into the classroom.

Miscellaneous: By September 30, 1970, the board shall institute a committee of 3 members appointed by the Association to study the establishment of a mental health and drug use clinic and submit a report no later than February 1, 1971. The clinic would provide mental health services, carry out the recommendations of

psychologists and psychiatrists, and make preventive diagnoses in the area of drug abuse. The board "shall make every attempt to implement the committee's recommendations for the 1971-72 school year."

Eastchester, New York

Between the Board of Education of Union Free School District No. 1 and the Eastchester Teachers Association, effective July 1, 1970, to June 30, 1971. Approximately 220 certificated professional employees. Provision for the negotiation of a successor agreement which shall begin on or about November 15.

Compensation: B.A., $8,200 to $12,250, 11 increments; B.A. plus 30 hours, $9,200 to $15,000, 14 increments, with a differential of $100 paid to M.A. degree holders; B.A. plus 60 hours, $16,000 maximum; Ph.D., $17,900 maximum; longevity pay of $300 after 20 years' service, $400 after 25 years' service, and $400 after 30 years' service; teachers with 10 or more years' service in the district shall receive "an additional longevity increment equal to one month's salary" upon retirement or resignation. Differentials: senior high varsity football coach, $1,025; varsity basketball coach, $910; senior high baseball and hockey coaches, $810; senior high cheerleading coaches, $140; senior high girls' track and softball coaches, $280; class advisors, $160; drama coach, $500; senior high newspaper sponsor, $500; senior high yearbook sponsor, $590; senior high debate advisor, $300; senior high band director, $680; guidance counselors and psychologists, $1,000; senior high director of audiovisual aids, $680.

Leaves: 20 days' annual sick leave, 170 days' maximum accumulation; extended sick leave at half-pay for as many months or fractions thereof as a teacher has years of service, less any months or fractions thereof for which he previously has received such leave; 15 days' leave per year for a serious or major illness in the immediate family deducted from sick leave; 2 separate days of personal leave shall be granted during the 1970-71 school year and 1 day in each subsequent school year which shall be cumulative to a maximum of 5 days; 3 separate days' leave for a death in the immediate family, and 5 separate days for the death of a child or a spouse; leave may be granted to attend state and national Association meetings; teachers shall be granted paid leave when subpoenaed to appear in court, although a salary deduction equal to the substitute's per-diem pay shall be made beginning with the fourth day of such absence; paid leave for jury duty less per-diem court allowance; sabbatical leave at half-pay for 1 year or full pay for one-half year after 7 years' service; summer sabbaticals at 1/40 of annual salary per week for a minimum of 17 weeks and a maximum of 20 weeks shall be taken during 2 summers within a five-year period.

Insurance: Board-paid state health insurance plan for individual and family coverage; board-paid $3,500 life insurance policy for individual coverage; dental insurance "shall be provided beginning January 1, 1971 for each teacher, with the employer premium payment not to exceed $7,500 for all members of the Association"; board provides tax sheltered annuities "in an amount for each covered employee to be determined by an agreed premium not exceeding the employee's statutory exclusion allowance and not less than $250 per year, the type of such annuity to be selected by the employee."

Association: Payroll dues deduction for local Association; the 3 permanent members of the Association negotiating team shall not be given any assignments by their building principals above and beyond the instructional load for a given subject matter area; 3 days' paid leave shall be granted 2 Association delegates to the state Association convention; a one-year leave of absence may be granted a teacher who is elected president of his state or national organization.

Instruction: Every effort will be made so that teachers will have no more than 2 subject matter preparations per day; average class sizes shall be 25 pupils per morning and afternoon session of kindergarten, 25 pupils in grades 1-9, and 20 pupils in grades 10-12; a joint committee composed of 3 teachers and 3 administrators shall, during the 1970-71 school year, discuss and make recommendations upon the concept of overload, a professional activities period, the evaluation of experimental and innovative programs, and the current limitation that denies credit for in-service courses; the proposed school calendar for the following school year "shall be submitted to the Association for review prior to its being adopted by the Board, and every effort will be made to incorporate teacher requests therein."

Personnel: Grievance procedure ends with final and binding arbitration in cases of a violation of contract terms, but grievances involving any board rule, regulation, or policy shall end with advisory arbitration; teacher has right to examine his personnel file with the exception of medical, psychiatric, or professional reports con-

tained therein; teachers shall be assigned no more than 5 teaching periods of 45 to 50 minutes' duration per day, except that English teachers "shall not be assigned more than four teaching periods per day of 45-50 minutes duration because a substantial amount of writing requiring careful analysis is expected"; whenever possible, preparation periods should be scheduled after no more than 3 consecutive teaching periods; elementary teachers shall receive a minimum of 195 minutes of unassigned time per week, and no teacher shall be scheduled for more than 1 day per week without any unassigned time of at least 30 minutes; duty-free lunch period of 30 minutes for all secondary teachers and 60 minutes for all elementary teachers; probationary teachers shall be evaluated at least 3 times per year by at least 2 of the following persons: principal, administrator, coordinator; tenure teachers shall be observed at least once per year by a principal or other supervisor; no more than 3 building staff meetings shall be held per month, and teachers are to receive at least 4 days' notification of such a meeting; regular secondary school faculty meetings shall be held on Monday afternoon and normally shall not exceed 1 hour in length; teachers also may be required to attend 3 district-wide staff meetings per year, excluding the orientation program at the beginning of the year; inservice workshop plan whereby each block of 10 graduate credits earned by a teacher for salary schedule advancement may include a maximum of 5 semester hours of workshop credit; a Sabbatical Leave Committee composed of the board president, the chairman of the board's education committee, the superintendent or his deputy, and 2 members of the Association's executive committee elected by a majority vote of that committee shall determine the value of any sabbatical leaves sought to the district and the individual and render a determination no later than 8 months prior to the effective date of the leave.

SELECTED PROVISIONS CONCERNING TEACHERS' RIGHTS AND ACTIVITIES OUTSIDE SCHOOL

An analysis of the 978 comprehensive agreements effective during the 1968-69 school year in systems with a pupil enrollment of 1,000 or more indicates that 421 agreements (43.0 percent) contained provisions dealing with teachers' rights, their personal and political activities outside school, short-term and long-term leaves of absence for political campaigns and public office, and teachers' employment outside the school system. As shown in Table 1, 90 agreements (21.4 percent) contained subject matter relative to the first three of the four areas of concern, and 88 agreements, (20.9 percent) referred to all four areas.

TABLE 1.—NEGOTIATED PROVISIONS RELATIVE TO TEACHERS' RIGHTS AND ACTIVITIES OUTSIDE SCHOOL, 1968-69

Item	Agreements containing designated content	
	Number	Percent
1	2	3
Total number of agreements analyzed	978	...
Agreements containing pertinent provisions	421	100.0%
Teacher rights, activities outside school, and leaves for public office	90	21.4
Teacher rights, activities outside school, leaves for public office, and employment outside school	88	20.9
Teacher rights only	72	17.1
Teacher rights, and leaves for public office	63	15.0
Leaves for public office only	58	13.8
Teacher rights, and activities outside school	50	11.9

Many of the agreements analyzed broadly stated that a teacher's personal and private life—including his religious, political, and other activities—is not the concern of the school board, provided such activities do not interfere with or reflect unfavorably upon the school or the teacher's responsibility to his pupils. In addition, such activities are not to take place during working hours or in situations construed to be under the sponsorship of the board. Some provisions specify that a teacher's religious or political activities shall not be grounds for discipline or discrimination with respect to his professional employment. Two sample provisions are:

A. The private and personal life of a teacher is not within the appropriate concern or attention of the Board except as it may interfere with the teacher's responsibilities to and relationships with students and/or the school system.

B. Teachers will be entitled to full rights of citizenship, and no religious or political activities of any teacher (provided such activities do not take place during his working hours,) or the lack thereof will be grounds for any discipline or discrimination with respect to the professional employment of such teacher. (Torrington, Connecticut)

* * *

F. Teachers shall be entitled to full rights of citizenship and no religious or political activities of any teacher or the lack thereof shall be grounds for any discipline or discrimination with respect to the professional employment of such teacher. The private and personal life of any teacher is not within the appropriate concern or the attention of the Board as long as the conduct of the individual teacher is within reasonable bounds of generally understood good professional conduct. (Boyne City, Michigan)

A number of agreements provide that a teacher "will be entitled to full rights of citizenship," or "is obligated" to act as an example of good citizenship as in the following provision:

The Board of Education regards teachers as being obligated to promote good citizenship by example as well as by precept and to practice, insofar as it is possible, the citizenship duties of being knowledgeable about pertinent political issues, registered to vote, and voting. The teachers are, of course, free to discuss political issues, campaign for candidates, run for and serve in public office. The teacher's responsibility to children and youth demands that partisan emphasis never be a part of the teaching concerning political issues and personalities. (Harford County, Bel Air, Maryland)

Active involvement in politics is recognized in agreements as a right afforded any citizen, but teacher involvement is restricted to activities conducted outside the classroom, off school premises, and outside working hours. Such activities include lobbying, organizing political groups, campaigning for or serving in public office, registering voters, and serving at polling spots. However, some agreements emphasize that teachers who are politically involved make certain that their actions and utterances are theirs as individuals and that they not exploit the institutional privileges of their professional positions. A sample provision is:

1. The teacher shall be guaranteed the right to be active politically, provided that such activity is not conducted on school premises during working hours and does not involve students of his school on school premises (such restriction does not prohibit a teacher from attending a political meeting on school premises at which students are present), and provided also that the teacher conduct such activity as a private individual and not as a representative of the BOARD or the school district, or its students. Political rights shall include but not be limited to registering and voting or assisting others therewith, participating in party organization activity, discussing political issues publicly, campaigning for or against candidates or propositions, lobbying, organizing political action groups, and running for and serving in public offices which are not incompatible with a teacher's employment with the school district. (Park Forest, Illinois)

Activities specifically prohibited by some contracts may result from state and/or federal statutory prohibitions and usually refer to active political involvement on school premises or within the scope of a teacher's employment. These activities include distributing political campaign literature on school property, posting political circulars or petitions on school bulletin boards, collecting or soliciting funds for political purposes, soliciting campaign workers or utilizing pupils as such, and using school equipment or personnel for political purposes. Occasional agreements provide, however, that these prohibited activities shall not include expressions of individual preference outside the school building (e.g., bumper stickers and buttons), nor shall they be construed to prohibit the use of political material for instructional purposes, as long as the presentation is impartial, open-minded, and fair. In conjunction with the citizenship clauses contained in many agreements, teachers often are expected to and/or considered responsible for providing pupils with the opportunity for examining controversial subjects and situations, including political campaigns. Two "political activity" provisions are:

A. Teachers of the School City of Hobart shall have entire liberty of political action when not engaged actively in their employment, provided such action is within the laws. . . and that such action does not impair their usefulness in their respective capacities.

B. The right of teachers to work and to vote for the party and candidates of their choice shall never be questioned, abridged, or denied.

C. Teachers shall be entirely free from political domination or coercion, or the pretended necessity of making political contributions of money or other things of value, or engaging in any political work or activity against their wishes under the assumption that failure to do so will in any way affect their status as teachers of the School City of Hobart.

D. Teachers are, however, expressly forbidden to participate actively on school property during school hours in any political party activities or political efforts of any kind whatsoever—including distribution of political campaign literature or soliciting funds for political purposes.

E. Use of political material for instructional purposes in the classroom is not forbidden, but each teacher must be accountable that his presentation is open-minded, fair, responsible, and respectful of the differing opinions of others. (Hobart, Indiana)

* * *

a. Full rights of citizenship shall be guaranteed to each teacher.

b. The Board and the Association recognize the right of teachers to participate in political governmental affairs in a manner afforded any other citizen, including: the right to vote; the right to be an active member of a political party; the right to campaign for candidates for election to public office; and the right to seek, campaign for, and serve in public office.

c. Political activities of any teacher seeking or holding office or campaigning for a candidate shall be conducted outside the classroom, off the school premises, and outside working hours. The following activities are specifically prohibited upon property under the jurisdiction of the Board:

1. Posting of political circulars or petitions on bulletin boards.
2. The distribution to employees of political circulars or petitions in their school mailboxes or otherwise, except for United States mail.
3. The collection of and/or solicitation for campaign funds.
4. Solicitation for campaign workers.
5. The use of pupils for writing or addressing political materials, or the distribution of such materials to pupils.
6. The use of the school's stenographic help, telephones, or equipment.

d. A teacher shall refrain from exploiting the privilege of his position. Neither shall a teacher exploit pupils in any way for political purposes for himself or for any party, candidate, or political issue. (Baltimore, Maryland)

Absent a specific statutory prohibition, teachers usually are guaranteed the right to become candidates for public office and serve in elective or appointive positions. Long-term and short-term leaves

available to permanent (and occasionally probationary) teachers for purposes of campaigning for and holding public office vary widely in duration, but all are unpaid or only partially paid. Moreover, many agreements limit such leaves to employees with at least two to three years of continuous district experience, to a stated percentage of the bargaining unit per year, or to teachers with "satisfactory" performance ratings.

In some systems, a teacher may, upon 30 days' notice, be granted four weeks leave without pay to campaign for his own election to public office; if elected, he must request leave for the period of required duty, or resign his teaching position. Other contracts variously provide unpaid leave for campaigning and serving in full-time, salaried political positions for a period of time limited to the initial appointment, as needed to fulfill one term of office, in segments of one semester or more with a minimum of one semester, or for periods of one to four years. Political leaves often may be renewed or extended by the board upon request, although some agreements limit the length of such leaves to a single term of office of three or four years. Sample provisions are:

D. 1. A teacher who has been on the staff of the Lansing School District for a minimum of three years and has a record of satisfactory service shall be entitled to a leave of absence without pay to campaign for, or serve in, a public office.

2. Such leave shall be granted in segments of one semester or more by the Board on recommendation of the Superintendent.

3. Upon return from such leave, he shall be returned to a comparable position if the same position is not open.

4. Teachers holding political office requiring their occasional presence during school hours for non-compensable political office functions may utilize their available personal leave time for such absences. (Lansing, Michigan)

* * *

12. Political Leave—Upon request, permanent and probationary teachers shall be granted political leave in accordance with the following provisions:

a. With thirty (30) calendar days' notice, a teacher may be granted up to four (4) weeks leave, without pay, for the purpose of campaigning as a candidate in a civic election for public office, subject to the discretion of the Superintendent.

b. The Board shall extend to the teacher who is elected or appointed to public office a leave of absence or absences, without pay, as needed to fulfill one (1) term of office not to exceed four (4) years. At the conclusion of such leave of absence, the teacher shall be returned to his same or a reasonably comparable position. (Sanborn, New York)

A number of agreements differentiate between leaves for full-time, salaried elective or appointive positions (as discussed above) and leaves for part-time, nonsalaried positions, or those which provide only token compensation. In the latter case, teachers may be allowed "reasonable" time without loss of pay (provided no substitute is required) for campaigning for and serving in such a position, or leave as necessary with substitute docking. Some agreements stipulate that teachers use their personal leave time for holding any noncompensable political positions. Again, however, such activity is not to interfere with the teacher's contractual assignment in the school system or in any way impede the educational process. Occasional contracts name part-time municipal or county offices, or state legislative positions which a teacher may hold without loss of salary, although he usually is required to return any legislative salary, per-diem allowance, or other remuneration to the district. Short-term political leaves also may be granted to perform voter registration or Election Day duties. An example is:

6. Employees shall be permitted to participate actively in the party of their choice, serving as one of the county or precinct officers, as long as such participation does not adversely affect the work of the employee. This is to be done without reduction of salary.

Employees shall be permitted to be candidates for and serve if elected in the office of city councilman, and other unpaid or token payment offices within the city and county. Campaigning and serving shall be done on the time of the employee except for reasonable loss of time that shall not require a substitute for the employee. This is to be done without reduction of salary.

Employees shall be permitted to campaign, be candidates for and serve if elected to the Wyoming Legislature. The employee shall continue to receive school salary, but will return all legislative salary to the school system. The employee may retain the per diem allowance to cover living costs while serving in the Legislature.

Announced and unannounced candidates for elective state or national public offices other than the legislature will be expected to request a leave of absence or submit a resignation during the period of the campaign and upon election. The school system shall diligently attempt to place the employee in employment as soon after the election as possible if the employee is unsuccessful in his bid for office. The Board of Trustees will determine when an employee is an announced candidate. (Casper, Wyoming)

If a teacher is unsuccessful in his bid for public office, he usually shall return to his teaching position immediately (or at the termination of the leave period granted) and shall receive all accrued benefits as if he had been on active duty. Teachers who serve in a public office and then return to teaching variously are to return to their same or a comparable position, to their former position on the salary

schedule, or to the salary schedule position they would have occupied if they had taught during the leave period. Some agreements state that a teacher's right of return shall not require the displacement of a long-term substitute. In most cases, returning teachers receive no accrued benefits, although they may retain their formerly accumulated sick leave as in the following provision:

A leave of absence of up to two (2) years shall be granted to any teacher upon application for the purpose of campaigning for, or serving in, a public office. Upon return from such leave such teacher shall be placed at the same position on the salary schedule as when he left. Persons on this leave will receive no benefits except they will be allowed to retain sick leave already accumulated. This leave will be limited to not more than one per cent (1%) of the bargaining unit. This leave will be for a minimum of one (1) semester and must commence at the beginning of a semester. (Orchard Lake, Michigan)

A teacher's employment outside school also is not considered to be the concern of the board unless it encroaches upon his instructional time, prejudices his effectiveness as a teacher, or discredits the teacher or the system. Some agreements call for written notification of a teacher's intention to perform outside work, while others require teachers to submit applications for outside employment to the board for approval. Three sample provisions are:

C. The Board will approve extra-curricular work or outside work by its employees following the Superintendent's approval if such work does not interfere with teaching or other functions of the employee and also provided that the outside work adheres to the Code of Ethics of the Teaching profession. All applications for outside work irrespective of its nature must be returned to the Board for its consideration.

D. It is a teacher's responsibility to inform the Board by letter (through the Superintendent's Office) of his intent to work at an outside position and shall give a brief job description. (Torrington, Connecticut)

* * *

While it is also recognized that teachers may accept some work outside of school hours for other employers during the regular school year, this should not interfere with the school assignment. Where there is reason to believe that a teacher's outside work is affecting the quality of his teaching, he will be expected to file with the Board a statement of the extent and nature of his outside work. This statement will be the basis for an evaluation of the teacher's situation by a committee appointed by the Board and the Association. (Logan, Utah)

* * *

Outside work, outside study or other activities undertaken by teachers during their non-duty hours are at the discretion of the individual. Such activities should not impair the teacher's ability to perform effectively in the teaching assignment, nor should they reflect discredit upon the teacher or the Alexandria City Public Schools. Notification of outside employment shall be given to the personnel office on a form established for this purpose. (Alexandria, Virginia)

Text

MONTANA

PROFESSIONAL NEGOTIATIONS ACT FOR TEACHERS

AN ACT RELATING TO THE TEACHING PROFESSION, RECOGNIZING THE RIGHT OF TEACHERS TO JOIN ORGANIZATIONS OF THEIR CHOOSING, PROMOTING COOPERATION AND DISCUSSION BETWEEN SCHOOL BOARDS AND TEACHERS, ESTABLISHING PROFESSIONAL NEGOTIATION PROCEDURES, RECOGNIZING BARGAINING REPRESENTATIVES.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA:

Section 1. Short title. Sections 1 through 14 of this act shall be known as the "Professional Negotiations Act for Teachers."

Section 2. Declaration of policy and purpose. In pursuance of the duty imposed upon it by the constitution to provide a system of free public schools and to adopt all means necessary and proper to secure to the people the advantages and opportunities of education, the legislative assembly hereby declares that it recognizes teaching as a profession which requires special educational qualifications and that to achieve high quality education it is indispensable that good relations exist between teaching personnel and their governing boards. It is, therefore, the policy of this state to recognize the rights of professional school employees to form, join, or assist professional employees' organizations to negotiate with their governing boards regarding the terms and conditions of professional service and to confer and consult in other matters for the purpose of establishing, maintaining, protecting and improving educational standards, and to establish procedures which will facilitate and encourage amicable settlement of disputes. It is further recognized that the authority of public school district boards of trustees is established by law and a district board of trustees has final authority for determining policies for the operation of public schools under its jurisdiction which are not inconsistent with law.

Section 3. Definitions. As used in this act, unless the context clearly requires otherwise:

(1) "Teacher" means an individual certificated in class 1, 2, 4 or 5 as provided in section 75-6006, R.C.M. 1947, but shall not include such certificated individuals who are not currently under contract to perform classroom teaching; however "teacher" shall include principals certificated in class 3 who so elect as provided in subsection (3);

(2) "Employer" means a school district as defined in section 75-6501, R.C.M. 1947.

(3) "Appropriate unit" means all of the teachers employed by a single employer. Principals employed by an employer may elect to be included in the appropriate unit or may elect to establish a separate appropriate unit of principals;

(4) "Board" means any public school board of trustees;

(5) "Strike" means any work stoppage by a teacher or teachers which interferes with the operation of a school or schools, which includes abstinence in whole or in part from the full, faithful and proper performance of the duties of employment, for the purposes of inducing, influencing or coercing an employer to change any terms or conditions relating to the employer-teacher relationship;

(6) "Teacher organization" means any organization of employees which includes teachers in membership;

(7) "Representative of teachers" means a representative elected pursuant to the provisions of section 7.

Section 4. Teachers' rights. It shall be lawful for teachers to organize, form, join or assist in employee organizations or to engage in lawful activities for the purpose of collective bargaining or to bargain collectively through representatives of their own free choice. Teachers shall also have the right to refrain from any or all such activity but shall be bound by a professional negotiations agreement involving the appropriate unit of which they are a member. It shall be the duty of an employer to meet and confer on any proposal advanced by a representative of teachers, or by a teacher or group of teachers if no representative of teachers has been selected, if such proposal does not endeavor to amend the terms of a professional negotiations agreement then in effect, and nothing in this act shall be construed to diminish such duty. However, a representative of

teachers selected as provided by this act, shall be the exclusive representative of all the teachers in the appropriate unit to meet, confer or negotiate upon all matters permitted in section 5 and such teachers shall not negotiate individually.

Section 5. Duty to negotiate and bargain. It shall be the duty of all employers acting as a board, or acting by and through a bargaining agent designated or employed by the employer, and all teachers, or a representative of teachers, to meet and confer for professional negotiations purposes at the request of either, except as provided by this act, to discuss matters relating directly to the employer-teacher relationship such as salary, hours and other terms of employment, and to negotiate and bargain for agreement on such matters. The matters of negotiation and bargaining for agreement shall not include matters of curriculum, policy of operation, selection of teachers and other personnel, or physical plant of schools or other school facilities, however nothing herein shall limit the obligation of employers to meet and confer as provided in section 4. Teachers under a professional negotiations agreement, or the representative of teachers, shall not demand that professional negotiation conferences begin until after November 1 of the last year such agreement is effective, but, if professional negotiation is desired, must serve written notice of intention to negotiate collectively upon the employer not later than November 1 of such year stating specifically the items to be negotiated. If such notice is not served, the employer shall not be required to negotiate any terms of the employer-teacher relationship for the following school year. Professional negotiation agreements in effect at the time this act becomes effective shall continue to their expiration. No professional negotiation agreement shall extend for a term of more than two (2) years.

Section 6. Unfair practices. (1) Employers, their agents or representatives, are prohibited from the following unlawful acts:

(a) Interfering with, restraining or coercing teachers in any manner in their right of self-organization or selection of a representative;

(b) Discriminating in regard to conditions of employment when the purpose is to discourage membership in a teacher organization;

(c) Refusing to meet, confer or negotiate in good faith with teachers or the duly elected representative of an appropriate unit of teachers or with a panel selected upon impasse as provided in section 9, to discuss or negotiate upon any matter dealing directly with the employer-teacher relationship as provided in section 4;

(d) Refusing to reduce to writing and sign a professional negotiation agreement arrived at through negotiation and discussion;

(2) Teachers or teacher organizations, their agents or representatives, are prohibited from the following unlawful acts:

(a) Restraining or coercing teachers in violation of their rights guaranteed under section 4 or interfering in the conduct of an election as provided in section 7.

(b) Refusing to reduce to writing or sign a professional negotiation agreement arrived at through negotiation and discussion;

(c) Instituting, maintaining or participating in a strike or boycott against any employer, or picketing any school or school facility to further or to induce a strike or boycott because of any controversy; engaging in, or inducing or encouraging any individual to engage in, a strike or refusal to handle goods or perform services or threatening, coercing or restraining any individual where the object thereof is to force or require any employer to discontinue doing business with such individual or to force or require an employer to recognize a teacher representative not selected as provided in section 7;

(d) Refusing to meet, confer or bargain in good faith with an employer or its agents or with a panel selected upon impasse as provided in section 9, to discuss or bargain upon any matter dealing directly with the employer-teacher relationship as defined in section 5.

Section 7. Selection of teachers' representative. Any teacher organization whose membership includes a majority of the teachers in the appropriate unit, as verified by affidavit of the secretary of the teacher organization delivered to the employer, shall be recognized by the employer as the representative of teachers in the appropriate unit, however, (1) if the membership of more than one (1) teacher organization desiring to represent the appropriate unit includes a majority of the teachers in the appropriate unit or (2) if no teacher organization's membership includes a majority of the teachers in the appropriate unit but thirty (30) percent or more of the teachers in the unit have petitioned the board, in writing, for a particular representative, or (3) if the employer questions whether a majority of the teachers in the appropriate unit desire the representation of a teacher organization determined by organization membership and applies for an election, the board or his representative shall conduct an election by secret ballot to determine the representative to represent the teachers in the appropriate unit. The board shall give not less than ten (10) nor more than thirty (30) days' written notice of the time and place of such election by mailing to all teachers in the appropriate unit and by posting in the school or schools where such teachers teach. The board shall include on the ballot the names of all teacher organizations verified by affidavit

to include a majority of the teachers in the appropriate unit, or if no teacher organization claims a majority of such teachers, then the names of all prospective representatives offered by the petition of thirty (30) percent or more of the teachers in the unit received by the board not less than five (5) days prior to the date for election, and in either event the choice of "No representative." One candidate must receive a majority of the votes cast to be recognized as the representative of the teachers in the appropriate unit. If "No representative" receives a majority, no representative shall be recognized. If two (2) or more prospective representatives are named on the ballot and no choice receives a majority, a second election, after notice, shall be conducted naming the two (2) proposed representatives receiving the greatest number of votes in the first election. A determination under this section by secret ballot shall remain in effect for one (1) year after the date of the election and thereafter until the employer or thirty (30) percent or more of the teachers in the appropriate unit shall apply to the board for another election.

Section 8. Ratification of agreements. All professional negotiation agreements reduced to writing and executed by an employer and the representative of teachers must be ratified by a majority of the teachers in the appropriate unit before becoming binding upon the parties. If a professional negotiation agreement is executed by a professional negotiation agent of the employer it must be ratified by a majority of the board of the employer.

Section 9. Professional negotiation. If, after fifty (50) days following the commencement of negotiation between an employer, and a negotiating agent designated by the employer, and teachers, or a representative of teachers, an agreement cannot be reached upon any proper issue or issues presented, either party may notify the other in writing that it desires to present the issue or issues to a panel of three (3) persons, residents of the state in which the employer is located, one (1) to be selected by the employer, one (1) to be selected by the representative of teachers, and the third to be selected by the first two (2) named, who shall act as chairman of the panel. Each party shall select its panel member within ten (10) days after such notification. If the members selected by the parties are unable to agree upon the third member within ten (10) days from the date of their selection, the senior district judge of the county in which the employer is located shall submit the names of five (5) persons to the parties at impasse and each party shall in the presence of such senior district judge alternately strike one (1) name until only one (1) shall remain. The teachers or representative of teachers shall strike the first name. The person so remaining shall be the third panel member. Negotiation shall thereupon continue before the panel. The panel may take oral testimony under oath and shall consider all documents and arguments presented to it. If an agreement has not been reached by the parties within twenty (20) days after presentation before the panel has commenced, the panel shall make findings of fact and recommendations concerning the issues discussed and shall serve a copy upon both parties within five (5) days after such twenty (20) day period. Within five (5) days following mailing of such findings and recommendations, the parties must notify the county superintendent of schools and each other whether or not they accept the findings and recommendations of the panel, and unless both parties do so accept, the panel shall publicize its findings of fact and recommendations in such manner as it deems advisable. Not less than five (5) days nor more than ten (10) days after such publication of findings of fact and recommendations of the panel, the parties shall again notify the county superintendent of schools and each other whether or not they accept the recommendations of the panel. The parties may further negotiate and settle the issues at any time before or after the recommendations of the panel. Each party shall pay the expenses of its selected member of the panel and both parties shall share equally the expenses of the third member of the panel and the publication costs.

Section 10. Employer's right under other state laws. Nothing contained in this act shall impair the employer's right to hire teachers or to discharge teachers for cause consistent with other state laws.

Section 11. Court review. An employer, a duly elected representative of teachers, or if no representative of teachers has been selected, then a teacher or group of teachers, may institute proceedings in the district court for the county in which the employer is located to restrain the commission of any unlawful or unfair practice as provided in this act. Any teacher acting in violation of any court order to enforce the provisions of this act shall be subject to suspension without pay or dismissal at the discretion of the employer.

Section 12. Penalty for violation. Any teacher who violates the provision of section 6(2)(c) shall forfeit his salary for every day that he is in violation.

Section 13. Planning for negotiating sessions closed to public. Professional negotiating sessions between employers and teachers, or their representatives, may be open to the public, but meetings of school boards wherein professional ne-

gotiating proposals are discussed prior to any professional negotiating sessions shall be closed to the public.

Section 14. This act shall not operate so as to annul, modify or preclude the renewal or continuation of any lawful agreement heretofore or hereafter entered into between a board and a teacher organization. This act shall not preclude the modification of any existing agreement upon the request of either the board or the teacher organization in accordance with the procedure provided in this act.

Section 15. Severability. This act shall be severable, and should any part or provision hereof be declared unconstitutional by a competent court, such declaration will not invalidate the remaining provisions hereof.

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RESEARCH DIVISION
NATIONAL EDUCATION ASSOCIATION

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This issue of the NEGOTIATION RESEARCH DIGEST, the final issue for the 1970-71 publication year, has been delayed as a result of a two-week strike conducted by the National Education Association Staff Organization.

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Address communications regarding the DIGEST to Donald P. Walker, Chief, Negotiation Research Unit, or Ann T. McLaren, Staff Associate, Research Division, National Education Association, 1201 Sixteenth Street, N. W., Washington, D. C. 20036.

Case Reviews

FLORIDA

INSTRUCTION OF NEGOTIATOR AND NEGOTIATION OF TENTATIVE AGREEMENT MAY BE CONFIDENTIAL

Florida's "Government in the Sunshine" law (F.S. 286.011), which prohibits public officials from conducting official business in private, does not prohibit a public employer from privately instructing its negotiator as to his authority and limitations. Nor does it prohibit private negotiating sessions between the public employer and the public employees' representatives prior to reaching tentative agreement. In so ruling, the Dade County Circuit Court determined that procedures followed by the Dade County school board in 1970 negotiation with the Dade County Classroom Teachers Association represented "lawful activity," and that the board's "actions in considering and voting upon the negotiators' package... was a lawful exercise of its authority."

When the Dade County board at its December 9, 1970, public meeting voted preliminary approval of a package mediated in secret with the Association, an attorney filed suit alleging violation of F.S. 286.011. Shortly afterward, the Association filed a counterclaim for declaratory judgment that the statute does not require public employers to negotiate in public, and that the parties' 1970 negotiation was legal.

At the outset, the court cited a 1969 ruling by the Florida Supreme Court in *Dade County Classroom Teachers' Association, Inc. v. Ryan* which held that Art. 1, § 6, of the state constitution mandates public employee bargaining and grants public employees the same bargaining rights as workers in private industry, exclusive of the right to strike. Examining the procedural steps comprising the bargaining process, the court acknowledged that "some aspects of governmental collective bargaining must be completely open to public scrutiny at all times." It specified that the procedure for determining the negotiating team must be openly conducted, as must "the presentation of the negotiators' tentatively agreed upon proposals for consideration by the government employer."

However, the intermediate steps wherein the public employer instructs its negotiator regarding his authority and limitations and the parties meet to discuss their proposals prior to reaching tentative agreement may be conducted in private. The court explained:

> To rule otherwise is to put the taxpayer at a gross disadvantage when *his* representatives are chosen and instructed and are negotiating. The Government in Sunshine law applies *only* to one side—the government employer. The employees' negotiator is, and will continue to be, instructed in secrecy .... If this type of unilateral bargaining is required, the public board, in this case the school board, is hindered and seriously impaired in its ability to function as a bargaining representative. . . . The purpose of collective bargaining is to promote the rational exchange of facts and arguments that will measurably increase the chance for amicable agreement. Public communication of the negotiations would virtually exclude genuine good faith negotiations and would, in effect, limit bargaining on all matters on which the public negotiator took a stand.
>
> The temporary privacy of this portion of the collective bargaining process enables the government employer to bargain collectively, as he must under constitutional mandate, and to do so *on equal terms with his employees.* Since the work product of these negotiations is tentative and is binding on no one, and since the public will be given the opportunity to express itself on those proposals prior to their approval by the government employer, this temporary seclusion cannot be in violation of the letter, or purpose of Government in the Sunshine law.

Citing "uncontroverted testimony" to the effect that "meaningful collective bargaining will be destroyed if full publicity is accorded to each step," the court discussed the adverse effects publicity would have upon the employer's original bargaining position and the collective bargaining process generally. Moreover, since the state constitution mandates collective bargaining, "statutory interference therewith would not be justified. To the extent that F.S. 286.011 would curtail collective bargaining, its provisions would be *pro tanto* unconstitutional. However, this Court construes the provisions of F.S. 286.011 as not reaching into the collective bargaining session or the instructions given to the public negotiators. Such a construction saves the statute."

The court then examined the Dade County bargaining process, finding that the school board hired an independent negotiator as its representa-

tive at a regularly scheduled April 1, 1970, meeting which was open to the public and the press, and that it had not discussed the negotiator's employment prior to this time. Secondly, while there was no testimony regarding the manner in which the board instructed its negotiator, the court found no violation of F.S. 286.011, even if instructions were delivered privately. The court stated that "it is the duty of all the board members to meet with the negotiator and set out his guidelines and authority."

Thirdly, the board's practice of having its negotiator meet in secret with Association representatives in arriving at a tentative agreement was "well placed. The public's interest does *not* lie requiring negotiators for public employers to come to the table stripped of strategy or tactics by premature exposure to the public and their adversaries."

Finally, the tentative proposals developed by the parties' negotiators in secret were presented at an open, regularly scheduled school board meeting on December 9, 1970, where they were modified and adopted. Concluding that the entire procedure "clearly conforms to the interrelated requirements of Article I, Section 6 of the Constitution; and F.S. [2] 86.011," the court ruled that the actions of the Dade County board were lawful and stated that "there is no bar to further action the School Board may take" upon the negotiation package adopted on December 9. (*Patrick K. Bassett, et al. v. G. Holmes Braddock, et al. v. Dade County Classroom Teachers' Association, Inc.*, Dade County Circuit Court, March 25, 1971.)

NEW YORK

DECISIONS ON THREE ASPECTS OF TEACHER STRIKE ISSUE ARE RENDERED

Three recent New York court cases dealing with the teacher strike issue have resulted in separate decisions acquitting individual teachers of criminal contempt for striking while finding the union guilty, upholding the Taylor Law's provision for fining strikers through payroll deduction, and ruling that teachers who appeal strike penalties must enter individual suits rather than a class action. Brief summaries of the cases follow.

- The Westchester County Supreme Court acquitted seven teachers of contempt of court for violating a preliminary injunction against a strike but judged the Lakeland Federation of Teachers, AFL-CIO, Local 1760, guilty of criminal contempt for its "willful disobedience to the lawful mandate of this court." In proceedings resulting from a strike conducted by the union in September 1970, the court held that the school board of Central School District No. 1 failed to sustain its "burden of proof as to the guilt of the individual defendants beyond a reasonable doubt." However, the court did find evidence of the union's "deliberate defiance" of the injunction and accordingly fined the union $5,000.

During the contempt proceedings, the court found that while

> plaintiff's witnesses established that there was a strike from Sept. 8, 1970, through Sept. 16, 1970, within the meaning of section 210(1) and (10) of the Civil Service Law and that the defendant union engaged in, caused, instigated, encouraged and condoned the strike, insufficient proof has been adduced to warrant a finding of willful disobedience and therefore to warrant granting the relief sought as to the defendants other than the union.... There was testimony that certain of the defendants were absent during the course of the work stoppage and that certain of the defendants were seen on a picket line in front of the schools during the strike, however, no other evidence of willful defiance of the orders of the court on the part of any of the individual defendants was demonstrated. Plaintiff failed to sustain the burden of proof as to the guilt of the individual defendants beyond a reasonable doubt.

However, the court also found that from September 9 through September 16, the union "instigated the strike and caused strike bulletins and other communications to be issued to teachers and parents in the Lakeland District urging support of the teachers in the strike. These strike bulletins . . . show that the strike was deliberately planned and executed by the defendant union.... The court cannot condone or forgive the defendant union's deliberate defiance of the court." (*Board of Education of Central School District No. 1 v. Lakeland Federation of Teachers, Local 1760*, New York Supreme Court, Westchester County, February 3, 1971.)

- Another ruling of the Westchester County Supreme Court (NRD, 6-70, 4) which dismissed a petition to enjoin the New Rochelle education board from fining certain teachers who had engaged in a June 1969 strike was affirmed on appeal by the New York Supreme Court, Appellate Division. The lower court had held that provisions of sec. 210 of the Taylor Law which authorize payroll deductions of two days' pay for each day a public employee is on strike do not constitute a bill of attainder, since sufficient due process is provided in the statutory procedures by which a public employee may object to a determination that he has engaged in a strike.

In addition, the lower court had ruled that sec. 210 does not infringe upon public employees' rights of free association and free speech because

"the ability to strike is not essential to the right of association and it is certainly subordinate to the right of the State to prohibit such activity, this latter right having been repeatedly upheld by the courts." (*Matter of Stephen Zeluck, et al. v. Board of Education, Ctiy School District of City of New Rochelle*, New York Supreme Court, Appellate Division, February 1, 1971.)

- Teachers found to have violated the no-strike provisions of the New York Taylor Law cannot bring class action suits seeking to enjoin the imposition of penalties because each teacher's reasons for absenting himself during the strike are different. In ruling that teachers can challenge strike penalties only by bringing individual lawsuits, the Monroe County Supreme Court dismissed a class action brought by four Rochester city school district teachers on behalf of some 500 teachers who boycotted district classes on March 3, 1970. The court explained:

In the case at bar the reasons submitted by each individual employee in his answering affidavit and supporting proof are personal and are peculiar to each employee. We do not have a question which is one of a common or general interest as is required in Section 1005(a) Civil Practice Law and Rules in order that a class action may be maintained.

Following the boycott and in accordance with provisions of the Taylor Law, the Rochester superintendent fined the teachers two days' pay and placed them on probation for one year. Hearings were offered 180 of the striking teachers, but the superintendent denied hearings to the 500 teachers represented in the present class action. While plaintiffs requested that a hearing be granted to each teacher who had submitted an affidavit challenging the superintendent's findings, the court cited a portion of sec. 210(h) of the law which states:

If the chief executive officer shall determine that the affidavit and supporting proof raises a question of fact which, if resolved in favor of the employee did not violate this subdivision, he shall appoint a hearing officer to determine whether in fact the employee did violate this subdivision after a hearing at which such employee shall bear the burden of proof.

Since the Rochester superintendent acted as chief executive officer pursuant to statute, the court concluded that "the determination of these questions [is] not within the province of this court." It also dismissed as lacking in merit plaintiffs' request that the district be permanently enjoined from penalizing those teachers who had not been granted hearings. The court explained that the law's procedures for determining violations constitute sufficient due process, and that the penalties imposed here statutorily are authorized. (*James Sudore, et al. and the Board of Education of the City School District of the City of Rochester and Herman R. Goldberg*, New York Supreme Court, Monroe County, February 12, 1971.)

OTHER ITEMS OF INTEREST

IMPARTIAL HEARING NOT REQUIRED IN NONRENEWAL OF TENURE TEACHER

In its first case involving the procedural rights of tenure teachers whose contracts are not renewed, the U.S. Court of Appeals for the First Circuit decided that a Maine teacher failed to exhaust available administrative remedies and that he had been afforded procedural due process by the Windham, Maine School Committee. Observing that "a determination of what procedures afford dismissed teachers due process requires a complex balancing of interests," the court found "serious problems" with plaintiff's interpretation of the Maine statute governing tenure teachers' procedural rights. It consequently affirmed a district court's entry of summary judgment in the case, which was brought against the Windham superintendent and school committee members under 42 U.S.C. § 1983.

The pertinent portion of the Maine statutes provides:

After a probationary period of 3 years, any teacher, who receives notice in accordance with this section [i.e., at least 6 months before the terminal date of the contract] that his contract is not going to be renewed, may during the 15 days following such notification request a hearing with the school committee or governing board. He may request reasons. The hearing shall be private except by mutual consent and except that either or both parties may be represented by counsel. Such hearing must be granted within 30 days of the receipt of the teacher's request.

Plaintiff, a tenure teacher with five years' service in the Windham schools, was notified by the superintendent in a letter dated December 13, 1969, that the school committee had voted not to renew his contract. Upon request, plaintiff was furnished on January 14, 1970, with a list of the reasons for his nonrenewal by counsel to the committee, and a hearing was set for January 21. Then at the hearing, plaintiff's counsel objected because the proceedings were not public, the witnesses were sequestered, and he was not allowed to cross-examine committee members. As the committee refused to sustain any of the objections, plaintiff declined further participation in the proceedings, and consideration of the merits of his nonrenewal never was reached. The committee's initial decision not to renew plaintiff's contract thus remained in effect. Plaintiff entered a district court action, and that court's judgment was appealed here.

The court of appeals initially noted that plaintiffs who bring § 1983 actions normally must ex-

haust available administrative remedies; it explained that "we hesitate to hold members of school committees liable for tentative dismissal decisions when they are denied the opportunity to view the issue in the light of the facts and argument which the affected teachers might introduce in a formal hearing." However, in light of another decision and plaintiff's argument that the Windham committee followed a procedure which was not required by state statute, the court found that it must consider plaintiff's statutory argument.

Plaintiff first asserted that the Maine statute requires a superintendent to notify a teacher before he recommends nonrenewal to the committee so that the teacher may obtain the reasons for the superintendent's recommendation and be afforded a hearing before the entire committee. As such, the issue of nonrenewal would first be considered during the requested hearing, and the committee presumably would be unable to dismiss a teacher in his absence. The appeals court, however, found no basis in the statute for plaintiff's interpretation and explained:

> Under the statute, a teacher is entitled to notice "that his contract is not going to be renewed . . .", not notice that the Superintendent has recommended nonrenewal. The language contemplates action by the entire Committee before the teacher is notified. Moreover, plaintiff's interpretation assumes that there is no occasion for the Committee itself to initiate a dismissal, yet the Committee is expressly granted the power to initiate a dismissal under the Maine statute.

Plaintiff also maintained that he was given an inadequate statement of the committee's reasons for his nonrenewal and objected because the reasons came from counsel to the committee, rather than the committee itself. In dismissing plaintiff's claim, the court noted that it was inconsistent with his first argument (since the committee could not have furnished reasons before the hearing unless it previously had considered plaintiff's nonrenewal), and that the statute merely requires that a teacher be given "reasons." Moreover, the court found that plaintiff "was clearly put on notice of the charges against him" and pointed out that the committee's characterization of the reasons as unproven charges "instead of reasons to be rebutted may have eased plaintiff's burden of proof and should have eased his mind of the matter initially discussed, namely, that the Committee had prejudged its case."

The court also found no "material significance" to the fact that two of the reasons for nonrenewal were events occurring after the committee's vote not to renew. As long as plaintiff was put on notice before the hearing of all events the committee would consider, the court saw no reason why the committee should ignore incidents "which indicated a continuing course of improper conduct." Observing that the committee "may have afforded plaintiff more procedural protection than he was entitled to under the statute" (e.g., a stenographic record of the hearing was kept), the court held that there was "no justification for plaintiff's refusal to follow the proceedings through to the end."

In the alternative, plaintiff objected to the constitutionality of the statutory procedure, arguing that "due process requires a completely neutral decision-maker at the hearing and that the Committee, having already made an initial decision not to renew plaintiff's contract, was not impartial." But the court of appeals emphasized the inappropriateness of the issue since it was raised for the first time on appeal and "at no point does the record show that this matter was argued or even alluded to before the district court." Commenting on the argument, however, the court concluded that

> we might on rare occasion consider it if the facts pleaded, proved, or sworn to clearly pointed to a blatant and clear deprivation of constitutional rights. This, however, is not such a case. Such law as exists on the constitutional requirement and definition of an "impartial tribunal" in cases of teacher dismissals is varied and murky. The policy implications are vast. . . . There is some authority for plaintiff's proposition, *Pickering v. Board of Education*, ... but we note that no court has required a school system to create the procedure plaintiff seeks.
>
> We see serious problems with this procedure because it would either prevent a Committee from initiating a dismissal or permit it to initiate a dismissal but then require another body of neutral outsiders to review personnel decisions that are properly the responsibility of the Committee. . . . A requirement that the Superintendent serve as prosecutor and bring a proposed dismissal before the Committee for the first time in an adversary proceeding is inconsistent with the Maine statute authorizing the Committee to initiate dismissals. . . . If we required the state or municipalities to create neutral bodies to which the Committee's decision to dismiss could be appealed, we would be engrafting into educational administration an appellate layer of enormous complexity, and might well exceed the boundaries of our judicial authority and trespass into legislative territory.

(*Bryce Beattie v. Frances W. Roberts, et al.*, U.S. Court of Appeals, First Circuit, January 6, 1971.)

Board Findings and Rulings

CALIFORNIA

ARBITRATOR SAYS SCHOOL BOARD IS BOUND BY NEGOTIATED BINDING GRIEVANCE ARBITRATION CLAUSE

An arbitrator determined that the education board of Placentia Unified School District was bound by and could not unilaterally withdraw from a provision for binding grievance arbitration contained in an agreement negotiated and ratified by the board and the Placentia Unified Education Association. In a long historical and theoretical discussion of arbitration and the "threshold question of arbitrability," he found that "belated and specious concerns" about the lawfulness of the provision could not alter the board's original commitment and commented:

> The modern legal thrust in public employment generally throughout the country is to sanction grievance arbitration. This trend is increasing with the realization both that the range and specifics of the administrative issues being resolved by submission to grievance arbitration bear a remarkable resemblance to those that have long since been the grist for private-sector arbitration and that arbitrators appear to apply essentially the same standards developed in the private sector. . . . The trend is solidly buttressed by the elemental link between the relinquishment or prohibition of the right of employees to strike and the alternative resort for dispute resolution to arbitration. . . . Where grievance arbitration has existed in the private sector, a marked decrease has occurred in "wildcat" strikes—those that are unlawful because of contractual or statutory prohibition. With the surge of "job actions" in the public sector, including teachers, the moral should be wholly visible: where courts may by reasonable interpretation do so, they should presume lawful rather than unlawful statutory delegation of the power of public employer bodies, including boards of education, to submit grievances for final and binding arbitration.

On September 15, 1970, the Association and the board "informally agreed" upon a document which subsequently was ratified by both parties. That agreement contained a grievance procedure allowing a grievant who remained unsatisfied after pursuing his grievance through three progressive steps to request review of the matter by a three-member panel. The clause then provided that "the panel's review of the grievance and its subsequent findings shall be rendered in writing within five (5) working days after the panel has been confirmed and shall constitute a final and binding decision regarding the grievance."

Three weeks after the board had ratified the agreement, it requested a legal review by the county counsel which resulted in 21 suggested changes in the agreement and a statement "that much of the wording in the existing document goes beyond the requirements of the Winton Act, either as it exists or as it has been amended, effective November 23, 1970." While the board should not feel the suggested changes "must be followed," counsel added that "not to do so would both unduly limit the District's ability to act, and because of the nature of the concessions made therein, provide a wedge usable by CTA in discussions with other districts."

The county counsel's opinion specifically took issue with the finality of the negotiated grievance procedure, observing:

> There is a distinct possibility, based upon the experiences from other districts, that the decision made by such a panel could, in fact, be contrary to Board rules and regulations. While grievance procedures provide that a grievance pertains only to the interpretation of Board rules and policy, panels constituted as outlined here in the proposed (sic) procedure could, because of the equities involved, reach decisions contrary to existing rules. For this reason, and others, we would suggest any decision made by such a panel be advisory to the governing board which should have the power to make final decisions.

On November 30, 1970, the Association president asked that the board designate its representative to sit on the grievance review panel. The superintendent replied (as directed by the board) that "the findings reached by the panel will be advisory only," owing to the county counsel's opinion and a board study of its rights and authority under state law. Concluding that implementation of the binding arbitration provision "would be illegal," the board considered that conclusion to be an "emergency" warranting deviation from a portion of the parties' agreement stating that "no change, alteration or modification of these Articles I through XI shall take place during the 1970-71 fiscal year, unless there is mutual agreement of the Board of Education and the Negotiating Council, except in the case where

the Board of Education determines that an emergency exists."

The board appointed its representative to the panel but reiterated its belief that the binding arbitration provision was unlawful and its determination that the panel's findings "would be accepted only as advisory." In addition, in its January 12, 1971, Information Bulletin, the board outlined a "detailed chronology of events related to the status of grievance procedures." According to the arbitrator,

> this "chronology" declared that the September 23, 1970, ratification by the teachers and then by it of the Agreement did not create a contractual relationship—"At no time was it considered to be a collective bargaining agreement or master contract of any kind." — . . . although it conceded that the contents of the Agreement "were informally agreed upon" . . . and asserted that "the items were agreed upon in good faith by both parties. . . . The chronology noted that after both parties had "agreed upon" the policies contained in the Agreement "the material" was sent to the Orange County Counsel "for legal advice [and] interpretation". . . . The response of the Counsel prompted the Board to decide that it would "cooperate" in the grievance procedures but that a decision of the panel "would be advisory only" . . . because "the Board was following the advice of their legal counsel which they are required by law to do."

A demand for arbitration was filed by the Association on December 16, 1970, on behalf of two teachers it claimed "were inequitably assigned and overloaded." Once the parties had selected the present arbitrator to chair the grievance panel, the Association raised the question of the case's arbitrability and whether the decision of the panel would be binding on the parties or merely advisory. After various proceedings, the arbitrator ruled that the grievances were arbitrable, "which is to say, that the jointly ratified Agreement of the parties provided for final and binding arbitration of the grievances, and that the Board could not unilaterally abrogate that joint commitment."

When the board's representative declared he was unauthorized to proceed further on that basis, the arbitration hearing was recessed pending an Association appeal for a court order enforcing the panel's arbitrability award and compelling the board to proceed to arbitrate. The arbitrator commented upon the lawfulness of binding public employee grievance arbitration:

> [T]he adverse inference contained in the County Counsel's Opinion letter is unwarranted in the experience of those who have worked with grievance arbitration in recent years. Actually . . . a fair reading of that letter discloses that in major part it amounted to tactical advice on negotiating with the teachers' representative. . . . It is notable that the Opinion did *not* say that this Agreement was unlawful, only that it went beyond the minimal requirements of the Winton Act. . . . Earlier judicial authority reflecting community attitudes rejecting the idea of negotiating for such things as grievance arbitration by public employees through their elected representatives is simply being bypassed by more recent judicial interpretations. Older notions about "delegability" and "plenary power" are being replaced by more contemporary ideas . . . [and] the notion of illegal delegability is receiving short shrift in the most recent decisions of the state supreme courts. . . . It is obvious that it will serve the public interest greatly to assure that the tensions and frustrations of public employees—including teachers—over unresolved grievances be channeled away from "job actions"—regardless of their legality—and into the ameliorating "therapy of arbitration," as the Supreme Court has described [it].
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> As Arvid Anderson, Chairman of New York City's Office of Collective Bargaining, and . . . one of the nation's foremost authorities in reference to these problems, has realistically observed, "If the public wants arbitration as a means of resolving public employee disputes, the courts will find new answers to overcome traditional legal obstacles."

(*In the Matter of Arbitration between Placentia Unified School District and Placentia Unified Education Association*, interim award, February 22, 1971.)

INDIANA

ADVISORY ARBITRATOR SUSTAINS UNION GRIEVANCE AGAINST PERFORMANCE CONTRACTING PROGRAM

A three-part grievance brought by the Gary Teachers Union in the face of a performance contracting program which violated provisions of a negotiated contract was sustained by an advisory arbitrator. Observing that "it has been held that a contract entered into knowingly by a party which subverts an existing agreement is not enforceable," the arbitrator ordered 13 teachers reinstated, directed that the pupil-teacher ratio at the experimental school be readjusted, and called for the restoration of negotiated "local conditions and practices." However, since the arbitration award is not binding, effectuation of the award by the Gary school board remains open to question.

The performance contracting arrangement agreed upon by the board and the Behavioral Research Laboratories (BRL) of California provided that BRL would operate an inner-city "Curriculum Center School" under a four-year program involving a minimum of 700 pupils in kindergarten through the sixth grade. Regular staff members at the designated elementary school were to do the teaching, but all teaching and related school services (secretarial, janitorial, food service, and busing) were to be supervised by a BRL "Project Manager."

Then, when the program was under way, 14 teachers at the elementary school were notified by BRL that they were "surplus" according to a teacher profile developed by the company and not discussed with any staff members involved.

One teacher later was reinstated, but the other 13 were transferred under a clause in the BRL-board agreement providing: "Upon fifteen (15) days written notice from BRL, [the school board will] accept for reassignment any teacher or administrator who BRL advises is not suitable for work in the Center."

Prior to implementation of the program, the Indiana attorney general advised the Gary school system that the proposed contract "would have the effect of removing [the designated elementary school] from the Common School System of Indiana and would, therefore, be illegal." While the BRL contract was rewritten to place the company in a merely "consultive capacity," a subsequent investigation of the program by the state assistant superintendent for instructional services found that BRL actually operated the elementary school and made all administrative and instructional decisions. The state official additionally reported that 25 percent of the school's staff was not certified or licensed, that the project manager was not eligible for certification, and that there appeared to be violations in the areas of "letting of the contract, use of state adopted textbooks, portioning of time to provide for a fully-rounded curriculum, administration of the program and building, certification, and maintenance of the pupil-teacher ratio required by the commission now held by [the school]."

The union first charged that it was neither consulted about the performance contracting program nor given much information about it, despite the superintendent's statement that "successful execution [of the program] will require extensive negotiations with the teachers union and the state Department of Public Instruction." Union objections to the BRL agreement with respect to the 15-day transfer provision (which had no counterpart in the negotiated contract) and a probable imbalance in the negotiated maximum pupil-teacher ratio were presented to the Gary board at a conference, but no action was taken. Later in the year, paraprofessional employees at the elementary school threatened to strike owing to dissatisfaction with BRL management of the school; the strike did not, however, occur.

When the union sought arbitration of its grievance, the school board apparently agreed to a hearing. But the board boycotted the actual arbitration proceedings, and the hearing was held *ex parte*. At that time, the union contended that the board "wilfully" had agreed to a contract with a private organization which contained provisions violative of the parties' negotiated agreement. While the superintendent had recognized that the program should be negotiated, no discussions occurred, and the union maintained that it had given the board "every reasonable warning" of the grieved matters. Therefore, it contended that the board committed an "anticipatory" breach of the negotiated agreement by proceeding with the program.

The arbitrator first pointed out that the parties' contract specifies that involuntary transfers shall be effected only when necessitated by "the opening of a new building, the closing of an old facility or when a change in course offerings or reduction in pupil enrollments necessitates a reduction in staff." He noted that none of these conditions "is met by the transfers that were made." Moreover, while "it cannot be gainsaid" that the performance contracting program altered local conditions and practices as defined in the negotiated agreement, the arbitrator found that the union "was alert to the problems which were unfolding and cannot be accused of not trying in every reasonable way to bring its views before the board and superintendent." He explained further:

> Nor should it be assumed that the union in this matter is taking a "stick in the mud" attitude of simply opposing new teaching ideas for the sake of their newness. There is nothing in this record to indicate that BRL has any touchstone of success for teaching reading and mathematics. Certainly the utilization of unlicensed teachers to the extent of 25 percent of the faculty is not a step in the direction of enlightened improvement of instruction. Nor does it appear from the backgrounds of these unlicensed teachers and the unlicensed project manager that they possess any noted expertise in the very areas which BRL professes such competence.
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> The teacher-pupil ratio is completely out of kilter under the BRL operation, and this violates the union agreement provisions predicated upon studies made by the Gary schools themselves in 1967.

With regard to the union's "anticipatory breach" argument, the arbitrator found that the Gary board did in fact render itself incapable of complying with the negotiated contract by entering into a conflicting agreement with BRL. Questioning the enforceability of the BRL agreement, the arbitrator observed:

> There is grave doubt that the BRL agreement meets the requirements of contract law for being in accord with "public policy" and "not being illegal." The requirements of licensure of teachers no longer is open to judicial question. The courts long ago settled the proposition that the profession of teaching is so affected with the public interest that licensing is an appropriate exercise of the state's power.
>
> Anything which tends to debase to learned professions is at war with the public interest and contrary to public policy. . . . The arbitrator is well aware of the importance of not invoking the doctrine of "public policy" carelessly, but certainly it is applicable when any agreement is negotiated which has the effect of countenancing violations of teacher licensing laws and other legal requirements governing education.

In sustaining the union's grievance, the arbitrator concluded that "if the school board finds itself in a dilemma of having agreements which are antagonistic to each other, the provisions of the agreement with the union are valid and subsisting

and should be carried out." (*In Re Arbitration Between Gary Teachers Union and Gary School Board*, American Arbitration Association, February 19, 1971.)

NEW YORK

SCHOOL BOARD COMMITS IMPROPER PRACTICE BY UNILATERALLY IMPOSING POST-SABBATICAL LEAVE REQUIREMENT

A school board's acknowledged unilateral imposition of a post-sabbatical leave requirement was ruled an improper practice under the Taylor Law by the New York Public Employment Relations Board (PERB). The PERB agreed with a hearing officer that sabbatical leave is a term and condition of employment and is a proper subject for negotiation. It additionally determined that while it has no "general jurisdiction to police and enforce" public employee agreements, "conduct which constitutes a breach of contract may also constitute an improper practice" and thereby be subject to PERB jurisdiction. Finding the board's action to be a violation of its statutory obligation to bargain in good faith, the PERB ordered the board to cease and desist from its unilateral activities and refrain from enforcing the requirement.

The East Meadow Teachers Association alleged that the UFSD No. 3 school board committed a violative act when in April 1970, it unilaterally required unit employees "as a condition for the granting of . . . sabbatical leave, to . . . return to employment . . . for a period of not less than two years." The parties' negotiated agreement contained no such provision, and the board admitted that it unilaterally had imposed the requirement during the term of the agreement. Determining that sabbatical leave is "a condition of employment similar to other types of paid leave in which an employment relationship is maintained," the hearing officer held that

> despite the fact that the [board] is empowered . . . to adopt rules or regulations for the granting of leaves of absence, it follows, and I find, that the post-sabbatical leave provision lies within the scope of mandatory subjects of negotiations. The [board], prior to exercising its conceded power under the Education Law, was required by the [Taylor Law] to engage in good faith negotiations with the charging party. This it did not do. Accordingly, the [board] must be found to have violated §209-a.1(d) of the Act, unless there is merit in its affirmative defenses.

In considering the board's arguments, the hearing officer found that the PERB "clearly has jurisdiction in this matter" since it is granted "the power and function of establishing 'procedures for the prevention of improper employer and employee organization practices.'" He also pointed out that

> the statutory obligation to negotiate in good faith does not cease subsequent to the execution of a collective agreement. As was stated in a recent article by the Director of Public Employment Practices and Representation of this Board and a member of his staff: "Moreover, even after a contract has been signed, the parties may be guilty of bad-faith bargaining. Thus, it would appear to be improper for one of the parties to unilaterally change a negotiated or preexisting term or condition of employment." Just as a public employer could not, in the first instance, unilaterally determine those matters to be included in a collective agreement, neither can it, during mid-term of the agreement, make unilateral changes. Unilateral action, at either stage, is the antithesis of good faith negotiations.

The school board next contended that PERB jurisdiction should not be asserted because the union had failed to submit the dispute to the contractual grievance procedure. But the hearing officer found that "this dispute is not one of contract interpretation, but of statutory obligation. Therefore, the charging party may rely herein upon the provisions of the Act rather than the collective agreement."

Finally, the school board argued that its unilateral action was for the purpose of achieving certain desirable educational goals according to its past experience. In dismissing that argument, the hearing officer held that

> neither experience nor reasonableness is at issue here. What is at issue is the manner and method in which the [board] acted and its deliberate circumvention of the duly recognized negotiating representative of its employees. Clearly, this constitutes a failure to engage in good faith negotiations. It follows that the [board's] unilateral action cannot be condoned, even if based upon an erroneous legal premise or a *bona fide* business consideration.

The hearing officer accordingly concluded that the board's unilateral action constituted a refusal to negotiate in good faith, thereby depriving district employees of "their statutory right to have the employee organization of their choice negotiate with regard to a significant change in a condition of their employment."

In filing exceptions to that conclusion, the East Meadow board argued that sabbatical leave is not a condition of employment under the Taylor Law, that its alleged unilateral action would constitute a breach of agreement (not an improper practice) and thus could only be grieved by the Association, and that the question had become moot since the parties' subsequent agreement contained a provision covering the point at issue. The PERB initially dismissed the board's first contention in agreeing with the hearing officer's determination that sabbatical leave is a proper subject of negotiation.

With regard to the grievance procedure argument, the PERB noted that the issue was one of first impression, and that it raised the question of board authority to "police and enforce" negotiated public employer-employee agreements. Concluding that it has no such power and that the

state legislature "has not dealt explicitly with this problem," the PERB turned to the private sector where

it appears to be well-settled that the National Labor Relations Board does not have general jurisdiction over alleged violations of collective bargaining agreements. In reaching this conclusion, the Supreme Court relied upon the legislative history of the enactment of the Taft-Hartley Act and concluded that Congress "deliberately chose to leave the enforcement of collective agreements to the usual processes of law." . . . [W]e find the conclusion reached by the Supreme Court in the private sector to be a salutary approach, particularly since the legislature of this state did not provide that a breach of a negotiated agreement would constitute an improper practice. However, . . . a second question arises whether conduct which constitutes a breach of contract may also constitute an improper practice. This question requires an affirmative answer in light of facts of this case.

Respondent herein agreed, in the negotiated agreement, to maintain existing policies, practices and procedures relating to sabbatical leave. Respondent unilaterally changed such practices, policies and procedures without negotiating such change with the representative of its employees. This constitutes a violation of §209-a.1(d) of the Act in that it violates respondent's obligation "to negotiate in good faith" with such representative.

Finally, the PERB dismissed the board's third argument as "not a defense at all" and ordered the board to cease and desist from its unilateral action, as well as refrain from enforcing the post-sabbatical leave provision with respect to unit employees who had been granted sabbatical leave. (*In Re Board of Education, Union Free School District No. 3, Town of Hempstead and East Meadow Teachers Association*, New York Public Employment Relations Board, March 26, 1971.)

WISCONSIN

DEMAND THAT TEACHERS SIGN INDIVIDUAL CONTRACTS PRIOR TO COLLECTIVE SETTLEMENT NOT A PROHIBITED PRACTICE

The Elmbrook Joint Common School District No. 21 did not commit a prohibited practice when it required teachers to sign individual contracts by a specified date prior to settlement of a collective agreement and did not permit removal of those contracts from the teachers' respective buildings. Moreover, the district's action in notifying teachers that vacancies would be declared in positions for which signed individual contracts had not been received by the specified date and its alleged refusal of summer employment to one teacher who refused to sign his individual contract in time was neither unlawful nor prohibited. In so ruling, the Wisconsin Employment Relations Commission (WERC) reversed the prior findings of a trial examiner (NRD, 6-70, 12).

From January to May of 1969, the Elmbrook board and the Elmbrook Education Association engaged in negotiation of a 1969-70 collective agreement. In order to prevent teachers from withholding their individual contracts and in compliance with state statute, the district required returning teachers to sign their individual contracts on or before April 15, 1969, and additionally determined that the individual contracts should not be removed from school premises. The individual contracts were prepared on standard forms which previously had been used, and they provided that salaries and working conditions reached in the collective agreement would supersede similar terms in the individual contracts.

In finding the form of the individual contracts lawful, the WERC noted that a majority of the teachers signed a "declaration of intent" indicating their intent to accept employment during the coming school year subject to negotiation of a collective agreement. It held that neither the district's concerted withholding of the individual contracts nor the teachers' concerted refusal to execute the individual contracts constituted prohibited or concerted activities. Moreover, there was no evidence that the Association or an individual teacher had requested or been denied the opportunity to examine the individual contracts or remove them from school premises, or that anyone was unaware of the language of the individual contracts.

Although the board later informed teachers that vacancies would be declared in positions for which signed contracts had not been received by the close of the school day on April 15, the WERC held that this was not a denial of teachers' protected rights since under the circumstances, the right to refuse employment to teachers who timely failed to execute their contracts was not a prohibited act of interference. As to the alleged denial of summer employment to one teacher, the WERC noted that an unlawful motive on the board's part did not have to be established and that the board had in any case not committed prohibited acts of interference, restraint, or coercion. It accordingly dismissed the Association's complaint.

A dissenting opinion, however, found that the district had committed prohibited practices because its failure to provide an opportunity for teachers to examine the individual contracts and discuss them with the Association amounted to district regulation of the teachers' relations with their representative organization. The dissent also maintained that the district's statement regarding vacancies in positions for which signed contracts had not been received constituted an unlawful threat. Furthermore, the district's refusal to hire teachers who had not signed their individual contracts by the specified date, as well as the situa-

tion regarding summer school employment, effectively undermined the bargaining representative, according to the dissent. (*Elmbrook Education Association v. Elmbrook Schools Joint Common School District No. 21, et al.*, Wisconsin Employment Relations Commission, December 30, 1971.)

OTHER ITEMS OF INTEREST

NLRB ISSUES FIRST UNIT DETERMINATION INVOLVING UNIVERSITY FACULTY

In its first unit determination involving a university teaching staff, the National Labor Relations Board directed an election within a unit of full-time faculty, adjunct faculty, professional librarians, guidance counselors, and research associates employed at the C.W. Post Center of Long Island University. Acting upon a petition filed by the United Federation of College Teachers, American Federation of Teachers, AFL-CIO, Local 1460, the board initially asserted jurisdiction over the private, nonprofit university in finding that its gross annual revenue and that of the Post Center, as well as the center's annual purchases of goods across state lines, well exceeded the board's $1 million jurisdictional standard.

The union's petition sought a unit of all professional employees of the center who are engaged directly or indirectly in student instruction, while the center maintained that full-time faculty should comprise one unit, and that a separate unit or units should be established for the other job categories involved. A question as to the supervisory status of some personnel also had arisen.

In determining that the center's 335 full-time faculty members are professional employees within the meaning of the National Labor Relations Act (NLRA) and are entitled to its coverage, the NLRB pointed out the similarities in academic qualifications, teaching experience, and responsibilities among the four academic ranks (professor, associate professor, assistant professor, and instructor). It additionally noted that full-time faculty within the Long Island University system are granted "the power and responsibility to formulate and recommend student admission, curriculum, and graduation requirement policy, and rules for students, grading, and honor assignments." Matters relating to faculty status (e.g., appointment, reappointment, promotion, tenure, and dismissal) also are a responsibility of the full-time faculty, which collectively makes recommendations subject to review by university officials and final action by the board of trustees. While "mindful that we are to some extent entering into an unchartered area," the NLRB decided that

> the policymaking and quasisupervisory authority which adheres to full-time faculty status but is exercised by them only as a group does not make them supervisors within the meaning of Section 2(11) of the Act, or managerial employees who must be separately represented. Accordingly, we find that full-time university faculty members qualify in every respect as professional employees under Section 2(12) of the Act, and are therefore entitled to all the benefits of collective bargaining if they so desire.

The NLRB also included 206 adjunct professors, associate professors, assistant professors, and lecturers in the unit upon determining that "they are regular part-time professional employees whose qualifications and chief function, teaching, are identical with those of the full-time faculty." While adjunct faculty do not enjoy the fringe benefits provided full-time faculty, may not achieve tenure, are reappointed annually according to the availability of work and may hold positions at other schools, the NLRB pointed out that they "participate in the policy deliberations discussed above to the extent that they may attend meetings and can be heard. Although under the [university] statutes, they do not have the right to vote, on occasion they have voted." The board concluded that "under well-settled principles, neither difference in benefits, high ratio of part-time to full-time employees, nor additional employment elsewhere militates against their inclusion."

Also included in the board-determined unit were 27 librarians operating the center's libraries, a biology department research associate, and two guidance counselors. With respect to the librarians, the NLRB found that each has a master's degree, that they are designated in the university catalog as "with the rank of" instructor or assistant professor, that they have the salary, benefits, and privileges of faculty members of similar rank (except that they are not tenured), that they work with students individually and in groups, and that they cooperate with the faculty in supplying books required for courses. Moreover, they participate in faculty meetings, and the board found evidence that they had voted, although the university contended that its statutes did not permit librarians to vote. Consequently, the NLRB held that the librarians are professional employees within the meaning of the NLRA, that they are engaged in functions closely related to teaching, and that they share a community of interest with the faculty.

While the rank of the research associate was unclear, the NLRB found that "the intellectual character of his duties [pure research] and his qualifications [a doctor's degree], . . . are similar to those of other faculty members," thereby rendering him "a professional employee with similar interests." The guidance personnel, both of whom are qualified psychologists with psy-

chology degrees, assist students with emotional problems and arrange outside professional therapy when necessary. In addition, both teach classes, and one holds the rank of associate professor. As they "are required to have advanced knowledge and are performing the intellectual and varied functions contemplated in the definition of professional employees in . . . the Act in both their teaching and guidance functions [and] there is no evidence that the Guidance Center director has any supervisory authority," they were included in the unit.

Excluded from the unit on the basis of supervisory status were deans and department chairmen, as well as division chairmen who are also department chairmen; the NLRB found that these personnel "exercise the authority to make effective recommendations as to the hiring and change of status of faculty members and other employees." The manager of the biology department laboratory also was excluded on supervisory grounds since he "responsibly directed the other laboratory employees in the duties they perform." Two other individuals—the manager of the chemistry laboratory and the biology technical assistant—were excluded from the unit as nonprofessional employees since their work did not require advanced degrees in their fields, they performed merely technical functions, and there was no evidence that either individual was training for a faculty position.

The remaining exclusions included four admissions counselors and 14 academic counselors who hold at least bachelor's degrees, enjoy no faculty privileges or rank, generally do not teach, and rarely attend faculty meetings or participate on faculty committees. The NLRB concluded that these personnel "are not required to have knowledge of the advanced type, and are not performing the intellectual and varied tasks, contemplated in Section 2(11) of the Act. The knowledge they are required to possess and the duties they perform are not related to a discipline or field of science, but require only a knowledge of the Center's curriculum and services." (*C.W. Post Center of Long Island University and United Federation of College Teachers, Local 1460, American Federation of Teachers, AFL-CIO,* National Labor Relations Board, made public April 23, 1971.)

Negotiation Notes

CALIFORNIA

STATE AND NEIGHBORING CITIES MAY FURNISH AID DURING POLICE OR FIREMEN'S STRIKE, ATTORNEY GENERAL SAYS

A December 29, 1970, opinion of the California attorney general held that the state and neighboring police or firemen may aid a city where there is a strike involving police and/or firefighting personnel and "serious threats to public life, health or property" are posed. In response to a strike situation last October wherein counsel to a firefighters' union asserted that certain state statutes prohibit mutual aid during an emergency resulting from a labor controversy, the attorney general initially pointed out that neither law enforcement officers nor firefighters have the right to strike. Moreover, portions of the Military and Veterans Code (now part of the Government Code) and the California Emergency Services Act (formerly the Disaster Act) define various states of emergency as situations which do not apply to or include "conditions resulting from a labor controversy."

The attorney general thereby determined that this manifests a legislative intent that the forces and potential of the state not be marshalled to assist one side in a labor dispute. But this raises two questions: (1) Is a strike by a policemen or firemen who have no legal right to strike a "labor controversy" within the meaning of the California Disaster and California Emergency Services Acts, and (2) is the state prevented from rendering aid to a local government when necessary to protect life, health and property in an emergency which might not have developed except for a labor dispute?

The Legislature expressly considered and rejected applying to public employees the right to bargain collectively and to strike during the same session that it enacted the provisions of the California Disaster Act in 1943. . . . Thus, since public employees do not have a legal right to strike, we would conclude that any such illegal activity was not a labor controversy within the intent of these Acts.

We believe that in using the phrase "other than conditions resulting from a labor controversy" the Legislature was only concerned with the direct and proximate effects of labor disputes between private employers and employees. Hence the state may render whatever aid and assistance is necessary to preserve and protect the public health, safety and welfare in the event that firemen of a city refuse to perform their duty.

The attorney general also found that mutual assistance agreements between public agencies could be provided without reference to the California Disaster or California Emergency Services Acts owing to another statute which "specifically recognizes the existence of local pacts" outside the Disaster Act. As such, cities mutually may contract or agree to furnish police and fire protection for each other in the event of an emergency such as a police or firemen's strike.

IDAHO

TEACHER BARGAINING STATUTE ENACTED

A statute granting bargaining rights to certificated school district employees was signed by the Idaho governor on March 12, 1971, and will become effective July 1. The law states that the board of trustees of a school district "is hereby empowered to and shall upon its own initiative or upon the request of a local education organization, enter into a negotiation agreement with professional employees and negotiate with such employees in good faith on those matters specified in any such negotiation agreement." Either party to an agreement may initiate negotiation, which is defined as "meeting and conferring in good faith . . . for the purpose of reaching an agreement, upon matters and conditions subject to negotiations as specified in a negotiation agreement."

The statute provides exclusive representation rights for any local education organization "designated or selected for the purpose of negotiations by the majority of the professional employees in a school district." The term "professional employee" is defined as "any certificated employee of a school district," and the act provides that superintendents, supervisors, or principals may be excluded from the teacher bargaining unit if the parties' agreement so specifies. It further stipulates that the persons selected to negotiate for the representative organization "shall be a member of

the organization designated to represent the professional employees and shall be a professional employee of the local school district."

In the event of a negotiation impasse, the disputed issues "shall be submitted to mediation at the request of either party"; procedures governing the mediation proceedings are to be determined by both parties. If no agreement is reached following mediation, either party may request submission of the remaining unresolved issues to fact-finding. The parties mutually shall appoint one or more fact-finders, although the state superintendent of public instruction shall make the appointments if the parties are unable to agree. All findings of fact and recommendations reached by the fact-finder are to be submitted in writing only to the parties.

The full text of the Idaho statute is reprinted in the "Text" section of this DIGEST.

MAINE

STATE ARBITRATION ACT AMENDED

An amendment to the Maine Uniform Arbitration Act states that employers, unions, and employees shall notify the Panel of Mediators created by the act "whenever contracts are to be negotiated between the employer and the employees or whenever a dispute arises between the parties threatening interruption of work, or under both conditions." Approved on February 18, 1971, the amendment becomes effective 90 days after adjournment of the legislature.

Conciliation and arbitration procedures provided by the act are available to municipal employees (including teachers) if the parties to a negotiation impasse jointly agree to utilize such procedures.

OHIO

COURT DISMISSES APPEAL OF INJUNCTION AGAINST PAYMENT OF RAISES TO STRIKERS

In the absence of any substantial constitutional questions, the Ohio Supreme Court dismissed an appeal of a lower court injunction (NRD, 11-70, 13) restraining the city of Cincinnati from executing the terms of a strike settling agreement reached in February 1970 with more than 1,300 city employees who conducted a month long walkout. That settlement granted the strikers an average 7 percent pay raise and various increases in fringe benefits, and contained a no-reprisal clause and a promise that the city would drop all suits and contempt litigation.

However, in what was reportedly the first alplication of Ohio's Ferguson Act to public employee strikes, the Hamilton County Court of Appeals ruled that since public employee supervisors statutorily are prohibited from authorizing or approving a strike, they have no choice but to impose provisions of the Act forbidding wage increases for striking public employees for one year after the end of a strike. It additionally held that public employee strikes are illegal at common law and that the Ferguson Act, "an expression of the common law," is constitutional under both the state and federal constitutions. The appeals court consequently enjoined the city's action and that judgment was upheld by the state supreme court here.

WISCONSIN

CITY ORDINANCE PROHIBITING RESIDENTIAL PICKETING RULED CONSTITUTIONAL

The Wisconsin Supreme Court ruled constitutional an ordinance of the city of Wauwatosa which states in part that "it shall be unlawful for any person to engage in picketing before or about the residence or dwelling of any individual." In upholding the ordinance as a valid exercise of local governmental powers, the court affirmed a lower court judgment which found guilty and fined an individual who was one of 25 to 35 persons picketing the homes of local school-board members in connection with a labor dispute. The court commented:

> The massing and marching of 25 to 35 picketers on the lawn or sidewalk of a man's home involves more than the conveying of information to him or his neighbors. Even as to media coverage, it would be naive to believe that reporters and TV cameramen assembled to record and report what was lettered on the placards the marchers carried. That opportunity they had passed up when the placards were earlier carried in front of school buildings. What is involved is a process more complex than conveying information. What is involved is conduct, as well as words or ideas.
>
> Examination of United States Supreme Court decisions on this point reveals that earlier intimations that picketing might be no more than a communication of ideas, have had to yield "'to the impact of facts unforeseen' or at least not sufficiently anticipated." One such fact clearly is that the element of physical patrolling in picketing itself can induce action very different from the point of view being communicated. In a number of cases the United States Supreme Court has made clear the fact that picketing involves more than an exercise of free speech, and that the conduct involved is subject to public regulation. Freedom of speech is to be jealously guarded, but, when intertwined with conduct, total freedom stops and the right to regulate begins. Picketing, demonstrating and parading involve conduct that can be regulated.

Citing numerous decisions of the Supreme Court of the United States, the court additionally held that "the safeguarding of the home is a vital public interest," and that "a prohibition of picketing, demonstrating and parading in a certain designated area is not constitutionally prohibited. The state interest justifying such area-based controls is the orderly functioning of the activity carried on in such areas, an activity that would be interfered with by the presence of pickets, demonstrators or paraders." Finally, the court emphasized that the public purpose to be served by the ordinance is that " 'members of the community enjoy in their homes and dwellings a feeling of well-being, tranquility and privacy' "; therefore, "the prohibiting of picketing before or about the home is a clearly related and entirely reasonable means to such end."

OTHER ITEMS OF INTEREST

AVERAGE ANNUAL RISES IN SALARIES OF TEACHERS AND FEDERAL WHITE-COLLAR EMPLOYEES COMPARED

A study by the Labor Department, Bureau of Labor Statistics (BLS), revealed that from 1946 to 1968, the average salaries of federal white-collar employees rose at an annual rate of 5.3 percent. Average public-school teacher salaries, which were recorded every other year from 1945 through 1967, registered an annual increase of 5.1 percent. Following adjustments for changes in consumer price levels, federal white-collar salaries rose an average of 2.5 percent annually, while teacher salaries advanced at an annual rate of 2.2 percent.

Noting the strong influence that private sector economic levels and trends exert upon government as well as the increasing tendency for public employees to join unions, BLS also reported that in 1966, federal expenditures for fringe benefits as a whole were about the same as those of private industry, or 23.8 percent of basic salaries. The proportion of basic pay represented by major types of benefits for white-collar federal employees in that year was 11.5 percent for paid leave except sick leave, 5.2 percent for health and insurance benefits including sick leave, and 6.8 percent for retirement programs. According to BLS, the federal government expends a relatively larger amount for paid leave and health benefits, but a relatively smaller amount for retirement and employment securities benefits than does private industry.

CONSUMER PRICE INDEX, MARCH 1971

The Consumer Price Index (CPI) all-items figure rose 0.3 percent in March to 119.8 percent of the 1967 base, according to data released by the Labor Department, Bureau of Labor Statistics (BLS). The March rise placed the index 4.6 percent above that of a year ago and was attributed in large part to an 0.9 percent increase in the cost of food, reportedly the sharpest rise in food prices since late 1969.

While charges for most consumer services continued to rise in March, BLS noted that the index for all consumer services remained unchanged that month for the first time since 1964, owing to a decline in mortgage interest rates. An estimated 43,400 workers will receive cost-of-living wage increases based upon the March CPI.

During the first quarter of 1971 the annual rate of increase in the index was 2.7 percent, reportedly the smallest advance since the first quarter of 1967. For the six-month period ending in March, the CPI registered a 4.1 percent annual rate of increase.

EMPLOYMENT TESTS MUST BE JOB-RELATED, U.S. SUPREME COURT DECIDES

Employment procedures or testing mechanisms which are unrelated to job performance or measuring one's job capabilities violate Title VII of the Civil Rights Act of 1964, according to the Supreme Court of the United States. The high court's March 8, 1971, decision reversed a portion of a ruling by the U.S. Court of Appeals for the Fourth Circuit in finding that "neither the high school completion requirement nor the general intelligence test [here involved] is shown to bear a demonstrable relationship to successful performance of the jobs for which it was used."

The court initially observed that the intention of Congress in enacting Title VII was to require "removal of artificial, arbitrary, and unnecessary barriers to employment when the barriers operate invidiously to discriminate on the basis of racial or other impermissible classification." Moreover, it emphasized that "Congress directed the thrust of the Act to the *consequences* of employment practices, not simply the motivation." While the Duke Power Company's institution of diploma and intelligence testing requirements did not suggest evidence of discriminatory intent, the high court found that "employees who have not completed high school or taken the tests have continued to perform satisfactorily and make progress in departments for which the high school and test criteria are now used."

The company argued that its general intelligence tests specifically are permitted by a section of the Act which authorizes the use of "any professionally developed ability test" that is not "designed, intended, or used to discriminate because of race." However, the Supreme Court found that the Equal Employment Opportunity Commission, which is responsible for enforcing the Act, "has issued guidelines interpreting [that section] to permit only the use of job-related tests." In addition, the legislative history of that section and the Act generally indicates that the commission's construction "comports with congressional intent."

The high court accordingly concluded that "what Congress has commanded is that any tests used must measure the person for the job and not the person in the abstract."

FEDERAL EMPLOYEE REPRESENTATION NOTES

- During the first 14 months of operation under Executive Order 11491, representation petitions filed with the assistant secretary of labor for labor-management relations outnumbered unfair labor practice charges by a ratio of more than five to one. John Shinn, deputy assistant secretary, attributed the representation activity to unions' attempts to obtain more exclusive recognitions; the order eliminated informal recognition and all formal recognitions will expire on July 1, according to rules issued by the Federal Labor Relations Council. He predicted that "when organizing is consolidated," more unfair labor practice charges will be filed, as was the experience of the National Labor Relations Board in the years immediately following its inception.

Shinn reported that from January 1, 1970, through March 1, 1971, representation petitions filed with the assistant secretary numbered 1,583; of these, 977 cases have been closed. Elections were held in 758 instances, and hearings were held in 98 cases. In contrast, only 281 unfair labor practice charges were filed with the assistant secretary during the same period. Cases which have been resolved number 110, and hearings were held in three instances. The assistant secretary also received 75 appeals of regional administrators' decisions during the 14-month period and has acted upon 50 of them, Shinn said.

- The imminent demise of formal recognition additionally is responsible in large part for a 4 percent increase between November 1969 and November 1970 in the total number of federal employees represented in exclusive units, according to a Civil Service Commission report. In its annual survey of union recognition in the federal government, the commission reported a 17 percent jump (from 416,712 in 1969 to 487,245 in 1970) in the number of white-collar employees represented in exclusive units. The number of blue-collar employees represented in exclusive units rose only 1 percent to 429,136 in 1970, while the size of the seven national exclusive postal units declined by 1 percent. Unions now represent a total of 1,542,111 federal workers, or 58 percent of all federal employees covered by Executive Order 11491.

While the number of white-collar employees represented in exclusive units exceeded the number of blue-collar employees for the first time, the commission noted that the greatest organization gains during the survey period were made among blue-collar employees. The percentage of blue-collar employees organized in exclusive units rose from 72 percent in 1969 to 81 percent in 1970; white-collar organization rates increased from 29 percent in 1969 to 35 percent in 1970. The commission also reported that the number of exclusive units in the federal service increased by 363 to 3,010 in 1970, while the number of formal recognitions declined by 286 to a total of 915.

SUPREME COURT DECLINES REVIEW OF BACK OVERTIME WAGES AWARDED TO SCHOOL-BOARD EMPLOYEES

The Supreme Court of the United States declined to review a decision of the U.S. Court of Appeals for the Seventh Circuit (NRD, 4-71, 16) which awarded back overtime pay and liquidated damages to central-office employees of the Chicago education board under the Fair Labor Standards Act (FLSA). In reversing a federal district court's judgment, the appellate court had ruled that the employees were entitled to recover overtime wages from the effective date of their coverage by the Act (February 1, 1967) to the time at which the Wage and Hour Administrator issued a final opinion (October 18, 1968) that they were covered.

Moreover, the appellate court held that plaintiffs were entitled to liquidated damages (as provided by the FLSA) after October 18, 1968, because the Chicago board "had no good reason for believing it was not in violation of the Act by refusing to pay overtime."

THREE-JUDGE FEDERAL COURT PANEL DISMISSES CHALLENGE TO FEDERAL STRIKE BAN

A three-judge federal court panel dismissed a suit brought by the United Federation of Postal

Clerks (UFPC) in an attempt to invalidate portions of federal statutes which prohibit federal employee strikes and impose criminal penalties (fines of up to $1,000 and/or imprisonment for a year and a day) upon persons found guilty of violating those statutes. The suit also challenged the no-strike provisions of Executive Order 11491.

Reiterating the common law rule that "no employee, whether public or private, had a constitutional right to strike," the U.S. District Court for the District of Columbia held: "It seems clear that public employees stand on no stronger footing in this regard than private employees and that in the absence of a statute, they too do not possess the right to strike." The decision represented the first ruling by a federal court on the federal strike prohibition.

Pointing out that "Congress has consistently treated public employees as being in a different category than private employees," the court decided that in the absence of a constitutional right to strike

> it is not irrational or arbitrary for the Government to condition employment on a promise not to withhold labor collectively, and to prohibit strikes by those in public employment, whether because of the prerogatives of the sovereign, some sense of higher obligation associated with public service, to assure the continuing functioning of the Government without interruption, to protect public health and safety or for other reasons. Although plaintiff argues that the provisions in question are unconstitutionally broad in covering all Government employees regardless of the type or importance of the work they do, we hold that it makes no difference whether the jobs performed by certain public employees are regarded as "essential" or "non-essential," or whether similar jobs are performed by workers in private industry who do have the right to strike protected by statute.

The court also stated that the right to strike cannot be considered a "fundamental" right and emphasized that the absence of the right to strike does not interfere with public employees' fundamental and constitutionally protected right to organize and select representatives for purposes of collective bargaining. It explained:

> There certainly is no compelling reason to imply the existence of the right to strike from the right to associate and bargain collectively. In the private sphere, the strike is used to equalize bargaining power, but this has universally been held not to be [appropriate] when its object and purpose can only be to influence the essentially political decisions of Government in the allocation of its resources. Congress has an obligation to ensure that the machinery of the Federal Government continues to function at all times without interference. Prohibition of strikes by its employees is a reasonable implementation of that obligation.

While the UFPC contended that the word "strike" and the term "participates in a strike" as used in the statute are unconstitutionally vague and overly broad, the court held that those concepts "occupy central positions in our labor statutes and accompanying caselaw, and have been construed and interpreted many times by numerous state and federal courts." Citing *Connolly v. General Construction Co.*, the court said that "'strike' is a term of such common usage and acceptance that 'men of common intelligence' need not guess at its meaning."

Regarding the latter term, the federal district court noted the government's interpretation of the phrase as "'striking,' the essence of which is an actual refusal in concert with others to provide services to one's employer." The court adopted this construction, explaining that such an interpretation

> will exclude the First Amendment problems raised by the [plaintiff] in that it removes from the strict reach of these statutes and other provisions such conduct as speech, union membership, fund-raising, organization, distribution of literature and informational picketing, even though those activities may take place in concert during a strike by others. We stress that it is only an actual refusal by particular employees to provide services that is forbidden by 5 U.S.C. §7311(3) and penalized by 18 U.S.C. 1918. However, these statutes, as all criminal statutes, must be read in conjunction with 18 U.S.C. §§2 (aiding and abetting) and 371 (conspiracy).

In a concurring opinion, one judge questioned the "validity of the flat ban on federal employees' strikes under the Fifth Amendment of the Constitution." Finding it unclear that the right to strike is not fundamental, he commented that such a right "seems intimately related to the right to form labor organizations," and that "a union that never strikes, or which can make no credible threat to strike, may wither away in effectiveness." While not suggesting that "the right to strike is co-equal with the right to form labor organizations," the judge indicated a belief that "the right to strike is, at least, within constitutional concern and should not be discriminatorily abridged without substantial or 'compelling' justification." Therefore, the "real question" is

> to determine whether there is such justification for denying federal employees a right which is granted to other employees of private business. Plaintiff's arguments that not all federal services are "essential" and that some privately provided services are no less "essential" casts doubt on the validity of the flat ban on federal employees' strikes. In our mixed economic system of governmental and private enterprise, the line separating governmental from private functions may depend more on the accidents of history than on substantial differences in kind.
>
> Nevertheless, . . . as the majority indicates, the asserted right of public employees to strike has often been litigated and, so far as I know, never recognized as a matter of law. The present state of the relevant jurisprudence offers almost no support for the proposition that the government lacks a "compelling" interest in prohibiting such strikes. No doubt, the line between "essential" and "non-essential" functions is very, very difficult to draw.

Statistics

1970-71 SURVEY OF WRITTEN NEGOTIATION AGREEMENTS

Preliminary results of the NEA Research Division's fifth annual survey of written negotiation agreements indicate that 3,522 public school systems with an enrollment of 1,000 or more were operating under a written negotiation agreement during the 1970-71 school year. Of the 7,122 school systems surveyed, 6,141 systems employing 2,101,714 instructional personnel responded to the survey, an 85.8 percent response rate. The number of systems with negotiation agreements comprised 57.3 percent of all responding systems and employed 63.6 percent of all instructional personnel employed in responding systems.

Over the past year, an increase of 228 systems with negotiated agreements covering about 82,000 teachers was reported. A portion of this increase can be attributed to the enactment of negotiation statutes in Alaska (1970), Delaware (1969), and Kansas (1970). Since many school systems in Hawaii and Pennsylvania (both of which states enacted new statutes in 1970) were involved in unit determination and certification proceedings during the past year, a number of systems which previously had reported agreements were eliminated from the survey pending resolution of those proceedings. The new Idaho and Montana statutes do not become effective until July 1, 1971.

Highlights of the preliminary survey results include:

- Since 1966-67, when the first survey of written negotiation agreements was conducted, the number of school systems with negotiated agreements has increased by 130.0 percent. In the 1966-67 survey, 1,531 school systems reported negotiation agreements; the 1970-71 survey found 3,522 systems with such agreements. Moreover, the number of agreements reported in the 1970-71 survey represented a 6.9 percent rise above the number reported in the 1969-70 survey (3,294).
- Instructional personnel employed in systems with agreements increased from 1,255,364 in 1969-70 to 1,337,146 in 1970-71, a 6.5 percent increase.
- Of the 3,522 systems which validated written negotiation agreements in the 1970-71 survey, 3,492 systems (99.1 percent) indicated organizational representation with a national affiliation. NEA affiliates were the exclusive bargaining representatives in 3,248 systems; American Federation of Teachers (AFT), AFL-CIO, locals represented instructional personnel in 116 systems; a mixed affiliation of two or more representative organizations negotiated agreements in 110 school systems. Since the 1966-67 survey, NEA representation has increased by 1,912 school systems, while AFT representation rose by 75 systems.
- National teacher representation figures indicate that since 1966-67, NEA representation has increased by 544,146 instructional personnel (123.3 percent), and AFT representation has increased by 88,963 staff (71.7 percent). In 1970-71, NEA represented 63,816 more teachers than it did the previous year, while representation by AFT locals rose by 9,259 teachers. The NEA's current share of total national teacher representation is 80.5 percent.
- More than 78 percent of all instructional personnel employed in the nation's largest school systems (enrollments of 25,000 or more) were working under negotiation agreements in 1970-71.
- Since 1966-67, the Northeast region has shown the greatest increase in negotiation activity as instructional staff representation rose from 44.7 percent in 1966-67 to 92.6 percent in 1970-71 and the number of systems with negotiation agreements increased from 31.7 percent to 85.1 percent. According to the 1970-71 survey, the percentages of school systems with negotiation agreements in the Southeast and Southwest regions remain well below all other regions at 6.1 percent and 22.2 percent respectively.

REGIONS	STRATUM	SCHOOL SYSTEM ENROLLMENT
Northeast: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont	1	100,000 or more
Mideast: Delaware, District of Columbia, Maryland, New Jersey, New York, Pennsylvania	2	50,000-99,999
Southeast: Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, West Virginia	3	25,000-49,999
Great Lakes: Illinois, Indiana, Michigan, Ohio, Wisconsin	4	12,000-24,999
Plains: Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota	5	6,000-11,999
Southwest: Arizona, New Mexico, Oklahoma, Texas	6	3,000-5,999
Rocky Mountain: Colorado, Idaho, Montana, Utah, Wyoming	7	1,200-2,999
Far West: Alaska, California, Hawaii, Nevada, Oregon, Washington	8	1,000-1,199

TABLE A

SCOPE OF SURVEY

STATE 1	SYSTEMS SURVEYED 2	SYSTEMS RESPONDING NUMBER 3	SYSTEMS RESPONDING PERCENT 4	SYSTEMS RESPONDING: TOTAL CLASSROOM TEACHERS EMPLOYED 5	SYSTEMS RESPONDING: TOTAL INSTRUCTIONAL STAFF EMPLOYED 6
ALABAMA	115.	96.	83.5	41653.	45335.
ALASKA	8.	8.	100.0	2827.	3112.
ARIZONA	62.	60.	96.8	16981.	18637.
ARKANSAS	108.	80.	74.1	11587.	12494.
CALIFORNIA	482.	450.	93.4	174995.	199834.
COLORADO	60.	57.	95.0	30104.	32757.
CONNECTICUT	110.	106.	96.4	32334.	35461.
DELAWARE	22.	20.	90.9	5501.	6156.
DISTRICT OF COLUMBIA	1.	1.	100.0	7990.	8640.
FLORIDA	63.	49.	77.8	54482.	62636.
GEORGIA	178.	106.	59.6	46141.	52132.
HAWAII	1.	1.	100.0	8621.	9244.
IDAHO	44.	39.	88.6	7069.	7673.
ILLINOIS	412.	359.	87.1	93339.	101767.
INDIANA	255.	217.	85.1	47066.	51946.
IOWA	147.	138.	93.9	27459.	30306.
KANSAS	93.	91.	97.8	18451.	20844.
KENTUCKY	169.	123.	72.8	29746.	33268.
LOUISIANA	67.	41.	61.2	35759.	37876.
MAINE	77.	67.	87.0	7968.	8708.
MARYLAND	24.	23.	95.8	42586.	46004.
MASSACHUSETTS	210.	195.	92.9	52710.	58894.
MICHIGAN	393.	367.	93.4	84974.	94905.
MINNESOTA	156.	149.	95.5	34719.	38609.
MISSISSIPPI	142.	69.	48.6	21247.	22999.
MISSOURI	171.	141.	82.5	35261.	38455.
MONTANA	33.	32.	97.0	4659.	5089.
NEBRASKA	40.	35.	87.5	8575.	9387.
NEVADA	11.	7.	63.6	4831.	5364.
NEW HAMPSHIRE	38.	29.	76.3	5696.	6269.
NEW JERSEY	312.	293.	93.9	63402.	72238.
NEW MEXICO	43.	40.	93.0	10435.	12089.
NEW YORK	509.	477.	93.7	179881.	202163.
NORTH CAROLINA	151.	126.	83.4	60707.	66164.
NORTH DAKOTA	17.	16.	94.1	2993.	3202.
OHIO	518.	442.	85.3	94004.	102565.
OKLAHOMA	85.	71.	83.5	20611.	22632.
OREGON	89.	84.	94.4	19608.	21603.
PENNSYLVANIA	500.	420.	84.0	89963.	99247.
RHODE ISLAND	29.	26.	89.7	8412.	9717.
SOUTH CAROLINA	83.	73.	88.0	38357.	41998.
SOUTH DAKOTA	29.	24.	82.8	3763.	4133.
TENNESSEE	128.	105.	82.0	44486.	47749.
TEXAS	357.	274.	76.8	108720.	121062.
UTAH	31.	26.	83.9	11634.	12977.
VERMONT	19.	15.	78.9	2046.	2301.
VIRGINIA	127.	103.	81.1	50966.	56594.
WASHINGTON	120.	115.	95.8	31164.	36080.
WEST VIRGINIA	54.	46.	85.2	15948.	17188.
WISCONSIN	210.	190.	90.5	36415.	39552.
WYOMING	19.	19.	100.0	5146.	5659.
TOTAL	7122.	6141.	85.8	1894000.	2101714.

STRATUM	SYSTEMS SURVEYED	SYSTEMS RESPONDING NUMBER	SYSTEMS RESPONDING PERCENT	SYSTEMS RESPONDING: TOTAL CLASSROOM TEACHERS EMPLOYED	SYSTEMS RESPONDING: TOTAL INSTRUCTIONAL STAFF EMPLOYED
1	2	3	4	5	6
1	27.	26.	96.3	270991.	302778.
2	56.	55.	98.2	158408.	179242.
3	109.	101.	92.7	144201.	165464.
4	386.	347.	89.9	280193.	312468.
5	885.	783.	88.5	369451.	405899.
6	1718.	1474.	85.8	326721.	361439.
7	3308.	2819.	85.2	308537.	336091.
8	633.	536.	84.7	35498.	38333.
TOTAL	7122.	6141.	85.8	1894000.	2101714.

TABLE B

STATUS OF WRITTEN NEGOTIATION PROCEDURES

STATE	TOTAL SYSTEMS SURVEYED	RESPONDING SYSTEMS		SYSTEMS WITH PROCEDURES				SYSTEMS WITHOUT PROCEDURES			
		NUMBER	INSTR. STAFF	NUMBER	PERCENT	INSTR. STAFF NUMBER	INSTR. STAFF PERCENT	NUMBER	PERCENT	INSTR. STAFF NUMBER	INSTR. STAFF PERCENT
	1	2	3	4	5	6	7	8	9	10	11
ALABAMA	115	96.	45335.	0.	0.0	0.	0.0	96.	100.0	45335.	100.0
ALASKA	8	8.	3112.	8.	100.0	3112.	100.0	0.	0.0	0.	0.0
ARIZONA	62	60.	18637.	32.	53.3	13221.	70.9	28.	46.6	5416.	29.0
ARKANSAS	108	80.	12494.	7.	8.7	3563.	28.5	73.	91.2	8931.	71.4
CALIFORNIA	482	450.	199834.	415.	92.2	192637.	96.3	35.	7.7	7197.	3.6
COLORADO	60	57.	32757.	34.	59.6	22185.	67.7	23.	40.3	10572.	32.2
CONNECTICUT	110	106.	35461.	98.	92.4	34071.	96.0	8.	7.5	1390.	3.9
DELAWARE	22	20.	6156.	15.	75.0	5124.	83.2	5.	25.0	1032.	16.7
DISTRICT OF COLUMBIA	1	1.	8640.	1.	100.0	8640.	100.0	0.	0.0	0.	0.0
FLORIDA	63	49.	62636.	12.	24.4	27804.	44.3	37.	75.5	34832.	55.6
GEORGIA	178	106.	52132.	0.	0.0	0.	0.0	106.	100.0	52132.	100.0
HAWAII	1	1.	9244.	0.	0.0	0.	0.0	1.	100.0	9244.	100.0
IDAHO	44	39.	7673.	15.	38.4	2703.	35.2	24.	61.5	4970.	64.7
ILLINOIS	412	359.	101767.	216.	60.1	80319.	78.9	143.	39.8	21448.	21.0
INDIANA	255	217.	51946.	66.	30.4	29542.	56.8	151.	69.5	22404.	43.1
IOWA	147	138.	30306.	26.	18.8	11528.	38.0	112.	81.1	18778.	61.9
KANSAS	93	91.	20844.	62.	68.1	17407.	83.5	29.	31.8	3437.	16.4
KENTUCKY	169	123.	33268.	20.	16.2	10016.	30.1	103.	83.7	23252.	69.8
LOUISIANA	67	41.	37876.	0.	0.0	0.	0.0	41.	100.0	37876.	100.0
MAINE	77	67.	8708.	38.	56.7	5515.	63.3	29.	43.2	3193.	36.6
MARYLAND	24	23.	46004.	22.	95.6	45785.	99.5	1.	4.3	219.	0.4
MASSACHUSETTS	210	195.	58894.	188.	96.4	57753.	98.0	7.	3.5	1141.	1.9
MICHIGAN	393	367.	94904.	359.	97.8	94182.	99.2	8.	2.1	723.	0.7
MINNESOTA	156	149.	38604.	129.	86.5	36147.	93.6	20.	13.4	2462.	6.3
MISSISSIPPI	142	69.	22999.	0.	0.0	0.	0.0	69.	100.0	22999.	100.0
MISSOURI	171	141.	38455.	71.	50.3	22200.	57.7	70.	49.6	16255.	42.2
MONTANA	33	32.	5089.	19.	59.3	3714.	72.9	13.	40.6	1375.	27.0
NEBRASKA	40	35.	9387.	20.	57.1	7252.	77.2	15.	42.8	2135.	22.7
NEVADA	11	7.	5364.	2.	28.5	4655.	86.7	5.	71.4	709.	13.2
NEW HAMPSHIRE	38	29.	6269.	17.	58.6	4300.	68.5	12.	41.3	1969.	31.4
NEW JERSEY	312	293.	72238.	273.	93.1	69710.	96.5	20.	6.8	2528.	3.4
NEW MEXICO	43	40.	12089.	13.	32.5	5773.	47.7	27.	67.5	6316.	52.2
NEW YORK	509	477.	202163.	460.	96.4	198249.	98.0	17.	3.5	3914.	1.9
NORTH CAROLINA	151	126.	66164.	3.	2.3	1733.	2.6	123.	97.6	64431.	97.3
NORTH DAKOTA	17	16.	3202.	15.	93.7	3154.	98.5	1.	6.2	48.	1.4
OHIO	518	442.	102565.	302.	68.3	82318.	80.2	140.	31.6	20247.	19.7
OKLAHOMA	85	71.	22632.	8.	11.2	8962.	39.5	63.	88.7	13670.	60.4
OREGON	89	84.	21603.	74.	88.0	20395.	94.4	10.	11.9	1208.	5.5
PENNSYLVANIA	500	420.	99247.	94.	22.3	40906.	41.2	326.	77.6	58341.	58.7
RHODE ISLAND	29	26.	9717.	24.	92.3	9212.	94.8	2.	7.6	505.	5.1
SOUTH CAROLINA	83	73.	41998.	2.	2.7	1194.	2.8	71.	97.2	40804.	97.1
SOUTH DAKOTA	29	24.	4133.	15.	62.5	2936.	71.0	9.	37.5	1197.	28.9
TENNESSEE	128	105.	47749.	4.	3.8	12419.	26.0	101.	96.1	35330.	73.9
TEXAS	357	274.	121062.	45.	16.4	41207.	34.0	229.	83.5	79855.	65.9
UTAH	31	26.	12977.	7.	26.9	6226.	47.9	19.	73.0	6751.	52.0
VERMONT	19	15.	2301.	8.	53.3	1486.	64.5	7.	46.6	815.	35.4
VIRGINIA	127	103.	56594.	6.	5.8	11651.	20.5	97.	94.1	44943.	79.4
WASHINGTON	120	115.	36080.	107.	93.0	35314.	97.8	8.	6.9	766.	2.1
WEST VIRGINIA	54	46.	17188.	7.	15.2	2778.	16.1	39.	84.7	14410.	83.8
WISCONSIN	210	190.	39552.	152.	80.0	35561.	89.9	38.	20.0	3991.	10.0
WYOMING	19	19.	5659.	11.	57.8	2587.	45.7	8.	42.1	3072.	54.2
TOTAL	7122	6141.	2101714.	3522.	57.3	1337146.	63.6	2619.	42.6	764568.	36.3

TABLE B

STATUS OF WRITTEN NEGOTIATION PROCEDURES

STRATUM	TOTAL SYSTEMS SURVEYED	RESPONDING SYSTEMS		SYSTEMS WITH PROCEDURES				SYSTEMS WITHOUT PROCEDURES			
		NUMBER	INSTR. STAFF	NUMBER	PERCENT	INSTR. STAFF NUMBER	INSTR. STAFF PERCENT	NUMBER	PERCENT	INSTR. STAFF NUMBER	INSTR. STAFF PERCENT
	1	2	3	4	5	6	7	8	9	10	11
1	27	26.	302778.	20.	76.9	265605.	87.7	6.	23.0	37173.	12.2
2	56	55.	179242.	39.	70.9	131193.	73.1	16.	29.0	48049.	26.8
3	109	101.	165464.	69.	68.3	114254.	69.0	32.	31.6	51210.	30.9
4	386	347.	312468.	254.	73.1	210699.	67.4	93.	26.8	101769.	32.5
5	885	783.	405899.	513.	65.5	227700.	56.0	270.	34.4	178199.	43.9
6	1718	1474.	361439.	869.	58.9	202174.	55.9	605.	41.0	159265.	44.0
7	3308	2819.	336091.	1505.	53.3	168732.	50.2	1314.	46.6	167359.	49.7
8	633	536.	38333.	[illegible]	47.2	16789.	43.7	283.	52.7	21544.	56.2
TOTAL	7122	6141.	2101714.	3522.	57.3	1337146.	63.6	2619.	42.6	764568.	36.3

TABLE D-1

NUMBER OF PROFESSIONAL PERSONNEL REPRESENTED BY NATIONAL AFFILIATION OF LOCAL ORGANIZATIONS FOR NEGOTIATION PURPOSES

STATE	PERSONNEL REPRESENTED NO.	PERSONNEL REPRESENTED PCT.	N. E. A. NO.	N. E. A. PCT.	A. F. T. NO.	A. F. T. PCT.	INDEPENDENT NO.	INDEPENDENT PCT.
1	2	3	4	5	6	7	8	9
ALABAMA	...	...	...	...	...	...	...	...
ALASKA	3,029	100.0	3,029	100.0	...	...	...	...
ARIZONA	12,030	100.0	11,995	99.7	...	...	35	.3
ARKANSAS	3,365	100.0	3,295	97.9	...	...	70	2.1
CALIFORNIA	165,012	100.0	151,487	91.8	3,182	1.9	10,343	6.3
COLORADO	20,609	100.0	20,318	98.6	66	.3	225	1.1
CONNECTICUT	32,726	100.1	27,520	84.1	4,829	14.8	377	1.2
DELAWARE	4,767	100.0	3,917	82.2	850	17.8	...	...
DISTRICT OF COLUMBIA	7,990	100.0	...	...	7,990	100.0	...	...
FLORIDA	16,743	100.0	16,743	100.0	...	...	...	...
GEORGIA	...	...	...	...	...	...	...	...
HAWAII	...	...	...	...	...	...	...	...
IDAHO	2,508	100.0	2,508	100.0	...	...	...	...
ILLINOIS	71,752	100.0	38,800	54.1	32,385	45.1	567	.8
INDIANA	26,447	100.0	23,651	89.4	2,796	10.6	...	...
IOWA	7,138	100.0	7,138	100.0	...	...	...	...
KANSAS	15,725	100.0	15,725	100.0	...	...	...	...
KENTUCKY	9,645	100.0	9,645	100.0	...	...	...	...
LOUISIANA	...	...	...	...	...	...	...	...
MAINE	4,960	100.0	4,960	100.0	...	...	...	...
MARYLAND	44,143	100.1	35,476	80.4	8,600	19.5	67	.2
MASSACHUSETTS	55,031	99.9	46,291	84.1	8,557	15.5	183	.3
MICHIGAN	86,450	100.0	68,535	79.3	16,674	19.3	1,241	1.4
MINNESOTA	32,779	100.0	22,910	69.9	9,364	28.6	505	1.5
MISSISSIPPI	...	...	...	...	...	...	...	...
MISSOURI	20,401	100.0	17,249	84.5	2,952	14.5	200	1.0
MONTANA	3,292	100.0	2,722	82.7	570	17.3	...	...
NEBRASKA	6,746	100.0	6,746	100.0	...	...	...	...
NEVADA	4,150	100.0	4,150	100.0	...	...	...	...
NEW HAMPSHIRE	4,027	100.0	3,543	88.0	484	12.0	...	...
NEW JERSEY	64,403	100.0	58,533	90.9	5,292	8.2	578	.9
NEW MEXICO	4,156	100.0	4,156	100.0	...	...	...	...
NEW YORK	192,316	100.1	105,298	54.8	77,113	40.1	9,905	5.2
NORTH CAROLINA	1,227	100.0	1,227	100.0	...	...	...	...
NORTH DAKOTA	2,969	100.0	2,969	100.0	...	...	...	...
OHIO	74,900	100.0	65,575	87.6	8,473	11.3	852	1.1
OKLAHOMA	7,748	100.0	7,748	100.0	...	...	...	...
OREGON	17,874	100.0	17,874	100.0	...	...	...	...
PENNSYLVANIA	38,001	100.0	19,659	51.7	17,892	47.1	450	1.2
RHODE ISLAND	8,023	100.0	4,345	54.2	3,678	45.8	...	...
SOUTH CAROLINA	1,150	100.0	1,150	100.0	...	...	...	...
SOUTH DAKOTA	2,665	100.0	2,665	100.0	...	...	...	...
TENNESSEE	12,196	100.0	12,196	100.0	...	...	...	...
TEXAS	44,174	100.0	43,999	99.6	...	...	175	.4
UTAH	5,508	100.0	5,508	100.0	...	...	...	...
VERMONT	1,426	100.0	1,426	100.0	...	...	...	...
VIRGINIA	11,391	100.0	11,391	100.0	...	...	...	...
WASHINGTON	34,540	100.0	34,540	100.0	...	...	...	...
WEST VIRGINIA	2,729	100.0	2,729	100.0	...	...	...	...
WISCONSIN	32,808	100.0	31,573	96.2	1,235	3.8	...	...
WYOMING	2,372	100.0	2,372	100.0	...	...	...	...
T O T A L	1,224,041	100.0	985,286	80.5	212,982	17.4	25,773	2.1

TABLE D-1

NUMBER OF PROFESSIONAL PERSONNEL REPRESENTED BY NATIONAL AFFILIATION OF LOCAL ORGANIZATIONS FOR NEGOTIATION PURPOSES

STRATUM	PERSONNEL REPRESENTED NO.	PERSONNEL REPRESENTED PCT.	N. E. A. NO.	N. E. A. PCT..	A. F. T. NO.	A. F. T. PCT.	INDEPENDENT NO.	INDEPENDENT PCT.
1	2	3	4	5	6	7	8	9
1	238,519	100.0	84,827	35.6	139,511	58.5	14,181	5.9
2	119,003	100.1	95,629	80.4	21,255	17.9	2,119	1.8
3	107,984	100.0	97,361	90.2	9,753	9.0	870	.8
4	192,181	100.0	172,993	90.0	16,386	8.5	2,802	1.5
5	210,252	100.0	191,049	90.9	16,178	7.7	3,025	1.4
6	186,372	100.0	178,761	95.9	6,268	3.4	1,343	.7
7	154,598	100.0	149,856	96.9	3,531	2.3	1,211	.8
8	15,132	100.1	14,810	97.9	100	.7	222	1.5
T O T A L	1,224,041	100.0	985,286	80.5	212,982	17.4	25,773	2.1

TABLE D-2

NATIONAL AFFILIATION OF ORGANIZATIONS REPRESENTING PROFESSIONAL STAFF IN NEGOTIATION

STATE	SYSTEMS WITH ORGANIZATIONAL REPRESENTATION NO.	PCT.	N. E. A. NO.	PCT.	A. F. T. NO.	PCT.	INDEPENDENT NO.	PCT.	TWO OR MORE ORGANIZATIONS WITH MIXED AFFILIATIONS NO.	PCT.
1	2	3	4	5	6	7	8	9	10	11
ALABAMA	...	...	...	...	...	...	...	...	...	...
ALASKA	8	100.0	8	100.0	...	...	...	...	...	...
ARIZONA	32	100.0	32	100.0	...	...	...	...	...	...
ARKANSAS	7	100.0	6	85.7	...	...	...	...	1	14.3
CALIFORNIA	416	100.0	358	86.1	...	...	...	...	58	13.9
COLORADO	34	100.0	34	100.0	...	...	...	...	...	...
CONNECTICUT	98	100.0	90	91.8	8	8.2	...	...	...	...
DELAWARE	15	100.0	14	93.3	1	6.7	...	...	...	...
DISTRICT OF COLUMBIA	1	100.0	...	...	1	100.0	...	...	...	...
FLORIDA	12	100.0	12	100.0	...	...	...	...	...	...
GEORGIA	...	...	...	...	...	...	...	...	...	...
HAWAII	...	...	...	...	...	...	...	...	...	...
IDAHO	15	100.0	15	100.0	...	...	...	...	...	...
ILLINOIS	212	100.0	180	84.9	31	14.6	1	.5	...	...
INDIANA	65	99.9	61	93.8	3	4.6	...	...	1	1.5
IOWA	23	100.0	23	100.0	...	...	...	...	...	...
KANSAS	61	100.0	61	100.0	...	...	...	...	...	...
KENTUCKY	20	100.0	20	100.0	...	...	...	...	...	...
LOUISIANA	...	...	...	...	...	...	...	...	...	...
MAINE	38	100.0	38	100.0	...	...	...	...	...	...
MARYLAND	22	100.0	21	95.5	1	4.5	...	...	...	...
MASSACHUSETTS	188	100.0	179	95.2	9	4.8	...	...	...	...
MICHIGAN	359	100.0	341	95.0	17	4.7	1	.3	...	...
MINNESOTA	129	100.1	74	57.4	4	3.1	1	.8	50	38.8
MISSISSIPPI	...	...	...	...	...	...	...	...	...	...
MISSOURI	69	100.0	68	98.6	1	1.4	...	...	...	...
MONTANA	19	100.0	17	89.5	2	10.5	...	...	...	...
NEBRASKA	20	100.0	20	100.0	...	...	...	...	...	...
NEVADA	2	100.0	2	100.0	...	...	...	...	...	...
NEW HAMPSHIRE	17	100.0	16	94.1	1	5.9	...	...	...	...
NEW JERSEY	272	100.0	268	98.5	3	1.1	1	.4	...	...
NEW MEXICO	12	100.0	12	100.0	...	...	...	...	...	...
NEW YORK	460	100.0	437	95.0	14	3.0	9	2.0	...	...
NORTH CAROLINA	2	100.0	2	100.0	...	...	...	...	...	...
NORTH DAKOTA	15	100.0	15	100.0	...	...	...	...	...	...
OHIO	300	99.9	292	97.3	4	1.3	4	1.3	...	...
OKLAHOMA	8	100.0	8	100.0	...	...	...	...	...	...
OREGON	60	100.0	60	100.0	...	...	...	...	...	...
PENNSYLVANIA	93	100.0	89	95.7	4	4.3	...	...	...	...
RHODE ISLAND	24	100.0	18	75.0	6	25.0	...	...	...	...
SOUTH CAROLINA	2	100.0	2	100.0	...	...	...	...	...	...
SOUTH DAKOTA	15	100.0	15	100.0	...	...	...	...	...	...
TENNESSEE	4	100.0	4	100.0	...	...	...	...	...	...
TEXAS	45	100.0	44	97.8	...	...	1	2.2	...	...
UTAH	7	100.0	7	100.0	...	...	...	...	...	...
VERMONT	8	100.0	8	100.0	...	...	...	...	...	...
VIRGINIA	6	100.0	6	100.0	...	...	...	...	...	...
WASHINGTON	107	100.0	107	100.0	...	...	...	...	...	...
WEST VIRGINIA	7	100.0	7	100.0	...	...	...	...	...	...
WISCONSIN	152	100.0	146	96.1	6	3.9	...	...	...	...
WYOMING	11	100.0	11	100.0	...	...	...	...	...	...
T O T A L	3,492	100.0	3,248	93.0	116	3.3	18	.5	110	3.2

TABLE D-2

NATIONAL AFFILIATION OF ORGANIZATIONS REPRESENTING PROFESSIONAL STAFF IN NEGOTIATION

STRATUM	SYSTEMS WITH ORGANIZATIONAL REPRESENTATION NO.	PCT.	N. E. A. NO.	PCT.	A. F. T. NO.	PCT.	INDEPENDENT NO.	PCT.	TWO OR MORE ORGANIZATIONS WITH MIXED AFFILIATIONS NO.	PCT.
1	2	3	4	5	6	7	8	9	10	11
1	20	100.0	12	60.0	7	35.0	...	...	1	5.0
2	39	100.0	31	79.5	5	12.8	...	...	3	7.7
3	68	100.1	55	80.9	5	7.4	...	...	8	11.8
4	253	100.0	220	87.0	17	6.7	1	.4	15	5.9
5	510	100.1	444	87.1	33	6.5	2	.4	31	6.1
6	864	100.0	811	93.9	22	2.5	2	.2	29	.4
7	1,491	100.0	1,434	96.2	26	1.7	10	.7	21	1.4
8	247	100.0	241	97.6	1	.4	3	1.2	2	.8
T O T A L	3,492	100.0	3,248	93.0	116	3.3	18	.5	110	3.2

TABLE J-1

PERCENT OF SCHOOL SYSTEMS WHICH HAVE WRITTEN PROCEDURES BY WHICH LOCAL TEACHERS NEGOTIATE FOR ALL OR PART OF THE PROFESSIONAL STAFF IN RESPONDING SCHOOL SYSTEMS

ITEM	ENROLLMENT STRATUM								
	TOTAL	1	2	3	4	5	6	7	8
1	2	3	4	5	6	7	8	9	10
YES	57.4	76.9	70.9	68.3	73.2	65.5	59.0	53.4	47.2
NO	42.6	23.1	29.1	31.7	26.8	34.5	41.0	46.6	52.8
TOTAL	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
TOTAL RESPONSE	6,141	26	55	101	347	783	1,474	2,819	536

TABLE J-2

PERCENT OF SCHOOL SYSTEMS WHICH HAVE WRITTEN PROCEDURES BY WHICH LOCAL TEACHERS NEGOTIATE FOR ALL OR PART OF THE PROFESSIONAL STAFF IN RESPONDING SCHOOL SYSTEMS

ITEM	ENROLLMENT GROUPING			REGION							
	1,2,3 A	4,5,6 B	7,8 C	N.E.	MIDEAST	S.E.	G.L.	PLAINS	S.W.	R.M.	FAR WEST
1	2	3	4	5	6	7	8	9	10	11	12
YES	70.3	62.8	52.4	85.1	70.1	6.1	69.6	56.4	22.2	50.0	91.1
NO	29.7	37.2	47.6	14.9	29.9	93.9	30.4	43.6	77.8	50.0	8.9
TOTAL	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
TOTAL RESPONSE	182	2,604	3,355	437	1,233	1,018	1,577	596	441	174	665

TABLE K-1

PERCENT OF INSTRUCTIONAL STAFF IN SCHOOL SYSTEMS WHICH HAVE WRITTEN PROCEDURES BY WHICH LOCAL TEACHERS NEGOTIATE FOR ALL OR PART OF THE PROFESSIONAL STAFF IN RESPONDING SCHOOL SYSTEMS

ITEM	ENROLLMENT STRATUM								
	TOTAL	1	2	3	4	5	6	7	8
1	2	3	4	5	6	7	8	9	10
YES	63.6	87.7	73.2	69.1	67.4	56.1	55.9	50.2	43.8
NO	36.4	12.3	26.8	30.9	32.6	43.9	44.1	49.8	56.2
TOTAL	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
TOTAL RESPONSE	2,101,714	302,778	179,242	165,464	312,468	405,899	361,439	336,091	38,333

TABLE K-2

PERCENT OF INSTRUCTIONAL STAFF IN SCHOOL SYSTEMS WHICH HAVE WRITTEN PROCEDURES BY WHICH LOCAL TEACHERS NEGOTIATE FOR ALL OR PART OF THE PROFESSIONAL STAFF IN RESPONDING SCHOOL SYSTEMS

ITEM	ENROLLMENT GROUPING			REGION							
	1,2,3 A	4,5,6 B	7,8 C	N.E.	MIDEAST	S.E.	G.L.	PLAINS	S.W.	R.M.	FAR WEST
1	2	3	4	5	6	7	8	9	10	11	12
YES	78.9	59.3	49.5	92.6	84.8	14.4	82.4	69.1	39.7	58.5	93.1
NO	21.1	40.7	50.5	7.4	15.2	85.6	17.6	30.9	60.3	41.5	6.9
TOTAL	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
TOTAL RESPONSE	647,484	1,079,806	374,424	121,265	434,258	496,792	391,015	144,617	174,059	64,471	275,237

Special Reports

BRIEFS OF RECENT AGREEMENTS

Dover, Delaware

Between the Capital School District Board of Education and the Capital Education Association, effective July 1, 1970, to June 30, 1972. Approximately 367 certificated professional employees. Provision for the negotiation of a successor agreement to begin no later than January 15 of the calendar year in which the effective agreement expires.

Compensation: (1970-71) B.A., $7,200 to $9,650, 10 increments; B.A. plus 30 hours, $10,695 maximum; M.A., $8,160 to $11,710, 13 increments; M.A. plus 30 hours, $12,755 maximum.

(1971-72) B.A., $7,623 to $10,180, 10 increments; B.A. plus 30 hours, $11,257 maximum; M.A., $8,726 to $12,383, 13 increments; M.A. plus 30 hours, $13,260 maximum; longevity pay of $300 each after 15 and 20 years' service and $400 after 25 years' service with full implementation contingent upon an increase and excess in specified school funds.

Differentials: (1970-71, with provision for a 10 percent upward adjustment in each figure indicated for the 1971-72 school year) head varsity football coach, $950; head varsity basketball coach, $800; head varsity golf and tennis coaches, $350; head junior varsity wrestling and baseball coaches, $400; girls' head varsity basketball coach, $300; girls' head varsity track coach, $250; cheerleading advisor, $350; athletics director, $1,200; band director, $500; drama director, $600; yearbook advisor, $350; senior class advisor, $275; student council advisor, $275; school psychologists, $1,000 plus a prorated amount of the total teachers' salary for any days worked in excess of 185; subject area coordinators, $500 plus a prorated amount of the total teachers' salary for any days worked in excess of 185.

Leaves: (effective September 1, 1970) 10 days' annual sick leave credited at the beginning of each school year, 120 days' maximum accumulation; sick leave days accumulated by a teacher in another Delaware school district shall be credited to his Dover accumulation in accordance with state law; 3 days' personal business leave for which a reason must be stated and which shall be deducted from accumulation; 3 days' leave for a critical family illness deducted from accumulation; 1 separate day of bereavement leave in the case of a death among "near relatives," and 5 separate days' bereavement leave in the case of a death in the immediate household; in the event of the death of a district teacher or pupil, "the principal or immediate superior of said teacher or student may grant to an appropriate number of teachers sufficient time off to attend the funeral," and such leave shall not be counted against the employee's accumulation; 3 days' leave for religious holidays deducted from accumulation; 2 days' leave for school visitation or professional conferences deducted from accumulation; time as necessary to appear in legal proceedings; time as necessary for National Guard or military reserve obligations with the board paying the difference between a teacher's regular pay and his military pay.

Insurance: Board pays a maximum of $9 per employee for Blue Cross-Blue Shield coverage; board provides long-term disability insurance coverage for individual; at the employee's request, the board will continue to pay the cost of membership in the state blood bank.

Association: Payroll dues deduction for local, state, and national associations; building representatives may use their unassigned periods to conduct Association business; teachers shall not be prevented from wearing any identification of Association membership; one teacher designated by the Association shall be granted an unpaid leave of absence for up to one year for the purpose of engaging in Association activities; building Liaison Committees selected by the Association and comprised of no more than one member for every 25 building teachers shall meet with their respective principals at least once a month during the school day "to review and discuss local school problems and practices, and to play an active role in the revision or development of building policies."

Instruction: Academic freedom clause stating in part that "the teacher has the right to refuse, for good cause, to have a student(s) from a previous year in his classroom, except in the event that such refusal would deprive the pupil of the opportunity to pursue the course or class taught by said teacher"; class size objectives in academic areas are 25 to 30 pupils in kindergarten through grade 4, 100 to 116 pupils per 4-teacher team in grades 5 through 8, and 25 to 28 pupils in grades 9 through 12; if, "at any time," elementary classes reach 35 pupils in size, high-school classes reach 33 pupils, and middle-school classes reach 136 pupils per 4-teacher team, "it shall be the responsibility of the supervisor to arrange a meeting with the involved teacher(s), an Association representative, and a representative of the Superintendent, to relieve the situation by such means as may be practicable"; a joint Instructional Advisory Council to be established by October 1, 1970, shall consist of 3 permanent representatives appointed by the superintendent and 8 Association representatives selected from a cross-section of grade levels, and shall meet at least once a month to advise the superintendent on matters such as curriculum improvements, teaching techniques, extracurricular programs, pupil testing and evaluation, and district educational goals.

Personnel: Grievance procedure ends with submission of matter to the state board of education pursuant to statute; teacher may review his personnel file (in the presence of an administration representative) and respond to any derogatory material before placement therein; 30-minute duty-free lunch period for all teachers; kindergarten teachers shall have at least a 30-minute preparation period between the morning and afternoon sessions, and elementary teachers shall be relieved of pupil responsibility when their classes are taught by specialists; senior high teachers weekly shall be assigned up to 25 teaching periods, 5 preparation periods, no more than 2½ periods of scheduled professional duties, and 2½ teacher work periods for performing unscheduled assigned nonteaching duties; when necessary, senior high teachers shall reserve an "additional meeting period of 30 minutes" to begin no later than 5 minutes after pupil dismissal for the purpose of staff or faculty meetings (Monday), departmental meetings (Tuesday), parent-teacher conferences, and other meetings; qualified teachers already employed by the district shall be given preference in filling promotional vacancies when all other factors are substantially equal; by the beginning of the 1970-71 school year, teachers who work in more than one building shall be assigned appropriate working space in each building as well as a single classroom or office (with a work surface and storage space) for their exclusive use outside regular teaching hours; new teachers attending orientation programs for up to 3 working days shall receive a per-diem salary of $30; professional development clause stating that the board will pay "the full cost of tuition and other reasonable expenses incurred in connection with any courses, workshops, seminars, conferences, in-service training sessions, or other such sessions which a teacher is required and/or requested by the administration to take. Said teacher shall also be compensated for time spent in actual attendance at said session"; provision for the establishment of a joint Recruitment Committee comprised of 3 Association representatives and 2 persons appointed by the superintendent for the purpose of working with the superintendent in developing "ways and means to improve teacher recruitment."

Auburn, Massachusetts

Between the Auburn School Committee and the Auburn Teachers Association, effective July 1970 to June 1971. Approximately 213 certificated professional employees. Two employee units recognized: Unit A—all professional teaching employees, excluding the superintendent, assistant superintendent, principals, assistant principals, nonteaching supervisory staff, substitute teachers, and all other noncertificated personnel; Unit B—all full-time administrative and supervisory personnel, excluding the superintendent, assistant superintendent, all employees included in Unit A, substitute teachers, and all other noncertificated personnel. Provision for the negotiation of a successor agreement to begin no later than September 15 of the calendar year preceding the calendar year in which the effective agreement expires.

Compensation: (effective September 1970) B.A., $7,000 to $10,400, 9 increments; differential of $300 shall be paid upon completion of each 15 hours of approved credit above the B.A. level; M.A., $7,700 to $11,600, 10 increments; M.A. plus 30 hours, $12,900 maximum; differential of $300 paid upon completion and award of doctoral degree. A separate salary schedule establishes differentials for 8 named categories of administrators and supervisors ranging from $125 per room for head teachers to $4,200 for the high-school principal. Longevity pay at $200 each after 15 years' service, 25 years, and 35 years. Differentials: head football coach, $1,300; head hockey and basketball coaches, $1,000; head soccer coach, $600; golf coach, $350; athletic director, $700; girls' basketball and field hockey coaches, $350; cheerleading coaches, $600; reading consultants, $500;

English and science coordinators, $300; senior class advisor, $425; student council advisor, $600; play directors, $200; French, Latin, and Spanish club advisors, $100; special education teachers, $500; department chairmen, $50 per teacher supervised with a base of $75 in junior high and $250 in senior high. Summer school teachers receive $130 per week, while directors receive $150 per week.

Leaves: 15 days' annual sick leave for tenure teachers and 10 days annually for nontenure teachers, 120 days' maximum accumulation; 3 separate days' personal business leave for purposes of attending to legal obligations, business matters, and observing religious holidays; leaves for personal business will be counted double and deducted from a teacher's sick leave accumulation if taken on any day immediately preceding or following a regular school vacation or holiday or on the first and last 3 days of the school year; 3 separate days' bereavement leave for a death in the immediate family; 3 separate days' for a critical family illness; if a teacher is absent as a result of personal injury caused by a job-related assault, he shall be paid his full salary less any workmen's compensation payments for up to one calendar year, although such absence shall be charged to his annual or accumulated sick leave; if a teacher is absent as a result of personal injury caused by a job-related accident, he shall be allowed full pay less any workmen's compensation payments for the first 30 calendar days with no deductions from his sick leave accumulation, although any absence in excess of 30 days shall be charged to his accumulation; sabbatical leave at half-pay for one-half year or one year after 7 years' service.

Association: Payroll dues deduction for local, state, and national associations; Association representatives participating in grievance proceedings shall be granted released time without loss of pay; during negotiation, the Committee will furnish the Association with a complete tentative line budget for the next fiscal year; an unpaid leave of absence for up to 2 years shall be granted to one teacher designated by the Association for the purpose of engaging in Association activities.

Instruction: Junior and senior high teachers will not be required to teach in more than 2 subject areas, nor shall they have more than 3 preparations by course title; desirable class size limits which shall be observed "to the extent possible" are 25 pupils per first-grade class, 30 pupils per class in grades 2 through 7, 30 pupils per junior and senior high academic class, 18 pupils per science laboratory class, an average of 14 pupils per homemaking and industrial arts class, 18 pupils per art class, 24 pupils per drafting class, and 30 pupils per physical education class.

Personnel: Grievance procedure ends with binding arbitration; duty-free lunch period for all teachers which shall be the same length as the pupils' lunch period in junior and senior high school, and shall be at least 30 minutes in length for elementary and special area teachers; all junior and senior high teachers shall have at least one preparation per day, and English teachers will be assigned no more than 4 teaching periods per day; wherever possible, elementary and special area teachers shall be provided at least one preparation period per day; regular, required meetings are scheduled on Mondays; on Tuesday, Wednesday, and Thursday of each week teachers are to provide a "student helping period" for 30 minutes following the pupils' regular day, although teachers will be excused 5 minutes after the close of the pupils' day on Fridays; teacher has right to review his personnel file and may respond in writing to any material contained therein; teachers serving as substitutes during their preparation periods shall be paid proportionately at an hourly rate based upon the fourth step of the B.A. salary schedule; when a teacher is appointed to an extracurricular activity owing to a lack of volunteers, he shall not be required to accept that appointment for 2 successive years; when all other factors are substantially equal, applicants with the greatest system seniority will be given preference in filling vacancies; qualified teachers already employed by the Committee will be given preference in filling promotional vacancies; professional improvement requirement that each teacher average "at least one credit per year for each year of creditable teaching experience" in the system both preceding and following placement on the master's degree salary schedule, with the provision that a failure to meet this requirement shall be considered a major breach of professional ethics and "could result in a denial of an annual salary increase by the School Committee."

Harris, Michigan

Between the Bark River-Harris Board of Education and the Bark River-Harris Education Association, effective July 1, 1970, to June 30, 1971. Approximately 31 certificated professional employees. Provision for the negotiation of a successor agreement to begin no sooner than 90 days prior to the expiration of the effective agreement.

Compensation: B.A., $7,500 to $12,000, 12 increments; a teacher who has earned more than 15 semester hours above the B.A. degree shall

receive $25 per semester hour above 15 hours to a total of 31 semester hours, or $400; M.A., $8,100 to $12,960, 12 increments. Differentials: football coach, $325; varsity basketball coach, $525; junior varsity basketball coach, $225; yearbook advisor, $200; athletic director, $100; senior and junior class advisors, $75. Teachers who are required to perform extra services outside the prescribed school day shall be compensated at an hourly rate determined by dividing their annual salary by 1,350 hours.

Leaves: 12 days' annual sick leave credited at the beginning of each school year, 120 days' maximum accumulation; provision for a sick leave bank to which each teacher contributes one day of his annual sick leave allowance at the beginning of each school year and which shall accumulate to a maximum of 90 days; teachers who have exhausted their accumulated personal sick leave may withdraw up to one-half of the available sick bank balance; 2 separate days for personal business (one at full pay and one deducted from sick leave) shall be credited at the beginning of each school year; 7 noncumulative days' emergency leave which shall be deducted from a teacher's sick leave accumulation and may be used for an illness or death in the immediate family; teacher absences due to mumps, scarlet fever, measles, or chicken pox shall be charged to sick leave at the rate of one-half the period of absence; paid leave for jury duty less per-diem court allowance; paid leave for professional conferences with board paying "appropriate" expenses incurred, as well as the cost of a substitute teacher; accumulated sick leave is not to be used as maternity leave, but "if complications arise within fourteen days after the birth, sick leave pay will commence on the fifteenth day after the teacher was scheduled to report to work if the teacher is unable to report to work"; a teacher who has been employed in the system for at least 15 consecutive years shall receive terminal leave pay of 50 percent of his unused personal sick leave at his daily rate, provided he does not accept full-time employment in another school district the following year.

Insurance: Board pays $30 per month per teacher to either the Association's medical insurance plan or the Association's tax deferred annuities plan; board-paid $20,000 term life insurance coverage for individual; board shall provide long-term disability insurance which shall pay 60 percent of the teacher's salary after the disability is incurred; workmen's compensation plan whereby such compensation shall be supplemented by an amount sufficient to maintain a teacher's regular salary for a period not to exceed his sick leave accumulation, which amount shall be charged to his accumulation.

Association: Association members may wear their membership insignia or other identification on school premises; 2 nonconsecutive leave days per year shall be granted to the Association for conducting Association business, and 2 additional days shall be made available if Association members agree to provide substitutes for the absent teacher; the board shall furnish the Association with all readily available district financial information including annual reports and audits, tentative budgetary requirements, board meeting agendas and minutes, treasurer's reports, and census and membership data; Association business may be conducted during school hours provided no classroom disruptions occur; Association representatives involved in negotiation or grievance proceedings shall be granted released time without loss of pay.

Personnel: Grievance procedure ends with binding arbitration by an impartial arbitrator or by a mutually agreed upon third party other than an arbitrator; teacher has right to review his personnel file and may be accompanied by an Association representative; daily pupil contact rates shall not exceed 5 hours in senior high, and 6 hours in junior high and elementary schools; junior and senior high-school teachers will be allowed 5 preparation periods weekly, with the provision that additional preparation time for junior high teachers is planned in accordance with gymnasium scheduling (every other day); whenever possible, elementary teachers will be provided 2 15-minute relief periods daily; duty-free lunch period of at least 30 minutes for all teachers; specialists, librarians, speech therapists, reading consultants, visiting teachers, counselors, and special education teachers shall be provided with released and preparation time to the same extent as other district teachers; teachers handling more than the normal specified teaching load shall be compensated at their hourly rate for each teaching period in excess of 3 periods per year; provision stating that "it is a condition of employment that all teachers make a 'just' attempt to attend all P.T.A. meetings without additional compensation"; all promotional vacancies will be made known to the staff 5 days before being advertised, and presently employed personnel will be given preference in filling such vacancies when the applicants' preparation, experience, and ability are equal; pupil discipline provision stating that when a teacher has one or more pupils in a class "who constitute serious behavioral problems as determined by the Superintendent, principal, and teacher, appropriate recognition shall be given by way of reduced class size, greater or more frequent relief periods, or additional compensa-

tion as agreed between the Board and the Association"; if a teacher is complained about or sued as a result of a job-related action, the board "will provide legal counsel and render all necessary assistance to the teacher in his defense, unless the teacher is proven negligent."

Miscellaneous: Class size guide providing maximums of 20 pupils per kindergarten class, 25 pupils per first-grade class, 25 pupils in most secondary school classes, 18 pupils per driver education class, 100 pupils per music class, 40 pupils per physical education class, and 10 pupils per high-school home economics class; board will pay up to $5 per teacher per year to defray the cost of membership in any of 12 named professional education associations; provision calling for the board to "use its best efforts" to assure continued Association recognition, maintain employment of its personnel, and maintain teacher tenure in the event of annexation or consolidation with other districts; provision stating that "the study of the feasibility of a cost of living clause shall be considered in future contract negotiations."

Penns Grove, New Jersey

Between the Penns Grove-Upper Penns Neck Regional Board of Education and the Penns Grove-Upper Penns Neck Regional Education Association, effective July 1, 1970, to June 30, 1971. Approximately 160 certificated professional employees. Provision for the negotiation of a successor agreement to begin no later than October 15, 1970.

Compensation: B.A., $6,950 to $10,350, 11 increments; B.A. plus 30 hours, $10,650 maximum; M.A., $7,550 to $10,950, 11 increments; M.A. plus 30 hours, $11,250 maximum; Ph.D., $11,550 maximum; longevity pay of $50 after 20 years' service and each 5-year period of service thereafter to 45 years' service. Differentials: (for athletics personnel, figures indicated here represent the first year of an 8-year schedule) head football coach, $600; head basketball coach, $400; head baseball, track, tennis, and wrestling coaches, $300; head girls' field hockey, tennis, and basketball coaches, $250; head athletics director, $400; cheerleader sponsor, $125; high-school department heads, $450; senior class advisor, $300; senior class play director, $250 per play; high-school band director, $400; yearbook literary advisor, $300; high-school newspaper advisor, $200. Adult education, summer school, and home teachers receive $6 per hour. Teachers using their own cars in the performance of their duties are reimbursed at the rate of $125 per year.

Leaves: 12 days' annual sick leave credited at the beginning of each school year, unlimited maximum accumulation; teachers who have completed at least one year of district service, have a minimum of 13 sick days available at the beginning of a school year in which a lengthy illness occurs, and have exhausted their sick leave accumulation are eligible for extended sick leave at partial pay for 10 to 90 days, according to the number of years of district service; 2 separate days for personal business; 4 separate days' bereavement leave for a death in the immediate family; 1 separate day per semester for purposes of classroom observation; time as necessary for legal proceedings; sabbatical leave at full pay for one semester if a qualified replacement can be found or half-pay for one year after the first 10 years of service and each 7 years of service thereafter.

Association: Payroll dues deduction for local, county, state, and national Association dues; any teacher or Association representative participating in negotiation during working hours shall be granted released time without loss of pay; in order to conduct Association business, Association officials may leave their buildings during their preparation periods and during the period that teachers are required to remain after school, provided they have the principal's permission to leave and the approval of the principal of the building to which they are going; the Association shall be allowed up to 30 minutes' presentation time during orientation programs for new teachers and at least 10 minutes' time at monthly building faculty or other professional meetings; one 2 p.m. dismissal shall be granted for an Association meeting; teachers may wear membership pins or other identification of Association membership; prior to February 1 of each year, the Association will submit its recommendations regarding the school calendar for the ensuing year to the superintendent for board consideration.

Instruction: Where possible, teachers of grades 7-12 shall not be required to teach more than 2 subject areas, nor more than a total of 2 teaching preparations; department heads shall be relieved of homeroom duties and shall not be assigned more than 4 student instruction-supervision periods per day; provision for the establishment of a joint Instructional Council (with a $500 budget) no later than September 30, 1970, which shall be comprised of 4 representatives appointed by the superintendent and 4 Association representatives and shall meet at least 4 times per year for the purpose of developing written recommendations for the board on such matters as curriculum improvements, teaching techniques, extracurricular

programs, in-service training, pupil testing and evaluation, and research and experimentation.

Personnel: Grievance procedure ends with binding arbitration; provision stating that the Instructional Council "will try to work out a minimum lunch period of twenty-seven (27) minutes" which will become effective immediately if feasible, but shall be applicable only to high-school teachers; elementary teachers shall have preparation time when their classes are taught by specialists, and teachers of grades 9-12 shall have daily preparation time of one class period; regular teachers who volunteer or are assigned as substitutes may credit such periods to a total of 6 periods which shall entitle them to one additional personal business day to be taken by the end of a given school year; any teacher required to teach a class beyond the specified work day shall be compensated at the rate of $6 per class period; teachers may be required to attend building faculty or other professional meetings one day per month with such meetings beginning no later than 10 minutes after pupil dismissal and lasting no longer than 45 minutes; teachers may leave their buildings during their preparation periods with the principal's approval and may leave without permission during their lunch periods so long as they sign in and out; first-year teachers are to be evaluated by building administrators at least 7 times per year, second-year teachers at least 5 times per year, third-year teachers at least 3 times per year, tenured teachers with less than 10 years' district experience at least twice a year, and tenured teachers with 10 or more years' district experience at least once a year; each building faculty shall elect a Liaison Committee consisting of not less than one member for each 10 teachers in the building for the purpose of meeting with the principal at least once each month "to review and discuss local school problems and practices, and to play an active role in the revision or development of building policies"; provision stating that $1,425 will be allocated for a Professional Incentive Program wherein teachers taking professional improvement courses may apply for reimbursement of $10 per credit hour to a maximum of 6 semester hours of credit during any school term.

Milwaukee, Wisconsin

Between the Milwaukee Board of School Directors and the Milwaukee Teachers Education Association, effective January 1, 1971, to December 31, 1971. Approximately 5,150 certificated professional employees. Provision for automatic renewal of agreement for a one-year period if the board's finance committee prior to September 30, 1971, recommends adoption of the financial terms of the current agreement for 1972 and the board at its regular October 1971 budget meeting adopts a 1972 budget containing the financial terms of the current agreement. However, if the finance committee or the board fails to act as specified, the Association may, within 5 days of the date set for such action, notify the board that it chooses to renegotiate the agreement for 1972.

Compensation: (effective January 1971) B.A., $7,900 to $12,570, 12 increments; B.A. plus 16 hours, $12,904 maximum; M.A., $8,230 to $13,179, 12 increments; M.A. plus 64 hours, $14,397 maximum. Effective January 1, 1971, teacher salaries increase by 4 percent owing to board payment of that percentage of each teacher's salary to the Milwaukee Teachers Retirement Fund. Separate 10-step salary schedule for certified school social workers with salaries ranging from $11,164 to $15,969. Longevity pay of $100 each after 15 and 20 years' service.

(effective January 1972) B.A., $8,300 to $13,210, 12 increments; B.A. plus 16 hours, $13,563 maximum; M.A., $8,654 to $13,857, 12 increments; M.A. plus 64 hours, $15,152 maximum. Effective January 1, 1972, teacher salaries increase by 4½ percent owing to board payment of that percentage of each teacher's salary to the Milwaukee Teachers Retirement Fund. Separate 10-step salary schedule for certified school social workers with salaries ranging from $11,728 to $16,777. Longevity pay of $100 each after 15 and 20 years' service.

Differentials: (effective January 1971) for athletics personnel, the differential schedule is divided into categories by type of sport and type of position with base pay stated as a varying percentage (4.2 percent to 12 percent) of the B.A. base and increments after 5 years' service and 10 years' service ranging from $35 to $100 and $70 to $200, respectively; athletic directors, $948 (.12 of B.A. base) per semester with increments of $100 after 5 years' service and $200 after 10 years' service; intramurals leaders, $1,044 maximum per person; marching band directors, $661 per school; adjustment class teachers, $870; play and operetta directors, $1,450 per school; stage crew managers, $661 per school; forensics and debate directors and judges, $928 per school; instrumental music teachers, $4.50 to $6.25 per 45-minute class according to the number of years of experience. Summer school teachers receive 70 percent of their regular daily rates of pay effective at the close of the regular school term.

Leaves: 12½ days' annual sick leave (earned and credited at the rate of 1¼ days per month of service), 120 days' maximum accumulation at full pay at the end of any month with an unlimited maximum accumulation of days at half-pay; teachers with no accumulated sick leave may be advanced up to their annual leave allowance; in the event of personal illness or quarantine, a teacher shall be allowed in any school year 32½ days' leave in addition to his annual allowance before a formal application for leave is required, but such additional days shall be deducted from his accumulation; extended sick leave chargeable to a teacher's accumulation and lasting through the end of a semester or a school year may be granted at full or half-pay; 1 day of leave for an illness in the immediate family deducted from accumulation; 2 days' leave deducted from accumulation may be used for legal obligations, attendance at the funeral of a close friend, travel involved in funeral attendance, religious observance, and attendance at the graduations of one's children; 3 separate days' bereavement leave in the event of a death among close family members, and 1 separate day of leave for the death of a relative; teachers may be allowed one-half day of paid leave to attend the funeral of a fellow teacher; paid leave for jury duty less per-diem court allowance; paid leave as approved for school visitation or attendance at professional conferences; up to 17 days' paid leave to fulfill military reserve obligations; sabbatical leave for one semester or one year at 50 percent of regular salary after 7 years' service.

Insurance: Board-paid hospital-surgical and major medical benefits for individual or family coverage; effective January 1, 1971, the board shall pay the premium on the first $4,000 of group life insurance coverage for the individual plus $3.60 per thousand per year toward the cost of coverage above $4,000 with the employee paying the remainder of the premium for coverage in an amount equal to annual earnings raised to the next even thousand; effective January 1, 1972, board payments on group life insurance coverage shall apply to the first $8,000 of coverage; tax-sheltered annuity plans; payroll deductions for income protection insurance; board-paid liability insurance in the amount of $5 million; $10 deductible insurance provided by board to cover malicious damage to employees' cars while parked at school during school hours or while on school business; board will reimburse teachers to a maximum of $150 per occurrence for any job-related loss of or damage to personal property arising from theft, fire, or willful damage.

Association: Payroll dues deduction for local association and its affiliates with each Association member paying a monthly service charge of 5¢ and the Association paying 50¢ per member per year; Association representatives involved in negotiation during the school day shall be granted released time without loss of pay; no-strike clause stating that "upon notification from the board of any unauthorized work stoppage, the MTEA shall make public that it does not endorse such stoppage. Having given such public notice, the MTEA shall be freed from all liability for any breaches of this part"; building security provision stating that the Association building representative "shall be released from his assignment during crisis periods, so that communication with teachers on the facts of the incident is accurate" (*see* following provision reprint).

Instruction: During the 1971 school year, the board shall "conduct an intensive recruitment campaign to attract and hire" 20 additional teachers of the educable mentally retarded, and 14 remedial reading teachers for the secondary schools will be hired in September 1971; effective January 1, 1971, "every effort will be made to recruit and hire fifteen (15) qualified elementary specialist teachers in art, physical education and music, to service those schools not presently served, including exceptional education classes. This additional staffing shall commence in February 1971 and shall be fully implemented by September 1971"; prior to September 1971, "efforts will be made to recruit and hire ten (10) additional qualified elementary specialist teachers in art, music and physical education . . . at an annualized (calendar year) level of $100,000, provided that the 1971 implementation shall not exceed $40,000"; provision for additional interim classes and/or programs (provided that actual 1971 implementation does not exceed $150,000) "for the purpose of meeting the needs of students demonstrating a lack of reasonable self control and whose behavior is seriously interfering with their own education, as well as the education of other children in the regular school program"; extensive class size provision providing staffing formulas determined by dividing the total daily pupil periods by specified figures, establishing varying class size ranges according to the type of instruction involved, grade level, and high population density and mobility factors, providing for the hiring of additional teachers within specified budgetary limits "to relieve critical class loads or clusters of individual classes which exceed the desirable class size," and providing for aide and paraprofessional time in

the primary grades when average pupil-teacher ratios based upon spring enrollment projections are exceeded; provision establishing a procedure to be followed when "conditions in any school evidence a potential interference with the educational process" (*see* following provision reprint); teacher aides and paraprofessionals "shall be employed to the extent possible within the budget limits," and additional aide time shall be made available at the rate of 10 hours per week in the elementary schools, 40 hours per week in the secondary schools, and 200 hours per week in classes for the educable mentally retarded.

Personnel: Grievance procedure ends with a binding decision by an "impartial referee"; secondary teachers shall be assigned no more than 25 teaching periods, 5 homeroom periods, and 5 preparation periods per week; elementary teachers shall be assigned 25 teaching hours (including recess) and 5 45-minute "special help" periods per week; secondary teachers shall have a duty-free lunch period equal in length to the normal class period, while elementary teachers shall have a one-hour duty-free lunch period; secondary teachers assigned to cafeteria duty shall have such duty in lieu of a class, and elementary teachers will be compensated at the established hourly rate for certificated personnel, payable monthly; teachers assigned to noninstructional duties (e.g., study halls, attendance counseling, and hall supervision) "do not have to perform these duties year after year without being relieved, when they specifically request it," and teachers not so involved "shall be assigned to projects dealing with curriculum improvement within their area of teaching"; regular teachers serving as substitutes shall be paid on the basis of the "established part time certificated hourly rate properly prorated"; teacher involvement in noncompensable extracurricular activities shall not exceed 2½ hours per week in the secondary schools and 4 hours per week in the elementary schools, although in all cases "one open house per semester, when scheduled, shall be considered part of a teacher's assignment"; teacher protection provision (*see* following provision reprint); teachers wishing to qualify for teaching special education courses may receive tuition reimbursement for up to 12 credit hours after satisfactory completion of the courses; by September 1973, all new elementary teachers shall be required to have 6 college hours in reading, and the board shall provide tuition reimbursement for teachers wishing to take such hours; new teachers involved in orientation programs (a minimum of 5 days in central city schools and 3 days in others) prior to the opening of school will be compensated at their daily rate of pay; provision stating that teacher involvement "in the decision-making processes is vital to the continued improvement of the educational program," and that this provision shall be subject to arbitration, although no retroactive award shall be made; probationary teachers shall be evaluated in writing at least once per semester during their first 3 years of employment, while tenure teachers shall be evaluated annually for the first 2 years under such status and at 3-year intervals thereafter; 2 days per year are allotted for parent-teacher conference scheduling, and 2 half-days per semester shall be designated by the calendar for staff planning sessions which shall begin at 1:15 p.m.

BUILDING SECURITY

1. Principal Responsibility. The principal of each school shall be responsible for the general management, instruction, and discipline of his school, shall direct and assist the teachers, and see that the Rules of the Board and direction of the Superintendent are properly carried out.

2. Administrative Reinforcement. When the regular resources of the school are inadequate to accomplish this responsibility, principals are expected to call upon the Central Office for additional assistance, or if the nature of the problem so indicates, call upon the Milwaukee Police Department. Where additional personnel are assigned, they shall assist with administrative duties, such as handling of any suspensions and/or reassignments.

3. If the teachers feel a serious disturbance may develop, the principal shall provide an opportunity for the Building Representative to phone the MTEA office.

4. The MTEA Building Representative shall be released from his assignment during crisis periods, so that communication with teachers on the facts of the incident is accurate.

5. Any student making a direct or implied threat to any faculty member shall immediately be referred to the principal for disciplinary action, together with a #72 card. A conference shall be held between the student, the parent, and the principal, and the teacher involved. Where necessary, the principal shall also notify the Milwaukee Police Department.

6. Any student working to undermine the discipline in a school, either through direct action or the distribution of unauthorized publications, shall immediately be referred to the principal.

7. All persons, including students and staff in secondary schools, shall have an appropriate school system identification card which shall be

shown on request. All other persons authorized to to be at any school shall have a school system identification card or permission from the principal in writing. When a person not so authorized refuses to leave the building, appropriate action shall be taken by the principal or his designee, and, where the situation warrants, the Milwaukee Police Department will be utilized. The MTEA staff representatives shall be furnished an identification card from the Central Office.

8. In schools having persistent problems with unauthorized people in the halls, assigned lay personnel shall be used.

9. No teacher shall be required to subject himself to any clear or imminent danger to his safety. (Milwaukee, Wisconsin)

PROCEDURES FOR SCHOOLS WITH SPECIAL PROBLEMS

When conditions in any school evidence a potential interference with the educational process, the following procedure shall apply:

1. MTEA Involvement.

a. When the MTEA is informed by teachers or other sources that such conditions exist within any school, the MTEA shall immediately investigate the situation and notify the Division of Administrative and Pupil Personnel Services that they are going to be in the building. Such investigation shall include meeting with the principal of the building and with members of the faculty and any other persons that may have information pertaining to the investigation.

b. If after such preliminary investigation the MTEA feels that the teachers' concerns are justified and require consideration to prevent a potential interference with the educational process, they shall file a written statement of the results of their preliminary investigation to the Office of the Superintendent.

2. Administrative Verification.

a. Within two working days after the receipt of the MTEA's preliminary investigation report, a three man administrative task force, appointed by the Superintendent, shall investigate the conditions in the building. The administration shall notify the MTEA that they are going to conduct such investigation. Within three days thereafter, the administrative task force shall report in writing to the Superintendent the conditions which exist.

b. The administrative task force shall be authorized to call upon any division or department for advice and counsel and upon representatives of the MTEA in making such investigation.

3. Conference with Superintendent.

a. Within two working days, upon the request of the MTEA, the Superintendent or Deputy Superintendent shall hold a conference with the administration and MTEA to discuss their reports. The parties will make every effort to resolve the matter informally.

b. Within three working days following the close of the conference, the Superintendent shall notify all parties of his decision and the manner in which it shall be effected in writing.

4. Immediately Available Funds. The Board shall set aside fifty thousand dollars ($50,000) in each year of the contract as an immediately available fund to initiate the Superintendent's recommended action, until such time as the Board can allocate additional funds, if necessary. Upon recommendation by the Superintendent, approval of the Board shall be required to use monies from the fund to meet the problems. Such approval shall be by voice approval of a majority of the Board.

5. Board Consideration.

a. Where the matter is not resolved by the action of the Superintendent it shall be reported to the appropriate Board committee at its next regular meeting by the Superintendent at which time the MTEA will be given an opportunity to be heard. (Milwaukee, Wisconsin)

PROTECTION OF TEACHERS

1. Assistance in Assault Cases.

a. Teachers shall report all cases of assault suffered by them in connection with their employment to the principal on forms provided by the Board, which may be obtained at the office in each school. Principals shall transmit a copy of the report to the Office of the Superintendent and to the office of the Assistant City Attorney assigned to the Superintendent's Office. Both the Superintendent and the City Attorney's Office shall acknowledge receipt of such report immediately after the report is received. In acknowledging receipt, the Superintendent or his designee shall send a copy to the MTEA.

b. The Superintendent shall request the City Attorney's Office in all such cases to inform the teacher immediately of his rights under the law and shall provide such information in a printed document to include rules of the Industrial Commission and the Board.

c. If a teacher who has been assaulted wishes to file a complaint against the student, the police shall be called immediately by the principal so that the police may properly investigate and find witnesses to the act.

d. The Office of the Superintendent shall request the City Attorney's Office, in all such cases, to notify the teacher of his readiness to assist the teacher as follows:

1) By obtaining from police and/or from the principal relevant information concerning the assailant.
2) By accompanying the teacher in court appearances.
3) By acting in other appropriate ways.

e. In schools where there is a record of danger to the teachers or students, the Board shall provide appropriate additional personnel to help in building control.

f. No teacher shall be required to subject himself to any clear and imminent danger to his safety.

2. Legal Counsel.

a. The Board agrees to provide legal counsel to defend any teacher in a civil action arising out of an alleged assault on or by a teacher, which occurs in connection with his employment, or any disciplinary action taken against the student by the teacher, where the Superintendent finds that the teacher acted in accordance with the disciplinary policy established by the Board.

b. In the event the City Attorney's Office is unable to defend the teacher, the Board agrees to provide minimum bar fees to aid in the defense of any teacher in a civil or criminal action, arising out of disciplinary action taken by the teacher in connection with his employment, provided such teacher is found not guilty in criminal action or judgment is rendered against the other party in a civil action or if the case is dismissed.

c. If the teacher is ordered to the District Attorney's Office, a warrant has been requested, or a complaint filed, the teacher shall immediately notify the MTEA and the Chief Negotiator. If the warrant is refused and the Board was unable to furnish legal counsel, the Board will pay minimum bar fees to the teacher for the attorney who defended the teacher.

3. Insurance.

a. Present liability insurance covering teachers' tort liability, paid for by the Board, shall be continued in the amount of $5,000,000.

b. The Board will reimburse teachers against loss or damage to personal property used in the course of employment in buildings operated by the Board arising from theft, fire, or willful damage not to exceed $150 on any one occurrence.

c. The Board will provide insurance to cover malicious damage to employes' cars while parked at school during school hours or while on school business. Such policy will not cover the first ten dollars ($10) of damage in any one incident.

4. Compensation for Lost Time. If an assault on a teacher results in loss of time, the teacher shall be paid in full for such time, and such paid absence shall in no event be deducted from any sick leave to which such teacher is entitled. The MTEA and the Board will appear before the State Legislature to recommend a change in the Teacher Pension Law so as to provide disability benefits where the disability is job incurred. (Milwaukee, Wisconsin)

NEGOTIATION AGREEMENTS: BUILDING REPRESENTATIVES

The NEA Research Division's analysis of 978 negotiated classroom teacher agreements effective during the 1968-69 school year in systems with a pupil enrollment of 1,000 or more identified 128 agreements (13.1 percent) with provisions concerning building representatives. Specific content found in these provisions can be categorized broadly as the number and organization of building representatives, the selection and qualifications of representatives, their functions, their privileges, and various miscellaneous rules.

Table 1 indicates the general content of the 128 provisions analyzed, and succeeding tables present a detailed analysis of the broad content categories identified. The categories listed in the tables are not mutually exclusive, and the analysis is limited to what appears in written negotiation agreements; no attempt is made to cross-reference the analyzed provisions with other negotiated content which indirectly may affect building representatives. In addition, peripheral and/or unrelated subject matter has been deleted from the sample provisions reprinted here.

TABLE 1.—GENERAL CONTENT OF BUILDING REPRESENTATIVE PROVISIONS, 128 PROVISIONS, 1968-69

General content	Agreements containing designated content	
	Number	Percent
1	2	3
AGREEMENTS CONTAINING BUILDING REPRESENTATIVE PROVISIONS	128	100.0%
Number of representatives per building	63	49.2
Committees	48	37.5
Selection	53	41.4
Qualifications	28	21.9
Functions	118	92.2
Special privileges	43	33.6
Miscellaneous rules	71	55.5

Number and Organization

Of the 63 provisions indicating the number of representatives, 32 (50.8 percent) stipulated that there was only one representative per building. The 31 provisions (49.2 percent) stating that more than one might be chosen gave a specific maximum number only, a ratio of representatives to staff, or left the matter undefined. Those provisions allowing more than one representative per building and establishing a maximum number variously set the maximum at two (four provisions), three (nine provisions), five (six provisions), and seven (three provisions). Included in that count are six provisions which referred to *both* a faculty/representative ratio and a maximum number of representatives per building. Provisions mentioning only a ratio to staff figure sepcified a ratio of 1/20 (two agreements), 1/15, 1/25, 1/30, and 10 percent. Sample provisions are:

A committee of teachers shall be created in each school building from the faculty of that building.

In schools having a faculty of fewer than forty teachers, the committee shall consist of three teachers. Two members of the committee shall be elected by the teachers in the building. One member of the committee shall be appointed by the Association.

In schools having a faculty of at least forty teachers, but fewer than eighty teachers, the committee shall consist of five teachers. Three members of the committee shall be elected by the teachers in the building. Two members of the committee shall be appointed by the Association.

In schools having a faculty of eighty or more teachers, the committee shall consist of seven teachers. Four members of the committee shall be elected by the teachers in the building. Three members of the committee shall be appointed by the Association.

All elections under Section 28-1, above, shall be conducted by the Association members within the school. All teachers within the school shall be eligible to vote for and hold elective positions on the committee irrespective of membership in the Association. (Denver, Colorado)

* * *

One teachers' representative for each school building, selected by the Association, (or an alternate, if the building representative is absent) shall be recognized by the Board as the official representative of the Association for the teachers in that building to receive official communications under this grievance procedure. (Grosse Pointe, Michigan)

* * *

The Association Building Committees shall be selected by the Association membership in each respective building and each committee shall have no more than five persons. (Peru, New York)

* * *

The Union members in each building shall have the exclusive right to choose their representatives according to the provisions of the Constitution and By-laws of the Cleveland Teachers Union. By Union Representative is meant the Union Chairman and/or the Union Conference Committee. When there is no building representative, the Union president shall designate one or shall act directly for the building until such time as an official representative shall be elected. (Cleveland, Ohio)

Building representatives formed committees in 48 provisions, and the majority of these (91.7 percent) were strictly building level committees. Of the remaining committees, two were established only at the district level, and two were established at both the building and the district levels. Thirty-three of the 46 building level committees consisted solely of building representatives, and two of these were headed by a chief representative. Two other committees chaired by the representative included faculty members who were not official building representatives. Examples of such provisions are:

A School Building Committee shall be organized at each school. Committee members shall be elected on or about September 15 by and from the teachers assigned to the building and shall serve until September 15 of the following year. Committee membership shall be reported by September 20 of each year to the Deputy Superintendent for official filing. The Association shall designate one of its Building Representatives from the building to serve as chairman of the committee with the right to vote. The principal shall be a member of the committee with the right to vote.

Other members of the Committee will be certificated personnel elected by the faculty. Elections shall be conducted by the Association members within the school. All teachers within the school will be eligible to vote for members of the Committee irrespective of membership in the Association. Membership on the Committee, in addition to the principal and Association Building Representative, shall be based on the following school enrollment:

Enrollment	*Number of members*	
600 or less	3	
601 to 1,100	5	
1,101 to 1,600	7	
1,601 to 2,100	9	
2,101 or more	11	(Wichita, Kansas)

* * *

To maintain a continuing mutual working relationship between the professional staff and the Board of Education, a permanent Professional Council shall be hereby established. . . . To bring the above proposals to bear on the teaching situation in each building of the Babylon School District, Building Committees shall be established according to the following procedures:

(a) The Elementary School Building shall have a Building Committee consisting of the building principal, or assistant principal, and one tenure teacher from the Elementary School Building.

(b) The Memorial Grade School Building shall have a Building Committee consisting of the building principal, or assistant principal, and two tenure teachers from the Memorial Grade School Building.

(c) The Junior-Senior High School Building shall have a Building Committee consisting of the building principal, or assistant principal, and three tenure teachers from the Junior-Senior High School Building.

Each teacher in each of the above Building Committees must be a member of the Babylon Teachers Association, and must be elected by the teaching staff of the building he is to represent. The Professional Council, in turn, will consist of all the members of all the Building Committees, and the President of the Babylon Teachers Association. . . . The Professional Council will meet officially only with the District Principal. (Babylon, New York)

While 11 provisions mandated that the principal join the committee of representatives (as indicated in the preceding examples), all of these clauses provided that the committees would function as liaisons between faculty and building administration. Committees established at the district level were for purposes of forming a liaison with the superintendent. Table 2 provides information concerning the number and organization of building representatives.

TABLE 2.—NUMBER AND ORGANIZATION OF BUILDING REPRESENTATIVES, 128 PROVISIONS, 1968-69

Number and Organization	Agreements containing designated content	
	Number	Percent
1	2	3
TOTAL NUMBER OF PERTINENT PROVISIONS	128	...
Number of representatives per building	63	100.0%
One	32	50.8
More than one	31	49.2
Specific maximum only	16	25.4
Ratio to staff	12	19.0
Undefined	3	4.8
Committees of representatives	48	100.0%
Building level only	44	91.7
District level only	2	4.2
Building and district levels	2	4.2

Selection and Qualifications

Of the 53 provisions containing a procedure for selecting building representatives, 67.9 percent stated that they were appointed only, 24.5 percent designated an election procedure, and 7.5 percent indicated that they were chosen by a combination of election and appointment. Only three agreements did not define the group making the appointment or participating in the election. In 37 agreements, some or all members of the teachers' organization selected building representatives, while nine agreements indicated that all building faculty members regardless of organization membership participated in the selection process. The remaining four agreements stated that the representative organization appointed some representatives and the entire building faculty elected others.

Twenty-eight provisions indicated the necessary qualifications of building representatives, but the statements of qualifications generally were not very explicit. For example, 19 agreements required the representative to be a building faculty member, but only three of these specified that he need not be a member of the teachers' organization. The remaining nine provisions stated that the representative must be both a building faculty member and a member of the representative organization. Table 3 indicates the number of agreements containing subject matter regarding the selection and qualifications of building representatives.

TABLE 3.–SELECTION AND QUALIFICATIONS OF BUILDING REPRESENTATIVES, 128 PROVISIONS, 1968-69

Selection and qualifications	Agreements containing designated content	
	Number	Percent
1	2	3
TOTAL NUMBER OF PERTINENT PROVISIONS	128	...
Selection of building representatives	53	100.0%
Appointed	36	67.9
By representative organization	32	60.4
By president or executive committee of representative organization	3	5.7
By undefined group	1	1.9
Elected	13	24.5
By all building faculty	9	17.0
By building membership of representative organization	2	3.8
By undefined group	2	3.8
Some elected by all faculty and some appointed by representative organization	4	7.5
Qualifications of building representatives	28	100.0%
Member of building faculty	19	67.9
Member of building faculty and representative organization	9	32.1

Functions

The topics most commonly included in building representative provisions dealt with representatives' functions, duties, and activities. In the 118 provisions containing such subject matter (92.2 percent of the total number of pertinent provisions), the functions generally included meeting with the building principal and/or the superintendent to discuss matters of mutual concern, performing the business of the representative organization, and participating in grievance proceedings. Sample provisions are:

> The principal of a school shall meet with the Federation Building Committee of that school upon the request of the Building Committee to discuss school operations and questions relating to the implementation of this agreement. Proposed changes in existing policies and procedures and new policies and procedures for that school shall be subjects for discussion at such meeting. (Inkster, Michigan)

* * *

> The principal of each school shall meet at least once a month with the Federation Building Committee at its request to discuss school operations and questions relating to the implementation of this Contract. These meetings shall be held at a time of the day mutually agreed upon and, if held during the regular school day, shall not result in loss of pay to the teachers. Any meeting of the Building Committee held during a teaching period of a member of the Committee shall be called only in the event of an emergency. . . . Proposed changes in existing policies and procedures and new policies and procedures for each school shall be appropriate subjects for discussion at such meetings. Any changes in such policies and procedures or any new policies and procedures shall be subject to the approval of the Board and consistent with the terms of this Contract. (Buffalo, New York)

Of the 75 provisions stating that representatives were to discuss matters with the building principal, 22 specified a minimum number of meetings per year, usually at least one per month. In addition, 21 provisions indicated that the outcome of such discussions might be proposals for new building policies or changes in existing policies. The presence of representatives at teacher-administrator conferences

always was to be requested by one or both parties to the conference. Table 4 provides a detailed breakdown of building representatives' functions; the category labeled "other functions" includes the development and implementation of building rules, scheduling teacher work loads, and reporting to a so-called Operational Advisory Council.

TABLE 4.—FUNCTIONS OF BUILDING REPRESENTATIVES, 128 PROVISIONS, 1968-69

Functions	Agreements containing designated content	
	Number	Percent
1	2	3
TOTAL NUMBER OF PERTINENT PROVISIONS	128	...
Functions of building representatives	118	100.0%
Meet with building principal to discuss matters of mutual concern	75	63.6
Problems, policies, and procedures	49	41.5
Implementation of agreement	28	23.7
Proposals for changes and new policies	21	17.8
General communication	15	12.7
Curriculum, school activities, working conditions, building construction, teaching methods, and instructional materials	9	7.6
Perform business of representative organization	35	29.7
Schedule organization meetings	18	15.3
Report organization matters to faculty	16	13.6
Meet with individual teachers	6	5.1
Distribute and post organization materials	3	2.5
General business	11	9.3
Participate in grievance procedure	19	16.1
May be present at teacher/administrator conferences	4	3.4
Teacher discipline or reprimand	3	2.5
Any conference	1	0.8
Processing and investigation	13	11.0
Advises or represents teacher	3	2.5
Meets with superintendent to discuss matters of mutual concern	9	7.6
Problems, policies, and procedures in individual buildings	4	3.4
Implementation of agreement	2	1.7
Proposals for changes and new policies	1	0.8
General communication	5	4.2
Other functions	3	2.5

Special Privileges and Miscellaneous Rules

Of the 43 provisions (33.6 percent of the total) granting building representatives special privileges, 24 provided time for them to speak at regular staff meetings, 15 provided some released time during the school day, and five stated that they had the right to use the school communications system. Five other agreements listed various privileges such as office space, the right to visit other schools, general use of school facilities, no loss of preparation period, and released time for in-service training courses sponsored by the organization.

While most of the provisions allowing representatives time to speak at faculty meetings did not indicate the amount of time, 11 clauses specified 10 minutes' time. Of the provisions granting released time, two provided for no loss of pay, seven stipulated that the time be taken from noninstructional duty periods, five provided released time at the representative's request, and three scheduled regular released time. Use of the school communications system often included use of school telephones, bulletin

boards, and teacher mailboxes. Provisions illustrative of the special privileges granted to building representatives are:

A designated Union officer in each building shall have one regularly scheduled period of released time daily to conduct faculty business relating to this contract. File space and a telephone shall be made available to them for these purposes. (Proviso Township, Illinois)

* * *

The principal may provide the School Building Committee with secretarial services as may be available and agreed upon by the principal and Committee. (Wichita, Kansas)

* * *

The Federation shall be provided adequate bulletin board space in a place readily accessible to all teachers in each school for the posting of notices and other materials relating to Federation activities.

1. The bulletin board space allocated shall be identified with the name of the Federation, and the authorized representative of the Federation or his designee shall have the responsibility of positing materials on the bulletin board.
2. During the period of time that is presently allotted for regular school announcements, there shall also be time allotted for announcements concerning Federation bulletins affecting the teaching staff.
3. The Federation shall have the right to place material in the mail boxes of teachers. Placement will be made by the authorized representative of the Federation or his designee. (Inkster, Michigan)

* * *

Each building representative shall have the right to schedule Association meetings before or after school or during the lunch period in his or her building. The building representative shall be provided with not less than 10 minutes' time at all building faculty meetings to report on the matters involving representation of the teachers by the Association. The building representative shall be allowed free time during school hours each week to perform his duties under this agreement, provided such free time does not interfere with his teaching duties. (Ithaca, New York)

* * *

One Federation building representative in each building shall be assigned to handle grievances and other duties connected with the administration of the contract, and the duty of the Federation to represent teachers, as follows: in secondary schools the Federation building representative shall be relieved of two non-instructional periods (excluding assigned preparation periods) per week; in elementary schools the Federation building representative shall be relieved of two 25-minute periods per week during which children are arriving or departing. Except as otherwise provided herein, no teacher shall engage in the handling of grievances or administration of the contract during the time he is assigned to teaching or other duties. In the elementary schools, any teacher who relieves the Federation building representative shall receive compensatory time off from another duty. (Massapequa, New York)

Miscellaneous rules pertaining to building representatives are categorized under six broad self-explanatory headings in Table 5. Agreements most frequently mentioned that building representatives' activities should not interfere with the normal school program or with regularly scheduled faculty meetings, as in the following provisions:

Secondary school union building representatives shall be released from homeroom duties to conduct union business providing it does not interfere with regular homeroom activities of other teachers. Elementary school union building representatives shall be released from supervisory duties from 8:30 a.m. to 9:00 a.m. to conduct union business provided it does not interfere with supervisory duties of other teachers. (Harper Woods, Michigan)

* * *

The Building Vice-President shall have the right to schedule Association meetings in the school building before or after school or during school lunch periods, provided such meetings do not conflict with scheduled faculty or other academic meetings. The Building Vice-President shall be provided ten (10) minutes time at all faculty meetings, if requested, to report on matters involving representation of the teachers by the Association. The Building Vice-President shall be permitted to meet with teachers at times and places convenient to him, provided that such meetings can be scheduled without disturbing the regular academic program. (Amityville, New York)

Procedures which building representatives were to observe when performing their functions included requesting placement on the agenda of faculty meetings through normal channels, informing the principal of another school of their presence in a particular building, following the negotiated rules and guidelines of the representative committee, and following regular procedures when scheduling meetings.

Of the 12 provisions indicating that changes or new policies might result from discussions between the building representative and the principal, 10 stated that the matter would be settled at the building level, and two provided that the school board pass judgment first. Pertinent administrative information given to representatives included copies of all official committee meeting agendas and minutes, copies of board rules, and agendas of board meetings.

TABLE 5.—SPECIAL PRIVILEGES OF AND MISCELLANEOUS RULES PERTAINING TO BUILDING REPRESENTATIVES, 128 PROVISIONS, 1968-69

Privileges and miscellaneous rules	Agreements containing designated content	
	Number	Percent
1	2	3
TOTAL NUMBER OF PERTINENT PROVISIONS	128	...
Special privileges of building representatives	43	100.0%
Time to speak at faculty meetings	24	55.8
Released time	15	34.9
Use of school communications system	5	11.6
Other	5	11.6
Miscellaneous rules affecting building representatives	71	100.0%
Restrictions on functions	30	42.3
Schedule meetings to avoid interference with regular school programs	16	22.5
Performance of all functions should not interfere with regular school programs	14	19.7
Procedures which building representatives/committees follow	15	20.8
Authority for adopting changes and new policies	12	16.9
Rests with representative and principal	10	14.1
Rests only with board	2	1.7
Representative organization informs principal and/or superintendent of representatives' names	10	14.1
Board and/or principal recognizes official representatives	8	11.3
Pertinent administrative information given to representatives	4	5.6

Text

IDAHO

HOUSE BILL NO. 209

AN ACT

Relating to education: providing that professional employees and boards of trustees of each school district, including charter districts, shall upon request of either party, enter into a negotiation agreement, and negotiate on those matters agreed to in any negotiation agreement between the local board of trustees and local education organization representing professional employees; defining terms; providing for exclusive representation for negotiations; providing for mediation; providing for fact finding; providing that this act shall not conflict with existing responsibilities of boards of trustees and providing for action during emergencies; and establishing an effective date.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. The board of trustees of each school district, including specially chartered districts, or the designated representative(s) of such district, is hereby empowered to and shall upon its own initiative or upon the request of a local education organization, enter into a negotiation agreement with professional employees and negotiate with such employees in good faith on those matters specified in any such negotiation agreement between the local board of trustees and the local education organization. A request for negotiations may be initiated by either party to such negotiation agreement.

SECTION 2. Definition of terms as used in this act:

1. "Professional employee" means any certificated employee of a school district, including charter districts; provided, however, that superintendents, supervisors or principals may be excluded from the professional employee group if a negotiation agreement between the board and local education organization so specifies.

2. "Local education organization" means any local district organization duly chosen and selected by a majority of the professional employees as their representative organization for negotiations under this act.

3. "Negotiations" mean meeting and conferring in good faith by representatives of a local board of trustees and the authorized local representative organization of professional employees, for the purpose of reaching an agreement, upon matters and conditions subject to negotiations as specified in a negotiation agreement between said parties.

SECTION 3. The representative organization designated or selected for the purpose of negotiations by the majority of the professional employees in a school district shall be the exclusive representative for all professional employees in that district for purposes of negotiations. Provided, however, that the individual or individuals selected to negotiate for the professional employees shall be a member of the organization designated to represent the professional employees and shall be a professional employee of the local school district. A local board of trustees shall negotiate matters covered by a negotiations agreement only with the representative organization designated by the professional employees of a school district.

SECTION 4. In the event the parties in negotiations are not able to come to an agreement upon items submitted for negotiations under a negotiations agreement between the parties, one or more mediators may be appointed. The issue or issues in dispute shall be submitted to mediation at the request of either party in an effort to induce the representatives of the board and the representative organization to resolve the conflict. The procedures for appointment of and compensation for the mediators shall be determined by both parties.

SECTION 5. 1. If mediation fails to bring agreement on all negotiable issues, the issues which remain in dispute may be submitted to fact-finding by request of either party. One or more fact-finders shall be appointed by the parties by mutual agreement. If such agreement cannot be

reached within thirty (30) days of the request for such appointment, the state superintendent of public instruction shall make such appointment. The fact-finder shall have authority to establish procedural rules, conduct investigations and hold hearings during which each party to the dispute shall be given an opportunity to present its case with supporting evidence.

2. Within thirty (30) days following designation of the fact-finder, he shall submit a report in writing to the respective representatives of the board and the professional employees, setting forth findings of fact and recommendations on the issues submitted.

SECTION 6. Nothing contained herein is intended to or shall conflict with, or abrogate the powers or duties and responsibilities vested in the legislature, state board of education, and the board of trustees of school districts by the laws of the state of Idaho. Each school district board of trustees is entitled, without negotiation or reference to any negotiated agreement, to take action that may be necessary to carry out its responsibility due to situations of emergency or acts of God.

SECTION 7. This act shall be in full force and effect on and after July 1, 1971.

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NEGOTIATION RESEARCH DIGEST

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RESEARCH DIVISION
NATIONAL EDUCATION ASSOCIATION

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Case Reviews

CALIFORNIA

CONTRACT RULED UNENFORCEABLE; BINDING GRIEVANCE ARBITRATION CLAUSE NEGATED

The Orange County Superior Court denied confirmation of an interim arbitration award (NRD, 6-71, 7) which held that the Placentia Unified School District was bound by and could not unilaterally withdraw from a binding grievance arbitration provision contained in its contract with the Placentia Unified Education Association. According to the court's memorandum decision,

> the public policy of the State, as expressed by legislation and judicial decision, is to circumscribe narrowly the powers of school districts, in the interests of state-wide uniformity . . . In light of [the] terms and legislative history [of the Winton Act] and. . .the scope, nature and legislative history of other legislation. . . dealing with employer-employee relations in the private and public sectors, the Court concludes that the Winton Act does not authorize a school board, in the course of procedures therein outlined, to enter into legally enforceable contracts with employee organizations, whether relating to binding grievance arbitration or otherwise.

On September 15, 1970, the Association and the district "informally agreed" upon a document which subsequently was ratified by both parties. The grievance procedure contained therein provided for final review of an unresolved grievance by a three-member panel and stated that "the panel's review of the grievance and its subsequent findings shall be rendered in writing . . . and shall constitute a final and binding decision regarding the grievance."

Three weeks after ratification of the contract, the district requested a legal review by the county counsel which resulted in 21 suggested changes in the agreement and a statement "that much of the wording in the existing document goes beyond the requirements of the Winton Act, either as it exists or as it has been amended." The county counsel's opinion specifically took issue with the finality of the negotiated grievance procedure and suggested that "any decision made by such a panel be advisory to the governing board which should have the power to make final decisions."

When the district was asked to appoint its representative to the grievance review panel, the superintendent replied that "the findings reached by the panel will be advisory only," owing to the school board's conclusion that implementation of the binding arbitration provision "would be illegal." Moreover, the board considered that conclusion to be an "emergency" warranting deviation from the contract under a clause stating that "no change, alteration or modification of these Articles I through XI shall take place during the 1970-71 fiscal year, unless there is mutual agreement of the Board of Education and the Negotiating Council, except in the case where the Board of Education determines that an emergency exists."

The board appointed its representative to the panel, but that representative declared that he was unauthorized to proceed further when the interim arbitration ward at issue here ruled arbitrable two grievances entered by the Association according to the negotiated procedure. The arbitration hearing was recessed pending resolution of the Association's court appeal.

In support of its ruling that the Winton Act does not authorize school boards to enter into legally enforceable contracts with employee organizations (whether or not binding grievance arbitration clauses are included), the court cited the Act's emphasis upon the retention of administrative rules and regulations, lack of certain "standard collective bargaining language," purpose of providing for "orderly methods of communications" between employees and employers, and exclusion from coverage by the collective bargaining portions of the state's labor code. The court additionally pointed to

> 2. The absence of the typical collective bargaining provision for the constitution of a body or employee organition with legal authority to present "negotiating" demands on behalf of employees and to bind employees by its own concessions. The "certified employee council" (Sec. 13085) does not meet these specifications.
>
> 3. The absence of any provision for a written contract or written agreement as a culmination of the "meet and confer" sessions. Such a provision is typical in statutes authorizing collective bargaining.
>
> 4. The provision, instead, that the "agreement" that might result from the "meet and confer" sessions would be memoralized by "written resolution, regulation, or policy of the governing board . . ." (Sec. 13081).

8. The provision of Sec. 13088, apparently reserving the "final decision" to the public school employer, which construed with the language of Sec. 13081 (d) adumbrates the legislative intent that the power of the school board to determine matters within its discretionary authority be not foreclosed by the outcome of the "meet and confer" sessions.

9. Lastly, the provision for resolution of "persistent disagreements" by "non-binding" recommendations or fact-finding by a three-man committee. (Sec. 13087.1)

With respect to the contract's "emergency" clause, the Association questioned the school board's power to invoke this provision (and thereby amend the grievance procedure to provide only for advisory arbitration) prior to institution of the grievance proceedings. The court found that both the Association and the chairman of the grievance review panel

appear to believe that the power to modify was not exercisable because no emergency existed, or perhaps because the legal advice that the school board received could not reasonably in good faith have been considered by it to have created an emergency. The legal climate in which the document was negotiated and ratified was one of uncertainty as to whether the school board could bind itself contractually. Even non-lawyers know that "emergency" is an indefinite word. For the parties to use such a term, without definition or limitation, in a provision that the determination of whether an emergency existed was unilaterally reserved to the school board leads to the conclusion that they were content to enter into an illusory contract . . . . Alternatively, they must have intended at least that the school board would not be held to strict standards of precision, objectivity or restraint in making its determination of the existence of an emergency and of the modifications that the emergency required. In the Court's opinion the legal advice, imprecise as it was, that the school board received sufficed to support its determination that an emergency existed and that the emergency required the abrogation of the provision for binding grievance arbitration.

The court accordingly ruled that when the arbitration proceedings began, "the document ratified by the parties did not . . . . provide for binding arbitration of grievances, and that whether or not it so provided [the issue] was never submitted to arbitration by the school board." *(Placentia Unified Education Association v. Board of Education, Placentia Unified School District,* Orange County Superior Court, May 5, 1971.)

ILLINOIS

UNEXPECTED STATE AID INCREASE RULED CONTRACTUALLY APPLICABLE TO TEACHER SALARIES

A contract clause providing that 1970-71 teacher salaries be increased in the event that legislative alteration of the state aid formula resulted in additional state aid funds for Granite City Community Unit School District No. 9 was ruled applicable to an unexpected "density bonus" received by the district under an amended portion of the Illinois School Code. The Madison County Circuit Court accordingly ordered the district to pay local teachers a $550 salary increase on June 4, 1971.

The 1969-70 contract negotiated by the district and the Granite City Federation of Teachers, AFL-CIO, Local 743, provided:

If, as a result of a change in the formula for State Aid resultant from a special session of the legislature held prior to the start of the 1970-71 school term;

a. Additional state aid funds are to be received by the district and

b. Such added funds are to be received for the 1970-71 school year.

Annual salaries for the 1970-71 school year shall be increased in accord with [a designated schedule].

Owing to a July 10, 1970, amendment to the Illinois School Code, the district received a 3.5 percent increase in state aid for the 1970-71 school year in the form of a "density bonus" amounting to nearly $260,000. The union then filed a court action, asserting that the density increase clearly resulted from legislative alteration of the general state aid formula, that it constituted additional state aid received by the district within the contractual definition, and that every district teacher should receive a $550 salary increase for the 1970-71 school year.

The district, however, argued that the density increase was not subject to the parties' contract clause because it is a form of state aid granted to certain districts for the improvement of instruction and is not intended to be applied to salaries. It also pointed to legal problems and guidelines issued by the state superintendent's office which would not allow enforcement of the provision as interpreted by the union.

Noting that there is a categorical type of state aid and a general type of state aid, the court found that the district had submitted a program which qualified for an increase in state aid funds under the density bonus provision. But, since this program was adopted prior to legislative enactment of funding increases under the density bonus formula, any additional funds received by the Granite district under that formula are to be utilized in the same manner as other general state aid funds received.

The court concluded that the density increase fell within the coverage of the parties' contract clause, thereby resulting in a $550 salary increase per teacher for the 1970-71 school year. *(Granite City Federation of Teachers, Local 743 v. Granite City Community Unit School District No. 9,* Madison County Circuit Court, June 10, 1971.)

MICHIGAN

APPLICATION OF PERA TO EASTERN MICHIGAN UNIVERSITY AFFIRMED

The Michigan Supreme Court upheld two lower court rulings (NRD, 1-70, 4) which determined that the Board of Control of Eastern Michigan University is a public employer within the meaning of the state's Public Employment Relations Act (PERA) and that its employees fall within the Act's jurisdiction. While the board argued that the PERA violated its right under Art. 8, §6, of the 1963 state constitution to "have general supervision of the [higher education] institution and the control and direction of all expenditures from the institution's funds," the high court found that the article does not constitute a

plenary grant of powers which, by any stretch of the imagination, would take plaintiff's operations outside of the area of public employment. "Public employment" is clearly intended to apply to employment or service in all governmental activity . . . . It is the entire public sector of employment as distinguished from private employment. The public policy of this State as to labor relations in public employment is for legislative determination. The sole exception to the exercise of legislative power is the State classified civil service . . . . We conclude that the autonomy sought by plaintiff in the area of labor relations is unnecessary for it to maintain "the entire control and management of its affairs and property."

When the American Federation of State, County, and Municipal Employees, Local 1666, petitioned the Michigan Employment Relations Commission (then the Michigan Labor Mediation Board) for certification as exclusive bargaining representative of university nonteaching, physical plant employees, the Commission asserted jurisdiction over the matter under the PERA. The university board then sought a judgment to the effect that it was not a public employer within the meaning of the PERA, and that application of the PERA to it violated Art. 8, §6.

While noting the provisions of Art. 8, §6, the trial court also pointed to Art. 4, §48, of the state constitution which states that "the legislature may enact laws providing for the resolution of disputes concerning public employees, except those in the state classified civil service." It found that "there is no reason that the two provisions of the Constitution cannot stand together," and explained:

Article VIII, Sections 5 and 6, were not meant to exempt [university] Regents and Boards from all laws passed by the legislature. It is not an unlimited grant . . . . It is not felt that Article IV, Section 48, would intrude on Regent's or Boards' exclusive power to supervise the affairs of their institutions . . . . It must be remembered that the [PERA] . . . does not impose an obligation on parties (employer or employee) to agree to any proposal or to require the making of a concession. Neither party is forced under the act to enter into any agreement. The Act mainly deals with the rights of employees . . . . Employers must meet with them but are not compelled to agree.

The Michigan Court of Appeals later affirmed this ruling on appeal, as did the state supreme court here. *(Board of Control of Eastern Michigan University v. Labor Mediation Board,* Michigan Supreme Court, April 5, 1971.)

NEW JERSEY

SCHOOL BOARD CONTRACTUALLY OBLIGATED TO PROVIDE SABBATICAL LEAVE FOR 4 PERCENT OF TEACHERS

In construing a sabbatical leave provision negotiated by the Englewood Cliffs Education Association and the local school board, the Bergen County Superior Court held that the board must provide sufficient funds to finance three sabbatical leaves, rather than two. The board had disputed the meaning of portions of the provision's language, but the court held that the effect of the board's definitional arguments "would be to render meaningless a right bargained for by plaintiffs." The court also dismissed the board's contention that plaintiffs had failed to exhaust their administrative remedies, since the issue presented was "solely a question of law."

The sabbatical leave clause was contained in a contract effective from July 1, 1970, through July 31, 1971, and provided in part that "[i]f there are sufficient qualified applications, sabbatical leaves shall be granted to a maximum of 4% of teachers at any one time." When the three plaintiffs here applied for leave, the superintendent found them all to be qualified, but said he could choose only two according to instructions from the board.

Plaintiffs then brought an action seeking to compel the board to include sufficient funds for three sabbatical leaves in its 1971-72 budget request. While the court had no authority to interfere with the legislative process by which budget appropriations for New Jersey school districts are determined, it ordered the board to set aside funds equal to the cost of one sabbatical leave pending disposition of the present matter.

The board moved to dismiss plaintiffs' complaint on grounds that plaintiffs had failed to exhaust their administrative remedies under the contractual grievance procedure and under statute. But the court held that plaintiffs were not required to follow the statutory route, because the parties' controversy raised no questions of fact and hinged "solely on the construction of the

language of the agreement. This is a question of law for the Court."

Regarding the merits of the case, the board argued that the word teachers as used in the sabbatical leave provision referred only to actual classroom teachers and excluded teacher aides. It accordingly maintained that the district teaching staff consisted of 72.4 teachers, a figure which included two part-time teachers, but excluded the district's 11 teacher aides. Plaintiffs, however, included 85 staff members within the definition of the term teachers, and the court pointed out that "by a process of simple arithmetic, 4% of 85 would be 3.4 or 3 teachers."

Moreover, the court noted that Art. I of the parties' agreement provided that "the term 'teachers,' when used hereinafter in this agreement, shall refer to all professional employees represented by the Association in the negotiating unit as above defined." The contractual unit definition included regular and special teachers, teacher aides, and several categories of specialists. As such, the court held that

> defendant cannot now complain that the meaning of "teachers" was dependent on its context in a particular provision. The language is clear and the Court has no duty other than to carry its meaning into effect . . . . Moreover, even if the Court were to accept defendant's figure of 72.4 then 2.89 teachers would be involved. Obviously the Court would consider this as 3 teachers in the same manner that 3.4 would be 3 and not 4.

The board additionally contended that the word maximum as used in the leave provision gave the board discretionary authority to grant leaves to less than 4 percent of the qualified applicants. Plaintiffs, however, pointed to the mandatory language of the clause and defined the word maximum as providing for a "situation where there may be applications by qualified persons in excess of 4% of the teachers."

Finding the language of the clause neither clear nor unambiguous, the court turned to the rules of construction and stated that it "must strictly construe any agreement against the draftsman." It pointed out that if the board's argument was correct, "the corollary of its position must be that it can grant no sabbatical leaves if it sees fit. For if defendant can grant leaves to less than 4% of the teachers, what is to prevent defendant from allowing only one or even none as opposed to the two it opts for here . . . . [P]laintiffs could not have been bargaining for an illusory provision and defendant must have understood this."

Concluding that plaintiffs' interpretation of the language was correct, the court briefly noted that the board's first draft of its 1971-72 budget "appropriated an amount sufficient to finance three such sabbaticals." *(Betty Eagle, et al. v. Board of Education of the Borough of Englewood Cliffs, Bergen County,* Bergen County Superior Court, February 19, 1971.)

RHODE ISLAND

BINDING GRIEVANCE ARBITRATION ENFORCED; SEVERANCE PAY RULED NOT GRATUITOUS

Negotiated grievance procedures ending in binding arbitration are valid and enforceable despite the absence of specific statutory language authorizing negotiation of such clauses, according to a decision of the Rhode Island Supreme Court. In so ruling, the high court affirmed a superior court judgment which upheld a binding arbitration award in the matter of severance pay due 11 retiring teachers pursuant to a 1968-69 contract negotiated by the Providence Teachers Union, AFL-CIO, Local 958, and the Providence School Committee.

The parties' contract provided in sec. 3-22 that

> all teachers at the time of retirement after thirty-five (35) years of service in the Providence Public School Department shall be entitled to a maximum severance pay equal to ninety (90) full days and two hundred (200) half-days provided no absences have occurred during the last thirty-five (35) years of service. All absences charged against the teacher's sick leave reserve during the last thirty-five (35) years of service shall be deducted from the maximum severance allotment in the determination of individual severance allowances.

Subsequent to negotiation of the 1968-69 contract and in accordance with newly enacted legislation, the Providence mayor appointed a new school committee whose members adopted a resolution repudiating the severance pay clause negotiated by the former committee on grounds that funds were unavailable. The union grieved this action according to the contractual grievance procedure, which provided that all unresolved grievances be submitted to a three-member arbitration board for a binding decision. A board was appointed and a majority of its members eventually ordered payment of the retirement benefits to 11 eligible teachers.

The school committee challenged this award in a superior court action, arguing there and here that its predecessor lacked specific statutory authority to enter into an agreement containing a binding grievance arbitration clause. Noting the presence of specific language for establishing "a method of arbitration of disputes" in the state's policemen's and firefighters' arbitration acts and a corresponding absence of such language in the School Teachers' Arbitration Act, the committee contended that it was not bound by the arbitration award.

On appeal, the state supreme court found that the school committee failed to distinguish between the arbitration of negotiation disputes and grievance arbitration. It explained that "the only issues any of the three acts expressly authorize to be submitted to arbitration are those unresolved at the bargaining table." Moreover, by virtue of the Act, the court found it "obvious that the Legislature intended that the certified personnel of the state's public schools would be accorded many of the well-recognized rights enjoyed by those employed in the private sector of our economy. If this court is to effectuate this legislative purpose, we cannot look at the [Act] in a vacuum."

Applying the *in pari materia* rule, the high court found that a state statute which established

> a legislative framework for the arbitration of labor controversies . . . provides that a written provision in a written contract between an employer and a union or association of employees to settle any controversy shall be valid, irrevocable and enforceable except upon such grounds as exist in law or in equity for the revocation of such contract. It is quite apparent that the Legislature when it enacted the . . . Act intended that a group such as Local 958 would have the same rights as any other labor organization except those as might be specifically withheld. We therefore hold that the provisions of chap. 9, title 28 give the union the right to provide in its contract with the school committee for the arbitration of grievances arising out of the May 1968 contract and that the school committee was bound to submit the "severance" pay dispute to arbitration as provided in article 7 of the contract.

While the school committee argued that the arbitration award was invalid because it was not unanimous, the court cited another portion of Chap. 9, Title 28, which states that "an award made by a majority of the arbitrators shall be valid unless the contract expressly required the concurrence of all the arbitrators. We have examined the contract and cannot find the specificity described in the statute."

Regarding the severance pay provision, the committee contended that it was prospective in nature, and that the only teachers entitled to its benefits would be those retiring in the year 2003. If interpreted otherwise, the committee claimed that the provision would violate "the principle that a municipality cannot grant its employees a 'gratuity' on account of work already performed." But the state supreme court found "nothing in the nature of a gratuity with the award in the controversy" and commented:

> This clause serves a useful function in the eductional scheme. This provision calling for the payment of accumulated sick leave after 35 years of service acts as an inducement to teachers to remain in the school system and deters absenteeism for trifling ailments . . . . It acts as an aid in seeking to insure that the pupils might have a continuity of teaching techniques in their classrooms throughout the school year . . . [and] might save the school administration much toil and trouble as it seeks to obtain the services of a substitute to cover for the regular teacher who, . . . takes advantage of some of his unused sick leave . . . . We cannot fault the retirement award provisions because, in computing the amount due, it takes into consideration services rendered by an employee prior to the effective date of the contract. Many courts have held that a governmental employee is not to be denied compensation because of the mere fact that his salary or retirement award is based on work performed prior to the effective date of the pay plan or retirement agreement.

Finding the severance pay clause valid and proper, the court pointed out that "the school committee is free to insist that it will not agree to the inclusion [of such a clause] within any future collective bargaining agreement." The court finally dismissed the committee's funding argument as affording "no legal basis for [its] unilateral disavowal of the 1968 agreement." According to state law, once a school committee is furnished with its appropriation, it "is then free to allocate the sums appropriated . . . as it deems fit. While we cannot . . . determine the causes for the committee's financial plight, it may not disregard the obligations it assumed when it took office in October 1968." The state supreme court concluded that "the money due the retirees is a debt of the city," denied and dismissed the committee's appeal, and remanded the matter to the snperior court. (*Providence Teachers Union, Local 958, American Federation of Teachers, AFL-CIO v. School Committee of the City of Providence, et al.*, Rhode Island Supreme Court, April 23, 1971.)

OTHER ITEMS OF INTEREST

SUPREME COURT DECLINES REVIEW OF TEACHERS' CONTEMPT SENTENCES

In separate actions, the Supreme Court of the United States declined review of two cases originating in the Illinois state courts and dealing with the criminal contempt convictions of teachers for violations of anti-strike injunctions. Brief reviews of the cases follow.

In a case involving the Kankakee Federation of Teachers, AFL-CIO, Local 886, the Illinois Supreme Court upheld criminal contempt sentences levied against Federation members for willful noncompliance with a temporary restraining order issued during an April 1969 strike (NRD, 2-71, 5). Although defendants argued that the *ex parte* order deprived them of due process of law and violated their constitutional right of free speech, the state high court concluded that defendants' disobedience of the order "merited their punishment for contempt" and pointed out that

We are not dealing with a prior restraint, nor was the trial court . . . confronted with a constitutionally protected area of free speech. Picketing, while a mode of communicating ideas, is not dogmatically equated with constitutionally protected speech . . . and it is settled that the first and fourteenth amendments do not afford the same kind of freedom to those who communicate ideas by picketing, as they afford to those who communicate ideas by pure speech . . . . Here, the unlawful strike of the teachers was already in progress when the temporary order was sought, and the picketing the Board was seeking to restrain was being carried on for the purpose of fostering and supporting such unlawful strike.

(*Board of Education of Kankakee School District No. 111 v. Kankakee Federation of Teachers, Local No. 886,* U.S. Supreme Court, cert. denied, June 7, 1971.)

The second case concerned an Illinois Appeals Court ruling (NRD, 1-71, 3) which upheld a lower court's refusal to dissolve a temporary injunction issued during a labor dispute between the Cook County College Teachers Union, AFL-CIO, Local 1600, and the Cook County Board of Junior College District No. 508. Union members struck and picketed in violation of the injunction, but counsel to the board moved to dissolve the temporary injunction once the parties settled their dispute. The trial court, however, denied the motion and issued a show cause rule which resulted in the criminal contempt conviction of the union and its president.

The state appeals court subsequently affirmed the lower court's actions in finding that the lower court had jurisdiction of the subject matter, that the matter was of a criminal rather than a civil nature, and that "under no theory can a party that obtains an injunction bind the issuing court with condonation of contemptuous or illegal acts of those who violate the court's order." As the evidence "proved beyond a reasonable doubt that defendants were guilty of contempt of court," the appeals court concluded that the fines and imprisonment imposed by the trial court constituted "exercise of reasonable discretion." (*Board of Junior College District No. 508, County of Cook and State of Illinois v. Cook County College Teachers Union, Local 1600, et al.* U.S. Supreme Court, cert. denied, May 24, 1971.)

Board Findings and Rulings

CONNECTICUT

PLAN TO REGAIN DAYS LOST BY STRIKING REJECTED

In considering whether a union plan for allowing teachers to make up days and pay lost during a strike was sound and feasible, an arbitrator accorded greater weight to the New Haven school board's educational objections to the proposed plan and denied system teachers a chance to recover any of the days lost. Since the situation did not involve a claim based upon contract language and the board's objections were "reasonable and sound," the arbitrator decided that the board "as the designated instrument of the state to fill in the details of educational policy and to administer it" was entitled to greater consideration than "informed professional teachers."

New Haven teachers went on strike on September 8, 1970, during a negotiation dispute, and remained on strike in varying numbers through September 24. The strike action was taken despite a temporary injunction prohibiting such activity, a board offer to continue negotiating while operating under the terms of an expired contract, and the understanding that the terms of any new contract reached with the New Haven Federation of Teachers, AFL-CIO, Local 933, would be retroactive to the first day of the 1970-71 school year.

A series of court proceedings ensued during which the union was released as a defendant to the temporary injunction, and certain teachers were arrested and fined for violation of the injunction. On September 18, the parties reached settlement, and the board agreed to add to the proposed salary schedule all money not spent on striking teachers' salaries through that date. As the teachers did not ratify the tentative settlement, the strike continued through September 24 when the parties agreed to submit to binding arbitration the matter of a make-up plan. The arbitrator was empowered to decide whether such a plan was equitable, and how the lost days could be recovered. However, the make-up program was to apply only to four days (September 21 to September 24).

The union's plan provided that all teachers could "volunteer" for a tutoring program to be conducted outside school hours at a specified average salary. Pupil participation in the program was to be voluntary, and participating teachers could tutor for a maximum of 27 hours. The board objected to the program because of its voluntary nature and the logistical problems it posed; it also disputed the program's educational value and raised the problems of transportation and supportive services.

While finding some merit to the union's argument that the program would benefit pupils who had suffered an "educational deficiency" during the strike, the arbitrator also considered the board's contention that the program was merely a means of compensating teachers "when they abandoned the interests of their pupils and went on strike even though the board had agreed to apply any increases granted retroactively." He expressed "grave doubts" about interfering with state policy and substituting his judgment for that of the board, explaining:

> An arbitrator determining whether a make-up program should be "allowed" to teachers who were on strike would be decision-making in a field already occupied by statute and, by virtue of the statute, the courts. I make no finding here that a make-up program will or will not compensate wrongdoers and encourage them, in the next go-around, to look for *ad hoc* educational programs to recompense them for time lost while on strike; but the argument made by the board, even if not embraced, must be recognized as tenable and worthy of consideration . . . . Educational systems and programs and the policies involved therein, under the law of this state, are not to be formulated, determined and administered by arbitrators or associations of teachers, but by the legislature, in the first instance, and by boards of education. The boards flesh out the statutory skeleton and have the delegated authority to do all things necessary to run the educational system including arrangements with associations of public employees not prohibited by law.

The arbitrator pointed out that the matter did not involve a normal collective bargaining problem, but a question of whether the union's make-up plan "is educationally sound and administratively feasible." Under those circumstances, he decided that more weight should be accorded to the board's sound educational objections to the plan and denied the union's attempt to regain lost days. *(New Haven Board of Education and New Haven Federation of Teachers,* American Arbitration Association, February 24, 1971.)

PENNSYLVANIA

FACT-FINDER RECOMMENDS 8 PERCENT PAY INCREASE IN A TWO-YEAR CONTRACT

A fact-finder appointed to resolve a bargaining impasse between the Monessen Education Association and the local school district cited the "already well nigh unbearable" tax burden of district residents and the system's tight budget as reasons for rejecting the Association's demand for a 15 percent pay increase. Recommending instead an 8 percent pay increase in a contract of "at least two years' duration," the fact-finder also advised the parties to include a comprehensive arbitration clause (including a no-strike provision) and provisions for maternity leave, unpaid leaves of absence, and teacher preparation periods in their first negotiated contract under the state's Public Employee Relations Act (PERA).

The fact-finder, one of the first appointed under the PERA, commended the parties' "first crack at a negotiated written contract," but found the demands "staggering in their complexity if measured by private industry historical procedure." Specifically, he criticized the Association's insistence upon a master contract retroactive to the 1970-71 school year, and its demand for salary increases resulting in a pay scale ranging from $8,500 to $15,500. On the other hand, the school board was "implacably opposed" to the complexity of the Association's demand, the request for retroactivity, and the proposed salary increases. It also alleged that the Association had failed to negotiate pursuant to statute.

Noting that prior disputes between the parties had "engendered three work stoppages in three years," the fact-finder pointed out that the Association's salary demand would necessitate adding another seven mills to the district's current millage rate of 44. Moreover, a projected school budget incorporating the pay increase would lack funds to cover increased pupil enrollment and new school construction; provision for such contingencies "would entail another 20 mill increase," according to the fact-finder. He added that "there is no requirement to negotiate retroactively for the year 1970-71 during which the teachers were paid and accepted [a] $400 increase after [a] work stoppage."

Considering the competitiveness of Monessen district salaries with those offered by surrounding school systems, the fact-finder found the present B.A. scale of $6,600 to $10,600 to be adequate, while the M.A. salary range of $6,900 to $11,200 indicated a need for a more substantial differential. He accordingly recommended that the parties negotiate a two-year contract (beginning with the 1971-72 school year) with a B.A. base of $7,128, an M.A. maximum of $12,096, and a resultant average salary of $9,253. However, he rejected a cost-of-living formula, maintaining that it is "impossible in a tight budget."

In conclusion the fact-finder commented that "it is urged that the initial contract be kept relatively simple and brief, recalling that the best contract is one with the least inherent flash points--one both parties can live with." *(Monessen School District and Monessen Education Association*, March 22, 1971.)

RHODE ISLAND

IMPASSE AWARD ON RELEASED TIME ECONOMIC ITEM RULED NOT BINDING

An arbitration award involving implementation of a released time program and the consequent expenditure of money was ruled not binding by the Rhode Island State Labor Relations Board under the state's school teachers' Arbitration Act. According to the Act, awards rendered in negotiation disputes "shall be binding . . . on all matters not involving the expenditure of money." Determining that the Cranston School Committee statutorily was not obligated to implement the released time award, the state board ruled that the committee had not committed an unfair labor practice by its failure to so implement.

When the Cranston Teachers Association and the local school committee reached impasse on the issue of paid curriculm preparation time for teachers during the school day, the matter was submitted to arbitration. In accordance with a May 7, 1969, award, a four-member joint committee of the parties developed four plans for implementing a released time program. The school committee failed to implement any of the plans, so the Association filed unfair labor practice charges. It contended that the arbitration award required the committee to choose one released time plan for implementation, that the committee had failed to implement the award, and that it had not negotiated in good faith regarding implementation of the award.

The school committee, however, argued that the award was merely advisory since it involved the expenditure of money. It also showed that it was negotiating in good faith on the implementation of a released time program despite the nonbinding nature of the award. The state board accordingly concluded that "this award does in fact call for the expenditure of money and thus is not binding on the respondents under the Michaelson Act . . . . Further, the board feels that

the record established before it shows that the respondents have been properly negotiating as to the implementation of said award." *(Cranston Teachers Association and Cranston School Committee*, Rhode Island State Labor Relations Board, March 23, 1971.)

WISCONSIN

SICK LEAVE PAY FOUND INAPPLICABLE TO EARLY DELIVERY PRECEDING MATERNITY LEAVE

A pregnant teacher who claimed she was entitled to two weeks' sick leave pay when she was delivered approximately two weeks prior to her scheduled maternity leave and two months prior to her expected delivery date was denied relief by an arbitrator. Finding distinct differences between the intent and purposes of maternity and sick leave provisions contained in a contract between the Madison Area Technical College Teacher's Union, AFL-CIO, Local 243, and the District No. 4 board, the arbitrator held that the board's refusal to pay $456.34 in sick leave benefits to the teacher was proper.

In January 1970, grievant advised the board that she was pregnant and expected to deliver on July 27. While the parties' contract mandated commencement of maternity leave two months prior to an expected delivery date, grievant asked to complete the spring term since it extended only one week past the date on which she contractually should begin her leave. The district director granted her request for leave from June 7 to September 1 while noting that a "technical violation of the union contract may exist." Moreover, her request was not processed in the usual manner because she was expected to deliver during the summer when school was not in session.

Grievant was delivered on May 25 and consequently did not return to her spring term teaching duties, which would have ended on June 6. However, upon returning for the fall term, she requested a sick leave benefit equal to the salary she would have received if she had been able to complete the spring term.

Local 243 argued that grievant was entitled to the benefit because she had applied for maternity leave in accordance with contractual requirements, had been granted such leave beginning June 7, and because the contract's sick leave clause did not exclude from its coverage medical complications relating to childbirth which would relieve the board of its obligation if the employee otherwise was eligible for sick leave. In addition the union found no justification for the board's failure to allow grievant the benefit of working to the end of the school year since that action "changes retroactively the agreement that was reached by [grievant] and the district in accordance with the terms of the . . . agreement."

The board contended that sick leave and maternity leave are distinctly and separately defined and administered, and pointed out that the two provide different benefits. It also maintained that grievant was not sick, referring to her doctor's characterization of pregnancy as a "physiologic rather than a pathologic experience."

Determining that the two types of leaves are quite different, the arbitrator observed that the parties' contractual sick leave provision no doubt was intended to cover pre-natal illnesses occurring prior to the mandatory commencement of maternity leave. But, he found the contract's language specific as to what types of leaves may be granted for what qualifying conditions, and decided that he was "not persuaded that the facts in this situation permit a conclusion that sick leave benefits are due the grievant":

> The special consideration granted [grievant] . . . cannot be construed as a contract, which, in the opinion of the union, the employer now retroactively seeks to break. Permission to delay the start of maternity leave was granted because of the short period of time involved and because both the grievant and the employer placed good faith reliance on the prognosis that she would deliver during the summer. Also, it may well be argued that no leave was actually granted inasmuch as the district director told [grievant] that her request would not be processed in the usual manner, i.e., presented to the Board of Education, because of the projected sequence of events. The argument that [grievant] was "deprived of the benefits of her bargain" by the denial of sick leave benefits has no merit inasmuch as it is obvious that the employer likewise was deprived of her services for the period of time between May 25, 1970, and June 7, 1970, for which he bargained.

(In the Matter of Arbitration between Madison Area Board of Vocational, Technical and Adult Education District No. 4 and Madison Area Technical College Teacher's Union, Local 243, March 1, 1971.)

TEACHER TRANSFERRED PARTLY FOR UNION ACTIVITY ORDERED REINSTATED IN FORMER POSITION

A Milwaukee teacher who was transferred to another school following an adverse performance evaluation was ordered reinstated to his former position or an equivalent one upon a determination by the Wisconsin Employment Relations Commission (WERC) that the transfer was partially motivated by anti-unionism. The WERC adopted the findings of a trial examiner (NRD,

1-71, 11) who had held that "regardless of how many valid reasons exist for action taken against an employee, if said action is partly motivated by protected union activities, then said action is unlawfully discriminatory and violates Section 111.70 of the Wisconsin Statutes."

First employed in the Milwaukee school system in February 1968, the teacher was transferred at the beginning of the 1969-70 school year upon the recommendation of his principal. An evaluation of the teacher conducted by the principal in the spring of 1969 initially stated that "there can be no adverse criticism of [the teacher's] work in the classroom," but went on to criticize his "questionable judgment in dealing with matters outside his classroom" and his "active leadership role in criticism of the administration."

Noting that this evaluation constituted the teacher's first "below average" rating, the trial examiner found "sufficient evidence . . . seemingly supporting [the principal's] cirticism" of actions taken by the teacher in handling a personal assault incident and in referring disciplinary problems to the administration. But he also found it "significant" that the principal's testimony as to the reasons for his criticisms was vague, and that "much of [his] explanation related to the [the teacher's] alleged deficiencies in student control even though said deficiencies were subject to specific criticisms in another part of the evaluation."

Moreover, the examiner held that the principal's recommendation for transfer was motivated in part by the teacher's activities during the spring of 1969 when he processed two grievances in behalf of the Milwaukee Teachers Education Association. Concurring with this finding, the WERC ordered the Milwaukee school board to reinstate the teacher and provide him with a new or amended evaluation of his 1968-69 teaching experience "based on a fair and nondiscriminatory evaluation on his performance as a teacher." *(Milwaukee Teachers Education Association and Milwaukee Board of School Directors,* Wisconsin Employment Relations Commission, April 27, 1971.)

OTHER ITEMS OF INTEREST

NLRB REFUSES JURISDICTION OVER NONPROFIT EDUCATION CORPORATION

The National Labor Relations Board (NLRB) declined to assert jurisdiction over unfair labor practice charges involving the Center for Urban Relations (a nonprofit New York state educational corporation) and the Center Employees Association. Acting upon a series of jurisdictional petitions filed by the parties and the New York State Labor Relations Board, the NLRB held that the Center's activities are essentially local in nature, are focused upon the public schools, and "would not have a substantial impact on interstate commerce."

According to the NLRB, the Center operates as "part of a national program of educational laboratories created by Title IV of the Elementary and Secondary Education Act, and [its] principal activities are directed to local public education in urban and suburban communities." The Center argued that assertion of NLRB jurisdiction herein would be appropriate since its primary operations cover portions of three states, and it has had contracts with school boards and private businesses throughout the country.

But the state board and the Association contended that the Center's business is primarily local in nature, that it does no business with colleges and universities, and that it does not compete with commercial firms performing similar work since it is both noncommercial and nonprofit. They also argued that the NLRB should not expand its jurisdiction to this case (as it has in other cases in recent months under its $1 million jurisdictional standard for private nonprofit colleges and universities) since the case did not present "a situation which is national in scope."

Finding that the Center's services "to other organizations, such as private foundations and business concerns, . . . constitute a relatively minor portion of its operations, and do not materially alter the essentially local nature of its activities and endeavors," the NLRB concluded:

> Notwithstanding that the Employer's annual budget is in excess of $2 million and that its operating funds are derived principally from the Federal Government, the focus of the Employer's activities is centered on research and development in the aid of public school institutions, and its activities are, therefore, essentially local in character and any labor dispute in conjunction therewith would not have a substantial impact on interstate commerce. Under all of these circumstances we are of the opinion that pursuant to the provisions of Section 14(c)(1) of the Act, the Board should exercise its discretion by refusing to assert jurisdiction over the operations of the Employer.

(Center for Urban Education and Center Employees Association, National Labor Relations Board, April 16, 1971.)

Negotiation Notes

ALASKA

INDEPENDENT NEGOTIATION FOR ADMINISTRATORS ALLOWED

An amendment to sec. 14.20.560 of the Alaska teacher bargaining law provides that certificated administrative personnel may elect to negotiate independently of other certificated school personnel. Effective August 5, 1971, the amendment reads:

(f) Nothing in this section shall be construed to prevent certificated administrative personnel groups, including principals and assistant principals, from having the right to negotiate independently of the other certificated personnel if they choose to do so as the result of a secret ballot.

HAWAII

PERB MEMBERSHIP REDUCED

An amendment to a portion of sec. 5(a) of the Hawaii public employee bargaining law reduced the membership of the Public Employment Relations Board (PERB) from five to three and altered the length of the members' terms of office. The amendment was enacted by S.B. 1173 and became effective May 13, 1971.

It reduced the number of labor and management representatives from two each to one each; the public will continue to be represented by one PERB member. The amendment also provides that "the terms of members first appointed shall be for four, five, and six years respectively as designated by the governor at the time of appointments," while all members appointed thereafter shall serve six-year terms.

MARYLAND

TEACHERS NOW MAY NEGOTIATE BINDING GRIEVANCE ARBITRATION CLAUSES

Public-school employers and employee organizations now are authorized to negotiate binding grievance arbitration provisions, according to an amendment to a portion of sec. 1(h)(2) of the Maryland teachers' bargaining act. Enacted by S.B. 826, the amendment was signed by the Maryland governor on May 18, 1971, and became effective July 1, 1971.

The term negotiate as previously defined in the statute, included "the duty to confer in good faith, at all reasonable times, and to reduce to writing the matters agreed upon as the results of such negotiations." The new amendment then provides that "such agreements may include a provision for the binding arbitration of grievances arising under such terms of the agreement as the parties have agreed to be arbitrable."

MICHIGAN

STATE CIVIL SERVICE COMMISSION CANNOT REVOKE DUES CHECK-OFF FOR STRIKE

An appeal of an appellate court ruling which held that the Michigan Civil Service Commission (CSC) illegally revoked the dues check-off privileges of the American Federation of State, County, and Municipal Employees, Local 1342, for conducting a 12-day walkout in September 1968 at the Lincoln Park Liquor Control Commission warehouse has been withdrawn.

In prior litigation (NRD, 3-70, 3), the Wayne County Circuit court had vacated the CSC's check-off suspension order on grounds that "the only sanction that may be imposed by the Commission [under its State Employee Relations Policy] is the cessation of recognition of the particular employee organization, which organization was previously recognized under the policy." The Michigan Court of Appeals then determined that the check-off suspension "was arbitrary and cannot stand" since the Commission's rules and regulations nowhere contain a "provision for a suspension of dues check-offs as a possible penalty for engaging in strike activity."

NEW YORK

TAYLOR LAW AMENDED

An amendment which became effective March 1, 1971, extends sec. 205(5)(d) of the Taylor

Law to provide that the "exclusive nondelegable jurisdiction" of the New York Public Employment Relations Board in establishing "procedures for the prevention of improper employee organization practices" shall not apply to New York City prior to March 1, 1972.

SOUTH DAKOTA

PUBLIC EMPLOYEE BARGAINING STATUTE AMENDED TO ALLOW EXCLUSIVE REPRESENTATION

Recent legislative action in South Dakota has resulted in amendments to both the state's labor relations act and the public employee bargaining statute. The state act amendments, which were enacted by H.B. 507 and became effective July 1, 1971, created a state Department of Labor and Management Relations and a state Labor and Management Relations Board. With regard to the public employee bargaining statute, H.B. 716 (also effective July 1, 1971) replaced the formal and informal representation portion of the statute with a provision for exclusive representation and altered the procedure for implementing a negotiated settlement.

The newly created state labor department is empowered "to exercise all power and perform all duties relating to the field of labor and management relations as may be assigned by the legislature. This department is charged with the responsibility of assisting employers and employees in meeting their respective obligations and in benefiting from their respective rights under the laws." The amendment also provides for the establishment of a five-member state labor board which "shall appoint a Commissioner of Labor and Management Relations" and assign his duties. He, in turn, is to assume all duties performed by the former Commissioner of Labor and "shall be responsible for the enforcement of all labor laws," including the public employee bargaining statute.

Sec. 3-18-3 of the public employee bargaining law, as repealed and reenacted by the legislature, now provides for exclusive representation with the option of individual grievance adjustment. It reads:

> Representatives designated or selected for the purpose of formal representation by the majority of the employees in a unit appropriate for such purpose shall be the exclusive representatives of all employees in such unit for the purpose of representation in respect to rates of pay, wages, hours of employment, or other conditions of employment; provided that any individual employee, or group of employees, shall have the right at any time to present grievances to their employer and to have such grievances adjusted without the intervention of the formal representative as long as the adjustment is not inconsistent with the terms of any settlement with the formal representative then in effect, and provided that the formal representative has been given opportunity to be present at such adjustment.

Lastly, an amendment to sec. 3-18-8 of the public employee bargaining statute stipulates that a governing body shall implement any settlement reached with an employee organization in the form of "an agreement which shall be effective only upon approval by resolution of the governing body." That section formerly provided that a settlement would be implemented by the governing body in the form of "an ordinance, resolution, or memorandum of understanding as may be appropriate and consistent with the powers of the governing body."

WASHINGTON

COMMUNITY COLLEGE BARGAINING STATUTE ENACTED

A newly enacted statute granting bargaining rights to academic employees of Washington community colleges became effective August 9, 1971. As defined in the law, the term " 'academic employee' means any teacher, counselor, librarian, or department head, division head, or administrator who is employed by any community college district, with the exception of the chief administrative officer of each community college district."

The statute provides that an employee organization winning a majority of the votes cast in a secret ballot election among academic employees of a community college district

> shall have the right, after using established administrative channels, to meet, confer and negotiate with the board of trustees of the community college district or a committee thereof to communicate the considered professional judgment of the academic staff prior to the final adoption by the board of proposed community college district policies relating to, but not limited to, curriculum, textbook selection, in-service training, student teaching programs, personnel, hiring and assignment practices, leaves of absence, salaries and salary schedules and noninstructional duties.

However, any individual academic employee may appear on his behalf in matters pertinent to his employment relations with a community college. The statute further provides for the establishment of a committee whose services may be sought when "any matter being jointly considered by the employee organization and the board of trustees of the community college district is not settled" by statutory means. Composed of educators and community college trustees appointed by the director of the state community college system, the committee shall make advisory, written recommendations to the parties within 20 days of receipt of their request for assistance.

Other portions of the law prohibit discrimination on the basis of employee organization activities, provide that community college boards of trustees "shall adopt reasonable rules and regulations for the administration of employer-employee relations" pursuant to statute, and state that nothing shall interfere with any lawful agreements previously entered into by an employee organization and a community college. The full text of the Washington statute is reprinted in the "Texts" section of this DIGEST.

OTHER ITEMS OF INTEREST

AFT ATTEMPT TO ORGANIZE SCHOOL SECRETARIES RULED VIOLATIVE OF AFL-CIO INTERNAL DISPUTES PLAN

Apparent attempts by Local 4 of the American Federation of Teachers (AFT), AFL-CIO, to organize Gary, Indiana, school secretaries who already were exclusively represented by the Service Employees International Union (SEIU), AFL-CIO, Local 208, constituted a violation of Art. XX of the AFL-CIO constitution, according to an AFL-CIO impartial umpire. Sec. 2 of Art. XX (known as the Internal Disputes Plan) requires every AFL-CIO affiliate to respect the "established collective bargaining relationship" of all other affiliates.

In the instant matter, the umpire found that AFT communications with the secretaries through a questionnaire and follow-up memorandum issued during the late summer and fall of 1970 "clearly indicate a violation of Section 2 in that the acts of AFT constitute an attempt to represent employees as to whom an established collective bargaining relationship exists with SEIU."

The AFT argued that its actions in seeking information regarding the secretaries' affiliation and their interest in forming a chapter of the Gary Teachers Union were "to lay the groundwork" for a proceeding under sec. 4 of Art. XX. That section allows one AFL-CIO affiliate to interfere with the established bargaining relationship of another when "special and unusual circumstances" are evidenced. The AFT contended that it had jurisdiction over school secretaries and that it properly should organize them.

But the umpire rejected that argument in holding that invocation of a sec. 4 proceeding must precede any attempt to infringe upon another union's established bargaining relationship. That is, the AFT should have obtained an AFL-CIO ruling to the effect that special circumstances were in evidence in the situation before it attempted to organize school secretaries represented by the SEIU.

SUPREME COURT DECLINES REVIEW OF CONTEMPT FINES

An Illinois Supreme Court ruling (NRD, 3-71, 6) which vacated a permanent injunction issued against striking and picketing nonsupervisory employees of the Peoria County Bel-Wood Nursing Home but upheld sentences for contempt of a preliminary injunction was denied review by the Supreme Court of the United States. While the state supreme court found that the preliminary injunction erroneously was issued under the Illinois anti-injunction act, it nevertheless held that certain employees' violation of the injunction's "prohibitions and restraints warranted punishment for contempt." It explained that an injunction "must be obeyed . . . until it is reversed for error by orderly review."

CHALLENGE TO BARGAINING REPRESENTATIVE'S EXCLUSIVE PRIVILEGES WITHDRAWN

An appeal of a U.S. District Court decision (NRD, 9-70, 3) which found no constitutional violations in the Denver County School District's grant of check-off and other exclusive privileges to the Denver Classroom Teachers Association (bargaining representative of local teachers) has been withdrawn. The Denver Federation of Teachers, AFL-CIO, Local 858, originally brought suit against the district, claiming that exclusive privileges granted to the Association but denied the union as minority organization violated its constitutional rights of free speech and association, and equal protection under the law.

The U.S. District Court for the District of Colorado, however, pointed out that "we must carefully distinguish the exercise of those rights peculiarly involved in the employer-employee relationship from broader rights of speech and association." Stating that the privilege of dues check-off "is peculiarly a matter of labor relations," the court held that "neither the First Amendment nor any other constitutional provision entitles a public employees' union which has lost a representation election to the special aid of a public employer's collection and disbursing facilities." It concluded that the grant of exclusive privileges to the duly elected bargaining representative "promotes a compelling government interest . . . [and] satisfies the strictest test for constitutional equal protection."

CONSUMER PRICE INDEX APRIL TO JUNE 1971

Figures reported by the Labor Department, Bureau of Labor Statistics (BLS) indicated that the Consumer Price Index (CPI) all-items index rose sharply from April to June 1971. In April, the CPI rose 0.3 percent to 120.2, as computed on the base of 1967=100. That rise placed the April index 4.3 percent above that of a year ago and was attributed in large part to an 0.9 percent increase in the prices of food purchased in grocery stores.

The May CPI registered on 0.5 percent rise to 120.8 (1967=100), thereby resulting in an all-items index which was 4.4 percent above that of a year ago. According to BLS, half of the May increase came from higher prices for apparel, used cars, homes, and postage. Commodities other than food showed an unseasonal 0.7 percent rise that month, while charges for consumer services were up 0.6 percent (the largest rise since January 1971).

In June, the index rose 0.6 percent to 121.5 percent of the 1967 base. As such, the CPI stood 4.5 percent above the June 1970 level. Contributing to the June rise were an unseasonal 0.9 percent advance in the prices of food purchased in grocery stores, an 0.4 percent rise in the prices of nonfood commodities, and an 0.5 percent increase in charges for consumer services. Home repair and maintenance service charges advanced sharply in June, as did transportation charges owing to increases in taxicab and airline fares.

Special Reports

BRIEFS OF RECENT AGREEMENTS

Colorado Springs, Colorado

Between the Board of Education of School District No. 11 and the Colorado Springs Teachers Association, effective June 1, 1970, to December 31, 1972. Approximately 1,450 certificated professional employees. Provision for a reopener on matters including released time for the Association president, insurance, sick leave, salaries, and other compensation on or before August 15, 1970, and August 15, 1971.

Compensation: (1970-71—the salary schedule divides each degree lane into an "A" or base step column and a "B" or in-between step column), B.A., $7,000 to $9,700, 9 increments; B.A. plus 32 hours, $11,050 maximum; M.A., $7,900 to $12,250, 14 increments; M.A. plus 32 hours, $13,450 maximum; Ph.D., $14,650 maximum; longevity pay of $300 after 20 years' service.

(1971-72) B.A., $7,100 to $10,250, 9 increments; B.A. plus 32 hours, $11,825 maximum; M.A., $8,150 to $13,225, 14 increments; M.A. plus 32 hours, $14,625 maximum; Ph.D., $16,025 maximum; longevity pay of $350 after 20 years' service. Differentials: (1971-72—all coaching differentials are stated as a percentage of the B.A. base, and the schedule sets forth a minimum and maximum annual salary and a yearly increment for each position) senior high head football and basketball coaches, $745.50 (.105 of B.A. base); senior high head track and wrestling coaches, $553.80 (.078 of B.A. base); senior high head cross country, golf, and tennis coaches, $291.10 (.041 of B.A. base); senior high head gymnastics and swimming coaches, $489.90 (.069 of B.A. base); athletic chairmen, $650; senior high girls' athletics coaches, $250; senior high business manager, $800; senior high dramatics coach, $600; senior high forensics coach, $500; senior high instrumental music director, $1,000; senior high newspaper or yearbook sponsor, $200; senior high department chairmen, $650; sponsors of most senior high clubs, activities, and committees receive $100. Substitute teachers receive $24 per day; regular teachers acting as emergency substitutes receive $5 per hour. Adult education and summer school teachers receive $5 per hour. Teachers engaged in approved curriculum development assignments outside school receive $5 per hour.

Leaves: 10 days' annual sick leave credited at beginning of school year, unlimited maximum accumulation; sick leave is charged in units of one-half day or one full day, according to the number of hours absent per day; no charge will be made against sick leave if a teacher is absent for less than 3 hours in one day, but "any teacher who willfully violates or misuses this sick leave policy shall forfeit the right to use all accumulation of sick leave until reinstated in good standing by the Board on the recommendation of the Superintendent"; paid sick leave less the cost of a substitute is provided for extended absences which do not exceed 20 days in one school year; 1 separate day for personal business which, if unused, is added to a teacher's accumulation; sick leave may be used in the case of an illness or death in the family, but if a teacher's accumulated sick leave is exhausted, he may receive leave at partial pay for absences not to exceed a total of 10 days in any one school year; paid emergency personal leave less the cost of a substitute may be granted for up to 5 days per year; 1 separate day for professional conference or school visitation leave upon the principal's recommendation; paid leave for jury duty less per-diem court allowance; a maximum of 10 days' paid leave to meet military reserve obligations may be granted so long as any military pay received is submitted to the district; teachers will be granted paid leave in the event of work-related legal proceedings; paid leave less any Workmen's Compensation payments received is allowed for up to 60 work days in the case of a work-related injury; sabbatical leave at 60 percent of salary for one-half year or one full year after 6 years' service and prior to the last 5 years' service before retirement.

Insurance: Board contributes $6 to $16.49 toward cost of individual or family health care insurance coverage providing a $1,000

maximum hospitalization benefit, and a 100 percent surgical benefit to $1,000 with the insurance company paying 80 percent of surgical expenses above $1,000 to a maximum of $20,000; board contributes to a life insurance plan costing the employee 23¢ per $1,000 of coverage for individual coverage, and 64¢ per month for dependent coverage; board-paid personal injury insurance coverage; for all staff members providing a liability limit of $1 million per employee.

Association: Payroll dues deductions for local, state, and national associations; Association president may opt for an unpaid leave of absence of one year during his term of office or released time of one-half day with the board and the Association sharing equally the cost "of a one-half time contracted teacher on regular salary"; provision for one building representative per 25 teachers or major fraction thereof at any given school; building representatives shall have the right to schedule Association meetings "before or after school where such meetings do not interfere with the normal teaching duties of the teachers and conduct of business at the school" and conduct Association business "where it does not interfere with the normal teaching responsibilities and duties of the teachers at that school"; the board will provide the Association with an advance copy of the agenda for each official board meeting; the Association may request that a teacher be relieved of his regular duties "to assist in work not of a direct educational nature" and, if approved by the superindendent, the Association shall reimburse the district for the cost of a substitute; upon request of the Association, unpaid leaves of absence may be granted to 2 teachers for one year for the purpose of engaging in Association activities.

Personnel: Grievance procedure ends with advisory arbitration; duty-free lunch period of at least 30 minutes for all teachers during which time teachers may leave the school building; secondary teachers are allowed one preparation period per day, while elementary teachers may utilize as preparation time those periods when a specialist is in charge of a class; nonteaching duties shall not exceed 5 hours per 20 consecutive school days for each teacher; teachers may be asked to attend 2 faculty meetings during any one month, each of which shall not extend more than one hour beyond the end of the school day; new teachers and teachers in new positions may be required to attend 2 additional in-service meetings per month; teachers may be required to serve as substitutes only in cases of emergency and staff absences resulting from field trips or other school activities of 2 hours' duration or less; teachers may be required to be present for one parent visitation period of no more than 2 hours per semester; subject to the Colorado Open Records Law, a teacher may review his personnel file and file a written response to any material contained therein; probationary teachers shall be evaluated for at least 4 30-minute periods during each school year by their principal or members of the supervisory staff, while tenure teachers shall be evaluated at least once every 3 years; a probationary teacher who is not re-employed may seek advisory review of the denial of contract through the grievance procedure; currently employed staff members shall be given priority when considering applicants for transfer, except that teachers who have been employed in the district for less than 2 consecutive school years in the same assignment are ineligible for transfer without the approval of the superintendent; on the first and third Friday of each month, March through May, the Association president and members of the Office of Personnel Services "shall meet for at least 45 minutes to discuss matters pertaining to current transfer requests and subsequent staffing patterns"; one Association representative shall serve on each interviewing committee considering applicants for "change of status" positions (i.e., those for which a teaching certificate is required and for which there is a salary schedule other than the teachers' salary schedule); to encourage teacher attendance at student activities, each teacher will be provided with 2 complimentary tickets for all activities occurring within his school's schedule of regular events; teachers will be reimbursed for damage to or destruction of clothing or personal property in the case of a work-related assault; provision for the formation of a committee to study staffing patterns.

Miscellaneous: A 10-member Joint Council shall meet at least once per month to discuss matters not currently negotiated (including an in-school in-service education program, methods and procedures for the selection and retention of department chairmen, and an annual review of instructional materials), appoint joint study committees to report on matters requiring in-depth study, and recommend items to the parties for ratification and incorporation in the contract as addenda, subject to the grievance procedure; provision for the establishment of a 10-member joint Ad Hoc Committee which shall deliver to the board by November 30, 1970, its final recommendations with respect to "criteria for determining a fair and equitable

teaching load including provisions related to the number of preparations, grade, level, subject areas, student ability and balance of pupil load"; provision for the independent investigation of complaints about educational materials by 3 mutually acceptable community leaders who shall report their findings and recommendations to the parties.

Ross Township (Merrillville), Indiana

Between the Board of School Trustees of the Ross Township School Corporation and the Merrillville Classroom Teachers Association, effective August 15, 1970, to August 14, 1972. Approximately 300 certificated professional employees. Provision for a reopener on sick and personal injury leaves, professional and personal leaves, unpaid leaves, sabbatical leave, retirement benefits, insurance, and salaries after February 1, 1971. Provision for the negotiation of a successor contract to be initiated between March 1 and March 15, 1972.

Compensation: (effective January 1, 1971, and stated as an index scale with the B.A. base equal to 1.00) B.A., $7,623 (1.00) to $12,006 (1.575), 15 increments; B.A. plus 15 hours, $12,235 (1.605) maximum; M.A., $8,080 (1.06) to $13,721 (1.80), 18 increments; M.A. plus 30 hours, $14,255 (1.87) maximum; retirement benefits of $100 per year of district service for teachers with no less than 10 nor more than 30 years' service, or teachers who are age 55 or have a total of 30 years' service. Differentials: (stated as a percentage of the B.A. base) high-school athletic director, $762.30 (.10 of B.A. base); head football and basketball coaches, $1,372.14 (.18 of B.A. base); assistant varsity football coach, assistant basketball coach, and head baseball, wrestling, and cross country coaches, $914.76 (.12 of B.A. base); high-school band and chorus directors, $952.88 (.125 of B.A. base); high-school student council sponsor, and the speech, drama, and debate coaches, $457.38 (.06 of B.A. base); audiovisual coordinator, and the playground and cafeteria duty supervisors, $304.92 (.04 of B.A. base); print shop supervisor, $228.69 (.03 of B.A. base); most department chairmen, $381.15 (.05 of B.A. base).

Leaves: 10 days' annual sick leave, 150 days' maximum accumulation; new teachers who have accumulated 3 or more days' sick leave in another Indiana school district shall, after their first year in the Ross Township system, be eligible for the regular 10 days' annual sick leave plus 3 additional days each succeeding year until their previously accumulated sick leave days are exhausted; 3 separate days for personal business which, if unused, shall be credited to a teacher's accumulation; 3 days' leave for a serious family illness deducted from accumulation; 7 separate consecutive calendar days' bereavement leave in the case of a death in the immediate family; 2 separate consecutive school days' leave shall be allowed upon the death of a sister-in-law or brother-in-law; paid leave as needed for professional conferences and school visitations with the board reimbursing teachers at maximum daily rates for food, lodging, and travel in accordance with a $5,000 fund established for such purposes; paid leave for jury duty less any per-diem court allowance received; sabbatical leave for one year after 7 years' service and prior to age 60 with the teacher receiving one and one-half times his base salary in the year following the sabbatical leave.

Insurance: Board-paid Blue Cross-Blue Shield group hospitalization and major medical insurance for individual coverage less $1; board-paid liability insurance in the amount of $1 million providing coverage for teachers in the case of work-related suits; absences due to a work-related injury shall not be charged against a teacher's accumulation, and the board shall pay the teacher the difference between his salary and any Workmen's Compensation benefits received for the duration of the absence or until his present contract expires, although the board may continue such payments at its discretion.

Association: Payroll dues deduction for local, state, and national associations; Association representatives may transact official Association business on school property before and after the school day and during the lunch period "provided that this shall not interfere with or interrupt normal school operations in the judgment of the Building Principal"; the Association shall be included on the agenda of orientation programs for new teachers and shall be allowed to make brief announcements following building faculty meetings.

Instruction: "An effort will be made" to limit secondary teachers to a maximum of 2 subject fields and 3 preparations; provision for the establishment of a joint nine-member central curriculum committee which will meet no less than once each semester "to consider short and long-range plans for cooperative development of the instructional program"; teachers "shall continue, in accordance with past practice, to assume responsibility for the review and evaluation of textbooks," and committees selected

by the superintendent shall review all textbooks and forward their recommendations to him.

Personnel: Grievance procedure ends with advisory arbitration; teachers shall have the right to review their personnel files and will be notified in writing of any written complaints inserted in their files; 30-minute duty-free lunch period for all teachers during which time they may leave their buildings; for teachers new to the system, "there should be a minimum of two (2) visitations for the first year and a minimum of one (1) the second year"; all new teachers are to be formally evaluated during each of their first 2 years' service plus a minimum of one more evaluation during their fifth year of service, while tenure teachers will be evaluated a minimum of once each three-year period; provision stating that "each teacher will take with him to the teacher-administrator conference a self-assessment"; any teacher who is dismissed shall be given, upon request, a hearing before the board with an Association representative present; provision for the establishment of a joint eight-member Teacher Evaluation Study Committee which shall meet on a regular basis beginning no later than October 15, 1970, and shall submit to the board and the Association no later than March 1, 1971, its formal recommendation with respect to upgrading the teacher evaluation process in accordance with specified criteria; while it "is urged" that teachers volunteer for compensated extra-duty responsibilities (.04 of B.A. base) such as cafeteria duty, noon playground duty, and bus supervision on a full-time basis, "when no teacher is available, a teacher-aide shall be hired to perform the duty"; secondary teachers are offered hall and gym duty on a full-time compensated basis (.04 of B.A. base), but if such responsibilities are not accepted "teachers shall be on a rotating basis without pay"; provision for the hiring of one teacher aide for each elementary school and two aides for each junior and senior high school for a minimum of 5 hours per school day, which aides shall *not* be required to deal with report cards and permanent record cards, any sort of teaching or testing, confidential student information, main office clerical work ("except in an extreme emergency"), and regular recess duty; provision stating that "teachers will serve in an advisory capacity in planning and designing new schools"; provision for a one-day preschool organizational meeting of all teachers with an additional orientation day for all new teachers; when all the qualifications of candidates for promotions are equal, preference shall be given to applicants from within the system; provision stating that when reductions in force through lay-offs are necessary, "the teachers with the most service with the school system who are fully qualified in terms of their past evaluation, academic background and teaching experience, will be given first consideration to staff the active positions."

Genesee Community College, Flint, Michigan

Between the Genesee Community College Board of Trustees and the Genesee Community College Education Association, effective August 16, 1970, to August 15, 1971. Approximately 205 full-time and 82 part-time professional personnel. Unit includes all full-time and part-time teaching faculty, counselors, area coordinators, health counselors, and related trade and instructional instructors. Provision for negotiation of a successor contract to begin no later than February 15, 1971.

Compensation: B.A., $8,400 to $12,850, 11 increments; B.A. plus 15 hours, $13,255 maximum; M.A., $8,905 to $14,450, 11 increments; M.A. plus 45 hours, $15,500 maximum; Ph.D., $15,900 maximum; terminal pay of $100 per year of service for faculty members retiring at age 65, faculty members with 20 years' service who retire at age 62, 63, or 64, and faculty members who retire at age 55 after 15 years' service and for reasons of ill health. Differentials: basketball coach, $1,575; baseball and track coaches, $1,260; swimming coach, $1,210; cross country, golf, and tennis coaches, $685; cheerleading sponsor, $370; debate coach, $525; voluntary club sponsorships, $50 per semester. Faculty members requested to substitute are paid $10 per contact hour (defined as a 50-minute period spent in a regularly assigned instructional load). Full-time faculty members assigned to overload courses are paid $10 per contact hour. Full-time faculty assigned to the 1971 summer session are paid 95 percent of their regular weekly rate per week of summer school.

Leaves: For faculty members contracted for a 39- to 41-week period, 10 days' annual sick and emergency leave credited at beginning of school year, unlimited maximum accumulation; full-time summer session faculty receive 2 days' sick and emergency leave which, if unused, may be credited to their accumulation; 2 separate days' personal leave; a maximum of 5 days each (deducted from accumulation) may be granted in the case of an illness or death in the immediate family, although that leave allowance may be extended to 8 days when a serious illness results in death; 1 day of leave

per occurrence (deducted from accumulation) may be granted in the event of a "natural catastrophe," which shall be limited "to those conditions commonly termed 'acts of God'"; paid leave as needed for professional conferences with board maintaining for such purposes a travel and conference fund in an amount equal to at least $50 per full-time faculty member; paid leave as needed for jury duty or court subpoena less any court allowances received; leave at partial pay as needed to fulfill military reserve obligations, provided that the total absence does not exceed 2 calendar weeks in any one year; sabbatical leave after 7 years' service within 20 consecutive years "for one semester at full pay or one (1) academic year, or the last semester of an academic year and the first semester of the following academic year at half pay"; in addition to the aforementioned severance pay provisions, faculty members who retire at age 65 with 135 accumulated, unused sick and emergency leave days shall receive $500 additional terminal pay, while faculty members retiring at age 62, 63, or 64 after 20 years' service shall receive an additional $5 per day of accumulated sick and emergency leave.

Insurance: Board-paid Blue Cross-Blue Shield major medical or super medical insurance for individual and family coverage; board-paid group life insurance coverage for individual providing $15,000 upon death, and a sum not less than twice that amount in the event of accidental death; board-paid long-term disability plan with a 30-working day waiting period and coverage to age 65 at 60 percent of salary; in the case of a disability as defined in the long-term disability plan, the board will provide the cost of the faculty member's health insurance coverage for as long as the disability lasts, but not exceeding 2 years from the inception of the disability; in the case of a work-related assault and resultant injury for which workmen's compensation is paid, the board will pay the difference between the faculty member's regular salary and the workmen's compensation payments for up to 3 years or the term of employment, whichever is shorter.

Association: Payroll dues deduction for local, state, and national associations; agency shop clause providing that all full-time faculty members either join the Association within 30 days of employment, or pay a representation fee equal to the combined dues of the local, state, and national associations; faculty members teaching less than one-half time must either join the Association within 30 days of employment or pay a representation fee of $10 per weekly contact hour or one-half of an amount equal to local Association membership dues, whichever is less; failure to comply with the requirements of the agency shop provision shall be cause for dismissal at the end of the school year in which said failure occurs; released time of up to 5 days per school year for the Association president and vice-president to attend state or national Association meetings; a maximum of 5 other Association officers may be granted one day of released time for the same purpose upon written advance notice of 3 days and provided the Association pays the cost of any necessary substitutes; faculty co-chairman are allowed 3 contact hours of released time per week, while the Association secretary is allowed one contact hour of released time per week; whenever the board reaches a tentative conclusion to request additional millage from the community, it shall allow the Association the opportunity to meet with board representatives to discuss the comtemplated millage request and its expected allocation; all notices required by contract to be given to the Association shall be hand carried or mailed to the Association president by registered mail.

Instruction: The standard teaching load for full-time faculty members shall be 12 to 16 contact hours per week; no more than 2 course preparations shall be assigned full-time faculty members unless more are needed to carry a full load; full-time members shall maintain at least 6 office hours per week for student consultations; the number of advisees assigned to a full-time faculty member shall not exceed 25 during any semester or summer session; no faculty member shall be required to carry an overload during any semester or summer session, and no probationary instructor shall be allowed to teach an overload course except in a course he taught previously at the college; whenever feasible, classes shall be assigned within 8 consecutive hours and with a 12-hour span between the end of the last assignment of the day and the beginning of the first assignment the next day; full-time faculty members shall not be required to have classes beginning after 4 p.m. more than one semester in each academic year and no more than 2 nights each week, unless such is necessary to make a full load; no class size "shall exceed that size set forth upon an official list without the written consent of the faculty member affected, which list has been agreed to be correct by the Board and the GCCEA"; grades given by an faculty member "may not be changed without his consent except that in the event of extended unavailability of a faculty member, or in the

event a court orders or recommends a review or change of grade, the faculty in the discipline and the division chairman shall review any request for a grade change and collectively issue a grade"; all instructional materials developed by a faculty member are his property; class record books and final examinations shall be kept on file by the faculty member for a period of one year.

Personnel: Grievance procedure ends with final and binding arbitration; faculty members may review their personnel files and challenge any materials contained therein relating to their employment by the board; full-time faculty members shall serve a three-year probationary period at the college, except that prior teaching and counseling experience at other accredited institutions may be credited toward reduction of the probationary period to 2 years; the discharge of probationary faculty members may be grieved, but shall not be subject to arbitration; an involuntary transfer or the denial of a request for transfer may be grieved solely on the ground that the decision was unreasonable; all faculty members shall be given a copy of the procedure for interviewing and otherwise judging the merits of applicants for vacanies; an ad hoc advisory committee appointed by the Association may examine the credentials of any and all officially listed applicants for administrative positions, but board decisions regarding appointments to such positions shall be final; faculty members have the responsibility of attending all regular, college and divisional faculty meetings, the agendas for which shall be published 48 hours in advance except in an emergency; a faculty member on continuing contract may be discharged or demoted only for "reasonable and just cause" and only after contractual procedures applying to such situations (a written statement of the charges, a public or private hearing, and the right to appeal an adverse board decision to arbitration) have been complied with; staff reduction procedure (*see* following provision reprint); board shall make "all reasonable efforts to recruit minority group members for employment in the College" in accordance with negotiated procedures which provide for the selection of faculty members who "shall participate in recruiting trips when practicable"; faculty member attendance at college activities is voluntary except in the case of commencement when no more than 50 percent of the faculty shall be required to attend; in cases of assault, the board "shall render all reasonable assistance to the faculty member (excluding legal counsel) in connection with the handling of the incident by law enforcement and judicial authorities"; provision for the establishment of a 9-member (4 members appointed by the board and 5 appointed by the Association) permanent College Professional Study Committee which shall meet at least once per month to discuss and study subjects relating to college educational processes and submit written recommendations to the college president who shall, within 30 days, issue a written response indicating the reasons for his approval or disapproval of the recommendations; divisional governance provision providing for the development of division rules, regulations, and procedures (which do not conflict with law, board policy, or the contract) in the areas of summer assignments, conference travel, probationary appointments, faculty evaluation, safety procedures, textbook selection, and course assignments, offerings, proposals, and revisions.

STAFF REDUCTION

The Board may, upon giving sixty (60) days written notice prior to the end of the academic year, without hearing, terminate the services of any faculty member because of necessary reduction in personnel; provided there is consultation with the GCCEA prior to the decision to make any such reductions, and provided that the reductions shall be accomplished according to the following provisions:

1. The Board shall determine the areas in which reductions shall be made and such reductions shall then be accomplished in the following order: part-time faculty, probationary faculty, year-to-year contract faculty, and lastly continuing contract faculty members. Seniority within the subject area within the division shall be the criterion for retentions.

2. Released faculty members shall be placed on leave of absence with no obligation to rehire after the expiration of three (3) years. Each faculty member placed on leave of absence as aforementioned shall be reinstated in inverse order of his placement on leave of absence for a vacancy for which he is qualified.

3. The Board shall notify qualified faculty members on leave of absence of subsequent vacancies by certified mail to the last address registered by the faculty member at the Vice President's office. No new appointments, except on a temporary basis, shall be made within thirty (30) days from the mailing of such notification. No appointment of new faculty members shall be made until all those on leave of absence qualified for the vacancy have been given an opportunity to be reemployed. If a faculty member does not return to work at the

specified time the Board shall have no further employment obligation to him, except that when a faculty member who has given notice of his intent to return is prevented from so doing due to illness or ther emergencies, his leave shall be extended for a period not to exceed one (1) year.

4. Upon return such faculty member shall retain all credits toward sabbatical leave, sick and emergency leave and experience credits for salary purposes, but shall not accrue any such credits for sabbatical leave and sick and emergency leave and experience for salary purposes during lay off; provided that college or university teaching and counseling experience gained during lay off shall be evaluated for salary purposes upon re-employment. (Genesee Community College, Flint, Michigan)

Phillipsburg, New Jersey

Between the Phillipsburg Board of Education and the Phillipsburg Education Association, effective July 1, 1971, to June 30, 1972. Approximately 180 certificated professional employees. Provision for the negotiation of a successor contract to begin no later than October 15, 1971.

Compensation: B.A., $7,650 to $11,700, 11 increments; B.A. plus 30 hours, $12,100 maximum; M.A., $8,250 to $12,700, 12 increments; M.A. plus 30 hours, $13,100 maximum, longevity pay of $100 after 15 years' service and upon every fifth year of service thereafter. Differentials: department chairmen and guidance counselors, $400; reading consultant and category 1 teaching principals, $700; category 2 teaching principals, $850.

Leaves: 10 days' annual sick leave credited at beginning of school year, unlimited maximum accumulation; teachers with 20 years' service who have exhausted their sick leave accumulation may be allowed a maximum of 75 days' leave at partial pay in any one period consisting of any 2 consecutive school years; 2 separate days' personal leave which may be used for a marriage in the immediate family, graduation exercises, required court appearances, observation of religious holidays, attendance at professional meetings (for which an additional 3 days will be granted if necessary), attendance of Association representatives at state and national association conferences and conventions (the combined leave allowance for whom shall not exceed 6 man days), and a serious illness in the immediate family; 5 separate days' bereavement leave for a death in the immediate family; 2 weeks' paid leave to fulfill military reserve obligations, although a teacher may be granted up to one calendar month of leave time at full pay less any military pay received.

Insurance: Board-paid Blue-Cross hospital, medical, surgical, diagnostic, and major medical health insurance plan for individual or family coverage.

Association: Payroll dues deduction for any one or a combination of the local, county, state, and national Associations; teachers shall be permitted to wear their pins or other identification of Association membership; Association is allowed 30 minutes' time during the annual orientation program for new teachers; an Association representative may speak at any faculty meeting upon request and for "a reasonable time."

Personnel: Grievance procedure ends with advisory arbitration; duty-free lunch period of at least 30 minutes for elementary teachers and specialists, and one which is equal in length to the students' lunch period for secondary teachers; whenever possible, teachers shall be notified of and given the agenda for any meetings at least one day prior to such meetings; teachers shall have the right to review their personnel files and receive at board expense copies of any materials contained therein; disputes over the retention of personnel file materials which a teacher believes to be obsolete or otherwise inappropriate to retain may be processed through the grievance procedure beginning at level two; provision for the establishment of a joint eight-member Educational Council which shall meet at least 6 times per year in the evening, have a budget of $500, and be empowered to make recommendations to the board with respect to the full gamut of educational policies and practices.

Prince William County (Manassas), Virginia

Between the Prince William County School Board and the Prince William Education Association, effective July 1, 1971, to June 30, 1972. Approximately 1,250 certificated professional employees. Provision for the negotiation of a successor contract to begin on or before November 1, 1971.

Compensation: B.A., $7,350 to $11,660, 12 increments; B.A. plus 30 hours, $13,063.50 maximum; M.A., $8,190 to $13,900, 16 increments; M.A. plus 30 hours, $14,251.75 maximum; Ph.D., $15,170.50 maximum.

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Leaves: 12 days' annual sick leave credited at beginning of school year, unlimited maximum accumulation; establishment of a sick leave bank predicated upon voluntary participation by as many as 500 employees; sick bank members may, upon exhaustion of their own sick leave allowances and after the 30th day of an illness or disability, draw a maximum of 45 days from the bank in each school year and will not have to replace those days except as a regular contributing member, although bank members will be assessed additional leave days when the bank is depleted to 300 days; teachers assigned to summer school earn 2 additional sick leave days which, if unused, may be added to their accumulation; 1 separate day of emergency personal leave, with provision for 2 additional leave days which shall be deducted from a teacher's accumulation; 3 separate days' leave for an illness or a death in the family; maternity leave provision allowing a pregnant teacher to remain in her teaching position as long as her health permits; severance pay provision allowing a lump-sum payment of unused accumulated sick leave at $10 per day to a maximum of 90 days, or transference of the accumulation in whole or in part to another school district; sabbatical leave at half-pay for one year after 6 years' service.

Insurance: Board-paid Blue Cross-Blue Shield major medical insurance coverage for individual, although the board will pay an amount equal to 2 single plans if both the husband and wife are employed by the system; a teacher absent from school as a result of a work-related personal injury shall be paid his full salary less any workmen's compensation payment received for a period of up to 26 weeks.

Personnel: Grievance procedure ends with final and binding arbitration; duty-free lunch period for all teachers corresponding with the students' lunch period; all teachers shall have a minimum of 110 minutes' preparation time per week; probationary teachers are to be evaluated twice during their first year and annually thereafter, while tenure teachers are to be evaluated once every 3 years with such evaluations conducted by an administrator with an M.A. degree and/or 3 years' teaching experience at the teacher's level of performance; teachers shall have the right at least once per year to review their personnel files and respond in writing to any materials therein; when considering candidates for promotional vacancies, qualified applicants within the system are to be given preference; teachers enrolled in summer study programs may receive up to 3 days' administrative leave upon application and certification by the higher education institution that such leave is necessary; teachers participating in scholarship and/or fellowship programs shall be paid stipends upon submission of a "certified class grade report from the institution indicating the successful completion of the courses undertaken together with a billing of the expenses."

Miscellaneous: Payroll dues deduction for local, state, and national associations; provision for the establishment of a joint 12-member Instructional Liaison Council which shall meet at least once per month, shall be allowed one-half day per month for meetings during school hours, and shall advise the superintendent on such matters as curriculum improvements, school calendar, teaching techniques, extracurricular programs, in-service training, pupil testing procedures, teacher evaluation, and teacher recruitment; the Council's recommendations shall be advisory and include both minority and majority views, but the superintendent must furnish the Council with written reasons for his nonadoption of any such recommendations.

NEGOTIATION IN HIGHER EDUCATION

Collective negotiation activity involving faculties in private and public colleges and universities and junior and community colleges has risen sharply. The National Labor Relations Board's assertion of jurisdiction over certain private colleges and universities and the passage of state negotiation statutes covering public employees have contributed greatly to this increased activity. In the public sector, the applicability of a particular state negotiation statute to college and university faculties is dependent upon the public agency (state or municipal bodies, or local school boards) responsible for academic faculty employment.

Academic faculties of all public higher education institutions in 19 states have been accorded or may be assumed to have negotiation rights under one or more bargaining statutes. Three other states have passed negotiation statutes for local or municipal employees alone, so academic faculties of locally-administered public colleges are either specifically or assumedly granted bargaining rights in 22 states. To date, a total of 28 states have enacted bargaining legislation covering professional school employees. A review of federal action and the nature of state legislation affecting employer-employee relations in higher education follows.

Private Colleges and Universities

In June 1970, the NLRB asserted jurisdiction over private, nonprofit colleges and universities as a class in a case involving Cornell University (NRD, 9-70, 10). It subsequently established a $1 million jurisdictional standard (NRD, 2-71, 13) wherein all such institutions with a gross annual operating revenue of no less than $1 million would fall within NLRB jurisdiction. According to the board's *Cornell University* decision, 15 states had enacted labor-management legislation at that time, but in only eight of those states (Colorado, Connecticut, Hawaii, Massachusetts, Michigan, Minnesota, New York, and Wisconsin) had the legislation been written or interpreted expressly to cover employees of private educational institutions.

Since the NLRB's assertion of jurisdiction, the Connecticut State Board of Labor Relations concluded that it had jurisdiction over a small, private Connecticut college (NRD, 5-71, 7) whose services were primarily local and whose out-of-state students and purchases were minimal by comparison with schools under NLRB jurisdiction. Other state labor boards may be expected to assert similar jurisdiction under their respective laws.

Public Colleges and Universities

Nineteen states currently have enacted one or more negotiation statutes covering all public employees, including public school employees. Six states (Hawaii, Michigan, New Jersey, New York, Pennsylvania, and South Dakota) have a single statute covering public-school employees and practically all other state and local public employees. The Hawaii, New York, and Pennsylvania statutes specifically include public colleges and universities within their coverage. The Michigan Public Employment Relations Act covers state civil service employees insofar as the power exists in the state legislature to control employment. Both the Michigan courts and the state labor board have determined that state university employers and employees are public employees covered by the Act. In April 1969, the New Jersey Public Employment Relations Commission asserted jurisdiction over New Jersey state colleges and determined the appropriate representative unit for academic employees of such institutions (NRD, 10-69, 8).

Separate negotiation statutes applicable to specific levels and/or classes of public employees have been enacted by 13 of the 19 states: Alaska, California, Delaware, Kansas, Minnesota, Nebraska, Oregon, Massachusetts, New Hampshire, Rhode Island, Vermont, Washington, and Wisconsin. In the first seven states, state and local public employees are covered by one negotiation statute, while professional public-school employees fall within the coverage of another statute. Separate negotiation statutes for state and local employees also are effective in Massachusetts, New Hampshire (covering nonacademic employees of state universities and colleges), Rhode Island, Vermont (covering employees of state colleges), Washington, and Wisconsin. But public-school employees are covered by municipal negotiation

statutes in Massachusetts, New Hampshire, and Wisconsin, and by separate professional school employee negotiation statutes in Rhode Island, Vermont, and Washington. In addition, the Washington legislature recently enacted a separate negotiation statute covering academic community college employees. The full text of this statute, which became effective on August 9 is reprinted in the "Text" section of this DIGEST.

Public Colleges—Local or Municipal Administration

In addition to the 19 states which have enacted legislation covering state, municipal, and public-school employees, three states have passed negotiation statutes for local or municipal employees alone. These states are Connecticut, Maine, and Nevada. The municipal negotiation statute is applied to public-school employees in each state except Connecticut where a separate negotiation statute for certificated public school employees is in effect. Therefore, public colleges which are administered by local or municipal agencies are either specifically covered by or may be assumed to be included within the coverage of negotiation statutes in 22 states.

Public Colleges—School Board Administration

Of the 28 states which have enacted bargaining legislation covering professional public-school employees, 17 have separate teacher negotiation or consultation statutes for public education: Alaska, California, Connecticut, Delaware, Florida, Idaho, Kansas, Maryland, Minnesota, Montana, Nebraska, North Dakota, Oregon, Rhode Island, Texas, Vermont, and Washington. In Florida, Idaho, Maryland, Montana, North Dakota, and Texas, only public-school teachers have negotiation or consultation rights; other public employees have not been given statutory negotiation rights. In Connecticut, a separate negotiation statute is provided for municipal employees, but there is no statute for state employees.

Public-school employers are defined as regional, county, or local school districts in the 17 teacher negotiation statutes. Public-school employees are defined as teachers, or professional or certificated school employees. While the Kansas law alone specifically includes certificated employees of community and junior colleges within its coverage, faculties of such institutions would in all likelihood be covered by the teacher negotiation statutes in other states so long as they fall within the statutory definitions.

In addition to the 17 states mentioned above, 11 other states have negotiation statutes which cover public-school teachers and other classes of public employees. The Hawaii, Michigan, New Jersey, New York, Pennsylvania, and South Dakota statutes include teachers within the coverage of legislation applicable to all public employees. Teachers in Maine, Massachusetts, Nevada, New Hampshire, and Wisconsin are covered by negotiation laws which also apply to municipal employees.

Other Public Employees

The only state which has passed a negotiation statute for public employees in general with the exception of teachers is Missouri. That statute specifically excludes teachers in public schools, colleges, and universities from its coverage. Other states have enacted negotiation statutes for special classes of public employees (e.g., firemen, policemen, and public utilities' personnel) which are not related to education.

Survey of Formal Negotiation Policies and Procedures

In 1969-70, the NEA Research Division surveyed salary and related matters in public and nonpublic higher education institutions. Responses were received from 1,141 of the 1,634 colleges and universities

granting the four-year or higher degree and 650 of the 986 two-year institutions. One survey question asked whether there was a formal procedure for conferences or negotiation between representatives of the institution's governing board and faculty representatives on matters of faculty salaries or welfare. Seventeen (1.5 percent) of the institutions granting four-year or higher degrees and 74 (11.8 percent) of the two-year institutions responded that they had a documented policy providing that representatives of the governing board or administration would agree to negotiate such matters. All but one of the 74 two-year institutions were public institutions. Tables 1 and 2 indicate the salary negotiation policies and practices of colleges and universities granting four-year or higher degrees, and two-year institutions.

TABLE 1.—SALARY NEGOTIATION POLICY AND PRACTICE IN 1,141 COLLEGES AND UNIVERSITIES GRANTING THE FOUR-YEAR OR HIGHER DEGREE, 1969-70

Salary policy and practice	Number of institutions						Full-time faculty	
	Universities		Colleges		Total			
	Public	Nonpublic	Public	Nonpublic	Number	Percent	Number	Percent
1	2	3	4	5	6	7	8	9
On matters of faculty salary or welfare a formal procedure is maintained by which representatives of the governing board of the institution or the administration agree to -								
(A) Confer with faculty representatives								
Practiced and documented. . .	56	25	52	124	257	23.3%	61,984	28.2%
Practiced, not documented . .	43	19	26	131	219	19.9	38,435	17.5
Not practiced	103	52	70	357	582	52.9	111,855	50.8
(B) Negotiate with faculty representatives								
Practiced and documented. . .	4	. . .	6	7	17	1.5	2,957	1.3
Practiced, not documented . .	. . .	3	1	9	13	1.2	1,704	.8
Not practiced	6	3	. . .	4	13	1.2	3,062	1.4
(C) Not indicated	6	7	1	26	40	. . .	6,624	. . .

Source:
National Education Association, Research Division. *Salaries in Higher Education, 1969-70.* Research Report 1970-R6. Washington, D.C.: the Association, 1970. p. 32.

TABLE 2.–SALARY NEGOTIATION POLICY AND PRACTICE IN 650 TWO-YEAR INSTITUTIONS, 1969-70

Salary policy and practice	Number of institutions						Full-time faculty	
	Public		Nonpublic		Total			
	Without faculty ranks	With faculty ranks	Without faculty ranks	With faculty ranks	Number	Percent	Number	Percent
1	2	3	4	5	6	7	8	9
On matters of faculty salary or welfare, a formal procedure is maintained by which representatives of the governing board or the administration agree to ·								
(A) Confer with faculty representatives								
Practiced and documented. . .	97	51	6	8	162	25.8%	14,021	33.2%
Practiced, not documented . .	70	39	13	6	128	20.3	9,746	23.1
Not practiced	68	102	43	32	245	39.0	10,550	25.0
(B) Negotiate with faculty representatives								
Practiced and documented. . .	48	25	. . .	1	74	11.8	6,763	16.0
Practiced, not documented . .	5	4	2	. . .	11	1.7	423	1.0
Not practiced	4	4	1	. . .	9	1.4	729	1.7
(C) Not indicated	9	5	5	2	21	. . .	1,783	. . .

Source:
National Education Association, Research Division. *Salaries in Higher Education, 1969-70.* Research Report, 1970-R6. Washington, D.C.: the Association, 1970. p. 75.

UNUSUAL PROVISIONS: PUPIL AND CIVIL DISTURBANCES

Negotiated provisions relative to the handling of pupil and civil disturbances within the public-school context vary widely in definition, scope, specificity, and emphasis, but they have appeared with increasing frequency since the 1969-70 school year. According to a series of Teacher Opinion Polls conducted by the NEA Research Division, the percentage of teachers reporting pupil demonstrations against school policies increased from 4.1 percent in 1968-69 to 6.3 percent in 1969-70, and then diminished to 5.3 percent in 1970-71. In all three years, it was found that a much higher percentage of secondary than of elementary teachers reported some form of pupil unrest in their schools. An examination of pupil and civil disturbance clauses effective during the 1970-71 school year indicated that some are directed at particular actions, such as assault, while others refer to specific circumstances, such as bomb threats; still others deal broadly with "acts of misconduct," disorderly activities, "serious disturbances," or pupil unrest. By the same token, the means for handling such disturbances vary according to the gravity of the action or situation, and the person or persons responsible for initiating anticipatory, corrective, or punitive measures often varies with the context of the disturbance.

Generally, pupil or civil disturbances are considered to be the activities of one or more persons which threaten to or actually do jeopardize the safety of others and/or impede normal school operations. However, such disturbances are to be distinguished (in nature, degree, and methods for handling) from disruptive pupil activities which are subject to negotiated pupil discipline procedures. Classroom teacher contracts seem to recognize this distinction, even though a number of the pupil and civil disturbance provisions were classified as subsections of negotiated articles concerning pupil discipline policies. Several other pertinent provisions were negotiated as subsections of teacher protection articles. While the three types of provisions named tend to be interrelated, they are defined and discussed separately here in an effort to indicate more clearly the nature of the relatively few pupil and civil disturbance provisions which have been negotiated to date.

According to the language of classroom teacher contracts effective during the 1970-71 school year in systems with a pupil enrollment of 1,000 or more, pupil disturbances include the following specific actions: assault, aggravated assault and battery, harassment, intimidation, verbal abuse, disorderly conduct, the unauthorized occupation of property, and inciting others to violence. Specific circumstances referred to in such clauses include arson or attempted arson, false fire reports, bomb threats, and other situations involving the possession or use of lethal or destructive weapons or devices. The handling of pupil disturbances may range from referral of a problem to a specified administrator for appropriate action to immediate suspension or expulsion from school to the evacuation of a building to the closing of school. Likewise, the responsibility for handling a disturbance may rest with the individual teacher, a designated administrator, the school board, outside law enforcement or security personnel, or a combination of the foregoing. Sample provisions are:

In those cases where the number of disrupters and/or the activities being engaged in by the disrupters jeopardizes the safety of students and teachers as determined by the Superintendent and/or Board, school shall be closed, as prescribed by law, until such time as school can resume without fear for injury or abusive treatment. (Hillsborough County, Florida)

* * *

Certain acts of misconduct in school or at school-sponsored events will be subject to immediate suspension or expulsion from school:

1. Any person or group of persons involved in physical threats or violence (incidents legally termed assault, aggravated assault and battery, intimidation, and disorderly conduct) or verbal abuse (including profane and vulgar statements) to others.
2. Any person or group of persons aiding, encouraging, or participating in a disruptive activity that in anyway disturbs the learning process and impedes anothers freedom to properly utilize school facilities and programs.
3. Any person or group of persons involved in unauthorized occupation of any part of the school property and refusing to vacate such school property after being warned and told by a duly authorized school official as set down in section 3 of the 1969 Trespassing on Public Property Act.
4. Any person having possession (on person, in vehicle, or in locker) of a dangerous weapon on school premises or any school-sponsored activity. (South Bend, Indiana)

* * *

In the event of any disorder or disruption in the school program, the faculty shall meet with the administration as soon as possible to discuss appropriate courses of action. (Piscataway, New Jersey)

Most of the provisions examined took an "after-the-fact," restrospective, or correctional approach to handling pupil disturbances in that they provided methods for coping with (rather than averting) disorderly situations, established channels for developing future preventive programs, or named disorderly situations which, if unresolved after a period of time, could result in corrective action. Some clauses stated that school security personnel would be hired if needed to maintain order on a continuing basis, while others provided for police assistance if warranted by a given situation or in the event regular school policing forces were inadequate. Occasional provisions set forth association rights and responsibilities in the event of serious disturbances. Examples of two restrospective or correctional clauses are reprinted below, but the third provision is anticipatory or preventive in nature.

If on a day to day basis school authorities are unable to provide for the safety of students and teachers, the school system shall provide security guards as needed to maintain authority. (Hillsborough County, Florida)

* * *

In the event of any disorder or disruption in the regular school program, the Association shall have the right to meet with the Board before school reopens to develop mutually acceptable programs to guarantee the safety of students, teachers and property. (Penns Grove, New Jersey)

* * *

If the teachers feel a serious disturbance may develop, the principal shall provide an opportunity for the Building Representative to phone the MTEA office. The MTEA Building Representative shall be released from his assignment during crisis periods, so that communication with teachers on the facts of the incident is accurate. (Milwaukee, Wisconsin)

In the event of bomb threats or fire alarms, the general negotiated procedure is to evacuate first and investigate later. Some provisions allow designated administrators to determine the credibility of a threat and act accordingly; others refer to a prearranged building evacuation plan which automatically is to be implemented. Most all of the pertinent provisions stated that no teacher and/or student shall be required to search for any lethal or destructive weapon, remain in a school building during such a search, or act as security personnel in any instance of pupil or civil disturbance. Three sample provisions are:

Students shall not be used as security personnel. Teachers shall not be required to serve as security personnel during a period of civil disobedience, bomb threats, or assaults on students or teachers by trespassers. (Hillsborough County, Florida)

* * *

In the event that any school building is evacuated in whole or in part by reason of any report or threat of damage thereto by bomb, fire, or other lethal instrument or incident, no teacher will be required to participate in any search for such lethal or destructive instrument. When the principal or any school staff member receives a telephone call advising that a live bomb is secreted in his school building, the first step is the decision as to credibility of the call. Whenever a building principal decides that a call is not credible, he must do so in conjunction with the Superintendent or his delegate. (Ithaca, New York)

* * *

In the event that any school building is evacuated in whole or in part by reason of any report or threat of damage thereto by bomb, fire, or other lethal instrument or incident, the teacher's first responsibility is to evacuate the students as quickly as possible according to the prearranged plan for that emergency. After evacuation, the teacher shall report to proper authorities anything of a suspicious nature observed during the evacuation, but teachers shall not be required to

participate in any search for such lethal or destructive instrument or to remain in the building while such search is under way. (Rome, New York)

Other negotiated items include reimbursement for damage to a teacher's personal property during a disturbance, and provision for the extension of the school year when pupil disorders necessitate school closings. Two examples are:

After consultation with the Association, the Board may expand the maximum number of work days for teachers in order to comply with but not to exceed statutory requirements to receive full State Aid, and the school calendar may be expanded to meet these statutory requirements. If an expansion of the maximum number of work days for teachers is necessary to meet statutory requirements due to the closing of schools because of student unrest, boycotts or problems related thereto, each teacher shall be paid 1/190th of his regular contractual salary per day. (Albion, Michigan)

* * *

If a staff member suffers the loss or destruction of a prosthetic device (viz: eye glasses, dentures, hearing aid) or has his clothing damaged while acting in the line of duty to stop a disturbance, is assaulted by a student, or while attempting to prevent the destruction of public property, such as a fire, the Board will assume the cost of the replacement or repair of such item. (Nyack, New York)

As indicated earlier, many agreements negotiate pupil and civil disturbance clauses or items in conjunction with articles relative to pupil discipline and/or teacher protection. The following brief discussions of pupil discipline and teacher protection provisions are included here merely to indicate their relationship with pupil disturbance clauses.

Pupil Discipline

According to an NEA Research Division survey, negotiated pupil discipline policies and procedures were contained in 404 (41.3 percent) of the 978 classroom teacher agreements effective during the 1968-69 school year in systems with a pupil enrollment of 1,000 or more. On a philosophical level, these provisions generally recognize that a teacher's authority and effectiveness in the classroom will be undermined if the school board does not provide reasonable support and assistance with respect to the maintenance of classroom control and discipline. Moreover, many clauses state that a teacher should not fairly be required to be responsible for pupils with behavioral problems, and that professional specialists both within and outside the school should be provided to relieve the teacher of such responsibilities.

Pupil discipline provisions also contain more specific statements of the types of behavior constituting a breach of discipline, procedures for identifying and handling pupils with behavioral problems, punishments for particular offenses, and procedures for handling disruptive pupils within the classroom or in special classes. The most frequently mentioned reasons for taking disciplinary action against a pupil consist of general references to disruptive behavior, persistent misbehavior, gross offenses, and physical violence; other more specific types of misbehavior include gambling, the use of drugs, alcohol, or tobacco, the possession of pornography or weapons, disrespect or insubordination, vandalism, arson, theft, extortion, false bomb reports, abusive language, a threatening or belligerent manner, and truancy or skipping classes.

The procedures for initially identifying and handling students with behavioral problems most often consist of reporting punishable offenses to the building principal with an indication of the students involved, and holding a parent-teacher conference. Other frequently negotiated procedures allow teachers the use of reasonable force in order to restrain the disruptive pupil and protect themselves and others, or provide that the pupil be sent to the office or that the principal be notified. Punishments for disruptive behavior vary with the offense but include temporary exclusion from class (usually upon

action by the individual teacher), suspension, corporal punishment, transfer to another class (prior to suspension), detention, and expulsion.

Some negotiated provisions state that teachers who have one or more pupils with behavioral problems in their classes shall be given more or longer relief periods and/or reduced class sizes. Others provide for reduced class sizes only, or for the equal distribution of such pupils among all teachers. Many agreements recognize the need for specialized help with disruptive pupils, particularly the services of psychiatrists, psychologists, physicians, and counselors. However, only a few agreements provide special classes for pupils with emotional and behavioral problems, or state that a special education program should be expanded or developed.

Teacher Protection

Teacher protection provisions were found in 510 (52.1 percent) of the 978 agreements effective during the 1968-69 school year. As discussed in the April 1971 issue of the DIGEST, the term *teacher protection* refers to a statement of board support of its employees in the event that any complaint, claim, action, or injury arises in connection with and out of their employment. Such a statement then may be supplemented by more definitive supportive measures and provisions, such as liability protection and procedures, protection from personal property loss or damage, employee injury benefits, and workmen's compensation. In general, most teacher protection provisions recognize that to some extent a teacher should be guaranteed protection from threats, harassment, interference, or badgering by any group or individual, as well as personal assault, injury, or damage to property, and liability claims resulting from student injuries. However, such protection is applicable only to a teacher's actions within the scope of his employment, i.e., his involvement and activities during the regular school day, within or outside the school building, and his involvement in any other board-approved, school-related activities. Moreover, board fiscal support of a teacher in the event an action is brought usually is contingent upon the absence of negligence in the teacher's action and teacher compliance with board and/or negotiated rules and guidelines.

The provisions usually establish procedures for processing student or parental complaints brought against a teacher and guarantee certain teacher rights in the course of investigating such complaints. Since parental complaints can result from disciplinary actions taken by a teacher, many agreements attempt to define carefully the nature of the limitations upon student discipline, procedures to be followed in dealing with disruptive students and/or disorderly situations, and parental involvement in the discipline process. It often is emphasized, however, that within the scope of his employment, a teacher may use such force as is reasonable and necessary to quell a disturbance which threatens physical injury to others, obtain possession of weapons or other dangerous objects, protect himself, and protect other persons or property.

Many teacher protection provisions also provide procedures to be followed in the event a civil or criminal suit or threat of the same is brought against a teacher, or in cases of personal assault. The board usually will render all reasonable assistance (including legal counsel or fees in the event of a favorable judgment) to the teacher and/or comply with any reasonable request for information relating to the incident or the people involved which is not privileged under the law; in addition, the board often will act as a liaison between the teacher, law enforcement officials, and the courts. Most provisions hold that a teacher involved in school-related legal proceedings shall suffer no loss of wages, leaves, or benefits.

Texts

WASHINGTON

ACADEMIC COMMUNITY-COLLEGE EMPLOYEES' BARGAINING STATUTE

Sec. 1. It is the purpose of this chapter to strengthen methods of administering employer-employee relations through the establishment of orderly methods of communication between academic employees and the community college districts by which they are employed.

Sec. 2. As used in this chapter:

"Employee organization" means any organization which includes as members the academic employees of a community college district and which has as one of its purposes the representation of the employees in their employment relations with the community college district.

"Academic employee" means any teacher, counselor, librarian, or department head, division head, or administrator, who is employed by any community college district, with the exception of the chief administrative officer of each community college district.

Sec. 3. Representatives of an employee organization, which organization shall by secret ballot have won a majority in an election to represent the academic employees within its community college district, shall have the right, after using established administrative channels, to meet, confer and negotiate with the board of trustees of the community college district or a committee thereof to communicate the considered professional judgment of the academic staff prior to the final adoption by the board of proposed community college district policies relating to, but not limited to, curriculum, textbook selection, in-service training, student teaching programs, personnel, hiring and assignment practices, leaves of absence, salaries and salary schedules and noninstructional duties.

Sec. 4. Nothing in this chapter shall prohibit any academic employee from appearing in his own behalf on matters relating to his employment relations with the community college district.

Sec. 5. In the event that any matter being jointly considered by the employee organization and the board of trustees of the community college district is not settled by the means provided in this chapter, either party, twenty-four hours after serving written notice of its intended action to the other party, may request the assistance and advice of a committee composed of educators and community college district trustees appointed by the director of the state system of community colleges. This committee shall make a written report with recommendations to both parties within twenty calendar days of receipt of the request for assistance. Any recommendations of the committee shall be advisory only and not binding upon the board of trustees or the employee organization.

Sec. 6. Boards of trustees of community college districts or any administrative officer thereof shall not discriminate against academic employees or applicants for such positions because of their membership or nonmembership in employee organizations or their exercise of other rights under this chapter.

Sec. 7. Boards of trustees of community college districts shall adopt reasonable rules and regulations for the administration of employer-employee relations under this chapter.

Sec. 8. Nothing in this chapter shall be construed to annul or modify, or to preclude the renewal or continuation of, any lawful agreement heretofore entered into between any community college district and any representative of its employees.

EXECUTIVE ORDER 11615 – PROVIDING FOR STABILIZATION OF PRICES, RENTS, WAGES, AND SALARIES

Declaring that "the time has come for decisive action—action that will break the vicious circle of spiraling prices and costs," the President of the United States announced on Augnst 15, 1971, the initiation of a New Economic Policy entailing "a freeze on all prices and wages throughout the United States for a period of 90 days." According to Executive Order 11615, issued by the President under authority of the Economic Stabilization Act of 1970, as amended,

prices, rents, wages, and salaries shall be stabilized for a period of 90 days from the date hereof at levels not greater than the highest of those pertaining to a substantial volume of actual transactions by each individual, business, firm or other entity of any kind during the 30-day period ending August 14, 1971, for like or similar commodities or services. If no transactions occurred in that period, the ceiling will be the highest price, rent, salary or wage in the nearest preceding 30-day period in which transactions did occur.

In addition to the wage and price freeze, which covers all commodities and services with the exception of raw agricultural products, stocks and bonds, and exports, the President ordered a 10 percent cut in foreign economic aid, directed the Secretary of the Treasury to temporarily suspend full convertibility of dollars into gold, and proposed a reduction of federal expenditures in fiscal year 1972 by $4.7 billion. He also recommended that Congress establish a job development credit, repeal the 7 percent excise tax on automobiles, and advance the personal income tax exemptions scheduled for January 1, 1973, to January 1, 1972.

The Order established a Cost of Living Council responsible for general administration of the wage-price freeze and for recommendations to the President of "additional policies, mechanisms and procedures to maintain a stable level of prices and costs and minimize unemployment when the freeze expires." Members of the Council include the Secretary of the Treasury (chairman), the Chairman of the Council of Economic Advisers (vice-chairman), the Secretaries of Agriculture, Commerce, and Labor, the Director of the Office of Management and Budget, the Director of the Office of Emergency Preparedness, the President's Special Assistant for Consumer Affairs, and the Chairman of the Board of Governors of the Federal Reserve System (advisor). The Office of Emergency Preparedness (17th and F Streets, N.W., Washington, D.C. 20504; phone: (202) 395-5678) was designated as the body responsible for monitoring the freeze and ensuring compliance with provisions of the Order. Sec. 7 of the Order states that "whoever willfully violates this Order or any order or regulation issued under authority of this Order shall be fined not more than $5,000 for each such violation."

National Education Association leaders, concerned that the freeze could be interpreted to affect some 90 percent of the nation's teachers whose contracts become effective in September and who would stand to lose an average of 5½ percent in salary if paid at last year's rate, joined a coalition of other public employee unions in a meeting with two key administration spokesmen on August 18. While emphasizing their interest in improving the nation's economic situation, coalition members requested separate treatment or a separate mechanism for handling public employee problems, and asked that the freeze not apply to service increments or to previously negotiated contracts.

In response to NEA contentions, the Cost of Living Council issued an August 20 statement conceding that a pay increase can be granted for the completion of educational requirements. A question and answer memorandum (no. 3) prepared by the Council stated in part that

where the employer is willing to certify that an agreement was in existence that provided for increases in pay dependent on the employees' completing educational requirements for specific job levels, the pay increase can be granted because, in effect, the action is a bona fide promotion. For example, a teacher who has been awarded a master's degree can receive the increment which is normally given. If the effective date of the teacher's contract is after August 14, the increment must be the amount that was granted last year.

However, the Council continued to maintain that longevity increases are frozen. With respect to previously negotiated contracts, the Council indicated that a salary increase can be granted if a contract providing for such an increase became effective prior to the date of the freeze. As such, the Council reconsidered its earlier position that increases would be frozen unless a teacher actually had been paid at a higher rate prior to August 14. According to NEA President Donald E. Morrison, "It now seems clear that any teacher who, as of August 14, was under a contract with his school board for the 1971-72

school year will be entitled to receive the salary provided for in that contract." He added that the NEA "will continue to work for further modifications that will be equitable for members of the teaching profession."

"Economic Stabilization Circular No. 1," published in the August 24 issue of the *Federal Register* (vol. 36, no. 164), then set forth "general guides drawn from OEP Economic Stabilization Regulation No. 1 and from specific determinations by the Cost of Living Council" for the period August 15 through August 20. The guidelines do not constitute legal rulings. Pertinent portions of sec. 502 of the circular provide:

(a) Deferred wage or salary increases which have been negotiated to take effect during the period of the wage freeze are not permitted.

(b) There will be no cost-of-living increases during the 90-day freeze.

(c) The freeze does not require termination of bargaining for wage changes during the 90-day freeze period. However, no wage increase negotiated during the 90-day period can apply to the period of the freeze nor can it go into effect during the period of the freeze.

(d) If a strike is now in progress, contract negotiations can proceed during the course of the freeze. However, no increases in wages negotiated can be paid for services rendered during the period the freeze is in effect.

(e) State and local governments are subject to Executive Order No. 11615 freezing wages and prices. Accordingly, cost-of-living wage or salary increases ordered by a municipal government to become effective subsequent to the date of the Executive order are not permitted during the 90-day freeze period. . . .

(f) Increases in the salaries of teachers may be granted if the contract period started before August 15. If the contract period started after August 15, the increase is not allowed. For example, if teachers have reached a new agreement on pay scales for the coming school year but the contract does not go into effect until September 1, teachers cannot receive the pay increase.

. . .

(j) Policy on promotions provides that:

(1) Bona fide promotions that constitute an advancement to an established job with greater responsibility are allowed.

. . .

(3) Merit and longevity increases are not allowed.

(k) [statement about increases dependent upon the completion of educational requirements as quoted above]

. . .

(m) If a salary increase was granted and the employee actually performed under the new rate prior to August 15, he can be paid at the higher rate if the pay day is after August 15 provided there are adequate records to demonstrate that the increase was put into effect prior to the freeze date.

(n) The President's program does not call for reducing compensation levels below those in effect on August 15. Consequently, such matters are left entirely to negotiation between labor and management.

(o) Unions and management cannot negotiate for pay increases to be effective after the freeze which will be retroactive to cover the period of the freeze.

In a statement issued subsequent to an August 19 emergency meeting of representatives of all NEA state affiliates, Morrison made it clear that the NEA "will file an unfair labor practice suit or will take other appropriate legal action against any school board which refuses to negotiate in good faith during this emergency period." And, at a news conference held the same day, an NEA spokesman explained:

We have considered the possibility of a constitutional lawsuit challenging the freeze either in its entirety or in regard to certain of its aspects. Although we are convinced that there are significant legal problems, we have decided not to pursue that course of action at the present time. There are, however, certain legal rights which teachers have, even under the freeze, and we intend to enforce those rights. In those states in which negotiations are now underway, we are concerned that they continue in good faith. There is nothing in the freeze that even remotely suggests that negotiations should be discontinued. . . . Moreover, we are concerned with the money which is already in school board budgets for teacher salaries. We believe that it would be illegal for a school board to take advantage of the freeze in order to reallocate this money for another purpose. The taxes were raised for this purpose, and the money should remain in the salary account until we find out precisely what we can and cannot do with it. We intend to take every step possible in order to prevent the reallocation of money that has been earmarked for teacher salaries.

At the present time, questions relating to the payment of teacher salaries under the freeze continue to be the subject of various Cost of Living Council determinations. The information contained in this article covers pertinent guidelines issued through August 24; future Council guidelines and NEA actions will be reported in upcoming issues of the DIGEST.

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RESEARCH DIVISION
NATIONAL EDUCATION ASSOCIATION

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Case Reviews

COLORADO

NEGOTIATED LEAVE BENEFITS FOR ASSOCIATION PRESIDENT CANNOT BE DISCONTINUED

The Arapahoe County District Court enjoined Adams-Arapahoe Joint School District 28J from discontinuing pay and fringe benefits contractually due the president of the Aurora Education Association (AEA) during his 1970-71 leave of absence. Finding that an amended portion of the parties' 1969-72 agreement relating to Association privileges was negotiated for the benefit of the AEA president, the court ruled that the amended agreement constituted a binding and enforceable contract between the district and the AEA.

During a reopener prior to the 1970-71 school year, the parties amended their agreement on September 14, 1970, to allow the AEA president "a leave of absence with full pay and full fringe benefits, half the cost of which . . . [is] to be reimbursed to the school district by the Association." Upon requesting leave for the 1970-71 school year, the AEA president received his regular salary and fringe benefits from the district through January 25, 1971, and the AEA reimbursed the district for 50 percent of the cost. However, when the district ceased payment of the president's salary and either stopped or threatened to stop his benefits on January 26, he sought injunctive relief.

According to the court, plaintiff was serving as AEA president on September 14, the contract was amended for his benefit, and his services were beneficial to the district. Therefore, the court held that the negotiated leave payments were lawful, and that the district statutorily was empowered to execute the contract amendment. It consequently permanently enjoined the district from discontinuing plaintiff's salary and benefits during the remainder of his leave and ordered restoration of all payments withheld since January 26. (*B. Beryl Watson v. Adams-Arapahoe Joint School District 28J, et al.*, Arapahoe County District Court, May 4, 1971.)

MASSACHUSETTS

APPROPRIATED FUNDS MAY BE REALLOCATED TO PROVIDE NEGOTIATED RETIREMENT BENEFITS

The Massachusetts Supreme Court held that a contract amendment providing a retirement benefit based upon unused sick leave was "valid and proper," but reversed a lower court decision that the Fitchburg School Committee could not pay the benefit because it had not appropriated funds "for the purpose of paying the [negotiated] amounts due." It ruled that the lack of a specific budget allocation for payment of the benefit would not alter the school committee's power (within its total appropriation) to order payment of the monies due and allocate funds accordingly. The high court also rejected committee contentions that local ordinances prevailed over the contract amendment and that the retirement benefit was an invalid gratuity.

The retirement benefit provision, which amended a 1966-69 contract between the committee and the Fitchburg Teachers Association, was negotiated during a 1968 reopener and became effective January 1, 1969. It called for "a salary adjustment for a teacher's final year of service before retirement" according to the number of days (a maximum of 10 per year) worked in excess of 170 days in each year of service.

When the Fitchburg city auditor refused to approve 1969 retirement payments due eligible teachers under the amendment, the Association sought declaratory relief. The lower court found the retirement provision valid and proper, but it dismissed the suit because "the City of Fitchburg never appropriated in the 1968 or 1969 budget any money for the purpose of paying the amounts due or that might become due under the provisions of the amendment to the contract."

The state supreme court agreed that the amendment "was a valid exercise of the committee's [statutory] power to set wages and conditions of employment through the process of collective bargaining." It also observed that the retirement

benefit (based upon unused sick and personal leave in any given year) provided a reasonable reward for lengthy, continuing service, discouraged frivolous use of sick leave, and limited the municipality's liability to 10 days per year of service. While the school committee argued that the benefit was an invalid gratuity and that local ordinances consequently prevailed over the contract amendment, the high court rejected that argument in finding that "money paid pursuant to the amendment is money 'actually earned.'"

As to the dearth of a 1968 appropriation covering payments required by the amendment, the state supreme court found this

> irrelevant since the amendment was not effective until January 1, 1969, and no sums could therefore be due under it until that year. The fact that the amounts were dependent in part on services performed in 1968 and prior years has no bearing on the fact that the calculated salary adjustment was due only after the teacher's final year of service beginning with the school year 1968-69.

Concluding that the lack of a specific allocation for payment of the benefit would not affect the school committee's power to order payment of the negotiated sums due (so long as its total appropriation was not exceeded), the state supreme court held that "the committee may use money allocated to the school as it sees fit, even to the extent of diverting sums specifically allocated in the budget from one use to another." It accordingly reversed and remanded the case for a decision as to whether ample unexpended funds remained in the schools' 1969 total appropriation to pay the required retirement benefits. (*Fitchburg Teachers Association v. School Committee of Fitchburg, et al.*, Massachusetts Supreme Court, June 30, 1971.)

OTHER ITEMS OF INTEREST

MATERNITY POLICY REQUIRING LEAVE AT END OF FIFTH MONTH DECLARED DISCRIMINATORY

A pregnant teacher who claimed that a maternity leave regulation violated her Fourteenth Amendment right to equal protection by discriminating against her as a woman was granted monetary and other relief by the U.S. District Court for the Eastern District of Virginia. Finding no medical or administrative reason for a Chesterfield County (Virginia) school board regulation requiring a pregnant teacher to terminate her employment at the end of her fifth month of pregnancy, the court ruled that the maternity policy

> denies pregnant women . . . equal protection of the laws because it treats pregnancy differently than other medical disabilities. Because pregnancy, though unique to women, is like other medical conditions, the failure to treat it as such amounts to discrimination which is without rational basis, and therefore is violative of the equal protection clause of the Fourteenth Amendment.

First employed during the 1968-69 school year, plaintiff was re-employed for the following two school years under a contract which contained the following provision:

> Termination of employment of an expectant mother shall become effective at least four (4) months prior to the expected birth of the child. Termination of employment may be extended if the superintendent receives written recommendation from the expectant mother's physician and her principal, and if the superintendent feels that an extension will be in the best interest of the pupils and school involved.

On about November 2, 1970, plaintiff informed the school board that she was pregnant and expected to deliver April 28, 1971. With the approval of her obstetrician, she asked that leave commence April 1, or the end of her eight month of pregnancy. That request was denied, and leave was granted effective December 18, 1970, pursuant to the terms and conditions of the policy which grants a teacher the right to re-employment at a time when she determines that she is physically fit and the school board is able to place her. She subsequently presented her request to the school board which denied an extension because it had a replacement available and felt it should comply with the regulation.

In finding no substantive basis for the board's regulation, the court observed that

> pregnant women are more likely to be incapacitated in the early stages of pregnancy than the last four months. Further, there is no psychological reason for a pregnant teacher to be forced to take a mandatory leave of absence. In short, since no two pregnancies are alike, decisions of when a pregnant teacher should discontinue working are matters best left up to the woman and her doctor.
>
> In addition, no tenable administrative reason has been advanced by the defendants in defense of the provision. The reasons given . . . for the policy, such as fear of pushing with resulting injury to the fetus, and inability to carry out responsibilities in fire drills, are nugatory, and based on no empirical data whatsoever. Neither has there been a substantial study conducted upon which to base the contention that absences will increase during the latter stages of pregnancy. Basically, the four month requirement set forth in the provision was arbitrarily selected.

Reviewing case law relative to the validity of legislatively prescribing different treatment for men and women, the court cited a U.S. Supreme Court ruling in *Goesaert v. Cleary* (1948) which stated that

> "[t]he Constitution in enjoining equal protection of the laws upon States precludes irrational discrimination as between persons or groups of persons in the incidence of a law." . . . Thus, though absolute equality is not required, *Douglas v. California*, . . . (1963), distinctions which are "'irrational,' 'irrelevant,' 'unreasonable,' 'arbitrary,' or 'invidious,'" cannot be drawn. *Harper v. Virginia Bd. of Elections*, . . . (1963).

Defendants argued that the issue was "simply a matter of contract between parties," and that plaintiff waived her constitutional rights in signing the contract. Having once rejected that argument, the court pointed out that "the question to be answered is what rights, as a public employee, does [plaintiff] have. 'It is sufficient to say that constitutional protection does extend to the public servant whose exclusion pursuant to a statute [or regulation] is patently arbitrary or discriminatory.' *Wieman v. Updegraff*, . . . (1952)."

Defendants also attempted to justify the policy on grounds that other Virginia school boards have similar five-month rules. But the court pointed out that "similar treatment of a certain class in other school districts cannot be used to show that a certain policy has a rational basis. Rather, the Court must determine whether the classification drawn in the regulation, in light of its purpose, serves any rational purpose. Otherwise, it is arbitrary or invidiously discriminating."

Concluding that the regulation is discriminatory under the Fourteenth Amendment, the court held that plaintiff was entitled to placement in the same position she would have been in if she had been allowed to teach until April 1 as requested. Moreover, she was entitled to recovery of her salary from January to March 1971, and all seniority and other rights and benefits she would have received if she had been teaching during that period. (*Mrs. Susan Cohen v. Chesterfield County School Board, et al.*, U.S. District Court for the Eastern District of Virginia, May 17, 1971.)

SCHOOL BOARD MAY TERMINATE NONTENURE TEACHER WITHOUT REASONS

The U.S. Court of Appeals, Sixth Circuit, upheld the presumptive legality of a school board's right to refuse renewal of a nontenure teacher's contract without explanation so long as that refusal is not based upon unconstitutional motives. In its first ruling on the subject, the court pointed out that plaintiff did not have a constitutional right to public employment *per se*, and that the "very reason for the probationary period is to give the board a chance to evaluate the teacher without making a commitment to rehire him." It reversed a U.S. District Court ruling which held that the Columbus, Ohio board must give plaintiff written reasons for his nonrenewal and a hearing, or offer him a contract.

When plaintiff was notified that his contract would not be renewed for the 1970-71 school year, he filed suit alleging deprivation of his Fourteenth Amendment right to due process of law. He charged that the board had failed to provide him with written notice of the proposed nonrenewal, written notice of a hearing on the reasons for nonrenewal, and a hearing at which he could submit evidence in his favor. Finding no evidence that the teacher was impermissibly terminated for exercise of a constitutional right, the U.S. District Court proceeded to determine the nature of and balance between governmental and private interests in such a matter.

Citing *Roth v. Board of Regents* (which was upheld by the Seventh Circuit Court of Appeals and is reported in this DIGEST), the lower court held that the interests of the school board and the the teacher "will both be fully protected" by the following minimal, procedural due process requirements: (1) a written statement of the reasons for nonrenewal prior to any final action, (2) adequate notice of hearing at which the teacher might respond to such reasons, (3) a hearing allowing the teacher to submit relevant evidence, and (4) a statement of the board's reasons for nonrenewal if it actually dismisses the teacher.

On appeal, the appellate court emphasized the lawfulness of the school board's actions in the absence of any claim to an unconstitutional motive. It also noted that the probationary period is an "essential feature" of the tenure system because it allows school boards broad prerogatives in determining a teacher's eligibility for continued employment before granting him the rights adhering to tenure status. Reviewing judicial precedent with respect to the question raised by plaintiff's claim under the Civil Rights Act of 1871, the court pointed out that any claim entered thereunder must be proved by showing "(1) action under color of state law, and (2) a deprivation of a constitutional right as a result of that action."

The parties stipulated that the board's action was taken pursuant to state law, but the appellate court found that plaintiff had not charged that he was dismissed for exercise of any constitutionally protected rights. Rather, he contended that the board's failure to give reasons for its nonrenewal decision and a hearing at which he might contest those reasons was a violation of his rights to due process under the Fourteenth Amendment. According to the court, that amendment protects an individual only from deprivation of "life, liberty, or property" without due process of law; it cited another ruling to the effect that "it has been held repeatedly and consistently that government employment is not 'property' . . . . We are unable to perceive how it could be held to be 'liberty.' Certainly it is not 'life.'" Therefore the appellate court held:

> A nontenured teacher's interest in knowing the reasons for the nonrenewal of his contract and in confronting the board on those reasons is not sufficient to outweigh the interest of the board in free and independent action with respect to the employment of probationary teachers. The board is not a legal tribunal. It is an employer, and when

it decides to hire or not to hire a particular teacher, it is acting 'as proprietor, to manage the internal operation' of the public schools. *Cafeteria Workers, Local No. 473 v. McElroy*.

The court accordingly remanded the case with instructions to dismiss plaintiff's complaint. (*Thomas Justin Orr v. Raymond E. Trinter*, U.S. Court of Appeals, Sixth Circuit, June 16, 1971.)

Board Findings and Rulings

MICHIGAN

COLLEGE ORDERED TO BARGAIN COACHES' TERMS AND CONDITIONS OF EMPLOYMENT

Seven of eight charges brought by the Oakland Community College Faculty Association against Oakland Community College during the parties' negotiation of a 1970-71 contract were found lacking in merit by a Michigan Employment Relations Commission (MERC) trial examiner. His findings and recommended dismissal of the charges subsequently were adopted by the MERC. However, the MERC agreed that the college's refusal to negotiate a supplementary salary schedule for coaches constituted an unfair labor practice under the state's Public Employment Relations Act (PERA) and ordered the college to bargain the coaches' "wages, hours and other terms and conditions of employment."

The Association alleged in two of its charges that the college "set prior conditions for the continuation of collective bargaining including a requirement for the entire collective bargaining demands before bargaining can continue," and that it refused to enter counterproposals to Association demands. According to the examiner, the Association presented its noneconomic demands on April 1, 1970, at which time the college said it would not agree to any of the demands until a complete proposal (including economic items) had been submitted. But he found that the parties were negotiating noneconomic matters at least by May 20, which date preceded the Association's submission of its entire bargaining package. Moreover, the following day the college presented a comprehensive proposal to the Association which contained numerous counterproposals and responses to Association demands.

In recommending that the two charges be dismissed, the examiner explained:

> Without specifically passing upon the obligation of the College to bargain relative to non-economic matters until a total economic and non-economic package had been submitted, the undersigned is of the opinion that clearly the Employer is not obligated to agree, as contrasted to bargaining, upon non-economic matters until the whole package is submitted. Section 15 of PERA specifically states that the obligation to bargain does not compel either party to agree to a proposal or require the making of a concession. In the case at hand, the College did fulfill its obligation by negotiating on non-economic matters, despite the fact that the total package had not been submitted . . . . Admittedly, not all of the proposals by the Charging Party were met with counter-proposals, but again, Section 15 of PERA does not require the making of a concession. Here, the extensiveness of the counter-proposals made does indicate to the undersigned that the College has fulfilled its obligation to bargain as imposed by PERA.

Two other charges dealt with alleged harassment of Association bargaining team members, and a demand by the college that the Association withdraw the unfair labor practice charges herein as a condition of continued bargaining. One team member was given a third year probationary contract on March 30, 1970, after his supervisor expressed some dissatisfaction with his teaching methods. While the examiner found conflicting opinions as to the teacher's ability and a question as to whether the contract was followed, he concluded that

> the record is devoid of any evidence of animosity towards [the teacher] stemming from his activities as negotiator on behalf of the Charging Party. There is no reason to infer under the circumstances . . . that [the teacher's] third year probationary contract is attributable to his having engaged in protected activities.

Another bargaining team member allegedly was harassed by being assigned a course at another campus during the spring session 1970 which involved an extra hour of driving time. A grievance was filed on the day the transfer was made, and approximately five days later the assignment was rescinded. Again, the examiner found no evidence that the teacher's proposed transfer was motivated by anti-union animus or any animosity toward the teacher as a bargaining team member. As to the alleged demand that the unfair labor practice charges be withdrawn, the examiner found

> that the record does not substantiate this charge. Although one of the representatives of the Charging Party's bargaining team did testify such a demand was made, the other one testified that the College representative stated he would "like us to drop the unfair labor practice charges so we could get to negotiations." In any event, the parties had a meeting on May 20, 1970, and many times subsequent thereto. Even if the demand was made it is now moot.

Another allegation involved the Association's demand that conditions of employment affecting

the 1970 summer school session be bargained. The college maintained that a 1970-71 master contract covering the summer school program would be completed before the opening of the session (as had happened under the previous contract); it additionally offered to extend the previous contract if a successor agreement was not completed by the beginning of the summer session. In recommending dismissal of the charge, the examiner found no allegation that the college had refused to meet at reasonable times for purposes of bargaining, and could not see why the situation "should be treated any differently than that which teachers are faced with elsewhere when the opening of school following Labor Day approaches without agreement upon a . . . contract."

The sixth allegation involved three separate refusal-to-bargain charges wherein the Association contended that the college's economic offer was made on a take it or leave it basis, that it refused to bargain conditions of employment affecting unit members teaching in the college's community services division, and that it refused to bargain a supplementary salary schedule for coaches. The examiner found no merit to the first charge, and recommended dismissal of the second because

> the community services courses are for the most part noncredit courses offered separate and apart from the curriculum of the College itself, and in many instances taught on a one time basis by instructional personnel obtained elsewhere than the faculty of the College. These teaching duties in the community services function of the College are on an optional basis and none of the faculty are required to teach the courses. At best, this employment is of a casual nature and those teaching these courses would not have been included in the faculty unit of College employees. Based upon these circumstances, the undersigned would conclude that the College is not required to bargain relative to wages, hours, and other conditions of employment of the personnel engaged in teaching in the community service courses, and that the College has not failed in its obligation to bargain as imposed by PERA . . . . In arriving at this conclusion, the undersigned wished to make it very clear that he does not agree with the contention of the College that it is not obligated to bargain relative to wages, hours, and other conditions of employment of part-time personnel teaching in the College curriculum.

With respect to the final charge, the college argued that it was not obligated to bargain coaches' salaries because coaches were not part of the bargaining unit at the time of the 1966 election (when the college had no coaches), and the recognition clause of the previous agreement did not include them. Noting that past MERC cases have not involved a specific determination of whether coaches should be included or excluded from a unit of teaching faculty, the examiner found that

> in most cases coaches were, as a matter of course, included in a bargaining unit. In fact, the Commission has determined that even the Director of Athletics should properly be included in the bargaining unit . . . . Coaching as such, must be accepted as a form of instruction and the undersigned is of the opinion that the acquisition of coaches subsequent to the certification of this unit, would merely be an accretion to the unit and should be treated no differently than situations where specialized instructors, such as speech correctionists, are later hired by an educational institution. The fact that there were no coaches at the time, or that coaches were not specifically referred to in the negotiated recognition clause, does not alter this conclusion. To hold otherwise would cause constant litigation of bargaining units upon the hire of any instructional personnel not specifically referred to in a unit description.

The examiner thus concluded that the college's refusal to bargain the salaries of coaches constituted a violation of its duty to bargain as imposed by the PERA and recommended that the college be ordered to take affirmative action in this area. That recommendation was adopted by the MERC, and an order to bargain was issued. All of the Association's other unfair labor practice charges were dismissed by the MERC. (*In Re Oakland Community College and Oakland Community College Faculty Association*, Michigan Employment Relations Commission, May 28, 1971.)

NEW JERSEY

BUILDING AIDES AND OFFICE PERSONNEL PROPERLY MAY BE INCLUDED IN EXISTING TEACHER UNIT

School building aides and office personnel employed by the West Milford school board were found to share a community of interest with teachers represented by the West Milford Education Association in an existing unit and may vote for inclusion in that unit. In so finding, a New Jersey Public Employment Relations Commission (PERC) hearing officer held that certain Association membership restrictions for nonprofessionals did not bar their inclusion in the teacher unit. The PERC adopted the officer's recommendations and ordered two representation elections under the state's public employee bargaining statute which allows professional employees to vote upon their inclusion in a unit with nonprofessionals.

The Association, which represented teachers, nurses, and instructional aides in a recognized unit, petitioned the PERC to add building and library aides and office employees to that unit. The West Milford board objected on grounds that nonprofessional personnel do not share a community of interest with teachers, and that the confidential relationship existing between office personnel and the administration would result in a conflict of interest.

A hearing officer, however, found the unit appropriate and excluded only three of the 19 office employees (secretaries to the superintendent and the business manager-board secretary) from the unit as confidential personnel since they have direct access to and knowledge of budget, policy, and labor relations information.

Filing exceptions to this determination, the board argued that the Association cannot represent nonprofessional employees since it accords them only associate membership status, they do not have the right to hold office or vote, and state law does not provide for this type of representation. Associate membership is provided for certain classes of nonprofessionals including the personnel here, but the Association president indicated that such members are entitled to all Association benefits except the two indicated, and that the West Milford aides and clerks had been informed of their limitations as associate members.

While the board contended that those limitations preclude fair representation, the PERC disagreed, observing that employee organizations are required by statute to fairly represent all unit employees, whether they are full or associate members, or nonmembers:

> The duty to represent obviously transcends the presence or absence of organization membership and presents a broader question. If one elects not to be a member, in any form, that fact does not relieve an organization of its duty. The measure of fair representation is ultimately found at the negotiating table, in the administration of the negotiated agreement, and in the processing of grievances. A qualified form of membership may or may not become an ingredient in the kind of representation given.
>
> It may become an element of proof to a claim of inadequate representation once the opportunity to represent has been established and allegedly been abused. And in terms of internal administration, it may require the organization to be unusually perceptive and sensitive to the needs of those holding restricted memberships in order to insure that the organization meets its statutory obligations. But standing alone, this restriction on membership cannot at this time be said to constitute, necessarily, an impediment to fair representation prior to the association's opportunity to demonstrate its compliance with the statutory obligation, notwithstanding this restriction. In short, the restriction does not, *per se*, limit its capacity to comply. Were it otherwise, there would be no possibility of fair representation for those who elect to be nonmembers. The commission finds therefore no disqualification of the association.

Agreeing with the hearing officer that only the three secretaries working for management level personnel should be excluded from the unit as confidential employees, the PERC found no reason why a clerk who merely assembles data which may be considered confidential or is later used in a policy-making capacity should be deprived of representation. It explained:

> Mere knowledge of raw information acquired in this process would not ordinarily tend to compromise management's right to confidentiality in matters of policy affecting negotiations or contract administration. Nor is there any discernable reason why this same clerk would, because of her function, owe a greater measure of allegiance to the employer or conversely why her performance would conflict with the interests of those in the existing unit to whom the data might relate but not yet affect as a policy matter.

While certain differences in qualifications, working conditions, and benefits exist between teachers and nonprofessional personnel, the PERC held that "the aides and office personnel perform functions immediately related or necessarily adjunct to the education functions performed by members of the existing unit." In addition, office personnel receive substantially the same benefits as teachers, work a similar number of hours, and share common calendar, tenure, and transfer rights.

Such a similarity is inapplicable to aides, but "the fact remains that much of the work they do would, but for their existence, be done by teachers. It is the part-time feature of their employment which gives rise to the disparity of certain conditions and benefits; this same feature is what makes feasible the relief of teachers from certain duties they formerly performed."

Having established the appropriateness of the nonprofessionals' inclusion in the existing teachers' unit, the PERC ordered an election among the building aides and office personnel excluding confidential employees. If a majority of that group votes for Association representation, that shall indicate their desire to be included in the teachers' unit. However, pursuant to statute, the teachers then must vote whether they wish to be included in the same unit as the nonprofessionals. If both groups vote affirmatively, the PERC shall certify the Association as representative of a single unit; but if the nonprofessionals vote for representation and the teachers vote against inclusion, the PERC shall certify separate representation for the former group. The voting is to occur within 30 days after the beginning of the current school year. (*Board of Education of the Township of West Milford in the County of Passaic and West Milford Education Association*, New Jersey Public Employment Relations Commission, July 8, 1971.)

NEW YORK

IMPACT OF ECONOMIC REDUCTIONS ON EMPLOYMENT CONDITIONS IS NEGOTIABLE

A school board "is obligated to negotiate . . . the impact" of economic reductions on the af-

fected employees' terms and conditions of employment, but the actual decision "to curtail services and eliminate jobs is not a mandatory subject of negotiations," according to the New York Public Employment Relations Board (PERB). In determining the scope of negotiation under the state's Taylor Law, the PERB dismissed an unfair labor practice charge brought by the New Rochelle Federation of Teachers, AFL-CIO, Local 280, when the local board allegedly refused to negotiate cuts in its work force through budget reductions. The PERB found that budget cuts "clearly involve a managerial decision," although meetings between an employer and employee representatives with respect to such a decision "would seem most desirable."

Of three unfair practice charges filed by the union last spring, the PERB considered the budget reduction issue "of such immediacy" that it heard the matter directly and held the other charges for later resolution. The union alleged that the unfair practice occurred when the New Rochelle superintendent approved "budgetary cuts and a reallocation of funds terminating the services of a substantial number of employees . . . without prior notification to or discussion" with union representatives. The proposed cuts would result in the elimination of departments and the termination of about 20 percent of the district's professional positions, or 140 jobs.

The district indicated its willingness to negotiate the impact of the proposed cuts on unit members' terms and conditions of employment, but maintained from the outset that budget reductions and job eliminations are not mandatory subjects of negotiation. In upholding that view, the PERB noted that the Taylor Law does not define or limit the scope of negotiation thereunder. But it found that the bargaining obligation imposed upon private employers by the National Labor Relations Act (NLRA) "would appear to be equally applicable to the negotiating obligation under the [Taylor Law] because the terms used in each Act, while not identical, are quite similar." It explained:

> The NLRA does not mandate that employers and labor organizations must bargain upon every subject which interests either one of them; rather, the specification of wages, hours, and other terms and conditions of employment defines a limited category of subjects that are mandatory subjects of bargaining.

Applying this construction to the instant situation, the PERB held that the proposed budget cuts constituted a managerial decision and that it "does not follow that every decision of a public employer which may affect job security is a mandatory subject of negotiations." An employer is obligated to bargain the impact of such a decision upon unit members' conditions of employment, but the PERB pointed out that

> a public employer exists to provide certain services to its constituents . . . . Of necessity, the public employer, acting through its executive or legislative body, must determine the manner and means by which such services are to be rendered and the extent thereof, subject to the approval or disapproval of the public so served, as manifested in the electoral process.
>
> Decisions of a public employer with respect to the carrying out of its mission, such as a decision to eliminate or curtail a service, are matters that a public employer should not be compelled to negotiate with its employees. Here there must be noted a substantial difference between private employers and public employers, for the latter, "owe a very special obligation to the public not owed by private employers."

The PERB added, however, that its ruling should not be interpreted to mean that "an employee organization is precluded from seeking negotiations concerning such decisions on a permissive basis. Further, it would seem most desirable for a public employer to meet and discuss with the representative of its employees concerning such decisions, particularly where, as here, the employees are professionals and their opinions on the educational process and standards should be of value to the employer." It noted that the parties' contract provided for a joint Educational Policies Committee, and that the district was willing to discuss allocation of the budget cuts.

Concluding that the district "has not refused to negotiate on the impact of [the decision involving budget cuts and job eliminations] on terms and conditions of employment," the PERB dismissed the union's charge as lacking in merit. (*City School District of City of New Rochelle and New Rochelle Federation of Teachers, Local 280, AFT, AFL-CIO,* New York Public Employment Relations Board, July 1, 1971.)

PENNSYLVANIA

DEPARTMENT CHAIRMEN AND INSTRUCTIONAL SPECIALISTS EXCLUDED FROM TEACHER UNIT AS SUPERVISORS

In one of its first actions under the state's Public Employee Relations Act, the Pennsylvania Labor Relations Board (PLRB) classified department chairmen, multi-media specialists, and reading consultants as supervisors and excluded them from an appropriate unit of Carlisle Area School District teachers and other employees. As the Carlisle Area Education Association previously had won a representation election in a unit excluding the three positions in question the PLRB certified the Association as exclusive representative of the original unit.

A supervisor is defined by the Act as

> any individual having authority in the interests of the

employer to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward or discipline other employees or responsibly to direct them or adjust their grievances; or to a substantial degree effectively recommend such action, if in connection with the foregoing, the exercise of such authority is not merely routine or clerical in nature but calls for the use of independent judgment.

Other portions of the Act state that any employee at the first level of supervision (defined as "the lowest level at which an employee functions as a supervisor") may not be included in any other public employee units.

Examining department chairmen's responsibilities, the PLRB found that chairmen are present at most interviews with prospective teachers, and that they make recommendations to school administrators responsible for final hiring decisions. Moreover, they are required to "evaluate teachers and report their observations to the administration . . . for use in rating instructors for purposes of retention and tenure." There also was evidence that lateral and vertical teacher reassignments had been based upon department chairmen's recommendations, and the superintendent stated that he has never refused such recommendations.

Multi-media specialists, whose duties were referred to as "administrative, supervisory, advisory, and technical," were found to be responsible for supervising the district's audiovisual program and two nonprofessionals in the instruction material center. Reading consultants have no teaching duties, but they observe teachers' methods of reading instruction, recommend reassignment on the basis of their observations and evaluations, and submit reports to the superintendent for use in determining the status of certain teachers.

Concluding that all three categories of employees are supervisors under the Act, the PLRB excluded them from the Carlisle district unit and certified the Association as representative of a unit comprised of "classroom teachers, librarians, guidance counselors, school nurses, speech therapists, home and school visitor, home and school coordinator, and dental hygienist." (*Carlisle Area School District,* Pennsylvania Labor Relations Board, June 23, 1971.)

WISCONSIN

DISMISSAL THREATS FOR NONSIGNING OF INDIVIDUAL CONTRACTS RULED A PROHIBITED PRACTICE

A school board's issuance of individual contracts prior to settlement of a collective agreement was found proper until the board threatened to dismiss teachers who refused to sign those contracts and effectively discharged some teachers. While acknowledging that school boards and teacher organizations "have been left to their own ingenuity" in reconciling separate statutory provisions dealing with collective bargaining and the issuance and return of individual contracts, a Wisconsin Employment Relations Commission (WERC) trial examiner found that the actions of St. Francis School District No. 6 constituted a prohibited practice under the state's municipal employment bargaining statute.

In addition, the district violated its agreement with the St. Francis Education Association (SFEA) that "letters of intent" to return the following school year would be issued to and signed by local teachers in lieu of individual contracts and pending settlement of a collective agreement. The examiner also found that the board illegally threatened a teacher with disciplinary action when the teacher used his preparation time to distribute SFEA materials in a teachers' lounge.

When the parties began negotiation of a 1969-70 collective agreement, they agreed to deviate from the statutory scheme for individual contract issuance and return in that the board would ask teachers to sign letters of intent indicating whether they would return to the district the following year. The SFEA presented the signed letters at an April 1969 negotiating session, and the parties agreed that the letters would be binding only upon the school board. A portion of the letters provided: "Upon completion of negotiations with the association a negotiated agreement will be prepared, signed by the school board and the education association. An individual contract conforming to the provisions of the negotiated agreement shall be made available for your signature."

During May 1969, the board announced that teachers under contract for the 1969-70 school year would have priority for summer school positions. The SFEA warned teachers that individual contracts might be issued and advised them to return their unsigned contracts to the Association to be held until the completion of negotiation. In June the board mailed individual contracts without notifying the SFEA and indicated that teachers should return their signed contracts by June 12 or they might face dismissal. The board stated, however, that it intended to continue negotiating and that the individual contracts would be modified in accordance with the terms of the collective agreement.

Then on June 13, the board issued a dismissal statement to teachers who had not returned their individual contracts and told 19 summer school teachers who withheld their contracts that they would be unable to participate in the summer session. The statement read in part:

Your contract was not among those presented to the board for ratification at its regular meeting on June 12, 1969. The board can only assume that you have rejected

your contract and that you have resigned . . . . Only through a signed contract can the board have any confidence that a teacher will be available in the fall. The letter of intent has not been treated as a binding obligation by your members and the board has been advised to proceed with formal contracts which are binding on both parties.

Some of the teachers so dismissed had tenure, and the examiner subsequently found that the board made "no effort" to comply with statutory procedures for such dismissals. Several days later, however, the parties agreed to accept the letters of intent as binding contracts in accordance with statute and nullify the resignations assumed by the board's June 13 statement. Summer school proceeded and in early September the parties reached collective agreement and individual contracts were signed. Later that month the SFEA filed a prohibited practice complaint with the WERC.

Reviewing the dispute, the examiner discussed the seemingly conflicting statutory provisions involved:

The Wisconsin Supreme Court in *Muskego-Norway School District v. WERB* . . . made it clear that Sections in 111.70, 118.21 and 118.22 [the first of which is taken from the municipal employment bargaining statute, and the second and third of which derive from statutory provisions regulating teacher-school board relations] . . . must be harmonized and that such should be done with recognition that Section 111.70 was enacted subsequent to the other two sections. Harmony, however, seems to be opposed when the requirement of Section 118.22 that individual teacher contracts be entered by a certain date conflicts with the fact that good faith bargaining has not settled the terms to be reflected in such contracts by that date. The accommodation of the two statutory schemes seems to require that bargaining be unimpeded by deadlines and that at the same time the employer and the teachers should, by the dates specified in Section 118.22, by contracting, be able to determine their status with regard to the teachers' continued employment.

Of course, contracts, particularly employment contracts, are not absolute assurance of the occurrence of the conduct which they purport to require. They are merely the most and best legal assurance that can be achieved. The fact that such arrangements are frequently perceived by employees as less than absolutely compelling and by employers as not realistically enforceable, does not make them something other than contracts or less than the best that is legally possible. At any rate, thus far neither the courts nor the WERC has described in general terms a scheme for accomplishing the accommodation of the aforesaid statutes and the parties have been left to their own ingenuity.

As the letters of intent were binding only on the board, the examiner found them "less than contracts"; but he held that signed letters were the board's "unambiguous" agreement that teachers effectively had been hired for the 1969-70 school year. He cited WERC precedent in *Elmbrook Board of School Directors* in concluding that the board's issuance of individual contracts was not a prohibited practice, but pointed out that such an action violated the parties' agreement not to issue individual contracts until settlement of a collective agreement.

However, the board's subsequent actions amounted to "threats of discharge and discharge itself." According to the examiner, "these actions against the teachers were reprisals based on their concerted withholding of their contracts, a tactic in the bargaining process allowed by the agreement with the board not to require individual contracts until bargaining was completed." He concluded that

these reprisals were violations of the aforesaid statutory provisions whether or not they were part of a complex of actions by the board which also included bad faith bargaining or violations of an agreement. Recognizing that neither refusing to negotiate in good faith nor violating an agreement are prohibited practices, it is still possible to distinguish conduct, such as that of the employer in the instant case, which punishes employees or threatens to punish employees for adherence to a collectively bargained agreement.

A second matter presented to the examiner occurred when a teacher and SFEA representative who used his preparation time to conduct Association business was formally warned that "any further use of such time for SFEA business will result in your being referred to the school board for disciplinary action." When the SFEA grieved the matter, the board responded that its warning was issued pursuant to a board rule prohibiting Association business during the school day.

But the WERC examiner found that the board allowed school time to be used for "other than what could be accurately characterized as work," until that time was used for SFEA activities. Therefore, he held that the rule and consequent warning constituted illegal interference with protected activities and ordered the board to repeal its rule and cease and desist from its violative conduct. (*St. Francis Education Association v. St. Francis School District No. 6 and School Board*, Wisconsin Employment Relations Commission, June 22, 1971.)

Negotiation Notes

ARKANSAS

LAW MANDATING SCHOOL DISTRICT ADOPTION OF WRITTEN PERSONNEL POLICIES ENACTED

H.B. 265, enacted by the Arkansas legislature during its 1971 session, mandates each school district in the state to "have a set of written personnel policies legally adopted by its Board of Directors." Any district which does not comply with this requirement by July 1, 1972, shall not be accredited by the state education department after that date.

The act provides that each school board "shall designate" a Committee on Personnel Policies comprised of classroom teachers, administrators, board members, and the superintendent as an ex-officio member. This committee "shall assist the board, when requested, in the development of personnel policies," and the board is empowered "to adopt, reject, amend, or refer back to the Committee . . . for further study and revision any proposed policies or amendments to existing policies that are submitted to the board for action."

The act further provides that each newly employed teacher and administrator be given a copy of the district's personnel policies at the time of his employment, and that all previously employed personnel be given a copy of the policies when their contracts are renewed or extended. Whenever such policies are amended, each teacher or administrator is to be given a copy of the amendments within 30 days after their approval by the district's board of directors.

The full text of the Arkansas law is reprinted in the "Texts" section of this DIGEST.

CALIFORNIA

STATE EMPLOYER-EMPLOYEE RELATIONS POLICY ISSUED

A policy on state employer-employee relations which covers state civil service employees and nonacademic employees of state colleges and the University of California was issued by the governor of California and became effective February 23, 1971. While not intended to "alter the relationship between the [State] Personnel Board and employee organizations which represent their members in the board's annual salary review and recommendation process," the policy states that a representative of the governor

> will meet and confer in good faith with representatives of employee organizations to arrive, if possible, at a mutual understanding on the following matters: (1) the need for and amount of a *general* salary adjustment; (2) the *total* amount of any special inequity salary adjustments; and (3) *general* employee benefits.

Meet and confer in good faith "connotes an open and mutually trusting approach in exchanging views and discussing alternatives . . . [and] a genuine effort on the part of both parties to attempt to reach a mutual understanding." Upon reaching a mutual understanding, the parties shall prepare a "written memorandum of understanding" which, upon approval by the cabinet and the employee organization representatives, shall be submitted to the legislature "either as part of the Governor's budget or as recommended legislation. The Governor will support before the Legislature those matters which have been recommended for adoption as a result of the memoranda of understanding."

Matters specifically excluded from the meet and confer sessions include:

> working conditions; merit system and related matters such as the examination, selection, recruitment, hiring, appraisal, training, retention, promotion, assignment, disciplining or transfer of employees; directing, deploying, and utilizing the work force; classification plan and salary determination for individual classes; mission, purposes, objectives, and organization of the State; and facilities, methods, means, and number of personnel required to conduct state programs.

Furthermore, the "time and degree of effort" expended by the governor's representative on such consultation sessions "will be commensurate with the number of members and the diversity of membership of the employee organization involved."

With respect to grievance procedures, the policy notes that an existent formalized procedure for state civil service employees allows an appeal of certain grievable matters to the State Personnel Board, while grievances over working conditions and related matters are limited to final review by the appropriate appointing power. Recognizing the need for a level of review beyond the appoint-

ing power under certain conditions, the policy established an "extra-departmental level of review [which] will provide an independent review of the grievance." As such an employee may request review of his grievance by the appropriate agency secretary; if the secretary does not accept the grievance, the decision of the appointing power will be final.

GEORGIA

FIREFIGHTERS' BARGAINING STATUTE REQUIRING ADVISORY ARBITRATION OF IMPASSE ENACTED

A Fire Fighters' Mediation Act mandating advisory arbitration of negotiation impasses was signed into law by the Georgia governor on April 5, 1971, and became the first state bargaining measure. The statute, which became effective immediately, applies only to cities with a population of 20,000 or more, grants bargaining rights to firefighters who are permanent members of any paid fire department in such cities, and prohibits strikes. However, the "governing authority of the municipality must agree by ordinance that the municipality will be . . . covered" by the Act, and the Act shall not apply to "consolidated city-county governments with a population of 150,000 or more."

Unlike similar firefighters' and/or policemen's bargaining statutes in other states which require binding arbitration of negotiation disputes, the Georgia law states that "a majority decision of the mediators shall be advisory in nature and shall not be binding upon either the bargaining agent or the corporate authorities." But the Act's opening statement of policy explains that in allowing firefighters' certain statutory bargaining privileges exclusive of the right to strike,

> a method of mediation shall not, . . . in any way whatever, be deemed to be a recognition by the State of compulsory mediation or arbitration as a superior method of settling labor disputes between employees who possess the right to strike and their employers, but rather shall be deemed to be a recognition solely of the necessity to provide some alternative mode of settling disputes where employees are, as a matter of public policy, denied the right to strike.

Any three-member mediation board appointed pursuant to the Act is to render a decision "upon the basis of a prompt, peaceful and just settlement of wage or hour disputes" and shall consider the following factors in reaching its decision:

> (a) Comparison of wages or hourly conditions of employment of the fire department in question with wage rates or hourly conditions of employment of fire departments in municipalities of comparable size.
>
> (b) Interest and welfare of the public.
>
> (c) Comparison of peculiarities of employment in regard to other trades or professions, specifically:
>
> 1. Hazards of employment.
> 2. Physical qualifications.
> 3. Educational qualifications.
> 4. Mental qualifications.
> 5. Job training and skills.

FLORIDA

HILLSBOROUGH COUNTY BARGAINING STATUTE AMENDED

Amendments to a statute granting bargaining rights to Hillsborough County teachers mandate board recognition of the duly elected employee representative, provide for dues deduction and collection, remove a no-strike clause, and specify that the act is applicable only to Hillsborough County teachers. Sec. 17 of the statute provides that the act "shall take effect on the twenty-ninth day after the final adjournment of the 1971 regular session of the legislature, or in the event that this act becomes a law subsequent to such date it shall be retroactive thereto."

The statute as originally enacted established procedures for "professional negotiations for teachers in any County in the State having a population of not less than 390,000 according to the latest official decennial census." This statement was amended to provide "professional negotiations for teachers in Hillsborough County." In addition, all statutory references to the elected employee representative now provide for recognition of the "official negotiating agent." As such, a portion of section 5 of the act which formerly mentioned the "sole and exclusive negotiating agent" was amended to refer to the "official negotiating agent."

Section 5 also was amended to provide that the district school board "shall recognize" the elected professional association as official negotiating agent; it formerly stated that "the board is hereby empowered to recognize" the association. A new section 6 added to the act provides for dues deduction and collection and reads:

> The professional association selected by a majority of the teachers in the county shall have its dues and uniform assessments deducted and collected by the board from the salaries of those employees who present cards authorizing the deduction of such dues and uniform assessments. Upon collection, the board shall transmit the sums so deducted to the professional association.

MICHIGAN

APPLICATION OF MERIT REQUIREMENTS TO INCREMENTAL SALARY SCALE MUST BE NEGOTIATED

A municipal employer improperly denied pay raises by applying merit requirements when a collective bargaining agreement provided for increments based upon calendar intervals. In so ruling, an arbitrator held that the Lansing (Michigan) Public Service Department should have negotiated its merit pay system before applying it to employees represented by the American Federation of State, County and Municipal Employees, AFL-CIO, Local 1390.

He also dismissed several employer challenges to the arbitrability of the three grievances filed, stating that alleged precedents unknown to the union could not be held against it in presently seeking arbitration, and that pay matters "are of a continuing nature and with each denial of a wage increment, there exists the right to grieve."

The city's personnel rules and "compensation plan" refer to merit considerations as criteria for salary increments, but the arbitrator found that the rules were neither negotiated nor incorporated by reference into the parties' agreement, and that the compensation plan was rejected by the union during bargaining. While the city claimed that its merit pay system always had been applied, the parties' contract provided that it (the contract) "supersedes any past practice and . . . any previous agreement, verbal or written." The arbitrator also dismissed the city's reliance on a management rights clause because it "cannot support the city's position when express provisions [for wage increments based upon six-month intervals] have been negotiated to govern the area of wage progressions."

Finding nothing in the agreement to "indicate that the wage progressions provided [therein] are based upon merit considerations," the arbitrator ruled that any merit requirements limiting an employee's entitlement to contractual wage increments must be negotiated "so that established standards applicable to all and known to both management and union would be set forth in the contract." He accordingly awarded retroactive increment payments to the date of entitlement or February 1, 1971 (whichever was latest), "to all employees in the bargaining unit who have been denied a wage increment on merit considerations since February 1, 1971."

OHIO

COMMON LAW STRIKE IS NOT *IPSO FACTO* A STRIKE UNDER FERGUSON ACT

Distinguishing between the common law prohibition against public employee strikes and the means by which such strikes may be determined prohibitive under the Ohio Ferguson Act, the Ohio Supreme Court decided that a 1970 action taken by Cincinnati city employees did not constitute a strike under the Act because the city failed to comply with statutory procedures for determining the existence of the strike.

While emphasizing the fact that public employee strikes are "uniformly illegal" at common law, the court posed the question of "whether in view of the existence of common law doctrines forbidding public employee strikes at the time of the enactment of the Ferguson Act, all strikes by public employees automatically come within the purview of that legislation." It found that prohibition of a strike under the Act hinges upon execution of certain procedural requirements set forth in a portion of R.C. 4117.04, which provides:

> Any public employee who, without the approval of his superior, unlawfully fails to report for duty, absents himself from his position, or abstains in whole or in part from full, faithful, and proper performance of his position for the purpose of inducing, influencing, or coercing a change in the conditions, as compensation, rights, privileges, or obligations of employment or of intimidating, coercing, or unlawfully influencing others from remaining in or from assuming such public employment is on strike provided that notice that he is on strike shall be sent to such employee by his superior by mail addressed to his residence as set forth in his employment record.

When Cincinnati sanitationmen, highway maintenance personnel, and others represented by the American Federation of State, County, and Municipal Employees, Council 51, went on strike, an involved litigation followed which resulted in a permanent injunction against the strike and a suit to enjoin payment of any raises to striking employees once the strike was settled. The Hamilton County Common Pleas Court dismissed the latter suit in finding that the Act is not self-executing, and that the city had not invoked the Act's provisions since it failed to mail the notices provided for in R.C. 4117.04. This judgment was reversed by the Ohio Court of Appeals (NRD, 11-70, 13; 6-71, 15) in holding that the statutory notice requirement was inapplicable and unnecessary because the parties earlier had stipulated that city employees were on strike.

However, on appeal here, the state supreme court determined that "the occurrence of a common law strike does not, *ipso facto*, constitute a strike in violation of the Ferguson Act." It found "nothing in the language of Chapter 4117 suggesting that the General Assembly intended to pre-empt the entire area of the law concerning public employee strikes," and pointed out that "only R.C. 4117.04 contains an operative provision for determining when a public employee is on strike in violation of the Act." The court explained:

Under R.C. 4117.04, the ultimate question turns upon the effect of the language "provided that notice he is on strike shall be sent to each employee by his superior by mail addressed to his residence and set forth in his employment record." . . . While the public employees in question did engage in a common law strike against their public employer, they cannot be considered to have engaged in a Ferguson Act strike where the notices required by R.C. 4117.04 were not sent. It must be emphasized that R.C. 4117.04 expressly contemplates actual written notice to each employee that he is on strile. There is good reason for strict compliance with this condition. Even in the case of employees who are reinstated, the effects of their violation of the Ferguson Act are severe and continue in force for as long as two years after reinstatement.

While appellee (a city attorney who brought this action as a taxpayer's suit) argued that a public employer has no discretion regarding invocation of the Act when public employees are on strike, the court held that the Act is not self-executing since it "itself imposes the notice condition. The question of a public employer's clear legal duty to employ the act must be raised at a proper time and in a far different manner than was selected here." In addition, the court dismissed appellee's contention that striking employees who violate a permanent injunction should be deprived of any benefits achieved through such action since the matter on appeal did not concern "what discipline the trial court should dispense for a violation of its injunction."

Concluding that a public employee "is not engaged in a strike in violation of the Ferguson Act unless the notice required by R.C. 4117.04 is sent," the state supreme court affirmed the judgment of the common pleas court and thereby reversed the decision of the appeals court. (*Goldberg v. City of Cincinnati, et al.*, Ohio Supreme Court, June 23, 1971.)

OKLAHOMA

PROFESSIONAL NEGOTIATION LAW ENACTED

A professional negotiation law signed by the Oklahoma governor on June 24, 1971, and effective that date provides that a local school board "shall recognize" a professional organization designated by a majority of the certified public-school teachers as representative of those teachers in negotiating "items affecting the performance of professional services." The statute provides separate representation for professional and nonprofessional school employees, establishes an impasse resolution procedure, and contains a no-strike clause.

Once an organization is recognized, the law provides that bargaining representatives of that organization shall be elected by a majority of the certified public-school teachers in a given district. Any person who does not wish to be represented by any organization may so state in writing to his school board. School district employees other than certified teachers also are eligible under the statute "to designate an organization composed exclusively of such employees to represent them in negotiating and concluding an agreement with such school district on the terms and conditions of their employment."

Local school boards are mandated to meet with organization representatives, complete an agreement outlining negotiation procedures within 60 days, and negotiate in good faith on the terms and conditions of professional service. An impasse resolution procedure is to be developed jointly by the parties, although the law provides for referral of an impasse to a three-member committee if the parties cannot agree upon a procedure. The committee is to meet with representatives of the parties for purposes of fact-finding and subsequently make recommendations to each party.

Section 8 of the statute stipulates that "the procedure provided for herein for resolving impasses shall be the exclusive recourse of the professional organization." It further provides that

it shall be illegal for the professional organization or the nonprofessional organization to strike or threaten to strike as a means of resolving differences with the board of education. Any member of the professional or nonprofessional organization engaging in a strike shall be denied the full amount of his wages during the period of such violation. If the professional or nonprofessional organization or its members engage in a strike, then the organization shall cease to be recognized as representative of the professional or nonprofessional educators and the school district shall be relieved of the duty to negotiate with such organization or its representatives.

The full text of the Oklahoma professional negotiation law is reprinted in the "Texts" section of this DIGEST.

OTHER ITEMS OF INTEREST

FLRC REFUSES TO EXTEND FORMAL RECOGNITION

Despite requests by several unions, the Federal Labor Relations Council (FLRC) refused to extend the July 1, 1971, deadline for termination of formal recognition (NRD, 6-71, 17) under Executive Order 11491. However, the Council asked the Assistant Secretary of Labor for Labor-Management Relations to expedite representation proceedings in units lacking an exclusive representative "so as to minimize the extent of interruption of relationships for unions which held formal recognition prior to July 1 and obtain exclusive recognition as a result of such proceedings."

Unions which lose their formal recognition may not negotiate dues-withholding agreements unless they gain exclusive recognition by winning a representation election. This stipulation does not, however, prevent unions which previously had no recognition in federal employee units from seeking exclusive recognition in such units in accordance with provisions of E.O. 11491. Section 10 of the Order defines exclusive recognition as follows:

(a) An agency shall accord exclusive recognition to a labor organization when the organization has been selected, in a secret ballot election, by a majority of the employees in an appropriate unit as their representative.

. . .

(e) When a labor organization has been accorded exclusive recognition, it is the exclusive representative of employees in the unit and is entitled to act for and to negotiate agreements covering all employees in the unit. It is responsible for representing the interests of all employees in the unit without discrimination and without regard to labor organization membership. The labor organization shall be given the opportunity to be represented at formal discussions between management and employees or employee representatives concerning grievances, personnel policies and practices, or other matters affecting general working conditions of employees in the unit.

Under E.O. 10988 (predecessor of the present Order), the now defunct formal recognition was defined and practiced as provided in sec. 5:

(a) An agency shall accord an employee organization formal recognition as the representative of its members in a unit as defined by the agency when (1) no other employee organization is qualified for exclusive recognition as representative of employees in the unit, (2) it is determined by the agency that the employee organization has a substantial and stable membership of no less than 10 per centum of the employees in the unit, and (3) the employee organization has submitted to the agency a roster of its officers and representatives, a copy of its constitution and by-laws, and a statement of objectives. When, in the opinion of the head of an agency, an employee organization has a sufficient number of local organizations or a sufficient total membership within such agency, such organization may be accorded formal recognition at the national level, but such recognition shall not preclude the agency from dealing at the national level with any other employee organization on matters affecting its members.

(b) When an employee organization has been formally recognized, the agency, through appropriate officials, shall consult with such organization from time to time in the formulation and implementation of personnel policies and practices, and matters affecting working conditions that are of concern to its members. Any such organization shall be entitled from time to time to raise such matters for discussion with appropriate officials and at all times to present its view thereon in writing. In no case, however, shall an agency be required to consult with an employee organization which has been formally recognized with respect to any matter which, if the employee organization were one entitled to exclusive recognition, would not be included within the obligation to meet and confer, as described in section 6(b) of this order.

In refusing to extend the deadline, the FLRC pointed out that E.O. 11491 has been effective for more than 18 months, and that the deadline for termination of formal recognition was extended once after consideration of union views. Moreover, since no new grants of formal recognition could be made after the effective date of E.O. 11491, unions which had formal recognition under the previous order held an advantage in representation campaigns. The FLRC found it "improper to continue this inequitable situation any longer than necessary."

The FLRC also noted that in units where petitions for exclusive recognition were pending on July 1, it is possible to extend formal recognition and dues-withholding agreements until completion of the proceedings; this would avoid interrupting an established relationship if the union holding formal wins the representation election. But, since such a procedure would especially benefit unions who eventually lose their bid for exclusive recognition, the FLRC concluded that "on balance . . . this result would not be in the best interests of the [labor relations] program."

Finally, the Council reasoned that the extension of grants of formal recognition "would unreasonably defer achieving a significant purpose of [E.O. 11491], which is to clarify and strengthen the concept of exclusive recognition."

NLRB ASSERTS JURISDICTION OVER PRIVATE SECONDARY SCHOOL

Although the operations of a private nonprofit secondary school "were not expressly covered by [National Labor Relations Board (NLRB)] rules and regulations governing jurisdiction over private nonprofit colleges and universities," the NLRB found that Shattuck School was "sufficiently similar to warrant an assertion of jurisdiction under those standards." According to the board, the school has a gross annual revenue of about $1.2 million, annually purchases goods across state lines valued at more than $71,000, maintains a campus of 25 buildings situated on some 250 acres, and serves 173 students, only 44 of whom are state residents.

Pursuant to its April 19, 1971, assertion of jurisdiction, the NLRB determined an appropriate unit of maintenance and service personnel employed by the school. Specifically, it excluded from the unit sought seven supervisory employees who had the authority "effectively to recommend hire and discharge, select employees for overtime work, and grant time off," but included a night watchman who was not a guard. It also established a separate unit of 11 clerical workers ow-

ing to "long-established Board policy [requiring] the exclusion of office clerical from units of manual workers."

NLRB DENIES PETITION FOR RULE-MAKING IN HIGHER EDUCATION REPRESENTATION CASES

A June 1971 petition by the American Association of University Professors (AAUP) for rule-making proceedings with respect to representation cases involving college and university faculty members was denied by the National Labor Relations Board (NLRB) on July 16. While finding that the petition "properly points out that the Board's unit determinations in this area should take into account certain practices and organizational structures which do not parallel the traditional practices and organizational structures in private industries," the NLRB held that

> there is also a great variety in this regard within the academic community, and . . . the practices and structures in universities and colleges are undergoing a period of change and experimentation. The Board believes that to adopt inflexible rules for units of teaching employees at this time might well introduce too great an element of rigidity and prevent the Board from adapting its approach to a highly pluralistic and fluid set of conditions . . . . The Board would welcome the fruits of any research which has been done or can be done in this subject area, to supplement its own efforts to compile source data.

In its petition, the AAUP pointed out that representation proceedings in higher education constitute "an unexplored area where prior experience in other institutional settings is of dubious value, if not dangerously misleading." Noting the "lack of any directly relevant guides" for resolving higher education representation disputes, the "novelty and character" of the issues involved, and the current "uncertainty and confusion" in such matters, the AAUP argued that "a case-by-case evolution of guides will cause uncertainty to continue for an indeterminable period and will present risks that precedents will be established which will not be viable in later cases and thereby add to the uncertainty and confusion."

It discussed two "special characteristics of the relationship between faculty members and their academic institutions [which] create unusually complex and novel problems in developing applicable Board law." These are the fact that "faculty members have traditionally had an important voice in the governance of their institution," and the fact that "many colleges and universities have a substantial number of professional personnel who, though engaged in teaching and research, are generally considered not to be full members of the faculty."

The petition also raised the questions of the definition of supervisors within the higher education sphere, the appropriateness of organizations which may serve as bargaining representatives, and the status of teaching fellows, research associates, and part-time teachers with respect to representation and the determination of appropriate units.

Statistics

TEACHER CONTRACT DURATIONS, 1966-67 TO 1970-71

An NEA Research Division analysis of contract durations included in classroom teacher contracts from 1966-67 to 1970-71 revealed a significant decline (15 percentage points) in the number of three-year contracts being negotiated, and increases of less than 10 percentage points in the incidence of one-year and two-year contracts being negotiated. While the total number of contracts reported and analyzed rose from 389 in 1966-67 to a preliminary total of 1,535 in 1970-71, the number of three-year contracts effective during those school years fell from 74 to 61. One-year contracts increased in number from 259 (66.6 percent) in 1966-67, to 1,126 (73.3 percent) in 1970-71, while the number of two-year contracts rose from 56 (14.4 percent) to 331 (21.6 percent) across the same period. During each of the school years 1966-67, 1968-69, and 1970-71, one-year contracts greatly outnumbered contracts of two years' duration, but the ratio of one-year and two-year contracts increased from approximately 5 to 1 in 1966-67 to about 3 to 1 in 1970-71. Table 1 provides an overview of teacher contract duration by school year.

TABLE 1.—TEACHER CONTRACT DURATION BY SURVEY YEAR, 1966-67, 1968-69, AND 1970-71

Survey year	Total number of agreements	One year		Two years		Three years	
		Number	Percent	Number	Percent	Number	Percent
1	2	3	4	5	6	7	8
1966-67	389	259	66.6%	56	14.4%	74	19.0%
1968-69	978[1]	639	65.3	197	20.2	125	12.8
1970-71	1,535[2]	1,126	73.3	331	21.6	61	4.0

[1] This figure includes all school systems which verified the existence of a comprehensive agreement in their system for the 1968-69 school year. Although 1,040 systems negotiated an agreement effective during that year, only 978 systems filed a copy of their 1968-69 comprehensive agreement in the NEA depository for analysis in the 1968-69 edition of the *Negotiation Agreement Provisions* (NAP). Seventeen agreements which contained no indication of duration have been eliminated from the individual totals in the adjoining line, although the percentages are computed on the total of 978 agreements.

[2] This figure represents the preliminary total number of agreements analyzed in the 1970-71 edition of the NAP. Seventeen agreements which contained no indication of duration have been eliminated from the individual totals in the adjoining line, although the percentages are computed on the total of 1,535 agreements.

Teacher contracts included in this analysis are those filed in the NEA depository of agreements in conjunction with the NEA Research Division's annual survey of negotiation activity in school systems with a pupil enrollment of 1,000 or more. Only three survey years are dealt with here since in-depth analyses of negotiated provisions are conducted bienially. For purposes of this analysis, a contract duration of one year includes all contracts lasting less than one and one-half calendar years. Included in the two-year category are all agreements extending more than one and one-half calendar years, but less than two and one-half calendar years. Contracts effective longer than two and one-half years were classified as three-year agreements. While the duration of teacher contracts variously may be based upon budget years, fiscal years, or school years *per se* (i.e., nine- or ten-month periods), the calendar year breakdown was employed here for purposes of consistency, clarification, and comparison.

Table 2 indicates the incidence of specified contract durations by bargaining representative in each survey year. In all three years, the great preponderance (90 percent or more) of all contracts reported and analyzed were negotiated by NEA local associations. Moreover, while NEA affiliates negotiated nine out of every 10 contracts in 1966-67, this ratio increased to 19 out of every 20 contracts in 1970-71. NEA affiliates negotiated over 300 more contracts than American Federation of Teachers (AFT), AFL-CIO, locals in 1966-67; by 1970-71, NEA negotiation activity had expanded to the point where NEA affiliates negotiated over 1,300 more contracts than AFT locals.

TABLE 2.–TEACHER CONTRACT DURATION BY ORGANIZATIONAL AFFILIATION, 1966-67, 1968-69, AND 1970-71

Item	Total number of agreements	National Education Association		American Federation of Teachers, AFL-CIO		Independent organizations[1]	
		Number	Percent	Number	Percent	Number	Percent
1	2	3	4	5	6	7	8
1966-67	389	350	90.0%	38	9.8%	1	0.2%
1968-69	978[2]	880	90.0	73	7.5	8	0.8
1970-71	1,535[3]	1,429	93.0	76	5.0	13	0.9
Total agreements, 1966-67	...	350	100.0%	38	100.0%	1	100.0%
One-year agreements	...	225	64.3	33	86.9	1	100.0
Two-year agreements	...	52	14.8	4	10.5	...	...
Three-year agreements	...	73	20.9	1	2.6	...	...
Total agreements, 1968-69	...	880	100.0	73	100.0	8	100.0
One-year agreements	...	574	65.2	58	79.5	7	87.5
Two-year agreements	...	183	20.8	13	17.8	1	12.5
Three-year agreements	...	123	14.0	2	2.7	...	...
Total agreements, 1970-71	...	1,429	100.0	76	100.0	13	100.0
One-year agreements	...	1,064	74.5	51	67.1	11	84.6
Two-year agreements	...	308	21.5	22	29.0	1	7.7
Three-year agreements	...	57	4.0	3	3.9	1	7.7

[1] Includes situations in which more than one organization is recognized as in California and Minnesota where state statutes require proportional representation on negotiating councils.

[2] This figure includes all school systems which verified the existence of a comprehensive agreement in their system for the 1968-69 school year. Although 1,040 systems negotiated an agreement effective during that year, only 978 systems filed a copy of their 1968-69 comprehensive agreement in the NEA depository for analysis in the 1968-69 edition of the NAP. Seventeen agreements which contained no indication of duration have been eliminated from the individual totals in the adjoining line, although the percentages are computed on the total of 978 agreements.

[3] This figure represents the preliminary total number of agreements analyzed in the 1970-71 edition of the NAP. Seventeen agreements which contained no indication of duration have been eliminated from the individual totals in the adjoining line, although the percentages are computed on the total of 1,535 agreements.

The number of NEA-negotiated contracts more than tripled over the five-year period from 350 contracts in 1966-67 to 1,429 contracts in 1970-71, while the number of contracts negotiated by AFT chapters doubled (from 38 contracts in 1966-67 to 76 contracts in 1970-71). Contracts negotiated by independent organizations or negotiating councils composed of representatives of more than one recognized organization increased in number from one to 13 during the five-year period but remained statistically insignificant at less than 1 percent of all contracts negotiated in any given survey year.

Again, one-year contracts were far more frequently negotiated by all organizations in each survey year than contracts of longer durations. Table 2 reveals, however, that while the number of one-year contracts negotiated by both NEA affiliates and AFT locals rose over the five-year period, there was a substantial decline in the percentage of AFT-negotiated one-year contracts as computed on the total number of AFT contracts effective each year. That is, the number of one-year contracts effective in units with

NEA representation rose from 64.3 percent in 1966-67 to 74.5 percent in 1970-71, an increase of 10.2 percentage points; over the same period, AFT-negotiated contracts of one-year duration registered a decline of 19.8 percentage points, from 86.9 percent in 1966-67 to 67.1 percent in 1970-71. Independent organizations negotiated one-year contracts more than 80 percent of the time in all three survey years.

With regard to two-year contracts, Table 2 shows a rise of 6.7 percentage points in the number of NEA-negotiated contracts between 1966-67 and 1970-71, while the corresponding increase in AFT activity was recorded at 18.5 percentage points. However, a greater percentage of AFT-negotiated contracts (29.0 percent) were of two years' duration in 1970-71, than were NEA-negotiated contracts (21.5 percent). This indicates a reversal of the 1966-67 situation when 14.8 percent of all NEA agreements and 10.5 percent of all AFT agreements were effective for a two-year period. The percentage of three-year contracts negotiated by NEA affiliates dropped sharply from 20.9 percent in 1966-67 to 4.0 percent in 1970-71 (a decline of 16.9 percentage points), while the percentage of contracts of like duration in units with AFT representation increased slightly from 2.6 percent in 1966-67 to 3.9 percent in 1970-71.

TABLE 3.—TEACHER CONTRACT DURATION BY MONTHS AND LENGTH OF AGREEMENT, 1,535 COMPREHENSIVE AGREEMENTS,[1] 1970-71

Duration by months	One-year agreements		Two-year agreements		Three-year agreements	
	Number	Percent	Number	Percent	Number	Percent
1	2	3	4	5	6	7
January 1 to December 31	22	2.0%	9	2.7%	2	3.3%
July 1 to June 30	671	59.6	158	47.7	21	34.4
August 1 to May 31[2]	18	1.6	5	1.5	5	8.2
August 1 to July 31	59	5.2	17	5.1	2	3.3
September 1 to May 31[2]	46	4.1	20	6.1	11	18.0
September 1 to August 31	213	18.9	74	22.4	12	19.7
Other[3]	97	8.6	48	14.5	8	13.1
Totals[4]	1,126	100.0%	331	100.0%	61	100.0%

[1] This figure represents the preliminary total number of agreements analyzed in the 1970-71 edition of the NAP.

[2] Contracts of nine- or ten-month durations cover a specific school year or years (as opposed to a calendar year or a fiscal or budget year) and generally contain provisions or appendixes extending portions of the contract's coverage to the summer session immediately following expiration of the contract.

[3] This category includes contract durations which occurred infrequently in the analysis and those which were ill-defined or incomplete in terms of the specific months and dates of coverage.

[4] Seventeen 1970-71 agreements which contained no indication of duration have been eliminated from the table, so the totals in the adjoining line add up to 17 less than the preliminary total of 1,535 agreements.

Table 3 more specifically defines teacher contract durations by designated months and dates as derived from an analysis of the preliminary total of 1,535 agreements effective during the 1970-71 school year. Nearly 60 percent of all one-year contracts effective that year extended from July 1 to June 30, while approximately 20 percent of those agreements were effective from September 1 to August 30. Among the two-year agreements in effect during 1970-71, 158 agreements (47.7 percent) extended from July 1 to June 30, and 74 agreements (22.4 percent) had duration dates of September 1 to August 31. Three-year agreements also most frequently specified the two duration periods previously mentioned; of all three-year agreements effective in 1970-71, 21 (34.4 percent) extended from July 1 to June 30, and 12 (19.7 percent) were effective from September 1 to August 31. In addition, a significant percentage of three-year agreements (18.0 percent) indicated duration dates of September 1 to May 31.

Overall, the great majority (1,260 or 82.1 percent) of the preliminary total of 1,535 agreements effective during the 1970-71 school year extended for full calendar years. Of these 1,260 agreements, 850 (67.5 percent) extended from July 1 to June 30, and 299 (23.7 percent) were effective from September 1 to August 31. Only 6.8 percent (105) of all agreements effective during the 1970-71 school year had duration dates linked to the nine- or ten-month school year *per se*, i.e., August 1 to May 31 or Septem-

ber 1 to May 31. The remaining 153 agreements (10 percent) effective that year were classified in the "other" category because their duration dates occurred infrequently in the analysis, or were incomplete or ill-defined. Seventeen agreements which contained no indication of their effective and termination dates were eliminated from the analysis presented in Table 3.

CONSUMER PRICE INDEX, JULY 1971; 10-YEAR AVERAGES AND 1971 BY MONTH

Data published by the U.S. Department of Labor, Bureau of Labor Statistics (BLS), indicated that the July 1971 Consumer Price Index (CPI) all-items figure rose 0.2 percent above the previous month to 121.8 (1967=100). That rise placed the CPI 4.4 percent above the figure recorded a year ago. Food prices increased 0.6 percent in July, while the prices of food away from home advanced 0.5 percent. More than 80 percent of the rise in consumer services charges was attributed to increased costs for household and medical care services. All data used in computing the July CPI were based entirely upon prices prevailing before the President's August 15 announcement of the wage-price freeze; the August index will reflect prices collected both before and after the freeze since pricing for the CPI is conducted throughout the month.

The CPI is designed to measure "average changes in prices of goods and services usually bought by urban wage earners and clerical workers, both families and single persons living alone." Prices of some 400 items which represent the price movements of all goods and services purchased by wage earners and clerical workers regularly are obtained in urban portions of 39 Standard Metropolitan Statistical Areas (SMSA's) and 17 selected small cities. Price changes used in calculating the CPI are averaged and then weighted according to their importance in spending. In the total index, all SMSA and city data are combined and weighted on the basis of the 1960 populations of SMSA's and the cities they represent. While index numbers used to be computed on the base 1957-59=100, a new base reference point of 1967=100 became effective January 1971. Statistical series expressed as indexes are affected by the change in base, but the rebasing of the CPI does not alter percentage changes between index figures over time, except for rounding differences. The CPI is rounded to one decimal point.

The following tables provide a comparative study of the CPI all-items index for 25 selected SMSA's or cities from 1961 to 1970 (Table 1), and for the first seven months of 1971 (Table 2). All figures are computed on the base 1967=100.

TABLE 1.—CONSUMER PRICE INDEX, ALL ITEMS, SELECTED CITIES OR SMSA'S, 1961-1970 (1967=100)

SMSA/city	All items									
	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970
1	2	3	4	5	6	7	8	9	10	11
U.S. city average[a]	89.6[b]	90.6[b]	91.7[b]	92.9[c]	94.5	97.2	100.0	104.2	109.8	116.3
Atlanta, Ga.	89.7	90.5	91.4	92.8	94.0	97.0	100.0	104.0	110.2	116.3
Baltimore, Md.	89.9	90.6	92.0	92.9	94.4	97.7	100.0	104.1	110.5	117.0
Boston, Mass.	87.7	89.6	91.4	92.7	94.5	97.7	100.0	104.1	110.0	116.5
Buffalo, N. Y.	(NA)	(NA)	(NA)	92.0	94.2	97.4	100.0	104.5	109.6	116.1
Chicago, Ill.-Northwestern Ind.	91.2	92.1	93.0	93.4	94.7	97.4	100.0	104.3	109.9	116.3
Cincinnati, Ohio-Ky.	90.4	91.3	92.2	93.7	94.4	97.2	100.0	104.8	109.8	115.7
Cleveland, Ohio	91.4	91.7	92.7	93.2	94.7	97.2	100.0	105.9	111.9	119.3
Dallas, Texas	(NA)	(NA)	(NA)	92.6	93.8	97.1	100.0	104.5	111.3	117.8
Detroit, Mich.	88.7	88.9	89.8	90.5	92.6	96.7	100.0	104.3	110.6	117.4
Honolulu, Hawaii	(NA)	(NA)	92.8	92.9	94.6	97.3	100.0	103.8	108.5	114.2
Houston, Texas	89.7	91.4	92.3	93.7	94.8	97.5	100.0	104.3	111.0	116.8
Kansas City, Mo.-Kansas	88.0	89.4	90.3	92.5	95.5	98.0	100.0	104.0	109.6	115.8
Los Angeles-Long Beach, Calif.	89.6	90.6	92.0	93.7	95.7	97.5	100.0	103.9	108.8	114.3
Milwaukee, Wis.	90.8	92.0	92.9	93.9	95.8	98.0	100.0	103.5	109.5	115.8
Minneapolis-St. Paul, Minn.	89.9	91.0	92.3	93.2	94.5	96.8	100.0	104.6	109.9	117.5
New York, N.Y.-Northeastern N.J.	88.1	89.4	91.3	92.8	94.3	97.5	100.0	104.3	110.8	119.0
Philadelphia, Pa.-N.J.	89.4	90.1	91.8	93.2	94.7	97.3	100.0	104.8	110.4	117.8

1967

TABLE 1.—CONSUMER PRICE INDEX, ALL ITEMS, SELECTED CITIES OR SMSA'S, 1961-1970 (1967=100) (Cont'd)

SMSA/city	All items									
	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970
1	2	3	4	5	6	7	8	9	10	11
Pittsburgh, Pa.	91.3	92.1	93.1	94.3	95.8	98.3	100.0	104.7	110.4	116.4
Portland, Oreg.[d]	88.1	88.5	90.2	92.2	94.6	97.5	100.0	103.5	108.6	113.2
St. Louis, Mo.-Ill.	89.0	90.0	90.9	92.6	94.1	97.2	100.0	104.0	109.2	115.2
San Diego, Calif.	(NA)	(NA)	(NA)	(NA)	95.2	97.1	100.0	104.1	109.5	115.3
San Francisco-Oakland, Calif.	88.9	90.3	91.5	92.9	94.7	97.1	100.0	104.5	110.2	115.8
Scranton, Pa.[d]	88.2	89.7	90.9	92.6	94.1	97.4	100.0	104.1	109.5	116.3
Seattle, Wash.	89.3	90.6	92.1	93.4	94.5	97.1	100.0	104.1	109.2	114.0
Washington, D.C.-Md.-Va.	89.0	89.8	91.3	92.8	94.1	97.3	100.0	104.7	111.2	117.6

Sources:

U.S. Department of Labor, Bureau of Labor Statistics. *Consumer Price Index for Urban Wage Earners and Clerical Workers, All Items—Series A (1967=100).* Washington, D.C.: the Bureau, 1971.

U.S. Department of Labor, Bureau of Labor Statistics. "Current Labor Statistics." *Monthly Labor Review* 94, 7: 104; July 1971.

[a]Based on 46 cities through 1963, 50 urban areas for 1965, and 56 metropolitan areas and nonmetropolitan urban places beginning in January 1966. Excludes Portland, Oreg., and Scranton, Pa. For 1965, excludes Cincinnati, Ohio-Ky.; Houston, Texas; Kansas City, Mo.-Kansas; Milwaukee, Wis.; Minneapolis-St. Paul, Minn.; and San Diego, Calif.

[b]Excludes Alaska and Hawaii.

[c]Beginning in 1964, the index structure was revised to reflect the buying patterns of urban wage earners and clerical workers in the 1960's, including single workers living alone as well as families with two or more persons. Indexes for prior years apply only to families of two persons or more.

[d]Old series—i.e., old market basket components.

TABLE 2.—CONSUMER PRICE INDEX, ALL ITEMS, SELECTED CITIES OR SMSA'S, 1971 BY MONTH (1967=100)

SMSA/city	All items—1971[a]						
	January	February	March	April	May	June	July[b]
1	2	3	4	5	6	7	8
U.S. city average[c]	119.2	119.4	119.8	120.2	120.8	121.5	121.8
Atlanta, Ga.	...	...	120.4	...	...	122.3	...
Baltimore, Md.	...	...	122.1	...	...	123.5	...
Boston, Mass.	120.7	...	...	121.7	...	...	122.9
Buffalo, N.Y.	...	119.6	...	...	121.4	...	...
Chicago, Ill.-Northwestern Ind.	119.1	119.4	119.9	120.2	120.6	120.9	120.9
Cincinnati, Ohio-Ky.	...	...	119.8	...	...	120.7	...
Cleveland, Ohio	...	121.5	...	...	122.0	...	...
Dallas, Texas	...	119.8	...	...	120.4	...	...
Detroit, Mich.	120.3	120.0	120.1	120.1	120.9	121.9	121.8
Honolulu, Hawaii	...	...	116.7	...	...	118.5	...
Houston, Texas	119.3	...	...	119.5	...	...	121.3
Kansas City, Mo.-Kansas	...	...	119.2	...	...	120.6	...
Los Angeles-Long Beach, Calif.	116.7	116.2	116.9	116.7	118.1	118.7	119.1
Milwaukee, Wis.	...	119.0	...	...	119.1	...	...
Minneapolis-St. Paul, Minn.	120.1	...	...	120.3	...	...	121.9
New York, N.Y.-Northeastern N.J.	122.5	123.5	124.3	124.6	125.2	126.1	126.8
Philadelphia, Pa.-N.J.	121.3	121.8	122.2	122.6	123.4	124.1	123.7

1968

TABLE 2.—CONSUMER PRICE INDEX, ALL ITEMS, SELECTED CITIES OR SMSA'S, 1971 BY MONTH (1967=100) (Continued)

SMSA/city	All items—1971[a]						
	January	February	March	April	May	June	July[b]
1	2	3	4	5	6	7	8
Pittsburgh, Pa.	119.2	...	...	120.9	...	...	121.8
Portland, Oreg.	114.9	...	...	114.7	...	...	...
St. Louis, Mo.-Ill.	...	...	118.2	...	...	119.9	...
San Diego, Calif.	...	118.2	...	...	119.5	...	...
San Francisco-Oakland, Calif.	...	...	119.1	...	...	119.9	...
Scranton, Pa.	...	118.9	...	...	120.8	...	...
Seattle, Wash.	...	114.6	...	...	115.5	...	...
Washington, D.C.-Md.-Va.	...	120.9	...	...	122.2	...	...

Sources:

U.S. Department of Labor, Bureau of Labor Statistics. *Consumer Price Index—July 1971.* Washington, D.C.: Government Printing Office, August 20, 1971.

U.S. Department of Labor, Bureau of Labor Statistics. "Current Labor Statistics." *Monthly Labor Review* 94, 8: 113; August 1971.

[a]Foods, fuels, and several other items are priced every month in all cities. Most other goods and services are priced according to the following schedule:

1. Every month—city average: Chicago, Ill.-Northwestern Ind.; Detroit, Mich.; Los Angeles-Long Beach, Calif.; New York, N.Y.-Northeastern N.J.; and Philadelphia, Pa.-N.J.
2. January, April, July, October: Boston, Mass.; Houston, Texas; Minneapolis-St. Paul, Minn.; and Pittsburgh, Pa.
3. February, May, August, November: Buffalo, N.Y.; Cleveland, Ohio; Dallas, Texas; Milwaukee, Wis.; San Diego, Calif.; Seattle, Wash.; and Washington, D.C.-Md.-Va.
4. March, June, September, December: Atlanta, Ga.; Baltimore, Md.; Cincinnati, Ohio-Ky.; Honolulu, Hawaii; Kansas City, Mo.-Kansas; St. Louis, Mo.-Ill.; and San Francisco-Oakland, Calif.

[b]The July index is based entirely upon prices prevailing before the President's August 15 announcement of the wage-price freeze.

[c]Based on 56 metropolitan areas and nonmetropolitan urban places. Excludes Portland, Oreg., and Scranton, Pa.

Special Reports

BRIEFS OF RECENT AGREEMENTS

Topeka, Kansas

Between the Board of Education of Unified School District No. 501 and NEA-Topeka, effective May 15, 1971, to June 1, 1972. Approximately 1,265 certificated professional employees. Provision for automatic renewal of agreement for successive one-year periods unless either party notifies the other in writing of a desire to renegotiate no less than 7 months nor more than 8 months prior to June 1, 1972, or any successive anniversary of that date. Once the notice to terminate is received, the parties must submit their written proposals for items to be included in the new agreement within 30 days.

Compensation: B.A., $6,600 to $8,650, 9 increments; B.A. plus 15 hours, $8,902 maximum; M.A., $7,167 to $10,540, 14 increments; M.A. plus 15 hours, $10,792 maximum; Ph.D., $12,115 maximum; employees at the top of each 1970-71 salary schedule lane shall receive a base salary increase of $460 for the 1971-72 school year; longevity pay of $100 after 3 years' system experience, $200 after 7 years' experience, and $400 after 20 years' experience; "step-up advancement" program allowing a "tenure teacher with extraordinary ability" to be advanced a maximum of 3 steps on the salary schedule in accordance with specified procedures and appraisals (*see* following provision reprint); "over and beyond" advancement program whereby the "rare tenure teacher of unusual merit" who has attained the tenth step on the salary schedule and has at least 6 years' system experience may be considered for a super-maximum of $1,000 per year beyond the regular maximum; separate salary schedule provided for school psychologists, social workers, and the special education coordinator. Differentials: (for coaching positions, compensation is stated as an index of the B.A. base, and the schedule sets forth a maximum dollar amount for each position which, when exceeded, renders the index factor inapplicable) high-school head football and basketball coaches, $759 each (.115 of B.A. base); high-school head track coach, $495 (.075 of B.A. base); high-school head wrestling and swimming coaches, and chief assistant football and basketball coaches, $429 each (.065 of B.A. base); high-school head golf, tennis, and cross-country coaches, $297 each (.045 of B.A. base); junior-high head coach, $627 (.095 of B.A. base); student council sponsors at all levels, $200 each; high-school debate coach, and vocal and instrumental music directors, $600 each; high-school journalism sponsor, $300; high-school drama coach, $400; elementary-school counselors, $600; remedial and developmental reading teachers, minimum of $300 if teaching in one building, and $500 if teaching in 2 or more buildings; driver training teachers, $4.49 per hour for "behind the wheel" instruction, and $3.50 per hour for class instruction outside the regular school day; teachers with multiple building assignments, $200. Hourly pay scale for certificated and noncertificated personnel ranging through 10 steps and paying $4.49 per hour to $6.02 per hour for employees with a B.A. degree, and $4.90 to $6.47 per hour for personnel with an M.A. degree. Schedule for compensating teachers for nonteaching duty assignments provides hourly rates of $2.50 to $4.00 according to the type of activity (e.g., supervising crowds at athletic events, bus supervision, supervising pupil parties and other social or cultural events, and inventorying school books).

Leaves: 10 days' annual sick leave credited at beginning of school year, unlimited maximum accumulation; a hospitalized, regular, full-time, tenure teacher may be allowed additional sick leave days not to exceed the number of days accumulated and used at the time of hospitalization, provided that the borrowed days be charged against sick leave days subsequently earned by the teacher, that no days be accumulated by the teacher until the total number of borrowed days has been earned and repaid, and that the teacher be credited with only 5 sick leave days at the beginning of each year until he has repaid all borrowed days; upon the death of a member of the immediate family, 2 separate days' leave shall be allowed to attend a funeral held within the county, and 3 separate days' leave shall be allowed to attend a funeral outside the county; paid leave for jury

duty less any court allowances received; full-time employees who have attained age 60, and who have completed 3 consecutive years' service immediately preceding retirement or death and 10 or more years of school service (as recognized by the state and/or district retirement plans) are eligible for additional compensation as follows: 25 percent of total unused sick leave for 10-19 years' school service, 50 percent of total unused sick leave for 20-29 years' school service, and 100 percent of total unused sick leave for 30 or more years' school service, provided that in each case the total number of days not exceed 60; in the case of disability retirement, an employee must have completed 15 or more years' school service, regardless of age, to qualify for the preceding benefits.

Insurance: Board-paid Blue Cross-Blue Shield hospital, surgical, and medical insurance for individual coverage, although the board will pay the equivalent of two single memberships toward a family contract if both husband and wife are certificated personnel; board shall provide comprehensive liability insurance protection against damages arising out of a teacher's negligence while acting within the scope of his duties; board will reimburse an employee for any personal property damage sustained in the course of his employment to a maximum of $100 per incident; board will pay the full costs of all medical, surgical, or hospital services (less any insurance or workmen's compensation payments received) to a maximum of $750 per incident in the case of any injury sustained by a teacher as a result of being subjected to violence, assault, or physical abuse in the course of his employment.

Association: Payroll dues deduction for local association; no-strike, no lockout clause; association representatives may discuss organization business during their nonduty time provided that the building administration is notified of their presence and there is no interference with the instructional program; association officers or representatives shall be granted short unpaid leaves of absence to participate in area, regional, state, and national organization activities.

Instruction: For elementary teachers, the maximum weekly teaching load shall consist of 30 instructional hours and 5 hours for preparation and the performance of noninstructional professional duties (e.g., staff meeting, program evaluation, and parent-teacher conferences); for secondary teachers, the normal weekly teaching load shall consist of 25 instructional hours, 5 hours' preparation time, and 5 hours for the performance of noninstructional professional duties; a teacher shall not be required to work with more than one student teacher per year without his consent.

Personnel: Grievance procedure ends with final and binding arbitration; a teacher has the right to review his personnel file and respond to any unfavorable materials before placement therein; when applicants for reassignments or transfers are equally qualified, preference shall be given to the applicant with the greatest district seniority; mandatory retirement at age 65; nontenure teachers shall be formally evaluated at least once each semester, while tenure teachers shall be formally evaluated at least once each year.

STEP-UP ADVANCEMENT

A tenure teacher with extraordinary ability may grow in professional skill more rapidly than the average and be eligible for faster than average advancement on the salary schedule. Such a tenure teacher may be advanced not more than three (3) groups on the salary schedule, including his regular annual group advancement. A teacher's name may be submitted only once in a two (2) year period.

An accurate appraisal of such growth or the lack of it is difficult to determine. Because there is no generally accepted scientific means of making such determination and since such judgments must in reality be made, appropriate precautions must be taken to protect the teacher and the taxpaying community from biased or unjust appraisal by school authorities who might believe their judgment to be infallible. The precautions which must be taken to protect the teacher and community from improper appraisal are listed:

1. Request for a Special Appraisal of a person's services may be initiated in the following ways.
   a. At his own request.
   b. Through request, in writing, by three (3) or more of his fellow workers,
   c. Through written request by the building principal or any administrative or supervisory officer.
2. The building principal, departmental supervisor (if secondary) and the Consultant for Elementary Education (if elementary) should be in agreement that this person is a suitable nominee for the "step-up" special appraisal prior to the nomination.
3. This nominee for the "step-up" special appraisal should have been given the highest rating the last two (2) evaluation periods by the building principal.

4. If in any one year the number of requests for special appraisal is so great that there is obviously not sufficient time to make them, a review committee will be set up jointly by the Deputy Superintendent of Instruction and the President of NEA-Topeka to establish the priority list for evaluation.
5. The person in general charge of the special appraisal of professional service is the Deputy Superintendent of Instruction for the School System. Requests for special appraisals must be made in writing to the Deputy Superintendent of Instruction on or before November 15 of the school year the appraisal is to be made. Since numerous hours of work are involved in each special appraisal, there will not be sufficient time to undertake it if the request comes after that date. For teachers being appraised because of some doubt as to their competency the principal or supervisor or administrative staff may submit this name for appraisal at any time when there seems to be a noticeable decline of professional services. This is true of tenure and non-tenure teachers.
6. Members of the Special Appraisal Committee will be selected from the following:
   a. The person being appraised.
   b. Principal of the building in which the individual works.
   c. Departmental supervisor of the subject matter area in which the person works.
   d. Deputy Superintendent of Instruction.
   e. Consultant for Elementary Education or the Director of Secondary Education.
   f. Deputy Superintendent of Personnel.
   g. Other persons, if any, designated by the Superintendent of Schools.
7. The initial special appraisal meeting will be called by the Deputy Superintendent of Instruction. He will outline the plan for the appraisal procedure at this meeting.
8. The Deputy Superintendent of Instruction or a person designated by him will serve as chairman of the special appraisal committee.
9. The appraisal shall be based on numerous visitations and conferences with the person whose services are being appraised. (Topeka, Kansas)

"OVER AND BEYOND" ADVANCEMENT

1. For the rare tenure teacher of unusual merit who has attained the tenth (10th) group on the salary schedule and who has served in the Topeka Public Schools not less than six (6) consecutive years, there is a "hall of fame" super maximum of $1,000 per year beyond the regular maximum.
2. The person in general charge of this advancement is the Deputy Superintendent of Instruction for the school system. Nominations must be made on or before November 15 of a given year.
3. A person may be considered for this advancement:
   a. At his own written request.
   b. Through nomination, in writing, by three (3) or more of his fellow workers.
   c. Through written nomination by the building principal or any administrative or supervisory officer. (Topeka, Kansas)

Northampton, Massachusetts

Between the Northampton School Committee and the Northampton Teachers' Association, effective June 30, 1970, to June 30, 1972. Approximately 310 certificated professional employees. Provision for a reopener solely on matters of compensation and other conditions of employment by October 1 of each contract year. Provision for automatic renewal of agreement for successive one-year terms unless either party notifies the other in writing by November 1 of the year preceding the year of contract expiration of its desire to modify or amend the contract.

Compensation: (1970-71) B.A., $6,600 to $10,120, 9 increments; M.A., $7,205 to $11,220, 9 increments; M.A. plus 30 hours, $11,550 maximum; Ph.D., $12,210 maximum; schedule establishes supermaximums of $400 each above the B.A., M.A., M.A. plus 30 hours, and Ph.D. maximums in accordance with a provision allowing 4 professional increments of $100 each for professional study or its equivalent in travel (*see* outline of contract's professional improvement provisions below for further explanation); retirement pay of $300 for each of the final 2 years of service provided that a teacher applies in September for retirement in June, 2 years hence.

(1971-72) B.A., $7,194 to $11,031, 9 increments; M.A., $7,853 to $12,230, 9 increments; M.A. plus 30 hours, $12,590 maximum; Ph.D., $13,310 maximum; supermaximum and retirement provisions outlined above also are applicable here.

Differentials: (identical for both years of contract) high-school football coach, $1,200; high-school varsity basketball coach, $1,000; high-school varsity baseball coach, $800; high-school cross-country, junior varsity baseball, and girls' varsity basketball coaches, $300 each; high-school band director, $1,100; high-school choral director, and debate and dramatics coaches, $200 each; junior-high news-

paper, yearbook, and student council advisors, $100 each; junior high band directors, $175 each; department heads receive $900 to $1,050 and up to 2 periods of released time according to the number of teachers supervised and the subject matter of the department. Inexperienced substitutes, $17 per day; substitutes with a B.A. degree and no regular full-time experience, $25 per day; substitutes with a B.A. degree and experience or an M.A. degree, $30. Regular teachers acting as substitutes receive $5 for each period substituted. Teachers who must travel to more than one school in any one day receive $12 per month.

Leaves: 15 days' annual sick leave, unlimited maximum accumulation; extended sick leave at partial pay for the same number of days as the teacher has years of district service; 2 days of personal leave deducted from accumulation may be granted with the approval of the superintendent; time as needed may be deducted from accumulation in the event of an illness or death in the immediate family or among close relatives; 2 separate days for school visitation upon approval by the superintendent and according to the importance of such visits to the schools; provision stating that "teachers should attend as many professional conferences as possible" and providing for reimbursement for reasonable expenses incurred when attending such conferences at the request of and/or with the advance approval of the teacher's principal and the superintendent; in the event of a teacher's death, his estate shall be paid the balance of his unused accumulated sick leave at the rate of 1/200 of his salary; sabbatical leave at 75 percent of salary (provided such pay when added to any program grant does not exceed the teacher's full annual rate) for up to one year after 7 years' service.

Insurance: Committee pays half the cost of group health and life insurance coverage for individual; tax sheltered annuity plan available; Association makes available group health accident insurance for individual coverage.

Association: Payroll dues deduction for local association; an association representative or member involved in investigating or processing a grievance at Level IV (arbitration) during the school day shall be allowed released time without loss of pay.

Instruction: Junior and senior high-school teachers and elementary teachers in the departmental structure shall not be required to teach more than 2 major subjects, or have more than a total of 3 teaching preparations at any one time; released time once a month is provided for all teachers for attendance at curriculum meetings; class size provision stating that the Committee "will continue . . . to make every effort to retain the standards of an average of twenty-five (25) pupils per teacher"; pupil-teacher ratios for special classes include one teacher for 15 educable pupils, one teacher for 10 trainable pupils, one teacher for 8 emotionally disturbed pupils whose ages fall within a 3-year range, and one teacher for 6 emotionally disturbed pupils if their ages range more than 3 years apart; provision stating that "whenever possible, secondary principals will not assign more than one hundred (100) students to English teachers."

Personnel: Grievance procedure ends with final and binding arbitration; all teachers are allowed a duty-free lunch period equal in length to the pupils' lunch period; in secondary schools with a work day of 7 periods or longer, teachers shall have one preparation period daily; elementary teachers may leave their classrooms when classes are being conducted by specialists; teachers have the right to review their personnel files and respond to any derogatory material before placement therein; nontenure teachers shall be evaluated semiannually in an evaluation conference with their principal or department head and may appeal an adverse evaluation through the grievance procedure only on grounds of bad faith or discrimination; if a teacher is to be disciplined or reprimanded by a member of the administration above the level of his principal, he may have an association member present; suspension provision stating that the school committee, the superintendent, or any other school official designated by the superintendent may suspend a teacher without pay for a maximum of 10 days "for unbecoming conduct or for any other cause which such Committee, Superintendent, or official deems adequate," although the teacher shall have the right of appeal to the full committee and shall be reinstated with back pay if his suspension is not upheld; provision setting forth department heads' duties, responsibilities, and conditions of employment (*see* following provision reprint); professional improvement program allowing 4 increments of $100 each for professional study (2 approved courses totaling 4 semester hours or more of credit are required for one increment) or its equivalent in travel (only 2 increments may be earned through travel); only one $100 increment may be earned during any 12-month period except through full-time study, an excess of credits earned in one year cannot be carried over into a succeeding year, and no teacher shall receive more than 5 annual increments unless he "presents evidence of approved professional study in his field of work equal to

six (6) college credits earned during each five (5) year period"; increments may be withheld from any teacher whose work is judged unsatisfactory by the superintendent, and the combined evaluation of the elementary supervisor, department head, and principal in charge of his work, provided that he be given written notice of the reasons for such an action at least 60 days in advance of the awarding of contracts, and provided that tenure teachers who so request have been granted a hearing before the school committee.

DUTIES AND RESPONSIBILITIES OF HEADS OF DEPARTMENTS

A. Heads of Department are under the general supervision of the Superintendent of Schools, and are directly responsible to the principal of the school to which they are assigned as a teacher. In addition they shall have staff responsibility to each principal of a school in which a member of their department is assigned. They will maintain liaison between their respective departments and the administration.

B. Heads of Department are responsible for periodic review of all departmental courses with the aim of improving the content and organization of the courses.
   1. Heads of Department will be responsible for encouraging and directing research and study of new course content and of new methods of teaching.
   2. Heads of Department are responsible for the final recommendations to the Superintendent of new textbooks for their departments. Individual teacher recommendations will be considered before final recommendations are made.

C. Heads of Department are responsible for the supervision and guidance of teachers within their departments, especially new appointments. Reports of evaluation will be submitted on all tenure teachers annually and nontenure teachers semi-annually to the Superintendent. These reports will be based on competence in subject matter area, evidence of preparation, and presentation.

D. Heads of Department are responsible for submitting an annual departmental budget.

E. Heads of Department are responsible for compiling an annual inventory of books and equipment.

CONDITIONS OF EMPLOYMENT

A. Heads of Department will be allowed to interview candidates for openings within their departments and their recommendations will be considered in the appointment to fill each vacancy.

B. Department Heads will have a reduced teaching load commensurate with the size and scope of their respective departments.
   1. Each Department Head will be assigned classes on the basis of the following:
      a. Industrial Arts & Home Economics – 5 Classes
      b. Latin, Speech & Business – 4 Classes
      c. Mathematics, Science, Fine Arts & Social Studies – 3 Classes
      d. English & Languages – 2 Classes
      e. Special Education & Athletics – No Classes
   2. No Head of Department will be assigned any study period unless it is used to substitute for an academic class.

C. Department Heads will have the opportunity to visit other schools and attend conventions and conferences in order to keep abreast of current trends in their respective fields. (Northampton, Massachusetts)

Corry, Pennsylvania

Between the Corry Area Joint Schools and the Corry Area Education Association, effective July 1, 1971, to June 30, 1972. Approximately 135 certificated professional employees. Provision for the negotiation of a successor agreement to begin on December 15, 1971.

Compensation: B.A., $6,800 to $10,700, 13 increments; B.A. plus 24 hours, $10,850 maximum; M.A., $7,100 to $11,300, 14 increments; M.A. plus 30 hours, $11,600 maximum; separate salary schedules provided for counselors and librarians, and vocational agriculture teachers which set forth beginning salaries according to the number of years' experience and the type of degree held; longevity pay of $100 annually beginning with the 25th year of service; retirement pay of $25 per year of district service (to a maximum of 20 years' service) for teachers with at least 10 years' district service. Differentials: athletic director and head basketball coach, $1,000 each; head football coach, $1,050; assistant football, basketball and wrestling coaches, $475 each; swimming coach, $650; cross-country coach, $275; yearbook advisor, $365; junior class play director, $150; senior class sponsor, $175; band director, $500;

stage crew advisor, $300; senior high audio-visual director, $125. Summer school teachers, $725 (which rate is effective for both the 1971 and 1972 summer sessions). Driver education, adult education, and homebound teachers, $6 per hour. Special education teachers receive $200 above the regular teacher scale at all steps.

Leaves: 10 days' annual sick leave, which "shall be cumulative from year to year," according to the state school code; a maximum of 25 days' accrued sick leave may be transferred from one district in the state to another in accordance with state law; 3 hardship and emergency leave days deducted from accumulation, one of which "may be taken by the employe at any time that he deems a personal hardship to exist," and the other 2 of which may be used as emergency sick leave in the event of an illness in the immediate family; 3 separate days' bereavement leave in the event of a death in the immediate family; 1 separate day of leave for the death of a near relative; 1 day of leave at partial pay to attend the commencement of a son or daughter; paid leave for jury duty less any court allowances received, although a teacher may elect to take one day of personal leave at full pay.

Insurance: Board-paid Blue Cross-Blue Shield coverage for individual; prior to the beginning of the 1971-72 school year, the board shall arrange for and maintain liability insurance coverage "which shall cover employes for liability over and above any individual liability coverage the employe has" and shall protect an employee "against any liability for an act or omission arising from the authorized use of his own automobile in the performance of school duties."

Association: Payroll dues deductions for local, state, and national associations; released time without loss of pay shall be made available to association representatives engaged in negotiation, grievance proceedings, or conferences during the school day, although all negotiating sessions and grievance meetings shall be held after the school day except as mutually agreed otherwise; a total of 4 days' paid leave shall be made available to association representatives "according to a schedule which shall be submitted by the president of the bargaining unit prior to the beginning of each school year, provided that there shall be no expense to the employer for substitute teachers required, in the opinion of the employer, because of such leave."

Personnel: Grievance procedure ends with final and binding arbitration; duty-free lunch period of 30 minutes for all teachers; when elementary-school classes are being conducted by a specialist, elementary teachers will be relieved of classroom supervision; tuition reimbursement of $40 per college credit (which amount shall not exceed the actual cost charged per credit) to a maximum of 10 credits per year, provided that courses taken have the prior approval of the superintendent; extracurricular activities, and adult education, driver education, and summer school courses shall be assigned with the consent of the teacher, and preference shall be given to regularly employed teachers according to their experience, competency, and qualifications; in emergency situations, teachers may volunteer as substitutes during their non-teaching time, although regular teachers may be assigned as substitutes in the absence of volunteers; mandatory retirement at age 65, although a joint committee may extend the retirement age on an emergency basis for periods of one year when suitable replacements are unavailable; school work year consists of 5 in-service days and 180 instructional days, but "if circumstances require make-up days beyond the scheduled school calendar, in order to complete 180 days of instruction, the employes agree to work such make-up days without extra compensation"; provision stating that salaries "shall be paid in twenty-four (24) semi-monthly payments, with 40% of the employe's salary being payable at the mid-month payment period without deductions, and the remaining 60% paid at the end-of-the-month payment period with all applicable deductions taken from said . . . payment"; provision for association selection of building Liaison Committees composed of no more than one member per 25 building teachers which shall meet with the building principal at least 3 times per year "to review and discuss local school problems and practices"; Appendix E of the agreement enumerates 10 "meet and discuss items," including secondary-school attendance and discipline officers, bus scheduling, mailing of report cards, school calendar, the arrangement of teaching specialists' schedules in the elementary grades, guidelines for the institution of an elementary-school library program, and periodic early dismissal for teachers for purposes of attending various meetings and evaluating pupil programs.

Alexandria, Virginia

Between the Board of Education of the Alexandria City Public Schools and the Education Association of Alexandria, effective July 1, 1971, to June 30, 1971. Approximately 875 certificated professional employees.

Compensation: (stated as an index scale with B.A. base equal to 1.00) B.A., $7,550 (1.00) to $13,213 (1.75), 13 increments; B.A. plus 30 hours, $14,723 (1.95) maximum; M.A., $8,683 (1.15) to $15,629 (2.07), 15 increments; M.A. plus 30 hours, $16,988 (2.25) maximum; Ph.D., $18,196 (2.41) maximum; provision for hiring teachers and other nonteaching personnel on a 12-month basis at an additional 20 percent of the 10-month salary rates plus prorated benefits; a teacher who is eligible for retirement under the state retirement system and who notifies the district of his impending retirement by July 1 prior to the contract year in which the retirement occurs shall receive retirement pay at the rate of .05 of the B.A. base. Differentials: high-school head football coach, $1,200; high-school head baseball, basketball, and track coaches, $1,100 each; high-school crew, gymnastics, intramurals, and wrestling coaches, $1,000 each; high-school assistant baseball, basketball, crew, gymnastics, track, and wrestling coaches, $700 each; high-school girls' intramurals coach, $400; high-school choral music sponsor, $250; high-school guidance counselors on 10-month contracts, $200; high-school club and activity sponsors have 4 classes, one planning period, and one sponsor period, and are compensated according to the type of activity: debate ($500), dramatics ($600), newspaper and literary magazine ($250 each), student council and yearbook ($300 each), and stagecraft ($800); high-school department heads who supervise two or more instructors including themselves receive $500 and have duties limited to 4 classes, one planning period, and one supervisory period; special education teachers, $200.

Leaves: 12 days' annual sick leave credited at beginning of school year, unlimited maximum accumulation; teachers with 2 years' service who are disabled or confined to a hospital shall, upon expiration of their accumulated regular sick leave, be granted an undefined "major medical sick leave" in the amount needed (up to 3 full months) or until the end of the contract period; 3 separate days for personal leave, and such leave may be granted to cover jury duty or required court appearances less any court allowances received; upon prior approval, an undefined leave will be granted for school visitations and professional conferences with the board paying expenses at the prevailing per-diem rate if a teacher attends a conference at the district's request; a teacher may request professional leave (early departure prior to the close of school) without loss of pay for required attendance at an NDEA institute or other approved scholarship program provided he has completed his end of the year obligations to the satisfaction of his principal and has furnished the personnel office with verification of his program enrollment; provision stating that a teacher may accumulate annual leave for up to 45 days and shall be reimbursed for all unused leave up to that amount upon termination; professional employees with 3 years' district service will receive severance pay at the rate of $10 per day of sick leave accumulated since the beginning of the 1970-71 school year to a maximum of 45 days; sabbatical leave at 75 percent of salary for an unspecified period of time after 6 years' service.

Insurance: Board pays $14 per month per employee toward group hospitalization and major medical insurance coverage for individual, and an additional $6 per month toward the family rate; effective July 1, 1971, the board will participate for all full-time district employees in the supplemental retirement system adopted for city employees; tax-sheltered annuity plans made available by board; provision stating that the board will report to the association by July 1, 1971, the results of a study regarding the feasibility of carrying disability and/or liability insurance to protect teachers during their hours of employment.

Association: Payroll dues deductions for local, state, and national associations; the association president will be given "appropriate" released time according to plans developed with the principal involved, and an intern will be assigned to work in the president's classroom and serve in his place when necessary; an association representative shall be named to the superintendent's calendar committee and shall participate in committee deliberations, present the association position on calendar items, and assist in drafting the calendar to be presented to the board; provision for the establishment of a joint 12-member council which shall meet at least bimonthly during the school year to "review and discuss any matters relating to the educational program" and determine future handling of each item.

Instruction: A "reasonable effort" will be made to schedule teachers with no more than 2 course preparations per day; a minimum of one reading teacher per elementary school will be employed; provision stating that "every effort will be made to reproduce and distribute curriculum materials developed during the summer as close to the first day of the school year as possible."

Personnel: Grievance procedure ends with association submission of the matter to a 3-member fact-finding panel; a teacher has the right to

review his personnel file and respond in writing to any derogatory material before placement therein; the board will provide additional aides or other necessary personnel during the 1971-72 school year so that all teachers may have a duty-free lunch period of at least 30 minutes; elementary teachers shall have a minimum average of 30 minutes' preparation time daily; probationary teachers shall be evaluated at least twice each year by their building principal or his designee, while tenure teachers are to be evaluated once each year; any teacher recommended for dismissal or nonrenewal by the superintendent shall have the opportunity to review the charges against him with the appropriate association committee and have the right to a hearing before the board prior to its final action, and the association may further appeal the matter through the grievance procedure in the event the board concurs with the superintendent's recommendation; provision stating that "when possible, the Director of Personnel will include teachers as observers or participants with teams recruiting and interviewing new teachers as part of the teachers' in-service development program. Best use of teachers in this regard is to be an administrative determination"; in addition, the board "will strengthen its efforts to recruit and to employ more minority teachers for assignment in all schools"; professional district employees "shall have first opportunity" to apply for vacant administrative or supervisory positions, and positions will be filled "by promotion of the best qualified employee applicant, provided that the applicant's qualifications are at least equal to those of other applicants from outside the staff"; establishment of a sum of $5,000 in the 1971-72 budget primarily to cover the cost of tuition payments for fully certified personnel taking certain courses of study as a result of their assignment to specialized teaching areas for which they are not fully prepared; provision for the continuation of a summer curriculum program (depending upon program needs, curriculum design, and budget allocations) whereby teachers may be assigned to curriculum development and research projects at an additional 20 percent of their 10-month salary for 32 days plus 18 days of nonaccumulative annual leave.

Franklin Pierce (Tacoma), Washington

Between Franklin Pierce School District No. 402 and the Franklin Pierce Education Association, effective July 1, 1971, to June 30, 1972. Approximately 388 certificated professional employees.

Compensation: B.A., $6,936 to $9,920, 9 increments; B.A. plus 15 hours, $10,277 maximum; (schedule sets forth a B.A. plus 30 hours column but stipulates that teachers holding an M.A. degree receive $500 extra; the $500 figure is incorporated here) M.A., $8,176 to $11,822, 11 increments; B.A. plus 60 hours, $12,495 maximum (for M.A. plus 30 hours, $12,995 maximum); B.A. plus 90 hours, $13,770 maximum (for M.A. plus 60 hours, $14,270 maximum); separate salary schedules for administrators according to type of position held and ranging across 6 steps with the proviso that M.A. degree holders receive $500 above the schedule, and personnel with Ph.D. degrees receive $800 above the schedule. Differentials: (4-year experience schedule with the first year reported here) high-school athletic director, and head football and basketball coaches, $922 each; high-school head track coach, $597; high-school cross-country and boys' tennis coaches, $325 each; junior-high head football and basketball coaches, $563 each; junior-high head track and wrestling coaches, $359 each; high-school band director, $827; high-school vocal music director, $454; drill team advisor, $196; debate and drama coaches, newspaper sponsor, and counselors, $325 each; department chairmen, $359. Substitute teachers receive $5,105 (.736 of B.A. base) for the first 20 days of service, and are placed at the B.A. base upon beginning the 21st continuous day of service. The hourly rate for all but regular teaching and/or lump sum extra pay assignments ranges from $6.13 per hour for the first year to $7.49 per hour for the fifth year.

Leaves: 10 days' annual sick leave, 180 days' maximum accumulation; 5 separate days of personal leave at partial pay for a serious family illness, the death of a close relative, unusual and hazardous travel conditions, and "for purposes designed to improve the performance of a certified employee such as an education conference or institute"; 3 separate days' leave (which may be taken only once per year) for a terminal illness or death in the immediate family; 1 separate day of leave for the death of a close relative whose place of residence is elsewhere than in the home of the employee; paid leave for jury duty or court subpoena less any court allowances received; up to 15 days' paid leave for military reserve obligations; teacher exchange program with the American School of Vientiane allowing teachers an unpaid two-year leave of absence to teach in overseas schools during which time they will be considered on temporary reassignment, will receive credit for their experience on the district salary schedule, may transfer all unused sick leave from Vientiane, receive their same position upon return to the district, and retain district

seniority rights; sabbatical leave at the B.A. base (for those who receive no grant in aid), or for those who receive a grant in aid, at one-half of the employee's normal salary or the B.A. base, whichever is less, for one year after 7 years' service.

Insurance: Board contributes up to $6 per month per employee for group health insurance coverage for individual; board shall provide liability insurance coverage for each certificated employee in the amount of $1 million, which coverage "shall be afforded in excess of any and all coverages that the applicant may have at the time of the loss" and is intended to cover losses during the performance of school duties, on school premises, and at school sponsored activities; tax-sheltered annuity plan made available by board.

Association: One association representative may be named to serve as a full voting member on each screening committee called to evaluate candidates for nonteaching certified positions in the district; elementary teachers provided with early release on nine specific dates to attend association board of directors' meetings.

Instruction: Three teachers shall be appointed by the association president to the Curriculum Advisory Committee, one of whom will be a member for one year and attend all meetings while the other two will be appointed according to the subject area being discussed; the committee shall give "priority consideration to the task of obtaining materials relevant to minority groups and to recommend the adoption and incorporation of such materials into all levels of the District curriculum"; provision setting forth a procedure for engaging controversial speakers (*see* following provision reprint).

Personnel: Grievance procedure ends with final and binding arbitration; the board "agrees to make all reasonable efforts" to provide preparation time for elementary teachers by hiring additional music and physical education teachers; new employees shall be evaluated by their principal, vice-principal, or both within the first 90 calendar days of employment in accordance with statute, shall be notified in writing of their areas of deficiency along with recommendations for improvement by February 1 of each year, and shall be allowed to demonstrate improvement during a February 1 to April 15 probationary period; all teachers must have a tentative written or oral evaluation by January 15, and the final written evaluation must be completed by May 31; mandatory retirement by June 30 of the fiscal year in which a teacher reaches age 65; provision allowing certificated employees and one guest to use their school's athletic facilities without charge when pupil activities are not scheduled.

CONTROVERSIAL SPEAKERS PROCEDURE

PROCEDURE:

The following procedure is recommended for all controversial speakers:

1. Request by a regular staff member should be submitted to the Advisory Committee at least one week prior to the presentation.
2. The staff member shall present the structure for the presentation at the same time that the request is submitted.
3. After review by the Advisory Committee, the decision of the committee shall be presented to the principal.
4. If the principal disapproves of the Advisory Committee's decision, he may request the committee to reconsider. Either the principal or requesting staff member may appeal a decision of the Advisory Committee to a committee composed of the following persons: Assistant Superintendent, Instruction; Administrative Assistant—Secondary Education; Director of Elementary Education.

GUIDELINES:

a. A speaker's topic must pertain to the teaching-learning objectives of the sponsoring individual or group.
b. Only *invited* speakers shall be present.
c. Evidence should be presented that the speaker is reputable and an authority on the subject.
d. The speaker should agree to use suitable language and be audio- and/or video-taped.
e. The speaker should agree to speak to the structure and subjects requested and if he does NOT, students will be excused.
f. The structure for the presentation should pertain to the current subject matter being dealt with in the classroom.
g. The speaker should be willing to participate in a question and answer session following his presentation.
h. No speaker shall be permitted to pass out literature to the students unless previously previewed and approved by the responsible teacher.
i. Adequate preparation and follow-up is imperative.
j. Students should not be required to listen to highly controversial speakers if they choose not to.

k. Only students in the classes involved shall be permitted to attend.
l. The Advisory Committee shall be composed of two permanent members elected annually by the building faculty and all members of the department and/or grade level securing the speaker. The building faculty shall designate one of the permanent members as chairman.
m. The classroom teacher possesses the professional expertise and has the primary responsibility for designing and implementing learning experiences appropriate to the teaching-learning objectives of the class.
n. The principal has the major responsibility for the administration and supervision of instruction in his building. (Franklin Pierce, Washington)

RESOURCE PUBLICATIONS FOR RESEARCH IN NEGOTIATION

This annotated bibliography of resource publications can provide negotiators with valid and reliable statistical information necessary to analyze and present their local conditions in comparison with other school districts, communities, professions, occupations, states, and the nation. Most of these publications are periodically revised. This list also provides negotiators with a variety of types of information they should be looking for on a local basis.

NATIONAL EDUCATION ASSOCIATION, 1201 SIXTEENTH STREET, N.W., WASHINGTON, D.C. 20036.

RESEARCH DIVISION

NOTE: A subscription to all Research Division *Research Reports* is available from the NEA Records Division at the address above for $18 per year and includes approximately 15 to 20 research reports and summaries. For an additional $2 (a total of $20), a subscriber also may receive issues of the *NEA Research Bulletin,* a quarterly publication. The following publications are included in the $18 subscription price and also are available on an individual basis.

- *Biennial Salary Survey of Public-School Professional Personnel* (biennial, 1970-71 in process) gives mean and median salaries paid, and distributions of all salaries paid teachers, principals, superintendents, and others in public school systems. (Latest publication: 1970-71 data. Vol. I, Research Report 1971-R5. 183 p. $4.00. #435-25474. Vol. II, Research Report 1971-R6. 194 p. $4.00. #435-25476)

- *Economic Status of the Teaching Profession* (annual) compares trends in salaries paid teachers and other instructional staff members with salaries of other professional and nonprofessional workers; includes family budget and price index data. (Latest publication: 1970-71 data. Research Report 1971-R4. 87 p. $2.00. #435-25470)

- *Estimates of School Statistics* (annual) reports the number of basic administrative units (school districts), board members, and school superintendents, school-age population, fall and cumulative enrollments, average daily membership and attendance, number of high school graduates, numbers of teachers and instructional staff, salaries of teachers and instructional staff, revenue and nonrevenue school receipts, current expenditures per pupil in average daily membership and attendance, capital outlay, and interest on school debt for 50 states, the District of Columbia, and outlying areas. (Latest publication: 1970-71 data. Research Report 1970-R15. 38 p. $1.25. #435-25462)

- *Faculty Salary Schedules in Colleges and Universities* (annual; 1970-71 in process) provides salary schedules, policies regarding schedules, minimum and maximum salaries, and increments for teaching staff in institutions granting four-year or higher degrees. (Latest publication: 1969-70 data. Research Report 1970-R13. 45 p. $1.25. #435-25458)

- *Faculty Salary Schedules in Community-Junior Colleges* (annual; 1970-71 in process) provides salary schedules and policies relating to salary schedule structure for the teaching staff of two-year higher education institutions. (Latest publication: 1969-70 data. Research Report 1970-R11. 48p. $1.25. #435-25454)

- *Rankings of the States* (annual) classifies the states on a variety of economic, demographic, and social data relating to population, state and local governments, and education revenue and expenditures. (Latest publication: 1971 data. Research Report 1971-R1. 76 p. $1.50. #435-35464)

- *Salaries in Higher Education* (biennial) presents data on salaries paid in the nation's higher education institutions, both two-year and four-year. (Latest publication: 1969-70 data. Research Report 1970-R6. 95 p. $1.50. #435-22930)

• *Salary Schedules for Administrative Personnel* (annual) provides average and median salary summary tables and tables for individual school systems enrolling 6,000 or more pupils with respect to minimum and maximum scheduled salaries for administrators and building supervisors, and the percent relationship to scheduled salaries for classroom teachers. (Latest publication: 1970-71 data. Research Report 1971-R2. 100 p. $2.50. #435-25466)

• *Salary Schedules for Teachers* (annual) provides summary tables and tables for individual school systems enrolling 6,000 or more pupils with respect to minimum and maximum salaries, increments scheduled for teachers with bachelor's degrees, master's degrees, six years of preparation, and doctor's degrees, maximum placement for experience on the bachelor's degree scale, provisions for recognizing superior service or merit, number of teachers, and number of days on duty. (Latest publication: 1970-71 data. Research Report 1970-R12. 127 p. $1.25. #511-20834)

NOTE: The following NEA Research Division publications are not included in the $18 full-year research subscription but are provided upon request or separate subscription basis only.

• *Merit Pay for Teachers—Pros and Cons* presents a description of merit pay, alternatives to the system, and a bibliography of references on merit pay. (Research Memo 1971-2. June 1971. 6 p. $.25. #431-25510)

• *Negotiation Agreement Provisions* (biennial, 1970-71 in process) provides a master subject index of over 300 items contained in more than 900 comprehensive classroom teacher agreements, and a system-by-system listing of schools enrolling 1,000 or more pupils which have negotiated each identified item. (Latest publication: 1968-69 edition. 3 vols. $25.00 for NEA members, #841-24058; $40.00 for nonmembers, #841-24056)

• *Negotiation Research Digest* (monthly, September-June) publishes data on negotiation agreements, contract provision analyses; decisions of courts, labor boards, and arbitrators; fact-finders' recommendations, state negotiation statutes, and other material relative to public-school negotiation. (Periodical: $3.00 single copy. $15.00 a year for NEA members; $30.00 a year for nonmembers)

• *School Law Summaries: Tenure and Contracts; Leaves of Absence; Tort Liability and Liability Insurance* (all are published as warranted by legislative enactments). These three school law series provide state-by-state summaries of legislative and/or regulatory provisions relative to the particular topic. (Latest publications: *Tenure and Contracts.* September 1970. Research Report 1971-R3. 93 p. $2.00. #435-25468; *Leaves of Absence.* December 1968. 26 p. $1.00. #431-13388; *Tort Liability and Liability Insurance.* March 1969. 18 p. $.50. #431-22828)

• *Survey of Merit Provisions for Teachers and Administrators, 1970-71,* analyzes merit provisions in 173 school systems reporting such provisions in the 1970-71 NEA Research Division annual salary schedule survey. (Research Memo 1971-14. April 1971. 14 p. $.40. #431-22514)

• *Teacher Retirement System Summaries* (biennial, 1971 in process) is a compilation in summary form of retirement legislation in 50 states and 16 local retirement systems. (Latest publication: 1969 data. December 1969. loose-leaf series, complete set for $3.50. #898-25586)

COMMITTEE ON EDUCATIONAL FINANCE

• *Financial Status of the Public Schools* (annual) documents trends in school enrollment, teacher supply and demand, teacher salaries, school revenues and expenditures, and property taxes and federal grants for school purposes. (Latest publication: 1971 data. 43 p. $1.25. #511-20834)

EDUCATIONAL RESEARCH SERVICE

NOTE: The following materials (as well as other NEA Research Division publications) are available from the ERS Information Service at a subscription price of $80.00 per year. Single publications also are available upon request.

• *Educational Research Service Circulars* (irregular) survey and analyze current practices in local school administration. (Latest pertinent publications: *Professional Growth Credit for Educational Travel.* ERS Circular No. 2, 1971. $1.50; *Framework for Student Involvement.* ERS Circular No. 6, 1970.

$1.25; *The Evaluatee Evaluates the Evaluator.* ERS Circular No. 5, 1970. $1.50; *School Year for Pupils and Teachers.* ERS Circular No. 4, 1970. $1.25; *Severance Pay for Professional Employees in Public-School Systems.* ERS Circular No. 5, 1969. $1.25; *Duty-Free Lunch Periods for Elementary School Teachers.* ERS Circular No. 4, 1968. $1.25)

• *Educational Research Service Information Aids* (irregular) briefly examine topical school system subjects. (Latest pertinent publications: *Leaves of Absence to Teach Abroad.* No. 7, November 1970. $.50; *Full Year Contracts for Teachers,* No. 5, September 1970. $.50; *The Ombudsman in Public Education.* No. 4, August 1970. $.50; *Chief Negotiator for the Administrator-Board Team.* No. 3, February 1970. $.50; *Release of Classroom Teachers for Inservice Training.* No. 2, December 1969. $.50)

U.S. GOVERNMENT PUBLICATIONS ARE AVAILABLE FROM THE SUPERINTENDENT OF DOCUMENTS, U.S. GOVERNMENT PRINTING OFFICE, WASHINGTON, D.C. 20402

U.S. DEPARTMENT OF COMMERCE, BUREAU OF THE CENSUS

• *Census of Governments* (5-year intervals) provides data concerning numbers and characteristics of governments in the United States, the number of elective officials, the value of taxable property, the number of public employees and payrolls, and the amounts of governmental revenues, expenditures, debts, and financial assets. (Latest publications: 1967 data. Vols. I through VII as follows:

Vol. I—Government Organization. $3.25
Vol. II—Taxable Property Values. $1.50
Vol. III, No. 1—Finances of School Districts. $.75
No. 2—Finances of Special Districts. $.75
No. 3—Finances of County Governments. $.75
No. 4—Finances of Municipalities and Township Governments. $.75
No. 5—Compendium of Government Finance. $.75
Vol. V—Local Government in Metropolitan Areas. $5.00
Vol. VI, No. 1—Popular Elected Officials of State and Local Government. $1.50
No. 2—Employee Retirement Systems of State and Local Government. $.45
No. 3—State Reports on State and Local Government Finance. $1.00
No. 4—State Payments to Local Government. $1.00
No. 5—Historical Statistics in Government Finances and Employment. $1.25
No. 7—Graphic Summary of the 1967 Census of Governments. $.50
Vol. VII—State Reports (a separate report for each state, the District of Columbia, and Puerto Rico with prices ranging from $.35 to $1.25)

• *Current Population Reports* (annual; various reports) provides population estimates for selected counties and metropolitan areas, states, and the United States for total resident population. (Latest publications: eight reports in the P series, based upon 1970 census data. Price varies for single copy of a series. $14.00 a year for complete series)

• *1970 Census of Population and Housing* (several series of advance reports are now available) consists of a report for each state and the District of Columbia, and a United States summary report. Individual reports are:

1. *Population Census Report.* Series PC(V1) reports final population counts for states, counties, county subdivisions, all incorporated places, and unincorporated places with a population of 1,000 or more. Series PC(V2) reports selected data on age, sex, race, and relationship to head of household for states, SMSA's, counties, and places with a population of 10,000 or more. (Latest publications: issued between September 1970 and March 1971. Series PC(V1). $13.00 per set, or $.25 per individual state report; Series PC(V2). $15.60 per set, or $.30 per individual state report)
2. *Housing Census Report.* Series HC(V1) reports selected data on housing characteristics for states, SMSA's, counties, and places with a population of 10,000 or more. (Latest publication: issued between September 1970 and March 1971. Series HC(V1). $15.60 per set, or $.30 per individual state report)

• *Public Employment* (annual) covers public employment and payrolls of federal, state, and local governments by function and type of government. (Latest publication: 1970 data. GE70 No. 1. 31 p. $.40)

• *State Government Finances* (annual, several reports) covers federal, state, and local finances by revenue source, expenditure by type and function, indebtedness and debt transactions, and various other governmental finance transactions. (Latest publication: 1968-69 data. Series GF69 No. 1. 60 p. $.50)

• *State Tax Collections* (quarterly) covers national totals of state and local tax revenues by level of government and type of tax. (Latest publication: 1969 summary. Series GT69 No. 1. 40 p. $.50)

• *Statistical Abstract of the United States* (annual) provides numerous summaries of statistics on the social, political, and economic organization of the United States and a guide to source references. (Latest publication: 1970. 91st edition. 1,018 p. $5.75-cloth)

U.S. DEPARTMENT OF COMMERCE, OFFICE OF BUSINESS ECONOMICS

• *Economic Report of the President* (annual) provides statistical data on a national basis for income or expenditure, population, employment, and wages, production and business activity, prices, money supply, credit and finance, corporate profits and finance, and government finance. (Latest publication: February 1971. 332 p. $1.50)

• *Survey of Current Business* (monthly) provides general business indicators and trends on national income and production statistics, commodity and consumer prices, construction and real estate, domestic and foreign trade, labor force, employment and earnings, and finance and selected activities for various manufacturing industries. (Periodical: $1.00 single copy. $9.00 a year which includes weekly supplement)

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, OFFICE OF EDUCATION

• *Digest of Educational Statistics* (annual) covers selected statistics on instructional staff, graduates, and school expenditures related to personal income. (Latest publication: 1969 edition. 128 p. $1.50. #OE-10024-69)

• *Statistics of State School Systems* (biennial) covers school-age population and enrollment, public-school employment, and revenues and expenditures for public-school systems. (Latest publication: 1967-68 preliminary. 17 p. $.30. #OE-20006-68)

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, PUBLIC HEALTH SERVICE

• *Vital Statistics of United States* (monthly) covers selected statistics on births, deaths, marriages, and divorces. (Periodical: annual summary for the United States, October 20, 1970. 19 p. free upon request to the National Center for Health Statistics as long as supply lasts)

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, SOCIAL SECURITY ADMINISTRATION, OFFICE OF RESEARCH AND STATISTICS

• *Social Security Bulletin* (monthly) regularly publishes statistics on public benefit plans for social security, medicare, unemployment insurance, and public assistance, as well as special articles on private employee benefit plans and costs for health insurance and retirement. (Periodical: $.35 single copy. $4.00 a year)

U.S. DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS

• *Analysis of Health, Insurance, Pension, and Other Employee-Benefit Plans* (irregular; titles vary) covers prevalence of plans, digests of plan provisions, detailed analyses of selected provisions, and administrative and financial characteristics of all plans under Disclosure Act or selected plans. (Latest publications: *Benefits for Active and Retired Workers Age 65 or Over, Early 1968.* Bulletin 1502-1. 1968. 33 p. $.40; *Digest of 100 Selected Health Insurance Plans Under Collective Bargaining, Early 1966.* Bulletin 1502. September 1966. 152 p. $1.00; *Digest of 100 Selected Pension Plans Under Collective Bargaining.* 1970 edition. 300 p. $5.00)

• *Collective Bargaining Agreements Analysis* (annual; 5-10 reports) covers prevalence of contract provisions by major industry groups, subject matter, and other classifications. (Latest publications: five reports on Major Collective Bargaining Agreements. *Administration of Negotiated Pension, Health, and Insurance Plans.* Bulletin 1425-12. May 1970. 52 p. $.60; *Seniority in Promotion and Transfer Provisions.* Bulletin 1425-11. March 1970. 82 p. $.75; *Paid Vacation and Holiday Provisions.* Bulletin 1425-9. November 1969. 127 p. $1.25; *Plant Movement, Transfer, and Relocation Allowances.* Bulletin 1425-10. November 1969. 116 p. $1.25; *Characteristics of Agreements Covering 5,000 Workers or More.* Bulletin 1686. 1971. 81 p. $.70)

• *Consumer Expenditure Survey* (varies for different areas and population categories) covers income, expenditures, and changes in assets and liabilities by income class, family size, and other demographic and economic characteristics. Survey is based upon the decennial census, but publications relative to the 1970 Census have not yet been released. (Latest publications: BLS Reports 237-1 through 237-93. Consumer units in urban population by individual city data, regional and United States summaries, 1960-61. Special cities, 1963; BLS Reports 237-1 through 237-83 published in 1962, 1963, and 1964. Consumer units in rural farm and rural nonfarm population by regional and United States summaries, 1960-61; BLS Reports 237-84 through 237-88 published in 1966. Consumer units in combined urban and rural population by regional and United States summaries, 1960-61; BLS Reports 237-89 through 237-93 published in 1966. Furnished upon request to BLS as long as supply lasts)

• *Consumer Price Index* (monthly) covers indexes for all items and major groups and subgroups for the United States and 23 large cities. (Releases: U.S. city average and selected areas, monthly. Selected items and groups, quarterly. Furnished upon request to BLS as long as supply lasts.)

• *Current Wage Developments* (monthly; quarterly summary) contains summaries of major wage developments by amount and nature of changes in wages and related benefits, identified by individual companies and unions with number of workers affected, and listed by industry group and location. (Releases: monthly. Furnished upon request to BLS as long as supply lasts.)

• *Employer Expenditures for Selected Supplementary Employee Compensation Practices* (annual for selected industries) covers percent of payroll and cents per hour employer expenditures for paid leave, premium pay, legally required payments, and private welfare plans for selected manufacturing and nonmanufacturing industries. (Latest publications: "Wages and Benefit Developments in Manufacturing." reprint from *Monthly Labor Review.* p. 40-49. November 1968; *Wages and Related Benefits in Metropolitan Areas, 1966-67.* Bulletin 1530-87. pt. 1, 85 metropolitan areas, occupational earnings, and supplementary practices, November 1967. 96 p. $.50. pt. 2, metropolitan areas, United States and regional summaries, July 1968. 118 p. $.65; *Employer Expenditures for Selected Supplementary Compensation Practices for Production and Related Workers, Composition of Payroll Hours, Manufacturing Industries, 1962.* Bulletin 1428. April 1965. 126 p. $1.00; *Supplementary Compensation for Nonproduction Workers, 1963.* Bulletin 1470. December 1965. 110 p. $.70; *Pay Supplements in Private Industry and Federal Government Compared.* News Release USDL 11-202. 1970. 4 p. Furnished upon request to BLS as long as supply lasts.)

• *Employment, Hours, and Earnings* (monthly) covers gross hours and earnings, spendable weekly earnings, and overtime for employees in mining, construction, manufacturing, trade, finance, and other selected industries. (Latest publication: monthly reports published in *Monthly Report on the Labor Force.* See item 35. Labor force. *Employment and Earnings Statistics for States and Areas, 1939-68.* August 1969. 582 p. $7.00)

• *Labor Force* (monthly) covers employment status of the labor force by various demographic breakdowns. (Periodical: $.65 single copy. $7.00 a year)

• *Monthly Labor Review* (monthly) publishes articles on industrial relations, labor problems, labor economics, the labor movement, and labor law, and summarizes major studies by the Bureau of Labor Statistics. (Periodical: $.75 single copy. $9.00 a year)

• *Occupational Outlook* (biennial; quarterly for selected items of interest) provides analyses of the employment outlook, nature of the work, training, requirements for entry, line of advancement, location of jobs, earnings, and working conditions for 700 occupations and 30 major industries. (Latest publication: *Occupational Outlook Handbook,* 1970-71 edition. Bulletin 1650. 1970. 859 p. $6.25)

• *Occupational Wages*—community wage surveys (monthly; each area surveyed annually) covers averages and distributions of wage and salary rates for clerical, skilled maintenance, custodial, and material handling jobs, work schedules, and supplementary benefits for approximately 85 metropolitan areas. (Latest publications: *Area Wage Surveys—Selected Metropolitan Areas, 1969-70.* Bulletin 1660-91.

1970. 110 p. $1.00; *Occupational Earnings and Wage Trends in Metropolitan Areas, 1969-70.* 12 p. furnished upon request to BLS as long as supply lasts. Latest area wage surveys for: *San Diego, Calif.* Bulletin 1685-20. 18 p. $.30; *Boise City, Idaho.* Bulletin 1685-21. 24 p. $.35; *San Francisco-Oakland, Calif.* Bulletin 1685-23. 32 p. $.40; *Memphis, Tenn.-Ark.* Bulletin 1685-30. 20 p. $.30; *Philadelphia, Pa.-N.J.* Bulletin 1685-34. 46 p. $.50)

• *Occupational Wages*—industry studies (monthly on a 2-to-5-year cycle) covers averages and distributions of wage rates for representative jobs, work schedules, and supplementary benefits in 50 manufacturing and 20 nonmanufacturing industries. (Latest publications: *Industry Wage Survey: Communications, 1969.* Bulletin 1696. 14 p. $.30; *Industry Wage Survey: Auto Dealer Repair Shops, August 1969.* Bulletin 1689. 36 p. $.50; *Industry Wage Survey: Educational Institutions, Non-teaching Employees.* Bulletin 1671. March 1969. 44 p. $.50; *Wage Chronology: North American Rockwell Corporation, 1967-70.* Bulletin 1564. December 1970. 11 p. Furnished upon request to BLS as long as supply lasts; *Wage Chronology: International Shoe Company.* Bulletin 1479. May 1970. 7 p. furnished upon request to BLS as long as supply lasts; *Directory of Wage Chronologies 1948-June 1969.* Bulletin 4387. 10 p. Furnished upon request to BLS as long as supply lasts.)

• *Professional, Administrative, Technical, and Clerical Pay* (annual) furnishes averages and distributions of salary rates for about 85 occupational work level categories of professional, administrative, technical, and clerical jobs. (Latest publication: June 1970 data. Bulletin 1693. January 1971. 81 p. $1.00)

• *Standard Budgets* (irregular) provides estimated costs of annual budgets for different types of urban families. (Latest publications: *Three Budgets for a Retired Couple in Urban Areas of the United States, 1967-68.* Bulletin 1570-6. 74 p. $.70; *Spring 1970 Cost Estimates for Urban Family Budgets* (4-person family). News Release USDL 11-606. December 21, 1970. Furnished upon request to BLS as long as supply lasts.)

• *Union Wage Scale* (irregular) covers averages and distributions of union wage and hour scales by industry for the building and printing trades, local transit, and local trucking in cities with a population of 100,000 or more. (Latest publications: *Directory of Industry Wage Studies and Union Scale Studies, 1960-October 1968.* 1969. 21 p. $.20. Latest union wages and hours studies for: *Local Transit Operating Employees, July 1, 1969, and Trend 1929-69.* Bulletin 1667. 12 p. $.25; *Printing Industry, July 1, 1969.* Bulletin 1670. 65 p. $.65; *Building Trades, July 1, 1969.* Bulletin 1668. 49 p. $.55; *Local Truck Drivers and Helpers, July 1, 1969.* Bulletin 1669. 39 p. $.50)

U.S. DEPARTMENT OF LABOR, WOMEN'S BUREAU

• *Handbook on Women Workers* (irregular) provides factual information on women in the labor force by employment, occupations, income and earnings, education and training, and laws governing women's employment and status. (Latest publication: 1969 handbook. Bulletin 294. 1970. 384 p. $1.00)

U.S. TREASURY DEPARTMENT

• *Annual Report of the Secretary of the Treasury on the State of Finances for the Fiscal Year* (annual) covers total collections and refunds on individual income and employment, corporation income, excise tax, and estate and gift tax. (Latest publication: fiscal year 1970. 1971. 522 p. $2.25)

MISCELLANEOUS AGENCIES AND PUBLICATIONS

• American Arbitration Association. *Arbitration in the Schools* (monthly) summarizes arbitration awards and fact-finding recommendations involving affiliates of the National Education Association, the American Federation of Teachers, AFL-CIO, and the National School Boards Association. (Periodical: $60.00 a year)

• Bureau of National Affairs. *Basic Patterns in Union Contracts* (irregular) outlines major types of negotiated provisions and their frequency in a sample of 400 collective bargaining contracts drawn from a cross-section of industries, unions, number of employees covered, and geographical areas. (Latest publication: February 1971. 100 p. $5.00)

• Bureau of National Affairs. *Collective Bargaining Negotiations and Contracts* (biweekly) reports key management-union contracts in full text, categorizes actual contract clauses according to a number of different subjects, and reports new wage trends and developments in bargaining strategy. (Loose-leaf series: $210.00 a year)

• Bureau of National Affairs. *Government Employee Relations Report* (weekly) reports information, developments, and activities relative to public employer-employee relations on the local, state, and federal levels, and reprints studies by the Bureau of Labor Statistics and other agencies. (Periodical: $198.00 a year)

• Bureau of National Affairs. *Personnel Policies Forum Survey* (irregular) reports the activities of the Personnel Policies Forum, a group of personnel and industrial relations executives who meet periodically with the Bureau of National Affairs to discuss present personnel practices, innovations, and problems of personnel and industrial relations. (Latest publications: *Personnel Policies for Unorganized Employees, November 1968; Fringe Benefit Practices, August 1969; Training Employees, November 1969; Absenteeism and Its Control, June 1970.* Survey reports are sent to users of BNA labor reports; individual reports are available from BNA at $2.00 each)

• Chamber of Commerce. *Fringe Benefits.* Washington, D.C. (biennial) covers selected fringe benefit costs for all industries and selected manufacturing and nonmanufacturing industries, and compares industry variations for major types of fringe payments, regional variations, size of company, and growth of fringe benefits. (Latest publication: 1969 data. 1970. 39 p. $1.50)

• College Placement Council. *Salary Survey, A Study of Beginning Offers.* Bethlehem, Pa. (annual) provides average annual beginning salary offers to bachelor's and master's degree candidates for various curriculum fields. (Latest publication: 1970-71 data. June 1971. 6 p. available only through *Journal of College Placement* subscription. $18.00 a year)

• Commerce Clearing House. *Labor Law Reporter* (weekly or more frequently) in an extensive loose-leaf series reporting and updating federal and state labor statutes and regulations, NLRB and state labor board decisions, court rulings, specimen union contracts, arbitration procedures and awards, federal and state employment practices, and subject and case indexes. Designed as an aid in handling labor problems, the reports are compiled in a series of 12 volumes dealing with federal labor relations (five volumes), federal wages and hours rules and decisions (two volumes), state laws (three volumes), union contracts and arbitration (one volume), and employment practices (one volume). (Publication cost: $350.00 a year)

• Commerce Clearing House. *1971 Guidebook to Labor Relations* (annual) briefly explains and summarizes interpretations of and actions under federal labor relations statutes with respect to employee representation, bargaining units, unfair labor practices, collective bargaining, concerted activities, and numerous other selected areas. (Latest publication: 1971 edition. 384 p. $7.50)

• Endicott, Frank S. *Trends in Employment of College and University Graduates in Business and Industry.* Evanston, Ill. (annual) provides average starting salaries for men and women graduates with bachelor's or master's degrees in various subject fields. (Latest publication: 25th annual report. 1971. 14 p. Furnished upon request to Northwestern University.)

• International City Managers' Association. *Municipal Year Book.* Washington, D.C. (annual) contains regular sections on salaries of chief municipal officers, financial data, special census, directories of officials for municipalities with a population of over 5,000 or 10,000, and reflects upon contemporary problems relative to city government. (Latest publication: 1971 yearbook. $17.50)

• National Industrial Conference Board. *Economic Almanac.* New York, N.Y. (biennial) contains facts about business, labor, and government in the United States. (Latest publication: 1967-69 data. 18th edition. 1969. 695 p. $2.95)

• Public Personnel Association. *Personnel News* (monthly newsletter) and *Public Personnel Review* (quarterly) discuss aspects of personnel management. The Association also publishes various materials concerning recruitment and selection, classification and pay, performance evaluation, and labor relations. (Periodicals: $8.00 per year for each. A list of other publications is available from the Association, 1313 East 60th Street, Chicago, Illinois 60637)

• *Sales Management* (periodical) "Survey of Buying Power" New York: (annual, June issue) provides demographic and economic information for population, per capita and household income, and total and type of retail sales for metropolitan areas, counties, regions, and states. (Periodical: $10.00 for June issue. $18.00 a year)

• *School Management* (periodical) "Cost of Education Index" Greenwich: Conn. (annual, January issue) provides statistics on public school district spending for current expenditures on administration, instruction, health, operation, maintenance, and other charges and services, capital outlay, and debt service on a regional and national basis. (Periodical: $2.00 single copy. $15.00 a year)

PUBLISHED BIBLIOGRAPHIES OF GENERAL INFORMATION ON NEGOTIATION IN EDUCATION

• Department of Administration and Supervision, College of Education, University of Toledo. *Collective Negotiation in Education.* provides an extensive bibliography of 630 readings related to negotiation in education. (1968. 43 p. $1.00)

• Markus, Frank W. *Negotiations Bibliography.* School of Education, University of Missouri, Kansas City, Mo. provides a list of numerous journal articles, pamphlets, and books on negotiation. (January 1968. $.50)

• Shimaoka, Helene. *Bibliography–Public Employee Collective Bargaining.* The Library of Industrial Relations Center - College of Business Administration, University of Hawaii, Honolulu, Hawaii. contains references to public employee collective bargaining (particularly on the state level) and establishes a coding key identifying designated subject matter contained in the listed publications. (July 1971. Single copies are available from the Center as long as supply lasts.)

Texts

ARKANSAS

HOUSE BILL 265

FOR AN ACT TO BE ENTITLED: "AN ACT TO PROVIDE THAT SCHOOL DISTRICTS SHALL HAVE WRITTEN PERSONNEL POLICIES; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

Sec. 1. Each school district in the State shall have a set of written personnel policies legally adopted by its Board of Directors.

Sec. 2. The school board shall designate a Committee on Personnel Policies consisting of classroom teachers, administrators and members of the board designated by the board with the superintendent as an ex-officio member.

Sec. 3. The committee shall assist the board, when requested, in the development of personnel policies. The Board of Directors shall have authority to adopt, reject, amend, or refer back to the Committee on Personnel Policies for further study and revision any proposed policies or amendments to existing policies that are submitted to the board for action.

Sec. 4. Each teacher or administrator being employed by a school district for the first time shall be given a copy of the district's personnel policies in effect at the time of his employment. Each teacher or administrator who was employed before the effective date of this Act shall be given a copy of the district's personnel policies at the time his contract is renewed or extended. Each teacher or administrator shall be furnished a copy of any amendments to the personnel policies of an employing district within thirty (30) days after approval of such amendments by the Board of Directors of such district.

Sec. 5. After July 1, 1972 no district which does not have written Personnel Policies shall be accredited by the Arkansas State Department of Education.

Sec. 6. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

OKLAHOMA

PROFESSIONAL NEGOTIATION

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

Sec. 1. It is the purpose of this act to strengthen methods of administering employer-employee relations through the establishment of an orderly process of communications between school employees and the school district.

Sec. 2. The local board of education shall recognize a professional organization that secures authorization signed by a majority of the professional educators designating said organization as their representative for negotiations. The members of the professional organization shall be professional educators employed by and serving in the district they propose to represent and no other person shall be authorized to represent the professional educators. The bargaining representatives of the professional organization shall be elected by a majority of the professional educators of the district they are to represent at an election called after proper notice is given to all the professional educators of the district. Any person who desires not to be represented by any organization, as provided for herein, may so state in writing to his board of education.

Sec. 3. The local board representatives shall be presently serving on the board or employed by said board and no other person shall represent the board. Provided nothing herein shall prohibit the employment of legal counsel for consultatives purposes by local board or professional organization.

Sec. 4. Professional educators shall be defined as certified public school teachers.

Sec. 5. All employees of a school district other than those employees who are professional educators shall likewise be eligible to designate an organization composed exclusively of such employees to represent them in negotiating and concluding an agreement with such school district on the terms and conditions of their employment. Such nonprofessional educator employees shall have the

same rights and duties with respect to such matters as those conferred upon professional educators and professional organizations by this act. Any representatives for said organizations shall be employed by the school district within the district, and no other person shall be authorized to represent said organization.

Sec. 6. Once the organization has been determined, the board of education or its duly designated representative must meet with duly designated representative of the organization and within (60) days shall complete an agreement outlining negotiation procedures. The board of education and the representatives of the organization must negotiate in good faith on items affecting the performance of professional services.

Sec. 7. A procedure for resolving impasses will be developed by the board of education and the representatives of the professional or nonprofessional organization; if agreement cannot be reached, the items causing the impasse shall be referred to a three-member committee. This committee shall consist of one member selected by the representatives of the professional organization or the nonprofessional organization as the case might be, one member selected by the local board of education and the third member selected by the first two members, and this third member shall serve as chairman of the committee. This committee shall meet with the board of education or its duly designated representatives and the duly designated representatives of the professional or nonprofessional organization for the purpose of fact finding. Subsequently, this committee shall make recommendations to each of the above parties.

Sec. 8. The procedure provided for herein for resolving impasses shall be the exclusive recourse of the professional organization. It shall be illegal for the professional organization or the nonprofessional organization to strike or threaten to strike as a means of resolving differences with the board of education. Any member of the professional or nonprofessional organization engaging in a strike shall be denied the full amount of his wages during the period of such violation. If the professional or nonprofessional organization or its members engage in a strike, then the organization shall cease to be recognized as representative of the professional or nonprofessional educators and the school district shall be relieved of the duty to negotiate with such organization or its representatives.

Sec. 9. No employee shall be discriminated against by the board of education, superintendent or any other administrative officer of a district or by the professional or nonprofessional organization, its officers or any member thereof because of his exercise or nonexercise of rights under this act.

Sec. 10. Nothing in this act shall be construed to annul or modify or to preclude the renewal or continuation of any lawful agreement heretofore entered into between any school district and any representative of its employees, except to the extent that such agreement is in conflict with the provisions of this act.

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RESEARCH DIVISION
NATIONAL EDUCATION ASSOCIATION

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1990

Case Reviews

MASSACHUSETTS

CRIMINAL CONTEMPT FINE SET ASIDE FOR LACK OF PROPER PROCEDURE

The Massachusetts Supreme Court upheld a $50,000 fine levied against members of the New Bedford Teachers Association for their participation in a September 1969 strike, but set aside a $5,000 criminal contempt fine imposed upon a Massachusetts Teachers Association (MTA) field representative who took part in the strike. According to the court, the field representative "was never put to trial on the question of criminal contempt, and no evidence was presented against him on that charge."

When members of the New Bedford Teachers Association and the MTA representative went on strike in the fall of 1969, the local school committee sought reimposition of restraining orders issued by the Bristol County Superior Court during a strike the previous year. The court issued a September 3, 1969, temporary restraining order, then a preliminary injunction, and a final decree which found 48 defendants (including the field representative) guilty of civil contempt for violation of the injunction and imposed a $50,000 compensatory fine upon them. The MTA representative also was found in criminal contempt and fined $5,000 in addition.

In the present appeal, the state supreme court found that the lower court had imposed the $50,000 fine after defendants had pleaded guilty to the charge of civil contempt, and after a damages hearing at which the school superintendent testified that the total expense of the strike was about $100,000. The high court commented that

> these defendants who in open court admitted the charges of civil contempt made against them thereby waived their right to have a trial on their innocence or guilt, and waived the necessity of having their accusers present evidence in support and proof of the charges . . . . After such defendants admitted their guilt of civil contempt, nothing remained to be done by the court except to determine the disposition to be made thereof.

At that same hearing, however, the lower court judge asked counsel for the school committee what evidence he "would have presented to the court in the event of a trial" as to the "guiding influence" of the strike. Counsel answered that the MTA field representative and other local Association officers would have been shown to have "influenced the events of the last few days." Despite the lack of further evidence or a hearing, the lower court judge then found the MTA representative guilty of criminal and civil contempt and imposed the $5,000 criminal contempt fine because the field representative "was the director of the conduct of the other defendants and all the members of the [Association] . . . and . . . his directing provided irresponsible leadership."

In its present appeal, the Association questioned the amount of the $50,000 civil contempt fine, but the state supreme court found no error since "this court, upon appeal, is precluded from considering matters that do not appear from the record to have been before the trial court." But the high court ruled differently with respect to the $5,000 criminal contempt fine imposed upon the MTA field representative in finding that his

> admission of guilt was limited to civil contempt. He was never asked specifically whether he admitted guilt of criminal contempt, and he never specifically admitted such guilt. He was never put to trial on the question of criminal contempt, and no evidence was presented against him on that charge. The burden of proving that charge was on the plaintiffs, and it was not incumbent on [the field representative] to disprove it. This was not a case of a contempt which had occurred or been committed in the presence of the judge. It was a contempt sometimes referred to or described as an "indirect or constructive" contempt to distinguish it from a "direct" contempt committed in the presence of a judge who may act thereon summarily.

The high court accordingly modified that portion of the lower court's final decree which found the MTA representative guilty of criminal contempt because the imposition of the $5,000 fine did not comply with basic requirements adhering in criminal contempt cases. (*School Committee of New Bedford, et al. v. Gerald E. Dlouhy, et al.*, Massachusetts Supreme Court, June 30, 1971.)

NEW YORK

MOTION TO ENJOIN STATE ASSOCIATION'S SANCTIONS AGAINST SCHOOL DISTRICT DENIED

A lower court's refusal to enjoin the New York State Teachers Association (NYSTA) from advis-

ing its members to avoid employment in UFSD No. 3 (Brookhaven), as well as its denial of a motion to dismiss the injunctive action, was upheld by a majority of the New York Supreme Court, Appellate Division. In a dissenting opinion, however, one appellate court justice voted to dismiss the school district's cause of action because while "the statement of NYSTA may have been shallow or misguided or unfair, . . . the correction must come by the persuasive force of a counter statement from the school district, and not by court injunction."

A two-year agreement was signed by representatives of the Port Jefferson Station Teachers Association and the UFSD No. 3 education board in September 1969, but matters of contract interpretation and enforcement subsequently arose. An arbitrator was appointed in December at the local Association's request, but the district sought a stay of arbitration one month later.

The local Association (which comprises about 240 members) is not affiliated with either NYSTA or the National Education Association (NEA), but some 175 local Association members also belong to NYSTA, and about 115 members belong to the NEA. In March 1970, NYSTA issued an "urgent advisory" to all its affiliates maintaining that UFSD No. 3 "is not an appropriate place at present in which professional teachers should seek employment." Stating that the district had "blatantly frustrated peaceful methods of maintaining harmonious and cooperative employer-employee relationships," the NYSTA "advisory" urged "all teachers in the state not to make application or take employment" in the district until the conflict between the local Association and the district was solved.

A month later the district sought to enjoin NYSTA and the NEA from distributing such an "advisory" or applying sanctions against any teacher who applied for and took employment in the district. In addition, the district sought to require the associations to distribute a notice stating that their actions in issuing the "advisory" were illegal. The Suffolk County Supreme Court dismissed the district's motion for an injunction in August 1970 and additionally denied the associations' motion to dismiss the district's complaint.

On appeal here, a majority of the five-member appellate court affirmed without comment the lower court's refusal to dismiss the district's complaint. One justice, however, dissented in finding that the district's cause of action bordered upon unconstitutional prior restraint of free speech. That is, the district argued that the associations' (NYSTA and NEA) ability to impose effective sanctions upon members who do not comply with the request to refuse employment and their actions in hindering the district's efforts to obtain teachers constitute unlawful coercion, thereby cancelling their constitutional right to free speech.

But the justice found nothing in the record to support the district's contentions since the NEA had not issued any critical statements about the district, had not urged its members to refuse district employment, and had not imposed or threatened to impose sanctions against any of its members who accepted district employment. With regard to the "urgent advisory" issued by NYSTA, the appellate court justice found that "NYSTA has not adopted any punitive measures against a teacher who takes or continues employment against the direction; and the NYSTA expressly disclaims any power or intention to discipline a member who does so." He additionally determined that "the record is clear that the school district did not stop its operations because of the statement or that the quality of instruction was impaired because the school district could not acquire an adequate teaching staff on that account."

Referring to provisions of the state's Taylor Law which promotes harmonious relationships between public employers and employee organizations and prohibits specified improper practices, the appellate court justice pointed out that the associations did not engage in a refusal to negotiate collectively, nor did their conduct interfere with or coerce a public employee in his right to join or refuse to join a union. Rather,

what they did was support the local bargaining unit in its dispute with the school district; and its support went no further than verbal exhortations not to seek employment with the school district.

A balance between individual rights of freedom and the public interest in maintaining the efficiency of the school system must be recognized . . . . But the burden is always on the state to prove that the action to be restrained would materially interfere with the necessary operations of a public function . . . . Unless it is demonstrated, therefore, that the exercise of the right of free expression is accompanied by intentional falsity, or overbearing tactics, which so far disturb the balance between the opposing parties that it cannot be restored by the response of the lawful means open to the one attacked, that right of free expression should not be curtailed. On this record the school district's cause of action, considered in the light of the undisputed facts, shows neither that the balance was put awry or that the operations of the school district were materially impeded.

I vote accordingly to reverse the order insofar as appealed from and to dismiss the school district's cause of action.

(*Board of Education of Union Free School District No. 3, Town of Brookhaven, et al. v. National Education Association and New York State Teachers Association*, New York Supreme Court, Appellate Division, Second Department, July 6, 1971.)

PERB EXPANSION OF ONE UNIT INTO ANOTHER RULED IMPROPER; ELECTION ANNULLED

The Nassau County Supreme Court canceled a representation election ordered by the Nassau County Public Employment Relations Board (PERB) in an expanded unit of Nassau Community College faculty. As the PERB unilaterally had altered a petition entered by one organization to include full-time faculty already represented by another organization, the court held that the latter organization was denied due process in not being notified of or allowed to participate meaningfully in the petition hearings. It accordingly ruled that the PERB had exceeded its authority and that the election must be annulled.

The Faculty Senate of Nassau Community College (an NEA affiliate) was certified by the PERB in November 1968 as representative of a unit of full-time faculty and nonfaculty staff, excluding part-time personnel and certain administrators. It subsequently negotiated a contract effective from September 1, 1969, to August 31, 1971. In February 1970, an independent organization petitioned the PERB to represent a unit of part-time faculty excluded from the senate unit, but dropped its petition when the United Federation of College Teachers (an AFL-CIO affiliate) intervened.

Proceeding on the federation's petition, the PERB held hearings on the appropriateness of the unit sought. A hearing officer's report issued in early January 1971 recommended that the appropriate unit would be "one unit . . . for both full-time faculty and part-time faculty who are not management employees." However, the senate was not directly notified of the hearings, nor did it participate in them.

Upon learning that the proposed unit would include certain employees it represented, the senate objected that it had been denied due process by the PERB's failure to notify it of the federation's petition. Another hearing was held at which time the senate restated its objections. The hearing officer overruled the objections and reaffirmed his initial recommendations which were adopted by the PERB in its direction of a July 15 election for the senate-represented unit "deleting therefrom the exclusion of part-time faculty and . . . adding thereto all part-time, night school, and summer school faculty, who are not management employees."

The senate then instituted the present proceedings against the PERB, the college, and the federation wherein the PERB maintained that it had complied with statutory procedures in its determination and that the senate's unchallenged representation status ended on March 17, 1971. But the court stayed the election in finding that under the state's Taylor Law, the senate was entitled to unchallenged representation status for a period "not to continue beyond July 14, 1971" (i.e., the county's budget submission date immediately preceding the expiration date of the effective agreement). As such, the senate was entitled to unchallenged status during the entire period of the petition proceedings.

Regarding the lawfulness of the PERB's decision and the absence of senate participation in the original petition hearing, the court found that PERB rules require that direct notice of certification petitions be given "any employee organizations that have . . . claimed to represent any of the employees in the [requested] unit." Moreover, the rules require that notice of a petition be posted at the PERB office and at "suitable offices of the county."

Since the actual federation petition involved college employees not represented by the senate, the court held that the senate had no interest in that petition and was not entitled to notice of it. "By the same reasoning, however, the hearing officer was not entitled in the absence of prior notice to the senate to go beyond the bounds of a petition not affecting the senate by including in his report recommendations which directly concerned the senate's interests." It additionally observed that this error was adopted and perpetuated in the county PERB's order. Concluding that the second hearing did not allow the senate meaningful participation and was insufficient to rectify the original error, the court pointed out that

> PERB rules permit an amendment of an existing bargaining unit only on application of the county or the recognized representative of that unit. . . . No such application was received here, and it was improper for PERB to direct that result in the absence of a proper application and ensuing procedures.
>
> The pending [federation] application was only for certification of part-time faculty as an appropriate bargaining unit. If PERB considered the unit inappropriate, the proper procedure would have been to deny the application rather than amend an existing and separate unit represented by a separate employee organization. An original application for the single unit of full and part-time faculty would have to be accompanied by indications of support from 30 percent of the members of that proposed unit. The procedure followed here by PERB circumvents that requirement by permitting action upon the support of only 30 percent of a small unit, without any opportunity of rebuttal from full-time faculty members or their exclusive representative.
>
> Transforming the [federation] petition for a separate bargaining unit into a petition for expansion of the senate unit denied the senate due process of law under these circumstances, and exceeded the authority of the hearing officer and PERB. To the extent that PERB determination goes beyond a denial of the [federation] petition, it is in excess of PERB's authority and must be annulled. The representation election for the proposed new unit will be cancelled.

(*Faculty Senate of Nassau Community College v. PERB, Nassau Community College, and United Federation of College Teachers*, Nassau County Supreme Court, August 3, 1971.)

WYOMING

COURT FINDS CONTINUING CONTRACT TEACHER HAS TENURE; TERMINATION HEARING RULED IMPROPER

The Wyoming Supreme Court ruled that an elementary school teacher's contract termination hearing as conducted by the Fremont County school board was prejudiced and unfair and remanded the case for a determination of what relief, if any, should be granted. While emphasizing the fact that it was not ruling upon the merits of the teacher's termination, the high court held that "the district court needs to set aside the action of the board" owing to serious procedural improprieties evident in the hearing.

According to the Wyoming Teacher Employment Law, a continuing contract teacher is one whose contract has been renewed for four consecutive years in one district, or who has reached continuing contract status in one district and taught three consecutive years in another district. The teacher involved herein was under continuing contract in School District No. 9, Fremont County, claimed to have tenure, and asserted that he was denied a fair and impartial hearing by the board's action in terminating his contract.

Noting that both the district and the trial court seemingly believed that a continuing contract teacher does not have tenure under state law, the state supreme court commented that "our past history has been such that it is difficult for some of us to accept legislation which, in school affairs, eliminates the principle that a school board as employer can hire and discharge teachers as it sees fit." The high court pointed out that a continuing contract teacher *is* protected by tenure and emphasized the legislative distinctions between dismissals and terminations.

That is, the Wyoming Teacher Employment Law establishes criteria for teacher dismissals during the school year and upon proper notice, but does not indicate the grounds for terminations at the end of any given school year. As a result, the Fremont district apparently thought it could terminate the elementary teacher at will and irregardless of grounds. But the high court found itself unable to "accept this naive theory"; it held that "administrative officers and boards will not be permitted to act in an arbitrary, capricious or fraudulent manner, and courts will restrain such administrative agencies from becoming despotic."

The state supreme court also stated that good cause (supported by substantial evidence) must be shown during a hearing on the termination of a continuing contract teacher, or "a decision on the part of the board to terminate will be arbitrary." In the instant matter, the court found that the teacher was granted a hearing only at his attorney's insistence and after the board had made its decision to terminate. Thus, although a hearing was conducted,

> it is clear from the record as a whole . . . that [the teacher] did not have a bona fide hearing to determine whether there was just cause for his termination. Instead, the hearing was an exercise engaged in for the sole purpose of making a record which could make legal and justifiable the decision which the board had already made prior to the hearing.

Moreover, the hearing was procedurally improper because the school board's attorney acted as presiding officer, prosecutor, and hearing officer, composed and executed the reasons for the teacher's termination, ruled on objections, argued with opposing counsel on the latter's objections, interrogated witnesses, entered objections and ruled upon them, sat with the board when it made its final decision, made public comments about the necessity of the hearing to members of the hearing audience, and cross-examined witnesses for the board.

The high court also found that the district failed to adopt and file rules of procedure governing the hearing (as required by state law), and ruled that "we cannot, in this case, excuse the school district for its noncompliance." Absent such rules and any authority for excusing the district's failure to adopt procedural rules, the court held that the burden of proving that the teacher was not prejudiced lay with the district. It concluded that the district "failed to meet this burden" and remanded the case on procedural grounds. (*Dale I. Monahan v. Board of Trustees of School District No. 9*, Wyoming Supreme Court, July 2, 1971.)

OTHER ITEMS OF INTEREST

NONTENURE PROFESSOR'S RIGHT TO PROCEDURAL SAFEGUARDS IN NONRENEWAL MATTER UPHELD

The U.S. Court of Appeals, Seventh Circuit, affirmed a lower court's grant of partial summary judgment (NRD, 9-70, 6) to a nontenured assistant professor who was discharged by Wisconsin State University without a statement of reasons for nonretention and a hearing on the merits of the decision to discharge. Finding itself bound by the U.S. Supreme Court decision in *Cafeteria Workers v. McElroy*, the federal district court had

concluded that "under the due process clause of the Fourteenth Amendment the decision not to retain a professor employed by a state university may not rest on a basis wholly unsupported in fact, or on a basis wholly without reason."

On appeal, defendants (the board of regents of the Wisconsin state colleges) argued the traditional principle that "government employment, in the absence of legislation, can be revoked at the will of the appointing officer." The appeals court, however, elaborated upon the balancing formula employed in *Cafeteria Workers* which holds that "consideration of what procedures due process may require under any given set of circumstances must begin with a determination of the precise nature of the government function involved as well as of the private interest that has been affected by governmental action." It observed that the *Cafeteria Workers* opinion

itself suggests that if the government action jeopardized a right to follow a chosen trade or profession, that fact would weigh upon the side of the individual. In *Goldberg v. Kelly* the Supreme Court referred generally to relevant constitutional restraints applying to discharge from public employment, among other types of government action, and after stating that "The extent to which procedural due process must be afforded the recipient is influenced by the extent to which he may be 'condemned to suffer grievous loss,'. . . and depends upon whether the recipient's interest in avoiding that loss outweighs the governmental interest in summary adjudication," quoted the balancing language from *Cafeteria Workers*. . . . Several courts have found a due process right where dismissal or non-retention of a public employee jeopardized an interest in practicing a profession, or in preserving a professional reputation. We think the district court properly considered the substantial adverse effect non-retention is likely to have upon the career interests of an individual professor and concluded, after balancing it against the governmental interest in unembarrassed exercise of discretion in pruning a faculty, that affording the professor a glimpse at the reasons and a minimal opportunity to test them is an appropriate protection.

The appeals court additionally noted that plaintiff was discharged after a school year in which he publicly criticized the university administration and board of regents during serious school disturbances. It appeared to the court that those public statements

were considered by defendants [in their decision to discharge], albeit in a context of supposed relevancy to his performance of his duties. Although the principle announced by the district court applies by its terms to all non-retention decisions, an additional reason for sustaining application in the instant case, and others with a background of controversy and unwelcome expressions of opinion, is that it serves as a prophylactic against non-retention decisions improperly motivated by exercise of protected rights.

In a lengthy dissent, one appeals court judge discussed the administrative and procedural problems posed by the majority opinion, his belief that the district court opinion "is both unwise and unworkable . . . [and] might well . . . make the Federal Courts the final arbiters of all similar cases," the educational system for administrative review of nonretention cases, and the procedural safeguards afforded tenure teachers (i.e., "cause") but denied nontenure teachers in nonrenewal matters. Pointing out that the majority opinion "goes far beyond the present state of the law and, in fact, now places this Circuit in direct conflict with two other Circuits in this area of the law," the judge concluded that "the majority's holding is both unprecedented and represents an unwarranted intrusion of the Federal Judiciary into state educational systems." (*David E. Roth v. The Board of Regents of State Colleges, et al.*, U.S. Court of Appeals, Seventh Circuit, July 1, 1971.)

PROBATIONARY COUNSELOR'S DISMISSAL ALLEGEDLY FOR UNION ACTIVITIES JUDGED UNTENABLE

A nontenure high-school counselor who was dismissed for "lack of self-direction and lack of cooperation with administration in following prescribed procedures" was denied relief by the U.S. Court of Appeals, Seventh Circuit. While appellant argued that the stated reasons for his dismissal were untenable and that he had been denied tenure for constitutionally protected union activities, the appeals court affirmed a trial court's finding that the Lockport (Ill.) Township High School District No. 205 school board had acted in good faith in denying appellant a contract.

Appellant was denied a third and tenure-conferring contract for the 1969-70 school year upon the written recommendation of his principal. That recommendation asserted that appellant had refused to perform any duties not included in his contract without extra compensation, and concluded with the statement that "I have received cooperation from [appellant] only when great pressure has been brought to bear." A March 29, 1969, letter sent by the school board to appellant advised him of his dismissal (for the reasons stated above) and further referred to his "resistance" to attendance at evening parent meetings, his refusal to submit weekly guidance reports, his refusal to assist with a student photo identification project, and his failure to assume extra teaching duties in emergency situations.

In examining the evidence, the appellate court found "several areas of contention between school officials and the counselors, in general, and plaintiff in particular." However, while other counselors and teachers erratically or begrudgingly performed certain uncompensated extra duties when requested, appellant "took the position that he

had no obligation to undertake any duty not set forth in his contract" (despite several discussions with his principal about the necessity for assuming such duties). In addition, the court found

substantial evidence that plaintiff's attitude toward his own personal performance of duties deemed necessary by the school administration was diametrically opposed to the views and directions of the administrators. Though some of the teachers considered such extra duties as voluntary, it is certain that the school administration felt that teachers were obligated to accept some such duties when they were necessary to the interests of the school system and its students. . . . The evidence adequately supports the conclusion that the Board elected to dismiss plaintiff because of his "lack of self direction . . . and cooperation" in relation to extra-curricular duties, as stated to him in his notice.

With respect to appellant's union activities, the appeals court found that he was an active member of the Lockport Township Federation of Teachers, AFL-CIO, Local 1291, that he had served on the federation negotiating committee, and that he and another man had acted as spokesmen for all district counselors in meetings with school and board officials which were attended by "some degree of acrimony." The court noted that such activities "unquestionably . . . are protected by the First Amendment," but found "untenable" appellant's contention that he was dismissed for those activities:

There is no evidence to indicate any animosity by the Board to [the union] or its members. It recognized the organization. It met with its representatives. [The other counselor representative], who was an officer of [the federation], was promoted to the position of department head at about the same time that plaintiff was dismissed.

The appellate court also dismissed appellant's contention that he was denied equal protection of the laws, explaining that while other counselors who shared his views were retained,

the record does not suggest . . . that those retained teachers shared plaintiff's declared view that there was no obligation to perform any duty which was not written into the teacher's contract. There is nothing to suggest that the Board's action was irrational or that it was not "free from invidious discrimination." . . . There is no evidence in this record to support the contention that the Board did not act in good faith. To the contrary, the record amply supports the conclusion that the Board made a *bona fide* value judgment based upon information available to it and that it fairly exercised a discretion with which it was clothed in performance of its important public responsibility.

One appellate court judge, concurring with reservations, found a possible implication in the trial court's opinion that plaintiff "had failed to prove to the court's satisfaction that [he] was discharged for his union activities and consequently not in violation of his First Amendment right to freedom of association." While concurring in the present judgment because he thought the trial court's inference was justified by the record, the judge declined

to approve any implication, if any there be in the opinion, that a school board's good faith judgment in terminating a counselor's employment is per se justified. Furthermore, I would not approve an implication that a school board's good faith adoption of a principal's recommendation based on arbitrary or unconstitutional grounds would be justified.

This court's references to plaintiff's "duties" imply that plaintiff had an obligation not arising from his employment contract, but from the circumstances under which the defendant board was operating at the time the counselors and teachers were being asked to cooperate. I reserve judgment as to whether plaintiff had "duties."

I am not clear as to what "self-direction"—as a reason for termination of employment—means in the context of this case, although I think that the record here does support a finding that plaintiff did not cooperate. However, it is my view that during a probationary period a school board is not limited in its determination that a counselor has proven his worth—before achieving tenure—to the school system by a showing of mere competence as counselor. Beyond competence and contractual duties there is a grey area in which the board should have discretion to determine that a technically competent teacher or counselor may nevertheless not be suitable for the school system. Insistence of a school board in this grey area upon complete unquestioning cooperation and compliance could have a suffocating, repressive effect upon the quality of the school system, yet only in the most extreme cases, in my opinion, would courts be justified in finding an abuse of board discretion. The defendant board members are selected by the residents of the community, and the community will get the school system that the members it elects provide.

(*Daniel Simcox v. Board of Education of Lockport Township High School, District No. 205, Will County, Illinois, et al.*, U.S. Court of Appeals, Seventh Circuit, May 12, 1971.)

Board Findings and Rulings

ILLINOIS

SCHOOL BOARD CANNOT UNILATERALLY CANCEL NEGOTIATED EARLY CLASS DISMISSALS FOR "NECESSARY" TEACHER MEETINGS

An arbitrator ruled that West Harvey School District No. 147 could not unilaterally cancel teacher committee meetings and related early school dismissals provided for in an agreement with the West Harvey Federation of Teachers, AFL-CIO. In interpreting a contractual reference to "necessary" meetings, the arbitrator held that the necessity for such meetings is to be determined by the teacher committees, not the school board. He also found a violation in the board's unilateral cancellation of workshops established in the approved 1970-71 school calendar.

The 1970-71 contract provision in question (the pattern for which had been established in two prior agreements) stated:

> On the first and third Tuesday of each month, schools will be dismissed at 2:30 p.m. for necessary District, building and teacher's meetings. Attendance at said meetings beyond 3:30 p.m. shall be voluntary. Any teacher not attending a meeting will be expected to work in his building until the end of the regular school day.

That agreement also established various committees on educational issues and provided that participating teachers would be allowed time between 2:30 P.M. and 3:30 P.M. on certain days to conduct the business considered to be necessary. The first Tuesday of each month was allotted for committee meetings.

In the fall of 1970, the board decided that committee meetings to be held under the early dismissal provision (including meetings held on the first and third Tuesdays of each month) were unnecessary. It asserted that such meetings created bus scheduling problems, that parents felt their children were being short-changed on their education, and that there were difficulties in equalizing class time for pupils attending school on split shifts.

But the arbitrator pointed out that if the board were permitted to determine the necessity for such meetings, the committees would be rendered meaningless. He accordingly held that when the contract specifically set up certain committees it was the intent to leave in the hands of the committee members the determination as to the need for meetings. This would, of course, have to be done by majority vote of the committee members. Article XI, Paragraph 1, indicates that the teacher membership on the committees will be recommended by the union and the "number will be determined by the purposes of the committee." It would appear that teachers would be in the majority on a committee. Under the language of Article XI, Paragraph 1 it would seem improbable that more administrators than teachers would have a right to membership on a committee. Hence the decision as to the need of a committee meeting may frequently be dictated by the members who are teachers.

He additionally determined, however, that the early dismissal provision was inapplicable to meetings which were held on the third Tuesday of each month and which did not involve committee business, were chaired by union officials, and were devoted to developing negotiating proposals. As nothing in the parties' contract implied that these meetings were "necessary," the arbitrator held that the board was authorized to decide the necessity for such meetings under the contractual management rights clause.

Finally, the arbitrator found that the board violated the parties' agreement when it unilaterally cancelled workshops provided for in the 1970-71 school calendar, which formally had been approved and adopted by the parties. (*Board of Education, School District No. 147 and West Harvey Federation of Teachers*, June 28, 1971.)

MICHIGAN

BACK PAY AWARDED WHERE SCHOOL BOARD IMPROPERLY ASSIGNED CO-CURRICULAR JOBS TO NONUNIT EMPLOYEES

Some 170 teachers employed by Warren Consolidated School District were awarded more than $93,000 by an arbitrator who found that the district violated its contract with the Warren Education Association by discontinuing certain co-curricular positions during the 1970-71 school year and assigning the duties involved to nonunit employees. While acknowledging the "vast difference between maintaining conditions of employ-

ment and guaranteeing employment itself," the arbitrator held that the parties'

> entire contract history . . . assure[s] that any of the Co-Curricular functions actually performed must be performed by unit employees. . . . While the Board may have felt extreme pressure to economize, it could not do so by assigning unit jobs to non-unit employees, any more than it could layoff teachers and assign their teaching tasks outside the unit.

The parties' 1967-70 agreement established a joint committee for the purpose of examining and recommending job descriptions, work responsibilities, hours, and compensation for co-curricular activities, including the positions of building chairmen and service squad sponsors. The recommendations which issued were approved by the parties and incorporated as an addendum to the 1967-70 agreement; that addendum provided that removal from a co-curricular assignment would be based only upon "just cause."

Then during negotiation of a 1970-71 agreement, the district proposed that the functions of building chairmen and service squad sponsors be transferred to nonunit employees to reduce expenses. The proposal was dropped following Association objections, and the 1970-71 contract specifically included schedules governing co-curricular assignments.

But, when the board was preparing its budget for the 1970-71 fiscal year, it found a deficit of more than $1 million and resolved on August 12, 1970, to eliminate the co-curricular positions of building chairmen and service squad sponsors. The decision was publicly announced, and two meetings were held between the board and Association representatives to discuss the cutback; while the executive secretary of the Association objected to the cutback, he offered no alternative proposal.

On September 8, 1971, the Association filed a grievance on behalf of the 170 affected teachers seeking reinstatement and remuneration for lost pay and alleging violation of five articles in the parties' contract, including the maintenance of standards clause. The district contended that the cutback was contractually permissible, was the best means of cost reduction while maintaining quality education, and had the least impact upon the unit, students, and education generally. In later testimony, the deputy superintendent of schools verified that the jobs in question were being performed on an unpaid basis by building administrators, including principals, and assistant principals, and clerical personnel.

Before the arbitrator, the Association pointed out that the district attempted to transfer the jobs in question to nonunit personnel during 1970-71 negotiation and failed to do so, that the unit jobs were being performed by supervisors, and that Art. 1, sec. 1 of the parties' contract prohibits the transfer of unit functions to supervisors or others outside the unit. It also argued that the contract's maintenance of standards clause "requires the maintenance of minimum standards in effect when the agreement was signed and . . . is not to be interpreted to deprive teachers of professional advantages previously enjoyed."

That is, it contended that the board was contractually required to maintain the positions at issue, that the board's violation was deliberate and effected without prior bargaining with the Association, and that the board's reliance upon financial disability as the basis for disregarding its contractual obligations was unjustified. The Association additionally argued that the aggrieved teachers were in effect demoted by being deprived of extra compensation for co-curricular assignments, that demotions can be only for just cause, and that the just cause requirement was a condition of employment whose continuance was assured by the maintenance of standards clause.

Pleading financial disability, the board maintained that the Association had never questioned the need for the cutback, that many public and private employers have eliminated positions for economic reasons without union objections, that it cannot legally operate the district under a deficit budget, and that one of its extra-contractual powers is to determine the number of persons to be employed. The board further argued that a collective agreement is no guarantee of employment (in the absence of clear and unequivocal language to the contrary), that a negotiated co-curricular job schedule is no guarantee that jobs will be filled, and that only those personnel selected by the superintendent (whatever the number) are provided extra pay under the co-curricular job schedule.

In addition, the board pointed out that "there is a clear distinction between *employment* itself, and *conditions of employment*, once the relationship is undertaken," and contended that maintenance of standards provisions have never been considered a guarantee of employment or protection against layoff. Urging denial of the grievance, the board argued that the layoffs were economically justified, a proper management prerogative, devoid of malice or discrimination, and unrelated to discipline or the concept of just cause.

Agreeing that the concepts of discipline and just cause were not involved in the matter, the arbitrator framed the "fundamental issue" as "the right of the Board to layoff, or fail to appoint any teachers to specific Co-Curricular positions." He noted the fact that "no contract clause guarantees continuance of all Co-Curricular programs for the life of the agreement," and emphasized that while the maintenance of standards clause in question "specifically guarantees conditions of

employment, it does not guarantee, or insure, continued employment." However, the parties' history of bargaining shows a clear intention that, if the Co-Curricular functions are to be performed, they must be performed by unit employees. The attempt of the Board to substitute non unit employees for the jobs in question in the 1970-71 negotiations, the care taken to set up such functions by a mixed Committee and the language of Article XX guaranteeing maintenance of standards and conditions in effect when the agreement was signed, attest to this proposition, as does the recognition clause of the agreement.

Thus, while the board's action was motivated only by serious and compelling financial concerns, it could not assign unit jobs to nonunit employees, "there is no contractual basis for dividing the contract remuneration agreed upon and the teachers who would have otherwise been entitled to act as Service Squad Sponsors and Building Chairmen must be compensated at the contract rate of pay for the 1970-71 school year." The arbitrator declined, however, to award interest or other compensation since there was "no showing of invidious intent" and the aggrieved teachers were largely relieved of the performance of co-curricular assignments. (*Warren Education Association and Warren Consolidated School District*, American Arbitration Association, September 3, 1971.)

DEPARTMENT HEADS AND DIRECTORS ACCIDENTALLY EXCLUDED FROM TEACHER UNIT MAY BE INCLUDED UPON UNIT ELECTION

Nine department heads and directors employed by the Bridgeport Community Schools who were excluded from the teacher bargaining unit "as a result of a historical accident" were found to be nonsupervisory personnel who may be included in the teacher unit upon a Bridgeport Education Association (BEA) petition for an over-all unit election. In so ruling, the Michigan Employment Relations Commission (MERC) dismissed a refusal to bargain charge brought by the BEA against the district and altered that portion of the trial examiner's recommended order which maintained that a self-determination election should be held within the "fringe group of unrepresented employees."

In its charge, the BEA alleged that the district was refusing to bargain the terms and conditions of employment of secondary-school department heads, the athletic director, the director of guidance, and the director of secondary music. The trial examiner noted that the charge was "the culmination of a long standing dispute between the parties as to the inclusion in the collective bargaining unit" of the disputed positions. Since 1966, when the BEA voluntarily was granted recognition by the district, the recognition clauses of the parties' agreements remained substantially the same and provided:

All certificated classroom teachers, permanent substitute teachers, guidance counselors, adult diploma teachers, school librarian, but EXCLUDING superintendent, principals, assistant principals, team leaders in the following departments: english, social studies, industrial arts, mathematics, business education, science; and director of athletics, administrative intern, director of instructional materials, director of music, research directors, dean of students, director of curriculum, director of elementary education, nurses, substitute permanent teachers, daily substitute teachers, and supervisory and executive personnel.

The trial examiner found it clear that the disputed positions were never part of the teacher bargaining unit and determined that

these classifications constitute a fringe group of unrepresented employees who, if otherwise eligible must be given an opportunity to vote as to whether or not they desire representation by the [BEA] before they may appropriately be included in the current bargaining unit. The policy of providing self-determination elections for fringe groups of employees omitted from an existing collective bargaining unit was set forth by the National Labor Relations Board [NLRB] in *Zia Co.*, . . . and it appears that the [MERC] would follow a similar policy under [the Michigan Public Employment Relations Act (PERA)]. . . . It is also clear that in view of the fact that the department heads have existed throughout the history of the collective bargaining relationship between the parties and there has been explicit exclusion of them from the collective bargaining agreements between the parties, albeit under protest by the [BEA], these employees are not an accretion to the teacher bargaining unit, and they are, therefore, entitled to a self-determination election before being added to that unit.

The examiner accordingly recommended dismissal of the refusal to bargain charge since the district "has no obligation to bargain in regard to such employees until it is satisfied that a majority of all the unrepresented employees who are appropriately a part of the [BEA's] unit have designated and selected the [BEA] as their collective bargaining representative."

While a determination as to the supervisory status of the disputed positions was not necessary to the disposition of the charge entered, the trial examiner decided to consider that issue "in order to help eliminate further needless controversy in this matter." With respect to the department heads, he found that they "mainly act as channels of communication regarding problems in their departments and coordinate the activities of their departments." More specifically, they requisition supplies, request substitutes as needed, and assist the administration with setting up schedules and assigning teachers to classes. Some department heads screen prospective teachers for academic qualifications, while others make informal oral or written evaluations of teachers on a sporadic basis

for use by the administration in tenure and other personnel decisions. All department heads teach two to four periods daily with most teaching four periods.

The three directors involved herein were found to be "essentially department heads who perform the specialized functions of their particular department," and the trial examiner perceived "no sound basis to distinguish [them] . . . from the other department heads of the Employer." He accordingly concluded that

> the record does not establish . . . that the [personnel] involved in this proceeding exercise effective supervisory authority over the teachers in their departments. On the contrary, I find that the department heads [and directors] are part of the Employer's overall educational team, that their duties . . . are such as to make them coordinators and channels of communication with the administration, and that any evaluations or recommendations in regard to new or prospective teaching personnel are independently reviewed by the administration and are not effective as that term is used in determining supervisory authority. . . . Therefore, I conclude and find that none of the [disputed personnel] . . . are supervisors within the meaning of PERA, and that they have employment interests closely allied with the teaching employees in the [BEA's] contractual unit. They may, therefore, appropriately be added to such unit in an appropriate representation proceeding, if all unrepresented teaching employees are included in said proceeding.

Before the MERC, the BEA took exception to the trial examiner's finding that the representation issue with respect to the nine disputed positions could be resolved only by holding an election among those employees, who then would be accreted to the over-all bargaining unit if they selected the BEA as their bargaining agent. Finding merit to this exception, the MERC pointed out that it "has always included all non-supervisory teaching employees in an overall appropriate unit composed of teaching employees" and has "refused to permit severance of a group of teaching employees from an overall teaching unit." Concluding that it would not have found the nine employees to constitute an appropriate bargaining unit, the MERC explained that

> had the parties submitted to the Commission the question of the appropriateness of the bargaining unit in a formal representation procedure, the department heads would have been included in the overall teaching employees bargaining unit. The record indicates that the exclusions of these employees from the bargaining unit was apparently the result of a historical accident occurring [in] the 1965-1966 negotiations during the early stages of the [PERA].

The MERC additionally commented at length upon the trial examiner's reliance upon *Zia Co.*, pointing out that that decision was reconsidered and modified by the NLRB in *D.V. Displays Corp.*

> to the extent that where . . . there is a question of representation in the historical unit and the incumbent union seeks to add a previously unrepresented fringe group whom no other union is seeking to represent on a different basis, we shall direct only one election which will include all the employees in the unit found to be appropriate. . . . To grant a self-determination election to [such a fringe group resulting from historical accident] would, in practical effect, be to permit them to perpetuate that fringe defect by voting to maintain their unrepresented status. This contingency we believe should be obviated. Indeed, we agree with the view . . . that it is more consistent with our statutory responsibility for determining the appropriate unit, now that the unit placement of these employees has been raised as an issue before the Board for the first time, to correct that fringe defect in the historical unit. We also believe, contrary to the view expressed in *Zia*, that the inclusion of these employees is the more democratic approach because it gives all employees in the appropriate unit an equal voice in choosing a bargaining representative for that unit.

Tracing subsequent applications and expansions of the *D.V. Displays Corp.* doctrine, the MERC decided to adopt that rationale here and "permit the Association to file a petition in an overall unit which would include the [personnel] . . . found to be non-supervisory by the Trial Examiner and who have been excluded from the bargaining unit as a result of a historical accident." In ordering dismissal of the complaint and charges, the MERC observed that

> the Michigan Supreme Court has directed this Commission to constitute the largest unit which in the circumstances of a particular case best effectuates the policies of PERA. . . . To permit the Association to file only a self-determination election, would be contrary to [that] . . . edict. . . . It could lead to two incongruous situations. There could be established two bargaining units of teachers holding a common community of interest, one of a unit of 150 teachers represented by the Association, and another collective bargaining appropriate unit consisting of nine unrepresented teachers. A further incongruous possibility could also result in that the Association would represent approximately 150 teachers and a second labor organization could represent nine teachers . . . which would require the employer to bargain with both groups separately, despite their overwhelming common community of interest.

(*In re Bridgeport Community Schools and Bridgeport Education Association*, Michigan Employment Relations Commission, April 6, 1971.)

PENNSYLVANIA

PHILADELPHIA ARCHDIOCESE RULED EMPLOYER UNDER ACT 195; ELECTION DIRECTED AMONG ELEMENTARY LAY TEACHERS

The Pennsylvania Labor Relations Board (PLRB) decided that the Archdiocese of Philadelphia is a public employer within the meaning of the state's Public Employe Relations Act (Act 195) and that lay teachers employed in the city's parochial elementary schools are covered by the

Act. It accordingly directed an election among all elementary lay teachers employed by the archdiocese upon a petition for a consent election properly filed by the Association of Catholic Teachers, American Federation of Teachers, AFL-CIO, Local 1776.

Under Act 195, the term public employer includes in part "any nonprofit organization or institution and any charitable, religious, . . . educational or welfare institution receiving grants or appropriations from local, state or federal governments." "Public employe," as defined by the Act, excludes "clergymen or other persons in a religious profession, [and] employes or personnel at church offices or facilities when utilized primarily for religious purposes."

The archdiocese argued that its schools are nonprofit institutions within the meaning of the Act, but the PLRB found that the archdiocese is a school district recognized by federal and state governments, and that it receives state services and materials, although it does not receive state monies. Moreover, the parochial schools' instructional program includes both religious instruction (approximately 13 percent of each school day) and the state-required curriculum. Concluding that the archdiocesan schools are not used primarily for religious purposes, the PLRB held that "the mere fact that lay teachers work for a religious institution does not exclude them from coverage under the Act."

In objecting to the assertion of PLRB jurisdiction, the archdiocese contended that it is not an employer at all since the parochial schools are operated and maintained by parish priests, thereby rendering them educational subdivisions of the parish. The PLRB found, however, that the archdiocese controls the schools in the areas of hiring, assigning, and firing lay teachers, establishing teacher qualifications, salary scales, and the school calendar, and regulating class hours and testing and reporting procedures. Thus, while the individual parish priest might be responsible for teaching religion to parish members, the archdiocese primarily is responsible for all matters of parish religious and academic instruction. Under these circumstances, the PLRB held that "the Archdiocese of Philadelphia Elementary School System is in fact the 'employer' for the purposes of Act No. 195."

As the archdiocese (not the parish priest) is in effect the superintendent of the archdiocesan schools and consequently would be responsible for labor-management relations, the PLRB concluded that

> it would be impractical to recognize the individual parish as the employer for purposes of this Act. Since the Archdiocese of Philadelphia Elementary School System has set the mandatory salary schedule and norms for employment of teachers . . . any attempt by a union to negotiate with the individual parish pastors with respect to such matters would be an exercise in futility, and collective bargaining within units structured in a parish by parish basis could result in problems endangering the system itself.

Upon ordering an election among all lay teachers employed in the city's parochial elementary schools, the PLRB dismissed the archdiocese's constitutional objection to Act 195 as unreasonable interference with religious freedom. It found "nothing in the record in this case which requires the board to pass upon any allegation of interference with religious freedom," and pointed out that "any questions concerning actual interference [with] the freedom of religion or freedom of religious instruction may be taken up in due course if and when a situation arises." (*In re Employees of the Archdiocese of Philadelphia Elementary School Systems*, Pennsylvania Labor Relations Board, August 5, 1971.)

Negotiation Notes

MASSACHUSETTS

MLRC MUST VERIFY REPRESENTATION PETITION SIGNATURES IF REQUESTED BY 5 PERCENT OF UNIT MEMBERS

An amendment to sec. 178H(2) of the Massachusetts Municipal Employee Relations Act requires the Massachusetts Labor Relations Commision (MLRC) to verify the signatures on a representation or decertification petition if, within 10 days of the filing of the petition, at least 5 percent of the employees in a particular unit enter a written request for such verification. Moreover, the verification process and subsequent MLRC determination as to the validity of the petition's signatures are to be conducted before the MLRC orders a hearing on the petition. The amendment became effective September 14, 1971.

MICHIGAN

UNIT OF UNIVERSITY MEDICAL SCHOOL INTERNS AND RESIDENTS FOUND APPROPRIATE FOR BARGAINING PURPOSES

A Michigan Employment Relations Commission (MERC) decision found that the University of Michigan Interns-Resident Association is a labor organization under the state's Public Employment Relations Act (PERA) and ruled upon the appropriateness of the bargaining unit sought. Despite employer contentions that interns and residents employed at University Hospital are not covered by the PERA since they "are essentially advanced students of medicine" engaged primarily in educational activities, the MERC decided that

> the educational relationship is not one exempted by the statutory definition of employee. We have held that when a student performs work in an existing bargaining unit he is not precluded from coverage by the contract and membership in the unit. . . . The instant case is one of first impression before this commission in that these students are performing, not work of a unit of nonstudent employees, but services intimately related to and flowing from the very nature of their studies. However, . . . we find that the interns and residents are performing employment services for the Employer under the direction and supervision of the Employer and the fact that these services are directly related to the professional goals of the interns and residents does not detract from the employment relationship as contemplated by PERA.

In examining the employment relationship questioned by the University, the MERC found that the intern or resident "functions essentially within the hospital . . . [and is exposed to] a wide variety of relatively structured educational or training experiences . . . within the hospital setting." His "primary activity" is patient care under the guidance and direction of more senior or supervisory personnel, but the supervisory relationships are "multi-tiered" and are not "rigid or absolute."

The MERC also commented at length upon the existing employer-employee relationship in light of the University's argument that services performed by interns and residents are so related to educational goals that they cannot be the basis of an employment relationship:

> Clearly the work of a physician may be the subject of an employment relationship. Equally clearly, there are educational situations which in no sense bespeak an employment relationship. To speak of the performance of services means that an act is performed for the benefit of another and not that the employee is engaged in pursuits of his own. Thus, a student in the ordinary classroom situation is not performing a service for the school when he engages in his own studies. The requirement of yearly, signed, mutually binding agreements is another fact not indicative of a purely student-school relationship. The Employer in its brief and on the record stresses the educational content of the various programs, that every program must meet medical education standards set by various medical societies and national groups. Without a doubt, the programs are designed to be approved by these medical authorities. This content does not, however, diminish the fact that the interns/residents are simultaneously engaged in performing services. It is the performance of these services under appropriate controlled conditions that constitutes the essence of the sets of standards. A further implication of this argument and of the evidence is that but for the conscious effort of the hospital to secure approval of its programs by concentrating on the teaching aspect of the clinical situation, these same interns/residents would go about their principal business—treating patients—and not

receive accreditation based on the standards of the various third party agencies. Put another way, the Employer's position seems to equate goals and means. The goal may be educational—to produce medical specialists, but the means is one of service—to employ the individuals in the performance of services to the institution.

As to the conditions of employment involved, the MERC noted that both interns and residents are employed on a year-to-year basis, sign a written employment agreement considered to be binding on both parties, receive taxable compensation, and are provided benefits similar to those provided for regular University employees. The MERC rejected the employer's argument that interns and residents are employed on a casual or ephemeral basis since the year-to-year renewal of their contracts does not render their employment relationship "casual" as that term is applicable to bargaining unit exclusions.

The unit sought by the Association in its petition was described as "all residents, interns and fellows employed by the Employer possessing the equivalent of a minimum of an MD or DDS degree; excluding post-doctoral fellows in the basic sciences and all other employees."

The University maintained that "trainees" in health-related training programs at the University medical center (i.e., physical and occupational therapy, dietetics, pharmacy, and nurse anesthetist training programs) also should be included, but the MERC decided that such trainees "do not have a community of interest with the larger body of interns and residents." It noted the short duration of the physical and occupational therapy programs, and pointed out that since two of the longer programs (pharmacy and dietetics) were conducted by schools outside the medical school, these trainees are in an [administrative, professional, and educational-service] matrix other than that of the interns and residents. Furthermore, it does not appear that the responsibilities of these trainees compares with that of the interns or residents in areas such as overall patient responsibility, on-call hours, day and night duty, and overall relationship to the hospital situation.

However, the MERC decided that post-doctoral fellows in the basic sciences (in addition to those in the clinical sciences) should be included in the unit since the former "are engaged in work similar to that of members of the proposed unit, under direction of medical school faculty; within the same facilities, under the same working conditions, and have a sufficient community of interest with the proposed unit to be included therein."

It accordingly directed an election in a unit of all interns, residents and fellows employed by the Regents of the University of Michigan possessing the equivalent of a minimum of an M.D. or D.D.S. degree, and post-doctoral fellows in the clinical and basic sciences, EXCLUDING pharmacy interns, dietetic interns, physical and occupational therapy trainees, nurse anesthetist trainees, chaplaincy interns, and all other employees.

OREGON

STATE IS OBLIGATED TO NEGOTIATE CLASSIFIED EMPLOYEES' EMPLOYMENT CONDITIONS IN GOOD FAITH

The Oregon Personnel Division's refusal to bargain matters of compensation with four unions representing state print shop employees was ruled a violation of the state's public employee bargaining statute by the Oregon Public Employe Relations Board (PERB). In what is hailed as a landmark case, the PERB held that despite statutory use of the word "confer" as a definition of collective bargaining, the statute's "obvious patterning after the National Labor Relations Act [compels] us to the conclusion that the legislature intended to create an obligation essentially similar to that created by the federal act."

The PERB also made it clear that even though the duty to bargain in good faith does not involve an obligation to agree, we see no merit in the contention that the state's duty as to classified service employees is somehow lessened by the fact that the governor must approve a change in the classification rates. It is quite true that the bargainers cannot bind the governor as it is equally true that the bargainers cannot bind the union membership. There is nothing to prevent the parties from negotiating to a point at which the governor has either accepted or not accepted a proffered agreement.

ORS 243.711 provides in part that

(1) "Collective bargaining" means the performance of the mutual obligation of a public employer and the representative of its employes to meet at reasonable times and confer in good faith with respect to employment relations, or the negotiation of an agreement, or any question arising thereunder, and the execution of a written contract incorporating any agreement reached if requested by either party. However, this obligation does not compel either party to agree to a proposal or require the making of a concession.

(2) "Employment relations" includes, but is not limited to, matters concerning direct or indirect monetary benefits, hours, vacations, sick leave, grievance procedures and other conditions of employment.

According to the PERB, the foregoing excerpts "make it clear that the legislature intended public employers to bargain over wages, to do so in good faith, to hopefully reach agreement on the issue and to be prepared to memorialize that agreement in the form of a contract." The PERB also held that the term "public employer" and the legal obligations attached thereto are broader than assumed by the state personnel division since the term is defined as "the state *and* any of its agencies and institutions" (emphasis added).

Finally, while the personnel division argued that it could only consider the wage rate adjustments recommended to it by the printers' unions, the PERB found that it could not be assumed that the legislature intended to "exempt the state from

a duty to bargain in good faith as to classified employees. . . . Instead the board concludes that the legislature intended these statutes to be applied in a manner which harmonizes them." The PERB accordingly decided that the personnel division's refusal to bargain constituted a violation of its "mutual obligation to bargain collectively in good faith" as required by ORS 243.745.

TEACHER BARGAINING STATUTE EXTENSIVELY AMENDED

Extensive amendments to the Oregon teacher bargaining statute expand the original law to include definitions, allow rival organizations to intervene in representation elections, provide for a one-year election bar period, and provide for challenges to any choice of representation. Effective September 9, 1971, the amendments additionally provide mediation and fact-finding procedures for use in the resolution of impasse.

The original law referred to "certificated school personnel below the rank of superintendent," but has been amended to distinguish between teachers and administrators according to the following definitions:

(1) "Administrator" means a certificated staff member who devotes a majority of his employed time to service as a supervisor, principal, vice principal or director.

. . .

(6) "Teacher" means any person who holds a position requiring a teacher's certificate as provided in ORS 342-125 who is regularly employed on at least a half-time basis in a school district and who is not an administrator.

An amendment to ORS 342.460(1) extends the scope of "confer, consult and discuss" subjects to include "grievance procedures and compensation beyond the normal duties for which the teacher or administrator is employed." The phrase "confer, consult and discuss in good faith" now is defined in ORS 342.450(3) as "the process whereby a school board, teachers and administrators or such representatives as each may designate, have the mutual obligation to meet and confer in order to exchange freely information, opinions, and proposals, to endeavor to reach agreement on matters described in [ORS 342.460(1)], and to seek to implement agreements reached."

While the original law provided that "the individuals representing the certificated employes in consultations with the district board must also be certificated employes of the district," an amendment to ORS 342.460(2) states that when an employee organization is elected exclusive representative it "shall have the right to select its representatives." With respect to election procedures established by the law, local school boards or their designees are to conduct representation elections, and an election may be called at the request of an employee organization. In addition, any organization or committee seeking placement on an election ballot (committees formerly were automatically included on a ballot containing the names of other organizations) now must submit a petition containing the signatures of 30 percent (formerly 15 percent) of the district's teachers or administrators.

Amendments to ORS 342.460(4) allow an intervening organization to be placed on a ballot by filing a petition signed by 10 percent of the teachers or administrators, and provide for a runoff election in the event no representation choice receives a majority. Challenges to the choice of representation now are permitted in accordance with the following amendment to ORS 342.460 (5):

However, a petition signed by 30 percent of the teachers or administrators may be filed within 15 days after the first day of the school year requesting a new election be held to determine the choice of representation and an election shall be held. In lieu of the petition, any organization not representing the teachers or administrators but having a membership enrollment of at least 40 percent of the teachers or administrators may require an election. However, no such election shall be held until at least one year after election of any choice of representation and such election must be held within the period specified in subsection (3) of this section.

While the original law provided that either party could request the appointment of "consultants" in the event of "a persistent disagreement over a matter of salaries or economic policies," the amended statute states in ORS 342.470(1) that mediation "shall be invoked" if the parties have not reached agreement over any matter within the scope of the law by "60 days prior to the date programmed in the budget calendar for delivery of the budget message." The parties mutually shall select a mediator, but if there is no agreement within five days, the superintendent of public instruction shall appoint a mediator from a list of qualified persons.

If agreement is not reached within 10 days of appointment of the mediator, a fact-finder shall be appointed by the superintendent of public instruction. Within 15 days of his appointment, the fact-finder is to submit a written report to the parties containing his recommendation "for a reasonable basis for the settlement of the disagreement." The statute further provides that consultation between the parties "may continue during the time that mediation or factfinding is being conducted," and mandates district school boards to provide "a procedure for determining teachers' and administrators' views on issues other than matters described in [ORS 342.460(1)]."

The full text of the Oregon teacher bargaining statute is reprinted in the "Texts" section of this DIGEST.

2004

SOUTH CAROLINA

GRIEVANCE PROCEDURE ACTS FOR STATE AND LOCAL EMPLOYEES ENACTED

While South Carolina public employees have no statutory right to organize and bargain collectively, the state general assembly has enacted two separate laws providing state and municipal employees with procedures for airing employment grievances. The State Grievance Procedures Act, which was enacted as S.B. 121 and became effective June 1, 1971, provides that each state government agency and department "shall establish" a written employee grievance procedure. The Local Grievance Procedures Act (S.B. 124) became effective June 4, 1971, and is permissive in that a governing body of a county or incorporated municipality "may by ordinance or resolution adopt a plan for the hearing and resolution of employee grievances."

Both acts define grievances in substantially the same terms. The state act provides the following:

> As used in this section, grievances may include but are not necessarily limited to classification, dismissal, suspensions, involuntary transfers, promotions and demotions. Compensation shall not be deemed a proper subject for consideration under the grievance procedure except as it applies to alleged inequities within a particular agency or department.

In addition, both acts provide for the establishment of committees serving as appeals bodies in the event that a grievance remains unresolved after discussion with the appropriate agency, department, or municipal governing body. The state act creates a State Employee Grievance Committee comprised of seven members who are to be appointed by the State Budget and Control Board and selected "on a broadly representative basis from among the career service or appointed personnel of the several state agencies." In the event that the committee hears a grievance "initiated by or involving an employee or an agency of which a committee member also is an employee, such members shall be disqualified from participating in the hearing."

A chairman who will have control of all proceedings is to be selected by the committee from among its members, and the act stipulates that the parties to a proceeding "will abide" by the chairman's decisions, "except when a committee member objects to a decision to accept evidence, in which case the majority vote of the committee will govern."

The state grievance committee is to report its findings and decision to the State Budget and Control Board within 20 days after hearing an appeal. If the state board does not take action to reject the decision within 30 days, the state committee's decision shall be final. However, if the State Budget and Control Board "rejects the decision of the committee, the board shall make its own decision without further hearing, and that decision shall be final."

Under the Local Grievance Procedures Act any municipal governing body "which elects to establish an employee grievance procedure pursuant to this act shall appoint a committee composed of not less than three nor more than nine members." As in the state act, committee members are to be selected on a broadly representative basis, the chairman is to be selected by the committee from its membership, and similar statements of the chairman's authority and the effect of a majority committee vote are provided.

The local grievance committee is to transmit its findings and decision to the municipal governing body within 20 days after hearing an appeal, and that decision shall become final if approved by the governing body. But if the committee's decision is rejected by the governing body, that body shall make its own final decision without further hearings.

Both acts provide that any permanent state, county, or municipal employee (as applicable) "who has completed six months of satisfactory service" may appeal a grievance to the appropriate committee once all prior administrative procedures and/or remedies have been exhausted.

OTHER ITEMS OF INTEREST

AMENDMENTS TO E.O. 11491 ISSUED

Executive Order 11616, issued by President Nixon on August 26, 1971, amends portions of the two-year-old Executive Order 11491 (Labor-Management Relations in the Federal Service, NRD, 12-69, 5, 16) dealing with contract negotiation during working time and the negotiation of grievance and grievance arbitration procedures. The order also deletes all mention of formal recognition from E.O. 11491 in accordance with the July 1, 1971, deadline for the termination of formal recognition (NRD, 10-71, 16; 6-71, 17) established by the Federal Labor Relations Council (FLRC). Other amendments grant the Assistant Secretary of Labor for Labor-Management Relations exclusive jurisdiction over unfair labor practice complaints and procedural grievance arbitration questions, and make the administrative costs of dues check-off arrangements a negotiable item.

Due to become effective within 90 days of issuance, the amendments are the product of an FLRC review and assessment of operations under

E.O. 11491 as directed by President Nixon at the time the original order was signed. Public hearings held by the FLRC in October 1970 (NRD, 11-70, 14) were followed by intensive Council study of major policy issues related to the order. Then in May 1971 the Council submitted a report of its review and recommendations for amendment of E.O. 11491 to the President for consideration.

The most extensive single amendment contained in E.O. 11616 greatly extends sec. 13 of the original order which deals with grievance procedures. That section formerly provided that a labor organization which is the exclusive representative of employees in an appropriate unit "may provide procedures, applicable only to employees in the unit, for the consideration of employee grievances and of disputes over the interpretation and application of agreements," provided that such procedures meet applicable Civil Service Commission requirements. Moreover, any negotiated grievance procedure which conforms to applicable laws and agency regulations "is the exclusive procedure available to employees in the unit when the agreement so provides." Sec. 13, as amended and now entitled "Grievance and arbitration procedures," provides the following:

(a) An agreement between an agency and a labor organization shall provide a procedure, applicable only to the unit, for the consideration of grievances over the interpretation or application of the agreement. A negotiated grievance procedure may not cover any other matters, including matters for which statutory appeals procedures exist, and shall be the exclusive procedure available to the parties and the employees in the unit for resolving such grievances. However, any employee or group of employees in the unit may present such grievances to the agency and have them adjusted, without the intervention of the exclusive representative, as long as the adjustment is not inconsistent with the terms of the agreement and the exclusive representative has been given opportunity to be present at the adjustment.

(b) A negotiated procedure may provide for the arbitration of grievances over the interpretation or application of the agreement, but not over any other matters. Arbitration may be invoked only by the agency or the exclusive representative. Either party may file exceptions to an arbitrator's award with the Council, under regulations prescribed by the Council.

(c) Grievances initiated by an employee or group of employees in the unit on matters other than the interpretation or application of an existing agreement may be presented under any procedure available for the purpose.

(d) Questions that cannot be resolved by the parties as to whether or not a grievance is on a matter subject to the grievance procedure in an existing agreement, or is subject to arbitration under that agreement, may be referred to the Assistant Secretary for decision.

(e) No agreement may be established, extended, or renewed after the effective date of this Order which does not conform to this section. However, this section is not applicable to agreements entered into before the effective date of this Order.

In conjunction with the provisions of sec. 13 as amended, sec. 14 of E.O. 11491 which dealt with the arbitration of grievances was revoked. Amendments to sec. 6 of the order now provide that the Assistant Secretary of Labor for Labor-Management Relations shall "(4) decide unfair labor practice complaints and alleged violations of the standards of conduct for labor organizations; and (5) decide questions as to whether a grievance is subject to a negotiated grievance procedure or subject to arbitration under an agreement." In addition, sec. 19 dealing with unfair labor practices was amended in subparagraph (d) to provide the following:

Issues which can properly be raised under an appeals procedure may not be raised under this section. Issues which can be raised under a grievance procedure may, in the discretion of the aggrieved party, be raised under that procedure or the complaint procedure under this section, but not under both procedures. Appeals or grievance decisions shall not be construed as unfair labor practice decisions under this Order nor as precedent for such decisions. All complaints under this section that cannot be resolved by the parties shall be filed with the Assistant Secretary.

Sec. 20 of the order, which concerns the use of official time for negotiation, was most often identified as a shortcoming of the order by labor witnesses during the public hearings. As originally enacted, the section provided that "solicitation of membership or dues, and other internal business of a labor organization, shall be conducted during the non-duty hours of the employees concerned. Employees who represent a recognized labor organization shall not be on official time when negotiating an agreement with agency management." That section has now been amended beginning with the second sentence to provide the following:

Employees who represent a recognized labor organization shall not be on official time when negotiating an agreement with agency management, except to the extent that the negotiating parties agree to other arrangements which may provide that the agency will either authorize official time for up to 40 hours or authorize up to one-half the time spent in negotiations during regular working hours, for a reasonable number of employees, which number normally shall not exceed the number of management representatives.

The portion of E.O. 11491 providing for dues check-off arrangements (sec. 21) has been amended to the extent that all language stating that an agency "shall recover the costs of making the deductions" has been deleted. As such, the cost of administering a dues check-off system is now a negotiable item.

Another amendment to the order rewrote a portion of the definition of labor organization (sec. 2) in accordance with a federal district court ruling (NRD, 12-70, 15; 12-69, 3) which declared unconstitutional portions of a federal statute and an implementing employment oath which prohibited government employees from asserting the

right to strike or holding membership in any organization asserting the right to strike. Sec. 2(e)(2) consequently provides that any labor organization eligible for recognition under the order will not include an organization which "assists or participates in a strike against the Government of the United States or any agency thereof, or imposes a duty or obligation to conduct, assist or participate in such a strike."

Two other amendments alter slightly the composition of the FLRC (sec. 4) by including the Director of the Office of Management and Budget as a member, and state that recognition of a labor organization (sec. 7) does not "preclude an agency from consulting or dealing with" a professional association (as well as other types of associations previously specified) which is not qualified as a labor organization. Sec. 7(d)(1) also was amended to provide that recognition of a labor organization does not "preclude an employee, regardless of whether he is in a unit of exclusive recognition, from exercising grievance or appellate rights established by law or regulations; or from choosing his own representative in a grievance or appellate action, except when presenting a grievance under a negotiated procedure as provided in section 13."

CONSUMER PRICE INDEX, AUGUST 1971

Figures released by the U.S. Department of Labor, Bureau of Labor Statistics (BLS), indicated that the August 1971 Consumer Price Index (CPI) all-items index rose 0.3 percent above the previous month to 122.2 (1967=100). That rise placed the CPI 4.5 percent above the figure recorded a year ago. BLS pointed out that "because the August index is based on prices collected both before and after the announcement of the wage-price freeze on August 15, the index does not reflect the effect of the freeze."

The greatest proportion of the 0.5 percent rise in consumer services charges in August resulted from increases in household and medical care services, according to BLS. Some food items increased in price that month, while the costs for fresh vegetables, automobiles, and clothing declined. The price index of food purchased in grocery stores remained unchanged for the first time since January 1971. Prices for nonfood commodities rose 0.5 percent in August, and BLS attributed most of this increase to the largest rise in gasoline prices in more than a year.

Statistics

WHAT ARE TEACHERS NEGOTIATING?

The NEA Research Division's biennial analysis of teacher/board negotiation agreement provisions has been completed and yields extensive data about classroom teacher agreements effective during the 1970-71 school year. Data for the 1970-71 analysis were compiled from documents in the NEA Research Division's depository of agreements with the aid and cooperation of local school systems and state NEA affiliates.

Of the 7,122 school systems with enrollments of 1,000 or more surveyed during the 1970-71 school year, 3,522 returned the survey questionnaire and validated negotiation with a copy of *an* agreement. Only those responding systems which filed a copy of their *1970-71 agreement* were included in this analysis. In addition, only those agreements covering classroom teacher units were included in this report; administrator and paraprofessional agreements will be analyzed separately. Of the 3,522 classroom teacher agreements analyzed, 43.4 percent (1,529) were comprehensive. These comprehensive agreements covered 53.5 percent (654,992) of all teachers represented in school systems with negotiation agreements.

A comparison with similar data compiled in the 1968-69 and 1966-67 analyses reveals that the number of 1970-71 classroom teacher agreements increased 34.2 percent above the 2,624 agreements in the 1968-69 survey, and 130.0 percent over the 1,531 agreements in the 1966-67 survey.[1] In addition, the number of 1970-71 comprehensive agreements increased 56.3 percent over the 978 comprehensives analyzed in 1968-69, and 293.1 percent above the 389 comprehensives analyzed in 1966-67. While only 13 states reported comprehensive agreements in 1966-67, and 24 states and the District of Columbia reported comprehensives in 1968-69, 39 states and the District of Columbia reported comprehensive agreements in the 1970-71 survey.

A portion of the 1970-71 increase in negotiation activity can be attributed to the enactment of negotiation statutes in Alaska (1970), Delaware (1969), and Kansas (1970), and the revision of the Oregon statute to provide exclusive representation rights for a duly-elected employee organization in an appropriate unit of certificated personnel. To date, the full impact of professional negotiaton laws enacted in five states (Hawaii, Idaho, Montana, Oklahoma, and Pennsylvania) during the 1970-71 school year probably has not been felt. Since the 1966-67 analysis, the total number of professional negotiation laws has increased from 15 to 29.

In the 1966-67 analysis, agreements were coded for approximately 150 content items. Both the 1968-69 and the 1970-71 analyses, however, coded over 300 content items; the data derived from those two analyses are compatible and may be directly compared. It must be emphasized that if an item is *not* included in an agreement, it may be included in a state statute, or may be specifically *excluded* by a court ruling, state statute, or for some other reason. Certain items which have not been negotiated or changed by negotiation may continue in effect and be found in a given school system's policies. As such, this analysis is *only* a listing of provisions contained in 1970-71 negotiation agreements, *not* an all-inclusive listing of school system policies and practices.

The following tables summarize the data contained in 1970-71 comprehensive agreements covering classroom teacher units. The number of comprehensive agreements and the number of agreements containing an indicated provision are presented on a state-by-state basis. A complete analysis is available in the *Negotiation Agreement Provisions, 1970-71 Edition*, which is being processed for publication.

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[1] Summary tables for the 1966-67 and 1968-69 surveys of negotiation agreement provisions were published, respectively, in the February 1968 and February 1970 issues of the NEGOTIATION RESEARCH DIGEST. In addition, the June 1970 issue of the DIGEST reported a three-year comparison of negotiation activity during the 1966-67, 1967-68, and 1968-69 school years.

TABLE 1.–NUMBER OF 1970-71 COMPREHENSIVE AGREEMENTS CONTAINING CERTAIN PROVISIONS

State	Number of agreements	Scope of agreement: General statement of parties to agreement or recognition	Classification of persons covered or excluded	Lists specific items included or excluded	No discrimination clause	Maintenance of standards	Savings clause	Waiver clause	Effect on prior rules and policies
1	2	3	4	5	6	7	8	9	10
Alaska	2	2	4	0	0	0	0	0	0
Arizona	7	7	0	2	1	0	3	0	1
Arkansas	1	1	0	0	1	0	1	0	1
California	13	13	3	2	6	0	8	0	6
Colorado	10	10	6	3	4	3	7	0	2
Connecticut	60	59	38	1	21	2	42	7	9
Delaware	12	11	6	0	5	2	10	1	4
District of Columbia	1	1	1	0	1	0	1	0	0
Florida	2	2	2	0	1	0	2	0	0
Idaho	2	2	0	0	0	0	0	0	0
Illinois	83	83	57	26	43	8	49	4	14
Indiana	20	20	12	3	7	2	11	1	9
Kansas	1	1	0	0	0	0	1	0	1
Kentucky	2	2	1	1	2	0	2	0	2
Maine	19	18	11	6	8	1	12	2	8
Maryland	21	21	8	10	5	3	10	3	6
Massachusetts	124	124	101	5	18	5	69	24	20
Michigan	242	242	221	0	159	29	201	36	167
Minnesota	10	10	1	2	2	0	4	0	3
Montana	1	1	1	0	0	0	1	0	0
Nebraska	5	5	0	2	0	0	1	0	0
Nevada	2	2	1	0	0	0	0	0	0
New Hampshire	6	6	4	1	0	0	4	0	1
New Jersey	228	223	175	5	68	39	13	39	57
New Mexico	1	1	1	0	1	0	1	0	0
New York	367	367	223	26	54	63	248	49	157
North Dakota	3	3	2	0	0	0	1	0	0
Ohio	59	59	17	15	6	3	21	5	7
Oklahoma	1	1	0	0	1	0	0	0	0
Oregon	3	3	1	0	0	1	1	1	1
Pennsylvania	30	30	14	2	3	2	6	0	3
Rhode Island	21	21	12	0	9	2	11	6	4
South Dakota	2	2	0	1	0	0	1	0	0
Texas	1	1	5	1	1	0	0	0	1
Utah	6	6	0	1	3	2	4	4	3
Vermont	3	3	0	0	2	0	1	0	0
Virginia	3	3	1	5	0	0	1	2	1
Washington	22	22	5	0	3	5	4	0	3
Wisconsin	131	131	72	4	36	10	71	12	30
Wyoming	2	1	0	0	0	1	0	0	1
Total	1,529	1,525	1,006	124	471	183	823	192	522

TABLE 1.—NUMBER OF 1970-71 COMPREHENSIVE AGREEMENTS CONTAINING CERTAIN PROVISIONS (Cont'd)

State	Scope of agreement			Negotiation procedure[a]				Rights of representative organization	
	Effect on future changes in board policies and regulations	Mergers of school districts	Distribution of agreement	Provisions for negotation sessions	Procedure for impasse	Advisory decision on impasse and method of selecting third party	Binding decision on impasse and method of selecting third party	Nondiscrimination clause against membership in employee organization	Check-off or dues deduction
1	11	12	13	14	15	16	17	18	19
Alaska	0	0	1	1	0	0	0	0	1
Arizona	0	0	3	6	3	4	0	3	2
Arkansas	1	0	1	1	1	1	0	1	1
California	4	0	3	5	1	1	0	7	8
Colorado	0	0	1	9	8	8	0	5	5
Connecticut	21	0	17	46	18	18	0	25	41
Delaware	1	0	8	8	2	0	0	7	8
District of Columbia	0	0	1	0	0	0	0	1	1
Florida	0	0	0	2	2	2	0	1	2
Idaho	0	0	0	0	0	0	0	0	0
Illinois	20	1	23	60	41	50	1	41	44
Indiana	4	0	5	15	10	0	0	3	12
Kansas	0	0	0	0	0	0	0	0	0
Kentucky	0	0	1	2	2	1	0	2	0
Maine	5	0	6	13	8	8	0	7	9
Maryland	5	0	11	9	5	5	0	6	15
Massachusetts	12	0	43	71	23	22	0	35	100
Michigan	64	35	162	186	75	77	4	135	225
Minnesota	1	0	1	1	0	0	0	3	3
Montana	1	0	0	1	0	0	0	0	1
Nebraska	0	0	0	1	1	1	0	0	1
Nevada	0	0	0	1	2	2	0	0	2
New Hampshire	1	0	1	3	3	3	0	2	4
New Jersey	56	0	105	176	20	19	1	51	111
New Mexico	0	0	1	1	1	1	0	1	1
New York	115	5	216	258	155	142	2	83	285
North Dakota	0	0	0	3	0	2	0	0	1
Ohio	7	0	4	40	34	26	0	15	16
Oklahoma	1	0	0	1	1	1	0	0	0
Oregon	1	0	1	1	5	0	0	0	1
Pennsylvania	0	0	3	17	0	6	0	2	7
Rhode Island	3	0	7	9	2	1	1	11	17
South Dakota	0	0	0	2	1	1	0	0	0
Texas	0	0	0	1	0	0	0	0	0
Utah	3	0	1	6	4	4	0	4	3
Vermont	0	0	1	1	1	1	0	1	1
Virginia	1	0	1	2	1	1	0	0	2
Washington	5	0	6	12	6	6	0	3	2
Wisconsin	21	2	15	87	45	45	0	23	50
Wyoming	0	0	0	1	1	1	0	0	1
Total	353	43	649	1,059	482	460	9	478	983

[a]For both negotiation and grievance procedures, the *Negotiation Agreement Provisions* (NAP) lists the source from which the impartial arbitrator is selected.

TABLE 1.—NUMBER OF 1970-71 COMPREHENSIVE AGREEMENTS CONTAINING CERTAIN PROVISIONS (Cont'd)

State	Rights of representative organization (Cont'd)								
	Use of building facilities, e.g., assembly hall	Use of school equipment, typewriters, and duplicating machines	Use of school communication system, bulletin boards, and mailboxes	Information pertinent to negotiations, e.g., financial and budgetary reports made available to representative organization	Time off to negotiate	Time off for grievance hearings	Conducting official organization business during the school day	Time off to attend professional organization conferences or conventions	Leave of absence for full-time service to organization without loss of tenure
1	20	21	22	23	24	25	26	27	28
Alaska	0	0	0	0	0	0	1	2	0
Arizona	3	1	4	3	3	2	1	0	1
Arkansas	1	1	1	0	0	0	0	0	0
California	5	0	8	6	3	2	6	1	1
Colorado	5	1	5	2	0	1	5	6	6
Connecticut	16	3	19	5	14	15	11	9	9
Delaware	7	6	10	7	6	4	4	3	4
District of Columbia	0	0	1	0	1	1	1	0	1
Florida	2	1	2	1	0	1	0	1	2
Idaho	0	0	0	0	0	0	0	0	0
Illinois	39	20	44	46	12	11	24	20	11
Indiana	12	4	11	8	1	4	9	3	6
Kansas	1	1	1	0	0	1	0	0	1
Kentucky	2	0	2	0	0	0	2	1	1
Maine	7	4	8	6	6	6	4	3	3
Maryland	15	7	15	5	4	3	5	4	11
Massachusetts	73	24	67	17	22	30	14	33	49
Michigan	214	120	194	204	104	83	89	127	106
Minnesota	1	0	0	0	0	0	1	0	1
Montana	0	0	0	0	0	0	0	0	0
Nebraska	0	0	0	0	0	0	0	0	0
Nevada	2	0	2	1	0	0	1	0	0
New Hampshire	2	0	2	1	0	0	1	0	0
New Jersey	133	99	125	79	66	72	60	34	33
New Mexico	1	1	1	1	1	0	1	0	1
New York	179	90	166	79	55	23	83	116	65
North Dakota	0	0	0	0	0	0	0	0	0
Ohio	9	5	13	14	6	4	7	8	5
Oklahoma	0	0	0	1	0	0	0	1	0
Oregon	1	0	1	1	0	2	0	0	0
Pennsylvania	9	2	10	7	3	0	3	2	1
Rhode Island	12	3	16	4	9	10	4	6	8
South Dakota	0	0	0	1	0	0	0	0	0
Texas	0	0	0	1	0	0	0	1	0
Utah	3	0	3	1	2	1	1	1	2
Vermont	0	0	0	1	0	0	0	0	0
Virginia	1	1	0	0	1	0	2	2	1
Washington	4	0	2	3	0	0	2	5	0
Wisconsin	37	18	33	18	5	6	9	11	2
Wyoming	1	1	1	0	1	0	1	0	1
Total	797	413	767	523	325	282	352	400	332

TABLE 1.–NUMBER OF 1970-71 COMPREHENSIVE AGREEMENTS CONTAINING CERTAIN PROVISIONS (Cont'd)

State	Rights of representative organization (Cont'd)				Teacher activity					
	Wearing insignia or pins	No-strike clause	Building representative provisions	Agency shop clause	Individual or minority representation to the administration	Teachers' rights not abridged	Personal activities outside school	Employment outside school	Political activities outside school	Academic freedom
1	29	30	31	32	33	34	35	36	37	38
Alaska	0	0	0	0	0	0	0	0	0	0
Arizona	0	0	0	0	1	1	1	0	1	2
Arkansas	0	0	0	0	0	1	0	0	0	1
California	0	4	1	0	0	3	0	0	0	6
Colorado	1	2	4	0	0	3	0	1	0	4
Connecticut	0	16	2	0	0	3	7	7	5	7
Delaware	5	1	4	0	0	5	5	0	3	4
District of Columbia	0	1	0	0	0	0	0	0	0	0
Florida	0	1	0	0	0	0	0	0	0	1
Idaho	0	0	0	0	0	0	0	0	0	0
Illinois	1	52	9	0	1	29	5	0	6	23
Indiana	4	4	8	0	0	0	2	1	6	10
Kansas	0	0	0	0	0	0	1	0	1	1
Kentucky	0	1	1	0	0	2	1	0	1	2
Maine	5	5	1	0	1	9	2	0	1	1
Maryland	21	4	3	0	1	5	10	1	9	9
Massachusetts	83	63	7	0	3	22	23	4	29	10
Michigan	0	132	34	149	7	179	97	10	93	79
Minnesota	0	0	1	0	1	0	1	0	1	0
Montana	0	0	0	0	0	0	0	0	0	0
Nebraska	0	0	0	0	0	1	0	0	0	0
Nevada	0	2	0	0	0	0	0	0	0	0
New Hampshire	0	2	1	0	0	0	0	0	0	0
New Jersey	59	20	27	0	0	104	33	3	21	43
New Mexico	0	0	0	0	0	0	0	0	0	0
New York	7	109	73	3	10	65	35	8	27	95
North Dakota	0	0	0	0	0	0	0	0	0	0
Ohio	1	10	8	0	6	1	2	2	0	8
Oklahoma	0	0	0	0	0	0	0	0	0	0
Oregon	0	0	0	0	0	1	0	0	0	0
Pennsylvania	0	5	3	0	1	2	0	0	0	2
Rhode Island	0	2	1	1	0	2	1	0	0	1
South Dakota	0	0	0	0	0	0	0	0	0	0
Texas	0	0	0	0	0	0	0	0	0	0
Utah	0	1	0	0	1	0	0	2	0	0
Vermont	0	1	0	0	0	1	0	0	0	0
Virginia	0	1	2	0	0	0	1	1	2	1
Washington	0	2	1	0	0	2	0	1	1	5
Wisconsin	0	43	5	0	3	8	2	12	15	5
Wyoming	1	1	0	0	0	0	1	0	0	0
Total	188	485	196	153	36	449	230	53	222	320

TABLE 1.–NUMBER OF 1970-71 COMPREHENSIVE AGREEMENTS CONTAINING CERTAIN PROVISIONS (Cont'd)

State	Teacher activity	Board rights	Committees established in agreement		One or more specific subject joint committees established in agreement[b]	Instructional program			
	Polygraph tests	General board rights	Committee which meets regularly	General or professional study committee		Curriculum review	Teacher qualifications	Development of special education programs	Hiring of specialists
1	39	40	41	42	43	44	45	46	47
Alaska	0	0	0	0	7	2	1	0	1
Arizona	0	5	1	1	13	3	2	2	0
Arkansas	0	0	0	0	1	0	1	0	0
California	0	4	1	5	31	5	2	3	4
Colorado	0	4	4	1	7	2	1	0	1
Connecticut	0	25	6	12	61	23	2	2	17
Delaware	0	4	3	9	20	3	6	1	3
District of Columbia	0	0	1	0	2	1	0	0	0
Florida	0	2	0	1	4	1	1	0	1
Idaho	0	0	0	0	3	1	0	0	0
Illinois	0	38	19	15	100	18	22	6	6
Indiana	0	13	4	1	50	9	11	3	3
Kansas	0	0	0	1	0	0	0	0	0
Kentucky	0	1	0	1	3	1	2	0	0
Maine	0	11	6	3	24	5	7	1	3
Maryland	0	5	1	3	39	4	5	4	4
Massachusetts	0	66	12	28	159	31	17	9	30
Michigan	27	98	40	80	503	83	145	42	43
Minnesota	0	4	0	0	10	1	4	1	2
Montana	0	0	0	0	2	0	1	0	0
Nebraska	0	1	0	0	4	0	0	0	0
Nevada	0	1	0	0	4	0	0	1	0
New Hampshire	0	2	0	2	0	0	0	0	0
New Jersey	0	62	44	62	246	27	68	3	53
New Mexico	0	1	1	1	8	1	1	1	0
New York	0	72	73	108	589	128	102	39	52
North Dakota	0	1	0	0	5	1	1	0	1
Ohio	0	13	5	8	77	11	13	4	3
Oklahoma	0	0	0	0	4	1	0	1	0
Oregon	0	0	0	0	1	0	0	0	0
Pennsylvania	0	4	2	3	31	5	6	3	5
Rhode Island	0	5	4	5	33	5	5	3	4
South Dakota	0	0	0	0	1	0	1	0	0
Texas	0	0	0	0	0	0	0	0	0
Utah	0	2	2	4	3	0	2	0	0
Vermont	0	1	0	0	2	1	1	0	0
Virginia	0	2	1	2	7	2	1	1	1
Washington	0	5	2	1	25	6	0	4	2
Wisconsin	0	80	5	9	95	13	38	6	7
Wyoming	0	0	1	0	2	1	1	0	0
Total	27	532	238	366	2,176	395	470	140	246

[b]In the NAP, the area of study is given for each joint committee. There are 96 possible areas of study.

TABLE 1.–NUMBER OF 1970-71 COMPREHENSIVE AGREEMENTS CONTAINING CERTAIN PROVISIONS (Cont'd)

State	Instructional program (Cont'd)								
	Development of tax or bond programs	Application of state and federal funds	Evaluation and application of testing programs	Distribution of budgetary items	Evaluation of teachers' performance	Selection and distribution of textbooks	Pupil-teacher ratio and class size	Instructional aids available for the teachers' use in the development, planning, and teaching in classroom	Teacher aides for extraneous duties
1	48	49	50	51	52	53	54	55	56
Alaska	0	0	0	0	0	0	2	0	1
Arizona	0	0	0	0	0	1	3	0	3
Arkansas	0	0	0	0	0	0	1	0	1
California	1	2	0	1	0	4	8	6	3
Colorado	0	0	0	1	2	3	5	4	4
Connecticut	0	5	0	1	1	24	38	5	23
Delaware	0	1	0	1	0	3	4	2	2
District of Columbia	0	0	0	0	0	1	1	0	1
Florida	0	1	0	1	1	1	1	2	2
Idaho	1	1	0	0	0	0	2	0	2
Illinois	1	5	3	1	4	19	38	14	10
Indiana	0	0	2	1	4	8	11	8	6
Kansas	0	0	0	0	0	0	0	1	1
Kentucky	0	0	0	0	0	1	1	1	0
Maine	0	1	0	0	1	4	6	2	4
Maryland	1	0	0	1	4	5	12	6	5
Massachusetts	35	1	0	4	6	46	84	14	46
Michigan	0	12	4	9	20	85	219	134	71
Minnesota	0	0	0	0	0	1	2	1	1
Montana	0	0	0	0	0	0	0	0	0
Nebraska	0	0	0	0	0	0	0	0	0
Nevada	0	0	0	0	0	1	1	0	0
New Hampshire	0	0	0	0	0	1	0	0	1
New Jersey	0	5	0	1	14	23	80	15	50
New Mexico	0	0	0	0	1	1	1	1	0
New York	1	11	5	14	37	92	254	69	177
North Dakota	0	0	0	0	0	1	1	0	0
Ohio	4	5	0	1	3	8	19	3	16
Oklahoma	0	0	0	0	0	0	0	0	0
Oregon	0	0	0	0	0	0	0	0	0
Pennsylvania	0	1	0	2	1	3	9	1	6
Rhode Island	0	1	0	1	2	15	20	4	11
South Dakota	0	0	0	0	0	0	1	0	1
Texas	0	0	0	0	0	0	0	0	0
Utah	0	1	0	0	0	0	1	0	1
Vermont	0	0	0	0	0	0	0	2	1
Virginia	0	0	0	1	1	0	1	1	2
Washington	1	1	0	0	0	2	8	5	5
Wisconsin	0	0	1	2	3	12	53	5	30
Wyoming	0	0	0	0	1	1	1	0	2
Total	45	54	15	43	106	366	888	306	489

TABLE 1.—NUMBER OF 1970-71 COMPREHENSIVE AGREEMENTS CONTAINING CERTAIN PROVISIONS (Cont'd)

State	Instructional program (Cont'd)								Person'l policies and prac's
	Secretarial and clerical assistance	School calendar or year	Pupil progress reports, promotion, and policies	Supervision of student extracurricular activities	Selection of supervisors	Assignment of department chairmen	Parent-teacher conferences	Integration of education for textbooks pupils, and staff	Individual contract terms
1	57	58	59	60	61	62	63	64	65
Alaska	0	2	0	0	0	0	0	0	1
Arizona	2	4	0	1	0	2	1	0	1
Arkansas	0	1	0	0	0	1	1	0	0
California	2	6	2	1	0	4	2	4	1
Colorado	1	3	1	3	0	2	3	0	1
Connecticut	6	40	3	13	0	9	18	1	31
Delaware	1	3	2	1	0	3	1	2	2
District of Columbia	0	0	1	1	0	0	1	1	0
Florida	1	1	0	0	0	0	0	0	0
Idaho	0	2	0	0	0	0	0	0	0
Illinois	15	41	5	14	1	10	16	8	16
Indiana	4	12	2	3	0	6	7	1	4
Kansas	0	1	0	0	0	1	1	1	0
Kentucky	0	1	1	1	0	1	0	0	0
Maine	0	11	1	2	0	3	3	0	7
Maryland	5	10	0	4	0	1	8	1	3
Massachusetts	12	43	8	38	0	29	41	0	20
Michigan	44	192	13	45	3	52	110	30	81
Minnesota	0	6	0	2	0	2	2	1	1
Montana	0	0	0	0	0	0	0	0	1
Nebraska	0	1	0	0	0	0	1	0	0
Nevada	0	0	0	0	0	0	1	0	1
New Hampshire	0	2	0	0	0	0	0	0	3
New Jersey	15	126	18	23	2	22	28	1	52
New Mexico	0	1	1	1	0	0	1	0	1
New York	50	225	27	89	7	75	155	8	50
North Dakota	1	1	0	0	0	0	0	0	0
Ohio	3	19	5	3	1	6	18	0	14
Oklahoma	1	0	1	0	0	0	0	0	0
Oregon	0	1	0	0	0	0	0	0	0
Pennsylvania	2	12	2	7	1	5	4	1	3
Rhode Island	4	14	5	8	0	6	10	0	4
South Dakota	0	0	0	0	0	0	0	0	0
Texas	0	0	0	0	0	0	0	0	0
Utah	0	0	0	1	0	0	1	0	2
Vermont	0	1	0	0	0	0	0	0	1
Virginia	2	3	0	1	0	0	2	0	1
Washington	2	6	0	1	0	1	1	0	3
Wisconsin	9	105	2	29	3	23	23	29	58
Wyoming	0	1	0	0	0	0	0	0	1
Total	182	897	100	292	18	264	466	60	364

TABLE 1.—NUMBER OF 1970-71 COMPREHENSIVE AGREEMENTS CONTAINING CERTAIN PROVISIONS (Cont'd)

State	Personnel policies and practices (Cont'd)								
	Issue and return of individual contract	Employment year—12-month contracts	Reporting procedures	Teaching hours	Teaching load or schedule of class periods	Teaching assignment in subject areas	Teaching assignment for special education programs	Hours of service before and after regular class periods	Planning period—elementary
1	66	67	68	69	70	71	72	73	74
Alaska	1	0	0	0	0	0	0	0	0
Arizona	1	0	0	1	2	2	1	1	1
Arkansas	0	0	0	0	1	1	0	1	1
California	1	2	0	3	2	2	6	8	2
Colorado	1	0	1	4	2	5	4	1	5
Connecticut	3	3	0	30	29	31	13	27	26
Delaware	0	1	2	4	3	3	4	4	6
District of Columbia	0	0	1	1	0	0	1	1	1
Florida	0	1	0	2	1	2	1	1	1
Idaho	0	0	0	0	0	1	0	0	0
Illinois	3	3	3	32	26	27	19	18	25
Indiana	2	2	2	10	8	10	10	7	11
Kansas	0	0	0	0	0	1	0	0	1
Kentucky	0	0	0	1	1	2	2	0	1
Maine	1	1	0	10	6	10	0	4	5
Maryland	0	7	3	8	3	13	9	9	13
Massachusetts	5	8	0	87	70	91	49	79	60
Michigan	22	10	5	187	158	192	64	147	148
Minnesota	2	1	0	5	4	1	2	2	4
Montana	1	0	0	0	0	1	0	0	0
Nebraska	1	0	0	0	0	0	0	0	0
Nevada	0	0	0	2	0	0	0	2	2
New Hampshire	1	0	0	1	1	2	1	2	1
New Jersey	41	38	74	84	69	74	34	89	58
New Mexico	1	0	0	1	0	1	1	1	1
New York	11	19	28	211	182	155	93	137	194
North Dakota	0	0	0	1	1	0	0	0	0
Ohio	3	3	1	22	10	15	9	13	14
Oklahoma	0	1	0	0	0	0	0	0	0
Oregon	0	0	0	0	0	0	0	0	0
Pennsylvania	1	3	2	13	6	4	2	5	10
Rhode Island	1	0	0	18	16	10	7	17	13
South Dakota	0	0	0	0	0	0	0	0	0
Texas	0	1	0	0	0	0	0	0	0
Utah	1	0	0	3	3	3	3	2	3
Vermont	0	0	0	2	1	0	0	0	0
Virginia	1	3	0	1	0	2	3	1	3
Washington	2	2	0	5	1	1	1	2	7
Wisconsin	22	7	0	69	46	32	14	24	37
Wyoming	0	0	1	1	2	1	1	1	1
Total	129	116	123	819	654	695	354	606	655

TABLE 1.—NUMBER OF 1970-71 COMPREHENSIVE AGREEMENTS CONTAINING CERTAIN PROVISIONS (Cont'd)

State	Personnel policies and practices (Cont'd)								
	Planning period—secondary	Lunch period for elementary teachers	Lunch period for secondary teachers	Supervision of student teachers	Non-classroom duties	Regular teacher as a substitute	Qualifications for professional growth	Inservice training	Regular teacher meetings
1	75	76	77	78	79	80	81	82	83
Alaska	0	0	0	0	0	0	1	0	0
Arizona	2	1	1	0	2	1	4	1	3
Arkansas	1	1	1	0	1	1	0	0	1
California	2	2	3	3	4	3	3	6	8
Colorado	5	5	5	1	4	3	2	4	3
Connecticut	35	43	44	1	26	12	9	16	38
Delaware	7	6	6	0	3	3	1	3	5
District of Columbia	1	1	1	0	1	1	0	0	1
Florida	2	1	0	1	2	1	0	1	1
Idaho	0	0	0	0	0	0	1	1	0
Illinois	28	31	32	8	24	31	31	27	32
Indiana	10	14	14	5	8	4	5	10	9
Kansas	1	1	1	0	1	1	0	0	0
Kentucky	1	0	0	0	2	0	1	1	1
Maine	5	10	10	0	8	1	5	3	9
Maryland	13	17	15	2	8	4	6	6	10
Massachusetts	79	89	87	14	69	32	55	46	81
Michigan	173	218	213	87	109	94	49	83	133
Minnesota	3	4	4	0	3	3	5	4	3
Montana	0	1	0	0	1	0	1	0	0
Nebraska	0	0	0	2	2	0	1	0	0
Nevada	1	2	2	0	1	0	1	2	1
New Hampshire	0	2	0	0	1	0	1	0	2
New Jersey	64	111	111	0	90	54	42	37	95
New Mexico	1	1	0	1	1	0	1	1	1
New York	181	216	200	52	155	86	78	204	186
North Dakota	1	1	1	0	1	0	1	0	0
Ohio	18	16	15	7	12	11	6	17	24
Oklahoma	0	1	1	0	0	1	1	0	0
Oregon	0	0	0	0	0	1	0	0	0
Pennsylvania	8	8	7	4	10	6	5	4	9
Rhode Island	16	16	15	3	13	7	2	5	17
South Dakota	0	1	1	1	1	0	0	1	1
Texas	0	0	0	0	0	0	0	0	0
Utah	1	5	5	1	3	1	3	3	3
Vermont	0	0	0	0	0	0	0	1	0
Virginia	1	3	3	0	0	1	1	1	1
Washington	3	0	0	3	5	2	6	5	1
Wisconsin	40	55	54	2	45	31	71	37	40
Wyoming	1	1	0	0	1	1	1	1	1
Total	704	884	852	198	617	397	400	534	720

TABLE 1.—NUMBER OF 1970-71 COMPREHENSIVE AGREEMENTS CONTAINING CERTAIN PROVISIONS (Cont'd)

State	Personnel policies and practices (Cont'd)							
	Promotion to higher classification, supervisor or administrator	Temporary assignment to higher classification	Vacancies	Transfers	Layoff and recall	Dismissal procedure	Resignation procedure	Retirement procedure
1	84	85	86	87	88	89	90	91
Alaska	0	0	0	0	0	0	0	0
Arizona	1	0	2	3	0	0	2	0
Arkansas	1	0	1	1	0	1	0	0
California	3	0	6	8	0	1	0	1
Colorado	3	1	5	4	2	2	0	0
Connecticut	44	0	34	48	0	7	6	6
Delaware	6	0	7	8	0	4	0	0
District of Columbia	1	0	0	1	0	1	0	0
Florida	2	0	2	2	0	1	1	1
Idaho	0	0	0	0	0	0	0	0
Illinois	23	2	41	38	5	12	2	11
Indiana	12	1	15	11	3	3	1	10
Kansas	0	0	1	1	0	0	0	0
Kentucky	1	1	1	2	0	1	1	0
Maine	4	0	6	9	0	5	2	2
Maryland	15	1	17	16	0	5	4	1
Massachusetts	82	4	99	85	1	8	20	12
Michigan	178	72	227	216	138	39	31	92
Minnesota	1	0	3	2	0	2	4	6
Montana	0	0	1	1	0	1	0	0
Nebraska	0	0	0	0	0	0	0	0
Nevada	0	0	0	0	0	0	0	0
New Hampshire	2	0	1	2	0	0	2	0
New Jersey	89	3	101	102	1	22	6	7
New Mexico	1	0	0	1	0	1	1	1
New York	172	19	232	214	17	38	39	30
North Dakota	0	0	0	0	0	0	0	1
Ohio	14	1	17	23	2	14	5	5
Oklahoma	0	0	1	0	0	0	0	0
Oregon	1	1	0	0	0	0	0	0
Pennsylvania	6	1	8	9	0	3	3	3
Rhode Island	20	1	19	17	0	2	6	1
South Dakota	0	0	0	1	0	0	0	0
Texas	1	0	1	1	0	1	1	1
Utah	2	0	3	5	5	5	3	2
Vermont	0	0	0	0	0	2	0	0
Virginia	2	0	2	2	1	1	1	1
Washington	2	1	4	4	2	3	1	1
Wisconsin	13	0	35	48	8	66	35	73
Wyoming	1	0	1	1	0	0	0	0
Total	703	109	893	886	185	250	177	268

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TABLE 1.–NUMBER OF 1970-71 COMPREHENSIVE AGREEMENTS CONTAINING CERTAIN PROVISIONS (Cont'd)

State	Personnel policies and practices (Cont'd)								
	Grievance procedures[a]				Professional code of ethics	Teacher discipline or reprimand	Teacher's personnel file	Protection of teachers against assault, etc.	Pupil discipline
	Grievance procedure	Binding decision and method of selecting third party	Advisory decision and method of selecting third party	Provisions for cost of third party					
1	92	93	94	95	96	97	98	99	100
Alaska	1	1	0	0	0	0	0	0	0
Arizona	5	0	3	3	3	3	3	1	2
Arkansas	1	0	0	0	1	1	1	1	1
California	9	4	3	7	1	3	7	2	6
Colorado	8	0	6	6	3	2	4	4	4
Connecticut	58	38	14	47	29	2	17	38	6
Delaware	10	2	2	3	0	7	7	6	6
District of Columbia	1	1	0	1	0	0	1	0	1
Florida	2	0	0	0	0	0	2	2	1
Idaho	1	0	0	0	0	0	0	0	0
Illinois	66	23	19	37	24	7	46	30	39
Indiana	19	4	9	10	8	8	11	11	12
Kansas	1	0	0	0	0	1	1	1	1
Kentucky	2	0	1	1	1	1	2	1	2
Maine	17	12	4	15	1	4	6	6	2
Maryland	20	5	7	0	1	2	16	14	16
Massachusetts	119	96	19	105	17	64	83	73	9
Michigan	241	174	52	179	138	189	172	210	170
Minnesota	5	1	0	1	0	1	4	1	1
Montana	1	1	0	1	0	1	0	0	0
Nebraska	0	0	0	0	0	0	0	0	0
Nevada	2	1	1	2	0	1	0	2	2
New Hampshire	4	3	1	2	0	0	3	0	0
New Jersey	215	60	114	146	7	85	69	65	60
New Mexico	1	0	1	1	1	0	1	0	1
New York	339	161	109	228	81	91	199	165	123
North Dakota	2	2	0	2	0	0	0	0	0
Ohio	36	9	9	16	13	8	20	12	16
Oklahoma	0	0	0	0	0	0	0	0	0
Oregon	1	0	0	0	0	0	1	1	0
Pennsylvania	14	8	3	10	3	4	9	5	7
Rhode Island	21	15	6	9	0	10	19	18	8
South Dakota	0	0	0	0	0	0	0	0	0
Texas	1	1	0	0	0	0	0	0	0
Utah	5	0	3	3	3	3	5	4	4
Vermont	2	0	2	0	0	0	1	0	0
Virginia	3	0	3	3	0	0	2	2	2
Washington	8	1	2	2	4	3	5	5	4
Wisconsin	119	49	44	63	6	19	31	18	12
Wyoming	1	0	1	1	1	1	1	1	1
Total	1,362	672	438	904	346	521	749	699	519

TABLE 1.–NUMBER OF 1970-71 COMPREHENSIVE AGREEMENTS CONTAINING CERTAIN PROVISIONS (Cont'd)

State	Personnel policies and practices (Cont'd)							
	Liability case procedures	Damaged or stolen property	Absence report procedure	Procedure for teacher evaluation	Teacher facilities, e.g., lounge	Probationary period	Seniority	Substitute teachers
1	101	102	103	104	105	106	107	108
Alaska	0	0	0	0	0	0	0	0
Arizona	0	0	1	3	1	2	1	0
Arkansas	0	1	0	1	1	1	0	1
California	2	4	1	8	4	3	1	6
Colorado	2	2	0	6	5	3	2	4
Connecticut	14	15	8	26	35	4	3	18
Delaware	2	0	2	9	8	2	0	3
District of Columbia	0	1	1	1	1	1	0	1
Florida	2	0	2	2	2	1	1	2
Idaho	0	0	0	0	0	0	0	0
Illinois	17	11	10	32	39	12	14	25
Indiana	8	1	6	13	11	11	3	9
Kansas	0	1	1	1	0	0	0	1
Kentucky	1	0	1	1	1	0	0	0
Maine	3	1	2	8	7	4	0	1
Maryland	2	7	7	14	14	4	2	4
Massachusetts	41	22	25	86	71	15	5	45
Michigan	103	116	143	207	199	97	48	148
Minnesota	0	0	2	2	2	5	0	4
Montana	0	0	1	0	0	0	0	1
Nebraska	0	1	0	0	0	1	0	1
Nevada	1	0	0	0	2	0	0	0
New Hampshire	0	0	1	2	0	0	0	0
New Jersey	26	23	41	120	73	17	4	45
New Mexico	0	0	1	1	1	1	1	1
New York	93	73	96	237	160	147	28	191
North Dakota	0	0	0	1	0	0	0	0
Ohio	0	4	9	18	13	9	2	12
Oklahoma	0	0	0	0	1	0	0	0
Oregon	0	0	0	1	0	0	0	0
Pennsylvania	3	1	4	7	5	1	1	5
Rhode Island	11	10	2	16	14	3	2	11
South Dakota	0	1	0	0	0	0	0	0
Texas	0	0	1	1	0	0	0	0
Utah	3	2	1	4	4	2	0	1
Vermont	0	0	0	0	0	0	0	0
Virginia	2	0	0	2	1	2	0	2
Washington	3	2	0	3	2	1	0	4
Wisconsin	8	8	18	50	12	32	6	34
Wyoming	0	0	1	1	1	0	0	0
Total	347	307	388	884	690	381	124	58

TABLE 1.—NUMBER OF 1970-71 COMPREHENSIVE AGREEMENTS CONTAINING CERTAIN PROVISIONS (Cont'd)

State	Person'l policies & prac's (Cont'd)	Salary policy[C]						
	Health requirements	Salary schedule	Salary credits for prior growth and experience	Salary credit for military experience	Salary increments for professional preparation	Deviation from salary schedule	Extra duty pay for special activities	Premium pay
1	109	110	111	112	113	114	115	116
Alaska	0	2	1	1	1	1	1	1
Arizona	2	7	2	0	3	0	4	2
Arkansas	0	1	0	0	1	0	1	0
California	1	12	5	3	10	0	6	1
Colorado	1	10	4	1	4	3	7	2
Connecticut	6	56	39	33	36	5	47	1
Delaware	0	10	6	7	2	0	7	1
District of Columbia	0	0	0	0	0	0	1	0
Florida	1	1	1	1	0	0	0	0
Idaho	0	2	1	0	2	0	0	0
Illinois	13	69	50	22	53	9	62	19
Indiana	7	17	12	7	12	1	10	7
Kansas	0	1	1	1	1	0	1	0
Kentucky	1	1	0	0	0	0	1	0
Maine	3	18	9	7	10	5	15	1
Maryland	2	20	13	7	10	2	15	0
Massachusetts	20	114	88	59	93	25	109	6
Michigan	81	219	213	101	141	5	160	55
Minnesota	2	9	8	3	9	2	10	1
Montana	0	1	0	0	1	0	1	0
Nebraska	0	5	2	0	3	1	2	1
Nevada	1	1	1	0	1	0	1	0
New Hampshire	0	6	3	0	2	0	1	0
New Jersey	29	213	119	111	98	21	135	15
New Mexico	1	1	1	0	1	0	1	0
New York	94	347	206	157	258	38	321	103
North Dakota	0	3	1	0	1	0	2	0
Ohio	7	52	24	16	27	2	32	1
Oklahoma	0	1	0	0	0	0	0	0
Oregon	0	3	2	0	2	0	2	0
Pennsylvania	1	26	114	8	19	6	18	1
Rhode Island	4	17	10	6	14	1	13	2
South Dakota	0	2	1	0	1	0	0	0
Texas	0	1	0	0	1	0	1	0
Utah	2	0	4	2	4	1	2	1
Vermont	1	2	3	2	2	0	3	0
Virginia	1	2	1	2	2	1	14	1
Washington	1	16	8	5	13	1	0	0
Wisconsin	35	123	125	35	96	54	22	63
Wyoming	1	2	2	1	2	0	2	0
Total	318	1,393	1,080	598	936	184	1,130	285

[C]In the NAP the following salary benchmarks are given: B.A. minimum; M.A. maximum; M.A. Step 10; Non-doctorate maximum. The number of steps also is provided.

TABLE 1.—NUMBER OF 1970-71 COMPREHENSIVE AGREEMENTS CONTAINING CERTAIN PROVISIONS (Cont'd)

State	Salary policy[c] (Cont'd)					Fringe benefits			
	Overtime pay	Part-time pay	Longevity pay	Incentive pay	Pay period	Tuition reimbursement	Physical examination	Holidays	Vacation
1	117	118	119	120	121	122	123	124	125
Alaska	0	0	1	0	1	0	0	1	0
Arizona	1	2	0	0	0	0	0	2	0
Arkansas	1	0	0	0	1	0	0	0	0
California	3	5	6	0	2	0	0	3	3
Colorado	3	1	4	1	0	1	3	0	0
Connecticut	9	7	24	2	35	22	5	10	0
Delaware	0	0	3	0	2	6	0	0	0
District of Columbia	0	0	0	0	0	0	0	0	0
Florida	0	0	0	0	0	0	0	1	0
Idaho	0	0	0	0	0	0	0	0	0
Illinois	32	19	13	2	45	25	8	1	2
Indiana	4	1	4	0	12	5	6	6	2
Kansas	1	0	0	0	0	0	0	1	0
Kentucky	0	0	0	0	1	0	0	0	0
Maine	0	1	4	1	17	12	2	1	0
Maryland	2	2	9	0	9	16	2	1	1
Massachusetts	22	18	33	15	75	58	4	7	4
Michigan	129	59	56	8	111	63	53	46	12
Minnesota	2	4	2	0	5	1	3	2	0
Montana	0	1	1	0	1	0	0	1	0
Nebraska	2	0	0	0	0	0	0	0	0
Nevada	0	0	0	0	0	0	0	0	0
New Hampshire	0	0	0	0	2	5	0	0	0
New Jersey	33	13	76	10	122	130	7	15	8
New Mexico	0	0	1	0	0	0	0	0	8
New York	53	60	223	29	178	53	55	22	0
North Dakota	0	0	0	0	1	0	0	0	0
Ohio	6	12	12	2	17	8	5	6	1
Oklahoma	0	0	0	0	1	0	0	0	0
Oregon	0	1	1	0	9	2	0	0	0
Pennsylvania	5	2	11	2	16	14	0	2	2
Rhode Island	7	4	11	0	0	4	1	3	1
South Dakota	0	0	0	0	0	0	0	0	0
Texas	0	0	0	0	0	0	0	1	1
Utah	1	0	0	0	5	0	0	0	0
Vermont	0	0	0	0	0	1	1	0	0
Virginia	2	0	2	0	1	2	1	1	0
Washington	2	5	1	2	1	3	0	0	0
Wisconsin	44	26	22	16	86	58	51	13	5
Wyoming	1	1	0	0	1	0	0	1	1
Total	365	244	520	90	758	489	207	147	51

TABLE 1.—NUMBER OF 1970-71 COMPREHENSIVE AGREEMENTS CONTAINING CERTAIN PROVISIONS (Cont'd)

State	Fringe benefits (Cont'd)							
	Health services	Payroll deductions	Terminal leave or severance pay	Employment injury benefit	Travel allowances	Conference and meeting fees	Mileage allowance	Payment of subject organization dues
1	126	127	128	129	130	131	132	133
Alaska	0	0	0	0	0	0	0	0
Arizona	0	2	0	0	1	0	1	0
Arkansas	0	0	0	1	0	0	0	0
California	1	1	2	5	1	1	2	0
Colorado	0	1	1	2	2	2	3	0
Connecticut	0	31	33	31	13	20	15	0
Delaware	1	1	0	0	0	3	6	0
District of Columbia	0	0	0	0	0	0	1	0
Florida	0	1	2	2	0	0	0	0
Idaho	0	0	0	0	0	1	0	0
Illinois	1	27	18	19	20	22	27	1
Indiana	2	10	15	9	5	7	5	0
Kansas	0	1	0	1	0	0	0	0
Kentucky	0	0	0	0	0	1	1	0
Maine	1	7	7	4	3	3	7	1
Maryland	1	11	7	10	3	3	13	0
Massachusetts	0	26	37	51	42	49	50	0
Michigan	7	100	108	105	61	83	97	2
Minnesota	0	2	0	0	1	2	3	0
Montana	0	1	1	0	0	0	1	0
Nebraska	0	0	0	0	0	1	1	0
Nevada	0	0	0	0	1	2	1	0
New Hampshire	1	0	0	0	0	0	2	0
New Jersey	3	69	11	33	22	28	86	1
New Mexico	1	1	1	0	0	0	1	0
New York	10	111	60	125	87	121	110	2
North Dakota	0	0	0	0	1	1	0	0
Ohio	0	12	2	3	6	9	5	0
Oklahoma	0	0	0	0	0	0	0	0
Oregon	0	1	1	0	0	1	0	0
Pennsylvania	0	6	16	1	1	3	3	0
Rhode Island	2	7	4	16	3	2	9	0
South Dakota	0	0	0	0	0	0	0	0
Texas	0	0	1	0	1	1	0	0
Utah	0	3	4	3	1	2	2	0
Vermont	0	0	1	0	0	0	0	0
Virginia	0	0	1	1	2	2	2	0
Washington	1	2	0	4	3	5	5	0
Wisconsin	2	26	18	17	16	21	63	0
Wyoming	0	0	0	1	1	1	2	0
Total	34	460	351	444	297	397	524	7

TABLE 1.—NUMBER OF 1970-71 COMPREHENSIVE AGREEMENTS CONTAINING CERTAIN PROVISIONS (Cont'd)

State	Fringe benefits (Cont'd)		Insurance coverage[d]					Long-term leaves of absence[e]	
	Tax-sheltered annuity	Workmen's compensation	Group health insurance	Group life insurance	Group liability insurance	Group income protection or disability	Pension or retirement	General leave	Sabbatical leave
1	134	135	136	137	138	139	140	141	142
Alaska	0	0	2	0	0	1	0	0	2
Arizona	0	0	5	1	2	1	0	1	2
Arkansas	0	1	0	0	0	0	0	0	1
California	1	2	10	2	1	2	0	3	7
Colorado	0	2	6	4	3	3	1	4	6
Connecticut	20	21	58	53	1	4	1	15	52
Delaware	0	0	9	8	3	6	1	1	8
District of Columbia	1	0	0	0	0	0	0	0	0
Florida	2	1	2	0	0	2	0	1	1
Idaho	0	0	2	0	0	0	0	0	0
Illinois	21	14	63	35	10	4	1	16	45
Indiana	11	10	16	13	6	7	2	4	12
Kansas	1	1	0	0	0	1	0	0	0
Kentucky	0	1	0	0	0	0	0	1	0
Maine	4	5	14	3	3	1	1	1	12
Maryland	7	6	20	13	3	1	1	4	14
Massachusetts	61	40	75	63	2	7	5	23	112
Michigan	70	148	229	123	30	52	1	55	111
Minnesota	6	3	10	7	0	7	0	0	5
Montana	0	0	1	0	0	0	0	0	1
Nebraska	0	0	4	2	0	1	0	0	1
Nevada	0	0	2	0	0	0	0	1	0
New Hampshire	1	2	6	4	0	1	1	1	4
New Jersey	15	29	209	10	14	1	1	39	118
New Mexico	1	1	1	1	0	1	1	0	1
New York	139	108	330	74	16	31	10	89	326
North Dakota	1	1	1	0	0	0	1	0	0
Ohio	8	10	46	15	1	4	2	2	12
Oklahoma	0	0	0	0	0	0	0	1	0
Oregon	1	1	3	0	1	1	0	0	1
Pennsylvania	3	5	23	19	3	3	0	1	4
Rhode Island	7	8	21	5	3	2	1	6	20
South Dakota	1	1	2	1	0	0	0	0	0
Texas	0	0	0	0	0	0	0	0	0
Utah	2	2	6	2	3	0	0	4	5
Vermont	0	0	3	0	0	0	0	0	1
Virginia	2	1	3	0	5	3	2	1	3
Washington	3	2	13	0	0	1	0	2	10
Wisconsin	31	49	130	74	28	19	7	25	22
Wyoming	1	0	1	0	0	1	0	1	1
Total	411	475	1,326	532	138	168	40	302	920

[d]The NAP indicates the extent and nature of board participation in the various group insurance plans. The types of health insurance are itemized.

[e]The NAP gives the lengths of extended and sabbatical leaves and indicates whether they are at full or partial pay.

TABLE 1.—NUMBER OF 1970-71 COMPREHENSIVE AGREEMENTS CONTAINING CERTAIN PROVISIONS (Cont'd)

State	Long-term leaves of absence[e] (Cont'd)							
	Sick leave bank	Extended sick leave	Holding public office or conducting political campaigns	Exchange teaching—general	Foreign exchange teaching	Domestic exchange teaching	Department of Defense schools	VISTA
1	143	144	145	146	147	148	149	150
Alaska	0	0	0	0	0	0	0	0
Arizona	0	0	2	1	0	0	0	0
Arkansas	0	0	1	0	0	0	0	0
California	0	1	2	4	2	0	0	0
Colorado	0	2	4	1	0	1	0	1
Connecticut	0	10	3	15	8	6	1	5
Delaware	0	0	1	1	2	1	0	2
District of Columbia	0	0	0	0	0	0	0	0
Florida	0	0	1	0	0	0	0	0
Idaho	0	0	0	0	0	0	0	0
Illinois	2	7	11	13	8	7	5	2
Indiana	0	0	6	8	3	1	0	2
Kansas	0	0	1	1	0	0	0	1
Kentucky	0	0	0	0	0	0	0	0
Maine	1	0	5	3	0	0	0	3
Maryland	0	2	9	5	3	1	0	9
Massachusetts	8	12	28	48	8	3	2	10
Michigan	55	20	117	56	49	39	27	23
Minnesota	0	1	1	1	1	0	0	1
Montana	0	0	1	0	1	0	0	1
Nebraska	0	0	0	0	0	0	0	0
Nevada	0	1	0	0	0	0	0	0
New Hampshire	0	0	0	1	0	0	0	2
New Jersey	2	41	12	50	32	21	7	61
New Mexico	0	0	1	0	0	0	0	0
New York	12	60	35	74	26	21	13	70
North Dakota	0	0	0	0	0	0	0	0
Ohio	1	1	4	5	5	1	2	0
Oklahoma	0	0	0	0	0	0	0	0
Oregon	0	0	0	1	0	0	0	1
Pennsylvania	0	2	0	0	0	0	0	0
Rhode Island	1	4	2	10	3	2	2	6
South Dakota	0	0	0	0	0	0	0	0
Texas	0	1	0	0	0	0	0	0
Utah	0	0	3	0	1	1	1	0
Vermont	1	0	0	0	0	0	0	0
Virginia	0	1	1	1	1	0	0	1
Washington	0	0	2	4	1	0	2	0
Wisconsin	1	2	6	17	4	3	2	1
Wyoming	0	1	1	0	0	0	0	0
Total	84	169	260	320	158	108	64	202

TABLE 1.—NUMBER OF 1970-71 COMPREHENSIVE AGREEMENTS CONTAINING CERTAIN PROVISIONS (Cont'd)

State	Long-term leaves of absence[e] (Cont'd)						Short-term leaves of absence[f]			
	Peace Corps	Maternity leave	Military leave	Health (recovery)	Research, study, travel (unpaid)	Public service appoint-	General leave	Sick leave	Bereavement leave	Personal business leave
1	151	152	153	154	155	156	157	158	159	160
Alaska	0	0	0	0	0	0	0	0	1	2
Arizona	1	2	2	2	2	0	0	3	2	4
Arkansas	1	1	1	1	0	0	0	1	1	1
California	0	7	5	1	3	0	0	7	6	5
Colorado	2	4	5	3	3	0	1	7	6	7
Connecticut	20	45	32	13	20	1	6	55	47	58
Delaware	2	5	5	1	1	0	0	6	4	4
District of Columbia	0	1	1	0	1	0	0	0	0	0
Florida	0	2	2	1	2	1	1	2	0	0
Idaho	0	0	0	0	0	0	0	2	1	2
Illinois	10	57	30	22	24	1	3	71	44	58
Indiana	10	14	11	11	12	1	2	18	17	15
Kansas	1	1	1	1	1	0	0	1	1	1
Kentucky	0	1	1	1	1	0	0	1	1	0
Maine	4	10	8	3	6	0	1	16	13	13
Maryland	9	16	12	11	9	1	1	17	14	18
Massachusetts	58	89	77	54	17	6	6	119	109	108
Michigan	122	227	20	146	166	20	13	238	210	233
Minnesota	3	4	5	2	2	0	1	9	8	8
Montana	1	1	1	1	1	0	0	1	0	1
Nebraska	0	0	0	0	1	0	0	2	0	1
Nevada	0	2	1	1	1	0	1	2	2	1
New Hampshire	2	4	0	0	1	0	0	6	4	5
New Jersey	68	150	98	34	36	1	9	180	171	175
New Mexico	1	1	1	0	0	1	0	1	1	1
New York	93	281	146	90	69	16	11	348	292	344
North Dakota	0	1	0	0	0	0	0	1	2	1
Ohio	6	17	13	11	19	1	2	40	18	39
Oklahoma	0	1	0	0	0	0	0	0	0	0
Oregon	1	1	1	0	1	1	0	1	1	1
Pennsylvania	0	6	4	0	1	0	2	10	10	20
Rhode Island	13	17	15	7	5	0	3	20	21	17
South Dakota	0	0	0	0	0	0	0	2	1	1
Texas	0	1	1	0	1	0	0	1	1	1
Utah	0	5	5	3	2	0	1	5	4	5
Vermont	1	1	0	1	0	0	0	2	2	2
Virginia	1	3	3	1	2	0	1	3	1	3
Washington	1	8	5	3	7	1	1	10	11	11
Wisconsin	6	64	41	25	41	2	6	130	98	80
Wyoming	0	1	1	0	1	0	0	1	0	1
Total	437	1,051	554	450	459	54	72	1,339	1,125	1,247

[f]In addition to the four short-term leaves listed here, the NAP contains information concerning 17 other types of short-term leaves (exact length of leave, with or without pay, deducted from other leave or separate), and lists the amount and maximum accumulation of annual leave.

Special Reports

BRIEFS OF RECENT AGREEMENTS

Oakhurst (Ocean Township), New Jersey

Between the Ocean Township Board of Education, Monmouth County, and the Ocean Township Teachers' Association, effective July 1, 1971, to June 30, 1973. Approximately 150 certificated professional employees. Provision for a reopener on salary schedules and fringe benefits with Association submission of its proposals to the board on or before October 15, 1971.

Compensation: (1971-72) B.A., $7,700 to $14,100, 13 increments; B.A. plus 30 hours, $14,700 maximum; M.A., $8,200 to $15,100, 13 increments; M.A. plus 30 hours, $16,100 maximum; Ph.D., $17,100 maximum; separate salary schedule for nurses with degrees ranging from $6,600 to $9,200 in 14 steps; longevity pay (based upon years of service within or outside the district) of $300 after the 14th year of service and $200 after the 17th year of service. Differentials: (1971-72; first year of a five-year schedule) director of athletics, $1,155; head football and basketball coaches, $901 each; head soccer, baseball, wrestling, and track coaches, and equipment manager, $770 each; cross country track, field hockey, girls' track, tennis, and golf coaches, $462 each; senior class advisor, $400; student council advisor, $450; stage crew manager, high-school band director, and play director, $650 each; newspaper and yearbook advisors, $550 each; chess club advisor, $200; elementary chorus and band directors, $500 each; school psychologist, $500. Department chairmen receive $500 to $1,000 according to the years of experience as chairman (a maximum of 5 years' experience outside the district may be counted at the superintendent's discretion), as well as $30 per teacher supervised.

Leaves: 10 days' annual sick leave, unlimited maximum accumulation; extended sick leave at partial pay for absences beyond the accumulated sick leave and up to 60 days; teachers with 10 or more years' district experience will be granted 2 additional sick leave days for each year of district employment after all accumulated sick leave and personal leave have been exhausted; 2 separate days for personal business; 5 separate days' bereavement leave for a death in the immediate family; paid educational leave days will be granted by the superintendent when such leave "will be of direct benefit to the teacher and the school system"; paid leave shall be granted as necessary to meet military reserve obligations with no deduction for any military remuneration received; sabbatical leave at "fifty percent of . . . salary for the time involved" for one semester or one full school year after 7 years' service.

Insurance: Board pays full cost of comprehensive group health insurance plan and major medical insurance plan for family coverage.

Association: Payroll dues deductions for local, county, state, and national Associations; when the parties determine that negotiating sessions shall be scheduled during the school day, Association representatives shall be allowed released time without loss of pay; upon request, an Association representative may speak to teachers for at least 10 minutes at the close of each teachers' meeting; Association shall be allowed one hour of scheduled time during the annual orientation program; teachers may wear the insignia or other identification of Association membership; Association shall select building liaison committees comprised of no more than one member for every 10 building teachers (but not less than 3 members) which shall meet with the principal at least once each month "to review and discuss local school problems and practices, and to be consulted in the revision and development of building policies."

Instruction: All teachers are required to be available for remedial instruction for at least one 45-minute period per week; provision for the June 1, 1971, establishment of a joint 8-member Class Size Study Committee which shall meet regularly, submit a final report with recommendations to the board no later than September 15, 1971, and give "immediate attention" to the capacity of teaching facilities, the appropriateness of each classroom to course content, the availability of equipment for teacher and pupil use, and the necessity for an adequate number of competent specialists; provision for

the establishment of an Instructional Council no later than September 1971, which shall be composed of 5 representatives appointed by the superintendent, 7 Association representatives, and 2 board members, is empowered to form specific study committees, and shall advise the board "on such matters as curriculum improvements, teaching techniques, extra- and Co-curricular projects, in-service training, pupil testing and evaluation, [district] philosophy and educational goals . . . , teacher recruitment, research and experimentation, [and] educational specifications for buildings."

Personnel: Grievance procedure ends with Association submission of grievances relating to the contract or its interpretation to final and binding arbitration; teacher may review his personnel file upon written request; duty-free lunch period of no less than 30 minutes for all teachers employed in both the morning and afternoon sessions; provision stating that board "shall strive to make every effort to provide at least one (1) professional period per day or five (5) professional periods per week"; provision stating that teachers "may be required" to remain after school no more than 3 days per month (unless an emergency exists) for the purpose of attending faculty or other professional meetings which shall begin no later than 10 minutes after the pupil dismissal time; all teachers shall be acquainted with evaluative procedures and instruments (including who shall observe and evaluate their performance) within the first 5 weeks of school and shall be evaluated in writing at least twice annually, which evaluation shall be presented to the teacher within 5 school days of the observation and shall be followed by a conference with the observer within 10 school days; professional improvement clause stating that in order to receive any increment or adjustment, a teacher must take a minimum of 2 credit hours or an approved in-service course every 3 years and shall be reimbursed for the entire cost of the required credits provided those credit hours or programs have the prior approval of the superintendent; teachers will be reimbursed for each credit hour over the required minimum at the rate of $25 per approved credit hour, provided said courses or credits have the prior approval of the superintendent and were started after the beginning of the teacher's district service; when applicants for transfers are equally qualified, "seniority in the school system shall control."

State University of New York

Between the Executive Branch of the State of New York and the Senate Professional Association (an NEA affiliate), effective July 1, 1971, to June 30, 1974. Approximately 11,000 faculty members and 4,000 nonteaching professional staff. Provision for a reopener on or after November 1, 1971, "solely to amend this Agreement with respect to changes in employees' basic annual salary as of June 30, 1971, such change, if any, to take effect on July 1, 1972, July 14, 1972, or September 1, 1972, . . . and changes in employees' basic annual salary as of June 30, 1973, such changes, if any, to take effect on July 1, 1973, July 14, 1973, or September 1, 1973."

Compensation: By means of appropriate legislation, the basic annual salaries of incumbents in professional University positions as of June 30, 1971, "shall be increased by 6 percent, adjusted to the next higher whole dollar amount commencing (1) July 1, 1971 for employees having a calendar year professional obligation [defined as a 12-month professional obligation], or (2) September 1, 1971 for those employees having an academic year professional obligation" (defined as all employees other than calendar year employees); present standards with respect to the granting of service increases to employees in unallocated positions are to be continued for the 1971-72 academic year.

Leaves: Full-time employees accrue sick leave at the rate of 1-3/4 days per month during each month of University service or major fraction thereof, 165 days' maximum accumulation; upon the exhaustion of accumulated sick leave credits, additional leave at full pay may be granted by the campus president, provided that such additional leave together with any accumulated leave shall not exceed a total of 6 months; calendar year employees serving on a full-time basis accrue vacation leave at the rate of 1-3/4 days per month during each month of University service or major fraction thereof, 40 days' maximum accumulation; calendar year employees serving on a part-time basis accrue vacation leave on a prorated basis, while academic year employees do not accrue vacation leave credits; in conjunction with a negotiated maternity leave provision, an employee granted such leave may be permitted to reduce the amount of leave without pay by the use of any earned vacation leave credits upon approval by the campus president; provision stating that subject to the approval of the chancellor, leaves of absence at full or reduced salary may be granted an employee for the purpose of professional development, or acceptance of an assignment of limited duration at other institutions, organizations, or agencies; provision stating that in recognition of "the importance of attendance at national and state professional meetings to professional growth and development . . . , depart-

ments are encouraged to make funds available for attendance at such meetings"; calendar year employees required to work on any of 11 legally prescribed holidays "shall be granted an equivalent day off to be scheduled at time mutually convenient to the employee and the University"; upon separation, resignation, retirement, a change in the professional obligation from the calendar year to an academic year, or death, an employee eligible to accumulate vacation leave credits shall be paid for those credits to a maximum of 30 days on the basis of his current annual salary.

Insurance: Effective October 1, 1971, and upon the passage of appropriate legislation, all employees eligible to participate in the Statewide Health Insurance Program or covered by the Special Health Insurance Program may elect to participate in the State Dental Insurance Plan at no cost to the employee; in the event improvements are made in the state health or dental insurance plans, such improvements shall be extended to employees covered by this agreement on the date they are extended to other state employees; if an employee dies in the course of service, the state will provide a death benefit to the named beneficiary or the employee's estate of "three times annual salary, not to exceed $20,000, reduced by the value of a death benefit payable under a retirement program from monies attributable to contribution by the State, except that in no event shall any benefit payable pursuant to this article result in a payment greater than the value of the death benefit which would have been payable had the deceased employee been a member of the New York State Employee's Retirement System."

Association: Payroll dues deductions for local Association; employees involved in negotiation or grievance proceedings shall suffer no loss in pay; the local campus Association president and grievance chairman shall, upon request, be granted employee organization leave (defined as leave with pay and without charge to the employee's other leave credits) "for the purpose of implementing provisions of this Agreement"; Association delegates, representative council members, and members of its standing committees shall be granted employee organization leave for 3 delegate meetings per year which shall not exceed one day per meeting; members of the Association's executive committee shall be granted employee organization leave for 8 executive meetings per year; members of Association standing committees shall be granted employee organization leave for 4 meetings per committee per year; the chancellor will furnish the Association with a copy of the advance agenda of each regular meeting of the board of trustees at least 2 weeks prior thereto, and also will furnish the Association with 10 copies of the minutes of each board meeting; provision stating that if legislation is enacted which permits public employers and employee organizations to enter into agency shop arrangements, if the New York Court of Appeals removes legal impediments to the negotiation of such an arrangement, and if "a substantially mixed political subdivision of the State of New York enters into such an agreement, then SPA shall have the right to reopen contract negotiations with the State solely to seek agreement upon an agency shop provision permissible in accordance with law"; provision for the chancellor or his designee to meet with Association representatives twice each semester to discuss university-wide matters of mutual concern, and for the campus president or his designee to meet with Association representatives once each month to discuss local matters of mutual concern.

Personnel: Grievance procedure ends with final and binding arbitration, although disputes relating to termination for cause are not grievable; employee has right to review his personnel file and file written responses to any materials contained therein; retrenchment provision setting forth procedures to be followed in the event of financial or program curtailments (*see* following provision reprint); provision stating that "no employee shall be transferred to another college within the University without his consent," and that employees "whose services are satisfactory, but whose services are terminated because of change in program, lack of promotional opportunity or otherwise through no fault of their own, and who desire to transfer to other colleges within the University, shall be given special consideration for appointment to appropriate available positions in such other colleges"; provision for the establishment of a joint 8-member committee which shall study "the adequacy of salary schedules for full-time academic employees having academic rank at the colleges of medicine and dentistry at the University Health Sciences Centers," and shall report its findings to the parties' negotiating committees by November 1, 1971; provision for the establishment of a joint 12-member committee to study and make recommendations with respect to a system for the evaluation of professionals, which recommendations shall be reported to the state and the Association executive committee no later than January 15, 1972; any of the foregoing recommendations which are accepted shall be implemented by February 1, 1972, while those which are unacceptable may be the subject of "reopened negotiations, pro-

vided that the party wishing such reopened negotiations shall give notice on or before March 1, 1972"; a joint 12-member committee shall study a system for the promotion of professionals and report its recommendations to the state and the Association executive committee no later than February 15, 1972; any of the foregoing recommendations which are accepted shall be implemented by March 15, 1972, while those deemed unacceptable may be the subject of reopened negotiation, provided that the party requesting a reopener give notice on or before April 15, 1972; provision for the establishment of two University Standing Committees on Termination whose members shall be appointed by the chancellor upon the mutual approval of the University and the Association and which shall separately consider termination for cause matters involving (1) persons holding academic rank, and (2) all persons other than those holding academic rank; the termination committees shall, upon the request of the employee involved or at the direction of the chancellor, hold hearings upon a proposed termination and, if the appropriate committee finds the employee innocent of the charges presented against him, the charges shall be dismissed; if the employee against whom the charges have been preferred is found guilty by the appropriate termination committee, the chancellor shall recommend the penalty recommended by the committee or such lesser penalty as is deemed appropriate.

RETRENCHMENT

A. Retrenchment as the result of financial or program curtailment shall be applied in the following manner:

1. Termination of employment of incumbents of positions which are subject to retrenchment shall be made from among incumbents holding the same or similar positions in the unit, department or program, as appropriate.

2. Under normal circumstances, and consistent with the educational mission of the Department or program affected, termination shall first take place as follows:

a. Among the part-time employees in the department or program before full-time employees are terminated.

b. Among full-time employees holding academic rank, such termination shall be made from those holding temporary appointments before the termination of employees holding term appointments, and from those holding term appointments before the termination of employees holding continuing appointments. Such removal shall be made in the inverse order of appointment within each such group.

c. Among full-time professional employees, such termination shall be made in the inverse order of original appointment, provided, however, such removal shall be made from among employees having temporary appointment before the removal of employees having term appointments.

3. The State will notify the persons affected as soon as practicable recognizing that, where circumstances permit, it is desirable to provide the following notice of termination:

a. For those holding a term appointment, at least four (4) months.

b. For those holding a continuing appointment, at least one (1) semester.

4. Persons removed as a result of retrenchment shall be advised of the opportunity for reemployment in the same or a similar position at the college for a period of two years, and must accept such offer within 15 days after such offer, such acceptance to take effect not later than the beginning of the semester immediately following the date such offer was made. The University shall make every effort to place an incumbent so separated within the University, provided that a suitable position for which the person is otherwise qualified, is available for such appointment.

5. The original appointment shall mean the date of first appointment to University service followed by continuous and uninterrupted service with the University up to the time of reduction and abolishment of position. Authorized leave of absence at full salary and reduced salary or without salary shall not be deemed an interruption of service with the University. In the event an incumbent believes such date has been incorrectly determined, he shall so advise the college, and indicate the date he believes to be correct. (State University of New York)

Chester, Pennsylvania

Between the Chester Board of School Directors and the Chester Education Association, effective July 1, 1971, to June 30, 1972. Approximately 600 certificated professional employees. Provision for the negotiation of a successor agreement to begin no later than November 1 of the year preceding the calendar year of expiration.

Compensation: B.A., $7,300 to $12,000, 14 increments; B.A. plus 24 hours, $12,700 maximum; M.A., $7,900 to $12,900, 15 increments;

M.A. plus 45 hours, $13,500 maximum; Ph.D., $13,700 maximum; longevity pay of $100 after the first 10 years' service, and $100 after every 5 years' service thereafter; severance pay of $20 per year of service after 10 years' service when the employee retires effective July 1, 1971. Differentials: high-school head football and basketball coaches, $1,200 each; high-school head soccer, baseball, and track coaches, $775 each; high-school head cross country and tennis coaches, $450; high-school girls' head hockey coach, $450; high-school band director, $725; junior high head football and basketball coaches, $350 each; junior high girls' basketball, hockey, and softball intramurals coaches, $200 each.

Leaves: 10 days' annual sick leave credited at beginning of school year, unlimited maximum accumulation; teachers with accumulated sick leave in another state district may transfer such leave to a maximum of 25 days; 1 separate day of personal leave, 5 days' maximum accumulation; 5 separate days' bereavement leave for a death in the immediate family; 1 separate day of leave for the death of a near relative; up to 1 day of leave for school visitations or attendance at educational conferences; paid leave as necessary for any legal proceedings, provided a copy of the subpoena is submitted with the request for leave; paid leave to a maximum of 30 days for military reserve obligations with no deductions for any military remuneration received; retirement or severance pay of $10 per day of unused accumulated sick leave (excluding all transferred days) after 6 years' district service; sabbatical leave at half-pay for a half or a full school term or 2 half school terms within a 2-year period after at least 10 years' service in the state, at least 5 years of which must have been served in the Chester district.

Insurance: Board-paid Blue Cross-Blue Shield and major medical insurance for individual coverage; board-paid straight life insurance coverage of $10,000 for individual; a teacher who is absent as a result of a service-connected assault or injury shall be entitled to full salary and other benefits for the period of his absence, shall not forfeit any sick or personal leave, and shall be reimbursed for all medical, surgical, and hospital costs incurred.

Association: Payroll dues deduction for local Association; teachers involved in negotiation or grievance proceedings during school hours shall be allowed released time with no loss of pay; when necessary, Association representatives may transact Association business on school time with the knowledge of the principal, within a reasonable amount of time, and with arrangements for class coverage and supervision; teachers may wear the insignia or other identification of Association membership; upon an advance request, building or Association representatives may speak to teachers for at least 10 minutes during teachers' meetings and may request additional time of the principal; up to 3 days' paid leave may be granted to each of 7 Association representatives to attend conventions of the state and national Associations; when the Association president is a secondary teacher, he shall not be assigned more than 4 pupil instruction-supervision periods daily and shall be excused from regular study hall duties and homeroom assignments; when the Association president is an elementary teacher, he cannot be given regular time off, but should not be scheduled for extra-duty assignments; all orientation programs are to be co-sponsored by the board and the Association, with the latter obligated to assume only such costs as are mutually agreed upon during the planning of such programs.

Instruction: Provision stating that while "normally" a teacher will be given no more 3 teaching preparations, "unusual circumstances may dictate a fourth preparation [although] this practice may not be continued regularly with the same teacher"; barring limitations in facilities, secondary teachers "shall not be required to change subject area teaching stations more than three (3) times during the school day"; secondary teachers "shall not normally be required to teach continuously for more than three (3) periods, nor four (4) where double periods are used. When scheduling, limited facilities, and shifts dictate otherwise, continuous teaching beyond the aforementioned shall be rotated within the department"; elementary teachers shall not be required to teach continuously for more than 3 hours in the morning and 2½ hours in the afternoon; department heads shall not be assigned more than 4 pupil instruction-supervision periods daily and shall be excused from regular study hall duties and homeroom assignments; provision stating that the board "hopes to accomplish . . . within the next three (3) years" ultimate class size goals of a maximum of 22-25 pupils per elementary class, and 25-27 pupils per secondary class.

Personnel: Grievance procedure ends with Association submission of grievances to final and binding arbitration; teacher has right to review his personnel file upon reasonable notice and respond in writing to any material therein; duty-free lunch period of 30 minutes for all elementary teachers, although one teacher shall be assigned on a rotating basis to be "on call" in each building; duty-free lunch period of a

minimum of 30 minutes for all junior high teachers, while senior high teachers are to take their lunch period on their own time until a new high school is built or the school day is lengthened; elementary teachers are relieved of classroom responsibilities when a specialist is in attendance; provision stating that in the elementary schools "principals shall make every effort through administrative arrangements to attempt to provide a fifteen minute break during the A.M. sessions"; teachers may be required to remain after the end of the regular school day for 4 days each month for the purpose of attending faculty or other professional meetings which shall begin no later than 15 minutes after pupil dismissal time and shall last no longer than 60 minutes; provision for the establishment of a joint, 10-member Evaluation Committee which shall study and recommend specific criteria and procedures for teacher evaluation, and submit its recommendations to the superintendent and the board no later than December 15, 1971, for their review and adoption as an addendum to the current contract and as a substitute for present practices; in accordance with law, all probationary professional employees shall be "notified" at least twice each year "of the professional quality, professional progress, and rating of his or her services."

LONG-TERM LEAVES OF ABSENCE FOR ORGANIZATION WORK

An analysis of the 1,529 comprehensive agreements effective during the 1970-71 school year in systems with a pupil enrollment of 1,000 or more revealed that 332 agreements (21.7 percent) contained provisions for a long-term leave of absence for organization work. These leaves generally are granted for the purpose of allowing teachers to work on a full-time basis for the employee organization, whether on the local, state, regional, or national level. Moreover, there are two basic types of long-term organization leave: one is designed specifically for an elected official of the local organization (usually the president), while the second allows selected teachers to serve the organization in various capacities. Most of the leaves are unpaid and extend for a year or more; conditions affecting the teacher while on leave and upon return from leave vary.

A sample of 76 agreements (23.0 percent) drawn from every state in which a long-term leave for organization work has been negotiated was selected for further analysis. As one of the agreements contained a clause providing for both types of long-term organization leave, the number of *provisions* analyzed totals 77. Table 1 indicates the major negotiated content areas found in the 77 selected provisions, but it does not distinguish between the two basic types of leave. Categories listed in the table are not mutually exclusive since most provisions contained more than one feature. In addition, the analysis is limited to what appears in written negotiation agreements; no attempt is made to cross-reference the analyzed provisions with other negotiated content which indirectly may affect a leave of absence for organization work. Many of the sample provisions reprinted here represent only the pertinent portions of negotiated articles containing other peripheral and/or unrelated subject matter.

TABLE 1.—LONG-TERM LEAVES OF ABSENCE FOR ORGANIZATION WORK, 77 SELECTED PROVISIONS, 1970-71

General negotiated content	Incidence of designated content	
	Number	Percent
1	2	3
TOTAL NUMBER OF AGREEMENTS WITH SELECTED PROVISIONS ANALYZED	76	100.0%
Agreements with provisions relating to personnel other than organization president	63	82.9
Agreements with provisions relating to organization president	12	15.8
Agreements with provisions relating to both	1[a]	1.3
TOTAL NUMBER OF SELECTED PROVISIONS ANALYZED	77	100.0%
Purpose	77	100.0
To engage full time in organization business (local, state, regional, or national) as president or other personnel	57	74.0
To serve full time as organization president	13	16.9
To serve as elected organization officer, executive, or advisor	7	9.1
Leave requirements	34	44.2
Eligibility		
Tenure in district	10	13.0
Organization membership	5	6.5
Prior district service of at least two years	2	2.6
Application procedures		
Must apply in writing	10	13.0
Must apply by specified date	6	7.8
Leave must be requested by organization president	1	1.3
Selection of candidates	27	35.1
Designated or requested by organization	13	16.9
Decision by school board or superintendent	13	16.9
Joint decision by administrator/teacher committee	1	1.3

TABLE 1.—LONG-TERM LEAVES OF ABSENCE FOR ORGANIZATION WORK, 77 SELECTED PROVISIONS, 1970-71 (Continued)

General negotiated content	Incidence of designated content	
	Number	Percent
1	2	3
Number of teachers granted leave per year	26	33.8
One	10	13.0
Two	10	13.0
Three or more	6	7.8
Duration of leave	61	79.2
One year maximum	30	39.0
Two year maximum	21	27.2
One year with possible extension	6	7.8
For organization president's term of office	4	5.2
Salary while on leave	73	94.8
Unpaid	65	84.4
Other personnel	59	76.6
Organization president	6	7.8
Paid	8	10.4
Organization president		
Paid by school board	3	3.9
Paid by organization	3	3.9
Shared by school board and organization	1	1.3
Other personnel		
Paid by school board	1	1.3
Maintenance of fringe benefits	35	45.5
Sick leave benefits retained but not accumulated	28	36.4
Usual benefits retained if premiums paid by employee or organization	7	9.1
Conditions upon return from leave		
Salary	52	67.5
Full salary credit	35	45.4
No salary credit	9	11.7
Undefined	8	10.4
Job status	34	44.2
Assigned same or similar position	30	39.0
No assurance of same position	4	5.2

[a]One provision contained separate long-term leaves for organization work for both the organization president and personnel other than the president. As such, this provision is counted twice when dictated by variations in the conditions attending the two types of leaves. Thus, while the number of *agreements* analyzed totals 76, the total number of *provisions* included in the analysis is 77.

Leaves for Teachers Other Than the Organization President

Of the 77 selected provisions, 64 (83.1 percent) provided a long-term leave for organization work for teachers other than the organization president. A majority of these provisions specified that leave would be granted for the purpose of full-time involvement in organization business. Others variously provided

leave for teachers serving as elected organization officers, or organization executives or advisors. Three sample provisions are:

A leave of absence of up to one (1) year shall be granted to any teacher, upon application, for the purposes of participating in . . . the Illinois Education Association or the National Education Association as an officer or staff member of the association. (Champaign, Illinois)

* * *

The Committee agrees that up to two (2) teachers designated by the Association will, upon request, be granted a leave of absence for up to two (2) years without pay for the purpose of engaging in Association (state or national) activities. (Danvers, Massachusetts)

* * *

The Committee agrees that up to three (3) teachers designated by the Association may, upon individual request to the School Committee, be granted a leave of absence for up to two (2) years without pay for the purpose of serving as an elected officer in a local, state, or National Education Association. The exercise of this discretion by the School Committee will be reasonable. (Framingham, Massachusetts)

Teachers eligible to apply for a long-term leave of absence for organization work must be tenured in 13.0 percent of the provisions, must be organization members in 6.5 percent of the provisions, and must have prior district service of at least two years in 2.6 percent of the provisions. Application procedures most often consisted of applying for leave in writing and by a specified date.

More than one-third of the 64 pertinent provisions indicated who selects leave candidates, and a majority of these stipulated that the teacher is to be designated by the employee organization. In several provisions, leave candidates are to be selected by the school board or the superintendent; occasional clauses provide for a joint decision by an administrator/teacher committee. A sample provision is:

The Board agrees that up to two (2) teachers designated by the Association may, upon request, be granted a leave of absence without pay for up to one (1) year for the purpose of engaging in activities of the Association or its affiliates. (Fort Kent, Maine)

In addition more than one-third of the 64 provisions specified how many teachers could be granted leave at any given time. Most provided leave for either one or two teachers, while some provisions allowed a long-term leave for organization work for as many as 20 teachers. Leaves ranged in duration from one to five years, although more than two-thirds of the pertinent provisions granted leaves for a maximum of one or two years' duration. Occasional agreements provided leave for one year with a possible extension. One of the lengthier leaves found is contained in the following provision:

Leaves of absence without compensation will be granted for a teacher who is appointed to a full-time position with the Association, except that such leave shall not be extended beyond a total of five years. (Racine, Wisconsin)

Nearly all of the long-term leaves for organization work available to personnel other than the organization president were unpaid. However, more than one-third of the provisions stated that the teacher's accumulated sick leave and other fringe benefits would be retained but not accumulated during his leave. Several other provisions stipulated that such benefits would be retained if the teacher paid the applicable premiums for the term of his leave.

Conditions upon return from leave generally included mention of salary credit (or the lack thereof) and the status of the teacher's future district employment. Approximately one-half of the 64 provisions stated that the teacher would receive full salary credit for the period of his leave in that his salary upon return would be equivalent to that he would have received if actively employed by the district. A number of other provisions included indefinite references to salary credit upon return, or indicated that no salary credit would be given. Less than one-half of the clauses provided that the teacher would be assigned to his former position or a similar one upon return from leave. Two sample provisions are:

Upon the termination of a leave under this Article, the teacher will be restored as soon as practicable to the position which such teacher held at the time he began his leave, or a substantially equivalent position. . . . Failure to be available for assignment at the termination of such leave shall constitute resignation. (Waltham, Massachusetts)

* * *

Upon return from such leave such teachers shall be placed at the same position of the salary schedule as they would have been had they taught in the system during such period. (Jefferson, Michigan)

As noted in Table 1, occasional agreements provide two types of long-term leaves for organization work. One type of leave is granted to personnel other than the organization president (as discussed above), while the second type of leave is designed exclusively for an official of the local organization. A sample provision is:

A leave of absence without pay of up to one (1) year may be granted to any teacher upon application for the purpose of serving as an officer of the National or State Association or on its staff. Upon return from such leave, such teachers shall be placed at the same position on the salary schedule as they would have been had they taught in the system during such period.

The Board will grant a year's leave of absence, without loss of pay, to the President of the Association during his term of office. The Association will pay the salary of the replacement teacher for the President. (This is to be at the option of the Association.) (Salt Lake City, Utah)

Leaves for Organization Presidents

In the 76 agreements analyzed, 13 provisions (16.9 percent) provided long-term leaves of absence for the organization president in order to free him from his teaching duties so that he might devote his full time to organization work. A majority of the clauses granted this leave in the interests of the local organization, although some provisions allow leave for the president's employment with state, regional, or national affiliates of the organization. Procedures for obtaining such leave variously include prior school board approval, a specific request by the organization that the president be granted leave, and/or school board notification of an upcoming leave by a specified date.

More than one-half of the pertinent provisions granted leave for a period of one year, while approximately one-third provided leave for the president's term of office. Some agreements provided for the extension of a one-year leave. Of the seven provisions for paid leave, three indicated that the president's salary would be paid by the school board, three specified that the organization would pay the president's salary, and the remaining provision stated that the school board and the organization would share the cost of the president's salary. In addition, two of the three clauses providing for organization payment of the president's salary stated that the organization would pay the premiums for the president's fringe benefits during his leave.

Nearly one-half of the pertinent provisions indicated that upon return from leave, the president would be granted salary credit as if he had been actively employed by the district. Several other provisions specified that the president would return to the same position he had held prior to his leave.

Text

OREGON

TEACHER BARGAINING STATUTE

ORS 342.450. The Legislative Assembly, recognizing that teaching is a profession, declares that in matters arising between district school boards and certificated school personnel, it is in the best interest of public education in this state to establish a procedure for the orderly, equitable and expeditious resolution of such matters.

As used in ORS 342.450 to 342.470, unless the context requires otherwise:

(1) "Administrator" means a certified staff member who devotes a majority of his employed time to service as a supervisor, principal, vice principal or director.

(2) "Budget calendar" means a chronological list of dates set by the district school board for preparation, presentation, and adoption of the budget.

(3) "Confer, consult and discuss in good faith" means the process whereby a school board, teachers and administrators or such representatives as each may designate, have the mutual obligation to meet and confer in order to exchange freely information, opinions, and proposals, to endeavor to reach agreement on matters described in subsection (1) of ORS 342.460, and to seek to implement agreements reached.

(4) "Factfinding" means investigation of a persistent disagreement by an impartial individual who submits a report to the parties describing the issues involved in the disagreement, and containing recommendations for settlement.

(5) "Mediation" means efforts by an impartial third party to assist in reconciling a dispute between school boards and teachers or administrators regarding matters described in subsection (1) of ORS 342.460.

(6) "Teacher" means any person who holds a position requiring a teacher's certificate as provided in ORS 342.125 who is regularly employed on at least a half-time basis in a school district and who is not an administrator.

ORS 342.460. (1) Teachers and administrators, in separate categories, in a school district, shall have the right to confer, to consult and discuss in good faith with the district school board by which they are employed on matters of salaries and related economic policies affecting professional services, grievance procedures and compensation beyond the normal duties for which the teacher or administrator is employed.

(2) The board may be represented by a committee of its members or may designate a representative. The teachers or administrators may be represented (a) individually in a district employing 10 or fewer teachers or administrators, respectively; (b) by a committee of such teachers or administrators elected by a majority of the teachers or administrators; or (c) by an employee organization elected by a majority of teachers or administrators. In the event an employee organization is elected, the organization shall have the right to elect its representatives. However, nothing in this section is intended to affect the powers and duties of the district school board over matters of salaries and economic policies affecting professional services.

(3) The district school board shall establish election procedures to insure that teachers and administrators shall have the opportunity, not later than 30 days after the first day of school year, to determine by one or more elections conducted by the board or by its designee whether the teachers or administrators shall be represented under ORS 342.450 to 342.470 individually, by a committee of teachers or administrators, or by a particular employee organization. Notwithstanding subsection (7) of this section, all elections must be held within the period specified in this subsection.

(4) Such election may be called at the request of and an organization may be placed on the ballot either (a) by certifying to the district board that an organization has a membership enrollment of at least 40 percent of the teachers or administrators in the district, or (b) by petition containing the signatures of 30 percent of the teachers or administrators of the district. Committees may be placed on the ballot by petition in the same manner. Any other employee organization may intervene and be placed on the ballot by filing a petition signed by 10 percent of the teachers or administrators. If no choice of representation receives a majority, the subsequent ballots shall contain only the two choices receiving the highest and next highest number of votes.

(5) The committee or organization selected to represent the teachers or administrators of the district shall be the exclusive representative of the teachers or administrators for the purposes of this section. However, a petition signed by 30 percent of the teachers or administrators may be filed within 15 days after the first day of school year requesting a new election be held to determine the choice of representation and an election shall be held. In lieu of the petition, any organization not representing the teachers or administrators but having a membership enrollment of at least 40 percent of the teachers or administrators may require an election. However, no such election shall be held until at least one year after election of any choice of representation and such election must be held within the period specified in subsection (3) of this section.

(6) If requested by either party, agreements reached under the provisions of ORS 342.450 to 342.470 shall be completed 25 days prior to the date fixed in the budget calendar for the delivery of the budget message.

(7) District School Boards shall provide a procedure for determining teachers' or administrators' views on issues other than matters described in subsection (1) of ORS 342.460.

ORS 342.470. (1) A school district shall adopt a budget calendar in September of each school year. If 60 days prior to the date programmed in the budget calendar for the delivery of the budget message, teachers or administrators or their representatives meeting with the board under ORS 342.460 have not reached agreement over any matter within the scope of the right granted in ORS 342.460, mediation shall be invoked. The mediator shall be selected by mutual agreement but if there is no agreement within five days, the Superintendent of Public Instruction shall be notified by the board and shall appoint a mediator from a list of qualified persons compiled and published by him and containing names and mediators and factfinders.

(2) if the mediation does not result in agreement within 10 days of the appointment of the mediator, the mediator shall so report and a factfinder shall be appointed by the Superintendent of Public Instruction.

(3) Within 15 days of the time of his appointment, the factfinder shall submit in writing to the board and to the employees' representatives his reports, including a recommendation for a reasonable basis for the settlement of the disagreement.

(4) Consultation may continue during the time that mediation or factfinding is being conducted.

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NATIONAL EDUCATION ASSOCIATION

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Case Reviews

MASSACHUSETTS

RIGHT TO ARBITRATION QUESTIONED: BACK PAY AWARD VACATED

A lower court's confirmation of a grievance arbitration award issued in an extracurricular pay dispute between the Worcester Education Association and the local school committee was reversed and the award was vacated by the Massachusetts Supreme Court. In a matter complicated by procedural, jurisdictional, and timeliness issues, the high court decided that the language of the parties' negotiated grievance procedure "does not constitute an agreement by the Committee that it will submit any controversy to the [state] board for arbitration."

The parties' 1968-70 grievance procedure stated in part that "the Association may file at the request of the employee an application with the State Board of Conciliation and Arbitration for further review [of an unresolved grievance pursuant to specified statutory provisions]. The School Committee reserves the right to insist upon a court determination of the jurisdiction of the arbitrator."

In the instant matter, the parties filed an application with the state board "for arbitration" of the extracurricular pay dispute. The application concluded with the statement that "the parties hereby agree to abide by the decision of the Board in accordance with the law," and was signed by counsel for the Association and the School Committee Chairman.

When the state board determined that the school committee had violated the parties' agreement by not paying grievants the full amount of extracurricular pay contractually due them, the Association sought court confirmation of the award. The trial court dismissed as untimely the committee's motion to vacate the award, and subsequently issued an order confirming the award. It found that the committee had obligated itself to arbitrate the dispute, and ruled that if there was a jurisdictional question (as alleged in the committee's motion to vacate), the committee did not act within statutorily prescribed time limits.

On appeal here, the state supreme court disagreed with those conclusions in finding that the statutory provisions for filing an application for review by the state board nowhere contain the word "arbitration," and do not limit board action to a binding decision. Moreover, the parties' grievance procedure provided that the Association may seek "review" (not arbitration) of a controversy, and that the school committee has a right to insist upon a court determination of the jurisdiction of the reviewing body.

While the school committee consequently is not obligated to submit any controversy to arbitration by the state board, the high court pointed out that it may so obligate itself by properly applying to the board for arbitration. However, the application filed herein did not so obligate the committee because it did not comply with statutory procedures for filing a joint application for arbitration; that is, the committee chairman's signature on the application did not (under statute) bind the committee to arbitration. Thus, the state board did not acquire jurisdiction over the controversy.

With respect to the timeliness of the jurisdictional issue raised by the school committee, the state supreme court found that the question "was seasonably raised." It concluded that the school committee "was under no obligation to arbitrate the controversy unless it agreed to do so, either by some provision of the collective bargaining agreement, or by joining in the application to the board for arbitration." As neither situation occurred here, the state board had no jurisdiction, and its award was unenforceable. (*Franklin L. Sheahan, Jr. et al. v. School Committee of Worcester*, Massachusetts Supreme Court, June 22, 1971.)

NEW YORK

STAY OF ARBITRATION GRANTED IN TWO SABBATICAL LEAVE CASES

Two separate decisions rendered by the Nassau County Supreme Court granted a stay of arbitration to local school boards in cases involving teachers' alleged rights to sabbatical leave. In both decisions, the court found that the granting or

withholding of sabbatical leaves is a policy matter which is discretionary with the school board; therefore, so the leave denials involved herein were not grievable or arbitrable matters.

The court additionally referred to an amended portion of sec. 82 of the state Civil Service Law (Chap. 124, L. 1971) which became effective April 12, 1971, and prohibits sabbatical leaves for the year commencing July 1, 1971. A portion of sec. 82 stipulates that "this section shall not be construed so as to impair any contractual right to a leave of absence or sabbatical leave of absence where such contractual right was in existence and enforceable prior to the effective date of this section." Brief reviews of the two cases follow.

• When UFSD No. 24 (Hempstead) denied a teacher's application for sabbatical leave, the Valley Stream Teachers Association attempted to submit the dispute to advisory arbitration pursuant to the parties' agreement. The court, however, found that the Association had "misconceived both the nature of the advisory arbitration and the Board power with respect to sabbatical leave." It noted the nonmandatory language of the contractual sabbatical leave clause and concluded that "there is no sabbatical leave entitlement . . . only an indication that such leaves 'may be granted' on 'application.' . . . Accordingly, there appears no 'grievance' to be arbitrated in the sense of [a contract] violation or misinterpretation."

Furthermore, the contractual provision for advisory arbitration was inapplicable since the parties' agreement "makes it quite plain that the advisory arbitration procedure is for action below the Board level. The arbitration is advisory to the Board. . . . There is no contractual provision for compelling the Board itself to go to advisory arbitration." (*Board of Education of Union Free School District No. 24 of the Town of Hempstead v. Valley Stream Teachers Association*, New York Supreme Court, Nassau County, June 30, 1971.)

• In the second case, three teachers alleged that the superintendent of UFSD No. 6 (Babylon) orally had granted them sabbatical leaves on March 30, 1971, and then cancelled those leaves on April 19. The Amityville Teachers Association grieved the cancellations and subsequently filed a demand for arbitration which the district sought to stay in the present proceeding.

Again, the court pointed out that sabbatical leaves are discretionary with the board and ruled on the evidence submitted that the district had not granted the leaves prior to April 12, 1971, or the effective date of the Civil Service Law prohibition against such leaves. Since the board lacked authority to grant leaves after that date, the court held that "a 'grievance' did not exist . . . and there would be no arbitrable grievance or controversy."

In addition, since the parties' agreement provides that all leave requests "will be applied for and granted in writing," the court ruled that the superintendent's alleged oral statements "are an insufficient basis for holding that the Board . . . had in fact granted the leaves on or before March 30, 1971, however much they may reflect on the credibility of the Superintendent in his present denial that any leaves were granted." (*Board of Education, Union Free School District No. 6, Town of Babylon v. Amityville Teachers Association*, New York Supreme Court, Nassau County, August 10, 1971.)

PENNSYLVANIA

EXECUTION OF COLLECTIVE AGREEMENT RENDERS STRIKE DISPUTE MOOT

As the execution of a collective bargaining agreement resolved a strike controversy between the Scranton Federation of Teachers, AFL-CIO, Local 1147, and the local school district, the Pennsylvania Supreme Court held that an appeal of a preliminary injunction against the strike was rendered moot.

The controversy between the union and the district began December 21, 1970, when teachers struck in support of wage and contract demands. A trial court issued a preliminary injunction against the strike, but the present appeal of that injunction was dismissed since the parties reached collective agreement on July 15, 1971. (*School District of the City of Scranton v. Scranton Federation of Teachers, Local 1147, et al.*, Pennsylvania Supreme Court, October 12, 1971.)

OTHER ITEMS OF INTEREST

COURT DENIES FEDERAL EFFORT TO ENJOIN LOUISIANA TEACHER PAY RAISES UNDER FREEZE

The U.S. District Court for the Eastern District of Louisiana denied a Justice Department suit to enjoin payment of $400 raises to Orleans and Jefferson Parish (La.) teachers under the Nixon administration's wage/price freeze. In a one-paragraph order, the court found that "the pay raises for teachers in Orleans Parish and Jefferson Parish

sought to be enjoined . . . were in effect prior to and during the 30-day critical period ending August 14, 1971, and . . . therefore the injunction relief sought by the plaintiff United States of America . . . should be and the same is hereby denied."

In 1968, the Louisiana legislature adopted an act providing a $1,600 per year increase for state teachers to be implemented in four stages; the 1971-72 school year was to be the final year of the schedule. Monies providing 75 percent of the raises were appropriated by the legislature in 1970, and funds for implementing the remaining $400 increase were appropriated effective June 28, 1971.

On July 14, 1971, the Jefferson Parish school board adopted its 1971-72 budget and new teacher salary schedules incorporating the legislatively approved $400 increase. Both were made retroactive to July 1 since all parish school boards operate on a July 1 to June 30 fiscal year. When the Jefferson board paid that increase in September, the Justice Department filed a complaint asking the federal district court to restrain the board "from making wage and salary payments to teachers . . . in excess of wages and salaries paid to such teachers during the 30-day period" prior to August 14, 1971, which is the critical base period used in determining the highest wages and salaries payable under the freeze.

Meanwhile, the Orleans Parish school board adopted its 1971-72 budget and new teacher salary schedules on July 26, 1971, and made both retroactive to July 1. When local teachers subsequently were denied their increases under the new salary scale, they filed suit in the Civil District Court for the Parish of Orleans. That court found that Orleans Parish teachers

are normally paid one-tenth of their annual salary, every four weeks for forty weeks, commencing four weeks after the opening of schools. Thus, they are paid one-tenth of their annual salary for working one-thirteenth of a year so that each check includes 10/130 for the work actually performed and 3/130 for their vacation time, which vacation time is conditioned upon their working 200 days or forty 5-day work weeks.

Noting that teachers are under continuing employment arrangements until formally severed and that funds for implementing the legislatively enacted increases were effective well before the freeze, the court found that teacher salaries adopted by the Orleans Parish school board on July 26 and made effective July 1, "were actually in effect during the [30-day] base period and are based upon a substantial number of actual transactions for services of a like or similar nature," as required by the freeze. It consequently prohibited and enjoined the Orleans Parish school board from paying teachers any salaries other than those contained in the new schedule since

as of July 26, 1971, teachers employed by the Orleans Parish School Board had an enforceable right to the salary set forth in the schedule adopted by the Board on July 26 and the Board had an obligation to pay said salaries, even though the teachers' right was contingent on their reporting for duty on a specified date, and working a specified number of days during the fiscal year July 1, 1971 - June 30, 1972; and, [t]he teachers employed by the Orleans Parish School Board actually accrued earnings (at the new rate) for the fiscal year July 1, 1971 - June 30, 1972, which covered a period prior to August 15, 1971 [the effective date of the freeze].

The Justice Department subsequently moved to add the Orleans Parish board to its original suit against the Jefferson Parish board and asked that both districts be enjoined from paying teachers the legislatively approved $400 raise. In denying that motion, the federal district court noted conflicts and inconsistencies in regulations and guidelines issued by the Office of Emergency Preparedness (OEP) and the Cost of Living Council under the freeze. It relied upon Economic Stabilization Regulation No. 1 (the only OEP regulation promulgated to date) in reaching the conclusion that "the disputed pay raises became operative on July 1, 1971 and were in fact in effect as of that date. Since the raises were in effect prior to and during the 30-day base period ending August 14, 1971, those raises are not prohibited by the Executive Order."

The U.S. district court also commented upon the meaning of the phrase "substantial number of actual transactions"

as a determinative factor for computing a remunerative based figure for purposes of construing the Order. . . . The Government argued in its brief that it is "patently clear" that this term was meant to apply almost exclusively to prices and is not applicable to teachers' pay raises. The Government's view was opposed by the argument that the concept of substantial transactions was in fact relevant, in that over 10% of the school board employees in each parish were actually working before August 15 at the higher rate, and that since a significant percentage of employees were actually working, the test of "substantial transactions" applied in such a way as to validate the salary increases.

Though unwilling to confine the "substantial number of actual transactions" test to prices alone, the Court holds that standard to be inapplicable herein. It is the Court's opinion that the test of substantial transactions applies in instances in which varying rates of compensation were paid or received during the critical period. However, the test of substantial transactions has no application where an increased and proportionately equal salary schedule was already *in effect* prior to and during the base period. Although "substantial transactions" certainly is applicable to the case of a merchant who sells articles at varying prices, that yardstick is not applicable to the case of teacher employees who receive by legislative mandate an equal and fixed percentage pay raise effective prior to the critical base period.

(Cheryl Ann Epling, et al. v. James E. Dean, Jr., et al. consolidated with Marilyn Pierre, et al. v.

Harold Porter, et al., Civil District Court for the Parish of Orleans, October 1, 1971; *United States of America v. Jefferson Parish School Board*, U.S. District Court, Eastern District of Louisiana, October 8, 1971.)

NOTE: The National Education Association, joined by 36 of its state associations, seven local associations, and the Florida education commissioner, filed suit on September 24 against the Cost of Living Council, its members, and the Office of Emergency Preparedness in an effort to enjoin defendants from taking any legal action which would prevent the payment of teacher salary increases under the wage/price freeze. The action was entered in the U.S. District Court for the District of Columbia and is due to be heard November 12. It asks the court to

> adjudge and declare that defendants have acted arbitrarily in issuing vague, inconsistent and contradictory rulings, interpretations and policy statements with respect to teacher salary increases; that defendants have failed to provide fair warning of the circumstances in which the payment or receipt of teacher salary increases, or the request therefore, is unlawful; and that any enforcement of the Economic Stabilization Act of 1970, Executive Order 11615 or ES Reg. No. 1 against plaintiffs in these circumstances would constitute a deprivation of their rights under the Due Process Clause of the Fifth Amendment to the United States Constitution.

SCHOOL BOARD'S DISMISSAL OF NONTENURE TEACHER FOUND DEVOID OF ANTI-UNION BIAS

The U.S. Court of Appeals, Seventh Circuit, affirmed a federal district court's dismissal (NRD, 4-71, 7) of a suit brought by a probationary high-school teacher who was denied tenure by the Griffith (Ind.) school board. Plaintiff, an active member of the Griffith Federation of Teachers, AFL-CIO, Local 761, argued that his dismissal was in retribution for his union activities. But the appellate court found that the board's action was proper, because the record contained substantial evidence of plaintiff's improper classroom behavior, unprofessional attitude, and inappropriate actions and activities.

Citing *Pickering v. Board of Education*, the appeals court recognized, "as did the District Court, that the decision of a school board not to renew a teacher's contract is impermissible if it deprives a teacher of his constitutionally protected rights." But, pointing out that the board had given other active union members tenure and had even promoted some members, the appellate court ruled that "the decision of the defendants in refusing tenure status to the plaintiff was based on a nonprejudicial appraisal of his performance as an educator [and] no evidence or finding supports plaintiff's contention of anti-union bias by the defendants." (*Thomas C. Knarr, et al. v. The Board of School Trustees of Griffith, Indiana*, U.S. Court of Appeals, Seventh Circuit, October 4, 1971.)

Board Findings and Rulings

MICHIGAN

AGENCY SHOP FEE MAY INCLUDE STATE AND NATIONAL DUES AND MAY BE RETROACTIVE

Reaffirming prior decisions which held that "an agency shop provision is a mandatory subject of bargaining in the public sector" (NRD, 5-70, 4, 9), the Michigan Employment Relations Commission (MERC) dismissed an unfair labor practice charge brought by a teacher against the Swartz Creek Community Schools for enforcement of an agency shop provision negotiated with the Swartz Creek Teachers Association. The MERC adopted a trial examiner's recommended order and reiterated its stance that termination of employment for failure to pay a required agency shop fee is proper and subject exclusively to MERC jurisdiction.

The MERC additionally held that it is not illegal to require in an agency shop provision that nonmembers pay an amount equivalent to Association members' annual dues, even though part of those dues are sent to the parent state and national associations. It noted that the $80 dues (and agency shop fees) are payable to the Swartz Creek Teachers Association, that local Association members are required to join the state and national associations as well, and that the distribution of funds to the state and national associations is made by the local association.

It cited *NLRB v. General Motors Corporation* in which the Supreme Court of the U.S. held that "under agency shop provisions, continued employment would be conditioned on payment of sums equal to the initial fee and the regular monthly dues paid by the union members. It further held that the agency shop arrangement places the option of membership on the employee, while still requiring the employee to contribute the same monetary support as would be required under a union shop."

Concluding that such a procedure "is indicative of the common practice that most unions follow" and that a similar arrangement with respect to the disbursement of Swartz Creek Teachers Association dues is not illegal under the PERA, the MERC commented that

> It is virtually impossible to be able to separate the portion of dues which are spent for collective bargaining purposes. Both the National Education Association and the Michigan Education Association provide a large variety of services to local units as the needs arise. The payment of all dues eventually relate to collective bargaining, as was held by the U.S. Supreme Court in *Retail Clerks International Association, Local 1625, AFL-CIO, et al. v. Schermerhorn, et al.*

Finally, the MERC determined that an agency shop clause may be given retroactive effect since the Swartz Creek agreement was made retroactive in its entirety, and the contract benefits applied equally and retroactively to all unit members. (*In Re Swartz Creek Community Schools, et al. and Kathryn Jackson and Swartz Creek Teachers Association and Michigan Association of School Boards*, Michigan Employment Relations Commission, July 29, 1971.)

NO PANT SUIT RULE FOUND UNREASONABLE AND CONTRARY TO NEGOTIATED MANAGEMENT RIGHTS CLAUSE

A rule promulgated by the Kingsley education board which prohibited women teachers from wearing pant suits was ruled contrary to a negotiated management rights clause and an individual's constitutional right to freedom of expression. Finding the rule unreasonable because "standards of behavior and modes of dress have so changed that pant suits are now acceptable attire for women teachers," the arbitrator additionally observed that courts have established the principle that individual liberties may be restricted only upon a showing that an individual mode of expression interferes with the educational process.

In thus upholding a grievance entered by the Kingsley Education Association on behalf of two women teachers who were told by an elementary-school principal that pant suits were unacceptable classroom attire, the arbitrator commented upon the pros and cons of such garb:

> A pant suit within the context of this arbitration is a tailored garment which is the counterpart of a man's business suit. The top of the suit must cover the hips, and the top and bottom must match or be coordinated. A pant suit is not slacks and a sweater or blouse. It does not include the type of garment with trousers, worn by women at evening parties as a substitute for a formal gown, some of which exhibit characteristics of pajamas.

The thrust of the school district argument is that a pant suit worn by a teacher damages her "image." Teachers should, the board urges, wear clothes which are above the average of those worn by ordinary citizens. This standard may be correct. But no evidence was offered by the board to support the view that properly tailored pant suits may not be "above the average . . . worn by ordinary citizens." There is no distinction between dresses and pant suits with respect to their being above or below the average worn by citizens, generally. Dresses vis-a-vis pant suits has nothing to do with the comparison of the type of clothes worn by teachers and others in the community.

The arbitrator also quoted a statement of a former chief justice of the Michigan Supreme Court which found "nothing inappropriate about trouser suits for women lawyers appearing in the Supreme Court, or any other court in the state." He observed that "women's garb appropriate for the Michigan courts should be equally suitable in the schools," and referred to several elementary teachers' testimony that many education activities "could be performed more effectively in pant suits than in skirts." Furthermore, he pointed out that "a number of the problems which are eliminated by pant suits appear to result from the miniskirt, a form of female garb to which the school administration and board apparently have no objections."

Determining that the school board's pant suit rule was unreasonable, the arbitrator found it "unnecessary to decide whether the constitutional issue *should* be applied in Kingsley School District" in view of Art. V, sec. B, of the parties' contract. That clause states that "the board retains the right to establish and equitably enforce, reasonable rules and personnel policies relating to duties and responsibilities of the teacher and the working conditions which are not inconsistent with this agreement or in violation of law."

As the board essentially argued that the Association grievance "was a direct attack on the board's right to govern any kind of dress," the arbitrator concluded that "this concept is directly contrary to Section B of Article V . . . [and] is also contrary to the constitutional rule enunciated by several federal courts." (*School District of Kingsley and Kingsley Education Association*, June 4, 1971.)

NEW YORK

SUMMER SCHOOL TEACHERS SHARE COMMUNITY OF INTEREST WITH REGULAR TEACHERS

Three decisions on the representation of summer school teachers employed in school districts in the towns of Hempstead and North Hempstead have been rendered by the New York Public Employment Relations Board (PERB). While the circumstances attending the certification petitions filed by three teachers organizations vary somewhat, the PERB decisions indicate that summer school teachers are entitled to representation where they have a sufficient continuity of employment, and will be included in a unit of regular full-time teachers where they have a sufficient community of interest with such teachers. However, summer school teachers will not be accreted to an existing regular teacher unit where the existing unit enjoys unchallenged representation status pursuant to statute. Brief reviews of the three cases follow.

• Upon a petition filed by the Great Neck Teachers Association for certification as exclusive representative of all summer school teachers employed by the Great Neck education board, UFSD No. 7 (North Hempstead), the PERB found a sufficient continuity of employment to warrant their inclusion in a negotiating unit. It noted that the district had conducted a continuous summer school program since 1962, that teachers who previously had participated in the program are given first preference in hiring, and that some 65 percent of the summer school staff "are returnees from the immediately preceding summer."

But the PERB reversed its acting representation director's recommendation that a separate unit for summer school teachers be established in finding "the most appropriate unit to be a joint unit comprised of both the existing regular teacher unit and the summer school teachers."

In establishing the community of interest between summer school staff and regular teachers, the PERB noted that the duties of the two "are more similar than dissimilar," that all are certified and use the same facilities and materials, and that summer school compensation is based upon the rate of compensation paid regular teachers. "Most importantly," according to the PERB, is the fact that

over 85% of the summer school teachers are also regular Great Neck teachers and already members of the unit. This overlap insures that no conflict of interest will take place between the two groups. Additionally, the preference given by the employer to Great Neck teachers in hiring for the summer school makes it in the interest of all Great Neck teachers to protect the rights of the minority group since any of them, potentially, could be in that group. . . . Consideration of the second criterion of CSL § 207.1, competence of the officials at the level of the unit, also leads to the conclusion that a single amalgamated unit is most appropriate. The employer for both the summer school teachers and the regular teachers is the Board of Education. In both cases the official with whom they deal is the Superintendent of Schools and in both cases the chain of command during any negotiations would be the same.

Finally, as to the third statutory criterion, the compatability of the unit with the joint responsibilities of the employer and the employees, *Helsby v. Board of Education of the City School District of the City of Poughkeepsie* . . . makes it clear that a combined unit is preferable. In that case the judge pointed out that having a unit of just summer school teachers would compress the formation of the employee organization, its recognition or certification, and negotiations into the brief period of the six-week summer school session. . . . This would not occur in the larger unit, where summer school conditions would be negotiated—contingent upon there being a summer school—when the regular contract would be negotiated. This creates no greater burden than is normally placed on the parties in the collective negotiating situation.

While concluding that the appropriate unit should contain both regular teachers and summer school teachers, the PERB was constrained from ordering accretion of the summer school teachers to the existing regular teachers' unit by the existing unit's statutory period of unchallenged representation. Therefore, it had no alternative but to dismiss the Association's petition, with the opinion that "after the expiration of the period of unchallenged representation, representation should be on the basis of the combined unit." (*In Re Great Neck Board of Education, Union Free School District No. 7, Town of North Hempstead and Great Neck Teachers Association*, New York Public Employment Relations Board, March 8, 1971.)

• Faced with a similar situation in a matter involving summer school employees of Central High School District No. 2 (Hempstead and North Hempstead), the PERB's representation director dismissed a certification petition filed by the Sewanhaka Federation of Teachers owing to the period of unchallenged representation enjoyed by the existing unit of year-round teachers.

Again, summer school teachers were found to have a sufficient continuity of employment to be eligible for representation. Moreover, the summer school program "involves substantially the same teachers (75 to 91 percent) as those in the year-round program," thus indicating "an obvious community if not identity of interest between the summer school and year-round staff." Referring to the PERB decision above, the representation director concluded that the summer school employees should be included in the basic year-round unit after the expiration of the existing unit's unchallenged representation status. (*In Re Central High School District No. 2 of the Towns of Hempstead and North Hempstead and Sewanhaka Federation of Teachers*, New York Public Employment Relations Board, April 5, 1971.)

• The third case represents a departure from the previous two in that summer school teachers employed in a cooperative summer school program *alternately* administered by two school districts were found to be "casual employees who do not have a sufficient continuity of employment with the same employer to warrant mandated representation rights." In so ruling, the PERB's representation director dismissed a petition filed by the Mineola Teachers Association for certification as exclusive representative of summer school teachers employed by UFSD No. 9 and UFSD No. 10 (both North Hempstead).

While the Association contended that the two districts are joint employers of summer school teachers, the representation director found that in the past five years, the two districts

in alternate years, have sponsored and been responsible for the functioning of the summer school. The Board of Education of the sponsoring school district . . . annually determines that a summer school program will be offered, appropriates the necessary funding, develops curriculum, provides books and materials, permits the use of its year-round school building and other facilities, hires the teaching staff, and controls the day-to-day activities of the summer school. . . . Both [districts] grant a preference in hiring to those teachers who have rendered prior satisfactory service in the summer school program. The next preference, if additional staffing is required, is given to year-round teachers of [the districts], and then to teachers from other districts. . . . Summer school teachers are all paid the same salary and, apart from a pension contribution, receive no fringe benefits.

Referring to one PERB case in which a joint employer relationship was found to exist, the PERB director noted that there "one of the employers had sole and exclusive control of the wages to be paid to the employees at issue, whereas the other employer concurrently controlled the day-to-day work activities of the employees." He determined that such a situation "clearly" is not true here since

there is only one entity . . . which each year exclusively determines *all* the terms and conditions of employment of summer school teachers. . . . For there to be a joint employer relationship, the entities involved must have *simultaneous* responsibility regarding terms and conditions of employment of the employees.

Given the lack of a joint employment relationship, the director concluded that

although seasonal employees who continually work for the *same* employer each summer are clearly "public employees" entitled to the benefits of the Act, such is not the situation in the instant case. Here we are dealing with employees who have an on-going relationship with their employer only during alternate summers; . . . . Their summer school relationship with both of these employers is, accordingly, a highly tenuous one. Thus, . . . I find that these summer school teachers are casual employees [ineligible for representation rights].

(*In Re UFSD No. 9, Town of North Hempstead, and UFSD No. 10, Town of North Hempstead, and Mineola Teachers Association*, New York Public Employment Relations Board, April 8, 1971.)

PENNSYLVANIA

CHAIRMEN AND OTHER SUPERVISORY EMPLOYEES EXCLUDED FROM TEACHER BARGAINING UNIT

The Pennsylvania Labor Relations Board (PLRB) determined that part-time Title I teachers and a social worker should be included in an appropriate unit of North Hills district teachers and other employees. But it excluded department chairmen, secondary and elementary chairmen, district coordinators, the director of cafeterias, and the home and school visitor from the unit on grounds that they have supervisory responsibilities. As the North Hills Education Association (NHEA) had proved that a majority of unit employees desired NHEA representation and no other organization had entered a similar claim, the PLRB certified the NHEA as exclusive representative of the unit.

According to the PLRB, the fact that Title I teachers are part-time, are paid by federal funds and employed according to their availability, and do not work under contract does not defeat their inclusion in the unit. It emphasized the great difference between substitute teachers and regular part-time personnel, and pointed out that Title I teachers receive compensation based upon the salaries of other unit employees.

The district social worker also was included in the unit, despite the employer's contention that she has access to "confidential" information. Relying upon interpretations of the term "confidential employee" as used in the National Labor Relations Act, the PLRB held that only those employees who encounter confidential labor-management relations information used by the employer should be denied representation.

In excluding department chairmen, secondary and elementary chairmen, and district coordinators from the unit, the PLRB found that while their primary function is teaching, they perform recognized supervisory functions, must meet certain degree and experience qualifications, and receive added compensation for the extra duties they perform. Such supervisory duties include recommending curriculum, textbooks, and employee selection and retention, according to the PLRB.

The director of cafeterias (whom the NHEA acknowledged to be a supervisor) and the home and school visitor (who also serves as director of transportation) were excluded from the unit on supervisory grounds. While both individuals supervise a class of employees which would not be included in the teacher unit, the PLRB noted that the state's bargaining statute excludes supervisors from the statute's coverage without reference to the type of employee supervised. It concluded that

> supervisory exclusion is based upon the premise that the nature of supervisory duties requires that a supervisor associate himself with the interests of management. This association comes from the fact that the supervisors are at least expected to enforce, if not participate, in the making of management policy, and such an association *would be expected to exist regardless of the type of employees supervised.*

(*In Re Employees of the North Hills School District*, Pennsylvania Labor Relations Board, July 21, 1971.)

TEACHERS ARE EMPLOYEES (NOT PROFESSIONALS) FOR BARGAINING PURPOSES, PLRB SAYS

Acting upon an unfair labor practice charge filed by the State College Area Education Association against the local school board, the Pennsylvania Labor Relations Board (PLRB) pointed out that while teachers are professionals, they are employees under the state's public employee bargaining statute (Act 195). It noted the Act's repeated references to "public employee" and held that the statutory definition of professional employee is applicable "solely" to a distinction between professional and nonprofessional employees "in the determination of the kinds of employes composing an appropriate unit in accordance with . . . the Act."

In dismissing the Association's charge, which was based upon the State College Area School District's refusal to bargain enumerated items, the PLRB discussed portions of the Act setting forth the parties' bargaining obligations and the scope of negotiable items. Sec. 701 of the Act states in part that collective bargaining "is the performance of the mutual obligation of the public employer and the representative of the public employes to meet at reasonable times and confer in good faith with respect to wages, hours and other terms and conditions of employment."

Sec. 702 then provides that

> public employers shall not be required to bargain over matters of inherent managerial policy, which shall include but shall not be limited to such areas of discretion or policy as the functions and programs of the public employer, standards of services, its overall budget, utilization of technology, the organizational structure and selection and direction of personnel. Public employers, however, shall be requried to meet and discuss on policy matters affecting wages, hours and terms and conditions of employment as well as the impact thereon upon request by public employe representatives.

Noting the "broad discretionary powers" given school authorities in exercising their policy-making functions, the PLRB held that a school board is not required by the Act "to bargain over matters which are the responsibility and perogative [sic]

of management, but is required to 'meet and discuss' policy matters affecting wages, hours and terms and conditions of employment as well as the impact thereon upon request of employes representatives." Since the items enumerated in the Association's charge were found by the PLRB to be nonnegotiable "maters of inherent managerial policy" and the Association refused to consider them on a "meet and discuss" basis, the charge was dismissed. (*The Pennsylvania Labor Relations Board v. State College Area School District Board of School Directors*, Pennsylvania Labor Relations Board, October 14, 1971.)

NOTE: Exceptions to the PLRB's decision have been filed by the Association and are due to be heard in mid-November. The Association reportedly will seek court review of the decision if PLRB action on its exceptions is unfavorable.

OTHER ITEMS OF INTEREST

NLRB INCLUDES PART-TIME FACULTY AND CHAIRMEN IN FULL-TIME FACULTY UNITS AT TWO UNIVERSITIES

Two recent decisions of the National Labor Relations Board (NLRB) determined appropriate faculty bargaining units at the University of Detroit and Fordham University, and directed a representation election at the latter institution. In both cases, part-time faculty and department chairmen were included in a unit of full-time faculty, although a separate unit of law school faculty was deemed appropriate at Fordham University. Summaries of the two decisions follow.

• Upon petitions by the Fordham University chapter of the American Association of University Professors and the Law School Bargaining Committee, the NLRB determined two separate, appropriate bargaining units—one comprised of some 480 full-time and 235 part-time faculty members outside the law school, and the other of 21 full-time and 10 part-time law school faculty. All parties had agreed to exclude the university's more than 150 graduate assistants and teaching fellows from any bargaining unit.

While the university contended that all faculty members (except instructors) are supervisors, the NLRB ruled to the contrary in finding it

clear that the faculty exercises its role in policy determination only as a group. . . . In our view, the presence of faculty members in the Faculty Senate and on a number of university-wide committees does not require a different result, even assuming that such bodies have power effectively to recommend major policy decisions. The faculty members serving on these committees are elected by other faculty members to represent the faculty as a whole, and no one faculty representative can make the policy decisions in question. The role played by these representatives in governing the University is thus one of participation in a group determination and does not make them individually supervisors. Similarly, the selection of graduate assistants and teaching fellows and the renewal of their assistantships or fellowships are determined collectively by each department. While many assistants work under particular faculty members, the faculty member in such cases . . . is simply exercising the same kind of supervision over the assistant that he would exercise over any graduate student working toward his degree. . . . It seems clear, therefore, that the relationship between a faculty member and his graduate assistant is basically a teacher-student relationship which does not make the faculty member a supervisor.

Finally, individuals hired by faculty members directing research grants are not employees of the Employer. Therefore, even if such faculty members are supervisors with respect to these individuals, they are not supervisors in their relationship to the Employer. For these reasons, we find that the faculty members are not supervisors, and are professional employees within the meaning of Section 2(12) of the Act, and are entitled to all the benefits of collective bargaining if they so desire.

The university additionally contended that all department or division chairmen and assistant chairmen are supervisors ineligible for representation. But, in reviewing the duties, authority, and employment conditions of department chairmen, the NLRB found that

decisions as to appointment, promotion, and tenure are in fact made not by the chairman alone, but by the faculty of the department, acting as a group. To the extent that the chairman's recommendations concerning these matters are given more weight than those of other faculty members, this fact appears to reflect the chairman's superior knowledge and experience, and does not indicate possession of the type of authority contemplated in the statutory definition of a supervisor. The Chairman does not direct the work of faculty members. While the chairman prepares the budget for this department, he does so only with the advice and consent of the faculty members. His recommendations as to salaries are subject to review at three levels of administrative authority, and his views are not always followed. We cannot, therefore, find that the chairman has power effectively to recommend salary increases. While the chairman exercises some direction over his secretary and plays some part in the selection, it does not appear that he has statutory authority over that employee. . . . Thus, the record does not indicate that a chairman makes the final selection for hiring, or has authority to discharge a secretary or effectively to recommend discharge. . . . In addition, it is significant that the department chairmen consider themselves, and are considered by faculty members, to be representatives of the faculty rather than of the administration. There is some indication that the University views them similarly. . . . Accordingly, we find that the department chairmen are not supervisors and shall include them in the unit.

Assistant chairmen likewise were included in the unit since there was no evidence that they possess any supervisory authority. With respect to the inclusion of part-time faculty, the NLRB cited its *New Haven* decision, wherein it was

decided that "regular part-time faculty members must be included in the same unit as the full-time faculty, absent agreement of the parties to exclude them." As the facts of this case paralleled those of *New Haven*, the NLRB included part-time faculty in both units found appropriate herein with the stipulation that "if the parties cannot reach agreement as to the regularity of employment of any individual part-time faculty members, such individuals may vote subject to challenge."

Two other groups of employees permitted to vote subject to challenge were professional librarians (whose supervisory status in some cases was unclear) and ancillary support professionals such as counselors, employees in the admissions and placement office, and laboratory technicians (whose status as professional employees could not be ascertained from the record). Finally, the NLRB also included some 70 full-time faculty members who are Jesuits in the unit since there was "no evidence that membership in the Order is in any way inconsistent with collective bargaining with respect to a Jesuit's salary or other terms and conditions of employment."

In determining that university law school faculty should constitute a separate appropriate unit for bargaining purposes, the NLRB explained that such faculty constitute

> an identifiable group of employees whose separate community of interests is not irrevocably submerged in the broader community of interest which they share with other faculty members. Members of the law school faculty have specialized training, work in a separate building under their own supervisor (the dean of the law school), and, acting as a group, have a voice, separate from that of the faculty of the remainder of the University, in determining their working conditions. There is little or no interchange between them and other faculty members. As a result of its separate calendar, the law school is open for brief periods while other parts of the University are shut down, and vice versa. . . . On this record, we cannot conclude that the operation of the law school is so highly integrated with that of the remainder of the University as to compel a finding that an overall unit alone is appropriate. Finally, we note that there is no bargaining history on a broader basis and that no labor organization seeks to include the law school faculty in a broader bargaining unit.

(*Fordham University and American Association of University Professors, Fordham University Chapter; Fordham University and Law School Bargaining Committee*, National Labor Relations Board, made public September 19, 1971.)

• Referring again to its *New Haven* decision, the NLRB included part-time University of Detroit faculty in a unit of full-time faculty since the former were found to be professional employees having a substantial community of interest with the latter. Department chairmen also were included in the unit because there was no evidence of supervisory authority in their recommendations regarding the appointment, promotion, tenure, or discharge of other faculty members. Moreover, chairmen usually receive no additional compensation, and the university apparently regards them as faculty members rather than administrators. (*University of Detroit and University of Detroit Chapter, American Association of University Professors*, National Labor Relations Board, October 6, 1971.)

Negotiation Notes

ARIZONA

DUES DEDUCTION PRIVILEGES MAY BE GRANTED TO TEACHING STAFF BUT WITHHELD FROM NONTEACHING PERSONNEL

In upholding a trial court's ruling, the Arizona Court of Appeals decided that Alhambra Elementary School District No. 63 legally could grant dues deductions privileges to district teaching employees while withholding such privileges from nonteaching personnel. It emphasized, however, that "this opinion deals with the respective rights and privileges between employees of the school district and does not deal with discrimination as between unions representing either teachers or nonteachers."

The court's decision was based upon a determination that the state and federal constitutions require only that all individuals in a certain class be treated equally, and that the classification itself be reasonable. One test of reasonableness is whether there are substantial differences between those individuals within and outside a given class. While Alhambra district teaching and nonteaching personnel all are district employees and their terms and conditions of employment are a matter of contract, the court found that there does exist a "valid reasonable classification" between the two classes of employees "for the purpose of allowing the school district to contract on different terms of employment between these groups." it explained:

To make clear that insofar as teachers are concerned, they occupy a unique status in the public education of our youth, we need only point out that the very existence and purpose of a school district depends upon the employment of qualified and dedicated teachers together with the necessity to compete with other school districts for such personnel. Therefore, the classification of teachers vis-a-vis nonteachers for purposes of employment and inducements for employment has long been recognized.

One of the inducements which in our opinion could be held out to teachers and withheld from nonteachers, is the privilege of payroll deductions.

We therefore hold, that in the first instance, the board of trustees could, by contracts of employment, legally grant as a condition of employment, the right to teachers to have payroll deductions for whatever purposes they may desire and could legally, by contracts of employment, withhold this same privilege from nonteachers as a condition of employment. The fact, as far as appears of record, that the privilege of payroll deductions was not a matter of contract between the teachers and the school district is not material. If, as we have held, the classification is reasonable for contract purposes, we see no reason why that classification should become unreasonable when voluntarily applied without a contract.

HAWAII

PUBLIC EMPLOYEE AND STATE EMPLOYEE BARGAINING STATUTES AMENDED

An amendment to the Hawaii public employee bargaining statute permits employee participation in the collective bargaining process during regular working hours without loss of pay. The amendment, which became effective June 22, 1971, was enacted by H.B. 124, L. 1971, and has been incorporated in the statute as subsection (c) of sec. 8:

Employee participation in the collective bargaining process conducted by the exclusive representative of the appropriate bargaining unit shall be permitted during regular working hours without loss of regular salary or wages. The number of participants from each bargaining unit with over 2,500 members shall be limited to one member for each 500 members of the bargaining unit. For bargaining units with less than 2,500 members, there shall be at least 5 participants, one of whom shall reside in each county; provided that there need not be a participant residing in each county for the bargaining unit established by [sec. 6(a)(8), which relates to an appropriate unit comprised of personnel of the University of Hawaii and the community college system, other than faculty]. The bargaining unit shall select the participants from representative departments, divisions or sections to minimize interference with the normal operations and services of the departments, divisions or sections.

The Hawaii Employment Relations Act (which covers state employees) also has been amended to extend the definition of "labor dispute." That amendment was enacted by S.B. 822, L. 1971, became effective May 24, 1971, and reads as follows:

Sec. 90-2(h) "Labor dispute" includes any controversy concerning terms, tenure or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment,

regardless of whether the disputants stand in the proximate relation of employer and employee.

IOWA

SCHOOL-BOARD COMMITTEES MAY NOT DISCUSS TEACHER SALARIES AND PERSONNEL POLICIES IN SECRET

In interpreting portions of Iowa's 1967 open meeting law, the state attorney general advised the state superintendent of public instruction that school-board committees may not hold secret meetings to discuss teachers' salaries and the development of general personnel policies, nor may they regularly hold secret meetings for any reason.

The attorney general found that "committees of the board are squarely within the statute," and that the committees in question were established to transact "board business, *i.e., public business*, with curriculum, finances, [and] the salaries of public employees." Under the circumstances,

the public would have a *right* to attend [such board committee] meetings, even if no board members served on them. It would be a strange construction, indeed, if a statute enacted to assure that board meetings would be open to the public could be frustrated by handing over the board's duties, or some of them, to be exercised in secret by the board's employees.

One portion of the open meeting law provides that "any public agency may hold a closed session . . . when necessary to prevent irreparable and needless injury to the reputation of an individual whose employment or discharge is under consideration . . . or for some other exceptional reason so compelling as to override the general public policy in favor of public meetings." When the state superintendent asked whether this stipulation would be applicable to board discussion of teacher salary schedules or general personnel policies, the attorney general asked how

anyone [can] conceive that "irreparable and needless injury" could be done anybody's reputation by discussion in open meeting of a "salary schedule," "the development of general policies in regard to personnel," or simply "personnel?" And, what is there about matters of this sort that possibly could generate in favor of secrecy "some exception reason so compelling as to override the general public policy in favor of public meetings?" It is fact that the Federal Constitution was drafted behind locked doors in the utmost secrecy. But, somehow it is difficult to equate framing general policy by a school board with the drafting of the fundamental law of the land.

With respect to that portion of the statute stating that "no regular or general practice or pattern of holding closed sessions shall be permitted," the attorney general pointed out that whether school-board meetings are or are not in compliance with the law "is a question wholly *ad hoc*, which can be resolved only upon consideration of the facts in each case." But he held that "the stated purpose of such meetings' would not, in our view, have anything to do with whether or not there was a 'regular or general practice or pattern of holding closed sessions. "

Finally, the attorney general stated that minutes of any closed board meeting must be kept and be open to the public, that the statute does not require advance publication of a meeting agenda, and that "reasonable" advance notice of a meeting must be given to the public.

NEW JERSEY

COUNTY COLLEGE EMPLOYEES ARE NOT COVERED BY STATE CIVIL SERVICE REGULATIONS

State civil service regulations adopted by New Jersey county governments pursuant to state law are not applicable to nonprofessional and noninstructional employees of county community colleges, according to a ruling of the New Jersey Supreme Court. The court pointed out that county governments and county college boards of trustees are separate governmental entities, and held that "since the County College Law was enacted after the Civil Service Law and is in conflict with it, we can only conclude the legislature meant to exclude county college employees from Civil Service."

The court's ruling affects 15 county colleges in the state, 14 of which are located in counties which have adopted civil service regulations for employees in the paid service of the county. The state Department of Civil Service (defendant in the case) contended that county financial support of the two-year colleges places college employees within the paid service of the county. But the court found that the County College Law grants authority over such colleges to boards of trustees who are empowered (in part) "to appoint or employ such other officers, agents and employees as may be required to carry out the provisions of this chapter and to fix and determine their qualifications, duties, compensation, terms of office and all other conditions and terms of employment and retention."

The court concluded that these powers represent legislative intent to create county colleges as bodies independent of local county governments, and added that "we see no reason why the legislature cannot exempt parts of county government if it so chooses."

NEW YORK

TAYLOR LAW AMENDED

Amendments to the New York Public Employees' Fair Employment Act (the Taylor Law) exclude managerial and confidential employees from coverage under the Act and membership in public employee organizations, provide a period of unchallenged representation, and limit the terms of collective agreements to three years measured upon the employer's fiscal year. Other amendments provide that members and other appointees and officials of the Public Employment Relations Board (PERB) may not volunteer or be compelled to disclose information officially obtained in the resolution of negotiation disputes, indicate the basis for computing payroll deductions for striking, and provide for more timely judicial review and enforcement of PERB decisions. The amendments were enacted by H.B. 7989 and S.B. 7070, L 1971, and became effective September 1, 1971.

Sec. 201 of the Act, which deals with definitions, was amended in subsection 7 to provide in pertinent part the following:

> The term "public employee" . . . shall not include . . . persons who may reasonably be designated from time to time as managerial or confidential upon application of the public employer to the appropriate board. . . . Employees may be designated as managerial only if they are persons (a) who formulate policy or (b) who may reasonably be required on behalf of the public employer to assist directly in the preparation for and conduct of collective negotiations or to have a major role in the administration of agreements or in personnel administration provided that such role is not of a routine or clerical nature and requires the exercise of independent judgment. Employees may be designated as confidential only if they are persons who assist and act in a confidential capacity to managerial employees described in clause (b).

A legislative note appended to the above section states that

> it is the intention of the Legislature that designations of employees as management or confidential pursuant to [sec. 201.7] as amended . . . reflect the extent to which a public employer has from time to time organized itself for collective negotiation. It is not the intention of the Legislature to destroy existing employer-employee negotiating units such as principals or other school administrators who do not formulate policy or who do not have a significant role in employee relations as described in [sec. 201.7] as amended.

A new sec. 214 then provides that no managerial or confidential employee "shall hold office in or be a member of any employee organization which is or seeks to become pursuant to this article the certified or recognized representative of the public employees employed by the public employer of such managerial or confidential employee."

Other amendments to sec. 201 repeal a former definition of the employer's "budget submission date," and define a school district's "chief legal officer" as the school district attorney. A new paragraph (b) added to subdivision 6 states that the PERB may determine that a government or public employer is "a joint public employer of public employees in an employer-employee negotiating unit . . . when such determination would best effectuate the purposes of this chapter."

Sec. 205 of the Act now provides in subsection 4(b) that

> no member of the board or its appointees pursuant to this subdivision, including without limitation any mediator or factfinder employed or retained by the board, shall, except as required by this article, be compelled to nor shall be voluntarily disclosed to any administrative or judicial tribunal or at the legislative hearing . . . any information relating to the resolution of a particular dispute in the course of collective negotiations acquired in the course of his official activities under this article, nor shall any reports, minutes, written communications, or other documents pertaining to such information and acquired in the course of his official activities under this article be subject to subpoena or voluntarily disclosed [except in criminal cases other than a criminal contempt matter involving or resulting from a violation of this article].

Sec. 208 of the Act, which concerns the rights accompanying recognition or certification, was amended by a new paragraph (c) specifying that a public employer shall extend the recognized or certified employee organization the right

> to unchallenged representation status until seven months prior to the expiration of a written agreement between the public employer and said employee organization determining terms and conditions of employment. For the purposes of this subdivision, (a) any such agreement for a term covering other than the fiscal year of the public employer shall be deemed to expire with the fiscal year ending immediately prior to the termination date of such agreement, (b) any such agreement having a term in excess of three years shall be treated as an agreement for a term of three years and (c) extensions of any such agreement shall not extend the period of unchallenged representation status.

Negotiation impasse resolution procedures provided in sec. 209 of the Act previously were contingent upon a failure to achieve agreement within a specified time period prior to the employer's budget submission date. With the elimination of that reference, an impasse now is deemed to exist "if the parties fail to achieve agreement at least 120 days prior to the end of the employer's fiscal year (sec. 209.1). Moreover, subdivision 3(c) requires specified action of a PERB appointed fact-finding board if a negotiation dispute "is not resolved at least eighty days prior to the end of the fiscal year of the public employer or by such other date determined by the board to be appropriate." Finally, subdivision 3(e) provides for a *public* hearing by the appro-

priate governmental legislative body if the parties to a negotiation dispute do not accept the recommendations of the fact-finding board.

Strike prohibitions contained in sec. 210 of the Act were amended in subdivision 1(e) to provide that when an employee is notified that he has been found to have committed a violation, he also shall be notified "of his right to object to such a determination" pursuant to statutory procedures. Subdivision 2(g) also was amended to provide the following means for computing the "two-for-one" deductions to be made from a public employee's salary for striking:

In computing the aforesaid thirty to ninety day period of time following the determination of a violation pursuant to subdivision (d) of paragraph two of this section and where the employee's annual compensation is paid over a period of time which is less than fifty-two weeks, that period of time between the last day of the last payroll period of the employment term in which the violation occurred and the first day of the first payroll period of the next succeeding employment term shall be disregarded and not counted.

Amendments to sec. 212 (which deals with local government procedures) make the following new sections applicable to local governments which have adopted provisions and procedures for mini-PERBs governing local public employer-employee relations: sec. 205.4(b) (confidentiality of mediators' and fact-finders' information), sec. 213 (judicial review and enforcement of PERB orders), and sec. 214 (management and confidential employees' membership and office in employee organizations).

Finally, subdivision 4 of sec. 210 was amended and renumbered as new sec. 213, which contains procedures for the judicial review and enforcement of PERB orders. Major changes in this section stipulate that PERB orders must be reviewed (pursuant to Art. 78, CPLR) within 30 days after service of the order, representation proceedings are reviewable only after certification of the employee organization, and unit determinations may not be reviewed separately prior to certification.

With respect to enforcement proceedings, a respondent may raise defenses available under Art. 78 only if the PERB brings a proceeding to enforce one of its orders within 30 days after the order. That is, if a respondent has not sought judicial review of a PERB order within 30 days, he may not challenge the merits of the order in an enforcement proceeding entered more than 30 days after the order. However, if a substantial evidence defense is properly raised in an enforcement proceeding, the proceeding is to be transferred to the appellate division and will be governed by applicable provisions of Art. 78.

PENNSYLVANIA

PSEA AFFILIATE WINS STATE COLLEGE REPRESENTATION ELECTION

The Association of Pennsylvania State College and University Faculty, Pennsylvania Association for Higher Education (APSCUF/PAHE), won 55.5 percent of the votes cast in an October 6 election conducted by the state labor relations board among the more than 4,000 faculty employed in the 14 state-controlled colleges. An affiliate of the Pennsylvania State Education Association, APSCUF/PAHE garnered 2,009 votes; 1,282 votes were cast for the American Association of University Professors, and 158 votes were cast for the American Federation of Teachers, AFL-CIO. Ballots indicating no representation numbered 169.

Negotiation of the state college system's first contract under the Pennsylvania public employee bargaining statute (Act 195) already has begun.

Institutions included in the state college system are Bloomsburg, California, Cheyney, Clarion, East Stroudsburg, Edinboro, Indiana University of Pennsylvania, Kutztown, Lock Haven, Mansfield, Millersville, Shippensburg, Slippery Rock, and West Chester.

OTHER ITEMS OF INTEREST

CONSUMER PRICE INDEX, SEPTEMBER 1971

Data published by the Labor Department, Bureau Bureau of Labor Statistics (BLS), indicate that the Consumer Price Index (CPI) all-items figure rose 0.2 percent in September to 122.4 (1967= 100). That rise placed the index 4.2 perceent above the figure recorded a year ago.

Prices of food purchased in grocery stores fell 1.0 percent in September (twice the usual seasonal decline for that month), while half of the increase in the index of nonfood commodities reflected seasonal price changes. Consumer services charges advanced slowly as the costs of gas and electricity remained unchanged from August for the first time in several months, and medical care service charges rose less than in August. College tuition increased almost 9 percent above a year ago.

In gauging the impact of the wage-price freeze upon the September CPI, BLS noted that most of the increase in that index "for items covered by the freeze occurred prior to August 15 or was

due to seasonal or other price changes which, under certain conditions, are permissible under the freeze." Moreover, the September index also includes price changes of items which are exempt from the freeze (such as raw agricultural products, and tax and mortgage interest rates), or are subject to special regulations permitting increases under certain conditions.

BLS reported that if the effect of price changes for these (especially the substantial decline in raw agricultural products' prices) and other exempt items were excluded from the September index, the CPI would have increased 0.4 percent that month. Slightly less than half of this 0.4 percent rise was attributed to largely seasonal increases in apparel prices, while more than one-fifth of the change reflects price changes of previous months since certain items included in the CPI are priced by BLS on a quarterly, biannual, or other intermittent basis. Nearly one-tenth of the 0.4 percent change was attributed to increased college tuition rates, and about 2½ percent of the change resulted from higher prices for imports (particularly imported apparel items and cars). According to BLS, "the impact of the freeze on the remaining 20 to 25 percent of the change cannot be determined specifically."

RULES GOVERNING PETITIONS FOR NATIONAL CONSULTATION RIGHTS ARE ISSUED

Rules for processing and granting petitions for national consultation rights under sec. 9 of E.O. 11491, as amended, were issued by the Assistant Secretary of Labor for Labor-Management Relations and became effective September 29, 1971. They comprise sec. 202.2(d) of the Assistant Secretary's rules and regulations for exercising his functions according to sec. 6 of the Order.

Sec. 9(a) of the Order provides in part that "an agency shall accord national consultation rights to a labor organization which qualifies under criteria established by the Federal Labor Relations Council as the representative of a substantial number of employees of the agency." Criteria established by the Council in its rules and regulations (sec. 2412.2) state that a labor organization which holds exclusive recognition for either 10 percent or more of the employment, or 5,000 or more of the employees of an agency or a primary national subdivision (defined as a "first-level organizational segment [of an agency] which has functions national in scope that are implemented in field activities") shall be accorded national consultation rights.

Once a labor organization has been accorded national consultation rights, it is to be consulted by the agency on "proposed substantive changes in personnel policies that affect employees it represents," may suggest changes in the agency's personnel policies and "have its views carefully considered," and may confer at reasonable times and upon request with appropriate officials on personnel policy matters. However, an agency "is not required to consult with a labor organization on any matter on which it would not be required to meet and confer if the organization were entitled to exclusive recognition."

In the event an agency or primary national subdivision refuses to grant national consultation rights to a labor organization, the union may petition the Assistant Secretary for such rights pursuant to the new rules. Such a petition is to be filed with the appropriate area administrator within 30 days after the agency's refusal to accord national consultation rights, and is to be accompanied by a showing that the union holds adequate exclusive recognition under Council criteria, a statement that such showing was made to and rejected by the agency, and a statement of any agency reasons for its rejection. The agency then has 15 days in which to respond to the petition.

The area administrator is to conduct any necessary investigations and report his findings to the regional administrator who may request withdrawal of the petition if he determines that the labor organization does not qualify for national consultation rights. If such a withdrawal is not effected within a reasonable time, the regional administrator may dismiss the petition subject to review by the Assistant Secretary, or refer the matter to hearing before a hearing examiner whose findings and recommendations are transmitted to the Assistant Secretary for a final determination.

The rules additionally state that an agency or primary national subdivision

> shall provide notice of its intention to terminate national consultational rights not less than 15 days prior to the intended termination date. A labor organization after receiving such notice, but prior to the intended termination date, may duly file a petition under this section and thereby cause to be stayed further action by the agency or primary national subdivision pending ultimate review and decision by the Assistant Secretary. An agency or primary national subdivision may terminate national consultation rights if no petition has been filed during the notice period prescribed herein.

SUPREME COURT ACTS UPON FOUR PUBLIC EMPLOYEE STRIKE RIGHT CASES

Four court cases reported in previous issues of the DIGEST were among those dealt with by the Supreme Court of the United States on October 12, 1971. Brief reviews of each case, as well as a

summary of any Supreme Court action taken, follow.

• The high court affirmed a three-judge federal court panel's dismissal (NRD, 6-71, 17) of a suit brought by the United Federation of Postal Clerks (UFPC) in an attempt to invalidate portions of federal statues which prohibit federal employee strikes and impose criminal penalties (fines of up to $1,000 and/or imprisonment for a year and a day) upon persons judged guilty of violating those statutes. The suit also challenged the no-strike provisions of E.O. 11491.

Reiterating the common law rule that "no employee, whether public or private, [has] a constitutional right to strike," the panel decided that in the absence of such a right, "it is not irrational or arbitrary for the Government to condition employment on a promise not to withhold labor collectively, and to prohibit strikes by those in public employment." In addition, the panel held that the right to strike cannot be considered a "fundamental" right and emphasized that the absence of such a right does not interfere with public employees' fundamental and constitutionally protected right to organize for bargaining purposes.

• In a second case involving the right to strike (*Rogoff v. Anderson*), the Supreme Court dismissed for want of a substantial federal question an appeal of a decision rendered by the New York Supreme Court, Appellate Division (NRD, 2-71, 12). That ruling granted summary judgment to the New York City Office of Collective Bargaining (OCB) in upholding the constitutionality of a portion of the New York Taylor Law requiring public employee unions to disavow the right to strike as a prerequisite to certification as exclusive bargaining representative.

Concluding that within the context of certification "the condition imposed is reasonable for the benefits conferred, and is reasonably calculated to achieve the ultimate desired end," the state court ruled that the requirement (if properly construed) does not infringe upon the exercise of First Amendment rights and exerts no "'chilling effect' on free expression so evident as to warrant [its] rejection as unconstitutional." The court accordingly declared constitutional an OCB rule implementing the statutory provision.

• The Supreme Court denied review of a U.S. Court of Appeals, Fourth Circuit, ruling which upheld a federal district court's denial of relief to employees of the West Virginia State Road Commission who were terminated for engaging in a March 1969 strike (NRD, 6-70, 5). In granting defendants' motions for dismissal, the U.S. District Court held that under a portion of the West Virginia constitution "which makes the 'common law' the law of this State . . . it is axiomatic that a strike by public employees for any purpose is illegal . . . and no statutory declaration of their illegality is necessary."

The federal district court further held that "the Governor and the State Road Commissioner had the right, if not indeed the responsibility, to terminate the plaintiffs' employment with the State. This action by the defendants . . . not only comported with the law of the State, but it violated no federal constitutional rights of the employees so discharged."

• The Supreme Court also declined to review an appeal of a Kentucky Court of Appeals ruling (NRD, 3-71, 4) which sustained an injunction issued against striking Jefferson County (Louisville) teachers last year. The state court had held that under common law and in accordance with legislative intent, public employees do not have the right to strike. Moreover, it found that the "record contains ample proof of serious and irreparable impairment of the school system of Jefferson County" warranting an injunction.

DECLINES REVIEW OF SUPREME COURT EXCLUSIVE CHECK-OFF GRANT TO MAJORITY UNION

An unreported order of the Supreme Court of the United States denied review of a New York Court of Appeals determination that the state's Director of Employee Relations properly discontinued the dues check-off privileges of a minority union since a public employer may grant check-off privileges exclusively to the majority union. The case, brought by the president of Council 50, AFL-CIO, challenged exclusive privileges granted by the state to the Civil Service Employees Association, Inc., as the duly elected and certified bargaining representative of a unit of state employees.

Statistics

NEGOTIATION AGREEMENTS: TEACHER DISCIPLINE AND REPRIMAND PROVISIONS

An NEA Research Division analysis of 1,529 classroom teacher agreements, effective during the 1970-71 school year in systems with a pupil enrollment of 1,000 or more, identified 521 agreements (34.1 percent) with teacher discipline and reprimand provisions. Of the 521 provisions a random sampling of 111 agreements (21.3 percent) was selected for further analysis. The sample was a selection of every fifth agreement that had a teacher discipline and reprimand provision, with at least one agreement selected from each state.

For the purpose of this analysis, teacher discipline and reprimand was defined as any action brought against a teacher for alleged misconduct while serving in a capacity as an educator. The provisions analyzed here were restricted to those coded under the teacher discipline heading for 1970-71. But this does not preclude the possibility of relevant provisions appearing under other provision headings, for example those covering teacher suspension and dismissal, Code of Ethics, or teacher evaluation. Furthermore, this analysis did not consider the influence state statutes have on the development and implementation of teacher discipline and reprimand policies.

Although the provisions analyzed covered various aspects of teacher discipline and reprimand procedure, the majority of the agreements contained a variety of elements for reporting the charges against the teacher, notifying the teacher of charges, teacher rights during the discipline meetings, and the final disposition of charges, but did not outline the procedural steps to be followed, while only 12 (10.8 percent) of the agreements specified the exact procedural steps to be taken in the discipline and reprimand of teachers. The various categories of teacher discipline and reprimand policy and procedure negotiated in the 111 agreements selected for further analysis are shown in Table 1.

TABLE 1.—GENERAL NEGOTIATED CONTENT IN DISCIPLINE AND REPRIMAND PROVISIONS, 111 SELECTED PROVISIONS, 1970-71

Negotiated content	Number	Percent
1	2	3
NUMBER OF AGREEMENTS CONTAINING DISCIPLINE AND REPRIMAND PROVISIONS	521	...
NUMBER OF AGREEMENTS IN THE SELECTED ANALYSIS	111	100.0%
Type of offense which results in discipline or reprimand	49	44.1
Abuses of professional ethics and infractions of administrative regulations	30	27.0
Abuses of professional ethics	15	13.5
Infractions of administrative regulations	4	3.6
Teacher organization's role in discipline and reprimand	85	76.6
Representative may be present at disciplinary meeting	52	46.8
Teacher organization may correct breaches of ethics or institute proceedings against teacher for breaches of ethics	20	18.0

TABLE 1.–GENERAL NEGOTIATED CONTENT IN DISCIPLINE AND REPRIMAND PROVISIONS, 111 SELECTED PROVISIONS, 1970-71 (Continued)

Negotiated content	Number	Percent
1	2	3
Teacher organization is notified of charges brought against a teacher	13	11.7
Origin of charges against the teacher which result in discipline and reprimand	111	100.0
Charges introduced by school employees	81	73.0
Charges introduced by school employees or persons other than school employees	24	21.6
Charges introduced by persons other than school employees	6	5.4
Protection of teacher against capricious disciplinary action	91	82.0
No teacher will be disciplined or reprimanded without just cause	75	67.6
Charges against teachers must be in writing	14	12.6
Charges must be in writing and signed	9	8.1
Charges must in in writing	5	4.5
Charges must be evaluated by an administrator before any action is taken	2	1.8
Notification of the teacher	48	43.2
Teacher will be notified of charges against him	32	28.8
Teacher will be notified of charges against him in writing	16	14.4
Who may institute disciplinary proceedings against the teacher	70	62.9
Board of education	40	36.0
Principal	20	18.0
Other administrators	10	8.9
Teacher rights during disciplinary meetings	80	72.1
Right to counsel during disciplinary meetings	57	51.3
Right to have a representative from the teachers organization present at a disciplinary meeting	52	46.8
Right to have other counsel present at a disciplinary meeting	5	4.5
Right to privacy during disciplinary meetings	23	20.7
Number of procedural steps	12	10.8
2	5	4.5

TABLE 1.–GENERAL NEGOTIATED CONTENT IN DISCIPLINE AND REPRIMAND PROVISIONS, 111 SELECTED PROVISIONS, 1970-71 (Continued)

Negotiated content	Number	Percent
1	2	3
3	2	1.8
4	3	2.7
5	2	1.8
Final disposition of charges	68	61.2
Charges can be appealed through the grievance procedure	48	43.2
Report of the teachers discipline and reprimand will be placed in teacher's personnel file	5	4.5
Board of education will indicate a correction of deficiency and a time period for correction	4	3.6
Final decision will be made by the board of education	4	3.6
Teacher will be given a final report of the disciplinary conference	2	1.8
Decision will result from a joint conference of principal, teacher and complainant	2	1.8
Final report of disciplinary conferences will be sent to the superintendent of schools	2	1.8
Final decision by superintendent and board of education	1	0.9

The categories listed in the table are not mutually exclusive. Furthermore, the analysis is limited to what appears in written negotiation provisions specifically covering teacher discipline and reprimand, with no attempt made to cross-reference the analyzed provisions with other negotiated content that indirectly affects the discipline and reprimand of teachers.

There were great variations among the provisions concerned with discipline and reprimand. One of the main reasons for these variations was the obligation of teachers not only to adhere to administrative regulations, but also to uphold the Code of Ethics adopted by the teachers' organization. Therefore, teacher misconduct could often be considered both an infraction of administrative regulations and a breach of the Code of Ethics. Herein lies the problem: in what category was an act of misconduct to be considered and what correctional procedure was to be followed. Lacking guidelines for determining whether an action was an infraction of an administrative rule or breach of the Code of Ethics, many school systems developed methods for handling these two types of offenses. A total of 44.1 percent of the agreements analyzed specified the offenses covered by discipline and reprimand provisions: 27.0 percent covered both breaches of the Code of Ethics and infractions of administrative regulations, 13.5 percent covered only Code of Ethics abuses, and 3.6 percent covered infractions of administrative regulations alone.

The role of the teachers organization in the discipline and reprimand of teachers distinguished between ethical and administrative offenses since the organization is usually more directly involved in cases concerning breaches of ethics. The teachers organization had a role in the discipline of teachers in 78.4 percent of the agreements: 46.8 percent of these agreements provided that a representative of the teachers organization could be present at a teacher's disciplinary meeting; 18.0 percent gave the teachers organization the right to correct breaches of ethics or to institute proceedings against teachers for breaches of ethics, and 11.7 percent provided that the teachers organization was to be informed of charges against the teacher.

Another discipline-and-reprimand issue involved the determination of the origins of charges of misconduct which could result in teacher discipline or reprimand. Analysis found that the primary origins of misconduct were school employees (i.e., administration, the teachers organization, or another teacher) or persons other than school employees (usually parents and pupils). Of the 111 pertinent agreements, 105 covered charges originated by school employees, 30 covered those charges made by persons outside the school staff, with 24 of these covering charges introduced by both school employees and persons other than school employees.

Many of the agreements analyzed contained clauses designed to protect the teacher from malicious and capricious disciplinary action. Of the 111 agreements, two-thirds contained a general statement similar to the following:

No teacher will be disciplined, reprimanded or reduced in rank or compensation or deprived of any professional advantage without just cause. (Katonah-Lewisboro, New York)

The agreement provisions for discipline and reprimand of teachers for just cause (according to the courts' dealings with both tenure and nontenure teachers) should contain procedural safeguards such as a statement of charges and a hearing concerning charges. However, not all agreements specify safeguards. Clauses providing that the teacher is to be notified of charges were found in 48 (43.2 percent) of the agreements, and 16 of these 48 further specify that the teacher must be notified of the charges in writing. Other clauses which seek to protect teachers from malicious action are those which require that complaints against teachers be in writing (12.6 percent) with signatures (in a majority of the cases) or that the charges be investigated by the administration before any action may be taken (1.8 percent).

Many of the agreements analyzed provided that only one person or body could institute the discipline proceedings against the teacher. Of these agreements, 36.0 percent provided for disciplinary action against the teacher instituted by the board of education, 18.0 percent for principal-instituted action and 8.9 percent for action instituted by other administrators.

During disciplinary meetings teachers must be accorded certain rights; for example, a right to counsel during disciplinary meetings was specified in 57 agreements (51.3 percent), and that the counsel will be a representative of the teachers organization was specified in 52 agreements. Examples of such provisions are:

If a teacher is to be disciplined or reprimanded by a member of the administration above the level of the principal, he shall be entitled to request a representative designated by the Casper-Midwest Teachers Association. (Casper-Midwest, Wyoming).

Every staff member shall have the right to have all conferences which relate to his transfer, demotion, suspension or dismissal in provate, or, if he so chooses, in the company of a counselor of his choosing. (Rockford, Illinois).

Over half of the 111 pertinent agreements included statements on the final disposition of the charges against the teacher. Of these agreements, 43.2 percent stated that the discipline and reprimand of teachers would be subject to the grievance procedure and 4.5 percent stated that if the charge is found to be valid, the final report of the teacher's discipline and reprimand would be placed in the teacher's personnel file. In 3.6 percent of the agreements the board of education was to require correction of the deficiency within a specified time period. An example of such a provision states:

The Board, in recognition of the concept of progressive correction, shall notify the teacher in writing of the alleged delinquencies, indicate expected correction, and indicate a reasonable period for correction. (Gwinn, Michigan).

In addition, 2.8 percent of the agreements indicated that a final report of the disciplinary conference would be given to the teacher, and another 2.8 percent provided that the final report of the discipline would be sent to the superintendent of schools.

Twelve of the pertinent agreements outlined the procedural steps to be followed in the disciplining and reprimanding of teachers. The number of steps in the procedures ranged from two to five. Five of the 12 procedures dealt with the discipline of teacher for charges made by school employees, four agreements provided procedures designed to handle charges made by persons outside the school staff, and three contained procedures for handling charges originating either within or outside the school staff.

The following are several provisions for discipline/reprimand procedures. These are only samples; they are not to be regarded as exemplary.

UNPROFESSIONAL CONDUCT

There shall be established a procedure for dealing with unprofessional conduct. Such conduct is defined as action not consistent with Board of Education policies and/or reasonable and accepted rules of procedure established in a given school. The procedure is as follows:

A. Principal counsels individual concerning unprofessional conduct.

B. Principal verbally informs individual of possible suspension if conduct continues.
C. Written verification is given to teacher within two (2) days of the verbal warning with a copy to the Superintendent and the chairman of the FEA Professional Rights and Responsibilities Committee.
   1. Notice would refer to specific conduct.
   2. Notice would indicate date of the verbal warning.
D. The Professional Rights and Responsibilities Committee shall be expected to take appropriate action to correct the specific conduct in the warning.
   1. Professional Rights and Responsibilities Committee shall counsel the teacher within five (5) days of receipt of the warning.
   2. Professional Rights and Responsibilities Committee shall submit a written report to the Teacher, Principal, and Superintendent.
E. In the event the unprofessional conduct continues, the Principal shall be empowered to recommend to the Superintendent suspension for one (1) day.
F. Verbal notice with written verification of the suspension without pay for one (1) day shall be given to the teacher by the Superintendent of Schools.
G. The teacher shall have five (5) working days to appeal through the Grievance Procedure. (Fond du Lac, Wisconsin)

* * *

D. Procedure

1. The Board may forward complaints within the terms of this article to the Superintendent of Schools. The complaint shall be specified in writing and a copy sent to the appropriate committee of the Association. The Superintendent shall confer on the complaint with the appropriate principal, and department head (if applicable) and the teacher subject to the complaint. The teacher shall have the right to the representation and assistance of the Association at this conference. The Superintendent shall advise the Board in writing of the outcome of the conference.

2. If the Board is not satisfied with the outcome of the conference, the Board may reinstitute complaints to the designated Committee of the Association. This Committee shall, within (10) days, or at the next regularly scheduled meeting of the Board, meet with the Board and the teacher concerned. This Committee shall, within five (5) days after such meeting, give its decision and any recommendation for action, such as reprimand, corrective procedures, and/or probationary notice, in writing to the Board.

3. If the Board and/or Superintendent is not satisfied with the disposition of the complaint, the Board may submit the complaint to arbitration, within five (5) days or at the next regularly scheduled meeting of the Board of Education, and shall so notify the Association in writing. Arbitration shall be conducted according to the procedure described in Article IV - Level 4 (4c, 4d, 4e, 4f). (Durham-Middlefield Regional School District 13 (Durham), Connecticut)

* * *

PERSONNEL PROCEDURES

1. No teacher shall be suspended, discharged, or otherwise penalized, except for "just cause." No teacher shall be involuntarily transferred, non-renewed or placed on a day-to-day assignment as a disciplinary measure. In the event a teacher is accused of misconduct in connection with his employment, the accusation, except in emergency cases as referred to herein, shall be processed as follows:

a. The principal or supervisor shall promptly notify the teacher, by means of a personal conference, as to the nature of the charges of misconduct in an effort to resolve the matter. If the principal or supervisor decides on further action, he shall specify the charges in writing with the aid of the Division of Administrative and Pupil Personnel Services, and then furnish them to the teacher and the MTEA and attempt to resolve the matter. The teacher and the MTEA shall have a reasonable opportunity to investigate and to prepare a response.

b. If the matter is not resolved in this manner, a hearing shall be held within ten working days to hear the charges and the response before the Assistant Superintendent of Personnel or his designee, at which time the teacher may be represented by the MTEA, legal counsel or any other person of his choosing. Within five working days of the hearing, the teacher and the MTEA shall be notified of the decision relative to the charges in writing and the reasons substantiating such decision.

c. The Superintendent shall, within five working days, review the decision of the Assistant Superintendent of Personnel and issue his decision thereon.

d. 1) The teacher may, within ten working days of receipt of the decision of the Superintendent, request a hearing before the Committee on Rules and Complaints, which shall be held within 45 working days of the request. The Committee, after a full and fair hearing which shall be public or private, at the teacher's request, shall make a written decision specifying its reasons and the action and recommendations, prior to the next full meeting of the Board.

2) *Tenure Teacher.* In any case where the Superintendent, after review of the Assistant Superintendent's recommendation, recommends dismissal of a tenure teacher, the matter shall be processed in accordance with the provisions of this Article, except that the full Board, rather than the Committee on Rules and Complaints, shall conduct the hearing.

e. The MTEA may, within ten working days, invoke arbitration, as set forth in the sixth step of the grievance procedure. A teacher who elects to proceed to arbitration shall be considered to have waived the right to pursue the matter in the courts, except as provided in Chapter 293, Wisconsin Statutes. (Milwaukee, Wisconsin)

* * *

A. Complaints About an Individual Teacher, Materials or Teaching Methods

a. Complaints about an individual teacher, materials, or teaching methods directed to School Committee members or administrators will be referred immediately to the Principal or other high school administrator most appropriate to handle the complaint. Failure to refer such complaint and, therefore, to initiate action under this procedure will mean that the complaint is considered invalid.

b. Since an administrator sometimes receives crank complaints or calls that seem merely petty, the administrator shall use good judgment about handling these matters. Failure to continue with the complaint procedure will mean that the complaint is considered invalid.

c. If in the judgment of the administrator the complaint sounds serious, could lead to further problems, or will be used in any way to affect the rehiring or placement of a teacher, the administrator or department head must receive the complaint or criticism courteously but restrict his own comments on the case until he has followed this procedure. The critic should be thanked for his or her interest in the education of the community's children. The name and address of the complainant must be requested.

d. If the complainant is unwilling to identify himself, the complaint will be considered invalid. This still may be discussed with the teacher if the administrator thinks it is wise to do so in order to ascertain the facts, or clear up any doubts he has unavoidably developed in his mind.

e. When the complainant identifies himself, he should be informed that a procedure has been established for handling such complaints. The receiver of the complaint will then record the complaint on a form or offer to send the form and school philosophy to the complainant. (Forms to be used for this purpose will be developed mutually by the Committee and the Association.) After the identification has been verified, the administrator or department head will inform the teacher involved in the complaint that a criticism has been received and the complaint procedure has been initiated.

f. Within three school days after the receipt of the written or recorded complaint, the administrator, department head and the teacher or teachers involved will consider the complaint and together decide upon a solution consistent with good teaching methods and the objectives of the school. If the written form is sent and not received, the complaint will be considered invalid and the teacher involved so notified.

g. If at this point the matter still cannot be resolved or if the administrator feels that there may be a serious public reaction, a meeting will be set up to discuss the complaint with the complainant. Those meeting with the complainant will be the administrator and a representative of teacher involved, except that such representative must not be a representative or an officer of any teacher organization other than the Association.

h. If this meeting cannot end the criticism in the community, the Superintendent and the School Committee shall be apprised of the situation and urged to issue a strong statement in defense of the joint decisions that have been reached.

i. Use of verbal complaints or any complaints considered invalid as defined in this procedure by any administrator, department chairman, School Committee member or teacher is a clear violation of the intent of this procedure. (Ipswich, Massachusetts)

Special Reports

BRIEFS OF RECENT AGREEMENTS

Boulder, Colorado

Between the Board of Education of Boulder Valley School District No. RE-2J and the Boulder Valley Education Association, effective September 1, 1971, to August 31, 1972, except that all economic items are effective January 1, 1972, to December 31, 1972. Approximately 1,200 certificated professional employees. Provision for automatic renewal of contract for additional one-year periods unless either party wishes to reopen any provisions and submits its desired changes to the other party by February 15; any provisions not reopened shall automatically be renewed.

Compensation: (January 1, 1972, to August 31, 1972; stated as an index schedule with B.A. base equal to 1.00) B.A., $6,850 (1.00) to $10,138 (1.48), 7 increments; B.A. plus 36 hours, $11,851 (1.73) maximum; M.A., $7,398 (1.08) to $12,536 (1.83), 12 increments; M.A. plus 36 hours, $13,974 (2.04) maximum; Ph.D., $14,659 (2.14) maximum; separate salary schedule for teachers with outside experience and less than 3 years' district experience which is divided into three sections representing the first through third years of district service, ranges across all degree levels, makes allowance for up to 5 years' outside experience, and provides base amounts of $7,124 (1.04), $7,535 (1.10), and $8,220 (1.20) in the first, second, and third years of district service, respectively; separate salary index for psychologists and social workers with a base of $8,768 (1.28) predicated upon an M.A. degree and the first year of experience, provision for added index points according to the type of degree held and the number of years' experience (maximum experience credit of .47 for 5 years' outside experience, and over-all maximum experience credit of .79), with a maximum salary of $14,933 predicated upon a Ph.D. degree and 13 years' experience; separate salary schedule for counselors ranging from $8,426 (1.23) to $16,098 (2.35) with provision for a differential based upon the number of years of outside experience.

For the period September 1, 1972, to December 31, 1972, the parties jointly shall study the teachers' salary schedule in an attempt to agree upon an improved index scale. If agreement cannot be reached by September 1, 1972, a base of $7,000 shall apply to the first three steps of the schedule, and the index points for the remaining steps shall be recalculated so as to result in dollar amounts nearly equal to the comparable amounts calculated upon the $6,850 base and effective during the January 1, 1972, to August 31, 1972, period. The resultant schedule is: B.A., $7,000 (1.00) to $10,136 (1.448), 7 increments; B.A. plus 36 hours, $11,651 (1.693) maximum; M.A., $7,560 (1.08) to $12,537 (1.791), 12 increments; M.A. plus 36 hours, $13,972 (1.996) maximum; Ph.D., $14,658 (2.094) maximum; outside experience salary schedule as outlined above, except that the base amounts in the first, second, and third years of district service will be $7,280 (1.04), $7,700 (1.10), and $8,400 (1.20), respectively; separate salary schedule for psychologists and social workers remains the same; separate salary schedule for counselors maintains the same minimum amount, but the maximum amount will become $16,128 (2.304).

Differentials: (January 1, 1972 to August 31, 1972; for coaches, compensation is based upon years of district coaching experience [up to 8] and computed as a varying percentage of a varying dollar base [the percentage declines by one-tenth of a percentage point as the base rises in accordance with steps on the B.A. lane of the teachers salary schedule]; all amounts presented here represent the first step on the coaching schedule) high-school head football and basketball coaches, $671.30 (.098 of B.A. base) each; high-school head wrestling, baseball, and track coaches, $513.75 (.075 of B.A. base) each; high-school head gymnastics, cross country, tennis, and golf coaches, $315.10 (.046 of B.A. base) each; junior high and high-school intramurals coaches, $157.55 (.023 of B.A. base) each; high-school band director, $300 (first year of a 9-year experience schedule); high-school drama and speech directors, $160 per play (first year of a 9-year experience schedule); high-school radio program director, $350 for approximately 30 programs (one per

week); high-school choir or orchestra director, $200 (first year of a 9-year experience schedule); high-school sponsor of a weekly newspaper, $300 if publication is produced on school time, $600 if publication is produced after school; high-school yearbook sponsor in schools with a minimum enrollment of 1,000, $750; high-school student council sponsor, $360; high-school audio-visual aids supervisor, $360; junior high-school newspaper sponsors, $100 each. Regular teachers assigned to cover classroom vacancies receive $4 per hour or major fraction thereof; regular teachers assigned charge of a building in the principal's absence receive $200 annually if the school has less than a full-time principal, or $100 annually if the school has a full-time principal.

Leaves: 10 days' annual sick leave credited at beginning of school year, unlimited maximum accumulation; extended sick leave at 50 percent of salary for 20 additional, consecutive, noncumulative days per year for a teacher's own illness, quarantine, or disability; absences due to a serious illness or death in the immediate family are deducted from sick leave; 2 separate days' personal leave which may be added to accumulation if unused; time off to vote without loss of pay; paid leave as needed and approved to attend professional conferences with board paying appropriate per-diem expenses and the cost of a substitute teacher; released time without loss of pay for school and industry visitations; released time without loss of pay for jury duty and court appearances in matters involving the teacher as a district employee; up to 2 days' paid leave for court appearances not involving work-related matters, although the teacher must reimburse the district for the cost of a substitute if any additional days are needed; full-time employees required to attend annual two- and three-week military reserve training periods are granted leave at half-pay; provision for "Educational Improvement Leave" for one academic quarter, one academic semester, or one academic year after 5 years' district service; teachers granted the foregoing leave may apply to the board for a scholarship of $500 for one academic quarter, $750 for one academic semester, or $1,500 for one academic year.

Insurance: Board-paid hospitalization, health, and long-term disability insurance under comparable plans and coverages as provided in 1971, except that the district will be responsible for increases in the premium to a maximum $40,000 increase; board continuance of a liability insurance policy covering district employees within the scope of their employment; board contributions to the state retirement and workmen's compensation systems in the amount of 9¼ percent of each unit member's salary for the former, and 6¢ per $100 of each unit member's salary for the latter.

Association: Payroll dues deduction for local Association; during his term of office the Association president shall be relieved of his teaching duties without loss of salary, seniority, or fringe benefits, and the Association shall reimburse the district for the cost of his replacement; provision for 100 paid Association leave days (see following provision reprint); Association representatives shall have the right to schedule Association meetings before or after school or during lunch periods.

Instruction: In all secondary teaching assignments (except physical education and music), "every reasonable effort shall be made so that the total load shall not exceed a maximum of 750 students per week exclusive of study hall"; if educationally or physically handicapped children are integrated into regular classrooms 2 or more hours per day, each handicapped child shall be counted as 2 pupils; summer school class sizes "will be held to 30"; provision stating that "it is the goal of the School District to limit the size of kindergarten and first grade classes to a maximum of 25"; provision for elementary-school teacher aides (*see* following provision reprint); teachers involved in curriculum development programs will be provided "released time and/or payment . . . at the prorated amount of the participant's regular salary, to the extent that finances permit, or as mutually agreed upon by the teachers involved, the Association, and the administration."

Personnel: Grievance procedure ends with advisory arbitration; teacher has right to review his personnel file and respond in writing to any derogatory material before placement therein; duty-free lunch period of a minimum of 60 minutes for kindergarten teachers, and 30 minutes for secondary teachers; teachers of grades 1 through 6 shall be allowed 60 minutes for lunch provided that during the lunch period they "may be utilized for supervision during inclement weather or other uncontrollable circumstances," in which cases the duty-free lunch period shall be no less than 30 minutes; elementary teachers shall have a minimum of 180 minutes of preparation time per week, inclusive of that time resulting from a shorter instructional day by the early dismissal of primary classes; high-school teachers working a 6-period day and junior-senior high-school teachers working a 7-period day shall be allowed no less than one planning period per day; junior high-

school teachers shall be assigned no more than the equivalent of 6 periods of teaching, nor less than 2 planning periods per day, and "every effort shall be made to assign . . . the equivalent of five periods of teaching and one study hall (or other non-preparatory responsibility) per day where subject areas taught and/or nature of assignments warrant"; professional growth requirements that teachers holding a state life certificate complete 6 semester hours of college credit every 5 years if they have a B.A. plus 35 hours or less, and 6 semester hours of college credit every 10 years if they have a B.A. plus 36 hours or more; provision stating that "the instrument used by principals in evaluating teachers shall have separate sections dealing with the teacher's performance in the classroom and with the teacher's performance in extra-curricular assignments"; provision stating that candidates for principalships or assistant principalships shall be screened by a committee which includes teachers selected by the faculty from the building in which the vacancy exists; after beginning employment in the Boulder Valley district, all teachers must have a board-paid health examination and tuberculin test every 3 years; provision stating that "teachers at their discretion may bar a visitor from their classrooms until a conference is held with the principal."

PROFESSIONAL LEAVE FOR ASSOCIATION BUSINESS

The Board shall grant to the Association representing Unit B, 100 days paid leave for its representatives to attend workshops, conferences, and other activities of the Association and its state and national affiliates. Additional leave days shall be granted to the Association provided the expense of the substitute shall be paid by the Association. The amount of leave is to be allocated to individual members at the discretion of the Association. Such requests shall be processed through the Association.

The Board recognizes that members of Unit B should be encouraged to seek election or appointment to state and national offices of their professional organizations. Leave taken under this provision to serve in such official capacity shall not be charged to the number of leave days mentioned in the preceding paragraph.

Request for released time must be submitted before seeking the office and approval received from the building principal and appropriate director. If approved, such time released will be with pay. (Boulder Valley, Colorado)

TEACHER AIDES

Elementary teachers will be provided teacher's aides according to the following formula:

a. Kindergarten class size of 26, 27, 28—one 3-hour aide for each two sections, and in the event of an odd section—one 3-hour aide for that section.
   Kindergarten class size of 29 and over—one 3-hour aide for each section.
   For other classes, additional sections will be made as needed, provided the new sections contain 20 or above pupils.
b. Grades one (1), two (2), and three (3) with an enrollment of 28 and over shall be supplied one 3-hour teacher aide.
c. Grades four (4), five (5), and six (6) with an enrollment of 30 and over shall be supplied one 3-hour teacher aide.
d. Any elementary class of grades 1, 2, 3, 4, 5, and 6 with an enrollment of 35 and over shall be supplied one 6-hour teacher aide.

ASSIGNMENT: The assignment of teacher aides for the first semester (Fall) will be based on the enrollment report received by the Pupil Personnel Office on the third (3rd) Friday that school is in session; the assignment of teacher aides will be made the following week insofar as possible.

The assignment of teacher aides for the second semester shall be made on the basis of the enrollment on the first Friday of the second semester. The assignment of teacher aides will be made the following week insofar as possible. There will be no other adjustment in the assignment of teacher aides during the school year.

Teachers shall participate in the interview and selection of their teacher aides. The principal shall submit three names to the teacher. The teacher shall select the aides from these candidates. (Boulder Valley, Colorado)

Darien, Connecticut

Between the Board of Education and the Darien Education Association, effective July 30, 1971, to June 30, 1974. Approximately 365 certified professional employees below the rank of superintendent of schools and assistant superintendent. Provision for reopener on insurance benefits on or before October 15, 1972; resulting changes in insurance shall not become effective until July 1, 1973. Provision for negotiation of a successor agreement commencing not later than October 15, 1973.

Compensation: (1971-72, stated as an index scale with the B.A. base equal to 1.00) B.A., $8,350 (1.00) to $13,861 (1.66), 11 increments; B.A. plus 15 hours, $14,362 (1.72) maximum; M.A. $9,382 (1.12+) to $15,394 (1.84+), 12 increments; M.A. plus 60 hours, $18,357 (2.19+) maximum; Ph.D., $19,068 (2.28+) maximum.

(1972-73, stated as same index scale as 1971-72 with the B.A. base equal to 1.00) B.A. $8,675 to $14,400, 11 increments; B.A. plus 15 hours, $14,921 maximum; M.A., $9,747 to $15,993, 12 increments; M.A. plus 60 hours, $19,072 maximum; Ph.D., $19,810 maximum.

Differentials: (4 or 5-step extracurricular compensation schedule, with the first step shown here) high-school football and basketball head coaches, $1,350 each; high-school swimming head coach, $810; soccer head coach, $720; high-school faculty manager, $1,890; high-school theatre director, $700; debate coach and high-school stage manager, $500 each; chess club advisor, $150; literary magazine, yearbook and school newspaper advisors, $100 each.

Administrators: 1971-72 full-time administrators' base salary, $13,047, with 4 automatic experience increments and 4 horizontal columns (with superintendent-determined placement) and with indices ranging from 1.05 to 1.40; 1971-72 provisions include a 4 percent across-the-board raise, distribution of $15,000 "to those full time administrators whose performance is deemed meritorious" according to specified criteria, and a fund for salary inequity adjustments equal to 2 percent of the full-time administrators payroll; 1972-73 provisions include across-the-board 3.8 percent raise, distribution of $15,000 for meritorious performance, and a fund for the adjustment of salary inequities equal to 1.2 percent of the full-time administrators payroll. 1971-72 part-time administrators receive additional compensation based on a 2 column, 7 step schedule, which ranges from $597 to $2,837.

Leaves: annual sick leave and maximum accumulation undefined; 5 personal days annually to cover death or sickness in the immediate family, legal obligations or "other justifiable reasons"; 1 personal day may be taken without specification of reasons; additional paid leave to "allow for visiting days at institutes, organizational meetings, conferences, etc."; paid leave for jury duty less court allowance; sabbatical leave at full pay for one-half a year and 3/4 pay for one year after 4 consecutive years' service in the district (*see* following provision reprint).

Insurance: 80-percent board-paid individual and family health and medical coverage for Blue Cross with extended plan, outpatient and maternity riders, surgical, major medical, and dental insurance with $75 deductible for individual coverage to a maximum $225 deductible for family coverage with a $50,000 limit.

Personnel: grievance procedure ends with final and binding arbitration; time off with pay for negotiating and grievance meetings scheduled during the work day; right to review personnel file; no derogatory material may be placed in personnel file without teacher's knowledge and the opportunity to submit a written reply, which is to be reviewed by the superintendent and attached to the file copy; attendance at "evening functions other than Fall and Spring open houses" and meetings during weekend, holidays, or vacations is voluntary; required meeting attendance to be limited to 1½ hours 2 days each month or the "equivalent of 3 hours per month"; 15-day posting period for vacancies; when all else is equal, candidates from within the school system will be given preference for vacancies, promotions, and transfers; full pay for up to 6 months for job-related injury; joint committee with the board and Association represented by 3 representatives each for the purpose of determining the 1973-74 compensation system and for distribution of a fund for salary increases that "shall equal two percent (2%) of the total compensation paid to employees covered by this agreement in 1972-73" and shall "be further increased by an amount equivalent to the percentage increase in the National Consumer Price Index for the period January 1, 1972 through December 31, 1972"; "total fund shall not exceed" 7 percent of the 1972-73 payroll; method of compensation adopted by the Committee shall be binding upon all parties; criteria for evaluation of administrators (*see* provision reprint).

SABBATICAL PROGRAM

A. Purpose

A Darien Sabbatical Leave may be granted to any teacher of the Darien Public School System for the purpose of increasing his or her capacity to render a higher degree of excellence in educational service. This includes formal study, research, and/or writing, travel and other activities related to education. The granting of such leave shall be subject to the approval of the Board as provided for herein.

B. Eligibility

Any professional employee of the Darien School System who meets with following qualifications shall be eligible to apply for a sabbatical award.

1. An applicant must have four consecutive years of satisfactory service as a full time professional employee of the Darien Public School System.

2. Subsequent sabbatical leaves may be obtained after eligibility has been re-established by service of an additional consecutive four years of satisfactory service as a full time professional employee of the Darien Public School System.

3. The professional employees who may be granted sabbatical leaves will be determined by the Board. The Board shall provide funds sufficient to enable 2% of the staff to participate in the sabbatical program in accordance with all Sections of Article XI.

4. A sabbatical leave will be granted for a period of not less than one-half year nor more than one full year.

C. Application – Requirements and Procedures

1. Applications for a sabbatical leave must be filed on a prescribed form which may be obtained from the Association Building Representative or Superintendent's Office. Upon completion of this form it shall be forwarded to the President of the Association, the Superintendent of Schools and the Chairman of the Review Committee on or before December 15 of the year prior to the sabbatical leave year.

2. Applications shall include the following information about the intended project:

a. For formal study: A program of work shall be outlined which will indicate its purpose for general professional improvement. Formal, full time graduate study shall be considered to be a minimum of 20 points, and a maximum of 30 points of study for a full year's sabbatical. This would be a minimum of 10 points and a maximum of 15 points of study for a half year sabbatical leave. This study may be in courses which are audited; a written statement of acceptance of such a program from the college or university must be submitted with the application. Formal research in connection with approved universities shall include the writing of masters' theses and doctoral dissertations. (Course work for fulfillment of Connecticut certification requirements will not be accepted.)

b. For research and/or writing: The proposed project will be outlined and approved in relation to the present and prospective service of the applicant in this his profession. Independent research may be undertaken in consultation with the Review Committee when the research is directly related to the program of the Darien Public Schools. Included in this category would be curriculum research including the writing of new courses of study, programmed instructional materials, the development of tapes, recordings, and other materials to be used in classrooms or laboratories, statistical studies to determine the value of existing or proposed programs of study, the writing of course material, or other approved research projects designed to enhance the education program.

c. For travel: A plan, including the proposed itinerary, shall be submitted, stating the professional objectives which are sought through such travel.

d. For other reasons: A plan shall be submitted in detail which must result in a complete project that can be implemented, upon return, in the Darien Public School System.

D. Review and Approval Procedures

1. The Review Committee shall consist of:

a. Six members including:

b. Assistant Superintendent for Personnel and the President of the Association.

c. One additional member shall be appointed by the Superintendent of Schools.

d. Three members appointed by the Representative Council of the Association, one each from the elementary, junior high and senior high levels.

2. The Review Committee shall make an examination of all applications to determine the following:

a. Does the purpose of the leave meet the requirements as outlined in Section C hereof?

b. Does the merit of the proposal and potential benefit to the school system exist to the degree that it should be taken before the Board?

3. A formal oral presentation by an applicant must be made upon request of the Review Committee for the purpose of further clarification of the application.

4. The Review Committee shall make a formal presentation of recommended applications to the Superintendent on or before January 27th annually. All recommendations of the Review Committee, whether recommended by the Superintendent or not, shall be forwarded to the Board by February 3rd annually and the Review Committee may present its views to the Board with respect to all applications at the Board's first February meeting.

5. The Board may, at its own discretion, accept or reject any request for sabbatical leave. Any rejection shall be stated in writing and forwarded to the Review Committee.

6. Applicants for sabbatical leave will be notified of the approval or disapproval of application in writing on or before March 15 annually.

7. The final determination of the Board shall not be subject to grievance or arbitration.

E. Requirements and Status While on Leave

1. During the time of the leave, the teacher or administrator shall be in the employ of and responsible to the Board.

2. A sabbatical award, once granted, may not be terminated before the expiration date except as agreed upon by the Board and the applicant.

3. During sabbatical leave, the recipient of the award shall be entitled to participate in any other benefits that may be provided for by this Agreement and rules and regulations of the Board.

4. The regular sick leave policy shall apply to an employee on sabbatical leave. The Superintendent must be notified promptly of accident or illness. This information must be sent within ten days after an accident or the beginning of an illness. Upon request, evidence of accident or illness must be provided for the Superintendent's consideration.

5. A sabbatical leave granted shall also operate as a leave of absence without pay from all other school activities unless otherwise agreed upon by the recipient of the award, the Board and the Review Committee.

6. The employee on leave shall immediately request approval from the Board for any substantial changes in the planned program as outlined in the approved application.

7. Salary policy:

a. Remuneration will be calculated on the sabbatical leave year's salary schedule at the following rate:

Half-year leave – one half of yearly salary as set forth on the salary schedule in effect at the commencement of the leave.

Full-year leave – three fourths of yearly salary as set forth on the salary schedule in effect at the commencement of the leave.

b. Payment of salary to a staff member on leave shall be made in accordance with the provisions of the Board in payment of salary to other members of the professional staff. The employee on leave shall be responsible for keeping the Superintendent of Schools informed of his address and other changes in his status during that year.

c. A term of sabbatical leave shall entitle an employee to salary schedule increments at the beginning of the next full year of school following his return to service in the school system.

F. Requirements and Status Upon Returning from Sabbatical Leave

1. At the expiration of a sabbatical leave the employee shall be restored to his position or to a position of like nature, status and pay provided that the employee remains eligible for reinstatement.

2. An employee returning from a sabbatical leave shall file a final report with the Superintendent of Schools not later than one month (30 days) after the day on which the employee resumes active service. The Superintendent of Schools will make copies available to the Review Committee, if requested. The report shall include the name of the institution(s) attended, courses taken, credits received, itinerary of travel, materials accumulated and available, experience gained; together with the applicant's appraisal of the professional value of the activities while on leave and the manner in which the knowledge and the experience gained may be applied to the benefit of the Darien Public School System. (Darien, Connecticut)

EVALUATIVE CRITERIA FOR FULL TIME ADMINISTRATORS

Full time administrators will meet for individual evaluation conferences with the Superintendent of Schools. The purpose of the conference will be to discuss the administrator's performance in his area of responsibility. It is expected there will be a discussion of the administrator's strengths and weaknesses in the categories listed below where they apply to his responsibility area.

Prior to the evaluation conference, the Superintendent shall prepare a written evaluation. Wherever possible, the evaluation should be based on first-hand experience and personal observation on the part of the Superintendent. This evaluation shall be sent to each administrator prior to the evaluation conference. Each administrator is expected to review his own performance and should be prepared to provide evidence of meritorious service in any of the listed categories.

1. Instructional Leader

Is the principal or director able to assess the weaknesses and strengths of his school or curriculum area? Does he work effectively with his staff to eliminate weaknesses?

Does the principal or director provide the leadership, energy and enthusiasm to encourage his

staff members to want to work with him to improve the school program?

Does the principal or director give the teachers an opportunity to participate in decision making?

Does the principal or director enjoy rapport with the pupils in his charge? Do they respect him for the contribution he makes to his school or area of responsibility?

Does the principal or director encourage teachers to visit other schools, participate in conferences and attend professional meetings?

To what extent does the principal or director contribute to the system as a whole? Does he contribute constructive ideas to discussions of systemwide problems? Does he take responsibility for systemwide projects and carry them through effectively?

2. Staff Relations

Does the principal or director enjoy a healthy rapport with his staff? Is he interested in their problems? Does he solicit their opinion on matters related to the operation of his school?

Does he have a good working relationship with the non-professionals in his school?

3. General Administration

Is the principal or director a well organized person? Does his school function smoothly? Are preparations made to permit the school year to get off to a good start? Does he see to it that supplies are available and schedules are organized and workable?

Does the principal or director show interest in plant maintenance? Does he initiate projects and programs to improve the appearance of his school? By his example, does he encourage teachers and pupils to take pride in the appearance of his school?

Does the principal or director give adequate attention to reports and requests for information for Central Office personnel?

Is the school's or director's office well organized to meet the needs of teachers, pupils and parents?

Does the principal or director work with his staff to establish rules, regulations and policies for pupils which are fair and operable?

4. Public Relations

Does the principal or director have the support of the parents in his school and the community? Although they may not always agree with him, do parents respect the principal or director as a knowledgeable and effective professional?

Does the principal or director provide many opportunities for parents and citizens of the community to find out what is going on in the schools? Is he able to handle their questions and criticisms well? Does he give them the feeling that he cares about what they think?

To what extent does the principal or director participate in community activities? Does he accept responsibility for jobs in civic groups or contribute in some other way to the community as a whole?

5. Personal Qualities

Is the principal or director a person of integrity and does he show respect for the integrity of others? Is he tactful and empathetic? Does he practice self-control and remain poised in difficult situations? Is he industrious, cooperative and willing to consider the ideas of others?

Does he show initiative? Are his health and energy good? Does he present the appearance of a professional person? Is he a person of culture and refinement?

6. Contributions to the Profession

In what ways does the administrator give of himself to improve the profession? Does he take responsibility for committee work at the local, state or national level?

7. Professional Improvement

Does the principal or director keep abreast of new trends and materials by attendance at professional meetings and wide reading in the professional literature? Does he participate in systemwide workshops and inservice training courses?

Does he recognize his weaknesses and attempt to improve in areas where he is deficient? Does he care or attempt to find out how his staff feels about him as an administrator?

Guidelines for Implementing Administrators' Merit Awards

1. Merit will not be used to correct existing or past inequities in base salaries or serve as a longevity increment.
2. A written evaluation will be prepared by the Superintendent and will be seen and signed by the administrator being evaluated.
3. The evaluation report will be retained in the administrator's personnel file. (Darien, Connecticut)

Carroll County (Westminister), Maryland

Between the Board of Education of Carroll County and the Carroll County Education Association, effective July 1, 1971, to June 30, 1973. Approximately 765 certificated professional employees. Provision for reopener at the request of the Association, if any of the terms are not approved by the board or the county commissioners. Provision for reopener at the option of the Association if after one year the board or county commissioners do not approve any and all terms of the agreement with respect to the second year.

Compensation: (1971-72, stated as an index with B.A. base equal to 1.00) B.A., $7,040 (1.00) to $11,475 (1.63), 13 increments; M.A., $7,674 (1.09) to $12,250 (1.74), 13 increments; M.A. plus 30 hours, $12,883 (1.83) maximum; Ph.D., $13,517 (1.92) maximum; longevity increment of 5 percent of the base salary for teachers with at least a M.A. after 20 years' teaching experience.

(1972-73, stated as the same index as 1971-72 with a B.A. base equal to 1.00) B.A., $7,500 to $12,225, 13 increments; M.A., $8,175 to $13,050, 13 increments; M.A. plus 30 hours, $13,725 maximum; Ph.D., $14,400 maximum; longevity increment of 5 percent of the base salary for teachers with at least a M.A. after 20 years' experience.

Differentials: football coach, $800; basketball coach, $400; track and baseball coaches, $250; gymnastics coach, $150; girls field hockey coach, $250; instrumental music director, $400; dramatics director, $150 per production (1 production per year); publications' advisors, $150 per production; extracurricular assistants receive half of regular extracurricular compensation.

Other: summer school compensation, prorated sum based on the sum normally received up to the M.A. maximum; after July 1, 1971, compensation for part-time evening and federal employment shall be $6.00 per hour; reimbursement of 12 cents per mile for business travel; department chairmen shall receive an additional $300 annually; team leaders shall receive an extra $100 annually; compensation for teaching summer school programs and working in summer production workshops shall be $6.00 per hour.

Leaves: 1 day per month sick leave which is available at the beginning of school year, maximum accumulation of 120 days'; 3 separate days' for personal business; maximum of 5 days' for death in the immediate household; leave for approved inter-school visitations and educational conferences; leave for jury duty or time necessary for job-related legal appearances; upon retirement or death, 50 percent of accumulated sick leave is paid to employee or estate at the rate of the annual salary per contract day, but if less than 20 years' service, pay is based on one-half the current salary; sabbatical leave available to a maximum of 1 percent of the negotiating unit at half pay for one semester or one year after 5 years' service in the school system.

Insurance: Board-paid health and major medical insurance for individual coverage; board-paid $5,000 term life insurance policy; liability policy covering acts or omissions "complained of," while the teacher was "acting within the scope of his employment"; compensation for work-related injury "for which workmen's compensation and/or medical bills are paid" shall be the full salary for "the period of disability not to exceed five (5) years, provided the teacher gives the Board all allowances received from workmen's compensation because of the injury and waives all medical bills after that date"; tax-sheltered annuity plan.

Association: Payroll deduction for local, state, and national associations; Association will be given agenda of board meetings prior to said meetings and will be provided with the minutes as soon as possible after board meetings; Association officers to have access to school phones "when not engaged in assigned duties"; Association shall be given a "a period of time" during preschool orientation of new teachers; Association members shall be permitted to wear pins or other identification of membership.

Instruction: Secondary teachers shall not be required to teach more than 2 subject areas; student teachers to be assigned only with the sponsoring teacher's written consent.

Personnel: grievance procedure ends with binding arbitration for grievances involving questions of interpretation of contract provisions; teachers have the right to review their personnel files and to have an Association representative present; no derogatory material shall be placed in a teacher's personnel file without his knowledge and the opportunity to submit a response to be reviewed by the superintendent and attached to the file; duty-free lunch period "as guaranteed by law" during which teachers may leave the building; all teachers shall "have an average of at least one planning period per day"; department chairman shall have 2 "non-teaching" periods a day; provision for payment of full cost of tuition, textbooks, and transportation "incurred in connection with any courses, seminars, conferences, in-service training sessions. . . required or requested by the administration"; board-paid tuition reimbursement of "$30 per credit hour for 6 credit hours per school year" available to teachers with professional certificates; nontenure teachers shall receive a written evaluation at least twice annually; "non-tenure teachers in their third year or more. . .will receive one written evaluation prior to April 1st; tenure employees will be given preference for voluntary transfers and reassignments; "employee's area of competence, major or minor field of study, length of service, and the best interest of the school district" will be criteria for involuntary transfers and reasisgnments; these criteria,

the quality of the employee's performance, and attendance records shall be the criteria used for selection of teachers for evening, special, and summer school positions when all other factors are equal; when all else is equal, preference for promotional positions shall be given to employees of the school district with the greatest length of service; establishment of a joint committee to develop "an appropriate guideline for handling student problems," i.e. problem students; reimbursement of up to $200 for personal damage resulting from an assault occurring on school property; maintenance of standards provision; reimbursement of travel expenses at the rate of 12 cents a mile for employees assigned to more than one school.

STATE ECONOMIC INDICATORS PUBLICATIONS

An article published in the September 1971 issue of the *Monthly Labor Review* reported that 15 states now periodically issue economic indicators as distinct publications, and three additional states report indicator data in other publications. While comprehensive economic data are issued in various forms by public and private agencies in many other states, the 18 state economic indicator projects dealt with here were developed as a result of the annual Conference on Labor Statistics, with the aid of the Department of Labor, Bureau of Labor Statistics (BLS), and Department of Commerce, Bureau of the Census.

Table 1 provides general information on the 18 publications and indicates where they may be obtained. Most all of the publications contain seasonally corrected data series and are charted on national reference cycle grids in such a way as to facilitate comparison. Half of the 18 publications follow a similar basic format comprised of seasonally adjusted charts, tabular material, and interpretative commentary. This basic format has been extended by six states (California, Florida, Idaho, New Jersey, Virginia, and Wisconsin) to include feature stories and varying special data presentations.

The 18 publications vary widely in style and substance and cover various sectors of economic activity. In general, they present a broader spectrum of data than was available several years ago when BLS cooperative programs predominated. The article noted some experimentation in certain states, including the use of diffusion indicators in Idaho, composite indexes in Minnesota and Washington, and small charts comparing recent state and national cyclical movements for leading and coincident indicators in Connecticut, New Jersey, and Wisconsin. In addition, the Arizona and Wyoming publications utilize small supplementary charts showing state indicators for recent months in an effort to allow the reader to interpret most recent movements more easily.

TABLE 1.–ILLUSTRATIVE STATE ECONOMIC INDICATORS PUBLICATIONS[a]
AS OF MAY 1, 1971

Publication	Frequency of publication	Number of pages	Chart series	Table series	Published by
1	2	3	4	5	6
Arizona Economic Indicators . . .	Monthly	10	19 series from 1961	Annual averages from 1961; monthly data from 1969	Employment Security Commission of Arizona, Unemployment Compensation Division P.O. Box 6123 Phoenix, Ariz. 85005
California Economic Indicators . . .	Bimonthly	22	8 leading, 7 coinciding, 5 other from 1958	Monthly adjusted data from 1968	Department of Finance, Budget Division Sacramento, Calif. 95814
Connecticut Economic Indicators .	Monthly	9	6 leading, 8 coinciding from 1956	Annual averages from 1956; monthly data from 1967	Connecticut Labor Department Employment Security Division Hartford, Conn. 06115
Florida Economic Indicators . . .	Monthly[b]	4	4 leading, 3 coinciding, 1 unclassified from 1968	. . .	Bureau of Economic and Business Research, University of Florida Gainesville, Fla. *and* Florida Department of Commerce, Office of Research and Planning Tallahassee, Fla. 32304
Idaho Economic Indicators . . .	Monthly	22	5 leading, 6 coinciding, 9 other from 1958	Monthly data from 1969; annual averages from 1961; diffusion index from 1964	Department of Employment, Research and Analysis P.O. Box 7189 Boise, Idaho 83707
Kentucky Economic Outlook . . .	Monthly	8	6 leading, 7 coinciding from 1957	Monthly data from 1970	Kentucky Department of Labor, Division of Research and Statistics Frankfort, Ky. 40601
New Jersey Economic Indicators . . .	Monthly	22	12 leading, 6 coinciding from 1948	Monthly data from 1968	New Jersey Department of Labor and Industry, Division of Planning and Research Trenton, N. J. 08625

TABLE 1.—ILLUSTRATIVE STATE ECONOMIC INDICATORS PUBLICATIONS[a] AS OF MAY 1, 1971 (Continued)

Publication	Frequency of publication	Number of pages	Chart series	Table series	Published by
1	2	3	4	5	6
Oklahoma Economic Indicators . . .	Monthly	18	7 leading, 9 coinciding, 1 lagging from 1957	Monthly data from 1969	Oklahoma Employment Security Commission, Research and Planning Division Oklahoma City, Okla. 73105
South Carolina Economic Indicators .	Monthly	11	7 leading, 7 coinciding, 6 other from 1950	Monthly data from 1970	South Carolina Employment Security Commission, Research and Statistics Section Columbia, S. C. *and* School of Business Administration, University of South Carolina Columbia, S. C. 29208
Texas Economic Indicators	Monthly	4	7 leading, 4 coinciding from 1962	Data from 1970	Bureau of Business Research, The University of Texas at Austin Austin, Texas 78712
Virginia Economic Indicators . . .	Monthly	21	6 leading, 6 coinciding, 5 other, 1 lagging, 3 diffusion indexes from 1957	Monthly data from 1968 with MCD moving average	Virginia Employment Commission, Manpower Research Division 703 East Main Street Richmond, Va. 23219
Washington Economic Indicators .	Monthly	10	6 leading, 6 coinciding from 1962	Monthly data from 1968; composite index and 4 activity sector indexes from 1962	State of Washington Employment Security Department P.O. Box 367 Olympia, Wash. 98501
West Virginia Economic Indicators .	Monthly	7	4 leading, 5 coinciding from 1957	Annual average from 1957; monthly data from 1969	West Virginia Department of Employment Security, Research and Statistics Department 112 California Avenue Charleston, W. Va. 25305
Wisconsin Economic Indicators . . .	Monthly	14	10 leading, 10 coinciding from 1965	Recent data and change from previous period and year for 35 indicators	Department of Industry, Labor, and Human Relations, Bureau of Manpower Information, Wisconsin State Employment Service P.O. Box 1607 Madison, Wis. 53701

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TABLE 1.–ILLUSTRATIVE STATE ECONOMIC INDICATORS PUBLICATIONS[a]
AS OF MAY 1, 1971 (Continued)

Publication	Frequency of publication	Number of pages	Chart series	Table series	Published by
1	2	3	4	5	6
Wyoming Economic Indicators . . .	Monthly	17	6 leading, 6 coinciding, 6 other from 1957	Monthly data from 1966	Wyoming Department of Labor and Statistics 304 Capitol Building Cheyenne, Wyo. 82001
Michigan "Economic Indicators" *in* Michigan Manpower Quarterly Review	Quarterly[c]	. . .	4 leading, 6 coinciding from 1960	Annual averages from 1961; monthly data from 1968	Michigan Department of Labor, Michigan Employment Security Commission 7310 Woodward Avenue Detroit, Mich. 48202
Minnesota "Leading Indicators of Change" *in* Highlights of the Minnesota Economy	Monthly	15	(Some being developed)	24 indicators, showing most recent data for previous period and year, for Minnesota and United States, and percent change from previous year	Minnesota Department of Manpower Services, Research and Planning Section 390 North Robert Street St. Paul, Minn. 55101

TABLE 1.–ILLUSTRATIVE STATE ECONOMIC INDICATORS PUBLICATIONS[a] AS OF MAY 1, 1971 (Continued)

Publication	Frequency of publication	Number of pages	Chart series	Table series	Published by
1	2	3	4	5	6
New York "Leading Indicators" and "Roughly Coinciding Indicators" *in* New York Employment Review.	Monthly	2	4 leading, 3 coinciding, 1 lagging, seasonally adjusted, from 1960	...	New York State Department of Labor, Division of Employment Albany, N. Y. 12201

Source:

Stark, Harry F. "Economic Indicators Issued by States." *Monthly Labor Review* 94:47-50; September 1971.

[a]Issued as distinct publications with historical charts. All show state series seasonally corrected and charted on national reference cycle grid, and provide unadjusted and adjusted monthly data in tabular form with commentary unless otherwise indicated.

[b]To be issued quarterly starting with July 1971, with additional data for major Standard Metropolitan Statistical Areas.

[c]Charts also issued monthly as part of Michigan Manpower Review.

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SELECTED NEGOTIATED PROVISIONS: RETIREMENT, DISMISSAL, AND RESIGNATION

An analysis of 1,529 comprehensive classroom teacher agreements, effective during the 1970-71 school year in systems with a pupil enrollment of 1,000 or more, indicated that 510 (33.3 percent) contained procedures dealing with the voluntary or involuntary termination of a teacher's contract. Of the 510 pertinent agreements, 149 (29.2 percent) contained only a retirement procedure; 129 (25.3 percent) contained only a dismissal procedure, and 79 (15.5 percent) provided for resignation procedures alone. Table 1 indicates the incidence of the three types of provisions and combinations thereof in the agreements studied.

TABLE 1.—NEGOTIATED PROVISIONS RELATING TO TEACHER RETIREMENT, DISMISSALS, AND RESIGNATIONS, 1970-71

Item	Agreements containing designated content	
	Number	Percent
1	2	3
Total number of agreements analyzed	1,529	...
Total number of pertinent provisions	510	100.0%
Retirement procedure only	149	29.2
Dismissal procedure only	129	25.3
Resignation procedure only	79	15.5
Dismissal and retirement procedures	54	10.6
Dismissal and resignation procedures	35	6.8
Dismissal, resignation, and retirement procedures	33	6.5
Resignation and retirement procedures	31	6.1

The negotiation of resignation procedures and dismissal procedures is generally influenced by statutory regulations and limitations and significant judicial decisions. But the analysis here is restricted to provisions listed under the dismissal, retirement, and resignation headings of the 1970-71 bargaining agreement analysis. Other references to circumstances applicable to termination may be found under the headings for discipline and reprimand, terminal or severance pay, reduction in force, teacher evaluation, and the various long-term leaves, but such references are not included in this study.

Retirement Procedures

Of the termination provisions analyzed, retirement procedure provisions, which were found in 52.3 percent of the agreements selected for analysis, were negotiated more frequently than dismissal or resignation procedures. These retirement procedures were generally predicated upon age and number of years of service in relation to retirement benefits provided under various state and local retirement systems. The retirement age specified in the agreements ranged from 55 to 77 years with the usual required statutory age being 65 years. Some school systems permitted earlier retirement, but had requirements for minimum years of service. In some instances early retirement could be requested because of family illness, disability, or some other emergency. For example, the following provision permits the retirement of

> 3. Any teacher who . . . after reaching age 55 who has fifteen (15) years service in the Flint School System if retirement is the result of ill health sufficient to qualify such teacher for disability retirement under the Michigan Retirement System for Public School Employees Act. (Flint, Michigan)

In most of the agreements analyzed, procedure for retirement of teachers 65 years old or older required that written notice of the intention to retire be given by a specific date in the spring of the year preceding the effective date of retirement. In many cases, however, upon written request and with board approval, the teacher might be granted an extended contract with the school district on a year-to-

year basis, depending very often upon medical examination requirements. A selection of typical retirement procedures follow:

- Retirement or terminal pay benefit plans generally required that notification of the intention to retire be given before the end of the school year prior to retirement for settlement or budgetary purposes.
- Tenure ceases or the continuing contract is no longer valid after age 65 in most instances.
- Compulsory or mandatory age limit in many provisions is 70.
- Year-to-year contracts may be issued to extend individual teaching positions beyond suggested retirement age under certain circumstances.
- Extended contracts after age 65 may be terminated at any time upon the decision of the board or the superintendent (in some instances with 30 to 60 days' notice).

Examples of negotiated retirement provisions follow:

Employees are required to retire at the age of sixty-five (65) years, however, an employee may be granted an exception to the 65 age requirement on a year to year basis subject to the following:
1. Provide the School Board with a complete physical examination report at the expense of the Board. The Doctor is to be selected by the School Board.
2. Renewal for each additional year will be made by the Superintendent and not subject to a grievance or tenure appeal.
3. Mandatory retirement at age of 70 years. (Freeland, Michigan)

* * *

All professional employees who are under the Wisconsin School Retirement Law shall retire at the close of the school year during which they reach their sixty-fifth (65) birthday. However, they may be contracted to teach beyond their sixty-fifth (65th) birthday upon the recommendation of the school administrator. (Sun Prairie, Wisconsin)

11. *Retirement Options*

A. Compulsory retirement age for certified personnel is at the end of the school year during which age 67 (sixty-seven) is attained.

B. Certified personnel may retire at the end of any school year after the age sixty (60) is attained.

C. Certified personnel may retire after thirty (30) years of service in the Hurst-Euless-Bedford School System. (Hurst, Texas)

* * *

Teachers are to be retired at 65 years of age except that the Board of Education may use their discretion on extension. (Hortonville, Wisconsin)

Dismissal Procedures

Dismissal procedures, which were found in 49.2 percent of the agreements selected for analysis, were the second most frequently negotiated termination procedure, and they too seemed to be influenced by tenure statutes and other legislation. In some instances, state tenure laws are specifically referred to in the dismissal provisions. In addition to providing for the continuing employment of teachers who under the terms of tenure law have acquired permanent or tenure status, tenure laws require school boards to comply with prescribed procedural provisions providing for notice of dismissal, statement of charges and the teacher's right to a hearing before being dismissed or before the nonrenewal of his employment contract can be effective. In a few states, the same dismissal procedures protecting tenure teachers also apply to probationary teachers. In other states, however, these rights are not accorded nontenure teachers, although recent court decisions are requiring school boards to provide substantive and procedural due process rights for nontenure teachers. [National Education Association, Research Division, Teacher Tenure and Contracts, Research Report 1971-R3, 1971, p. 5-6.]

Frequently the reasons for dismissal of a teacher, regardless of tenure or nontenure status, were mentioned in the agreements selected. These included insubordination, immorality, incompetence, agency shop violations, abuses of academic freedom or of sick leave, and the failure of a teacher to show a

"significant improvement" after receiving an unsatisfactory evaluation at the end of the probationary period.

The procedures for dismissal outlined in the agreements analyzed contained the following elements:

• Some dismissal procedures distinguish between tenure and nontenure teachers. Still, in a Rhode Island arbitration case, an arbitrator found that a nontenure teacher may not be arbitrarily dismissed during the contract term and directed the school board to give the teacher a statement of the reason for dismissal and a hearing on the matter in accord with the Fourteenth Amendment provision for due process (NRD, 10-70, 14).

• The board is required to give written notice of reason for dismissal. For example, when an Illinois school board failed to notify a teacher of an adverse evaluation placed in his personnel file prior to his dismissal, the arbitrator ruled that the board had denied the teacher his guaranteed right to contradict the judgement of his evaluators and ordered that he be reinstated. (*South Stickney School District No. 220 (Oaklawn), Illinois, and Reavis High School Federation of Teachers Local 1951*, August 28, 1970.)

• If the notice of dismissal is not submitted to the teacher within certain time limits, the board must rehire the teacher for the following year.

• During a period ranging from five to 30 days, the teacher may submit a written request for a hearing conducted either privately or publicly.

• Pending the hearing, the teacher may be suspended, generally without pay.

• At the hearing, the teacher may have counsel or an Association representative present or may call witnesses.

• The board in most cases renders its decision within 30 days after the appeal.

• Final decision of the appeal is made by a majority or full board vote.

• All records regarding dismissal proceedings are expunged from the personnel file if the decision is in the teacher's favor.

• Acquittal generally gives the teacher immediate reinstatement with back pay benefits.

• Some school systems established "fair dismissal" joint committees for the purpose of developing specific criteria for termination of a probationary teacher's contract.

• While tenure teachers may submit grievance to arbitration, probationary teachers may not in some instances.

The following are examples of dismissal procedures provisions found in agreements:

"1. A complaint serious enough to affect the rehiring or discharge of any teacher must be in writing, signed by the person making the complaint and inserted in the teacher's open personnel file. The affected teacher shall be notified in writing of such complaint within fifteen (15) working days.

4. If a teacher is to be discharged, the teacher must be notified at least sixty (60) teaching days prior to dismissal. In the event that the teacher is not notified within the time limit, the teacher in question must be rehired for the following year. (Chicago Heights, Illinois)"

* * *

SECTION 1. Fair Dismissal Policy

(a) No teacher shall be suspended or discharged except for just cause.

(b) Notification of suspension or discharge shall be given to the teacher in writing with a copy to the Federation. The reason for such discharge or suspension shall be stated therein.

(c) The teacher may, if he so desires, upon receipt of notification of suspension or discharge, file a grievance at the third step of the grievance procedure, provided in this Agreement. If suspension or discharge is found to be unjustified at any step of this procedure, the teacher's full pay and benefits shall be restored for the full period of his suspension or discharge.

(d) A teacher suspended or discharged shall not have recourse to arbitration except as provided in ARTICLE I, Section 8 hereof, but in lieu of arbitration such teacher shall have all the rights set forth in Section 10-151 of the Connecticut General Statutes or ARTICLE XXXVII, Section 196, of the Charter of the City of New Haven, whichever applies, including the right to appeal the suspension or discharge to the Board and the right to appeal from the decision of the Board in accordance with the aforesaid provisions of the General Statutes or the Charter of the City of New Haven.

(e) Any hearing held by the Board of Education with respect to the suspension or discharge of a teacher shall be deemed held in satisfaction of Step 4 of the Grievance and Arbitration Procedure con-

tained in ARTICLE III of this Agreement as well as the relevant provisions of the Connecticut General Statutes and the Charter of the City of New Haven. (New Haven, Connecticut)

* * *

B. If a tenure teacher is subject to possible dismissal by the Board, the teacher will receive a written notice including the reasons for possible dismissal from the Superintendent calling for a meeting to discuss the reasons for a pending dismissal.

If a probationary teacher is dismissed, it shall be according to State of Maine Law. (Section 473, of State of Maine Laws Relating to Public Schools).

Except as provided above, the foregoing will in no way limit the authority of the Superintendent to recommend dismissal under State Law to the School Board, or the authority of the School Board, under State Law, to dismiss teachers.

In the case of a suspension without pay pending dismissal of a tenure teacher, the statutory dismissal hearing shall be held not later than 14 days after the commencement of such suspension, except in instances when a reasonable extension is requested by the teacher or when criminal proceedings pertaining to the matter giving rise to the suspension are pending or iminent. If the teacher is dismissed, he shall not be entitled to receive any salary for time not actually worked. If the teacher is not dismissed, he shall be entitled to receive his regular salary for the period of suspension.

A Board decision on dismissal of a teacher shall be final subject to the teacher's right to appropriate judicial review. (Fort Kent, Maine)

* * *

Cause for Discipline and Discharge

The Board shall demote or discharge any teacher only for reasonable and just cause, including, but not limited to, continued or repeated refusals to:

Carry out in a professional manner the curriculum guides and course outlines adopted by the Board, or prepare in a professional manner for carrying out the same;

Carry out work assignments made by the Board and not in conflict with the provisions of this Agreement;

Comply with policies and procedures established by the Board and not in conflict with the provisions of this Agreement;

Provide supervision of and discipline among students in the charge of that teacher.

Procedure for Teacher Discipline or Discharge

No teacher shall be demoted or discharged for conduct under this article unless such teacher has first been counselled with regard to the same by his principal, or other supervisory person.

Any complaint directed toward a teacher from which a disciplinary action or reprimand may result, shall be promptly called to the teacher's attention by whoever receives the complaint on behalf of the school. Teachers are entitled to know the identity or source and the details of all such complaints.

No teacher shall be formally reprimanded or have any record of any reprimand added to his personnel file unless:

The Association and the teacher have been notified in writing of the specific complaint;

The teacher has been given opportunity and time to seek counsel of his choice;

The teacher has had one hearing at which the complaint is read and the teacher is allowed to respond.

The teacher has had a second hearing at which the reprimand is read as it will appear on the record.

The appropriate administrator shall inform a teacher that he may be represented by counsel of his choice at all hearings for disciplinary purposes. When request for such representation is made, no action

shall be taken against the teacher until representation is provided. However, the time limit for providing such representation shall be no more than one (1) working day.

The appropriate administrator(s) may confer with teachers in order to investigate facts or allegations in cases that may result in disciplinary action.

Any disciplinary action imposed by the Board on any teacher may be processed as a grievance. If such action includes demotion or discharge, all of the provisions of the Michigan Teachers' Tenure Act covering teachers on continuing tenure (including charges, notice, hearing, determination and appeal to the State Tenure Commission) shall apply for all teachers. The grievance may be initiated at the second step (Superintendent) of the Formal Grievance Procedure, and appeal to the Commission (rather than Arbitration) shall, where applicable, constitute the fourth and final step of the Procedure. (Ann Arbor, Michigan)

Resignation Procedures

An analysis of selected negotiation resignation provisions indicated that the procedure specified in the agreement provisions often tended to neglect the following concerns:

- Resignations were generally discouraged during the school year except when there was an emergency or when the teacher and the board had mutually agreed to the resignation.
- Some resignations were forbidden during the school term or 45 days before school opened (in some school systems five days' notice was sufficient).
- Violation of contract, i.e., resignation without the board's agreement, was deemed unprofessional conduct punishable by the revocation or suspension of certification for one to five years, loss of tenure, or monetary penalty.
- In cases of emergency the board might waiver these resignation restrictions.

Other examples of teacher resignation procedures follow:

- A nontenure teacher resigning without prejudice during the school year was generally required to give 30 days' notice. A tenure teacher resigning as of September was required to give 60 days' prior notice.
- Some provisions requested that the building principal be given 90 days' prior notice of the intention to resign so that a competent replacement could be located.
- Release from a teaching contract was to be granted only if the board were able to find a suitable replacement.
- A few systems indicated that a teacher resigning during the school year without a permissible reason (maternity, personal illness, transfer of husband, military service, or other emergency the board judges proper) might violate his contract and would not be given requested referrals.

A sampling of resignation provisions is reprinted below:

A teacher may terminate his contract without prejudice as follows:

1. A first or second year teacher not on tenure by giving a letter in writing no later than May 1 of a school year.
2. A tenured teacher by giving notice in writing during the months of June or July.
3. Resignation of an emergency nature ruled on and accepted by the Personnel Office.
4. Other resignations that are consented to by the Superintendent or his designee. (Prince Georges Co., Upper Marlboro, Maryland)

* * *

No member may terminate his contract after the tenth day of July or when the schools are in session without the consent of the Board. Members who wish to resign at any other time must submit a resignation in writing to the Assistant Superintendent at least ten days before the effective date of the resignation. (Akron, Ohio)

* * *

Thirty (30) days written notice prior to the effective date of the resignation must be given and mutually accepted by both parties. If the Board is unable to find a satisfactory replacement, no release will be granted.

Under extenuating circumstances, the Superintendent may waive such notice. (Hortonville, Wisconsin)

* * *

4. The employee may terminate his contract, upon forty-five (45) days' written notice, to the deputy superintendent (personnel), before the first calendar day of school.
   (a) After the first calendar day of school each year, the employee may terminate his contract upon thirty (30) days' written notice to the deputy superintendent (personnel).
5. Damages in an amount of $100 to cover recruitment and other costs will be levied against an employee who fails to give the required notice of his intention to terminate his contract as specified in the Agreement. (Granite City, Utah)

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RESEARCH DIVISION
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Case Reviews

CONNECTICUT

CONTRACT BAR DOCTRINE INAPPLICABLE TO TEACHER COLLECTIVE BARGAINING; REPRESENTATION ELECTION ORDERED

The Hartford County Superior Court held that the National Labor Relations Board's (NLRB) Contract Bar doctrine was not provided for under the Connecticut teacher negotiation statute, and therefore rejected the school board's contention that an existing negotiated contract acted as a bar to a representation election petitioned-for by the Hartford Education Association (HEA). Pointing out that the teacher negotiation statute requiring petitioned-for teacher representation elections during any school year was "clear, unambiguous, and mandatory," the court granted the Association relief, and ordered that a writ of *mandamus* be issued requiring the board to conduct the petitioned-for election.

The Hartford Board of Education had contended that the collective bargaining agreement between the board and the Hartford Federation of Teachers, Local No. 1018 (AFL-CIO), effective December 9, 1970, to November 30, 1972, barred the election requested by the HEA. Although the court acknowledged that the Contract Bar doctrine had been applied to cases within the jurisdictions of the NLRB and the state Board of Labor Relations, the court maintained that certified teachers were subject neither to the National Labor Relations Act (NLRA) nor the NLRB's rules nor Chapter 113, Part II, sec. 7-467 of the Connecticut General Statutes entitled "Municipal Employees."

Instead, the court noted that teachers were governed by another standard, and in the case of representation elections, sec. 10-153(e) applied. This section states that the exclusive representative of a teachers' unit "shall continue to be the exclusive representative of such personnel upon expiration of the salary agreement in effect between such organizations and the board of education . . . until and *unless employees of such board of education . . . initiate a petition for designation of an organization to represent them.*" [Italics added.]

Applying this section of the teacher bargaining statutes, the court ruled that the defendant school board had "an obligation imposed on it by statute" to hold the representation election. Accordingly, the court ordered the issuance of a writ of *mandamus* ordering the board to hold the requested election. (*Hartford Education Association v. Hartford Board of Education*, Hartford County Superior Court, March 22, 1971.)

NEW YORK

PERB JURISDICTION OVER PROBATIONARY TEACHER DISMISSAL CASE DENIED

The New York Supreme Court, Suffolk County, ruled that the state Public Employee Relations Board (PERB) does not have jurisdiction over probationary teacher dismissal disputes, and affirmed a school board's right under the Education Law to dismiss probationary teachers without giving reason.

Accordingly the court granted the petition of the Central School District No. 5, Towns of Huntington and Babylon, Board of Education to enjoin the PERB's finding that dismissal of a probationary teacher, allegedly for union activities, constituted an improper labor practice. The case in question had been brought before the PERB by the Half Hollow Hills Education Association.

Citing the Commissioner of Education in *Matter of Marsh*, the court observed that the "clearest reason" for maintaining the board's prerogative was that

> The Legislature has given school districts the right to dismiss a probationary teacher at any time during the probationary period, and no reason need be given. In adopting this rule, the Legislature recognized that it is necessary that school authorities have a fair opportunity to judge the capabilities of a new teacher before such teacher acquires tenure. Any other rule would undermine the right of a board of education to insist on a reasonable level of competence from its teachers.

Continuing, the court presented its position on PERB's assertion of jurisdiction over probationary

teacher dismissal cases by citing its ruling in *Board of Education, C.S.D. #1, Grand Island v. Helsby:*

> When a probationary teachers joins or participates in an employee organization, he is not immune from discharge before his period has expired. Otherwise, such employee could secure tenure during his probation by merely joining an employee organization, thereby, defeating the entire probationary program. Such a *reductio ad absurdum* was not intended by the Legislature. PERB lacks jurisdiction herein.

Distinguishing between the powers given to the Commissioner of Education by the Education Law and those given to the PERB by the Taylor Law, the court found that the Commissioner had jurisdiction over all legislation relating to the states' educational system. This jurisdiction included the resolution of "cases brought before him by probationary teachers concerning termination of their services." Also noted was the Commissioner's expertise in this field. However, the court found that PERB's jurisdiction was restricted to cases dealing with the Taylor Law's principal function—"collective bargaining in the field of public employment." Furthermore, there was "nothing in the Taylor Law which would warrant the intrusion by PERB into the field of probationary term and tenure of teachers," nor was there any "indication that PERB should act as a judge in an area in which the Commissioner of Education was the recognized expert." Therefore, the court determined that the case in question came within the Commissioner's jurisdiction.

The court concluded that "it was . . . obvious that the Taylor Law was not intended to interrupt a well designed training and evaluation period for teachers before they received the benefits of tenure." Accordingly, it granted the school board's petition to enjoin the PERB's improper practice charge. (*Central School District No. 5, Towns of Huntington and Babylon, Board of Education v. Robert D. Helsby et al.*, New York Supreme Court, Suffolk County, July 9, 1971.)

NEW YORK

TEACHERS VIOLATING TAYLOR LAW NO-STRIKE CLAUSE ARE SUBJECT TO LEGALLY PROSCRIBED PENALTIES

In a class action suit brought by teachers who had participated in a strike, the New York Supreme Court ruled that legally proscribed penalties are justified even though notification of the violations and applications of the penalties are not served immediately after the strike.

The members of the Niagara Teachers Association engaged in a strike from September 8 to 11, 1970, in violation of sec. 210 of the Taylor Law. Notification of penalty imposition, which is prescribed in sec. 210(2)(D), was received on November 2, 1970, and the penalties were applied on January 22, 1971. The petitioners contend that the penalty action should have been taken on September 18, 1970, since payroll records of that date reflect teacher absence during the strike.

The court held that this basis was not sufficient because the September 18 payroll records indicate absences in addition to those resulting from the strike. The question before the court was whether the delay of 50 days between the last day of the strike (September 11) and the date of penalty notification (November 2) constituted an unreasonable delay.

The Taylor Law does not indicate that the sanctions are to be invoked immediately. Under the law, the superintendent, as "the Chief Executive Officer of the Government involved," is given the right to decide the nature, scope and extent of the mandatory investigation. If a final determination is to be made, the investigation must not only indicate that a violation has occurred, but also disclose which employees committed such a violation. The court found that the size of the school district (17,000 pupils in 21 elementary and seven secondary schools), the number of teachers employed (966), and the resulting complex problems of the superintendent had great effect on the time necessary for such an investigation, and thus justified the time lag between the strike and the notification of the penalties.

The Court concluded that the final determination was timely made, that the form and substance of the penalties (payroll deductions and tenure forfeiture) were adequate and that the penalty applied on January 22 was within legal limitations, i.e., "30 days after but not later than 90 days following the making of the determination." The court dismissed the teachers' petition for return of payroll deductions and cancellation of the tenure forfeiture penalties. (*Ruben Cirillo et al. v. Niagara Falls Board of Education*, New York Supreme Court, County of Niagara, June 15, 1971.)

Board Findings and Rulings

MICHIGAN

DEPARTMENTAL ADVISORY COMMITTEES ARE NOT LABOR UNIONS; UNFAIR LABOR PRACTICE CHARGES DISMISSED

Ruling on two separate Michigan State University (MSU) probationary teacher dismissal cases, the Michigan Employment Relations Commission (MERC) determined that the probationary faculty members involved were not denied reappointment because of protected union activities. The commission so ruled after finding that the organizations in which the university teachers were active, the Departmental Advisory Committees (DAC), were not labor unions within the meaning of the Labor Relations and Mediation Act. This act specifies in sec. 2(g) that a " 'labor organization' . . . exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work."

MERC found that these advisory committees, which were established by the university Board of Trustees, followed the "traditional pattern of cooperative faculty self-government," wherein the government of the separate departments was to be "entrusted to the university president and respective faculties." However, "it was clear that [DAC's] function . . . [was] merely advisory in nature."

In addition, the commission found that the committees do not "deal or bargain with" the university as representatives for employees, and furthermore that they are not part of any process of bargaining with the university management, since "they are *part* of the University government."

• In the first case, a probationary associate professor alleged that he was denied tenure owing to his attempt as a member of the DAC to improve working conditions within the Department of Social Sciences. The commission rejected this allegation after finding that the university DAC's were not labor organizations. Also rejected was the allegation that the DAC's interfered with the "employees" freedom of choice to form, join or assist labor organizations and through such organizations . . . bargain collectively with the University." The MERC ruled that

> there is no evidence that any managerial representative of Michigan State University has interfered in any way with the right of members of the faculty to select a labor organization to represent them in an appropriate unit pursuant to the proceedings established by

the Hutchinson Act. Accordingly, the commission dismissed the unfair labor practice charge filed against Michigan State University. (*Michigan State University, Department of Social Science, and John R. Hilderbrand*, Michigan Employment Relations Commission, August 9, 1971.)

• Reviewing the second dismissal dispute, MERC found that the two assistant professors involved had attempted to improve working conditions within the Natural Science Department by participating in the DAC. However, the commission determined that these activities were not protected since the DAC was not a labor organization. Accordingly, MERC dismissed charges that the two assistant professors were denied reappointment because of their protected activities. (*Michigan State University, Department of Natural Science and Eileen R. Van Tassell and Bertram G. Murray*, Michigan Employment Relations Commission, September 8, 1971.)

NEBRASKA

NIRC ASSERTS JURISDICTION OVER WAGE DISPUTES IN TWO SCHOOL DISTRICTS

The Nebraska Industrial Relations Court (NIRC) asserted jurisdiction over two separate teacher salary disputes. NIRC ordered Seward School District to adopt an NIRC established salary schedule. NIRC also directed the court trial of a wage suit filed by the Hastings Education Association (HEA) against the Hastings School District. The NIRC, under sec. 48-818 of the state statute, asserted its prerogative "to establish or alter the scale of wages, hours of labor or conditions of employment, or any one or more of the same," when, under sec. 48-810, "all provisions of [the Nebraska Teachers' Professional Negotiations Act have] been exhausted without resolution of the dispute involved." In addition,

the NIRC pointed out in both cases that the scope of the school district's power is restricted by law, since a school district "is, itself, wholly a creature of state statutes and can exercise its statutory powers only in the manner specified by state statutes."

• In the first case the NIRC ordered the Seward School District to adopt a NIRC-established pay schedule that, as stipulated in sec. 48-818 of the state statute, was "comparable to the prevalent wage rates paid [in comparable Nebraska school districts] . . . for the same or similar work." In so ruling, the court rejected the school district's contention that mandating of teacher pay schedules violated the state constitution, which deals with the separation and delegation of powers, and sec. 48-818 of the state statutes, which restricts NIRC's jurisdiction over school districts. However, NIRC explained that it derived its powers from both these documents and that sec. 48-818 gave it jurisdiction over salary disputes as an exception to the separation of powers clause of the state constitution. Thus, the NIRC held that it, not the school district, had final jurisdiction over unresolved wage disputes.

Considering salary schedules in comparable school districts, the court mandated a 1971-72 pay schedule with a base of $6,500, increments of 5 percent, and additional education increments of 3 percent. (*Seward Education Association and Seward School District*, Nebraska Court of Industrial Relations, August 9, 1971.)

• In the dispute between the HEA and the Hastings School District, the NIRC determined that the Association's wage suit was not barred from NIRC by the signing of individual contracts prior to the completion of collective bargaining. The NIRC held that execution of individual contracts does not "constitute a waiver or abandonment" of collective bargaining procedure provided by law, including "those statutes subjecting governmental employers . . . to the jurisdiction of this court." In conclusion, the NIRC denied the school district's petition seeking a summary judgement for the dismissal of the Association's suit and ordered a court trial of the case. (*Hastings Education Association v. Hastings School District*, Nebraska Court of Industrial Relations, July 15, 1971.)

NEW YORK

WALKOUT PROTESTING SCHOOL BOARD'S INTEGRATION POLICY VIOLATED TAYLOR LAW

In an unusual interpretation of the Taylor Law, the New York Public Employment Relations Board (PERB) ruled that the Rochester Teachers Association (RTA) had engaged in a strike by scheduling a racial integration conference which forced schools to close, and respecting another organization's picket lines protesting the school board's rejection of an integration plan.

This ruling rejected RTA's contention that teachers attending the March 2 conference did not illegally absent themselves since the superintendent had cancelled school in consideration of student safety. Also rejected was RTA's argument that teachers respecting picket lines on March 3 had acted as individuals in a wildcat strike, and that RTA did not organize or instigate the strike, but merely recognized it. The hearing officer based his finding on a National Labor Relations Board (NLRB) ruling in *Seafarers International Union of North America*, holding that a "concerted refusal to cross a picket line constitutes a strike." Referring to the NLRB position, the hearing officer concluded that the RTA had "caused, instigated, encouraged, condoned and engaged in a strike."

When community action groups voted to picket schools March 2, the RTA scheduled the conference day on racial integration allegedly to prevent the exposure of students to a potentially dangerous situation. This action in effect forced the superintendent to close schools. However, PERB held that the official cancellation of school did not exonerate RTA since it had urged its members to walkout.

Finding that other groups had instigated the picketing, the hearing officer noted that RTA's action should not be considered in a vacuum. He also pointed out that scheduling of the conference day had "somewhat [eased] the impact [of picketing and boycotting] at least with regard to safety of students." The officer also admitted that the two-day teacher walkout did not seriously hinder the education of children, and other than the substantial evidence related above, he found no significant evidence that RTA engaged in a strike. No strike vote was taken and no negotiation dispute between the RTA and the School Board was pending at the time.

Still the PERB rejected RTA's claim that no strike was called since there had been no concerted action to achieve a stated purpose imposed on the membership under threat of organizational discipline. The PERB pointed out that

> It is not uncommon that strikes take the form of temporary demonstrations and disruptions which are designed to make life uncomfortable for the employer. They do not continue until the employees' goals are attained, but are nevertheless directed at the achievement of those goals. . . . When respondent instructed its members to attend a conference on March 2 and to refuse to cross picket lines on March

> 3. it engaged in concerted action. The purposes which it was desirous of achieving were (1) to demonstrate support for the black action groups and others who wished the employer to adopt a more vigorous program for school desegregation, (2) the diminution of danger for the students . . . and (3) the maintenance of rapport which many teachers in the inner city had with the indigenous community. In the public sector, organizational discipline in support of a strike cannot be enforced by the imposition of legal penalties, as is the case in the private sector. It would be most unlikely that a court would sustain penalties assessed against a member of an organization by reason of the member's refusal to perform an illegal act. Nevertheless, organizational discipline can be, and is, generated by social pressures within the organization. A person who refuses to participate in a strike can be made to feel uncomfortable by his peers. Often this is an effective form of discipline.

In addition, the PERB dismissed the Association's contention that some teachers had been absent owing to illness, while others did not cross picket lines for reasons of conscience or for fear of personal injury. The PERB reasoned that absence of some teachers for potentially justifiable reasons did not negate the logical assumption that the majority of teachers were absent owing to the strike.

Similarly, PERB acknowledged RTA's motivations for advising the walkout as commendable. However, PERB upheld the hearing officer's finding that the "Board's actions with respect to integration over the years, . . . were not in pursuance of any policy of extreme provocation against teacher organizations or against teachers as members of such organizations."

In addition, PERB dismissed the Association's allegation that the hearing procedure had violated its due process rights. The PERB found that its ruling on a charge instituted by a PERB employee was not prejudicial.

Finding the two-day strike to be unlawful, the PERB penalized the RTA with a three-month forfeiture of dues check-off rights. (*In Matter of Rochester Teachers Association*, New York Public Employment Relations Board, July 29, 1971.)

RHODE ISLAND

RILRB INCLUDES DEPARTMENT CHAIRMEN IN UNIT OF ACADEMIC UNIVERSITY EMPLOYEES

Ruling on the request of the University of Rhode Island Professional Association (URIPA), an affiliate of NEA, for exclusive representation of the university's academic employees, the Rhode Island Labor Relations Board (RILRB) determined that the appropriate bargaining unit should include "full-time teaching and research faculty, . . . librarians with faculty status and department chairmen." However administrators, adjunct part-time faculty, graduate assistants and other employees were to be excluded from the unit. In addition, the RILRB considered the American Association of University Professors' (AAUP) intervenor petition for representation of the unit, and ordered a representation election.

The RILRB's determination of the faculty bargaining unit negated the Rhode Island Board of Regents' claim that the case was not within the RILRB's jurisdiction. Also rejected was the employer's assertion that the department chairmen should be excluded from the unit. Noting that "the field of Education is somewhat unique, . . . [that] the supervisory authority either exercised or possessed by the department heads is not sufficient to exclude them under" the State Labor Relations Act, and furthermore that the "Department chairmen did not exercise management controls duties nor was their function dissimilar from other teachers at the University," the RILRB ruled that department chairmen should be included in the faculty bargaining unit. (*In Matter of Rhode Island and Providence Plantation Board of Regents and University of Rhode Island Professional Association and American Association of University Professors*, Rhode Island Relations Board, October 19, 1971.)

WISCONSIN

TEACHERS HAVE STATUTORY RIGHT TO REPRESENTATION AT NONRENEWAL CONFERENCES

The Wisconsin Employment Relations Commission (WERC) asserted jurisdiction over a teacher contract nonrenewal dispute, and ruled that a school board committed an unfair labor practice by denying a teacher union representation at a private conference. In so ruling, the WERC concurred with the Whitehall Teachers Association's contention that the board interfered with the teacher's rights, and violated sec. 111.70 of the state Municipal Employment Bargaining Act, which specifies that "municipal employees shall have . . . the right to be represented by labor organizations of their own choice in conferences . . . with their municipal employers or their representatives on questions of wages, hours and conditions of employment."

This decision was based on the stance that nonrenewal of a teacher's contract affects tenure, which in turn affects wages, hours, and conditions

of employment. Thus, the commission's decision rejected the board's contention that contract nonrenewal was not a matter affecting wages, hours, and conditions of employment, and therefore that the WERC had no jurisdiction over the dispute. Also rejected was the board's argument that a private conference with the teacher, as required by sec. 118.22 of the state statute, had been held, and that such a conference under that section of the law excluded all persons other than the teacher involved and the board.

However, the trial examiner found that while sec. 111.70 (3)(a)(1) did not give the teacher a right to a conference, it gave her a right to representation at such a conference. He also found that sec. 118.22(3) of the state statute gave teachers the right to conference with their employers, and thus he concluded that "taking the two statutes together, there was no evidence of legislative intent to limit the right to representation by the words 'private conference.'"

Since the board's violation was "largely procedural," the examiner decided that "full and complete reinstatement without consideration of the merits for nonrenewal [as requested by the Association] would be in excess of the remedy necessary to make the teacher whole." Instead, he ruled that the remedy should "be to restore the teacher to the status she held as of the moment preceding the improper refusal to permit representation" and to expunge from the teacher's employment record all actions or decisions following the procedural violation.

In addition, the board was ordered "to cease and desist from refusing to permit union representatives to represent members of the recognized bargaining unit of teachers in conferences with the board on questions of wages, hours, and working conditions." (*Whitehall Teachers Association, et al. v. Whitehall School District et al.*, Wisconsin Employment Relations Commission, October 7, 1971.)

Negotiation Notes

ILLINOIS

STATE SETS FIRST MINIMUM WAGE LAW

Illinois' first minimum wage law went into effect on January 1, 1972. It established a minimum wage of $1.40 per hour for employees over 19 and a rate of $1.15 per hour for employees under 19. Effective January 1, 1973, the rates will be raised to $1.60 and $1.25, respectively. In traditional tipping occupations, 50 percent of the minimum wage can be derived from tips. A lower minimum wage has been set for the elderly, the physically and mentally handicapped, and employees in a six-month training program.

Excluded from coverage under the law were agricultural and domestic workers, outside salesmen, employees of religious organizations and corporations, motion theater ushers, ticket takers and candy sellers, and all employees covered by federal minimum wage laws.

IOWA

UNIVERSITY EMPLOYEE DUES CHECK-OFF PROHIBITED

An opinion issued by the Iowa Attorney General on September 10, 1971, held that in absence of appropriate legislation university employees, as employees of the state, cannot authorize and assign deduction of union dues. The reason for the prohibition was that other state employees are not allowed to check-off union dues, and to permit one but not all classifications of employees check-off rights would be unfair. The cost of allowing all voluntary wage assignments would increase the burden of the taxpayer.

MICHIGAN

CITY'S WORKWEEK INCREASE UNLAWFUL BECAUSE OF FAILURE TO NOTIFY AND NEGOTIATE WITH UNION

The Michigan Employment Relations Commission upheld a claim of nine labor organizations representing employees of the City of Detroit who charged that the city unlawfully refused to bargain with the unions and unilaterally increased the workweek. Rejected were the city's contentions that an increase in the workweek was a prerogative of management, and that the union's claim should have been processed through the grievance procedure rather than through the commission.

The basis for MERC's ruling was that the unions' contracts contained maintenance of conditions clauses which gave the unions the right to be notified and to bargain with the employer before a change of working conditions. Since some unions' contracts had expired, not all of the unions were able to resort to the grievance procedure, and also, the use of arbitration was discretionary, not mandatory. The city was ordered to cease and desist from changing the working hours without good faith bargaining with the unions, and to restore all affected employees to their original workweek.

MINNESOTA

NEW PUBLIC EMPLOYEE BARGAINING STATUTE ENACTED

A special session of the Minnesota state legislature enacted the Public Employment Relations Act of 1971 on October 30, 1971. Prior to passing this legislation, two separate labor relations acts were in effect. All public employees except teachers were covered by one act, while separate legislation encompassed only school personnel. The new law, which becomes effective July 1, 1972, includes both groups of employees under its jurisdiction.

Under the new statute, public employees are permitted to "meet and negotiate" on terms and conditions of employment and grievance procedures. Further, professional employees are granted the right to "meet and confer" with employers concerning policy matters. A negotiating timetable is outlined in the statute, also, the law provides for nonbinding arbitration of impasses. Included in the legislation is a list of unfair labor practices, and power is vested in the district court to enjoin certain of these practices. The duties of

the director of the Bureau of Mediation Services, which were outlined in previous legislation, are supplemented by the new act. A public employment relations board is established by the statute.

"Public employers," according to the act, are all state and political subdivisions and their agencies, including the University of Minnesota, state and junior colleges, and school districts. Excluded from this category are "charitable hospitals."

A public employee is "any person employed by a public employer" except for elected officials, election officers, national guard personnel, and certain temporary and part-time employees. A teacher is defined as "any person other than a superintendent or assistant superintendent employed in a school district in a position for which the person must be certified by the state board of education;" while a principal is "any person so certificated by the state department of education who devotes more than 50 percent of his time to administrative or supervisory duties."

"Meet and negotiate" is defined as the mutual obligation of representatives of public employers and employees to meet and enter into an agreement concerning the terms and conditions of employment, and grievance procedures. Contrarily, "meet and confer" is the exchange of views between representatives of public employers and employees. Working hours, compensation, fringe benefits and personnel policies are specified as "terms and conditions of employment." Appropriate bargaining units do not include principals, assistant principals, supervisory and confidential employees, although this group may form their own unit and affiliate it with the other employees' organizations.

Employers have the right to negotiate with exclusive or nonexclusive representatives of employees. Exclusive representation can be established in two ways: either by a joint employer-employee request and a vote of at least 50 percent of the unit, or a petition for an election upon a 30 percent showing of majority support in the form of signed authorization cards. The elections are to be held by the director of the Bureau of Mediation Services.

During negotiations, the statute provides that the state will be represented by a team comprised of the administration commissioner and a civil service director or a representative.

The section of the statute concerning negotiation procedures states that employers and employees must execute a written agreement including the terms and conditions of employment and a grievance procedure with binding arbitration. Contracts negotiated between school boards and teachers must extend for two years commencing on July 1 of an even year, all such contracts entered into prior to July 1, 1972, must end by June 30, 1972. Other public sector agreements can be for no longer than three years. If an impasse occurs between the parties, the director of the Bureau of Mediation Services must be informed, and he shall take the necessary steps to settle the disagreement. Under the statute, the employer is required to execute the contract in the form of a resolution or an ordinance.

A section of the statute concerns the right of professional employees and public employers to "meet and confer" on employment policies and matters relating to public services at least once every four months. The representatives of the employers and employees each select a consultant from a list provided by the public employment relations board, the consultants will issue advisory opinions.

Strikes by any public employees are forbidden by the statute. Violators of this provision may be fired upon written notification from the employer. A union which violates the no-strike provision loses its exclusive representative and dues check-off rights for two years.

A list of 10 employer and 17 employee unfair labor practices are included in the law. The act also stipulates that any person or organization can bring action for injunctive relief and damages in a county district court where a practice allegedly occurs.

The responsibilities of the director of the Bureau of Mediation Services are extended under the new legislation. The director is required to investigate all petitions for exclusive certification or decertification of organizations, all petitions from mediation services, all petitions for elections, and all petitions for impasse certification. Determining appropriate bargaining units and mediating disputes between employers and exclusive agents are also the responsibilities of the director. Certain duties relating to the public employment relations board are also required of the director, i.e., to furnish clerical and administrative services and catalogue all decisions of the public employment relations board.

The board instituted by the statute, is to be comprised of five members appointed by the chief justice of the supreme court: two representatives of the public employers, two representatives of public employees, and one representative of the general public. The board will adopt its own rules for procedures. Some of the responsibilities vested with the board are: deciding issues relating to the meaning of supervisory, confidential, professional, and essential employees; hearing appeals from the director on appropriate bargaining units and maintain a list of qualified arbitrators. In the event that an impasse is brought before it, a list of seven arbitrators will

be compiled from which the deadlocked parties will select three. If the decision is to be rejected by the public employer, he must notify the board within 10 days.

The full text of the Minnesota Public Employment Relations Board Act of 1971 is published in the "Texts" section.

NEW MEXICO

STATE AGENCIES MAY BARGAIN COLLECTIVELY WITH EMPLOYEES; GUIDELINES ISSUED

The New Mexico State Personnel Board issued guidelines permitting state agencies to bargain collectively with their employees, effective July 1, 1971. In March 1971, the state legislature had defeated a proposed public employee collective bargaining act. Thereafter, the state Attorney General issued opinions recommending that state agencies recognize and negotiate with employee organizations. The State Personnel Board's guidelines evolved from the Attorney General's opinions.

These regulations provide in part for the training of supervisory personnel in labor relations, right of employees to join unions, and the option of employee organizations establishing informal, consultative, or formal relationships with their employer. The guidelines established the procedure by which employee organizations may request recognition, hold representative elections, and become certified. Also delineated in the regulations were the restrictions placed on union activities. These restrictions were in the form of right to work, no strike, and management rights clauses. Rules and regulations pertaining to unfair labor practices were to be established by the board. However, the board retained the authority to give continuing advice and assistance and to "administer and interpret these regulations."

TEACHERS AMONG THOSE WITH HIGHEST MOONLIGHTING RATE

A recent Bureau of Labor Statistics survey of men whose primary jobs are teaching or protective services, firefighters or police, shows that over 15 percent held second jobs, the highest moonlighting rate, more than double the rate for all men. Postal workers and state and local government employees held from 12 to 15 percent of multiple jobs.

The August issue of *Manpower*, the Labor Department's journal, reported that although money to meet expenses or pay bills was the primary motive, many workers in these professions take on added work to keep up with the times.

On the academic level, college and university faculty members of business, architecture, and engineering schools are often encouraged by their administrators to moonlight in order to keep abreast of trends and events in the marketplace, as well as to maintain connections for their graduating students. Faculty members may lecture at executive training institutes, act as consultants to federal agencies, or teach a graduate seminar at another university. At some schools, the salary policy is kept at a low level in expectation that their faculty will make other arrangements to supplement their income.

The public school teacher in trade or vocational schools often takes an extra workload with money an important consideration, but accompanied by a desire to gain practical skills in his subject. Standards are set in some professions so that the second job does not affect the employee's work performance or competence on the first job. The report further stated that private industry has kept a "hands off" policy when moonlighting does not affect the employee's work.

CONSUMER PRICE INDEX, NOVEMBER 1971

Data reported by the Labor Department, Bureau of Labor Statistics (BLS) indicate that the November 1971 Consumer Price Index (CPI) all-items figure rose 0.2 percent above the previous month to 122.6(1967=100). The November figure put the all-items figure 3.5 percent above that of a year ago. BLS partially attributed the rise to higher property taxes and prices for fresh vegetables, homes and women's clothing, although they were moderated by lower prices for used cars and gasoline.

Most of the prices in the November index reflect Phase I of the wage-rent-price freeze. It is estimated that almost one-half the increase in the index was due to price increases of freeze-exempt items. If these items are not included in the index, the November increase is less than the corresponding September and October increases.

The November index also reflects the refund to consumers of excise taxes on new cars, as required in the Revenue Act of 1971. Since the refund is retroactive to August 15, 1971, the BLS has revised indexes for August, September and October. The revised indexes are 122.1, 122.2 and 122.4 respectively.

Statistics

NEGOTIATION AGREEMENTS: BOARD RIGHTS PROVISIONS

An NEA Research Division analysis of 1,529 classroom teacher agreements in systems with a pupil enrollment of 1,000 or more, effective during the 1970-71 school year, revealed that 532 agreements contained provisions concerning school board rights. The percentage of negotiated agreements containing board rights provisions has steadily declined since 1966-67. In 1966-67, 70.4 percent of the 398 agreements analyzed contained board rights provisions, while in the 1968-69 analysis, 50.9 percent of the agreements contained such provisions. The 1970-71 survey revealed that only 34.8 percent (532) of the agreements provided for board rights. The total number of agreements selected for further analysis was 280. These agreements were taken from every school district in Strata 1 through 5 and a random selection of school districts in Strata 6 through 8.

The purpose of board rights provisions can be viewed in two different ways: as a limit on the powers of the board, or as a license for the school board to act on certain matters. In either case, the provisions attempt to define the scope of the board's authority.

This analysis concerns provisions coded under the general board rights heading in 1970-71. The analysis neither excludes the possibility that specific board rights may be found under different headings (e.g., a board's right to determine the teacher's workday may be found in a section on Teacher Assignment), nor attempts to cross-reference the analyzed provisions with other negotiated content that indirectly affects board rights. Table 1 illustrates the general negotiated content found in board rights provisions. Categories listed in the table are not mutually exclusive since most provisions contained more than one feature.

School systems operate under state laws, and are regulated by constitutional provisions and legislation. The school board, acting as an agent of the state, is accorded certain rights and responsibilities by law. The majority of provisions analyzed (85.0 percent) stated that the school board reserves all rights delegated to it by law. Many of the provisions (193) qualified such statements by mentioning the effect of the terms of the negotiation agreement on board rights. More than half of the provisions analyzed (156) stated that board rights could be limited by the express terms of the agreement. An additional 21 provisions indicated that nothing in the agreement could diminish the legal rights of the school board. Examples of these statements are:

> The Board hereby retains and reserves unto itself, without limitation, all the powers, rights, authority, duties and responsibilities conferred and invested in it by the laws and Constitution of the State of Michigan and of the United States, except as expressly limited by the terms of the Agreement
>
> Flint, Michigan

> It is recognized by the parties that the Board is invested by the laws of the state of Ohio with the management and control of all the public schools in the Columbus City school district . . . Nothing in this agreement shall constitute a derogation or transfer of the authority of the Board as established by the laws of the state of Ohio.
>
> Columbus, Ohio

Other provisions contained statements concerning the effect of the agreement on general, not necessarily legal rights. The question of whether the exercise of board rights was subject to the grievance procedure was considered in 22 provisions. The exercise of board rights was not subject to the grievance procedure in 17 provisions, while five provisions indicated that the exercise of board rights was subject to the grievance procedure. Statements concerning the right of the school board to make final decisions were contained in 12 provisions. Seven of the 12 provisions stated that any decision of the board would be final, while the other five provisions granted the board the right to make final decisions except as provided by the agreement. Nine provisions stated that all rights held by the school board prior to the agreement were to be retained by the board; and seven provided that the school board reserves all rights not mentioned in the agreement.

Many agreements specified the rights reserved for the board. Specific rights found in the provisions can be divided into three categories: rights concerning the general administration of the

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TABLE 1.—GENERAL NEGOTIATED CONTENT IN BOARD RIGHTS PROVISIONS, 280 SELECTED PROVISIONS, 1970-71

Negotiated content	Number	Percent
1	2	3
NUMBER OF AGREEMENTS CONTAINING BOARD RIGHTS PROVISIONS	532	...
AGREEMENTS IN THE SELECTED ANALYSIS	280	100.0%
Rights reserved by law	238	85.0
Rights as affected by the agreement	227	81.1
Can limit rights	156	55.7
Cannot limit legal rights	21	7.5
Exercise of rights is not subject to grievance	17	6.1
Rights held prior to agreement are retained	9	3.2
All rights not covered are reserved for the board	7	2.5
Board's decisions are final	7	2.5
Exercise of rights is subject to grievance	5	1.8
Board's decisions are final except as provided in the agreement	5	1.8
Specific rights to administer school district	239	85.4
Administer school system, properties, and employees	88	31.4
Establish policies, rules, and regulations	52	18.6
Manage school district	37	13.2
Maintain efficiency of school district	18	6.4
Direct school district in emergency	12	4.3
Determine number, location, and use of facilities	10	3.6
Determine fiscal policies	8	2.9
Maintain discipline on district property	5	1.8
Contract or sub-contract its work	3	1.1
Other	6	2.1
Specific rights concerning the educational program	188	67.1
Determine methods of instruction, textbooks, teaching materials, and aids	66	23.6
Establish grades, courses of instruction, and special programs	62	22.1
Approve class schedules and teacher assignments	23	8.2
Establish educational policy	21	7.5
Determine age, number, and qualifications of students	6	2.1
Assign or transfer students in classes	4	1.4
Designate which schools shall be attended by which students	4	1.4
Determine school calendar	2	0.7
Rights concerning employees	130	46.4
Hire, fire, discipline, promote, transfer, determine hiring qualifications and conditions of employment	110	39.2
Direct the teaching force	17	6.1
Other	3	1.1
Right to delegate authority	36	12.9
Rights cannot be delegated	26	9.3
May delegate authority to superintendent and other administrators to conduct certain school district operations	9	3.2
Failure to exercise a right does not indicate a waiver of the right	1	0.4

school district, rights pertaining to the board-teacher relationship, and rights relating to the educational program of the school district.

Of the pertinent provisions specifying administrative rights, 85.4 percent gave the board the right to manage and control the school district, its properties, and staff. Most of these statements are similar to the following:

> [The board has the right] to maintain executive management and control of the school district and its properties and facilities, and the professional activities of its employees as related to the conduct of school affairs.
>
> Argo, Illinois

The board was granted the right to establish policies, rules, and regulations as deemed necessary for the operation of the school district in 52 (18.6 percent) of the analyzed provisions. The content of these clauses is similar to the following:

> It is understood and agreed that the board may continue to make and enforce any and all reasonable rules and regulations and policies relative to anything whatever necessary for the proper establishment, maintenance and management and carrying on of the public schools of the school districts.
>
> L'Anse Creuse School District
> Mt. Clemens, Michigan

A general statement granting the school board the right to manage or operate the school district is found in 37 (13.2 percent) of the provisions. These clauses are not as detailed as those previously discussed. An example of such a clause is:

> The Association recognizes that the Board has a responsibility and authority to manage and direct, in behalf of the public, all the operations and activities of the school corporation. . . .
>
> Hammond, Indiana

Another general clause which was included in 18 (6.4 percent) of the provisions gave the school board the right "to maintain the efficency of the school district." More specific administrative rights were granted to the board in 44 (15.8 percent) of the provisions. The board was given the right to direct the operation of the school district in times of emergency in 18 provisions; 10 provisions reserved the right to determine the maintenance and use of school district facilities for the board; and eight provisions granted the board the right to determine fiscal policies and to authorize expenditures of public monies within the school system. Various other rights reserved to the board included rights to maintain discipline on school property; to contract or subcontract any of its work; to determine safety and health measures, public relations programs, inventories, quality standards of work, and parent relations programs.

Of the provisions concerning the educational program of the school district, 23.6 percent gave the board the right to select means and methods of instruction, textbooks, and teaching materials to be used in the schools. The right to establish grades and courses of instruction, including special programs, was granted to the board in 22.1 percent of the provisions. A more general statement relating to the right of the board to establish educational policies was contained in 21 provisions.

More specific rights were included in 14.0 percent of the agreements. The board was given the right to approve class schedules and teacher assignments in 21 provisions; and six provisions granted the board the right to determine the age, number, and qualifications of pupils admitted to the schools. The remaining provisions granted the board the right to assign pupils to programs and classes, to designate schools which shall be attended by various children within the school district, and to determine the school calendar. Sample provisions illustrating these rights are:

> (The board has the right) to decide upon the means and methods of instruction, the selection of textbooks and other teaching materials, and the use of teaching aids of every kind and nature.
>
> Northwest School District
> Jackson, Michigan

> [The board has the right] to establish courses of instruction, including special programs, and to provide for athletic, recreational and social events for students as deemed necessary.
>
> Van Dyke, Michigan

> [The board has the right] to determine class schedules, hours of instruction and the duties, responsibilities assignments of teachers and other employees with respect thereto, and with respect to administrative and non-teaching activities. . . .
>
> Lodi, Wisconsin

Of the 280 pertinent provisions, 130 contained clauses concerning board rights relative to the board-teacher relationship. The majority (110) of these provisions accorded the board the right to hire, fire, discipline, promote, and assign teachers, while 17 provisions contained a more general statement that gave the school board the right to direct the teaching force. These statements are similar to the following:

> [The board has the right] to hire, promote, transfer, assign and retain employees in positions in the school district, and for just cause, to suspend, to demote, discharge, or take other disciplinary action against employees.
>
> Alfred I. Dupont, Delaware

> [The board has the right] to direct the employees.
>
> Ripon, Wisconsin

The board's right to delegate its authority was considered in 38 provisions. The majority of these

provisions (26) stated that the board's rights could not be delegated. Nine provisions indicated that the board could delegate authority to the superintendent and other administrators to conduct certain school district operations. An occasional agreement stated that the failure of the board to exercise a right does not indicate a waiver of the right. A typical board rights provision is similar to the following sample provision.

Article III. MANAGEMENT RIGHTS

1. The Board of Education, on its behalf and on behalf of the electors of the district, hereby retains and reserves unto itself, without limitation, all powers, rights, authority, duties, and responsibilities conferred upon and vested in it by the laws and the Constitution of the State of Wisconsin and of the United States, including, but without limiting the generality of the foregoing, the right:
   a. To the executive and administrative control of the school system and its properties and facilities and the activities of its employees;
   b. To hire all employees, and subject to the provisions of law, to determine their qualifications and the conditions for their continued employment or their dismissal or demotion, and to promote and transfer all such employees;
   c. To establish grades and courses of instruction, including special programs, and to provide for athletic, recreational and social events for students, all as deemed necessary or advisable by the Board;
   d. To decide upon the means and methods of instruction, the selection of textbooks and other teacher materials, and the use of teaching aids of every kind and nature.
   e. To determine class schedules and hours of instruction, the duties, responsibilities and assignments of teachers and other employees with respect to administrative and non-teaching activities, and the terms and conditions of employment.
2. The exercise of the foregoing powers, rights, authority, duties and responsibilities by the Board, the adoption of policies, rules, regulations and practices in furtherance thereof, and the use of judgment and discretion in connection therewith shall be limited only by the specific and express terms of a written agreement and then only to the extent such specific and express terms hereof are in conformity with the Constitution and laws of the State of Wisconsin and of the United States.

Oconto Joint School District #1
Oconto, Wisconsin

Special Reports

BRIEFS OF RECENT AGREEMENTS

Woburn, Massachusetts

Between the School Committee of the City of Woburn and the Woburn Teachers Association, effective September 1, 1971 to August 31, 1973. Approximately 511 certified professional employees. Provision for contract renewal from year to year unless either party notifies the other of desire to terminate or modify the agreement, commencing October 15 of the prior calendar year. If such notice is filed, the subject matter of such reopener is to be limited to salaries and/or subject matter of no more than three contract articles selected by the Association and three selected by the school committee.

COMPENSATION: (Effective September 1, 1971) B.A., $7,580 to $12,135, 11 increments; B.A. plus 15 hours, $12,440 maximum; M.A., $8,185 to $12,740, 11 increments; C.A.G.S. or M.A. plus 30 hours (subject field), $13,345 maximum. Longevity pay of $200 starting the 16th year of service, $100 starting the 21st year and every five years thereafter. Differentials: (Effective 1971-72) Head football coach, $2,300; head basketball, hockey, baseball coaches and trainer, $1,200 each; junior high school faculty manager, $900; outdoor track, soccer, gymnastics, wrestling coaches at $850 each; girls' softball, basketball, field hockey, tennis and gymnastics coaches, $550 each; yearbook advisor, $1,100; high school band director, $600; mathematics team coaches (3), $350 each; debating and drama coaches and part-time director of high school visual aids, $400 each; director of concert choir, $450; all special teachers in elementary schools shall be provided transportation reimbursement at rate of 10¢ a mile in excess of 10 miles per week.

LEAVES: 13 days' annual sick leave credited at beginning of the school year, unlimited maximum accumulation; 2 separate days' leave (when requested three days in advance) for personal business and if unused can be accumulated as sick leave days; maximum of three days' leave shall be allowed for death in the immediate family, absences for deaths of other near relatives shall be deducted from any current or cumulative leave days; deductions for absences whether business or illness shall be made on basis of 1/200 of annual salary; no more than two days plus fees and expenses granted for school visitation, nor more than one, if the schools are closed for any convention; a teacher awarded an education grant, or institute requiring an early departure at end of school year may be compensated up to a maximum of three days upon recommendation of the superintendent; sabbatical leave at full pay for a half year or half pay for a full year after seven years' service (provided that any grant or aid received shall not exceed the salary to which he would have been entitled).

INSURANCE: (Effective September 1, 1971) School committee will pay maximum percentage permitted by city government enactment of the cost of Blue Cross-Blue Shield as "presently available" to teachers for individual and/or family coverage and a $2,000 life insurance plan currently available; tax-sheltered annuity plan provided for eligible teachers; personal injury benefits, if permitted by law, are provided to employees or dependents resulting from job-related incapacity or death.

ASSOCIATION: Payroll deduction for dues of local, state, and national Associations; Association has use of school and athletic facilities and equipment plus payment of custodial fees incurred; wearing of insignia or other membership identification permitted.

INSTRUCTION: No teacher in secondary level should be required to teach in more than two subject areas; desirable class size as follows: elementary school (grades 1-2), 20-36 pupils; (grades 3-6), 25-36 pupils; junior and senior high school academic subjects, 25-36 pupils; physical education, 25-50 pupils; study hall, 25-50 pupils; industrial arts, 20-36 pupils; "every effort shall be made to use the lower level figure as stated above;" Asso-

ciation shall be notified prior to implementation of experimental programs necessitating an exception to the desired class size; curriculum development innovation committee will submit program evaluations and recommendations to the superintendent prior to his recommendations to the school committee; sufficient textbooks will be provided for proper instruction of each subject in accordance with the approved program or syllabus for the grade or subject; all teachers shall be in their rooms 15 minutes before school begins and elementary teachers shall be available after school for 20 minutes; secondary teachers are expected to be available for extra help for student or parent conferences, one period, two days per week as designated by principal and 15 minutes after school closing on other days; elementary school day, 6 hours and 10 minutes; secondary teacher's school day is 6 hours; there will be a 15 minute morning recess and a 5 minute afternoon recess.

PERSONNEL: Grievance procedure ends with final and binding arbitration; personnel file may be reviewed by a teacher upon request and he may be accompanied by Association representative during such review; "teachers will be shown a copy of any evaluation report prepared by the evaluation supervisor and will have the right to discuss and sign such report with their supervisor;" duty-free lunch period for teachers equal in time to students' in their building; elementary teachers shall have the right to leave the classroom during special subject teacher's time and use the time as preparation period, providing the special subject teacher leaves an outline of what she wants the regular teacher to teach in the subject in the specialist's non-visit weeks; each elementary teacher shall have one 40 minute duty-free period each day which will include lunch period and preparation period, said teacher shall remain in the building for the entire period; secondary teachers shall have at least one duty-free planning period per day; requests for transfer must be submitted between September 1 and April 1 of each school year for the next school year, all requests will be acknowledged in writing; vacancy notice posted with qualifications for position within 15 days after opening, consideration given to all qualified teachers employed within the system; school committee will furnish legal counsel and act as liaison between teacher, police or courts to defend teacher in criminal or assault charges; school committee will maintain its existing effort of a bilingual program for children who speak Spanish; a committment of available school funds for inaugurating and funding a comprehensive psychological services program for assistance to problem learners; teachers should give at least four weeks prior notice of intent to resign but no resignations shall be expected during May or June except in the event of incapacity; notice shall be submitted on or before March 1 so that superintendent or school committee may fill position at or before April meeting; parent-teacher meetings shall not exceed two and a half hours each; interim report cards shall be issued at midpoint of each reporting period to the parents of those pupils who are failing; provision made for one full-time guidance counselor for every 400 children enrolled with provision for a daily free period.

ARTICLE XVIII

GUIDANCE

A. Junior High School and Senior High School

1. There shall be one full-time guidance counselor for every four hundred (400) children enrolled in the Secondary Schools effective in September 1971.

2. All Guidance Counselors shall work the same hours as teachers. They shall also have a lunch period equal in time to that given to pupils.

3. Each Counselor shall have one free period daily.

4. One Junior High Counselor and one Senior High Counselor as assigned by the Director and Assistant Director shall return to work one week before the re-opening of schools each year, and shall be paid for the week involved.

5. At the close of schools each June all Counselors shall continue until his regular work is completed and certified in writing by the Director of Guidance to the Superintendent of Schools. The number of days, however, shall not exceed one week.

6. Full compensation shall be considered by the School Committee for expenses incurred while counselors are visiting schools, colleges, career conferences, conventions, and industrial plants. Outside visits involving compensation for expenses shall be presented to the School Committee in advance for consideration by the School Committee.

ARTICLE XXV

CURRICULUM DEVELOPMENT AND INNOVATION

A. There shall be three curriculum development and innovation committees in the Woburn Public Schools. There shall be one committee for each level in the system: Elementary, Junior High School and Senior High School.

B. The members of each of said Committees shall be three (3) Administrators to be chosen by the Administrative unit of the WTA. The Administrators shall not serve for more than two (2) consecutive years whenever possible. Three (3) teachers to be chosen by the Woburn Teachers' Association. Members of the faculty, Dept. Heads, Supervising Principals, Coordinators, and students at the High School level in related areas of discussion shall be consulted by the members of the Committee.

C. The recorded report of said committees shall be presented to the School Committee for its consideration and action. The related action taken by the School Committee shall be reported to said Committee and other school personnel.

D. These committees shall be activated by the 15th of September of each school year and continue to function until June of that school year. The committees shall meet as often as found necessary by the committees.

E. The function of said committees shall be to recommend the following:

1. Establishment of curriculum innovations.
2. Selection of texts and materials.
3. Revision of existing curriculum.
4. Provisions for adequate supplies and facilities.
5. Cost Estimates to implement 1-4 above.

Albuquerque, New Mexico

Between the Board of Education of Albuquerque Public Schools and the Albuquerque Classroom Teachers Association, effective August 26, 1971 to August 1, 1972. Approximately 3,600 certificated professional employees.

COMPENSATION: B.A., $6,100 to $9,394, 12 increments; B.A. plus 15, $9,669 maximum; M.A., $6,649 to $10,218, 13 increments; M.A. plus 30, $11,041 maximum, 14 increments; Ph.D., $12,048 maximum, 15 increments. Longevity pay of $200 at 21st step and every five years thereafter. Differentials: senior high head football coach, $500; senior high head wrestling and baseball coaches, assistant football coach, $250; senior high head basketball and track coach, $300; cross country, swimming, golf coach, $125; assistant wrestling and baseball coach, $175; speech, dramatics, band, orchestra, and chorus teachers, $100 (senior high) and $75 (junior high); high school department heads, $150; high school activity director, $400; junior high coaches at $112.50 for each sport coached; secondary counselors and high school librarians shall work 10 extra days and elementary counselors shall work three extra days and are paid a prorated daily differential from their basic salary.

LEAVES: 10 days' annual sick leave, 200 days' maximum accumulation, one day per month sick leave for those on extended contract with the accumulation to match annual contract, additional sick leave after accumulated leave has been exhausted is granted upon request at superintendent's discretion with loss of substitute pay only; one day paid leave for personal business which may be accumulated as sick leave if unused; 3 separate days paid leave for bereavement in immediate family, two additional days will be granted upon request; leave with pay for attendance at school-related professional meetings as approved by superintendent; up to 3 days sick leave may be used for each critical family illness; paid leave for teachers responding to legal process which requires absence from duty; paid leave less substitute pay for teachers to appear in personal legal suit; up to 5 days emergency leave per year with deductions from gross pay of teacher for substitute pay during leave days taken for serious family illness, religious holiday, birth of a child, death of near relative or friend; provision stating that "abuse of any leave with pay privileges by teacher shall be considered just cause for dismissal;" sabbatical leave at half pay for unspecified time.

INSURANCE: Health: Board pays 40% of cost of comprehensive group health insurance coverage (including major medical plan) for individual and family; health care plan includes outpatient psychiatric limitation providing 50% reimbursement of charges to a maximum of $10 per visit, with a further limitation of $500 per individual per 12-month period; board-paid life insurance for individual coverage to a maximum of $4,000, with board contributing 20% of cost of any additional coverage, provision for dependent group life insurance with employee paying 70¢ per month; board contributes

20% of cost of dental insurance coverage for individual and family; disability income plan in addition to accumulated sick leave pay or workmen's compensation indemnity; tax deferred annuity plan available.

ASSOCIATION: Payroll dues deduction for Association; 100 days' substitute covered leave granted for use of Association; Association to be placed on the distribution list for copy of board agenda for each official meeting.

INSTRUCTION: Teachers shall not be assigned outside the scope of their teaching certificates, changes in grade or subject assignment shall not be made without prior discussion between the principal and teacher affected; six and one-half hour work day for teachers; teachers in class 15 minutes before and after classes; minimum nonteaching duties to be assigned on equitable basis; three area curriculum councils to be established; system of grading and reporting pupil progress for each school will be developed by building committee and principal; general assignment provision for special services counselors, nurses, librarians, consultants, therapists, and homebound teachers.

PERSONNEL: Grievance procedure ends with advisory arbitration; two personnel files kept for each teacher: (a) confidential (containing only preemployment references, references directly related to internal promotions), (b) open file (containing all other information pertaining to the teacher); teacher accompanied by any individual of his choosing has access to open file only; teacher has the right to respond to any derogatory material on file; 30 minutes duty-free lunch period which may be taken on or off school grounds upon notification of school office when leaving; 200 minutes minimum per week for preparation and planning; faculty meeting, conferences, inservice meetings and other functions after class upon 48 hour prior notice; institute for professional development to be developed; eligibility for professional growth increments upon submission of transcripts prior to September 15 for verification of college work other than degree work; qualified applicants for employment must have at least a bachelor's degree and a currently valid provisional, continuing, or life teaching certificate from the state; joint program for administration of a tuberculin testing program for teachers; non-tenure teachers evaluated at least two 15 minute periods of each school year by their principal or supervisor, monthly evaluations of those teachers receiving an unsatisfactory evaluation; promotional position for principal and assistant principal accepted once a year during February; vacancies posted at least two weeks prior to filling of position.

Erie, Pennsylvania

Between the Board of Education of the City of Erie and the Erie Education Association, effective July 1, 1971, to June 30, 1972. Approximately 865 certificated professional employees.

COMPENSATION: (1971-72) B.A., $7,500 to $11,150, 11 increments; B.A. plus 30 hours, $11,650, maximum; M.A., $8,300 to $12,600, 13 increments; M.A. plus 30 hours, $13,100 maximum; Ph.D., $13,400 maximum. Teachers who had not reached the maximum limit of their classification the previous year shall have their salaries increased by $825 and those who had reached their maximum limit the previous year shall have their salaries increased by $700. Extra assignment activities, such as summer school, driver education, adult evening school, etc., currently being paid at the rate of $6.00 per hour shall be increased to $7.00 per hour; teachers required to use own car for assigned school duties to be reimbursed at 10¢ per mile.

LEAVES: 10 days' annual sick leave credited as of the first day of the employment year, unlimited maximum accumulation; one day personal business leave; five consecutive days' paid leave beginning with the day following death in immediate family, paid leave permitted through day of funeral for close relative, paid leave for day of funeral of near relative; one day paid leave for parental responsibility for birth of child; no loss of pay or sick leave for communicable disease; teachers in summer school programs granted two noncumulative sick leave days for use during that period.

INSURANCE: Board will waive employee monthly contribution for dependent insurance for those employees who have contributed for two or more years; board paid life insurance and accidental death and dismemberment protection of at least $2,000; tax sheltered annuity plan provided through qualified companies and administered by the board at no expense to the teachers; retiring teacher paid his unused accumulated sick days at the rate of $10 a day, but not to exceed $500, in any case the terminal pay shall be not less than $100; paid leave

not charged to sick leave for absence owing to job-related injury, not to exceed two calendar years from date of injury (providing the teacher agrees in writing to return to board workman's compensation and social security benefit payments related to the injury), total disability benefits will be 70% of the teacher's salary including other payments.

ASSOCIATION: Payroll dues deduction authorized for the Association; released time for Association representative to participate in negotiations or grievance proceedings during work hours with no loss in pay; president of Association or his designee shall be allowed to visit other schools to investigate teacher complaints without interference to his regular duties or the instructional programs of the schools visited; Association use of school facilities and communication system including the interschool mail (Association use limited to one 9x12 envelope per school per week); bimonthly meetings of the Association representatives and superintendent to discuss mutual concerns; bimonthly meetings or more often for building representatives and the principal on matters pertaining to the agreement; superintendent shall invite Association president or his designee to discuss formulation of school calendar.

INSTRUCTION: Secondary school teachers have at least five unassigned periods per week on the average of one per day; "it is the position of the board that split grades should be phased out," such classes should not exceed 25 students; to help relieve classroom teachers of noninstructional duties, the board agrees to engage not less than one aide per school; when board is considering a change in textbooks, the appropriate administrative official will discuss the change with teachers who will be affected by the change, school day begins about 8 a.m. and ends no later than 4 p.m. with a seven hour and five minute work day for elementary teachers and shall not exceed 6 hours and 55 minutes for secondary teachers, this total time includes lunch periods, instructional period, preparation periods, and rest breaks where applicable; teachers shall be available for special help to students or preparation of work one day per week for a half hour after regular classes; board issues a written statement for Internal Revenue Service purposes for teachers who are required to do preparation for regular teaching duties at home.

PERSONNEL: Grievance procedure ends with binding arbitration and both parties agree that "judgement thereon may be entered in any court of competent jurisdiction;" personnel file of teacher may be examined at "reasonable times" and "with reasonable advance notice;" teachers are not permitted to see confidential letters of recommendation; duty-free lunch period of at least 30 minutes for secondary teachers and 65 minute lunch period for elementary teachers until a new educational program is established (teachers leaving the building at this time should notify the principal), during planning period teachers may leave school building for causes such as medical, dental, legal, and banking business which is inconvenient after school hours, school or work-related activity, home, and family matters of emergency nature, etc.; monthly faculty meetings to be scheduled on school time and completed by end of regular school day; promotional vacancies posted at least 3 calendar weeks before the position is filled except on a temporary basis; in filling these positions from applicants with equal qualifications preference is given to those with the greatest continuous service, transfers based on reduction in staff or the need for additional staff in a particular school is based (unless voluntary) on reverse seniority, the least senior teacher is transferred first; complaints by parents of students or by members of community directed at teacher becomes a matter of record and is brought to the teacher's attention within 2 working days; board shall make an "equitable financial adjustment" to the teacher in the event of vandalism or theft to personal property occurring on school premises. [Disruptive student discipline procedure is reprinted below.]

Discipline Procedure

The principal responsibility for maintaining discipline remains with the teacher. It is recognized, however, that there are times when teachers will have to make use of special disciplinary procedures. In this connection disruptive students may be removed from the regular classroom or school when, in the professional judgment of the teacher, normal corrective measures have been ineffective in bringing about satisfactory improvement.

Such student shall be reported to the principal and he may take whatever action that he deems necessary except that he may not return the student to the classroom of the same teacher or retain the student in the school without the teacher's approval.

If this disruptive student is assigned to the regular classroom of another teacher, this teacher shall be apprised of the conditions and circumstances which led to the student's removal. He, too, has the right to refuse to accept the disruptive student in his classroom.

If this disruptive student is assigned to another school, the teacher committee of the receiving school shall be apprised of the conditions and circumstances that led to the student's removal. They, too, have the right to refuse the acceptance of the student in their school.

Such student may be placed in a special class which has been designed to meet his educational needs.

If the principal or any other administrator feels that the disruptive student should be considered for return to the regular classroom or school against the wishes of the teacher, a committee of three (3) teachers from the building selected by the teachers in that building shall meet and decide whether or not the student should be returned to the regular classroom or permitted to attend the school.

This committee shall utilize school specialists and the principal, if needed, to help formulate their decision. The decision of this committee shall be limited only to the question of whether or not the student should be returned to the regular classroom or permitted to attend the same school. If the student is not returned to the regular classroom or school, he shall be returned to the principal for further action. If, at a later date, it appears that this student should be returned to his regular class or school the Board shall refer the matter back to the committee for approval.

Implementation of this procedure will require that a program of special instruction be established to handle those students who cannot be returned to the regular class or school.

The Board shall design such a program to be completed the opening of school in September 1971.

Milwaukee, Wisconsin

(School Aides)

Between the Milwaukee Board of School Directors and the Milwaukee Teacher Education Association as representatives of the School Aides, effective January 1, 1971, to December 31, 1972. Approximately 1,200 general aides, technical aides, and paraprofessional employees. Provision for automatic renewal and continuance from January 1, 1972 through December 31, 1972, contingent upon board adoption of 1972 financial budget. If otherwise, the reopener shall take effect December 31, 1971.

COMPENSATION: (Salary rates are adjusted without regard to regular service increments which are adjusted with each 1,150 hours of service). Effective January 1, 1971: General aides (playground, bus, cafeteria), $2.50 minimum; $2.60 per hour, 1,150 hours; $2.70 per hour, 2,300 hours; Technical aides (education aide, data processing, media equipment), $2.99 per hour minimum; $3.09 per hour, 1,150 hours; $3.21 per hour, 2,300 hours; Paraprofessional aides (classroom-theme reader, foreign language aide, library aide), $3.54 per hour, minimum; $3.63 per hour, 1,150 hours; $3.77 per hour, 2,300 hours; Lead aides receive an additional 15¢ per hour when placed in charge of other aides by the principal; overtime assigned to full-time school aides working over 8 hour day or 40 hour week compensated at time and a half.

Effective January 1, 1972;

General School Aides, $2.65 per hour; $2.77 per hour, 1,150 hours; $2.90 per hour, 2,300 hours;

Technical Aides, $3.17 per hour; $3.29 per hour, 1,150 hours; $3.45 per hour, 2,300 hours;

Paraprofessional Aides, $3.75 per hour; $3.87 per hour, 1,150 hours; $4.50 per hour, 2,300 hours.

LEAVES: 1 1/4 hours per 8 hour day and 40 hour week sick leave, 120 days maximum accumulation at full pay thereafter with unlimited accumulation (prorated on the basis of 20 or more working days) at half pay, kept in separate accounts; 2 separate days for personal business (court subpoena, graduation exercise, child adoption proceeding, settlement of recently purchased home, selective service, Internal Revenue, religious discipline making it necessary to remain away from daily occupation).

INSURANCE: Health: board paid group hospital-surgical and major medical benefits for aides employed 20 or more hours per week; board paid group life insurance after one year of service to employees working 20 or more hours per week in an amount equal to annual earnings; effective January 1, 1971, full premium paid on first $4,000 and $3.60 per thousand above that with employee paying balance, effective January 1, 1972-full premium paid on first $8,000 and additional $3.60 per thousand above that with employee paying balance; board paid life insurance continued for enrolled employees with 30 years service who take an immediate annuity before age 65; in addition the board agrees that enrolled employees taking an immediate annuity at age 60 or after, with 15 years service, may retain full life insurance coverage by paying full premium until age 65; at age 65 and over, life insurance is provided with-

out cost to enrolled employees as follows: on March 1 after 65th birthday, life insurance coverage is reduced to 75% of original coverage, at age 66 coverage is reduced to 50%, at age 67 or over coverage is reduced to 25% of original and continued at that amount; provision for board paid liability insurance.

ASSOCIATION: Payroll dues deduction authorized for local Association with 50¢ service charge per member paid by Association to board; school aides released without loss of pay to attend scheduled negotiation meetings and when necessary for a grievance scheduled outside grievant's school; no strike clause; use of school mail facilities.

PERSONNEL: Grievance procedure ends with binding arbitration; full-time aides receive a 30 minute paid lunch period and aides working five or more hours per day allocated a minimum of 30 minutes for an unpaid lunch period; Association will make recommendations in regard to training program to be conducted to improve work skills; one year probationary period before permanent status attained unless notified of extension of probationary period an additional 95 days for dissatisfaction of service (subject to grievance procedure); superintendent appoints and reassignes school aides; reduction of aides by layoff based on work qualifications and presence in a building with the greatest system-wide seniority, board will discuss with the Association the seniority status of affected aides 10 days prior to layoff; legal assistance provided by city attorney's office in case of job-related assault; however if city is unable to defend the aide, minimum bar fees will be provided when case is dismissed or when aide is found not guilty; no new aides will be assigned more hours than any aide already employed in the building; aides working "less than full time" may be offered additional hours when available in order of seniority.

A. EVALUATION

1. Probationary Employes. Any school aides employed previous to January 1, 1970, shall have permanent status, except those aides upon due notice who had their probationary period extended for one year. Those school aides employed after January 1, 1970, shall be given permanent status as a school aide one school year (190 days) after the date of employment, unless they are notified by the Division of Personnel that the probationary period will be extended an additional 95 days, in which case the Division of Personnel will explain to them why such action is being taken. Every opportunity will be given to the employe to correct his misconduct or inefficiency prior to discharge. Where the principal is recommending dismissal of a probationary employe, he shall notify the employe in writing of the reasons for his recommendation ten days prior to the intended dismissal. The employe shall have the right to appeal the principal's recommendation to the Assistant Superintendent of the Division of Personnel and proceed through the grievance procedure, including the sixth step.

   Where an employe is accused of a serious act, he shall be promptly furnished with written charges and the principal's recommended disposition. If the employe is not satisfied with the principal's recommendation, he may appeal the matter through the grievance procedure, beginning at Step Two and proceeding through the sixth step.

2. Permanent Employes.

   a. School aides who successfully complete their probationary period shall be considered permanent employes and shall be discharged only for good and just cause. Should the principal consider discipline or discharge recommendations, he shall first call the aide into a conference, at which the aide may be represented by the MTEA or some other person, explaining the reasons why he is considering such a recommendation, and the aide be given the opportunity to respond thereto. Thereafter, if the principal recommends discipline or discharge, he shall set forth the same in writing specifically, stating the reasons for such recommendation, with a copy for the MTEA.

   b. Within ten days, the school aide shall be granted a hearing and discussion with the Assistant Superintendent of the Division of Personnel or his designee, at which meeting he may again be represented by the MTEA or some other person of his choosing. Within five working days of the hearing, the school aide and the MTEA shall be notified of the decision relative to the charges in writing and the reasons substantiating such decision.

   c. The Superintendent shall, within five working days, review the decision of the Assistant Superintendent of the Division of Personnel and issue his decision thereon.

   d. The aide may, within ten working days of receipt of the decision of the Super-

intendent, request a hearing before the Committee on Rules and Complaints, which shall be held within 45 working days of the request. The Committee, after a full and fair hearing which shall be public or private at the aide's request, shall make a written decision specifying its reasons and the action and recommendations, prior to the next full meeting of the Board.

e. The MTEA may, within ten working days, invoke arbitration, as set forth in the sixth step of the grievance procedure. An aide who elects to proceed to arbitration shall be considered to have waived the right to pursue the matter in the courts, except as provided in Chapter 298, Wisconsin Statutes.

3. Emergency Situations. When an allegation of serious misconduct, which is related to his employment, is made, the administration may conduct an administrative inquiry which would include ordering the aide to the Central Office for a period not to exceed three days. No aide shall be temporarily suspended prior to the administrative inquiry, nor without the opportunity to respond to the charges and have representation of his choice as set forth above. No aide may be suspended unless a delay beyond the period of the administrative inquiry is necessary, for one of the following reasons:

a. The delay is requested by the aide.

b. The delay is necessitated by criminal proceedings involving the aide.

c. Where, after the administrative inquiry, probable cause is found to believe that the aide may have engaged in serious misconduct.

In the event the aide suspended is cleared of the charges, he shall be compensated in full for all salary lost during the period of suspension, minus any interim earnings.

CONTRACT ADMINISTRATIVE PROVISIONS–MAINTENANCE OF STANDARDS, SAVINGS CLAUSE, EFFECT OF PRIOR POLICIES, EFFECT ON FUTURE POLICIES

The following analysis of four contract administrative provisions (maintenance of standards, savings clause, effect of prior policies, effect on future policies) is drawn from 1,529 comprehensive agreements effective during the 1970-71 school year. The analysis presents an over-all picture of the nature and incidence of such provisions negotiated in school systems with a pupil enrollment of 1,000 or more. Table 1 gives the incidence of the four provisions.

TABLE 1.–CONTRACT ADMINISTRATIVE PROVISIONS CONTAINED IN 1,529 COMPREHENSIVE AGREEMENTS, 1970-71

Type of provision	Agreements containing designated content	
	Number	Percent
1	2	3
Total comprehensive agreements	1,529	100.0%
Total agreements containing contract administrative provisions	1,020	66.7%
Maintenance of standards	183	12.0
Savings clause	922	60.3
Effect of prior policies	522	34.1
Effect on future policies	353	23.1

Out of 1,529 reported agreements, 1,020 (66.7 percent) contained at least one or a combination of the four contract administrative provisions. Table 2 shows these combinations.

TABLE 2.–COMBINATIONS OF CONTRACT ADMINISTRATIVE PROVISIONS CONTAINED IN AGREEMENTS, 1970-71

Combinations	Agreements containing designated content	
	Number	Percent
1	2	3
Total agreements containing contract administrative provisions	1,020	100.0%
Single administrative provisions		
Effect of prior policies only	53	5.2
Maintenance of standards only	30	2.9
Savings clause only	255	25.0
Effect on future policies only	34	3.3
Combination of administrative provisions		
Effect of prior policies, maintenance of standards, savings clause, effect on future policies	90	8.8
Effect of prior policies, savings clause, effect on future policies	382	37.5
Maintenance of standards, savings clause, effect on future policies	66	6.5
Savings clause, effect on future policies	110	10.8

Of the four provisions, the savings clause was most often found in the reported agreements. There were 922 (60.3 percent) such provisions contained in the 1,529 agreements. Generally, the clause provided that if any provision in an agreement were in conflict with any law, that provision would be rescinded or renegotiated, all other clauses remaining in full force and effect. Examples of the savings clause are:

> If any provision of this Agreement or any application of this Agreement to any employee or group of employees is held to be contrary to any law, administrative order or ruling of the Federal or State governments, then such provisions or application shall not be deemed valid or subsisting except to the extent permitted by law, but all other provisions or applications shall continue in full force and effect. (Newark, Delaware)
>
> In the event any of the provisions set forth in these rules are declared illegal, the parties shall immediately meet and negotiate a substitute provision. (Butte, Montana)

There were 522 (34.1 percent) agreements containing the effect of prior policies clause. It usually stipulated that the present agreement would supersede any conflicting previous agreements, board policies, teacher contracts, informal practices, etc. The following extracts are examples of effect of prior policies clause:

> Any previously adopted policies, practices, procedures, customs, rules, regulations or writings of the Board which are in conflict with this policy shall be superseded by the terms set forth herein. The Board shall not amend this policy or make or execute decisions or policies which violate this policy. (Wichita, Kansas)
>
> This Agreement shall supersede any rules, regulations, or practices of the Board which shall be contrary to or inconsistent with terms contained in any individual teacher contracts heretofore in effect. (Hobart, Indiana)

The effect on future policies clause was incorporated in 353 (23.1 percent) of the reported agreements. Generally, it enumerated the circumstances under which the school board may change or adopt various policies and regulations. Policies may usually be altered, changed, deleted, or modified only through the voluntary consent of both parties, in a written and signed amendment to the agreement. Here are some examples of the effect on future policies provision:

> This agreement may be altered, changed, added to, deleted from, or modified only through the voluntary mutual consent of the parties, in written and signed amendment to this agreement. (Caro, Michigan)
>
> The parties mutually agree that the terms and conditions set forth in this agreement represent the full and complete understandings and commitments between the parties hereto, which may be altered, changed, added to, deleted from, or modified only through the voluntary, mutual consent of both parties in an amendment hereto. (Portland, Oregon)

Fewer contracts (183, 12.0 percent) provided for a maintenance of standards clause. The maintenance of standards provision relates to the application of the minimum standards negotiated in an agreement. This clause stipulates that no teacher may be deprived of advantages enjoyed prior to ratification of the current agreement. However, if an individual enjoys rights and privileges that conflict with the current agreement, these may only be rescinded if expressly stated in the agreement.

> All conditions of employment and general working conditions shall be maintained at not less than the highest minimum standards in effect in the district at the time this Agreement is signed, provided that such conditions shall be improved for the benefit of teachers as required by the express provisions of this Agreement. This Agreement shall not be interpreted or applied to deprive teachers of professional advantages heretofore enjoyed unless expressly stated herein. (Caro, Michigan)
>
> All rights and privileges granted to teachers not in conflict with the provisions of this agreement shall remain in full force and effect. Rights and privileges granted teachers in conflict with this agreement are hereby rescinded. (Coventry, Rhode Island)

Texts

MINNESOTA

PUBLIC EMPLOYMENT RELATIONS ACT OF 1971
(Effective July 1, 1972)

Strike everything after the enacting clause and insert in lieu thereof the following:

"SECTION 1. [PUBLIC POLICY.] It is the public policy of this state and the purpose of this act to promote orderly and constructive relationships between all public employers and their employees, subject however, to the paramount right of the citizens of this state to keep inviolate the guarantees for their health, education, safety and welfare.

The relationships between the public, the public employees, and their employer governing bodies imply degrees of responsibility to the people served, need of cooperation and employment protection which are different from employment in the private sector. So also the essentially and public desire for some public services tend to create imbalances in relative bargaining power or the resolution with which either party to a disagreement presses its position, so that unique approaches to negotiations and resolutions of disputes between public employees and employers are necessary.

Unresolved disputes between the public employer and its employees are injurious to the public as well as to the parties; adequate means must therefore be established for minimizing them and providing for their resolution. Within the foregoing limitations and considerations the legislature has determined that overall policy may best be accomplished by:

(1) granting to public employees certain rights to organize and choose freely their representatives;

(2) requiring public employers to meet and negotiate with public employees in an appropriate bargaining unit and providing for written agreements evidencing the result of such bargaining; and

(3) establishing special rights, responsibilities, procedures and limitations regarding public employment relationships which will provide for the protection of the rights of the public employee, the public employer and the public at large.

SEC. 2. [CITATION.] This act shall be known and may be cited as the public employment labor relations act of 1971.

SEC. 3. [DEFINITIONS.] Subdivision 1. For the purposes of this act, the terms defined in this section have the meanings given them.

Subd. 2. "Director of mediation services" or "director" means the director of the bureau of mediation services established by section 179.02.

Subd. 3. "Board" means the Minnesota public employment relations board unless otherwise clearly stated,

Subd. 4. "Public employer" or "employer" means the state of Minnesota and its political subdivisions and any agency or instrumentality of either; including the university of Minnesota, the state and junior colleges and school districts and their respective representatives; the term does not include a "charitable hospital" as defined in section 179.35, subdivision 2.

Subd. 5. "Employee organization" means any union or organization of public employees whose purpose is, in whole or in part, to deal with public employers concerning grievances and terms and conditions of employment.

Subd. 6. "Exclusive representative" means an employee organization which has been designated by more than 50 percent of the appropriate unit and has been certified pursuant to section 7.

Subd. 7. "Public employee" or "employee" means any person appointed or employed by a public employer except:

(a) elected public officials;

(b) election officers;

(c) commissioned or enlisted personnel of the Minnesota national guard;

(d) emergency employees who are employed for emergency work caused by natural disaster;

(e) part time employees whose service does not exceed 14 hours per week;

(f) employees who hold positions of a basically temporary or seasonal character for a period not in excess of 100 working days in any calendar year;

(g) employees of charitable hospitals as defined by section 179.35, subdivision 3.

Subd. 8. "Confidential employee" means any employee who works:

(1) in the personnel offices of a public employer or who has access to information subject to use by the public employer in meeting and negotiating; or

(2) in a close continuing relationship with public officers or representatives associated with meeting and negotiating on behalf of the employer.

Subd. 9. "Supervisory employee" means any person having authority in the interests of the employer to hire, transfer, suspend, promote, discharge, assign, reward or discipline other employees or responsibly to direct them or adjust their grievances on behalf of the employer, or to effectively recommend such action, if in connection with the foregoing the exercise of such authority is not merely routine or clerical in nature but requires the use of independent judgment.

Subd. 10. "Professional employee" means:

(a) any employee engaged in work (i) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work; (ii) involving the consistent exercise of discretion and judgment in its performance; (iii) of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; (iv) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual, or physical processes;

(b) any employee, who (i) has completed the courses of specialized intellectual instruction and study described in clause (iv) of paragraph (a), and (ii) is performing related work under the supervision of a professional person to qualify himself to become a professional employee as defined in paragraph (a).

Subd. 11. "Essential employee" means any person within the definition of subdivision 7 of this section whose employment duties involve work or services essential to the health or safety of the public and the withholding of such services would create a clear and present danger to the health or safety of the public.

Subd. 12. "Strike" means concerted action in failing to report for duty, the willful absence from one's position, the stoppage of work, slowdown, or the abstinence in whole or in part from the full, faithful and proper performance of the duties of employment for the purposes of inducing, influencing or coercing a change in the conditions or compensation or the rights, privileges, or obligations of employment.

Subd. 13. "Teacher" means any person other than a superintendent or assistant superintendent, employed by a school district in a position for which the person must be certificated by the state board of education; and such employment does not come within the exceptions stated in section 3, subdivision 7, or defined in section 3, subdivisions 8, 9, or 15.

Subd. 14. "Principal" and "assistant principal" means any person so certificated by the state department of education who devotes more than 50 percent of his time to administrative or supervisory duties.

Subd. 15. "Meet and confer" means the exchange of views and concerns between employers and their respective employees.

Subd. 16. "Meet and negotiate" means the performance of the mutual obligations of public employers and the exclusive representatives of public employees to meet at reasonable times, including where possible meeting in advance of the budget making process, with the good faith intent of entering into an agreement with respect to terms and conditions of employment; provided, that by such obligation neither party is compelled to agree to a proposal or required to make a concession.

Subd. 17. "Appropriate unit" or "unit" means a unit of employees, excluding supervisory employees, confidential employees and principals and assistant principals, as determined pursuant to section 11, subdivision 3, and in the case school districts, the term means all the teachers in the district.

Subd. 18. The term "terms and conditions of employment" means the hours of employment, the compensation therefor including fringe benefits, and the employer's personnel policies affecting the working conditions of the employees. In the case of professional employees the terms mean the hours of employment, the compensation therefor, and economic aspects relating to employment, but does not mean educational policies of a school district. The terms in both cases are subject to the provisions of section 6 of this act regarding the rights of public employers and the scope of negotiations.

SEC. 4. [STRIKES: PROHIBITION; PENALTIES.] **Subdivision 1.** No person holding a position by appointment or employment in the government of the state of Minnesota, or in the government of any one or more of the political subdivisions thereof, or in the service of the public schools, or of the state university, or in the service of any authority, commission or board or any other branch of the public service, whether included or excepted from this act may engage in a strike, nor shall any such person or organization

of such persons or its officials or agents cause, condone, instigate, encourage, or cooperate, in a strike.

Subd. 2. Notwithstanding any other provision of law, any public eemployee who violates the provisions of this section may have his appointment or employment terminated by the employer effective the date the violation first occurs. Such termination shall be effective upon written notice served upon the employee. Service may be made by certified mail.

Subd. 3. For purposes of this subdivision an employee who is absent from any portion of his work assignment without permission, or who abstains wholly or in part from the full performance of his duties without permission from his employer on the date or dates when a strike occurs is prima facie presumed to have engaged in a strike on such date or dates.

Subd. 4. A public employee who knowingly violates the provisions of this section and whose employment has been terminated pursuant to this section, may, subsequent to such violation, be appointed or reappointed, employed or reemployed, but the employee shall be on probation for two years with respect to such civil service status, tenure of employment, or contract of employment, as he may have theretofore been entitled.

No employee shall be entitled to any daily pay, wages or per diem for the days on which he engaged in a strike.

Subd. 5. Any public employee, upon request, shall be entitled, as hereinafter provided, to establish that he did not violate the provisions of this section. Such request must be filed in writing with the officer or body having the power to remove such employee, within ten days after notice of termination is served upon him; whereupon such officer, or body, shall within ten days commence a proceeding at which such person shall be entitled to be heard for the purpose of determining whether the provisions of this section have been violated by such public employee, and if there be laws and regulations establishing proceedings to remove such public employee, the hearing shall be conducted in accordance therewith. The proceedings may upon application to the court by an employer, an employee, or employee organization and the issuance of an appropriate order by the court include more than one employee's employment status if the employees' defenses are identical, analagous or reasonably similar. Such proceedings shall be undertaken without unnecessary delay. Any person may secure a review of his removal by serving a notice so requesting upon the employer removing him within 20 days after the results of the hearing referred to herein have been announced. This notice, with proof of service thereof, shall be filed within ten days after service, with the clerk of the district court in the county where the employer has its principal office or in the county where the employee last was employed by the employer. The district court shall thereupon have jurisdiction to review the matter the same as on appeal from administrative orders and decisions. This hearing shall take precedence over all matters and may be held upon ten days written notice by either party. The court shall make such order in the premises as is proper; and an appeal may be taken therefrom to the supreme court.

Subd. 6. An employee organization which has been found pursuant to section 8 to have violated this section shall upon such finding lose its status, if any, as exclusive representative following such finding; and may not be so certified by the director for a period of two years following such finding; nor may any employer deduct employee payments to any such organization for a period of two years.

Subd. 7. An unfair labor practice by an employer is not a defense to violation of this section but may be considered by the court in mitigation of or retraction of any penalties as to employees and employee organizations.

SEC. 5. [RIGHTS AND OBLIGATIONS OF EMPLOYEES.] **Subdivision** 1. Nothing contained in this act shall be construed to limit, impair or affect the right of any public employee or his representative to the expression or communication of a view, grievance, complaint or opinion on any matter related to the conditions or compensation of public employment or their betterment, so long as the same is not designed to and does not interfere with the full faithful and proper performance of the duties of employment or circumvent the rights of the exclusive representative if there be one; nor shall it be construed to require any public employee to perform labor or services against his will.

Subd. 2. Public employees shall have the right to form and join labor or employee organizations, and shall have the right not to form and join such organizations. Public employees in an appropriate unit shall have the right by secret ballot to designate an exclusive representative for the purpose of negotiating grievance procedures and the terms and conditions of employment for such employees with the employer of such unit.

Subd. 3. Public employees who are professional employees as defined by section 3, subdivision 11, of this act have the right to meet and confer with public employers regarding policies and matters not included under section 3, subdivision 18, pursuant to section 13 of this act.

Subd. 4. Public employees through their certified exclusive representative have the right and obligation to meet and negotiate in good faith

with their employer regarding grievance procedures and the terms and conditions of employment, but such obligation does not compel the exclusive representative to agree to a proposal or require the making of a concession.

Subd. 5. Public employees shall have the right to request and be allowed dues check off for the employee organization of their selection, provided that dues check off and the proceeds thereof shall not be allowed any employee organization that has lost its right to dues check off pursuant to sections 4 to 15 of this act.

Subd. 6. Supervisory and confidential employees, principals and assistant principals, may join and participate in employee organizations and may form their own organizations, provided, however, that nothing in this section authorizes supervisory or confidential employees, or principals and assistant principals, to be included in an appropriate unit. Affiliation of a supervisory or confidential employee or principal or assistant principal organization with another employee organization which has as its members non-supervisory employees or non-confidential employees, or non-principals or non-assistant principals is permitted. An employer shall not, and shall not be required by the director to extend exclusive recognition to a representative of or an organization of supervisory or confidential employees, or principals and assistant principals, for the purpose of negotiating terms or conditions of employment, but an employer may consult and otherwise communicate with such an organization on appropriate matters.

Subd. 7. An exclusive representative shall have the right to petition the director for arbitration under section 9, subdivision 3; provided the exclusive representative has first petitioned the director for mediation services as are available under section 9, subdivision 1.

SEC. 6. [RIGHTS AND OBLIGATIONS OF EMPLOYERS.] **Subdivision 1.** A public employer is not required to meet and negotiate on matters of inherent managerial policy, which include, but are not limited to, such areas of discretion or policy as the functions and programs of the employer, its overall budget, utilization of technology, the organizational structure and selection and direction and number of personnel.

Subd. 2. A public employer has an obligation to meet and negotiate in good faith with the exclusive representative of the public employees in an appropriate unit regarding grievance procedures and the terms and conditions of employment, but such obligation does not compel the public employer or its representative to agree to a proposal or require the making of a concession.

Subd. 3. A public employer has the obligation to meet and confer with professional employees to discuss policies and those matters relating to their employment not included under section 3, subdivision 18, pursuant to section 13 of this act.

Subd. 4. A public employer has the obligation to meet and confer with supervisory employees, confidential employees, principals and assistant principals, or their representative regarding the terms and conditions of their employment.

Subd. 5. Any provision of any contract required by section 10, which of itself or in its implementation would be in violation of or in conflict with any statute of the state of Minnesota or rule or regulation promulgated thereunder or provision of a municipal home rule charter or ordinance or resolution adopted pursuant thereto, or rule of any state board or agency governing licensure or registration of an employee, shall be void and of no effect.

Subd. 6. Nothing in this act shall be construed to impair, modify or otherwise alter, or indicate a policy contrary to the authority of the legislature of the state of Minnesota to establish by law schedules of rates of pay for its employees or the retirement or other fringe benefits related to the compensation of such employees.

Subd. 7. The employer shall not meet and negotiate or meet and confer with any employee or group of employees who are at the time designated as a member or part of an appropriate employee unit except through the exclusive representative if one is certified for that unit or as provided for in section 9, subdivision 1.

Subd. 8. An employer shall have the right to petition the director for arbitration under section 9, subdivision 3; provided the exclusive representative or the employer has first petitioned the director for mediation services as are available under section 9, subdivision 1.

Subd. 9. An employer may hire and pay for arbitrators desired or required by the provisions of this act.

SEC. 7. [EXCLUSIVE REPRESENTATION; ELECTIONS; DECERTIFICATION.] **Subdivision 1.** Any employee organization holding formal recognition by order of the director or by employer voluntary recognition on the effective date of this act under any law that is repealed by this act is hereby certified as the exclusive representative until such time as it is decertified or another representative is certified in its place pursuant to this act. Any teacher organization as defined by Minnesota Statutes, Section 125.20, Subdivision 3 who on the effective date of this act has a majority of its members on a teacher's council in a school district as provided in Minnesota Statutes, Section 125.22 is hereby certified as the exclusive representative of all teachers of that school district until such time as the organization is decertified or another organization is certified in its place pursuant to this act.

Subd. 2. An employee organization may be certified as the exclusive representative of public employees in an appropriate unit upon complying with and qualifying under the provisions of this section.

Subd. 3. The director may certify an employee organization as an exclusive representative in an appropriate unit upon the joint request of the employer and the organization if, after investigation, he finds that no unfair labor practice was committed in initiating and submitting the joint request and that the employee organization does in fact represent over 50 percent of the employees in the appropriate unit. The provisions of this subdivision shall not in any case reduce the time period or nullify any bar to the employee organization's certification existing at the time of the filing of the joint request.

Subd. 4. Any employee organization may obtain a certification election upon petition to the director wherein it is stated that at least 30 percent of the employees of a proposed employee unit wish to be represented by the petitioner or that the certified representative no longer represents the majority of employees in the unit.

Subd. 5. The director shall, upon receipt of an employee organization's petition to the director wherein it is stated that at least 30 percent of the employees of a proposed employee unit wish to be represented by the petitioner or that the exclusive representative of a unit no longer represents the majority of the employees in the unit, investigate to determine if sufficient evidence of a question of representation exists and hold hearings as necessary to determine the appropriate unit and such other matters as may be necessary to determine the representation rights of the affected employees and employer.

Subd. 6. In determining the numerical status of an employee organization for purposes of subdivisions 2, 3, 4, and 8 of this section, the director shall require representation authorization signatures of affected employees as verification of the statements contained in the joint request or petitions. Such authorization signatures shall be privileged and confidential information available to the director only and shall be dated.

Subd. 7. An employee organization shall be certified as the exclusive representative of an appropriate unit upon receiving a majority of votes of the employees in the appropriate unit at a certification election.

Subd. 8. The director shall issue his order providing for a secret ballot election by the employees in a designated appropriate unit. The election shall be held in the premises where those voting are employed unless the director shall determine that the election cannot be fairly held, in which case it shall be held at such a place as the director shall determine.

Subd. 9. The ballot in a certification election may contain as many names of representative candidates as have demonstrated that the candidate has 30 percent of the employees in the unit desiring it as their exclusive representative. The ballots shall, in every case, contain an appropriate space for employees to indicate that no representation is desired.

Subd. 10. The director shall provide for and count absentee ballots in all elections.

Subd. 11. If no choice on the ballot receives a majority of those employees in the unit, the director shall conduct a run off election wherein the ballot shall contain only the two choices receiving the greater number of votes.

Subd. 12. Upon a representative candidate receiving a majority of votes of all employees in a unit, the director shall certify that representative candidate as the exclusive representative of all employees in the unit.

Subd. 13. Upon a finding by the director of an unfair labor practice being committed by an employer or representative candidate or an employee or group of employees, which unfair labor practice affected the result of an election held pursuant to this section, the director may void such election result and order a new election.

Subd. 14. Upon the director certifying an exclusive representative, he shall not consider the question again for a period of one year, unless the exclusive representative is decertified by a court of competent jurisdiction, or by the director as authorized by section 11 of this act.

SEC. 8. [UNFAIR PRACTICES.] Subdivision 1. The practices specified in this section are unfair practices. Any employee, employer, employee or employer organization, exclusive representative, or any other person or organization aggrieved by an unfair labor practice as defined in this act, may bring an action in district court of the county wherein the practice is alleged to have occurred for injunctive relief and for damages caused by such unfair labor practice, An unfair practice by a public employer is not a defense to an unlawful strike.

Subd. 2. Public employers, their agents or representatives are prohibited from:

(1) interfering, restraining or coercing employees in the exercise of the rights guaranteed in this act;

(2) interfering with the formation, existence or administration of any employee organization;

(3) discriminating in regard to hire or tenure to encourage or discourage membership in an employee organization;

(4) discharging or otherwise discriminating against an employee because he has signed or filed an affidavit, petition or complaint or given any information or testimony under this act;

(5) refusing to meet and negotiate in good faith with the exclusive representative of its employees in an appropriate unit;

(6) refusing to comply with grievance procedures contained in an agreement as required by section 10;

(7) distributing or circulating any blacklist of individuals exercising any legal right or of members of a labor organization for the purpose of preventing individuals so blacklisted from obtaining or retaining employment;

(8) violating any of the rules and regulations established by the director regulating the conduct of representation elections or other orders relating to certification of an exclusive representative;

(9) refusing to comply with the provisions of a valid decision of an arbitration panel or arbitrator acting pursuant to this act; provided, however, rejection of an arbitration decision by an employer as authorized by section 12, subdivision 9, is not an unfair labor practice;

(10) violating or refusing to comply with any lawful order or decision issued by the director or the board.

Subd. 3. Employee organizations, their agents or representatives, and public employees are prohibited from:

(1) restraining or coercing employees in the exercise of their rights as provided in this act;

(2) restraining or coercing a public employer in the election of his representatives to be employed for the purposes of meeting and negotiating or the adjustment of grievances;

(3) refusing to meet and negotiate in good faith with a public employer, if they have been designated in accordance with the provisions of this act as the exclusive representative of employees in an appropriate unit;

(4) violating any of the rules and regulations established by the director regulating the conduct of representation elections;

(5) refusing to comply with the provisions of a valid decision of an arbitration panel or arbitrator acting pursuant to this act;

(6) calling, instituting, maintaining or conducting a strike or boycott against any public employer on account of any jurisdictional controversy;

(7) coercing or restraining any person with the effect to:

(a) force or require any public employer to cease dealing or doing business with any other person or;

(b) force or require a public employer to recognize for representation purposes an employee organization not certified by the director;

(c) refuse to handle goods or perform services;

(d) preventing an employee from providing services to the employer;

(8) committing any act designated to damage or actually damaging physical property or endangering the safety of persons while engaging in a strike;

(9) forcing or requiring any employer to assign particular work to employees in a particular employee organization or in a particular trade, craft, or class rather than to employees in another employee organization or in another trade, craft or class;

(10) causing or attempting to cause a public employer to pay or deliver or agree to pay or deliver any money or other thing of value, in the nature of an exaction, for services which are not performed or not to be performed;

(11) engaging in a strike;

(12) any picketing which results in a refusal by any person to deliver goods or perform services;

(13) picketing which has an unlawful purpose such as, but not limited to, the furthering of a strike;

(14) picketing which unreasonably interferes with the ingress and egress to facilities of the public employer;

(15) seizing or occupying or destroying property of the employer;

(16) violating or refusing to comply with any lawful order or decision issued by the director of the board as authorized by this act;

(17) the persistent insistence to negotiate items clearly excluded as negotiable under section 3, subdivision 19.

SEC. 9. [PROCEDURES.] Subdivision 1. When any employees or representative of employees shall desire to meet and negotiate an agreement establishing terms and conditions of employment, they shall give written notice to the employer and the director, and it shall thereupon be the duty of the employer to recognize the employee representative for purposes of reaching agreement on terms and conditions of employment of the employees or the employer shall within ten days of receipt of the written notice object or refuse to recognize the employees' representative or the employees as an appropriate unit. The employer or employees' representative may thereupon petition the director to take jurisdiction of the matter whereupon the director shall then be authorized and shall perform those duties as provided in section 11, subdivision 2 (a) and (b) of this act.

Upon the certified exclusive representative and the employer reaching agreement on terms and conditions of employment, they shall execute a written contract or memorandum of contract containing the terms of such agreement. The contracts or memoranda shall in every instance be subject to the provisions of section 10 of this act.

A petition by an employer shall be signed by him or his duly authorized officer or agent; and a petition by an exclusive representative shall be

signed by its authorized officer. In either case the petition shall be served by delivering it to the director in person or by sending it by certified mail addressed to him at his office. The petition shall state briefly the nature of the disagreement of the parties. Upon receipt of a petition, the director, or by September 1, whichever date is earlier shall fix a time and place for a conference with the parties to the matter upon the issues involved in the matter, and he shall then take whatever steps he deems most expedient to bring about a settlement of the matter, including assisting in negotiating and drafting an agreement. It shall be the duty of all parties to respond to the summons of the director for joint or several conferences with him and to continue in such conference until excused by the director.

Subd. 2. All negotiations, mediation sessions, and hearings between public employers and public employees or their respective representatives shall be public meetings except when otherwise provided by the director.

Subd. 3. The director shall certify a matter to the board when either or both parties petition for arbitration stating that an impasse has been reached and the director has determined that further mediation efforts under subdivision 1 of this section would serve no purpose. Upon such certification, the parties shall each submit their respective final positions on matters not agreed upon. The parties may stipulate to the board those agreed upon items to be excluded from arbitration.

Subd. 4. The employer and exclusive representative shall execute a written contract or memorandum of contract as provided in section 10 at least 90 days prior to the last date the employer is required by statute, charter, ordinance, or resolution, to submit its tax levy or budget, or certify the taxes voted, to the appropriate public officer, agency, public body or office, or by September 1, whichever date is earlier.

Subd. 5. In the event the employer and exclusive representative fail to execute a contract pursuant to subdivision 4 of this section, they shall each submit their respective final positions on those terms and conditions of employment not agreed upon by the parties to the board at least 75 days prior to the last date the employer is required to submit its tax levy or budget, or certify the taxes voted to the appropriate public officer, agency, public body or office, or by October 1, whichever date is earlier. The parties may stipulate to the board those agreed upon items to be excluded from arbitration.

Subd. 6. Upon the director certifying a dispute under subdivision 3 of this section to the board or the board receiving the final positions of disputing parties under subdivision 5 of this section, the board shall take jurisdiction of the matter and proceed in accordance with section 12 of this act.

Subd. 7. This section shall not apply to any confidential employee, supervisory employee, or principal and assistant principal, nor shall any such employees derive any rights from this section.

SEC. 10. [CONTRACTS; GRIEVANCES; ARBITRATION.] **Subdivision 1.** A written contract or memorandum of contract containing the agreed upon terms and conditions of employment and such other matters as may be agreed upon by the employer and exclusive representative shall be executed by the parties. The contracts shall not be for a term exceeding three years. Contract between employer school board and exclusive representative of teachers shall in every instance be for a term of two years commencing on July 1 of each even numbered year, except, however, such contracts entered into prior to July 1, 1972 shall expire on June 30, 1972. All contracts shall include a grievance procedure which shall provide compulsory binding arbitration of grievances. In the event that the parties cannot reach agreement on the grievance procedure, they shall be subject to the grievance procedure promulgated by the director pursuant to section 11, subdivision 5 (i).

Subd. 2. The employer shall implement the terms of the contract in the form of an ordinance or resolution. If the implementation of the terms of the contract require the adoption of a law, ordinance, or charter amendment, the employer shall make every reasonable effort to propose and secure the enactment of such law, ordinance, resolution, or charter amendment.

Subd. 3. In the event the employer and exclusive representative are bound by the terms of any arbitration decision of the arbitration panel or other terms established by operation of law, they shall execute a written contract or memorandum of contract containing the terms of such arbitration decision or such terms as are established by law. Upon execution of such contract, the employer shall implement its terms as required by subdivision 2 of this section.

Subd. 4. If the parties to a contract cannot agree upon an arbitrator or arbitrators as provided by the contract grievance procedures or the procedures established by the director, the parties shall, under direction of the chairman of the board, alternately strike names from a list of five arbitrators selected by the board until only one name remains which arbitrator shall make his decision regarding the grievance and it shall be binding upon the parties. The parties shall share equally the costs and fees of the arbitrator.

Subd. 5. All arbitration decisions authorized or required by a grievance procedure shall be subject to those limitations of arbitration decisions contained in section 12, subdivision 7.

Subd. 6. For purposes of this section, "grievance" means a dispute or disagreement as to the interpretation or application of any term or terms of any contract required by this section.

SEC. 11. [DIRECTOR'S POWER, AUTHORITY AND DUTIES.] **Subdivision 1.** The director of mediation services is authorized to and shall perform those duties provided in this section.

Subd. 2. The director shall accept and investigate all petitions for:

(a) certification or decertification as the exclusive representative of an appropriate unit;

(b) mediation services;

(c) any election or other voting procedures provided for in this act;

(d) certification to the board of arbitration.

Subd. 3. The director shall determine appropriate units. In determining the appropriate unit he shall take into consideration, along with other relevant factors, the principles and the coverage of uniform comprehensive position classification and compensation plans of the employees, the history and extent of organization, involvement of professions and skilled crafts and other occupational classifications, relevant administrative and supervisory levels of authority, the desires of the employees and employers, geographical location, and the recommendation of the parties.

He shall not designate an appropriate unit which includes employees subject to section 3, subdivision 11, with employees not included in section 3, subdivision 11.

Subd. 4. Public employers and exclusive representatives of employees may voluntarily participate in joint negotiations in similar or identical appropriate units. It is the policy of this act to encourage such areawide negotiations and the director shall encourage it whenever possible.

Subd. 5. In addition to all other duties imposed by this section, the director shall:

(a) retain mediation jurisdiction over the parties for purposes of this subdivision until such time as the parties reach agreement; provided, however, he may continue to assist parties after the parties have submitted their final positions as provided or required under section 12, subdivision 6; or section 9, subdivision 6;

(b) issue notices, subpoenas and orders as may be required by law to carry out his duties under this act. Issuance of orders shall include those orders of the Minnesota public employment relations board;

(c) certify to the Minnesota public employment relations board those items of dispute between parties to be subject to the action of the Minnesota public employment relations board under section 9, subdivision 3;

(d) assist the parties in formulating petitions, notices, and other papers required to be filed with the director or the board;

(e) certify the final results of any election or other voting procedure conducted pursuant to this act;

(f) furnish clerical and administrative services to the Minnesota public employment relations board as may be required;

(g) adopt reasonable and proper rules and regulations relative to and regulating the forms of petitions, notices, orders and the conduct of hearings and elections subject to final approval of the Minnesota public employment relations board. Such rules and regulations shall be printed and made available to the public and a copy delivered with each notice of hearing; provided, that every such rule or regulation shall be filed with the secretary of state, and any change therein or additions thereto shall not take effect until 20 days after such filing;

(h) receive, catalogue and file in a logical manner all orders and decisions of the Minnesota public employment relations board and all arbitration panels authorized by this act as well as all grievance arbitration decisions and the director's own orders and decisions. All orders and decisions catalogued and filed shall be made readily available to the public;

(i) promulgate a grievance procedure to effectuate the purposes of section 10, subdivision 1. Such grievance procedures shall not provide for the services of the bureau of mediation services. The exercise of authority granted by this clause shall be subject to the provisions of Minnesota Statutes, Chapter 15;

(j) conduct elections.

Subd. 6. The director may at the request of a certified exclusive representative or employer who is a party to a labor dispute render assistance in settling the dispute without the necessity of filing the petition referred to in section 9, subdivision 1. If the director takes mediation jurisdiction of the dispute as a result of such a request, he shall then proceed as provided in section 9.

Subd. 7. The director shall not furnish mediation services to any employees nor any employee representative who is not at the time certified as an exclusive representative.

Subd. 8. Hearings and mediation meetings authorized by this section shall be held in the county which best meets the conveniences of the witnesses, but such hearings may be held at a time and place as is agreed to by the petitioner and those parties affected by the petition.

SEC. 12. [PUBLIC EMPLOYMENT RELATIONS BOARD: POWERS AND DUTIES; ARBITRATION.] **Subdivision 1.** There is hereby established a public employment relations board with the powers and duties assigned to it by this section. The board shall consist of five members appointed by the chief justice of the supreme court. Two members shall be representatives of

public employees; two shall be representative of public employers; and one shall be representative of the public at large. Public employers and employee organizations representing public employees may submit for consideration names of persons representing their interests to serve as members of the board. Members shall be appointed for a term of four years, except that of the members first appointed two shall be appointed for a term ending the first Monday in April, 1974, and three for a term to expire on the first Monday in April, 1976. Members shall hold office until their successors are appointed and qualified and vacancies shall be filled by the chief justice of the supreme court for the unexpired term. The board shall select one of its members to serve as chairman for a term beginning May 1 each year. The director of mediation services shall provide secretarial and administrative services to the board.

Subd. 2. The board shall adopt its own rules governing its procedure and shall hold regular and special meetings as are prescribed in such rules. The chairman shall preside at meetings of the board. Members of the board shall be reimbursed at the rate of $35 per day when in attendance at meetings of the board and shall be allowed their actual and necessary travel or other expenses incurred in the performance of their duties pursuant to the laws and rules governing such expenses for state employees.

Subd. 3. In addition to the other powers and duties given it by law, the board has the following powers and duties;

(a) to hear and decide issues relating to the meaning of the terms "supervisory employee", "confidential employee", "essential employee" or "professional employee", as defined by section 3 of this act;

(b) to hear and decide appeals from determinations of the director relating to the appropriateness of a unit under section 7 of this act;

(c) to approve or disapprove the rules and regulations promulgated by the director under section 11, subdivision 5 (g).

Subd. 4. The board shall adopt rules pursuant to chapter 15 governing the presentation of issues relating to matters included in subdivision 3 of this section; and the taking of such appeals. All issues and appeals presented to the board shall be construed to be a contested case as defined by section 15.0411, subdivision 4, and shall be subject to all the provisions of chapter 15 relating to contested cases.

Subd. 5. The board shall maintain a list of names of arbitrators qualified by experience and training in the field of labor management negotiations and arbitration. Names on the list may be selected and removed at any time by a majority of the board. In maintaining the list of such persons the board shall, to the maximum extent possible, select persons from varying geographical areas of the state.

Subd. 6. When final positions certified to the board as provided in section 9, subdivision 3, or submitted to the board as provided in section 9, subdivision 5, the board shall constitute an arbitration panel as follows:

The parties shall, under the direction of the chairman of the board, alternately strike names from a list of seven arbitrators until only three names remain, which three members shall be members of the panel; provided, however, that by mutual agreement the parties may select a single arbitrator to hear the dispute. If the parties are unable to agree on who shall strike the first name, the question shall be decided by the flip of a coin. In submitting names of arbitrators to the parties the board shall endeavor whenever possible to include names of persons from the general geographical area in which the public employer is located. The panel shall assume and have jurisdiction over the items of dispute certified to the board for which the panel was constituted. The panel's orders shall be issued upon a majority vote of members considering a given dispute. The members of the panel shall be paid their actual and necessary traveling and other expenses incurred in the performance of their duties plus a per diem allowance of $100 for each day or part thereof while engaged in the consideration of a dispute. All expenses and costs of the panel shall be shared and assessed equally to the parties to the dispute.

Subd. 7. The arbitration panel selected by the parties shall resolve the issues in dispute between the parties as submitted by the board, and the panel's decision and order shall be final and binding upon the parties; subject, however, to the provisions of subdivision 9 of this section and provided, however, that no decision of the panel which violates any provision of the laws of Minnesota or rules or regulations promulgated thereunder or municipal charters or ordinances or resolutions enacted pursuant thereto, or which causes a penalty to be incurred thereunder, shall have any force or effect. In considering a dispute and issuing its order the panel shall give due consideration to the statutory rights and obligations of public employers to efficiently manage and conduct its operations within the legal limitations surrounding the financing of such operations. The panel's orders shall be issued by a majority vote of members considering a given dispute. The panel shall have no jurisdiction over nor authority to entertain any matter or issue not within the definition stated in section 3, subdivision 18; provided, however, items not within terms and conditions of employment may be included in an arbitration decision if such items are contained in

the employer's final position. Any issue or order or part thereof issued by the panel determining any matter not included under section 3, subdivision 18 or the employer's final position shall be void and of no effect. The panel shall render its decision within ten days from the date of submission of the parties respective positions, but in any event must issue its order by the last date the employer is required by statute, charter, ordinance or resolution to submit its tax levy or budget or certify its taxes voted to the appropriate public officer, agency, public body or office, or by November 1, whichever date is earlier. The panel's order shall be for such period as the panel shall direct, except that orders determining contracts for teacher units shall be effective to the next June 30 of the next even numbered year.

Subd. 8. The arbitration panel may issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence which relates to any matter involved in any dispute before it. The panel may administer oaths and affidavits, and may examine witnesses. Attendance of witnesses and the production of evidence may be required from any place in the state at any designated place of hearing; provided, however, the panel's meeting shall be held in the county in which the principal administrative offices of the employer are located, unless another location is selected by agreement of the parties. In case of contumacy or refusal to obey a subpoena issued under this section, the district court of the state for the county where the proceeding is pending or in which the person guilty of such contumacy or refusal to obey is found, or resides, or transacts business shall on application of the panel have jurisdiction to issue to such person an order requiring such person to appear before the panel, there to produce evidence as so ordered, or there to give testimony touching the matters in issue, and any failure to obey such order of the court may be punished by the court as a contempt thereof.

Subd. 9. Upon issuing its decision and order involving any dispute, the panel shall transmit the order to the board and to the appropriate representative or officer of the public employer and the employees.

The public employer shall have ten days from the receipt of the order to accept or reject the decision and order; if the public employer takes no action within the ten day period the order shall be deemed to have been accepted and shall be final. The public employer may reject the order by certification to the director and if so rejected the order shall be of no force or effect.

Subd. 10. At the request of both parties to a dispute involving other than essential employees, the parties may agree that the decision of an arbitration panel established under this section shall be binding on both notwithstanding the provisions of subdivision 9 of this section. The parties may stipulate those agreed upon items to be excluded from arbitration.

Subd. 11. At the request of both parties to a dispute involving any essential employees, the board shall consider only the final positions of the parties in establishing an arbitration panel and the panel shall make its decision and order in terms of either of the final positions and the order shall be binding on both notwithstanding the provisions of subdivision 9 of this section. The parties may stipulate those agreed upon items to be excluded from arbitration.

Subd. 12. The parties to an arbitration proceeding may at any time prior to or after issuance of an order of the arbitration panel, agree and settle upon terms and conditions of employment regardless of the terms and conditions of employment determined by the order. The parties shall, if so agreeing and settling, execute a written contract or memorandum of contract pursuant to section 10, subdivision 1.

Subd. 13. This section shall not apply to any state employee, confidential employee, supervisory employee, principal and assistant principal, nor shall any such employees derive any rights from this section.

SEC. 13. [POLICY CONSULTANTS.] Subdivision 1. The legislature recognizes that professional employees possess knowledge, expertise, and dedication which is helpful and necessary to the operation and quality of public services and which may assist public employers in developing their policies. It is, therefore, the policy of this state to encourage close cooperation between public employers and professional employees by providing for discussions and the mutual exchange of ideas regarding all matters not specified under section 3, subdivision 18 of this act.

Subd. 2. The professional employees shall select a representative to meet and confer with a representative or committee of the public employer on matters not specified under section 3, subdivision 18 relating to the services being provided to the public. The public employer shall provide the facilities and set the time for such conferences to take place, provided that the parties shall meet together at least once four months.

Subd. 3. Any suggestion or recommendation regarding those matters referred to in subdivision 1 may be brought before consultants for their consideration and advisory opinions.

Subd. 4. Upon the petition of a public employer or an organized group of professional employees, the public employment relations board shall submit a list of qualified consultants experienced in the subjects to be taken under advisement. The public employer and the repre-

sentative of the professional employees shall each select one consultant, or upon mutual agreement jointly select one consultant, who shall meet with the parties and join in the consideration of matters presented. At the conclusion of their discussions and presentations, the consultants shall submit advisory opinions to the parties regarding the matters presented to it.

Subd. 5. Consultants to the parties shall be compensated equally by the parties involved at a rate not to exceed a total of $100 per day, and all other necessary expenses except as may be otherwise agreed to by the parties.

SEC. 14. [STATE AND ITS EMPLOYEES; NEGOTIATING TEAM; APPROPRIATE UNITS.] **Subdivision 1.** For purposes of this section the term "appointing authority" has the meaning given it by section 43.01, subdivision 11.

Subd. 2. The employer of state employees shall be the employee's appointing authority for purposes of this act.

Subd. 3. In all negotiations between the state and exclusive representatives the state shall be represented by a negotiating team consisting of the commissioner of administration or his representative, and the director of civil service or his representative. The attorney general, and each appointing authority shall cooperate with the negotiating team in conducting negotiations and shall make available such personnel and other resources as are necessary to enable the team to conduct effective negotiations.

Subd. 4. The negotiating team shall meet and negotiate with the exclusive representative of appropriate units in the manner prescribed by this act; provided, however, that the director of mediation services shall define appropriate units of state employees as all the employees under the same appointing authority except where professional, geographical or other considerations affecting employment relations clearly require appropriate units of some other compensation. Regardless of unit determination, the governor may upon the unanimous written request of exclusive representatives of units and appointing authorities direct that negotiations by conducted for one or more appointing authorities in a common proceeding.

Subd. 5. The negotiating team is authorized to and may enter into tentative agreements to be submitted to the legislature.

SEC. 15. [PENALTIES AND ENFORCEMENT.] **Subdivision 1.** The district courts of this state are hereby vested with jurisdiction to enjoin and restrain violations or threatened violations of this act.

Subd. 2. A temporary restraining order may be issued without notice and hearing upon a proper showing that a violation of section 4 by any employer, union, employee organization, or representatives or members of an employer, union or employee organization is imminent or occurring. It shall not be necessary to allege or prove that an adequate remedy at law does not exist to obtain such temporary restraining order nor shall the court be required to inquire into the equities of the parties.

Subd. 3. A permanent restraining order or an injunction may be issued prohibiting threatened or actual violations of any provisions of this act upon a finding after notice to all parties and a hearing that such threat or violation exists. It shall not be necessary to prove or have findings of fact relating to the equities of the parties, but laches shall in any case be a good defense.

Subd. 4. The court may enforce its orders and punish violations of such restraining orders or injunctions as are authorized by subdivisions 2 and 3 of this section the same as in any case of enforcement or violation of the court's restraining orders or injunctions. In addition to such penalties as the court may assess for violations of its order under this section, the court shall order the decertification of any exclusive representative found in violation of any court order and the order shall prohibit recertification for a period not to exceed two years from the time of the court's order. Such orders shall deny to any employee organization found in violation of the court's orders issued pursuant to this section its right to dues check off for a period of two years.

Subd. 5. The court may at any time appoint a referee to hear all parties to a suit brought under this section. The compensation of a referee shall be fixed by the court and shall be payable from the general revenue funds of the county in which the suit is venued. Upon the conclusion of hearings on each case or at any time requested by the court, the referee shall transmit to the court all papers relating to the case together with his findings in writing. The court may then with or without further hearings or inquiry make its findings and issue its permanent restraining order or injunction or dissolve a temporary restraining order as authorized by this section.

Subd. 6. Any employer, employee, or employee organization affected or involved in a violation or threatened violation of any provisions of this act, or the public employment relations board through the attorney general of the state by direction of the governor, may bring suit under this section.

Subd. 7. The court may assess the costs of the action against any party found in violation of any provisions of this act as the court may deem just in the premises.

Subd. 8. Minnesota Statutes 1969, Sections 185.07 to 185.18, shall not be held to apply to any public employee, including those specifically excepted from the definition of public employee in section 3, subdivision 7.

Subd. 9. In addition to the jurisdiction and powers granted to district courts by this section, the district courts shall have jurisdiction to hear and decide appeals from arbitration decisions rendered under any grievance procedure provided by section 10, subdivision 1, and orders made or issued by any arbitration panel under section 12 on the grounds that the award or order violates the provisions of section 12, subdivision 7, relating to the scope of the award or order. The arbitration panel decisions and orders shall be deemed to be those of the board and appeal from such arbitration panel decisions and orders shall be as an appeal from an administrative decision or order under Minnesota Statutes, Chapter 606.

SEC. 16. [INDEPENDENT REVIEW.] It shall be the public policy of the state of Minnesota that every public employee should be provided with the right of independent review, by a disinterested person or agency, of any grievance arising out of the interpretation of or adherence to terms and conditions of employment. When such review is not provided under statutory, charter, or ordinance provisions for a civil service or merit system. the governmental agency may provide for such review consistent with the provisions of law or charter. If no other procedure exists for the independent review of such grievance to the public employment relations panel under procedures established by the board.

SEC. 17. [REPEALS.] Minnesota Statutes 1969, Sections 125.19, 125.20, 125.21, 125.22, 125.23, 125.24, 125.25, 125.26, 179.50, 179.51, 179.52, 179.521, 179.522, 179.53, 179.54, 179.55, 179.56, 179.57, 179.571, 179.572, 179.58, 418.21, 418.22, 418.23, and 418.24 are repealed.

SEC. 18. [EFFECTIVE DATES.] **Subdivision 1.** Section 12, Subdivision 1, is effective on March 1, 1972.

Subd. 2. Sections 7 and 9, subdivisions 1 and 7 are effective on May 1, 1972.

Subd. 3. All other sections of this act are effective on July 1, 1972.

Subd. 4. Negotiations in process begun under any procedure contained in statutes repealed or amended by this act may continue until their conclusion, but in no event beyond July 1, 1972.

SEC. 19. [SEVERABILITY OF PROVISIONS.] **Subdivision 1.** The provisions of this act shall be severable, and if any provision thereof or the application of any such provision under any circumstances is held invalid, it shall not affect any other provisions of this act or the application of any provision thereof under different circumstances.

Subd. 2. If the appointment procedure provided for in section 12, subdivision 1, is held to be invalid for any reason, the appointments required to be made by section 12, subdivision 1, shall be made by the governor."

Further amend the title by striking everything after "A bill for an act" and insert in lieu thereof the following:

> "relating to labor relations between public employees and their public employers; creating a Minnesota public employment relations board and designating its membership, powers and duties; adding to the duties of the director of the bureau of mediation services; providing for exclusive representation of public employees; providing for meeting and conferring by public professional employees and their public employers and making available qualified consultants therefor; providing for arbitration of disputes between public employees and their public employers; prohibiting strikes by public employees and providing penalties for violation thereof; providing jurisdiction to district courts to enjoin strikes by public employees; providing jurisdiction to district courts to enjoin the committing of unfair labor practices by public employees and public employers; repealing Minnesota Statutes 1969, Sections 125.19, 125.20, 125.21, 125.22, 125.23, 125.24, 125.25, 125.26, 179.50, 179.51, 179.52, 179.521, 179.522, 179.53, 179.54, 179.55, 179.56, 179.57, 179.571, 179.572, 179.58, 418.21, 418.22, 418.23, and 418.24."

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Case Reviews

NEBRASKA

GRIEVANCE PROCEDURE AND OTHER CONDITIONS OF EMPLOYMENT ARE NEGOTIABLE ITEMS

The Nebraska Industrial Relations Court (NIRC) in two separate cases determined that grievance procedures and other conditions of employment, which are not management prerogatives, must be negotiated in good faith by school boards. This determination affected collective bargaining in the Central City and Norfolk School Districts. In its rulings, the NIRC noted that grievance procedures have been consistently considered a negotiable condition of employment by the National Labor Relations Board (NLRB) and the courts. Further, the Supreme Court of the United States termed grievance procedure "part and parcel of the collective bargaining process itself."

Although binding grievance arbitration may not be enforceable under Nebraska law, the NIRC held that grievance procedures and other items considered were "terms and conditions of employment," and therefore were negotiable items.

In both cases, the court noted that Nebraska laws provide that an order compelling a school district to negotiate in good faith with its employees does not compel the district "to enter into any contract or agreement, written or otherwise."

- The NIRC ordered Central City School District to negotiate a grievance procedure meeting statutory limitations with the Central City Education Association (CCEA). The court thereby overruled the district's unilateral adoption of a binding grievance procedure giving the school board the final say. This decision was made in light of the Nebraska Public Employee Bargaining Law, which specifies the negotiation procedures for "settlement of grievances arising under, the terms and conditions of employment" with a recognized employee organization. The court established that grievance procedure was a term and condition of employment and as such was negotiable. (*Central City Education Association v. School District of Central City*, Nebraska Court of Industrial Relations, September 22, 1971.)
- The NIRC resolved a dispute between the Norfolk Education Association (NEA) and the Norfolk School District by ordering the parties to negotiate grievance procedure, listing of teacher assignments, and some personnel policy changes such as school calendar, snowstorm policy, and teaching hours, including reporting time, departure time, lunch time, and preparation time. The court also ruled that the method of teacher evaluation was negotiable, but that the right to evaluate teachers, "when teachers [were] to be evaluated and how evaluations [were to be] graded and used" is a board prerogative. However, the court found that some personnel policies were not negotiable. The use of the school stage was not negotiable since it was not a condition of employment.

Rejecting the school district's arguments to the contrary, the court asserted jurisdiction over the parties' dispute when the parties had exhausted all procedures outlined in the teachers Professional Negotiation Act. The court reasoned that the school district was a governmental service and that under law the NIRC had jurisdiction over "all disputes involving governmental service." Accordingly, the court reviewed the Association's complaint that the board had refused to bargain on any subject other than "base salary," and therefore had refused to negotiate in good faith.

The court concurred with its decision in *Central City Education Association v. Central City School District*, and ruled that grievance procedure was a negotiable condition of employment. However, nonnegotiable subjects, i.e., those not concerning wages and terms and conditions of employment, were to be excluded from arbitration. This exclusion was in line with the NLRB's stance which held nonnegotiable only those subjects "considered to be prerogatives of management."

On the negotiation of personnel policy in general, the court concluded that a clause requiring discussion of policy changes so as to prevent "unilateral changes in the teachers conditions of employment" may be negotiated. However, such discussions would not be required "if the policy [were] a management prerogative and therefore not a condition of employment." Furthermore, the decision as to the negotiability or nonnegotiability of certain personnel policies was to be made on a case-by-case basis since some policies were negotiable and others were not. (*Norfolk Education Association v. School District of*

Norfolk, Nebraska Court of Industrial Relations, October 6, 1971.)

NEW YORK

DENIAL OF NEGOTIATED SUPPLEMENTAL LEAVE GRANTED AT THE SUPERINTENDENT'S DISCRETION RAISED ARBITRABLE ISSUES

Denial of supplemental leave at the superintendent's discretion, when provided in a collective bargaining agreement, is an arbitrable issue. The New York Supreme Court so ruled when it denied the petition of the Board of Education of Union Free School District No. 7, Town of Babylon, Deer Park, to stay arbitration of grievance cases submitted by the Deer Park Teachers' Association.

The disputed grievances arose out of the district principal's discretionary denial of teachers' requests for leave for court appearances and religious observances. Although such leaves were not specifically provided for in the parties' collective bargaining agreement, a supplementary leave clause empowered the "District Principal [with] additional discretionary authority to grant leaves on request for situations not specifically covered under *present policy*."

The court considered the application of this provision in light of state laws. Specifically, sec. 203 of the Taylor Law provides for negotiation of the "terms and conditions of employment and the administration of grievances thereunder." The Civil Practices Laws and Regulations (CPLR), sec. 7501, required the court to determine whether the grievances came "within the terms of the agreement." Consequently, the arbitrability, not the merits, of the grievances was considered.

The agreement defined a "grievance" as "any dispute between the parties hereto with respect to the meaning or interpretation of any provisions of this agreement." The court concluded that the disputed grievances provided "two such questions of interpretation" to arbitration. Thus, the board's contention that grievances not specifically mentioned in the agreement were not arbitrable was rejected. The court ordered the school board to arbitrate the issues certified for advisory arbitration. (*Board of Education, Union Free School District No. 7, Town of Babylon, Deer Park, v. Deer Park Teachers' Association*, New York Supreme Court, Suffolk County, April 8, 1971.)

PENNSYLVANIA

TEACHER STRIKE DURING PENDENCY OF COLLECTIVE BARGAINING PROCEDURES IS PROHIBITED

A teacher organization may not engage in a strike until all collective bargaining procedures specified in the Public Employment Relations Act (PERA) have been utilized and exhausted. In so ruling the York County Court of Common Pleas upheld the York Suburban School District's allegation that a strike called by the York Suburban Education Association (YSEA) two days before expiration of the required 20-day mediation period was illegal. Accordingly, the court continued the preliminary injunction entered against the Association's strike.

In its ruling, the court applied the PERA's definition of a legal public employee strike. Public employees, according to sec. 1003, have a limited right to strike "after the collective bargaining processes set forth in sections 801 and 802 . . . of this act have been completely utilized and exhausted." Mediation of a negotiation impasse "within twenty-one days after negotiations have commenced, but in no *event* later than one hundred fifty days prior to the 'budget submission date'" is provided for under sec. 801 of the Act. "Once mediation has commenced" and if "an agreement has not been reached within twenty days after mediation has commenced or in no event later than one hundred thirty days prior to the 'budget submission date,'" sec. 802 provides that the school board shall be notified that, if they wish, they may appoint a fact-finding panel.

The Association had requested mediation of a negotiation impasse February 26, 1971, and had called the strike May 17, 1971. Although the school district's budget submission date was June 30, 1971, the court did not consider the failure of the parties to comply with time limits relative to this date. The court reasoned that neither party "should be prejudiced" by noncompliance with this time limit since compliance was "beyond the control of either of the parties."

However, the court saw "no reason why a failure to comply" with the 20-day mediation period requirement "should be excused." It found that the Association had struck two days prior to the proper date for notifying the board that there was an impasse so that the board might appoint a fact-finding panel. No formal notice of an impasse was given the board by the Association. However, the court held that such notice, even if served, would have been ineffective since the condition for the decision to appoint a fact-finding panel—expiration of the 20-day mediation period—never occurred. Thus, the final step in the bargaining process never occurred, and the bargaining procedures were not completed. The court, in accord with sec. 1002, concluded that a strike "by public employees during the pendency of collective bargaining procedures set forth in sections 801 and 802 . . . [was] prohibited." (*York Suburban School District v. York Suburban Education Association*, York County Court of Common Pleas, May 28, 1971.)

WISCONSIN

DENYING A MINORITY ASSOCIATION LEAVE GRANTED ANOTHER TEACHER UNION IS DISCRIMINATORY

The Wisconsin Supreme Court found that a collective bargaining agreement, providing a majority teacher union with paid union convention leave, discouraged membership in the Ashland Education Association (AEA), a minority union that was denied similar leave. The court ruled that such a contract provision is discriminatory, and therefore is "void as a matter of law." This ruling upheld the Wisconsin Employment Relations Commission's (WERC) finding that the Ashland Federation of Teachers, Local 1275, AFL-CIO, (AFT) and the Unified School District No. 1 Board of Education violated sec. 111.70 of the Wisconsin statutes, which prohibits municipal employers from "encouraging or discouraging membership in any labor organization . . . by discrimination in regard to hiring, tenure or other terms or conditions of employment."

The court affirmed the WERC ruling, ordering the AFT and the school board to cease and desist from enforcing the discriminatory contract provision, but reversed the WERC's award of back pay to members of the minority union who attended their union's regional convention.

The bargaining contract containing the clause in question outlined the terms and conditions of employment for *all* the district's teachers. Thus, a provision giving members of one union time off with pay, but not giving members of other unions time off for such conventions, discriminates against the minority group. Such a clause discourages membership in the AEA by affecting the members' terms and conditions of employment.

The court noted that sec. 115.01 of state statutes included state teacher convention days in the definition of "school days" (on which school is not taught), but excluded regional convention days from the definition. However, sec. 118.2 of the state laws gives the "board of education . . . discretion as to whether teachers individually or collectively will be given time off to attend any educational convention, including a state or regional convention." Thus, the court found that it was within the discretion of the board to grant or to deny teachers convention leave.

The court pointed out that the discretion exercised by the board "must not be unreasonable, illegally motivated nor arbitrary." Further, although determination of convention leave is a discretion of the board, it is a negotiable item. Even though the court found that discrimination occurred when members of one union were permitted to attend their state convention while members of another union were denied this privilege, it ruled that the board had the discretion to deny the minority union members leave to attend their regional convention. Accordingly, the court reversed the WERC's ruling awarding back pay to AEA members who had attended the regional convention.

A minority of the court dissented from the court's reversal of the back pay award. This opinion reasoned that

> once . . . discrimination has been found, the WERC under sec. 111.70 and sec. 111.07 of state laws possesses substantial powers to grant remedial relief and for this reason had the authority to provide in its order that the Ashland school board pay the minority union employees for the days they attended their convention.

(*Board of Education, Unified School District No. 1 et al. vs. Wisconsin Employment Relations Commission*, November 5, 1971.)

OTHER ITEMS OF INTEREST

DISPUTE OVER FAVORABLE ARBITRATION AWARD REMANDED; FEDERAL COURT RETAINS JURISDICTION OVER DISMISSAL CASE

The United States Court of Appeals, First Circuit, abstained from deciding, but retained jurisdiction over a teacher's contention that a state court-ordered arbitration award—favorable to him—would be overturned on appeal in a Massachusetts Superior Court. Since the teacher had appealed with the claim that he had been denied his right to due process under the Fourteenth Amendment, the appellate court reasoned that it was preferable "in a case raising a federal or statutory claim, to retain jurisdiction, rather than to dismiss."

Previously, in a court-ordered arbitration proceeding, the teacher, who had been discharged from his nontenured positions of football coach, athletic director, and head of the physical education department without a hearing, was awarded reinstatement and reimbursement of back pay. This award was based on the Westford School Committee's failure to adhere to the dismissal procedure provided in the collective bargaining agreement between the committee and the Westford Education Association (WEA).

The committee had challenged the arbitration award in the Massachusetts Superior Court. Thereafter, the teacher appealed the committee's challenge to the Federal Court of Appeals. The teacher was seeking substantially the same relief

on constitutional grounds to protect himself against the possibility that the state court would vacate the arbitrator's award.

His appeal was based on the Massachusetts Supreme Court's decision in *DeCanio v. School Committee of Boston*, which held that a probationary teacher has no guaranteed right, legal or constitutional, to a hearing prior to dismissal (NRD, 12-70, 3). The court determined that it was "by no means clear" that the DeCanio precedent would negate the procedural protection afforded a nontenured teacher by the WEA's collective bargaining agreement. The court pointed out that Massachusetts law provided for contracts between school committees and teachers, including provision for the resolution of disputes through arbitration.

The Federal Court of Appeals retained jurisdiction, but abstained from deciding the teacher's Fourteenth Amendment violation claim. Accordingly, the appellate court remanded the case to the district court. (*Chesley A. Steele v. Rita M. Haley et al.*, United States Court of Appeals, First Circuit, December 1, 1971.)

Board Findings and Rulings

NEW YORK

SCHOOL POLICY DECISIONS NONNEGOTIABLE; IMPACT OF SUCH POLICY IS

In a ruling stemming from improper practice charges, the Public Employment Relations Board (PERB) upheld a school board's right to make policy decisions without first submitting them to arbitration. However, PERB held, as it did in its decision in *City School District of New Rochelle v. New Rochelle Federation of Teachers*, that the impact of such decisions on employees is a matter for obligatory negotiations (NRD, 10-71, 9).

New York has no statutory provision defining or limiting the scope of negotiations; the Taylor Law requires a public employer only to recognize an employee organization and "to negotiate collectively with such employee organization in the determination of . . . terms and conditions of employment of the public employees."

Determining the scope of contract negotiations, PERB dismissed the alleged improper practice charges brought by the West Irondequoit Teachers Association against the West Irondequoit Board of Education.

The Association contended that the school board refused to negotiate its maximum class size and promotional policy proposals. The promotional policy proposal called for the creation of an employer-union committee to determine qualifications and duties for promotional positions both within and outside the bargaining unit.

The school board had presented a class size proposal which stressed flexibility and continual review of the "relationships between effective learning and class size and teacher load . . . in order to determine optimal classroom conditions for pupils."

Subsequently, the school board rejected both of the Association's proposals, contending that those subjects were nondelegable duties of an employer. The school board was upheld by a hearing officer.

WITA argued before PERB that class size is a term and condition of employment, and as such, class size is a mandatory subject of negotiation and is not in conflict with existing law. The teachers group further argued that the school board had conceded class size limitations as a condition of employment in its counterproposal which stated that "excessive class size or teacher load may affect the emotional or mental well-being of the teachers."

PERB ruled that it is the duty and obligation of the public employer to determine the manner and means by which education service is best rendered, as well as the extent of such service. The public employer should neither be required to delegate this responsibility, nor should implementation of such decisions be subjected to negotiation with employees.

But,

> the impact which such decisions have on terms and conditions of employment is a mandatory subject of negotiation. . . . Class size and teaching loan may seem the same, but as we see them, they are not. The first represents a determination by the public employer as to an educational policy made in light of its resources and other needs of its constituency. This decision may have an impact on hours and wages and the number of teaching periods which are clearly mandatory subjects of negotiations.

However, PERB urged that the school board consult the teacher organization when making basic decisions regarding educational policy "so as to take advantage of the teacher's professional expertise."

Adopting the hearing officer's promotional policy recommendations, PERB ordered the school board to negotiate a promotion policy only as it relates to job duties of unit positions and promotional procedures for posts within the bargaining unit.

The case was dismissed. (*Lloyd Herdle, et al., constituting West Irondequoit Board of Education and West Irondequoit Teachers Association.* Public Employment Relations Board, September 27, 1971.)

WISCONSIN

NO DISCRIMINATION FOUND IN SCHOOL DISTRICT'S APPLICATION OF NEGOTIATED CONVENTION LEAVE POLICY

The Wisconsin Employment Relations Commission (WERC) dismissed an unfair labor practice

complaint brought by the Wisconsin Federation of Teachers against Joint City School District 1, West Allis-West Milwaukee. The WFT, a minority union, alleged that the school district had acted in a discriminatory fashion by allowing teachers to attend the majority union's state convention without incurring a salary forfeiture, while forcing teachers who attended the federation's state convention on a different date to suffer a salary deduction and a loss of one day of personal leave.

The school district had been notified by WFT of its upcoming convention, and apprised of the union's expectation that teachers attending the convention would be paid. The school district replied that it would not pay teachers who attended the federation's convention.

The WFT contended that pursuant to a collective bargaining agreement between the majority union, which is the exclusive bargaining representative of the teachers, and the school district, the teachers in the past had been paid while attending conventions other than conventions of the majority union, as well as for attending other conferences, institutes and professional meetings. Therefore, the federation argued, the school district's action was discriminatory toward some of the teachers.

WERC found that in this case the collective bargaining agreement contained a provision specifying certain dates, on which the majority union held its convention, as teacher convention days. In dismissing the complaining union's case, the WERC held that the school district had not engaged in a prohibited labor practice by refusing to change its calendar to grant teachers time off with pay to attend the minority union's convention since the state convention could easily have been scheduled on the same dates as negotiated by the majority union. (*Wisconsin Federation of Teachers v. Joint City School District 1, West Allis-West Milwaukee, et al.*, Wisconsin Employment Relations Commission, November 19, 1971.)

OTHER ITEMS OF INTEREST

NLRB REFUSES TO ASSERT JURISDICTION OVER PRIVATE NONPROFIT HOSPITALS OPERATED BY UNIVERSITIES

The National Labor Relations Board, having asserted its jurisdiction over private, nonprofit colleges and universities, refused to assert its jurisdiction in two cases regarding the status of employees of private, nonprofit hospitals operated by such institutions as part of their educational program.

The Board decided that it could not include employees who spent more than 50 percent of their working time serving these nonprofit hospitals in bargaining units with other employees of the educational institution. The decisions were based on the definition of "employer" as found in Section 2(2) of the Taft Act. This section precludes Board jurisdiction over "any corporation or association operating a hospital, if no part of the net earnings inures to the benefit of any private shareholder or individual."

- In the case of Duke University, two separate labor unions filed petitions asking the Board to establish appropriate bargaining units of University employees. The National Union of Hospital & Nursing Home Employees, RWDSU, AFL-CIO, Local 1199D, sought to represent a unit composed of "all service and maintenance employees at Duke University Medical Center, a medical teaching center of Duke University," and its satellites. The American Federation of State, City and Municipal Employees (AFSCME) AFL-CIO sought a unit composed of all service employees, excluding maintenance personnel on Duke's campus.

The University took the position that any appropriate unit should be composed of university-wide, bi-weekly employees. The Board examined the structure of Duke Medical Center, including its hospitals and clinics, as well as the relationship of the Center to the University. The bi-weekly service employees were found to share a community of interests, as they are hourly paid, nonprofessional, nonacademic employees throughout all components of the University.

The NLRB dealt first with the petition of Local 1199D as it was affected by Section 2(2) of the Taft Act, since the union primarily sought hospital workers. These workers were found to be spending more than 50 percent of their working time within the hospital; therefore, they came under the exclusions of Section 2(2). The Board dismissed the union's petition because the Act precluded the Board from asserting jurisdiction over such employees of private nonprofit hospitals.

However, an appropriate bargaining unit was found to exist among the workers petitioned-for by AFSME. Consequently, the Board ordered that an election be held, with both unions listed on the ballot. (*Duke University and National Union of Hospital & Nursing Home Employees, RWDSU, AFL-CIO, Local 1199D and American Federation of State, City and Municipal Employees, AFL-CIO*, National Labor Relations Board, November 20, 1971.)

- In a similar case before the NLRB, Local 134, International Brotherhood of Electrical Workers sought to represent seven electrical maintenance workers employed by Loyola University Medical Center, Maywood Campus.

The IBEW argued that the Board was not precluded from asserting its jurisdiction because application of the Act is limited only to those corporations or associations whose sole concern is the operation of a private, nonprofit hospital.

The Board noted that the literal language of the section is to be applied to the facts as found, and not in the constrictive application as suggested by the union. Further, the Board stated that in the past it had had the opportunity to construe the exemption of the section, and had often disregarded the "corporate facade" and asserted jurisdiction whenever private individuals or shareholders benefited from operation of private, nonprofit hospitals. (*Parkvue Medical Center and General Hospital, NLRB, 1970.*)

Having determined that the employees in question spend "55-100 per cent of their time performing services directly for and in the hospital" and that Loyola University a private, nonprofit university, is the operating and supporting arm of a private, nonprofit hospital, the Board concluded that it is precluded from asserting jurisdiction because of the specific exemptions of Section 2 (2). (*Loyola University Medical Center and Local 134, International Brotherhood of Electrical Workers,* National Labor Relations Board, November 18, 1971.)

• In the two foregoing cases, identical dissenting opinions were filed by an NLRB member. The dissenting opinions were based on the "ambiguity in the statutory language which refers to a 'nonprofit corporation operating a hospital.'"

Since both universities operate a hospital as part of their overall operations, their exclusion from the classification of "employer" according to the narrowly drawn language of Section 2(2) is uncertain.

An examination of the legislative history revealed that the framers of the bill made it "reasonably clear that the purpose of the language was to exempt those charitable organizations whose charity is wholly channelled into the operation of hospitals for the benefit of the local community."

Neither University fit the above prescriptions. The records revealed that each university-owned hospital is self-sustaining and is operated as part of the educational establishment. The dissenting NLRB member stated that though a university is a nonprofit corporation running a nonprofit hospital, such an institution is neither an exempt "employer" within the meaning of the section as the literal language of the Act does not require such a holding. The legislative history further revealed that

> congressional treatment of agricultural employees who are excluded from the definition of 'employee' contained in Section 2(2) of the act. . . . demonstates that Congress knew how to extend the provisions of the Act to some, but not all, of the employees of a particular type of employer. The failure to exclude employees employed by a nonprofit hospital from the definition of 'employee' and the exemption instead of corporations or associations operating a nonprofit hospital from the definition of 'employer' clearly forecloses the majority's construction of the statute, for the majority choses a route rejected by Congress.

The dissenting NLRB member stated that "the majority cannot have it both ways." He argued that either a university "is not an 'employer' within the meaning of Section 2 (2) because its operations include a hospital, or it is an 'employer' within the meaning of that section as to all its employees, because it is engaged in much broader operations."

APPROPRIATE TEACHER BARGAINING UNIT DETERMINED FOR BUREAU OF INDIAN AFFAIRS' NAVAJO REGION

The Assistant Secretary of Labor for Labor-Management Relations determined that the appropriate collective bargaining unit for nonsupervisory educational professionals employed by the Department of Interior, Bureau of Indian Affairs, Navajo Region should comprise teachers, education specialists and guidance counselors. An area-wide representation election was ordered by the Assistant Secretary of Labor.

Contenders for representation of the nonsupervisory professional unit were the National Council of Bureau of Indian Affairs Educators/National Education Association (NCBIAE/NEA), the National Federation of Federal Employees (NFFE), and Local 2969 of the American Federation of Government Employees (AFGE).

The teachers, special educators, and guidance counselors in the proposed unit have similar educational backgrounds, teach either part or full time, and report to the school principals. They are the only professional employees at the schools "directly involved with the education and welfare of Navajo children." Although guidance counselors supervise instructional aides, the Assistant Secretary found, they do not effectively recommend the hiring, firing, or promotion of aides. Thus, the inclusion of these employees in the unit was appropriate.

The employees of the region's Shonto and Intermountain schools were excluded from the unit because representation elections had been held at these schools within the previous 12 months. Section 203 (b) of the Labor Department's Rules and Regulations under Executive Order 11491 "bars the processing of any petition involving employees in any unit where certification has been in effect for less than twelve months."

Negotiation Notes

CALIFORNIA

WINTON ACT AMENDED

The Winton Act, California's teacher collective bargaining law, was amended in order to limit the "scope of matters proposed" at meet and confer sessions to matters directly relating to certificated or classified employees. The amendment was to take effect 61 days after the legislature's adjournment.

The amendment states that a public school employer or his representative shall meet and confer with representatives of certificated or classified employee organizations regarding all matters relating to employment conditions and employer-employee relations.

Certificated employees are granted, upon request, the right to meet and confer in regard to procedures concerning

> the definition of educational objectives, the determination of the content of course and curricula, the selection of textbooks, and other aspects of the instructional program to the extent such matters are within the discretion of the public school employer or governing board under law.

In meet and confer sessions, the scope of matters proposed must be directly related to certificated or classified employees, except when the employee organization has been first notified, and has had the opportunity to present its opinion. In the event of a disagreement, the public employer retains the right to determine whether a proposal directly affects a certificated or classified employee.

NEW YORK

SUPERVISOR'S DISMISSAL RETURNED TO NEGOTIATED "SPECIAL COMPLAINTS" PROCEDURE OWING TO SUPERINTENDENT'S LACK OF PROTECTION

Under an agreement providing for "special complaints" by supervisors if they were harassed or intimidated, a factfinder recommended re-examination of a junior high-school principal's dismissal because of evidence supporting the grievant's "claim." The Council of Supervisors and Administrators contended that the principal did not receive due "protective support" from the District Superintendent.

The New York City Board of Education claimed that since the principal had been dismissed and was no longer the victim of harassment, her complaint was a questionable one, and not subject to the fact-finder's recommendation.

The factfinder found that as a result of a decentralization law, jurisdiction of the school was transferred during the principal's term to a community school district. The transfer occurred without coordination or supervision. Thereafter, the principal became the subject of controversy and the victim of abuse by teachers, parents, and other community members.

Tape recordings of school assemblies (from which the principal was excluded) at which teachers and parents discussed with students ways to accomplish the removal of the principal, supported the Council's contention. Further, the factfinder found that the Superintendent failed to extend "appropriate supervisory and supportive assistance" to the principal.

The advisory arbitrator determined that "the termination of the grievant (who was still on probation) by the community board was but part and parcel of the continuing acts of intimidation and harassment." Therefore, her removal was "the direct result of conditions in whole or part caused by the conduct of members of the community board, some teachers, parents and others, but chiefly one to the Superintendent's failure to supply protective support to which the grievant was entitled."

The factfinder recommended that the hearing on a request for the discontinuance of the grievant's probationary service be reopened, and that the committee review and consider the report and take appropriate action.

NEVADA

EMPLOYEE-MANAGEMENT RELATIONS LAW AMENDED

The Nevada Local Government Employee-Management Relations Act was recently amended,

providing a more comprehensive coverage for public employees. The Amendment requires good-faith bargaining by both parties, and it lists employer prerogatives where any action taken by public employees "shall be construed as a failure to negotiate in good-faith." Further, any agreement between a public employer and employees may now be reduced to writing at the request of either party.

In addition, the act now excludes from an employee bargaining unit "a local government department head, administrative employee or supervisory employee," and provides that "in all cases, confidential employees of the local government employer shall be excluded from any negotiating unit." Three sections added to the act define the terms "administrative employee," "confidential employee," and "supervisory employee."

The amendments which became effective July 1971, also provide that an employee organization desiring to negotiate matters requiring the budgeting of monies by the local government employer must give notice on or before December 1. Portions of the act imposing time limitations upon the submission of a negotiation dispute to mediation have been deleted, and the parties now are permitted mutually to seek mediation "during the course of negotiations."

Section 6 of the act, which provided procedures for and time limitations upon the mandatory submission of a negotiation impasse to an advisory fact-finding panel, was deleted in its entirety and replaced by a permissive provision allowing either party to submit a dispute to a fact-finder for advisory findings and recommendations between March 1 and April 1. If the parties are unable to agree upon a factfinder, they may request a list of seven names from the American Arbitration Association and shall alternately strike names (with the employee organization initiating the process) until the name of only one fact-finder remains. The report of the fact-finder will be made within 30 days, but no later than May 5.

The parties to the dispute may agree, prior to the submission of the dispute to fact-finding, that any decisions of the fact-finder on specific issues will be final and binding. At the request of either party and prior to the submission of the dispute to fact-finding, the governor may order that the decisions of the fact-finder in the particular dispute will be final and binding. The factfinder is to base his decision on such considerations as the financial status of the local government employer, the obligation of the employer to provide goods and services for the public, and the reasonableness of each party's position.

The amended law enumerated prohibited employer-employee practices. Among the prohibited employer practices are: interfering with an employee exercising his guaranteed rights, interferring with the formation of an employee organization, discriminating in regard to employment conditions, discouraging union membership, discriminating against an employee for specific union activities, and refusing to bargain in good faith.

An employee is prohibited from interfering with another employee exercising his guaranteed rights, and with refusing to bargain in good faith. Prohibitions against public employee strikes with accompanying penalties were carried over from the previous law.

["TEXT" Section contains full reprint of Nevada Local Government Employees Management Act.]

NEW MEXICO

ALBUQUERQUE PASSES LOCAL PUBLIC EMPLOYEE BARGAINING ORDINANCE

The City of Albuquerque Employee Relations Ordinance, effective November 5, 1971, provides that the "city government and any [recognized] employee organization . . . shall bargain concerning hours, salary, wages and working conditions and other terms and conditions of employment not in violation of law." It also established the City of Albuquerque Labor Relations Board (CALRB) the duties of which include interpretation of the ordinance, determination of appropriate bargaining units, supervision of representation elections, and resolution of prohibited practice disputes.

Also included in the ordinance were open shop, management rights and no-strike clauses, penalties for strikes and other prohibited practices, and detailed procedures for determination of units, recognition and/or election of exclusive representation organizations, and mediation and fact-finding of negotiation impasses.

The new ordinance preempts "all contrary local ordinances," with the exception of the Merit System Ordinance which will apply when employees have no collective bargaining representative.

PENNSYLVANIA

FIRST NEGOTIATED CONTRACT FOR STATE EMPLOYEES

The state of Pennsylvania and the American Federation of State, County and Municipal Employees signed the first negotiated contract for state employees under the year-old Public Employees Relations Act. The contract is effective from November 4, 1971, until June 30, 1973, and covers 14,000 state blue-collar employees.

Under the contract, state employees will receive $30.6 million in wages and fringe benefits. Included in this package is a 20 percent salary increase for all employees. Workers will receive a 5 percent increase in wages on four specified dates; by February 1972 the minimum salary for all workers will be $5,007. Overtime pay is time and one half for hours worked over the regular day. Additional contract benefits include: state payment of Blue Cross, Blue Shield and life insurance premiums; 14 paid holidays; an annual vacation allowance of 10-20 days depending on length of employment; a five-step grievance procedure with binding arbitration; and an "anti-patronage clause."

WISCONSIN

MUNICIPAL EMPLOYEE BARGAINING STATUTE AMENDED TO ALLOW NEGOTIATION OF AGENCY SHOP

An amendment to Section 111.70 of the Wisconsin Municipal Employment Relations Act provides for "fair-share agreements" which allow negotiation of agency shop. A "fair-share agreement" is defined as:

> an agreement between a municipal employer and a labor organization under which all or any of the employees in the collective bargaining unit are required to pay their proportionate cost of the collective bargaining process and contract administration measured by the amount of dues uniformly required of all members. Such an agreement shall contain a provision requiring the employer to deduct the amount of dues as certified by the labor organization from the earnings of the employees affected by said agreement and to pay the amount so deducted to the labor organization.

"Fair share agreements" may be continued or terminated at any time by a referendum determined by a majority of employees covered by the agreement.

Eleven new definitions were added to the amended statute. They are bargaining unit, craft employee, election, labor dispute, labor organization, person, and professional employee. Sections concerning employee rights and prohibited practices were revised. Prohibited practices were expanded to include refusals to bargain collectively or to comply with an agreement, violations of contract terms, and discouraging union membership by discriminating in regard to employment conditions. Also amended was the section covering the Wisconsin Employee Relations Commission (WERC), and its powers concerning dispute settlement and unit determination.

(Text of amended law to appear in March issue of *Digest*)

CONSUMER PRICE INDEX, DECEMBER 1971

The Labor Department, Bureau of Labor Statistics (BLS) revealed that the December Consumer Price Index (CPI) all-items figure rose 0.4 percent above the previous month to 123.1 (1967=100). This was the smallest December to December increase in four years, a 3.4 percent from last year. Higher food prices, especially fresh vegetables which are exempt from the Economic Stabilization Program, were responsible for the increase.

After seasonable adjustment, the December increase was still 0.4 percent. During Phase I of the Economic Stabilization Program, from August to November, the average monthly increase was 0.1 percent, while in the six months preceding Phase I, the average monthly increase was 0.3 percent. In December, the seasonally adjusted food price index rose 0.7 percent, the same as in November. The index for non-food commodities, which did not change from August to November, rose 0.3 percent, while the index for services rose 0.3 percent, the same as in November. The November to December change in the index does not exclusively represent changes from Phase II of the Economic Stabilization Program since some prices are collected only once every three months.

Statistics

NEGOTIATED PERSONAL LEAVE PROVISIONS FOUND IN COMPREHENSIVE CLASSROOM TEACHER AGREEMENTS

A survey conducted by the NEA Research Division of 1,529 comprehensive agreements effective during the 1970-71 school year in school systems with 1,000 or more pupils revealed that 1,243 agreements (81.3 percent) contained personal leave provisions. The purpose of personal leave is to provide the teacher with paid short-term leave to handle private matters during working hours. Some provisions contained specific purposes for taking personal leave, while others contained only a general statement of purpose.

Since 1966, the numbers and percentages of agreements containing personal leave provisions increased. (Note Table 1) Personal leave provisions contained in comprehensive negotiated agreements increased from 43.4 percent in 1966-67 to 81.3 percent in 1970-71. The largest increase occurred between 1966-67 and 1967-68. As of 1970-71, slightly more than four-fifths of the agreements contained personal leave provisions.

TABLE 1.–NUMBER AND PERCENT OF PERSONAL LEAVE PROVISIONS, 1966-1971

	Number of Comprehensive Agreements	Agreements Containing Personal Leave Provisions	
		Number	Percent
1966-67	389	169	43.4%
1967-68	603	412	68.3
1968-69	978	783	80.1
1970-71	1,529	1,243	81.3

All personal leave provisions found in 1967-68 and 1970-71 agreements were analyzed for amount and source of leave in Table 2. The annual allowance of days leave for personal reasons ranged from one to 10 days in 1970-71. From 1967-68 to 1970-71, there was a decrease in one day annual allowance for personal leave from 21.8 percent to 10.4 percent of the personal leave provisions. In both years, a majority of the agreements provided for personal leave days apart from days allotted for other leaves. The source of leave shifted slightly from a separate personal leave allowance to deduction from sick leave accumulation.

TABLE 2.–AMOUNT AND SOURCE OF PERSONAL LEAVE, 1967-68 and 1970-71

Negotiated Content	1967-68		1970-71	
	Number	Percent	Number	Percent
NUMBER OF AGREEMENTS CONTAINING PERSONAL LEAVE PROVISIONS	412	100.0%	1,243	100.0%
Annual allowance				
1 day	90	21.8	129	10.4
2 days	161	39.1	459	36.9
3 days	79	19.2	258	20.8
4 days	5	1.2	23	1.9
5 days	27	6.6	75	6.0
Over 5 days	3	0.7	17	1.4
Undefined	47	11.4	282	22.7
Source of leave				
Separate from other leave	278	67.5	975	78.4
Deducted from sick leave	134	32.5	264	21.2
Combined with other leave	a]	a]	4	0.3

a] Not available

A sample of 256 agreements (20.6 percent) of the 1,243 from every state having negotiated personal leave provisions was selected for further analysis. The general negotiated content of these provisions is shown in Table 3. These categories are not mutually exclusive since most provisions contained more than one feature. The analysis is limited to what appears in written negotiation agreements as personal paid-leave provisions.

Of the 256 selected provisions, two provisions merely incorporated existing board policy into the agreement. The majority of provisions contained specific negotiated content, namely, the

purpose for the leave, procedures for requesting leave, administrative approval and processing of leave, and restrictions on the taking of leave.

TABLE 3.–GENERAL NEGOTIATED CONTENT OF 256 SELECTED PERSONAL LEAVE PROVISIONS, 1970-71

General Content	Agreements Containing Designated Content	
	Number	Percent
1	2	3
Total Number of Selected Provisions	256	100.0%
Incorporated Existing Board Policy	2	0.8
Specific Negotiated Policies	254	99.2
SPECIFIC NEGOTIATED ITEMS	254	100.0%
Purpose of leave	254	100.0
Request procedures	134	52.8
Administrative approval and processing of leave	186	73.2
Restrictions on leave	162	63.8

PURPOSES

Over two-thirds of the provisions outlined in general terms the purposes of the leave. The second most frequent statement of purpose combined both general terms and specific guidelines. The third type provided only specific guidelines for uses for such leave.

The general statement of purpose usually identified personal business, personal business that can be handled only during the school day, or personal emergencies. Of all provisions containing broad purposes statements, 9.1 percent (23) were identified as being for personal emergencies; 32.7 percent (83) were intended for personal business that can only be transacted during school hours; and the highest percentage, 44.9 (114), granted leave for personal business. (See Table 4) An example of this type of provision is as follows:

> The Board shall grant two days personal leave at full pay which can be used for personal business.
>
> Fenton Community H.S.D.
> Bensenville, Illinois

Statements which specified the use of personal leave either as a separate feature or in combination with a broad purpose statement are similar to the following:

> Three of these days may be used for the following personal business–closing title on his home; a special religious ceremony, i.e., confirmation, circumcision of own child; graduation of member of immediate family or close friend.
>
> Central H.S.D. #1
> Valley Stream, New York

TABLE 4.–PURPOSES OF PERSONAL LEAVE, 254 SELECTED PROVISIONS, 1970-71

Purpose of Leave	Agreements Containing Designated Content	
	Number	Percent
TOTAL NUMBER OF PERSONAL LEAVE PROVISIONS	254	100.0%
Provisions with broad purposes for leave	175	68.9
Provisions with specific purposes for leave	34	13.4
Provisions with broad and specific purposes for leave	45	17.7
Broad Purposes	220	86.6
Specific Purposes Identified in Agreements	79	31.1
Legal matters	55	21.7
Business matters	36	14.2
Religious matters	34	13.4
Non-family funerals	29	11.4
Family matters	29	11.4
Graduations	25	9.8
Court appearances	25	9.8
Household matters	23	9.1
Weddings	21	8.3
Family illness	21	8.3
Emergencies (i.e., car accidents, fires, etc.)	17	6.7
Fatherhood	5	2.0
Professional matters	4	1.6
College activities	4	1.6
Medical checkups	3	1.2
Award ceremonies	3	1.2
Other	8	3.1

Examples of statements containing both general and specific purposes for taking leave are illustrated below:

> Personal business, as defined herein, shall mean an activity that requires the teachers' presence during the school day and is of such a nature that it cannot [be] attended to at a later time when schools are not in session or at the conclusion of a working day or on weekends. Certain types of family obligations, legal commitments, religious observances, and emergencies are considered to be justification for the utilization of personal business leave.
>
> Gateway Schools
> Monroeville, Pa.

> The personal business leave shall be used only in situations of urgency, for the purpose of conducting personal business which is impossible to transact on the weekend or after school hours. Certain types of family obligations, legal commitments, religious observances, unusual circumstances related to professional growth and emergencies are considered to be justification for the utilization of personal business policy.
>
> Gwinn, Michigan

REQUEST AND ADMINISTRATIVE APPROVAL PROCEDURE

Request procedures for obtaining leave were outlined in approximately two-thirds of the provisions. (See Table 5) A written notice requesting personal leave was required in about one-fifth of the agreements. Of those provisions stipulating a written notice, 33 provided no time limit, and 17 required prior written notice from 1 to 5 days.

TABLE 5.–PROCEDURES FOR AND ADMINISTRATORS RESPONSIBLE FOR APPROVAL OF PERSONAL LEAVE REQUESTS, 254 SELECTED PROVISIONS, 1970-71

Negotiated Content	Agreements Containing Designated Content	
	Number	Percent
1	2	3
TOTAL NUMBER OF PERSONAL LEAVE PROVISIONS	254	100.0%
Request procedures	167	65.7
Written notice required	50	19.7
Prior notification only	97	38.2
Statement of reasons required	33	13.0
Other	4	1.6
Administrators responsible for final approval or processing of leave	186	73.2
Superintendent	86	33.9
Principal	67	26.4
Administration	12	4.7
Supervisor	10	3.9
Other administrators	11	4.3

Prior notification for requesting leave ranged from one day to one week: of those provisions, 15.7 percent (40) required one day's notice; 10.2 percent (26), two days' notice; 3.9 percent (10), three days' notice; 7.1 percent (18), 5 days' notice; and 1.2 percent (3), one week's notice.

In conjunction with the prior notification requirement, some agreements contained provisions requiring the teacher to state a reason for the taking of personal leave at all times, 8.3 percent, while others, 4.7 percent, only required that a reason be stated some of the time.

Approval of personal leave requests were required in nearly three-fourths of the provisions, the person to whom this responsibility was most often delegated was the superintendent, followed by the principal.

RESTRICTIONS ON LEAVE

Restrictions on the purposes for which personal leave may be taken was found in approximately two-thirds (63.8 percent) of the provisions analyzed. (Note Table 6) These limitations on the use of leave are based on the reasons and effect of the teacher's absence on the operation of the school.

TABLE 6.–RESTRICTIONS ON PERSONAL LEAVE, 254 SELECTED PROVISIONS, 1970-71

Restrictions on Leave	Agreements Containing Designated Content	
	Number	Percent
1	2	3
TOTAL NUMBER OF PERSONAL LEAVE PROVISIONS	254	100.0%
Total containing restrictions on personal leave	162	63.8
Restrictions on use of personal leave	140	55.1
Not to extend a vacation	83	32.7
Not for recreation or gainful employment	39	15.4
Other	5	2.0
Restrictions on granting of personal leave	22	8.7
Limits on the number or ratio of teachers taking leave at one time	10	3.9
Restrictions on school days when leave cannot be taken	12	4.7

The majority of these provisions identified the reasons for which a teacher could not use such leave. The primary restraint was placed on the extension of vacations, however, 20 (7.9 percent) of these restrictive provisions allowed for such use only with prior approval. The use of personal leave was deemed improper when taken for recreation, shopping, job-hunting, fishing, pursuing economic profits, attending a convention with a spouse, bad weather conditions, or association business.

A small percentage of the agreements defined when and under what conditions leave could be taken. Some provisions (4) granted leave to no more than ten percent of the district teaching force at one time; an equal amount of provisions stipulated that no more than two teachers from any one school could be granted leave simultaneously, and two provisions limited the number of teachers to five.

Teachers were prohibited from taking personal leave during the closing week of school and in-service training periods in three provisions, while two provisions restricted personal leave during the opening week of school. Two provisions specified that the granting of personal leave was contingent

on the normal maintenance of school operations, and two granted leave only on the condition that an appropriate substitute was found.

Four selected personal leave provisions are reprinted below. These are sample provisions only, and they are not intended to be regarded as exemplary.

A. At the beginning of every school year, each teacher shall be credited with seven (7) days to be used for the teacher's personal business, without loss of salary in each school year for any one or a combination of the reasons set forth below:

1. Serious illness or death in immediate family
2. Religious observance
3. Subpoenaed or called to court or hearing
4. Graduation exercise by family member
5. Appointment for college admittance of family member
6. Taking child to college as freshman
7. School or college special honor to family member
8. Special honor bestowed on family member
9. A house closing or specified necessary business requirement
10. Being married
11. Attending a wedding as participant
12. Attending a family wedding
13. Moving to a new home
14. Emergency repairs in home

The duration of each absence under No. 4 to 14 above shall be reasonable.

B. The leave provided in this Article shall be non-cumulative.

C. A first year teacher shall be entitled to three days and a second year teacher to five days personal leave as provided in this Article, but any leave in excess of the foregoing limits up to a maximum of seven days shall be charged against his or her sick leave for that year, and shall be allowed only to the extent such sick leave is available.

Merrick, New York

Personal leave (with pay, but not chargeable to sick leave.)

1. Any full time personnel regularly employed by the Board of Education shall be granted two (2) days of leave per year to transact personal business as defined below:

PERSONAL BUSINESS:

A. Activities of legal nature which require the presence of the individual.
B. Activities of an urgent nature the absence from which would cause the individual serious financial and/or personal loss.
C. Attendance at the funeral services of a person whose relationship to the employee is other than immediate family.

The above is to serve as guidelines for the Superintendent in granting or denying a request for business leave. Requests for the extension of vacation periods, job hunting, accompanying a spouse to conventions, etc. shall not be construed as qualifying reasons for personal leave under this section but can, at the discretion of the Superintendent, be granted under Section F, Article X.

Arrangements for personal leave as herein mentioned in Article X, Section E-1, shall be made as follows:

A. Application for such leave shall be made with the Superintendent of Schools at least 24 hours in advance except in the case of emergency.
B. On the approval of the personal leave request, the teacher will be given the personal leave absence form which is to be completed at once and left with the Superintendent.
C. The Superintendent will notify the Principal of the school concerned as to the date or dates of the teacher's absence. The Principal will make arrangements for obtaining a substitute replacement for the said period of leave.

Reed City, Michigan

A. At the beginning of every school year, every teacher shall be credited with five (5) days to be used as personal leave without deduction in pay. Such leave shall not be cumulative.
B. Personal leave may be used for the following purposes.
   1. Death or serious illness of a member of the immediate family.
      (Immediate family shall be considered to include father, mother, son, daughter, brother, sister, husband, wife, grandparents, grandchildren, father-in-law, mother-in-law, son-in-law, daughter-in-law, and other members of the family living in the same household.)
   2. Marriage or graduation of the teacher or his son or daughter.
   3. Required court appearances involving no moral turpitude on the part of the teacher.
   4. Legal, business, or family matters which require absence during school hours.
C. Other than death or serious illness of a member of the immediate family, application for personal leave will be made at least twenty-four (24) hours before taking such leave. The teacher may be asked to explain in detail the reason for any personal leave requested.

Little Rock, Arkansas

WHITE COLLAR PAY INCREASE, JUNE 1970-JUNE 1971

According to data released by the Department of Labor, Bureau of Labor Statistics (BLS) white-collar pay in private industry rose 6.6 percent from June 1970 to June 1971. This figure is 4 percentage points more than the 6.2 percent increase recorded from June 1969 to June 1970, and is also the largest increase recorded in the 11 years that the BLS has conducted its survey. White-collar salaries rose 6.6 percent in this period, while

the Consumer Price Index rose 4.5 percent. Pay for professional, administrative and technical groups rose an average of 6.7 percent, while that in clerical and clerical supervisory occupations rose an average of 6.5 percent. The largest percentage increase in the professional, administrative and technical occupations was 9.1 percent for chief accountants. An increase of 7.4 percent was recorded for stenographers in the clerical and clerical supervisory category.

AVERAGE SALARIES OF EMPLOYEES IN SELECTED WHITE-COLLAR OCCUPATIONS IN PRIVATE ESTABLISHMENTS[a]

Occupational and Class	Number of Employees[b]	Average Salaries[c] Annual	Percent Increase, 1970 to 1971
Accountants and Auditors			
Accountants I	4,353	$ 8,975	5.6
Accountants II	10,697	10,213	6.3
Accountants III	25,722	11,383	6.5
Accountants IV	17,787	13,654	7.0
Accountants V	6,282	16,626	7.4
Auditors I	786	9,401	5.7
Auditors II	2,177	10,643	6.9
Auditors III	4,099	12,227	6.6
Auditors IV	2,557	15,136	7.8
Chief accountants I	396	14,449	3.8
Chief accountants II	1,274	17,191	9.9
Chief accountants III	697	20,897	11.3
Chief accountants IV	218	24,597	6.3
Attorneys			
Attorneys II	1,099	14,345	5.6
Attorneys III	2,109	17,509	3.7
Attorneys IV	1,543	22,178	9.2
Attorneys V	806	26,277	3.5
Attorneys VI	476	33,375	1.0
Buyers			
Buyers I	2,704	8,998	5.7
Buyers II	9,637	10,375	6.3
Buyers III	12,340	12,585	7.9
Buyers IV	4,672	14,785	6.4
Personnel Management			
Job analysts I	106	9,232	3.3
Job analysts II	332	10,397	8.6
Job analysts III	564	12,016	7.4
Job analysts IV	568	14,103	8.2
Directors of personnel I	1,034	13,730	9.0
Directors of personnel II	1,651	15,920	7.3
Directors of personnel III	1,134	19,823	7.6
Directors of personnel IV	379	23,872	8.9
Chemists and Engineers			
Chemists I	1,346	9,688	5.7
Chemists II	4,161	10,776	5.3
Chemists III	8,492	12,459	6.2
Chemists IV	9,911	15,036	5.8
Chemists V	7,643	17,928	5.1
Chemists VI	4,218	20,514	4.1
Chemists VII	1,541	24,520	6.9
Chemists VIII	458	29,714	7.2
Engineers I	9,867	10,677	4.6
Engineers II	28,748	11,694	5.6
Engineers III	78,762	13,117	6.2
Engineers IV	108,091	15,535	5.7
Engineers V	73,938	17,979	6.7
Engineers VI	38,892	20,547	5.5
Engineers VII	14,169	23,508	5.3
Engineers VIII	3,296	26,736	5.3
Technical Support			
Engineering technicians I	3,675	6,854	8.8
Engineering technicians II	11,307	7,963	5.9
Engineering technicians III	23,903	9,148	7.1
Engineering technicians IV	27,440	10,389	5.6
Engineering technicians V	15,744	11,815	7.0
Draftsmen-tracers	4,084	5,884	3.7
Draftsmen I	16,204	7,215	6.0
Draftsmen II	29,384	8,810	5.3
Draftsmen III	26,398	10,811	5.9
Clerical Supervisory			
Keypunch supervisors I	1,109	7,193	4.5
Keypunch supervisors II	1,695	8,204	5.7
Keypunch supervisors III	1,141	8,883	7.1
Keypunch supervisors IV	398	10,692	8.1
Keypunch supervisors V	98	11,320	(d)
Clerical			
Clerks, accounting I	89,884	5,603	6.4
Clerks, accounting II	61,325	7,198	5.6
Clerks, file I	27,637	4,395	6.7
Clerks, file II	26,908	4,831	5.7
Clerks, file III	7,820	5,813	5.5
Keypunch operators I	59,691	5,469	6.9
Keypunch operators II	49,114	6,228	7.0
Messengers (office boys or girls)	27,635	4,853	6.7
Secretaries I	90,644	6,649	6.2
Secretaries II	94,398	7,439	6.6
Secretaries III	53,670	8,018	6.8
Secretaries IV	16,545	8,684	6.6
Stenographers, general	56,786	5,923	8.1
Stenographers, senior	52,000	6,660	6.6
Typists I	71,877	5,014	6.3
Typists II	40,825	5,794	5.9

Source: "White Collar Pay Up 6.6 Percent, June 1970-June 1971," U.S. Department of Labor, Bureau of Labor Statistics, November 16, 1971.

[a]Includes establishments with 250 workers or more in manufacturing and retail trade; 100 or more in transportation, communication, electric, gas, and sanitary services, wholesale trade, engineering and architectural services, and commercially operated research, development, and testing laboratories; and 50 or more in the finance, insurance, and real estate industry division.

[b]Occupational employment estimates relate to the total in all establishments within scope of the survey and not to the number actually surveyed.

[c]Salaries reported relate to the standard salaries for standard work schedules; i.e., the straight-time salary excluding overtime hours. Nonproduction bonuses are excluded, but cost-of-living bonuses and incentive earnings are included.

[d]1970 data did not meet publication criteria.

Special Reports

BRIEFS OF RECENT AGREEMENTS

South Bend, Indiana

Between the Board of School Trustees of the South Bend Community Corporation and the Community Education Association of South Bend, effective August 15, 1971, to August 15, 1972. Approximately 1,500 certificated professional employees.

COMPENSATION: (Effective January 1, 1972) B.A., $7,100 to $11,076, 14 increments; B.A. plus 30, $12,496 maximum; M.A., $7,668 to $13,348, 18 increments; M.A. plus 30, $13,916 maximum; Ph.D., $15,336 maximum.

Severance pay: Retiring teachers upon termination after 15 years of service, are paid at the rate of one day's pay at the B.A. base multiplied by the number of years of service in the system.

Differentials: (Athletic), athletic director (no coaching), head basketball and football coaches, $1,378; $1,484; $1,590, salary steps; athletic director (one coaching assignment), $1,060; $1,166; $1,272, salary steps; boys athletic and intramural director (7-9), $843; $954; $1,060; cross country, 9th grade baseball and wrestling coaches, $318; $424; $530; golf, tennis, elementary baseball coaches, $212; $318; $424; gymnastics coach, girls high school swim coach, $106; $212; $318; Yearbook sponsor, orchestra and choral director, $530; $636; $742; department chairman (7-9), more than 25 classes, $318; $424; $530; student activities sponsor (7-9), stage manager, drama coach, debate coach, ticket manager, $212; $318; $424; audio visual coordinator (over 1,000), student council sponsor, $106; $212; $318; lunchroom supervision, $530; special education assignment, $424.

LEAVES: 10 days' annual sick leave, 160 days maximum accumulation; 2 separate days of personal leave and may be accumulated as sick leave; one day of paid leave for draft board examination; 2 separate sick leave days for summer and evening school teachers; 5 days bereavement leave in immediate family; one day of leave for bereavement for near relative; paid leave for attending professional meetings or conferences, school visitation, and jury duty less court fees; sabbatical leave at half pay after 6 years' service.

INSURANCE: Board-paid Blue Cross-Blue Shield and Major Medical, health insurance for each teacher for 12 month period; board contributes $3.04 for $10,000 (double indemnity) term life insurance; liability insurance provided; long-term disability insurance provided subject to non-duplication offset provision of policy (social security, early retirement, etc.) at half pay to age 65 after a six-month waiting period; tax-deferred annuity plan available.

ASSOCIATION: Payroll dues deductions for local, state, and national Associations; Association has right to use gymnasium and school auditorium; teachers are permitted to wear identification of Association membership; Association interschool mail to be distributed by school mail service; monthly building representative discussions and meetings permitted.

INSTRUCTION: Teaching load in six-period schedule comprises 5 teaching periods, one preparation period, and a homeroom, in a seven-period schedule, 6 teaching periods, one preparation period, and homeroom; maximum class size for grades K-6, 32 pupils, grades 7-12, 32 pupils with a possible 10% upward adjustment; teacher's hours from 8:00 to 3:30 p.m., with teachers not required to remain longer than 15 minutes after student dismissal; effective this agreement additional teacher's aides to be added to the staff of each K-8 school for three hours in the mornings; four half days released time for each section granted to elementary teachers in grades 1-3 for parent-teacher conferences; joint curriculum development committee of six members to participate in decision-making regarding curriculum innovations and implementation, and textbook selection.

PERSONNEL: Grievance procedure ends in advisory arbitration; personnel file available to teacher upon request and teacher may respond to unfavorable material; 30-minute duty-free lunch period; faculty meetings scheduled twice monthly; others may be called on 24-hour notice; development of teacher reference library; board will provide multi-level and/or multi-text materials for all pupils; special education program to be expanded; elementary teachers released when their classes are being taught by specialist; upon completion of 50

credit hours for professional growth, teachers are eligible to receive payment of $100 in next year's contract; selections of individuals to fill vacancies, transfers, reduction in staff based in order of priorities on qualifications, contributions to students, opportunity for professional growth of staff member, and length of service; tenure attained after fifth year's service; board provides legal counsel in any suit involving the teacher in the performance of his duties; joint discipline policy committee to study standards of established pupil discipline; cost of required pre-employment medical examinations assumed by school board; teacher contract of 190 days; non-tenured teachers evaluated each year, tenured teachers, once every 3 years.

Flint, Michigan

Between the Board of Education of the Carman School District and the Carman Education Association, effective August 30, 1971, to September 1, 1973. Approximately 406 certificated professional employees. Provision for reopener only upon consent of both parties.

COMPENSATION: (1971-72), B.A., $8,300 to $11,123, 12 increments (scheduled half year increases); B.A. plus 15, $14,196 maximum; M.A., $9,151 to $14,906, 20 increments (scheduled half year increases); M.A. plus 30, $16,434 maximum. (1972-73), B.A., $8,750 to $11,725, 12 increments (scheduled half year increases); B.A. plus 15, $14,965 maximum; M.A., $9,647 to $15,713, 20 increments (scheduled half year increases); M.A. plus 30, $17,324 maximum.

Severance pay: Teachers, retiring at the close of 1972-73 school year, receive a terminal leave payment at the rate of .01 per cent of the current base payable after 10 years for each year of service beyond 10 years, not to exceed $1,000.

Differentials: football, basketball head coach, $1,162. (.14 of current B.A. base); swimming, wrestling, head coach, $996. (.12 of current B.A. base); baseball, track, head coach, $913. (.11 of current B.A. base); J.V. football, basketball, $747. (.09 of current B.A. base); golf, tennis head coach, $581. (.07 of current B.A. base); music production director (one per year), $249. (.03 of current B.A. base); drama production director (two per year), $249. (.03 of current B.A. base); cheerleader, high school, $332. (.04 of current B.A. base); orchestra director, $415. (.05 of current B.A. base); debate coach, $332. (.04 of current B.A. base); yearbook advisor, $207.50. (.025 of current B.A. base); swimming pool supervisor, $5 per hour; adult education instructor, $6; driver education instructor, $6.25 per hour; coordinator of driver education, $500 plus one extra planning period per scheduled day during summer program.

LEAVES: 12 days' sick leave credited at beginning of school year, 180 days' maximum accumulation; 2 days deducted from sick leave for personal business; leave deducted from sick leave for bereavement or family illness; leave with pay for attendance at professional conferences or school visitation; leave with pay, less fees received, for jury duty or work-related court subpoena; leave with pay for selective service physical examination; sabbatical leave with a minimum of half pay for two semesters and full fringe benefits after 7 years' service; sick leave bank mandatory and operated by Association who will establish committee to administer and provide information for the business office records, the director of business will serve as advisor to the committee, persons may not withdraw days from the bank until their accumulated leave is depleted.

INSURANCE: Health: board-paid individual and family coverage for hospital, surgical and major medical insurance, dental care program effective 1971-72 with orthodontic care effective 1972-73 for individual and/or family coverage; board-paid $7,500 group life insurance effective 1972-73 to $10,000 (double indemnity); effective 1972-73 all dividends and future premium reductions shall be applied to additional coverage; long-term disability insurance beginning one year after sickness or accident payable to age 65 or until termination of disability, during first year of agreement the long term disability policy shall pay 60 percent of annual contracted salary with a monthly limit of $750, the second year of the agreement the policy shall pay 60 percent of annual contracted salary with a monthly limit of 75 percent.

ASSOCIATION: Payroll dues deduction to local, state and national Associations; paid released-time for negotiations or grievance hearing; total of 30 days paid leave for Association use upon prior notice to building principal; Association has right to use of school facilities and equipment; the wearing of insignia, pins or other identification of Association membership permitted; school system financial and budgetary information made available to Association; agency shop clause.

INSTRUCTION: A maximum of 25 teaching periods and 5 unassigned preparation periods per week for secondary school teachers; no teachers in secondary schools are assigned more than 3 course preparations unless mutually agreed upon by both teacher and building

principal; reduction in class size desired from a maximum of 30 to optimum of 20 in elementary and secondary classes, vocational classes (Industrial arts, drafting, vocational shops, homemaking, etc.) from 25 to 18 students; elementary teaching hours begin 15 minutes before class and end one hour after student dismissal; allocation of $10 per full-time teacher for supplies above pupil allottment; counseling service shall not exceed the ratio of 425 to 1, at least two counselors shall be employed in each senior high school for a period of two weeks prior to the official school employment date of teachers.

PERSONNEL: Grievance procedure ends in binding arbitration; teacher has right upon request to review contents of his file except college credentials, letters of recommendation or medical reports; 45 minute duty-free lunch period for elementary teachers and 41 minute duty-free lunch period for secondary teachers with a ten minute supervised break for senior high teachers, cost free lunch for special education teachers; probationery teacher evaluated at least three times during the school year, tenured teacher evaluated at least every two years by immediate supervisor; joint committee to improve special education program; no poligraph or lie detector shall be used in any investigation of a teacher by the board; each teacher agrees to substitute one hour per year in an emergency with additional substitution at $7.50 per hour; board will provide legal counsel to advise the teacher of his rights with regard to any job-related assault and, if assaulted while on duty, the board "will fairly reimburse" the teacher for any losses, damage or destruction of personal property; teachers affected by a reduction in staff will be automatically granted a leave of absence without pay. (See reprint)

STAFF REDUCTION

A. No teacher shall be discharged or laid off pursuant to a necessary reduction in personnel unless there is a substantial decrease in the students enrolled in the school district or there is a substantial decrease in the revenues of the school district.

B. Before the Board makes any necessary reduction in personnel, it will first negotiate with the Association regarding the effects of such reduction. This will include, but not be limited to, such problems as the criteria used for the determination as to who will be discharged or laid off and the reemployment rights of such persons.

C. In the event that a reduction of staff is deemed necessary, leaves of absence without pay will automatically be granted to any and all teaching staff affected by this reduction. These leaves of absence shall not prohibit the teachers from seeking and accepting gainful employment elsewhere, and shall not be terminated for that reason except on written request of the teacher. A teacher may elect to take and will be granted leave of absence during the staff reduction irrespective of his position on the seniority list.

D. During said leave of absence such teacher shall receive no insurance benefits at board expense, but may elect to continue insurance benefits by paying the premiums therefore at the Board offices. This section is contingent upon approval by the respective insurance carriers.

E. During said leave of absence such teacher's seniority shall remain unbroken despite such leave, and his accumulated sick leave shall not be cancelled but shall remain credited to him.

F. Any teacher who would have qualified for retirement during the reduction year shall be permitted to teach that year so as to acquire needed service.

G. The fact that a teacher is placed on leave of absence for the purpose of staff reduction shall not result in loss of status or credit for previous years of service. Upon return to the Carman School District he shall receive full credit for professional service, and credit will be given for one year of non-professional service.

H. If a reduction of staff is necessitated in accordance with the above provisions, reduction of personnel will be made according to the following:

1. Seniority for the purposes of this addendum shall be defined as nonterminated years of employment in the Carman District. Leaves of absence shall not be considered terminations.
2. A seniority list shall be prepared by the Board and verified by the Association that includes all present bargaining unit personnel.
3. Non-classroom positions will include the following: reading consultants, librarians, diagnosticians, social workers, speech therapists, counselors, Director of Library Services, and all Schedule B positions with the exception of special education positions which shall receive no additional pay over the salary schedule.
4. Non-classroom positions will be eliminated prior to classroom positions. Personnel employed in these positions will move into classroom positions for which they are certified and according to the rank they hold on the seniority list of the total bargaining unit.
5. Teachers on probationary or annual contract will be placed on leave of absence prior to teachers on tenure or continuing contract.
6. Within Classification 4 and 5, the order of reduction and recall will be according to academic needs, certification, and seniority.

I. The Board and Association will mutually agree upon transfers and assignments regarding the reduction and recall of the professional staff.

J. If a position exists within the Carman School District for which the teacher is qualified and certified, the teacher shall be notified by certified mail. Within ten (10) days of the receipt of a written offer to return to employment the teacher shall accept the position by replying in writing or it shall be determined that he has declined the position.

The teacher shall notify the Personnel Office by April 15 of the current school year of his intent to return to the Carman School District the following year or his leave shall be terminated. No new staff shall be hired until all staff on leave in accordance with this addendum have been offered an opportunity in writing to return to active employment. It is the teacher's responsibility to keep his address with the Personnel Office current.

K. As funds become available teachers on leave will be reemployed according to the provision H-6. All full time classroom and non-classroom positions shall be reinstated before Schedule B compensation is reinstated, unless otherwise mutually agreed by the Board of Education and the Association.

L. All Schedule B personnel that are recalled shall be reinstated in their previous Schedule B positions as funds become available.

M. This addendum in no way abrogates Articles VII and VIII–Leaves of Absence, however during a reduction in personnel as provided for in Section A of this addendum, it shall supersede Sections D and E of Article IX–Vacancies, Promotions, Transfers, of the master agreement.

Huntington, New York

Between the Board of Education of Union Free School District No. 1, Suffolk County, and the Elwood Teachers Association, effective July 1, 1970 to June 30, 1972. Approximately 250 certificated professional employees. Provision for automatic renewal for successive two year periods. This agreement is subject to reopener for 1971-72 salary schedule based on the average cost-of-living index during April 1, 1970 to March 31, 1971. Other items to be renegotiated by mutual written consent by November 1, 1971.

COMPENSATION: (effective 1971-72), B.A., $8,560 to $12,855, 13 increments; B.A. plus 60, $15,480 maximum; M.A., $10,255 to $16,205, 13 increments; M.A. plus 60, $18,860 maximum; Ph.D., $19,995 maximum.

Differentials: (Athletic) Based on 1970-71 B.A. base; football coach, varsity, $1,115.10 (.14 of base the first year, with .01 increase each succeeding year up to the 4th year); basketball coach, varsity, $955.80 (.12 of base); wrestling coach, varsity, $876.15 (.11 of base); soccer, baseball, varsity, $716.85 (.09 of base); golf and tennis coaches, varsity, $477.90 (.06 of base); game photographer, $20 per event for 15 events; crowd control, $20 per event; head ticket seller, $25 per event; football scout, $159.30; yearbook director, $637.20; director of student activities, $1,274.40; musical director, $477.90; home tutoring, $8 per hour; part-time secondary teachers, 18% of their step per assignment; drama director, $398.25; longevity pay: 10% of B.A. base beyond schedule maximum salary paid per year after 5 years service, additional 10% of B.A. base per year after 10 years service beyond schedule; provision for maintenance and accumulation of years stays at top step in salary grade and moves to new salary grade for longevity pay purposes; upon achieving tenure status, teacher receives additional $200 increment; incentive pay of $200 per year after 6 years, $400 per year after 12 years according to specific criteria and administrator's recommendation.

LEAVES: 12 days' sick leave, unlimited accumulation; extended sick leave after accumulated leave is exhausted for tenured teachers for an academic year, or non-tenured teachers who are eligible after serving 3 calendar months may extend through the balance of the school year; one separate day personal leave; maximum of 5 days leave for bereavement in immediate family; maximum of 3 days leave for religious reasons with 7 days prior notice; paid leave for jury duty or job-related court subpoena less compensation received for such duty; 30 days paid leave for military reserve obligation; sabbatical leave at half pay for one year or full pay for one semester after 7 years service; paid leave for school visitation or attendance at school-directed function; paid leave for selective service examination.

INSURANCE: Board paid Blue Cross-Blue Shield, Major Medical coverage for individual or family; life insurance equal to 60 percent of annual salary for each full-time teacher with accidental death and dismemberment benefits; disability income insurance for each full-time teacher providing minimum of 60 percent of teacher's income with a 90 calendar day waiting period, board will pay 40 percent of the salary for teachers eligible for extended sick leave, expiration at age 65 for absence due to sickness or accident; board pays 80 percent of group dental insurance for individual or family coverage and upon teacher's authorization may deduct the remaining 20 percent from salary; tax sheltered annuity plan made available through payroll deduction; annual physical examination required with cost paid by board for school physician; full pay for work-related injury with no charge to sick leave.

ASSOCIATION: Payroll dues deduction for local, state and national Associations; paid released time for organizational business "which cannot be performed other than school hours" for Association president or his designee; early dismissal at 2 p.m. one day per semester for professional Association meetings; whenever possible Association president's work load will be reduced or kept to a minimum.

INSTRUCTION: Secondary teachers will not be required to teach more than two subjects nor more than three preparations at any one time on a continuing basis, except in specialized areas as foreign language, business, education, industrial arts, home economics, physical education, etc.; recommended class size for both elementary and secondary schools within specific guidelines and considerations; clerical help and office machines made available to reduce non-teaching duties, budget allocation for lay reader program in junior high school English department; joint committee to recommend changes related to curriculum and instruction, textbooks, and recommend changes in existing policies; elementary teacher's hours 6 hours and 30 minutes, secondary teacher's hours 7 hours, except for faculty meetings held after school; secondary teachers assigned 25 teaching periods, available for student supervision, consultation and small group or individual assistance for 5 class periods per week; teachers notified of their assignments for the coming year no later than April 1 in elementary schools, and no later than June 15 in secondary schools.

PERSONNEL: Grievance procedure ends with advisory arbitration; teacher has right to review personnel file and to submit response to derogatory material; all teachers have a 40 minute duty-free lunch period; secondary teachers have a 40-minute preparation period daily; building faculty meetings scheduled once a week and departmental meetings scheduled twice a month; course credit granted teachers earning additional graduate credits or inservice courses for salary adjustment purposes; 3-year probationery period with tenure granted upon recommendation of administration; agreement states, "Association strongly recommends that teachers make firm commitments by April 1 or as soon thereafter as salary agreements are available;" seniority preference given in promotion, vacancies and transfer assignments; board provides attorney or fees for work-related legal suit with "save harmless clause" for teacher acting within the scope of his professional duties; specific procedure in the event of inclement weather affecting school closings; pupil discipline policy formulated by a committee of teachers at each school, initiated by the Association with a building administrator; mutual adoption of the Bill of Rights for Teachers as set forth by the state Association and included in this agreement; school calendar reviewed annually by board and Association prior to adoption by June 1.

DENTAL INSURANCE

Eighty percent (80%) of the group dental insurance premium (individual or family coverage, whichever applies in the particular case) for each teacher, except those who normally work less than thirty (30) hours a week. Deductions for the remaining twenty percent (20%) premium cost shall be made from the salaries of those teachers who provide the Board with written authorizations to make such deductions. The Board agrees to allocate $20,212.00 in each of the two years of this Agreement for this program. There shall be a deductible of $25.00 for the individual teacher and $75.00 for the family; pre-conditions will not be covered; reimbursement by the carrier shall be 80% for Class A service charges and 60% for class B.

COMPREHENSIVE DENTAL BENEFITS
CLASS A SERVICES

General
Prophylaxis (cleaning of teeth) including oral examination
Topical application of sodium fluoride
Stannous fluoride application
Palliative (emergency) treatment of dental pain

X-Rays
Periapical (root area) X-Ray
Bitewing X-Ray
Occlusal (contact of teeth) X-Ray
Antero-posterior (front-back) or lateral (side) view of head and jaws or
X-Ray or temporomandibular (temporal bone - lower jaw) joint

Root Canal Therapy
Extirpation (removal) of pulp and filling of one or more root canals
Pulpotomy (amputation of pulp)
Apicoectomy (root amputation)

Oral Surgery
Removal of tooth, including anesthesia
Surgical removal of tooth with a soft tissue impaction
Surgical removal of tooth with partial bone impaction
Surgical removal of tooth with complete bone impaction
Aveolectomy (surgical preparation of ridge for denture)

Fillings, Including Inlays
Amalgam filling
Plastic, silicate cement or equivalent filling
Gold inlay
Porcelain inlay
Recementing inlay

CLASS B SERVICES

Crowns
Stainless steel or aluminum crown
Acrylic (plastic) jacket crown, gold shell crown, or three-quarter crown
Cast gold crown without facing
Porceline jacket crown or cast gold crown with facing
Chayes or equivalent attachment
Recementing crown

Bridge Pontics
Porcelain pontic with cast gold backing, acrylic (plastic) pontic with cast gold backing or cast gold pontic
Any other bridge pontic
Recementing bridge
Replacing facing

Dentures
Bilateral partial denture, upper or lower
Unilateral partial denture, upper or lower
Complete denture, including immediate denture, upper or lower
Adding teeth to partial denture to replace extracted tooth
Addition of clasp to existing partial denture
obturator

Repairs To Dentures
Any denture repair
Rebasing denture

Orthodonture
$500.00 per policy year

EXPENSES NOT COVERED

No payment will be made for expenses incurred:
1) As a result of an occupational accident or sickness covered by Workmen's Compensation;
2) For services not listed;
3) For services received in or from a hospital owned or operated by the United States government or through any public program;
4) For which the individual receives payment or is entitled to receive payment under any surgical benefits provided by the medical care plan.

Seattle, Washington

Between the Seattle School District No. 1 and the Seattle Alliance of Educators, effective July 1, 1971, to July 1, 1973. Approximately 4,350 certificated professional employees. Provision for reopener on April 1, 1972 to exchange proposals relative to the 1972-73 certificated staff salary schedule and insurance benefits prior to their finalization as affected by the November 1971 levy election. Planning to include an amount for salary purposes that, "coupled with maintenance of the 1971-72 level of state funding, would provide for increments and educational credit plus an upward adjustment equal to the percent of adjustment allowed for inflation of prices on hard goods and in no case less than 2% of the 1971-72 salaries." Mutually written proposals for a successor agreement will be presented on February 1, 1973.

COMPENSATION: (1971-72), B.A., $7,328 to $8,173, 5 increments; B.A. plus 45, $11,337 maximum; M.A., $7,925 to $11,643, 11 increments; M.A. plus 90, $14,300 maximum; Ph.D., $15,014 maximum.

Differentials: (Athletic), head football, basketball coaches, $1,438; head baseball, track coaches, $1,010; assistant football, basketball coaches, $821; golf, soccer, tennis coaches, $587; cross country, wrestling, gymnastics coaches, $638; activity coordinator, $1,056; (Other), band director, $668; drama advisor, $638; choral music director, $530; orchestra director, $347; newspaper advisor, $683; head counselor, $847; debate advisor, $372; elementary safety patrol advisor, $275; department head (with 7 or more teachers), $954; "workshops and staff development training programs, other than regular staff development credit programs which occur at times when the educator is not otherwise compensated, shall be compensated for at the rate for special summer assignment" within budget limitations; substitute teachers: two classifications of substitutes: short-term (up to 44 days) service) and long-term (45 or more days' service). (The following excerpt is more detailed.)

SUBSTITUTE TEACHERS

1. There shall be two classifications of substitute teacher service:
   a. Short-term substitutes utilized in assignments up to and including forty-four (44) days.
      (1) Regular short-term substitutes: Substitutes who are willing to take all assignments for which they are qualified. Regular short-term substitutes are called, except in unusual circumstances, more frequently than casual short-term substitutes and are given preference for full-day assignments. Substitutes who have served at least one year as a substitute or as a full-time contract teacher in the District are generally categorized as regular short-term substitutes.
      (2) Casual short-term substitutes. Substitutes who are available to serve less frequently and who wish to discriminate as to assignments or days served. Casual short-term substitutes are routinely called less frequently than a regular short-term substitute.
   b. Long-term substitutes utilized in assignments of forty-five (45) or more days.
2. The base daily pay of short-term substitute teachers shall be $30.85. Short-term substitute teachers shall receive an additional $4.85 per day for continuous assignments after the fifth day.
3. Long-term substitute assignments of forty-five (45) days or more shall be paid at the contract teacher rate retroactive to the first day of assignment, except that when in the judgment of the Personnel Department the assignment appears at

the onset to be a long-term assignment, the contract teacher rate may be paid from the beginning of the assignment.

4. Except in unusual circumstances, the District shall not use long-term substitutes on a continuing basis for more than one semester in lieu of contract teachers.
5. A short-term substitute assignment made for up to one-half day shall be paid at a one-half rate, plus $1, and any assignment made for more than one-half day will be paid at a full-day rate. A half-day substitute assignment shall consist of up to three (3) fifty-minute periods or up to three and one-half clock hours, whichever is less. An assignment of over three (3) fifty-minute periods or over three and one-half clock hours shall count as a full day of service.
6. Short-term substitute teachers receiving daily rate substitute teacher pay shall receive sick leave allowance of one (1) day per month, as earned.
7. Long-term substitute teachers being paid at the contract teacher rate from the beginning of an assignment shall be entitled to contract teacher fringe benefits.
8. Except in unusual circumstances, building principals shall not require a substitute to supervise another class during scheduled preparation-conference-planning time.

LEAVES: One day for each calendar month of contracted service credited in advance as annual sick leave, 180 days maximum accumulation; 2 separate days' leave for personal business; 3 days' bereavement leave for each occurrence in immediate family; 2 separate days' leave for observance of mandatory religious holidays; one day paid leave to give information at committee meeting of Legislature; paid leave for court subpoena or jury duty with witness fees refunded to school district; paid leave as necessary for professional conference or school visitation with some expenses paid by teacher or school system; adoption leave with pay not to exceed 7 days to complete court process; sabbatical leave at half pay for academic year after 7 years' service.

INSURANCE: Health: Board provides up to $20 per month with additional funding of $5 per month in local funds and an increase of $5 per month in state funding which may be applied toward hospital, medical, surgical and other approved group insurance programs subscribed to by teacher; $500,000 board-paid liability insurance for each teacher; joint committee to review annuity program each year.

ASSOCIATION: Payroll dues deduction for local, state, and national Associations; Association has right to the use of school mail facilities; organization business may be conducted before and after school hours, at lunch time or at other times by special arrangement through the principal provided normal school operation is not hindered.

INSTRUCTION: No more than 3 different course preparations in not more than 2 subject areas for secondary teacher; basic class size in combination or split grades shall be at least one less than average class size; paraprofessionals may be utilized to share instructional and educational duties with classroom teachers; special emphasis will be placed on the availability of textbooks, materials, and supplies for new programs; foreign language enrichment program provided in elementary grades; schedule of kindergarten teachers assigned to 2 buildings must have a 30 minute duty-free lunch period plus necessary travel time between buildings; secondary teachers' preparation-conference-planning period is utilized for conferences, departmental meetings, and other cooperative group planning; teacher's workday begins one half hour before classes and ends one half hour after classes; released time as compensation for teachers visiting homes of their students; elementary instrumental music teachers shall be allowed compensatory time; kindergarten teachers provided with a ten minute break in the morning and afternoon; maintenance of average school ratio of 30 to 1 with staffing guideline of 150 students per teacher per day. (See reprint below).

CLASS SIZE AND ALLOCATION OF PERSONNEL

1. The District recognizes that a lower District-wide pupil-staff ratio is desirable. However, any application of a rigid numerical limitation on class size within schools restricts the staff and the principal in their flexibility in seeking an ideal learning environment. The District maintans that class size and/or pupil-staff ratio must reflect individual school needs and unique problems.
2. In implementing the objectives of instruction policy and in recognition of the problems of discipline, counseling, and instruction when the teaching load is excessively large, the following instructional load standards or guidelines are established. The District will:
   a. Maintain an average District ratio of students to full-time equivalent teachers at no more than 30:1.
   b. Initiate steps to limit regular academic class size to thirty-two (32) students for grades 7-12. This would not necessarily hold for classes where staff and administrators have developed and arranged special variations in curriculum, instructional methods, and staff organization. Following the October enrollment count, a revised projection will be made for each secondary school for the following January. In case the enrollment of any secondary school is projected to be more than a 25:1 pupil-classroom teacher ratio for the following January, appropriate staff will be

added as soon as practicable which will be determined within thirty (30) days after the January projections are calculated, but no later than December 1 of the same school year.

c. Maintain a staffing guideline of 150 students per teacher per day, with the exception of special classes and programs where the individual class size has been exceeded in grades 7-12. The area administrator will be notified by the principal of assignments which exceed the guideline, and they will explore possible adjustments.

d. Initiate steps to limit regular academic class size for grades 3-6 to twenty-eight (28) and for grades K-2 to twenty-five (25). This would not necessarily hold for classes where teaching staff and administrators have developed and arranged special variations in curriculum, instructional methods, and staff organization. In situations in which such a limit is exceeded in a regular class in grades K-2 by three(3) students or in grades 3-6 by four (4) students, following the October enrollment count the District will provide additional assistance as identified in consultation between the area administrator and the building staff.

e. Encourage staff and building administrators to develop cooperatively and to explore continually special variations in curriculum, instructional methods, and staff organization to endeavor to achieve an optimum system for instruction in their school.

PERSONNEL: Grievance procedure ends in final and binding arbitration; personnel file may be reviewed by teacher and derogatory material may be refuted by him in writing; transfer assignments are based on qualifications, needs of school district, and teacher's expressed desires, vacancies announced first week of May shall be completed by June 1 for the following year; legal counsel provided teacher in job-related law suit, reimbursement for loss or damage to personal property of "first-dollar losses up to limit of usual $100 insurance deductible" after teacher has exhausted his own insurance recovery possibility; provision for insistence upon objective scholarship in discussing controversial issues; procedure for placement in special education program; standards of conduct including substantive regulations and due process procedures provided for utilization by professional staff, students, and parents in each building; a joint study to develop a role definition of the need and effective use of school counselors; school librarians provided one half day of released time each month for the purpose of discussion relative to books and materials used in their respective libraries.

NEGOTIATED ASSOCIATION PRIVILEGES FOR USE OF BUILDING FACILITIES, SCHOOL EQUIPMENT, AND COMMUNICATION SYSTEMS

A study of 1,529 comprehensive agreements effective during the 1970-71 school year in systems with a pupil enrollment of 1,000 or more found that 57.9 percent of the agreements contained negotiated provisions granting three major privileges to the teachers' Association. These privileges are the use of building facilities, school equipment, and communication systems with the stipulation that their use does not conflict with scheduled school operations. Each agreement incorporated all or a combination of the three Association privileges in the negotiated provision. Table 1 gives a breakdown of the designated provisions and/or combinations of provisions found within the analyzed agreements.

The Association's use of school assembly halls or classrooms for meetings is usually without cost to the Association providing no additional custodial fees are incurred. The use of school facilities is specifically restricted in some provisions to non-school hours while most provisions limited such use to "reasonable times" not in conflict with scheduled school operations.

School equipment use means access to typewriters, mimeograph machines, calculators, audio-

TABLE 1.–NEGOTIATED PROVISIONS RELATING TO ASSOCIATION USE OF BUILDING FACILITIES, SCHOOL EQUIPMENT AND COMMUNICATION SYSTEMS

Item	Agreements Containing Designated Content	
	Number	Percent
1	2	3
Total number of agreements analyzed	1,529	100.0%
Total agreements containing pertinent provisions	886	57.9
Building facilities, school equipment, and communication systems	359	23.5
Building facilities and communication systems	334	21.8
Building facilities only	70	4.6
Communication systems only	60	3.9
Building facilities and school equipment	46	3.0
Communication systems and school equipment	17	1.1

visual and other equipment necessary for Association's purposes. All materials and supplies incidental to such use are to be provided by the Association. Negligent damage to equipment is the responsibility of the Association.

The Association's use of school communication systems refers to the utilization of school mail and mail boxes, bulletin boards, and other available communication services. Organization meetings, activities, special events, and policies may be announced through these services. Some agreements require the school district to provide bulletin boards at various locations or to allot space on existing bulletin boards for Association use. Some agreements provide that copies of all materials for communication are to be given to the building principal, although his approval is not required, the Association usually agreed that no derogatory material to the administration or the school board would be circulated or posted.

Examples of provisions relative to Association's use of building facilities, school equipment, and communication systems are reprinted below. These are sample provisions only; they are not intended as exemplary.

A. The Association will have the right to use school buildings without cost at reasonable times for meetings provided, however, that the Association will be required to pay for any additional custodial costs involved by reason of said meetings. The Principal of the building in question will be notified in advance of the time and place for all such meetings.

B. There will be one (1) bulletin board in each school building, which will be placed in the faculty lounge, for the purpose of displaying notices, circulars, and other Association material. Copies of all such material will be given to the building principal, but his advance approval will not be required. The Association agrees that it will not post any material which is derogatory to the administration, the Board of Education or any member thereof, or the School System.

C. The Association may freely use the teacher mailboxes within the schools for materials dealing with proper and legitimate business of the Association provided such material is distributed before or after the normal student-in-class day. Copies of all materials will be given to the building principal and to the Superintendent of Schools prior to dissemination but their advance approval will not be required. In the cases where a building representative is disseminating materials which he has authored regarding Association business, such material need be presented only to the principal of the building. Though a representative's lunch period may be utilized for disseminating materials to teachers, at no time are preparation or planning periods to be utilized for these purposes, except in emergency.

Bristol School District
Bristol, Connecticut

C. The Association may post notices of its activities and matters of Association concern on teacher bulletin boards, at least one of which may be provided in each school building. The Association may use system-wide mail service and teacher mail boxes for communications to teachers.

D. Representatives of the Association may use school building facilities for meetings providing that the use of such facility is not already scheduled. There shall be no cost to the Association for such meetings so long as no overtime custodial cost is involved. Written application shall be submitted to the building principal for his approval.

E. The Association may use school facilities and equipment, including typewriters, mimeographing machines, other duplicating equipment, calculating machines, and all types of audio-visual equipment when such equipment is not otherwise in use. The Association shall furnish all materials and supplies incident to such use. The Association shall be responsible for any abuse of school equipment.

Highland School District
Highland, Indiana

C. The Association and its representatives shall have the right to use school buildings for meetings in accordance with standard Board procedures in effect for the temporary use of school facilities.

D. The Association shall have the right to use school equipment, including typewriters, mimeographing machines, other duplicating equipment, calculating machines, and all types of audio-visual equipment at times when such equipment is not otherwise in use. The Association shall pay for the cost of all materials and supplies incident to such use.

E. The Association shall have, in each school building, the use of bulletin board space in each faculty lounge or teachers' room. The Association shall also be allotted adequate space on the bulletin board in the central office for Association notes. The location of the above specified bulletin boards shall be designated by the Association with the approval of building administrators.

F. The Association shall have the right to use the inter-school mail facilities and school mailboxes.

Council Rock School District
Richboro, Pennsylvania

A bonafide teacher organization may use existing school facilities for professional activities after school hours. Such groups may also use school mail, mail boxes, and other communications services for the purpose of announcing meetings and special events. Teachers may also use mail facilities and bulletin boards as communications devices for announcement of organization activities, and policy. Such groups may also use school equipment as in the manner provided for under Board policy on community use of school facilities.

Scottsdale School District
Scottsdale, Arizona

Texts

NEVADA

LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS ACT

(As amended, effective July 1, 1971)

Section 1. Title 23 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 27, inclusive, of this act.

Sec. 2. This chapter may be cited as the Local Government Employee-Management Relations Act.

Sec. 3. As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 4 to 8, inclusive, and sections 13 to 15, inclusive, of this Act, have the meanings ascribed to them in such sections. [Sec. 3, as amended by H. B. 178, L. 1971, effective July 1, 1971].

Sec. 4. "Board" means the local government employee-management relations board.

Sec. 5. "Employee organization" means any:

1. Association, brotherhood, council or federation composed of employees of the State of Nevada or local government employees or both; or

2. Craft, industrial or trade union whose membership includes employees of the State of Nevada or local government employees or both.

Sec. 6. "Local government employee" means any person employed by a local government employer.

Sec. 7. "Local government employer" means any political subdivision of this state or any public or quasi-public corporation organized under the laws of this state and includes, without limitation, counties, cities, unincorporated towns, school districts, hospital districts, irrigation districts and other special districts. [Sec. 7, as amended by H. B. 178, L. 1971, effective July 1, 1971].

Sec. 8. "Strike" means any concerted:

1. Stoppage of work, slowdown or interruption of operations by employees of the State of Nevada or local government employees;

2. Absence from work by employees of the State of Nevada or local government employees upon any pretext or excuse, such as illness, which is not founded in fact; or

3. Interruption of the operations of the State of Nevada or any local government employer by any employee organization.

Sec. 9. 1. It is the right of every local government employee, subject to the limitation provided in subsection 3, to join any employee organization of his choice or to refrain from joining any employee organization. A local government employer shall not discriminate in any way among its employees on account of membership or nonmembership in an employee organization.

2. The recognition of an employee organization for negotiation, pursuant to this chapter, does not preclude any local government employee who is not a member of that employee organization from acting for himself with respect to any condition of his employment, but any action taken on a request or in adjustment of a grievance shall be consistent with the terms of an applicable negotiated agreement, if any.

3. A police officer, sheriff, deputy sheriff or other law enforcement officer may be a member of an employee organization only if such employee organization is composed exclusively of law enforcement officers.

Sec. 10. 1. It is the duty of every local government employer, except as limited in subsection 2, to negotiate in good faith through a representative or representatives of its own choosing concerning wages, hours, and conditions of employment with the recognized employee organization, if any, for each appropriate unit among its employees. If either party requests it, agreements so reached shall be reduced to writing. Where any officer of a local government employer, other than a member of the governing body, is elected by the people and directs the work of any local government employee, such officer is the proper person to negotiate, directly or through a representative or representatives of his own choosing, in the first instance concerning any employee whose work is directed by him, but may refer to the governing body or its chosen representative or representatives any matter beyond the scope of his authority.

2. Each local government employer is entitled, without negotiation or reference to any agreement resulting from negotiation:

(a) To direct its employees;

(b) To hire, promote, classify, transfer, assign, retain, suspend, demote, discharge or take disciplinary action against any employee;

(c) To relieve any employee from duty because of lack of work or for any other legitimate reason;

(d) To maintain the efficiency of its governmental operations;

(e) To determine the methods, means and personnel by which its operations are to be conducted; and

(f) To take whatever actions may be necessary to carry out its responsibilities in situations of emergency.

Any action taken under the provisions of this subsection shall not be construed as a failure to negotiate in good faith. [Sec. 10, Subsecs. 1 and 2, as amended by H. B. 178, L. 1971, effective July 1, 1971].

Sec. 11. 1. An employee organization may apply to a local government employer for recognition by presenting:

(a) A copy of its constitution and bylaws, if any;

(b) A roster of its officers, if any, and representatives; and

(c) A pledge in writing not to strike against the local government employer under any circumstances.

A local government employer shall not recognize as representative of its employees any employee organization which has not adopted, in a manner valid under its own rules, the pledge required by paragraph (c).

2. If an employee organization, at or after the time of its application for recognition, presents a verified membership list showing that it represents a majority of the employees in a negotiating unit, and if such employee organization is recognized by the local government employer, it shall be the exclusive negotiating representative of the local government employees in that negotiating unit.

3. A local government employer may withdraw recognition from an employee organization which:

(a) Fails to present a copy of each change in its constitution or bylaws, if any, or to give notice of any change in the roster of its officers, if any, and representatives;

(b) Disavows its pledge not to strike against the local government employer under any circumstances; or

(c) Ceases to be supported by a majority of the local government employees in the negotiating unit for which it is recognized.

4. If an employee organization is aggrieved by the refusal or withdrawal of recognition, or by the recognition or refusal to withdraw recognition of another employee organization, the aggrieved employee organization may appeal to the board. If the board in good faith doubts whether any employee organization is supported by a majority of the local government employees in a particular negotiating unit, it may conduct an election by secret ballot upon the question. Subject to judicial review, the decision of the board is binding upon the local government employer and all employee organizations involved.

Sec. 12. 1. Each local government employer which has recognized one or more employee organizations shall determine, after consultation with such recognized organization or organizations, which group or groups of its employees constitute an appropriate unit or units for negotiating purposes. The primary criterion for such determination shall be community of interest among the employees concerned. A local government department head shall not be a member of the same negotiating unit as the employees who serve under his direction. A principal, assistant principal or other school administrator below the rank of superintendent, associate superintendent or assistant superintendent shall not be a member of the same negotiating unit with public school teachers unless the school district employs fewer than five principals but may join with other officials of the same specified ranks to negotiate as a separate negotiating unit. A local government department head, administrative employee or supervisory employee shall not be a member of the same negotiating unit as the employees under his direction. Any dispute between the parties as to whether an employee is a supervisor shall be submitted to the board. In all cases, confidential employees of the local government employer shall be excluded from any negotiating unit.

2. If any employee organization is aggrieved by determination of a negotiating unit, it may appeal to the board. Subject to judicial review, the decision of the board is binding upon the local government employer and all employee organizations involved. The board shall apply the same criterion as specified in subsection 1. [Sec. 12, Subsecs. 1 and 2, as amended by H. B. 178, L. 1971, effective July 1, 1971].

Sec. 13. 1. Whenever an employee organization desires to negotiate concerning any matter which is subject to negotiation pursuant to this chapter, it shall give written notice of such desire to the local government employer. If the subject of negotiation requires the budgeting of money by the local government employer, the employee organization shall give such notice on or before December 1.

2. This section does not preclude, but this chapter does not require, informal discussion between an employee organization and a local government employer of any matter which is not subject to negotiation or contract under this chapter. Any such informal discussion is exempt

from all requirements of notice or time schedule. [Sec. 13, Subsecs. 1 and 2, as amended by H. B. 178, L. 1971, effective July 1, 1971].

Sec. 14. 1. The parties shall promptly commence negotiations. During the course of negotiations the parties may mutually agree to utilize the services of a mediator to assist them in resolving their dispute. [Sec. 14, as amended by H. B. 178, L. 1971, effective July 1, 1971].

Sec. 15. 1. If by March 1, the parties have not reached agreement, either party, at any time up to April 1, may submit the dispute to an impartial factfinder for his findings and recommendations. These findings and recommendations are not binding on the parties except as provided in subsections 6 and 7.

2. If the parties are unable to agree on an impartial factfinder within 5 days either party may request from the American Arbitration Association a list of seven potential factfinders. The parties shall select their factfinders from this list by alternately striking one name until the name of only one factfinder remains, who will be the factfinder to hear the dispute in question. The employee organization shall strike the first name.

3. The local government employer and employee organization each shall pay one-half of the cost of factfinding. However, each party shall pay its own costs of factfinding incurred in the preparation and presentation of its case in factfinding.

4. The factfinder shall report his findings and recommendations to the parties to the dispute within 30 days after the conclusion of the factfinding hearing. Such report shall be made no later than May 5 except as modified by the provisions of subsection 5.

5. In a regular legislative year, the factfinding hearing shall be stayed up to 10 days after the adjournment of the legislature sine die.

6. The parties to the dispute may agree, prior to the submission of the dispute to factfinding, to make the findings and recommendations on all or any specified issues final and binding on the parties.

7. If the parties do not mutually agree to make the findings and recommendations of the factfinder final and binding, the governor shall have the emergency power and authority at the request of either party and prior to the submission of the dispute to factfindings, to order prior to April 1 that the findings and recommendations on all or any specified issues of a factfinder in a particular dispute will be final and binding. The exercise of this authority by the governor shall be made on a case by case consideration and shall be made on the basis of his evaluation regarding the overall best interests of the state and all its citizens, the potential fiscal impact both within and outside the political subdivision, as well as any danger to the safety of the people of the state or a political subdivision.

8. Any factfinder, whether acting in a recommendatory or binding capacity, shall base his recommendations or award on the following criteria:

(a) A preliminary determination shall be made as to the financial ability of the local government employer based on all existing available revenues as established by the local government employer, and with due regard for the obligation of the local government employer to provide facilities and services guaranteeing the health, welfare and safety of the people residing within the political subdivision.

(b) Once the factfinder has determined in accordance with paragraph (a) that there is a current financial ability to grant monetary benefits, he shall use normal criteria for interest disputes regarding the terms and provisions to be included in an agreement in assessing the reasonableness of the position of each party as to each issue in dispute.

The factfinder's report shall contain the facts upon which he based his recommendations or award. [Sec. 15, Subsecs. 1-8, as amended by H. B. 178, L. 1971, effective July 1, 1971].

Sec. 16. 1. For the purpose of investigating disputes, the factfinder may issue subpoenas requiring the attendance of witnesses before him, together with all books, memoranda, papers and other documents relative to the matters under investigation, administer oaths and take testimony thereunder.

2. The district court in and for the county in which any investigation is being conducted by a factfinder may compel the attendance of witnesses, the giving of testimony and the production of books and papers as required by any subpoena issued by the factfinder.

3. In case of the refusal of any witness to attend or testify or produce any papers required by such subpoena, the factfinder may report to the district court in and for the county in which the investigation is pending by petition, setting forth:

(a) That due notice has been given of the time and place of attendance of the witness or the production of the books and papers;

(b) That the witness has been subpoenaed in the manner prescribed in this chapter;

(c) That the witness has failed and refused to attend or produce the papers required by subpoena before the factfinder in the investigation named in the subpoena, or has refused to answer questions propounded to him in the course of such investigation, and asking an order of the court compelling the witness to attend and testify or produce the books or papers before the factfinder.

4. The court, upon petition of the factfinder,

shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in such order, the time to be not more than 10 days from the date of the order, and then and there show cause why he has not attended or testified or produced the books or papers before the factfinder. A certified copy of the order shall be served upon the witness. If it appears to the court that the subpoena was regularly issued by the factfinder, the court shall thereupon enter an order that the witness appear before the factfinder at the time and place fixed in the order and testify or produce the required books or papers, and upon failure to obey the order the witness shall be dealt with as for contempt of court. [Sec. 16, Subsecs. 1-4, as amended by H. B. 178, L. 1971, effective July 1, 1971].

Sec. 17. The following proceedings, required by or pursuant to this chapter, are not subject to any provision of chapter 241 of NRS:

1. Any negotiation or informal discussion between a local government employer and an employee organization or employees as individuals, whether conducted by the governing body or through a representative or representatives.

2. Any meeting of a mediator with either party or both parties to a negotiation.

3. Any meeting or investigation conducted by a factfinder. [Sec. 17, Subsecs. 3 and 4, as amended by H. B. 178, L. 1971, effective July 1, 1971].

Sec. 18. 1. The local government employee-management relations board is hereby created, to consist of three members, broadly representative of the public and not closely allied with any employee organization or local government employer, not more than two of whom shall be members of the same political party. Except as provided in subsection 2, the term of office of each member shall be 4 years.

2. The governor shall appoint the members of the board. Of the first three members appointed, the governor shall designate one whose term shall expire at the end of 2 years. Whenever a vacancy occurs on the board other than through the expiration of a term of office, the governor shall fill such vacancy by appointment for the unexpired term.

Sec. 19. 1. The members of the board shall annually elect one of their number as chairman and one as vice chairman. Any two members of the board constitute a quorum.

2. The board may, within the limits of legislative appropriations:

(a) Appoint a secretary, who shall be in the unclassified service of the state; and

(b) Employ such additional clerical personnel as may be necessary, who shall be in the classified service of the state.

Sec. 20. The members of the board shall serve without compensation, but are entitled to the expenses and allowances prescribed in NRS 281.160.

Sec. 21. 1. The board may make rules governing proceedings before it and procedures for factfinding and may issue advisory guidelines for the use of local government employers in the recognition of employee organizations and determination of negotiating units.

2. The board may hear and determine any complaint arising out of the interpretation of, or performance under, the provisions of this chapter by any local government employer or employee organization. The board, after a hearing, if it finds that the complaint is well taken, may order any person to refrain from the action complained of or to restore to the party aggrieved any benefit of which he has been deprived by such action.

3. Any party aggrieved by the failure of any person to obey an order of the board issued pursuant to subsection 2 may apply to a court of competent jurisdiction for a prohibitory or mandatory injunction to enforce such order.

Sec. 22. 1. For the purpose of hearing and deciding appeals or complaints, the board may issue subpoenas requiring the attendance of witnesses before it, together with all books, memoranda, papers and other documents relative to the matters under investigation, administer oaths and take testimony thereunder.

2. The district court in and for the county in which any hearing is being conducted by the board may compel the attendance of witnesses, the giving of testimony and the production of books and papers as required by any subpoena issued by the board.

3. In case of the refusal of any witness to attend or testify or produce any papers required by such subpoena, the board may report to the district court in and for the county in which the hearing is pending by petition, setting forth:

(a) That due notice has been given of the time and place of attendance of the witness or the production of the books and papers;

(b) That the witness has been subpoenaed in the manner prescribed in this chapter;

(c) That the witness has failed and refused to attend or produce the papers required by subpoena before the board in the hearing named in the subpoena, or has refused to answer questions propounded to him in the course of such hearing, and asking in order of the court compelling the witness to attend and testify or produce the books or papers before the board.

4. The court, upon petition of the board, shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in such order, the time to be not more than 10 days from the date of the order, and

then and there show cause why he has not attended or testified or produced the books or papers before the board. A certified copy of the order shall be served upon the witness. If it appears to the court that the subpoena was regularly issued by the board, the court shall thereupon enter an order that the witness appear before the board at the time and place fixed in the order and testify or produce the required books or papers, and upon failure to obey the order the witness shall be dealt with as for contempt of court.

Sec. 23. Every hearing and determination of an appeal or complaint by the board is a contested case within the meaning of chapter 233B of NRS. Every such determination is subject to judicial review as provided in chapter 233B of NRS.

Sec. 24. 1. The legislature finds as facts:

(a) That the services provided by the state and local government employers are of such nature that they are not and cannot be duplicated from other sources and are essential to the health, safety and welfare of the people of the State of Nevada;

(b) That the continuity of such services is likewise essential, and their disruption incompatible with the responsibility of the state to its people; and

(c) That every person who enters or remains in the employment of the state or a local government employer accepts the facts stated in paragraphs (a) and (b) as an essential condition of his employment.

2. The legislature therefore declares it to be the public policy of the State of Nevada that strikes against the state or any local government employer are illegal.

Sec. 25. 1. If a strike occurs against the state or a local government employer, the state or local government employer shall, and if a strike is threatened against the state or a local government employer, the state or local government employer may, apply to a court of competent jurisdiction to enjoin such strike. The application shall set forth the facts constituting the strike or threat to strike.

2. If the court finds that an illegal strike has occurred or unless enjoined will occur, it shall enjoin the continuance or commencement of such strike. The provisions of N. R. C. P. 65 and of the other Nevada Rules of Civil Procedure apply generally to proceedings under this section, but the court shall not require security of the state or of any local government employer.

Sec. 26. 1. If a strike is commenced or continued in violation of an order issued pursuant to section 25 of this act, the court may:

(a) Punish the employee organization or organizations guilty of such violation by a fine of not more than $50,000 against each organization for each day of continued violation.

(b) Punish any officer of an employee organization who is wholly or partly responsible for such violation by a fine of not more than $1,000 for each day of continued violation, or by imprisonment as provided in NRS 22.110.

(c) Punish any employee of the state or of a local government employer who participates in such strike by ordering the dismissal or suspension of such employee.

2. Any of the penalties enumerated in subsection 1 may be applied alternatively or cumulatively, in the discretion of the court.

Sec. 27. 1. If a strike is commenced or continued in violation of an order issued pursuant to section 25 of this act, the state or the local government employer may:

(a) Dismiss, suspend or demote all or any of the employees who participate in such strike or violation.

(b) Cancel the contracts of employment of all or any of the employees who participate in such strike or violation.

(c) Withhold all or any part of the salaries or wages which would otherwise accrue to all or any of the employees who participate in such strike or violation.

2. Any of the powers conferred by subsection 1 may be exercised alternatively or cumulatively. [Sec. 27, Subsecs. 1 and 2, as amended by H. B. 178, L. 1971, effective July 1, 1971].

Sec. 28. 1. It is a prohibited practice for a local government employer or its designated representative willfully to:

(a) Interfere, restrain or coerce any employee in the exercise of any right guaranteed under this chapter.

(b) Dominate, interfere or assist in the formation or administration of any employee organization.

(c) Discriminate in regard to hiring, tenure or any term or condition of employment to encourage or discourage membership in any employee organization.

(d) Discharge or otherwise discriminate against any employee because he has signed or filed an affidavit, petition or complaint or given any information or testimony under this chapter, or because he has formed, joined or chosen to be represented by any employee organization.

(e) Refuse to bargain collectively in good faith with the exclusive representative as required in NRS 288.150. Bargaining collectively shall be construed to include the entire bargaining process, including mediation and factfinding, provided for in this chapter.

2. It is a prohibited practice for a local government employee or for an employee organization or its designated agent willfully to:

(a) Interfere with, restrain or coerce any employee in the exercise of any right guaranteed under this chapter.

(b) Refuse to bargain collectively in good faith with local government employer, if it is an exclusive representative, as required in NRS 288.150. Bargaining collectively shall be construed to include the entire bargaining process, including mediation and factfinding, provided for in this chapter.

(c) Refuse to participate in good faith in the mediation, factfinding and arbitration procedures set forth in NRS 288.190.

(d) Refuse or fail to comply with any provision of this chapter.

(e) Violate the terms of a collective bargaining agreement. [As added by H. B. 178, L. 1971, effective July 1, 1971].

Sec. 29. Any controversy concerning prohibited practices may be submitted to the board in the same manner and with the same effect as provided in subsections 2 and 3 of NRS 288.110. [As added by H. B. 178, L. 1971, effective July 1, 1971].

Sec. 30. "Administrative employee" means any employee whose primary duties consist of work directly related to management policies, who customarily exercises discretion and independent judgment and regularly assists an executive. In addition, it includes the chief administrative officer, his deputy and immediate assistants, department heads, their deputies and immediate assistants, attorneys, appointed officials and others who are primarily responsible for formulating and administering management policy and programs. [As added by H. B. 178, L. 1971, effective July 1,1971].

Sec. 31. "Confidential employee" means an employee who is privy to decisions of management affecting employee relations, including all employees of the personnel department or its equivalent. [As added by H. B. 178, L. 1971, effective July 1, 1971].

Sec. 32. "Supervisory employee" means any individual having authority in the interest of the employer to hire, transfer, suspend lay off, recall, promote, discharge, assign, reward or discipline other employees. [As added by H. B. 178, L. 1971, effective July 1, 1971].

Sec. 33. There are hereby appropriated from the general fund in the state treasury for the support of the local government employee-management relations board the following sums:

For the fiscal year ending June 30, 1969	$ 5,000
For the fiscal year ending June 30, 1970	15,000
For the fiscal year ending June 30, 1971	15,000

Sec. 34. This act shall become effective upon passage and approval, but no employee organization, local government employer or other person may submit to the local government employee-management relations board before October 1, 1969, any appeal, complaint or other request for action by the board.

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NATIONAL EDUCATION ASSOCIATION

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CASE REVIEWS

GEORGIA

Maternity Leave Granted to Nontenured Teacher

A pregnant nontenured teacher brought a class action suit against the Atlanta Board of Education seeking injunctive and declaratory relief on her behalf as well as on behalf of all those in a similar situation. In July, the teacher notified the school board through her attorney that she desired maternity leave and would return to her duties after she gave birth in October. The school board denied her request for leave and subsequently dismissed her, claiming that her contract was void as she signed it fully aware of her condition.

The U.S. District Court for Northern Georgia ruled in the teacher's favor. The court found that the maternity leave policy for nontenured teachers as promulgated by the board was arbitrary and violated the equal protection clause of the Fourteenth Amendment. The court also found that board policy in regard to maternity leave "has no rational basis and bears no relevance" to either the board's administrative scheme or to the state's Teacher Tenure Act which delegates to the local school board with discretionary authority to establish a leave policy for all teachers.

The court found that board policy was inconsistent with its practices in regard to the granting of "study leave, bereavement leave, personal illness leave, emergency leave, and military service leave to both tenured and untenured teachers."

The board was ordered by the court to refrain from denying maternity leave to nontenured teachers, and enjoined the board to reemploy the plaintiff if she chose to resume teaching, on the condition that a vacancy existed within the school system at such time.

The court, however, vacated the teacher's motion for back pay in case the school board refused to reemploy her on the grounds that her position had been filled. (*Barbara Jinks, For Herself and For All Others Similarly Situated v. Dr. Benjamin E. Mays et al,* United States District Court, N.D. Georgia, 28 September 1971.)

ILLINOIS

Teacher Pay Must Reflect Prior Teaching Experience

An appeals court upheld a lower court decision that teacher pay scales must reflect prior public school experience. The lower court case had ruled favorably on a suit filed by eight teachers against the Lawrenceville Board of Education.

The teachers contended that they were entitled to pay increases under a revised school code which granted them raises above the minimum starting salaries "based on experience in a school district."

The lower court found that while the teachers were paid the amounts specified according to the new rates computed by listing the teacher's degree plus semester hours beyond the degree and years of experience in teaching, subject to state law, the school district refused to credit experience gained outside the district in determining salaries. The court held that the ambiguous language of the school code could be interpreted to mean teaching experience gained in any district or only for years of teaching in a school district. Subsequent to the court's decision, the legislature amended the school code to read "based upon previous public school experience." The court saw this amendment as a clarification of legislative intent and entered a favorable judgment for the teachers. The court ruled that the school board was arbitrary and discriminatory in refusing to comply with state law.

The school board appealed the judgment, contending that the legislative language of the original enactment left no room for any interpretation, and that the revision constituted a major change in the legislation. The board buttressed its arguments with a similar opinion issued by the state superintendent of public education. The school board further contended that the lower court decision should be set aside as there was no evidence that the board actions were arbitrary or discriminatory.

The appeals court concurred with the lower court decision and rejected the board's contentions. The court noted that the amended code was a clarification, not a major change, since the effective date of the provisions was unchanged even though the amendment was passed more than a year later. The court observed that the interpretation of statutes should be made in such a way as to ascertain and give effect to legislative intent.

The board's contention that the lower court decision should be vacated because there existed no evidence of arbitrary or discriminatory conduct was considered unnecessary as the court found the school board to be noncompliant with state law. (*Kenneth G. Hardway, et al. v. Board of Education of Lawrenceville Township High School, District No. 71;* Appellate Court of Illinois, Fifth District, September 16, 1971.)

NEW YORK

State Supreme Court Rules on Three Sabbatical Leave Cases Under New Amendment

The New York State Supreme Court ruled on three separate cases involving the application of Chapter 124 of the Laws of 1971 mandating a one year moratorium on sabbatical leave for public employees beginning July 1, 1971.

• In the first case, the New York State Supreme Court, Yates County, supported the Penn Yan Teachers Association (PYTA), ruling that the "moratorium act" did not apply.

The PYTA and the Penn Yan Central School District #1 signed a collective bargaining agreement, effective July 1970 to June 1972. The agreement provided "for mandatory leaves of absence to the extent of one for every one hundred of its members or majority part thereof." In carrying out this provision, the board approved sabbatical leave for two teachers. Approval was given after April 11, 1971, the date the statutory moratorium became effective. The board then refused to grant the leave because of the moratorium.

In upholding the Association's contention that the sabbatical leave should be granted, the court referred to Section 3 of the law, the "construction clause." This clause states that any contractual right to a sabbatical leave will not be impaired by the "moratorium act." The court stated that the contractual right to sabbatical leave existed and was enforceable prior to the effective date of the amendment. The execution of these rights was not in question. The court concluded that the terms of the "moratorium act" were not applicable to this case. (*Penn Yan Teachers Association and the Board of Education, Penn Yan Central School District #1,* Supreme Court, Yates County, June 25, 1971.)

• The Supreme Court, New York County, denied a motion by the Legislative Conference of the City University of New York, which requested that the Board of Higher Education grant sabbatical leave.

The Legislative Conference signed an agreement with the Board of Higher Education for a period of one year, commencing July 1, 1971. The agreement contained a provision granting teachers the right to apply for sabbatical leave.

A member of the Legislative Conference submitted an application for sabbatical leave at the same time that the statutory moratorium became effective. The board responded that the amendment prohibited such leave. The teachers group contended that the right to sabbatical leave existed under contractual rights which could not be abrogated.

The court found that the agreement gave the teachers the right to apply for sabbatical leave. However, the contract posted the board with the final decision to grant sabbatical leave. The court concluded that no contractual right to a sabbatical leave was in existence and enforceable prior to the date of the amendment, and Section 3 did not apply to the case. Therefore, the plaintiff's motion to compel the school-board to grant a sabbatical leave was denied. (*Legislative Conference of the City University of New York and the Board of Higher Education,* Supreme Court, New York County, June 22, 1971.)

• In the third case, a petition by the Mahopac Teachers Association (MTA) to review an arbitration award was dismissed by the New York Supreme Court, Putnam County.

The arbitrator found that the final procedure for granting sabbatical leave was not completed until April 20, 1971, eight days after the effective date of the moratorium statute. In reviewing the case, the court found that the procedures for granting a sabbatical leave had not progressed to such a point that the granting of sabbatical leave became a "contractual right." The court took the view that "the existing enforceable contractual right referred to in Chapter 124 of the Laws of 1971 was a right accruing to the individual teacher applicants for sabbaticals, rather than a vested contractual right by virtue of the employment contract between the teachers Association and the School District." Since no contractual right to sabbatical leave existed, the petition for review of the arbitration case was rejected. (*Mahopac Teachers Association and the Board of Education, Central School District #1, Putnam County,* Supreme Court, Putnam County, July 21, 1971.)

Elimination of Negotiated School Programs Arbitrable

The New York Supreme Court denied a motion to stay arbitration brought by the Board of Education, U.F.S.D. #4, Town of Huntington, against the Northport Teachers Association. The court was asked to decide whether the elimination of a dental hygiene program and summer school program specifically negotiated in an agreement, and the rescinding of existing board policy regarding sabbatical leave were arbitrable.

The board contended that the "power over the matters in controversy has been exclusively delegated by law to the Board of Education and hence are not arbitrable," and that the amended Section 124 of the laws of 1971 placing a one-year moratorium on sabbatical leave was retroactive and changed preexisting board rules.

The court treated the first two issues conjunctively. It found that the board entered into an agreement with the NTA, which specifically mentioned a dental hygiene program and a summer school program, and that the Association acted

as the catalyst between the board and the teachers. The court determined that the matters before it were not subject to its jurisdiction, citing *Long Island Lumber Company v. Martin*. The court stated that it is now a familiar rule "that, where a labor agreement contains an arbitration provision the assumption is that questions of arbitrability are for the arbitrator."

In the final matter, the denial of sabbatical leave, the court found that the amended section of the state law was not retroactive but prospective, and that this section did not seek to impair obligations already contracted.

The court determined that no prohibition against arbitration existed within the Education Law or in the agreement. (*In Re Board of Education, U.F.S.D. #4, Town of Huntington and Northport Teachers Association*, Supreme Court, Suffolk County, August 12, 1971)

PENNSYLVANIA

Right to Strike Upheld, Clear and Present Danger More Than Usual School Disruption

The petition of the Hazelton Area School District to enjoin and restrain the Hazelton Education Association from continuing its strike was dismissed by the Court of Common Pleas.

The school district alleged that the Association struck prematurely, having failed to fully comply with the collective bargaining statutes of the Public Employe Relations Act before engaging in a legal strike. The district further alleged that the strike constituted a clear and present danger and posed a threat to public health, safety, and welfare.

At a factfinding hearing, the school district conceded that the Association had complied with the negotiation and mediation provisions of the law, and did have the right to strike as specified by the law.

In support of the allegation that HEA's strike posed a clear and present danger, the school board pointed out that the strike would affect the flow of state funds to the school district; operation of the summer school programs; adult education activities; extracurricular activities; work programs and inservice training programs; and completion of the school calendar. A strike would also result in an inadequate education program for all students, insufficient personnel to maintain class discipline, and would possibly completely prevent operation of schools.

The court made it clear at the outset that the issue at hand was the legality of the strike in light of the "clear and present danger" clause of the law. The court determined that in granting the teachers the right to strike, the legislature was cognizant of the devastating consequences, namely, the complete or partial closing of the schools and the severe impairment of the educational process which would adversely affect the public, and particularly the student.

Since the school district's items were clearly considered by the legislature to be the usual consequences of a teacher strike, the court rationalized that the legislature must have intended the courts to use criteria other than those presented by the district to determine when a strike creates a clear and present danger or is a threat to the health, safety, and welfare of the public. To do otherwise, the court stated, would in effect place the legislature in the position of giving the right to strike with one hand and taking it back with the other.

The court ruled that since the burden of proof was with the school district, and since the district had not presented or established something more than the usual, yet disruptive, effects of a teachers' strike, the preliminary injunction prohibiting the strike was dissolved. (*Hazelton Area School District v. Hazelton Education Association*, Pennsylvania Court of Common Pleas, September 22, 1971.)

Suit to Stay PLRB-Ordered Representation Election Dismissed

The Commonwealth Court of Pennsylvania dismissed a suit filed by the Philadelphia City Education Association (PCEA) and the Get Set Organization against the Pennsylvania Labor Relations Board (PLRB) and the Philadelphia Federation of Teachers (PFT), Local 3, American Federation of Teachers.

The suit alleged that the PLRB refused to acknowledge PCEA's certified right to represent Get Set employees. The court upheld PLRB's rejection of the PCEA's certification on the basis that Get Set's professional employees were not given the legally required option of choosing inclusion in a nonprofessional bargaining unit. In addition, the appellate court determined that PCEA's appeal of the lower court decision confirming a second election was "not appealable" because the election order did not constitute a refusal to certify the PCEA. According to the applicable section of the Public Employee Relations Act (PERA), section 1502, only questions of certification or refusal of certification were subject to court review.

The representation dispute arose when the PERA took effect one month after the PCEA won the right to represent the professional and nonprofessional employees of the Get Set Organization, a day care center for preschool and elementary school children. Section 604 of the PERA stipulates that professional employees must have the option of voting on their inclusion in a unit

composed of nonprofessional employees. The employees were not given the opportunity to exercise this option. Therefore, the court concluded that PLRB before certifying any representative, "must find the appropriate unit . . . and initially hold a further election before it can under the provisions . . . of the Act, approve or refuse the requested certification. Therefore, a telegram indicating that the PLRB was making plans to hold an election can in no way be considered an order which is reviewable." Ruling that the "PCEA's appeal was clearly premature and overhasty," the appellate court dismissed the PCEA's petition to stay the PLRB ordered election. (*Get Set Organization, Philadelphia City Education Association-National Education Association v. the Public Employee Relations Board and the Philadelphia Federation of Teachers, Local 3 and the School District of Philadelphia,* Commonwealth Court of Pennsylvania, September 23, 1971.)

BOARD FINDINGS AND RULINGS

MICHIGAN

MERC Determines Appropriate Bargaining Units in Higher Education Facilities

The Michigan Employment Relations Commission (MERC) ruled on two bargaining unit cases in higher education facilities.

• The first case involved a union's petition for an election in a unit of university teaching fellows. The university challenged the appropriateness of the bargaining unit on several grounds. The institution first contended that a majority of the group that initiated the petition were no longer affiliated with the university. This contention was rejected since a petition cannot be withdrawn because of employee turnover.

A second claim asserted that MERC did not have jurisdiction over the university, an independent constitutional body. MERC and the courts had previously rejected such a claim.

Lastly, the university contended that the proposed unit was inappropriate because teaching fellows are students rather than university employees, and if teaching fellows were employees, an appropriate unit would include all graduate assistants, of which teaching fellows are only a part. The union agreed in part with the university's contention that graduate assistants other than teaching fellows, are students.

Commission findings indicated that teaching fellows comprised the largest group of graduate assistants. Teaching fellows are distinguishable from other graduate assistants in that they are more classroom-oriented, restricted primarily to teaching undergraduate courses. Moreover, all graduate assistants shared a community of interests in the education process, working conditions, salaries, and method of payment; and they are all students.

MERC ruled that the unit of teaching fellows inappropriate because it did not include all graduate assistants. (*University of Michigan Teaching Fellows Union and the University of Michigan*, Michigan Employment Relations Commission, December 6, 1971.)

• The second case concerned a union's petition to include "part-time instructors, lab technicians, supervisors and part-time lab technicians employed by a community college" in an existing bargaining unit. The existing unit represented full-time professors, associate professors, assistant professors, instructors, teaching technicians, lecturers, and counselors.

The college opposed the inclusion of part-time faculty in any bargaining unit because they were employed on a term-by-term basis. The laboratory employees, the college contended, should be included in a unit comprised of paraprofessionals and secretarial employees.

The Commission found that part-time instructors teach the same subjects as full-time faculty; part-time teachers work 4-8 class hours per week while a full-time load is 22 class hours. Previously, MERC determined that part-time faculty members who do the same work as full-time employees share a community of interest with them, and can be included in the full-time bargaining unit.

Lab technicians and supervisors assist professional faculty members and supervise laboratories. Some are regular college employees, while others are retained through a state university study program. The lab technicians and supervisors, as college employees, are under the same authority as faculty members. The Commission rejected this motion, stating that an appropriate bargaining unit is comprised of the largest number of members according to the circumstances and is not determined by a collective bargaining agreement.

The Commission ordered an election for the part-time faculty members and designated lab technicians. If they vote for union affiliation, they will become part of the existing faculty unit. (*Lansing Community College Chapter, Michigan Association of Higher Education and Lansing Community College*, Michigan Employment Relations Commission, December 6, 1971.)

NEW JERSEY

Nontenured Teachers Receive Compensatory Award for Board's Failure to Follow Contractual Procedures in Nonrenewal of Services

An arbitrator awarded six nontenured teachers compensation and optional rehiring because the Madison Township Board of Education failed to follow contractual procedures.

The teachers filed a grievance because the board notified them of their nonrenewal 17 days after the date specified in their collective bargaining agreement. The board also failed to provide the teachers with four contractually required supervisory reports during the school year.

The board contended that the grievance was not arbitrable since the agreement vested the school board with the final decision to renew nontenured teachers' contracts. The relevant provision states:

> "Nontenure teachers whose contracts are not to be renewed fo the following school year are to be so informed by the administration by March 1st. On

request of the employee in writing, the administration will give its reasons in writing to the employee. If the employee grieves the matter, the Board of Education's decision in connection therewith shall be final."

The arbitrator found that the provision gave the board the sole discretion to determine the reasons for nonrenewal. But, the contract stipulated certain procedural steps on which this discretion is to be based. The procedures to be followed are arbitrable; if they were not, the contract would be ineffectual.

The board, citing relevant cases, argued that even if the grievance was arbitrable, any affirmative relief would be contrary to the New Jersey teacher tenure law. The arbitrator found that the cases cited did not concern enforcement of contract provisions, but rather the responsibility of a school board to provide nontenured teachers with reasons for contract nonrenewal. He stated that the possibility of tenure accruing as a result of the award did not exclude the possibility of an award. He continued, "A contract has been violated and thereby a wrong committed which requires a remedy."

The arbitrator awarded the six teachers "compensation and optional rehiring" whereby the teachers would receive compensation for the 1971-72 school year as if they had not been notified of their nonrenewal, while the board would be allowed to determine whether their professional services would be continued for the school year. By this award the arbitrator reasoned: "The board despite my award will maintain its prerogative as to deciding whether to renew nontenure teachers; all the board has to do in the future is to follow the rules of the contract as they had agreed to do." (*Madison Township Board of Education and the Madison Township Education Association*, American Arbitration Association, September 15, 1971.)

NEW YORK

Arbitrator Rules Board's Unilateral Schedule Change Violates Contract

In an attempt to solve overcrowding in two high schools, the Buffalo Board of Education unilaterally scheduled "split sessions" which differed from the teachers' negotiated workday. A PERB arbitrator supported the Buffalo Teacher Federation's (BTF) claim that such a schedule change must be negotiated.

The BTF and the board negotiated a collective bargaining agreement, effective July 1970 to June 1972. The agreement stipulated that the teacher's workday would extend from 8:20 a.m. to 3:00 p.m. In June 1971, the school board, expecting overcrowded classrooms, adopted a "split session" schedule for two high schools, effective in September 1971.

Following the board's action, several grievances were filed, including one by the president of the BTF. The collective bargaining agreement provided for binding arbitration of grievances. The grievances contended that the adoption of the new schedule violated the agreement and requested that the board rescind its decision and negotiate with the teacher association. During the summer of 1971, meetings were held to process the grievances.

The board held the position that the new schedule change resulted in a slight decrease in the teacher's workday and permitted a more efficient use of lunchroom facilities. At the grievance meetings held during the summer, there was a general acceptance of the plan. The board considered that these meetings, although they were not for negotiation, revealed its good faith. Furthermore, the BTF did not specifically request negotiation at that time.

In supporting its claim, the BTF cited relevant sections of the negotiation agreement which indicated that nonnegotiated changes made in the agreement were void. The BTF stated that there were no "contractual exceptions" to the 8:20 to 3:00 teaching day, nor was there any room for interpretation. The teacher's association concluded that since "the contract cannot be legally changed except by an instrument duly executed by the parties, no departure can constitute a waiver of enforcement rights." The grievance meetings, the BTF stated, were not equivalent to negotiation, nor did they serve to change the agreement.

The arbitrator acknowledged that the board's action violated the contract. He noted that the relationship between the Buffalo board and the BTF was in a stage of development, with the board maintaining "a paternalistic attitude" toward the BTF. The board's unilateral change in the contract did not lead to a "healthy relationship." It was the duty of the arbitrator, he said, "to promote a cooperative relationship." Although the contract was violated, the arbitrator did not find it necessary that the school board revert to the negotiated schedules. Rather, he ordered the board to negotiate with the BTF in good faith and according to procedures contained in the negotiation agreement. (*Buffalo Board of Education and the Buffalo Teachers Federation*, New York Public Employment Relations Board, October 20, 1971.)

WISCONSIN

WERC Orders Change of Teacher's "Very Easy Schedule"

The Wisconsin Employment Relations Commission (WERC) ruled that a school board violated a

section of the Wisconsin statutes when it denied union representation to a teacher at a private conference on contract renewal. The ruling upheld the Crandon Education Association's (CEA) contention that the board interfered with the teacher's rights by violating Section 111.70 of the Wisconsin statutes which mandate that municipal employees shall have the right "to be represented by labor organizations of their own choice . . . in conferences and negotiations with their municipal employer or their representatives on questions of wages, hours, and conditions of employment."

The WERC dismissed the board's contention that the commission had no jurisdiction in this case, holding that contract nonrenewal and loss of tenure does affect wages, hours, and working conditions. The commission decided that the school board violated Section 118.22(3) which discusses the nonrenewal procedures of teacher contracts and provides that the board notify the teacher in regard to contract nonrenewal. In addition, this section provides that upon request the teacher has the right to a private conference, which the board contended excludes everyone except the teacher and the board of education.

The examiner decided that "the key issue in this case is whether the term 'private conference' as used in Section 118.22 (3) imposes a limitation on the term 'conferences and negotiations' found in Section 111.70(2)." He found that Section 111.70 did not give the teacher a right to have a conference with his employer, but it gave the teacher the right to be represented. The examiner added that Section 118.22 provided for a conference which is mandatory upon the employer. He concluded that the two statutes taken together impose no limitation on the right to representation by the words "private conference."

Ordering the school board to cease and desist from denying teachers the right to representation in conferences, the examiner further directed that references to actions taken prior to the violation be expunged from the teacher's record. The board was ordered to reinstate the teacher "with all rights and privileges enjoyed by him."

Because the board had hired a replacement, the complainant was given "a very easy schedule to make him whole as directed:" a preparation period, one seventh grade science class, and five study halls.

But WERC decided that "unless the complainant was teaching the subjects as outlined by the board during the 1970-71 school year, this schedule would not make the teacher whole." Therefore, the commission amended the order to provide for the teacher's reinstatement with all rights and privileges he enjoyed during the 1970-71 school year, "to teach the subjects taught by him in the same number of classes assigned to him during the 1970-71 school year." (*Crandon Education Association and Richard Staska vs. Crandon Joint School District No. 1 and Board of Education*, Wisconsin Employment Relations Commission, September 28, 1971.)

OTHER ITEMS OF INTEREST

Suspension of Negotiation Allowed Because of Representation Elections; Unfair Labor Practice Charges Dropped

A Department of Labor hearing examiner found that a principal of a U.S. Army military dependents school in Germany did not commit an unfair labor practice by refusing to bargain with Local 1551 of the Overseas Federation of Teachers. The examiner recommended to the Assistant Secretary of Labor that the union's contention that the principal violated Section 19 (a)(1),(5), and (9) of Executive Order 11491 be dismissed and that the employer's motion for dismissal of the case be rejected on grounds of mootness.

The Kaiserslautern American High School and Local 1551 negotiated an agreement containing a continuous negotiation clause which listed 16 specific items to be negotiated during the term of the contract. The parties negotiated these items on a regular basis while the agreement was in effect.

Negotiation for a successor agreement were stalemated as of the expiration date of the old contract; however, the principal continued negotiation for a new contract, but only would consult and confer on the negotiable items in the previous agreement.

Numerous negotiation sessions took place during which the union asserted that the continuous negotiation clause applied as the old contract was still in effect, while management would only discuss these items. In his efforts to reach a new agreement, the principal remained steadfast in regard to negotiated content, but did forward to the union the option to negotiate any items designated as negotiable by Executive Order 11491.

The union filed a complaint with the Labor Department, stating that the school refused to bargain. At this time, the National Education Association (NEA) submitted a petition for exclusive recognition of a broad, world-wide unit which included the Kaiserslautern teachers. Local 1551 also submitted a petition for exclusive recognition.

Following these events, the U.S. Army, under whose auspices the schools are operated, sent a memo suspending contract negotiation until a unit determination election could be held. The principal agreed to extend the expired contract, but would not recognize the continuous negotiation clause nor continue to consult or confer on these items.

When the principal received a transfer, the school filed a motion to dismiss the unfair practice charge on grounds of mootness, maintaining

that the transfer removed "management animus."

In his report, the hearing examiner stated that in view of the NEA's bid for representation, the suspension of negotiation was an appropriate action. A remedy could be awarded to the union only if management refused to bargain in good faith prior to the suspension of negotiations.

Considering the school's contention that the case be dismissed on grounds of mootness, the examiner recommended dismissal of the motion, stating that an agency which removes employees accused of unfair labor practices does not relieve itself of charges. (*Department of the Army, Directorate, U.S. Dependent Schools European Area [USDESEA] and Local 1551, Overseas Federation of Teachers, AFL-CIO*, Case No. 46-1807 (CA), report and recommendations of hearing examiner, October 28, 1971.)

NEGOTIATION NOTES

HAWAII

Teachers Avoid Strike; Win First Statewide Contract

The statewide strike set for February 17 by the Hawaii State Teachers Association (HSTA) was averted minutes before school was scheduled to begin. After an all-night session, HSTA President Yuriko Tasaka announced: "The Association has a firm offer in writing." The contract is the first negotiated by HSTA under Hawaii's 1970 professional negotiation law and the first statewide teacher contract in history. Major points won are: 1) elimination of nonprofessional duties such as lunch room supervision and custodial chores; 2) hiring of an additional 500 teachers for 1972-73 in order to reduce class size and permit teacher preparation periods; 3) duty-free lunch periods for all teachers of not less than 30 minutes beginning next school year; 4) improvements in personal and sick leave policies, including maternity leave which may begin beyond the fourth month of pregnancy, depending on a doctor's recommendation; 5) binding arbitration as a terminal step in grievance procedures; and 6) a 5.5 percent salary increase as of Sept. 1, 1972, to be funded by the 1973 legislature and made retroactive to that date.

NEW JERSEY

Agency Shop in Public Employment Invalid

The New Jersey Superior Court upheld the New Jersey Turnpike Authority's contention that an agency shop violates statutory provisions protecting the right of public employees to refrain from joining or assisting any employee organization.

The New Jersey Turnpike Employees' Union contended that without the proposed agency shop provision, nonunion members would be unjustly enriched by union representation unless they paid a proportionate share of the costs.

The court pointed out that the state bargaining statutes omit any reference to an agency shop, and could be construed as prohibiting or, at the very least, not authorizing an agency shop. The court reasoned that public employees who are not now members of the union would join if faced with assessments identical to union dues.

The court, "in view of the legislative declaration of the right of public employees to refrain from union activity, . . . and in the absence of legislative authorization for an agency shop in public employment," would not compel assessment of nonunion employees. (*New Jersey Turnpike Employees' Union, Local 194, American Federation of Technical Engineers, AFL-CIO, vs. New Jersey Turnpike Authority*, New Jersey Superior Court, December 2, 1971.)

NEW YORK

Fordham University Representation Election Results Hinge on Disposition of Challenged Ballots

The outcome of a representation election petitioned for by the Fordham University Association of University Professors (AAUP) hinges on disposition of 28 challenged ballots. In the election, 207 employees voted for AAUP representation and 226 employees preferred "no union" affiliation.

In a second election held the same day, the University's Law School Bargaining Committee unanimously won representation of the Law School Faculty by a vote of 16 to 0.

The National Labor Relations Board (NLRB) held the November 11 elections subsequent to its September 1971 decision that separate bargaining units were appropriate for the law school faculty and for faculty outside the law school. The AAUP sought a unit composed of part-time and full-time faculty including department chairmen, but excluding graduate assistants. Similarly part- and full-time law school faculty were included in the unit petitioned-for by the Law Bargaining Committee. (NRD, 12-71, 11.)

OHIO

Arbitrators Order City to Pay Overdue Wage Increases and Benefits to Employees

In two cases, arbitrators directed the City of Cleveland to pay municipal workers $3 million in overdue wage increases and fringe benefits, as provided in an agreement with the American Federation of State, County and Municipal Employees, Local 100 (AFSCME).

- In the first case, the AFSME grieved that no salary increases or longevity pay were received in 1971, although they were effective as of January 1, 1971. The union pointed out that selected employees, inside and outside the union, were given salary increases during 1971.

The city replied that it was unable to pay the contracted increases because of declining revenues, defeat of tax levies at the poll, increasing costs in essential services, and depletion of financial resources. The city further stated that the negotiated agreement was subject to federal, state, and municipal regulations. The Cleveland city charter prohibits appropriation of funds without official

approval, and imposes the obligation to keep expenditures within available revenues. The City also contended that the wage-price freeze preempted it from paying any past due wage increases and longevity pay.

The arbitrator acknowledged that the negotiated wage increases and benefits were subject to the city council's approval, and that the city's financial resources were exhausted. He pointed out that the city voluntarily negotiated these wage increases and benefits, and its employees were led to believe that they would receive such payments. The wage-price freeze did not affect the wage increases due as of July 1970, nor bar payment of past-due wage increases and longevity payments. Therefore, the city was obligated to grant the wage increases and longevity pay, and ordered to take all necessary steps to provide the funds. (*City of Cleveland and Cleveland City Employees Local 100, AFSCME, District Council 78*, American Arbitration Association, October 27, 1971.)

• Another arbitrator ruled on a case involving AFSCME and the City of Cleveland. The AFSCME accused the city of violating the agreement by neglecting to pay the full cost of hospitalization insurance as of July 1, 1971, and of failing to pay life insurance benefits to the estates of employees who died after July 1.

Assuming a posture similar to its position in the former case, the city contended that the city council did not approve such appropriations, and added that it could not engage in deficit spending.

The arbitrator acknowledged that although the city was justified in deferring fringe benefit payments, it was not relieved of paying these benefits in the future. As for the legal restrictions contained in the agreement, the arbitrator believed that these restrictions "merely indicate(s) a recognition of the public character of the employer." He found the city obligated to honor its bargaining agreement, and ordered the city to pay the benefits effective from July 1, 1971. (*City of Cleveland and Cleveland City Employees Local 100, AFSCME, District Council 78*, American Arbitration Association, November 12, 1971.)

OREGON

Agency Shop and Maintenance of Membership Provisions Illegal in Public Employee Agreements; Nonrevocable Dues Deduction Held Bargainable

An opinion issued by the Attorney General of Oregon held that the traditional agency shop and maintenance of membership provisions cannot be included in public employee collective bargaining agreements. But clauses which provide for nonrevocable voluntary check-off rights can be included in future agreements.

The State Department of Higher Education solicited the Attorney General's opinion when two labor organizations representing separate groups of employees at the University of Oregon Medical School proposed that agency shop and maintenance of membership clauses be included in their negotiated agreements.

The Attorney General stated that both agency shop and maintenance of membership clauses necessitated dismissal of employees for nonpayment of union dues. He pointed out that state civil service statutes contain merit system laws which specify reasons for employee dismissal, among which nonpayment of union dues is not included. Therefore, such clauses would be contrary to these laws.

The Attorney General also held that according to a newly amended state law, an employee may request dues deduction or termination of check-off privileges "unless there is a contract to the contrary." He concluded by stating that state agencies may enter into agreements which provide that any future nonrevocable dues deduction authorizations signed by employees shall be regarded as nonrevocable without the consent of the labor organization and shall remain in effect during the period in which the labor organization serves the unit.

Cost of Living Budget for Moderate Income Urban Family Higher

The intermediate urban family budget is now $11,300 according to the Bureau of Labor Statistics (BLS). The budget figure, based on the cost of living for a family of four, has increased 6 percent from the May 1970 figure of $10,644. This increase parallels the 6 percent rise in the Consumer Price Index (CPI) for the same period. The intermediate budget of a family of four living in a metropolitcan city is $11,590 per year.

The BLS has recommended revision of the system for determining family budgets. The proposed system would base city indices on the same data as the CPI and would determine actual consumer expenditures at different income levels to arrive at a true norm.

STATISTICS

RISE IN AVERAGE ANNUAL SALARIES OF PATROLMEN AND FIREFIGHTERS

A Labor Department, Bureau of Labor Statistics (BLS), study indicates that the average annual salaries of patrolmen and firefighters rose approximately 5.5 percent during the year ending January 1971. The BLS study was conducted in cities with populations of 100,000 or more. Minimum salary for patrolmen averaged $8,898 in January 1971, a 5.1 percent increase above the previous year; maximum salaries averaged $10,589, a 5.5 percent rise. For firefighters, the minimum and maximum average annual salary of $8,513 and $10,068 constituted advances of 5.6 percent and 6.1 percent respectively above the figures recorded in January 1970.

Regional statistics revealed that in January 1971, the highest annual minimum and maximum salaries for police and firefighters were paid by western states, while the lowest salaries were found in the South. Minimum salaries for firefighters and patrolmen in the West were $9,437 and $9,546; comparable figures in the South were $7,006 and $7,365. Maximum salary for firefighters and patrolmen averaged $11,324 and $11,647 in the West, as compared to averages of $8,556 and $9,085 in the South.

Minimum salaries for patrolmen in the largest cities averaged $9,723 per year, while firefighters averaged $9,708. Maximum pay amounted to $11,514 for patrolmen and $11,468 for firefighters. Among cities with populations of 100,000 to 249,999 minimum salaries increased 7.7 percent to $7,912, while firemen advanced 7.6 percent to $7,616. Maximum pay increased 8.3 percent to $9,254 for patrolmen and 8 percent to $8,921 for firefighters.

AVERAGE MINIMUM AND MAXIMUM ANNUAL SALARY OF FIREMEN AND POLICEMEN BY CITY SIZE AND REGION, 1966-71

Employee Group and Year	All Cities 100,000 and over	City Size: Over 999,999	500,000 to 999,999	250,000 to 499,999	100,000 to 249,999	Region[a]: Northeast	South	North Central	West
	Minimum annual salary								
Firemen:									
1966	$5,945	$6,808	$5,827	$5,586	$5,265	$6,278	$4,908	$5,830	$6,946
1967	6,264	7,033	6,227	5,915	5,614	6,439	5,286	6,365	7,199
1968	6,774	7,672	6,775	6,254	6,061	7,136	5,710	6,722	7,669
1969	7,445	8,618	7,518	6,732	6,584	7,979	6,225	7,472	8,170
1970	8,066	9,354	8,085	7,441	7,081	8,631	6,697	8,218	8,854
1971	8,513	9,708	8,521	7,936	7,616	8,990	7,006	8,868	9,437
Policemen:									
1966	6,173	6,756	5,851	5,746	5,396	6,465	5,111	6,027	7,044
1967	6,482	6,999	6,224	6,061	5,758	6,611	5,482	6,561	7,293
1968	7,039	7,655	6,821	6,412	6,203	7,315	5,935	7,022	7,779
1969	7,768	8,591	7,392	6,903	6,750	8,223	6,518	7,733	8,251
1970	8,475	9,340	8,105	7,662	7,343	8,945	7,025	8,572	8,988
1971	8,898	9,723	8,475	8,161	7,912	9,242	7,365	9,241	9,546
	Maximum annual salary								
Firemen:									
1966	6,998	8,079	6,835	6,558	6,154	7,439	5,813	6,816	8,090
1967	7,464	8,601	7,356	6,978	6,523	7,865	6,271	7,449	8,401
1968	7,988	9,058	8,049	7,400	7,057	8,357	6,890	7,959	8,886
1969	8,749	10,157	8,830	7,947	7,680	9,224	7,491	8,906	9,470
1970	9,494	10,961	9,642	8,779	8,262	9,934	8,142	9,745	10,381
1971	10,068	11,468	10,211	9,369	8,921	10,325	8,556	10,529	11,324
Policemen:									
1966	7,327	8,007	7,048	6,802	6,321	7,663	6,165	7,178	8,216
1967	7,823	8,547	7,541	7,220	6,717	8,108	6,585	7,865	8,567
1968	8,324	8,998	8,201	7,650	7,235	8,535	7,231	8,394	9,061
1969	9,216	10,154	8,833	8,308	7,914	9,511	7,898	9,485	9,673
1970	10,038	10,985	9,829	9,127	8,548	10,265	8,596	10,454	10,626
1971	10,589	11,514	10,273	9,769	9,254	10,548	9,085	11,258	11,647

Source: "Fire and Policemen Salary Trends." *Current Wage Development.* U.S. Department of Labor, Bureau of Labor Statistics, September 1971.

[a]Regions used in these studies are: *Northeast*—Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island and Vermont; *South*—Alabama, Arkansas, Delaware, District of Columbia, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia; *North Central*—Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Wisconsin; and *West*—Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

Data relate only to cities that had a population of 100,000 or more in 1960.

EMPLOYEE COMPENSATION REACHED $4.54 AN HOUR IN 1970

According to a Department of Labor, Bureau of Labor Statistics' (BLS), study of employee compensation during 1968-70, pay and employer benefit programs increased.

In 1970, total compensation in private nonfarm industries averaged $4.54 per hour, an increase of 65 cents or 17 percent above the 1968 level. In contrast with a 12 percent consumer price increase over the two-year period, hourly compensation in terms of purchasing power rose 5 percent.

Pay for working time, $3.72 an hour, was 50 cents higher than in 1968, and accounted for 81.9 percent of compensation. The remainder consisted of vacation pay, holidays, other paid leave, and employer expenditures for retirement, insurance, and welfare programs. (See Table 1.)

Employer expenditures for retirement programs, the second largest element of compensation, amounted to 29 cents an hour. Combined with increased payments for social security, overall retirement expenditures increased 5 cents per hour or about 21 percent.

Pay for leave, other than sick leave, was up 4 cents from the 1968 level to 25 cents per hour. Vacation pay accounted for 15 cents of the total and 3 cents of the increase.

Expenditures for life insurance and health benefit programs rose 27 percent during the two-year period, up 4 cents to 19 cents an hour.

Unemployment benefits and nonproduction bonuses were up 4 cents an hour, while expenditures for savings and thrift plans remained at their 1968 levels.

Total employee compensation in manufacturing averaged $4.87 an hour compared with $4.36 in nonmanufacturing, a 66 percent increase for both groups. Pay for working time increased 52 cents an hour in nonmanufacturing and 48 cents in manufacturing. Pay for working time, $3.63 an hour, in nonmanufacturing was 26 cents less than in manufacturing, accounting for half the difference of 51 cents in total compensation.

In addition, expenditures for the other major elements of compensation were higher in manufacturing than nonmanufacturing. Between 1968 and 1970, leave pay and expenditures for life and health insurance each increased 7 cents in manufacturing, but only 3 cents in nonmanufacturing. In contrast, expenditures for retirement programs rose 6 cents in nonmanufacturing, but 5 cents in manufacturing.

Office worker compensation (all industries) amounted to $5.79 (a 78 cent increase) which was 49 percent more than the $3.88 (50 cent increase) for nonoffice workers. Pay for working time was up 60 cents to $4.68 an hour for office workers and 39 cents to $3.21 for nonoffice workers.

Pay for leave time was substantially higher for office workers (37 cents) than for nonoffice workers (19 cents an hour). In addition, expenditures for retirement programs amounted to 39 cents for office workers and 24 cents for nonoffice workers. The rate of increase in expenditures for health and life insurance as well as nonproduction bonuses, was also higher for office workers.

Between 1959 and 1970, compensation for nonoffice workers in manufacturing rose 62 percent from $2.61 to $4.24 an hour. The annual rate of increase was only 3.4 percent between 1959 and 1966, but accelerated to 5.7 percent between 1966 and 1968 and 7.2 percent between 1968 and 1970. Pay for working time increased by $1.16, 71 percent of the increase in total compensation between 1959 and 1970, but declined from 85.4 to 80.1 percent of the total compensation due to increases in retirement programs, life insurance and health benefit programs, and paid leave.

TABLE 1.–EMPLOYEE COMPENSATION IN THE PRIVATE NONFARM ECONOMY, 1970

Compensation Practice	ALL INDUSTRIES						MANUFACTURING INDUSTRIES						NONMANUFACTURING INDUSTRIES					
	All Employees		Office Employees		Nonoffice Employees		All Employees		Office Employees		Nonoffice Employees		All Employees		Office Employees		Nonoffice Employees	
	Percent of Compensation	Dollars Per Hour of Work	Percent of Compensation	Dollars Per Hour of Work	Percent of Compensation	Dollars Per Hour of Work	Percent of Compensation	Dollars Per Hour of Work	Percent of Compensation	Dollars Per Hour of Work	Percent of Compensation	Dollars Per Hour of Work	Percent of Compensation	Dollars Per Hour of Work	Percent of Compensation	Dollars Per Hour of Work	Percent of Compensation	Dollars Per Hour of Work
Total compensation	100.0	$4.54	100.0	$5.79	100.0	$3.88	100.0	$4.87	100.0	$6.70	100.0	$4.24	100.0	$4.36	100.0	$5.45	100.0	$3.66
Pay for working time	81.9	3.72	80.9	4.68	82.7	3.21	79.8	3.89	79.1	5.30	80.1	3.39	83.2	3.63	81.6	4.45	84.6	3.09
Straight-time pay	79.8	3.63	80.0	4.63	79.7	3.09	76.8	3.74	78.1	5.23	76.2	3.23	81.6	3.56	80.9	4.41	82.3	3.01
Premium pay	2.1	.09	0.8	.05	3.0	.12	2.9	.14	1.1	.07	4.0	.17	1.5	.07	0.7	.04	2.3	.08
Overtime, weekend and holiday work	1.7	.08	0.7	.04	2.6	.10	2.4	.11	0.9	.06	3.2	.13	1.4	.06	0.6	.03	2.2	.08
Shift differentials	0.3	.01	0.1	.01	0.4	.02	0.6	.03	0.2	.01	.8	.03	0.1	.01	0.1	.01	0.2	.01
Pay for leave time (except sick leave)	5.6	.25	6.4	.37	4.9	.19	6.7	.33	7.2	.48	6.5	.27	4.9	.21	6.0	.33	3.8	.14
Vacations	3.3	.15	3.7	.22	2.9	.11	4.0	.19	4.2	2.8	3.9	.16	2.8	.12	3.5	.19	2.2	.08
Holidays	2.1	.09	2.4	.14	1.8	.07	2.5	.12	2.7	.18	2.4	.10	1.8	.08	2.3	.12	1.4	.05
Civic and personal leave	0.1	.01	0.2	.01	0.1	a	0.2	.01	0.3	.02	0.1	.01	0.1	.01	0.2	.01	0.1	a
Employer payments to vacation and holiday funds	0.1	a	a	a	0.1	.01	a	a	a	a	a	a	0.1	a	a	a	0.2	.01
Employer expenditures for retirement programs	6.5	.29	6.7	.39	6.3	.24	6.5	.32	6.4	.43	6.5	.28	6.4	.28	6.9	.37	6.1	.22
Social security	3.4	.16	3.0	.17	3.8	.15	3.4	.16	2.8	.19	3.7	.16	3.5	.15	3.1	.17	3.8	.14
Private pension plans	3.0	.14	3.7	.22	2.5	.10	3.2	.15	3.6	.24	2.9	.12	3.0	.13	3.8	.21	2.2	.08
Employer expenditures for health benefit programs[b]	4.2	.19	3.7	.21	4.7	.18	5.0	.25	4.4	.30	.54	.23	3.7	.16	3.3	.18	4.2	.15
Life, accident and health insurance	2.6	.12	2.3	.13	2.9	.11	3.6	.17	3.1	.20	3.9	.16	2.1	.09	2.0	.11	2.2	.08
Sick leave	0.7	.03	1.0	.06	0.4	.02	0.6	.03	1.0	.07	.4	.02	0.7	.03	1.0	.05	0.5	.02
Workmen's compensation	0.9	.04	0.3	.02	1.3	.05	0.8	.04	.3	.02	1.0	.04	0.9	.04	0.3	.02	1.5	.05
Employer expenditures for unemployment benefit programs	0.8	.04	0.6	.03	1.0	.04	0.9	.04	0.7	.05	1.0	.04	0.8	.03	0.6	.03	1.0	.04
Unemployment insurance	0.7	.03	0.5	.03	0.9	.03	0.7	.03	0.5	.03	0.8	.03	0.7	.03	0.5	.03	0.9	.03
Severance pay	0.1	a	0.1	.01	a	a	0.1	a	0.2	.01	a	a	0.1	a	0.1	a	0.1	a
Severance pay funds and supplemental unemployment benefit funds	a	a	a	a	0.1	a	0.1	.01	a	a	0.2	.01	a	a	a	a	a	a
Nonproduction bonuses	0.9	.04	1.5	.09	0.4	.01	0.8	.04	1.5	.10	0.4	.02	0.9	.04	1.5	.08	0.3	.01
Savings and thrift plans	0.2	.01	0.3	.02	0.1	a	0.3	.01	0.6	.04	0.1	a	0.1	a	0.1	.01	0.1	a
Wages and salaries (gross payroll)[c]	89.0	4.04	89.8	5.20	88.4	3.43	88.0	4.28	89.1	5.97	87.4	3.70	89.6	3.91	90.2	4.91	89.1	3.26
Supplements to wages and salaries[d]	11.0	.50	10.2	.59	11.6	.45	12.0	.59	10.9	.73	12.6	.53	10.4	.45	9.8	.53	10.9	.40

Source: "Employee Compensation Reached $4.54 an Hour in 1970." (News Release) U.S. Department of Labor, Bureau of Labor Statistics, November 23, 1971.

[a]Less than 0.05 percent or $0.005.

[b]Includes other health benefit programs principally state temporary disability insurance not presented separately.

[c]Wages and salaries include all direct payments to workers. They consist of pay for working time; pay for vacations, holidays, sick leave and civic and personal leave; severance pay; and nonproduction bonuses.

[d]Supplements to wages and salaries include all employer expenditures for compensation other than for wages and salaries. They consist of expenditures for retirement programs (including direct pay to pensioners under pay-as-you-go private pension plans); expenditures for health benefit programs (except sick leave); expenditures for unemployment benefit programs (except severance pay); payments to vacation and holiday funds, and payments to savings and thrift plans.

NOTE: Because of rounding, sums of individual items may not equal totals.

TABLE 2.–EMPLOYER EXPENDITURES FOR COMPENSATION OF PRODUCTION AND RELATED WORKERS IN MANUFACTURING INDUSTRIES, 1959 AND 1970

Compensation Practice	1959		1970	
	Percent of Compensation	Dollars Per Hour of Work	Percent of Compensation	Dollars Per Hour of Work
Total compensation[a]	100.0	$2.61	100.0	$4.24
Pay for working time	85.4	2.23	80.1	3.39
Straight-time pay	81.5	2.13	76.2	3.23
Premium pay	3.9	.10	4.0	.17
Overtime, weekend and holiday work	3.1	.08	3.2	.13
Shift differentials	.8	.02	.8	.03
Pay for leave time (except sick leave)[b]	5.2	.14	6.5	.27
Vacations	3.3	.09	3.9	.16
Holidays	1.9	.05	2.4	.10
Employer expenditures for retirement programs	4.2	.11	6.5	.28
Social security	2.0	.05	3.7	.16
Private pension plans	2.2	.06	2.9	.12
Employer expenditures for health benefit programs[c]	3.0	.08	5.4	.23
Life, accident and health insurance	2.0	.05	3.9	.16
Sick leave	.2	.01	.4	.02
Workmen's compensation	.8	.02	1.0	.04
Employer expenditures for unemployment benefit programs[d]	1.5	.03	1.0	.04
Wages and salaries (gross payroll)[e]	91.4	2.38	87.4	3.70
Supplements to wages and salaries[f]	8.6	.23	12.6	.53

Source: "Employee Compensation Reached $4.54 an Hour in 1970." (News Release) U.S. Department of Labor, Bureau of Labor Statistics, November 23, 1971.

[a]Includes data for nonproduction bonuses, savings and thrift plans not presented separately.

[b]Data for civic and personal leave and employer payments to vacation and holiday funds included.

[c]Includes other health benefit programs, principally State temporary disability insurance, not presented separately.

[d]Includes unemployment insurance, severance pay, and severance pay funds and supplemental unemployment benefit funds.

[e]Wages and salaries include all direct payments to workers. They consist of pay for working time; pay for vacations, holidays, sick leave, and civic and personal leave; severance pay; and nonproduction bonuses.

[f]Supplements to wages and salaries include all employer expenditures for compensation other than for wages and salaries. They consist of expenditures for retirement programs (including direct pay to pensioners under pay-as-you-go private pension plans); expenditures for health benefit programs (except sick leave); expenditures for unemployment benefit programs (except severance pay); payments to vacation and holiday funds; and payments to savings and thrift plans.

NOTE: Because of rounding, sums of individual items may not equal totals.

SCHOOL BOARD MEMBERS AND SCHOOL ADMINISTRATORS AS NEGOTIATORS

Annually, the NEA Research Division has conducted a national survey of written negotiation agreements and procedures in school systems with a pupil enrollment of 1,000 or more. All surveys posed similar questions regarding the involvement of school-board members and school superintendents in negotiations with teacher organizations.

The first survey showed that most superintendents considered themselves as advisors to both school-board and teacher-negotiators; succeeding surveys have indicated that more superintendents are advising only the school-board negotiators.

In the 1970-71 survey, a new classification has been identified under school-board negotiators that shows 81 (2.4 percent) school systems using "outside negotiators" during negotiations sessions. School-board members or school administrators in these systems do not serve as negotiators. The use of "outside negotiators" seems to be prevalent in the smaller school systems. Table 1 provides comparative percentages for the five survey years.

Fifteen states reported 50 or more school systems with written negotiation agreements in 1970-71. Data on the role of the superintendent in negotiation and on who negotiates for the school-board were tabulated in separate contingency tables for each of these states and for the country.

Stratum	*School System Enrollment*
1	100,000 or more
2	50,000 - 99,999
3	25,000 - 49,999
4	12,000 - 24,999
5	6,000 - 11,999
6	3,000 - 5,999
7	1,200 - 2,999
8	1,000 - 1,199

TABLE 1.—ROLE OF SUPERINTENDENT AND SCHOOL-BOARD MEMBERS IN NEGOTIATION SESSIONS, 1966-67 TO 1970-71

Item	Survey Response Year				
	1966-67	1967-68	1968-69	1969-70	1970-71
1	2	3	4	5	6
Role of Superintendent					
Negotiator with full authority	21.7%	20.2%	20.3%	19.4%	18.5%
Negotiator with limited authority	16.0	17.7	17.2	16.1	15.5
Advisor to school board negotiators only	13.4	19.8	30.3	37.8	42.4
Advisor to school board and teacher negotiators	41.1	34.6	25.2	19.6	15.0
Neutral resource person	6.8	6.4	4.9	4.3	4.5
Nonparticipant	1.1	1.3	2.0	2.8	4.1
Response	100.1%	100.0%	99.9%	100.0%	100.0%
Negotiators for School Board					
Board members only	33.2%	17.4%	14.6%	13.3%	13.2%
Superintendent only	26.3	17.7	13.4	10.5	9.4
Other school administrators	3.6	4.3	7.1	9.4	12.7
Board members and superintendent	21.2	32.9	32.5	31.4	27.8
Board members and other school administrators	0.9	2.9	5.5	6.7	7.4
Board members, superintendent and other school administrators	6.8	12.8	13.9	15.4	14.1
Superintendent and other school administrators	8.0	12.1	13.0	13.4	12.9
Outside negotiator	...	...	...	...	2.4
Response	100.0%	100.1%	100.0%	100.1%	99.9%

ROLE OF SUPERINTENDENT IN NEGOTIATION SESSIONS

STATE OR STRATUM	NUMBER OF AGREEMENTS		NEGOTIATOR WITH FULL AUTHORITY		NEGOTIATOR WITH LIMITED AUTHORITY		ADVISOR TO NEGOTIATORS SCHOOL BOARD ONLY		ADVISOR TO NEGOTIATORS BOARD AND TEACHERS		ADVISOR TO NEGOTIATORS NEUTRAL RESOURCE PERSON		ADVISOR TO NEGOTIATORS NONPARTICIPANT	
	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
ALABAMA	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
ALASKA	7	100.0	1	14.3	0	.0	4	57.1	0	.0	1	14.3	1	14.3
ARIZONA	30	100.1	6	20.0	5	16.7	8	26.7	6	20.0	3	10.0	2	6.7
ARKANSAS	7	100.1	3	42.9	1	14.3	1	14.3	1	14.3	1	14.3	0	.0
CALIFORNIA	398	100.1	126	31.7	169	42.5	62	15.6	24	6.0	10	2.5	7	1.8
COLORADO	32	100.1	8	25.0	6	18.8	15	46.9	3	9.4	0	.0	0	.0
CONNECTICUT	96	100.1	5	5.2	3	3.1	59	61.5	19	19.8	6	6.3	4	4.2
DELAWARE	11	100.0	1	9.1	1	9.1	7	63.6	0	.0	0	.0	2	18.2
DISTRICT OF COLUMBIA	1	100.0	0	.0	0	.0	0	.0	0	.0	0	.0	1	100.0
FLORIDA	11	100.1	2	18.2	0	.0	4	36.4	3	27.3	0	.0	2	18.2
GEORGIA	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
HAWAII	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
IDAHO	14	100.1	2	14.3	6	42.9	4	28.6	2	14.3	0	.0	0	.0
ILLINOIS	210	100.0	30	14.3	19	9.0	93	44.3	46	21.9	12	5.7	10	4.8
INDIANA	60	100.0	11	18.3	10	16.7	23	38.3	13	21.7	3	5.0	0	.0
IOWA	22	100.0	2	9.1	4	18.2	11	50.0	4	18.2	0	.0	1	4.5
KANSAS	38	99.9	4	10.5	7	18.4	13	34.2	10	26.3	3	7.9	1	2.6
KENTUCKY	19	100.0	5	26.3	3	15.8	6	31.6	3	15.8	2	10.5	0	.0
LOUISIANA	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
MAINE	35	100.0	3	8.6	1	2.9	20	57.1	6	17.1	4	11.4	1	2.9
MARYLAND	21	100.1	1	4.8	1	4.8	16	76.7	0	.0	0	.0	3	14.3
MASSACHUSETTS	185	99.9	5	2.7	6	3.2	116	62.7	33	17.8	18	9.7	7	3.8
MICHIGAN	351	100.1	112	31.9	41	11.7	161	45.9	15	4.3	2	.6	20	5.7
MINNESOTA	123	100.0	4	3.3	7	5.7	87	70.7	19	15.4	2	1.6	4	3.3
MISSISSIPPI	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
MISSOURI	61	100.0	8	13.1	14	23.0	8	13.1	24	39.3	7	11.5	0	.0
MONTANA	19	100.2	1	5.3	4	21.1	4	21.1	9	47.4	1	5.3	0	.0
NEBRASKA	20	100.0	0	.0	3	15.0	10	50.0	5	25.0	1	5.0	1	5.0
NEVADA	2	100.0	0	.0	0	.0	1	50.0	0	.0	0	.0	1	50.0
NEW HAMPSHIRE	17	100.0	0	.0	1	5.9	9	52.9	4	23.5	2	11.8	1	5.9
NEW JERSEY	259	100.0	7	2.7	20	7.7	144	55.6	57	22.0	21	8.1	10	3.9
NEW MEXICO	12	100.0	2	16.7	6	50.0	2	16.7	1	8.3	1	8.3	0	.0
NEW YORK	452	100.0	88	19.5	43	9.5	244	54.0	35	7.7	9	2.0	33	7.3
NORTH CAROLINA	3	100.0	0	.0	1	33.3	0	.0	2	66.7	0	.0	0	.0
NORTH DAKOTA	15	100.1	0	.0	1	6.7	7	46.7	6	40.0	1	6.7	0	.0
OHIO	293	100.1	123	42.0	67	22.9	60	20.5	31	10.6	5	1.7	7	2.4
OKLAHOMA	8	100.0	2	25.0	1	12.5	3	37.5	2	25.0	0	.0	0	.0
OREGON	62	99.9	1	1.6	1	1.6	18	29.0	30	48.4	9	14.5	3	4.8
PENNSYLVANIA	89	100.0	8	9.0	7	7.9	40	44.9	20	22.5	9	10.1	5	5.6
RHODE ISLAND	23	100.0	1	4.3	2	8.7	16	69.6	2	8.7	2	8.7	0	.0
SOUTH CAROLINA	2	100.0	1	50.0	1	50.0	0	.0	0	.0	0	.0	0	.0
SOUTH DAKOTA	12	99.9	0	.0	3	25.0	7	58.3	1	8.3	0	.0	1	8.3
TENNESSEE	3	100.0	0	.0	0	.0	2	66.7	1	33.3	0	.0	0	.0
TEXAS	43	100.1	11	25.6	12	27.9	7	16.3	11	25.6	0	.0	2	4.7
UTAH	7	100.1	2	28.6	0	.0	3	42.9	1	14.3	0	.0	1	14.3
VERMONT	5	100.0	1	20.0	0	.0	1	20.0	2	40.0	1	20.0	0	.0
VIRGINIA	5	100.0	0	.0	0	.0	3	60.0	1	20.0	0	.0	1	20.0
WASHINGTON	106	100.0	26	24.5	23	21.7	30	28.3	20	18.9	6	5.7	1	.9
WEST VIRGINIA	6	99.9	2	33.3	2	33.3	0	.0	2	33.3	0	.0	0	.0
WISCONSIN	144	100.1	6	4.2	15	10.4	88	61.1	24	16.7	7	4.9	4	2.8
WYOMING	11	100.1	0	.0	2	18.2	4	36.4	4	36.4	1	9.1	0	.0
TOTAL	3,350	100.0	621	18.5	519	15.5	1,421	42.4	502	15.0	150	4.5	137	4.1

STRATUM	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
1	19	100.1	1	5.3	3	15.8	10	52.6	0	.0	1	5.3	4	21.1
2	39	100.0	7	17.9	4	10.3	22	56.4	1	2.6	0	.0	5	12.8
3	64	100.1	14	21.9	6	9.4	34	53.1	4	6.3	1	1.6	5	7.8
4	243	100.0	53	21.8	33	13.6	115	47.3	16	6.6	7	2.9	19	7.8
5	495	100.0	82	16.6	71	14.3	229	46.3	60	12.1	19	3.8	34	6.9
6	823	100.1	158	19.2	126	15.3	343	41.7	124	15.1	37	4.5	35	4.3
7	1,425	99.9	261	18.3	234	16.4	570	40.0	257	18.0	71	5.0	32	2.2
8	242	100.0	45	18.6	42	17.4	98	40.5	40	16.5	14	5.8	3	1.2
T O T A L	3,350	100.0	621	18.5	519	15.5	1,421	42.4	502	15.0	150	4.5	137	4.1

NEGOTIATOR FOR THE SCHOOL BOARD

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
	NO. OF AGREEMENTS		BOARD MEMBERS ONLY		SUPT. OF SCHOOLS ONLY		OTHER SCHOOL ADMINIS-TRATORS		BOARD MEMBERS AND SUPT.		BOARD MEMBERS AND OTHER SCHOOL ADMINIS-TRATORS		BOARD MEMBERS, SUPTS., AND OTHER SCHOOL ADMINIS-TRATORS		SUPT. AND OTHER SCHOOL ADMINIS-TRATORS		NO BOARD MEMBERS OR ADMINIS-TRATORS NEGOTIATE	
STATE	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.
ALABAMA	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
ALASKA	8	100.0	2	25.0	1	12.5	1	12.5	3	37.5	0	.0	1	12.5	0	.0	0	.0
ARIZONA	30	100.1	4	13.3	2	6.7	6	20.0	5	16.7	2	6.7	8	26.7	3	10.0	0	.0
ARKANSAS	7	100.1	3	42.9	1	14.3	0	.0	1	14.3	0	.0	1	14.3	1	14.3	0	.0
CALIFORNIA	405	100.0	9	2.2	157	38.8	51	12.6	57	14.1	5	1.2	24	5.9	102	25.2	0	.0
COLORADO	32	100.1	0	.0	4	12.5	12	37.5	3	9.4	2	6.3	2	6.3	8	25.0	1	3.1
CONNECTICUT	94	100.0	25	26.6	1	1.1	7	7.4	40	42.6	9	9.6	10	10.6	0	.0	2	2.1
DELAWARE	11	100.1	1	9.1	1	9.1	4	36.4	0	.0	2	18.2	2	18.2	1	9.1	0	.0
DISTRICT OF COLUMBIA	1	100.0	0	.0	0	.0	1	100.0	0	.0	0	.0	0	.0	0	.0	0	.0
FLORIDA	11	100.1	3	27.3	1	9.1	2	18.2	3	27.3	1	9.1	1	9.1	0	.0	0	.0
GEORGIA	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
HAWAII	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
IDAHO	14	99.9	0	.0	4	28.6	0	.0	5	35.7	1	7.1	3	21.4	1	7.1	0	.0
ILLINOIS	211	100.1	33	15.6	6	2.8	20	9.5	44	20.9	28	13.3	55	26.1	21	10.0	4	1.9
INDIANA	61	100.0	2	3.3	1	1.6	12	19.7	21	34.4	3	4.9	12	19.7	10	16.4	0	.0
IOWA	23	99.9	1	4.3	2	8.7	1	4.3	12	52.2	0	.0	5	21.7	2	8.7	0	.0
KANSAS	38	100.0	5	13.2	3	7.9	9	23.7	10	26.3	1	2.6	7	18.4	3	7.9	0	.0
KENTUCKY	20	100.0	0	.0	2	10.0	2	10.0	13	65.0	0	.0	3	15.0	0	.0	0	.0
LOUISIANA	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
MAINE	36	100.1	8	22.2	1	2.8	1	2.8	22	61.1	1	2.8	1	2.8	2	5.6	0	.0
MARYLAND	21	100.1	0	.0	0	.0	19	90.5	0	.0	0	.0	1	4.8	0	.0	1	4.8
MASSACHUSETTS	180	100.0	56	31.1	2	1.1	12	6.7	48	26.7	12	6.7	18	10.0	8	4.4	24	13.3
MICHIGAN	351	100.1	9	2.6	15	4.3	80	22.8	80	22.8	19	5.4	70	19.9	69	19.7	9	2.6
MINNESOTA	124	99.9	25	20.2	1	.8	1	.8	54	43.5	22	17.7	19	15.3	1	.8	1	.8
MISSISSIPPI	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
MISSOURI	64	100.2	4	6.3	11	17.2	3	4.7	28	43.8	1	1.6	13	20.3	4	6.3	0	.0
MONTANA	19	100.1	8	42.1	1	5.3	0	.0	8	42.1	0	.0	1	5.3	1	5.3	0	.0
NEBRASKA	20	100.0	5	25.0	0	.0	3	15.0	9	45.0	0	.0	2	10.0	1	5.0	0	.0
NEVADA	2	100.0	0	.0	0	.0	2	100.0	0	.0	0	.0	0	.0	0	.0	0	.0
NEW HAMPSHIRE	17	100.0	5	29.4	0	.0	0	.0	9	52.9	1	5.9	2	11.8	0	.0	0	.0
NEW JERSEY	259	100.0	73	28.2	2	.8	5	1.9	109	42.1	19	7.3	39	15.1	5	1.9	7	2.7
NEW MEXICO	12	100.0	1	8.3	1	8.3	2	16.7	3	25.0	0	.0	3	25.0	2	16.7	0	.0
NEW YORK	449	99.9	34	7.6	25	5.6	106	23.6	80	17.8	59	13.1	54	12.0	67	14.9	24	5.3
NORTH CAROLINA	3	99.9	1	33.3	0	.0	0	.0	1	33.3	0	.0	1	33.3	0	.0	0	.0
NORTH DAKOTA	15	100.0	6	40.0	0	.0	1	6.7	6	40.0	0	.0	2	13.3	0	.0	0	.0
OHIO	292	100.0	11	3.8	45	15.4	27	9.2	86	29.5	7	2.4	27	9.2	89	30.5	0	.0
OKLAHOMA	8	100.0	0	.0	1	12.5	3	37.5	2	25.0	0	.0	2	25.0	0	.0	0	.0
OREGON	63	100.0	31	49.2	0	.0	0	.0	22	34.9	6	9.5	3	4.8	0	.0	1	1.6
PENNSYLVANIA	88	99.9	22	25.0	1	1.1	9	10.2	28	31.8	15	17.0	7	8.0	4	4.5	2	2.3
RHODE ISLAND	23	99.8	7	30.4	1	4.3	2	8.7	5	21.7	3	13.0	2	8.7	1	4.3	2	8.7
SOUTH CAROLINA	2	100.0	0	.0	0	.0	0	.0	0	.0	1	50.0	1	50.0	0	.0	0	.0
SOUTH DAKOTA	12	100.1	2	16.7	0	.0	2	16.7	5	41.7	1	8.3	2	16.7	0	.0	0	.0
TENNESSEE	4	100.0	1	25.0	0	.0	2	50.0	1	25.0	0	.0	0	.0	0	.0	0	.0
TEXAS	42	100.1	1	2.4	8	19.0	2	4.8	17	40.5	0	.0	7	16.7	6	14.3	1	2.4
UTAH	7	100.1	0	.0	0	.0	2	28.6	0	.0	1	14.3	1	14.3	3	42.9	0	.0
VERMONT	5	100.0	2	40.0	0	.0	0	.0	0	.0	2	40.0	0	.0	0	.0	1	20.0
VIRGINIA	5	100.0	0	.0	0	.0	2	40.0	1	20.0	1	20.0	1	20.0	0	.0	0	.0
WASHINGTON	107	99.9	19	17.8	13	12.1	7	6.5	33	30.8	5	4.7	13	12.1	16	15.0	1	.9
WEST VIRGINIA	7	100.0	0	.0	1	14.3	0	.0	4	57.1	0	.0	1	14.3	1	14.3	0	.0
WISCONSIN	144	100.1	21	14.6	2	1.4	4	2.8	55	38.2	19	13.2	41	28.5	2	1.4	0	.0
WYOMING	10	100.0	3	30.0	0	.0	1	10.0	1	10.0	1	10.0	4	40.0	0	.0	0	.0
TOTAL	3357	99.9	443	13.2	317	9.4	426	12.7	934	27.8	250	7.4	472	14.1	434	12.9	81	2.4

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
STRATUM	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.
1	19	100.1	1	5.3	0	.0	13	68.4	0	.0	1	5.3	3	15.8	1	5.3	0	.0
2	38	100.0	1	2.6	0	.0	22	57.9	2	5.3	4	10.5	3	7.9	6	15.8	0	.0
3	66	99.9	2	3.0	4	6.1	37	56.1	2	3.0	3	4.5	3	4.5	14	21.2	1	1.5
4	248	100.1	13	5.2	23	9.3	79	31.9	21	8.5	18	7.3	34	13.7	54	21.8	6	2.4
5	492	99.9	45	9.1	43	8.7	121	24.6	69	14.0	50	10.2	71	14.4	81	16.5	12	2.4
6	821	99.9	106	12.9	66	8.0	97	11.8	186	22.7	73	8.9	135	16.4	129	15.7	29	3.5
7	1430	100.0	232	16.2	143	10.0	54	3.8	544	38.0	89	6.2	197	13.8	140	9.8	31	2.2
8	243	99.9	43	17.7	38	15.6	3	1.2	110	45.3	12	4.9	26	10.7	9	3.7	2	.8
TOTAL	3357	99.9	443	13.2	317	9.4	426	12.7	934	27.8	250	7.4	472	14.1	434	12.9	81	2.4

PATTERNS IN NEGOTIATION
UNITED STATES – 3,320 RESPONSES
NEGOTIATORS FOR THE SCHOOL BOARD

ROLE OF THE SUPERINTENDENT	BOARD MEMBERS		BOARD MEMBERS AND SUPT.		BOARD MEMBERS AND SCHOOL ADMINISTRATORS		SUPERINTENDENT		SCHOOL ADMINISTRATORS		NO BD MEMBERS OR ADMINISTRATORS NEGOTIATE	
	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.
NEGOTIATOR WITH FULL AUTHORITY	3	.1	101	3.0	82	2.5	160	4.8	271	8.2	0	.0
NEGOTIATOR WITH LIMITED AUTHORITY	3	.1	165	5.0	98	3.0	132	4.0	119	3.6	1	.0
ADVISOR TO NEGOTIATORS FOR BOARD	192	5.8	435	13.1	367	11.1	6	.2	344	10.4	58	1.7
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	148	4.5	188	5.7	110	3.3	11	.3	36	1.1	6	.2
NEUTRAL RESOURCE PERSON	72	2.2	32	1.0	26	.8	2	.1	7	.2	9	.3
NONPARTICIPANT	21	.6	2	.1	33	1.0	0	.0	73	2.2	7	.2
CALIFORNIA – 308 RESPONSES												
NEGOTIATOR WITH FULL AUTHORITY	1	.3	8	2.0	6	1.5	61	15.3	50	12.6	0	.0
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	25	6.3	12	3.0	87	21.9	45	11.3	0	.0
ADVISOR TO NEGOTIATORS FOR BOARD	1	.3	12	3.0	3	.8	1	.3	45	11.3	0	.0
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	4	1.0	10	2.5	4	1.0	4	1.0	2	.5	0	.0
NEUTRAL RESOURCE PERSON	3	.8	2	.5	4	1.0	1	.3	0	.0	0	.0
NONPARTICIPANT	0	.0	0	.0	0	.0	0	.0	7	1.8	0	.0
CONNECTICUT – 94 RESPONSES												
NEGOTIATOR WITH FULL AUTHORITY	0	.0	1	1.1	2	2.1	1	1.1	1	1.1	0	.0
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	3	3.2	0	.0	0	.0	0	.0	0	.0
ADVISOR TO NEGOTIATORS FOR BOARD	17	18.1	29	30.9	6	6.4	0	.0	4	4.3	1	1.1
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	5	5.3	6	6.4	7	7.4	0	.0	0	.0	1	1.1
NEUTRAL RESOURCE PERSON	2	2.1	1	1.1	3	3.2	0	.0	0	.0	0	.0
NONPARTICIPANT	1	1.1	0	.0	1	1.1	0	.0	2	2.1	0	.0
ILLINOIS – 208 RESPONSES												
NEGOTIATOR WITH FULL AUTHORITY	0	.0	5	2.4	5	2.4	5	2.4	15	7.2	0	.0
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	4	1.9	9	4.3	1	.5	4	1.9	0	.0
ADVISOR TO NEGOTIATORS FOR BOARD	10	4.8	20	9.6	45	21.6	0	.0	15	7.2	2	1.0
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	15	7.2	13	6.3	14	6.7	0	.0	4	1.9	0	.0
NEUTRAL RESOURCE PERSON	6	2.9	2	1.0	3	1.4	0	.0	0	.0	1	.5
NONPARTICIPANT	1	.5	0	.0	6	2.9	0	.0	2	1.0	1	.5

PATTERNS IN NEGOTIATION (Continued)

INDIANA – 58 RESPONSES

NEGOTIATORS FOR THE SCHOOL BOARD

ROLE OF THE SUPERINTENDENT	BOARD MEMBERS		BOARD MEMBERS AND SUPT.		BOARD MEMBERS AND SCHOOL ADMINISTRATORS		SUPERINTENDENT		SCHOOL ADMINISTRATORS		NO BD MEMBERS OR ADMINISTRATORS NEGOTIATE	
	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.
NEGOTIATOR WITH FULL AUTHORITY	0	.0	2	3.4	1	1.7	0	.0	7	11.9	0	.0
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	3	5.1	3	5.1	1	1.7	3	5.1	0	.0
ADVISOR TO NEGOTIATORS FOR BOARD	1	1.7	7	11.9	5	8.5	0	.0	10	16.9	0	.0
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	0	.0	9	15.3	4	6.8	0	.0	0	.0	0	.0
NEUTRAL RESOURCE PERSON	1	1.7	0	.0	1	1.7	0	.0	1	1.7	0	.0
NONPARTICIPANT	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
MASSACHUSETTS – 180 RESPONSES												
NEGOTIATOR WITH FULL AUTHORITY	0	.0	2	1.1	0	.0	0	.0	3	1.7	0	.0
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	1	.6	2	1.1	0	.0	3	1.7	0	.0
ADVISOR TO NEGOTIATORS FOR BOARD	30	16.7	35	19.4	21	11.7	2	1.1	8	4.4	16	8.9
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	16	8.9	7	3.9	4	2.2	0	.0	3	1.7	2	1.1
NEUTRAL RESOURCE PERSON	9	5.0	2	1.1	0	.0	0	.0	1	.6	6	3.3
NONPARTICIPANT	1	.6	1	.6	3	1.7	0	.0	2	1.1	0	.0
MICHIGAN – 348 RESPONSES												
NEGOTIATOR WITH FULL AUTHORITY	0	.0	21	6.0	28	8.0	14	4.0	48	13.8	0	.0
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	19	5.5	15	4.3	1	.3	6	1.7	0	.0
ADVISOR TO NEGOTIATORS FOR BOARD	4	1.1	32	9.2	38	10.9	0	.0	76	21.8	9	2.6
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	2	.6	7	2.0	5	1.4	0	.0	1	.3	0	.0
NEUTRAL RESOURCE PERSON	1	.3	0	.0	0	.0	0	.0	1	.3	0	.0
NONPARTICIPANT	2	.6	0	.0	3	.9	0	.0	15	4.3	0	.0
MINNESOTA – 123 RESPONSES												
NEGOTIATOR WITH FULL AUTHORITY	0	.0	3	2.4	1	.8	0	.0	0	.0	0	.0
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	6	4.9	1	.8	0	.0	0	.0	0	.0
ADVISOR TO NEGOTIATORS FOR BOARD	20	16.3	31	25.2	33	26.8	1	.8	1	.8	1	.8
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	3	2.4	13	10.6	3	2.4	0	.0	0	.0	0	.0
NEUTRAL RESOURCE PERSON	2	1.6	0	.0	0	.0	0	.0	0	.0	0	.0
NONPARTICIPANT	0	.0	0	.0	3	2.4	0	.0	1	.8	0	.0

PATTERNS IN NEGOTIATION (Continued)

MISSOURI – 61 RESPONSES

NEGOTIATORS FOR THE SCHOOL BOARD

ROLE OF THE SUPERINTENDENT	BOARD MEMBERS		BOARD MEMBERS AND SUPT.		BOARD MEMBERS AND SCHOOL ADMINISTRATORS		SUPERINTENDENT		SCHOOL ADMINISTRATORS		NO BD MEMBERS OR ADMINISTRATORS NEGOTIATE	
	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.
NEGOTIATOR WITH FULL AUTHORITY	0	.0	0	.0	2	3.3	5	8.2	1	1.6	0	.0
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	9	14.8	1	1.6	3	4.9	1	1.6	0	.0
ADVISOR TO NEGOTIATORS FOR BOARD	0	.0	4	6.6	1	1.6	0	.0	3	4.9	0	.0
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	2	3.3	11	18.0	8	13.1	2	3.3	1	1.6	0	.0
NEUTRAL RESOURCE PERSON	2	3.3	2	3.3	1	1.6	1	1.6	1	1.6	0	.0
NONPARTICIPANT	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
NEW JERSEY – 257 RESPONSES												
NEGOTIATOR WITH FULL AUTHORITY	0	.0	4	1.6	2	.8	0	.0	1	.4	0	.0
NEGOTIATOR WITH LIMITED AUTHORITY	1	.4	9	3.5	5	1.9	2	.8	3	1.2	0	.0
ADVISOR TO NEGOTIATORS FOR BOARD	27	10.5	69	26.8	37	14.4	0	.0	5	1.9	4	1.6
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	23	8.9	23	8.9	10	3.9	0	.0	0	.0	1	.4
NEUTRAL RESOURCE PERSON	16	6.2	3	1.2	1	.4	0	.0	0	.0	1	.4
NONPARTICIPANT	6	2.3	0	.0	2	.8	0	.0	1	.4	1	.4
NEW YORK – 446 RESPONSES												
NEGOTIATOR WITH FULL AUTHORITY	1	.2	9	2.0	13	2.9	21	4.7	44	9.9	0	.0
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	10	2.2	13	2.9	4	.9	15	3.4	1	.2
ADVISOR TO NEGOTIATORS FOR BOARD	18	4.0	53	11.9	69	15.5	0	.0	80	17.9	19	4.3
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	12	2.7	6	1.3	8	1.8	0	.0	8	1.8	1	.2
NEUTRAL RESOURCE PERSON	2	.4	2	.4	3	.7	0	.0	2	.4	0	.0
NONPARTICIPANT	0	.0	0	.0	6	1.3	0	.0	23	5.2	3	.7
OHIO – 290 RESPONSES												
NEGOTIATOR WITH FULL AUTHORITY	0	.0	22	7.6	5	1.7	30	10.3	65	22.4	0	.0
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	25	8.6	10	3.4	13	4.5	19	6.6	0	.0
ADVISOR TO NEGOTIATORS FOR BOARD	6	2.1	21	7.2	10	3.4	0	.0	22	7.6	0	.0
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	3	1.0	16	5.5	7	2.4	1	.3	3	1.0	0	.0
NEUTRAL RESOURCE PERSON	1	.3	2	.7	2	.7	0	.0	0	.0	0	.0
NONPARTICIPANT	1	.3	0	.0	0	.0	0	.0	6	2.1	0	.0

PATTERNS IN NEGOTIATION (Continued)

OREGON – 61 RESPONSES

NEGOTIATORS FOR THE SCHOOL BOARD

ROLE OF THE SUPERINTENDENT	BOARD MEMBERS		BOARD MEMBERS AND SUPT.		BOARD MEMBERS AND SCHOOL ADMINISTRATORS		SUPERINTENDENT		SCHOOL ADMINISTRATORS		NO BD MEMBERS OR ADMINISTRATORS NEGOTIATE	
	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.
NEGOTIATOR WITH FULL AUTHORITY	0	.0	1	1.6	0	.0	0	.0	0	.0	0	.0
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	1	1.6	0	.0	0	.0	0	.0	0	.0
ADVISOR TO NEGOTIATORS FOR BOARD	5	8.2	11	18.0	2	3.3	0	.0	0	.0	0	.0
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	16	26.2	7	11.5	5	8.2	0	.0	0	.0	1	1.6
NEUTRAL RESOURCE PERSON	7	11.5	1	1.6	1	1.6	0	.0	0	.0	0	.0
NONPARTICIPANT	2	3.3	1	1.6	0	.0	0	.0	0	.0	0	.0
PENNSYLVANIA – 87 RESPONSES												
NEGOTIATOR WITH FULL AUTHORITY	0	.0	2	2.3	0	.0	1	1.1	5	5.7	0	.0
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	3	3.4	3	3.4	0	.0	1	1.1	0	.0
ADVISOR TO NEGOTIATORS FOR BOARD	9	10.3	13	14.9	13	14.9	0	.0	3	3.4	1	1.1
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	7	8.0	8	9.2	3	3.4	0	.0	2	2.3	0	.0
NEUTRAL RESOURCE PERSON	6	6.9	1	1.1	0	.0	0	.0	1	1.1	0	.0
NONPARTICIPANT	0	.0	0	.0	3	3.4	0	.0	1	1.1	1	1.1
WASHINGTON – 106 RESPONSES												
NEGOTIATOR WITH FULL AUTHORITY	0	.0	6	5.7	5	4.7	5	4.7	10	9.4	0	.0
NEGOTIATOR WITH LIMITED AUTHORITY	1	.9	10	9.4	2	1.9	6	5.7	4	3.8	0	.0
ADVISOR TO NEGOTIATORS FOR BOARD	6	5.7	7	6.6	8	7.5	0	.0	8	7.5	1	.9
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	7	6.6	9	8.5	3	2.8	1	.9	0	.0	0	.0
NEUTRAL RESOURCE PERSON	5	4.7	1	.9	0	.0	0	.0	0	.0	0	.0
NONPARTICIPANT	0	.0	0	.0	0	.0	0	.0	1	.9	0	.0
WISCONSIN – 144 RESPONSES												
NEGOTIATOR WITH FULL AUTHORITY	0	.0	2	1.4	2	1.4	1	.7	1	.7	0	.0
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	8	5.6	6	4.2	0	.0	1	.7	0	.0
ADVISOR TO NEGOTIATORS FOR BOARD	9	6.3	37	25.7	39	27.1	0	.0	3	2.1	0	.0
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	7	4.9	7	4.9	9	6.3	1	.7	0	.0	0	.0
NEUTRAL RESOURCE PERSON	4	2.8	1	.7	2	1.4	0	.0	0	.0	0	.0
NONPARTICIPANT	1	.7	0	.0	2	1.4	0	.0	1	.7	0	.0

SPECIAL REPORTS

BRIEFS OF RECENT AGREEMENTS

Oakland, Michigan

(Community College)

Between the Oakland Community College and the Oakland Community College Faculty Association, effective September 1, 1971, through August 31, 1973. Approximately 266 full-time and 73 part-time professional personnel, including persons employed on a ten-month contract as librarians, counselors, and instructors in Individualized Programmed Learning Laboratories and the Carrel Arcades who work more than 15 hours per week.

COMPENSATION: Based on 10-month contract; 12-month contract pays an amount equal to 120 percent of 10-month salary.

(1971-72)

Instructor, $9,650 to $14,162, 8 increments.
Assistant professor, $11,140 to $16,363, 8 increments.
Associate professor, $12,864 to $18,911, 8 increments.
Professor, $14,860 to $20,829, 7 increments.

(1972-73)

Instructor, $9,750 to $14,262, 8 increments.
Assistant professor, $11,240 to $16,463, 8 increments.
Associate professor, $12,964 to $19,011, 8 increments.
Professor, $14,960 to $20,929, 7 increments.

Longevity pay: based on rank and step after 4 consecutive years' service; 5th year at 1 percent; 6th-9th year at 2 percent; 10th and succeeding years at 3 percent.

Severance pay: one month's salary to staff members on continuing contract if placed on leave of absence without pay.

Overload pay: (See reprint.)

LEAVES: 10 days' sick leave with pay; 2 separate personal leave days, additional days with Provost's approval; paid leave for court appearances, less fees received; vacation leave equivalent to one month when days are taken consecutively or 22 working days, with a maximum carry-over of 22 vacation days to the next contract period for faculty members under 12-month contract; sabbatical leave after 3 years' service for one semester at half pay or for a spring term at full pay, and after 6 years' service, 10 months' leave at half pay or one semester at full pay.

INSURANCE: College pays: medical-health-hospitalization benefits, family coverage at employee's expense; major medical benefit includes $500 maximum psychiatric care provision and prescription drug rider with $1.25 deductible; dental care insurance includes $50 per person and $150 per family deductible annually; short-term disability plan, provides an accident and sickness benefit beginning on the 15th day and not to exceed 13 weeks; long-term disability insurance "beginning 91st day of disability, payment of 60% of current monthly salary up to a maximum salary to be considered of $1,666.67 per month less any amount paid by any available retirement system contributed to by employer;" liability insurance; Workmen's compensation for job-related injury or illness; tuition authorized for faculty member and/or spouse.

ASSOCIATION: Agency shop clause; payroll dues deduction for local Association; office space for Association; reduced teaching load of three credit hours in the fall and six credit hours in the winter and spring sessions for Association president.

INSTRUCTION: "A faculty member's class assignments shall be scheduled within a continuous eight hour period within any one day except as he and the Department might otherwise agree;" night assignments of not more than one evening per week to be made on a rotation basis whenever sufficient full-time faculty members do not volunteer, with exception of spring and summer sessions; maximum load of 30 credit hours distributed evenly over the 10-month contract period, the provision for maximum teaching load is based on student credit hours per faculty member;

> Students shall be assigned to courses by section. The maximum session student credit hours per faculty member shall be as in the table below:
>
> *Course Group* [course classifications identified in contract]

	Session SCH Load Fall/Winter/Spring or Summer	*Maximum Students Per Section*
Group A	420/420/210	35
Group B	300/300/150	25

> However, the maximum number of students per section may be increased by two (2) during the regular registration period.

weekly meetings for full-time faculty between 3:00 and 5:00 p.m.; maximum 20 contact hours per week for a faculty member unless he elects overload (*see* reprint); minimum of four full-time faculty members per department; "Where more than one discipline or applied field is included within a single department, faculty members may petition the Provost for

the establishment of a new department. The petition shall include the reason for the request and the names of the faculty member to be included in the new department. If the petition is not granted, the Provost shall indicate the reason of denial;" adequate secretarial, technical, clerical, operating and capital funds to be provided; budget adjustment action to be undertaken only after receipt of the College Budget Council recommendation; consultation between the College and the Association prior to the adoption of the school calendar.

PERSONNEL: Grievance procedure ends with final and binding arbitration; part-time faculty not to exceed 25 percent of the full-time faculty; applications for vacant professional positions accepted one week after posting; probationary faculty members reviewed by their department twice each year on the basis of established criteria; continuing contract faculty members subject to the same evaluative criteria if department or immediate supervisor deems it necessary; faculty members, upon request, to be provided a copy of any item, including all performance evaluations, from his personnel file, provided such item is not of privileged nature; dismissal for just cause to be preceded by notice of charges and hearing, and full compensation to be paid until actual dismissal; reduction in force on basis of seniority, but if "a particular department will be unable to function because of seniority reduction of staff, inter-departmental transfers of qualified staff members should be considered," further solution to be negotiated; recommendations for promotion initiated by the department in writing by January 15 and negative response to be made by the Provost by February 1; department heads elected in the fall for two-year terms by full-time department members; reduced teaching load for department heads to be based on number of department members supervised; minimum years of experience as criterion for continuing contract member: assistant professor, 4 years; association professors, 7 years; professors, 9 or more years based on exceptional qualifications and demonstrated instructional leadership.

OVERLOADS

CONSENT OF FACULTY MEMBER:

No load in excess of the maximums established in Article II shall be assigned without prior consent of the faculty member.

CRITERIA FOR OVERLOAD

If a faculty member is requested to teach in excess of a maximum instructional credit load, (2.8) his sectional overload, if the section has fifteen (15) or more students, will be computed in the following manner:

n = number of students in overload section
s = number of S.C.H. (Student Credit Hours) allocated to the overload section's I.C.H. (Instructional Credit Hours)
h = number of I.C.H. assigned as overload
b = base rate from table below

Group A Courses

Overload Amount = (s - 15h)(.00075 x Faculty 10 month salary) + hb

Group B Courses

Overload Amount = (s - 15h)(.001 x Faculty 10 month salary) + hb

Faculty Member's Rank	Base Rate b
Instructor	$150
Assistant Professor . . .	$195
Associate Professor . . .	$240
Professor	$285

To compute overload pay for a section of less than 15 students the formula to be used is:

$$\text{overload} = \frac{n}{15}(hb).$$

When a section assigned within a faculty member's maximum load has less than the minimum number of students and an overload section has more than the minimum number of students, except in those cases where a faculty member's maximum load has been adjusted downward according to 2.1G in order to avoid an otherwise unnecessary cancellation of a section, the overload section and the within load section shall be reversed in computing overload.

SCH OVERLOAD RATE

If within the faculty member's instructional credit hour load the total number of SCH exceeds the maximum established in 2.1.E, the instructor shall be compensated at the rate of (.00075 faculty-10 month salary), for Group A courses and (.001 x faculty-10 month salary) for Group B courses, per student credit hour exceeding that maximum.

If a faculty member has a load which includes courses from both Group A and Group B, the overload rate will be prorated according to the distribution of SCH between the groups.

MAXIMUM OVERLOAD PAYMENT

No faculty member shall be paid overload payments for a given session in excess of twenty-five per cent (25%) of the amount of his ten (10) months salary that is allocated to that session.

HOURLY RATE FOR WORKING VACATION DAYS FOR LIBRARIANS, COUNSELORS, IPLL, AND CARREL ARCADES FACULTY

Should a faculty member whose maximum load is defined as 30 hours per week work in excess of that maximum or on a day defined as a normal vacation day for teaching faculty he shall be compensated for that excess time at the rate of $11.00

per hour. Such excess hours must have the prior approval of the Provost.

PROVOST'S APPROVAL FOR ADDITIONAL ASSIGNMENTS

Faculty members with the full allowable overload shall not be eligible for any additional College assignments except with the prior knowledge of his department and with the approval of the Campus Provost.

REPORT OF OVERLOAD PAYMENT

A written report of the computation of overload payments shall be provided to the faculty member.

OVERLOAD PAYMENT PERIOD

Overload payments shall commence on the third pay period of the session and be paid bi-weekly over the remaining pay periods of the session.

Rochester, Minnesota

Between the Board of Education of Independent School District #535 and the Teachers of Independent S.D. #535 as represented by the Teachers Council, effective August 1, 1971, to July 31, 1972. Approximately 991 certificated professional employees.

COMPENSATION: B.A., $7,300 to $11,864, 12 increments; B.A. plus 30, $13,367 maximum; M.A., $8,000 to $14,676, 13 increments; M.A. plus 30, $15,157 maximum; Educ. Spec., $15,955 maximum.

Differentials: (Based on years of experience: 0-4, 5-9, and 10 or more.) athletic director, head football, basketball coaches, $1,318, $1,457, $1,597; head wrestling, hockey, swimming, gymnastics coaches, $1,153, $1,293, $1,427; head baseball, track coaches, $988, $1,097, $1,210; science fair director, head tennis, golf, cross country coaches, and junior high-school extramural director, $767, $824, $881; senior high-school yearbook, newspaper advisors, directors of major dramatic productions, $659, $716, $767; cheerleader advisor, forensics coach, visual aids assistant, $551, $592, $639; drill team, band, orchestra, chorus directors, $412, $448, $489; student council advisor, lunchroom-playground supervisor, $355, $386, $412; department chairman differential based on number in department from 2 through 18 for 10- and 11-month contracts, $566 (2 teachers) to $803 (18 teachers) with $15 or $16 adjustments per teacher and 10-month contract, $612 (2 teachers) and $884 (18 teachers) with $16 to $18 adjustments per teacher and 11-month contract.

LEAVES: 10 days' annual sick leave credited at beginning of year, unlimited accumulation; 5 days' bereavement leave (for regular full-time teachers) for each death in the immediate family; 2 days' professional leave for conferences and visitations; elementary teachers absent during scheduled parent-teachers conference periods will have a substitute provided upon return to make-up missed his conferences.

INSURANCE: Board-paid major medical, accident, and health insurance for single coverage and 70 percent of dependents' coverage; if both spouses are employed by the school system board pays the full premium; board pays 50 percent of $5,000 term life insurance; joint committee to study and make recommendations regarding hospitalization, life insurance, and disability insurance program.

INSTRUCTION: Textbooks to be reviewed every fifth year by a committee consisting of building teachers, principal or department heads, and/or subject field advisor; elementary supply budget committee to consist of teachers and principals.

PERSONNEL: Grievance procedure ends with final decision by board without involving third party; 2 years' teaching experience in the school system required for supervision of student teachers; weekly vacancy lists to be posted in each school; application for transfer or reassignment to be filed by May 1 or within 10 days following posting of vacancy; teachers involuntarily transferred given a "reasonable amount of time off for the purpose of visiting schools within the district in which open positions exist;" professional growth plan for earning Education Specialist, Master's degree or equivalent, credentials must be evaluated by the Director of Personnel, final decision to be made by a committee appointed by the superintendent of schools and including both administrator and teachers.

Akron, Ohio

Between the Akron Board of Education and the Akron Education Association, effective February 1, 1971 to June 30, 1972. Approximately 2,425 certificated professional employees. Provision for reopener contingent upon funds being available for the improvement of scheduled salary and fringe benefits; agreements to be renewed automatically unless either party initiates negotiation for successor.

COMPENSATION: B.A., $7,350 to $12,020, 24 scheduled half-year increments; B.A. plus 30 hours, $12,120 maximum; M.A., $8,000 to $13,700, 24 half-year increments; Ph.D., $14,500 maximum.

Differentials: (effective July 1, 1971, based on B.A. base); football coach, high school, $[illegible],470 (.20); basketball coach, high school, $1,323 (.18); directors of athletics and marching band,

high school, $588 (.08); soccer coach, junior high, $441 (.06); drama coach, high school, $220.50 (.03); activities supervisor, high school, $367.50 (.05); debate, vocal music, and instrumental music coaches (1 per high school), $294 (.04); cheerleading supervisor, $147 (.02).

Other: (effective July 1, 1971, except hourly rates effective June 14, 1971); substitute teachers, $23.50 per day first 10 work days, $33.50 daily thereafter on the same assignment; home instruction, $5.75 per hour; supervisor, adult education center, $6 per hour; counselor, 1.10 of "actual grid salary," but not less than actual salary plus $1,100; visiting teacher, 1.06 of grid salary; librarian, 2 percent of salary for each week beyond 38 weeks.

LEAVES: 1 1/4 days' sick leave per month of service, with 5 days credited immediately, 180 days' maximum accumulation; 5 consecutive days of sick leave may be used for serious illness or death in the immediate family; 8 separate days for "justifiable" personal business, e.g., emergencies, court appearances, travel conditions which make it impossible to report to work, religious holidays, attendance at graduation or wedding (teacher or family), selective service physical examination, appearance with civic, musical, or drama groups on a nonpaid basis; maximum of 31 days' paid leave per year for military reserve obligations; 1 separate day for school visitation or professional meetings; emergency leave available when weather or other "uncontrollable conditions" threaten teacher's residence or family; sabbatical leave at partial pay (teacher's expected salary less substitute pay) for 1 or 2 semesters after 5 years' service.

INSURANCE: Board-paid hospital, surgical, and major medical insurance ($100 deductible) for teachers and dependents; board-paid $2,000 life insurance for individual coverage including those over 65 years.

ASSOCIATION: Payroll deduction of state, local and national Associations' dues; 125 days' paid released time for Association representatives serving in official capacity, "additional days beyond 125 may be granted members elected to official bodies of OEA or the NEA;" Association business may be conducted during school hours if it does not disrupt school operations; Association president granted paid leave of absence and fringe benefits (board costs paid by the Association); school representatives not to be given extra duty or a homeroom assignment.

INSTRUCTION: No more than 6 classes or 3 preparations daily for secondary school teachers of academic subjects; one period of special duty (study hall), one conference period, and a homeroom assignment; joint curriculum committee to be composed of members appointed by the Association and by the Assistant Superintendent of Curriculum and Instruction in equal numbers to consider changes in curriculum, teachers affected to be consulted; school calendar to be determined by staff referendum; maximum enrollment for special education classes not to exceed 20; class size guidelines established by the North Central Association to be followed, and as funds become available, the board will reduce class sizes; pupil-teacher ratio to be determined annually after first 25 student days.

PERSONNEL: Grievance procedure ends with advisory arbitration; teacher may review personnel file and rebut any derogatory material; monthly staff meetings to begin 10 to 15 minutes after dismissal and shall not exceed one hour, two meetings may be held in September or May at the principal's option; secondary school teachers to have a minimum of 5 preparation periods weekly; effort to be made to provide primary teachers with 100 minutes of "break" time per week; 1.5 days with pay for inservice training; transfer requests based on years of service in the system, "whenever the requests for transfer within a building exceeds 30 percent of the number of members within the building, an investigation of causes within the building shall be made during the ensuing school year by a committee" composed of members representing the Association and the Superintendent; promotion procedure for administrative positions:

ADMINISTRATIVE ASSIGNMENT POLICY

Assignment to Administrative Positions

The normal assignment to an elementary school principalship shall be through the cadet-principal program. Secondary school principals are usually selected from assistant principals within the school system. Members who are interested in becoming cadet principals, or assistant principals at the secondary level, shall communicate in writing with the Assistant Superintendent. An application form for an administrative position shall be forwarded to the member upon request.

Eligibility

Five years of successful teaching experience, two of which must be on the level of the position for which application is made.

Master's Degree and proper Ohio Certification.

Satisfactory service in the position held at the time of application.

Objective Evaluation

An objective test in the general area of administration and supervision shall be administered once

during each school year; applicants shall be informed of the date, time and place, not less than two weeks before the test is given.

A candidate must obtain a score at or above the fiftieth percentile, as described by national norms for the test, to qualify for further administrative consideration for an administrative position. Each candidate shall be notified in writing of his percentile score within two weeks of the receipt of the test scores.

A person failing to achieve the desired score may retake the examination after a lapse of one year. The expense of the examination must be borne by the candidate.

Fee

Members who have completed five or more years of teaching and/or counseling service, and who have a Master's Degree and proper Ohio Certification, may participate in the testing program without charge.

Employees of the Akron Public Schools who do not meet the prerequisites for administrative appointments outlined previously, or administrative applicants from other school systems, may participate in the testing program upon receipt of a fee covering the cost of the test.

Field Rating

The field rating shall be based upon information obtained from evaluations made by principals and supervisors under whom the candidate has served. The rating will reflect the member's past performance in his assigned duties, as well as his potential for administrative leadership.

Intermediate Composite Score

An initial ranking of candidates shall be determined by the results of the written examination and the field rating. The field rating shall have a weight of 60%; the objective examination, 40%.

Credentials Committee

The Credentials Committee shall consist of the Assistant Superintendent, two elementary principals, one junior high school principal, one senior high school principal, and two member representatives to be recommended by the President. The committee shall meet annually to review the credentials of interested administrative candidates. The Credentials Committee shall prepare a list of names of various eligible candidates who shall appear before the Interview Committee.

Interview Committee

The Interview Committee shall consist of the Superintendent, Assistant Superintendent, directors of elementary and secondary education, and any additional members appointed by the Superintendent. The committee shall meet annually to interview prospective administrative candidates and to nominate personnel for future administrative or supervisory positions.

Final Composite Score

Final rank in determining eligibility shall be based upon the following factors:

Factor	*Weight*
Intermediate Composite Score	2/3
(a) written examination	
(b) field ratings	
Interview with Screening Committee . .	1/3

Annual Review

An annual review of the eligibility lists shall be conducted by the Superintendent and the Office of Professional Personnel.

Former Eligibility Lists

Applicants who have successfully passed the objective examination need not participate in that phase of the selection process for a period of five (5) years. If a candidate has not been selected for an administrative position within the five year time interval, his name will be removed from the list of eligible candidates, and he will be notified in writing of this action. The person whose name has been withdrawn from consideration may reactivate his file by submitting to the standardized test for administrative selection and subsequent interview with the Screening Committee.

Separate eligibility lists will be made for elementary and secondary levels. Application for an administrative position may be made for one level only.

maintenance of a pupil personnel file containing a record of student's behavior patterns and office referrals, for the use of all members of the professional staff who are directly concerned; corporal punishment may be administered by either the teacher or the principal in the presence of an adult, but never in the presence of other children; faculty committee selected by the superintendent or his representative to meet with an architect prior to design of new or remodeled schools; retirement at age 70; requirement of annual tuberculosis test or X-ray examination for all teachers.

Granite City, Utah

Between the Board of Education, Granite School District, and the Granite Education Association, effective July 1, 1971, to June 30, 1972. Approximately 2,550 certificated professional employees. Agreement to be extended on yearly basis unless written request for revision is filed 60 days prior to termination.

COMPENSATION: B.A., $6,410 to $9,615, 11 increments; B.A. plus 30, $10,128 maximum; M.A., $6,963 to $11,162, 14 increments; M.A., plus 30, $11,493 maximum; Ph.D., $12,167 maximum.

LEAVES: 10 days' sick leave, 35 days' maximum accumulation, if less than 3 years' service, 180 days if more than 3 years' service; additional day of sick leave granted for each contracted month beyond school year; 2 separate days for personal business; special use of sick leave for serious illness or death in the immediate family may be granted by principal; sabbatical leave at half pay for one year after 6 years' service.

INSURANCE: Board-paid hospital, surgical, and major medical insurance for individual coverage; Workman's compensation insurance provided for job-related injury; board-paid civil liability insurance; retirement benefits of 1/2 of one percent of final base salary times the number of years of service to a maximum of 30 years.

ASSOCIATION: Payroll deduction for Association dues; "Association will be allowed 120 days for teachers to be assigned to workshops, educational conferences and special related programs.

INSTRUCTION: Teachers to report to work 20 minutes before class and remain 30 minutes after closing; 6 daily teaching periods, no more than 2 subject areas and no more than 3 teaching preparations; joint review committee to recommend and implement a solution to excess class size over 1970-71 levels; whenever feasible a substantial reduction in number of first and second-grade combination classes; curriculum review committee composed equally of teachers, patrons, and administrators; regular teacher may use class time of special teacher as preparation period, or parent-teacher conference, or other consultation. Every effort to be made to reduce nonteaching duties; seniority to be considered for teaching assignments in terms of school, schedule, program, or grade level; assignment to adult and community schools to be given to qualified applicant employed by system during regular term with consideration to area of competence, major or minor fields of study, quality of performance, and ability to relate to students.

PERSONNEL: Grievance procedure ends with advisory arbitration; personnel file to be available for teacher's inspection, and derogatory material to be removed when a teacher's refutation is sustained; 20-minute duty-free lunch periods, and when feasible, a 30-minute duty-free period for elementary teachers; 3-year probationary period with annual written evaluation to be reviewed by the teacher prior to submission to central office file; when applicants for promotion have equal qualifications, preference to be given to those already employed in the system; upon request the board may furnish legal counsel to a teacher in assault cases; teacher found guilty in criminal proceedings is subject to dismissal; right to run for and hold public office; annual physical health report required; disruptive student procedures (See reprint.)

Efforts will be made to find more effective procedures, within the law, to exclude students from regular classes who present a continuous history of disruptive classroom behavior.

A child who threatens or engages in physical violence to himself, his fellow students, or a teacher may be directed by the teacher to report immediately to the principal or other designated supervisor. Such pupil may not be returned to the classroom without consultation with the principal or his designee, the teacher, the parent and the pupil.

Pupils who so seriously disrupt the classroom work as to impede effective instruction may be reported by the teacher to the principal or other designated supervisor. Such report shall be in writing and shall contain substantiating data on the behavior of the child.

Upon receiving a report of disruptive behavior the principal or his designee, shall make a suitable investigation and shall promptly initiate a course of action that will best serve the needs of the school, the child and the teacher.

If the problem is not solved in this manner, after available courses of action have been taken and a decision has been reached by the principal that the child still so seriously disrupts the classroom work as to impede effective instruction, the child shall be referred to other facilities within the school. If no such facilities exist within the school, the principal shall refer the case to the Superintendent or his designee for disposition.

Each plan of action should involve the parents, the teacher, the child and other appropriate personnel. No final decision on placement or care should be arrived at without such participation.

If action by the principal is unduly delayed, or if the child is repeatedly returned to the same teacher's classroom, or if a series of actions by the principal does not resolve the issue, the teacher may appeal to the Superintendent. The Superintendent shall set up an appropriate procedure for review and disposition of such cases.

A written record shall be kept of all actions taken and the results of such actions in each case.

Insolence or rudeness (insubordination) to a teacher by a student may result in immediate suspension of the student for a period of time to be determined by the principal, not to exceed five days.

A joint committee will be established to study, develop, and recommend policies and procedures to deal with the needs of disruptive students. Preliminary recommendations of this committee shall be made to the Board and to the Association within three months of the establishment of the committee.

This committee shall be initially organized as soon as possible after the mutual adoption of this proposal, and at the beginning of each school year thereafter.

This Disruptive Student Committee shall be composed as follows: three classroom teachers

appointed by the Association, three administrators appointed by the Board, three parents chosen by the Parent Teacher Association councils in the District, three high school students selected by their respective school counseling staffs, and one judge or referee from the Juvenile Court System.

The Juvenile Court representative may serve either as a regular member or by standing invitation. The other adult members will serve annual terms upon appointment by their appropriate authorities. The student members will be appointed annually, one from each of three high schools as these schools would be listed in alphabetical order.

The internal structure of this committee should be organized so as to provide some overlapping among the terms of new and old members in order to preserve continuity of intent.

In order to avoid interruption of on-going school programs this committee will hold meetings outside of regular school hours. The District will reimburse teachers requested to serve on this committee an appropriate rate mutually agreed upon by the Association and the Board.

SELECTED EXCHANGE TEACHING AND SERVICE PROGRAM LEAVE PROVISIONS CONTAINED IN NEGOTIATED AGREEMENTS

Analysis of 1,529 comprehensive agreements effective during the 1970-71 school year in systems enrolling 1,000 or more pupils found that 547 (42.4 percent) contained extended leave provisions for various exchange teaching or service programs. These programs included foreign and domestic exchange teaching, Department of Defense schools (serving dependents of military and government personnel outside the United States), VISTA, and Peace Corps. Table 1 shows the incidence of these leave provisions found in the agreements.

Leaves for exchange teaching and participation in service programs are generally non-compensatory and granted for periods of one to two years. Teachers are sometimes recruited by American-sponsored schools abroad. This recruitment is facilitated by pairing an American school with a foreign school in a school-to-school project; for example, one agreement contains the following provision:

> The Franklin Pierce School District maintains a school-to-school relationship with the American school of Vientiane. To further this relationship, the district encourages qualified personnel to accept teaching assignments for two years in the overseas school. Teachers accepted in this program will be considered as district teachers on temporary reassignment during their teaching tour in the overseas school. They will receive credit for their experience on the district salary schedule, may transfer all unused sick leave from Vietiane; receive their same position back upon return to the district, unless a waiver were signed prior to leaving for the overseas assignment; and be considered a district teacher during this period for seniority purposes. These provisions also apply to administrative assignments.
>
> (Tacoma, Washington)

It should be noted that board policies may have detailed regulations governing such long-term leaves.

TABLE 1.—NEGOTIATED LEAVE PROVISIONS CONCERNING TEACHER EXCHANGE AND SERVICE PROGRAMS IN COMPREHENSIVE AGREEMENTS, 1970-71

Item	Number	Percent
1	2	3
TOTAL COMPREHENSIVE AGREEMENTS ANALYZED	1,529	100.0%
Total Agreements Containing Provisions on Exchange Teaching and Service Programs	547	42.4
Peace Corps	437	34.0
Exchange teaching, general	320	24.8
VISTA	202	15.6
Exchange teaching, foreign	158	12.2
Exchange teaching, domestic	108	8.4
Department of Defense schools	64	5.0
Extent of Coverage of Agreements:		
General, domestic, and foreign exchange teaching, VISTA, Peace Corps, and Department of Defense schools	111	20.3
General, domestic, and foreign exchange teaching, VISTA, and Peace Corps	141	25.7
General and foreign exchange teaching, VISTA, Peace Corps, and Department of Defense schools	46	8.4
Domestic and foreign exchange teaching, VISTA, and Peace Corps	88	16.1
Foreign exchange teaching only	18	3.3
Peace Corps only	94	17.2
General exchange teaching only	49	9.0
TOTAL	547	100.0%

The leave usually coincides with the academic year. The teacher is usually required to submit a written application between March 15 and April 1, or at least 60 days prior to the start of the leave. Notification of teacher's return is usually submitted at the same time as his application for leave, or at some undefined time prior to expiration of the leave. Generally, a returning teacher is offered a position comparable to the one he occupied, and at the salary step which he would have reached had he remained at the school.

A selection of the content found in typical provisions follows:

- Tenure or continuous years of service is required prior to submission of request for leave.
- The application must contain a statement of intent to return to the system.
- Exchange teachers are generally chosen on the basis of seniority and teaching ability.
- School board has final approval on selection of teachers.
- Verification of plans or statement of purpose is required by some systems in order to grant leave.
- The number of teachers participating in an exchange program at any given period of time is limited.
- Leave for exchange teaching or service program is generally granted for one year, renewable for an additional year.
- The exchange teacher coming to the school system must have ability comparable to that of the exchange teacher and be approved by the superintendent.
- The exchange teacher is paid his salary by his own school system if counterpart is paid by his.
- Full salary credit may be allowed for the leave period upon return to the school system.
- Fringe benefits, previously accumulated are retained during the period of leave.

Examples of the type of provisions included in the agreements are reprinted below.

LEAVE FOR PARTICIPATION IN THE ARMED FORCES DEPENDENTS SCHOOL PROGRAM

Upon the recommendation of the Superintendent and approval of the Board, employees under tenure may be granted a leave of absence to participate in the Dependents School Program of the Armed Forces.

A teacher applying for a leave of absence must submit a letter requesting the leave to the Superintendent of Schools.

Leave of absence for this purpose shall be for the minimum tour of duty only and for not more than once in a five year period.

A teacher granted such a leave shall return to his specific position, if at all possible.

The teacher shall be placed on the same salary level which he would have attained during his leave without loss of seniority providing the teacher on leave teaches not less than 120 full time days in the same teaching position while on leave.

(Oregon, Ohio)

EXCHANGE TEACHER LEAVE

Upon application leave without pay for exchange teacher positions under either national or international programs may be granted to tenure teachers. Said leave will only be granted when the exchange teacher coming into the system is acceptable to the Board.

The regular salary increment shall accrue.

No benefits such as, but not necessarily limited to, paid leave shall be granted or accrue for the period of time spent in exchange teacher leave.

Upon return from leave the teacher shall be restored to his position or a position of like nature, seniority, and pay. When said teacher is reinstated all previously accrued benefits such as, but not necessarily limited to, paid leave shall be reinstated.

(Albion, Michigan)

Leave of absence of up to one (1) year will be granted to any teacher who serves as an exchange teacher or joins the Peace Corps and who is a full-time participant in either of such programs. If the employee has completed five (5) or more consecutive years of service, he may, upon recommendation of the Superintendent and with the approval of the Board, be paid for the leave of absence for exchange teaching. Upon return to the Corporation persons who have been granted leaves of absence for the Peace Corps or exchange teachers in programs under the auspices of the United States government will be considered as if they were actively employed by the Board during the period of leave and will be placed on the salary schedule at the level they would have achieved had they not been absent. Credit on the salary schedule as described herein shall be reflected in the salary schedule published by the South Bend Community School Corporation. Such leaves may be extended by the Superintendent on request.

(South Bend, Indiana)

A leave of absence without pay of up to two (2) years will be granted to any tenure teacher who joins the Peace Corps, and a leave of absence up to one (1) year will be granted to any tenure teacher who serves as an exchange teacher or an overseas teacher, and is a fulltime participant in any such program. Upon return from such leave, a teacher will be considered for salary purposes as if he were actively employed by the Committee during the leave and will be placed on the salary schedule at the level he would have achieved if he had not been absent.

(Sommerville, Massachusetts)

TEXTS

WISCONSIN

Amendments to Collective Bargaining in Municipal Employment

[effective Nov. 11, 1971]

Sec. 111.70 MUNICIPAL EMPLOYMENT (1) Definitions.—As used in this subchapter:

(a) "Municipal employer" means any city, county, village, town, metropolitan sewerage district, school district, or any other political subdivision of the state which engages the services of an employe and includes any person acting on behalf of a municipal employer within the scope of his authority, express or implied. [Reads as amended by Ch. 124, L. 1971, effective November 11, 1971.]

(b) "Municipal employe" means any individual employed by a municipal employer other than an independent contractor, supervisor, or confidential, managerial or executive employe. [Reads as amended by Ch. 124, L. 1971, effective November 11, 1971.]

(c) "Commission" means the employment relations commission.

(d) "Collective bargaining" means the performance of the mutual obligation of a municipal employer, through its officers and agents and the representatives of its employes, to meet and confer at reasonable times, in good faith, with respect to wages, hours and conditions of employment with the intention of reaching an agreement, or to resolve questions arising under such an agreement. The duty to bargain, however, does not compel either party to agree to a proposal or require the making of a concession. Collective bargaining includes the reduction of any agreement reached to a written and signed document. The employer shall not be required to bargain on subjects reserved to management and direction of the governmental unit except insofar as the manner of exercise of such functions affects the wages, hours and conditions of employment of the employes. In creating this subchapter the legislature recognizes that the public employer must exercise its powers and responsibilities to act for the government and good order of the municipality, its commercial benefit and the health, safety and welfare of the public to assure orderly operations and functions within its jurisdiction, subject to those rights secured to public employes by the constitutions of this state and of the United States and by this subchapter.

(e) "Collective bargaining unit" means the unit determined by the commission to be appropriate for the purpose of collective bargaining.

(f) "Craft employe" means a skilled journeyman craftsman, including his apprentices and helpers, but shall not include employes not in direct line of progression in the craft.

(g) "Election" means a proceeding conducted by the commission in which the employes in a collective bargaining unit cast a secret ballot for collective bargaining representatives, or for any other purpose specified in this subchapter.

(h) "Fair-share agreement" means an agreement between a municipal employer and a labor organization under which all or any of the employes in the collective bargaining unit are required to pay their proportionate share of the cost of the collective bargaining process and contract administration measured by the amount of dues uniformly required of all members. Such an agreement shall contain a provision requiring the employer to deduct the amount of dues as certified by the labor organization from the earnings of the employes affected by said agreement and to pay the amount so deducted to the labor organization.

(i) "Labor dispute" means any controversy concerning wages, hours and conditions of employment, or concerning the representation of persons in negotiating, maintaining, changing or seeking to arrange wages, hours and conditions of employment.

(j) "Labor organization" means any employe organization in which employes participate and which exists for the purpose, in whole or in part, of engaging in collective bargaining with municipal employers concerning grievances, labor disputes, wages, hours or conditions of employment.

(k) "Person" means one or more individuals, labor organizations, associations, corporations or legal representatives.

(l) "Professional employee" means:

1. Any employe engaged in work:

a. Predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical or physical work;

b. Involving the consistent exercise of discretion and judgment in its performance;

c. Of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time;

d. Requiring knowledge of an advanced type in a field of science or learing customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher education or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of rou-

tine mental, manual or physical process; or

2. Any employe who:

a. Has completed the courses of specialized intellectual instruction and study described in subd. 1. d;

b. Is performing related work under the supervision of a professional person to qualify himself to become a professional employe as defined in subd. 1.

(m) "Prohibited practice" means any practice prohibited under this subchapter.

(n) "Referendum" means a proceeding conducted by the commission in which employes in a collective bargaining unit may cast a secret ballot on the question of authorizing a labor organization and the employer to continue a fair-share agreement. Unless a majority of the eligible employes vote in favor of the fair-share agreement, it shall be deemed terminated and that portion of the collective bargaining agreement deemed null and void.

(o) "Supervisor" means:

1. As to other than municipal and county firefighters, any individual who has authority, in the interest of the municipal employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employes, or to adjust their grievances or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

2. As to firefighters employed by municipalities with more than one fire station, the term "supervisor" shall include all officers above the rank of the highest ranking officer at each single station. In municipalities where there is but one fire station, the term "supervisor" shall include only the chief and the officer in rank immediately below the chief. No other firefighter shall be included under the term "supervisor" for the purposes of this subchapter. [111.70 (1)(d) to (o) reads as added by Ch. 124, L. 1971, effective November 11, 1971.]

(2) RIGHTS OF MUNICIPAL EMPLOYES.—Municipal employees shall have the right of self-organization, and the right to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in lawful, concerted activities for the purpose of collective bargaining or other mutual aid or protection, and such employes shall have the right to refrain from any and all such activities except that employes may be required to pay dues in the manner provided in a fair-share agreement. Such fair-share agreement shall be subject to the right of the municipal employer or a labor organization to petition the commission to conduct a referendum. Such petition must be supported by proof that at least 30% of the employes in the collective-bargaining unit desired that the fair-share agreement be terminated. Upon so finding, the commission shall conduct a referendum. If the continuation of the agreement is not supported by at least the majority of the eligible employes, it shall be deemed terminated. The commission shall declare any fair-share agreement suspended upon such conditions and for such time as the commission decides whenever it finds that the labor organization involved has refused on the basis of race, color, creed or sex to receive as a member any employe of the municipal employer in the bargaining unit involved, and such agreement shall be made subject to this duty of the commission. Any of the parties to such agreement or any municipal employe covered thereby may come before the commission, as provided in section 111.07, and ask the performance of this duty. [Reads as amended by Ch. 124, L. 1971, effective November 11, 1971.]

(3) PROHIBITED PRACTICES AND THEIR PREVENTION.—(a) It is a prohibited practice for a municipal employer individually or in concert with others:

1. To interfere with, restrain or coerce municipal employes in the exercise of their rights guaranteed in sub. (2).

2. To initiate, create, dominate or interfere with the formation or administration of any labor or employe organization or contribute financial support to it, but the employer shall not be prohibited from reimbursing its employes at their prevailing wage rate for the time spent conferring with the employes, officers or agents. Supervisors may remain members of the same labor organization of which their subordinates are members, but such supervisor shall not participate in determinations of the collective bargaining policies of such labor organization or resolution of grievances of employes. After January 1, 1974, said supervisors shall not remain members of such organizations.

3. To encourage or discourage a membership in any labor organization by discrimination in regard to hiring, tenure, or other terms or conditions of employment; but the prohibition shall not apply to a fair-share agreement.

4. To refuse to bargain collectively with a representative of a majority of its employes in an appropriate collective bargaining unit. Such refusal shall include action by the employer to issue or seek to obtain contracts, including those provided for by statute, with individuals in the collective bargaining unit while collective bargaining, mediation or fact-finding concerning the terms and conditions of a new collective bargaining agreement is in progress, unless such individual contracts contain express language providing that the contract is subject to amendment by a subsequent collective bargaining agreement. Where the employer has a good faith doubt as to whether a labor organization claiming the support of a majority of its employes in an appropriate bargaining

unit does in fact have that support, it may file with the commission a petition requesting an election to that claim. An employer shall not be deemed to have refused to bargain until an election has been held and the results thereof certified to the employer by the commission. The violation shall include, though not be limited thereby to the refusal to execute a collective bargaining agreement previously agreed upon. The term of any collective bargaining agreement shall not exceed 3 years.

5. To violate any collective bargaining agreement previously agreed upon by the parties with respect to wages, hours and conditions of employment affecting municipal employees, including an agreement to arbitrate questions arising as to the meaning or application of the terms of a collective bargaining agreement or to accept the terms of such arbitration award, where previously the parties have agreed to accept such award as final and binding upon them.

6. To deduct labor organization dues from an employe's or supervisor's earnings, unless the municipal employer has been presented with an individual order therefor, signed by the municipal employe personally, and terminable by at least the end of any year of its life or earlier by the municipal employe giving at least 30 days' written notice of such termination to the municipal employer and to the representative organization, except where there is a fair-share agreement in effect.

(b) It is a prohibited practice for a municipal employe, individually or in concert with others:

1. To coerce or intimidate a municipal employe in the enjoyment of his legal rights, including those guaranteed in sub. (2).

2. To coerce, intimidate or induce any officer or agent of a municipal employer to interfere with any of its employes in the enjoyment of their legal rights, including those guaranteed in sub. (2), or to engage in any practice with regard to its employes which would constitute a prohibited practice if undertaken by him on his own initiative.

3. To refuse to bargain collectively with the duly authorized officer or agent of a municipal employer, provided it is the recognized or certified exclusive collective bargaining representative of employes in an appropriate collective bargaining unit. Such refusal to bargain shall include, but not be limited to, the refusal to execute a collective bargaining agreement previously agreed upon.

4. To violate any collective bargaining agreement previously agreed upon by the parties with respect to wages, hours and conditions of employment affecting municipal employes, including an agreement to arbitrate questions arising as to the meaning or application of the terms of a collective bargaining agreement or to accept the terms of such arbitration award, where previously the parties have agreed to accept such awards as final and binding upon them.

5. To coerce or intimidate an independent contractor, supervisor, confidential, managerial or executive employe, officer or agent of the municipal employer, to induce him to become a member of the labor organization of which employes are members.

(c) It is a prohibited practice for any person to do or cause to be done on behalf of or in the interest of municipal employers or municipal employes, or in connection with or to influence the outcome of any controversy as to employment relations, any act prohibited by par (a) or (b).

(d) Nothing in this subchapter shall preclude law enforcement or firefighting supervisors from organizing separate units of supervisors for purposes of negotiating with their municipal employers. The commission shall by rule establish procedures for certification of such units of supervisors and the levels of supervisors to be included. The commission may require that the representative in a supervisory unit shall be an organization that is a separate local entity from the representative of the employes but such requirement shall not prevent affiliation by a supervisory representative with the same parent state or national organization as the employer representative. [111.70(3) reads as recreated by Ch. 124, L. 1971, effective November 11, 1971.]

(4) POWERS OF COMMISSION.—The commission shall be governed by the following provisions relating to bargaining in municipal employment in addition to other powers and duties provided in this subchapter:

(a) *Prevention of Prohibited Practices.*—Section 111.70 shall govern procedure in all cases involving prohibited practices under this subchapter except that wherever the term "unfair labor practices" appears in section 111.70 the term "prohibited practices" shall be substituted. [Reads as amended by Ch. 124, L. 1971, effective November 11, 1971.]

(b) *Mediation.*—Whenever a dispute arises between a municipal employer and a union of its employes concerning the duty to bargain on any subject, the dispute shall be resolved by the commission on petition for a declaratory ruling. The decision of the commission shall be issued within 15 days of submission and shall have the effect of an order issued under s. 111.07. The filing of a petition under this paragraph shall not prevent the inclusion of the same allegations in a complaint involving prohibited practices in which it is alleged that the failure to bargain on the subjects of the declaratory ruling is part of a series of acts or pattern of conduct prohibited by this subchapter.

(c) *Methods for Peaceful Settlement of Disputes.*—1. "Mediation." The commission may function as a mediator in labor disputes. Such

mediation may be carried on by a person designated to act by the commission upon request of one or both of the parties or upon initiation of the commission. The function of the mediator shall be to encourage voluntary settlement by the parties but no mediator shall have the power of compulsion.

2. "Arbitration." Parties to a dispute pertaining to the meaning or application of the terms of a written collective bargaining agreement may agree in writing to have the commission or any other appropriate agency serve as arbitrator or may designate any other competent, impartial and disinterested person to so serve.

3. "Fact-finding." If a dispute has not been settled after a reasonable period of negotiation and after the settlement procedures, if any, established by the parties have been exhausted, and the parties are deadlocked with respect to any dispute between them arising in the collective bargaining process, either party, or the parties jointly, may petition the commission, in writing, to initiate fact-finding, as provided hereafter, and to make recommendations to resolve the deadlock.

a. Upon receipt of a petition to initiate fact-finding, the commission shall make an investigation with or without a formal hearing, to determine whether a deadlock in fact exists. After its investigation the commission shall certify the results thereof. If the commission decides that fact-finding should be initiated, it shall appoint a qualified, disinterested person or 3-member panel, when jointly requested by the parties, to function as a fact-finder.

b. The fact finder may establish dates and place of hearings which shall be where feasible, and shall conduct the hearings pursuant to rules established by the commission. Upon request, the commission shall issue subpoenas for hearings conducted by the fact finder. The fact finder may administer oaths. Upon completion of the hearing, the fact finder shall make written findings of fact and recommendations for solution of the dispute and shall cause the same to be served on the parties and the commission. Cost of fact-finding proceedings shall be divided equally between the parties. At the time the fact finder submits a statement of his costs to the parties, he shall submit a copy thereof to the commission at its Madison office.

c. Nothing herein shall be construed as prohibiting any fact finder from endeavoring to mediate the dispute, in which he is involved, at any time prior to the issuance of his recommendations.

d. Within 30 days of the receipt of the fact finder's recommendations, or within the time period mutually agreed upon by the parties, each party shall advise the other, in writing as to its acceptance or rejection, in whole or in part, of the fact finder's recommendations and, at the same time, transmit a copy of such notice to the commission at its Madison office.

(d) *Selection of representatives and determination of appropriate units for collective bargaining.* —1. A representative chosen for the purposes of collective bargaining by a majority of the municipal employes voting in a collective bargaining unit shall be the exclusive representative of all employes in the unit for the purpose of collective bargaining. Any individual employe, or any minority group of employes in any collective bargaining unit, shall have the right to present grievances to the municipal employer in person or through representatives of their own choosing, and the municipal employer shall confer with said employe in relation thereto, if the majority representative has been afforded the opportunity to be present at the conferences. Any adjustment resulting from these conferences shall not be inconsistent with the conditions of employment established by the majority representative and the municipal employer.

2. a. The commission shall determine the appropriate bargaining unit for the purpose of collective bargaining and shall whenever possible avoid fragmentation by maintaining as few units as practicable in keeping with the size of the total municipal work force. In making such a determination, the commission may decide whether, in a particular case, the employes in the same or several departments, divisions, institutions, crafts, professions or other occupational groupings constitute a unit. Before making its determination, the commission may provide an opportunity for the employes concerned to determine, by secret ballot, whether or not they desire to be established as a separate collective bargaining unit. The commission shall not decide, however, that any unit is appropriate if the unit includes both professional employes and nonprofessional employes, unless a majority of the professional employes vote for inclusion in the unit. The commission shall not decide that any unit is appropriate if the unit includes both craft and noncraft employes unless a majority of the craft employes vote for inclusion in the unit. Any vote taken under this subsection shall be by secret ballot.

b. Any election held under subd. 2. a. shall be conducted by secret ballot taken in such a manner as to show separately the wishes of the employes voting as to the unit they prefer.

c. A collective bargaining unit shall be subject to termination or modification as provided in this subchapter.

d. Nothing in this section shall be construed as prohibiting 2 or more collective bargaining units from bargaining collectively through the same representative.

3. Whenever, in a particular case, a question arises concerning representation or appropriate unit, calling for a vote, the commission shall

certify the results in writing to the municipal employer and the labor organization involved and to any other interested parties. Any ballot used in a representation proceeding shall include the names of all persons having an interest in representing or the results. The ballot should be so designed as to permit a vote against representation by any candidate named on the ballot. The findings of the commission, on which a certification is based, shall be conclusive unless reviewed as provided by s. 111.07(8).

4. Whenever the result of an election conducted pursuant to subd. 3 is inconclusive, the commission, on request of any party to the proceeding, may conduct a runoff election. Any such request must be made within 30 days from the date of certification. In a runoff election the commission may drop from the ballot the name of the candidate or choice receiving the least number of votes.

5. Questions as to representation may be raised by petition of the municipal employer or any municipal employe or any representative thereof. Where it appears by the petition that a situation exists requiring prompt action so as to prevent or terminate an emergency, the commission shall act upon the petition forthwith. The fact that an election has been held shall not prevent the holding of another election among the same group of employes, if it appears to the commission that sufficient reason for another election exists. [111.70(4)(b) to (d) reads as amended and recreated by Ch. 124, L. 1971, effective November 11, 1971.]

(1) *Right to Strike.*–Nothing contained in this subchapter shall constitute a grant of the right to strike by any county or municipal employe and such strikes are hereby expressly prohibited.

(5) PROCEDURE.–Municipal employers, jointly or individually, may employ a qualified person to discharge the duties of labor negotiator and to represent such municipal employers, jointly or individually, in conferences and negotiations under this section. In cities of the 1st, 2nd or 3rd class any member including the mayor of the city council who resigns therefrom may, during the term for which he is elected, be eligible to the position of labor negotiator under this subsection, which position during said term has been created by or the selection to which is vested in such city council, and section 66.11(2) shall be deemed inapplicable thereto. [Reads as amended by Ch. 124, L. 1971, effective November 11, 1971.]

(6) DECLARATION OF POLICY.–The public policy of the state as to labor disputes arising in municipal employment is to encourage voluntary settlement through the procedures of collective bargaining. Accordingly, it is in the public interest that municipal employes so desiring be given an opportunity to bargain collectively with the municipal employer through a labor organization or other representative of the employes' own choice. If such procedures fail, the parties should have available to them a fair, speedy, effective and, above all, peaceful procedure for settlement as provided in this subchapter. [Reads as added by Ch. 124, L. 1971, effective November 11, 1971.]

SEC. 111.71 GENERAL PROVISIONS.–(1) The commission may adopt reasonable rules relative to the exercise of its powers and authority and its proceedings thereunder.

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RESEARCH DIVISION
NATIONAL EDUCATION ASSOCIATION

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CASE REVIEWS

ILLINOIS

Court Dismisses State Superintendents Strike Settlement

The Illinois Circuit Court dismissed a suit brought by the Superintendent of Public Instruction of the State of Illinois against the Decatur Board of Education. The superintendent sought a mandatory injunction to force the board to accept the terms of a proposed contract to settle a strike by the Decatur Education Association (DEA).

The court held that the superintendent neither had the authority to determine the prevailing differences between the board and the DEA, nor impose his solution upon them. The court ruled that its powers did not extend to imposing a solution to an illegal strike, even though it may enjoin the strike. Further, the court held that its function was to interpret or enforce the law, not to create or legislate power where none exists.

KANSAS

Mandatory Negotiation Law Does Not Require Collective Bargaining Agreement

The first judicial interpretation of the Kansas Professional Negotiations Act for Teachers found that mandatory collective bargaining does not require the parties involved to agree on all topics negotiated. According to Section 1 of the Act, "professional negotiations" is defined as "meeting, conferring, consulting, and discussing in a good faith effort to reach agreement with respect to the terms and conditions of professional service."

In accordance with state statutes, the Johnson County District Court issued a permanent writ of *mandamus* ordering the Shawnee Mission School District and the National Education Association of Shawnee Mission (NEA-SM) to continue to negotiate the "terms and conditions of professional service."

This permanent writ perpetuated a temporary writ of *mandamus*. The court noted that subsequent to issuance of the permanent writ, the district's negotiation with the Association had been an "honest, sincere and industrious. . . effort to explore possibilities on areas in dispute," and had continued past the court appointed deadline. The court added that the failure of the parties to agree on all topics discussed was "not, in and of itself the equivalent of bad faith."

The impasse came about when the school district declared that it was "not compelled to maintain collective negotiations with the plaintiff association over matters of basic policy." However, the court emphasized that negotiation on the "terms and conditions of professional service" was mandatory, and covered the areas of

> salaries and wages; hours and amounts of work; vacation allowance; holiday, sick and other leave; number of holidays; retirement; insurance benefits; wearing apparel; pay for overtime; jury duty and grievance procedure and such other areas that directly or by implication involve these factors.

The court specified that the school district's educational policies were nonnegotiable since basic policy decisions are the "exclusive legal responsibility of the school board in the exercise of its delegated authority."

The court rejected the school board's contention that its constitutionally established governance of the school district was negated by the Act, rendering the Act unconstitutional. The board argued that interference by the court or plaintiff restricted its contractual liability. The court explained that the "collective bargaining statues in no way impair or per se take away the power of the school district. The statutes merely provide for mandatory negotiations in anticipation that [the Association] may influence that power, but the power itself rests with the Board."

Pointing out "that difficulties in the nature of procedure and interpretation. . . ensue" during the Act's first year, the court decided that the parties negotiated in good faith, and issued a permanent writ of *mandamus* for the continuation of negotiation. *(National Education Association of Shawnee Mission v. Board of Education of Shawnee Mission Unified School District No. 512*, District Court of Johnson County, December 10, 1971.)

NEBRASKA

Court Jurisdiction Applied Upon Negotiation Collapse

The Nebraska Industrial Relations Court (NIRC) ruled in two separate cases that items disputed during negotiation between school boards and their recognized employee organizations were not matters within the court's jurisdiction until negotiation procedures were exhausted on all items as stipulated by the Nebraska Teachers' Professional Negotiations Act (NRD, 1-72, 5).

• In a joint suit involving the Central City, Lyons, and Saunders County School Districts, the

employee organizations contended that procedures had been exhausted and that the dispute was separate from the agreed agenda. However, in its ruling, the NIRC noted that all negotiable items disputed between the parties constituted a single dispute over the accepted "areas of discussion," and therefore, bargaining had proceeded under proper negotiation procedures.

The court further ruled "that no other issues, as to what events or circumstances constitute an 'exhaustion' of the provisions of the Negotiations Act 'without resolution of the dispute involved,'" were decided. The court held disposition of these cases in abeyance until such time as the negotiation procedures for all items were exhausted. (*Central City Education Association v. School District of Central City, Lyons Classroom Teachers Association v. School District of Lyons, Ashland-Greenwood Education Association v. Saunders County School District No. 1*, Nebraska Court of Industrial Relations, March 12, 1971.)

• In the second case, the NIRC ruled that negotiation between the Holdrege Education Association and Holdrege School District was not governed by the Nebraska Teachers' Professional Negotiations Act since a previous court case established the court's jurisdiction over salaries and other terms of employment.

The dispute arose when the school district agreed to negotiate salary schedules, but refused to negotiate on other items. The court, having already asserted its jurisdiction as prescribed under Chapter 48 of the state statutes, ordered the school district to negotiate in good faith with the Association in regard to salaries and other terms and conditions of employment. (*Holdrege Education Association v. School District of Holdrege*, Nebraska Court of Industrial Relations, April 26, 1971.)

NEW YORK

Constitutional Rights Protected from Unilateral Dismissal

In two separate cases, New York State courts upheld a school board's right to dismiss probationary teachers without cause, but ruled that no teacher may be dismissed in retaliation for exercise of constitutional rights.

• The New York Supreme Court, Suffolk County, stayed binding arbitration of a probationary teacher dismissal case brought by the Three Villages Teachers Association (TVTA) against Central School District No. 1, Town of Brookhaven and Smithtown.

The Association claimed the school board violated a contract provision which held that "continuation of appointment and the granting of tenure shall depend upon performance of the teacher." The TVTA contended that the teacher's performance was "satisfactory and competent." This alleged breach of contract, the Association claimed, was in turn a violation of the Taylor Law, and subject to binding grievance arbitration. However, the court pointed to the precedent established in *Board of Education v. Associated Teachers of Huntington, Inc.*, wherein a *tenured* teacher was dismissed, and the binding arbitration provision of a Taylor Law agreement was voided since it contradicted public policy. Thus, the court held *a fortiori* that a probationary teacher dismissal grievance was not arbitrable. (*Central School District No. 1, Town of Brookhaven and Smithtown, Suffolk County v. Three Village Teachers Association, Inc.*, New York Supreme Court, Suffolk County, July 14, 1971.)

• The Appellate Division ruled that union activity was not a legitimate reason for teacher dismissal. The appeals court ordered a lower court to reverse its prior ruling denying relief to a teacher dismissed because of her participation in the Monroe-Woodbury Teacher Association. This ruling confirmed the arbitrability of cases involving questions of teachers constitutional rights.

The Monroe-Woodbury Central School District No. 1 denied the grievant tenure in spite of a favorable recommendation by the Superintendent. The board maintained that the "quality of instruction was the only factor considered." However when the grievant petitioned the court to compel the board to grant her tenure, the board took the stance that "it had the absolute right to deny tenure to a probationary teacher for any or no reason."

The lower court dismissed the grievant's petition alleging discrimination as it failed to state a cause of action.

On appeal, the court ruled that school board lacked discretion "to regulate, discipline or otherwise interfere with a teacher's union activity by resorting to means outside the procedure set up by the Taylor Law." Furthermore, a board must have *bona fide*, legitimate reasons for discharging teachers.

The appellate court remanded the case to the lower court with instructions to reverse its prior decision. (*Marian Tischler v. Board of Education of the Monroe-Woodbury Central School District No. 1*, New York Supreme Court, Appellate Division, July 23, 1971.)

PERB Authorized to Review Constitutionally Questionable Teacher Dismissals

The Public Employment Relations Board (PERB) has the authority to review probationary teacher dismissals when there is question of a vio-

lation of constitutional rights. This New York Supreme Court, Appellate Division, ruling diluted the school boards' formerly absolute discretion to dismiss probationary teachers without citing reasons.

The appellate court reversed a lower court order enjoining the PERB from reviewing improper practice charges filed by the Grand Island Teachers Association (GITA). The GITA charged that the Central School District No. 1, Town of Grand Island, Board of Education "improperly" dismissed five probationary teachers "solely because of their activity in support of the [Association]." PERB directed the school board to answer the charges at a hearing. Thereafter, the school board successfully contested PERB's jurisdiction of probationary teacher dismissal cases in a lower court.

On appeal, the court relied on precedent cases, including *Matter of Tischler v. Board of Education Monroe-Woodbury Central School District No. 1*, wherein it was maintained "that a school board may not discriminate against teachers for exercising their right to belong or participate in a teacher's union." However, the court cautioned that union membership should not prevent a school board from discharging teachers when there is a valid basis for dismissal. The PERB was designated as the proper authority for determining whether or not a teacher had been improperly dismissed in retaliation for union activity. (*Board of Education, Central School District No. 1 for the Town of Grand Island v. Robert D. Helsby et al. and Grand Island Teachers Association*, New York Supreme Court, Appellate Division, December 2, 1971.)

FEDERAL

Minority Union Denied Use of School Facilities; Constitutional Rights Are Not Abridged

The United States District Court, District of Delaware, rejected a suit brought by the Federation of Delaware Teachers (FDT) alleging that denial of privileges interfered with the FDT's constitutional right to organize and communicate with teachers. The court held that the De La Warr Board of Education, by denying the FDT privileges granted the De La Warr Education Association (DLWEA), the exclusive bargaining representative, did not violate the FDT's First and Fourteenth Amendment rights. The disputed privileges included: use of inter-school mail facilities, school mail boxes, bulletin boards, building, and equipment. In addition, the court denied the FDT's motion for a preliminary injunction against the alleged recertification of the Association.

The FDT pointed out that Title 14, Section 4009 of the Delaware Code mandates that a school board "shall not interfere, restrain or coerce employees in the right to organize." However, the court found "meagre evidence" to indicate the school board in any way prevented or interfered with the FDT's attempts to organize teachers.

Relying on the precedent established in *Local 858 of the American Federation of Teachers v. School District No. 1 in the County of Denver* (NRD, 9-70, 3), the court rejected the FDT's complaint that its constitutional rights had been abridged. In the Denver case, the court pointed out that use of certain school facilities was "distinct from pure speech rights." The court noted that First and Fourteenth Amendment rights can be set aside by state action when the state can show a compelling interest that outweighs the asserted right. In the instant case, "the denial of similar rights to the FDT served to promote a compelling state interest, the desire to keep school buildings and grounds from becoming a 'labor battlefield.'"

In light of the above findings, the court concluded that recertification of the DLWEA constituted "no violation of the plaintiffs' rights that would justify [injunctive] relief." (*Federation of Delaware Teachers et al. v. De La Warr Board of Education et al. and De La Warr Education Association, Intervenor*, United States District Court, District of Delaware, November 8, 1971.)

Issuance of Individual Contracts Prior to Completion of Negotiation is Not Improper

The United States Court of Appeals, Seventh Circuit, affirmed a district court's dismissal of an improper labor practice charge. The decision was appealed by the Hanover Township Federation of Teachers, Local 1954, AFT, AFL-CIO (HTFT), which originally charged the Hanover County School Corporation with failure to bargain in good faith when it sent out individual contracts prior to the completion of collective bargaining.

The district court had ordered the reinstatement of 9 teachers dismissed in retribution for union activity, and enjoined the district from discriminating against the union. However, the lower court dismissed the unfair labor practice charge after finding no constitutional issues existed (NRD, 3-71, 8).

The appellate court confirmed the precedent established in *Indianapolis Education Association v. Lewallen* that "there is no constitutional duty to bargain collectively with an exclusive bargaining agent." The appellate court further noted that the contracts submitted to union members were not discriminatory as they were similar to those proffered nonunion teachers. The appellate court concluded that the "union has no right to any further relief." (*Hanover Township Federation of Teachers, Local 1954 (AFL-CIO) et al. v. Hanover Community School Corporation et al.*, United States Court of Appeals, Seventh Circuit, January 12, 1972.)

BOARD FINDINGS AND RULINGS

NEW YORK

PERB Determines Appropriate Collective Bargaining Units

The New York Public Employment Relations Board (PERB) ruled on two separate unit determination disputes, and included coaches and special education teachers in units composed of classroom teachers.

• The PERB upheld the Central Islip Teachers Association's (CITA) petition which sought a unit representing "all members of the teaching staff on tenure, probation or interim appointment," including intramural and interscholastic athletic coaches employed by the Central Islip Board of Education, Union Free School District No. 13.

The employer school and the Central Islip Coaches Association (CICA), an intervenor to the petition, held that bargaining units for teachers and coaches should be separate. PERB noted that previously coaches had bargained as a separate unit on those conditions of their employment relating to coaching, and further that coaches were regulated by the New York State High School Athletic Association, an outside agency. However, the PERB accepted the CITA's argument that coaches were teachers of athletic programs designed as extensions of the basic physical education curriculum. Thus, coaches have a "role which [was] complimentary to. . . that of classroom teachers."

PERB, interpreting Section 207 of the Public Employees' Fair Employment Act, concluded that coaches have a "substantial community of interest and no significant conflict of interests which would preclude any group from engaging in fruitful and effective negotiations."

The PERB resolved that the CITA's petition for certification was timely and ordered a representation election among the employees of the appropriate unit. (*Central Islip Board of Education, Union Free School District No. 13, Town of Islip and Central Islip Teachers Association and Central Islip Coaches Association, Intervenor,* Public Employment Relations Board, August 27, 1971.)

• Teachers of homebound students, of special individual instruction, and of English as a second language were included in a unit composed of full-time classroom teachers. The PERB so ruled upon finding three specialty teacher groups possessed a sufficient community of interest with other members of the Great Neck Teachers Association, Inc. The record indicated that specialty teachers were hourly paid, nontenured, received no fringe benefits other than eligibility for New York State Teachers Retirement System, and could be terminated at anytime without notice. PERB found that these specialty teachers worked varied monthly schedules, instructed the same students and subject to the same supervision as classroom teachers. The high annual return-rate of these teachers—68 to 84 percent—indicated "an ongoing employment relationship with the employer," which entitled these teachers "to representation as 'public employees.'" Thus, the Great Neck Board of Education's contention, which held specialty teachers to be "casual and irregular employees with no guarantee of continued employment and no fixed working schedule" and no qualification for representation, was rejected.

Precedent for this ruling was PERB's prior decision to include summer school teachers in a regular teacher unit (NRD, 12-71, 8).

An election was ordered among the employees of the proposed unit. (*Great Neck Board of Education, Union Free School District No. 7 and Great Neck Teachers Association, Inc.,* Public Employment Relations Board, August 20, 1971.)

PENNSYLVANIA

Association Ordered to Cease and Desist Interfering with School Board's Student Teacher Training Program

The Pennsylvania Labor Relations Board (PLRB) ordered the Beaver County Education Association (BCEA) to cease and desist interfering with the school board's contractual obligation to train student teachers by prohibiting its members from accepting student teacher assignments.

Following a dispute with the Beaver County Board of School Directors in regard to paid teacher meeting and convention leave, the Association passed a resolution requiring teachers to refuse, under penalty of suspension, contractually agreed—to student teacher assignments.

The school board filed an unfair labor practice charge alleging Association interference with the board's contractual obligation to teacher training institutions. The BCEA was found in violation of Section 1201 (b)(7) of the Public Employment Relations Act (PERA), which prohibits "employe organizations" from

> Engaging in, or inducing or encouraging any individual employed by any person to engage in a strike or refusal to handle goods or perform services; or

threatening, coercing or restraining any person where an object thereof is to (i) force or require any public employer to cease dealing or doing business with any other person.

The PLRB noted that the teachers had been faced with the choice of complying with the resolution and losing their jobs as a result of breach of contract, or fulfilling their contractual obligations and being suspended from the BCEA. The Board ruled that the Association "not only engaged in conduct the effect of which was to induce and encourage said teachers to refuse to perform services, but its conduct also in effect threatened to force and require the . . . employer to cease dealing with state colleges and universities in the implementation of the student training program." (*Matter of Employees of Beaver County Education Association*, Pennsylvania Labor Relations Board, July 29, 1971.)

WISCONSIN

Teacher Reinstated With Back Pay For School Board Failure to Follow Negotiated Dismissal Procedures

A jointly selected board of arbitrators reinstated a teacher with back pay after finding that the Madison Board of Education, Joint School District #8, failed to follow negotiated dismissal procedures.

According to the agreement between the Madison Teacners, Inc. and the Board, negative evaluations of a teacher were to be sent to the teachers' association. Also, if a teacher's contract was being considered for nonrenewal, a memorandum was to be sent to the association before informing the affected teacher.

The teacher received several negative evaluations, none of which was forwarded to the association. The most recent evaluation recommended nonrenewal of the teacher's contract. The association contended that it was unable to satisfactorily represent the teacher because the negative evaluations were not timely sent. Further, the association held that dismissal proceedings could have been avoided if the evaluation had been timely sent, and that the school board had violated the agreement by disregarding the procedural machinery.

The school board argued that the agreement provision relating to negative teacher evaluations was illegal. The provision "constitutes Employer and Union interference with an employee's right to refuse Union representation." The school board also pointed out that according to the agreement the employer "has the option of either sending the negative evaluations to the Union or withholding them from the Union." The school board concluded that if the arbitrators found that the negotiated agreement had been violated, they would have the authority to order the teacher's reinstatement. It was argued by the board that only the employer had authority to hire, and that during grievance procedures the parties decided to remedy the situation through negotiation.

The board of arbitrators found the clauses which stipulated that negative evaluations be sent to employee organization were legal, and supported the association's contention that the negotiation agreement mandated the school board to notify the association of negative evaluations and dismissal notices. The arbitrators concluded that the school board's action in terminating the teacher's contract violated the agreement, pointing out that the employer's sole right to "hire and fire" was "limited by the terms of the agreement;" and since the agreement provided for binding arbitration of grievances, it implied the arbitrators' authority to award a remedy to an injured party.

On the basis of these findings, the arbitrators issued an award in the teacher's favor, which ordered that negative evaluations not timely received by the association be expunged from the teacher's personnel file, and that the teacher be reinstated to his former position with a contract for the 1971-72 school year and without a loss in longevity or other benefits. The teacher was also awarded full back pay less any earnings he received while he was not employed by the school board. (*Madison Teachers Inc., v. the Board of Education, City of Madison, School District #8*, Board of Arbitrators, January 17, 1972.)

Strictness Is Not Just Cause For Dismissal

An arbitrator ordered the Kenosha School Board to reoffer a tenured teacher his extracurricular coaching position after determining that his dismissal was arbitrary and based on "whim and caprice."

The teacher was denied the paid extracurricular position following a poor season. The Kenosha Education Association (KEA) grieved the dismissal which ended with arbitration. The school board contended during the grievance procedure that the dismissal was a "management prerogative." During arbitration, the board held that the dispute was neither arbitrary nor arbitrable, but was based upon "just cause."

The collective bargaining agreement between the KEA and the board states: "No teacher will be disciplined or deprived of any professional advantage without just cause." The KEA argued that the board's reasons for removing the coach were unsubstantiated and that the contract also prohibited the board from exercising its authority and power "in an arbitrary or capricious manner."

The arbitrator found no contrary evidence indicating that the school board's "dismissal of the grievant from basketball coaching was not a violation of the agreement's command against the

use of authority in an '*arbitrary* manner.'" The arbitrator questioned the allegation that the coach used profane language and scolded players in public. Further, student complaints, which the board emphasized, were discounted since the record indicated that most players sided with the coach, and only a few lodged complaints. The arbitrator pointed out that athletes, disappointed with a bad season, often "incline toward blaming the coach, when the truth of the fault lies in their own lack of ability."

The arbitrator also noted the existence of dissension between the coach and the administrative staff. The assistant superintendent, in particular, "acquired a dislike for the grievant and appears to have actively pushed for his removal." The arbitrator held that removal of a teacher to eliminate a source of friction among the staff was not "just cause" for dismissal.
(*Kenosha Unified School District #1 and Kenosha Education Association*, November 11, 1971.)

OTHER ITEMS OF INTEREST

NLRB Holds Dismissal Precipitated by Union Activity Discriminatory

A National Labor Relations Board (NLRB) trial examiner found that a Monmouth (New Jersey) College instructor was dismissed because of his union activities. The department chairman testified that he informed the economics instructor, a "vociferous and letterwriting proponent" of the Faculty Association of Monmouth College (FAMCO), of his discharge because of his inadequate, progress toward obtaining a Ph.D. However, the NLRB examiner concluded that "the decision to discharge [the instructor] was not made until [the college] learned of his union activities" and therefore, the instructor's dismissal was discriminatory.

The examiner noted that the instructor's progress toward his doctorate degree—six credits per semester—was the maximum allowed part-time candidates. Further, other instructors, who were retained, had been doctoral candidates for up to 11 years without receiving their degree.

The examiner found that the department chairman had considered the instructor's performance satisfactory, given him a raise, and assigned him additional administrative duties, which he competently performed. However, "only after [the instructor] became interested in FAMCO did [the chairman] become disenchanted with [him] and the alleged lack of progress he was making in attaining his doctorate status." (*Monmouth College and An Individual*, National Labor Relations Board, January 17, 1972.)

OHIO

Arbitrator Rejects School Nurse's Grievance

A grievance filed by the Dayton Classroom Teachers Association on behalf of a school nurse was rejected by a Federal Mediation and Conciliation Service (FMCS) arbitrator. The grievance concerned the board's failure to consult the nurse before changing her 1970-71 assignment which resulted in a too heavy workload. Although school nurses had been included in a teachers unit since 1969-70, their contractural rights did not include the right to grieve excess workloads or administrative transfers. To give nurses such rights was not in the power of the arbitrator, since "to do so he would violate the express provision of the agreement prohibiting him from altering, adding to, or subtracting from the terms of the agreement." (*Dayton City Board of Education and Dayton Classroom Teachers Association*, Federal Mediation and Conciliation Service, April 13, 1971.)

PENNSYLVANIA

NLRB Refuses Jurisdiction Over "Quasi-Public" Institution

A National Labor Relations Board (NLRB) majority decision ruled that Temple University, a "quasi-public" institution in relation to Commonwealth of Pennsylvania, was not covered by the National Labor Relations Act (NLRA). The panel dismissed a union petition seeking to represent 1,500 administrative, clerical, and technical employees of the university.

The Board had asserted jurisdiction over private, nonprofit educational institutions in a previous case involving Cornell University, a "state-related school" (NRD, 9-70, 10).

Temple University acknowledged that the criteria used in the Cornell case applied in the instant case, as well as asserting its status as a private, nonprofit educational institution. However, the university argued that the Board's assertion of jurisdiction would constitute interference with "governmental relations." The union contended that the university's admission of its status and its $1 million gross revenue brings it under the Board's jurisdiction.

The Board majority, noting the special relationship between the university and the state, which established the university as a "quasi-public higher education institution to provide low cost higher education for Commonwealth residents," found the state to have substantial influence on the university's finances, and that the state controlled one-third of the Board of Trustees. In light of this special relationship between the state and the university, the NLRB declared that it had no jurisdiction in this case.

The minority opinion held that Cornell also had a special relationship with the State of New York. Cornell operates four schools funded by the state, and their employees were included in a union approved by the NLRB. Therefore, employees of Temple University are under the jurisdiction of the Board.

The majority panel responded that, although the state has some control of Cornell, it is overwhelmingly a private institution. State control of Temple University far exceeds that at Cornell. (*Temple University—of the Commonwealth System of Higher Education and Distributive Workers*, National Labor Relations Board, January 24, 1972.)

NEGOTIATION NOTES

FLORIDA

Court Ruled Anti-Moonlighting Provision Unconstitutional

The Florida Supreme Court ruled as unconstitutionally vague an anti-moonlighting provision contained in a 1969 state statute. The law prohibited public employees from holding extra jobs that "tend to impair their independence of judgement."

The court's action supported an earlier decision by the Broward County Court in a case involving an electrical inspector who also worked as a night watchman. The supreme court acknowledged that the legislation was intended "to safeguard the public and insure honesty and integrity in government," however, the overriding factor was its unconstitutionality. The court concluded that it was important for the legislature to find a substitute provision.

INDIANA

State-Operated Hospitals Subject to Fair Labor Standards Act

The United States District Court, Southern District of Indiana, rejected a motion by the Health and Hospital Corporation that charges brought against it under the Fair Labor Standards Act by the Secretary of Labor be dismissed for lack of jurisdiction.

The state-operated Marion County General Hospital contended that the Act was not applicable under the federal Constitution, Eleventh Amendment, guarantee of sovereign immunity. The court pointed out that this amendment refers only to suits "commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign state." In the hospital's case, there was no Eleventh Amendment bar since the suit was brought by the Secretary of Labor, acting for the federal government.

The hospital further contended that the Act was not applicable to the case because "the Hospital is the ultimate consumer of the goods handled by its employees, and that such goods are not included within the definition of Section 3 (i) of the Act." The court replied that the question of the hospital as an "ultimate consumer" was not being considered. The court stated further that Section 3 (r) and (s) specifically included the operation of a hospital within its definitions. The motion by the defendant to dismiss the case was rejected. (*James D. Hodgson, Secretary of Labor, United States Department of Labor v. Health and Hospital Corp., Marion County, Indiana, and Marion County General Hospital,* United States District Court, Southern District of Indiana, Indianapolis Division, December 3, 1971.)

NEW YORK

New York City Collective Bargaining Law Amended

An amendment to the New York City Collective Bargaining Law (NYCCBL), which became effective January 12, 1972, provides final and binding arbitration in disputes between New York City public employees, and the municipal employer.

New York is the first major city to provide finality in dispute resolution. Other amendments to the law increased the authority of the Office of Collective Bargaining and the New York City Collective Bargaining Law; provided criteria for impasse settlement; set down a list of improper practices; and outlined a grievance machinery for discipline and discharge. The amended NYCCBL also allows for future inclusion in contracts of an agency shop provision, pending revision of the Taylor Law.

The amendments restructured the city's process of labor dispute resolution, and revised both impasse panel procedures and the final resolution of a dispute. The NYCCBL was amended to bring it in line with the 1969 Taylor Law Amendments which required the city to "adopt provisions and procedures which would effectuate the fundamental principles" of the state law. The NYCCBL embraced 300,000 New York City public employees. Excluded from NYCCBL coverage are teachers, para-professional teaching employees, and Transit Authority employees.

Residency Requirement is a Management Prerogative

The New York Public Employment Relations Board (PERB) held that a residency requirement proposed by a school board was a management prerogative, and therefore not subject to negotiation. Accordingly, the PERB dismissed the Rochester School Board's improper practice charge that the Association of Central Office Administrators had refused to bargain on inclusion of the residency requirement in the parties' collective bargaining agreement. (*Association of Central Office*

Administrators and Board of Education, City School District of Rochester, Public Employment Relations Board, July 29, 1971.)

PENNSYLVANIA

New Grandfather Agency Shop Clause Unenforceable Under PERA

The Pennsylvania Labor Relations Board found that inclusion of a grandfather agency shop clause in an agreement between the University of Pennsylvania and the Teamsters Local 8 was an unfair labor practice. Changing the scope of a maintenance of membership clause violated the Public Employee Relations Act (PERA).

The case was brought before the Board by a non-union laboratory technician. The Teamsters and the university had signed a collective bargaining agreement, which extended from October 1967 to May 1970, and which required only employees who designated the union as their "exclusive bargaining representative" to pay union fees. In May 1970, the parties agreed to extend the 1967-70 contract until a new agreement was reached. In December 1970, non-union members of the bargaining unit were informed that they would be required to pay agency shop fees under the new contract, effective January 1, 1971.

The complainant, after some protestation, paid the fees in order to retain employment. In March 1971, the complainant was informed by a union official that unless he continued paying agency shop fees, he would be discharged. A counsel for the university upheld the union official's statement.

A Board majority maintained that "maintenance of membership is the most extensive form of union security permitted" under PERA. Under Section 904 of the PERA, any provision of an agreement in effect on January 1, 1970 which is inconsistent with the PERA, but otherwise legal, shall continue until the expiration of the agreement. Section 904 also provides that "parties to such an agreement may continue voluntarily to bargain on any [such] items after the expiration date of any such agreement and for so long as these items remain in any future agreement." The majority of the Board agreed with the complainant's argument that these particular clauses of Section 904 allow parties to bargain for inclusion of inconsistent terms, but may not include a more severe security clause than contained in a previous agreement.

The dissenting view emphasized the idea of bargaining as "not an activity in which one party merely tries to retain what he has while the other attempts to diminish it;" further Section 904, even though inconsistent with PERA, permitted the "enlargement of contract terms" which remained binding after the passage of the Act. The minority also felt that since the complainant had benefitted from union representation, the union should not be required to refund the agency fees.

The Board ordered the university and Local 8 to stop collecting agency fees from complainant, and directed the union to reimburse complainant for payments made. (*Pennsylvania Labor Relations Board v. Teamsters Local Union No. 8 and the Pennsylvania State University*, Pennsylvania Labor Relations Board, December 20, 1971.)

PLRB Public Employee Rules and Regulations Amended

The rules and regulations of the Pennsylvania Labor Relations Board (PLRB) were revised, effective September 10, 1971.

The showing of interest required before a public employee representative may intervene in a joint election request was changed from one to 10 percent. A one percent showing of interest was deemed necessary for placement on the ballot.

The words "or agent" were added to the unfair practice proceedings, Rule 3.19. Interested parties in an unfair practice proceeding may now "submit to the board, or any member or agent thereof, for consideration facts, arguments, offers of settlement or proposals of adjustment."

Added to the regulated hearings section was the rule making the transcript of the testimony part of the record unless objections were filed with the board within 15 days. The procedure for reviewing objections was outlined.

RHODE ISLAND

IRS Orders Correction of 5.5 Percent Pay Violation

Pay raises to members of the Johnston Federation of Teachers (JFT), Local 1702, AFT, AFL-CIO, which ranged from 6.6 to 8.2 percent, violated federal wage increase guidelines. The Internal Revenue Service (IRS) informed the Johnston School Board that "immediate corrective action should be taken" to bring the pay increases within the 5.5 percent limit. However, the school board elected to apply for an exception to the guidelines.

The settlement, which had been recommended by an arbitration panel, increased salaries $450 at the bottom of a 10-step pay schedule and $850 at the top. The settlement ended a 5-day walkout.

The IRS investigation apparently resulted from complaints regarding the Johnston settlement. In

addition taxpayers have sued for court-ordered enforcement of the 5.5 percent pay increase ceiling and an injunction against the raises. To date, the superior court has declined temporary restraint of payments pending a formal hearing.

ATTORNEY GENERALS' OPINIONS

Iowa

The long-standing practice of deducting union dues from the salaries of university employees was upheld since there was no legislation to the contrary.

New York

A union was to receive dues withheld during a labor dispute between a public employer and public employees. Since the dispute did not constitute a strike, no legal ground for withholding the dues existed because of an alleged strike. The state attorney general authorized the dues deduction for an unrecognized and uncertified union provided the employees so requested in writing.

FEDERAL PAY BOARD GUIDELINES

. . . LONGEVITY AND AUTOMATIC PROGRESSION INCREASES due under existing contracts or prior practices have been exempted "without regard to the 5.5 percent standard."

. . . TERMS AND PAY PRACTICES in effect prior to November 14 may be implemented, but are subject to Board review if challenged "by a party at interest or by five or more members of the Board."

. . . PAY RETROACTIVITY conditional. Congress differs widely on this issue. The House Banking Committee recommends prohibition of retroactive payments only if they are "grossly disproportionate to the rate at which wages or salaries have increased in the economy generally." A stronger stand is taken by the Senate Banking Committee, which would allow back pay if not "unreasonably inconsistent with [Pay Board] standards for wage and salary increases."

. . . FEDERAL EMPLOYEES RECEIVE 5.5 PERCENT INCREASE. The signing of the Economic Stabilization Act of 1971 assured federal white collar workers of a pay increase in early 1972. The Act authorized a single increase of 5.5 percent over the entire year, instead of a delayed increase in June 1972 with an additional increase in October. Dissatisfied blue collar workers also received their anticipated increase which had been embargoed during Phase I. An Executive Order granted raises to skilled and semi-skilled government workers. The Civil Service Commission was directed under this order to limit increases to guidelines established by the Pay Board. The Commission announced that it will review the need to continue to pay premium salaries for certain "shortage" occupations in the professional and scientific fields.

. . . SEPARATE CATEGORY URGED FOR STATE AND LOCAL GOVERNMENT EMPLOYEES. The Committee for State and Local Government Cooperation recommended that a separate wage review category be established for state and local government employees. The Pay Board asked for a more elaborate statement of intent, but indicated tentative approval of the recommendation. In substance, it calls for "A new pay adjustment category, designated as Category IV, should be established covering all state and local governmental units, regardless of size." However, any pay adjustments which exceed the guidelines would be subject "to the reporting requirements of the regulations." PUBLIC EMPLOYEE UNIONS have been urging that public employees "should not be formally subject to the program (Economic Stabilization Program) but should follow its goals 'in good faith.'"

STATISTICS

PUPIL-STAFF RATIO PROVISIONS: 1970-71

The NEA Research Division analyzed 1,529 negotiated agreements, and found that 100 (6.5 percent) contained pupil-staff ratio provisions. Many agreements also contained provisions for class size.

Pupil-staff ratio provisions stipulate the number of certificated staff to be hired in proportion to pupil enrollment. Pupil-staff ratios vary among grades or classes and among different certificated staff positions. Table 1 lists staff positions covered by pupil-staff ratios. The categories listed in this table and in subsequent tables are not mutually exclusive.

Total certificated staff ratios are contained in 16 provisions, with three excluding administrators. Most provisions specified different ratios for different personnel groups, or one ratio for a specific professional group. Elementary and secondary-school teachers had the highest incidence of pupil-staff ratios; ranking third are agreements specifying ratios for guidance counselors. Specialist teachers of physical education, art, and music are covered by pupil-staff ratios. Pupil services personnel which include librarians, nurses, social workers and psychologists are also considered in determining pupil-staff ratios. Ratios pertaining to certificated staff members fall in two general patterns. One pattern applied to either certificated staff members as a whole or to classroom teachers, and ranged from 20 to 31 pupils per teacher. The second encompassed specialist teachers and pupil services personnel, with a span of 300 to 1,000 pupils per teacher.

All ratios in this study are calculated on the basis of one teacher per x number of pupils, although different provisions in the survey expressed ratios in various forms, i.e., one provision required 40 teachers for every 1,000 pupils, while another required one teacher for every 25 pupils.

Table 2 shows the ratios covering total certificated staff and classroom teachers. The ratios relating to secondary school teachers frequently average between 25 and 27 pupils per teacher, while the largest numbers of elementary school pupil-staff ratios provided for 25 to 27 and 28 to 30 pupils per teacher in equal numbers.

The ratios in the second group (Table 2) ranged from one staff member for every 300 pupils to one staff member for every 1,000 pupils. The variety of ratios in this group is attributed to the diverse duties of the staff members. Pupil-staff ratios for guidance counselors, on the whole, ranged between 300 and 600 pupils, as do the ratios for physical education, art and music teachers and librarians. The ratios for psychologists, nurses and social workers generally ranged between 500 and 1,000 pupils per staff member.

TABLE 1.—PUPIL-STAFF RATIO PROVISIONS: STAFF POSITIONS COVERED BY RATIOS, 1970-71

Staff Position Covered	Number	Percent
1	2	3
TOTAL NUMBER OF AGREEMENTS CONTAINING PROVISIONS CONCERNING PUPIL-STAFF RATIOS	100	100.0%
POSITIONS COVERED:		
Total certificated staff	16	16.0%
Total certificated staff excluding administrators	3	3.0
Elementary teachers	68	68.0
Secondary teachers	46	46.0
Guidance counselors	24	24.0
Librarians	7	7.0
Physical education teachers	7	7.0
Music teachers	6	6.0
Art teachers	6	6.0
Nurses	3	3.0
Social workers	2	2.0
Psychologists	2	2.0
Other	7	7.0

All pupil-staff ratio provisions found in negotiated agreements are not necessarily in effect at the time of the agreement: 65 percent contained pupil-staff ratios in effect; 51 percent provided for pupil-staff ratios to be achieved; and 4 percent included both actual and projected staff ratio figures. An example is listed below:

> The Board will provide sufficient budgetary support to allow an increase in the staffing of the schools from 51.8 to 53.0 professional per 1000 students.
>
> [HOWARD COUNTY SCHOOL DISTRICT
> CLARKSVILLE, MARYLAND]

Several examples of varying pupil-staff ratio provisions follow. These are samples only, and are not to be regarded as exemplary.

> The Committee and the Association recognize that desirable pupil-teacher ratios are an important aspect of an educational program. Therefore, although it is agreed that the Committee may not always be able to control the pupil-teacher ratio in some areas, due to lack of

TABLE 2.–PUPIL-STAFF RATIO FOR TOTAL CERTIFICATED STAFF, CLASSROOM TEACHERS, SPECIALISTS, AND NONINSTRUCTIONAL STAFF, 100 AGREEMENTS, 1970-71

Pupils Per Teacher	Total Certificated Staff	Total Certificated Staff Without Administrators	Elementary School Teachers	Secondary School Teachers	Other
1	2	3	4	5	6
20 or fewer	10.0%	...	3.0%	6.0%	...
21-24	...	...	4.0	4.0	...
25-27	4.0	1.0	27.0	21.0	4.0
28-30	1.0	1.0	27.0	14.0	1.0
31 or more	1.0	1.0	7.0	1.0	...

	Guidance Counselors	Librarians	Physical Education Teachers	Music Teachers	Art Teachers	Nurses	Social Workers	Psychologists	Other
	2	3	4	5	6	7	8	9	10
300 or fewer	5.0%	1.0%	3.0%	1.0%	1.0%	...	...	...	...
301-399	12.0	...	2.0	...	...	...	...	...	...
400-499	5.0	1.0	1.0	1.0	...	...	...	...	...
500-599	1.0	4.0	1.0	3.0	4.0	1.0	...	...	...
600-999	1.0	1.0	...	1.0	1.0	1.0	1.0	...	1.0
1,000 or over	...	...	...	...	...	1.0	1.0	2.0	1.0

proper facilities, it is also agreed that the Committee will continue to give top priority to providing acceptable pupil-teacher ratios that are conducive to effective teaching and learning.

It is agreed by the Committee and the Association to work cooperatively toward the following desirable goals concerning the average pupil-teacher ratios in the following areas:

Elementary Schools
- Preprimary 15-1
- Grades 1-6 25-1

Junior and Senior High Schools
- Academic Subjects 25-1
- Shop (Industrial Arts Classes) . . . . . 18 - 20-1
- Physical Education 40-1
- Study Hall 65-1
- Special Class (Educable Classes) 18-1*
- Trainable Class 12-1*

*See State Requirements

The Committee and the Association agree that ratios as established above shall be considered as desirable goals for the system; and that transfer of pupils from school to school shall be effected whenever possible, in order to equalize teacher loads to the closest

[FAIRHAVEN, MASSACHUSETTS]

TEACHING CONDITIONS - The Board and the Association recognize the importance of adequate staffing to assure high quality education for all pupils, which is the goal of both the Board and the Association.

There shall be a district-wide ratio of not less than 1 professionally-certified employee to each 17 pupils.

[CROTON, NEW YORK]

THE FOLLOWING GROUP RATIOS SHALL BE IN EFFECT

Elementary Classroom Teachers – 35.52 teachers per thousand students

Secondary Classroom Teachers – 44.9 teachers per thousand students

Elementary Special Services – 6.46 teachers per thousand students

Junior High Counselor – 3.28 counselors per thousand students

Senior High Counselors – 3.34 counselors per thousand students

Special Education Personnel – 2.86 per thousand students

Librarians – 2 per High School and 1 per Junior High.

[WARREN, MICHIGAN]

It is recommended that the Board endeavor to provide the following special area professional services on the basis of the following suggested pupil-teacher load.

Elementary Art	500-600:1
Junior High and Senior High Art	100-125:1
Elementary Music	500:1
Vocal	300:1
Instrumental	125:1
Physical Education-Elementary	275:1
Physical Education-Junior Senior High	300:1
Nurse	500:1
Guidance	250-300:1

[WHITNEY POINT, NEW YORK]

In implementing the objectives of instruction policy and in recognition of the problems of discipline, counseling and instruction when the teaching load is excessively large, the following instructional load standards or guidelines are established. The District will–

Maintain an average District ratio of students to full-time equivalent teachers at no more than 30:1;

[SEATTLE, WASHINGTON]

PAY DIFFERENCES BETWEEN MEN AND WOMEN REPORTED

A Bureau of Labor Statistics' (BLS) study comparing average earnings of men and women in 10 selected job classifications in 85 metropolitan areas for the year July 1969 to June 1970 shows that weekly salaries for men averaged 18 percent more than those for women.

Earnings for men in eight selected office classifications averaged 18.2 percent more than women in similar occupations. In two plant occupations, the male advantage averaged 16.0 percent. In firms employing both men and women, men have an overall wage advantage of 11 percent. The advantage widened to 22 percent in comparisons between firms employing only men and those employing only women.

A comparison of male and female earnings does not conclusively prove or disprove wage discrimination because the study did not eliminate all factors contributing to sex differentials. One such factor is longer job tenure by men (double that of women); another, the differences in specific job descriptions.

Table 1. gives data on pay differences between men and women.

TABLE 1.–AVERAGE EARNINGS[a] OF MEN AND WOMEN IN 10 OCCUPATIONAL CLASSIFICATIONS IN ALL METROPOLITAN AREAS COMBINED, FEBRUARY 1970[b]

Occupation	All establishments			Establishments employing both men and women			Establishments employing only men or women		
	Average weekly or hourly earnings		Percent by which men's earnings exceeded women's	Average weekly or hourly earnings		Percent by which men's earnings exceeded women's	Average weekly or hourly earnings		Percent by which men's earnings exceeded women's
	Men	Women		Men	Women		Men	Women	
Office									
Clerks, accounting, class A	$145.00	$122.00	19	$145.50	$129.50	12	$145.00	$113.50	22
Clerks, accounting, class B	119.50	95.50	24	119.50	105.00	14	121.00	94.50	23
Clerks, order	133.00	99.00	34	137.00	109.50	25	131.00	97.50	34
Clerks, payroll	139.50	110.00	27	144.50	123.00	13	134.50	103.00	25
Office boys or girls	83.50	82.00	8	88.00	83.50	5	88.50	81.00	9
Tabulating machine operators:									
Class A	149.00	134.50	11	143.00	140.00	6	149.50	129.00	15
Class B	124.50	112.50	11	123.00	117.50	5	125.50	110.50	14
Class C	106.50	95.00	12	103.00	104.00	4	106.00	93.50	13
Plant									
Janitors, porters, and cleaners	2.45	2.13	15	2.42	2.14	13	2.63	1.92	32
Packers, shipping	2.90	2.48	17	2.89	2.62	10	2.91	2.39	22
Unweighted average difference	-----	-----	18	-----	-----	11	-----	-----	22

Source: Buckley, John E., "Pay Differences Between Men and Women in the Same Jobs," **Monthly Labor Review**, 94:36-39, November, 1971.

[a]Earnings of office workers relate to regular straight-time salaries that are paid for standard workweeks. Earnings of plantworkers relate to hourly earnings, excluding premium pay for overtime and for work on weekends, holidays, and late shifts.

[b]Average month of reference. Data were collected during the period of July 1963 through June 1970.

SPECIAL REPORTS

BRIEFS OF RECENT AGREEMENTS

Elgin, Illinois

Between Board of Education of Elgin Public Schools, District U-46 and Elgin Teachers Association, effective September 2, 1971 to August 18, 1972; automatic renewal unless either party gives written notice of desire to modify the agreement. Approximately 900 certificated professional employees.

COMPENSATION: B.A., $8,200 to $11,939, 12 increments; B.A. plus 24, $13,555 maximum; M.A., $9,512 to $14,924, 15 increments; M.A. plus 24, $16,277 maximum; 6th year, $16,728 maximum.

Differentials: (Step I, II based upon B.A. base) head varsity football, basketball, $1,148 (.14) to $1,230 (.15); head varsity swimming, wrestling, baseball, outdoor track, $738 (.09) to $820 (.10); assistant sophomore football, basketball, head junior high basketball, $615 (.075) to $697 (.085); head varsity cross country, head varsity tennis, golf, junior varsity wrestling, sponsor high-school student council, senior high-school forensics, senior high-school dramatics, $574 (.07) to $656 (.08); senior class sponsor, junior high-school newspaper, girls club sponsor senior high, $328 (.04) to $410 (.05); high school, junior high-school band instructors, $30/parade; high school band instructors, $20/football game.

LEAVES: 12 days' annual sick leave for initial 3 years' service, 10 days thereafter with unlimited accumulation, however, only 90 days in a given year; participation in state retirement program compulsory, provides temporary disability benefit of 40 percent of salary to member with 3 or more years' of service; 2 days personal business leave deducted from sick leave; separate emergency leave days (non-cumulative) with 3-day limitation; sabbatical leave at half pay for one year after 6 years' service.

INSURANCE: Board-paid hospitalization-major medical insurance for individual and family (spouse must indicate lack of other hospitalization), effective one month after initial employment: board-paid $5,000 term life insurance; tax-sheltered annuity program through payroll deduction; board-paid medical examination for all new teachers; annual TB examination performed by other than school facility or mobile unit paid by teacher.

ASSOCIATION: Payroll dues deduction for local, state, and national Associations; Association has right to the use of school facilities and equipment; Association representative allowed school visitation to investigate conditions, problems, etc.; 15 days' leave granted to Association at no expense to the Association or teacher for substitutes; Association designated 60 minutes at the beginning of new teacher orientation with costs paid by Association.

INSTRUCTION: Secondary-school teachers assigned no more than 6 daily class periods; elementary school teachers assigned no more than 26 teaching hours weekly, less scheduled breaks; classroom teachers may use specialist's class time as preparation period; special education program to be expanded with 2 teachers for testing and evaluation of maladjusted children; clerical aides provided in secondary schools, 1 aide to 25 teachers; teachers' committee to establish job description for aides, with hiring subject to teacher's approval; teachers to report "reasonably prior" to the students' dismissal for student and/or parent conferences; Board to provide smocks and safety glasses to teachers assigned subjects requiring their usage; joint school committee with Citizens Advisory Council to evaluate extension of school year; joint instructional council to recommend teaching techniques, innovative research projects, including bi-lingual and minority studies programs; "Supervisory Master teachers" are tenured teachers who accept a student teaching assignment, remuneration paid to the school system shall in turn be paid to the teacher.

PERSONNEL: Grievance procedure ends with final and binding arbitration; 30 minute duty-free lunch period; 10 minute relief periods for elementary school teachers in the morning and afternoon; monthly staff meetings not to exceed one hour; 5 inservice days during school term; "A plan for inservice education for teachers and administrators to assist them in understanding and dealing with human and inter-group relations problems that exist within the district", funded from school budgetary resources; no-strike clause; professional growth requirement of 5 credits to be earned in each 5-year period relating to the teacher's field or instructional responsibility; promotional vacancies posted 20 days prior to filling vacancy, selection based on

applicant's ability to relate to others, personality and character, health, academic background, school district teaching experience, and, usually, a personal interview; procedure for evaluation of teachers; 5 classroom visitations, to be held 3 weeks apart, no less than 30 minutes in length from October thru March; teacher may review all reports placed in personnel file and reproduce, at his own expense, contents other than confidential information; building principals and central administrative staff will "reasonably" support teachers in all matters relating to student discipline; no reprimand or discipline may be taken against a teacher without the Association representative, if requested by the teacher; substitute teachers expected to perform duties normally performed by regular teacher, including special teachers and nurses.

Kodiak, Alaska

Between Kodiak Island Borough School District and Kodiak Borough Education Association, effective September 1, 1971, to December 31, 1972; automatic renewal unless 30 days' notice is given by either party prior to expiration date. Within 20 days' receipt of such notification, a joint conference will be arranged for negotiation of a new agreement. Approximately 160 certificated professional employees.

COMPENSATION: (Based on State-operated school salary base in Area 3) B.A., $10,500 to $14,175, 6 increments; B.A. plus 18, $15,435 maximum; M.A., $11,970 to $17,325, 9 increments; M.A. plus 36, $19,635 maximum; Ph.D., $21,000 maximum.

Differentials: high-school athletic director, music-band director, elementary intramurals, $1,050; varsity basketball, $1,365; wrestling, track, junior varsity basketball, $735; boys' intramurals, drama (2 plays at 3 percent each), music-vocal, $630; student council, $525; high-school cheerleader and Pep Club, photo club, drill team, yearbook, $420; girls' athletic association, cross country, junior class sponsor, $315; senior class sponsor, $158.

Other: Head teachers and teachers in charge receive additional pay ranging from $400 to $600; board pays round trip air fare of village teacher and family plus 200 pounds of air freight from Kodiak to the duty station; vocational equalization compensation based on the amount of work experience required to obtain an Alaska Vocational Certificate:

The Board recognizes the need to compensate vocationally certified personnel for the amount of work experience required to obtain an Alaska Vocational Certificate. The Board shall pay four per cent (4%) of the base salary for each year required, but not to exceed three years, for work experience that meets the following provisions:

A written recommendation for equalization pay by the respective vocational department head and/or the vocational director.

Certified documents from previous employers verifying at least six (6) consecutive months of occupational experience above the learner level in his or her training field for each year of work experience claimed for certification (the six consecutive months requirement may be comprised of twenty six (26) consecutive weeks of forty (40) hours per week or fifty two (52) consecutive weeks with no less than twenty (20) hours per week).

In special cases due to the nature of the vocation, the six consecutive months requirement may be waived.

LEAVES: 2 unrestricted personal leave days, 4 days' accumulation (village teachers allowed 2 extra days' travel time); 3 separate days bereavement leave for death or impending death in immediate family, 7 days if outside Alaska; half-day for observation of other personnel in performing their duties; sick leave bank plan pending legislative approval; sabbatical leave at half pay for one year granted at board's discretion.

INSURANCE: Board pays 80 percent of group health insurance for individual and family; $50,000 accidental death or dismemberment insurance for personnel traveling on school business.

ASSOCIATION: Association has use of school facilities; one hour of school time per month for Association meetings; Association has access to school financial records; Association president allowed an hour released-time per day for organization business, provided his class can be covered without hiring a substitute.

INSTRUCTION: Whenever possible, optimal pupil-teacher ratio to be as follows:

Special education	1 to 10
Kindergarten	1 to 22 (with teacher aides)
Grades 1-3	1 to 25 (with teacher aides)
Grades 4-6	1 to 26
Grades 7-12	1 to 30 (maximum 150 pupils per teacher)
Vocational trade and industry	1 to 15

"Teachers affected by an overload will be excused from extra duties;" Board reimburses employees purchasing minor equipment (nonexpendable items) and other materials for use in their professional duties on a 50-50 matching basis up to $100 per year—"Teachers are required to keep all receipts and records and shall put in one claim for reimbursement by April 15 of each academic year. If a teacher leaves the district in less than three academic years from the initiation of this plan, the nonexpendable materials and equipment shall remain with the school." Otherwise, the items purchased become the property of the teacher. Teachers requested

to work on curriculum programs are to be given leave time. The school calendar is to be prepared jointly by the administration and the Association with final approval by the board on or before July 1 of the academic year.

PERSONNEL: Grievance procedure ends in final and binding arbitration. Board pays $33 per semester hour for approved courses, with a maximum of 3 semester hours: "A written request including course description and rationale for taking the course must be submitted to the superintendent's office at least 15 days before the course commences. Compensation will be made only to the teachers returning to the District. Tuition will not be allowed in conjunction with sabbatical leave. Teachers shall be encouraged to take appropriate courses in the fields of anthropology, psychology, sociology, as well as education." Joint study of an evaluation plan to be implemented including but not limited to "self-evaluation, peer-evaluation, and where feasible student-evaluation." Board will hire two certified full-time substitutes, one for the elementary level and one for the secondary level. A full-time staff assistant will be hired as village-school coordinator with sufficient travel funds for regular school visits. Joint educational study committee to present recommendations to the Board regarding various policies relating to evaluation, differentiated staffing, performance contracting and automatic salary increases. "If possible, the committee in whole or in part will make on site observations of such educational policies as are being discussed where they are operational. The committee will also have the latitude to call to its meeting various representatives of the Board, community, teacher or university or other informed citizens who may be able to present vital facts to the committee."

Las Vegas, Nevada

Between Clark County School District and Clark County Classroom Teachers Association, effective July 1, 1971 to June 30, 1973; automatic renewal, unless either party gives written notice of a desire to modify the agreement. Approximately 3,000 certificated professional employees.

COMPENSATION: (effective 1971-72) B.A., $7,530 to $9,462, 6 increments; B.A. plus 32, $11,608 maximum; M.A., $8,817 to $12,037, 10 increments; M.A. plus 32, $14,550 maximum.

Differentials: athletic director, $1,054 (.14); head football, basketball, $979 (.13); head baseball, track, wrestling, $904 (.12); head soccer, girls basketball, volleyball, $678 (.09); assistant football, basketball, $828 (.11); girls softball, track, $602, (.08); tennis, golf, bowling, $452, (.06); chorus, drama, $640 (.085); yearbook, $753 (.10); Pep Club, cheerleader, student council, $226, (.03); vocational teachers, certificated, $600; specialist teachers, $200.

Other: Teachers assigned to remote areas, $750 incentive pay; coordinating teachers with supervisory responsibility in speech therapy, homebound teacher, nursing, ESL bilingual program teacher, $1,000; teachers assigned as school bankers (with maximum number of assigned hours based on student enrollment), adult education, and inservice training instruction, $6 per hour.

LEAVES: 15 days' sick leave credited immediately, contingent upon reporting on first day, 75 days maximum accumulation; employees with more than 5 years' service may apply for extended sick leave (which is the amount of leave dropped from the employee's credit because of the 75-day maximum limit); 3 days' bereavement leave deducted from sick leave for each occurrence in the immediate family with additional time allowed for travel, maximum leave not to exceed 5 days; paid leave as needed for jury duty; 10 days' paid leave for military reserve obligation less military pay (applies only to an emergency and not to active duty); 15 days' paid leave for active duty with the national guard.

INSURANCE: (effective July 1, 1971) Board pays $15.76 for group hospitalization-medical insurance plan; (effective October 1, 1971) board pays $20.50 for the same plan; Board pays cost of required TB tests and periodic X-ray examination.

ASSOCIATION: Payroll deduction for local, state, and national Association's dues; Association allowed use of school buildings on school days; 150 man-days with pay granted Association representatives to attend meetings or conferences; Association president granted a year's leave of absence without pay during his term of office; upon written request, Association president-elect is granted a minimum of 15 days' paid leave for school visitation and other matters; Association representatives on the STALC (School Trustees-Association Liaison Committee) released from school duties for monthly meeting.

INSTRUCTION: 7-hour workday for teachers, except for attendance at staff meetings or parent conferences; staff distribution based on 1969-70 budget formula on a district-wide basis; board has established a high priority of providing library services outside the staff allocation in elementary schools with an enrollment of more than 400.

PERSONNEL: Grievance procedure ends with final and binding arbitration; no written report or reprimand may be included in the teacher's personnel file without the teacher's acknowledgement; 30-minute duty-free lunch period; released time for elementary-school teachers during specialist teacher's class time; classroom teachers,

other than vocational or technical, required to have a bachelor's degree; teachers are required to attend no more than 3 evening meetings per school year; summons received in connection with school-related assault or battery must be reported to the principal within 5 days of receipt; legal counsel may be given upon request but is not obligated to officially represent the teacher in civil proceedings; joint committee for school facility shall make recommendations for future priorities; no-strike clause.

Ithaca, New York

Between Ithaca City School District and Ithaca Teachers Association, effective July 1, 1971; automatic renewal, provided that either party desiring to amend the agreement notify the other by December 1 of each school year. Approximately 400 certificated professional employees.

COMPENSATION: (1971-72 salary schedule based on 1.07 x 1970-71) B.A., $7,330 to $10,754, 10 increments; B.A. plus 10, $10,968 maximum; M.A., $7,972 to $11,396, 10 increments; M.A. plus 30, $12,038 maximum; Ph.D., $12,680 maximum.

Differentials: head varsity football, $1,626; head basketball, wrestling, $1,198; swimming, $909; hockey, $856; gymnastics, $775; JV wrestling, $642; lacrosse, $722; tennis, $481; cheerleading, chaperone, $214; newspaper adviser, free period in place of class, plus $150; marching band director, $200; senior class adviser, $200; club adviser, $50.

Other: Home teacher paid 1/6 of 1/230th of teacher's base salary per hour.

LEAVES: 10 days' sick leave credited immediately, unlimited accumulation; 3 personal leave days; 2 days for school visitations or observations; paid leave as necessary to attend professional conferences or court appearances; 5 days bereavement leave for death or serious illness in immediate family; sabbatical leave at full pay for half year or half pay for full year after 7 years' service.

INSURANCE: Board pays 80 percent of Blue Cross-Blue Shield "$7,500" plan with major medical for individual and/or family coverage; tax-sheltered annuity program through payroll deduction; reimbursement for on-the-job property loss or damage; full pay benefit for job-related assault or accident, less Workmen's Compensation.

ASSOCIATION: Payroll deduction of Association dues; Association has use of school facilities, plus a furnished office; Association allotted 10 minutes at the close of faculty meetings for organization business; Association's building representatives allowed free time during school hours for organization business; Association may initiate discussions on development of new programs.

INSTRUCTION: Secondary-school teachers not required to teach more than 2 subject areas and not more than 3 teaching preparations; teachers not required to be in school more than 10 minutes before or after dismissal; early dismissal one hour per week for conferences and workshops; teachers have a voice in textbook selection and budget priorities for supplies and instructional equipment; additional clerical staff to be hired to relieve some of the professional staff from non-teaching duties; additional special area teachers to be hired; joint educational committee to improve and expand curriculum for the immediate career bound student.

PERSONNEL: Grievance procedure ends with final and binding arbitration; teacher may review his personnel file and respond in writing to derogatory material, administrators are encouraged to file "information of a positive nature indicating special competencies, achievements, performances or contributions of an academic or professional nature," with teacher's written acknowledgement; minimum 30-minute duty-free lunch period; 40-minute daily preparation period for elementary-school teachers which may be scheduled during the specialist teacher's class time, plus 15-minute recess period daily by mutual agreement of building principal and staff; one preparation period daily for secondary school teachers; teachers assigned extra student teaching periods compensated at the rate of 1/6 of day's salary; department heads' duties and responsibilities in teaching, supervision, and administration dependant on the number of teachers in department; attendance at afternoon staff meetings optional; vacancies posted twice a semester at least 15 days prior to submission of last application and no less than 10 days before that date, preference to applicants from within the system; school facilities failing to meet safety standards to be reported, with cost estimates for their correction by a joint committee; teacher peer-evaluation procedure to be further developed with aid of parents and students; teachers act "in loco parentis" to students with disciplinary problems; Board provides legal counsel agreeable to the teacher in defense of any charges from a job-related suit and will save the teacher harmless of all liability in accordance with such statutes; teachers returning to the system within 5 years of resignation from the system, will be restored to the next position on salary schedule or to such higher position as they may be entitled on the basis of experience gained during their absence; pupil-teacher staffing ratios based on enrollment figures of September 30, "upward or downward staffing adjustments will

be done on a 1/2 teacher basis using increases or decreases on pupil enrollment based upon 1/2 the staffing ratio for that school;" provision for faculty participation in hiring and assigning school administrators:

HIRING AND ASSIGNING PRINCIPALS—Prior to the hiring and/or assignment of any building principal, the Ithaca Teachers Association will be notified and will appoint a committee of not more than 5 members from the building involved to investigate and recommend relative to the applicants. After the initial screening by the administration, the committee will be advised of the names and qualifications of the candidates being considered for the position and will be afforded an adequate opportunity to interview any or all of said candidates upon its request. After said interviews and such other inquiry as the committee shall deem fit to conduct, and consultation with the Superintendent, the committee will make a confidential report of its evaluation and recommendations to the Superintendent for consideration in hiring and assigning.

TEACHER-PRINCIPAL-PROGRAM EVALUATION—A principal will distribute an evaluation form to the professional staff in his building and/or department no later than February 1 for the purpose of teacher-principal-program evaluation. Some form of feedback and/or discussion will follow within 30 days.

HIRING AND ASSIGNING SUPERINTENDENT OF SCHOOLS — Prior to the hiring of a Superintendent of Schools, the Ithaca Teachers Association will be notified and will appoint a committee of not more than 9 members to review and recommend relative to the applicants. The committee will be advised of the names and qualifications of the final candidates being considered for the position and afforded an adequate opportunity to interview any or all of said candidates upon its request. After said interviews and such other inquiry as the committee shall deem fit to conduct, and consultation with the appropriate committee of the Board, the Ithaca Teachers Association's committee will make a confidential report of its evaluation and recommendations to the Board for its consideration in hiring and assigning.

SELECTED NEGOTIATED PROVISIONS: HIRING AND ADVANCEMENT

An analysis of 1,529 comprehensive classroom teacher agreements effective during the 1970-71 school year in systems with a pupil enrollment of 1,000 or more revealed that 1,274 (83.3 percent) contained a variety of provisions relative to hiring practices and professional advancement. The two selected provisions relative to hiring practices were teacher qualifications and salary credit for prior experience and preparation. Three provisions were selected regarding professional advancement through qualifications for professional growth, in-service training, and salary credit for professional preparation. Table 1 provides a breakdown of the designated provisions.

TABLE 1.—NEGOTIATED PROVISIONS RELATING TO HIRING AND ADVANCEMENT

Item	AGREEMENTS CONTAINING DESIGNATED CONTENT	
	Number	Percent
1	2	3
TOTAL NUMBER OF AGREEMENTS ANALYZED	1,529	.....
Total number of pertinent agreements	1,274	100.0%
Qualifications and experience credit for new hires, and advancement and salary credit for professional preparation	460	36.1
Experience credit for new hires and advancement, and salary credit for professional preparation	344	27.0
Qualifications and/or experience credit for new hires	171	13.4
Experience credit for new hires, and salary credit for professional preparation	155	12.2
Advancement and/or salary credit for professional preparation	144	11.3

Teacher Qualifications And Salary Credit For Prior Experience

Teacher qualifications provisions usually stipulated the minimum standards necessary to obtain a teaching position. To be eligible for employment, a person must hold a bachelor's degree from an accredited institution plus a valid teaching certificate. But some agreements excepted non-degreed teachers in emergencies, subject to dismissal if they did not advance toward obtaining the B.A. degree.

In some agreements, salary credit for prior experience was allowed at full credit to maximum of preparation lane, while others contained a specific maximum level. The school board reserved the right to evaluate prior experience to determine the appropriate salary level. No credit was usually allowed for a fractional part of a year. Credit for work experience directly related to the teacher's subject was allowed. Examples of teacher qualifications and salary credit for prior experience are as follows:

All newly-employed teachers shall be placed on the proper step of the salary schedule according to their

experience and education. Full credit will be given upon initial employment for previous outside teaching experience in a duly accredited school. In addition to such credit, weight shall be given to experience which materially enhances the competence of the employee in the professional work to be undertaken. The Association President will receive by mail data on each person hired in this latter instance within ten (10) days of such hiring. Such data will include the name and additional experience which materially enhances the competence of the employee.

[BALLSTON SPA, NEW YORK]

It shall be the purpose of the Board and the Personnel Department to employ only teachers with a minimum of four years of collegiate training in an approved teacher education institution and a bachelor's degree. The teachers employed shall possess, or be able to secure, proper certification from the Ohio Department of Education in the subject or subjects to be taught.

[DAYTON, OHIO]

The Board and Association agree that fully qualified teachers are a vital aspect in an effective educational program. They agree to work cooperatively toward keeping and securing fully certificated, well-trained professionals in every position. As evidence of this objective, the Board and Association agree that new teachers employed by the Board for regular teaching assignments shall, whenever possible, have at least a Bachelor's Degree or a Baccalaureate Degree from an accredited college or university and, in all cases, a valid teaching certificate. A person with a provisional certificate may be initially employed. It is agreed however, that, except in unusual circumstances, no such person shall be employed in a regular, full-time position for more than two years. Termination for persons employed with provisional certificates shall ordinarily be at the end of the second year of employment in the event that such persons have not qualified for a regular state certificate.

[ARLINGTON, ILLINOIS]

Qualifications For Professional Growth And In-service Training

The analyzed agreements which contained provisions regarding qualifications for professional growth and in-service training usually established the necessary procedures. Most agreements stipulated that professional growth and in-service training were encouraged and necessary. In order to advance on a given salary schedule, a teacher was required to earn a specific number of college or university credits. In some agreements, credits earned for in-service training may be substituted for college or university credits, but only for salary advancement within a salary lane, not towards a new degree lane. Most agreements analyzed merely indicated that some form of in-service training for professional growth was available.

Aside from formal scholastic training, credit for professional growth was allowed in some agreements for travel, related work experience, workshops, and curriculum projects. Examples of professional growth and in-service training provisions are as follows:

The Board and the Association agree that continued accreditation by the Southern Association of Colleges and Schools is desirable and compliance with State Law is mandatory. It is therefore agreed that in compliance with State Law any teacher who is certificated after July 1, 1967 must acquire a minimum of thirty (30) hours in an approved program or a Master's Degree within ten (10) years for renewal of certificate. In compliance with requirements of the Southern Association of Colleges and Schools it is agreed that all teachers must earn at least six (6) semester hours of college credit during each five-year period of employment or the equivalent as approved by the State Committee until said teacher has earned the Master's Degree or the thirty-hour approved program. This requirement is waived for any teacher whose sixtieth birthday occurs during a five-year interval of employment.

Those teachers not meeting this requirement at the end of the fifth year of their employment may have until September 1 of the same year to satisfy this requirement or may request professional leave to obtain same.

[JEFFERSON, KENTUCKY]

In our rapidly changing society teachers must constantly review curricular content, teaching methods and materials, educational philosophy and goals, social change and other topics related to education. The Board recognizes that it shares with its professional staff responsibility for the upgrading and updating of teacher performance and attitudes. The Board and the Association support the principle of continuing training of teachers and the improvement of instruction. The parties further agree that each teacher should fulfill the obligation for professional improvement in ways that best serve the needs of the school district.

Inservice Courses developed to meet local needs may be taken by teachers for salary scale credit (one, two or three credits) depending upon the scope and time factors of the Inservice Course.

The Board of Education and the Audubon Education Association agree that professional courses and Inservice Courses are one method of measuring and increasing teacher efficiency and effectiveness.

[AUDUBON, NEW JERSEY]

All teachers are required to continue their training while employed in the school system by participating in on-campus and/or off-campus courses as follows:

Each teacher is required to earn five (5) semester hours of college credit within every consecutive five-year period. Any teacher not fulfilling this requirement will not receive further salary increments until this requirement is completed. If a teacher at the top of the salary schedule fails to meet this requirement he will drop one step on the salary schedule and remain there until the requirement is completed. Any teacher who has not fulfilled this requirement will advance only one salary increment per year once the requirement is completed. The required work for such credit must be completed prior to September 1, of any year in order to apply to that school year.

Experienced teacher new to the Brandywine School system who do not meet the requirement in subsection

(a) above, will be required to complete the work for at least two (2) semester hours of credit by September 1, following their first year of employment, and to complete the work for the full five (5) semester hours of credit by September 1 following their second year of employment.

Teachers who have been employed in the Brandywine School system five (5) or more years prior to September 1, 1968, and who have not fulfilled the requirements in subsection (a) above, must complete said full five (5) semester hours prior to September 1, 1969.

In lieu of formal scholastic training required in subsection (a) above, a maximum of two (2) semester hours credit may be granted for approved travel, non-credit workshops, curriculum projects, related work experience, or other approved educational experiences. Travel, workshops, etc. will not be allowed for credit for meeting certification requirements. A teacher, to count any of the experiences in this section toward the teacher growth requirements, shall present a written request to his principal prior to the proposed starting date of the experience. The request shall contain a description of the experiences and an explanation of how it relates to the teacher's work. An evaluation committee composed of the teacher's building principal, Department Head or Grade Chairman, and the TEPS Chairman of the Brandywine Education Association will study the request and make recommendations to the Superintendent of Schools as to whether or not the request should be approved and the amount of credit recommended. As soon as practicable, but in no case later than September 30, the teacher shall submit a written report on the experience to the evaluation committee for final recommendations to the Superintendent who shall determine whether such credit shall be given.

[BRANDYWINE, MICHIGAN]

Salary Increments For Professional Preparation

Many agreements stipulated that to advance on a salary schedule all post-baccalaureate courses must meet the following criteria:

- Courses must be taken at an accredited institution.
- Courses must be creditable towards a college or university degree.
- Courses must have been taken following completion of preparation necessary for the bachelor's degree.

Credit for courses sponsored by the school district may be earned, but usually may not be credited toward a college or university degree. The agreements usually incorporated schedules indicating the salary range for credit earned beyond the bachelor's level. Examples of salary increments for professional preparation are as follows:

To earn credit on the salary schedule for post-baccalaureat training, all courses claimed must meet the following criteria:

a. must be taken at accredited higher educational institutions;
b. must be creditable by the sponsoring institution toward a college or university degree;
c. must have been taken following completion of all of the preparation necessary for the awarding of the bachelor's degree which the teacher holds.

The only courses not creditable toward a college or university degree for which salary credit may be earned are those sponsored by either the School District of the City of Niagara Falls, the State of New York or the U.S. Office of Education for the purposes of inservice training, provided the sponsoring institution equates the program with semester hours of credit.

To claim reclassification on the salary schedule teachers shall follow established administrative procedures by submitting form SP3 which will be made available in all school offices. Receipt of this form will be acknowledged by the Staff Personnel Office.

[NIAGARA FALLS, NEW YORK]

DIFFERENTIALS FOR ADVANCED PREPARATION

Position Classification:
B. Teacher, Bachelor's Degree
C. Teacher, Standard Professional Certificate

Increments Above Bachelor's Degree Using Scales B or C as the Base

1. $500 to holders of:
   A. A Master's Degree who do not otherwise qualify for an Advanced Professional Certificate, *or*
   B. An Advanced Professional Certificate which has been issued on the basis of a Master's Degree equivalent.
2. $700 to holders of a Master's Degree and an advanced Professional Certificate.
3. $1100 to holders of a Master's Degree plus 30 hours of acceptable credit without an Advanced Professional Certificate.
4. $1300 to holders of a Master's Degree plus 30 hours of acceptable credit with an Advanced Professional Certificate.
5. $1700 to holders of a Master's Degree plus 60 hours of acceptable credit without an Advanced Professional Certificate.
6. $1900 to holders of a Master's Degree plus 60 hours of acceptable credit with an Advanced Professional Certificate.
7. $1900 to holders of an earned Doctorate without an Advanced Professional Certificate.
8. $2100 to holders of an earned Doctorate with an Advanced Professional Certificate.

Position Classifications E, E, F, G, H, I, J.

All persons in these classifications are required to meet mandatory full certification, to have at least a Master's Degree and the Advanced Professional Certificate. (Persons with a Provisional Degree Certificate are penalized $700.) (Assistant Principals are required to satisfy certification requirements for Principal.)

Increments for advanced preparation beyond mandatory requirements will be as follows:

1. $500 - Master's + 30 Credits
2. $1100 - Master's + 60 Credits
3. $1300 - Earned Doctorate

[CECIL COUNTY (ELKTON) MARYLAND]

RECENT SICK LEAVE BANK PROVISIONS

The NEA Research Division's annual survey of school systems with a 1,000 or more pupil enrollment indicated that of 1,529 comprehensive agreements studied, 84 (5.5 percent) contained sick leave bank provisions.

A sick leave bank is defined as a reserve of paid sick leave days over and above the individual's maximum accumulation which is donated for use in event of a prolonged illness or similar emergency. Generally, the individual using the "banked" days has exhausted his own sick leave. This bank of days is shared by all eligible, participating school personnel.

The structure of sick leave bank differs from system to system. Participation in the plan may be either mandatory or voluntary. Responsibility for the administration of the program usually rests with the school board and/or the Association. A detailed analysis of the various types of sick bank provisions contained in negotiated agreements is printed in *Negotiation Research Digest,* April 1970 issue.

Two school systems recently have negotiated sick leave bank provisions which deserve notice, Montgomery County Schools, Rockville, Maryland, and the Carman School District, Flint, Michigan. The Montgomery County Schools have negotiated comprehensive guidelines for the administration and regulation of "sick leave bank." The provisions are reprinted below:

MONTGOMERY COUNTY SCHOOLS
ROCKVILLE, MARYLAND
[Voluntary]

STATEMENT OF INTENT

The purpose of the Sick Leave Bank is to provide sick leave to contributors to the bank after their accumulated sick leave has been exhausted—and more specifically to provide such leave from the bank in cases of catastrophic illnesses.

RULES

1. The leave bank may be used only by the individual contributor for his or her personal illness.
2. The leave bank may NOT be used for illnesses of other members of the contributor's family.
3. The leave bank may NOT be used by the contributor to remain away from his position in order to assist a member of his family who is ill.
4. Only earned sick leave may be contributed to the leave bank—annual and personal leave may NOT be contributed.
5. For purposes of administration of the Sick Leave Bank, the definition of sick leave shall be that incorporated in the MCEA-Board of Education Contract: "Sick leave is a designated amount of compensated leave that is to be granted to a unit member who through personal illness, injury, or quarantine is unable to perform the duties of his position. Sick leave may also include other excused absences, such as medical, dental, or optical examination or treatment impossible to schedule on nonduty days. Sick leave may not be granted for the period of disability when monies are paid to the unit member under the Workmen's Compensation Law."
6. Leave from the bank may NOT be used for maternity leave.
7. Persons who enroll during the first open enrollment period—up to and including January 17, 1972—shall be enrolled without regard to pre-existing conditions of health if they are on active duty at the time of contribution. Thereafter, contributions can be made between July 1 and October 1. Unit members returning from extended leave and new employees may contribute within the first thirty calendar days after reassignment or employment. Unit member returning from extended sick leave or disability leave will be permitted to contribute to the bank on approval of the committee.
8. Any person who is a member of the negotiations unit in the Montgomery County Public Schools shall be eligible to participate in the bank.
9. In order to draw days from the Sick Leave Bank, a unit member must contribute to the bank at the rate of 1-1/2 days per year or one-half-day per half-year for 10 month personnel, and two days per year or one day per half-year for 12-month personnel.
10. A contributor will lose the right to utilize the benefits of the Sick Leave Bank only by:
    a. Termination or suspension of employment in MCPS.
    b. Cancellation of participation which is effective only at the close of a fiscal year—June 30 of each year.
    c. Refusal to continue regular contributions at the beginning of each fiscal year—July 1 of each year.
    d. Refusal to make such additional contributions as may be required from time to time by the administering committee to prevent bankruptcy of the bank.
11. The existence of the Sick Leave Bank and participation by a unit member in the bank does not negate or eliminate any other sick leave policies of the MCPS, nor does it in any way negate the rights of individual unit members who participate in the bank to other sick leave benefits included in the MCEA-Board of Education Contract.
12. Effective January 17, 1972, all donations will remain in force through June 30, 1972, and will not be cancelled.

PROCEDURES

1. Contributions to the bank must be made on an MCEA Sick Leave Bank Donation form.
2. The MCEA Sick Leave Bank administration committee will approve all donations before they are forwarded to the MCPS Division of Payroll.
3. The Committee will review and recommend to the MCPS Personnel Department approval or denial of all requests to draw on the Sick Leave Bank within 12 working days after such request is received in the MCEA Headquarters Office.
4. Any person submitting a request to draw on the bank, must have made his proper contributions for the fiscal year in which the request is made.
5. All requests to draw upon the bank must be made upon an MCEA Sick Leave Bank Request Form.
6. All requests to draw upon the Sick Leave Bank must be accompanied by a physician's statement confirming the cause of the illness or confinement made on an MCEA Sick Leave Bank Physician's Confirmation Form, signed by the physician.
7. After an applicant has drawn and used 30 consecutive sick leave days (determined by his duty days)

from the bank, he shall be given a medical review by a physician of the administering committee's choice, at the contributor's expense. The physician's report is to be sent directly to the committee before the committee may act upon his application for an extension of use of the Sick Leave Bank. Such medical review may be eliminated by the committee if the applicant has been confined to a hospital or other medical facility throughout the prior 30-days he has used the Sick Leave Bank.

8. An applicant may be required to undergo a medical review by a physician of the committee's choice at any time *at the member's expense.*

9. In case a contributor has been incapacitated, his application may be submitted to the committee by his agent or member of his family on his behalf.

10. Leave grants from the bank, recommended by the committee, shall be made in units of no more than 30 consecutive *duty days* for the individual applicant.

11. Applicants may submit requests for extension of such leave grants as their prior grants expire. Such applications shall be made on the regular request form.

12. In cases where the committee recommends denial of an application for use of the Sick Leave Bank or an extension of such use, the applicant may appeal his request to the MCEA Board of Directors.

13. In cases where the recommendation of the committee is denied by the MCPS Personnel Department, the applicant may appeal his request to the MCEA Board of Directors, who may request the superintendent to consider the appeal.

14. Members of the negotiations unit may request all appropriate forms from the MCEA office by telephone.

15. Copies of all MCEA Sick Leave Bank Donation forms shall be marked for approval or denial by the committee. Following such action, the committee shall disperse copies of the forms to the unit member, his school, the MCPS Division of Payroll, and the MCEA Membership Relations Division.

16. Copies of all MCEA Sick Leave Bank Requests for leave withdrawal forms shall be marked for recommendation for approval or denial by the committee. Following such action, the committee shall disperse copies of the forms to the unit member, his school, the MCPS Personnel Department and the MCEA Membership Relations Division.

17. Copies of all MCEA Sick Leave Bank Cancellation forms shall be approved by the committee. Following such action, the committee shall disperse copies of the forms to the unit member, his school, the MCPS Personnel Department, and the MCEA Membership Relations Division.

18. The Montgomery County Education Association shall maintain the record of all applications for donation, applications for withdrawal of sick leave days, and all cancellations.

19. The Montgomery County Public Schools Division of Payroll shall maintain records of all unit member contributions, withdrawals, and the status of the bank.

20. All forms for application for participation in the bank, withdrawal of sick leave days and cancellation shall be available at the MCEA office and shall be sent to any unit member at his request.

21. The MCPS Division of Payroll shall report the status of the MCEA Sick Leave Bank at any time at the request of the administering committee.

22. The MCPS Division of Payroll and the MCEA Membership Relations Division shall provide information to the committee upon its request any data it has maintained in its files with regards to an individual unit member's use of, or investment in, the MCEA Sick Leave Bank.

23. The Sick Leave Bank Administration Committee shall be responsible to the MCPS and the MCEA for the proper administration of the Sick Leave Bank, the maintenance of sick leave days in the bank, the promotion of enrollment in or donations to the bank, and the submission to the MCEA Membership Relations Division and the MCPS Personnel Department of regular month-end reports on the status of the bank.

CARMAN SCHOOL DISTRICT
FLINT, MICHIGAN
[Mandatory]

1. The Association will operate a sick leave bank on a mandatory basis. The Association will establish a committee to administer the sick leave bank and to provide the information whereby the Business Office will keep the records. The Director of Business will serve in the capacity of an advisor to the committee.

2. Each employee will donate one (1) day of his sick leave to the bank whenever the bank is depleted to 1,200 days. In addition to the above, every teacher new to the district will donate one (1) day of his leave per semester for his first year of his employment.

3. Additions will be made to the bank at the beginning of each fiscal year according to the above limitations.

4. A person will not be able to withdraw the contributed days.

5. The first 20 calendar days of illness or disability will not be covered by the bank but must be covered by the person's own accumulated sick leave or absence without pay.

6. A person will not be able to withdraw days from the bank until his own accumulated sick leave is depleted.

7. An individual may withdraw the number of days from the bank necessary to result in no loss of wages for one year, after he has depleted his own accumulated sick leave and also has been ill 20 consecutive days.

8. Persons withdrawing sick leave days from the bank will not have to replace these days except as a regular contributing member of the bank.

9. Any teacher who leaves the employ of the Carman School District shall donate his unused sick leave to the sick leave bank unless he notifies the Director of Business and the Association in writing by the last day of school that he does not wish to do so.

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NEGOTIATION RESEARCH DIGEST

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NATIONAL EDUCATION ASSOCIATION

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NEGOTIATION AGREEMENT PROVISIONS FOR TEACHERS

1972 Edition

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National Education Association

The NAP is a four part source document providing a comprehensive report on the contents of more than 1,500 comprehensive negotiation agreements in education for the 1970-71 school year. All data are derived from the NEA Research Division's depository of agreements, and are categorized for easy reference in the NAP. General agreement information is now supplemented by more than 300 specific entries, itemized numbers of leave days, and extensive data on grievance and negotiation procedures, committees, and board contributions to group insurance coverage for teachers.

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CASE REVIEWS

ILLINOIS

Strike Injunction, Contempt Convictions Reversed

The conviction of 65 teachers who struck the Township High School District No. 201 in contempt of a lower court injunction was reversed by the Illinois Supreme Court. It was determined that the lower court improperly denied the defendants' petition for a change of venue.

Lacking an acceptable collective bargaining agreement after protracted negotiation sessions, the West Suburban Teachers Union, Local 571 went out on strike. The school district obtained a lower court injunction against the strike. Upon the strike's continuance, contempt citations and fines were handed out to 65 teachers.

Prior, the lower court twice rejected the union's petitions for change of venue. The union appealed the convictions, charging that the lower court erroneously denied the petitions and misinterpreted the Venue Act since the first petition met legal requirements. The district maintained that the lower court's interpretation was correct as the petition was insufficient.

The law states that "a change of venue shall not be granted unless the application is made by or with the consent of at least three-fourths of the parties." The appellate court maintained that the Venue Act was intended to be liberally interpreted, and found that the defendants had properly filed for venue change. Accordingly, the appellate court voided all lower court orders. (*Board of Education of Township High School District No. 201 v. Morton Council, West Suburban Teachers Union Local 571,* Illinois Supreme Court, January 28, 1972.)

MICHIGAN

Dismissal For Nonpayment of Agency Shop Fee Reversed

The Circuit Court, County of Ingham, avoided ruling on the legality of an agency shop while reversing a Michigan Tenure Commission's decision which upheld the discharge of a competent tenured teacher for nonpayment of a nonmember service fee equal to the Grand Blanc Education Association's (GBEA) dues. The Grand Blanc Community Schools Board of Education discharged the teacher in compliance with a negotiated agency shop clause.

The court found the contract language ambiguous, noting that if the board and GBEA intended the words "refusal of said teacher to contribute fairly to the costs of negotiation and administration of this Agreement is recognized as just and reasonable cause for termination of employment" to mean the same as "the refusal of said teachers to pay a representation fee equivalent to dues and assessments," such an intended meaning would have been stated. The teacher was requested to pay Association dues and assessments, whereas the application of the contract language required the determination of the actual cost of services.

The court stated that the question before it was not the legality of the agency shop provision, but whether the action taken against the teacher for refusing to pay the service fee was either arbitrary or capricious. Finding no material indication that the teacher refused to pay her share of negotiation and contract administration costs nor evidence that she was asked to contribute to these costs, the court reversed the Tenure Commission's affirmation of the teacher's dismissal. (*Carol S. Applegate v. Teacher Tenure Commission and Board of Education Grand Blanc Community Schools and Grand Blanc Education Association,* Circuit Court for the County of Ingham, December 24, 1971.)

[*Editor's Note*—A decision on the legality of "agency shop" is now pending before the Michigan Supreme Court from an appeals court ruling that an employee can properly be assessed only his share of the actual costs of negotiation. The lower courts and MERC have supported the agency shop concept by which nonmembers are assessed the equivalency of dues on the grounds that such provisions do not infringe employment or tenure. It has been noted that without agency shop provisions employees can unfairly take "free rides," and that determining the "actual costs" of administration and negotiation raises questions as to what expenses are properly included, leading to higher assessments of nonmembers since representation costs are climbing and generally higher than amounts paid in regular membership dues.]

NEBRASKA

NCIR Determines Teachers' Salary Schedules

The Nebraska Court of Industrial Relations (NCIR) rejected a school district's contentions that Section 48-810.01 of the Nebraska statutes

bars a wage determination hearing by the court, since Section 79-802 states that all schools organized within the city limits shall be under the direction and control of the board of education. The court determined that the state statutes authorized the court's jurisdiction after the procedural provisions of the Nebraska Teachers' Professional Negotiations Act were exhausted. In this case, the procedures of the Act were exhausted when the school district rejected the recommendations of the fact-finding board.

Further, the court dismissed the association's contention that the recommendations of the fact-finding board be given significance. The court, acting in the public interest, examined 151 salaries in comparable districts with compensation presently received by teachers in the district.

The court invoked Section 48-818, which authorizes it to establish or alter the scale of wages, hours of labor, or conditions of employment. (*Centennial Education Association* v. *School District No. 67-R of Seward County, Nebraska Centennial Public Schools, Utica, Seward County*, Nebraska Court of Industrial Relations, August 18, 1971.)

NEW YORK

Appeals Court Rules All Conditions and Terms of Employment Are Negotiable

The New York State Court of Appeals, the State's highest court, emphatically told the Board of Education of Union Free School District # 3 that it must bargain on terms and conditions of employment despite the lack of explicit itemized legislative authorization. In effect, the courts have served notice on school boards that the judiciary will no longer hear cases of this nature since they are subject to negotiation under the broad provision of the Taylor Law, "except in cases where some other applicable statutory provision explicitly and definitively prohibits the public employer from making an agreement as to a particular term or condition of employment."

The suit was instituted by the school board against the Associated Teachers of Huntington, Inc., in an attempt to restrain collective bargaining on five items. These items covered reimbursement for job-related personal property - (two provisions); partial reimbursement for graduate school courses taken with the board's approval; salary increment prior to retirement; and a grievance provision which provided for arbitration of disputes in tenured teacher disciplinary actions.

The board, in questioning its own power to negotiate on these provisions, questioned their legality. The court was asked to decide whether the school board has the authority to enter into a collective bargaining agreement granting benefits without existence of an explicit statute granting such benefits, and whether a school board lacks the power to negotiate a grievance procedure in violation of Section 3020-a of the Education Law (Tenure Law) which provides teachers with a review and appeal procedure.

The court held that all of the challenged provisions were valid as they constituted a term or condition of employment. The court examined the law to determine if a fundamental conflict existed between the provisions of the Taylor Law or other state statutes dealing with the powers and duties of school boards. Section 200 and 204, 1, 2 enjoin the school board to recognize an employee organization, and empower the board to "negotiate collectively with such employee organization in the determination of, and administration of grievances arising under, the terms and conditions of employment of the public employees as provided in this article, and to negotiate and enter into written agreements with such employee organization in determining such terms and conditions of employment."

The court noted that since the school board contended that it lacked the power to negotiate on certain items, the burden of proving the existence of a statutory provision prohibiting such negotiation rested with the board. In the present case, the board cited no applicable statute. The court specifically supported the negotiation of grievance procedures providing for arbitration, and noted that "it is the declared policy of this State to encourage public employers and employee organizations to agree upon procedures for resolving disputes. And arbitration is, of course, part and parcel of the administration of grievances." (*Board of Education of Union Free School District No. 3 of the Town of Huntington, State of New York v. Associated Teachers of Huntington, Inc.*, Court of Appeals, March 16, 1972.)

School Board's Rejection of Mediation Recommendation Held Nonarbitrable

Under the Public Employees' Fair Employment Act (PEFEA), Section 209, a school board acting in a legislative capacity is allowed to reject a fact-finder's recommendations for resolution of a negotiation impasse, publicize its action, and conduct a hearing on the impasse to which it is a party. The New York Supreme Court, Nassau County, so ruled after determining that the North Bellmore Teachers Association's (NBTA) dispute with the Union Free School District No. 4 over a salary schedule and insurance benefit reopener was not arbitrable.

The court based its ruling on a collective bargaining provision limiting grievance arbitration to those disputes concerning "the meaning, interpretation or application of this Agreement." The

court pointed out that the disputed issues were proposed in order to amend the agreement and not applicable to "any existing provision."

The court rejected the Association's contention that the school board violated the Association's constitutional rights by acting on the factfinder's recommendations in both an executive and legislative capacity. The court noted that Sec. 209 foresaw the possible rejection of recommendations by the board (acting in a legislative capacity), and a subsequent public hearing at which teachers may voice objections to the board's action.

The NBTA claimed that Sec. 209 was unconstitutional since it permitted the board to deny union members equal protection, due process, and free speech by holding a hearing on a negotiation dispute to which it was party. However the Association failed to document its objections to the law, and based on precedent, the court accordingly presumed the PEFEA's constitutionality.

Likewise, the court held that the board, because it followed the procedure outlined in the PEFEA, in no way violated due process requirements. The legislative hearing process was affirmed as being "reasonably designed to effectuate the State's policy of uninterrupted function of the public education system." (*North Bellmore Teachers Association v. Board of Education, Union Free School District No. 4*, New York Supreme Court, Nassau County, November 15, 1971.)

UTAH

College Teacher Awarded Damages In Tenure Case

A United States District Court ruled that officials of a public junior college and State Board of Education acted arbitrarily and without legal cause when they denied an associate professor permanent status and continued employment. The court awarded the teacher a total of $54,100 in special, general, and punitive damages.

The plaintiff was employed as a professor at the college from 1965-69. The Utah State Board of Education, which has jurisdiction over the college, grants permanent status to full-time certified or professional staff members who work at an institution for three consecutive years, who give good service, and who show promise of continued good service. College policy provided that professors would be terminated for incompetency, immorality, misconduct, insubordination, unprofessional activities, or persistent violation of college policies. Permanent status was customarily granted to employees who are employed at the college for three consecutive years, and who are recommended by the department head and the faculty personnel committee.

During the 1967-68 academic year, the department head and the faculty personnel committee recommended that tenure be granted to the plaintiff. However, college officials rejected the recommendations. The rejection was approved by the state board of education without providing the plaintiff with a hearing.

The college officials then influenced the faculty personnel committee to reverse itself and deny both tenure and employment to the plaintiff.

The plaintiff charged that this action was taken to "punish" him for his political activities and his conduct while he served as the president and executive committee member of the faculty association. The plaintiff also contended that his reputation among students and faculty was ruined by statements of the college president and dean that his dismissal was based on serious misconduct, the details of which could not be made known. Consequently, the plaintiff found it impossible to find another teaching position.

The court found that the defendants' actions deprived the plaintiff of certain legal rights and due process of law as well as being arbitrary and without legal cause. The court ruled that the plaintiff be awarded $4,100 for loss of salary and $40,000 for general damages. Both the president and dean of the college were to pay the plaintiff $2,500 for punitive damages. (*Smith v. Losee*, United States District Court, January 28, 1972.)

BOARD FINDINGS AND RULINGS

MICHIGAN

MERC Determines Overall Faculty and Academic Staff Units in Higher Education

Acting upon precedent, the Michigan Employment Relations Commission (MERC) created appropriate bargaining units for full-time faculty, supportive academic staff, part-time lecturers, and medical school faculty at Eastern Michigan and Wayne State Universities.

• At Eastern Michigan University, three unions sought to represent university employees in a unit composed of teaching faculty, librarians with faculty rank, academic advisors, counselors, resident hall advisors, and lecturers with a contact load of six or more hours for two or more consecutive semesters. One union also sought the inclusion of department chairman.

The university-employer asserted its right as a constitutionally independent body, and emphasized the unique employer-employee relationship existing within an academic community, thereby exempting the university from MERC's jurisdiction. The Commission deemed these objections to lack merit, as such contentions had been previously rejected. (NRD 5.7)

Turning to the union's demands, the university sought exclusion of all nonteaching academic personnel and lecturers, but opted for inclusion of military science professors in a unit of teaching faculty.

The Commission determined that *all* faculty lecturers and academic staff composed the appropriate unit. But the Commission excluded department chairmen and military science instructors, as the former were responsible for hiring and salaries and the effective recommending of faculty for promotions and tenure, while the latter were active military personnel paid by the Department of Defense. (*Matter of Eastern Michigan University, Public Employer and Eastern Michigan Chapter, American Association Professors et al, Petitioners, Eastern Michigan University Faculty Association, MEA-NEA, Intervenor,* Michigan Employment Relations Commission, February 4, 1972.)

• Employee representation at Wayne State University was sought by five unions, each of whom submitted different unit composition proposals. The proposed units were: a) a combination of instructional and staff personnel, including department chairmen; b) medical college faculty only; c) faculty eligible for tenure, including department chairmen; d) an addition of academic staff, including librarians, to an existing certified unit of professional and administrative employees; and e) an all-inclusive unit as determined to be appropriate by MERC.

Upon hearing the petitions, the Commission decided that department charimen were supervisors, warranting their exclusion from an overall faculty unit. Additional exclusions were applied to part-time faculty and academic employees, and executive and supervisory staff. The faculty of the college of medicine were found to have a sufficient community of interest with the remainder of the university teaching faculty, and academic staff.

In both cases, MERC based its decision on the overriding factor of each group's common interest and focus in the educational process, despite the diversity of duties, working conditions, educational levels attained, and policy-making functions. (*Matter of Wayne State University, Public Employer and Wayne State University Federation of Teachers et al., Petitioners. Wayne State University Faculty Association, Intervenor,* Michigan Employment Relations Commission, February 4, 1972.)

Back Pay and Insurance Benefits Awarded for Forced Maternity Leave

An arbitrator held that a "constitutional rights" clause in the contract between the Southgate Education Association and the Southgate Board of Education restricted the board's authority in regard to enforcement of a maternity leave policy. The arbitrator ruled that a teacher, upon her physician's approval, must be granted a reasonable extension of the date for taking maternity leave. This ruling was based on contractual language upholding individual constitutional rights, and "the general thrust of employment law which is to eliminate the historical restrictions, often arbitrarily imposed, relative to the length of continued work by a pregnant female employee."

On precedent of *Cohen v. Chesterfield County Board of Education* wherein failure to consider pregnancy as a medical condition was held to be discriminatory, the arbitrator ruled that the teacher had the right to continue teaching. He accordingly awarded her back pay and maternity benefits with interest, reinstatement of fringe benefits, and reassignment to her teaching job. (*Southgate Board of Education and Southgate Education Association,* American Arbitration Association, August 3, 1971.)

NEW JERSEY

College Department Chairmen Excluded from Bargaining Unit

The New Jersey Public Employment Relations Commission (PERC) determined that department chairmen were supervisors and should be excluded from a nonsupervisory unit of teaching faculty represented by the Mercer Community College Faculty Association (MCCFA).

The PERC reversed a hearing officer's findings which included chairmen with nonsupervisory faculty members. The PERC found that, unlike the faculty, chairmen have a reduced teaching load and are posited with administrative and supervisory authority over their departments.

The exclusion of the chairmen was based on Section 34.13A-5 (3) of the New Jersey Employee-Employer Relations Act, which prohibits the inclusion of any "supervisor having the power to hire, discharge, discipline, or to effectively recommend the same. . .," in a unit that "admits nonsupervisory personnel to membership," unless established practice, prior agreement or special circumstances justifies the inclusion of supervisors.

The PERC upheld the college's claim that chairmen have the power to effectively recommend hiring, discharging, and retention of faculty within their departments. The Commission also found that chairmen informally negotiated a separate salary schedule the previous year. PERC, noting "no established practice to permit the chairmen's inclusion with teaching faculty," denied the Association's petition. (*Mercer County Community College Board of Trustees v. Mercer County Community College Faculty Association*, Public Employment Relations Commission, August 6, 1971.)

School Board Held to Negotiated Class Size Goals

An arbitration award favorable to the Trenton Education Association enjoined the Trenton Board of Education to limit the number of pupils per class within the confines of the negotiated class size provision.

The agreement stipulated a desired class size goal of 25 pupils per teacher, with a proviso that no class would exceed 30 pupils. The arbitrator found that the board failed to maintain class size within the contractual limits. The board was ordered to live up to the "clear and definitive language" of the agreement and to reduce class size within two months to the contracted limits.

Over the board's objection that the remedy was only advisory, the arbitrator bound the board to the settlement. He stated: "The association and those it represents are entitled to what they negotiated for and to what they secured agreement. To hold otherwise would be to make a sham of the collective negotiations process and the resulting contract." (*Trenton Education Association and Trenton Board of Education*, American Arbitration Association, January 14, 1972.)

NEW YORK

PERB Includes Department Heads in Administrators' Negotiating Unit

A petition for decertification was granted by the New York Public Employment Relations Board (PERB) which removed high school department heads from a classroom teachers' bargaining unit and included them in an administrator's unit.

The petition was filed by the Administrative Group of Troy, and was supported by the board of education and department heads. The administrative Group stated that the supervisory functions of the department chairmen conflict with the interests of rank and file classroom teachers, and are more closely related to the activities of administrators. The Troy Teachers Association opposed the petition, and contended that department heads as teachers shared a community of interest with classroom teachers.

In reviewing the case, the PERB found that principals and department heads shared an almost equal role in both hiring and teacher evaluation, an administrative role in the governance of the department, an "active" role in curriculum development, and responsibility for drafting departmental budgets.

The PERB concluded that department heads should not be included in the same negotiating unit as teachers even though department heads do share a community of interest with teachers. However, these interests are "outweighed by the sharp conflict inherent in the department heads' important role in hiring, evaluation, retention and assignment of teachers." The PERB pointed out that department heads have no apparent conflict of interests with administrators.

The PERB decided that an appropriate unit would include principals, assistant principals, directors, supervisors, coordinators, administrative assistants, federal program evaluators, and department heads. (*Board of Education of the En-Larged City School District of Troy and the Administrative Group of the Enlarged City School District of Troy and the Troy Teachers Association*, New York Public Employment Relations Board, July 9, 1971.)

No Penalty for Striking Under Provocation

In a mid-December ruling, the New York Public Employment Relations Board (PERB) refused to penalize the Ulster County Community College

Faculty Association (UCCCFA) for conducting an illegal strike. While finding the NEA-affiliated Association guilty of striking in violation of the state's Taylor Law, the PERB simultaneously ruled that "the public employer and its representatives engaged in such acts of provocation as to detract from the responsibility of the association."

The PERB refused to suspend the Association's dues check-off privileges (the statutorily prescribed penalty for striking unions), and ordered the Ulster County Legislature to cease and desist from "(a) refusing to explain its negotiations posture and (b) unreasonably refusing to meet with the association for extended periods of time and (c) making concessions and withdrawing them alternatively in a manner that does not reflect an intention to reach an agreement."

The PERB's ruling came on an improper practice complaint filed by the Association, charging the college's board of trustees and the county legislature with failure to negotiate in good faith. Bargaining talks began in February 1970. During the summer of 1970 the county legislature rejected a 17 percent salary increase recommended by a PERB mediator and agreed to by the college board of trustees, the authorized bargaining agent. The legislature rescinded the trustees bargaining authority and refused to negotiate for two months. A strike called by the UCCCFA, and supported by a student boycott, followed.

A settlement ultimately was reached, but the PERB held that the county legislature's actions in agreeing to a salary increase beyond its authority and subsequently rejecting an agreement signed by the trustees constituted an improper practice and were "extremely provoking." (*Board of Trustees of Ulster Community College and Ulster County Legislature and Ulster County Community College Faculty Association*, Public Employment Relations Board, December 13, 1971.)

RHODE ISLAND

Contracts Must Be Reduced to Writing

The Rhode Island Labor Relations Board, hearing a case brought by the Burrillville Teachers Association, found the local school committee guilty of an unfair labor practice.

The RILRB found that the Association and the school committee reached an oral agreement, with some unresolved issues sent to arbitration. However, the school committee rejected two award provisions, namely, one calling for binding arbitration of disputes and the arbitrator's rejection of the committee's proposal that negotiation be held after the financial town meeting. The committee rejected binding arbitration of disputes on the grounds that state law prohibits any arbitration involving monetary expenditures.

The RILRB, in issuing its ruling ordering the school committee to execute a contract, interpreted the applicable sections of the Michaelson Act as not intended to prevent expenditures for binding arbitration. Further, the Board noted that the Act required both parties to negotiate a written contract without hinging it on the outcome of a town meeting, since compliance with the letter of state statutes is paramount.

The Board ordered the school committee to accept both awarded provisions and reduce the contract to writing. (*Rhode Island State Labor Relations Board and Burrillville School Committee*, Rhode Island State Labor Relations Board, February 4, 1972.)

WISCONSIN

School-Board Policy Affecting Conditions Employment Found Negotiable

An arbitration award stressed that school boards must negotiate policy changes affecting negotiable conditions of teacher employment. Further, the right of school boards to regulate instructional programs did not include the right to change conditions of employment as affected by program changes.

However, the arbitration panel, on a technicality, dismissed the Madison Teachers, Inc.'s, charge that the Madison Joint School District No. 8 School Board altered conditions of employment in violation of a collective bargaining agreement, by establishing a new supervisory position of learning coordinator.

The duties of the disputed position according to the board included evaluation of teachers, assigning interns, and acting as a liaison with principals. The arbitration panel viewed these duties as intrinsically related to conditions of employment, thereby making the learning coordinator position a negotiable item. However since the law mandating negotiation was passed after the position's creation, and was neither negotiated nor included in prior board policy, it therefore fell within the realm of board prerogatives. The parties' 1971 agreement provided for unilateral school-board action on any subject that was neither negotiated nor written up as board policy.

The arbitration panel cautioned the board not "to change conditions of employment of members of the bargaining unit which are specifically fixed by the Negotiated Agreement or written policies of the Board without the consent of MTI." (*Madison Teachers, Inc., and Joint School District No. 8, City of Madison, et al.*, Arbitration Award, February 23, 1972.)

NEGOTIATION NOTES

CALIFORNIA

"Meet and Confer" Rule Not Sole Means of Employer-Employee Discussions

An appeals court rejected a teacher association's petition to bar administrators from meeting with teachers to discuss negotiable items in an effort to weaken the association's bargaining status.

The Torrance Education Association met and conferred with the administration on negotiable items. The association members were required to attend additional meetings with the administration without the presence of the negotiating council. The association contended that at these sessions the administrators conferred on negotiable items, and made disparaging remarks about the local and state associations, effectually undermining teacher-employer relations.

The association charged the school administrators with violating the Winton Act, interfering with the association's contract with its members, and illegally holding meetings at which matters subject to negotiation were discussed.

A prior ruling by a county court held that the Winton Act did not "prohibit a school from requiring teachers to attend faculty meetings where administrators discuss matters which are among the permissible subjects of 'meet and confer' sessions."

A court of appeals upheld the lower court verdict, and stated that the Winton Act only provided "a procedure for dealing with public school employment relations" by setting up a new means of communication between employers and employees, since "meet and confer" sessions were not designed as the exclusive means of employer-employee communications. The court also noted that the association objected more to the subjects discussed than to the compulsory and closed nature of the meetings, while pointing out that subjects upon which administrators and the association confer can also be discussed at meetings of administrators and teachers.

The court found that the derogatory remarks against the association indicated no more than disagreement with the association's position. The association's allegation that its contract with individual members was subverted, proved unsupportable since the Winton Act provided only for meet and conferral sessions, not collective bargaining.

The association cited the National Labor Relations Act (NLRA), stating that bargaining directly with employees undermines the mode of bargaining. The court viewed this argument as irrelevant, since a school board is not required to bargain in the NLRA sense, and furthermore the administration was never accused of bargaining with individual teachers, but rather conferring with teachers, and making anti-association remarks. (*Torrance Education Association vs. Board of Education of the Torrance Unified School District, et al.*, Court of Appeals, November 21, 1971.)

HAWAII

Nonmember Service Fee Sustained

The Hawaii Public Employment Relations Board (HPERB) certified as "reasonable" a $77 nonmember service fee petitioned for by the Hawaii State Teachers Association (HSTA). This assessment, which equals the Association's dues, was approved on the basis of "anticipated expenses for one year" of negotiation and contract administration as authorized under Section 4 of Hawaii's Public Employment Bargaining Act.

Subsequently, the Hawaii Federation of Teachers (HFT) filed a petition to enjoin deduction of the proposed service fee, arguing that the assessment was not applicable until the effective date of the contract since the only measure of service performed was the execution of a negotiated contract. However, the HPERB ruled that the Act did "not speak in terms of 'finished goods produced' but merely in terms of 'services rendered,'" and ordered a service fee retroactive to the beginning of negotiation.

Also rejected was the Association's argument that the legislature intended service fees to equal union dues, and that a fee less than the rates of dues would be discriminatory. The Board pointed out that Sec. 4 required "review [of service fees] by the Board and [limited] such fees to a pro rata share of the cost of negotiations and contract administration " According to the Board, the service fee should cover only direct and indirect bargaining and contract administration services, such as maintenance of quarters, research, and personnel necessary to carry out negotiation and administrative operations. The HPERB hearing officer found that the actual cost of these services came to $82.54 per teacher, $5.54 more than the HSTA's dues. However, the HPERB Rules and Regulations restricted service fees to an amount no greater

than union dues. Thus, the service fee was set at $77 for an interim period of one year.

The hearing officer added that the provision for a "reasonable" service fee based on actual costs and imposed on *all* employees was a "modified agency shop" clause. (*In Matter of Hawaii Teachers Association,* Hawaii Public Employment Relations Board, October 27, 1971.)

NEBRASKA

Public Employers May Set Recognition Requirements

The Nebraska Court of Industrial Relations (NIRC) ruled that a public employer may establish conditions for recognition of a bargaining unit's exclusive representative if such conditions do not violate state or federal constitutions or statutes. The Lincoln Electrical System (LES), a city-owned utility, required the International Brotherhood of Electrical Workers, Local 1536 (IBEW), a union seeking representation of LES employees, to receive a simple majority of the vote with at least 80 percent of the employees participating in the election.

Finding that Nebraska law regarding secret balloting is "clearly permissive," the NIRC pointed out that "since an employer is neither required to grant exclusive recognition nor to agree to an election for that purpose, an employer can insist as part of the election agreement upon any condition which is not in violation of state or federal constitutions, statutes, or other law."

The court, in dismissing IBEW's suit objecting to the LES election conditions, noted that such requisites, while legally acceptable, might "have some uneven features." Foreseeing that the parties might agree to a different election condition formula, the court did not enjoin adherence to the 80 percent participation condition. (*IBEW Local 1536 v. City of Lincoln,* Nebraska Court of Industrial Relations, October 13, 1971.)

NEW JERSEY

Timing of Representation Petition Filed Prior to Successor Agreement Ruled Valid

The New Jersey Public Employment Relations Commission (NJPERC) ruled that a representation petition filed by a second union after expiration of the agreement between the Franklin Township and its Municipal Employees Association, was timely, despite a clause in the agreement providing for its automatic renewal until a successor agreement could be executed. Such a clause, the commission ruled, would permanently bar any petitioner from filing.

The petition was filed after the appointment of a mediator when negotiation reached an impasse after expiration of the old agreement but before execution of the new agreement. The commission rejected the employer's argument that after the expiration of an agreement, the parties should be protected after the appointment of a mediator for however long it takes to reach a successor agreement, as such a proposition would negate all opportunity for employees to seek a change in representation.

The employer further contended that an abuse of procedure occurred since members of the negotiating committee had signed the petitioning union's authorization cards, while no mention of the association's incumbent status was made on the petition. The commission held that employee affiliation with the two employee organizations was not evidence of bad faith, since at least 30 percent of the employees had authorized such a petition, and therefore the employer's contention was without merit.

The commission ordered that a secret ballot election be conducted among the employees in the unit. (*Franklin Township, Somerset County, New Jersey, Public Employer and Department Store Drivers, Local 177, Affiliated with the Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers of America, Petitioner, and Franklin Township Municipal Employees Association,* New Jersey Public Employment Relations Commission, December 3, 1971.)

OTHER ITEMS OF INTEREST

Consumer Price Index, February 1972

According to the Bureau of Labor Statistics, the Consumer Price Index, (CPI) rose 0.5 percent in February. The February index was 123.8 percent (1967=100), 3.7 percent above a year ago.

The February CPI increase held at 0.5 percent after seasonal adjustment. Since the Economic Stabilization Program went into effect on August 15, 1971, the CPI has risen at a seasonally adjusted annual rate of 3.3 percent; in the six months previous to the stabilization program, the annual rate of increase was 4.9 percent. The rate of increase during Phase I of the wage-price freeze was 1.7 percent, while from November to February (Phase II) the CPI rose at a rate of 4.9 percent. The acceleration of the rate of CPI increase from Phase I to Phase II was attributed to the sharp increase in food prices.

In February, after seasonal adjustments, the food price index rose 1.7 percent; the index for services rose 0.2 percent, while the nonfood commodities index declined 0.1 percent.

ATTORNEY GENERAL'S OPINIONS

New Mexico

Topics concerning pension plans, collective bargaining and merit systems, and dues deduction as affecting municipal employees were covered in several recent opinions by the New Mexico Attorney General.

On the subject of pension and savings plans, the Attorney General specified that all contributions to these funds must come from the municipal employees' regular salaries and not from the municipal employer. The Attorney General also stated that municipal employees not covered by merit systems can organize and bargain collectively while employees in municipalities with merit systems can bargain on items not covered by the merit system.

Concerning dues deduction for municipal employees, the Attorney General felt that employers can deduct union dues from employees' salaries provided that such requests are voluntary, written, and revocable.

FEDERAL PAYBOARD GUIDELINES

. . . PRODUCTIVITY INCENTIVE PAY INCREASES have been exempted by the Pay Board under the Perry Amendment to the Economic Stabilization Act. Any increases are now exempt from wage guidelines when paid in conjunction with existing incentive programs related to employee productivity.

. . . FRINGE BENEFITS–PENSIONS, PROFIT SHARING, ANNUITY AND SAVINGS PLANS, GROUP INSURANCE, AND DISABILITY HEALTH PLANS–EXEMPTED as applicable to an employee unit, or the aggregate of contributions under such plans for any employee unit, not to each plan singlely. The resolution is structured around a basic "exempted benefit standard" of 0.7 percent of the base wage plus fringe compensation, creating in effect a 6.2 percent overall limit to increases. The increases are permitted in order to maintain benefit levels under existing plans, but do not apply if contributions are inceased in connection with a general wage increase with no change in the benefit level. The Pay Board indicated that this is not a hardfast rule, as each case will be considered individually in light of on-going collective negotiations, pay practices, and market disruptions.

. . . MINIMUM HOURLY WAGE RATE ESTABLISHED BY COST OF LIVING COUNCIL for which the 5.5 percent guideline does not apply. COLC says that 15 percent of the nation's workers will be affected with the establishment of a $1.90 hourly wage rate. Wages below this minimum are considered "substandard." The federal minimum wage is $1.60 per hour.

. . . PAY BOARD FULLY IMPLEMENTS OHIO MINIMUM SALARY SCHEDULE. The State-Local Government Committee won its first formal case before the Pay Board when it pressed approval of a 10 percent increase for 80,000 "low-paid dedicated" Ohio employees. The Committee pointed out that the increase was necessary since a salary comparison made in mid-1970 showed Ohio employees' pay to be 16 percent behind pay in neighboring states and 21 percent below federal employees. The Pay Board said that the 5.5 percent ceiling may be exceeded especially in school districts where teachers are paid far below the regular wage differentials. For some teachers this means a 20-22 percent increase.

STATISTICS

INDUSTRY AND GOVERNMENT OUTLAY FOR FRINGE BENEFITS

A recent Labor Department, Bureau of Labor Statistics (BLS) study of employer expenditures for fringe benefits as a percentage of basic wages showed the federal government contributing a larger share of employee compensation for fringe benefits than private industry (Table 1). BLS noted that while pay supplements relative to basic wages increased in both sectors, the rate of increase of federal expenditures was more than twice as fast as in industry.

Private industry outlays for fringe benefits in 1970 amounted to 26.6 percent of basic pay as against 25.1 percent in 1968 and 24.5 percent in 1966. Federal government expenditures for fringe benefits for July 1970 - June 1971 amounted to 27.8 percent of basic pay compared with 24.3 percent and 23.8 percent in 1968 and 1966, respectively. From 1968 to 1970, the rise in the ratio for private industry and federal government was 6.0 percent and 14 percent, respectively. From 1966 to 1968, gains were 2.4 percent for the private sector and 2.1 percent for the federal government.

TABLE 1.–INDUSTRY AND GOVERNMENT OUTLAY FOR FRINGE BENEFITS

Compensation Practice	Expenditures as a Percent of Basic Wages and Salaries	
	Private Industry[a] January - December 1970	Federal Government[b] July 1970 - June 1971
Total, all supplements except pay for overtime, weekend, and holiday work, and premium pay for shift work	26.6	27.8
Pay for leave time (except sick leave)	8.8	11.6
Vacations and holidays	8.5	11.0
Payments to funds	c	e
Payments to workers	8.5	11.0
Vacations	5.3	8.1
Holidays	3.2	2.9
Civic and personal leave	.3	0.6
Health and insurance programs[d]	6.3	5.6
Workmen's compensation	.8	0.5
Sick leave	1.1	3.3
Life, accident, and health insurance	4.4	1.8
Retirement programs	9.1	10.0
Social security and railroad retirement	4.3	0.2
Private pension and retirement plans	4.9	9.8
Unemployment programs	1.1	0.5
Legally required programs	.8	0.4
Payments to employees	.1	0.1
Payments to funds	.1	–
Nonproduction bonuses (including awards)	.9	0.1
Savings and thrift plans	.4	e

Source: U.S. Department of Labor, Bureau of Labor Statistics, "Pay Supplements for Government and Industry Compared," Press release, No. U.S.D.L. 71701, December 31, 1971.

[a]Data relate to establishments in the United States, except Alaska and Hawaii, having the indicated minimum employment size in the following industries: Manufacturing (250); retail trade (250); transportation, communication, electric, gas, and sanitary services (100); wholesale trade (100); engineering and architectural services (100); commercial research and development laboratories (100); finance, insurance, and real estate (50).

[b]Data provided by the Civil Service Commission and Office of Management and Budget.

[c]Less than 0.05 percent.

[d]Includes items in addition to those shown separately.

[e]No such program in the Federal Government.

GRIEVANCE PROCEDURES – FINAL APPEAL OUTSIDE THE SCHOOL SYSTEM

The final appeal in grievance procedures negotiated in agreements effective in districts with 1,000 or more pupils enrolled was analyzed for 1966-67 and 1970-71 school years. In 1966-67, 88.7 percent of 398 negotiation agreements were found to contain grievance procedures. The incidence of grievance procedures was about the same in 1970-71 with 89.0 percent of 1,529 agreements containing grievance procedures.

The percentage of grievance procedures providing for appeal to a party outside the school system showed little change over the four year period. For both years, at least 4 out of 5 grievance procedures provided for a final appeal outside the school system. Table 1 shows a state distribution of the number of agreements with grievance procedures with final appeal inside and outside the districts.

TABLE 1.–DISTRIBUTION OF GRIEVANCE PROCEDURES WITH FINAL APPEAL INSIDE AND OUTSIDE THE SCHOOL SYSTEM 1966-67 AND 1970-71

STATE	Number of agreements with grievance procedures		Final inside the System				Final outside the System			
	1966-67	1970-71	1966-67		1970-71		1966-67		1970-71	
			Number	Percent	Number	Percent	Number	Percent	Number	Percent
1	2	3	4	5	6	7	8	9	10	11
Alaska	...	1	...	...	...	...	...	...	1	100.0%
Arizona	...	5	...	...	2	40.0%	...	...	3	60.0
Arkansas	...	1	...	...	1	100.0	...	...	...	...
California	...	9	...	...	2	22.2	...	...	7	77.8
Colorado	1	8	...	...	2	25.0	1	100.0%	6	75.0
Connecticut	33	58	13	39.4%	6	10.3	20	60.6	52	89.7
Delaware	...	10	...	...	6	60.0	...	...	4	40.0
D.C.	...	1	...	...	...	...	...	...	1	100.0
Florida	...	2	...	...	2	100.0	...	...	...	...
Idaho	...	1	...	...	1	100.0	...	...	...	...
Illinois	7	66	4	57.1	24	36.4	3	42.9	42	63.6
Indiana	...	19	...	...	6	31.6	...	...	13	68.4
Kansas	...	1	...	...	1	100.0	...	...	...	...
Kentucky	...	2	...	...	1	50.0	...	...	1	50.0
Maine	...	17	...	...	1	5.9	...	...	16	94.1
Maryland	...	20	...	...	8	40.0	...	...	12	60.0
Massachusetts	54	119	6	11.1	4	3.4	48	88.9	115	96.6
Michigan	227	241	22	9.7	15	6.2	205	90.3	226	93.8
Minnesota	...	5	...	...	4	80.0	...	...	1	20.0
Montana	...	1	...	...	...	...	...	...	1	100.0
Nevada	...	2	...	...	...	...	...	...	2	100.0
New Hampshire	...	4	...	...	...	...	...	...	4	100.0
New Jersey	1	215	...	...	41	19.1	1	100.0	174	[illegible].9
New Mexico	...	1	...	...	...	...	...	...	1	100.0
New York	11	339	2	18.2	68	20.1	9	81.8	271	79.9
North Dakota	...	2	...	...	...	...	...	...	2	100.0
Ohio	...	36	...	...	18	50.0	...	...	18	50.0
Oregon	...	1	...	...	1	100.0	...	...	...	...
Pennsylvania	1	14	...	...	3	21.4	1	100.0	11	78.6
Rhode Island	6	21	...	...	...	...	6	100.0	21	100.0
Texas	...	1	...	...	...	...	...	...	1	100.0
Utah	...	5	...	...	2	40.0	...	...	3	60.0
Vermont	...	2	...	...	...	...	...	...	2	100.0
Virginia	...	3	...	...	...	...	...	...	3	100.0
Washington	...	8	...	...	5	62.5	...	...	3	37.5
Wisconsin	12	119	6	50.0	26	21.8	6	50.0	93	78.2
Wyoming	...	1	...	...	...	...	...	...	1	100.0
TOTAL	353	1,361	53	15.0%	250	18.4%	300	85.0%	1,111	81.6%

Final appeal outside the system may be advisory or binding, and involves various types of third-party assistance. Of the 1,111 grievance procedures with an outside appeal for 1970-71, 3 out of 5 procedures provided for a final and binding decision on appeal outside the school system, whereas, 2 of 5 procedures provided for this type appeal for 1966-67. While an advisory decision on outside appeal was found in slightly over one-half of the 1966-67 grievance procedures, this type appeal declined to slightly over one-third over the four year period to 1970-71.

Over the four years from 1966-67 to 1970-71, there has been a significant shift in the ratio of advisory and binding decisions found in the final appeal provisions of the grievance procedures. While there has been an increase in the percent of grievance procedures with a final and binding decision outside the system, a corresponding decrease in grievance procedures with advisory decisions is evidenced.

In addition to shifts in the types of decisions, there has also been shifts in the type of third-party assistance. Table 2 identifies the various types of third parties called-upon to assist in the final appeal process. The various sources identified to provide assistance are: parties specifically named in the agreement (NAMED); parties jointly selected (JOINT); state departments or commissioners of education (EDUCATION); state public employee or labor boards (LABOR); United States Mediation and Conciliation Service (USMCS); American Arbitration Association (AAA); and other.

Grievance procedures in effect during 1966-67 most often specified state public employee or labor boards as final appeal bodies; in 1970-71 the largest percentage specified the AAA for outside assistance. This shift from state public employee or labor board assistance to AAA assistance between 1966-67 and 1970-71 was more pronounced in advisory than in binding appeal decisions. The AAA most often provided assistance for binding decisions on appeal in both 1966-67 and 1970-71.

Grievance procedures are negotiated to prevent and/or resolve, promptly and equitably at the lowest administrative level, problems affecting the conditions of professional teaching service. Grievances may be brought by an individual or group of teachers, by the representative organization, or by the local school board. A grievance is instituted for alleged violations, misinterpretations, or misapplications of negotiated provisions; violations of board rules, orders, or written policies; statutory violation; alleged unfair treatment; or for any personal loss, injury, or inconvenience resulting from such violations.

Most grievance procedures urge rapid processing and appropriate informality at each level of the procedure; the parties are also exhorted to make every effort to resolve the grievance prior to invoking the formal procedure. The proceedings are to be free from interference, coercion, restraint, discrimination, or reprisal. Many agreements specifically provide that all records of proceedings be filed apart from the grievant's personnel file.

The grievant often is allowed representation, usually from the teachers' organization, at each stage of the grievance procedure. While a teacher may grieve a matter personally, most agreements stipulate that the representative organization shall have the opportunity to be present and state its views at certain stages of the formal procedure. In addition, decisions reached at each step of the formal procedure generally are rendered in writing, and promptly transmitted to the grievant and the representative organization. In some agreements, the teachers' organization is allowed to process a grievance through all levels of the procedure, even though the aggrieved does not wish to pursue the matter beyond a particular level; some provisions allow only the representative organization to pursue grievances to the highest level of appeal. The teachers' organization representative engaged in processing a grievance is usually released from regular duties without loss of pay. However, some agreements provide that parties involved in grievance proceedings must neither interrupt classroom activity nor permit pupil involvement in the proceedings.

Upon institution of an alleged violation, the grievant must discuss the matter on an informal basis with his immediate supervisor, generally the building principal; some agreements emphasize that a teacher should first discuss a personal complaint with the supervisor without recourse to the actual grievance machinery. If discussions prove unsatisfactory, the formal grievance procedure is invoked by entering a written complaint or completing a standardized grievance form and submitting it to a specified supervisor. Designated time limits, usually stated as maximums placed upon each level of the procedure, are to be observed, unless extended by written mutual agreement of both parties. Although negotiated grievance procedures vary in terms of the number of appeal levels, persons or bodies to which appeal is made, time limits at various levels of appeal, and the final disposition of grievances, a formal grievance generally must be initiated within a certain number of days within which the alleged violation occurred (30 calendar days to 60 school days) and/or a "reasonable" number of days following the grievant's discussion with his immediate supervisor (five to 20 school days). Grievances brought by the representative organization group or class of teachers often are initiated above the first level of the procedure.

TABLE 2.–DISTRIBUTION OF GRIEVANCE PROCEDURES WITH ADVISORY OR BINDING DECISION BY THIRD PARTY, 1966-67 and 1970-71

Third party	Final appeal outside the school system				Advisory				Binding			
	1966-67		1970-71		1966-67		1970-71		1966-67		1970-71	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
1	2	3	4	5	6	7	8	9	10	11	12	13
Named	3	1.0%	10	0.9%	2	0.7%	4	0.4%	1	0.3%	6	0.5%
Joint	28	9.3	172	15.5	15	5.0	90	8.1	13	4.3	82	7.4
Education	3	1.0	37	3.3	3	1.0	20	1.8	...	...	17	1.5
Labor	141	47.0	195	17.6	116	38.7	111	10.0	25	8.3	84	7.6
USMCS	5	1.7	11	1.0	...	...	4	0.4	5	1.7	7	0.6
AAA	114	38.0	646	58.1	29	9.7	181	16.3	85	28.3	465	41.9
Other	6	2.0	40	3.6	5	1.7	27	2.4	1	0.3	13	1.2
TOTAL	300	100.0%	1,111	100.0%	170	56.7%	437	39.4%	130	43.3%	674	60.7%

GRIEVANCE PROCEDURE

Definitions:

Problems:

A problem is a complaint or misunderstanding of a professional staff member concerning the violation, misinterpretation or inequitable application of District policies, rules or regulations, administrative orders or procedures, or existing laws; or concerning a complaint that a professional staff member's health or safety is jeopardized by conditions which can be corrected by the Board.

Grievance:

A grievance is an unresolved problem which becomes a grievance when either party to a disagreement states in writing that a grievance exists and requests that the procedures contained herein be invoked.

Employee:

The term employee (professional staff member) shall also mean a group of employees having the same grievance.

Purpose

The primary purpose of this procedure is to secure, at the lowest level possible, equitable solutions to a claim of the aggrieved person.

By establishing and maintaining recognized two-way communication between staff and administration, it also serves the purpose of reducing potential areas of grievance.

Time

Since it is important that grievances be processed as rapidly as possible, the number of days indicated at each level shall be regarded as a maximum and every effort shall be made to expedite the process.

The time limit specified may be extended or reduced by mutual agreement of the aggrieved person and the administration.

Participation

Nothing contained herein shall be construed as limiting the right of any person with a grievance to discuss the matter informally with any appropriate member of the administration, or as limiting the right of any person to pursue the Grievance Procedure without representation.

An aggrieved person, at each of the levels hereinafter provided, may represent himself or he may select as his representative a representative from the teacher organization to which he belongs.

The above provisions for pursuing the Grievance Procedure singly or with representation notwithstanding, the majority organization represented on the Negotiations Committee will have the right to be present at all levels beyond Level One.

Level One

An employee with a problem will first present it orally and informally to his administrator. At least one private meeting between the parties to a disagreement or problem shall take place before the formal grievance procedure is invoked.

If the problem is not resolved within five school days to the employee's satisfaction, he may present a formal claim in writing to his administrator, either directly or through his organization representative.

Within five school days after receiving the written claim of grievance, the administrator shall state his decision in writing.

Level Two

Within five school days after receiving the decision of the administrator, the aggrieved person may appeal the Level One decision to the Personnel Manager.

The appeal shall include:

A description of the problem or complaint stating specifically the act or condition, and the grounds, on which the grievance is based.

The name of the employee's representative, if any.

The course of action that has been followed, including a copy of the decision rendered in the first level and reasons why the decision is being appealed.

The action or solution desired.

The grievant shall send a copy of the appeal to the administrator rendering the Level One decision.

The Personnel Manager shall investigate and confer with the grievant within six school days. The grievant, at his discretion, may bring in his representative.

The majority organization will receive notice of the hearing and a statement of the grievance three school days prior to the hearing.

The Personnel Manager will communicate his decision in writing together with supporting reasons to the parties within seven school days after receiving the complaint.

Level Three

Within five days after receiving the decision of the Personnel Manager, the aggrieved person may appeal the Level Two decision to the Superintendent of Schools.

The appeal shall be in writing and accompanied by the original claim and copies of all previous decisions.

The Superintendent will meet with the aggrieved person in an effort to resolve the grievance. Such meetings shall take place and the Superintendent will communicate his decision in writing, together with supporting reasons, within twelve school days after receipt of the written grievance.

The majority organization will receive notice of the hearing and a statement of the grievance three school days prior to the hearing.

Level Four

If the aggrieved person is not satisfied with the disposition of the grievance at Level Three, he or his representative acting for him may, within five school days following receipt of the decision of the Superintendent, file a request in writing with the Board and the Negotiations Committee asking that an Advisory Committee be formed in the manner set forth in Article VI, Section (7) of this instrument.

An Advisory Committee shall be formed as provided in Article VI, Section 7, and shall, within twenty days from the filing of said request conduct a hearing, render a decision, and make written recommendations to the Board.

Following receipt of the recommendations of the Advisory Committee, the Board shall take official action at the next regularly scheduled meeting before which it has had five days for review.

Withdrawal

A grievance may be withdrawn without prejudice or record. However, if in the judgment of the organization's representative the grievance affects a group of employees, the organization may pursue the grievance.

In the event of withdrawal before a decision has been rendered at a given level, the organization may pursue the grievance at the level of withdrawal by the grievant; if a decision has been rendered that is acceptable to the grievant, the organization may pursue the grievance at the next higher level.

Hearing and Decisions

At each of the above four levels, the aggrieved person and his representative shall be given a reasonable opportunity to be heard.

All decisions at each level shall be in writing and shall include supporting reasons, except informal decisions at Level One.

Copies of all decisions and recommendations shall be promptly furnished to all parties in interest including the aggrieved person, his representative, and the Negotiation Commission.

Reprisals

No reprisals of any kind shall be taken by or against any party of interest or any participant in the grievance procedure by reason of such participation.

Files

Grievance proceedings shall be kept confidential at each level of this procedure and no documents, communications, or records dealing with a grievance shall be filed with the personnel files of the participants.

Forms

Forms for filing grievances, serving notices, taking appeals, making reports and recommendations, and other necessary or related proceedings, shall be jointly prepared by the Superintendent or his designee and the Negotiation Committee, and will be reproduced and given appropriate distribution so as to facilitate the prompt processing and determination of grievances.

Information

Reasonable access shall be made available to records and files of all unprivileged information necessary to the determination and processing of any grievance.

Effective Date

This revised Grievance Procedure shall become effective on August 15, 1970 and shall remain in effect until such time as revision may take place.

[SCOTTSDALE, ARIZONA]

PROFESSIONAL GRIEVANCE PROCEDURE

Definitions:

A grievant shall invoke the formal grievance procedure on the forms set forth in Schedule F which is incorporated into, and made a part of, this Agreement.

The "Aggrieved person" is the person, or persons, instituting the action.

A "grievance" is an action instituted on the belief that there has been a violation, misinterpretation, misapplication of any provision of this Agreement, or any existing rule, order, or regulation of the Board, or any other provision of law relating to wages, hours, terms, or conditions of employment.

The "teacher" includes any individual, or group, who is a member of the bargaining unit covered by this contract.

A "party of interest" is the person, or persons, who might be required to take action, or against whom action might be taken, in order to resolve the problem.

The term "days" shall mean work days.

Purpose:

The primary purpose of this procedure is to secure, at the lowest level possible, equitable solutions to the problems of the parties. Nothing contained herein shall be construed as limiting the right of any teacher with a grievance to discuss the matter informally with any appropriate member of the Administration or proceeding independently as described in Section E. of these procedures.

Structure:

There shall be one, or more, Association Representatives (building representatives) for each school building to be selected in a manner determined by the Association.

The Association shall establish a Grievance Committee which shall serve as the Association Grievance Committee. All meetings and decisions concerning any grievance shall be arranged through this committee. In the event that any Association Representative, or any member of the Grievance Committee, is a party to any grievance, he shall disqualify himself and a substitute shall be named by the Association.

The building principal shall be the administrative representative when the particular grievance arises in that building.

The Superintendent, or his delegate, shall be the administrative representative when the grievance arises in more than one school building.

Procedure:

Before entering into the following prescribed grievance procedure, it is the desire of the Association and Administration that effort has been made to resolve the problem through direct verbal communication and discussion between the parties involved. The presence of an Association Representative may be requested.

The number of days indicated at each level should be considered as maximum and every effort should be made to expedite the process. The time limits may be extended or reduced by mutual consent.

If the grievance is filed on or after June 1, the time limits may be reduced by mutual consent, if practical, in order to affect a solution prior to the end of the school year.

LEVEL ONE – A teacher with a grievance shall submit it, in writing, to his immediate supervisor or principal; individually, together with his Association Representative or through the Association Representative. A decision shall be rendered, in writing, within four (4) days after presentation of the grievance.

LEVEL TWO – In the event the aggrieved person is not satisfied with the disposition of his grievance at Level One, or if no decision has been rendered within four (4) days after presentation of the grievance, he may file an appeal with the supervisor rendering such a decision and with the Association Grievance Committee.

Within eight (8) days of receipt of the request to appeal, the Grievance Committee shall decide whether or not there is a basis for appeal. If the committee decides there is legitimate grievance, it shall immediately process the claim with the Superintendent of Schools, within the time limitations set forth in Paragraph G-8 of this Article.

LEVEL THREE – In the event the aggrieved person is not satisfied with the disposition of the grievance at Level Two, or if no decision has been rendered within eight (8) days from receipt of grievance by the Superintendent, the Association may refer the grievance to the Board of Education's Review Committee. This committee shall be composed solely of members of the Board of Education. Within twelve (12) days from receipt of the written referral to the Board, its Review Committee shall meet with the Association's Grievance Committee and a member of the Association's Negotiating Team for the purpose of arriving at a mutually satisfactory solution to the grievance problem. A decision shall be rendered within eight (8) days of the above mentioned meeting.

LEVEL FOUR – In the event that the grievance is not satisfactorily resolved at level three, the grievance may be submitted for arbitration. The arbitrator shall be selected by the American Arbitration Association in accordance with its rules which shall likewise govern the arbitration hearing. The fees and the expenses of such arbitration shall be shared equally by the parties involved. Both parties agree to be bound by the award of the arbitrator. Either party may appeal this decision to a competent court of jurisdiction. The Board and the Association shall not be permitted to assert in such arbitration proceeding any ground or to rely on any evidence not previously disclosed to the other party. The arbitrator shall have no power to alter, add to, or subtract from the terms of this Agreement.

Rights of Representation:

Any party of interest may be represented at all meetings and hearings at any level of the grievance procedure by another teacher, or another person, provided, however, that any teacher may in no event be represented by an officer, agent, or other representative of any organization other than the Association. Provided, further, when a teacher is not represented by the Association, the Association shall have the right to be present and to state its views at all stages of the grievance procedure after Level One.

Miscellaneous:

A grievance may be withdrawn at any level without prejudice or record. However, if, in the judgment of the Association Representative of the Grievance Committee, the grievance affects a group of teachers, the Grievance Committee may process the grievance at the appropriate level.

No reprisals of any kind shall be taken by or against any party of interest or any participant in the grievance procedure by reason of such participation.

All documents, communications, and records dealing with the grievance shall be filed separately from the personnel files of the participants.

Forms for filing and processing grievances shall be as presented as Schedule F. The Office of the Superintendent shall prepare copies of the Professional Grievance Report, submitting these to the President of the Association for his use.

Access shall be made available to all parties, places, and records, for all information necessary to the determination and processing of the grievance.

If any non-tenure teacher for whom a grievance is sustained shall be found to have been unjustly discharged, he shall be reinstated with full reimbursement of all professional compensation lost. If he shall have been found to have been improperly deprived of any professional compensation or advantage, the same or its equivalent in money shall be paid to him.

No teacher shall be disciplined, reprimanded, reduced in rank, or compensation, or deprived of any professional advantage without just cause. All information forming the basis for disciplinary action will be made available in writing to the teacher and the Association within ten (10) days of said action.

Any grievance not appealed from a decision at any level of this procedure within fifteen (15) days from

the date of such decision, shall be considered settled. No further appeal shall be made unless by mutual agreement, where extenuating circumstances merit such consideration.

Any grievance shall be filed within forty-five (45) days after the alleged incident was known or should have been known to the aggrieved party. In such cases the disposition rendered shall indicate non-compliance with the above time limit.

The Board of Education and/or the Superintendent of Schools shall have the right of initiating a grievance. Any such grievance shall be initiated at Level Two and follow the established grievance procedure.

GARMAN SCH. DIST
FLINT, MICHIGAN

SPECIAL REPORTS

BRIEFS OF RECENT AGREEMENTS

Fort Wayne, Indiana

Between the Fort Wayne Education Association and Fort Wayne Community Schools, effective August 15, 1971, to August 14, 1972. Approximately 179 certified professional employees. Provision for renegotiation with mutual consent of both parties to revise and consider new items.
COMPENSATION: B.A., $7,450 to $12,516, 17 increments; M.A., $8,195 to $14,006, 17 increments; M.A. plus 60, $14,906 maximum.
Differentials: (B.A. base) head football, basketball and track-cross country coaches, $1,386 each (.186); all other head and assistant coaches, marching band advisor, publications advisor, and department heads, $671 each (.09); orchestra, vocal, music, and theatre arts advisors, $335 each (.045); high school Math, English, Social Studies, Science, and Music department heads, $224 each (0.3).
Substitute Teachers: unlicensed, $22.00 per day; licensed, $25.00 per day; supplemental contract based on current salary schedule to be given licensed substitute after teaching 30 consecutive days; a retired licensed teacher may teach 59 days at the substitute rate.
Other: retirement pay, .01 of B.A. base times number of years' service to be paid last month of tenure; $150 additional for new teacher's attendance at one-week orientation session; $10 per day travel expenses while attending professional meeting at least 50 miles from Fort Wayne; $18 reimbursement of pre-employment physical examination; $7.50 reimbursement for required physical examination.
LEAVES: 10 days' annual sick leave, 120 maximum, accumulated leave accrued outside the district will be credited second year in the district; 3 days for illness in the immediate family; up to 5 days for death in the immediate family; 2 days for personal business (unused days are added to sick leave accumulation); one day to be banked for each 5 teachers for professional conferences and school visitations; paid-leave for testifying in court (unless testimony is against the school district) and jury duty (less court allowances); up to 15 days for military reserve with pay of difference between regular and military pay; sabbatical leave for one half of one percent of the number of tenured teachers at one-half pay for one year paid during the year upon return, with reopener if legislation permits payment during leave; leave with pay for compensable injury less Workmen's Compensation; maternity leave for tenured teachers, nontenured teachers may request leave under same terms but are not eligible for such leave.
INSURANCE: Board pays 90 percent of the Blue Cross-Blue Shield for individual or family coverage; teachers pay $1.00 per year on $5,000 convertible term life insurance policy; tax-sheltered annuity plan; cost of long term disability insurance paying 60 percent of earning after 6 months continuing to age 65 (maximum $1,250 per month) shared equally by the teacher and the board.
INSTRUCTION: Maximum of 275 pupil-contact minutes per day for junior and senior high school teachers; class-size guidelines: overall ratio of 30 students per elementary teacher, 23 students per junior-high teacher, and 25 students per high-school teacher; one parent-teacher conference per student per semester, unless the teacher and principal decide otherwise; academic freedom to teach about controversial issues and to maintain a classroom environment which is conducive to a free exchange and examination of ideas of "economic, political, scientific or social significance" and "to use materials which are relevant to the levels of ability and maturity of the students and to the purposes of the school system."
PERSONNEL: Grievance procedure ends with advisory arbitration; duty-free lunch period during which teachers may leave the building; preparation period equals one class period per day for junior and senior high-school teacher; monthly faculty meeting to be scheduled in advance; special meeting called only when necessary; to meet professional growth requirement each teacher must earn 5 university credits every five years (two of which may be for college-approved seminars or travel); teachers employed in the district have priority for promotions, vacancies and transfers; no teacher may be discriminated against for requesting transfer; any teacher may apply to administrative screening program for promotion; sabbatical committee to recommend sabbatical leave candidates; payroll deduction of Association dues; appearance of teachers to be "appropriate for schools;" tenure attained after 5 successive years in the district; student teacher may substitute for supervisory teacher; student behavior code (*see* reprint).

DISCIPLINARY AUTHORITY AND RESPONSIBILITY

It is mutually recognized that the proper excercise of discipline is an integral part of the educational process. Therefore, it is the professional responsibility of each teacher to use good judgment in making those decisions concerning student discipline that can be fairly and justly upheld by the administrative staff of the school corporation. Having followed policies, procedures, and guidelines of the school corporation and acting within the established practices of the individual school, teachers may expect the full support of the administrative staff. Note – The Board of School Trustees policy on School Behavior adopted August 10, 1970, is reproduced at the end of this booklet for convenient reference for the classroom teacher.

SCHOOL BEHAVIOR – RIGHTS, RESPONSIBILITIES, AND REGULATIONS

The entire foundation and success of public school education depends upon the basic concept of self-discipline – a self-discipline which will allow all individuals to exist in a world of change and with the individual rights afforded them by our Federal and State Constitutions. Certain standards of student conduct are necessary to assure that students seeking to express their own individual rights do not at the same time infringe upon the rights of others. The responsibility for the development and maintenance of self-discipline falls to the cooperative efforts of students, parents, teachers, administrators, and the community.

The responsibility for the development and enforcement of regulations for the protection of the rights of individuals is delegated by the Board of School Trustees to responsible officials within the School Corporation. The purpose of discipline controls is to help create an atmosphere that promotes the best possible learning environment for all those involved in the educational process.

An environment that provides equal opportunity for all and permits the teaching-learning process to proceed in an orderly manner is the objective of all school personnel. School staff members will make every effort, individually, collectively, and cooperatively, with appropriate available community resources, to help each student gain acceptable self-discipline standards.

Reprimand, corporal punishment, probation, referral to special personnel in the schools (counselor, assistant principal, principal), parent conferences, suspension, referral to special central office personnel (pupil personnel or psychological) and expulsion are courses of action available to school personnel in dealing with pupils involved in school discipline problems. Some behavior is much more serious than others and requires different approaches and clearly defined actions. Not all acts of misconduct can be itemized; however, examples of some significant misbehavior are herein listed. Any or all of the above techniques will be used to deal with the following types of behavior:

Any person or group of persons involved in stealing, damaging, or destroying personal or public property.

Any person or group of persons involved in conduct defined as criminal by law.

Any student refusing to comply with state and local attendance laws.

Any person or persons gambling on school premises.

Certain acts of misconduct in school or at school-sponsored events will be subject to immediate suspension or expulsion from school using due-process procedures. Some examples are listed below.

Any person involved in the possession of, use of, or under the influence of alcohol and/or drugs.

Any student smoking on school premises.

Any person or group of persons involved in physical threats or violence or verbal abuse to others.

Any person or group of persons aiding, encouraging, or participating in a disruptive activity that in any way disturbs the learning process and impedes another's freedom to properly utilize school facilities and programs.

Any person or group of persons involved in unauthorized occupation of any part of the school property and refusing to vacate such school property after being warned and told by a duly authorized school official as set down in Section 3 of the 1969 Trespassing on Public Property Act.

Any person having possession (on person, in vehicle, or in locker) of a dangerous weapon on school premises or any school-sponsored activity.

The Law Shall Prevail

In cases where there is any court action, the Fort Wayne Community Schools Corporation shall provide legal counsel for any employee who is a defendant or plaintiff in any situation relating to the performance of his responsibilities within the rules, regulations, and policies of the School Corporation.

Acts of 1969, Chapter 179 (H1257. Approved March 13, 1969) Section 3, *An Act to Prevent Trespassing Upon Public Property, states that* –

"It shall be a misdemeanor for any person to refuse to leave the premises of any institution established for the purpose of the education of students enrolled therein when so requested, regardless of the reason, by the duly constituted officials of any such institution."

Expectations Regarding Appearance

"The board of school trustees believes that proper dress and proper grooming are the responsibilities of every pupil attending the Fort Wayne Community Schools. The superintendent and the principals of the Fort Wayne Community Schools are charged with the responsibility of establishing and enforcing reasonable standards of dress and grooming necessary for the orderly operation of the schools."

As general guidelines for reasonableness, the administration will require that students wear footwear and clothing which meet standards of decency, safety, and cleanliness. Apparel and appearance deliberately planned to disrupt will not be tolerated.

School authorities will follow the practice of calling the parent if his boy or girl appears in school in questionable attire.

Wichita, Kansas

Between the National Education Association-Wichita and the Wichita Unified School District 259 Board of Education, effective August 1, 1971, to July 31, 1972. Approximately 2,952 certificated professional employees.

COMPENSATION: B.A., $6,700 to $9,040, 9 increments; B.A. plus 20, $9,560 maximum; M.A., $7,225 to $11,125, 12 increments; M.A plus 20, $11,515 maximum; Ph.D., $12,690 maximum; separate schedule for health services registered nurse, $5,485 to $6,850, 7 increments; registered medical technologist $9,040 maximum. Differentials: (Based on current B.A. base, plus .003 for each year up to 5 years) senior-high athletic activities director, $938 (.14); senior-high coordinator (8-10 teachers), head football and basketball coaches $804 each (.12); senior-high music director, $670 (.10); senior-high drama director and track coach, $536 each (.08); senior-high wrestling, swimming, golf, tennis, cross country and gymnastic coaches, $402 each (.06); junior-high coordinator (4-5 teachers) and forensic coach, $268 each (.04).
Other: regular teacher as substitute to be paid one-fifth regular compensation per class period; teacher with overload shall receive an additional one-fifth of daily rate (no more than one overload per teacher); an elementary teacher assigned 5 or more extra students shall receive $4.00 per hour or major fraction thereof; nondegree vocationally-certified teachers with 5 years experience shall be placed on step 1 of B.A. lane and may receive credit for a maximum of four years' experience; 9¢ per mile reimbursement for use of car for school business.
LEAVES: 12 days' annual temporary leave, 150 days' maximum accumulation, to be used for: personal illness or injury, personal business (3-day maximum), for illness or death in the immediate family, and for military reserve obligations; leave contingent upon administrative approval for: professional conferences and school visitations, jury duty, draft physical, and curriculum committee work during the school day; paid leave for work-related assault or injury less any other state or board-paid compensation; sabbatical leave at one-half pay for one or 2 semesters after 7 years continuous service.
INSURANCE: Tax sheltered annuity plan; disability income protection commencing when last day of temporary leave is used and continuing for 180 days at two-thirds of regular monthly salary; reimbursement of cost of board-requested medical exam.
PERSONNEL: Payroll deduction of Association dues; instructors have the right to use building, office equipment and faculty bulletin boards; "each instructor is required, as a condition of his employment, to provide and maintain space and facilities in his home to carry on his function as an instructor;" instructor may review his personnel file (excluding reference) in the presence of an authorized person, may answer any material therein and shall be provided a copy of any material upon request; 30-minute duty-free lunch period; one preparation period daily, which when combined with lunch period shall equal approximately one hour; attendance at evening meetings optional; teacher evaluation: probationary teachers, one per year; tenured teachers and school nurses, one in 5 years and during the first year after transfer or extended leave; no teacher shall be monitored by intercom without his knowledge; 14-day posting period for teacher and administrative vacancies; professional board of review, recommended by Association and approved by superintendent, has final and binding say on application of academic freedom provision; school building committee elected by the faculty "to identify problems at the building level and arrive at acceptable solutions;" board provides legal assistance to teacher sued as a result of compliance with board policy; reimbursement up to $150 for damage to clothing or personal effects in course of employment; appearance "should be consistent with the standards of the profession;" teachers may be required to collect money for educational purposes; student teacher assigned with teacher's consent.

ACADEMIC FREEDOM

It is the mutual desire of the Board and of the instructors to create and maintain in the school system a climate in which teachers are free to teach and students are free to learn at their levels of comprehension; a climate conducive to open inquiry and responsible discussion of any and all topics related to the development of mankind ethically, culturally and physically, including views and expressions on these topics which may be unorthodox or unpopular.

In order to assure the general continuity, scope, and sequence of the curriculum within the concept of academic freedom, the teacher shall conduct instructional programs in a manner consistent with the curricular objectives of the course.

The Principle of Academic Freedom

An instructor must be allowed to exercise academic freedom in a continuous effort to attain the goals of the school system. Major goals of the school system are to develop learning skills; to develop a free, reasoning individual who can think independently, who can recognize basic values and understand the fundamental ideas not only of his own but other cultures as well, and who can live compassionately with his fellow man.

The principle of academic freedom implies that an instructor must teach with an understanding and respect for the individuality of each pupil. Academic freedom further implies that an instructor will teach with a scrupulous regard for honesty and accuracy, without distortion or falsification.

Instructional Materials

In selecting instructional materials, teachers must consider the learning media to be employed, the substantive manner in which the materials may contribute

to the education of the pupil, their aesthetic values, appropriateness to the curriculum and adaptability both in structure and content for a particular individual or groups of pupils, and shall not be restricted beyond these considerations.

The teacher must be free to recommend for individual study any instructional material which he believes will have educational significance for an individual pupil, and must also be free to discuss with a pupil any instructional material that the pupil reads, views or hears, whether the teacher has recommended it or whether the pupil has discovered it for himself.

Outside Speakers

The teacher must be free to invite and utilize the services of outside speakers in the classroom when the teacher believes that such speakers will have educational significance for a class of students.

Professional Review

Academic freedom guaranteed herein requires strict adherence to professional ethics. It also requires the instructor to evaluate his instruction in a continual effort to meet the highest standards set forth by the teaching profession.

All decisions rendered on the application of any of the provisions of this Article in a specific situation shall be made by a representative group of instructors employed within the school system with minority representation from other sources. This professional board of review, recommended by the Association and approved by the Superintendent, will accept problems, complaints and requests for guidance from instructors and citizens and, after given all interested parties an opportunity to present their viewpoints, shall render a judgment in accordance with this Article and the Code of Ethics of the Education Profession. Such judgment shall be final and binding upon all instructors involved in the specific situation. However, the decision of an instructor shall not be overruled or stayed pending such judgment by the professional board of review.

Newport, Rhode Island

Between the Newport School Committee and the Teachers Association of Newport, effective July 1, 1971 to June 30, 1973. Approximately 376 certified professional employees. Provision for reopener on salaries and insurance plans upon written request prior to December 1, 1971.
COMPENSATION: (1971-72) B.A., $7,400 to $11,200, 9 increments; B.A. plus 30, $11,570 maximum; M.A., $8,140 to $11,940, 9 increments; M.A. plus 30 or Ph. D., $12,310 maximum.
Differentials: Special Education teachers, $500; Substitute teachers, $25 per day for first 5 consecutive days, $30 per day for 6-10 consecutive days, $35 per day for 11th consecutive day and thereafter.
LEAVES: 1 1/2 days per month annual sick leave with 15 days credited at start of school year, 135 days maximum accumulation; 2 days' personal business leave upon notification of the building principal; 5 days' leave for death in immediate household; leave at administrator's discretion for school visitation or attendance at professional conferences; leave for jury duty at regular salary less juror compensation; 15 days' military reserve leave less military pay; extended sick leave offered to teachers with 15 years' service for prolonged illness of up to 30 days donated by staff members with no less than 15 or more years of service; 3 sabbatical leaves per year at half pay for one or two full consecutive semesters after 7 years' service.
INSURANCE: Board-paid Blue Cross physician's service coverage, major medical, and diagnostic benefits for families or individuals; board-paid term life insurance to $10,000 as per Plan A, NEA; tax sheltered annuity plan; Workmen's Compensation; personal injury benefit pays full salary up to one year for job-related accident less any settlement; school board reserves right to have its physician examine a teacher to establish duration of teacher's short-term absence for disability, in the event of disagreement between teacher's and board's physicians, binding opinion of an impartial physician will be sought.
ASSOCIATION: Payroll deduction for local, state, and national Association dues; Association permitted use of school buildings and facilities; Association to be consulted before final approval concerning renovation of old buildings or construction of new buildings.
INSTRUCTION: Teachers' workday shall not exceed 6 hours, 45 minutes, including 15 minutes before classes begin and 30 minutes after dismissal; secondary teachers not required to teach more than 2 subjects nor more than 3 teaching preparations within said subjects; desirable class size of 25 students per teacher, classes of pupils with academic problems reduced to 20 or less for optimum learning; board to organize auxiliary school personnel program to relieve teachers from nonteaching duties; Association consulted on school calendar for following year.
PERSONNEL: Grievance procedure ends with final and binding arbitration; personnel file may be reviewed by teacher and derogatory material may not be included until the teacher has read and/or replied to said material; 30 minute duty-free lunch period for elementary school teachers and the length of student lunch period for secondary school teachers; specialist's time in class may be used by elementary school teacher for preparation; one class period per day as preparation time for secondary school teacher; teachers may be required to attend 2 evening meetings per year, 3 one hour building meetings per month after classes; provision for credits earned for professional growth as reprinted:

CREDITS FOR SALARY SCALE RECLASSIFICATION MAY BE EARNED BY SATISFACTORY COMPLETION OF:

Courses

One credit per semester hour (or credit) for courses related to the candidate's teaching field and approved by the superintendent completed beyond the Bachelor's Degree or Certificate (for nondegree holders) at an accredited college or university, inclusive of courses required to obtain Provisional certificate.

Workships, Institutes, or In-Service Programs related to the candidate's teaching field and approved by the Superintendent.

One credit per semester hour (or credit) for workshops, institutes, or in-service programs completed beyond the Bachelor's Degree or Certificate (for nondegree holders), inclusive of credits required to obtain Provisional certification.

A maximum of 15 credits may be earned by completing any combination of the activities listed below.

Authorship

Six credits for authorship of a textbook printed by a recognized textbook publisher.

A maximum of two credits for authorship of an article printed by a recognized educational, professional, or technical periodical. Number of credits awarded to be determined by the Superintendent.

Conducting a Course

A teacher conducting a course or workshop for teachers or prospective teachers may be awarded credits equal to the number given for completion of the courses for the first experience providing the teacher is not paid for conducting the course. One credit may be awarded for each repetition. Maximum: 7 credits.

Reclassification will be affected if the performance and qualifications of the applicant are satisfactory in all respects.

Credits earned by personnel in the Newport School system prior to the adoption of these provisions will be applicable toward reclassification under the terms of this schedule.

Green Bay, Wisconsin

Between the Green Bay Board of Education and the Green Bay Education Association, effective January 1, 1972 to December 31, 1972. Approximately 1,100 certified professional employees.
COMPENSATION: (based on index) B.A., $7,500 to $12,000, 11 increments; B.A. plus 15, $12,750 maximum; M.A., $8,100 to $13,500, 11 increments; M.A. plus 30, $13,950 maximum. Differentials: Head football, basketball coach, $975; head gymnastics, track, wrestling coach, $750; assistant football, basketball coach, $600; athletic director, assistant wrestling coach, $525; freshman basketball coach, department head (6-12 teachers), high school forensics director, $450; cross country, golf, junior high track coach, debate coach, athletic business manager, $375; junior and senior-high school plays, audio-visual coordinators, unit leaders, high school cheer leaders, $300; teachers of handicapped children, $200; teachers eligible for additional $75 (.01 of base) for each year of service beyond schedule.
LEAVES: 10 days' annual sick leave, 120 days' maximum accumulation; 2 days' emergency leave; 5 days' leave for serious illness or bereavement in household deducted from sick leave; leave plus expenses as needed for professional conference or school visitation; legislative leave of absence (unpaid) to serve in public office; for a continuing disability beyond accumulated sick leave days, 60 percent of pay for a period up to 4 times the number of accumulated sick leave days is board-paid, "at no time shall the 60 percent compensation for the above provision be less than 150 days in the situation where the employee has not had the opportunity to accumlate 38 days of sick leave;" sabbatical leave at half pay for no more than 2 semesters after 7 years' service.
INSURANCE: Board-paid hospitalization, accident and surgical-medical insurance coverage for individual and 80 percent of premium costs for family coverage; liability insurance coverage for teacher's property damage or loss up to $50; provision for a tax-deferred annuity program.
ASSOCIATION: Payroll dues deduction for local Association; released time during negotiations on school days for 4 Association members, up to 25 days' leave for Association business with substitute costs paid by Association; Association permitted use of school buildings and facilities; Association president released from further assignment upon completion of normal daily teaching schedule.
INSTRUCTION: Teachers' normal work week, 37.5 hours; weekly teaching load: elementary school teachers, 25 hours (kindergarten), 26.25 hours (1-2), 28.75 hours (3.6); junior-high school, 30 teaching periods and 5 preparation periods; senior-high school, 25 teaching periods, 5 preparation periods; remedial class size to be 15 or 20, study halls to be 85 or 90 students per instructor; the Association is consulted regarding class size for experimental or special programs; secondary school teachers teach no more than 2 subject areas nor more than 2 teaching preparations at any one time; teachers may be required to attend hour-long faculty meetings one day each month beginning no later than 15 minutes after class dismissal; provision for implementation of experimental and innovative projects reprinted below:

Staff members implementing such projects shall be:
Involved in developing the project objectives and

goals, and in the devising or adopting of the evaluation methods and instruments.

Involved in defining teaching tasks and establishing staffing patterns, in identifying relevant curriculum content, in selecting appropriate materials and technology, and in establishing program flexibility.

Provided appropriate and adequate in-service orientation and be exposed to as many of the projected techniques, methodologies, and staffing patterns as possible before detailed program planning and/or implementation.

Responsible for the critical review and evaluation of the project and for any recommendation for continuation, elimination, and/or broader application within the district.

Compensation for staff members involved in such projects shall not be less than that paid other staff members with similar training and experience. If such projects include after school, weekend, vacation, or summer planning workshops, or evaluation sessions, the involved staff shall be compensated on a prorated basis in relation to each individual's school year contract salary. If federal programs call for payment of stipends or per diem or similar compensation method, in lieu of scheduled salary, the federal guidelines shall prevail.

Staff members in such projects who assume greater responsibility for program development, and for staff training shall be compensated in addition to the established salary schedule on a basis which provides proper equity in comparison with other teaching positions. Such salary variants shall be mutually determined by the Association and the Board.

No staff member shall be required to be a participant in an experimental or innovative project. If a building staff elects to be involved in such a project, any teacher may request and be given a transfer to another school without prejudice, provided a position is available.

Any auxiliary personnel shall be carefully selected and provided with appropriate pre-service and in-service training.

In all such projects, all pupils must be under the supervision of professionally trained and certificated personnel within the building.

Programs shall not be extended to other buildings unless the staff in those buildings have had necessary orientation. If a building becomes involved in such a project extension, any teacher may request and be given a transfer to another school without prejudice, provided a position is available. Programs shall not be adopted on a general basis prior to pilot trial and evaluation.

The Association shall be informed of the nature of each project at its inception and shall be permitted to observe and make recommendations during the planning and implementation phases.

PERSONNEL: Grievance procedure ends with final and binding arbitration; personnel file may be reviewed by teacher upon request and is entitled to receive a copy of any documents other than confidential and to submit a response to any derogatory material contained therein; elementary teachers have a 60 minute noon period free of supervisory duties, including a 30 minute duty-free lunch period; secondary school teachers have a duty-free lunch period equal to time given students, but no less than 30 minutes; secondary school teachers voluntarily taking noon duties compensated on equivalent time basis; elementary school teachers may use specialists' time in class as preparation time, also granted a half day at end of first semester, half day near end of second semester, and one day at end of school year as record days; provision for teachers attending regional and state convention, for those teachers choosing not to attend, "principals may, in those buildings where a number of staff will be present, prepare an in-service program to benefit that particular school. Several schools and principals may combine for such programs, if desired;" probationary teachers evaluated at least 4 times each school year by supervisor, or authorized evaluator; vacancies posted by May 15 for following year; voluntary reassignment or transfer based on following criteria: individual qualifications, instructional requirements, staff availability, experience mix, and seniority; provision for staff reduction provides that "teachers shall be retained in the reverse order of their initial employment providing those with greater seniority are qualified for any position which is open or staffed by a teacher with lowest seniority anywhere within the school system. Staff members being considered for layoff will be notified by March 1." teacher qualifications selection criteria, and notification procedure for employment in summer school program.

SELECTED NEGOTIATED PROVISIONS CONTAINING LIABILITY, INCOME PROTECTION, OR DISABILITY INSURANCE

An analysis of 1,529 comprehensive agreements effective during the 1970-71 school year in systems with pupil enrollment of 1,000 or more revealed that 168 agreements (11.0 percent) contained income protection or disability insurance provisions, while 138 agreements (9.0 percent) provided liability insurance provisions. The analysis further revealed 70 agreements (4.6 percent) with overlapping provisions, providing both income protection/disability insurance and liability insurance.[a] The extent of school board financial participation in these programs is found in Table 1.

[a]*C.F.* For statistical data, "What Teachers Are Negotiating" NRD NOVEMBER 1971, pp. 20-38.

TABLE 1.–EXTENT OF BOARD PARTICIPATION IN NEGOTIATED LIABILITY, INCOME PROTECTION, OR DISABILITY PROVISIONS, 1970-71

Extent of Participation	Liability Insurance		Income Protection, Disability Insurance	
	Number	Percent	Number	Percent
1	2	3	4	5
Total Board Participation	138	100.0%	168	100.0%
Full cost	87	63.0	63	37.5
Flat amount	3	2.2	20	11.9
Percent of cost	5	3.6	31	18.5
No contribution	17	12.3	22	13.1
Not indicated	26	18.9	32	19.0

Income Protection/Disability Insurance Provisions

Income protection or disability insurance programs is generally provided the teacher in the event of a protracted disability or illness. Such long-term protection is afforded to pay the individual some portion or all of his salary upon exhaustion of accumulated sick leave.

The majority of the provisions usually contained full cost, board-paid benefits based on a percentage of the teacher's salary, ranging from 40 to 80 percent. Some provisions stipulated a minimum payment of $1,000 per month. These payments may extend for the duration of the disability or until retirement, whichever occurs first. Examples of these types of provisions are reprinted below.

Each employee in an eligible capacity is automatically covered in a disability income plan six months from the first day of the month in which work starts in the eligible capacity, with no cost to the employee. The benefit will be paid starting at the end of the qualifying disability period of sixty calendar days or beyond expiration of all paid leaves, including vacation, should accrued sick leave and vacation extend beyond sixty days. Monthly benefit is two-thirds of the first $1,000 of basic pay plus one-third of additional basic pay to a maximum of $1,000 per month total benefit.

[OAKLAND, CALIFORNIA]

All full-time teachers shall be provided a long-term disability insurance policy which includes benefits of 60 per cent earnings after six calendar months of disability and continuing during disability or to age 65. Coverage shall be for 52 weeks of the year with maximum benefit payments of $1,250 per month. The cost of premium for the plan is borne equally by the participating teacher and Fort Wayne Community Schools.

Any teacher who, as a result of resignation or discharge, shall teach less than a full school year shall have applied for his or her benefit only that proportion of the above described insurance premiums which the total number of days taught bears to the total number of teaching days in the school year.

[FORT WAYNE, INDIANA]

Effective September 1, 1972, the Board shall provide long term disability insurance that will include benefits payable upon the first day after 365 days of disability at a minimum of 50 per cent of annual contractual salary with a monthly payment limit of 75 per cent (no direct offsets). Benefits shall be payable to age 65 or until termination of disability, whichever occurs first. Applicable social security benefits shall not be frozen.

Effective February 1, 1972, the Board shall provide up to a maximum of $10 per month for loss of income insurance through MESSA, or the Board's carrier.

The effective date for coverage on new employees shall be as soon after initial date of employment as is allowed by the carrier. Teachers who remain in the School District shall have continuous coverage. If an employee terminates his employment, his subsidy shall terminate on the first of the month following. In instances where cost of coverage exceeds amount of subsidy, the Board shall make provision for the excess to be payroll deductible.

The Board shall permit enrollment in the insurance programs during the open enrollment periods of the insurance companies. Changes in carrier and/or coverage shall be effective as soon as possible following the signature date of the application, subject only to the limitations of the school's carrier. The Board will not be liable for double coverage.

[LAKE FENTON, MICHIGAN]

Liability Insurance Provisions

Liability insurance provisions protect the teacher in any job-related claim arising from transporting students to school-sponsored events, assault, and loss or damage to personal property. The greater number of provisions analyzed contained board-paid plans. Very few provisions indicated no contribution. The type of insurance coverage varied, and in amounts of $20,000 to $300,000.

Examples of the types of provisions included in agreements are reprinted below.

Liability insurance coverage in the amount of $100,000.00 shall be provided to each teacher. Costs of such coverage shall be paid by the Board.

[DENVER, COLORADO]

The Board shall provide, on a fully-paid basis, liability insurance in the amount of one hundred thousand dollars ($100,000.00) to all teachers of the School City of Hammond in case of suit arising from or in the performance of their duties.

[HAMMOND, INDIANA]

All employees of the Caesar Rodney School District are now covered by Liability Insurance in the amount of $100,000 per person and $300,000 per occurrence. Policy covers all employees while in the performance of their assigned duties.

[CAESAR RODNEY, DELAWARE]

It is agreed that HISD will allocate $50,000 in a special fund to cover the medical and/or hospital costs not covered by insurance of any teacher who is assaulted while on duty and while performing a job related function. In no case shall the amount paid to any individual teacher for salary and/or hospital costs exceed twenty thousand dollars ($20,000).

[HOUSTON, TEXAS]

FRINGE BENEFITS IN COMMUNITY COLLEGE COLLECTIVE BARGAINING AGREEMENTS

by Robert A. Patterson – Jerome M. Staller

For the academic year 1970-71, 95 collective bargaining agreements in eight states were in effect at public community junior colleges. These agreements were analyzed for fringe benefits provisions, revealing 53 agreements containing such provisions. However benefits found in agreements may not be coterminus with benefits actually received since some benefit provisions may also be included in college handbooks or unwritten agreements.

The term "fringe benefits" is applied to paid vacations, pensions, and health and insurance plans. Such benefits are often labelled wage extras, hidden payroll, nonwage labor costs, and supplementary wage practices. These benefits are received by employees at a cost to the employer, and are defined as collateral payments supplemental to the basic wage structure. For the purposes of this study, collateral payments or fringe benefits are subdivided into two groups; income maintenance or continuity programs and perperquisites.

INCOME MAINTENANCE

Income maintenance is divided into three subcategories: (a) pay for time not worked; (b) premium pay for time worked; and (c) pension and welfare plans.

Income maintenance is comprised of 21 items, the frequency of which is illustrated in Table 1.

TABLE 1.–INCOME MAINTENANCE BENEFITS

Item	Number of appearances	Percent
1	2	3
PAY FOR TIME NOT WORKED		
Sick leave pay	51	96.1
Bereavement or serious family illness leave pay	30	56.6
Personal leave pay	37	66.6
Military leave pay	14	26.4
Jury duty pay	32	60.0
PREMIUM PAY FOR TIME WORKED		
Teaching overloads		
Beyond fixed credit hours	34	64.1
Beyond fixed students	3	5.6
Beyond fixed preparations	2	3.7
Substitute teaching	16	30.1
Committee work	2	3.7
Club sponsorship	8	15.1
Terminal leave pay	8	15.1
Longevity pay	8	15.1
Pay for split shift	1	1.9
PENSION AND WELFARE PLANS		
Life insurance (full or part)	32	60.0
Health insurance	52	98.1
Long-term sickness and disability insurance	21	39.6
Liability insurance	14	26.4
Vested pension	23	43.3
Tax sheltered annuities	3	5.6
Dental or vision insurance	4	7.5

Pay for Time Not Worked

The scope of this category is paid leave to faculty who must absent themselves from work. Use of such leave is specified, and includes sick leave, personal leave, bereavement leave, short-term military leave, and leave for jury duty.

Except for military leave, all benefits appeared in over 50 percent of the agreements. Provisions providing sick leave occurred in over 96 percent. These provisions are not uniform, and contain differences in the number of days permitted and the maximum accumulation.

Personal leave and bereavement leave were only counted when independent of sick leave provisions. Personal leave provisions allocated from two to five days' maximum with no accumulation. Bereavement leave for death or serious illness in the immediate family is concentrated in the two to five days' range with no accumulation.

Sixty percent of the agreements provided faculty members with full pay less court reimbursement for jury duty, two atypical cases allowed the faculty member to receive both his pay and the court stipend.

Premium Pay For Time Worked

Premium pay for junior college faculty incorporated any specified supplements for teaching more than the maximum number of credit or contract hours, number of students, or number of preparations; extra payments or reduced work loads for substitution, committee work, club sponsorship, split-shift work, terminal leave pay, and longevity pay.

Overload pay for teaching more than the maximum number of credit or contract hours appeared in 64 percent of the agreements, but additional pay for student overloads or preparation overloads was rare.

Premium pay for substitute teaching appeared in 30 percent of the agreements. Supplementary pay for club sponsorship, terminal leave pay and longevity pay provisions each appeared in only half as many.

Pension and Welfare Plans

Vested pensions; tax sheltered annuity programs; life, health, dental, and vision insurance

programs; and long-term sickness and disability insurance program provisions comprised this category. Nearly all contracts (98 percent) contained some form of health insurance program with the institution paying the full premium for the faculty member and his immediate family in three-fourths of the agreements. Of the remaining agreements, six provided full payment for the faculty member with partial payment for dependents; seven paid only the faculty member's health insurance; and three allowed partial payment for either the faculty member and his dependents or only for the faculty member.

Sixty percent of the agreements provided life insurance coverage with over two-thirds of the plans fully paid by the school, with the remainder contributory. Substantial variations in the amount of coverage are found in either the fully paid or contributory plans. One institution paid the full premium on a $2,000 policy, while most of the fully paid plans were for amounts in multiples of the faculty member's salary.

Vested pension plan provisions appeared in 43.3 percent of the agreements, while long-term sickness and disability insurance provisions are prevalent in 39.6 percent of the agreements.

PERQUISITES

Benefits categorized as "perquisites" are not incorporated in as many agreements as were income maintenance provisions. Perquisites are subdivided into professional improvement provisions and provisions relative to the physical comfort of the faculty member.

Professional Improvement

Professional or educational growth for the faculty member or his immediate family are usually compensated as sabbatical leave, time off plus expenses for attendance at professional meetings, free tuition at the employing institution, reimbursement for graduate study, payment of professional dues, and book discounts. Sabbatical leave (90.5 percent) and free tuition at the employing institution (52.8 percent) appeared in agreements with greatest frequency. (See Table 2.) Reimbursement for professional meetings, free tuition for dependents and graduate tuition are provided by 30 percent of the contracts.

TABLE 2.—PERQUISITES AND AMENITIES

Item	Number of appearances	Percent
1	2	3
PROFESSIONAL CONDITIONS		
Sabbatical leaves	48	90.5
Professional meeting expenses	26	49.0
Free tuition at institution		
Individual	28	52.8
Family	20	37.7
Graduate credit tuition	16	30.1
Payment toward professional dues	3	5.6
Discount at college bookstore	4	7.5
PHYSICAL AND MISCELLANEOUS CONDITIONS		
Restroom and lounges	10	18.9
Parking	19	35.8
Physical examinations	10	18.9
Free chest X rays	3	5.6
Availability of group auto insurance	1	1.9
Working space and office furniture	19	35.8

Physical and Miscellaneous Conditions

Items relative to the bodily well-being of the faculty member are incorporated in this section. Provisions for free X-ray tests and physical examinations are contained in 19 and 6 percent of the agreements.

Miscellaneous benefits for the physical comfort of the faculty member occurred in no more than 36 percent or the agreements. Provisions for rest rooms and lounges, group auto insurance, free parking, and working space and office furniture are also found, with provisions for parking and office comfort having the highest frequencies. The negotiated content of the analyzed agreements illustrates a desire not only to improve the economic and professional welfare of the faculty through fringe benefits, but also to clarify and uniform ambiguous policies which were handled informally on a case-by-case basis.

ERRATA

NEGOTIATION RESEARCH DIGEST, March 30, 1972, Vol. 5, No. 7, p. 30.

Table 1 should read:

TABLE 1.—NEGOTIATED LEAVE PROVISIONS CONCERNING TEACHER EXCHANGE AND SERVICE PROGRAMS IN COMPREHENSIVE AGREEMENTS, 1970-71

Item	Number	Percent
1	2	3
TOTAL COMPREHENSIVE AGREEMENTS ANALYZED	1,529	100.0%
Total Agreements Containing Provisions on Exchange Teaching Service Programs	547	35.8
Peace Corps	437	28.6
Exchange teaching, general	320	20.9
VISTA	202	13.2
Exchange teaching, foreign	158	10.3
Exchange teaching, domestic	108	7.1
Department of Defense schools	64	4.2

The percents as tabulated were based on 1,291 provisions, instead of 547 agreements. The remainder of the table and text is correct as appears.

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NATIONAL EDUCATION ASSOCIATION

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NEGOTIATION AGREEMENT PROVISIONS FOR TEACHERS

1972 Edition

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Research Division
National Education Association

The NAP is a four part source document providing a comprehensive report on the contents of more than 1,500 comprehensive negotiation agreements in education for the 1970-71 school year. All data are derived from the NEA Research Division's depository of agreements, and are categorized for easy reference in the NAP. General agreement information is now supplemented by more than 300 specific entries, itemized numbers of leave days, and extensive data on grievance and negotiation procedures, committees, and board contributions to group insurance coverage for teachers.

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Address communications regarding the DIGEST to Donald P. Walker, Chief, Negotiation Research Unit, or Joseph A. Falzon, Senior Staff Associate, Research Division, National Education Association, 1201 Sixteenth Street, N. W., Washington, D. C. 20036.

CASE REVIEWS

FLORIDA

Stiffer Retrial Penalties Reversed; Contempt Citations Upheld

The Dade County Classroom Teachers Association appealed the final judgment and sentences for criminal contempt against teachers who violated a temporary strike injunction imposed by a circuit court and later affirmed by the state supreme court. (NRD, 11-70,3.)

The teachers association contended that the circuit court's contempt judgment and sentences were invalid because the teachers resigned before the injunction was issued, as well as being "improper, illegal and in excess of the court's discretionary power to sentence for indirect criminal contempt." The association also argued that the supreme court judge erred when he withdrew from the jury's consideration the issues of whether the teachers were under contract and whether they had premeditated noncompliance with the injunction.

The appeals court upheld the original contempt citations and dismissed as inconsequential the charge that the lower court judge erred when he instructed the jury to disregard certain facts of the case. The superior court also set aside the association's contention that the sentences should be vacated since a circuit court judge indicated that no penalties would be imposed if the teachers publicly apologized for their actions.

The court did support the association's charge that stiffer penalties on retrial are invalid. The appeals court, based on U.S. Supreme Court decisions, stated that stiffer penalties on retrial are permitted only if new evidence is introduced which warrants additional penalties. Since no factual data was introduced to warrant increased penalties, the court concluded that the sentences imposed by the state supreme court were invalid. (*Dade County Classroom Teachers v. Leonard H. Rubin et al,* Florida Court of Appeals, February 15, 1972.)

ILLINOIS

Pay For Strike Make-Up Days Denied

Parties at arbitration must adhere only to decisions emanating from issues specifically submitted to arbitration. The Illinois Court of Appeals so ruled in accordance with state arbitration statutes and prior rulings, nullifying a lower court award which granted pay to teachers for strike make-up days.

The arbitrator ruled on the salary items submitted, and ordered that teachers not be required to work any days without pay. The lower court interpreted the award to mean that teachers would be paid for strike make-up days.

On appeal, the higher court upheld the school board's contention that it was not bound to an arbitration award unless both parties agreed to arbitrate the controversial issue of rescheduling two school days lost during the walkout to complete the statutory school year. Finding that the arbitrator had exceeded his authority, the court declared void and unenforceable the lower court ruling granting teachers pay for strike make-up days. (*Board of Education, Bremen Community High School District 228 v. District 228 Joint Faculty Association et al.*, Illinois Court of Appeals, First District, February 11, 1972.)

KANSAS

Court Denies Petition For Injunctive Relief

The Liberal-National Education Association (LNEA) petitioned the Seward County district court for injunctive relief against the Liberal Board of Education's refusal to recognize the LNEA as the bargaining agent for the purpose of collective negotiation. The court denied the petition because other administrative reliefs, i.e., appeal to the State Board of Education, had not been exhausted. The court's findings of fact also revealed a good faith doubt of the LNEA's majority support as the exclusive representative of the professional employees.

In October 1970, the LNEA was recognized by the board as the exclusive bargaining representative. A year later, the LNEA submitted to the superintendent a list of items for negotiation. An association report stated that of the 238 teachers, 110 were members of the association.

In early December 1971, a departmental attorney of the State Department of Education, at the request of Liberal's superintendent of schools, expressed the opinion that professional employee organizations must obtain exclusive representative recognition each year. At the board's regular December meeting, the superintendent revealed that the LNEA had not reapplied for recognition and suggested that the LNEA might not represent a majority of the professional employees. The board decided to withhold recognition, and requested that the superintendent submit recommendations for informal negotiation.

Subsequent to the board meeting, the LNEA, relying on exchanges concerning negotiation made in November, requested that the superintendent arrange the time and place for negotiation. The board responded that it would not negotiate with the LNEA, but instead decided to form a committee of teachers and administrators to prepare a list of items concerning teachers' welfare, salaries and fringe benefits for the board's consideration. Following this action, LNEA submitted a verified membership list of 115 teachers; when their request for negotiation was refused, the LNEA sought the court's injunctive relief.

The court stated that under state statutes, local school boards must grant exclusive recognition to a bargaining representative for the purpose of negotiation, provided that the bargaining representative certifies that it has the majority support of the bargaining unit members. The legislation does not indicate how long such recognition lasts.

The court denied the LNEA's petition for injunctive relief because legislative remedial procedures had not been followed. The court also stated that the vacillating nature of the LNEA membership gave the board a sound basis for "good faith doubt" of the LNEA's majority support. (*Liberal-NEA* vs. *Board of Education of Unified School District #480, Seward County, Kansas*, Seward County District Court, March 31, 1972.)

MARYLAND

School Board Not Authorized To Agree To Binding Arbitration

A circuit court ruled that the Montgomery County Board of Education lacked the statutory power to enter into an agreement providing for binding arbitration of grievances.

The school board negotiated a collective bargaining agreement with the Montgomery County Education Association (MCEA) covering wages, hours and other conditions of employment, and a formal grievance procedure ending in binding arbitration.

The state superintendent of schools solicited the attorney general's opinion on the legality of binding arbitration provisions in agreements. The attorney general ruled that there exists no "legally sufficient basis for the county board of education to agree to binding arbitration of employee grievances."

A scheduled grievance at binding arbitration placed the local school board in the position of either defying the state board and submitting the grievance to an arbitrator, or conforming to the attorney general's directive in breach of its contract. The board resolved its dilemma by obtaining a temporary injunction staying arbitration, and thereby submitting the grievance to the judiciary for resolution.

The board contended that binding arbitration constituted an improper delegation of its authority since such a power was not specifically delegated by the legislature. The MCEA argued that binding arbitration was permissible since no legislation forbade it.

The court pointed out that although bargaining rights are granted to school boards and teacher organizations, legislation "neither authorizes nor suggests binding arbitration."

In reply to the MCEA's request that binding arbitration be considered only for grievances, the court responded that if binding arbitration was allowed to some degree, "by definition of grievance it would lead the local board into binding arbitration in sensitive policy matters."

The court found that the board, by agreeing to binding arbitration with the MCEA, improperly delegated its legislative authority. (*Board of Education of Montgomery County vs. Montgomery County Education Association*, Montgomery County Circuit Court, February 10, 1971.) [*Editor's Note:* Maryland PN Law amended to allow negotiation of binding arbitration of grievance procedures. (NRD, 9-71, 13.)]

MASSACHUSETTS

Third Party Payments Allowed

The Massachusetts Supreme Court modified a lower court decree that ordered a school committee to make payments to a third party for teachers' health and welfare benefits.

The Boston Teachers Union and the School Committee of Boston negotiated a collective bargaining agreement which contained a sub-agreement establishing a Health and Welfare Fund to be financed by the City of Boston through the school committee. The city refused to make the expenditures toward an insurance program adopted by the trustees of the fund, contending that such an expenditure would not be for "an acceptable municipal purpose." The teachers union filed a suit against the city through the school committee.

The case was brought before the superior court, a lower court. The judge ruled that although the negotiated agreement obligated the school committee to make certain payments to a health and welfare fund and that the trustees of the fund could expend fund monies for some teacher benefits, expenditures for certain other benefits were prohibited by state law. He concluded that the school committee should make payments directly to "covered teachers" rather than to a fund. Both parties to the action appealed the decision.

In reviewing the case, the supreme court remanded the lower court decision which invalidated third party payments, since prior federal decisions have determined, that wages, for collective bargaining purposes, include third-party payments. Therefore, the agreed-upon payments to the fund are within the powers of the school committee, and "payments to the Fund have no different impact on the city from direct payments to teachers."

Considering the insurance programs to be adopted by the fund, the court upheld the lower court's verdict that the income protection insurance proposed by the fund is a permissible expenditure under state law, despite the school committee's objection that the program afforded a health insurance unavailable to other state employees.

The supreme court viewed the lower court's order directing payments to individual teachers rather than to the fund as based on a provision of the sub-agreement which stipulated that in the event of non-implementation of the fund by January 15, 1969, all monies would be paid to the teachers as wages.

The court supported the union's contention that upon the execution of the trust agreement between the school committee and union the fund became operative. The court stated: "The decree for direct payment to the teachers might have been appropriate if it were unlawful for the city to make payments to the Fund. But here the city unjustifiably refused to make payments. Using that refusal as a basis, it seeks to frustrate the main purpose of the Fund."

The court concluded that the fund can validly provide income protection benefits to teachers, and ordered the city to pay to the Boston Teachers' Union Health and Welfare Fund the amounts stipulated in the Health and Welfare Agreement dated August 14, 1968. (*John J. Kerrigan et al., plaintiffs v. City of Boston*, Defendant, Massachusetts Supreme Judicial Court, January 27, 1972.)

MICHIGAN

Court Reverses MERC; Interns And Residents Not Public Employees

The Michigan Court of Appeals reversed a Michigan Employment Relations Commission's (MERC) decision which granted public employee status to interns, residents, and post-doctoral fellows at the University of Michigan.

An association for medical "student" personnel had acted as the bargaining agent in negotiation on wages, and working conditions for more than five years. The state board of regents had refused to recognize the association, and contested the legality of the bargaining unit in court.

The appeals court acknowledged that interns, residents, and post-doctoral fellows have a mixed educational-employment relationship with the university. However, the state constitution grants the regents complete control of the university's educational affairs. Since the legislature did not indicate in the public employee bargaining statute the assumption of any of the regents constitutional authority, the court ruled that graduate employees are not covered by law.

The court pointed out that if it was to recognize such a bargaining unit, other assistants and students working for stipends would demand similar treatment. This situation would "reek havoc upon the ability of the Regents to control and manage the educational affairs of the university."

However, a dissenting opinion argued that in the present situation the terms "student" and "employee" are not mutually exclusive. "The regents cannot refute the fact that interns and residents do not participate in classroom work, but are engaged in clinical work . . . [and] treat patients in a clinical context, although under the supervision of hospital personnel." In this situation a "normal employer-employee relationship" exists, as the resident or intern signs a one-year agreement deemed binding by both parties and pays income taxes and derives benefits from the employer as do regular hospital employees. (*Regents of the University of Michigan v. Michigan Employment Relations Commission and University of Michigan Intern-Residents Association*, Court of Appeals, State of Michigan, Division 2, January 21, 1972.)

NEW JERSEY

Teacher Contempt Sentences Upheld; Field Representative Acquitted

The New Jersey Superior Court, Appellate Division, reversed a lower court conviction of a New Jersey Education Association (NJEA) field representative for contempt of court, but upheld the conviction of teachers who struck the Passaic schools in defiance of a strike injunction.

The field representative assigned to assist negotiation had been convicted of contempt of court by a lower court on the basis of his allusions made during negotiation sessions to "games" being played by the school board and of suggestions of a possible "work stoppage" in an effort to expedite negotiation.

The appeals court found that the representative's liaison with striking members of the Education Association of Passaic, Inc., (EAP) to be essential to settlement of the negotiation impasse and "by reasonable inference [to be] consistent with that purpose as distinguished from the purpose of aiding and abetting the strike." The court

concluded that adjudication of guilt on the basis of association "would be effectively destroying the concept of negotiation," and that a representative's legally-required disassociation from striking teachers would deny "them and our society help when they need it most."

The court of appeals upheld the teacher's contempt convictions on the basis of the State Supreme Court's consistent application of the traditonal "ban" on public employee strikes.

The association contended that the notice of the strike injunction had been improperly served. Precedent has established that the defendants' presence in court at the time the injunction is issued constitutes "actual notice or knowledge" and compels compliance. The appellate court, in affirming the lower court ruling, stated that "a defendant will not be saved from sanctions for wilful disobedience by a crafty suggestion that while he knew better, no one handed him formal documentary embodiment of restraint."

The association was fined for contempt of court and sentences ranging from 30 to 90 days were handed the striking teachers. However, the sentence of the association president, who had resigned from office and reported to work when the injunction was issued, was suspended. (*Matter of Education Association of Passaic, Inc. et al.*, New Jersey Superior Court, Appellate Division, December 6, 1971.)

NEW YORK

Arbitration Stayed, Negotiated Requisites Not Met

The New York Supreme Court ruled that arbitrability of public employee disputes in cases involving Taylor Law agreements is contingent upon the parties' unfettered agreement to submit a dispute to arbitration.

Accordingly, the court stayed arbitration between the Central School District #2 Board of Education and the Harbors Teachers Association on the grounds that negotiated procedures prior to arbitration were not met.

The final step of the grievance procedure required the state commissioner of education to make a determination as a requisite to arbitration. The commissioner took no action, and declined jurisdiction.

The court found that the school board only agreed to arbitration if all conditions were met. Since neither the "condition precedent to arbitration" was met, nor did the agreement provide for the utilization of the arbitration services of the Public Employment Relations Board, the court granted the stay of arbitration on the basis of the constraining requisites to the arbitration procedure. (*Board of Education of Central School District #2 v. Harbors Teachers Association*, New York Supreme Court, January 20, 1972.)

PERB's Remedial Power Upheld

The highest state court upheld a Public Employment Relations Board (PERB) ruling which ordered reinstatement of three Albany firemen who allegedly were transferred in retaliation for their organizational activities. The City of Albany was also required to post notice of PERB's decision on employees' bulletin boards and to cease and desist from similar activities. This action by the Court of Appeals reinforced PERB's power to require compliance with its orders.

In August 1970, PERB ordered the firemen's reinstatement after finding that the City of Albany violated the Taylor Law. The city appealed PERB's decision. The court upheld PERB's decision but modified its order which compelled the city to post notice that it would "cease and desist" from such activities, since such a notice would force the city to admit to actions it had previously denied.

The city brought the case before the Court of Appeals on two questions: whether PERB has authority to order reinstatement of transferred employees, and whether the requirement that the city post notice of the decision, correct the violations, and cease and desist from similar activities, was arbitrary and capricious.

The court stated that the Taylor Law, as amended in 1969, made it illegal for an employer to "interfer with, restrain, or coerce public employees in the exercise of rights guaranteed, . . . for the purpose of depriving them of such rights." In addition, the court stated that under the amended law, it is an improper practice to discriminate against an employee so as to discourage or encourage participation in activities of the employee organization, and that PERB is empowered to order remedial procedures.

The city argued that PERB's exercise of such powers constituted interference with statutory powers granted local and state officers to administrate, supervise, and control the fire department.

The court replied that PERB's vested powers were not intended to deprive state or local officials of their powers, but in instances where officials abuse their powers and deprive employees of their "statutory rights to form, join or participate in an employee organization," these actions are subject to review by PERB. The court continued that once PERB determined that the transferral violated the firemen's rights, it has the power to issue a remedy. (*City of Albany, et al. v. Robert D. Helsby, et al., constituting the Public Employment Relations Board and Albany Permanent Professional Firefighters Association*, Court of Appeals, State of New York, January 13, 1972.)

BOARD FINDINGS AND RULINGS

CONNECTICUT

Teachers' Right To Due Process Denied; Salaries Prior To Demotion Restored

Interpreting a collective bargaining agreement literally, an arbitrator ruled that teachers demoted during a reduction in force were entitled to prenotification, a hearing of reasons, and other procedures as specified in the contract between the Danbury Education Association (DEA) and the Danbury Board of Education. The applicable provision called for arbitration of demotions due to incompetence, with no mention made of demotions because of reduced budget. However, elsewhere in the parties' agreement under the individual teacher's contract which was incorporated as part of the master agreement, procedures for termination of teachers or, as in this case, positions, were required. The grievance procedure, which includes arbitration, is applicable to any, termination procedure violation. Since the school board had failed to follow these procedures in demoting administrative employees to their former classroom teaching positions at reduced salary, the arbitrator ruled in the employees' favor.

The arbitrator discounted a contract provision precluding the arbitrability of reduction in force demotion grievances because the board violated the negotiated termination procedures.

On the basis of the board's procedural violation, the arbitrator awarded the demoted teachers their original salaries, and recommended that the board reinstate them to their administrative positions since they would be paid for them. (*Danbury Education Association and Danbury Board of Education*, American Arbitration Association, December 31, 1971.)

WASHINGTON, D.C.

Teacher's Judgment That Classrooms Unfit Upheld

The judgment of teachers who determined that cold, filthy classrooms were unfit for habitation was upheld by an arbitrator who ruled that their refusal to teach in such classrooms was not insubordination. Six members of the Washington (D.C.) Teachers Union, Local 6, who ignored their principal's demand that they return to the classrooms, were suspended for one day and a seventh teacher, charged with instigating the insubordination, for three days.

The arbitrator declined to rule on the union's contentions that the teachers were denied due process and that the school board had violated its own rules for suspension of teachers. Assuming without judgment that the board's action was procedurely correct, the arbitrator considered the merits of the case. He held that ordering teachers to return to cold, filthy classrooms was "unreasonable." He awarded the teachers back pay and ordered all records of the suspensions expunged. (*In Matter of Arbitration between the Washington Teachers Union Local 6 and District of Columbia Board of Education*, American Arbitration Association, January 12, 1972.)

MAINE

Negotiable Items Clarified; Latitude of Board Prerogatives Limited

An arbitration panel, drawn-up under the directives of the Maine Municipal Public Employees Labor Relations Law, supported the Biddeford Teachers Association's position in a contract dispute with the Biddeford Board of Education.

The issues in controversy were the board's efforts to delete from the new agreement clauses which previously were negotiated, and the excessive exercise of "management prerogative" for refusal to negotiate on terms and conditions of employment, which the board labeled "educational policy."

The arbitrators' introductory remarks to the decisions noted the Board's recalcitrance and its failure to present any evidence to support its position. The arbitrators indicated their umbrage upon finding that "Counsel for the Board in this case has been singularly uncooperative."

The panel's advisory decisions recommended the establishment of a $6,450 base salary and suggested that the interest on the teachers' contributions to an insurance plan benefit the policy holders rather than the city's general fund.

In their binding decisions, the panel found that teacher evaluation, the school calendar, the length of the school day, and the addition of specialists to the school staff were all negotiable matters. In addition, the panel ordered the former contract provision for addition of specialists be maintained in the new agreement.

Other binding determinations favored the teachers association in the areas of planning periods, voluntary and involuntary transfers, assignments, promotions, and teacher facilities.

The arbitrators rejected the board's contention that a sick leave bank was illegal, and a board proposal linking execution of the contract to sufficiency of monetary appropriations. The arbitrators believed that a clause of this type would render a collective bargaining agreement ineffectual. The panel also ordered that the grievance-arbitration procedure in the 1970-71 agreement be maintained in the new agreement, despite unsubstantiated objection from the board that grievance procedures were already provided by state law.

The decisions of the arbitration panel were made retroactive to September 1, 1971. (*Biddeford Board of Education and the Biddeford Teachers Association*, Arbitration Award, September 3, 1971.)

MICHIGAN

Probationary Teacher Reinstated: Board Neglected To Define Performance Standards

An arbitrator ruled that the *Woodhaven School System* Board of Education was to reinstate a probationary teacher because it had not outlined performance standards for teachers as required by the negotiation agreement.

When the school board refused to re-employ a teacher because of her deficiency in classroom discipline and organization, the Woodhaven Education Association sued the board of education. An arbitrator found that the board had neglected to provide the contracted three yearly evaluations, spaced "so as to afford her the benefit of the evaluation system." He also found that the board had not clarified "the standard the grievant was to achieve." (*Woodhaven Education Association and The Woodhaven School System Board of Education*, American Arbitration Association, August 12, 1971.)

NEW YORK

Financial Squeeze No Justification To Abrogate Contract

The Public Employment Relations Board (PERB) ruled that the Buffalo school board's financial squeeze did not justify nonadherence to contractual provisions. The school board, according to PERB, failed to negotiate in good faith by refusing to implement contractual terms in areas relating to the hiring of additional teachers and teacher aides and the implementation of teachers' preparation periods.

The school board's budget, as restructured by the city, provided insufficient funds to implement the contractual obligations. The school board met with the Buffalo Teachers Federation to negotiate contractual changes in conformity with the new budget. The association refused to negotiate and filed an improper practice charge with PERB.

The association contended that the allocated budget was sufficient to cover all contractual obligations and mandated programs. The school board argued that implementation of mandated and contractual programs would necessitate discontinuance of non-mandated programs beneficial to students. The school board further stated that since funds for all its non-mandated programs were lacking, it had the right to choose between maintaining those programs or complying with its contractual obligations.

PERB's first consideration was whether the dispute should be sent to arbitration as required by the contract grievance procedure. PERB decided that the dispute did not involve an employer's "good faith interpretation of contractual provision" but rather a "situation where an employer, though it had available funds to fulfill its contractual obligations, decided to violate the contract in order to use the funds for other purposes which, in its judgement, would be more beneficial."

PERB acknowledged that the school board as a public employer has an obligation to provide services to the public, and at the same time a responsibility to its employees. In this instance, the school board believed that service to students was more important than upholding contractual obligations. PERB found this to be an abrogation of contractual provisions in violation of the obligation to negotiate. PERB concluded that the "Act [Taylor Law] does not permit such freedom of action on the part of a public employer organization."

A remedial order was not issued against the school board because it was not aware of its statutory obligation to its employees during a financial squeeze, and also because it complied with the contract after charges were filed. (*Buffalo Board of Education and Buffalo Teachers Federation*, Public Employment Relations Board, December 13, 1971.)

PENNSYLVANIA

Denying Work To Association Members During Strike Declared Unfair Labor Practice

The Pennsylvania Labor Relations Board (PLRB) found the Yeadon School Board guilty of committing an unfair labor practice when it refused to allow three association members to work during a strike.

The Yeadon Education Association, the exclusive bargaining representative for the teachers, engaged in a 15-day strike after contract negotiation reached an impasse. The school administrator denied two association members their right to work during the strike. Both teachers planned to retire at the end of the school year and if they lost time while on strike, they would receive decreased retirement benefits.

A third teacher, also an association member, was hospitalized several days before for which he was paid, and during the strike for which he was docked. Upon his return from the hospital the teacher requested to return to work while the strike was still in progress. His request was also denied by the superintendent of schools who had decreed that association members would not be allowed to work during the strike, while non-association members would.

The PLRB found that in denying only association members the right to work during a strike, the superintendent was discriminating against teachers for association membership, since under Pennsylvania law the exclusive bargaining agent represents all employees. The school board's refusal to pay sick leave to the association member during a strike constituted an unfair labor practice because sick pay is based on past services rendered, said PLRB.

The school board was ordered to "cease and desist" from discriminating against association members. The board was further obligated to pay the two teachers who requested to return to work during the strike and to correct all payroll and retirement records to reflect the teachers' new income. Sick leave was granted to the third teacher while hospitalized, as well as regular pay from the date he requested to return to work until the end of the strike. (*Yeadon Education Association v. Yeadon Borough Board of School Directors*, Pennsylvania Labor Relations Board, February 15, 1972.)

Interns and Residents Public Employees, PLRB Reverses Itself

The Pennsylvania Labor Relations Board (PLRB) reversed itself, finding that interns and residents at four nonprofit, Philadelphia hospitals are employees under the state Public Employment Relations Act.

In a ruling issued December 1971, the Board dismissed representation petitions filed by the Philadelphia Association of Interns and Residents. The Board found that the interns and residents were not employees under law, since their purpose was primarily educational. The association later filed an exception to the decision.

The Board noted that in past cases, it had held that the determination of an employee's status be made on the basis of actual duties at the time of hearing. Therefore, the Board decided it must "ignore both the purpose of interns, residents, and clinical fellows in establishing their relations with the employers and their long-range intent once that purpose is fulfilled." Further, the Board determined that "although the personnel in question were receiving benefits in the form of instruction from the employer, they were rendering a valuable service, thereby giving them the status of employees with all indicia of employment under applicable tax and workmen's compensation laws."

The Board, finding the employees in question share a "unique community of interest," dismissed arguments regarding the inappropriateness of separating this group from an overall faculty unit comprised of all professional personnel. Further, the Board did not consider relevant a decision by the Michigan Court of Appeals which reversed a Michigan Employment Relations Commission's election order for interns, residents, and post-doctoral candidates at the University of Michigan Medical Center, since the decision was based on a "limiting reference to students" in the state constitution.

Concluding, the Board sustained the association's exception to its earlier decision and ordered a pre-election conference.
(*Albert Einstein Medical Center; Wills Eye Hospital; Pennsylvania Hospital; Temple University Hospital;* Pennsylvania Labor Relations Board, March 6, 1972.)

FEDERAL

NLRB Determines Appropriate Bargaining Units for College Faculty

The National Labor Relations Board (NLRB) issued two rulings affecting New York State colleges. The Board established appropriate bargaining units for all full- and part-time faculty at Adelphi University, and for all professional faculty, including librarians and athletic coaches at Manhattan College. An election was ordered at each institution.

- At Manhattan College, a petition was filed by the American Association of University Professors (AAUP) and the New York State Teachers Association (NYSTA), an NEA affiliate, as intervenor.

Contesting the petition, the employer held that faculty members are not employees as defined under the National Labor Relations Act (NLRA) because of their managerial and supervisory duties. Such an interpretation, the Board felt, would enjoin it to reconsider and reverse its previous decisions involving Fordham University and C.W. Post College, since the facts in the case are similar.

The college further argued that faculty with terminal contracts should be excluded from the appropriate unit. The Board dismissed this argument, pointing out that terminal faculty members were hired as permanent employees with the same termination rights and sharing a community of interest with the remaining faculty.

Both AAUP and the employer sought to exclude part-time faculty from the bargaining unit, but the Board overroad their objections because in previous decisions part-time faculty who taught a minimum of one-fourth of the normal contact load were included in an over-all unit.

NYSTA requested that athletic coaches and ROTC instructors be included in the appropriate unit. The Board ruled that ROTC instructors despite their faculty rank, are government-paid and subject to military discipline and control. However, athletic coaches were included in the unit as they were found to teach "physical and mental skills" which required an educational background. (*Manhattan College and AAUP, NYSTA, Intervenor,* National Labor Relations Board, January 30, 1971.)

• At Adelphi University, the AAUP and the United Federation of College Teachers, an AFT affiliate, petitioned for an appropriate unit comprising full- and part-time faculty, including members serving on the personnel and grievance committees.

The employer agreed to the proposed unit, but desired the inclusion of graduate teaching and research assistants because they perform faculty-related functions. The university-employer, while making no objection to the inclusion of personnel and grievance committee members in the unit, pointed out that collectively these committee members possess and exercise substantial supervisory authority.

The Board rejected the inclusion of graduate assistants in an overall unit as they are primarily students. Also excluded were department and "sequence" chairmen and the director of the black studies program since all are posited with the power to effectively recommend hiring, reappointment or non-appointment of faculty, while the former are also empowered to adjust grievances. The staff of the university medical center were also excluded as they did not share a community of interest with academic staff.

Members of the personnel and grievance committees were included in the unit since they exercised authority on a group not an individual basis. Both committees possessed a "quasi-collegiate" character, being neither faculty nor management, but acting in an advisory capacity to the board of trustees.

A dissenting opinion argued for their exclusion on the grounds that no differences existed between collective policy making and individual decision making. (*Adelphi University and American Association of University Professors,* National Labor Relations Board, March 5, 1972.)

NEGOTIATION NOTES

CALIFORNIA

Brown Act Amended

Recent revisions to the Meyers-Milias Brown Act governing public employer-employee relations has infused added strength to the collective bargaining process.

The Brown Act now permits exclusive recognition of an employee organization for the purpose of collective negotiation, and at the same time mandating that "meet and confer" sessions meet "promptly" at either party's request and continue for a reasonable length of time.

The amended act also stipulates that provisions for resolution of impasse procedures must allow adequate time limits for settlement prior to budget adoption. In agreements without impasse procedures, the act states that either party may request submission of the dispute for resolution to the state department of conciliation and mediation.

Both the amended Brown Act and the newly amended Winton Act are effective as of May 1972. (See NRD 5:6, 10)

NEVADA

Physicians Union Established

Thirty Las Vegas doctors have organized the Service Employees International Union, Local 676, an affiliate of the Service Employees International Union. The establishment of the union resulted from the doctors' growing concern "about [the] increasing activity of conglomerates in Nevada's health care field."

The president of the SEIU, referring to the new doctors' union stated: "They have the same need to organize as do all other men and women whose jobs involve the public's health and safety—hospital workers who now belong to SEIU, firemen and policemen. They have a concern that the nation's health and safety be ensured, and that their own working conditions allow them to deliver proper care to patients."

NEW YORK

PERB Issues New Decision on Status of Managerial and Confidential Employees

Subsequent to enactment of the state's Taylor Law amendments concerning the designation of managerial and confidential employees to be excluded from collective bargaining units, the Public Employment Relations Board (PERB) issued an "interim decision" clarifying the intent of the amended legislation.

In formulating its decision, PERB first requested job descriptions and "other pertinent data" from the two state employee organizations. PERB also asked these organizations to submit a memorandum of law concerning the effect of the recent amendments on previous definitions of managerial and confidential employees. PERB did not consider the employee organizations' opinion as a final determination on the status of managerial and confidential employees, but as "one criterion in making a decision which must be based on all the evidence offered by the parties."

Previous to its amendment, the Taylor Law did not specifically exclude confidential and managerial employees from collective bargaining, however, New York City's Office of Collective Bargaining interpreted the law as excluding these employees. PERB held that managerial and confidential employees should not be included in the same unit with rank-and-file employees because of the conflict of interests, yet PERB never designated a separate unit for them. PERB reasoned that the exclusions of the pertinent amendments are applicable only to those employees who play an active role in the decisional process, and who determine the employer's collective bargaining position. PERB also excluded employees who assert a "major role" in the administration of an agreement, and employees involved in personnel administration insofar as their inclusion in a unit of rank-and-file workers would result in a conflict of interests in employer-employee relations.

Included in the final definition of "managerial and confidential employees" are most employees previously excluded from collective bargaining, and a small number of professional and clerical staff.

OHIO

Job Classification Grievance Subject to Binding Arbitration

An arbitrator ruled that a grievance concerning a bus driver's classification was subject to binding arbitration, notwithstanding state statutes which contain procedures for job reclassification. The question of whether state statutes contained pro-

visions covering the situation at hand was left for the courts to decide.

The grievance was brought against the Ohio State University by a bus driver who demanded job reclassification because he was performing duties of a higher job classification. The grievant followed the procedure set forth in an "understanding" between the American Federation of State, Country and Municipal Workers (AFSCME) Local 138 and the Ohio State University.

The parties "understanding" was determined to be a collective bargaining agreement which, according to state law, may authorize binding arbitration. The grievance procedure in the "understanding" provided a final step where the grievance could be settled by the Ohio State Personnel Board of Review or decided by impartial arbitration, with the decision conforming to the civil service laws and other laws of Ohio.

The university argued that the bus driver was properly classified, while pointing out that the grievance was not arbitrable as state statutes provide a procedure for changing job classification. Therefore, the arbitrator lacked the authority to make a binding decision.

The arbitrator determined that the "understanding" authorized binding arbitration of the matter in dispute. Concerning the grievance, the arbitrator found that the grievant mainly performed the duties of his job classification, although at times he was temporarily assigned higher duties.

The arbitrator ruled that when an employee is temporarily assigned the duties of a higher job classification, he is entitled to receive the appropriate pay for his temporary assignment. The arbitrator went on to recommend that when an employee's assignment to a higher classification is such that he spends as much time performing the extra-duties as he does performing his normally assigned duties, the employee should be transferred to the higher classification. (*The Ohio State University* and *the American Federation of State, County and Municipal Employees Local 138*, Federal Mediation and Conciliation Service, September 2, 1971.)

OTHER ITEMS OF INTEREST

ARKANSAS

Unfair Employment Practices Defined

INTERFERENCE WITH POLITICAL ACTIVITIES

The discharge, demotion, or transfer of municipal or school employees because of their political activities is prohibited. Violators are now subject to loss of employment, fine, and imprisonment.

BLACK-LISTING OR OTHERWISE HINDERING EMPLOYMENT

Writing, printing, or publishing the name of any person, together with a false statement concerning such person, or publishing the fact that anyone is a member of a secret organization, for the purpose of preventing him from securing employment or causing his discharge, is punishable by a fine of $100 to $500, and/or imprisonment for 12 months.

OKLAHOMA

Employee's Right to Determine Bargaining Agent Under State Statute Affirmed

The State Attorney General, interpreting the Firefighters' and Policemen's Arbitration Law, stated that cities cannot establish standards and procedures for policemen and firefighters to choose their bargaining agents. The attorney general reaffirmed that a city must recognize, for negotiation purposes, the bargaining agency chosen by the majority.

In March 1971, the state legislature enacted the Firefighters' and Policemen's Arbitration Law, extending bargaining rights to firefighters and policemen. The president of the state senate requested the attorney general's opinion regarding the cities' rights and duties concerning representation elections.

The attorney general pointed out that the act does not authorize a city to establish standards for determining bargaining agents. In regard to a city's obligation to recognize a bargaining agent determined by a majority of the employees, he said that cities are now statutorily required to recognize the bargaining agent selected by a majority of policemen or firefighters.

EEOC REVISES EQUAL EMPLOYMENT OPPORTUNITY GUIDELINES

The Equal Employment Opportunity Commission broadened its guidelines on discrimination because of sex. Employers must now treat disabilities related to pregnancy, recovery from childbirth, miscarriage, and abortion as a temporary disability in regard to leave time, seniority, reinstatement, and insurance payments.

These new regulations concerning equalization of fringe benefits and state protective laws do not carry the force of law, but the EEOC is empowered to sue employers and labor unions in federal court for compliance. These sweeping federal regulations supercede any state employment laws that place conditions of employment on certain jobs which tend to discriminate against women.

Recently enacted amendments to Title VII of the Civil Rights Act signed by the President on March 24, brought public employees under the jurisdiction of EEOC. No one sex may have benefits not provided the other, including rest or physical facilities. Jobs may not be classified as "male" or "female" unless sex is a bonafide occupational qualification. Denial of employment to a pregnant woman is now in violation of the Civil Rights Act. [See *TEXT* section for complete EEOC regulations]

CONSUMER PRICE INDEX: APRIL 1972

The Consumer Price Index rose 0.2 percent in April, according to the U.S. Department of Labor's Bureau of Labor Statistics. Higher prices for men's clothing, used cars, restaurant meals, and most household services accounted for the increase. The rise was moderated by lower prices for food purchased in grocery stores and gasoline, and a decline in the mortgage interest rates. The April index was 124.3, 3.4 percent above a year ago.

In terms of its 1967 base, (1967=100) the CPI index of 124.3 percent means that what cost $10 in 1967 now costs $12.43. A comparison with its 1957-59 base shows that what consumers are now purchasing with $14.46 was then purchased for $10. The increase in costs left the wage earner with three dependents with $95.31 per week in spendable earnings, an increase of 47¢ from the previous month.

The adjusted CPI for April also increased 0.2 percent. For the six months preceding the freeze, the annual adjusted increase was 4.0 percent, whereas during the freeze, the CPI rose at an annual rate of 2.8 percent. Since the end of Phase I, a seasonally adjusted annual rate of 3.3 percent has been reported.

TEACHER UNITY: ASSOCIATION/UNION MERGERS

Key merger agreements between association and union affiliates in New York State and New Orleans, Louisiana were announced Monday, June 5. To date, other mergers have occurred in Flint and Gibraltar, Michigan; Los Angeles, California; and the City University of New York.

The New York State unity agreement between the New York State Teachers Association and the United Teachers of New York affects 190,000 teachers, creating the largest statewide group of educational employees in the nation. In a mail ballot conducted over the past two weeks, NYSTA and UTNY voted overwhelmingly in favor of merger, forming the New York Congress of Teachers. Association members voted 45,635 to 19,477 and union members 34,171 to 1,706 in favor of merger which will officially take effect September 1, 1972 after ratification by the NYSTA House of Delegates.

The new organization will be headed by Albert Shanker, president of UTNY, and Thomas Hobart, president of NYSTA, until future elections are held to elect a president. The new teachers Congress will retain affiliation with both NEA and American Federation of Teachers, AFL-CIO.

Teachers in New Orleans, Louisiana voted 1,120 to 116 to merge with the Orleans Educators Association (LEA) and the New Orleans AFT, Local #527. The new organization, the United Teachers of New Orleans (UTNO), will hold affiliations with NEA, LEA, AFT, and local, state and national AFL-CIO.

The primary objective of the merger as outlined by a UTNO statement is to implement a political action program for teachers to obtain collective bargaining rights through election of school board members favorable to teachers.

FEDERAL PAY BOARD GUIDELINES

CATCH-UP EXCEPTIONS TO 5.5 PERCENT STANDARD HAVE BEEN ADOPTED BY THE PAY BOARD TO ALLOW INCREASES OF UP TO 7 PERCENT. Previously no exceptions were granted. Board regulations specify that increases above 5.5 percent will be allowed only if "pay increases since the beginning of the last prior contract or the aggregate pay increase during the past 36 months has been less than an annual average of 7 percent." The new 7 percent maximum is determined by taking the difference between past increases and 7 percent and adding it to the 5.5 percent standard.

AUTOMATIC IN-GRADE PROGRESSION INCREASES, PROMOTIONAL INCREASES, LONGEVITY INCREASES found in contracts executed prior to November 13, 1971 ARE NOW EXCLUDED from adjustment compensation calculation. The aforementioned exceptions, plus merit increase plans and annual increases in terms of "control years," are excluded from the 5.5 percent standard only if embodied in a contract or are past practice in effect prior to November 14, 1971. Such increases in contributions may be as high as 5 percent of the unit's total compensation, but the employer's total contributions to all benefit plans must not exceed 10 percent of compensation.

GUIDELINES ISSUED TO CURB POST-CONTROLS SURGE. The Pay Board issued three rulings to forestall a potential "danger of explosion when controls are lifted." The Board has ruled that agreements providing for the payment of increases which have been disallowed are deferred payments for work currently being performed, and "since this will exceed the permissible increase, the deferred compensation will probably be prohibited." The second ruling declares any deferral provision for disapproved compensation which is contained in an agreement to be in violation of the Economic Stabilization Regulations. The final regulation restricts the use of escrow accounts for that portion of disallowed wages, which would be paid to employees "when controls are lifted" without Construction Industry Stabilization Committee approval. The Board ruled that if provisions of escrow agreements are so worded, the wages and salaries in escrow would be considered paid in the year placed in escrow. In response to questions regarding the above three rulings, the Pay Board said that it "*has the authority to rule on the appropriateness*" of second and third-year increases in multi-year contracts that grant a larger increase in later years than in the first, if the subsequent increases are negotiated in anticipation of the lifting of controls, and constituted in a manner to compensate for wages reduced during the first year. Contracts are not to contain "make-up" provisions for disapproved increases, nor can current agreements be restructured to allow for future payment of disapproved increases. Also, contracts which provide for a bonus payable to employees upon relaxation of controls must first be approved by the Board.

TEACHER RAISES ALLOWED UP TO 6.2 PERCENT. The Pay Board issued guidelines for calculating permissible increases for teacher contracts for the 1972-73 school year. Increases for the coming school year, negotiated in April and effective in September 1972, may be based on the prevailing wage rate of the previous year's negotiated salary schedule, even though the schedule may not have been implemented till November 1971. In effect the salary base would be the salary schedule for 1971-72, not the frozen schedule as of August 15, 1971, which was the 1970-71 salary schedule. The Board's application of a 6.2 percent is for total compensation, however, the "permissible annual aggregate increase" of the wage base of the "last full payroll period before the effective date of the new agreement" cannot exceed 5.5 percent. (See *TEXT* section for Board ruling.)

STATISTICS

HEALTH PROVISIONS IN NEGOTIATED AGREEMENTS: 1970-71

The NEA Research Division's annual survey of school systems with 1,000 or more pupils enrolled indicated that of 1,529 comprehensive agreements, 434 (28.4 percent) contained provisions regarding the general health of teachers. These provisions, appearing alone or in combination, usually fell under the general headings of health requirements, health services, and/or reimbursement of expenses.

The health requirement provisions usually stipulated that all teachers take physical examinations, and chest X-ray or tuberculin skin test as a condition of employment. These examinations were required in one or more of the following circumstances: (a) for the issuance of a teaching certificate; (b) before the start of employment; (c) annually or at certain intervals, such as every three years. Complete medical examinations were most often specified, and special examinations were also provided for the detection of communicable tuberculosis.

TABLE 1.—NEGOTIATED AGREEMENTS PERTAINING TO TEACHER'S HEALTH

Item	Number	Percent
TOTAL COMPREHENSIVE AGREEMENTS ANALYZED	1,529	100.0%
Total Agreements Containing Health Provisions	434	28.4
Health requirements	318	20.8
Physical examination reimbursement	207	13.5
Health services	34	2.2

Item	Number	Percent
TOTAL AGREEMENTS CONTAINING HEALTH PROVISIONS	428	100.0%
Health requirements only	197	45.4
Health requirements and physical examination reimbursement	105	24.2
Physical examination reimbursement only	98	22.6
Health services only	18	4.1
Health services and health requirements	12	2.8
Health requirements, health services, and physical examination reimbursement	4	0.9

Of the 318 agreements that specified some type of health requirement for teachers, slightly over one-third also provided free health services or reimbursement of expenses. The school board usually provided a routine physical examination if it was a condition of employment. Some provisions allowed teachers to be examined by a private physician at their own expense. A few provisions stated that since the school board and the teachers association recognize that good health is desirable, the board would require and pay for periodic physical examinations.

Provisions for a board-paid health service program was infrequently negotiated. Many health service provisions were linked to existing, free community programs especially for tuberculin tests.

The following are sample health provisions, and are not to be regarded as exemplary.

The Board of Education and the Association, seeing a definite need for its teachers to have thorough physical examinations regularly will require such examination on a bi-yearly schedule. All new personnel will be required to have a physical examination prior to being hired. The expense and regulations governing these examinations will be borne by the Board of Education.

NEW FAIRFIELD, CONNECTICUT

All teachers may participate in the flu inoculation program offered annually by the Board without cost to the teacher.

RIVERSIDE, ILLINOIS

For the protection of pupils and personnel, the Board shall require proof of freedom from active tuberculosis in the form of an X-ray as a condition of entering employment and annually thereafter for all full and part-time personnel employed by the Board. The initial and annual screening tests shall be provided by the Board. Any further costs shall be paid by the employee. All personnel found with active tuberculosis shall be given a leave of absence for treatment until they are officially certified as being inactive. Upon such certification, the Board shall return the employee to his former position, or position of like nature, seniority, and pay without prejudice.

The administration will give notice to the teachers in the fall and in the spring when X-rays will be given to teachers in Albion.

ALBION, MICHIGAN

The Board will provide a "tine" or other skin test as a screening process in a manner which meets the approval of the Onondaga Health Association. A teacher who is a positive reactor to such screening test will be required to arrange for a chest x-ray within two (2) weeks, the report of which is to be sent to the School Physician for interpretation.

BALDWINSVILLE, NEW YORK

Any annual physical examination or other physical examination which may be required of an employee by the Board shall be at the expense of the Board when the examination is performed by the School Physician or for such further examination as may be required or directed by the School Physician. Every employee shall have the right and privilege to undergo examination by a physician

of his own choice. In such event, however, the cost of the examination shall be borne by the employee.

SARANAC, NEW YORK

Every teacher new to the Appleton Education System shall be given a physical examination without cost to the teacher. Every teacher in the Appleton Education System shall be given an annual chest x-ray by a mobile x-ray unit with an institutional chest x-ray provided without cost to the teacher every third year starting with the date of the last institutional chest x-ray.

APPLETON, WISCONSIN

Every teacher shall be required to undergo a physical examination, including a chest X-ray or tuberculin test, as a condition of entering employment in this school district. Freedom from tuberculosis in a communicable form is a condition of employment. Such physical examination shall be required every three years of each teacher employed by the Board. Such physical examinations shall be performed by a physician in the employ of or under contract with the school district, but if a physician is not so employed or under contract, the examination shall be made by a physician selected by the teacher. The physician shall prepare a report of his examination upon a standard form furnished by the Board. Such report shall be retained in the physician's files and he shall make confidential recommendation therefrom to the Board and to the teacher on a form prepared by the State Board of Health and the State Superintendent. The cost of such examinations, including X-rays and tuberculin tests, shall be paid by the Board. The physician's report of triennial examination shall be returned to the Board by November 1 of the year of examination.

WEST ALLIS, WISCONSIN

COLLECTIVE BARGAINING SETTLEMENTS: 1971

The U.S. Department of Labor, Bureau of Labor Statistics (BLS), reported that during 1971, wage rate increases in major collective bargaining settlements, covering nearly 3½ million workers, averaged 8.1 percent over the life of the contract, down from 8.9 percent in 1970. Not included were at least 500,000 additional workers affected by agreements reached after November 13 which were not acted upon by the Pay Board.

Contract settlements with cost-of-living escalation provisions averaged increases of 7.1 percent, down from 7.3 percent in 1970. Contracts without cost-of-living escalation clauses averaged increases of 9.2 percent in 1971 compared with 10.1 percent in 1970.

In manufacturing settlements, the average wage increase was 7.2 percent, up from 6.0 percent, while agreements in the nonmanufacturing sector dropped to 9.0 percent, from 11.5 percent.

During 1971, settlements with and without cost-of-living escalation provisions averaged 7.3 and 7.1 percent, respectively, in manufacturing, and 6.8 and 10.6 percent in nonmanufacturing.

In the construction industry, wage-rate increases averaged 11.8 percent, down from 14.9 percent in 1970. The 1971 figure applies to 68 major collective bargaining agreements. Of these, six agreements, averaging increases of 16.9 percent, were reached prior to the establishment of the Construction Industry Stabilization Committee on March 29; the remaining 62, averaging increases of 11.4 percent, were approved by the CISC.

Table 1 gives the percentage changes in wages and benefits in major collective bargaining settlements during 1970 and 1971.

TABLE 1.–PERCENTAGE CHANGES IN WAGES AND BENEFITS, MAJOR COLLECTIVE BARGAINING SETTLEMENTS, 1970 AND 1971

	1971		1970
	Number of workers (in 000's)	Average adjustments	Average adjustments
WAGES AND BENEFITS COMBINED:[a]			
Annual rate of increase over life of contract in–			
All industries	2,338	8.7	9.1
Contracts with escalator clauses	1,430	7.8	NA
Contracts without escalator clauses	907	10.2	NA
Construction[b]	214	12.1[c]	15.6
First-year changes in–			
All industries	2,338	13.1	13.1
Contracts with escalator clauses	1,430	14.2	NA
Contracts without escalator clauses	907	11.3	NA
Construction[b]	214	13.8[c]	19.6
WAGE RATES ALONE:[b]			
Annual rate of increase over life of contract in–			
All industries	3,444	8.1	8.9
Contracts with escalator clauses	1,818	7.1	7.3
Contracts without escalator clauses	1,626	9.2	10.1
Manufactruing	1,803	7.2	6.0
Contracts with escalator clauses	1,159	7.3	5.0
Contracts without escalator clauses	643	7.1	7.3

SOURCE: U.S. Department of Labor, Bureau of Labor Statistics.
"Major Collective Bargaining Settlements, Full Year, 1971." (News Release) January 28, 1972.

TABLE 1.–PERCENTAGE CHANGES IN WAGES AND BENEFITS, MAJOR COLLECTIVE BARGAINING SETTLEMENTS, 1970 AND 1971 (Continued)

	1971		1970
	Number of workers (in 000's)	Average adjustments	Average adjustments
Nonmanufacturing	1,642	9.0	11.5
Contracts with escalator clauses	659	6.8	11.3
Contracts without escalator clauses	983	10.6	11.6
Construction	214	11.8[c]	14.9
All industries excluding construction	3,230	7.8	7.9
Nonmanufacturing excluding construction	1,427	8.6	10.2
First-year changes in–			
All industries	3,444	11.7	11.9
Contracts with escalator clauses	1,818	12.8	NA
Contracts without escalator clauses	1,626	10.4	NA
Manufacturing	1,803	10.8	8.1
Contracts with escalator clauses	1,159	12.2	NA
Contracts without escalator clauses	643	8.0	NA
Nonmanufacturing	1,642	12.7	15.2
Contracts with escalator clauses	659	14.0	NA
Contracts without escalator clauses	983	11.8	NA
Construction	214	13.3[c]	17.6
All industries excluding construction	3,230	11.6	10.9
Nonmanufacturing excluding construction	1,427	12.6	14.2

[a]Applies to settlements for 5,000 workers or more.
[b]Applies to settlements for 1,000 workers or more.
[c]None of the settlements tabulated contained an escalator clause.
NOTE: NA indicates data are not available.

WRITTEN NEGOTIATION AGREEMENTS SURVEY: 1971-72

According to preliminary results of the NEA Research Division's sixth annual survey of written negotiation agreements, 3,911 public school systems with a pupil enrollment of 1,000 or more were operating under a written negotiation agreement during the 1971-72 school year. Of the total number of school systems surveyed (7,106), 6,097 school systems employing 1,945,600 instructional personnel responded, an 85.3 percent response rate. Of the responding school systems, 64.1 percent had negotiation agreements, covering 74.2 percent of the total number of instructional personnel employed by responding systems.

The number of school systems with negotiated agreements has increased by 389 agreements during the past year. The enactment of several new state negotiation statutes has contributed to this increase. Although Hawaii, Pennsylvania, Alaska, and Kansas have enacted negotiation statutes in 1970, their impact on negotiation was first realized during the 1971-72 school year. Negotiation statutes passed in Oklahoma, Montana, and Idaho during 1971 had little effect on the survey since many school systems were involved in unit determination and certification proceedings.

HIGHLIGHTS OF PRELIMINARY SURVEY:

- Since 1966-67, when the first survey of written agreements was conducted, the number of school systems with negotiated agreements has increased by 155.5 percent. In the 1966-67 survey, 1,531 school systems reported negotiation agreements; the 1971-72 survey found 3,911 systems with such agreements. The number of agreements reported in the 1971-72 survey represented an 11.0 percent increase above the number reported in the 1970-71 survey (3,522).
- Instructional personnel employed in systems with agreements increased from 1,337,146 in 1970-71 to 1,445,329 in 1971-72, an 8.1 percent gain.
- Of the 3,911 systems with validated written negotiation agreements in the 1971-72 survey, 3,891 systems (99.5 percent) indicated organizational representation with national affiliation. NEA affiliates were the exclusive bargaining representatives in 4,603 systems; American Federation of Teachers (AFT), AFL-CIO, locals represented instructional personnel in 126 systems. Since the 1966-67 survey, NEA representation has increased by 2,524 school systems; while AFT representation expanded by 91 systems.
- National teacher representation figures indicate that since 1966-67, NEA representation has increased by 650,578 instructional personnel (164.3 percent), and AFT representation has increased by 119,107 (115.5 percent). In 1971-72, NEA represented 61,210 more teachers than it did the previous year, while representation by AFT locals rose by 9,220 teachers. The NEA's current share of total national teacher representation is 79.5 percent.
- More than 83 percent of all instructional personnel employed in the nation's largest school systems (enrollments of 25,000 or more pupils) were working under negotiation agreements in 1971-72.
- Since 1966-67, the Mideast region has shown the greatest increase in negotiation activity as instructional staff rose from 44.1 percent in 1966-67 to 95.2 percent in 1971-72, and the number of systems with negotiation agreements increased from 22.5 percent to 91.3 percent. According to the 1971-72 survey, the percentages of school systems with negotiation agreements in the Southeast and Southwest regions remain well below all other regions at 7.6 percent and 25.2 percent respectively.
- For the first time in the history of the survey, all enrollment stratum show over 50 percent of professional staff in responding school systems covered by negotiation agreements.

REGIONS	STRATUM	SCHOOL SYSTEM ENROLLMENT
Northeast: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont	1	100,000 or more
Mideast: Delaware, District of Columbia, Maryland, New Jersey, New York, Pennsylvania	2	50,000-99,999
Southeast: Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, West Virginia	3	25,000-49,999
Great Lakes: Illinois, Indiana, Michigan, Ohio, Wisconsin	4	12,000-24,999
Plains: Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota	5	6,000-11,999
Southwest: Arizona, New Mexico, Oklahoma, Texas	6	3,000-5,999
Rocky Mountain: Colorado, Idaho, Montana, Utah, Wyoming	7	1,200-2,999
Far West: Alaska, California, Hawaii, Nevada, Oregon, Washington	8	1,000-1,199

TABLE A

SCOPE OF SURVEY

STATE	SYSTEMS SURVEYED	SYSTEMS RESPONDING NUMBER	SYSTEMS RESPONDING PERCENT	SYSTEMS RESPONDING: TOTAL CLASSROOM TEACHERS EMPLOYED	SYSTEMS RESPONDING: TOTAL INSTRUCTIONAL STAFF EMPLOYED
1	2	3	4	5	6
ALABAMA	115.	86.	74.8	24743.	26409.
ALASKA	8.	7.	87.5	2660.	3115.
ARIZONA	62.	57.	91.9	15802.	17408.
ARKANSAS	108.	76.	70.4	11371.	12220.
CALIFORNIA	479.	443.	92.5	167748.	196663.
COLORADO	60.	54.	90.0	23078.	25286.
CONNECTICUT	110.	107.	97.3	32687.	36668.
DELAWARE	22.	21.	95.5	6055.	6742.
DISTRICT OF COLUMBIA	1.	1.	100.0	7990.	8640.
FLORIDA	63.	53.	84.1	56664.	65436.
GEORGIA	176.	96.	54.5	30245.	35061.
HAWAII	1.	1.	100.0	8225.	9769.
IDAHO	44.	39.	88.6	6386.	6982.
ILLINOIS	416.	355.	85.3	90266.	98065.
INDIANA	254.	220.	86.6	47318.	52089.
IOWA	147.	138.	93.9	22950.	25075.
KANSAS	93.	87.	93.5	18384.	20608.
KENTUCKY	158.	114.	72.2	24061.	26807.
LOUISIANA	66.	47.	71.2	31321.	33320.
MAINE	78.	66.	84.6	8031.	8763.
MARYLAND	24.	23.	95.8	42873.	47154.
MASSACHUSETTS	210.	199.	94.8	55335.	62016.
MICHIGAN	396.	386.	97.5	87294.	97477.
MINNESOTA	156.	144.	92.3	33889.	37620.
MISSISSIPPI	142.	83.	58.5	13910.	15080.
MISSOURI	171.	134.	78.4	33407.	36029.
MONTANA	33.	31.	93.9	5542.	6046.
NEBRASKA	40.	36.	90.0	8521.	9588.
NEVADA	11.	9.	81.8	5119.	5511.
NEW HAMPSHIRE	38.	30.	78.9	5666.	6183.
NEW JERSEY	312.	297.	95.2	66436.	75183.
NEW MEXICO	43.	40.	93.0	10221.	11719.
NEW YORK	509.	486.	95.5	180265.	203069.
NORTH CAROLINA	151.	127.	84.1	40466.	44946.
NORTH DAKOTA	17.	16.	94.1	2925.	3165.
OHIO	515.	444.	86.2	91041.	100319.
OKLAHOMA	85.	72.	84.7	18542.	20077.
OREGON	88.	86.	97.7	19790.	21743.
PENNSYLVANIA	487.	365.	74.9	85525.	94467.
RHODE ISLAND	29.	26.	89.7	8903.	9592.
SOUTH CAROLINA	92.	68.	73.9	21899.	24170.
SOUTH DAKOTA	28.	26.	92.9	4026.	4433.
TENNESSEE	128.	105.	82.0	33089.	35957.
TEXAS	358.	275.	76.8	84482.	96544.
UTAH	31.	27.	87.1	11407.	12742.
VERMONT	19.	17.	89.5	2278.	2632.
VIRGINIA	128.	101.	78.9	45581.	49470.
WASHINGTON	120.	113.	94.2	31048.	35285.
WEST VIRGINIA	54.	44.	81.5	15173.	16529.
WISCONSIN	211.	200.	94.8	38057.	41924.
WYOMING	19.	19.	100.0	3496.	3804.
TOTAL	7106.	6097.	85.2	1742191.	1945600.

STRATUM	SYSTEMS SURVEYED	SYSTEMS RESPONDING NUMBER	SYSTEMS RESPONDING PERCENT	SYSTEMS RESPONDING: TOTAL CLASSROOM TEACHERS EMPLOYED	SYSTEMS RESPONDING: TOTAL INSTRUCTIONAL STAFF EMPLOYED
1	2	3	4	5	6
1	27.	27.	100.0	271281.	310377.
2	54.	50.	92.6	146330.	164190.
3	106.	100.	94.3	148891.	167270.
4	392.	351.	89.5	259711.	291144.
5	914.	807.	88.3	312314.	347104.
6	1699.	1446.	85.1	293210.	324526.
7	3281.	2779.	84.7	278989.	306511.
8	633.	537.	84.8	31465.	34478.
TOTAL	7106.	6097.	85.2	1742191.	1945600.

TABLE 8

STATUS OF WRITTEN NEGOTIATION PROCEDURES

STATE	TOTAL SYSTEMS SURVEYED	RESPONDING		SYSTEMS WITH PROCEDURES				SYSTEMS WITHOUT PROCEDURES			
			INSTR. STAFF			INSTR. STAFF				INSTR. STAFF	
		NUMBER		NUMBER	PERCENT	NUMBER	PERCENT	NUMBER	PERCENT	NUMBER	PERCENT
	1	2	3	4	5	6	7	8	9	10	11
ALABAMA	115	86.	26409.	1.	1.1	53.	0.2	85.	98.8	26356.	99.7
ALASKA	8	7.	3115.	7.	100.0	3115.	100.0	0.	0.0	0.	0.0
ARIZONA	62	57.	17408.	34.	59.6	14738.	84.6	23.	40.3	2670.	15.3
ARKANSAS	108	76.	12220.	8.	10.5	4770.	39.0	68.	89.4	7450.	60.9
CALIFORNIA	479	443.	196663.	423.	95.4	191884.	97.5	20.	4.5	4779.	2.4
COLORADO	60	54.	25286.	34.	62.9	22491.	88.9	20.	37.0	2795.	11.0
CONNECTICUT	110	107.	36668.	101.	94.3	35617.	97.1	6.	5.6	1051.	2.8
DELAWARE	22	21.	6742.	18.	85.7	6043.	89.6	3.	14.2	699.	10.3
DISTRICT OF COLUMBIA	1	1.	8640.	1.	100.0	8640.	100.0	0.	0.0	0.	0.0
FLORIDA	63	53.	65436.	17.	32.0	39047.	59.6	36.	67.9	26389.	40.3
GEORGIA	176	96.	35061.	0.	0.0	0.	0.0	96.	100.0	35061.	100.0
HAWAII	1	1.	9769.	1.	100.0	9769.	100.0	0.	0.0	0.	0.0
IDAHO	44	39.	6982.	19.	48.7	3204.	45.8	20.	51.2	3778.	54.1
ILLINOIS	416	355.	98065.	239.	67.3	84173.	85.8	116.	32.6	13892.	14.1
INDIANA	254	220.	52089.	66.	29.9	28141.	54.0	154.	70.0	23948.	45.9
IOWA	147	138.	25075.	33.	23.9	12629.	50.3	105.	76.0	12446.	49.6
KANSAS	93	87.	20608.	62.	71.2	17516.	84.9	25.	28.7	3092.	15.0
KENTUCKY	158	114.	26807.	21.	18.4	10414.	38.8	93.	81.5	16393.	61.1
LOUISIANA	66	47.	33320.	0.	0.0	0.	0.0	47.	100.0	33320.	100.0
MAINE	78	66.	8763.	50.	75.7	7076.	80.7	16.	24.2	1687.	19.2
MARYLAND	24	23.	47154.	23.	100.0	47154.	100.0	0.	0.0	0.	0.0
MASSACHUSETTS	210	199.	62016.	189.	94.9	60390.	97.3	10.	5.0	1626.	2.6
MICHIGAN	396	386.	97477.	379.	98.1	97073.	99.5	7.	1.8	404.	0.4
MINNESOTA	156	144.	37620.	120.	83.3	34822.	92.5	24.	16.6	2798.	7.4
MISSISSIPPI	142	83.	15080.	0.	0.0	0.	0.0	83.	100.0	15080.	100.0
MISSOURI	171	134.	36029.	65.	48.5	21083.	58.5	69.	51.4	14946.	41.4
MONTANA	33	31.	6046.	24.	77.4	5065.	83.7	7.	22.5	981.	16.2
NEBRASKA	40	36.	9588.	22.	61.1	7738.	80.7	14.	38.8	1850.	19.2
NEVADA	11	9.	5511.	5.	55.5	5027.	91.2	4.	44.4	484.	8.7
NEW HAMPSHIRE	38	30.	6183.	15.	50.0	4060.	65.6	15.	50.0	2123.	34.3
NEW JERSEY	312	297.	75183.	282.	94.9	72591.	96.5	15.	5.0	2592.	3.4
NEW MEXICO	43	40.	11719.	14.	35.0	5998.	51.1	26.	65.0	5721.	48.8
NEW YORK	509	486.	203069.	476.	97.9	201232.	99.0	10.	2.0	1837.	0.9
NORTH CAROLINA	151	127.	44946.	4.	3.1	3977.	8.8	123.	96.8	40969.	91.1
NORTH DAKOTA	17	16.	3165.	14.	87.5	2949.	93.1	2.	12.5	216.	6.8
OHIO	515	444.	100319.	336.	75.6	86783.	86.5	108.	24.3	13536.	13.4
OKLAHOMA	85	72.	20077.	12.	16.6	10501.	52.3	60.	83.3	9576.	47.6
OREGON	88	86.	21743.	76.	88.3	19841.	91.2	10.	11.6	1902.	8.7
PENNSYLVANIA	487	365.	94467.	289.	79.1	78811.	83.4	76.	20.8	15656.	16.5
RHODE ISLAND	29	26.	9592.	26.	100.0	9592.	100.0	0.	0.0	0.	0.0
SOUTH CAROLINA	92	68.	24170.	2.	2.9	1332.	5.5	66.	97.0	22838.	94.4
SOUTH DAKOTA	28	26.	4433.	16.	61.5	3017.	68.0	10.	38.4	1416.	31.9
TENNESSEE	128	105.	35957.	5.	4.7	12424.	34.5	100.	95.2	23533.	65.4
TEXAS	358	275.	96544.	52.	18.9	51425.	53.2	223.	81.0	45119.	46.7
UTAH	31	27.	12742.	9.	33.3	6418.	50.3	18.	66.6	6324.	49.6
VERMONT	19	17.	2632.	11.	64.7	1882.	71.5	6.	35.2	750.	28.4
VIRGINIA	128	101.	49470.	10.	9.9	15600.	31.5	91.	90.0	33870.	68.4
WASHINGTON	120	113.	35285.	109.	96.4	34742.	98.4	4.	3.5	543.	1.5
WEST VIRGINIA	54	44.	16529.	7.	15.9	2920.	17.6	37.	84.0	13609.	82.3
WISCONSIN	211	200.	41924.	173.	86.5	38807.	92.5	27.	13.5	3117.	7.4
WYOMING	19	19.	3804.	11.	57.8	2755.	72.4	8.	42.1	1049.	27.5
TOTAL	7106	6097.	1945600.	3911.	64.1	1445329.	74.2	2186.	35.8	500271.	25.7

TABLE 8

STATUS OF WRITTEN NEGOTIATION PROCEDURES

STRATUM	TOTAL SYSTEMS SURVEYED	RESPONDING		SYSTEMS WITH PROCEDURES				SYSTEMS WITHOUT PROCEDURES			
			INSTR. STAFF			INSTR. STAFF				INSTR. STAFF	
		NUMBER		NUMBER	PERCENT	NUMBER	PERCENT	NUMBER	PERCENT	NUMBER	PERCENT
	1	2	3	4	5	6	7	8	9	10	11
1	27	27.	310377.	23.	85.1	289896.	93.4	4.	14.8	20481.	6.5
2	54	50.	164190.	37.	74.0	126822.	77.2	13.	26.0	37368.	22.7
3	106	100.	167270.	71.	71.0	119714.	71.5	29.	29.0	47556.	28.4
4	392	351.	291144.	269.	76.6	225636.	77.4	82.	23.3	65508.	22.5
5	914	807.	347104.	565.	70.0	249666.	71.9	242.	29.9	97438.	28.0
6	1699	1446.	324526.	956.	66.1	220444.	67.9	490.	33.8	104082.	32.0
7	3281	2779.	306511.	1701.	61.2	193753.	63.2	1078.	38.7	112758.	36.7
8	633	537.	34478.	289.	53.8	19398.	56.2	248.	46.1	15080.	43.7
TOTAL	7106	6097.	1945600.	3911.	64.1	1445329.	74.2	2186.	35.8	500271.	25.7

TABLE D-1

NUMBER OF PROFESSIONAL PERSONNEL REPRESENTED BY NATIONAL AFFILIATION OF LOCAL ORGANIZATIONS FOR NEGOTIATION PURPOSES

STATE	PERSONNEL REPRESENTED NO.	PERSONNEL REPRESENTED PCT.	N. E. A. NO.	N. E. A. PCT.	A. F. T. NO.	A. F. T. PCT.	INDEPENDENT NO.	INDEPENDENT PCT.	OTHER NO.	OTHER PCT.
1	2	3	4	5	6	7	8	9	10	11
ALABAMA	47	100.0	47	100.0	...	...	...	...	...	...
ALASKA	2,526	100.0	2,526	100.0	...	...	...	...	...	...
ARIZONA	12,853	100.0	12,853	100.0	...	...	...	...	...	...
ARKANSAS	4,531	100.0	4,531	100.0	...	...	...	...	...	...
CALIFORNIA	159,365	99.9	127,948	80.3	4,678	2.9	11,697	7.3	15,042	9.4
COLORADO	20,510	100.0	20,259	98.8	66	.3	185	.9	...	...
CONNECTICUT	33,837	100.1	28,072	83.0	5,200	15.4	565	1.7	...	...
DELAWARE	5,360	100.0	4,562	85.1	798	14.9	...	...	...	...
DISTRICT OF COLUMBIA	7,990	100.0	...	...	7,990	100.0	...	...	...	...
FLORIDA	31,132	100.0	31,132	100.0	...	...	...	...	...	...
GEORGIA	...	...	...	...	...	...	...	...	...	...
HAWAII	9,769	100.0	9,769	100.0	...	...	...	...	...	...
IDAHO	2,894	100.0	2,894	100.0	...	...	...	...	...	...
ILLINOIS	75,364	100.0	41,280	54.8	33,159	44.0	925	1.2	...	...
INDIANA	23,597	100.0	20,209	85.6	3,388	14.4	...	...	...	...
IOWA	10,713	100.0	10,188	95.1	525	4.9	...	...	...	...
KANSAS	15,860	100.0	15,860	100.0	...	...	...	...	...	...
KENTUCKY	9,489	100.0	9,489	100.0	...	...	...	...	...	...
LOUISIANA	...	...	...	...	...	...	...	...	...	...
MAINE	6,547	100.0	6,543	99.9	...	...	4	.1	...	...
MARYLAND	46,420	99.9	37,335	80.4	8,600	18.5	485	1.0	...	...
MASSACHUSETTS	57,476	100.0	47,751	83.1	9,509	16.5	216	.4	...	...
MICHIGAN	90,055	100.0	71,280	79.2	16,479	18.3	2,296	2.5	...	...
MINNESOTA	30,202	100.0	20,710	68.6	8,882	29.4	610	2.0	...	...
MISSISSIPPI	...	...	...	...	...	...	...	...	...	...
MISSOURI	19,106	100.0	15,954	83.5	2,952	15.5	200	1.0	...	...
MONTANA	4,624	100.0	3,991	86.3	633	13.7	...	...	...	...
NEBRASKA	7,485	100.0	7,485	100.0	...	...	...	...	...	...
NEVADA	4,651	100.0	4,651	100.0	...	...	...	...	...	...
NEW HAMPSHIRE	3,765	100.0	3,246	86.2	519	13.8	...	...	...	...
NEW JERSEY	66,901	100.1	60,651	90.7	5,597	8.4	653	1.0	...	...
NEW MEXICO	5,646	100.0	5,646	100.0	...	...	...	...	...	...
NEW YORK	195,352	100.0	105,458	54.0	78,132	40.0	11,212	5.7	550	.3
NORTH CAROLINA	3,171	100.0	3,171	100.0	...	...	...	...	...	...
NORTH DAKOTA	2,783	100.0	2,783	100.0	...	...	...	...	...	...
OHIO	80,745	99.9	70,605	87.4	9,320	11.5	820	1.0	...	...
OKLAHOMA	8,257	100.0	8,257	100.0	...	...	...	...	...	...
OREGON	17,044	100.0	14,961	87.8	1,909	11.2	174	1.0	...	...
PENNSYLVANIA	72,751	100.0	53,905	74.1	18,396	25.3	450	.6	...	...
RHODE ISLAND	9,027	100.0	4,727	52.4	4,180	46.3	120	1.3	...	...
SOUTH CAROLINA	1,230	100.0	1,230	100.0	...	...	...	...	...	...
SOUTH DAKOTA	2,746	100.0	2,746	100.0	...	...	...	...	...	...
TENNESSEE	11,782	100.0	11,782	100.0	...	...	...	...	...	...
TEXAS	45,487	100.0	44,487	97.8	...	...	1,000	2.2	...	...
UTAH	5,858	100.0	5,858	100.0	...	...	...	...	...	...
VERMONT	1,767	100.0	1,767	100.0	...	...	...	...	...	...
VIRGINIA	14,893	100.0	14,893	100.0	...	...	...	...	...	...
WASHINGTON	33,427	100.0	33,427	100.0	...	...	...	...	...	...
WEST VIRGINIA	2,752	100.0	2,610	94.8	...	...	142	5.2	...	...
WISCONSIN	35,698	100.0	34,408	96.4	1,290	3.6	...	...	...	...
WYOMING	2,559	100.0	2,559	100.0	...	...	...	...	...	...
TOTAL	1,316,044	100.0	1,046,496	79.5	222,202	16.9	31,754	2.4	15,592	1.2

TABLE D-1

NUMBER OF PROFESSIONAL PERSONNEL REPRESENTED BY NATIONAL AFFILIATION OF LOCAL ORGANIZATIONS FOR NEGOTIATION PURPOSES

STRATUM	PERSONNEL REPRESENTED NO.	PERSONNEL REPRESENTED PCT.	N. E. A. NO.	N. E. A. PCT.	A. F. T. NO.	A. F. T. PCT.	INDEPENDENT NO.	INDEPENDENT PCT.	OTHER NO.	OTHER PCT.
1	2	3	4	5	6	7	8	9	10	11
1	271,531	99.9	100,384	37.0	140,766	51.8	15,339	5.6	15,042	5.5
2	114,589	100.0	89,092	77.7	23,147	20.2	2,350	2.1	...	...
3	102,820	100.0	89,444	87.0	11,842	11.5	1,534	1.5	...	...
4	202,962	100.0	180,138	88.8	18,486	9.1	4,338	2.1	...	...
5	227,984	99.9	204,058	89.5	17,878	7.8	5,498	2.4	550	.2
6	201,507	100.1	194,168	96.4	5,790	2.9	1,549	.8	...	...
7	177,114	100.0	171,861	97.0	4,204	2.4	1,049	.6	...	...
8	17,537	100.0	17,351	98.9	89	.5	97	.6	...	...
TOTAL	1,316,044	100.0	1,046,496	79.5	222,202	16.9	31,754	2.4	15,592	1.2

TABLE D-2

NATIONAL AFFILIATION OF ORGANIZATIONS REPRESENTING PROFESSIONAL STAFF IN NEGOTIATION

STATE	SYSTEMS WITH ORGANIZATIONAL REPRESENTATION NO.	PCT.	N. E. A. NO.	PCT.	A. F. T. NO.	PCT.	INDEPENDENT NO.	PCT.	TWO OR MORE ORGANIZATIONS WITH MIXED AFFILIATIONS NO.	PCT.
1	2	3	4	5	6	7	8	9	10	11
ALABAMA	1	100.0	1	100.0	...	...	...	...	...	...
ALASKA	7	100.0	7	100.0	...	...	...	...	...	...
ARIZONA	34	100.0	34	100.0	...	...	...	...	...	...
ARKANSAS	8	100.0	8	100.0	...	...	...	...	...	...
CALIFORNIA	423	100.0	339	80.1	...	...	...	...	84	19.9
COLORADO	34	100.0	34	100.0	...	...	...	...	...	...
CONNECTICUT	101	100.0	91	90.1	9	8.9	1	1.0	...	...
DELAWARE	18	100.0	17	94.4	1	5.6	...	...	...	...
DISTRICT OF COLUMBIA	1	100.0	...	...	1	100.0	...	...	...	...
FLORIDA	17	100.0	17	100.0	...	...	...	...	...	...
GEORGIA	...	...	...	...	...	...	...	...	...	...
HAWAII	1	100.0	1	100.0	...	...	...	...	...	...
IDAHO	19	100.0	19	100.0	...	...	...	...	...	...
ILLINOIS	235	100.0	200	85.1	32	13.6	2	.9	1	.4
INDIANA	65	100.1	59	90.8	4	6.2	...	...	2	3.1
IOWA	32	100.0	31	96.9	...	...	...	...	1	3.1
KANSAS	61	100.0	61	100.0	...	...	...	...	...	...
KENTUCKY	21	100.0	21	100.0	...	...	...	...	...	...
LOUISIANA	...	...	...	...	...	...	...	...	...	...
MAINE	50	100.0	50	100.0	...	...	...	...	...	...
MARYLAND	23	100.0	22	95.7	1	4.3	...	...	...	...
MASSACHUSETTS	189	100.0	180	95.2	9	4.8	...	...	...	...
MICHIGAN	379	100.1	360	95.0	15	4.0	3	.8	1	.3
MINNESOTA	120	99.9	64	53.3	4	3.3	1	.8	51	42.5
MISSISSIPPI	...	...	...	...	...	...	...	...	...	...
MISSOURI	64	100.0	63	98.4	1	1.6	...	...	...	...
MONTANA	24	100.0	22	91.7	2	8.3	...	...	...	...
NEBRASKA	22	100.0	22	100.0	...	...	...	...	...	...
NEVADA	5	100.0	5	100.0	...	...	...	...	...	...
NEW HAMPSHIRE	15	100.0	14	93.3	1	6.7	...	...	...	...
NEW JERSEY	281	100.1	277	98.6	3	1.1	1	.4	...	...
NEW MEXICO	14	100.0	14	100.0	...	...	...	...	...	...
NEW YORK	476	100.0	447	93.9	18	3.8	9	1.9	2	.4
NORTH CAROLINA	3	100.0	3	100.0	...	...	...	...	...	...
NORTH DAKOTA	14	100.0	14	100.0	...	...	...	...	...	...
OHIO	336	100.0	330	98.2	5	1.5	1	.3	...	...
OKLAHOMA	11	100.0	11	100.0	...	...	...	...	...	...
OREGON	68	100.1	66	97.1	1	1.5	1	1.5	...	...
PENNSYLVANIA	289	100.0	282	97.6	7	2.4	...	...	...	...
RHODE ISLAND	26	100.0	20	76.9	6	23.1	...	...	...	...
SOUTH CAROLINA	2	100.0	2	100.0	...	...	...	...	...	...
SOUTH DAKOTA	16	100.0	16	100.0	...	...	...	...	...	...
TENNESSEE	5	100.0	5	100.0	...	...	...	...	...	...
TEXAS	51	100.0	51	100.0	...	...	...	...	...	...
UTAH	9	100.0	9	100.0	...	...	...	...	...	...
VERMONT	11	100.0	11	100.0	...	...	...	...	...	...
VIRGINIA	10	100.0	10	100.0	...	...	...	...	...	...
WASHINGTON	109	100.0	109	100.0	...	...	...	...	...	...
WEST VIRGINIA	7	100.0	6	85.7	...	...	...	...	1	14.3
WISCONSIN	173	100.0	167	96.5	6	3.5	...	...	...	...
WYOMING	11	100.0	11	100.0	...	...	...	...	...	...
TOTAL	3,891	100.0	3,603	92.6	126	3.2	19	.5	143	3.7

TABLE D-2

NATIONAL AFFILIATION OF ORGANIZATIONS REPRESENTING PROFESSIONAL STAFF IN NEGOTIATION

STRATUM	SYSTEMS WITH ORGANIZATIONAL REPRESENTATION NO.	PCT.	N. E. A. NO.	PCT.	A. F. T. NO.	PCT.	INDEPENDENT NO.	PCT.	TWO OR MORE ORGANIZATIONS WITH MIXED AFFILIATIONS NO.	PCT.
1	2	3	4	5	6	7	8	9	10	11
1	23	99.9	15	65.2	7	30.4	...	...	1	4.3
2	37	100.0	28	75.7	6	16.2	...	...	3	8.1
3	71	100.1	54	76.1	6	8.5	1	1.4	10	14.1
4	268	100.0	222	82.8	19	7.1	1	.4	26	9.7
5	561	100.0	477	85.0	36	6.4	5	.9	43	7.7
6	952	100.0	896	94.1	21	2.2	3	.3	32	3.4
7	1,693	100.1	1,628	96.2	30	1.8	8	.5	27	1.6
8	286	99.9	283	99.0	1	.3	1	.3	1	.3
TOTAL	3,891	100.0	3,603	92.6	126	3.2	19	.5	143	3.7

TABLE J-1

PERCENT OF SCHOOL SYSTEMS WHICH HAVE WRITTEN PROCEDURES BY WHICH LOCAL TEACHERS NEGOTIATE FOR ALL OR PART OF THE PROFESSIONAL STAFF IN RESPONDING SCHOOL SYSTEMS

ITEM	ENROLLMENT STRATUM								
	TOTAL	1	2	3	4	5	6	7	8
1	2	3	4	5	6	7	8	9	10
YES	64.1	85.2	74.0	71.0	76.6	70.0	66.1	61.2	53.8
NO	35.9	14.8	26.0	29.0	23.4	30.0	33.9	38.8	46.2
TOTAL	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
TOTAL RESPONSE	6,097	27	50	100	351	807	1,446	2,779	537

TABLE J-2

PERCENT OF SCHOOL SYSTEMS WHICH HAVE WRITTEN PROCEDURES BY WHICH LOCAL TEACHERS NEGOTIATE FOR ALL OR PART OF THE PROFESSIONAL STAFF IN RESPONDING SCHOOL SYSTEMS

ITEM	ENROLLMENT GROUPING			REGION							
	1,2,3 A	4,5,6 B	7,8 C	N.E.	MIDEAST	S.E.	G.L.	PLAINS	S.W.	R.M.	FAR WEST
1	2	3	4	5	6	7	8	9	10	11	12
YES	74.0	68.7	60.0	88.1	91.3	7.6	74.3	56.9	25.2	56.5	94.2
NO	26.0	31.3	40.0	11.9	8.7	92.4	25.7	43.1	74.8	43.5	5.8
TOTAL	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
TOTAL RESPONSE	177	2,604	3,316	446	1,192	1,001	1,605	591	436	168	658

TABLE K-1

PERCENT OF INSTRUCTIONAL STAFF IN SCHOOL SYSTEMS WHICH HAVE WRITTEN PROCEDURES BY WHICH LOCAL TEACHERS NEGOTIATE FOR ALL OR PART OF THE PROFESSIONAL STAFF IN RESPONDING SCHOOL SYSTEMS

ITEM	ENROLLMENT STRATUM								
	TOTAL	1	2	3	4	5	6	7	8
1	2	3	4	5	6	7	8	9	10
YES	74.3	93.4	77.2	71.6	77.5	71.9	67.9	63.2	56.3
NO	25.7	6.6	22.8	28.4	22.5	28.1	32.1	36.8	43.7
TOTAL	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
TOTAL RESPONSE	1,945,600	310,377	164,190	167,270	291,144	347,104	324,526	306,511	34,478

TABLE K-2

PERCENT OF INSTRUCTIONAL STAFF IN SCHOOL SYSTEMS WHICH HAVE WRITTEN PROCEDURES BY WHICH LOCAL TEACHERS NEGOTIATE FOR ALL OR PART OF THE PROFESSIONAL STAFF IN RESPONDING SCHOOL SYSTEMS

ITEM	ENROLLMENT GROUPING			REGION							
	1,2,3 A	4,5,6 B	7,8 C	N.E.	MIDEAST	S.E.	G.L.	PLAINS	S.W.	R.M.	FAR WEST
1	2	3	4	5	6	7	8	9	10	11	12
YES	83.6	72.3	62.5	94.3	95.2	23.6	85.9	72.2	57.3	72.7	97.2
NO	16.4	27.7	37.5	5.7	4.8	76.4	14.1	27.8	42.7	27.3	2.8
TOTAL	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
TOTAL RESPONSE	641,837	962,774	340,989	125,992	435,117	385,805	389,947	138,693	143,710	54,749	271,587

SPECIAL REPORTS

BRIEFS OF RECENT AGREEMENTS

Waterbury, Connecticut

Between the Waterbury Board of Education and Waterbury Teachers Association, effective January 1, 1970, to December 31, 1972. Approximately 1,000 certificated professional employees. Provision for amendment of any item upon written consent of both parties.

COMPENSATION: B. A., $7,887 to $13,227, 11 increments; B. A. plus 15 hours, $13,712 maximum; M. A., $8,495 to $14,198, 11 increments; M. A. plus 15 hours, $14,683 maximum; Ph. D., $16.140 maximum.

Longevity Increments (effective January 1, 1972): 10-14 years, $160 each year; 15-19 years, $150 each year; 20-24 years, $250 each year; 35 years to end of service, $550 each year; upon retirement or death, payment of one-half of accumulated sick leave.

DIFFERENTIALS (1972): head football coaches and business managers, $1,000; director of sports, $1,750; baseball, track, and swimming head coaches, $800; coaches to be reimbursed up to $100 per sport for expenses; department heads, $150 per teacher within the department (minimum 4 teachers, maximum 10) and $30 per period for each fractional teacher.

ADMINISTRATORS (minimums, January 1, 1972, to December 31, 1972, 11-month schedule): director of special services, $19,665; high school principal, general elementary supervisor, and director of grants, $19,500; elementary school principals, $16,500 to $17,500; high school vice principal, $17,500; elementary supervising vice principal, $15,500. Specialists (pay in addition to regular teacher salary): subject supervisors (non-teaching), $1,250; teacher vice principals and guidance counselors, $400; homebound, reading, special education teachers, and psychological examiners, $300; social workers, $500; certified psychologist's $15,500 (1972).

OTHER: Homebound, driving training, and opportunity program teachers, $6.50 per hour; evening school director's paid increases in proportion to that of certificated teachers; summer school teachers, proration of regular salary; expenses for attendance at workshop, seminar, or conference to be paid by the board; reimbursement for work-related use of car, at 10¢ per mile.

LEAVES: Annual sick leave as provided by law; extended sick leave may be granted by board, denial of requested leave is grievable; 3 days for personal business, 5 days maximum accumulation; 4 days for death in the immediate family; up to 20 days to attend approved work-related courses; paid leave for jury duty if subpoenaed as a witness in court or before a public body; up to 14 days for military reserve obligation, less military pay; one percent of staff may take sabbatical leave at 75 percent of annual salary after 7 years (salary plus any grant cannot exceed regular salary); paid leave less workman's compensation for work-related injury.

INSURANCE: Board-paid Blue Cross Hospitalization, Connecticut Medical Service Program Community Plan, and major medical program for family coverage; $2,000 board-paid life insurance policy, optional additional employee-paid coverage not to exceed annual salary; benefits of accident and health insurance policies must equal those of other municipal employees; tax-sheltered annuity plan.

ASSOCIATION: Payroll dues deduction for local, state, and national associations; released time for one WTA representative involved in a grievance investigation or hearing per grievance per day; reasonable amount of time off with pay to executive board members of the WTA for association business; association president and one other teacher granted unpaid leave of absence, but considered district employees for pension, seniority, salary placement, and other purposes; association has the right to use building facilities; no-strike provision; board to supply "any reasonable" information upon request.

INSTRUCTION: School hours: teachers shall report 20 minutes before school; elementary day, 5 hours, between 8:30 a.m. and 3:30 p.m., one-session days are 4 hours; secondary school day, 6 hours from 8:00 a.m. and 2:00 p.m., abbreviated sessions are 4 hours; maximum of 5 teaching periods, and two preparations for secondary teacher; class size maximums: kindergarten, 1:15; (for exceptions an aide will be assigned); grade 1, 1:20; grades 2-8, 1:25; high school, 1:28 (goal 25); no secondary teacher shall be responsible for more than 60 students at one time and shall not have contact with more than 125 students in one day (English and social studies teachers limited to contact with 100 students daily); one aide assigned each school building and secondary-school librarians; each elementary school assigned at least one secretary; school calendar to be discussed with the association; data-processing facilities for record keeping.

PERSONNEL: Grievance procedure ends with binding arbitration; teachers may inspect their personnel file and question or reproduce any

material therein; high school teachers to have lunch period equal to that of students, and at least one free period per day; elementary school teachers have a preparation period during specialists classes; teacher may be granted up to 5 days leave to observe another teacher's classroom method; parent-teacher conferences to be scheduled during or after school; disciplined teachers shall have 24-hour notice, with reasons for such action, and the right to association representation at reprimand meeting; noncompensatory extracurricular duties are voluntary; all vacancies to be posted, and filled within 14 days of removal of the notice; "the conveniences, wishes, and seniority of teachers" requesting reassignment "will be honored to the extent there is no conflict with instructional requirements;" objections to involuntary transfers may be grieved, and arbitrated; temporary assignment to higher classification paid at rate for that classification is for more than 10 consecutive days or more than 15 accumulative days; seniority shall be the basis for promotions; seniority rights are waived upon promotion, but regained upon return to a teaching position; pertinent paragraphs follow:

SENIORITY

City-Wide Seniority, which is hereby defined as the total number of years of uninterrupted service within the Waterbury Department of Education in a position requiring State Certification;

City-Wide Departmental Seniority, which is hereby defined as the total number of years of uninterrupted service within a particular secondary school department of the Waterbury Department of Education, without regard to the particular secondary schools in Waterbury in which such service has been rendered;

School-Wide Seniority, which is hereby defined as the total number of years of uninterrupted service in a particular school under the jurisdiction of the Waterbury Department of Education in a position requiring State Certification, without regard to the number of such positions held in said school; or

Departmental Seniority, which is hereby defined as the total number of years of uninterrupted service within a) a department of a particular school under the jurisdiction of the Waterbury Department of Education in a position requiring State Certification, or b) a service department within the jurisdiction of the Waterbury Department of Education.

A seniority list specifying the city-wide seniority of each employee shall be prepared by the Board and forwarded to the WTA within thirty (30) days after execution of this Agreement and additional lists of new employees shall be supplied annually. If a question arises with respect to other types of seniority, the seniority of those employees involved in such question shall be made available to the WTA.

Application – Which seniority is to be considered in any particular transfer or reassignment shall be governed by the following principles:

If the transfer or reassignment is to a position which services more than one school, such as, but not limited to, that of a reading teacher, or from one school to another, "City-Wide Seniority" as set forth in Section 1a hereof shall be considered.

If the transfer or reassignment is from one position to another within an elementary school, "School-Wide Seniority" as set forth in Section 1c hereof shall be considered.

If the transfer or reassignment is from one position to another within a department in the secondary schools, (i) "City-Wide Departmental Seniority" as set forth in Section 1b hereof shall be considered if the transfer or reassignment is from one secondary school to another, and (ii) "Departmental Seniority" as set forth in Section 1d hereof shall be considered if the transfer or reassignment is within a school.

In selecting department heads, City-Wide Departmental Seniority as set forth in Section 1b of this subpart D shall be considered.

In the event a person accepts a position which pays more than which is called for in the Regular Teachers Salary Schedule (ex: guidance counselor, department head, administrative or supervisory post) he waives all seniority rights for positions which come under the Regular Teachers Salary Schedule. Should said person return to a regular teaching position, after two years of service in said position, he will regain all seniority rights as though he had not left the position of a regular teacher.

Should a situation arise not covered by the preceding items in this Article, a committee from the WTA, appointed by its President, will meet with the Superintendent of Schools to resolve said situation consistent with the philosophies set forth in this Article. The solution will be then reduced in writing and made an addition to this Article and will be used to decide the outcome of similar situations should they arise. Furthermore, if the committee from the WTA and the Superintendent of Schools cannot reach an agreement the matter will be resolved through the Grievance Procedure set forth elsewhere in this Agreement.

Mt. Pleasant, Michigan
Central Michigan University

Between Central Michigan University and Central Michigan University Faculty Association, effective July 1, 1971, to June 30, 1974. Approximately 642 teaching and research faculty, coaches, and professional librarians. Provision for salary reopener at the request of either party if the Consumer Price Index changes 15 percent or more between February 1971 and February 1973. Automatic one-year renewal, 60 days notification prior to termination if either party desires to terminate or modify agreement.

COMPENSATION: Salary increases (for 1971-72, 1972-73, and 1973-74, respectively), 6.5 percent of 1970-71, 10-month salary plus $66; 6.54 percent of 1971-72, 10-month salary plus $100; and 6.6 percent of 1972-73 salary plus $200; minimum 10-month salary by rank (1971-72, 1972-73, and 1973-74, respectively): instructor, $8,400, $8,800,

and $9,250; assistant professor, $10,400, $10,800, and $11,250; associate professor, $12,350, $12,700, and $13,100; professor, $15,450, $15,900, and $16,400; achievement awards recommended by the University Achievement Increase Committee, .5 percent of bargaining unit members' base salary for 1972-73 ($6,000 fund established in 1971-72 for achievement awards); one percent of regular 1972-73 salary for 1973-74;
PROMOTIONS: $1,000 per year or prorated amount thereof upon award of the first Ph.D (or equivalent degree) during the term as an increment of base salary; 5 percent of 10-month base salary or minimum pay for rank to which the faculty member is promoted, whichever is greater; when the Ph.D. leads to an automatic promotion, the faculty member shall receive either $1,000 or minimum for the promotional rank, whichever is greater.
DIFFERENTIALS: Additional compensation to those faculty required to be at the university with students while other members are not; department chairmen working full calendar year, $1,000, $1,250, and $1,500 additional for 1971-72, 1972-73, and 1973-74, respectively.
OTHER: spring and summer sessions, 2.78 percent of 10-month base salary per week; off-campus assignments, $250, $275, and $300 per semester hour of credit (1971-72, 1972-73, and 1973-74 respectively), plus 10¢ per mile for travel; correspondence courses: a minimum of $12, $14, and $15 per semester credit hour (1971-72, 1972-73, and 1973-74, respectively); $18, $20, and $22 per credit hour (1971-72, 1972-73, and 1973-74, respectively) for completely revised correspondence courses; $30, $33, and $37 per credit hour (1971-72, 1972-73, and 1973-74, respectively) for new correspondence courses; retirement service award: minimum ten years of service, 1 1/2 percent of current 10-month salary multiplied by the number of equivalent full-time years of service, members in the bargaining unit prior to August 24, 1970, or April 4, 1969, may choose unused sick leave payment (under prior agreements) or years of service payment.
LEAVES: Noncumulative sick leave based on years of service; first year, 11 days; second year, 20 days; third year, 29 days; fourth year, 38 days; fifth year, 45 days; sixth year and up, 6 calendar months; sick leave prorated for part-time faculty; payment for compensable injury, regular salary less social security, workmen's compensation, disability income, or continuation of income program; sick leave bank for faculty with 5 years service or less, 2 days deducted yearly; 2 days leave for personal business or illness in the immediate family; 3 days funeral leave for death in the immediate family; paid leave for jury duty or court appearance less court fees; up to 15 days leave for military reserve obligation less military pay, extended leave without pay; vacation leave at the rate of one and two-thirds days per month for full-time 12-month faculty, 20-day maximum per calendar year.
INSURANCE: Effective August 24, 1971, university pays $32 per month for hospital and surgical insurance including family coverage, $49 per month for 1972-73, and $75 per month for 1973-74; double indemnity life insurance policy equal to base 10-month salary (maximum of $60,000) at 11.57¢ per $1,000 per pay period (26 pay periods) guaranteed by university; as of September 1, 1973, life insurance minimum, $15,000; total disability income benefit, effective after 6 months, 50 percent of 10-month salary when combined with other payments such as social security ($1,200 per month maximum payment) for 1971-72; as of September 1, 1972, disability payments, 60 percent of 10-month salary to $1,000 and 40 percent thereafter $1,500 maximum monthly payment); disability improvement benefits to be negotiated for subsequent years; disability payments cease at age 65; accident insurance covering faculty traveling on university business.
PERSONNEL: Grievance procedure ends with advisory review by joint committees; faculty with at least one year of service are reimbursed the cost, less special fees, for up to 6 university semester credits; faculty members denied promotion may request a conference and explanation of the reasons for denial; special association-university conferences upon the request of either party. Distinguished Professional Awards Committee to administer $6,000 in professional awards; a distinguished visiting professor shall be appointed for 1971-72; departmental criteria basis for appointment to spring and summer session positions; payroll dues deduction for local association; except for summer sessions, off-campus courses to be limited to one per faculty member per semester;

Great Neck, New York

Between the Great Neck Board of Education and Great Neck Teachers Association, effective July 1, 1971, to June 30, 1973. Approximately 618 certificated professional employees. Automatic one-year renewal unless either party requests renegotiation within 120 days of the budget submission date. Agreement modification upon written consent of both parties.
COMPENSATION (1971-72): B.A., $8,910 to $14,166, 11 increments; B.A. plus 30, $17,374

maximum; M.A., $10,246 to $17,820, 14 increments; M.A. plus 30, $18,711 maximum; Ph.D., $20,315 maximum.
(1972-73): B.A., $9,450 to $15,024, 11 increments; B.A. plus 30, $18,427 maximum; M.A., $10,867 to $18,900, 14 increments; M.A. plus 30, $19,845 maximum; Ph.D., $21,546 maximum; retirement increment, one percent of the regular annual base salary during the last year of service times years of experience, up to and including 14 years (in addition to regular salary); credit for prior experience up to 9 years, additional credit upon recommendation of superintendent.
DIFFERENTIALS (1971-72 and 1972-73, respectively): varsity football, $1,600, $1,760; varsity basketball, $1,500, 1,650; swimming and lacross, $1,100, $1,210; newspaper editorial advisor and S.O./S.U. sponsor, $1,116, $1,184; dramatics director, $984, $1,044; instrumental music, $885, $939; literary magazine $528, $560; junior high dramatics club director, general treasurer, instrumental music, and newspaper printer, $559, $593; junior-senior high boys and girls intramurals (1 unit equals one afternoon per week for 32 weeks), $375, $395 per unit; elementary boys and girls intramurals, $250, $265 per unit; senior high girls basketball, $361, $401; girls gymnastics $374; department heads, 5 percent of B.A. base, plus one percent for each additional teacher in the department beyond 3 (differential limited to a maximum of 9 percent of B.A. base).
OTHER (based on teachers' salary schedule): guidance counselors, psychologists, and A-V services coordinators (1.12); 6 week summer school schedule: high school, $1,100; elementary and junior high, $735.
LEAVES: 15 days annual leave for personal illness, sickness in immediate family, and up to 5 days per occurrence for death of a relative; extended sick leave after 3 years service at the rate of one-half pay the first year and one-third pay the second year; sick leave bank of 100 days per year, up to 15 days per teacher; paid leave for quarantine; 2 days personal leave per year; revolving personal leave bank of 25 days per year, maximum of 2 days per teacher per year; sabbatical leave with full pay and benefits for one year granted after 7 years service on basis of seniority; up to 3 days leave per professional conference providing the Conference Attendance Committee approves, and specified procedures followed.
INSURANCE: Board-paid New York State Health Insurance; insurance trust fund established; full pay less workmen's compensation for job-related injury, 18-month maximum.
ASSOCIATION: Payroll deduction of local, state, and national association dues; released time for association executive board; 10 school days of released time for Curriculum Development Committee, 5 school days of released time for Task Committee, 2 school days for Inservice Advisory Committee; association president granted sabbatical leave with full pay; association is provided with an office and equipment and use of school facilities; association has access to budget, school planning, and other information; meetings between the association and the superintendent to be held "upon the written request of either party."
INSTRUCTION: Secondary teachers shall teach 5 periods per day; class size maximums: K-3, 25 pupils; 4-6, 26 pupils; junior high, 27 pupils; senior high, 28 students; except physical education, typing, orchestra, and chorus classes; 31 students for science teachers with less than 3 classes of 21 periods per week; $100,000 budgeted for paraprofessional assistance, additional $7,000 budgeted for 1971-72; Building Groups, Task Committees, and a Development Council to be established.
PERSONNEL: Grievance procedure ends with final and binding arbitration; workday for elementary teachers begins with 30 minutes before class, and ends 15 minutes after dismissal; teachers have the right to examine (in the presence of the personnel director or his representative) and copy any information in their personnel file and respond to "any negative criticism;" duty-free lunch period of at least 30 minutes, and if possible 45 minutes, for elementary teachers, and at least 30 minutes for secondary teachers; four 30-minute preparation periods per week allotted to elementary teachers; five class-length preparation periods and five administrative periods per week allotted to secondary teachers; attendance at open house meetings, PTA, and monthly faculty meetings required; Inservice Advisory Committee to administrater Inservice Institute; inservice credit regulations are reprinted below:

Salary Credit For Inservice Education

One credit for 15 hours of class and/or laboratory sessions or two credits for 30 hours of class and/or laboratory sessions.

Not more than four inservice credits may be accumulated during one school semester.

The participant has received a certificate of satisfactory completion signed by the instructor.

Salary credit for travel subsequent to July 1, 1968 shall be granted on the following basis:

- Up to six points of credit toward salary schedule placement in any class beyond Class 3 shall be accepted for approved travel in lieu of inservice credits.
- In general, one credit shall be granted for approved travel covering a three-week period.
- An application for such credit shall be approved prior to the travel period. If the Inservice Committee is not meeting when the application is received and the participant proceeds with travel plans the application is still valid and will be judged on its educational merits.

- The application shall be submitted to the Inservice Committee for prior approval. A record of each request received and the action taken by the Committee shall be maintained with a copy of such record filed in the personnel file of the individual.
- The application shall include a written itinerary or travel plan, indicating arrival and departure dates, and a written description of possible educational applications of the experience. Revisions in the itinerary are permissible consistent with the general goals of the travel plan.
- Upon completion of approved travel a signed statement to this effect shall be submitted to the Director of Personnel.
- The Inservice Committee shall approve travel which it deems to be of educational value to the teacher and/or benefit to the school system.

The Inservice Committee may also grant credits as follows:

- For independent study projects approved by the Committee, up to two credits per project may be granted.
- For the publication of a scholarly textbook or a book related to the teacher's field or the field of education, two credits may be awarded.
- For a Great Neck Adult Education course approved for a Great Neck faculty member, credit may be granted on the same basis as in B1 above.

conference attendance reimbursement provided; detailed copy of teacher's evaluation given to probationary teacher and interpretive reasons presented by principal at termination interview; upon request terminated teacher interviews with the superintendent; Building Representative Teacher Selection Committee to assist in the screening of teacher candidates; Building Representative Committee (including association members elected by the membership to the Association's Delegate Assembly) meets and discusses the following topics with the principal at the request of either party:

- advising the principal concerning the planning of faculty meetings;
- assisting and advising the principal in the process of screening and selecting teachers to be recommended for appointment
- participating in the orientation of new teachers;
- advising regarding the rehabilitation or renovation of a building;
- consulting with the building principal concerning the establishment of building faculty curriculum groups;
- PTA "open house" meetings;
- school budget;
- teaching schedules;
- teachers' non-teaching assignments and schedules;
- advising in other matters of appropriate concern affecting the terms and conditions of professional service.

building representative members are granted up to 60 minutes released time per week; Conference Attendance Committee reviews all conference attendance requests; posting of vacancies, including promotions required; association panel to participate in selection of applicants to fill promotion vacancy; priorities for selecting summer school personnel are:

- Teachers who are regularly employed by the Great Neck public schools and who have been continually employed in the summer schools.
- Teachers who are not regularly employed by the Great Neck public schools but have been continually employed by the Great Neck summer schools.
- Teachers who are regularly employed by the Great Neck public schools and who have been previously, but not continuously, employed by the Great Neck summer schools.
- Teachers who are regularly employed by the Great Neck public schools but have not been previously employed by the Great Neck summer schools.
- Teachers who are not regularly employed by the Great Neck public schools and have been regularly employed in the Great Neck summer schools.

Teachers required to supervise no more than one extracurricular activity per year; in emergencies teachers may be required to substitute up to one period per day; procedure for conducting teacher-administrator conferences with advance indication of the subject to be discussed.

Houston, Texas

Between the Board of Education of the Houston Independent School District and Teacher Council for Professional Consultation (TCPC), effective for the 1971-72 school year. Approximately 9,059 certificated professional employees.

COMPENSATION: B.A., $7,100 to $10,200, 10 increments; M.A., $7,720 to $11,440, 12 increments; Ph.D., $12,060 maximum; retirement pay, under eligibility requirement of Teacher Retirement System, unused portion of annual "personal" leave at current salary (limited to 100 days for 10-month contract), upon death similar payment made.

LEAVES: Comprehensive personal leave policy, unlimited accumulation: regular contract teachers are credited with 1-1/2 days per month at the beginning of the year (18 days for 12-month teachers and 15 days for 10-month), probationary teachers accrue one day per month, regular part-time teachers' accrual on a prorated basis; annual personal leave covers personal illness, sickness in the immediate family, personal business (upon approval of the principal and grievable if denied), up to 3 days per occurrence for death in the immediate family, mandatory court appearance less witness fee, federal court jury duty less court fees; separate leave granted for professional meetings, school business, consultation, or grievance meetings; up to $75,000 per year allocated for sabbatical leave at a minimum of one-half pay for one year after six years' service, joint committee to review sabbatical requests.

INSURANCE: Board pays an amount equal to one percent of participant's annual salary toward

premium (but not less than $72) of Union Central Basic hospital and major medical plan; $50,000 fund for hospital expenses of teacher injured during job-related assault (limit $20,000 per teacher); tax-sheltered annuity plan.
ASSOCIATION: Payroll deduction of local, state, and national association dues; paid leave plus fringe benefits for association president (the association shall remit to the board an amount equal to the president's salary); released time granted for grievance hearings and meetings between the board and the association; right to transact association business on school property and to use school facilities (with any "out-of-pocket" costs charged to the association).
INSTRUCTION: Teacher staffing ratios: grades 1-6, 1:30; grades 7-9, 1:28; grades 10-12, 1:25; ratios inapplicable to special education, itinerant and vocational teachers, and lab specialists; no academic class shall have more than 37 students (longe-range goal of 35 students in any academic class); voluntary supervision of student teachers.
PERSONNEL: Grievance procedure ends with advisory review; teachers have right to review personnel file and to be accompanied by association representative; 45 minutes uninterrupted preparation period daily, as per state law; 10 days annually for inservice training; $150,000 allocated for improvement-of-reading-instruction program with stipend paid to participating teachers; Development Committee reviews inservice programs and curriculum changes, including textbook selection, and develops recommendation to department chairmen; Faculty Advisory Council provided; formal observation, basis of teacher evaluation; posting of promotional vacancies to include application deadline; maintenance of racial balance a basis for assignment of teachers; involuntary transfers to be in the order of least seniority; denial of special transfer requests and objections to involuntary transfers to maintain racial imbalance may be appealed to the Transfer Request Committee; joint committee to administer $75,000 allocated for Teacher Innovation Fund to encourage use of innovative teaching methods; department chairmen shall have compensatory relief from extra duties; the board shall render "all reasonable assistance" to teacher either assulted or sued as a result of performing his duties; allocation of 15 reams of duplicating paper per elementary teacher and 10 per secondary teacher.

TERMINAL LEAVE PAY PROVISIONS: 1970-71

Terminal leave pay provisions are incorporated in 350 (22.9 percent) of 1,529 collective bargaining agreements for school systems with 1,000 or more pupil enrollment. Every fifth agreement from the 21 states having such provisions was selected for further analysis. Two agreements contained an additional terminal leave provision. This analysis comprises 69 agreements, incorporating 71 provisions which are not mutually exclusive.

In standard classroom teacher collective bargaining agreements, there exists a great deal of confusion resulting from the erroneous interchange of the terms "terminal" and "severance" as well as numerous phrases intended as "terminal pay" which are applied to section or provision headings found in agreements.

Broadly, terminal pay or severance pay, as found in negotiated contracts, is compensation given upon meeting established eligibility criteria in the event of compulsory or disability retirement, forced resignation, discharge, death while employed, or lay-off. In labor relations, there is a distinction between "severance pay" and "terminal pay."

Severance pay, in contract negotiation parlance, is a benefit designed to compensate for income lost owing to unemployment arising out of a unilateral action taken by the employer. It is a partial and short-term compensation given to workers temporarily or permanently laid-off, dismissed, or forced to resign. Such benefits are also termed "dismissal" or "separation allowance," and tailored to cushion the hardships of unemployment resulting from factors beyond the worker's control until such time as he secures other employment.

Terminal leave pay is any supplementary compensation paid upon retirement in addition to regular pension benefits. This benefit, in the public employee sector, is often tied to a statutory municipal or state retirement plan, and is

TABLE 1.–NEGOTIATED CONTENT OF 71 SELECTED TERMINAL PAY PROVISIONS, 1970-71

	Number	Percent
1	2	3
TOTAL SELECTED PROVISIONS	71	100.0%
Terminal Leave Pay		
Retirement	63	88.7
Death while employed in the district	24	33.8
Disability	6	8.4
Undefined	6	8.4

TABLE 2.–TERMINAL LEAVE ELIGIBILITY REQUIREMENTS, 1970-71

Eligibility Requirements	Number	Percent
1	2	3
TOTAL SELECTED PROVISIONS	71	100.0%
Specific Number of Years Service Required	37	52.1
0 to 5 years' service	6	8.4
6 to 10 years' service	14	19.7
11 to 15 years' service	8	11.3
16 to 20 years' service	8	11.3
Over 20 years' service	1	1.4
According to law	7	9.9
Undefined	27	38.0
OTHER		
Age (and/or length of service)	5	7.0
Procedural	17	23.9
Other	4	4.2

computed on the basis of earnings, satisfactory work, and duration of employment. Per se, terminal leave pay is a matter of "right" in reward for services rendered, rather than a benefit paid upon "need" (severance pay) to provide funds during a transitory phase between employment periods.

This analysis is restricted to what appeared in agreements as a monetary reward (terminal leave pay) upon leaving employment. Some provisions provided compensation prior to retirement, and all provisions used accumulated sick leave after a minimum number of years' service as the basis for calculating payment. Insofar as such terminal payments were tied to sick leave accumulation, no agreements were analyzed for terminal pay incorporated within the sick leave provision.

Specifically, terminal leave pay, as defined and analyzed, is any additional compensation paid teachers in good standing who have met certain requirements and granted upon retirement, resignation, or death while employed, as well as for undefined reasons. (See Table 1.) None of the terminal pay provisions specifically compensated teachers affected by a reduction in force. However, this possibility is not precluded in contracts which did not define reasons for granting terminal pay or which appeared elsewhere in an agreement or in board policy.

Terminal leave pay is granted as a retirement benefit in 88.7 percent of the provisions. One-third of the provisions stipulated that upon death of the teacher while employed, the terminal leave pay would revert to the estate. Terminal pay for disability retirement was relatively rare.

Eligibility criteria for terminal leave pay is most often based on the number of teaching years in a school district or state. (See Table 2.) The minimum number of years ranged from three to 25 years, with an average of 12.6 years and a median of 10 years. Additional criteria for granting terminal pay were age (in lieu of or in conjunction with longevity), amount of accumulated sick leave and/or personal leave, and fulfillment of procedural and statutory requirements relative to notification of intent to retire.

Terminal payments are calculated on the amount of accumulated sick leave and/or personal leave, though such a benefit should be paid apart from any remuneration for nonabuse of sick leave. The maximum compensation allowed, and the formulas for determining terminal pay vary considerably. (See Table 3.)

Compensation may be paid in flat amounts. It is computed either on the basis of unused sick leave and/or personal leave or longevity, and paid upon retirement. Lump-sum payments determined from sick leave range from $450 to $1,875, and amounts based on years of service range from $10 to $100 per year of service. A second procedure for payment is in the form of a salary increment in the last year or years of service prior to retirement and only upon notification of intent. This method has a supplemental benefit in those states where the highest gross salary in the last year or years of service is the basis for computing retirement benefits under state or municipal plans.

TABLE 3.–BASIS AND DETERMINATION OF TERMINAL LEAVE PAYMENTS, 71 SELECTED PROVISIONS, 1970-71

Basis of Terminal Pay	Number	Percent
1	2	3
TOTAL SELECTED PROVISIONS	71	100.0%
Bases For Payment:		
Sick leave	39	54.9
Years of service	12	16.9
Stated amount	16	22.5
Sick leave and/or years of service	3	4.2
Other	1	1.4
DETERMINATION OF PAYMENTS IN TERMS OF MAXIMUM COMPENSATION AVAILABLE		
Paid as a lump sum	21	29.6
Less than $500	5	7.0
$500 to $1,000	8	11.3
$1,000 to $2,000	7	9.9
Over $2,000	1	1.4
Based on unused accumulated leave	18	25.3
0-30 days	7	9.9
31-60 days	7	9.9
61-100 days	4	5.6
Based on years of service	12	16.9
$50 or less per year of service	4	5.6
$50 or more per year of service	3	4.2
Formula based on years of service	5	7.0
Derived From Other Formulas	6	8.5
Undefined	14	19.7

The following are examples of "terminal leave pay" provisions as appearing in teacher collective bargaining agreements.

Terminal Leave. When a staff member retires under normal retirement, he shall receive terminal pay for 50% of his accumulated sick leave upon application.

VOLUSIA CO. SCH. DIST.
DELAND, FLORIDA

Service Recognition. A certified employee retiring at age 55 or older, with twenty (20) or more year's service in the Niles Township High Schools, shall receive a retirement allowance of two thousand dollars ($2000) to be included as part of his last contract for the purpose of computing his pension benefits.

NILES TWP H.S. DIST.
SKOKIE, ILL. (AFT)

RETIREMENT PAY

When a full-time teacher retires, following no less than the last ten consecutive years of teaching in the Cape Elizabeth schools, he shall be granted a one-time severance payment, the amount to be determined by multiplying the number of years service in Cape Elizabeth by one percent of the first figure in the salary scale for a teacher with the Bachelor degree. This base figure shall be that prevailing during the last year of service.

Notification of retirement plans must be given to the Superintendent before formulation of the budget for the fiscal year in which the teacher retires.

Failure to give timely notice of retirement plans may result in lack of funds for retirement benefit and payment may be delayed.

CAPE ELIZABETH, MAINE

Disposition of Accumulated Sick Leave at Termination of Service—At the time of his termination after five years of service with the Montgomery County Public Schools, any unit member who has performed his duties satisfactorily shall receive termination pay at his current salary rate for one-fourth of his accumulated sick leave.

MONTGOMERY COUNTY,
MARYLAND

Twelve dollars and fifty and fifty cents ($12.50) per day will be paid for accumulated sick leave upon terminal retirement. Unused personal business days will be added to a teacher's cumulative sick leave up to one hundred fifty (150) days.

ADRIAN, MICHIGAN

One day's pay shall be granted for each day of accumulated sick leave not to exceed $1,000.00 upon retirement of an employee under the provisions of the Michigan Public School Employees Retirement System or at the compulsory retirement age.

In addition to the above, the School District shall pay $50.00 per year for each year of service in this School District after fifteen (15) years, but not to exceed $500.00.

BAY CITY, MICHIGAN

When a teacher, who qualifies for retirement under the Michigan Public School Employees' Retirement Fund, terminates his employment, he shall receive payment at his daily rate for accumulated scheduled absences, the maximum being forty (40) days.

RIVERVIEW COMMUNITY S.D.
WYANDOTTE, MICHIGAN

SEVERANCE PAY

School District No. 1 shall pay to each teacher upon his or her retirement at the conclusion of his or her teaching career one-half of any unused portion of the accumulated sick leave remaining in his or her account.

SCH. DIST. #1
BUTTE, MONTANA

A teacher shall receive $500.00 each year for the five (5) years prior to his retirement, upon his declaration of intent to retire.

HUNTENDON CENTRAL H.S.
FLEMINGTON, NEW JERSEY

RETIREMENT BENEFIT

Members of the professional staff who have served in the school system five (5) years or more shall receive an additional $1,000 in salary upon retirement. The estate of a teacher is eligible to receive the $1,000 if the decedent was eligible to have retired under New York State law.

FARMINGDALE U.F.S.D. #2
FARMINGDALE, NEW YORK

TERMINAL PAY

The Board will increase the salary for the last full year of employment of any teacher who has given prior written notice of intention to retire and who is eligible for retirement under the provisions of the New York State Teacher's Retirement System, by an amount equal to One Hundred Dollars ($100.00) per year of credited service in the Hicksville school system.

Retirement notice is requested of teachers for budgetary purposes and in order to permit compliance with Paragraph A by April 1 of the preceding year.

There shall be no duplication of payments under this provision.

Effective July 1, 1968, all new teachers and those employees possessing one or two years of experience as of the above date shall not be eligible for severance pay. Those teachers who possess three or more years of experience as of the above date shall receive $5.00 per day for the number of accumulated sick days as of the effective date if the teacher resigns any year hereafter on or before June 30 prior to the contract year.

EVANSVILLE JT. S.D. #6
EVANSVILLE, WISCONSIN

TEXT

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION GUIDELINES ON DISCRIMINATION BECAUSE OF SEX

By virtue of the authority vested in it by section 713(b) of Title VII of the Civil Rights Act of 1964, 42 U.S.C., section 2000e-12, 78 Stat. 265, the Equal Employment Opportunity Commission hereby revises Title 29, Chapter XIV, § 1604 of the Code of Federal Regulations.

§ 1604.1 *General principles.*

(a) References to "employer" or "employers" in Part 1604 state principles that are applicable not only to employers but also to labor organizations and to employment agencies insofar as their action or inaction may adversely affect employment opportunities.

(b) To the extent that the views expressed in prior Commission pronouncements are inconsistent with the views expressed herein, such prior views are hereby overruled.

(c) The Commission will continue to consider particular problems relating to sex discrimination on a case-by-case basis.

§ 1604.2 *Sex on a bona fide occupational qualification.*

(a) The Commission believes that the bona fide occupational qualification exception as to sex should be interpreted narrowly. Labels—"Men's jobs" and "Women's jobs"—tend to deny employment opportunities unnecessarily to one sex or the other.

(1) The Commission will find that the following situations do not warrant the application of the bona fide occupational qualification exception:

(i) The refusal to hire a woman because of her sex based on assumptions of the comparative employment characteristics of women in general. For example, the assumption that the turnover rate among women is higher than among men.

(ii) The refusal to hire an individual based on stereotyped characterizations of the sexes. Such stereotypes include, for example, that men are less capable of assembling intricate equipment; that women are less capable of aggressive salesmanship. The principle of nondiscrimination requires that individuals be considered on the basis of individual capacities and not on the basis of any characteristics generally attributed to the group.

(iii) The refusal to hire an individual because of the preferences of coworkers, the employer, clients or customers except as covered specifically in subparagraph (2) of this paragraph.

(2) Where it is necessary for the purpose of authenticity or genuineness, the Commission will consider sex to be a bona fide occupational qualification, e.g., an actor or actress.

(b) Effect of sex-oriented state employment legislation.

(1) Many States have enacted laws or promulgated administrative regulations with respect to the employment of females. Among these laws are those which prohibit or limit the employment of females, e.g., the employment of females in certain occupations, in jobs requiring the lifting or carrying of weights exceeding certain prescribed limits, during certain hours of the night, for more than a specified number of hours per day or per week, and for certain periods of time before and after childbirth. The Commission has found that such laws and regulations do not take into account the capacities, preferences, and abilities of individual females and, therefore, discriminate on the basis of sex. The Commission has concluded that such laws and regulations conflict with and are superseded by Title VII of the Civil Rights Act of 1964. Accordingly, such laws will not be considered a defense to an otherwise established unlawful employment practice or as a basis for the application of the bona fide occupational qualification exception.

(2) The Commission has concluded that state laws and regulations which discriminate on the basis of sex with regard to the employment of minors are in conflict with and are superseded by Title VII to the extent that such laws are more restrictive for one sex. Accordingly, restrictions on the employment of minors of one sex over and above those imposed on minors of the other sex will not be considered a defense to an otherwise established unlawful employment practice or as a basis for the application of the bona fide occupational qualification exception.

(3) A number of states require that minimum wage and premium pay for overtime be provided for female employees. An employer will be deemed to have engaged in an unlawful employment practice if:

(i) It refuses to hire or otherwise adversely affects the employment opportunities of female applicants or employees in order to avoid the payment of minimum wages or overtime pay required by state law; or

(ii) It does not provide the same benefits for male employees.

(4) As to other kinds of sex-oriented state employment laws, such as those requiring special rest and meal periods or physical facilities for

women, provision of these benefits to one sex only will be a violation of Title VII. An employer will be deemed to have engaged in an unlawful employment practice if:

(i) It refuses to hire or otherwise adversely affects the employment opportunities of female applicants or employees in order to avoid the provision of such benefits; or

(ii) It does not provide the same benefits for male employees. If the employer can prove that business necessity precludes providing these benefits to both men and women, then the state law is in conflict with and superseded by Title VII as to this employer. In this situation, the employer shall not provide such benefits to members of either sex.

(5) Some states require that separate restrooms be provided for employees of each sex. An employer will be deemed to have engaged in an unlawful employment practice if it refuses to hire or otherwise adversely affects the employment opportunities of applicants or employees in order to avoid the provision of such restrooms for persons of that sex.

§ 1604.3 *Separate lines of progression and seniority systems.*

(a) It is an unlawful employment practice to classify a job as "male" or "female" or to maintain separate lines of progression or separate seniority lists based on sex where this would adversely affect any employee unless sex is a bona fide occupational qualification for that job. Accordingly, employment practices are unlawful which arbitrarily classify jobs so that:

(1) A female is prohibited from applying for a job labeled "male," or for a job in a "male" line of progression; and vice versa.

(2) A male scheduled for layoff is prohibited from displacing a less senior female on a "female" seniority list; and vice versa.

(b) A seniority system or line of progression which distinguishes between "light" and "heavy" jobs constitutes an unlawful employment practice if it operates as a disguised form of classification by sex, or creates unreasonable obstacles to the advancement by members of either sex into jobs which members of that sex would reasonably be expected to perform.

§ 1604.4 *Discrimination against married women.*

(a) The Commission has determined that an employer's rule which forbids or restricts the employment of married women and which is not applicable to married men is a discrimination based on sex prohibited by Title VII of the Civil Rights Act, It does not seem to us relevant that the rule is not directed against all females, but only against married females, for so long as sex is a factor in the application of the rule, such application involves a discrimination based on sex.

(b) It may be that under certain circumstances, such a rule could be justified within the meaning of Section 703(e)(1) of Title VII. We express no opinion on this question at this time except to point out that sex as a bona fide occupational qualification must be justified in terms of the peculiar requirements of the particular job and not on the basis of a general principle such as the desirability of spreading work.

§ 1604.5 *Job opportunities advertising.*

It is a violation of Title VII for a help-wanted advertisement to indicate a preference, limitation, specification, or discrimination based on sex unless sex is a bona fide occupational qualification for the particular job involved. The placement of an advertisement in columns classified by publishers on the basis of sex, such as columns headed "Male" or "Female," will be considered an expression of a preference, limitation, specification, or discrimination based on sex.

§ 1604.6 *Employment agencies.*

(a) Section 703(b) of the Civil Rights Act specifically states that it shall be unlawful for an employment agency to discriminate against any individual because of sex. The Commission has determined that private employment agencies which deal exclusively with one sex are engaged in an unlawful employment practice, except to the extent that such agencies limit their services to furnishing employees for particular jobs for which sex is a bona fide occupational qualification.

(b) An employment agency that receives a job order containing an unlawful sex specification will share responsibility with the employer placing the job order if the agency fills the order knowing that the sex specification is not based upon a bona fide occupational qualification. However, an employment agency will not be deemed to be in violation of the law, regardless of the determination as to the employer, if the agency does not have reason to believe that the employer's claim of bona fide occupations qualification is without substance and the agency makes and maintains a written record available to the Commission of each such job order. Such record shall include the name of the employer, the description of the job and the basis for the employer's claim of bona fide occupational qualification.

(c) It is the responsibility of employment agencies to keep informed of opinions of the Commission on sex discrimination.

§ 1604.7 *Pre-employment inquiries as to sex.*

A pre-employment inquiry may ask "male _____, Female _____"; or "Mr. Mrs. Miss." provided that the inquiry is made in good faith for a non-discriminatory purpose. Any pre-employment inquiry in connection with prospective employment which expresses directly or

indirectly any limitation, specification or discrimination as to sex shall be unlawful unless based upon a bona fide occupational qualification.

§ 1604.8 *Relationship of Title VII to the Equal Pay Act.*

(a) The employee coverage of the prohibitions against discrimination based on sex contained in Title VII is co-extensive with that of the other prohibitions contained in Title VII and is not limited by Section 703(h) to those employees covered by the Fair Labor Standards Act.

(b) By virtue of Section 703(h), a defense based on the Equal Pay Act may be raised in a proceeding under Title VII.

(c) Where such a defense is raised the Commission will give appropriate consideration to the interpretations of the Administrator, Wage and Hour Division, Department of Labor, but will not be bound thereby.

§ 1604.9 *Fringe benefits.*

(a) "Fringe benefits," as used herein, includes medical, hospital, accident, life insurance and retirement benefits; profit-sharing and bonus plans; leave; and other terms, conditions, and privileges of employment.

(b) It shall be an unlawful employment practice for an employer to discriminate between men and women with regard to fringe benefits.

(c) Where an employer conditions benefits available to employees and their spouses and families on whether the employee is the "head of the household" or "principal wage earner" in the family unit, the benefits tend to be available only to male employees and their families. Due to the fact that such conditioning discriminatorily affects the rights of women employees, and that "head of household" or "principal wage earner" status bears no relationship to job performance, benefits which are so conditioned will be found a prima facie violation of the prohibitions against sex discrimination contained in the Act.

(d) It shall be an unlawful employment practice for an employer to make available benefits for the wives and families of male employees where the same benefits are not made available for the husbands and families of female employees; or to make available benefits for the wives of male employees which are not made available for female employees; or to make available benefits to the husbands of female employees which are not made available for male employees. An example of such an unlawful employment practice is a situation in which wives of male employees receive maternity benefits while female employees receive no such benefits.

(e) It shall be a defense under Title VII to a charge of sex discrimination in benefits that the cost of such benefits is greater with respect to one sex than the other.

(f) It shall be an unlawful employment practice for an employer to have a pension or retirement plan which establishes different optional or compulsory retirement ages based on sex, or which differentiates in benefits on the basis of sex. A statement of the General Counsel of September 13, 1968, providing for a phasing out of differentials with regard to optional retirement age for certain incumbent employees is hereby withdrawn.

§ 1604.10 *Employment policies relating to pregnancy and Childbirth.*

(a) A written or unwritten employment policy or practice which excludes from employment applicants or employees because of pregnancy is in prima facie violation of Title VII.

(b) Disabilities caused or contributed to by pregnancy, miscarriage, abortion, childbirth, and recovery therefrom are, for all job-related purposes, temporary disabilities and should be treated as such under any health or temporary disability insurance or sick leave plan available in connection with employment. Written and unwritten employment policies and practices involving matters such as the commencement and duration of leave, the availability of extensions, and accrual of seniority and other benefits and privileges, reinstatement, and payment under any health or temporary disability insurance or sick leave plan, formal or informal, shall be applied to disability due to pregnancy or childbirth on the same terms and conditions as they are applied to other temporary disabilities.

(c) Where the termination of an employee who is temporarily disabled is caused by an employment policy under which insufficient or no leave is available, such a termination violates the Act if it has a disparate impact on employees of one sex and is not justified by business necessity.

PERMISSIBLE ANNUAL AGGREGATE INCREASE

Pay Board Ruling

Facts. Teachers signed a contract in April 1971, providing for a single wage increase for the school year 1971-72 that would have gone into effect in September 1971, were it not for the freeze. Contract negotiations for the school year 1972-73 are now beginning and the teachers are concerned as to whether they are limited to a 5.5 percent increase over the 1970-71 contract wages which they were receiving prior to November 14, 1971, or can they receive a 5.5 percent increase over

the 1971-72 contract wages which went into effect on November 14, 1971.

Issue. In calculating "permissible annual aggregate increases," what is the wage base that will apply—those frozen wages on November 13, 1971, or the unfrozen wages of November 14, 1971.

Ruling. Where a wage agreement is in effect, "permissible annual aggregate increases" will be calculated on the basis of wages and salaries in existence immediately prior to the beginning of the 12-month period which begins on the effective date of a new agreement and in each succeeding 12-month period during the life of the agreement.

Hence, the "permissible annual aggregate increase" in a wage agreement cannot exceed 5.5 percent of the wages paid immediately prior to the effective date of the new wage contract. In the instant situation if the teachers sign a contract in April 1972, for th school year of 1972-73 to be effective September 1, 1972, the "permissible annual aggregate increase" cannot exceed 5.5 percent of the wage base of the last full payroll period before the effective date of the new agreement. Therefore, the wage base would not be the frozen wage base on November 13, 1971, but it would be a wage base that would reflect the 1971-72 contract wages.

This ruling has been approved by the General Counsel of the Pay Board.

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CASE REVIEWS

CALIFORNIA

Court Denies Teachers the Right to Strike

A California appellate court rejected the United Teachers-Los Angeles' appeal of a temporary restraining order enjoining teachers from engaging in a strike against the Los Angeles Unified School District.

The temporary restraining order was issued on April 13, 1970, at the request of the school district. On that date, approximately 12,300 Los Angeles teachers began a month-long work stoppage.

In its appeal, the teachers association stated that the injunction was issued on the basis that teacher strikes violate the common law of California. However, according to the teachers association, the injunction was invalid since the order was issued without a hearing, and state statutes authorize teachers to strike. The First and Fourteenth Amendments of the Constitution (rights of free speech and association) assure teachers the right to strike.

The court pointed to several recent court decisions which held that in the absence of legislative authority public employees do not have the right to strike; also, neither California common law nor the Constitution grants public employees the right to strike.

The appellate court found that the teachers association had requested a ruling on the present case to enable them to bring the case to the supreme courts of California and the United States. The court concluded that the issues were adversely determined in three of the five appellate districts of the court. In each instance, a petition for hearing was denied by the California Supreme Court. On the basis of these previous court decisions, the appellate court found it unnecessary to reassess the issues of the case and rejected defendants' appeal. *(Los Angeles Unified School District v. United Teachers-Los Angeles,* California Court of Appeals, Second District, March 17, 1972.)

CONNECTICUT

Court Rules Class Size, Workload and Grievance Arbitration As Negotiable

The Connecticut Supreme Court ordered the West Hartford Board of Education to negotiate with the West Hartford Education Association on class size, teacher workload, and grievance arbitration. These items, as "conditions of employment," must be negotiated under state law.

Although the Teacher Negotiation Act provides only for advisory arbitration in contract negotiations, the binding arbitration of grievances within the terms of the agreement is permissible. However, the court stated that "the board cannot delegate to an arbitrator its statutory authority as to matter of policy, nor can it agree to binding arbitration of matters concerning which a statutory duty rests on the board alone."

The court ruled that the board of education has the exclusive power to determine extracurricular activities. However, compensation for, and assignment to, extracurricular activities "as salaries and other conditions of employment" must be negotiated.

Length of the school day and the school year are not negotiable, according to the court decision, as they constitute "hours of employment" and are excluded from negotiation by legislation. The court also rejected a claim by the teachers association that the administration violated its duty and subverted the association by proposing and instituting new work schedules and a resource teacher program. *(West Hartford Education Association v. West Hartford Board of Education,* Connecticut Supreme Court.)

FLORIDA

Rehired Teachers' Payment of "Liquidated Damages" for Strike Held Legal

The Florida Supreme Court affirmed the legality of an arrangement between the Lee County Board of Public Instruction and Lee County (Fort Myers) teachers made in the aftermath of a state-wide teachers' work stoppage. The agreement provided that teachers would be rehired at their former status upon payment of $100.

In February 1968, during the state-wide teachers' strike, 400 Lee County teachers resigned from their positions to avoid a state prohibition against such strikes. After the work stoppage, the teachers were legally barred from being rehired except as new teachers, while the county school board had a constitutional duty to recover from teachers monetary losses sustained during the strike.

In efforts to resolve this problem, a citizens group mediated a solution whereby teachers would pay the school board $100, and be reinstated to their pre-strike status. Subsequently, a circuit court ruled that these payments were "fines," and as such, were illegal. The court certified the question for a Florida Supreme Court opinion.

In the opinion of the supreme court, the payment agreement was legal as it was an "agreement(s) on employment terms." The court supported the payments as valid because they constituted "liquidated damages." According to the court, had the school board not recovered these funds from the teachers, it would in fact be supporting teachers' political and lobbying activity.

The court pointed out that the state superintendent waived certain state regulations to allow teachers who walked out to return to their positions without loss of tenure. The Lee County teachers were not covered by this decision since they had resigned their positions. The court felt that the payment agreement was a legal and satisfactory method of handling the situation.

Several teachers, acting as plaintiffs in the case, opposed the payments, labeling them as "fines." The court held that the word "fine" connoted punishment, while evidence indicated that the payments were being used for additional expenses incurred by the school board during walkout. The court concluded that the payments were proper as liquidated damages, that the arrangement did not violate any state statute, and, in fact, was a satisfactory solution for both parties. *(National Education Association, Inc. et al., Plaintiffs-Appellees v. Lee County Board of Public Instruction et al., Defendants Appellants,* Supreme Court of Florida, March 15, 1972.)

ILLINOIS

Board's Statutory Powers Not Delegable; Negotiated Provisions Invalid

The Illinois Appellate Court, Second District, upheld a lower court order staying grievance abritration between the Rockford Education Association (REA) and the Board of Education, Rockford School District.

The creation of a new administrative position, denied an association member who had applied for the vacant post under terms of the negotiated agreement, resulted in a grievance filed by the REA alleging that the board had violated the agreement by improperly failing to promote the applicant.

The grievance was processed through the preliminary steps of the procedure to the superintendent who waived his right to act, whereupon the association filed a demand to bring the matter before an arbitrator. The arbitrator ruled favorably for the association on the arbitrability of the grievance, despite the board's objections that the matter of selection or employment of employees was neither included in the agreement nor delegated. Subsequently, the board sought a declaratory judgment that the agreement was void insofar as it related to selection or employment. A trial court agreed with the board's complaint.

The REA appealed the verdict. The appeals court noted that a school board may enter into a collective bargaining agreement, but may not delegate to a third party discretionary powers statutorily vested in the board. The association argued that the board upon creating the position, fixing the qualifications, determining the salary, and defining the duties actually exercised rather than delegated its responsibilities in regard to the employment of an administrator. And since an applicant was to be selected within the guidelines established by the board, no further discretionary functions were to be exercised.

The court held that the collective agreement was anomalous in that it recognized the statutory responsibilities, powers, right, and authority vested in the board while limiting the powers granted exclusively to the board by the School Act. Further, the court found nothing in the contract which could be construed as a limitation on the discretion of the board to employ or not to employ. The negotiated agreement merely established a promotional procedure based on "qualification," stated the court, but the ultimate determination of "qualification" rested with the board and could not be delegated to a third party.

The appeals court concluded that the trial court's judgment was correct and affirmed the decision. *(Board of Education in and for the School District of the City of Rockford, No. 205, Winnebago County, Illinois, a Municipal Corporation, Plaintiff-Appellee v. Rockford Education Association, Inc. et. al., Defendants Appellants,* Appellate Court of Illinois, Second District, March 2, 1972.)

MASSACHUSETTS

Validity of Renegotiated Salary Schedule Affirmed by State Supreme Court

The Massachusetts Supreme Judicial Court upheld a lower court's decision that quarterly salary increases renegotiated by the Norton Teachers Association with the Norton School Committee were valid.

The teachers association and the school committee negotiated a collective bargaining agreement, effective September 2, 1968, to August 31, 1970, with provisions for specific salary increases and renegotiation of compensation.

Insufficient funds appropriated for 1968 by the town necessitated the payment of lower than negotiated salaries to teachers from September 2 to December 31, 1968. In March 1969, the school committee requested special funds to repay teachers for their insufficient salaries. The committee's request was denied, but 1969 school funds were appropriated without restrictions.

Subsequent to this action, the school committee and the teachers association amended their 1968-69 salary schedule. Salaries for September 3 to December 31, 1968, were reduced to the amount actually paid; salaries for January 1 to March 9, 1969, remained unchanged, but salaries for March 10 to June 30, 1969, were increased to compensate for the salary loss incurred from September through December 1968. The 1969 funds appropriated by the town were sufficient to cover the amended salary schedule.

Challenged, the school committee and the teachers association requested a court determination on the validity of the amended agreement. A trial court supported the committee's actions and ordered payment of the salary increases.

The town appealed the decision, arguing that the committee had violated the Municipal Finance Act. The Act states that "no department financed by municipal revenue shall incur a liability in excess of [the department's] appropriation." The Act also provides that a municipality may appropriate funds to pay debts previously incurred.

The town contended that in 1968 the committee illegally negotiated salaries in excess of appropriated funds. The town further stated that indirectly the salary increases in 1969 constituted "a mere gratuity and an invalid action" which "amounted to paying the bill for salaries incurred in a prior year without complying with the law," i.e., without the town's approval.

In accordance with previous decisions supporting the school committee's authority to manage the public schools, the court reiterated that a school committee could enter

into valid agreements in excess of available appropriations. The court noted that no discrepancy existed between the amounts appropriated by the town for 1968 and the amounts requested by the school committee. The 1969 salary increases, according to the court, were not "gifts of what could not have legally been paid to teachers in 1968," since "only teachers who actually worked in 1969 received the increase." The court ruled that the school committee's power to fix the teachers' compensation was limited only by the amount of funds available. Since sufficient funds were available for 1969, the committee's actions were proper and the amended contract was valid and enforceable. *(Norton Teachers Association et al v. Town of Norton et al*, Massachusetts Supreme Judicial Court, February 11, 1972.)

MINNESOTA

Court Rejects Strike Remedies

Another chapter in extensive litigation arising from a teachers' strike in Minneapolis in April 1970 called by the Minneapolis Federation of Teachers finds some 600 teachers represented by the Minneapolis Education Association again classified as "strikers" subject to the penalties proscribed by the state's former public sector labor law.

The Hennepin County District Court voided the retroactive procedure—the use of form affidavits without further investigation—to determine whether teachers were on strike or taking personal leave. The court determined that such a procedure was "arbitrary and capricious" even though it had ruled during the strike that the board's suspension of the personal leave policy was "arbitrary" and ordered its reinstatement, making personal leave available for absences on the first two days of the strike.

The instant taxpayers' suit was filed conjunctively with one filed by the then acting attorney general against the MFT, MEA, and the school board for negotiating two pay provisions which in effect would have circumvented the strike penalties proscribed under state law. The attorney general's suit was prosecuted successfully, nullifying the pay provisions of the strike settlement.

The present suit challenged the board's right to grant retroactive personal leave upon an applicant's filing of an affidavit that he elected to be absent during the first two days of the strike and that he engaged in no strike since April 8, 1970, the date on which the school board denied the MEA's request for personal leave for all teachers prior to the commencement of the strike on April 9.

The court found that MEA members had engaged in "activity totally inconsistent with a determination of 'nonstrike' status" by circulating literature pertaining to the issues in the hope of convincing the public that the teachers' negotiation demands were reasonable and beneficial to the educational system. The court observed that though a school board is vested with a great deal of discretionary power, it may not abuse its powers in a way that is contrary to law. "This court concurs that the affidavit merely states a legal conclusion and not facts...that certain individuals requesting personal leave in fact were entitled retroactively to that personal leave....This court cannot disregard the spirit and intent of the personal leave policy and condone a policy which indirectly if not directly sanctions a mass absence of teachers from their classrooms."

The court added, "Absences from work under the pretense of something other than striking activities have not been condoned in other situations.... In conclusion, simultaneous legitimate requests for personal leave for 600 teachers is a strain of comprehension beyond [my] imagination."

The court ruled that the board's acceptance of the teachers' affidavits to determine the status of being a "striker" or a "nonstriker" was an arbitrary, capricious, and unreasonable determination which exceeded the bounds of the discretionary power of the school board. The teachers' argument that those teachers who claimed leave were unlawfully denied a hearing was rejected by the court on the grounds that they could have demanded a hearing. The hearings that were given were also invalidated since the nostrike law requires that such hearings be part of the public record. *(Douglas M. Head and Keith v. Special School District No. 1 and MFT Local 59, MEA et al*, Hennepin County District Court, March 1, 1972.)

NEW YORK

Courts Refuse To Stay Arbitration Without Clear and Unquestionable Contract Bar

The Dobbs Ferry Education Association filed a petition to compel arbitration of a dispute involving the dismissal of a school nurse during her probationary period, which was extended by the school board beyond the probationary period required for the position by civil service regulations. The association suffered a setback as a result of a negotiated dual grievance procedure which differentiated between "agreement grievances" and "personal grievances." The former related to grievances arising out of an alleged violation, misinterpretation, or inequitable application of the contract provisions, while the latter referred to grievances arising in connection with employment by the board which were not covered by the contract. A negotiated provision, Article II, preserved the board's nondelegable power to administer the school district as it saw fit with the proviso that exercise of such power shall not be inconsistent with the agreement or applicable statutes.

The school board contended that the question of arbitrability rested with the court and that this grievance was not an "agreement grievance" requiring arbitration. The association contended that the dismissal of the nurse at the end of her probationary period constituted a violation of Article II relating to applicable statutes, and, therefore, constituted an "agreement grievance," which must be arbitrated.

The court clearly reserved its right to determine whether a specific issue should be turned over to arbitration. In determining whether the dismissal constituted an "agreement grievance," the court considered the negotiated grievance machinery in the agreement, and found no provision

that would render this particular dispute arbitrable. This omission of a broad, all-disputes arbitration provision, in the court's opinion, was fatal to the association since the agreement specified that only "agreement grievances" were subject to arbitration while specifically excluding from arbitration those matters which related to the right of the board to run the district.

The court noted that the association, while negotiating a provision which preserved the board's power to run the district, was at the same time relying on that provision to hand the decision-making process to an arbitrator. In the court's language,

> The plain intent of Article II of the agreement concerning the rights of the Board of Education would seem to preserve to the board the right to direct the operations of the public schools in the district and it is just this type of dispute which would seem to involve what the language of the section intends and what the courts have considered to be a matter for the school board and not the arbitrator to decide.

In dismissing the petition, the court added that since the instant case involved a violation of a personal right rather than the agreement, rectification existed with administrative and judicial proceedings. *(Hilda Lehman et al. Petitioners v. Dobbs Ferry Board of Education, Union Free School District No. 3, Town of Greenburgh, et al.,* New York Supreme Court, Westchester County, June 7, 1971.)

Arbitration Stay Granted

The Lakeland Federation of Teachers, Local 1760, AFL-CIO, instituted a grievance against the Board of Education, Central School District 1, for failure to grant tenure to a probationary teacher on the grounds that he was denied the contracted right to an evaluation. The board successfully sought a stay of arbitration from the court.

The court observed that under the negotiated contract the alleged failure to provide an evaluation was an arbitrable matter, but on the overriding question of teacher tenure prior decisions have withdrawn the subject from the realm of arbitration.

In granting the stay of arbitration, the court determined that the probationary teacher had failed to complete the requirements under which an uncertified teacher may be re-employed. Public policy relating to the granting of tenure, as established by the legislature and the Commissioner of Education, is not a matter to be delegated to an arbitrator to modify. *(Board of Education, Central School District 1, Towns of Yorktown, Somers and Cortlandt, Westchester County; Putnam Valley, Carmel and Philipstown, Putnam County, Petitioner, v. Lakeland Federation of Teachers, Local 1760, AFT, AFL-CIO,* New York Supreme Court, Westchester County, November 15, 1971.)

Arbitrator, Not Courts, To Decide Arbitrability

The Board of Education, Middle County Central School District 11, sought a motion to stay arbitration from the New York Supreme Court, Special Term. The court denied the board's motion on the grounds that questions of arbitrability should be left to the arbitrator unless a contract clearly and specifically contains an exclusion from arbitration.

The Middle County Teachers Association alleged that the school board did not staff the elementary schools in accordance with the contract provision and filed a request for arbitration. The board contended that the class size provision is neither a negotiable item nor arbitrable.

The court, relying on *Matter of Associated Teachers of Huntington v. Board of Education* (303 N.Y.S.2d 469), and upon finding no bar to arbitration within the comprehensive grievance provision of the agreement, denied the motion, and ordered the initiation of arbitration proceedings. *(Board of Education, Middle County Central School District 11, of the Town of Brookhaven, Petitioner v. Middle County Teachers Association, Respondent,* New York Supreme Court, Special Term, Part 1, Suffolk County, No. 2649, June 21, 1972.)

Time Limits To Be Decided by Arbitrator

Excepting collective agreements that specifically limit the scope of arbitration, the New York courts have clearly ruled that questions of arbitrability are to be left to the arbitrator.

The Harrison Association of Teachers was granted its cross-motion, while the Central School District No. 1, Harrison, was denied its motion to stay arbitration of a grievance on the ground that the association had failed to adhere to the contractual time limitations for filing.

Relying on the landmark decision in *City of Auburn v. Nash* (NY 34 A.D.2d. 345), the court ruled that resolution of the time limitation dilemma as a prior condition to arbitration is not a matter for the courts, as such subjects of procedural arbitrability are within the domain of an arbitrator to decide.

The school district contended that the association did not comply with the time provision contained in the contract for initiating a grievance which ends in binding arbitration. The court, in rejecting the motion, considered the issue to be too narrow for its adjudication.

Without comment on the merits of the case, the court further stated that an issue, either substantive or procedural, contained in a collective bargaining agreement must be initially determined by an arbitrator unless contract language clearly rebuts the presumption of arbitrability which would then admit of an initial determination of the issue to the court. *(Matter of the Application for Permanent Stay of Arbitration, Central School District 1, Harrison, Petitioner, v. Harrison Association of Teachers et al., Respondents,* New York State Supreme Court, Westchester County, No. 14097/71, March 2, 1972.)

PENNSYLVANIA

Inconvenience and Harassment Not Perilous to Health, Safety, and Welfare Ban on Teachers' Strikes

The Commonwealth Court of Pennsylvania issued companion decisions, dissolving a strike injunction and vacating

an order to resolve through binding arbitration the dispute between the Armstrong Education Association and the Armstrong School District.

Dealing first with the appeal from the injunction, the court sought to determine whether apparently reasonable grounds existed for a return-to-work order. The court noted that while state law does permit the right to strike only after exhaustion of the negotiation process, a public employer may seek relief through the courts. The standard for issuance of an injunction, as established by the legislature and as promulgated in Section 1003 of the Public Employment Relations Act (PERA), is a determination of "a clear and present danger or threat to the health, safety or welfare of the public."

The court had to determine whether the danger or threat was "real or actual," and not "climactically imminent." However, the court noted that in granting teachers the right to strike, the legislature indicated an awareness and an acceptance of the normal inconveniences associated with a strike, while differentiating between strikes that peril the public health, safety, or welfare and those that do not. The court found in this case that while the disruption was "clear and present," it was not a danger or threat as contemplated by the legislature, but the usual consequence of a teachers' strike. An injunction nullifying the strike would, according to the court, take away what the legislature gave to the teachers.

The school board contended that a danger did exist owing to the longevity and bitterness of the strike. The board argued that public officials were harassed, and that unless 12 school days were made up, the district would lose state subsidies.

The court found that the loss of 12 school days could be made up through an extension of the school term or on 19 holiday dates during the year. The court also found no evidence of harassment by the teachers, and further that such actions did not arise out of the strike but from a "reaction to it by persons unknown." The court did not hold that community opposition to the strike was justification for granting an injunction under legislative standards. The appeals court overturned the injunction on the grounds that the lower court's reasoning for issuing the ban did not satisfy the legislative standard.

Taking up the school board's appeal of the common pleas court's jurisdiction, the appeals court found the basis of the lower court's decision in Section 1003, PERA, and "cases which hold that equity may intervene where a school board has committed an abuse of discretion in determining a matter... or where a school board has been guilty of an error or misapplication of the law, or of an arbitrary action or clear abuse of discretion." Further, Section 1003 indicates that when a public employer desires relief from a strike, the court is "not limited to appropriate injunctions."

The court noted that equity powers of the common pleas court have been and are still limited by legislation and constitutional provisions, and that the court may exercise equity power only when specifically granted by the legislature. In the instant case, the appeals court determined that the legislature had granted no such power to the common pleas court, and therefore said court exceeded its jurisdiction in forcing the school district and association to arrive at a settlement through binding arbitration. In light of this legislative bar, the only power available to the common pleas court under Section 1003 was to end the strike through injunction, but not to issue a remedy. The lower court's action is nonetheless invalid, without legislative approval, even if a court of equity was later to determine that the school board had abused its discretion, committed error, misapplied law, or acted arbitrarily.

The court reluctantly noted that while the lower court did find that the board did not negotiate in good faith and seemed intent on prolonging the strike, the remedy was inappropriate because it was inconsistent with existing legislation. (*The Armstrong School District v. The Armstrong Education Association,* Pennsylvania Commonwealth Court, No. 1080 C.D. 1971, May 17, 1972.)

RHODE ISLAND

Insufficient Funding No Reason for Contract Abrogation

Dismissing with prejudice a suit brought by the Town of Scituate against the Scituate Teachers Association, the Rhode Island Superior Court reprimanded the town for failure to comply with its legally contracted obligations as specified by the state's "Michaelson Act" which governs public employer-employee relations.

The court emphatically told the town that regardless of the subsequent action taken by the financial town meeting, a negotiated contract entered into by the school committee must be honored. To do otherwise would be to nullify the collective bargaining process, as well as to fly in the face of a legislative mandate that vests the school board, not the appropriating body, with the authority to enter into a collective bargaining agreement.

Relying on the decision of *Providence Teachers Union, Local 958 v. School Committee of the City of Providence* wherein the state supreme court ruled that unavailability of funds was no excuse for nonpayment, the court turned aside the town's contention that it is impossible to allocate funds without prior approval of the town financial meeting. The court noted that no effort was made to explain to the financial meeting the precise dilemma faced by the school committee upon rejection of the school budget, nor was there an attempt to call a special financial meeting to present and deal with the existing problem.

The court denied the town's petition for declaratory relief, with the observation that a future refusal to appropriate sufficient funds for the implementation of the contract would be considered "an additional matter upon which to base a further decision," and suggested that the teachers could initiate a law suit. (*Town of Scituate, et al., v. Scituate Teachers Association, et al.,* State of Rhode Island and Providence Plantations Superior Court, C.A. 71-2718, February 8, 1972.)

BOARD FINDINGS AND RULINGS

MARYLAND

Management Prerogative Upheld in First Binding Teacher Arbitration

Ruling on Maryland's first binding teacher arbitration case, an arbitrator determined that teacher arrival and departure times are covered by the board rights provision of the contract negotiated between the Baltimore Teachers Union, Local 340, AFT, AFL-CIO, and the Baltimore City Public Schools Board of School Commissioners. Thus, a directive requiring teachers to arrive 30 minutes before and remain 30 minutes after school was within the superintendent's prerogative.

Although in this particular case teacher arrival and departure times qualified as a board prerogative, the arbitrator stressed that this item was both arbitrable and negotiable. The state statutes authorize negotiation "with regard to all matters relating to salaries, wages, hours and other working conditions." In addition the issue at hand, as the arbitrator observed, was subject to arbitration under the grievance provision of the contract.

The board contended that the directive was a policy decision and that prior to its issuance, arrival and departure times, which were widely disregarded, were fixed by the building principals. The union argued that it was past practice for teachers to arrive 15 minutes before and remain 15 minutes after school, and enforcement of this practice was the board's responsibility.

The arbitrator observed that the union's argument assumed that a provision for arrivals and departures was incorporated by implication in the agreement. The union's failure to prove that such a practice existed and was continuous, noted the arbitrator, leads to the conclusion that the agreement contains no provision, covert or overt, fixing the teachers' arrival and departure times.

The union's grievance was dismissed as the directive was determined to be a board prerogative and not violative of the agreement. *(Baltimore Teachers Union and Board of School Commissioners, Baltimore City Public Schools,* Arbitration, March 20, 1972.)

MASSACHUSETTS

MLRC Orders School Committee To Include Professional Negotiators in Bargaining Sessions

The Massachusetts Labor Relations Commission (MLRC) ordered the Southbridge School Committee to negotiate with the Southbridge Education Association (SEA) assisted by a Massachusetts Teachers Association field consultant.

The school committee and the SEA adopted ground rules for negotiation sessions which stipulated that the teams would each act as a "committee for the whole," and that a quorum would consist of "four or more members from each committee." The rules also provided for "closed" negotiation sessions. At one meeting, the school committee was informed that a field consultant from the Massachusetts Teachers Association (MTA) would join the SEA at the bargaining table. The school committee, claiming a violation of the ground rules, refused to continue negotiation with the SEA in the presence of the field consultant. The SEA filed a complaint with MLRC against the Southbridge School Committee for its refusal to bargain.

The MLRC, after investigation, validated SEA's charges and issued a formal complaint against the school committee. An unsuccessful attempt was made to challenge MLRC's power to issue complaints. The school committee's contention that a formal vote of all SEA members was necessary before the MTA consultant could be included on the negotiating team was also dismissed. The utilization of a consultant was "an internal affair and no such formal vote was required," said the Commission.

The Commission upheld the power of the negotiating team to establish ground rules for bargaining proceedings so as to facilitate the exchange of views, but not to "emasculate the bargaining process." The school committee argued that the inclusion of the field consultant violated the "closed" nature of the meetings.

Considering limitations on the number of committee members, the Commission recognized the necessity to simplify the bargaining process, but did not find that the addition of a representative on either side would adversely affect bargaining sessions.

In its findings, the Commission stated that SEA utilized the services of the field consultant to improve its position at the bargaining table, and that to limit the employees' choice of representation would deprive them of their statutory right to bargain collectively through representatives of their own choosing.

The MLRC concluded that there was no legal basis for the school committee's refusal to bargain in the presence of a field consultant. The committee's action constituted a statutory prohibited practice, refusal to bargain in good faith with the employees' exclusive representative. The school committee was ordered to resume bargaining with SEA and the field consultant, and to post a copy of MLRC's decision. *(Southbridge School Committee and the Southbridge Education Association,* Massachusetts Labor Relations Commission, June 7, 1972.)

MICHIGAN

MERC Mandates Negotiation of School Opening and Closing Dates

The Michigan Employment Relations Commission (MERC) has ordered the Westwood Community Schools to

furnish the Westwood Education Association (WEA) with up-to-date financial and other information relative to bargaining, to bargain on school opening and closing dates, and to cease and desist from any further refusal to bargain collectively. These mandates are intended as remedies for the unfair labor practices the district committed in violation of Michigan's mandatory public employee bargaining statute—the Hutchinson Act.

Section 15 of the Act requires public employers to "confer in good faith with respect to wages, hours and other terms and conditions of employment." MERC has previously interpreted "other terms and conditions of employment" to mean "those items which affect employees after they have become employees." Applying this yardstick, the Commission determined that the "substantial interest which the school teachers have in planning their summer activities outweighs" the district's right to manage schools. Accordingly the MERC ordered the district to negotiate the opening and closing dates of school. Prospective application of this ruling relieved the district of an unfair labor charge of unilaterally setting the school opening date.

The Commission found that the district's refusal to furnish salary and other information violated the Act's prohibition against any unlawful interference of employer or of the employee in the bargaining process. This violation had led to a retaliatory teacher strike, and the dismissal of the striking teachers. However, the Commission declined to review the legal question of the teachers' dismissals as the circuit court's intervention had rendered this issue moot. The court ruling and intensive mediation had brought about the teachers' reinstatement and presentation of the requested information. However, the WEA now sought relief from the costs of litigation and compensation for damages. Lacking the authority to make such an award, the Commission was limited to ordering the district to refrain from any further refusal to bargain. (*Matter of Westwood Community Schools and Westwood Education Association,* Michigan Employment Relations Commission, June 3, 1971.)

NEW YORK

PERB Rules Principals May Form Bargaining Unit

The New York Public Employment Relations Board (PERB) rejected the Beacon Enlarged City School District's petition to exclude building principals and assistant building principals from a bargaining unit of administrators on the basis that they were managerial employees.

The PERB ruled that building principals and assistant building principals did not conform to certain standards for managerial employees specified in the 1971 amendment to the Taylor Law, namely, formulation of policy, direct involvement in collective negotiations, and major roles in agreement and personnel administration.

The PERB decision represents the first case concerning the scope of managerial and confidential exclusions under the new Taylor Law amendment. (*Board of Education, Beacon Enlarged City School District,* New York Public Employment Relations Board, December 8, 1971.)

● In a subsequent case, a New York Public Employment Relations Board (PERB) official dismissed the petition of the Whitehall Central School District requesting reclassification of principals as either managerial or confidential employees.

The PERB official reviewed the principals' duties in reference to the four criteria for managerial status as presented in the *Beacon* case. He found that the principals' activities did not conform to the statutory definition of manager. According to the PERB official, there was a general lack of the principals' involvement in district-wide affairs with principals playing a ministerial rather than a major role in agreement administration, while their role in personnel administration was indicative of a supervisory rather than a managerial status.

The school district requested that principals be classified as confidential employees because of their knowledge of "budgetary information as well as personnel policy making." The PERB official found "no evidence of such sharing in the record. While in the exercise of their supervisory personnel functions, principals may be exposed to information which may not be of a public nature . . . it does not necessarily follow that they are 'confidential' persons under the Act."

The PERB official dismissed the school district's petition, although an appeal to PERB may be made. In the absence of an appeal, the PERB official's decision becomes final and binding. (*Whitehall Central School District,* New York Public Employment Relations Board, March 28, 1972.)

Dues Deduction Rights of Striking Teachers Organizations Suspended

The New York Public Employment Relations Board (PERB) suspended the dues deduction privileges of two teacher bargaining units that struck in violation of the "no-strike" provision (Sec. 210.1) of the Taylor Law. Since the final collective bargaining proposal made by each of the school districts involved was reasonable, PERB held that both strikes were illegal. PERB found no evidence that the actions of either employer at the time of the strikes were "extremely provocative" as alleged by the teacher groups.

● Although the Ballston Spa Central School District No. 1 had complied with the factfinder's impasse settlement recommendations, the Ballston Spa Teachers Association boycotted a required meeting called by the superintendent, and later participated in a two-day withdrawal of services. As no evidence substantiated the association's claim that the district provoked the strike, the PERB determined that the strike was a reaction against the factfinder's recommendations. Deciding that the impact of the two-day strike and the meeting boycott were minor, the PERB suspended the association's dues deduction privileges for six months and limited the years' deductions to 50 percent of the total annual dues. Dues deduction rights were not to be resumed until the association had made a no-strike pledge. (*Matter of Ballston Spa Teachers Association,* New York Public Employment Relations Board, July 29, 1971.)

● The Lakeland Central School District No. 1, by proposing a reasonable last-minute contract (including a $7,900 base salary) absolved itself of having provoked the Lakeland Federation of Teachers' (Local 1760, AFT, AFL-CIO) seven-day strike. The PERB so ruled upon finding that the union had rejected the last-minute proposal and withheld services with the intention of getting a more favorable settlement.

PERB observed that the district's original contract proposal, which inequitably maintained the status quo on teacher salaries while raising nonprofessionals' salaries, as well as proposing a reduction and even elimination of many benefits and privileges, was provocative. However, PERB held that the proposal, which the union rejected prior to the strike, was acceptable and that there was no longer a situation of "extreme provocation." PERB concluded that the union's strike must be penalized by "the withdrawal of union dues." (*Matter of Lakeland Federation of Teachers, Local 1760, AFT, AFL-CIO and the Lakeland Faculty Association*, New York Public Employment Relations Board, July 29, 1971.)

NEW JERSEY

PERC Determines Appropriate Teacher Bargaining Units

The New Jersey Public Employment Relations Commission (PERC) excluded supervisory personnel (including department chairmen) from two classroom teacher bargaining units on the basis of strict interpretation of Chapter 303, Section 7, of the New Jersey Employer-Employee Relations Act. This section specifies that

> nor, except where established practice, prior agreement or special circumstances, dictate the contrary, shall any supervisor having the power to hire, discharge, discipline, or to effectively recommend the same, have the right to be represented in collective negotiations by an employee organization that admits nonsupervisory personnel to membership.

In a third case, department chairmen on the basis of their teaching activities, nurses, coaches, and other extra-duty personnel were included in a classroom teacher unit since they had sufficient community of interest with unit members.

● In the High Point Regional High School case the responsibilities of the Director of Guidance and Special Services had changed, thus qualifying the director, who had been a member of the High Point Education Association (HPEA), for supervisory status. Since enlargement of the director's responsibilities included authority to effectively recommend the hiring of guidance counselors and special service personnel, PERC classified him as a supervisor and excluded him from the teacher unit. However, PERC observed that inclusion of the director in the unit would have continued if the scope of the position had not expanded. (*High Point Regional High School Board of Education and High Point Education Association*, New Jersey Public Employment Relations Commission, May 3, 1971.)

● The Commission "clearly established" that the duties of the department chairmen in the Greater Egg Harbor Regional High School District, as delineated in their job descriptions, included active participation in the hiring, evaluation, retention, and promotion of department members. Further, the superintendent frequently hired teachers solely on the recommendation of a department chairman. Applying Section 7 of the Act, PERC found no prior practice or special circumstance justifying inclusion of department chairmen in the Oakhurst Teachers Association, Inc., and accordingly excluded them from this nonsupervisory bargaining unit. (*Board of Education of the Greater Egg Harbor Regional High School District and Oakcrest Teachers Association, Inc.*, New Jersey Public Employment Relations Commission, June 25, 1971.)

● In the Hamilton Township School District case, the title of department chairman described a voluntary extracurricular activity of the same caliber, for purposes of recognition, as that of a study hall monitor. Accordingly the Commission refused to distinguish between the district's department chairmen and other teachers. Further, the department chairmen in their role as teachers were *already* in the Hamilton Township Education Association (HTA). PERC excluded the department chairmen position itself from the unit, since it was not recognized as a position per se.

The Commission's stance on the exclusion of other extra-duty positions from the unit differed. PERC held that coaches and extra-duty personnel were to be represented by the bargaining agent in their extracurricular, as well as regular teaching, activities. The Commission observed that no conflict of interest existed "or could exist between teachers as coaches or as extra-duty personnel and as teachers." PERC also ruled that the district's nurses who have similar working conditions and a community of interest with classroom teachers should also be included in the HTA unit. (*Hamilton Township Board of Education and Hamilton Township Education Association*, New Jersey Public Employment Relations Commission, June 16, 1971.)

PENNSYLVANIA

PLRB Affirms School Board's Duty To Bargain on Compensation for Extracurricular Activities

The Pennsylvania Labor Relations Board (PLRB), ruling on two cases relating to the negotiation of extracurricular pay, upheld a previous decision on the negotiability of extracurricular pay over the objections of the Canon-McMillan School Board, and found the Kiski Area School District engaging in an unfair labor practice by failing to negotiate on extracurricular compensation.

● PLRB ruled that the school board had committed an unfair labor practice when it refused to bargain on compensation for extracurricular activities. Although PLRB recognized the school board's right to determine required services, the extracurricular activities as extra-work services "must be considered as an integral part of the wage scale calculation," and are thus negotiable. (*PLRB v. Canon-McMillan School Board*, January 18, 1972.)

● In a second case, the PLRB sustained an improper practices charge brought by the Kiski Area Education Association against the Kiski Area School District. The teachers association accused the school district of committing an unfair labor practice by refusing to negotiate compensation for coaches' extracurricular duties.

The PLRB supported its ruling in the Canon-McMillan case, i.e., that, as wages reflect payment for specific services rendered, extracurricular activities are part of the wage scale calculation and are bargainable. (*PLRB v. Board of School Directors of Kiski Area School District*, March 9, 1972.)

WISCONSIN

WERC Finds School Board Violated Teacher Rights

The Wisconsin Employment Relations Commission (WERC) upheld a trial examiner's findings that the St. Francis School Board infringed on employees' rights by requiring teachers to sign individual contracts prior to a collective bargaining settlement. (NRD 10-71, 11)

In April 1969, during negotiation sessions, the school board and the St. Francis Education Association agreed that signed letters of teachers' intent to return the following year would be binding on the school board. Upon completion of the bargaining sessions, individual contracts incorporating newly negotiated provisions would be issued. However, before contract settlement, the school board sent individual contracts to teachers, indicating that unless the teachers returned the signed contracts immediately, they would face dismissal.

The Commission found that the board's initial approval of the teachers' right to delay the signing of individual contracts converted the right to a "protected activity," and the board's subsequent action requiring teachers to sign individual contracts prior to contract settlement constituted an infringement of this "protected activity." (*St. Francis Education Association and School District No. 6 of the City of St. Francis*, Wisconsin Employment Relations Commission, October 26, 1971.)

FEDERAL

NLRB Determines Appropriate Higher Education Bargaining Units

The National Labor Relations Board (NLRB) asserting jurisdiction over Florida Southern College, a private sectarian institution, determined the appropriate bargaining unit, and ordered the representation election sought by the Florida Education Association, Inc. (FEA), an NEA affiliate, "composed of teachers in the public schools, junior colleges, and universities." In a second case, the Board granted the representation election petitioned for by the Association of University Professors at Seattle University.

● The NLRB's Florida Southern College determination rejected the college's objection to inclusion of the employees of a private college in a public employee union.

The appropriate bargaining unit, as delineated by the Board, included all full- and part-time faculty, librarians (with the exception of the head librarian), a research physician (eligible for tenure), "dual function employees" (whose work is part administrative and part instructional, i.e., chaplain, assistant academic dean, athletic director, and publication director), and the departmental executive directors. According to the Board, the department chairmen received the same pay and had no more authority than other faculty but served as coordinators between the administration and the faculty on a rotating basis.

Excluded from the unit were R.O.T.C. instructors and other active duty military personnel, part-time instructors at the college's McCoy AFB extension (who have little or no direct interaction with the main campus faculty), the director of alumni affairs (who no longer teaches), the dean of students (who supervises other faculty), and administrative employees. (*Florida Southern College and Florida Education Association, Inc.*, National Labor Relations Board, May 9, 1972.)

● At Seattle University the NLRB included librarians and other full-time faculty in the professional bargaining unit, but excluded department chairmen because of the scope of the responsibilities delegated to them. The Seattle University department chairmen supervised most of their departments' functions, including the hiring, discharge, and promotion of faculty, and the granting of merit increases and sabbatical leaves, and so were excluded from the unit. (*Seattle University and American Association of University Professors*, National Labor Relations Board, May 5, 1972.)

NEGOTIATION NOTES

KANSAS

Public Employee Bargaining Law Amended To Include State Higher Education Employees

Kansas' public employee bargaining statute was amended to include all of the state's full-time employees, county and welfare workers, and state higher education employees.

The new amendments mandate the use of negotiating teams to bargain with state agency employees, require the negotiation of a memorandum of agreement involving finances prior to the budget submission date, and establish a state finance council with the authority to approve contracts affecting the state pay plan or state rules and regulations.

"Public employer" is defined as "every governmental subdivision including any county, township, city, school district, special district, board, commission, or other unit whose governing body exercises similar governmental powers, and the State of Kansas and its state agencies."

"Representative of the public agency" was redefined as the chief executive officer of the employer, except where otherwise provided by the governing body, and "except in the case of the State of Kansas and its agencies."

"Budget submission date" was redefined as July 1 for any public employers subject to the budget law, but for the state and its agencies, budget submission date means "September 15." The amendments defined "state agency" as "county departments of social welfare whose employees shall be considered the same as employees of the state department of social welfare."

NEW YORK

Court Orders Welfare Pay for N.Y. Strikers

The New York State Supreme Court, Appellate Division, Fourth Department, reversed a lower court decision that denied welfare assistance to striking employees of the New York Telephone Company.

The court determined that a striker is an "employable individual" for the duration of the strike, but noted that if a striker refuses to accept employment, public assistance should be denied. In addition, the court ruled that a union member's refusal to work for his employer during the strike constituted a "refusal" to accept employment under section 131(4) of the Social Services Law. However, since the courts have held that a union may impose fines, with implied threats of ejection to members who decline to honor an authorized strike, a union member's refusal to work during the strike cannot be viewed as a "voluntary act."

The court rejected the argument that granting welfare assistance to strikers would violate the state's policy, as evidenced by the unemployment insurance law, to remain neutral in industrial controversies.

Finding that unemployment compensation and welfare assistance serve different purposes, the court determined that welfare assistance in this case deals with a subsistence level of living and not a replacement of a striker's wages. The court added that while payment of these benefits may support workers and encourage strikes, denial supports employers by encouraging lockouts and discouraging strikes.

The plaintiff argued further that granting welfare benefits to strikers intrudes upon the federal scheme of mandated neutrality by states; and that the strike violated a no-strike clause. The court considering the former, agreed with the conclusion of the U. S. First Circuit Court of Appeals that it was doubtful that granting benefits to strikers would effect "a significant frustration of federal collective bargaining policy," and "in view of the state's police power it should be assumed that Congress intended to deprive the state of the power to serve its interests to promote public welfare." Regarding the final issue, the appeals court recognized the inappropriateness of a social welfare agency inquiring into the legality of a strike, and suggested that qualified federal and state labor boards should determine the question of "fault" in work stoppage. (*John L. Lascaris, Commissioner of the Department of Social Services, Onondaga County, v. George K. Wyman, Commissioner of the Department of Social Services, State of New York*, Case No. 28/1971, Supreme Court, Appellate Division, Fourth Department, January 20, 1972.)

Teacher Fair Dismissal Bill Enacted

The New York State Teachers Association (NYSTA) backed Fair Dismissal Bill (S-9830) was signed by the governor on June 8, 1972. The act is "the first step in the protection of the probationary teacher from arbitrary and capricious firings and the protection of his professional status" according to the NYSTA's legislative consultant.

As of October 1, 1971, the probationary period for New York teachers was extended to five years. The act states that school boards *must* notify a teacher of an impending dismissal recommendation and supply him with the reasons for the dismissal recommendation upon request so that the teacher may file a written response to the board's explanation of reasons for dismissal. Time limits are specified for each step of the dismissal procedure.

RHODE ISLAND

Agency Shop and Binding Impasse Arbitration Added to State Employee Bargaining Law

The Rhode Island legislature recently amended its labor relations law for state employees. The amended law mandates agency shop, allows collective bargaining on wages

and working conditions, and provides for binding arbitration of all unresolved issues except wages.

Public employee organizations now have the right to negotiate with the "chief executive or his designee," who is required to recognize the designated bargaining agent.

One of the major items in the new amendment was the agency shop provision or "fare share agreement." The "no-discrimination" section of law states that all employees who do not elect to join an organization must pay a service charge, equal to monthly dues, as a contribution toward the administration of any collective bargaining agreement.

The amendment enlarges the scope of the current sections relating to bargaining obligations, conciliation and factfinding on unresolved issues, binding arbitration procedures, factors to be considered by the arbitrator, and expense.

The chief executive or his designee is obligated to "meet and confer" with state employees' bargaining agent within 10 days after a meeting request. If no agreement is reached within 30 days, all unresolved issues go to the state labor relations board. If the issues remain unresolved, the conciliator is to make findings of fact and recommendations which the parties must consider within five days. Any remaining unresolved issues are referred to "final and binding" arbitration. The arbitrator, chosen within 15 days, must hold a hearing within 20 days, and issue his written findings and opinion within 10 days. The arbitrator's decision is binding upon both parties.

Arbitration decisions on wages are only advisory. The arbitrator is instructed to make wage comparisons and determine employment conditions of state employees with employees in similar jobs within the state and neighboring states in private industry and public employment.

FEDERAL

Supreme Court Sets Due Process Rights for Nontenured Teachers

The Supreme Court of the United States recently unanimously ruled that teachers, including those without tenure, cannot constitutionally be denied re-employment at the end of a contract year because they have exercised a constitutional right. The Court held that a junior college teacher in Texas, who did not have tenure, was entitled to trial in federal court on his claim that his nonretention was unconstitutionally based on his testimony before legislative committees and other public statements critical of the Board of Regents' policies. The Court also held that if policies or practices of the employer create a "de facto" tenure program, reasons and a hearing are required before a nontenured teacher can be denied re-employment. In this case and in *David Roth* (NRD 11-71, 6) which involved the nonrenewal of a first-year probationary teacher at the University of Wisconsin, the Court laid down principles governing the entitlement of a nontenured teacher to a statement of reasons and a hearing when a public educational institution proposes to dismiss him or not renew his contract. The Court made it clear for the first time that a nontenured teacher dismissed during the contract term is deprived of "property" within the meaning of the due process clause of the Fourteenth Amendment and thus is entitled to a due process hearing. Overturning a lower court decision in *Roth*, the Court decided 5-3 that a nonrenewal, standing alone, does not deprive a teacher of "liberty" or "property," and thus procedural due process is not required in such circumstances. The Court, however, indicated that reasons and a hearing are required where the state, in declining to rehire a teacher, makes a charge against him that might seriously damage his standing and associations in the community or imposes on him a stigma or other disability that forecloses his freedom to take advantage of other employment opportunities.

Use of Union Funds in Federal Election Campaigns Permitted

The Supreme Court of the United States ruled 6-2 recently that although use of general union funds in federal election campaigns is illegal, unions may contribute from voluntary member donations. The court also said the law does not require a voluntary political fund to be independent of union control or bar union officials from soliciting or even determining how contributions will be spent.

Consumer Price Index, June 1972

The Consumer Price Index (CPI) rose only 0.2 percent in June according to the Bureau of Labor Statistics (BLS). The June index was 125.0 (1967=100), 2.9 percent above a year ago. The annual index increase dropped below 3.0 percent for the first time since November 1967. Higher prices for meats, fresh fruits and vegetables, used cars, homes, and household services accounted for the June increase.

The June CPI increase dropped to 0.2 after seasonal adjustment. Since the wage-price-rent freeze ended in November, the CPI has risen at a seasonally adjusted annual rate of 3.1 percent. In the six months previous to the Economic Stablization Program, the annual rate of increase was 4.0 percent. From August to November 1971, when most prices were frozen, the CPI rose at an annual rate of 1.9 percent.

In May the CPI had increased to 124.7 (1967=100), a rise of 0.3 percent. Higher prices for clothing, used cars, gasoline, and household services accounted for the May increase.

In June, after seasonal adjustment: the index for food increased 0.2 percent, following 0.1 percent declines in both May and April; services increased 0.3 percent compared with a 0.2 percent rise in May; the nonfood commodities index was constant.

STATISTICS

JOINT COMMITTEES ESTABLISHED IN COMPREHENSIVE CLASSROOM TEACHER AGREEMENTS

The NEA Research Division's analysis of 1970-71 negotiation agreements, effective in school systems with 1,000 or more pupils enrolled, revealed 1,111 (72.7 percent) of 1,529 comprehensive classroom teacher agreements contained provisions that established at least one joint committee.

The three types of joint committees are composed of teacher representatives and board representatives, who may be members of the administrative staff. Each committee is identified according to the objective for which it was created. These committees are: (a) those meeting regularly to resolve potential areas of conflict which may arise under the terms and conditions of the agreement; (b) general or professional study committees, usually designed to engage in continuing or long-range investigation of a wide variety of subjects affecting education or professional policy; and (c) a topical committee composed of teachers, administrative staff, and/or school-board members to study or plan objectives within a specific and narrowly defined area. For example, teacher and school-board negotiators may decide to negotiate a provision concerning the development of specific educational programs, but find they are unable to resolve specific problems regarding the programs. To facilitate matters they negotiate a provision which establishes a topical committee to study the problem.

Most of the analyzed agreements established committees which fit more than one category. Each agreement was analyzed for only one committee that meets regularly, and one general or professional study committee. Thus, the number of agreements providing for one of these committees is equal to the total number of committees established. Each agreement was also analyzed for existence of topical committees.

TABLE 1.—NUMBER AND PERCENT OF AGREEMENTS ESTABLISHING JOINT COMMITTEES

Item	1966-67		1968-69		1970-71	
	Number	Percent[a]	Number	Percent[a]	Number	Percent[a]
1	2	3	4	5	6	7
Total number of agreements	389	...	978	...	1,529	...
Agreements establishing at least one committee	167	42.9	513	52.5	1,111	72.7
Agreement committees	42	10.8	194	19.8	238	15.6
General or professional study committees	88	22.6	205	21.0	366	23.9
Topical committees	b	b	294	30.1	507	33.2

[a]Computed from the total number of comprehensive classroom teacher agreements analyzed for each of the three years.

[b]Data unavailable.

TABLE 2.—NUMBER AND PERCENT OF PROVISIONS ESTABLISHING JOINT COMMITTEES

Types of committees	1966-67		1968-69		1970-71	
	Number	Percent[a]	Number	Percent[a]	Number	Percent[a]
1	2	3	4	5	6	7
Agreement committee	42	15.4	194	21.5	238	16.3
General or professional study committee	88	32.2	205	22.7	366	25.1
Topical committee	143	52.4	503	55.8	857	58.7
TOTAL COMMITTEES ESTABLISHED	273	100.0	902	100.0	1,461	100.0

[a]Computed from the total number of committees established in agreements in each of the three years.

TABLE 3.–TYPES OF COMMITTEES BY STATE ESTABLISHED IN 1970-71

State	Number of comprehensive classroom teacher agreements	Agreements establishing an agreement committee		Agreements establishing a general or professional study commitee		Agreements establishing one or more topical committees	
		Number	Percent[a]	Number	Percent[a]	Number	Percent[a]
1	2	3	4	5	6	7	8
Alaska	2	0	0.0	0	0.0	1	50.0
Arizona	7	1	14.3	1	14.3	3	42.9
Arkansas	1	0	0.0	0	0.0	0	0.0
California	13	1	7.7	[illegible]	38.5	9	69.2
Colorado	10	4	40.0	[illegible]	10.0	3	30.0
Connecticut	60	6	10.0	12	20.0	12	20.0
Delaware	12	3	25.0	9	75.0	5	41.7
District of Columbia	1	1	100.0	0	0.0	1	100.0
Florida	2	0	0.0	1	50.0	1	50.0
Idaho	2	0	0.0	0	0.0	1	50.0
Illinois	83	19	22.9	15	18.1	29	34.9
Indiana	20	4	20.0	1	5.0	8	40.0
Kansas	1	0	0.0	1	100.0	0	0.0
Kentucky	2	0	0.0	1	50.0	0	0.0
Maine	19	6	31.6	3	15.8	6	31.6
Maryland	21	1	4.8	3	14.3	10	47.6
Massachusetts	124	12	9.7	28	22.6	42	33.9
Michigan	242	40	16.5	80	33.1	93	38.4
Minnesota	10	0	0.0	0	0.0	3	30.0
Montana	1	0	0.0	0	0.0	1	100.0
Nebraska	5	0	0.0	0	0.0	1	20.0
Nevada	2	0	0.0	0	0.0	2	100.0
New Hampshire	6	0	0.0	2	33.3	0	0.0
New Jersey	228	44	19.3	62	27.2	55	24.1
New Mexico	1	1	100.0	1	100.0	1	100.0
New York	367	73	19.9	108	29.4	149	40.6
North Dakota	3	0	0.0	0	0.0	0	0.0
Ohio	59	5	8.5	8	13.6	19	32.2
Oklahoma	1	0	0.0	0	0.0	1	100.0
Oregon	3	0	0.0	0	0.0	1	33.3
Pennsylvania	30	2	6.7	3	10.0	6	20.0
Rhode Island	21	4	19.1	5	23.8	8	38.1
South Dakota	2	0	0.0	0	0.0	0	0.0
Texas	1	0	0.0	0	0.0	0	0.0
Utah	6	2	33.3	4	66.7	0	0.0
Vermont	3	0	0.0	0	0.0	0	0.0
Virginia	3	1	33.3	2	66.7	2	66.7
Washington	22	2	9.1	1	4.6	10	45.5
Wisconsin	131	5	3.8	9	6.9	23	17.6
Wyoming	2	1	50.0	0	0.0	1	50.0
Total	1,529	238	15.6[b]	366	23.9[b]	507	33.2[b]

[a]These figures show the number of agreements providing for committees as a percentage of the total number of comprehensive agreements in each state.

[b]These figures indicate the total number of agreements with each type of committee as a percentage of all comprehensive agreements (1,529) effective for the 1970-71 school year.

A three-year overview of the number of agreements that established joint committees is found in Table 1. A different perspective is provided in Table 2, a three-year comparison indicating the number of committees by category as a percentage of the total number of committees established in agreements. A comparison of Tables 1 and 2 reveals that from 1966-67 to 1970-71, the number of agreements establishing at least one committee has increased from 42.9 percent to 72.7 percent. Table 1 is based on the number of *agreements* whereas Table 2 counts the number of *provisions*.

The number of 1970-71 comprehensive agreements in each state, and the percentage of comprehensive agreements that provide for various types of committees are found in Table 3. The categories as established therein are not mutually exclusive.

The scope of the study or planning for all the topical committees which were established in agreements and effective for the three-year period is found in Table 4. Throughout the span of the analysis, the greatest number of topical committees was established in the areas of instructional programs, and personnel policies and practices. Since 1966-67, the topical committees which appear most often in agreements have been curriculum review committees in the area of instructional programs, and qualifications for professional growth and inservice training committees in the area of personnel policies and practices.

TABLE 4.–TYPES OF TOPICAL COMMITTEES ESTABLISHED

Area of study or planning	Committees established					
	1966-67		1968-69		1970-71	
	Number	Percent[a]	Number	Percent[a]	Number	Percent[a]
1	2	3	4	5	6	7
INSTRUCTIONAL PROGRAM[b]	72	50.4	288	57.3	470	55.5
Curriculum review	22	15.4	93	18.5	163	19.2
Development of special education programs	8	5.6	7	1.4	14	1.7
Teacher qualifications	0	0.0	1	0.2	11	1.3
Hiring of specialists	0	0.0	19	3.8	20	2.4
Development of tax/bond programs	0	0.0	3	0.6	1	0.1
Application of state/federal funds	2	1.4	7	1.4	5	0.6
Evaluation and application of testing programs	0	0.0	0	0.0	5	0.6
Distribution of budget items	0	0.0	2	0.4	5	0.6
Evaluation of teacher performance	14	9.8	5	1.0	31	3.7
Textbook selection/distribution	5	3.5	34	6.8	34	4.0
Pupil ratio and class size	5	3.5	40	8.0	40	4.7
Instructional aids	3	2.1	9	1.8	20	2.4
Teacher aides	4	2.8	35	7.0	28	3.3
Secretarial and clerical assistant	3	2.1	3	0.6	2	0.2
School calendar	2	1.4	8	1.6	52	6.1
Pupil progress report	0	0.0	10	2.0	6	0.7
Pupil extracurricular activities supervision	0	0.0	6	1.2	16	1.9
Selection of supervisors	0	0.0	0	0.0	1	0.1
Assignment of department chairman	0	0.0	4	0.8	9	1.1
Parent teacher conferences	0	0.0	0	0.0	2	0.2
Integration of education	0	0.0	2	0.4	5	0.6
Miscellaneous instructional programs	4	2.8	0	0.0	0	0.0
PERSONNEL POLICIES AND PRACTICES[b]	35	24.5	161	32.0	267	31.5
Employment year of 12-month contract	0	0.0	2	0.4	5	0.6
Report in procedure	0	0.0	0	0.0	1	0.1
Hours or day	3	2.1	9	1.8	12	1.4
Load/schedule of class periods	5	3.5	7	1.4	12	1.4
Teacher assignment in subject area	0	0.0	1	0.2	1	0.1
Special education program assignments	0	0.0	2	0.4	6	0.7
Hours of service before and after regular classes	0	0.0	0	0.0	2	0.2
Planning periods–elementary	3	2.1	3	0.6	5	0.6
Planning periods–secondary	0	0.0	1	0.2	1	0.1
Lunch period–elementary	0	0.0	1	0.2	3	0.4
Student teacher supervision	0	0.0	3	0.6	11	1.3
Non-classroom service duties	0	0.0	18	3.6	19	2.2

TABLE 4.–TYPES OF TOPICAL COMMITTEES ESTABLISHED (Continued)

Area of study or planning	Committees established 1966-67 Number	1966-67 Percent[a]	1968-69 Number	1968-69 Percent[a]	1970-71 Number	1970-71 Percent[a]
1	2	3	4	5	6	7
Regular teacher as substitute	0	0.0	0	0.0	1	0.1
Qualifications for professional growth	11	7.7	33	6.6	59	7.0
Regular teacher meetings	0	0.0	0	0.0	1	0.1
Promotion to higher classification	5	3.5	3	0.6	2	0.2
Vacancies	0	0.0	0	0.0	1	0.1
Transfers	0	0.0	1	0.2	3	0.4
Dismissal procedure	0	0.0	0	0.0	2	0.2
Grievance procedure	0	0.0	1	0.2	6	0.7
Professional code of ethics	0	0.0	6	1.2	4	0.5
Teacher discipline or reprimand	0	0.0	6	1.2	1	0.1
Teacher personnel file	0	0.0	0	0.0	2	0.2
Protection of teachers	0	0.0	0	0.0	5	0.6
Pupil discipline	0	0.0	27	5.4	43	5.1
Damaged or stolen property	0	0.0	1	0.2	2	0.2
Absence report procedure	0	0.0	5	1.0	0	0.0
Procedure for teacher evaluation	0	0.0	24	4.8	36	4.3
Teacher facilities	0	0.0	2	0.4	9	1.1
Probationary period	0	0.0	0	0.0	6	0.7
Seniority	3	2.1	0	0.0	1	0.1
Substitute teachers	0	0.0	1	0.2	4	0.5
Health requirements	0	0.0	1	0.2	1	0.1
Miscellaneous personnel policies and practices	5	3.5	3	0.6	0	0.0
SALARY POLICY[b]	18	12.6	29	5.8	63	7.4
Salary schedule	7	4.9	3	0.6	3	0.4
Salary credit for military	0	0.0	5	1.0	0	0.0
Salary increments for professional preparation	0	0.0	0	0.0	2	0.2
Deviation from salary schedule	0	0.0	9	1.8	8	0.9
Extra duty pay for special activities	6	4.2	0	0.0	28	3.3
Premium pay	0	0.0	1	0.2	1	0.1
Overtime pay	0	0.0	1	0.2	2	0.2
Longevity pay	0	0.0	7	1.4	1	0.1
Incentive pay	5	3.4	1	0.2	18	2.1
Pay period	0	0.0	2	0.4	0	0.0
Miscellaneous salary policies	0	0.0	0	0.0	0	0.0
FRINGE BENEFITS[b]	18	12.6	25	5.0	47	5.5
Tuition reimbursement	0	0.0	0	0.0	4	0.5
Vacation	0	0.0	0	0.0	1	0.1
Health services	0	0.0	0	0.0	3	0.4
Terminal leave or severance pay	0	0.0	0	0.0	4	0.5
Conference/meeting fees	0	0.0	0	0.0	4	0.5
Payroll deduction	0	0.0	3	0.6	0	0.0
Tax-sheltered annuity	0	0.0	0	0.0	2	0.2
Workmen's compensation	0	0.0	8	1.6	0	0.0
Group insurance coverage	6	4.2	13	2.6	20	2.4
Long term leaves of absence	12	8.4	0	0.0	9	1.1
Miscellaneous fringe benefits	0	0.0	1	0.2	0	0.0
TOTAL NUMBER OF COMMITTEES	143		503		847	

[a]Computed from the total number of committees established in agreements in each of the three years.
[b]The figures beside each major heading are totals for all minor headings which follow.

Sample provisions from agreements that have established the various types of committees are reprinted in part or in full. These provisions are intended only as examples of provisions found in agreements.

FACULTY ADVISORY COMMITTEES

Faculty Advisory Committee Regulations

A Faculty Advisory Committee shall be established in each school of the district to facilitate communication between the faculty and the school administration. The purposes of the Faculty Advisory Committee are: 1) to provide a means for the school faculty to make suggestions and recommendations for improvement related to the operation of the school to the school administration; and 2) to provide an opportunity for the school principal to present concerns in order to receive reactions and suggestions from the faculty.

As its name implies, this committee is an advisory body to the school administrator. Therefore, the formation of a Faculty Advisory Committee shall not be interpreted as a limitation upon the authority of the school principal in carrying out his responsibility for the conduct and operation of the program at the local building site.

During the month of November of each school year, the principal shall arrange for an election of members to serve on the Faculty Advisory Committee from the date of the election until the next election the following November. The size of the committee may vary in accordance with the needs of each school staff. However, the committee shall consist of no less than three nor more than fifteen members, with not more than one member from a grade level in elementary schools and not more than one member from a department in the secondary schools. Any certificated non-administrative staff member assigned more than one-half time at the school site shall be eligible for election to the committee. Committee members shall be elected at large by secret ballot of all certificated non-administrative members in the school.

The committee shall hold regularly scheduled monthly meetings, with additional meetings scheduled as the committee may determine. Careful minutes shall be taken at each meeting and shall be prepared and approved by the principal and the Chairman of the Faculty Advisory Committee prior to distribution to every faculty member.

Joint Study Committee

The subject of faculty representation, participation, and involvement in school-site matters will be assigned to a joint study committee. The committee will be charged with evaluating the Faculty Advisory Committee procedure and the development of recommendations in this area.

[Oakland, California]

PROFESSIONAL GROWTH COMMITTEE

The Professional Growth Committee shall function to administer Wilson School District No. 7 policies concerning the professional growth of certificated personnel. An inter-relationship will exist between this committee and future District Salary Committees.

1. The Professional Growth Committee shall consist of:
   a. Administrator
   b. Teacher
   c. Teacher
2. Formation:
   a. The Board shall appoint an administrator for a two year term.
   b. The Representative Teachers Organization may appoint two classroom teachers. They shall serve one and two year terms, respectively.
   c. The Professional Growth Committee shall meet when necessary to adequately administer the requirements of the committee, or when called by the Superintendent.
   d. All actions taken by this committee shall be advisory in nature and subject to final approval by the Superintendent.
3. Functions:
   a. Advise teachers on requests for an interpretation of the plan.
   b. Suggest additional professional growth activities.
   c. Make recommendations to the Superintendent for final approval.
   d. Devise forms for communicating, recording, or for gathering of information related to professional growth of teachers.
   e. Maintain minutes of meetings.

[Wilson School Dist. #7 - Phoenix, Arizona]

CURRICULUM PLANNING

The professional staff at all levels shall have the right to significantly participate in the formulation of curriculum changes and in educational planning. Any such changes must fulfill the requirements of the State Education Law and be in keeping with the recommendations of the State Education Department. These changes shall be approved by the Rome Board of Education before becoming a part of the curriculum.

When an area of curriculum needs to be studied, as determined by the Superintendent and the Association President a committee shall be selected to institute appropriate changes. Curriculum Planning Committees shall be selected by the Superintendent and the Association President consisting of at least three (3) classroom teachers and an equal number of other professional staff which will include directors, department heads, coordinators or principals, SUCH COMMITTEES WILL:

Enlist the services of other members of the professional staff for suggestions, opinions, and ideas that will aid them in formulating the curriculum.

Evaluate and recommend appropriate audio-visual materials.

Recommend textbooks to appropriate personnel.

Such committees immediately upon formation shall adopt a schedule of meetings. Meetings shall be held within the school day as described in Article XX unless otherwise determined by the committee. If such committee is established as a summer project by the Superintendent, the members will be paid at the same rate as summer school.

After approval by the particular department or grade level and the Superintendent and Board of Education the changes, or courses of study, shall then be made available to all personnel involved in the implementation of the specific curriculum. It shall contain a list of available resources and indicate where suggested supplementary materials may be found.

The professional staff will follow the curriculum as developed by the committee and approved as defined in item 5.

[Rome, City, New York]

STUDENT DISCIPLINE

In view of the increasing number of chronic disciplinary problems, the Board and the Association agree that a committee will be appointed within thirty (30) days after the effective date of this agreement to recommend specific plans for dealing with the problems created by said students. It is expected that the committee will present a program for implementation no later than the beginning of the second semester of the 1969-70 school term.

The committee will consist of twelve members, four appointed by the Superintendent, four by the Association and four by the aforementioned appointees.

The Board shall provide inservice education for staff members on student procedures, provisions of state law, local policy, including development of guidelines for resolving discipline problems. Guidelines shall include specific procedures to be used within the school and school administrative policy in dealing with chronic discipline cases.

**[Volusia County Sch. Dist.
Deland, Florida]**

ADVISORY COMMITTEE RECOMMENDATIONS ON INSTRUCTIONAL COUNCIL

Board and Association recognize a mutual concern on the part of each for the maintenance and development of quality education. Both parties agree that teachers, administrators, students, parents and community members should be consulted in connection with the development of policies and regulations which will address themselves to the education of children and youth. Board and Association agree to the establishment of an advisory committee consisting of the Superintendent of Schools, the Assistant Superintendent of Schools, the President of the Teaneck Teachers' Association, five other members of the Teachers' Association, the President of the Teaneck Association of Administrators and Supervisors, and three other members of the Association of Administrators and Supervisors, and one member of the Board of Education.

This Committee shall submit to the Board for its consideration, procedures to be followed in connection with the development of recommendations relative to those policies and regulations which the Board should include in the "Policy Manual" and/or "General Bulletin."

It is understood that the machinery developed by this Committee is subject to review and approval by the Board of Education and the Teaneck Teachers' Association, and that said committee shall complete this work by June 15, 1971.

[Teaneck, New Jersey]

SALARY INCREASES FOR ENGINEERS REPORTED

The National Society of Professional Engineers (NSPE) biennial salary study revealed that the median yearly salary for engineers advanced 11 percent to $18,210 during the 1969-71 period. In comparison with the 16 percent gain during 1967-69 "the past two years have not been good financially for large segments of the profession."

During the two-year period, the all-industry median increased to $17,870. Aeronautical and aerospace engineers reported a $19,210 median salary; chemical and sanitary engineers, $19,110; industrial engineers, $18,869; mechanical and civil engineers, $17,860; and agricultural engineers, $16,600.

The 15 percent gain in median income to $19,180 for engineers employed by the federal government was greater than the average. Those in state government and those in county and municipal governments gained 11 percent to $16,120 and $16,960, respectively. Median salaries for engineers in other fields were: public utilities, $17,410; consulting firms, $19,260; construction-contractor firms, $21,040; and educational institutions, $19,560.

Table 1 gives 1971 median incomes by field of employment and year of entry into the professional branches:

TABLE 1.—MEDIAN INCOMES OF ENGINEERS IN 1971, BY FIELD OF EMPLOYMENT AND YEAR OF ENTRY

Year of entry	Industry	Public utilities	Federal government	State government	County or municipal government	Consulting firm	Construction-contractor firm	Educational institution	Other nonprofit organization
1971	$10,600	*	*	*	*	*	*	*	*
1970	11,490	$10,960	$11,910	$10,240	$10,830	$10,650	$11,560	*	*
1969	12,070	11,840	12,630	10,530	11,880	11,560	*	*	*
1968	12,650	12,240	14,190	11,500	12,700	12,400	12,560	*	*
1967	12,950	12,620	14,300	11,930	*	12,670	13,830	*	*
1966	13,970	13,000	15,180	12,290	13,500	13,140	14,630	*	*
1965	14,370	13,730	15,430	13,070	14,500	13,820	15,150	*	*
1963-64	15,380	14,640	16,400	13,390	15,030	15,550	16,620	$16,290	*
1961-62	15,820	14,940	17,060	14,640	16,130	16,400	18,870	15,500	*
1959-60	16,850	16,070	18,270	15,770	16,530	17,230	18,170	18,000	*
1957-58	17,890	16,790	19,190	16,000	17,610	18,990	20,470	17,310	$19,290
1955-56	17,670	17,780	19,470	15,940	17,300	18,740	21,000	18,970	*
1953-54	19,390	17,830	19,850	16,740	18,250	20,780	23,630	18,500	17,830
1951-52	19,620	18,310	19,590	17,140	17,680	22,560	23,500	19,130	20,360
1949-50	20,190	19,360	20,710	17,580	19,260	22,330	23,790	19,650	20,630
1947-48	20,900	20,410	21,240	17,560	19,650	23,700	26,360	22,670	19,880
1945-46	21,420	21,000	21,920	17,570	17,500	23,100	28,350	21,500	*
1940-44	21,870	20,900	21,040	18,310	17,170	23,560	25,940	22,500	21,750
1935-39	22,370	20,880	22,500	17,430	18,230	23,440	27,820	23,890	19,720
1930-34	21,850	21,610	23,450	18,730	19,000	24,220	24,680	21,500	*
1927-29	19,500	22,000	21,900	18,600	17,570	22,750	*	20,700	*
1926 & before	16,670	*	20,140	*	16,000	25,180	30,000	*	*

SOURCE: National Society of Professional Engineers. *Professional Engineers' Income and Salary Survey—1971.* Washington, D.C.: the Society, 1972.

*Fewer than 20 cases.

SPECIAL REPORTS

BRIEFS OF RECENT AGREEMENTS

Glendale, Arizona

Between the Glendale Union High School District Board of Education and the Classroom Teachers Association, effective October 30, 1969, to June 30, 1973. Approximately 545 certificated professional employees. Provision for automatic renewal unless notification of termination is given by either party by January 1972. Revision may "be effected by mutual agreement at any time."

COMPENSATION: (1972-73 tenured teacher schedule) B.A., $6,922 to $11,413, 9 increments; B.A. plus 15 hours, $12,278 maximum; M.A., $7,650 to $15,147, 20 increments; M.A. plus 60 hours, $16,294 maximum; (1972-73 probationary teacher schedule) B.A., $7,000 to $8,920, 6 increments; M.A., $7,320 to $9,240, 6 increments; M.A. plus 60 hours, $9,880 maximum; [Board may, upon recommendation of principal and superintendent, suspend increments for lack of classroom proficiency; refusal to perform assigned extracurricular activity; failure to accept, enforce, or abide by board established policies; or failure to show continued professional growth.]

DIFFERENTIALS: Based on M.A. base, 5 increments, first and fifth steps shown, respectively, (up to two years credited for experience in same activity outside the district) head football coach, yearbook and photography, $918 to $1,175 (.12); head basketball coach, $765 to $979 (.10); head baseball, track and wrestling coaches and instrumental music, $688 to $881 (.09), head gymnastics and tennis coaches, yearbook and vocal music, $612 to $738 (.08); freshman tennis, head cross country and all assistant coaches, $459 to $587 (.06); dramatics (two plays per year) school newspaper, $306 to $391 (.04); no teacher's assignment shall exceed a total of 18 percent; department chairmen, (1972-73) $100 plus $10 per teacher; (1973-74) $100 plus $15 per teacher; substitute teachers, $22.00 per day; regular teacher as a substitute, $6.88 per hour (.09 of the M.A. base); homebound teachers, based on the regular salary schedule, prorated from .18 of regular pay for one student to 1.00 for seven students.

LEAVES: 10 days' annual sick leave, unlimited maximum accumulation; two days deducted from sick leave for personal business; bereavement leave per board policy.

INSURANCE: Health insurance as required by state law; individual major medical insurance, employee-paid family coverage optional.

INSTRUCTION: Each school shall have the clerical assistance of a COE student; school calendar shall consist of 200 days of which 180 are teaching days; mini-course curriculum: short-term courses outside the normal curriculum usually offered on a no-grade basis; Curriculum and Research (joint) Committee, one representative per school, to approve curriculum changes and to develop and recommend regulations, curriculum, staff, and administration for the summer school program; teacher involvement in school plant design and schedule development.

PERSONNEL: Grievance procedure ends with professional negotiation committee; employees shall have access to their personnel files; assignment to lunch duty (with extra compensation) voluntary; professional growth requirement: three semester hours of approved course work every four years up to step 13; thereafter one hour of credit every four years will be required for ¼ step beyond the 13th step; credit will be given to teachers offering courses to their colleagues; Professional Growth Committee will participate in the development and administration of the professional growth program; department chairmen for English, social studies, and science shall have one period of released time in 1973-74; required posting of vacancies; teachers promoted to administrative positions resume all bargaining unit rights upon returning to a teaching position; involuntary transfers only in an emergency.

Savannah, Georgia

Between the Board of Public Education for the City of Savannah and the County of Chatham and Teacher Unit of the Chatham Association of Educators, effective January 14, 1972, to June 30, 1973. Approximately 1,553 certificated professional employees. Provision for February 1972 negotiation on hiring of specialists, administrator support of teachers in student discipline, retirement, fringe benefits, and reopening of economic sections.

COMPENSATION: (effective November 14, 1971) B.A., $6,400 to $8,605, 14 increments; M.A., $7,219 to $9,865, 15 increments; sixth year, $11,125 maximum, seventh year, $12,385 maximum; 10 cents per mile for use of own car for school business.

LEAVES: Annual sick leave credited on first day of school year accumulates at rate of one day per month at full pay and two half working days per month at half pay, maximum accumulation of 60 and 120 days, respectively; annual sick leave may be used for illness in the immediate family; three days deducted from sick leave for personal business; paid leave as necessary for legal proceedings connected with employment, repayment if guilty; unpaid political leave.

ASSOCIATION: Deduction of local, state, and national association dues; right to use school buildings as available if association pays the usual cost for such use; use of school communication facilities; monthly board-association meeting to discuss "education policy, administrative procedure and implementation of contract"; association participates in school calendar planning.

INSTRUCTION: Secondary teachers (where possible) shall have no more than 150 pupils per day; elementary teachers

may leave classroom when specialist is present; clerical assistance and equipment provided; extracurricular activity participation voluntary; elementary teachers to participate in classification of pupils for purpose of equalizing teaching loads (special education classes excepted); board–teacher conference on selection of texts and equipment; academic freedom to introduce relevant controversial material.

PERSONNEL: Grievance procedure ends with binding arbitration; teachers may examine their personnel files; except in emergencies only one faculty meeting per month; board-paid "summer workshops for inservice study, or the equivalent cost if permitted by law"; teachers to participate in evaluations, and to suggest any construction or reconstruction of school buildings; 15-day posting period for vacancies; all factors being equal, seniority shall be the basis for filling vacancies; qualifications are the basis for promotion to administrative positions; 20 days' notice must be given prior to an involuntary transfer; a joint committee shall develop evaluation instruments and procedures; three-year probationary period; number of actual teaching days shall not exceed legal requirement or the number of days specified in the school calendar; board shall issue a statement attesting to teachers' required use of their homes for preparation for income tax purposes.

Bridgton, Maine

Between Board of Directors of School Administrative District No. 61 and the Lake Region Teachers Association, effective September 1, 1972, to August 31, 1974. Approximately 77 certificated professional employees. Provision for mutually acceptable amendment of the agreement and for renegotiation if funding is not available.

COMPENSATION: (1972-73) B.A., $6,500 to $9,800, 11 increments; B.A. plus 15 hours, $10,000 maximum; M.A., $7,100 to $10,400, 11 increments; M.A. plus 15 hours, $10,700 maximum;

(1973-74): B.A., $6,700 to $10,000, 11 increments; B.A. plus 15 hours, $10,300 maximum; M.A., $7,300 to $10,600, 11 increments; M.A. plus 15 hours, $10,900 maximum; Longevity increment: $300, after 17 years' continuous service.

DIFFERENTIALS: (senior high) varsity football and basketball, $950; girls' basketball, $800; boys' skiing, $600; girls' skiing $500; outdoor and girls' track, $400; baseball, $650; field hockey $450; dramatics, $500; yearbook, $750; department heads: five members, $500; four members, $400; three members, $300; (junior high) assistant principal, $750/39 weeks; head teacher, $350/39 weeks; 7th and 8th grade basketball (season) and baseball (five weeks), $250.

OTHER: Vocational teachers credited with up to six increments for one year of teaching experience for every three years' vocational expereince; teachers working beyond regular school year, $200 to $300 per 40-hour week.

LEAVES: 15 days' annual sick leave credited the first day of school, 120 days maximum accumulation; additional sick leave at the superintendent's discretion; one day personal leave at the superintendent's discretion, additional days less substitute's pay are available; five days' leave for death in the immediate family; paid leave for jury duty, legal or personal matters involving considerable hardship available at superintendent's discretion.

INSURANCE: Board-paid hospitalization-surgical-major medical individual coverage; alternative of applying the cost of health insurance to life or accident insurance premiums.

ASSOCIATION: Released time for association members involved in negotiation, grievance proceedings, conferences, or meetings; use of school facilities with the principal's approval; all available fiscal information supplied to the association; no-strike clause.

INSTRUCTION: Junior and senior high: 25 teaching periods and five study halls per week, or 30 teaching periods and no study hall; department heads shall substitute department business for study hall; junior and senior high teachers to teach no more than two general subject areas without mutual agreement of the administration and the individual teacher; elementary: no more than 5¼ teaching hours per day; teachers shall not teach more than one grade in a self-contained classroom if the projected pupil-teacher ratio exceeds 28:1; every effort to be made to hire elementary-school paraprofessionals; association may make recommendations prior to acceptance of school calendar.

PERSONNEL: Grievance procedure ends with final and binding arbitration; duty-free lunch period of at least 30 minutes for elementary teachers, 25 minutes for junior and senior high teachers; elementary teachers shall have the remainder of their noon hour for preparation; two faculty meetings per month beginning within 30 minutes of dismissal, lasting no longer than 90 minutes; up to $125 reimbursed to cover cost of tuition for each six hours of post-graduate credit, providing specified criteria are met; dismissal procedure provides for payment of salary withheld during the suspension period whenever a teacher is reinstated; Teacher-Administration-Board Liazon [*sic*] Committee (consisting of four board members, seven association members, one administrative staff member and the superintendent) shall review, discuss and make recommendations concerning educational policy.

Lansing, Michigan
Community College

Between the Board of Trustees of Lansing Community College and the Michigan Association for Higher Education at Lansing College, effective September 13, 1971, to September 16, 1973. Approximately 263 bargaining unit members, including all full-time faculty (who teach more than 60 percent of maximum contact load), teaching technicians, lecturers, and counselors.

COMPENSATION: (1972-73, option of a 45-week or 37-week contract) 45-week salary plus $914; 1971-72 37-week salary plus $752; 45-week contract equals 225 college days including holidays, 37-week contract includes 185 college days including holidays.

OTHER: 12 cents per mile for use of car for college business; up to $10 per year for professional journals or professional organization dues.

LEAVES: Three days per term (four terms per year) annual sick leave credited at the beginning of the college year, 150

days maximum accumulation; up to five separate days for illness in the immediate family; up to five separate days for death in the immediate family; up to three days deducted from annual leave for death in nonimmediate family; one day deducted from annual leave for religious holidays; one day deductible for professional development or college appointments; one day deductible for income tax investigation; one day deductible for graduation of faculty member, spouse, son or daughter, three days deductible for graduation of same outside Michigan; two days leave deducted from annual leave for marriage of faculty member; one day deductible for marriage of son or daughter; leave as required deducted from annual for court subpoena or summons; separate leave with pay for college business including court appearances and legal consultation; association sick leave bank: days of leave equal to number of bargaining unit members times 1½ days deposited annually, 350 days maximum accumulation; withdrawals available after 15 consecutive days' absence and exhaustion of personal sick leave, eligibility ceases with commencement of long-term disability insurance; all leaves with the exception of emergency illness and unforeseen emergencies require prior approval; sabbatical leave at one-half pay for three terms, two-thirds pay for two terms, or full pay for one term after six years' continuous service.

INSURANCE: Board-paid Blue Cross-Blue Shield with family coverage; $10,000 life insurance; long-term disability insurance paying 60 percent of salary after 90 days; tax-deferred annuity; liability insurance.

ASSOCIATION: Agency shop; association furnished at least 100 square feet of office space; use of college facilities and equipment at no cost except for labor and material; one hour for association meeting during faculty-administration days; association may appear on board agenda upon written notification 11 or more days' prior; association president notified upon creation of a new professional position prior to public announcement; association negotiation team members exempted from department or division committee duties during negotiation; the association president exempted from committee duties during his term; board to provide the association with all available financial and statistical information; association provided with contracts of new faculty within five workdays.

INSTRUCTION: Maximum course loads: counselors, determined by the department chairman; physical education, 80 contact hours per 45-week contract period distributed over four terms, 22 hours per term maximum; Division of Business, 64 contact hours per 45-week contract period (48 hours per 37-week contract period), average load is 16 contact/laboratory hours/term, optimum class size 35 students;

Division of Arts and Sciences

Credit or Contact Hours/Maximum Students per Section

	F	W	Sp.	S
Social Science	16/39	16/39	16/39	16/39
Humanities	16/39	16/39	16/39	16/39
Mathematics				
Laboratory	15/50	15/50	15/50	15/50
Transfer	15/40	15/40	15/40	15/40
Language Arts				
Composition & Literature	16/34	16/31	16/29	16/27
(Maximum of two (2) sections in Summer without instructor's approval in Composition & Literature)				
Remedial	16/25	16/25	16/25	16/25
Speech	15/26	15/26	15/26	15/26
Foreign Language	15/32	15/32	15/32	15/32
Science				
Natural Science	18/30	18/30	18/30	18/30
All Other	21/30	21/30	21/30	17/30

Maximum student load for an instructor assigned exclusively to Natural Science will be 180 students (6 sections).

In assignment of Natural Science and one other science course, an instructor is limited to a maximum load of 150 students. (4 Natural Science sections and one other science course).

In assignment of Natural Science and two other science courses, an instructor is limited to a maximum load of 120 students. (2 Natural Science sections and 2 other science courses).

In assignment of instructors not involved in any Natural Science courses, an instructor is limited to a maximum load of 90 students. (3 sections).

Maximum student load in the Summer term is limited to 60 students. (2 sections).

Where Natural Science faculty have full responsibility for Natural Science sections, as would occur in evening sections, they shall be credited with 6 contact hours per section.

Summer school load to be four-fifths regular term load; overloads are not authorized; Preparations: Arts and Sciences, two preparations, three maximum, fourth preparation voluntary; Business, Technology, Health Careers and Fine Arts, three preparations maximum, fourth voluntary; departmental secretaries available to the faculty to "maximum extent possible;" first five days of Fall term are faculty-administrator days; presence of a communication device in class subject to faculty member's permission.

PERSONNEL: Grievance procedure ends with binding arbitration; right, upon request, to review personnel files, may be accompanied by association representative; must be notified of and may reply in writing to material placed therein; college week: Monday through Friday 8:00 a.m. to 10:00 p.m., Saturday 8:00 a.m. to 5:00 p.m., faculty members having Saturday classes, limited to one per year, are insured of two consecutive free days during the week, faculty with classes after 6:00 p.m. have no assignment prior to 10:00 a.m. the next morning; faculty members must be available Monday through Friday for student consultation; attendance at departmental, divisional, and general faculty meetings required; tuition scholarship for Lansing Community College courses available to faculty members and their dependents (such scholarship student not to be counted in class size maximums); all vacancies to be posted; transfers are preferably voluntary; no faculty member may be transferred to a position for which he has no formal preparation; faculty member temporarily assuming administrative duties shall resume all bargaining unit rights without interruption upon his return to the unit; association to be consulted on criteria and methodology for faculty evaluations; faculty may have an association representative or other party present if an unsatisfactory evaluation might

lead to termination; continuing contract issued after satisfactory completion of two-year probationary period; faculty with terminal one-year contracts who are rehired will be offered a probationary contract at the second-year level; promotions:

PROMOTION

Rank Quotas

Rank quotas shall be immediately established and maintained at the following levels:

1. Instructor	35%
2. Assistant Professor	30%
3. Associate Professor	25%
4. Professor	10%

Promotions in rank shall be awarded in increases of one or more rank increments per individual for those recommended and approved.

Departmental chairmen and faculty members may recommend methods of merit evaluation to the appropriate dean. After due deliberation and after consultation with the other deans and the President, each dean will determine and promulgate in writing the method of merit evaluation to be used in his division.

The actual evaluation of individual faculty members shall be made by the departmental chairman, using the method set forth by his dean. The faculty member shall be made aware of his merit rating.

In order to improve equity among the divisions, all divisions are to use merit ratings which may vary between 0 and 50. The average merit value is to be 25 per faculty member for each division.

The departmental chairman, the faculty member involved and the Director of Employee Relations by unanimous agreement shall recommend to the President via the appropriate dean the applicable experience and education for each individual faculty member in compliance with the outline of Figure 1.

Merit ratings shall be submitted by the departmental chairman via his dean to the Director of Employee Relations. The President of the Association and the Director of Employee Relations shall multiply the merit rating by the experience factor and shall arrange the results from the largest to smallest numerical value and allocate said values in accordance with the percentages described in paragraph *A* above.

No promotion to Professor or Associate Professor shall be made unless the faculty member concerned shall have a merit rating at least above average.

The entire list shall be submitted to the President for recommendation to the Board for action.

The departmental chairman, dean, and faculty members should work together to help the faculty member progress as rapidly as possible in accordance with this plan. If any faculty member fails to meet the qualification requirements for his rank, he shall not be reduced in rank without having one year to improve his performance.

In conducting merit evaluations, use shall be made of various groups knowledgeable of the faculty member's performance. If appropriate, this will include evaluation by peers and colleagues, students, and members of the community.

Termination of unit members for the "purpose of utilizing part-time or other employees to perform bargaining unit services" is prohibited; association may appoint one representative to the Faculty Council; Academic Council representing all divisions recommends curricula changes and new programs; faculty members assigned to more than one department shall have voting rights in all assigned departments; student registration is a faculty responsibility; board pays for preemployment health examination; annual free tuberculosis examination; flu shots available at cost.

THE EFFECT OF NEW MATERNITY LEAVE CODE ON NEGOTIATION

The recent amendments to the Equal Employment Opportunity Commission's Code of Federal Regulations, Title 29, Chapter XIV (NRD, 6-72, 32) are exerting widespread ramifications on negotiated comprehensive classroom teacher agreements in regard to sex discrimination, particularly the equitable treatment of female employees. The Commission, previously limited in its powers, now may sue private and public employers, including labor organizations, for noncompliance with the regulations.

Under the power granted the Commission by Title VII of the Civil Rights Act of 1964, a public employee who does not comply may have action taken against him by the U.S. Attorney General, or may have a personal suit filed in the federal courts. Both employers and labor organizations may be respondents to a charge of unlawful labor practice, may be charged with noncompliance by the EEOC in federal court, or may have a personal suit filed against them. (1604.2.b.1.)

Unequivocally, the Commission has invalidated any prior rulings which may be inconsistent with current revisions. Further, existing state laws or administrative regulations that limit or hinder female employment are nullified and will not be considered as a defense to an established unlawful employment practice or occupational qualification exception. (1604.2.b.2.) Also, those laws or regulations that require special rest periods are superceded on the basis that they are more restrictive to one sex. Any employer who refuses to hire or adversely affects "the employment opportunities of female applicants or employees in order to avoid the provision of such benefits," will be considered to be engaged in an unlawful labor practice.

Of particular import, insofar as the new regulations affect teacher contracts, are the revised codes regarding maternity leave. These codes titled *Employment Policies Relating to Pregnancy and Childbirth* state:

> A written or unwritten employment policy or practice which excludes from employment applicants or employees because of pregnancy is in *prima facie* violation of Title VII. Disabilities caused or contributed to by pregnancy, miscarriage, abortion, childbirth, and recovery therefrom are, for all job-related purposes, temporary disabilities and should be treated as such under any health or temporary disability insurance or sick leave plan available in connection with employment. Written and unwritten employment policies and practices involving matters such as the commencement and duration of leave, the availability of extensions, and accrual of seniority and other benefits and privileges, reinstatement, and payment under any health or temporary disability insurance or sick leave plan, formal or informal, shall be

applied to disability due to pregnancy or childbirth on the same terms and conditions as they are applied to other temporary disabilities. Where the termination of an employee who is temporarily disabled is caused by an employment policy under which insufficient or no leave is available, such a termination violates the Act if it has a disparate impact on employees of one sex and is not justified by business necessity. (1604.10)

To date, five states, California, Delaware, Kentucky, Louisiana, Tennessee, and the District of Columbia, have maternity leave statutes. Section 10 effectively strikes down these provisions if they do not measure up to the minimum standards promulgated by the EEOC. These laws must treat pregnancy and any ensuing complications as job-related disabilities for the purposes of seniority, leave, and health benefits, as enumerated, or otherwise employers will be deemed in violation of Title VII and subject to prosecution for committing unlawful employment practices.

The extension of these guidelines to public employers, subdivisions, or agencies effectively negates all negotiated maternity leave policies that restrict or infringe the aforementioned rights associated with pregnancy as a temporary disability.

Maternity leave provisions for classroom teachers, though varying in language, were previously defined as an extended unpaid leave of absence with guaranteed return to at least a similar position and no loss of accrued benefits, such as accumulated sick leave, or retirement and service credit. Maternity leave items are often adopted as part of board policies, which unlike the negotiated provisions contained in agreements, do not guarantee the retention of either a job or accrued benefits. Both adopted or negotiated maternity leave provisions do, however, set arbitrary limits as to the notification to the appropriate authority of the pregnancy, time of departure, and return date. Many, especially those found in board policy, require resignation, with little or no chance of reinstatement.

An examination of the maternity leave provisions found in 1,051 of 1,529 classroom teacher agreements (1970-71) in school systems with 1,000 or more pupils enrolled reveals that such leave is generally available to tenure teachers only; that early notification of pregnancy is mandated, with a subsequent loss of position if the teacher fails to notify the board or supervisory person; that pre- and post-natal time limits are established, usually four to six months and three to twelve months from time of delivery, respectively. Also some limited benefits, though undefined, either in the form of sick leave or some health or medical plan is given while on leave. Those agreements coded for maternity leave provisions do not include provisions found either in board policy or under the sick leave provision which may provide benefits through accumulated sick leave or disability insurance.

The maternity leave provision, which has always been on the negotiation lists of school negotiators, is now a right which has been upheld by the courts and mandated by EEOC regulations. The revised regulations classify pregnancy and related childbearing infirmities as temporary disabilities therefore should be treated as such under any sick leave plan or health or disability insurance. Time limits in regard to the duration and commencement of the leave have also been struck down. Accumulation of benefits must be identical to any accrual as provided to either sex for any temporary disability or leave plan. Nonrenewal or nonhiring of a teacher who is pregnant is violative of the regulations. Further, termination of an employee owing to a shortage of or lack of accumulated sick leave or temporary disability plan is violative of the Act, if such a termination has a disparate impact on one sex or is not substantiated by business necessity. The essence of the regulations is equity to both sexes; anything short of this is discriminatory with the violator subject to prosecution.

As mentioned, liability extends to both the employer and to the employee organization upon becoming parties to a negotiated contract. It is incumbent upon an employee organization to avoid becoming a party to a maternity leave provision that provides anything less than that which is stipulated in 1604.10. A survey of negotiated teacher agreements compiled by the Connecticut Education Association revealed that 133 contracts, representing 149 towns (88 percent of all towns in the state), had placed arbitrary time limits for either commencement or duration of the maternity leave. Not one town treated pregnancy as a disability for which sick leave may be granted. Such a finding is an accurate indicator of average maternity leave provisions nationwide, and leads to a conclusion that most provisions are in some way violative of the regulations.

Of necessity, for an employee organization to be absolved of complicity in negotiation of a discriminatory maternity leave provision which falls short of the EEOC guidelines, the organization must be aware of these regulations particularly in negotiating procedures for the commencement and termination of maternity leave.

The employee organization, to be saved from liability stemming from a possible charge of discrimination for negotiating an unlawful maternity leave policy, should notify the employer that it will not seek enforcement of such provision and will consider it null and void. This action is enforceable in those negotiated agreements that contain separability and savings clause.

A savings clause stipulates that any negotiated provision, if found contrary to law, is of itself null and void, while maintaining in force the remainder of the agreement. Additionally, some savings clauses provide for the parties to renegotiate the illegal provision in order to conform to the regulation, court decision, or statute. Table 1 shows the number of negotiated agreements for 1970-71 that contained a maternity leave provision and a savings clause and the number of agreements that contained both clauses. Negotiation of a savings clause constitutes additional protection from litigation and should be included in *all* agreements.

Essentially, the EEOC regulations allow the teacher and her physician to determine both the commencement and the termination of the leave. Recent court rulings have upheld this argument. *(Mrs. Susan Cohen v. Chesterfield County School Board and; Dr. Robert F. Kelly,* No. 678-70-R (NRD, 10-71, 5) and *Amelia Williams v. San Francisco Unified School District, San Francisco Board of Education and Thomas Shaheen,* No. 72-305 GBH). Attention should be paid to the benefits provided both sexes for temporary disabilities, first for equitable applica-

TABLE 1.–AGREEMENTS WITH MATERNITY LEAVE, SEPARABILITY, OR SAVINGS CLAUSES, 1970-71

State	Number of agreements	Maternity leave provision	Separability and savings clauses	Maternity and saving clauses
1	2	3	4	5
Alaska	2	0	0	0
Arizona	7	2	3	2
Arkansas	1	1	1	1
California	13	7	8	5
Colorado	10	4	7	3
Connecticut	60	45	42	29
Delaware	12	5	10	5
District of Columbia	1	1	1	1
Florida	2	2	2	2
Idaho	2	0	0	0
Illinois	83	57	49	40
Indiana	20	14	11	6
Kansas	1	1	1	1
Kentucky	2	1	2	1
Maine	19	10	12	7
Maryland	21	16	10	9
Massachusetts	124	89	69	57
Michigan	242	227	206	197
Minnesota	10	4	4	1
Montana	1	1	1	1
Nebraska	5	0	1	0
Nevada	2	2	1	1
New Hampshire	6	4	4	3
New Jersey	228	150	111	90
New Mexico	1	1	1	1
New York	367	281	248	203
North Dakota	3	1	1	1
Ohio	59	17	21	11
Oklahoma	1	1	0	0
Oregon	3	1	1	1
Pennsylvania	30	6	6	1
Rhode Island	21	17	11	10
South Dakota	2	0	1	0
Texas	1	1	0	0
Utah	6	5	4	4
Vermont	3	1	1	0
Virginia	3	3	1	1
Washington	22	8	4	3
Wisconsin	131	64	72	38
Wyoming	2	1	0	0
TOTAL	1,529	1,051	928	736
PERCENT	100.0	68.7	60.7	48.1

tion, and second for extension to the maternity leave benefits. Maternity leave for both tenured and nontenured teachers has also been upheld by the courts. *(Barbara Jinks v. Dr. Benjamin E. Mays et al.*, Civ. A. No. 13977, United States District Court, N.D. Georgia, Sept. 28, 1971)(NRD, 3-72.5)). Negotiation of a maternity leave provision less than the standards established by the EEOC regulations must be for a business necessity and must be related to a legitimate goal of the school district, and not for administrative purposes. The courts have again struck down discriminatory maternity leave provisions based upon the argument of administrative necessity. (*Williams v. San Francisco U.S.D.* and *Cohen v. Chesterfield Co.)*

Any future negotiated maternity leave provisions, to be within the guidelines, must not include any time limits for commencement, and must include a reinstatement procedure which guarantees the affected individual a job, but which leaves the actual return date to the determination of the woman and her physician. Under no circumstance should a blanket maternity leave policy be negotiated that allows anyone other than the woman and her physician to determine when she should leave or return under the pretext that such regulations are in the best interests of the woman. Arbitration decisions *(Southgate Education Association and Board of Education of Southgate Community School District*, A.A.A. Case No. 5439032371, August 3, 1971)(NRD, 5-72, 6) and court decisions (*Schattman v. Texas Employment Commission*, which was reversed by the U.S. Fifth Circuit Court of Appeals on a jurisdictional technicality) have upheld the right of a woman with advice of her physician to decide when she should terminate employment. Arbitrary time limits in these and like cases have been deemed as violative of a woman's constitutional rights. A similar position has been taken by the U.S. Department of Labor, Office of Contract Compliance, in enforcing E.O. 11246 prohibiting discrimination by employers holding federal contracts.

However, a board may argue that evidence of good health must be presented by weekly or monthly certification either from the employee's doctor or the board's doctor; included also is certification of fitness for return. Such a demand has been upheld by both the courts *(Williams v. San Francisco Unified School District)* and state human rights commissions. The New Jersey director of the Division of Civil Rights has ruled that such a practice as joint certification is legitimate, and in the event of disagreement, an impartial physician chosen by the two physicians would be called upon to make a binding decision.

Though the latest EEOC regulations make sweeping changes in maternity leave policies, the regulations equally affect the application of other short-term leaves. Insofar as the negotiation for the curtailment of any benefits or professional advancement is concerned, a principle of equity must be operative, and any benefits provided under other short-term leave policies must be extended to the maternity leave provision. Similarly, any negotiated health or insurance plan that limits school district paid defendants' coverage to the "Head of Household" or "principal wage earner" is discriminatory under Section 1604.9(c), as any such designation has no bearing on job performance.

Negotiated sick leave benefits are rights earned by an employee for services rendered. Such a policy, rather the benefits thereof, must be applied to maternity leave as a temporary disability. Whether a maternity leave provision is negotiated separately or conjunctively with a sick leave provision is immaterial. What is of import is that policies applicable to sick leave must be extended to maternity leave; policies for the taking of other leaves, i.e., sabbatical leave or military leave, must also be applicable to maternity leave, and must be equitably provided to both sexes. Anything short of this is a violation of EEOC regulations and subject to prosecution in the courts either by EEOC or the aggrieved party. The employee organization must be always cognizant of what it is negotiating for its members. Anything less than the minimum standards must be pointed out to the school board as violative of EEOC regulations and the employee organization must notify EEOC if such a violation exists.

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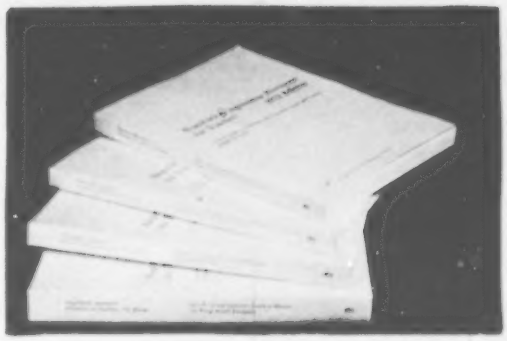

This four-part document prepared by NEA Research is an invaluable source of negotiated items in teacher/board agreements. In 1,418 pages it analyzes over 1,500 negotiated agreements in U.S. public school systems. Over 300 negotiable items are identified and coded system-by-system. (Specific content of the provisions may be obtained on request by using the Information Request Forms provided in each volume.)

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- *Location of school system*
- *Name of recognized organization*
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- *Number of professional personnel represented*
- *Type of agreement*
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RESEARCH DIVISION
NATIONAL EDUCATION ASSOCIATION

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CASE REVIEWS

ARIZONA

Legislative Authority, A Prerequisite to School Board's Delegation of Power

The Arizona Court of Appeals held that a school board's obligation to control and manage a school district's affairs may not be delegated by entering into a binding collective bargaining agreement without legislative authorization. Since the state legislature has not as yet enacted a teacher collective bargaining law, the appellate court voided the 1971-72 contract negotiated by the Scottsdale Education Association (SEA) and the Board of Education, Scottsdale High School District No. 212, on the basis that the board had exceeded its authority by agreeing to limit its management of the school district. This ruling rejected a lower court's position that the board was "contractually bound to honor the terms of the agreement" which it had voluntarily entered.

The lower court had ordered the parties to submit to binding arbitration the dispute that arose when the board set aside the negotiated impasse procedure and unilaterally established 1972-73 teacher salaries. Although the appeals court affirmed the SEA's constitutional right to bargain collectively in the context of "meeting and consulting" with the board, it also upheld the board's prerogative to decline to bargain with teachers.

The court of appeals observed that this ruling did *not* prohibit the board from issuing rules and regulations embodying provisions contained in the 1971-72 contract, nor did it preclude a written agreement covering any item that may be included in individual teacher contracts. (*Board of Education of Scottsdale High School District No. 212 et al., v. Scottsdale Education Association*, Arizona Court of Appeals, June 26, 1972.)

INDIANA

School Boards May Negotiate Binding Arbitration

School boards do have the statutory authority to negotiate collective bargaining agreements that provide for binding grievance arbitration, according to the Indiana Court of Appeals. The court held that the legality of the binding arbitration clause incorporated in a collective agreement between the City of Gary Schools and Gary Teacher Union, Local 4, AFT, AFL-CIO, is derived from the Indiana General School Power Act 1965 and the Uniform Arbitration Act.

Although Indiana has no mandatory teacher professional negotiation (PN) statute, Act 1965, Ch. 299, *permits* teachers to organize and engage in activities of a labor union. Whereas, the Uniform Arbitration Act, recognizing that binding arbitration is one of many policy options open to a school board, mandates that "a written agreement to submit to arbitration is valid, and enforceable; an existing controversy or controversy thereafter arising is valid and enforceable." The specific and general powers given school boards under Ch. 307, Act 1965, authorize them to take charge of, manage, and conduct the affairs of the school corporation, and to hire, discharge, and determine the compensation and terms of employment. The court maintained that the breadth of these laws taken together *permits* school boards to enter into collective bargaining agreements with provision for the binding arbitration of grievances.

This appellate court decision overturns the lower court ruling that city school trustees "cannot delegate to anyone else their legal duty as public officer to manage and conduct schools." The lower court ruling was reversed and the case was remanded for a new trial. (*Gary Teachers Union Local No. 4 v. School City of Gary et al.*, Court of Appeals of Indiana, Third District, June 28, 1972.)

MICHIGAN

Probationary Teacher's Tenure Rights Expanded By Negotiated Agreement

The Oakland County Circuit Court found that a collective bargaining agreement negotiated between the Ferndale School District and the Ferndale Education Association extended a probationary teacher's rights beyond those contained in the Michigan Teacher Tenure Act. The suit, seeking a declaratory judgment, was filed by the school board when a probationary teacher sought arbitration of the nonrenewal of her contract under the negotiated agreement's grievance procedure.

Before completing her final probationary year, the teacher was informed that her contract would not be renewed. Claiming that the school board did not have just cause to refuse her contract renewal and accompanying tenure, the teacher filed a grievance. The agreement states that "no teacher shall be disciplined, reprimanded, reduced in rank or compensation without just cause. Any such discipline shall be subject to the professional grievance procedure hereinafter set forth."

The school board's lack of cooperation during the preliminary steps of the grievance procedure led to arbitration, whereupon the school board filed the declaratory suit. The school board cited the Michigan Teacher Tenure Act which states that the school board is the sole judge of whether or not a probationary teacher's services are satisfactory.

The court found that absent a negotiated grievance procedure, after a school board has evaluated teacher performance, the matter can be appealed to the court under the Administrative Procedures Act. However, after enactment of the teacher tenure law, the legislature gave teachers the right to bargain collectively and to negotiate agreements. Since the bargaining agreement in question covered probationary teachers, they were given rights in addition to those specified in the tenure act.

The court then considered whether denial of tenure constituted discipline, reprimand, or reduction in rank. The court found that "to provide her with notice that she is not satisfactory . . . is discipline or reduction in rank to its ultisense." Therefore, the teacher had the contractual right to arbitrate the nonrenewal of her contract.

In conclusion, the court stated that "one of the purposes of the Teacher Tenure Act is to protect teachers from arbitrary and unreasonable dismissals. It seems to this court that should a teacher feel aggrieved . . . her remedy is in accordance with the negotiated contract wherein an arbitrator can review the decision." (*School District of the City of Ferndale v. Helen Kardos Lester and the Ferndale Education Association*, Circuit Court for the County of Oakland, May 5, 1971.)

MINNESOTA

Pay Dispute Returned to Lower Court

The Minnesota Supreme Court remanded a pay dispute case involving the White Bear Lake Teachers Association and the White Bear Lake School District to the district court for further investigative hearings. The supreme court also reversed the lower court's dismissal of the case which involved salary payments and the signing of individual contracts.

In 1969, the teachers association charged that during salary negotiation the school board violated the state collective bargaining statutes, and accused the board of intimidation and discrimination. Subsequently when teachers boycotted a workshop on August 28 and 29, the school board made a counterclaim. The board also refused to pay retroactive salaries for 12 workdays between August 25 and September 15 after teachers refused to return signed contracts by the September 12 deadline. The district court dismissed all claims and counterclaims on the ground that an October 12 agreement had settled the dispute.

The state supreme court found that while the salary agreement was subject to a future settlement, the retroactive pay dispute and the teachers' entitlement to pay for August 28 and 29 could be resolved only through further court hearings. (*Jon Bauman et al., Appellants v. Independent School District 624 (White Bear Lake) et al., Respondents*, Minnesota Supreme Court, Ramsey County, July 7, 1972.)

NEBRASKA

State Supreme Court Affirms Constitutionality of NCIR

The Nebraska Supreme Court upheld a Nebraska Court of Industrial Relation's (NCIR) ruling on a case filed by the Seward Education Association against the Seward School District. The NCIR had ordered the school district to negotiate with the teachers association on terms and conditions of employment and set up a salary schedule for teachers (NRD, 1-72, 5). The school district appealed to the state supreme court, questioning the constitutionality of the NCIR and challenging its authority over conditions of employment and the right to set salaries for school employees.

Concerning the constitutionality of NCIR, the court stated that the Nebraska Constitution authorized the establishment of an "industrial commission" with administrative, legislative, and judicial powers to determine controversies and that the NCIR is that "industrial commission." The court pointed out that since the legislature has final control over school districts, the use of the NCIR for settlement of school disputes constitutes an exercise of this power.

Considering NCIR's power to order the school district to negotiate conditions of employment, the court cited a previous ruling which held that "while the court [NCIR] could not order a school district to enter into a contract, the court had the power to settle any controversy pursuant to [the Public Employee Bargaining Act]." The supreme court found that in ordering the school district to negotiate terms and conditions of employment, NCIR was neither forcing the district to enter into a contract nor imposing a wage settlement, but was exercising its power to settle a dispute and to "establish rates of pay and conditions of employment which are comparable to the prevalent wage rates paid and conditions of employment maintained for the same or similar work of workers."

The court next considered a question raised in an *amicus curiae* brief regarding the status of NCIR as an agency under the Administrative Procedures Act. The court stated that although the NCIR had legislative and judicial powers in addition to its administrative powers, it was still "an agency of the state in a board sense." (*School District of Seward Education Association v. School District of Seward*, Nebraska Supreme Court, July 21, 1972.)

NEW JERSEY

Amendment of No-Strike Statute Recommend

The proper remedy for teacher strikes is legislation of "machinery for the compulsory settlement of deadlocked labor disputes involving public employees." So stressed the Superior Court of New Jersey, Appellate Division, when it was required by law to affirm the contempt convictions, jail sentences, and fines of 15 members of the Newark Teachers Union, Local 481, AFT (AFL-CIO), who engaged in a strike in defiance of a permanent injunction.

The New Jersey Employer-Employee Relations Act prohibits strikes "regardless where the merits of the controversy lie." The defendant teacher union contended that the Newark school board's refusal to bargain in good faith was a "strategy of forcing the teachers to strike so that they would lose public support." While the court recognized that the board's actions might be "reprehensible," the Act required that primary consideration be given to the "continued public interest in having the schools remain open and the children educated."

The 1971 strike, the fifth in seven years, is the latest in a series of labor disputes that have plagued the Newark school district. During the February 1970 strike, future teacher strikes were enjoined. In 1971, all defendants, in-

cluding 10 who had been convicted of contempt in 1970, were cognizant of the permanent injunction. Confirming that the defendants had engaged in a strike, the appellate court accordingly affirmed the lower court's conviction of the striking teachers. However, only the union officers were required to serve jail sentences; the remaining 12 teachers were placed on probation for one year. (*In Matter of Newark Teachers Union, Local 481, American Federation of Teachers, AFL-CIO, et al., Appellants*, Superior Court of New Jersey, Appellate Division, February 1, 1972.)

NEW YORK

PERB's Power to Hear Nontenure Dismissal Cases Upheld

The New York Supreme Court for Orange and Suffolk Counties, the lowest state court, has laid to rest the issue of whether the Public Employment Relations Board (PERB) can entertain as an improper labor practice charge, the dismissal of a nontenured, probationary teacher on grounds that the dismissal stemmed from his union activities, a protected right.

The court dismissed suits filed by the Port Jervis City School District and the Brentwood Board of Education, challenging PERB's authority to entertain and act upon improper practice charges brought before the PERB by the Port Jervis Teachers' Association and the Brentwood Teachers' Association. Each district was charged with failure to renew the contract of and grant tenure to a probationary teacher in retaliation for membership in the teachers' association. The affected teacher in the Port Jervis case also served as association president.

The federal courts, in *Shelton v. Tucker (364 U.S. 479)* and *Keyishian v. Board of Regents (385 U.S. 589, 605)*, have guaranteed First and Fourteenth Amendments rights and have extended these rights to public employees, including academic employees.

Prior to the state appellate court's reversal of *Board of Education Central School District 1 of Town of Grand Island v. Helsby (38 A.D.2d 493)*, PERB was barred from hearing such dismissal charges since Section 3012.1.a of the Education Law granted to the school board discretionary power to discontinue employment during the probationary period upon recommendation only, and without citing reasons.

However, the Civil Service Law (the Taylor Law) was amended by sections 205.5.d and 209.a. The latter section defines improper employer practices to include interference with, restraint of, or coercion of public employees in the exercise of guaranteed rights, or discrimination against employees in an effort to *discourage* or encourage union membership.

The precedent case, *Tischler v. Board of Education, Monroe, (37 A.D.2d 261)*, established that tenure may not be denied solely in retaliation for union activities. The appellate court based its decision on the amended Taylor Law, and further stated that a dismissal for this reason cannot be condoned "in the name of the efficient operation of the school district. Public policy is to the contrary." The court added that "union activity provides [no] shelter for a teacher whom the board decides not to retain for bona fide, legitimate reasons."

Following the logic of these cases, both courts, without comment on the merits of each case, held that the PERB does have jurisdiction and may hear such cases. (*Port Jervis City School District, Petitioner, v. New York State Public Employment Relations Board et al.*, Respondents, New York Supreme Court, Orange County, February 4, 1972.) (*Brentwood Board of Education, Petitioner v. Robert D. Helsby et al. and the Brentwood Teachers' Association, Intervenor-Respondent*, New York Supreme Court, Suffolk County, December 23, 1971.)

EDITORS' NOTE: Under the recently enacted "Fair Dismissal Bill," a school board is now statutorily required to publicly disclose its reasons for nonrenewal and allow the affected teacher a rebuttal. [NRD, 9-72, 12]

PENNSYLVANIA

Court Rejects Teacher's Suit for Payment of Wages Lost During Strike

A Pennsylvania Court of Common Pleas rejected a teacher's suit against the New Castle Area School District for payment of wages lost during a strike. The plaintiff, a nonparticipant in an 18-day strike called by the New Castle Area Education Association, reported daily to an empty classroom even though the schools were closed for the duration. Upon resumption of classes, the school year was extened to make up for the days lost, with all teachers receiving full compensation. The plaintiff filed suit seeking recovery for the strike days.

In answer to the complaint, the school district named the New Castle Area Education Association as codefendant, stating that the association had caused the plaintiff's loss "by interfering with the existing contractual relationship between plaintiff and defendant."

The education association filed a demurrer, claiming relief under Act 195 of 1970 (amnesty section), which declared null and void any pending and/or enforced penalties against public employees, thus relieving individual association members from personal liability. The association argued that if penalties could not be imposed against individual teachers for their strike activities, they could not be held collectively liable since collective liability would also make each participant personally liable.

The court agreed with the association. The amnesty act was specifically designed to revoke all penalties resulting from strikes; thus the action upon which the liability was premised was the action for which amnesty was granted.

The association also contended that no monetary claim existed against the school board because statutory provisions limited payment of teachers' salaries for nonrendered services only in the event of contagious disease or serious damage to the school.

The court supported these contentions and dismissed the suit for recovery of wages. (*Kerr v. New Castle Area School District et al.*, Pennsylvania Court of Common Pleas, February 18, 1972.)

BOARD FINDINGS AND RULINGS

CONNECTICUT

Ordinance Making Union's Contract Proposals Public Record Held Illegal

The Connecticut State Board of Labor Relations held that the town of Stratford violated the Municipal Employee Relations Act when it adopted an ordinance unilaterally making initial stages of bargaining public record while negotiation with its employee union representatives was in progress. The Board held that ground rules for negotiation, including terms and extent of publicity, are mandatory bargaining subjects under the act.

Four unions filed charges contending that the town engaged in improper practices by passing the ordinance and refusing to bargain in good faith on the question of following the prescribed course. Consequently, the town filed charges against each union alleging unlawful refusal to submit initial bargaining demands unless the town negotiator agreed to keep the demands confidential.

Rejecting the town's first argument that the labor board had no authority to rule on the validity of the ordinance, the board stated that its power to administer the Municipal Employee Relations Act as designated by the legislature, includes the specific duty of determining whether a prohibited practice occurred.

The Board also rejected the town's argument that the ordinance dealt solely with the town's internal communications during negotiation and was, therefore, not a mandatory subject of bargaining. The Board determined that the ground rules for negotiation are mandatory bargaining matters.

Although the town argued that the ordinance required no disclosure at variance with the state's Right-to-Know Law, the Board decided that the town took unilateral action which is unjustified by law and therefore constituted a prohibited practice. The law states that "except as otherwise provided by any federal or state statute or regulations, all records made by any executive, administrative, legislative or judicial body, agency, commission, or subdivision therefore shall be public record." The Board held that during negotiation, proposals, memoranda, and other writings which are exchanged to further bargaining do not automatically become public record.

The Board dismissed the town's charges against the four unions, and ordered the town to resume bargaining on all proper subjects, including publicity, and to refrain from entering any part of the negotiation proceedings into the public record. (*Town of Stratford and IAFF Local 998, AFSCME Local 407, AFTE Local 136, and SPWA; IAFF Local 998, AFSCME Local 407, AFTE Local 136, and SPWA and Town of Stratford;* Connecticut State Board of Labor Relations, May 30, 1972.)

EDITORS' NOTE: Teachers are not covered by this Act, the Municipal Employee Relations Act, but by a separate statute.

ILLINOIS

Volunteer Faculty for Overtime Work Violates Agreement

In a case involving the Board of Trustees of Cook County College and the Cook County Teachers Union, Local 1600, an arbitrator ruled that extra work for a "weekend college" was subject to the terms of the agreement negotiated between the union and the Board of Trustees.

The college instituted a weekend college offering courses to persons working full time. Unpaid volunteers to staff the program were recruited from the regular college faculty. The union objected to the college's actions, stating that the methods used to institute and staff the program were contrary to the negotiated agreement.

The arbitrator supported the union's contentions and ordered the college to pay the faculty overtime rates for working at the "weekend college." He further ordered that pay for Sunday work be negotiated, that seniority and rotation be properly maintained and posted, that union and board engage in good faith negotiation if the weekend college was to continue, and that information be furnished to the union to assure proper assignment of the extra work. (*Board of Trustees of Junior College District 508 and Cook County College Teachers Union, AFT Local 1600,* American Arbitration Association, September 23, 1971.)

MARYLAND

Teacher Unjustly Denied New Coaching Position

In a grievance suit brought against the Carroll County School Board, an arbitrator ruled that the school board violated the contract's evaluation procedures and unjustly denied the teacher a new coaching position.

In the complaint, the teacher grieved that his nonappointment to a new assistant coaching position had been justified by the school board with a derogatory letter and evaluation written after the position was filled. The teacher had been unaware of either the letter or the evaluation.

The arbitrator found that the parties' negotiated agreement provided that all employee evaluations were to be conducted with the teachers' knowledge, and that teachers were to be notified of any derogatory material placed in their personnel files and to have an opportunity to reply in writing to such material. The arbitrator determined that both the letter and the evaluation were derogatory and, in a legal sense, arbitrary, and that the teacher was denied his negotiated right to be informed of, and to answer such material. Accordingly, the school board was ordered to appoint the teacher to the new position. (*Carroll County Teachers Association and the Board of Education of Carroll County,* American Arbitration Association, June 14, 1971.)

MASSACHUSETTS

Employers Must Take Reasonable Steps to Insure Contract Funding

The Massachusetts Labor Relations Commission (MLRC) found the Town of Webster in violation of its statutory duty to bargain in good faith during the execution and signing of a collective bargaining agreement with the Webster Patrolmen's Association.

Representatives from the patrolmen's association and three selectmen, representing the town, negotiated a collective bargaining agreement which provided across-the-board salary increases. The Town Advisory Board, which was responsible for determining the municipality's budget to be voted on at the town meeting, was consulted by the selectmen only once during negotiation. At the time of this meeting, the advisory board had no report on the budget for patrolmen.

After the negotiated agreement was signed, the selectmen met with the advisory board, and supported a moritorium on pay raises for municipal employees. The selectmen took a similar stance at the town meeting, whereupon insufficient funds to support the agreement were voted. Subsequently, the patrolmen's association charged the city with failure to bargain in good faith.

The MLRC supported the unfair labor practice charge, stating that good faith bargaining does not end with the execution of an agreement. The Commission added that an inadequate attempt was made to determine the scope of the negotiators' authority, and also the ability and willingness of the legislature to appropriate funds for the wage increase. Furthermore, the selectmen's public support of a wage moritorium after signing an agreement providing for increases constituted a violation of their good-faith bargaining duty. They neglected to take reasonable steps to insure that the contract was funded.

The MLRC concluded that the municipality, through its agents, had failed to bargain in good faith with the patrolmen's association, and ordered the town to bargain with the association upon request. (*Matter of the Town of Webster et al., and Webster Patrolmen's Association*, Massachusetts Labor Relations Commission, April 13, 1972.)

MICHIGAN

Board Cannot Economize by Assigning Non-unit Employees to Bargaining Unit Jobs

In a grievance filed by the Warren Education Association and the Warren Consolidated School District, an arbitrator found the school board in violation of the negotiated agreement when it assigned non-unit employees to bargaining unit positions. The school board, faced with budgetary cutbacks, economized by eliminating the positions of service squad sponsors and building chairmen. The arbitrator found the board's action contrary to the agreement, stating that the board could not economize "by assigning jobs to non-unit employees, any more than it could lay-off teachers and assign their teaching tasks outside the unit."

He then ordered the school board to pay the employees who would have been assigned as building chairmen and service squad leaders at the negotiated rates of pay for the school year. (*Warren Education Association and the Warren Consolidated School District*, American Arbitration Association, September 3, 1971.)

MERC Excludes Nonprofessionals From Residual Professional Unit

The Michigan Employment Relations Commission (MERC) ruled that a residual unit composed solely of continuing education teachers was appropriate. Accordingly a representation election was ordered for the Adult Basic Education (ABE) and high school completion teachers, employed by the Lansing School District, to determine whether the Lansing Schools Education Association (LSEA), the Michigan Federation of Teachers, AFT, AFL-CIO, or "no organization" would represent these teachers. If the LSEA, the current representative of the district's classroom teachers, won, the ABE and high school completion teachers would be assimilated into the existing unit. Otherwise they would form a separate unit.

The Commission also proposed that ABE and high school completion teachers of nonacademic subjects, such as astrology, knitting, and bridge, be excluded from the proposed teacher unit and be given the choice of forming another residual unit.

The MERC based these decisions on its prior rulings and on the National Labor Relations Board's (NLRB) stance that "it is grossly unfair . . . to allow a bargaining representative to exclude by design certain employees from a represented unit and also prevent their being represented in a separate unit by another bargaining agent willing to do so." (*Lansing School District Board of Education, Michigan Federation of Teachers, AFT, AFL-CIO, and Lansing Schools Education Association*, Michigan Employment Relations Commission, March 17, 1972.)

MINNESOTA

Arbitrator Finds Grievance Untimely

An arbitrator supported the refusal of Special School District #1 to process a grievance as untimely. A teacher, upon learning of the correct grievance filing procedure, appealed the school district's decision to cut her salary for strike activity. The teacher was informed of the salary cut in August 1970, but filed the grievance in February 1971. The negotiated contract provided a 20-day time limit for filing grievances.

The arbitrator, supporting the contention of the school district, found that the "employee must file within a time limit after the teacher knew or should have known of the act or condition on which the grievance is based, not from the time when the teacher knew of the existence of the grievance procedure." (*Janet T. Solaga and Special School District No. 1*, American Arbitration Association, June 8, 1971.)

PENNSYLVANIA

Nonpayment of Association Dues a Cause for Dismissal

An arbitrator ruled that a teacher must make full payment of all dues owed to the Freeport Education Association (FEA) or face losing her teaching position. The defendant, employed by the Freeport Area School District, contended that she had given verbal notice of termination of membership to her building representative.

The arbitrator determined that the teacher was still a member of FEA at the time the contract with the Freeport School District was signed because the defendant had not submitted a written resignation and had attended an association meeting on the day the contract became effective.

The school board argued that it could not coerce the defendant to pay membership dues by terminating her contract since the Pennsylvania public school code of 1949 did not establish nonpayment of dues as a cause for dismissal. The arbitrator pointed out that Act 195 states that a maintenance-of-membership clause, which is a part of the contract negotiated with the school board, makes continued membership in an employee organization a requisite for continued employment, and therefore creates an additional cause for dismissal. (*Board of Education of Freeport Area School District and Freeport Education Association*, May 22, 1972.)

WISCONSIN

Board's Increase of Class Size Violated Agreement

The Racine School District's increase in the size of a first-grade class was contrary to an agreement negotiated with the Racine Educational Association according to an arbitrator.

The school district combined two first-grade classes into a single class of 37 pupils, although the ratio policy was 26.8 pupils to one staff member. The negotiated agreement provided that "the school administration working with the teaching staff shall determine staff utilization under the ratio policy existing during the duration of the agreement." The school district contended that because of this provision, it had the final authority in determining class size.

The arbitrator, rejecting the school board's contention, found that the "school district is required, before changing class sizes. . . to make a reasonable effort to maintain class size." The arbitrator's decision was final and binding. (*Racine Unified School District and the Racine Educational Association*, American Arbitration Association, July 16, 1971.)

FEDERAL

NLRB Declines Jurisdiction Over Two Nonprofit Organizations

The National Labor Relations Board (NLRB) issued two rulings precluding its assertion of jurisdiction over two nonprofit organizations.

- The Queens Borough Public Library, in New York City, petitioned the Board to assert its jurisdiction and to classify certain employees as supervisors.

The library contended that it was an employer under the National Labor Relations Act, and not a municipal subdivision. The union that represented the library's employees contended that the library was a political subdivision and under Section 2(2) was not subject to NLRB jurisdiction.

The Board found that the city supplied 80 percent of the library's operating income and that the library would cease to exist without city help. And, although the library exercised daily control of its operations, the city must approve wage increases and sometimes additional hiring.

The NLRB found that the library's close relationship with the city made assertion of jurisdiction inconsistent with policies of the Act regardless of whether the library was an employer under the Act.

- A union petitioned to represent a unit of workers employed by the California College of Podiatric Medicine, a nonprofit corporation which is a combination educational institution and hospital. The college claimed that it should be exempt from the Board's jurisdiction under Section 2(2) of the Act.

Even though the Board has asserted jurisdiction over some nonprofit universities, the issue here was whether the Act prohibited NLRB from asserting jurisdiction over a hospital operated in conjunction with a university, where no part of the hospital's net earnings inured to the benefit of any private shareholder or individual.

The Board determined that the majority of the employees petitioned for were essentially employees of the hospital because they performed duties relating to both the college and the hospital and were paid from the hospital budget.

The petition was dismissed because the employer furnished hospital services and therefore fell within the statutory exclusion of Section 2(2). (*Queens Borough Public Library and District Council 37 and Its Affiliated Local No. 1321, American Federation of State, County and Municipal Employees, AFL-CIO*, National Labor Relations Board, March 21, 1972.)

(*California College of Podiatric Medicine-Corporation and Hospital and Institutional Workers' Union, Local 250, Service Employees International Union, AFL-CIO*, National Labor Relations Board, March 10, 1972.)

NEGOTIATION NOTES

ALABAMA

City Employees Select Laborers

An election conducted under the direction of the Alabama Department of Labor, showed a 94 percent vote in favor of Laborers Local 1317 by Birmingham city workers over no union representation. The victory gained representation for about 1,300 Birmingham city employees. Initially, the city had disregarded Laborers' bid for union recognition, but later ordered the election after a unanimous strike vote by the municipal employees.

Laborers also gained representation for 800 public works employees in Montgomery, Alabama. In addition, the union now represents employees at the University of Alabama at Tuscaloosa and at three state mental hospitals.

ALASKA

New Alaska Law Gives Public Employees Limited Strike Rights

A new bargaining statute gives limited strike rights to all Alaska public employees, except teachers who are covered by a separate statute. The measure allows employees to organize; requires employers to negotiate with the recognized employee organization on wages, hours, and fringe benefits; calls for court enforcement of prohibited unfair employer or employee labor practices; requires agreements to contain binding arbitration of grievances; and permits dues check-off and either union shop or agency shop clauses.

The labor relations agency means the state personnel board for state employees or the state department of labor for all other employees. The agency may hold a hearing and direct a secret ballot election to determine which organization or union will represent employees whenever 30 percent of the employees in a unit petition for recognition of or decertification of a recognized union, or when an employer is presented with a union claim to be recognized.

The agency can investigate unfair labor practices and require the party at fault to cease and desist. If the unfair labor practice is continued, the agency may apply for an injunction or restraining order. Violators of an order or decision of the agency are guilty of a misdemeanor and punishable by a fine of not more than $500.

In defining who may strike, the act divides public employees into three classes: those who may not strike (police and fire protection employees, jail, prison, and other correctional institution employees, and hospital employees); those who may strike for a limited period of time (public utility, snow removal, sanitation, and public-school and other educational institution employees); and those who may strike for an indefinite period of time (all other public employees).

[See *TEXT* section for reprint of pertinent sections]

MAINE

Amended Maine Law Creates Labor Relations Board

An amendment, H.P. 1548, to Maine's 1970 Municipal Public Employee Labor Relations Act established a Public Employees Labor Relations Board to administer the statute. The responsibility of the Board is to review unit determinations and to determine and remedy employer and employee prohibited practices, subject to court review.

The duties of the new Board's executive director include appointing fact-finding boards, determining appropriate bargaining units, conducting representation elections, and certifying duly elected bargaining agents.

A tripartite labor relations board, appointed by the governor with the advice and consent of the council, is to be composed of employee and employer representatives and a chairman to serve the public interests.

The Board, which can adopt rules of procedure to conduct its business, can also interpret provisions of the law and issue written advisory rules. The Board is empowered to prevent employers, employees, and unions from engaging in any statutorily prohibited acts. Complaints against any person or organization are to be filed with the executive director who will then serve a copy of the complaint and notice of a Board hearing on the offending party. However, no hearing shall be held on any alleged unfair practice occurring more than half a year before the filing of the complaint.

A complaining party may, however, seek injunctive relief from the superior court in the county in which the prohibited practice is alleged to have occurred, pending the final adjudication of Board proceedings. Either party may seek a superior court review of any Board decision; however, there shall be no appeal on questions of fact.

The complainant in any judicial proceeding seeking injunctive relief, such as from strikes, needs neither an allegation nor proof of unavoidable substantial or irreparable injury to his property to obtain a restraining order.

MASSACHUSETTS

Public Employee Bargaining Statute Amended

An amendment to the mediation section (Section 178K) of the Municipal Employees Relations Act brings public employee grievances submitted to arbitration under the governance of Chapter 150C of the General Laws, commonly known as the Arbitration Under Union Contract—Judicial Enforcement statute. Chapter 150C stipulates that an agreement between an employer and an employee organization to submit controversies to arbitration "is valid, enforceable, and irrevocable, except as otherwise provided by law or in equity for the revocation of any contract."

The original mediation section of the Act specified that public employee organizations (which included teacher organizations) and public employers might submit contract or grievance disputes to the state Board of Conciliation and Arbitration or any other arbitration "tribunal." The amendment asserts the enforceability of the arbitrator's decision.

In addition, the amendment requires the parties involved in an arbitration case to share equally the cost of submitting the controversy to an arbitration board other than the state board.

MISSOURI

Mediation Board's Representation Decision Upheld

A Missouri trial court fallaciously reversed the decision of the State Board of Mediation that the City of Kirkwood's forestry department employees comprised an appropriate bargaining unit. The city contended that the state board of mediation was barred from resolving representation disputes unless the services of a state hearing officer were used. State statutes, however, do not provide for anyone with the title of state hearing officer, but do provide for a hearing officer. Further, the city's contention that the mediation board had no jurisdiction over representation issues between a city and a union had no statutory basis. Additionally, evidence did not support the city's contention that the mediation board had abused its discretion, and had been arbitrary and erratic in its conduct of representation proceedings.

The mediation board ruled that employees of the city's forestry department constituted an appropriate bargaining unit as defined under state statutes. The board also determined the union's majority status on the basis of authorization cards, since there was no statutory provision regulating the determination of a union's majority status.

In the judgment of the Missouri Court of Appeals, the union's appeal was sustained and the decision of the trial court was reversed. Further, the mediation board's appeal was dismissed for failure to comply with civil rules. *(City of Kirkwood, Petitioner-Respondent v. Missouri State Board of Mediation, et al., Respondent-Appellant,* Missouri Court of Appeals, St. Louis District, February 22, 1972.)

NEVADA

First Binding Arbitration Wage Settlement Under Amended State Law

A fact finder determined that the City of Las Vegas did not have the current financial ability to grant monetary benefits to its 450 member Police Protective Association.

In accordance with recent revisions in Nevada's public employee bargaining law allowing the governor to send impasse items to final arbitration, a fact finder was brought in to help resolve the dispute. The amended bargaining statute states that "if a Nevada public employer and an employee organization have not reached an agreement by March 1, either party has a month to submit the dispute to a fact finder whose recommendations will not be binding unless the disputing parties mutually agree that they will be. If the parties do not mutually agree to make the findings and recommendations of the fact finder final and binding, the governor shall have the emergency power and authority, at the request of either party and prior to the submission of the dispute to fact finding, to order prior to April 1, that the findings and recommendations on all or any specified issues will be final and binding."

The city claimed that it did not have the financial ability to meet PPA's demands concerning wages, court time, traffic pay, overtime pay, shift differential pay, longevity pay, disability insurance pay, and punitive damage insurance. When the two parties reached a bargaining deadlock, the union requested the governor to mandate binding arbitration on the eight items. The governor ordered three of the eight matters to final arbitration.

The city contended that its estimated expenditure and projected revenues were such that no funds were available to increase the amounts already provided in the final budget.

PPA argued that the allocations made by the city for the 1972-73 budget were an indication that the city had the ability to pay.

Nevada's public employee bargaining law requires that a determination of the financial ability of the local government employer with regard to the employer's obligations to the people residing within its jurisdiction be made before the fact finder addresses himself to the disputed issues. After studying the city's budget, the fact finder determined that the relationship of expenditures to revenues for the coming fiscal year would be too close to allow for additional allocations. The allocations that the PPA referred to were not part of present wage and benefit negotiations but were "owed" to PPA by the city as a result of the commissioner's formal resolution giving a 5 percent blanket increase to all city employees. Therefore, the funds were already committed and not existing and available as contemplated in the public employees bargaining law, which stated that available resources were those revenues that could be utilized.

On the basis of the analysis of the city's budget, the fact finder made the determination that Las Vegas did not have the financial ability to grant the monetary benefits. *(Police Protective Association and Las Vegas,* American Arbitration Association, May 5, 1972.)

NEW MEXICO

Personnel Board's Rules Upheld

A district judge in Santa Fe ruled that New Mexico State employees did not have the right to strike or picket in a labor dispute. The American Federation of State, County and Municipal Employees initiated court proceedings attacking regulations set forth by the State Personnel Board, particularly one which forbids strikes.

The decision upheld the board's authority to issue "reasonable regulations" for conduct of employee-management relations as well as the right of employees to join employee organizations and to bargain collectively, and the right of state agencies to enter into collective bargaining with such employee organizations.

NEW YORK

OCB Rules and Regulations on Binding Arbitration Implemented

The revised rules and regulations of New York City's Office of Collective Bargaining (OCB) implement amendments to New York City's Collective Bargaining Law (NRD, 4-72, 10) to provide, among other things, for final and binding arbitration in municipal labor disputes.

Under the amended law an impasse panel's recommendations for settlement of a dispute will be deemed final and binding unless rejected by either party, in which case an appeal may be made to the OCB for review of the recommendations.

A petition of appeal to review the impasse panel's recommendations must specify the grounds upon which the appeal is taken; the alleged errors of fact and/or judgment of the panel precisely identifying those parts and portions of the report and recommendation allegedly in error; any part of the testimony and evidence relating to the report and recommendations on the grounds upon which the appeal is taken, which supports the allegations of the petition; the modifications requested; and such additional matters as may be relevant and material.

The amended city statute now specifically excludes managerial and confidential employees from bargaining units. The OCB rules specify the procedures to be followed for designating employees in these categories, including the requirement that hearings be held and determinations issued.

Previously OCB's role was advisory only; the amended law empowers OCB to order an employer or union to cease and desist from engaging in unfair labor practices.

The rules also provide an expedited procedure for amending certification of bargaining units to reflect changes in titles where there have been no changes in the duties under the titles, and for consolidation of related cases involving representation, arbitration, mediation, and improper practice proceedings in addition to impasses.

[See *TEXT* section for OCB rules regarding mediation and impasse panel procedures.]

OHIO

Court Dismisses Challenge to Contract Ratification Vote

The United States District Court in Cleveland rejected a suit challenging the validity of a contract ratification vote held by the American Federation of Teachers, Local 795. The suit was filed by two members of the Cleveland Heights-University Heights Teachers Association.

The AFT was recognized as the bargaining agent for the 650 teachers in January 1971 and negotiated a one-year agreement with the school district, on which all teachers were allowed to vote. In June 1972, the union decided that non-union teachers would not be permitted to vote on a renewal contract, effective January 1973. Two non-union teachers, members of the teachers association, obtained a temporary injunction to stop the vote count, and filed a suit contending that their civil rights had been violated. The court rejected the case, finding "no federally protected right that has been deprived."

STATISTICS

NEGOTIATED RELEASED TIME FOR ASSOCIATION AND AGREEMENT MATTERS

Released time provisions for association or contract administration are incorporated in 641 (41.9 percent) of 1,529 comprehensive classroom teacher agreements, effective 1970-71, in school systems with 1,000 or more pupils enrolled. Provisions selected for analysis were released time for association conferences and conventions, released time for negotiation, and released time for grievance hearings. (See Table 1.) Provsiions granting association representatives released time are generally found under grievance procedure, negotiation procedure, association rights, and leaves of absence. For example, a grievance procedure may contain a provision granting time off for representatives or witnesses to attend hearings during the school day.

Released time for association conferences and conventions provide association representatives or delegates with time off from regular duties to attend regional, state, or national association meetings without loss of pay. This time off is primarily for association business distinct from professional days which entail educational conferences. In many agreements, leaves for association conferences are granted upon prior notification and with the superintendent's approval.

TABLE 1.—COMPREHENSIVE AGREEMENTS CONTAINING RELEASED TIME PROVISIONS FOR ASSOCIATION AND AGREEMENT MATTERS

Purpose of release time	Number	Percent
1	2	3
TOTAL AGREEMENTS ANALYZED	1,529	100.0
Agreements containing released time provisions	641	41.9
Association conferences	406	26.6
Negotiation	325	21.2
Grievance processing	281	18.4
AGREEMENTS CONTAINING RELEASED TIME PROVISIONS	641	100.0
Association conferences and conventions	230	35.9
Negotiation and grievance processing	113	17.6
Negotiation, grievance processing, and association conferences	82	12.8
Negotiation only	66	10.3
Negotiation and association conferences	64	10.0
Grievance processing	56	8.7
Grievance processing and association conferences	30	4.7

In an arbitration case involving the Carrolton Education Association (Mich.), a school principal's denial of paid leave for attendance at an association sponsored conference was upheld because contract language stipulated that such leave would be granted only upon the principal's approval. The decision turned on the basis that neither the grievant nor the association supplied the principal with the necessary information to make a reasonable judgment as to whether the conference was an educational conference within the mean- of the contract.

Sample provisions of released time for association conferences and conventions are as follows:

> When the need arises, officers, committee chairmen and members designated by approval of the Board of Directors of PGCEA may attend essential local, state and national meetings with no loss of pay or personal leave. Substitutes may be used on a full or half-day basis or the person's immediate supervisor may make other arrangements within his staff at his discretion.
>
> Application for such leave shall be made in writing to the Superintendent of Schools as far in advance as practicable and ordinarily at least 48 hours in advance. The Association and its officers recognize and agree that this privilege should not be abused.
>
> **[Prince George's County Sch. Dist., Upper Marlboro, Maryland]**

> Those certificated personnel who are elected as officers, appointed as committee members, or elected delegates to meetings of the Ohio Education Association, the National Education Association, or other state and national organizations affiliated with the same may attend official meetings of those bodies which are required of them in their elected or appointed position without loss of pay. It is understood that the number of locally elected Ohio Education Association delegates shall be four. No expenses for such meetings, other than substitute service, shall be paid by the Board of Education.
>
> **[Findlay, Ohio]**

Agreements incorporating released time provisions for negotiation sessions scheduled during school hours stipulated that association representatives would be relieved from regular duties without loss of pay to participate in negotiation meetings. When a contract did not specify that negotiation sessions could be held during the school day, an arbitrator ruled that the Hicksville (N.Y.) board did not violate a contract clause stating that "negotiating shall, whenever practicable, be scheduled during normal business hours." The dispute occurred over the concept of "practicable" which the arbitrator determined should read "mutually practicable."

The following are sample released time provisions for negotiation:

> A teacher engaged during the school day in negotiating on behalf of the Association with any representative of the Board shall be released from regular duties with no loss of salary.
>
> **[Phoenix Union H.S.D., Phoenix, Arizona]**

If negotiation meetings between the Board and the Association are scheduled during school hours, the representatives of the Association shall be relieved from all regular duties without loss of pay as necessary in order to permit their participation in such meetings.

[Niagara Falls, New York]

Released time for grievance matters permit, upon notification, time off during the school day to allow association representatives to attend grievance hearings. Some provisions mandate that the processing and investigation of grievances be performed after the close of the regular school day, except when jointly agreed by the board and the association owing to urgency, or when the teachers are otherwise free from assigned duties. An arbitrator upheld the New Haven (Mich.) association's right to determine whether grievances are too urgent to wait until after school hours. The decision was based on a contract clause which stated that "fellow teachers" may upon the availability of a substitute visit a classroom without the permission of the principal's office. This clause was construed to mean that association officials from another school could conduct business during class hours.

Sample provisions of released time for grievance matters are:

The Association representatives shall be permitted, when otherwise free from teaching assignment, to investigate and process grievances to ascertain compliance with the provisions of this Agreement, provided their principal or supervisors have been notified of where they are going and why they are leaving their school buildings and have received permission therefor, and provided further that upon entering a school building they shall inform the principal or the building administrative office personnel why they are there and receive permission to carry out their purpose. This permission in both instances shall not be unreasonably withheld.

[East Hartford, Connecticut]

When it is necessary, pursuant to Article III (Staff Relations Policy) for a representative designated by the Association to attend a grievance meeting or hearing during a school day, he will, upon agreement with his principal or immediate superior be released without loss of pay as necessary in order to permit participation in the foregoing activities. Any teacher whose appearance in such meetings, or hearings as a witness is necessary will be accorded the same right.

[Glen Falls, New York]

MAJOR COLLECTIVE BARGAINING SETTLEMENTS, FIRST HALF OF 1972

The U.S. Department of Labor, Bureau of Labor Statistics (BLS), reported that in the first six months of 1972, wage-rate increases averaged 7.1 percent over the life of the contract, down from the 8.1 percent average gain in 1971. Moreover, negotiated first-year wage-rate adjustments of 7.5 percent were down significantly from the 11.7 percent average gain the previous year.

The 177 settlements included in the statistics for the first half of 1972 covered 870,000 workers, primarily in the aerospace, railroad, and construction industries. The new contracts had an average duration of 24 months while previous settlements had a duration of 34 months.

Construction industry settlements were down to 7.5 percent from the 11.8 percent wage increase over the life of the contract in 1971. First-year negotiated wage-rate changes declined to 8.0 percent from 13.3 percent in 1971.

Contracts with cost-of-living escalation provisions provided 5.4 percent average annual wage increases, down from 7.1 percent in 1971. Contracts without cost-of-living provisions provided annual increases averaging 7.6 percent, down from 9.2 percent the previous year. The average increase in manufacturing was down to 5.5 percent from 7.2 percent in 1971; in nonmanufacturing, an average of 7.9 percent was registered, down from 9.0 percent in 1971. Contracts with and without escalators averaged 5.5 and 5.6 percent, respectively, in manufacturing, and 4.9 and 8.0 percent in nonmanufacturing.

First-year wage-rate adjustments for the first half of 1972 averaged 7.1 percent in manufacturing, a decrease from the 10.8 percent in 1971; the average of 7.8 percent in nonmanufacturing was a decrease from 12.7 percent in 1971.

Scheduled deferred wage increases and cost-of-living escalator adjustments combined with first-year increases under the new settlements show that the average wage change was 5.0 percent for the first six months in 1972.

Table 1 presents the data for the first six months of 1972 and full year 1971.

TABLE 1.–PERCENTAGE CHANGES IN WAGES AND BENEFITS, MAJOR COLLECTIVE BARGAINING SETTLEMENTS, FULL YEAR 1971, AND FIRST SIX MONTHS OF 1972

Major settlements	First 6 months 1972		1971
	Number of workers (in 000's)	Average adjustments	Average adjustments
1	2	3	4
Wages and benefits combined[a]			
Annual rate of increase over life of contract in–			
All industries	616	7.7	8.7
Contracts with escalator clauses	166	6.0	7.8
Contracts without escalator clauses	451	8.3	10.2
Construction[b]	167	7.6[c]	12.1[c]
First-year changes in–			
All industries	616	8.6	13.1
Contracts with escalator clauses	166	9.7	14.2
Contracts without escalator clauses	451	8.2	11.3
Construction[c]	167	8.3[c]	13.8[c]
Wage rates alone[b]			
Annual rate of increase over life of contract in–			
All industries	870	7.1	8.1
Contracts with escalator clauses	205	5.4	7.1
Contracts without escalator clauses	665	7.6	9.2
Manufacturing	289	5.5	7.2
Contracts with escalator clauses	172	5.5	7.3
Contracts without escalator clauses	117	5.6	7.1
Nonmanufacturing	581	7.9	9.0
Contracts with escalator clauses	33	4.9	6.8
Contracts without escalator clauses	548	8.0	10.6
Construction	167	7.5[c]	11.8[c]
All industries excluding construction	703	7.0	7.8
Nonmanufacturing excluding construction	414	8.0	8.6
First-year changes in–			
All industries	870	7.5	11.7
Contracts with escalator clauses	205	7.3	12.8
Contracts without escalator clauses	665	7.6	10.4
Manufacturing	289	7.1	10.8
Contracts with escalator clauses	172	7.8	12.2
Contracts without escalator clauses	117	6.1	8.0
Nonmanufacturing	581	7.8	12.7
Contracts with escalator clauses	33	5.0	14.0
Contracts without escalator clauses	548	7.9	11.8
Construction	167	8.0[c]	13.3[c]
All industries excluding construction	703	7.4	11.6
Nonmanufacturing excluding construction	414	7.7	12.6

Source: "Major Collective Bargaining Settlements, First 6 Months 1972," (News Release) U.S. Department of Labor, Bureau of Labor Statistics, July 28, 1972.

[a] Applies to settlements for 5,000 workers or more.

[b] Applies to settlements for 1,000 workers or more.

[c] None of the settlements tabulated contained an escalator clause.

TEACHER STRIKES, WORK STOPPAGES, AND INTERRUPTIONS OF SERVICE, 1971-72

Strike idleness during the 1971-72 school year declined sharply, halting the upward trend that began in 1964-65. Prior to 1964-65 fewer than five teacher strikes were recorded annually.

In 1971-72, 89 strikes, 31.5 percent below the 1970-71 total involving an estimated 33,352 teachers and accounting for 248,080 man-days lost, were recorded. For the first time since 1965-66 no strike was reported to have been called by an independent organization or group of teachers with no organizational affiliation. Strikes, work stoppages, and interruptions of service occurred in 14 states, for durations of 1 to 26 days.

The total number of personnel involved in 1971-72 decreased 62.8 percent from the previous year. Total man-days lost was less than 1/10 of 1 percent of the estimated total man-days of instruction scheduled for the entire country. Four states, Indiana, Michigan, New York, and Pennsylvania, accounted for 77.7 percent of the total man-days lost. The total number of man-days of instruction is calculated by multiplying the estimated total instructional staff in 1972 by the assumed constant of a 180 day instructional year, the minimum number of instruction days mandated by most states.

For this analysis, teacher strikes, work stoppages, and interruptions of service are considered to be any concerted group action which disrupts the regularly scheduled instruction period for at least one school day. Strike data were not adjusted downward in instances when teachers were involved in more than one strike in a school year, and when days lost owing to strikes were rescheduled to meet state minimum attendance requirements. The strike may be initiated in and affect a school building, a local school district, or a state school system. The duration of a strike is measured by the instructional day, that is, weekends, holidays, and other noninstructional days are not included. Instructional days are those days on which classes are scheduled; they do not include teacher working days before the opening or after the closing of school, teacher orientation days, inservice days, or holidays.

An in-depth analysis of teacher strike activity will be released in a forthcoming Research Memo.

TABLE 1.—MAN-DAYS INVOLVED IN TEACHER STRIKES, WORK STOPPAGES, AND INTERRUPTIONS OF SERVICE, 1971-72

State	Estimated total instructional staff[a]	Assumed number of man-days of instruction[b]	Estimated number of man-days lost in teacher strikes[c]	Man-days involved in teacher strikes as a percent of man-days of instruction[d]
1	2	3	4	5
California	205,610	37,009,800	4,767	e
Connecticut	39,358	7,084,440	7,780	0.1
Illinois	122,912	22,124,160	19,957	0.1
Indiana	58,787	10,581,660	39,600	0.4
Massachusetts	59,024	10,624,320	534	e
Michigan	103,470	18,624,600	33,596	0.2
New Jersey	89,163	16,049,340	13,880	0.1
New York	215,600	38,808,000	35,031	0.1
Ohio	114,000	20,520,000	3,744	e
Pennsylvania	121,100	21,798,000	84,523	0.4
Rhode Island	10,423	1,876,140	2,034	0.1
Tennessee	40,104	7,218,720	576	e
Washington	38,830	6,989,400	1,108	e
Wisconsin	52,886	9,519,480	950	e
TOTAL	1,271,267	228,828,060	248,080	0.1
Remaining 36 states and District of Columbia	1,057,018	190,263,240	...	...
UNITED STATES	2,328,285	419,091,300	248,080	e

[a]From: National Education Association, Research Division. *Estimates of School Statistics, 1971-72.* Research Report 1971-R13. Washington, D.C.: the Association, 1971. p. 31.

[b]Assumes a constant of 180 days of public-school instruction for the year. While the number of instructional days varies from state to state, the majority of states require a minimum of 180.

[c]Based on instructional days of full-time teachers during the regular school year. Teacher report-in days, holidays, weekends and vacation days are excluded. Data on strike estimates are compiled from published and unpublished information collected by the Bureau of Labor Statistics, U.S. Department of Labor, and the NEA Research Division.

[d]Assumes that the man-days lost are not rescheduled.

[e]Less than 1/10 of 1 percent.

TABLE 2.—TEACHER STRIKES, WORK STOPPAGES, AND INTERRUPTIONS OF SERVICE, BY TYPE OF ORGANIZATION, BY MONTH, AND BY STATE, 1971-72 SCHOOL YEAR[a]

Type of organization, month, and state	Number of strikes, work stoppages, and interruptions of service	Estimated number of personnel involved	Estimated number of man-days lost[b]
1	2	3	4
TYPE OF ORGANIZATION			
Professional association	76	28,642	184,145
Teacher union	13	4,710	63,935
Independent organization	0	0	0
No organization	0	0	0
Joint union/association	0	0	0
MONTH			
August	19	4,851	48,907
September	30	13,810	74,208
October	8	2,054	13,873
November	8	2,705	12,114
December	4	1,185	5,700
January	7	4,739	35,227
February	2	453	453
March	3	218	218
April	3	2,274	42,936
May	5	1,063	14,444
June	0	...	...
STATES			
California	1	227	4,767
Connecticut	3	1,985	7,780
Illinois	11	2,878	19,957
Indiana	1	1,800	39,600
Massachusetts	1	534	534
Michigan	9	6,504	33,596
New Jersey	2	1,460	13,880
New York	14	5,892	35,031
Ohio	10	2,226	3,744
Pennsylvania	30	8,705	84,523
Rhode Island	3	474	2,034
Tennessee	1	64	576
Washington	2	508	1,108
Wisconsin	1	95	950
TOTAL	89	33,352	248,080

[a] Data on strike estimates compiled from published and unpublished information collected by the Bureau of Labor Statistics, U.S. Department of Labor, and the NEA Research Division.

[b] Based on instructional days of full-time teachers during regular school year. Teacher report-in days, holidays, weekends and vacation days are excluded.

SPECIAL REPORTS

CONSUMER PRICE INDEX, JULY 1972; 10-YEAR AVERAGES AND 1972 BY MONTH

The U.S. Department of Labor, Bureau of Labor Statistics (BLS), announced that the July 1972 Consumer Price Index (CPI) all-items figure rose 0.4 percent from June to 125.5 (1967=100). The increase placed the CPI at 3.0 percent above a year ago. Higher food prices, especially meats, accounted for nearly two-thirds of the rise. Food prices, which comprise food at home and away from home, rose 0.6 percent on a seasonally adjusted basis. Nonfood commodities rose 0.3 percent after seasonable adjustments.

The following tables provide a comparative study of the CPI all-items index for 25 selected SMSA'S or cities from 1962 to 1971 (Table 1), and for the months of August 1971 through July 1972 (Table 2). All figures are computed on the base 1967=100.

TABLE 1.—CONSUMER PRICE INDEX, ALL ITEMS, SELECTED CITIES OR SMSA'S, 1962-1971 (1967=100)

	All items									
SMSA/city	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971
1	2	3	4	5	6	7	8	9	10	11
U.S. city average[a]	90.6[b]	91.7[b]	92.9[c]	94.5	97.2	100.0	104.2	109.8	116.3	121.3
Atlanta, Ga.	90.5	91.4	92.8	94.0	97.0	100.0	104.0	110.2	116.3	121.7
Baltimore, Md.	90.6	92.0	92.9	94.4	97.7	100.0	104.1	110.5	117.0	123.4
Boston, Mass.	89.6	91.4	92.7	94.5	97.7	100.0	104.1	110.0	116.5	122.8
Buffalo, N.Y.	(NA)	(NA)	92.0	94.2	97.4	100.0	104.5	109.6	116.1	121.8
Chicago, Ill.-Northerwestern Ind.	92.1	93.0	93.4	94.7	97.4	100.0	104.3	109.9	116.3	120.8
Cincinnati, Ohio-Ky.	91.3	92.2	93.7	94.4	97.2	100.0	104.8	109.8	115.7	120.7
Cleveland, Ohio	91.7	92.7	93.2	94.7	97.2	100.0	105.9	111.9	119.3	122.8
Dallas, Texas	(NA)	(NA)	92.6	93.8	97.1	100.0	104.5	111.3	117.8	121.3
Detroit, Mich.	88.9	89.8	90.5	92.6	96.7	100.0	104.3	110.6	117.4	121.7
Honolulu, Hawaii	(NA)	92.8	92.9	94.6	97.3	100.0	103.8	108.5	114.2	118.9
Houston, Texas	91.4	92.3	93.7	94.8	97.5	100.0	104.3	111.0	116.8	120.9
Kansas City, Mo.-Kansas	89.4	90.3	92.5	95.5	98.0	100.0	104.0	109.6	115.8	120.5
Los Angeles-Long Beach, Calif.	90.6	92.0	93.7	95.7	97.5	100.0	103.9	108.8	114.3	118.5
Milwaukee, Wis.	92.0	92.9	93.9	95.8	98.0	100.0	103.5	109.5	115.8	120.1
Minneapolis-St. Paul, Minn.	91.0	92.3	93.2	94.5	98.8	100.0	104.6	109.9	117.5	121.7
New York, N.Y.-Northeastern N.J.	89.4	91.3	92.8	94.3	97.5	100.0	104.3	110.8	119.0	125.9
Philadelphia, Pa.-N.J.	90.1	91.8	93.2	94.7	97.3	100.0	104.8	110.4	117.8	123.5
Pittsburgh, Pa.	92.1	93.1	94.3	95.8	98.3	100.0	104.7	110.4	116.4	121.5
Portland, Oreg.[d]	88.5	90.2	92.2	94.6	97.5	100.0	103.5	108.6	113.2	116.1
St. Louis, Mo.-Ill.	90.0	90.9	92.6	94.1	97.2	100.0	104.0	109.2	115.2	119.6
San Diego, Calif.	(NA)	(NA)	(NA)	95.2	97.1	100.0	104.1	109.5	115.3	119.9
San Francisco-Oakland, Calif.	90.3	91.5	92.9	94.7	97.1	100.0	104.5	110.2	115.8	120.2
Scranton, Pa.[d]	89.7	90.9	92.6	94.1	97.4	100.0	104.1	109.5	116.3	121.4
Seattle, Wash.	90.6	92.1	93.4	94.5	97.1	100.0	104.1	109.2	114.0	116.4
Washington, D.C.-Md.-Va.	89.8	91.3	92.8	94.1	97.3	100.0	104.7	111.2	117.6	122.7

SOURCES: U.S. Department of Labor, Bureau of Labor Statistics. *Consumer Price Index for Urban Wage Earners and Clerical Workers, All Items—Series A (1967=100).* Washington, D.C.: the Bureau, 1971.

U.S. Department of Labor, Bureau of Labor Statistics. "Current Labor Statistics." *Monthly Labor Review* 95, 7:94; July 1972.

[a]Based on 46 cities through 1963, 50 urban areas for 1965, and 56 metropolitan areas and nonmetropolitan urban places beginning in January 1966. Excludes Portland, Oreg., and Scranton, Pa. For 1965, excludes Cincinnati, Ohio-Ky.; Houston, Texas; Kansas City, Mo.-Kansas; Milwaukee, Wis.; Minneapolis-St. Paul, Minn.; and San Diego, Calif.

[b]Excludes Alaska and Hawaii.

[c]Beginning in 1964, the index structure was revised to reflect the buying patterns of urban wage earners and clerical workers in the 1960's, including single workers living alone as well as families with two or more persons. Indexes for prior years apply only to families of two persons or more.

[d]Old series—i.e., old market basket components.

TABLE 2 –CONSUMER PRICE INDEX, ALL ITEMS, SELECTED CITIES OR SMSA'S, 1971-72 BY MONTH (1967=100)

SMSA/city	All items–1971-72[a]											
	August	September	October	November	December	January	February	March	April	May	June	July
1	2	3	4	5	6	7	8	9	10	11	12	13
U.S. city average[b]	122.1[c]	122.2[c]	122.4[c]	122.6	123.1	123.2	123.8	124.0	124.3	124.7	125.0	125.5
Atlanta, Ga.	...	122.0[c]	...	...	123.5	...	...	132.8	...	...	124.8	...
Baltimore, Md.	...	124.4[c]	...	...	125.1	...	...	124.9	...	...	125.5	...
Boston, Mass.	...	...	124.5[c]	...	...	124.9	...	...	126.2	...	...	127.1
Buffalo, N.Y.	122.8[c]	...	...	123.1	...	...	124.9	...	...	126.1	...	...
Chicago, Ill.-Northwestern, Ind.	121.5[c]	121.7[c]	121.7[c]	121.8	122.3	122.1	123.0	123.2	123.3	123.7	124.2	124.4
Cincinnati, Ohio-Ky.	...	121.4[c]	...	...	121.9	...	...	123.0	...	...	124.6	...
Cleveland, Ohio	123.2[c]	...	...	124.4	...	...	125.9	...	...	126.1	...	...
Dallas, Texas	122.7[c]	...	...	122.4	...	...	123.7	...	...	124.6	...	...
Detroit, Mich.	122.8[c]	122.8[c]	122.8[c]	123.4	123.7	124.2	124.9	125.0	125.0	125.5	126.0	126.7
Honolulu, Hawaii	...	121.2[c]	...	...	121.1	...	...	122.4	...	...	122.2	...
Houston, Texas	...	...	122.4[c]	...	...	123.2	...	...	124.8	...	...	125.2
Kansas City, Mo.-Kansas	...	121.5[c]	...	...	121.4	...	...	122.4	...	...	123.9	...
Los Angeles-Long Beach, Calif.	119.5[c]	120.0[c]	120.3[c]	120.1	120.1	120.2	120.[illegible]	121.2	121.3	121.4	121.7	122.8
Milwaukee, Wis.	121.4[c]	...	...	120.9	...	...	122.2	...	...	122.8	...	...
Minneapolis-St. Paul, Minn.	...	...	123.4[c]	...	...	123.8	...	...	124.2	...	...	125.5
New York, N.Y.-Northeastern N.J.	126.9[c]	127.3[c]	127.5[c]	127.6	128.9	128.4	129.5	130.0	130.3	130.5	130.9	131.4
Philadelphia, Pa.-N.J.	123.6[c]	124.6[c]	125.0[c]	124.7	125.0	124.7	125.2	125.8	126.0	126.1	126.5	127.0
Pittsburgh, Pa.	...	...	122.9[c]	...	...	123.2	...	...	124.7	...	...	125.5
Portland, Oreg.	...	...	117.4[c]	...	...	118.1	...	...	118.4	...	...	...
St. Louis, Mo.-Ill.	...	120.5[c]	...	...	120.9	...	...	120.8	...	...	121.9	...
San Diego, Calif.	120.7[c]	...	...	120.9	...	...	122.3	...	...	123.8	...	...
San Francisco-Oakland, Calif.	...	120.9[c]	...	...	121.8	...	...	122.9	...	...	124.3	...
Scranton, Pa.	123.2	...	...	122.6	...	...	123.6	...	...	125.1	...	...
Seattle, Wash.	117.6[c]	...	...	117.6	...	...	119.0	...	...	118.8	...	...
Washington, D.C.-Md.-Va.	123.5[c]	...	...	124.2	...	...	124.7	...	...	125.6	...	...

SOURCES: U.S. Department of Labor, Bureau of Labor Statistics. Consumer Price Index - July 1972.
U.S. Department of Labor, Bureau of Labor Statistics. "Current Labor Statistics." *Monthly Labor Review* 95, 7; 94; July 1972.

[a]Foods, fuels, and several other items are priced every month in all cities. Most other goods and services are priced according to the following schedule:

1. Every month-city average: Chicago, Ill.-Northwestern Ind.; Detroit, Mich.; Los Angeles-Long Beach, Calif.; New York, N.Y.-Northeastern N.J.; and Philadelphia, Pa.-N.J.
2. January, April, July, October: Boston, Mass.; Houston, Texas; Minneapolis-St. Paul, Minn.; and Pittsburg, Pa.
3. February, May, August, November: Buffalo, N.Y.; Cleveland, Ohio; Dallas, Texas; Milwaukee, Wis.; San Diego, Calif.; Seattle, Wash.; and Washington, D.C.-Md.-Va.
4. March, June, September, December: Atlanta, Ga.; Baltimore, Md.; Cincinnati, Ohio-Ky.; Honolulu, Hawaii; Kansas City, Mo.-Kansas; St. Louis, Mo.-Ill.; and San Francisco-Oakland, Calif.

[b]Based on 56 metropolitan areas and nonmetropolitan urban places. Excludes Portland, Oreg., and Scranton, Pa.
[c]Reflects retroactive repeal of automobile excise tax.

The following array shows adjusted rates of change in the CPI before and since the Economic Stabilization Program:

	8 months prior to Phase I, December 1970 to August 1971	3 months, Phase I, August 1971 to November 1971	8 months, Phase II, November 1971 to July 1972	11 months, Phases I & II, August 1971 to July 1972
All items	3.8	1.9	3.3	2.9
Food	5.0	1.7	4.4	3.7
Commodities less food	2.9	0	2.6	1.9
Services	4.6	3.1	3.6	3.5

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The CPI is designed to measure "average changes in prices of goods and services usually bought by urban wage earners and clerical workers, both families and single persons living alone." Prices of some 400 items representing price movements of all goods and services purchased by wage earners and clerical workers regularly are obtained in urban portions of 39 Standard Metropolitan Statistical Areas (SMSA'S) and 17 selected smaller cities.

Price changes used in calculating the CPI are averaged and then weighted according to their importance in spending. In the total index, all SMSA and city data are combined and weighted on the basis of the 1960 populations of SMSA's and the cities they represent. While index numbers were previously computed on the base 1957-59=100, a new base reference point of 1967=100 became effective January 1971. Statistical series expressed as indexes are affected by the change in base, but the rebasing of the CPI does not alter percentage changes between index figures over time, except for rounding differences. The CPI is rounded to one decimal point.

THE GROWTH OF CLASSROOM TEACHER COLLECTIVE BARGAINING: 1966-1971

The number of classroom teacher collective bargaining agreements on file with the NEA has more than quadrupled during the past five years. The first NEA teacher collective bargaining survey in 1966-67 recorded 389 agreements. As of the 1970-71 school year, the number of classroom teacher agreements recorded totaled 1,823—a 368.6 percent increase over five years. Further, the prevalence of teacher negotiation agreements may be greater than shown herein as only those agreements supplied by school systems with an enrollment of 1,000 or more pupils are reflected in these statistics. The collective bargaining activities of other, separate units of professional school employees are not recorded in this survey.

Once a school system files a comprehensive agreement with the NEA depository, the continuity of collective bargaining is assumed and the school system is thereafter automatically incorporated into the NEA negotiation agreement data base. The figures reported herein are therefore cumulative and may differ from those reported in previous analyses.

The number of school systems engaged in collective bargaining with classroom teacher units, regardless of representation, has steadily increased since the 1966-67 school year. (See Table 1.) Note, however, that the number of school systems negotiating with NEA bargaining units has increased at a greater rate than the number bargaining with AFT or other units. NEA collective bargaining agreements increased 167.0 percent from 1966-67 to 1968-69, and 82.5 percent from 1968-69 to 1970-71. For these periods the number of school systems negotiating with AFT units increased by 121.6 and 25.6 percent respectively.

When the first teacher collective bargaining survey was conducted in 1966-67, eight states had legislated mandatory professional negotiation (PN) statutes affecting teachers. Nine more states passed similar statutes prior to the 1968-69 survey. From 1966-67 to 1968-69 the number of recorded teacher collective bargaining agreements almost tripled. The increase in number of negotiated agreements may be attributed in part to the passage of PN statutes and to an evergrowing awareness of and trend toward collective bargaining for teachers as a means of attaining both educational and economic goals.

The increase in number of agreements between 1968-69 and 1970-71, while not as dramatic a gain as between 1966-67 and 1968-69, showed a 77.5 percent increase. Passage of eight statutes during 1970 and 1971 brought the total number of state laws mandating teacher negotiation, as of 1970-71, to 25. As yet the full impact of these statutes has not been felt.

TABLE 1.—CLASSROOM TEACHER COLLECTIVE BARGAINING AGREEMENTS, 1966-67, 1968-69, AND 1970-71

AFFILIATION	SURVEY YEAR 1966-67	1968-69	1970-71	PERCENT INCREASE 1966-67 to 1970-71
1	2	3	4	5
	Number of School Systems			
NEA	351	937	1,710	387.2
AFT	37	82	103	178.4
Other[a]	1	8	10	900.0
Total	389	1,027	1,823	368.6
	Number of Classroom Teachers			
NEA	88,123	273,497	539,949	512.7
AFT	120,164	173,570	192,000	59.8
Other[a]	146	1,075	1,075	636.3
Total	208,433	448,142	733,024	251.1

[a] Independent representation or joint NEA-AFT representation.

While the number of school systems represented by NEA affiliates—9 out of 10—has remained constant for the survey years, the number of NEA-represented teachers has increased from 4 out of 10 teachers in 1966-67 to 7 out of 10 teachers in 1970-71. The number of school systems with AFT agreements has been less than 1 out of 10 for the three survey years; however, the number of teachers represented has declined from 5 out of 10 in 1966-67 to slightly over 2.5 out of 10 in 1970-71.

Nationwide distribution of collective bargaining agreements and the number of teachers represented by these agreements is shown in Table 2.

TABLE 2.–NATIONWIDE DISTRIBUTION OF TEACHER COLLECTIVE BARGAINING AGREEMENTS: 1966-67, 1968-69, AND 1970-71

State	Number of school systems			Number of classroom teachers		
	1966-67	1968-69	1970-71	1966-67	1968-69	1970-71
1	2	3	4	5	6	7
Alaska (1970)[a]	...	...	2	...	...	1,750
Arizona	...	2	7	...	2,352	5,499
Arkansas	...	1	1	...	1,129	1,129
California (1965)	...	1	13	...	4,692	11,447
Colorado	1	4	11	724	9,575	12,554
Connecticut (1965)	42	71	88	15,964	26,344	29,655
Delaware (1969)	...	...	12	...	...	4,100
District of Columbia	...	1	1	...	8,000	8,000
Florida	...	...	2	...	...	4,240
Hawaii (1970)	...	...	...	...	...	...
Idaho (1971)	...	...	2	...	...	334
Illinois	10	33	92	22,764	35,566	48,917
Indiana	...	8	20	...	5,765	15,179
Kansas (1970)	...	1	1	...	3,358	3,358
Maine (1969)	...	...	40	...	...	45,580
Maryland (1968)	...	2	21	...	3,160	43,128
Massachusetts (1965)	55	135	167	15,677	39,527	47,717
Michigan (1965)	237	332	354	63,072	81,406	83,938
Minnesota (1967)	1	1	1	146	146	146
Missouri	...	1	1	...	850	850
Montana (1971)	...	2	2	...	568	568
Nebraska	...	1	6	...	72	4,657
Nevada (1969)	...	...	2	...	...	4,150
New Hampshire	...	...	6	...	...	1,436
New Jersey (1968)	1	6	228	3,650	6,357	51,193
New Mexico	...	...	1	...	...	2,400
New York (1967)	8	319	435	62,314	148,403	172,068
North Dakota (1967)	...	...	3	...	...	653
Ohio	1	13	63	271	15,821	34,098
Oklahoma (1971)	...	...	1	...	...	2,830
Oregon (1965)	...	...	3	...	...	4,837
Pennsylvania (1970)	1	5	33	11,000	14,477	22,374
Rhode Island (1966)	9	22	24	2,460	7,794	8,098
South Dakota (1969)	...	...	2	...	...	986
Texas	...	...	1	...	...	766
Utah	...	4	7	...	4,007	4,982
Vermont (1969)	...	...	3	...	...	749
Virginia	...	2	2	...	2,396	2,396
Washington (1965)	1	3	22	380	665	13,667
Wisconsin (1959)	22	56	141	10,011	19,062	31,213
Wyoming	...	1	2	...	650	1,382
UNITED STATES	389	1,027	1,823	208,433	448,142	733,024

[a] Date of passage of mandatory PN statute.

BRIEFS OF RECENT AGREEMENTS

Lakewood, Colorado

Between the Jefferson County School District No. R-1, Board of Education and Jefferson County Education Association, effective January 1, 1972, to August 31, 1973. Approximately 2,800 certificated professional employees, including counselors, speech therapists, psychologists, resource teachers, social workers, and all other certified nonadministrative personnel. Provision for negotiation of the application of additional funds received as a result of an adjustment of the Foundation Act.

COMPENSATION: (1972-73, nontenured) B.A., $7,300 to $9,052, 6 increments; B.A. plus 20 hours, $9,709 maximum; M.A., $8,030 to $10,585, 7 increments; M.A. plus 45 hours, $12,337 maximum, Ph.D., $500 additional; (1972-73, tenured teacher schedule starts with third step) B.A., $8,614 to $9,490, 3 increments; B.A. plus 20 hours, $11,497 maximum; M.A., $10,001 to $13,578, 10 increments; M.A. plus 45 hours, $15,987; Ph.D., $500 additional.

LONGEVITY: step 15, B.A., $9,928; B.A. plus 20 hours, $11,862; M.A., $14,600; M.A. plus 45, $16,498.

DIFFERENTIALS: (five steps: first and last steps, respectively) high school head coaches for football, basketball, track, baseball, and wrestling, and band director, $700 to $900; high school assistant football, basketball, track, baseball, and wrestling coaches, assistant band director, dramatics director, forensics director, Pep Club Sponsor, $550 to $750; high school head coaches for golf, tennis, cross country and swimming, year book sponsor (if assigned after school), director of intramurals, high school choral director, junior high Pep Club Sponsor, $400 to $600.

OTHER: summer school teachers, $6.00 per hour; part-time teachers earn in proportion to assignment, ½ yearly increment, and receive full insurance benefits if they work more than ½ of instructional day, accrue and receive leave on prorated basis; counselors, same salary as teachers; school nurses and vocational teachers, up to five years' credit on salary schedule for prior experience; school psychologists and social workers, 1.055 of placement on regular schedule (189-day work year); clinical psychologists, 1.06 of placement on regular schedule (189-day work year); distributive education and office occupations coordinators, days of extra service prorated, $300 per year for credentialing; outdoor education remuneration, $20.00 per night if not regularly assigned to program; 10 cents per mile for use of own car for interschool travel.

LEAVES: Nine days for personal leave or family illness credited first day of school, unlimited accumulation; extended sick leave contingent upon joint committee review and assistant superintendent's approval, 120 days maximum; summer school, one hour sick leave for each 20 hours' service; 2 days' personal leave; up to 5 days' bereavement leave deducted from either sick or personal leave; up to 90 days for military reserve duty less military pay; leave as necessary for jury duty (less court pay) or court subpoena; sabbatical leave given at one-half salary for one year or one-fourth salary for one semester after 6 years' service for study or travel; after 15 years' service sabbatical leave for study, travel, rest, or recuperation; joint committee to review sabbatical applications.

INSURANCE: Board-paid hospitalization and major medical insurance; board-paid life insurance and accidental death coverage.

ASSOCIATION: Local, state, and national association payroll dues deduction; one-half day released time for association president, association to reimburse the district; released time for grievance hearings or negotiation or Task Force meetings scheduled during the school day; use of school mail services, equipment, and facilities; association to receive copies of school board agendas and minutes; right to wear association insignia or pins.

INSTRUCTION: Class size goal, 27 for K-3, if class size is in excess of 30 pupils an investigation may be initiated; board to make every effort to acquire teacher aides and part-time clerical assistance; one library-media specialist per junior or senior school per session; effort to be made to increase the number of school psychologists, educational specialists, speech correctionists, school nurses, and social workers; 180 pupil contact days, 184 teacher contract days; non teaching, nonadministrative, certified personnel may be required to work up to 10 days before opening and after closing of school year and will be compensated on a prorated basis; provision for teachers' reference library:

Differentiated Staffing

Programs of Differentiated Staffing should contain the following elements:

A differentiated staff structured for the primary purpose of enhancing the educational experience of the child.

Thorough involvement in the development, implementation, and evaluation of the program by the local school staff.

Aproval of the program by two-thirds of certificated school staff prior to implementation.

Direct involvement of the local school community in planning and implementation.

Provision negotiated by the District and the Association for differentiated salaries that would place all teachers at or above their step and level on the negotiated salary schedule.

Selection of personnel for differentiated staff positions shall be made by the staff affected by such personnel.

Classroom teacher personnel assuming differentiated staff positions will not be classified as administrative personnel, with the exception of those persons holding positions comparable to "principal" or "assistant principal."

Each teacher engaged in a differentiated staffing program shall spend a substantial portion of his time engaged in classroom teaching.

Innovative teaching programs encouraged; teachers to participate in the selection of equipment; teachers employed in the district have priority for summer school positions; student discipline procedures established:

Academic Freedom

The parties seek to educate young people in the democratic tradition, to foster a recognition of individual freedom and social responsibility, to inspire meaningful awareness of and respect for the Constitution and the Bill of Rights, and to instill appreciation of the values of individual personality. It is recognized that these democratic values can best be transmitted in an atmosphere which is free from censorship and artificial restraints upon free inquiry and learning, and in which academic freedom for teacher and student is encouraged.

Freedom of individual conscience, association and expression will be encouraged and fairness in procedures will be observed both to safeguard the legitimate interests of the schools and to exhibit by appropriate examples the basic objectives of a democratic society.

If and when activities or presentations are questioned, the procedure under Article 13 governing questioned or challenged materials will be followed.

Questioned and Challenged Materials

Discussion with school principal.

The school principal will hold a conference with the complainant.

At the discretion of the principal, the school librarian or the teacher using the material at the time of the challenge will be brought into the conference.

If the complainant is dissatisfied with the results of the conference, the principal will inform the complainant of the following procedures, and will provide him with the special application form "Citizen's Request for Reconsideration of Instructional Materials," to be acted upon by the reviewing subcommittee of the Curriculum Council.

The principal will forward the application to the chairman of the reviewing subcommittee of the Curriculum Council, together with a written report of the conference he held with the complainant.

Copies of the report will also be sent to the Assistant Superintendent for Instruction, and teacher or librarian involved.

One copy of the report will be kept in the school file.

The principal will provide the chairman of the reviewing subcommittee with a copy or copies of the material in question.

The questioned subject or material will be reviewed by a subcommittee of the Curriculum Council only after a signed application, "Citizen's Request for Reconsideration of Instructional Materials," has been received from the complainant.

The subcommittee will include representatives from: the administrative staff, the principals, the materials center staff, the teaching staff, and the lay membership.

The principal from the school in which the materials were challenged will serve on the committee during the discussion of the related problem.

If an instructor is involved, he will be given the opportunity to render a professional opinion on the appropriateness of the questioned material.

A written recommendation of the reviewing subcommittee will be forwarded to the Superintendent for consideration.

Copies of the recommendation of the Superintendent will be forwarded to all interested personnel.

If the complainant is not satisfied with the recommendation of the Superintendent, he has the privilege to go before the Board of Education in accordance with District procedures.

If the same material is challenged at a future date, the principal and the chairman of the reviewing subcommittee will examine the previous decision in the light of additional points of view. If they find any significant difference in the new challenge, the committee may again review the material; otherwise, the original decision will stand and a copy will be sent to the complainant explaining that the material has been previously evaluated.

PERSONNEL: Grievance procedure ends with advisory arbitration; right to review and copy material in personnel file and to be notified of and reply to any derogatory material placed therein; maximum of 40 hours per week of teaching and school-related duties in consecutive time blocks including duty-free lunch periods (of at least 30 minutes) and preparation periods (5 of at least 30 minutes each week), totaling at least 225 minutes per week; promotions to be posted for 10 days; when applicants are equally qualified, preference given to teachers employed in the district; vacancies to be posted by April 1, voluntary transfer or reassignment criteria, preference given for years of service; involuntary transfers prohibited if qualified volunteer is available; department chairmen and group leaders are selected after consultation with the staff members, are not required to evaluate teachers or to perform administrative duties, and have released time commensurate with responsibilities; supervision of student teacher is voluntary and compensation is "the total amount of money received from the sponsoring college or university;" Task Force committee composed of an equal number of administrators and teachers and interested community members, established to investigate and solve educational problems; Liaison Committee to review local school problems; any assault on a teacher must be promptly reported; released time as necessary for teacher involved in job-related assault or suit; board to provide legal counsel and all necessary assistance for teacher sued as a result of any action within the scope of his employment:

Teacher Evaluation

Both parties recognize that the basic purpose of evaluation is to improve professional competency.

All monitoring or observation of the work performance of a teacher will be conducted openly and with full knowledge of the teacher. The use of eavesdropping, public address or audio systems, and similar devices will be strictly prohibited.

The teacher shall be evaluated with regard to his professional competency as a teacher employed by the R-1 school district.

The evaluation must include first-hand observation by the evaluator in the classroom with the evaluator spending sufficient time in the classroom to justify the conclusions and observations contained in the evaluation.

Any areas of weakness or unsatisfactory performance shall be mentioned in specific detail in the evaluation (although positive qualities should of course also be noted), and specific written suggestions and a planned program for improvement will be submitted to the teacher involved.

Lack of participation by a teacher in extracurricular (outside the assigned workday as per the Agreement) activities is no basis for an unsatisfactory evaluation of that teacher.

If the evaluator considers the alleged deficiencies of a teacher to be such as to justify his dismissal, the teacher should be specifically advised of such alleged deficiencies, and that his failure to correct them will result in a recommendation for his dismissal.

If a recommendation for teacher dismissal is made by the evaluator, written notification shall be received by the teacher prior to the meeting of the Board at which action is to be taken.

Non-tenure teachers shall be observed not later than October 30th. After this and each succeeding observation, the principal will confer with the teacher and offer any suggestions for improvement.

Each teacher will be given a copy of his evaluation reports prepared by his evaluators at least one (1) day before the conference to discuss it. No such report shall be submitted to central administration, placed in the teacher's files, or otherwise acted upon without a prior conference with the teacher. Such report shall be signed by both parties to indicate only that the report has been reviewed.

A teacher who is not recommended for re-employment shall be given the reasons in writing, if requested by the teacher.

Teachers will have the right to review the contents of their personnel files and make copies of any documents contained therein.

No material derogatory to a teacher's conduct, service, character or personality will be placed in his file unless the teacher has had an opportunity to review the material. The teacher will acknowledge that he has had the opportunity to review such material by affixing his signature to the copy to be filed, with the express understanding that such signature in no way indicated agreement with the contents thereof. The teacher will also have the right to submit a written answer to such material and his answer shall be reviewed by the Assistant Superintendent for Personnel or his designee, and attached to the file copy.

The Board and the Association shall jointly develop forms for evaluation of teacher personnel.

The teacher and principal will work together to improve established areas of teaching deficiency.

In case of parental complaints about a teacher, every effort will be made to resolve the complaint with the involvement of the teacher, parent and principal. The specifics of the complaint, including the name of complainant, will be given to the teacher upon request.

If no resolution of the matter is reached between the principal, teacher and parent, then the provisions of Article 12, Academic Freedom, and Article 13, Questioned and Challenged Materials, apply to instances of parent complaints concerning the teaching of questioned and challenged subject matter and questioned and challenged teaching techniques.

Louisville, Kentucky

Between the Louisville Board of Education and the Louisville Education Association, effective September 23, 1971, to December 31, 1973. Approximately 2,268 certificated professional employees. Agreement renewed annually unless either party gives written notice not later than July 1, 1973, or any anniversary thereof to renegotiate agreement at end of calendar year with the exception of the school calendar and salary schedule and economic benefits for 1972-73 and 1973-74.

COMPENSATION: B.A., $6,460 to $10,330, 15 increments; M.A., $6,980 to $10,850, 15 increments; M.A. plus 30 hours, $11,370 maximum; salary schedule placement credit allowed for 10 years prior teaching experience in school districts other than Louisville.

LEAVES: Ten days' sick leave credited at start of school year, unlimited maximum accumulation, physician's certificate required; leave for legal proceedings connected with teacher's employment granted as professional leave; extended sick leave recommended by the superintendent and approved by the board of education after regular sick leave has been exhausted, pay is difference between teacher's regular salary and salary of first-year teacher and shall not extend for more than one year; leave for legal proceedings connected with teacher's employment granted as professional leave; jury leave pay is the difference between regular earnings and the amount paid for jury service; maternity leave granted for adoption; up to two years for exchange teaching, professional study or travel and military leave for term of enlistment or induction; five years granted for political leave.

INSURANCE: Workmen's compensation insurance; tax-sheltered annuity plan.

ASSOCIATION: Dues deduction for association; right to use school equipment and buildings for association business with payment of any incidental costs; right to post notices on the school bulletin boards; association representative given time at faculty meetings for announcements; right to use district mail service; right to transact association business on school property at reasonable times; right to participate in orientation of new teachers; 200 days' paid leave to association representatives, upon prior notification, for attendance at regional, state, or national meetings, allocation to be determined by association; two years unpaid leave for association members to serve as officer of association or on its staff.

INSTRUCTION: Professional staff has right and responsibility to establish curriculum, subject to approval of the board and the state department of education:

Materials Re-evaluation Procedure

Citizens of the community have the right to expect that any issue is presented fairly and to register protest if convinced that a subject is being presented unfairly or in a biased or prejudicial manner. In the event such objections are raised, the Board and the Association agree that:

Individuals involved will be provided an opportunity to discuss the matter fully at the local school level.

Individuals, organizations, or groups who challenge or criticize instructional materials shall be asked to complete the form "Citizen's Request for Reevaluation of Material."

After completing the above mentioned form, a school committee composed of the teacher, the principal, the appropriate supervisor or librarian, and a representative of the Association shall review with the complainant the written criticisms and attempt to reach a decision on the complaint.

If a decision is not reached which is satisfactory to the complainant, the principal shall request that the Chairman of Instructional Programs convene a committee to review and make a final decision concerning the disposition of the complaint. Such committee shall be composed of three persons named by the Chairman of Instructional Programs and three persons named by the Association. No member of this committee shall have been a member of the local school committee. The recommendations of the committee shall be reported to all parties concerned.

Hours of Duty

Teachers shall report for duty fifteen minutes prior to the official student reporting time (elementary—8:30; junior and senior high—8:20) and shall remain in the building fifteen minutes after the regular student dismissal time. They may leave promptly after the close of school to attend professional meetings, or for other school purposes.

The principal may excuse a teacher to leave school for any good reason. Teachers shall not be required to sign check sheets denoting time of arrival and departure.

Teachers performing special services, such as visiting teachers and itinerant teachers are responsible to the principal of the building(s) to which they are assigned and shall observe rules and regulations which are applicable to the regular teachers of that school. Teachers assigned to programs not housed in buildings where there is a principal shall be responsible to the appropriate program director.

Insofar as is possible routine matters shall be handled in such a way (written communications, announcements, etc.) as to permit optimum use of faculty conference time for discussion, planning, and evaluation of the school's program. Unless requested by the faculty or necessitated by emergency conditions, required attendance at after school meetings should not exceed more than 5 hours per month.

To encourage wise utilization of time and maximum staff participation, an agenda should be distributed at least one day in advance of regularly scheduled meetings. All faculty members should have the opportunity to submit items for inclusion.

PERSONNEL: Grievance procedure ends with advisory arbitration, final disposition with board; teachers have access to personnel files and may review and comment on derogatory material therein; written yearly evaluations made by principal for purpose of retention, retention on probation, or release from school; principal to make a comprehensive report on teachers completing first, fourth, eighth, and twelfth year of teaching; principal responsible for orienting teachers to procedures and instruments of evaluations, advising teachers who will observe them, and providing constructive assistance to rectify professional difficulties; vacancies posted by April 30; voluntary transfers to be requested by May 15, teacher requesting transfer will not be sent to a school other than the one requested; teachers involuntarily transferred will be given reasons for action by superintendent; if a dispute results, it may be resolved through the grievance procedure; promotion to administrative, supervisory, or counseling positions made upon meeting qualifications and certification, vacancies will be posted or announced prior to appointment; promotion opportunities arising during summer will be announced in daily newspapers; joint committee members will receive released time to attend all meetings, principal responsible for covering teacher's classes; board shall provide legal counsel to teachers in any legal action taken in connection with the discharge of duties.

Cranston, Rhode Island

Between the Cranston School Committee and the Cranston Teachers Association, effective September 1, 1971, to August 31, 1973. Approximately 728 certificated professional employees. Reopener upon notification between February 1 and 15. Not later than January 15 of the calendar year in which the agreement expires, negotiation over a successor agreement to commence.

COMPENSATION: (1971-72) B.A., $7,250 to $11,550, 9 increments; B.A. + 30 hours, $11,700 maximum; M.A., $7,900 to $12,200, 9 increments; M.A. + 30 hours, $12,350 maximum; approved CAGS, $12,700 maximum. Longevity increments, $300 for 25 years' service in district or $300 for 35 years in teaching. (1972-73 salary schedule unavailable.)

DIFFERENTIALS: (6 steps) Special classroom teachers for handicapped, $540 to $719; reading, speech and hearing, gifted, ungraded, home instruction, testing, and school social worker, $486 to $648; band directors and dramatic coaches, $528 to $715; head coach senior high football, $1,073 to $1,430; head coaches of baseball, basketball, and hockey, faculty manager, assistant coaches of football, indoor track, outdoor track, swimming, tennis, wrestling, and soccer, $906 to $1,208; junior varsity football, $590 to $788; cross country, golf, junior varsity coaches of baseball, basketball, junior varsity assistant football, assistant hockey, outdoor track, wrestling, junior high school baseball, basketball, swimming, $536 to $709; department heads, $300 for 0-25 classes to $1,300 for 300 or more classes per week; debate coach, $200; compensatory time for student council advisers, 3 periods per week; newspaper adviser, 4; memory book advisor, 1; 10 to 12th-grade advisors, 5; 9th-grade adviser, 2.

LEAVES: Short-term leave for illness up to 10 days, defined as 5 or fewer consecutive working days, first-year teachers must work 30 days to be eligible; sick leave accumulated prior to 1966-67 may be used for short-term illness until depleted; paid leave up to 15 weeks for long-term illness defined as 6 or more consecutive working days; benefits start on first day of illness subject to hospitalization and retroactive to first-day if illness extends 3 full weeks, any unused short-term sick leave may be used for days not otherwise covered; long-term illness requires medical certification; workman's compensation; 2 days (upon notification) for personal business; up to 3 days for illness in the family; up to 5 days for bereavement leave in immediate

family, one day for funeral of other relatives; 2 days religious holidays; leave for jury duty or school-related court appearances as needed less court fees; 10 days' paid leave for military duty less compensation, extensions beyond 10 days may be granted without pay; sabbatical leave at half-pay after 6 years' service.

INSURANCE: Board-paid hospitalization, and major medical, or equivalent benefits, family coverage upon request; liability insurance up to $200,000 per teacher; tax-sheltered annuity plan.

ASSOCIATION: Dues deduction for local, state, and national associations; optional, one year unpaid leave for association president, nonrenewable; building representatives permitted one hour of noninstructional time weekly for association business; use of school facilities when manned by custodial staff provided such use does not interfere with the instructional program; use of bulletin board in teachers' room for association notices; association consulted prior to new construction of teacher facilities.

INSTRUCTION: As funds are available, priority to reduction of class size to 30 pupils; elementary teachers' day, 6 hours 40 minutes and all others, 6 hours 50 minutes; curriculum development committee for each subject area shall be formed to represent the teachers in the process of educational change, and to make recommendations and formulate proposals for curriculum improvement, with development based on discussions, investigations, and evaluations of present curriculum, teaching materials, teaching methods, and procedures; storage space for instructional material and supplies provided.

PERSONNEL: Grievance procedure ends with binding arbitration; personnel file is available to teacher, and any material placed in file must be signed by teacher with right to rebut any derogatory material therein; duty-free lunch period of same length as students; elementary teachers have two afternoons per month for curriculum development and preparation; secondary teachers have one unassigned period, five class periods, and one administration period per day; teachers may review any evaluation and discuss it with their evaluators; teachers may be required to devote up to 20 unassigned periods to student supervisory periods; teachers may leave the building during unassigned periods upon notifying principal; vacancies posted no later than March 1, supplemented on May 1; supervisor to give association list of persons transferred or reassigned one week prior to school closing; notice of involuntary transfers given at least 30 days prior to reassignment; teachers serving and involuntarily transferred given preference for voluntary assignments and transfers:

Protection

A teacher who has suffered an assault shall submit a complete report in writing immediately or within a reasonable time when the teacher is unable to submit an immediate report after any assault suffered by teachers acting in the discharge of their duties within the scope of their employment and/or under the direction of the Committee. Such report will be submitted to the Superintendent through the principal or appropriate director and will include the time, place, personnel involved, witnesses, and other relevant information.

When a teacher has been assaulted, the Committee will comply with any reasonable request from the teacher for information in its possession relating to the incident or the persons involved.

If criminal or civil proceedings are brought against a teacher alleging that he committed an assault in connection with his employment, the Committee will furnish legal counsel to defend the teacher in such proceedings.

In order for a teacher to invoke the foregoing, the original or a copy of any summons, complaint, process, notice, demand, or pleading served upon such teacher must be delivered within 10 days after such service, to the Superintendent.

It is understood and agreed that the Committee is not required to provide an attorney to a teacher in civil or criminal actions initiated by a teacher.

Teachers shall receive prompt notification of pupils in their classes who have severe physical and/or emotional problems within the knowledge of the administration.

Appropriate physical restraint may be used by a teacher in extraordinary circumstances to protect himself, another teacher and/or a student from possible injury.

Pennsylvania State Colleges

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Between the Commonwealth of Pennsylvania and the Association of Pennsylvania State College and University Faculties/Pennsylvania Association for Higher Education, effective November 2, 1971, to August 31, 1974. Approximately 4,500 certificated professional employees. Automatic annual renewal unless notification by either party to terminate, modify, or amend the agreement is given 60 days prior to expiration of the current term of the agreement.

COMPENSATION: (1972-73) Instructor, $8,400 to $11,800; 6 increments; assistant professor, $10,200 to $14,360; 6 increments; associate professor, $12,400 to $17,460; 6 increments; professor, $15,080 to $21,240; 6 increments; 5% increment at last step in September and January; (1973-74) instructor, $9,260 to $13,020, 6 increments; assistant professor, $11,240 to $15,820, 6 increments; associate professor, $13,360 to $19,260, 6 increments; professor, $16,620 to $23,420, 6 increments; 5% increment at last step in September.

OVERLOADS: Teaching faculty members: 1/30 of academic year's salary for each semester credit hour in excess of 14 per term, or in excess of 24 in any year; supervisors of student teachers receive 1/45 of academic year's salary for each student teacher assigned to him in excess of 45.

OTHER: Workload reduction to be granted for coaching intercollegiate sports (expressed in percentages of full-time teaching load.); president or his designee has the right to vary all or any of the percentages as much as 20% up or down; workload reduction for band leader (if an extracurricular activity), 20% flat allowance; 5% per contract hour for average weekly assignment); director of forensics, (15% flat allowance or 2.5% per hour per week); department chairmen, 1 - 9 members, 25% reduction; 10 or more

members, 50% workload reduction; president may upon consultation with teacher and APSCUF/PAHE assign work on overload basis otherwise teacher has option of reduction alternatives; salaries for part-time faculty members are 1/24 of a full-time academic year's salary for each semester credit hour taught.

LEAVES: Fifteen days annual sick leave, unlimited accumulation; no sick leave is granted for accidental injury received while performing remunerative work unrelated to college duties; additional sick leave may be granted by administrative action; five days for death in the immediate family; three days for death in the nonimmediate family; subject to the approval of the president or his designee, faculty members shall be granted leave to attend professional conferences, participate in training courses and sessions related to college, and other job-related activities; travel expenses may be granted; leave with pay for jury duty or court appearance if written evidence of such obligation is presented; leave with pay for military reserve obligation not to exceed 15 days; Pennsylvania National Guard members will be granted leave with pay on all days on which they are engaged in active service of the Commonwealth or in field training; sabbatical leave at full pay for 18 weeks or half pay for 36 weeks after seven years' service for restoration of health, study, travel, or other appropriate purposes; rejection of sabbatical leave request is grievable if procedural violation exists; association may grieve for any pattern changes in granting of sabbatical leave; educational leaves with reduced pay to pursue full-time graduate study which is related to teachers' present or future job assignments; miscellaneous leaves without pay at sole discretion of president for a period not to exceed two years.

INSURANCE: College-paid hospitalization and major medical including dependents; college-paid life insurance.

ASSOCIATION: Bi-weekly dues deduction; representatives of APSCUF/PAHE shall be permitted to transact official business on college property at reasonable times; access to college facilities and equipment at reasonable times after giving notice; unpaid leaves for APSCUF/PAHE service, up to three years for elected or appointed officials, with written request 60 days prior to beginning of term; regular monthly meeting between president and APSCUF/PAHE representatives to discuss matters of educational policy and development and matters relating to implementation of the agreement; representative of association shall be given a place on the agenda at formal college-wide orientation meetings for faculty association's designated campus representative at each college and up to two representatives from all the colleges shall be granted priority in the selection of times for their teaching schedules and other professional responsibilities in order to facilitate implementation of agreement; Commonwealth/college shall make available to the association all information, records, statistics, and financial data relevant to the bargaining unit; colleges shall advise association of vacant professional staff positions; Commonwealth/college shall inform association two weeks in advance of open meetings of college's board of trustees, the Board of State College and University Directors, the Council of Higher Education, and the State Board of Education and shall provide APSCUF/PAHE with agenda for such meetings if available; association, as bargaining agent, has right to request placement on said agenda.

INSTRUCTION: Graduate academic term, three graduate courses up to a maximum of nine semester credit hours, or two graduate courses and two undergraduate courses up to a maximum of 12 semester credit hours; a minimum of five office hours per week and no fewer than three different days at such times to accommodate students' needs.
dents' needs.

PERSONNEL: Grievance procedure ends with binding arbitration; college maintains confidential personnel file with no anonymous material; faculty member has right to receive copies of materials contained in files, can add but not remove materials, and must be accompanied by person in authority while reviewing file; association has access to file upon written permission of faculty member; college also maintains confidential pre-employment file containing letters of reference and recommendations to which faculty member has no right of access; promotions are based on minimum qualifications set by law, as well as effective teaching, fulfillment of professional responsibilities, mastery of subject matter, contribution to the college and continuing scholarly growth; qualified faculty member presents written evidence of qualifications to department chairmen who submits application to college-wide committee for decision, (committee elected by and from the faculty), applicant may request to appear before the committee; faculty members have right to grieve promotion decisions, as does the association; evaluation committee size, manner of selection, rules, procedures, and manner in which faculty members will be informed of observation to be determined by faculty; outside consultants may be used in the evaluation process; curriculum committee determined by the faculty with one additional administrator designated by the president; joint retirement committee to study commonwealth's plan, and support legislation enabling faculty members to join TIAA-CREF retirement plan; tenure committee; department chairmen selected by president and committee of department members; individual shall be elected by a majority of department members; new faculty members are recommended by the department faculty in accordance with developed procedures and upon approval of president; if additional college branches are established, professional staff will be covered by the agreement; each faculty member will be provided with suitable office space and facilities to be maintained by the Commonwealth/college.

The Procedure For Granting Tenure

A department committee which shall include tenured faculty members, if available, shall recommend to the college-wide tenure committee, elected by and from the faculty, the names of those eligible members of the department whom they consider to be qualified for tenure; provided, however, that the department chairman shall make an independent recommendation to that committee regarding those other than himself who may have been recommended by the department committee. The recommendation of the department committee and of the department chairman shall be completed no later than March 1 (November 1 for faculty members with January anniversary dates), and by that date the department chairman shall notify in writing the eligible faculty members who have not been recommended

for tenure and he shall send a copy of the notice to the President.

In no case shall a faculty member take part in the consideration of tenure for himself.

The college-wide tenure committee shall review all tenure recommendations received from the departments and shall, by April 1 (December 1 for faculty members with January anniversary dates), submit its recommendations (positive and negative) to the President or his designee.

The President shall grant tenure effective as of the beginning of the next academic term to those eligible faculty members who shall have been favorably recommended therefor and whom he approves.

The President shall make his decision by May 31 (December 31 for faculty members with January anniversary dates), and in the event he does not grant tenure to a faculty member who has been so recommended by the college-wide tenure committee, the reasons therefor shall be given to such committee and the affected faculty member(s), if requested.

No faculty member shall be denied tenure solely because the aforesaid procedures were not followed. The President shall have the right to act independently if the committee(s) fail to act within the time limits specified.

A tenured faculty member may be terminated or otherwise disciplined only for just cause. In the event the President believes such just cause exists, he shall give written notice, specifying the reasons, to the affected faculty member and APSCUF/PAHE, and that faculty member shall have the right to due process by means of and in compliance with all provisions of the procedure provided for in Article V, hereof, GRIEVANCE PROCEDURE AND ARBITRATION; provided, however, that this procedure may commence at Step 3 or below, within thirty (30) college calendar days of receipt of the written notice.

A non-tenured faculty member may be terminated or otherwise disciplined prior to the expiration of his term appointment only for just cause. In the event the President believes such just cause exists, he shall give written notice to the affected faculty member and APSCUF/PAHE, specifying the reasons, and that faculty member shall have the right to due process by means of and in compliance with all provisions of the procedure provided for in said Article V; provided, however, that this procedure may commence at Step 3 or below, within thirty (30) college calendar days of the receipt of the written notice.

Until the final decision on termination of a tenured faculty member has been reached, that faculty member may be suspended (with pay) only if, in the opinion of the President, immediate harm to the faculty member or others is threatened by his remaining at the college. Anything herein to the contrary notwithstanding, if a final decision sustaining the termination is reached, the college shall have the right to terminate the faculty member forthwith. He shall, nevertheless, be paid to the end of the then current academic year, if such final decision is reached in the fall term; he shall be paid to the end of the following fall term, if such final decision is reached in the spring term. In no event shall he be paid for a period less than that required by Article XIV, hereof, RENEWALS AND NON-RENEWALS. Anything herein to the contrary notwithstanding, in the event the termination is for proven moral turpitude, all pay shall cease as of the date of the final decision.

A faculty member's tenure automatically shall terminate when he reaches age sixty-five (65) and, thereafter, he shall be deemed to hold a year-to-year contract, in accordance with the provisions of Article XX, hereof, RETIREMENT.

TEXT

ALASKA

Public Employment Relations Act*
(Ch. 113, L. 1972, Relating to wages, hours, and working arrangements.)

Sec. 23.40.200. ARBITRATION. (a) For purposes of this section, public employees are employed to perform services in one of the three following classes:

(1) those services which may not be given up for even the shortest period of time;

(2) those services which may be interrupted for a limited period but not for an indefinite period of time; and

(3) those services in which work stoppages may be sustained for extended periods without serious effects on the public.

(b) The class in (a)(1) of this section is composed of police and fire protection employees, jail, prison and other correctional institution employees, and hospital employees. Employees in this class may not engage in strikes. Upon a showing by a public employer or the labor relations agency that employees in this class are engaging or about to engage in a strike, an injunction, restraining order, or other order which may be appropriate shall be granted by the superior court in the judicial district in which the strike is occurring or is about to occur. If an impasse or deadlock is reached in collective bargaining between the public employer and employees in this class, and mediation has been utilized without resolving the deadlock, the parties shall submit to arbitration to be carried out under AS 09.43.030.

(c) The class in (a)(2) of this section is composed of public utility snow removal, sanitation and public school and other educational institution employees. Employees in this class may engage in a strike after mediation, subject to the voting requirement of (d) of this section, for a limited time. The limit is determined by the interests of the health, safety or welfare of the public. The public employer or the labor relations agency may apply to the superior court in the judicial district in which the strike is occurring for an order enjoining the strike. A strike may not be enjoined unless it can be shown that it has begun to threaten the health, safety or welfare of the public. A court, in deciding whether or not to enjoin the strike, shall consider the total equities in the particular class. "Total equities" includes not only the impact of a strike on the public but also the extent to which employee organizations and public employers have met their statutory obligations. If an impasse or deadlock still exists after the issuance of an injunction, the parties shall submit to arbitration to be carried out under AS 09.43.030.

(d) The class in (a)(3) of this section includes all other public employees who are not included in the classes in (a)(1) or (a)(2) of this section. Employees in this class may engage in a strike if a majority of the employees in a collective bargaining unit vote by secret ballot to do so.

(e) Notwithstanding the provisions of (b), (c) and (d) of this section, the employees with the concurrence of the employer may agree in writing to submit a dispute arising from interpretation or application of a collective bargaining agreement to arbitration.

(f) The parties to a collective bargaining agreement may provide in the agreement a contract for arbitration to be conducted solely according to the Uniform Arbitration Act (AS 09.43) if the Act is incorporated into the agreement or contract by reference.

***[Full text provided upon request.]**

NEW YORK

Consolidated Rules of New York City
Office of Collective Bargaining*

Mediation

4.1 Request for - Contents. Unless waived by the Director, a request for the appointment of a mediation panel shall be in writing, signed by the party making the request, and shall contain:

a. The name and address of the other party to the collective bargaining negotiations;

b. The date negotiations started;

c. The termination date of the collective agreement between the parties, if any;

d. A statement that the parties have been unable to agree on the terms of a collective agreement, and that collective bargaining will be aided by the appointment of a mediation panel;

e. The number of persons to constitute the panel, if the parties have agreed thereon;

f. The names of persons listed on the Board's mediation register who are to constitute the panel, if the parties have agreed thereon.

4.2 Appointment of Panel. If the Director, upon his own initiative or upon request, determines that the parties have been unable to reach agreement and that collective bargaining would be aided by mediation, he shall appoint a mediation panel from the mediation register. The panel shall be of the size, and shall consist of the persons agreed upon by the parties, if available. In the absence of agreement thereon, the Director shall determine the size and/or membership of the panel. No panel shall be appointed within thirty (30) days of the commencement of negotiations except upon the written request of both parties.

4.3 Panel - Functions. It shall be the duty of the panel to assist the parties to reach a voluntary and satisfactory agreement. The panel may hold separate or joint meetings

with the parties or their representatives, and such meetings shall be non-public unless otherwise agreed upon by the parties, the panel and the Director.

4.4 Panel - Guidance by Director. The panel shall perform its duties under the general guidance and direction of the Director, to whom it shall report the progress of the mediation and the terms of any settlement reached. If the panel is of the opinion that further mediation efforts would be unavailing, it shall so report to the Director in writing unless waived by the Director.

Impasse Panels

5.1 Definition - Board. As used in this part, the term "Board" shall mean the Board of Collective Bargaining.

5.2 Request for Impasse Panel - Contents. A request for the appointment of an impasse panel may be made jointly by the public employer and the certified or designated employee organization, or singly by either party. Unless waived by the Director, the request shall be in writing and signed by the public employer and the certified or designated employee organization or by any of them, if made singly. If the request is by a single party, a copy shall be served on the other party. The request shall be filed with the Board and shall contain:

a. The names and addresses of the parties;

b. The date when negotiations began and the date of the last meeting;

c. The nature of the matters in dispute and any other relevant facts, including a list of the specific employer and/or employee organization demands upon which impasse has been reached;

d. A statement that collective bargaining (with or without mediation) has been exhausted and that conditions are appropriate for the creation of an impasse panel;

e. The size of the panel to be appointed; if the parties have agreed thereon;

f. The names of the persons listed in the Board's impasse panel register who are to constitute the panel, if the parties have agreed thereon.

5.3 Upon receipt of the request for an impasse panel, the Director may conduct or cause to be conducted an investigation to ascertain if the conditions for an impasse panel have been met, namely, that collective bargaining negotiations have been exhausted and that conditions are appropriate for the creation of an impasse panel.

5.4 The Director may cause such invesitgation or hearing to be conducted without receipt of a request for the appointment of an impasse panel from the parties or either of them.

5.5 If the Director concludes that collective bargaining negotiations have been exhausted and that conditions are appropriate for the creation of an impasse panel he shall convey such conclusion either orally or in writing to the Board, with such information as to the nature of the dispute as the Board may require. The parties shall be notified, either orally or in writing, of the Director's recommendation. If the initial request was not a joint request, the party or parties not requesting the creation of an impasse panel shall have an opportunity to object to the recommendation, in writing, within three (3) days after service of notice of the recommendation.

5.6 Authorization of Panel. If the Board determines that collective bargaining negotiations (with or without mediation) have been exhausted and that conditions are appropriate for the creation of an impasse panel, it shall instruct the Director to appoint such panel. In reaching its determination, the Board may conduct or direct such additional investigation, conferences or hearings as it deems advisable and proper. The Director may appoint an impasse panel, without prior consultation with the Board, upon request of both parties.

5.7 Size of Panel. An impasse panel shall consist of such number of persons listed on the Board's impasse panel register as the parties may have agreed upon. In the absence of agreement, the Director shall fix the size of the panel.

5.8 Selection of Panel. If the parties have not agreed on the persons to serve on the panel, the Director shall submit to each of the parties an identical list of seven (7) names chosen by him from the impasse panel register. Each party shall have five (5) days within which to number at least five (5) of the names in order of preference, and return the list to the Director. Failure to return the list within the specified time shall be deemed approval of all persons named therein. The Director shall appoint the panel from those persons who have been approved by both parties, with due consideration for the designated orders of preference. If one or more of those approved decline or are unable to serve, the Director, to the extent necessary, shall appoint the panel members without the submission of additional lists.

5.9 Panel - Powers and Duties. An impasse panel shall have the powers and duties set forth in Section 1173-7. Oc(3)(a), (b), (c), and (d) of the statute.

5.10 Hearing; Record. a. Hearings before impasse panels shall be stenographically reported and transcribed. The parties shall share the cost thereof. Hearings shall not be public unless agreed to by the parties and the panel and approved by the Director.

b. The record shall consist of all pleadings, exhibits and other documents submitted by the parties to the panel, the transcript to testimony taken in hearings before the panel, any statements of position as to the issues submitted by the parties prior to, during or after the hearing, the Report and Recommendations issued by the panel and any other documents which the Board, in its discretion, deems necessary and pertinent.

5.11 Panel Reports - Publication; Acceptance or Rejection. a. Report and Recommendation. An impasse panel shall submit its report and recommendations to the Director, to each of the parties, and to any body, agency or official whose action is required to implement the panel's recommendations.

b. Publication. The report and recommendations shall be released for publication not later than seven (7) days after its submission or, upon written agreement of the parties filed with and approved by the Director, not later than thirty (30) days after its submission, provided that if the parties conclude a collective bargaining agreement prior to the date on which the report is to be released, the report

shall not be released except upon consent of the parties communicated to the Director.

c. Acceptance or Rejection. Within ten (10) days after submission of the panel's report and recommendations or such additional time (not exceeding thirty (30) days from the submission of the panel report) as the Director may permit, each party shall notify the other party and the Director, in writing, of its acceptance or rejection, in whole or in part, of the panel's recommendations. Failure to so notify shall be deemed acceptance of the recommendations. The Director may release the acceptances and/or rejections for publication at such time as he, in his discretion, may deem advisable.

d. The report and recommendations of the impasse panel, and the acceptances and/or rejections of the parties shall be confidential records until released for publication by the Director.

5.12 Review of Panel Recommendations. a. A party who rejects in whole or in part the recommendations of an impasse panel pursuant to Section 1173-7. Oc(3)(c) of the statute may appeal to the Board for review of the recommendations. All appeals pursuant to this section must be initialed by notice of appeal and petition and may not be raised as part of an answer to the petition of another party.

b. Petition; Contents. A petition filed pursuant to Rule 5.12a shall be signed and shall specify:

1. the ground upon which the appeal is taken;
2. the alleged errors of fact and/or judgment of the panel precisely identifying those parts and portions of the Report and Recommendation allegedly in error;
3. any part of the testimony and evidence relating to the Report and Recommendations or the grounds upon which the appeal is taken, which supports the allegations of the petition;
4. the modifications requested;
5. such additional matters as may be relevant and material.

c. Record of Impasse Panel; Filing. The record of proceedings before the impasse panel shall be filed simultaneously with the filing of the petition.

d. Petition; Service and Filing. One copy of the petition pursuant to Rule 5.12a shall be served upon the respondent and the original and three (3) copies thereof, with proof of service, shall be filed with the Board within ten (10) days of the rejection of the recommendations.

e. Answer; Contents. Respondent's answer to the petition shall be signed and shall contain:

1. admissions or denials of the allegations of the petition;
2. a statement of the nature of the disagreement;
3. any additional facts which are relevant and material;
4. such other affirmative matters or defenses as may be appropriate.

The answer shall be addressed solely to the petition and shall not contain any matter relating to any objections which respondent may have to the Report and Recommendations.

f. Answer; Service and Filing. Within ten (10) days after service of the petition, respondent shall serve its answer upon petitioner and any other party respondent, and the original and three (3) copies thereof, with proof of services shall be filed with the Board.

g. Oral Argument; Hearing. The Board, in its discretion, may grant the request of a party for oral argument or, in a case involving allegations of any of the grounds set forth in subparagraphs (i), (ii) or (iii) of Section 7511b of the Civil Practice Law and Rules, may grant and direct a hearing; such request shall be filed simultaneously with the petition or answer. The Board may direct that such oral argument or hearing be held without a request from either party where it finds that to do so will contribute to a determination of the matter.

h. Briefs; Service and Filing. Petitioner's brief, if any, shall be served and filed simultaneously with its petition. Respondent's answering brief, if any, shall be served and filed simultaneously with its answer. An original and three (3) copies of each brief, with proof of service, shall be filed with the Board.

i. Determination; Decision. After issue has been joined, the Board may determine the matter on the papers and briefs filed or prior to making such determination may direct the holding of oral argument or hearing or may make such other disposition of the matter as it deems appropriate and proper.

***[Full text provided upon request.]**

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RESEARCH DIVISION
NATIONAL EDUCATION ASSOCIATION

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CASE REVIEWS

CALIFORNIA

School District Not Required to Meet and Confer With Minority Organization

The California Court of Appeals ruled that a school board's duty to "meet and confer" with its employees' representatives does not require that the board allow a minority union, which is not represented on the negotiating council, to make direct proposals to the board at a public hearing.

The West Valley Federation of Teachers (WVFT), one of a number of certificated employee organizations in the school district, was therefore subject to the provisions of the Winton Act which provides that "when there is more than one certificated employee organization, a negotiating council shall be appointed to represent all the certificated employees in the district." The union was not a participant on the negotiating council and accordingly attempted a direct presentation of its demands at the board's public meeting. The board refused to allow the union to make its presentation.

The union petitioned for and was granted a writ of *mandamus* ordering the board to allow a direct presentation. The board filed a demurrer which was sustained.

The court held that the union was not denied the right of presenting its proposals to the board, but merely directed by the board to present such proposals through the negotiating council. (*West Valley Federation of Teachers, Local 1953, American Federation of Teachers, AFL-CIO v. Campbell Union High School District*, California Court of Appeals, First District, Second Division, March 23, 1972.)

FLORIDA

Preliminary Negotiation Sessions May Be Private If Final Settlement Is Public

The Florida Supreme Court reconciled Florida's "Government in the Sunshine Law" with a state constitutional article guaranteeing public employees the right to bargain collectively. The court ruled that preliminary negotiation sessions may take place privately "so long as the ultimate debate and decisions are public." This ruling affirmed a lower court decision which held that instruction of the school board's negotiator and negotiation of a tentative agreement may be conducted in private (NRD, 6-71, 3).

The appellants, certain Dade County citizens, sought to compel public meetings for "not only formal acts, but also acts of deliberation and deciding, occurring prior to and leading up to affirmative formal action," in protest of private preliminary bargaining between the Dade County Classroom Teachers Association and the Dade County School Board. The appellants contended that any negotiation session not open to the public was in violation of the state's "Government in the Sunshine Law," which requires all government authority meetings to be public.

However, the court noted that the "Sunshine" law provides for public meetings "except as otherwise provided in the constitution," and that the Florida Constitution Article I, § 6, guarantees "the right of employee, by and through a labor organization, to bargain collectively." The court also observed that overexposure of the parties to the "sunrays" of publicity "could cause a damaging case of 'sunburn' to these employees or to the public which elected the board."

Finding that the board's negotiator was publicly employed, reported to the board, and had no authority to bind the board and that discussion of the negotiator's recommendations was public, the appeals court concluded that the negotiator's "recommendations were in a sense simply the acorn from which the final contract grew—in the sunshine. There is no violation." (*Patricia K. Bassett et al., Appellants v. G. Holmes Braddock et al., Appellees*, Florida Supreme Court, May 17, 1972.)

NEW JERSEY

College Calendar Negotiable

The Burlington County (N.J.) Superior Court ruled that the school calendar was within the scope of bargaining and ordered the Burlington County College Board of Trustees to negotiate the calendar with the Burlington County College Faculty Association (BCCFA).

Though the college Board of Trustees had refused to negotiate the school calendar, the BCCFA and the college entered into two successive agreements. As a result, the BCCFA filed suit with the court, contending that under the New Jersey Employer-Employee Relations Act the calendar was a term and condition of employment which required negotiation as part of the contractual relationship between faculty and college.

The college refused to negotiate the calendar with the union claiming that the calendar dealt with educational policy, a "management perogative," and that an existing calendar committee that comprised of six faculty members was a better way to prepare the calendar than to negotiate it with the union since negotiation would disregard the best interests of those for whom the college exists—the students. However, the court learned that the calendar committee was composed of three faculty members who are considered management and three who were not delegated by the association to serve on the committee.

Because the phrase, "terms and conditions of employment," is susceptible to diverse interpretation, the court proceeded to define conditions of employment as "the various physical dimensions of his working environment, what one's hours are to be, what amount of work is expected during those hours, and what periods of relief are available." The court determined that since the calendar governs when an employee shall commence work and the period he shall continue in the performance of his work, it was within the terms and conditions of employment.

Since the court found no reason to conclude that negotiating the calendar would eliminate any permissive participation by students, there appeared no logical reason to eliminate qualified faculty from discussions.

After analyzing the facts and their relation to state statutes, the court ordered the Board of Trustees of Burlington County College to negotiate the college calendar with the BCCFA. (*Burlington County College Faculty Association v. Board of Trustees, Burlington County Colleges*, Superior Court of New Jersey, May 25, 1972.)

NEW YORK

Arbitrator's Decision Granting Tenure Overruled

The New York Supreme Court, Appellate Division, overturned an arbitrator's award because he had exceeded the purview of his authority. According to the court, "the power to grant tenure is vested exclusively within the province of the Board of Higher Education" and therefore denial of tenure may not proceed to arbitration.

After completing two years of her probationary period, a nontenured lecturer was notified during her final year that she would not be recommended for reappointment and granted tenure.

The teacher grieved the decision charging that the board had violated contractual evaluation procedures which require observation of instructors, evaluation conferences, and the chance for instructors to correct deficiencies. Both the college president and the vice-chancellor rejected the grievant's contentions, but did offer to reappoint her as a lecturer for a single terminal year at the same salary with the practical result that she would start over as an untenured lecturer. The teacher rejected the board's offer and proceeded to arbitration.

The majority of the court could find neither statutory nor contractual sanction for the arbitrator's action of conferring tenure. The arbitrator had exceeded the scope of the negotiated agreement which stated that grievances relating to reappointment, tenure, or promotion—which are concerned with matters of academic judgment—may not proceed to arbitration.

The majority concluded that "the only fitting solution is that offered by the board," though previously rejected. The court held that this offer "does no violence to, and gives appropriate recognition to the conceded technical breaches of the collective bargaining agreement."

A minority opinion held that since the board of education failed to observe evaluation procedure requirements and the alternative offer by the board would require the grievant to retrace her employment route with no assurance that the evaluation procedures would then be followed, the arbitrator's award should be confirmed. (*Legislative Conference of the City University of New York v. Board of Higher Education of the City of New York*, New York Supreme Court, Appellate Division, First Department, April 1972.)

Refusal to Negotiate Agency Shop Not an Unfair Labor Practice

A school board's refusal to negotiate an illegal agency shop clause was upheld by the New York Public Employment Relations Board (PERB) and affirmed on appeal, by the New York Supreme Court, Albany County. Accordingly, the petition filed by Monroe-Woodbury Education Association alleging that the Monroe-Woodbury Board of Education committed an unfair labor practice because it refused to negotiate or discuss an agency shop provision, was dismissed in compliance with Section 202 of the Taylor Law. This section provides that "public employees shall have the right to form, join, and participate in, or to refrain from forming, joining, or participating in, any employee organization of their own choosing."

The court observed that the proposed agency shop provision, which would have required employees to pay either union dues or an assessment, contravened the employees' statutory right to decline to participate in a union. Such a proposal, the court said, was clearly illegal, and thus PERB's determination was within its purview. Further, PERB *properly* decided that the school board's refusal to negotiate an agency shop provision did not constitute an unfair labor practice.

In conclusion, the court cautioned that this decision did not establish precedent for PERB's determination of the legality of future negotiation items "which are not so obvious." As a footnote the court observed "that parties to an agreement may negotiate concerning proposals and test their legality by an action for a declaratory judgment." (*Matter of Julia A. Farrigan, Petitioner, v. Robert D. Helsby et al., Respondents*, New York Supreme Court, Albany County, December 16, 1971.)

Class Action Review of Individually Levied Strikes Penalties Held Inappropriate

An objection to a strike penalty must be filed by the individual penalized within the legally prescribed time limit. Therefore, the New York Supreme Court, Dutchess County, found that the "class action" appeal instituted on behalf of some 400 members of the Wappinger Central Faculty Association, who had been *individually* penalized on a case by case basis for striking, was inappropriate. Furthermore, none of the teachers had recourse to further review since they had failed to protest their penalties within the statutory 20-day time limit.

In dismissing the case, the court further observed that there was no evidence that the penalties had been levied in

"an arbitrary or unreasonable manner." (*Martin Maslinoff, Individually, as President of the Wappinger Central School Faculty Association et al., Petitioners, v. Central School District No. 1 of the Towns of Wappinger, Poughkeepsie, Fishkill, La Grange, Dutchess County; Kent, Phillipstown, Putnam County et al., Respondents,* New York Supreme Court, Dutchess County, July 21, 1971.)

PENNSYLVANIA

Strike During Mediation Enjoined

The Pennsylvania Court of Common Pleas established that the South Allegheny Education Association's (SAEA) strike against the South Allegheny School District during mediation of a negotiation impasse violated the Public Employee Relations Act which proscribes strikes during the pendency of collective bargaining.

The strike took place after five months of fruitless negotiation. Evidence indicated that the parties were still engaged in the mediation process when the association went out on strike. Since Section 802 of the Act provides that mediation once begun shall continue until an agreement is reached, the court concluded that collective bargaining was in progress at the time of the strike. In accordance with Sections 1001 and 1002, which prohibit strikes during negotiation, the court issued a preliminary strike injunction. (*South Allegheny School District, Plaintiff, v. South Allegheny Education Association et al., Defendants,* Pennsylvania Court of Common Pleas, Allegheny County, July 23, 1971.)

BOARD FINDINGS AND RULINGS

CONNECTICUT

Reevaluation of School Nurse's Salary Step Placement Disallowed

Where prior to the present agreement the grievant had advanced to the fourth step of the salary schedule, the board did not have the right to unilaterally decide that, because of a prior error, she should be placed on the third step rather than the fifth step for the next year. The board was directed to pay the nurse according to the fifth step of the salary schedule for the first year of the two-year contract and according to the sixth step for the second year.

The present agreement called for the advancement of one step annually for each nurse who had performed satisfactory work. The board made no contention that the grievant had not performed her work satisfactorily, but stated that it would be an inequity for the grievant to retain the service credit she had previously been given. "In the absence of an agreement by the parties that there were inequities that needed adjustment, and further agreement on the manner in which those inequities should be adjusted, the board had no right to make such adjustments, regardless of their good intentions in doing so." (*East Hartford Board of Education and East Hartford School Nurses' Association*, Connecticut State Board of Mediation and Arbitration, December 15, 1971.)

MASSACHUSETTS

City Cannot Pass Laws Negating Negotiated Gains

The Massachusetts Labor Relations Commission ordered the town of Framingham to cease and desist from sponsoring laws which would change or modify a collective bargaining agreement, to immediately effectuate all conditions of employment set forth in existing agreements, and to reimburse or compensate union members for loss of time, overtime, extra vacation, and sick leave.

The Commission's action was prompted by a suit brought by Local 1156, Laborers' International Union of North America, which alleged that the town had refused to bargain in good faith. After agreeing to adopt a negotiated vacation schedule and sick leave provision, the town sponsored and sought passage of legislation which would materially change the agreed upon schedule and provision.

The town admitted that the legislation did alter the "force and effect" of the bargaining agreement, but not to a substantial degree. Rationale for the action was found under Chapter 40 of the General Laws which authorizes municipalities to establish the days and weeks of leave without loss of pay, including sick leave.

The town contended that the newly adopted article was in conflict with the terms of the bargaining agreement, and therefore, according to Chapter 149 of the General Laws, the law should prevail in the event a bargaining agreement was in conflict with any law.

The Commission maintained that the right to bargain with respect to wages, hours, and conditions of employment "would be a hollow right if municipal employers were permitted to circumvent an agreement by refusing to make a good faith effort to amend conflicting by-laws." In the instant case, the town created a conflict by sponsoring a change in bylaws at a town meeting after having negotiated an agreement.

The Commission ruled that the town must effectuate the collective bargaining agreement by changing or modifying laws which conflict with negotiated provisions. The town was ordered to implement these changes and to fulfill all negotiated conditions of employment set forth in the agreement. (*In the matter of Town of Framingham and Local 1156, Laborers' International Union of North America*, Massachusetts Labor Relations Commission, April 24, 1972.)

MICHIGAN

Supervisory Unit Should Be All-Inclusive

The Southgate Supervisors Association's petition for a unit composed of certain public employee supervisors was dismissed by the Michigan Employment Relations Commission (MERC) for failure to include *all* of the city's unrepresented supervisors. The MERC has consistently maintained that "supervisory units should include all unrepresented supervisors of the particular entity involved." In addition, MERC has refused to certify separate supervisory units for lower and higher echelon supervisors on the basis of levels of supervision.

The Commission observed that dismissal of the present petition as inappropriate did not preclude the propriety of a unit representing all of the unrepresented supervisors of the City of Southgate. (*City of Southgate and Southgate Supervisors Association*, Michigan Employment Relations Commission, March 8, 1972.)

NEW YORK

District Ordered to Bargain Over Enrollment of Nonresident Teachers' Children

An arbitrator found that the Clarkstown School District must continue to permit the enrollment of nonresident teachers' children until either the school district bargains to remove the benefit or a court halts the benefit.

Children of nonresident teachers were allowed to enter the system, but the board passed a resolution to the effect

that in the future only children of nonresident teachers who currently have children enrolled would be allowed to enter the system.

The contract required that before a policy affecting conditions of employment may be adopted, the teachers' association must be notified, and the association and the school board must negotiate it. The school district contended that under this provision there was no existing policy to change since the privilege of enrollment was granted to some and denied to others. However, the arbitrator found that a distinction was made in favor of nonresident teachers, encouraging them to enter the employ of the district, and thus constituting a condition of employment.

Rejecting the school district's affirmation of satisfying contractual obligations through negotiation prior to the 1971-72 agreement settlement, the arbitrator stated that to allow the requirement to be satisfied by negotiations after the agreement ends would be to render the negotiation clause meaningless.

The school board advanced two opinions of the State Comptroller, questioning the legality of permitting some nonresident teachers to enroll their children while denying the privilege to other nonresident teachers. The arbitrator found that the comptroller's opinions did not have force of law and that there was no indication that the abandonment of illegal policies was not subject to contract procedures.

The arbitrator determined that once the former policy was reinstated, the next duty was to negotiate. He continued, that failing agreement, the school board may make its own changes, provided it engages in good faith negotiations. Noting that the revised policy had not been in existence for 20 months, he added to the award a provision intended to balance the inequity.

The children of any nonresident teacher denied admission because of the new policy must be admitted to the system for the 1972-73 school year and be allowed to remain in the system for that year unless the time is otherwise limited by the court order. (*Clarkstown Teachers Association and Board of Education, Clarkstown Central School District No. 1, Town of Clarkstown*, Arbitration, February 10, 1972.)

No Taylor Law Violation For Refusal to Negotiate After Legislative Hearing; Changes to Impasse Procedure Recommended

The New York Public Employment Relations Board (PERB) found the Bethlehem School District not guilty of violating the Taylor Law when it refused to resume negotiation with the Bethlehem Central Teachers Association after a fact finder failed to resolve a deadlock and a legislative hearing was held on the impasse. An additional opinion stated that the Taylor Law provision for resolution of final impasse through a district legislative hearing is not functional in school disputes, since the legislative branch is the school board, which is involved in the bargaining process and is not a neutral party in an impasse situation.

After negotiation sessions reached an impasse on salaries and binding arbitration, a mediator was called in and negotiations continued without resolution. A fact finder was appointed, whose report was rejected by the teachers association and in part by the school superintendent. The teachers association's request for resumption of negotiation was refused by the school board, and a legislative hearing was held by the school board in accordance with procedures outlined in the Taylor Law. The school board accepted the superintendent's recommendations and sent out salary notices.

At the hearing the association was again unable to get the school district to resume negotiations. Although school district representatives held later meetings with the teachers association, they lacked the authority to agree to terms different from those adopted at the legislative hearing. Revised proposals drawn up at these meetings were rejected by the school board.

Upon the school board's rejection of the revised proposals, the teachers association authorized a strike and filed an improper practices charge with PERB against the school district.

PERB dismissed the improper practices charge, stating that under the Taylor Law the school board was not required to continue negotiation with the teachers association after the legislative hearing. The labor board also considered whether the school district had engaged in "such acts of extreme provocation as to detract from its [the teachers association's] responsibility for the strike." The PERB noted that though the school district should have continued bargaining after the hearings, the teachers association did not fully utilize means available to settle the dispute in that it neither submitted its recommendations to the school board at the legislative hearing nor presented reasons for rejecting the fact-finder's report.

The PERB stated that submission of such reports would have aided the legislative body's ability to effectively settle the disputes. PERB concluded that since the teachers association did not fully cooperate with the legislative body's attempt to resolve the dispute, the district's refusal to continue negotiation after fulfilling its statutory obligation was not an act of extreme provocation justifying a strike.

The Board revoked the association's dues check-off rights for six months, and before these rights can be restored, the association has to pledge that it will not engaged in another strike.

In a separate concurring opinion, PERB proposed that the Taylor Law's impasse procedures for school districts be revised. The impasse procedure contained in the Taylor Law was designed for government administrations having separate legislative and executive branches, the executive branch negotiating the agreement and the legislative branch resolving disputes. However, in school districts, the executive branch is part of the legislative branch. In collective bargaining, the legislative branch (the school board) is involved in both the negotiating of the agreement and the resolving of disputes, and therefore is not capable of arriving at an impartial final determination. The PERB member recommended that "the arbitral process should receive further consideration as an acceptable alternative." (*Central School District No. 6 and the Bethlehem Central Teachers Association*, Public Employment Relations Board, March 9, 1972.)

Strike Penalties Reduced By PERB

The New York Public Employment Relations Board (PERB) reduced penalties against the Buffalo Teachers Federation (BTF), a National Education Association affiliate, recommended by a trial examiner who found the BTF in violation of the Taylor Law's no strike provision. The trial examiner recommended suspension of dues check-off privileges, retroactive to the start of the work stoppage. PERB ruled that the "forfeiture of dues should be limited to the schools involved and penalties for the three stoppages considered separately."

BTF argued that it did not instigate the strike. The employees staged work stoppages because of dangerous conditions, fear for personal safety, and acts of extreme provocation on the part of school representatives.

PERB found that the work stoppage at one school was neither motivated by concern for the teachers' personal safety nor did it stem from exteme provocation, but rather the stoppage was occasioned by concern for the safety and rights of a teacher involved in an altercation. PERB determined that at a second school, a reasonable basis existed for teachers to have been concerned about their personal safety. PERB concluded that the stoppage at the third school was not caused by "fear for personal safety but rather was the result of faculty frustration" owing to the complete breakdown of discipline.

PERB held that even though there was no evidence of any effort by the administration prior to the strike to effect better discipline and control over the students, this did not constitute extreme provocation. The teachers, PERB continued, should have availed themselves of the grievance procedure which "is designed to avoid the type of self-help action that the teachers engaged herin."

PERB concluded that since BTF did not cause or instigate the strikes, and its participation in them was limited, a city-wide check-off ban was unwarranted. PERB ordered the association's check-off rights at the first and third schools forfeited for three and four months, respectively. Further, during the 12 months following the order, only three-fourths of the annual dues may be deducted from the first school and not more than two-thirds from the third school. Also, check-off rights was not to be restored until BTF pledged that it would not strike, as required by the Taylor Law. (*In the matter of Buffalo Teachers' Federation, Inc.*, Public Employment Relations Board, May 8, 1972.)

PENNSYLVANIA

PLRB Agency Shop Ruling Reversed

A Pennsylvania Labor Relations Board (PLRB) majority reversed itself and dismissed unfair labor practice charges filed by a Pennsylvania State University employee who had been required to pay agency shop dues under the university's contract with Teamsters Local 8. Under prior contract, bargaining unit employees paid dues and fees to the union if they designated it as their exclusive bargaining agent. Under a renegotiated contract, the agency shop provision was expanded, requiring all unit employees to pay dues and fees as a condition of continued employment.

The grievant contended that according to the amended Public Employee Relations Act (PERA), new provisions bargained for in contracts may not provide for a more severe security clause than existed in the prior contract.

The union argued that the agency shop provision in the contract was valid and enforceable under the PERA and that requiring compliance with the provisions as a condition of continued employment did not amount to an unfair practice.

Previously, PLRB agreed with the grievant's contention noting that under the former contract the grievant did not have to pay union fees, which now she must, and ordered the union to reimburse the grievant for all payments made prior to the Board's decision.

In a split decision the majority stated that the language of the enlarged security clause did not offend the PERA since the old agreement contained a security clause. But if such a clause constituted a new item in the renewal contract, the clause would have violated the right of the grievant to refrain from participating in an employee organization and from collective bargaining. However, the initial contract had contained a security clause inconsistent with the Act in requiring more security than the maintenance of membership permitted. Such inconsistency, however, is protected by section 904 of the Act which was designed "to protect all collective bargaining agreements in the public sector which were valid under existing law and in existence as of January 1, 1970."

The minority member on the Board disagreed with the majority's dismissal of charges stating that "under section 401, public employees have the right to organize, form, join or assist in employee organizations or to engage in lawful concerted activities for the purpose of collective bargaining or other mutual aid and protection or to bargain collectively through representatives of their own free choice and such employees shall also have the right to refrain from any or all such activities, except as may be required pursuant to a maintenance of membership provision in a collective bargaining agreement." (*Pennsylvania Labor Relations Board v. Teamsters Local 8 and Pennsylvania State University*, Pennsylvania Labor Relations Board, March 3, 1972.)

RHODE ISLAND

Retired Teachers Receive $258,000 in Severance Pay

A two-member arbitration board ordered the Providence, Rhode Island, School Committee, a non participant in the proceedings, to pay 40 retired teachers servance pay due to them under the terms of a 1968-69 collective bargaining agreement. The arbitration board also ruled that the school committee violated that contract, which stipulated that the committee "agrees that it will apply to all substantially similiar situations the decision of the arbitrator sustanining a grievance," by failing to apply to the instant case a previous binding arbitration award—involving the same issue—which was eventually sustained by the Rhode Island

Supreme Court. The school committee claimed that it was financially unable to comply with the contractual provision regarding retiring teachers.

The Providence Teachers Union held in abeyance severance pay claims of 40 retired teachers while the committee's appeal on the first arbitration award was pending before the supreme court.

After the court handed down its decision, the school board claimed that the severance pay grievances of the 40 teachers were not arbitrable but negotiable. The board based its claim on a portion of the *opinion* of the arbitrator in a prior case which suggested that if the school committee was unable to live up to the terms of the agreement because of inadequate appropriation, it must return to the bargaining table.

In the instant case, the arbitrators pointed out that the school committee's claims were based on an arbitrator's opinion and not his decision, and that an arbitrator may not add to, subtract from, or modify the parties' agreement. They also said that the committee's use of a sentence in the opinion as the decision was a unilateral attempt to modify the agreement and was destructive of the arbitration process and cannot be condoned.

According to the arbitrators, if the school committee was having fiscal problems preventing the carrying out of its severance pay commitment, this was not established by the evidence in record. The committee therefore was ordered to pay the 40 retired grievants. (*Providence Teachers Union Local 958, AFT, and Providence School Committees*, American Arbitration Association, March 28, 1972.)

WISCONSIN

Involuntary Transfer Ruled Punitive

An arbitrator ruled that the Milwaukee Public Schools violated its contract with the Milwaukee Teachers Education Association (MTEA) when the school district involuntarily transferred a teacher without providing him with procedural due process as found in the negotiation agreement.

The principal of the school, at which the grievant was employed as a driver education teacher, and the supervisor of driver education and safety charged the grievant with failure to notify the supervisor of the registration of a new training vehicle, operation of the vehicle other than to and from work, failure to use reasonable judgment in driving the vehicle which resulted in a fire and destruction of the car, and not depositing funds collected for driver education within a reasonable period of time.

The board employed procedures under Part IV, Section T, of the contract to admonish the teacher and to take corrective action. The META argued that the grievance should have been handled under Section S.

MTEA claimed that the administration violated the contract when it involunatrily transferred the grievant by proceeding under Section T, as well as failing to provide a full and fair hearing to the grievant required under Section T, since an erroneous action could have destructive and irreparable effect upon a teacher.

The board contended that in contract negotiation the parties included in Section T both inefficiency and bad behavior within the concept of "just cause." Therefore, non-punitive action, including reassignment or involuntary transfer, is appropriate where inefficiency rather than misconduct is charged.

The board also contended that a hearing under Section T before the Committee on Rules and Complaints was not necessary. Such a hearing merely provides the grievant with the opportunity to appeal the superintendent's decision. By not appealing the superintendent's decision and provide a hearing, a teacher could frustrate proceedings and delay action contrary to student interest.

The arbitrator interpreted Section T as "concerning only discipline and disciplinary penalties" and as barring involuntary transfer of a teacher for misconduct. Section S deals with evaluating performance and allows for involuntary transfer if it can help the teacher to improve. The arbitrator's opinion was that the administration could not impose a prohibited transfer in a Section T proceeding, charging a teacher with misconduct merely because it was characterized as "intended to be corrective rather than punitive."

The arbitrator agreed with META's argument that no action should have been taken before exhaustion or waiver of the procedures in Section T which allow for a hearing by the Committee.

The arbitrator ruled that the administration violated the contract when it proceeded under Section T of the contract and transferred the grievant against his wishes and when it took action against the grievant before providing a hearing by the Committee on Rules and Complaints. (*In the matter of Milwaukee Teachers Education Association and Milwaukee Board of School Directors*, Arbitrator's Opinion and Award, April 20, 1972.)

NEGOTIATION NOTES

CONNECTICUT

Labor Relations Act Amended

An amendment to the Connecticut State Labor Relations Act gives the Labor Commissioner the power to make and enforce rules concerning safe working conditions. The rules, however, must be consistent with accepted engineering standards and conducive to public safety. The Commissioner is also authorized to appoint an Industrial Safety Commission which will advise the Commissioner in establishing safety codes.

The safety commission is to be composed of three representatives each of workers, employers, and the public, with one representative each of an insurance company licensed to write workmen's compensation insurance and of a company licensed to write fire and casualty insurance. Persons failing to comply with the orders of the Commissioner are to be fined not more than $500 for each offense.

NEW YORK

PERB Urges No Additional Disclosures During Negotiation

Citing the public's need to know the full details of agreements reached with public employees, Governor Nelson Rockefeller requested the Public Employment Relations Board (PERB) to study the problem of public disclosure following negotiations. The governor further instructed PERB to make specific recommendations on this subject including any necessary amendments to the Taylor Law.

PERB broadened the analysis of the disclosure question to encompass six stages of the negotiation process: (a) prior to third-party assistance, (b) during the course of mediation, (c) during the course of fact-finding, (d) after the fact finder has rendered his report and recommendations but before agreement, (e) after agreement has been reached but prior to employee ratification, and (f) after agreement has been reached but prior to enactment of legislation required to implement the agreement.

PERB solicited the opinions of public employers and employees, the media, mediators and fact finders, and recognized industrial and labor relations experts concerning the amount of information that should be disclosed during each step of the process. Questionaires soliciting information on what actually occurred in respect to disclosure during the course of negotiations and their opinions were sent to the parties in impasse situations in which the fact-finding report and recommendations had not been acted upon within 10 days.

On the basis of the inquiry and the responses of the parties involved, PERB recommended that the Taylor Law not be changed regarding disclosure. Legislation in this area was unnecessary, PERB said, "because the basic details of most agreements are made public either when the agreement was reached or after employee ratification and if negotiation impasses go to fact finding, the fact finder's recommendations are required by law to be made public five days after receipt by the parties. And if a legislative hearing is required, the law mandates a public hearing."

Public employers and employees agreed that there should be no public disclosure prior to ratification, submission of the fact-finders report, or action by the legislative body. The media response called for disclosure of the opening position of the parties, limited disclosure during the course of negotiations by means of periodic progress reports, and full disclosure once agreement has been reached. Fact finders unanimously agreed that there should be no disclosure until the beginning of fact-finding.

The parties generally agreed that there should be no additional disclosure because the negotiating process would be inhibited, thereby further polarizing the parties. Further, political pressures to turn down negotiated agreements would be brought against the legislative body with the result that negotiated agreements would be rejected in greater numbers.

SOUTH CAROLINA

Union Organizing Activities Restricted

Laws regulating solicitation of membership for organizations were enacted by Barnwell, Abbeville, Edgefield, Kershaw, Lee, Marlboro, McCormick, and Williamsburg counties of South Carolina. The laws adopted by each county were similar to the law adopted by Barnwell County.

According to the law enacted by Barnwell county, anyone soliciting membership for any organization or union must obtain a 60-day permit from the County Board of Managers. The permit must be kept on his person while soliciting memberships, and can be revoked if false information is given in obtaining the permit or if any other "good and sufficient" cause is found. Violation of the regulation is punishable by a fine of not more than $500 or imprisonment for not more than 90 days for each offense.

Kershaw county's law applies only to nonresident persons, firms, or corporations desiring to solicit membership. In Abbeville, McCormick, Florence, and Lee counties, organizations which limit memberships to persons engaged in hazardous occupations are not affected by the law. Additionaly in Florence, Edgefield, and Lee counties, one year of residency in the county prior to application for a permit is required. Further, in Florence any organization subject to the Railway Labor Act is authorized to solicit memberships without being required to procure any type of permit.

FEDERAL

Wage Recovery Suit Dismissed For Lack Of Jurisdiction

Ruling that it did not have jurisdiction, the U.S. District Court of Idaho dismissed a case brought by present and former employees against the Idaho State School and Hospital. According to the court, previous cases established the right of the United States, as a person, or a federal agency to sue a state for violation of various federal statutes relating to interstate commerce *(Wirtz vs. Maryland,* 392 U.S. 183, 20).

The plaintiffs alleged that while employed at the institution they frequently worked over forty hours per week and that "the defendants had failed and refused to compensate them at rates not less than one and one-half times the regular rates at which they were employed, which is contrary to the express requirements of the FLSA [Fair Labor Standards Act]."

The plaintiffs contended that they had a cause of action against the State of Idaho since the state had violated the FLSA as amended by Congress in 1966, and had waived its sovereign immunity by failing to discontinue operation of the facility after enactment of the 1966 amendments.

The defendant argued that the court did not have jurisdiction since the Eleventh Amendment to the Constitution of the United States denies citizens of a state the right to sue that state in a federal court, notwithstanding any act of Congress to the contrary, and that the State of Idaho had not waived its sovereign immunity from suit as provided by the Eleventh Amendment.

According to the court, "the 1966 amendment has created a rather anomalous situation inasmuch as it would appear to abrogate the doctrine of state immunity from suit by its own citizens in federal courts." The court decided to consider the issue of whether the plaintiffs, as private citizens, could sue the defendant since FLSA is silent on the issue, and congressional debate did not discuss intent regarding the issue.

The court pointed out that the defendant had not automatically waived its immunity by failing to discontinue its operation of a school for the mentally ill after the enactment of the 1966 amendment, since discontinuance would require an amendment to the Idaho Constitution which mandates operation of the facility. Further adherence to FLSA regulations does not constitute a waiver of immunity. The fact that the state established the Idaho Personnel Commission in 1965, which provides for administrative redress and enforcement of the method of payment and rate of compensation with respect to state employees, "is a clear expression by the Idaho Legislature that it has not waived its Eleventh Amendment right to immunity."

The federal court dismissed the case for lack of jurisdiction on the grounds that the State of Idaho and any agency of the state are immune from federal suit under the FLSA by private citizens of that state. *(John Leroy Hickman et al., Plaintiffs v. Idaho State School and Hospital et al., Defendants,* United States District Court, District of Idaho, March 14, 1972.)

Texas' Anti-picketing Laws Voided

The United States District Court, Southern District, granted the United Farm Workers (UFW) Organizing Committee's suit for declaratory relief, enjoined a lower court restraining order and law enforcement officials' suppression of the UFW's efforts to organize predominatly Mexican-American farm laborers.

The federal court determined that state statutes, five of which were declared unconstitutional for "overbreadth," had been "used as a tool for the continuous harrassment" of the organizers. "Overbreadth" applies when the reasonable application of legal sanctions would proscribe constitutionally protected activities. The court found that the activities of the UFW during a month-long strike, i.e., picketing, mass meetings and other reasonable methods of persuasion, are protected under the first amendment as "symbolic speech."

Thus, the farm workers suffered "irreparable harm" when law enforcement officers suppressed and a lower court enjoined the UFW's constitutionally protected efforts to better the farm laborer's lot by enforcing and upholding vaguely defined ordinances that proscribed mass picketing, applied a mathematical strait jacket to permissible picketing, outlawed reasonable methods of persuasion, and restricted freedom of speech. Such ordinances, the court held, abridged the workers' first amendment rights and were null and void.

Evidence indicated that the tactics of the law enforcement officers, which included dispersing crowds with threats of arrest, arresting and releasing pickets without filing charges, abusing the bond system, onesided filing of complaints, and supporting an anti-union newspaper, overstepped the "line of neutral law enforcement."

In addition, the federal court determined that the state court's prosecution and injunction of the UFW's activities had been instituted in bad faith for the purpose of harrassment. Accordingly, the union was awarded declaratory relief and a permanent injunction restraining any further interference with its civil rights. *(Francisco Medrano et al., Plaintiffs, v. A. Y. Allee et al., Defendants,* United States District Court, Southern District, Texas, Brownsville Division, June 26, 1972.)

The Consumer Price Index, August 1972

According to the U.S. Department of Labor, Bureau of Labor Statistics (BLS), the Consumer Price Index (CPI) rose 0.2 percent in August to 125.7 (1967=100), down from the 0.4 percent increase recorded in July.

The August CPI increase held at 0.2 percent after seasonal adjustment. During the first year of the Economic Stabilization Program, the CPI rose 2.9 percent, in the 12 months prior to the stabilization program, the annual rate of increase was 4.4 percent.

The August increases reflected higher prices for meats, restaurant meals, gasoline, and household services. The effects of these prices were offset by lower prices for apparel and new and used cars. The food index, which includes both food purchased in grocery stores and restaurant meals, rose 0.5 percent after seasonal adjustments, compared with 0.6 percent in July.

ATTORNEY GENERALS' OPINIONS

Colorado

DUTY TO BARGAIN WITH PUBLIC EMPLOYEES. . .

In the absence of specific legislation for state colleges to recognize a unit or enter into collective negotiations with their employees, permitting dues checkoff does not create an employee unit for negotiation purposes.

Hawaii

COLLECTIVE BARGAINING - COST ITEMS. . .

Cost items which are bargainable are those for which no new or additional appropriations are necessary, or for which appropriations for implementation have been made. For bargaining purposes, legislative approval is necessary for those cost items for which new appropriations must be made by the legislature.

Oregon

IMPACT OF SENIORITY ON COMPENSATION, BARGAINABLE. . .

Despite a legislative statute narrowing bargaining rights of classified school district personnel, questions relating to seniority which affect the present or future compensation of these school employees are bargainable items. The phrase, "related economic issues," is to vague to provide guidance on what subjects are limited.

FACT-FINDING REPORTS NOT BINDING. . .

School boards are not obliged to adopt a fact-finder's recommendations conducted by the Commissioner of Labor and Management since school boards are not required to come to an agreement with teachers in the collective bargaining sense. A fact finder's decision carries only *moral weight.*

COLLEGE FACULTY ASSOCIATION A LABOR ORGANIZATION. . .

Since the primary purpose of local chapters of a university professors association is the negotiation of salaries, fringe benefits, and tenure of academic employees, these chapters are labor organizations in the fullest sense, and are entitled to dues check off privileges.

South Dakota

TEACHERS: NON ECONOMIC ITEMS NOT BARGAINABLE. . .

Although state law allows teachers organizations to bargain on wages, hours, and conditions of employment, they have no legislative guarantees that school boards must negotiate curriculums, teaching methods, grade leveling, schedules, classroom procedures, some aspects of discipline and conduct, physical training, or some aspects of financing and other matters inherent to the general charge, direction, and management of schools.

STATISTICS

TRENDS IN NEGOTIABLE ITEMS FOR TEACHERS

Every other year since 1966-67, the NEA Research Division has tabulated the content of negotiation agreements, and compiled a master index of 177 negotiated provisions containing more than 300 variables. The data compiled from agreements received in the negotiation survey are published in the *Negotiation Agreement Provisions* (NAP). The completed analysis of the 1970-71 negotiation survey reveals interesting data on the prevalence, growth, and decline of negotiated provisions found in agreements.

Three negotiated provisions have appeared in over 75 percent of the comprehensive agreements in all three compilations of the NAP: salary schedules, grievance procedures, and sick leave. In addition, 12 provisions have appeared in over 50 percent of the comprehensive agreements in the three survey years: pupil-teacher ratio or class size, teaching hours or day, duty-free planning periods, duty-free lunch periods, transfers, pupil discipline or assault cases, procedure for teacher evaluation, salary credit for prior experience and growth, salary increments for additional professional preparation, extra-duty pay, health insurance, and maternity leave.

The growth and decline of certain negotiated provisions is indicative of the current trends in negotiation activity. Increasing significantly from 1966-67 to 1970-71 were provisions regarding teacher qualifications, teacher aids, professional growth or inservice training, regular teachers' meetings, binding arbitration of grievances, health and life insurance, leaves of absence for personal and professional reasons, and pay periods.

The negotiated provisions that have declined significantly are development of tax or bond issues, distribution of budgetary items, selection and distribution of textbooks, instructional aids, supervision of student extracurricular activities, integration of education, individual contract terms, teaching assignments, promotion to higher classifications, professional code of ethics, compensation for damaged or stolen property, and salary increments for additional professional preparation.

TABLE 1.—NUMBER AND PERCENT OF COMPREHENSIVE AGREEMENTS BY TYPE OF PROVISION, 1966-67, 1968-69, AND 1970-71

Items	1966-67		1968-69		1970-71	
	Number of agreements	Percent	Number of agreements	Percent	Number of agreements	Percent
1	2	3	4	5	6	7
TOTAL NUMBER OF AGREEMENTS ANALYZED	389	100.0	978	100.0	1,529	100.0
Instructional Program						
Curriculum review	85	21.8	173	17.7	395	25.8
Teacher qualifications	66	17.0	221	22.6	470	30.7
Special education programs	59	15.2	178	18.2	327	21.4
Tax/bond programs	67	17.2	62	6.3	45	2.9
State/federal fund application	26	6.7	38	3.9	54	3.5
Test evaluation and application	4	1.0	16	1.6	15	1.0
Budgetary item distribution	58	14.9	19	1.9	43	2.8
Teacher evaluation	48	12.3	62	6.3	106	6.9
Textbook selection and distribution	140	36.0	317	32.4	366	23.9
Pupil-teacher ratio/class size	222	57.1	577	59.0	888	58.1
Instructional aids	169	43.4	244	24.9	306	20.0
Secretarial/clerical assistance	36	9.2	115	11.8	182	11.9
School calendar or year	252	64.8	441	45.1	897	58.7
Pupil progress reports	19	4.9	69	7.0	100	6.5
Extracurricular activities	131	33.7	209	21.4	292	19.1
Parent-teacher conferences	94	24.2	200	20.4	466	30.5
Integration	116	29.8	19	1.9	60	3.9
Teacher Aides	73	18.8	285	29.1	489	32.0

TABLE 1.–NUMBER AND PERCENT OF COMPREHENSIVE AGREEMENTS BY TYPE OF PROVISION, 1966-67, 1968-69, AND 1970-71 (Continued)

Items	1966-67		1968-69		1970-71	
	Number of agreements	Percent	Number of agreements	Percent	Number of agreements	Percent
1	2	3	4	5	6	7
Personnel Policies and Practices						
Individual contracts	184	47.3	108	11.0	364	23.8
Teaching hours or day	194	51.2	513	52.5	819	53.6
Teaching load/class schedule	192	49.4	429	50.3	654	42.8
Subject area assignment	242	62.2	517	52.9	695	45.5
Special education assignment	43	11.0	269	27.5	354	23.2
Hours before and after class	153	39.3	425	43.4	606	39.6
Duty-free planning periods	211	54.2	509	52.0	805	52.7
Duty-free lunch period (elementary)	237	60.9	584	59.7	884	57.8
Duty-free lunch period (secondary)	222	57.1	575	58.8	852	55.7
Non-classroom service duties	187	48.1	421	43.0	617	40.4
Promotions	242	62.2	463	47.3	703	46.0
Professional growth/inservice training	112	28.8	513	52.5	754	49.3
Regular teacher meetings	131	33.7	373	38.1	720	47.1
Transfers	261	67.1	558	57.1	886	57.9
Dismissal and resignation	114	29.3	157	16.1	358	23.4
Grievance procedure	347	89.2	889	90.9	1,362	89.1
Binding arbitration	130	33.4	398	40.7	672	44.0
Code of ethics	133	34.2	298	30.5	346	22.6
Teacher reprimand	157	40.4	342	35.0	521	34.1
Teacher protection/pupil discipline	230	59.1	589	60.2	824	53.9
Personnel file	173	44.5	575	58.8	749	49.0
Damaged/stolen property reimbursements	133	34.2	238	24.3	307	20.1
Teacher evaluation procedures	241	62.0	595	60.8	884	57.8
Teacher facilities	212	54.5	506	51.7	690	45.1
Substitute teachers	57	14.6	442	45.2	580	37.9
Salary						
Salary schedule	357	91.8	951	97.2	1,393	91.1
Credit for prior experience	261	67.1	606	62.0	1,080	70.6
Professional preparation increments	352	90.5	773	79.0	936	61.2
Extra-duty pay	277	71.2	793	81.1	1,130	73.9
Overtime pay	111	28.5	282	28.8	365	23.9
Other than full-time pay	112	28.8	179	18.3	244	16.0
Pay period	111	28.5	396	40.5	758	49.6
Fringe Benefits						
Tuition reimbursement	97	24.9	238	24.3	489	32.0
Health services	46	11.8	19	1.9	34	2.2
Terminal leave/severance pay	106	27.2	263	26.9	351	23.0
Travel allowance	93	23.9	264	27.0	297	10.4
Professional dues	1	0.3	3	0.3	7	0.5

TABLE 1.–NUMBER AND PERCENT OF COMPREHENSIVE AGREEMENTS BY TYPE OF PROVISION, 1966-67, 1968-69, AND 1970-71 (Continued)

Items	1966-67		1968-69		1970-71	
	Number of agreements	Percent	Number of agreements	Percent	Number of agreements	Percent
1	2	3	4	5	6	7
Health insurance	231	59.4	712	72.8	1,326	86.7
Liability insurance	96	24.7	79	8.1	138	9.0
Life insurance	52	13.4	103	10.5	532	34.8
Workmen's compensation	26	6.7	374	38.2	475	31.1
Income protection	52	13.4	100	10.2	168	11.0
Pension/retirement	7	1.8	41	4.2	40	2.6
Tax-sheltered annuity	57	14.7	283	28.9	411	26.9
Sick leave	313	80.5	885	90.5	1,339	87.6
Sabbatical leave	126	32.4	563	57.6	920	60.2
Bereavement leave	142	36.5	698	71.4	1,125	73.6
Personal business leave	169	43.4	783	80.1	1,243	81.3
Political/public office leave	99	25.4	190	19.4	260	17.0
Exchange teaching leave	39	10.0	209	21.4	408	26.7
Peace Corps	92	23.6	274	28.0	437	28.6
Maternity leave	233	59.9	660	67.5	1,051	68.7
Military leave	193	49.6	504	51.5	554	36.2

AVERAGE ANNUAL SALARY SCALES OF PATROLMEN AND FIREFIGHTERS INCREASED 6.6 PERCENT IN 1971

A Department of Labor, Bureau of Labor Statistics (BLS), study revealed that salary scales for firefighters and patrolmen were 6.6 percent higher in January 1972 than in January 1971. The survey was conducted in cities with 100,000 population or more, and limited to the rank of firefighters and patrolmen. Minimum and maximum annual salary scales for patrolmen averaged $9,454 and $11,287, respectively; firefighters averaged $9,026 and $10,718.

Over a five year period, 1966-70, firefighters' and patrolmen's salaries have increased at about equal rates. For 1971, scales for patrolmen advanced 6.6 percent and firefighters at 6.5 percent; combined maximums rose 6.7 percent. Excluding one out of five cities which showed either no change or a decrease in 1971, the combined average maximum increase rose to 8.2 percent.

From January 1967 to January 1972, combined minimum and maximum salary scales of patrolmen and firefighters rose at annual rates of 7.9 and 7.7 percent respectively. Comparative minimum and maximum figures for federal classified employees and urban public classroom teachers rose at annual rates of 6.1 and 6.5 percent respectively. Hourly wages of production and nonsupervisory workers in the private nonfarm economy and salaries of white-collar employees rose at annual rates ranging from 5.4 to 6.5 percent.

The highest annual minimum and maximum increases for patrolmen and firefighters were recorded in Northeastern cities, while the lowest increases were found in the South. Western cities showed the second largest increases, to maintain their position atop the salary scale.

Average minimum salary scales for patrolmen in the larger cities ranged from $8,385 in cities of 100,000 but less than 250,000 inhabitants, to $10,454 in cities of 1 million or more; firefighters average minimum salary scales varied from $8,125 to $10,385, respectively. Maximum average salary scales ranged from $9,989 to $12,389 for patrolmen and from $9,658 to $12,247 for firefighters.

Table 1 gives a breakdown of patrolmen and firefighters salary scale minimums and maximums by year, region, city, and size.

TABLE 1.–AVERAGE MINIMUM AND MAXIMUM ANNUAL SALARY SCALES OF FIREMEN AND POLICEMEN BY CITY, SIZE, AND REGION, 1967-1972

Employee group and year	All cities 100,000 and over	City size: 1,000,000 and over	500,000 to 999,999	250,000 to 449,999	100,000 to 249,999	Region[a]: Northeast	South	North Central	West
MINIMUM ANNUAL SCALES									
Firemen:									
1967	$ 6,251	$ 6,988	$ 6,106	$ 5,996	$5,636	$ 6,452	$5,266	$ 6,349	$ 7,165
1968	6,753	7,623	6,636	6,335	6,063	7,148	5,681	6,704	7,624
1969	7,413	8,497	7,338	6,890	6,574	7,995	6,182	7,444	8,124
1970	8,041	9,253	7,786	7,685	7,103	8,651	6,678	8,189	8,813
1971	8,490	9,596	8,215	8,179	7,674	9,029	6,980	8,827	9,396
1972	9,026	10,385	8,759	8,480	8,125	9,863	7,273	9,245	9,967
Policemen:									
1967	6,470	6,977	6,154	6,130	5,802	6,617	5,472	6,554	7,260
1968	7,019	7,628	6,741	6,480	6,212	7,322	5,909	7,011	7,736
1969	7,741	8,540	7,274	7,066	6,739	8,231	6,480	7,720	8,210
1970	8,448	9,300	7,888	7,926	7,357	8,953	7,001	8,553	8,953
1971	8,874	9,675	8,291	8,414	7,942	9,257	7,339	9,219	9,518
1972	9,454	10,454	8,768	8,747	8,385	10,158	7,660	9,598	10,060
MAXIMUM ANNUAL SCALES									
Firemen:									
1967	7,463	8,508	7,221	7,085	6,636	7,885	6,298	7,432	8,385
1968	7,982	9,015	7,865	7,486	7,143	8,376	6,898	7,936	8,870
1969	8,736	10,033	8,591	8,158	7,744	9,247	7,497	8,876	9,444
1970	9,482	10,828	9,293	9,089	8,349	9,960	8,150	9,710	10,353
1971	10,060	11,327	9,839	9,649	9,080	10,368	8,549	10,489	11,296
1972	10,718	12,247	10,485	10,080	9,658	11,225	8,990	11,099	12,030
Policemen:									
1967	7,816	8,503	7,504	7,245	6,844	8,117	6,603	7,852	8,554
1968	8,313	8,976	8,127	7,657	7,338	8,545	7,232	8,377	9,044
1969	9,196	10,101	8,678	8,509	7,982	9,522	7,896	9,461	9,641
1970	10,017	10,927	9,616	9,385	8,648	10,275	8,596	10,424	10,598
1971	10,576	11,452	10,109	9,960	9,408	10,563	9,091	11,230	11,611
1972	11,287	12,389	10,668	10,426	9,989	11,479	9,488	11,902	12,307

SOURCE: "Firemen's And Policemen's Salary Scales Increased 6.6 Percent In 1971," *U.S. Department of Labor, Bureau of Labor, Statistics* (Press Release) August 15, 1972.

[a] Regions used in these studies are: NORTHEAST–Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island and Vermont; SOUTH–Alabama, Arkansas, Delaware, District of Columbia, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia; NORTH CENTRAL–Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin; and WEST–Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

Data relate only to cities that had a population of 100,000 or more in 1970.

SPECIAL REPORTS

TEACHER EVALUATION CRITERIA IN NEGOTIATED CONTRACTS

Evaluating teacher performance can be an illusive and subjective appraisal, unless conducted in a structured, objective manner and based on sound criteria which are judicious and reflective of a desired educational goal. Effective evaluations are intended to improve teaching performance and to stimulate professional growth. All evaluation criteria are closely intertwined, as they together, yet separately, reflect the attitudes toward the educational process and the objectives to be derived from them.

A study of 1970-71 negotiated comprehensive classroom teacher agreements revealed that 91 of 1,529 agreements in systems with 1,000 or more pupils enrolled contained provisions related to evaluation for rating teacher performance. Of these provisions, 51 established a joint committee to develop and/or discuss possible evaluation criteria, and 40 contained provisions with criteria to be observed in an appraisal. (Note Table 1.)

No standardized set of criteria was found in the agreements. Contract language varied, presenting criteria which are comparative but not identical. The evaluation criteria are intended to gauge the effectiveness of a teacher's job through observable factors which contribute to the learning process both inside and outside the classroom. The identified factors, as illustrations, are presented merely to show what is contained in teacher-school board contracts. They are not necessarily exemplary.

The analysis revealed four identifiable criteria items: classroom environment, professional qualities, working relationships, and personal appearance. Every provision listed classroom environment and professional qualities as yardsticks for measuring teacher performance, while working relationships and personal appearance were found in 85.0 and 62.5 percent of the provisions, respectively.

The analyzed provisions listed the criteria either in a structured evaluation form (62.5 percent) or in an informal manner, suggestive of a "guidelines" format (37.5 percent), with factors listed for observation. The presence in a contract of either a structured or guidelines form does not lessen the inherent subjectiveness of the evaluation. However, the scope of the evaluation is limited to what appears in the contract as observable and upon which some type of judgment must be made. (Note Table 2.)

The analysis itself presents what was found in agreements under the four criteria items. Grouping of the various factors was made to reflect the general area under which a particular factor most fit. Overlapping is evident and integral, as each factor impinges in some way on another and is interrelated in the educational process.

TABLE 1.—NEGOTIATED AGREEMENTS: CRITERIA FOR EVALUATING TEACHER PERFORMANCE, 1970-71

Item	Number	Percent
1	2	3
Total number of agreements analyzed	1,529	...
Agreements containing provisions relating to teacher evaluation criteria	91	100.0
Joint committees to formulate teacher evaluation criteria	51	56.0
Provisions containing actual items of teacher evaluation criteria	40	44.0
Total number of provisions containing items of teacher evaluation criteria	40	100.0
Presentation of evaluation criteria:		
Evaluation rating form	25	62.5
Guideline evaluation form	15	37.5
Items of criteria contained in provisions relative to:		
Classroom environment	40	100.0
Professional qualities	40	100.0
Working relationships	34	85.0
Physical appearance	27	62.5

CLASSROOM ENVIRONMENT

In every evaluation provision, numerous factors concerned classroom performance. These areas tended to cluster in three functional areas, teacher presentation of subject, pupil-teacher interaction, and the physical appearance of the classroom. More factors regarding the teacher's presentation than regarding pupil-teacher interaction were identified, indicating that the area to be observed is the mechanical or performance aspect rather than the area of human response and receptivity, or results of the educational process.

In general, all classroom evaluation criteria provisions contained one or more common factors to gauge the teacher's presentation. The three most common factors were indications of lesson preparation, attention to pupils' individual needs, and presentation of subject matter. Two factors appearing with lesser frequency were implementation of new teaching methods and means of evaluating pupils. All five factors were not found separately in every contract, but in various combinations. In some contracts, provisions were so worded as to combine two or more of these factors in a broad based statement, while other provisions contained detailed and precisely worded statements which combined were identified as one factor. (See Table 3.)

The more concrete measurements for gauging job performance were found in those agreements, more than two-thirds, which appraised the classroom learning environment

through the teacher's lesson preparations and the manner in which the lesson was presented for the pupils' digestion. These factors were described, respectively, as:

> evidence of long-range and daily planning and objectives.
>
> **[Grandville, Michigan]**

or as:

> effective use of appropriate methods, techniques, materials and time.
>
> **[Brockton, New York]**

TABLE 2.–PRESENTATION OF TEACHER EVALUATION CRITERIA

Item	Number	Percent
1	2	3
Total number of provisions containing items of teacher evaluation criteria	40	100.0
Provisions containing items of criteria in structured evaluation forms	25	62.5
Provisions containing criteria in guideline form	15	37.5
Provisions containing items of criteria in structured evaluation forms	25	62.5
Number of criteria items contained in evaluation forms:		
under 10 items	2	5.0
10-19 items	8	20.0
20-29 items	10	25.0
30-39 items	4	10.0
40-49 items	1	2.5
How teachers are evaluated:		
Set ratings scales	22	55.0
Scale of 1-2	4	10.0
Scale of 1-3	4	10.0
Scale of 1-4	3	7.5
Scale of 1-5	5	12.5
Scale of 1-7	5	12.5
Scale of 1-10	1	2.5
Set rating scales and written comments	19	47.5
Set ratings only	3	7.5
Written comments only	3	7.5
Types of evaluation criteria:		
Descriptive criteria items	18	45.0
Broad criteria items	7	17.5
Provisions containing criteria in guideline form	15	37.5
Number of criteria items included:		
Under 10 items	9	22.5
10-19 items	3	7.5
20-29 items	1	2.5
30-39 items	1	2.5
40-49 items	1	2.5
Types of evaluation criteria:		
broad criteria items	8	20.0
descriptive criteria items	7	17.5

Placing the onus for the creation of the learning environment on the teacher, some contracts charged the appraisor to look for the teacher's "ability to develop a plan of action and follow it," *[North Babylon, New York]* or to observe whether the teacher demonstrates an "insight in the choice of teaching methods and effectiveness in their use." *[Grand Ledge, Michigan]*

TABLE 3.–CRITERIA RELATING TO CLASSROOM ENVIRONMENT

Item	Number	Percent
1	2	3
Provisions containing criteria relating to classroom environment	40	100.0
Criteria relating to pupil-teacher interaction	37	92.5
Student rapport	32	80.0
Teacher's authority	25	62.5
Pupil participation	9	22.5
Criteria relating to the instructional program	40	100.0
Teacher's preparation of lessons	29	72.5
Attention to pupil's individual needs	28	70.0
Presentation of subject matter	27	67.5
Use of new methods	18	45.0
Means of evaluating students	15	37.5
Criteria relating to the classroom's physical appearance	28	70.0

Closely allied are factors which dealt with the teacher's attention to pupil's individual needs. One contract provision phrased it as "recognizing the differences in individual pupils by utilizing pupil records and translating the subject matter into terms understandable to each student." *[Grand Ledge, Michigan]* Another provision listed several ways in which a teacher demonstrates his attention to student needs:

> recognizes and provides for individual differences by:
>
> A. using personnel records
>
> B. conferring with professional staff and/or parents about individual progress and/or problems.
>
> C. providing for individual interests and needs
>
> D. recognizing and commending in a prudent manner desirable characteristics of pupils.
>
> **[Brockton, New York]**

Factors which appeared in less than one-half of the analyzed provisions observed the classroom environment through the implementation of the instructional program, namely, utilization of new teaching materials and evaluation of pupil's progress. Examples of these items are similar to the following:

> initiates new ideas and methods; experiments with new techniques; constantly stimulates pupils to develop new ideas and suggestion.
>
> **[West Springfield, Massachusetts]**

is realistic in evaluating student progress and uses varied techniques in evaluation of student progress.

[Albuquerque, New Mexico]

Three factors were identified as measures of pupil-teacher interaction: student rapport, teacher's authority, and pupil participation in class activity. While pupil-teacher interaction factors were not identifiable in all the classroom environment evaluation criteria provisions, student rapport was the most common single factor, identified in 8 out of 10 provisions. Teacher's authority was found in over half of the provisions, and pupil participation was found in less than one-fourth of the criteria.

Student rapport, which concerns the learning relationship was described in the Glen Ridge, New Jersey agreement as the "teacher's ability to communicate with students," while the Comstock Park, Michigan, contract defines it as the "ability to gain respect and cooperation of students."

Granted that student rapport is an essential element for measuring teaching performance, it is also a nebulous, evaluative factor which asks the appraisor to observe "communication" and measure "respect and cooperation."

Pupil participation in the classroom activity was based on the encouragement and stimulation of the pupil by the teacher in an effort to increase the students' role in the educational process. The following reprint illustrates this factor as it appeared in agreements.

accepts and encourages, rather than critizes, student's ideas; he (the teacher) talks less, encourages student-initiated ideas.

[Auburn, New York]

The remaining factor most often found as an index for rating pupil-teacher interaction was the teacher's control of and authority in the classroom. Examples of this factor are:

handles own pupil behavior problems, except in extreme cases.

[Casper, Wyoming]

or from another perspective,

creates a climate of mutual respect and regard, controls classroom situation.

[Cumberland, Rhode Island]

A somewhat unrelated factor, classroom appearance, was also identified under the classroom environment criterion. The evaluator was asked to observe the physical surroundings of the classroom insofar as they are within the teacher's control. Though this factor is not an integral part of the learning process, it warranted attention since the physical characteristics of the classroom are conducive to learning. The following provision illustrates this factor.

room reflects interests and experience of children; colorful; attractive; livable; orderly environment conducive to learning. Arranges efficiently the mechanical details of the classroom. (i.e., the care of materials, etc.) Controls physical aspects as far as possible (lights, ventilation, heat, etc.). Reports to proper persons those needing attention.

[Clio, Michigan]

TEACHER'S PROFESSIONAL QUALITIES

Since education is an on-going and changing process, performance was also judged on the teacher's professional attributes, with many contracts rating the teacher's professional qualifications, and professional attitudes. (Table 4.)

More than three-fourths of the provisions stressed professional qualifications as a necessary ingredient in assessing the teacher's professional capacity through either an assessment of the teacher's knowledge of the subject matter or participation in professional growth programs. While almost one-fourth of the provisions contained either knowledge of subject or professional growth, almost one-third indicated some measurement relative to both.

TABLE 4.—CRITERIA RELATING TO TEACHER'S PROFESSIONAL QUALITIES

Item	Number	Percent
1	2	3
Provisions containing criteria items relating to teacher's professional qualities	40	100.0
Criteria items relating to teacher's professional qualifications	32	80.0
Criteria items relating to both knowledge of subject matter and professional growth	13	32.5
Criteria relating only to professional growth	10	25.0
Criteria relating only to knowledge of subject matter	9	22.5
Criteria items relating to teacher's professional attitude	31	77.5
Dependability	20	50.0
Resourcefulness	18	45.0
Tact and judgment	16	40.0
Enthusiasm	12	30.0
Sense of humor	9	22.5

The following sample provisions are illustrative:

has taken positive steps to improve his professional competence such as taking courses, attending a professional workshop, participating in a study program of the work and activities of professional educational organizations.

[Tenafly, New Jersey]

demonstrates on the job an effective command of the pertinent knowledge and the required skills of the subject being taught.

[Escanaba, Michigan]

In combination with either of the above factors, the observer was asked to assess a teacher's professional attitudes in 77.5 percent of the provisions analyzed. The qual-

ities most often considered as contributing to professional attitude were resourcefulness, dependability, tact, good judgment, enthusiasm, and a sense of humor. Dependability in the performance of duty was singled out as a primary requisite in half of the agreements. Weight was also placed on the teacher's ability to adjust to a new situation or classroom development. The following provisions are samples of what was found in agreements as conducive to a good teaching attitude.

> keeps appointments and daily schedules consistently. Submits reports on time. Performs responsibilities in keeping with schedule requirements.
>
> **[West Springfield, Massachusetts]**

> ability to adjust to changing plans and situations.
>
> **[Casper, Wyoming]**

> uses tact in dealing with persons inside and outside the profession.
>
> **[Escanaba, Michigan]**

> enthusiasm for learning and aware of this response in students.
>
> **[Grand Ledge, Michigan]**

> uses humor as a technique but does not try to be entertaining.
>
> **[Escanaba, Michigan]**

TEACHER'S WORKING RELATIONSHIPS

Given secondary importance in teacher agreements are criteria regarding work relationships between the teacher and his colleagues, administrators, parents, and the community. Working relationships are identified in the broadest sense. Since education is a "community" service, the working relationship of teachers goes beyond the building or system into the home and the community. Basically these provisions stressed that the evaluator assess the degree of cooperation which the teacher displays in his contacts with different groups, and his responsiveness to this interchange insofar as it affects the educational program. Note the following sample provisions which set down the manner in which a teacher exhibits this criterion. (Note Table 5.)

> satisfactory professional and ethical relationships with fellow teachers and an attitude of constructive cooperation.
>
> **[Kellogsville, Michigan]**

TABLE 5.–CRITERIA RELATING TO TEACHER'S WORKING RELATIONSHIP

Item	Number	Percent
1	2	3
Provisions containing criteria items relating to teacher's working relationship	34	85.0
With colleagues	25	62.5
With parents	25	62.5
With administration	23	57.5
With community	14	35.0

> transmits pertinent school information, reports adequately on pupil progress and interprets the analytic diagnosis of the pupil.
>
> **[Brockport, New York]**

> the teacher should participate in civic and community affairs in such a way as to promote appreciation and understanding of the school system and the teaching profession.
>
> **[Escanaba, Michigan]**

TEACHER'S PHYSICAL CHARACTERISTICS

Consideration was also found given to the teacher's physical characteristics and attributes as relating to appropriate dress, grooming, speech, poise, and to his physical and mental health. Of all the analyzed contracts, 67.5 percent stressed one or more of these factors as elements upon which the evaluator was to rate the teacher. (Note Table 6.)

TABLE 6.–CRITERIA RELATING TO THE TEACHER'S PHYSICAL CHARACTERISTICS

Item	Number	Percent
1	2	3
Provisions containing criteria relating to the teacher's physical characteristics	27	67.5
Dress and grooming	27	67.5
Speech and poise	24	60.0
Health	13	32.5

Again though this criterion is not essential to the effective implementation of the educational program, the items are contributory factors because they are usually most easily observed and reflect a professional image regarding the educational policy of the school district. Below are some sample provisions.

> dresses in a manner appropriate to the teaching profession and his particular assignment, is well-groomed (moderate use of cosmetics, clean-shaven, hairgroomed, etc.)
>
> has clear, pleasant and expressive voice and is free from major speech errors.
>
> **[Bridgewater-Raritan, New Jersey]**

> recognizes and attempts to correct personal habits and mannerisms which detract from effective performance.
>
> **[Mamaroneck, New York]**

The following evaluation forms are representative of the variety found in agreements. They are not intended to be exemplary, but are reprinted so as to provide some guideline and insight for those interested in developing an evaluation form for negotiation purposes.

Kelloggville Public Schools

Guide Sheet

Name _____

Building _____

Date _____

I. Teacher Ability
- A. Maintains good pupil-teacher relationships.
- B. Maintains good classroom appearance and arrangement.
- C. Prepares flexible, workable lesson plans. The plans are realistic and the tasks are reasonable.
- D. Uses instructional materials effectively. Uses audio-visual materials, reference books, etc.
- E. Recognizes individual differences and attempts to provide for all ranges of ability.
- F. Maintains consistent and reasonable control with children.

II. Personal Qualities
- A. Maintains appropriate personal appearance.
- B. Follows school regulations in a positive manner and is dependable and resonsible.
- C. Maintains self control, uses sound judgment and has a sense of humor.
- D. Uses tact in working with colleagues and is fair, impartial and objective in treatment of pupils.
- E. Uses discretion in working with colleagues and parents.

III. Professional Qualities
- A. Maintains satisfactory professional and ethical relationships with fellow teachers and has an attitude of constructive cooperation.
- B. Improves his knowledge of subject matter and keeps abreast of changes in his field.
- C. Maintains proper communication with parents.
- D. Takes active part in grade level and building meetings.

Teacher _____

Date _____

School _____

Grade _____

Specific areas of weakness _____

_____

Specific areas of strength _____

_____

Comments _____

_____

_____
Principal

_____
Teacher

[Kelloggville, Michigan]

PORT HURON AREA SCHOOL DISTRICT
Port Huron, Michigan
ATTACHMENT "C"
EVALUATION OF PROFESSIONAL STAFF

Name _____

Date _____

Building _____

Grade or Subject _____

Evaluator	Date of Observation	Time spent in Classroom Observation	Activity Observed

Circle the number or letter which best expresses your rating. It is important that supporting statements be presented in each area. Where necessary, use additional sheets. See page 6 for explanation of terms used in the evaluation.

Scale: 1—Superior 2—Above Average 3—Average
4—Needs improvement 5—Unsatisfactory N—Not observed

I. PERSONAL QUALIFICATIONS

A. Poise	1	2	3	4	5	N
B. Health and vitality	1	2	3	4	5	N
C. Sense of humor	1	2	3	4	5	N
D. Appropriate grooming	1	2	3	4	5	N
E. Use of English (Written and Oral)	1	2	3	4	5	N
F. Self-expression	1	2	3	4	5	N
G. Reaction to suggestions for improvement	1	2	3	4	5	N

Supporting statements: _____

_____

II. TEACHING QUALIFICATIONS

A. Variety of teaching techniques	1	2	3	4	5	N
B. Organization of subject matter	1	2	3	4	5	N
C. Knowledge of subject matter	1	2	3	4	5	N
D. Well-planned and organized classroom activities	1	2	3	4	5	N
E. Utilization of available material and equipment	1	2	3	4	5	N

Supporting statements: _____

_____

F. Sensitivity to each student's needs and problems	1	2	3	4	5	N
G. Group control	1	2	3	4	5	N
H. Fulfills responsibilities in school management	1	2	3	4	5	N
I. Enthusiasm for teaching	1	2	3	4	5	N
J. Exhibits willingness to go beyond assigned tasks	1	2	3	4	5	N

Supporting statements: _____

_____

III. PROFESSIONAL RELATIONSHIPS

A. Teacher-Pupil relationships	1	2	3	4	5	N
B. Teacher-Administration relationships	1	2	3	4	5	N
C. Teacher-Parent relationships	1	2	3	4	5	N
D. Teacher-Consultant relationships	1	2	3	4	5	N
E. Teacher-Teacher relationships	1	2	3	4	5	N

Supporting statements: _____

_____

(While use of the next four items is desirable, it is not mandatory.)

IV. STRONGEST ASSETS

V. AREAS NEEDING IMPROVEMENT

VI. FACTORS IN THE PRESENT SCHOOL SITUATION WHICH TEND TO REDUCE TEACHER EFFECTIVENESS

VII. SELECTED ACTIVITIES WHICH HAVE CONTRIBUTED TO THIS TEACHER'S PROFESSIONAL GROWTH SINCE THE LAST EVALUATION

EVALUATORS' SIGNATURES

_____ Signature _____ Date

_____ Signature _____ Date

TEACHER'S COMMENTS:

My signature indicates that I have received a copy of this evaluation

_____ Date _____ Teacher

The following are some suggested explanations of the items used in the evaluation.

I. PERSONAL QUALIFICATIONS

A. Poise—meets situations with calm self-assurance.
B. Health and vitality—possessing physical vitality, energy and emotional stability.
C. Sense of humor—relieves tense situations and maintains interest with careful use of humor.
D. Appropriate grooming—is neat, well-groomed.
E. Use of English—communicates in clear, correct and precise language.
F. Self-expression—has ability to project one's own personality and interest without dominating.
G. Reaction to suggestions for improvement—has a positive reaction to requests, is usually willing to try, has sound reasons for opposition, brings counter-suggestions.

II. TEACHING QUALIFICATIONS

A. Variety of teaching techniques—looks for and uses new approaches to vary classwork.
B. Organization of subject matter—develops long-range goals and organizes the weekly and daily lesson plans within this framework.
C. Knowledge of subject matter—brings adequate, scholarly preparation to the field of assignment, and continues to develop his scholarship.
D. Well-planned and organized classroom activities—plans purposeful activities to meet the needs and abilities of the students.
E. Utilization of available materials and equipment—employs available equipment and provides for student use of source material.
F. Sensitivity to each student's needs and problems—provides for individual differences.
G. Group control—is consistent in policy, firm but friendly, develops effective class morale, provides healthy classroom climate for learning.
H. Fulfills responsibilities in school management—assumes fair share in total program, including activities, keeps to the time schedule, completes records and reports, promptly and accurately, gives effective help in supervision of students out of class.
I. Enthusiasm for teaching—has ability to inspire student's enthusiasm for learning, indicates pride in chosen profession to his colleagues and to the public.
J. Exhibits willingness to go beyond assigned tasks—contributes extra time to meet the needs of individual students, takes responsibility for and participates in various types of student and faculty activities.

III. PROFESSIONAL RELATIONSHIPS

A. Teacher-Pupil relationships—makes students feel they are important and wanted in class.
B. Teacher-Administration relationships—accepts school policies, follows them while in effect, has sound reason for any opposition, brings counter-suggestions.
C. Teacher-Parent relationships—willingly consults with parents regarding student's needs and presents a positive image of the educational program.
D. Teacher-Consultant relationships—seeks consultant's ideas, is willing to try them, and adapts those suitable to own classroom situation.
E. Teacher-Teacher relationships—is considerate of other teachers, willing to share ideas, appreciative of good teaching, makes a point of becoming acquainted with new staff, has ability to discuss professional competencies intelligently.

[Port Huron, Michigan]

RANDOLPH CENTRAL SCHOOL-TEACHER RATING CHART

Name _____

Year and Term _____ Date _____

Scored by _____ Grade or Subject _____

I. PERSONAL		Ex.		Fair		Poor		Total
1. Appearance and Manner. Voice-Vitality; health; dress; refinement.	(2)	7	6	5	4	3	2	1
2. Reliability. Responsibility; dependability punctuality.	(3)	7	6	5	4	3	2	1
3. Poise.	(3)	7	6	5	4	3	2	1
4. Cooperation.	(3)	7	6	5	4	3	2	1
5. Resourcefulness. Sense of humor; originality, initiative.	(2)	7	6	5	4	3	2	1
6. Leadership. Classroom; community.	(2)	7	6	5	4	3	2	1
II. PROFESSIONAL.								
1. Teaching Efficiency. Motivation; questions, assignments; grasp of subject matter, teacher-pupil relationship.	(4)	7	6	5	4	3	2	1
2. Pupil Reaction. Results; scholastic; character; social.	(4)	7	6	5	4	3	2	1
3. Control Of Pupils— Respect and interest of pupils.	(3)	7	6	5	4	3	2	1
4. Professional Advancement.	(2)	7	6	5	4	3	2	1
5. School Management.	(2)	7	6	5	4	3	2	1

Rated by: _____ Total _____

Code: E (Excellent-Eligible for tenure) 210-172 Final
F (Fair-Must be raised for tenure) 171-150 Rating _____
P (Poor) below 150

Remarks: _____

Method of Scoring: Each of the 11 points has been given a numerical value (4, 3, 2). The range in rating extends from 7 to 1. To score an individual on any point, the proper number is circled. When this is multiplied by its numerical value, the score for that particular point is secured. By adding the totals, an index number is secured which, when compared with the table, gives an objective rating of the teacher.

[Randolph, New York]

EVALUATION FORM FOR PROFESSIONAL STAFF

Evaluator _____ School _____

Date _____ School Year 19 __ 19 __

Name: Miss / Mrs. / Mr. _____
Last First Middle Maiden

Grade Level(s) or Subject(s) _____

Total Teaching Experience _____ yrs.

In Hammond _____ yrs. Outside _____ yrs.

Date of evaluation conference with staff member _____

This form has three sections (A) Evaluation Checklist (B) Written descriptive evaluation remarks (C) Recommendations. Place a plus (+) sign in front of any item which relates to outstanding strength. Place a check (✓) in front of any item for which there is need for improvement. ITEMS NOT MARKED INDICATE PROFESSIONAL COMPETENCE WITHOUT RESERVATION.

A. EVALUATION SECTION

1. Classroom Effectiveness

__ Relationship with pupils
__ Planning
__ Knowledge of subject(s)
__ Effectiveness in Communication
__ Classroom atmosphere and control
__ Use of new and varied instructional material
__ Attention to individual needs needs
__ Adaptability to changing classroom situations
__ Attention to study skills and habits
__ Effectiveness in appraising learning

2. Attitudes and professional responsibilities

__ Relationship with Parents
__ Relationship with Colleagues
__ Willingness to assume responsibility for pupil behavior in all school situations
__ Takes steps toward self-improvement
__ Takes part in professional organ
__ Accepts school staff assignments beyond classroom responsibility
__ Has respect for channels of authority
__ Complies with school and school system policies
__ Responsibility for routines
__ Attendance and punctuality

3. Personal Characteristics

__ Mental Alertness
__ Enthusiasm
__ Dependability
__ Initiative
__ Perseverance
__ Resourcefulness
__ Tact
__ Poise and self-confidence
__ Self-control
__ Judgment
__ Dress and grooming

B. DESCRIPTIVE REMARKS BY EVALUATOR

_____

_____

C. RECOMMENDATIONS (answer yes or no)

* _____ This person's contract should be renewed for another school year.

** _____ This person should be granted tenure in the Hammond School City.

_____ This teacher would serve more satisfactorily in another assignment. (Explain specifically)

*Non-tenure teachers
**Tenure teachers

D. COMMENTS BY TEACHER

_____

_____

Signed _____
(Evaluator)

Signed _____
(Teacher)

[Hammond, Indiana]

BRIEFS OF RECENT AGREEMENTS

Norwich, Connecticut

Between Norwich Board of Education and the Norwich Teachers League, effective July 1, 1971, to June 30, 1973. Approximately 300 certificated professional employees. Between December 15 and February 1, parties shall initiate negotiation for a successor agreement.

COMPENSATION: (1971-72) B.A., $7,375 to $11,600, 11 increments; M.A., $8,000 to $12,575, 11 increments; 6 years, $8,600 to $13,515, 11 increments; rate of pay for substitute teachers shall be set by board with qualifications those approved by state board of education.

LEAVES: Fifteen days' annual sick leave, unlimited accumulation; absence for sickness beyond granted leave, pay is difference between regular salary and substitute's pay; 5 days' personal leave with one day prior notice for religious holy days (not to exceed 3 per year), illness or death in immediate family, marriage, court attendance, birth of child, or other emergencies; time may be allowed for attendance at conventions, participation in educational evaluations, school visiting days, and other forms of professional improvement and services without loss of pay upon request, 15 days in advance, for which substitute shall be provided and teacher reimbursed for legitimate expenses; leave up to 2 years for military service; sabbatical leave at 65 percent of salary for full year after 7 years' service; leave will be granted those involved at meetings or hearings in the grievance procedure when held during the school day; leave of absence up to 2 years may be granted those serving in Peace Corps; leave without loss of salary to begin programs of study resulting from foundation or scholarship grants which necessitate personal presence in advance of close of school year, on approval of superintendent; other extended leaves, with or without salary, may be granted at the discretion of the board.

INSURANCE: Board pays hospitalization insurance including major medical with family coverage available at option of teacher for which board pays 75 percent; tax sheltered annuity plan; full salary less Workmen's Compensation benefits up to 120 school days for accidents arising in course of employment, not charged to annual or sick leave.

ASSOCIATION: Payroll dues deduction for the unified organization; modified agency shop for all new hires as of September 1972; paid released time for 3 league representatives during negotiation sessions; use of school buildings and facilities at reasonable times for meetings, with any custodial costs paid by league; monthly meetings of board and league will be held to discuss the administration of this agreement or to negotiate any additional issues.

INSTRUCTION: Class size for K-3, 25 to 1, for 4-6, 27 to 1, for junior high school, 30 to 1, and special subject area classes exempted from limitations; school calendar to be 183 days; textbook selection and development and revision of curricula including state and federal projects to be cooperatively arrived at through joint consultation among teachers and administrators subject to final approval by the board.

PERSONNAL: Grievance procedure ends with binding arbitration; when a teacher's class is under supervision of a special subject teacher, the regular teacher may use this time as a preparation period within the school; copies of written evaluation reports to be given teachers who may discuss such report within one week of its date; no evaluation report or written statement of criticism to be kept in the personnel file longer than 30 days unless such report is shown to teacher involved and acknowledged by the teacher's initial within 30 days of the evaluation; vacancies to be posted at least 30 days in advance of the date position is to be filled; transfers and reasons for such action to be discussed with teacher involved; if teacher objects to the transfer, he will notify the league after which the superintendent or his designee will discuss the transfer with the league's representatives, and if grievance is sought, it shall be initiated at level 3; the school to provide space in each classroom for storage of instructional materials and supplies, a teacher work area with adequate equipment and supplies, a faculty lounge, parking space of adequate size and reasonable location at each school.

Bloomington, Illinois

Between Bloomington Board of Education, School District 87, and the Bloomington Education Association, effective August 9, 1972, to June 30, 1974. Approximately 364 certificated professional employees. Provision for reopener upon written notification by either party, for the purpose of negotiating salary changes applicable to 1973-74 school term, with notice given at least 90 days prior to June 30, 1973.

COMPENSATION: B.A., $7,800 to $10,800, 10 increments; B.A. plus 8, $8,082 to $11,100, 10 increments; B.A. plus 16, $8,364 to $11,400, 10 increments; B.A. plus 24, $8,646 to $11,700, 10 increments; M.A., $9,010 to $12,825, 11 increments; M.A. plus 16, $9,350 to $13,500, 12 increments; M.A. plus 32, $9,690 to $14,175, 13 increments; M.A. plus 48, $10, 030 to $14,850, 14 increments.

DIFFERENTIALS: Head varsity basketball and football coaches, $1,400; head varsity baseball, wrestling, and track coaches, $800; head swimming, tennis, and speech coaches, $750; head golf coach, $650; senior high school band and chorus directors, $600; debate coach and ticket manager for athletic games, $500; junior high school track, and sophomore and junior high school cheerleader coaches, $350; high school girls varsity sports, junior high school wrestling, and freshman cheerleader coaches, junior class sponsor, and senior high school orchestra leader, $300; senior high school yearbook sponsor, $250; junior high school audiovisual and junior high school orchestra directors, $150; junior high school chorus director and elementary safety patrol supervisor, $100; travel allowance of 10 cents per mile or public carrier, $10 for three meals per day, $20 for lodging, per night, and registration fees upon superintendent's approval.

LEAVES: Ten days' annual sick leave, 130 days' maximum accumulation to be used for personal illness or injury, quarantine at home or serious illness or death in the immediate family, up to first cousin; 2 days for personal business, noncumulative; sick and personal leave may be used in fractions of less than one-half day; leave with pay to attend educational meeting, conference, or workshop; paid leave for jury duty upon surrendering court compensation; unpaid leave of absence for military service to a maximum of 3 years, credited to advancement on salary schedule; sabbatical leave at one-half pay for one term after 6 years' service; unpaid leave of absence to a tenure teacher for a specified educational service, advanced study, prolonged illness, or service in the state service General Assembly.

INSURANCE: Board-paid individual health and accident insurance plan; board-paid $2,000 group life and $2,000 group accidental death and dismemberment insurance; liability policy provided by employer; tax deferred annuity.

ASSOCIATION: Payroll dues deduction for local, state, and national associations; association may use school facilities provided use of them does not interfere with regular school operation; use of bulletin boards and inter-school mail service; association leave of 10 aggregate days without loss of salary per school term, with no more than 5 teachers absent on any one day, if association pays cost of substitutes.

INSTRUCTION: Elementary and special teachers to have three 25-minute periods per week (75 minutes per week) and others to have one period per day (275 minutes per week) preparation time; class size not to exceed 26; school calendar to include 185 teacher work days; joint committee on student discipline established for three grade levels, K-6, 7-8, and 9-12, to review and propose changes in the current discipline procedures and standards.

PERSONNEL: Grievance procedure ends with final and binding arbitration; personnel file to be accessible to the teacher, information related to the disciplining of a teacher not to be placed in file without giving the teacher an opportunity to respond; 30-minute duty-free lunch period; if a teacher volunteers to transfer temporarily to a class other than his regular assignment and does not receive planning and conference periods as provided, he is to be compensated for such lost planning and conference period time at the rate of $7 per hour; faculty meetings not to exceed one per month; inservice training session may be scheduled during all or part of the regular teacher workday; prior conference with teacher to advise on evaluation procedure, standards expected, and evaluation instrument – formal observation of a minimum of 30 consecutive minutes conducted with full knowledge of teacher; four evaluations of probationary teachers and one of tenure teachers per school term; a conference to be held with the teacher within 5 days following each formal observation; vacancies to be posted in all school buildings for 10 days; reasons for denial of transfer to be given in writing 10 days after filling the position; teacher may resign if involuntarily transferred or reassignment is not acceptable; probationary teachers according to length of service to be laid-off first if tenure teacher is available and certificated to perform the teaching services, with re-employment rights for one year in reverse order; a teacher to be informed of any complaints regarding his teaching but no disciplinary action is to be initiated by the employer until a conference between the complaining party and the teacher involved has occurred; teachers to be provided with a separate desk with an operational lock, a file cabinet, and closet space to store personal articles; duplicating machines and typewriters to be made available to each school for the use of teachers; a central professional library to be maintained to include selected professional reference materials and copies of all textbooks currently in regular use in the district; a recent edition of a dictionary to be provided in each classroom.

Lake Fenton, Michigan

Between Lake Fenton Board of Education and Lake Fenton Education Association, effective December 8, 1971, to June 30, 1973. Approximately 87 certificated professional employees. Between March 1 and March 15, parties to initiate negotiations for a successor agreement.

COMPENSATION: (1972-73) Average of the Linden, Fenton, Holly Districts salary schedules with projections to include education specialist steps.

DIFFERENTIALS: Special education teacher, $600 per year; varsity football and basketball coaches, band director, 10%; varsity assistant football, junior varsity head football and basketball, varsity baseball, head track coaches, 7%; junior varsity assistant football, 9th grade basketball, cross country, golf coaches, 6%; girls' basketball coach, 5.5%; freshman football, junior varsity baseball, wrestling, and assistant track coaches, 5%; girls' softball coach, 4.5%; 7th and 8th grade basketball coaches, 4%; 7th and 8th grade track coaches, 3%; senior class yearbook, and senior high cheerleading sponsors, $300; business, English, mathematics, science, social studies, guidance department coordinators, and head teachers, $250; junior class sponsor, $200; play director, $200 per play; junior high cheerleading and forensics sponsors, $150; art director, $150 each play; sophomore class sponsor, $125; freshman class, 8th, 7th grade sponsors, $100; substitute teachers, $7 per high-school period or $30 per day; driver education, $6 per hour.

LEAVES: Credit of 12 days' sick leave at beginning of year days', maximum accumulation; 2 days' sick leave may be used for personal business, with 3 days advance request; sick-leave bank composed of one sick-leave day at the beginning of each school year from each teacher, with the board contributing additional days to insure a minimum of 100 days; if sick leave days are depleted, up to 5 days' leave for bereavement of immediate family may come from sick leave bank; paid leave for professional conferences and school visitation; paid leave for jury duty not chargeable to sick leave with board to pay difference between jury pay and salary; sabbatical leave at one-half pay for one year after 7 years' service or one semester at full pay; unpaid leaves up to 2 years for personal reasons; up to 1 year after 3 years' service to study at an accredited college or university; military leave; up to 4 years to serve in a state or national public office.

> It is suggested that a maternity leave is to commence at the beginning of a semester whenever possible. Continuation of duties after the seventh month will be by mutual agreement. A doctor's statement certifying fitness may be required in cases where the teacher intends to work when pregnant. At least sixty (60) days prior to the beginning of a semester the teacher may apply to return to work. If requested by the Board, she shall submit with such application a statement from a qualified physician attesting her ability to resume active duty. The teacher shall thereupon be assigned the same or an equivalent teaching position and shall be paid therefore at the salary step on the salary schedule immediately higher than the step applicable to her at the beginning of such leave. If said position is unavailable, the teacher shall be assigned to the first available position. A teacher adopting a child may receive similar leave which shall commence upon entry of an order terminating the right of the natural parents by the Probate Court.

INSURANCE: Board pays hospitalization insurance up to maximum of $45 per month for family, $42 for 2 persons, $25 for single subscriber; board-paid group life amounting to $5,000; long-term disability insurance with benefits payable upon the 366th day of disability at a minimum of 50% of annual salary with a monthly payment limit of 75%; board to provide a maximum of $10 per month for insurance against loss of income.

ASSOCIATION: Agency shop, with dues deduction for local, state, and national association; 6 days may be used by teachers for organization business when acting as officers or agents of the association to attend TEPS, curriculum, or other non-negotiation oriented meetings, plus 3 days to be used for other meetings for which the association will reimburse the board; use of school facilities and equipment provided such use does not interfere with the regular school operation and association paying any custodial charges; duly authorized representative of the association to be permitted to transact official association business on school property at all reasonable times that do not interrupt normal school operation; unpaid leave up to two years to any teacher to serve as an officer of the association or its staff.

INSTRUCTION: Class size for K-6 to be 30 to 1, an additional class will be added when 20 or more pupils on any one grade level exceeds the 30 average; for 7-12, no more than 150 students per day, 35 maximum per class with no more than 3 preparations; for 3 preparations and 10 students over 150, or 4 preparations and 150 students, premium pay of $300 per year; school calendar to comprise 184 1/2 teacher work days of which 181 1/2 shall be student session days.

PERSONNEL: Grievance procedure ends with binding arbitration; personnel file may be reviewed on request at any time; duty-free lunch period of 30-35 minutes; board to hire playground supervisor, and in event of supervisor's absence, elementary teachers may be assigned noon period; junior and senior high to have 25 class periods and 5 preparation periods per week; elementary teachers to be required to serve not more than 6 duty recess periods in a 3-week block of time; at the discretion of the board, each teacher may have up to 3 days' leave for professional improvement including school visitations, conferences, seminars, and educational programs upon prior request to principal; if a meeting is held within the state, limit of 2 days per conference and reimbursement up to $50 per teacher; written evaluation yearly with a copy forwarded to teacher involved within 10 days of evaluation; if defects are found in teaching performance during evaluation procedure, supervisor to immediately notify teacher in writing, recommend steps to remedy defects, and re-evaluate within a reasonable period with a final written report to the teacher; a "teaching coach" who is tenured with 5 years' experience within same grade or discipline to be assigned to every new teacher in the same building to assist and counsel probationary teachers; vacancies to be posted for no less than 7 calendar days before the position is filled; involuntary transfers during the school year to be made only in case of emergency or to prevent undue disruption of the instructional program; any teacher transferred to an administrative position who then returns to a teacher status to retain rights under this agreement; in the event that the board requests a negotiating session or a meeting involving a professional grievance during the school day, any teacher participating is to be relieved of duty without loss of pay during this meeting; under no conditions will a teacher be required to drive a school bus or transport pupils; teacher may suspend a pupil for one class period when the grossness of the offense, the persistence of the misbehavior, or the disruptive effect of

the violation makes the continued presence of the pupil in the classroom intolerable; teachers who participate in the production of educational material to share equally in residual rights should materials be copyrighted or sold by the district; the board is to provide a separate desk for each teacher; closet space for each teacher to store personal articles; chalkboard space in every classroom, copies for the teacher's exclusive use of all adopted texts used in each of the courses he is to teach, one collegiate dictionary for each teacher on request; preparation areas for teachers, storage space in each classroom for instructional materials.

Reduction in Personnel, Annexations & Consolidations of Districts

To the full extent permitted by law, this Agreement shall be binding upon the Board and its successor personnel and upon any school district into which or with which this district shall be merged or combined.

In the event this district shall be combined with one or more districts, the Board will use its best efforts to assure the continued employment of its employees in such consolidated district.

Should substantial and/or unforeseen changes occur, such as student population, building requirements (classroom space), financial difficulties, the following procedure will be used to promote an orderly reduction in personnel:

Probationary employees will be laid-off first, providing there are seniority teachers in the district, certified and qualified to perform the services of the probationary teacher.

In the event tenure teachers must be laid off, such layoff will be on the basis of district seniority in K-6 and by seniority in the district according to certification in grades 7-12. When seniority within certification is equal, the Board will consider simultaneously: majors and minors, professional growth (graduate credits), and evaluations and progress reports.

Seniority will be defined as nonterminated full-time teaching experience in the Lake Fenton School District from last date of hire.

It is expressly understood that the Association shall have the right to review the layoff list prior to notification of individual teachers to be laid off.

The Board will attempt to "place" separated teachers in other districts.

During this unpaid absence period, laid-off teachers may elect to continue health insurance payments by paying the premiums directly to the school, subject to approval by the carrier.

Teachers shall be offered recall in inverse order of lay-off for positions for which they are certified.

During said layoff, such teacher's seniority shall remain unbroken and his earned rights under the terms of the master agreement at time of layoff shall be reinstated at time of recall.

Madison, Wisconsin

Between the Madison Public Schools and the Madison Teachers Inc., effective January 1, 1972, to December 31, 1972. Approximately 1,750 certificated professional employees. Provision for annual renewal with presentation of initial proposal to be made on or about June 1 of the current year and the first meeting to consider initial proposals to be held on or about September 1.

COMPENSATION: (1972 calendar year) B.A., $7,500 to $12,750, 14 increments; B.A. plus 12, $7,688 to $12,939, 14 increments; B.A. plus 24, $7,875 to $13,125, 14 increments; M.A., $8,250 to $13,500, 14 increments; M.A. plus 12, $8,438 to $14,813, 14 increments; M.A. plus 24, $8,625 to $15,000, 14 increments; M.A. plus 48, $9,000 to $15,375, 14 increments; Ph. D., $9,375 to $15,750, 14 increments; improvement levels every four years up to the 15th step on the salary schedule after which a 5 percent incentive is provided every four years except for nondegree teachers; for teachers to cross an improvement or incentive level on the salary schedule requires 6 professional advancement credits which may be academic credits as established by the Professional Advancement Study Committee; any teacher assigned to teach an additional class beyond the full teaching load to be paid an additional 14 percent of regular contract salary.

DIFFERENTIALS: Senior high head coaches of football and basketball, director of physical activities, 12 percent (of base); newspaper advisor, head coaches for baseball, swimming, track, wrestling, gymnastics, hockey, 10 percent; yearbook advisor, dramatics coach (two 3-act productions), 8 percent; assistant coaches for baseball, track, wrestling, swimming, 7 percent; head cross country coach, high school band director, debate coach, 6 percent; head coaches for curling, tennis, golf, 9th-grade track, bookstore manager, girls gymnastics, swimming, track coaches, 5 percent; forensics coach, senior high cheerleader advisor, high school choir and orchestra directors, girls basketball, tennis, volleyball, softball, and golf coaches, 4 percent; intramurals (all levels) - one period per week, 3 percent; supervision at athletic events, social activities or timers, scorers, announcers, field judges if accepted by teacher shall be paid at the rate of .0007 times base per hour; noon hour playground and lunchroom supervision paid at .0006 times base per hour (bases 2 and 3 do not apply to general student supervision of extra duty situations); a teacher assigned to more than one school and travels 5 or more miles between buildings to be reimbursed at $.12 per mile; experimental programs which differ from the regular assignment of hours and duties to be exempt from negotiations during experimental stage, limited to 3 years.

LEAVES: Ten days' annual sick leave, 180 days' maximum accumulation; one day sick leave for summer school sessions, may be added to accumulated leave; 5 days for severe illness in immediate family; 2 days' personal leave on a trial basis; 5 days' bereavement leave allowed for relatives, up to first cousin; one day for professional observation; leaves of absence granted to professional staff for ill health, continuous advanced study, home and foreign teacher exchange, or other approved reasons after 3 years' service; $400 terminal pay added to final check granted a retiring staff member whose age and service to system total 80 years; sabbatical leave at one-half pay for a full year or full pay for one-half year after 5 years' service, must render additional 2 years' service; leave for jury duty or court appearance or appearance before a governmental agency.

INSURANCE: Board-paid hospitalization and surgical insurance; board pays two-thirds for family protection; employer-employee contributory life insurance plan; $100,000 per teacher or $500,000 per incident liability insurance; board-paid long term disability income protection insurance for all teachers and administrators who have contracts for 50 percent of time or more; board pays employee's full salary during disability, up to 180 teaching days, less amount paid by Workman's Compensation.

INSTRUCTION: Class size minimum to be 15, maximum, 30 (excluding music, physical education, etc.) with each teacher responsible for no more than 135 pupils per semester regardless of class size; special teachers of art, music, and physical education to be provided within the limitations of budget to supplement the kindergarten curriculum; violations to be appealable to joint committee and if no mutually satisfactory resolution by committee to Step 3 [Board of Education] of the grievance procedure; school calendar to consist of 190 days of which 184 are teaching days;

TEXTBOOK ADOPTION

A principal, department head, or teacher who believes that textbooks or workbooks are not satisfactory may submit to the Director of Curriculum Development a statement to that effect by May 1.

By June 1 the Director of Curriculum Development announces:

a. Textbook and material changes that will be considered during the forthcoming school year, and

b. Names of committees that will be requested to make recommendations.

Publishers present materials to committee members during the following school year and prior to March 1.

a. Teachers in elementary schools confer with sales representatives before and after school.

b. Teachers in high schools may confer with sales representatives during free hours.

c. Sales representatives must obtain a permit from the Superintendent's office to present materials to teachers during school hours.

By April 1 recommendations are made to the Assistant Superintendent and the Director of Curriculum Development from the committees announced the previous June. The recommendation includes:

a. A list of texts, together with authors and publishers, examined by the committee.

b. The recommendations of the committee of the text which it believes should be adopted in the Madison Public Schools—including author, edition date, publisher, and net price.

c. The reasons or supporting data for the recommendation of the committee, and

d. The reasons for not recommending other texts submitted to the committee.

By May 10 the Director of Curriculum Development announces textbook changes which have been approved by the Board of Education for the following year.

provision for teaching controversial issues in an atmosphere as free as possible from bias and prejudice; board to support the use of physical force by any teacher, custodian, supervisor, or administrator when necessary to prevent disruption, breakdown of discipline, or stop a continuing breach of discipline by pupils; physical punishment is not to be used after completion of breach discipline, appropriate action to be conference, referral, suspension, court action, expulsion, or exemption.

PERSONNEL: Grievance procedure to end with binding arbitration. 30-minute duty free lunch period; attendance at professional meeting to be encouraged within defined limits; 3 days per year for attendance at state teacher convention; a professional advancement credit committee to have responsibility for establishing courses, conditions necessary to obtain credits, and credit allotted for each course; posting of vacancies required; physical examination required within 90 days of beginning of employment with $7.50 to be paid by the district, after which chest X rays or tuberculin tests must be taken every 3 years; probationary teachers may be denied renewal of their contracts after two mandatory performance evaluations, countersigned by the teacher, and continued unsatisfactory performance with a copy of any negative evaluation or memorandum forwarded to the association unless otherwise requested in writing by the teacher involved, in which case a copy of such request shall be sent to the association by the principal or supervisor involved; teachers may be suspended with pay by the superintendent if, a condition or situation warrants such emergency action—upon request by suspended staff member, the board will hold a hearing before dismissal or reinstatement; dismissal of teachers during contract year not to be allowed except for inefficiency or immorality, willful and persistent violation of reasonable regulations of the governing body, or for other good cause; dismissal procedure is similar to procedure for nonrenewal of nonprobationary teachers:

NON-RENEWAL OF NON-PROBATIONARY TEACHER

No teacher holding a regular annual contract may be refused employment, dismissed, removed or discharged, except for inefficiency or immorality, for willful and persistent violation of reasonable regulations of the governing body of the school system or for other good cause.

It is the duty of the principal or supervisor to counsel teachers concerning the proper performance of the assigned duties of the teacher.

In the discharge of said duty of the principal or supervisor, and when counseling with an individual teacher concerning areas wherein the teacher's performance of professional duties is deemed less than satisfactory, the principal or supervisor shall make and preserve a written memorandum of the substance of such conference, which memorandum shall be dated and signed by the teacher involved. A copy of the memorandum shall be sent to the President and to the Executive Director of Madison Teachers unless the teacher requests in writing that such action not be taken. Should the teacher choose not to notify Madison Teachers, a copy of his request will be sent to the Executive Director of Madison Teachers by the principal or supervisor involved.

If in the judgment of the principal or supervisor and following informal counseling with the teacher, dissatisfaction with the teacher's performance of professional duties continues, the principal or supervisor shall make a complaint to the teacher in writing detailing exact charges which give rise to dissatisfaction and which might lead to a recommendation for non-renewal of the annual contract of a teacher. A copy of these charges shall be sent to the President and to the Executive Director of Madison Teachers unless the teacher requests in writing that such action not be taken. Should the teacher choose not to notify Madison Teachers, a copy of his request will be sent to the Executive Director of Madison Teachers by the principal or supervisor involved. So that the teacher can seek to correct the cause of the complaint, the complaint shall be given to the teacher at least 30 days before forwarding to the Board of Education a recommendation for non-renewal of the annual contract of the teacher.

If the teacher does not or cannot correct the circumstances upon which the complaint is founded, after the 30 day period the principal or supervisor shall then serve notice in writing to the teacher that a recommendation for non-renewal of the annual contract of the teacher has been made. A copy of this notice shall be sent to the President and to the Executive Director of Madison Teachers unless the teacher requests in writing that such action not be taken. Should the teacher choose not to notify Madison Teachers, a copy of his request will be sent to the Executive Director of Madison Teachers by the Director of Personnel or Superintendent.

Following a written warning to the teacher by a principal or supervisor in accordance with provisions of item 4, and following a written complaint to the Board of Education, item 5, seeking the non-renewal of the contract of a teacher beyond the probationary period, the Board of Education shall notify the teacher in writing that a written complaint has been filed against the teacher which might lead the Board of Education to fail to award an annual contract to the teacher. The notice shall outline the exact charges which cause this non-renewal of contract action to be considered. A copy of this notice shall be sent to the President and to the Executive Director of Madison Teachers unless the teacher requests in writing that such action not be taken. Should the teacher choose not to notify Madison Teachers, a copy of his request will be sent to the Executive Director of Madison Teachers by the Director of Personnel or Superintendent.

The teacher may request in writing within 10 days following the notification by the Board of Education that a hearing be held at which witnesses may be called to present testimony. The Board of Education shall set the date for such a hearing not less than 20 nor more than 30 days after the teacher's request for the hearing. A copy of the notices and correspondence shall be sent to the President and to the Executive Director of Madison Teachers.

Failure of the teacher to request a hearing within the time established in this procedure shall terminate any appeal from the procedure and the Board of Education shall be free to act and decide on the charges filed against the teacher. A copy of the decision shall be filed with the Secretary of the Board of Education and the teacher shall be notified. A copy of the decision and the notification shall be sent to the President and to the Executive Director of Madison Teachers unless the teacher requests in writing that such action not be taken. Should the teacher choose not to notify Madison Teachers, a copy of his request will be sent to the Executive Director of Madison Teachers by the Director of Personnel or Superintendent.

If the teacher chooses to proceed to hearing, the teacher shall be entitled to counsel at the hearing and may, at the teacher's volition, seek further representation by the Professional Rights and Responsibilities Committee of Madison Teachers. The Madison Teachers' representatives may of their own volition choose to become or not to become a party to the action at this time.

The hearing shall be closed to the public unless the teacher charged requests an open hearing. All closed hearings shall be held in accordance with the provisions of Sec. 14.90, Wisconsin Statutes.

Following the hearing, and within 10 days, the Board of Education shall notify the teacher in writing of the Board of Education's findings and decision to continue or dismiss the employment of the teacher. A copy of the decision shall be filed with the Secretary of the Board of Education, and the Executive Director of Madison Teachers. No teacher may be employed or dismissed except by a majority vote of full membership of the Board of Education.

A dispute concerning the decision of the Board of Education and/or a dispute arising from the alleged failure of either party to follow the procedures outlined herein shall be subject to final and binding arbitration. The decision of the arbitrator shall be rendered within thirty (30) days of the final date of the arbitration hearing or the receipt of a transcript of said arbitration proceedings whichever is the last to occur.

joint study committees to be created to review evaluation procedures, life insurance programs, reading development course, inservice days, modular scheduling, mainstreaming, middle schools, intern-teacher training, with recommendations to be made prior to negotiation for inclusion in successor agreement.

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CASE REVIEWS

ILLINOIS

Assistant Principals Must Stay in Teachers' Unit

Noting that a board of education has a right, but not an enforceable duty to voluntarily recognize a bargaining unit, the Illinois Court of Appeals denied the Chicago High School Assistant Principals Association's motion for a temporary injunction compelling recognition of a separate unit as sole representative of the district's high-school assistant principals.

The appellate court affirmed the lower court's denial of the plaintiff association's request on the basis that the assistant principals were explicitly included in the bargaining unit represented by the Chicago Teachers Union (CTU), Local 1, AFT (AFL-CIO). The lower court had held that negotiation of an agreement between the Chicago Board of Education and the CTU had rendered moot the issue of whether the board may legally be compelled to recognize an exclusive bargaining unit for any group of employees.

The appellate court observed that this contract, which bound the assistant principals, provided no procedure for unit severance. Further, the CTU represented eight categories of teachers, and separate negotiation with each group would "work undue hardship on the [school] Board."

Finding efficient negotiation to be in the public interest, the appeals court affirmed the board's right, if it so wished, to deal with one bargaining agent as the representative of all categories of teachers. (*Chicago High School Assistant Principals Association, Plaintiffs-Appellant, v. the Board of Education of the City of Chicago, Defendant-Appellee*, Illinois Court of Appeals, First District, Fourth Division, April 26, 1972.)

MASSACHUSETTS

Contempt Conviction Upheld; Strike Injunction Reversed and Remanded for Further Hearings

Although issuance of a preliminary injunction against an unlawful strike is within court jurisdiction, issuance of a permanent injunction as a remedy for violation of the preliminary injunction must be preceded by a hearing regarding the form of the decree. In so ruling, the Massachusetts Supreme Judicial Court concluded that the Boston Teachers Union, Local 66, AFT, AFL-CIO, was entitled to a hearing on the form of the final strike injunction, but not on the merits. Accordingly, a lower court's contempt conviction was upheld, while the final injunctive decree was struck down and remanded for further hearing.

The 1970 teacher strike against the Boston School Committee had been enjoined by the lower court as the strike violated both statute and the parties' collective bargaining agreement. The union ignored the injunction, was convicted of contempt and fined, and a permanent injunction was issued.

The union president appealed the court's permanent strike injunction on grounds that a fine was the only remedy for violation of a criminal statute, that the Boston School Committee was not the proper party to sue for injunctive relief, and that issuance of the final injunctive decree was improper for lack of a hearing regarding the form of the decree.

The appellate court observed that the accepted rule in contempt proceedings is whether the court has jurisdiction over the subject matter and the parties without examining the merits of the original cause of the dispute. Determining that the court granting the injunction had jurisdiction over the subject matter and the parties and that the order had been violated, the appellate court upheld the contempt conviction and all other lower court orders with the exception of the final injunctive decree.

In conclusion, the appellate court noted that remanding of the final decree does not negate the future option of issuing a permanent injunction against teacher strikes. (*School Committee of Boston v. John P. Reilly et al.*, Massachusetts Supreme Judicial Court, July 14, 1972.)

NEW YORK

Chancellor Exceeds Authority on Retroactive Pay, City's Refusal To Pay Upheld

A petition filed against the Comptroller of the City of New York in an effort to regain back pay was dismissed by the New York Supreme Court. The petitioner, a teacher who had been refused early reinstatement from maternity leave, sought a judgment vacating and annulling the comptroller's decision, and an order directing the comptroller to comply with the directive of the Chancellor of Queens College to pay her retroactively for the three months preceding her return to work and the institution of grievance proceedings.

The comptroller refused to pay the teacher on the grounds that "such payment would constitute a gift of public funds and thus was violative of the State Constitution since no services had been performed by petitioner."

The teacher argued that payment would not constitute a gift, and that the chancellor's decision, like an arbitrator's award, was binding.

The court agreed that grievance settlements reached by the parties themselves were entitled to the same recognition as arbitration awards. However, if the award contravenes public policy, it cannot be enforced. Further, the chancellor had exceeded his authority in granting the petitioner back pay since the petitioner's "right to compensation depends upon work performed and she cannot recover against the Board of Education except for services actually rendered."

Ruling that payment of public funds would violate the state constitution, the court dismissed the petition. (*Matter of Application of Christine Antonopoulou et al., Petitioners v. Abraham D. Beame et al., Respondents*, New York Supreme Court, New York County, October 12, 1971.)

School Board Not Compelled To Arbitrate Retroactive Salary and Fringe Benefits Preempted by Federal Wage-Price Freeze

The New York Supreme Court held that a school board could not be compelled to arbitrate salaries and fringe benefits that were unpaid during the wage-price freeze. This ruling rejected the West Islip Teachers Association's contention which sought to compel arbitration over contract benefits that had been preempted by federal order and regulated by a federal agency.

The teachers association also argued that since a valid agreement existed, state statues mandated that the arbitration issue be determined by the arbitrator not by the courts.

The court stated that the association's contention was narrow and inapplicable, and that the state legislature could not have envisioned an emergency price-wage control. Finding that the doctrine of federal preemption was applicable in this case, the court stated that higher courts have interpreted the doctrine as allowing arbitration only when there was concurrent jurisdiction by a state and a federal agency.

Thus, the association's further contention that the board would have remedies available, subsequent to the arbitrator's findings, was nullified by the lack of state jurisdiction once federal preemption was determined.

The court noted that appellate court decisions concerning public policy disputes arising from contracts containing arbitration provisions, must be decided by the courts and not by private arbitrators.

The court citied two recent cases involving the impact of the wage freeze upon teacher contracts. In each case the courts ruled that the collective bargaining agreement superseded the President's Executive Order. But in this case, although the contracts were effective prior to the executive order, the new salary schedule was not effective until a later date.

Consequently, the court granted the school board's motion to stay arbitration. (*Board of Education, Union Free School District No. 9, Town of Islip, Petitioner v. West Islip Teachers Association, Respondent*, New York Supreme Court, Suffolk County, January 18, 1972.)

School District Ordered To Pay Salaries Set Forth in Collective Bargaining Agreement

The Glen Cove Board of Education was ordered to pay teachers negotiated salary increases, including retroactive pay, unless it proceeded under the arbitration procedures set forth in the collective bargaining agreement with the Glen Cove Teachers Association (GCTA).

The parties entered into the bargaining agreement on November 13, 1971. The board asked the Internal Revenue Service (IRS) to approve the salary schedule, retroactive to July 1, 1971, the beginning of the first fiscal period of the agreement. Upon receiving approval, the board refused to implement the negotiated salaries and applied to the IRS for a review of its decision.

The board told GCTA that it would not proceed with arbitration until the IRS made a determination reversing its previous ruling which approved the negotiated salary schedule.

The court found it difficult to understand why the board should be displeased with the IRS ruling since the board had agreed to the schedule. The court asked whether the board entered into the collective agreement hoping that the IRS would disapprove the salary schedule.

The court determined that the failure of the board to either make payment or proceed to arbitration constituted an "arbitrary and capricious act," and directed it to either pay the salaries including retroactive pay within 15 days or proceed in good faith to arbitration.

The board's request for an order granting leave to appeal was denied by the court. (*Glen Cove Teachers Association v. Glen Cove City School District*, New York Supreme Court, Nassau County, April 4, 1972.)

PENNSYLVANIA

Court To Hear Discrimination Charges Against Union

The Supreme Court of Pennsylvania ruled that a complaint filed against the Philadelphia Federation of Teachers (PFT), Local Number 3, by eight of its members should be heard by the court. After the PFT, Local No. 3, adopted an amendment prohibiting the holding of an elected office by any member who during the preceding 24 months had refused to participate in strike activity, the grievants, pursuant to the grievance procedure contained in the local's constitution, filed a complaint with the Public Review Board of the American Federation of Teachers seeking to void the

amendment. After the grievants waited for, but never received, a hearing before the Public Review Board, they filed a suit with the court. A lower court dismissed the case, ruling that it did not have jurisdiction over the subject matter of the dispute because the grievants had not exhausted internal union procedures. The grievants appealed the decision.

The grievants contended that further reliance on review by the union board would be futile.

The court relied on the decision of *Falsetti v. Local Union No. 2026, U.M.W. of America,* wherein the court held that the only exceptions to the rule of noninterference in internal union disputes are when the remedy is illusory, the union officials themselves have precluded the member from effectively pursuing the prescribed procedure, the internal remedy is overly burdensome, or the exhaustion of remedies would lead to irreparable harm. The inordinate delay by the union board in appointing one of its members to hear the dispute could be interpreted as a conscious effort to sabbotage the proceedings until after union elections. Since the grievants had put off any action until just prior to elections because they were expecting the board to move on their petition, they were ultimately in "desperate straits." The court concluded that the exhaustion of union procedures would lead to irreparable harm, with the only recourse, at that point, being to seek injunctive relief.

Since the grievants were within the *Falsetti* exceptions, they were entitled to be heard by the court. (*Eugene S. Bivins, III, et al., Appellants v. Philadelphia Federation of Teachers, Local No. 3, American Federation of Teachers, AFL-CIO, et al., Appellee,* Supreme Court of Pennsylvania, Eastern District, December 20, 1971.)

FEDERAL

U.S. Secretary of Labor Can Sue State To Recover Overtime Wages Due Employees Under FLSA

The United States District Court of Missouri ordered the state of Missouri to pay compensation for overtime to employees of state schools and hospitals. The suit, which was filed under the provisions of Section 217 of the U.S.C.A. by the Secretary of Labor on behalf of the employees, sought both an injunction restraining future violations of the Fair Labor Standards Act (FLSA) and an order restraining the defendant from withholding unpaid compensation due employees for overtime worked in the past.

The defendant argued that since it was operating in full compliance with the Act, the court should deny injunctive relief as to future violations. Also, "since the State is immune from suits by employees to collect unpaid overtime compensation, the Secretary of Labor cannot maintain a suit to accomplish indirectly, by injunctive relief, the recovery of the same funds."

The court was convinced that since the state was in current compliance with the FLSA overtime pay requirements and there was no reasonable probability of a recurrence of overtime pay violations, an injunction forbidding future violations was not necessary and was therefore denied.

The court maintained that while sovereign immunity preserved the state from suits by its employees, the Secretary could seek injunctive relief for employees under Section 217 U.S.C.A., and also referred to the majority opinion in *Employees of the Department of Public Health and Welfare v. Department of Public Health and Welfare* to support its contention. The state of Missouri was therefore ordered to pay the overtime compensation owed to its employees for the period covered by the statute of limitations, January 27, 1969, to July 1, 1971. (*James D. Hodgson, Secretary of Labor, United States Department of Labor, Plaintiff v. State of Missouri, Defendant,* United States District Court, Western District of Missouri, Western Division, April 18, 1972.)

BOARD FINDINGS AND RULINGS

CONNECTICUT

Arbitrability–Time Limits

A grievance over whether teachers were entitled to the new higher travel allowance retroactive to the beginning of the school year was not arbitrable. The federation failed to file a grievance until some seven months after the teachers had received their first higher travel allowance check, thus failing to adhere to the 30-day time limit for filing a grievance after a grievant learned of the conditions or action on which the grievance was based.

Although it was true that the present contract was negotiated in an "atmosphere of excitment and turmoil" and was not completed until part of the school year had elapsed, "this only adds to the reasons" why the teachers and especially the federation officers should have been conscious of the contract revisions and how such revisions might affect them individually. (*West Haven Board of Education and West Haven Education Association*, Connecticut State Board of Mediation and Arbitration, January 6, 1972.)

MICHIGAN

Employer Must Negotiate on Impasse Fact-Finders Report

The Michigan Employment Relations Commission (MERC) determined that the city of Dearborn did not engage in good-faith bargaining on a 1969-70 contract with Teamsters Local 214, which represented employees of the public works department, following the issuance of a fact finder's report. After the expiration of the parties' first contract, the employer put into effect its last offer, which the employer termed an "impasse contract." The union then asked for fact-finding.

Following the fact-finding report, meetings were held between the parties and the fact finder, but there was no change in the employer's position from the time of the original impasse. At these meetings, the employer took the position that bargaining for the current contract was finished and suggested that the parties begin negotiation on the 1970-71 contract. The union did not drop the issue of the 1969-70 fact-finder's report and filed unfair labor practice charges against the employer. Shortly thereafter, the parties reached an agreement on the 1970-71 contract.

The union and the city disagreed as to whether the city had made a good-faith effort, based on the fact-finder's recommendations, to reach an agreement on the 1969-70 contract. However, they agreed that there was a duty to do so. The union argued that MERC should order that the terms of the fact-finder's report be put into effect. The city pointed out that "even if it should be found to have failed in its duty to bargain, an order to adopt any of the terms of the report would be statutorily impermissible."

MERC pointed out that the Public Employment Relations Act mandates the public employer to bargain in good faith, and that fact finding is a valuable substitute for the strike when public interest demands that there be continuation of services and a peaceful settlement of differences. Further, MERC stated, the fact-finder's report "is the functional equivalent of a strike and may change the factual situation regarding the negotiation agreement, or any question arising thereunder. It must be given the same serious consideration as the initial bargaining proposals. Therefore, there is an affirmative obligation to bargain in good faith about the substantive recommendations of the report of a statutory fact finder."

MERC stated that it could not order the employer to accept the terms of the fact-finder's report since this was statutorily prohibited. However, MERC ruled that since the city did not use the report to attempt to resolve the impasse, it was not bargaining in good faith, and ordered the city to bargain in good faith on the fact-finder's report. (*In the Matter of City of Dearborn, Respondent-Public Employer and Teamsters State, County and Municipal Workers, Local 214, I.B.T., Charging Party*, Michigan Employment Relations Commission, July 18, 1972.)

Superintendent's Erroneous Statement and Enforcement Of Board Policy Not Unfair Labor Practices

The Michigan Employment Relations Commission (MERC) confirmed a trial examiner's recommendation to dismiss the Bullock Creek Education Association's allegations that the Bullock Creek School District had engaged in unfair labor practices.

The association contended that the district superintendent's incorrect statement asserting that all members of the bargaining unit would be permitted to vote on a new master contract, and his enforcement of a board policy restricting association use of school mail services constituted unfair labor practices under the Public Employment Relations Act (PERA).

When the superintendent was asked at a staff meeting whether only association members could vote on the new agreement, he responded that "teachers are members of the bargaining unit with full rights to vote regardless of mem-

bership." However, the teacher's association had validly amended its bylaws to the effect that only a majority of association members was necessary to ratify an agreement. Notice of the amended bylaws withdrawing voting rights of nonassociation members was sent to the board with instructions that all new contracts must be modified accordingly.

In response to the superintendent's statement, an unsigned notice was put in all teachers' mailboxes, asserting that "only BCEA members will be permitted to vote on our new master contract agreement." On the same day, the superintendent issued a bulletin restating existing schoolboard policy which restricted the association's use of school mail services to approved, signed communications, and also reiterating his position that all teachers could vote on the ratification of the new agreement. The superintendent also pointed out that in past years the state mediator had conducted "last offer elections" as a ratification vote, and all members of the bargaining unit had voted.

The trial examiner upheld the validity of the association's amended voting procedures, and therefore found the superintendent's statement as to nonassociation members' voting rights to be erroneous, both factually and legally. He noted that ratification procedures were internal matters and were not to be determined by MERC.

The examiner also stated that ratification votes conducted by the state mediator wherein all bargaining unit members participated, were voluntary procedures conducted by the mediation division of MERC to aid in the settlement of labor disputes and were not endorsements of appropriate collective bargaining units.

Although the superintendent's statements were false, the examiner did not find him in violation of the employer's duty to bargain in good faith; the superintendent was not on the bargaining team and did not make the statement during negotiation sessions. The trial examiner dismissed the association's contention that these statements served to discourage association members and interfered with employees' organizational rights since no evidence was found indicating coercive behavior in an effort to reduce incentive to join the association.

The association's allegation that the employer's limitations on association use of the mail service interfered with the association's right to distribute association material was also dismissed as such regulations on the use of the mail service did not constitute interference, restraint, or coercion under the PERA. The trial examiner also found that limitations on association use of the mail services did not necessarily inhibit communication with members since the association had unrestricted use of school bulletin boards. Additional evidence revealed that the superintendent was enforcing a prior written board policy, and that the employer had never refused a request to negotiate this policy at collective bargaining sessions.

The trial examiner concluded that there was no merit to the association's improper labor practice charges against the school district; he recommended that the matter be dismissed, which the MERC upheld. (*Bullock Creek Education Association and the Bullock Creek School District*, Michigan Employment Relations Commission, April 6, 1972.)

NEVADA

Labor Board Finds No Domination of Local Association by Supervisory Members of State and National Affiliates, Dues Deductions Upheld

The Las Vegas Federation of Teachers unsuccessfully attempted to unseat the Clark County Teachers Association from its position as exclusive bargaining representative with the Clark County School District. The federation charged before the Nevada Local Government Relations Board that the association was illegally dominated by supervisory personnel who are members of the Nevada State Education Association and the National Education Association with whom the CCTA is affiliated. The union asked the Board to withdraw recognition from the association and transfer it to itself. The union alleged that these supervisory personnel had authority to direct members of the bargaining unit at their place of employment through the affiliation between CCTA and NSEA-NEA.

The association contended that NSEA and NEA are associations of affiliations for the purpose of carrying out common goals from the local to the national level. To attain these goals a portion of CCTA dues is transmitted to the state and national associations as is done traditionally in the private sector.

The Board examined the membership roster of the NSEA and noted no domination by supervisory personnel, but did comment that supervisory personnel might exert subtle psychological pressures which might alter teacher aspirations that would otherwise exist if the state association was constituted entirely of nonsupervisory personnel.

The Board also noted that the CCTA'S right to forward a portion of its dues to the state and national organizations was valid, and that the contracting of dues deductions is wholly within the law.

However, the Board noted that CCTA's mandate that all its members join both state and local organizations as a condition to membership was illegal. Under the state-local government employee-management relations act, employee organizations are prohibited from in any way restricting the exercise of employees' legally guaranteed rights of self-organization. The Board found CCTA to be in violation of the statutory provision in that the association was coercing its members to join separate but affiliated organizations.

The Board dismissed the union's complaint as there existed no illegal domination of teachers by supervisors in the affiliated structure of CCTA-NSEA-NEA, but the Board did order that CCTA remove within 90 days any requirement for a teacher to join NSEA and NEA, and inform all current members of this fact. (*Las Vegas Federation of Teachers Local 2170 v. Clark County School District and Clark County Classroom Teachers Association*, Nevada Local Government Employee-Management Relations Board, June 9, 1972.)

NEW JERSEY

Pay for Snow Day During Strike Denied

An arbitrator ruled that teachers represented by the Madison Township Education Association (MTEA) who had participated in a strike against the Madison, New Jersey, Board of Education were not entitled to pay for a snow day which occurred during the strike. The association's strike started January 27 and ended February 7 upon ratification of a new agreement. During the strike the schools were closed for two snow days, January 28 and February 7. After returning to work, the teachers were paid for the February 7 snow day but not for January 28.

The MTEA filed a grievance contending that its members should have been paid for the January 28 snow day because payment for school closing owing to inclement weather was guaranteed in its contract. The association argued that the board's failure to pay teachers for the January snow day violated a "Letter of Understanding" between the MTEA and the board, which prohibited reprisals, sanctions, penalties, or the withholding, postponing, or denying of any right or privilege of employees for having participated in the work stoppage. Further, the MTEA contended that a snow day is like a holiday in that it is payable when school is legally closed.

The school board contended that the dispute was not arbitrable because the grievance arose at a time when the grievance procedure of the contract was suspended, and the suspension resulted from the strike action, a direct breach of the no-strike provision in the contract. The board maintained that according to the public policy of the state of New Jersey, payment of strikers for January 28 would be unlawful.

The arbitrator ruled that the grievance procedure was in effect during the strike and thereafter, but pointed out that the days allowed for inclement weather are "not some kind of bonus or guarantee or holiday existing and accruing as a matter of right." Further, because a snow day "within the meaning of the contract is an officially deferred alternative work day, the conclusion seems quite unavoidable that only those of whom it could be said that *but for* the inclement weather they would have been available and presented themselves to work on the 28th were eligible for the day's pay." Since the agreement between the parties was reached on February 6, but owing to weather conditions the ratification meeting was delayed until February 7, the cause of the absence of the employees from their positions on February 7 was no longer the strike but inclement weather.

In reference to the Letter of Understanding, the arbitrator pointed out that in order to sustain a violation of the Understanding, the MTEA must show that the action had no purpose other than to deprive teachers of their rights.

The arbitrator ruled that the board did not violate the parties' bargaining agreement by deducting pay for the January 28 snow day and therefore, denied the association's grievance. (*In the Matter of Arbitration between Madison Township Education Association and Madison Township Board of Education*, July 19, 1971.)

NEW YORK

Maternity Leave Provision Not Violative of Teacher's Rights

An arbitrator ruled that the Depew school board did not violate a teacher's contractual, civil, or constitutional rights by applying, against her consent, the maternity leave provision of the bargaining agreement with the Depew Teacher's Organization (DTO). The provision required that the teacher take a leave of absence beginning with the fourth month of pregnancy.

The grievant, a high-school physical education teacher, notified her principal that she was four months pregnant, and asked permission to remain in her teaching position until a short time before the birth of her child.

At a meeting with the grievant and the principal, the superintendent denied the teacher's request, citing among other things her appearance before the children during pregnancy, her responsibility to the unborn child and herself, and the contract provisions requiring that maternity leave be taken at the end of the fourth month. He instructed the teacher to begin her leave the following day. The teacher then submitted a written statement from her gynecologist stating that he was aware of her responsibilities as a physical education teacher and that he had given her permission to continue working.

Following the birth of her baby, the teacher requested a shortened maternity leave, which was also denied.

DTO argued that the maternity leave provision violated the Civil Rights Act and was discriminatory. It also argued that forced maternity leave could not be justified in the grievant's case on medical grounds since the grievant's doctor certified that she was physically fit to teach beyond the fourth month of pregnancy. Referring to the superintendent's testimony that the grievant's physical appearance was a factor in placing her on maternity leave, DTO argued that the grievant's appearance could not be a basis under law for requiring her to take a leave of absence, nor had the board treated the grievant in a fair and equitable way because other teachers had been permitted to work beyond the fourth month of pregnancy.

The school board contended that the maternity leave provision in the bargaining agreement was not illegal. If it was to have an effective leave policy, it could not wait until it received word from the individual teacher of her physical status or home life conditions which would or would not allow her to continue or resume teaching. The board further contended that "when exceptions to the rule with respect to the taking of maternity leave were made in the past, this was done to accomplish the primary obligation and duty of the board to furnish education to students."

In arriving at his decision, the arbitrator reviewed federal and state case law, decisions of the New York State Commissioner of Education, and the sex bias guidelines of the Equal Employment Opportunity Commission, and found that maternity leave rules which limit the time an individual can work prior to the expected birth of the child do not violate the Constitution of the United States if there is a

reasonable basis for the rule. He noted that "the courts have recognized that there is some conflict in the medical evidence as to the dangers of permitting a teacher to continue working into the later stages of pregnancy and have resolved the conflicts in favor of the regulating authority." The arbitrator added that this does not necessarily give the school board an unrestricted right to determine the length of maternity leave. He encouraged the board to be flexible in its policy governing the length of maternity leave, and that the board should accommodate to the needs of the individual teacher rather than rely on a rigid rule. Further,

The arbitrator ruled that the school board did not violate the contractual, civil, or constitutional rights of the grievant. (*Depew Teacher's Organization and The Board of Education, Union Free School District Number 7*, American Arbitration Association, May 17, 1972.)

WISCONSIN

Minority Representative Cannot Participate in Negotiation Discussion

Neither a minority teachers union nor an individual representing a minority of a district's teachers may influence or take part in negotiation between a school board and the exclusive bargaining agent. The Wisconsin Employment Relations Commission ruled that the Madison School Board committed an unfair labor practice when it allowed an individual who claimed to represent a minority of the district's teachers to make a formal presentation during a board meeting in opposition to one of the negotiable items currently under discussion between the board and the Madison Teachers, Inc. (MTI). The Commission found that the unauthorized representative's presentation before the board interferred with the negotiation procedure by influencing the board's decision on the teachers' proposal to negotiate a "fair share" or agency shop provision in the new contract.

WERC determined that the board's action in allowing the presentation violated both state statute and the collective bargaining agreement. Under section 111.70 (3)(a)4 of the Municipal Employees Relations Act (MERA), consideration of a minority representative's opposing opinion constituted a refusal "to bargain collectively with a representative of a majority of its employees in an appropriate collective bargaining unit."

The Commission also observed that the parties had agreed "to negotiate only with said agent and no others," and to punctually inform the other party if any proper subject of negotiation was brought to either parties' attention by "any individual, group of individuals or organization other than the other party to this agreement."

Evidence indicated that the school board had listened to a minority representative's objections to the MTI's "fair share" proposal, had failed to notify the MTI of that individual's presentation, and had later offered the MTI binding arbitration in exchange for any further consideration of "fair share" assessments.

The Commission concluded that the board had violated its duty to bargain in good faith and ordered it to "cease and desist from permitting employees other than representatives of Madison Teachers, Inc., to appear and speak at meetings of the board of education on matters subject to collective bargaining." (*Madison Teachers, Inc., Complainant, v. Joint School District No. 8, City of Madison and the Board of Education of Joint School District No. 8 et al., Respondents*, Wisconsin Employment Relations Commission, September 13, 1972.)

FEDERAL

NLRB Reaffirms Representation Rights of Some Managerial Employees

The National Labor Relations Board (NLRB) rejected a motion to reconsider its previous ruling granting buyers employed by the Bell Aerospace Company representation rights. The Board originally found that these employees' participation in the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America, Amalgamated Local 1286, would not create a conflict of interest.

The employer appealed this ruling subsequent to a U.S. Court of Appeals decision which stated that managerial employees had no representation rights under the National Labor Relations Act (NLRA). The court based its decision on previous NLRB and court decisions which excluded from bargaining units, managerial employees "who formulate, determine, and effectuate an employer's policies." The appeals court also considered congressional intent when it created the exclusions in NLRA, and the continued silence by the Congress to exclude *all* managerial employees from coverage.

In the instant case the NLRB stated that its previous rulings excluding managerial employees from the act's coverage were based "upon the premise that conflicts of interest are likely to arise between the employee group represented by a labor organization and personnel working as, with, or for management representatives whose area of responsibility included bargaining with such a labor organization."

The Board felt that the key question was whether the managerial employees' duties included decisions which must be made free of any conflict of interest which would arise if the managerial employees were participating members of a labor organization. The Board found that the managerial employees, buyers with limited policy responsibilities, had a minimal probability of conflict of interest by joining a labor organization.

Since there was a sufficient community of interest among the buyers to constitute an appropriate bargaining unit, the NLRB reaffirmed its previous ruling that a unit of buyers in a company's purchasing and procurement department was appropriate. (*Bell Aerospace Co. and International Union, United Auto, Aerospace and Agricultural Implement Workers of America, Amalgamated Local 1286*, National Labor Relations Board, May 1, 1972.)

NEGOTIATION NOTES

MAINE

Moratorium on Cancellation of Insurance Policies Upheld

The Maine Supreme Judicial Court upheld a law which prohibited cancellation of insurance policies for nonpayment of premiums during a debit agents' strike. The court found the law to be constitutional and in harmony with the National Labor Relations Act.

The court rejected the contention of the Prudential Insurance Company that the law infringed on free collective bargaining and clashed with the company's right to "engage in business on sound actuarial principles," depriving it of "liberty and property without due process of law."

The court determined that it was company practice that "premiums on a substantial portion" of its insurance policies "are collected by its debit agents at the residences or places of employment of the insured." The court added that although the policies themselves contain no commitment to make such premium collections available, the insurance company, as a matter of business policy, employs debit agents who make monthly collections on all types of its policies.

Citing a similar Massachusetts law, the court stated that a Massachusetts court found the law "contrary to the national policy . . . to encourage voluntary agreements freely arrived at after 'good faith' bargaining between the parties." Noting, however, that the Massachusetts law provided a moratorium on cancellations for the duration of a strike plus 31 days, the court asserted that the Maine law would require a moratorium lasting 30 days longer than the 30-day grace period provided under the company's policies.

Since the Maine legislature determined that policy holders' interest required the protection of a moratorium, and since the moratorium showed no serious impairment of the company's property rights, the court decided that the law did not offend constitutional due process, and concluded that the company must abide by its provisions. (*Prudential Insurance Company of America v. Insurance Commissioner*, Maine Supreme Judicial Court, July 13, 1971.)

NEVADA

Physicians Union Signs First Contract

The first contract negotiated by Nevada Physicians Local 676, covering five physicians serving on the utilization committee at Valley Hospital in Las Vegas, insured their right to make their own decisions regarding proper treatment for their patients. The contract also established the rate of pay for working on the committee at $50 per hour.

To determine if the treatment accorded Medicare patients conforms to generally accepted standards, the utilization committee reviews case histories of all Medicare patients who have stayed in the hospital. But the insurance company, which acts as fiscal intermediary between Medicare and the hospital, can deny payment of claims it believes do not conform to its regulations. However, the committee members can now make their own determinations independent of the regulations, since the contract assures them this right. In addition, the contract contains a saving clause nullifying the agreement if the hospital should lose its accreditation or fail to receive payment on Medicare claims because the utilization committee is unionized.

NEW YORK

Employer's Suspension of Benefits During Negotiation Violates Taylor Law

The New York Public Employment Relations Board (PERB) ruled that the Triborough Bridge and Tunnel Authority had violated the Taylor Law by suspending longevity increments of employees represented by the American Federation of State, County and Municipal Employees, District Council 37 and Local 1396, during negotiations and following the expiration of the contract providing for such increments. Following the expiration of the contract, the Authority maintained all wages and benefits at the same level and refused to grant longevity increments prior to negotiation of a new contract.

PERB ruled that though the agreement between the parties did not require that the increment system survive the expiration of the agreement, neither did it provide that the employer would be free to make unilateral alterations upon expiration. Further, "a statutory prohibition against a union's striking imposes a correlative duty upon a public employer to refrain from altering terms and conditions of employment unilaterally during the course of negotiations."

The Authority was ordered to cease and desist from making unilateral changes in the terms and conditions of employment. However, since the parties later entered into a contract which provides for retroactive implementation of wage increments, the order has only prospective application. (*Triborough Bridge and Tunnel Authority and AFSCME District Council 37 and Local 1396*, New York Public Employment Relations Board, July 28, 1972.)

OTHER ITEMS OF INTEREST

U.S. Department of Labor Funds Public Employee Research Institute

The newly created Public Employment Relations Research Institute (PERRI) of the American Arbitration Association, National Center for Dispute Settlement, is conducting a "two year pilot study aimed at dispelling the ignorance of basic information, that is holding back solutions to public employee strikes and other conflicts in government employment."The Institute, which is funded by the U. S. Department of Labor, will be directed by an attorney who has represented both management and labor in the public sector for the last 10 years.

After conducting a nationwide search for copies of important bargaining agreements, court and administrative decisions, and other basic documents, the Institute will index and make this literature available to the public and to the research community. Following the release of this literature, conferences will be held to obtain reactions to the information that has been gathered and to "puncture the myths that are believed to be limiting understanding and to establish priorities and directions for research by others."

Keeping in mind that the main purpose of the study is to demonstrate the feasibility, practicality, and merit of a nationwide study, the Institute drafted a timetable and subject outline for the study. "The phases tentatively planned for the study include: determination of the state of the art, refinement of project, documentation, private sector model, public sector model, identification of key factors, questionnaire and interview instruments, perfection of field techniques, field survey, compilation and analysis, field varification, action phase—national conferences." The outline for the project was submitted to an 18-member National Board for its approval.

Consumer Price Index, September 1972

The Bureau of Labor Statistics announced an 0.4 percent increase of the Consumer Price Index (CPI) in September. The new index is 126.2 percent (1967 = 100), as compared with a CPI of 122.9 percent in September 1971. Seasonally adjusted, the September increase was 0.5 percent. The increase is attributed to higher prices for apparel, gasoline, and eggs, although these increases were partially offset by lower prices for beef, frest fruits, and vegetables.

The CPI rose at a seasonally adjusted annual rate of 4.6 percent for the quarter ending in September, as compared with a rate of 2.2 percent for the quarter ending in June. The increasing rate is due to the higher prices of commodities, particularly food.

Over Half of Federal Workers in Exclusive Bargaining Units

Preliminary figures from the Civil Service Commission's annual census of union recognition in the federal service indicates that the number of nonpostal federal employees in exclusive bargaining units passed the one million mark in 1971.

Nonpostal workers covered by Executive Order 11491 (E.O. 11491) rose to 1,038,288 (53 percent) as of November 30, 1971, from 916,381 (48 percent) in 1970.

Data on union recognition in the U.S. Postal Service are kept separately since postal employees are outside the coverage of E.O. 11491, pursuant to the terms of the Postal Reorganization Act. During the past several years, the extent of exclusive recognition in the Postal Service has remained static since postal unions probably reached their plateau early in the days of federal relations programs, winning national recognition for large craft units. The number of postal field workers represented in 1970 was 625,730 (87 percent); in 1971, the figure dropped slightly to 62[illegible],082 (88 percent).

The big three nonpostal unions tallied nearly the full benefit of the gains during the year, taking 120,075 of the net gain of 121,907. Most of the gains were in the white-collar sector, "a development which will work changes on the composition of the unions." The American Federation of Government Employees (AFGE), which at one time represented a majority of blue-collar workers now represents 382,652 white-collar workers, and only 222,739 blue-collar workers. The National Association of Government Employees (NAGE), which recently was more blue-collar than AFGE, now is almost evenly split between hourly and salaried workers.

The AFGE had the largest numerical increase under exclusive recognition; however, its 14 percent increase was surpassed by National Federation of Federal Employees (NFFE) (30 percent) and NAGE (21 percent) among nonpostal unions. Both the Metal Trades Councils and Machinists suffered decreases.

The number of agreements in force rose from 1,485 in 1970 to 1,643 in 1971; the number of employees covered by contracts increased by more than 100,000. The percentage of nonpostal employees rose from 31 to 36 percent.

The following are comparative standings of the top six, nonpostal federal employees for 1971:

American Federation of Government Employees (AFL-CIO)	606,391
National Federation of Federal Employees	106,881
National Association of Government Employees	83,067
Metal Trades Councils (AFL-CIO)	61,046
National Association of Internal Revenue Employees	41,331
International Association of Machinists (AFL-CIO)	31,098

STATISTICS

NEGOTIATED PROCEDURES FOR EVALUATING TEACHERS

Negotiated provisions concerning evaluation procedures [1] were found in 884 (57.8 percent) of 1,529 agreements analyzed in the 1970-71 NEA Research survey of written negotiation agreements. Of the total group of 884 agreements, 95.9 percent contained evaluation procedures and the remaining agreements established joint association-administration committees to establish procedures.

A random sample of agreements, one out of every five, with at least one agreement from each state, was selected for further analysis. All data appearing in the tables are not mutually exclusive, and percents may not add to total shown because of rounding.

Negotiated evaluation procedure provisions contained a variety of different items, ranging from an introductory statement of intent for the evaluation, to the persons responsible for aiding the teacher to improve performance. Table 1 lists the items included in the relevant provisions. visions.

A statement of intent for the evaluation was found in almost one-fifth of the provisions. Most provisions specifying the intent (14.4 percent) indicated that it was to improve the instructional program, while a smaller percentage (3.3 percent) considered the evaluation as an aid to the teacher's professional growth, e.g.,

> Evaluation should be designed to bring about improvement of instruction.
>
> **[Jefferson County, Kentucky]**

> to provide aid and constructive suggestions for professional personnel growth.
>
> **[Thornton Fractional HSD 215
> Calumet City, Illinois]**

[1] A detailed analysis of teacher evaluation criteria appeared in the November 1972 *Negotiation Research Digest*, 6.3, 17.

TABLE 1.—NEGOTIATED CONTENT OF 181 SAMPLE PROVISIONS CONTAINING TEACHER EVALUATION PROCEDURES, 1970-71

Item	Number	Percent
1	2	3
TOTAL SAMPLE OF PROVISIONS	181	100.0
Intent of evaluation	35	19.3
Type of teacher evaluated	96	53.0
Frequency of evaluation	92	50.8
Type of evaluator	120	66.3
Prior notification of evaluation	18	9.9
Conditions relative to classroom observation	102	56.4
Administrative disposition of evaluation report	173	95.6
Teacher's response to evaluation report	125	69.1
Person responsible for improving performance	29	16.0

TABLE 2.—PURPOSE OF EVALUATION, 1970-71

Statement of intent	Number	Percent
1	2	3
Improve instruction	26	14.4
Aid in teacher's professional growth	6	3.3
Determine tenure, future employment, or salary increment	3	1.7
	35	19.3
TOTAL SAMPLE OF PROVISIONS	181	100.0

A few provisions stated that the evaluation was for determining tenure and future employment or salary increment.

More than one-half of the provisions stated which teachers were to be evaluated: nearly two-fifths, both tenure and probationary teachers; 14.9 percent, probationary teachers only; and 1.1 percent, only tenure teachers.

About 50 percent of the provisions stipulated how frequently teachers would be evaluated, usually establishing different frequencies for tenure and probationary teachers. On the whole, probationary teachers were to be evaluated from once a year to more than four times a year with two or three evaluations a year being the most common practice. Tenure teachers were usually to be evaluated once a year; the range was from once every five years to four times a year. Several provisions stated that tenure teachers were to be evaluated at the request of the teacher, the association, or the administration. (See Table 4.)

Persons responsible for evaluating teachers were specified in about two-thirds of the provisions, as shown in

TABLE 3.–TYPE OF TEACHER EVALUATED, 1970-71

Type of teacher evaluated	Number	Percent
1	2	3
Probationary and tenure teachers	67	37.0
Probationary teachers only	27	14.9
Tenure teachers only	2	1.1
	96	53.0
TOTAL SAMPLE OF PROVISIONS	181	100.0

Table 5. One administrator, most often the principal, was responsible for evaluating teachers. The principal was identified as the appraiser in over half of these provisions either alone or with the cooperation of other administrators.

> The final appraisal will be the responsibility of the principal.
>
> **[Oxnard, California]**

> The building principal will have the responsibility of evaluating all teaching personnel under his supervision. He will utilize the assistance of other administrative personnel and departmental chairmen as he deems necessary for the proper functioning of this system.
>
> **[Palos Hills HSD 230,
> Palos Hills, Illinois]**

The remaining provisions did not name the principal per se, but other administrators or the general administration as being the responsible evaluators.

> Teachers shall be evaluated only by the department chairmen and members of the administration.
>
> **[Greater Egg Harbor RHSD,
> Mays Landing, New Jersey]**

Peer and self-evaluation (in conjunction with evaluations by other staff members) were stipulated in several provisions. For example,

> A tenure teacher shall be assigned by the association to evaluate the performance of a probationary teacher. All such evaluations shall be in addition to evaluations made by the administration.
>
> **[Eau Claire, Michigan]**

> Each teacher should evaluate himself/herself at least two times a year using criteria developed by the administration.
>
> **[Tupper Lake, New York]**

Preliminary notification of an upcoming evaluation was specified in 9.9 percent of the provisions. (See Table 6.) Teachers were usually to be informed either of the evaluation method or of whom would be the evaluator. Several provisions provided for a pre-evaluation classroom observation to familiarize teachers with evaluation procedures.

> The educator shall be fully informed by the principal as to how evaluation shall be conducted.
>
> **[Nebo School District
> Spanish Fork, Utah]**

> A pre-announced informal observation of the performance of each non-tenure teacher shall take place during the first eight weeks of the first semester of employment, followed by a review of this observation. No written record shall be kept of this conference.
>
> **[Marysville, Michigan]**

An analysis of evaluation criteria which appeared in the November 1972 NEGOTIATION RESEARCH DIGEST identified four types of criteria: classroom environment, teacher's professional qualities, teacher's working relationships, and the teacher's physical appearance. Though all criteria cannot be rated in the classroom, the majority can

TABLE 4.–FREQUENCY OF EVALUATION, 1970-71

Frequency of evaluation	Probationary teachers		Tenure teachers	
	Number	Percent	Number	Percent[a]
1	2	3	4	5
Once every five years	...	...	2	1.1
Once every four years	...	...	1	0.6
Once every three years	...	...	5	2.8
Once every two years	...	...	5	2.8
Once a year	10	5.5	40	22.1
Twice a year	42	23.2	4	2.2
Three times a year	31	17.1	2	1.1
Four times a year	3	1.7	1	0.6
More than four times a year	4	2.2	...	...
At the request of the teacher, the association, or the administration	...	...	5	2.8
	90	49.7	65	35.9
TOTAL SAMPLE OF PROVISIONS	181	100.0	181	100.0

[a]Percents do not add to total shown because of rounding.

be appraised by observing the teacher's classroom performance.

In this analysis, more than half of the relevant provisions (56.4 percent) required that the evaluation be conducted through a classroom observation and within the bounds of specified guidelines relative to the length of time of the observation or the manner in which the observation is conducted. Time limitations were indicated in more than 10 percent of the provisions. Over one-half of the provisions mandated that the appraisal be conducted with the full knowledge of the teacher, with one-fifth stipulating that no mechanical surveillance devices be employed. These clauses were similar to the following:

> All monitoring or observation of the work performance of personnel will be conducted openly with full knowledge of the person observed.
>
> **[Auburn, New York]**

> The use of eavesdropping, closed circuit television, public address or audio systems, and similar surveillance devices shall be strictly prohibited.
>
> **[Westwood Heights School District, Flint, Michigan]**

TABLE 5.–TYPE AND NUMBER OF EVALUATORS, 1970-71

Type and number	Number	Percent
1	2	3
TYPE OF EVALUATOR	120	66.3
Principals	62	34.3
Administrative and supervisory personnel other than principals	44	24.3
Peer evaluation	7	3.9
Self-evaluation	7	3.9
NUMBER OF PERSONS INVOLVED IN INDIVIDUAL TEACHER EVALUATION	120	66.3
One administrator only	71	39.2
More than one administrator	35	19.3
Administrator and teachers	13	7.2
Teacher only (self-evaluation)	1	0.6
TOTAL SAMPLE OF PROVISIONS	181	100.0

A detailed breakdown of classroom observation limitations is provided in Table 7.

Almost all of the provisions (95.6 percent) contained some procedure for administrative disposition of completed evaluation reports. (See Table 8.) Eight out of 10 provisions specified that the teacher was to be given copies of all evaluation reports. An evaluator-teacher conference to discuss the report was found in 74.0 percent of the provisions with about one-third indicating that the completed evaluation report was to be included in the teacher's personnel folder. Examples of these types of statements are:

> Staff members shall be given a copy of all evaluation reports of themselves.
>
> **[Batavia, New York]**

> A teacher shall be given a copy of his formal observation/evaluation report prepared by his supervisor and/or principal and shall have the right to discuss such report with his supervisor and/or principal.
>
> **[East Hartford, Connecticut]**

> Teachers shall be given a copy of their ratings or any other written evaluations of their work prepared by their supervisor and shall have the right to discuss such ratings or comments with their supervisors and to append their comments before it is placed in their personnel file.
>
> **[North Hunterdon RHSD, Annandale, New Jersey]**

Approximately one-fifth of the provisions specified some method for handling an unsatisfactory report. Teachers were to be informed in writing of an unsatisfactory performance in 12.2 percent of the provisions. The following example is illustrative.

> All charges involving unsatisfactory performance on the part of the teacher shall be in writing.
>
> **[Oakridge Public School Muskegon, Michigan]**

Subsequent evaluations to check the teacher's performance after an unsatisfactory evaluation were required by 3.3 percent of the provisions. Other provisions (2.8 percent) stipulated that conferences were to be held with teachers receiving unsatisfactory reports. Examples are:

> Teachers whose performance is deemed unsatisfactory shall be evaluated at least bi-monthly by the principal or other administrator designated by the Superintendent.
>
> **[Middleboro, Massachusetts]**

> Within one week of this [unsatisfactory] evaluation a joint conference shall be held involving the principal, department chairmen and the teacher. The purpose of this conference shall be to discuss the deficiencies noted during the evaluation and to institute remedial procedures.
>
> **[Lockport Township HSD 205, Lockport, Illinois]**

As illustrated in Table 9, more than two-thirds of the provisions contained procedures concerning the teacher's response to the evaluation report. The teacher was allowed to add his personal comments to the report in 47.0 percent of the provisions, for example:

TABLE 6.–PRIOR NOTIFICATION OF EVALUATION, 1970-71

Prior notification	Number	Percent
1	2	3
Pre-notification of evaluation methods	11	6.1
Informal observation prior to evaluation	6	3.3
Pre-notification of evaluator	1	0.6
	18	9.9
TOTAL SAMPLE OF PROVISIONS	181	100.0

After consultation with the principal or other administrator, the teacher will have the right to add remarks, statements or other information pertinent to the report. Such remarks shall be attached to the original performance report and shall contain the signature of the teacher and the person preparing the report.

[Jackson Union School District, Jackson, Michigan]

More than two out of every five provisions required the teacher to sign the evaluation report, not as a mark of his approval, but as an indication that he had seen the report. This requirement was similar to the following:

Evaluations shall be signed by the evaluator(s) and then a copy given to the teacher. The teacher shall acknowledge that he has read the original evaluation report by affixing his signature on the actual copy to be filed, with the imprinted statement over the signature that such signature merely establishes that he has read the report to be filed, such signature does not of itself indicate agreement with its content.

All acknowledgment signatures by the teacher required under this provision shall bear the following imprinted legend immediately above the area reserved for the teacher's signature.

I hereby acknowledge that I have read the contents of this report and I hereby attest only to the fact that I have read this report. My signature is placed herein with the sole understanding that I do not necessarily agree with or accept the contents and material herein, and that my signature serves only to acknowledge that I have read the contents and material herein.

[Holbrook, Massachusetts]

TABLE 7.—CONDITIONS RELATIVE TO CLASSROOM OBSERVATION, 1970-71

Condition	Number	Percent
1	2	3
CONDITIONS RELATIVE TO CLASSROOM OBSERVATION	102	56.4
Time Limitations	23	12.7
Less than 30 minutes	4	2.2
30 minutes or more	19	10.5
Open observations	95	52.5
No use of mechanical devices	37	20.4
TOTAL SAMPLE OF PROVISIONS	181	100.0

Appeals procedures were provided in nearly 15 percent of the sample of analyzed provisions. In several provisions, dissatisfied teachers could appeal through the negotiated grievance procedure, and in other instances they could appeal to the superintendent (5.5 percent) or other administrator (1.1 percent). It may be assumed that in all agreements with evaluation procedures and grievance procedures, a violation of the negotiated evaluation procedure is grievable unless specifically excluded under the grievance procedure.

Almost two out of every 10 provisions (16.0 percent) indicated a staff member responsible for assisting the teacher in improving his performance. The principal either alone or along with administrative/supervisory personnel was listed as being responsible for improving teacher performance in 6.1 percent of the provisions. Administrative/supervisory personnel other than principals were responsible for giving the teacher guidance in 4.4 percent of the provisions. Some provisions (5.5 percent) indicated that tenure teachers were to act as coaches to improve teacher performance. The following provision is an example.

TABLE 8.—ADMINISTRATIVE DISPOSITION OF EVALUATION REPORT AND "UNSATISFACTORY" REPORT PROCEDURE, 1970-71

Item	Number	Percent
1	2	3
ADMINISTRATIVE DISPOSITION OF EVALUATION REPORT	173	95.6
Teacher to receive copy	145	80.1
Post-evaluation conference to be held	134	74.0
Evaluation report to be included in teacher's personnel file	59	32.6
UNSATISFACTORY REPORT PROCEDURE	33	18.2
Teacher notified in writing	22	12.2
Follow-up evaluation of performance to be made	6	3.3
Report to be discussed with teacher in conference	5	2.8
TOTAL SAMPLE OF PROVISIONS	181	100.0

The association may designate qualified tenure teachers as tenure coaches for probationary teachers. Such teaching coaches shall assist and counsel probationary teachers in acclimating to the teaching profession and the school system. Teaching coaches shall not be involved in the evaluation of the probationary teacher. The teacher may furnish the teaching coach with a copy of the evaluation.

[Greenville, Michigan]

TABLE 9.—TEACHER'S RESPONSE TO EVALUATION REPORT, 1970-71

Item	Number	Percent
1	2	3
TEACHER'S RESPONSE TO EVALUATION REPORT	125	69.1
May add written comments	85	47.0
Required to sign evaluation report	83	45.9
May appeal report	27	14.9
Through grievance procedure	15	8.3
To superintendent	10	5.5
To other administrators	2	1.1
TOTAL SAMPLE OF PROVISIONS	181	100.0

TABLE 10.–PERSONNEL RESPONSIBLE FOR HELPING TEACHER TO IMPROVE PERFORMANCE, 1970-71

Person Responsible	Number	Percent
1	2	3
Principals and other administrative/supervisory personnel	11	6.1
Administrative/supervisory personnel other than principals	8	4.4
Tenure teacher coaches	10	5.5
	29	16.0
TOTAL SAMPLE OF PROVISIONS	181	100.0

More than one-quarter of the sample of analyzed provisions contained statements relating to the development and/or revision of evaluation procedures. These procedures were to be revised or developed jointly by the association and the administration in 14.9 percent of the provisions. For example:

> A joint committee of the administration and the association is to meet during the school year for the purpose of evaluating, refining and developing adequate evaluation forms and procedures to be used in the total teacher evaluation procedure.
>
> **[Plymouth, Michigan]**

In other provisions, the evaluation procedure was to be developed or revised by the administration. Several provisions stated that evaluation procedures were to be developed or revised by the administration on the basis of recommendations by the teachers' association or individual teachers.

Presented below are several provisions on teacher evaluation procedures. These are sample provisions only and are not to be regarded as exemplary.

TEACHER EVALUATION PROCEDURES

Who is to be evaluated?

New teachers—All teachers new to the system should be evaluated at least once each semester of the first year. A conference and written report should follow each observation.

Prospective tenure teachers—All teachers eligible for tenure should be evaluated once each semester of the year in which tenure is to be granted. If tenure is delayed one year then an additional evaluation should be made each semester during the second year. Conferences and written reports should follow each observation.

All other teachers should be evaluated on an alternate year schedule beginning with the second year. A conference and written report is to be included.

Evalustions may be held at the request of the administrator or teacher at any time.

Who does the evaluating?

Building principals, the assistant superintendent and department head are responsible for evaluating staff members.

Observation of teacher performance

Teacher's Role:

Provide the principal or assistant superintendent with the lesson plan, text and other material pertinent to the lesson.

If the observation has been scheduled well in advance do not plan a lesson that involves testing, showing of movies, or performance of an activity which does not reflect the normal student-teacher interaction.

Administrator's Role:

If more than one evaluation of a teacher is to be made attempt to schedule one observation in advance.

Participate in discussion if invited to do so.

Avoid test situations, movies, etc.

Remain an entire period or lesson.

Conference

Teacher and administrator should be prepared to evaluate the classroom situation in relation to the areas of evaluation established within the evaluation form.

The administrator should:

Lead the discussion concerning the evaluation.

Prepare an outline of the observation.

Clarify the teachers understanding of all suggestions made during the conference.

Discuss other problems of interest to the teacher.

Written Report

The administrator will prepare a written report on the approved form. The teacher should be aware of the form, its contents, and its use.

A copy of the report is to be received by the teacher.

The evaluation shall be recorded through objective and *subjective means*. The report includes five criteria through which each area may be evaluated in an objective fashion.

The teacher should read the completed report, add any comments deemed necessary, and sign it.

If dissatisfied with the report the teacher may ask for another observation and conference or petition a higher administrative level.

**[North Hunterdon RHSD
Annandale, New Jersey]**

EVALUATION AND SUPERVISION

Each non-tenure teacher shall receive a Staff Progress Report five times a year, normally every two months.

An Annual Report of Teacher Effectiveness will be made prior to February 15 each year for every non-tenure teacher. Each teacher shall receive a copy of his report and have the right to discuss the report with his superior and submit his own comments within ten days. The report shall be based on the formal evaluation procedure including a pre-observation conference, an observation and a follow-up conference.

The Annual Report of Teacher Effectiveness will be based upon Evaluative Criteria.

The Committee encourages continual peer observation-supervision at all levels for the purpose of mutual sharing, developing and examing of teaching styles, approaches, and techniques.

When it becomes necessary to engage teachers in the formal evaluative process (by request from evaluators or the teacher being evaluated), then the following formula should be used.

In the high school, the consensus of the teacher's department shall determine the selection of one peer evaluator; and the consensus of the teacher's house shall determine the selection of additional peer evaluators.

In the elementary schools the teacher involved in peer evaluation will be determined by a consensus of the building faculty. In both cases the number of peer evaluators and administrators shall be equal.

The Committee endorses the concept of student-teacher interaction and encourages teachers to actively seek and use student evaluation.

Annual Reports and Progress Reports must be submitted by principals in the elementary schools and by department chairmen in the high school. (In cases where there is no department chairman, by the Director of Instruction.) Annual Reports and Progress Reports may be submitted by Directors of Instruction, Housemasters, Headmaster and/or the Director of Personnel.

**[Thornton Fractional HSD 215
Calumet City, Illinois]**

EVALUATION

THE BOARD AND THE ASSOCIATION RECOGNIZES THAT:

Evaluation can be useful as an aid for: retention, guidance, and promotion of staff members; staff members; self-improvement; and administrator-staff rapport.

Our functional evaluative program presupposes qualified evaluators.

Evaluation loses its effect when it becomes punitive.

The person being evaluated is a partner in the evaluation with full knowledge of the procedure, the qualifications of the evaluator, and the findings thereof.

Teachers shall be evaluated by persons certified by the State of New Jersey to supervise instruction, coordinators, and assistant superintendent in charge of curriculum.

Teachers shall be given a copy of their ratings or any other written evaluations of their work prepared by their supervisor and shall have the right to discuss such ratings or comments with their supervisor and to append their comments before it is placed in their personnel files.

All such written evaluations must bear the signatures of both the evaluator and the teacher evaluated.

PROCEDURE:

Supervisory evaluation reports will be presented to the teacher by the Assistant Superintendent periodically according to the following procedure:

Such reports will be issued in the name of the Assistant Superintendent based upon a compilation of reports, of observations, and of discussions with any or all supervisory personnel who come into contact with the teacher in their supervisory capacity.

Instructional leaders are asked to counsel teachers on a regular, informal basis in order to improve instruction.

The specified instructional leaders are asked to submit the attached evaluation form to the Assistant Superintendent as indicated below.

First evaluation - nontenure teachers - October-November

Second evaluation - nontenure teachers - January-February

Third evaluation - nontenure teachers should be made when desired

Evaluation of tenure teachers shall take place between October and April

In all instances evaluation should not be based on a single observation of the teacher concerned.

During February and March, each teacher shall have a formal conference with his Coordinator and the Assistant Superintendent. The Superintendent may attend any of these conferences. This specific conference is in addition to the many informal discussions that will go on throughout the year. The teacher's performance is to be discussed at this conference.

A final evaluation is then given to the Superintendent for his information and for placement in the personnel file.

A copy of the final evaluation is given to the teacher, his immediate supervisor, and the Assistant Superintendent retains a copy.

[Brookline, Massachusetts]

WHITE-COLLAR WAGE SURVEY, JUNE 1971 TO MARCH 1972

Data released by the U.S. Department of Labor, Bureau of Labor Statistics (BLS), indicate that white-collar pay in private industry rose 4.4 percent from June 1971 to March 1972. Although this figure reflects a 9- rather than a 12-month span, it is comparatively lower than the 6.6 percent increase recorded from June 1970 to June 1971. While white-collar salaries rose 4.4 percent, the Consumer Price Index rose 2.1 percent during the same 9-month period.

Between 1961 and 1966, average wages for white-collar occupations rose at an average annual rate of 3.1 percent. The average annual rate of increase for the period 1966 to 1971 was 5.7 percent.

From June 1971 to March 1972, pay for professional, administrative, and technical support occupations rose an average of 4.1 percent, while wages for clerical occupations rose an average of 4.6 percent. The largest percentage increase in the professional, administrative, and technical occupations was 5.4 percent for draftsmen. The second highest increase—5.1 percent—was recorded for key punch operators and job analysts.

The following table lists by occupation the average salaries for white-collar workers.

TABLE 1.–AVERAGE SALARIES OF EMPLOYEES IN SELECTED WHITE-COLLAR OCCUPATIONS IN PRIVATE ESTABLISHMENTS, MARCH 1972, AND PERCENT CHANGE FROM JUNE 1971[a]

Occupation and class	Number of employees[b]	Average salaries[c] Monthly	Average salaries[c] Annual	Percent increase, June 1971 to March 1972[d]
ACCOUNTANTS AND AUDITORS				
Accountants I	4,230	$ 756	$ 9,067	0.7
Accountants II	10,657	888	10,655	4.3
Accountants III	25,872	990	11,879	4.2
Accountants IV	18,439	1,188	14,259	4.5
Accountants V	6,416	1,447	17,368	4.5
Auditors I	854	802	9,628	1.9
Auditors II	2,603	910	10,924	2.6
Auditors III	4,292	1,073	12,881	4.8
Auditors IV	2,618	1,319	15,823	4.5
Chief accountants I	386	1,279	15,348	6.2
Chief accountants II	1,185	1,452	17,419	1.7
Chief accountants III	628	1,766	21,198	1.4
Chief accountants IV	218	2,210	26,521	7.8
ATTORNEYS				
Attorneys I	346	1,125	13,498	e
Attorneys II	1,288	1,220	14,640	2.1
Attorneys III	2,301	1,533	18,392	5.0
Attorneys IV	1,664	1,954	23,448	5.4
Attorneys V	898	2,294	27,528	4.8
Attorneys VI	534	2,902	34,828	4.4
BUYERS				
Buyers I	2,640	782	9,380	4.2
Buyers II	9,929	910	10,922	5.3
Buyers III	12,213	1,093	13,117	4.2
Buyers IV	4,409	1,296	15,555	5.2
PERSONNEL MANAGEMENT				
Job analysts I	98	787	9,441	2.3
Job analysts II	358	902	10,828	4.1
Job analysts III	492	1,044	12,526	4.2
Job analysts IV	508	1,255	15,057	6.8
Directors of personnel I	904	1,193	14,313	4.2
Directors of personnel II	1,701	1,367	16,401	3.0
Directors of personnel III	1,035	1,679	20,153	1.7
Directors of personnel IV	346	2,062	24,738	3.6
CHEMISTS AND ENGINEERS				
Chemists I	970	820	9,838	1.5
Chemists II	3,755	924	11,092	2.9
Chemists III	8,094	1,075	12,901	3.5
Chemists IV	9,600	1,306	15,670	4.2
Chemists V	7,383	1,548	18,581	3.6
Chemists VI	4,471	1,773	21,277	3.7
Chemists VII	1,575	2,157	25,888	5.6
Chemists VIII	421	2,569	30,827	3.7
Engineers I	9,390	$ 910	$10,921	2.3
Engineers II	28,140	1,006	12,071	3.2
Engineers III	79,779	1,140	13,682	4.3
Engineers IV	112,074	1,347	16,159	4.0
Engineers V	74,629	1,552	18,628	3.6
Engineers VI	38,532	1,78[illegible]	21,402	4.2
Engineers VII	14,438	2,031	24,367	3.7
Engineers VIII	3,070	2,32[illegible]	27,885	4.3
TECHNICAL SUPPORT				
Engineering technicians I	3,374	60[illegible]	7,208	5.2
Engineering technicians II	10,583	68[illegible]	8,207	3.1
Engineering technicians III	23,697	79[illegible]	9,507	3.9
Engineering technicians IV	26,543	89[illegible]	10,788	3.8
Engineering technicians V	17,207	1,02[illegible]	12,259	3.8
Draftsmen-tracers	4,365	524	6,288	6.8
Draftsmen I	16,710	629	7,550	4.6
Draftsmen II	29,607	767	9,201	4.4
Draftsmen III	30,175	958	11,492	6.4
CLERICAL SUPERVISORY				
Keypunch supervisors I	919	634	7,612	6.5
Keypunch supervisors II	1,693	710	8,516	3.8
Keypunch supervisors III	1,106	777	9,325	5.2
Keypunch supervisors IV	391	908	10,891	1.9
Keypunch supervisors V	59	1,027	12,322	8.9
CLERICAL				
Clerks, accounting I	82,549	489	5,[illegible]	4.6
Clerks, accounting II	59,930	62[illegible]	[illegible],537	4.4
Clerks, file I	24,037	38[illegible]	4,602	4.2
Clerks, file II	22,754	419	5,027	3.4
Clerks, file III	6,936	518	6,214	5.3
Keypunch operators I	61,700	480	5,756	5.1
Keypunch operators II	45,043	545	6,539	5.2
Messengers (office boys and girls)	25,245	424	5,087	4.7
Secretaries I	80,584	581	6,972	4.3
Secretaries II	90,652	653	7,840	4.9
Secretaries III	50,937	703	8,436	4.5
Secretaries IV	16,030	758	9,092	4.6
Stenographers, general	49,096	515	6,181	3.8
Stenographers, senior	48,960	589	7,074	5.7
Typists I	59,426	436	5,229	3.9
Typists II	37,199	508	6,093	5.9

SOURCE: "White-Collar Salaries Up 4.4 Percent in 9 Months," *U.S. Department of Labor, Bureau of Labor Statistics.* (Press Release) August 7, 1972.

[a]Includes establishments with 250 workers or more in manufacturing and retail trade; and 100 or more in transportation, communication, electric, gas, and sanitary services, wholesale trade, engineering and architectural services, commercially operated research development, and testing laboratories, and finance, insurance, and real estate.

[b]Occupational employment estimates relate to the total in all establishments within scope of the survey and not to the number actually surveyed. Employment estimates are affected by two technical changes implemented in the current survey: The minimum employment size of finance, insurance, and real estate establishments included in the survey was raised from 50 to 100, and the sampling method used in the survey was revised. These changes had a negligible effect on most professional, administrative, technical support, and clerical supervisory occupations, but tended to lower the employment estimates for most clerical occupations.

[c]Salaries reported relate to the standard salaries that were paid for standard work schedules; i.e., the straight-time salary corresponding to the employee's normal work schedule excluding overtime hours. Nonproduction bonuses are excluded, but cost-of-living bonuses and incentive earnings are included.

[d]Percent changes have been computed using the full scope of the 1971 survey and the same scope in 1972, i.e., including establishments with fewer than 100 employees in the finance, insurance, and real estate industries.

[e]1971 data did not meet publication criteria.

SPECIAL REPORTS

SELECTED COLLECTIVE BARGAINING PROVISIONS: TEACHER RECRUITMENT, SCREENING, AND JOB DESCRIPTIONS

Collective bargaining can provide teachers with greater control over and increased involvement in professionalism. Definition of teaching duties and responsibilities and recruitment of new teachers are two facets of teacher professionalism that may be negotiated in collective bargaining agreements.

Provisions concerning teaching requirements and duties, as incorporated in negotiated contracts, usually sketch job descriptions within a given school district. Job descriptions are also included in non-negotiated school-board policies and regulations. However, only those job descriptions contained in teacher collective bargaining agreements are considered in this selection of provisions.

Through negotiation, teachers are also increasing their involvement in the recruitment of other teachers and administrators. Thus, teachers, as professionals, are able to maintain professional standards by establishing minimum qualifications and endorsing only those candidates who meet requirements and are able to perform the duties outlined in a particular job description. In many districts, teachers are excluded entirely from recruitment and the formulation of a job descriptions.

Sample provisions are reprinted below. It is emphasized that these provisions have been reproduced not because they are recommended for adoption, but to stimulate the thinking of readers who are developing or revising job descriptions and recruitment procedures.

Job Description

TITLE–TEACHER

A. Minimum qualifications–Certification by State Department of Education of Kentucky
B. Responsibility to whom–Principal of school to which assigned
C. Description of duties:

- Strives continually to improve instruction
- Participates in workshops, college classes and other inservice activities and keeps abreast of current trends in education by reading professional books and magazines and by viewing educational telecasts
- Groups students as seems advisable for effective teaching
- Keeps grouping flexible in order to meet individual differences and changing needs
- Endeavors to expedite the general overall plan of instruction as prescribed by the laws of the Commonwealth of Kentucky and the Jefferson County Board of Education
- Provides an environment for students which fosters security and satisfaction; promotes self-direction; encourages creativity; develops moral and spiritual values; and provides opportunity for democratic living
- Plans classroom instruction to meet curriculum standards as set forth by the State Board of Education of Kentucky and the Jefferson County Board of Education
- Plans the program to fit the needs of the students
- Endeavors to stimulate maximum achievement on part of students
- Utilizes appropriate instructional media for development of each student
- Accomplishes thorough preparation in subject matter of subject or grade assignment being sought
- Studies and evaluates available materials and equipment
- Provides individual guidance and counseling as needed
- Maintains a relationship that encourages students to seek personal guidance when needed
- Familiarizes self with personal data concerning backgrounds and problems of students in order to give individual help
- Reserves time before and after the regular school day for work with individual students who need help
- Works with agencies to develop improved environmental conditions for students
- Keeps open channels of communication with students, parents, fellow teachers and administrators
- Enlightens local community as to school activities
- Assists in any community activity which is connected with the school
- Strives to maintain a congenial and workable relationship with all school personnel, professional and classified
- Holds group and individual conferences with parents as need is indicated
- Endeavors to maintain a harmonious relationship with individuals and to work cooperatively with organizations in the community
- Applies ethical principles in all contacts
- Maintains membership and participates in activities of professional organizations
- Serves on curriculum development and textbook selection committees
- Participates in the development of an effective curriculum within the school
- Encourages and supports research for developing improved teaching materials and cooperates in testing and evaluating newer curriculum ideas
- Remains open-minded to innovations in the curriculum
- Evaluates teaching results and considers how instruction could be improved.
- Evaluates own teaching techniques and procedures and revises accordingly
- Plans and evaluates constantly in order to determine the needs and interests of students and to maintain a balance in the curriculum
- Performs other duties assigned by the principal of the school to which assigned

**[Jefferson County
Louisville, Kentucky]**

POSITION

Position Title: Department Chairman - Subject Matter Areas
Recruited by: Director of Personnel.
Elected by: Board of Education.
Term of election: One Year.

WORKING RELATIONSHIPS

Reports to: Building principal
Receives guidance from: Principal, Assistant Principals, Director of Secondary Education, Director of Curriculum Development, Coordinator, Consultants, and Teachers.
Extent of guidance received: Basically, suggestions and information pertaining to the instructional program in relationship to the curricular plans and the instructional program of the school and the district.
Provides guidance and consultation to: Principals, teachers, teacher aides, coordinator, counselors, and Directors of the Division of Instruction.

SPECIAL CHARACTERISTICS OF THE POSITION

Required experience or training: Master's or equivalency degree (B.A. + 48 credits) with at least three credits in each of the following: instructional methods, supervision, curriculum. Proper certification and minimum of three years' successful teaching experience at secondary level.
Desired experience or training: Formal course work in research and experience and training in educational administration.
Special requirements of the position: Commitment to a career in education; positive attitude toward research, and the ability to study and appreciate rigorous research methods; flexibility and inventiveness in the adaptation of learning methods, materials, and procedures to experimental situations; ability to lead in a close and extended interpersonal situation; and ability to recognize and utilize the resources of personnel. Ability to maintain effective interaction with the other teachers, the principals and instructional administrative personnel, children, parents, research personnel and liaison personnel; sensitivity to individual learning problems and training in methods of alleviating them; and high initiative and responsibility.

PRINCIPAL CHARACTERISTICS AND RESPONSIBILITIES OF WORK

Types of activities performed frequently: Assume leadership in developing, executing and evaluating an exemplary instructional program in the unit, including objective, materials, equipment and activities at the direction of the principal and other consultants within the structure of the school district.
Position responsibilities: A. *Instruction* - He or she will be responsible to the principal for the following: implement the instructional program; assist teachers in the diagnosis of each pupil's level of achievement; make recommendations for selection of instructional materials in terms of level of achievement of pupils, not on the basis of usual grade level; organize team planning for varying methods of instruction according to characteristics of the project in relation to content and sequence of the instructional unit; evaluate instruction of departmental members and assist them to improve their instructional methods; arranging instructional groups on the basis of needs of pupils; provide avenues of pupil movement from one grouping to another, into individual tutoring, and into independent study; coordinate the responsibilites of the teacher aides; coordinate the responsibilities of the teacher in teams; assume leadership in initiating, establishing and maintaining good home-school relations; meet with other department leaders and the principal; act as a liaison person between principal and other members of the unit; prepare case studies of pupil growth in cooperation with other members of the department; assist principal in selection and assignment of department members; prepares with department members budget recommendations for the department, and approves all department requisitions.
B. *Curriculum Development* - Work with counselors, teachers and administrators to assess the unique characteristics of the student population; use student data as an index of the extent to which curriculum objectives are being met; assist teachers to follow the curricula as specified and to adjust the program to the particular needs and interests of students; assist teachers in being sensitive to and communicating about curriculum inadequacies; assist teachers in the development of new curricula to meet specific school needs; assist in organizing and implementing in-service training content for teachers; may represent his school on district level curriculum committees; department chairman will perform any duty assigned by the principal and not included herein which is consistent with his role as instructional and curricular leader for his department; and no extra-curricular responsibility shall be assigned to a department chairman.
C. *Research* - Aid in the planning for and execution of educational research that will take place within the research and instruction teams; give guidance and provide leadership for the administration of experimental treatments, instructional methods, materials, media, by teachers or others to insure continuous adherence to an experimental design and to a schedule for collecting information; and participate in collection and analysis of information.
D. *Development* - Help plan the development activities with members of the department, principal, and school staff; coordinate the development of an exemplary instructional system within the department, including a statement of objectives, the assessment of the capabilities of pupils, the instructional program and evaluation procedures; and participate in preparing instructional materials, evaluation instruments, reports and collection of all data required for evaluation.
E. *Innovation* - Stimulate and coordinate the introduction of novel procedures and materials in the department; keep abreast of innovations through the school system, the state and the nation; cooperate in evaluation of innovations; and assumes major responsibility for providing leadership and direction to his assigned obligation area in addition to teaching responsibilities.

[Madison, Wisconsin]

The teacher's duties, as part of his primary professional responsibility, are to teach and to otherwise supervise and develop the capabilities of the students in the school system. These duties include, but are not limited to:

a) Providing high-quality instruction in the classroom, laboratory, and special activity rooms of the schools.

b) Sponsorship and supervision of clubs and class extra-curricular activities.

c) Performing normal disciplinary and supervisory functions in whatever portions of the building such as required, in a manner consistent with the administrative policy of the District.

d) Attending necessary faculty meetings.

e) Conferring, as required by the educational needs of his students, with parents of his students with regard to scholastic, disciplinary, attitudinal, and behavioral matters, including responding to parental complaints, so as to maintain open communication with parents and students. These conferences are to be scheduled, when practical, during the professional employee's normal working hours.

f) Keeping up to date on subject matter, teaching methods, teaching materials, techniques for working with students, and other related developments, and doing so on his own time to supplement the in-service program.

g) Providing, without extra remuneration, special assistance to the slower students in the normal classes who may require such assistance, when in the judgment of the administration and teacher the students would benefit from such assistance.

h) Providing, without extra remuneration, special educational challenge and enrichment to the brighter students in the normal classes, when in the judgment of the administration and teacher the students would benefit from such assistance.

i) Regular self-conducted reviewing of curricula and making suggestions for improvement.

j) Regular self-appraisal of the teacher's own teaching methods and classroom procedures, and improving them to the extent possible.

k) Regular self-appraisal of the teacher's own performance, in all facets of the teacher's job, and working to improve his performance to the extent possible.

Effective performance of the teacher's duties requires that certain modes of on-the-job behavior be adhered to by the teacher. The following are required:

a) A normal work day for teachers is eight hours.

b) Meeting and starting classes on time.

c) Reports required by the administration must be submitted on time unless extenuating circumstances prevent it.

d) In the event a teacher is unexpectedly not able to complete a school day, due to illness or emergency, other regular teachers may be required to substitute during periods in which they do not have a class, or to combine their classes with those of that teacher. Consideration will be given to teacher preferences in making such assignments.

**[Babcock School District
Gibsonia, Pennsylvania]**

Teacher Recruitment and Screening

PROFESSIONAL PLACEMENT AND EVALUATION OF TEACHING FACULTY

The Board and the Association endorse the professional concept that teachers shall be involved in the recruitment, selection, orientation, transfer and promotion of all certified personnel.

Selection of Teaching Faculty: In each school building the Building Representation Committee will establish appropriate Building Teacher Selection Committees which will meet and discuss with the principal the screening and selection of teachers to be recommended to the Superintendent for appointment. Generally, no teacher will be recommended to the Superintendent for appointment unless that teacher is approved by the appropriate Building Teacher Selection Committee and the building principal

[Great Neck, New York]

TEACHER RECRUITMENT

Only professionally qualified candidates shall be considered for hiring. It is the goal of the Association and Board to have each teacher hold a valid New York State Certificate in the area in which he will function. The Assistant Superintendent for Administration will systematically review each probational teacher's progress toward this goal. If the Certificate is provisional, the teacher must meet permanent Certificate requirements within the period stipulated by the New York State Education Department.

Interviews: Elementary Classroom Teachers: A candidate screened by the Central Administration will be interviewed by the Principal and one or two teachers of the appropriate level (primary or intermediate) elected by the teachers of that level from the building. *Elementary Special Teachers:* A candidate screened by the Central Administration will be interviewed by the Principal, the appropriate district subject-matter supervisor, and one teacher elected by the teachers of that special subject. *Secondary Teachers:* A candidate screened by the Central Administration will be interviewed by the Principal, department chairman or the appropriate district subject-matter supervisor and one or two teachers elected from that discipline. Where a candidate does not receive the recommendation of the whole committee each opinion may be submitted to the Assistant Superintendent for Administration who shall make the judgment. When the interviews have been completed, each person who has interviewed the candidates may submit a written report to the Assistant Superintendent, listing all the candidates in the order of his recommendation preference, stating the reason or reasons for such preference. In an emergency the interview will be conducted by the best means available to the Superintendent's Office. When an outstanding teacher candidate in a critical subject area is identified on a recruiting trip, the Superintendent of Schools or his designee shall be free to act to secure the candidate.

**[Union Free School District #3
Huntington, New York]**

TEACHER RECRUITMENT AND HIRING

The Board realizes that the recruitment and hiring of competent teachers to the staff of the New Paltz Central School is of the utmost importance to the children of this community.

In the secondary area, where possible, department chairmen will be invited to interview the candidates for their particular departments along with the Building Principal and the Supervising Principal. The Building Principal and the department chairman's recommendations will be considered by the Supervising Principal in making his recommendations to the Board.

In the elementary area, where possible, an experienced teacher will be invited to interview the candidates along with the Building Principal and the Supervising Principal. The Building Principal's and the experienced teacher's recommendations will be considered by the Supervising Principal in making his recommendations to the Board.

When deemed advisable, time will be set aside so that department chairmen of the elementary teacher may observe candidates teaching their classes.

The District will bear the cost of substitutes while these teachers are observing; and these observation days will not be counted against these teachers' personal days, sick days, or visitation days.

[New Paltz, New York]

BRIEFS OF RECENT AGREEMENTS

New Bedford, Massachusetts

Between New Bedford Education Association and New Bedford School Committee, effective July 1, 1971, to August 31, 1973. Approximately 660 certificated professional employees. Renegotiation on a successor contract to commence no later than November 1, 1972.

COMPENSATION: (1972-73) B.A., $7,950 to $12,000, 10 increments; B.A. plus 15, $8,150 to $12,200, 10 increments; M.A., $8,850 to $12,900, 10 increments; M.A. plus 30, $9,050 to $13,100, 10 increments; CAGS, $9,450 to $13,500, 10 increments; Ph.D., $9,950 to $14,000, 10 increments; longevity pay to be $50 annually after 10 years, $100 annually after 20 years, $200 annually after 30 years, and $300 after 40 years in New Bedford; certified summer school, evening elementary, and evening high-school teachers, $7 per hour, noncertified, $5 per hour; when substitute teachers are not available, regular teachers to be paid an additional $5 per class period served in junior and senior high-school and $10 per morning or afternoon session, if sessions divided between two teachers, $5.00 per session; traveling adjustment counselors and teachers of home classes to be allowed $225 annually for transportation; 10 cents per mile for all approved travel outside the city but within the state; on retirement, tenure teachers receive $10 for each unused accumulated sick leave day up to a maximum of 150 days.

DIFFERENTIALS: $500 annually to every specialist with a graduate degree teaching in his special field; assistant in guidance and placement department, $600; counselor in guidance and placement department and elementary school adjustment, $400; high-school dean of students, $800; department heads, $250 for 1-5 teachers up to $750 for 30 or more teachers; extracurricular activities: head football coach, $1,800; trainer, $1,750; head track coach, $1,600; head basketball coach, $1,400; junior high-school head coaches, $1,200; head baseball coach, $1,000; head coach for girl's sports, $500; body building, $300; girls' tennis, $200; various club sponsors range from $50 to $200.

LEAVES: Fifteen days' annual sick leave, 120 days' maximum accumulation; 3 days' emergency personal leave to attend serious illness of immediate family member, required court appearance, comprehensive examinations to earn a graduate degree, or other personal business or family matters at discretion of superintendent; 3 days' bereavement leave for immediate family and 1 day for death of aunt or uncle; 2 school visiting days per year may be allowed with any expense involved paid by the teacher; military leave without pay not to exceed 4 years with return to schedule; extended sick leave without pay not to exceed 1 year beyond sick leave used; sabbatical leave at half salary for not more than one year with agreement to return to system for two years with full credit for period upon return but without earning sick leave during sabbatical; leave of absence without pay up to 2 years to join Peace Corps; leave without pay or increment up to 1 year to care for sick member of tenure teacher's immediate family.

INSURANCE: During absence for personal injury caused by an accident arising out of and in the course of employment, teacher may elect to charge all or part of such absence to accident or sick leave, in which case he receives sick leave payments less amount paid by Workmen's Compensation; if he chooses not to take sick leave pay, his sick leave credit is not to be reduced by any reason of Workmen's Compensation payments.

ASSOCIATION: Payroll dues deduction for local, state, and national dues; released time for president and his or her nominees for association business to be no more than 7 days per individual or an aggregate of 15 days per year; use of school buildings at reasonable times outside school hours for meetings without cost except for custodial fees; use of faculty bulletin boards to post notices; prior to the 15th of October, December, February, and April the school committee is to meet with members of the association to discuss items of mutual concern.

INSTRUCTION: Secondary teachers to have 5 preparation periods each week; class size maximum not to exceed 30; specialists not to act as substitutes except in an emergency as determined by the superintendent or deputy superintendent; school calendar is to comprise 182 work days; the association is to establish a continuing textbook committee which is to be representative of the professional staff and which may submit to the superintendent recommendations and proposals for the supplemental purchase of books and/or the acquisition of new books; six-member study committees to be established to encourage the active participation and cooperation of the teachers in the development and implementation of the best possible educational program for the school children of New Bedford.

PERSONNEL: Grievance procedure to end with binding arbitration; personnel file to be available to each teacher upon request and each teacher may reply to any material in the file, such reply to be attached; duty-free lunch periods of no less than 30 minutes; only one general staff meeting per year called by superintendent; building principal may call only one meeting per month to last no longer than one hour, 15 minutes; teachers to attend only one evening meeting each year for open house and/or parent visitation of no more than 2 hours and no more than one evening per year for school pupil functions; when public address systems are used to monitor classrooms an audible signal is to be given; teachers to be given a copy of any evaluation report prepared by their superior with the right to discuss such reports with their superiors before inclusion of same in personnel files; vacancies in promotional positions to be

posted at least 15 days before applications must be submitted with seniority a significant factor in filling such positions; transfers to be posted by May 1 of each year; involuntary transfers or reassignments to be made only after a meeting between the teacher involved and the superintendent or his designee; teachers to be informed of any complaints regarding their teaching and no disciplinary action is to be initiated by the employer except in accordance with provisions of the General Laws, Chapter 71; teachers to be provided with a separate desk and chair in each classroom, storage space for instructional materials and supplies, adequate work areas, faculty lounge, and parking space.

Gaylord, Michigan

Between the Gaylord Board of Education and the Gaylord Education Association, effective August 1, 1972, to July 31, 1974. Approximately 80 certificated professional employees.

COMPENSATION: (1972-73) B.A., $8,000 to $10,950, 8 increments; M.A., $8,500 to $12,750, 10 increments; M.A. + 30, $8,800 to $13,050, 10 increments. Teachers on step six and above on the B.A. and B.A. + 10 lane will not move horizontally until they have moved vertically. The next vertical lane is B.A. + 20; B.A. + 10 lane is eliminated in 1973-74 and teachers revert to the B.A. lane at same experience step. (1973-74) B.A., $8,300 to $12,100, 8 increments; M.A., $8,900 to $13,150, 10 increments; M.A. + 30, $9,300 to $13,550, 10 increments.

DIFFERENTIALS: (based on percentage of teacher's base pay) head football, basketball, 10%; band director, 9.5%; head baseball, track, and junior varsity football, 6%; girls' basketball, ski team, year book, drama (minimum of 3 plays), and cheerleading, 4%; grades 5-8 intramurals (for each activity up to 3), golf, tennis, debate, and department heads, 3.5%; safety patrol, 3%; forensics, 2%; driver education, $5.50 per hour; sixth-grade camp, $200; lunch duty, $3.00 per hour.

OTHER: Vocational teachers credited with one year's experience for each year of relevant work experience; reimbursement for authorized travel, $.11 per mile.

LEAVES: Ten days' annual sick leave credited at the beginning of the school year cummulative to 140 days; one bonus day for each 5 days' unused sick leave; 140 days' maximum accumulation for unused sick, bonus, and personal leave days; 2 days annually for personal business (except in emergency, 5-days' notice required); teachers on personal leave may be restricted to no more than 4 per district or 2 per building; 5 days per year deducted from sick leave for death in the immediate family; sabbatical leave at one-half pay for one year; unpaid leave for exchange teaching, military service, or education; no compensation for emergency substituting during planning period, compensatory time for all other situations; compensatory time for substituting, for time spent after established school day for parent-teacher conferences, or teacher meetings after 5:00 p.m. or on Saturdays, Sundays, or holidays, to be taken in ½ day blocks or added to sick leave accumulation in ½ day blocks.

INSURANCE: Board-paid Blue Cross-Blue Shield and major medical with family coverage; $7,500 group life insurance policy; liability insurance; disability income insurance paying 60% of salary after 30 consecutive days and up to 60 months.

ASSOCIATION: Payroll dues deduction for local, state, and national associations; 5 days' released time for association business to be used at discretion of president, limited to 2 days per individual, board to provide substitute for first 3 days and association to reimburse board for substitute if other two days are used; school rental and use privileges when not in conflict with scheduled activities; right to wear insignia, and use bulletin board and mailbox; board to furnish financial information and information concerning programs or the processing of grievances; consultation with the board on financial, instruction, or tax programs, or major revisions of education policy; association matters to be presented to the board at least 4 days prior to board meetings and to be placed on the agenda; no-strike clause; board to provide each teacher with a copy of the agreement.

INSTRUCTION: Maximum of 27.5 pupil-contact hours per week; effort to maintain maximum teacher-pupil ratio of 1:26; school day, 8:15 a.m. to 4:00 p.m.; school calendar, 202 days in calendar year comprising 183 instructional days, 5 teacher work days, 3 holidays, and 11 vacation days; 15-member curriculum council with a minimum of 12 teachers from K-12 and one to 5 members from each building to be selected by the building principal on the basis of ability and functions during the school day; proposed schedules to be posted prior to June 1; all affected teachers to be notified of changes thereafter; extra duties are voluntary and assigned on basis of qualifications, competency, and other relevant factors.

PERSONNEL: Grievance procedure to end with binding arbitration; right to review the confidential contents of personnel file and to be accompanied by an association representative; duty-free lunch period of at least 40 minutes, equal to students'; at least one 45-minute preparation period per day or compensation for lack thereof; teacher evaluation on the basis of established criteria, at least three times a year for probationary teachers, annually for tenure teachers; posting of all vacancies; unrequested transfers for school assignments, classrooms, and grades to be avoided or kept to minimum; teachers to report promptly any assault; teacher to be notified promptly of student or parental complaints; all probationary teachers to be assigned a teaching consultant; board to pay up to $15 of required annual physical checkup including tuberculosis test; reduction-in-force procedure to be in accordance with the certification, qualification, experience, and length of service which shall be the determining factor when all other factors are equal.

REDUCTIONS IN PERSONNEL AND ANNEXATION, CONSOLIDATION, OR OTHER REORGANIZATION OF THE DISTRICT

No Teacher shall be discharged or laid off pursuant to a necessary reduction in personnel unless there is substantial decrease in the students enrolled in the school district or there is a substantial decrease in the revenues of the school district. The decision as to the existence of cause for necessary reduction in personnel may be the subject of a grievance.

In the event of a general cutback or reduction of teachers through layoff from employment, the following procedure, based upon program needs, will be utilized:

Specially-certified teachers in the specific positions being reduced or eliminated will be laid off first provided there are fully-qualified, fully-certificated teachers to replace and perform all of the duties of the laid off teachers.

If reduction is still necessary, then probationary teachers in the specific positions being reduced or eliminated will be laid off, provided there are fully-qualified, fully-certificated teachers to replace and perform all of the duties of the laid off teachers.

If reduction is still necessary, then teachers in the specific position being reduced or eliminated will be laid off in accordance with the following factors: Certification, qualification, experience, and length of service. In the event all factors are equal, length of service shall be the determining factor. A teacher may change departments to improve seniority only if he has a major in that department and/or has teaching experience in that area within the Gaylord Community School District:

Certification: Possessing a provisional or permanent certificate appropriate to the teaching level.

Qualifications: Possessing a major or a minor appropriate to the teaching assignment, as well as a sufficient number of credit hours in that academic area to meet accrediting agency standards.

After a reduction of teachers as outlined above, if there are teaching positions that become vacant, laid off teachers who are certified and qualified will be given the first opportunity to fill such positions. In the event two or more teachers are *certified and qualified,* the order of priority shall be to the teacher who is the most qualified and fully capable to fill such position.

In determining what constitutes "most qualified and fully capable", the employer shall utilize, among others, the following factors: experience, ability, attitude, professional background and attainments, past performance, employment and personnel records, interest, attendance, willingness to work, evaluations, length of service in the position and/or with the employer, communications and interviews, and test scores (if any applicable.)

Before official action on a reduction of teacher is taken by the Board of Education, it will give notice to the Association of the contemplated reduction and afford the Association opportunity to discuss it with the Employer. As soon as the names of the teachers to be laid off are known, a list of such names shall be given to the Association.

In the event of lay-off, the Board will institute a recall procedure which, when implemented, will insure teachers that they will be recalled in the reverse order of lay off. Recall will be initiated immediately upon resolution of any financial crisis which may have precipitated the necessary reduction in personnel.

Cranford Township, New Jersey

Between Cranford Township Board of Education and the Cranford Education Association (Unit A), effective July 1, 1972, to June 30, 1973. Approximately 350 certificated professional employees. Contract covers certificated and noncertificated school employees.

COMPENSATION: B.A., $8,400 to $13,900, 15 increments; B.A. + 30, $14,200 maximum; M.A., $9,200 to $15,560, 16 increments; M.A. + 30, $16,585 maximum; Ph.D., $17,085 maximum. Long-term substitutes, $8,400 to $9,000; short-term substitutes, $19 per day, $21 per day after five days of continuous service; longevity payment, $300 after 20 years' service and at least 15 years in the system.

DIFFERENTIALS: Department chairmen, $500; guidance chairmen, $200; (all of the following activities are paid on a differential scale with six increments), art services, choral music, and instrumental music, high school: $400 to $642, junior high: $300 to $482; intramural sports, junior and senior high: $320 to $514, elementary school: $250 to $402; advisors for student council, senior class play, newspaper, yearbook, audiovisual aid club, and varsity cheerleaders, $150 to $241; (all of the following activities are paid on a differential scale with five increments), football varsity coach, $1,020 to $1,680; basketball head varsity coach, $820 to $1,350; head baseball, wrestling, track, and soccer coach, $665 to $1,090; athletic trainer-equipment manager, $1,395; home instruction and supplementary instruction teachers, $5.25 per hour; driver education teacher, $4.75 per hour; summer school teachers, $5 to $6 per hour depending on experience; 10 cents per mile for use of own car for school business.

LEAVES: Annual sick leave as set forth in school personnel policies, unlimited maximum accumulation; three days' personal leave upon prior notification and superintendent's approval with one day available without stating reasons and two days deducted from personal leave for religious observance, death in the nonimmediate family, own marriage, or family illness; five days' bereavement leave for death in the immediate family; unlimited paid leave for job-related court appearance; extended leave with contractual rights preserved may be granted upon notification six months prior with no salary credit given unless leave is connected with professional growth, prolonged illness, home or family responsibilities, temporary work assignment of spouse away from home, employment at overseas school, Peace Corps and other government sponsored activities, personal interests, or military leave; sabbatical leave after seven years' service at half pay for one year and full pay for half year.

INSURANCE: Board-paid Blue Cross, Blue Shield, and a major medical program for all employees and up to 75% of premiums for employees' dependents within budget allocation of $135,000; liability insurance for teachers using own cars in performance of school duties; savings plan: teacher may request a specific amount of money to be deducted from each monthly pay check which monies shall be paid back in a separate check in June.

ASSOCIATION: Payroll dues deduction for local, state, and national association; board will furnish association with information on financial resources of district; association representative or any employee will be granted leave with pay to participate during working hours in negotiations, grievance procedures, conferences, or meetings; association may transact official business on school property if it does not interfere with normal school operation; use of school facilities; association given space on bulletin boards for notices, and use of interschool mail facilities; right to wear association insignia or identification; association representative may speak at faculty meetings for 15 minutes, subject to requirements of meeting agenda.

INSTRUCTION: School calendar to consist of 182 class days; teachers to be notified of work assignments no later than August 15; definition of duties and responsibilities

concerning pupil discipline to be drawn up by the superintendent, teachers may exclude student from class and refer him to principal if behavior seriously disrupts class; teaching load for junior and senior high-school teachers is five subject-matter periods of one hour each, no more than two subjects areas or three teaching preparations, department heads: no more than two student instruction-supervision periods per day.

PERSONNEL: Grievance procedure ends with advisory arbitration; duty-free lunch period one hour for elementary teachers and 25 minutes for junior and senior high-school teachers; during lunch, teachers may leave building without permission; faculty meetings four days a month for no longer than 60 minutes, teachers to be notified at least one day in advance; school district has $2,000 available for tuition reimbursement, teachers must submit application to superintendent at least 60 days prior to beginning of course, teacher will receive response within 30 days, only courses that are part of a college or university degree program are acceptable, must receive a grade of B or better to receive reimbursement, maximum load is three credits per semester or six credits per year, maximum reimbursement is $150 per year; inservice activities designed to develop competency in performance, including visits to other classrooms, schools, colleges, industrial or business establishments, conferences, conventions or committee work, training in classes and workshops, sponsored by the district or other institutions, superintendent approves leaves for inservice activities, employee to be informed of approval or disproval in writing, reimbursement for travel, lodging, registration, and meals may be granted at discretion of superintendent, written reports on activities may be required; teacher to be given copies of all class visits or evaluation reports, before submission to central office or placed in teacher's personnel folder, conference will be held with teacher, who must sign all completed forms, space will be provided on forms for teacher's comments to be completed within 24 hours of receiving initial report, teacher given copies of all reports submitted to the central office; by May 1, superintendent to inform association and post a list of vacancies for next school year; teacher who desires change in grade, subject assignment, or school may file written statement of desire with principal not later than March 1, request forwarded to superintendent, and acknowledged within 15 days, if denied, superintendent will list reasons, decision is final; involuntary transfers and reassignments not subject to the grievance procedure, no vacancy to be filled by an involuntary transfer if a qualified volunteer is available; administrative/supervisory positions, department chairmen, building chairmen, secretary-clerical and building service positions on a higher salary scale are promotional positions and are to be publicized during the school year by notices in the school at least five days prior to the final application date; during the summer at least 21 days prior to the final date of application the superintendent must post list of promotional positions at administration office and in each open school, notice to be given to the association, notice of job must contain qualifications, duties, and salary; position's qualifications cannot be changed unless association is notified, disagreements concerning changes in job descriptions to be subject to grievance procedure; in filling positions, due weight to be given to applications from teachers already employed in the school district, announcements of appointments to be posted; positions for summer school, home teaching, and federal projects to be publicized in same manner; teacher's area of competence, major or minor field of study, quality of teaching performance, and attendance to be considered in filling positions; the board is to pay all expenses of civil actions arising out of teacher's employment, including counsel fees and expenses and costs of appeal.

JOINT COMMITTEES: Liasion committee of employees and principal to discuss local school problems and practices, and develop and revise building practices; joint committees to study employment of special education teachers, to examine teachers' nonteaching duties and the feasibility of employing teacher aides, to study employees' personal and academic freedom, to revise teacher evaluation procedures, to develop teacher facilities, and to determine procedure for reviewing, evaluating, and selecting textbooks, library books, instructional materials, and supplies.

East Penn School District (Emmaus), Pennsylvania

Between East Penn School District and East Penn Education Association, effective September 1, 1971, to August 31, 1973. Approximately 265 certificated professional employees. May be extended by amendment to this agreement.

COMPENSATION: (1972-73) B.A., $7,500 to $12,000, 15 increments; B.A. plus 9, $7,600 to $12,100, 15 increments; B.A. plus 18, $7,700 to $12,200, 15 increments; M.A., $8,000 to $12,800, 16 increments; M.A. plus 9, $8,100 to $12,900, 16 increments; M.A. plus 18, $8,200 to $13,000, 16 increments; Ph.D., $8,300 to $13,400, 17 increments.

DIFFERENTIALS: For teachers of mentally and physically handicapped, $200; head teachers (10-month contract) at elementary schools to receive an additional $150 when stationed in a building containing the office of an elementary principal and $200 when in a building without an elementary principal; department heads to be paid an additional $65 plus $25 for each member within the department.

LEAVE: Ten days annual sick leave with unlimited accumulation; 2 days for personal business; extended sick leave of 10 days with half pay when accredited maximum has been used up; 5 days for bereavement for death in immediate family; 2 days for religious holidays; teachers serving on jury to be paid full daily rate less amount paid by court; employees required to attend a Court of Record shall be excused from duty without loss of pay for the required period; however, if found guilty of a criminal offense, pay for the period of the absence to be forfeited; tuition costs to be reimbursed for graduate studies taken after the first day on the job with the school district in an amount up to $25 per

credit earned; severance pay to be granted up to the number of days of unused accumulated sick leave times 25% of the daily rate of pay for substitute teachers; no salary to be paid for an accidental injury incurred while engaged in renumerative work unrelated to school duties; employees absent from duty because of quarantine by the Board of Health traceable to school contact to receive full salary benefits regardless of sick leave.

INSURANCE: Board-paid hospital medical care, and major medical including dependency coverage; board-paid group term life insurance of $5,000.

ASSOCIATION: Payroll dues deduction for local, state, and national dues; use of bulletin board in each faculty area; space provided for storage and use of office equipment; may use interschool mail services and mail boxes; use of building for meetings until 5:00 p.m. or building custodian quitting time, whichever is earlier; three members appointed by the school district and three by the association to meet and discuss those matters required as meet and discuss topics during the term of this contract.

INSTRUCTION: School calendar of 188 days, 5 of which are included for days schools are closed because of inclement weather.

PERSONNEL: Grievance procedure to end with binding arbitration; duty-free lunch period of 30 minutes; no more than 30 hours per term to be required for faculty meetings, open house, parent-teacher conferences, district inservice days, or workshops; no official teacher evaluation form to be placed in teacher's file unless the teacher has had an opportunity to read it; use of public address systems, audio systems and similar devices to be prohibited as evaluation tool.

ERRATA

October 1972, Vol. 6, No. 2

Kentucky's two 1970-71 collective bargaining agreements, representing 4,300 NEA-affiliated teachers, were omitted from the data tabulated in "The Growth of Classroom Teacher Collective Bargaining.' The corrections to Table 1 are as follows:

TABLE 1.—CLASSROOM TEACHER COLLECTIVE BARGAINING AGREEMENTS, 1966-67, 1968-69, AND 1970-71

AFFILIATION	SURVEY YEAR 1966-67	1968-69	1970-71	PERCENT INCREASE 1966-67 to 1970-71
1	2	3	4	5
Number of School Systems				
NEA	351	937	1,712	387.7
AFT	37	82	103	178.4
Other[a]	1	8	10	900.0
Total	389	1,027	1,825	369.2
Number of Classroom Teachers				
NEA	88,123	273,497	544,249	517.6
AFT	120,164	173,570	192,000	59.8
Other[a]	146	1,075	1,075	636.3
Total	208,433	448,142	737,324	253.7

[a] Independent representation or joint NEA-AFT representation.

The addition to Table 2 is listed below.

Kentucky	...	...	2	...	...	4,300
UNITED STATES	389	1,027	1,825	208,433	448,142	737,324

2386

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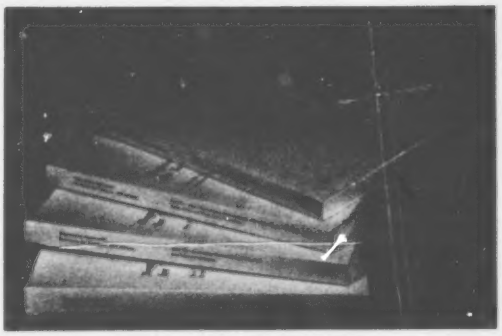
PART III -	Grievance Procedures, Personnel and Salary Provisions
PART IV -	Group Insurance, Leaves of Absence and Fringe Benefit Provisions



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- *State*
- *Name of school system*
- *Location of school system*
- *Name of recognized organization*
- *National affiliation of recognized organization*
- *Number of professional personnel represented*
- *Type of agreement*
- *Term of comprehensive agreement*
- *Agreement page number for particular provision*

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- *200 provision titles*
- *Detailed analysis coded for 300 variables:*
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  - *Jt. administrator-teacher committees*
  - *Grievance arbitration: 3rd party involved in type of decision*
  - *Bench marks in salary schedules: 1-, 2-, or 3-year agreements*
  - *Group insurance: part or full premium paid by board*
  - *21 short-term leaves identified*

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CASE REVIEWS

ALABAMA

Anti-union Law for Public Employees Declared Void

The Madison County Circuit Court of Alabama upheld a judgment sought by the AFL-CIO affiliated Alabama Labor Council and declared the state's Solomon Act void "as repugnant to the First and Fourteenth Amendments to the U.S. Constitution." The Act, which was legislated in 1953, stated that "any public employee who joins or participates in a labor union or labor organization, or who remains a member of, or continues to participate in, a labor union or labor organization thirty days after the effective date of this act, shall forfeit all rights afforded him under the State Merit System, employment rights, reemployment rights, and other rights, benefits or privileges which he enjoys as a result of his public employment."

The union council argued that as a result of the passage of the Act the unions have lost both members and dues. The council also pointed out that the unions' goal is the betterment of wages and working conditions for state and local employees.

The court referred to *Atkins v. City of Charlotte* and *Melton v. City of Atlanta* which involved state statutes similar to the Solomon Act which also prohibited public employee membership in unions by means of sweeping and harsh penalties. The court then stated that it "must conclude as have two recent federal courts that public employees have the same constitutional rights under the First Amendment as any other citizen." The Act deprived public employees of their constitutional rights of free speech, peaceful assembly, governmental petition to redress grievances, and equal protection of the laws. The court also pointed out that the state has shown that no legitimate public interest is being protected by such a law. The court said that it could find no "rational basis or explanation for this discrimination which clearly violates the Fourteenth Amendment" since the Act already exempts employees of municipalities, employees of the state docks, terminal railway, and employees of Bryce and Searcy Hospitals and Partlow State School.

The court declared the Solomon Act void because it could find no reasonable way to interpret the Act in a constitutional manner. (*Alabama Labor Council, AFL-CIO, et al., vs. J. Stanley Frazier, et al.*, Circuit Court of Madison County, Alabama, June 15, 1972.)

NEBRASKA

Reinstatement of Five Nontenured Instructors Upheld

The Nebraska Supreme Court reaffirmed the judgment of the Court of Industrial Relations and ordered the Mid-Plains Nebraska Technical College to reinstate five instructors whose contracts were not renewed because of their association affiliation.

The Mid-Plains Education Association (MPEA) contended that the board did not rehire the five instructors who were all union members in order to discourage union membership and activities.

The college appealed the reinstatment decision of the Court of Industrial Relations, on the grounds that the industrial court should not have heard the case because the petition was filed by the association and not by the affected teachers. Pointing out that the instructors were employed on one-year contracts, the college contended that it was under no obligation to rehire them and acted within its rights in not rehiring them. Further, the college argued that it did not rehire two of the five teachers because of bad evaluations and the other three, because their job was eliminated by a curriculum change.

The court determined that the Court of Industrial Relations had jurisdiction over the case in accordance with the provisions of the Nebraska Public Employment Bargaining Law. Under the law, public employees have the right to be represented by an employee organization for the purpose of bargaining collectively with their employer, and in the event of a dispute between the parties a petition may be filed by the employee organization with the Court of Industrial Relations.

The court also held that even though the instructors had only one-year contracts and the college was under no obligation to rehire them, "a failure to rehire is a denial of employment and an adverse action against an employee, just as an outright firing would be, and if it is prompted by anti-union motives, it comes within the prohibitions of the Constitution and the statutes." Further, the court held that the college's justifications for not rehiring the instructors did not "ring true." The court found that the instructors were not rehired because of the "clear and frankly expressed antipathy toward this labor organization on the part of the Board of Governors and the administration of the college."

The dissenting members of the court held that an employer should have an absolute right to refuse to renew a contract regardless of the reasons unless tenure is involved.

"Convinced that the failure to rehire was motivated by an unlawful intent to discourage and retaliate for labor organization membership activity," the Nebraska Supreme Court upheld the judgment of the Court of Industrial Relations. (*Mid-Plains Education Association, Plaintiff v. Mid-Plains Nebraska Technical College, Defendant*, Nebraska Supreme Court, August 4, 1972.)

NEW YORK

Prior Arbitration Award Binding When Contractually Agreed Upon

The New York Supreme Court ruled that it was not entitled to review a ruling by the New York City School Board which denied a teacher a salary differential under Article D of the collective bargaining agreement between the board and the United Federation of Teachers. An arbitrator had previously reached the same decision in a similar case. Further, the bargaining agreement, to which the grievant was subject, provided that an arbitrator's decision denying a grievance would be applied to similar situations.

The petitioner contended that "(1) she is not bound by the arbitrator's decision of 1964 which interpreted the provision on which she now relies; (2) that such decision was not confirmed by the Supreme Court within one year after its delivery to the Board and the Union; (3) that the time to confirm it has long since expired and it can not now be confirmed or enforced, and it now has no legal effect whatever."

The court found that according to provisions in the agreement, the petitioner is bound by the decision of the arbitrator. The court also pointed out that "since the petitioner seeks the benefits of the agreement, she likewise is bound by all of its terms."

Based upon the evidence submitted, the court found that the action of the school board was proper, and dismissed the petition. (*In the Matter of the Application of Ruth Goldin for a judgment pursuant to Article 78 CPLR v. The Board of Education of the City of New York*, New York Supreme Court, September 27, 1971.)

Strikers Cannot Be Penalized Without an Opportunity to Answer Charges and Have Hearing

In a recent decision, the New York State Supreme Court ruled that the state cannot impose statutory penalties against striking employees without giving them opportunity to file objections and have a hearing on the charges. The case was brought against Governor Rockefeller (representing the Office of Employee Relations (OER) by four members of the Civil Service Employees Association (CSEA).

Prior to holding hearings on the charges, the OER announced that the statutory pay penalties would be imposed on all strikers. At this time the CSEA sought and was granted a court order enjoining the imposition of the penalties until the constitutionality of the statutory provisions could be determined. In response to the CSEA's action, the state attorney general appealed the court order, thus nullifying the injunction and enabling the state to enforce the strike penalties.

Subsequently actions against the state seeking to annul the original strike penalties and to declare the Taylor Law's strike ban and penalties as unconstitutional were filed by four members of the CSEA. These members contended that their due process rights were denied when the strike penalties were imposed without hearings and that the Taylor Law penalties were unconstitutionally vague and discriminatory. The state responded that the individuals' objections should be dismissed because of failure to state grounds for relief and to exhaust administrative relief.

The court stated that the initial determination of offenses, i.e., as to which employees were offenders and the dates of infractions, was to be made by the OER, and that probation and payroll deduction penalties were to begin immediately. Tenure would be restored and payroll deductions refunded only if the initial determination were reversed.

The court cited a U.S. Supreme Court decision (*Fuentes v. Steven*, 407 U.S. 67) which defined situations where the government could seize personal property without a prior hearing. According to the federal court such seizures are permitted only if it is necessary to serve an important government or public interest, if a need for prompt action exists, if the state has maintained a control over its monopoly of legitimate force, and only when carried out and determined by a responsible government official who has carefully interpreted the narrowly drawn statute.

Applying the federal decision to the case at hand, the court found that the Taylor Law's system of enforcement was based on "the desire for administrative convenience rather than a special need for very prompt action" and thus the statute's strike penalty provisions did not pass the federal court's test. The court rejected the state's motion to dismiss employees' petitions for failure to state grounds for relief, pointing out that they were not negating the state's authority to ban strikes or impose strike penalties but rather upholding employees' rights to file objections to the strike charges and have a hearing prior to imposition of penalties. The state's motion for dismissal of the case for employees' failure to exhaust administrative remedies was also rejected since it was based on the false assumption that a system of review by objection satisfied the due process requirement. The state's motion to dismiss the class action aspect of the case was granted.

The court concluded that Provision 2 of the Taylor Law allowing an employer to dismiss employees' objections to charge without a hearing is violative of "the requirement of notice and opportunity to be heard."

(*Thomas J. Sanford, James Winkowski, Shirley Splatt, Mack Godbee et al v. Nelson Rockefeller et al*, Supreme Court, County of Albany, July 28, 1972.)

FEDERAL

Failure to Recognize and Meet With Employee Organization Violates First Amendment Rights

The U.S. District Court dismissed the Richmond School Board's motion for a summary judgment or dismissal of the Richmond Education Association's (REA) suit seeking injunctive relief against the Board which refused to meet with or recognize the association.

The REA contended that the school board's refusal to meet with it and discuss terms and conditions of employment had a "chilling effect on teachers' First Amendment rights." The REA also contended that "the grant of approval to organize and associate without the corresponding grant of recognition may well be an empty and meaningless gesture on the part of the defendant School Board."

The school board argued that the association's suit should be dismissed because the association had no basis for a claim for injunctive relief nor had the court jurisdiction in this matter. The board further contended that the claim was vague and that the board could not reasonably be required to frame a responsive pleading.

The court pointed out the complaint clearly and succinctly alleges. . . that teachers have. . . a constitutional right "to organize for the purpose of collectively representing their employment interests, and the allegation that the board's refusal to meet with their bargaining agent, the REA, has blunted their efforts in exercise of First Amendment rights, does state a claim upon which relief may be granted if due. Further, the court ruled that the association's contentions were valid issues that were sufficient under the Constitution and the law of the United States. Additionally, the complaint submitted by the REA was sufficient and not so ambiguous that the board could not frame a responsive pleading.

The court denied the board's motions to dismiss, for summary judgment, and for a more definite statement. (*Richmond Education Association et al., Plaintiffs v. Mrs. Virginia A. Crockford et al., Defendants*, United States District Court, Eastern District of Virginia, June 14, 1972.)

Maternity Leave Rule Struck Down

Ruling that a 1952 maternity leave rule enforced by the Cleveland Board of Education places unconstitutionally unequal restrictions upon women's employment, the U.S. Court of Appeals overturned a district court decision which upheld a rule requiring pregnant teachers to take leave of absence of not less than five months before the expected date of birth of the child. Additionally, the rule forbade a teacher to return to service earlier than the beginning of the regular school semester which follows the child's age of three months.

The teachers contended that the rule was arbitrary and unreasonable in its overbreath and violated the equal protection clause of the Fourteenth Amendment.

The school board stated that it adopted the maternity rule to assure "continuity of classroom instruction and relief of burdensome administrative problems," as well as to protect teachers from "pointing, giggling, and snide remarks by students." The board also contended that medical evidence supported the need for extended mandatory maternity leave before and after the birth of a child.

Before rendering its conclusions, the court referred to the case of *Schattman v. Texas Employment Commission* wherein the Fifth Circuit Court of Appeals ruled that "a distinctly less onerous maternity leave rule of the Texas Employment Commission was not arbitrary and unreasonable in a constitutional sense." The court also pointed to an amendment to the federal Equal Employment Opportunity Act (EEOA) which prohibits special maternity leave disability rules that are discriminatory on grounds of sex. The EEOA amendment also made the act applicable to public schools.

The court held that even though the maternity rule was adopted for the purpose of maintaining continuity of classroom instruction and relieving burdensome administrative problems, the rule violated the equal protection clause because it singled out pregnant teachers and placed unconstitutional restrictions upon their employment. The court also noted that "at the present time pregnant students are allowed to continue in the Cleveland schools without any apparent ill effects upon the educational system." The court then pointed out that no medical evidence presented by the board supported the need for the extended period of maternity leave required by the rule.

The dissenting member of the court argued that he saw no violation of the teachers' rights under the equal protection clause. Courts, he said, "cannot intervene in the resolution of conflicts which arise in the daily operation of school systems and which do not directly and sharply implicate basic constitutional values" since expert testimony has established that every pregnancy impairs the teacher's ability to teach and supervise children and subjects her to an increased risk of incapacitation. Since pregnancy is a condition of predictable duration and symptoms which involve a substantial number of teachers every year, a classiciation dealing with this problem is not so arbitrary or unreasonable as to violate the equal protection clause. The minority member agreed with the lower court's finding that "the requirement of maternity leave prior to delivery gives the school system the best assurance that sudden disruption of the classroom program due to the unforseen complications in the condition of a teacher will be minimized." The minority member however, concurred with the majority regarding the three months' post-delivery waiting period before resuming teaching as having no rational relation to "any legitimate objective of the Board."

The court ruled that the judgment of the district court be vacated and reversed, and remanded for further proceedings consistent with the court's opinion. (*Carol La Fleur and Ann Elizabeth Nelson, Plaintiffs-Appellants, v. Cleveland Board of Education, et al., Defendants*, Appellees, Appeal from the United States District Court for the Northern District of Ohio, Eastern Division, July 27, 1972.)

BOARD FINDINGS AND RULINGS

CONNECTICUT

Employer May Not Force Bargaining Unit Employees to Serve on Its Negotiating Team

The Connecticut State Board of Labor Relations ruled that the Stamford police department unlawfully interferred with policemen's representation rights when its chief negotiator ordered two captains who were members of the Stamford Police Association (SPA) to serve on the employer's negotiating team as advisors on work schedules. The captains were ordered to so serve because the police chief became ill and was unable to attend the bargaining sessions. The SPA refused to continue bargaining and filed a complaint with the Board.

The SPA contended that the city had violated the Municipal Employee Relations Act by designating the two bargaining unit members to sit in on negotiations as employer agents to advise and assist the opposition's chief negotiator.

The city contended that it had the right to retain the officers in an advisory capacity but later conceded that it would be "questionable whether or not the city could order a member of the union's negotiating team to change sides of the table."

The SPA cited decisions "which forbid an employer from permitting one of its supervisors from participating in union affairs or serving on its bargaining team." The Board said that "these decisions point up principles which should govern here, namely the right of employees to be altogether free from any kind of employer dominance in the negotiation process, and the importance of avoiding divided loyalty and conflicting interest on the part of negotiators." The Board said that the employer's use of members of the bargaining unit on its own bargaining team places the employer on both sides of the bargaining table to some degree. Further, the use of these members jeopardizes the independence of the union and the integrity of those members who are made to change sides.

The Board concluded that "drafting members of the employee bargaining unit against their will to serve on the employer's negotiating team constitutes a practice prohibited by the statute, since it interferes with employees' right to bargain in a free and unembarrassed manner, and with their rights to bargain through representatives of their own choosing by forcing divided loyalties on them." The city was therefore ordered to cease and desist from such practices. (*City of Stamford and Stamford Police Association, Inc.*, Connecticut State Board of Labor Relations, July 27, 1972.)

MICHIGAN

Contract Must Be For Fixed Duration Not Indefinite Extension to Bar Representation Election

The Michigan Employment Relations Commission (MERC) supported a petition of the Birmingham Association of Educational Secretaries for a representation election, rejecting the Office and Professional Employees International Union's, contention that its extended contract with the Birmingham Board of Education served as a bar to such election.

The union and the school board negotiated a contract which was to be automatically renewed yearly unless either party gave 60 days' notice of its intention to terminate or modify the agreement. The union informed the school board of its desire to renegotiate the contract, and negotiations continued after the expiration of the contract, which was extended. Prior to agreement on a new contract, growing dissension among employees resulted in the formation of a new association which petitioned for a representation election. At this time bargaining with the school board ceased without further extension of the original contract. The union contested the association's petition, asserting that the previous contract barred such petitions.

MERC stated that under the Public Employment Relations Act, contracts extended for collective bargaining purposes do not constitute a contract bar. Previous MERC decisions held that to effectively bar a representation election, a contract must have a fixed duration of at least 150 days, not an indefinite extension. The contract extension in this case did not serve as a bar since the contract was renewed for the purpose of collective bargaining, and the union's notification of its desire to renegotiate the contract nullified its automatic renewal. The labor board ordered that a representation election be held. (*Matter of Birmingham Board of Education, Employer and the Birmingham Association of Educational Secretaries Union, Petitioner, Office and Professional Employee International Union, Local 42, Intervenor*, Michigan Employment Relations Commission, March 13, 1972.)

School Board Ordered to Negotiate School Calendar

The Michigan Employment Relations Commission (MERC) rejected the decision and order of a trial examiner and ruled that the Pine River Board of Education had engaged in unfair labor practices by refusing to bargain with the Pine River Education Association (PREA) on the sub-

ject of the school calendar. The overriding question was whether or not a school district is required under the Public Employment Relations Act to meet and bargain with a teachers' representative on the subject of the school calendar.

The school district argued that the school calendar is a management prerogative and not subject to collective bargaining for these reasons: (a) the School Code of 1955 sets the minimum number of days of pupil instruction at not less than 180 days and states that the school board should determine the length of the school term, (b) the state board of education sets the minimum number of hours for pupil instruction, (c) the board of education must decide how to best structure the school year to fit the established number of working days into an operational schedule, (d) teachers would consider only their own welfare and not community needs, (e) in *matter of Westwood Community Schools*, June 3, 1971, a Trial Examiner held that the opening day of school is not a mandatory subject of collective bargaining, (f) based on the *Westwood* matter, bargaining on the entire calendar is not a mandatory subject of collective bargaining because custodial, maintenance, bus drivers, and cafeteria employees would be affected by school bargaining and would have the same right to consult and to bargain as would the teachers, and to bargain solely with the teachers would be an unfair labor practice under the teachers' theory, (g) bargaining with all school district bargaining units is not feasible, (h) the board is the only party capable of synchronizing all particular and conflicting interests to formulate the most feasible solution to scheduling difficulties.

The PREA argued that the school calendar is a mandatory subject of collective bargaining because: (a) in *matter of Reese Public School District*, the Commission adopted a Trial Examiner's recommended order, without exception, which indicated that a school board was obligated to bargain in regard to certain aspects of the school calendar, (b) in the *Westwood* case, the Trial Examiner based his decision on particular items not materially or significantly affecting the terms and conditions of employment, (c) the fact that negotiation on a particular subject might require coordination of the school board's bargaining units of employees cannot be a basis for removing the school calendar as a mandatory subject of collective bargaining, (d) bargaining representatives for the custodial, maintenance, bus drivers, and cafeteria employees are not organized and have no right to demand bargaining in regard to the school calendar, (e) the board can begin the school year as early as July 1 if the school calendar is not negotiable.

The MERC, relying on the March 27, 1972, decision in the *matter of Westwood Community Schools* in which the Commission reversed the Trial Examiner and held that the entire school calendar, including the opening day of school, was a mandatory subject of bargaining, said that it found merit in the PERA's exceptions and ordered the Pine River Board of Education to bargain with PERA on the subject of the school calendar. (*In the Matter of Pine River Board of Education, Respondent - Public Employer, and Pine River Education Association, Charging Party*, Michigan Employment Relations Commission, March 9, 1972.)

NEW YORK

City Ordered to Bargain Before Preparing Budget

The New York Public Employment Relations Board (NYPERB) adopted the decision of a hearing officer which charged the city of Albany with violating the good faith bargaining provisions of the Taylor Law by refusing to take a position on salaries during negotiations with the International Association of Fire Fighters Local 2007 until just before the start of the new fiscal year.

The union charged that the city's failure to make any pay proposal and its broken promise to negotiate parity and shift scheduling constituted bad faith bargaining. The union also argued that the city's budget should reflect the parties' agreement in negotiations.

The city maintained that it could neither negotiate firemen's salaries nor determine available monies until the budget was drafted, and that it did take a position on salaries when it raised the parity issue.

The hearing officer pointed out that the manner in which the employer approaches bargaining indicates whether the employer sincerely desires to reach an agreement. In this case, the hearing officer found that "the city approached bargaining with the firm stand that its economic predicament relieved it of the obligation to negotiate salaries until such time as the tax rate was fixed and the budget prepared." The parity proposal was not considered to be a valid counterproposal by the hearing officer since the city had indicated that it did not know the extent of its financial resources and therefore could not have seriously intended to grant parity.

Referring to the time periods in the impasse procedures of the Taylor Law, the hearing officer pointed out that the legislature put these time periods into the law to help negotiating parties reach an agreement. And, even though the parties sometimes experience some difficulty in working within the time limits set by the law, they have "a minimum obligation not to take a position which will make realization of the objectives impossible." In this case the city of Albany took a position which made negotiation impossible. Also, "an employer's refusal to take any negotiating position on salaries until a new fiscal year is at hand, as in the instant case, reduces the negotiating process to the level of a budgetary afterthought. As a result, timely discourse is impossible, reasoned discourse is unlikely, and, what is equally unfortunate and clearly inescapable, the employee organization's statutory authority to negotiate on behalf of the employees is effectively emasculated."

The hearing officer determined that the city had not bargained in bad faith on the parity issue, but did find that by refusing throughout negotiations to take a position on salaries until just prior to the new fiscal year, the city had failed to meet its obligation to bargain in good faith and had engaged in an improper practice.

(*City of Albany and Albany Professional Permanent Fire Fighters Association, IAFF Local 2007*, Public Employment Relations Board, July 11, 1972.)

WISCONSIN

Reinstatement Ordered for Violation of Evaluation Procedure "Philosophy"

An arbitrator ordered the West Allis-West Milwaukee School Board to "tender to a teacher a contract to teach for the 1972-73 school year" after determining that the nonrenewal of the teacher's contract was arbitrary and capricious because the board failed to adhere to the philosophy of the evaluation provision contained in its contract with the West Allis-West Milwaukee Education Association.

When the teacher was evaluated during his first year of employment, he was informed of certain weaknesses. The first two ratings that he received for the second year indicated that he had improved to an acceptable level, but after the third evaluation in the same year, the board acted to dismiss him.

The association argued that the principal and the school board had failed to follow the contract provisions for evaluation, and that the nonrenewal rate of the principal at the school at which the teacher was employed was greater than that of other principals in the district. Pointing out that the principal had communicated with the superintendent relative to the teacher's rating without making such communication known to him, the association contended that this action violated the procedure dictated by the contract.

The school board contended that it had followed the procedures relative to evaluation and nonrenewal. The board also argued that the arbitrator had no authority to overrule the action taken by the board since these actions cannot be viewed as capricious and arbitrary.

The arbitrator held that when a board ignores the philosophy to which it agreed in a negotiated agreement, it is acting arbitrarily, and when the board acts arbitrarily by not renewing the teacher's contract, he has the power "to order that a renewal contract be tendered to a teacher against whom such action was taken." However, the arbitrator pointed out that he was not going to "second guess the evaluation of the principal." Since he was not making a determination as to whether the principal applied unreasonable evaluation criteria, he did not find the board action in not renewing the contract arbitrary on these grounds.

According to the arbitrator, "It seems particularly arbitrary for final action on nonrenewal to be taken on the foundation of one rather brief formal evaluation which follows two acceptable evaluations." Further, the arbitrator felt that since the teacher had been assured by two prior evaluations that his performance was acceptable, he should have been informed of his shortcomings prior to nonrenewal in order that he could have the opportunity to come up to standard. The arbitrator also noted that the communications between the superintendent and the board "did not serve to give the grievant notice of any doubt as to his performance."

The arbitrator ordered the school board to renew the teacher's contract. However, the arbitrator pointed out that the teacher will not attain tenure as a result of the award. (*In the Matter of Arbitration Between WestAllis-West Milwaukee Education Association and Board of Education Joint City School District No. 1, West Allis-West Milwaukee, et al*, August 30, 1972.)

NEGOTIATION NOTES

CONNECTICUT

State Board of Education Issues "Advisory" Regulations on Maternity Leave

The State Board of Education in conjunction with eight state education organizations and civil rights groups issued under its aegis, guidelines entitled "Advisory on Maternity Leave for Teachers."

Substantially, the "Advisory" incorporates the provisions set down in recent Equal Employment Opportunity Commission regulations regarding the granting of maternity leave and the classification of pregnancy and related disabilities as a temporary disability for which sick leave or other leave benefits must be applied.

The state board's advisory recommends that each town or regional board review maternity leave policies and practices to assure compliance with state and federal laws, and where found inconsistent, to formulate such policies which incorporate the statutory minimum standards.

The advisory guidelines state that any new maternity regulations must provide that pregnancy or related disabilities be treated as a temporary disability, with all accumulated sick leave privileges, as well as all paid or unpaid extended leave privileges, available to the teacher until such time as the female employee is certified by her physician as capable of performing her teaching duties.

The commencement or duration of leave, extensions, accrual of seniority and other benefits or privileges—protection under health or temporary disability plans—must be applied in the same conditions as operative under other disability leaves.

More important, the advisory stresses that pregnancy or childbirth cannot be the basis for termination or compulsory resignation.

These advisory regulations or guidelines, though hailed as a "milestone for teachers rights" by the Connecticut Education Association are not as far-reaching as the standards recommended by the state association.

Study Reveals City Group Contracts Require Union Membership Security Provisions

A study conducted by a doctoral student in economics at the University of Connecticut, Labor Education Center, disclosed in *Connecticut Labor-Management Analysis* that almost two-thirds of Connecticut's municipal collective bargaining agreements require employees to have some kind of union membership. Of the 114 municipal contracts, 38.6 percent did not require union membership on the part of employees, 25.5 percent required union shop, 23.6 percent had modified union shops, and 12.3 percent included a maintenance-of-membership provision. The study also showed that "78 percent of the contracts had no anti-discrimination clause, with only 8 percent specifically prohibiting discrimination on the basis of race, creed, or sex; two-thirds of the contracts called for a 40-hour work week, while 18 percent had shorter work periods; six-month probationary periods were most common for employees, occurring in 26 percent of the contracts; over 60 percent of the contracts provided for 11 paid holidays, with 27 percent allowing 12 holidays and 3 percent calling for 13; in 72 percent of the contracts, the city paid full cost of hospital insurance, and 76 percent of the contracts provide full payment of employee life insurance premiums with the most common life insurance policy of $5,000."

MASSACHUSETTS

Appeals Section of Arbitration Law Amended

Under the recently amended Section 12 of the arbitration law which established procedures for handling labor disputes, an aggrieved party may appeal Superior Court awards or judgments that concern awards by arbitrators in agreements providing arbitration, or in contracts which provide for arbitration of controversies which may be subject to civil litigation.

An aggrieved party may also bring a writ of error, whereupon the Supreme Judicial Court must render such judgment as the lower court ought to have rendered.

Application must be made within 30 days of the delivery of the award to the applicant. When appeal is based upon corruption, fraud, or other undue means, it must be made within 30 days after such findings.

In decisions of the Board of Conciliation and Arbitration, *certiorari* is a proper remedy to review the lawfulness of its actions in arbitrating a labor controversy.

MICHIGAN

Contractual Loss of Seniority on Transfer to Other Bargaining Unit Upheld

The Michigan Employment Relations Commission (MERC), ruling on a charge brought against the School Board of the City of Dearborn by the Dearborn Schools Operating Engineers Association, held that the city did not unlawfully interfere with employees' rights by negotiating a contract with the Dearborn School Employees Independent Union (DSEIU), an intervenor in this case, which stated

that employees who are currently in a representated unit would lose seniority if they transferred into another bargaining unit.

The Dearborn Schools Operating Engineers Association charged that "since the provision did not provide for a loss of seniority if a member of the intervenor's bargaining unit transfers into a non-represented group, it inherently discouraged employees from entering a represented bargaining unit." The association also contended that "the chilling effect the contract provision would have on union membership was a violation in itself."

The school board and the DSEIU contended that the clause was not coercive or discriminatory.

MERC pointed out that since seniority did not exist outside collective bargaining agreements, it could not be compared with a benefit that is voluntarily given and then withdrawn if the employees organize. Also, all actions by an employer that discourage unionization cannot be regarded as violations of the National Labor Relations Act or the Public Employment Relations Act. Further, the fact that the bargaining agreement provided for the loss of seniority if the transferee acquired new seniority in another unit did not make the contractual provision unlawful. Accordingly, MERC ruled that the charges be dismissed. (*Matter of School District of City of Dearborn and Dearborn Schools Operating Engineers Association, Dearborn School Employees Independent Union, Party in Interest-Intervenor*, Michigan Employment Relations Commission, Labor Relations Division, April 5, 1972.)

MINNESOTA

Certification of Employee Organizations

A recent amendment to Minnesota's Public Employment Labor Relations Act, which went into effect July 2, 1972, regulates the certification of employee organizations as the exclusive representatives of public employees.

Under Section 179.67, the Director of Mediation Services may certify an employee organization upon joint request by the organization and the employer, provided no unfair labor practice was committed during initiation and submission of the joint request, and the employee organization represents over 50 percent of the employees.

The law further provides that a certification election may be obtained by petition, stipulating that at least 30 percent of the employees desire representatior by the petitioner or that the previously certified representative no longer represents the majoirty of employees.

An employee organization receiving the majority vote is certified as exclusive representative. If no representative candidate receives a majority vote, a run-off election is to be held between the two choices receiving the greatest number of votes.

Elections may be rendered void if the director finds that unfair labor practices affected the election results.

October CPI Increases, Spendable Earnings Decline

The real spendable earnings of the average American worker decreased 0.3 percent during October 1972, while the Consumer Price Index (CPI) increased 0.3 percent, said the Bureau of Labor Statistics (BLS).

The CPI at 126.6 (1967 = 100) was 3.4 percent above a year ago. Higher prices for apparel accounted for more than a third of this increase. Increased costs of property taxes, health insurance, and used cars also contributed to this rise. The food index, which usually declines slightly in October, remained unchanged. The increase resulting from the introduction of the 1973 new car models was only 0.5 percent, the smallest October rise since 1957.

During the six-month period ending in October the CPI rose at a seasonally adjusted annual rate of 3.7 percent. However, since August, inflation has increased at a seasonally adjusted annual rate of 4.1 percent.

Of the 120,000 individual prices collected by the BLS for the October cost-of-living index, 96,000 (80 percent) represented monthly comparisons, with 74 percent unchanged, 11 percent decreasing, and 15 percent increasing between September and October.

Spendable weekly earnings for a family of four with one income (after deduction of social security and federal income taxes) averaged $123.43, the same as in September. However, in terms of 1967 dollars, real spendable earnings averaged only $97.50 a week, meaning that goods and services costing $123.43 today would have cost only $97.50 in 1967. Although October's real spendable earnings were $.31 per week lower than in September, they were 3.9 percent higher than one year ago.

ATTORNEY GENERAL'S OPINION

Oregon

The state attorney general ruled that collective bargaining agreements mandating arbitration of employee grievances are constitutional, on condition that sufficient standards limiting the exercise of granted powers are stipulated and court review is provided.

Pennsylvania

Reduction in wages for school employees in the event schools are forced to close owing to lack of funds before the end of the school year is a bargainable item between the school board and the association. The attorney general held that no opposing statute exists, and that the question concerns wages, hours, and other terms and conditions of employment.

STATISTICS

SCHOOL-BOARD MEMBERS AND SCHOOL ADMINISTRATORS AS NEGOTIATORS

Annually, the NEA Research Division has conducted a national survey of written negotiation agreements and procedures in school systems with 1,000 or more pupils enrolled. All surveys posed similar questions regarding the involvement of school-board members and school superintendents in negotiations with teacher organizations.

Over the years, the percentage of school district negotiating teams made up of board members only or superintendents only declined while mixed teams of school-board members and school administrators increased. The percentage of other school administrators who participate in negotiations has increased steadily since 1966-67. The percentage of school systems in which the superintendent negotiates with full or limited authority remained fairly constant from 1966-67 to 1969-70 but declined slightly thereafter.

Today, the superintendents are most likely to be advisors to the school-board negotiators only, whereas five years ago they were most likely to be advisors to both the school board and teacher negotiators.

Fifteen states reported more than 50 school systems each with written negotiation agreements in 1971-72. Data on the role of the superintendent in negotiation and on who negotiates for the school board were tabulated in separate tables for each of these states and for the country as a whole.

Stratum	School system enrollment
1	100,000 or more
2	50,999 - 99,999
3	25,000 - 49,999
4	12,000 - 24,999
5	6,000 - 11,999
6	3,000 - 5,999
7	1,200 - 2,999
8	1,000 - 1,199

PERCENT OF SCHOOL DISTRICTS HAVING NEGOTIATION AGREEMENTS, BY ROLE OF SUPERINTENDENT AND SCHOOL-BOARD MEMBERS IN NEGOTIATION SESSIONS, 1966-67 TO 1971-72

Item	Survey response year					
	1966-67	1967-68	1968-69	1969-70	1970-71	1971-72
1	2	3	4	5	6	7
NEGOTIATORS FOR SCHOOL BOARD						
Board members only	33.2	17.4	14.6	13.3	13.2	14.7
Superintendent only	26.3	17.7	13.4	10.5	9.4	8.2
Other school administrators	3.6	4.3	7.1	9.4	12.7	14.2
Board members and superintendent	21.2	32.9	32.5	31.4	27.8	26.0
Board members and other school administrators	0.9	2.9	5.5	6.7	7.4	8.1
Board members, superintendent, and other school administrators	6.8	12.8	13.9	15.4	14.1	12.6
Superintendent and other school administrators	8.0	12.1	13.0	13.4	12.9	12.1
Outside negotiator	...	...	...	...	2.4	4.0
	100.0	100.1	100.0	100.1	99.9	99.9
ROLE OF SUPERINTENDENT						
Negotiator with full authority	21.7	20.2	20.3	19.4	18.5	16.4
Negotiator with limited authority	16.0	17.7	17.2	16.1	15.5	14.4
Advisor to school-board negotiators only	13.4	19.8	30.3	37.8	42.4	45.6
Advisor to school-board and teacher negotiators	41.1	34.6	25.2	19.6	15.0	13.9
Neutral resource person	6.8	6.4	4.9	4.3	4.5	4.6
Nonparticipant	1.1	1.3	2.0	2.8	4.1	5.1
	100.1	100.0	99.9	100.0	100.0	100.0

TABLE L

ROLE OF SUPERINTENDENT IN NEGOTIATION SESSIONS

STATE OR STRATUM	NUMBER OF AGREEMENTS		NEGOTIATOR WITH FULL AUTHORITY		NEGOTIATOR WITH LIMITED AUTHORITY		ADVISOR TO NEGOTIATORS SCHOOL BOARD ONLY		ADVISOR TO NEGOTIATORS BOARD AND TEACHERS		ADVISOR TO NEGOTIATORS NEUTRAL RESOURCE PERSON		ADVISOR TO NEGOTIATORS NONPARTICIPANT	
	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
ALABAMA	1	100.0	1	100.0	0	.0	0	.0	0	.0	0	.0	0	.0
ALASKA	7	100.1	1	14.3	2	28.6	3	42.9	0	.0	1	14.3	0	.0
ARIZONA	31	100.1	2	6.5	7	22.6	10	32.3	5	16.1	1	3.2	6	19.4
ARKANSAS	6	100.1	1	16.7	1	16.7	0	.0	4	66.7	0	.0	0	.0
CALIFORNIA	403	100.1	130	32.3	153	38.0	69	17.1	23	5.7	4	1.0	24	6.0
COLORADO	30	100.0	6	20.0	5	16.7	15	50.0	1	3.3	0	.0	3	10.0
CONNECTICUT	96	100.0	5	5.2	1	1.0	70	72.9	12	12.5	4	4.2	4	4.2
DELAWARE	11	100.0	2	18.2	1	9.1	6	54.5	0	.0	1	9.1	1	9.1
DISTRICT OF COLUMBIA	1	100.0	0	.0	0	.0	0	.0	0	.0	0	.0	1	100.0
FLORIDA	17	100.0	3	17.6	2	11.8	2	11.8	5	29.4	0	.0	5	29.4
GEORGIA	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
HAWAII	1	100.0	0	.0	0	.0	1	100.0	0	.0	0	.0	0	.0
IDAHO	18	100.0	3	16.7	6	33.3	3	16.7	4	22.2	2	11.1	0	.0
ILLINOIS	217	100.0	24	11.1	30	13.8	99	45.6	41	18.9	12	5.5	11	5.1
INDIANA	54	100.1	4	7.4	10	18.5	23	42.6	13	24.1	3	5.6	1	1.9
IOWA	24	100.0	2	8.3	3	12.5	13	54.2	3	12.5	3	12.5	0	.0
KANSAS	50	100.0	7	14.0	7	14.0	25	50.0	8	16.0	2	4.0	1	2.0
KENTUCKY	17	100.0	2	11.8	4	23.5	5	29.4	5	29.4	1	5.9	0	.0
LOUISIANA	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
MAINE	49	100.0	4	8.2	3	6.1	28	57.1	7	14.3	5	10.2	2	4.1
MARYLAND	19	100.0	2	10.5	0	.0	14	73.7	0	.0	0	.0	3	15.8
MASSACHUSETTS	175	100.0	6	3.4	3	1.7	102	58.3	36	20.6	20	11.4	8	4.6
MICHIGAN	350	100.0	100	28.6	36	10.3	180	51.4	13	3.7	2	.6	19	5.4
MINNESOTA	113	100.0	4	3.5	5	4.4	82	72.6	13	11.5	7	6.2	2	1.8
MISSISSIPPI	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
MISSOURI	58	100.1	8	13.8	11	19.0	7	12.1	24	41.4	8	13.8	0	.0
MONTANA	23	100.0	0	.0	2	8.7	6	26.1	13	56.5	2	8.7	0	.0
NEBRASKA	21	100.0	0	.0	2	9.5	12	57.1	6	28.6	1	4.8	0	.0
NEVADA	5	100.0	1	20.0	0	.0	2	40.0	2	40.0	0	.0	0	.0
NEW HAMPSHIRE	15	100.0	0	.0	0	.0	12	80.0	1	6.7	0	.0	2	13.3
NEW JERSEY	269	100.0	7	2.6	18	6.7	159	59.1	57	21.2	20	7.4	8	3.0
NEW MEXICO	13	100.1	3	23.1	5	38.5	3	23.1	2	15.4	0	.0	0	.0
NEW YORK	456	100.0	89	19.5	51	11.2	246	53.9	22	4.8	14	3.1	34	7.5
NORTH CAROLINA	3	100.0	0	.0	1	33.3	0	.0	2	66.7	0	.0	0	.0
NORTH DAKOTA	14	99.9	0	.0	1	7.1	8	57.1	5	35.7	0	.0	0	.0
OHIO	318	99.9	125	39.3	71	22.3	78	24.5	30	9.4	6	1.9	8	2.5
OKLAHOMA	11	100.1	0	.0	4	36.4	5	45.5	2	18.2	0	.0	0	.0
OREGON	70	100.0	1	1.4	1	1.4	23	32.9	27	38.6	12	17.1	6	8.6
PENNSYLVANIA	265	100.0	8	3.0	9	3.4	169	63.8	42	15.8	18	6.8	19	7.2
RHODE ISLAND	25	100.0	1	4.0	3	12.0	16	64.0	2	8.0	2	8.0	1	4.0
SOUTH CAROLINA	2	100.0	0	.0	1	50.0	0	.0	0	.0	1	50.0	0	.0
SOUTH DAKOTA	15	100.0	0	.0	4	26.7	6	40.0	2	13.3	2	13.3	1	6.7
TENNESSEE	5	100.0	0	.0	0	.0	2	40.0	2	40.0	0	.0	1	20.0
TEXAS	48	100.1	12	25.0	10	20.8	7	14.6	15	31.3	1	2.1	3	6.3
UTAH	9	99.9	2	22.2	2	22.2	3	33.3	1	11.1	0	.0	1	11.1
VERMONT	10	100.0	0	.0	2	20.0	6	60.0	1	10.0	1	10.0	0	.0
VIRGINIA	9	100.0	0	.0	0	.0	6	66.7	1	11.1	0	.0	2	22.2
WASHINGTON	101	100.1	22	21.8	22	21.8	30	29.7	22	21.8	1	1.0	4	4.0
WEST VIRGINIA	6	100.0	1	16.7	2	33.3	0	.0	3	50.0	0	.0	0	.0
WISCONSIN	167	100.1	8	4.8	20	12.0	99	59.3	24	14.4	11	6.6	5	3.0
WYOMING	10	100.0	0	.0	2	20.0	4	40.0	3	30.0	0	.0	1	10.0
TOTAL	3,638	100.0	597	16.4	523	14.4	1,659	45.6	504	13.9	168	4.6	187	5.1
STRATUM														
1	20	100.0	3	15.0	1	5.0	10	50.0	0	.0	0	.0	6	30.0
2	35	100.0	5	14.3	0	.0	23	65.7	2	5.7	0	.0	5	14.3
3	64	100.1	12	18.8	3	4.7	31	48.4	5	7.8	1	1.6	12	18.8
4	249	99.9	44	17.7	23	9.2	125	50.2	23	9.2	9	3.6	25	10.0
5	534	100.0	66	12.4	68	12.7	286	53.6	47	8.8	20	3.7	47	8.8
6	888	100.1	152	17.1	142	16.0	402	45.3	120	13.5	36	4.1	36	4.1
7	1,581	99.9	269	17.0	243	15.4	671	42.4	261	16.5	86	5.4	51	3.2
8	267	100.0	46	17.2	43	16.1	111	41.6	46	17.2	16	6.0	5	1.9
TOTAL	3,638	100.0	597	16.4	523	14.4	1,659	45.6	504	13.9	168	4.6	187	5.1

TABLE M

NEGOTIATOR FOR THE SCHOOL BOARD

1 STATE	2 NO. OF AGREEMENTS NO.	3 NO. OF AGREEMENTS PCT.	4 BOARD MEMBERS ONLY NO.	5 BOARD MEMBERS ONLY PCT.	6 SUPT. OF SCHOOLS ONLY NO.	7 SUPT. OF SCHOOLS ONLY PCT.	8 OTHER SCHOOL ADMINIS-TRATORS NO.	9 OTHER SCHOOL ADMINIS-TRATORS PCT.	10 BOARD MEMBERS AND SUPT. NO.	11 BOARD MEMBERS AND SUPT. PCT.	12 BOARD MEMBERS AND OTHER SCHOOL ADMINIS-TRATORS NO.	13 BOARD MEMBERS AND OTHER SCHOOL ADMINIS-TRATORS PCT.	14 BOARD MEMBERS, SUPTS., AND OTHER SCHOOL ADMINIS-TRATORS NO.	15 BOARD MEMBERS, SUPTS., AND OTHER SCHOOL ADMINIS-TRATORS PCT.	16 SUPT. AND OTHER SCHOOL ADMINIS-TRATORS NO.	17 SUPT. AND OTHER SCHOOL ADMINIS-TRATORS PCT.	18 NO BOARD MEMBERS OR ADMINIS-TRATORS NEGOTIATE NO.	19 NO BOARD MEMBERS OR ADMINIS-TRATORS NEGOTIATE PCT.
ALABAMA	1	100.0	0	.0	1	100.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
ALASKA	7	100.1	3	42.9	0	.0	1	14.3	2	28.6	0	.0	1	14.3	0	.0	0	.0
ARIZONA	31	100.0	4	12.9	1	3.2	9	29.0	4	12.9	3	9.7	6	19.4	4	12.9	0	.0
ARKANSAS	7	100.1	3	42.9	1	14.3	0	.0	1	14.3	0	.0	2	28.6	0	.0	0	.0
CALIFORNIA	405	99.9	5	1.2	146	36.0	79	19.5	45	11.1	3	.7	12	3.0	111	27.4	4	1.0
COLORADO	30	100.0	1	3.3	1	3.3	14	46.7	2	6.7	1	3.3	1	3.3	8	26.7	2	6.7
CONNECTICUT	93	100.1	20	21.5	2	2.2	7	7.5	36	38.7	6	6.5	16	17.2	0	.0	6	6.5
DELAWARE	11	100.1	1	9.1	1	9.1	3	27.3	0	.0	1	9.1	2	18.2	3	27.3	0	.0
DISTRICT OF COLUMBIA	1	100.0	0	.0	0	.0	1	100.0	0	.0	0	.0	0	.0	0	.0	0	.0
FLORIDA	17	100.0	3	17.6	2	11.8	6	35.3	4	23.5	1	5.9	1	5.9	0	.0	0	.0
GEORGIA	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
HAWAII	1	100.0	0	.0	0	.0	0	.0	0	.0	1	100.0	0	.0	0	.0	0	.0
IDAHO	18	100.1	1	5.6	3	16.7	0	.0	11	61.1	0	.0	3	16.7	0	.0	0	.0
ILLINOIS	219	100.0	42	19.2	4	1.8	27	12.3	49	22.4	23	10.5	51	23.3	19	8.7	4	1.8
INDIANA	56	100.1	3	5.4	1	1.8	11	19.6	17	30.4	7	12.5	10	17.9	7	12.5	0	.0
IOWA	23	99.9	3	13.0	2	8.7	1	4.3	8	34.8	1	4.3	6	26.1	2	8.7	0	.0
KANSAS	50	100.0	6	12.0	3	6.0	13	26.0	12	24.0	4	8.0	10	20.0	2	4.0	0	.0
KENTUCKY	18	100.1	0	.0	0	.0	2	11.1	10	55.6	1	5.6	4	22.2	1	5.6	0	.0
LOUISIANA	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
MAINE	47	100.1	14	29.8	3	6.4	0	.0	19	40.4	1	2.1	6	12.8	2	4.3	2	4.3
MARYLAND	19	100.1	0	.0	0	.0	17	89.5	0	.0	0	.0	1	5.3	0	.0	1	5.3
MASSACHUSETTS	167	100.0	59	35.3	2	1.2	7	4.2	45	26.9	8	4.8	10	6.0	7	4.2	29	17.4
MICHIGAN	349	100.0	9	2.6	9	2.6	90	25.8	78	22.3	29	8.3	72	20.6	53	15.2	9	2.6
MINNESOTA	112	100.0	35	31.3	1	.9	0	.0	37	33.0	23	20.5	14	12.5	1	.9	1	.9
MISSISSIPPI	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
MISSOURI	60	100.1	5	8.3	10	16.7	4	6.7	25	41.7	0	.0	12	20.0	3	5.0	1	1.7
MONTANA	23	99.9	8	34.8	0	.0	1	4.3	9	39.1	2	8.7	2	8.7	1	4.3	0	.0
NEBRASKA	21	100.0	6	28.6	0	.0	3	14.3	7	33.3	2	9.5	2	9.5	1	4.8	0	.0
NEVADA	5	100.0	0	.0	0	.0	2	40.0	0	.0	2	40.0	0	.0	1	20.0	0	.0
NEW HAMPSHIRE	15	100.0	6	40.0	0	.0	0	.0	4	26.7	2	13.3	3	20.0	0	.0	0	.0
NEW JERSEY	266	100.1	72	27.1	3	1.1	6	2.3	106	39.8	25	9.4	26	9.8	10	3.8	18	6.8
NEW MEXICO	13	100.1	1	7.7	2	15.4	2	15.4	4	30.8	0	.0	2	15.4	2	15.4	0	.0
NEW YORK	438	100.1	33	7.5	23	5.3	110	25.1	70	16.0	50	11.4	48	11.0	70	16.0	34	7.8
NORTH CAROLINA	3	99.9	1	33.3	0	.0	0	.0	1	33.3	0	.0	1	33.3	0	.0	0	.0
NORTH DAKOTA	13	100.0	7	53.8	0	.0	1	7.7	3	23.1	0	.0	2	15.4	0	.0	0	.0
OHIO	315	100.0	14	4.4	43	13.7	30	9.5	92	29.2	6	1.9	29	9.2	97	30.8	4	1.3
OKLAHOMA	12	100.0	0	.0	3	25.0	6	50.0	1	8.3	0	.0	0	.0	2	16.7	0	.0
OREGON	69	99.9	42	60.9	0	.0	0	.0	16	23.2	3	4.3	3	4.3	0	.0	5	7.2
PENNSYLVANIA	263	100.0	63	24.0	5	1.9	29	11.0	66	25.1	45	17.1	33	12.5	5	1.9	17	6.5
RHODE ISLAND	24	100.0	9	37.5	0	.0	2	8.3	4	16.7	3	12.5	4	16.7	2	8.3	0	.0
SOUTH CAROLINA	2	100.0	1	50.0	0	.0	0	.0	0	.0	1	50.0	0	.0	0	.0	0	.0
SOUTH DAKOTA	15	100.0	2	13.3	0	.0	2	13.3	6	40.0	1	6.7	3	20.0	1	6.7	0	.0
TENNESSEE	5	100.0	0	.0	0	.0	3	60.0	2	40.0	0	.0	0	.0	0	.0	0	.0
TEXAS	48	100.1	2	4.2	7	14.6	1	2.1	22	45.8	1	2.1	4	8.3	9	18.8	2	4.2
UTAH	9	99.9	0	.0	0	.0	4	44.4	3	33.3	0	.0	1	11.1	1	11.1	0	.0
VERMONT	10	100.0	4	40.0	1	10.0	0	.0	2	20.0	0	.0	1	10.0	0	.0	2	20.0
VIRGINIA	9	99.9	1	11.1	0	.0	3	33.3	2	22.2	0	.0	2	22.2	0	.0	1	11.1
WASHINGTON	102	100.1	12	11.8	16	15.7	11	10.8	35	34.3	6	5.9	15	14.7	7	6.9	0	.0
WEST VIRGINIA	7	100.0	0	.0	0	.0	0	.0	5	71.4	0	.0	1	14.3	1	14.3	0	.0
WISCONSIN	165	100.0	26	15.8	1	.6	5	3.0	70	42.4	27	16.4	29	17.6	4	2.4	3	1.8
WYOMING	10	100.0	4	40.0	0	.0	0	.0	2	20.0	2	20.0	2	20.0	0	.0	0	.0
TOTAL	3604	99.9	531	14.7	297	8.2	513	14.2	937	26.0	291	8.1	453	12.6	437	12.1	145	4.0
STRATUM																		
1	20	100.0	0	.0	0	.0	15	75.0	0	.0	1	5.0	2	10.0	2	10.0	0	.0
2	34	99.9	1	2.9	0	.0	24	70.6	1	2.9	2	5.9	1	2.9	5	14.7	0	.0
3	64	99.9	2	3.1	3	4.7	40	62.5	2	3.1	5	7.8	2	3.1	7	10.9	3	4.7
4	251	100.1	13	5.2	19	7.6	99	39.4	21	8.4	21	8.4	27	10.8	38	15.1	13	5.2
5	525	99.9	49	9.3	27	5.1	158	30.1	55	10.5	53	10.1	72	13.7	94	17.9	17	3.2
6	878	100.1	106	12.1	66	7.5	112	12.8	195	22.2	94	10.7	121	13.8	134	15.3	50	5.7
7	1565	100.0	304	19.4	146	9.3	62	4.0	546	34.9	101	6.5	204	13.0	147	9.4	55	3.5
8	267	99.9	56	21.0	36	13.5	3	1.1	117	43.8	14	5.2	24	9.0	10	3.7	7	2.6
TOTAL	3604	99.9	531	14.7	297	8.2	513	14.2	937	26.0	291	8.1	453	12.6	437	12.1	145	4.0

PATTERNS IN NEGOTIATION

UNITED STATES – 3,566 RESPONSES

NEGOTIATORS FOR THE SCHOOL BOARD

ROLE OF THE SUPERINTENDENT	BOARD MEMBERS		BOARD MEMBERS AND SUPT.		BOARD MEMBERS AND SCHOOL ADMINISTRATORS		SUPERINTENDENT		SCHOOL ADMINISTRATORS		NO BD MEMBERS OR ADMINISTRATORS NEGOTIATE	
	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.
NEGOTIATOR WITH FULL AUTHORITY	2	.1	105	2.9	65	1.8	154	4.3	264	7.4	1	.0
NEGOTIATOR WITH LIMITED AUTHORITY	1	.0	[illegible]	4.3	106	3.0	118	3.3	142	4.0	0	.0
ADVISOR TO NEGOTIATORS FOR BOARD	235	6.6	450	12.6	411	11.5	14	.4	407	11.4	96	2.7
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	171	4.8	182	5.1	90	2.5	8	.2	31	.9	15	.4
NEUTRAL RESOURCE PERSON	84	2.4	36	1.0	27	.8	0	.0	6	.2	11	.3
NONPARTICIPANT	33	.9	1	.0	37	1.0	0	.0	87	2.4	22	.6
CALIFORNIA – 401 RESPONSES												
NEGOTIATOR WITH FULL AUTHORITY	1	.2	6	1.5	2	.5	66	16.5	55	13.7	0	.0
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	19	4.7	4	1.0	74	18.5	55	13.7	0	.0
ADVISOR TO NEGOTIATORS FOR BOARD	0	.0	8	2.0	6	1.5	1	.2	53	13.2	1	.2
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	2	.5	11	2.7	1	.2	3	.7	5	1.2	0	.0
NEUTRAL RESOURCE PERSON	0	.0	1	.2	2	.5	0	.0	1	.2	0	.0
NONPARTICIPANT	2	.5	0	.0	0	.0	0	.0	19	4.7	3	.7
CONNECTICUT – 93 RESPONSES												
NEGOTIATOR WITH FULL AUTHORITY	0	.0	0	.0	1	1.1	2	2.2	2	2.2	0	.0
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	1	1.1	0	.0	0	.0	0	.0	0	.0
ADVISOR TO NEGOTIATORS FOR BOARD	13	14.0	29	31.2	16	17.2	0	.0	4	4.3	6	6.5
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	5	5.4	4	4.3	3	3.2	0	.0	0	.0	0	.0
NEUTRAL RESOURCE PERSON	1	1.1	2	2.2	1	1.1	0	.0	0	.0	0	.0
NONPARTICIPANT	1	1.1	0	.0	1	1.1	0	.0	1	1.1	0	.0
ILLINOIS – 215 RESPONSES												
NEGOTIATOR WITH FULL AUTHORITY	0	.0	7	3.3	1	.5	4	1.9	12	5.6	0	.0
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	5	2.3	15	7.0	0	.0	9	4.2	0	.0
ADVISOR TO NEGOTIATORS FOR BOARD	13	6.0	22	10.2	42	19.5	0	.0	19	8.8	3	1.4
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	19	8.8	13	6.0	7	3.3	0	.0	2	.9	0	.0
NEUTRAL RESOURCE PERSON	6	2.8	2	.9	3	1.4	0	.0	0	.0	1	.5
NONPARTICIPANT	3	1.4	0	.0	4	1.9	0	.0	3	1.4	0	.0

PATTERNS IN NEGOTIATION (Continued)

INDIANA – 53 RESPONSES

NEGOTIATORS FOR THE SCHOOL BOARD

ROLE OF THE SUPERINTENDENT	BOARD MEMBERS		BOARD MEMBERS AND SUPT.		BOARD MEMBERS AND SCHOOL ADMINISTRATORS		SUPERINTENDENT		SCHOOL ADMINISTRATORS		NO BD MEMBERS OR ADMINISTRATORS NEGOTIATE	
	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.
NEGOTIATOR WITH FULL AUTHORITY	0	.0	0	.0	1	1.9	0	.0	2	3.8	0	.0
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	3	5.7	2	3.8	1	1.9	4	7.5	0	.0
ADVISOR TO NEGOTIATORS FOR BOARD	1	1.9	6	11.3	9	17.0	0	.0	7	13.2	0	.0
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	1	1.9	8	15.1	3	5.7	0	.0	1	1.9	0	.0
NEUTRAL RESOURCE PERSON	1	1.9	0	.0	1	1.9	0	.0	1	1.9	0	.0
NONPARTICIPANT	0	.0	0	.0	0	.0	0	.0	1	1.9	0	.0
MASSACHUSETTS – 167 RESPONSES												
NEGOTIATOR WITH FULL AUTHORITY	0	.0	3	1.8	0	.0	0	.0	3	1.8	0	.0
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	1	.6	1	.6	0	.0	1	.6	0	.0
ADVISOR TO NEGOTIATORS FOR BOARD	26	15.6	29	17.4	13	7.8	2	1.2	8	4.8	17	10.2
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	19	11.4	10	6.0	1	.6	0	.0	1	.6	4	2.4
NEUTRAL RESOURCE PERSON	11	6.6	2	1.2	2	1.2	0	.0	0	.0	5	3.0
NONPARTICIPANT	3	1.8	0	.0	1	.6	0	.0	1	.6	3	1.8
MICHIGAN – 344 RESPONSES												
NEGOTIATOR WITH FULL AUTHORITY	0	.0	24	7.0	27	7.8	7	2.0	41	11.9	0	.0
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	11	3.2	17	4.9	1	.3	7	2.0	0	.0
ADVISOR TO NEGOTIATORS FOR BOARD	7	2.0	37	10.8	47	13.7	1	.3	77	22.4	7	2.0
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	1	.3	5	1.5	6	1.7	0	.0	1	.3	0	.0
NEUTRAL RESOURCE PERSON	0	.0	0	.0	1	.3	0	.0	0	.0	1	.3
NONPARTICIPANT	1	.3	0	.0	3	.9	0	.0	13	3.8	1	.3
MINNESOTA – 111 RESPONSES												
NEGOTIATOR WITH FULL AUTHORITY	0	.0	3	2.7	1	.9	0	.0	0	.0	0	.0
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	4	3.6	1	.9	0	.0	0	.0	0	.0
ADVISOR TO NEGOTIATORS FOR BOARD	27	24.3	20	18.0	31	27.9	0	.0	1	.9	1	.9
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	1	.9	8	7.2	3	2.7	1	.9	0	.0	0	.0
NEUTRAL RESOURCE PERSON	5	4.5	2	1.8	0	.0	0	.0	0	.0	0	.0
NONPARTICIPANT	1	.9	0	.0	1	.9	0	.0	0	.0	0	.0

NEGOTIATORS FOR THE SCHOOL BOARD

ROLE OF THE SUPERINTENDENT	BOARD MEMBERS		BOARD MEMBERS AND SUPT.		BOARD MEMBERS AND SCHOOL ADMINISTRATORS		SUPERINTENDENT		SCHOOL ADMINISTRATORS		NO BD MEMBERS OR ADMINISTRATORS NEGOTIATE	
	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.
MISSOURI – 58 RESPONSES												
NEGOTIATOR WITH FULL AUTHORITY	0	.0	2	3.4	2	3.4	4	6.9	0	.0	0	.0
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	5	8.6	1	1.7	4	6.9	1	1.7	0	.0
ADVISOR TO NEGOTIATORS FOR BOARD	0	.0	2	3.4	1	1.7	0	.0	4	6.9	0	.0
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	2	3.4	12	20.7	6	10.3	2	3.4	1	1.7	1	1.7
NEUTRAL RESOURCE PERSON	3	5.2	3	5.2	1	1.7	0	.0	1	1.7	0	.0
NONPARTICIPANT	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
NEW JERSEY – 264 RESPONSES												
NEGOTIATOR WITH FULL AUTHORITY	0	.0	2	.8	1	.4	1	.4	3	1.1	0	.0
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	11	4.2	2	.8	2	.8	3	1.1	0	.0
ADVISOR TO NEGOTIATORS FOR BOARD	32	12.1	68	25.8	34	12.9	0	.0	10	3.8	12	4.5
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	23	8.7	20	7.6	10	3.8	0	.0	0	.0	3	1.1
NEUTRAL RESOURCE PERSON	13	4.9	3	1.1	2	.8	0	.0	0	.0	1	.4
NONPARTICIPANT	4	1.5	0	.0	2	.8	0	.0	0	.0	2	.8
NEW YORK – 436 RESPONSES												
NEGOTIATOR WITH FULL AUTHORITY	0	.0	13	3.0	11	2.5	17	3.9	46	10.6	1	.2
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	12	2.8	17	3.9	2	.5	20	4.6	0	.0
ADVISOR TO NEGOTIATORS FOR BOARD	18	4.1	40	9.2	56	12.8	4	.9	92	21.1	21	4.8
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	8	1.8	2	.5	5	1.1	0	.0	3	.7	4	.9
NEUTRAL RESOURCE PERSON	4	.9	3	.7	3	.7	0	.0	2	.5	2	.5
NONPARTICIPANT	3	.7	0	.0	5	1.1	0	.0	16	3.7	6	1.4
OHIO – 314 RESPONSES												
NEGOTIATOR WITH FULL AUTHORITY	0	.0	17	5.4	8	2.5	33	10.5	66	21.0	0	.0
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	24	7.6	11	3.5	10	3.2	26	8.3	0	.0
ADVISOR TO NEGOTIATORS FOR BOARD	6	1.9	33	10.5	9	2.9	0	.0	25	8.0	4	1.3
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	6	1.9	14	4.5	6	1.9	0	.0	2	.6	0	.0
NEUTRAL RESOURCE PERSON	1	.3	4	1.3	1	.3	0	.0	0	.0	0	.0
NONPARTICIPANT	0	.0	0	.0	0	.0	0	.0	8	2.5	0	.0

PATTERNS IN NEGOTIATION (Continued)

OREGON – 69 RESPONSES

NEGOTIATORS FOR THE SCHOOL BOARD

ROLE OF THE SUPERINTENDENT	BOARD MEMBERS		BOARD MEMBERS AND SUPT.		BOARD MEMBERS AND SCHOOL ADMINISTRATORS		SUPERINTENDENT		SCHOOL ADMINISTRATORS		NO BD MEMBERS OR ADMINISTRATORS NEGOTIATE	
	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.
NEGOTIATOR WITH FULL AUTHORITY	0	.0	1	1.4	0	.0	0	.0	0	.0	0	.0
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	1	1.4	0	.0	0	.0	0	.0	0	.0
ADVISOR TO NEGOTIATORS FOR BOARD	10	14.5	7	10.1	4	5.8	0	.0	0	.0	2	2.9
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	19	27.5	6	8.7	1	1.4	0	.0	0	.0	1	1.4
NEUTRAL RESOURCE PERSON	10	14.5	0	.0	1	1.4	0	.0	0	.0	0	.0
NONPARTICIPANT	3	4.3	1	1.4	0	.0	0	.0	0	.0	2	2.9
PENNSYLVANIA – 257 RESPONSES												
NEGOTIATOR WITH FULL AUTHORITY	0	.0	4	1.6	0	.0	1	.4	3	1.2	0	.0
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	1	.4	5	1.9	2	.8	1	.4	0	.0
ADVISOR TO NEGOTIATORS FOR BOARD	30	11.7	43	16.7	52	20.2	2	.8	23	8.9	12	4.7
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	15	5.8	15	5.8	8	3.1	0	.0	1	.4	2	.8
NEUTRAL RESOURCE PERSON	12	4.7	2	.8	3	1.2	0	.0	0	.0	1	.4
NONPARTICIPANT	4	1.6	0	.0	8	3.1	0	.0	5	1.9	2	.8
WASHINGTON – 100 RESPONSES												
NEGOTIATOR WITH FULL AUTHORITY	0	.0	6	6.0	2	2.0	7	7.0	6	6.0	0	.0
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	9	9.0	5	5.0	7	7.0	1	1.0	0	.0
ADVISOR TO NEGOTIATORS FOR BOARD	4	4.0	9	9.0	11	11.0	0	.0	6	6.0	0	.0
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	7	7.0	11	11.0	1	1.0	1	1.0	2	2.0	0	.0
NEUTRAL RESOURCE PERSON	1	1.0	0	.0	0	.0	0	.0	0	.0	0	.0
NONPARTICIPANT	0	.0	0	.0	1	1.0	0	.0	3	3.0	0	.0
WISCONSIN – 165 RESPONSES												
NEGOTIATOR WITH FULL AUTHORITY	0	.0	3	1.8	3	1.8	0	.0	2	1.2	0	.0
NEGOTIATOR WITH LIMITED AUTHORITY	0	.0	11	6.7	7	4.2	1	.6	1	.6	0	.0
ADVISOR TO NEGOTIATORS FOR BOARD	13	7.9	44	26.7	35	21.2	0	.0	5	3.0	2	1.2
ADVISOR TO NEGOTIATORS FOR BOTH BOARD AND TEACHERS	9	5.5	9	5.5	6	3.6	0	.0	0	.0	0	.0
NEUTRAL RESOURCE PERSON	4	2.4	3	1.8	1	.6	0	.0	1	.6	0	.0
NONPARTICIPANT	0	.0	0	.0	4	2.4	0	.0	0	.0	1	.6

SPECIAL REPORTS

BRIEFS OF RECENT AGREEMENTS

Harrisburg, Illinois

Between Harrisburg Community Unit District No. 3 and the Harrisburg Teachers' Association, effective July 1, 1972, to June 30, 1973. Approximately 133 certificated professional employees. Provision for renegotiation to be made in writing by either party at least 30 days prior to May of any year but may be renewed automatically for one year by mutual consent of both parties.

COMPENSATION: (1972-73) B.A., $7,725 to $11,225, 10 increments; B.A. plus 16, $8,175 to $11,675, 10 increments; M.A., $8,625 to $12,825, 12 increments; M.A. plus 16, $9,075 to $13,275, 12 increments; severance pay at $50 times years of experience up to 30 years; substitute teachers, $25 per day; summer school teachers, $6.50 per hour.

DIFFERENTIALS: Based on base pay of $7,725; head high-school basketball and football coaches, 15%; athletic director, art supervisor, head wrestling, track, baseball, and golf coaches, and assistant football and basketball coaches, high-school dramatics and high-school band directors, 7-1/2%; high-school vocal music, junior and senior high cheerleader, high-school debate and student council sponsors, 3%; teachers of homebound students, 10¢ per mile to and from school and student's home.

LEAVES: Fifteen days' annual sick leave, 150 days' maximum accumulation; 1 day for personal business with substitute paid by board and 2 days' personal leave with substitute paid by employee; paid leave for jury duty or serving as court witness upon surrendering court compensation; leave without pay for time on active duty for military obligations with credit on salary schedule for this period upon return; up to 2 weeks paid leave, less military pay, for members of National Guard called into active emergency duty; extended sick leave without pay up to one year with one year extension; sabbatical leave for those with at least M.A. up to one year at half pay after 6 years' service and agreement to teach 2 semesters for each semester of sabbatical leave granted; up to one year of leave without pay for election to full-time office in state or national professional organizations, or appointment as consultant or advisor in projects or programs by an accredited college, university, or governmental agency.

INSURANCE: Board to provide hospital-medical care including major medical; liability insurance to be paid by board; tax-sheltered annuity plan available.

ASSOCIATION: Payroll deduction for local, state, and national dues; released time for president of association to be arranged through building principal, superintendent, and association president.

INSTRUCTION: Board to seek voluntary transfers from classes in grades 1-3 which exceed 30 ADA and from grades 4-6 which exceed 35 ADA; school calendar comprises 177 pupil-teacher days, 4 teacher institute days and 5 emergency days; a 10-member joint Educational Advisory Committee to meet regularly to study and recommend improvements to the district's educational program with a continuing subcommittee on curriculum study and revision and such other subcommittees as are deemed necessary by the Committee with periodic progress reports to be presented to the board and the association, released or shared time to be made available with a budget of $1,000 per school year, board to receive and act on recommendations from Committee; teachers to be appointed by the administration to provide written curriculum material (syllabi, guides, etc.) to be afforded released time or financial compensation; each building to be provided with secretarial help sufficient to assist teachers in routine duties such as attendance record keeping, typing, and duplicating classroom materials; elementary teachers not to be assigned to teach two different grades simultaneously except in emergencies; corporal punishment to be meted out only in private with another staff member as witness and all such incidents to be reported to the principal immediately.

PERSONNEL: Grievance procedure to end with binding arbitration; personnel file available to each teacher upon request to the principal or superintendent regardless of location of files; duty-free lunch periods to comply with school code; K-6 teachers to be released from all duties except supervision of classroom from 8:00 a.m. to 8:30 a.m. each day for preparation time; elementary teachers to be granted preparation periods coinciding with times specialists are teaching their class; four general teacher meetings to be held each year with one hour of such sessions to be on school time; teachers may visit outside the school district upon written request and advance approval by the building principal and superintendent; full-time tenure teachers to be evaluated at least once every 4 years and full-time nontenure teachers each year of probationary status with teachers involved receiving a minimum of 3 written reports during the school year and a copy of each formal written evaluation; if a teacher believes the formal written

evaluation is incomplete or inaccurate, his written objections may be attached to the report in his personnel file; a tenure consulting teacher is to be assigned to each probationary teacher: all promotions, vacancies, transfers, and new positions to be reported in the superintendent's BULLETIN following confirmation of vacancy at board meeting; reasons for denial of transfer to be given to teacher involved if requested; supervision of student-teachers to be voluntary; nontenure teachers granted released time to observe experienced teachers in district at least twice each semester.

Baltimore County, Maryland

Between Teachers Association of Baltimore County, Maryland, Inc. and the Board of Education of Baltimore County, effective July 1, 1972, to June 30, 1973. Approximately 6,059 certificated professional employees. Provision for renegotiation on items dependent upon budget funding shall require a meeting of designated negotiators as soon as possible after action of the fiscal authorities but no later than June 2 with renegotiation to be completed within 5 calendar days.

COMPENSATION: (1972-73—10-month schedule; 17 percent differential for 12-month positions) B.A., $7,600 to $11,816, 9 increments; M.A., $8,229 to $15,087, 13 increments; M.A., plus 30, $8,946 to $15,804, 13 increments; M.A. plus 60, $9,305 to $16,163, 13 increments; Ph.D., $9,664 to $16,521, 13 increments; longevity pay at $500 after 20, 15, 30, and 35 years' service; severance pay at 25 percent of daily rate for each unused day of sick leave over 200 days to a maximum of $500.

DIFFERENTIALS: When responsibilities related to nonclassroom activities require more than 75 hours on a regular basis, as previously defined for all faculty, compensation to be by adjusting the normal assignment or by granting added salary allowances; three categories for compensation to which such duties shall be assigned—1 unit for which $320 will be paid or unassigned periods increased by two per week, 2 units for which $640 will be paid or unassigned periods increased by four per week, or 3 units for which $800 will be paid or unassigned periods increased by five per week; girls' varsity and junior varsity basketball, softball, boys' varsity wrestling, baseball, basketball, indoor track, and junior varsity wrestling, baseball, basketball, 3 units; girls' varsity and junior varsity volleyball, hockey, varsity lacrosse and gymnastics, boys' varsity football, outdoor track, cross-country, junior varsity football, indoor and outdoor track, 2 units; yearbook, literary magazine, vocal music, band, junior class sponsors, 1 unit; teachers participating in any workshop activities during the summer shall receive compensation at 17 percent of regular salary; teachers of adult education and evening high school, $7.50 per hour; approved use by the principal of personal car for school business reimbursed at 12¢ per mile.

LEAVES: Fifteen days' (10 days first year) sick leave with unlimited accumulation; 4 days' for illness in immediate family charged to sick leave; 3 days' personal business with unused days accumulated as sick leave; 4-5 days' for bereavement leave in immediate family and one day to attend funeral of close relative; 2 days' for religious holidays; jury duty without loss of pay; 15 days' per year for military reserve obligations with pay; leave of absence granted to cover regular service in armed forces; sabbatical leave at 60 percent pay for one year after 7 years' service if employee commits himself to 2 years' service on return, 50 percent for one year returned service; leave without pay to run for or serve in a public office if such participation interferes with assigned duties; released time with pay granted to attend meetings or hearings called by superintendent or his designee; time to attend commencement exercises of self or family member and/or to take examinations for advanced degrees or professional licenses related to employment taken from personal leave; after two or more years' satisfactory service, year's leave without pay granted to further professional growth with return to and credit on salary schedule if 12 or more hours of academic work taken each semester.

INSURANCE: Board pays 90 percent of premiums for health and insurance plan and for plan C of the Blue Shield program but for current year fiscal authorities have held board to 80 percent and no funding for plan C; board pays 90 percent (held to 80% for 1972-73) of premiums for basic life insurance plan; annuity plan, income protection insurance, and investment program available through payroll deduction.

ASSOCIATION: Payroll dues deduction for local, state, and national associations; released time to attend meetings, when requested 2-10 days prior, with association providing cost of substitute; TABCO faculty representatives and executive board members may leave school in time to attend monthly 4 p.m. mid-county meeting; duly authorized representatives of local, state, and national association may transact business on school property if there is no interruption to programs; association may use school buildings without charge to hold meetings but to be billed for extra custodial or cafeteria services; may use school equipment with charges only for supplies used; president of association to be granted unpaid leave with return to normal place on salary schedule, such leave may be arranged to provide half-time employment during term of office; board to provide bulletin boards for association use; association may use interschool mail delivery service; 30 minutes available at preschool orientation for association representative; faculty roster to be made available to association faculty representative; board meeting agenda and minutes to be forwarded to association.

INSTRUCTION: Secondary teachers to have no more than three preparations; class size to average 25-1 for kindergarten, 28-1 for grades 1-3, 30-1 for grades 4-6, and secondary teachers, 150 students maximum; school calendar of 191 days, 184 with pupils; Curriculum Communications Council created by the association to meet regularly with representatives of the board to discuss curriculum matters including extended year activities; professional library materials to be included with regular school library.

PERSONNEL: Grievance procedure ends with binding arbitration; personnel file available to teachers upon written

additional graduate work toward an advanced degree, and teaching competence, scholarly or creative work, and participation in college, student, faculty, and college-related community affairs; associate professor, same as assistant professor plus Ph.D. degree or its equivalent and at least 5 years' experience; professor, same as associate professor plus superiority in teaching, scholarly or creative work, and at least 8 years' professional experience; librarians, academic rank plus librarians title; rank quota: professors, 25 percent; associate professors, 30 percent (not to apply to appointment or promotions for 1971-72 year); no tenure quota; appointments to be recommended initially by appropriate department chairmen and may be reviewed by department qualifications committee whose recommendation the chairman transmits to the Dean of Faculty; appointments to be made by the department chairman with approval of three administrators and usually followed by a one-year probationary period; promotions to be made from within the college whenever possible; promotion criteria, "excellence in teaching ability, demonstrated scholarship, professional progress, activity in professional societies, competent handling of nonacademic duties, and outstanding contributions to the service of the college"; department qualifications committee or chairman reviews applications or intiates promotions from within the department, the decisions are submitted or appealed by the faculty member to the tenure and promotions committee, which makes recommendations in order of priority to dean of faculty, reasons may be requested of the dean of faculty if he deviates from the priority list submitted by the tenure and promotions committee:

> The criteria for tenure of a member of the faculty are: (a) demonstrated ability to teach effectively or to serve as professional librarian; (2) maintenance of high academic standards in his teaching or library service; (3) evidence of continuing preparation, study, or research and fulfillment of professional responsibilities; (4) contribution to the welfare of the students; (5) service to the department and to the college.

Once granted, tenure is retained until the faculty member reaches retirement age 65, resigns, is laid off owing to financial exigencies, or is dismissed for just cause;

> (1) physical or mental incapacity; (2) neglect of duty; (3) conviction of a felony; (4) intentional dishonesty; (5) professional incompetence; (6) moral turpitude; (7) intentional and substantial disruption of the functioning of the college. In any dismissal of a member of the faculty on tenure, the college has the burden of proving just cause.

A faculty member initially appointed an assistant professor is eligible for tenure after the fourth and continued up to the fifth year of service; however, if an assistant professor has earned a doctorate, he is eligible after the third and continued to the fifth year of service, if tenure has not been granted during the fifth year of service, there is to be no reappointment; faculty member may hold instructor rank for a maximum of 3 years after which he shall be promoted or not reappointed; after completion of fourth consecutive year continued to fifth year the promoted instructor is eligible for tenure; promotion from nontenured assistant professor to associate professor to carry tenure; faculty member serving at least 5 years at another institution to be eligible for tenure after 2 full years' service or if specifically recommended by the college president; faculty member with less than 5 years' service at another institution to count previous full-time probationary employment toward tenure, but is required to serve at least 2 additional years to be eligible for tenure; if tenure is not achieved by end of fifth year of service there shall be no reappointment; department chairmen in consultation with the department qualifications committee to appraise professional performance of each tenure-eligible faculty member and submit recommendation to the elected tenure and promotions committee; tenure status notices submitted to each eligible faculty member by December 14; "There shall be no arbitrary, capricious or discriminatory reduction in salary or demotion in rank for any member of the faculty on tenure"; dean of faculty may request review of tenured faculty member by college tenure and promotions committee which is to recommend either continued tenure or one-year probationary status; non eappointment and dismissal procedure for nontenured faculty; nontenured faculty are terminated through nonrenewal or not granted tenure, faculty member to be notified not later than March 1 of first year or December 15 of any subsequent year, no explanation is required except upon request; if the reasons include anything other than a felony conviction, a grievance may be filed but the decision is not arbitrable; procedure for dismissal of a tenured faculty member: an informal conference with department chairman and/or dean of faculty is required prior to the dismissal of tenured faculty member, faculty member may be suspended with pay only if "immediate harm to himself or others is threatened by his continuance"; when formally charged, the faculty member may request a hearing before the faculty appellate committee to be held within 30 days of notification; if the president fails to sustain a committee decision favorable to the faculty member, the association may appeal that decision through arbitration; disciplinary procedure for breach of the agreement provisions (particularly for failure to return final grades on time) is subject to the following procedure: first offense, written warning; second offense in any three consecutive years, review of tenure status or eligibility; third offense in any three consecutive years, appropriate discipline including termination; no reprisal for participation in any noncollege activity, however, a faculty member's professional consulting practice is not to interfere with college responsibilities, is to be recorded with the department chairman, and may not involve the college or use of college facilities; faculty members to formally advise their department chairmen and/or dean of faculty of any compensated off-campus services and are not to teach more than 4 credits per semester at another institution without the dean's approval; retirement postponement, granted past age 65 in special cases, not to exceed age 70; Faculty Improvement Fund: up to $15,000 annually for Grants-in-Aid-of-Creativity; up to $10,000 annually for Faculty Improvement Fund Loans; travel expense reimbursement allowances; and mini-sabbatical grant program which grants one payment per rank equal to pay for 6 summer credit hours to a maximum of $6,000 to a faculty member with at least 7 years' service.

request and teacher may make copies of materials and reply to any complaints in the file; 30-minute duty-free lunch period each day; five unassigned preparation periods per week for secondary teachers and one period per day for elementary teachers; faculty meetings to be scheduled for Mondays; teachers encouraged to participate in PTA activities; tuition reimbursement to fully certificated teachers for tuition and fee charges up to $40 per credit ($25 for 1972-73 due to budgetary cut) for a maximum of 60 credits; teacher evaluation by administrators at work in and out of the classroom to be conducted with full knowledge of the teacher and a copy of such report shall be given the teacher; department of personnel to forward to each school announcements of vacancies for supervisory and specialist positions listing minimum requirements, duties, responsibilities, qualifications, and salary for which any staff member may apply; teachers requesting transfers or reassignments to make application by February 15 and notification of acceptance or denial of request to be made by May 15; minimum replacement of $5.00 for property loss owing to assault on a teacher, less benefits from Workman's Compensation; maximum property coverage for personal equipment brought to school for use as an adjunct to instructional activities to be $500; banking through payroll deductions; three to seven-member faculty council of teachers shall be elected at each school to establish and maintain positive relationships and communications among all faculty and staff regarding proposed changes in existing policies and practices and new policies and practices for each school may be considered; adequate parking facilities to be made available; no tenure teacher to be terminated if a provisionally certificated or a probationary teacher currently holds the same type of position; grade book, planning book, texts, and workbooks to be provided each teacher along with servicable desk with keys, adult chair, and filing cabinet; new and redesigned school buildings to include teacher's lounge, restrooms, and private dining area, classroom storage space, office space, and a work area containing equipment and supplies as well as health facilities with office for nurse; board to provide prescription safety glasses on request to all school employees working a significant part of day in laboratories, shops, or other areas of potential danger to employee's eyes.

Monmouth College
West Long Branch, New Jersey

Between Monmouth College and Faculty Association of Monmouth College, Inc., effective July 1, 1971, to June 30, 1973. Approximately 313 full-time professors, associate professors, assistant professors, professional librarians, and instructors, excluding part-time faculty, graduate assistants, department chairmen, visiting faculty, and supervisors. Provision for annual extension of agreement unless either party gives written notice of intention to terminate or modify this agreement between 135 and 60 days prior to June 30, 1973, or June 30 of any yearly extension.

COMPENSATION: (minimum salary 1972-73, no maximums) instructors, $8,000; assistant professor without Ph.D., $9,000; assistant professor with Ph.D., $10,000; associate professor without Ph.D., $11,000; associate professor with Ph.D., $12,000; professor, $14,000; each faculty members' 1972-73 salary to be increased 7 percent over his 1971-72 base salary.

OTHER: Merit increases granted at the college's discretion; summer school compensation, 1/42 of base salary as of September of that year for each credit hour; 1/42 of base salary for each overload credit hour; 12¢ mileage reimbursement for travel in connection with faculty member's authorized duties.

INSURANCE: College pays full Blue Cross-Blue Shield and 2/3 major medical for individual coverage and 3/4 of dependent major medical coverage; college pays one-half life insurance premium equal to 1½ times annual salary to lowest multiple of $1,000; travel insurance up to $50,000 for accidental death or dismemberment; total disability insurance; tax-sheltered annuity plan available to those eligible for retirement; college matches employee contribution of 5 percent of salary to retirement plan (TIAA-CREF), faculty members may join retirement plan after two consecutive semesters of employment, participation mandatory at age 30.

ASSOCIATION: Payroll deduction of association dues; released time for negotiation and grievance proceedings during working hours; reasonable effort to be made to provide rooms for association meetings; use of available parking spaces, equipment (association paying any cost resulting from use thereof), designated bulletin boards, and inter-office mail; bookstore to sell association expendable supplies at cost; schedules of 4 senior association officers to be arranged to facilitate participation in association activities; no-strike clause.

INSTRUCTION: Maximum of three undergraduate course preparations unless otherwise agreed, overload situation or if prevailing practice is otherwise; normal 2-semester academic load, 24 credit hours; normal one-semester academic load, 12 credit hours; attempt to avoid excessive class size; teacher load committee to review, recommend changes in, and implement current teaching load policy; academic freedom clause specifies that "free inquiry includes pertinent controversy"; minimum of four hours per week in office for student consultation; faculty members "shall endeavor to cover an agreed-upon body of material and to adhere to agreed-upon standards for the assignment of readings, written exercises and activities."

PERSONNEL: Grievance procedure ends with final and binding arbitration; faculty dining room to be open until 6:00 p.m. during faculty duty hours and not be used to meet with students prior to 2:00 p.m.; faculty teaching evening classes not to be assigned first period class the next morning without written consent; no faculty member to be assigned a class he does not feel qualified to teach; attendance required for all regularly scheduled faculty meetings, convocations, and commencements; academic attire, when required, furnished by the college; minimum rank qualification criteria: instructor, M.A. or equivalent degree, and teaching ability; assistant professor, M.A. or equivalent plus

OUTSIDE ASSISTANCE FOR MANAGEMENT NEGOTIATORS, 1972-73

The sixth annual Research survey of written negotiation agreements for 1971-72 from school systems with 1,000 or more pupils enrolled, found 1,024 of the 3,911 reporting systems (26.2 percent) employed an individual other than the superintendent to act as chief negotiator for the board's negotiating team.

Of all responding systems that negotiated for 1971-72, 58.7 percent of the systems did not employ or contract with an individual other than the superintendent to act as chief negotiator for the board, and 15.1 percent did not respond. In approximately three-fourths of the school systems, the chief negotiator was either a board member or the superintendent.* Since this is the first year computations have been made regarding this aspect of negotiation activity, no comparative data exist.

As shown in Table 1, the larger the school system, the more likely it is to employ or contract for a chief negotiator other than the superintendent. In a majority (59.6 percent) of the largest systems (Strata 1-3), in over one-third of the medium size systems (Strata 4-6), and in approximately one-sixth of the smallest systems, negotiators are persons other than the superintendent.

*See page 11 for results of survey of involvement of superintendents and school-board members in negotiation

TABLE 1.–CHIEF NEGOTIATOR FOR BOARD, OTHER THAN SUPERINTENDENT BY STRATUM

Question	Total		Strata 1-3 (enrollment: 25,000 and over)		Strata 4-6 (enrollment: 3,000-24,999)		Strata 7-8 (enrollment: 1,000-2,999)	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
1	2	3	4	5	6	7	8	9
Does your school system employ or contract with one individual (other than superintendent) who has been designated as chief negotiator for the board?								
Yes	1,024	26.4	78	59.6	629	35.1	317	16.0
No	2,297	58.7	35	26.7	876	48.9	1,386	69.6
No response	590	15.1	18	13.7	285	15.9	287	14.4
Total	3,911	100.0	131	100.0	1,790	99.9[a]	1,990	100.0
If yes, indicate the type of person this chief negotiator is.								
Outside specialist	557	14.2	12	9.2	332	18.5	213	10.7
School employee with another primary responsibility who acts as chief negotiator "in session"	309	7.9	36	27.5	223	12.5	50	2.5
School employee who devotes major portion of his time to negotiations	136	3.5	29	22.1	66	3.7	41	2.1
Other	22	0.6	1	0.8	8	0.4	13	0.7
	1,024	26.2	78	59.6	629	35.1	317	16.0

[a] Percentages do not add to 100% owing to rounding.

TABLE 2.–CHIEF NEGOITATOR FOR BOARD, OTHER THAN SUPERINTENDENT, BY TYPE OF NEGOTIATOR

Designated chief negotiator	Total		Strata 1-3 (enrollment: 25,000 and over)		Strata 4-6 (enrollment: 3,000-24,999)		Strata 7-8 (enrollment: 1,000-2,999)	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
1	2	3	4	5	6	7	8	9
Outside specialist	557	100.0	12	2.2	332	59.6	213	38.2
School employee with another primary responsibility who acts as chief negotiator "in session"	309	100.1[a]	36	11.7	223	72.2	50	16.2
School employee who devotes major portion of his time to negotiations	136	99.9[a]	29	21.3	66	48.5	41	30.1
Other	22	100.0	1	4.5	8	36.4	13	59.1
	1,024	100.0	78	7.6	629	61.4	317	31.0

[a]Percentages do not add to 100.0% owing to rounding.

Of the 26.2 percent of the total systems that employ or contract for a chief negotiator other than the superintendent, 14.2 percent contract with an outside specialist, 11.4 percent use the services of a school employee, and 0.6 percent use another type of person.

The type of person designated as chief negotiator varied according to the size of school system. While the largest systems tended to designate a school system employee other than the superintendent to act as chief negotiator, the medium size systems tended to split equally between employed and contracted persons and the smallest systems most often employ an outside specialist. As far as school employees acting as chief negotiators, employees other than the superintendent who devote a major portion of their time to negotiation are reported most often (22.1 percent) in the largest school systems. Few medium and smaller systems employe persons who devote a majority of their time to negotiation.

An outside professional negotiator was hired as the school board's chief negotiator in 557 of the systems for negotiation sessions during 1971-72. (See Table 2.) Medium size systems accounted for about 60 percent, and the smallest systems for about 38 percent.

Of all reporting systems that utilized an employee other than the superintendent as chief negotiator, 309 assigned a full-time employee who also had another primary responsibility. Medium size systems in this category accounted for nearly 72 percent, with the largest and smallest systems combined totalling slightly more than one-fourth.

A total of 136 systems reported that the chief negotiator for the board was a school system employee whose major concerns were the various aspects of teacher/board negotiations: about 49 percent of the medium size systems, 30 percent of the smallest, and about 21 percent of the largest.

The smallest systems represented about 59 percent of the 22 systems reported in the category designated "other." The persons were district solicitors, university professors, retired school administrators, or members of the county or town councils.

The data culled from the 1971-72 survey indicate that the largest systems tend to employ "in-system specialists" to handle teacher/board negotiation activity, the smallest systems use outside specialists, and the medium systems rely on both the "in-system specialist" and the outside professional negotiation specialist.

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CASE REVIEWS

DELAWARE

Termination for Refusing To Join Union Not A Dismissal

Pointing out that termination of employment resulting from a refusal to comply with the provisions of a union shop agreement amounts to "voluntarily quitting without good cause," the New Castle County Superior Court of Delaware reversed the decision of the Unemployment Insurance Appeal Board and denied unemployment benefits to a former employee of the Delaware Department of Labor.

Relying on statutory language which declares that unemployment benefits would not be withheld from any individual who refuses employment on the grounds that he would be required by the employer to join a company union, the unemployment board granted the benefits.

The employer argued that the former employee should not be granted benefits because such a termination constituted "a voluntary quitting without good cause."

Courts in New York and Pennsylvania have held that termination of employment "as a result of a refusal to join a bona fide labor organization under a collective bargaining agreement is a voluntary quitting without good cause," the court agreed with these determinations and ruled that the employee was ineligible for unemployment benefits and reversed the decision of the Unemployment Insurance Appeal Board.

However, the court noted that if Delaware had a "right to work" statute, "a question might be raised as to whether the claimant could be forced to join a union as a condition of continuing employment in the first instance and whether refusal to so join could effectively result in a denial of compensation benefits in the second instance." (*State of Delaware ex rel. Department of Labor v. Unemployment Insurance Appeal Board and Lillian B. Abrams*, New Castle Superior Court, October 5, 1972.)

HAWAII

Supreme Court Orders Dismissal Hearing

The Hawaii Supreme Court remanded a case involving the termination of a tenured elementary school teacher who had requested a hearing. Previously, the First Circuit Court sustained a motion to dismiss the case filed by the superintendent of education, the defendant in the case.

The superintendent contended that the May 24, 1971, letter from the teacher's union representative requesting a hearing was not valid because the union representative lacked authority to make such a request.

In its ruling, the court cited an applicable case, *the matter of Wood v. Duff-Gordon*, in which it was decided that "the law has outgrown its primitive state of formalism when the precise word was the sovereign talisman and every slip was fatal. It takes a broader view today. A promise may be lacking, and the whole writing may be 'instinct with an obligation' imperfectly expressed. If that is so, there is a contract."

The court thus held that although the request for a termination hearing was not specifically made, it was implied from the fact that the plaintiff was serving a suspension connected with his contract termination.

The superintendent's contention that the union representative had no authority to request a hearing was ruled an afterthought, contrived to justify the defendant's action after terminating the plaintiff without a hearing.

The court concluded that the request for a hearing was valid and that the plaintiff was entitled to a hearing before the Department of Education. (*Joseph A. Shorba and Hawaii State Teachers Association v. Shiro Amioka*, Hawaii State Supreme Court, October 10, 1972.)

INDIANA

Collective Bargaining and Grievance Arbitration Permissible Under Two Broad-Scope Laws

A ruling handed down by the Indiana Court of Appeals authorizes school boards to enter into collective bargaining agreements, including a provision for compulsory arbitration of grievances, with a labor organization. The decision compels the East Chicago School Board to abide by its contract with the East Chicago Teachers Union (ECTU) which provides paid time off for union business by a union official.

ECTU filed suit when the board failed to comply with the contract provision. The case was dismissed by a lower court which sustained the board's contention that since no state law definitely authorizes collective bargaining, it could not bargain. However, the appellate court, divided two to one on the issue, reversed the lower court's decision and ordered the board to process the complaint.

The court declared that the complaint sought to compel arbitration of grievances under the 1970 contract and to enforce the compulsory arbitration agreement. The court

stated that in *Gary Teachers Union Local 4 v. School City of Gary et al.*, it was decided that the Indiana General School Powers Act of 1965 and the Arbitration Act of 1969 together are broad enough to allow school corporations in the state to exercise the type of agreement involved. The court decided that the same rationale held in this case. Further, in *Chicago, Division of Illinois Education Association, et al v. Board of Education et al.*, the Illinois appellate court ruled that a school board may enter into collective bargaining agreements with public school teachers without specific legislative authority and that the particular agreement is not contrary to public policy.

The court concluded that it was not required to rule on the merits of the specific issue in this case, which involved the contractual right of a teacher union official to spend one hour per week on union business during the school day. The court held that entering into the agreement, as a general proposal, was within statutory authority of the Indiana School Board of Trustees. The court added that the question in this case was whether the complaint could withstand a motion to dismiss. As to this question and the questions of substantive law, decided in the *Gary* case, the court ruled the trial court's dismissal of the case incorrect and reversed that decision. (*East Chicago Teachers Union Local 511, v. Board of Trustees of the School City of East Chicago*, Court of Appeals of Indiana, Third Division, October 12, 1972.)

NEW JERSEY

"Academic Freedom" Arbitration Enjoined

The Morris County Superior Court determined that a collective bargaining agreement allowing teachers or a teacher's union to decide a course of study is unenforceable, and that a grievance regarding an alleged violation of the contract's academic freedom provisions be determined by the state commissioner of education, not an arbitrator.

The dispute arose over whether seventh graders should debate the issue of abortion. The superintendent ordered the teacher involved to cancel the debate. The teacher filed a grievance, contending that the superintendent's action denied him academic freedom as provided by the agreement. The Rockaway Township Education Association (RTEA) then demanded that the issue be processed as an arbitrable grievance.

Upon notice of RTEA's demand, the Rockaway Township Board of Education sought to have the proceedings enjoined, contending that the state commissioner of education should determine the issue. The association then moved for "specific performance of the arbitration proceedings," contending that the arbitration was the "tribunal of primary jurisdiction."

The court decided that the problem lay within the provision that "whenever appropriate for the maturation level of the group, controversial issues may be studied in a unprejudiced and dispassionate manner," but the contract was silent on who was to determine the maturation level. Further, the court stated that this could place the obligation on the teacher, the board, or both. The court debated whether disagreements concerning study subjects should be settled before an arbitration tribunal or by the state commissioner of education with review by the state board of education and the appellate courts.

Determining that course selection and subjects to be presented to pupils cannot be a "term or condition of employment," the court rejected RTEA's contention that the "methods of selecting courses and the procedures and methods used to present these courses may be negotiated at least in broad terms."

The court held that the agreement is *ultra vires* and unenforceable if construed to entrust aspects regarding courses of study to a teacher or a teacher's union. Therefore, the court stated that an arbitrator cannot be a "subdelegee" of the board and the teachers. Further, an arbitrator has no expertise to evaluate the maturation level of seventh-graders.

The court rejected RTEA's counterclaim for specific performance and mandatory direction to the board to acknowledge the arbitrator's jurisdiction and procedures, and permanently enjoined the grievance proceedings. (*Board of Education of the Township of Rockaway v. Rockaway Township Education Association and Joseph Youngman*, Superior Court of New Jersey, Chancery Division, Morris County, September 25, 1972.)

NEW YORK

Prior Grievance Procedure Operative Despite Lack of New Agreement

The New York Supreme Court refused a petition of the Connetquot Central School District Board of Education to stay an arbitration proceeding involving the Connetquot Teachers Association. The board of education believed that since its bargaining agreement with the teachers association had expired and a new contract had not yet been adopted, previously negotiated grievance machinery was no longer applicable. The court found that under the Taylor Law the expired agreement's grievance procedure was still operative.

Prior to the expiration of the 1970-71 agreement between the Connetquot Central School District Board of Education and the Connetquot Teachers Association, negotiations were held for a successor agreement to extend from July 1, 1971, to June 30, 1972. When the parties did not reach agreement by October 1971, a state fact finder was appointed to resolve the impasse. The fact-finder's report was accepted by the board, and in November 1971, a memorandum of agreement was signed by the parties.

Subsequent to the signing of the memorandum, the association requested the board to pay teachers certain monies which were allegedly due from September 1, 1971, to November 15, 1971. The board denied both the request and

the subsequently filed grievance. The association's demand for arbitration of the matter was answered by the board's application to stay arbitration.

The board's request for a stay of arbitration was based on the premise that there was no agreement between the parties, and therefore there was no arbitration procedure. In response to the association's claim that the memorandum of agreement was a valid and binding contract, the board stated that approval at public hearing was never obtained, the board president never signed the agreement, and the authority to create a final contract was never delegated to negotiators on either side; therefore, neither party intended the memorandum to be a contract.

From the evidence presented, the court was unable to determine whether the memorandum of agreement was actually final and binding. However it believed that this question was not crucial to the case at hand. The court stated that under the Taylor Law, employees are protected during the limbo period between agreements and entitled to maintenance of the status quo. The court added that certain actions of the board after the expiration of the agreement indicated that it was following the 1970-71 agreement; in two instances the board processed grievances under the previously negotiated grievance procedure.

The court concluded that the board could not choose to recognize selected provisions of the expired agreement; it must maintain the status quo until a new contract is negotiated. Since the 1970-71 agreement provided arbitration as a means of settling disputes, the controversy over the payment of monies was subject to arbitration. The board's petition to stay arbitration was rejected. (*Matter of Application of Board of Education of Connetquot Central School District No. 7, Petitioner, v. Connetquot Teachers Association, Respondent*, New York Supreme Court, August 14, 1972.)

FEDERAL

Mandatory Maternity Leave Regulation Unconstitutional

The U.S. Court of Appeals upheld a district court ruling striking down a Chesterfield County, Virginia, school board's maternity leave regulation as violative of the equal protection clause of the federal Constitution.

The case was brought by a teacher who had notified the board of her pregnancy and had requested maternity leave one month prior to the expected birth of her child. She submitted a doctor's certificate stating that she was able to work as long as she chose. The board denied her request and ordered her to stop working during the fifth month of pregnancy in accordance with the board's maternity leave regulations. The teacher then requested to be allowed to work until the end of the first semester. This request was also denied. The teacher subsequently brought suit against the school board and the superintendent "attacking the validity of the maternity leave regulation on the grounds of equal protection granted by the U.S. Constitution." The court ruled in her favor and the school board appealed the decision.

The school board contended that the "regulation did not discriminate against women as such – only between pregnant teachers and other teachers." The board added that "the fact of pregnancy, rather than sex, is the focus of the regulation." Further, this kind of discrimination is necessary in order to provide continuity of education in the classroom. Also, the requirement of a uniform date of maternity leave eliminates "disruption in the classroom by a sudden and unpredictable need to replace the teacher who delivers prematurely or who suffers a complication of pregnancy necessitating her absence from the classroom."

The court pointed out that no medical reason supported the need to require a teacher to begin maternity leave no later than the end of the fifth month of pregnancy if she and her doctor agree that she can function in her job after that date. Therefore, there was no need to treat it differently from leave for other medical disabilities. Additionally, "the record is clear that there is not a high incidence of risk of premature delivery or complications of pregnancy in the beginning of the third trimester of pregnancy – the date that the regulation establishes as the beginning of maternity leave." The court agreed with the decision in *LaFleur v. Cleveland* in which the court held that the continuity of classroom instruction and administrative problems is no more acute with respect to pregnant teachers than other teachers with other disabilities. However, the court said that the employer is entitled to approximately 30 days' notice as to when leave is to begin in order to find an adequate substitute.

The court also held that the maternity regulation is sexually discriminatory, since female employees are the only employees who become pregnant and are dismissed from work under a maternity regulation.

A minority opinion held that the regulation is not discriminatory since it does not apply to women in an area where they compete with men. Also, the school board has a legitimate interest in determining dates for maternity leave since the board has to insure continuity in the instruction of children. Further, "pregnancy and motherhood do have a great impact on the lives of women, and, if that impact be reasonably noticed by governmental regulation, it is not to be condemned as an invidious classification." The minority opinion also held that pregnancy unlike other illnesses and disabilities has a determinable duration. Therefore, the employer need not wait until the last moment, as with unexpected illnesses and disabilities, to find a suitable replacement.

The appeals court upheld the district court's decision which ruled in the teacher's favor and granted her full salary for the three months which she would have worked prior to the birth of her child, seniority credit, and other benefits. (*Susan Cohen v. Chesterfield County School Board*, United States Court of Appeals, September 14, 1972.)

BOARD FINDINGS AND RULINGS

ILLINOIS

Vocational Teachers Entitled to Additional Wages for Excessive Class Loads

An arbitrator ruled that vocational teachers at Rockford Area Vocational Center who had been required to teach in excess of the regular class load must be paid additional money until their schedules are readjusted.

Finding that these teachers are covered under the association's agreement with the board, the arbitrator held that "all employees who are covered by this collective bargaining agreement are entitled to the identical wage scale benefits and working conditions."

The arbitrator concluded that staff members teaching in excess of the contractual class load should be paid at the rate of $1,200 per semester for each class beyond the regular load. The center was directed to adjust load assignments in accordance with the contract provisions. (*Rockford Education Association and Rockford Board of Education*, American Arbitration Association, June 13, 1972.)

MICHIGAN

Materials Specialist Included in Teacher Unit

The Michigan Employment Relations Commission (MERC) ruled that the Lake Shore Public Schools did not refuse to bargain with the Association of School Administrators over the position of instructional materials specialist which was properly included in an instructional employees unit because the duties of the position were not specifically supervisory in nature.

The supervisors' association asserted that the position had changed to the point that it should be placed in the supervisory unit.

MERC determined that the instructional materials specialist performs only certain duties of authority and direction over persons with whom he works, and such authority is based on his professional training and responsibility, not supervisory within the meaning of MERC's decisions. (*Lake Shore Public Schools and Lake Shore Association of School Administrators and Lake Shore Federation of Teachers*, Michigan Employment Relations Commission, May 12, 1972.)

Financial Data May Be Provided Only When College Claims Inability To Pay

Adopting the decision of a trial examiner, the Michigan Employment Relations Commission (MERC) dismissed the charges against the Macomb County Community College. The Commission upheld the examiner's decision that the college had not engaged in unfair labor practices by refusing to furnish the Macomb County Community College Faculty Organization (MCCCFO) with information regarding nonunit supervisory and administrative salaries since the obligation to show books and records arises only when the employer pleads inability to pay.

During previous negotiation, the employer took the position that its finances were limited and that all employees of the college must take either a very limited or no salary increase. The MCCCFO agreed and a contract was signed. Later, officers of the MCCCFO were informed that the college's administrative and supervisory staff had received a greater salary increase than the teaching employees. At present bargaining sessions, the union requested that it be told the salaries of these employees because it expected that the same argument relative to wages would be made during future negotiations.

The MCCCFO contended that "it is entitled to this information for the purpose of determining whether there has been a breach of the understanding of the 1971-72 contractual negotiations, thereby protecting the interest of the teachers." It also argues that this information would allow it "to police the agreement and to intelligently fulfill the statutory bargaining obligation."

The college argued that it was "not obligated to furnish the administrators' salary because such information is not necessary to permit the union to bargain understandably for the teachers, or necessary to police the administration of the contract or preparation for the present negotiations."

The trial examiner relied upon the decision of the MERC in *Traverse City Public Schools* in which the Commission ruled that giving the bargaining agent for teachers information concerning the salaries of administrators would serve no useful purpose in the bargaining relative to the contractual unit. The examiner did not agree with the MCCCFO's argument that since it suspected that the employer had violated the agreement, the limitation upon the information requested should be extended. Further, what the MCCCFO was "asking the Commission to do is right a wrong that occurred over six months ago." Referring to matter of *Pioneer Service* in which the Commission determined that "when an employer claims poverty, the employer is then obligated to show its books and records to establish the inability to pay," the trial examiner pointed out that the

union could demand disclosure at future negotiation talks if the employer claims poverty. Disclosure then would prevent the parties from arguing unnecessarily at the bargaining table over something that is impossible.

The Commission ordered that the charges against the college be dismissed. (*In the Matter of Macomb County Community College, Respondent, and Macomb County Community College Faculty Organization, Charging Party*, Michigan Employment Relations Commission, July 21, 1972.)

Nurses Included in Teachers' Bargaining Unit

The Michigan Employment Relations Commission (MERC) ruled that school nurses employed by Utica Community Schools should be included in the teachers' bargaining unit represented by the Utica Education Association.

The school board argued that the nurses should be represented by a separate bargaining unit since their duties differ from the duties of teachers. The school board also argued that one specific nurse should definitely not be added to the unit because she had recently been designated as "supervisor of health services."

The union contended that the nurses should be added to its unit and that the nurse who has been designated as "supervisor of health services" was not a supervisor.

The Commission ruled that "the job duties and function of the nurses are sufficiently integrated with and allied to the instructional process that nurses can be appropriately included in the existing unit of teachers." It also held that the bargaining unit would be fractionalized if the nurses were not allowed to join the teachers' unit, and that since the supervisor of health services did not have any supervisory authority in a labor relations sense, she could not be considered a supervisor. (*Matter of Utica Community Schools and Utica Education Association*, Michigan Employment Relations Commission, August 21, 1972.)

Vocational Teacher Entitled to Back Pay

As a result of the failure of the Western School District Board of Education to provide a contractual preparation period for a vocational teacher, an arbitrator ruled that the teacher was entitled to back pay.

The arbitrator concluded that the grievant should receive back pay at the rate of $5.00 per hour, the contractual rate paid to regular teachers substituting during their preparation periods.

Therefore, since the teacher was denied a preparation period, his compensation should be the same as that of another teacher who is deprived of a preparation period, usually acting as a substitute. (*Western Education Association, William M. Wellington and Board of Education, Western School District*, American Arbitration Association, April 27, 1972.)

NEVADA

Impasse Arbitration Awards

In accordance with amendments to the state's bargaining law, three issues at bargaining impasse between the Washoe County Teachers Association and Washoe County School District were ordered to binding arbitration by the governor. A statutorily required determination of "ability to pay" must first be made by an arbitrator on all compensation items submitted to binding arbitration.

The arbitrator ruled that teachers in the district should receive increments from $320 to $350 for the 1972-73 school year, increasing the B.A. minimum and maximum to $7,800 and $14,800, respectively. According to the arbitrator, the association found a $300,000 error in the district's salary projection, thus he asserted the school district can be expected to comply with the ordered increase.

The arbitrator also ruled for dues check off and a provision for 15 days' temporary leave for teachers involved in military programs.

Other issues such as teachers' hours, sick leave, and temporary and extended leave, and contract duration were submitted to advisory arbitration. (*Washoe County Teachers Association and Washoe County School District*, American Arbitration Association, June 5, 1972.)

PENNSYLVANIA

Board Cannot Unilaterally Reduce Work Year; Impact of Management Prerogative Negotiable

The Pennsylvania Labor Relations Board (PLRB) ruled that the Board of School Directors of the Upper Merion Area School District had violated Section 1201, Public Employment Relations Act. The negotiation agreement between the school district and the Upper Merion Area Education Association contained a provision which stated that "teachers who are employed on a 12-month basis will be compensated at a rate 1.15 times their proper step on the salary schedule." The school directors attempted unsuccessfully to delete the 12-month provision from the contract during previous negotiations. However, during negotiations for the 1972-73 contract, the directors passed a resolution which changed the position classification of four employees from 12- to 10-month positions without conferring with union representatives.

The union contended that the school directors had violated the PERA by "unilaterally reducing the work year of four professional employees from twelve to ten months, and refusing to accept and process grievances filed by the union and the employees affected by the board's action."

The district contended that it was exercising an inherent management prerogative, and therefore the grievance was not a legitimate subject for the grievance procedure and should be processed under the public school code.

The PLRB held that since the action of the board of school directors had an impact on wages and hours, the board was obligated to meet and discuss the matter with the union. Further, PLRB said that since the parties were aware of their respective positions and the union had not bargained away its rights in the matter, the board violated the Act when it unilaterally altered position classification and also refused to process the grievance. The board should have permitted the question of whether or not its action was a management prerogative to be decided in the grievance arbitration procedure.

The PLRB ordered the board of school directors to meet and discuss with the union matters deemed to be management policy but which affect wages, hours, and terms of employment, and to accept and process grievances through the established grievance arbitration procedure. (*Pennsylvania Labor Relations Board v. Board of School Directors of the Upper Merion Area School District*, Pennsylvania Labor Relations Board, September 15, 1972.)

Role of Department Heads in Grievance Process No Bar to Association Membership

The Pennsylvania Labor Relations Board (PLRB) ruled that first-level supervisors, who handle employee grievances at the initial stage, may retain their membership in the Eastern Lancaster County Education Association (ELCEA) and that the Eastern Lancaster County School District had committed an unfair labor practice by requiring these employees to "give up either their positions as department heads or their membership in the ELCEA."

In 1971, the school board recognized a bargaining unit composed of all professional employees except department heads. Department heads, considered first-level supervisors, did not have the right to bargain under PERA, but had the right to organize. They subsequently negotiated a contract which included a grievance procedure involving first-level supervisors on both formal and informal levels. Following the adoption of the agreement, the school board requested all department heads to withdraw their membership in the association. The school board believed that because of the department heads' administrative duties in the negotiated grievance procedure, membership in the association that negotiated the agreement would lead to a conflict of interest. According to the school board, the grievance procedure was an integral part of the collective bargaining process.

PLRB determined the crucial question to be whether the grievance procedure was an essential part of the collective bargaining process. In its opinion, PLRB cited several court decisions which had differentiated between the grievance procedure and the collective bargaining process. Yet, PLRB pointed out, that the state legislature does not distinguish between the two processes; Public Employment Relations Act refers to the grievance procedure as a product of the collective bargaining process, and PLRB finds the handling of individual problems a separate phase of labor relations. Recognizing the department heads' power to handle individual grievances, PLRB found that their role in the grievance process was a function separate from the contract negotiation procedure, and therefore their membership in the association would not lead to a conflict of interest.

Therefore in requesting the department heads to withdraw their membership in the association, the school board had committed an unfair labor practice, violating the first-level supervisors' right to organize under PERA. PLRB ordered the school board to cease and desist from interfering with the department heads' right to membership in the association. (*Pennsylvania Labor Relations Board v. Eastern Lancaster County School District*, Pennsylvania Labor Relations Board, September 27, 1972.)

WISCONSIN

After-School Job Action Ruled "Partial Strike"

The Wisconsin Employment Relations Commission ruled that the Kenosha Unified School District No. 1 had not engaged in prohibited practices by issuing letters reprimanding members of the Kenosha Education Association (KEA) who engaged in an after-hours job action.

After eight months of fruitless negotiations, the association resorted to different tactics to effect the progress of negotiations. The association asked the school board to postpone the annual American Education Week activities, which the board denied, whereupon the teachers refused to attend or take part in the after-school hours open-house activities without a contract. The board sent letters to the teachers advising them that their action was "an illegal concerted action. . .solicited by the association and in direct contravention of the school program, and the best interests of education in the district" and that a copy of the letter had been placed in their permanent files.

The association contended that the teachers' action could not be classified as a strike because "it was a temporary affair rather than a continuous withdrawal of services." Further, the disciplinary action taken against association members constituted a prohibited practice under the Municipal Employment Relations Act (MERA) because its purpose was to undermine teacher unity.

The Commission ruled that the teachers' action was a *partial strike* and therefore illegal and unprotected. Agreeing that "the employer's timing in this matter was calculated to accrue to its own advantage," the Commission said that that factor alone did not make the employer's action a prohibited practice. On this basis the complaint was dismissed. (*Kenosha Education Association, Complainant, v. Kenosha Unified School District No. 1 et al., Respondents*, Wisconsin Employment Relations Commission, October 12, 1972.)

NEGOTIATION NOTES

FEDERAL

Supreme Court Rules Political Fund Legal

The Supreme Court of the United States overturned a ruling by the U.S. District Court for the Eastern District of Missouri against Pipefitters Local Union No. 562 and three individual officers (petitioners) of the union. The petitioners were convicted of violation of 18 U.S.C. Section 610 which prohibits a labor organization from making a contribution or expenditure in connection with a federal election.

On appeal the petitioners contended that evidence did not support an alleged conspiracy to vioalte Section 610. They also argued that they should have been acquitted because evidence showed that they did not willfully violate Section 610 and willfullness is an essential element of conspiracy under 18 U.S.C. Section 371.

The Court of Appeals overturned all of these arguments and indicted the petitioners on the grounds that "the Pipefitters fund was a subterfuge through which the union made political contributions of union monies in violation of section 610, as demonstrated by the evidence that the fund regularly served union purposes and that the donors to the fund contributed in the belief that their job security depended upon it."

The petitioners appealed the case to the Supreme Court, arguing that the appeals court permitted conviction without investigating the possibility that the donations made to the fund were made voluntarily. The court had instructed the jury, over the petitioners' objections, to return a verdict of guilty if the fund "was in fact a union fund, . . . the money therein was union money, and . . . the real contributor to the candidates was the union."

The majority of the members of the Supreme Court upheld the petitioners' argument and ruled that the appeals court was in error. In support of their opinion, the majority referred to the Federal Election Campaign Act of 1971 which "plainly permits union officials to establish, administer, and solicit contributions for a political fund. The conditions for that activity are that the fund be "separate" and "segregated," and that members' contributions and expenditures not be financed through physical force, job discrimination, or financial reprisal or the "threat" thereof or through "dues, fees, or other monies required as a condition of membership in a labor organization or as a condition of employment."

The dissenting member of the Supreme Court argued that the majority's holding was contradictory to the language of Section 610 which states that it is unlawful for a union to make a political contribution or expenditure. According to the majority's holding that was perfectly lawful, so long as the funds which the union contributed were donated freely and knowingly. The majority's holdings countered the purpose for which Section 610 was enacted by Congress—to restrict and minimize the influence corporations and unions might exert on elections.

The Supreme Court ruled that the judgment against the petitioners be vacated and remanded the case to the district court with directions to dismiss the indictment against the petitioners. (*Pipefitters Local Union No. 562 et al., Petitioners, v. United States,* United States Supreme Court, No. 70-74, June 22, 1972.)

NEW YORK

Accumulated Benefits May Not Be Legislatively Restricted

The New York Supreme Court held that an amendment to the state retirement law retroactively eliminating the payment of cash for accrued vacation credit from the computation of retirement benefits was not applicable to employees enrolled in the retirement system before the effective date of the amendment April 1, 1972.

The court found that the amendment, Section 431 of the Retirement and Social Security Law, when retroactively applied, violated Section 7, Article 5, of the New York State Constitution, which guarantees that membership in any state or civil retirement plan "shall be a contractual relationship, the benefits of which shall not be diminished or impaired."

The court's ruling guaranteed to all public employees enrolled in the state retirement plan any benefits accrued before April 1, 1972. However, the court observed that exclusion of vacation accruals from the computation of retirement benefits, as provided in the amendment, shall have full force and effect for employees enrolled in the system after the effective date of the amendment. (*Abraham Kranker, et al., v. Arthur Levitt, as Comptroller of the State of New York,* Supreme Court, Albany County, Special Term, December 14, 1971.)

OKLAHOMA

Police-Firemen's Bargaining Law Broadened To Include Municipal Employees of Major Cities

The state's bargaining law for policemen and firefighters was recently amended to include employees of municipalities with a population over 25,000 and to establish a gubernatorially appointed three-member Public Employee Relations Board. The amendment carries an "emergency" clause, making its effect immediate upon approval "necessary for the preservation of the public peace, health, and safety."

The act now includes in the definition of firefighters and policemen, supervisory personnel who have the authority to hire or fire. Additionally, the term *municipal employees* now includes and applies to firefighters and policemen.

Section 548.4 of the act was amended to delete the last sentence, which provided procedures for employee-employer audiences. Further, Section 548.5 was repealed in its entirety and replaced by a provision allowing supervisory and professional municipal employees to form, join, and participate in activities of employee organizations that exclude nonsupervisory employees. The provision stipulates that the corporate authority shall not extend formal recognition to a supervisory or professional organization for the purpose of meeting and conferring regarding grievances and conditions of employment, but for consultation purposes on appropriate matters. The corporate authority also determines who is considered a supervisory, professional, or confidential municipal employee.

The amendment requires the Public Employees Relations Board to conduct representation elections and otherwise effectuate the provisions of the act.

CONSUMER PRICE INDEX, NOVEMBER 1972

The Consumer Price Index (CPI) (1967=100) rose 0.2 percent (0.3 percent seasonally adjusted) in November to 126.9 according to the U.S. Department of Labor, Bureau of Labor Statistics (BLS). The November index was 3.5 percent above a year ago. Higher prices for food, apparel, and residential gas accounted for nearly two-thirds of the increase.

The CPI rose at a seasonally adjusted annual rate of 3.6 percent during the 6-month period ending in November. Prices rose at a 4.2 percent rate in the last three months of the period, compared with 2.9 percent the first three months.

After seasonal adjustment, the November index for food rose 1.1 percent compared with 0.2 percent in October and 0.6 percent in September. The nonfood commodities index rose 0.1 percent following a 0.1 percent decrease in October and a 0.4 percent increase in September. The services index of 0.2 percent was the same as in September but less than the 0.4 percent in October.

In the first year of Phase II of the Economic Stabilization Program the CPI rose 3.5 percent, compared with the 3.8 percent seasonally adjusted annual rate during the eight months of 1971 prior to Phase I.

ATTORNEY GENERAL OPINIONS

Oklahoma

School Board Negotiation Sessions Must Be Public Except for Recommendations Under Certain Conditions

The Oklahoma Attorney General declared that according to the state's open meeting law, when a school board discusses collective bargaining subjects pertaining to teacher contract renewal, private executive sessions are contrary to the law.

The state's open meeting law stipulates that "all meetings of boards of public and higher education supported in whole or in part by public funds or entrusted with the expending of public funds, or administering public properties, must be public meetings, and in all such meetings the vote of each member must be publicly cast and recorded." However, the statute permits executive sessions to protect the reputation of public employees on questions "for the purpose of discussing the employment, hiring, appointment, promotion, demotion, disciplining, or resignation of any public officer or employee; provided that any vote or action thereon must be taken in public meeting."

The attorney general indicated that the law manifests a strong state policy of public right to attend governmental deliberations regarding expenditures and property administration.

Concluding, the attorney general said that when a bargaining subcommittee or agent is delegated decision-making powers concerning employee contract terms, the open meeting statute applies. But when the subcommittee or agent may make only recommendations regarding employment, the law is not applicable.

STATISTICS

NEGOTIATED "REPORTING FOR TEACHING DUTY" PROVISIONS

Provisions concerning reporting on the availability for teaching duty are incorporated in 475 (31.1 percent) of 1,529 classroom teacher collective bargaining agreements in school systems with 1,000 or more pupils enrolled. Two working conditions are covered under these provisions: absence report procedures and daily report-in procedures. The absence report procedure was found more often than the report-in procedure. (See Table 1.)

Absence report procedures, which are the processes whereby teachers report their unavailability for duty, are contained in approximately 25 percent of the agreements. Most of these provisions stated that expected absences should be reported as soon as possible, usually by telephone, before 7:00 a.m., but no later than 7:15 a.m., the day of absence, or the previous evening.

After a teacher reports an absence, the administration usually assumes the responsibility of arranging for a substitute. If the absence continues, the teacher may be required to report each day so that the substitute may be retained, or to notify the administration when he expects to return. For example, the Traverse City, Michigan, agreement stipulates that teachers requiring substitutes for unanticipated absences must get in touch with the principal either before 10:00 p.m. the previous evening or by 7:00 a.m. the day of absence. If the absence continues, the teacher must notify the principal before 2:00 p.m. the first day and each succeeding day of absence.

In an arbitration case involving the Central Islip, New York, Board of Education and the Central Islip Teachers Association, a dispute arose over extra compensation for a regular teacher assigned as a substitute when the school administration was not notified within the contractual two-hour notice of another teachers' unavailability for duty. The contract stated that the administration was to make "every effort" to obtain a substitute. The arbitrator ruled that even though the teacher who was unavailable for duty failed to notify the school administration within the specified time period, it was incumbent upon the administration to make "every effort" to obtain a substitute; otherwise, the board must provide extra compensation to the assigned regular teacher.

A few provisions provide penalties for teachers who fail to report absence, either through a pay deduction or through denial of sick leave. The Butte, Montana, agreement, for example, requires teachers to report expected absences to the superintendent and the principal, and failure to follow prescribed procedures results in a pay deduction.

> Any teacher absent from duty shall report promptly to the superintendent and the principal of the school the cause of the absence. Any teacher who shall without good reason, fail to make this report promptly shall forfeit his salary for the period of absence preceding the receipt of the report to the principal.

> A teacher who has been absent from duty will report to the Superintendent and the principal when returning to work. Teachers who do not report to the office will be deducted one-half day's pay which will be paid to the substitute.

In Scotch Plains, New Jersey, failure to report absences may result in denial of sick leave.

> Teachers shall inform their building principal or other immediate superior as soon as it is practically feasible that a sick day will be required. In any event teachers shall call the designated substitute number no later than 7:00 a.m. on the day or days that sick leave will be required. Failure to notify may result in a denial of sick leave unless the building principal or other immediate superior determines that exceptional circumstances existed that prevented compliance with the notification procedure.

TABLE 1.—TEACHERS' REPORTING PROCEDURES

Item	Number	Percent
1	2	3
TOTAL AGREEMENTS ANALYZED	1,529	100.0
Agreements containing report-in and absence report procedures	475	31.1
Absence report procedure only	352	23.0
Daily report-in procedure only	87	5.7
Daily report-in procedure and absence report procedure	36	2.4

Some agreements require teachers to notify the school of their intention to return from their absence, and upon return, to report the reason for their absence on a specified form.

Notification of intent to be absent from duty will be given by the staff member to the principal at least one hour before the beginning of school. The staff member will notify the school of his intent to return to duty an hour before the end of the day prior to his return.

[Volusia County Sch. Dist. Deland, Florida]

Each employee, upon return to school following absence shall report on a form supplied by the Superintendent, the dates of and reasons for absence.

[Lindenwold, New Jersey]

The daily report-in procedure is the process whereby teachers indicate their presence for duty. Many of the agreements requiring some type of daily report-in procedure stipulate that the teachers indicate their presence by initialing faculty sign-in/sign-out rosters or daily attendance sheets.

Usually teachers are required to report-in at least 10 to 15 minutes before student arrival time. Some agreements require teachers to sign in and out by clock time on daily attendance forms, e.g., North Babylon, New Jersey. Some agreements (e.g., Brookfield, Ohio) require only teachers traveling from building to building to mark their arrival and departure time.

The following are sample provisions:

ABSENCE REPORT PROCEDURES

Teachers will be informed of a telephone number which they may call before 7:00 a.m. to report their unavailability for work. Once a teacher has reported his unavailability for work it will not be his responsibility to arrange for a substitute teacher.

[Brockton, Massachusetts]

The Board agrees at all times to maintain an adequate list of substitute teachers. A teacher shall notify his principal or designee as soon as possible of any impending absence. Teachers shall be informed of a telephone number they may call at 7:15 a.m. to report unavailability for work. Once a teacher has reported unavailability, it shall be the responsibility of the administration to arrange for a substitute teacher.

[Hobart, Indiana]

REPORT-IN PROCEDURE

Teachers will recognize the established starting and dismissal times by properly marking the sign-in and sign-out records.

[Sto Rox Sch. Dist., McKees Rocks, Pennsylvania]

Teachers shall indicate their arrival and departure to and from the building by check mark on the roster.

[Casper, Wyoming]

NEGOTIATED GROUP HEALTH AND LIFE INSURANCE PROVISIONS IN COMPREHENSIVE AGREEMENTS, 1968-1971

During the two-year period 1968-69 to 1970-71, the total number of teacher collective bargaining agreements collected for analysis by NEA Research increased from 978 to 1,529, a gain of 56 percent. The growth in number of agreements containing negotiated health and life insurance coverage provisions exceeded this gain.

Agreements with group health insurance provisions increased from 716 to 1,320 (an increase of 604 agreements or 84 percent). A corresponding increase in the percent of agreements providing health insurance, from 73.2 percent in 1968-69 to 86.3 percent in 1970-71, was recorded.

Similarly, the number of agreements with life insurance plans rose from 298 to 525, a gain of 76 percent. However, when viewed in the context of all recorded agreements, the percent of agreements with life insurance coverage increased from 30.5 registered in 1968-69 to 34.3 in 1970-71.

An examination of employer participation in the payment of insurance premiums indicated that more school boards are paying part or all of the insurance premiums, the percent rising from 66.3 to 80.6. The number of agreements wherein employers are required to pay the full cost of health insurance premiums doubled from 25.1 percent to 50.1 percent.

TABLE 1.–NUMBER AND PERCENT OF AGREEMENTS WITH HEALTH AND LIFE INSURANCE PROVISIONS, 1968-69 AND 1970-71

Type of group insurance	1968-69 Number of agreements	1968-69 Percent	1970-71 Number of agreements	1970-71 Percent
1	2	3	4	5
TOTAL NUMBER OF AGREEMENTS	978	100.0	1,529	100.0
Health Insurance TOTAL	716	73.2	1,320	86.3
Hospitalization, medical-surgical, and major medical	329	33.6	315	20.6
Hospitalization and medical-surgical	212	21.7	589	38.5
Other combinations or not identified	175	17.9	416	27.2
Life insurance	298	30.5	525	34.3

2420

The number of agreements containing life insurance provisions under which the employer pays part or all of the premium has increased slightly from 25.3 to 28.2 percent. Again, those provisions under which the school board agreed to pay the full cost of life insurance have accounted for most of this increase—from 12.4 percent in 1968-69 to 17.1 percent in 1970-71.

This analysis is restricted to those agreements (effective in school systems with 1,000 or more pupils enrolled) on file with NEA Research. Since this analysis does not account for state, school district, or nonnegotiated health or life insurance programs not included in agreements, coverage may be even more widespread than indicated here.

TABLE 2.—EMPLOYER PAYMENT OF HEALTH AND LIFE INSURANCE PREMIUMS, 1968-69 AND 1970-71

Type of group insurance	Percent of all[a] agreements with group insurance coverage							
	Employer pays all		Employer pays part		Employer pays none		Not indicated	
	1968-69	1970-71	1968-69	1970-71	1968-69	1970-71	1968-69	1970-71
1	2	3	4	5	6	7	8	9
Health Insurance								
TOTAL	25.1	50.1	41.2	30.5	...	0.5	6.9[b]	5.2[b]
Hospitalization, medical-surgical, and major medical	14.3	14.2	17.9	6.0	...	0.1	1.4	0.4
Hospitalization and medical-surgical	6.4	21.1	13.4	14.1	...	0.2	1.8	3.1
Other combinations or type of coverage or not indicated	4.4	14.8	9.9	10.4	...	0.2	3.6	1.8
Life Insurance	12.4	17.1	12.9	11.1	0.3	2.0	4.9	4.1

[a]Total of all agreements in 1968-69 was 978. Total of all agreements in 1970-71 was 1,529.
[b]Subitems do not add to total shown owing to rounding.

SPECIAL REPORTS

BRIEFS OF RECENT AGREEMENTS

Boise City, Idaho

Between the Board of Trustees of the Independent School District of Boise City and Boise Education Association, effective August 28, 1972, to June 30, 1974. Approximately 980 certificated professional employees, including elementary- and secondary-school principals and assistant principals, but excluding directors, coordinators, supervisors, consultants, chief school psychologists, and all persons engaged in supervision more than 50 percent of their time. Provision for reopener on salaries, economic benefits, or payroll deductions upon request of either party after March 1, 1973.

COMPENSATION: (1972-73) B.A., $6,450 to $8,837, 10 increments; B.A. plus 30 hours, $9,740 maximum; M.A., $7,224 to $10,449, 12 increments; M.A. plus 30 hours, $11,223 maximum.

DIFFERENTIALS: Additional salary budget allocation of $8,320 for sports; committee of 3 coaches to study revision of coaching allowances.

LEAVES: Ten days' sick leave credited at the beginning of school, 110 days' maximum accumulation; after 5 years' service 1 additional day sick leave annually; 5 days extended sick leave less substitute's pay; prorated sick leave for part-time employees; 5 days of sick leave allowed for illness in the immediate family; 3 days for illness of mother, father, brother, sister, or foster parent; 5 days for death in immediate family with additional time granted for unusual circumstances; 2 days' personal leave deducted from sick leave for teachers with less than 5 years' service; 3 days deducted for personal leave for teachers with 5 years' service, to be used for reasons of hardship or pressing need; 2 days for religious observance upon 10 days' notice; reasonable number of paid absences for professional conferences, conventions, and workshops; paid leave for legal proceedings connected with employment.

INSURANCE: Continuation of existing basic health and major medical coverage; life insurance coverage to be provided at the earliest feasible date with first year's maximum cost to the district not to exceed $36,000.

ASSOCIATION: Payroll deduction of local, state, and national dues; 2 days' leave for delegates to the Idaho Education Association Delegate Assembly with 10 days' notice required; long-term leave without pay for local, state, or national association activities; at least one copy of this agreement per 10 teachers to be placed in the schools; use of school buildings during noninstructional hours, designated bulletin boards, teacher mailboxes, and the district's courier service; the board not to renew individual contracts before completion of negotiation without agreement of both parties; board to supply available statistical and financial information necessary for conducting negotiation, including number of professional employees in each salary category and experience level; provision for advisory arbitration in case of negotiation impasse.

INSTRUCTION: Professional employees to be assigned within their major or minor fields of study; after consultation, employee may be reassigned; no more than 2 preparations for secondary teachers except experimental programs, combined or specialized classes with limited enrollments, physical education and music departments, or if teacher requests more preparations; school day from 30 minutes before first class to 30 minutes after teacher's last class plus any time required for additional activities; academic freedom clause encourages open atmosphere, freedom from artificial restraints upon inquiry and learning.

PERSONNEL: Grievance procedure ends with binding arbitration on all subjects except student discipline, educational specialists, professional development, educational development and improvement, books and other instructional materials, teaching techniques, inservice programs, pupil testing programs, philosophy, specifications for buildings, budget development, job descriptions of professional employee positions, use of students in the instructional process, and professional employee facilities; employees to review and sign statement of having read any reprimand placed in their personnel file and may have representative present; by agreement of the two parties reprimand may be removed from file; right to inspect and answer any personnel file material originating in the district; established procedures to prevail until negotiation of teacher evaluation procedures during 1972-73 school year; vacancies to be filled on basis of competency, qualifications, length of service, and other relevant factors; association to be notified of all vacancies; transfer requests to be made in writing to office of appropriate director; notification of assignment by first day of last week of school; termination of employees to be according to the policies of the state board of education and state law; either party may initiate in writing the establishment of a committee to study and review class size, teacher loads, nonteaching duties, reduction of staff, extracurricular assignments, teacher and student security, school calendar, and professional employee responsibilities, with the board to act on the committee's recommendations; no religious or political activity to be basis for reprimand unless it interferes with the employee's professional effectiveness.

Fort Wayne, Indiana

Between the board of School Trustees of Fort Wayne Community Schools and the Fort Wayne Education Association, effective August 15, 1972, to August 14, 1973. Approximately 1,850 certificated professional employees. Commencement of renegotiation no later than the first full week in February. If payment of remuneration for sabbatical leave during the year in which it is taken is legalized, the sabbatical leave clause is to be reopened.

COMPENSATION: (1972-73) B.A., $7,650 to $12,852, 17 increments; M.A., $8,415 to $14,382, 17 increments; each additional 5 hours' credit beyond M.A. up to 60 hours (at least 30 hours of which must be approved and be in the teacher's subject area with a maximum of 10 undergraduate hours in the teacher's area) paid at $76.50 (.01 of B.A. base) per 5 semester hours additional; Ph.D., $1,147 (.15 of B.A. base) additional above M.A. placement; pay from August 15, 1972, to end of 1972 computed on 1971-72 salary schedule with difference between the 1971-72 and 1972-73 schedules being paid in equal payments from January 1973 through the remainder of the school year; severance pay after 10 years' service in the district is .01 of B.A. base times total number of years' service in the district is .01 of B.A. base times number of years in the district.

DIFFERENTIALS: (computed as an index of B.A. base) senior high head football, basketball, and track-cross country coaches, $1,422.90 (.186); all other senior high head and assistant coaches, marching band, speech and publication advisors, and intramurals, $688.50 (.09); junior high head football, basketball, and track-cross country coaches, $642.60 (.084); all-city music program, $426.10 (.0557); orchestra, vocal music, theatre arts, $344.25 (.045); senior high department heads, $688.50 (.09); junior high department heads of English, math, science, social studies, music, and industrial arts, $299.50 (.03).

OTHER: Licensed substitute teachers, $25 per day; nonlicensed substitute teachers, $22 per day; after 15 consecutive days in the same position substitutes to be paid according to regular pay schedule; substitute pay rates apply to retired teachers who may teach up to 59 days annually; $15 per day for travel outside 50-mile radius of Fort Wayne in conjunction with use of professional leave; new teachers paid $150 extra for attending required 8-session one-week orientation.

LEAVES: Ten days' annual sick leave, 120 days maximum accumulation; transfer from teacher's previous school district of up to 120 days' accumulated leave effective at the beginning of the second year of employment in the district; may transfer previously accumulated sick leave in first year in instances of proven emergency; 3 separate days for illness in the immediate family; up to 5 days for death in the immediate family; up to 3 days' leave for death of brother-in-law, sister-in-law, daughter-in-law, son-in-law, aunt, or uncle; 2 days for personal business to be taken in half-day units with unused days credited to sick leave; 1 day for each 5 teachers (rounded to the nearest whole number of days) for professional leave, administered by the unit head; regular pay less per diem court fees for jury duty; paid leave when subpoenaed as a witness, except in suits brought against the board by the teachers organization; paid leave less military pay for reserve obligations; sabbatical leave available for no more than 5 percent of the district's tenure teachers at one-half pay for one year added to regular pay upon return to the district; up to 120 days' payment of the difference between Workmen's Compensation and regular pay.

INSURANCE: Board pays 90 percent of the premium for either individual or family health insurance coverage; $5,000 life insurance policy increased to $6,000 January 1, 1973, for which the board pays full cost less $1 paid by the participant; tax-sheltered annuity plan; cost of premium shared equally by teacher and board for long-term disability insurance which pays 60 percent of earnings (maximum of $1,250 per month) after 6 months of disability to age 65.

ASSOCIATION: Payroll deduction of teacher organization dues; at least one board-association meeting per month for exchange of information, with special meetings called at the request of either party on 3 days' notice; after reporting to the principal's office the association president may conduct organization business that does not interrupt normal school activity; association mailbox in each school; use of interschool mail; board to furnish the association with board meeting agenda, *The Observer*, official board minutes, completed school budget, the names, addresses, education, and experience of newly hired teachers (following board approval), and public information.

INSTRUCTION: Department heads may be assigned one less period per day; maximum of 275 minutes of pupil contact per day (excluding homeroom and extracurricular activities) for junior and senior high teachers; class size guidelines: elementary, 30 pupils per teacher; junior high, 23 students per teacher; senior high, 25 students per teacher; "special conditions or circumstances may warrant variances" in class size; extracurricular teaching loads; all senior high coaches and assistant coaches have full class loads, with the exception of basketball, football, and track-cross country coaches who may, upon the written recommendation of the principal and the approval of the superintendent, be assigned one less class during the season; head football, basketball, and track-cross country coaches may be assistant coaches in one major sport or head coach in one minor sport; maximum of 2 assistant and one head coaching positions, 3 assistant coaching positions or any combination up to 3 sports per senior high coach; maximum junior high athletic extracurricular loads: 2 head coaching positions, 1 head coaching and 2 assistant coaching positions or 3 assistant coaching positions per coach; hiring of elementary school aides when feasible; 190 contract days; elementary and junior high-school hours, 8:05 a.m. to 3:30 p.m.; senior high hours, 7:45 a.m. to 3:10 p.m.; academic freedom clause; extracurricular assignments to be voluntary when possible; at least one conference with the parents or guardians of each student per semester unless "the teacher and the principal decide otherwise"; principal will arrange for students' supervision if conference is held during the day.

PERSONNEL: Grievance procedure ends with advisory arbitration; duty-free lunch period of at least legal minimum;

junior and senior high preparation periods equal to one class period per day; preparation periods for elementary teacher if aides are available; new teachers to attend all meetings unless absent from school or excused in advance; brief faculty meetings to be scheduled in advance on first or second Monday of the month; professional incentive increment, 5 semester hours every 5 years, 2 hours of which may be for college approved and credited travel and seminars; criteria for filling vacancies: competence, length of service in the district, mutual agreement of teacher and administration, teacher's potential contribution to the pupils, needs of building or unit; voluntary reassignments initiated upon request; involuntary reassignment to be preceded by consultation with the principal with preference given to currently employed teachers on basis of qualifications, certification, and length of service; vacancies for following year to be posted March 1 with updating every 15 days to the end of school year with preference given to qualified district teachers; denial of request for transfer to require a written statement of reasons; discrimination because of request for transfer prohibited; promotions to be initiated by written request and considered as positions become vacant; "teachers shall not be required to work under conditions which are unsafe, hazardous or unhealthful or to perform tasks which endanger their health, safety or well-being"; only with teacher and principal's consent may anyone other than authorized school administrator observe a teacher; next year's schedule to be furnished prior to close of school with notification of changes thereafter as soon as practicable; tenure to be granted upon signing contract for sixth successive year after serving 5 successive full years of at least 120 teaching days per year; administrative staff to support teacher's discipline of pupils when discipline procedures and guidelines are followed; teachers scheduled for emergency substitution not to be subjected to repeated loss of preparation times; retirement to be compulsory upon reaching age 66 before August 1; use of student teachers as substitutes at the discretion of the principal; $10 reimbursement for pre-employment physical; district to administer tuberculosis skin test and provide $8 to cover cost of X ray if test is positive; physical exams required every 5 years for teachers under 41 and every 3 years for teachers 41 and over with board paying $7.50 of cost; physical exams may be required at the board's discretion.

Harborfields, Greenlawn, N.Y.

Between Board of Education of Harborfields Central School District No. 6 and Harborfields Teachers Association, effective July 1, 1972, to June 30, 1974. Approximately 213 certificated professional employees.

COMPENSATION: (1972-73) B.A., $8,955 to $15,134, 12 increments; B.A. plus 15, $9,043 to $15,582, 12 increments; B.A. plus 30, $9,850 to $16,567, 13 increments; M.A., $10,298 to $17,014, 13 increments; M.A. plus 15, $10,746 to $18,000, 14 increments; M.A. plus 30, $11,194 to $18,447, 14 increments; M.A. plus 45, $11,642 to $19,432, 15 increments; M.A. plus 60, $12,089 to $19,880, 15 increments; Ph.D., $12,537 to $20,328, 15 increments; cost-of-living adjustment in 1973-74 salaries based on percentage increase in the Consumer Price Index (CPI) for New York-Northeastern New Jersey, from February 1972 to February 1973 as released by U.S. Department of Labor, Bureau of Labor Statistics; longevity pay to be $895 after 20 years, 10 in district, plus $896 after 25 years, 15 in district upon recommendation and approval of school administration; salary of a retiring full-time professional employee to be increased during his final half-year of employment based on years of service in district, 1-15 years at .008 times salary times years service, 16-25 years at .01 times salary times years of service, 26 or more years at .012.

DIFFERENTIALS: Teachers required to conduct classes for instruction and/or rehearsals on a regular basis before normal school hours to receive an additional 3 percent of the starting teacher's salary or compensatory time at end of day; salary for home instruction, $7.90 per hourly session; three steps for each activity for which differentials are paid with progress and placement dependent on years of service in the same or related activity and in the case of department chairmen ratio ranges from 2% to 10% of salary dependent on number of teachers in department; varsity football, $1,254, $1,389, $1,567; varsity basketball, $1,209, $1,389, $1,567; varsity baseball, $895, $988, $1,120; girls' varsity basketball or girls' varsity gymnastics, $324, $403, $484; junior high yearbook advisor, $448, $537, $672; senior high yearbook advisor, $627, $806, $988; junior or senior high newspaper advisor, $403, $448, $557; junior or senior high student council advisor, $492, $537, $582; Grades 7 and 8 class advisors, $179, $223, $268; grade 9 advisor, $225, $268, $314; grades 10, 11, and 12 advisors, $268, $314, $403.

LEAVES: Twelve days' annual sick leave with unlimited accumulation; 5 days' for personal reasons, 3 days' maximum per year may be transferred to accumulated sick leave; professional days with pay for conferences/school visitation; temporary active duty in military reserve with no loss of pay; sabbatical leave at half pay for one year after 7 years' service or one-half year at full pay; no loss of pay or sick leave days for physical injuries sustained while in voluntary performance of student supervision; after 3 years' service, teachers to be entitled to catastrophic illness benefits equal to .8 times the maximum sick leave the individual could have accumulated during his service.

INSURANCE: Full coverage for health insurance for individual and 90 percent for family coverage; district-paid life insurance policy of $10,000; district to provide physical examinations, including required chest X-ray; district-paid premium for health insurance benefits of retired teaching staff.

ASSOCIATION: Payroll dues deduction for local, state, NEA, and AFT; president to be relieved of one period per day for contract administration at expense of district; meetings may be held Tuesday after school for association business and at conclusion of faculty meetings; association office space provided subject to availability of facilities and current building regulations; association responsible for organizing all faculty elections; board consults association on

cuts in educational programs directly affecting tenured positions.

INSTRUCTION: Secondary teachers to be assigned no more than one subject area, two subjects, and three preparations; aides to assume nonprofessional and nonteaching responsibilities with training and supervision by teachers; school calendar of 180 days including approved conference days; elementary school day to consist of 6 hours, 20 minutes, and secondary school day of 7 hours, 10 minutes; regularly assigned teachers not to cover classes of absent teachers unless qualified substitutes are not available.

PERSONNEL: Grievance procedure ends with an advisory decision by a jointly selected Board of Review; personnel file (nonconfidential materials) available to each teacher upon request and each teacher may attach a reply to any material in file; duty-free lunch period equal to students'; elementary teachers scheduled for one daily free period of not less than 30 minutes for at least 4 days per week; regular faculty, departmental and grade level meetings on Monday, with Wednesday and Thursday reserved for curriculum and inservice programs; professional growth programs to be jointly planned by teacher and supervisor; evaluation to include personal observation of teacher's performance by supervisory staff and other teachers followed by consultation; transfers to changes of assignment to be voluntary as far as possible; listings of supervisory and/or administrative openings to be distributed to professional staff with encouragement to apply; at any conference between parent and/or principal which the teacher is required to attend, the teacher may have a representative of the association present; no assignments or withholding of assignments to be made as punitive measures; teachers may leave building during unassigned periods upon notification to principal or his designated representative; tenure teachers to be relieved of keeping plan books; telephones to be provided for use by teachers communicating with parents; each building to maintain a "faculty council" made up of building administrators and at least 10 percent of teachers assigned to building to meet monthly to discuss educational and operational procedures within the building; district to maintain a "Policy-Curriculum-Advisory" committee to plan and advise on basic educational policies and curriculum.

LaFayette, New York

Between the Lafayette Board of Education and the LaFayette Teachers Association, effective for the 1972-73 school year. Approximately 98 certificated professional employees. Provision for commencement of renegotiation between December 15 and February 1.

COMPENSATION: (1972-73) B.A., $7,350 to $10,750, 11 increments; B.A. plus 30 hours, $7,850 to $12,050, 12 increments; B.A. plus 60 hours, $8,350 to $13,050, 13 increments; $300 minimum increment for teachers who have reached the top step; salary lanes for each 6 hours of approved credit beyond the B.A. to B.A. plus 60 hours with adjustments not more than twice per year; $300 additional (above schedule) for M.A.

DIFFERENTIALS: (Effective at least 3 years from May 20, 1971, 5 steps exist) varsity football, basketball, lacrosse, and wrestling, range from $650 to $800; cheerleading, $325 to $400; yearbook, $300 flat fee; varsity track, cross-country, and golf, $250 to $305; girls' basketball, volley ball, softball, track, $125 to $165; major musical or play, $150 flat fee; department heads, (5 or more teachers), $300; department coordinators (2 to 4 teachers), $50; district coordinators, $300 to $600; high- and middle-school coordinators, $300; grade level chairmen, $200; chaperones, $5 to $20 depending on activity; student trips on nonschool day, $3 per hour; mileage reimbursement, 10¢ per mile for interbuilding travel.

LEAVES: 10 days' annual sick leave, 200 days' maximum accumulation; part-time employee sick and emergency leave is prorated; 5 days' emergency leave accumulative to 15 days, to be used for serious illness in the family, death of a relative, religious holidays, court or court witness, other extreme hardships, one day of which may be taken without giving reason; up to 5 days' leave for each death in the immediate family; jury duty with full salary in addition to jury pay with employee expected to perform as much regular duty as possible; extension of sick leave benefits at the board's discretion; one sabbatical leave per year at one-half pay for one year or full pay for one-half year after 7 years' service in the district with at least a B.A. and 30 graduate hours as a requisite; department heads given time off to observe teachers at least 3 times per year.

INSURANCE: Board pays 75 percent of individual health insurance premium and 50 percent of dependents' coverage.

ASSOCIATION: Local, state, and national payroll dues deduction; association president released at end of student day to conduct necessary association business; board supplies each teacher with a copy of the agreement.

INSTRUCTION: Aides to be employed when the need is obvious; school day 7.5 hours; department heads will be appointed when a department employs 5 persons; coordinators will be appointed on a rotating basis for departments with 2 to 4 members; budget cuts on requisitioned material not to be made without involving the teacher and the department head; District Planning Council to recommend class size and changes in school calendar, composed of 2 teachers from high, middle and elementary schools, one from the reservation school, and the district principal (all other principals are nonvoting members).

PERSONNEL: Grievance procedure ends with binding arbitration; weekly minimum of 195 minutes of duty-free planning time (dependent in elementary schools on the use of aides); posting of vacancies; oral explanation to be given nonappointed district applicants upon request; salary credit for approved travel; substitutes provided when teachers are involved in professional activities outside their district during the school day.

Nashville, Tennessee

Between the Board of Education of Metropolitan Nashville-Davidson County and Metropolitan Nashville Education Association, effective for the 1972-73 school year. Approximately 3,000 certificated professional employees. Provision for amendment of agreement by the parties at any time. Automatic renewal unless either party requests termination 30 days prior to expiration date.

COMPENSATION: (1972-73) B.A., $7,000 to $10,360, 12 increments; M.A., $7,840 to $11,480, 13 increments; M.A. plus 30 hours, $12,600 maximum; Ph.D., $13,720 maximum; terminal pay, $5.00 per day for 25 percent of accrued sick leave after 15 years' service, scheduled 5 percent increase for each year of service up to a maximum of 20 years paid for 50 percent of accrued sick leave.

OTHER: Yearbook and newspaper sponsors and forensic advisors, $200; personnel working beyond the normal contract year (includes extended year of principals) paid 70 percent of regular salary; secretaries working beyond the normal year to be paid regular daily rate; $.10 per mile reimbursement for using own car for school business.

LEAVES: One day per month annual sick leave available at the beginning of the year, unlimited maximum accumulation; 4 days for death in the immediate family; paid leave as necessary for quarantine; 2 days' personal leave upon 3 days' notice; one additional day personnel leave less substitute's pay for employees with less than 10 years' service; 3 additional days' personal leave less substitute's pay after 10 years' service; no more than one staff member or 5 percent of the administrative unit, whichever is greater, may take personal leave at one time if number on leave interferes with the school program; 5 days leave for professional conference or school visitation upon approval of the school director; 2 days for religious observance; paid leave less any court fees for court appearance; vacation: 10-month employees earn one day of Christmas vacation for each scholastic month (i.e., on payroll for 11 of the 20 paid days of the month), an adjustment to be made for teachers who leave prior to the end of the school year or who are employed after the Christmas holiday; 12-month employees accrue one and two-thirds days of vacation leave per month (20 days per year) and are entitled to same vacation as teachers; paid leave for absence resulting from job-related assault (but not as a result of negligence) for six months or until end of the school year, whichever is longer; sabbatical leave after 7 years' service at one-half pay for one year or less, available to 2 percent of the teaching force; sabbatical leave joint committee evaluates application subject to school director's approval.

ASSOCIATION: Payroll deduction of association dues; association president or authorized designee may visit schools providing he reports to the principal or acting administrator and does not interfere with normal school operations;

> The President of the Association representing a majority of the teachers may be granted a leave for one year with pay during his term in office. The Association shall reimburse the Board for one-half the President's salary and benefits. Upon his return he shall be assigned to the same position which he held at the time said leave commenced, if existent, or, if not, to a substantially equivalent position.

Paid leave for the association's local, state, and national conventions with school director's approval; released time for negotiation sessions during school hours; use of school buildings contingent upon prior approval, payment of direct costs, no interruption of normal school operations, and no discussion of association-board issues in students' presence; use of school bulletin boards (with copy of notices sent to principals and directors of schools) and interschool mail; posting or distribution of political material (with the exception of MNEA elections) forbidden, unless approved by the board and the school director; the board to furnish all reasonably requested available information concerning finances, tentative budgetary requirements, and other items pertinent to the development of intelligent and constructive negotiation proposals; negotiation impasse procedure, after the aid of a 3-member joint panel, ends with the board.

INSTRUCTION: Not more than 2 subject areas or 3 preparations for secondary teachers under normal circumstances; lunchroom aides to be employed; at least one secretary per school; within budgetary limitations, physical education teachers to be assigned to each elementary school; 7½ hour school day with arrival and departure times (after discussion with faculty) determined by the principal; 21-member curriculum advisory council, with 11 members appointed by the association and 10 by the administration, to facilitate, develop, and improve instructional program; academic freedom clause cautions: "academic freedom is not an absolute and it must be exercised within basic ethical responsibilities of the teaching profession;" distribution of funds allocated for texts and materials to be discussed and planned by faculty and building principal.

PERSONNEL: Grievance procedure ends with the board of education; right to review personnel file in presence of the personnel director or his designee and to be accompanied by an association representative; no derogatory material or student or parental complaint to be placed in file without teacher's knowledge; duty-free lunch period of at least 30 minutes; one planning period daily for junior and senior high teachers (except in emergencies); April 1 posting of vacancies for ensuing year, voluntary transfers to be requested by April 15, notification normally by July, with priority given for training, experience, qualifications, sex, age, race, and length of service; transfers necessitated by change of enrollment given first to teachers requesting transfer and then according to effect on instructional program, teacher balance, professional qualifications, and length of service; teachers with shortest service, when all else is equal, will be involuntarily transferred first; transferred teachers may indicate choice when choice is available; "no discrimination against teacher who uses the grievance procedure to challenge an involuntary transfer"; promotional vacancies to be given to the best qualified individual whether employed inside or outside the district; summer school assignments posted for district teachers by April; applications to be sub-

mitted within two weeks of posting, notification of action taken by May 1; order of preference among district teachers for summer employment to be: (a) tenure teacher requesting placement in area in which he teaches, (b) nontenure teacher teaching in area of summer opening, (c) teacher certified, but not teaching, in area of summer employment, (d) certified professional employees who are not classroom teachers; additionally, racial balance shall be maintained and, effective 1974, preference given to applicants who have taught a maximum of two immediately preceding summer sessions; the first, second, and third orders of preference for adult education assignments to be the same as for summer school, with the fourth choice being those not regularly appointed as professional personnel in the district; principal designee (serves as principal when principal is absent) is entitled to substitute (if length of absence so requires) and appropriate remuneration in accord with training, school classification, and experience from date of assumption of principal's duties if the principal is absent in excess of 20 consecutive school days; smoking permitted outside areas normally used by students; notification of absence or of return from absence by 6:30 a.m., returning teacher who does not give notice loses amount paid substitute; any assault suffered or inflicted in connection with employment to be reported immediately to the principal and to be legally processed; if proceedings are brought against the teacher, the board is to furnish any reasonably requested information; the metropolitan government to pay the cost of any treatment or medical expenses resulting from a job-related assault; reimbursement up to $500 for loss or damage to personal property resulting from assault while on school property; administration to support teachers on all reasonable disciplinary measures (including corporal punishment) when administered in accordance with board policy.

Procedures for Handing Physical Assault
Cases Involving School Personnel

When a physical assault occurs, the employee, while acting within the scope of his duties, has the right to defend himself and/or obtain assistance.

The principal should be immediately notified to call parents, the Director of Schools, his designee, and if appropriate under the circumstances, the police.

The Board shall fully support the school employee assaulted as outlined in the Board's Professional Personnel Protection Policy.

A student who physically assaults a staff member will be immediately suspended by the principal, pending full investigation. Upon recommendation of the Director of Schools, the Board may expel the student.

Right to be accompanied by association representative at private reprimand or grievance sessions; proposal for study of potential of differentiated staffing; free admission to athletic events involving the teacher's school, with tournament play ticket of any teacher assigned duties at the tournament site paid for by the board; professional council to study, discuss, and make recommendations concerning matters related to the education of students, teacher welfare, and mutually agreeable subject areas related to education; efforts to maintain racial balance to be maintained.

PRELIMINARY REPORT SHOWS MODERATE INCREASES IN TEACHER SALARIES[1]

Average annual scheduled salaries for teachers will show a slight increase for 1972-73 if preliminary results of the NEA Research salary survey hold constant. The data are gathered from school systems with enrollments of 6,000 or more pupils.

Mean scheduled salaries from 1962-63 through 1972-73 for teachers with bachelor's and master's degree together with annual increases are given in Table 1. Average and median scheduled salaries for beginning teachers by geographic region are given in Table 2. As in prior surveys, the Mideast is maintaining leadership in starting salaries, and the Southeast is surpassing the averages for the Southwest and Rocky Mountain regions.

The final data will be published as a Research Report which will comprise summary tables for all major preparation levels, a minimum of explanatory text material, and a system-by-system listing of reporting systems with enrollments of 6,000 or more. Summary tabulations for systems with enrollments of 1,200 to 5,999 will also be included, but there will be no system-by-system listing for the smaller systems since information for this group of districts is obtained from a random sample.

In addition to scheduled salary data for 1972-73, the final report will contain information on salaries actually paid in 1971-72, and information on leave and insurance practices for most of the approximately 1,180 systems with enrollments of 6,000 or more which furnished salary information.

[1] National Education Association, Research Memo 1972-19, November 1972.

TABLE 1.–COMPARISON OF MEAN SCHEDULED SALARIES, 1962-63 THROUGH 1972-73, REPORTING SYSTEMS WITH ENROLLMENTS OF 6,000 OR MORE

		Bachelor's degree				Master's degree			
		Minimum		Maximum		Minimum		Maximum	
School year	Number of reporting systems	Mean scheduled salary	Percent increase over previous year	Mean scheduled salary	Percent increase over previous year	Mean scheduled salary	Percent increase over previous year	Mean scheduled salary	Percent increase over previous year
1	2	3	4	5	6	7	8	9	10
1962-63 ..	557	$4,331	...	$ 6,426	...	$4,680	...	$ 7,054	...
1963-64 ..	918	4,564	5.4	6,744	4.9	4,946	5.7	7,487	6.1
1964-65 ..	1,063	4,707	3.1	6,937	2.9	5,085	2.8	7,723	3.2
1965-66 ..	1,071	4,925	4.6	7,262	4.7	5,350	5.2	8,167	5.7
1966-67 ..	1,104	5,144	4.4	7,590	4.5	5,600	4.7	8,578	5.0
1967-68 ..	1,080	5,522	7.3	8,133	7.2	6,043	7.9	9,248	7.8
1968-69 ..	1,199	5,941	7.6	8,690	6.8	6,546	8.3	9,981	7.9
1969-70 ..	1,142	6,383	7.4	9,278	6.8	7,058	7.8	10,717	7.4
1970-71 ..	1,176	6,850	7.3	10,012	7.9	7,599	7.7	11,630	8.5
1971-72 ..	1,179	7,061	3.1	10,299	2.9	7,837	3.1	11,973	2.9
1972-73[a] .	1,137	7,306	3.5	10,651	3.4	8,127	3.7	12,455	4.0

[a]Preliminary data.

TABLE 2.–MEAN AND MEDIAN SCHEDULED SALARIES FOR BEGINNING TEACHERS WITH A BACHELOR'S DEGREE, 1972-73, BY GEOGRAPHIC REGION (Preliminary data)

Region[a]	Number of reporting systems	Beginning salary for bachelor's degree			
		Mean	Median	Range	
				Low	High
1	2	3	4	5	6
New England	73	$7,752	$7,718	$6,600	$ 8,875
Mideast	174	8,080	7,950	6,600	9,500
Southeast	327	6,750	6,732	5,644	8,008
Great Lakes	189	7,720	7,630	6,200	9,405
Plains	77	7,159	7,200	6,275	7,725
Southwest	89	6,720	6,660	6,000	7,600
Rocky Mountain	34	6,663	6,775	5,800	7,850
Far West	174	7,430	7,400	6,250	10,500
Total, all regions	1,137	$7,306	$7,245	$5,644	$10,500

[a]NEW ENGLAND: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, MIDEAST: Delaware, District of Columbia, Maryland, New Jersey, New York, Pennsylvania. SOUTHEAST: Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, West Virginia. GREAT LAKES: Illinois, Indiana, Michigan, Ohio, Wisconsin. PLAINS: Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota. SOUTHWEST: Arizona, New Mexico, Oklahoma, Texas. ROCKY MOUNTAIN: Colorado, Idaho, Montana, Utah, Wyoming. FAR WEST: Alaska, California, Hawaii, Nevada, Oregon, Washington.

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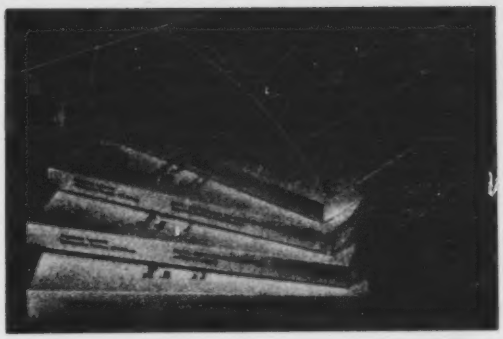

This four-part document prepared by NEA Research is an invaluable source of negotiated items in teacher/board agreements. In 1,418 pages it analyzes over 1,500 negotiated agreements in U.S. public school systems. Over 300 negotiable items are identified and coded system-by-system. (Specific content of the provisions may be obtained on request by using the Information Request Forms provided in each volume.)

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- *State*
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- *Location of school system*
- *Name of recognized organization*
- *National affiliation of recognized organization*
- *Number of professional personnel represented*
- *Type of agreement*
- *Term of comprehensive agreement*
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CASE REVIEWS

ARIZONA

Recognition Picketing Enjoined

The Arizona Court of Appeals upheld a trial court's injunction against recognition picketing by Local 8519, Communication Workers of America (CWA), in its effort to legally compel the state Board of Regents to recognize the union as the bargaining agent for physical plant employees at Northern Arizona University.

The CWA had signed up a majority of the employees and had requested recognition and bargaining talks, both of which were denied. The Board secured a permanent injunction against the ensuing strike.

The union argued that the Board of Regents acts in a proprietary, not a governmental, capacity and therefore constitutes a municipal corporation empowered to enter into collective bargaining agreements.

The Board of Regents, according to the court, is a governmental unit which is prohibited from recognizing or entering into any agreement which would limit or deprive it of its statutory authority. Further, the law upholding the right to strike is applicable only to proprietary businesses, not to governmental units exercising a governmental function. On the basis of these determinations, the court stated that though picketing is recognized as a protected activity, it may be enjoined when it is conducted for an *unlawful purpose,* and confirmed the lower court's decision enjoining the strike.

The court ruled that unions do not have the right to legally compel recognition, but neither is there a prohibition on the Board of Regents against recognizing or bargaining with a union. The court inferred a prohibition against entering into contracts, but refrained from expressing an opinion as to whether the Board of Regents could agree to confer with a union. (*Communication Workers of America, et al. v. Arizona Board of Regents,* Arizona Court of Appeals, Division 1, June 26, 1972.)

ILLINOIS

Appellate Rejects Teachers' Pay For Day On Strike

The Illinois Appellate Court reversed a decision of the Cook County Circuit Court, and ruled that striking teachers were not entitled to pay for strike days. The suit was appealed to the high court by the Illinois Education Association against the Cook County High School District #218.

The school district and the association had not yet reached an agreement for the 1969-70 school year, although teachers had signed individual contracts and the school district had adopted a schedule providing for a teachers' workshop on August 29, and a September 2 opening of schools. The association informed the school district on August 29 that teachers would withhold their services as of that date, pending the signing of an agreement; subsequently many teachers did not attend the workshop, and picketed the schools on September 2. The school district filed a complaint for a permanent injunction on September 2. The trial judge was able to get the parties to agree to continue negotiations, and the teachers consented to return to work on September 4. The court order provided that there would be no reprisals against striking teachers if they returned to school by September 4; however, teachers would not be paid for services not rendered. Accordingly, the school district paid the salaries of teachers who had attended the workshop and the first day of school, withholding salaries from teachers who had struck. The lower court found that striking teachers were required to be in court on September 2 to answer the complaint for an injunction, that the teachers had the right to defend their strike, and that September 2 was not a school day. The school district was ordered to pay teachers for September 2, but not for August 29. The district subsequently appealed the lower court's decision.

According to the appellate court, Illinois public employees have no inherent right to strike, therefore, the circuit court erred in ordering the payment of teachers who struck on September 2. The court of appeals further pointed out that the agreement signed by the two parties stated that "defendant teachers shall not be paid for services not rendered" and teachers who did not work on September 2 were not entitled to salaries. (*Community High School District #218 v. Barbara Falk et al,* Illinois Appellate Court, November 2, 1972.

NEW YORK

Court Issues Injunction Restraining Union From Illegally Striking

The New York Supreme Court granted the Board of Education of Oyster Bay a preliminary injunction to restrain the Plainview-Old Bethpage Federation of Teachers, Local 1401, from "illegally" striking.

The union cross-moved for an order to set aside a Public Employment Relations Board (PERB) fact-finder's report and for an order to direct the board of education to enter into meaningful collective bargaining. Additionally, the union contended that the board of education was not entitled to injunctive relief because it had not bargained in good faith.

The court held that whether or not the fact finder's report was legal and whether or not PERB followed proper procedure after the board of education had declared an impasse had no bearing on the right of the board of education to a preliminary injunction. The court could find no basis for directing the board of education to enter into meaningful collective bargaining.

The court ruled that the strike was illegal and enjoined the union "from engaging in, instigating, continuing, encouraging or condoning any strike or stoppage of work or slowdown in the performance of their duties as public employees of plaintiff." (*Board of Education, Central School District No. 4, Town of Oyster Bay, Plaintiff v. Plainview-Old Bethpage Federation of Teachers, Local 1401, AFL-CIO, Defendant,* New York Supreme Court, Nassau County, September 15, 1972.)

Taylor Law Requires Arbitration of Contract Retroactivity Dispute

The New York Supreme Court denied a school board's petition to stay arbitration of a grievance resulting from refusal to credit a teacher with experience increments earned as a substitute teacher before her 1967 full-time hire date.

The agreement between the Great Neck Teachers Association and the Board of Education of Union Free School District No. 7, provided for the submission of grievances within 60 days "after the teacher knew or should have known of the act or condition on which the grievance was based." Evidence indicated that the teacher had initiated grievance proceedings within one month of her knowledge of the grievance. The negotiated grievance proceedings, the court said, were binding under the Taylor Law, which, in this case, superseded section 3813 of the Education Law which stipulates that any claim against a school board be filed within three months of occurrence. The court rejected the board's contention that the grievability of experience-credit denial had expired within three months of the teacher's hire-date. The court particularly noted that the board was for the first time seeking to avail itself of the procedural limitations and verification claims specified in section 3813. Further, the board had agreed to the time limit provisions included in the grievance procedure which substitutes for the statutory limitations.

However, the court determined that the issue was that of contract retroactivity since no negotiated exclusion from arbitration of pre-existing disputes existed. The court determined that retroactivity was a matter of contract interpretation, a decision best left to the purview of an arbitrator. Accordingly, the court denied the board's petition to stay arbitration.

In conclusion, the court cautioned that all collective bargaining agreements do not automatically waive section 3813 of the Education Law or other legal time limits, but only in this particular case did the Taylor Law's authority prevail. (*Board of Education Union Free School District No. 7, Town of North Hempstead v. Great Neck Teachers Association,* New York Supreme Court, Nassau County, May 18, 1972.)

School Board Has Sole Authority to Grant Sabbatical Leave

The New York Supreme Court ruled that the granting of sabbatical leave is the prerogative of the board of education, and the superintendent's recommendation of teachers for sabbatical leave does not establish a contractual right to sabbatical leave. The Plainedge Federation of Teachers (PFT) sought a judgment under Article 78 of the Civil Practices Laws and Regulations (CPLR), directing the board to grant to seven teachers sabbatical leave which had been approved by the superintendent.

The teachers' suit contended that the board was required to grant sabbatical leave to teachers recommended by the superintendent in accordance with the provisions of the collective bargaining agreement between the board and the PFT.

The board argued that a proceeding under Article 78 of the Civil Practices Laws and Regulations "is not a proper vehicle for the enforcement of an employment contract." The court agreed with the board's contention, but since the parties were before the court, the improper form was overlooked and the case was treated as an action for declaratory judgment rather than as an order of *mandamus,* the proper remedy for violations of legally imposed duties.

The court ruled that according to the bargaining agreement teachers had "no right to sabbatical leave and that the granting of such is solely within the discretion of respondent." Accordingly, the court ruled that the board has the right under the contract to reject requests for sabbatical leave. (*Ewen v. Board of Education of Union Free School District 18, Plainedge,* New York Supreme Court, Nassau County, June 10, 1972.)

PENNSYLVANIA

Remedial Process Must Be Exhausted Unless "Irreparable Injury" Can Be Proven By Continuance

The Pennsylvania Court of Common Pleas dismissed the Bristol Township Education Association's petition requesting that the Bristol Township Board of School Directors be enjoined from extending teachers' recess supervision duties even though arbitration proceedings to determine whether the board's actions violated the parties' contract were in process.

The association and the school board had negotiated a collective bargaining agreement containing a grievance procedure ending in binding arbitration. The association al-

leged that the school board's extension of the teachers' recess duties was a contract violation, and that the inherent delays through the negotiated grievance procedure would nullify their rights because the "exhaustion of remedies" culminating in arbitration would take the remainder of the school year. The association contended that by the time a final arbitration decision would be reached, the question would be moot, and teachers would be compelled to obey a possible violative board order.

The board pointed out that an arbitration decision favorable to teachers would require the board to compensate teachers for the extra duty. The association argued that the extra-duty compensation would not be sufficient to remedy the situation, but more important, the extension of the teachers' extra-duties would result in a less effective multi-level education program which was newly instituted in the district. The board held that the agreement provision for 200 minutes of weekly preparation time per teacher had been adhered to, and was sufficient to maintain the quality of the education program. The board sought dismissal of the association's complaint on the basis that teachers failed to exhaust all remedies under the grievance procedure, that under the Public Employee Relations Act the Court of Common Pleas could not assume jurisdiction in the case, and that the teachers had an adequate remedy at law.

The court found that the issue at hand was whether the delay of exhausting the remedy of the arbitration procedure to determine if the contract had been violated would cause irreparable damage. The court's jurisdiction in the case was affirmed by a citation from a previous court decision which stated that the Court of Common Pleas could assume jurisdiction in cases "where the requirements of exhaustion of remedies would subject a member to an injury that is in a practical sense irreparable." The court then considered whether teachers suffered irreparable injury without an adequate remedy at law.

Reviewing the association's contention that the extension of the teachers' recess supervision duties resulted in the "derogation of the quality of programs within the school district," the court found that the quality of a school district's education program was a matter of policy determination for the board. Since the association believed that the negotiated 200-minute weekly preparation period was inadequate to maintain the effectiveness and quality of the education program, the association should induce the board to change its policy as to the quality of the program during the renegotiation of the parties' agreement. The association's plea for an injunction against the change in duties prior to an arbitrator's decision was rejected. (*Bristol Township Education Association v. Bristol Township Board of School Directors*, Pennsylvania Court of Common Pleas, April 28, 1972.)

PLRB Agency Shop Decision Overturned

Pennsylvania's Court of Common Pleas overturned a state labor relations board decision which made it mandatory for a Pennsylvania State University laboratory technician who did not want to join the Teamsters Local 8, to pay union fees. The first contract negotiated between the parties contained a union shop provision under which nonunion members were required to pay union initiation fees and dues as a condition of employment. The grievant was not required to pay union fees at that time. But, when the agreement was renewed the grievant was required to pay dues or face dismissal.

The grievant argued that she should not pay union dues since she was not a union member.

The union contended that its action was legal in accordance with Section 904 of the Public Employment Relations Act (PERA) which states that "any provisions of any collective bargaining agreement in existence on January 1, 1970, which is inconsistent with any provision of this act but not otherwise illegal shall continue valid until the expiration of such contract. The parties to such agreements may continue voluntarily to bargain on any such items after the expiration date of any such agreement for so long as these items remain in any future agreement."

The court held that even though the section allows bargaining on illegal or forbidden practices, this does not give the parties the right to enlarge upon these practices or to include employees not previously covered, and in the instant case, the grievant was not included or bound by agency shop when it was legal. Further noting that "under a permissible maintenance of membership agreement union members have the right to resign membership within 15 days at the end of the bargaining agreement," the court held that it "cannot conceive of an interpretation of 904 which would lock in a nonunion employee forever in a situation not permitted by or inconsistent with the maximum union security provisions as now set forth in the act."

The court ordered the union to return the $40 in dues which the grievant had paid and to cease collecting fees from her in lieu of dues.. (*Pennsylvania Labor Relations Board vs. Teamsters Local 8 et al.*, Court of Common Pleas of Centre County, August 4, 1972.)

RHODE ISLAND

A Hearing To Determine Effects Must Precede Issuance of Strike Injunction

The Rhode Island Supreme Court ruled that teacher strikes cannot be enjoined without a notice to the adverse party and an open hearing to determine whether the work stoppage would have "an adverse effect on public health, safety and welfare."

The case involved the Westerly School Committee and the Westerly Teachers Association who were at impasse in renegotiating salaries for the 1972-73 school year. The impasse was not resolved by the first day of the school year, and the teachers did not report for work. At the request of the school committee, the Superior Court issued a temporary restraining order enjoining the strike and ordering the teachers back to work.

The teachers association appealed the lower court's ruling to the Supreme Court, requesting a writ of *certiorari* and a stay of the lower court's order. On the basis of the frequency of teacher strikes in recent times and the controversy over a previous ruling prohibiting public employees strikes, the Supreme Court agreed to review the lower court's decision although it refused to grant a stay of the lower court's order. Following the teacher association's appeal of the decision, the strike ended.

The Supreme Court upheld its previous ruling that public employee strikes were illegal and subject to being enjoined. According to the court, public employees had no constitutional right to strike; the "need of preventing government paralysis justified the "no-strike" distinction between public and private sectors. In answer to the teacher association's contention that teachers were justified in striking because collective bargaining legislation was silent on this matter, the court held that this departure of the legislature from common law could not be assumed, but must be specified. Similarly, the association's contention that teachers were covered by an anti-injunction statute was rejected because no legislative action specified coverage of teachers. Restricting the court's authority to enjoin a labor dispute did not mean that every public employee strike should automatically be enjoined. According to law, no temporary restraining order could be issued without advance notice to the adverse party unless it appeared that irreparable harm would result before a notice could be served and a hearing held. Considering the flexibility of the school calendar, the failure of schools to open on schedule was not "a catastrophic event," held the court; furthermore *ex parte* relief in teacher-school board disputes could make the court "an unwitting third party at the collective bargaining table and a potential coercive force in the collective bargaining process."

In conclusion, referring to a previous Michigan court case, the majority opinion of the court held that before a trial court enjoins a teacher strike a hearing must be held to review the dispute and to determine whether an injunction should be issued. Accordingly, the court quashed the temporary restraining order.

The court's minority opinion, espousing a stronger view, held that public employees should have the same right to strike that private employees have, but in a situation where strikes would have "an adverse effect on the public health, safety or welfare," they should be enjoined. (*School Committee of Westerly v. Westerly Teachers Association*, Rhode Island Supreme Court, January 31, 1973.)

WISCONSIN

Court Reaffirms WERC Ruling and Orders City to Recognize Bargaining Unit Without Holding Election

A Wisconsin Employment Relations Commission (WERC) ruling which ordered the City of Evansville to recognize Teamsters, Local 579, as the bargaining representative of the city's employees without an election was upheld by the court. The WERC determined that the city had engaged in a coercive campaign against the union, thereby interferring with employees' rights to organize through intimidation and ordered the city to recognize the union and proceed with negotiations, whereupon the city sought relief in the courts.

The city contended that evidence did not establish that it had violated the Municipal Employee Relations Act (MERA), that the remedy ordered by WERC deprived employees of the right to vote on whether they want a union and on what kind of union they want, and that the Commission's remedy was too drastic.

After studying the transcript of testimony and the documents submitted at the Commission's hearing, the court found that the employer had tended to coerce and intimidate its employees in order to discourage unionization. The court upheld the Commission's remedy on the grounds that the MERA allows the Commission to direct a city to do anything that the city could have done voluntarily. In the instant case, the city could have voluntarily recognized the union as being the representative of its employees. Additionally, the court agreed with the Commission's conclusion that an election to determine the employees bargaining representative "after such unlawful acts had occurred, would permit the city to take advantage of its own misconduct."

The court ordered that the Commission's decision and order be enforced. (*Wisconsin Employment Relations Commission, Petitioner v. City of Evansville, Respondent*, Wisconsin Circuit Court, Rock County, May 22, 1972.)

BOARD FINDINGS AND RULINGS

CONNECTICUT

Board Asserts Its Jurisdiction Over Contract Interpretation

In three separate decisions, the Connecticut State Board of Labor Relations (CSBLR) supported the union's request that the employer negotiate at reasonable times during the workday, affirmed its jurisdiction in disputes involving contract interpretation, and rejected jurisdiction over cases involving the disciplining of an employee for matters not related to union activity.

- The first case involved negotiation of a new collective bargaining agreement between the Town of Wallingford and the International Brotherhood of Electrical Workers, Local 1020. The town refused the union's request to hold negotiations during morning working hours.

The Board found that all of the town's negotiators were available in the morning, that the parties' existing contract provided time off for negotiations during work hours, and that past negotiations had been held in the morning. The Board concluded that the town's refusal to bargain at reasonable times constituted a prohibited practice under the Municipal Employee Relations Act (MERA). (*Town of Wallingford and International Brotherhood Workers, Local 1020*, Connecticut State Board of Labor Relations, September 14, 1972.)

- The Board affirmed its jurisdiction in a dispute over interpretation of the contract between the City of Bridgeport and the American Federation of State, County, and Municipal Employees, Local 1522. The matter involved the extension of summer working hours, which the city contended it had a right to change on its interpretation of the parties' negotiated contract. The city contended that the Board had no jurisdiction in the matter because disputes of this nature were subject to the negotiated arbitration procedure.

The Board cited court decisions which held as secondary any contract interpretation of an unfair labor practice. The court decisions supported a Board interpretation of dispute resolution under the MERA and stated that "neither the presence of a problem of contract interpretation nor the presence of an arbitration provision deprives the Board of jurisdiction." Accordingly, the Board rejected the city's petition to dismiss the union's complaint for want of jurisdiction. (*City of Bridgeport and the American Federation Federation of State, County, and Municipal Employees, Local 1522*, Connecticut State Board of Labor Relations, October 2, 1972.)

- A union member of the New Milford Police Department appealed the department's disciplining him for alleged abuse of sick leave.

The grievant contended that the department's action was prompted by his union activity, and therefore a prohibited practice under the MERA. The Board found that the employee had been disciplined for his invalid use of sick leave, and not for union activity, that working conditions had not changed, and that the employee had never filed a grievance. Accordingly, the disciplinary action was not a prohibited practice under the MERA, and the Board denied its jurisdiction in the matter. (*Town of New Milford and Peter Rock*, Connecticut State Board of Labor Relations, August 31, 1972.)

PENNSYLVANIA

Negotiable Items and Unfair Labor Practice Charges

The Pennsylvania Labor Relations Board (PLRB), ruling on four cases, further defined the scope of bargaining and the duty to bargain as applied to negotiation of public employee contracts.

- Issuing a final order, PLRB reaffirmed a previous ruling on the negotiability of extracurricular compensation. The Board ordered the Kiski Area School Board to bargain with the teachers' association, as a failure to do so would constitute an unfair labor practice. Precedent for PLRB's decision was derived from *Matter of Cannon-McMillan*, in which the Board ruled that a failure to negotiate extracurricular pay constituted an unfair labor practice. (*PLRB v. Board of School Directors of Kiski Area School District*, Pennsylvania Labor Relations Board, June 8, 1972.)

- PLRB sustained the Conemaugh Valley Education Association's claim that the school district engaged in an unfair labor practice by unilaterally discontinuing hospitalization and surgical benefits coverage for its members while maintaining coverage for administrative, supervisory, and nonprofessional employees.

The termination occurred during negotiation sessions between the lapse of the old contract and the effectuation of a new contract. PLRB found this act to be clearly discriminatory, and ordered the school board to cease such actions and to reimburse the affected employees in an amount equal to the coverage they paid in the interim. (*PLRB v. Conemaugh Valley School District*, Pennsylvania Labor Relations Board, June 28, 1972.)

- A second suit before PLRB against the Conemaugh Valley School District was an unfair labor practice charge in which the association alleged that the school district refused to rehire particular summer school reading teachers because of their association membership.

The Board ruled in favor of the district, having determined that its summer hiring process was rotational and the complainants were not hired because they had worked the previous summer. (*PLRB v. Conemaugh Valley School District*, Pennsylvania Labor Relations Board, June 28, 1972.)

• In charges brought by the Nazareth Area School District against the Nazareth Area Education Association, PLRB found that the association refused to bargain in good faith when it continued to propose negotiation of teacher preparation time which the school district contended was a management prerogative. According to the Board, teacher preparation time was an item of managerial policy, and therefore, not subject to negotiation.

Under the Pennsylvania Employee Relations Act, employers are not required to bargain over matters of inherent managerial policy, i.e., matters which are firmly fixed, essential to the employer, and not open to surrender when specifically prohibited by statute. The Public School Code grants school districts the power to adopt rules and regulations concerning the management of school affairs and the conduct and deportment of teachers, including the right to allocate teachers' time. The labor board concluded that teacher preparation time was not a subject for negotiation. The teacher assocaition had refused to bargain in good faith by proposing a contract provision on the subject. (*PLRB v. Nazareth Area Education Association*, Pennsylvania Labor Relations Board, August 10, 1972.)

• A later exception to the PLRB's ruling on the nonnegotiability of teacher preparation time was filed by the Nazareth Area Education Association. The Board ruled that the association's insistence on continuing to negotiate a nonnegotiable item constituted bargaining in bad faith, which for legal purposes is the same as refusing to bargain in good faith. The PLRB explained that the PERA which requires parties to bargain in good faith also prohibits a party from continuing to bargain in bad faith on a nonbargainable issue. (*PLRB v. Nazareth Area Education Association*, Pennsylvania Labor Relations Board, November 20, 1972.)

Subcontracting Negotiable; Unfair Practices Charges Dismissed Because Employer Did Negotiate

The Pennsylvania Labor Relations Board dismissed the charges of the Employees Committee of the Wilkinsburg Sanitation Department that the Borough of Wilkinsburg had engaged in unfair labor practices by refusing to bargain with the committee and contracting the borough's rubbish collection service to a private firm.

The committee was the certified bargaining representative of sanitation department employees and had negotiated a collective bargaining agreement with the borough that expired on December 31, 1971. The two parties held 10 joint negotiating sessions from December 1971 to March 1972, yet did not reach an agreement. At one meeting, the borough informed the committee that because of economic reasons, it was investigating the possibility of engaging a private contractor for its rubbish collection. Both parties discussed the cost problems involved.

Subsequently the borough solicited bids from private contractors and suggested that the committee draw up a contract proposal with a cost somewhere between the two lowest private bids. The parties discussed bids received and the borough admitted that it was seriously considering awarding the contract to a private firm. At this time the committee and the borough also discussed the transfers of some senior sanitation workers in the event that the work was subcontracted.

The committee's final contract proposal was $314,000 a year compared with a private firm's bid to do the work for $234,000. The borough awarded the contract to the private company. The committee filed a petition with the PLRB alleging that the borough had illegally fired the sanitation workers by contracting with a private firm to perform work of bargaining unit employees. The borough held that its decision was based on economic considerations after failing to reach a new agreement with good faith bargaining.

The PLRB cited a previous Supreme Court decision, *Fibreboard Paper Products Corp v. NLRB*, which stated that under the National Labor Relations Act subcontracting work previously done by bargaining unit employees required employers and employees to bargain collectively on the subject. The Board held that as early as January 7, during the negotiating sessions, the committee was fully aware that the borough was considering subcontracting its rubbish collection service. According to PLRB, the borough's actions were motivated solely by economic considerations, with no evidence of anti-committee discrimination. The borough had informed the committee of its intention to subcontract, and gave the committee the opportunity to offer contract proposals. In conclusion, PLRB stated that the borough had used "the proper method of submitting a mandatory subject of collective bargaining to the mediatory influence of negotiation," and dismissed the committee's charges of unfair labor practice. (*PLRB v. Borough of Wilkinsburg*, Pennsylvania Labor Relations Board, September 28, 1972.)

FEDERAL

Aid to Employees' Committee Not Employer Domination

The National Labor Relations Board (NLRB) upheld a complaint brought by the General Teamsters, Chauffeurs and Helpers, Local 249, against Duquesne University, charging that the university had unlawfully assisted an employee committee for the purpose of dominating the committee and had granted an unusually large wage increase to employees to delay unionism.

The university contended that "the employees' committee was no different than numerous other committees on the campus that were supported and assisted by it."

The trial examiner determined that the university had unlawfully assisted and dominated the committee, pointing out that the structure of the committee was such that the university could easily dominate it by exercising its managerial power to transfer, promote, or discharge elected employee representatives. Also, the personnel director's recommendation of a lawyer to the committee when the union began its campaign exemplified the university's dominance over the committee. The examiner found that it was unlikely that the university granted the large wage increase to curb unionism since the issue of unionism affected only 200 employees out of the 2,000 who received increases. Ruling that the committee was employer dominated, the examiner ordered that the committee be disestablished.

The NLRB agreed with the trial examiner's findings that the university unlawfully assisted and supported the committee. The Board cited several examples where university officials acted as advisors and counselors to the committee, acts considered unwarranted interference with the internal affairs of the committee and constituting a violation of the National Labor Relations Act.

Referring to the university's history of helping organizations, the NRLB said it disagreed with the examiner's finding that the university dominated the committee, and did not order its dissolution. However, "in view of a finding that the university did unlawfully assist the union, it is ordered that the university withdraw and withhold recognition of the committee until it is certified as the bargaining representative of nonexempt employees in an appropriate unit." Additionally, the Board ordered the university to stop giving financial support and to refrain from acting in an advisory capacity to the committee. (*Duquesne University of the Holy Ghost and General Teamsters, Chauffeurs and Helpers Local 249 a/w International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of American et. al.*, National Labor Relations Board, August 14, 1972.)

Adjunct Professors Eligible To Vote In Representation Election

The National Labor Relations Board issued a supplemental decision affirming its earlier full Board hearing which partially overturned a hearing examiner's rulings sustaining a challenge in a representation election among faculty at C. W. Post Center of Long Island University. The NLRB ruled that 16 of 19 adjunct professors were eligible to vote.

The challenged ballots were those cast by adjunct professors who did not teach during the semester of the election but who did teach in two of the previous three semesters, and who signed contracts contingent upon the availability of employment.

During the original hearing before the full Board, the university-employer argued that the hearing officer's sustaining of the challenged ballots of adjunct professors was inconsistent with the Board's Manhattan College decision, which designated part-time faculty members regularly teaching a minimum of one-quarter of the normal teaching load as eligible regular part-time faculty. The Board pointed out that this decision established only that adjunct professors had sufficient community of interest to be included in a unit with full-time faculty, and that it did not relate to the eligibility of particular adjunct professors. This left open the question as to whether a particular group had sufficient community of interest to allow them to vote and therefore did not preclude a challenge to their ballots.

The Board noted that the hearing examiner reasoned that no pattern of continued employment existed, and that he had not taken into account employment history of past academic years.

The Board reasoned that those adjunct professors who did not teach in the semester of the election might have had more of an interest than those currently on the payroll. These adjunct professors do sign contracts, with employment contingent upon availability of work, and reasonably expect re-employment. Therefore, those who signed such contracts in at least two of the previous three semesters and taught three or more credit hours were eligible to vote.

A dissenting opinion would have affirmed the hearing officer's decision sustaining all challenged ballots on the grounds that the challenged professors were not employed during the payroll period immediately preceding the election order, and further that eligibility rules should not be changed after the fact. (*C. W. Post of Long Island University and United Federation of College Teachers, Local 1460, American Federation of Teachers, AFL-CIO*, National Labor Relations Board, July 27, 1972; Supplemental Decision, November 22, 1972.)

Certain Supervisors Not Excluded From Bargaining Unit

The National Labor Relations Board (NLRB) rejected a petition of the Northwest Publications Inc. that sought the exclusion of 26 supervisory positions from an employees' bargaining unit represented by the San Jose Newspaper Guild since 1937. The Board, which had previously dismissed a similar employer petition, rejected the instant complaint on the basis that it would be disruptive to the bargaining relationship.

The two parties negotiated the current agreement extending from November 1970 to December 1973. All employees of the Northwest Publications, with the exception of several executives, were covered by the contract. Midway in the term of the contract, Northwest Publications petitioned the NLRB seeking an order to exclude certain supervisory personnel from the bargaining unit because it believed that the reopener provision of the contract would allow for such an adjustment in the composition of the bargaining unit.

The NLRB, disagreeing with Northwest Publications, said that "negotiations pursuant to the reopener did not change the description of the bargaining unit." The Board pointed out that the supervisory positions in question had existed for many years, that the descriptions of them had not changed since the execution of the current contract, and that to change the composition of the bargaining unit at this time "would be disruptive of an established bargaining relationship." (*Northwest Publications Inc. and San Jose Newspaper Guild*, National Labor Relations Board, November 12, 1972.)

NEGOTIATION NOTES

CANADA

Court Upholds Duty-Free Lunch Period

Noting that no arguments, statutes, or regulations mandate that teachers supervise students during lunch hour, the Manitoba Court of Queen's Bench overturned a suit brought by the Winnipeg School Division seeking $8,762.80 from the Winnipeg Teachers Association, which had advised its members to withdraw all voluntary services.

The court also pointed out: "If a teacher who must set *[sic]* and mark examinations, tests, projects, and homework mostly on his own time, who must evaluate and report on his students, exercise discipline over them and also attend staff and other meetings, must also give up his lunch hour to lunchroom supervision or attend after-hour games or other extra-curricular activities without compensation time given to him, he may easily be overburdened and unable to function at his best."

The court's decision is being appealed.

NEW YORK

New York City Dentists Unionize

The movement toward unionization of professional employees gained momentum with the formation of the International Federation of Health Professionals (IFHP) as the bargaining representative for some 2,000 New York City dentists, and 600 dental hygientists, dental assistants, and secretaries.

The increasing load of Medicaid and other insurance carrier responsibilities thrust upon the dentists precipitated their unionization. The dentists said they needed the union to bargain with insurance carriers and legislative agencies over uniform pay schedules, less paper work, and higher professional standards of treatment.

KANSAS

PERB Issues First Rules and Regulations Covering State and Higher Education Employees

The Kansas Public Employer-Employees Relations Board (PERB) has issued rules and regulations effective January 1, 1973 for implementation of its Public Employer-Employees Relations Act (PERA). These procedures are "intended as aids to the efficient operation of the Board, the orderly administration of the Act, and to provide meaningful avenues for realizing and for endorsing statutory rights and obligations" of public employees, employee organizations, and employers. These step-by-step procedures cover in detail hearings, unit determinations and certifications, representative elections, mediation, arbitration, prohibited practice adjudication, and the approval of equivalent local laws. A clause permitting suspension or waiving of the rules when application of them would not be feasible or just, adds flexibility to the PERA's implementation.

Employee organization representatives are required under state law to have been licensed by either petition or authorization card within the past six months before participating in PERB proceedings. The procedures also provide for intervention of legitimately interested third parties who are required to represent 30 percent of the proposed units' employees and have an authorization card or to be authorized by petition. The criteria for determining an appropriate unit shall be "whether the proposed unit of the employees is a distinct and homogeneous group, with significant problems which can be negotiated and adjusted without regard to the other employees of the employer." In addition, the PERB "may consider the relationship of the proposed unit to the total organizational pattern of the employer."

Petitions for unit determination, clarification, and investigation may be filed by five or more public employees, a public employee organization, or a public employer. At least 30 percent of the employees in a unit must petition for decertification of any public employee organization.

Only certified employees may participate in representation elections, which must be by secret ballot under the direction of PERB. "In all elections the majority of the valid votes cast shall determine the employee representative designated" or no representative.

Under the mediation and arbitration impasse regulations, the confidentiality of all records, reports, files, or documents, received cr prepared by the mediator is guaranteed unless the PERB gives prior consent.

Although both parties must acquiese to arbitration, whether jointly or singly initiated, they have the option of requesting either advisory or binding arbitration.

An employee, a group of employees, an employee organization, or a public employer may initiate proceedings to determine prohibited practices by filing a clear concise statement of the facts of the alleged violation. The PERB then determines if formal proceedings should be instituted. However, in no case may these proceedings be dismissed because of nonjoinder or misjoinder of the parties. The board's actions on prohibited practices shall include a statement of the case and the preliminary procedures, finding of fact, conclusions of law, decision, and orders. Strike cases

must be held "as expeditiously as possible disregarding normal time limitations."

All board actions on the various issues coming under the rules and regulations outline in step-by-step detail the procedures for initiating and following through petitions, filing of objections, intervention, complaints, answers to complaints, investigations, and hearings. These procedures end with the PERB's conclusions of law, determination, and orders.

The complete text of the "Kansas Public Employer-Employee Relations Board Rules and Regulations" is available upon request.

KENTUCKY

The attorney general gave the Kentucky Education Association a qualified "yes" in reply to its question as to whether the state board of education has authority to negotiate with KEA "on matters of statewide concern which affect teachers and administrators in the public schools."

The restriction placed on the affirmative answer depends upon the application and/or interpretation of the word *negotiate*. According to the attorney general, the state board of education may not execute any contract with KEA if negotiate means that a definitive agreement may be reached. However, if the word is construed to mean that KEA and the teachers' point of view is given in promulgating rules and regulations, the state board is allowed to invite teacher participation and input.

CPI, REAL EARNINGS RISE IN DECEMBER

Two separate reports issued by the U.S. Department of Labor, Bureau of Labor Statistics, indicated increases in both the Consumer Price Index (C.P.I.) and real earnings during December 1972. The C.P.I. rose 0.3 percent, while real earnings, measuring workers' average weekly earnings in terms of dollars of constant purchasing power, increased 0.1 percent.

The rise in the C.P.I. was attributed to higher prices for eggs, fresh vegetables and household services, partially offset by lower prices for meats, fresh fruits, and used cars. After seasonable adjustment, the December increase was 0.2 percent; seasonably adjusted food prices remained unchanged after increases the previous two months, while prices of non-food commodities and consumer service charges rose 0.2 percent and 0.4 percent, respectively. The Index increased at a seasonably adjusted annual rate of 3.2 percent for the calendar quarter ending in December; the increase for the quarter ending in September was 4.6 percent.

Real earnings, determined by adjusting gross figures for changes in the C.P.I. were 2.7 percent higher than a year ago; real spendable weekly earnings (average weekly pay after deductions for social security and federal income taxes) remained the same during December, but increased 3.5 percent over the year. The Hourly Earnings Index of constant purchasing power rose 0.7 percent during December, and was 2.7 percent higher than in December 1971.

STATISTICS

NEGOTIATED DISMISSAL PROCEDURE PROVISIONS IN CLASSROOM TEACHER AGREEMENTS

Dismissal procedure provisions regarding the termination of classroom teachers are incorporated in 250 (16.4 percent) of 1,529 collective bargaining agreements in school systems with 1,000 or more pupils enrolled. Sixty-two agreements, every fifth agreement with at least one from each state having a negotiated contract, were selected for further analysis. The selected sample of agreements taken from the 1970-71 data base are representative and indicative of the prevalence of dismissal procedure provisions in negotiated contracts. This analysis is restricted to what appeared in negotiated contracts; specific reference to dismissal procedures as mandated by state law were not analyzed. All data appearing in the tables are not mutually exclusive, and percentages may not add to the totals shown because of rounding.

Negotiated provisions regarding dismissal procedures are usually supplemental to state tenure laws in those states which have tenure laws. Such negotiated procedures serve to provide another avenue through which dismissal or nonrenewal may by processed. State labor boards and courts have upheld this principle.

TABLE 1.–NEGOTIATED CONTENT OF DISMISSAL PROCEDURE PROVISIONS

Item	Number	Percent
1	2	3
Tenure laws and other legislation mentioned or referred to	22	35.5
Reasons for dismissal stated	36	58.1
Prior written notice of dismissal required	45	72.6
Meetings/conferences regarding dismissal required	5	8.1
Suspensions	5	8.1
Hearing required	24	38.7
TOTAL SAMPLE OF PROVISIONS ANALYZED	62	100.0

In a recent decision involving the Board of Education, Union Free School District #3, the Nassau County, Supreme Court (N.Y.) ruled that the board must continue arbitration proceedings which were initiated to resolve a dismissal dispute. The court upheld the board's contention that under state tenure law other avenues are available to resolve the issue, but stressed that a teacher has the right to select arbitration. In another case, the Wisconsin Employment Relations Commission ordered the Oostburg Board of Education, Joint School District 14 to accept the Oostburg Education Association's submission of a nonrenewal dispute to arbitration, and to comply with the arbitration provisions of the agreement with respect to grievance.

Generally, the procedures for dismissal outlined in the agreements provide (a) that school boards give written notification of charges, and (b) that the teacher is entitled to a hearing prior to dismissal or nonrenewal of his contract being effective.

Nonrenewal occurs after the expiration of a teacher's contract with at least a 30-day notice. Nontenure teachers who fail to show improvement after an unsatisfactory evaluation are those primarily affected. Dismissal of a teacher may occur at any time during the term of the teacher's contract provided there is reasonable or "just cause."

In more than one-third of the agreements dismissal provisions are also governed by state tenure law and other legislation. These laws provide for the continuing employment of teachers who under tenure law, have acquired permanent or tenure status. Additionally, tenure laws require school boards to comply with prescribed procedural provisions for prior notice of dismissal, statement of charges and the teacher's right to a hearing before dismissal or before the nonrenewal of his contract becomes effective.

Tenure law primarily affects tenure teachers, but some states have extended due process of law to nontenure teachers through amendments to the tenure law which detail the procedures to be followed for dismissal of a nontenure teacher. The issue of whether nontenure teachers who are subject to nonrenewal are constitutionally entitled to procedural protections under the due process clause of the Fourteenth Amendment was considered by the Supreme Court of the United States in recent court decisions. In *Perry v. Sindermann* (92 S.Ct.2694 (1972)) and *Board of Regents of State Colleges v. Roth* (92 S.Ct.2701 (1972)) the Supreme Court ruled that a nontenure teacher would be entitled to a statement of reasons and to an opportunity for an administrative hearing if the teacher could show that the nonrenewal deprived him of an interest in "liberty" or "property."

TABLE 2.–REASONS FOR DISMISSAL STATED IN NEGOTIATED PROVISIONS

Reasons	Number	Percent
1	2	3
Specific reason given	18	29.0
Dismissal for "just cause" only	9	14.5
Reasons given to teacher upon request but not specified in agreement	9	14.5
	36	58.1
TOTAL SAMPLE OF PROVISIONS ANALYZED	62	100.0

Teacher dismissal for "just cause," as indicated by agreements, is the basic reason given for dismissal regardless of tenure or nontenure status.

> A tenured teacher shall not be disciplined, reprimanded, suspended or discharged without reasonable and just cause.
>
> **[Oakland Unified Sch. Dist Oakland, California]**

> No teacher shall be suspended or discharged except for just cause.
>
> **[New Haven, Connecticut]**

When defined, "just cause" usually includes gross contract violations, professional inadequacies, and personal misconduct. Eighteen agreements listed specific reasons for dismissal among which were incompetence; immorality; insubordination; habitual tardiness; abuse of preparation hour, sick leave, and personal leave; persistent and willful violation of regulations, and the teacher's failure to show improvement after receiving an unsatisfactory evaluation. These clauses were similar to the following:

> No teacher will be disciplined, demoted, dismissed, suspended with or without pay, or reprimanded without just cause. Just cause will include, but not be limited to, inefficiency or incompetence, insubordination against the reasonable rules of the Board of Education, moral misconduct, or disability, mental or physical, as shown by competent medical evidence, habitual tardiness and abuse of the preparation hour, sick leave and personal leave days, and non-compliance with the provisions of the Master Agreement.
>
> **[Saginaw, Michigan]**

> No teacher who has acquired tenure in accordance with the Board rules and who has not reached the retirement age shall be refused employment, dismissed, removed, or discharged except for willful neglect of duty, repeated violation of the published rules of the Board of Education, conviction of felony, immorality, physical or mental incapacity to perform his or her duties, or incompetency.
>
> **[Kenosha, Wisconsin]**

> Teachers who are not considered satisfactory shall be notified, in writing, of their deficiencies and be given such reasonsable time to improve as the Board may determine. During this time, placement on the Salary Schedule or increments provided in the Schedule may be withheld, and continuation of unsatisfactory work will call for the teacher's dismissal.
>
> **[Portland, Connecticut]**

In more than 7 out of 10 agreements, the board is required to give written notice of reason when dismissal of a teacher is contemplated. The following example is illustrative.

> No teacher shall be dismissed without notification thereof in writing stating the reasons for proposed termination.
>
> **[Minnetonka Pub. Sch., Excelsior, Minnesota]**

TABLE 3.–PRIOR NOTIFICATION OF DISMISSAL FOUND IN NEGOTIATED PROVISIONS

Item	Number	Percent
1	2	3
PRIOR NOTIFICATION OF DISMISSAL REQUIRED	45	72.6
Teachers to be notified in writing	45	72.6
Specified time for giving notice	18	29.0
15 days	1	1.6
30 days	8	12.9
60 days	5	8.1
90 days	3	4.8
6 months	1	1.6
TOTAL SAMPLE OF PROVISIONS ANALYZED	62	100.0

Almost 40 percent of the agreements provide for a hearing on dismissal cases when requested by teachers within specified periods following notification of dismissal or nonrenewal. Teachers involved in dismissal hearings are entitled to representation and witnesses. In some instances, tenure teachers have recourse through grievance procedures.

> A teacher under accusation for dismissal shall be notified in writing stating cause and may, if desired, have a hearing with full benefit of representation and counsel with the School Board within thirty (30) days of receipt of notification. Full pay and benefits which will accrue to the teacher under suspension shall be payable upon reinstatement. Teacher's counsel shall be the responsibility of the teacher.
>
> **[Pewaukee, Wisconsin]**

Any disciplinary action imposed by the Board on any teacher may be processed as a grievance. If such action includes demotion or discharge, all of the provisions of the Michigan Teachers' Tenure Act covering teachers on continuing tenure (including charges, notice, hearing, determination and appeal to the State Tenure Commission) shall apply for all teachers. The grievance may be initiated at the second step (Superintendent) of the Formal Grievance Procedure, and appeal to the Commission (rather than Arbitration) shall, where applicable, constitute the fourth and final step of the Procedure.

[Ann Arbor, Michigan]

TABLE 4.–REQUIREMENTS REGARDING DISMISSAL HEARING IN NEGOTIATED PROVISIONS

Item	Number	Percent
1	2	3
HEARINGS REGARDING DISMISSAL REQUIRED	24	38.7
To be held upon teacher's request	15	24.2
Hearing to be held within specified time	10	16.1
Within 5 days	1	1.6
Within 10 days	5	8.1
Within 30 days	4	6.4
TOTAL SAMPLE OF PROVISIONS ANALYZED	62	100.0

Dismissal provisions further require school boards to notify a teacher as to whether he is to be suspended pending any dismissal hearing. Suspensions are generally without pay; however, if reinstated, a teacher receives compensation and benefits for the period of suspension, and all records of the dismissal proceedings are expunged from the teacher's personnel file. The following provision is an example:

Notification of suspension or discharge shall be given to the teacher in writing with a copy to the Federation. The reason for such discharge or suspension shall be stated therein.

The teacher may, if he so desires, upon receipt of notification of suspension or discharge, file a grievance at the third step of the grievance procedure, provided in this Agreement. If suspension or discharge is found to be unjustified at any step of this procedure, the teacher's full pay and benefits shall be restored for the full period of his suspension or discharge.

[New Haven, Connecticut]

The following are sample provisions only and are not to regarded as exemplary.

TERMINATION OF CONTRACTS

The contract of a teacher may not be terminated except for gross inefficiency or immorality, for willful and persistent violation of reasonable regulations of the Board, or for other good and just cause. (Ohio Revised Code, Section 3319.16.)

If the dismissal of the teacher is considered necessary, the Superintendent shall notify the Board of all pertinent facts before action is taken. The teacher, the Superintendent and the Board shall act only as provided in the Ohio Revised Code, Section 3319.
Teachers wishing to consult the Ohio Revised Code may review a copy of the same in the office of the Administrative Assistant or the President of the MRTCTA.

Any teacher who has been notified by the Board of its intent to dismiss, must be informed of his right to counsel. Said teacher may also review his own personnel file.

When it is the intention of the Board not to re-employ a teacher at the expiration of his limited contract, the Board shall give written notice on or before April 30, or the teacher shall be deemed re-employed per the Ohio Revised Code, Section 3319.11.

The Board and the Administration shall give sufficient help, time and effort to enable the teacher to correct the cause for his potential non-rehiring. If the teacher is non-responsive, the Board shall take action not to re-employ and the MRTCTA, having been satisfied that these conditions have been met, shall support the above action of the Board.

**[Mad River Township,
Dayton, Ohio]**

ORDERLY DISMISSAL PROCEDURES

Before any teacher may be dismissed for any cause, he shall be given a written notice 15 days prior to the effective date of dismissal signed by the Superintendent or his representative, stating the causes for dismissal. Such written notice may be delivered in person or sent by registered mail addressed to the teacher at his last known post office address. A copy of the Written Agreement shall be included with the notice.

After receipt of such notice the teacher shall at his option be entitled to hearings before (1) the Superintendent of Schools, (2) the appropriate committee of the Board of Education, and (3) the Board of Education. The teacher may call the association, school staff, and such other witnesses as he may deem necessary. Said hearing shall commence within 30 days after receipt of such notice.

If the interests of the school or schools require it for sufficient and just cause, a teacher may be suspended pending a hearing and rendering of a decision.

Any hearing held for the dismissal of a teacher shall be concluded by a decision in writing within ten days after the termination of the hearing. An official copy of such decision shall be furnished the teacher affected within five days after the decision has been rendered. The Association and principal will be notified of the decision.

In all cases where the final decision is made in favor of the teacher, the charge or charges against him shall be expunged from the records. If, pending final decision as to his dismissal, such teacher has been suspended and, therefore, has suffered loss of salary, he shall be reimbursed in full for the time lost.

[Salt Lake City, Utah]

SPECIAL REPORTS

INTEGRATION PROVISIONS IN TEACHER/BOARD AGREEMENTS

Of the 1,529 agreements covering the 1970-71 school year analyzed by NEA Research, 60 contained provisions dealing with various aspects of integration of education. These contracts, negotiated in 12 states and the District of Columbia, are reported in the 1972 edition of *Negotiation Agreement Provisions for Teachers.*

These 60 contracts contained specific mention of minority groups, integration, or multi-ethnic relationships. Other negotiated provisions can accomplish the same purposes, e.g., academic freedom, nondiscrimination, open recruitment, promotion and transfer provisions, curriculum and textbook selection committees. However, this analysis concerns only specific provisions; other policies or procedures may be found in school-board rules and regulations.

Some of the provisions on integration of education-textbooks, curriculum, staff, and pupils-are general while others contain detailed specifications for achieving integration.

Study Committees

To help provide integrated education, 10 agreements authorize study committees to deal with special areas relative to minority, multi-ethnic, or integration processes. Morenci, Michigan, requires a joint conference to meet at least once each semester for the purpose of improving the selection and use of educational tools containing contributions of minority groups (textbooks, instructional materials, supplementary reading materials.) The contract also stipulates that the board implement all committee decisions.

The River Rouge, Michigan, contract mandates a study committee, to review, evaluate, and study methods of improving the integration of faculty and students and to insure the implementation of policies regarding inservice training to help teachers and administrators understand and deal with human relations problems. The contract also contains a plan for systematic inclusion of curriculum content dealing with minority groups.

Other agreements provide for curriculum advisory committees to investigate ways of achieving integrated education, and to implement multi-racial experiences. The committee established in the Willow Run, Michigan, agreement serves as a system-wide coordinating and planning group charged with studying the extent to which the achievements of racial and ethnic groups receive fair recognition.

Other agreements provide for the establishment of committees to assist with integration of teaching staffs. Some include a special committee to work with colleges of education to help develop curriculum content geared toward understanding and working with children with cultural differences, and to help provide balance on existing staffs through recruitment. The New York City agreement establishes a funded joint committee to develop recruitment procedures and supervise application of them to achieve ethnic balance.

The Rochester, New York, agreement provides three joint committees which are intended to (a) study recommendations regarding federal and state aid; (b) work with area colleges of education in planning required courses of study toward understanding and working with children with cultural differences; (c) develop plans for supplying inner city schools with additional teachers possessing the necessary experience, skill, and attitude to provide the strongest possible educational program.

Textbooks and Curriculum

Seventeen agreements deal specifically with the multi-ethnic nature of textbooks and other instructional materials. In essence, such provision requires that textbooks and instructional materials be multi-ethnic and reflect contributions of racial, ethnic, and religious groups to the historical, scientific, and social development of the United States. In addition, Oak Park, Michigan, includes a statement urging provision of a culture-free testing program. The Albion, Michigan, agreement provides for promotion of inservice training to increase understanding of human relations.

The Rochester, New York, contract treats textbook selection as follows: use of multi-racially oriented textbooks at all levels as part of the basic reading program; use of textbooks and other curriculum material in American History classes in order to cover in depth the contributions of black, Puerto Rican, and other minority groups in each unit taught; use of supplemental reading material dealing with black, Puerto Rican, and other minority group contributions, e.g., Jews, Chinese, and American Indian; use of comprehensive units which cover African, Puerto Rican, Asian, and Latin-American history at appropriate grade levels.

Thirteen agreements contain general statements dealing with curriculum issues, two specifically include minority groups in the curriculum. These general statements usually deal with the common goal of providing in-school activities (learning and social experiences) in a nonpartisan manner, without prejudice or bias, in which all races, religions, national origins, and socioeconomic levels can learn to know and understand differences as well as similarities. These

agreements imply that learning situations are enhanced by integration of children and teachers of diverse backgrounds.

The Franklin-McKinley School District of San Jose, California, gives special attention to the Mexican-American population. The contract requires the Curriculum Screening Committee to investigate the establishment of special classes for non-English-speaking students. The school district is required to employ a "community liaison person" thoroughly familiar with the problems of, and acceptable to, the Mexican-American community within the district. The district is also to employ more bi-cultural and Spanish-speaking teachers, to communicate with the home, when appropriate, in English and Spanish, and to support commemorative calendar dates of ethnic groups, including calendar dates in black and Mexican-American history.

Staff

Twenty agreements deal with faculty integration, ranging from the need for multi-ethnic representation among school staff members, to active recruitment and inservice training to achieve balance.

The Hartford, Connecticut, agreement states that to give each pupil the advantages of integrated education, the faculty of each school is to be racially balanced and incorporates detailed transfer procedures to correct any imbalance. The contract defines a racially unbalanced faculty as one where the ratio between the minority and majority groups varies more than five percentage points from the ratio of such groups in the system-wide faculty. While the Jackson, Michigan, agreement does not define its procedures as specifically as does Hartford, Connecticut, both state a desire to have at least 15 percent of every building staff from minority racial groups. Philadelphia defines faculty racial balance as follows: "The faculty in a school shall be deemed to be racially balanced if, in a school at the elementary level the faculty consists of at least twenty percent of the appointed teachers of the race in the minority in the faculty of that school and in a school at the secondary level the faculty consists of at least ten percent of appointed teachers of the race in the minority in the faculty of that school."

Six contracts-Jackson, Eau Claire, and Mt. Clements, Michigan; Zion, Illinois; Excelsior, Minnesota; and New York City-state specifically that they "declare a policy of *actively seeking* minority group personnel."

In an arbitration case between the Detroit Federation of Teachers and the East Detroit Board of Education, the arbitrator laid down three-step guidelines for minority recruitment on the basis of the wording of the negotiated contract which stated that the board would "seek out and hire a certified integrated staff reflective of all races." The arbitrator stated that the object of the provision was an "active effort" at recruitment, and he directed the board to (a) request placement officers in certain named universities and schools of education enrolling large numbers of black students to help with recruitment, (b) actively recruit outside the state of Michigan in schools having a large black enrollment, and (c) place at least three advertisements during the recruiting season in newspapers published primarily for black readers.

The Novi, Michigan, and Schenectady, New York, agreements merely state, "The Board and the Association... shall consider the employment of minority group personnel." The recruitment plan in Rochester, New York, requires a "joint Association-Board committee to develop plans for supplying inner city schools with additional teachers possessing the necessary qualities of experience, skill, and empathy to continue to provide the strongest possible educational program in these schools." The agreement for the Baltimore, Maryland, schools suggests the "cadre system" as a plan for integration of faculty by which "a small group of teachers of one racial pattern from one grade level of an elementary school, or one department of a secondary school, and the principal or vice principal could voluntarily transfer to a school not enjoying an integrated staff pattern."

The Harrisburg, Illinois, agreement states that "the Board of Education asserts that it is an equal opportunity employer."

A "Human Relations Program" is outlined in the 1970-71 Oakland, California, agreement. It includes: "a) All certificated employees will be encouraged to complete either a college or district in-service course in Multi-Ethnic Studies. . .b) The district will give favorable consideration to out-of-district applicants who have completed a course in Multi-Ethnic Studies and the major colleges and universities providing the district with teaching applicants will be so informed. . .c) Five minimum days shall be scheduled during the 1970-71 school year for Human Relations in-service meetings."

The 20 agreements having provisions on faculty integration also refer to the need to work with the community and with colleges of education to help new teachers and to help develop inservice programs to retrain present faculty members in multi-ethnic differences and similarities to provide pupils with better education.

Pupils

Twenty-one contracts contain a general statement on integration of pupils. The following is an example: "The Board and the Association pledge themselves to extend the advantages of public education to every student without regard to race, creed, religion, sex, color, or national origin and to seek to achieve full equality of educational opportunity to all pupils."

Three agreements state this general concept in a slightly different way, in that programs and school activities are not to be conducted in a manner which denies or discriminates against students because of race, color, creed, sex, or national origin.

The same principle is asserted in the San Diego, California, agreement: "It is recognized that segregation of students on account of race or color, regardless of its cause, seriously impairs the promise of equal educational opportunities. It is further recognized that while problems of racial imbalance in the schools are not easily solved, partial solutions are available."

Other than stating that there is to be equal educational opportunity without discrimination, the Oak Park, Michigan, agreement requires the board to continue its efforts to provide a culture-free testing program.

Summary

Of the 1,529 contracts, 60 in 12 states and the District of Columbia deal specifically with integration of races and cultures in textbooks, curriculum, staff and student body. Statements range from general board policy to detailed requirements.

Of several contracts dealing with study committees to develop programs of integration, one contract permits the committee, while others require committees to deal with curriculum, recruitment, transfers of staff for racial balance, and to plan required courses for colleges of education and for inservice programs.

Textbooks and other instructional materials are required to be multi-ethnic by 17 contracts with a few naming the ethnic groups. The Mexican-American population, in particular, is provided for through curriculum and staff liaison assignments.

Twenty of the agreements concern staff integration and range from broad, all-encompassing provisions to provisions stating exact definitions of what comprises a balanced or integrated staff. Equality of educational opportunity for all pupils without regard to race, creed, religion, sex, color, or national origin is mentioned in varying degrees in 21 agreements.

The following are intended as samples of integration of education-provisions and are not to be regarded as exemplary.

Community and Human Relations

The District and the Association recognize that children must live in a multi-racial and multi-ethnic world, and that a democratic society is one which appreciates diversity. Therefore, school must be a natural place for multi-cultural contact and experiences.

The District shall employ a "community liaison person" to function as a liaison between the school and the community. The large portion of Mexican-American students in the district mandates that the community liaison person shall be thoroughly familiar with the problems of, and acceptable to, the Mexican-American community within the district.

The District shall attempt to employ more bi-cultural and Spanish-speaking teachers thoroughly familiar with the minority cultures of the District.

School and/or District communications to the home when appropriate shall be in both English and Spanish.

The Curriculum Screening Committee shall investigate establishing special classes for non-English-speaking students and an English-as-a-second language program (E.S.L.) for grades K-8.

A committee shall be formed at each school comprised of building administrators and teachers to consult with parents and other community leaders to plan inservice and instructional programs which are relevant.

The District shall recognize and actively support commemorative calendar dates of the ethnic groups represented in the District including calendar dates in Black and Mexican-American history.

**[Franklin-McKinley School District
San Jose, California]**

QUALITY INTEGRATED EDUCATION

In order to assure the continuation of positive action designed to further implement the City School District's commitment to provide quality integrated education as expressed in Board resolutions, and to carry out the principles of the Preamble of the Agreement, the Association and the Administration shall continue and will accelerate their efforts to provide quality integrated education in the following manner:

TEXTBOOK AND CURRICULUM IMPROVEMENT

The Council on the Improvement of Instruction shall continue to study and make recommendations concerning:

a. Use of multi-racially oriented textbooks at all levels as part of the basic reading program.

b. Use of textbooks and other curriculum material for each pupil in all American History classes in order to cover in depth the contributions of Black, Puerto Rican, and other minority groups in each unit taught; and the inclusion of such materials as part of the course of study in Curriculum Guides.

c. Use of supplemental reading material dealing with Black, Puerto Rican, and other minority groups contributions, e.g. Jews, Chinese, and American Indian, etc.

d. Use of comprehensive units which cover African, Puerto Rican, Asian, and Latin-American history at appropriate grade levels.

FEDERAL PROJECTS REVIEW COMMITTEE

The existing Association-Board Federal Projects Review Committee shall continue to study the following Association recommendations for concentrating federal and state aid:

Use of available funds from E.S.E.A. to reduce the class size in inner city schools to a maximum of 15 students in regular grades.

Increased use of special services in inner city schools including psychological, medical, dental services, teacher aides, etc. through federal and/or state programs and/or by taking fullest advantage of available community resources

Use of available state and/or federal funds to provide a lunch program in the schools. Appropriate facilities to house students and non-teaching supervisory personnel shall be provided.

By using federal, state and local funds a massive remedial reading, mathematics program shall be provided in inner city schools. Implementation of the program shall be developed by a joint Association-Administration Committee.

The Board shall designate the personnel necessary to insure the implementation of the above sections.

COOPERATION WITH INSTITUTIONS OF HIGHER LEARNING

A joint Association-Board committee shall be formed to work with area colleges of education willing to cooperate in planning required courses of study geared toward understanding and working with children with cultural differences.

RECRUITMENT OF TEACHERS

A joint Association-Board committee shall develop plans for supplying inner city schools with additional teachers possessing the necessary qualities of experience, skill, and empathy to continue to provide the strongest possible educational program in these schools.

[Rochester, New York]

BRIEFS OF RECENT AGREEMENTS

Dayton, Ohio

Between Dayton Public School System and Dayton Classroom Teachers Association, effective July 24, 1972, to March 3, 1974. Approximately 2,524 classroom teachers. Provision for automatic renewal,

> unless either the Board or the D.C.T.A. serves written notice on the other of its intentions to amend or modify this Agreement not more than ninety (90) and not less than sixty (60) days prior to the expiration date (March 3, 1974) or the end of the yearly extension period.
>
> The Board agrees that it will not, during the period of this Agreement, officially adopt or implement any condition of employment not contained within this Agreement until such term or condition has been a subject of negotiation.

Provision for reopener on items affected by changes in law or in the financial status of the district, and 30 days after completion of negotiation on items negotiated, but not agreed to in this agreement.

COMPENSATION: (effective January 8, 1973) B.A., $7,902.30 to $12,888.54, 14 increments; B.A. plus 18 hours, $13,083.32 maximum; M.A., $8,570.10 to $14,179.62, 14 increments; M.A. plus 30 hours, $14,624.82 maximum; Ph.D., $15,598.70 maximum; increments earned after serving six consecutive months (120 days) per school year (includes 40 days in the same substitute position); seventh step is maximum placement for first year of service in the district or upon re-entering service after January 1, 1956;

Vocational teacher salary schedule: B.A., $9,482.76 to $15,466.22, 14 increments; B.A. plus 18 hours, $15,699.96 maximum; M.A., $10,284.12 to $17,015.46, 14 increments; M.A. plus 30 hours, $17,549.70 maximum; Ph.D., $18,718.36 maximum; up to seven years' business or trade experience in teaching or related area credited toward college equivalency at the rate of 18 hours undergraduate credit per year; seven years' vocational experience (four as apprentice and three as journeyman) equals a B.A., with two undergraduate credits beyond that level equal to one graduate credit; each year of work experience beyond seven years credited as one year of teaching experience, with 10 calendar months' experience, including not less than five consecutive months, counted as one year for teachers appointed after January 1, 1947.

DIFFERENTIALS: (1972-73) head football and basketball coaches and athletic director, $1,300; head baseball, gymnastics, track, and wrestling, and assistant football and basketball coaches, $760; band director, $26.50 per appearance, $325 per year maximum; vocal and dramatic directors, $265 per music production; orchestra director, $105 per production; play director, $290 per major stage production, $580 per year maximum; newspaper and yearbook advisors, $265 or $132.50 with staff or journalism period; class advisors: senior, $265; junior, $210; sophomore and freshman, $55; intramural leader, $320 per year; elementary audiovisual, $80 if school has no Learning Center; elementary intramural, $105 to $420 according to school size; vocational school job coordinators, $125.

OTHER: Pay for serving on board-initiated committees, including inservice program, beyond the regular work day for two or more sessions, $4.00 per hour; Inservice Program Committee service during the summer, $148 for each 30-hour week; Unit-House leader (Individually Guided Education), $300 per year; home and hospital teachers with B.A., $7.23 per hour, without B.A., $7.02 per hour; high-school registrars and night school teachers at vocational high school, $7.51 per hour; nurses with B.A. are placed on teachers' salary schedule; 10 cents per mile for job-related use of own car; inservice workshop attendance outside school day, $4.00 per hour; rates for summer school regular and substitute teachers: elementary and middle school, $124.65 per week or $24.93 per day; high school, $139.15 per week or $27.83 per day; high-school laboratory classes, $155.80 per week or $31.16 per day.

LEAVES: One and one-fourth days per month annual sick leave, 200 days maximum accumulation; one hour sick leave for each 17.3 hours' night school service, maximum accumulation of one and one-fourth days per month when teaching both day and night classes; however, teachers teaching both day and night school will have only one days' leave deducted while receiving *entire* days' pay; sick leave prorated for part-time employees; leave for quarantine and illness in the immediate family deducted from sick leave; 3 days for death in the immediate family with 2 additional days for travelling over 300 miles from Dayton; one day for funeral of other relatives; one day personal leave (requiring no justification) upon 3 days' notice, if unused will be paid with final pay; 4 days' emergency leave granted upon "submission of satisfactory evidence" for accidents in immediate family, required court appearances, impassable roads, major disaster affecting family property, up to 2 days for religious observance, college graduation of staff member or member of the immediate family, military induction physical, wedding in immediate family, ceremony where member of immediate family receives award of major significance, "participation at civic, musical or dramatic groups of important significance to the school system on a nonpaid basis," and paternity leave, superintendent may authorize absences for other reasons; leave for subject matter conferences with approved expenses paid by the board available to selected educational organization representatives; in addition, board pays expenses for one representative from each organization (designated by the association and the curriculum development department) attending a professional conference within the U.S.; up to two days' leave for school visitation that does not require a substitute; paid jury-duty leave less court fees; at least two sabbatical leaves

granted per year at difference between regular pay and substitute's compensation for one year after five consecutive years' service, with joint committee making the final selection; adoption leave available; leave for job-related injury with deduction from sick leave of the difference between Workman's Compensation and regular pay with teacher receiving full remuneration for 90 days even if sick leave is exhausted.

INSURANCE: Hospital-medical, surgical, and major medical with family coverage available; $4,000 policies for both term life and accident insurance, pro rata payment of part-time employees' insurance premiums; tax-sheltered annuity plan.

ASSOCIATION: Payroll deduction of local, state, and national association dues; "the superintendent shall authorize up to eighty (80) days with pay per year to members of the D.C.T.A. elected to represent the D.C.T.A. or chosen to serve on programs or in any official capacity at D.C.T.A. affiliated meetings, conferences or conventions. Additional days beyond 80 will be granted to members of D.C.T.A. elected to official bodies of the Ohio Education Association and/or National Education Association", monthly conferences between association and administration representatives; leave with pay to attend necessary organization meetings for teachers elected to state or national office and for delegates or working members of designated organization; leave of absence for association president with association reimbursing total cost to the district; upon notifying the principal the association president may visit the schools; use of bulletin boards, school equipment, and public address system, and reasonable use of school buildings upon approval of request; association may make announcements at faculty meetings; interschool extension phone provided, association pays charges; board funds may not be used to support rival organization seeking to represent teachers; two association representatives shall have same seating privileges as the press at board meetings; board may not hear policy statements of other organizations without the association's consent; the board shall furnish to the association the names and addresses of new staff members as soon as possible; the board shall provide all professionals with a copy of this agreement and with a directory of the addresses, phone numbers, and job assignments of all employees.

INSTRUCTION: Normal high-school teaching load is 6 periods including homeroom and preparation time, with 5 planning periods per week; teacher ratio per building, 30 to 1; maximum junior high and elementary class sizes, 35 students; an aide will be provided (if available) upon written request if an elementary- or high-school class exceeds 35 pupils; if board fails to provide requested aide within 60 days, excess pupils will be reassigned; maximum high-school pupil load, 170 pupils per day; size of laboratory and special subject classes limited to the number of stations; activity classes, such as physical education, excluded from class size maximums; special education and service class sizes must be in compliance with state requirements; day school class sizes apply to night school classes; effort to reduce teachers' clerical responsibilities; school calendar is 180 pupil-contact days, 16 holidays, 4 inservice days; joint development of 1973-74 school calendar; elementary- and junior high-school day: 330 minutes of student contact, 30 minutes for duty-free lunch, 60 minutes of development or approved activity time, 15 minutes after school, five 45-minute preparation periods per week; school day for primary grades: 330 minutes of student contact, 30 minutes for duty-free lunch, 60 minutes of development time, 15 minutes after school, 45 minutes per week preparation time, and "additional time not to exceed seventy-five (75) minutes [that] may be made available through cooperative teacher planning for students with the approval of the principal;" school day for kindergarten with morning and afternoon (two) sessions to be a maximum of 435 continuous minutes, 330 minutes of pupil contact, 45 minutes for duty-free lunch, 45 minutes of development time, 15 minutes after school; kindergarten school day, one session is 218 continuous minutes, with 165 minutes of pupil contact, 53 minutes for development, 15 minutes after school; high-school day is maximum of 435 continuous minutes, with 375 minutes of pupil contact, 30 minutes for duty-free lunch, 20 minutes before school, 10 minutes after school; nurses' school day, 480 minutes between 8:30 a.m. and 4:30 p.m. with one hour for lunch; counselors' day is 450 minutes with 30 minutes for lunch; faculty determines school day at the vocational high school; joint committee to attempt to find the means to give elementary teachers additional released time; development time to be used for conferences, faculty and departmental meetings, planning sessions, inservice training, and parent-teacher conferences; librarians work 5 hours per day for an additional week; learning center teachers work an additional 3 days at the beginning of the year and three five-hour days at the end of the year at summer rate; two association representatives may be appointed to any committee concerned with curriculum changes, selection of texts, and development of new instructional programs and facilities; plan books fo substitute teachers' use must be kept current; grade and lesson plan books provided at board expense "although grade books are teachers property, they shall be available to the principal upon request"; School Faculty Council disburses Professional Activities Fund of $10 per staff member for teaching materials and equipment, professional books and magazines, faculty room furniture, growth, and travel, with funds accounted for monthly; adequate audiovisual equipment shall be available; academic freedom exercised with "sound judgment in selecting for discussion those issues [the teacher] deems relevant to the maturity and understanding of the students involved; programs concerning controversial issues should be cleared with the principal;

INDIVIDUALLY GUIDED EDUCATION

Individually Guided Education (IGE) is recognized as viable systematic program that provides a framework for achieving the individualization of instruction.

THE IGE SYSTEM IS COMPRISED OF:

A defined decision-making structure providing professional staff, pupils and parents opportunity to participate in instructional planning (multi-unit school).

An instructional process combining clear definition of learning objectives and continuous assessment of pupil progress and learning style to provide diversified learning environment which encourages self-directed learning by pupils.

A home-school communications network.

An alliance of schools and support services to provide continuous input and assistance (the League).

Implementation and Assessment

The D.C.T.A. will establish a Joint Committee on Individually Guided Education. The responsibilities of this committee shall include:

To address concerns and seek resolution of problems created through or intensified by implementation efforts.

To monitor commitments made through the joint committee.

To monitor on-going assessment of implementation progress.

To participate in decision-making relative to expansion of implementation beyond 1971-72 level, i.e., 16 elementary and 5 middle schools.

In-Service Education

Professional staff members in League School shall participate in in-service program. The Instructional/Program Improvement Council of each school determine the needs of the staff and develop programs to meet identified needs.

There shall be 3 days of in-service education planned by the Instructional/Program Improvement Council during the pupil year.

There shall be 5 days of in-service education and planning time planned by the IIC/PIC immediately prior to the opening of school for children.

In-service education programs developed through the Joint Committee on IGE will be offered for professional staff during the summer. Such programs would address those areas of need selected by the participants.

Remuneration shall be made at the in-service rate or through university credit (if such can be arranged).

Any professional staff member not assigned to a League School may participate without remuneration in the above in-service education programs on a voluntary basis.

Staffing

Staffing of an IGE school shall be done under the following guidelines:

All professional staff members working in League schools shall do so on a voluntary basis.

Prospective staff members shall be interviewed by the building principal and unit leaders, and should visit the school during the pupil day.

All professional staff members in League schools shall have current appropriate certification. Staff will be required to instruct only in areas where certified.

The staff of a League school shall reflect a cross section of the entire teaching staff of the Dayton Public Schools.

Any professional staff member requesting transfer from a League school shall be transferred as soon as an opening occurs and a replacement can be trained. Such transfers shall follow the voluntary transfer guidelines.

One (1) aide shall be assigned to each League Elementary School unit.

Two (2) aides shall be assigned to each League Middle School house.

One (1) additional clerical aide shall be assigned to each League Elementary School for each four units or major fraction thereof.

Qualified, trained substitutes are to be made available to League Schools.

RESPONSIBILITIES OF PROFESSIONAL STAFF

Unit/House Leader

To be a decision-making member of Instructional Improvement/Program Improvement Council.

To serve as a liaison between the Instructional Improvement/Program Improvement Council and the unit/house.

To chair unit/house meetings, cooperatively planning the agenda (such agenda shall be in writing and distributed prior to the meeting).

To coordinate unit/house schedule—teacher's and student's use of time, space, resources.

To coordinate the collection and maintenance of necessary data pertinent to students in the unit/house.

To coordinate the self-improvement process of the unit/house.

To participate in the implementation of learning programs as a unit/house teacher.

To coordinate supportive resources to the unit/house.

To coordinate unit/house efforts related to student discipline.

Unit/House Teacher

To serve as a teacher-advisor.

Provide the security of a homebase environment for an assigned group of students.

Plan and evaluate an individual program *with* each pupil based on diagnostic and performance data as well as input of other teachers.

Hold individual student conferences on personal and educational matters.

Help student work out individual projects and independent study plans.

Coordinate student's work in all areas of the curriculum.

Provide that student remains in same unit/house as long as he is in the age group it serves unless circumstances indicate otherwise.

Gather and maintain diagnostic information which will augment observations of the advisor and teachers; information relative to interests, needs, learning styles, etc.

help to insure that each pupil has established personal rapport with at least one unit/house teacher.

To serve as a teacher in content area.

Provide a learning environment conducive to varied learning modes and activities.

Function as a teacher-planner in their selected area(s) of subject matter strength.

Participate in unit/house decision-making regarding the use of time, space and resources; assignment of pupils within the unit house; learning opportunities to be provided; division of labor; selection of assessment and evaluative procedures.

Unit/House Aide

Shall assume those responsibilities delineated in writing by the Instructional/Program Improvement Council.

The functions and duties of the Instructional Improvement Council and the Program Improvement Council shall be as defined in *On Organizing a School for Learning.*

IIC/PIC shall not replace the Faculty Council's functions and duties related to teacher welfare.

At least one teacher must be a member of both the Faculty Council and the IIC/PIC.

SELECTION OF UNIT/HOUSE LEADER

A. Criteria for the selection of Unit Leaders shall be established by each IIC/PIC in accordance with responsibilities outlined in this Master Agreement and *On Organizing a School for Learning.*

B. Each Unit/House Leader shall receive a stipend of three hundred dollars ($300) per school year to compensate for additional responsibility assumed.

A League Resource file (a permanent bank of objective and units) will be created and a listing of contents of the League Resource file will be available to all professional staff members.

PERSONNEL: Grievance procedure ends with binding arbitration; advisory panel resolves agreement implementation and interpretation disputes; right to review all materials in personnel file, except references, and to be accompanied by an association representative, copy of any file material furnished at cost, opportunity given to read acknowledge, and answer in writing all critical material placed therein, exclusion of anonymous material, removal of critical material with consent of staff development assistant superintendent or when sustained as false through grievance procedure;

DOCUMENTATION

The purpose of documentation is to make professional performance a matter of record.

Documentation will be read and signed by the professional staff member before being entered in the personnel file.

Documentation will be reviewed periodically with the professional staff member. A third party of his choice may be present.

Any documentation which may be considered unfavorable and is intended to be used in the personnel file for disciplinary, administrative reprimand, demotion or transfer must bear the signature of the party concerned. The professional staff member involved must have had the opportunity to read this documentation with a third party of his choice present and to reply in writing. Such reply will be attached to the documentation.

Maximum of one school faculty meeting (not to exceed 45 minutes, if after school) per month from which teachers may not be regularly excused because of extra duties; any additional monthly meetings must be approved by faculty council; Thursdays to be reserved for meetings; the minimum qualification for employment, with the exception of vocational teachers, is a B.A. and credentials to secure proper certification; teachers with insufficient qualifications may be hired on a substitute basis in emergencies;

In the selection of teachers, collegiate training, student teaching experience, teaching experience, other work, community experience and the recommendations of former professors, supervisors, cooperating teacher, principals, and other responsible individuals shall be considered. The college transcript shall be one factor to be evaluated and a personal interview will be required. Consideration of the teaching areas to be filled, the specific abilities to fill specific assignments, and the total general evaluation of personality and competency shall be the deciding factors in employment.

IN-SERVICE PROGRAM

The D.C.T.A. and the Administration believe that a comprehensive in-service program for the certificated staff is essential. Through staff participation in such activities, higher level and more varied competencies will emerge. Specifically, the staff will:

Experience individual professional growth;

Become better informed concerning current curriculum trends and procedures; and

Assume leadership in educational programs and media developments.

The D.C.T.A. and the Administration will establish an In-Service Program Committee. This committee shall consist of seven (7) members, four (4) members selected by the D.C.T.A. and three (3) by the Administration. Suggestions from this committee are to be referred to the Curriculum Development Department for its action.

IN-SERVICE PROGRAM GUIDELINES

A more specific definition should be applied to "In-Service Programs" to provide clarity of purpose, promote maximum participation, and establish professional accountability. Basically, programs to be covered under such a definition may be those provided through:

College training beyond provisional certification requirements;

Workshops, seminars, and study programs (including those individually directed) under the direction of the Curriculum Development Department;

Programs developed on a building level within the system;

Programs arranged through the D.C.T.A. and its affiliates; and/or

Programs provided through professional educational organizations to which professional staff belong.

To insure as many professional staff members as possible an adequate opportunity to participate, it is suggested that the Board provide a variety of programs annually.

At the earliest opportunity, upon basic agreement between the D.C.T.A. and the Administration through the Assistant Superintendent for Curriculum Development, the In-Service Program Committee shall meet to develop the program guidelines.

The In-Service Program Committee shall be appointed hereafter in October, assuming responsibilities in January, its primary responsibilities being to recommend the programs for the coming year, such programs to be submitted, on or before May 15th. All teaching personnel selected for the In-Service Committee will be compensated at $4.00 per hour for participation during the contract year and at the rate of $148.40 for each thirty (30) hour work week during the summer.

At all times encouragement shall be given to have staff submit ideas for programs and evaluate existing meetings.

All required In-Service education programs after regular school hours must be mutually agreed to by the D.C.T.A. and the Administration.

Compensation - See In-Service Compensation.

Programs in which participants will be remunerated must be mutually agreed to by the D.C.T.A. and the Administration.

Building level programs developed through the principal and the School Faculty Council will not be remunerated and must be on a voluntary basis.

PROFESSIONAL STAFF MEMBER ASSESSMENT

The term "assessment" is used to describe the philosophy, criteria and procedures by which professional judgments are made regarding each professional staff member's performance. The purpose of the assessment process is to bring about constructive change and be positive in approach.

A Formal Assessment is defined as one which conforms to the procedures listed elsewhere in this Article and on the Cooperative Assessment Form itself, and one which is filed in the Staff Development Department.

An Informal Assessment is defined as one which may be less structured and may be initiated by either the professional staff member or the Administrator. The results of an Informal Assessment should be utilized within the building between the professional staff member and Administrator for the professional improvement of the teacher.

The professional staff member will be fully informed by the principal as to how such assessment shall be conducted.

New professional staff members will have an Orientation Critique during the first three (3) weeks of school. They will be advised as to when the administration will observe and critique their performance.

Prior to completing a Formal Assessment, an objective review will be made of the conditions that have influenced the effectiveness of the professional staff member during the period for which the assessment is made. Both the professional staff member concerned and the administration will make this review.

The week during which observations for Formal Assessments will occur shall be announced.

All observations of the work of a professional staff member shall be conducted openly and with full knowledge of the professional staff member.

Each Formal Assessment of a teacher must be preceded by at least two (2) classroom observations of at least thirty (30) consecutive minutes, one observation being within ten (10) school days prior to the assessment.

Both observations of a teacher prior to a Formal Assessment must be made by the same building administrator. Upon agreement of the teacher and building administrator, a member of the Instruction Department or a qualified administrator from another building may perform a Formal Assessment.

Every classroom observation of a teacher must be followed as soon as possible but within one (1) week by a personal discussion between the teacher and those persons making the observations. Assessment must be behavioral in approach, must include suggestions for improvement and must be descriptive of specific teacher problems.

Any written report of an observation will be submitted to the teacher prior to the Formal Assessment. The teacher will have the opportunity to review the assessment report with the administrator. The document will be signed and dated by all concerned. Such signature by the teacher does not necessarily indicate agreement with the content of such material. No additional comments by the assessor may be made after the assessment has been signed by the teacher. Adequate time for study of assessor comments will be given to the teacher prior to signing.

If a critical report of an observation of a teacher is made, the person making the criticism shall record his plan to correct the situation causing the criticism. The next observation report will explicitly, where possible, state what actual steps have been taken to correct the cause of criticism.

ASSESSMENT CRITERIA

The criteria to be included as part of a teacher assessment program are: Director of Learning, Counselor and Guidance worker, Link with the Community, Mediator of the Culture, Member of the Staff, Member of the Profession.

The criteria to be included as part of the assessment of professional staff members other than teachers will be criteria relevant to the position occupied by the professional staff member.

ASSESSMENT SCHEDULE

Teachers new to the Dayton Public School System will have a Formal Assessment each semester during their first two years. It is strongly recommended that each new teacher be assessed by the same administrator in a given school year.

Teachers new to a building shall have a Formal Assessment during their initial year. Teachers wishing to upgrade certification will request a Formal Assessment.

Any teacher may initiate a Formal Assessment for such purposes as self-improvement, renewal of current certification, or other employment purposes; however, each teacher will have a Formal Assessment once in each four years of service.

INDIVIDUALLY GUIDED EDUCATION

The self-improvement outcomes of the IGE process shall not be used as a substitute means of accomplishing the purposes of teacher assessment. Unit leaders or teachers shall not be required to assume responsibility in accomplishing the assessment of their colleagues.

Each new teacher will be assigned an assisting teacher associate; posting of promotions, except when an existing position is combined or reclassified, with eligibility requirements being appropriate degree and certification status, satisfactory prior service, appropriate background experience; criteria for transferring teachers, specific professional competencies, age, sex, experience, co-curricular interests, race, and longevity; vacancies posted from April 30 to end of the year; staff development department selects voluntary transfers; teachers already in the system have priority over "new hires"; teachers may apply for two openings; principal-initiated transfers to be made only "if all constructive means to remedy the situation are ineffective toward problem solution"; transferred teacher to be given choice among available assignments; teachers reassigned because of administrator-initiated transfer for organizational reasons may later request and will have priority for transfer from involuntary assignment; procedures for transferring nurses and counselors are similar to those for classroom teachers; teachers with continuing contracts and with greater seniority have priority during a reduction in force; "teachers, whose continuing contracts are suspended, shall have right of restoration of continuing service status in the order seniority of service," when positions later become vacant; dismissal procedures are initiated in instances of "gross inefficiency or immorality, for wilful and persistent violation of reasonable regulations or for other good and just cause"; professional staff member's dismissal must be preceded by conferences for the purpose of preparing a positive program for correcting the problem(s); appointment to summer and evening school and all other board sponsored education programs based on proper certification and satisfactory experience, and length of service when all else is equal and staff is balanced in regard to race, experience, and academic status; deadline for application for summer school assignment March 15 with notification of action on application by April 1; summer and night school assignments are based on length of service, instructional effectiveness, program type, and staff balance; any reduction in summer school force is according to length of summer school service, staff balance, and instructional effectiveness; teachers who taught night school the preceding year have priority for night school assignments; night school reduction in force will be according to length of service in the night school, staff balance, and instructional effectiveness; leave granted teacher from day school also applies if night classes are cancelled; staff members shall be compensated for all scheduled classes provided annual number of days of class requirements are met; reasons for denial of a summer or night school appointment given upon request; teachers shall have option of suggesting methods for reduction of operating costs; a substitute teacher with a degree and certificate if found acceptable after 20 consecutive days in one assignment may not be removed until the end of the year or until the teacher returns; after teaching 40 consecutive days the substitute will be placed on the regular salary schedule; regular teachers evaluate substitutes to determine continuance of service; school nurses' facilities will include a clinic with hot and cold running water, sufficient space for 20-foot vision test, private phone, proper first-aid equipment, and service of school secretaries; board provides required medical examinations and vaccinations free of cost; however, teachers bear the cost of private health services; public-address interruptions of classes only in emergencies; librarians and learning center teachers recommend use of monies funding their fields; protection of teachers: written report shall be made of any assault on a staff member; if assault is "sufficiently severe," it shall be reported to the police and the staff member shall be excused to seek a physician's evaluation of his injuries; school faculty may request security assistance if discipline in the school is in jeopardy;

CIVIL DISTURBANCE

In case of a general civil disturbance in the area of a school, a professional staff member fearful for his safety should contact the proper school authorities for instructions as to work assignment.

No professional staff member will be required to report to a school where clear and present danger exists, as determined by the Superintendent.

In the event of disorder or other emergency, while school is in session, no professional staff member shall leave a class unattended or dismiss a class unless instructed to do so by the principal.

PROTECTION OF PROFESSIONAL STAFF MEMBERS

General—The Administration recognizes its responsibility to support professional staff members in the performance of their duties and shall fully support and assist professional staff members in the maintenance of control and discipline in the classroom. In accordance with Section 3319.41 of the Ohio Revised Code, a professional staff member, principal, or administrator may only use such force as is reasonable and necessary to quell a disturbance threatening physical injury to others, to obtain possession of weapons or other dangerous objects upon the person or within the control of the pupil, for the purpose of self-defense, or for the protection of persons or property. It is the responsibility of the professional staff member to provide a classroom learning situation which provides an atmosphere for learning to take place. When it becomes apparent that a break-down in classroom discipline is caused by a particular pupil who is disruptive in nature, it is the duty of the professional staff member and principal to find a reasonable solution to the problem.

DISRUPTIVE BEHAVIOR OF STUDENTS

Behavior which is regarded as disruptive is defined in Section 2151.022 of the Revised Code of Ohio as that of an "unruly child".

When the behavior of a student is identified as disruptive, a coordinated program of documentation will be instituted by the teacher or teachers, in conjunction with a School Counselor and/or Visting Teacher and/or School Psychologist. Such documentation will take place during a mutually agreeable period of time, not to exceed three (3) weeks.

Following the cooperative documentation, a conference will be held involving the teacher or teachers, parents, guardians, the principal and/or the School Counselor, and/or a School Psychologist and a representative of the D.C.T.A. The purpose of this conference shall be to:

Help determine root causes for the behavior.

Develop an individualized action program to meet the student's needs.

Provide a specialized counseling program to:

Act as positive feedback to those teachers concerned as to effectiveness of their educational approach regarding the disruptive student.

Maintain a longitudinal study of student improvement.

Provide the student with a personal relationship of professional quality to help resolve school oriented conflicts.

Should disagreement on the above program occur, the teacher, School Counselor and/or Visiting Teacher, and/or School Psychologist may present a written appeal to the Assistant Superintendent for Student Development, whereupon a conference shall be arranged with the teacher, a representative of the D.C.T.A., the principal and the Assistant Superintendent for Student Development. During the conference, the program for and placement of the student will be discussed with the object that all parties concerned might mutually agree on a satisfactory resolution. In the absence of such mutual agreement, the decision as to a final program and the placement of the student shall be that of the Assistant Superintendent for Student Development.

If a parental complaint against a teacher is not resolved through a personal conference, parents may pursue further action in writing; a copy shall be submitted to the teacher involved, who may either request a closing or filing of the matter or further action:

If requested by the complainant or the professional staff member, a meeting involving the professional staff member, the principal, and the complainant will be arranged at a mutually convenient time to discuss the complaint.

If the complaint is unresolved, it may be appealed to the appropriate director or assistant superintendent.

If it is not resolved at that level, it may be appealed to the Superintendent.

If it is still unresolved, it may be appealed to the Board.

In each of the steps above, a professional staff member may request, and be accompanied by counsel and/or representative of his choosing. Conferences regarding such complaints shall be private.

Rotation of staff members only upon request; student-teacher supervisory qualifications;

COOPERATING TEACHER

The Board recognizes the professional responsibilities of teachers to assist student teachers in developing into competent professionals. The Board also recognizes the fact that there is a certain degree of both personal enrichment and self-development in the cooperating teacher in his work in assisting and guiding the professional growth of the neophyte. The Board also recognizes that teacher training institutions have a responsibility for compensation and remuneration of those teachers who are supervising student teachers. This remuneration may come through college credit, free course offerings or through cash payment.

The Board will attempt to establish with universities the following policy:

An in-service course for those teachers with a minimum of three (3) years' teaching experience who desire to sponsor student teachers. This course should consist of appropriate lectures and discussion which will aid the cooperating teacher in his supervisory role with the student teacher. The course shall be waived for those persons who have through the years sponsored student teachers in the Dayton Public Schools.

Upon completion of this course, a teacher shall notify the Administration if he is willing to accept a student teacher for a supervised student teaching experience. No teacher shall be asked to supervise more than one student teacher at a time.

In addition to having completed the in-service course, the cooperating teacher should:

Possess at least a Provisional Certificate and a Bachelor's Degree.

Have three (3) years' teaching experience (one of which must have been in the present teaching field).

Have taught one year in the Dayton Public Schools.

Indicate an interest in teacher training and professional development.

Make application.

As candidates for student teaching become available, they shall be assigned to the various schools equitably.

The D.C.T.A. agrees to accept student teachers as associate members during their training period and include them in appropriate meetings and activities of the Association.

The Board agrees to provide student teachers with a copy of the texts, guides and building policies to assist them during this period.

No professional staff member will be assigned a student teacher without the professional staff member's consent.

Board encourages departmentalization and other organizational patterns which may more effectively achieve teaching objectives; department chairmen appointed by the principal with consent of department members; duties of department chairmen are to: "Develop curriculum materials, hold departmental meetings, confer with teachers on instructional problems, conduct demonstration lessons, visit classrooms on request of individual teachers, assist in the orientation of new teachers, assume responsibility for intra-departmental communication, advise on materials, supplies and equipment, represent the department in program planning and evaluating departmental performance with the administration"; to assist in the performance of these functions department chairman's teaching load shall be adjusted to extent possible; staff representatives to participate in development of plans for new buildings or for remodeling; provision for integration of the schools and for balancing staff according to age, experience, training, race, and sex.

Fairfax County, Virginia

Between the Fairfax County School Board and Fairfax Education Association, effective July 17, 1971, to June 30, 1973. Approximately 6,345 certificated professional employees. Provision for renegotiation to start by September 15 and for mediation if agreement is not reached by November 15. Provision for reopener if sufficient funds are

not appropriated by the County Board of Supervisors. This agreement is automatically suspended during circumstances beyond the control of the school board such as an "act of God, riot, flood, civil disorder, national emergency, or other such acts."

COMPENSATION: (1972-73, based on a 4.4 percent cost-of-living revision of the 1971-72 salary schedule) B.A., $7,600 to $13,721, 12 increments; B.A. plus 15 hours, $14,553 maximum; M.A., $8,000 to $17,122, 17 increments; M.A. plus 30 hours, $17,852 maximum; Ph.D., $18,583.

DIFFERENTIALS: High-school major sport head coaches, newspaper, yearbook, equipment manager, assistant athletic director, $915; high-school major sport assistant coaches, dramatics, girls' sports head coaches, intramurals, $680; high-school girls' sports assistant coaches, band, cheerleaders, debate, choir, literary magazine, minor sports, ticket manager, $470; high-school forensics, junior and senior class advisors, $310; junior high intramural coordinator, $680; junior high assistant intramural coordinator, $495; junior high yearbook newspaper, and S.C.A., $310.

OTHER: Ten cents per mile reimbursement for use of own car for school business, a wage and salary cost consultant, whose fees will be shared equally by the board and the association, will make recommendations for design and structure of administrative salary scale; credit applied to teachers' progress toward the M.A. plus 30 hours lane for up to 5 hours' credit earned prior to meeting M.A. requirements; all veterans with 3 years' active military experience who have received only 2 years' credit will be given 3 years' credit "providing the total maximum salary credit in effect at the time of initial employment or promotion is not exceeded, no retroactive pay; $10 per day for sick leave accumulated after July 1, 1968.

LEAVES: Twelve days' annual sick leave, unspecified maximum accumulation; 3 days' personal leave, if unused, credited to sick leave; establishment of voluntary sick leave bank contingent upon participation of at least 2,000 employees; each employee donates one day of sick leave per year and may draw up to 45 days after 30 days' absence once own sick leave is depleted; if bank ever has less than 1,000 days additional assessment will be made; inservice leave contingent upon prior approval for professional conferences, school visitation, county classes, training sessions, and workshops; sabbatical leave at half pay with at least 20 sabbaticals offered in 1972-73 (providing there are 20 qualified applicants), at least 50 percent of the sabbaticals shall be given to teachers; up to 5 days' leave upon application for enrollment in college or university summer school; adoption leave available; leave with pay to employee having a positive tuberculin test pending final diagnosis; if teacher has tuberculosis, he may use all accumulated sick leave prior to severance; administrative leave will be provided if accumulated sick leave does not cover absence prior to severance.

INSURANCE: Board-paid hospitalization, medical-surgical, and major medical insurance coverage for individual premium or payment of three-fourths of family premium; if both husband and wife are employed in the district, board pays full family health insurance premium; major medical protection increased from $[illegible] to $[illegible]," joint "insurance Committee" to study hospitalization options annually; board pays one-third of premium for long-term disability protection.

ASSOCIATION: Administrative leave for state association convention delegates or participants upon request; experience credits given for unpaid leaves of absence of up to 2 years to engage in local, state, or national association activities; board to provide the association with list of personnel assigned each school as available; no-strike clause.

INSTRUCTION: School year, 9-3/4 months consisting of 185 instructional days and 8 inservice or record days;

> Days missed as a result of inclement weather shall not be made up except in the event that the total number of teaching days should fall below a minimum of 180. In such event, week days following the last teaching day of the school session will be used with one (1) work day to follow the final day pupils report.
>
> Principals will be directed to release teachers who have completed all required reports and other obligations from reporting on the final work day.

Assignment of additional specialists: 5 librarians or audio-visual specialists in 1971-72 and 2 in 1972-73; one additional director of health and physical education for 5 high schools in 1971-72 and one for 7 high schools in 1972-73; and 4 psychologists; maximum of one 11-month secretary per elementary principal; special reading courses will be made available to teachers willing to learn more about teaching and diagnosing students having reading problems.

PERSONNEL: Grievance procedure ends with advisory arbitration; 30-minute duty-free lunch period except when pupils' lunch period is less than 30 minutes; 2½ hours per week conference preparation time for grades 1-6 teachers; utilization of school librarians as a means of providing preparation time to be discontinued; $135,000 tuition reimbursement fund provided; written teacher evaluation records to be maintained with teachers receiving copies of each evaluation; joint committee to continually develop and review evaluative instruments; 12-month extended contracts available on a voluntary basis to 390 teachers with criteria for selection including an application, 3 years' successful teaching in the county, a professional teaching certificate, principal's recommendation, and priority for tenure and longevity (may be waived when special skills are involved); in addition, department chairmen may receive extended contracts, the grievance procedure will apply during term of extended contract, teachers may resign from extended contracts without prejudice to later re-application, at least 4 special education teachers will be offered extended contracts; extended contract teachers will teach summer school, develop curriculum, participate in workshops, or other appropriate activities; transfer requests submitted before April 15 will be acted upon before hiring new personnel; staff members transferred involuntarily will be notified by April 15 (except in unusual circumstances) with reasons for transfer provided upon request; best interests of the education program will be criterion for transfers; teachers transferred because of de-staffing a school will have their preference of vacancies in other schools; appointment of principals for elementary schools by April, for intermediate and high schools by January 1, and for new grades 7-12

complexes by July 1 one year prior to opening; Faculty Advisory Council in each building to discuss matters pertaining to school operation and instructional program;

PROFESSIONAL STUDY COUNCIL

There is hereby established a Professional Study Council consisting of the Superintendent or his representative and two persons appointed by the Superintendent, and the Executive Director, the President, and the President Elect of the Association. The Council will meet periodically to discuss matters of mutual concern. Generally, the Professional Study Council will be expected to meet at not less than approximately monthly intervals during the school year, but the actual schedule of meetings will be left to the discretion of the Professional Study Council itself. Whenever it is jointly agreed to hold meetings during the school day, the members of the Professional Study Council, or members of any subcommittees created by it and whose attendance is required, shall be relased from school duties without loss of salary. Expenses arising from the operation of the Professional Study Council shall be shared jointly by the Board and the Association.

Joint Retirement Committee to study and make recommendation for programs supplementing state retirement program; the board may require board-paid mental or physical examinations; "married couples may not work in the same school."

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NEGOTIATION RESEARCH DIGEST

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RESEARCH

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CASE REVIEWS

CALIFORNIA

Appeals Court Overturns Lower Court's Appointment of Neutral Member to "Persistent Disagreement" Committee

The California Court of Appeals overturned a lower court's appointment of a neutral third member of a "persistent disagreement" committee to resolve impasses between the Westminster Teachers Association (WTA) and the Westminster school district.

The court ruled that it would be inappropriate for a court to change a "comprehensive, unique, experimental scheme" for California teachers' labor relations by adding procedures "intentionally omitted by the legislature."

The state's Winton Act, which requires school employers to meet and confer with teacher representatives, provides for a three-member persistent disagreement committee to resolve persistent disputes. WTA and the school board met and conferred on a persistent disagreement resolution, but were unable to agree on a resolution procedure. The parties' efforts to designate a neutral representative to serve on the committee were fruitless, whereupon WTA petitioned the Orange County Superior Court to appoint a neutral third member.

The school board challenged the court's jurisdiction to appoint the third member. However, the court indicated that it had such authority and that it would obtain nominees from the state superintendent's office but inadvertently obtained a list of nominees from the Los Angeles County School superintendent. WTA suggested that the neutral third member be selected from a list obtained by the State Conciliation Service (SCS). This the court adopted and ordered.

The school board appealed the court's imposition of a third party, claiming that the court had no jurisdiction to do so and that it abused its discretion by using the SCS list.

WTA contended that while the law provides the right to form a persistent disagreement committee, it does not provide procedures for selecting the neutral third member in the event the parties cannot agree. Therefore, the court must provide a remedy.

The appeals court determined that the judiciary was not authorized to appoint a member to the statutory persistent disagreement committee. It held that "the imposition on either party of a member of the persistent disagreement committee selected by the court rather than by agreement of the parties is inconsistent with the Winton Act." The court ruled that it is inappropriate for the courts to alter a comprehensive, unique, experimental scheme enacted by the legislature by adding procedures intentionally omitted. (*Westminster School District et al. v. Orange County Superior Court, WTA, et al.*, Court of Appeals, Fourth District, Second Division, State of California, October 13, 1972.)

CONNECTICUT

State-wide Negotiation Act Has Precedence Over City Ordinances

The Connecticut Supreme Court ruled on the appeal of three cases argued before it as companion cases. The major resolution in each case depended on a common basic issue—"the respective powers of a board of education vis-a-vis the municipal board of finance." In each case the court ruled that the financial provisions in collective bargaining agreements between the Waterbury Board of Education and the Waterbury Teachers Association (WTA) are subject to the approval of the Waterbury Board of Finance.

The disputes involved the conflict between provisions of the Waterbury Charter which vest the city board of finance with the power to approve the salaries of teachers as fixed by the board of education and act [No. 298] entitled "An Act Concerning the Right of Teachers' Representatives to Negotiate with Boards of Education." The case is based on the original Act of 1965.*

The association contended that Public Act 298 bound the school board to the terms of the negotiated agreement. According to the association, the Act's use of the word *contract* indicated "a legislative intent to add a binding effect to a negotiated salary agreement" and to invalidate all prior inconsistent legislation.

The court, in reconciling the charter with Public Act 298, reasoned that the legislature intended that "the [negotiation act] be read in light of existing legislation." Rejecting the association's argument that the legislature intended to add a binding effect to negotiated salary agreements, the court pointed out that "nowhere does [Act 298] say who

*The 1969 amendments to Public Act 298 now provide a period of rejection of negotiated appropriation and further, that notwithstanding the provisions of any special act, municipal charter, or local ordinance, the provisions of Public Act 298 shall apply to negotiations concerning salaries and conditions of employment conducted by boards of education and certified personnel.

should approve the contract before it becomes binding on the municipality or whether approval of any body other than the board of education is required." The court decided all three of the Waterbury contract dispute cases in light of this interpretation of the relevant statutes, but decided each separately.

- In the first case, the court determined that the school budget set by the city board of finance legitimately negated the negotiated pay raises. This decision upheld a lower court ruling which had determined that the negotiated salary increments were not legally binding without the approval of the board of finance (as required by the city charter). The state supreme court likewise refused to mandate payment of the raises.
- When the board of education declined to pay raises negotiated in 1965, the association sought $40,000 in damages. The lower court denied the association relief. Again referring to the city charter, the state supreme court upheld the lower court's ruling.
- Regarding the third dispute, the state supreme court upheld a lower court's finding that an arbitrator had exceeded his authority when ruling in favor of the association concerning a pension plan dispute. Once again citing the city charter and the education laws, the court observed: "The tenor of our opinion in this trilogy of cases has been that the special laws which make up the Waterbury City Charter are valid and governing insofar as they apply to contracts and expenditures of the board of education which are not within the 'overriding exception' for expenditures which are necessary for the fulfillment of the board's statutory obligation to 'maintain. . .good public elementary and secondary school." (*Waterbury Teachers Association v. Arnold Furlong, et al.; Waterbury Teachers Association v. Board of Education; Waterbury Board of Education et al. v. Waterbury Teachers Association*, Connecticut Supreme Court, February 29, 1972.)

NEW YORK

School Board Has Sole Authority To Grant Sabbatical Leave

The New York Supreme Court ruled that the granting of sabbatical leave is the prerogative of the board of education, and the superintendent's recommendation of teachers for sabbatical leave does not establish a contractual right to sabbatical leave. The Plainedge Federation of Teachers (PFT) sought a judgment under Article 78 of the Civil Practices Laws and Regulations (CPLR), directing the board to grant to seven teachers sabbatical leave which had been approved by the superintendent.

The teachers' suit contended that the board was required to grant sabbatical leave to teachers recommended by the superintendent in accordance with the provisions of the collective bargaining agreement between the board and the PFT.

The board argued that a proceeding under Article 78 of the Civil Practices Laws and Regulations "is not a proper vehicle for the enforcement of an employment contract." The court agreed with the board's contention, but since the parties were before the court, the improper form was overlooked and the case was treated as an action for declaratory judgment rather than as an order of *mandamus*, the proper remedy for violations of legally imposed duties.

The court ruled that according to the bargaining agreement teachers had "no right to sabbatical leave and that the granting of such is solely within the discretion of respondent." Accordingly, the court ruled that the board had the right under the contract to reject requests for sabbatical leave. (*Ewen v. Board of Education of Union Free School District 18, Plainedge*, New York Supreme Court, Nassau County, June 10, 1972.)

Tenure Law Does Not Preclude Use of Arbitration Machinery in Dismissal Cases

The Nassau County Supreme Court denied a motion of the Board of Education, Union Free School District #3, to stay arbitration of an individual teacher's dismissal dispute. The court found that the board did not prove that a valid agreement to arbitrate had not been made or that the arbitration was untimely.

The board filed the motion to stay arbitration subsequent to the institution of arbitration proceedings in a teacher's dismissal case. The board contended that under the state tenure laws there were other legal avenues available for an "aggrieved teacher" to challenge the adverse decision of the school board.

The court agreed with the board's contention, but added that a teacher had the right to choose arbitration to settle the dispute. Viewing the fact that the board had already involved itself in the initial stages of the arbitration procedure, the court believed that the board was estopped from filing a motion to stay arbitration. Accordingly, the court dismissed the board's motion, and ordered the arbitration proceedings to continue. (*McCarthy v. Board of Education, Union Free School District #3, Town of Huntington*, New York Supreme Court, Nassau County, August 3, 1972.)

RHODE ISLAND

Longevity Increases, Graduate Course Reimbursement, and Agency Shop Provisions Upheld

The Rhode Island Supreme Court ruled that an arbitration panel did not overstep its jurisdiction by awarding longevity pay increases and reimbursement for graduate courses, and recommended inclusion of an agency shop clause in a contract between the School Committee of the

Town of North Kingston and the North Kingston Teachers' Association (NKTA).

The school committee filed the complaint against the arbitration decision, contending that longevity increases and reimbursement for graduate courses are bonuses and therefore outside the scope of bargaining under the School Teachers' Arbitration Act (STAA). The school committee also argued that negotiation of an agency shop provision would be in conflict with the right-to-work provision of the STAA, which guarantees public-school teachers the freedom "to join or to decline to join any association or organization regardless of whether it has been certified as the exclusive representative of certified public school teachers." Additionally, according to the school committee, the teachers' bargaining act which is more restrictive than other state labor acts, indicates legislative intent to invalidate the agency shop as a type of union security provision.

Determining that longevity pay increases and reimbursement for graduate courses are regarded as salary under the STAA, the court ruled that these two items are within the scope of bargaining.

The NKTA argued that agency shop is valid as the two acts are not incongruous, and that the silence of the STAA regarding the paying of union dues by nonmembers is evidence of legislative intent to allow rather than ban an agency shop clause in a teacher contract.

The court noted that neither from the language of the Act nor the report of the legislative commission preceding its enactment could legislative intent be ascertained.

"It is as if there were a complete lack of awareness that there might someday be a proposal to include an agency shop provision in a labor agreement," the court said. The court decided that it had to "legislate between the gaps and fill the open spaces in the law" in order to formulate an appropriate rule concerning the agency shop issue.

Considering that a representative union must, by law, negotiate for both union and nonunion members and that such negotiations are costly, the court held that it would be inequitable to permit nonunion members to benefit from the services rendered by the union without requiring these members to bear a fair share of the financial burdens. The court approved an agency shop provision similar to the provision in *New Jersey Turnpike Employees, Local 194, AFL-CIO v. New Jersey Turnpike Authority* which requires nonunion members to share only those expenditures related to bargaining. (*Town of North Kingston et al., v. The North Kingston Teachers Association*, Rhode Island Supreme Court, November 30, 1972.)

SOUTH DAKOTA

Educational Policy Not Negotiable

The South Dakota Circuit Court ruled that the Aberdeen School Board could take unilateral action after conducting reasonable negotiations with the Aberdeen Education Association (AEA) in respect to subjects on which the board is legally required to bargain and that it need not negotiate on subjects that are educational policy or management responsibilities.

After reviewing the AEA negotiators' list of 15 items, the school board determined that it would negotiate on four items and refused to negotiate on elementary conferences, teacher aides, class size, audiovisual expansion, school-wide guidance and counseling programs, mandatory retirement of administrators, elementary planning periods, and budget allowances on the ground that they were not proper bargaining subjects under South Dakota's public employee bargaining statute.

The court pointed out that the employer is obligated to negotiate only items that have to do with conditions of employment, i.e., matters that directly affect the teachers' welfare and do not include "those matters which are predominately matters of educational policy, management prerogatives, or statutory duties of defendant board of education." According to the court all of the matters that the school board refused to bargain on were within the scope of the policy and management responsibilities of the board of education. (*Aberdeen Education Association v. Aberdeen Board of Education*, Brown County, South Dakota, Circuit Court, October 17, 1972.)

BOARD FINDINGS AND RULINGS

HAWAII

Student-Teacher Ratios Negotiable; Methods for Attaining the Ratios Not Negotiable

The Hawaii Public Employment Relations Board (HERB) determined that student-teacher ratio is a negotiable item, but that the method for attaining that ratio is a management prerogative. The HERB examined the "hybrid issue" of the negotiability of the pupil-teacher ratio, which involves both working conditions and management prerogative, in light of legal precedent, the parties' collective bargaining agreement, and the Hawaii Revised Statutes.

Included in the Hawaii Public Employment Relations Statute is the requirement that "public employers... negotiate with and enter into written agreement with exclusive representatives on matters of wages, hours, and other terms and conditions of employment" (Sec. 1). In addition, matters that are not negotiable are subject to consultation (Sec. 9 (c) if they in any way affect employee relations. Since a provision requiring that pupil-teacher ratio be reduced by one pupil per teacher obviously relates to working conditions, the HERB declared it a legitimate item for negotiation.

However, the HERB upheld the objection of the Department of Education (DOE) to negotiation of the precise method for reducing class size on the basis that state statutes do not allow a public employer to negotiate away the right and responsibility "to direct...transfer, assign and retain employees in positions,...maintain efficiency of government operations; determine methods, means, and personnel by which the employer's operations are to be conducted" (Sec. 9 (d) (1, 2, 4, 5).

Further, the Hawaii Constitution provides that "the board of education shall have power, *in accordance with law,* to formulate policy, and to exercise control over the public school system" [emphasis added]. Thus, HERB voided the contractual provision that dictated the number of employees to be hired on the basis that this was "clearly a managerial decision." HERB held that the DOE can transfer teachers from support and special positions to classroom teaching positions, but in doing so, cannot eliminate negotiated staff benefits, such as duty-free preparation and lunch periods. Thus, the DOE had violated Sec. 9 (c) of the Act which requires consultation on "all matters affecting employee relations" when it failed to consult with the HSTA about the hiring, assigning, or transferring of teachers. The DOE's action was also in violation of the contract maintenance of standards clause.

The HERB resolved a jurisdictional question raised by a negotiated provision requiring final and binding arbitration for the settling of contract interpretation disputes and the scope of its authority in such matters. The Board, interpreting legislative intent, determined that the statute vested all authority in the Board, which can remand a case for settlement through the arbitration procedures.

Also resolved was the parties' disagreement over the method for determining pupil-teacher ratios. The DOE had determined a ratio of 27.4 to 1 by dividing the total number of pupils by the number of teachers (excluding special and support teachers) so that when special and support teachers were later transferred to classroom positions, the ratio appeared to decrease to 26.4 to 1. The HERB approved the Association's method, which included only those teachers actually in the classroom on the agreement's effective date in the ratio's common denominator. A ratio of 26.4 pupils per teacher, on the basis of the HSTA method of calculation, was upheld and the DOE was ordered to reduce average class size by one pupil per teacher "to the fullest extent possible" in accordance with the parties' agreement.

Also ordered were the reinstatement of the temporary support positions so that duty-free preparation and lunch periods might be continued, and consultation between the DOE and the HSTA on any matter that might arise in the future which affects employment conditions. (*In Matter of the Hawaii State Teachers Association and Department of Education*, Hawaii Public Employment Relations Board, October 24, 1972.)

MICHIGAN

Faculty Bargaining Unit Can Be Expanded by Accretion

Positions created after a unit determination become part of the new unit under the doctrine of accretion. Using this rationale, the Michigan Employment Relations Commission (MERC) determined that athletic coaches at Oakland Community College appropriately belong in the faculty unit, the Oakland Community College Faculty Association (OCCFA).

The MERC found that the "athletic program [of the college] is an integral part of faculty duties and responsibilities," and that the institution's total course of studies gave coaches a close community of interest with the academic faculty.

The MERC decision upheld a trial examiner's conclusions which had been tested in the state courts and returned to the MERC for final determination. The Commission held

that the college's refusal to bargain with the OCCFA over the terms and conditions of employment of the coaches, regardless of their faculty status, violated the college's obligation under the Public Employment Relations Act to bargain with the employee organization.

The MERC explained that its decision to include coaches in the recently certified bargaining unit represented by the OCCFA was owing to the athletic coaches and the academic faculty's community of interest in the educational process. And though the college excepted to the trial examiner's decision to include the coaches in the unit and his order to bargain, the MERC ordered the college to bargain with the association over wages and working conditions of coaches. (*In Matter of Oakland Community College and Oakland Community College Faculty Association*, Michigan Employment Relations Commission, September 20, 1972.)

Board of Education Ordered To Rehire Teacher Fired for Involving Board in His Financial Woes

Ruling that the penalty imposed on a teacher was too severe in view of certain "mitigating circumstances," an arbitrator ordered the Dryden Board of Education to rehire for a third probationary year a teacher who had been fired because he had involved the administration in his personal financial problems.

Grieving the teacher's dismissal, the Dryden Education Association (DEA) cited two contractual provisions that the board had allegedly violated. One provision stated that "the private and personal life of any teacher is not within the appropriate concern or attention of the board" and the other provided that "no teacher shall be disciplined. . .without just cause."

The arbitrator rejected DEA's initial argument on the grounds that the teacher had "made his personal financial problems the concern of the board by involving the superintendent, by obtaining wage assignments, and by generally discussing his financial problems with the board." He then held that the teacher's nonrenewal was in fact a disciplinary action and focused on the question of whether or not the nonrenewal of the teacher's contract was for just cause.

The arbitrator argeed that the board should not have to spend time administering the financial problems of a teacher or be concerned with queries as to why a teacher cannot pay his bills. He pointed out, however, that since the teacher was attempting to pay his debts and remedy his financial status, the penalty of losing his job was too severe; moreover, the board considered the grievant a good teacher.

The arbitrator also noted that prior to the board's nonrenewal action the teacher should have been notified in writing that he would not be renewed if he continued to involve the board in his financial problems. On the basis of the foregoing, the arbitrator ordered the board to renew the teacher's contract. (*Dryden Board of Education and Dryden Education Association*, American Arbitration Association, July 25, 1972.)

PENNSYLVANIA

PLRB Delineates Additional Negotiable Items

The Pennsylvania Labor Relations Board (PLRB) declared that sick leave bank, occupational disease, family illness, court leave, unsafe teaching conditions, assaults on teachers, legal proceedings involving teachers, actions before the board of education, reimbursement for job-related medical expenses, loss of or damage to property, and compensation for extracurricular duties and athletic coaching are negotiable items. Thus, the refusal of the Cameron County and Richland School Districts to bargain collectively with teacher organizations concerning mandatory negotiable items violated Section 1201 (a) (5) of the Pennsylvania Employee Relations Act (PERA).

This section prohibits public employers from "refusing to bargain collectively in good faith with an employee representative" as specified in Section 701 of the PERA with "respect to wages, hours, and other terms and conditions of employment." The PLRB's interpretation of the Act rejected the contention of two school boards that the disputed items were matters of "inherent managerial policy."

- In the Richland School District case, the PLRB observed that the subjects, such as teaching standards, budgets, technology, organization, and personnel, which involve "the foundation of the operations of a school system," are matters of "inherent managerial policy" because "these items begin at the management level and filter down to the employees." However, the Board found negotiable those items that "often originate closer to the employee level and have a direct, immediate bearing on [employees]." The negotiable items which the Richland School Board refused to negotiate were sick leave bank, occupational disease, family illness and court leave, unsafe teaching conditions, assaults on teachers, legal proceedings, actions before the board of education, reimbursement for the cost of job-related medical expenses, and loss of or damage to personal property. Determining that these items directly concerned the teachers' conditions of employment, the Board held that they were "fit topics of collective bargaining."

Also rejected was the school board's contention that the School Code precluded the board from negotiating these topics. The PLRB pointed out that the Code does not limit the powers of school districts, but rather establishes minimums of what teachers may receive. The PLRB stated that the "upper limits of what teachers may receive is subject to bargaining between the parties." (*Pennsylvania Labor Relations Board v. Richland School District*, Pennsylvania Labor Relations Board, November 20, 1971.)

- In the Cameron County School District case, the PLRB maintained that compensation for extracurricular duties and athletic coaching "cannot be divorced from the

overall salary paid for services and must be considered an integral part of the wage scale calculation." Rejecting the school board's position that extracurricular positions were nonprofessional and not within the scope of the bargaining unit, the Board held that compensation for them is bargainable. Further, Section 701 of the PERA specifically required collective bargaining with "respect to wages." (*Pennsylvania Labor Relations Board v. Cameron County School District*, Pennsylvania Labor Relations Board, November 15, 1972.)

Second Election for Catholic Lay Teachers Ordered

Determining that the Archdiocese of Philadelphia Elementary School System circulated menacing campaign literature and challenged an extremely large number of ballots during the June 1972 election, the Pennsylvania Labor Relations Board (PLRB) ordered a second election for the 1,400 Catholic lay teachers.

Campaign literature circulated by the archdiocese before the first election consisted of letters which, according to the Board, "lifted out of context" a portion of the decision directing an election, after finding that lay teachers were subject to the state's Public Employee Relations Act as their work "did not extend to the making of policy on religious matters." The PLRB was accused of implying that lay teachers have no real role in accomplishing the Catholic schools' religious purposes and that lay teachers would be admitting their noncontribution to the religious education of the children by voting for the union.

The Board determined that approximately two-thirds of the challenged ballots were cast by teachers who on the day of the election were eligible to vote.

In view of the archdiocese's campaign tactics, the number of challenged ballots, and the PLRB's loss of control of the election, a second election was ordered and the archdiocese was directed to conduct the second campaign "in an uncoercive manner," to limit its challenges to bona fide questions of eligibility, and to post the findings and conclusions of the PLRB. (*PRLB v. Archdiocese of Philadelphia Elementary School System*, Pennsylvania Labor Relations Board, December 15, 1972.)

WISCONSIN

WERC Refuses To Issue Advisory Arbitration Award

The Wisconsin Employment Relations Commission (WERC) determined that it would be an abuse of its procedures to issue an advisory award and to proceed in a prohibited practice complaint on the same issue involved in the advisory arbitration.

Superior Federation of Teachers requested WERC to appoint an impartial arbitrator to resolve a dispute between the Federation and the Superior Board of Education. During the hearing, it was determined that the arbitrator's jurisdiction was limited to the issuance of an advisory award, binding on the parties only if they agreed.

The Commission decided not to appoint any member of its staff or Commission to issue advisory awards because they are not final and binding upon the parties. WERC stated that the parties should agree to final and binding arbitration, or the party alleging a contract violation should proceed in a prohibited practice complaint before the Commission. (*Superior Federation of Teachers Local 202, WFT, AFT, AFL-CIO and Superior Board of Education*, Wisconsin Employment Relations Commission, October 31, 1972.)

Nonrenewal of Teacher's Contract Ordered to Arbitration

An examiner for the Wisconsin Employment Relations Commission (WERC) ruled that the board of education and Oostburg Joint School District 14 committed a prohibited practice by refusing to proceed to arbitration concerning a grievance on nonrenewal of a teacher's contract.

The complaint was brought by the Oostburg Education Association, alleging that the board violated the contract when it did not hold a hearing or agree to submit the grievance to arbitration, and that the teacher was terminated without cause.

The board contended that WERC lacked jurisdiction in the matter and that the teacher was not terminated but that her contract was not renewed. Further, the board alleged that the nonrenewal of a contract is not covered by the agreement but is subject to Wisconsin Statutes and thereby is not subject to the grievance procedure.

The examiner held that according to Wisconsin Statutes, WERC has jurisdiction to determine unfair labor practices, as in this case. He determined that the issue of whether nonrenewal constituted termination, required an interpretation of *termination* and Article II of the collective bargaining agreement (which provides that the board may select and terminate a teacher for cause). The examiner ruled that such a determination must be made by an arbitrator, as provided in the agreement, not by the examiner.

The board contended that the 1970-71 contract had expired; therefore it did not violate that agreement. Further, the board argued that the teacher could not allege rights under a contract not in existence. But the examiner noted that WERC has held that the expiration of an agreement does not excuse the employer from arbitrating a dispute which arose during the term of the agreement.

Concluding, the examiner ordered the board to cease and desist from refusing to submit the grievance to arbitration, and directed the board to comply with the arbitration provisions of the agreement with respect to the grievance. He also ordered the board to notify the association that it would proceed to arbitration, and to assist the association in the selection of an arbitrator. (*Oostburg Education Association and Ruthanne Meyer v. Oostburg Joint School District No. 14 and Board of Education of Oostburg Joint School District No. 14*, Wisconsin Employment Relations Commission, November 17, 1972.)

Negotiation Notes

MASSACHUSETTS

Public View as a Precondition for Negotiations Illegal

Almost two years after the alleged violations had occurred, the Massachusetts Labor Relations Commission (MLRC) ruled that the City of Salem had violated the Public Employee Labor Relations Act (PERA) by insisting on public view bargaining as a precondition to negotiations with the International Association of Fire Fighters (IAFF). The city's conduct, according to MLRC, constituted a refusal to bargain in good faith.

When IAFF proposed amendments to the agreement, the city insisted "that as a precondition to negotiations the bargaining had to be held open to public view" and in the presence of rank-and-file members of the union. The IAFF proceeded to negotiate under protest, but when negotiations stalled, it filed charges with MLRC, alleging that the city violated the PERA by insisting on "public view" as a precondition to negotiations.

The MLRB noted the similarity between the Massachusetts bargaining statute and the National Labor Relations Act (NLRA) which holds that negotiating parties can insist only on mandatory bargaining subjects such as wages, hours, and conditions of employment, as a bargaining precondition. Since public view bargaining does not fall within wages, hours, and other conditions of employment, and is not mandatory subject of bargaining, the court ruled that the city's insistence on it was illegal. However, the MLRB stated that had the IAFF agreed to the city's proposed public view bargaining, it would have become legal and the city would not have violated its duty to bargain in good faith.

The city's insistence that negotiations be conducted in the presence of rank-and-file members of the fire fighter's unit was determined to be "contrary to uniform bargaining practice, [and] not conducive to the orderly, informal, and frank discussion of the issues confronting the negotiators necessary to reach a contract, and violates the duty to bargain in good faith." The court also said that public view bargaining interferes with the employees' right to bargain through representatives of their own choosing.

Since setting preconditions to negotiations was "inconsistent with the procedural framework for municipal collective bargaining as set forth in the law," the MLRB ordered the city to bargain in good faith and to cease insisting on public view as a precondition to negotiations. (*Mayor Samuel E. Zoll and City of Salem and IAFF Local 1780*, Massachusetts Labor Relations Commission, December 14, 1972.)

MICHIGAN

Impact of CSC Rules Subject to Grievance Machinery

The Michigan Employment Relations Commission (MERC) upheld a trial examiner's ruling that the Flint Civil Service Commission (CSC) violated the state's Public Employee Relations Act (PERA) by refusing to bargain with representatives of Local 1600, American Federation of State, County, and Municipal Employees, over the impact of newly reinstated residency requirements. The CSC had decided to further its affirmative action programs funded under the Federal Emergency Employment Act by imposing a residency requirement for new employees in positions other than those requiring college preparation. The union was notified of the change through a copy of the minutes of the CSC meeting.

Upon the city's refusal to rehire nonresident seasonal workers covered by the union contract, the union requested consideration of the effect of the residency requirement on city employees who might have current employee rights. When the CSC denied this request, the union charged that CSC had violated Section 10(e) of PERA.

At the hearing the CSC contended that "(1) the change in the residency requirement did not apply to current employees and thus had no effect on the bargaining unit; (2) CSC procedures are not grievable; and (3) two Michigan Supreme court decisions, *Detroit Police Officers Association (DPOA) v. City of Detroit and Williams v. Detroit Civil Service Commission* justify its residency requirement."

The trial examiner said that in *City of Pontiac (PPOA)* the MERC ruled that a public employer must bargain with the representative union with regard to a proposed change in residency even though the change was incorporated in an ordinance. The examiner also stated that nothing in the holdings in the two cases referred to by the CSC negated the city's obligation under PERA to "bargain with the agent of its employees in regard to the application, institution, or continuation of such requirement."

The trial examiner pointed out that even though the city did not have to bargain with the union concerning the application of the residency requirement to new employees, the employer should have bargained with the union to determine whether seasonal employees included in the bargaining unit were technically new applicants. Rejecting the CSC's contention that its procedures were not grievable, the trial examiner said that "CSC is only an arm of the City and there is nothing in the contract to indicate that its procedures are exempt from contract grievance procedure." (*City*

of Flint, Civil Service Commission, and American Federation of State, County, and Municipal Employees, Local 1600, Michigan Employment Relations Commission, September 26, 1972.)

FEDERAL

Motion for More Definite Statement of Sex Discrimination Denied

When the University of Wisconsin Board of Regents was charged with violating provisions of the Fair Labor Standards Act banning sex discrimination in paying wages, it requested a more definite statement of facts from the U. S. Secretary of Labor. The U. S. District Court ruled that the University had enough information in its records to frame a responsive pleading.

The University argued that the original pleading was so vague and ambiguous that it was unable to frame a responsive pleading without a statement detailing amounts, dates, and number of employees involved in the alleged acts of discrimination.

Relying on the case of *Schultz v. Manor House of Madison, Inc.*, the court pointed out that federal rules require "relatively skeletal pleadings and place the burden of unearthing the underlying factual details on the discovery procedure," and that the Board could form a responsive pleading from its own records, payroll, and operations either admitting or denying the allegations. In light of the above, the court denied the Board's motion. (*James D. Hodgson, Secretary of Labor, United States Department of Labor, Plaintiff v. The Regents of the University of Wisconsin and University Hospitals, Defendant*, United States District Court, Western District, Wisconsin, October 24, 1972.)

FSIP Supports Payment for Union Representatives' Negotiating Time

In three precedent setting cases, the Federal Services Impasse Panel authorized payment for time spent by union representatives negotiating with federal agencies. The FSIP recommended payment for different amounts of negotiating time depending on individual circumstances.

The cases involved the Immigration and Naturalization Services of the Justice Department, the Texas Air National Guard, and the Naval Plant Representatives of the Navy Department bargaining with various locals of the American Federation of Government Employees. The AFGE argued that payment for on-the-clock bargaining was a necessary trade-off for the absence of the right to strike and the absence of union or agency shop. The FSIP believed that the preamble to Executive Order 11491 calling for the maintenance of constructive and cooperative relationships between labor organizations and management justified the payment of union representatives for negotiating time. According to the FSIP, "Paid official time for employees representing the union in negotiations is in keeping with this concept."

The FSIP's determination for the amount of compensated negotiating time depended on the size of the bargaining unit, the diversity of members' job classifications, and the geographical dispersion of the unit's members. "Negotiations" in the view of the FSIP, was the process beginning with preliminary meetings on ground rules and extending to "all aspects" of collective bargaining. The FSIP ordered payment for one-half of the negotiating time for AFGE representatives negotiating with the Immigration and Naturalization Services and the Texas Air National Guard, and for the first 40 hours of negotiations for AFGE representatives bargaining with the Navy Department's Navy Plant Representatives. In the last mentioned case, less paid time was authorized because the Panel believed that the parties' negotiations would be completed within 80 hours. (*Department of Justice, Immigration and Naturalization Services, and National Council of INS Locals, AFGE*, Federal Service Impasse Panel, September 25, 1972; *U.S. Naval Plant Representatives and AFGE Local 2693*, Federal Services Impasse Panel, September 25, 1972; *Texas Air National Guard and TANG Council of Locals, AFGE*, Federal Service Impasse Panel, September 25, 1972.)

Union Shop Clause Does Not Violate Constitutional Rights

Upholding a district court decision, the U.S. Court of Appeals dismissed an employee's complaint alleging that he had been unlawfully discharged because he refused to join the United Papermakers and Paperworkers Union, AFL-CIO, or pay the equivalent of union dues pursuant to affirmation of a contract that contained a union shop clause between the Watervliet Paper Company of Michigan and the union. The employee refused to pay union fees on the ground that to do so would be a violation of his religious beliefs and, therefore, a violation of his First Amendment Rights.

The court noted that Congress authorized the inclusion of union shop clauses in collective bargaining agreements under the National Labor Relations Act. Additionally, this legislation has been upheld by the Supreme Court of the United States. The court also cited two cases based on the issue involved in this case, *Linscoll v. Millers Falls Co.* and *Gray v. Gulf, Mobile and Ohio R.R. Co.*, in which the courts ruled against the grievants. (*Newell Hammond, Plaintiff-Appellant v. United Papermakers and Paperworkers Union, AFL-CIO et al., Defendants-Appellees*, United States Court of Appeals, June 14, 1972.)

ATTORNEY GENERAL'S OPINION

ARKANSAS

Public Employee Collective Bargaining Permitted

State agencies may bargain with public employees on nonlegislated items, but they are not obliged to do so.

items, such as wages and working conditions that are fixed by state law, are exempt from bargaining.

The attorney general observed that Amendment 34 to the state constitution permits public employees to belong to a union, but that the courts have held that municipalities are under no legally enforceable obligation to bargain with their employees. Citing court precedent, the attorney general noted that the "fixing of wages, hours and other conditions of employment are legislative responsibilities which may not be delegated or bargained away." He also cited *Norwalk Teachers Association v. Board of Education of the City of Norwalk (Connecticut)* wherein collective bargaining between public employees and a public employer concerning wages and working conditions was endorsed with the reservation that bargaining not go beyond the employer's power to delegate authority nor that any agreement be contrary to law (i.e., involve surrender of the agency's legal discretion).

The attorney general concluded that "while a public employer may bargain collectively with public employees through their union representatives, the scope of such collective bargaining is restricted by the legislative authority to fix wages, laws and other matters relating to working conditions."

Agencies will later be advised as to the extent to which they may negotiate with employees, since the legal limits of public employee collective bargaining have been left undefined.

OKLAHOMA

Paid Voting Leave Affirmed

The state attorney general, clarifying the statutory provisions mandating time off for voting, ruled that employees must be paid for such leave since denial of paid, voting leave time would penalize employees exercising their right.

Although the statute does not specifically grant paid-leave time, the attorney general held that legislative intent was to prevent employers from adversely influencing employees' exercise of voting rights by refusing to compensate them for time off for voting.

STATISTICS

NEGOTIATED PROVISIONS FOR INSERVICE TRAINING

Provisions concerning inservice training were contained in 35.0 percent of 1,529 comprehensive teacher agreements comprising NEA Research's Survey of 1970-71 Written Negotiation Agreements. By culling every fifth agreement, with at least one from each state having negotiated agreements, 110 provisions were selected for further analysis. The negotiated contents of these selected provisions were divided into three groups: (a) 12.7 percent contained stipulations concerning salary credit for participation in inservice training programs; (b) 36.4 percent made general statements either agreeing to establish an inservice program or recognizing an existing program, which had not been included in the agreement; and (c) 50.9 percent established guidelines for the existing inservice training program (Table 1). As the last mentioned category, which comprised over half of the selected provisions (56), was the most comprehensive insofar as these provisions related to functional programs, a sub-category was established for intensive analysis. The remainder of this article concerns these 56 provisions.

More than one-half of the 56 provisions specified purposes of the programs (Table 2), with improvement of the quality of instruction and furthering the staff's professional growth the most prevalent.

As shown in Table 3, the teachers and/or association's role in developing inservice training was outlined in about 45 percent of the provisions. More than 3 provisions in 10 stated that inservice training would be developed jointly by the association and the board of education, through either organized joint committees or informal consultations and meetings.

About 7 provisions in 10 indicated the types of inservice activities to be offered in the school district. The majority of provisions (48.2 percent) stipulated in-district activities,

TABLE 1.—INSERVICE TRAINING PROVISIONS, 1970-71

Item	Number	Percent
1	2	3
AGREEMENTS CONTAINING INSERVICE TRAINING PROVISIONS	534	100.0
Inservice training provisions selected for analysis	110	20.6
INSERVICE TRAINING PROVISIONS SELECTED FOR ANALYSIS	110	100.0
Specified only salary credit for inservice training	14	12.7
Contained general statement agreeing to establish or recognizing an existing inservice training program	40	36.4
Contained guidelines for an established program of inservice training	56	50.9
GENERAL CONTENT OF PROVISIONS CONTAINING GUIDELINES FOR AN ESTABLISHED INSERVICE TRAINING PROGRAM	56	100.0
Purpose of inservice training specified	29	51.8
Teacher involvement in developing inservice training program required	24	42.9
Types of inservice training activities offered	39	69.6
Requirements for attending inservice training stated	30	53.6
Time inservice training activities are to be conducted	29	51.8
Incentives for participating in inservice training stated	31	55.4

TABLE 2.–INSERVICE TRAINING PROVISIONS, 1970-71: SPECIFIED PURPOSE

Purpose	Number	Percent
1	2	3
To improve the quality of instruction	9	16.1
To further the staff's professional growth	8	14.3
To orient new teachers	4	7.1
To acquaint teachers with new curriculum and teaching methods	4	7.1
To improve the curriculum	4	7.1
Purpose not stated	27	48.2
Total	56	99.9

i.e., activities which were organized and directed by the school district, although outside personnel and resources were to be utilized in some instances. Activities conducted outside the school district (i.e., activities sponsored by professional organizations, higher education institutions, etc.) were the only form of inservice training indicated in 7.1 percent of the provisions.

Course work, specified in nearly one-half of the provisions, was to be conducted by the school district, sponsored by professional organizations or other groups, or offered by accredited higher education institutions. Workshops, specified by more than one-third of the provisions, were to be organized by the school district in 3 provisions in 10 and by professional organizations in 1 provision in 20. Inservice training meetings, exclusively school district sponsored, were specified in more than one-fourth of the provisions. Orientation sessions, curriculum development committees, purposeful travel, authorship of articles and books, attendance at professional conferences, research projects, class visitations, school district seminars, professional organization conventions, teaching college courses, and student/teacher supervision were infrequently found in inservice training provisions.

TABLE 3.–INSERVICE TRAINING PROVISIONS, 1970-71: ROLE OF TEACHERS AND TEACHERS ASSOCIATION IN DEVELOPING INSERVICE TRAINING

Role	Number	Percent
1	2	3
Program to be developed jointly by the teachers association and the board of education	17	30.4
Teachers and/or the teachers association to make recommendations to the board concerning inservice training	5	8.9
The teachers association must request inservice training	3	5.4
Role not stated	31	55.4
Total	56	100.1

More than 20 percent of the provisions contained statements regarding payment for inservice training expenses; 12.3 percent of the provisions stated that the board was to pay all expenses for in-district training, and 7.1 percent, required the board to absorb the cost of inservice training outside the school district. Relatively few provisions specified that the teacher was responsible for paying all inservice expenses.

As shown in Table 5, over one-half of the provisions analyzed contained requirements for teacher participation in inservice training. More than 20 percent of the provisions required all teachers to attend a specified number of inservice training meetings per year; 16.1 percent required first year or probationary teachers to participate in inservice training if the program was relevant to their teaching assignment, or if mandated by the administration.

TABLE 4.–INSERVICE TRAINING PROVISIONS, 1970-71: TYPES OF ACTIVITIES OFFERED

Type of activity	Number	Percent
1	2	3
Courses	26	46.4
In-district courses	14	25.0
Professional organization courses	6	10.7
Courses given by accredited higher education institutions	6	10.7
Workshops	21	37.5
In-district workshops	18	32.1
Professional organization workshops	3	5.4
School district meetings	15	26.8
Orientation sessions	4	7.1
Curriculum development committees	4	7.1
Travel	3	5.4
Authorship	3	5.4
Professional organization conferences	3	5.4
Research projects	2	3.6
Other	8	14.3
Only in-district inservice training activities indicated	27	48.2
Both in-district and out-of-district activities indicated	8	14.3
Only out-of-district activities indicated	4	7.1
Provisions indicating types of activity	39	69.6
Provisions not indicating type of activity	17	30.4
Total provisions analyzed	56	100.0

Stipulations as to when inservice training activities were to be conducted were included in over 50 percent of the provisions (see Table 6). More than one-fourth of the provisions stated that inservice training activities would take place during the school day with released time from teaching duties for participants. After school hours were specified in 21.4 percent of the provisions, and during the summer, in 3.6 percent.

TABLE 5.–INSERVICE TRAINING PROVISIONS, 1970-71: REQUIREMENTS CONCERNING TEACHERS' PARTICIPATION IN INSERVICE TRAINING

Requirement	Number	Percent
1	2	3
All teachers may be required to attend a specified number of inservice meetings per year	13	23.2
First year or probationary teachers must participate in inservice training	9	16.1
Teachers must participate when program is relevant to their teaching assignment	5	8.9
Teachers must participate when requested to do so by the administration	3	5.4
No requirements specified	26	46.4
Total provisions analyzed	56	100.0

Material incentives for participating in inservice training activities were included in more than one-half of the provisions. The majority of these provisions specified salary credit for all or part of the inservice training activities. Some provisions stated that inservice activities could be credited toward either an advanced degree or an extension of the teaching certificate.

Crediting inservice activities either to salary advancement or advanced degrees was subject to administrative approval in more than one-quarter of the provisions. For the most part inservice training was subject to the approval of the superintendent of schools, or, in smaller percentages of provisions, the principal or the board of education.

Following are several examples of negotiated inservice training provisions. These are sample provisions only and are not to be regarded as exemplary.

In-service education will consist of those courses, programs and projects undertaken by teachers while actively employed by the school district for the purpose of updating and improving their professional effectiveness and competence in the classroom.

Within the limitations of the criteria, the Board of Education will recognize any of the following in-service programs for salary credits:

TABLE 6.–INSERVICE TRAINING PROVISIONS, 1970-71: TIME INSERVICE TRAINING IS TO BE CONDUCTED

Time	Number	Percent
1	2	3
During school hours–released time	15	26.8
After school hours	12	21.4
Summer	2	3.6
Time not specified	27	48.2
Total provisions analyzed	56	100.0

- In-service courses organized by colleges or universities;
- In-service courses organized by related professional organizations;
- In-service courses organized locally.

Instructors for in-service courses will be fully competent in their specialty, familiar with problems involved in classroom or administrative implementation of the materials under consideration, and able to suggest creative approaches to better teaching.

Criteria for approval of in-service credit for salary purposes;

- One (1) credit hour equals fifteen (15) in-class hours.
- No more than one unexcused absence per credit hour will be allowed, but work missed by excused absence may be made up to the satisfaction of the instructor, and credit certified upon its completion. (Excused absences will be those generally considered legal for public school nonattendance by the New York State Department of Education.)
- Before more than ten (10) in-service credit hours will be recognized for an individual for salary purposes, five (5) graduate credits must be completed.

An in-service course will carry credit for salary purposes if

- the course and admission to it is approved by the Superintendent;
- the course is completed to the instructor's satisfaction;
- proof of satisfactory completion of the in-service course is sent to the Superintendent by the teacher.

[CORTLAND, NEW YORK]

* * *

IN-SERVICE WORKSHOPS

To maintain and improve teaching performance, the Board and Association realize the value of in-service training. In-service programs shall meet during normal teaching hours which will permit all teachers to attend and it is understood that two (2) half day sessions shall be held per year.

It is understood that attendance at the in-service workshops is mandatory unless permission is granted from the Superintendent of Schools to deviate from the planned in-service session.

A committee of three (3) teachers and three (3) administrators will plan the two (2) in-service training sessions per year. They may involve as many other professional staff as is necessary to facilitate the planning of these in-service training sessions.
In-service sessions will be held as long as they do not conflict with school calendar requirements which are to be determined by the Michigan State Department of Education.

[AVONDALE, MICHIGAN]

* * *

TEACHER IN-SERVICE EDUCATION

The Board and the Association agree that a cooperatively planned teacher in-service education program is indispensable for meaningful curriculum improvement. Therefore both parties agree to the following specific provisions.

Nature of the In-Service Program–
The general nature of the teacher in-service program shall be directed toward curriculum development and the improvement of teacher competencies in the classroom.

Released Time–
Teachers shall be released from their classroom's duties from time to time to engage in in-service training activities. These activities shall include:

- Inter-class and inter-school visitation.
- Attendance at professional conferences and workshops.
- Regularly scheduled in-service meetings.
- Unscheduled in-service meetings.
- In-service sabbatical program.

It is understood by both parties that not all in-service activities will be held on a released time basis. Some meetings and activities will take place after regular school hours and on weekends. It shall be the responsibility of the Assistant Superintendent for Instruction or his designated representative(s) to approve requests for released time for professional growth.

Induction of New Teachers Into School Community—
Designated teachers selected by the Board will assist new teachers during the new teacher's first year of employment.

Prescriptive In-Service Education—
As an individual situation may warrant, a building principal may recommend, and the Superintendent may direct that any teacher participate in an after school in-service training program of not more than two (2) hours per week and extending over a period of not more than six (6) school weeks, designed to heighten the capabilities of the teacher.

Responsibility for Teacher In-Service Training—
It is agreed by the Board and Association that responsibility for initiating cooperative planning for teacher in-service activities shall rest with the Assistant Superintendent for Instruction and his immediate staff.

[HIGHLAND, INDIANA]

* * *

IN-SERVICE EDUCATION AND TRAINING

Professional employees agree to participate in in-service educational programs to the amount of 22 and one-half hours each year, or an equivalent 15 meetings each year. No one of these meetings would exceed one and one-half hours in duration. Whenever possible and practical the school district will share the time equally with released time from the regular school day. As an example, during any one and one-half hour periods, the faculty group would give 45 minutes of time beyond the school day, and the district would match this with 45 minutes of released time from the school day.

TABLE 7.—INSERVICE TRAINING PROVISIONS, 1970-71: INCENTIVES FOR PARTICIPATING IN INSERVICE TRAINING

Incentive	Number	Percent
1	2	3
Inservice activities to be credited on the salary schedule	29	51.8
All inservice activities to be credited on salary schedule	26	46.4
Some inservice activities to be credited on salary schedule	3	5.4
Inservice activities could be credited toward an advanced degree or an extension of certificate	2	3.6
No incentive specified	25	44.6
Total provisions analyzed	56	100.0

Participating Association members shall have a part in organizing and planning in-service programs. This shall be within the framework of the established curriculum reference in which they operate. It shall encompass any phase of planning and organization; but, specifically, it shall refer to selection of the program, its scope and objectives, and the materials and the methods to be used and presented. Insofar as it is practical and applicable, teachers should consider participation as a voluntary function and a meaningful experience to be shared with professional colleagues and other interested parties of the school-community.

Credit awards shall be permitted toward the salary schedule on a two or three credit hours basis, whichever may apply. Hours can be credited in terms of work and service performed in any 22 and one-half hours in-service program. Credits will be evaluated by the person in charge of the program. He should be free to establish an evaluation committee from the group for such purpose to determine amounts of credit to be awarded. Full participation in the program including attendance at all meetings, active and positive participation, and follow-up work as writing a course of study or writing a summary of the materials studied would constitute full credit. Mere attendance and participation would be evaluated in terms of partial credit.

As in all matters, a teacher who wishes can invoke the grievance procedure so that full review can be considered of any dispute or misunderstanding in reference to any phase of the in-service policy.

[GRANVILLE, NEW YORK]

* * *

At the request of the Association or on the Board's initiative, arrangements may be made for: after school courses, workshops, conferences, and programs designed to improve the quality of instruction. Compensation may be provided for such after-school inservice training according to Appendix B.* Every effort will be made to obtain people of the highest qualification to participate as consultants or resource people in such activities. The Board may provide, as a condition of employment prior to the hiring of a teacher, that attendance of certain after-school inservice training activities be required.

When a comprehensive evaluation by the principal or immediate supervisor shows the need for inservice training of any teacher, a request that the teacher receive the needed inservice training shall be a matter of record. While attendance is voluntary, the teacher's participation or non-participation shall likewise become a matter of record. Such activities will be within the teacher's workday, or reimbursed at the inservice training rate established in Appendix B. Except as provisions may be made by the Board as a condition of employment prior to the hiring of a teacher, attendance at such after-school inservice training activities, whether initiated by the Association, the Board, or jointly, shall be voluntary on the part of the teacher.

[*$4.20 per hour for inservice activities.]

[LIVONIA, MICHIGAN]

* * *

INSERVICE CREDIT

Teachers must secure prior approval from the District Principal in order to assure in-service credit. At least six credits of each fifteen must be earned in degree granting institutions. Credits may be earned as follows:

Organized classes:

- Appropriate courses given by a degree granting institution.

- In-service courses given by the Valley Stream Inter-District Committee or School districts.

- Special courses given by other approved organizations.

Purposeful travel:

- Two credits will be earned for at least six consecutive weeks of purposeful travel. A maximum of four credits will be granted for travel within each fifteen points claimed for salary credit.

- An itinerary, including dates, is to be submitted with the request for prior approval.

- A written report of travel, including statement of objectives, activities pursued, and appraisal of trip indicating cultural and professional significance of important places visited and major activities completed, is to be submitted to the District Principal within three months after travel has been completed.

Cooperating teacher:

A cooperating teacher will receive two credits for satisfactory service rendered to each student teacher. A maximum of four credits will be granted for cooperating teachers within each fifteen points claimed for salary credit. A cooperating teacher may be expected to accept additional student teachers without credit during this fifteen point period.

Study groups:

Two credits will be allowed for study completed by a teacher in a local study group provided it meets the following criteria and is approved in advance by the District Principal. A maximum of four credits will be granted in each fifteen points claimed for salary credit.

Organization Requirements:
The study group shall be organized under the auspices of the Board of Education or a recognized teachers association and offered at an hour not included in the regular school day.

Study Requirements:
The organization of the program of study shall stimulate advanced and independent study on the part of members of the group.

The study group shall meet for study and discussion purposes for a total of at least thirty hours within twelve months of date of inception.

Report:
The group chairman shall keep permanent records clearly indicating the study completed by the group. Individual attendance and contributions shall be recorded. No credit shall be granted any person absent for more than 10% of the total meeting time.

This report is to be filed with the District Principal prior to granting credit to an individual teacher for participation in a study group.

Authorship:

- Professional articles totaling 1,500 words or more published in a recognized magazine or journal will earn two credits.

- The publication of a professional book by a recognized publisher will earn two credits.

- A maximum of four credits will be granted for authorship within each fifteen points claimed for salary credit.

Teaching a College Level Course:

Two credits will be earned by teaching a college level course for which credit is granted; providing the course content relates to the teaching assignment of the instructor. Credit for teaching on the college level may be earned only once in the Valley Stream districts.

[VALLEY STREAM NO. 13, NEW YORK]

SPECIAL REPORTS

NEGOTIATED PROVISIONS FOR ELEMENTARY-SCHOOL TEACHER PLANNING PERIODS

Provisions for planning periods for elementary-school teachers were found in 42.8 percent (655) of 1,529 written negotiated agreements for 1970-71 analyzed by NEA Research. Every fifth agreement, with at least one from each of the 31 states which have contracts incorporating such a provision was selected for further analysis, a total of 137.

Planning periods allow time during the teacher's regular school day for planning, developing tests, improving curriculum, reviewing instructional materials, holding conferences with parents, maintaining records, or correcting papers. Of the 137 selected agreements containing provisions for planning periods for elementary-school teachers, 27 percent contained general statements on the purpose of such planning periods. Examples of these types of statements are:

> The Board recognizes the value of a planning period for improving the educational climate. The intent of the planning period is to provide a period of time to the teacher for lesson planning, meeting with individual students, professional reading, visiting other classes or engaging in activities that will improve teacher performance or student learning.
>
> **[Mapleton School System, Denver, Colorado]**

> It is expected that preparation periods will be used for such things as thorough class preparation, conferences with students, teachers, parents, and administrators, teaching interns, support ing personnel, and special assistance to students individually and/or in small groups, professional reading, writing, and research.
>
> **[Glen Ridge, New Jersey]**

TABLE 1.–NEGOTIATED CONTENT OF PLANNING PERIOD PROVISIONS FOR ELEMENTARY-SCHOOL TEACHERS, 1970-71

Item	Number	Percent
1	2	3
Function of planning period	37	27.0
Schedule of planning periods	127	92.7
Length of planning period	53	38.7
Teacher cannot be assigned to other duties	25	18.2
Teacher permitted to leave classroom when class is being instructed by special subject teacher	24	17.5
TOTAL SAMPLE OF PROVISIONS	137	100.0

TABLE 2.–SCHEDULING OF PLANNING PERIODS, 1970-71

Scheduling of planning periods	Number	Percent
1	2	3
Daily	72	52.6
Weekly	17	12.4
Only during special teacher's instruction of class	38	27.7
Not specified	10	7.3
TOTAL SAMPLE OF PROVISIONS	137	100.0

Special provisions exclusively for planning periods for elementary teachers are found in 73 percent of the agreements. The remaining agreements cover all teachers under the same planning period provision. Over half of the provisions analyzed allow for preparation time on a daily basis. In more than one-fourth of the agreements planning periods for teachers are scheduled only during the time that their classes receive instruction from special subject teachers (art, music, language, physical education) with less than 2 percent (1.5) of the provisions requiring that teachers remain in the classroom during the special subject teacher's instruction time. In 3.6 percent of the agreements, teachers with regularly scheduled planning periods also receive time off during the special subject teacher's instruction time.

A few agreements, other than those which schedule the planning period during the time special subject teachers are in the classroom, specify how the school system intends to supervise pupils during planning time. The following provision is an example.

> The Board agrees to hire at least 95 additional Teacher Aides, such aides to be used first for the purpose of providing the preparation time provided in subsection 5 above, and then for the purpose of helping teacher and relieving teachers of non-teaching duties as to be agreed upon the parties.
>
> **[Buffalo, New York]**

More than half the agreements (62.0 percent) do not specify the length of the period, but among those that do, 30 minutes is stated as the length of the period more than any other. Examples of provisions specifying time follow.

All elementary classroom teachers shall have at least one thirty-minute period per day.

[Madison Community Unit District 12, Madison, Illinois]

Classroom teachers shall, in addition to their duty free lunch period have daily preparation time during which they shall not be assigned to any other duties as follows:

Elementary School - 45 minutes per student day.

[Manasquan, New Jersey]

TABLE 3.–LENGTH OF PLANNING PERIODS, 1970-71

Length of planning periods	Number	Percent
1	2	3
Less than 30 minutes	6	4.4
30 minutes	23	16.8
31-44 minutes	6	4.4
45 minutes	9	6.6
46-59 minutes	2	1.5
60 minutes or more	6	4.4
Length of period not specified	85	62.0
TOTAL SAMPLE PROVISIONS	137	100.1[a]

[a] Percentages do not add to 100% owing to rounding.)

A normal teaching load (K-6) will consist of a maximum of three hundred sixty (360) minutes of instructional teaching per day over a one week period, plus a minimum of sixty (60) minutes of preparation time per teaching day.

[Lodi School District No. 1 Lodi, Wisconsin]

Almost 1 provision out of 5 states that teachers are not to be assigned to other duties during the planning period, while 5.1 percent state that teachers could be assigned to other duties during this time. Some provisions stipulate that the planning period is to be duty free, but in case of emergency, the teacher may either be assigned or voluntarily serve as a substitute with compensation; for example:

The practice of using a regular teacher as a substitute, thereby depriving him of his preparation period, is undesirable and shall be discouraged. In those cases where regular substitutes are not available, regular teachers may be used as substitutes during their non-teaching time. Assigned teachers shall be paid at the rate of $5.00 per hour or any fraction thereof. Such coverage shall be arranged by the principal of the school in question and shall be distributed as equitably as possible within the areas of certification of the absent teachers and those who substitute for them.

[Hasbrouck Heights, New Jersey]

It is desirable for each teacher to have an uninterrupted preparation period each day. The practice of using a regular teacher as a substitute, thereby depriving him of his preparation period, is undesirable and shall be discouraged. In those cases where regular substitutes are not available, regular teachers who volunteer may be used as substitutes during their regular non-teaching time. In the absence of volunteers, a teacher may be assigned to serve as a substitute. Volunteers and assigned teachers may choose to credit these periods up to a total of ten (10) periods which shall entitle him to one (1) additional personal business day to be taken before the end of the current school year.

[Spotswood, New Jersey]

BRIEFS OF AGREEMENTS

Lyon County, Nevada

Between the Lyon County School District and the Lyon County Association of Classroom Teachers, effective August 15, 1971, with provision for annual renewal unless either party requests changes or termination. Approximately 90 certificated professional employees. Provision for a meeting at the request of either party within 15 days to renegotiate any portion of this agreement. Provision for factfinding which may be binding by mutual agreement in case of negotiation impasse.

COMPENSATION: (September 1971 to June 1973) B.A., $7,700 to $10,164, 8 increments; B.A. plus 32 hours, $12,012 maximum; M.A., $8,624 to $12,936, 14 increments, salary placement determined by a combination of graduate and/or undergraduate credits (undergraduate credit equals two-thirds of graduate credit).

DIFFERENTIALS: Head baseball, basketball, football, track, and wrestling coaches and athletic director, $650; assistant coaches, $500; girls' intramurals, basketball, and drill team, yearbook sponsor, and elementary intramurals, up to $425; band and music instructors, grades 7-9 basketball coaches, up to $400; high-school cheerleader sponsor and department heads, $300.

OTHER: Regular teachers receive hourly substitute rate when serving as substitutes; salary as "agreed upon" shall be received for working on curriculum projects during the summer.

LEAVES: Fifteen days' annual sick leave to be used for personal illness, doctor's appointments, and illness in the immediate family, 90 days maximum accumulation; 5 days, deducted from sick leave, for bereavement leave, and school trustees or designee may grant additional bereavement leave.

INSURANCE: Board pays 30 percent of group health insurance; job-related liability insurance provided; board pays medical expenses resulting from job-related injury or occupational illness over and above legislated maximums.

ASSOCIATION: Released time for workshops, conferences, conventions, and other organization activities granted to association representatives at the discretion of the superintendent; one association member shall be present at all board meetings, released time will be granted if meeting is during the school day, and an additional association member may be invited to attend; association representatives to assist in revising school policy guide; board to provide association with available information pertinent to the development of constructive negotiation proposals, including complete and accurate financial reports and the next year's tentative budget; no-strike clause.

INSTRUCTION: Association and administration agree to cooperate in the mutual development and implementation of experimental and innovative programs, and "new techniques in staffing and scheduling [which] may involve changes in the length and number of class periods taught and the number of students assigned to a given class"; teachers to report no more than 15 minutes before or remain longer than 15 minutes after classes; 7½-hour workday; association proposes school calendar; association and board to confer to improve selection of teaching materials; participation in curriculum development committee is encouraged with released time for curriculum projects that require special planning; each student is to have textbook(s) for each class; association may object to textbook changes; association to recommend topics for inservice training, conferences, and workshops; insofar as possible curriculum workshops and district-wide programs shall be jointly developed; teachers involved in experimental and innovative programs may be requested to attend inservice training sessions.

PERSONNEL: Grievance procedure ends with final and binding arbitration "provided that both parties have so agreed beforehand"; right to review and make copies of material in personnel file, with the exception of confidential information; reductions in rank or compensation and adverse evaluations are subject to the grievance procedure; teachers shall be notified of any reprimand or evaluation placed in file with opportunity to discuss the material with his principal; all information concerning discipline of a teacher must be made available to that teacher; "use of public address systems or other surveillance devices is strictly prohibited"; each school shall have a faculty advisory committee which meets at least once a month; provision for joint committee, composed of 2 association and 2 administrative members to evaluate and review existing facilities at least once yearly; teachers who will occupy new or renovated buildings may act as consultants to administration and architects; association has prerogative of reprimanding teachers who violate the professional code of ethics; dress and hair style to be compatible with community standards; teachers shall not be required to score achievement tests if machine scoring is available; any teacher running for public office must notify the board, "may expect a change in teaching assignment as a consequence of running" for office, and if elected, will be granted a leave of absence without pay for term of office.

* * *

Houston, Texas

Between the Board of Education of Houston Independent School District and Teacher Council for Professional Consultation, effective October 9, 1972. Approximately 7,500 certificated nonsupervisory personnel. Provisions for completion of negotiation by May 31.

COMPENSATION: (1972-73) B.A., $7,100 to $10,200, 10 increments; M.A., $7,720 to $11,440, 12 increments; Ph.D., $12,060 maximum; super-maximum pay at $100 on B.A. lane and $310 on M.A. or Ph.D. lanes if maximum salary is reached in 1971-72; terminal pay or amount paid to estate of deceased teacher for accumulated unused annual leave not to exceed one-half the contract year at current annual rate, providing the teacher is eligible for state retirement plan; maximum of 5 steps credited for prior experience with one step credited for each 2 years' experience in an accredited school; 90 or more teaching days per year to equal one year of service; extended or reduced work year paid on pro rata basis; special increments and extra days' service for counselors, 2 steps and 10 days extra; registrars and secondary head librarians, one step and 5 days extra; special education, one step and regular work year.

LEAVES: One and one-half days per month annual leave for tenure teachers, credited at the beginning of the school year, and one day per month for probationary teachers to be used for personal illness, illness in the immediate family, funerals, and personal business (24 hours' notice required); 3 days per occurrence for death in the immediate family; professional leave, as granted, for school visitations and professional meetings; leave as necessary to participate in board of education/teacher council meetings and grievance proceedings; paid leave for jury duty or mandatory court appearance, less court fees; up to 15 days' paid leave for military reserve obligations, less military pay; sabbatical leave at not less than one-half pay for one year after 6 years' service.

INSURANCE: Board contributes 1 percent of each teacher's annual salary or $72, whichever is greater, toward the individual premium for basic hospital and major medical insurance; $50,000 special fund to cover salary and medical and hospital costs (not covered by regular health insurance) resulting from assault of teacher while performing job-re

lated duties, maximum medical and salary payments of $20,000 per teacher (with no deduction from annual leave); tax-sheltered annuity plan.

ASSOCIATION: Payroll deduction of association dues; leave of absence with salary credit for any association officer when association remits sum equal to salary; released time for negotiation sessions during the school day; association representative may transact organization business on school property provided normal school activity is not interrupted; one inservice day to attend state association's annual convention; use of school buildings at reasonable hours with the association paying costs; use of school bulletin boards, mail service, and mailboxes, with delivery of association mail "unopened"; board to furnish records and data pertinent to negotiation, with cost of collection and reproduction to be shared by both parties; board to provide preliminary budgets and proposals affecting teachers' conditions of employment as they become available; board to distribute a minimum of 5 copies of this agreement per building with the teacher council being allocated 500 copies.

INSTRUCTION: Teacher-pupil ratios: grades K-6, 1 to 30; grades 7-9, 1 to 28; grades 10-12, 1 to 25; during 1972-73 these ratios may be exceeded by one student per teacher owing to budgetary restrictions; special education teachers, itinerant teachers and specialists are exempted from established ratios; academic class size goal, 37 students; school calendar, 180 instruction days and 10 inservice days; joint curriculum development committee for the development, implementation, and evaluation of curriculum with recommendations to be made to chief instructional officer; all innovative programs to be discussed with staff prior to implementation, but if school is not in session, faculty advisory council or representative teacher group shall be called into session and consulted; no performance contracting related to direct instructional services may be executed without review by teacher council; club sponsors must know how money is expended and must approve disbursement vouchers; funds of clubs to remain in club account from year to year, but if club is inactive, funds may be transferred by the principal.

PERSONNEL: Grievance procedure ends with action as provided by state board of education policy and law; right to review nonconfidential contents of personnel file and to be accompanied by another person; evaluation protests to be attached to personnel file; at least 45 minutes for preparation as provided by statute; daily relief time for elementary teachers; new teachers are required to attend two-day orientation session prior to the start of school without remuneration; funds to be provided for cooperatively developed staff development program; at least one-half of nonteaching time during opening and closing days reserved for planning and the completion of reports and records; substitute teachers provided if staff development activities are held during the school day; teacher council chairman to appoint staff development planning committee; no districtwide staff development may be scheduled on state association convention days; inservice activities to be provided teachers not attending state association convention; student teacher assignments are voluntary; teacher evaluations are conducted openly by the principal or his designee and based on reasonable criteria; the National Teachers Examination may not be an employment requirement; with the exception of part-time principal positions, all job descriptions for promotional vacancies shall be posted; professional personnel to be assigned so as to maintain racial and experienced-inexperienced teacher balances; bi-lingual teachers to be given preference for Mexican-American school assignments; teachers have the right to initiate transfers, decision resting with the principal with advice and consent of the area superintendent; transfer requests of contract teachers have priority over those of probationary teachers; vacancies to be posted May 15 and updated through June 15; teachers requesting transfer may not be assigned an unrequested position involuntarily; transfer appeals committee, 3 members of which are appointed by the general superintendent and 3 by the chairman of the teachers council, forwards its recommendations to the general superintendent; reduction in force within building, teaching area and level on the basis of seniority in this order: permanent substitute assigned teachers, probationary teachers, and continuing contract teachers; recall will be in reverse order of layoff;

TRANSFER OF TEACHERS

TEACHER-INITIATED REQUEST FOR TRANSFER

It is agreed that all teachers have a right to initiate transfer requests from one school to another, that all decisions regarding transfer requests are educational decisions and the individual best qualified to make such decision is the principal with the advice and consent of the area superintendent.

The transfer requests of contract teachers shall be considered before those of probationary teachers. Requests for transfer shall be made annually and in duplicate, signed and dated, with one copy going to the Personnel Office, and the other to be retained by the teacher. All requests for transfer will be acknowledged in writing by the Personnel Office. The Personnel Office shall keep an updated file of all requests as of May 15 of the current school year.

A list of vacancies as of May 15 of the current school year shall be posted and up-dated through June 15 in the schools and the central administration building. It shall be the responsibility of the teacher seeking a transfer to make an appointment with the principals of those schools where the desired vacancies exist.

Any teacher requesting a transfer shall not be assigned without his concurrence to a position other than that for which he has applied. If he does not receive his specific requested assignment, he shall not be singled out for an involuntary transfer, but shall be considered equal with others in his experience category for administration-initiated transfer.

SPECIAL TRANSFER

A teacher may direct a transfer request motivated for special professional concerns to the area superintendent. In the event the transfer request is not granted, the teacher may appeal to the Transfer Appeals Committee.

The Transfer Appeals Committee shall have six (6) members, three (3) of whom shall be appointed by the General Superintendent and three (3) of whom shall be appointed by the chairman of the Teacher Council. Recommendations of the Transfer Appeals Committee shall be forwarded to the General Superintendent.

TRANSFERS NECESSARY TO ACHIEVE RACIAL BALANCE

If it becomes necessary to create vacancies to achieve racial balance, the guidelines adopted by the Board of Education on April 27, 1970, shall prevail with the following exception: deletion of paragraph II, A 4e which reads "Not more than the proper racial balance of the teachers in any subject matter area in the secondary schools or in the two divisions of the elementary schools will be moved."

TRANSFERS NECESSARY TO MAINTAIN RACIAL BALANCE

If it becomes necessary to create vacancies to maintain racial balance as indicated by law, teachers may be reassigned on the following basis:

- Consideration shall be given to distance from residence of teachers of the same race in making the new assignments.
- Priority of reassignment shall be on the basis of seniority in the school district. In the case of equal experience, the principal shall decide who will make the transfer.
- No teacher will be transferred outside the scope of his teaching credentials.
- Any teacher displaced by the effort to maintain racial balance shall be reassigned within sixty (60) days and without loss of pay, unless such displacement grows out of a general reduction of staff under Article VII, Section 6.

APPEAL FROM A DECISION OF INVOLUNTARY TRANSFER MADE IN ORDER TO ACHIEVE RACIAL BALANCE

Any teacher who feels that such involuntary transfer is contrary to the provisions of this agreement or would work an undue hardship because of physical reasons, shall have the right of appeal to the special committee established by the April 27, 1970, guidelines.

Retirement at age 65; Special Projects Fund, administered by 3 teachers and 3 administrators, funds innovative projects; coercion to join or not join any organization is forbidden; no political activity on school property during school hours; any political material used in classes must have legitimate relationship to the instructional unit studied; each building to have a faculty advisory committee (composed of one teacher for every 10 teachers or fraction thereof with a minimum of 4 teachers per building) to discuss formulation of policy with the principal at least once per quarter; any collection of funds from the faculty is voluntary with use thereof directed by an elected faculty committee; no solicitation clause; administration supports teachers in maintenance of discipline and assists teachers with legal and judicial handling of assault case of third party suit;

SPECIAL PROJECTS

It is agreed that the Houston Independent School District shall set aside sixty thousand dollars ($60,000) in an account to be deemed the Special Projects Fund. The purpose of this fund is to encourage teachers to be innovative in their classrooms. It is also to shorten the time span whereby a teacher can get an idea from the drawing board into action. Once such a fund is established, it is agreed that it be administered by three teachers appointed by the Chairman of the Teacher Council and three administrators appointed by the General Superintendent.

This Special Projects Committee shall be responsible to their respective bodies and the General Superintendent. Their responsibilities shall include receiving written proposals from teachers for innovative projects, judging the merit of such proposals, recommending allocation of funds to that teacher and securing evaluations of the projects from the teacher after a specific length of time.

Teachers may write a proposal for any project they wish to attempt. The proposal shall be presented to the principal and to the Special Projects Committee and shall include purpose, structure and evaluation procedure. The teacher is accountable to the principal and committee and must report his findings with an evaluation of the project. Information gathered in this process is the property of the school district and may be disseminated among other teachers.

Teachers may act as individuals or as teams or as whole faculties in submitting proposals.

At the end of the school year it shall be the responsibility of the Special Projects Committee to report directly to the General Superintendent the number of projects undertaken and their findings.

Bellevue, Washington

Between the Bellevue Public Schools Board of Directors and the Bellevue Education Association, effective for the 1972-73 school year. All-inclusive "certificated personnel" manual states:

"Any settlement of policy matters reached in meetings between representatives of the recognized employee organization and the Superintendent and/or his representatives or a committee of the Board, as the case may be, shall be reduced to writing in the form of a proposed resolution to be signed by the parties with the understanding that said proposed resolution will be recommended: (1) to the recognized employee organization for ratification within two weeks; and (2) to the Board of Directors of the Bellevue School District for adoption at a public meeting of the Board. When adopted by the Board, a resolution so proposed shall constitute Board policy with respect to that matter subject to change only as provided herein."

Approximately 1,195 certificated professional employees.

COMPENSATION: (1972-73) B.A. $7,400 to $10,878, 9 increments; B.A. plus 30 hours, $11,366 maximum; M.A., $8,880 to $14,060, 11 increments; M.A. plus 45 hours, $16,058 maximum; Ph.D., $16,798 maximum; salary credit for experience in other school districts;

one year's credit for either full semester or 90 days' service during the year; up to 2 years' credit for VISTA or Peace Corps service; increments of employees on probation are postponed.

DIFFERENTIALS: (1972-73, first and seventh steps indicated) senior high football and basketball, $866 to $1,123; senior high head wrestling and swimming, $650 to $842; senior high head baseball, track, cross country, music and band, $614 to $795; senior high assistant football and basketball and dramatics, $542 to $702; senior high assistant track and gymnastics, $361 to $468; tennis, $289 to $374; vocal and orchestra music, volleyball, badminton, $217 to $281; senior high stage crew, drill team, $144 to $187; junior high basketball and football, $578 to $748; junior high baseball, track, wrestling, $469 to $608; junior high music and orchestra coordinator, $144 to $159 (two increments); elementary-school patrol coordinator, $144 to $166 (three increments); extended contract compensation is per diem rate of regular salary.

ASSOCIATION: Substitutes supplied for up to seven association negotiators when sessions are held during school hours; board provides one copy of this agreement per building or department, one copy per 30 teachers or fraction thereof, and one copy per administrator.

INSTRUCTION: School year is 180 instructional days with automatic emergency make-up days, one inservice day, 8 legal holidays, one student evaluation day and when possible 2 preparation days, one week spring and two weeks Christmas vacation; minimum of 8-hour school day; no more than 2 extracurricular activities per year or one assignment at a time; no more than two major coaching positions per coach per year; no more than 12 percent of intramural allocation per teacher per year;

CAREER INCENTIVE PLAN

The Career Incentive Plan has been developed to introduce flexibility into Bellevue's salary program. The plan provides a procedure for the selection of certificated employees for either extended contracts or educational grants.

Procedures for identifying needed projects, submitting proposals and awarding of CIP grants are as follows:

Any certificated employee may identify and initiate a proposal for a program improvement project and submit his or her own application for project funding.

Any combination of certificated employees may identify and initiate a proposal for a program improvement project and submit their joint application for project funding.

Any certificated employee with supervisory responsibility may nominate an employee or combination of the same for projects desirable in respective buildings or departments.

Curriculum coordinators should assist in identifying district program priorities and submit these to the certificated staff whose members may wish to apply for work on any ensuing priority project.

Proposals are submitted to the Curriculum Department and in turn to subject area coordinating councils appropriate to the features of the proposed projects. Coordinating councils determine a rank ordering of respective subject area proposals and submit this priority listing to the Director of Curriculum.

In collaboration with the Assistant Superintendent for Instruction and the Superintendent of Bellevue Public Schools, the Director of Curriculum awards funding for projects meeting accepted criteria.

Determination of funded projects are based upon the needs of district programs, the soundness of the proposed project, the background and ability of individual applicants and the ability of applicants to carry out the project.

Materials produced as well as techniques developed are submitted to the Curriculum Department for dissemination throughout the district.

The Career Incentive Plan is a step toward making teaching a twelve-month profession. This has been the goal of the professional organizations in the field of education. Our plan provides the opportunity for twelve-month employment for those who desire it. By providing the opportunities for making teaching a twelve-month profession, there will be incentive for high quality college students to enter the teaching profession. Many bright students fail to enter teaching because they are discouraged with the prospect of entering a profession where they must find other work for part of the year.

The Career Incentive Plan will encourage teachers to remain in the classroom because they will have opportunity to earn more income as teachers. Many teachers enter into administration today because they are forced to do so for financial reasons. A look at our administrative salary schedule shows that the greatest difference in salaries is based upon time spent on the job, or work done beyond the regular school year. If teachers are also given this opportunity, many teachers who desire to remain in the classroom can afford to do so.

PERSONNEL: Grievance procedure ends with the board of directors; inspection of personnel file is restricted to the employee (in the presence of an authorized administrator), his supervisors, superintendent, administrative staffs of instruction and personnel divisions, and authorized employees or board members; employee to receive requested copy of file contents upon paying costs, as well as copy of any material placed therein (with an opportunity to respond thereto); when possible 2 days' notice for faculty meetings with effort to hold such meetings during the working day; professional growth program: 12 credit hours every 6 years earned through college credit, regular professional credit or under professional growth program; up to 3 credit hours may be carried from one 6-year period to the next; 8-member professional credit committee, 4 each selected by the association and by the school with the assistant superintendent, as executive secretary, to recommend award of credit for travel, workshops, adult education courses, private classes and seminars, high professional office, publication of written material, and other professional experience; participation of teachers in approved exchange programs; required posting of vacancies except in an emergency;

list of all teachers seeking voluntary transfer to be compiled and distributed to principals and supervisors so that assignment may be made "in best interest of the school district"; reason for transfer denial given upon request; involuntary transfer only to position for which teacher is qualified, with good cause, and with prior notice, involuntary transfer candidates will have opportunity to select among available vacancies; all reassignments "in best interest of the schools"; sole promotion criteria are competency in fulfilling the position's responsibilities; use of any political, social, or other pressure when seeking a position automatically disqualifies the applicant; immediate relatives of the board of directors and chief administrative officer are ineligible for school district positions; school may deny an applicant employment even when recommended by the superintendent; however, only on the recommendation of the superintendent may a teacher be employed; new teachers hired by a majority of the board of directors; temporary contracts issued to employees replacing teachers on leave of absence; valid health certificate, including tuberculosis tests, required; materials distributed to students or employees by outside organizations must be approved, and must be relevant and available to *all* children; prior approval required for circulation of petitions or drives through the schools (which, in general, are discouraged); solicitation of students prohibited unless approved by the board of directors, with any contribution strictly voluntary; except for materials approved through the superintendent's office, parents and students shall not be persuaded to purchase any merchandise; gifts to employees are discouraged; teachers or members of their immediate families may not tutor for pay; criteria for participation as a cooperating teacher in student teaching program (with teacher receiving any honorarium):

> Have demonstrated his ability to provide appropriate teaching experiences for the student teacher.
>
> Be willing to accept the responsibility of working with a student teacher.
>
> Have the necessary health and vitality to easily assume the added responsibility of working with the student teacher and the college or university representative.
>
> Be sufficiently free of other responsibilities to give adequate guidance and supervision to the student teacher.
>
> Assist the building principal, college representative or other appropriate individuals with the evaluation of the student teacher.

Teachers to be involved in the recruitment of other teachers; emphasis on minority recruitment; two members of the same family will not be assigned to the same school nor shall any employee be assigned to a position evaluated by an immediate relative; a person may not substitute for his or her spouse; general lesson plans must be provided for substitutes; provision for evaluation of substitutes; superintendent is liable (at the rate of $25 per day) for failure to submit required records and reports, and for any apportionment due the district which is lost owing to his negligence.

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CASE REVIEWS

KANSAS

Status as Exclusive Bargaining Representative Does Not Automatically Terminate Yearly

Interpreting, for the first time, sections of the 1970 Kansas Professional School Employees Negotiation Statute, the Kansas Supreme Court overturned a lower court decision and ruled that a school district cannot withdraw recognition of the local National Education Association affiliate after having recognized and bargained with it for one year.

In the instant case, the Board of Education, Unified School District No. 480, refused to negotiate a second contract with the Liberal-NEA association after the board had been advised by the state board of education that the teacher bargaining act required an exclusive representative to petition annually for recognition or lose its status; thus the board would be freed from the duty to negotiate.

The school board contended that the Supreme Court had no jurisdiction in the matter because the association had not exhausted all available administrative remedies. The Liberal-NEA contended that "the status of an exclusive representative, once established through the statutory procedure continues until the board has presented to it an application of a competing employees' organization for recognition or an application by employees in the negotiating unit to terminate such recognition and status."

After examining the teacher bargaining act, the court ruled that the recognition and status of an exclusive bargaining representative continues until a new request is filed with a board of education by at least 30 percent of its employees seeking recognition of another exclusive representative or by a majority of the employees seeking nonrecognition of the formerly recognized representative. The court rationalized that a school board cannot unilaterally withdraw recognition of an exclusive representative in the absence of a request from its employees.

In response to the board's contention that the court did not have jurisdiction in this case because the NEA affiliate had not exhausted the administrative remedy available by filing a petition with the state board of education, the court said that it disagreed because "the plaintiff [the association] had no duty to petition for a status it already had." On the basis of the foregoing, the board was ordered to engage in collective negotiations with the NEA affiliate. (*Liberal-NEA, An Unincorporated Association, Appellant, v. Board of Education of Unified School District No. 480, Seward County, Kansas, and J. L. Smalling, Appellees*, Kansas Supreme Court, March 12, 1973.)

MICHIGAN

Board's Financial Troubles Do Not Alter Law

Pointing out to the Detroit Board of Education that "for a proper interpretation of the statute we have to look at this [budgetary crises] as if you had all the money you need," the Wayne County Circuit Court ruled that the board must give written contracts to 1,000 qualified emergency substitute teachers working in regular positions. Because of a budgetary crisis, all new teachers were hired as emergency substitutes (not fully covered by the Detroit Federation of Teachers' contract) who could be laid off on two days' notice.

The Federation brought the suit after the school board denied these teachers contracts on the basis that "the teachers in question were required only because a federal court last year issued an injunction against the board's planned layoff of teachers for this year." The school board also argued that it could not give these teachers regular contracts because it might not have funds to pay these teachers since the system might run out of money on March 15 and if under contract, these teachers must be paid to at least April 1.

The court said that it was aware of the school system's financial problems but that financial difficulties do not alter the statute. Therefore, the board of education was ordered to give the teachers regular contracts. (*Detroit Federation of Teachers, AFL-CIO v. Detroit Board of Education*, Wayne County Circuit Court, March 1973.)

Bargaining Concession Does Not Constitute Breach of Fair Representation

The Wayne County Circuit Court granted motions for summary judgment sought by the Detroit Federation of Teachers (DFT) and the Detroit Board of Education on behalf of all emergency substitute teachers. The suit was instituted after DFT and the school board signed a two-year agreement which increased teacher salaries each year but raised the pay of emergency substitutes for only one of the two years.

The grievants charged the DFT with discrimination amounting to a breach of duty to fairly represent all employees. The board was charged with conspiracy on the ground that it participated in the negotiations which denied them a raise.

The DFT and the board moved for a summary judgment on the basis that the substitutes failed to state a cause of action.

According to the court, the allegations made by the substitutes were sufficient with respect to notice pleading; however, the grievants had not presented enough evidence to support their position that the board had engaged in a conspiracy with DFT or that DFT had breached its duty. The court stated that "the union has complete discretion to negotiate contracts in the interest of the members as a whole," and in doing so can make concessions, as the one in the instant case, for the benefit of all. "This in itself does not constitute arbitrary or discriminatory action, bad faith, or fraud." Therefore, the motions for summary judgment were granted. (*William J. McGrail, Jr., vs. Detroit Federation of Teachers and Detroit Board of Education*, Wayne County Circuit Court, January 18, 1973.)

MINNESOTA

School Board May Not Deny Individual Teacher Salary Increases Negotiated by Union Representatives

Even though school boards meet and confer with employee representatives, there is no statutory obligation to reach an agreement. But if an agreement is reached, the board is bound by the terms of the agreement and may not deal with teachers individually as far as salary matters are concerned. So ruling, the Minnesota Supreme Court overturned a lower court decision and ordered the Ada School District to reimburse a teacher monies lost from 1968 to 1971 when the Ada Education Association (AEA) negotiated pay scales which the school board did not apply to her.

In 1952 the teacher signed a contract which provided that "it shall remain in full force and effect, except as modified by mutual consent of the school board and the teacher." Her salary was changed yearly by a rider to this contract. However, in March 1968 "the school board advised her that she would not get a raise for the coming school year because of various objections by the board to her work." She continued receiving a lower salary through 1970-71 even though other teachers in her classification received pay raises in accordance with the agreement between the board and the AEA.

The teacher contended that she should have received raises in accordance with the agreement and that the denial constituted an illegal demotion violating her constitutional rights.

According to the school board the provision in the salary schedule which stated that "the board of education reserves the right to refuse any teacher the annual increment for unsatisfactory work" and that "this schedule is not a part of the teachers' contract and may be changed by the board of education" reserved to the board the right to change an individual teacher's salary. The board maintained that a teacher has a continuing contract with the school district upon completing a probationary period unless modified by the consent of the board and teacher. Further, a bargaining agreement superseding an individual teacher's contract would destroy the consent provisions of the tenure statute.

The reservation in the salary schedule which gave the board the right to change an individual teacher's salary was applicable only to annual increments involving in-step raises for additional education and other special matters, and not to annual salaries, the court said. And although the second part of the provision gave the employer the right to change the entire schedule and reserved to the board the right to renegotiate the schedule in future agreements, the board was not vested with the power to alter individual contracts. The court pointed out that the agreement between the parties had the effect of modifying individual teachers' contracts with the consent of all involved, thereby bringing the agreement into harmony with the statutory tenure provisions. The court ruled that the board could not refuse to pay an individual teacher the salary increases bargained for by her representative union since such schedules are binding on both parties. (*Elizabeth Hetland v. Board of Education of Independent School District No. 521, Ada*, Minnesota Supreme Court, February 16, 1973.)

NEW YORK

Grievance Proceeding Not an Action Barring Remedy Before State Administrative Agency Based on Same Grievance

The New York Supreme Court, Appellate Division, reversed a lower court decision and dismissed the petition of the Board of Education of the Syracuse City School District to restrain the State Division of Human Rights from hearing charges made by two members of the Syracuse Teachers Association that "the Board was engaging in unlawful discriminatory employment practices."

After filing grievances pursuant to the contractual grievance procedure for payment of salaries for coaching the girls' extramural basketball team, the association filed complaints with the Human Rights Division charging that women teachers were discriminated against by the board because men teachers were compensated for coaching basketball whereas women teachers were not.

The lower court ruled that by commencing a grievance procedure, the teachers were barred from filing a complaint with the Human Rights Division in accordance with the Executive Law section that states that prior institution of action in a court of competent jurisdiction or before any administrative agency on an unlawful discriminatory practice will operate to bar resort to the Human Rights Division.

The appellate court overturned the lower court ruling on the grounds that "a grievance proceeding arising as it did here pursuant to the terms of the parties' own collective bargaining agreement is neither an action in a court of competent jurisdiction nor an action pending before any administrative agency under any other law of the state." Further, the grievance proceeding concerned enforcement of the terms of the collective bargaining contract while the complaint filed with the Division involved discrimination in terms and conditions of employment. The court then

pointed out that it agreed with the Division's argument that "redress of the grievance would not dispose of all the issues raised by the complaints or vindicate the public interest in the question of discrimination." Accordingly, the lower court decision was reversed and the petition dismissed. (*Board of Education of the Syracuse City School District, Respondent, v. State Division of Human Rights, et al., Appellants*, Supreme Court, Appellate Division, February 17, 1972.)

Discharge of Probationary Teacher Without a Hearing Not Arbitrable

The New York Supreme Court, Appellate Division, upheld a lower court decision granting the petition of Central School District No. 1 to stay arbitration sought by the Three Village Teachers Association (TVTA) on behalf of a probationary teacher who was discharged without a hearing.

The association contended that the board's dismissal action was a violation of the labor agreement and grievable. Additionally, the association contended that neither state statutes nor the labor agreement precluded a probationary teacher from arbitrating the reasons for dismissal.

The school board argued that the teacher had no grievance within the terms of the labor agreement.

The court in disposing of the association's argument that no statutes prohibited arbitrating a probationary teacher's reasons for dismissal, referred to *Matter of Pinto v. Wynstra* wherein it was held that under the Education Law "the services of a probationary teacher may be discontinued without a hearing and without giving the reasons." The court pointed out that the legal effect of the teacher's dismissal was that the teacher was denied tenure. And because the agreement specifically provided that the question of whether tenure was improperly denied was not a grievance, the teacher's dismissal was not subject to arbitration. (*Central School District No. 1 of the Towns of Brookhaven and Smithtown, Respondent v. Three Village Teachers Association, Inc., et al., Appellants*, New York Supreme Court, Appellate Division, October 24, 1972.)

FEDERAL

Restriction on Emergency Employment Act Funds Invalid

The U.S. District Court for the Northern District of Ohio ruled that the precondition that not more than 15 percent of funds granted under the Emergency Employment Act (EEA) could be used to rehire persons who had been employed during the six months prior to the application date "constitutes an abuse of discretion under the equitable standard required by the Act." The court thereby granted the motion for summary judgment sought by the American Federation of State, County, and Municipal Employees, District Council 78.

According to the Labor Department, the restriction was imposed in order to comply with the objectives of the Act. The union "brought a suit against the city and the Department of Labor on behalf of members who had been laid off and who had a claim to preferential rehiring under the union's contract with the city."

The union contended that the restriction was in conflict with the provisions of the EEA which stated that currently employed workers or existing service contracts would not be displaced or impaired.

The court rejected the union's argument that the restriction conflicted with the EEA by pointing out that laid-off employees are not currently employed workers and collective bargaining contracts are not service contracts. Further, since "the purpose of the EEA is to provide transitional employment for unemployed persons with certain characteristics, restricting its operation in the manner urged by the union would not comport with the freedom of choice the Congressional scheme seems to indicate."

According to the court, the Labor Department's reasons for imposing the restriction were valid, but the restriction itself did not further the purposes of the Act since "there is no basis for believing that placing a restriction on the hiring of laid-off persons will favor Vietnam veterans and other favored classes of unemployed." Moreover, the objective "sought by the Labor Department could have been more directly achieved by requiring that a certain percentage of those hired possessed the desired characteristics."

The court granted the union's motion for summary judgment, declaring the restriction invalid and enjoining the city and the Labor Department from putting the restriction into effect. However, the court ruled that the union's request for an injunction prohibiting the city from hiring employees except in conformity with the seniority provision in the bargaining agreement should be handled by a local rather than an federal court. (*American Federation of State, County, & Municipal Employees District Council 78 v. City of Cleveland, et al*, United States District Court, Northern District of Ohio, October 6, 1972.)

BOARD FINDINGS AND RULINGS

CALIFORNIA

Transfer Request Not Sufficient Grounds for Non-Reappointment of Tenured Teacher

In an advisory opinion, an arbitrator recommended that the San Diego City School Board reinstate a tenured teacher to an extra-duty counseling position.

The arbitrator found that the teacher, a member of the San Diego Teachers Association, had been relieved of his counseling duties at the end of his third year after having requested a transfer to another school. The teacher had not been previously notified of substandard work nor had any evaluations indicating substandard performance been placed in his personnel file. When the transfer request was denied, the teacher informed the building principal that he would continue at his present position, and he received assurance of a counseling position. The teacher was later informed that he would not be given a counseling position for the following year.

According to the arbitrator, the nonappointment was based solely on the teacher's desire to transfer from the school and, therefore, the failure to reappoint the teacher on this basis was violative of the contractual provision that assured tenured teachers that they would not be disciplined, reprimanded, or discharged except for just cause.

The arbitrator recommended that the teacher be reinstated to a counseling position no later than the 1973-74 school year, and that he be given $200 in back pay, the annual stipend for counseling positions. (*San Diego City School District and the San Diego Teachers Association*, American Arbitration Association, October 25, 1972.)

HAWAII

Association Representatives May Transact Association Business During Preparation Periods

An arbitrator ruled that Hawaii State Teachers Association (HSTA) field representatives may transact official association business with teachers during their preparation periods if the teachers are not teaching or supervising students at the time.

The issue at arbitration involved two contractual provisions, one allowing association representatives to transact association business on school property at reasonable times if they do not interfere with teachers while they are teaching or supervising students. The other established duty-free periods for the pursuit of personally initiated school tasks for perparation, evaluation, and reflection. The teachers association felt that its representatives should be free to visit teachers as long as the teachers were not teaching or supervising students. The Hawaii Department of Education (DOE) maintained that preparation periods were intended for pursuit of professional responsibilities and duties and therefore association business should be conducted during non-working hours. The DOE also contended that the reason for the duty-free preparation period provision was to modify the first provision.

The arbitrator found that preparation periods were blocks of time granted teachers to fulfill professional obligations, but as this time was intended to be duty free, teachers were relieved of instructional and/or supervisory duties. The arbitrator upheld the association's contention since no evidence was presented to establish that the parties intended during negotiations to prohibit association representatives from visiting teachers during their preparation periods. (*Hawaii Department of Education and the Hawaii State Teachers Association*, American Arbitration Association, August 23, 1972.)

MICHIGAN

Sick Leave Granted Teacher for Incapacity Following Childbirth

An arbitrator sustained the grievance of an elementary-school teacher employed by the Wayne-Westland Community Schools Board and awarded her "18 days' sick leave for the period following the birth of her child when she was physically incapacitated." The teacher suffered complications following birth, requiring an operation.

Following her release from the hospital, her physician ordered her to remain flat on her back for a period of time. Upon returning to work, she requested that her 3.5 days' accumulated sick leave be applied to her absence and that the Wayne-Westland Education Association (WWEA) "recommend that she be granted 14.5 days' sick leave from the bank provided in the contract to cover the total amount of time she was away from work."

The teacher contended that she was entitled to use sick leave because the contract stated that "sick leave may be used for bona fide physical incapacity to report for and discharge duties."

The school board argued that maternity complications were not included within sick leave benefits.

The arbitrator pointed out that the instant case did not involve questions regarding the legality of a mandatory maternity leave policy or sex discrimination from a constitutional or statutory viewpoint as these questions were being decided by the courts. Rather, the case revolved around the negotiated contract, centering on whether maternity leave is mandated upon written request or whether an employee is entitled to sick leave if the employee is determined "bona fide physically incapacitated." In the first instance, stated the arbitrator, the employee did not request maternity leave. And based on the doctor's report, the teacher was incapacitated. Since the incapacity involved post-birth complications more than normal pregnancy and delivery, the arbitrator ruled that the teacher be granted the sick leave. (*Wayne-Westland Education Association and Wayne-Westland Community Schools*, American Arbitration Association, November 16, 1972.)

NEW JERSEY

State-wide Bargaining Unit for State College Faculties Recommended

A single state-wide faculty unit is the appropriate representative for academic employees of all New Jersey state colleges, according to the New Jersey Public Employment Relations Commission (PERC). The colleges whose faculties comprise the proposed unit are William Paterson College of New Jersey, Jersey City State College, Trenton State College, Newark State College, Montclair State College, Stockton State College, Ramapo State College, and Glassboro State College.

In agreement with the parties involved, the Commission recommended that all full-time teaching and/or research faculty, department chairmen, nonmanagerial administrative staff, librarians, student personnel staff, demonstration teachers, and professional academic support personnel holding academic rank be in the faculty bargaining unit. However, college presidents and vice-presidents, deans and other managerial executives, secretarial staff, maintenance staff, bookstore and food service staffs, adjunct and part-time professional staffs, graduate assistants, and all others were excluded.

The Commission ordered a faculty election to choose as bargaining representative either the New Jersey State Federation of Teachers, AFL-CIO, or the Association of New Jersey State College Faculties, or to choose "no organization."

A hearing officer had previously recommended that the state-wide unit be formed because of community interest among the eight colleges. He noted that employees at the colleges had similar titles and were indistinguishable from one another; that salaries and conditions of employment, as delineated in the Personnel Policies Guide of the board of higher education, were the same for all academic employees; that these employees had the same employer, the governor; and that the colleges' labor relations functions and budget-making processes were centralized. However, the hearing officer had suggested that items within the specific jurisdictions of the separate colleges be negotiated on a campus-by-campus basis. (*Stockton State College, Montclair State College, Jersey City State College, William Paterson College of New Jersey, Trenton State College, Glassboro State College, Ramapo State College, Newark State College, Public Employers, and New Jersey State Federation of Teachers, AFT, AFL-CIO, through various locals, Petitioner, and Association of New Jersey State College Faculties Inc., Intervenor*, New Jersey Public Employment Relations Commission, November 30, 1972.)

[*Editor's Note:* The New Jersey PERC consolidated review of 14 separate petitions concerning college faculty unit determination so that all petitions were resolved with one decision.]

NEW YORK

Separate Teacher Aides Unit Ruled Inappropriate

The Public Employment Relations Board (PERB) denied the decertification petition of the Levittown Federation of Teachers, United Teachers of New York, Local 1383 AFT, AFL-CIO (the Federation), for certification as the exclusive negotiating representative for teacher aides employed by the Union Free School District No. 5, Town of Hempstead. Concurrently, PERB denied a similar petition filed by Local 237, International Brotherhood of Teamsters, on behalf of bus drivers and custodial and maintenance personnel. Both the teacher aides and the bus drivers and custodial and maintenance personnel were members of Nassau Chapter, Civil Service Employees Association (CSEA).

The Federation and Local 237 contended that the groups they sought to represent had negotiating interests different from those of other members in the CSEA unit and that these differences prevented effective negotiations. The Federation backed up its contention by pointing out that only one of the teacher aides' special demands was attained during negotiations "as a direct result of CSEA's lack of concern."

According to the trial examiner, the varying interests of employees did not demonstrate the existence of enough conflict to preclude effective negotiations. "All it shows," said PERB, "is a possible difference in perspective which is to be expected, for the negotiating priorities of even people in the same general job category will shift to reflect such variables as age and marital status." Referring to a similar case, *Matter of Board of Cooperative Educational Services Nassau County*, the trial examiner pointed out that PERB "policy militates against unit fragmentation of employees who share a community of interest in an overall unit, unless sharp conflicts of interest are apparent between the employees." In addition, the fact that CSEA's negotiating de-

mands were largely rejected by the employer made it impossible to conclude that the aides' special demands were not achieved as a direct result of CSEA's lack of concern. On the basis of the foregoing, the examiner ruled that separate units of teacher aides and bus drivers and maintenance and custodial personnel were not appropriate or justified, and denied the petitions. (*In the Matter of Union Free School District No. 5, Town of Hempstead, Nassau County, Employer and Levittown Federation of Teachers of New York, Local 1385, AFT, AFL-CIO, Petitioner, and Nassau Chapter, Civil Service Employees Association, Inc., Intervenor*, Public Employment Relations Board, July 12, 1972.)

PENNSYLVANIA

Minimum Starting Salaries for Teachers Negotiable

The Pennsylvania Labor Relations Board (PLRB) ruled that the refusal of the Warwick Area Board of School Directors to bargain with teachers' representatives regarding a minimum starting salary for new hires constituted a violation of the Public Employee Relations Act (PERA).

The district board contended that it did not have to bargain on starting salaries because prospective applicants were not members of the bargaining unit and because previous contracts between the board and the union did not contain the provision.

The PLRB held that past practice had no bearing on the negotiability of a subject, and pointed out that "the concept of benefiting persons who will be employees in the future is inherent in the collective bargaining process." The board's objections were obviated by the already agreed upon terms and conditions of employment for the coming year.

The PLRB stated that the bargaining agent represented all employees "who will fill the employee positions that comprise the unit." Accordingly, the PLRB found that the district board had violated the PERA. (*Pennsylvania Labor Relations Board v. Warwick Area Board of School Directors*, Pennsylvania Labor Relations Board, January 12, 1973.)

WISCONSIN

Number of Regular Hours Worked No Bar to Representation

In a unit determination proceeding, the Wisconsin Employment Relations Commission (WERC) determined that all part-time school aides employed by the Unified School District No. 1 of the City of Kenosha and Towns of Pleasant Prairie and Somers are public employees entitled to representation.

Arguing against inclusion of the two categories of aides, the school district said that none of the employees working as bus aides or noon-hour supervisors worked more than a three-hour day, received none of the fringe benefits paid to other groups of aides, and did not consider this work for the employer to be a career. Additionally, both of these categories of aides have experienced a high degree of employee turnover.

The Kenosha Educational Aides Association (KEAA) contended that since bus aides and noon-hour supervisors were employees with regular hours, they were entitled to representation with respect to wages, hours, and conditions of employment.

According to WERC any employee who is regularly employed, regardless of the number of hours worked weekly, has a definite interest in the wages, hours, and working conditions governing his employment and is entitled to representation unless special circumstances indicating that the employee does not have a definite interest are presented.

The Commission believed that the high turnover rate among the two groups of aides might be an indication of the need for collective bargaining rather than lack of interest in the terms and conditions of employment. Additionally, the fact that these employees did not have the same benefits as the members of the bargaining unit did not bar them from being included in the unit. Furthermore, the work performed by these employees was similar to the work performed by other members of the bargaining unit. On the basis of the foregoing the WERC ruled that bus aides and noon supervisors should be included in the KEAA. (*Kenosha Educational Aides Association vs. Unified School District No. 1 of the City of Kenosha and Towns of Pleasant Prairie and Somers*, Wisconsin Employment Relations Commission, September 19, 1972.)

NEGOTIATION NOTES

DELAWARE

Family Health Insurance Plan Bargainable

The New Castle County Court ordered the Division of Adult Corrections of the Department of Health and Social Services to include in its budget as a priority item, the contractually agreed upon health insurance terms. The American Federation of State, County, and Municipal Employees filed a claim seeking to enforce part of a 1969 agreement in which the employer agreed to provide Blue Cross-Blue Shield health care coverage and to assume the full cost of a $2,000 life insurance policy for each department employee.

The state employer argued that the contract article in question was unenforceable because the state's merit system statute limited the scope of bargaining contained in the state's public employee bargaining statute to subjects specifically mentioned in the bargaining law; and since health insurance was not included, it was nonnegotiable. The employer also contended that a health plan particularly for employees' family members was beyond the scope of bargaining because it was not included within any of the subjects specifically mentioned in the bargaining law (wages, salaries, hours, vacations, sick leave, grievance procedures, and other terms and conditions of employment) and it was neither a term or condition of employment nor a matter of employment relations.

The court pointed out that the fact that health insurance was not covered in the bargaining law was irrelevant since "the merit statute does not limit the permissable scope of bargaining to matters listed in the bargaining law but rather provides a set of rules to resolve any conflicts that may arise between commission rules and negotiated agreements." Additionally, courts have held that group insurance programs fall within the meaning of wages under the National Labor Relations Act and that the Taylor Law has been expanded by New York courts to include medical, dental, and life insurance premiums as terms and conditions of employment. The state court thus ruled that "the subject of health insurance programs for both employees and the members of their families is within the permissible scope of collective bargaining."

Attention was turned to the question of whether or to what extent the agreement between the parties was enforceable. The court said that if the legislature had intended that state agencies not be bound by collective bargaining agreements, the legislature would not have granted state employees the right to bargain collectively. Even though the agreement between the parties could not bind the department to pay for health insurance until funds were appropriated, the public employee bargaining statute requires the public employer to negotiate in good faith and to take the necessary action within its power to abide by its agreement.

In this case the employer could provide the payment of health premiums by including such payments as a priority item in its budget. The decision to exclude the health insurance provision was based upon an "administrative judgment" of the minimum budgetary needs and the "exercise of discretion" in trading off priority items. The court held that the time to exercise judgment and discretion is before and during negotiation, as once the agreement is signed, the employer is bound to pursue every step within its power to see that the insurance is provided. Therefore, the court ordered the employer to include funds for health insurance as a priority item in its budget. (*State of Delaware, Department of Health and Social Services, Division of Adult Correction, and John J. Moran, Director v. American Federation of State, County, and Municipal Employees Local 1726 et al.*, Court of Chancery of the State of Delaware in and for New Castle County, November 3, 1972.)

INDIANA

Teachers Gain Collective Bargaining Statute

Indiana Governor Otis Bowen signed into law a measure requiring school boards throughout the state to bargain collectively with teachers. The Indiana State Teachers Association (ISTA) hailed the measure as "a major victory."

The collective bargaining statute is the first of its kind for any group of public employees in the state and brings to 30 the number of states with teacher collective bargaining laws.

The law calls for recognition of exclusive bargaining representatives and mandates bargaining on salaries, wages, hours, and fringe benefits. Bargaining on other issues, such as curriculum, textbook selection, and class size, is permitted but not required. A "grandfather" clause protects the negotiability of those items in present contracts between teachers associations and school boards.

The new law creates a five-member Indiana Educational Employment Relations Board to oversee bargaining practices, and provide for impasse machinery, including fact-finding and mediation by the board. Grievances will continue to be processed by the exclusive representatives with binding arbitration as the final step.

The law will become effective July 1, 1973, and school boards must begin bargaining sessions no later than January 1, 1974, with elections to determine exclusive representatives to take place immediately. (The full text of the Indiana Collective Bargaining Bill will be published in a future issue of the NEGOTIATION RESEARCH DIGEST.)

VIRGINIA

Amendment Puts Limitations on Closed Shop and Union Security

The amended Virginia Right-to-Work Law, which becomes effective June 1, 1973, declares that "the right of persons (including public employees) to work shall not be denied or abridged on account of membership or non-membership in any labor union or labor organization."

According to the amended law no employer can require any person, as a condition of employment or continuation of employment, to pay dues, fees, or other charges of any kind to a labor union or organization, to become or remain a member of a labor union or organization, or to abstain from membership in any labor union or organization. Any person denied employment in violation of the foregoing is entitled to recover from the employer and any other person, firm, corporation, or association acting in concert with the employer, any damages sustained on account of such denial or deprivation of employment.

The use of lockouts, lay-offs, boycotts, picketing, work stoppages, or other conduct for the purpose of inducing an employee or employer to violate any provision of this law is illegal conduct contrary to public policy. Any party injured as a result of any violation or threatened violation is entitled to injunctive relief and all cognizable damages resulting from the violation.

Labor unions or organizations whose officers and trustees reside outside the state "shall by written power of attorney, filed with the Department of Labor and Industry and the State Corporation Commission, appoint the clerk of the State Corporation Commission, its attorney or agent, upon whom all legal process against the union or organization may be served and who shall be authorized to enter an appearance on its behalf."

Violation of this amendment is a misdemeanor and punishable by a fine of not more than $500.

FEDERAL

Alteration of Merit Promotion Plan Negotiable

Striking down the Veterans Administration position that the item was nonnegotiable, the Federal Labor Relations Council ruled negotiable a union proposal to alter the promotion plan at a VA Research Hospital.

The Veterans Administration Independent Service Employees Union (VAISEU) representing nonprofessional hourly and salaried employees of the VA Research Hospital in Chicago alleged that "preselection" of job candidates by supervisors was ruining the hospital's merit plan.

During negotiation, the union and the hospital agreed on a provision requiring the selecting official to notify a VAISEU steward who could request both justification for the selection and written, supporting materials. If dissatisified with the explanation, the steward could within two days request review of the selection by a higher official.

The VA declared the proposal to be nonnegotiable and alleged that the clause would violate Section 12 (b) (2) of Executive Order 11491 which prohibits collective bargaining agreements from imposing on management rights to hire, promote, transfer, assign, retain, and discipline employees. The VA also asserted that the clause violated its own and Civil Service Commission regulations governing grievance procedures and merit promotion.

FLRC said that no right accorded to unions under the Executive Order might be permitted to interfere with inherent management rights, but that this reservation does not bar negotiations of procedure.

The Civil Service Commission held that its regulations on grievance procedures were not applicable because the VAISEU procedure for higher management review of selection decisions was not grievable. Also, the Commission did not find support for the VA's rules interpretation governing merit promotion.

FLRC concluded that none of the characteristics alleged by the VA existed in the proposal and that the proposal would provide a review of an official's selection by a higher official whose decision would be final. (*Veterans Administration Independent Service Employees Union and Veterans Administration Research Hospital, Chicago*, Federal Labor Relations Council, November 22, 1972.)

Court Upholds EEOC District Offices' Issuance of Right-To-Sue Notices

In a ruling handed down by the U.S. District Court for Northern California, the Equal Employment Opportunity Commission (EEOC) was found to have correctly delegated the power to issue right-to-sue notices to its district offices.

The court held that the Civil Rights Act of 1964 stipulates that EEOC may, within 30 days after a noncompliance charge is filed, notify the aggrieved person and bring civil action against the respondent named in the charge.

In the instant case, a plaintiff had charged with EEOC that the E. D. S. Federal Corporation discriminatorily denied her, solely because of sex, opportunities and prerequisites to which she was entitled as a systems engineer. EEOC field office issued the right-to-sue notice after conciliation failed.

The company contended that the court lacked jurisdiction since the right to sue is statutory, thereby existing only where all statutory prerequisites are present. Further, the company stated that one of the prerequisites is obtaining a notice to sue from the commission itself. The company declared that the action being issued by a delegate of EEOC was null and void; therefore, the prerequisites were not complied with and the action must fail for lack of jurisdiction.

The company cited several Supreme Court decisions, notably *Cudahy Packing Co. v. Holland* in which the high court struck down the Wage-Hour Administration's attempt to delegate to its regional directors the power to sign subpoenas on the ground that legislative grant to delegate authority existed.

The court stated that in view of *Cudahy* the delegation of authority to issue right-to-sue notices was improper. However, the court agreed with EEOC's position and decided that it would be foolish to hold that EEOC cannot delegate such power since under its regulations EEOC's function with respect to charges is only to receive charges and issue notices.(*Julia B. Stone v. E. D. S. Federal Corporation*, U. S. District Court for Northern California, November 10, 1972.)

Basic Workweek Negotiable

Federal Labor Relations Council (FLRC) resolved a negotiability dispute in favor of the Federal Employees Metal Trades Council (MTC) which had sought to insert the phrase, "Monday through Friday," in the agreement with the Navy Supply Center, Charleston, South Carolina. The current contract stated that the "basic workweek shall consist of five (5) eight (8) hour days."

The Navy Department objected to the addition, alleging that the proposal would increase overtime costs, thereby infringing on management's right to maintain efficient operations, and would require bargaining on the establishment and change of tours of duty which conflict with Section II (b) of Executive Order 11491 as interpreted by FLRC in *Plum Island Animal Disease Laboratory*.

In the *Plum Island* case, FLRC had rejected a similar contention that a contract proposal which would add to cost would of itself result in decreased efficiency. Further, the FLRC explained, the *Plum Island* case involved a round-the-clock operation in which the number and duration of duty tours affected the numbers and types of assigned workers. FLRC decided that in this case (MTC) there was no indication that the proposal of Monday through Friday as the basic workweek would require bargaining on the numbers, types, and grades of positions or employees.

FLRC found the proposal negotiable and not in conflict with Section II (b) of the EO 11491. (*Federal Employees Metal Trades Council of Charleston and Naval Supply Center, Charleston, S.C.*, Federal Labor Relations Council, November 24, 1972.)

OTHER ITEMS OF INTEREST

Doctors Groups Affiliate with Service Employees International Union

Doctors groups in California, Washington state, and New Jersey have affiliated with the Service Employees International Union (SEIU).

According to the president of Contra Costa Physicians Union, Local 683, in California, its members decided to unionize owing to the Board of Supervisors obstruction of physicians' efforts to provide better and more efficient health care to their patients, and the board's refusal to talk about health problems in the country or to accept a state offered contract for prepayment of Medi-Cal premiums. Strike actions against the board were ruled out because physicians' ethics prevent them from denying vital care to any patient; however, it was pointed out, "many other actions are possible due to the central role of physicians in the management of health care services."

The Nevada Physicians Union, Local 676, which preceeded the formation of the California union did so in order "to protect the right of physicians to make their own decisions about patient care without interference from third parties."

ATTORNEY GENERAL'S OPINION

MINNESOTA

Any agreement between a school board and an association whereby a school district employee loses his statutory right to receive military pay in addition to his regular salary while on military leave from the district violates state law. Such an agreement would impair the incentive designed by the legislature to encourage participation in the military.

NEW MEXICO

State employers may negotiate a bargaining agreement with the representatives of state employees providing the terms of such agreement do not exceed the maximum limitation rules of the personnel board.

[Editor's Note: Guidelines of the New Mexico State personnel boards were summarized in NRD 1-72-11.]

NEW YORK

New York Labor Law statutes that discriminate against the employment rights of women were found unconstitutional because they conflicted with the Federal Civil Rights Act of 1964, the Equal Employment Opportunity Commission guidelines issued thereunder, and federal court decisions interpreting the Act. However, absence of legislation does not invalidate laws which provide special benefits for women, i.e., "Labor Law Section 203 (b) that requires a sufficient number of seats for female employees in certain occupations" or "Sections 294 and 295 that require dressing and emergency rooms and separate water closets for females in factories."

The statutes that were found unconstitutional prohibited employment of women in certain occupations or job functions: jobs that compel constant standing, operation of automatic elevators, cleaning moving machinery, working as a conductor, guard, or messenger in a railroad, working in a foundry connected with core making, or employment in connection with a mine or quarry. Also, the law that established different hours for female and male minors was found invalid.

NEVADA

Barring an alternative appeal route contained in the negotiated agreement, the Professional Practices Act provides the exclusive review procedure machinery for dismissal of teachers. Therefore, a local government employee-management board does not have jurisdiction to review the dismissal of a probationary teacher without a collective bargaining agreement even if the dismissal is alleged as prompted by discrimination which is a violation of the Local Government Employee-Management Act.

The Consumer Price Index—March 1973

The Consumer Price Index rose 0.9 percent in March, the U.S. Department of Labor's Bureau of Labor Statistics reported today. A substantial increase in food prices, due largely to higher prices for poultry and meats, accounted for about two-thirds of the rise in the CPI. Increases for clothing, used cars, and rent and other household services also contributed significantly to the rise. The March index was 129.8 (1967=100), 4.7 percent above a year ago.

After seasonal adjustment, the March increase was 0.8 percent. Prices of food, including restaurant meals and snacks, rose an average of 2.5 percent after seasonal adjustment. The nonfood commodities index increased 0.3 percent after seasonal adjustment. The services index rose 0.3 percent.

In the calendar quarter ended in March, the CPI rose at a seasonally adjusted annual rate of 8.8 percent; in the quarter ended in December, the rate of advance was 3.2 percent. The acceleration was due primarily to a faster rate of increase in the food index which advanced at a seasonally adjusted annual rate of 29.8 percent in the December-March period—the largest increase for any 3-month period since 1951. The index for nonfood commodities increased at a seasonally adjusted 3.4 percent rate in the 3 months ended in March, compared with 1.0 percent in the quarter ended in December. The increase reflected the action of the Price Commission which resulted in a postponement of most of the price increase for new cars from the fourth quarter of 1972 into 1973 and an acceleration in the first quarter of price increases for fuel oil and gasoline. The services index increased at a 3.6 percent rate in the December-March period, slightly less than the 3.9 percent rate in the preceding quarter.

[U.S. Dept. of Labor, Bureau of Labor Statistics, "News Release," April 20. 1973.]

STATISTICS

NEGOTIATED EXTRA COMPENSATION FOR EXTRA-DUTY ASSIGNMENTS

Over one-third of the teacher collective bargaining agreements on file with NEA Research contain provisions granting extra compensation for a variety of duties assigned in addition to the regular teaching load or the annually compensated guidance of student extracurricular activities. Of the 1,529 agreements negotiated during 1970-71 in districts with 1,000 or more pupils enrolled, 521 agreements contained such provisions.

This analysis is intended to show the variety of activities and duties for which teachers are compensated and the frequency with which compensation for them is negotiated, not the specific dollar amounts received.

Normal curricular duties, extracurricular activities for which a seasonal or yearly stipend is paid, adult education, night school, and summer school are considered to be part of the regularly contracted teaching load and are not included in this analysis.

The ranges of compensation rates paid for the same or

TABLE 1.—NEGOTIATED EXTRA-DUTY, OVERTIME, AND PREMIUM PAY PROVISIONS, 1970-71

Paid Extra Duties	Number	Percent*
1	2	3
TOTAL NUMBER OF AGREEMENTS	1,529	
NUMBER OF AGREEMENTS WITH EXTRA COMPENSATION	521	100.0
Duties during the school day	380	72.9
Regular teachers as substitutes	187	35.9
Overload, extra class period	126	24.2
Lunch, hall, recess, bus loading, cafeteria and other duties	56	10.7
Excessive class size, combined classes	11	2.1
Duties before or after school	469	90.0
Student supervision, athletic and supplemental support services at unspecified events	152	29.2
Chaperones	123	23.6
Curriculum development	42	8.1
Field trips	18	3.4
Faculty meetings, parent-teacher conferences, etc.	11	2.1
Support services for dramatic and musical	9	1.7
Inservice participation	8	1.5
Debate and speech contest judges	7	1.3
Undefined activity	81	15.5
Undefined Saturday, Sunday, holiday duty	18	3.4
Extended school year	72	13.8

*Since provisions are not mutually exclusive, the percent of agreements containing specific provisions falling within a broad category cannot be determined accurately.

TABLE 2.–COMPENSATION FOR OTHER THAN REGULAR ASSIGNMENTS, 1970-71.

Duty and Type of Pay	Median	Mode	Range	Number of Provisions
1	2	3	4	5
TOTAL NUMBER OF AGREEMENTS				521
Extra duty during the school day				380
Regular teachers as substitutes				187
Flat amount				131
Per period	$5.00	$5.00	$3.00-10.00	71
Per hour	5.00	5.00	3.00-10.36	57
Per day (for teacher assigned absent teacher's class)	$30.00		$24.00-45.00	3
Proration formula				51
Proration of regular pay		1/6 per day		20
Proration of substitute pay		1/6 per day		26
Proration of B.A. base				5
Other				5
Overload, extra-class period				126
Hourly pay	$6.25	$6.00	$4.90-8.00	13
Annual pay per extra class	650.00	560.00	185.00-2,000.00	14
Percent of regular daily rate	16.6%	16.6%	10.0%-20.0%	46
Proration of daily pay				22
Other				12
Undefined				19
Lunch, hall, recess, bus loading, cafeteria, and other duties				56
Hourly pay	$4.00	$5.00	$1.25-7.50	33
Annual stipend	400.00	400.00	50.00-500.00	9
Other				14
Excessive class size/combined classes				11
Extra duty, before or after school				469
Athletic supplemental support services[a]				152
Per hour			2.00-7.50	
Per event			3.00-30.00	
Student supervision, unspecified admission supported event				35
Per hour			3.00-6.00	
Per event			4.00-11.50	
Chaperones				123
Student bus				67
Per hour	3.00		2.00-5.00	11
Per trip	10.00	10.00	5.00-30.00	49
Other				7
Dance				56
Per dance	10.00	10.00	2.25-26.00	44
Per hour	3.00	5.00	2.00-5.00	10
Other				2
Curriculum development				42
Per hour	6.00	6.00	4.00-9.00	21
Proration				11
Other				10

TABLE 2.–COMPENSATION FOR OTHER THAN REGULAR ASSIGNMENTS, 1970-71. (Continued)

Duty and Type of Pay	Median	Mode	Range	Number of Provisions
1	2	3	4	5
Field trips				18
Per night	14.00	10.00	10.00-25.00	9
Per day	15.00		7.00-20.00	7
Other				2
Faculty meetings, parent-teacher Conferences				10
Per hour	$8.75		$5.00-10.00	4
Proration				3
Other				3
Dramatic, musical production supplemental support services				9
Per event	11.50		5.00-20.00	6
Per hour	4.00	4.00	3.00-4.00	3
Inservice participation				8
Per hour	7.90		6.80-9.00	2
Other				2
Class instruction, hourly pay	13.30		7.50-14.10	4
Judges, debate/speech contest per event	12.00	10.00	4.00-25.00	7
Extra services (unspecified activity)				81
Per hour	$4.75	$5.00	$2.40-8.05	42
Per event	10.00	10.00	3.00-20.00	17
Proration				12
Other				10
Saturday, Sunday, holiday duty				18
Per hour	5.00	4.00	3.00-10.00	11
Per day or per event	13.00		10.00-15.00	4
Proration				3
Extended Year Pay				66
Proration				42
Other				24

[a]Duties include ticket taking and selling, crowd control, guarding fences, proctoring, timing and scoring events, announcing, photography and general supervisory assistance.

similar activities are illustrated in Table 2. The cited methods of compensation are those appearing most frequently, or in some cases the only measurable form. The range of dollar amounts paid is broad, therefore, the mode (frequency) and median (midpoint) of the amounts of compensation for a specific type of extra service are computed where sufficient information was available. The dollar figures presented are those negotiated during 1970-71. It may be assumed that these amounts have been renegotiated upward, even though the content of the contract may have remained unchanged.

PROVISIONAL CONTENT

Agreement provisions for extra duties are grouped into three broad categories: (a) specific, irregular assignments supporting a variety of extracurricular and professional activities; (b) duty assignments beyond the negotiated school day or work year; and (c) emergency assignments, which increase the number of student contact hours or class size above the negotiated limits.

Regular teachers perform and receive compensation for duties and services ranging from substitute teaching in an

emergency, to assistance in support of an assortment of extracurricular activities or contests performed on an irregular basis. The types of extra pay duties vary widely since they are often indigenous to the climatic conditions or customs of a particular section of the country.

Extra-duty compensation spans three time periods: (a) service performed during the school day, but beyond the normal teaching load; (b) services rendered before or after the school day; and (c) extension of the school year. Services rendered beyond the school year are seldom defined in contracts. Compensation for curriculum development and inservice training, services, often performed as an extension of the school year, are reported in this analysis because they are frequently negotiated along with other extra duty compensation provisions, or appear as computable rates paid for extra service.

In the majority of provisions, extra compensation is effective upon assignment, but in some provisions, payment is made after performance of a specified number of overtime hours or repetitions. For example, the Holbrook, Massachusetts, agreement provides:

> Teachers may be required to substitute for other teachers in emergency situations, and, in any event, for a maximum of seven (7) periods per year during the term of this Agreement, as follows:
> First three (3) periods - without compensation
> Fourth through seventh periods - $7.00 per period
> Eighth period and beyond-voluntary and at a rate of $7.00 per period.

In some deviant provisions, the rate of pay increases or decreases after a specified number of hours have been expended in the performance of that duty. The Orfordville, Wisconsin agreement compensates teachers who take tickets, chaperone buses, or supervise dances with $5.00 for the first hour and $1.00 for each succeeding hour or part thereof. According to the Pontiac, Michigan, extra-duty provision:

> The hourly rate for a secondary school teacher who is assigned a duty period within the school day beyond the normal five (5) periods of teaching responsibility will be as follows: $5.00 for temporary or casual assignments, $6.00 for long term assignments. Long term assignments are defined to mean assignments that extend beyond five (5) consecutive days. Elementary teachers will be reimbursed on a prorated basis of the above on the actual time spent in substituting on both a temporary and extended basis.

Usually, extra-duty compensation is expressed in terms of a flat dollar amount or a proration tied to the teacher's regular salary, substitute teacher's salary, B.A. base pay, or other agreed upon variation. Flat dollar amounts are often specified in terms of hourly rates or per diem amounts; however, some provisions attached a fixed dollar amount for an event on a per occurrence basis. The proration formulas are computed as a percentage or fraction of an identifiable rate of a negotiated salary figure. However, if the duty is performed repeatedly over an extended period of time (particularly overload pay for teaching an additional class period or increased student contact hours for a semester or a year), payment is frequently in the form of an annual or semi-annual stipend, with the basis for derivation remaining constant.

The following sample provisions are indicative of the varied duties for which extra compensation is negotiated. These provisions are not intended to be exemplary, but are guides for developing provisions for payment for similar duties.

REGULAR TEACHERS AS SUBSTITUTES

> Every attempt will be made to obtain a substitute teacher qualified in the particular area. In the event a qualified substitute in a particular area cannot be obtained, a substitute qualified in another area will be secured. If a substitute cannot be obtained, teachers will be reimbursed at the rate of $9.00 per period in 1970-1971 and ten dollars ($10.00) per period in 1971-1972. If students are divided in the elementary schools when the teacher is absent, the teacher sharing the responsibility of the absent teacher's students will share equally forty-five dollars ($45.00) during 1970-71 and fifty dollars ($50.00) during 1971-72. This shall not be the case in an emergency. An emergency refers to an uncontrollable circumstance after the Teacher Day begins.
>
> **[Deer Park UFSD No. 17
> Deer Park, New York]**

* * *

OVERLOAD TEACHING

> When a teacher accepts an overload assignment, he shall receive an additional 1/5 of his daily rate per day for the length of that assignment. Under no circumstances shall a teacher be assigned to more than one overload hour.
>
> **[Wichita, Kansas]**

> If a teacher shall teach more than the normal teaching load as set forth in this article, he shall receive additional compensation at one and one-half (1½) times his hourly rate for each teaching period in the excess of such norms.
>
> **[Eau Claire, Michigan]**

> If a teacher shall volunteer to teach more than the normal teaching load as set forth in the Article, he shall receive additional compensation at the rate of one-fifth (1/5) of his annual salary. Temporary assignment as substitute shall be paid at the rate of $6.00 per hour.
>
> **[Morenci, Michigan]**

> In secondary schools where, over the course of any given month, a teacher of an academic subject is required to teach a cumulative average of 5½ periods per day or more, such teachers shall be compensated at the rate of $7.00 per period for the extra instruction required of him.
>
> **[Fair Lawn, New Jersey]**

* * *

PREMIUM PAY FOR EXCESSIVE CLASS SIZE

> Size of Classes - It is recommended that 30 pupils per classroom be maximum size. In laboratory-type classes, where individualized instruction and small-group work are more prevalent, class sizes should range from 16-24 pupils. In most classes, class size should range from 24-30 pupils per classroom.
>
> Large-Group Instruction - The following guideline is to be followed for teachers in this area:

4-Large-group classes per week
20-Periods of instruction
No additional supervision or miscellaneous activity responsibility (hall duty, homeroom, study hall, etc.) Additional $500 stipend

In large-group instruction classes, class size may range from 50-150 pupils.
Communication Classes-Communication classes should have a reduced class size load, with a range from 16-24 pupils.

Split Assignments
a) No supervision
b) No more than one (1) move per day between buildings
c) One (1) preparation period between building assignments
d) The teacher day for a teacher with a split assignment shall not exceed that of an intermediate or senior high school teacher (7½ hours).

[Coatesville, Pennsylvania]

* * *

EXTRA-DUTY COMPENSATION

The salary schedule is based upon a normal weekly teaching load, as hereinafter defined, September 6 to June 9 during normal teaching hours. For extra work the teacher shall be entitled to appropriate additional professional compensation, at his established professional hourly rate. The professional hourly rate of any teacher shall be determined by dividing his base salary, as set forth in Schedule A, by 1520 hours. The teacher shall be paid his established hourly rate, in addition to his base salary, for all time spent after the regular school day in parent-teacher conferences, supervision of extra-curricular activities of students, (unless they have volunteered for such supervision), teacher meetings after 4 p.m. of any day or on Saturdays, Sundays or holidays, and attendance at any educational or civic functions where attendance is not voluntary but required. Attendance of P.T.A. meetings is a voluntary activity of the teacher, as is the attendance of parents.

[Ironwood, Michigan]

After School Activities: The District Principal and a committee of three staff members selected by the Association shall screen proposals for after school activities submitted jointly by the staff and Principal of each school. Final authorization shall be given by the District Principal by October 1st. The sponsor shall be paid $7.00 per hour. A sum of money, not to exceed $2,500.00, shall be budgeted for supervised after school activities.

**[Elmont USFD No. 16
Elmont, New York]**

* * *

NONPROFESSIONAL DUTIES

Teachers who are required to serve at any approved activity as chaperones, ticket sellers or collectors, track officials, and other non-professional duties of this type shall be compensated as follows:

Invitational track and dances $18.00 per event. All others $14.50 per event.

[Carle Place, New York]

* * *

MUSICAL PRODUCTION EXTRA-DUTY PAY

Because of the difference in the programs in the several secondary schools, and because of the differing demands on the time of those who work in the programs, funds will be appropriated to provide for: (1) A per-diem compensation for music teachers who accompany students in out-of-county, state-sponsored activities; (2) A per-diem compensation for music teachers who assume primary responsibility in the annual music festivals; (3) A per-hour compensation for those music teachers who work with drama coaches in the jointly sponsored music-drama productions; (4) A per-hour compensation for senior high school band directors not to exceed 40 hours as required for the football season; (5) A per-hour compensation for vocal music teachers for a maximum of 90 hours of direction of madrigals or similar singing groups as a part of the music program of the school but not during the regular contract day; (6) The per-hour compensation for those art teachers who work with drama coaches in performing arts production, and for art teachers who work on major student art exhibitions.

THE PER-DIEM RATE SHALL BE $25 AND THE PER-HOUR RATE SHALL BE $4.

[Arlington, Virginia]

* * *

ATHLETIC EVENT, SUPERVISION, AND SUPPORT SERVICES

Teachers may volunteer for work on the duty roster. The principal will make specific assignments and determine the number of events each person will work.

Payment will be as follows:

Supervision Category

$10.00 Door/Gate Watcher
$10.00 General Supervisor
$10.00 Ticket Takers

Special Skill Category

$13.00 Scorer-home-official book
$13.00 Scorer—away
$13.00 Timer
$13.00 P.A. Announcer/Video Tape
$12.00 Ticker Seller

High Responsibility Supervision Category

$15.00 Bus Chaperones over 75 miles round trip
$12.00 Bus Chaperones under 75 miles round trip

Officiating Category

$13.00 Baseball umpires (Varsity)
$12.00 Basketball referees (Freshmen and Jr. High) (2 games)
$10.00 Basketball referees (Junior Varsity)
$12.00 Football referees (Junior Varsity or Freshmen)
$12.00 Track Meet Assistants

Payment is to be made in a lump sum at the end of the school year upon satisfactory completion of assignments as attested by the High School Principal. (Payment to be subject to appropriate deduction for social security, retirement, etc.).

[Cumberland, Wisconsin]

* * *

CURRICULUM DEVELOPMENT

The Board agrees to compensate teachers who participate in Summer Curriculum Workshops according to the following rates:

Bachelor's Schedule	$6.00 per hour
Master's Schedule	$7.00 per hour
6th Year Schedule	$8.00 per hour
PhD Schedule	$9.00 per hour

The chairman of Curriculum Workshops Committee shall be paid an additional $1.00 per hour over and above the rates set forth herein.

[Newington, Connecticut]

* * *

INSERVICE PARTICIPATION

Inservice participation (for approved programs with special budget provisions)	$6.80 per hour
Project and Curriculum Development Committee or Group Member	$10.80 per hour
Inservice Instructors	$14.10 per hour
Project and Curriculum Development	$14.10 per hour

[Oakland, California]

* * *

ACTIVITIES AND ASSIGNMENTS HAVING HOURLY OR PER-ASSIGNMENT RATES

Approved Curriculum Planning	$5.00 hr. - 0-3 yrs. exp. $6.00 hr. - 4 yrs. exp./over
Supervision of Extra Curricular Activities - Includes only:	$3.50 per hour (Not to exceed maximum time scheduled for each type of activity).
Chaperon Dances	
Ticket Sales	(Minimum of $7.00 per event.
Crowd Control as Athletic Events and Dramatic Events	Applies only when teacher must return in evening or nonschool day).
Assist in Athletic Field Assignments	
Assist in Athletic Scoring Assignments	
Forensics and Debate Judges	$25.00 per assignment
Intra-Faculty Substitution Grades 7-12	$5.60 per scheduled period
Intra-Faculty Substitution Grades K-6	$2.75 per scheduled period
Supervision in lieu of 30-Minute Noon Hour	$2.50 per 30-minute period
Intramurals	$5.00 per hour (actual time)

[Franklin, Wisconsin]

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SPECIAL REPORTS

BRIEFS OF AGREEMENTS

Oakland, California

Between the Board of Education of the Oakland Unified School District and the Certificated Employee Council, effective September 1, 1972, to August 30, 1973. Approximately 2,200 certificated professional employees including Children's Center employees. Provision for negotiation of impasse, provision for re-opener of monetary clauses upon addition of new money allocation of any additional 1972-73 funds, which must be placed in the special program improvement reserve, is subject to the meet and confer process.

COMPENSATION: (1972-73) B.A., $7,200 to $11,100, 10 increments; 5 years' preparation, $12,963 maximum; 6 years' preparation, $9,222 to $14,406, 12 increments; Ph.D., $15,417 maximum.

OTHER: Additional $360 longevity pay after 20 creditable years' service; joint committee to study payment of portion of accumulated sick leave at time of retirement; daily substitute pay is $33.25; after 20 consecutive days of substitute service, $40.75 per day; regular teacher as substitute, $10.05 per hour; Children's Center substitute, $3.80 per hour with assistant substitute, $3.15 per hour; teachers working with student teachers receive amount equal to, but not limited to, teacher training institution stipend; homebound and adult education teachers, $10.05 per hour; teachers on special assignment receive an additional $405 per year; one-tenth of annual salary for each additional month (18 days' work) of service;

Senior high-school department heads, including librarians:		
5-19 periods assigned (including head)	Added	$261.00/yr.
20-34 periods assigned (including head)	Added	357.00/yr.
35-49 periods assigned (including head)	Added	453.00/yr.
50+ periods assigned (including head)	Added	549.00/yr.
Head teacher:		
Fewer than five teachers	Added	405.00/yr.
Five teachers or more	Added	612.00/yr.
Audiometrists	Added	405.00/yr.
Inservice participation (for approved programs with special budget provisions		6.85/hr.
Project and curriculum development:		
Committee or group member		10.90/hr.
Leader or chairman		14.25/hr.
Inservice instructors		14.25/hr.

Summer school pay is a proration of regular salary; ROTC instructors receive the difference between active duty pay and retirement pay plus $123 per month; compensation for "certain principal assigned non-classroom duties" performed before or after the regular school day in excess of 5 hours per month.

LEAVES: Ten days' annual sick leave credited at the beginning of the school year, unlimited accumulation; up to 6 days, deducted from sick leave, for illness or death in the immediate family, accident to the teacher, member of his immediate family or their property, emergency delay in travel, or officially ordered court appearance; emergency personal business leave granted at the discretion of the superintendent; up to one hour unrecorded emergency leave may be granted; leave for educational conferences, meetings, and committees (with "up to full" expenses paid by the district) available to authorized district representatives; 29 sabbatical leaves at 60 percent pay after 7 consecutive years' service; up to 60 days' leave (less Workman's Compensation) for any Workman's Compensation qualified disability; Children's Center teachers' vacation accrues at the rate of 10 days annually the first year, 15 days annually the second and third years, and 20 days annually after the fourth year.

INSURANCE: Board-paid health insurance, effective on first day of the second month of employment, with family coverage, teacher has a choice between one of two health services, if both family members are employed in the district, each has the choice of the same or of different health services, but neither may be a dependent on the other's plan and children may be enrolled in one plan only; board's contribution to part-time employees' health insurance is prorated; board-paid dental insurance begins the first day of the seventh month of employment; life insurance policy pays $2,500 for natural death and $5,000 for accidental death; board provides insurance protection against work-related liability claims; tax-sheltered annuity plan available; supplemental annuity program, administered by 5 trustees, 4 of whom are appointed by the council; long-term disability insurance, effective the first day of the sixth month of employment, pays two-thirds of the first $1,000 basic pay and one-third of pay beyond $1,000 per month; up to $1,000 per month paid for disability after 60 calendar days or expiration of all paid leaves.

ASSOCIATION: Payroll deduction of local, state, and national association dues; 5 days' released time for each of 9 council members so that they may meet with the board's

representatives; right to conduct organization business on school property, to use bulletin boards, school district mail service, teacher mailboxes, and school buildings; first Monday (second, when the first Monday follows a vacation) of the month reserved for teacher organization meetings; board furnishes upon request non-confidential information relating to employer-employee relations, salaries, budgets, district finance, other appropriate council data, and a list of the names, addresses, and phone numbers of employees (unless the individual employee requests otherwise); board to consult the council concerning the appropriation and allocation of additional tax funds.

INSTRUCTION: Elementary teachers shall have one and secondary teachers shall have only 2 preparation periods, when possible; school calendar is negotiated; elementary school day shall be from 8:30 a.m. to 3:15 p.m. with teachers reporting at least 15 minutes before and remaining 10 minutes after class; secondary teaching day shall be from 8:30 a.m. to 3:30 p.m. with teachers reporting 15 minutes before and remaining 15 minutes after class.

PERSONNEL: Grievance procedure ends with binding arbitration; right to review personnel file in the presence of an administrator or his designee and to be accompanied by a representative; prior notification of all derogatory material placed therein, with the right to review and answer such material;

> In the event that such charges made against an employee are proven to be without substance, such employee shall have the prerogative of deciding what shall be done with any records of such proceedings.

Elementary teachers have 45-minute duty-free lunch period; all other teachers have at least 30-minute duty-free lunch period; elementary preparation period between 8:30 and 9:00 a.m., with rotation of morning yard duty between 8:50 and 9:00 a.m., the teacher assigned such duty may leave 10 minutes early; maximum of 10 faculty meetings per year including preschool orientation; additional meetings permitted when there are "unforseeable circumstances which require immediate action"; professional growth is expected of teachers; completion of college or inservice multi-ethnic studies course is encouraged; first, second, third, and seventh days of 7 Minimum Day Workshops allocated for initiation of new evaluation procedures with remaining workshop time allocated for program improvements;

> Parent, community and student involvement in the design and conduct of the workshops is strongly recommended. A permissible option is the release of faculty for the afternoon for one or more Minimum Day Workshops, to return in toto in the evening for a workshop with parents and community. Possible workshop topics include school objectives, advancing school site Master Plan, Citizens Committee processes, new curriculum design, multi-ethnic programs, and staff and parent inservice training.

Private evaluation of teachers in accordance with pre-established specifications:

> Establish standards of expected student progress in each area of study and techniques for the measurement of that progress.
>
> Measure certificated employee competence relative to the achievement of the foregoing.
>
> Assess certificated employee performance of duties adjunct to their regular assignment.
>
> Insure that all certificated employees are maintaining proper control and preserving a suitable learning environment.

Provision for evaluation of substitute teachers serving more than 5 days; procedures established for investigating and resolving complaints against employees; no discussion of such complaints permitted in open board meetings; community ethnic composition:

> It is the policy of the Board to seek racial and ethnic balance of employees, conscientiously striving to create a balance that is consistent with the community's ethnic composition. In seeking candidates for vacant positions, the Board shall maintain among new appointees a balance in terms of age, training and experience. Highly qualified candidates of proven experience shall not be passed over because of higher placement on the salary schedule, with due regard for maintaining the above-mentioned balance.

Posting of all promotional and other vacancies; teachers may apply for posted positions or for a general transfer; all applications will be acknowledged; criteria for selection shall be the suitability of the teacher's qualifications and experience to the position for which the teacher is applying, balancing of the staff as to race, sex, age, experience, and ethnic background, the best interests of the school district, children, and community, and seniority (when all other factors are equal); reasons for denial of transfer given upon request; denial of transfer may be appealed to the superintendent; principal-intiated transfer must be preceded by a conference on reasons for the proposed transfer, and if the transfer is deemed advisable, reasons will be submitted to the Coordinator of Certificated Personnel in writing, and the teacher may appeal the new assignment; the central office may transfer teachers when such transfer is in the district's best interest or when necessitated by "consolidation," i.e., reduction of staff at a particular school or in a given department; when hiring outside the district, teachers who have completed a course in multi-ethnic studies will be given priority; posting of summer school positions with placement priority given to district teachers who meet the training and ability criteria of the specific assignment, maintain the district's sex, age, and ethnic balance and have most recently taught summer school; posting of all adult education openings with placement priority given to district teachers (when all else is equal); Adult Education Advisory Committee, composed of representatives of the administration, adult school, advisory committee, faculty, students, 28th District California Congress, Parent-Teachers, industry, business, management, labor, city government, military, and community organizations to offer advice, suggestions, outreach, and feedback in meeting the needs of the students and the community; Faculty Council, composed of 3 to 15 members (maximum of one per grade level (K-6) or department (7-12), established in each school to involve teachers in operation of the school, enable them to make recommendations to the administration, and give the principal the opportunity to consult the faculty; joint study committees to be established to investigate topics of common interest; district-wide committees appointed by the superintendent who shall select 50 percent of the members from the coun-

cil's nominating list; district planning and reorganization committee, composed of staff, student, and community representatives, to develop school district master plan recommendations; provision for committee to dramatize Oakland's needs; student discipline joint committee to establish school-site discipline committees, which are to be composed of parents, teachers, and students; a discipline hearing panel to make recommendations to the superintendent pertaining to severe discipline cases;

Procedures for Conditions of Severe Disorder, Student Unrest, and Control of Unauthorized Persons

Establishes requirement that a major incident control plan be developed at each school in consultation with the faculty.

Provides for emergency dismissal procedures.

Provides for faculty, student, and parent involvement in the development of the plan to reopen a school when a school has been closed due to unrest. This plan requires a student identified as contributing to the disruption to return with his parent or guardian to the school for a conference prior to his readmittance to the school.

Establishes procedures for the control of loiterers and unauthorized persons engaging in disruptive behavior on or adjacent to school sites.

Establishes procedure for providing every reasonable precaution for school staff safety.

Procedures for Working with Law Enforcement Agencies

Commits the school district to cooperate closely with all law enforcement agencies in matters of mutual concern.

Specifies conditions for police questioning or removal of students at the school site.

Provision for safety of students and staff attending, participating in, or supervising after school events; reimbursement of costs resulting from unavoidable line-of-duty damage to personal property; legal counsel provided for any teacher requested by the district to appear as a witness at a trial or hearing, or charged in a civil or criminal complaint as a result of legitimate performance of his duties; dismissal or demotion only for just cause; provision for assistance to beginning teachers; academic freedom is encouraged.

Greenville, Delaware

Between the Alexis I. duPont School District, Board of Education, and Alexis I. duPont Education Association, effective July 1, 1972, to June 30, 1974. Approximately 174 certificated professional employees. Provision for reopener to negotiate 1973-74 teachers' and nurses' salaries.

COMPENSATION: (1972-73) B.A., $8,200 to $12,325, 15 increments; B.A. plus 30 hours, $14,700 maximum; M.A., $9,650 to $15,300, 20 increments; M.A. plus 30 hours, $16,225 maximum; Ph.D., $16,775 maximum. (1972-73 nurses salary schedule) B.A., $7,861 to $11,874, 15 increments; B.A. plus 30 hours, $14,245 maximum.

DIFFERENTIALS: (1972-73) athletic director and head football coach, $1,300; head basketball coach, $1,100; high-school band director, $900; head basketball, track, wrestling, and junior varsity football coaches, and dramatics director, $800; head soccer coach and cheerleader director, $700; yearbook advisor, girls' basketball and hockey coaches, $600; winter track, girls' lacrosse and softball coaches, $500; middle-school band director, music show director, girls' and boys' tennis, high-school newspaper advisor, $400; stagecraft director, junior and senior class advisors, literary magazine advisor, $300; astro shop, $100.

OTHER: $500 terminal pay upon retirement with 15 years' service in the district; participation in curriculum improvement projects outside school hours: chairman, $7.00 per hour and members, $6.25 per hour; inservice workshop participation outside school hours: director, $7.00 per hour and participants, $5.00 per hour; football scoreboard operator, timekeepers and gatekeepers, $10 per event; dance chaperons and nurse for athletic events, $15 per event; sabbatical leave at one-fourth of the total annual salary for one year, pro-rated if less than year, board may limit sabbatical leaves to 2 for any school year.

INSURANCE: Board-paid hospital-surgical-medical and special comprehensive benefits for individual coverage; board contribution toward family coverage with employee paying the difference; board-paid life insurance at 75 percent of annual salary for employees working 20 or more hours per week; $250,000 per person or $500,000 per occurrence liability insurance coverage in effect while performing assigned duties; board-paid income protection insurance for employees working 20 or more hours per week, the employee to receive two-thirds of annual salary to a maximum of $277 per week, effective after 30 days, to age 65, less any payments for Workmen's Compensation, social security, sick leave, and the state pension plans; blood bank membership available to all active and retired employees.

PERSONNEL: Grievance procedure ends with the board of education; right to review personnel file in the presence of the principal, the superintendent, or his designee with nothing removed from or added to personnel file without the employee's knowledge; vacancies to be posted for at least 14 school days with consideration given to "professional background and attainments of all employees"; announcement of filling of promotional position to be made within 15 days; voluntary transfer applications "shall be honored to the extent that the transfer does not conflict with the instructional requirements of the school district"; upon request, reasons shall be given for denial of transfer; involuntary transfers may be effected only after a meeting between the employee and the principals involved; curriculum council is to be composed of the superintendent, the assistant superintendent for instructional services, school principals or assistant principals, and 8 teachers (at least two of whom are to be from each school level), to study and advise on matters relating to the improvement of instruction; council for administrative advisement is to be composed of the superintendent, assistant superintendents, 5 principals and 8 association representatives, to investigate and develop recommendations regarding various areas of common concern.

Edina, Minnesota

Between Independent School District No. 273 and Edina Education Association, effective July 1, 1972, to June 30, 1974. Approximately 37,000 certificated professional employees, excluding psychologists, counselors, and the administrator for athletics. Provision for automatic renewal for biennial periods unless either party notifies the other in writing of termination or modification of this agreement between 120 and 90 days prior to the expiration date.

COMPENSATION: (1972-73) B.A., $8,000 to $12,100, 8 increments; B.A. plus 36 quarter hours, $13,400 maximum; M.A., $8,925 to $16,350, 11 increments; M.A. plus 36 quarter hours, $17,225 maximum; Ph.D., $18,950 maximum. (1973-74) B.A., $8,200 to $12,325, 8 increments; B.A. plus 36 quarter hours, $13,625 maximum; M.A., $9,325 to $16,750, 11 increments; M.A. plus 36 quarter hours, $17,625 maximum; Ph.D., $19,375 maximum.

Longevity career differentials:

Teachers shall qualify for career differentials above the base salary schedule as follows:

Teachers who were 50 or beyond as of June 30, 1966, qualify for a longevity differential equal to 3% of the B.A. minimum their fifth year at the former B.A. maximum. (Step 12) This does not apply to personnel who qualify for the B.A. + 18 or B.A. + 36 levels of training.

1972-73

After 14 years of service in the school district, differentials will be paid to teachers as follows:

B.A. training level	$100
M.A. level and above	$200

1973-74

After 14 and 19 years of service in the school district, differentials will be paid to teachers as follows:

	15-19 years	20 years & above
B.A. training level	$125	$250
M.A. level and above	$250	$500

1972-73 Only

Teachers with M.A. training and above who do not receive an increment in 1972-73 and do not qualify for the differential in [as provided above] will be paid a differential of $100. This does not apply in subsequent years.

DIFFERENTIALS: (1972-74) varsity football and basketball, $1,873; varsity hockey, $1,738; varsity wrestling, $1,561; swimming, $1,516; gymnastics, $1,426; soccer, $1,383; baseball, $1,338; upper and lower division newspaper, $1,204 (effective 1973-74); girls' gymnastics, $1,115; varsity debate and upper division student council, $936; three-act play and operetta productions, literary magazine, girls' skiing, ninth-grade hockey, varsity cross country, $714; girls' badminton and aqua nymphs, lower division student council, secondary area leaders, head teachers, and art, health, and music specialists, $447; cheerleaders, $312; senior and junior class advisors, clubs, lower division choir and newspaper, $222; differentials are based on responsibility points determined by 15-member joint study committee; when mutual agreement is reached, salary adjustment is effective first pay period thereafter. However, if it is determined that a teacher has performed extra-curricular services at a responsibility level not consistent with that agreed upon as a result of procedures outlined in this section, appropriate salary adjustments will be made, retroactive to the beginning of the activity in that contract year.

OTHER: When the degree in the teacher's area requires 5 years' study, the teacher shall be placed on the 5 years' training lane of the salary schedule; full year's credit is to be given when the teacher serves more than one-half of the duty days; requests for salary adjustment to be recognized for the following school year or the current school year must be filed by July 1 or October 15, respectively; when the director of secondary or elementary education refuses to approve courses for salary credit,

Upon request of the teacher seeking approval, appeal may be made directly to the Superintendent of Schools.

Upon request of the teacher seeking approval, an advisory review committee may be set up as follows:

At the secondary level, an advisory review committee composed of the school principal, the area leader, and a teacher (selected by the principal and the area leader) in the subject area of the teacher seeking approval.

At the elementary level, an advisory review committee composed of the school principal, the coordinator of elementary curriculum, and a teacher (selected by the principal and the coordinator of elementary curriculum) in the subject area of the teacher seeking approval.

At the option of the teacher seeking approval, up to two additional members of the professional staff of the schools may be added to the advisory review committees. Such professional members of the staff shall be the choice of the teacher seeking approval.

Annually in November, if there is a request, the Directors of Elementary and Secondary Education shall publish in the Superintendent's Bulletin the time and place for a review of prior approvals processed or certification of credits for salary schedule purposes. Such meetings shall be open to faculties and shall be anonymous as far as individual teachers or certifications are concerned. Purpose of the meetings shall be to establish communication as to methods used in the approval of credits or certification of credits for salary purposes and to receive suggestions for guidelines criteria and procedures for such approval or certification.

Each day of service beyond the regular school year paid at 1/184 of base salary; 12 cents per mile for use of own car for inter-school travel; compensation for summer school program teaching (curriculum writing, band, driver education, post-kindergarten, speech therapy, library, and physical conditioning): B.A., steps 1 through 7, $7.80 per hour; B.A., steps 8 through 12, M.A., steps 1 through 7, $8.07 per hour; M.A., steps 8 through 13, and Ph.D., steps 5 through 15, $8.32 per hour.

LEAVES: Twelve days' annual sick leave credited after 20 days' service, unlimited maximum accumulation; extended sick leave for disability or chronic condition, equivalent to 100 percent of accumulated sick leave is granted after one

year's service, 75 percent of accumulated sick leave is granted after 2 years; 50 percent after 3 years; 25 percent after 4 years; 10 percent after 5 years; 5 percent after 6 years, and none after 7 years; school selects physician and pays fee when teacher is required to certify illness of less than 6 days; up to 5 days deducted from sick leave for illness or death in the immediate family; 3 days deducted for illness or death in the immediate family; 2 days for death of distant relative or close friend; up to 2 hours' leave to attend local funeral when classes can be covered by other staff members; 2 days' personal business leave limited to 10 percent of teachers on any one day and requires 3 days' notice unless emergency exists; leave for professional conferences and school visitation granted with the superintendent's approval; paid jury duty leave, less court fees; sabbatical leave available to 2½ percent of full-time employees after 6 years' service from date of hire or last sabbatical leave at 50 percent of annual basic salary for school year or 75 percent with 11 years' service from date of hire or last sabbatical; tax-sheltered annuity continues for teachers on sabbatical leave; 3 years' service is a requisite for any long-term leave of absence.

INSURANCE: Board pays $355 in 1972-73 and $380 in 1973-74 toward hospitalization-medical-life insurance premium for family coverage or $130 in 1972-73 and $140 in 1973-74 toward individual premium; the board's contribution toward insurance premium for teacher on sabbatical is prorated on the basis of the ratio of sabbatical compensation to the teacher's regular salary; board-paid life insurance policy equals the whole number 1,000's of the teacher's basic annual salary less $2,000; an additional $2,000 life insurance is available to teachers enrolled in health insurance plan; additional life insurance for which employees pay the premium is available; board pays premium for income protection (2/3 basic salary after 65 days continuous absence owing to disability); tax-sheltered annuity plan: the board matches individual contributions which are 1½ percent of basic salary for teachers with M.A. or M.A. plus for steps 1-4, and 2 percent of basic salary for all teachers on step 5 or higher; the matching amount of the tax-sheltered annuity program that would normally be paid to the annuity company by the school board will be paid to the teacher for changes of training approved too late to be included in the current years' annuity program; teachers on B.A. and B.A. interim steps 1 through 4 are ineligible for the tax-sheltered annuity program.

ASSOCIATION: Payroll deduction of association dues; the association is credited with 24 days' released time (requires 48 hours' notice); released time granted for participation in grievance hearings held during the school day; teachers elected to an association office or in relevant professional staff position granted up to 2 years' leave without pay, but benefits will continue if costs are paid; board to provide the association with current list of all staff members; board to furnish the association with 50 copies of this agreement.

PERSONNEL: Grievance procedure ends with binding arbitration; school calendar comprises 184 duty days; each teacher is expected to work 40 hours per week, i.e., 8 hours per day, including one-half hour duty-free lunch period; secondary teachers may be assigned up to 48 supervisory hours in lieu of unassigned period without compensation; assignment of supervisory hours in excess of 48 will be compensated in accordance with summer school salary schedule; teachers without an M.A. are expected to earn 6 quarter hour credits every 5 years; association to be notified of vacancies at least 3 weeks prior to filling of the position; staff is reduced in this order among those whose certification is the same as the discontinued positions:

a. Teachers with limited permits.
b. Teachers with provisional certificates.
c. Teachers on probation.
d. Teachers eligible for retirement.
e. Teachers with lesser seniority.
f. In the event of equal seniority, teachers whose performance evaluation indicates them to be less effective than other teachers of the same certification.

Teachers must retire at age 65, but those in good health whose services are needed may be extended for one year; joint policy committee, composed of 3 members appointed by the board and 3 members appointed by the association, to meet at least every 4 months; joint committee to evaluate and make recommendations concerning assignment of the responsibility points which determine compensation for extra-curricular services; seniority in the activity and tenure in the district are prime factors in the assignment of extra-duty positions.

Laramie County
Cheyenne, Wyoming

Between the Board of Trustees of Laramie County School District No. 1 and the Cheyenne Teachers Education Association, effective July 1, 1972, to June 30, 1973. Approximately 750 certificated professional employees comprising classroom teachers, counselors, librarians, motor specialists, nurses, psychometricians, social workers, and speech and hearing clinicians.

COMPENSATION: (1972-73) B.A., $6,850 to $10,001, 8 increments; half yearly steps after 5 years; B.A. plus 30 hours, $10,480 maximum; M.A., $7,603 to $11,542, 10 increments; M.A. plus 30 hours, $12,809 maximum; Ph.D., $13,494 maximum; career incentive increment, 3 percent of base salary for teachers at the top of their salary lane included in above maximums nondegree nurses start on B.A. base of teachers' salary and thereafter receive 90 percent of teachers' B.A. lane.

DIFFERENTIALS: (percent of base salary) high-school football, basketball, wrestling, track and swimming head coaches, band director, vocal music director, debate and forensics coach, and district resource teachers, $822 (.12); junior high-school wrestling, football, basketball coaches, and senior high tennis, golf, and wrestling head coaches, $411 (.06); junior high orchestra and dramatics director, and cross country and track coaches, $257 (.0375).

OTHER: Credit for up to 6 years' service outside the district during the preceding 6 years, including 2 consecutive years' military service; a course taken for salary credit may not be repeated within 5 years; approval of course work for

salary credit based upon "potential contribution to staff members total professional effectiveness."

LEAVES: Ten days' annual sick leave, unlimited maximum accumulation; up to 5 days deducted from sick leave for family illness; 2 days' personal business leave with employee paying substitute's pay the second day, and except for emergencies, 24 hours' notice is required; bereavement leave based on circumstances of each case; sabbatical leave for study or independent travel at three-fourths pay for one year after 5 years' service, with $32,500 appropriated for a maximum of 4 sabbatical leaves; sabbatical joint committee develops criteria for selection.

INSURANCE: Board-paid individual hospital and medical insurance.

ASSOCIATION: Payroll deduction of local, state, and national organization dues; if association president is a secondary-school teacher, only 4 classes shall be assigned, commensurate released time granted if president is either an elementary or junior high teacher; released time for participants in grievance proceedings held during school hours; use of school buildings allowed if regular school activities are not interrupted; Impasse Committee selected jointly to assist in resolution of disagreements over the meaning or application of this agreement or in instance of a negotiation impasse; the association executive committee to be provided with board meeting information.

INSTRUCTION: Faculty advisory committees shall make recommendations on assignment and use of noninstructional aides; school calendar is 186 days with a maximum of 180 student-contact days; the responsibilities of the curriculum advisory council (composed of 20 elementary and 18 secondary representatives representing each elementary school and grade level and each secondary subject area and special advisory personnel, the assistant superintendent, the director and assistant directors of curriculum are:

> To advise in the coordination and articulation of curriculum planning in grades K-12; to assist in providing for continuous and systematic evaluation of the curriculum; to encourage and seek out innovative and creative projects; to serve as a clearing house for new ideas for curriculum; to assist in communication among staff members about matters of curriculum; to function as an advisory organization, submitting approved recommendations to the director of curriculum for further consideration.

$4 per pupil provided for instructional supplies and equipment, use of which must be approved by the Faculty Advisory Committee or department heads and principals; the school day is normally 7½ hours; teachers may be required to arrive before or remain after regular hours for regularly scheduled activities or staff meetings.

PERSONNEL: Grievance procedure ends with advisory arbitration; 30-minute duty-free lunch period; right to inspect personnel file with opportunity to comment in writing on contents; early school dismissal 4 times per year for professional meetings, curriculum planning, special inservice training, and individual building projects; monthly posting of vacancies; transfer requests may be initiated at any time, preferably before March 1, vacancies during the year to be temporarily filled, with permanent appointment being made at beginning of next term; transfer criteria: educational qualifications and experience in subject area, seniority in the district, and teaching ability; written explanation to be given for denial of transfer request; faculty advisory committee to assist and advise building administration; department members to cooperatively make class assignment recommendations.

TEXTS

HEW PROPOSED REGULATIONS ON WELFARE AID FOR STRIKERS

Social and Rehabilitation Service

[45 CFR Part 233]

COVERAGE AND CONDITIONS OF ELIGIBILITY IN FINANCIAL ASSISTANCE PROGRAMS

Dependent Children of Unemployed Fathers

Notice is hereby given that the regulation set forth in tentative, alternative form below is proposed by the Administrator, Social and Rehabilitation Service, with the approval of the Secretary of Health, Education, and Welfare. Both alternatives would amend § 233.100 (a)(1), which provides a Federal definition of unemployed father under the AFDC program in terms of hours of work.

In applying the existing regulation, the Department policy has been to permit a State, at its option to use a definition of unemployed father which imposes additional conditions relating to the reason for the unemployment, e.g., the State definition might exclude a father whose unemployment results from participation in a labor dispute or who is unemployed by reason of dispute or who is unemployed by reason of conduct or circumstances which result or would result in disqualification for unemployment compensation under the State's unemployment compensation law. In *Davidson v. Francis,* the U.S. Supreme Court on October 16, summarily affirmed the judgment of the district court which held, in effect, that while the Secretary has broad authority to define an unemployed father for purposes of section 407 of the Social Security Act, the existing Federal regulation provides only an hours-of-work test, and thus prohibits a State from excluding fathers who meet this test but are disqualified for unemployment compensation.

Accordingly, the proposed alternative A below would amend the regulation to make the prior Department policy explicit, by stating the options which are permitted to the States in defining an unemployed father. Alternative B, on the other hand, would amend the regulation to make clear that the hours-of-work test is intended as the exclusive definition of unemployed father, so that States may not have definitions which impose added conditions. This would be a change in Department policy, but would be consistent with the way that the existing regulation has been interpreted by the courts.

Davidson v. Francis attracted broad interest from States, assistance recipients, and industry and labor groups. The regulations are proposed in alternative form to give all those who are interested full information as to the various courses of action which are being considered.

Prior to the adoption of the proposed regulation, consideration will be given to any comments, suggestions, or objections thereto which are submitted in writing to the Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, DC 20201, within a period of 30 days from date of publication of this notice in the *FEDERAL REGISTER*. Comments received will be available for public inspection in room 5120 of the Department's offices at 301 C Street SW., Washington, DC, on Monday through Friday of each week from 8:30 to 5 p.m. (area code 202-963-7361). (Sec. 1102, 49 Stat. 647, 42 U.S.C. 1302)

ALTERNATIVE A

Section 233.100 (a) (1) of Chapter II of Title 45 of the Code of Federal Regulations is revised to read as follows:

§ 223.100 Dependent children of unemployed fathers.

(a) Requirements for State plans.* * *

(1) Include a definition of an unemployed father which shall apply only to families determined to be needy in accordance with the provisions in § 233.20. Such definition must include any father who:

(i) Is employed less than 100 hours a month; or

(ii) Exceeds that standard for a particular month, if his work is intermittent and the excess of a temporary nature is evidenced by the fact that he was under the 100-hour standard for the 2 prior months and is expected to be under the standard during the next month; except that, at the option of the State, such definition need not include a father whose unemployment results from participation in a labor dispute or who is unemployed by reason of conduct or circumstances which result or would result in disqualification for unemployment compensation under the State's unemployment compensation law.

ALTERNATIVE B

Section 233.100(a)(1) of Chapter II of Title 45 of the Code of Federal Regulations is revised to read as follows:

§ 233.100 Dependent children of unemployed fathers.

(a) Requirements for State plans.* * *

(1) Include a definition of an unemployed father which shall apply only to families determined to be needy in accordance with the provisions in §233.20 and shall include any father who:

(i) Is employed less than 100 hours a month, or

(ii) Exceeds that standard for a particular month, if his work is intermittent and the excess is of a temporary nature as evidenced by the fact that he was under the 100-hours standard for the 2 prior months and is expected to be under the standard during the next month.

This shall be the exclusive definition of an unemployed father.

* * * *

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NEGOTIATION RESEARCH DIGEST

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CASE REVIEWS

ALASKA

Agreement Effective Until Properly Terminated or Altered by Negotiations

In a declaratory judgment, the Superior Court of Alaska held that a contract negotiated between the Anchorage Borough Education Association and the Greater Anchorage Area Borough School District for the 1971-72 school year was to remain in effect for subsequent years until the contractual provisions were altered by negotiations or one of the parties terminated the agreement, upon tendering adequate notice to the opposite party.

The agreement negotiated by the parties became effective on April 19, 1971. In accordance with the contractual negotiation procedure, negotiation for a successor agreement began on December 6, 1971. Negotiations ended on May 29, 1972, whereupon the district issued a press release to the effect that no negotiated agreement would be in effect during the 1972-73 school year. Following the district's action the teachers association filed a complaint claiming that Article XIX of the agreement provided for its automatic renewal.

According to the court, Article XIX of the agreement provided that all negotiated policy provisions were to be maintained unless altered by subsequent negotiations. Article XIX, though not a statement of intended duration, indicated that negotiated provisions are effective during the term of the contract or until altered by later agreements. The court stated that since the contractual provisions had not been changed, the important question was whether the agreement had a specific duration.

As there was no express duration, the court considered other factors. Noting that certain items in the contract, i.e., insurance and extra-duty pay, referred to the 1971-72 school year only, other contractual items implied the continuous existence of provisions. For example, a clause required the board to recognize "the organization which on November 1 of each year" represented the majority of the certificated staff, and an additional provision referred to the hiring of librarians during the 1972-73 school year. In view of the conflicting provisions, the court held that a specific contract duration could not be determined.

The court did not support the association's contention that the contract "must remain in effect until altered or superceded by a new agreement." According to the court, the contract was terminable "at will by either party upon reasonable notice"; however, the district's press release was not sufficient to terminate the contract, and was untimely notification. The court stated that the contractual negotiation procedure required that requests for negotiation be submitted by December 1. Reasonable notice of either party's intent to terminate the contract must allow time for the opposite party to request negotiations.

Additionally, the court felt that each party must be made aware of the consequences of either not requesting negotiations or not reaching an agreement. Since the district had not given adequate or timely notice of its intention to terminate the contract, the agreement with the teachers association was still effective during the 1972-73 school year, and would remain in effect until terminated by either party upon reasonable notice or until altered by negotiations. The plaintiff teachers association was also awarded attorney's fees. (*Anchorage Borough Education Association v. Greater Anchorage Area Borough School District*, Superior Court of Alaska, October 4, 1972.)

CALIFORNIA

Winton Act Bars Binding Agreements

California school boards cannot enter into binding written agreements with teacher representatives. The California Court of Appeals, consolidating two suits, so ruled in accordance with the Winton Act and prior rulings, thereby upholding a lower court decision which nullified a contract between the Los Angeles City Board of Education and the United Teachers of Los Angeles (UTLA).

The contract agreed upon by the parties followed a strike by nearly half of Los Angeles's 25,000 certified teachers. Following acceptance of the agreement the superior court issued a preliminary injunction prohibiting the parties from entering into the proposed agreement. To circumvent the Act's restrictions, the board proposed adoption of a resolution which included the major provisions of the agreement. The superior court permanently enjoined the board from entering into an agreement or similar resolution on the grounds that the settlement was the product of unlawful collective bargaining and an unlawful teachers' strike and that the proposed settlement was beyond the power of the board or school district to execute or implement.

UTLA appealed the superior court's decision, contending that the "primary and fundamental question presented by this appeal is whether or not the Los Angeles City Board of Education and the Negotiating Council may enter into

the employment contract which contains understandings and agreements reached as a result of meeting and conferring pursuant to the Winton Act." Additionally, UTLA contended that the Winton Act did not bar a board from entering into agreements but left it to the board's discretion.

The board of education, in concurring with the lower court's injunction, also contended that the appeal should be dismissed for mootness since the composition of the employees' organization had changed and the agreement had expired in June 1971.

Noting the length of the strike and the number of teachers involved, the court said that "it is readily apparent that the termination of the strike formed a substantial part of the consideration for the proposed findings." The court then concluded that the agreement was invalid since it was contrary to public policy to exact a consideration for the cessation of an illegal activity.

Addressing the question of mootness and the question of the permanent injunction barring the board from entering into future agreements, the court rejected dismissal or dissolution of the injunction because dismissal would be contrary to public interest and because the possibility existed that this question would rise again.

The appeals court ruled that the trial court correctly interpreted the Winton Act to mean that any agreements reached between the parties must be implemented in the form of resolutions, regulations, or policies of the public-school employer which, except as provided by law, must be freely entered into, subject to change at the board's pleasure, and not in the form of a binding agreement. On the basis of the foregoing the court upheld the lower court decision. (*Natalie Grasko, Lee Gill, et al., Plaintiffs and Respondents, vs. Los Angeles City Board of Education, et al., and United Teachers of Los Angeles, etc., et al., Defendants and Appellants; Farrel T. Miles, et al., Plaintiffs and Respondents, vs. United Teachers-Los Angeles, etc., et al., Defendants and Appellants,* California Court of Appeals, March 26, 1973.)

CONNECTICUT

School Boards Must Negotiate Principals' Salaries and Working Conditions

The Connecticut Supreme Court denied the Waterbury Teachers Association's (WTA) appeal of a lower court decision that declined to enjoin the City of Waterbury from filling a position for elementary-school principal. The court also ruled that the state's teacher bargaining act mandated that a school board negotiate the salaries and working conditions of its principals.

The court stated that the responsibility of determining employee job classifications and specifications was charged to the city's personnel director and civil service commission. In April 1970, the city had adopted revised classifications and specifications for elementary-school principal III to require two years' rather than three years' experience as an elementary principal II and state certification for elementary principal III. In addition, the principal would be responsible for the evaluation of all teachers.

The plaintiff applied for the open examination to fill a vacant position, but was declared ineligible because he lacked the required two years' experience in an elementary school with kindergarten through grade 8. It was noted that the plaintiff had two years' experience in elementary school and had taught school routinely for two periods a day, spending his remaining time in a supervisory capacity.

WTA filed a grievance concerning the principals' examination pursuant to contract procedure, but the plaintiff did not join in the grievance. Prior to the arbitration hearing, WTA and the plaintiff sought court action to stop the filling of the principal III position. But the New Haven Superior Court would not issue an injunction.

The appeals court struck down the plaintiffs' contention that the lower court erroneously refused to stay the proceedings, as requested, since state statute provides that the court stay the action until the completion of arbitration. The court acknowledged the arbitration law citied by the plaintiffs, but found that any right to arbitration under the statute had been waived by the plaintiffs' proceeding almost to completion in a court trial on the same issues claimed for arbitration. The court found that the plaintiff did not qualify for the school principal III examination, upholding the decision of the lower court.

The court also ruled that Section 10-153 d of the teacher bargaining act provided that a school board shall negotiate salaries and other conditions of employment and that Section 10-153 b showed that the law was not restricted to teachers not in administrative positions. According to the court, school principals are certified professional employees, and, therefore, are covered by the act. (*Waterbury Teachers Association et al v. City of Waterbuty et al.*, Connecticut Supreme Court, March 1973.)

New Trial Ordered for Teachers Fined in Violation of Strike Injunction

The Connecticut State Supreme Court ordered a retrial for members and officers of the New London Education Association (NLEA) who disregarded a 1970 anti-strike order. The state supreme court determined that a lower court classified contempt of court proceedings against the teachers as civil rather than criminal, thus failing to grant the teacher defendants safeguard rights entitled to them in a criminal case.

The NLEA adopted a resolution reaffirming its "no contract no work" position. The same day, the New London Superior Court issued an injunction enjoining NLEA from engaging in a work stoppage. However, the teachers went out on strike, and within several days were found guilty of contempt of court with stiff fines levied on the association and individual teachers.

The teachers contended, on appeal, that the lower court contempt proceedings should have been classified as criminal rather than civil, and that rights implicit in a criminal trial should have been afforded.

The state supreme court defined criminal contempt as conduct directed at the dignity and authority of the court, while civil contempt concerns conduct directed against the opposing party's rights. According to the court, in criminal contempt, the "sanction is punitive in order to vindicate the authority of the court," and fines are payable to the state. The contempt is civil when fines are conditional and coercive and when the contemnor can obtain release by compliance with the judicial decree.

The supreme court cited *Board of Junior College District v. Cook County College Teachers Union* in which the Illinois Appellate Court stated that a useful test of whether contempt proceedings are criminal or civil is consideration of the punishment invoked. The Illinois court further held that contempt is criminal when the punishment is punitive, imprisonment is for definite term, and the fine is a fixed sum. The contemp would be civil if punishment is remedial or coercive, and if commitment of the contumacious party is to force compliance with the court order. The Illinois court also noted that guilt in a criminal contempt case must "be proven beyond a reasonable doubt."

In the instant case, the Connecticut high court found that the fines imposed on the teachers were punitive and "designed to uphold the dignity and authority of the court," and payable to the state. The court concluded that the contempt proceedings were criminal, and the teachers were entitled to the safeguards of a criminal trial. Determining that the lower court did not afford the defendants a criminal trial, the court declared the lower court's judgment erroneous, and ordered a new trial. (*L. Mary McTigue et. al. v. New London Education Association et. al.; Rose Lubchansky et. al. v. New London Education Association et. al.*, Connecticut Supreme Court, March 6, 1973.)

OHIO

Board has Statutory Right To Enact Administrative Rules

The Ohio Court of Appeals upheld a lower court decision which dissolved a temporary injunction against the Youngstown Board of Education which blocked enforcement of adopted regulations. A concurring opinion elaborated on the question of board-association authority to bargain and asserted that a board of education can enter into a collective bargaining agreement with a teachers association so long as the agreement does not compromise the board's authority to manage and regulate its schools.

Following the negotiation of a master agreement between the Youngstown Education Association (YEA) and the school board, the board adopted policies governing the signature of complaints against teachers, parent group visitations to classrooms, toilet privileges for students, and parental review of teachers' professionalism. A temporary injunction restraining implementation of these rules was dissolved by a lower court.

On appeal, the YEA contended that the legislature contemplated collective bargaining for teachers and therefore the policies adopted by the board contravened the express language and breached conditions of the master contract.

The board argued that the agreement had no legal effect since collective bargaining was not sanctioned by law, and further, statutory duty to enact rules and regulations concerning the running of schools would supersede any agreement even if bargaining was sanctioned.

The court pointed to several cases to show that lower courts in Ohio are split on the issue of whether the legislature intended for school boards to enter into agreements with teacher associations. However, the court reasoned that it did not need to pass on this issue since the school board was statutorily charged to manage and control the schools and the policies were adopted by the board in response to that obligation. Nonetheless, in a concurring opinion the court held that the legislature enactment of R. C. Section 9.41 providing dues check-off for public employees and R. C. Section 3313.17 authorizing a board of education to enter into contracts, authorized a board of education to enter into a binding collective bargaining agreement with a teachers association, but the statutory authority of the board to manage schools could not be compromised in the process. (*Youngstown Education Association v. Youngstown City Board of Education et al.*, Ohio Court of Appeals, February 27, 1973.)

FEDERAL

State Employees May Sue for Recovery of Wages in State Not Federal Court

A federal suit was brought by state health facilities employees in Missouri to recover overtime pay claimed due under Section 16 (a) of the Fair Labor Standards Act (FLSA), which allows suits in "any court of competent jurisdiction" for unpaid wages and an equal amount for liquidated damages and attorney fees. A. U. S. District Court had ruled that an employees' suit could not be brought in federal court, however, a three-member appeals court panel reversed that decision, which likewise was reversed by a full appeals court.

The Supreme Court of the United States, in reviewing this matter held that the Congress did not mean that employees could bring federal suit to recover unpaid wages when the FLSA was amended in 1966 to extend minimum wage and overtime pay coverage to employees of nonprofit state schools and hospitals. The high court ruled that a state has constitutional immunity to suit in federal court by state employees, according to the Court, but that the Secretary of Labor can sue on the employees' behalf. Further, the majority opinion of the Court left to question whether employees can sue in a state court. A concurring opinion advocated that employees have this right.

The Supreme Court held that the policy of the FLSA "is wholly served by allowing the delicate federal-state relationship to be managed through the Secretary of Labor." Fur-

ther, the Court noted that FLSA language allowing employee suits in "any court of competent jurisdiction" could be interpreted to mean that employees can sue the state government in the state courts.

The concurring opinion held that employees can sue in state courts under FLSA, and since federal law is supreme, the state courts must enforce it even if in conflict with state policy.

A dissenting opinion held that the trend has been against enforcing governmental immunity and that the majority and concurring opinions restrain this trend. (*Employees of the Department of Public Health and Welfare, State of Missouri, et al., v. Department of Public Health and Welfare, State of Missouri, et al.*, U.S. Supreme Court, April 18, 1973.)

Board of Regents Must Grant AFT Same Privileges It Gives AAUP

The U.S. District Court of Florida enjoined the state university system to stop denying the American Federation of Teachers (AFT) the same rights granted to the American Association of University Professors (AAUP) and other employee organizations. Following the board of regent's adoption of a policy prohibiting the use of university facilities or equipment at institutions of the state university system by groups whose purpose is to organize employees, the AFT was denied use of university facilities while other organizations enjoyed these privileges.

The AFT contended that the action prohibiting the union from utilizing university facilities on an equal footing with other employee organizations was a violation of its right to equal protection of the laws guaranteed by the Fourteenth Amendment to the Constitution of the United States.

Pointing out that the case did not involve a violation of constitutional rights, the court held that the question to be considered was whether the adopted policy had been applied arbitrarily in a manner that deprived the plaintiffs of equal protection of the laws. The court continued that though the board may regulate use of state university facilities, it must do so in a reasonable and nondiscriminatory manner unless some governmental interest is furthered by a differential course of treatment.

After examining the objectives and policies of both AFT and AAUP, the court concluded that the two organizations were substantially homogeneous with differences so minute as not to warrant different treatment. Upon the board's concession that AFT's presence on campus would not constitute a threat of disruption, the court determined that no state interest was served by the system's treatment of AFT, and ordered the board of regents to grant AFT the same rights afforded other campus organizations.

Following the court order, the university ordered AAUP and similiar organizations off campus until the board of regents drafts a permanent policy regarding use of facilities by employee organizations. Proposed policy changes include allowing employee groups to use campus buildings for meetings and requiring them to pay for other services which would be available to all employees and groups. (*Florida State University Chapter, Local 1880, AFT et al., v. Florida Board of Regents et al.*, U. S. District Court for the Northern District of Florida, March 13, 1973.)

Restriction on Staff Political Activity Lawful

The U.S. District Court of the District of Columbia granted a request of the American Federation of Teachers (AFT) for summary judgment declaring that the provision in the AFT bargaining agreement with the Committee for National Representatives prohibiting intra-union political activity by AFT staffers was legal. The case was brought before the court after an AFT employee was discharged because he became a candidate for president of the union (AFT).

The employee contended that enforcement of the provision prohibiting intra-union political activity is illegal because it violates the guarantees of free expression and candidacy for union office without retaliation as provided for in the Labor-Management Reporting and Disclosure Act (LMRDA).

The union claimed that the contract provision furthers the policy of maintaining an apolitical staff who do not serve at the pleasure of elected officials, assuring the AFT "a professional experienced staff, and means that the policies of AFT will be made by its elected officials responsible to its full membership rather than by a political staff."

Comparing the instant case with two similar cases, *Machinists v. King and Retail Clerks, Local 648 v. Retail Clerks International Union,* in which the courts suggested that "a firmly established policy of required political neutrality indiscriminately administered and not adopted in order to perpetuate incumbent leadership or any other ulterior purpose would not offend the LMRDA provision," the U.S. District Court noted the similarities and held that the employer had a rational basis for adopting a provision which would not jeopardize the democratic process nor violate the LMRDA. The court therefore granted summary judgment in favor of the AFT and declared the provision lawful. (*American Federation of Teachers v. Kenneth E. Miesen*, U.S. District Court, District of Columbia, December 29, 1972.)

BOARD FINDINGS AND RULINGS

HAWAII

Union Can Expel Members for Disciplinary Reasons

The Hawaii Employment Relations Board (HERB) dismissed for lack of jurisdiction the charges against the Hawaii Government Employees Association (HGEA) brought by six persons who were expelled from HGEA because they supported the Professional and Supervisors Association of Hawaii, a rival union, during an organizational drive.

The former members contended that "their expulsion violated the statutory prohibition against interfering with employees' rights to participate in—or refrain from—the activities of an employee organization."

HERB pointed out that it had jurisdiction, in some instances, over union actions directed at members, but on the basis of the facts in the instant case, the Board decided that it did not have jurisdiction in the matter. The Board then said that "to hold that a union may not protect itself from actions such as those engaged in by petitioners through the use of discipline, such as expulsion, would be to prevent a union from taking reasonable steps to preserve its existence." On the basis of this reasoning the charges were dismissed. (*In the matter of James Chang, et al., and Hawaii Government Employees Association, Local 152*, Hawaii Employment Relations Board, March 15, 1973.)

Agency Shop Fee Increased

The Hawaii Employment Relations Board (HERB) certified the requested agency shop fees that nonmembers of the Hawaii State Teachers Association (HSTA) must pay to help offset the costs of negotiation and administration of their collective bargaining agreements.

In its petition for certification of a $97 annual service fee, HSTA requested that teachers on leave without pay be required to pay the entire service fee. The Board ruled that the $97 fee was reasonable under the terms of the bargaining statute and Board rules. However, the Board said that the legislature did not intend for persons not on the payroll, i.e., on leave without pay, to be assessed service fees. Comparing the employee on leave without pay with a new employee, the Board pointed out that "the new employee is not required to pay retroactively for services rendered by the exclusive representative prior to his/her employment and the employee on leave, who may receive benefits negotiated during an absence, is in no more advantageous a position than a new employee who becomes an employee after such benefits have been established."

A dissenting HERB member held that "the legislature has left no leeway" in the matter of payment of service fees. He noted that according to the law the service fee is an assessment of *all* employees that is computed on a pro-rata basis among all employees. (*In the matter of Hawaii Employment Relations Board*, March 15, 1973.)

MICHIGAN

Board May Issue Administrative Rules Unless Contract Is Specific

In two separate cases, arbitrators upheld school-board policies and administrative regulations relative to short-term leave and the school calendar. In each case the contract lacked detailed language and adequate safeguards.

- The first case involved the Oscoda Board of Education and the Oscoda Education Association. In an effort to correct reported abuses of the negotiated personal leave provision entitling teachers to two days of personal leave to transact business that could be handled only during the school day, the board required teachers to give a specific reason for requesting such leave. The association contended that the school board was exceeding its bounds by issuing this directive.

The arbitrator did not find the board's policy to be unreasonable, holding that reasons for utilizing personal leave do not "have to be spelled out in such detail as to embarrass the person making the request." Personal leave, as provided in the contract, was to be used only for business that could not be transacted except during the school day, and was not to be used as vacation time.

- In the second case, involving the Wayne-Westland Education Association and the Wayne-Westland Board of Education, the arbitrator supported the board's suspension of two teachers who had extended their Easter vacation.

As a result of the association's five-day strike in January, the board was compelled to shorten the scheduled Easter vacation in order to make up the lost time. The board announced that except for extreme emergencies, leave immediately before or after the holiday would not be granted, and also that failure to follow this directive would result in disciplinary action.

Aware of the board's policy and possible discipline, the suspended teachers had gone ahead with their original vacation plans. The arbitrator found no inequities in the board's suspension of the teachers. He held that the board had a valid reason to shorten and limit the Easter holiday and that the teachers were aware of the policy, and by their own admission, had expected discipline. (*Oscoda School District and Oscoda Education Association*, American Arbitration Association, October 13, 1972; *Wayne-Westland Education Association and Wayne-Westland Board of Education*, American Arbitration Association, October 17, 1972.)

NEW JERSEY

Two Grievances Lost on Interpretation of Single Word

In two cases, arbitrators upheld the school board's interpretation of a single word in the contract.

- One case involved an agreement which contained a clause stating that proposals for changes in the terms and conditions of employment must be approved by 75 percent of the building "staff." An advisory opinion upheld the board's position that non-bargaining unit personnel, such as counselors and department heads, were part of the building staff and therefore eligible to vote on proposed changes.

The teachers association contended that during negotiations non-bargaining unit staff members were excluded from the clause in question, and furthermore, personnel other than bargaining unit members were legally barred from voting on changes in the terms and conditions of employment. The arbitrator found that although the agreement was unclear as to which group of personnel constituted "staff," the word *teachers* was used most often to refer to bargaining unit members, and furthermore, certain sections of the agreement other than the one in question, clearly indicated provisions that applied to bargaining unit members only.

The arbitrator felt that since non-bargaining unit personnel were allowed to vote in pre-agreement proceedings and were "to propose, discuss, and receive distribution of consequent decisions," it was not logical that these persons should "be excluded from the vote after being so involved."

- The other case revolved about a negotiated sick leave clause which stated that "a regular audit will be made of employee absences." The arbitrator upheld the board's contention that auditing sick leave implied interviewing employees with more than nine absences a year in order to verify the number and the reasons.

The arbitrator rejected the union's argument that the word *audit* referred only to a check for arithmetical accuracy, holding that the board intended the broader meaning of the term *audit* as used in business and accounting. In reply to the union's contention that the board could not unilaterally interpret the terms of the contract, the arbitrator stated: "There is no legal obligation resting upon a party to a contract to negotiate its interpretation before he acts; he is free to interpret it and act upon his interpretation without securing the agreement of the other party to that interpretation. Of course when a party acts unilaterally in that way he incurs the risk that appropriate tribunal (court or arbitration) may disagree with his interpretation and hold him in breach of contract." (*South Orange and Maplewood Board of Education and the South Orange and Maplewood Education Association*, American Arbitration Association, November 28, 1972; *Wethersfield Board of Education and the Wethersfield Education Association*, American Arbitration Association, October 1972.)

NEW YORK

Appropriate Units for Aides and Part-time Teachers Clarified

In two separate proceedings, the Public Employment Relations Board (PERB) ruled that certain groups of aides and part-time teachers are public employees entitled to representation.

In the first case, the Great Neck Paraprofessional Association, an affiliate of the Great Neck Teachers Association (GNTA), filed a petition for certification as the exclusive bargaining representative of all aides employed by the Great Neck Board of Education, Union Free School District No. 7. Aides are categorized according to the duties they perform and source of funding. Instructional aides assist teachers in the classroom; noninstructional and cafeteria aides supervise students on playgrounds and in libraries, study halls, corridors, and cafeterias; clerical aides type, file, mimeograph, take inventory of books, and record grades are paid from district funds. Some aides are also employed in state and federally funded programs.

The district contended, and the trial examiner concurred, that aides in federally or state funded programs were not entitled to representation since "effective control over the hours, wages, and benefits of these aides resides not with the employer but with the State Education Department and federal government."

The trial examiner dismissed the district's contention that the other aides are not entitled to representation because of their part-time status since "most of the regularly employed aides are the only individuals performing their particular functions for the employer and thus may be said to fill their job classifications on a fulltime basis."

The district pointed out that if clerical aides are found to be public employees entitled to representation, they should be added to the Office Staff Association (OSA) because the unit definition of OSA members perforce includes clerical aides. However, the trial examiner ruled that the definition of *clerical aide* differed from that of OSA members owing to their primary orientation and the parties to which they give their allegiance. Moreover, clerical aides and other aides share similar lines of supervision relating to

the instructional staff not shared by the regular clerical employees. The trial examiner also noted that the record indicated that there is a strong potential for conflict between clerical aides and regular clerical staff.

Acting on the basis of the information above, the trial examiner ruled that instructional, noninstructional, cafeteria, and clerical aides are entitled to representation within the same unit. (*Great Neck Board of Education, Union Free School District No. 7, Employer and Great Neck Paraprofessionals Association, affiliated with the Great Neck Teachers Association, Petitioner, and Office Staff Association of the Great Neck Public Schools Intervenor*, Public Employment Relations Board, October 7, 1971.)

A trial examiner's decision that part-time reading teachers employed by Amityville Public Schools are public employees entitled to representation as a separate bargaining unit was upheld by PERB after the employer filed exceptions to the decision.

The Amityville Reading Teachers Association petition for certification as the exclusive negotiating representative of part-time reading teachers, hinged on the issue of whether these employees were entitled to representation as public employees of the school district even though they were paid from federal and state funds.

In an effort to have the petition dismissed, the school district referred to the *Great Neck* decision wherein the trial examiner held that a group of aides employed in state and federally funded programs "lack a sufficient employment nexus with the employer. . .to justify their designation as public employees with the concomitant right to negotiate collectively about their terms and conditions of employment."

The trial examiner pointed out that federal funding did not mandate that the teachers were not public employees. Further, in *Great Neck* the aides' employment was incidental to their function as community representatives. In the instant case, the employer "had unquestioned control over the selection, placement, hours of work, work assignment, evaluation, and all other non-economic terms and conditions of employment of the part-time reading teachers." The trial examiner ruled that the teacher aides were public employees entitled to representation since the employer had primary control over their conditions of employment. The PERB agreed with the trial examiner's findings and confirmed his decision ordering an election. (*Amityville Public Schools, Employer, and Amityville Reading Teachers Association, Petitioner*, Public Employment Relations Board, August 17, 1972.)

PENNSYLVANIA

Denial of Pay for Attending Arbitration Hearing Not Unfair

The Pennsylvania Labor Relations Board (PLRB) ruled that the Centennial School District did not violate the Public Employees Relations Act (PERA) when it refused to compensate teachers for time off to attend an arbitration hearing. The board found the school district's decision nondiscriminatory and in accordance with its leave policies.

The teachers, union officials, had requested time off to attend arbitration hearings between the union and the school district, and had been granted leave but without pay. Subsequently, the teachers filed a petition with the PLRB, contending that the denial of compensation was in retaliation for their union activity.

The teachers were subpoenaed by the union's counsel to attend the arbitration hearings. According to school-board policy, teachers were to be paid for mandatory attendance at legal proceedings, but not to be paid if they as litigants were found guilty. Payment for unspecified absence was to be made at the discretion of the school district.

The Board found that the superintendent's action in denying payment to the teachers was proper and consistent with the leave policy. The main issue, according to PLRB, was whether the district had violated PERA by applying its leave policy in a non-uniform manner in retaliation for union activity. The PLRB held that the union failed to show that the superintendent had applied the leave policy in an arbitrary manner. Moreover, even if the subpoenas had not been issued, the teachers would not be entitled to compensation, and in addition, PLRB felt, the issuance of the subpoenas was not relevant. The subpoenas had been issued under the complete control of the union's counsel, and to base a decision on the issuance of the subpoenas "would enable the union to control whether or not an unfair labor practice was committed by the district by its own acts."

The Board continued, stating that since leave payments were not covered in the collective bargaining agreement between the union and the school district, the only issue was whether the nonpayment violated the Act. According to PLRB, the Act did not require school districts to pay for attendance at board hearings on an allegation of an employer's unfair labor practice. Therefore, the school district did not illegally refuse teachers payment for time spent at arbitration hearings. (*PLRB v. Centennial School District*, Pennsylvania Labor Relations Board, March 7, 1973.)

VERMONT

State-Wide Higher Education Unit Determined

The Vermont State Labor Relations Board (VSLRB) dismissed a petition filed by 19 of the 45 faculty members of Vermont Technical College (VTC), in accordance with the state's collective bargaining law, to form a unit of the Vermont State Employees Associations. VTC is one of four state colleges established at the same time by an act of the state legislature. The four colleges have a common board of trustees and, according to testimony, the academic differences among them are minimal. The board, and not the president, has the power to take action on many matters that are subject to collective bargaining.

The VSLRB agreed that the employees seeking organization could form an appropriate unit in terms of similarity of interests, needs, and conditions of employment, but pointed out that faculty members at the other three colleges would also be appropriate for the unit. A separate bargaining unit, the board said, "would be very likely to produce an adverse effect on the operation of the Vermont State Colleges and would result in over-fragmentation." The VSLRB, therefore, dismissed the petition on the basis that a state-wide unit would best serve the interests of the employees involved. (*Petition for Certification of Faculty at Vermont Technical College*, Vermont State Labor Relations Board, February 20, 1973.)

WISCONSIN

Evening School Teachers' Representatives Entitled To Negotiate Terms and Conditions of Employment

Ruling that a union has the right and that a school district is duty bound to bargain over wages, hours, and working conditions affecting its employees, the Wisconsin Employment Relations Commission upheld a petition filed by Local 212, Wisconsin Federation of Teachers, AFL-CIO. The union sought a declaratory judgment to force the District 9 Area Board of Vocational, Technical, and Adult Education to bargain over salaries of its evening school employees whose workload is at least 50 percent of a regular teacher's.

The union became the exclusive bargaining representative of all regular full-time and part-time teachers teaching at least 50 percent of a regular teaching schedule after an election was held on June 3, 1963, which determined these teachers desired a unit separate from that of teachers with less than 50 percent of a teaching schedule. In determining the amount of teaching time, the Commission counted day and night classes.

The Commission stated that it was difficult to understand why the board refused to bargain wages, hours, and working conditions of these teachers since in the original representation proceeding the time that evening classes were taught was included in determining whether a teacher taught at least 50 percent of a full schedule. Had the Commission intended for night class teachers to be excluded from collective bargaining, it would not have included evening teachers in the unit.

On the basis of the foregoing, the Commission ruled that as the exclusive collective bargaining representative for teachers who teach at least 50 percent of a full teaching schedule the union has the right, "and the Municipal Employer has the duty to bargain wages, hours, and conditions of employment of the teachers in the bargaining unit regardless of whether they teach during day or evening." (*Local 212, Wisconsin Federation of Teachers, AFL-CIO vs. District 9 Area Board of Vocational, Technical and Adult Education*, Wisconsin Employment Relations Commission, July 14, 1972.)

FEDERAL

NLRB Determines Appropriate College and Law School Faculty Bargaining Units

National Labor Relations Board (NLRB) determinations have expanded two proposed higher education bargaining units. The Board expanded the unit sought by the Catholic University of America Law Faculty Bargaining Committee to include part-time faculty who were not currently on the law school payroll, but who met established criteria for inclusion in the unit. Similarly, the NLRB inlcuded department chairmen in a unit sought by the Rosary Hill (College) Faculty Association on the basis that the chairmen lacked the supervisory authority requisite to exclusion from a faculty bargaining unit.

- Finding that the unit sought by the Law Faculty Bargaining Committee was broader than the unit for which the committee had petitioned, the NLRB ordered the postponement of any representation election until an adeqate showing of interest among *all* eligible voters was provided.

The NLRB clarification of the appropriate law school faculty bargaining unit brought additional part-time faculty into the unit. On the basis of criteria established in *University of Detroit* [NRD, 12-71, 12] and *C.W. Post Center of Long Island University* [NRD, 6-71, 12], the Board included all part-time faculty who were not teaching during the semester of the election, but who had taught at least one semester pursuant to written appointment during any two of the previous three consecutive years (including the election year) with at least one-fourth of the average full-time teaching load. (*The Catholic University of America and Law Faculty Bargaining Committee*, National Labor Relations Board, March 23, 1973.)

- The NLRB took the stance that faculty department heads *generally* do not have or exercise the degree of supervisory authority, which under the National Labor Relations Act (NLRA) would exclude them from faculty bargaining units. The Board requires an affirmative showing that department heads have one or more of the indicia of supervisory authority, or proof of the department authority to effectively make recommendations affecting personnel status.

The Board determined that the Rosary College department chairmen lacked such authority since their recommendations for hiring, terminating, promoting, and granting tenure are subject to the college administration's approval. Further, the chairmen are responsible to the academic dean, who supervises curricula, methods of instruction, and examining and grading practices, recruits, interviews, and recommends faculty replacements, and approves assignments made by the department chairmen. Accordingly, the Board ruled that the college's department chairmen were not supervisors, and, therefore, that they were to be included in the proposed faculty bargaining unit. (*Rosary Hill College and Rosary Hill Faculty Association, aw New York State Teachers Association*, National Labor Relations Board, April 17, 1973.)

NEGOTIATION NOTES

Alaska, Wisconsin Issue Rules Clarifying Public Employees' Bargaining Laws

The Alaska State Labor Relations Agency (ASLRA) and the Wisconsin Employment Relations Commission (WERC) issued rules and operating procedures under which they implement the states' respective public employee bargaining laws.

The ASLRA issued rules and regulations covering petitions to represent public employees, election procedures, and prohibited practices. The new regulations stipulate that petitions for certification or decertification must be accompanied by a 30 percent showing of interest among the employees involved and that intervenors must have a 10 percent showing of interest to be added to a ballot. Representation elections must be held 150 to 120 days before the expiration of a valid bargaining agreement but more than nine months after a prior election.

The ASLRA shall decide whether a proposed unit is "a prima facie appropriate unit," and shall then hold investigatory hearings on whether the proposed unit is "an appropriate unit" for bargaining purposes and either dismiss the petition or order a secret ballot election. "Appropriate units of state employees cannot combine supervisory with nonsupervisory or confidential personnel or combine nonsupervisors with confidential employees." An organization may be certified without an election if the parties file a consent agreement for recognition with the agency unless another organization intervenes or 10 percent of the employees object to the recognition agreement.

Representation elections are to be held mainly by manual ballots, with mail ballots used when employees are situated some distance from the central balloting location or when there are many scattered locations. The ASLRA will investigate any challenged ballots before certifying election results. When no union receives a majority of the votes, a runoff between the two receiving the largest numbers of votes will be conducted.

Upon notifying the employer, an employee organization may organize employees only during their lunch time, other official free time, or before or after work.

ASLRA will first try to resolve complaints of prohibited practices "by informal methods of conference, conciliation, and persuasion"; however, if these methods fail after two weeks, "the agency shall pursue the matter formally with hearings."

The amended rules adopted by the Wisconsin Employment Relations Commission (WERC) accommodate amendments to the Wisconsin Municipal Employment Relations Act. The amendments which were adopted in 1971 extended the act's coverage to policemen, permitted teachers and local employees to negotiate "fair share" agency shop agreements, added a prohibited practices section to the law's definitions, and enunciated a policy against fragmentation of bargaining units.

The newly adopted rules set forth procedures for election of bargaining representatives for supervisory law enforcement or supervisory firefighter personnel, determination of appropriate unit placement of state employees, prevention of prohibited practices, and arbitration, mediation, or factfinding.

A municipal employer, labor organization, or anyone acting on their behalf may file a petition for referendum seeking authorization to implement or to determine the continuation of a fair share agreement. The petition must be accompanied by at least a 30 percent showing of interest or opposition with respect to a fair share agreement by the employees in the appropriate unit.

Management Team Urges Unified Public Employee Statutes

Specifying the deficiencies of present labor relations statutes and the impossibility of administering them, a management team hired by the Rhode Island Department of Education recommended that the state's five public employee bargaining statutes be consolidated, that a separate and independent Public Sector Employment Relations Board be set up, that dispute settlement procedures be revised, and that public employees, except for police and firemen, be granted the right to strike.

According to the report, the major drawback of the five public employee laws is the impact on bargaining made by each group that draws from the same tax revenues. Also, the administration of the acts as well as the requirements for resolving disputes which are handled independently make it difficult to effectively understand the total economic and organizational impact of these laws. The report said that the proliferation of collective bargaining laws has had a disruptive effect on labor relations in the public sector.

The report struck down the assumption that the public sector is either identical to or reasonably similar to the private sector with *one* agency, the Rhode Island State Labor Relations Board (RISLRB), to administer the five diverse statutes. The report emphasized that many states have realized that a "private sector labor relations board, regardless of its excellence and regardless of its capabilities, was

not a logical administrative agency to administer the public sector legislation and relationships."

Additionally, the report stated that public employers and employees often feel that the RISLRB mediation members neither represent the public sector nor fully understand the peculiarities of public sector problems and relationships. The report attributes these deficiencies to the unavailability of enough mediators to handle mediation needs of the public sector. Moreover, the Teachers Act recommendation that the Department of Education mediate disputes has "seriously endangered both the collective bargaining as well as the relationship between the State Department of Education and their constituents." Further, the department's continued acceptable neutrality in mediation efforts is highly unlikely.

The report concluded with suggestion that the present procedures for resolving disputes be revised within the framework of new legislation.

New York State University Staffers Approve Merger

The New York Senate Professional Association (SPA), bargaining agent for professional staff members of the State University of New York (SUNY) voted 1,225 to 311 in favor of a merger with the State University Federation of Teachers (STUFT).

The next move in forming SUNY/United is amendment of the association constitution and by-laws. Further, a jointly agreed upon schedule for implementing the merger entails merger and election of officers on local campuses, with a SUNY/United Delegate Assembly and election of state officers in May.

Labor Department Regulations Covering Extension of Equal Pay Act

The U. S. Labor Department has issued regulations in accordance with the 1972 extension of the Equal Pay Act. The Equal Pay Act was enacted in 1963 as an amendment to the Fair Labor Standards Act (FLSA). Accordingly, employees who were exempt from FLSA's minimum wage and overtime provisions were also exempt from equal pay provisions.

For the most part, the Labor Department's regulation revisions were technical, the most notable change extended coverage to "those employees exempt from the minimum wage and overtime provisions as *bona fide* executive, administrative and professional employees (including any employee employed in the capacity of academic administrative personnel or teacher in elementary or secondary schools), or in the capacity of outside salesmen."

In an effort to curb sex discrimination on the administrative and executive level, the amended regulations require employers to maintain salary and fringe benefit records for those previously exempt employees. The regulations state: "Where an exempt administrative employee and another employee of the establishment are performing substantially 'equal work,' the sex discrimination prohibitions of section 6(d) are applicable with respect to any wage differential between those two employees."

CONSUMER PRICE INDEX ADVANCES 0.6 PERCENT IN MAY

The Consumer Price Index rose 0.6 percent in May to 131.5 percent of the 1967 base, according to the Bureau of Labor Statistics. After seasonal adjustment the May increase was unchanged. The Index now stands 5.5 percent above a year ago.

Prices for foods—including food purchased in grocery stores and in restaurants—increased 1.1 percent in May, compared to 1.4 percent in April and 2.4 percent in March. BLS says that with the exception of meats and eggs, most items showed price increases in May.

BLS notes that in the six months ended in May, the CPI increased at a seasonally adjusted annual rate of 7.2 percent. During the three-month period ended in May, the index increased at a rate of 8.7 percent.

KANSAS

Public Employee Bargaining Law Amended

The Kansas public employee bargaining statute, which covers state higher education employees (professional school district employees are covered by a separate law), was amended to provide for authorization of employee organization agents and filing of employee runoffs, and established a time limitation for the filing of unfair labor practices charges with the board.

An *agent* is defined as "any authorized person who acts or attempts to act for any employee organization in (1) the issuance of membership or authorization cards, or (2) in soliciting or receiving from any employer any right or privilege for employees when such employee organization has not been formally recognized." Authorized agents are required to file applications certifying U. S. citizenship, their names, addresses, length of Kansas residency, and the written authorization of the organization's president and secretary. The agent's certificate is valid for the calendar year, automatically expiring December 31, unless surrendered, suspended, or revoked prior to that date.

All employee organizations are required to file annual reports with the secretary of state within 90 days after the

close of the fiscal year unless an extension is granted. Such reports must include the name, location, and mailing address of the organization, the names, titles, salaries and other remuneration of its officers and registered agents, the rates of initiation fees, dues, and assessments, and an audited statement of the organization's income, expenditures, assets, and liabilities.

The amendment to the section of representation/determination requires a runoff election between the two top choices in a multi-union election when none of the choices receives a majority of the vote.

In addition, amendments to the mediation and fact-finding sections place a six-month limitation on the submission of prohibited practice charges, unless the situation is deemed an emergency, i.e., a strike, whereupon the board is to act within 24 hours of notification.

The amendments (H. B. 1531, L1973) are effective upon publication in the state statute book.

SOUTH DAKOTA

Public Employee Bargaining Law Amended

Amendments to the Public Employees' Unions Act, which grants school teachers and other public employees the right to bargain collectively, have modified the strike injunction section, further delineated grievance procedure, and defined unfair labor practices. Although the amended version of the Act, effective July 1, 1973, does not compel either party to agree to a proposal or make a concession, the parties are required to negotiate in good faith and explain the "rationale for any position taken."

The act no longer mandates that governmental agencies, governing boards, or state attorneys' seek injunctive strike relief; seeking this injunctive relief is now optional.

The section elaborating upon grievance procedures defines *grievance* as "a complaint by a public employee or group of public employees based upon an alleged violation, misinterpretation, or inequitable application of any existing *agreements, contracts, ordiances, policies, rules or regulations* [emphasis added] of the government of the state . . .or . . .of the political subdivisions thereof, or of the public schools." The governmental agencies are obligated to establish procedures for the disposition of grievances. Unresolved grievances may be appealed to the labor commissioner, whose decision will be final and binding.

If the governing body of any agency fails to establish grievance procedures, the commissioner of labor and management relations "shall promulgate such rules and regulations and may be appropriate and adopt a standard grievance procedure."

The definitions of public employee organization and public employer unfair labor practices are reprinted below:

Employer unfair labor practices—It shall be an unfair practice for a public employer to:

(1) Interfere with, restrain or coerce employees in the exercise of rights guaranteed by law;

(2) Dominate, interfere or assist in the formation or administration of any employee organization, or contribute financial or other support to it; provided, an employer shall not be prohibited from permitting employees to confer with him during working hours without loss of time or pay;

(3) Discriminate in regard to hire or tenure or employment or any term or condition of employment to encourage or discourage membership in any employee organization;

(4) Discharge or otherwise discriminate against an employee becuase he has filed a complaint, affidavit, petition or given any information or testimony under this Act;

(5) Refuse to negotiate collectively in good faith with a formal representative; and

(6) Fail or refuse to comply with any provision of this Act. [Sec. 1, H. B. 860, L. 1973, effective July 1, 1973.]

Union unfair labor practices.—It shall be an unfair practice for an employee organization or its agents to:

(1) Restrain or coerce (a) an employee in the exercise of the rights guaranteed by this Act; provided, that this paragraph shall not impair the right of an employee organization to prescribe its own rules with respect to the acquisition or retention of membership therein; or (b) an employer in the selection of his representative for the purpose of collective bargaining or the adjustment of grievances;

(2) Cause or attempt to cause an employer to discriminate against an employee in violation of subdivision (3) of section 1 or to discriminate against an employee with respect to whom membership in such organization has been denied or terminated on some ground; and

(3) Refuse to negotiate collectively in good faith with an employer, provided it is the formal representative. [Sec. 2, H. B. 860, L. 1973, effective July 1, 1973.]

STATISTICS

WRITTEN NEGOTIATION AGREEMENTS SURVEY: 1972-73

Preliminary results of NEA Research's seventh annual survey of written negotiation agreements in school systems with 1,000 or more pupils enrolled indicated that 3,958 school systems, employing 1,482,476 professional staff members, had negotiated agreements. Of the 7,228 school systems surveyed, 5,858 responded, an 81.0 percent response rate. Of the 5,858 responding school systems, 67.6 percent had negotiation agreements.

At present, 30 states have teacher collective bargaining statutes. The majority of these statutes were passed between 1968 and 1971, and much of the rapid increase in the number of school systems negotiating agreements during this period is directly attributable to this legislation. During 1972-73, only one state, Indiana, enacted a collective bargaining statute affecting teachers, and as the legislation does not become effective until July 1973, there was no notable increase in teacher collective bargaining in that state.

HIGHLIGHTS OF THE PRELIMINARY SURVEY:

- Since 1966-67, when the first survey of written agreements was conducted, the number of school systems with negotiation agreements has increased by 158.5 percent. In the 1966-67 survey, 1,531 school systems reported negotiation agreements; the 1972-73 survey found 3,958 systems with such agreements.
- The number of teachers covered by collective bargaining agreements has more than doubled. In 1966-67, 648,322 teachers were covered by negotiated agreements while during 1972-73, 1,482,476 teachers were working under a collective bargaining agreement.
- NEA affiliates acted as representatives in 91.8 percent of the surveyed school systems, representing 79.0 percent of the teachers. In 24 states all surveyed school systems negotiated with NEA affiliated representatives. American Federation of Teachers locals represented 16.2 percent of the teachers in 3.4 percent of the school districts.
- More than four-fifths of the teachers employed in the nation's largest school systems (25,000 or more pupils) are covered by collective bargaining agreements.
- The largest percentage of negotiated agreements were found in the Far West where 93.7 percent of the school systems have negotiated agreements. Only the Southeast and the Southwest have less than three-fifths of the school systems negotiating agreements, and more than 50 percent of teachers in all regions, except for the Southeast, are covered by collective bargaining agreements.
- Over 50 percent of the school systems and professional staff in all enrollment strata are covered by negotiated agreements.

REGIONS	STRATUM	SCHOOL SYSTEM ENROLLMENT
Northeast: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont	1	100,000 or more
Mideast: Delaware, District of Columbia, Maryland, New Jersey, New York, Pennsylvania	2	50,000-99,999
Southeast: Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, West Virginia	3	25,000-49,999
Great Lakes: Illinois, Indiana, Michigan, Ohio, Wisconsin	4	12,000-24,999
Plains: Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota	5	6,000-11,999
Southwest: Arizona, New Mexico, Oklahoma, Texas	6	3,000-5,999
Rocky Mountain: Colorado, Idaho, Montana, Utah, Wyoming	7	1,200-2,999
Far West: Alaska, California, Hawaii, Nevada, Oregon, Washington	8	1,000-1,199

TABLE A

SCOPE OF SURVEY

STATE	SYSTEMS SURVEYED	SYSTEMS RESPONDING NUMBER	SYSTEMS RESPONDING PERCENT	SYSTEMS RESPONDING: TOTAL CLASSROOM TEACHERS EMPLOYED	SYSTEMS RESPONDING: TOTAL INSTRUCTIONAL STAFF EMPLOYED
1	2	3	4	5	6
ALABAMA	113.	77.	68.2	22560.	23956.
ALASKA	9.	7.	77.8	2948.	3113.
ARIZONA	66.	59.	89.4	16912.	18815.
ARKANSAS	103.	61.	59.3	9747.	10515.
CALIFORNIA	484.	455.	94.1	180816.	209336.
COLORADO	65.	53.	81.6	23998.	26290.
CONNECTICUT	119.	109.	91.6	33374.	37223.
DELAWARE	22.	20.	91.0	5902.	6449.
DISTRICT OF COLUMBIA	1.	1.	100.0	6193.	7850.
FLORIDA	65.	50.	77.0	58564.	66601.
GEORGIA	173.	96.	55.5	31466.	35458.
HAWAII	1.	1.	100.0	8225.	9769.
IDAHO	45.	32.	71.2	5665.	6227.
ILLINOIS	432.	348.	80.6	85647.	97792.
INDIANA	256.	169.	66.1	38865.	42910.
IOWA	142.	130.	91.6	22165.	24269.
KANSAS	89.	87.	97.8	18141.	20678.
KENTUCKY	158.	103.	65.2	22841.	25614.
LOUISIANA	66.	40.	60.7	28759.	29946.
MAINE	85.	60.	70.6	7604.	8302.
MARYLAND	24.	23.	95.9	43695.	47937.
MASSACHUSETTS	216.	196.	90.8	56734.	63277.
MICHIGAN	397.	385.	97.0	88436.	98275.
MINNESOTA	171.	144.	84.3	36659.	40453.
MISSISSIPPI	142.	53.	37.4	9445.	10461.
MISSOURI	175.	128.	73.2	35345.	38395.
MONTANA	31.	31.	100.0	5607.	6074.
NEBRASKA	43.	32.	74.5	8734.	9434.
NEVADA	10.	8.	80.0	5122.	5557.
NEW HAMPSHIRE	43.	28.	65.2	5806.	6334.
NEW JERSEY	325.	299.	92.0	70412.	79427.
NEW MEXICO	41.	39.	95.2	10151.	11609.
NEW YORK	524.	491.	93.8	179065.	201157.
NORTH CAROLINA	151.	116.	76.9	38043.	41699.
NORTH DAKOTA	16.	16.	100.0	2967.	3202.
OHIO	520.	429.	82.5	90167.	100444.
OKLAHOMA	92.	70.	76.1	16823.	18545.
OREGON	93.	85.	91.4	20952.	23210.
PENNSYLVANIA	485.	378.	78.0	91201.	100655.
RHODE ISLAND	30.	27.	90.0	7814.	9554.
SOUTH CAROLINA	88.	54.	61.4	21231.	23766.
SOUTH DAKOTA	29.	27.	93.2	3873.	4294.
TENNESSEE	125.	102.	81.6	31930.	34522.
TEXAS	370.	246.	66.5	83726.	95515.
UTAH	29.	25.	86.3	10939.	12120.
VERMONT	27.	18.	66.7	2909.	3232.
VIRGINIA	120.	93.	77.5	44398.	48307.
WASHINGTON	122.	113.	92.7	30019.	34556.
WEST VIRGINIA	55.	32.	58.2	10952.	12016.
WISCONSIN	220.	193.	87.8	38208.	42627.
WYOMING	20.	19.	95.0	3715.	4090.
UNITED STATES	7228.	5858.	81.0	1735470.	1941862.

STRATUM	SYSTEMS SURVEYED	SYSTEMS RESPONDING NUMBER	SYSTEMS RESPONDING PERCENT	SYSTEMS RESPONDING: TOTAL CLASSROOM TEACHERS EMPLOYED	SYSTEMS RESPONDING: TOTAL INSTRUCTIONAL STAFF EMPLOYED
1	2	3	4	5	6
1	27.	27.	100.0	270041.	312664.
2	53.	51.	96.3	151554.	171351.
3	106.	100.	94.4	149886.	169257.
4	399.	357.	89.5	268289.	300205.
5	955.	823.	86.2	321513.	356434.
6	1795.	1501.	83.7	297778.	328718.
7	3261.	2630.	80.7	255405.	280220.
8	632.	369.	58.4	21004.	23013.
TOTAL	7228.	5858.	81.0	1735470.	1941862.

TABLE 8

STATUS OF WRITTEN NEGOTIATION PROCEDURES

STATE	TOTAL SYSTEMS SURVEYED	RESPONDING SYSTEMS		SYSTEMS WITH PROCEDURES				SYSTEMS WITHOUT PROCEDURES			
		NUMBER	INSTR. STAFF	NUMBER	PERCENT	INSTR. STAFF NUMBER	INSTR. STAFF PERCENT	NUMBER	PERCENT	INSTR. STAFF NUMBER	INSTR. STAFF PERCENT
	1	2	3	4	5	6	7	8	9	10	11
ALABAMA	113	77.	23956.	1.	1.3	62.	0.3	76.	98.7	23894.	99.7
ALASKA	9	7.	3118.	7.	100.0	3118.	100.0	0.	0.0	0.	0.0
ARIZONA	66	59.	18815.	36.	61.0	15943.	84.7	23.	39.0	2872.	15.3
ARKANSAS	103	61.	10515.	8.	13.1	4793.	45.6	53.	86.9	5722.	54.4
CALIFORNIA	484	455.	209336.	433.	95.2	204175.	97.5	22.	4.8	5161.	2.5
COLORADO	65	53.	26290.	34.	64.2	23605.	89.8	19.	35.8	2685.	1[illegible].2
CONNECTICUT	119	109.	37223.	97.	89.0	35365.	95.0	12.	11.0	1858.	5.0
DELAWARE	22	20.	6449.	19.	95.0	6099.	94.6	1.	5.0	350.	5.4
DISTRICT OF COLUMBIA	1	1.	7850.	1.	100.0	7850.	100.0	0.	0.0	0.	0.0
FLORIDA	65	50.	66601.	18.	36.0	42562.	63.9	32.	64.0	24039.	36.1
GEORGIA	173	96.	35458.	1.	1.0	1783.	5.0	95.	99.0	33675.	95.0
HAWAII	1	1.	9769.	1.	100.0	9769.	100.0	0.	0.0	0.	0.0
IDAHO	45	32.	6227.	22.	68.8	4705.	75.6	10.	31.3	1522.	24.4
ILLINOIS	432	348.	97792.	242.	69.5	85652.	87.6	106.	30.5	12140.	12.4
INDIANA	256	169.	42910.	67.	39.6	28209.	65.7	102.	60.4	14701.	34.3
IOWA	142	130.	24269.	34.	26.2	12511.	51.6	96.	[illegible]	11758.	48.4
KANSAS	89	87.	20678.	63.	72.4	17534.	84.8	24.	27.6	3144.	15.2
KENTUCKY	158	103.	25614.	21.	20.4	10472.	40.9	82.	79.6	15142.	59.1
LOUISIANA	66	40.	29946.	0.	0.0	0.	0.0	40.	100.0	29946.	100.0
MAINE	85	60.	8302.	51.	85.0	7327.	88.3	9.	15.0	975.	11.7
MARYLAND	24	23.	47937.	23.	100.0	47937.	100.0	0.	0.0	0.	0.0
MASSACHUSETTS	216	196.	63277.	185.	94.4	61122.	96.6	11.	5.6	2155.	3.4
MICHIGAN	397	385.	98275.	382.	99.2	98029.	99.7	3.	0.8	247.	0.3
MINNESOTA	171	144.	40453.	126.	87.5	37224.	92.0	18.	12.5	3229.	8.0
MISSISSIPPI	142	53.	10461.	0.	0.0	0.	0.0	53.	100.0	10461.	100.0
MISSOURI	175	128.	38395.	67.	52.3	21479.	55.9	61.	47.7	16916.	44.1
MONTANA	31	31.	6074.	25.	80.6	5272.	86.8	6.	19.4	802.	13.2
NEBRASKA	43	32.	9436.	22.	68.8	7846.	83.1	10.	31.3	1590.	16.9
NEVADA	10	8.	5557.	5.	62.5	5160.	92.9	3.	37.5	397.	7.1
NEW HAMPSHIRE	43	28.	6334.	16.	57.1	4239.	66.9	12.	42.9	2095.	33.1
NEW JERSEY	325	299.	79427.	280.	93.6	74844.	94.2	19.	6.4	4583.	5.8
NEW MEXICO	41	39.	11609.	13.	33.3	5366.	46.2	26.	66.7	6243.	53.8
NEW YORK	524	491.	201157.	476.	96.9	197631.	98.2	15.	3.1	3526.	1.8
NORTH CAROLINA	151	116.	41699.	5.	4.3	4206.	10.1	111.	95.7	37493.	89.9
NORTH DAKOTA	16	16.	3202.	13.	81.3	2936.	91.7	3.	18.8	266.	8.3
OHIO	520	429.	100444.	339.	79.0	88811.	88.4	90.	21.0	11633.	11.6
OKLAHOMA	92	70.	18545.	16.	22.9	11080.	59.7	54.	77.1	7465.	40.3
OREGON	93	85.	23210.	74.	87.1	20905.	90.1	11.	12.9	2305.	9.9
PENNSYLVANIA	485	378.	100655.	301.	79.6	85557.	85.0	77.	20.4	15093.	15.0
RHODE ISLAND	30	27.	9554.	26.	96.3	9294.	97.3	1.	3.7	260.	2.7
SOUTH CAROLINA	88	54.	23766.	2.	3.7	1374.	5.8	52.	96.3	22392.	94.2
SOUTH DAKOTA	29	27.	4294.	17.	63.0	2966.	69.1	10.	37.0	1328.	30.9
TENNESSEE	125	102.	34522.	5.	4.9	12052.	34.9	97.	95.1	22470.	65.1
TEXAS	370	246.	95515.	57.	23.2	50803.	53.2	189.	76.8	44712.	46.8
UTAH	29	25.	12120.	9.	36.0	6830.	56.4	16.	64.0	5290.	43.6
VERMONT	27	18.	3232.	11.	61.1	2010.	62.2	7.	38.9	1222.	37.8
VIRGINIA	120	93.	48307.	10.	10.8	15739.	32.6	83.	89.2	32568.	67.4
WASHINGTON	122	113.	34556.	107.	94.7	33856.	98.0	6.	5.3	700.	2.0
WEST VIRGINIA	55	32.	12016.	7.	21.9	2941.	24.5	25.	78.1	9075.	75.5
WISCONSIN	220	193.	42627.	172.	89.1	40577.	95.2	21.	10.9	2050.	4.8
WYOMING	20	19.	4090.	11.	57.9	2859.	69.9	8.	42.1	1231.	30.1
TOTAL	7228	5858.	1941862.	3958.	67.6	1482476.	76.3	1900.	32.4	459386.	23.7

STRATUM	TOTAL SYSTEMS SURVEYED	RESPONDING SYSTEMS		SYSTEMS WITH PROCEDURES				SYSTEMS WITHOUT PROCEDURES			
		NUMBER	INSTR. STAFF	NUMBER	PERCENT	INSTR. STAFF NUMBER	INSTR. STAFF PERCENT	NUMBER	PERCENT	INSTR. STAFF NUMBER	INSTR. STAFF PERCENT
	1	2	3	4	5	6	7	8	9	10	11
1	27	27.	312664.	23.	85.2	292780.	93.6	4.	14.8	19884.	6.4
2	53	51.	171351.	37.	72.5	129208.	75.4	14.	27.5	42143.	24.6
3	106	100.	169257.	71.	71.0	122198.	72.2	29.	29.0	47059.	27.8
4	399	357.	300205.	283.	79.3	240941.	80.3	74.	20.7	59264.	19.7
5	955	823.	356434.	596.	72.4	263201.	73.8	227.	27.6	93233.	26.2
6	1795	1501.	328718.	1056.	70.4	236008.	71.8	445.	29.6	92710.	28.2
7	3261	2630.	280220.	1690.	64.3	185175.	66.1	940.	35.7	95045.	33.9
8	632	369.	23013.	202.	54.7	12965.	56.3	167.	45.3	10048.	43.7
TOTAL	7228	5858.	1941862.	3958.	67.6	1482476.	76.3	1900.	32.4	459386.	23.7

TABLE D-1

NUMBER OF PROFESSIONAL PERSONNEL REPRESENTED BY NATIONAL AFFILIATION OF LOCAL ORGANIZATIONS FOR NEGOTIATION PURPOSES

STATE	PERSONNEL REPRESENTED		N. E. A.		A. F. T.		INDEPENDENT		DUAL MEMBERSHIP IN TWO OR MORE NATIONAL ORGANIZATIONS	
	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.
1	2	3	4	5	6	7	8	9	10	11
ALABAMA	59	100.0	59	100.0	...	...	...	...	...	...
ALASKA	2,981	100.0	2,981	100.0	...	...	...	...	...	...
ARIZONA	14,468	100.0	14,468	100.0	...	...	...	...	...	...
ARKANSAS	4,483	100.0	4,483	100.0	...	...	...	...	...	...
CALIFORNIA	174,634	100.0	130,123	74.5	7,677	4.4	15,494	8.9	21,340	12.2
COLORADO	21,958	99.9	21,303	97.0	405	1.8	250	1.1	...	...
CONNECTICUT	34,210	100.0	28,431	83.1	5,093	14.9	686	2.0	...	...
DELAWARE	5,364	100.0	4,612	86.0	752	14.0	...	...	...	...
DISTRICT OF COLUMBIA	7,250	100.0	...	...	7,250	100.0	...	...	...	...
FLORIDA	37,220	100.0	37,220	100.0	...	...	...	...	...	...
GEORGIA	1,698	100.0	1,698	100.0	...	...	...	...	...	...
HAWAII	9,769	100.0	9,769	100.0	...	...	...	...	...	...
IDAHO	4,325	100.0	4,325	100.0	...	...	...	...	...	...
ILLINOIS	73,636	100.0	41,352	53.2	30,846	39.2	5,938	7.6	...	...
INDIANA	25,059	100.0	21,549	85.0	3,510	14.0	...	...	...	...
IOWA	10,717	100.0	10,517	98.1	200	1.9	...	...	...	...
KANSAS	15,208	100.0	15,208	100.0	...	...	...	...	...	...
KENTUCKY	9,545	100.0	9,545	100.0	...	...	...	...	...	...
LOUISIANA	...	...	...	...	...	...	...	...	...	...
MAINE	6,842	100.0	6,842	99.9	...	...	4	.1	...	...
MARYLAND	46,458	100.0	36,740	79.1	8,600	18.5	1,118	2.4	...	...
MASSACHUSETTS	57,702	100.1	48,211	83.6	8,992	15.6	499	.9	...	...
MICHIGAN	91,229	100.0	72,725	79.7	15,566	17.0	2,819	3.1	139	.2
MINNESOTA	33,945	100.0	21,956	64.7	11,904	35.1	45	.1	40	.1
MISSISSIPPI	...	...	...	...	...	...	...	...	...	...
MISSOURI	19,439	99.9	16,474	84.7	2,711	13.9	254	1.3	...	...
MONTANA	4,779	100.0	4,151	86.9	628	13.1	...	...	...	...
NEBRASKA	7,623	100.0	7,623	100.0	...	...	...	...	...	...
NEVADA	4,732	100.0	4,732	100.0	...	...	...	...	...	...
NEW HAMPSHIRE	3,912	100.0	3,392	86.7	520	13.3	...	...	...	...
NEW JERSEY	70,022	100.0	62,953	89.9	5,913	8.4	1,156	1.7	...	...
NEW MEXICO	4,756	100.0	4,756	100.0	...	...	...	...	...	...
NEW YORK	190,925	100.0	101,527	53.2	77,941	40.8	3,508	1.9	7,949	4.2
NORTH CAROLINA	1,210	100.0	1,210	100.0	...	...	...	...	...	...
NORTH DAKOTA	2,759	100.0	2,735	99.1	...	...	24	.9	...	...
OHIO	81,529	100.0	71,677	87.9	8,815	10.8	1,037	1.3	...	...
OKLAHOMA	8,469	100.0	8,468	100.0	...	...	...	...	...	...
OREGON	19,362	100.0	19,114	98.7	...	...	248	1.3	...	...
PENNSYLVANIA	79,548	100.1	60,580	75.2	17,732	22.3	1,236	1.6	...	...
RHODE ISLAND	8,697	100.0	4,686	53.9	3,951	45.4	60	.7	...	...
SOUTH CAROLINA	1,214	100.0	1,214	100.0	...	...	...	...	...	...
SOUTH DAKOTA	2,680	100.0	2,680	100.0	...	...	...	...	...	...
TENNESSEE	11,537	100.0	11,537	100.0	...	...	...	...	...	...
TEXAS	43,898	100.0	42,398	96.6	...	...	1,500	3.4	...	...
UTAH	6,157	100.0	6,157	100.0	...	...	...	...	...	...
VERMONT	1,863	100.0	1,863	100.0	...	...	...	...	...	...
VIRGINIA	15,128	100.0	15,128	100.0	...	...	...	...	...	...
WASHINGTON	32,384	100.0	32,384	100.0	...	...	...	...	...	...
WEST VIRGINIA	2,773	100.0	2,631	94.9	...	...	142	5.1	...	...
WISCONSIN	36,558	100.0	35,358	96.7	1,200	3.3	...	...	...	...
WYOMING	2,706	100.0	2,706	100.0	...	...	...	...	...	...
TOTAL	1,358,427	100.1	1,072,756	79.0	220,186	16.2	36,018	2.7	29,467	2.2

STRATUM	PERSONNEL REPRESENTED		N. E. A.		A. F. T.		INDEPENDENT		DUAL MEMBERSHIP IN TWO OR MORE NATIONAL ORGANIZATIONS	
	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.	NO.	PCT.
1	2	3	4	5	6	7	8	9	10	11
1	276,700	100.0	99,322	35.9	135,003	48.8	21,035	7.6	21,340	7.7
2	116,666	100.0	87,112	74.7	23,133	19.8	2,721	2.3	3,700	3.2
3	107,426	100.0	91,261	85.0	14,180	13.2	1,985	1.8	...	...
4	218,912	100.0	194,664	88.9	18,816	8.6	3,946	1.8	1,486	.7
5	242,036	99.9	218,880	90.4	17,938	7.4	3,711	1.5	1,507	.6
6	216,222	100.0	206,858	95.7	6,836	3.2	1,595	.7	933	.4
7	168,520	100.0	162,860	96.6	4,209	2.5	950	.6	501	.3
8	11,945	100.0	11,799	98.8	71	.6	75	.6	...	...
TOTAL	1,358,427	100.1	1,072,756	79.0	220,186	16.2	36,018	2.7	29,467	2.2

TABLE D-2

NATIONAL AFFILIATION OF ORGANIZATIONS REPRESENTING PROFESSIONAL STAFF IN NEGOTIATION

STATE	SYSTEMS WITH ORGANIZATIONAL REPRESENTATION NO.	PCT.	N. E. A. NO.	PCT.	A. F. T. NO.	PCT.	INDEPENDENT NO.	PCT.	TWO OR MORE ORGANIZATIONS WITH MIXED AFFILIATIONS NO.	PCT.
1	2	3	4	5	6	7	8	9	10	11
ALABAMA	1	100.0	1	100.0	...	...	...	...	...	...
ALASKA	7	100.0	7	100.0	...	...	...	...	...	...
ARIZONA	36	100.0	35	97.2	...	...	1	2.8	...	...
ARKANSAS	8	100.0	8	100.0	...	...	...	...	...	...
CALIFORNIA	433	100.1	313	72.3	...	...	2	.5	118	27.3
COLORADO	34	100.0	33	97.1	1	2.9	...	...	...	...
CONNECTICUT	97	100.0	88	90.7	9	9.3	...	...	...	...
DELAWARE	19	100.0	18	94.7	1	5.3	...	...	...	...
DISTRICT OF COLUMBIA	1	100.0	...	...	1	100.0	...	...	...	...
FLORIDA	17	100.0	17	100.0	...	...	...	...	...	...
GEORGIA	1	100.0	1	100.0	...	...	...	...	...	...
HAWAII	1	100.0	1	100.0	...	...	...	...	...	...
IDAHO	22	100.0	22	100.0	...	...	...	...	...	...
ILLINOIS	239	100.0	201	84.1	36	15.1	1	.4	1	.4
INDIANA	66	100.0	59	89.4	5	7.6	...	...	2	3.0
IOWA	33	100.0	32	97.0	...	...	...	...	1	3.0
KANSAS	63	100.0	63	100.0	...	...	...	...	...	...
KENTUCKY	21	100.0	21	100.0	...	...	...	...	...	...
LOUISIANA	...	...	...	...	...	...	...	...	...	...
MAINE	31	100.0	31	100.0	...	...	...	...	...	...
MARYLAND	23	100.0	22	95.7	1	4.3	...	...	...	...
MASSACHUSETTS	185	99.9	176	95.1	8	4.3	...	...	1	.5
MICHIGAN	382	100.1	362	94.6	16	4.2	3	.8	1	.3
MINNESOTA	126	99.9	89	70.6	9	7.1	...	...	28	22.2
MISSISSIPPI	...	...	...	...	...	...	...	...	...	...
MISSOURI	66	100.0	65	98.5	1	1.5	...	...	...	...
MONTANA	25	100.0	23	92.0	2	8.0	...	...	...	...
NEBRASKA	22	100.0	22	100.0	...	...	...	...	...	...
NEVADA	5	100.0	5	100.0	...	...	...	...	...	...
NEW HAMPSHIRE	16	100.1	15	93.8	1	6.3	...	...	...	...
NEW JERSEY	280	100.0	275	98.2	3	1.1	2	.7	...	...
NEW MEXICO	13	100.0	13	100.0	...	...	...	...	...	...
NEW YORK	476	100.0	437	91.8	15	3.2	4	.8	20	4.2
NORTH CAROLINA	2	100.0	2	100.0	...	...	...	...	...	...
NORTH DAKOTA	13	100.0	13	100.0	...	...	...	...	...	...
OHIO	349	100.0	332	97.4	6	1.8	1	.3	...	...
OKLAHOMA	15	100.0	15	100.0	...	...	...	...	...	...
OREGON	71	100.0	69	97.2	...	...	1	1.4	1	1.4
PENNSYLVANIA	301	100.0	294	97.7	7	2.3	...	...	...	...
RHODE ISLAND	26	100.0	19	73.1	7	26.9	...	...	...	...
SOUTH CAROLINA	2	100.0	2	100.0	...	...	...	...	...	...
SOUTH DAKOTA	17	100.0	17	100.0	...	...	...	...	...	...
TENNESSEE	5	100.0	5	100.0	...	...	...	...	...	...
TEXAS	54	100.0	53	98.1	...	...	...	...	1	1.9
UTAH	9	100.0	9	100.0	...	...	...	...	...	...
VERMONT	11	100.0	11	100.0	...	...	...	...	...	...
VIRGINIA	10	100.0	10	100.0	...	...	...	...	...	...
WASHINGTON	107	100.0	107	100.0	...	...	...	...	...	...
WEST VIRGINIA	7	100.0	6	85.7	...	...	...	...	1	14.3
WISCONSIN	172	100.0	167	97.1	5	2.9	...	...	...	...
WYOMING	11	100.0	11	100.0	...	...	...	...	...	...
TOTAL	3,941	100.0	3,617	91.8	134	3.4	15	.4	175	4.4

STRATUM	SYSTEMS WITH ORGANIZATIONAL REPRESENTATION NO.	PCT.	N. E. A. NO.	PCT.	A. F. T. NO.	PCT.	INDEPENDENT NO.	PCT.	TWO OR MORE ORGANIZATIONS WITH MIXED AFFILIATIONS NO.	PCT.
1	2	3	4	5	6	7	8	9	10	11
1	23	100.0	14	60.9	7	30.4	...	...	2	8.7
2	37	100.0	27	73.0	6	16.2	...	...	4	10.8
3	70	100.0	48	68.6	7	10.0	1	1.4	14	20.0
4	281	100.0	231	82.2	20	7.1	2	.7	28	10.0
5	593	100.0	506	85.3	36	6.1	2	.3	49	8.3
6	1,052	100.0	984	93.5	24	2.3	2	.2	42	4.0
7	1,684	100.0	1,609	95.5	33	2.0	7	.4	35	2.1
9	201	100.0	198	98.5	1	.5	1	.5	1	.5
TOTAL	3,941	100.0	3,617	91.8	134	3.4	15	.4	175	4.4

TABLE J-1

PERCENT OF SCHOOL SYSTEMS WHICH HAVE WRITTEN PROCEDURES BY WHICH LOCAL TEACHERS NEGOTIATE FOR ALL OR PART OF THE PROFESSIONAL STAFF IN RESPONDING SCHOOL SYSTEMS

ITEM	ENROLLMENT STRATUM								
	TOTAL	1	2	3	4	5	6	7	8
1	2	3	4	5	6	7	8	9	10
YES	67.6	85.2	72.5	71.0	79.3	72.4	70.4	64.3	54.7
NO	32.4	14.8	27.5	29.0	20.7	27.6	29.6	35.7	45.3
TOTAL	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
TOTAL RESPONSE	5,858	27	51	100	357	823	1,501	2,630	369

TABLE J-2

PERCENT OF SCHOOL SYSTEMS WHICH HAVE WRITTEN PROCEDURES BY WHICH LOCAL TEACHERS NEGOTIATE FOR ALL OR PART OF THE PROFESSIONAL STAFF IN RESPONDING SCHOOL SYSTEMS

ITEM	ENROLLMENT GROUPING			REGION							
	1,2,3 A	4,5,6 B	7,8 C	N.E.	MIDEAST	S.E.	G.L.	PLAINS	S.W.	R.M.	FAR WEST
1	2	3	4	5	6	7	8	9	10	11	12
YES	73.6	72.2	63.1	88.1	90.6	9.3	78.9	61.0	29.4	62.9	93.7
NO	26.4	27.8	36.9	11.9	9.4	90.7	21.1	39.0	70.6	37.1	6.3
TOTAL	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
TOTAL RESPONSE	178	2,681	2,999	438	1,209	381	1,522	569	412	159	668

TABLE K-1

PERCENT OF INSTRUCTIONAL STAFF IN SCHOOL SYSTEMS WHICH HAVE WRITTEN PROCEDURES BY WHICH LOCAL TEACHERS NEGOTIATE FOR ALL OR PART OF THE PROFESSIONAL STAFF IN RESPONDING SCHOOL SYSTEMS

ITEM	ENROLLMENT STRATUM								
	TOTAL	1	2	3	4	5	6	7	8
1	2	3	4	5	6	7	8	9	10
YES	76.3	93.6	75.4	72.2	80.3	73.8	71.8	66.1	56.3
NO	23.7	6.4	24.6	27.8	19.7	26.2	28.2	33.9	43.7
TOTAL	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
TOTAL RESPONSE	1,941,862	312,664	171,351	169,257	300,205	356,434	328,718	280,220	23,013

TABLE K-2

PERCENT OF INSTRUCTIONAL STAFF IN SCHOOL SYSTEMS WHICH HAVE WRITTEN PROCEDURES BY WHICH LOCAL TEACHERS NEGOTIATE FOR ALL OR PART OF THE PROFESSIONAL STAFF IN RESPONDING SCHOOL SYSTEMS

ITEM	ENROLLMENT GROUPING			REGION							
	1,2,3 A	4,5,6 B	7,8 C	N.E.	MIDEAST	S.E.	G.L.	PLAINS	S.W.	R.M.	FAR WEST
1	2	3	4	5	6	7	8	9	10	11	12
YES	83.3	75.1	65.3	93.3	93.6	27.0	89.3	73.0	57.6	78.9	97.0
NO	16.7	24.9	34.7	6.7	6.4	73.0	10.7	27.0	42.4	21.1	3.0
TOTAL	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
TOTAL RESPONSE	653,272	985,357	303,233	127,922	447,526	358,750	380,608	141,753	144,117	54,600	286,586

BLS ISSUES NEW COST-OF-LIVING INDICATORS

The Bureau of Labor Statistics has formulated a new set of consumer prixe indexes which will be published quarterly (March, June, September, December) in the *Consumer Price Index*. The new indexes are calculated from price data collected in 56 metropolitan and nonmetropolitan urban areas for the national Consumer Price Index. The areas are grouped accroding to their 1960 populations as follows: Class A-1, population at least 3.5 million; Class A-2, population 1.4 million to 3.5 million; Class B, population 250,000 to 1.4 million; Class C, population 50,000 to 250,000; Class D, population 2,500 to 50,000.

These new indexes dc not replace the individual city indexes currently published. They indicate only whether prices in one group have changed more, less, or the same as in another.

The new compilation includes indexes for all items and for the subgroups of food, housing, apparel and upkeep, transportation, and health and recreation. The all-items index shows that between 1968 and 1972, prices increased 4.0 percentage points more in the largest population class than in the smallest. Similarly, from 1972 to March of 1973 prices in the largest class increased 0.5 points more than the smallest.

CONSUMER PRICE INDEX FOR URBAN WAGE EARNERS AND CLERICAL WORKERS, ALL ITEMS [1967=100]

Population class (1)	1968	1969	1970	1971	1972	March 1973	Percent increase, 1972-March 1973	Percent increase, 1968-1972
1	2	3	4	5	6	7	8	9
A-1: 3.5 million or more[a]	104.3	110.2	117.4	122.9	127.5	132.4	3.8	22.2
A-2: 1.4 to 3.5 million[b]	104.4	110.4	116.6	121.7	125.5	130.0	3.6	20.2
B: 250,000 to 1.4 million[c]	104.0	109.9	116.2	120.8	124.7	129.2	3.6	19.9
C: 50,000 to 250,000[d]	104.3	109.7	115.5	120.1	123.9	128.2	3.5	18.8
D: 2,500 to 50,000[e]	104.0	109.1	114.9	119.5	122.9	127.0	3.3	18.2

SOURCES: *Monthly Labor Review,* August 1972, p. 4-6; June 1973, p. 55.

[a]*Class A-1: 3.5 million or more* Chicago, Ill.- Northwestern Indiana; Detroit, Mich.; Los Angeles- Long Beach, Calif.

[b]*Class A-2: 1.4 to 3.5 million* Baltimore, Maryland; Boston Massachusetts; Cleveland, Ohio; Pittsburgh, Pennsylvania; Saint Louis, Missouri; San Francisco- Oakland, California; Washington, D.C.

[c]*Class B: 250,000 to 1.4 million* Atlanta, Georgia; Buffalo, New York; Cincinnati, Ohio; Dallas, Texas; Dayton, Ohio; Denver, Colorado; Hartford, Connecticut; Honolulu, Hawaii; Houston, Texas; Indianapolis, Indiana.

[d]*Class C: 50,000 to 250,000* Austin, Texas; Bakersfield, California; Baton Rouge, Louisiana; Cedar Rapids, Iowa; Champaign-Urbana, Illinois; Durham, North Carolina; Green Bay, Wisconsin; Lancaster, Pennsylvania; Orlando, Florida; Portland, Maine.

[e]*Class D: 2,500 to 50,000* Anchorage, Alaska; Crookston, Minnesota; Devil's Lake, North Dakota; Findlay, Ohio; Florence, Alabama; Kingston, New York; Klamath Falls, Oregon; Logansport, Indiana; McAllen, Texas; Mangum, Oklahoma; Martinsville, Virginia; Millville, New Jersey; Niles, Michigan; Orem, Utah; Southbridge, Massachusetts; Union, South Carolina; Vicksburg, Mississippi.

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SPECIAL REPORTS

BRIEFS OF AGREEMENTS

Laurel, Delaware

Between the Laurel Board of Education and the Laurel Education Association, effective July 1, 1972, to June 30, 1974. Approximately 120 certificated professional employees. Provision for renegotiation to begin by November 1 of each negotiating year.

COMPENSATION: (1972-73) B.A., $7,373 to $9,755, 15 increments; B.A. plus 30 hours, $10,507 maximum; M.A., $8,376 to $10,758, 15 increments; M.A. plus 30 hours, $11,535 maximum; Ph.D., $12,087 maximum. Up to 6 years' credit for military and/or teaching experience in other districts.

DIFFERENTIALS: (1972-74, 4 steps, first and last steps shown) senior high head football coach, $500 to $550; athletic director, $450 to $500; basketball head coach, $300 to $400; track and wrestling head coaches, $250 to $350; girls' field hockey, basketball, and softball, $200 to $300; tennis coach, $175 to $275; junior high boys' basketball and track and junior high girls' basketball, field hockey, and softball coaches, $150 to $250; band and drama, $150; cheerleaders, $100; yearbook and newspaper, $75; head of major departments, $200; heads of minor departments, $150; elementary coordinators, $100.

OTHER: Proration of regular salary for required overtime, extension of school year, Instructional Council participation, summer school, home teaching, federal projects and other programs; 10 cents per mile for use of own car on school business; psychologist, $2,000 additional.

LEAVES: Annual sick leave in accordance with state law; up to 15 days' leave for military reserve obligations.

INSURANCE: Blue Cross-Blue Shield as provided by state law; $2,000 board-paid life insurance policy, $5,000 accidental death and dismemberment coverage; long-term disability insurance pays 60 percent of regular salary to monthly maximum of $1,300 after 60 days' disability until age 65.

ASSOCIATION: Released time for negotiation or grievance proceedings during the school day; association president has the same amount of released time as the department heads; the first and last Mondays of the month (in September the second Wednesday) are reserved for association meetings; an association representative has the right to speak for 10 minutes during faculty meetings; right to wear organization pins or identiciation, to use school buildings (at reasonable hours with advance notification); use of facilities and equipment with the association paying for the cost of materials; use of bulletin boards in teacher's lounge and dining room, and of space on central office bulletin board; use of interschool mailboxes; board to furnish the association with all available financial information, board meeting minutes, census data, the names, addresses of all teachers, and other information "that shall assist teacher organizations in developing intelligent, accurate, informed constructive programs; association to be notified of the transfer or reassignment of any teacher; association office space to be provided when space becomes available; board to provide all teachers employed in the district, or considered for employment, with copies of this agreement.

INSTRUCTION: No more than 4½ hours instruction time or 4 continuous teaching periods per day for junior and senior high teachers; no more than 5 hours instruction time or 3 continuous teaching hours per day for elementary teachers; a junior or senior high teacher may not be assigned more than 2 subject areas or 3 preparations without his consent; hiring of specialists to be considered by the instructional council; the school day starts at 8:15 a.m. and ends between 3:30 and 4:15 p.m.; the Instructional Council composed of 6 members appointed by the superintendent and 6 appointed by the association, recommends, researches, and evaluates the needs of the students, schools, and community concerning "curriculum improvements, in-service training, pupil testing and evaluation, the philosophical and education goals of the district, teacher research and experimentation, and education specifications for buildings and related matters"; the board is to consider all Instructional Council recommendations and state in writing specific reasons in case of refusal to implement; sufficient funds for textbooks, library books, and other instructional materials to be provided;

> Teachers shall be guaranteed full freedom in classroom presentations and discussions and may introduce politically, religiously or otherwise controversial material, provided only that said material is relevant to the course content and is approved by the Instructional Council.
>
> In performing their teaching functions, teachers shall be guaranteed full freedom in expressing their personal opinions on all matters relevant to the course content, provided, however, that when they do so they shall make every effort to indicate that they are speaking personally and that it is an opinion and not on *behalf of the school, its administration, or the Board. Teachers* are required to see that all sides of controversies are presented fairly.

PERSONNEL: Grievance procedure ends with advisory arbitration; right to review personnel file in the company of an association representative, copies of materials found therein furnished upon request at board expense; every three years a teacher may request a review of any personnel file materials he considers obsolete, such materials to be destroyed if found obsolete; no derogatory material to be placed in personnel file unless reviewed and signed by the teacher, who may submit an answer; notification of any complaint against a teacher with procedure for resolving the complaint unresolved complaints are grievable; 30-minute duty-free lunch period during which teachers may leave the building; each teacher shall have at least 3-3/4 hours of conference/preparation time per week; junior and senior high teachers shall have at least one preparation period per day; department heads to have 3-3/4 hours per week or 1 period per day in addition to normal preparation time and to be excused from study hall and homeroom assignments; time when specialists take a teacher's class to be considered preparation time; 2 professional or faculty meetings a month, beginning no later than 10 minutes after student dismissal time and ending no later than 5:00 p.m.; such meetings may extend beyond 5:00 p.m. only in an emergency, may not be held on Fridays or any day preceding a holiday or reserved for an association meeting, 2 days' notice required (except in an emergency); maximum of one evening assignment or meeting per year; parent-teacher or student-teacher conferences after 4:15 require authorization; the board and the association are to agree upon the scheduling and implementation of field trips; reimbursement of $20 per semester hour (maximum of 3 hours for a fall or spring semester) for graduate courses of B or better and for undergraduate courses of C or better; reimbursement of $10 per semester hour credit (maximum of 30 semester hours) for teachers on sabbatical leave; teacher evaluation: surveillance devices are prohibited; copy of evaluation report must be submitted to the teachers at least one day prior to discussion; minimum of two evaluations per year for probationary teachers; notification of assignments at least 31 days prior to the opening of school; new teachers to receive notification of assignment no later than the date of employment; immediate notification of any change in the teacher's schedule; posting of all full- and part-time vacancies including promotional position; applications to be submitted within 5 days of posting; a teacher's second request for transfer shall not be denied if a position is available; the association is to be notified of all promotional positions; applications for promotions to be kept on file for future consideration until withdrawn by the applicant; applicants to be notified of vacancies occurring during the summer; when all else is equal qualified teachers employed by the board are given preference on the basis of seniority; criteria for appointment to summer school, home teaching, federal projects, and other positions: major/minor field of study, performance, attendance record, preference to teachers who have taught in the subject area during the regular year (then to those who have taught the subject area during the previous 5 years), and who are employed in the district; the job descriptions for grade coordinator, department heads, audio-visual coordinator, director of physical education and athletics, head coaches, and activity sponsors are negotiated; fair dismissal joint committee, composed of 3 board members and 3 association members, to develop specific dismissal criteria; probationary teachers to be notified of contract renewal or nonrenewal by May 1; provision for teacher-administration liaison to review and discuss current school problems and practices; principals to administer corporal punishment; student discipline procedures provide for committee to study and make recommendations concerning serious disruptions of the instructional program; reasons for required appearance before the superintendent or his designee must be given and the teacher may have an association representative present if the matter to be discussed adversely affects him; a teacher who is suspended and later reinstated shall receive retroactive payment for the suspension period; free home-game athletic passes available to all professional employees, with half price passes available to employees' spouses; free admission for any employee supervising an athletic event.

* * *

Hastings, Minnesota

Between Hastings Independent School District No. 200 and Hastings Education Association, effective July 1, 1972, to June 30, 1974. Approximately 180 certificated professional employees, excluding superintendents, assistant superintendents, principals, and assistant principals (who devote more than 50 percent of their time to administrative or supervisory duties), confidential, essential, and part-time employees (working no more than 14 hours per week), and employees working no more than 100 days per year. Provision for renegotiation no later than May 1, 1974. Provision for reopener by mutual agreement.

COMPENSATION: (1972-73) B.A., $7,635 to $11,725, 11 increments; B.A. plus 30 hours, $13,325 maximum; M.A., $8,635 to $15,135, 13 increments; M.A. plus 30 hours, $15,535 maximum; specialists, $15,935 maximum. (1973-74) B.A., $7,750 to $11,840, 11 increments; B.A. plus 30 hours, $13,440 maximum; M.A., $8,750 to $15,250, 13 increments; M.A. plus 30 hours, $15,650 maximum; specilaist, $16,050 maximum. Salary increases may be withheld for just cause. Teachers new to the district as of 1968-69 are credited with a maximum of 6 years' service (earned within the previous 10 years); additional experience may be credited at the Board's discretion; courses credited for salary advancement must be earned after certification and be approved by the superintendent; $20 additional per credit for approved undergraduate courses to a total maximum of $300 per teacher.

DIFFERENTIALS: (1973-74) football, basketball, wrestling, swimming, and hockey head coaches, $1,555; baseball and track head coaches, $1,065; golf, cross country, and tennis head coaches, $710; debate director, $850; newspaper and annual, one hour free time per day or $600; speech director, $530; musicals, $480; cheerleader directors, $315; girls' canoeing, $141.60.

Department Head Compensation:

Department Size		Compensation % of Base Salary $7,750 for 1973-74	
6 - 15 Class Sections	2 - 3 Teachers	3%	233
16 - 30 Class Sections	4 - 6 Teachers	4%	310
31 - 45 Class Sections	7 - 9 Teachers	5%	388
46 - 60 Class Sections	10 - 12 Teachers	6%	465
61 - 75 Class Sections	13 - 15 Teachers	7%	543
76 - 90 Class Sections	16 - 18 Teachers	8%	620
91 - 105 Class Sections	19 and over	9%	698

OTHER: $8.00 per after-school activity assigned by the principal; substitute teachers, $27.50 per day; 10 and 11-month personnel are paid 10/9 and 11/9, respectively, of regular pay; counselors receive 1.15 of regular M.A. salary for 10-month contract, not eligible for placement beyond the M.A. lane; tutoring, adult education, $7.25 per hour; driver education, $5.75 per hour; summer school, 1/10 of 1 percent of salary per hour to maximum of $8.00 per hour.
LEAVES: Twelve days' annual sick leave, credited on the second work day, 120 days' maximum accumulation; 2 separate days' personal leave for tenure teachers, and one day for probationary teachers, with additional days deducted from sick leave; sabbatical leave at one-half pay for one year after 7 years' service; adoption leave provided.
INSURANCE: Board pays 75 percent of medical-hospitalization plan with family coverage to a maximum of $367.50 per year; $3,000 board-paid life insurance policy; board contributes 50 percent of monthly income protection premium.
PERSONNEL: Teachers with B.A. or less must earn at least 6 quarter hour credits every four years to be eligible for salary increases; within teacher evaluations to be conducted with teacher's full knowledge and submitted to the teacher within 10 days so that he may sign and, if there is any objection, attach a written answer to the file copy.

* * *

Corvallis, Oregon

Between Corvallis School District No. 509J and Corvallis Education Association, effective September 1, 1973, to August 31, 1976. Approximately 400 certificated professional employees. Provision for automatic renewal unless either party notifies the other of its desire to modify or terminate this agreement before October 15.
COMPENSATION: (1973-74) B.A., $7,319 to $10,415, 10 increments; B.A. plus 45 hours, $11,066 maximum; M.A., $8,235 to $13,043, 12 increments; M.A. plus 45 hours, $13,768 maximum; Ph.D., $14,493 maximum. Subsequent years' salary increases directly related to the percentage increase in the Portland Consumer Price Index as measured from October 1972 to October 1973. Teachers employed after July 1, 1968, who have only a B.A., may not advance beyond step 7; no automatic increments; salary credit given for up to 3 years' military experience and for one year's participation in a cooperative university-school district internship program; third step is the maximum placement for teachers who have not taught for 5 or more years; number of salary credits for approved undergraduate work may not exceed number of credits for graduate courses; 15 hours' curriculum workshop attendance equals one hour salary credit (in lieu of mandatory payment); maximum of 6 district credits allowed for movement from one lane to another; 6 collegiate term hours must be earned every 3 years as a requisite to advancement on the salary schedule, maximum of 3-hours credit for approved travel and 3 hours for inservice courses; an additional increment granted in 1972-73 for longevity after 20 years' service, 15 years of which must have been in the district; eligibility for longevity reduced to 14 years' service in 1974-75 and to 13 years' service in 1975-76; retirement pay is a lump-sum payment of 10 percent of last year's salary for teachers.
ADMINISTRATORS: Credit granted for up to 9 years' teaching experience, with additional credit granted for administrative experience; annual pay is based on teachers' salary times responsibility factor, which is 1.20 to 1.35 for assistant superintendents, 1.20 for curriculum, personnel, and special services directors and high-school principals, 1.16 for junior high principals, 1.12 for high-school associate and assistant principals and elementary principals; 1.10 for junior high assistant principals, and 1.06 for consultants.
VOCATIONAL EDUCATION COMPENSATION: Vocational education teachers with minimum of 3 years' journeyman experience (not including 5 years' vocational certificate) may be placed on B.A. salary column, up to and including step 4, and an additional 3 years' service credit may be given for military service (up to step 7); vocational teachers with 5 years' certificate advance on B.A. schedule as do other teachers;

> Upon qualifying for the trade exam in the areas of teaching and receiving a minimum of thirty (30) units credit, the teacher will be advanced to the appropriate placement on the masters column based on experience and training. However, his salary increment on the masters column shall be two percent less than that normally received by a regular classroom teacher with a masters degree.

DIFFERENTIALS: (Stipend based on principal's recommendation) athletic director, $1,000 to $1,200; head football and basketball coaches, $900 to $1,100; wrestling, baseball, track, swimming, girls' and boys' gymnastics head coaches, and drama (3 plays), $600 to $1,000; high-school cross country, golf, and tennis, junior high football and basketball, and girls' track and swimming head coaches, $400 to $600; marching band, rally squad, and drill team, $300 to $450; elementary boys' and girls' after-school sports, all junior high intramurals, pep club, chess, vocal, music, and speech, $150 to $350.
OTHER: Summer school pay is based on teacher's regular salary, but is computed on a 75 percent base factor; per diem substitute rate is either B.A. or M.A. base pay, with placement on the regular schedule after 10 continuous days; $5.00 per game for supervisors of ticket sellers, accounting of money and tickets, public address announcer,

chain men, clockers, and scorers; driver training instruction, $5.00 per hour.

LEAVES: Ten days' annual sick leave, credited at the beginning of the year, unlimited maximum accumulation; leave for illness in the immediate family deducted from sick leave; 3 days for death in the immediate family, with an additional 3 days which may be granted; 2 days' emergency personal leave, with an additional 2 days (less substitute's pay) for commitments or convenience; professional conference leave granted at the discretion of the district; sabbatical leave at three-fourths pay granted to a maximum of 1½ percent of the teaching staff.

INSURANCE: Board pays $25 per month toward individual health and hospital insurance premiums.

ASSOCIATION: Payroll deduction of local, state, and national association dues; 21 days' leave for association representatives to attend conferences and other association activities; right to use interschool mail (providing such mail is labeled CEA, contains name of authorizing CEA official, is not detrimental to district-teacher relations and does not defame any individual); use of school facilities during reasonable non-duty hours; names and addresses of new teachers to be furnished no later than September 15; no-strike clause.

PERSONNEL: Grievance procedure ends with binding arbitration; teachers may consult the personnel director concerning contents of personnel file and may rebut or add to material found therein; 5-year statute of limitation on negative formal reprimands; $4,000 allocated for extended time so that the building administrator may allocate an additional 14 preparation periods among department chairmen; notification of vacancies by April 15 and May 15 each year; notification by May 25 of involuntary transfers, which must be based on needs and "best interests" of the district and preference of the teacher; provision for appeal when a teacher objects to an involuntary transfer.

* * *

Rutland, Vermont

Between the Rutland Board of School Commissioners and the Rutland Teachers Association, effective July 1, 1972. Approximately 200 certificated professional employees. Provision for renegotiation if funds to finance the teachers' contracted salaries are not available.

COMPENSATION: (1972-73) B.A., $6,860 to $9,947, 9 increments; B.A. plus 15 hours, $10,633 maxmimum; M.A.; $7,546 to $11,662, 12 increments; M.A. plus 30 hours, $12,691 maximum; regular teachers serving as substitutes for more than 2 days receive 20 percent of 1/190th of their regular salary for each extra class period; salary increments are not automatic; up to 4 years' credit for military service; graduate work credited only past B.A. lane, half of which must be in the teacher's field (exceptions considered when course offerings are restricted).

LEAVES: Twelve days' annual sick leave, 120 days' maximum accumulation; 4 days' bereavement leave and 2 days for professional visitations deducted from sick leave; 2 days' personal leave, one day notice required except in an emergency; sabbatical leave for advanced study at full pay (plus hospitalization insurance and retirement contributions) for one year after 5 continuous years' service available to 5 percent of the staff.

INSURANCE: Board-paid hospitalization, medical-surgical, and major medical insurance with family coverage; board matches the employee's contribution to City Life Insurance Plan; board-paid liability policy with minimum coverage of $100,000 per person, $300,000 per occurrence for bodily injury, and $50,000 per occurrence for property damage; Workmen's Compensation provided; board pays 6 times employee's contribution to city pension plan.

ASSOCIATION: Released time for grievance hearings; an association representative to sit in at all board meetings as an *ex officio* member.

PERSONNEL: Grievance procedure ends with the school board; reimbursement of tuition and related expenses upon successful completion of courses (beyond the six hours required for certification) leading to an advanced degree or to increased teaching proficiency (with the exception of courses for which the teacher has received federal aid or other stipends), maximum payment is $400; committees composed of school-board and association representatives to study methods for appraising teacher performance.

TEXT

INDIANA CLASSROOM TEACHER COLLECTIVE BARGAINING ACT

(This newly enacted law granting teachers in K-12 collective bargaining rights is codified under IC 1971, Title 20, article 7.5, regarding the powers and authority of the state and local boards of education and the administration of educational institutions.)

AN ACT amending IC 1971, Title 20 by adding a new article concerning collective bargaining between school corporations and certain employees.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 1971, Title 20, is hereby amended by adding a new article 7.5 to read as follows:

Article 7.5. Collective Bargaining Between School Corporations and Their Certificated Employees. Chapter 1. Certificated Educational Employee Bargaining.

Sec. 1. Intent. The Indiana General Assembly hereby declares that:

(a) The citizens of Indiana have a fundamental interest in the development of harmonious and cooperative relationships between school corporations and their certificated employees;

(b) Recognition by school employers of the right of school employees to organize, and acceptance of the principle and procedure of collective bargaining between school employers and school employee organizations, can alleviate various forms of strife and unrest;

(c) The State has a basic obligation to protect the public by attempting to prevent any material interference with the normal public school educational process;

(d) The relationship between school corporation employers and certificated school employees is not comparable to the relation between private employers and employees among others for the following reasons: (I) a public school corporation is not operated for profit but to insure the citizens of the State rights guaranteed them by the Indiana State Constitution; (II) the obligation to educate children and the methods by which such education is effected will change rapidly with increasing technology, the needs of an advancing civilization and requirements for substantial educational innovation; (III) the Indiana General Assembly has delegated the discretion to carry out this changing and innovative educational function to the local governing bodies of school corporations, composed of citizens elected or appointed under applicable law, a delegation which these bodies may not and should not bargain away; and (IV) public school corporations have different obligations with respect to certificated school employees under constitutional and statutory requirements than private employers have to their employees.

Sec. 2. Definitions. As used in this chapter:

(a) "school corporation" means any local public school corporation established under Indiana law and, in the case of public vocational schools or schools for handicapped children established or maintained by two or more school corporations, shall refer to such schools.

(b) "governing body" shall mean the board or commission charged by law with the responsibility of administering the affairs of the school corporation.

(c) "school employer" means the governing body of each school corporation and any person or persons authorized to act for the governing body of the school employer in dealing with its employees.

(d) "superintendent" shall mean the chief administrative officer of any school corporation, or any person or persons designated by him or by the governing body to act in his behalf in dealing with school employees.

(e) "school employee" means any full-time certificated person in the employment of the school employer. A school employee shall be considered full-time even though he does not work during school vacation periods, and accordingly works less than a full year. There shall be excluded from the meaning of school employee supervisors, confidential employees, employees performing security work and non-certificated employees.

(f) "certificated employee" means a person whose contract with the school corporation requires that he hold a license or permit from the state board of education or a commission thereof as provided in IC 1971, 20-6.

(g) "non-certificated employee" means any school employee whose employment is not dependent upon the holding of a license or permit as provided in IC 1971, 20-6.

(h) "supervisor" means any individual who has: (I) authority, acting for the school corporation, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline school employees, or (II) responsibility to direct school employees and adjust their grievances, or (III) effectively to recommend the action set out in these categories; provided, however that exercise of the foregoing authority is not of a merely routine or clerical nature but requires the use of independent judgment. Supervisors shall include, but not be limited to, superintendents, assistant superintendents, business managers and supervisors, or directors with school corporation-wide responsibilities, principals and vice-principals or department heads who have responsibility for evaluating teachers.

(i) "confidential employee" means a school employee whose unrestricted access to confidential personnel files or

whose functional responsibilities or knowledge in connection with the issues involved in dealings between the school corporation and its employees would make his membership in a school employee organization incompatible with his official duties.

(j) "employees performing security work" means any school employee whose primary responsibility is the protection of personal and real property owned or leased by the school corporation or who performs police or quasi-police powers.

(k) "school employee organization" means any organization which has school employees as members and one of whose primary purposes is representing school employees in dealing with their school employer, and includes any person or persons authorized to act on behalf of such organizations.

(l) "exclusive representative" means the school employee organization which has been certified for the purposes of this chapter by the board or recognized by a school employer as the exclusive representative of the employees in an appropriate unit as provided in Section 10 of this chapter, or the person or persons duly authorized to act on behalf of such representative.

(m) "board" means the Indiana education employment relations board provided by this chapter.

(n) "bargain collectively" means the performance of the mutual obligation of the school employer and the exclusive representative to meet at reasonable times to negotiate in good faith with respect to items enumerated in Section 4 of this chapter and to execute a written contract incorporating any agreement relating to such matters; provided, however, that such obligation shall not include the final approval of any contract concerning these or any other items. Agreements reached through collective bargaining are binding as a contract only if ratified by the governing body of the school corporation and the exclusive representative. The obligation to bargain collectively does not require the school employer or the exclusive representative to agree to a proposal of the other or to make a concession to the other.

(o) "discuss" means the performance of the mutual obligation of the school corporation through its superintendent and the exclusive representative to meet at reasonable times to discuss, to provide meaningful input, to exchange points of view, with respect to items enumerated in Section 5 of this chapter. This obligation shall not, however, require either party to enter into a contract, to agree to a proposal, or to require the making of a concession. A failure to reach an agreement on any matter of discussion shall not require the use of any part of the impasse procedure, as provided in Section 13. Neither the obligation to bargain collectively nor to discuss any matter shall prevent any school employee from petitioning the school employer, the governing body, or the superintendent for a redress of his grievances either individually or through the exclusive representative, nor shall either such obligation prevent the school employer or the superintendent from conferring with any citizen, taxpayer, student, school employee or other person considering the operation of the schools and the school corporation.

(p) "strike" means concerted failure to report for duty, willful absence from one's position, stoppage of work, or abstinence in whole or in part from the full, faithful and proper performance of the duties of employment, without the lawful approval of the school employer, or in any concerted manner interfering with the operation of the school employer as defined in subsection (a) of this section for any purpose.

(q) "deficit financing" with respect to any budget year shall mean expenditures in excess of monies legally available to the employer.

(r) any reference in this chapter to any section or chapter of IC 1971 shall refer to such section or chapter as it is heretofore or hereafter amended, modified, supplemented or superseded. The reference to any person or organization in any gender shall refer to the masculine, feminine or neuter as required by the context.

Sec. 3. Duty to Bargain Collectively and Discuss. On and after January 1, 1974, school employers and school employees shall have the obligation and the right to bargain collectively the items set forth in Section 4, the right and obligation to discuss any item set forth in Section 5 and shall enter into a contract embodying any of the matters on which they have bargained collectively. No contract may include provisions in conflict with (a) any right or benefit established by federal or state law, (b) school employee rights as defined in Section 7(a) of this chapter, or (c) school employer rights as defined in Section 7(b) of this chapter. It shall be unlawful for a school employer to enter into any agreement that would place such employer in a position of deficit financing as defined in this chapter, and any contract which provides for deficit financing shall be void to that extent and any individual teacher's contract executed in accordance with such contract shall be void to such extent.

Sec. 4. Subjects of Bargaining. A school employer shall bargain collectively with the exclusive representative on the following: salary, wages, hours, and salary and wage related fringe benefits. A contract may also contain a grievance procedure culminating in final and binding arbitration of unresolved grievances, but such binding arbitration shall have no power to amend, add to, subtract from or supplement provisions of the contract.

Sec. 5. Subjects of Discussion.

(a) A school employer shall discuss with the exclusive representative of certificated employees, and may but shall not be required to bargain collectively, negotiate or enter into a written contract concerning or be subject to or enter into a impasse procedures on the following matters: working conditions, other than those provided in Section 4; curriculum development and revision; textbook selection; teaching methods; selection; assignment or promotion of personnel; student discipline; expulsion or supervision of students; pupil-teacher ratio; class size or budget appropriations: Provided, however, that any items included in the 1972-1973 agreements between any employer school corporation and the employee organization shall continue to be bargainable.

(b) Nothing shall prevent a superintendent or his designee from making recommendations to the school employer.

Section 6. Rights of School Employees and School Employers.

(a) School employees shall have the right to form, join or assist employee organizations, to participate in collective bargaining with school employers through representatives of their own choosing and to engage in other activities, individually or in concert for the purpose of establishing, maintaining, or improving salaries, wages, hours, salary and wage related fringe benefits and other matters as defined in sections 4 and 5.

(b) School employers shall have the responsibility and authority to manage and direct in behalf of the public the operations and activities of the school corporation to the full extent authorized by law. Such responsibility and activity shall include but not be limited to the right of the school employer to:

(1) direct the work of its employees;
(2) establish policy;
(3) hire, promote, demote, transfer, assign and retain employees;
(4) suspend or discharge its employees in accordance with applicable law;
(5) maintain the efficiency of school operations;
(6) relieve its employees from duties because of lack of work or other legitimate reasons;
(7) take actions necessary to carry out the mission of the public schools as provided by law.

Sec. 7. Unfair Practices.
(a) It shall be an unfair practice for a school employer to:

(1) interfere with, restrain or coerce school employees in the exercise of the rights guaranteed in Section 6 of this chapter.
(2) dominate, interfere or assist in the formation or administration of any school employee organization or contribute financial or other support to it; provide, that subject to rules and regulations made by the governing body, a school employer may permit school employees to confer with the school employer or with any school employee organization during working hours without loss of time or pay;
(3) encourage or discourage membership in any school employee organization through discrimination in regard to hiring or tenure of employment or any term or condition of employment;
(4) discharge or otherwise discriminate against a school employee because he has filed a complaint, affidavit, petition, or given any information or testimony under this chapter;
(5) refuse to bargain collectively or discuss with an exclusive representative as required by any provisions of this chapter;
(6) fail or refuse to comply with any provision of this chapter.

(b) It shall be an unfair practice for a school employee organization or its agents to:

(1) interfere with, restrain or coerce (a) school employees in the exercise of the rights guaranteed by this chapter, or (b) a school employer in the selection of its representatives for the purpose of bargaining collectively, discussing or adjusting grievances. This paragraph shall not impair the right of a school employee organization to prescribe its own rules with respect to the acquisition or retention of membership therein.
(2) cause or attempt to cause a school employer to discriminate against an employee in violation of subsection (a);
(3) refuse to bargain collectively with a school employer, if the school employee organization is the exclusive representative;
(4) fail or refuse to comply with any provision of this chapter.

(c) Nothing herein shall in any way restrict the right of either the school employer or the school employee organization to bring suit for specific performance and/or breach of performance of a collective bargaining contract in any court having jurisdiction thereof.

Sec. 8. Dues Deduction. The school employer shall, on receipt of the written authorization of a school employee, deduct from the pay of such employee any dues designated or certified by the appropriate officer of a school employee organization which is an exclusive representative of any employees of the school employer and shall remit such dues to such school employee organization: Provided, however, that such deductions shall be consistent with the provisions of IC 1971, 22-2-6 and IC 1971, 22-2-7, and IC 1971, 20-6-18-1.

Section 9. Indiana Education Employment Relations Board.
(a) There is hereby created an Indiana education employment relations board which shall consist of three (3) members appointed by the governor to serve at his pleasure. One (1) member shall be desiganted by the governor as chairman. Not more than two (2) members of the board shall be members of the same political party. Each member shall be appointed for a term of four (4) years except that one (1) shall be appointed for a term to expire two (2) years following the effective date of this chapter, one (1) for a term that shall expire three (3) years following the effective date of this chapter, and one (1) for a term that shall expire four (4) years following the effective date of this chapter. A member appointed to fill a vacancy shall be appointed for the unexpired term of the member who he is to succeed.
(b) Members shall hold no other public office or employment by the state or other public agency or public employer, or be an officer or employee of any school employee organization or any of its affiliates, or represent any school employer or school employee organization, or its affiliates. The chairman shall give his full time to his duties. The chairman of the board shall not engage in any other business, vocation or employment. The members of the board other than the chairman shall receive as compensation payment equal to that of the chairman, computed on a daily rate and paid for every day actually spend serving on the board.
(c) A majority of the members of the board shall constitute a quorum.
(d) To accompolish the objectives and to carry out the duties prescribed in this chapter the board shall have the following powers:

(1) To adopt an official seal and prescribe the purposes for which it shall be used;
(2) To hold such hearings and make such inquiries as it deems necessary to carry out properly its functions and powers;
(3) To establish a principal office which shall be in the city of Indianapolis;
(4) To meet and exercise any or all of its powers at any other place in the state;
(5) To conduct in any part of this state any proceeding, hearing, investigation, inquiry, or election necessary to the performance of its functions. For any such purpose, the board may designate one of its members, or an agent or agents, as hearing examiners. The board may utilize such voluntary and uncompensated services as may from time to time be needed;

(6) To appoint such staff and attorneys as it may from time to time find necessary for the proper performance of its duties. The attorneys appointed under this section may, at the direction of the board, appear for and represent the board in any case in court;

(7) To pay the reasonable and necessary traveling and other expenses of any employee member, or agent of the board;

(8) To subpoena witnesses and issue subpoenas requiring the production of books, papers, records and documents which may be needed as evidence in any matter under inquiry; and to administer oaths and affirmations. In cases of neglect or refusal to obey a subpoena issued to any person, the circuit or superior court of the county in which the investigations or the public hearings are taking place, upon application by the board, shall issue an order requiring such person to appear before the board and produce evidence about the matter under investigation. A failure to obey such order may be punished by the court as a contempt. Any subpoena, notice of hearing or other process of the board issued under the provisions of this chapter shall be served in the manner prescribed by the Indiana Rules of Procedure;

(9) To adopt, promulgate, amend or rescind such rules and regulations as it deems necessary for administratively feasible to carry out the provisions of this chapter. Such rules and regulations shall be adopted in accordance with the provisions of IC 1971, 4-22-2.

(10) To request from any public agency such assistance, services, and data as will enable the board properly to carry out its functions and powers;

(11) At the end of every year to make a report in writing to the governor and the general assembly stating in detail the work it has done in hearing and deciding cases and otherwise, and to publish and report in full an opinion in every case decided by it.

(e) The board shall organize its staff to provide for the functions of unit determination, unfair labor practice processing, conciliation and mediation, fact-finding and research. In connection with any conciliation and mediation or fact-finding, it may use either full-time employees or appoint employees for specific cases from a panel which it establishes. Its research division shall be organized to provide statistical data on the resources of each school corporation, the substance of any agreements reached by each school corporation and other relevant data.

Sec. 10. Unit Determination and Selection of the Exclusive Representative.

(a) The exclusive representative shall serve for school employees within certain groups referred to in this chapter as units or bargaining units. No bargaining unit shall contain both certificated and non-certificated employees. Subject to this limitation, the units for which an exclusive representative shall serve shall be determined as follows:

(1) The parties may agree on the appropriate unit. For this purpose the parties shall consist of the school employer and a school employee organization representing twenty percent (20%) or more of the school employees in any proposed unit.

(2) If no such agreement is reached, of if any school employee in the proposed unit files a complaint to such unit with the board, the board shall determine the proper unit. Such determination shall be made by the board after a hearing and its decision shall be based on, but shall not be limited to, the following considerations: (I) efficient administration of school operations; (II) the existence of a community of interest among school employees; (III) the effects on the school corporation and school employees of fragmentation of units; and (IV) recommendations of the parties involved. In making such determination notice shall be given to all interested parties in accordance with the rules of the board, but the board need not follow the provisions of IC 1971, 4-22-1.

(b) A school employer may recognize as the exclusive representative of its employees within an appropriate unit an organization which presents to the employer evidence of its representation of a majority of the school employees within the unit, unless (1) any other organization representing twenty percent (20%) of the school employees within the unit file written objections to such recognition, or (2) any school employee files a complaint to the composition of the unit with the school employer or the board within the notice period set out below. Before recognizing such an exclusive representative under the circumstances of this subsection, the school employer shall post a written public notice of its intention to recognize the organization as exclusive representative of the school employees within the unit. Such notice shall be posted for thirty (30) calendar days immediately preceding recognition in each of the buildings where the school employees in any unit principally work.

(c) Where an exclusive school employee organization is not determined as provided in subsection (b) above, the determination of whether any school employee organization shall be the exclusive representative shall be determined in accordance with the following provisions:

(1) A petition may be filed by a school employee organization asserting that twenty percent (20%) of the employees in an appropriate unit (I) wish to be represented for collective bargaining by it as exclusive representative, of (II) asserting that the designated exclusive representative is no longer the representative of the majority of school employees in the unit.

(2) A petition may be filed by the school employer asserting that one (1) or more school employee organizations have presented to it a claim to be recognized as the exclusive representative in an appropriate unit; or that the school employer has good faith doubt that the certified school employee organization represents a majority of employees in the bargaining unit.

(3) A petition may be filed by twenty percent (20%) of the school employees in any unit asserting that the designated exclusive representative is no longer the representative of the majority of school employees in the unit.

(4) The board shall investigate such petition, and if it has reasonable cause to believe a question exists as to whether the desiganted exclusive representative or any school employee organization represents a majority of the school employees in a unit, it shall provide for an appropriate hearing within thirty (30) days. In such hearing the board need not follow the requirements of IC 1971, 4-22-1. If the board finds, based upon the record of such hearing that such a question of representation exists, it shall direct an election by secret ballot in a unit it determines to be appropriate. Certification as the exclusive representative shall then be granted only to a school employee organization that has been selected, in a secret ballot election, by a majority of all the employees in an appropriate unit as their representative. No election shall be held in any bargaining unit if a valid election has been held in the preceding twenty-four (24) month period.

(d) In any election the board shall determine who is eligible to vote in the election and shall establish rules governing the election. The ballot shall contain in addition to the name of the petitioning school employee organization the names of any other school employee organization showing written evidence satisfactory to the board of at least twenty percent (20%) representation of the school employees within the unit, and a provision for choosing "no representation by a school employee organization".

Sec. 11. Prevention of Unfair Practices. Unfair practices shall be remediable in the following manner:

(a) Any school employer or any school employee who believes he is aggrieved by an unfair practice may file a complaint under oath to such effect, setting out a summary of the facts involved and specifying the section of this chapter alleged to have been violated.

(b) Thereafter, the board shall give notice to the person or organization against whom the complaint is directed and shall determine the matter raised in the complaint, and appeals may be taken in accordance with IC 1971, 4-22-1. Testimony may be taken and findings and conclusions may be made by a hearing examiner or agent of the board who may be a member thereof. The board, but not a hearing examiner or agent thereof, may enter such interlocutory orders after summary hearing as it deems necessary in carrying out the intent of this chapter.

Sec. 12. Time Table for Coordination of Bargaining with the School Corporation Budget Requirements.

(a) Bargaining collectively between a school corporation and the exclusive representative shall begin on or before one hundred eighty (180) days prior to the submission of a budget by a school employer (herein referred to as the "submission date") which, for the purpose of this chapter, shall be the first date for the legal notice and publication for such budget as provided in IC 1971, 17-3-78-1.

(b) At any time after such one hundred eighty (180) days has begun, the board shall appoint a mediator if either party declares an impasse either in the scope of the items which are to be bargained collectively or on the substance of any item to be bargained collectively.

If after five (5) days the mediator is unsuccessful in finding a solution to the problems or in causing the parties to reach agreement, either party may request the board to initiate fact-finding on the items which the parties are obligated to bargain collectively.

(c) If no agreement has been reached on the items to be bargained collectively seventy-five (75) days prior to the submission date, the board shall initiate mediation.

(d) If no agreement has been reached on the items to be bargained collectively forty-five (45) days prior to the submission date, the board shall initiate fact-finding.

(e) If no agreement has been reached on the items to be bargained collectively fourteen (14) days prior to the submission date, the parties shall continue the status quo and the employer may issue tentative individual contracts and prepare its budget based thereon. During this status quo period in order to permit the successful resolution of the dispute, the employer may not unilaterally change the terms or conditions of employment that are issues in dispute. Nothing in this subsection, however, shall be construed as relieving the school employer or the school employee organization from the duty to bargain collectively until a mutual agreement has been reached, and a contract entered as called for in Section 3 of this chapter.

(f) Nothing shall prevent either party from requesting mediation or fact-finding at any time after such one hundred eighty (180) days on items which must be bargained collectively under Section 4 of this chapter, or prevent the parties acting together to request mediation of fact-finding on any items which must be bargained collectively under Section 4 of this chapter.

Sec. 13. Impasse Procedures.

(a) Mediation. The purpose of mediation of disputes between school employers and exclusive representatives is to delineate the problems involved in bargaining collectively, finding solutions which can reasonably be accepted by both parties and to determine common grounds, if any. Accordingly, the board shall establish and hire a permanent staff of mediators and a panel of part-time mediators. When a mediator is requested or required under Section 12 of this chapter, the board shall appoint a mediator from such staff or panel. It is the intent of the legislation that the mediation process shall be confidential in nature. The mediator shall not be subject to the subpoena power of courts or other administrative agencies of the state regarding the subjects discussed as a part of the mediation process.

(b) Fact-Finding. The purpose of fact-finding is to give a neutral advisory opinion where the parties are unable by themselves, or through a mediator, to resolve a dispute. The board shall establish and hire a permanent staff of fact-finders and a panel of part-time fact-finders. Such persons may also be mediators. When a fact-finder is requested or required under Section 12 of this chapter, the board shall appoint a fact-finder from such staff or panel. The fact-finder shall make such investigation and hold such hearings as he deems necessary in connection with any dispute, may restrict his findings to those issues which he determines significant, may use evidence furnished him by the parties, by the board, its staff, or any other state agency. The fact-finder shall make a recommendation as to the settlement of the disputes over which he has jurisdiction. In conducting such hearings and investigations, he shall not be bound by the provisions of IC 1971, 4-22-1; he shall, however, take into consideration the following factors:

(1) past memoranda of agreements and/or contracts between the parties;

(2) comparisons of wages and hours of the employees involved, with wages of other employees working for other public agencies and private concerns doing comparable work, giving consideration to factors peculiar to the school corporation;

(3) the public interest;

(4) the financial impact upon the school corporation and whether any settlement will cause such school corporation to engage in deficit financing.

(c) The school employer and the exclusive representative may also at any time submit any issue in dispute to final and binding arbitration to an arbitrator appointed by the board. The award in any such arbitration shall constitute the final contract between the parties with respect to such issue.

(d) No person who has served as a mediator in a dispute between a school employer and an exclusive representative, except by their mutual consent, shall serve as a fact-finder or arbitrator in a dispute arising in the same school corporation within a period of five (5) years. Nothing, however, shall prevent an arbitrator or fact-finder, if asked by the parties, to attempt to mediate a dispute.

Mediators and fact-finders shall not be employed on a full or part-time basis by any public school employer which

is a school corporation, or by an organization of public employees or employers or their affiliates.

The compensation and expenses of any mediator and fact-finder shall be borne by the board. The cost of an arbitrator shall be paid by the board which shall be reimbursed equally by the two (2) parties under procedures for collection and payment established by the board.

(e) The investigation, hearing and findings of the fact-finder shall be made as expeditiously as the circumstances permit and shall be delivered to the parties and to the board. The board, after receiving such findings and recommendations, may make additional findings and recommendations to the parties based upon information in the report or in its own possession. At any time within five (5) days after such findings and recommendations have been delivered to the board it may, and within ten (10) days, it shall, make the findings and recommendations of the fact-finder and its own additional findings and recommendations, if any, available to the public through news media and such other means as it deems effective.

If a school employer issues tentative individual contracts, the board shall continue to have the responsibility to provide for further mediation and/or fact-finding until such time as an agreement has been reached.

Sec. 14. Strikes.

(a) It shall be unlawful for any school employee, school employee organization, or any affiliate, including but not limited to state or national affiliates thereof, to take part in or assist in a strike against a school employer or school corporation.

(b) Any school corporation or school employer may, in an action at law, suit in equity, or other proper proceeding, take action against any school employee organization, any affiliate thereof, or any person aiding or abetting in a strike, for redress of such unlawful act.

(c) Where any exclusive representative engages in a strike, or aids or abets therein, it shall lose its dues deduction privilege for a period of one (1) year.

(d) No regulation, rule or law with respect to the minimum length of a school year shall be applicable or shall require make-up days in any situation where schools in a school corporation are closed as a result of a school employee strike. A school corporation shall not pay any school employee for any day when the school employee fails as a result of a strike to report for work as required by the school year calendar.

SECTION 2. Severability. If any provision of this act or the application thereof to any person or circumstance is invalid, such invalidity shall not affect the other provisions or applications of this act, which can be given effect without the invalid provision or application, and, to this end, the provisions of this act are declared to be severable.

SECTION 3. Appropriation. There is hereby appropriated from the general fund of the state of Indiana, to the Indiana education employment relations board, the sum of four hundred thousand dollars ($400,000), for the purpose of establishing, staffing and operating the board.

SECTION 4. Effective Date. Whereas an emergency exists for the more immediate taking effect of this act, the same shall be in full force and effect from and after July 1, 1973.

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NATIONAL EDUCATION ASSOCIATION
RESEARCH

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Case Reviews

CONNECTICUT

School Board Ordered to Negotiate In Good Faith

Interpreting the Connecticut Teacher Negotiations Act, the state's Superior Court issued a permanent injunction ordering the East Hartford Board of Education to negotiate in good faith with the East Hartford Education Association (HEA) regarding salaries and other conditions of employment.

The HEA brought the case seeking an order to compel the board to continue negotiations that had broken off after both sides rejected the arbitrator's recommendations in part. The board contended that negotiations after a nonbinding arbitration were unnecessary since the Teacher Negotiations Act did not expressly provide for post-arbitration negotiation.

The Superior Court cited *West Hartford Education Association Inc. v. DeCourcy, et. al.*, in which it was determined that the act strips boards of some discretion which they otherwise could exercise under certain provisions since it mandates negotiations with teacher representatives, thereby eliminating any need for illegal and disruptive remedies. The Act, however, does not compel agreement nor does it require parties to make concessions.

The court indicated that enforcement of the board's obligation to negotiate in good faith is basic to the implementation of the Act. The court rejected the board's arguments, and issued an injunction ordering the board to bargain in good faith with HEA regarding salaries and other conditions of employment and the negotiation of an agreement. (*East Hartford Education Association, Plaintiff v. East Hartford Board of Education, Defendant*, Connecticut Superior Court, November 10, 1972.)

ILLINOIS

College President Deprived of Constitutional Rights Entitled to Court Hearing

Overturning a lower court decision, the U.S. Court of Appeals ruled that the former president of Prairie State Junior College had sufficient evidence showing deprivation of his First Amendment right to free expression and his Fourteenth Amendment right to due process to warrant court consideration.

The grievant's contract was terminated without a hearing or opportunity to speak in his defense following his circulation of a confidential memorandum among his administrative staff requesting that they consider changes in the college's ethnic studies program.

The Board of the Junior College District contended that the grievant's proposal constituted a breach of his administrative duties and was not a matter of free expression, and that the grievant's proposals constituted grounds for dismissal because they offended the sensibilities of the board. The board also argued that "they should have unfettered discretion to hire and fire presidents as a means of expediently carrying out their statutory duties, and that this necessity outweighs any interests of the plaintiff in receiving any kind of hearing before termination."

The plaintiff contended that the right to due process, free speech, and association, that the courts have traditionally granted academicians, should also cover his circulation of the ethnic studies memorandum. He also argued that the defendants deprived him of liberty by attacking his veracity and deprived him of property by discharging him two years prior to expiration of his contract.

The court disagreed with the board's contention that the plaintiff could be dismissed solely on the grounds that he expressed "an opinion that could be interpreted as a sign of disloyalty or an undermining of the confidence placed in him." According to the court in *Pickering v. Board of Education*, a public employee can be punished only for speech that causes substantial disruption or that hinders the functioning of the state. In the instant case, the board presented no proof of disruption and no reasons to deny the plaintiff's First Amendment rights. Additionally, the guidelines in *Pickering* for determining whether an employee's speech should be restricted supported the plaintiff's right to make proposals for changes in the curriculum.

The court also held that the board had acted arbitrarily in denying him due process since "the plaintiff, as a public employee, is entitled to be protected from retaliation for actions which he had every reason to believe were a part of his assigned duties." Using the definitions of deprivation of liberty and property in *Board of Regents v. Roth*, the court upheld the plaintiff's contention that he had been denied both. The court concluded that the plaintiff had presented sufficient evidence supporting his contention that his constitutional rights had been denied to warrant a court hearing and remanded the case to the district court for consideration. (*Richard W. Hostrop, Plaintiff- Appellant, v. Board of Junior College District No. 515, Counties of Cook and Will, and State of Illinois, Defendants-Appellees*, United States Court of Appeals, December 21, 1972.)

MICHIGAN

Interns and Residents Entitled to Bargaining Rights

The Michigan Supreme Court ruled that interns, residents, and post-doctoral fellows working at the University of Michigan Medical Center in Ann Arbor are public employees within the meaning of the Public Employment Relations Act (PERA).

The University of Michigan Interns-Residents Association (UMIRA) filed an election petition with the Michigan Employment Relations Commission (MERC) after the university regents refused to recognize it. Ruling affirmatively MERC directed an election which the association won. Subsequently the regents appealed and refused to bargain until a court ruling was made on the matter. MERC's decision was overturned on the ground that it impinged on the constitutional authority of the regents to control and manage university affairs.

Nothing that the state constitution originally contained provisions for a board of regents and was later amended to include resolution of public employee disputes, the high court said that "it must attempt to harmonize the various constitutional provisions and give meaning to them all." In harmonizing the two provisions, the court held that "some conditions of employment may not be subject to collective bargaining because those particular facets of employment would interfere with the autonomy of the regents."

The court ruled that since UMIRA members pay federal, state, and social security taxes and receive fringe benefits available to other university employees, there was ample evidence to support MERC's conclusion that they are public employees. The court thus rejected as unsubstantiated the contention that interns and residents are primarily students because they spend a great deal of time acquiring new skills. Comparing the interns and residents to fledgling lawyers employed by a law firm, the court noted that the latter group also spends a great deal of time acquiring new skills but no one would maintain that they are not employees of the law firm. (*Regents of the University of Michigan v. Michigan Employment Relations Commission and University of Michigan Interns-Residents Association*, Michigan Superior Court, February 20, 1973.)

NEBRASKA

Settlement of Association's Bargaining Demands Remanded To NCIR

The Nebraska Supreme Court held that the unrecognized, NEA-affiliated Sidney Education Association (SEA) may have its bargaining demands settled by the Nebraska Court of Industrial Relations (NCIR) after having exhausted and complied with all bargaining procedures of the Nebraska Teachers' Professional Negotiations Act (TPNA).

SEA claimed that it represented a majority of the system's teachers and had requested bargaining with the Sidney School District on salaries and other terms and conditions of employment. But the board voted not to recognize the association in accordance with a permissive provision of the TPNA which allows a board to ignore negotiation demands if the organization is not granted recognition.

The association sought relief through NCIR which ordered the board to recognize SEA and bargain in good faith. The board appealed that decision.

In its majority opinion, the Supreme Court held that the case involved conflicting provisions within the TPNA. The court determined that the NCIR had jurisdiction in accordance with the TPNA since by declining to recognize the association the district exhausted the provisions of TPNA without resolving the dispute.

The court citied *Seward Education Association v. School District of Seward* in which it ruled that NCIR has authority under the state constitution to compel negotiations and set wages for school employees. The court stated that while the Sidney board refused and cannot be compelled to recognize the association, the board's action exhausted all TPNA remedies and NCIR has jurisdiction. So stating, the court remanded the case to NCIR.

Rejecting the majority decision that NCIR's authority to settle a dispute over wages and working conditions does not compel a school to enter into any agreement, a dissenting opinion asserted that when NCIR sets wages and terms, it compels a school board to comply by entering into agreements with the organization members. Further, the dissent held that the organization would obtain its agreement by court order, thus making the statutory sections in question meaningless. (*Sidney Education Association, Plaintiff v. School District of Sidney*, Nebraska Supreme Court, January 26, 1973.)

NEW JERSEY

No Maximum on Summarily Imposed Contempt of Court Fines

The New Jersey Supreme Court ruled that a $17,350 fine summarily imposed on the Fair Lawn Education Association for contempt of a court order enjoining its illegal strike activities was appropriate "in light of the public wrong."

The association contended that "contempt is not punishable beyond some nominal fine unless the issue of its guilt is decided by a jury." In support, the association cited *United States v. R. L. Polk and Co.* wherein the court ruled that a $35,000 fine for contempt established the offense as serious and worthy of jury trial because the fine was over the $500 maximum which petty offenses carry.

Defending the lower court's right to summarily impose unlimited fines in contempt cases, the superior court said that this power enables it to compel immediate compliance with court orders without impairing the truthfinding pro-

cess or denying relief through delay. To set a limit on the amount of monetary punishment which may be summarily imposed in contempt cases would hinder the court's power to demand that judiciary orders be immediately obeyed and the underlying wrong which led to the order be ended. The superior court also pointed out that judges "have always decided issues of civil liability, no matter how large the claim, without the aid of a jury" and the Constitution of the United States does not entitle a defendant to a jury when the litigant injured by the violation seeks dollar recompense.

The superior court overturned the association's contention that the courts have set a maximum amount a corporation can be summarily fined, pointing out that the association had erroneously assumed that the liability of a corporation for contempt may be equated with the liability of a corporation for statutory offenses. The legislature has fixed a maximum fine on statutory offenses but not on contempt fines, the court said.

Concluding, the court found the lower court's decision appropriate and modest in light of the public wrong and affirmed the decision. (*In the Matter of Fair Lawn Education Association Charged with Contempt of Court*, Supreme Court of New Jersey, May 21, 1972.)

NEW YORK

Arbitrator's Award of Sabbaticals Contravenes State Statute

In a majority decision, the New York State Supreme Court, Appellate Division, held that an emergency statute (Section 82 of the Civil Service Law) barring sabbatical leave between July 1, 1971, and July 1, 1972, represented "clear public policy." Consequently, the court vacated an arbitrator's award which permitted the taking of sabbaticals during that period as contrary to the law.

In the instant case, the Associated Teachers of Huntington filed a grievance for teachers who were informed in May 1971 that no sabbaticals would be granted for the 1971-72 school year. An arbitrator had ordered the board to consider the applications for sabbaticals on the basis that the teacher's had contractual rights which preexisted the ban.

The award was twice confirmed by the Supreme Court at Special Term, but on appeal the court's majority opinion held for the Huntington Board of Education.

The appellate court ruled on whether the association had an enforceable right to sabbatical leaves, and maintained that while the collective bargaining agreement between the parties lists the criteria for sabbatical leaves, discretionary power is vested with the board to grant or deny requested sabbatical leave. Therefore, any contractual rights which the teachers may have had to sabbatical leaves were not in existence and enforceable prior to April 12, 1971, the effective date of the emergency law.

The court further ruled on whether the arbitrator exceeded his authority when he ordered the board to grant the requests. The court held that since the judiciary has the authority to prevent an arbitrator from rendering an award requiring an action prohibited by law or offensive to public policy, it follows that if an arbitrator's award requires actions prohibited by state statute, the award should be vacated.

The dissenting opinion found no violation of public policy, and held that the issue before the arbitrator was whether the board had violated the agreement. It also asserted that the arbitrator's findings did not violate the statute or public policy, and therefore, would affirm the arbitrator's order and judgment. (*The Associated Teachers of Huntington, Inc., v. Board of Education, Union Free School District No. 3, Town of Huntington*, New York State Supreme Court, Appellate Division, November 2, 1972.)

"Freedom of Expression" Guaranteed Unless It Interferes with Educational Process

The New York Court of Appeals reversed a Supreme Court, Appellate Division, decision and denied injunctive relief sought by the Board of Education of Union Free School District No. 3 to prevent the National Education Association (NEA) and its affiliate, the New York State Teachers Association (NYSTA) from distributing statements urging teachers not to work for the school district.

After the school district and NYSTA failed to reach an agreement concerning the interpretation and enforcement of the terms of the contract, the association issued an advisory directive to its member associations and student associations stating that no teacher in the state should apply or take employment in School District No. 3 until the dispute between the board and the association was settled because it "is not an appropriate place at present in which professional teachers should seek employment."

The school board contended that the statement constituted unlawful coercion of teachers.

The Appeals Court overturned the Appelate Court decision agreeing with the dissenting Appellate Court opinion that there was no evidence that NEA or NYSTA imposed or threatened to impose sanctions or punishment on any of its members who accepted employment or remained employed by the school district. Additionally, the court agreed that "the constitutionally protected right of free expression should not be curtailed unless it was demonstrated that the exercise of the right was accompanied by intentional falsity or overbearing tactics which so far disturbed the balance between the opposing parties that it could not be restored by the response of the lawful means open to the one attacked." Since the association's actions did not prevent the school district from discharging its educational functions, the lower court decision was overturned.

According to the minority opinion, the association had violated the Taylor Law by urging teachers to refuse to sign new contracts because their refusal constituted a collective action similiar to an illegal strike. Additionally, the court pointed out that the advisory directive was threatening since its purport was to "stay away from the school district or suffer the consequence of being considered an unprofes-

sional teacher by your fellows, your future superiors and your association." (*Board of Education of Union Free School District No. 3, Town of Brookhaven, Respondent, et al. v. National Education Association of the United States et al.*, New York Court of Appeals, July 7, 1972.)

• • •

FEDERAL

Constitutionality of Employee Discipline Law Remanded For Hearing

The United States Court of Appeals for the District of Columbia remanded a case to the District Court for a hearing questioning the constitutionality of certain laws and regulations governing the disciplining of federal employees. The American Federation of Government Employees (AFGE) brought the suit which had previously been dismissed by a lower court for failure to exhaust administrative remedies.

The union contended that the statute, 5 U. S. C. 7501, by which federal employees may be suspended without pay is unconstitutional because under the statute, agencies may refuse a hearing to employees threatened with discipline. Additionally, the union's suit challenged Civil Service Commission (CSC) regulations and disciplinary regulations of the Bureau of Customs.

The suit was brought as a result of an agency's refusal to accept two employees' promotion bids because of previous disciplinary suspension actions against their records. The employees and their union sued in district court seeking to have the statute and regulations declared unconstitutional, to have any reference to the suspensions stricken from the employees records, and to have the applications for promotion immediately processed.

Having its motion for a three-judge court denied by the district court, the union sought a writ of mandamus from the appellate court to overturn the denial. The appeals court denied the request for mandamus, stipulating that what the parties were seeking was equitable rather than injunctive releif. Thus, the three-judge court was unwarranted. A rehearing in the lower court saw the government's motion to dismiss upheld on the grounds that the employees failed to exhaust administrative remedies. However, the appeals court reversed this holding.

The appellate indicated that courts have allowed exceptions to the exhaustion of administrative remedies doctrine when it appeared that to exhaust these remedies would be futile, pointing out that in this case there was no chance that appellate review by the CSC would have reversed the Bureau of Customs on the merits.

The appeals court ruled that the district court erred in dismissing this action and remanded the case for hearing on the merits of the appellant's constitutional claim.

A dissenting opinion held that in this case no exception to the exhaustion doctrine should be applied, and denied the contention that the CSC would not have reviewed the Bureau of Customs decision on the merits. Further, the dissent held that the right to notice, an opportunity to reply in writing, and the right to be represented by counsel, as required by 5 U.S.C. 7501, are "not necessarily a denial of due process." The dissent further found the employees' suspensions reasonable and proper. (*American Federation of Government Employees v. Vernon D. Acree, Commissioner of Customs, et al.*, United States Court of Appeals for the District of Columbia, February 21, 1973.)

Board Findings and Rulings

MICHIGAN

Public Employee's Discharge for Failure to Pay Agency Fee Discriminatory

The Michigan Employment Relations Commission (MERC) ruled that a public employee's discharge for failure to pay an agency shop fee was discriminatory, since the fee did not relate to actual bargaining unit representation costs.

A carpenter, represented by the Greater Detroit Building Trades Council, was fined by the Carpenters District Council for "unappropriate" conduct while working for the Detroit Board of Education. The employee was subsequently suspended from the union for failure to pay the fine, and at the union's request, the employee was discharged by the school board for failing to pay an agency shop fee since his suspension from the union. The school board subsequently recalled the employee to work.

The MERC cited *Oakland County Sheriff* in which it determined that an agency shop fee was a proper form of union security, provided the fee equalled regularly scheduled dues. However, the State Supreme Court found this ruling erroneous in *Smigel v. Southgate Community School District,* wherein it decided that the agency shop fee had to relate to the actual cost of representation of the bargaining unit.

In this case the MERC found the agency shop fee unrelated to the cost of representation, but identical to regular dues.

Accordingly, the MERC ruled the discharge discriminatory, contrary to the Public Employment Relations Act; MERC ordered back pay plus interest (*Matter of Detroit Board of Education and Albert Mozdzen, Greater Detroit Building Trades Council, Intervenor,* Michigan Employment Relations Commission, Labor Relations Division, May 31, 1973.)

Bargaining Unit Petitioned for Denied as Arbitrary and Inappropriate for Collective Bargaining

The Michigan Employment Relations Commission dismissed a petition filed by the Benevolent Order Of Guides in Extremis (BOOGIE) seeking a unit limited to approximately 32 of approximately 4,000 students employed by the University of Michigan Board of Regents.

The petitioners were employed by the Counseling Services of the University of Michigan under the Vice-President of Student Services. They man telephones on a 24-hour basis to "answer any and all questions by the student body" and then refer students to various university agencies for assistance. Student employees not included in the petition also counsel students but are employed by other university services and deal with student problems related to particular services. However, although student employees work in different departments, all student salaries are determined by the Temporary Employment Office of the university before hiring, and all students are subject to the Standard Practice Guide for Temporary Employees.

In making its determination the Commission referred to the case, *Wayne State University Board of Governors,* in which it ruled that a unit of student assistants and technicians was inappropriate because it was a fragmentary part of a larger unit of all student assistants. The Commission compared the student job programs at Wayne State with those at the University of Michigan, noted the similarity, and concluded that the principles established in the Wayne State case were applicable.

The Commission also held that though the student-employees were situated in different units, each with its own supervision, this was not sufficient evidence to warrant a fragmentary unit. Further, the unit petitioned for would not contain enough members to form a traditional departmental unit since the duties performed by this group of employees were not sufficiently unique and distinct from those of employees in other departments. The Commission concluded that the unit petitioned for was an arbitrary grouping of employees inappropriate for collective bargaining purposes and therefore, dismissed the petition. (*In the Matter of The Regents of the University of Michigan, Employer, and Benevolent Order of Guides In Extremis (BOOGIE), Petitioner,* Michigan Employment Relations Commission, March 29, 1973.)

NEW YORK

Principals Who are Board Negotiators And Have *No* Agent Are Managers

Principals who bargain for a school district and are not represented in negotiations are managerial under the 1971 amendments to the Taylor Law. So ruling, the New York Public Employment Relations Board (PERB) found in the consolidated appeals of the Hempstead and Copiague school districts that principals and assistant principals in the

former are managerial while principals in the latter are nonmanagerial.

Arguing for managerial status of principals, the Hempstead school district alleged that the Taylor Law falls short of mandating preservation of representation rights for principals. Therefore, they can be designated managerial whenever they formulate policy or have a significant role in employee relations. The district also argued that principals are the only representatives of the board in the school building, their duties, including the day-to-day administration of the educational and personnel program, are managerial, and unless principals are found managerial, the board "is defenseless if teacher militancy should develop at a specific school."

Follwoing examination of considered amendments and legislators' remarks on their intent regarding managerial employees under the Taylor Law, PERB declared that as amended the law stresses that existing units of principals or other school administrators who do not formulate policy or have a significant role in employee relations should not be destroyed. PERB said that from its study of the record it is persuaded that "where no negotiating unit has previously existed, the legislative intent is that we be less severe in evaluating a school board's application to have such employees designated as managerial."

Because Copiague principals belonged to no recognized bargaining unit and served on the school district's negotiating committee, PERB determined that they were managers and granted the Copiague school board's application to classify its principals managerial. However, PERB dismissed Hempstead's application on the grounds that its principals belong to a recognized bargaining unit and their duties are not managerial (*Matter of Copiague Public Schools and Matter of Hempstead Public Schools*, New York Public Employment Relations Board, January 3, 1973.)

[**Editor's Note**: As a yardstick for determining managerial and/or supervisory status PERB uses criteria contained in a private sector study, "Status of First-Level Supervisors," *Bureau of National Affairs*, Survey No. 95, November 1971.]

PENNSYLVANIA

PERA Included in School Laws of Commonwealth

Finding an arbitrator's award consistent with the provisions of the Public Employee Relations Act and not violative of the Public School Code, the Pennsylvania Labor Relations Board (PLRB) ruled that the Freeport Area School District must abide by the arbitrator's decision and discharge a teacher if she continues to refuse to pay dues to the Freeport Education Association.

The school district refused to fire the teacher subsequent to the arbitrator's decision, contending that such action would violate the Public School Code which expounds causes for discharge and does not include among them refusal to pay dues to the bargaining organization. Additionally, the district contended that enforcement of the decision would cause it to amend or repeal the code.

The Board pointed out that Pennsylvania courts had ruled that the legislature intended for school laws "to include legislation not specifically in the Public School Code which affect education," and, "there can be no doubt that the Public Employees Act affects education since it defines 'public employers' to include school districts, 'public employees' to include teachers at public schools." Further, the district's contention that acceptance of the arbitrator's award would force amendment or repeal of the school code failed to take into account the differences in the subject matter of the two statutes which are reconcilable and harmonious in light of the distinct purpose of each.

On the basis of Section 705 of PERA which states that failure to pay maintenance of membership dues is cause for dismissal and the school code rule which states that defiance of any school laws of the Commonwealth is adequate reason for discharge, the Board ordered the school board to abide by the arbitrator's decision. (*Pennsylvania Labor Relations Board v. Freeport Area School District*, June 11, 1973.)

Insistence on Third-Party Presence at Negotiation Sessions Constitutes Unlawful Refusal to Bargain

The Pennsylvania Labor Relations Board (PLRB) ruled that a public employer violated Section 1201, 1, 5 of the Public Employee Relations Act by insisting on the presence of the press at collective bargaining sessions.

The PLRB noted the absence of any language in the agreement regarding the presence of a third party at negotiations.

Citing similar decisions the Board noted that in *Basset v. Braddock*, the Florida Supreme Court decided that a state statute did not include negotiation sessions although all other meetings of any board or state agency were to be open to the public. The court ruled that the public's right to attend a meeting involving debate and adoption of negotiation matters was sufficient, and that it would jeopardize the constitutional right of employees to bargain collectively by applying the law to negotiations.

Also, *in the matter of Mayor Samuel E. Zoll*, the Massachusetts Labor Relations Board, following the rationale of the NLRB, decided that third-party presence at negotiations was a nonmandatory matter for bargaining and that one party could not impose such presence on the other. So doing, violated good faith bargaining and interfered with the employees' right to bargain through their representative.

Concluding, the PLRB decided that in this case and the imposition of a third party at the negotiation table constituted a refusal to bargain. (*Pennsylvania Labor Relations Board v. Board of School Directors of the Bethlehem Area School District*, Pennsylvania Labor Relations Board, April 11, 1973.)

WISCONSIN

Teachers' Assignment to 5-Minute "Door" Duty in Violation of Contract

An arbitrator ordered the Madison Joint School District to reimburse teachers for their required 5-minute door duty during the lunch period. He found that the school district violated its agreement with the Madison Teachers, Inc., when it assigned teachers to door duty without previous discussion with the MIT and without compensation.

At the beginning of the 1972-73 school year, a school principal announced that teachers would be required to be at the school doors 5 minutes before classes resumed after lunch in order to organize the pupils' orderly entry into the building. Following this announcement the teachers association filed a grievance alleging that the door duty violated duty-free lunch and playground supervision clauses of the parties' negotiated agreement.

The district contended that the teachers' assignment could not be considered playground supervision, and that because of budget cuts, the principal had no alternative but to require teachers to assist with lunch-time supervision. The principal also stated that the pupils' lunch period could be considered a scheduled school activity and requiring professional supervision.

The association contended that the noon lunch period was not a scheduled school activity, and that the negotiated duty-free lunch clause stipulated that in the event that noncertificated personnel were unavailable to fill these positions (in this case because of budget cuts), a teacher-administrator meeting would be held to arrive at a solution; and furthermore that the provision stated that in the event teachers had to be utilized to fill these vacancies, they would be compensated at a special negotiated rate. The principal, according to the association, had ignored this procedure.

The arbitrator found no merit in the idea that the noon lunch period was a scheduled school activity, and considered the lunch door duty as playground supervision. Teachers, even while standing at the doors to the school were responsible for the pupils in the playground, according to the arbitrator, and to forcibly assign teachers this duty violated the negotiated playground supervision clause.

The arbitrator agreed with the association that the principal had neglected to follow procedures for assigning teachers such duties in case of budgetary cuts, and, had the proper meetings been held, other solutions to the problem would have been found.

Considering the present situation, the arbitrator could not see any alternative to utilizing teachers for door duty for the remainder of the school year. Accordingly, the school district was not required to change its plan, but it was ordered to reimburse teachers who had performed the extra duty at the negotiated rate, and to compensate teachers at the same fate for the remainder of the school year.

WERC Rulings Send Grievances to Advisory Arbitration

In two separate rulings, the Wisconsin Employment Relations Commission (WERC) held that a school board's refusal to process a grievance and submit to advisory arbitration constituted a prohibited practice under the Municipal Employment Relations Act (MERA). In each case the Commission ruled that collective bargaining agreements had been violated and ordered the respective boards to proceed to arbitration.

o The first case involved the Alma Center Board of Education and the Alma Center United Education Association. Seeking an order directing the board to cease and desist from alleged unlawful actions and to submit a grievance regarding an employee's discharge to advisory arbitration as provided in the parties' collective bargaining agreement, the association contended that the board committed a prohibited practice when it terminated an employee who sought to return to his teaching position upon expiration of an extended leave of absence in violation of the leave clause which guaranteed return.

o In the second case, involving the Melrose-Mindoro Board of Education and the Melrose-Mindoro Education Association, the association alleged that an employee was assigned to duties outside the scope of her certification and was summarily terminated when the appropriate certification could not be obtained. The association contended that the board's refusal to submit the grievance to advisory arbitration was a contract violation, constituting a prohibited practice under the Municipal Employment Relations Act.

The WERC rejected the board's arguments for dismissal in each case including the claims by both school boards that no grievance existed and that the complainants wavied their right to seek a remedy before the Commission since relief had been sought elsewhere.

In the Alma Center case the WERC ruled in favor of the association and ordered the board to submit the grievance to advisory arbitration provided in the parties' 1971-72 collective bargaining agreement.

In the Melrose-Mindoro case the Commission held that the board's refusal to submit the grievance to arbitration violated the parties' 1971-72 agreement, a practice prohibited under the Municipal Employment Relations Act. WERC ordered the board to proceed to advisory arbitration, provided the association waived it right to seek a remedy from WERC and gave notice that it waived the right to file a prohibited practice complaint with the WERC regarding violation of the agreement. (*Alma Center United Education Association and Richard Fischer, Complainants, v. Alma Center United School District No. 3 and Board of Education, Respondents,* Wisconsin Employment Relations Commission, February 21, 1973; *Melrose-Mindoro Education Association and Phyllis Grams, Complainants, v. Melrose-Mindoro Joint School District No. 1 and Board of Education of Melrose-Mindoro Joint School District No. 1, Respondents,* Wisconsin Employment Relations Commission, February 23, 1973.)

Negotiation Notes

CALIFORNIA

Comprehensive Bargaining Law for Public Employees Proposed

In a recent report, the California Assembly Advisory Council on Public Employee Relations recommended the enactment of a single comprehensive pre-emptive law administered by a neutral three-member board. The proposed law would provide employees with the right to organize, bargain, and strike.

The law would be applicable to all public employees, excluding management and confidential employees, supervisory employees, transit employees, and elected officials, unless the public employer chose to bargain with them. The law would permit local jurisdictions to enact their own employee relations policies, provided such policies complied with the proposed law and are administered by neutral boards.

The proposed three-member board would be chosen by the governor from a list submitted by a panel comprised of the state chief justice, the director of the state conciliation services, and the president of the American Arbitration Association. The board would establish lists of qualified neutrals and appoint them, determine units, conduct elections, adjudicate charges of unfair labor practices, and bring court action to enforce its decisions.

Under the proposed law, public employees would have the right to form and join or not to join employee organizations. The law would allow bargaining on wages, hours, and other terms of employment.

Under the Council's proposal, employee organizations or employers could petition the board for an election to obtain exclusive bargaining rights. Further, any unit approved by the board should be the largest possible deemed appropriate for collective bargaining, with the presumption that professional employees not be included in units with nonprofessionals.

The Council also listed certain acts which would be committed by either the employer or the employee organization as unfair labor practices, and also recommended mandatory bargaining on organizational security clauses limited to maintenance of membership or agency shop. Additionally, the proposed statute stipulates that employers be permitted to check off dues and that agreements may incorporate provisions for binding arbitration of grievances while proscribing lockouts and strikes over grievance disputes.

Bargaining impasses would be resolved through mediation, and if still unresolved, either party could request a fact-finding panel charged with making recommendations within 30 days. These recommendations would be made public if rejected after 10 more days of negotiation, and if the impasse continued, the employee organization before striking, would be required to hold a membership meeting and vote by secret ballot to accept or reject the panel's recommendations; the employer must follow a similar procedure before engaging in a lockout.

Under the proposed statute, if either party rejects the recommendations, the employees would be allowed to strike and the employer to initiate a lockout after giving written notice to the other and to the public before engaging in a job action, and provided that five days elapsed from the time the notice was given. The recommendations also suggest that any party at interest should be allowed to initiate court proceedings to prevent a job action.

The proposed statute would prohibit courts from issuing injunctions unless evidence showed that a strike or lockout imminently threatened public health or safety, and if the court so found, the parties would be ordered to accept the panel's recommendations. The proposal stipulates that the panel's recommendations have no effect on the court's decision, and if made binding by court order, the recommendations be subject to superior court review limited to state law.

(See TEXT section for reprint of pertinent sections.)

WASHINGTON

State Employees May Negotiate Agency Shop Agreements

Under two bills enacted by the Washington State Legislature and signed by the governor, state classified employees may negotiate agency shop agreements, and police and firemen's bargaining disputes will be subject to mandatory binding arbitration.

The bill amending the civil service law and the state bargaining law permitting agency shop for classified employees in the university system, stipulates that the director of the State Personnel Board shall hold an election to determine whether to require membership in an organization representing the certified bargaining unit as a condition of employment. Further, upon petition of 30 percent of the members, the director shall hold an election once each 12-month period after the expiration of 12 months following the original election, to decide whether a majority would rescind agency shops as a condition of employment.

The clause calls for monthly or periodic dues, absent initiation, reinstatement, and other fines or fees. Additionally, nonmembers must pay an amount equal to regular union dues, less union sponsored insurance programs, and are entitled to the same representation rights as union members.

The measure establishing compulsory arbitration of police and firemen's bargaining disputes amends the local government employee bargaining law by acknowledging the existence of public policy barring strikes by uniformed personnel as a means to settle labor disputes.

The amendments specify that bargaining between employers and uniformed personnel begin five months before the submission date. An impasse will be declared if no agreement is reached in 45 days and either party may submit the matters to arbitration. After 10 days, a fact-finding panel is established and renders its findings within 30 days.

If no agreement is reached 45 days after mediation and fact-finding, the parties are to establish an arbitration panel. The panel will hold hearings, administer oaths, and require the attendance of witnesses and the production of materials necessary to determine the issues. Further, an arbitration panel may serve subpoenas and secure contempt orders.

The amendments mandate that panels consider additional standards for reaching decisions, e.g., the employer's legal authority; comparisons of wages, hours, and fringe benefits; the Consumer Price Index; and other factors associated with determining wages, hours, and terms of employment.

The bill incorporates a no-strike clause which includes superior court enforcement and court-imposed fines on an organization for defiance of an enforcement order. Further, the employer is subject to the same court enforcement procedure.

FEDERAL

Legality Of Patronage System In State Government Questioned

In a case involving the American Federation of State, County, and Municipal Employees and the Illinois Secretary of State, the U.S. Court of Appeals for the Seventh Circuit dismissed a district court's summary judgment in favor of the Secretary. The class action suit, filed by the AFSCME, charged the Secretary with dismissing 1,940 employees on the basis of their political affiliation. The court of appeals held that the lower court had not considered several factual questions prior to the issuance of the summary judgment. The case was remanded to the lower court for consideration of the facts involved and also to review whether the suit could be maintained as a class action.

Soon after his appointment to fill the unexpired term of the former Secretary of State, the incumbent Secretary discharged 1,940 employees without reason. The AFSCME, representing the non-civil-service employees, filed a class action suit holding that the employees were discharged for refusing to change their political affiliation to that of the present Secretary. In response, the Secretary requested a motion for summary judgment, asserting that the discharges had resulted from "widespread inefficency and confusion." Following the Secretary's statement, the terminated employees filed 94 affidavits attesting their satisfactory job performance and the political motivation of the discharges. In addition, these employees requested interrogatories from the Secretary. Prior to receiving responses to the interrogatories, the district court granted the summary judgment to the Secretary. In supporting the Secretary's petition, the lower court ruled that the employees' affidavits were insufficient under law, and that the responses to the interrogatories were irrelevant.

As issues of fact were in dispute, the court of appeals stated that the case could not be settled with a summary judgment, and indicated that procedural requirements for issuing judgments, specifically those granting the opposing party the right to gather information concerning the factual basis for the motion, had not been met. The summary judgment, therefore, had been improperly issued.

Although the subject of the case was political, the appeals court felt that the case did not involve a political question and was not subject to political consideration. The court, in ruling on the case, stated that it was not attempting to impose a civil service system on the state but was intervening in a case where an employee was discharged for an "impermissible reason." Arguments based on the tradition of the spoils system in the American government were dismissed, as the main issue, according to the court, was whether employees' rights guaranteed by the First Amendment were illegally curtailed owing to political affiliation.

The court presented several justifications for infringing on First Amendment rights. Considering whether employees who accepted patronage jobs waived their right to question their termination, the court held that this was a factual question, and reiterated that it was an insufficient basis for issuing a summary judgment. The court also felt that political affiliation, as a criterion for certain governmental positions was a factual question, and added that in light of the types of positions involved in the case (e.g., janitors, elevator operators), political affiliation was hardly a relevant criterion. Moreover, basing employment on political affiliation might reduce the efficiency of the government's operation more than recognizing employees' rights. The most relevant justification was that broad powers for hiring and firing personnel were necessary for the efficient administration, especially in view of the Secretary's claims of inefficiency and confusion. However, this justification also involved a factual question as the plaintiffs' testimony to their satisfactory job performance was in direct conflict with the Secretary's claims.

The court stated that state and federal governments should have broad administrative powers, but that these powers should be more restricted than those of private employers, with some loss of efficiency necessary to protect individual liberties.

In conclusion the court stated that the district court erred in not allowing the AFSCME to present its case, and reversed the lower court's motion for summary judgment,

remanding the case to the lower court for consideration of the factual questions involved and for determination of whether the suit was validly a class action. (*Illinois State Employees Union, Council 34, AFSCME v. John W. Lewis, Secretary of State of the State of Illinois*, U.S. Court of Appeals of the Seventh Circuit, September 18, 1972.)

Major Collective Bargaining Settlements, First Half of 1973

A report released by the United States Department of Labor, Bureau of Labor Statistics revealed that during the first six months of 1973, first year wage-rate increases averaged 5.8 percent, as compared with the 7.0 percent average increase during 1972. The report includes only those settlements which were reached in the first half of 1973, excluding settlements that were reached but not approved by stabilization agencies. These settlements will be included in the figures for the period in which they were approved.

Wage-rate increases over the duration of the contract averaged 5.3 percent; during the previous year the average wage rate increase was 6.4 percent. Considering both fringe benefits and wages, the average first year adjustment was 7.5 percent during the first half of 1973, in contrast to an 8.4 percent average gain in 1972. The durations of contracts negotiated were shorter than in previous years. The average length of early 1973 settlements was 27 months, previously the average duration of these contracts was 33½ months.

During the early part of 1973, approximately one out of every five American workers was a union member, and one out of every nine workers was covered by a collective bargaining agreement.

THE CONSUMER PRICE INDEX–JUNE 1973

The Consumer Price Index rose 0.7 percent in June, the U.S. Department of Labor's Bureau of Labor Statistics reported. Higher prices for food, gasoline and fuel oil, and household services were responsible for about three-fourths of the rise in the CPI. The June index was 132.4 (1967=100), 5.9 percent above a year ago.

After seasonal adjustment, the June increase was 0.6 percent. The index for food rose 0.9 percent and nonfood commodities increased 0.5 percent after seasonal adjustment. The services index increased 0.4 percent.

The June index is based largely on prices collected before the price freeze on June 13.

For the quarter ended in June, the CPI rose at a seasonally adjusted annual rate of 7.4 percent compared with 8.6 percent in the quarter ended in March. This change was due to a slower rate of increase in the food index; the seasonally adjusted annual rate of 14.7 percent in the 3 months ended in June was about half the 28.6 percent rate in the quarter ended in March. The index for nonfood commodities, on the other hand, increased at a seasonally adjusted annual rate of 5.4 percent from March to June,

Special Reports

LENGTH OF THE SCHOOL DAY FOR TEACHERS

Negotiated provisions regarding the length of the classroom teacher's work day were found in 53.6 percent of 1,529 agreements covered by the NEA Research survey of written negotiation agreements in 1970-71. A random sample of agreements, one out of every five (174) with at least one from each state having a negotiated agreement, was selected for further analysis.

The following analysis illustrates the variety of negotiated terminology relative to the length of the work day, and shows the lack of uniformity and the potential confusion which may result in interpreting the negotiated intent of these provisions. The confusion lies not with the choice of words or phrases, but rather with their meaning and intent which are vaguely if at all stated.

The analysis revealed five often used phrases: "school day" (39.1), "work day" (31.0), "teaching hours" (15.5), "teaching day" and "duty day" (6.3). Generally, "hours of work" for teachers within a school day is difficult to determine and complicated by the various phrases used to describe the component parts of a teacher's work day, such as, instruction time, pupil supervision, preparation periods, lunch periods, and extracurricular activities time. The length of day for the purposes of this article is the contractual expressions of the teacher's hours of work, expressed as hours per day, hours per week, instructional time, student contact hours, report-in and dismissal times, or the structured schedules for individual schools or entire districts.

The aforementioned five terms found in contracts to express the time spent on instructional and/or supervisory activities obfuscate the question of how much on-site (building) time a teacher devotes to student contact, versus how much total time is spent on-site, including duty-free time and time spent on extracurricular activities, compensation for which is separate from the salary schedule and may, therefore, be categorized as akin to overtime (non-classroom compensation).

The over-all catch phrase, "school day," is all encompassing, denoting the time from the opening of the school building to the closing of the building, regardless of when a teacher actually reports in and out, how much time he devotes to instruction, duty-free time, or extracurricular supervision. A more nearly accurate term designating that portion of the day spent on-site is "duty day" since it implies the time from report-in to dismissal. Although such a designation does not correspond to the length of the school day, it neither acequately differentiates between but includes those hours engaged in classroom instruction/supervision, and duty-free time, and sometimes extracurricular instruction. Of the 130 contracts that mentioned lunch as a duty-free period, only six excluded it from the total work-day hours.

The phrase, "teaching hours," most adequately expresses that work time spent on-site involved in student instruction/supervision, exclusive of home room duty, reporting and dismissal before and after pupil arrival and departure, duty-free lunch, and extracurricular instruction. An alternate form of conveying this same concept is "teaching load," often found apart from the work day provision, but an integral part of the work day provision.

TABLE 1.—MEASURES OF THE SCHOOL DAY FOR TEACHERS, 174 PROVISIONS

Measures	Number	Percent
1	2	3
Hours per day	57	32.8
Starting and dismissal time	70	40.2
Time reporting before and remaining after pupil day	32	18.4
Hours per week	7	4.0
Other	8	4.6
TOTAL SAMPLE OF PROVISIONS	174	100.0

To inject into a negotiated contract a nebulous, all-embracing term that represents a time frame for classroom instruction/supervision heterogeneous with the term used, i.e., "school day," to mean only that time spent in classroom instruction/supervision exclusive of duty-free time and not corresponding to the true meaning of the term

TABLE 2.–LENGTH OF SCHOOL DAY FOR TEACHERS IN PROVISIONS SPECIFYING NUMBER OF HOURS PER DAY[a]

Length of day[b]	For teachers of all grade levels		For elementary-school teachers		For Secondary-school teachers	
	Number	Percent	Number	Percent	Number	Percent
1	2	3	4	5	6	7
5 hours to 5 hours, 29 minutes	1	1.8	...	...	...	...
5 hours, 30 minutes to 5 hours, 59 minutes	...	...	2	3.5	...	...
6 hours to 6 hours, 29 minutes	...	...	...	...	...	...
6 hours, 30 minutes to 6 hours, 59 minutes	7	12.3	8	14.0	5	8.8
7 hours to 7 hours, 29 minutes	24	42.1	2	3.5	6	10.5
7 hours, 30 minutes to 7 hours, 59 minutes	8	14.0	1	1.8	...	...
8 hours or more	5	2.9	1	0.6	1	0.6
TOTAL	45	78.9	14	24.6	12	21.1
Median	7 hrs., 15 min.		6 hrs., 50 min.		7 hrs., 10 min.	

[a]The total number of provisions analyzed was 57; however, some provisions specified length of school day for more than one group teachers by grade level.
[b]Includes duty-free lunch periods.

used, opens the association to a host of grievances regarding interpretation relative to the actual length of the work day and even to what constitutes "duty-free" time.*

Ideally use of the term "work day" to mean those hours spent on site that are devoted to instruction/supervision and including duty-free lunch and preparation periods would alleviate many of the interpretation disputes. However, such a negotiated term should clearly spell out the actual time devoted to student instruction/supervision and duty-free time within fixed terminal points, and exclusive of nonclassroom instruction/supervision.

In the majority of contracts, determining the actual hours per day teachers were expected to be on duty engaged in classroom activity was difficult as some contracts stipulated that preparation time and/or lunch periods were included in or excluded from the total time, without specifying the amount of time, daily or weekly, allocated to each activity. Other contracts did not indicate either the time allotted or how these two periods were to be categorized. Nevertheless, an attempt has been made to exclude these duty-free times from the actual student-contact hours in a teacher's day.

**Editor's Note:* On file are over 151 reported grievances from 1970-73 regarding some component of the work day, be it on the subject of length, teaching load, preparation periods, using teachers as substitutes during duty free time, etc. These are only a minute number of the grievances that have been collected and reported. Note the case discussion on page 9.

As shown in Table 1, 4 provisions in 10 specified starting and dismissal times; 3 in 10 specified the number of hours per day; and 2 in 10 reporting before and after the pupils' day. Nearly one-third of the provisions designated the length of all grade levels in terms of hours per day. Of these provisions, the length of the day ranged from 5 to 8 hours or more. However, those provisions that specified 8 hours or more stated that one or two hours were for the teachers to use for lunch, preparation, recreation, or professional activities. Student-contact hours in these provisions usually totaled 5 to 6 hours, e.g.,

> Teachers shall normally be on duty thirty (30) minutes before classes begin, and shall normally remain on duty until they have completed their professional duties, but in no event shall they leave the school prior to fifteen (15) minutes after the close of the scheduled school day.
>
> The length of the school day for all elementary schools shall normally be five and one-half (5½) hours per day, excluding the lunch period.
>
> The length of the school day for all secondary schools shall normally be six and three-quarter (6¾) hours per day, including one class period for lunch. Secondary schools shall normally be in session from 8:45 a.m. until 3:30 p.m.
>
> **[Columbus, Ohio]**

Where the provision applied to all teachers regardless of grade, the median school day was 7 hours and 15 minutes; for provisions differentiating between grade levels, the median was 6 hours and 50 minutes for elementary grades, and

7 hours and 10 minutes for teachers of secondary grades. Lunch periods are included (Note Table 2.).

Elementary Schools - The length of the school day in the elementary schools shall not exceed six hours and forty minutes, including lunch.

Secondary Schools - The length of the school day in the secondary schools shall not exceed seven hours and fifteen minutes, including lunch.

**[Middle Country Cen. Sch. Dist. No. 11
Centereach, New York]**

The school day for teachers of the Dickinson Public School District will normally be from 8:00 a.m. to 4:00 p.m. Variations to this time schedule will be set for school buildings located outside the City of Dickinson for the purpose of handling busing situations. All teachers will be required to be at school at 8:00 a.m. and required to remain at school until 4:00 p.m.

During these eight hours, teachers will be required to have six hours of assigned duty and two hours of unassigned responsibility.

During the two hours of unassigned responsibility, teachers will take time out for their noon lunch. In the average day this will allow each teacher the equivalent of one hour for lunch and one hour for preparation or relaxation.

[Dickinson, North Dakota]

The official length of the teacher's school day shall not exceed six and three-quarters (6 and ¾) hours. The official length of the teacher's school day shall be defined as the length of time between the time the teacher is required to report and the time he is free to leave the school property for the day.

**[Cumberland Sch. Dist.
Ashton, Rhode Island]**

Only 4 provisions in 10 designated a starting and ending time for teachers of all grade levels, and displayed a wide variety of time schedules, but none of them scheduled a starting time earlier than 7:30 a.m. or an ending time later than 4:00 p.m., e.g.,

The regular school day for teachers will be from 7:45 A.M. to 3:40 P.M.

[Warwick, New Jersey]

TABLE 3.—AMOUNT OF TIME TEACHERS ARE REQUIRED TO BE ON DUTY, 32 PROVISIONS SPECIFYING RELATION OF TEACHERS' WORK DAY IN RELATION TO PUPILS' DAY

Scheduled time[a]	For teachers of all grades		For elementary-school teachers		For secondary-school teachers	
	Number	Percent	Number	Percent	Number	Percent
1	2	3	4	5	6	7
BEFORE CLASSES						
10 minutes	...	...	...	...	1	3.1
15 minutes	18	56.3	2	6.3	3	9.4
20 minutes	6	18.8	...	...	...	...
30 minutes	6	18.8	2	6.3	...	...
40 minutes	...	...	1	3.1	...	...
AFTER CLASSES						
15 minutes	6	18.8	...	...	2	6.3
20 minutes	5	15.6	1	3.1	...	...
30 minutes	13	40.6	3	9.4	...	...
40 minutes	...	...	...	...	1	3.1
45 minutes	1	3.1	...	...	1	3.1
TOTAL	32	100.0				

[a]Excludes those provisions giving a before and after time included in the designated hours per day and those specifying starting and ending time.

The basic school day for all teaching personnel, including librarians and counselors, shall be from eight o' clock in the morning until four o' clock in the afternoon.

[East Lansing, Michigan]

The working day shall be from 8:45 a.m. to 3:15 p.m. for teachers and from 8:45 a.m. to 3:15 p.m. for students in all the schools

**[Posen-Robbins Sch. Dist. 143
Posen, Illinois]**

The amount of time that a teacher is required to be on duty before or after the regular pupil day was designated in one-fifth of the provisions. Of these provisions, 5 of every 10 stipulated that teachers be in attendance at least 15 minutes before class time. Yet, only 4 out of 10 provisions negotiated a dismissal time for teachers of all grade levels of at least 30 minutes after the pupil day.

All teachers in a building are to be in their homerooms a minimum of fifteen (15) minutes before school begins unless on special duty, and remain a minimum of thirty minutes after pupil dismissal.

[Old Saybrook, Connecticut]

The normal school day shall be seven (7) hours and five (5) minutes at all grade levels which would provide for six (6) hours and twenty (20) minutes of formal school time including lunch and recess periods. This allows for the required presence of teachers fifteen(15) minutes before classes convene and thirty (30) minutes after the completion of classes.

[Lunenburg, Massachusetts]

The following are sample provisions on the length of the work day for teachers. These are sample provisions only, and are not to be regarded as exemplary.

TEACHING HOURS

In elementary schools the teachers' normal workday shall be divided into the following segments:

Teacher supervision
Teacher Planning - 35 minutes at beginning of day.*
Teacher-pupil contact time - 5 hours, 30 minutes.
Teacher lunch - 70 minutes duty free**
Pupil Conferences 0 If parents request individual conferences regarding students and the parents are unable to meet during the normal day, the teacher will be available for individual conferences outside the above time.

Total duty time shall not exceed 6 hours 35 minutes.

*Scheduled library time may be used as additional planning time at the option of the teacher.

**In schools where lunch programs are provided, teachers (except at Gier Park) will have a 45-minute lunch period.

In senior high schools the teachers' normal workday shall be divided into the following segments:

Vocational teacher assignments shall be two three hour blocks without homeroom or supervision assignments during school hours.
Teacher-pupil contact time shall include five periods of 50 or 55 minutes duration.
Teacher planning.
Teacher lunch of one period duty free.
Teacher supervision, pupil conferences.
A homeroom period not to exceed 15 minutes except in extenuating circumstances.

Total duty time shall not exceed 6 hours and 55 minutes.

In junior high schools the teacher's normal workday shall be divided into the following segments:

Teacher-pupil contact time shall include five periods of 50 or 55 minutes duration.
Teacher planning of one period duration.
Teacher lunch of 23 minutes duty free.
Teacher supervision and pupil conferences.
An optional homeroom period not to exceed 15 minutes except in extenuating circumstances.

Total duty time shall not exceed 6 hours and 37 minutes.

[Lansing, Michigan]

Length of School Day

The length of the school day shall remain as it is at present. The students' day in the elementary schools, exclusive of kindergarten, begins at 8:45 A.M. and ends at 2:45 P.M. The students' formal school day in the secondary schools begins at 8:15 A.M. and ends at 2:45 P.M. While the students' formal school day in the secondary schools ends at 2:45 P.M., it is understood by the Board, the Administration, and the Association, that the period from 2:45 P.M. to 3:15 P.M. may be utilized by secondary school students for individual help as provided by members of the instructional staffs of the secondary schools.

The teachers' day in the elementary schools begins at 8:15 A.M. and ends at 3:15 P.M. In the secondary schools, the teachers' day begins at 8:00 A.M. and ends at 3:15 P.M.

[Port Washington, New York]

The length of the school day shall not exceed six (6) hours and fifty- (50) minutes for all levels of teachers except as required by state law or by mutual agreement of the Somerset Teachers' Association and Somerset School Committee.

[Somerset, Massachusetts]

* * *

BRIEFS OF AGREEMENTS

Hopkinton, Massachusetts

Between Hopkinton School Committee and Hopkinton Teachers Association, effective September 1, 1973, to September 1, 1975. Approximately 84 certificated professional employees including all classroom teachers, guidance counselors, librarians, art and music supervisors, department heads, and excluding all other professional and nonprofessional employees. Provision for renegotiation no later than September 15 of the calendar year preceeding expiration of this agreement.

COMPENSATION: (1973-74) B.A., $7,800 to $12,948, 11 increments; B.A. plus 15 hours, $13,494 maximum; M.A., $8,892 to $14,040, 11 increments; M.A. plus 15 hours, $14,586 maximum; M.A. plus 30 hours, $15,132 maximum; M.A. plus 45 hours, $15,678 maximum; M.A. plus 60 hours, $16,224 maximum. (1974-75) B.A., $8,200 to $13,612, 11 increments; B.A. plus 15 hours, $14,186 maximum; M.A., $9,348 to $14,760, 11 increments; M.A. plus 15 hours, $15,334 maximum; M.A. plus 30 hours, $15, 908 maximum; M.A. plus 45 hours, $16,482 maximum; M.A. plus 60 hours, $17,056 maximum; automatic yearly salary step increases the first two years for teachers entering the system at the minimum salary, thereafter two increases granted after completion of an approved course, one increase the September following completion of the course and the second, the subsequent September; teachers who have been at step 10 a minimum of two years or have been at step 10 one year and in the system nine years are eligible for longevity bonuses of $400.

DIFFERENTIALS: Faculty manager of athletics, $800 to $1,100 total; audiovisual, $1,200 total; student council, $500; class advisor, junior, senior, driver education (per 30-hour course), $450; class advisor, freshman, sophomore, junior high, gymnastics, show (per show), play (per play), $400; year book, $300; key club, girls club, $275; student program and assemblies coordination, school newspaper, adult education (per semester), $250; art club, elementary, cheerleader advisor, $200; school literary magazine, $100; school newsletter (per issue), $50; minimum salary for athletic coaches based on student participation, responsibility, time period per sport, and public interest; department heads remunerated at the rate of 8 percent of the minimum B.A. salary the first year and thereafter at 10 percent, however, if a department has more than 6 members, percentages will be increased 2 percentage points; acting department heads remunerated at same rate as department head.

INSURANCE: Board pays the maximum percentage allowed by law for Blue Cross/Blue Shield, individual or family coverage; a $2,000 term life insurance plan; 50 percent of the annual insurance premium for long-term disability insurance; tax-sheltered annuity plan available.

ASSOCIATION: Payroll deduction of local, state, and national association dues; released time for contract negotiation; not more than 5 representatives released for negotiation preparation, cost of substitutes paid by association; released time for association representative on professional rights and responsibilities committee to investigate a grievance or attend a grievance meeting; teachers serving as witnesses also granted released time; three teachers designated by the association will be granted unpaid leaves of absence for up to one year to engage in association activities; upon return the teacher will be considered as if he were actively employed during the leave and will be placed on the salary schedule step he would have achieved if he had not been absent; the association has the right to use school buildings at reasonable times for meetings, the right to use athletic facilities without cost one evening each week when school is in session; use of bulletin board in faculty lounge of each school; no teacher will be prevented from wearing pins or other identification of membership in any organization.

OTHER: Teacher agreeing to serve as substitute during his nonteaching time shall be compensated at $9 for each period substituted; $.10 per mile for all interschool driving in fulfillment of assignments; full credit for prior teaching experience plus 2 years for military experience; credit for Peace Corps work not to exceed 2 years, will be given upon initial employment.

LEAVES: Ten days' paid leave granted for military reserve obligations less difference between regular pay and military pay; sabbatical leave after 5 years' service at 66 2/3 of regular salary for no more than 2 teachers; sick days based on allowable absences (noncumulative) at 15 days the first year and an additional 15 days for each year up to 180 days per year allowed after 12 years, absences in excess of 5 successive days may require a doctor's statement; maximum of 5 days granted for death or serious illness of a relative; leave of absence up to 2 years for participants in either Peace Corps or teacher exchange program, upon return such teacher will be placed on the salary schedule at the level he would have achieved if he had not been absent; teacher granted military leave shall be placed, upon return, on the salary schedule at the level he would have achieved had he not been absent, up to a maximum of 2 years; teachers shall be granted maternity leave without compensation upon request until the following September, or for 90 days following delivery, whichever is greater, if such teacher works more than 90 days of the year, she will continue on the salary schedule at the level she would have achieved had she

not been absent; leave of absence without pay or increment up to one year for the purpose of caring for a sick member in the immediate family; leave of absence without pay or increment up to 2 years to campaign for or serve in a public office; leave of absence without pay for up to one year for health reasons after 5 years of continuous employment; leave of absence without pay until recovery from illness for tenure teachers whose illness extends beyond the period compensated; teachers returning from leaves of absences shall be granted the same benefits and positions or substantially equivalent positions as they had when their absence commenced.

INSTRUCTION: Teachers of grades 7 and 8 academic subjects, and teachers of English, mathematics, social studies, languages, and business education in grades 9 through 12 will not be assigned more than 25 instructional nor more than 30 student supervision periods per week; science teachers in grades 9 through 12 will not be assigned more than 28 periods per week of laboratory and lecture nor more than 29 periods per week of laboratory, lecture, and study halls; secondary teachers of home economics, industrial arts, boys' physical education, or girls' physical education will not be assigned more than 30 periods per week of instruction and supervision; disagreements over exceptions to the foregoing are subject to the grievance procedure; duty-free lunch period equal to the student lunch period; the school committee will try to insure that class size is the most effective for both teacher and pupil; association may establish an Educational Improvement Committee to discuss with the superintendent proposals for educational improvements; the Educational Improvement Committee may request to be included on the school committee's agenda if no satisfaction is received within 90 days of submission of its proposals.

PERSONNEL: Grievance procedure ends with arbitration; right to review personnel file upon written request along with association representative, with the right to submit a written answer to any derogatory material; complaints made against a teacher by any parent, student, or other person will be promptly called to the teacher's attention; any teacher disciplined above the level of superintendent is entitled to have an association representative present; "no teacher will be disciplined, reprimanded, reduced in rank or compensation or any professional advantage without just cause"; the Committee will pay reasonable expenses for meals, lodging, and transportation incurred during attendance at workshops, seminars, conferences, or other professional improvement sessions approved by principal; tuition reimbursement up to $420 per annum; teachers will not be required to perform health examinations, collect money, perform custodial duties, or transport pupils; all evaluations to be conducted with full knowledge of the teacher; teachers to be given copy of any formal evaluation after discussing it with their superior; vacancies will be publicized by means of notice placed on association bulletin board; information concerning vacancies or new professional positions during the summer months will be sent to teachers requesting such information; association to be notified of any changes in qualifications and the reasons therefor set forth for a particular position; disagreement over the necessity for such change is subject to grievance and arbitration; in filling vacancies, preference will be given to teachers currently employed; released time at noon first Wednesdays of October through May for staff meetings, inservice training, departmental meetings, curriculum development, parental conferences, and any other activity deemed appropriate by the superintendent; department heads should have as few administrative responsibilities as possible; all cases of assault in connection with employment must be reported to superintendent in writing; the committee will provide legal defense for a teacher if criminal or civil proceedings are brought, teacher may request the Committee to furnish legal council to represent him in proceedings against the assailant; if the Committee fails to provide such council and the teacher prevails in the case, the Committee will reimburse the teacher for reasonable council fees; full salary less the amount of workmen's compensation will be paid teacher for absence resulting from personal injury caused by accident or assault occuring in the course of employment; medical costs incurred will also be paid.

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North Hills School District
Pittsburgh, Pennsylvania

Between the North Hills Board of Education and the North Hills Education Association, effective July 1, 1972, to June 30, 1975. Approximately 431 certificated professional employees. Negotiation for a successor contract will begin no later than January 1975.

COMPENSATION: B.A., $8,600 to $13,350, 14 increments; B.A. plus 24 hours, $13,850 maximum; M.A., $9,600 to $14,550, 14 increments; M.A. plus 60 hours, $16,550 maximum; placement on the BA plus 12 and BA plus 24 salary schedules will be based on credits earned after the bachelor's, placement on the M.A. schedule will be determined by the award of a degree regardless of the number of credits; any credits earned after the master's can be applied to the MA plus 15, 30, 45 and 60 salary schedules; verification of academic achievement must be received by September 1 for full-year salary adjustments, verification received by January 31 will be credited to the salary for the remainder of the school year; terminal pay upon retirement after 25 years' service: 1972-73: $500, 1973-74: $600, and 1974-75: $700; longevity increments after 20, 25, and 30 years of service, $200 for teachers with BA and $400 for MA.

DIFFERENTIALS: Extracurricular activities are weighed in units for compensation purposes; prior to staffing, the board and the association shall determine the unit worth of any new activity; monetary values for units are: 1973-74, $57; 1974-75, $58. High School [all figures are for 1972-73] : athletic director (42 units), $2,310; varsity football head (34 units), $1,870; varsity baseball assistant (9 units), $495; girls' varsity basketball head (6 units), $330; girls' varsity tennis head (5 units), $275; band and yearbook editor (10 units), $550; cheerleaders (5 units), $275; newspaper (9 units), $495. Junior High School: faculty manager (2 units), $110; junior high football and 9th grade

soccer (7 units), $385; chess club (1.5 units), $82.50; boys' and girls' intramurals, (6 units) $330; weightlifting (2 units), $110; hall patrol and library aides (1 unit), $55. Intermediate School: bowling and dramatics (4 units), $220; ski club (2 units), $110; handbook (5 units), $275. Elementary School: safety patrol (3 units), $165; newspaper (2 units), $110; music coordinator (4 units), $220.

OTHER: Department chairmen: in addition to regular salary, $50 for each teacher supervised with a minimum in 1973-74, $250 and a maximum of $450; the 1974-75 minimum will be $250 and the maximum, $500; hourly rate for teaching summer school or curriculum work is regular annual salary divided by 190 x 6; rate for relinquishing a preparation period is regular annual salary divided by 190 x 7; $.12 per mile for driving students to out-of-school activities, field trips, school district business, or traveling from one school to another in the course of work.

LEAVES: Ten days' annual sick leave credited at the beginning of school, unlimited maximum accumulation; 3 days' personal or emergency leave, written notice to be given to supervisor at least two days prior to use, first two days may be taken without a stated reason, third day may be taken only for certain specific reasons; unspecified time for jury duty, appearance as a witness or as a defendant, compensated for at difference between teaching pay and court fees; board determines leave for education conferences and conventions based on educational benefits and available funds; maternity leave for up to 18 months must be requested not later than the fifth month of pregnancy, the starting date of the leave to be determined by the teacher in consultation with her physician and the administration notified at least 30 days prior to leave in order to find a qualified substitute, the teacher may select the date of return as long as it is within 18 months of the start of the leave; the teacher must inform the board at least 30 days prior to returning to allow the board to make the necessary personnel adjustments, a physician's statement must be presented before the teacher resumes duties, and upon returning to work, will be given a position similar to the one previously held, employees on maternity leave may continue their fringe benefits by remitting premiums to the school board.

INSURANCE: Board-paid Blue Cross/Blue Shield and Major Medical shall be provided employees and dependents; board-paid group term life insurance shall be provided in the amount of $12,000 per person, and as of November 1974, it shall be increased to $15,000; during 1973-74 and 1974-75 the board will pay one-half of the monthly premium for disability income protection insurance.

ASSOCIATION: Payroll deduction of local, state, and national association dues in seven equal monthly payments; released time for negotiations during the working day when scheduled by the administration and the association, released time for grievance procedures, and meetings related to the administration of the agreement; right of the association to use school buildings (upon notice and at reasonable times) subject only to prior arrangements with other organizations, and to utilize school equipment, bulletin boards, and interschool mail and faculty mail boxes; the board is to provide information relating to negotiations and/or administration of the agreement, copy of the monthly board meeting minutes to be sent to the association president; association representatives to be permitted to announce association meetings during orientation programs; during the school year six association representatives are to be allowed to meet with the superintendent or his designees at least once a month to discuss school problems and administration of the agreement; leave with pay granted for attendance at meetings, conferences, or seminars conducted by the local, state, or national teachers association, (attendance at meetings devoted largely to matters of collective bargaining will not be paid) time allowed for attendance at meetings is 20 days per year with only seven teachers being permitted to attend at one time.

INSTRUCTION: Every effort shall be made to limit secondary teachers to no more than two preparations or two teaching stations per day and not more than three hours of continuous teaching by elementary teachers; one-half hour duty-free lunch period, teachers may leave the building after notifying the office, no elementary or kindergarten teacher may be assigned lunchroom or lunchtime playground duty; secondary teachers shall have one preparation period a day, or at least five periods a week; elementary teachers shall have one continuous 30-minute preparation period per day; school calendar provides for 190 work days in 1973-74 and 1974-75; joint Curriculum and Instruction Committee to be established with four members appointed by the superintendent and four members selected by the association with directors of elementary and secondary education as ex-officio members shall meet at least once a month to make recommendations and suggestions on matters concerning educational policy or procedures and professional employees' inservice programs; student-teacher supervision by agreement of administration and teacher; use of regular teachers as substitutes and depriving them of preparation periods is discouraged, special compensation to be given teachers volunteering to substitute; recommendations for purchase of teaching materials and supplies shall be solicited from employees; duplicating equipment shall be made available to all teachers to prepare instructional materials; association recommendations to the director of business affairs concerning correction and/or improvement of teacher workrooms, lounges, and lavatories must be answered within 30 days; board shall provide adequate parking facilities for all schools.

PERSONNEL: Grievance procedure ends with final and binding arbitration; right to review evaluation records; evaluation shall be conducted with full knowledge of employee; eavesdropping, audio systems, and other surveillance methods are strictly forbidden; employee shall be given a copy of report prior to any conference to discuss it, no adverse evaluation report will be placed in employee's personnel file without prior discussion, employees will not be required to sign incomplete evaluation forms. Employee is entitled to have an association representative present when he is being disciplined; teachers will be notified of assignments including grade level, subject area, and achievement ability grouping by June 15, after that date teachers will be promptly notified of any changes and consulted; vacancies shall be posted in each building's administrative offices and during the summer months, a copy of each vacancy shall be sent to the association president; requests for transfers are to be

made to the director of personnel and to include the reasons for the request, the school, grade, and position sought, and applicant's academic qualifications; board and/or administration shall answer request within 30 days; involuntary transfers from a building, subject, or grade to another, are to be made only after a conference between the employee and the building principal; reasons for transfer will be discussed and if requested, put in writing, teacher will have right to conference with director of elementary or secondary education if requested within seventy-two hours; decisions of administration are final and not grievable; teacher maintains right to determine students' grades and evaluations; building discipline committee shall be established to revise discipline guidelines and regulations with provisions for student and parent comments; association agrees to assist board in implementing any policies developed; board will handle all vandalism and personal injury cases, though their maximum expenditure in any year is not to exceed $1,000; teachers will be notified of complaints concerning their professional responsibilities with parties cooperating in investigating such matters; board to pay for any required physical exam or tests by school physician and to provide flu immunization shots.

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West Bend, Wisconsin

Between Joint School District Number 1 and West Bend Education Association, effective August 15, 1972, to August 14, 1975. Approximately 333 certificated professional employees including all teaching personnel with at least 50 percent of a full teaching schedule, guidance, counselors and librarians, but excluding per diem teachers, office and clerical employees, the superintendent, principals, assistant principals, and other supervisory employees. Provision for reopener on salaries and school calendar for 1974-75 school year upon written request of either party on or before December 10, 1973.

COMPENSATION: (1973-74) B.A., $8,000 to $12,176, 12 increments; B.A. plus 15 hours, $13,152 maximum; M.A., $8,766 to $13,940, 13 increments; M.A. plus 15 hours, $15,021 maximum; M.A. plus 30 hours, $16,175 maximum; journeyman status and three years' trade experience of vocational teachers are equivalent to bachelor's degree.

DIFFERENTIALS: (Based on percent of base entry pay) head coaches of baseball, basketball, football, swimming, wrestling, and debate, 10%; head track coach, 9%; high-school annual, drama, and forensics, assistant football coach, 7%; high-school newspaper, cheerleading, cross country, and band, assistant coaches of baseball and track, jr. varsity coaches of basketball, football, swimming, and wrestling, sophomore football coach, head coaches of golf and tennis, 6%; freshman coaches of basketball, football, track, and wrestling, debate assistant, assistant football coach, 7-8 football coach, 5%; high-school student council, chorus, annual assistant, drama assistant, and forensics assistant, middle-school newspaper and forensics, basketball, and track 7-8, football assistant coach, jr. varsity and freshman coaches of golf and tennis, 4%; cheerleading, middle-school drama, student council, and forensics, high-school girls' swimming, 3%.

OTHER: Teachers required to substitute during preparation period compensated at the rate of $4.00 per hour; summer school teachers compensated according to base salary of prior year divided by 190 times 75; driver education teacher shall have a maximum rate of $6.50 per hour; the rate of pay for taking and selling tickets, crowd control, and bus chaperoning at varisty basketball and football games on Friday, Saturday, or Sunday evenings, $4.00 per hour for the teacher in charge and $3.50 per hour for others; $.10 per mile for regular travel from one building to another computed and paid on a semiannual basis; $.08 per mile plus tolls for travel to points outside the district.

INSURANCE: Board-paid group hospital-surgical insurance; job-related personal liability insurance provided; board pays partial cost of group life insurance; income protection insurance and tax sheltered annuity program available.

ASSOCIATION: Payroll deduction of local, state, and national association dues; right to use school building, bulletin boards, school district mail service, and teacher mailboxes; board to furnish association minutes of each official board meeting.

LEAVES: Ten days' annual sick leave, credited at beginning of school term, 120 days' maximum accumulation; maximum of 3 days' noncumulative leave per year for severe illness in immediate family (husband, wife, father, mother, son, daughter); maximum of 3 days' nonaccumulative bereavement leave for death in the immediate family; released time for school visitation scheduled whenever the principal and the teacher feel that a visitation would render educational benefits to the district; paid leave of absence resulting from job-related assault or accident up to the maximum number of sick leave days accumulated, provided that such absence will not be charged to sick leave with which teacher is then credited, and provided that all workmen's compensation payments during the period the teacher receives full salary are endorsed to the district; 2 days' leave may be granted by superintendent for extraordinary and uncontrollable circumstances such as "an act of God"; 2 days granted at discretion of superintendent for pressing personal business; contracts of teachers replacing teachers on military or medical leaves of absence include a provision stating that the contract is subject to unilateral termination and cancellation by the board in the event the teacher on leave presents himself for re-employment.

INSTRUCTION: School year is 180 pupil contact days, 7 inservice days, 3 holidays, and Thanksgiving, Christmas, and Easter recesses; 30-minute duty-free lunch daily; efforts will be made to assign para-professionals to classrooms in which enrollment is excessive; building hours for teachers, 8:00 a.m. to 4:00 p.m. daily; efforts will be made to employ paraprofessionals to supervise all school lunch rooms and elementary playgrounds during noon hour; when such supervision is performed by a teacher, he will be paid $3.50 per hour except on a day when substituting for a paraprofessional who did not provide prior notice of absence; released time provided for a home visit where the principal and the teacher determine that a problem exists and parents

are unable or unwilling to attend a conference at school but would receive a visit from the teacher at home.

PERSONNEL: Grievance procedure ends with arbitration; meetings requiring attendance until 5:00 p.m. will average no more than three per month; teachers required to attend no more than two public evening meetings each year for open house and parent visitation; attendance at any other meetings shall be at the option of the teacher; teachers attending professional meetings (other than annual teachers convention) shall be reimbursed at the rate of $150 maximum for national meetings and $50 maximum for other meetings; evaluation of all new or probationary teachers shall be made quarterly by the principal, other teachers to be evaluated regularly as appropriate; following evaluation a conference between the principal and the teacher will be held, the teacher will be given a file copy of his evaluation indicating among other things any deficiencies noted and suggestions as to how he may correct them, with the principal's assistance; the teacher shall sign file copy acknowledging receipt of evaluation and be allowed to present in writing his views of the evaluation for attachment to the file copy prior to its inclusion in his personnel file; superintendent is to notify teacher of possible nonrenewal no later than February 1; the teacher may request in writing a meeting with the superintendent within five days of such notice to discuss the situation and may be accompainied by anyone he chooses; in the event the board considers nonrenewal of a teacher, he must be notified in writing of the reasons for such consideration prior to March 1; the teacher may request in writing a meeting with the board to discuss the reasons for nonrenewal and may be accompanied by a person of his choice in the meeting; if the board votes not to renew the teacher's contract after the teacher has met privately with both the superintendent and the board, the association may process the matter to arbitration in the same manner as it may process a grievance to arbitration; "in the event of arbitration, the decision of the board shall not be reversed by the arbitrator unless he shall determine that the decision of the Board not to renew such teacher's contract either was for a constitutionally impermissible reason or was arbitrary and capricious"; reduction in force as far as possible shall be through normal attrition resulting from teachers' retiring or resigning; teachers who are laid off will be selected by the board taking into consideration "both on an individual basis and in comparison to other teachers, factors such as the individual teacher's length of service in the District, over-all teaching experience, academic training, ability and performance as a teacher in the District"; the board will provide the association and each teacher involved the basis upon which the teacher was selected to be laid off:

> The lay off of each teacher shall commence on the date specified therefor by the Board and such teacher shall be paid pro-rata for services performed under his individual teacher contract to the date of such lay off. The teacher shall not be precluded from securing other employment during such teacher's re-employment rights period.
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> If, within a teacher's re-employment rights period, the District has a vacant teaching position available for which that teacher is deemed qualified by the Board, the teacher shall be notified of such position and offered employment in that position, commencing as of the date specified in such notice. Under this paragraph, teachers on lay off will be contacted in reverse order of their lay off with respect to a position for which they are so qualified. In the event two (2) or more teachers who are so qualified were laid off on the same date, the Board shall select which such teacher shall be first contacted, taking into account the factors set forth in Step 2 of paragraph 2 above.
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> Within ten (10) days after a teacher receives a notice pursuant to paragraph 5, he must advise the District in writing that he accepts the position offered by such notice and will be able to commence employment on the date specified therein. Any notice pursuant to paragraph 5 shall be mailed, registered-return receipt requested, to the last known address of the teacher in question as shown on the District's records. It shall be the responsibility of each teacher on lay off to keep the District advised of his current whereabouts.
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> Any and all re-employment rights granted to a teacher on lay off pursuant to this Article shall terminate upon (i) the expiration of such teacher's re-employment rights period or (ii) such teacher's failure to accept within ten (10) days any position offered to him as provided in paragraphs 5 and 6, whichever occurs the earlier. For purposes of this Article, the term "teacher's re-employment rights period" means the period of time that is equal to the shorter of (i) the three (3) years following the date on which the teacher is laid off pursuant to this Article or (ii) the number of years following such lay off date which is equivalent to the number of full consecutive school years that the teacher taught in the District between the date such teacher was last employed by the District and such lay off date; provided, however, that a leave of absence pursuant to paragraph 1, 2 or 3 or Article XXII—Leaves of Absence shall not be deemed a break in a teacher's continuity of employment and the period thereof shall be included in determining the number of full consecutive school years that he has taught in the District.
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> Any lay off pursuant to this Article shall not be subject to the provisions of paragraph 2 of Article XXVI—Procedures Relating to the Disciplining or Termination of Employment of a Teacher. If a teacher who has been laid off wishes to contest such action, he may do so by appealing to the Professional Rights and Responsibilities Committee of the Association which may, if it so desires, process a grievance beginning at Step 3 of the grievance procedure by referring the matter in writing to the Superintendent within ten (10) days after receipt by the teacher of the written explanation provided in paragraph 3 above; provided, however, that, in the event such grievance is submitted to arbitration, the Board's determination to lay off such teacher shall stand unless the arbitrator shall find that, in making such determination, the Board acted in bad faith in utilizing and/or applying the procedure provided in this Article.

Texts

ADVISORY COUNCIL ON PUBLIC EMPLOYEE RELATIONS SUMMARY OF PRINCIPAL RECOMMENDATIONS

Coverage of the Proposed Statute

1. There should be a comprehensive, pre-emtive state law applicable to all public employees except (a) management and confidential employees; (b) supervisory employees, unless the public agency elects to bargain with them; (c) employees subject to the transit district acts; and (d) elected public officials.

2. The following three statutes should be repealed in their entirety: the Meyers-Milias-Brown Act (Government Code Sections 3500-10), which applies to employees of local government; the George Brown Act (Government Code Sections 3525-36), which applies to state employees; and the Winton Act (Education Code Sections 13080-90), which applies to school district employees. In addition, Labor Code Sections 1960-63, which apply to fire fighters, should be repealed.

3. Local legislative bodies should be permitted to continue, or to enact, their own employer-employee relations policies, provided that the local law is in substantial compliance with the proposed statute and is administered by a board or commission of impartial persons, broadly representative of the public, with experience in the field of employer-employee relations.

4. Duly negotiated agreements on matters within the scope of bargaining, which are approved in accordance with the provisions of the proposed statute, should prevail over any conflicting state or local statute, charter provision, ordinance, resolution, or regulations adopted by a public employer or its agent, such as a personnel board or civil service commission.

Administration of the Proposed Statute

5. The proposed statute should be administered by a Public Employment Relations Board, composed of three persons, broadly representative of the public, all of whom should be persons with experience in the field of employer-employee relations. The members of the Board should be appointed by the Governor, by and with the advice and consent of the Senate, from a list of 12 names submitted by a panel composed of the following persons: the Chief Justice of California, the Director of the California State Conciliation Service, and the President of the American Arbitration Association. The members of the Board should serve full-time, should hold no other public or private office, and should receive no other compensation for services rendered. The Board should be given broad responsibilities and correspondingly broad authority to administer the proposed statute. Specifically, it should have the power and duty, among others, (a) to establish lists of qualified neutral persons available to serve as mediators, fact-finders, and arbitrators; (b) to appoint such persons upon request; (c) to determine in disputed cases or otherwise to approve appropriate bargaining units; (d) to arrange for and supervise the determination of certified employee representatives for appropriate bargaining units by means of secret ballot elections, and to certify the results; (e) to decide contested matters involving recognition, certification, or decertification of employee organizations; (f) to investigate unfair practice charges, and to take such action in respect thereto as it deems necessary to effectuate the policies of the proposed statute; (g) to make, amend, and rescind such rules and regulations as may be necessary to carry out the provisions, purposes, and policies of the proposed statute; and (h) to bring an action in a court of competent jurisdiction to enforce any of its orders, decisions, or rulings.

6. The initial determination whether charges of unfair practices are justified and, if so, what remedy is necessary to effectuate the purposes of the proposed statute, should be within the exclusive jurisdiction of the Board. The Board should not have authority to enforce collective agreements, however, and should be denied the power to issue a complaint on any charge based on an alleged violation of a collective agreement that would not also constitute an unfair practice under the proposed statute.

7. The Board should have the power to issue decisions and orders directing offending parties to cease and desist from engaging in unfair practices, and to take such affirmative action, including but not limited to the reinstatement of employees, as will effectuate the purposes of the proposed statute; but the Board should not have the power to assess exemplary damages against an offending party.

8. No state court should have jurisdiction, except for the purposes of limited judicial review, to grant legal or equitable relief based soley on the claim that (a) a public employer or employee organization has committed an unfair practice defined in the proposed statute; (b) the Board has made an erroneous bargaining-unit determination; or

(c) the Board has resolved, or is about to resolve, a question of representation contrary to law.

9. No public employer or employee organization should have the right to judicial review of a bargaining-unit determination, except when the Board agrees that the case is one of special importance and joins in the request of one or more parties to such review.

10. Any charging party, respondent, or intervenor aggrieved by a decision or order of the Board in an unfair practice case should have the right to seek review in a court of competent jurisdiction. The Board's findings of fact, if supported by substantial evidence on the record considered as a whole, should be conclusive. Once the record of the case has been filed with the court, its jurisdiction should be exclusive and its judgment final, except that it should be subject to appeal to the higher courts in the State.

Employee Rights Under the Proposed Statute

11. Public employees should have the right to form, join, or assist employee organizations, to participate in collective bargaining with public employers over matters within the scope of bargaining—i.e., wages, hours, and other terms and conditions of employment, including any other matters agreed to by the parties as a subject of bargaining—through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection. Employees should also have the right to refrain from engaging in such activities, subject to the requirements of permissible organizational-security arrangements.

12. Public employers should be permitted, but not required, to bargain collectively with their supervisory employees—i.e., those persons having substantial responsibility on behalf of management regularly to participate in the performance of all or most of the following functions: employ, promote, transfer, suspend, discharge, or adjudicate grievances of other employees, if in connection therewith, the exercise of such responsibility is not merely of a routine nature, but requires the exercise of independent judgment. Managerial and confidential employees (see paragraph 19, below) should be prohibited from the exercise of any collective bargaining rights under the proposed statute; but any agreements covering them and in effect as of March 15, 1973, should remain in effect until their expiration date, or three years thereafter, whichever date occurs sooner.

Exclusive Representation: Recognition, Certification, Decertification

13. The public employee organization selected as the collective-bargaining representative by the majority of employees in an appropriate unit should be the exclusive representative of all employees in the unit. Individual employees should have the right at any time to present grievances to the public employer, and to have such grievances adjusted without the intervention of the exclusive bargaining representative; but no such adjustment should be inconsistent with the terms of an existing collective agreement, and the exclusive representative should be given the opportunity to be present at such adjustment.

14. A public employer should be required, upon receipt of a request for recognition of an employee organization as the exclusive representative of employees in a given unit, supported by proof of majority support, to recognize the employee organization as the exclusive representative of its employees, unless (a) the employer has a good-faith doubt as to the accuracy or the validity of the evidence purporting to demonstrate majority support; or (b) another organization intervenes and either challenges the appropriateness of the unit or presents a competing claim, supported by evidence, that it represents a majority of the employees in the unit; or (c) the representation claim is barred by a valid collective agreement between the employer and another lawfully recognized or certified employee organization covering some or all of the employees in the proposed unit; or (d) within the previous 12 months, another employee organization has been recognized or certified as the exclusive representative of any of the employees in the proposed unit.

15. A public employer should have the right to petition the Board to investigate and decide a question of representation when the employer has received a request for exclusive recognition from an employee organization, and has a good-faith doubt as to the accuracy or validity of the evidence purporting to demonstrate majority support, or as to the appropriateness of the proposed unit, or when two or more employee organizations have made a request to represent all or some of the same group of employees. An employee organization should have the right similarly to petition the Board when its timely request for exclusive recognition, submitted to the employer in proper form and with the necessary supporting evidence, has been denied or has not been acted upon within a reasonable time (not to exceed 30 days) after the request was made.

16. If the Board, after investigation, determines that a question of representation with an appropriate unit exists, it should conduct an election by secret ballot and certify the result. An employee organization that receives a majority of the valid votes cast should be certified as the exclusive representative of the employees in the appropriate bargaining unit. Such an election, regardless of the outcome, should be a bar to any other election in all or any part of the bargaining unit for the succeeding 12-month period.

17. Any group of employees should have the right to file a timely petition with the Board alleging that the certified or currently recognized employee organization no longer represents a majority of employees in the bargaining unit, and supported by such evidence as the Board specifies by rule or regulation. After the petition is filed, the Board should conduct an election by secret ballot to determine the wishes of the employees involved. If a majority of the valid votes cast favors decertification, the employee organization should be decertified as exclusive bargaining representative. Such an election, regardless of the outcome, should be a bar to any other election in all or any part of the bargaining unit for the succeeding 12-month period. No public employer should be allowed to file a decertification petition.

Bargaining Units Under the Proposed Statute

18. The Board should be empowered and directed to find the largest reasonable unit to be the only one appropriate for purposes of collective bargaining. In making its determination the Board should consider (a) the internal and occupational community of interest of employees; (b) the probable effect of the unit on sound collective-bargaining relationships, giving particular regard to the availability and authority of public employer representatives to bargain effectively with employee organizations in respect of the unit; and (c) the effect of the unit on the efficient operation of the public agency, and the compatibility of the unit with the responsibility of the agency and its employees to serve the public.

19. Managerial employees—i.e., those having significant responsibilities for formulating and administering agency policies and programs, and confidential employees—i.e., those who are privy to information leading to decisions of agency management affecting employee relations, should be denied any rights of collective bargaining under the proposed statute.

20. There should be a strong, but rebuttable, presumption that professional employees—i.e., those engaged in work requiring specialized knowledge and skills attained through completion of a recognized course of instruction in an institution of higher learning or its equivalent—should not be included in the same bargaining unit with nonprofessional employees.

21. Supervisors (see paragraph 12, above) should neither be protected in nor prohibited from the exercise of the right to bargain collectively. Supervisory bargaining units determined prior to March 15, 1973, by a neutral person or persons under local legislation should be presumptively valid and subject to challenge only before the Board. Nonsupervisory bargaining units similarly determined prior to March 15, 1973, should not be subject to challenge under the proposed statute.

22. Any bargaining unit determined prior to March 15, 1973, in which a written agreement or memorandum of understanding has been negotiated between a public employer and an employee organization covering the employees in such unit, should not be subject to attack prior to a prescribed period before its termination date, or prior to the end of a three-year period before its termination date, or prior to the end of a three-year period from its effective date, whichever time occurs first.

Unfair Practices Under the Proposed Statute

23. It should be unlawful for a public employer (a) to impose or threaten to impose reprisals on employees, to discriminate or threaten to do so against employees, or otherwise to interfere with, restrain, or coerce employees because of their exercise of rights guaranteed by the proposed statute; (b) to deny employee organizations the rights guaranteed to them by the proposed statute; (c) to refuse or fail to negotiate in good faith with a lawfully recognized or certified employee organization; and (d) to dominate or interfere with the formation or administration of any employee organization, or to contribute financial or other support to it, other than payments, provided for in a collective agreement with a lawfully recognized or certified employee organization, to representatives of such an organization for time spent in the processing of grievances and other collective-bargaining activities.

24. It should be unlawful for a public employee organization (a) to cause or attempt to cause an employer to violate the provisions of paragraph 23 (a) above; (b) to impose or threaten to impose reprisals on employees, to discriminate or threaten to discriminate against employees, or otherwise to interfere with, restrain, or coerce employees because of their exercise of rights guaranteed by the proposed statute, except that an employee organization should retain the right to prescribe reasonable rules in respect of admission and expulsion; and (c) to refuse or fail to bargain in good faith with a public employer of any of the employees of which it is the exclusive representative.

25. The duty to bargain in good faith should require the parties to begin negotiations prior to the adoption by the public agency of its final budget for the ensuing year sufficiently in advance of such adoption date so that there is adequate time for agreement to be reached, or for the resolution of an impasse. The parties should have authority to agree to retroactive application of any agreement between them, whether or not it requires the expenditure of funds. The public employer should have the authority to make such expenditures pursuant to such agreement, fact-finding recommendation, arbitration award, or order of the Board.

Organizational Security Under the Proposed Statute

26. Organizational security should be a mandatory subject of bargaining between a public employer and an organization representing the majority of its employees in an appropriate unit. Any form of organizational security should be agreed upon by both parties to the collective agreement. Any form of organizational security permissible under the law and actually in effect should be rescindable by a majority vote of employees covered by such arrangement, in accordance with rules promulgated by the Board. Permissible forms of organizational security should be limited to (a) an arrangement that requires an employee, as a condition of continued employment, either to join the recognized or certified employee organization, or to pay to the organization a service fee in an amount not to exceed the standard initiation fee, periodic dues, and general assessments of such organization; or (b) an arrangement that provides for maintenance of membership i.e., one that permits an employee to decide whether or not to join an employee organization, but which requires him, as a condition of continued employment, if he does join, to maintain his membership in good standing, or to pay to the organization a service fee in an amount not to exceed the standard initiation fee, periodic dues, and general assessments of such

organization for the duration of the collective agreement. The agreement must also provide for a 30-day period following the expiration of a collective agreement, or following a period of three years from the effective date of such agreement, whichever comes first, in which the employee can terminate his obligation to the employee organization.

Voluntary Deductions Under the Proposed Statute

27. A public employer should be permitted, upon an employee's written authorization, to deduct and remit to an employee organization the standard initiation fee, periodic dues, and general assessments of such organization, unless an employee organization is recognized or certified as the exclusive bargaining representative of an appropriate bargaining unit of which the employee is a member, in which case deductions as to any such employee should no longer be permissible except pursuant to a collective agreement which limits such deductions and remittances to the recognized or certified organization.

Resolution of Rights Disputes

28. A public employer and employee organization should have authority to include in their collective agreement procedures for binding arbitration of rights disputes, i.e., controversies, commonly referred to as grievances, over the interpretation or application of (a) a collective agreement, or (b) such established agency policies or practices as the employer and the organization have agreed should be submissible to arbitration.

29. An agreement to submit a rights dispute to binding arbitration should be enforceable in the courts. Similarly, arbitration awards made pursuant to such agreements should be enforceable by court order.

30. A public employer should not be permitted to lockout, i.e., shut down the operation of the agency for which it is responsible, over a rights dispute submissible to binding arbitration or in violation of a no-lockout provision, nor should public employees be permitted to strike, i.e., engage in a work stoppage or any other concerted refusal to perform the services which they are employed to perform, over a rights dispute submissible to binding arbitration, or in violation of a no-strike provision.

31. A public employer or employee organization that is injured, or threatened with injury, by a strike or lockout over a rights dispute subject to binding arbitration under a collective agreement or in violation of a no-strike or no-lockout provision of such an agreement should have the right to bring an action in an appropriate court for compensatory and equitable relief.

Resolution of Interests Disputes

32. Public employers and employee organizations should be encouraged to resolve interests disputes, i.e., controversies over the provisions to be included in a collective agreement, either by reaching voluntary settlements or by agreeing on procedures for final and binding settlements.

33. If a public employer and the employee representative reach an impasse, i.e., a point in negotiations at which their differences in positions are so substantial or prolonged that further meetings would be futile, they should follow the procedure set forth below:

(b) The party making such declaration should (1) ask the Board for a list of mediators from which the parties may make a selection, in which event the Board shall supply a list immediately, or (2) ask the Board to designate a mediator, in which event the Board shall comply immediately upon the consent of the other party, or (3) ask the California State Conciliation Service to designate a mediator, in which event the Conciliation Service shall comply immediately upon consent of the other party;

(c) When a mediator is selected by the parties from a Board list or designated by the Board, the fees and costs of such service should be borne equally by the parties; when a mediator is designated by the Conciliation Service, the services of a mediator should be provided without charge;

(d) The Board should have the right, on its own motion, to appoint a mediator if it is satisfied that an impasse exists and that the exigencies of the situation created by the failure of the parties to request the designation of a mediator or to agree on a mediator justify such intervention, it being understood that the fees and costs of such service shall be borne equally by the parties;

(e) It should be the function of the mediator to assist the parties in reaching a voluntary resolution of their impasse;

(f) If the impasse has not been resolved by mediation after the period of time specified in the proposed statute, either party may request that their differences be submitted to a fact-finding panel. Each should designate a person to serve as its member of the panel. The members so designated should select the chairman of the panel; or, if they cannot agree, the chairman should be appointed by the Board. The fee and costs of the chairman should be borne equally by both parties.

(g) The fact-finders should identify the issues, review the positions of the parties, resolve factual differences, and make recommendations. In arriving at their recommendations, the fact-finders should consider, weigh, and be guided by the criteria specified in the proposed statute. If the dispute is not settled within 30 days after its appointment, the panel should issue recommendations to both parties for settlement of the dispute. All members of the fact-finding panel should have the right to vote on recommendations unless the public employer and employee organization agree to the contrary. The recommendations of the fact-finders should be given to the parties privately, and should be given no publicity.

(h) The parties, if they do not accept the recommendations as a basis for settlement, should resume negotiations and continue to negotiate for a period of 10 calendar days, or longer if they mutually agree. During this time, the Board should exercise a continuing jurisdiction in an

effort to facilitate settlement of the dispute. If, at the end of the 10-day period, or such extended period as the parties may have agreed to, the dispute has not been settled, the findings and recommendations of the fact-finders should be made public;

(i) If, at the end of such period, the parties have still not reached agreement, the employee organization, as a condition precedent to striking, should call a meeting of its membership, at which the members attending should be asked to vote by secret ballot on the following question: "Do you wish to accept the fact-finders' recommendations?" As a condition precedent to locking out the employees, the legislative body of the employer should vote on the same question;

(j) If both parties answer the question in the affirmative, the dispute should be settled on the basis of those recommendations. If one of the parties answers the question in the negative, the employees should be permitted to strike and the employer to lockout, but such decision should be communicated to the other party in writing and announced to the public immediately, and the strike or lockout should not commence until five calendar days from the date of such notice;

(k) Any party in interest, including an employee organization, a public employer, a citizen who would be affected by the interruption of services, or a taxpayer should be permitted to initiate proceedings in a court of competent jurisdiction for injunctive relief to prevent or stop the strike or lockout;

(l) The superior court in which such proceedings are brought should not issue any form of injunctive process except on the basis of findings of fact, supported by evidence elicited at a hearing, that the strike or lockout imminently threatens public health or safety. If the court finds that the evidence establishes such a threat, and finds further that there is no feasible alternative method for protecting public health and safety, the court should issue injunctive relief and should direct the parties to accept the recommendations of the fact-finders in settlement of their dispute;

(m) If the court does not make these findings, injunctive releif should be denied and the lockout or strike should be permitted to commence or continue, with the court having the authority in its discretion to retain jurisdiction of the case until the dispute is resolved;

(n) The merits of the fact-finders' recommendations should not be before the court and should play no part in its determination. The fact-finders' recommendations, if made binding by court decree, should be subject to review in a separate proceeding in the superior court in any county where the agreement is to be performed, with review limited as specified in existing California statutes dealing with the vacation of arbitration awards;

(o) The issuance or denial of relief should be subject to an expedited review before the appropriate court of appeal. Similarly, if relief is granted, the question of whether its operation should be stayed pending the outcome of the appeal should be determined by a motion before the trial court, subject to the same expedited appeal as the order disposing of the injunction question.

34. Subject only to the restrictions and limitations contained in the foregoing recommendations, public employers should have the right to lock out and public employees should have the right to strike.

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Case Reviews

ILLINOIS

Arbitrator Cannot Grant Tenure

The Circuit Court of Cook County ruled that an arbitrator could hear the case of nontenured probationary teachers whose contracts were not renewed by Malcolm X and Loop Colleges. However, the court limited the scope of the arbitrator's jurisdiction to a determination of whether procedures for nonrenewal outlined in the agreement between the colleges and the Cook County Teachers Union had been followed.

In its petition for declaratory relief from arbitration, the Board of Trustees of the Junior College District argued that "an arbitrator does not have jurisdiction to hear grievances seeking review of judgments not to rehire non-tenured probationary faculty members" since this would interfere with the board's legislated right to employ and determine the duration of employment. The court determined that the only relief should be confined to affording the grievants the procedures outlined in the agreement because "under no circumstances does an arbitrator have the power to award additional employment."

The union contended that pursuant to the collective bargaining agreement only the chancellor of the city colleges and the board had authority to decide whether faculty members are hired or retained, and not the president of the college. Since their decisions are subject to review by arbitration, the union contended that the requested restrictions on the arbitrator's authority were illegal because the board had bargained away the limitations upon the scope of arbitration which it sought to impose.

Overturning the union's contention that the president of a college did not have authority to decide whether faculty members are hired or fired, the court said that such authority was conferred in the Public Junior College Act (P.J.C.A.). Additionally, courts have held that "a board may not through a collective bargaining agreement or otherwise, delegate to another party those matters of discretion that are vested in the board by statute." Therefore, the court ruled that the decisions in the grievances involved in this case were properly made by the college president, who by law is an agent of the board. And, since the law mandates the board to determine which faculty members are qualified for promotions, "it follows that an arbitrator may not award a renewal contract even if the Collective Bargaining Agreement explicitly clothes him with that power."

On the basis of *Board of Regents v. Roth* in which the court approved due process hearing procedures, the court concluded that the grievants had a right to have arbitrated the question of whether the grievance procedures outlined in the agreement were followed; however, the arbitrator's authority is limited to awarding that such procedures be accorded the grievants. But, "those grievants who rest their claim to renewal of their contracts upon a denial of a constitutional right may seek an award of renewal of their contracts only if it is clearly and convincingly proved that renewal was denied them solely by reason of the exercise of the right of free speech or because of engagement in Union activity, and that the judgment to refuse renewal was manifestly in disregard of their demonstrated competence and qualifications." (*Board of Trustees of Junior College District No. 508, Plaintiff v. Cook County College Teachers Union, Local 1600 et al., Defendants*, Circuit Court of Cook County, Illinois, September 14, 1972.)

MINNESOTA

Treatment of AAUP and UFT Must Be Uniform

The University of Minnesota must be uniform in its treatment of the American Association of University Professors (AAUP) and the United Federation of Teachers Local 2408 (UFT) according to the Minnesota District Court. Citing a similar court ruling in Florida, the court said that the university may not refuse to meet with the UFT or deny it the use of university mailing and other facilities while granting AAUP such privileges.

In concluding, the court pointed out that its ruling was not intended to direct the university to treat such organizations in any particular way but to insure that such organizations are treated equally. (*United Federation of Teachers Local 2408 v. University of Minnesota and Malcolm Moos, President*, Minnesota District Court, May 16, 1973.)

NEW JERSEY

Policy Prohibiting Discussions with Students About Negotiations Violates Free Speech

The New Jersey Superior Court ruled that the Dell River Board of Education could not prohibit teachers from answering students' questions concerning labor negotiations between the River Dell Education Association (RDEA) and the board. During negotiations the board issued a directive prohibiting teachers from answering students' questions re-

garding negotiations, the purpose being, to prevent disruption of school routine by prolonged discussion of negotiations. Though the policy change had been rejected by the association, the board unilaterally implemented it and attached disciplinary measures for infractions. The disciplinary measures included discharge, removal of tenure, or withholding of increments. RDEA sought a declaratory judgment as to the legality of the policy and an injunction against its enforcement.

The association argued that "the board's policy is a prior restraint on freedom of discussion in an academic environment."

The board asserted that the court had no jurisdiction since administrative remedies had not been exhausted. The court ruled that this case was within its purview and not the education commissioner's since the issue involved was a constitutional question for which the court was "uniquely suited to determine," and not a dispute arising under the school laws which the commissioner would have the expertise to handle.

Referring to the Supreme Court of the United States ruling in *Tinker v. Des Moines Independent School District*, the Superior Court held that this ruling barred a school board from curtailing freedom of expression, however controversial, unless it could show that school activities would be disrupted if these views were not curtailed. And in this case, the board had not presented enough evidence to warrant curtailing freedom of expression. However, the court pointed out that the board's case would have been more valid had the memo prohibited *extended* discussion of negotiations. Moreover, the Supreme Court has held that neither students nor teachers "shed their constitutional rights to freedom of expression at the school house gate." The Superior Court stated that "it can be argued that the subject of current negotiations is appropriate for questions by students and answers by teachers in the school setting since the relationship between the teachers and the school board may have a direct effect on the students themselves."

On the basis of the foregoing, the court ruled that the directive banning discussions of negotiations was unconstitutional as violative of both the Constitution of the United States and the New Jersey Constitution. (*River Dell Education Association et al., Plaintiffs v. River Dell Board of Education, Defendant*, New Jersey Superior Court, January 18, 1973.)

Agency Shop Ruled Invalid

The Appellate Division of the Superior Court of New Jersey upheld a lower court decision which had invalidated an agency shop clause in the contract between the New Jersey Turnpike Employees' Union, Local 194, American Federation of Technical Engineers, and the New Jersey Turnpike Authority. The parties had sought a declaratory judgment as to the legality of the agency shop provision which had been negotiated and accepted into the contract contingent upon a favorable decision by the court.

The union held that an agency shop fee equal to regular dues, with payment a condition of employment, would distribute the costs of membership services, negotiations, and grievance processing equitably among all persons benefiting from the provisions.

The Turnpike Authority demurred on two points; the first argued that the agency shop clause violated the right of an individual under the state constitution to choose his own representative(s). The second objection focused on a provision of the New Jersey Employer-Employee Relations Act that stated that public employees are "protected in the exercise of the right freely and without fear of penalty or reprisal, to form, join, and assist any employee organization or to refrain from any such activity."

On the constitutional argument, the court ruled that the existence of an exclusive bargaining agent in this instance precluded the right of a public employee to represent himself or seek other representation. As to the second obligation the court found that the agency shop clause "would have the predominant effect of inducing, if not compelling, union membership" thereby abridging the individual's right to refrain from membership under the state labor relations statute. The higher court sustained the lower court's ruling that the agency shop clause was invalid. (*New Jersey Turnpike Employees Union, Local 194 of American Federation of Technical Engineers v. New Jersey Turnpike Authority*, New Jersey Superior Court, Appellate Division, April 18, 1973.)

NEW YORK

State Supreme Court Upholds Two Arbitration Decisions

The New York Supreme Court upheld arbitrator's decisions in two cases challenging the enforceability of his decision.

- In the first case, the court upheld an arbitrator's determination that a collective bargaining agreement had not been violated and the arbitrator's decision not to rule on whether a regulation of the State Commissioner of Education had been violated.

The petitioners contended that the arbitrator had exceeded his power by failing to determine both issues before him, including the question of whether the Commissioner's regulations had been violated.

The arbitrator held that violations of these regulations are subject to their own enforcement and need not be arbitrated.

The court agreed with the arbitrator and said that his determination was not contrary to the agreement and that the arbitrator had a duty to interpret the agreement and "to enforce it according to the rules of law which he deems appropriate in the circumstances." Accordingly, the arbitrator's award was confirmed.

- In the second case, the court found no misconduct on the part of an arbitrator who made an award even though the Glen Cove School District absented itself from the hearing. The arbitrator awarded teachers employed by the dis-

trict the salaries set forth in the collective bargaining agreement, including retroactive pay, unless the district proceeded in good faith with arbitration within 15 days after receiving notice of the order. After informing the attorney for the district of the date that the hearing would be held in the event that the district's request for a stay of arbitration was lifted, the arbitrator concluded that the district had no intention of attending the scheduled hearing and, therefore, proceeded to hear the case and make the award.

Since evidence indicated that the school district was aware of the hearing date and made clear its intention to be absent, the court ruled that the arbitrator was justified in proceeding without the respondent being present and in making the determination with only the evidence presented. Therefore, the award was confirmed. (*Caligiuri, Petitioner v. Board of Education of New York City, Respondent*, New York Supreme Court, January 18, 1973; *Edward Sweeney, Petitioner v. Glen Cove City School District, Respondent*, New York Supreme Court, January 12, 1973.)

FEDERAL

Mandatory Paid Leave for Jury Duty Constitutional

The Supreme Court of the United States reversed the Alabama Court of Civil Appeals decision which struck down as unconstitutional a state statute requiring employers to pay their employees regular compensation less jury duty pay.

In accordance with an Alabama statute stipulating that an employee excused for jury duty is entitled to his regular compensation less the fee received as a juror, the petitioner sued his employer for refusing to pay. A trial court ruled in favor of the petitioner, but the Court of Civil Appeals held the statue unconstitutional.

The appeals court held that the Act violated the due process clause of the Fourteenth Amendment because it deprived the employer of property. The court cited *Coppage v. Kansas*, in which a statute was declared unconstitutional because it violated due process by making it a misdemeanor for an employer to require an employee to agree not to join or remain a member of a union.

The Supreme Court cited *Coppage* along with *Day-Brite Lighting Inc. v. Missouri*, where in the court sustained a state statute which made it a misdemeanor for an employer to deduct employee wages when the employee absented himself in order to vote.

Turning to police power, the high court held that the present law was designed to eliminate any penalty for exercising the right of suffrage. Further, the court indicated that the police power adequate to fix the financial burden for one was adequate for the other.

Accordingly, the Supreme Court reversed the state court's decision. (*Sam Dean, Petitioner v. Gadsden Publishing Corporation, Respondent*, United States Supreme Court, June 11, 1973.)

Federal Law Ambiguous When Applied To Public Employees' Freedom Of Speech

The U.S. District Court for the Northern District of Illinois ruled that absent specified limits on free speech, the Federal law (U.S.C. 7501) which allows termination of employees "to promote the efficiency of the service" was unconstitutionally vague when used to justify the termination of a public employee who openly criticized his superiors. The court also found the law unconstitutional as it permitted termination of an employee without a hearing on the charges without meeting the minimal due process requirements of the Fifth Amendment.

The suit was filed by an employee of the Office of Economic Opportunity (OEO) who was discharged after attending a press conference where a group of American Indians criticized certain governmental agencies including the OEO.

The court agreed with the plaintiff-employee in that termination under the law abrogated the employee's rights to have a hearing before an impartial party, to present witnesses, and to receive a written notice of the reasons for this discharge. The court felt that only an "unusually important governmental need justified an employee's discharge without a hearing of the charges."

Considering whether the law authorized an employee's dismissal for criticizing his superiors, the court found both the law and the OEO implementing regulations unclear on the issue of free speech. However, the court stated that the government should be able to regulate its employees' speech to some extent, but continued that "it is because Kennedy [plaintiff] and other federal employees in the competitive service are not specifically notified of such limits on their speech by [the law and regulations] that the [government's] construction of the statutes is unconstitutional." Accordingly, the court declared 5 U.S.C. 7501 and related regulations unconstitutional when applied to free speech and ordered the OEO employee reinstated with back pay. (*Wayne Kennedy, et al., v. Philip Sanchez et al.*, U.S. District Court for the Northern District of Illinois, October 24, 1972.)

Board Findings and Rulings

MASSACHUSETTS

Contract Does Not Bar Representation Election in Split District

A current contract does not effect a bar to the formation of a new bargaining unit created as a result of splitting of a school district even though the employees of the new district are covered by the already existing contract. The Massachusetts Labor Relations Commission (MLRC) thus affirmed that the contract between the Montague Teachers Association and the Montague School Committee did not bar the formation a new association at a new school district where half of the Montague teachers would be employed, upon transfer. Accordingly, the MLRC ordered a representation election for teachers employed by the newly created Gill-Montague Regional School Committee.

Having received a petition for an election by the Massachusetts Teachers Association for its affiliate, the Montague Teachers Association, and the newly formed Gill-Montague Teachers Association, the MLRC had to interpret prohibition implied by the "contract-bar rule" with regard to the formation of the new bargaining unit.

MLRC noted that the contract-bar rule existed "to help the parties to a contract enjoy a stabilized employer-union relationship" and did not apply the rule in this case as it "would frustrate the opportunity of the parties to develop a sound and stable employer-union relationship."

The MLRC ordered an election for two units, one for certificated employees, and a second to include the principal, and the assistant principal, but excluded from both units all nonprofessionals, custodians, clericals, cafeteria workers, substitute teachers, and teacher aides. (*Gill-Montague Regional School Committee and Gill-Montague Teachers Association*, Massachusetts Labor Relations Commission, April 19, 1973.)

MICHIGAN

MERC Defers Contract Dispute to Arbitration

The Michigan Employment Relations Commission (MERC) refused jurisdiction over a dispute concerning outside hiring to fill a vacancy in violation of a negotiated contract.

The Wayne County Road Commission Supervisory Employees union filed unfair labor charges against the Board of County Road Commissioners, alleging that the board's refusal to bargain was a violation of the Public Employment Relations Act (PERA), when the board filled a job through outside hiring. The union contended that the board discriminated against five employees who held Account IV positions by hiring a black employee at an Account V position solely to implement a recently established affirmative action program and comply with the Civil Rights Act. The union maintained that filling the vacancy without consulting it was an unlawful refusal to bargain.

The board contended that according to the Civil Service Rules and Regulations that were made a part of the agreement, it had a right to hire from outside rather than promote an employee to fill a job vacancy.

MERC concurred with the reasoning in *Collyer Insulated Wire* that mandated resolution of differences through arbitration where parties have agreed to that method in cases involving unfair labor practice stemming from a failure to comply with the negotiated agreement.

Since the union and the board had an agreement incorporating a grievance procedure with the final step providing binding arbitration to settle disputes, MERC declined jurisdiction and dismissed the charge that the board violated Section 10(e) of PERA. (*Matter of The Board of County Road Commissioners of The County of Wayne and Wayne County Road Commission Supervisory Employees*, Michigan Employment Relations Commission, September 19, 1972.)

MINNESOTA

Single Unit of Vocational and Special Education Teachers Determined

The Minnesota Bureau of Meditiation Services rejected vocational educators organization's request for separate units for vocational and special education teachers. The Bureau held that it must comply with statutes and "find an appropriate unit to be all certificated teachers in a given school districts, excluding certain supervisors." Interjecting that similar questions have been raised where vocational schools operate within a school district and where special vocational school districts have been established with varying composition, the Bureau said that its concern was whether the vocational and special educational teachers share a common ground owing to a great degree of variance in training and background.

Concluding that law bars any other remedy, and because the school district covers a wide area, the Bureau ordered

an election by mail ballot in a unit consisting of all certificated teachers employed for more than 14 hours per week and for more than 100 days per year. The unit is also to include those employees on leave of absence who are guaranteed a position upon return, but to exclude supervisory employees, confidential employees, superintendents, assistant superintendents, principals, assistant principals who devote 50 percent of their time to administrative and supervisory duties, and all other employees. (*916 Vocational Educators Organization and AFT Local 2343 and Special Intermediate School District No. 916, Roseville*, Minnesota Bureau of Mediation Services, November 22, 1972.)

NEW YORK

Arbitrator Upholds Agency Shop Provision

Stating that the scope of an arbitrator's powers lies only with the interpretation of contractual provisions and not with points of law, an arbitrator upheld a negotiated agency shop provision and ordered the Glen Cove School District to remit to the Glen Cove Teachers Association all agency fee monies collected and held in escrow.

While skirting the question of the legality of agency shop, despite negative decisions from PERB as to its validity, the arbitrator nevertheless upheld the association's contention as the grievance machinery limited him to decisions on the negotiated content of the collective bargaining agreement.

In agreements and a supplemental contract negotiated for 1971-1973, the parties agreed on an agency shop provision which stipulated that the concept of agency shop would be employed within the district unless the legislature made it illegal. Included was a save harmless commitment in which the association agreed to pay any loss, expenses, damages, costs, and attorneys fees that might accrue against the district as a result of the implementation of the agency shop fee. The association also agreed to participate to the fullest extent possible in all legal actions or proceedings relating to the legality of agency shop.

The board contended that its refusal to submit to the association monies collected under the agency shop provision was based on the fact that "substantial doubt exists as to the legality of compliance with agency shop provisions in teacher organization-school board collective agreements under the laws of the State of New York."

Examining a decision of the state's lowest court and a PERB ruling which the board submitted in support of its position, the arbitrator concluded that the board's position was not frivolous, but, that questions of legality were beyond his jurisdiction, his powers being confined to contract questions. On the basis of the present agreement, according to the arbitrator, the district's reasons for failing to abide by the agreement were inadequate. In addition, the arbitrator noted that the evidence supporting the district's argument did not stem from the Court of Appeals or a court of higher jurisdiction in the Second Judicial Department. However, if such a higher decision existed, the arbitrator said, the terms of the agreement would compel him to decide in the board's favor.

Finding the board in violation of the terms of the agreement, the arbitrator ruled in the association's favor. (*In the Matter of Arbitration Between the Glen Cove City School District and Glen Cove Teachers Association*, May 28, 1973.)

Mandatory Retirement Negotiable

The scope and duty to negotiate under the Taylor Law was expanded with regard to mandatory retirement when the PERB ordered the Harrison School District to negotiate with the Harrison Association of Teachers on a mandatory retirement policy that the school board had attempted to unilaterally impose.

The school board passed a resolution mandating that teacher-members of the Teachers' Retirement System aged 70 or over retire. The association considered compulsory retirement a negotiable issue and filed an improper practice charge when the school board refused to bargain on the matter. The issue concerned the interpretation of the Education Law which states that "any member who has attained age seventy may be retired at his own request or at the request of his employer. . . ."

The school board, while conceding that compulsory retirement was a term and condition of employment, advanced the opinion that the Education Law gave it absolute authority to require a mandatory retirement at age 70.

PERB, disagreeing with the school board, determined that the language of the Education Law was permissive by design and that neither was absolute authority explicitly vested nor was the board obligated to retire teachers at age 70.

Absent a state law requiring the school board to set a mandatory retirement age and specifying it, and with no contractual agreement between the parties concerning mandatory retirement, PERB ruled that under the Taylor Law there was a duty to negotiate the subject and ordered the board to negotiate with the association over a mandatory retirement age. (*Harrison Association of Teachers and Board of Education, Central School District No. 1*, Public Employment Relations Board, March 19, 1973.)

"Specific Need" Must Be Shown To Gain Access To Facilities

Failure of an association to show specific need to inspect school facilities, according to the Public Employment Relations Board (PERB), allows a school board to exercise its prerogative and deny any association visitation requests. The PERB upheld a previous ruling that the Albany School District did not violate the Public Employees' Fair Employment Act by refusing to give permission to representatives of the Albany Public School Teachers Association to inspect physical conditions at the schools in order to gather data for negotiations and grievances.

The association regarded refusal of these requests as failure to negotiate in good faith and interference with the administration of the contract, thus constituting grounds for improper practice charges against the district. Provision for access to school facilities did not exist in the parties' contract.

PERB noted that the absence of a visitation provision did not necessarily deny the association access rights but did place the burden upon the association to establish the specific need for visitations. PERB stated that "an employee organization may request and is entitled to receive, information which is necessary for the preparation for collective negotiations. . .and information necessary for the administration of a contract including the investigation of grievances." However, the association's request must be reasonable, and the information sought must be relevant and unavailable elsewhere, obviously unknown to or unavailable through the membership, and germane to protection of members' rights as delineated in the contract. The information does not have to be furnished in the exact form requested so long as it satisfies the need.

The PERB held that the association and the school board are obligated to deal with each other in administration of the contract as to grievances arising under the agreement.

Examining the content and timing of the association's visitation requests, PERB concluded that the association had failed to demonstrate that access in each instance was necessary for purposes of preparing for negotiations or processing greivances. PERB found no violation of law in the school board's conduct and ordered the association's charges dismissed. (*Board of Education, City School District of the City of Albany and Albany Public School Teachers Association*, Public Employment Relations Board, March 5, 1973.)

PENNSYLVANIA

PLRB Refuses To Set Aside Election

The Pennsylvania Labor Relations Board rejected the Allentown School District's exceptions to a nisi order of certification of the appropriate unit of cafeteria employees. The school district asked that the election be set aside because of employee turnover between elections, misstatements in union propaganda, and premature closing of the polling place.

The school district, citing similar National Labor Relations Board (NLRB) decisions, objected to the sustaining of a challenge to the ballots of nine cafeteria workers who were hired after the eligibility list was prepared prior to the election. However, in the NLRB cases, the turnover of employees was 25 percent while the nine in this case accounted for only a 5 percent turnover considered too negligible to warrent a new election.

Regarding the district's allegation that misstatements in union propaganda, created ambiguities the PLRB stated that an election could not be set aside unless one party has made a material misrepresentation of fact so misleading as to prevent a free choice by employees. No such misrepresentation was made in this case according to PLRB.

The school district's contention that the polling place was closed before the designated time was also rejected as there was no evidence presented by the district to show that any employee was denied the right to vote.

The PLRB did not set aside the union run-off election in response to the exception filed by the district and dismissed its request to reopen the question of the affiliate unit. (*Matter of Employers of School District of City of Allentown*, Pennsylvania Labor Relations Board, May 10, 1973.)

RHODE ISLAND

Grievance Procedure Mandatory Subject of Bargaining

The Rhode Island State Labor Relations Board (RISLRB) supported the Richmond Teachers Association's contention that a grievance procedure is a mandatory subject of bargaining under state law. The association alleged that the Richmond School Committee had illegally refused to execute a collective bargaining agreement which included an impasse arbitration award providing for binding arbitration of grievances.

During negotiations, the school committee refused to bargain over an associations proposed grievance procedure on the grounds that resolution of grievances was governed by Section 16-39 of the General Laws. The unresolved issues were subsequently sent to arbitration, and arbitrator's award included the grievance procedure provision, however, the school committee refused to execute the collective bargaining agreement.

The Board felt that the main issue was whether grievance procedures were a mandatory subject of bargaining under Section 28.9 of the General Laws (the Michaelson Act). According to the Board's findings, the Michaelson Act which provides for the negotiation of hours, salaries, working conditions and all other terms and conditions of professional employment, includes the negotiation of grievance procedures. The RISLRB therefore ordered the school committee to execute the collective bargaining agreement including binding arbitration of grievances. (*In the matter of Rhode Island State Labor Relations Board and Richmond School Committee*, Rhode Island State Labor Relations Board, November 20, 1973.)

Negotiation Notes

KANSAS

State Board Favors Separate Blue-Collar Units at State Colleges and Universities

The Kansas Public Employee Relations Board made its first determination of bargaining units appropriate for public employees by favoring the Wisconsin approach of recognizing five basic state units: operational services; security services; institutional services; administrative services; and professional, scientific, and technical services. The Board also favored allowing employees at each unit of higher education institutions to organize on an individual institution basis.

The Service Employees International Union applied to the Board for recognition of its Public Service Employees Union, Local 1132 to bargain for service and maintenance employees at the University of Kansas Medical Center and for recognition of its Local 513 for those at the Fort Hays facility.

The state maintained that the appropriate units should consist of the employees of the University of Kansas and University of Kansas Medical Center as one unit and employees of Kansas State Teachers College, Wichita State University, Kansas State College of Pittsburg, Fort Hays Kansas State College, and Kansas State University as one unit.

The decision of the Kansas PERB was to have separate units of its blue-collar employees at the several state institutions of higher education rather than one unit to cover all employees doing the same work at the several institutions.

The Board based its decision to declare appropriate separate units of physical plant employees at Fort Hays, Lawrence, and Kansas City on the separate operating entity and the complex relationship between an administration and its employees, the employees' community of interest within individual institutions, and the fact that problems with university employees' working conditions tend to be handled at the local level.

TEXAS

Women Custodial Employees Awarded Retroactive Pay, Interest, Equalized Wages

A violation of the Fair Labor Standards Act (FLSA) by the Goose Creek Consolidated Independent School District's discriminatory wage policy resulted in a U.S. District Court order to compensate women at the average rate paid male custodial employees and to pay retroactive wages at those rates.

The school district acknowledged a difference in average wages paid male and female custodial employees, but claimed the differences were generated by a merit system and numerous additional responsibilities assigned to the men. The school district also stated that men often had supervisory responsibilities, monitored heating and air-conditioning equipment, ordered supplies, and performed minor repairs, as well as operating cleaning equipment.

The court found the work performed by both sexes to be substantially the same, regardless of the alleged differences in duties and responsibilities. The additional responsibilities for men took very little time and had been performed at times by women, the court declared. Furthermore, the existence of a merit system had never been announced, nor had merit raises ever been given to women.

The court ruled that the wage differential was based on sex discrimination and ordered the pay for women to be raised to the average wage paid to men and the compensation, retroactive to May 18, 1969, to be computed at the new rates, with 6 percent interest. (*Brenan and Goose Creek Consolidated Independent School District*, U.S. District Court, Southern Texas, April 3, 1973.)

FEDERAL

Accrued Sick Leave May Be Used for Maternity, Says U.S. Solicitor General

The Nixon administration has submitted a memorandum to the Supreme Court of the United States which declares forced leave policies for pregnant teachers in violation of the 14th Amendment's guarantee of equal protection under the law. Solicitor General Robert H. Bork said the policy which requires a woman to stop teaching when she reaches the fifth month of pregnancy is unlawful discrimination and that, instead, she "should be granted sick leave for the period she expects to be absent, just as other employees may use their accrued sick leave for their disabilities or illnesses." Although the Administration's legal view was not solicited by the Court's justices, it is expected to carry weight. The High Court will hear maternity leave cases this month involving teachers from Virginia and Ohio. NEA is financing the Supreme Court appeal of Susan Cohen from Virginia. It also financed her case at the district and appellate court levels and has filed amicus briefs in the LaFleur case (Ohio) in the 6th Circuit and in the Supreme Court.

Phase IV Pay Regulations May Require Pay Increase Prenotification: Workers Earning Less Than $3.50 An Hour Exempt From Pay Controls

The Cost of Living Council (CLC) has issued pay regulations affecting Phase IV of the Economic Stabilization Program. Though Phase III pay regulations, including the council's authority to require pay increase prenotification, have been retained, new regulations exempt "low wage" workers (under $3.50 an hour) from pay regulations and expand prenotification requirements.

Under the regulations, the Council may require prenotification to allow sufficient time for examining pay increases to see if the increases meet the following criteria: are in excess of general wage and salary standards, may unduly influence the collective bargaining process in a destablizing manner in other firms or appropriate employee units, or appear to be unreasonably inconsistent with the standards and goals of the Economic Stablization Program. The Council's authority was exercised infrequently during Phase III, and similar behavior is expected during Phase IV.

The 5.5 percent general pay standard and the 0.7 percent qualified benefits standard will be maintained during Phase IV; however, these limitations do not apply to workers earning less than $3.50 an hour. For employee units which contain both workers earning more than $3.50 an hour and workers earning less than $3.50 an hour, pay prenotification forms must be submitted for any increases granted to those earnings more than $3.50. Previously, regulations had been issued governing new and retroactive raises. One regulation mandates that when employers compute pay increases after January 10, 1973, they use the base rates that resulted from the Pay Board cutback rather than the rates that their contracts had initially proposed.

The second grants employers, regardless of the number of workers employed, the authority to pay retroactively for work performed during Phase II without prior approval of CLC provided such payments do not exceed the Phase II wage and salary standards. However, should the parties agree that a retroactive increase that exceeds the pay standard or self-executing exceptions is justified, the increase may be paid retroactively without prior approval of CLC. In this instance CLC must be notified within 10 days after the payment becomes effective. Further, CLC will make determinations in cases where the parties do not agree that an increase under Phase II is justifiable.

Employers who are self-administering and not under mandatory controls must now report pay adjustments affecting employee units of 5,000 or more workers to the Council within 10 days after the increases become effective. Additionally, units of 5,000 or more with a merit increase plan must now submit reports for the control year within 10 days after the first increase is granted.

The Consumer Price Index—August 1973

The Consumer Price Index rose 1.8 percent in August to 135.1 (1967=100), the U.S. Department of Labor's Bureau of Labor Statistics reported today. A substantial increase in food prices, primarily for meats, poultry, and eggs, accounted for about 80 percent of the rise in the CPI.

On a seasonally adjusted basis, the July-to-August increase in the CPI was 1.9 percent. In the 6-month period ended in August, the CPI rose at a seasonally adjusted annual rate of 10 percent; over the 12-month period the rate of increase was 7.5 percent.

The August increase in the CPI was the sharpest 1-month rise since September 1947, mainly because of the record 6.1 percent rise in the food index. The nonfood commodities index increased 0.5 percent in August after seasonal adjustment, slightly above the average for recent months. The services index rose 0.7 percent, the largest monthly rise in almost 3 years.

FIVE STATES AMEND LABOR RELATIONS LEGISLATION

Public employee bargaining statutes in Minnesota and Michigan were amended to allow negotiation of agency shop clauses for all public employees. In Rhode Island, state employees' statutes also were amended to permit negotiation of agency shop provisions. The Minnesota statute was revised to grant strike rights to nonessential employees in certain situations. A revision of Maine's state employees grievance procedure includes time limits on filing of charges. An extensively amended collective bargaining act in Oregon covers all public employees; for teachers it supersedes the 1965 Teacher-Board Consultation Law. This revised legislation allows negotiation of agency shop, and permits strikes 30 days after a fact-finder's report is issued.

- Minnesota's amended 1971 public employees collective bargaining statute now (a) grants strike rights to nonessential employees when an employer refuses to submit to binding arbitration or to adhere to a binding award; (b) further defines the terms and conditions of employment to include fringe benefits but exclude retirement benefits and the school district's educational policies; (c) makes agency shop provisions negotiable; (d) provides for election of an exclusive agent by a majority of those voting instead of a majority of all eligible voters; and (e) lifts exclusion of supervisory and confidential employees, principals, and assistant principals from units of nonsupervisory and nonconfidential employees, thus allowing them to form their own organization, be granted exclusive representative status, with all employee rights granted by the law.
- Amendments to Michigan's 1965 Public Employee Relations Act which permit negotiation of agency shop, nullify a recent state supreme court decision banning agency shop provisions as unauthorized by PERA.

• The revision of Rhode Island's state employees' salaries and traveling expenses statute allows employee organizations recognized as exclusive bargaining agents to negotiate agency shop contracts. The legislation was strongly supported by the American Federation of State, County, and Municipal Employees, the largest labor organization in the state.

• Maine's state employees' grievance procedure, enacted in 1965, was amended to include a timetable for filing grievances. Previously the procedure had no time limits, and the State Employees Board which handled the grievances, found itself sometimes dealing with matters over a year old.

• Oregon's Public Employee Collective Bargaining Act becomes effective October 1973. The newly amended law recognizes as exclusive representatives those teacher units which were previously recognized by the Teacher-Board Consultation Law; however, individual representatives are not recognized, and committee representatives will be phased out by July 1, 1974. The Act establishes the Public Employees Relations Board to supervise elections and unit determinations as well as to administer the statute. It defines the scope of negotiations to include but not be limited to wages, hours, and conditions of employment, allows negotiation of agency shop provisions, and requires dues deduction for exclusive representatives. It permits strikes provided 30 days have elapsed since a fact-finder's report, and at least 10 days' prior notice has been given to the employer. If the strike is enjoined as a violation of health, safety, or welfare, parties must submit to binding arbitration. The legislation also contains a formal procedure for resolving disputes, permits two parties to agree to binding arbitration any time during negotiation, and requires a written, signed agreement at the completion of negotiations. **(The complete text of The Oregon Public Employee Collective Bargaining Act is reprinted in the *TEXT* section.)**

Special Reports

PSC/CUNY, AN NEA AFFILIATE, NEGOTIATES HIGHEST FACULTY SCHEDULED SALARIES IN COMPARISON WITH PUBLIC INSTITUTIONS OF HIGHER EDUCATION

With the exception of minimum salaries for assistant professors and maximum salaries for professors, the recently negotiated scheduled salaries for CUNY faculty, retroactive to October 1972, are the highest among 4-year degree-granting institutions for 1972-73. However, for these two exceptions, the scheduled salaries at CUNY are in the top quartile of scheduled salaries in public 4-year institutions. Compared with scheduled salaries in public 2-year institutions in 1972-73, the scheduled salaries for faculty at CUNY are the highest for each rank except for scheduled minimum salary for assistant professors.

Nationally the median number of increments in public 4-year institutions is seven for each rank; professors and associate professors at CUNY will get seven increments but assistant professors nine and instructors eight. For all ranks the average amounts of increments and the total amounts added by increments for faculty at CUNY are higher than the median of these amounts among public 4-year institutions with scheduled increments but are not the highest. The increments for faculty at each rank at CUNY are larger than the median amount of scheduled salary increments for the rank in all public 2-year institutions.

National summary information by type of institution and institutional listings of scheduled faculty salaries are available in NEA Research Reports: *Faculty Salary Schedules in Community-Junior Colleges, 1972-73.* Research Report 1973-R6. (63 p. $1.75. Stock No. 435-25526). *Faculty Salary Schedules in Colleges and Universities, 1972-73* Research Report 1973-R7. (34 p. $1.50. Stock No. 435-25528)

The following is a brief of the recently negotiated agreement between PSC/CUNY and the Board of Higher Education. The contract, which was overwhelmingly approved, extends through the 1974-75 school year.

SALARIES

INCREMENTS: The present increment system is retained. Increments are paid annually, varying from title to title and from step to step, and averaging 4.7% of the average CUNY salary. They fall due in September at the community colleges, in January at the senior colleges, retroactive to September 1972, until 1974-75, when they fall due January 1, 1975, at all colleges.

INCREASES: In addition to applicable increments, all full-time incumbents receive $600 increases retroactive to October 1, 1972; $750 due October 1, 1973; and $850 October 1, 1974. They are 3.3%, 4.0% and 4.4%, respectively, of the average CUNY salary.

PARITY between cummunity college and senior college staffs is achieved by January 1, 1975.

MAXIMUM: The new maximum salary will be $33,475.

PROMOTIONS

FACULTY RANKS: Up to 1,800 promotions of qualified personnel shall be made during the next two years without budgetary restrictions, toward the goal of achieving a 30-30-30-10 distribution of full Professors, Associate Professors, Assistant Professors and Instructors.

CERTIFICATED LECTURERS with the doctorate who have been recommended for appointment to Assistant Professor shall be so appointed without budgetary restrictions.

COLLEGE LABORATORY TECHNICIANS shall be promoted without budgetary restrictions toward the goal of bring the percentages of those in the C, B and A titles in each college to 30, 30 and 40, respectively.

ADJUNCTS shall be eligible for promotion to higher adjunct titles.

DUE PROCESS

ACADEMIC JUDGMENT is, for the first time, defined and subjected to grievance and arbitration.

REVIEW OF ACADEMIC JUDGMENT: In cases involving failure to appoint, promote or reappoint, if the arbitrator determines that a fair academic judgment may not be made on remand "if normal academic procedures are followed," he may remand to a select faculty committee consisting of members chosen by the union, the college president, and the third by those two members.

REASONS must be given by the college president, if requested by the individual, for the president's overruling a personnel committee's recommendation to reappoint or promote.

PERSONNEL FILES: Observation reports must now be shown to employee and must be placed in Personal File, which is available for examination by the employee. The Administration File "shall contain only such materials requested by the unit of The City University or supplied by the employee in connection with the employee's employment, promotion or tenure."

PROFESSIONAL EVALUATIONS OF TEACHING FACULTY will be based on total academic performance, with special attention to teaching effectiveness according to the procedures previously established.

PROFESSIONAL EVALUATIONS OF NONCLASSROOM PERSONNEL will consist of an evaluation conference with chairman/supervisor at least once each year, preferably once each semester, reviewing "total performance and professional progress."

PROFESSIONAL EVALUATIONS FOR ALL EMPLOYEES must take place by designated dates; if they do not, employee must request same or waive right to complain regarding failure to observe/evaluate.

LECTURERS FULL-TIME AND ADJUNT LECTURERS may not be denied reappointment on the basis of professional incompetence unless evaluated during at least three semesters, including the first year of appointment, and unless two of the last four evaluations indicate unsatisfactory professional performance.

WORKLOAD

WORKLOAD FOR CLASSROOM STAFF: The contract adds to the provision in the previous contracts that, in determining what is "excessive" and "unreasonable," "practices in the University during the 1971-72 academic year shall be one of the important elements to be considered."

WORKLOAD FOR NONCLASSROOM STAFF: The contract covers nonclassroom workload for the first time, stipulating that in determining what is "excessive" and "unreasonable," "practices in the University during 1971-72 academic year shall be one of the important elements to be considered."

WORK WEEK, COUNSELORS: 30 hours.

WORK WEEK, OTHER NONCLASSROOM STAFF: 35 hours.

CLASS SIZE: A letter of agreement recommends limits of 15 students in remedial classes and 25 students in freshman English classes.

ANNUAL LEAVE FOR CLASSROOM STAFF, LIBRARIANS, AND COUNSELORS: status quo.

ANNUAL LEAVE FOR REGISTRARS is increased from 23 work days to 30 work days.

ANNUAL LEAVE FOR BUSINESS MANAGERS, CLT'S AND HEO'S is increased from 23 work days to 25 work days.

JOB SECURITY

INSTRUCTORS become eligible for contractual tenure for the first time: they may be appointed as certificated Lecturers after five years of continuous full-time service as Instructors in the same department.

BUSINESS MANAGERS AND HIGHER EDUCATION OFFICERS: The first appointment and the first reappointment shall be for one year. The second reappointment for full HEO's and full Business Managers now must be for two years, and the second reappointment for those in Assistant to, Assistant, and Associate levels, must be for three years. Notice of reappointment: May 1 for first, second and third reappointments; April 1 thereafter. Business Managers and HEO titles may be dismissed only for "just cause" during contractual appointments.

COUNSELORS: Faculty rank and tenure privileges are retained.

LIBRARIANS: Faculty rank and tenure privileges are retained.

NONCERTIFICATED LECTURERS FULL-TIME AND INSTRUCTORS with four or more years of continuous full-time service in those titles who are appointed to the rank of Assistant Professor shall receive two years of service credit toward the achievement of tenure in the title Assistant Professor.

STAFF RIGHTS

ACADEMIC FREEDOM: The rights established in the preamble of the previous contracts are extended for the first time to the nonclassroom staff.

NONDISCRIMINATION is affirmed "in respect of hire, tenure of employment or any terms or conditions of employment . . . because of sex, race, national origin, religion, political belief or membership in, or lawful activity on behalf of the union."

STATED TERMS: The Board's proposal to limit the terms of the contract to those stated explicitly in the contract was considerably modified by specifying: "All Bylaws, policies and resolutions of the Board, and all Governance plans and practices of the Colleges and of the department, as currently in effect, or as the same may be hereafter adopted, supplemented or amended, shall be subject to the said stated terms of the Agreement."

DISABILITY LEAVE (sick leave): 20 work days per year, cumulative to 160 days prorated for those on fractional schedules.

MATERNITY LEAVE for pregnancy, complications or pregnancy and childbirth may be taken to the extent of accumulated disability leave with pay and additionally without pay.

PARENTAL LEAVE may be taken by male or female employees without pay for purpose of caring for a newborn infant, for half year, extendable for an additional year.

OTHER BENEFITS

RESEARCH: $1.5 million for staff research awards annually for this year and 7/1/73, and $1.725 for 7/1/74, "available without restriction to all full-time members of the instructional staff, and the junior members of the faculty in particular."

SABBATICALS (renamed "FELLOWSHIP AWARDS"): $1 million 9/1/72, $1.5 million 9/1/73, $1.725 million 9/1/74, in sabbaticals, which shall be available to tenured

members of the permanent instructional staff, including certificated Lecturers.

WELFARE FUND: Board's per-capita contribution rises to $310 effective September 1, 1972, to $330 effective September 1, 1973, and to $340 effective September 1, 1974.

TRAVEL ALLOWANCES rise from previous $500,000 annually to $625,000 annually.

TUITION WAIVER: for all full-time members, 50% of tuition fees for graduate courses up to four credits per semester and full waiver for undergraduate credit-bearing courses.

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SCHOOL CALENDAR/SCHOOL YEAR NEGOTIATIONS

For the 1970-71 school year, 896 contracts from 31 states included some reference to the school calendar or school year. Of these, a sample of 164 was drawn by taking every fifth one with at least one from each state where a teacher/school board agreement existed.

The sampled contracts were examined for three items: a negotiated calendar included in the contract; a calendar not included, but guidelines indicated for the development of the calendar; and in the absence of these two, some provision for joint committee action and/or for recommendations to the superintendent and/or the board of education. The findings are shown below:

	Number of agreements	Percent
Negotiated calendar	78	47.6
Guidelines for calendar	46	28.0
Joint committes to recommend or association to be consulted on calendar	39	23.8
Proposed calendar sent to association for information purposes	1	0.6
Total	164	100.0

PUPIL ATTENDANCE DAYS

The scheduled number of instruction days in a school year are generally determined by state law; days for pre- and post-school year duties by teachers and for inservice training programs may be added. To handle emergency closing days owing to weather or other emergencies, most calendars include vacation days which can be adjusted to meet the minimum required pupil attendance days without the need for scheduling make-up days on Saturdays.

Number of days	Number of agreements	Percent
Below 180	14	8.5
180	50	30.5
181	14	8.5
182	10	6.1
183	7	4.3
184	4	2.4
185	3	1.8
Over 185	2	1.2
Not indicated	60	36.6
Total	164	99.9

In the 164 agreements examined, the number of scheduled pupil attendance days ranged from 175 in Freeport, Maine to 187 in Akron, New York.

TEACHER DAYS

The number of teacher days, including pupil attendance days, orientation days, workshops, inservice training days, and paid holidays, ranged from 180 days in Ledyard, Connecticut, to 196 days in Volusia County, Florida. The table below is a distribution of the 164 agreements by number of teacher contract days:

Number of days in school year	Number of agreements	Percent
180	2	1.2
181	9	5.5
182	5	3.0
183	9	5.5
184	16	9.8
185	21	12.8
186	10	6.1
187	12	7.3
188	9	5.5
189	4	2.4
190	11	6.7
Over 190	4	2.4
Not indicated	52	31.7
Total	164	99.9

The following table illustrates the distribution of the sample agreements by the number of days teachers are required to be at school in addition to the required instruction days:

Number of days	Number of agreements	Percent
One day	22	13.4
Two days	21	12.8
Three or more days	52	31.7
Not indicated	69	42.1
Total	164	100.0

These inservice days do not include scheduled times for parent-teacher conferences or student-teacher conferences.

In addition to the regular orientation program for all teachers, teachers new to the system may be required to attend at least one additional day before the orientation program for all teachers. Below is a distribution of the 164 agreements:

Number of days	Number of agreements	Percent
One additional day required	26	15.9
One additional day MAY be required	6	3.7
Two or more additional days required	9	5.5
Two or more additional days MAY be required	1	0.6
Not indicated	122	74.4
Total	164	100.0

HOLIDAYS/VACATION DAYS

In many agreements, the Christmas/New Year holidays and vacation period (ranging from four to eight days in addition to the two holidays) are not considered as paid leave days for teachers. The four holidays usually considered in the teacher attendance days are Labor Day, Thanksgiving, Good Friday, and Memorial Day. In addition, the Friday after Thanksgiving and the spring vacation period are considered part of the contract year.

Vacation days for pupils include the day following Thanksgiving, the day or days scheduled for teacher attendance at the state education association meeting, and/or for inservice training, as well as the days between Christmas and New Year's, and spring vacation of two to six days, usually at Easter, in addition to the regular holidays included for teachers.

SNOW DAYS

Snow days is the term used most often to mean those days schools would be closed owing to emergency weather conditions. In many states, snow as well as hurricanes, tornadoes, or epidemics can cause unscheduled school closings. Many calendars are organized so that schools may be closed two, three, or five days and still meet the minimum pupil-attendance days prescribed by law. Several analyzed contracts included provision for a shortened spring vacation and/or for extension of the school year.

Examples of these provisions are given below:

In the event inclement weather forces the closing of schools beyond the number of days that would allow 175 pupil days, Monday of the spring holiday (day after Easter) will be converted to a day of instruction.

[Little Rock, Arkansas]

Three days allows for snow, closing date dependent upon number of days used.

[Wilton, Connecticut]

Snow days (5) are assigned as follows — June 15, June 16, February 21, April 7, April 8.

**[Capital School District
Dover, Illinois]**

The Board will consider granting four vacation days at Eastertime if they are not needed for emergency school closings.

**[Cook County, Argo
Illinois]**

If closing of School is unavoidable, sufficient days will be added at the end of the school year to provide conformance with state law, at no extra cost to the district.

**[Leyden High School,
Franklin Park, Illinois]**

The day at the end of the first semester and the day immediately prior to the end of the second semester are planned as work days without students in attendance; however, these may be utilized as days of instruction if situations arise in either semester to jeopardize the state minimum requirement of 180 days.

[Muskegan, Michigan]

Any attendance days missed in excess of five will be made up on day or days agreed to by the Association and the Board but not beyond contract days—August 28, 1970 - June 11, 1971.

[Saranac, Michigan]

Days missed as a result of inclement weather shall not be made up except in the event that the total number of teaching days should fall below a minimum of 180. In such event, week days following June 17, 1971 will be used with two work days to follow the final day pupils report.

[Fairfax County, Virginia]

Forty-six of the contracts analyzed set the school year/calendar. They vary from giving only the maximum number of teacher days to those indicating the purposes for each of the teacher days included in the total school year. Examples follow:

- 185 days maximum plus one day orientation for new teachers
- 184 days maximum between Tuesday after Labor Day and June 30
- 181 pupil-teacher days plus four institute days of which one will be the Friday before Labor Day
- 185 days total made up of 177 teacher-pupil days; three institute days; and sufficient holidays to equal 185

• No more than six days more than pupil attendance days between September 1 and June 30

• Teachers shall begin no earlier than one day prior to first day for students and end no later than one day after final day for students

BOARD ACTION

Although some aspect of the school calendar/school year was included in all 164 contracts analyzed, 70 contracts indicated that board action is final after consultation with the association or within the framework established in the agreement; one of these 70 indicated that the calendar is to be sent to the association only for information purposes. Five contracts specifically stated that the grievance procedure is waived in cases involving the school/calendar year. The 70 agreements in which board action is final are distributed in the table below by type of board action:

	Number of agreements	Percent
Board to consult with the association	29	41.4
Association forwards recommendations to superintendent to forward to board	18	25.7
Board action final within framework defined	9	12.9
District principal/superintendent to consult with association prior to board action	6	8.6
Calendar is prepared jointly by teachers and administrators	3	4.3
Calendar and charges discussed with association	2	2.9
Board to consult with teachers and building counselors	1	1.4
Board to consult with principals	1	1.4
Proposed calendar sent to association for information purposes	1	1.4
Total	70	100.0

The provisions for consultation and recommendations vary slightly as shown above, but in general, even with board action final in the preparation and adoption of the school year/school calendar, the majority of these contracts include a provision to at least consult with the association. The contract for Piscataway Township, New Jersey, for example, provides: "The Board of Education shall retain the right to determine the total number of days to be attended by pupils, and worked by teachers during the academic school year, but teachers may negotiate distribution of the teachers' working days between September 1 and June 30 of the school year." However, the superintendent prepares the annual school calendar and submits the calendar to the board of education for its consideration and approval *before* presenting it to the association for negotiation on the distribution of working days.

Although many provisions for consultation on school calendar/school year contain no details, 10 percent of the 164 contracts reviewed, however, provide that joint committees be established as the means for such consultation or recommendation. These provisions vary from allowing for committees to function to indicating the number to serve on such a committee and who shall appoint them. Examples of these arrangements follow:

Specific Days of school attendance to be determined mutually by the Committee and the Association.

[Freeport, Maine]

Recognizing the statutory responsibility of the Committee and the Superintendent for determination of the school calendar, and further recognizing the skills and concern of the staff in the matter, the Committee and the Association agree that the determination of the school calendar will be cooperatively arrived at through joint consultation between the Association and the Administration, subject to final approval of the Committee.

[West Springfield, Massachusetts]

The Superintendent of Schools shall prepare a tentative school year calendar which draft shall be submitted to a Calendar Committee appointed by the Association, consisting of three members whose names shall be made known in writing to the Superintendent by the Association, no later than December 31st. Within two weeks of receipt of the draft, the Calendar Committee and the Superintendent shall meet to review the proposed calendar. Within a reasonable time, the Superintendent and the Calendar Committee shall jointly submit a recommended calendar for the school year to the Board. In the event the Board rejects the entire proposed calendar or any part thereof, the Superintendent and the Calendar Committee shall jointly reconsider a proposed calendar and resubmit a revised proposal to the Board.

[Union Twp., New Jersey]

A committee shall be formed composed of administrators and representatives of MITA in equal numbers to recommend a school calendar for the school year 1970-71. It is understood and agreed, however, that the Board shall have the final decision which shall not be subject to the Grievance Procedure.

[Middle Island, New York]

The school calendar, including the starting school date, ending date, unpaid vacation periods, legal and paid holidays, number of pupil attendance and membership days, and the teacher record days will be established through the negotiating process by the Board and the representatives of the EAW prior to its adoption by the Board and before any contract for the year in question is distributed.

[Waukesha, Wisconsin]

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BRIEFS OF AGREEMENTS

Spencer, Massachusetts

Between the School Committee of the Spencer-East Brookfield Regional School District and David Prouty High School Teachers' Association, effective September 1, 1973, to August 31, 1975. Approximately 25 certificated professional employees, excluding the superintendent, principal, vice-principal, and guidance director. Provision for automatic renewal unless either party notifies the other in writing of its desire to modify or terminate the agreement prior to August 31. Provision for negotiation of any policy change by the school committee which is neither covered by the terms of the agreement nor proposed by the association.

COMPENSATION: (1973-74) B.A., $7,875 to $11,915, 11 increments; M.A., $8,675 to $12,715, 11 increments; M.A. + 30, $9,375 to $13,415, 11 increments; (1974-75) B.A., $8,250 to $12,500, 11 increments; M.A., $9,050 to $13,300, 11 increments; M.A. + 30 $9,750 to $14,000, 11 increments; teachers currently employed who have taken graduate courses not included in their master's program will be given credit for those courses toward a master's + 30; after September 1973, all courses must be approved; all honorably discharged veterans with 21 or more months of active military service will be allowed one additional step on the salary schedlue; the Committee has the right to withhold additional increments for just cause.

DIFFERENTIALS: Football coach, $1,100; boys' basketball coach, $900 minimum; athletic director, 1st football assistant, $650; national defense coordinator, $600; audio-visual director, coach of baseball, $550; 2nd football assistant, $540; cheerleading coach and advisor, cheerleaders' tournament, director of speech activities, boys' assistant basketball coach, soccer coach, $500; director of yearbook, girls' basketball coach, intramurals director, $450; faculty manager of athletics, $350; track coach, $330; student council advisor, 3rd football assistant, assistant soccer coach, $300; director of dramatics (per play), director of school paper, $275; assistant director of speech activities, junior varsity baseball coach, field hockey coach, boys' and girls' tennis coaches, girls' softball coach, $250; freshman basketball coach, golf coach, cross country coach, $220; director of scrapbook, yearbook business manager, $193; graduation speakers, honor societies and scholarships and awards, director of project fair, $138; technical advisor of school plays (per play), $100; compensation for professional improvement courses approved by the superintendent of schools paid at the rate of $50 per semester hour on the successful completion of each course, limited to three hours per semester and 9 hours in any one year.

INSURANCE: Board pays 50 percent of Blue Cross-Blue Shield and $2,000 term life insurance.

ASSOCIATION: Payroll deduction for local, state, and national association dues.

LEAVES: One day personal leave for first-year teachers, two days for second and third year, and three days for tenure teachers; requests must be approved by superintendent of schools and submitted up to three days in advance; condolence leave for death in the immediate family; unpaid leave of absence up to one year for professional improvement if approved by school committee;

SICK LEAVE PLAN

1. 1st year teacher will be granted ten days sick leave.
2. 2nd year teacher will be granted ten additional days cumulative to twenty.
3. 3rd year teacher will be granted ten additional days cumulative to thirty days. Teachers who are in their first, second, or third year of service in Spencer-East Brookfield Regional School District and have used their days of sick leave will pay their substitutes for a period of ten days after their days of sick leave have been exhausted. After that 1/185th of the year's salary will be deducted for each day missed. Teachers on tenure will have thirty days plus one day for each year of experience. Example: A teacher who has taught in Spencer and Spencer-East Brookfield Regional School District ten years will have a cumulative total of forty days.
4. Sick leave days are reneweble annually for both tenure and nontenure teachers.

   Example 1—A teacher who has taught ten years and accumulates forty days and used them all in one year will start the next year with forty one days.

   Example 2—Second year teacher uses all of her sick leave days will start 3rd year with thirty days. In other words all teachers start each year with a maximum number of sick leave days according to the number of years they have taught.
5. After a tenure teacher uses her entire sick leave, the pay of the substitute will be deducted from her pay for a period of one year from the date of first absence for the original sickness or injury.
6. A doctor's certificate could be required for personal illness of five or more consecutive school days.

INSTRUCTION: Maximum of 5 teaching periods daily, sixth voluntary; teacher with fewer than 100 pupils may have load increased to 110 in 1973-75, other teachers' pupil loads may not be increased more than 10% over 1967-68; pupil load of no teacher will exceed 130 except for music and physical education classes; student teachers to be taken on a voluntary basis, regular teacher will remain in class majority of time and will be responsible for class including grades.

PERSONNEL: Grievance procedure ends with State Board of Arbitration and Conciliation; chest X rays or intradermal tuberculin skin tests required every three years by law; at

least 30 days' notice required for resignation, no resignation will be accepted between August 1 and October 1; cafeteria will be supervised daily by a teacher from 7:30 a.m. to 8:00 a.m.; male teachers required in turn to supervise pupils bus for one week at a time from 2:30 p.m. until the last bus has left; teachers to arrive no later than 8:00 a.m.; teachers shall remain 45 minutes on the day set by their department for the purpose of aiding students, however, if no student comes for help, the teacher may leave after 30 minutes; teachers shall remain 15 minutes three days; departure at 2:35 permitted on Fridays, the day before a holiday, and on days when teachers must return to school for school activities.

Portland, Oregon

Between the Portland Association of Teachers and School District No. 1, effective July 1, 1973, to June 30, 1974. Approximately 3,600 certificated professional employees. Provision for amendment.

COMPENSATION: B.A., $7,830 to $11,140, 12 increments; B.A. plus 15 hours, $11,340 maximum; B.A. plus 30 hours, $11,500 maximum; B.A. plus 45 hours, $12,500 maximum; M.A. $9,020-$12,720, 11 increments; M.A. plus 15 hours, $13,250 maximum; M.A. plus 30 hours, $13,790 maximum; M.A. plus 45 hours, $14,280 maximum; longevity increment paid teachers who received the maximum salary for a B.A. or M.A. degree during the 1968-69 school year and will receive the maximum salary for those levels on the 1973-74 schedule at the rate of 2-½ percent of his annual salary for B.A. through M.A. plus 15 hours and 3 percent of his annual salary for M.A. plus 30 through M.A. plus 45; additional $500 for doctorate.

Article 21
Severance Pay

A. Severance Pay Credit

For each year commencing July 1, 1973, during which this plan is in effect every full-time teacher (regardless of the period employed) shall be credited with a "severance pay credit" computed as follows up to the maximum described below:

$$\frac{\text{50\% x Base x sick leave days granted during any year the plan is in operation.}}{100}$$

(For severance pay credits under this plan granted during July 1, 1971 to June 30, 1973, see the 1971 Professional Agreement between the District and the Association implemented by Board resolutions numbers 5340 and X6611.) As the sick leave days so credited are used, they shall be charged against the teacher at the same rate and in accordance with the same formula and the excess of the amounts so credited over the amounts so charged shall be the "net severance pay credit." At no time shall the net severance pay credit exceed the maximum of $1,200, and sick leave days which at the time of crediting would cause the net balance to exceed said maximum shall not be counted at that or any other time. For purposes of this Article (1) "base" means the basic salary of a teacher with a BA degree at the zero experience step as such base is in effect at the time the sick leave days are initially granted, (2) only the sick leave days granted under Article 12A1 of this Agreement shall be counted and (3) the days of sick leave shall be deemed used in inverse order to that in which they were originally granted under said Article whether or not such days were part of the severance pay credit.

B. Eligibility and Payment

To be eligible for payment of the severance pay credit in accordance with this plan, the teacher must have been continuously and regularly employed by this District as a full-time teacher for five successive years and the termination of such teacher's employment with the District must have been voluntary on the part of the teacher or as the result of death or retirement in accordance with the Public Employees Retirement Act or under conditions that would constitute such retirement were such Act applicable to such teacher. On or before July 1 of the year of such termination of employment an amount equal to the net severance pay credit of the teacher at the time of termination of employment shall be payable without interest to the teacher or, in the event of his or her death, the personal representative of the teacher. Prior to termination of employment no part of the severance pay credit shall be assignable, voluntarily or by operation of law, or be subject to judicial process. However, the amount of the net severance pay credit at all times shall be deemed a contingent indebtedness from the District subject only to the charges provided above for use of sick leave days and to the teacher becoming eligible for payment as provided herein.

DIFFERENTIALS: (Base is minimum for B.A., $7,830) athletic director, 26%; athletic coach (head), 16%; department chairman (A), drama (A), forensics (A), instrumental music (A), head teachers, 12%; drama (B), 10%; assistant coach, newspaper, yearbook, 9%; department chairman (B), drama (C), forensics (B), instrumental music, vocal music (B), consultants, unit leaders, 8%; intramurals (A), 7%; pep club (A), 6%; intramurals (B), rally, TV producers and directors, college and financial aid coordinators, inservice coordinators, 5%; minor sports coach, department chairman (C), J.V. rally, pep club (B), 4%; safety patrol (A), 3%; pep club (C), safety patrol (B), AV coordinator, radio-TV coordinator, 2%; intramurals high school, 1-¼%; special projects, 1-1/16%.

OTHER: Daily rate for substitute teachers with no degree, $32.48, with bachelor's degree, $35.95, with master's degree, $39.42; $4.65 additional per day paid substitute after 10 days of continuous service in the same assignment; mileage compensation for required on-the-job travel equal to .25 per enrolled child; teachers of inservice classes paid $342 for a 2-hour course and $512 for a 3-hour course in the winter, $439 for a 2-hour course and $655 for a 3-hour course in the summer; a teacher substituting in an administrative or supervisory position paid teaching salary plus $7.38 per working day; when the teacher assumes full responsibility for the position for an extended period of time, he shall receive the pay of the regular appointment.

INSURANCE: Board pays up to $18.71 per month toward the cost of medical-hospitalization insurance; fully paid liability insurance; long-term income protection plan available; tax-shelter annuity available.

LEAVES: Ten days' annual sick leave, credited the first school day of the fall semester, unlimited accumulation; when a teacher has exhausted his sick leave, he shall receive leave equal to one day for each year of eight or more

calendar months of service in the district at two-thirds of his daily rate; a teacher who has accumulated sick leave in another school district, and employed during the preceeding year, may be credited to his accumulated sick leave up to 180 days; 3 days per year for illness in the immediate family; absence owing to injury incurred in the course of employment not charged against the teacher's sick leave days; teacher paid the difference between his salary and benefits received under the Oregon Workmen's Compensation Law, but not to exceed 180 days for any one injury; one-half day for funeral of a relative or friend in the city limits or within a radius of 15 miles from the city limits, full day if funeral is more than 15 miles from the city; 3 consecutive days for death in the immediate family, five consecutive days and two additional days at two-thirds of scheduled salary for death of spouse; sabbatical leave for certificated teacher after 5 years' service at three-fourths of annual salary or the B.A. minimum, whichever is lesser; up to 3 days emergency leave granted for unanticipated circumstances beyond the employee's control; paid leave less court fees to appear as a court witness or when subpoenaed for jury duty; 2 days credited to each teacher at the beginning of the school year for educational conferences related to assignment or for visitation to exemplary programs; sabbatical leave for travel after each ten years of consecutive service; sabbatical leave for rest and recuperation after each 20 years of consecutive service; automatic increases in salary as if teaching during the period of such leave.

ASSOCIATION: Released time with pay for five association representatives to the Consultation Committee for negotiations; the chief negotiator for the association may be released without pay from his teaching responsibilities; released time for representative member of the Professional Rights and Responsibilities Committee to investigate a grievance or to attend a grievance hearing; released time with pay for three association representatives to the Consultation Committee for reviewing the administration of the contract and resolving problems that may arise; a two-year leave of absence may be granted to a tenure teacher to serve as an association officer or on its staff; upon return from such leave the teacher shall be placed at the next step on the current salary scale above the one which he occupied during his last full year before beginning of such leave; right to use school equipment, including typewriters, mimeographing machines, other duplicating equipment, calculating machines, and audiovisual equipment at reasonable times; right to post notices on bulletin boards; right to use inter-school mail and mail boxes; board shall provide information relating to financial resources of the district; association shall have the right to have brief announcements as a scheduled item on the agenda of any faculty meeting; the principal and building representative shall meet at least once each month to review and resolve building problems in the administration of the contract.

INSTRUCTION: One-half hour duty-free lunch period; the school day shall begin 15 minutes before the opening of school and shall end 15 minutes following dismissal of students; school calendar comprises 177 instruction days, 7 planning days, and 6 paid holidays.

Educators Council

A. Policy and Purpose

The District recognizes the requisite expertise and ability of teachers to provide valuable input regarding educational policies, regulations and practices, including, but not limited to: curriculum, textbook selection, personnel hiring and assignment practices, stating for reduced enrollment, noninstructional duties, class size, planning time, evaluation, experimental programs and student discipline. The purpose of the procedure described herein included that of determining teachers' views on issues other than matters described in subsection (1) of ORS 342-460. Nothing herein is intended to imply that the subjects of such input are or are not statutory subjects for consultations.

However, the councils hereinafter described shall not deal with grievances which may be processed under the District's grievance procedure and shall not make recommendations with respect to salaries, fringe benefits or matters agreed upon with the teachers' statutory consultations representative.

No arbitration award otherwise authorized by the District's Grievance Procedure shall diminish the right of the Board to manage the District or shall determine that any administrative regulation or Board policy adopted in response to recommendations hereunder is invalid or should be suspended but such award based on a failure to comply with the procedures established in this Article may direct compliance therewith.

B. Establishment, Composition and Elections

1. There are hereby established Educators Councils consisting of an Area Educators Council in each of the three Areas of the District and a District Educators Council.

2. Each of the Area Educators Councils shall consist of three teachers and three administrators. The administrators shall be appointed by the Area Superintendent or his designee. The teacher members shall be elected as follows: one each from K-4, 5-8 and high school.

3. A secret ballot election for the teacher members shall be conducted by the District's Public Information Department during the first week of May each year commencing May 5, 1973. Membership in the Association shall not be a requisite for candidates. Candidates for positions determined by grade level shall run at large throughout the area. Each member shall be elected for a two-year term except that in the initial year the term for one position as designated by the Area Superintendent shall be for one year. Election shall require a plurality. The candidate receiving the next higher number of votes shall be an alternate member to serve in the absence of the elected member. In order to vote in the elections, a teacher must be regularly employed in the District at least one half time.

4. The District Educators Council shall consist of the following:

One teacher member of each Area Educators Council, selected by the teacher members of the respective Area Educators Council, to serve a term of one year.

Three administrative members designated by the Superintendent.

The Superintendent or his designee.

One representative of the Association designated by it from time to time.

C. Procedure - Area Educators Councils

Each Area Educators Council shall meet at the request of its Chairman or of a majority of the members thereof and not less often than once each month during the school year. Concerns

discussed shall include any which are received by members of the Council from their respective Association building representatives. Recommendations resulting from these discussions shall be reduced to writing and shall be delivered to the Area Superintendent or to the District Educators Council, according to the nature of the recommendations, as designated by the Area Educators Council. In the case of recommendations to the District Educators Council, they shall be delivered to the Area Superintendent who shall promptly deliver them to the District Educators Council together with such comments as he may wish to make. Any recommendation may include a minority report.

Chairmanship shall rotate every fourth meeting between the teachers and the administrators. The District shall provide release time for members of the staff as may be necessary for such meetings. Minutes, including all recommendations, shall be provided all members of the Council, the Association and all Association building representatives and shall be available in the professional library of each building.

D. Procedure - District Educators Council

The District Educators Council shall meet not less than once each three months of the school eyar. It shall consider all recommendations and reports submitted to it by Area Educators Councils, copies of which shall be furnished each member of the District Educators Council. It may also initiate proposals and reports. Before adopting final recommendations, the District Educators Council shall submit them to the affected Area Educators Councils for their recommendations. The District Educators Council shall reduce to writing its recommendations for adoption by the Board or the Superintendent, according to the nature of the recommendations, as designated by the District Council. The District Council shall accompany its recommendations with:

a. a summary of the discussion of the matter before the District Council and of any recommendations received from affected Area Educators Councils; and

b. a statement of the reasons in support of the recommendations of the District Council; and

c. such other supporting information as appears to the District Council to be pertinent or helpful to the Board or Superintendent.

A minority report may accompany the recommendation. In the case of recommendations to the Board, they shall be delivered to the Superintendent who shall promptly deliver them, with accompanying material, to the Board together with such comments as he may wish to make. He shall promptly advise the District Council of his action.

Chairmanship of the District Council shall rotate between the teachers and administrators each meeting. The Chairman shall set an agenda according to the chronological order in which he receives the recommendations unless otherwise determined by the District Council. The District shall provide release time for staff as necessary for such meetings.

E. Action on Recommendations

The Superintendent shall promptly consider each recommendation to him by the District Educators Council and shall inform it in writing of his response to the recommendation. The Board shall promptly consider each recommendation to it by the District Educators Council and shall inform such Council in writing of its response to the recommendation.

Board policies hereafter adopted in response to recommendations of the District Educators Council shall not be modified by the Board until after advance notice to the District Educators Council which provides a reasonable opportunity for comment and recommendations thereon by such Council; provided that the Board may, in case of emergency, make interim changes pending such recommendations of the Council.

PERSONNEL: Grievance procedure ends with final and binding arbitration; right to review personnel file exclusive of materials received prior to the date of employment, and to be accompanied by an association representative; the teacher may respond to any item placed in his personnel file and this response shall become a part of the file; board will budget $75,000 to pay expenses of teachers to attend professional conferences; sufficient leave time to attend without loss of compensation shall be granted; if a reduction in force becomes necessary because of a tax base or levy failure, the district will consider personnel for release in the reverse order of their length of service but with consideration being given to certification, grade leve, special qualifications and experiences, minority employment, and increased level of training.

Fredricktown, Pennsylvania

Between Bethlehem-Center School District and Bethlehem-Center Teacher's Association, effective August 28, 1972, to August 16, 1974. Approximately 126 certificated professional employees. Provision for renegotiation no later than January 10, 1974.

COMPENSATION: (1973-74) B.A., $7,700 to $12,000, 13 increments; M.A., $8,100 to $12,800, 14 increments; teachers with provisional certification will receive a bonus of $100 for each block of 6 graduate credits until permanent certification is earned; for each block of 6 graduate credits taken staff members with permanent certification will receive a $100 increment a maximum of three times or until a master's degree or equivalent is earned; for every 9 credits taken following the master's or equivalent, an increment of $100 will be given up to five times; guidance personnel on contracts in excess of 180 days shall be paid 1/180 of salary for each day in excess of 180; head teachers over 6 or fewer teachers shall receive $375 in 1973-74 and an additional $60 for each additional teacher working more than 50% of his time in head teacher's building; substitutes who have served a full year in the district and are subsequently hired as professional employees shall be placed on the next step of the salary scale.

DIFFERENTIALS: (Each unit equal to $100 dollars) senior high school—yearbook, 4 units, junior and senior class sponsors, boys and girls intramurals directors, 2½, newspaper, 2, sophomore class sponsor, varsity club, student council, National Honor Society, 1; (athletic coaches based on longevity in the district), head football coach, 12 - 18, athletic director, 12 - 18, head wrestling and basketball coach, 10 - 16, 1st football assistant, 8 - 11, 2nd football assistant, 7 - 10, basketball and wrestling assistants, head baseball and track coaches, 6 - 9, equipment manager, 5 - 6½, baseball and track assistants, 4 - 5½, head golf coach, 2½ - 4, cheerleader coach, 2 - 3; junior high school—publication, 2, student council, 1; (athletics coaches based on longevity in the district), head football coach, 7 - 10, head wrestling and basketball coaches, 5 - 8, football assistant, 4 - 7, wrestling and basketball assistants, head track coach, 3 - 6, athletic director 2¾ - 4, cheerleader coach, 1 - 2;

chaperones and those involved in the management or direction of any school sponsored activity, 1/10 of a unit per event.

OTHER: Mileage allowance of $.12 for use of own car in student-related activities; $200 shall be paid to instructional music teachers and $300 to home and school visitor teacher, elementary guidance counselor, and nurse in lieu of mileage; head teachers receive mileage allowance, registration fees, meals, and lodging not to exceed $25 per day to attend elementary conventions, workshops, or seminars; employees who report for duty earlier or stay later than the agreed-upon school day shall receive additional compensation at 1½ times hourly rate for each hour or fraction thereof.

LEAVES: Ten days' annual sick leave, credited on the opening day of school year, unlimited accumulation; unused sick leave paid at the end of the school year at a rate of $10 per day; teachers who retire or resign before the end of the school year shall receive on a pro rata basis $10 per day of unused sick leave up to $1,000; a leave of absence without pay will be granted to teachers who have exhausted sick leave and are unable to teach because of personal illness or disability; absence caused by illness or injury incurred in the course of employment shall not be charged against the teacher's sick leave days;1 day personal leave for personal, legal, religious, business, household, or family matters which require absence during school hours; and a second day to those who have accumulated 30 days' sick leave over a four-year period; administration must be notified five days before intended day of absence; employees shall receive $10 for any unused personal day at the end of the school year; an emergency day for any concern serious enough to warrant teacher's absence from school; leave for any legal proceeding that the teacher is required by law to attend, compensation is the difference between his salary and the amount he receives from attending these proceedings; up to 4 days' bereavement leave for death in the immediate family; other leaves may be granted by the board for good cause; the board shall pay the teacher the difference between his salary and benefits received under Workmen's Compensation; leave for visiting other schools, professional meetings, or conferences granted at the discretion of the principal; up to 4 days for two representatives of the association to attend conferences or conventions of state and national affiliated organizations; paid leave for military obligation, no deduction of military pay; sabbatical leave at ½ annual salary for not more than 10% of staff who have at least 8 years' service in the state including at least 5 years in the Bethlehem-Center School District; leave of absence up to 1 year for exchange teaching, foreign or military teaching programs, Peace Corps, Teacher Corps, or Job Corps as a full-time participant, or a cultural travel or work program related to professional responsibilities; leave up to one year for study related to professional responsibilities; all benefits to which a teacher was entitled at the time his leave of absence began shall be restored to him upon his return.

INSURANCE: Board pays 100 percent of the health plan selected by the employee.

ASSOCIATION: Payroll deduction of local, state, and national association dues; released time for association representative or any teacher who participates in negotiation or grievance proceedings; one period per day released time for association president; 1½ hours per week released time for association representative to conduct association business; up to 2 years leave granted to serve as an officer of the association or its staff; use of school buildings, facilities, and equipment; bulletin boards for association use in faculty lounges and dining rooms; space on bulletin board in central office; use of inter-school mail and mail boxes; the right to speak to employees during any faculty or other professional meeting for at least 10 minutes with the opportunity to suggest items for the succeeding agenda; the board to provide information relating to the educational program and the financial resources of the district, including class size, number of specialists, annual financial reports and audits, register of certified personnel, tentative budgetary requirements and allocations, agendas and minutes of all board meetings, census data, individual and group teacher health insurance premiums and experience figures, names and addresses of all teachers, any other information that will aid in the formation of constructive programs on behalf of teachers and their students, and any information necessary to process grievance or complaint.

INSTRUCTION: The board will keep classes at an acceptable size as dictated by the building facilities available and in the best interests of the students; the school day shall be seven consecutive hours between 7:45 a.m. and 4:00 p.m.; Board shall confer with the association regarding the 1973-74 calendar; teachers shall be given written notice of their schedules for the forthcoming year by the preceding first day of August; a minimum of five educational aides to work a minimum of 20 hours per week will be hired by the 1973-74 year; the board will hire out to a firm the computer preparation of attendance and permanent records for the 1973-74 year; three councils, elementary, junior high, and senior high, will evaluate and suggest improvements for the educational programs and practices in the school system; each council is to be composed of 5 teachers appointed by the association and 5 members appointed by the board.

PERSONNEL: Grievance procedure ends with final and binding arbitration; if the association feels that a grievance affects a group or class of teachers, it may process the grievance through all levels of the grievance procedure even though the aggrieved person does not wish to do so; no association member shall be disciplined, reprimanded, reduced in rank or compensation, or deprived of any professional advantage without just cause; all information forming the basis for disciplinary action will be made available to the employee and the association; employee shall be given prior written notice of the reasons why he must appear before the board, or any committee thereof, when the hearing concerns any matter which could adversely affect his continuation and he may have a representative of the association or legal counsel present to advise him; assignment of teachers outside the scope of their qualifications and certification and transfer of a teacher to another building after initial employment are subject to the grievance procedure; employee has the right to review his personnel file and be accompanied by an association representative; no derogatory material shall be placed in his file without his

knowledge; derogatory material is subject to the grievance procedure; all monitoring or observation of teachers shall be conducted openly and with full knowledge of the teacher; evaluations shall contain teaching strengths, weakness, and suggestions for improvement of performance; employee shall be given a copy of evaluation prior to any conference to discuss the evaluation.

CLASS LOADS

SECONDARY TEACHERS:

The daily teaching load shall be five (5) academic teaching periods per day plus a 45-minute study hall duty or activity plus a 30-minute duty-free lunch period, plus five (5) preparations per week. No teacher shall have more than two (2) preparation periods per day. If a teacher is required to teach six (6) academic classes he or she shall not be assigned to any home room period and/or fifth period activity assignment.

ELEMENTARY TEACHERS:

Primary

The daily teaching load for primary elementary teacher shall not exceed five (5) hours and forty-five (45) minutes of pupil contact per day, plus one (1) thirty (30) minute duty-free lunch period. Each primary elementary teacher shall also be provided at least five (f) forty-five (45) minute preparation periods per week. No teacher shall have more than two (2) preparation periods per day.

Intermediate

The daily teaching load shall be six (6) forty-five (45) minute periods per day, plus one (1) thirty (30) minute duty-free lunch period. Each intermediate teacher shall also be provided at least five (5), forty-five (45) minute preparation periods per week. No teacher shall have more than two (2) preparation periods per day.

NUMBER OF PREPARATIONS:

Secondary teachers shall not be required to teach more than three (3) subject areas, nor more than a total of three (3) teaching preparations per day.

Texts

OREGON
PUBLIC EMPLOYEE COLLECTIVE BARGAINING ACT
(Effective October 1973)

Section 1. ORS 243.711.

243.711. As used in ORS 243.711 to 243.795, unless the contex requires otherwise:

(1) "Appropriate bargaining unit" means the unit designated by the board to be appropriate for the purpose of collective bargaining.

(2) "Board" means the Public Employe Relations Board.

(3) "Certification" means official recognition by the board that a labor organization is the exclusive representative for all of the employes in the appropriate bargaining unit.

(4) "Collective bargaining" means the performance of the mutual obligation of a public employer and the representative of its employes to meet at reasonable times and confer in good faith with respect to employment relations, or the negotiation of an agreement, or any question arising thereunder, and the execution of a written contract incorporating any agreement reached if requested by either party. However, this obligation does not compel either party to agree to a proposal or require the making of a concession.

(5) "Compulsory arbitration" means the procedure whereby parties involved in a labor dispute are required by law to submit their differences to a third party for a final and binding decision.

(6) "Confidential employe" means one who assists and acts in a confidential capacity to a person who formulates, determines and effectuates management policies in the area of collective bargaining.

(7) "Employment relations" includes, but is not limited to, matters concerning direct or indirect monetary benefits, hours, vacations, sick leave, grievance procedures and other conditions of employment.

(8) "Exclusive representative" means the labor organization which, as a result of certification by the board or recognition by the employer, has the right to be the collective bargaining agent of all employes in an appropriate bargaining unit.

(9) "Factfinding" means identification of the major issues in a particular labor dispute by one or more impartial individuals who review the positions of the parties, resolve factual differences and make recommendations for settlement of the dispute.

(10) "Fair-share agreement" means an agreement between the public employer and the recognized or certified bargaining representative of public employes whereby employes who are not members of the employe organization are required to make in-lieu-of-dues payment to an employe organization. Such agreement shall reflect the opinion of a majority of the employes in the bargaining unit.

(11) "Labor dispute" means any controversy concerning employment relations or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment relations, regardless of whether the disputants stand in the proximate relation of employer and employe.

(12) "Labor organization" means any organization which has as one of its purposes representing employes in their employment relations with public employers.

(13) "Legislative body" means the Legislative Assembly, the city council, the county commission and any other board or commission empowered to levy taxes.

(14) "Supervisory employe" means any individual having authority in the interest of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employes, or having responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection therewith, the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment. However, the exercise of any function of authority numerated in this subsection shall not necessarily require the conclusion that the individual so exercising that function is a supervisor within the meaning of this 1973 Act.

(15) "Mediation" means assistance by an impartial third party in reconciling a labor dispute between the public employer and the exclusive representative regarding employment relations.

(16) "Payment-in-lieu-of-dues" means an assessment of all employes in an appropriate bargaining unit to defray the cost for services by the exclusive representative in negotiations and contract administration as determined by the board.

(17) "Public employe" means an employe of a public employer but does not include elected officials, persons appointed to serve on boards or commissions or persons who are "confidential employes" or "supervisory employes".

(18) "Public employer" means the State of Oregon or any political subdivision therein, including cities, counties, community colleges, school districts, special districts and public and quasi-public corporations, except mass transit districts organized under ORS chapter 267. "Public employer" includes any individual designated by the public employer to act in its interests in dealing with public employes.

(19) "Strike" means a public employe's refusal in concerted action with others to report for duty, or his wilful absence from his position, or his stoppage of work, or his absence in whole or in part from the full, faithful or proper performance of his duties of employment, for the purpose of inducing, influencing or coercing a change in the condi-

tions, compensation, rights, privileges or obligations of public employment; however, nothing shall limit or impair the right of any public employee to lawfully express or communicate a complaint or opinion on any matter related to the conditions of employment.

(20) "Unfair labor practice" means the commission of an act designated an unfair labor practice in section 4 of this 1973 Act.

(21) "Voluntary arbitration" means the procedure whereby parties involved in a labor dispute mutually agree to submit their differences to a third party for a final and binding decision.

Section 2. The Legislative Assembly finds and declares that:

(1) The people of this state have a fundamental interest in the development of harmonious and cooperative relationships between government and its employes;

(2) Recognition by public employers of the right of public employes to organize and full acceptance of the principle and procedure of collective negotiation between public employers and public employe organizations can alleviate various forms of strife and unrest. Experience in the private and public sectors of our economy has proved that unresolved disputes in the public service are injurious to the public, the governmental agencies, and public employes;

(3) Experience in private and public employment has also proved that protection by law of the right of employes to organize and negotiate collectively safeguards employes and the public from injury, impairment and interruptions of necessary services, and removes certain recognized sources of strife and unrest, by encouraging practices fundamental to the peaceful adjustment of disputes arising out of differences as to wages, hours, terms and other working conditions, and by establishing greater equality of bargaining power between public employers and public employes;

(4) The state has a basic obligation to protect the public by attempting to assure the orderly and uninterrupted operations and functions of government; and

(5) It is the purpose of ORS 243.711 to 243.795 to obligate public employers, public employes and their representatives to enter into collective negotiations with willingness to resolve grievances and disputes relating to employment relations and to enter into written and signed contracts evidencing agreements resulting from such negotiations. It is also the purpose of ORS 243.711 to 243.795 to promote the improvement of employer-employe relations within the various public employers by providing a uniform basis for recognizing the right of public employes to join organizations of their own choice, and to be represented by such organizations in their employment relations with public employers.

Section 3. ORS 243.730.

243.730. Public employes have the right to form, join and participate in the activities of labor organizations of their own choosing for the purpose of representation and collective bargaining with their public employer on matters concerning employment relations.

Section 4. (1) It is an unfair labor practice for a public employer or its designated representative to do any of the following:

(a) Interfere with, restrain or coerce employes in or because of the exercise of rights guaranteed in ORS 243.730.

(b) Dominate, interfere with or assist in the formation, existence or administration of any employe organization.

(c) Discriminate in regard to hiring, tenure or any terms or condition of employment for the purpose of encouraging or discouraging membership in an employe organization. Nothing in this section is intended to prohibit the entering into of a fair-share agreement between a public employer and the exclusive bargaining representative of its employes. If such a "fair-share" agreement has been agreed to by the public employer and exclusive representative, nothing shall prohibit the deduction of the payment-in-lieu-of-dues from the salaries or wages of such employes.

(d) Discharge or otherwise discriminate against an employe because the employe has signed or filed an affidavit, petition or complaint or has given information or testimony under ORS 243.711 to 243.795.

(e) Refuse to bargain collectively in good faith with the exclusive representative.

(f) Refuse or fail to comply with any provision of ORS 243.711 to 243.795.

(g) Violate the provisions of any written contract with respect to employment relations including an agreement to arbitrate or to accept the terms of an arbitration award, where previously the parties have agreed to accept such awards as final and binding upon them.

(h) Refuse to reduce an agreement, reached as a result of collective bargaining, to writing and sign such contract.

(i) Communicate directly or indirectly with employes in the bargaining unit other than the designated bargaining representative during the period of negotiations regarding employment relations, except for matters relating to the performance of the work involved.

(2) It is an unfair labor practice for a public employe or for a labor organization or its designated representative to do any of the following:

(a) Interfere with, restrain or coerce any employe in or because of the exercise of any right guaranteed under ORS 243.711 to 243.795.

(b) Refuse to bargain collectively in good faith with the public employer if the labor organization is an exclusive representative.

(c) Refuse or fail to comply with any provision of ORS 243.711 to 243.795.

(d) Violate the provisions of any written contract with respect to employment relations, including an agreement to arbitrate or to accept the terms of an arbitration award, where previously the parties have agreed to accept such awards as final and binding upon them.

(e) Refuse to reduce an agreement, reached as a result of collective bargaining, to writing and sign the resulting contract.

(f) Communicate directly or indirectly during the period of negotiations with officials other than those designated to represent the employer regarding employment relations.

(3) No provision of ORS 243.711 to 243.795 makes an unfair labor practice any act that was performed before the effective date of this 1973 Act.

(4) An injured party may file a written complaint with the board not later than 180 days following the occurrence of an unfair labor practice.

Section 5. (1) Whenever a written complaint is filed alleging that any person has engaged in or is engaging in any unfair labor practice listed in subsections (1) and (2) of section 4 of this 1973 Act, the board or its agent shall:

(a) Cause to be served upon such person a copy of the complaint; and

(b) Investigate the complaint to determine if a hearing on the unfair labor practice charge is warranted. If the investigation reveals that no issue of fact or law exists, the board may dismiss the complaint.

(c) Set the matter for hearing if the board finds in its investigation made pursuant to paragraph (b) of this subsection that an issue of fact or law exists. The hearing shall be before the board or an agent of the board not more than 20 days after a copy of the complaint has been served on the person.

(2) Where, as a result of the hearing required pursuant to paragraph (c) of subsection (1) of this section, the board finds that any person named in the complaint has engaged in or is engaging in any unfair labor practice charged in the complaint, the board shall;

(a) State its findings of fact;

(b) Issue and cause to be served on such person an order that he cease and desist from the unfair labor practice; and

(c) Take such affirmative action, including but not limited to the reinstatement of employes with or without back pay, as necessary to effectuate the purposes of this 1973 Act.

(3) Where the baord finds that the person named in the complaint has not engaged in or is not engaging in an unfair labor practice, it shall issue an order dismissing the complaint.

(4) As used in subsections (1) to (3) of this section, "person" includes but is not limited to individuals, labor organizations, associations and public employers.

Section 6. ORS 243.735.

243.735. (1) A labor organization certified by the Public Employe Relations Board or recognized by the public employer is the exclusive representative of the employes of a public employer for the purposes of collective bargaining with respect to employment relations. Nevertheless any agreements entered into involving union security including an all-union agreement or agency shop agreement must safeguard the rights of nonassociation of employes, based on bona fide religious tenets or teachings of a church or religious body of which such employe is a member. Such employe shall pay an amount of money equivalent to regular union dues and initiation fees and assessments, if any, to a nonreligious charity or to another charitable organization mutually agreed upon by the employe affected and the representative of the labor organization to which such employe would otherwise be required to pay dues. The employe shall furnish written proof to his employer that this has been done.

(2) Notwithstanding the provisions of subsection (1) of this section, an individual employe or group of employes at any time may present grievances to their employer and have such grievances adjusted, without the intervention of the labor organization, if:

(a) The adjustment is not inconsistent with the terms of a collective bargaining contract or agreement then in effect; and

(b) The labor organization has been given opportunity to be present at the adjustment.

(3) Nothing in this section prevents a public employer from recognizing a labor organization which represents at least a majority of employes as the exclusive representative of the employes of a public employer when the board has not designated the appropriate bargaining unit or when the board has not certified an exclusive representative in accordance with section 8 of this 1973 Act.

(4) Those employes who selected representation as provided in ORS 342.460 or 342.760 shall be allowed to continue such representation until challenged by the provisions of this 1973 Act. Representation by committee shall not be recognized after July 1, 1974. In addition, those employes covered under both the teacher and the classified school employe consultation statutes shall have the opportunity to challenge the incumbent organization or committee during the first 30 days after the beginning of the 1973-74 school year.

Section 7. If a question of representation exists, the board shall:

(1) Upon application of a public employer, public employe or a labor organization, designate the appropriate bargaining unit, and in making its determination shall consider such factors as community of interest, wages, hours and other working conditions of the employes involved, the history of collective bargaining, and the desires of the employes. The board may determine a unit to be the appropriate unit in a particular case even though some other unit might also be appropriate.

(2) Investigate and conduct a hearing on a petition that has been filed by:

(a) A labor organization alleging that 30 percent of the employes in an appropriate bargaining unit desire to be represented for collective bargaining by an exclusive representative;

(b) A labor organization alleging that 30 percent of the employes in an appropriate bargaining unit assert that the designated exclusive representative is no longer the representative of the majority of the employes in the unit;

(c) A public employer alleging that one or more labor organizations has presented a claim to the public employer requesting recognition as the exclusive representative in an appropriate bargaining unit; or

(d) An employe or group of employes alleging that 30 percent of the employes assert that the designated exclusive representative is no longer the representative of the majority of employes in the unit.

(3) Except as provided in section 9 of this 1973 Act, if the board finds in a hearing conducted pursuant to subsection (2) of this section that a question of representation exists, it shall conduct an election by secret ballot, at a time and place convenient for the employes of the jurisdiction and also within a reasonable period of time after the filing has taken place, and certify the results thereof.

Section 8. (1) The board shall place on the ballot only those labor organizations designated to be placed on the ballot by more than 10 percent of the employes in an appropriate bargaining unit.

(2) The ballot shall contain a provision for marking no representation.

(3) The board shall determine who is eligible to vote in the election and require the employer to provide a complete list of all such eligible voters, their names, addresses and job classifications to each candidate organization on the ballot at least 20 days before the election is to occur.

(4) The labor organization which receives the majority of the votes cast in an election shall be certified by the board as the exclusive representative.

(5) In any election where there are more than two choices on the ballot and none of the choices receives a majority of the votes cast, a runoff election shall be conducted. The ballot in the runoff election shall contain the two choices on the original ballot that received the largest number of votes.

(6) (a) In conducting an election involving the faculty of a college or university administered by the State Board of Higher Education, the board shall place on the same ballot provisions for voting on two issues:

(A) For or against representation; and

(B) For those labor organizations designated to be placed on the ballot by more than 10 percent of the employes in an appropriate bargaining unit.

(b) If a majority of votes in subparagraph (A) of paragraph (a) of this subsection are cast in favor of no representation, the board shall not count the votes cast for labor organizations and shall certify no representative for the unit.

(c) If a majority of votes in subparagraph (A) of paragraph (a) of this subsection are cast in favor of representation, the board shall count the votes in subparagraph (B) of paragraph (a) of this subsection for the designated labor organizations and, if an organization receives a majority of those votes cast, shall certify that organization as the exclusive representative. If no labor organization receives a majority of the votes cast in subparagraph (B) of paragraph (a) of this subsection, a runoff election shall be conducted. The ballot in the runoff election shall contain only the two labor organizations that received the largest number of votes.

(7) Nothing in this section is intended to prohibit the waiving of hearings by stipulation for the purpose of a consent election, in conformity with the rules of the board.

Section 9. (1) No election shall be conducted pursuant to subsection (3) of section 7 of this 1973 Act in any appropriate bargaining unit within which the preceding 12-month period an election was held nor during the term of any lawful collective bargaining agreement between a public employer and an employe representative. However, a contract with a term of more than two years shall be a bar for only the first two years of its term.

(2) Notwithstanding subsection (1) of this section, the board shall rule that a contract will not be given the effect of barring an election if it finds that:

(a) Unusual circumstances exist under which the contract is no longer a stabilizing force; and

(b) An election should be held to restore stability to the representation of employes in the unit.

(3) A petition for an election where a contract exists must be filed not more than 90 calendar days and not less than 60 calendar days before the end of the contract period. If the contract is for more than two years, a petition for election may be filed any time after two years from the effective date of the contract.

Section 10. (1) Notwithstanding any other provision of this chapter, whenever two or more labor organizations are certified to represent state employes in like classifications, the State of Oregon and the certified labor organization shall meet jointly at reasonable times and bargain in good faith for the purpose of establishing the compensation plan and other economic benefits and those employment relations matters which require legislative action or are the subject of Personnel Division rule-making authority. Nothing in this subsection shall prevent a labor organization which has met in such joint sessions and which represents the majority of employes in a classification from entering into an agreement with the state employer governing the compensation or other benefits of such employes when, after a reasonable time, the representative of the majority of employes in the classification and the representative of the minority of employes in the classification have not agreed as to the provisions of a proposed agreement.

(2) This section shall not apply to any subject which affects only a single agency, institution or other subordinate unit of the state.

(3) Questions concerning the application of subsections (1) and (2) of this section shall be referred to the board for determination.

Section 11. (1) In the event any provision of a collective bargaining agreement is declared to be invalid by any court of competent jurisdiction, by ruling by the board or by inability of the employer or the employes to perform to the terms of the agreement, then upon request by either party all or any part of the entire collective bargaining agreement shall be reopened for negotiation.

(2) The public employer and the exclusive representative shall provide for and make every reasonable effort to conclude negotiations, including provisions for an effective date, a reopening date, and an expiration date, at a time to coincide, as nearly as possible, with the period during which the appropriate legislative bodies may act on the operating budget of the employers.

Section 12. (1) A public employer may enter into a written agreement with the exclusive representative of an appropriate bargaining unit setting forth a grievance procedure culminating in binding arbitration.

(2) In addition to subsection (1) of this section, a public employer may enter into a written agreement with the exclusive representative of its employes providing that a labor dispute over conditions and terms of a contract may be resolved through binding arbitration.

Section 13. (1) If after a reasonable period of negotiation over the terms of an agreement or after a reasonable time following certification or recognition of an exclusive representative no agreement has been signed, either or both of the parties shall notify the board of the status of negotiations. Such notification shall contain a statement of each issue on which the public employer and the exclusive representative have failed to achieve an agreement through negotiation; or the board on its own motion may determine that the public employer and the exclusive representative have failed to achieve an agreement on a labor dispute through negotiations. Upon receipt of such notification the board shall assign a mediator upon request of either party or upon its own motion.

(2) Where the board on the request of one of the parties or on its own motion has determined that the parties have failed to achieve agreement through negotiation, the board shall render assistance to resolve the labor dispute according to the following schedule:

(a) Mediation shall be provided by the State Conciliation Services as provided by ORS 662.405 to 662.455.

(b) If the labor dispute has not been settled after 15 days of mediation, the parties jointly or individually may petition the board in writing to initiate factfinding. In lieu of a petition, the board on its own motion may initiate such factfinding if it deems it appropriate and in the public interest.

(c) Nothing in this section shall be construed to prohibit the parties at any time from voluntarily agreeing to submit any or all of the issues in dispute to final and binding arbitration, and if such agreement is reached said arbitration shall supersede the mediation and/or factfinding procedures set forth in this section.

Section 14. (1) In carrying out the factfinding procedures authorized in paragraph (b) of subsection (2) of section 13 of this 1973 Act, the public employer and the exclusive representative may select their own factfinder.

(2) Where the parties have not selected their own factfinder within five days after notification by the board that factfinding is to be initiated, the board shall submit to the parties a list of five qualified, disinterested persons. Each party shall alternately strike two names from this list. The order of striking shall be determined by lot. The remaining individual shall be designated the "factfinder."

(a) When both parties desire a panel of three factfinders instead of one as provided in this subsection, the board shall submit to the parties a list of seven qualified, disinterested persons. Each party shall alternately strike two names from the list. The order of striking shall be determined by lot. The remaining three persons shall be designated "factfinders."

(b) When the parties have not designated the factfinder and notified the board of their choice within five days after receipt of the list, the board shall appoint the factfinder from the list. However, if one of the parties strikes the names as prescribed in this subsection and the other party fails to do so, the board shall appoint the factfinder only from the names remaining on the list.

(3) The factfinder shall establish dates and places of hearings. Upon the request of either party or the factfinder, the board shall issue subpoenas. The factfinder may administer oaths and shall afford all parties full opportunity to examine and cross-examine all witnesses and to present any evidence pertinent to the dispute. Not more than 30 days from the date of conclusion of hearings, the factfinders shall make written findings of fact and recommendations upon the parties and upon the board. Service may be personal or by registered or certified mail. Not more than five working days after the findings and recommendations have been sent, the parties shall notify the board and each other whether or not they accept the recommendations of the factfinder. If the parties do not accept them, the board, five days after receiving notice that one or both of the parties do not accept the findings, shall publicize the factfinder's findings of facts and recommendations.

(4) The parties may voluntarily agree at any time during or after factfinding to submit any or all of the issues in dispute to final and binding arbitration, and if such agreement is reached prior to the publication of the factfinders findings of facts and recommendations, the board shall not publicize such findings and recommendations.

(5) The cost of factfinding shall be borne equally by the parties involved in the dispute.

Section 15. Any provisions of local charters and ordinances adopted pursuant thereto in existence at the time of this 1973 Act goes into effect and not in conflict with the rights and duties established in this 1973 Act may remain in full force and effect after the board has determined that no conflict exists.

Section 16. (1) Participation in a strike shall be unlawful for any public employe who is not included in an appropriate bargaining unit for which an exclusive representative has been certified by the board [illegible] ognized by the employer; or is included in an appropriate bargaining unit which provides for resolution of a labor dispute by referral to final and binding arbitration; or when the strike is not made lawful under the provisions of this 1973 Act.

(2) It shall be lawful for a public employe who is not prohibited from striking under subsection (1) of this section and who is in the appropriate bargaining unit involved in a labor dispute to participate in a strike after:

(a) The requirements of sections 13 and 14 of this 1973 Act relating to the resolution of labor disputes have been complied with in good faith;

(b) The proceedings for the prevention of any prohibited practice have been exhausted;

(c) Thirty days have elapsed since the board has made public the factfinders findings of fact and recommendations; and

(d) The exclusive representative has given 10 days' notice by certified mail of its intent to strike and stating the reasons for its intent to strike to the board and the public employer.

(3) (a) Where the strike occurring or is about to occur creates a clear and present danger or threat to the health, safety or welfare of the public, the public employer concerned may petition the circuit court of the county in which the strike has taken place or is to take place for equitable relief including but not limited to appropriate injunctive relief.

(b) If the strike is a strike of state employes the petition shall be filed in the Circuit Court of Marion County.

(c) If, after hearing, the court finds that the strike creates a clear and present danger or threat to the health, safety or welfare of the public, it shall grant appropriate relief. Such relief shall include an order that the labor dispute be submitted to final and binding arbitration within 10 days of the court's order. The manner of selection of a board of arbitration shall be as set forth in this 1973 Act.

(4) (a) No labor organization shall declare or authorize a strike of public employes which is or would be in violation of this section. When it is alleged in good faith by the public employer that a labor organization has declared or authorized a strike of public employes which is or would be in violation of this section, the employer may petition the board for a declaration that the strike is or would be unlawful. The board, after conducting an investigation and hearing, may make such declaration if it finds that such declaration or authorization of a strike is or would be unlawful.

(b) When a labor organization or individual disobeys an order of the appropriate circuit court issued pursuant to enforcing an order of the board involving this section and section 17 of this 1973 Act, they shall be punished according to the provisions of ORS chapter 33, except that the amount of the fine shall be at the discretion of the court.

(5) An unfair labor practice by a public employer shall not be a defense to a prohibited strike. The board upon the filing of an unfair labor charge alleging that a public employer has committed an unfair labor practice during or arising out of the collective bargaining procedures set forth in sections 13 and 14 of this 1973 Act, shall take immediate action on such charge and if required, petition the court of competent jurisdiction for appropriate relief or a restraining order.

Section 17. It shall be unlawful for any policeman, fireman or guard at a correctional institution or mental hospital to strike or recognize a picket line of a labor organization while in the performance of official duties.

Section 18. (1) It is the public policy of the State of Oregon that where the right of employes to strike is by law

prohibited, it is requisite to the high morale of such employes and the efficient operation of such departments to afford an alternate, expeditious, effective and binding procedure for the resolution of labor disputes and to that end the provisions of this 1973 Act, providing for compulsory arbitration, shall be liberally construed.

(2) When the procedures set forth in sections 13 and 14 of this 1973 Act, relating to mediation and factfinding of a labor dispute, have not culminated in a signed agreement between the parties who are prohibited from striking, the public employer or exclusive representative of its employes shall petition the board in writing to initiate binding arbitration. In lieu of a petition, the board on its own motion may initiate such arbitration if it deems it appropriate and in the public interest.

Section 19. (1) In carrying out the arbitration procedures authorized in subsection (2) of section 18 of this 1973 Act, the public employer and the exclusive representative may select their own arbitrator.

(2) Where the parties have not selected their own arbitrator within five days after notification by the board that arbitration is to be initiated, the board shall submit to the parties a list of five qualified, disinterested persons. Each party shall alternately strike two names from the list. The order of striking shall be determined by lot. The remaining individual shall be desiganted the "arbitrator":

(a) When both parties desire a panel of three arbitrators instead of one as provided in this subsection, the board shall submit to the parties a list of seven qualified, disinterested persons. Each party shall alternately strike two names from the list. The order of striking shall be determined by lot. The remaining three persons shall be designated "arbitrators."

(b) When the parties have not designated the arbitrator and notified the board of their choice within five days after receipt of the list, the board shall appoint the arbitrator from the list. However, if one of the parties strikes the names as prescribed in this subsection and the other party fails to do so, the board shall appoint the arbitrator only from the names remaining on the list.

(3) The arbitrator shall establish dates and places of hearings. Upon the request of either party or the arbitrator, the board shall issue subpoenas. The arbitrator may administer oaths and shall afford all parties full opportunity to examine and cross-examine all witnesses and to present any evidence pertinent to the dispute.

(4) Where there is no agreement between the parties, or where there is an agreement but the parties have begun negotiations or discussions looking to a new agreement or amendment of the existing agreement, and wage rates or other conditions of employment under the proposed new or amended agreement are in dispute, the arbitration panel shall base its findings, opinions and order upon the following factors, as applicable:

(a) The lawful authority of the employer.

(b) Stipulations of the parties.

(c) The interest and welfare of the public and the financial ability of the unit of government to meet those costs.

(d) Comparison of the wages, hours and conditions of employment of other employes performing similar services and with other employes generally:

(A) In public employment in comparable communities.

(B) In private employment in comparable communities.

(e) The average consumer prices for goods and services commonly known as the cost of living.

(f) The overall compensation presently received by the employes, including direct wage compensation, vacations, holidays and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.

(g) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.

(h) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, factfinding, arbitration or otherwise between the parties, in the public service or in private service.

(5) Not more than 30 days after the conclusion of the hearings or such further additional periods to which the parties may agree, the arbitrator shall make written findings of fact and promulgate a written opinion and order upon the issues presented to him and upon the record made before him, and shall serve such findings, opinions and order upon the parties and upon the board. Service may be personal or by registered or certified mail. The findings, opinions and order shall be just and reasonable and based upon the factors prescribed in subsection (4) of this section.

(6) The cost of arbitration shall be borne equally by the parties involved in the dispute.

Section 20. A majority decision of the arbitration panel, under sections 12 and 16 to 19 of this 1973 Act, if supported by competent, material and substantial evidence on the whole record, based upon the factors set forth in subsection (4) of section 19 of this 1973 Act shall be final and binding upon the parties, and may be enforced at the instance of either party or the board in the circuit court for the county in which the dispute arose. The commencement of a new fiscal year after the initiation of arbitration procedures under this 1973 Act, but before the arbitration decision or its enforcement, shall not be deemed to render a dispute moot, or to otherwise impair the jurisdiction or authority of the arbitration panel or its decision. Increases in rates of compensation awarded by the arbitration panel under section 19 of this 1973 Act, may be effective only at the start of the fiscal year next commencing after the date of the arbitration award. However, if a new fiscal year has commenced since the initiation of arbitration procedures under this 1973 Act, the foregoing limitation shall be inapplicable and such awarded increases may be retroactive to the commencement of such fiscal year. At any time the parties, by stipulation may amend or modify an award of arbitration.

Section 21. During the pendency of procedings before the arbitration panel, existing wages, hours and other conditions of employment shall not be changed by action of either party without the consent of the other but a party may so consent without prejudice to his rights or position under this 1973 Act.

Section 22. Nothing in this 1973 Act is intended to prohibit a public employer and the exclusive representative of its employes from entering into a collective bargaining agreement which provides for a compulsary arbitration procedure which is substantially equivalent to sections 18 to 21 of this 1973 Act.

Section 23. Public employes, other than those engaged

in a non-prohibited strike, who refuse to cross a picket line shall be deemed to be engaged in a prohibited strike and shall be subject to the terms and conditions of section 16 of this 1973 Act, pertaining to prohibited strikes.

Section 24. The board shall:

(1) Establish procedures for, investigate and resolve any dispute concerning the desigantion of an appropriate bargaining unit.

(2) Establish procedures for, resolve disputes with respect to, and supervise the conduct of elections for the determination of employe representation.

(3) Conduct proceedings on complaints of unfair labor practices by employers, employes and labor organizations and take such actions with respect thereto as it deems necessary and proper.

(4) Petition the appropriate circuit court for enforcement of any order issued by the board pursuant to ORS 243.711 to 243.795.

(5) Hold such hearings and make such inquiries as it deems necessary to carry out properly its functions and powers, and for the purpose of such hearings and inquiries, administer oaths and affirmations, examine witnesses and documents and issue subpoenas.

(6) Conduct studies on problems relating to public employment relations and make recommendations with respect thereto to the legislative bodies; request information and data from state and county departments and agencies and labor organizations necessary to carry out its functions and responsibilities; make available to public employers, labor organizations, mediators, members of fact-finding boards, arbitrators and other concerned parties statistical data relating to wages, benefits, and employment practices in public and private employment to assist them in resolving issues in negotiation.

(7) Adopt rules relative to the exercise of its powers and authority and to govern the proceedings before it in accordance with ORS chapter 183.

Section 25. Sections 2, 4, 5, 7, to 24, 32 and 33 of the Act are added to and made a part of ORS 243.711 to 243.795.

Section 26. ORS 240.060.

240.060. The Civil Service Commission that has functioned under ORS chapter 240 shall be continued as a board of five members to be known as the Public Employe Relations Board. Each member of the board shall be a citizen of the state known to be in sympathy with the application of merit principles to public employment and shall be of recognized standing and known interest in public administration and in the development of efficient methods of selecting and administering personnel. No member of the board shall hold, or be a candidate for, any public office. No person shall be appointed to the board who has held an elective public office or appointive public office of a partisan nature, or position in a political party, within six months immediately preceding his appointment to the board. No member of the board shall be employed by a public employer.

Section 27. ORS 240.065.

240.065. The members of the board shall be appointed by the Governor for a term of four years, with the term of not more than two members expiring on June 30 of each year. Each member shall be appointed for a term ending four years from the date of the expiration of the term for which his predecessor was appointed, except that a person appointed to fill a vacancy occurring prior to the expiration of such term shall be appointed for the remainder of the term. Each member of the board shall hold office until his successor is appointed and qualifies.

Section 28. (1) Nothing in this Act is intended to extend the terms of members of the Public Employe Relations Board who are incumbent on the effective date of this Act.

(2) Notwithstanding the term of office specified in ORS 240.065, of the members first appointed to the board after this Act takes effect:

(a) Three shall serve for terms ending four years from the date of the expiration of the terms of the members appointed for three-year terms under ORS 240.065 before its amendment by section 27 of this Act.

(b) One shall serve a term ending June 30, 1975.

(c) One shall serve a term ending June 30, 1976.

Section 29. ORS 240.080.

240.080. The board shall elect one of its members chairman. It shall meet at such times and places as are specified by call of the chairman or the Governor. All hearings shall be open to the public. The board is authorized to delegate to a panel of three members any and all of the powers which it may itself exercise. Two members of a panel shall constitute a quorum for the transaction of business. When the board is meeting as a full board, three members shall constitute a quorum for the transaction of business. Any agent designated by the board to make investigations and conduct hearings may administer oaths and affirmations, examine witnesses and receive evidence.

Section 30. ORS 240.123.

240.123. (1) The board shall employ such personnel as it considers necessary for efficient administration of its vested duties, and fix the compensation of its employes in accordance with the compensation plan for classified employes.

(2) The board shall designate one of its employes as its executive secretary and delegate to him such administrative duties and responsibilities as it finds advisable. The executive secretary shall be in the classified service.

Section 31. ORS 292.055.

292.055. (1) Upon receipt by him of the request in writing of a state officer or employe so to do, the state official authorized to disburse funds in payment of the salary or wages of such state officer or employe each month shall deduct from the salary or wages of such officer or employe the amount of money indicated in such request, for payment thereof to a labor organization as the same is defined in subsection (12) of ORS 243.711.

(2) Such state official each month shall pay such amount so deducted to any such labor organization so designated to receive it.

(3) Unless there is a contract to the contrary, upon receipt by him of the request in writing of such officer or employe so to do, such state official shall cease making such deductions and payments.

(4) No such deductions for, or payments to, more than two labor organizations shall be made in respect to any one department, board, commission, bureau, institution or other agency of the state provided that any labor organization certified under the rules of the Public Employe Relations Board as representative of employes in a bargaining unit shall be authroized a payroll deduction for its members. If no certified representative exists, should such deductions and payments be made for and to such labor organizations in respect of any such department, board, commission, bureau, institution or other agency, they shall be made for and to the two thereof designated in the greatest and next greatest numbers of such requests of officers and employe in that department, board, commission, bureau, institution or other agency, so submitted and not so revoked.

(5) Upon receipt from the Executive Department of a copy of a valid fairshare agreement in a collective bargaining unit, the state official authorized to disburse funds in payment of the salary or wages of the employes in such unit each month shall deduct from the salary or wages of the employes covered by the agreement the in-lieu-of-dues payment stated in the agreement and pay such amount to the labor organization party the agreement in the same manner as deducted dues are paid to a labor organization. Such deduction and payment shall continue for the life of the agreement.

Section 32. The rights and responsibilities prescribed for state officers and employes in ORS 292.055 shall accrue to employes of all public employers.

Section 33. (1) For purposes of proceedings commenced pursuant to any provisions of this 1973 Act, a person may be represented by counsel or any other agent authorized by such person.

(2) As used in subsection (1) of this section, "person" means any individual, a labor organization or a public employer.

Section 34. ORS 341.290.

341.290. The board of education of a community college district shall be responsible for the general supervision and control of any and all community colleges operated by the district. Consistent with any applicable rules and regulations of the State Board of Education, the board may:

(1) Subject to ORS chapter 237, employ administrative officers, professional personnel and other employes, define their duties, terms and conditions of employment and prescribe compensation therefor, pursuant to ORS 243.711 to 243.795.

(2) Enact rules for the government of the community college, including professional personnel and other employes thereof and students therein.

(3) Prescribe the educational program.

(4) Control use of and access to the grounds, buildings, books, equipment and other property of the district.

(5) Acquire, receive, hold control, convey, sell, manage, operate, lease, lease-purchase, lend, invest, improve and develop any and all property of whatever nature given to or appropriated for the use, support or benefit of any activity under the control of the board, according to the terms and conditions of such gift or appropiration.

(6) Purchase real property upon a contractual basis when the period of time allowed for payment under the contract does not exceed five years.

(7) Subject to ORS chapter 279, purchase relocatable classrooms and other relocatable structures in instalment transactions in which deferred instalments of the purchase price are payable over not more than 10 years from the date such property is delivered to the district for occupancy and are secured by a security interest in such property. Such transactions may take the form of, but are not limited to lease-purchase agreements.

(8) Establish, lease for not more than 10 years with or without an option to purchase, operate, equip and maintain food service facilities, bookstores and other revenue producing facilities connected with the operation of the community college.

(9) Fix standards of admission to the community college, prescribe and collect tuition for admission to the community college, including fixing different tuition rates for students who reside in the district, students who do not reside in the district but are residents of the state and students who do not reside in the state.

(10) Prescribe and collect fees and expend funds so raised for special programs and services for the students and for programs for the cultural and physical developments of the students.

(11) Provide and disseminate to the public information relating to the program, operation and finances of the community college.

(12) Establish or contract for advisory and consultant services.

(13) Take, hold and dispose of mortgages on real and personal property acquired by way of gift or arising out of transactions entered into in accordance with the powers, duties and authority of the board and institute, maintain and participate in suits and actions and other judicial proceedings in the name of the district for the foreclosure of such mortgages.

(14) Maintain programs, services and facilities, and, in connection therewith, cooperate and enter into agreements with any person or public or private agency.

(15) Provide student services including health, guidance, counseling and placement services, and contract therefor.

(16) Join appropriate associations and pay any required dues therefor from resources of the district.

(17) Apply for federal funds and accept and enter into any contract or agreements for the receipt fo such funds from the Federal Government or its agencies for educational purposes.

(18) Exercise any other power, duty or responsibility necessary to carry out the functions under this section or required by law.

(19) Prescribe rules for the use and access to public records of the district that are consistent with ORS 192.030. However, the following records shall not be made available to public inspection for any purpose except with the consent of the person who is the subject of the record, student or faculty, or upon order of a court of competent jurisdiction:

(a) Student records relating to matters such as grades, conduct, personal and academic evaluations, results of psychometric testing, disciplinary actions, if any, and other personal matters.

(b) Faculty records relating to matters such as conduct, personal and academic evaluations, disciplinary actions, if any, and other personal matters.

Section 35. ORS 662.705.

662.705. As used in ORS 662.705 to 662.795, unless the context requires otherwise:

(1) "Appropriate bargaining unit" means a homogeneous group of employes of a health care facility, having similar interests, duties, preparation and qualifications, determined pursuant to ORS 662.745.

(2) "Employe" means a licensed professional or practical nurse performing services for compensation for a health care facility, but does not include:

(a) A public employe, or

(b) A member of a religious order assigned to a health care facility by the order as a part of his obligations to the order.

(3) "Health care facility" means a private hospital or nursing home, agency or establishment having as one of its principal purposes the preservation of health or the care of sick or infirm individuals, or both. However, "health care facility" does not include a facility employing fewer than four employes.

(4) "Labor Commissioner" means the Commissioner of the Bureau of Labor.

Section 36. ORS 662.715.

662.715. Sufficient competent and dependable care of the ill and infirm is of paramount importance to the general welfare of the people of this state. The Legislative Assembly recognizes that the public interest requires that effective measures be taken to assure uninterrupted continuation of this care. This state encourages the practice of collective bargaining between employers and employes of health care facilities in privately operated health care facilities.

Section 37. ORS 662.785.

662.785. (1) If a health care facility and the representative of an appropriate bargaining unit of its employes are unable to reach agreement after protracted collective bargaining in good faith, either party may:

(a) Request the State Conciliation Service to mediate the dispute. Both parties shall participate actively and in good faith in the mediation of such dispute by the conciliator.

(b) Apply to the Public Employe Relations Board for a factfinding inquiry concerning the dispute, if the parties are not able to settle their dispute within 10 days through mediation and conciliation. Upon such an application, the Public Employe Relations Board shall forthwith make an investigation of the dispute. The Public Employe Relations Board may, in compliance with ORS 183.310 to 183.500, hold hearings, issue subpenas, administer oaths and do all things necessary to enable it to make a complete investigation. Upon completion of its investigation the Public Employe Relations Board shall make written findings of fact and file the original thereof as a part of the record of its investigation. The Public Employe Relations Board shall serve a copy of the findings upon each of the parties.

(2) The parties to the dispute shall not be required to reimburse the State Conciliation Service, but the cost of factfinding in paragraph (b) of subsection (1) of this section shall be borne equally by the parties involved in the dispute.

Section 38. Nothing in this Act affects a collective bargaining agreement made before the effective date of this Act.

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CASE REVIEWS

CALIFORNIA

"Sickout" During Negotiation Is Not Refusal To Bargain

A "sickout" precipitated by a refusal to negotiate the amount of caseloads for caseworkers belonging to the Los Angeles County Employees Association neither constituted a refusal to bargain nor an unfair labor practice according to the Los Angeles County Employee Relations Commission (ERCOMM). The dispute was taken to ERCOMM by the Department of Public Social Services after the county had refused, even under court order, to begin negotiations with the union.

Prior to the court order, ERCOMM had ordered the county to negotiate with the union concerning caseloads since they have "a clear and direct relationship. . .to conditions of employment." When the county continued to refuse to bargain, the union petitioned the superior court for enforcement. The court granted the union's petition. The county's appeal of the lower court's order to bargain caseloads is as yet unresolved.

Since ERCOMM was not authorized to issue injunctions or to determine the legality of strikes, the issue before it was whether the sickout was in violation of the county ordinance prohibiting an employee organization from refusing to bargain.

ERCOMM rejected the county's argument that the sickout amounted to a refusal to bargain and to coercion to force the county to bargain an item which was not negotiable, and ruled that the "union made no unlawful bargaining demand" since the county had already been ordered to bargain caseloads. Therefore, ERCOMM dismissed the unfair practice charge filed against the union. (*County of Los Angeles and Los Angeles County Employees Association, SEIU, Local 660, AFL-CIO*, Los Angeles County Employee Relations Commission, August 25, 1972.)

COLORADO

Denial of Transfer Valid

A negotiated agreement may include language granting priority to a school district's teachers when a school board fills vacancies because such a statement does not imply that the school district has delegated its authority and power to render decisions. On the basis of this rationale, the Colorado Court of Appeals overturned a lower court ruling which held that a "priority treatment" clause in the contract between the Colorado Springs Teachers Association and School District No. 11 illegally delegated authority vested in the district.

The issue of the legality and enforceability of the vacancy priority provision arose when a teacher employed in the school district applied for transfer into a vacanct position at a new school and was denied the transfer in favor of a teacher hired from outside the district.

The school district contended that state law prevented it from delegating its responsibility in hiring staff by means of a negotiated contract. Noting the validity of the law, the court found that the contract implied no obligation to fill vacancies solely from the district's present employees and that clauses relating to employment did not mean per se that authority or decision-making power had been delegated away. The court ruled that what had been agreed upon was a district policy to give teachers employed in the district priority in filling new openings. Since such statements of policy did not constitute delegation of district authority to the association, the provision, according to the appeals court, was not inconsistent with state statutes. (*Rockey v. School District No, 11, El Paso County*, Colorado Court of Appeals, Division I, April 10, 1973.)

NEBRASKA

Unincorporated Association Must File With State Before Litigation

While one section of the Nebraska Reissue Revised Statutes of 1943 allows unincorporated associations to negotiate and sue in the courts, another section, which deals with unincorporated, nonresident associations doing business in the state requires that such associations file with the secretary of state a certified statement listing the nature of the organization's business and the agents representing it in legal matters before the association can have recourse to the courts. The Court of Industrial Relations ordered the State Department of Education to negotiate with the Nebraska Council of Educational Leaders over a contract for administrative, vocational, and instructional services employees. However, because the council had not filed; the state supreme court ruled that it had no legal right to sue in court and could not legally force the department of education to negotiate over salaries and working conditions.

A dissenting opinion pointed out that R.R.S., 1943, had been amended to allow litigation by unincorporated associations representing employees in collective negotiations,

and that the filing process under the law was clearly intended for nonresident unincorporated organizations. The minority opinion argued that ample evidence had been presented to show that the council was a state based employee organization, based in Lincoln, had a constitution, and had an executive committee. (*Nebraska Council of Educational Leaders v. Nebraska State Department of Education and State Board of Education*, Nebraska Supreme Court, March 23, 1973.)

NEW JERSEY

Appropriate Bargaining Unit in Parochial School Pending NLRB Opinion

The New Jersey Superior Court, Appellate Division, upheld a trial court's findings and conclusions in the determination of an appropriate bargaining unit for personnel employed by the Newark Archdiocese parochial school system. The high court affirmed the election and the bargaining unit determination pending the result of a request to the National Labor Relations Board (NLRB) for an advisory opinion regarding whether NLRB would assert its jurisdiction.

The Lay Faculty Association (LFA) claimed that it represented a majority of lay faculty members, and had requested the archdiocese-employer to engage in collective bargaining; that the archdiocese refused, violating the New Jersey Constitution. The union sought relief through the courts contending that no relief could be obtained from NLRB since LFA's employer is neither an employer within NLRB's definitions nor the state public employee law. LFA sought a judgment ordering the defendant to bargain collectively and participate in a representation election and to refrain from proffering contracts to individuals until collective bargaining had been completed.

To resolve the majority representation dispute, the lower court ordered a representation election and later issued an order providing for a separate tabulation of the non-returning employee's votes.

The high court struck down the employer's allegation that the court lacked jurisdiction owing to the presence of federal preemption, on the basis that courts do have authority to enforce rights stipulated by a state constitutional provision granting employees in private employment the right to organize and bargain collectively. The court rejected defendant's suggestion to dismiss the action, indicating that while LFA did not seek NLRB jurisdiction the defendant had initially agreed to court jurisdiction.

Further rejected were the defendant's claims that it was refused a trial regarding the right to an election and the size and composition of the appropriate bargaining unit which should have been decided prior to the election, and that department chairman, librarians, guidance counselors, and non-returning teachers should have been excluded from the unit, since those librarians and guidance counselors who hold teaching certificates and receive the same salary as lay teachers are part of the faculty and share a community of interest with the lay teachers.

Upholding the lower court's ruling that the employer's challenge of department heads' right to vote came too late, the court ruled that the department heads who were considered part of the unit by the lower court were not supervisors within the meaning of the term, but the exclusion (by the lower court) of department heads devoting more than 30 percent of their time to supervisory duties would not effect the election.

The appellate court rejected the employer's final claims and retained jurisdiction pending the results of the ordered advisory opinion from NLRB. (*Lay Faculty Association of Regional Secondary Schools of the Archdiocese of Newark, Plaintiff-Respondent v. Roman Catholic Archdiocese of Newark, Defendant-Appellant*, Superior Court of New Jersey, Appellate Division, February 2, 1973.)

NEW YORK

Court Affirms PERB's Exclusive Jurisdiction Over Representation Disputes

While the question of arbitrability is best left for the arbitrator to decide, the arbitrator lacks jurisdiction in disputes over unit representation where no contract provision addresses the issue. Further, the New York Public Employment Relations Board, having exclusive jurisdiction over matters of major public policy, is the agency empowered to modify existing units. So ruling, the state supreme court stayed for lack of jurisdiction an arbitration between the Lakeland Federation of Teachers (LFT) and the Central School District No. 1 over the union's demand that deans and department chairmen represented by an administrators association be added to the LFT unit.

A union grievance, citing alleged violation of the contract recognition clause, argued that the deans and department chairmen performed the same functions as personnel already represented by the LFT and therefore belonged in the same unit.

The school board denied the charge and the union submitted the issue to binding arbitration. The motion to stay arbitration proceedings filed by the board challenged the arbitrability of the grievance itself and the jurisdiction of the arbitrator in disputes involving changes in a unit previously certified by the PERB.

As no provision in the union contract dealt with accretions and the requested administrative employees were specifically excluded, the court reasoned that the union was not grieving a contractual matter but was attempting to expand the unit through arbitration. The court, noting state statutes which clearly empowered the PERB to define by certification the appropriate unit for collective negotiations, ruled that the PERB had exclusive jurisdiction over representation disputes and granted the stay. (*Board of Education, Central School District No. 1 v. Lakeland Federation of Teachers Local 1760*, New York Supreme Court, Westchester County, May 9, 1973.)

PENNSYLVANIA

Teachers' Strike Ruled Legal

When all dispute settlement procedures have been exhausted and no clear danger or threat to public health, safety, or welfare is created, a teachers' strike is legal under conditions detailed in the 1970 Public Employee Relations Act. The Commonwealth Court of Pennsylvania reversed a lower court decision enjoining the Bellefonte Area Education Association from further strike activity during the 1972 contract dispute with the Bellefonte Area School District.

Attempting to reach agreement, the parties retained a mediator as prescribed under the Act. The mediator notified Pennsylvania Labor Relations Board that the situation had reached impasse, with no intervention by the PLRB. After eight months of futile negotiations, the association struck. The school district won injunctive relief owing to the PLRB's failure to institute statutory fact-finding procedures and on the grounds that the strike endangered public welfare through the district's loss of the required number of school days and the resulting loss of state subsidies.

The use of fact finding is a discretionary procedure, the court held, not a mandatory prerequisite. The court interpreted the PLRB inaction as a determination not to use fact finding and ruled that the association had exhausted the statutory prerequisites. Overruling the threat to public welfare argument, the court noted that sufficient make-up days existed to meet state requirements to qualify for the subsidy. (*Bellefonte Area Education Association et al., v. Board of Education of Bellefonte Area School District and Pennsylvania School Board Association*, Commonwealth Court of Pennsylvania, May 23, 1972.)

FEDERAL

NLRB Does Not Have Authority To Rule on Reasonableness of Union-Imposed Fines

Reversing a U.S. Court of Appeals decision, the Supreme Court of the United States reaffirmed the position of the National Labor Relations Board (NLRB) that it did not have authority to determine the responsibility of a union's disciplinary fine levied against its members.

During an 18-day strike against the Boeing Company, 143 employees violated the union's constitution by crossing picket lines. Though some of the strikers resigned prior to and immediately after crossing the picket lines, they were all fined $450 and barred from holding union office for five years. Some employees refused to pay their fines, whereupon the union filed suit in state court for collection.

In turn, the Boeing Company filed a charge with the NLRB, contending that the union had committed an unfair labor practice by fining employees who had resigned from the union and for imposing unreasonable fines. The NLRB refused to rule on the issue of unreasonableness or to establish standards with respect to the reasonableness of a fine since Congress did not authorize it to regulate internal union affairs, a matter properly under the jurisdiction of state courts.

An appellate court had ruled that the fines were unreasonably large and therefore coercive and restraining within the meaning of the National Labor Relations Act (NLRA) and remanded the case to the Board with directions to consider questions relating to reasonableness. Additionally, both the appeals court and the employer held that NLRB should not leave the determination of reasonableness entirely to the state courts because more uniformity in the determination of what is reasonable would result since more expertise in labor matters would be brought to bear if the issue was decided by the Board.

The Supreme Court pointed out that it had previously held that the NLRA did not grant the Board power to regulate internal union affairs, including the imposition of disciplinary fines. The court cited *Allis-Chalmers* and *Scofield* in which it held that Congress did not intend for Section 8 of NLRA, which states that restraint or coercion of employees who exercise their right to refrain from various concerted activities is an unfair labor practice, to apply to union-levied fines that do not affect the employer-employee relationship.

According to the court, a review of state court cases revealed that these courts were willing to determine whether disciplinary fines were reasonable as well as capable of assessing reasonableness in varying situations by drawing on their experience in areas of law apart from labor relations. The high court also noted that there was no evidence that the Board's setting of standards of reasonableness would necessarily result in greater uniformity or even that such uniformity is desirable.

Because the union discipline did not interfere with the employee-employer relationship or otherwise violate a policy of the NLRA, the NLRB had no jurisdiction in the matter. Therefore, the lower court decision was reversed.

The dissenting opinion agreed with the ruling of the Court of Appeals that the NLRB should devise and employ national standards to govern union conduct since a union's power to discipline can be an "oppressive and coercive device of retribution" leading to an unfair labor practice. (*National Labor Relations Board, Petitioner v. Boeing Company et al., Respondents*, United States Supreme Court, May 21, 1973.)

BOARD FINDINGS AND RULINGS

MAINE

PELRB Rules on Open Sessions, Unilateral Changes, and Negotiability of Smoking on School Premises

The Maine Public Employment Labor Relations Board handed down three rulings under the states new Municipal Public Employment Labor Relations Law (MPELR). Each case involved teacher-board negotiations.

• In the first case, the Board ruled that the Eliot and South Berwick School Board's refusal to negotiate with the Quamphegan Teachers Association unless the press and public were permitted to be present during bargaining sessions was a violation of the law.

The school board contended that the association's refusal to allow public negotiation sessions constituted an impasse in bargaining, and that pursuant to Section 965 of MPELR, a fact-finder should be appointed. The school board also contended that the "right-to-know" law (Maine Revised Statutes Annotated, Title 1, Section 404) set a precedent for open sessions.

The association contended that the board's position was a form of coercion and constituted a refusal to bargain in good faith.

The Board decided to assert jurisdiction after noting that the school board's request for fact-finding was filed 14 days after the complaint of a prohibited practice. The Board also decided that exhaustion of all the remedies set forth in Section 965 would cause unwarranted delays in resolution of the dispute.

After reviewing the "Right-to-Know" law, the Board held that the law was intended for peculiar situations where public view would be necessary and practical. The Board reasoned that because the law is applicable only to the public employer, a unilateral situation would exist whereby the employer could mandate public negotiation while the organization would have no in-put. In addition, the Board cited NLRB decisions and *Salem (Mass.) v. International Association of Fire Fighters Local 1780* (MUP 309) which held that "negotiations are severely handicapped when conducted as a public spectacle."

On the basis of the foregoing, the Board ordered the school board to discontinue its demands and to bargain in good faith.

• In the second case, the Board ordered the Kittery School Committee to restore the 7 percent increases to teachers with 11 years' experience. The school committee had unilaterally rolled back these teachers' salaries during negotiations for a successor contract. The school committee had also withheld the 7 percent increase in salary that had been paid the teachers prior to the execution of the agreement.

The school committee considered itself bound to the terms of the previous agreement except for item 23, which granted the increases only for a specific school year.

Noting that the rollback occurred after the commencement of collective bargaining, the Board said that established principles of labor relations techniques as well as decisions of the Supreme Court of the United States declare that "an employer's unilateral change in wages or working conditions during negotiations usually can be held a refusal to bargain."

On these grounds the Board ordered the school committee to reinstate the 7 percent increase and to pay the teachers the increase for the pay periods when they did not receive it.

• In the third case, the Board ordered the South Paris Board of Directors to negotiate with the Oxford Hills Teachers Association over whether teachers may smoke on school premises. Six days after contract negotiations began, the superintendent banned smoking in the schools, a subject to be included in the negotiations. The association tried unsuccessfully on two occasions to negotiate the matter with the board, but the school board contended that the issue was not a mandatory subject for bargaining because it was not included in the previous contract, and the contract states that the employer shall establish all terms and conditions of employment not provided for in the agreement. The board also contended that smoking in public school buildings is a matter of educational policy and excluded from subjects to be negotiated.

The association cited *Kittery Teachers Association v. School Committee* to support its position that "a provision for smoking is a working condition for teachers and that an employer may not therefore alter the condition unilaterally when it is the subject of current negotiations."

The Board concluded that "smoking is clearly a matter of educational policy when it occurs in areas of unrestricted student access; but that on the other hand smoking is a working condition when it is performed in areas restricted to student access and is therefore fully negotiable." On this basis, the Board ordered the school board to include the question of smoking in its collective negotiations. (*Quamphegan Teachers Association, and Eliot and South Berwick School Board of Directors*, Public Employees Labor Relations Board, April 20, 1973; *Kittery Teachers Association and School Committee of Kittery*, Public Employees Labor Relations Board, March 15, 1973; *Oxford Hills Teachers Association, South Paris, and Board of Directors, South Paris*, Public Employees Labor Relations Board, April 20, 1973.)

MASSACHUSETTS

MLRC Orders Dispute Deferred To Negotiated Grievance/Arbitration Procedure

A recent ruling (*Collyer Insulative Wire*, 77 LRRM 1938) of the National Labor Relations Board (NLRB) which held that a dispute could be deferred to available grievance/arbitration machinery when it involved a violation of both statute and the collective bargaining agreement was applied by the Massachusetts Labor Relations Commission in a case involving the Cohasset School Committee and the Cohasset Teachers Association. The dispute concerned the negotiability of a unilaterally imposed evaluation of teachers, deferred to the grievance/arbitration procedure by MLRC. However, MLRC retained jurisdiction.

The association filed a complaint requesting that MLRC require settlement of the dispute via the negotiated grievance procedure. The association also felt that MLRC should retain jurisdiction in the matter to insure that neither party would be denied its constitutional rights. The school committee's position was that the evaluation of teachers by a unilaterally established procedure was not a mandatory subject of bargaining; therefore, MLRC need not determine the issue before dismissing the complaint. The school committee also felt that the dispute should be remanded to the parties' grievance arbitration procedure.

The MLRC decided to defer the dispute to the parties' grievance machinery. However, MLRC adopted NLRB's philosophy of retaining jurisdiction in the matter in the event the dispute was not properly settled through available grievance machinery, the dispute was not settled promptly, the grievance-arbitration procedure was not fair, or the final decision was not in accord with the state's collective bargaining law.

The Commission pointed out that prompt settlement of a dispute was essential in a collective bargaining system, and in this respect, grievance-arbitration machinery was most effective.(*Cohasset School Committee and their agent, James Gray, Superintendent of Schools and the Cohasset Teachers Association*, Massachusetts Labor Relations Commission, June 19, 1973.)

MICHIGAN

Contract Benefits Continue Through Oral Extension

An oral agreement to extend a contract is binding until a new contract is ratified with the extension embracing existing grievance and arbitration procedures. Awarding retroactive pay on the basis of negotiated increments in a 1970-72 contract, an arbitrator held the Riverview Board of Education to the oral agreement it had made with the Riverview Educators Association to extend all the terms and conditions of the current contract until it was superceded.

The board argued that no official extension had been granted, that recourse to arbitration had expired, and that at best any extension covered only existing salaries and benefits, as had been past practice.

The arbitrator ruled that the board and the association had intended to proceed under a contract extension and had developed a pattern of operation substantiating the extension, the only exception being the nonpayment of general salary increases. The decision entitled teachers to salaries retroactive to September 1972 and continuing until a new agreement was reached. (*Michigan Education Association and Riverview Board of Education*, American Arbitration Association, May 1, 1973.)

NEW YORK

Filing Grievance Protected Activity; Grievant Reinstated with Back Pay

A New York Public Employment Relations Board hearing officer supported a teacher's petition charging the Board of Education of Union Free School District No. 5 with violating the Public Employment Relations Act (PERA) by discharging her for participating in a grievance procedure.

The nontenured teacher had received an unfavorable evaluation report from the department chairman. At a post-evaluation conference with the principal, the teacher challenged the validity of the evaluation report, and the principal decided that an administrator other than the department chairman would evaluate the teacher. The teacher, having requested some time to review the decision, informed the principal that his decision was unacceptable. At this time the teacher also presented a statement questioning the department chairman's professional discernment as manifested in the evaluation report, and said that she thought the matter grievable.

The first stage of the grievance procedure required the teacher to discuss the grievance with the supervisor, in this case the principal. In reply to the teacher's statement that the matter was a grievance, the principal responded that he thought it to be a personal problem between the teacher and the department chairman. The teacher was suspended for failing to accept the principal's decision. A courtesy "competency hearing" was held, and the board accepted the superintendent's recommendation for the teacher's termination.

The hearing officer stated that PERA guarantees the right of employees to participate in a grievance procedure. Furthermore, the principal's recommendation for the teacher's termination was motivated by the teacher's rejection of his decision which he considered insubordination. The only question was whether the teacher had engaged in a protected activity, i.e., a grievance procedure. According to the hearing officer, the evidence indicated that the teacher had

filed a grievance, and that her response was within the negotiated grievance process, and her subsequent discharge was in violation of PERA.

In accordance with his decision, the hearing officer ordered the board to reinstate the teacher to her previous position, and to compensate her for pay lost because of her discharge. He also ordered the board to cease discriminating against employees engaging in protected activities, and to post his decisions. (*In the matter of the Board of Education of Union Free School District No. 5, Half Hollow Hills and Caroline Frank*, New York Public Employment Relations Board, March 12, 1973.)

Limitation on Merit Increments Barred

The Jefferson Community College Faculty Association charged that the Jefferson County Board of Supervisors altered a term and condition of employment by refusing to fund merit increases determined by the Jefferson Community College Board of Trustees, and violated the Public Employment Relations Act by prohibiting faculty association representation at a meeting of the board of supervisors.

The faculty association, the board of supervisors (respondents), and the board of trustees (intervenors) negotiated an agreement effective from September 1, 1971, to August 31, 1973. The first part of the agreement, negotiated between the board of supervisors and the faculty association, dealt with salaries, grievance procedures, and leaves, and the second part, negotiated between the association and the board of trustees, concerned appointment and evaluation criteria, promotions, leave policy, and other administrative matters. The salary provisions of the contract stated that faculty members who were employed at least 50 percent of the previous school year were eligible for annual merit salary increase. The board of trustees and the administration were to make the final determination of faculty members qualifying for merit increments.

During the first contract year, all eligible faculty members were granted merit increments. During the second year of the contract, the board of trustees and the administration again recommended all eligible faculty members for merit increments. Their recommendation was communicated to the board of supervisors at budget approval time. In July 1972, the board of supervisors issued a budget message which stated that it disagreed with the recommendations of the board of trustees that all eligible faculty members receive merit increments, and suggested that the custom of giving merit increases to only one-third of the CSEA employees be applied to faculty and administrative employees. Accordingly, the budget contained a contingency fund for merit increments to faculty members deemed "outstanding" by the board of trustees. The board of supervisors later allocated additional funds to pay one-half of the requested merit increments.

Following the action of board of supervisors, the faculty association filed a grievance which was decided in favor of the faculty association. The board of supervisors then instituted legal proceedings against the board of trustees charging it with failing to make a determination of salary increments on merit. The board of supervisors did not involve the faculty association in the proceedings, considering them "innocent bystanders." At this time the faculty association filed its petition with PERB, contending that the refusal of the board of supervisors to pay merit increments as provided for in the agreement constituted a breach of the agreement and violated the respondent's duty to bargain in good faith.

Subsequently the board of supervisors obtained an order from the state supreme court staying PERB from further processing the association's petition for lack of jurisdiction. The stay was later vacated as the board of supervisors had not exhausted all administrative remedies.

Following resumption of the PERB proceedings, the board of supervisors stated that the dispute involved interpretation of a negotiated provision, and therefore PERB lacked jurisdiction in the matter; furthermore, it denied the material charges of the faculty association, and in a cross-action, contended that the intervenor (Board of Trustees of Jefferson Community College) had failed to adhere to the agreement negotiated among the three parties by determining merit increments on the basis of outstanding rather than deserving faculty members. The board of supervisors also held that the standard for determining merit under the CSEA contract should be applied to the faculty agreement.

The hearing officer rejected the board of supervisors argument concerning the application of CSEA merit standards as inapplicable and insufficent to justify modifying a term of employment. The issue was whether refusing to fund a merit salary provision in the second year of a two-year contract violated PERA. The hearing officer determined that the board's refusal to fund the merit increments was a modification of the terms and conditions of employment. The action constituted an abrogation of a contract term and as such was a violation of the obligation to bargain in good faith. According to the hearing officer, the board of trustees and the administration had the sole responsibility to determine faculty members entitled to merit increments; the responsibility of the board of supervisors was to pay the increment. However, the hearing officer found no merit to the faculty association's charge that the respondent violated PERA by barring association representatives from attending their meeting.

The board of supervisors was ordered to pay merit salary increments. The charges in all other respects were dismissed. (*In the matter of Jefferson County Board of Supervisors and The Faculty Association of Jefferson Community College*, New York Public Employment Relations Board, March 16, 1974.)

Board Conduct Precipitated Association Strike

The New York State Public Employment Relations Board reduced from six to three months the forfeiture of dues levied against the Port Chester Teachers Association for a five-day strike.

The Board of Education, Union Free School District No. 4, Rye, New York, had charged the association with a violation of the Civil Service Law proscribing strikes. A hearing

officer examined the evidence furnished by the association, and ruled that "the board had engaged in such acts of extreme provocation as to detract from the responsibility of the association for the strike." The association's defense incorporating the extreme provocation concept elicited the hearing officer's statement that the "totality of conduct" had to be examined to see if "the employer played by the rules or . . . subverted them, whether he [had] gone out of his way to frustrate the process" of negotiations.

The Supreme Court, however, examined the same evidence and ruled that extreme provocation on the part of the board had *not* been established.

PERB, agreeing with the officer's analytical approach to defining the doctrine, examined the record and determined that the board had avoided negotiating any proposal involving additional costs, especially compensations. The board's chief negotiator was not authorized to agree on financial matters, protracting negotiations through mediation without a change in posture. The parties agreed to fact-finding proceedings after the association forced the issue, yet the board rejected the fact-finders recommendations. Having attempted to reach agreement for over a year, the association went on strike when the board would not accede to the association's salary package.

PERB ruled that the board had not really negotiated but had merely gone through the motions; therefore, the board's conduct clearly provoked the strike, thus detracting from the association's responsibility for the strike. PERB, therefore, reduced the association's strike penalty, the forfeiture of dues deduction, from six to three months. (*Board of Education, Union Free School District No. 4, Town of Rye, New York and Port Chester Teachers Association*, Public Employment Relations Board, March 19, 1973.)

Hiring Private Speech Therapists Board Prerogative

Upon finding that no terms or conditions of employment were affected by a school board's decision to engage the services of a private speech therapy center, a PERB hearing officer concluded that this action did not constitute a "contracting out" of work of an association member. Therefore, the Union Free School District No. 14, Town of Hempstead, did not have to negotiate over its action with the Hewlett-Woodmere Faculty Association.

After having reduced the district's speech therapy teachers from two to one during the summer of 1971, the board became aware that speech therapy would have to be provided for all students in the district, including those in parochial and private schools, necessitating additional therapy services. The board chose a concentrated block program over traditional methods and contracted with the Woodmere Center for Speech Disorders for an eight-week program to be conducted by three of the Center's staff. The district's remaining speech teacher continued to perform her usual duties along with pre-block program preparation and follow up after the intensive therapy course.

The association interpreted the board's arrangement with the Woodmere Center as a contracting out of work done by association members, and charged that the board had violated its duty to negotiate the matter.

The board felt it did not have to negotiate over the new method of providing speech therapy service because association members were not being replaced. The work performed by the Center's staff was not the same, nor were conditions of employment similar to those of district speech teachers.

The hearing officer examined the terms and conditions of employment of the remaining speech teacher and noted no change. He ruled that the Woodmere Center contract had not resulted in replacement of district speech teachers, hence the board's action could not be considered contracting out. Finding no violation of law, the hearing officer dismissed the association's improper practice charge. (*Union Free School District No. 14, Town of Hempstead and Hewlett-Woodmere Faculty Association*, New York Public Employment Relations Board, February 6, 1973.)

PENNSYLVANIA

No Appropriate Unit Found for State University Branch Campuses

While an over-all bargaining unit of all faculty members of the branch or Commonwealth Campuses would not be appropriate, the Pennsylvania Labor Relations Board concluded, individual units on each campus would be too fragmentary and also inappropriate. The PLRB denied a union representation petition requesting certification as bargaining agent for the faculties of 18 Commonwealth College Campuses, excluding the Main Campus, the Capitol Campus, the Medical Center, Hershey, and the King of Prussia Graduate Center.

The Commonwealth Campuses have the common functions of providing course work leading to the associate degree, noncredit programs, and continuing education, and the Main Campus houses regular and graduate degree colleges. The branches are an integral part of the university and are controlled in varying degrees by a common administration. The PLRB noted that in employee transactions, the campus director had advisory power only, as the final responsibility rested with the dean of the college at the main campus.

Apart from common functions, administration and student matriculation at the main campus sharp distinctions in enrollment patterns, degree programs, and specialized study offerings, indicated that each campus was unique academically and in staff composition.

PLRB, therefore, denied certification to a bargaining unit consisting of the faculties of the Commonwealth Campuses because of a lack of sufficient community of interest. It also dismissed the alternative individual units at each campus, ruling that integrated administration of the state university system would be impossible with the proliferation of units. (*In Matter of the Employees of Pennsylvania State University*, Pennsylvania Labor Relations Board, June 6, 1973.)

FEDERAL

NLRB Reverses Ruling, Excludes Part-Time Faculty Members From Full-Time Faculty Units

Reversing a two-year-old policy, the National Labor Relations Board (NLRB) determined that full- and part-time faculty members at most colleges and universities should not be included in the same bargaining unit.

The new ruling was issued in a case involving the New York University, the New York University Chapter, AAUP, and the NYU Faculty of Law Association concerning unit representation and the inclusion of part-time faculty members in the same bargaining unit with full-time faculty. The NLRB stated that unit determination was based on a common interest in wages, hours, and working conditions, but it found no such common interest between part- and full-time faculty members. Part-time faculty members traditionally receive stipends or honorariums, their primary income coming from other sources; they are not entitled to fringe benefits; they teach only 2 or 3 credit hours a semester while full-time faculty members work 50 and 60 hours per week; they are not eligible for tenure; and they do not participate in the university senate or faculty council. The NLRB was unable to devise criteria to determine voting eligibility for part-time faculty members, and on this basis the majority reversed a principle stated in *University of New Haven*.

In this decision, the NLRB ruled that part-time and full-time faculty members may be included in the same bargaining unit "absent agreement of the parties to exclude them." The majority concluded that in view of the substantial differences in the employment of full- and part-time faculty members in higher education institutions, the two groups should not be included in the same bargaining unit. Dissenting opinions held that the ruling caused excessive unit fragmentation, and disenfranchised those who had a right to vote on union representation.

NLRB was orginally encouraged to review its position on inclusion of part-time faculty members in full-time faculty bargaining units by challenges to a representation election held at the Catholic University Law School.

The board ordered a representation election for all law school faculty on February 20, 1973. Subsequently, NLRB decided to hear oral arguments on inclusion of part-time faculty members in over-all faculty units. The Catholic University Law School election was originally stayed, but pressure from the Law Faculty Bargaining Committee concerning preparations for elections and the approaching end of the semester resulted in NLRB scheduling the election for April 25. At the election, a board agent challenged all part-time faculty members' ballots and all the election ballots were impounded pending a decision by the NLRB. After the board's issuance of the New York University decision, only the full-time faculty ballots were counted; the vote was 10-8 for no representation. (*New York University and New York University Chapter, AAUP*, National Labor Relations Board, July 26, 1973; *Catholic University and Law Faculty Bargaining Committee*, National Labor Relations Board, August 5, 1973.)

NEGOTIATION NOTES

ALABAMA

Teachers Granted "Consultation" and "Dues Check-off" Rights

Two far-reaching bills, amending Title 52, Secs. 73 and 166 of the Code of Alabama of 1940, were enacted by the legislature, legally recognizing the right of teachers as public employees to meet and confer with city or county school officials on the terms and conditions of their employment.

The identical laws, one for cities and the other for county jurisdictions, recognize that teachers through their representatives have an inherent right to be consulted on the terms and conditions of their employment. The laws require that boards of education through the superintendent formulate with the employee representative written educational policies and rules and regulations for the conduct and management of the schools.

In addition, the laws mandate that the school boards consult professional assistants, principals, teachers, and interested citizens regarding the formulation of these rules and require that such policies and regulations be submitted within 20 days to the affected parties and filed with the State Superintendent on or before September 15, 1974.

A third measure passed by the legislature authorizes boards of education to recognize existing employee groups or to form employee groups for the purpose of obtaining group insurance benefits and tax-sheltered annuities. The law requires school boards to make payroll deductions for the insurance premiums, if not totally board paid, and also grants to employee groups dues check-off privileges. (See TEXT Section for the full laws.)

FLORIDA

AGO: "Right To Work" Provision Amplified to Exclude Negotiation of Agency Shop

Amplifying the "right to work" provision of the state constitution, the attorney general interpreted the statute as excluding negotiation of agency shop clauses in union contracts. His ruling makes a violation any coercive attempt to force a workman either to remain in or to join a labor organization or to require a nonmember to pay an agency fee, dues, assessment, fine, or other charges to a labor organization.

A companion opinion held hiring hall contracts (limiting the securing of employment to union members) to be in violation of the right to work statute. However, no criminal penalties were attached for violations, leaving it to the legislature to clarify and set such penalties.

NEW JERSEY

PERC Rules Revised

The New Jersey Public Employment Relations Commission (PERC) revised its rules and regulations governing posting, intervention, and timeliness. The changes in the three sections, which according to the deputy executive director had previously created problems, were technical and less controversial than a major overhaul would be.

The new language on posting notices of the filing of a representation petition preclude an employer from completely stopping the proceeding by failing to post the notice. Additionally, the requirement that parties advise the director of their interest within 10 days from the date of posting of such notice has been abolished and replaced with the stipulation that the parties indicate their interest as soon as possible.

Motions for intervention in a pending representation proceeding, which used to be admissable only during the 10-day posting period, can now "be made at any time up to and including the opening of the hearing so long as the motion is accompanied by a sufficient showing of interest."

The new section on timeliness for filing petitions for elections replaced the ambiguous language in the old section and eliminated confusion. "Now, petitions for state employees must be filed not less than 240 nor more than 270 days before the expiration of the agreement; for county or city employees the time period is not less than 90 nor more than 120 days, and for school districts the time period is between September 1 and October 15 of each year."

TEXAS

Police, Firefighters Covered by First State Public Employee Bargaining Statute

Police and firefighters in a historic first are now permitted to organize and bargain collectively on wages and terms and conditions of their employment. The recently enacted Firefighters Public Employee Relations Act declares as state policy that the protective service employees be compensated at levels "prevailing in comparable private sector employment." The state courts have jurisdiction and are charged with enforcement of the provisions of the Act, which supercede existing statutes and local ordinances. Existing benefits now enjoyed by police and firefighters will not be affected.

Exclusive bargaining agents for police and firefighters are determined through elections paid for by the employer. If two or more associations are involved, the costs are shared by the associations seeking representations.

Associations and public employers are to negotiate in good faith, and contractual agreements negotiated under the Act are binding upon the parties. Bargaining over compensation provisions is to begin 120 days before the end of a fiscal year, and if after 60 days no agreement is reached, an impasse is declared.

In the event of disputes or failure to reach agreement, there is recourse to mediation and arbitration. A three-member arbitration board, selected by the parties, can render binding awards subject only to judicial review by the state district court. If the employer refuses arbitration, the court can establish the level of compensation according to its determination of the prevailing wage.

Strikes and lockouts are prohibited under the Act. Penalties for violations are fines of up to $2,000 in the case of a lockout and a minimum fine of $2,500 per day in the event of a strike by an association. Dues checkoff may be suspended for up to one year, and strike penalties may be assessed against individuals. However, fines may be reduced if the court determines that "extreme provocation" by the employer detracts from the association's responsibility for the strike.

VERMONT

Municipal Employees Bargaining Law Revised

The Municipal Employee Relations Act has replaced the bargaining law for municipal employees and firefighters; excludes certificated employees of school districts. The new statute, which will be administered by the State Labor Relations Board, prescribes procedures for collective bargaining on conditions of employment and union security, gives employees a limited right to strike, outlines methods of preventing and remedying certain unfair labor practices, and lists procedures for election and certification or decertification of employee representatives.

The act promotes union security by allowing the parties to negotiate agreements requiring as a condition of employment either the payment of an agency service fee or membership in an employee organization after 30 days of employment or the effective date of the contract, whichever is later. However, "no employee can be discharged or discriminated against for nonpayment of an agency shop fee or for nonmembership in an employee organization if membership was not available on the same terms and conditions generally applicable to other members or if membership was denied or terminated for reasons other than the failure of the employee to tender the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership."

Strikes are not prohibited unless they occur 30 days after a fact-finding report, after the parties have voluntarily submitted a dispute to final and binding arbitration, after an arbitrator has issued an award, or unless they endanger the health, safety, or welfare of the public.

If a bargaining impasse is reached, either party may request a mediator, or one may be appointed by the labor commissioner if the public interest requires it. If the issues remain unresolved after 15 days of mediation, a fact-finder will be appointed. The parties also may voluntarily submit the dispute to binding arbitration.

The statute also contains provisions for binding arbitration of grievances involving interpretation of a contract and grievances concerning tenure.

Petitions for certification of an organization as an exclusive bargaining agent must be supported by at least 30 percent of the employees to be included in the unit. Petitions for decertification must be supported by 51 percent of the employees in the unit. Employers also may file petitions for certification or decertification of an exclusive bargaining agent "or assert that a presently certified bargaining unit is no longer appropriate under board criteria."

FEDERAL

Group Legal Services Now Negotiable Item

On August 15, 1973, the President signed into law an amendment to Section 302 of the Taft-Hartley Act which permits employer contributions to jointly administered trust funds established by labor organizations to defray costs of legal services. Before sending the bill to the President, a House-Senate conference amended it to include the words "counsel or plan of their choice."

The amendment allows negotiators to decide for themselves on open or closed panels and insures flexibility in the collective bargaining process. According to proponents, the amendment will encourage adoption of free choice plans by requiring that employers participate jointly in these plans, which are now totally union-designed and administered, and the fact that most of these plans will be purchased and provided directly by employers rather than by jointly trusted funds will ensure that consideration will be given to all alternatives, including open panel plans.

States Given Authority To Determine Strikers' Eligibility for Welfare Payments

The U.S. Department of Health, Education, and Welfare (HEW) issued a regulation, effective July 12, 1973, that leaves the states free to determine whether striking workers qualify for welfare benefits under the Aid for Families with Dependent Children Program. The already established hours-of-work test for eligibility which specifies that families of unemployed fathers working less than 100 hours per month would qualify still applies, but with the stipulation that "at the option of the state, such definition [of unemployed father] need not include a father whose unemployment results from participation in a labor dispute or

who is unemployed by reason of conduct or circumstances which result or would result in disqualification for unemployment compensation under the state's unemployment compensation law." Currently, of 24 states that provide welfare benefits for families under the Aid for Dependent Children Program, two, Maryland and Oregon, exclude families with fathers who are on strike.

In explaining his decision to give states the option of deciding whether strikers qualify for welfare, HEW Secretary Caspar W. Weinberger said that only this course is fully consistent with the "New Federalism" policies of the present Administration, which gives states greater flexibility to determine the best course for administering federal/state programs based on their own individual needs. He then pointed out that mandates which include or exclude strikers should be set only by the Congress.

The Consumer Price Index—September 1973

The Consumer Price Index rose 0.3 percent in September to 135.5 (1967=100), the Bureau of Labor Statistics of the U.S. Department of Labor reported. Higher mortgage interest rates and price increases for apparel and some foods—notably cereal and bakery products and restaurant meals—contributed significantly to the rise. The effects of these increases were moderated by declines in prices of some other foods, particularly fresh vegetables and poultry. The September index was 7.4 percent higher than a year ago.

On a seasonally adjusted basis, the August-to-September increase in the CPI was also 0.3 percent. The food index declined 0.1 percent, and the nonfood commodities index increased 0.1 percent after seasonal adjustment. The services index rose 0.9 percent.

In the June-to-September quarter, the CPI rose at a seasonally adjusted annual rate of 10.3 percent, compared with 7.4 percent in the quarter ended in June and 8.6 percent in the quarter ended in March. The food index rose at a seasonally adjusted annual rate of 28.8 percent. The rate of increase was more than in the June quarter, primarily due to the sharp food price increase in August, and overall about the same as in the March quarter. The nonfood commodities index increased at a seasonally adjusted annual rate of 2.6 percent in the September quarter, half as fast as in the June quarter. The services index rose at an annual rate of 7.4 percent in the September quarter, compared with 4.5 and 3.6 percent in the two preceding calendar quarters. *(U.S. Department of Labor, Office of Information, News Release, October 19, 1973.)*

STATISTICS

SHORT-TERM SICK LEAVE PROVISIONS IN COMPREHENSIVE TEACHER AGREEMENTS

The purposes of paid short-term sick leave is to give a teacher time to recuperate from brief illness or injury which prevents the performance of regular school duties. This analysis is intended to show the general negotiated content of sick leave provisions rather than the amount of annual sick leave allowed, the rate of accumulation, and the total number of sick leave days allowed to accumulate.[1]

More than 80 percent of the 1,529 negotiated agreements for the 1970-71 school year contained sick leave provisions. A sample of agreements (133) composed of every tenth agreement from each state in which a teacher/school board agreement had a sick leave provision was selected for analysis. The general negotiated content of these provisions is shown in Table 1.

ANALYZED CONTENT

The provisions were scrutinized to see if they included the following features: purpose of sick leave, requirement of physician's certificate to verify an illness, granting of additional sick leave when alloted or accrued sick leave has been exhausted, and compensation for accrued sick leave at retirement.

TABLE 1.–SICK LEAVE PROVISIONS, 1970-71: NEGOTIATED CONTENT

General content	Number	Percent
1	2	3
Purpose of leave	133	100.0
Physician's certificate	57	42.9
Additional leave for long absence	61	45.9
Payment of accrued sick leave upon separation	13	9.8
No sick leave deduction for injury or disease compensable under Workmen's Compensation Law	27	20.3
Total provisions analyzed	133	100.0

Some contracts used broad terms for sick leave, e.g., *temporary leaves, leaves of absences, absences with salary,* and *leave pay.* These terms were so general as to cover all short-term leaves, leave for family illness, death, or personal business as well as sickness or injury.

Purpose	Number of agreements	Percent
Personal illness or injury	72	54.1
Personal illness or injury, family illness, death in family	29	21.8
Personal illness or injury, family illness, death in family, personal business	20	15.0
Personal illness or injury, personal business	12	9.0
Total provisions analyzed	133	99.9

Examples of these provisions are as follows:

Section A: Temporary Leaves
Paragraph 1: Chargeable Temporary Leaves
Instructors are entitled to temporary leaves for personal illness or injury; illness, injury or death in the immediate family; personal business; and temporary active duty (upon being ordered) as a member of a reserve military unit.

[Wichita, Kansas]

At the beginning of each school year each full time teacher shall be credited with a twelve (12) day sick leave allowance to be used for absences caused by
Personal illness or quarantine
Illness in the immediate family
Death in the family other than immediate family as defined (maximum five days)
Marriage of an employee or of a child of an employee (maximum of two days)
Personal business (2)

[Benton Harbor, Michigan]

[1]See National Education Association, Research, *Salary Schedules and Fringe Benefits for Teachers, 1972-73.* Research Report 1973-R2. Washington, D.C.: the Association, 1973. p. 30-31.

Two provisions out of five reserved to the administration the right to require that a teacher submit a physician's statement to verify an illness. In 33 percent of these provisions, the board could request such verification when an absence continued in excess of a specified length of time, with the stipulation, in some provisions, that the board do so at its own expense:

> In the event of absence of a teacher for illness in excess of five (5) consecutive working days, the Board may, at its expense, require a physician's statement of illness.
>
> **[Ypsilanti, Michigan]**

Physician's certificate required	Number of agreements	Percent
After a specific number of consecutive days	34	25.6
3 or more	12	9.0
4 or more	3	2.3
5 or more	15	11.3
8 or more	1	0.8
10 or more	3	2.3
Upon board request	18	13.5
Upon suspicion of misuse	5	3.8
Total provisions analyzed	133	100.0

More than 40 percent of the provisions incorporated alternative courses for acquiring additional sick leave when the employee had exhausted accumulated sick leave owing to a continuing illness. Some agreements placed disposition of the employee's request for additional leave in the hands of the administration, for example:

> Should a teacher's sick leave be used up, he may apply to the School Board for additional days.
>
> **[Scottsdale, Arizona]**

Some agreements stated that extra days for the teacher's use as additional sick leave could be taken, but pay for these days would be the difference between the teacher's regular pay and a substitute's pay, for example:

> When a teacher's absence due to personal illness exceeds the total number of sick leave days accumulated, an additional ten (10) days will be allowed during which the cost of employing a substitute will be deducted from the teacher's salary. Subsequent absences will be deducted at the rate of 1/200th of the teacher's annual salary for each absence. In the case of employees whose term of employment is, for any reason, less than a full school year, the sick leave entitlement shall be calculated at one (1) day per month or major fraction of a month of actual employment.
>
> **[Haddon Heights, New Jersey]**

Sick leave banks[2] which allow the teacher to borrow additional sick leave days without loss of pay or reliance on special consideration, was established in some agreements, for examples:

> Sick Leave Bank shall be established whereby teachers may "deposit" one day of the sick leave to which they are entitled each year. Teachers who have a protracted illness and who have used up the sick leave to which they are entitled may apply to draw on the bank. The operations of the bank and withdrawals therefrom shall be carried out in accordance with guidelines to be prepared by a committee composed of equal numbers of persons designated by the Superintendent and by the Association.
>
> **[Brookline, Massachusetts]**

A small percentage of the agreements provided that a teacher would be compensated for accrued unused sick leave upon separation from the school system through retirement, death, or termination of service:[3]

	Number of agreements	Percent
Upon retirement	7	5.3
Upon death	5	3.8
Upon resignation	1	0.8
Total provisions analyzed	133	100.0

Examples of these provisions are as follows:

> Upon retirement a member of the unit will be paid for 80% of such member's accumulated unused sick leave up to but not more than one hundred fifty (150) days.
> Upon death of a member of the unit his spouse or minor children shall receive 45% of such member's accumulated unused sick leave up to but not more than one hundred fifty (150) days. If there is no surviving spouse or minor child, such payment shall be made to his estate.
>
> **[Newington, Connecticut]**

> Each teacher shall receive ten leave days per year accumulative to 50 days. Any days accumulated in excess of 50 days will be paid at the per diem contractual rate. Upon leaving the Redford Union Schools, in good standing, a teacher will be compensated for any unused leave time at the beginning B.A. salary, except that days in excess of fifty will be paid at the current per diem contractual rate.
>
> **[Redford Union, Detroit, Michigan]**

In one agreement, a teacher is to be paid for unused sick leave at the end of the school year:

> If a professional employee does not take the ton (10) days sick leave, the school district shall pay that employe for the same at the end of the school year at a rate of ten dollars ($10) per day. In the event that an employe leaves the district or retires prior the the end of the school year, said employe shall receive on a pro rata basis ten dollars ($10) per day for each day of unused sick leave.
>
> **[Bethlehem Center
> Fredericktown, Pennsylvania]**

[2]For further examples of sick leave bank see *Negotiation Research Digest,* April 1972.

[3]For further information see *Terminal Leave Pay Provisions,* NRD, June 1972.

SICK DAYS ALLOTTED

Almost 4 percent of the provisions sampled provided that accrued sick leave earned in one school district could be transferred on request to another school district, within the state, for example:

> Earned sick leave in another Florida County shall be transferred at the request of the Personnel Department and credited to any staff member employed having such accrued leave.
>
> **[Volusia Co. Sch. Dist.
> Deland, Florida]**

Most provisions stated that a teacher would be credited with a specific number of days per contract year (usually one day per month), thus affording the teacher immediate use of sick leave with the stipulation that the full year be worked. The majority of provisions included the total amount of sick leave that may be accumulated over the years. Some provisions also included language affecting the board's share of payment for absences owing to work related injury or disease compensable under the Workmen's Compensation Law.

Slightly more than 20 percent of the sick leave provisions stipulated that an employee would receive the difference between regular pay and workmen's compensation for work-related injuries with no deduction from sick leave up to a certain number of days as stipulated in the agreement.

> Any employee injured while under the coverage of Workmen's Compensation will not have days deducted from their sick leave as the result of an accident. During this period the employee will be paid the difference between the weekly compensation benefit and their normal remuneration. Such remuneration shall be payable so long as the employee is unable to work or a maximum of sixty (60) days.
>
> **[Hoover Schrum Sch. Dist.
> Calumet City, Illinois]**

Selected sick leave provisions are reprinted below. These are sample provisions only, and they are not intended to be regarded as exemplary.

LEAVES OF ABSENCE

Sick Leave

Teachers shall be entitled to sick leave with full pay for a maximum of fifteen (15) working days in each year. Unused sick leave shall be accumulated from year to year, so long as the teacher remains continuously in the service of the Board, up to but not in excess of one hundred fifty (150) working days.

Teachers whose respective schools are closed by order of the Health Officer or the Superintendent shall receive full pay and such absence shall not be charged to sick leave.

In the event of absence of a teacher for illness in excess of five (5) consecutive working days, the Board may, if it has reasonable cause to believe that there is an abuse of sick leave policy, require an examination by an independent physician, such examination to be at Board expense.

A teacher who has been absent because of infectious or contagious disease may be required to submit evidence of complete recovery before resuming his duties.

Leave of absence for ill health not to exceed two years may be granted, without pay, by the Board, such leave being subject to the regulations regarding retirement, and shall be credited as teaching experience on the salary schedule.

[Danbury, Connecticut]

* * *

Each regular, full-time teacher will be allowed ten days of sick leave each school year without loss of pay if he is absent due to personal illness. Part-time teachers and teachers who have individual contracts of less than a full year will be allowed the sick leave benefit on a pro-rated basis. A teacher under a summer school contract will be allowed two summer school days sick leave, which shall not be accumulated or deducted from regular sick leave.

The ten days of sick leave will be credited at the beginning of each school year. Any unused sick leave credit may be accumulated up to a maximum of 130 days for each teacher.

With the exception of the first ten days of accumulated sick leave, a teacher requesting approval of the use of accumulated sick leave shall have a form completed by his licensed physician indicating the nature of his illness and shall forward such form to the Superintendent. Upon receipt of the form the Superintendent will present the request of this use of accumulated sick leave to the Board.

Upon beginning employment with the Board, a teacher previously employed by a school district as a full-time certified teacher shall receive an accumulated sick leave days 70 percent of this total: 10 times (the teacher's step placement on the salary schedule); except that a teacher shall not receive more than the maximum number of accumulated sick leave days allowed under XIV(2).

A teacher absent as a result of being injured while at work may supplement Workmen's Compensation by taking accumulated sick leave in fractions (to the nearest tenth) of days. A maximum of up to ten days sick leave credit in any one school year will be reinstated to offset sick leave taken for the purpose of supplementing Workmen's Compensation during the year.

[Racine, Wisconsin]

* * *

LEAVE POLICIES

Sick Leave - Personal Illness

Each member of the professional staff is entitled to 20 days of sick leave per year with full pay.

Sick leave can be accumulated for an unlimited period.

If a staff member has used up all of his sick leave, he shall be entitled to an additional 30 days sick leave in a given year with his pay reduced by compensation paid to his substitute.

The Superintendent may require a medical exam at his discretion.

[Southbury, Connecticut]

PRICE INCREASES BOOST FAMILY BUDGETS 4.3 PERCENT

The most recent revision of the Department of Labor, Bureau of Labor Statistics (BLS), three standards of living budgets for a defined family of four reveals that between autumn 1971 and autumn 1972 the total annual cost of an intermediate budget rose 4.3 percent to $11,446, the higher budget rose 4.1 percent to $16,558, and the lower budget rose 2.4 percent to $7,386. Exclusive of taxes and social security payments the budgets rose 3.2, 4.5, and 4.4 percent in the three levels, lowest to highest.

Of the total intermediate budget, 79 percent accounted for consumption items including food, housing, clothing, transportation, personal care, and medical care. Housing including shelter, house furnishings, and household operations, showed the sharpest increase, 6.5 percent. The cost for shelter was up 7.9 percent—2.9 percent for renters and 9.0 percent for homeowners. A comparison of the amounts allocted to shelter among the three budget levels shows that shelter accounted for 31 percent of total consumption at the intermediate level compared with 34 percent at the higher level and 26 percent at the lower level.

The updated computations also revealed that food costs in the intermediate budget rose 5.6 percent in contrast to 3.3 percent during the preceding 18-month span. Food costs account for 34 percent of consumption at the lower level, 30 percent at the intermediate level, and 27 percent at the higher level.

In monetary terms, food accounted for $2,673 of the total intermediate budget in 1972 while housing claimed $2,810, transportation $979 with costs for automobile owners at $1,026, clothing $956, recreation, tobacco, alcoholic beverages, and education $702, medical care $632, and personal care $261. Personal income taxes totaled $1,375, social security and disability payments $482, and other items such as gifts, life insurance, and occupational expenses, $576.

TABLE 1.—SUMMARY OF ANNUAL BUDGETS FOR A 4-PERSON FAMILY AT 3 LEVELS OF LIVING, URBAN UNITED STATES, AUTUMN 1972

Component	Budget level		
	Lower	Intermediate	Higher
Total budget	$7,386	$11,446	$16,588
Total family consumption	6,029	9,013	12,462
Food	2,058	2,673	3,370
Housing	1,554	2,810	4,234
Transportation	546	979	1,270
Clothing	667	956	1,400
Personal care	197	261	370
Medical care	629	632	659
Other family consumption	378	702	1,159
Other items	365	576	967
Taxes	992	1,857	3,129
Social security and disability	397	482	482
Personal income taxes	595	1,375	2,647

Source: Brackett, Jean. "Urban Family Budgets Updated to Autumn 1972." *Monthly Labor Review* 96: 70-76; August 1973.

An increase of 4.4 percent to $11,731 in the intermediate budget for metropolitan areas of the urban United States was also recorded by BLS. The intermediate metropolitan budget was 15 percent higher than in areas with population of 2,500 to 50,000 while the metropolitan-nonmetropolitan difference for the higher level was 22 percent and the lower level 10 percent.

Special Reports

NEGOTIATED PAID LEAVE FOR EDUCATIONAL CONFERENCES, CONFERENCE FEES PAID, AND TRAVEL ALLOWANCE PROVISIONS

The following analysis of provisions which deal with three aspects of educational conferences is based on 1,529 written negotiated agreements for 1970-71 analyzed by NEA Research. Of the 1,529 agreements analyzed, 40.6 percent contained a provision for leave with pay for educational conferences; 26.0 percent, a provision for paid conference fees; and 19.4 percent, a travel allowance provision. Table 1 presents the number and percent of the various combinations of these three provisions.

Leave for educational conferences is considered as professional improvement leave intended to allow teachers an opportunity to acquaint themselves with outstanding examples of educational projects, to improve the quality of their work, and to benefit the school system's educational and instructional programs. More than 90 percent of the agreements did not specify the maximum number of days' leave that could be taken for attendance at these conferences. Generally such leaves are granted by the superintendent upon the individual teacher's request with prior approval of the supervising principal. Some school systems stipulated that requests for permission to attend conferences be submitted a certain time in advance of the effective date of leave for the conference, and that the conference be within the teacher's area of expertise and of value to the school system. Examples of these types of statements are:

> Authorization for attendance at conferences must be submitted in writing 15 days in advance except in cases of emergencies.
>
> **[Niagara, Falls City Schools, Niagara Falls, New York]**

> The activity is to be of value to the district. Planning by those attending should emphasize how their participation in the activity will help meet the needs of the district.
>
> **[Natrona County HSD-District No. 2 Casper, Wyoming]**

> Provision may be made for excused absences for the purpose of visiting other schools or attending meetings or conferences of an educational nature by applying to the Superintendent. This leave will be granted at the discretion of the Superintendent after he has determined the appropriateness of the request and its relatedness to the education program in which the teacher is involved.
>
> **[Hillsborough Township School District, Belle Meade, New Jersey]**

The agreement may require teachers upon return from educational conference leave to submit a written or oral report outlining pertinent information about the conference to their immediate supervisors or the superintendent. The following provision is an example:

> A written report of the conference or meeting must be submitted to the Superintendent of Schools before reimbursement will be made. This report should be brief and should include items which may be of value in our work in this School District—new ideas, different techniques, better procedures, evidence to substantiate merit, present practices, weaknesses observed in various practices, etc.
>
> **[Monticello Central School District, Monticello, New York]**

TABLE 1.—NEGOTIATED PROVISIONS RELATING TO PAID LEAVE FOR EDUCATIONAL CONFERENCES, CONFERENCE FEES PAID, AND TRAVEL ALLOWANCE

Type of provision	Agreements containing designated content	
	Number	Percent
1	2	3
Paid conference leave only	336	22.0
Leave, travel, and fees paid	164	10.7
Conference fees paid only	88	5.8
Leave and conferences fees paid	82	5.4
Conference fees paid and travel allowance	63	4.1
Leave and travel allowance	39	2.6
Travel allowance only	31	2.0
Total number of agreements analyzed	1,529	100.0
Total number of pertinent provisions	1,315	86.0

In 97.3 percent of the 621 agreements containing the provision for educational conference leave, such leave is separate and not deducted from other leaves. More than 90 percent of the provisions do not specify the maximum number of days of leave that can be used for conferences but indicate that teachers will be given sufficient leave time to attend conferences without loss of compensation. For example:

> Teachers may be granted leave with full pay for attendance at professional conferences, school visitation and other activities designed to improve their competency as professionals. Absence for such approved leaves shall fall outside the District policy on Non-Attendance.
>
> **[Mineola Public Schools, Mineola, New York]**

> A teacher attending such conferences and meetings shall be granted sufficient leave time to attend without loss of compensation or leave days.
>
> **[Bloomfield Hills School District, Bloomfield Hills, Michigan]**

Usually agreements containing the provision for payment of conference fees do not limit the amount that the school system will pay but state that the system will pay reasonable expenses, including conference fees, upon receipt of statements supporting expenditures.

Reimbursement for travel allowance, which covers transportation, food, and lodging, is covered in three ways. In some agreements reimbursement is limited to a daily maximum, such as:

> Cost for lodging and meals will be reimbursed at cost with a maximum of $25.00 per day if the meeting requires staying overnight.
>
> **[Gwinn School District, Gwinn, Michigan]**

A few systems pay a flat rate to defray the costs of travel, lodging, and meals, for example:

> Any teacher who is attending a conference related to his subject area, having first received approval from his supervisor and from the Assistant Superintendent for Instruction shall be reimbursed a maximum of $150 for all essential expenses of travel, food, lodging and conference fees.
>
> **[Half Hollow Hills Central School District No. 5, Huntington Station, New York]**

Most agreements cover all reasonable expenses, for example:

> The School Committee will pay the reasonable expenses including fees, meals, lodging and/or transportation incurred by teachers who attend School Committee approved workshops, seminars, conferences, or other professional improvement sessions.
>
> **[Burlington School District, Burlington, Massachusetts]**

BRIEFS OF AGREEMENTS

Cheshire, Connecticut

Between Cheshire Board of Education and Cheshire Education Association, effective September 1, 1972, to June 30, 1975. Approximately 316 certificated professional employees, excluding personnel in positions requiring an administrative or supervisory certificate. Provision for automatic renewal unless either party gives written notice by December 1, 1974, that it wishes to terminate the agreement; upon such notice the parties shall meet by February 1, 1975, to exchange proposals.

COMPENSATION: (1973-74) B.A., $8,065 to $12,245, 12 increments; B.A. plus 30 hours, $14,045 maximum; B.A. plus 60 hours, $15,095 maximum; Ph.D., $15,895 maximum; longevity pay effective September 1, 1972, through August 31, 1973, $300 additional for 15 through 17 years' service, $600 additional for 18 through 20 years' service, $900 additional for 21 through 24 years' service, $1,200 additional for 25 or more years' service; teachers who have completed at least 15 years' service who are eligible for retirement under the Connecticut State Retirement System Plan, and who have indicated their intention of retiring before February 1 prior to the last three years of service will receive a retirement increment of $1,250 a year for each of the three years prior to retirement.

DIFFERENTIALS: High school—head football coach, $1,150, head basketball coach, $1,045; faculty manager, head baseball and track coaches, $940, assistant football, basketball, baseball, and track coaches, head soccer coach, $730; boys' and girls' intramurals, $630; cross country, $625, assistant soccer and golf coaches, 9th grade football, basketball, baseball, track, tennis, girls' field hockey, girls' basketball, girls' softball, girls' volleyball, $470. Junior high school—boys' intramurals, $800; girls' intramurals, $500; director of athletics, $450; football, soccer, boys' basketball, girls' basketball, boys' baseball, girls' softball, track,

and cross country, $310; senior play director, $750; band director, senior class coordinator, yearbook, $500; assistant play director, $250; audiovisual building coordinators, $200; newspaper, $150; department heads, $800 plus $100 for each 5 teachers supervised; guidance counselors, $650; special education and reading and speech teachers, $400-$700, 5 steps.

OTHER: Salaries of part-time certified teachers determined by position on the salary schedule and the number of periods taught; teachers of the homebound after school hours will be paid $10 per hour; teachers working beyond 183 days as advisors for curriculum work shall receive $25 per day on steps 0 to 4, $30 per day on steps 5 to 8, and $35 per day on step 9 or above; 10¢ per mile for all interschool travel by teachers assigned to more than one school on any one school day; in the event of death the teacher's survivors or his estate will receive 50 percent of the teacher's accumulated unused leave at the daily rate of 1/200 of the average of the last three years' salary in no case will the death benefit be less than $600.

LEAVES: 15 days accumulative annual sick leave; in addition 45 days extended sick leave less substitute's salary, beyond the 45-day period a deduction shall be made each day equal to 1/200 of the teacher's annual salary for the remainder of the school year; absences caused by the death, hospitalization and/or critical illness, or wedding of a member of the immediate family, or for attendance in court or other legal demands outside the employee's control may be charged against sick leave; for other absences a prorated deduction of 1/200 of the annual salary; full salary less workmen's compensation up to 180 days for employment-related injury or illness; 1 day per year for personal leave cumulative to 3; no charge will be made against a teacher's leave for observance of recognized holy days of the teacher's faith; paid leave for approved visiting days for professional improvement; sabbatical leave at the rate specified in the contract executed between the board and the recipient for research, study, travel, or writing after 7 consecutive years of teaching in the school system; all insurance benefits will be in effect; the board may reimburse the employee for travel and other expenses related to such leave; employee must sign contract stating that he will return to active service in the Cheshire Schools for at least two years after the expiration of such leave; an employee who does not fulfill his obligations shall repay the board the amount received while on such leave but he shall be relased from such payment if his failure to serve the two years is due to illness, disability, death, or dismissal; upon return the employee will be restored to the same or equivalent position prior to such leave or to a higher position if eligible and placed on the salary schedule that he would have attained had he not been absent; all previously accumulated sick days and personal days will be reinstated; educational leave of absence without pay shall be granted to teachers who have demonstrated superior capacity for five years under the provisions of the Cheshire Evaluation Plan; the recipient of such leave will be guaranteed the right to return to the teaching position or equivalent that he or she occupied prior to the leave and will be placed on the salary schedule step which he would occupy had he remained on the job; on return all previously accumulated sick days and personal days will be reinstated; teacher on leave will have the opportunity to continue all insurance benefits during the duration of leave at his own expense; leave for personal reasons may be granted by the board; recipient of such leave shall on return be placed on the same salary step attained at the time such leave was taken; teachers on personal leave shall have the opportunity to continue all insurance benefits at their own expense; all previously accumulated sick days and personal days will be reinstated.

INSURANCE: Blue Cross Extended Plan with semiprivate room rider and maternity rider available with individual and family coverage for all teachers; major medical insurance provided; $5,000 life insurance policy with accidental death and dismemberment rider.

ASSOCIATION: Payroll deduction of association dues; released time for not more than 5 association representatives per day for negotiation meetings; released time for no more than 2 association members per day to investigate a grievance or attend a grievance meeting or hearing; any grieving teacher, or teacher called by the board, and not more than 3 teachers called by the grieving teacher shall also be accorded released time.

INSTRUCTION: Association to be provided with a copy of board policy governing class size after considering responsible comments of the professional staff; the school calendar shall consist of 180 teaching days plus 3 work days; the association shall cooperate in planning, preparing, and executing curriculum development and revision through appropriate curriculum committees involving teachers, administrators, and supervisory personnel; board agrees that clerical and paraprofessional assistance is necessary for teachers to carry out their primary responsibility of teaching; no teacher shall be required to perform lunchroom duties; teachers shall not be assigned, except temporarily and for good cause, outside the scope of their teaching certificates or their major or minor fields of study.

PERSONNEL: Grievance procedure ends with final and binding arbitration; tuition reimbursement up to $250 for any one school year for inservice courses or courses at accredited institutions for improvement in immediate subject area or teaching assignment; the board shall pay reasonable expenses incurred by teachers who attend workshops, seminars, conferences, or other professional improvement sessions with the advance approval of their superior and the superintendent; $3,000 will be provided annually for the duration of this contract for training expenses; released time will be provided for inservice training and workshops at the discretion of the board; the superintendent shall honor written requests for change in teaching assignments that are in the best interests of the school system, the teachers, and the children; new positions and vacancies shall be posted in each school during the school year and in the central office during the summer; all cases of assault and battery involving a teacher in connection with his employment must be reported in writing immediately to his principal who will forward this information to the superintendent and the board; a teacher may request the board to furnish legal assistance if a criminal or civil charge is brought against him alleging that he committed assault in connection with his employment.

Billings, Montana

Between Billings School District No. 2 and the Billings Education Association, effective June 30, 1973, to June 30, 1974. Approximately 850 certificated professional employees. Provision for automatic renewal unless the board or the association gives notice not later than 90 days prior to the expiration.

COMPENSATION: B.A., $7,450 to $10,730, 11 increments; B.A. plus 15 hours, $7,700 minimum; B.A. plus 30 hours, $7,960; B.A. plus 45 hours, $8,090; M.A., $8,220 to $13,160, 13 increments; M.A. plus 15 hours, $8,480 minimum; M.A. plus 30 hours, $8,730; sixth year $15,350 maximum; to receive salary increases or to remain at the maximum salary the teacher must earn four semester or six quarter hours of college credit during every five years of employment.

DIFFERENTIALS: An Extra Pay Committee composed of two association members and two board appointees established to continuously review the rating of each extracurricular assignment, recommend additions to or deletions from the extra pay schedule, advise the board and association on matters concerning pay for extra duties, and review the area of short-term duty assignments.

INSURANCE: Health and long-term disability insurance available to all employees and families at no additional cost to employees; post-retirement, major medical coverage available to retired teacher if he will assume payment of the premium.

ASSOCIATION: Voluntary payroll deduction of local association dues; one hour released time per day for one association executive officer to attend to association business; association to reimburse district for 1/6 of the released teacher's salary; professional leave, without loss of pay granted duly elected or appointed association representatives to attend state, regional, and national association meetings or conventions; it shall be at the administration's directive if more than one association representative will be allowed leave simultaneously; right to use school buildings upon notice for association meetings; right to use interschool mail and mail boxes;

LEAVES: Ten days' sick leave per year, 100 days maximum accumulation; one day personal leave to transact or attend to personal, legal, business, household, or family matters which require absence during school hours; three days' absence allowed per emergency for critical illness in immediate family upon written application to and at discretion of superintendent; up to five days per year for death in the immediate family, additional absence deducted from sick leave; nondeductible absence allowed male teachers for hospital attendance from time of wife's admission until delivery or until any unforseen emergency is resolved; nondeductible absence for a teacher who must appear in court; requests for such absence must be made in writing; teachers may be released for jury duty if adequate substitute service can be provided; sabbatical leave at one-half annual salary for training, travel, or research after seven years in the system; leave granted to serve in public office when serving interferes with regular teaching assignment; upon written request tenured teachers may be granted leave of absence for one or two semesters for health, further training, or travel and study with insurance benefits continued at employees' expense and leave time counted as experience time for advancement on salary schedule if leave was for training, travel, or study.

INSTRUCTION: Not more than six class and duty assignments per day in junior high school; for additional class and duty assignments, 1/7 of the teacher's base pay shall be added to his salary; an effort will be made to provide aides in cases where the daily pupil load is excessive; clerical help will be employed in all schools to relieve teachers of noninstructional duties; an attempt will be made to employ instructional aides; duty-free lunch period same length as that of students except in unusual circumstances; teachers may make recommendations in planning the school calendar; a Professional Advisory Committee for Curriculum (PACC) composed of four association members from primary, intermediate, junior high, and senior high levels and four administration appointees shall work to clarify the purposes, philosophy, and educational goals of the district, recommend the establishment of curriculum review subcommittee to study curriculum correlation between grades, courses of study, textbooks, and curriculum guides; PACC may also recommend workshops, courses, conferences, and programs designed to improve instruction; teacher groups are encouraged to submit recommendations on curriculum to the PACC; the parties recognize that PACC and its subcommittees serve in an advisory capacity only and that the failure of the board to implement any of its recommendations shall not constitute a basis for a grievance; a teacher has the right to refuse assignment of a student teacher; whenever possible teachers should have three years' teaching experience before being assigned a student teacher; teachers will be assigned not more than one student teacher unit per year unless the teacher requests more with reimbursement for directing student teachers paid directly to the teacher.

PERSONNEL: Grievance procedure ends with meeting between the Professional Responsibility and Rights Committee, the superintendent, and the grievant;

Teachers and principals are to set up the following procedures in order to improve channels of communications in our schools:

A. Building Communication Committees

The teachers in each building will elect a Teachers Communication Committee composed of three teachers. Each committee will elect one of their members as Chairman. The principal will not be a member of the Committee. The purpose of the Teachers Communication Committee is to discuss school problems with the principal in an advisory capacity. The principal will meet with the Committee as meetings are called. A meeting may be called at any time by the principal or by any member making a request to the principal.

B. District Communication Committees

The Chairman of each Secondary Teachers Communication Committee will be a member of the District Secondary Schools Communication Committee and the Chairman of each Elementary Teachers Communication Committee will be a member of the District Elementary Schools Communication Committee. These committees will meet in October and in January of each year and when any Committee member requests a meeting through the Superintendent of Schools. The purpose of the District Committees is to discuss channels of communication—not problems.

Right to review personnel file excluding the confidential portion with any party that the teacher designates; if a teacher disagrees with his evaluation, he may seek redress through a joint committee composed of members appointed by the association and the president of the Board of Trustees; no transfers will be made for disciplinary or downgrading purposes; some veteran teachers may be asked to accept transfers to strengthen the staffs of other schools.

* * *

River Edge, New Jersey

Between the River Edge Borough School District and the River Edge Teachers Association, effective July 1, 1973, to June 30, 1974. Approximately 64 certified professional employees, including special teachers, librarians, nurses, psychologists, and social workers.

COMPENSATION: (1973-74) B.A. $8,890 to $15,090, 13 increments; M.A., $9,990 to $16,990, 14 increments; M.A. plus 30 hours, $18,090 maximum. Request for and proof for any change in salary schedule placement is teacher's responsibility. Upon superintendent's prior approval, equivalency credit of up to 10 credits out of 30 credits given to teachers who satisfactorily complete approved workshops.

DIFFERENTIALS: Teachers who conduct "after-school activities" shall be compensated $500 per year for activity.

LEAVES: Ten days' annual sick leave, unlimited accumulation; upon presentation of a physician's statement extended sick leave may be granted for major illness, four days after accumulated sick leave is exhausted teacher will be paid his day's salary less the substitute teacher's rate of pay; two days personal leave, subject to prior approval, without specifying a reason, and additional personal leave provided reasons are specified; leave for a legal summons, subpoena, or appearance as a witness in an action in which the teacher is not involved, amount of witness fee shall be deducted from the teacher's salary and applied to the substitute's pay; bereavement leave for a death in the immediate family shall be determined by the superintendent, dependent on individual circumstances; extended leaves: all teachers eligible except those drafted into the military leave must be requested in writing from the superintendent, requests for extended leave for personal illness must be accompanied by a physician's statement attesting the need for the leave, return to duties must be requested in writing and accompanied by a physician's statement of health.

MATERNITY LEAVE OF ABSENCE

The Board shall grant pregnancy or child-rearing leaves without pay to any teacher upon request subject to the following stipulations and limitations:

PREGNANCY LEAVE:

Notification

Pregnant teachers shall notify the Superintendent in writing of the condition of pregnancy upon knowledge of the condition.

Length of Leave

Pregnancy leave shall commence on the date set forth by the teacher;

Pregnancy leaves shall commence no later than the start of the eighth month of pregnancy unless the teacher presents a statement from her physician certifying that she is capable of continuing her employment beyond that time;

A pregnant teacher who expects to deliver her child during the first month of the school year shall not commence teaching during that month, the leave becoming effective as of the start of that month;

A pregnancy leave shall be terminated no later than ten (10) days following the date of the delivery of the child, unless the teacher's physician certifies that an additional period of recuperation is required, such additional time shall not exceed one year.

A pregnancy leave of absence granted a non-tenure teacher may not be extended beyond the end of the contract year in which the leave is obtained.

Return to Duty

A teacher shall not be permitted to return to duty following a pregnancy leave unless she produces a statement from her physician attesting that she is physically able to resume her duties;

No teacher shall be prevented from returning to work after childbirth solely on the basis that there has not been a time lapse between childbirth and the desired date of return.

CHILD REARING LEAVE:

Notification

Any teacher may apply for a child rearing leave;

Where both husband and wife may be teachers in the River Edge schools, only one of said persons shall be entitled to such leave;

Application for child rearing leave shall be filed at least three months before the anticipated birth of the child.

Length of Leave

Application for child rearing leave may become effective for female teachers immediately upon the termination of the pregnancy leave;

Child rearing leave shall terminate one year from the date of the birth of the child and, upon request of the teacher, shall be extended for one additional year;

Requests for extension of child rearing leaves must be made at least three months prior to the expiration of the first year.

A child rearing leave of absence granted a non-tenure teacher may not be extended beyond the end of the contract year in which the leave is obtained.

Return to Duty

Any teacher granted child rearing leave may be assigned to any position decided upon by the Superintendent so long as such assignment is within the certification of such teacher.

ADOPTION OF AN INFANT:

Any teacher adopting an infant child shall receive similar (child rearing) leave which shall commence upon the teacher's receiving *de facto* custody of said infant, or earlier if necessary to fulfill the requirements for the adoption.

INSURANCE: Board paid Blue Cross/Blue Shield basic coverage and major medical; board will permit representatives of investing firm to appear at a faculty meeting once a year to enroll new members or adjust present members' investments.

INSTRUCTION: Teachers indicate their presence in school by checking roster; board shall consider association recommendations for preparation of the school calendar; early dismissal of students one day for each scheduled five-day week for building or school-wide faculty meetings and professional development workshops; yearly one full day for a school-wide professional workshop; schools will be closed during days of NJEA convention; evaluation report to be reviewed by the teacher and an administrator before being placed in personnel file, report shall be dated and signed by both parties; pupils will be dismissed early on three designated parent-teacher conference days; attempt will be made to provide substitutes for special teachers (art, music, physical education etc.); teachers purchasing supplies with prior approval of the administration shall be reimbursed upon submitting receipt of purchase; teachers shall make recommendations regarding selection of textbooks and instructional materials; a Staff Advisory Council to be maintained by the superintendent and the association president who will serve as ex-officio members, each party shall appoint three members to serve a one-year term, council shall make recommendations and suggestions for problems of common concern, rules of procedure and by-laws will be drawn up by Council.

PERSONNEL: Grievance procedure ends with advisory arbitration; right to review personnel file upon request; board will provide 25% payment of courses satisfactorily completed and with superintendent's prior approval; standing teacher-administrator committee to devise evaluation criteria; building principal may confer with teacher members of committee on matters concerning principal's responsibility for evaluating staff; nontenure teachers shall be notified of their contract status between April 1 and April 15 of the current year; all teachers shall be given tentative teaching assignments for the next year on or before April 1 and again one week before the end of the school year if any changes were made.

Texts

ALABAMA

TEACHER CONSULTATION AND GROUP INSURANCE LAWS

Consultation Law for County Employees

Enrolled, An Act, to amend Title 52, Section 73 of the Code of Alabama of 1940; to provide that the county board of education shall adopt written policies with regard to education and to provide that such written policies shall be made available to all employees of the board. BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Title 52, Section 73 of the Code of Alabama of 1940, is hereby amended to read as follows: "Section 73. Educational Policy of the County. The county board of education shall, upon the written recommendation of the county Superintendent of education, determine and establish a written educational policy for the county and shall prescribe rules and regulations for the conduct and management of the schools. Before adopting written policies the board *SHALL directly, or indirectly through the superintendent, CONSULT with the professional organization representing the majority of the certified employees,* and in addition shall also consult with professional assistants, principals, teachers, and interested citizens. The county board must, on or before *August 1, 1974,* and establish such policies and adopt such rules and regulations and file them with the state superintendent of education on or before September 15, 1974. Such written policies, rules and regulations, so established, adopted, or promulgated shall be made available on or before September 15, 1974, to all teachers employed by the county board. Any subsequent amendments to such policies, rules and regulations shall be developed in the same manner, filed with the state superintendent and furnished to the teachers employed by the local board within twenty (20) days after adoption thereof.

Section 2. All laws or parts of laws in conflict herewith are hereby repealed.

Section 3. This Act shall become effective upon its passage and approval by the Governor or upon its otherwise becoming a law.

* * *

Consultation Law for City Employees

Enrolled, An Act, to amend Title 52, Section 166 of the Code of Alabama of 1940; to provide that the city board of education shall adopt written policies with regard to education; to provide that such written policies shall be made available to all teachers employed by the board; and to provide that such written policies and written amendments thereto shall be filed with the state superintendent of education. BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Title 52, Section 166 of the Code of Alabama of 1940 is hereby amended to read as follows: "Section 166. Control of *city schools.* The city board of education shall, upon the written recommendation of the city superintendent of education, determine and establish a written educational policy for the city and shall prescribe rules and regulations for the conduct and management of the schools. Before adopting written policies the board shall directly, or indirectly through the superintendent, *consult with the professional organization representing the majority of the certified employees,* and in addition shall also consult with professional assistants, principals, teachers, and interested citizens. The city board must, on or before *August 1, 1974,* establish such policies and adopt such rules and regulations and file them with the state superintendent of education on or before September 15, 1974. Such written policies, rules and regulations, so established, adopted, or promulgated shall be made available on or before September 15, 1974, to all teachers employed by the city board. Any subsequent amendments to such policies, rules and regulations shall be developed in the same manner, filed with the state superintendent and furnished to the teachers employed by the local board within twenty (20) days after adoption thereof.

Section 2. All laws or parts of laws in conflict herewith are hereby repealed.

Section 3. This act shall become effective upon its passage and approval by the governor or upon its other wise becoming a law.

* * *

Group Insurance Law

SYNOPSIS: *To provide Boards of Education with authority to pay part, all or none of the premium due on Employee Insurance, to form employees into groups for available employee benefits and to authorize payroll deductions therefor.*

To provide for the formation of local school board employee groups for the purpose of securing group insurance and other benefits.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Each local board of education may form its employees into a group or groups or recognize existing groups for the purpose of obtaining the advantages of *group life, disability, medical,* and *dental* insurance or any group insurance plans to aid its employees, as long as the employees continue to be employed by the board of education. Any local *board* of education may *pay all or part of the premium* on the policies, and/or may deduct from the salaries of the employees that part of the premium which is to be paid by them and may contract with the insurer to provide the above benefits.

Section 2. Each local board of education shall adopt policies or regulations which provide for deductions from salaries of its employees or groups of employees whenever a request is presented to the board by said employees or groups thereof. Such deductions shall be made from salaries earned in at least six different pay periods, and shall be remitted to the appropriate company, association or organization as specified by the employees. The deductions may be made for, but not limited to *tax sheltered annuities, membership dues* and *group insurance premiums.* With the exception of membership dues, the board shall not be required to make more than one remittance, of amounts deducted during a pay period, for a separate type of deduction. Health insurance, life insurance, and tax-sheltered annuities shall be interpreted as separate types of deductions. When amounts have been correctly deducted and remitted by the board, said board shall bear no further responsibility or liability for subsequent transaction.

Section 3. Payments and deductions made by the board of education under the authority of this section are presumed to be for services rendered and for the benefit of the public schools; and the payments and deductions do not affect the eligibility of any school system to participate in the foundation program as established in Sections 208-215 of Title 52 of the Code of Alabama, Recompiled 1958.

Section 4. The provisions of this act are severable. If any part of this act is declared to be invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 5. Repealer. All laws or parts of laws in conflict with this Act are hereby repealed.

Section 6. This act shall become effective immediately upon its passage and approval of the Governor or its otherwise becoming law.

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NEGOTIATION RESEARCH DIGEST

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RESEARCH

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CASE REVIEWS

ARIZONA

Board Not Legally Bound To Adhere to Negotiated Contract

The Arizona Supreme Court reversed a lower court order directing the Board of Education of the Scottsdale High School District No. 212 to abide by the negotiated impasse procedure and cease from unilaterally setting teachers' salaries.

The Scottsdale Education Association brought the complaint after unsuccessfully invoking the negotiated impasse procedure. The board declined to follow the impasse procedure and unilaterally set teachers' salaries for the succeeding school year. In its complaint in superior court, the association asked for a writ of mandamus directing the board to comply with the procedure.

Under the Constitution of Arizona, Article VI, Sec. 14, the Superior Court has original jurisdiction over certain enumerated classes of cases "and such other jurisdiction as may be provided by law." Further, the legislature by A.R.S. 12-2021 has provided that the superior courts may issue writs of mandamus to a person or board to compel performance of an act which the law specifically imposes as a duty resulting from an office.

In the superior court's judgment, "the board voluntarily entered into the agreement and is contractually bound to honor the terms of the agreement during the life of that agreement." Since there was no public law requiring the boards to enter into impasse procedures, the obligation to do so arose wholly from the collective bargaining agreement. However, the appeals court, citing *Black v. Santa Monica* (13 Cal. App., 2d 4; 56 P. 2d 256 (1936), held that this rationale was applicable only to "other corporate entities or other individuals, as especially enjoined to observe contractual obligations." And since "the law imposes upon municipal corporations and their officers no special duty to carry out the terms of contracts or to refrain from breaches of contractual relations," mandamus is not an appropriate remedy to compel compliance with the asserted breach of the agreement. The supreme court declared the judgment of the superior court reversed with directions that the original complaint be dismissed. (*Board of Education of the Scottsdale High School District No. 212 and the Board of Trustees of the Scottsdale Elementary District No. 48, Appellants, v. Scottsdale Education Association, Appellee*, Supreme Court of the State of Arizona, May 2, 1973.)

HAWAII

Injunction Issued in Contract Violation Case Upheld

The Hawaii State Teachers Association's (HSTA) appeal of a circuit court's injunction issued against the association for a one-day walkout in October 1972 was rejected by the state supreme court. The court also upheld the application of the injunction order to a subsequent walkout in April 1973.

The collective bargaining agreement negotiated between the association and the Hawaii Department of Education (DOE) resulted in disputes over the implications of certain contractual provisions concerning class size, preparation periods, and duty-free lunch periods. The association filed unfair labor practice and grievance charges against the DOE, and when the issues were not resolved by October 1972, the association felt that its only recourse was to strike. At the request of the DOE, the Hawaii Public Employee Relations Board (HPERB) investigated the case, and the board filed a petition with the circuit court alleging that the association was in violation of the no-strike provision of the Hawaii Public Employee Relations Statute. The circuit court agreed and issued an injunction. A second walkout in April 1973 saw the original injunction again applied. At this time the association appealed the original injunction to the state supreme court.

The association held that the circuit court lacked the jurisdiction to issue the injunction because the dispute involved an employer prohibited practice of violating contract terms and as such the matter should be dealt with by the HPERB. Furthermore, the association did not have the opportunity to assert its contract violation charge prior to submission of the issue to the circuit court. Additional association arguments held that the no-strike provision applied only to initial or renewed agreements and not to grievances, that there was insufficient evidence to support a finding of irreparable harm to the public in order to justify issuance of an injunction, and that the court illegally applied the injunction to the April walkout.

According to the HPERB, the injunction was issued not on the basis of a contract violation but violation of the no-strike provision of the Hawaii Public Employee Relations Statute which prohibits strikes over grievances which can be resolved by binding arbitration. The board points out that the agreement between the association and the

DOE contained such a grievance procedure, and therefore, the association was barred from striking.

The supreme court found that since legislation restricted the right to strike, the circuit court had the power of enforcement through an injunction. The association's position that the no-strike provision was applicable only to initial or renewed agreements was invalid since the law provides that negotiated agreements may contain a grievance procedure ending in binding arbitration to settle disputes concerning the interpretation or application of a written agreement. Furthermore, the law states that certain illegal strikes may be enjoined regardless of the nature of the violations, and that HPERB had the power to initiate injunctive proceedings. Thus, the association's claim that HPERB should have implemented its mediation and fact-finding machinery to resolve the dispute was determined irrelevant by the court.

The court also rejected the association's claim that there was insufficient evidence to support charges that the strike caused irreparable harm to the public which necessitated issuance of an injunction. The court held that even if a strike was legal in all respects, HPERB may take action against the strike if it believes that the action may be dangerous to the health and safety of the public. In addition, the court pointed out that irreparable harm was not a stated precondition for violating the no-strike provision. According to the court, the injunction order was properly applied in the April walkout since in October the circuit court had proscribed all strikes for the duration of the contract.

In conclusion, the court recognized that the case did involve alleged contract violations, but believed that HPERB retained the right to petition the court for injunctive relief; the association's appeal of the injunction was rejected.

Subsequent to the supreme court's decision, the state board of education decided to lift the 2-day suspensions for teachers who had participated in the October 1972 walkout to "keep communications open between the parties." (*Hawaii Public Employee Relations Board v. Hawaii State Teachers Association*, Hawaii Supreme Court, June 28, 1973.)

MICHIGAN

Court Reverses MERC Order To Conform with Trial Examiner's Findings

The Michigan Court of Appeals reversed a decision of the Michigan Employee Relations Commission (MERC) which included lecturers, advisors, and counselors in a faculty bargaining unit. The court found that MERC had first agreed with a trial examiner's findings to exclude certain employees from a faculty bargaining unit at the Eastern Michigan University, and then had subsequently issued a decision including these employees in the faculty bargaining unit on the basis of their common "synergistic efforts aimed at the education of university studnets." MERC was ordered to revise its decision to conform with the trial examiner's findings.

Upon receiving representation petitions from the Eastern Michigan Chapter of the AAUP, the Eastern Michigan Federation of Teachers, and the Eastern Michigan Faculty Association, a trial examiner processed the petitions and decided that the appropriate bargaining unit would exclude lecturers, counselors, and advisors. The full commission later issued its decision that those employees excluded by the trial examiner were to be included. The Board of Regents appealed the decision to the court, stating that MERC inappropriately included the lecturers, advisors, and counselors in the bargaining unit.

In supporting the Regents' claims, the court of appeals stated that although the best unit was the largest possible one consistent with a community of interest among the members, the duties of the excluded employees were dissimilar enough from the duties of other faculty members to warrant exclusion from the bargaining unit. The court ruled that the commission's definition of the employees' community of interest was too general to justify the inclusion of the disputed employees in the bargaining unit.

The court concluded that having accepted the trial examiner's findings of fact, the commission erred in arriving at a "completely irreconcilable"[4] conclusion of law, and its action "does not accord with established precedent in this field of law." (*Board of Regents of Eastern Michigan University v. Eastern Michigan University AAUP et al*, Michigan Court of Appeals, April 25, 1973.)

MINNESOTA

Highest Court Orders a Hearing To Determine Striking Teachers

In the final round of a legal battle emanating from the 1970 strike by the Minneapolis Federation of Teachers against the Minneapolis School Baord, the state supreme court reversed a lower court decision which had invalidated affidavits solicited by the board from teachers in order to ascertain which teachers engaged in the strike. The high court ruled that each teacher was entitled to a hearing to determine his status during the strike.

The supreme court based its decision on the ground that the filing of affidavits did not constitute a waiver of the right to hearing conferred by statute.

Proceedings were originally begun by the attorney general against the school board, the Minneapolis Federation of Teachers, and the Minneapolis Education Association to obtain a judgment nullifying two resolutions adopted by the school board regarding compensating teachers who had been on strike. Individual taxpayers were permitted to intervene as parties-plaintiff to contest the method used to determine which teachers were on strike.

The supreme court agreed with the lower court that "acceptance of these self-serving affidavits was unwarranted"

absent further evidence of what prompted the individual leaves and what activities the teacher engaged on the day of absence. But the court also held that the affidavits submitted by the teachers "constituted conclusions of law and not recitations of fact" from which either the school board or the court could determine whether a particular teacher was, in fact, absent in order to induce the board to come to terms with the teachers' contract negotiators.

The supreme court reversed the lower court's decision and ruled that the teachers were entitled to a hearing on whether or not they had violated the no-strike provision of state public employee labor relations law.

Commenting on whether the board's proceedings to determine the status of each teacher should have been conducted in public or private meetings, the court cited statutory provisions that all school-board hearings are to be private but may be public at the discretion of the charged teacher. The legislature, the court said, intended hearings before a school board to be private if the teacher so elected and the board's deliberations to remain confidential. However, the board should announce its decisions at an open meeting to give the citizens a chance to be heard. (*Douglas M. Head et al., v. Special School District No. 1, Minneapolis Federation of Teachers and City of Minneapolis Education Association*, Minnesota Supreme Court, June 1, 1973.)

NEW YORK

Arbitrator's Award After Deleting Remedy Confirmed

An arbitrator's award finding that a school board had breached a contract by allowing the student day to exceed the contractual time, was modified by the state supreme court which confirmed the award after striking out the proposed remedy.

The Half Hollow Hills Teachers Association grieved that the school board violated the contract by exceeding the contractually perscribed time of 5 hours and 50 minutes for student day in the district's intermediate schools. The arbitrator ruled for association and directed the board to remedy the situation by adjusting the bus schedule.

Arguing that the arbitrator exceeded his powers by only not making a factual determination regarding the dispute but also by fixing a remedy, the board contended that various remedies could be employed to correct the violation and that the method used should be open exclusively to itself. Further, the board contended that the arbitration proceeding should be void since the arbitrator did not take the statutorily required oath before beginning proceedings.

The court held that it had no jurisdiction to review the record of the arbitration. It found that the award could be corrected by striking the method of correcting the violation, leaving the arbitrator's basic findings undisturbed.

Rejecting the board's argument regarding the arbitrator's failure to take the oath, the court ruled that since the parties proceeded without immediate objection, the objection was waived.

Concluding, the court confirmed the arbitrator's award as modified and denied the board's motion to vacate.(*Half Hollow Hills Teachers Association, Inc., Petitioner v. Board of Education, Respondent*, New York Supreme Court, June 28, 1973.)

OHIO

Negotiated Arbitration Provision Unenforceable; Nonrenewal Unappealable

The state appellate court in overturning two related lower court decisions opened the door to wholesale contract violations by striking down the validity of a negotiated binding arbitration provisions as contrary to law and by rejecting due process and the right to a hearing in order to determine "just cause" prior to dismissal.

A contract dispute between the Hamilton Local Teachers Association and the school district over wages and benefits resulted in a two-day strike which was enjoined by a lower court. That court directed the board to proceed to binding arbitration over the disputed issues pursuant to the contract provision. The board later refused to renew the contract of 15 teachers, all of whom had been involved in union activities. The board's action was restrained by the same court, forbidding replacement of the terminated teachers until a hearing was held to determine cause.

While the school board had agreed to binding arbitration in the event of a negotiation impasse, in its appeal it claimed that it had no statutory right to delegate or limit its authority as specifically granted by the legislature. Though as a creature of the legislature it has the right to enter into contracts, an unlawful delegation of the policy making authority of a school board would render the contract enforceable.

The appeals court, in its ruling, pointed out that Ohio had no legal provisions for recognizing public employee organizations or for bargaining with them, and that the school board did not have authority "to enter into a contract which has within it a provision for binding arbitration, which provision, in its implementation, gives over unto a completely different party the right to make binding policy decisions, which policy decisions have been by law placed within the jurisdiction of the various boards of education in Ohio."

To support its conclusion, the court cited a New Jersey Superior Court case in which that court ruled that public employees and employers cannot enter into contracts that are contrary to the dictates of the legislature.

In the second decision the appellate court ruled that the school board's nonrenewal of the 15 teachers' contracts was an administrative decision made pursuant to state law which gives school boards the right to choose whether or not to re-employ teachers with limited contracts. Continuing, the court noted that the state constitution does grant courts the power to review the proceedings of administra-

tive bodies when the proceedings are of a quasi-judicial nature, but does not provide for review of an administrative order or action, as in the instant case, "which merely affects the rights, duties, privileges, benefits, or legal relationships of a specified person but does not constitute a determination thereof." The court then pointed out that the situation of a teacher at the expiration of a limited contract and that of a teacher seeking employment with the board are identical because in both instances the board must exercise its discretion in deciding whether or not to employ the teacher. On the basis of the foregoing the court ruled that the school board's decision was not appealable and issued a writ prohibiting the lower court from hearing appeals. (*Hamilton Local Board of Education v. Mrs. Judith Arthur et al*, Court of Appeals of Franklin County, Ohio, July 24, 1973; *State of Ohio, ex rel. Hamilton Local School District Board of Education and Roger O. Hoffman, Superintendent, Hamilton Local School District v. The Honorable George E. Tyack, Judge of the Court of Common Pleas of Franklin County, Ohio, and Duane E. Blackburn et al, (intervenors)*, Court of Appeals of Franklin County, Ohio, July 24, 1973.)

PENNSYLVANIA

Wages, Hours, and Working Conditions Are Bargainable If They Do Not Affect Board Policies

Public-school teachers' representatives have no right to bargain over class size, preparatory time, nonteaching duties, and other inherently managerial items under the state's Public Employee Relations Act (PERA), according to the Pennsylvania Commonwealth Court. So ruling, the court cleared the State College Area School District of the charge of an unfair labor practice for refusing to bargain over 21 items during 1971 contract negotiations with the State College Education Association (SCEA).

After the school district refused to bargain on the items, the SCEA filed charges with the Pennsylvania Labor Relations Board (PLRB). The Board dismissed the charges. The association then filed exceptions to the decision and obtained an order ruling that five of the 21 items were bargainable and the other 16 were inherently managerial policy and not negotiable. The Common Pleas Court reviewed PLRB's decision and found that none of the 21 items was a subject for mandatory bargaining. SCEA and PLRB appealed.

Reviewing PERA, the Commonwealth Court said that section 701 of the act expressely required public employers to bargain in good faith regarding wages, hours, and other terms and conditions of employment. Nonetheless, under section 702 of the Act "a public employer is not required to bargain on any policy matter notwithstanding the effect or impact that it may have on wages, hours, and terms and conditions of employment." The court concluded that any item of wages, hours, and other conditions of employment is nonbargainable if it touches on inherent managerial policy. According to the Act inherent managerial policy includes "such areas of discretion or policy as the functions and programs of the employer, standards of services, its overall budget, utilization of technology, the organizational structure, and selection and direction of personnel."

After studying the 21 specific SCEA demands, which covered instructional material, team planning time, assignment notice, separate desks and drawer space, teachers' cafeteria, hall, bus and lunch duty, planning periods, chaperoning, handling supplies, personnel files, class size, preparation time, school calendar, pre-holiday and vacation closings, staff meetings and parent conferences, the court concluded that these items fell within the scope of inherently managerial policy as defined in the Act. On this basis the lower court decision was upheld.

Using the majority's reasoning, a minority opinion stated that almost everything touching on teachers' employment could be argued to be a matter of inherent managerial policy. Warning that general interpretation of the PERA could thwart the intent of the Act to grant certain employment rights, the minority member said that "the board and the courts will have to evaluate each item as it is presented and strike a balance." (*State College Education Association, Appellant v. Pennsylvania Labor Relations Board, Appellee [1162 C.D. 1972]; Pennsylvania Labor Relations Board, Appellant v. State College Area School District, The Board of Directors, Appelle [1172 C.D. 1972]*, Commonwealth Court of Pennsylvania, March 7, 1973.)

* * *

FEDERAL

Principals Supporting Teachers' Strike Ordered Reinstated

The U.S. District Court for Western Kentucky ordered the Russell County School Board to reinstate a teacher and three principals demoted for supporting a 1970 state-wide teachers' strike which was ruled illegal. The court found that the board's actions violated free speech rights guaranteed by the First Amendment.

The plaintiffs, three principals and four teachers, argued that the demotions of the principals and the nonrenewal of the teachers' contracts were in retaliation for written and spoken advocation of the Russell County Education Association's participation in the 1970 state-wide strike.

The board maintained that the plaintiffs were subject to discharge or demotion for supporting a strike declared illegal.

Citing *Pickering v. Board of Education* in which the Supreme Court of the United States held that teachers cannot be constitutionally forced to give up the right of free speech they would otherwise exercise as citizens for commenting on school operations, the district court asserted that a teacher's support of a strike ruled civilly illegal did

not warrant the school board to dismiss or demote the teacher. The court also pointed out that the Supreme Court in *Keyishian v. Board of Regents* ruled that teachers may employ their First Amendment rights "even to the point of advocating conduct which might prove to be civilly illegal" provided such conduct is not subversive, or violent, or criminal.

The court held that absent proof of professional failure or misconduct the real reasons for the demotions of the principals were to retaliate and to make examples of the principals for a cause not popular with the school board. The court found the board's action to be arbitrary and capricious and, inconstant under applicable Kentucky law since "no sound and specific reason offered" for the demotions.

Turning to the nonrenewal of the contract of one of the four teachers, the court held that the termination was constitutionally inpermissible and concluded that the teacher and the three principals had been singled out for punishment because of their support of the strike. The court ordered the teacher and the principals reinstated and held that two of the principals were entitled to damages for loss of salary, along with transportation expenses incurred as a result of their transfer to teaching positions.

The court concluded that the discharge of the other three teachers was unrelated to the strike. (*Leslie Dause, et al. v. R. Brooks, individually and as superintendent of the Russell County Board of Education*, United States District Court for Western Kentucky, May 24, 1973.)

BOARD FINDINGS AND RULINGS

MASSACHUSETTS

Supervision Not Only Criterion for Exclusion from a Nonsupervisory Unit

Because the state collective bargaining statutes do not specifically exclude supervisors from the units of employees in their charge, the Massachusetts Labor Relations Commission determined that it had authority to decide whether persons are supervisors and whether they should be included in a unit with nonsupervisory employees.

The Dedham School Committee contended that a supervising nurse should not be included in a unit of nurses seeking to be represented by the Dedham Education Association. The school district had designated this nurse a supervisor, with additional responsibilities and higher salary although she had no power over hiring, termination, and wages.

As the state collective bargaining laws do not define the term *supervisor*, the Commission established that supervisory employees in both private and public sectors may be included in the nonmanagement bargaining units with which they have a community of interest. The nurse's primary role was that of practitioner, not supervisor, the Commission determined, and ordered that she be included in the association unit. (*Dedham School Committee vs. Dedham Education Association-Massachusetts Teachers Association*, Massachusetts Labor Relations Commission, March 5, 1973.)

MICHIGAN

No Restrictions on Where Sick Leave Is Taken

An arbitrator granted sick leave pay to a teacher with cardiac trouble who spent his sick leave at a hunting cabin during the opening days of the deer season. The arbitrator found no merit in the Beecher School District's contention that the teacher falsified his sick leave to take advantage of the opening of the hunting season.

The negotiated agreement between the Beecher Education Association and the Beecher School District included a provision for 10 days' annual sick leave for teacher and family illness. The teacher's doctor notified the school that because of the teacher's cardiac condition, he had advised him to take a three-day rest from November 15 to November 17. Upon return to school, the teacher was informed that he would be docked for the days he had taken off. The school claimed that the teacher had misrepresented his illness in order to receive sick leave pay for a hunting trip and that the teacher had collaborated with the physician in order to have a rest prescribed during the opening of the hunting season. The association filed a grievance on the teacher's behalf according to the negotiated procedure, requesting sick leave payment plus 7 percent interest.

At the arbitration hearing, the teacher testified under oath that he had not hunted during the week he was on sick leave, and furthermore, in previous years he had utilized his personal leave to go hunting, and at this time he had personal leave available. According to the school business manager, also testifying under oath, the teacher's doctor had called him on November 17 and stated that the teacher had gone deer hunting. However, in a letter dated November 17, the doctor informed the assistant superintendent that the teacher was at his cabin for a rest necessitated by his cardiac problem.

The arbitrator found no evidence that the teacher had admitted to having gone hunting while on sick leave. He also found that some confuscion as to who had told the business manager that the teacher had gone hunting. He, therefore, concluded that there was no positive evidence that the teacher had abused sick leave, and that a three-day rest for a cardiac condition came under the contractual definition of illness which did not specify a place where the leave is to be taken. The arbitrator, however, did not find any justification for paying the association's requested 7 percent interest on the back pay award. (*Beecher Board of Education and Beecher Education Association*, American Arbitration Association, June 8, 1973.)

MINNESOTA

Political History Teacher Granted Year's Leave To Attend Law School

A school board's refusal to grant leave on the basis that it would not add to the teacher's professional competence was arbitrary in view of the fact that the teacher's subject area required a fairly extensive knowledge of the judicial process. According to the arbitrator, a request for unpaid

leave coupled with the planned return to the classroom after the year's study was permissable under the contract.

After receiving a scholarship to attend law school, the teacher applied for a leave of absence in accordance with the terms of the leave of absence provision in the agreement negotiated between the Edina Education Association and the Edina Public Schools. The board denied the request for leave, though the teacher met the provision requirement of longevity and timely notification.

The arbitrator felt that the issue was whether the school board violated the contract in denying the leave. An important consideration was whether the granting of long-term leaves was the prerogative of the board, and if so, whether there were any constraints on the board's exercise of this power. The arbitrator held that although the board had authority to grant such leaves, the fact that the contract specified minimum standards for leave applicants implied that the board's authority was subject to the objective standards of reason and equity. These standards were also implied in a provision that stated that "the provisions of this agreement shall be applied in a manner which is not arbitrary, capricious and discriminatory."

Examining the board's claim that the teacher's law study would have a limited benefit on the school district's education program, the arbitrator found that in six previous cases, arbitrators had ruled that law studies were a major contribution to the competence of a secondary political/social history teacher. An examination of the specific course content revealed that it dealt with how to work within the democratic system, a topic that would be difficult to teach without an understanding of the judicial process. The arbitrator concluded that the board's position that the teacher's law study would have limited application to her teaching was arbitrary.

A second reason offered by the district for denying the leave was that the principal felt that the teacher would not return to school after a year's leave, but would continue her studies and eventually practice law. Although the arbitrator found some merit to this assumption, he pointed out that the negotiated contract did not require a guarantee of intent to return to the district and furthermore, during the arbitration hearings the teacher indicated her intent to return to teaching.

The arbitrator found that the teacher had met the requirements for the leave of absence and had proven the benefit of her studies to her teaching performance. The grievance was upheld and the school district was instructed to grant the teacher a year's leave to attend law school. (*Edina Education Association and Edina Public Schools*, Minnesota Bureau of Mediation Services, June 25, 1973.)

* * *

NEW YORK

Expiration of Contracts Not a Bar to Payment of Earned Compensation

An improper charge filed by the Poughkeepsie Teachers Association against the Poughkeepsie City School District Board of Education alleged that the school district illegally withheld salary increments and college credits payment while negotiating a new contract.

The expired agreement provided for salary step increments based on years of service or experience and a designated dollar amount for earned course credits. When negotiations for a 1972-74 agreement were not completed prior to the expiration of the old contract, the board retained the former salary schedule but refused to pay step increments or payments for accrued credits. During negotiations for the 1972-74 agreement, the board's position was that salary step increments as well as college credit payments should be eliminated.

The hearing officer rejected the school board's claim that since the contract had expired, it was no longer required to pay salary increments or course credit. He pointed out that previous court rulings upheld the employer's statutory obligation to maintain the status quo. The school board further argued that this statutory obligation was contrary to public policy, basing its argument on the repealed sections of the Education Laws of 1971.

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The school board's last defense was its inability to pay the salary increments and the college credit payments because it had appropriated all available funds. Citing a previous decision, the hearing officer held that lack of funds is not a bar to reorganizing the budget and eliminating some non-mandated programs in order to maintain the status quo. In conclusion, the hearing officer found the school board to be in violation of the Public Employee Relations Act, and ordered it to pay the salary increments and college credit payments. (*In the matter of Board of Education, Poughkeepsie City School District and the Poughkeepsie Public School Teachers Association*, New York Public Employee Relations Act, March 21, 1973.)

NEW YORK

Board Provokes Impasse by Publishing Association Proposals

Although a school board's publication of an association's initial negotiation proposal raises questions as to its desirability as a negotiating tactic, the New York Public Employment Relations Board (PERB) found no grounds for unfair labor practice charge. The PERB amended a hearing officer's earlier decision which had sustained the charge filed against the Bellport Teachers Association, by the Central School District No. 4, Town of Brookhaven, for declar-

ing a negotiations impasse after the school board had published the first set of association proposals.

The association, which had previously filed an improper practice charge against the district, contended that the board's action violated the mandate of the Public Employee Relations Employment Act to negotiate in good faith. The board counterclaimed that the association failed to negotiate in good faith when it declared an impasse before all the negotiation proposals had been discussed. Both the association and the board subsequently participated in the mediation and fact-finding procedures outlined in impasse regulations.

PERB noted that the parties had a responsibility "to negotiate collectively and that impasse procedure should not be invoked prior to the existence of an actual dispute. Certainly. . .not. . .until the respective demands or proposals of the parties had been considered."

In examining violations of the obligation to negotiate in good faith, PERB considered the parties' over-all conduct, focusing on whether the approach to negotiations was toward reaching an agreement. PERB found that the association's declaration of an impasse had hampered but not terminated the negotiation process, which continued into mediation and fact-finding. Noting the desire to reach agreement, PERB, while not condoning the association's tactic, judged it to have been provoked by the board's conduct. (*Central School District No. 4, Town of Brookhaven, Suffolk County, New York and Bellport Teachers Association, Inc.*, Public Employment Relations Board, March 19, 1973.)

NEGOTIATION NOTES

ILLINOIS

Executive Order Grants Bargaining Rights to State Employees

The governor of Illinois has issued an Executive Order giving state employees the right to organize and bargain collectively. The Illinois state assemblies in both the 1969 and the 1971 sessions had been unable to pass legislation permitting public employee negotiations despite recommendations of two study commissions. Illinois is now the fourth state to obtain collective bargaining for public employees by means of an executive order.

Under the executive order, which covers all state employees "of departments, agencies, boards and commissions whose vouchers are subject to approval by the Department of Finance except: supervisors, managerial employees, confidential employees, and emergency and temporary employees," state employees are given the right to join or form unions and to negotiate with department heads on wages, hours, and working conditions. Although state employees are not given the right to strike, this right is is determined by state law as interpreted by the courts. The order will not affect existing state employee organizations unless a majority of employees choose another organization.

In addition, the order establishes an Office of Collective Bargaining to make unit determinations and to carry out the provisions of the order. A six-member State Employee Labor Relations Council is also established to advise the state Director of Personnel with regard to rules and regulations to enforce the order. The Director of Personnel is responsible for developing the rules and regulations concerning procedures for handling charges of unfair labor practices and for setting standards for employee organizations.

MAINE

Public Employees Bargaining Statute Amended

Amendments to the Maine Municipal Public Employees Labor Relations Act have broadened the role of the Public Employees Labor Relations Board (PELRB) in mediating bargaining disputes through improved enforcement and decision review procedures which incorporate recent changes in governmental organization. The amendments also provide for alternates to permanent board members.

Major changes in the mediation procedures now allow the Board to appoint a mediator in disputes absent the request of either party, and make the Board's executive director responsible for administration by the executive director of a panel of 5-10 mediators who were previously supervised by the executive department and appointed by the governor. However, the services of the mediation panel will not be used in a contract grievance case when the agreement provides an alternate method of settling the dispute.

The amendment providing for the judicial enforement of PELRB rulings allows the Superior Court of Kennebec County to grant temporary relief, issue a restraining order, and impose terms and conditions "as it deems just and proper," and makes it more difficult for the court to grant a stay of a Board order pending appeal to the Superior Court.

The change in governmental organization affecting the labor relations act was the replacement of the Commissioner of Labor and the Department of Labor and Industry with the Bureau of Labor and Industry. Amendments also revised arbitration reporting by requiring that results of arbitration proceedings be filed with PELRB at the same time the determinations are submitted to the parties. If a dispute is settled by arbitration, a report must be filed with the Board's executive director within five days of the settlement. The purpose of this procedure is to give PELRB greater control over contract impasses, and to improve and speed up dispute settlements.

Another amendment provides alternatives to the three permanent members of the board. Designed for a more efficient operation of the Board, it will enable a full Board to meet at all times with representatives from labor, management, and the public.

MONTANA

Public Employee Bargaining Law Permits Agency Shop, Concerted Activities

Montana enacted a law to give public employees, excluding public health nurses and teachers who have their own bargaining laws, the right to bargain on wages, hours, and working conditions, including agency shop and binding arbitration of grievances. The law also guarantees public employees the right to form, join, or assist labor organizations, and to engage in concerted activities for collective bargaining or other mutual aid or protection.

The passage of this law continues the "crazy-quilt" pattern of legislation which grants some public employees rights denied others, or severely penalizes one group for

engaging in an activity which is a declared right for another. Though the new law does not prohibit striking, it does allow some public employees to engage in "concerted activities" for the purpose of collective bargaining, in essence a guaranteed right to strike. Nurses are already allowed to strike, but teachers are expressly prohibited and face suspension and/or dismissal for striking.

Under the new law, "public employers retain the prerogative to operate and manage their affairs, which includes directing, hiring, promoting, transferring, and laying off employees for lack of funds; maintaining efficient government operations; and determining methods, means, job classifications, and personnel by which operations are to be conducted as well as processes by which work is performed." Public employers are to be represented by the state's or locality's chief executive officer or county commissioner's chairman or his designee in bargaining.

With a 30 percent showing of interest an employee or union can petition for certification or decertification of an existing representative. The existing Board of Personnel Appeals will make unit determination on the basis of community of interest, wages, hours, fringes, and other working conditions, history of bargaining, common supervision and personnel policies, extent of integration of work functions, and employee interchange and employee desires.

Unfair employee practices are refusal to bargain and use of agency shop fees for political contributions; employer unfair labor practices include interference with employees' protected rights and discrimination to encourage or discourage union membership. The latter practice, however, does not preclude the employer from negotiating agency shop provisions. If the Board determines that an unfair labor practice has occurred, it has the power to state findings of fact and issue a restraining order calling for affirmative action which may include reinstatement with or without back pay and for compliance reports.

The district court can order compliance with a Board order, issue a restraining order, or modify a Board order, or set it aside in whole or in part. In making its determination the court is to consider the Board's finding of facts as conclusive if supported by substantial evidence. However, "the court may allow a party to present additional material evidence in which case the Board may modify or make new findings to be resubmitted to the court." Decisions made by the district court are subject to review by the state supreme court.

NEVADA

Employee Representative Clarified

The legislature amended the Local Government Employees Management Relations Act by adding a new section (Sec. 33) permitting public employee organizations to employ a state-licensed attorney to act on behalf of the employee group in all discussions with management or its representatives.

AGO: Sabbatical Leave Negotiable if Not in Conflict with School Code

The attorney general stated that sabbatical leave provisions are negotiable to the extent that they do not conflict with the state's statutory provisions on sabbatical leave, this ruling came in reply to a question as to whether section 702 of the Public Employee Relations Act "limits the ability of school boards and teacher organizations to enlarge or modify sabbatical leave benefits provided in the State's Public School Code."

The attorney general said that while sabbatical leave benefits qualify as a term or condition of employment and come within the permitted areas for negotiations, all negotiated provisions on this subject must be examined for possible conflict with statutory requirements since "the provisions of the collective bargaining agreement are void and unenforceable" where a conflict exists. Requirements for eligibility for leave and the benefits to be provided while on leave are not bargainable because these provisions are detailed and specific in state law. On the other hand, statutory provisions give school boards discretionary power to grant sabbaticals for purposes other than those specified, to waive the requirement of five years consecutive service in a local district, to waive the requirement to return at the end of the leave, and to extend the sabbatical leave up to one full term if the employee becomes ill while on leave. These items, therefore, are bargainable.

WASHINGTON

Payroll Dues Deduction

The state public employees collective bargaining statute, which excludes certificated school personnel, was amended to permit dues check-off from paychecks. Upon written authorization of a public employee in a bargaining unit that has been certified or recognized as the bargaining representative, the public employer is required to deduct from the pay of such public employee, the monthly dues as certified by the secretary of the bargaining representative and to transmit them to the treasurer of the bargaining unit.

The parties may request mediation if a bargaining dispute exists upon expiration of an agreement or after a reasonable period of negotiations. The parties may also petition the Board for fact-finding upon contract expiration or 30 days after certification of an exclusive representative if a dispute exists. The fact-finder selected by the parties from a Board-supplied list has 20 days to hold hearings and issue written findings of fact and recommendations. The fact-finder may also endeavor to mediate the dispute.

The parties may voluntarily submit any or all issues to binding arbitration, the award being enforceable in the same manner as the terms of the collective agreement.

STATISTICS

CONSUMER PRICE INDEX, SEPTEMBER 1973; 10-YEAR AVERAGES AND 1972-73 BY MONTH

The U.S. Department of Labor, Bureau of Labor Statistics (BLS), reported that the September 1973 Consumer Price Index rose 0.3 percent from August to 135.5 (1967=100), following a record August increase of 1.9 percent (seasonally adjusted), the highest for one month since September 1947. Paced by the rapid rise in apparel and food prices, especially cereal and bakery products, the September index was 7.4 percent higher than a year ago and rose at double the rate of increase for September 1972.

Prices for fresh vegetables and fruits, poultry, pork, and eggs, declined from the high levels reached during August. Record increases in August for the food index had followed the lifting of the price freeze on July 18 for all foods except beef. Although the freeze on beef prices was extended until September 10, prices for meat and fish increased substantially for the month.

An 0.4 percent rise in the September index for nonfood commodities reflected higher prices for fall and winter clothing, fuel oil and coal, and most household durables, although prices declined for gasoline and new and used cars.

TABLE 1.–CONSUMER PRICE INDEX BY ITEM, SEPTEMBER 1972 AND SEPTEMBER 1973, SEASONALLY ADJUSTED (1967=100)

Item	Relative importance, December 1972	Consumer Price Index for the month: September 1972	Consumer Price Index for the month: September 1973	Percent change, 1972 to 1973
1	2	3	4	5
ALL ITEMS	100.0	126.2	135.5	7.4
COMMODITIES	62.6	122.1	132.8	8.8
Food	22.5	124.7	148.3	18.9
Food at home[a]	17.5	122.7	149.1	21.5
Meats, poultry and fish	6.0	129.3	178.4	38.0
Commodities less food	40.1	120.4	124.3	3.2
Nondurables less food[b]	23.4	120.6	125.1	3.7
Apparel	9.0	123.1	128.4	4.3
Gasoline, motor oil, less food and apparel	2.9	111.3	117.8	5.8
Durables[b]	16 6	120.4	123.1	2.2
Household durables	4.8	115.7	120.1	3.8
SERVICES[c]	37.4	134.1	140.6	4.8
Rent	5.1	119.9	125.4	4.6
Household services less rent	15.5	140.0	149.2	6.6
Medical care less rent	5.6	138.5	144.8	4.6
SPECIAL INDEXES				
Insurance and finance	9.8	144.8	152.1	5.0
Housekeeping and home maintenance	4.5	145.2	155.0	6.8

SOURCE: U.S. Department of Labor, Bureau of Labor Statistics. *Consumer Price Index, September 1972 and September 1973.*

[a]Includes other food items not listed.

[b]Includes other durable and nondurable commodities not listed.

[c]Includes other services not listed.

TABLE 2.—CONSUMER PRICE INDEX, ALL ITEMS, SELECTED CITIES OR SMSA'S, 1972-73 BY MONTH (1967=100)[a]

SMSA/city	October	November	December	January	February	March	April	May	June	July	August	September
1	2	3	4	5	6	7	8	9	10	11	12	13
U.S. city average	126.6	126.9	127.3	127.7	128.6	129.8	130.7	131.5	132.4	132.7	135.1	135.5
Atlanta, Ga.	...	...	127.7	...	...	130.1	...	...	132.6	...	...	137.0
Baltimore, Md.	...	...	128.0	...	...	131.9	...	...	133.6	...	...	137.5
Boston, Mass.	128.9	...	...	129.7	...	...	132.4	...	...	134.1	...	...
Buffalo, N.Y.	...	128.6	...	...	130.3	...	...	133.2	...	...	136.6	...
Chicago, Ill.-Northwestern Ind.	125.4	125.7	126.1	126.4	127.5	129.0	129.9	130.8	131.7	131.4	134.5	134.6
Cincinnati, Ohio-Ky.	...	...	126.5	...	...	129.8	...	...	130.9	...	...	134.4
Cleveland, Ohio	...	127.9	...	...	129.9	...	...	132.7	...	...	135.9	...
Dallas, Texas	...	125.7	...	...	127.7	...	...	130.6	...	...	133.7	...
Detroit, Mich.	127.2	127.4	128.3	128.5	129.7	131.1	132.4	133.4	133.7	133.8	136.8	137.3
Honolulu, Hawaii	...	...	124.4	...	...	126.0	...	...	127.5	...	...	129.6
Houston, Texas	126.4	...	...	127.2	...	...	130.5	...	...	131.5	...	...
Kansas City, Mo.-Kans.	...	...	125.5	...	...	127.4	...	...	129.8	...	...	132.5
Los Angeles-Long Beach, Calif.	123.9	124.3	124.4	124.8	125.5	126.4	126.9	127.4	128.5	129.1	130.9	131.2
Milwaukee, Wis.	...	125.0	...	...	127.0	...	...	130.0	...	...	133.2	...
Minneapolis-St. Paul, Minn.	127.2	...	...	127.8	...	...	130.8	...	...	133.1	...	...
New York, N.Y.-Northeastern N.J.	133.2	133.3	133.7	133.7	134.9	136.5	137.4	138.0	139.0	139.1	141.7	142.3
Philadelphia, Pa.-N.J.	128.7	129.0	128.9	129.0	130.6	132.5	133.4	134.1	134.7	134.8	137.1	138.1
Pittsburgh, Pa.	126.5	...	...	127.2	...	...	131.2	...	...	132.6	...	...
St. Louis, Mo.-Ill.	...	...	123.7	...	...	126.2	...	...	128.1	...	...	132.3
San Diego, Calif.	...	126.8	...	...	128.2	...	...	130.7	...	...	134.4	...
San Francisco-Oakland, Calif.	...	...	126.3	...	...	128.7	...	...	130.7	...	...	134.5
Seattle, Wash.	...	121.2	...	...	123.1	...	...	126.3	...	...	128.8	...
Washington, D.C.-Md.-Va.	...	129.7	...	...	130.7	...	...	133.3	...	...	136.4	...

SOURCE: U.S. Department of Labor, Bureau of Labor Statistics. *Consumer Price Index-September 1973.*

[a]Foods, fuels, and several other items are priced every month in all cities. Most other goods and services are priced according to the following schedule:

1. Every month-city average: Chicago, Ill.-Northwestern Ind.; Detroit, Mich.; Los Angeles-Long Beach, Calif.; New York, N.Y.-Northeastern N.J.; and Philadelphia, Pa.-N.J.
2. January, April, July, October: Boston, Mass.; Houston, Texas; Minneapolis-St. Paul, Minn.; and Pittsburgh, Pa.
3. February, May, August, November: Buffalo, N.Y.; Cleveland, Ohio; Dallas, Texas; Milwaukee, Wis.; San Diego, Calif.; Seattle, Wash.; and Washington, D.C.-Md.-Va.
4. March, June, September, December: Atlanta, Ga.; Baltimore, Md.; Cincinnati, Ohio-Ky.; Honolulu, Hawaii; Kansas City, Mo.-Kans.; St. Louis, Mo.-Ill.; and San Francisco-Oakland, Calif.

About one-third of the 0.9 percent rise in the services index for September was due to increases in mortgage interest rates; interest rates on VA loans rose from 7.75 to 8.50 and on FHA loans from 7.50 to 8.25. Increases in utilities, medical care, and college tuition contributed significantly to the rise.

The tables provide a comparative study of the CPI all-items index for 23 selected SMSA's or cities from 1963 to 1972 (Table 2), and for the months of October 1972 through September 1973 (Table 3). All entries were computed on the base 1967=100. Table 1 lists comparative percentage change by selected items for September 1972 and September 1973.

For the twelve-month period ending September 1973, the commodities index rose 8.8 percent, while services increased 4.8 percent. The purchasing value of the dollar registered a loss of more than a 5 cents in the same period, with purchasing power for the month down to 73.8 cents as compared with the 1967 dollar. The impact of inflation on salaries over the past two years has been such that a person earning $10,000 in September 1971 must now be earning at least $800 more to maintain the same purchasing power for goods and services at average prices.

The CPI is designed to measure "average changes in prices of goods and services usually bought by urban wage earners and clerical workers, both families and single persons living alone." Prices of some 400 items representing price movements of all goods and services purchased by wage earners and clerical workers regularly are obtained in urban portions of 39 Standard Metropolitan Statistical Areas (SMSA's) and 17 selected smaller cities.

Price changes used in calculating the CPI are averaged and then weighted according to their importance in spending. In the total index, all SMSA and city data are combined and weighted on the basis of the 1960 populations of SMSA's and the cities they represent. While index numbers were previously computed on the base 1957-59=100, a new base reference point of 1967=100 became effective January 1971. Statistical series expressed as indexes are affected by the change in base, but the rebasing of the CPI does not alter percentage changes between index figures over time, except for rounding differences. The CPI is rounded to one decimal point.

TABLE 3.—CONSUMER PRICE INDEX, ALL ITEMS, SELECTED CITIES OR SMSA'S, 1963 TO 1972 (1967=100)

SMSA/city	All items									
	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972
1	2	3	4	5	6	7	8	9	10	11
U.S. city average[a]	91.7[b]	92.9[c]	94.5	97.2	100.0	104.2	109.8	116.3	121.3	125.3
Atlanta, Ga.	91.4	92.8	94.0	97.0	100.0	104.0	110.2	116.3	121.7	125.5
Baltimore, Md.	92.0	92.9	94.4	97.7	100.0	104.1	110.5	117.0	123.4	126.3
Boston, Mass.	91.4	92.7	94.5	97.7	100.0	104.1	110.0	116.5	122.8	127.1
Buffalo, N.Y.	(NA)	92.0	94.2	97.4	100.0	104.5	109.6	116.1	121.8	126.6
Chicago, Ill.-Northernwestern, Ind.	93.0	93.4	94.7	97.4	100.0	104.3	109.9	116.3	120.8	124.3
Cincinnati, Ohio-Ky.	92.2	93.7	94.4	97.2	100.0	104.8	109.8	115.7	120.7	124.7
Cleveland, Ohio	92.7	93.2	94.7	97.2	100.0	105.9	111.9	119.3	122.8	126.5
Dallas, Texas	(NA)	92.6	93.8	97.1	100.0	104.5	111.3	117.8	121.3	124.9
Detroit, Mich.	89.8	90.5	92.6	96.7	100.0	104.3	110.6	117.4	121.7	126.2
Honolulu, Hawaii	92.8	92.9	94.6	97.3	100.0	103.8	108.5	114.2	118.9	122.8
Houston, Texas	92.3	93.7	94.8	97.5	100.0	104.3	111.0	116.8	120.9	125.2
Kansas City, Mo.-Kans.	90.3	92.5	95.5	98.0	100.0	104.0	109.6	115.8	120.5	124.0
Los Angeles-Long Beach, Calif.	92.0	93.7	95.7	97.5	100.0	103.9	108.8	114.3	118.5	122.3
Milwaukee, Wis.	92.9	93.9	95.8	98.0	100.0	103.5	109.5	115.8	120.1	123.7
Minneapolis-St. Paul, Minn.	92.3	93.2	94.5	96.8	100.0	104.6	109.9	117.5	121.7	125.5
New York, N.Y.-Northeastern N.J.	91.3	92.8	94.3	97.5	100.0	104.3	110.8	119.0	125.9	131.4
Philadelphia, Pa.-N.J.	91.8	93.2	94.7	97.3	100.0	104.8	110.4	117.8	123.5	127.0
Pittsburgh, Pa.	93.1	94.3	95.8	98.3	100.0	104.7	110.4	116.4	121.5	125.3
St. Louis, Mo.-Ill.	90.9	92.6	94.1	97.2	100.0	104.0	109.2	115.2	119.6	122.3
San Diego, Calif.	(NA)	(NA)	95.2	97.1	100.0	104.1	109.5	115.3	119.9	124.4
San Francisco-Oakland, Calif.	91.5	92.9	94.7	97.1	100.0	104.5	110.2	115.8	120.2	124.3
Seattle, Wash.	92.1	93.4	94.5	97.1	100.0	104.1	109.2	114.0	116.4	119.7
Washington, D.C.-Md.-Va.	91.3	92.8	94.1	97.3	100.0	104.7	111.2	117.6	122.7	126.9

SOURCES: U.S. Department of Labor, Bureau of Labor Statistics. *Consumer Price Index for Urban Wage Earners and Clerical Workers, All Items—Series A (1967=100)*. Washington, D.C.: the Bureau, 1971.

U.S. Department of Labor, Bureau of Labor Statistics. "Current Labor Statistics." *Monthly Labor Review* 96, 10: 110; October 1973.

[a]Based on 46 cities through 1963, 50 urban areas for 1965, and 56 metropolitan areas and nonmetropolitan urban places beginning in January 1966. Excludes Portland, Oreg., and Scranton, Pa. For 1965, excludes Cincinnati, Ohio-Ky.; Houston, Texas; Kansas City, Mo.-Kans.; Milwaukee, Wis.; Minneapolis-St. Paul, Minn.; and San Diego, Calif.

[b]Excludes Alaska and Hawaii.

[c]Beginning in 1964, the index structure was revised to reflect the buying patterns of urban wage earners and clerical workers in the 1960's, including single workers living alone as well as families with two or more persons. Indexes for prior years apply only to families of two persons or more.

SPECIAL REPORTS

BRIEFS OF AGREEMENTS

Belfast, Maine

Between Maine School Administrative District No. 34 Teachers Association and Belfast School Administrative District 34, effective September 1, 1973, to August 31, 1975. Approximately 110 certificated professional employees.

COMPENSATION: (1973-74) B.A., $6,800 to $10,200, 10 increments; M.A., $7,300 to $10,950, 10 increments; (1974-75) B.A., $7,000 to $10,500, 10 increments; M.A., $7,500 to $11,250, 10 increments; longevity pay, $125 after 10 years, $250 after 20 years, $375 after 30 years; any teacher completing 6 credit hours of additional professional work approved by the superintendent within any 2-year period shall receive $150 from the school district.

DIFFERENTIALS: Guidance director, $2,327; guidance counselor, $846; music personnel, $800; athletic director, $1,585; varsity football and basketball coaches, $1,297; football assistants, junior varsity basketball, boys' swimming, varsity baseball, wrestling, and track coaches, $721; assistant wrestling, assistant track, cross country, and skiing coaches, yearbook, $576; 9th-grade basketball, girls' basketball, girls' athletics, high-school cheerleading, girls' track, and girls' field hockey coaches, $504; 8th-grade basketball, girls' swimming, junior high baseball, high-school girls' softball, and high-school dramatics coaches, $432; junior high cheerleading, $360; age group swimming and golf coaches, $288; junior high dramatics, $216; junior and senior high-school newspapers, $144. Department heads: head teacher-elementary, science, language arts, social studies, mathematics, business, physical education, industrial arts, foreign language, $500; travel allowance for use of personal car at 10 cents per mile.

INSURANCE: Board pays single subscription, high level, Blue Cross-Blue Shield, major medical or equivalent sum to each teacher toward the annual cost for medical insurance coverage.

LEAVES: Fifteen sick leave days credited from first day of school. 120 days maximum accumulation; 3 days personal leave for personal, religious, legal, business, household, or family matters which require absence during school hours; sabbatical leave may be granted for study, travel, and other reasons of value to the school system after 7 years of service in the school district; upon return from leave the teacher shall be placed on the salary schedule where he would have been had he not been on leave; leave of absence without pay up to 3 years for Peace Corps, VISTA, National Teacher Corps, or exchange or overseas teaching or acceptance of a Fulbright Scholarship; leave without pay for military obligations or for a teacher whose spouse is in the service to join him for the period of special training in preparation for duty overseas in combat zones; military leave without pay shall be granted to any teacher who is inducted or enlists in any branch of the armed forces of the United States for the period of said induction or initial enlistment or to a teacher whose spouse is inducted or enlists to join him for the period of special training in preparation for duty overseas in combat zones; upon return from military leave a teacher shall be considered as if actively employed by the board during the leave and shall be placed on the salary schedule normally achieved; leave for up to one year for caring for a member of the teacher's immediate family when conditions necessitate such care; all benefits to which a teacher was entitled at the time his leave of absence commenced shall be restored upon his return and he shall be placed in the same or a comparable position to the one which he held at the time such leave started.

ASSOCIATION: Payroll deduction of local, state, and/or national association dues; right to use school buildings to transact official association business; right to use bulletin boards in each faculty room; the board agrees to provide the association negotiating team annual financial reports, audits, registers of certified personnel, agendas, and minutes of all board meetings, census data, names and addresses of all teachers, and approved budget proposals; association representative may speak to teachers at any meeting for 10 minutes.

INSTRUCTION: Teachers must report for duty at least 15 minutes before the opening of the pupils' school day; the daily teaching load in junior and senior high schools may not exceed 6 teaching periods per day; assignment to a supervised study period is considered a teaching period; junior and senior high-school teachers may not be required to teach more than 2 subject areas nor more than a total of 3 teaching preparations at any one time unless agreed to by the teacher and the principal; these teachers also should not be required to change subject area teaching stations more than two times during the school day without teacher's approval; duty-free lunch period may be adjusted by the principal to meet the needs of the individual school; teachers must be notified of their teaching schedules or assignments not later than 6 weeks before school reopens, teachers notified after the designated time limit may request that the schedule be reviewed by the superintendent, an association representative, and himself; teachers shall not be

assigned subjects outside their area of competence unless it is vital to the school system; the school calendar shall be as set forth by the board of directors after consultation with the association; there will be no change in the calendar except by agreement of board and association; the number of teacher employment days shall in no event exceed 185 days; the association and the board recognize that pupil-teacher ratios of 20 to 1 and 25 to 1 are optimum and agree that as soon as economically possible the maximum pupil-teacher ratio shall not exceed 30 to 1.

PERSONNEL: Grievance procedure ends with final and binding arbitration; a "grievance" shall mean a complaint by a teacher or the Association (1) that there has been as to him or it a violation or an inequitable application of any of the provisions of this contract or, (2) that he or it has been treated inequitably by reason or any act or condition which is contrary to established Board policy or practice governing or affecting employees except that the term "grievance" shall not apply to any matter as to which the Board is without authority to act; right to review nonconfidential portions of file and to receive copies of any documents therein and to be accompanied by an association representative; once every 2 years teacher shall have right to indicate materials in his file which he considers to be obsolete or otherwise inappropriate to retain; any action to discipline, reprimand, reduce in rank or compensation, or deprive a teacher of professional advantage without just cause shall be subject to the grievance procedure before such action becomes final; if a teacher is required to appear before the superintendent or the board concerning any matter which may adversely affect the continuation of employment, or salary, he shall be given prior written notice of the reasons for the hearing and shall be entitled to have an association representative present; suspension of any teacher pending charges shall be with pay; faculty or other professional meetings shall begin no later than 15 minutes after the students' dismissal time and shall run no longer than necessary; agenda for meetings will be given to teachers at least 2 days prior to the meeting and teachers shall have the opportunity to suggest items for the agenda; periodically teachers shall be evaluated; evaluators shall be persons qualified to conduct evaluations of the particular teacher involved; within 7 days of receipt of the evaluation report the teacher may request a conference to discuss the report, with no report submitted to the central office, placed in the teacher's file, or otherwise acted upon for 7 days; teachers shall have the opportunity to respond to or rebut any complaint made to any member of the administration by any parent, student, or person which may be used in any manner to evaluate the teacher; when in the judgment of a teacher a student is seriously disrupting the instructional program to the detriment of other students, the teacher may exclude the student from the classroom and refer him to the principal; teachers may use reasonable force as is necessary to protect himself, another person, or property from attack, to quell a disturbance or to obtain possession of weapons or other dangerous objects; the board shall give full support to the teacher, including legal and other assistance for any assault upon the teacher and for court action brought against the teacher by parents or citizens while the teacher is acting in the discharge of his duties; absences arising from such assault or injury shall not be deducted from sick leave or personal leave; compensation for these injuries shall continue beyond the period of any Workmen's Compensation until the complete recovery of the teacher.

* * *

Portsmouth, New Hampshire

Between Portsmouth Teachers Association and Portsmouth School Department, effective July 11, 1973, to June 30, 1976. Approximately 305 certificated professional employees, including employees required to hold an appropriate credential issued by the State Board of Education under its regulations governing the certification of professional school personnel, excluding superintendents, assistant principals, directors, teacher consultants, business administrators, or persons employed by the state board of education. Provision for renegotiation not later than November 15 of the year preceding the expiration of the agreement.

COMPENSATION: (1973-74) B.A., $7,070 to $11,680, 10 increments. (1974-75) B.A., $7,380 to $12,130, 10 increments; (1975-76 estimated on cost of living not to exceed 4.5 percent) $7,700 to $12,600, 10 increments. Education crediting, bachelor's plus 15 credits, $250; master's, $700 ($800 effective 1975-76); master's plus 15 credits, $1,000; master's plus 30 credits, $1,200. Longevity pay, $150 additional after 20 years' experience and $300 additional after 25 years' experience.

INSURANCE: Board-paid Blue Cross-Blue Shield hospitalization for family coverage or comparable coverage from another insurance carrier; board-paid term life insurance for $10,000 in the event of death; board-paid income protection insurance which begins on the 181st day of illness or disability and pays 60 percent of annual salary.

LEAVES: Ten sick leave days per year for personal or family illness; as of 1975-76 school year 15 days to be granted teachers with five or more years of service in the school district accumulable to 180 days; in the event of prolonged absence as a result of accident or illness the board will consider the circumstances and determine if an extension of full or partial sick pay is warranted; sick leave bank entitles an individual to borrow up to 180 days in advance for personal illness sick leave not yet accumulated; up to 10 days' sick leave per year excluding any accumulation can be used for family illness; two days' personal leave per year for personal business; breavement leave up to five days for the immediate family and up to three days for brother-in-law or sister-in-law, grandparents, or aunt or uncle; a physician must determine disability when sick leave is to be taken for maternity reasons; three sabbatical leaves

may be granted in the district simultaneously at half salary to teachers who have at least five consecutive years of service in the district; upon return from leave the teacher is to be placed on the level of the salary schedule he would have attained had he not been absent; leave of absence without pay or other benefits for caring for a sick member of the teacher's immediate family may also be granted; leave of absence without pay for up to two years to be granted to any teacher who joins the Peace Corps, VISTA, or Teacher Corps; upon return from leave the teacher shall be placed on the salary schedule at the level he would have attained had he not been absent; leave of absence of up to two years for any female teacher adopting a child.

ASSOCIATION: Payroll deduction of state, local, and national association dues; up to three days per year released time for association president, the association to pay the cost of a substitute; the board is to provide information which it is required by law to release to the general public as well as five copies of board agendas and minutes, and when appropriate, copies of notices and minutes of committee meetings; either party may, if it desires, utilize the services of outside consultants and may call upon professional representatives to assist in the negotiations.

INSTRUCTION: High school teachers work seven consecutive class periods within seven and one-half hours, five of those periods will be teaching assignments, one planning period, and one period of study or supervision; duty-free lunch daily; class sizes determined on the following basis: elementary, 20-24 students, junior and senior high, 24-27; those classes involving exceptional students shall consist of no more than 15 pupils; consideration will be given to a teacher's request to reduce or increase a particular class size; it is expected that teachers will be in the building for a reasonable time before and after class; elementary and junior high teachers should be in the building a minimum of six and one-half hours each day; the work year shall be no more than 183 days; when substantive changes in the school calendar are being considered, the association will be asked for recommendations, and final decisions will not be made without due consideration of these recommendations; all teachers are expected to remain one day per week for one hour for student assistance and parent conferences or other necessary school functions.

PERSONNEL: Grievance procedure ends with final and binding arbitration; upon 24 hours' notice teachers have the right to review and reproduce material in their personnel files and to have inserted their own written comments regarding the material; no document to which an individual has not been given access shall be utilized against the individual; if material deemed confidential is removed from a teacher's file by the board, a dated notation shall be placed in the file stating what materials have been removed; as part of their professional responsibility teachers shall attend department and other professional staff meetings designated to provide meaningful professional growth or to clarify school business in general; as of the 1974-75 school year the board agrees to budget annually $9,000 for reimbursing teachers for courses taken, with no individual reimbursed more than $100 for more than one course in any fiscal year; written evaluations are to be used as the basis for a conference between the building principal and the individual teacher, both are to initial the evaluation and, if desired, attach in writing any substantial agreement or disagreement; if a teacher is involuntarily reassigned, he shall have the right to a conference with the superintendent or his designee and shall have the right to have an association representative present; no more than 2 percent of staff will be transferred after August 1 except in extreme circumstances.

* * *

East Brunswick, New Jersey

Between East Brunswick Education Association and East Brunswick Public Schools, effective July 1, 1973, to June 30, 1975. Approximately 600 certificated professional employees. Contract covers health, instructional, resource, and school aides, attendance officer, coordinator of cooperative education program, custodian and maintenance personnel, food services personnel, guidance counselors, instructional staff, learning disability specialists, nurses, psychologists, secretaries, clerks and data processing personnel, social workers, speech therapists, drivers, department chairmen, special education teachers, unit leaders, but excludes assistant superintendents, the business administrator, officers in charge of food services, transportation, building and grounds, and data processing personnel, the bookkeeper-accountant, personnel on a per-diem basis, principals, vice-principals, supervisors, the director of pupil personnel services, the information officer, and the administrative assistant. Proposals for renegotiation must be submitted in writing to the superintendent no later than October 15 of the school year.

COMPENSATION: (Teachers 1973-74) B.A., $8,860 to $14,365, 13 increments; B.A. plus 18 hours, $14,440 maximum; M.A., $9,445 to $15,420, 13 increments; M.A. plus 30 hours, $15,825 maximum; (Teachers 1974-75) B.A. $9,383 to $15,213, 13 increments; B.A. plus 18 hours, $15,291 maximum; M.A., $10,002 to $16,330, 13 increments; M.A. plus 30 hours, $16,759 maximum; special education teachers, $500 above guide placement; speech therapists, learning disability teacher consultants, and social workers, 1.08 of salary guide; guidance counselors and psychologists on a 12-month contract, 13 percent over the 10-month salary guide; counselors, 1.03 of salary guide; psychologists, 1.10 of salary guide; head coordinator of Cooperative Education Program, 1.10 of salary guide for the position and 13 percent for a 12-month contract; department chairman, 1.05 of salary guide; (Para-professional school aides 1973-74) school aides, $2.33 to $2.67 hourly, seven steps; instructional aides, $5,900 to $6,540, five steps; health aides, $4,300 to $4,725, three steps; resource aides, $3,690 to $4,290, five steps; (Para-professional school aides 1974-75) school aides, $2.46 to $2.82

hourly, seven steps; instructional aides, $6,225 to $6,900, five steps; health aides, $4,537 to $4,985, three steps; resource aides, $3,893 to $4,526, five steps.

DIFFERENTIALS: Head coaches, 1–6 years' experience, football, $1,275 to $1,475; basketball, wrestling, baseball, track, soccer, winter track, gymnastics, $1,025 to $1,225; cross country, tennis, and golf, $775 to $975; assistant coaches and junior high coaches, 1–6 years' experience, football, basketball, baseball, wrestling, track, winter track, soccer, cross country, $625 to $825; cross country assistant, $575 to $775; high-school trainer, 1,400; junior high-school trainer, $750; girls' athletic team coaches, $625 to $825; faculty manager, $1,300.

OTHER: (Summer school 1973-74 and 1974-75) Directors, $1,125 to $1,325, three steps; high school, $850 to $1,000, three steps; elementary, $600 to $700, three steps. $.12 per mile for authorized use of own car; teachers required to substitute during preparation period to be paid $5 per period; volunteer or assigned chaperones for Saturday dances to be paid $10.

LEAVES: Ten days' annual sick leave, unlimited accumulation; three days' leave granted for illness in the immediate family; an unlimited number of fully compensated days for illness or approved medical care in excess of accumulated sick leave in accordance with need and after proper application to the superintendent is allowed all employees; up to five days granted for death in the immediate family and one day for any other relative or close friend; three days' personal leave for a pressing reason acceptable to the superintendent; superintendent may grant time for professional conferences and school visitation; jury duty fees to be deducted from salary; pay for temporary military leave, including military reserve, to be deducted from regular salary; if requests for a temporary leave of absence have not been approved, the teacher may have recourse to the grievance procedure; after seven years' (the last five continuous) service in the district a teacher may be granted sabbatical leave at 50 percent of salary for one full year, 65 percent for approved advance study, with no more than five teachers permitted to be on sabbatical at any one time; sabbaticals may be taken for study, travel, or other reasons as approved; upon return the teacher will be placed on the step of the salary schedule he would have achieved had he not been on leave; leave of absence for up to two years without pay to a tenured teacher who joins Peace Corps, VISTA, Teacher Corps, or becomes an overseas teacher; upon return from the above-mentioned leave the teacher is to be placed on the salary schedule at the level he would have achieved if he had not been on leave.

INSURANCE: Board paid hospitilization and medical insurance coverage for employees and their families, including college students up to age 23; major medical insurance provides dental orthodontia coverage on an individual and family contract basis.

ASSOCIATION: Payroll deduction of local, state, and national association dues; if it becomes necessary for arbitration, mediation, or fact-finding to be conducted during school hours, three persons designated by the association will be released with pay; if the board requires witnesses in the proceedings, the witnesses will suffer no loss of pay; the association shall notify the board on or before May 1 whether the association president is to be assigned only the first four periods with full salary or to be released without pay for one school year commencing September 1; use of bulletin boards in the faculty lounge, teacher dining room, and the central office; the board is to provide the association information in the public domain; the association has the right to address new teachers on orientation day at the beginning of the school year; an association representative may speak to teachers at the end of faculty meetings for at least five minutes.

INSTRUCTION: When possible, at least one period per day for preparation; elementary teachers to teach continuously for no more than two and one half hours, junior and senior high-school teachers, no more than three consecutive periods; teachers may leave the building during their duty-free lunch period providing they sign in and out; they may also request permission to leave the building for an emergency during their planning period; teachers shall report for duty 20 minutes before the opening of the pupils' school day and shall not be required to remain beyond 20 minutes after the close of the pupils' day; the scheduled school year shall consist of 183 days for students and 187 days for teachers; however, the number of days shall be reduced by three for students and 10-month teachers if these days are not used for unexpected school closings; teachers are not required to keep registers in the elementary schools, correct standardized tests, or laminate identification card pictures, use their cars to transport students, or transfer grades from report cards to cumulative records in schools where guidance counselors exist.

PERSONNEL: Grievance procedure ends with binding arbitration;

> A "grievance" shall mean a complaint by an employee (1) that there has been as to him a violation, misinterpretation or inequitable application of any of the provisions of the agreement of (2) that he has been treated unfairly or inequitable by reason of any act or condition which is contrary to established Board policy or administrative practice governing or affecting employees except that the term "grievance" shall not apply to any matter as to which (a) a method of review is prescribed by law or by any rule or regulation of the State Commissioner of Education having the force and effect of law, or (b) the Board of Education is without authority to act. As used in this definition, the term "employee" shall mean also a group of employees having the same grievance.

No derogatory material will be placed in a teacher's file unless the teacher has had an opportunity to read the material and to attach a reply; if the teacher has instituted a grievance or other judicial proceeding, he shall be granted the right to reproduce any material not considered privileged or confidential; building based teachers may be required to attend no more than 10 building faculty meetings per school year; meetings shall begin 15 minutes after the student dismissal time and shall normally run for no more than 60 minutes; unless there is an emergency, these meetings shall not be called on Fridays or any day immediately preceeding a holiday; meeting agenda shall be given to teachers at least two days prior to the meeting; teachers may suggest items for agenda; grants to encourage creative and innovative teachers to experiment in improving instruction and student learning will be given to no more than 12 professional staff members each year; grants will include salary renumeration only when the project demands

week day, holiday or significant evening activity; grants shall be limited to a minimum of $50 and a maximum of $1,000; all monitoring or observation of a teacher shall be conducted openly and with full knowledge of the teacher; students are prohibited from tape recording class sessions without prior approval of the teacher or administration; written evaluations of a teacher will be discussed with the teacher within two calendar weeks after the evaluation is made; no report shall be submitted to the central office, placed in the teacher's file or otherwise acted upon without prior conference with the teacher; a teacher shall sign evaluation forms only to indicate that he saw the form and participated in a conference concerning it; except in emergency situations teachers shall be evaluated only by persons certificated to supervise instructions as of September 1, 1975; the results of standardized testing shall not be used for the evaluation of teachers; no teacher will be disciplined, reprimanded, or reduced in rank or compensation, or have an increment withheld without just cause; any teacher required to appear before the board concerning matters that may adversely affect the continuation of his employment or salary or increments shall be given prior written notice of the reasons and shall be entitled to have an association representative present to advise and represent him at such meetings; each school shall have a faculty council of up to eight teachers appointed by the association to meet with the building principal to discuss and study professional matters pertaining to the building and to make recommendations, the district-wide council, composed of seven association appointed faculty members and seven administrators designated by the superintendent, will meet, discuss, and study professional matters pertaining to the school system; recommendations made by the Council shall be conveyed to the board by the superintendent; the council has no authority to make policy, alter existing policy, or in any way depart from established administrative or board regulations; if a teacher is involuntarily transferred, he may initiate the grievance procedure at the step involving the superintendent; if a reduction in the number of teachers at a school becomes necessary, all volunteers shall be transferred first, then those with the least amount of seniority; any teacher believing he is working under unsafe or hazardous conditions or performing tasks endangering health, safety, or well-being may institute a grievance; a teacher may use any amount of force necessary to quell a disturbance threatening physical injury to others, to obtain possession of weapons or other dangerous objects, to defend himself, and to protect persons or property; the board shall defray all costs of defending any person holding office, position, or employment with the board in any civil action cases brought against such person in the performance of his duty; should a criminal action instituted against an employee be resolved in the employee's favor, the board shall reimburse the teacher for the cost of defending such proceedings, including reasonable counsel fees and expenses of the original hearing or trial and all appeals.

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BUILDING TRADES WAGE RATES AVERAGE $7.61 AN HOUR

Building trades workers' average union wage rates in cities of 100,000 or more population rose 4.9 percent over the year ending July 2, 1973, according to the U.S. Department of Labor, Bureau of Labor Statistics (BLS). Hourly rates averaged $7.61 on July 2, 1973, or about $15,037 annually, computed on a 38-hour work week. Including employer contributions to health, welfare, pension, and/or vacation, hourly rates averaged $8.84, or $17,468 annually, 6.0 percent increase over the year.

Teachers' BA minimum salary averaged $7,357 at the end of 1973 while the hourly rates for building laborers, the lowest paid of the building trades workers, was $5.84, or more than $11,000 annually. Similarly, the average minimum salary for teachers with a doctorate was $9,402 while electricians, the highest paid building trades workers, averaged $8.44 per hour or over $16,000.

Just over one-third of the 711 bargaining units surveyed reported wage increases during the second quarter of 1973. Approximately one-sixth were for 15 cents ($296.40 annually) or less per hour, with almost the same percentage at 50 cents ($988.00 annually) or more per hour. Two-fifths of the advances were between 25 cents and 35 cents per hour or $494.00 to $691.60 per year, respectively.

Advances in the second quarter of 1973 brought the BLS wage rate index for building trades workers to 160.5 (1967=100). The index for teachers' BA minimum salary at the end of June 1973 was 138.0 (1967=100). (U.S. Department of Labor, Bureau of Labor Statistics. *Union Wage Rates for Building Trades Workers Advance 1.8 Percent in Second Quarter of 1973.* August 17, 1973.)

TABLE 1.—UNION WAGE RATES IN BUILDING TRADES IN CITIES OF 100,000 OR MORE POPULATION, JULY 2, 1973

Trade or occupation	Hourly average
1	2
Bricklayers	$8.30
Building laborers	5.84
Carpenters	7.84
Electricians	8.44
Painters	7.49
Plasterers	7.75
Plumbers	8.42
ALL TRADES	$7.61

MAJOR COLLECTIVE BARGAINING SETTLEMENTS UP 6.0 PERCENT

In major collective bargaining settlements concluded during the first nine months of 1973, first-year wage-rate adjustments averaged 6.0 percent, down from the 7.3 percent gain in the year 1972, according to preliminary estimates of the U.S. Department of Labor, Bureau of Labor Statistics.

Nearly 3.4 million workers were covered by 643 collective bargaining settlements in the private nonfarm economy affecting the 1,000 or more workers. Settlements still requiring approval include food, health services, and construction industry.

During the period covered, wage-rate adjustments for all industries over the life of the contract averaged a 5.5 percent rise, declining from the 6.4 percent attained in 1972. Average duration of contracts was 27½ months.

In contracts affecting 5,000 or more workers, combined wage and benefit gains averaged 7.6 percent for the first year; 6.3 percent annually over the life of the contract. Similar adjustments in the year 1972 averaged 8.5 percent for the first year and 7.4 percent over the life of the contract.

Average first-year wage adjustments increased 6.2 percent in the manufacturing sector, down from 6.6 percent in 1972. Over the life of the contract, the average gain was 5.5 percent, down from 5.6 percent in 1972. The 5.8 percent first year average gain in nonmanufacturing was a decrease from the 7.8 percent recorded last year; wage gains over the life of the contract averaged 5.4 percent, down from 6.9 percent in 1972.

Contracts with cost-of-living escalation provisions provided 5.8 percent average annual increases, excluding potential cost-of-living advances under these formulas, up from 5.7 percent in 1972. Contracts without cost-of-living escalation provisions provided annual adjustments averaging 5.3 percent, down from 6.5 percent the previous year. (U.S. Department of Labor, Bureau of Labor Statistics. *Major Collective Bargaining Settlements, First 9 Months 1973.* October 26, 1973.)

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TEACHER STRIKES, WORK STOPPAGES, AND INTERRUPTIONS OF SERVICE, 1972-73

Teacher concerns regarding class size, a role in decision making, job security, working and learning conditions, and salaries were major issues in the 143 teacher strikes or work stoppages that occurred during the 1972-73 school year.

For this analysis, teacher strikes, work stoppages, and interruptions of service were considered to be any concerted group actions which disrupted regularly scheduled instruction time for at least one school day. The data were not adjusted downward when teachers in a school system were involved in more than one strike in a school year, or when days lost owing to strikes were rescheduled to meet state minimum attendance requirements. A strike may be initiated in and affect a single school building, a local school district, or state school system. The duration of a strike is measured by the instructional day. Instructional days are those days on which classes are scheduled; they do not include teacher working days before the opening or after the closing of school, teacher orientation days, inservice days, holidays, or week-ends.

The 143 strikes in 1972-73 involved an estimated 114,508 teachers and an estimated loss of 1,553,223 man-days of instruction. Strikes occurred in 22 states and in the District of Columbia, and ranged from 1 day to 53 days, with 17 percent lasting more than three weeks.

Fewer than 5 teachers in 100 were involved in strikes; man-days lost totaled less than ½ of 1 percent of the estimated man-days of instruction scheduled for the entire country. Three states, Hawaii (state-wide strike), Illinois, and Pennsylvania, and the District of Columbia accounted for 83 percent of the total man-days lost. The total number of man-days of instruction was calculated by multiplying the estimated total instructional staff in 1972-73 by an assumed 180-day instructional year, the minimum number of instruction days mandated by most states.

TABLE 1.—MAN-DAYS INVOLVED IN TEACHER STRIKES, WORK STOPPAGES, AND INTERRUPTIONS OF SERVICE, 1972-73 SCHOOL YEAR

State	Estimated total instructional staff[a]	Assumed number of man-days of instruction[b]	Estimated number of man-days involved in teacher strikes[c]	Man-days involved in teacher strikes as a percent of man-days of instruction[d]
1	2	3	4	5
California	208,500	37,530,000	1,850	e
Colorado	28,714	5,168,520	1,222	e
Connecticut	39,623	7,132,140	4,022	e
Delaware	7,140	1,285,200	3,568	0.3
District of Columbia	7,773	1,399,140	74,400	5.3
Hawaii	9,920	1,785,600	117,000	6.5
Illinois	119,605	21,528,900	321,573	1.5
Indiana	59,350	10,683,000	21,055	0.2
Kansas	28,386	5,109,480	1,944	e
Massachusetts	68,381	12,308,580	8,700	e
Michigan	101,090	18,196,200	29,522	0.2
Missouri	52,000	9,360,000	64,164	0.7
Montana	9,651	1,737,180	910	e
New Hampshire	8,457	1,522,260	1,570	0.1
New Jersey	91,750	16,515,000	8,440	0.5
New York	206,197	37,115,460	25,868	e
Ohio	115,800	20,844,000	11,168	e
Oregon	25,590	4,606,200	1,890	e
Pennsylvania	121,800	21,924,000	784,225	3.6
Rhode Island	10,819	1,947,420	23,339	1.2
Tennessee	40,200	7,236,000	1,360	e
Washington	39,038	7,026,840	6,047	e
Wisconsin	53,543	9,637,740	39,386	0.4
22 states and D.C.	1,453,327	261,598,860	1,553,223	0.6
Remaining 28 states	896,906	161,443,080	...	...
United States	2,350,233	423,041,940	1,553,223	0.4

[a]From: National Education Association, Research. *Estimates of School Statistics, 1972-73.* Research Report 1972-R12. Washington, D.C.: the Association, 1973. p. 29. Comprises teachers, principals, supervisors, and nonsupervisory instructional staff.

[b]Assumes a constant of 180 days of public-school instruction for the year. While the number of instruction days varies from state to state, the majority of states require a minimum of 180.

[c]Based on instructional days of full-time teachers during the regular school year. Teacher report-in days, holidays, week-ends, and vacation days are excluded. Data complied from published and unpublished information collected by the Bureau of Labor Statistics, U.S. Department of Labor, and NEA Research.

[d]Assumes that the man-days involved in teacher strikes are not rescheduled.

[e]Less than 1/10 of 1 percent.

TABLE 2.—TEACHER STRIKES, WORK STOPPAGES, AND INTERRUPTIONS OF SERVICE, BY TYPE OF ORGANIZATION, BY MONTH, AND BY STATE, 1972-73 SCHOOL YEAR[a]

Type of organization, month, and state	Number of strikes, work stoppages, and interruptions of service	Estimated number of personnel involved	Estimated number of man-days involved[b]
1	2	3	4
TYPE OF ORGANIZATION			
Professional association	120	48,230	416,927
Teacher union	23	66,278	1,136,296
MONTH			
August	26	7,341	65,009
September	60	38,391	426,411
October	12	4,912	35,192
November	2	550	2,850
January	10	43,278	852,574
February	10	2,424	22,032
March	8	3,711	9,980
April	6	10,058	121,548
May	9	3,843	17,627
STATE			
California	2	1,350	1,850
Colorado	2	611	1,222
Connecticut	2	1,361	4,022
Delaware	3	859	3,568
District of Columbia	1	6,200	74,400
Hawaii	1	9,000	117,000
Illinois	16	31,067	321,573
Indiana	2	2,595	21,055
Kansas	1	81	1,944
Massachusetts	2	970	8,700
Michigan	16	5,404	29,522
Missouri	2	4,082	64,164
Montana	1	130	910
New Hampshire	2	205	1,570
New Jersey	6	1,056	8,440
New York	10	3,225	25,868
Ohio	13	3,275	11,168
Oregon	1	210	1,890
Rhode Island	10	5,327	23,339
Pennsylvania	35	32,158	784,225
Tennessee	1	80	1,360
Washington	3	1,477	6,047
Wisconsin	11	3,785	39,386
TOTAL	143	114,508	1,553,223

[a]Compiled from published and unpublished information collected by the Bureau of Labor Statistics, U.S. Department of Labor, and NEA Research.

[b]Based on instructional days of full-time teachers during regular school year. Teacher report-in days, holidays, week-ends, and vacation days are excluded.

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CASE REVIEWS

FLORIDA

School Board Ordered To Resume Bargaining with Teacher Organizations

The Florida Supreme Court upheld a ruling of the Miami Circuit Court ordering the Dade County School Board to resume bargaining salary schedules with the Dade County Classroom Teachers Association and the Dade Federation of Teachers. The board had been negotiating with both organizations, however, attempts had been made to merge the two organizations to maximize their bargaining power.

In upholding the lower court order, the supreme court also refused the union's request to block the school board from approving its new budget prior to the completion of salary negotiations. However, the school board postponed voting on the budget and offered salary increases of $800 for beginning teachers, $900 for tenured teachers, and $1,100 for tenured teachers with seven years' experience in Florida schools. The school board's increased salary offerings (the previous offering was $800 across the board) did not meet the organizations' demand for a 10 percent salary increase for all teachers.

An association spokesman stated that attempts to negotiate impasse resolution procedures would be made at the bargaining sessions because of the absence of specific legislation authorizing bargaining. Florida's teacher bargaining laws apply only to particular counties, and Dade County is not included. The supreme court's support of the order to negotiate may have made the court ready to act on its 1972 threat to draft collective bargaining guidelines absent legislative enactment of a bargaining statute. A collective bargaining bill was rejected by the 1973 legislature. (*Dade County Classroom Teachers Association Inc. et al., v. Dade County School Board*, Florida Supreme Court, July 26, 1973.)

ILLINOIS

Permanent Injunction Dissolved; Court Recommends Enactment of Public Employees' Negotiation Statute

Acting under the state's anti-injunction act, the Illinois Appellate Court dissolved a permanent strike injunction issued against the municipal employees of Pana in June of 1972. Stating that the anti-injunction act was the only state law relating to public employee labor relations, the court urged the legislature to enact a public employee collective bargaining statute.

The injunction was served against employees of Pana, members of the American Federation of State, County and Municipal Employees, who operated the city's water, sewer, street, and police departments. The union and the city, negotiating a renewal and extension of their collective bargaining agreement, reached an impasse. The union voted to strike, but the city obtained an ex-parte temporary injunction. A permanent injunction was later issued on the grounds that the employees' strike interfered with the operation of the city's water, sewer, street, and police departments, thus endangering the citizens' health, safety, and welfare.

AFSME appealed the injunction, claiming that it violated the anti-injunction act. The city held that in this case statutory provisions protecting citizens' health, safety, and welfare took precedence over the anti-injunction act.

The court found that the anti-injunction act forbade the issuance of injunctions against peaceful picketing or strikes and contained no exceptions in its application to public employees. According to the court, the city's reference to statutory provisions providing for the health, safety, and welfare of the people were "general, scattered, and indirect and at best constitute vague authority for the proposition advanced." The court pointed out that the anti-injunction act, enacted in 1925, was the only state legislation applicable to public employees' collective bargaining.

At the present time, more than half of the states and the federal government have enacted public employees' negotiations statutes in response to public employees' demand for the collective bargaining rights granted to private sector employees. Recent state investigative commission reports to the legislature have recommended enactment of appropriate legislation. The court supported the conclusion that "it is preferable to have the basic framework for union-management relations in the public sector established by legislation rather than to have the law evolve in a piecemeal fashion through judicial decisions." (*City of Pana v. Harold Crowe et al and AFSCME Local 726*, Appellate Court of Illinois, 5th District, July 25, 1973).

Lower Court Ordered To Vacate Injunction Against Picketing

The Ottawa, Illinois, appellate court remanded the judgment of a lower court with orders to vacate a temporary injunction and to dismiss the petition for the injunction. The injunction was issued when police and firemen AFSCME (American Federation of State, County, and Mu-

nicipal Employees) members picketed the mayor's place of business during contract negotiations. AFSME appealed the court order, contending that the ruling was a violation of the state's anti-injunction act.

According to the court, in the absence of legislated protective laws for public collective bargaining and a few court decisions that could be termed precedential, the court itself must attempt to resolve disputes. After a review of the lower court proceedings, the court found that the rule on muteness had been violated and that the evidence used was ambivalent and sketchy. On the basis of the foregoing the court issued its ruling.

MAINE

Constitutionality of Binding Arbitration in Negotiation Impasses Upheld

Reviewing the state's Municipal Employees Labor Relations Act, the Maine Supreme Court split evenly over the issue of whether the statutory provisions for binding arbitration of bargaining impasses between teachers and school boards were constitutionally sound. The issue came before the court when the Biddeford school board contended that to sign the arbitrated agreement issued by an arbitration panel "would be a surrender of board members' authority as public officials to persons not responsible to the electorate."

Three members of the court contended that the statute contained sufficient standards to guide an arbitration panel, and sustained the binding arbitration provisions. Further, the Act did not list express criteria but set forth implicit standards in the totality of its statutory provisions. For example, the Act contemplated that arbitrators would act reasonably and fairly in resolving a dispute was a legislatively prescribed standard adequate to control the actions of arbitrators, and clearly defined arbitrable subjects. These justices reasoned that the legislature was "mindful of the denial to municipal employees of such economic weapons as strikes and work stoppages" and sought to avoid the disruptive feelings of resentment and bitterness which may result if the governmental employee may look only to the government for redress of his grievances. Thus, the legislature gave authority to arbitration panels not controlled by the government but chosen by the parties to settle disputes in certain noneconomic areas. Concluding, these members held that since standards or intelligible principles expressely demonstrate that the authority of arbitrators is legislatively contained, the attack upon the binding arbitration provisions of the Act as an unconstitutional delegation of power fails.

The other half of the court held that the legislature's failure to incorporate sufficient guidelines and standards for arbitrators in the provisions for binding arbitration amounted to an unconstitutional delegation of power. The court pointed out that the statute "does not require arbitrators to consider such matters as existing or future appropriations, statutory restrictions in the educational field, orders of the commissioner of education, the public interest and the quality of education." Continuing, these court members noted that "it is well established that a legislative body cannot delegate the legislative power without including in the delegating statute sufficient standards to guide the agents in the exercise of the legislative authority." Such standards would provide procedural safeguards and the opportunity for judicial review which can protect both teachers and the public against irresponsible actions by arbitrators, they said.

The court, however, unanimously agreed that the arbitrators in the Biddeford dispute had exceeded their jurisdiction by not confining their decisions to the subject of working conditions, but also had ruled on educational policies which are excluded from arbitration. The case was then remanded to a lower court for modification of the arbitration award. (*City of Biddeford vs. Biddeford Teachers Association and Biddeford Teachers Association vs. Board of Education of Biddeford*, Maine Supreme Court, April 30, 1973.)

MASSACHUSETTS

Agency Shop Fees Deductible from All Public Employees Including Classified Civil Service Employees

The agency shop clause in agreements between the City of Worcester and Service Employees Local 495 applied to all city employees including those in the classified civil service according to a ruling by the Massachusetts supreme court. The City of Worcester and the union entered into three collective bargaining agreements that covered five bargaining units, each containing an agency shop provision. The union and the city disagreed as to whether this provision included civil service employees.

The city contended that the legislature did not intend that civil service employees be subject to the agency shop fee. And, since the statute gave municipal employees the option as to whether they would give their employer written authority to deduct this fee from their paychecks, these employees had the option to elect whether they would become subject to the obligation to pay the fee.

Reviewing the language of the municipal employee bargaining law, the court concluded that the legislature intended civil service employees to be subject to agency shop fees. The court noted that the municipal employee bargaining law defined an employee as "any employee of a municipal employer whether or not in the classified service of the municipal employer." The legislature could have excluded civil service employees from this definition of employees, but did not do so. Therefore, the court concluded, the legislature intended the word *employee* to include civil service employees.

The court also concluded that the legislature clearly did not intend to exclude civil service employees from the pro-

vision whereby an employee organization recognized by a municipal employer as the representative of the majority of employees would be the exclusive representative of all the employees involved without regard to membership in the organization. The court noted that in 1970 the legislature appended a clause describing five prohibited union acts among which a mandatory agency shop fee as a condition of employment was not included. An examination of 1970 amendments as well as the message from the governor in which he endorsed agency shop fees indicated "a clear intent that collective bargaining agreements should cover all employees in the appropriate unit, and that all such employees should make a contribution to the expense of negotiating, administering and enforcing the agreements."

The court dismissed the city's argument that employees have a choice as to whether they want to be subject to the agency shop fee by pointing out that if a collective bargaining agreement is concluded between the parties, all nonunion members of the particular unit are liable to the union for the agency shop fee. Employees have a choice as to how they will pay the fee, held the court, but they cannot avoid liability by merely withholding authority from the employer to deduct the fee from their paychecks. (*Steven D. Karchmar and Others vs. City of Worcester and Others*, Massachusetts Supreme Judicial Court, November 5, 1973.)

NEW JERSEY

Court Upholds Contempt Decision; Reduces Fines and Jail Sentences

The New Jersey Superior Court upheld a trial court's finding individual teacher members of the Freehold Regional High School Education Association and the association in contempt of a strike injunction. However, the court reduced the fine levied against the association and shortened the teachers' jail sentences.

The 11 teachers found in contempt of the injunction appealed the trial court's decision and requested that their original trial be nullified because it was heard by the county district court judge who could not validly hear a superior court contempt charge. The court found this contention frivolous as the judge had been temporarily assigned to the superior court at the time of the trial. The court also found frivolous the association's contention that the show cause order was invalid because it was entitled in the name of the school board's attorneys.

Replying to the teachers' claim that the show cause order was defective owing to vagueness and infringement on their Fourteenth Amendment rights, the court noted that the validility of a restraining order can be tried only on appeal from the order, and not from a decision for contempt. The court also found that the teachers had been adequately warned against striking, picketing, or illegally absenting themselves from work because state statutes do not grant public employees the right to strike.

The teachers also contested admittance into evidence of a telegram from the association president advising the school board of the association's intention to strike. The court found the telegram and the photographs and films of strike activity appropriate evidence.

In answer to the teachers' claim that their guilt was determined by their membership in the association, the court found that their guilt was determined by their strike and picketing activity, and their failure to report to work, all in violation of the restraining order.

However, because the association's strike and violation of the restraining order were a first offense, the court found the fines and sentences issued by the lower court excessive. The court reduced the association's fine from $100,000 to $50,000. It did not reduce the fines of the 11 teachers ($500 each), but it did shorten the jail sentences by one-half, and stayed incarceration until after school closed for the summer. (*In the Matter of Freehold Regional High School Education Association et al*, New Jersey Superior Court, January 25, 1973.)

NEW YORK

Sick Leave Bank Ruled Negotiable Fringe Benefit

The New York Appellate Court determined that a sick leave bank provision in an agreement between the Syracuse Board of Education and the Syracuse Teachers Association was a negotiable item because a sick leave bank was a fringe benefit.

In 1968, the parties agreed to a sick leave bank provision in their negotiated agreement. Under the terms of the provision, teachers could contribute up to three of their yearly accumulated sick leave days to a bank to be used by teachers with long-term illnesses who had exhausted their sick leave. The board would match each contribution up to a total reserve of 3,000 days, and budgeted $10,000 for establishment of the bank.

The state comptroller ruled that "a transfer or assignment of sick leave credits of one public employee to another" was unlawful because sick leave rights were personal and therefore not transferrable. Upon the board's decision that it would no longer observe the sick leave bank provision, the association petitioned the state supreme court to declare the provision valid.

The supreme court agreed with the comptroller that it was unlawful to transfer sick leave from one public employee to another and said that sick leave banks conflicted with the state education statute.

The appellate court found that the state education law provided that each teacher in school districts other than New York City was allowed at least 10 days' sick leave per year cumulative to a minimum of 150 days. Additionally, the Taylor Law grants public employers the right to bargain collectively with employee organizations and to enter into written agreements incorporating terms and conditions of employment. The Taylor Law also obligates the public employer to pay teachers reasonable compensation which may include both cash payments and fringe benefits. According

to the court, a provision for sick leave to be used for prolonged illness is a fringe benefit of advantage to all teachers and is thus a negotiable term of employment.

Citing *Huntington Board of Education v. Teachers*, the court reiterated that public employers are obligated to negotiate a condition or term of employment unless there is a statutory provision to the contrary. In the absence of a statute prohibiting negotiation of sick leave banks, the court concluded that the sick leave bank provision was legal, and reversed the lower court's order. (*Syracuse Teachers Association v. Syracuse Board of Education and the New York State Comptroller*, New York State Supreme Court, Appellate Division, June 29, 1973.)

Incentive Pay Plan Negotiable

An incentive compensation plan developed by the North Hempstead U.F.S.D. No. 11 Board of Education was a negotiable item in a contract negotiated between the board and the Carle Place Teachers Association. According to the Nassau County Supreme Court, the board's unilateral rescission of the plan constituted a breach of contract.

The board instituted the incentive pay plan in 1958 to reward teachers for unusual service to the schools and included an incentive compensation fund in the annual budget. The board reserved the right to amend or modify the plan. In 1970, without prior discussion with the teachers association, the board rescinded the plan. Within 10 days of this action, the association informed the board that the rescission constituted a breach of the parties' agreement. The board sought a declaratory judgment, maintaining that there was no breach of contract since the incentive plan was not a negotiable item and also that the plan was illegal as it constituted a gift of public funds, and was discriminatory.

Considering the question of breach of contract, the court found that all four agreements previously negotiated contained a clause that provided that the board would notify the teachers association before adopting a change in policies concerning wages, salaries, and terms and conditions of employment. This provision stated that the teachers association would have a chance to negotiate such changes. According to the board, the incentive pay plan was not included under "wages, salaries, terms and conditions of employment." On the basis of the description of the plan and the manner in which it was administered, the court determined the plan to be a wage, salary, or term or condition of employment. The court pointed to an additional contractual provision applicable to the case that stated that any bylaws, rules, and regulations not covered by the negotiated articles of the contract would be approved for the duration of the contract.

Considering the allegation of discrimination, the court found that although it was selective and limited, previous court cases had affirmed the legality of similar merit/incentive pay plans. As the plan was an award for "unusual ability and/or service to the schools," it was not a constitutionally prohibited gift of public funds but rather an incentive to teachers to perform services.

The court concluded that since the incentive compensation plan was a negotiable term and condition of employment, the board's action unilaterally dissolving the plan was a breach of the parties' contract. The court ordered that "amendments, modifications or rescission of the Plan must be negotiated between the parties." (*Robert F. Volk et al v. Carle Place Teachers Association*, Nassau County Supreme Court, April 26, 1973.)

Taylor Law Probationers Subject to Dismissal under Civil Service Law Procedures

The New York Supreme Court ordered the Broome County Central School District No. 1 to reinstate two tenure teachers who had been reduced to probationary status for participating in a strike and subsequently dismissed. The court ruled that the teachers reduced to probationary status under the Taylor Law could not be dismissed by standards applied to probationary employees covered under the Education Laws. The teachers, also requested an injunction enjoining the school district from terminating their employment and interfering with their discharge of classroom duties. The injunction was refused by the court.

The teachers, school district employees for over 10 years, had held tenure for more than seven years. As prescribed by the Taylor Law, they were reduced to probationary status after participating in a strike. The school district then gave the teachers a 30-day termination notice in accordance with the discharge procedure for probationary teachers contained in the Education Law. The teachers contested their discharge, alleging that they were deprived of a listing of charges and a hearing. The school district contended that the teachers were not entitled to the rights accorded to tenure teachers under the Education Law because they had been reduced to probationary status.

The section of the Taylor Law prescribing a one-year probationary period for public employees violating the strike prohibition states that "the effect of probation hereunder with regard to teachers and others subject to the Education Law shall not exceed or differ from the effect of probation hereunder with regard to other public employees." The court interpreted this provision to mean that teachers demoted to probationary status under the Taylor Law must be equated with Civil Service Law probationers and accordingly can be discharged only in accordance with Rule 4.5 of the Rules for the Classified Service. Under this rule probationary employees can be dismissed only if their job performance is shown to be unsatisfactory.

The court concluded that the tenure teachers reduced to probationary status under the Taylor Law could not be discharged with only a timely notification. Accordingly, the court ordered the teachers reinstated with full pay and benefits. The court pointed out that the ruling did not bar the school board from using appropriate measures to effect a lawful discharge of the teachers. In addition, the court refused the teachers' request to enjoin the school board from interfering with their resumption of classroom duties. (*Linnie B. Tuller, Michael Oluich and the Susquehanna Valley Teachers Association v. Broome County Central School District No. 1*, New York Supreme Court, April 30, 1973.)

PENNSYLVANIA

Interns and Residents Covered By Bargaining Act

The Philadelphia County Court of Common Pleas, upholding a Pennsylvania Labor Relations Board (PLRB) decision, ruled that residents and interns employed at state hospitals were public employees covered by the Public Employee Relations Act (PERA) because they performed services essential to the operation of the hospitals.

In 1970, the Pennsylvania Association of Interns and Residents (PAIR) petitioned the PLRB to hold a representation election for residents and interns of several state hospitals. The PLRB rejected the petition on the basis that the interns and residents were students, not public employees under PERA. In March 1972, PAIR appealed the Board's decision, and the Board reversed its original ruling and ordered a representation election to be held among the hospital employees. PAIR was designated as the exclusive bargaining representative for the interns and residents and was certified by PLRB.

The state hospitals filed exceptions with PLRB, claiming that interns and residents were not employees and PAIR was not an employee organization under PERA. When PLRB rejected the hospitals' exceptions, the hospitals took the matter to court.

Aside from claiming that collective bargaining was a major cause of labor unrest, the hospitals stated that the interns and residents were students, not public employees. The hospitals argued that the interns' and residents' association with the hospitals was purely educational and their pay was actually an educational subsidy. They also argued that even if residents were public employees, they did not constitute an appropriate bargaining unit because the unit was over-fragmented and that the interns and residents lacked a continuity of employment with the hospitals to justify granting bargaining rights. The hospitals also held that PLRB erroneously reversed its original decision owing to the replacement of two board members who participated in the original ruling.

The court found that the hospitals were not challenging the applicability of PERA to the interns and residents but rather were contesting whether interns and residents were employees in any sense, and therefore denying them collective bargaining rights. Pointing out the practical consequences of denying the interns and residents some method of dispute resolution, regardless of their status as either students or employees, the court found that a disruption of withholding of their services would severely upset operation of the hospitals. The PLRB had found that interns and residents were extensively involved in patient care and health services, they were paid for prior experiences, they paid taxes, and they received benefits such as parking, insurance, and cafeteria privileges.

Addressing the hospitals' contention that the unit was overfragmented, the court pointed out that PERA directed PLRB to achieve a balance between employees' community of interest and the effect of overfragmentation in unit determination. The court also rejected the hospitals' argument that the non-permanence of the interns and residents employment invalidated their bargaining rights. Finally, the court struck down the hospital's "reversal" objection on the grounds that "an administrative body may correct orders on its own motion, without the intervention of either party."

Concluding, the court dismissed the hospitals' petition, upholding PLRB's decision that residents and interns in state hospitals were public employees and entitled to bargaining rights under PERA. (*Albert Einstein Medical Center et al v. Pennsylvania Labor Relations Board*, Pennsylvania Court of Common Pleas, Philadelphia County, August 30, 1973.)

FEDERAL

Pregnancy Cannot Be Sole Reason for Denial of Unemployment Benefits

Following the repeal of the section of the Connecticut Unemployment Compensation Law that had denied unemployment benefits to women on the basis of pregnancy, a class action before the U.S. District Court for Connecticut resulted in an immediate ban on disqualification based solely on pregnancy. Constitutionality of the discriminatory treatment of applicants on the basis of sex was challenged in a suit agains the governor and various state commissioners and administrators of the labor department, and an injunction against discriminatory denial of benefits and payment of unemployment compensation was sought. A detailed accounting of all unemployment benefits denied pregnant female claimants during the six-year period preceding March 8, 1973, was also sought.

As the disputed section of the unemployment compensation statute had already been repealed, the district court judge focused on the need to redress the effects of the discriminatory treatment. The court permanently enjoined enforcement of the repealed regulation and ordered the commissioner of labor to give written notice to all women who had been denied unemployment compensation because of pregnancy since February 24, 1973. The court also ordered the commissioner to direct state staffs to assist female applicants entitled to recovery of benefits so as to ensure that "the eligibility of said claimants for unemployment compensation benefits shall be determined after a fair hearing and review in the same manner and based upon the same criteria as are applicable to all other claimants, male or female." A 45-day time limit from the date of the order was set for filing of the claims.

The court also ordered an automatic 10 percent deduction of benefits to defer the cost of litigation and to provide free legal service by attorneys of Women's Law Fund, for women seeking legal aid in their efforts to file claims. (*Sabine D. Jordan, Individually and on behalf of all other persons similarly situated, v. Thomas J. Meskill, as governor of the State of Connecticut, et al*, United States District Court for the District of Connecticut, June 26, 1973.)

BOARD FINDINGS AND RULINGS

HAWAII

45 Percent Increase in Teachers Agency Shop Fee Approved

The Hawaii Public Employment Relations Board (HPERB) approved a 45 percent increase from $97 to $141 a year, in the "service" or agency shop fee for teachers who did not belong to the Hawaii State Teachers Association (HSTA). However, board members expressed concern for an adequate financial breakdown of services rendered to nonmembers and HSTA's refusal to raise members' dues to $141 prior to the HPERB decision.

As reasons for raising the agency shop fee, HSTA cited deficits owing to the teachers' strike ($388,745) and the fine of $190,000, in addition to current operating expenses and dues to state and national associations. HSTA was bound to dues of only 1 percent per year of the teacher's average annual salary estimated to be $10,800. Thus, HSTA's portion of the dues was $108 with an additional $33 required to pay affiliated dues.

The HPERB was distressed at the large deficit but did agree that the fine was a responsibility of the association and funding should be raised. HPERB also was concerned that the association had not raised the dues of its members prior to asking for an increase in the agency shop fee.

While the Board's Rule 6.04(b) provided that service fees might not be greater than dues, and the regular dues of members had not been raised from $97 to $141 per year, it was understood that member's dues would be raised as soon as the decision of the HPERB was handed down. The Board agreed that the HSTA was the official bargaining unit for the teachers of Hawaii and that the April 1973 strike was an integral part of the bargaining and that expenses incurred, including the $190,000 fine, were allowable charges against the service fee. The Board modified that portion of the decision that led the HSTA to conclude that its only affiliation with NEA and HEA for service fee purposes could be by contracts for services. While HSTA might utilize a unified dues structure, it must show that affiliation fees going to locals, the HEA, and NEA are for purposes allowed under Section 89-4(b), HRS and that per-capita assessments out of service fees (agency shop fees) are allowable so long as the unit members receive in exchange for such fees, service related to contract negotiation and administration.

The order of the HPERB allowed an annual service fee of $141 to be deducted from the payroll with such payments forwarded to HSTA, effective September 1, 1973. In the future, HSTA will be required to show that members' dues have been raised before requesting an increase in the service fee and shall clearly distinguish between services supplied to the bargaining unit and those supplied to members of HSTA-HEA-NEA only. The service fee of $141 considered reasonable by this order will be in effect only through June 30, 1974, at which time the Board will review the financial situation of HSTA to see whether a continuation or alteration of the service fee is warranted. (*In Matter of Hawaii State Teachers Association, Petitioner and Hawaii Federation of Teachers, Intervenor*, Hawaii Public Employment Relations Board, September 13, 1973.)

MICHIGAN

Elimination of Legal Department an Unlawful Refusal To Bargain

Sustaining the findings and recommendations of an Administrative Law Judge (ALJ), the Michigan Employment Relations Commission (MERC) ruled that by unilaterally subcontracting its legal department's work and firing most department employees, the City of Flint had violated the state Public Employment Relations Act (PERA). MERC, therefore, directed the city to reinstate the employees with back pay, to rescind its subcontracts, and to bargain with the employees union on contracting work out of the bargaining unit or on wages, hours, and working conditions.

The ALJ had determined that the city's decision to contract out law work and to discharge legal department employees was influenced by the union's certification as these employees' bargaining representative, since prior to the election the city had indicated opposition to the organizing of the department and had threatened to contract the law work out when the union sought recognition.

While there was evidence of the city's anti-union animus, MERC said that absent expressed evidence of anti-union motivation, inadequate reasons for the employer's conduct can be a pretext disguising anti-union intention. Further, the court indicated that the absence of anti-union influence would have necessitated a determination whether subcontracting out of a unit is a mandatory bargaining item.

MERC found the discharge of the attorneys discriminatory on the basis of their union activity, and the city's citing financial problems as cause for its actions a pretext. Additionally, MERC held that the city violated PERA by its efforts to rid itself of the union by eliminating the legal

department. This, in MERC's determination, "constituted an unlawful refusal to bargain," and thereby violated the Act.

Turning to ALJ's finding that the city's legal stenographer, a union sympathizer according to the city, was denied reclassification and discriminatorily discharged along with the senior clerk typist because of the city's anti-union thinking, MERC held that the discharges also violated the Act, although the two employees were not bargaining unit members.

The city contended that PERA provisions conflict with the state constitution, and that MERC was beyond its jurisdiction in ruling on unfair labor practice charges involving civil service employees.

Rejecting the city's contentions, MERC cited relevant Supreme Court rulings and held that the aggrieved individuals were asserting statutory rights. In *Civil Service Commission for the County of Wayne v. Wayne County Board of Supervisors,* MERC said, the Supreme Court held that by implication PERA repeals portions of previous civil service legislation by making public employees' wages, hours, and working conditions bargainable items. Further, in *Detroit Police Officers Association v. City of Detroit* the Michigan Court of Appeals held that public employees' rights under state law overrides conflicting city charter provisions. Additionally, MERC found PERA unharmed by the constitutional provision establishing local civil service systems.

NEW JERSEY

PERC Dismisses Petition Seeking Exclusion of Supervisors from Bargaining Unit

Mixed units of teachers and supervisory personnel may exist if "established practice" and under "prior agreement," supervisors have been included in the bargaining unit, absent any actual conflict of interest between the two groups. The potentiality of conflict of interest is not of itself sufficient to warrant removal of supervisors from an all-inclusive unit. The New Jersey Public Employee Relations Commission (PERC) so ruled in rejecting the petition of the West Paterson Board of Education that sought to exclude principals and vice-principals from a teacher bargaining unit represented by the West Paterson Education Association.

Though the association had been negotiating for a unit composed of teachers, principals, vice-principals, custodians, nurses, and secretaries since 1965, it was not until 1969 that the board petitioned to exclude the principals and vice-principals from the bargaining unit. The Commission rejected this request immediately after the state Supreme Court decision in *Board of Education of the Township of West Orange v. Elizabeth Wilton* which held that where supervisors' duties and obligations to the employer would result in an actual or potential conflict of interest with other members of the bargaining unit, the required community of interest was lacking, and the supervisors should be excluded from the unit. The board petition to PERC argued that the Wilton decision mandated the exclusion of supervisors from the bargaining unit where evidence indicated that actual or potential conflict of interest might ensue between personnel groups in the unit. The association contended that the prohibition against "mixed units" was inoperative when either established practice or prior agreement was evident.

In reviewing the facts of the case, the Commission found that the duties of the principals and the vice-principals were definitely supervisory as these employees were responsible for evaluating personnel, making recommendations for hiring and firing of other personnel and teacher assignments, directing the clerical and custodial staffs and classroom activities, and resolving employee grievances at the initial stage.

However, the bargaining unit's history of negotiations constituted "established practice" under the state negotiations statute. In addition, the four successive one-year labor agreements from 1969 to 1973 negotiated with the same mixed unit constituted prior agreement. The Commission then considered the impact of *Wilton* on a mixed unit on the basis of "established practice" and "prior agreement." The *Wilton* decision acknowledged that in certain situations existing mixed bargaining units might be allowed, though the thrust of the case was toward the establishment of new units.

The Commission felt that the parties' history of negotiations offset the possibility of a future conflict of interest between the groups in the unit, and since *Wilton* did not address itself to exceptions, it was deemed inapplicable in toto to the case at hand. PERC stated that the "Legislature intended the preservation of mixed units where:. . .the experience of the parties demonstrated the ability to negotiate and administer agreements and at the same time protecting the integrity of their interests, and where their experience has further demonstrated no compelling reason to terminate or alter that relationship." Reviewing the parties' negotiating history, the Commission found that the board, the association, and the superintendent all agreed that there were no problems in the negotiation and administration of the agreement caused by the composition of the bargaining unit. The PERC felt that the mere potential for conflict of interest did not require the exclusion of supervisors from the bargaining unit, and since the record showed no reason to disturb the relationship, concluded that the case at hand required an exception to the rules and therefore dismissed the petitions. (*In the Matter of West Paterson Board of Education and West Paterson Education Association*, New Jersey Public Employee Relations Commission, June 12, 1973.)

NEW YORK

Principals Are Not Managerial Personnel Under Taylor Law

The New York Public Employees Relations Board (PERB) dismissed a petition of the New York City Board of Education for designation of 1,200 New York City elementary, junior high, intermediate, senior high, and special edu-

cation school principals as managerial employees. Reviewing the principals' duties and responsibilities in light of the Taylor Law's four tests for determination of managerial status, PERB found the principals to be supervisory personnel.

Under New York City's school decentralization plan, the senior high and special education schools are controlled by the board of education, and the principals of these schools are responsible to the assistant superintendent in their boroughs. Thirty-one community school boards operate the elementary, intermediate, and junior high schools, and principals of these schools are responsible to the community superintendent. The responsibilities and duties of all principals are similar, but the amount of their authority depends on their individual supervisors. According to the bylaws of the board of education principals "shall be responsible for the instruction, direction, and control of all members of the supervising and teaching and custodial staffs constituting the organization of such school."

An investigation of the specific duties and responsibilities of the principals revealed that under the United Federation of Teachers (UFT) agreement with the school board, principals have some authority in determining teachers' assignments and school programs, assign specific duties to assistant principals, evaluate personnel, provide for teacher training, recommend disciplinary actions, interview supervisors, and hire and fire substitute teachers. Although degree and course requirements and the nature of the school program are determined on the city or state level, the principal is expected to develop the educational program to fit the needs of his school, and also draft the annual objectives of the school's program. The principal is required to implement appropriate curricula subject to city and state guidelines, but may determine the method of instruction, the course content, and the teaching approach. In addition, the principal must discuss curriculum and operation decisions with faculty members and parents, and meet monthly with a UFT committee. The principal also hears the first-stage grievances.

According to PERB, principals' duties and responsibilities must be conclusively shown as managerial before the principals will be deprived of their Taylor Law rights. The Taylor Law includes four tests to determine whether employees can be classified as managerial. The first criterion is the employee's role in the formulation of policy on the system-wide or agency-wide level. PERB found that principals formulate policy in a limited sense only in their particular schools, and thus rejected this criterion. A second test is whether the employee participates in collective negotiations, i.e., has a direct involvement in the negotiating process. According to PERB's findings, principals have no involvement in the school board-UFT negotiations. Considering the third test, whether the principals hold a major role in administration of the agreement, PERB reviewed three specific duties of the principals. First, principals handle first-step grievances; however, in previous cases PERB has considered this to be a typical supervisory duty. Secondly, although the UFT agreement gives principals power to make numerous teaching and nonteaching assignments, these powers are limited by the agreement. The third consideration, the required monthly meeting with the UFT committee, was also rejected by PERB as these meetings are forums for discussion between the groups and are not related to labor relations.

The final test is whether the principals hold a major role in personnel administration. According to PERB, for an employee to be of managerial status, his authority must be derived from a close relationship with top administration, and supervisory status is determined by a close relationship with "rank and file" employees. Viewing the principals' positions and their close connections with regular teachers, substitute teachers etc. (i.e., "rank and file" employees), PERB stated that principals were not managerial but rather supervisory employees.

Owing to the failure of principals to pass the Taylor Law tests for managerial status, PERB dismissed the petition of the board of education. (*In the Matter of Board of Education of the City of New York*, New York Public Employee Relations Board, May 31, 1973.)

Board Must Furnish Employee Organization Information on Staff Reductions

A school board must make available to an association information regarding a reduction in staff and may not interfere with negotiations by reserving to itself the right to ratify the contract, declared the New York State Public Employee Relations Board (PERB). The ruling against the Board of Education, Falconer Central School District No. 1, resulted from a failure to negotiate in good faith with the Falconer Education Association by withholding information concerning a staff reduction. When the board reneged on its acceptance of a fact-finder's report and refused to negotiate after a legislative hearing had been conducted, the association struck.

During negotiations and subsequent proceedings, the board withheld information on a pending reduction in force until fact-finding hearings disclosed that class assignment schedules had been revised in line with a staff reduction.

The board's negotiator provisionally accepted the fact-finder's report; however, the board later rejected the report. In the resulting legislative determination, the board accepted most of the fact-finder's recommendations but froze teacher salaries at the previous year's level. The board then declared negotiations to be concluded, although the association continued to pressure for resumption. When the board refused to bargain further, the association struck for three days, and public support forced the board back to the bargaining table.

PERB agreed with a hearing officer's earlier ruling that the board's conduct constituted extreme provocation and detracted from the association's responsibility for the strike. The board's statutory role, according to PERB, was "limited to approval of matters that inherently require legislative approval . . . resolving to itself the right to ratify agreements . . . interfered with the statutory process of negotiations." The PERB noted that "where inappropriate conduct of a public employer unduly and unnecessarily frustrates an employee organization prior to the holding of

a legislative hearing, the public employer cannot use the fact of a legislative hearing as a shield to insulate it from its responsibility to try to ease that frustration thereafter." The board had interfered with negotiations, exceeding its statutory role, PERB decided.

The board was ordered to supply relevant information on the reduction in force and to negotiate with the association over the impact of the staff reductions. PERB also ordered a forfeiture of three-month dues deduction against the association for its strike activity. (*Board of Education, Falconer Central School District No. 1, Towns of Ellicott, Gerry, Cairo, Poland, and Ellington, Respondent v. Falconer Education Association*, Charging Party, Public Employee Relations Board, May 24, 1973.)

PENNSYLVANIA

School Crossing Guards an Appropriate Bargaining Unit

The Pennsylvania Labor Relations Board ruled that school crossing guards comprise an appropriate bargaining unit under the Pennsylvania Public Employee Relations Act.

The employees of Falls Township, Bucks County, petitioned PLRB requesting an election for a bargaining unit of 16 crossing guards who worked 3 to 6 hours daily. The employer objected to a bargaining unit of crossing guards as it considered them part-time employees and therefore not covered by PERA. The PERA, however, covers not only regular full-time workers but also part-time, seasonal, and day-to-day workers. Such workers are held entitled to all rights provided by the Act.

In reviewing the case, the PLRB ruled that the crossing guards who worked 6 hours per day for the 185-day school year were regular full-time employees, and those working 3 and 4 hours per day were at least regular part-time employees. If an individual's employment exists with a fair degree of frequency, it is distinguished from casual or temporary employment. Therefore, PLRB ruled that the 16 crossing guards formed an appropriate unit for collective bargaining purposes. (*Matter of the Employees of Falls Township [Bucks County]Pennsylvania Labor Relations Board*, March 14, 1973.)

Duty To "Meet and Discuss" Affirmed

Though an employer is not bound to reach a binding agreement in "meet and discuss" sessions, there exists a statutory obligation on the employer to confer with employee representatives upon request. The existance of a negotiated contract in no way affects this statutory requirement as the duty to bargain is separate from the duty of confer. Citing the Brownsville Area School District for violation of the state Public Employee Relations Act (PERA), the Pennsylvania Labor Relations Board (PLRB) ruled that the school board cannot refuse to meet and discuss with the Brownsville Education Association.

The school board had refused the association's written request to confer, contending that the previously negotiated collective bargaining agreement had settled all matters between the parties. Having interpreted the mandate of the act to "bargain or negotiate" as identical to "meet and discuss," the board felt that negotiating a contract satisfied both requirements.

The PLRB noted that the requirement to negotiate exists for the purpose of securing a contract, while the "meet and discuss" provision guarantees that dialogue will continue on interpretation of the negotiated contract. As both requirements must be satisfied, being mutually exclusive, the school board's refusal to "meet and discuss" with the association was ruled a violation of the PERA. (*PLRB v. Brownsville Area School District*, Pennsylvania Labor Relations Board, July 27, 1973.)

WISCONSIN

Full-time Teacher in Part-time Position is Covered by Staff Reduction Clause

In an arbitration case between the Kimberly Joint School District No. 6 and the Kimberly Education Association, the Wisconsin Employment Relations Commission (WERC) ruled that a kindergarten teacher had been improperly placed on part-time employment, and recommended reinstatement to a full-time position and back pay.

The association claimed that the school board violated the contract by its "unilateral application of system-wide seniority" in meeting its requirement for staff reductions. According to the contract, reductions in teaching staff dictated by economic conditions "shall be in inverse order of appointment to that department in that respective building."

The school board asserted that "there was not a reduction in the professional staff but merely an adjustment of the length of the grievant's teaching day"; therefore, the seniority provision did not limit the board's right to adjust teaching hours to comply with enrollment requirements.

The arbitrator found that action taken by the employer was clearly staff reduction. As to the specific contract terms, the aribtrator ruled that the teacher's seniority within the school district was less than that of other teachers but that the teacher had two more years' service than the other teacher involved and should have been retained as a full-time kindergarten teacher. The arbitrator recommended that the school district make appropriate teaching and pay adjustments. (*Kimberly Joint School District No. 6 and Kimberly Education Association*, October 9, 1972.)

NEGOTIATION NOTES

AFL-CIO Takes Steps To Give More Power to Public Employee Unions

Following in the footsteps of the Coalition of American Public Employees (CAPE), the AFL-CIO has initiated plans to enable public employee unions to better coordinate organizing and lobbying efforts and to give them more power in shaping AFL-CIO policy through the establishment of a special department for public employees. The plans have the endorsement of the AFL-CIO president and are expected to win official approval at the next executive council meeting. Public employee unions, such as the International Association of Fire Fighters, the American Postal Workers, and the American Federation of Government Employees, are reportedly leading the drive for support of the plan.

CAPE functions to unite and advance the collective legislative, political, financial, legal, and public relations power of organizations representing public employees. Organizations affiliated with CAPE include the American Federation of State, County, and Municipal Employees, the independent National Education Association, and the National Treasury Employees Union.

FLORIDA

AGO: Private Preliminary Contract Negotiations Valid

Florida's Attorney General indicated that the state public disclosure law is not violated by a public employer's labor representative and a public employee's representative conducting preliminary contract negotiations in secret. Further, the public body may meet in secret with its labor representative to consult with or instruct him regarding matters involved in the collective bargaining proceedings.

ILLINOIS

Wage and Hours Laws Amended

The Illinois Wage and Hours Laws have been amended to allow dues checkoff for teachers and to ban discharge for garnishment. Upon written authorization school boards are now required to deduct membership dues to any professional teachers organization from teachers' salaries. A pro-rata share of the annual membership dues will be withheld each payroll period and then paid to the designated organization.

A second amendment bans employers from discharging or suspending any employee because the employee's earnings have been subjected to a deduction order for indebtedness. Violations have been classified as misdemeanors.

MAINE

Paid Time Off for Grievance Hearing

The recently amended Maine Grievance Procedures for State Employees law now allows paid time off for state employees to appear as witnesses at a hearing. The amendment also permits the payment of travel costs and witness fees equivalent to those granted for an appearance before a court. The cost is to be borne by the party who requests that a subpoena be issued.

The state labor relations board now must issue subpoenas for documents at the written request of either party, and require the attendance of witnesses and production of any documentary evidence relative to the hearing. Board members, individually, have also been empowered to administer oaths and to issue subpoenas.

NEW JERSEY

Policemen's Association Enjoined from Picketing Committee Members' Places of Employment

The New Jersey Superior Court granted the Hillside Township Committee's motion to enjoin the Hillside Policemen's Benevolent Association from picketing premises where committee members were employed. The court held that the purpose of the picketing was to force committee members to agree to the employees' demands rather than to communicate the employees' grievances to the township's voters and citizens.

When the parties reached an impasse in negotiating the terms of their 1973 collective bargaining agreement, the employees association picketed the committee members'

places of business, most of which were outside the township. The committee members, fearing that the activity would be detrimental to their employment, petitioned the court to enjoin the association's picketing. The association contended that the activity was protected by their First Amendment right of free speech.

In answer to the employees' contention, the court stated that the Supreme Court of the United States ruled that picketing involves more than a communication of ideas, and, therefore, is subject to statutory regulation. According to the court, state statutes prohibit public employees from striking and picketing to further an illegal purpose. However, the court noted that the instant case was unique as the picketing took place at locations not involved with the labor dispute. The court felt that picketing may be enjoined when it is at locations removed from the labor dispute. The court concluded that "the likely purpose and effect of the picketing is to coerce plaintiffs into acceding to defendant's demands not through legitimate public pressure but through fear of losing their jobs." Accordingly the court enjoined the association from demonstrating, picketing, and parading on the premises of committee members' employment. (*John Kulish et al v. Hillside Policemen's Benevolent Association Local 70*, New Jersey Superior Court, June 14, 1973.)

* * *

FEDERAL

Paid Time Off to Serve as Witnesses or Election Observer

Rules adopted in November by the Assistant Secretary of Labor for Labor-Management Relations outline the procedure and timetable for dealing with requests, and objections to requests, for election observers, witnesses, and documents, and provide that witnesses and election observers shall be on official paid time off when participation occurs during work hours or while on paid leave status.

Under the rules, names of representation election observers desired, along with the rationale for their selection, are to be submitted to the Area Administrator in charge of the election and to other parties not less than 15 days prior to the election. Objections to the observers are to be filed within five days, whereupon the Area Administrator normally would rule on the objection no later than five days prior to the election.

A similar timetable is in effect for motions requesting witnesses or documents in unit determination hearings. Requests will be granted "after careful consideration of any objections and upon determination that the testimony or documents appear(s) to be necessary to the matter under investigation and that the motion describes with sufficient particularity the documents sought." Denial of a request is to be fully explained and made part of the hearing record. Official time for witnesses and election observers includes travel and all related time incurred by the service during normal working hours.

Administrative Rulings Concerning Equal Pay

Recent administrative rulings from the Wage and Hour Division, U. S. Department of Labor, decreed the following:

1. A living allowance is wages for the purpose of compliance with the equal pay provisions of the Fair Labor Standards Act. If the basic wage paid to employees in the same job classification is augmented by a living allowance to cover expenses, such as rent and utilities, the allowance must be included as wages earned and be paid in compliance with equal pay regulations. Payments for medical expenses and reimbursement for tuition for dependents must also meet compliance specifications.
2. Such designations as head of household are unlawful and discriminatory when they are based on sex only. For example, if women employees are designated head of household only if the husband is "both unemployed and unemployable," while men employees face no such prerequisite with regard to their spouse's employment status, it is discriminatory.
3. An employer is in compliance with equal pay provisions if contributions made to employee retirement plans are the same for men and women, even though administrators of the plans may choose to use different actuarial tables for men and women with the result that women receive smaller benefits.

Proposed Workweek Plan Violates FLSA Rules on Overtime Pay

Responding to an employer's inquiry as to the legality of a proposed wage plan whereby employees could schedule their own hours so long as they worked a total of 75 hours in nine days over a two-week period, the Wage Hour Administrator determined that such a plan was at variance with the Fair Labor Standards Act (FLSA).

Under the proposed plan an employee might work more than 40 hours in one week and less than 40 hours in the other week of a biweekly pay period. However, no overtime would be paid for hours worked over 40 hours during a single week. The employer believed that the proposed plan was within the spirit of the law since the employee could decide for himself whether he would work more than 40 hours in any week.

The administrator pointed out that under provision 7(a), "employees who are subject to its standards are entitled to receive not less than one and one-half times their regular rates of pay for all hours worked in excess of 40 hours in any workweek," the Act is adament in requiring that overtime be paid for all hours in excess of 40 in a workweek. Continuing, he said both the language of the Act and previous court decisions made it clear that an employee cannot waive his statutory right to be paid overtime compensation

for all hours worked in excess of 40 in any one week as the plan submitted suggests. On the basis of the law, if an employee works 30 hours one week and 50 hours the next, he must be paid overtime compensation for the hours worked in excess of 40 in the one week.

On the basis of the foregoing the administrator said that the plan could be made to comply with the Act if the number of hours that could be worked within a single week were limited to 40 or if the hours worked exceeded 40, overtime compensation, as required by the Act, were paid.

* * *

THE CONSUMER PRICE INDEX–NOVEMBER 1973

The Consumer Price Index rose 0.7 percent in November to 137.6 (1967=100), the Bureau of Labor Statistics of the U.S. Department of Labor reported. Higher prices for gasoline, fuel oil, natural gas, electricity, and coal accounted for about a third of the November increase. Higher prices for restaurant meals and most types of food purchased in grocery stores—except meats, poultry, and eggs—also contributed significantly to the rise. The November CPI was 8.4 percent higher than a year ago.

On a seasonably adjusted basis, the November increase in the CPI was 0.8 percent, the same as in October. The food index rose 1.4 percent after seasonal adjustment, following an increase of 0.5 percent in October and a decline of 0.1 percent in September. The increase of 0.7 percent in the nonfood commodities index after seasonal adjustment was larger than in recent months. The increase of 0.6 percent in the services index was smaller than in recent months, but larger than increases earlier in the year. For the 6 months ended in November, the CPI rose at a seasonally adjusted annual rate of 9.7 percent. The rate of advance was slower in the last 3 months than in the first 3 months of the period. (From U.S. Department of Labor, Bureau of Labor Statistics, news release, December 21, 1973.)

SPECIAL REPORTS

GROWTH OF TEACHER CONTRACTS: 1966-1973

The representation rivalry between NEA and AFT continues in the favor of NEA as revealed by the NEA Research 1972-73 survey of school systems having 1,000 or more pupils enrolled, and some form of negotiated agreement. The latest survey covered 3,960 reporting systems with a total of 1,241,415 teachers. Of the total number of negotiation agreements, 2,556 are collective bargaining contracts, an increase of more than 500 percent since the first survey in 1966-67.

The prevalence of teacher contracts is greater than the total shown as only those districts that meet the criteria above are analyzed. Also, once a first-time contract is reported and filed in the NEA depository of agreements, the continuity of collective bargaining is assumed and the system is automatically incorporated into the NEA data base, except for merged or consolidated districts.

Surveyed systems can report only two types of agreements, procedural or contractual. Most procedural agreements are found in those states lacking a mandatory collective bargaining law for teachers or public employees. Some states allow a "permissive" form of collective bargaining, e.g., Florida, Nebraska, New Hampshire, and Texas, but such "bargaining" is restricted to allowing the school board to meet and confer with teacher representatives, but with no enforceable requirements or the duty to reach a written agreement. Significant in this year's survey is the appearance of negotiated collective bargaining agreements in Georgia (1), Iowa (2), and Tennessee (1), none of which has any form of collective bargaining law.

The NEA Research survey covered all systems having a negotiated agreement and only those systems with collective bargaining contracts considered valid contracts. Each year since 1966-67, the number of procedural agreements has decreased owing primarily to passage of collective bargaining laws for teachers. The latest addition to the growing list of states (26) is Indiana, although the full impact of Indiana will not be felt for another survey or two.

The over-all increase in the number of contracts has not been as dramatic in the past two survey years as from 1966-67 to 1968-69. The growth rate of contracts has dropped from the high of 164.0 percent from 1966-67 to 1968-69 to 40.1 percent from 1970-71 to 1972-73. NEA has garnered 92.7 percent (678) of the total increase of contracts from 1970-71 to 1972-73, with a growth rate of 39.6 percent for the biennium.

In comparison, the AFT growth rate from 1970-71 to 1972-73, has decreased from 25.6 to 24.3 percent in number of contracts and 10.6 to 7.2 percent in number of teachers represented.

Translated into comparative figures, from 1966-67 to 1972-73, NEA gained 22 school systems for each one gained by AFT, and seven teachers represented for each one gained by AFT. In 1966-67, while NEA represented 9 out of 10 school systems, AFT represented 6 out of 10 teachers; but in 1972-73, while NEA still represents 9 out of 10 systems and nearly 8 out of 10 teachers, AFT represents less than 1 out of 10 systems and 2 out of 10 teachers.

Though the survey revealed a lower growth rate (40.1 percent) of collective bargaining contracts for 1972-73 over 1970-71 in comparison with past biennium, 77.7 percent for 1970-71 over 1968-69, the number of such contracts among the systems surveyed has increased from 5.4 percent to 35.4 percent from 1966-67 to 1972-73. The significance is the ever increasing changeover of school systems from procedurals to contracts.

In regard to NEA and its affiliates, the success of organizing activities and representation elections won can be measured in terms of the increase in number of contracts and the number of teachers affiliated. NEA's share of the increase from 1968-69 to 1972-73 was 92.1 percent of the total increase for all teachers, and 95.0 percent of all contracts.

For a state-by-state distribution of agreements and the number of teachers covered, see Table 2.

TABLE 1.—CLASSROOM TEACHER COLLECTIVE BARGAINING AGREEMENTS, 1966-67, 1968-69, 1970-71, AND 1972-73

	1966-67	1968-69	1970-71	1972-73	Percent increase, 1970-71 to 1972-73
1	2	3	4	5	6
	Number of school systems				
NEA	351	937	1,712	2,390	39.6
AFT	37	82	103	128	24.3
Other[a]	1	8	10	38	280.0
Total	389	1,027	1,825	2,556	40.1
	Number of teachers				
NEA	88,123	273,497	504,249	721,788	43.1
AFT	120,164	173,570	192,000	205,743	7.2
Other[a]	146	1,075	1,075	7,263	575.6
Total	208,433	448,142	697,324	934,794	34.1

[a]Independent representation or joint NEA-AFT.

TABLE 2.—DISTRIBUTION OF TEACHER COLLECTIVE BARGAINING AGREEMENTS, BY STATE: 1966-67, 1968-69, 1970-71, AND 1972-73.

State	Number of school systems				Number of teachers			
	1966-67	1968-69	1970-71	1972-73	1966-67	1968-69	1970-71	1972-73
1	2	3	4	5	6	7	8	9
Alaska (1970)[a]	...	...	2	5	...	...	1,750	2,656
Arizona	...	2	7	16	...	2,352	5,499	9,424
Arkansas	...	1	1	3	...	1,129	1,129	1,873
California (1965)	...	1	13	28	...	4,692	11,447	19,827
Colorado	1	4	11	16	724	9,575	12,554	16,648
Connecticut (1965)	42	71	88	89	15,964	26,344	29,655	31,527
Delaware (1969)	...	...	12	17	...	...	4,100	5,122
District of Columbia	...	1	1	1	...	8,000	8,000	7,250
Florida	...	...	2	5	...	...	4,240	12,781
Georgia	...	...	...	1	...	...	...	1,698
Hawaii (1970)	...	...	...	1	...	...	...	9,769
Idaho (1971)	...	...	2	5	...	...	334	1,755
Illinois	10	33	92	142	22,764	35,566	48,917	58,301
Indiana (1973)	...	8	20	27	...	5,765	15,179	17,132
Iowa	...	...	...	2	...	...	...	1,290
Kansas (1970)	...	1	1	15	...	3,358	3,358	5,515
Kentucky	...	...	2	4	...	...	4,300	7,112
Maine (1969)	...	...	40	44	...	...	5,580	5,846
Maryland (1968)	...	2	21	21	...	9,160	43,128	44,810
Massachusetts (1965)	55	135	167	181	15,677	39,527	47,717	55,126
Michigan (1965)	237	332	354	383	63,072	81,406	83,938	89,809
Minnesota (1967)	1	1	1	58	146	146	146	20,664
Missouri	...	1	1	3	...	850	850	4,039
Montana (1971)	...	2	2	6	...	568	568	1,337
Nebraska	...	1	6	9	...	72	4,657	6,044
Nevada (1969)	...	...	2	3	...	...	4,150	4,518
New Hampshire	...	...	6	13	...	...	1,436	3,387
New Jersey (1968)	1	6	228	278	3,650	6,357	51,193	68,084
New Mexico	...	...	1	1	...	...	2,400	3,200
New York (1967)	8	319	435	476	62,314	148,403	172,068	181,938
North Dakota (1967)	...	...	3	7	...	...	653	1,422
Ohio	1	13	63	114	271	15,821	34,098	46,521
Oklahoma (1971)	...	...	1	1	...	...	2,830	2,410
Oregon (1965)	...	...	3	25	...	...	4,837	10,227
Pennsylvania (1970)	1	5	33	281	11,000	14,477	22,374	74,555
Rhode Island (1966)	9	22	24	26	2,460	7,794	8,098	8,637
South Dakota (1969)	...	...	2	3	...	...	986	1,572
Tennessee	...	...	...	1	...	...	...	4,200
Texas	...	...	1	4	...	...	766	11,546
Utah	...	4	7	8	...	4,007	4,982	5,450
Vermont (1969)	...	...	3	9	...	...	749	1,573
Virginia	...	2	2	4	...	2,396	2,396	10,770
Washington (1965)	1	3	22	47	380	665	13,667	19,363
Wisconsin (1959)	22	56	141	169	10,011	19,062	31,213	36,367
Wyoming	...	1	2	4	...	650	1,382	1,699
Total	389	1,027	1,825	2,556	208,433	448,142	697,324	93[illegible],794

[a]Year of passage of P.N. law.

BRIEFS OF AGREEMENTS

Lakewood, Colorado

Jefferson County School District No. R-1 and Jefferson County Education Association, effective September 1, 1973, to August 31, 1976. Approximately 3,300 certificated professional employees including all teachers, counselors, speech therapists, psychologists, resource teachers, social workers, and all other nonadministrative certificated personnel. Written requests for negotiation of salaries, monetary fringe benefits, or such other matters as agreed upon may be submitted no later than April 15 each year during the term of the agreement. Written request for a successor agreement may be submitted by either party not later than April 15, 1976.

COMPENSATION: Each salary level has two lanes, one for nontenure, the other for tenure: (January 1, 1974, to December 31, 1974) B.A., $7,800 to $10,140, six increments; B.A. plus 20 hours, $12,285 maximum; M.A., $8,580 to $14,508, 10 increments; B.A. plus 60 including M.A., $15,795 maximum; B.A. plus 75 including M.A., $17,082 maximum.

Additional $500 for doctorate and $250 for specialist in education degree; teachers will be placed on the 20th step of the salary schedule after 20 years of service, 15 of which must have been in the Jefferson County Schools; teachers placed on the 20th step at B.A. will be paid a yearly salary of $10,608, B.A. plus 20, $12,675, M.A. $16,146, B.A. plus 60 including M.A., $16,887, and B.A. plus 75 including M.A., $18,174.

DIFFERENTIALS: High-school-head coaches of football, basketball, track, baseball, wrestling, band director, $700 to $900, five steps; assistant coaches of football, basketball, track, baseball, wrestling, assistant band director, dramatics director, forensics director, pep club sponsor, choral director, head coaches of gymnastics, girls track and gymnastics, $550 to $750, five steps; head coaches of golf, tennis, cross country, swimming, year book sponsor, head coaches of girls' tennis, girls' volleyball, and girls' basketball, director of intramurals, assistant choral directors, junior high coaches, pep club sponsor, $400 to $600, five steps.

OTHER: Summer school teachers will be paid $7 per hour; regularly assigned teachers who accompany students to outdoor lab school and remain overnight will be paid $20 per night in addition to regular salary; teachers contracted to complete a curriculum development responsibility will be paid $7 per hour; part-time teachers assigned for half or more of a normally scheduled instructional day will be placed on the salary schedule in the same manner as full-time teachers and their salary will be in proportion to their assignment; they will be paid one increment for each two years of service; $.12 per mile for teachers assigned to more than one school per day and must use their own automobiles.

INSURANCE: Board-paid hospitalization/major medical coverage, and long-term disability; board also to pay full cost of life insurance and accidental death coverage; part-time teachers teaching more than half of an instructional day will have board-paid insurance, hospitilization, and major medical insurance.

LEAVES: Nine days' annual sick leave credited and available the first official day of the school year or the first official day of employment, unlimited accumulation.

Extended Sick Leave:

Any teacher who has exhausted his sick leave and suffers an illness of less than six working days shall be advanced up to five days of sick leave. Such days shall be reimbursed from future-accrued sick leave.

Any teacher who has exhausted his sick leave and suffers a prolonged illness or disability (an illness in duration of at least six working days) may make application to the Assistant Superintendent for Personnel for extended sick leave days as follows:

The teacher must submit a written request to the Assistant Superintendent for Personnel stating the reason or cause for this illness and the anticipated date for returning to his working assignment. This request must be accompanied by a statement from a licensed physician verifying the need for such days and recommending the necessary recovery period.

The number of days available to the employee shall be determined by the number of years of service to Jefferson County Schools times nine (9). The maximum days available to a teacher shall be 60. Such days shall not be deducted from future accumulated sick leave.

A joint committee of J.C.E.A. and Administration shall review the application and render a decision for implementation by the Assistant Superintendent for Personnel.

This committee shall consist of two members appointed by J.C.E.A. and two members appointed by the Administration.

Two days personal leave for personal or legal business, household or family matters, no reason required before taking the leave; 200 teacher-days per calendar year for professional leave will be authorized; up to five days' bereavement leave, deducted from either personal or sick leave granted in case of death in the immediate family; up to 90 days' paid leave, less military pay, granted for military reserve obligations; leave will be given to teachers for appearance in court as witnesses, to serve on a jury, or to respond to an official order from another government jurisdiction for reasons not brought about through the connivance or misconduct of the teacher, the difference between the teachers' regular salary and any amount received, not

including reimbursement for transportation expenses, will be paid the teacher; part-time teachers assigned for more than half of a normally scheduled instructional day will receive proportional sick leave, bereavement leave, and jury duty and court subpoena leave; summer school teachers will be credited one hour of sick leave for every 20 hours of work;

"A male teacher shall be entitled, upon written request, to an unpaid short leave of absence to begin two weeks prior to and conclude up to two weeks after the birth of a child to his wife;"

sabbatical leave at one-half annual salary for one year and one-fourth annual salary for one semester for college or university courses, independent study, rest or recuperation, or travel; study and travel leave granted only to teachers who have at least six years of consecutive service in the district, and rest and recuperation leave granted only to teachers with at least 15 years' consecutive service in the district; other leaves granted at any time on the recommendation of the superintendent; a teacher on sabbatical leave will receive any regularly scheduled increases and will be subject to any general salary deductions; in determining the teacher's place on the salary schedule when he returns to regular employment, full experience credit will be given for time spent on sabbatical leave; remuneration from other sources, such as scholarships, fellowships, grants, will not affect the granting of sabbatical leave with pay; a sabbatical leave committee consisting of four teachers and four administrators will review applications for sabbatical leave and make appropriate recommendation through the superintendent to the board.

ASSOCIATION: Payroll deduction of local, state, and national association dues; released time for members of negotiation team if negotiation meetings are held during class time; one-half day released time daily for association president for one year; association will reimburse the district for half of the president's salary; teachers designated as official representatives by the association will submit applications for short-term leave at least five school days in advance for attending local, state, or national association functions; the association has the right to use school buildings, equipment, and expendable materials without cost and to place materials on the bulletin boards designated by the principal and to place such materials in teachers' mailboxes and interschool mail; the association president has the right to visit schools; the principal and the association building faculty representative will meet at the request of either party to discuss the administration of the agreement; the faculty representative has the right to call meetings before or after school and to carry on association business when it does not interfere with the normal teaching duties of teachers; association may purchase expendable office supplies and other materials from the district at the price paid by the district; either party may,utilize the services of outside consultants and may call upon professional and lay representatives to assist in negotiations.

INSTRUCTION: Teaching hours per work day will be determined by the local school schedule but will not exceed 40 hours per week, with regularly scheduled daily work assignment in a consecutive time block unless otherwise agreed in writing by the teacher; daily duty-free lunch period of no less than 30 minutes; teachers will, in addition to their lunch period, have preparation time consistent with school scheduling patterns, but not less than 225 minutes per week; no block of time less than 30 minutes will be considered a preparation period; teachers will prepare lesson plans which will be subject to review by the building principal upon reasonable advance notice; teachers expected to follow the approved district curriculum subject matter; every effort will be made to limit classes in K-3 to 27; when these classes exceed 30, the parties may investigate ways to alleviate the problem; the regular teacher work-year will not exceed 184 days; the work-year includes all days on which pupils are in attendance, orientation is scheduled, parent conferences are held, and other days on which attendance is required of the teacher; any teacher required to work beyond the regular teacher work year will be compensated at his regular rate of pay; teacher-pupil contact days will be 180 days; the board will make every effort to acquire sufficient teacher aides and part-time clerical assistants to relieve teachers of nonteaching duties; no teacher will be required to supervise any student teacher, those who do will be paid in addition to the contracted salary, the total amount of money received by the sponsoring school; educational task forces will be established when a specific problem arises for the purpose of investigating and seeking a solution to the problem, composition will include equal numbers of teachers and administrators as well as interested members of the community; time limits for the force will be agreed upon by the board and the association with adequate released time for teachers provided; the task force will submit a written report to the association and the district and recommendations not implemented prior to the next negotiations will be subject to negotiation; the board will provide funds for necessary expenses incurred by a task force.

Questioned and Challenged Materials

Discussion with school principal:

The school principal will hold a conference with the complainant.

At the discretion of the principal, the school librarian or the teacher using the material at the time of the challenge will be brought into the conference.

If the complainant is dissatisfied with the results of the conference, the principal will inform the complainant of the following procedures, and will provide him with the special application form "Citizen's Request for Reconsideration of Instructional Materials," to be acted upon by the reviewing subcommittee of the Curriculum Council.

The principal will forward the application the the chairman of the reviewing subcommittee of the Curriculum Council, together with a written report of the conference he held with the complainant.

Copies of the report will also be sent to the Assistant Superintendent for Instruction, and teacher or librarian involved.

One copy of the report will be kept in the school file.

The principal will provide the chairman of the reviewing subcommittee with a copy or copies of the material in question.

The questioned subject or material will be reviewed by a subcommittee of the Curriculum Council only after a signed application, "Citizen's Request for Reconsideration of Instructional Materials," has been received from the complainant.

The subcommittee will include representatives from: administrative staff, principals, materials center staff, teaching staff, and lay membership.

The principal from the school in which the materials were challenged will serve on the committee during the discussion of the related problem.

If an instructor is involved, he will be given the opportunity to render a professional opinion on the appropriateness of the questioned material.

A written recommendation of the reviewing subcommittee will be forwarded to all interested personnel.

If the complainant is not satisfied with the recommendation of the Superintendent, he has the privilege to go before the Board of Education in accordance with District procedures.

If the same material is challenged at a future date, the principal and the chairman of the reviewing subcommittee will examine the previous decision in the light of additional points of view. If they find any significant difference in the new challenge, the committee may again review the material; otherwise, the original decision will stand and a copy will be sent to the complainant explaining that the material has been previously evaluated.

PERSONNEL: Grievance procedure ends with the board; teachers have the right to review the contents of their personnel files and make copies of any documents contained therein with no derogatory material placed in a teacher's file without the teacher's knowledge and the right to submit a written answer to such material; no material dealing with the processing of a grievance will become part of the central office personnel files of the aggrieved party or any other party at interest; leaves will be granted for work on advanced degrees of special studies; board will allow paid leave time and will pay for travel, meals, lodging, and registration fees deemed appropriate for teachers attending area instructional conferences; a leave committee consisting of equal numbers of teachers and administrators will review applications for leave and make recommendations; after-school courses, workshops, conferences, and programs designed to improve the quality of instruction will be provided; the faculty will elect a liaison committee for each school building at the beginning of each school year; this committee will meet regularly during the school year with the principal or his designee to review and discuss local school problems and practices; the board and the association will jointly develop forms for evaluation of teacher personnel; nontenure teachers will be evaluated at least twice each school year by their principal; all monitoring or observation of the work performance of a teacher will be conducted openly and with full knowledge of the teacher; the evaluation will include first-hand observation by the evaluator in the classroom with the evaluator spending sufficient time there to justify the conclusions and observations contained in the evaluation; positive qualities and weaknesses will be mentioned in detail and specific written suggestions and a planned program for improvement will be submitted to the teacher involved; each teacher will be given a copy of his evaluation report at least one day before the conference to discuss it is held; no such report will be submitted to the central administration, placed in the teacher's files, or otherwise acted upon without a prior conference with the teacher; no teacher will be disciplined, reprimanded, reduced in rank or compensation, or deprived of any professional advantage or employment without just cause; upon receipt of a request or recommendation for nonrenewal of a teacher's contract, the board will notify the association and the nonrenewal will be subject to the grievance process; the board will encourage administrators or persons bringing charges against a teacher to cooperate with the association in its review of the case; every effort will be made to resolve parental complaints with the involvement of the teacher, the parent, and the principal; if no resolution is reached, the contractual provisions dealing with the academic freedom and questioned and challenged materials will apply if the complaint concerns the teaching of questioned and challenged subject matter or teaching techniques; in filling administrative vacancies where applicants' qualifications are equal, preference will be given to teachers already employed by the district.

Involuntary Transfers

No teacher shall be involuntarily transferred except where a reduction in the student body enrollment makes unavoidable such transfer, or to accommodate leave returnees, or to fill assignments which cannot be accommodated by existing building staff.

Teachers effected by the above shall be retained according to the following procedure:

Teachers shall be retained on the basis of greatest length of service in the following order: department, Grade Level, or Team; building; and district.

Exceptions may be made when the involuntary transfer affects probationary teachers with below average evaluations.

In the event that two or more teachers have the same lowest degree of length of service through the third level, the involuntary transferee will be determined by the Personnel Division.

Involuntary transferees shall be identified by April 15, except in cases of emergency, through the process described above. Each transferee shall be given a list of all available positions within the District and shall be provided with sufficient release time to investigate those positions for which he/she is qualified.

Involuntary transferees identified by April 15th for transfer effective at the beginning of the school year immediately succeeding the year in which the transferee was identified, shall be given priority over voluntary transfers for assignment purposes for all vacant positions for which they are qualified between April 15th and May 1st. All involuntary transferees who have not been placed by May 1st shall be assigned by the Personnel Division.

Involuntary transferees who are identified after May 1st of each year and who are placed in a position that is unacceptable to them shall have the same rights as other involuntary transferees for the next succeeding school year.

A teacher who is involuntarily transferred after the beginning of a school year shall be given a reasonable amount of time from the date of notification to accomplish the transfer.

No teacher shall be involuntarily transferred or reassigned to fill a vacancy for which he is not qualified.

Department chairmen in junior and senior high school who have coordinating and planning functions will be selected by the principal after consultation with the department staff members; these chairmen will serve as liaison between their departments and the school administration; they will not be considered as administrative employees and will not be required to evaluate employees; every effort will be made to give department chairmen released time commensurate with the responsibilities given them by the principal; a teacher may exclude a pupil from one class period or session and refer such student to the principal or assistant principal when the grossness or the effect of the violation makes the continued presence of the student in the classroom undesirable; school authorities will endeavor to achieve correction of student misbehavior through counseling and interviews with the child and his parents when warranted; the board will provide legal counsel and assist any teacher who is complained against or sued as a result of any action taken within the scope of his employment; time lost in this connection will not be charged.

* * *

Lansing, Michigan

Between Lansing School District Board of Education and Lansing Schools Education Association, effective September 15, 1973, to June 30, 1976. Approximately 1,600 certificated professional employees including K-12 classroom teachers, guidance counselors, librarians, school psychologists, diagnosticans, social workers, special education teachers, speech and hearing therapists, remedial reading teachers, advanced instruction teachers, helping teachers, teachers of the homebound and hospitalized, attendance or truant officers, school nurses, and coordinators; excluding all ABE and high-school completion teachers, per-diem substitutes, EIP intern teachers, supervisory and executive personnel, and any other certified and noncertified personnel employed by the Board. Provision for renegotiation by March 1, 1975.

COMPENSATION: (1973-74) B.A., $9,065 to $14,504, 9 increments; B.A. plus 23 hours, $15,501 maximum; M.A., $9,790 to $16,489, 11 increments; M.A. plus 45 hours, $17,224 maximum; (1974-75) B.A., $9,482 to $15,171, 9 increments; B.A. plus 23 hours, $16,214 maximum; M.A., $10,241 to $17,257, 11 increments; M.A. plus 45 hours, $18,016 maximum; (1975-76) B.A., $9,884 to $15,814, 9 increments; B.A. plus 23 hours, $16,902 maximum; M.A., $10,675 to $17,989, 11 increments; M.A. plus 45 hours, $18,780 maximum; professional growth steps of $400 may be earned at 17th step of B.A. and B.A. + 23 schedules and at 16th, 19th, and 22nd steps of the M.A. and M.A. + 23 schedules; previous teaching experience credited up to 8 years; teachers holding a Ph.D. degree and teaching in the area in which the degree was awarded shall be paid 8 percent of the B.A. base in addition to the M.A. + 45 step, holders of a Ph.D. degree outside their teaching area may be paid at the same rate subject to the discretion of the assistant superintendent; teachers with a M.S.W. degree shall be placed in the proper M.A.+ track for salary purposes; after 10 years of service and according to Michigan Teachers Retirement Act, teachers will be paid $50 for each year of service up to $1,500.

DIFFERENTIALS: (Based on percent of base entry pay) High School: athletic director and head football coach, 17 percent; head baseball, 10.5 percent; cross country, 8.5 percent; assistant wrestling, girls' cheerleading and gymnastics, 8 percent; debate coach, 9 percent; yearbook advisor, 6 percent; dramatics, 4 percent; Junior High: athletic director, 8 percent; football, track, volleyball and swimming, 7 percent; girls' cheerleading and intramurals, 4.5 percent; band director, 5.5 percent; newspaper advisor, 4.5 percent; orchestra director, 3 percent.

OTHERS: Scoreboard operators, announcers, and clock operators at athletic events, $7.91 per hour; activity assistants (junior high), $6.36; driver education and summer school, $8.38 (1974), $8.77 (1975), $8.57 (1976); workshop, $7.86 (1974), $8.22 (1975), $8.57 (1976); lead teachers working with 12 or more teachers, additional $1,200, team leaders working with 7 – 11 teachers, $900; team leaders with up to 6 teachers, $700; lead or team teachers working beyond the school year, $225 a week; special education teachers, $300 for certification; vocational education teachers required by state law to have work experience and vocational certificates, 9 percent of the B.A. base plus their current salary step; vocationally certified teachers without a B.A. degree, $300 a year for certification; at initial employment vocational teachers have the option of being placed on the B.A. salary schedule or paid at an hourly rate ranging from $6.03 to $8.38 (1974), $6.32 to $8.78 (1975), and $6.59 to $9.15 (1976); professional public librarians, 5 percent above teachers' schedule; $.12 per mile for car used in job.

LEAVES: Ten days' annual sick leave, 200 days' maximum accumulation, for personal or family illness and bereavement; summer school teachers accrue one and one-half days transferrable to annual accumulation; two days' personal leave to be requested from supervisor five days in advance, not for extending a vacation, recreational pursuits, shopping, seeking other employment, or child care, unused personal leave transferrable to accumulated sick leave; one-half day leave for school district related activities when duties are covered by volunteers; leave for jury duty or court appearance in case involving teachers' employment or the school, except for unfair labor practice cases, paid difference between pay for duty or appearance and regular salary; sabbatical leave at half salary for one or two semesters after seven years; joint committee will review applications on basis of extent of professional study, travel, research, growth contributions, and service with final determination by superintendent; professional staff members who do not qualify for tenure shall be granted leaves of absence according to conditions required of tenure teachers after two years of service; extended leave for health reasons not to exceed one year but extensions may be granted by the board upon written request from the teacher; parental leave without pay granted upon the request of parents of a

newborn child; leave must be requested prior to the six weeks' post-natal examination, but not less than 30 days prior to date leave becomes effective; leave shall be granted to end of school year; maternity leave must be requested at least 30 days prior to expected delivery provided that teacher notifies Personnel Office of pregnancy, submits a physician's statement stating expected date of birth and attesting to her ability to carry out duties; a pregnant teacher will be allowed to work provided her physician certifies on a monthly basis through the seventh month and biweekly thereafter that she is physically sound and able to perform all the duties and functions of her job, and she is able to perform all the duties on the same basis as other teachers; leave lasts for the duration of the pregnancy and extends no longer than the six-week post-natal examination and may be followed by parental leave; upon return from leave, teacher must provide a physician's statement attesting to her fitness; if a teacher works through the third trimester of her pregnancy, she shall be required to execute a waiver of liability or "save harmless" agreement to protect the board against any claim for injury; adoptive leave may be granted to tenure teachers without pay, commencing when teacher assumes custody of child and continues for duration of school year; public office leave may be granted to teachers who have been employed in the school district for at least three years to campaign or serve; leave will be granted for one or more semesters; teachers holding political office requiring occasional presence during school hours may utilize personal leave; leave of absence for study may be granted to teachers employed for at least three years in the school district; application must be filed by end of first semester for leave beginning the following September, and at end of second semester for leave beginning the following February; leave must be taken for full semesters not to exceed two years, and teacher must take 10 semester hours a semester or 10 term hours a quarter in an accredited institution; leave for exchange teaching not to exceed one year; exchange leave with pay may be granted upon recommendation of the superintendent; leave for teaching for the U.S. Government, Peace Corps, or other special programs not to exceed one year may be granted to teachers after three years' service in the district; teachers on long-term leave will be contacted 60 days prior to expiration of leave; failure to respond within 30 days shall be considered a voluntary discharge; upon return from leave, teachers shall be restored to former or comparable positions.

INSURANCE: Board-paid family health insurance or flat payment of $25 per month to be applied to MEA Super Medical Semi-Private (1973-1975), MESSA SM2 Program (1975-76), and/or Blue Cross-Blue Shield with Master Medical Semi-Private; board shall provide a group life insurance plan providing a $7,000 benefit with double indemnity for accidental death; teacher absent from school because of injury from a job-related accident shall receive difference between weekly income and amount of Workmen's Compensation to be paid for 30 weeks; after 30 weeks, payments to be charged against compensable leave on a pro-rata basis; liability insurance up to $150,000 for claims arising out of employment; payroll deductions for U.S. Savings Bonds, United Fund, credit union, and tax-sheltered annuities.

ASSOCIATION: Payroll deduction of association dues; agency shop, also payroll deductible; association entitled to 20 days with pay and five days without pay for business purposes, not to be used for arbitration; association executive secretary must request this leave no less than three days prior to expected leave; no more than two teachers may use this leave at one time; right to use school buildings at reasonable times for meetings outside school day, providing meetings do not interfere with normal school procedures; when special custodial service is needed, board will charge association; right to use typewriters, calculating machines, duplicating equipment and amplifying equipment for an annual fee of $106; bulletin board in each building for association use; all association materials intended for distribution or display must be identified as such before display or distribution; courier service may be used at option of association; association entitled to use school mail boxes; association announcements during duty hours shall be permitted only at the close of building faculty meetings; association activities are not to interfer with classroom or preparation time; the board is to provide information relating to all financial and non-confidential personnel information relative to the district except for any information held non-accessible to teacher bargaining units because of state statutes; association officials are to be permitted to transact official association business on school property at all times; officials must report presence to the office of the building principal before conferring with teachers.

INSTRUCTION: Secondary teachers to have not more than three preparations a day; each modified, accelerated, or enriched class is a separate preparation; elementary teacher-pupil contact time is 5 hours, 30 minutes, with a teacher planning period for 35 minutes at the beginning of the day and a 70-minute duty-free lunch period for a total time of 6 hours and 35 minutes; junior high teacher-pupil contact time for five periods of 50 or 55 minutes, with a planning period of one period and a duty-free lunch of 23 minutes, and an optional homeroom period not to exceed 15 minutes for a total time of 6 hours, 37 minutes; high-school teacher-pupil contact time for five periods of 50 or 55 minutes with one planning period and a one period duty-free lunch, and homeroom period of 15 minutes for a total time of 6 hours, 55 minutes; vocational teachers have two, three-hour blocks without homeroom or supervision assignments; preparation periods must be used for professional work, alone or in conjunction with other staff members, administrators or parents; class size and staffing patterns:

CLASS SIZE

The Board and the Association shall participate when and where feasible and practical with private organizations, governmental units and agencies, or teacher groups in such innovative means as they deem advisable to accomplish the improvement of educational quality. It is recognized that in such experimental programs or organizational structures, working conditions as defined by this contract may be effected, and as such noncompliance will not be subject to the grievance procedure.

The staff (principal and teachers) of each school shall be given the responsibility to determine the instructional organization of the school within the limits imposed by the staffing budget and

in accordance with the goals of the Lansing School District, the final approval remaining the responsibility of the Board of Education

Staff Approval:

When the principal and a majority of the teaching staff in a given school approve a proposed program in their school, this will be considered staff approval under the terms of this contract. No program will be approved without meaningful community involvement.

In a situation where a sub-set of teachers in a given building wish to organize and carry out a different staffing pattern that does not interfere with the rest of the program in the building, approval by this sub-set and by the principal will be considered staff approval under the terms of this contract.

For purposes of alternate staffing patterns, when a staff agrees to reduce the number of professional staff below the allocated number for a given building or program, the money released shall be determined by multiplying the number of teachers not hired by the district-wide average teacher's salary. The staff involved will determine how this money is to be spent.

In innovative or experimental programs, alternate staffing patterns or other cases where specific class size maximums do not apply, the ratio of students to teacher equivalent positions employed by the district shall not exceed the equivalent ratio of classroom teachers in regular or traditional programs.

Elementary Maximums:

K - 27
One and two years out of Kindergarten 26 (Grades 1 and 2)
Three to six years out of Kindergarten 30 (Grades 3 thru 6)
In a situation where the continuous progress concept is in use, the class size shall not exceed those of the respective grade level equivalents.
Teachers having combination grades in the same room shall have class sizes two below the respective grade level equivalents.
If class sizes exceed three pupils over the guidelines without the consent of the teacher or teachers involved, the staff of the building shall meet to review and attempt to resolve the problem.

Elementary Overloads:

Teachers shall be paid $5.00 per week per pupil in classes where there is one pupil over the maximum for elementary classes set forth above. Fractional overloads shall be paid on the basis of the first 2/3rds and every 1/3rd thereafter. Kindergarten classes shall be considered as separate units.

Overloads shall be determined and paid each semester by using the average of three count dates. In 1973-74 the dates to be used for the first semester shall be November 2, December 14, and February 1. The dates to be used for the second semester shall be March 22, May 10, and June 7. In 1974-75 the dates to be used for the first semester shall be October 18, November 27, and January 17. The dates to be used for the second semester shall be March 7, April 25, and May 30. In 1975-76 the dates to be used for the first semester shall be October 17, November 26, and January 16. The dates to be used for the second semester shall be March 5, April 14, and May 28.

Secondary Maximums:

Class size maximums are set forth in Appendix C.

Secondary Overloads:

Teachers shall be paid $2.00 per week per pupil in classes where there is one pupil over the maximum for secondary classes set forth in Appendix C.. Fractional overloads shall be paid on the first 2/3rds. and every 1/3rd thereafter.

Overloads shall be determined and paid each semester by using the average of three count dates. In 1973-74 the dates to be used for the first semester shall be November 2, December 14, and February 1. The dates to be used for the second semester shall be March 22, May 10, and June 7. In 1974-75 the dates to be used for the first semester shall be October 18, November 27, and January 17. The dates to be used for the second semester shall be March 7, April 25, and May 30. In 1975-76 the dates to be used for the first semester shall be October 17, November 26, and January 16. The dates to be used for the second semester shall be March 5, April 14, and May 28.

* * *

Thirty-eight week teaching year from September to June; sufficient textbooks are to be available by the opening of school; board is to provide attendance books, paper, pencils, chalk, erasers, and instructional materials; instructional materials are to reflect the multi-ethnic nature of society; curriculum steering committees are to develop instructional program and meet three times a semester, with separate committees for each subject area composed of at least 10 teachers, area coordinator, parents, and students; the instructional council is to make recommendations to the superintendent regarding curriculum development, improvement of instruction, evaluation, and staff development, is to be composed of six teachers, six administrators, six parents, and six secondary-school students, chaired alternatively by an administrator co-chairman and a teacher co-chairman, and is to meet once a month; teachers are to be involved in preparing applications for state and federally funded projects; one or more full-time counselors are to be provided for each secondary school; the counseling chairman is not to be required to teach any guidance courses; no counselor is to be required to teach more than two sections of the guidance course; secondary guidance counselors are to be assigned no more than 70 students per counseling hour, and ratio figures are not to include coordinators of specialized programs, work-study personnel, or administrators; counselors are to be free from punitive referrals and noon hour supervision; counselors are to have the opportunity to initiate any carry on conferences with pupils during school hours; counselors' employment may be extended beyond the school year at the discretion of the board at the summer school rate of pay; librarians are to work 40 hours per week between 8:30 a.m. and 9:00 p.m. Monday through Friday and 9:00 a.m. to 5:00 p.m. on Saturday; no librarian is to work more than two evenings in one week or two consecutive Saturdays; part-time teachers are to be hired according to the number of class periods taught, elementary part-time teachers, by half-days; salary and fringe benefits provisions are to apply to regular part-time teachers on an equal ratio basis; secretarial service and office machines are to be available to teachers for school purposes; all collections are to be handled by the school office; teachers are to be available for parent conferences outside the school day when requested by the parents; elementary teachers are to be granted released time of 4-1/2 days a semester for parent-teacher conferences and an additional 3-1/2 days to plan for the conferences; teachers are not to be required to assume responsibility for emotionally disturbed pupils when it appears to the teacher, the school principal, and other staff members that a pupil requires special counseling or the action of law enforcement

officials, physicians, or other professional persons; the teacher will be relieved of responsibility for student, when there is a delay in placement of an emotionally disturbed student, and extra assistance will be given to the teacher and/or the student in the interim.

PERSONNEL: Grievance procedure ends with binding arbitration; right to review personnel file upon appointment with personnel office, to review documents prepared by teacher, college transcripts, evaluation forms, and other information neither privileged nor confidential; no parental or pupil complaint is to become part of the teacher's personnel file without the complaint being reviewed at a hearing including the teacher, an association representative, the teacher's supervisor, the assistant superintendent for personnel, and if desired, the complaining party; only complaints determined valid are to be included in personnel file; determination of validity is grievable; teacher may answer complaint if he desires:

ACADEMIC FREEDOM

The Board recognizes and respects the right of citizens to make suggestions for the improvements of public schools, but maintains that no group can deny academic freedom to educators. The Board recognizes that the education profession has both the right and the responsibility to insist that children must be free to learn and teachers free to teach broad areas of knowledge, including those considered controversial. Thus, no special limitations shall be placed upon study, investigation, presentation and interpretation of facts and ideas, except that:

The teacher must exercise responsibility and prudence, and must realize that teaching in an elementary or a secondary school places special responsibility upon the teacher to carefully consider the maturity level of the student and the special circumstances that surround the teacher/learning relationship.

The teacher shall have the responsibility of keeping his principal informed of all controversial issues to be taught outside the accepted course of study.

If any group or individual brings charges against the teacher designed to impede the teacher's freedom to teach, and the teacher's position concurs with Board of Education policy No. 6122 and number 1 and 2 above, the Board shall provide without cost to the teacher, the necessary and sufficient leave of absence, legal assistance, and other support for the protection of academic freedom.

All teachers are required to show freedom from communicable tuberculosis annually; failure to do so will result in suspension without pay; teachers are required to attend six school functions and five hours of general teachers meetings; functions include parent-teacher conferences, staff developed community activities, student extracurricular activities, educational and civic functions excluding athletic events but including extracurricular activities where attendance is required; during the third and 16th weeks of the first semester, the staff of each school is to have the responsibility of determining the scheduling of time exclusive of pupil contact time; at least three hours of each week is to be devoted to curriculum development; in elementary schools the fourth week of each semester and in secondary school the fifth week of each semester will be designated as selective mandatory system-wide in-service week, and administrators will designate schedule and teachers involved; workshops, conferences, and programs to improve the quality of instruction may be provided for teachers; after one year of service teachers may be granted leave for up to four days each year to participate in workshops, programs, or conferences to improve professional competency; a joint evaluation committee is to be maintained; the board may change the policy, regulations, and evaluation form only after consultation with the committee; the content of an evaluation is not grievable; however nonadherence by evaluators to stated procedures is grievable; teachers will be disciplined for breaches of professional conduct including abuses of leaves, tardiness, willful deficiencies in professional conduct, violations of board policies, regulations, and administrative directives; disciplinary action is any written warning, reprimand, suspension, or discharge; before any disciplinary meeting the teacher is to be notified and entitled to have an association representative present; when result of disciplinary action is reduced to writing by an administrator, the report is to be put in personnel file and a copy given to the teacher; no teacher shall be disciplined without just cause; a tenure teacher must give board notice of his resignation, 60 days before September 1; teachers not following this procedure shall forfeit tenure rights granted by the Tenure Act, any teacher knowing on or before February 15 that he will not be returning is to file a notice with the office of the assistant superintendent of personnel before this date; teachers are to be informed of the following year's assignment by the close of the school year; transfers will be made to meet load conditions, instructional requirements; balance on the basis of experience, race, and/or sex is to be sought; attempts are to be made to retain probationary teachers in the same building throughout their probationary period; voluntary transfers must be requested from the Personnel Office stating school, grade or position sought, and teacher's qualifications, by March 15; Personnel Office shall post openings in bargaining unit positions for the next year; teachers must file for openings by April 1; in the event of an opening in a school, the principal is to be notified of and interview all transfer applicants on file; involuntary transfers will be made after the teacher has had the opportunity to meet with the assistant superintendent for personnel to discuss the transfer; the teacher will be given a choice of available openings; newly created positions, helping teacher, and coordinator positions are to be advertised in each school building and to be sent to association office; job description and qualifications shall be included; all applicants will be interviewed by the immediate supervisor; a joint committee will review job descriptions and qualifications; when athletic vacancies occur before June 1, the principal shall post notices for at least five days; tenure does not apply to cocurricular positions:

LAY OFF AND RECALL

In the event of lay off due to a decreased student enrollment or shortage of revenue, the order of reduction shall be:

First year probationary teachers shall be laid off first by using the criteria below in the following order:

Certification

Competency as determined by administrative evaluation of probationary personnel in accordance with Board of Education Policy and Administrative Regulations No. 4117.

Seniority

When certification and competency are relatively equal, seniority will be disregarded for all first year probationary ethnic minority teachers and such teachers shall be maintained until the number of ethnic minority teachers employed by the Board is no less than the percentage of ethnic minority students enrolled in the district, or until all ethnic majority probationary teachers have been laid off regardless of their probationary year.

If, at anytime, the percentage of ethnic minority teaching personnel reaches the ethnic minority student population percentage norm, further staff reduction shall result in maintaining a racial balance among staff no lower than the existing student ratio.

Second year probationary teachers shall be laid off in accordance with A. 1. above.

Third year probationary teachers shall be laid off in accordance with A. 1. above.

Tenured teachers shall be laid off only after all probationary teachers have been laid off. In proper cases of special qualifications, exceptions may be made. Tenured teachers shall be laid off by using the criteria below in the following order:

Certification

Competency as determined by administrative evaluation which shall be developed by the joint Board-LSEA Teacher Evaluation Committee for implementation in 1974-75.

Seniority

Seniority shall be defined as the teacher's first working day in the Lansing School District.

In the circumstance of more than one individual teacher beginning employment on the same date, all individuals so affected will participate in a drawing to determine position on the seniority list. The association and teacher so affected shall be notified in writing of the date, place and time of the drawing. The drawing shall be conducted openly and at a time and place which will reasonably allow affected teachers and association representatives to be in attendance.

A teacher shall lose his seniority if he resigns, retires, or is discharged by the Board.

If for any reason the Board anticipates a reduction of staff it shall, prior to taking formal action, consult with the LSEA to receive recommendations regarding priorities and procedures to be followed.

In the event it becomes necessary to reduce the number of teachers through lay off of employment, or to reduce the number of teachers in a given subject area, field, or program, or eliminate or consolidate position(s), the Board shall determine the order of lay off provided, however, such action shall not be contrary to Section A. The Board shall endeavor to give forty-five (45) calendar days notice of lay off to the individual involved, and in any event, thirty (30) calendar days notice shall be given in all cases.

It is further agreed that any lay off pursuant to this Article shall automatically terminate the individual employment contract of all laid-off teachers and shall suspend for the duration of the lay off, the Board's obligation to pay salary or fringe benefits and any laid-off teacher's individual or supplemental employment contract as well as all benefits under this collective bargaining agreement. Changes in a teacher's certification while on lay off shall not affect the teacher's status during the lay off period.

Any teacher on lay off shall be recalled in inverse order of lay off provided he is certified and qualified for the vacancy.

No new teachers shall be employed by the Board while there are teachers of the district who are laid off unless there is no laid off teachers with proper certification and qualifications to fill any vacancy which may arise.

The Board shall give written notice of recall from lay off by sending a registered or certified letter to said teacher, at his last known address. It shall be the responsibility of each teacher to notify the Board of any change in address. The teacher's address as it appears on the Board's records shall be conclusive when used in connection with lay offs, recall, or other notice to the teacher. If a teacher fails to report to work within ten (10) calendar days from date of sending of the recall, unless an extension is granted in writing by the Board, said teacher shall be considered as a voluntary quit and shall thereby terminate his individual employment contract and any other employment relationship with the Board.

One hour of released time shall be granted to chairmen of the following departments: science, social studies, language arts, math and counseling; every year five days prior to selection of department chairmen teachers may note suggestions to the principals; department chairmen are responsible to the principal and shall be formally evaluated once a year; the board and the association shall jointly recommend to the superintendent and the assistant superintendent, personnel for staff positions based on merit with increased racial and ethnic integration to approximate the racial and ethnic composition of the student population, and shall promote recruitment of minorities for employment in the schools; temporary suspension of students may be imposed by a principal or his assistant; a teacher may exclude a student when his behavior is disruptive and intolerable; the teacher must present the administration with all particulars of the incident as soon as possible; before the pupil is returned to his classroom, the teacher must be informed of corrective measures taken; cases of assault and battery (school related) are to be reported immediately; the board will provide legal counsel to advise a teacher of his rights; the budget committee partially composed of teachers shall assist in development of budget priorities and review the budget monthly;. the board is to provide necessary forms, catalogs, data, procedure charts, ordering deadlines, and average and interpolated appropriations for the use of the committee; information on the status foundation allowance budgets and expenditures of individual buildings are to be updated monthly by the board; telephone facilities are to be available to the teacher; reasonable effort will be made to provide adequate parking spaces; vending machines are to be installed in the teachers' lounge at the expense and request of the teachers and the proceeds are to be used for the teachers' building social fund; designated eating area, restrooms, and lounge exclusively for teachers will be available in each school.

SECONDARY CLASS SIZE – MAXIMUMS

The course types specified below are based on the degree of individual attention demanded by the course content, safety factors and the needs of the students typically enrolled in such courses. In the event new course offerings are implemented during the course of this Agreement, placement within a type shall be determined jointly by the teacher involved, the department chairman, the building principal and the Director of Curriculum.

TYPE I (36 STUDENTS)

Senior High	Junior High
English:	
World Lit	Comm. Arts 1, 2
English Lit	
American Lit	
Contemp. Lit	
Sci. Fiction	
Black Lit	
Film As Lit	
Social Studies:	
World History	Explore (7 Elective)
Afro-Am. History	8 Soc. Studies Elective
Am-Indian History	
Humanities	
Comp. Religion	
Economics	
Sociology	
WUACC	
St. & Loc. Govt.	
Psychology	
Philosophy	
Community Inv.	
World Geog.	
Comp. Govt.	
Mathematics:	
Trig.	9 E. Algebra
Probabilities	9 Algebra
Analysis	9 Pre Algebra
Geometry 2	8 E. Math
Algebra 3, 4	7 E. Math
Business:	
Bus. Law	
Consumer Ed.	

TYPE II (33 STUDENTS)

Senior High	Junior High
English:	
Speech	7 English 1, 2
Drama	8 English 1, 2
Bus. English	9 English 1, 2
(Gen.) English 10, 11, 12	Speech
	Drama
Social Studies:	
U.S. History 3, 4	7 Soc. St. 1, 2
Am. Govt.	8 Soc. St.
Prob. Dem.	9 U.S. History 1, 2
Mathematics:	
Bus. Math	9 Gen. Math 1, 2
Algebra 1, 2	9 Basic Math 1, 2
Algebra 1c, 2c	8 Gen. Math 1, 2
Geometry 1	7 Gen. Math 1, 2
Science:	
Biology	7 Science 1, 2
Adv. Biology	8 Science 1, 2
Chemistry	Biology 1, 2
Physics	
Adv. Physics	
Comp. Program	
Art:	
Comml. Art	Art 1, 2
Gen. Art	
Crafts	
Design	
Adv. Art	
Business:	
Shorthand	Gen. Bus.
Forkner	
Sales	
Mdsg.	
Bookkeeping	
Home Economics:	
Family Living	
Soc. Probs.	
Home Mgt.	
Child Dev.	
Foreign Language:	
Latin	French 1, 2, 3
Spanish	German 1, 2, 3
French	Spanish 1, 2, 3
German	Latin 1, 2
Russian	
Industrial Arts:	
Drafting	Drafting
Graphics	Graphics
	Electronics
Others:	
	9 Guidance

TYPE III (29 STUDENTS)

Senior High	Junior High
English:	
Adv. Comp.	Journalism
Publications	
Journalism	
Creative Writing	
Litcomp	
Group Dynam & Nv. Comm.	
Mathematics:	
Concepts 2	
Science:	
Natural Science	Science 1, 2 (Physical)
	Lab Investigations
Home Economics:	
Clothing	Homemaking 1, 2, 3, 4
Foods	Exploring Homemaking
Social Econ.	
Food Mdsg.	
Quan. Cooking	
Business:	
Record Keeping	
Intro. Data Processing	
D.P. Lab	
General Business	
Office Machines	
Industrial Arts:	
Woods	Power Mechanics

Metals
Materials Production

General Mechanics
Intro. to Industrial Arts
Woods
Metals

Clerical Block
Secretarial Block
Data Management Block

Vocational:

Auto Mech.
Auto Body
Service Station
Drafting and Design
Residential Dev.
Engine Mechanics
Electronics
Appliance Repair
Graphic Shop
Machine Shop
Cosmetology (20)
Dental Services
Hospital Services
Quantity Cooking
Food Merchandising
Quantity Baking
Construction Occupations
Heating, Air Conditioning & Ref.
Hospitality Services
Vocational Comm. Art
Business Block

TYPE V (22 STUDENTS)

Senior High	Junior High
English:	
Reading Impr.	
Debate	
Mathematics:	
Fund. Math	Fund. Math
Concepts 1	
Industrial Arts:	
Am. Industries	

None of these maximums shall apply in typing, physical education, music or study hall.

Vocational Senior Co-op Coordinators shall be assigned a maximum of 1 pupil for each 20 minutes of scheduled coordinating time per week.

Re-entry class size maximum 40.

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NRD
NEGOTIATION RESEARCH DIGEST

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RESEARCH

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CASE REVIEWS

MAINE

Decisions of State Grievance Board Not Subject to Judicial Review

The Maine Supreme Court dismissed an appeal of a decision of the state public employee grievance board initiated by the Maine State Board of Education owing to the state board's failure to comply with its own policy rules for dismissal of state employees. The court also ruled that an appeal board's decision was not subject to judicial review.

When the contract of the assistant director of the Southern Maine Vocational Institute was not renewed for the 1971-72 year after having been renewed yearly from 1966 to June 1971, the employee filed a grievance with the appeals board, contending that his nonrenewal was invalid because he had tenure. The state board of education moved for dismissal, claiming that the appeals board lacked jurisdiction in the case.

The appeals board found that the state board of education had insufficient facts to support its allegations of misconduct on the part of the employee and had failed to comply with its own policy governing the release of faculty members and administrative employees. The appeals board pointed out that the state board of education had a duty to conform to its own rules and procedures and its employees had a right to rely on such conformity.

The state board of education appealed the decision to superior court on the basis of rule 80B of civil procedures which provides for superior court review of any quasi-judicial action taken by a governmental agency. The superior court ruled that the state board of education had no standing in superior court because the appeals board had the exclusive right to determine the right or lack of right to terminate the employer-employee relationship. The state board of education then appealed the case to the state supreme court.

Reviewing the state employees' grievance statute, the court noted that the statute empowered the state board of education to dismiss, suspend, or otherwise discipline a state employee for cause, but this right was subject to appeal and arbitration under the grievance law. However, the 80B procedure empowers the superior court to review decisions of a state agency acting in a quasi-judicial capacity. But, the court noted, the legislature, in an effort to minimize labor disputes and to provide for speedy resolution of them should they arise, entrusted the appeals board with the ultimate judgment on disputes and grievances of both classified and unclassified employees in all matters except classification and compensation.

Therefore, the court construed the final and binding clause to mean that "if the appeals board acts constitutionally and within its own jurisdictional framework and if the grievance alleged falls within those grievances reviewable under the act, the decision reached by the appeals board is not subject to judicial review and is conclusive." From the record the court ascertained that the grievance in the instant case and the decision reached by the appeals board fell within the above-mentioned rule and that the appeals board acted legally on the grievance. (*State Board of Education vs. Kenneth I. Coombs and State Employees Appeals Board*, Maine Supreme Judicial Court, August 1, 1973.)

NEW YORK

Agency Shop Illegal and Non-Negotiable

Upholding previous decisions of the Public Employee Relations Board and the Albany County Supreme Court concerning the legality and negotiability of agency shop provisions, the New York Supreme Court, Appellate Division, dismissed a petition to vacate the PERB decision. The petition, filed by the Monroe-Woodbury Teachers Association, challenged the lower court's affirmation of the PERB determination (*Negotiation Research Digest* November 1972) that agency shop provisions were illegal.

During negotiations for their 1970-71 agreement, the Monroe-Woodbury Teachers Association and the Monroe-Woodbury Board of Education reached impasse on a proposal for an agency shop provision in the new contract. The board held that the provision was illegal and therefore not negotiable. Upon the association's refusal to withdraw the provision from negotiations, the board filed an improper practice charge with PERB. PERB ruled that the agency shop provision was illegal and that the board's refusal to negotiate this item was not an unfair labor practice. Furthermore, the association's insistence on the board's negotiating the illegal article would constitute an improper practice. The association appealed the PERB ruling to the Albany County Supreme Court, but its petition was dismissed and the PERB determination affirmed. Subsequently the association petitioned the Supreme Court, Appellate Division, again challenging PERB's ruling that the

agency shop provision was illegal and also PERB's authority to make such a determination.

Referring to sections of the Civil Service Law granting public employees the right to join or refrain from joining a employee organization, and prohibiting employers from discriminating against employees in order to encourage membership in employee organizations and from interferring with employees in the exercise of rights granted in the Civil Service Laws, the court stated that the agency shop provision was statutorily illegal. As the agency shop provision was illegal, the court concluded that the board was not obligated to negotiate the item.

Considering whether PERB had the authority to determine the illegality of the provision, the court pointed out that PERB has the specific responsibility to decide whether parties have failed to negotiate in good faith, and subsequently to order the parties to negotiate in good faith. The court stated that for PERB to carry out this responsibility it must have the authority to determine the legality of items for negotiation. The court affirmed the lower court's ruling, and dismissed the association's petition. (*Julia A. Farrigan, as President of Monroe-Woodbury Teachers Association v. Robert D. Helsby, Public Employment Relations Board*, New York Supreme Court, Appellate Division, July 12, 1973.)

Exclusion of Managers and Confidential Employees From Public Employee Bargaining Act Constitutional

Finding need in the public sector as in private business to separate managerial and confidential personnel from rank and file employees for purposes of collective bargaining, and finding no violation of First Amendment Rights, the New York Court of Appeals denied an appeal to a judgment which upheld the constitutionality of barring such personnel from membership in unions as stipulated by the Public Employees' Fair Employment Act.

Three state employees, members of the Civil Service Employees Association, had sought to enjoin the Public Employment Relations Board from classifying them as managers or confidential employees because this would bar them from membership in the association. They contended that the PEFEA provisions barring membership denied the employees freedom of association and equal protection under the law, and that the definitions of managerial and confidential employees were unconstitutionally vague and ambiguous.

Considering that the exclusion of managerial personnel from collective bargaining rights had been operational in the private sector for some time, the court examined the constitutional issue raised when the Taft-Hartley Act (which amended the National Labor Relations Act) excluded supervisors. The court noted that in Budd, "it was held that the exclusion of supervisory personnel from collective bargaining rights did not infringe their First Amendment rights of freedom of assembly and was not an arbitrary classification violative of due process." Exclusion under Taft-Hartley serves the purpose of assuring employers a loyal, responsible management group "to formulate policy and to handle labor relations." The court found the same purpose permissible in public employment because a similar need exists.

The court found the definitions of managerial and confidential employees in state law to be comparable with the federal statutory definition of supervisor which in *Budd* had been ruled sufficiently detailed and comprehensive to satisfy constitutional requirements.

Rejecting the appeal as an attack on "the scheme for designating managerial and executive employees and segregating them from rank-and-file collective bargaining arrangements [which] has ample precedent and is based on realistic analysis of labor relations," the court affirmed the lower court order and denied injunctive relief. (*Joseph Shelofsky et al., Appellants v. Robert D. Helsby et al., Constituting the Public Employment Relations Board et al., Respondents*, New York Court of Appeals, March 15, 1973.)

Teachers Fined New Wages for Prior Strike Activity

As the Taylor Law remedy for violation of the prohibition against strike activity by public employees must effectively deter such activity, the penalty of two days' pay for each day on strike may be levied on salaries paid retroactively to a date preceding the strike.

Dismissing a petition by members of the Plainview-Old Bethpage Federation of Teachers who had participated in a strike, a Nassau County Supreme Court avoided a strict interpretation of the penalty clause and sought to reinforce the intent of the statute by allowing the Plainview-Old Bethpage School District to assess penalties based upon retroactive wage scales negotiated *after* the strike, not the old rate of pay.

The striking teachers sought refunds on penalty deductions made months after the strike when settlement had finally been reached on the salary package. The school board asserted that its action was within the law, noting that salaries were to be paid retroactively to a date before the strike.

The controversy centered on the mandate of the statute that the "rate of pay [shall] be computed as of the time of such violations." Striking teachers felt this meant the old wage scale, but the court preferred to support the intent of the law—to penalize strike activity—stating that a strict interpretation "would tend to render the statute ineffective by awarding [strikers] with a bonus or reward for engaging in the illegal strike."

The court dismissed the teachers' petition and allowed two for one penalties to be deducted on the basis of the new salary schedules. (*David S. Linton, et al., v. Plainview-Old Bethpage School District, et al.*, Supreme Court, Nassau County, May 25, 1973.)

PENNSYLVANIA

Board Need Not Extend School Year To Make Up Instructional Days Lost by Strike

The Commonwealth Court of Pennsylvania refused to order the Northern Cambria School District to lengthen the school year and make up instructional days lost during a legal strike staged by the Northern Cambria Education Association.

The striking teachers refused to return to work until the issue of strike make-up days was settled. As the board insisted that determination of strike make-up days was a matter of inherent managerial policy, the parties never reached agreement on the matter. After striking for 30 days, the teachers returned to work in compliance with an order from the Cambria County Common Pleas court.

Subsequently two court suits were filed with the Common Pleas Court by a Northern Cambria citizen, requesting the court to order the school board to keep schools open every weekday from December 22 to June 30 with the exception of four holidays in order to provide the 180 instructional days as required by the Pennsylvania School Code and meet the eligibility requirements to receive state subsidies. The lower court dismissed the suits; however, the Commonwealth Court agreed to try the cases because of the "issues of public interest" that were raised.

The Commonwealth court found that the teachers were interested in extending the school year in order to avoid a loss in pay, and the board felt that refusing to make up the strike days served to "punish" strikers. According to the court, the school code required all public schools to be open for at least 180 instructional days a year, and granted the school board power to establish the school calendar. However, the school code did not require the school board to provide the required number of instructional days at the expense of the educational program. In addition, the board's power to establish the school calendar was subject to limitations, namely that the board's decisions must be in the best interests of the public's desire for an efficient and sound educational program. The best interest of the public, according to the court, increased participation of the association in school district policy or the strengthening or weakening of the teachers association. The board's obligation was to develop a school calendar providing as many days as possible without detracting from the educational program. The main question, according to the court, was whether the pupils and the educational program would benefit more from observing the original school calendar which because of the strike would provide only 150 instructional days or by extending the school calendar and requiring daily sessions for six months.

Considering the money issue the court stated that although the school district would lose its state subsidy by providing less than 180 instructional days, the educational program would cost the taxpayers less because teachers were paid only for days taught. The court felt that money was not the most important issue in the case. The court stated that if the issue of make-up days been brought to it after seven days of striking, the school board would have been ordered to make up the strike days. However, after a 30-day strike, the situation was quite different. According to the court, daily attendance at school for six months would have a great effect on both students and parents, particularly high-school seniors preparing for college. Furthermore, the change and extension of the school calendar would detract from the educational program. In view of these facts, the court dismissed the appeal and refused to order the school board to extend the school calendar.

The court's minority opinion held that changes in the school code were necessary to accommodate disruptions in the school calendar because of teacher strikes, but it was the responsibility of the legislature, not the courts, school boards, or teachers to determine and make the necessary changes. Furthermore, since the school code posted the school board with the power to determine the opening but not the closing date of the school year, once the school year commenced, it must extend for the 180 required days. (*Benjamin Root and North Cambria Education Association v. Northern Cambria School District*, Commonwealth Court of Pennsylvania, August 1973.)

Administrator's Right of Membership in Teachers Organization Upheld

The Pennsylvania Commonwealth Court ruled that administrators have a legal right to remain members of a teachers organization. It thus ordered that an assistant high-school principal and a tenured high-school teacher be reinstated.

The principal had been fired for alleged inability to handle grievances and otherwise perform his administrative duties when the school district had decided that membership in a teachers organization renders a first-level supervisor incompetent under tenure laws by precluding him from performing all duties expected of him. In January 1973, the state secretary of education ordered the principal reinstated. The district appealed.

The school district argued that being a member of an employee association that is bargaining with the employer is incompatible with being a first-level supervisor who handles confidential files and who should be available to the employer to handle grievances and give advice on bargaining with the association. The Pennsylvania Public Employees Relations Act specifically permits first-level supervisors to be members of employee associations that bargain with employers, albeit not in the same unit.

The school superintendent affirmed that the principal had never received an unsatisfactory rating as a principal. The school district knew of his PSEA membership prior to his promotion, and while it disapproved his membership, it did not ask him to resign nor did he say he would. The court stated, "How failing to resign under such circumstances could be construed as negligence is beyond our comprehension and is not seriously pressed in the arguments or briefs." The court further stated that persuasive

and convincing as the arguments relative to handling grievances and confidential files might be, they must be made to the legislature and not to the court.

According to the court, whether handling grievances is or is not part of the bargaining process does not control this case, and if it is, the Act simply provides how the conflict of interest is to be resolved by removing the first-level supervisor from the bargaining "or any other matter" in connection with negotiations. As a matter of fact, the principal had not been asked to handle grievances, nor had another assistant high-school principal who was not an association member. The court added:

> Perhaps the legislature, when it provided removal from the collective bargaining process as the limited remedy for conflict of interest, had in mind the apparent inequality that would be created here if intervening appellee Reese's dismissal were allowed to stand. He would have been dismissed for incompetence for not performing duties which were not in his job description and which he was never requested to perform; whereas a fellow assistant high school principal in the same school district, in exactly the same situation in every respect except for his membership in the employee organization, who did not perform any more services than he did, is retained.

The Pennsylvania Commonwealth Court ordered the principal to be reinstated. (*Ellwood City Area School District v. Secretary of Education and George R. Reese, Jr.*, Commonwealth Court of Pennsylvania, Commonwealth Docket 1973, August 3, 1973.)

WISCONSIN

Teacher Not Entitled To a Notice of the Charges and a Hearing Upon Nonrenewal of Co-Curricular Assignment

Upholding a lower court's ruling appealed by a teacher, the Wisconsin Supreme Court affirmed the right of the Sheboygan Board of Education to terminate the teacher's co-curricular assignment without prior notice and/or hearing.

The teacher had been employed by the school board since 1965 as a driver education teacher and a cross-country and varsity basketball coach. Following a meeting with the superintendent in February 1971 to discuss complaints about his coaching, the teacher received a contract for the 1971-72 school year not including the coaching assignment. The teacher requested reasons for the termination of his coaching assignment and filed a grievance. Although the superintendent informed the teacher that the nonrenewal of the coaching contract was not subject to the grievance procedure, an informal hearing was scheduled. At the meeting the teacher was unable to discover the reasons for his dismissal as coach, and requested an extension for returning his teaching contract. As the school board would not meet again until after the deadline for filing contracts, the superintendent advised the teacher to submit his contract and await the board's determination of his coaching assignment. The teacher filed his contract on time and was officially notified that he would not be assigned the coaching activities. A second meeting was held and the reasons for dismissal were presented. After submitting another grievance, which was refused, the teacher filed a petition with the county court to order the school board to issue him a contract including the coaching assignment. He also requested and was granted a temporary injunction barring the school board from filling the coaching position pending a determination of the court. Following both parties' submission of motions for summary judgment, the court supported the school board's motion, thus dismissing the complaint and vacating the injunction. The teacher then appealed the lower court's decision.

According to the court, the central issue in the case was whether the teacher, having been offered his basic teaching contract, was entitled to a notice and hearing of charges when terminated from a nontenured co-curricular assignment. In answer to the teacher's contention that the school board's refusal of a notice and hearing of charges violated the due process clause, the court stated that since the teacher had not been deprived of any "liberty" or "property" rights secured by the 14th Amendment, the due process clause was not violated. Considering the teacher's argument that the school board violated state law by not sending preliminary notification of the nonrenewal of his coaching assignment, the court agreed with the school board that the statutes did not apply to co-curricular assignments as they were not part of the basic teaching contract. The teacher further contended that the school board violated its agreement with the teachers association by neglecting to show cause and to hold a hearing on his dismissal as coach. The court found that the agreement could not limit the board's power to terminate the coaching assignment without prior notification and hearing.

The court concluded that as the plaintiff's due process rights had not been violated, state law was not applicable to the case and the negotiated agreement was not violated. Therefore, it upheld the lower court's judgment and dismissed the teacher's petition. (*William Richards v. Sheboygan Board of Education*, Wisconsin Supreme Court, May 1, 1973.)

BOARD FINDINGS AND RULINGS

CALIFORNIA

Teachers Properly Assigned to Proctor Exams During Preparation Periods

An arbitrator ruled that the Fremont Union High School District under its administrative regulations could assign teachers to proctor tests during their preparation periods. The pertinent regulation provided preparation time without regularly scheduled assignments.

The arbitrator stated that although the achievement tests were given every year, the method of administering the test, the assignment of proctoring duties, and the scheduling of the tests changed annually. Therefore, the arbitrator concluded, the testing was not regular in the normal sense of the word, and the provision for preparation periods was designed to prevent the assignment of regular "special duties" or co-curricular activities to teachers during their preparation periods. As the proctoring assignments were not "regular assignments" or arbitrary and capricious, the arbitrator ruled that assignment of proctoring duties was proper and in the realm of the board's authority. (*Fremont Education Association and the Board of Trustees of Fremont Union High School District*, January 6, 1973.)

ILLINOIS

Union Must Be Told Faculty Members' Rank and Salary

An arbitrator ruled that under the parties' negotiated agreement, the president of Malcolm X City College was required to inform the AFT Local 1600 of the proposed rank and salary of faculty members. The arbitrator rejected the president's contentions that he was not required to release this information to the union until it was approved by the Board of Trustees.

Pointing out a section of the parties' contract that stated that after the college president proposed a rank and salary to the chancellor, he shall immediately notify the union of the placement, the arbitrator stated that the clause was explicit in its intent. The president need not wait for the board's approval before notifying the union.

Ruling that the information was public record necessary for the administering of the parties' agreement, the arbitrator added that the union was entitled to a list of all instructional personnel in the bargaining unit, their qualifications, and the credit courses they taught as soon as it was available. (*Board of Trustees of Junior College District No. 58 and AFT Local 1600*, American Arbitration Association, March 6, 1973.)

MINNESOTA

Separate Faculty Units at Individual State Colleges Found Appropriate; Unit Restricted to Maintenance Workers at State School Upheld

In separate unit determination cases, the Minnesota Bureau of Mediation Services determined separate faculty units at state colleges appropriate for collective bargaining, and the Minnesota Public Employment Relations Board (PERB) approved a bargaining unit of maintenance workers at the state's Red Wing Training School.

The ruling of the Bureau of Mediation Services overturned a state-wide faculty bargaining unit previously determined for the six state colleges in support of a petition filed jointly by the state college board and the Inter-Faculty Organization (IFO). Hearings in the unit determination were reopened when faculty members at two state colleges challenged the decision. The state college board, the Minnesota Education Association, the American Association of University Professors, and the IFO supported a state-wide bargaining unit, contending that the majority of faculty members favored a single unit, past history of organization defended a state-wide unit, and the state college board's control over monies and other resources necessitated one bargaining agent.

The bureau director pointed out that state statutes directed him to define bargaining units "as all the employees under the same appointing authority except where professional, geographical, or other conditions affecting employment relations clearly require appropriate units of some other composition." Although the technical appointing authority in the case was the state college board, the board delegated this authority to the presidents of the state colleges. Under the state college board rules each college president has the authority to promote, suspend, and give merit

increases in addition to determining day-to-day policies and college programs. The bureau director concluded that appropriate units would consist of "all faculty members employed by the president at each state college" except when geographic, professional, and other considerations indicate otherwise. He did not find sufficient evidence that a majority of faculty members or past practices supported a state-wide unit, and although the state college board controlled each school's finances, this did not necessitate the state-wide unit. Other factors supporting individual bargaining units were the "local community of interest" at the individual schools, the disparity in the number of faculty members at the schools, and the impeding of communications between college presidents and their faculty under a broad bargaining unit. Moreover, the distances between the colleges varying from 74 to 332 miles made it difficult for faculty members to participate in state-wide negotiations.

Holding that the case came under the legislature's exception to the unit determination rule for "geographical hardship," he ordered separate bargaining units at each state college. As the decision was a geographic determination, it was appealable, having been issued prior to "a complete appropriate unit determination to expedite any possible appeal."

The decision was appealed to Minnesota PERB by the state college board, the IFO, the MEA, and the AAUP. (*Minnesota State College Board and the Inter-Faculty Organization and the Minnesota Federation of Teachers and the Minnesota Education Association and the American Association of University Professors*, Minnesota Bureau of Mediation Services, August 15, 1973.)

● A Minnesota PERB ruling upheld a bargaining unit consisting of all maintenance workers at the state's Red Wing Training School and excluded house-parents, supervisory-managerial, confidential, clerical, and all other employees from the unit.

The board's decision was based on the state statute that defined appropriate bargaining units as all employees under the same appointing authority except when several considerations indicated otherwise. Although the appointing authority in the instant case was the superintendent of the school, several factors indicated that the appropriate bargaining unit should be limited to maintenance workers. The board found that the maintenance workers "are definitely differentiated from others within the scope of the appointing authority in terms of training, job requirements, career outlook, and responsibilities." Furthermore, a number of employees indicated preference for the smaller unit, the state had been successfully negotiating with the unit represented by Local 34 of the Operating Engineers since 1968, and at 10 other schools the state bargained with similar units represented by Local 34. Accordingly, the board approved a bargaining unit consisting of stationary engineers, plant maintenance engineers, delivery van drivers, electricians, plumbers, masons, painters, building maintenance foremen, and general repair workers. (*State of Minnesota Red Wing Training School and Operating Engineers Local 34 and American Federation of State, County and Municipal Employees, Council No. 6*, Minnesota Public Employment Relations Board, September 4, 1973.)

NEW JERSEY

Department Chairmen Ruled Supervisory, Excluded From Unit of Faculty Members

The New Jersey Public Employment Relations Commission (PERC) upheld a hearing officer's ruling that department chairmen at Essex County College should be excluded from a unit of faculty members represented by the Essex County College Faculty Association. As PERC found the department chairmen to be supervisory employees, state statutes forbid their inclusion in a bargaining unit with nonsupervisory employees.

The board of trustees held that even if the department chairmen were not supervisory, they had a conflict of interest with other staff members. The association contended that department chairmen did not have any supervisory authority and past practice and prior agreement dictated inclusion of the department chairmen in the faculty bargaining unit. In response to the state statute defining supervisors as "having the power to hire, discharge, or discipline or effectively recommend the same" in a unit of nonsupervisory personnel, the college stated that department chairmen do not hire or fire but that they do make effective recommendations.

The hearing officer found that although the recommendations of department chairmen were accepted in 98 percent of the selections of applicants, the final decisions on hiring rested with a higher authority and therefore department chairmen did not make an effective recommendation on hiring. The hearing officer also found that on the other hand, the role of the chairmen in dismissing faculty "constitutes an effective recommendation of discharge for non-tenured employees." Considering the association's contention that department chairmen should be included in the unit because of the statutory exceptions of past practice, the hearing officer found that the association was equating department chairmen with the extinct assistant divisional directors. Although the assistant divisional directors were included in the faculty unit, they differed from the department chairmen in that they had no authority to recommend retention or discharge. Dismissing the association's second contention that prior agreement dictated inclusion of the department chairmen in the bargaining unit, the hearing officer found that the parties' present agreement stated that all provisions relating to department chairmen would be subject to a unit determination by PERC. In support of the board's claim of a conflict of interest, the hearing officer referred to a recent court case that reversed a PERC ruling including a supervisor in a nonsupervisory bargaining unit because of a community of interest.

The hearing officer recommended that department chairmen be excluded from the unit, that no prior agreement or past practice to include them was found and even absent supervisory status, conflict of interest was found. PERC accepted the recommendation that the chairmen be excluded from the unit, but felt that department chairmen did have the effective power to hire. PERC concluded by

defining the bargaining unit to exclude department chairmen. (*Board of Trustees of Essex County College and Essex County College Faculty Association*, New Jersey Public Employment Relations Commission, July 27, 1973.)

NEW YORK

Optional Workshop Days Not Negotiable

Voluntary school programs designed to effectuate school-board programs are within the scope of management prerogative, and non-negotiable. So ruling, a Public Employment Relations Board hearing officer dismissed the charges brought against the Gates-Chili Central School District for having unilaterally scheduled and held three teacher workshop days which it labelled "voluntary."

Even though a school year of 186 work days was agreed upon during negotiations, the board subsequently approved a school calendar providing 184 instruction days and five teacher workshop days. At later negotiation sessions, board negotiators said that workshop attendance was voluntary. The parties reached an impasse over the "teachers' work year," but resolved the issue by inserting in the contract a clause that stated that the school year would be no longer than it was in 1971-72, 186 days. At pre-school teacher meetings, the school administration presented plans for three optional teacher workshop days, and held the workshops during the 1972-73 school year.

The association filed an improper practices charge with PERB, contending that the board had violated the contract settlement by instituting the workshop days. Since teachers were required to attend workshop planning meetings, teachers' cooperation and contribution were basic criteria for the school district's merit plan, and individual teachers had claimed that they were forced into attending workshops, the association concluded that workshop participation was mandatory rather than optional. The school board stated that the workshops were announced as optional, and all principals had been instructed to inform teachers that participation was voluntary. At the hearing all principals denied making statements or actions that implied that attendance was required.

The hearing officer determined that the board's statements outweighed the association's claims that attendance was mandatory, that the establishment of three optional workshop days did not extend the school calendar, and that the matter was a management prerogative and therefore not negotiable. The workshops were designed to improve teacher performance and were under the employer's goal of improving the teachers' professional capabilities. The hearing officer, therefore, dismissed the association's charge of unfair labor practice but stated that the method of informing teachers that workshop attendance was voluntary, and the effect of non-attendance on merit ratings should be discussed by the parties. (*In the matter of Gates-Chili Central School District and Gates-Chili Teachers Association*, Public Employee Relations Board, May 7, 1973.)

PENNSYLVANIA

Exclusion of Medical, Dental, and Law Faculties From Over-all Unit Upheld

Temple University filed a challenge to the Pennsylvania Labor Relations Board (PLRB) determination that the faculty of the law, dental, and medical schools be excluded from an over-all faculty bargaining unit. Following review of each case, the Board reaffirmed its decision that the faculties at each school must be excluded owing to incompatibility with the academic faculty. However, the Board included department chairman in the unit, as they were not first-level supervisors within the meaning of the Public Employee Relations Act.

Contrary to the university's contention, PLRB asserted that the factual situation bore a striking resemblance to that in *Fordham University*, in which the National Labor Relations Board considered such factors as physical location, interchangeability of physical facilities, extent of interdisciplinary programs, tenure requirements, salary levels, licensing and accreditation requirements, administrative duality, and bargaining history. Thus the Board reaffirmed its decision that each school must be excluded from the over-all faculty unit owing to different physical locations, independent faculties, higher salaries, few interdisciplinary contacts, and the accreditation and restrictions placed by respective professional societies, i.e., American Bar Association and American Medical Society.

The university also argued that the Board erred by including department chairman in the bargaining unit since they are first-level supervisors. By definition, a first-level supervisor must work in the interest of the employer rather than in the interest of the department or its employees. Therefore, the chairmen, who act in the interest of the department, have no greater power of recommendation than do faculty members or committees. The Board affirmed its conclusion that department chairmen are not first-level supervisors within the meaning of the Act. (*Matter of Employees of Temple University of the Commonwealth System of Higher Education*, Pennsylvania Labor Relations Board, July 5, 1973.)

Unilaterally Increasing Wages a Violation of PERA

An unwarranted delay after certification in scheduling bargaining talks and unilaterally increasing wages of unit employees without bargaining in good faith as defined by the Public Employee Relations Act (PERA) constitutes a refusal to bargain in violation of Section 1201(a) and (5). The Public Labor Relations Board determined that Reynolds School Board was in direct violation of the PERA.

A union, certified as the exclusive bargaining representative of a unit of secretaries, teacher aides, and custodians, requested negotiations to begin immediately upon certification; however, meetings were not begun for two months

after the request. The union argued that the school board had a duty to bargain even prior to certification because there never existed a good-faith doubt of the union's majority status. This argument was based on the NLRB's decision in *Jay Silk Mills, Inc.*, (85 NLRB 1263). The Board held that though *Jay Silk Mills* did not apply in this case, the school board was obligated to recognize and bargain with the union following the issuance of certification. This the school board did not do and thus the delay was inconsistent with the obligation to negotiate under PERA.

Relying on the budgetary deadlines set in the School Code, the school board argued that its refusal to bargain was based on the fact that the budget for 1972-73 had been submitted and increases in salaries were already implemented; therefore, it contended that negotiation should have been for the 1973-74 school year. PLRB stated that the school board overlooked the statutory provision that neither party is compelled to agree to a proposal or is required to make a concession; nor is there anything in the School Code that prevents bargaining for the current school year even though the budget has been submitted.

PLRB contended that the inconsistent and unlawful conduct in unilaterally granting wage increases to the unit employees showed the illogical quality of the board's position. Since the wage increases were included in the budget, it was obvious that the board was willing to grant the increases so long as the raises were not accomplished under union aegis. Therefore, PLRB ruled that the unilateral grant of benefits violated Section 1201(a) (1) and (5) of the Pennsylvania Public Employee Relations Act. (*Pennsylvania Labor Relations Board v. Reynolds School Board*, PLRB, July 19, 1973.)

Individual Grievances Cannot Be Stipulated Away Through Prior Arbitration Settlement

The Pennsylvania Labor Relations Board (PLRB) ruled that the Scranton School Board and teachers federation incorporated an unlawful stipulation in an arbitration agreement and unlawfully refused to process individual teachers' grievances.

As part of an arbitration agreement that provided extra compensation for teachers working in excess of regular teaching periods per week, the board and federation incorporated a provision that stated that the federation would not initiate, appeal, or process the same grievance for other employees. As a result, individual teachers attempting to process their own grievances were frustrated.

PLRB held that the federal Labor Management Relations Act (LMRA) and applicable state law both protect the employees' right to have a grievance processed and heard by the employer. The PLRB further held that the board violated the law by refusing to process the individual grievances and that the union discriminated against the teachers through its failure to afford equal treatment to other aggrieved teachers.

Rejecting the argument that the statute of limitations barred the suit, the PLRB ordered that the grievance be processed. (*Pennsylvania Labor Relations Board v. Scranton School Board et al.*, Pennsylvania Labor Relations Board, July 31, 1973.)

Extra-Duty Assignments Dependent on Qualifications Not Contract

A labor agreement, according to an arbitrator, covers a regular contract and the job that is protected by that contract, but assignments, especially extra-duty ones, should be based on qualifications as such positions are outside the scope of the labor agreement.

A tenured Sto-Rox School District teacher who had held an extra-duty position as graphic arts instructor for three years was denied reappointment, and grieved under procedures within the bargaining agreement between the district and the Sto-Rox Education Association.

The agreement provided that no employee be disciplined, reduced in compensation, or deprived of any professional advantage without just cause; that any such action maintained by the board be subject to the grievance procedure. The agreement also provided that existing or expected vacancies be posted and that these vacancies be filled according to experience, competency and qualifications, length of service in the district, and other relevant factors. The agreement further provided that all conditions of employment be maintained at no less than the highest minimum standard in effect at the signing of the agreement.

Indicating that the association waived the posting requirement and that the teacher filed a written application for the extra-duty position, the board contended that the posting provision was inapplicable to the case. The board also maintained that the selected employee was qualified for the position.

In the arbitrator's determination, the graphic arts teaching position was a "side bar arrangement between board and teacher," not a tenured position. Further, the arbitrator stated that the incumbent might teach, if qualified, regardless of whether he was or was not a regular member of the school system.

Finding nothing wrong with the board's appointment, the arbitrator denied the grievance. (*Sto-Rox Education Association and Sto-Rox School District*, American Arbitration Association, July 28, 1973.)

NEGOTIATION NOTES

COLORADO

Colorado Judge Refused to Deny Striking Teachers Their 'One Weapon'

An Arapahoe County, Colo., district court judge has refused to issue a restraining order against striking teachers in Littleton, maintaining that denial of "that one weapon which they have at their disposal" would reduce them to "second-class citizenry." Acknowledging that the district was disrupted and inconvenienced by the strike, which began January 3, the judge stressed that the board must bear as much responsibility as teachers and "must look to itself as to why the situation does exist." Since evidence indicated there "is no irreparable loss" or harm to the public interest, he declared, court action would be "nothing more than an unwarranted intrusion" of the court's "awesome" powers as a third party at the bargaining table. The Colorado and Littleton education associations praised the decision, predicting that it may have far-reaching effects on future negotiations, impasse situations, and potential strikes in the state. The current strike, affecting 870 teachers and 18,000 students, resulted from the board's refusal to negotiate or accept a factfinder's recommendation on the issue of a salary index.

FLORIDA

Performance Contracting Program Dropped After Two Years

The Dade County School Board discontinued offering teachers financial incentives based on their pupils' improved performance on standardized tests until a further evaluation of the program is completed.

The experiment, originally implemented in six schools with a large number of disadvantaged pupils, attempted to improve pupils' performance in reading and mathematics. During the first year the pupils' performance improved more than expected, and in some cases scores were three times higher than predicted. However, during the second year the pupils' scores were lower than expected more than half of the time. Several reasons were attributed to the program's decreased success: the novelty of the project had worn off, both pupils and teachers lost interest, and owing to the law of diminishing returns, the rate of increased performance was slowed down. School officials stated that cash incentives may be reinstituted if a final study of the program indicates significant pupil progress.

NEW JERSEY

Supervisors May Check Off Dues To Nonsupervisors Union

The New Jersey Superior Court ordered the Elizabeth Housing Authority to collect dues from supervisors who requested deduction and payment of such dues to the Union Council No. 8, New Jersey Civil Service Association.

The housing authority, which had previously deducted such dues, refused to continue deducting them on the ground that according to the New Jersey Employer-Employee Relations Act supervisory personnel cannot belong to a bargaining organization that contains nonsupervisory personnel.

The court noted that the issues involved were novel and had not previously been considered by state courts. After studying the Act, the court determined that the written requests for dues deductions were proper since the statute, in allowing for dues deductions, set forth no qualifications as to whether the members who applied for such deductions were supervisory or nonsupervisory. Continuing, the court said that review of the statute also indicated that there was nothing that prohibited a labor organization from having both supervisory and nonsupervisory personnel in its membership. Furthermore, the only prohibition under the Act was that supervisors not be included in the same bargaining unit as nonsupervisors. The court then pointed out that "a bargaining unit is not synonymous with a labor organization," "the statute specifically states that even if an organization has both types of members, it nevertheless may still represent nonsupervisory employees for purposes of collective bargaining negotiations." Since the law allowed supervisors to belong to unions that contained nonsupervisors and prohibited supervisors only from being within the same unit as nonsupervisors, the court ordered the employer to honor the dues deductions requests. (*Union Council No. 8, New Jersey Civil Service Association, Plaintiff v. Housing Authority of the City of Elizabeth et al., Defendants*, New Jersey Superior Court, July 3, 1973.)

RHODE ISLAND

Teachers' Duties Include Curriculum Development Work

The state commissioner of education dismissed the contention of the Westerly Teachers Association that the Westerly School Committee's assignment of curriculum development work to teachers violated the parties' agreement. The state commissioner held that the school committee had the authority to assign to teachers duties within their professional competency, as long as the assignment was not arbitrary or unreasonable and did not violate any contractual provisions. Furthermore, he found that the curriculum development assignments did not eliminate the teachers' free and study periods.

FEDERAL

BIA Must Negotiate Over Impact of Expanded Indian Preference Hiring

Although the new policy of the Bureau of Indian Affairs mandates that Indians be given preference for training and filling of vacancies, no absolute bar exists to hiring and promoting non-Indians. Also, the impact of the policy on present employees is a proper subject for negotiations. A Labor Department administrative law judge thus ruled unlawful the refusal of the Albuquerque district office of the Bureau of Indian Affairs to confer with Local 40 of the National Federation of Federal Employees (NFFE) over an expanded policy of Indian preference hiring.

The NFFE had charged that the district office management unfairly refused to negotiate or consider proposals for granting greater opportunities to non-Indians for transfer out of the BIA in view of the Indian preference policy. The union charged violation of non-Indian members' rights because of favored treatment accorded to Indians, and claimed a contract violation in that discriminatory treatment was based on union membership and had been initiated to discourage membership in the union.

The Albuquerque district office management maintained that it was without authority to negotiate the over effect of the new policy on present employees. Having interpreted literally the order expanding existing preference for Indians in hiring and promotion to greater priority in training and filling vacancies, management believed that non-Indians were now barred from appointments, promotion, or rehire.

The administrative law judge noted that although the policy statement expanded preference for Indians in employment transactions, administrators and managers were also ordered to protect the rights of non-Indian employees. Finding no evidence for support, the judge rejected NFFE's charges of discrimination with the comment that the union contract was subject to existing statutes and regulations, including the new policy. He recommended a cease and desist order against the refusal of district officials to negotiate proposals or set up machinery that would protect employee rights while implementing the spirit of the expanded Indian preference policy. (*BIA and NFFE Local 40, Assistant Secretary for Labor Management Relations*, September 26, 1973.)

Residency Requirement for Employment Violates Fourteenth Amendment of the Federal Constitution

The U.S. District Court struck down a county residency requirement for teachers. The two teachers who held valid teacher's certificates from the state of Kansas, were informed by the Unified School District No. 500 of Wyandotte County that their contracts would not be renewed for the coming school year unless they established residence in Wyandotte County as required by a long-standing county regulation.

The teachers contended that enforcement of the regulation violated their right to live and work where they chose and to travel freely, as protected by the due process and equal protection clauses of the Fourteenth Amendment.

In support of the residency regulation, the district argued that such requirements for public employment are neither new, novel, nor unique and extend to the highest offices in the land. It argued further that "there is no right to public employment and that the public employer should have broad discretion to establish qualifications for its employees related to effective job performance." In conjunction with this argument, the school district asserted the public interest doctrine whereby tax revenues of the school district are to be expended only for salaries of teachers who reside within Wyandotte County.

The court dismissed the teachers' contention that the residency requirement impinged upon their right to travel since the requirement is not a durational residency requirement that discriminates against those who have exercised their right to travel. According to the court, the board's regulation required teachers to choose between two rights protected by the Fourteenth Amendment, the right to live where one chooses and the right to work in one's chosen profession.

On the basis of rulings in relevant cases, the court pointed out that the right to governmental employment cannot hinge upon whether such employment is characterized as a right or a privilege. Furthermore, to allow the government to deny a person public employment because of the exercise of his constitutionally protected interests is impermissible. Therefore, the court rejected the school district's argument that it may require the plaintiffs to live in Wyandotte county merely because they have no right to public employment.

The court then pointed out that the district's public interest doctrine did not consider that some school districts within the county had separate tax bases and that "because

of recent massive infusions of state funds, Kansas local revenues have become of decreasing importance in the financial support of Kansas schools." Moreover, the court held that the possible contribution of the teachers to the school district's tax base is minute when compared to the interference with their rights.

The court agreed that employment should depend upon effective performance, but in this case, the employer had submitted no evidence that Wyandotte County residents were more effective teachers than nonresidents. Further, because all teachers employed in Kansas are certified by the state, they are qualified to teach anywhere within the state.

The court recognized that residency within a certain community is a rational qualification for many public positions; however, "the residency requirement of the school district violates the Fourteenth Amendment's equal protection guarantee, because the classification of residents versus non-residents of Wyandotte County is essentially arbitrary and does not rest upon any reasonable basis." (*Robert E. Hanson and Mary D. Kice, Plaintiffs*, v. *Unified School District No. 500, Wyandotte County, Kansas; O. L. Plucker, Superintendent of Schools for U.S.D. No. 500; C. L. Burns, Assistant Superintendent of Schools for U.S.D. No. 500, Defendants*; U.S. District Court for the District of Kansas; September 5, 1973.)

* * *

THE CONSUMER PRICE INDEX–DECEMBER 1973

The Consumer Price Index rose 0.7 percent in December to 138.5 (1967=100), the Bureau of Labor Statistics of the U.S. Department of Labor reported. Higher prices for energy items–gasoline, heating oil, electricity, natural gas, and coal–accounted for over a third of the increase in the December index. Increases in prices of most types of food and in mortgage interest costs also contributed significantly to the rise. The effect of these increases was moderated by price declines for some food and nonfood items–notably meats, used cars, and property taxes.

On a seasonally adjusted basis, the December increase in the CPI was 0.5 percent. This compares with an increase of 0.8 percent in each of the 2 preceding months. The food index rose 0.3 percent following a 1.4 percent increase in November. The indexes for nonfood commodities and services increased 0.7 percent and 0.6 percent, respectively, the same as in November.

For the quarter that ended in December, the CPI for All Items rose at a seasonally adjusted annual rate of 9.0 percent. Increases in the first 3 quarters of the year were 8.6 percent, 7.4 percent, and 10.3 percent respectively. For calendar year 1973, the rise in the CPI was 8.8 percent, the largest December-to-December increase since 1947. About half of the annual increase was due to a 20.1 percent increase in food prices. Most of the increase in food prices occurred in the first 3 quarters of the year when food prices rose at a seasonally adjusted annual rate of 23.9 percent. In the quarter ended in December, the annual rate of increase in food prices was 9.2 percent. The nonfood commodities index, on the other hand, rose more rapidly in the fourth quarter than earlier in the year, largely because of sharp prices increases for gasoline and fuel oil. The increase in the services index in the quarter ended in December, at an annual rate of 9.4 percent, was also more rapid than earlier in the year. Price increases for energy items during 1973 accounted for about 10 percent of the over-all rise in the CPI. (U.S. Department of Labor, Bureau of Labor Statistics, News Release, January 22, 1974.)

SPECIAL REPORTS

NEGOTIATED RELIGIOUS LEAVE PROVISIONS

Religious leave, most often granted with pay, is provided for observance of religious holidays and/or for religious purposes not included in the school calendar. Although most agreements specifically provide religious leave in addition to other types of leave, some agreements provide that religious leave be deducted from sick leave or other multi-purpose leave allowances. Provisions for religious leave were included in 24.9 percent (380) of the 1,529 comprehensive agreements in effect in 1970-71 and analyzed by NEA Research (Table 1). One agreement out of three, 124, was selected for further analysis. This analysis included only provisions specifying leave for religious holidays and "religious purposes" and did not attempt to count days off categorized in the school calendar as religious holidays.

Nearly two-thirds of the selected provisions granted religious leave for any religious holiday, holy day, or day of observance (Table 2). The remaining one-third of the agreements were more restrictive in their provision for religious leave and therefore were more frequently subject to interpretation by courts and arbitrators.

Some provisions limited teachers' use of religious leave to religious holidays which required the teacher's absence from school for observance, i.e., when teachers are prohibited from working by their religion. Ruling on this type of provision in Anne Arundel County, Maryland, an arbitrator decided that the school board was not required to grant religious leave to a teacher who was not obliged to refrain from working on a religious holiday.[1] Leave for "religious purposes" was granted in some provisions. Although religious purposes are typically considered as religious ceremonies or religious matters, an American Arbitration Association arbitrator broadly defined religious purpose as including religious holidays.[2]

Other provisions restricted religious leave to specified holidays, e.g., Yom Kippur, Rosh Hashanah, Good Friday. Court and arbitration cases have challenged this type of provision on the basis that it is discriminatory. In California, a state employee denied leave with pay on Yom Kippur, charged the state with religious discrimination since other employees were granted paid leave on Good Friday. A state trial court, in agreement with the plaintiff, held that granting paid leave on a Christian holiday and not on holidays of other religions served to advance the Christian faith and was in violation of the federal Constitution ban on the establishment of religion. The state was ordered to cease granting paid leaves for any religious holidays.[3] However, in an arbitration case, a grievant also denied paid leave on Yom Kippur, charged the Grand Rapids School District with discrimination because schools were closed for Christmas and Good Friday. The arbitrator found no basis

TABLE 1.–NEGOTIATED RELIGIOUS LEAVE PROVISIONS, 1970-71

Provisions	Number	Percent
1	2	3
Compensation		
Religious leave with pay	377	99.2
Religious leave without pay	3	0.8
Number of days provided		
One	4	1.1
Two	51	13.4
Three	96	25.3
More than three	15	3.9
Not indicated	214	56.3
How leave is charged		
Separate from other leave	295	77.6
Deducted from sick leave	56	14.7
Deducted from other leave	29	7.6
TOTAL NUMBER OF NEGOTIATED AGREEMENTS CONTAINING PROVISIONS FOR RELIGIOUS LEAVE	380	100.0

[1] *Anne Arundel County (Md.) Board of Education and the Teachers Association of Anne Arundel County*, American Arbitration Association, August 11, 1972.

[2] *Board of Education of the City of Grand Rapids and the Grand Rapids Education Association*, American Arbitration Association, June 12, 1970.

[3] *Mandel v. Hodges*, California Trial Court.

TABLE 2.–TYPES OF RELIGIOUS OBSERVANCES COVERED BY RELIGIOUS LEAVE PROVISIONS

Type of observance	Number	Percent
1	2	3
Any religious holiday, holyday, or day of observance	78	62.9
Only religious holidays which require teacher's absence from school for observance	22	17.7
Religious purpose, e.g., religious ceremonies	12	9.6
Specific religious holidays, e.g., Yom Kippur, Good Friday	9	7.3
Religious holidays as listed by the commissioner of education	3	2.4
TOTAL NUMBER OF PROVISIONS SELECTED FOR FURTHER ANALYSIS	124	100.0

for a discrimination charge as the grievant was granted leave without pay. Furthermore, he believed that since Christmas and Good Friday were incorporated into the school calendar as vacation days, it could not be argued that teachers celebrating Christmas and Good Friday were paid for days they did not work.[4]

More than half of the 124 analyzed provisions contained procedures for obtaining religious leave. A written request, often within a specified time, was sometimes a prerequisite for obtaining leave. In approximately one-third of the agreements teachers were obliged to have the approval of an administrator before using their religious leave. Most often, the superintendent's permission was needed, although the approval of the principal or other school officials was sometimes specified. Advance notification to an administrator was required in almost one-quarter of the agreements. Most often the principal or immediate supervisor had to be informed; however, in several provisions the superintendent or the personnel office were to be notified.

Several religious leave provisions are reprinted below. These are sample provisions; they are not to be regarded as exemplary.

[4] *Board of Education of the City of Grand Rapids and the Grand Rapids Education Association*, American Arbitration Association, June 12, 1970.

TABLE 3.–REQUIREMENTS FOR OBTAINING RELIGIOUS LEAVE

Requirement	Number	Percent
1	2	3
Leave must be requested in writing	16	12.9
Leave must be requested within a certain time limit	15	12.1
Prior approval of an administrator required	42	33.9
Prior notification of an administrator required	29	23.4
TOTAL NUMBER OF PROVISIONS STIPULATING REQUIREMENTS FOR OBTAINING RELIGIOUS LEAVE	71	57.3

The Superintendent may but need not grant temporary leaves of absence without loss of pay for the following reasons and upon the terms and conditions herein set forth and the grant or denial of such leave by the Superintendent shall be conclusive and his decision shall not be subject to grievance or arbitration:

For purposes of religious observance if the religious convictions of the teacher prohibits him from working on said day.

[Adams-Cheshire, Massachusetts]

Temporary leaves of absence will be granted on the basis of the following schedule when applied for through a signed statement by the teacher setting forth the pertinent facts related to the reason for which the leave is requested and the number of days required. When this statement has been certified by the school principal, a copy will be forwarded with the next payroll report to the Superintendent for final approval.

Observance of religious holidays, where said observance prevents the teacher from working on said days—3 days maximum annually.

[Bound Brook, New Jersey]

There shall be ten (10) school days of personal leave with full pay annually, but not cumulative, reported in writing to the Superintendent of Schools, including such considerations as marriages, deaths, or illness of the immediate family, or other comparable circumstances; legal requirements; and religious holidays. This shall also include temporary leave at full salary less remuneration for jury duty, court appearance as a witness, Selective Service examination and military reserve duty. A telephone call to the principal will be acceptable, in cases of emergency, to be followed in the near future by a report in writing to the Superintendent of Schools.

[Portland, Connecticut]

Three days absence for personal business shall be allowed only by permission of the building principal. Such absence shall not be deducted from accumulated sick leave.

Graduation of employee or child, day of wedding ceremony, participation in religious ceremonies such as confirmation, circumcision of child, honors and awards ceremonies involving a member of the immediate family.

Religious Observances: The employee may use personal days for religious holiday, observances of his particular faith not covered in the regular school calendar.

[Seaford, New York]

Absences with pay may be allowed by the Superintendent for the observances of religious obligations, which cannot be performed outside of school hours, but not in excess of three (3) days. Such request shall be made in writing to the Superintendent through the Principal.

[East Greenwich, Rhode Island]

BRIEFS OF AGREEMENTS

Indianapolis, Indiana

Between Indianapolis Public Schools and Indianapolis Education Association, effective August 27, 1973, to August 31, 1974. Approximately 4,200 certificated professional employees, including all licensed contractual employees and excluding the superintendent, associate superintendent, assistant superintendent, assistant to the superintendent, administrative assistant, director of instruction, principals, vice-principals, supervisors, assistant principals, consultants, elementary and personnel coordinators, high-school evening school director, athletic director, director of guidance, deans, assistant deans, and department heads.

COMPENSATION: B.A., $7,746 to $12,252, 14 increments; effective January 21, 1974, B.A. plus 15 hours, $12,402 maximum; M.A., $8,270 to $14,348, 19 increments; M.A. plus 15 hours, $14,498 maximum; M.A. plus 30 hours, $14,872 maximum; Ph.D., $15,396 maximum; full credit on the salary schedule for outside teaching experience; upon retirement a lump-sum payment of $62.50 for each year of service in the district and $10 for each day of unused sick leave up to a maximum of 120 days.

DIFFERENTIALS: Head senior high-school football and basketball coaches, $920; head senior high baseball, track, and wrestling coaches, $690; senior high assistant basketball and football coaches, $633; senior high freshman football and basketball coaches and assistant track and wrestling coaches, $489; junior high football and basketball coaches, $375; senior high tennis, golf, and cross country coaches, $345; junior high volleyball coach, $250; junior high softball coach, $200; junior high track coach, $150.

OTHER: Summer school teachers shall be paid at an hourly rate computed by dividing the teacher's annual base salary by the number of contract days (this equals the daily rate which divided by six equals the teacher's hourly rate); supervision of after-school activities, $4 per hour; 12¢ per mile for use of personal cars for field trips and other school district business.

LEAVES: Ten annual sick leave days granted during the first year of service and seven days per year thereafter; maximum accumulation, 120 days; "an emergency sick leave bank shall be established. Each member of the bargaining unit may voluntarily contribute one day to the bank. The day shall be contributed by October 1st of each year and days in the bank may accumulate from year to year. The bank shall be administered by the IEA. Only teachers who voluntarily contribute to the bank shall be eligible to derive benefits from the bank." Two personal leave days for any purpose at the discretion of the teacher and may be taken in time periods of not less than one-half day; up to five days' bereavement leave for death in the immediate family; one day's leave for death of person not in the immediate family; leave with or without pay for attendance at programs, conferences, workshops, or seminars conducted by colleges, universities, and the National Education Association, Indiana State Teachers Association, Indianapolis Education Association, or affiliate departments thereof; remuneration for jury duty to be deducted from regular salary; nonpaid leave to perform civic duties at the state or local level for up to two days; paid leave at discretion of superintendent for inclement weather precluding travel to school, but teacher must immediately notify his supervisors of his inability to come to work and state in writing such reasons; if the teacher receives payments under the Workmen's Compensation Law of Indiana, the board shall pay the teacher's salary in full until workmen's compensation payments begin; the board shall pay the difference between workmen's compensation payments and the contractual salary of the teacher for up to 180 teaching days; a leave of absence for up to two consecutive years may be granted to engage in full-time study related to a teacher's professional responsibilities at an accredited college or university; credit on the salary schedule shall be given as though the teacher had taught in the system during such period; upon return from military leave a teacher may be credited up to four years of military experience as teaching experience; accumulated sick leave may be used for any part of maternity absence; a teacher who is unable to teach because of personal illness or disability and who has exhausted all sick leave available shall be granted a leave of absence for the duration of such illness or disability but for not more than three consecutive years; a leave of absence for up to one year may be granted for to care for a sick member of the teacher's immediate family; leave without pay shall be granted to serve in elected public office, such leaves shall be granted annually and renewed annually for the term of office, additionally, a reasonable period of time may be granted a teacher for the purpose of campaigning for public office.

INSURANCE: The board will pay the cost of an individual subscription for hospital, surgical, and major medical insurance; however, each employee shall pay $1 of the premium; a $5,100 group term life insurance plan available for all employees; participants will contribute $6 annually and the board will pay the remainder; tax deferred annuity programs available.

ASSOCIATION: Payroll deduction of local, state, and national association dues, a leave of absence of up to one year to serve as an officer or staff member of the association at the local, state, or national level; upon return from such leave the teacher shall be placed at the same position on the salary schedule he would have achieved had he not been absent; the association has the right to use school buildings for meetings at reasonable times, school equipment including typewriters, mimeograph and calculating machines, and audiovisual machinery when not in use; association may post notices pertaining to association activities on the teachers' bulletin boards and use teachers' mailboxes; the board will provide information relating to fi-

nancial condition of the school system, including annual financial statement, adopted budget, and any other available and pertinent information which may be relevant to negotiations.

INSTRUCTION: The normal load for junior and senior high shall be 280 minutes of teaching or other assignments per day; if possible a teacher shall have no more than 3 preparations per day and shall not be required to teach more than 3 periods in a row except in the case of double period classes which may be no more than 4 periods; elementary teachers shall not exceed 27-1/2 hours of pupil contact per week; one preparation period of not less than 30 minutes per day or 200 minutes per week; daily duty-free uninterrupted lunch period of at least 40 minutes; whenever the number of pupils assigned to a kindergarten exceeds 32 and whenever grades 1-6 exceed 35 in a self-contained classroom, a classroom assistant shall be provided; the teacher's day shall normally be from 8:00 a.m. to 3:30 p.m.; teachers shall be permitted to leave 10 minutes after the close of the pupils' regular school day on Fridays or on days preceeding holidays or vacations; teachers may volunteer for service on curriculum, instruction, inservice, and other educational committees; the board will provide teachers of art, music, and physical education and a librarian for elementary schools; teachers who supervise student teachers shall be tenured classroom teachers possessing a minimum of a master's degree and teaching in their respective fields of preparation who voluntarily accept the assignment.

PERSONNEL: Grievance procedure ends with the board; teachers have the right to review personnel file at the building level and the central office level and to be accompanied by an association representative; any formal grievance on the behalf of a teacher shall not be placed in the teacher's file or become part of any file or record utilized in the promotion process, nor shall it be used in any recommendations for job placement; no material derogatory to a teacher's conduct, service, character, or personality shall be placed in the files unless the teacher has had an opportunity to read the material; faculty meetings may be scheduled on the first and third Wednesdays of each month provided that such meetings will be cancelled if unnecessary; teachers needing improvement shall be given an opportunity to utilize professional help so that they may attempt to rectify difficulties; the Inservice Education Committee, composed of equal numbers of representatives appointed by the board and the association, to plan inservice programs; permanent teachers must be evaluated in writing at least once every 5 years or at the request of the teacher; all monitoring or observation of a teacher shall be conducted openly and with full knowledge of the teacher; a minimum of 2 observations per semester shall be made for each probationary teacher; an observation shall be no less then 30 minutes in length; teachers selected by the association shall be consulted concerning the creation of an evaluation instrument; the evaluated teacher shall be guaranteed a meeting with his supervisor to discuss the evaluation; the teacher may attach a memorandum to the evaluation form expressing opinions concerning the supervisor's evaluation; a copy of the completed evaluation form shall be given the evaluatee; a teacher whose performance has been deemed unsatisfactory at the time of the annual formal evaluation may request that a second evaluation be made by a person other than the original evaluator; no teacher shall be reprimanded in front of students, other teachers, or parents unless extremely extenuating circumstances prevail; a teacher shall be entitled to have present a representative of the association when such action is being taken; in filling vacancies, preference shall be given to teachers with the greatest seniority; after serving at least 2 years in one assignment, a teacher may request a transfer to a grade level or subject area for which he is licensed or to another building; a teacher involuntarily transferred to his current assignment shall not be subject to the two-year minimum service in that assignment before request for transfer is permitted; no assignment of teachers new to the system to a specific position in the school system shall be made until action on all pending requests for transfer to that position has been taken; when a reduction in the number of teachers in a school is necessary, the board shall first transfer those teachers who have volunteered to be transferred, and then shall make the remainder of the necessary transfers on the basis of years of service in the school system, those with least seniority being transferred first; lists of all vacant positions in other schools shall be made available to teachers involuntarily transferred; a teacher may suspend a pupil from class when the breach of discipline makes the continued presence of the pupil in the classroom intolerable; the board shall indemnify teachers against damage, fines, legal fees, or other costs arising out of any act of corporal punishment administered within the bounds set by board policy; the board shall, upon request, provide legal counsel and assistance for the defense of a teacher in any civil or criminal action or threatened action against the teacher which arises out of or is connected with the teacher's supervision of pupils.

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Grand Haven, Michigan

Between Grand Haven School District and Grand Haven Education Association, effective September 1, 1972, to August 31, 1974. Approximately 300 certificated professional employees, including full-time classroom teachers, contracted part-time classroom teachers, vocational instructors, certificated consultants and counselors, librarians, and special education teachers, excluding substitute teachers, the director of guidance and counseling supervisory, administrative, and executive personnel, including but not limited to superintendents, assistant superintendents, principals, assistant principals, business managers, and the director of audiovisual education. The board agrees to negotiate with the association over a successor agreement not later than March 1 of the calendar year in which this agreement expires.

COMPENSATION: (1973-74) B.A., $8,400 to $13,440, 9 increments; B.A. plus 15 hours, $13,860 maximum; M.A., $9,240 to $15,036, 9 increments; M.A. plus 15 hours, $15,540 maximum; M.A. plus 30 hours, $16,800 maximum. Maximum of seven years credited for prior teaching

or related work experience, but not more than two years for full-time military service or for related work experience; longevity pay at 4 percent of the current basic salary during the 15th to the 19th years of service; thereafter, during each additional five years of service the teacher will receive an additional longevity payment of 4 percent of the current basic salary; terminal leave payment, $20 per year of service in the district provided the teacher has been employed in the district for at least 10 years.

DIFFERENTIALS: (Compensation based on percentage relationship to the current basic salary including five steps) athletic director, head varsity football and basketball coaches, 16.5 to 18.5 percent; head varsity wrestling and swimming coaches, 11.0 to 13.0 percent; assistant varsity football and head varsity boys' gymnastics coaches, 10.5 to 12.5 percent; head varsity baseball coach, 9.5 to 11.5 percent; head junior varsity football and basketball coaches, director of music, and senior high band director, 8.0 to 10.0 percent; assistant varsity swimming coach, 7.5 to 9.5 percent; assistant junior varsity football, head ninth grade football and basketball, and head junior high tennis coaches, 7.0 to 9.0 percent; head junior high swimming and head varsity cross country and golf coaches, 6.0 to 8.0 percent; rifle club supervisor, 6.0 to 7.0 percent; assistant varsity baseball and track coaches, 5.5 to 7.5 percent; head varsity girls' gymnastics and swimming coaches, 5.0 to 7.0 percent; senior high orchestra, vocal, and band directors, 4.75 to 5.75 percent; debate and forensics advisor, 4.5 to 5.5 percent; faculty athletic manager, senior high yearbook, cheerleading, and catalina club advisors and junior high cheerleading advisor, 4.0 to 5.0 percent; junior high orchestra and vocal directors, 3.75 to 4.75 percent; elementary vocal, band, and orchestra directors, school plays and musicals directors, 3.5 to 4.5 percent; head seventh-grade basketball, eight-grade football and head basketball, head junior high boys' gymnastics, wrestling, baseball, track, and tennis, girls' gymnastics, and head girls' varsity track coaches, senior high marching band director, junior high yearbook advisor, and senior high student council advisor, 3.0 to 4.0 percent; senior high senior and junior class advisors, 2.5 percent; athletic association advisor, 2.0 to 3.0 percent; senior high honor society, terra cotta, thespians, pep club, and honor society, junior high pep club advisor, and elementary safety patrol, 2.0 percent (one step); senior high sophomore class advisor, 1.25 percent (one step).

OTHER: Substitute teachers hired on a permanent basis will be paid a salary commensurate with the salary to which such a teacher would be entitled as a regular teacher; 10¢ per mile for use of personal automobile in the course of work.

LEAVES: Fifteen sick and emergency days annually credited at the beginning of the school year, unlimited accumulation; two days of cumulative sick leave may be used for professional, family, or business obligations; up to five days for each death or critical illness in the immediate family, deducted from sick leave; summer school teachers, two days of sick leave; leave with pay to attend educational conferences and workshops and to make visitations pertinent to the improvement of the school curriculum; teachers on jury duty shall be paid the difference between jury pay and their regular salary; teachers appearing as witnesses in court shall be paid full salary; teachers called for military reserve obligations shall be paid the difference between military pay and teachers' pay for up to 30 days; leave with pay for required physical examination for military induction; one-year sabbatical leave for professional improvement at full salary and fringe benefits or the difference between teacher salary and scholarship funds; sabbatical leave for not more than 2 percent of staff at a time; eligibility requires employment for seven consecutive years in the school district and a valid Michigan Permanent or Life Certificate; teachers on sabbatical leave allowed increment credit on the salary schedule and credit toward retirement; teachers absent owing to injury or disease incurred in the performance of assigned duties compensable under the Michigan Workmen's Compensation Law shall be paid the difference between teacher salary and Workmen's Compensation without deduction from sick leave for one year; beyond one year such payments to be charged against sick leave on a pro-rated basis until sick leave is exhausted; extended leave for one year to engage in local, state, or national association activities, to join the Peace Corps or Job Corps, to be an exchange teacher, to study in major field, to accept special assignment in research or teaching, or to campaign for or serve in public office.

INSURANCE: Board pays from $72.15 per month for family coverage to $24.86 for an individual, for medical, dental, term life, and long-term disability insurance.

ASSOCIATION: Payroll deduction of local, state, and national association dues; leave for teacher representative to participate in business activities of the association shall be granted with loss of pay equal to the cost of a substitute, up to a total of 20 days per year; right to use school buildings and equipment, including telephones, typewriters, duplicating machines, calculating machines, and all types of audiovisual equipment when such equipment is not otherwise in use; right to post notices of its activities on bulletin boards in each staff lounge or designated location in each school building; the board to provide information available to the public; association representatives permitted to transact official business on school property at reasonable times, provided that this shall not interfere with normal school operations.

INSTRUCTION: Junior high teachers shall have no more than six assigned periods each day and senior high teachers, no more than five assigned periods each day; uninterrupted duty-free lunch period of at least 45 minutes; secondary teachers shall have at least one unassigned period for preparing lessons, student or parent conferences, etc.; teachers will report to duty 15 minutes prior to the start of the school day and shall remain 15 minutes after the close of school; the board of education shall consider the recommendations made by the association relative to the school calendar prior to its adoption; the association and teachers will continue, in accordance with past practices to assist in the study, review, revision, updating, and amending of curriculum through department and grade committees; teachers will be relieved of nonteaching duties to the extent practical through the use of nonteaching personnel; an Instructional Council shall be established to provide consultation with, and recommendations to the board of education for improvements in teaching methods, techniques, class

composition, curricular, and other pertinent phases of the instructional program.

PERSONNEL: Grievance procedure ends with the board; teachers have the right to review their personnel file upon request; teacher evaluations shall be made regularly in writing by the principal or a designated staff member; evaluations shall be made with the full knowledge and cooperation of the teacher and shall be signed by the teacher; teacher evaluations shall be based upon criteria developed cooperatively by teachers, staff members and the board of education; in case of a reduction in force, probationary employees will be laid off first; further layoffs will be based on seniority within classification and knowledge, skill, and efficiency on the job and physical fitness; teachers shall be recalled in inverse order of layoff for new positions for which they are certified and qualified; the recall list shall be maintained for not more than two years; the board will give first consideration to qualified candidates from within its own staff when filling vacancies, including supervisory and administrative positions; a teacher involuntarily transferred shall be granted a personal interview with the superintendent or his representative to discuss the reasons for the transfer; preference will be given to teachers regularly employed in the district on the basis of qualifications and seniority for special teaching assignments in summer school programs, and adult education and evening school programs; all teaching conditions which prevail during the regular school year shall also prevail during the summer, adult education, and evening school programs; the board shall support and assist teachers with respect to control, discipline, and legal services; the board will reimburse teachers for loss, damage, or destruction of clothing, or personal property which occurs as a result of an assault by a pupil; teachers will be notified of complaints and will be granted an opportunity to answer them in conference or in writing at the discretion of the principal.

Youngstown State University
Youngstown, Ohio

Between Youngstown State University and Youngstown State University Chapter of the Ohio Education Association, effective July 1, 1973, to June 30, 1975. Approximately 800 certificated professional employees, including nine-month full-service faculty and excluding any position at the level of department chairman or above. Provision for renegotiation should either party notify the other on or before January 1, 1975, that it desires to modify the agreement.

COMPENSATION: Instructors, $8,000 to $12,000; assistant professor, $10,000 to $15,000; associate professor, $12,000 to $18,000; professor, $15,000 (no maximum established); in fiscal 1973-74 and again in 1974-75 each faculty member will receive a flat across-the-board increase of $500 and a 2.75 percent increase.

OTHER: Compensation per quarter for summer teaching will be at the rate of 1/36 of the preceding academic year salary.

LEAVES: Fifteen sick leave days granted yearly, credited at the rate of one and a quarter days per month, 120 days maximum accumulation; sick leave may be granted to husbands for prenatal and postnatal care of the wife upon certification from the attending physician that the husband's presence is necessary for the care of the child or the wife; the university will encourage attendance at professional conferences and seminars, but suitable arrangement must be made for studies to continue during the period of absence; court or jury leave granted with pay, all compensation received shall be deposited with the Youngstown State University cashier's office; faculty members on short-term military leave will be paid the difference between the contractual salary and military pay for up to 31 days; upon exhaustion of paid leave, leaves of absence without pay for illness or physical disability will be granted for up to 2 years per occurrence.

INSURANCE: University-paid hospitalization, surgical, life, and major medical coverage; in cases involving termination of employment insurance coverage will be maintained until the end of the faculty member's contract year, unless he voluntarily terminates his employment; in case of retrenchment, and if permitted by law, the faculty member's coverage will continue for one year following the last day of his contract year or until he acquires new employment; if a faculty member dies, medical coverage for his dependents will be maintained for the balance of his contract year; the dependents may thereafter maintain the insurance at their own expense for one additional year at the group rate; the university will provide up to $100,000 against the loss of life and limb of members of the bargaining unit traveling on university business; faculty members previously covered under the retirement system of university may continue contributions to the retirement system on a tax-sheltered basis; tax deferred annuity plan available.

ASSOCIATION: Payroll deduction of association dues; authorized association representatives will have access to the university premises to transact association business; association will be permitted reasonable use of university bulletin boards, faculty mail boxes, and university mail service for communication with members of the bargaining unit; the board will provide information relating to the negotiation or administration of this agreement, including the internal operating budget, the record of income and disbursement, quarterly enrollment reports, and agenda and official minutes of the Board of Trustees meetings.

INSTRUCTION: A joint committee of the university and the association will study the workload of faculty members and attempt to agree on modifications; a faculty member assigned an overload will be given an equivalent reduction in load during the current or subsequent year; the academic day will extend from 7:00 a.m. to 10:30 p.m. for teaching responsibilities; the university will develop the academic calendar in consultation with the association; the academic work week will extend from Monday through Friday even though some classes may be scheduled on Saturday; the academic year extends from September 15 through June 15; association members will have the opportunity to assist

in the development of curricula and course offerings, determination and implementation of policies and criteria affecting recomendations on promotions, terminations, merit increases, tenure, leaves, and other related matters, determination of goals and periodic evaluation of the department, formulation of departmental policies consistent with academic freedom and university-wide policies in regard to attendance, grading examinations, class size, or other matters of instruction, preserving academic standards, and enhancing the quality of instruction; summer teaching assignments will be offered on a rotating basis without preference as to rank, tenure status, and years of service; no faculty member obliged to accept a summer teaching assignment; faculty members will observe reasonable office hours in order to be available for counseling students who seek help; additionally, faculty members will make additional hours available for advising students before class enrollment for the first or succeeding quarter and, if requested, during registration.

PERSONNEL: Grievance procedure ends with final and binding arbitration; faculty members and association have the right to review personnel file at reasonable times; faculty members will be expected to attend departmental faculty meetings and graduation exercises and convocations; the association and the university will devise an evaluation instrument to be utilized as the primary factor in determining a faculty member's career; each faculty member will be counseled annually on his performance; prior to notification of nonrenewal, the department chairman may meet with the faculty member to discuss the reasons for nonreappointment; the faculty member may attend this meeting with a faculty witness or an association representative; the faculty member may appeal the decision to the Dean, the Vice-President for Academic Affairs, and/or the President; notice of nonreappointment must be given no later than March 1 to a full-service faculty member who has completed less than one academic year at the university and no later than December 1 to a faculty member who has completed one or more academic years; any faculty member, tenured or not, may be terminated at any time for cause; in the case of a tenured member, cause may include evaluations which reveal a consistent and clear inability to maintain satisfactory performance in teaching scholarship and university service; in the case of both tenured and nontenured members, cause includes personal conduct that clearly disqualifies an individual as a member of the faculty; a faculty member whose fitness is questioned will have the opportunity to discuss the matter with the appropriate administrator and have a faculty witness of his choice and/or an association representative present; when a member is terminated, he will receive written notice from the university with a full statement of the reasons; a tenured member terminated for personal conduct will receive one year's notice and, if permitted by law, be paid the equivalent of an academic year's salary from the date of notification of intent to terminate; the faculty member can demand a hearing before an ad hoc committee of seven tenured members of the bargaining unit selected by lot by the secretary of the Senate; both parties may be represented by counsel, require witnesses to testify under oath, cross-examine witnesses, and record proceedings; within 10 days after termination of the hearing the committee will file its report with the Vice-President for Academic Affairs; after considering the report the vice-president may recommend termination to the president; if the president disagrees with the ad hoc committee's report, he may state his objections and ask for a reconsideration of the case; only after study of the committee's reconsideration whould the president make a final decision that might overrule the committee; if the president proceeds with the termination, the faculty member may appeal the matter to arbitration;

FACULTY PROMOTION

The promotion of a faculty member shall depend upon his performance in teaching, scholarship, and University service. His rating under the evaluation process in these areas shall be the primary factor in his promotability.

The eligibility of a faculty member for promotion is based upon length of service in each rank and/or the attainment of degrees as indicated below, as well as attainment of the minimum salary of the next higher rank.

1. Instructor: a graduate degree in field of specialization or its equivalent;

2. Assistant Professor:

a). a terminal degree in a relevant academic field; or
b). a masters degree in a relevant academic field plus a minimum of four (4) years of prior experience in University level instruction.

3. Associate Professor:

a). a terminal degree in a relevant academic field plus a minimum of four (4) years of prior experience at the rank of Assistant Professor; or
b). a masters degree in a relevant academic field plus a minimum of seven (7) years of prior experience at the rank of Assistant Professor.

4. Professor:

a). a terminal degree in a relevant academic field plus a minimum of six (6) years of prior experience at the rank of Associate Professor; or
b). a masters degree in a relevant academic field plus a minimum of nine (9) years of prior experience at the rank of Associate Professor.

Completion of the years of service in the rank does not of itself assure promotion to the next rank. A faculty member with long years of satisfactory service in a given rank deserves special consideration. A faculty member whose performance is outstanding is eligible to be advanced more rapidly than the rate indicated.

The determination of a faculty member's eligibility for promotion in rank will be based only on the content of his official personnel file. Other sources of information may not be used.

If a faculty member at the rank of Assistant Professor acquires a terminal degree, each year of his service in that rank prior to the acquisition of the terminal degree will count as two-thirds (2/3) of one year toward the four (4) years required in Paragraph 3(a) above.

If a faculty member at the rank of Associate Professor acquires a terminal degree, each year of his service in that rank prior to the acquisition of the terminal degree will count as three-fourths (3/4) of one year toward the six (6) years required in Paragraph 4(a) above.

Recommendations for promotion may be initiated in one of three ways:

1). by the Department Promotion Committee of the candidate's home department;

2). by written request of the candidate to the Department Promotion Committee (to be forwarded in any case to the University Promotion Committee via the Chairman and the Dean);

3). by recommendation of the Vice-President for Academic Affairs.

1. Department Promotion Committee

All candidates for promotion in rank, including department chairmen, shall be selected by a Department Promotions Committee which has been elected by a secret ballot of all full-service faculty members in the department. The department chairman shall see to it that this committee is elected in the first month of the academic year. The four ranks—Instructor, Assistant Professor, Associate Professor, and Professor—shall be represented equally on the Department Promotions Committee when available. The department chairman shall not be eligible to serve on the Promotions Committee, but shall be consulted. No member of the committee will participate in regard to his own candidacy.

The eligibility for promotion of every department member will be considered annually by the Department Promotion Committee. All department members will be notified of the decision of the Department Promotion Committee at the end of its deliberations.

The recommendations of the Department Promotions Committee will be submitted to the Department Chairman who will submit the formal recommendations for promotion and add thereto his comments and/or recommendations before submitting them to the Dean of the school or college. The Dean will add his comments and/or recommendations and forward the promotion recommendations to the University Promotion Committee.

2. University Promotion Committee

The University Promotion Committee shall consist of the Vice-President for Academic Affairs (who will chair the committee), the Dean of the Graduate School, one academic Dean (on a rotating basis), and four (4) faculty members elected by full-service faculty with no more than one faculty member from the same school or college serving at a given time. The rotation system is set forth in Appendix A.

The University Promotion Committee shall consider all candidates proposed in accordance with the procedures outlined above, including individually initiated requests. The recommendation of the Promotion Committee will be submitted to the President and reported to the Department Chairman.

3. Action by the President

Upon receipt of the recommendations of the Promotion Committee, the President will review the recommendations and submit them to the Board of Trustees with his recommendation for approval. Should the President believe that a promotion recommended by the University Promotion Committee is unwarranted, he shall request in writing, with reasons, that the committee reconsider the individual. If upon reconsideration, the University Promotion Committee stands by its original recommendation for promotion, the committee shall notify the President in writing with its reasons and this statement shall be forwarded to the Board of Trustees along with the President's recommendation for final action.

4. Appeals

A faculty member who is eligible for promotion under the terms of this Article and who has been denied promotion two consecutive times after having been approved by the University Promotion Committee may, following the second denial, process an appeal to the Vice-President for Academic Affairs who will appoint an appeals panel. This panel will consist of two members designated by the Vice-President for Academic Affairs, two by the Association, and one additional member chosen by the four to serve as Chairman. The panel shall decide the merits of the case and its recommendations shall be forwarded to the Trustees. A faculty member who believes that the procedures presented by this Article have not been followed may file a grievance under the terms of Article VII.

5. Other

The Vice-President for Academic Affairs shall review annually the eligibility for promotion of all those members of the bargaining unit who hold academic rank but who are not members of regular academic departments.

Promotions will be effective the academic year following approval by the Board of Trustees, except that the Board may designate an earlier effective date if it deems it appropriate to do so.

Faculty members with split appointments will have a home department which is charged with the responsibility of evaluating such faculty members for promotion. The home department shall consult with the other department(s).

In determining whether retrenchment is necessary the administration will consider (a) consistently declining student credit hour production in a department, over four quarters, (b) academically sound student faculty ratios, (c) the state of development of the department, (d) the balance between academic and nonacademic personnel, (e) posibilities of enrollment trend reversals, (f) the necessity of disciplines and programs to be other than self-supporting, (g) normal attrition, and (h) other pertinent factors; the guidelines which shall be applied for retrenchment are as follows:

RETRENCHMENT OF FACULTY

1. Procedure

Each fall quarter, as soon as 14th day enrollment reports are available, the Administration will review overall staffing needs. If it determines that retrenchment is indicated, it shall prepare a preliminary report reflecting its views on the areas or departments where, in its judgment, retrenchment should occur.

The determination shall include the following considerations:

a). consistently declining student credit hour production in a department over four quarters (excluding the Summer) as compared to the same quarters during the previous year;

b). academically sound student-faculty ratios;

c). the state of the development of the department;

d). the balance between academic and non-academic personnel;

e). possibilities of enrollment trend reversals;

f). the necessity of some disciplines and programs to be other than self-supporting;

g). normal attrition; and

h). other pertinent factors.

This preliminary report shall be submitted to the respective departments for review. If the department staff objects to the preliminary report as it affects the department, such objections and reasons therefor shall be submitted to a Joint Committee which shall consist of the Vice-President for Academic Affiars as Chairman, four individuals selected by the Administration and four representatives of the Association. The Joint Committee shall review the objection of each such department and will make its recommendation to the President.

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2. Guidelines

The guidelines which shall be applied are as follows:

a). Full-service faculty already employed by the University, except in special and unusual circumstances, have a priority of employment in their given subject matter area over limited-service faculty. Tenured faculty have a priority over non-tenured faculty.

b). The possibilities of early retirement should be thoroughly explored before consideration is given to other means of personnel reduction. However, no faculty member will have early retirement forced upon him because of retrenchment.

c). Any position that is vacant, or that becomes vacant, for whatever reasons, is considered closed and may not be filled unless it is rejustified and approved as new.

d). Under University regulations, a faculty member must always have a "home" department where determinations are made concerning his academic life and tenure. This obligation always resides with the "home" department.

e). A faculty member who has been retrenched shall be placed on a recall list for three years. He shall have access to a list of personnel vacancies as they occur, and he shall receive preference to positions for which he is qualified over non-campus applicants. For a period of one year, or until he accepts a full-time post elsewhere, the faculty member will enjoy all his faculty insurance benefits at University expense. Faculty members shall be recalled according to the principle "last laid-off, first recalled," providing a faculty member is qualified to perform the duties of the vacant position.

f). Department chairmen and Deans will make every effort to relocate extra faculty in other academic, administrative, or staff posts needing personnel when the faculty member's qualifications permit. If such shift is to be an administrative or staff position, the salary and other considerations of employment shall not exceed that which is shown for the administrative or staff position in the budget. If the appointment is academic, the rank and salary shall be the same as were held by the faculty member being transferred. Such shifts between academic departments fall into two distinct categories:

i). **Permanent Transfers.** A permanent transfer is a permanent change of department home and must be acceptable to the receiving department, and to the faculty member. The years of service already rendered in the original home department will be counted toward the acquisition of tenure in the receiving department except that the receiving department shall always be granted no less than two (2) full years of actual service in that department before tenure may be acquired therein. In a permanent transfer, the former home department relinquishes all obligations to the faculty member at the time of transfer.

ii). **Loans.** A loan is a split assignment between two or more departments for temporary service, but with the home department retaining the responsibility for continued employment of the individual since the loan arrangement is temporary. A receiving department which accepts a loaned faculty member has no obligations toward that faculty member beyond the one-year commitment in terms of the period of time it will continue the loan. If the receiving department refuses to renew the loan, the loaned faculty member will be returned to his home department for reconsideration of his status. The receiving department may change a loan to a permanent transfer at the conclusion of the year if the faculty member and the home department agree, and it has an appropriate position available in which case the receiving department assumes the obligations for the faculty member's future as described under Permanent Transfer. A home department is obligated to take back a loaned faculty member before hiring a new faculty member or limited-service faculty in the area of his competency. Appendix B attached summarizes the application of this Paragraph (f). Appendix C sets forth pertinent definitions.

g). When an academic department is notified that a reduction in the number of full-service faculty members in the department is necessary, and possibilities of reduction through normal attrition, leaves, loans, and transfers have been exhausted, the person or persons to be discontinued shall be determined in inverse order of length of continuous service in the department, provided the remaining faculty members have the necessary qualifications to teach the remaining courses or perform the remaining duties. The Joint Committee referred to above shall hear appeals from departments which seek to modify the seniority application.

h). Any full-service faculty member who is discontinued for reasons of retrenchment shall be advised of such decision by December 15th of his current contract year for lay-off commencing with the next academic year, and further advised that the reason for his discontinuation is not due to dissatisfaction with his services. Every effort shall be made to assist such displaced faculty members to relocate. Nothing in these guidelines, however, shall prevent discontinuation of any nontenured faculty member for other reasons.

Faculty members will have the freedom to report the truth as they see it in the classroom, in publications, in reports of research activities, and all other professional and academic forums; faculty members may accept, on a individual contract, consulting and other professional positions consistent with the standards of their profession; the extent of consulting activity will be made known to the department head and dean.

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CASE REVIEWS

ALASKA

Probationary Teachers Cannot Grieve Nonretention

Finding that statutory requirements for terminating a nontenured teacher had been met, the Alaska Supreme Court upheld a school district's firing of two nontenured teachers.

The case was brought on appeal from Superior Court which had ruled in the school district's favor. The teachers had first sought relief through the grievance procedure of their contract, but their claims were rejected as nongrievable.

The Supreme Court noted at the outset that the nonretention of the teachers was in compliance with law, and the teachers had been given timely notices.

The high court, like the trial court, determined that the parties' grievance procedure did not extend to the rehiring of nontenured teachers, and probationary employees who are lawfully discharged cannot obtain permanent status through the grievance procedure. The court said, however, that in some instances the grievance procedure may be of value in attempting to persuade rehiring by bringing out evidence and argument by which termination may be reconsidered.

Concluding, the court decided that the nontenured teachers were no longer employed by the school district and that their termination was lawful and final. The high court affirmed the trial court's decision. (*Robert Van Gorder et al., Appellants v. Mantanuska-Susitna Borough School District et al., Appellees,* Alaska Supreme Court, September 12, 1973.)

MAINE

Validity of Contract Not Dependent on City Council's Approval

Reviewing the legality of a decision of the Maine Public Employees Labor Relations Board, the Maine Superior Court upheld the board's ruling that an agreement negotiated between representatives of the Pine Tree Council #74, American Federation of State, County, and Municipal Employees, and representatives from the City Council of Augusta was valid. The city had originally petitioned the board, claiming that the agreement was not binding as the city council had never ratified it.

Although the transcript of the board's proceedings on the case were unavailable to the court, the court was empowered to rule only upon the matters of law involved in the case, not upon the questions of fact. Accordingly, the court was unable to find any legal error on the part of the board and thus dismissed the city's complaint. (*City Council of Augusta et al., Plaintiffs v. Pine Tree Council #74, American Federation of State, County, and Municipal Employees,* Maine Superior Court, July 11, 1973.)

NEW HAMPSHIRE

Teachers Paid for Bomb Scare Make-up Days

In answer to a petition filed by the Association of Portsmouth Teachers, the New Hampshire Supreme Court ordered the Portsmouth School District to pay teachers for extra class days scheduled to make up time lost from bomb threats. The two extra days, both scheduled on Saturdays, extended the school year beyond the negotiated 183 class days.

High-school classes were dismissed early on 12 occasions because of bomb threats. As the school closings left a number of classes to be made up to meet the state requirement of 180 school days, the district drew up a new schedule lengthening school days and providing for two Saturday sessions. Teachers were not compensated for the Saturday sessions, and the Association filed a suit with the court requesting that teachers be paid 1/183 of their salary for each Saturday worked.

The district subsequently filed motions to dismiss the Association's suit, claiming that the make-up days were ordered by the commissioner of education, that under state law the order can be appealed only to the state board of education, and that the teachers' contracts required them to work on the two Saturdays.

The court disagreed with the school district's position that the extra days were ordered by the commissioner of education, but held that the commissioner had approved only the make-up days; therefore, the issue was not appealable to the state board. The Association's position was that the work performed by the teachers on the two Saturdays was in excess of the number of teaching days specified in

their annual contracts. The school district argued that the annual contracts provided for a school year of at least 183 school days and thus gave the school district the option to schedule extra working days without additional compensation. Extending the school year to 185 days by adding the two Saturdays did not require the school district to grant teachers extra compensation.

The court found that this argument left the teachers at the mercy of the school district. Stating that interpretation of the contract should make the agreement fair and reasonable and should reflect the parties' intent at the time of negotiating the contract, the court rejected the board's argument. According to the court, it was the intent of the parties to have a 183-day school year; therefore, the additional Saturdays were beyond the teachers' contract. The court ordered the school district to pay teachers "on a quantum meruit basis" for the extra days worked. (*Association of Portsmouth Teachers v. Portsmouth School District*, New Hampshire Supreme Court, November 30, 1973.)

NEW JERSEY

Nontenured Teacher Entitled to Hearing on Nonrenewal

Noting that a nontenured teacher is ordinarily entitled neither to the renewal of an employment contract nor to a hearing regarding contract nonrenewal, the New Jersey Superior Court held that a teacher whose contract was not renewed was entitled to a "full evidentiary hearing" on the contention that her First and Fourteenth Amendment rights were violated. Accordingly, the court reversed the decision of the lower court and remanded the issue to the state commissioner of education.

The nontenured teacher's contract was not renewed because her evaluation report indicated that she had not supported and was too critical of administrative policy and action, and that she had not adequately performed her responsibilities.

The South Plainfield Education Association processed the complaint through the grievance procedure which provides appeal to the local board of education. The board declared the matter non-grievable, and indicated that no reason need be given for nonrenewal of a probationary employee. The association then sought relief through binding arbitration; however, the board sought judicial relief and had the arbitration proceedings enjoined pending exhaustion of remedies.

When the matter was appealed to the commissioner of education, the board argued for a dismissal before a deputy commissioner whose report was presented to and upheld by the commissioner, who later ruled the Association was not a party to the proceedings. The matter was then referred to the state board of education which upheld the commissioner.

The Superior Court, Appellate Division, upheld the contention that the commissioner was in error by failing to allow the Association to review and prepare objections, although the commissioner argued that he was not the head of an agency under state statute which detailed administration procedures in such matters, and that his decisions are reviewed by the state board where the parties are permitted to file objections.

The court determined that while the law was settled concerning a final decision made by one who did not hear the evidence but makes a determination in part from a hearing officer, there existed a risk that the final decision might be based upon findings not supported by the evidence. Therefore, to reduce that risk and allow fair play, it was essential that the hearing officer's report be reviewed by the parties and that the parties have an opportunity to make corrections prior to submission to the deciding officer. The court declared that the teacher and the Association were entitled to a copy of the examiner's report and that there was an error in the state board's proceedings for the same reason.

Regarding the issue of whether the Association was a party to the proceedings, the court concluded that the concern of an exclusive representative regarding matters which affect employees was genuine and sufficient enough to enable participation in the proceedings before the commissioner and the state board of education; accordingly, the court ruled the commissioner to be in error in dismissing the Association as a party to the proceedings.

As to whether a nontenured teacher has a right to a hearing, the court stated that although a nontenured teacher does not have a right to renewal of an employment contract nor the right to a hearing ordinarily, a board's discretion is conditioned by the Fourteenth Amendment. The court cited several pertinent cases, including *Perry v. Sinderman* wherein the Supreme Court decided that a teacher's lack of tenure or the absence of a contractual right to re-employment did not preclude a claim that the nonrenewal action was precipitated by criticism of administrative policies and infringed upon his constitutional right to free speech.

The court concluded that the teacher adequately showed that the board's decision was possibly based on her use of free speech rights under the First and Fourteenth Amendments and therefore she was entitled to a full evidentiary hearing. The court reversed the decision of the lower court and remanded the case to the commissioner for further proceedings. (*Marilyn Winston and South Plainfield Education Association v. Board of Education of the Borough of South Plainfield State Board of Education*, New Jersey Superior Court, Appellate Division, August 9, 1973.)

NEW YORK

Settlement Restricts Arbitrability

The New York Supreme Court upheld a negotiated agreement wherein a college instructor waived the right to arbitration and agreed to a procedure for determining his termination or reappointment.

Following notification that an art instructor would not be reappointed for the 1972-73 school year, the United Federation of College Teachers filed a step one grievance on his behalf. In negotiations the board and the instructor's representatives reached an agreement whereby the instructor would withdraw all grievances, complaints, and claims concerning the decision not to reappoint him for the coming fall and spring semesters. In return the board agreed to reappoint him, but with the stipulation that he waive his right to arbitration and agree to a special procedure to determine his adequacy as an instructor and his right to continue employment.

According to the special procedure the university chancellor would appoint a three-member panel composed of people skilled in art education to observe the instructor during the fall semester. If two of the three panel members determined that the instructor's performance was adequate, he would be certified retroactive to September 1, 1972, and thereby obtain a tenured position. However, if he did not receive a positive evaluation, he would be observed by another three-member panel during the spring semester. If his performance then was found adequate, he would be reinstated retroactive to September 1, 1972.

The fall evaluation was negative, and the instructor was notifed that he would be evaluated again during the spring semester. The instructor responded by filing a step 21 grievance, charging violation of the union contract and bad faith implementation of the settlement agreement.

The court found no evidence of bias on the part of the panel of observers nor any evidence of violation of the settlement agreement. Additionally, the court pointed out that the agreement between the parties not to proceed to arbitration was legal and that no grounds for variance from the agreed-upon procedure in lieu of arbitration was warranted. (*Matter of Board of Higher Education of City of New York (De Melas)*, New York Supreme Court, New York County, November 7, 1973.)

PENNSYLVANIA

Teacher Strike Enjoined As Court Interprets Public Employee Relations Act

Interpreting the Public Employee Relations Act (PERA), which gives public employees, including teachers, the right to strike after procedures for resolving disputes in the collective bargaining process have been exhausted, the Court of Common Pleas enjoined the Bristol Township Education Association from any further strike against the School District of Bristol.

The court based its decision on findings that the district gave sufficient evidence that the strike created a "clear and present danger or threat to the health, safety or welfare to the public" as provided by PERA before a strike can be enjoined.

The district challenged the legality of the strike, contending that the Association sought to bargain on items deemed managerial rights by the Pennsylvania Labor Relations Board. The court rejected this allegation since no evidence was offered in support of it. Further, the district contended that the strike presented a danger to health, safety, and welfare of the public.

From the evidence submitted by the school board, the court found that the strike had caused harm to the students, the public, and the teachers. The court concluded that the strike had created and continued to create a clear and present danger and a continuing threat to the public, and, therefore, declared that the school district was entitled to relief. (*School District of Bristol Township v. Bristol Township Education Association*, The Court of Common Pleas of Bucks County, October 17, 1973.)

FEDERAL

School Board Policy Denying Bargaining Rights to Unions Asserting Right To Strike Unlawful

The United States Court of Appeals, Seventh Circuit, declared unconstitutional a policy of the Aurora Public Schools Board of Education that excluded from bargaining rights any union that asserted a right to strike against any government agency or assisted or participated in such a strike. In declaring the policy violative of constitutional free speech guarantees, the court overturned a United States District Court ruling and enabled teachers to seek reimbursement for losses suffered from previous enforcement of the policy.

During negotiation sessions between the Aurora Education Association and the board for the 1971-72 school year, the Association adopted a resolution that teachers would not return to the classroom at the beginning of the 1971-72 school year if a satisfactory settlement had not been reached. The board terminated its negotiations with the Association and offered each teacher an individual contract that included greater benefits than those provided in 1970-71. However, each teacher was required to sign an agreement acknowledging that the board would no longer recognize the Association as the teachers' bargaining agent under board policy that refused recognition to unions asserting a right to strike. Many teachers signed and returned the contracts. Seven teachers who did not accept employment under the new contract were offered continued employment on the 1970-71 contract terms. Although these teachers accepted employment on the offered terms, they filed suit with the United States District Court seeking a declaration that the board's policy violated the Civil Rights Act of 1871, and denied teachers due process rights. These teachers also requested that they be awarded back pay, exemplary and actual damages, and attorneys' fees in addition to being employed under the 1971-72 contract terms.

The school board, opposing the teachers' suit, stated that the teachers did not have a valid claim, the Civil Rights

Act of 1871 was not applicable to the board or its members, and the Association was not a proper plaintiff to assert a claim under the Act. The district court, of the opinion that the board's action had not violated the Civil Rights Act nor denied teachers due process rights, agreed with the board that the Association did not have a valid claim and, therefore, dismissed the case. The Association appealed.

In the eyes of the court, the main issue of the case was whether a public employer had the right to interfere with employees' freedom to think and to speak. Considering the legality of the board policy, the court cited decisions that had invalidated almost identical policies in federal statutes and administrative provisions. The cited decisions had found that the language of the policies was ambiguous as to whether the restrictions concerned a person's philosphical or political belief in his right to strike. These policies were ruled unconstitutional interference with freedom of speech. Applying this rationale to the instant case, the court ruled that the board's policy was invalid because it violated free speech guarantees of the Constitution.

Since the only question before the court was whether the teachers had a valid cause for action, the court did not consider other points raised by the plaintiffs. During the course of the proceedings, the board eliminated the phrase, "asserts the right to strike against any local, state or federal agency of the government," from its policy. The board's action was not part of a settlement nor was it stipulated by the court. The board, therefore, was not required to adhere to its revised policy nor was it obligated to pay damages to employees adversely affected by the policy. Dismissing the district court's ruling, the court added that the decision did not preclude plaintiffs from seeking equitable relief, monetary, remedial, and punitive. (*Aurora Education Association, Plaintiffs-Appellants v. Board of Education of Aurora School District # 131, Defendants-Appellees,* United States Court of Appeals, Seventh Circuit, December 20, 1973.)

* * *

Court Cannot Bar NLRB Elections Except in Cases of Violation of the Act

Ruling that it lacked jurisdiction, the U.S. District Court for the Southern District of New York dismissed the motion of New York University (NYU) for a preliminary injunction to bar the National Labor Relations Board and its regional director from holding an election ordered in July 1973. The dismissal handed the University another set-back in its two-year attempt to halt NLRB elections among its faculty and professional staff, as sought by the American Association of University Professors (AAUP) and the United Federation of College Teachers (UFT).

The University held that its faculty members were independent contractors or supervisors, not employees within the meaning of the term under the Taft-Hartley Act, and therefore exempt from National Labor Relations Act (NLRA) provisions. Further, NYU argued that its Law School faculty members did not constitute a separate appropriate unit.

Rejecting the university's contentions, the court held that since the board had discretion to determine who was an "employee" or "supervisor" under law, the court's acceptance of that determination was immaterial. Further, the court held that the law school faculty members could be treated as a separate unit.

NYU cited *Leedom v. Kyne,* where the Supreme Court of the United States ruled that NLRB unit determinations can be reviewed by district courts if the board admits noncompliance with a specific prohibition of the Act. The court conceded that this ruling could apply to the instant case, had the board determined the unit members not to be "employees" and nevertheless ordered elections. The court added that the matter would more properly come before an appeals court.

Citing *Fay v. Douds,* in which the Second Circuit Court of Appeals held that a federal district court has jurisdiction when there is a contended violation of constitutional rights, the university maintained that NLRB's decision violated due process. The court held that this argument would also be more proper before an appeals court.

Concluding, the court ruled that it lacked jurisdiction and stated that it would have denied a preliminary injunction in any event. (*New York University, Plaintiff v. National Labor Relations Board et al., Defendants,* United States District Court, Southern District of New York, September 20, 1973.)

BOARD FINDINGS AND RULINGS

INDIANA

School Board Required To Communicate with Teachers on Student Discipline

Ruling on a grievance filed by the Fort Wayne Education Association, the arbitrator found that the Fort Wayne Community Schools Board of Trustees was violating the parties' negotiated agreement by neglecting to inform teachers of the disposition of discipline cases they instituted and by transferring students recommended for discipline without informing or consulting other teachers. The arbitrator recommended establishment and maintenance of effective communications between the board and the Association concerning student discipline.

Following a wave of disciplinary problems at a junior high school, the teachers association instituted a grievance charging that the school administration had failed to give teachers full support when disciplining students as required by the parties' contract. Considering the Association's charges, the arbitrator felt that student discipline was not a typical area of collective bargaining, but that many factors other than employer-employee relations enter into the formation of student discipline policy. However, the parties' agreement, while providing for board-determined discipline policies, grants teachers full administrative support in implementing discipline policies. The arbitrator concluded that the administration by failing to inform teachers of the outcome of their discipline recommendations and by transferring students without consulting teachers neglected to give them sufficient support to carry out discipline policies.

According to the arbitrator, the remedy for the contract violations was an effective communication system between the parties concerning student discipline policies and procedures. The arbitrator dismissed Association claims that the administration failed to consistently enforce its student discipline handbook and allowed teachers to work under unsafe conditions; the former because it was outside the area of collective bargaining, the latter because it was unsubstantiated. (*Fort Wayne Community School District, Board of School Trustees and the Fort Wayne Education Association*, American Arbitration Association, September 24, 1973.)

MICHIGAN

Evaluation Forms for Substitute Teachers No Contract Violation

Extra-contractual evaluation forms instituted by a school board for use by substitute teachers in assessing teaching atmosphere and conditions were within the purview of the school board and did not constitute a contract violation.

An arbitrator decided that the West Bloomfield Board of Education was within its rights in instituting substitute teacher evaluation forms, and he therefore dismissed the grievance filed by the West Bloomfield Education Association.

The WBEA contended that the use of the forms permitted teacher evaluation by individuals other than those contractually authorized. The board maintained that these forms were neither evaluations under the meaning of the contract, nor forbidden by the contract.

Finding that the first part of the form was an objective assessment of availability of needed items for performing teaching duties, the arbitrator turned to the portion of the form that asked for subjective comments, both positive and negative. Indicating that subjective comments are made by many individuals, the arbitrator said that an administrator must consider the input. Adding that administrators are not limited to direct observations but evaluate teachers by means of input from several sources, the arbitrator held that the contractual evaluation report pointed to factors that suggested that the basis for parts of the evaluation might be other than direct observations.

Determining that the evidence did not prove a delegation of the evaluation duty, an act prohibited by the contract, the arbitrator found the forms to be related to and limited to providing efficient operation. Further, the arbitrator found no contractual violation although substitutes' comments on lesson plans prepared for them by the regular teachers and comments on the plans are discussed and modified according to the teachers' explanations.

Concluding, the arbitrator determined the substitute teacher reporting form to be a reasonable administrative tool for insuring efficiency. (*West Bloomfield Education Association and West Bloomfield Board of Education*, June 20, 1973.)

Summer Driving Instructors Included in Teacher Bargaining Unit

Instructors of summer driver training courses are not casual employees and may be included in the teacher bargaining unit.

Acting on a petition of the Van Buren Educational Association seeking a representation election among driver education instructors, the Michigan Employment Relations Commission had to decide whether these instructors were entitled to representation as a bargaining group, or whether bargaining should be denied them altogether because they were employed part time for short periods.

The Van Buren School District maintained that these instructors lacked sufficient community of interest with regular full-time teachers because they taught only part time during the summer, and received none of the fringe benefits accorded full-time teachers. Furthermore, many of the instructors were from outside the Van Buren School District and had no working contact with the regular teachers.

As all the driver education instructors were certified teachers and many were rehired each year under a continuing yearly instructional program, MERC found substantial community of interest and concluded that bargaining rights for the instructors were not conditional on full-time employment nor was the subject matter at issue. With the alternatives of no bargaining at all or bargaining in a fractionalized unit, MERC preferred to avoid a multiplicity of units and ruled, as in *Utica Community Schools,* that one unit would be in everyone's best interest.

Finding no reason to disqualify driver education instructors, MERC directed an accretion election to be held in which they could choose to join or not join the Association bargaining unit. (*Van Buren Public Schools v. Van Buren Educational Association, affiliated with The Michigan and National Education Associations,* Michigan Employment Relations Commission, November 27, 1973.)

Association Misses Reopener Deadline; Contract Is Automatically Renewed

Where provision exists for automatic renewal of a contract, the party desiring to modify or terminate the agreement must notify the other party by the stipulated deadline, otherwise the contract is continued. The Michigan Employment Relations Commission accepted an administrative law judge's recommended dismissal of unfair labor practice charges filed by the Michigan Licensed Practical Nurses Association against the Riverside Osteopathic Hospital alleging unlawful refusal to bargain.

The controversy centered on whether the Association, as it maintained, had properly notified the hospital bargaining representative of its intent to open negotiations. The hospital's position was that the contract had been renewed automatically, but that it would bargain on wages. The Association refused the offer of unlimited bargaining and pressured for full-scale talks, whereupon the hospital withdrew its offer. When the hospital held to its position on renewal, the Association charged refusal to bargain.

Agreeing with the hospital's position, the administrative law judge found that the Association had not complied with the provision requiring notice of intent to bargain prior to the expiration date of the contract. The Association had previously contacted the hospital's attorney on the matter and had been informed that negotiations would be handled by the personnel director, who subsequently was not contacted until after the expiration date. As the contract, therefore, was automatically renewed and the hospital had no further duty to bargain, the judge recommended dismissal of the unfair labor practice charges. (*Riverside Osteopathic Hospital v. Michigan Licensed Practical Nurses Association,* MERC, November 14, 1973.)

NEW YORK

Employment of Per-Diem Substitutes Too Ephemeral To Be Covered by Taylor Law

The New York Public Employment Relations Board denied a petition for certification of the Substitute Teachers Association of Ramapo No. 2 as the exclusive representative of per-diem substitute teachers employed by the East Ramapo Central School District.

The Association contended that per-diem substitutes are covered by the Taylor Law and therefore entitled to representation since the definition of *employee* in the language of the law is broadly inclusive and does not specifically exclude per-diem substitutes.

Pointing to its previous rulings, the Board rejected the Association's argument that the definition of *public employee* is all-inclusive. The Board assumed the position that some employment is too ephemeral to be covered under the Taylor Law. In this case, the school district was not required to employ the per-diem substitutes involved for any specific amount of time, and these persons were not bound to accept offers of work. Therefore, the employment relationship of the substitutes to the school district was casual or temporary.

The Board pointed out that up to 40 percent of the per-diem substitutes worked no more than 10 days of the 180-day school year and more than 70 percent of these substitutes worked less than a quarter of the year. An individual may work one day or more per year while being free to accept or reject work. Additionally, the continuity rate from year to year for per-diem substitutes was under 50 percent while the Board required seasonal employees to have at least 60-percent continuity rate in order to be covered by the Taylor Law. On the basis of this reasoning the Board determined that per-diem employees did not have a substantial or continuing employment relationship with the school district to warrant coverage under the Law. (*In the Matter of East Ramapo Central School District, Employer, and Substitute Teachers Association of Ramapo No. 2, Petitioner,* Public Employment Relations Board, October 16, 1973.)

FEDERAL

Union's Secondary Boycott of Municipal Facilities Illegal

The National Labor Relations Board ruled that picketing of a municipal construction site and government offices by the International Brotherhood of Electrical Workers constituted an illegal secondary boycott under the National Labor Relations Act (NLRA).

After the city awarded an electrical work contract to the Mansfield Contracting Corporation, the IBEW began picketing the work site, the mayor's mansion, and the city's administrative offices but not Mansfield's place of business. Workers and other contractors and subcontractors involved in the project observed the picket lines. Since IBEW was party to an agreement with other contractors on the project and Mansfield's employees were represented by Teamsters, the purpose of the picketing was to pressure contractors and subcontractors to advise the city not to do business with Mansfield. The NLRB claimed that the picketing was secondary activity prohibited by the NLRA.

The union contended that since a municipality was involved in the case, and since municipalities were not covered by the NLRA, the Board had no control over the union's activity. The Board agreed that the city was a target of the activity and that municipalities were exempt from NLRA provisions concerning employers. However, the Act prohibits secondary activity against "any person" and thus includes municipalities.

Another union argument, that the picketing was purely informational, was also rejected by the NLRB since the worksite was isolated from the mainstream of society, and an object of the picketing was unlawful secondary activity.

A third contention of the union, that the picketing was an exercise of its Constitutional right of free speech, was also refuted by the Board. As the city's contract was a sealed-bid award it was not political, and the union's attempt to dislodge the contract from a particular company with which it had a dispute was not a constitutionally protected activity. Moreover, the court pointed out, a violation finding under the NLRA requires that only one of the objects of picketing be prohibited by the Act and it was not within the Board's power to invalidate a statutory provision on constitutional grounds.

The union's final claim, that the issue was moot since the picketing had ceased, was refuted by the Board. The court ruled that a cessation of the prohibited activity was no defense to the alleged violation, as the abeyance of the activity did not nullify the violation nor was it an assurance that the activity would not be resumed.

The Board, therefore, ruled that the union had engaged in unlawful secondary picketing at the construction site. (*Local 3, International Brotherhood of Electrical Workers, AFL-CIO and Mansfield Construction Corporation*, National Labor Relations Board, August 14, 1973.)

NEGOTIATION NOTES

ARIZONA

Striking Teachers May Lose Certification

The Arizona State Board of Education has tentatively adopted a policy of revoking or suspending teachers' certificates for striking. Striking, as defined by the policy, constitutes "unprofessional or immoral conduct or evident unfitness to teach."

The policy, similar to previous policy and conforming to the 1971 attorney general's opinion, lists five criteria to be met before certification is revoked: (a) teachers have been served notice of a strike and a strike is in progress, (b) pickets are present on school property, (c) the school board has tried to keep schools open and allow nonstriking teachers to work, (d) the dispute involves contract terms for the next school year, and (e) striking teachers have contracted to provide services during the strike period. A teacher's certificate can be revoked or suspended "as long as the complaint is properly filed, the board's procedures for hearing such complaint are followed, and the board's action is not arbitrary."

A spokesman for the Arizona Education Association charged that the policy eliminates due process because "it prejudges you automatically guilty if you meet the conditions," and is redundant as there already is a penalty provision in the education law for teachers' unprofessional acts.

MASSACHUSETTS

Massachusetts Enacts New Bargaining Law for Municipal and State Employees

A new public employee bargaining law covering municipal and state employees which will become effective July 1, 1974, was enacted by the Massachusetts legislature to replace the Municipal Employees Relations Act (MERA). The new law excludes confidential and managerial employees and some elected and appointed officials.

Representation elections, selection of appropriate bargaining units, and general policing of the Act will be handled by the Massachusetts Labor Relations Commission.

In bargaining neither party is required to accept a proposal or make a concession; however, both parties must negotiate "in good faith with respect to wages, hours, standards, productivity and performance, and any other terms and conditions of employment." A provision for agency fees may be included in an agreement if approved by a majority of bargaining unit employees. If contract provisions conflict with any city ordinance, law, or regulation, the negotiated agreement will govern.

As under MERA, strikes are prohibited. Other prohibited practices that apply to the employer, the employee, and their bargaining agents are defined. Generally these unfair labor practices are similar to those outlined in the National Labor Relations Act "but, with the addition that a failure to participate in good faith in statutory mediation, arbitration or fact finding is prohibited."

Contracts may contain a provision for final and binding arbitration of impasses, but in its absence either party may petition the state commission to order binding arbitration. However, in some impasse situations where the parties have not agreed to arbitration and proceedings to resolve the impasse have been exhausted, the dispute may be returned to the parties for further bargaining.

MINNESOTA

AGO: Employer Must Provide Dues Checkoff

Commenting on the dues checkoff provision of the state's Public Employment Relations Act, the Minnesota Attorney General stated that upon proper request, public employers must grant dues checkoff to exclusive representatives. Dues checkoff rights do not have to be negotiated between employers and employees; however, existing contract clauses providing for dues checkoff remain valid. In addition, absent an exclusive representative, the employer must provide dues checkoff to individuals for the organization of their choice.

MONTANA

Appeals Board Adopts Rules and Regulations To Administer Public Employee Bargaining Statute

Pursuant to the Montana Public Employee Bargaining Law, the governor appointed a five-member personnel appeals board to determine bargaining units, conduct elections, identify unfair labor practices, assign mediators and

fact-finders to bargaining disputes, and serve as an appeal board for the state personnel bureau. The new Board of Personnel Appeals adopted temporary rules and regulations to implement the bargaining law which became effective July 1, 1973.

Under the new rules, the board will meet at the request of the chairman or three members. Bargaining agreements will extend for at least one year but no longer than two years. Petitions for a unit determination or representation election must be accompanied by prooof that 30 percent of the employees are interested. Units will be determined by community of interest, conditions of employment, bargaining history, personnel policies, and diversity of job classifications. Rules pertinent to elections will govern eligibility of voters, notice, poll watchers, ballots, electioneering, challenges, runoffs, and objections. Elections are to be by secret ballot, and the majority of valid votes cast will determine the exclusive representative. The board will certify as exclusive representative a union existing before July 1973 if it submits a copy of the bargaining agreement. Also included in the rules are provisions governing charges of unfair labor practices, i.e., procedures for filing complaints and answers, giving notice of hearings, making findings and exceptions, and issuing final orders. Confidential nonpublic mediation or a list of fact-finders will be provided for an impasse at the request of either party.

Because of the exigent need for the board to exercise its powers, it adopted the interim rules and regulations under state statutes providing for the adoption of such rules.

NORTH DAKOTA

AGO: Some Nonteaching Personnel May Be Included in Teacher Unit

Responding to the request for clarification of the state's professional negotiations law brought by the state superintendent of public instruction, the North Dakota Attorney General ruled that librarians, supervisors, and counselors are properly part of a teachers' bargaining unit. The attorney general based his ruling on the fact that unless personnel spend 50 percent or more of their time on administration, they are not considered administrators for purposes of the negotiation law.

VIRGINIA

Arbitration Procedure on School Policies Ruled Legal

A school board may enter into binding arbitration to resolve disputes occuring from the application of its policies, rules, and regulations, in the opinion of the state attorney general as he interpreted the procedures of the state board of education for resolving teacher grievances precipitated by applying a school board's policy, rule, or regulation.

The procedure, which ends in a binding decision by a three-member panel, mandates first-level informal discussion with the immediate supervisor, then written appeals successively to the principal, superintendent, and local board of education if the dispute is not settled at first-level talks. The local board of education must hold a hearing prior to making a decision.

Final appeal goes to an arbitration panel consisting of one board-appointed member, one member chosen by the employee, and a third member, who acts as chairman, selected by these two or by alternatively striking names from a list of arbitrators.

A ruling of the panel is final and binding if all time limits are observed. Failure to comply with a panel decision results in a board decision that is final and nongrievable. Expenses incurred are shared by the board and the employee; however, if a grievance goes to arbitration, the board assumes the panel's expenses.

The procedures further stipulate that local boards that have developed a grievance and arbitration procedure consistent with the state board's procedure may apply it with the state board's express approval.

The procedure defines *grievance* as a "difference or dispute" over the effect of school-board policies, rules, and regulations on employee work activity, and limits the panel's jurisdiction to application of these policies, rules, and regulations without changing any of them. Also, the procedure lists prerogatives of the board, superintendent, or his designee that the panel cannot alter.

Citing another opinion, the attorney general noted that no authority prevented mediation or arbitration at impasse but that the final decision rested with the board. The attorney general also noted that his determination did not involve binding arbitration of disputes arising from an existing negotiated contract.

FEDERAL

IPA Grants Set for State and Local Governments

Under the Intergovernmental Personnel Act (IPA) of 1970, federal grants ranging from $50,000 to $803,000 will go to the 50 states and the District of Columbia. The purpose of the grants is to help state and local governments improve the quality of public service at the state and local levels by improving personnel management systems and practices and by training administrative, professional, and technical employees.

IPA authorizes Civil Service Commission (CSC) and other federal assistance to state and local governments through personnel exchange, technical assistance, matching fund grants, and training fellowships. Grants are made on matching basis with CSC providing 75 percent of the cost of approved projects.

Allocation of the funds depends on population and the number of public employees at each government level. Eighty percent of the funds must be allocated to the states and the District of Columbia according to a formula, and at

least 50 percent of the amount allocated to a state is mandated for the local governments.

This CSC has also allocated grants totalling $275,000 to the National Training and Development Service (NTDS), a nonprofit organization with programs designed to strengthen leadership and decision-making of state and local public officials.

NTDS programs include seminars for mayors, county executives, state legislators, and other elected and appointed leaders, and provide training in organizational development for city managers, municipal league directors, state agency administrators, and other state and local officials. NTDS has received previous grants of $432,000 from the Civil Service Commission and is also funded by the Ford Foundation and by participating state and local governments.

In addition NTDS offers a back and forth movement for federal, state, and local employees on temporary assignments between the federal government, and state and local governments or higher education institutions.

* * *

The Consumer Price Index—January 1974

The Consumer Price Index rose 0.9 percent in January to 139.7 (1967=100), the Bureau of Labor Statistics of the U.S. Department of Labor reported. Higher prices for food and energy items accounted for about four-fifths of the increase in the January index, with each component contributing about equally. The effect of the increases was moderated by price declines for apparel and used cars. The January CPI was 9.4 percent higher than a year ago.

On a seasonally adjusted basis, the CPI increased 1.0 percent in January. The increase was 0.5 percent in December and 0.8 percent in November. The food index rose 1.6 percent in January, compared with 0.3 percent in December and 1.4 percent in November. The increase in the nonfood commodities index of 1.3 percent was almost twice as much as the increases in each of the two preceding months. The services index rose 0.7 percent in January, compared with 0.6 percent in November and in December.

The index for food purchased in grocery stores—which usually is unchanged in January—increased 1.8 percent, twice the increases in both November and December. Meat and poultry prices, which declined in each of the last three months of 1973, increased in January, and prices of most other foods continued to rise. Increases in prices of dairy products and cereal and bakery products, however, were not so large as those recorded during most of 1973. Prices of processed fruits and vegetables continued to move up rapidly; fresh fruits rose more than they usually do in January, and fresh vegetables increased seasonally. The index for food away from home—restaurant meals and snacks—rose 0.6 percent in January, about the same as in December, and noticeabley less than the increases last fall.

The nonfood commodities index rose 0.6 percent; it usually declines by this amount in January. Prices of fuel oil and gasoline continued to rise sharply. Over the year, the fuel oil and coal index and the gasoline and motor oil index increased 61.2 percent and 25.1 percent, respectively. Prices also increased in January for other nonfood commodities such as newspapers, housekeeping supplies, and household durables. The new car index rose more than it usually does in January, reflecting the mid-December increases in manufacturers' prices. The effect of these price increases was partly offset by lower prices for used cars and seasonal declines in apparel prices.

The service index rose 0.7 percent in January. Higher charges for gas and electricity accounted for almost a fourth of the rise. In addition, charges for other household services such as home maintenance and repairs, housekeeping services, property taxes, and mortgage interest costs also rose. The index for medical care services rose more rapidly than in recent months led by increases in dentists' fees and charges for semi-private hospital rooms. In the transportation services category, charges for auto repairs continued to rise, and auto registration fees increased. Local transit fares declined.

STATISTICS

TEACHER QUALIFICATION PROVISIONS, 1970-71

All 50 states, the District of Columbia, and Puerto Rico have statutorily determined minimum standards for teacher certification, and provisions in negotiated agreements sometimes reiterate these requirements, often with additional requirements, thus making them grievable. Such provisions were contained in 3/10 of the 1,529 agreements filed with NEA Research. A group of provisions (1 in 5 with at least one agreement from each state having a negotiated agreement) was selected for analysis.

The majority of analyzed agreements (89.8 percent) stipulated state certification requirements. Of these agreements some required state certification only (35.7 percent), state certification and additional educational requirements (36.7 percent), or state certification and a combination of education, health and other requirements (17.4 percent).

TABLE 1.—GENERAL CONTENT OF TEACHER QUALIFICATION PROVISIONS IN NEGOTIATED AGREEMENTS

Item	Number	Percent
1	2	3
Total agreements on file	1,529	100.0
Number of agreements having teacher qualification provisions	470	30.7
Provisions selected for analysis	98	6.4
Provisions stipulating:		
State certification only	35	35.7
State certification and education requirements only	36	36.7
Minimum education requirements only	10	10.2
State certification and combination of education, health, and other requirements	17	17.4

Minimum education requirements only were specified in 1 agreement in 10 (Table 1).

Most of the provisions specifying educational requirements stipulated that teachers must have a bachelor's degree for initial employment. Several provisions further stated that the teacher's undergraduate work must include a major or minor in the academic area of the teacher's assignment or a certain number of credits in education and psychology. Only one provision required newly employed teachers to have a master's degree (Table 2).

Health requirements contained in teacher qualification provisions included a physical examination by either a school board or private physician and/or a negative tuberculin test. Other requirements incorporated into the provisions obligated teachers to meet standards set up by the North Central Association of Colleges and Secondary Schools or the administration, to take the National Teacher Examination, or to be a United States citizen.

References to emergency situations when either education or state certification requirements could be relaxed were contained in nearly one-third of the provisions (Table 3). Although none of the provisions defined an emergency situation further than when a qualified teacher was unavailable, several provisions added that the association would be informed when a teacher with lower qualifications was to be hired and/or the association's assistance in finding a suitably qualified teacher would be enlisted. Seventeen agreements that allowed hiring of teachers with lower qualifications required the teachers to continue their academic studies to acquire certification and/or a bachelor's degree.

Several sample teacher qualification provisions are reprinted below.

Professional Qualifications and Assignments

No new teacher shall be employed by the Board for a regular teaching assignment who does not have a bachelor's degree from an accredited college or university, and a provisional or permanent certificate.

The employment of teachers by individual contracts based on special certificates is to be permitted only in cases of absolute necessity or where the teacher has outstanding credentials and the Association shall be so notified in each instance and the board shall indicate the extent to which they endeavored to fill the position with a fully certificated person.

[Three Rivers, Michigan]

* * *

QUALIFICATIONS FOR TEACHERS

A minimum of the B.A. Degree, including the necessary credits in education and psychology, or a provisional certificate, shall be required for appointment in the elementary school.

The training for appointment in the junior and high schools shall meet the requirements of the official state accrediting agencies and the North Central Association of Colleges and Secondary Schools.

A certificate of good health from a physician shall be required for appointment. Subsequent proof of good health shall be required at the discretion of the Board of Education.

A statement certifying freedom from tuberculosis shall be required. This statement shall be based on an X-ray examination of the chest or the patch skin test. The law requires that prior to start of employment any such employee who has direct contact with pupils must present evidence of freedom from communicable tuberculosis. This evidence must be renewed annually according to state law.

[Rock Island, Illinois]

* * *

The Board agrees to hire only those teachers who are certifiable by the Vermont State Department of Education for every regular teaching assignment, except, this provision shall not apply in instances where availability of personnel is critical.

[Windsor, Vermont]

* * *

TABLE 2.–EDUCATIONAL REQUIREMENTS IN TEACHER QUALIFICATION PROVISIONS

Item	Number	Percent
1	2	3
Selected teacher qualification provisions	98	100.0
Provisions specifying educational requirements to be completed prior to teacher's employment	48	49.0
Bachelor's degree	47	48.0
Bachelor's degree minimum requirement	43	43.9
Bachelor's degree with a major or minor in teaching field	3	3.1
Bachelor's degree with courses in psychology or education	1	1.0
Master's degree	1	1.0

TABLE 3.–EMERGENCY SITUATIONS IN TEACHER QUALIFICATION PROVISIONS

Item	Number	Percent
1	2	3
Selected teacher qualification provisions	98	100.0
Provisions relating to emergency situations	32	32.6
Academic study required subsequent to employment	17	17.4
Association to be informed when teachers with lower qualifications are to be hired and/or association's assistance is enlisted	11	11.2

* * *

The Board agrees to hire only teachers holding certificates issued by the New Jersey State Board of Examiners for every teaching assignment.

[Princeton, New Jersey]

* * *

In order to provide students and faculty with a variety of backgrounds and experiences, the school staff should represent a wide range of the ethnic and social segments of society. In compliance with Federal and state laws and rules and regulations of the Minnesota State Department of Education. Such teachers should be actively recruited. Appropriate in service training is encouraged.

All teachers must conform to the certification requirements prescribed by the State Department of Education.

New appointments for the elementary grades shall have a degree from a teacher training institution.

Secondary teachers shall have a degree from an accredited teacher training institution, preferably with a major in their field of teaching; however, a minor shall be acceptable at the discretion of the Administration.

[Minnetonka, Minnesota]

* * *

Applicants for teaching positions in the Phoenix Union High School System shall be required to meet the following basic qualifications:

Health Requirements

All applicants must meet the basic health requirements as specified in the policies of the Board of Education and the State Statutes. Teachers must have a report of an X-ray or skin test, indicating absence of tuberculosis, registered with the County Superintendent of Schools before they can receive their first pay check. This report must be renewed prior to October 1 of each year.

Professional Requirements

The applicant for any teaching position in the Phoenix Union High School System, with the exception of the Trades and

Industry Section and the Health Occupations Section of the Vocational Education Program and Librarians, must meet the following professional requirements:

A valid Arizona certificate for teaching in the secondary schools of the state, as well as any special certification requirement in a particular area, and

A Master's Degree, except that a maximum of 20 percent of the teaching staff (including all categories) may be hired with a Bachelor's Degree and 30 semester hours in their subject area field. A teacher hired with a Bachelor's Degree agrees to make regular and diligent progress toward earning a Master's Degree. A Master's Degree must be secured before a fourth annual contract is offered.

[Phoenix U.H.S.D., Arizona]

The term "teacher" means any person who holds a teacher's certificate issued by the State Superintendent of Public Instruction. (Chapter 118.19 Laws of Wisconsin) A teaching contract cannot be issued to any person not legally authorized to teach. All teaching contracts shall terminate if and when the authority to teach terminates. (Chapter 118.19 Laws of Wisconsin)

Evidence of such authorization to teach must be filed with the Superintendent of Schools before the effective date of contract.

Teachers should have a Bachelor's Degree in order to be authorized to teach in the Neenah Public School System. Teachers not having a Bachelor's Degree must present evidence to the Superintendent of Schools that at least six credits toward the Bachelor's Degree are being earned each year.

[Neenah, Wisconsin]

WHITE COLLAR PAY INCREASED 5.4 PERCENT

A 5.4 percent rise in average annual salaries for selected white-collar occupations in private industry was indicated by preliminary data collected by the Department of Labor, Bureau of Labor Statistics (BLS), during the year ending March 1973. At the same time the Consumer Price Index rose 4.7 percent.

BLS stated that its survey data throughout the 1960's showed a trend toward larger yearly increases in average salaries, but that rates of increase reached a peak in 1970-71 and began to decline during the 1971-73 period. The latest increase was the smallest in five years.

The largest increase, 5.6 percent, was recorded for the experienced professional and administrative occupational group, compared with a 2.8 percent advance recorded for the entry and development professional and administrative group. This year's marking of the fourth consecutive year of smaller salary advances for the entry group indicated a changing job market for college graduates. Increases of 5.3 percent and 5.1 percent were recorded for the technical support group and the clerical group, respectively.

TABLE 1.—AVERAGE ANNUAL INCREASE IN SALARIES, 1961-73

Period	All white-collar occupations	Professional, administrative, and technical support	Clerical and clerical supervisory
1	2	3	4
1961 to 1966[a] ..	3.1	3.4	2.7
1966 to 1967 ...	4.5	4.2	4.8
1967 to 1968 ...	5.4	5.5	5.3
1968 to 1969 ...	5.7	5.8	5.5
1969 to 1970 ...	6.2	6.2	6.2
1970 to 1971 ...	6.6	6.7	6.5
1971 to 1972 ...	5.9	5.5	6.2
1972 to 1973 ...	5.4	5.4	5.4

SOURCE: Christensen, Andrea. "White-Collar Pay Up 5.4 Percent." *Monthly Labor Review* 96: 53-55; October 1973.

[a] Average annual rate of increase.

TABLE 2.–AVERAGE SALARIES OF EMPLOYEES IN SELECTED WHITE-COLLAR OCCUPATIONS IN PRIVATE ESTABLISHMENTS, MARCH 1973[a]

Occupation and class	Number of employees[b]	Average salaries[c] Monthly	Average salaries[c] Annual
1	2	3	4
Accountants and auditors			
Accountants I	7,026	$ 785	$ 9,417
Accountants II	12,492	911	10,934
Accountants III	27,927	1,039	12,472
Accountants IV	19,489	1,256	15,068
Accountants V	7,351	1,533	18,400
Auditors I	1,059	859	10,310
Auditors II	2,813	947	11,360
Auditors III	4,899	1,131	13,568
Auditors IV	2,524	1,389	16,669
Chief accountants I	644	1,352	16,220
Chief accountants II	1,239	1,553	18,634
Chief accountants III	726	1,891	22,687
Chief accountants IV	323	2,228	26,735
Attorneys			
Attorneys I	558	1,123	13,478
Attorneys II	1,381	1,296	15,555
Attorneys III	2,416	1,630	19,565
Attorneys IV	1,812	2,058	24,693
Attorneys V	1,035	2,503	30,035
Attorneys VI	613	3,087	37,048
Buyers			
Buyers I	3,204	800	9,603
Buyers II	11,388	953	11,431
Buyers III	12,892	1,153	13,835
Buyers IV	4,793	1,369	16,423
Personnel management			
Job analysts I	59	780	9,362
Job analysts II	311	917	11,010
Job analysts III	628	1,088	13,061
Job analysts IV	590	1,351	16,211
Directors of personnel I	1,092	1,229	14,748
Directors of personnel II	1,919	1,479	17,753
Directors of personnel III	1,328	1,832	21,984
Directors of personnel IV	427	2,218	26,611
Chemists and engineers			
Chemists I	1,466	836	10,028
Chemists II	4,535	961	11,534
Chemists III	9,123	1,101	13,217
Chemists IV	10,553	1,345	16,140
Chemists V	7,903	1,609	19,312
Chemists and engineers—Cont.			
Chemists VI	4,160	$1,883	$22,602
Chemists VII	1,748	2,242	26,899
Chemists VIII	493	2,675	32,099
Engineers I	13,176	934	11,203
Engineers II	28,933	1,049	12,591
Engineers III	84,813	1,194	14,326
Engineers IV	117,447	1,419	17,030
Engineers V	79,996	1,635	19,614
Engineers VI	42,006	1,882	22,536
Engineers VII	14,871	2,140	25,681
Engineers VIII	3,587	2,458	29,499
Technical support			
Engineering technicians I	3,428	625	7,500
Engineering technicians II	12,005	718	8,613
Engineering technicians III	25,231	834	10,005
Engineering technicians IV	30,332	938	11,257
Engineering techicians V	17,969	1,067	12,799
Draftsmen-tracers	4,225	557	6,687
Draftsmen I	19,012	666	7,988
Draftsmen II	30,284	819	9,832
Draftsmen III	29,876	1,014	12,173
Clerical supervisory			
Keypunch supervisors I	949	690	8,286
Keypunch supervisors II	1,944	759	9,107
Keypunch supervisors III	1,179	846	10,149
Keypunch supervisors IV	343	1,006	12,076
Keypunch supervisors V	54	1,114	13,367
Clerical			
Clerks, accounting I	90,567	516	6,188
Clerks, accounting II	65,790	6 [illegible]	7,812
Clerks, file I	26,017	404	4,852
Clerks, file II	22,643	446	6,349
Clerks, file III	8,091	549	6,593
Keypunch operators I	62,649	504	6,042
Keypunch operators II	46,510	577	6,922
Messengers	25,506	445	5,344
Secretaries I	96,643	612	7,347
Secretaries II	97,282	685	8,221
Secretaries III	54,641	737	8,842
Secretaries IV	16,757	799	9,583
Stenographers, general	46,533	543	6,521
Stenographers, senior	52,151	619	7,425
Typists I	63,801	453	5,434
Typists II	41,390	528	6,339

SOURCE: Christensen, Andrea. "White-Collar Pay Up 5.4 percent." *Monthly Labor Review* 96: 53-55; October 1973.

[a]Includes establishments with 250 workers or more in manufacturing and retail trade, and 100 or more in transportation; communication, electric, gas, and sanitary services; wholesale trade, engineering and architectural services, commercially operated research, development, and testing laboratories, and finance, insurance and, real estate.

[b]Occupational employment estimates related to the total in all establishments within scope of the survey and not to the number actually surveyed.

[c]Salaries reported relate to the standard salaries that were paid for standard work schedules; i.e., the straight-time salary corresponding to the employee's normal work schedule excluding overtime hours. Nonproduction bonuses are excluded, but cost-of-living bonuses and incentive earnings are included.

SPECIAL REPORTS

BRIEFS OF AGREEMENTS

Champaign, Illinois

Between Champaign Community Unit School District No. 4 and Champaign Education Association, effective July 1, 1973, to June 30, 1976. Approximately 658 certificated professional employees, comprising all full- and part-time certificated personnel regularly employed in the district, except the superintendent, administrative assistants, directors, assistant directors, principals, assistant principals, coordinators, supervisors, and teacher aides. Provision for automatic renewal if the parties do not submit a written request for negotiations by March 1, 1976.

COMPENSATION: (1973-74) B.A., $8,000 to $9,800, 4 increments; B.A. plus 15 hours, $12,600 maximum; B.A. plus 30 hours, $13,100 maximum; M.A., $9,600 to $14,800, 12 increments; M.A. plus 30 hours, $16,000 maximum; M.A. plus 60 hours, $17,000 maximum; Ph.D., $17,200 maximum. (1974-75) B.A., $8,200 to $10,000, 4 increments; B.A. plus 15 hours, $13,000 maximum; B.A. plus 30 hours, $13,500 maximum; M.A., $9,700 to $15,500, 13 increments; M.A. plus 30 hours, $16,700 maximum; M.A. plus 60 hours, $17,700 maximum; Ph.D., $17,900 maximum.

DIFFERENTIALS: High-school basketball and football coaches, $1,540; junior high football and basketball coaches, senior high assistant football, assistant basketball, track, baseball, and swimming coaches, $770; high-school first assistant football and wrestling coaches, $845; senior high dramatics, band, orchestra, choral, and athletic ticket manager, $615; junior high dramatics, band, orchestra, choral, and intramural program, $540; senior high exchange program, student council, and cross country, golf, assistant wrestling and tennis coaches, and junior high assistant football coach, $460; senior high annual, newspaper, building trades, and assistant track and baseball coaches, and junior high assistant basketball and track coaches; junior high assistant track coach and student council, cheerleader sponsor, and supervisor booster club, $310; senior high art and debate, junior high art and cross country coach, $230; senior high girls' tennis, basketball, volleyball, softball, track and field coaches, $175; department chairmen in junior and senior high school will receive in addition to their regular salary $615 if 10 or more personnel are in the department and $460 if five to nine are in the department; elementary-grade chairmen will receive $615.

OTHER: Summer school teachers will be compensated at $1,000 for a M.A. and $900 for a B.A.; $.12 per mile for approved mileage reimbursement except for those receiving a flat rate, which shall not exceed $40 per month.

INSURANCE: Board-paid health insurance; board will provide $1,000 in term life insurance.

LEAVES: Twelve days' annual sick leave per year, unlimited accumulation; two days of sick leave may be used for personal leave to attend to personal, legal, household, or family matters that require absence during school hours; the board and the association agree that professional leave be supported in part by the district; if a teacher has approval to attend a professional meeting, round trip coach fare may be paid and a substitute secured; the district will pay full salary minus jury duty remuneration; an employee who is an active member of the National Guard or the reserve forces and is mobilized during the school year will be granted a military leave at full pay minus military pay, for a maximum of two weeks, the military leave will expire with demobilization of the unit; sabbatical leave at one-half of basic salary or salary minus substitute fees, whichever is greater, for resident study, research, travel, or other purposes after six full years of service in the district; a tenured teacher may be granted a leave of absence without pay for prolonged illness, needed rest, necessities of the home, and allied reasons, or where such an absence would contribute to education in the district; a leave of absence up to one year will be granted to teachers to participate in exchange teaching programs, the Peace Corps, Teacher Corps, or Job Corps, cultural, travel, or work program related to the teacher's professional responsibilities or to serve as an officer or staff member of the Illinois Education Association or the National Education Association; upon return from such leave the teacher will be placed at the position on the salary schedule he would have attained had he taught in the district during such period.

ASSOCIATION: Right to use school buildings, facilities, and equipment at reasonable times; bulletin boards provided for the association and inter-school mail service and mail boxes; association representatives will be permitted to transact official association business on school property provided normal school operations are not interrupted; the board will provide information relating to school finance and adopted budget, and any readily available information relevant to negotiations; both parties may call upon profes-

sional and lay representatives for assistance during negotiations; the association president, president-elect or vice-president, the president of the board of education, and the superintendent shall meet monthly to promote the free flow of information.

INSTRUCTION: All regular classroom teachers will have a preparation period and a duty-free lunch of not less than 30 minutes.

TEACHER RIGHTS

Academic Freedom

The parties seek to educate young people in the democratic tradition, to foster a recognition of individual freedom and social responsibility.

An issue is controversial when some of its proposed solutions conflict with cherished interest, beliefs, or group affiliations of a section of citizens. Fundamental to most controversial issues is the intellectual or emotional attachment of some citizens to the interest or welfare of organizations or groups. It shall be the policy of the Champaign Community Schools to provide for dispassionate, unbiased, unprejudiced, and scientific study of controversial issues, in order that the pupil may have an opportunity to study such issues in a class atmosphere void of partisanship and bias. The discussion of such issues shall relate to the subject matter of the course. Without minimizing the importance of the large part of the curriculum made up of established truths and values and the elements of our American heritage and tradition, but recognizing that gradual social change is inevitable and that such change involves controversial issues is a responsibility of the public schools, since the respect for facts and an impartial search for truth is inherent in a democratic American society. The teacher, as an impartial moderator and guide, shall not attempt, either directly or indirectly, to limit or control the judgment of his pupils on such issues.

PERSONNEL: Grievance procedure ends with binding arbitration; teachers' personnel files to be open, readily accessible, and available for teacher examination upon request; nothing will be placed in the personnel file without prior knowledge of the teacher; every teacher will have the right to grieve any material in his personnel file and to have dissenting or explanatory material attached to any document on file; material not in the official file not be used as evidence in any arbitration; the work performance of tenured teachers to be evaluated once every two years; all nontenured teachers will be evaluated at least twice a year; any teacher required to appear before the board concerning any matter which could adversely affect his employment or salary will be given reasonable prior notice of the reasons for the meeting and will be entitled to have association representatives present to advise him and represent him; in filling vacancies the board will give preference to qualified teachers currently employed in the district; if it is necessary to transfer teachers for curriculum, budget, or building needs and no teachers apply for the vacancies by July 1, or no new hires become available before July 1, teachers will be transferred on the basis of length of service, qualifications, and needs of students; committees may be formed by the faculty at each building to advise the principal on matters of common concern; the principal and the association building representative will meet once a month to discuss school operations, proposed changes in existing policies and procedures, and implementation of this agreement; the board will render reasonable assistance to a teacher assaulted in the line of duty, and time lost by the teacher will not be charged against the teacher; released time will be granted to any teacher subpoenaed to testify in behalf of the teacher involved in an assault case.

* * *

Springfield, Illinois

Between Springfield School District #186 and Springfield Education Association, effective July 1, 1973, to June 30, 1974. Approximately 1,165 certificated professional employees.

COMPENSATION: B.A., $8,200 to $11,706, 9 increments; B.A. plus 8 hours, $12,116 maximum; B.A. plus 16 hours, $12,915 maximum; B.A. plus 24 hours, $13,325 maximum; M.A., $9,840 to $14,125, 11 increments; M.A. plus 8 hours, $14,535 maximum; M.A. plus 16 hours, $15,334 maximum; M.A. plus 24 hours, $15,744 maximum; M.A. plus 32 hours, $16,544 maximum; M.A. plus 40 hours, $16,954 maximum; M.A. plus 48 hours, $17,364 maximum. A teacher who enters the system for the first time and vocational teachers will receive credit for previous teaching experience to a maximum of six years; vocational teachers will receive two years of approved practical work experience in the area taught, to be credited as two steps on the salary schedule with additional years of approved practical work experience at the rate of one step for each two full years of experience; cooperative training coordinators (diversified occupations, cooperative work training, office occupation, home economic occupations, and distributive education) and business education teachers will be advanced one step on the salary schedule for each required and accredited year of vocational work experience in their teaching area, not to exceed two years; professional staff members will show evidence of four semester hours of professional growth courses each four-year period to continue vertical step advancement; longevity pay of an additional $400 after 19 years' service for M.A. plus levels.

REGISTERED NURSES

The Nurses' Salary Schedule shall place Bachelor Degree nurses on the Teachers' Bachelor Degree Schedule. Non-degree Registered Nurses shall be placed on a 10-step schedule calculated at 75% of the Bachelor's Degree Schedule.

Upon earning a B.S. Degree, nurses shall be placed upon the Bachelor's Degree schedule at a step which provides a salary increment at least equivalent to the basic teachers' incremental block.

Incremental credits will be granted after 1969-70 school year for courses leading to a B.S. Degree in Nursing and Public Health. With prior approval by the Superintendent, courses in Psychology, Sociology, and/or related fields may be used for incremental credits.

Each block of 8 hours toward a B.S. Degree will be credited at $100 per block to a total of $500.

Non-degree nurses shall be reimbursed for tuition paid to attend courses taken from any State College or University beyond the completion of five (5) blocks of eight (8) semester hours each under the following conditions:

Presentation of a statement from the registrar of an accredited university that the candidate has no more than twenty (20) semester hours of work remaining to secure a degree and meet all qualifications for the School Service Personnel Certificate with School Teacher Nurse endorsement.

Presentation of a tuition receipt(s) and a college transcript(s) substantiating satisfactory completion of courses required within the remaining twenty (20) semester hours.

Nurses will be notified of the Board of Education's intent to rehire them for the forthcoming year on the same dates teachers are notified.

The professional nursing staff shall be maintained with at least the same number of authorized positions for the 1973-74 school year as existed during the 1972-73 school year.

DIFFERENTIALS: (Five steps in sequence, 1, 2-4, 5-7, 8-10, and 11 plus, based on percent of B.A. base) Speech and debate-dramatics range, 6 percent, 1st step, to 10 percent, 11 plus step; cheerleader (middle school), 2 percent, 1st step, to 4 percent, 11 plus step; cheerleader (high school), audiovisual coordinator, newspaper, 7 percent, 1st step, to 11 percent, 11 plus step; intramural (middle school), 8 percent, 1st step, to 12 percent, 11 plus step; intramural (high school), 8.5 percent, 1st step, to 12 percent, 11 plus step; year book, 9 percent 1st step, to 13 percent, 11 plus step. (Five steps according to years' experience, 0, 1, 2-4, 5-9, and 10, based on percent of B.A. base) middle school cross country coaches, 3.3 percent, no experience, to 5.5 percent, 10 years' experience; track, 5.5 percent, no experience, to 7.7 percent, 10 years' experience; basketball, 6.6 percent, no experience, to 11.0 percent, 10 years' experience; high-school cross country, tennis, golf, 5.7 percent, no experience, to 8.3 percent, 10 years' experience; swimming, assistant wrestling, assistant baseball, assistant football, 11.0 percent, no experience, to 15.4 percent, 10 years' experience; basketball, football, 17.6 percent, no experience, to 22.0 percent, 10 years' experience.

EXTRA RESPONSIBILITY (COACHES)

All coaches who have attained teacher tenure will be notified within 30 days after their season is over if they are going to be relieved of their duties. If they are not notified, they will be reemployed in the same coaching position. All coaches who do *not* intend to remain at the same coaching position during the next coaching season, shall notify the District through their building principals of their intention to resign their coaching position within 30 days after their seasons are over.

Any high school assistant or middle school coach who is appointed as head coach on the high level (in the same sport in which he has been working) shall receive one year's credit on the percentage scale for every two (2) years' credit on the coaches compensation salary schedule earned as an assistant or middle school coach.

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Procedure for Selection and Dismissal of Athletic Coaches

Head coaches shall be evaluated by the principal and athletic director within 30 days after the close of the coaching season.

Assistant Coaches shall be evaluated by the head coach, principal, and athletic director within 30 days after the close of the coaching season.

The dismissal procedure for coaches will be the same as the normal dismissal procedure for a 1st year teacher.

All coaching evaluations will be placed in the coaches personnel file and will be subject to the provisions of this agreement relating to the personnel file.

A special athletic evaluation committee will be formed and given the responsibility of developing an evaluation instrument that will be ready for use at the beginning of the 1974-75 school year. The committee will consist of the Director of Secondary Education, who will serve as the chairman, High School principals or their designee, athletic director, and two coaches from each High School.

OTHER: Day-to-day substitute teachers will be paid at the rate established by the board; substitute teachers will be paid $23.50 per 7½ hour day; however, beginning with the 11th consecutive day of substituting, the rate will be $26.50 per day; driver education instructors will be paid $6.50 an hour; 10 cents per mile for travel within district and 8 cents per mile for travel outside the district.

PROFESSIONAL GROWTH AND INCREMENTS FOR BLOCKS OF ADVANCED WORK

In order to receive a salary increment for advanced work, staff members should file intent to change columns as the result of further approved training by April 1. Official transcripts to substantiate such training received prior to September 1, of any year, along with the request for increment approval shall be filed in the Office of Personnel. Assuming such requests are accurate and complete, partial payment will be included in the second payroll following submission of said request. Payment for increments will be in equal amounts over the total number of pay periods. The first partial payment shall be an amount equal to the bi-monthly increment times the number of elapsed pay periods. The balance of the increment will be spread evenly over the remaining pay periods.

Beginning in September 1969, professional staff members shall show evidence of no less than four (4) semester hours of professional growth courses each four (4) year period as outlined under the provisions used for granting additional blocks on the salary schedule in order to continue vertical step advancement. (Courses taken during the summer of 1969 may be used to fulfill this requirement.)

Professional Growth Courses

Graduate or undergraduate courses for which one does not receive incremental pay shall be counted for the professional growth reasons only, prior notification and approval are not necessary. Such courses will automatically receive professional growth credit upon receipt of the transcript to substantiate completion of work. Courses for which one receives incremental pay will automatically count toward the professional growth provisions.

General Provisions

The Springfield Education Association and the administration shall cooperatively establish opportunities by which teachers and administrators may increase or update their knowledge of their teaching field or in general areas of education designed to enhance the educational program of the district.

If arrangements can be made for graduate credit with a recognized university, incremental credit may be allowed according to

the negotiated guidelines. All established courses and/or designated workshops will be recognized as contributing toward the requirement for professional growth credit.

Undergraduate courses generally will not be approved for incremental purposes on the salary schedule. They may be approved in unusual circumstances and as an exception to policy, however, if related to some of the special concerns and/or situations noted above, and with prior approval of the Superintendent.

All requests for approval of courses must include sufficient justification as outlined above, and should be submitted to the Superintendent for action at least two weeks prior to enrollment in said course. Every reasonable effort will be made to process and return requests for approval of courses to the applicant within two (2) weeks from the date of receipt. The two-week requirement may be waived where a change of course is necessitated by some factor over which the staff member has no control. These requests for approval will be returned to the staff member indicating one of the following and specific written reasons shall be given for (2), (3), and (4) below as to why approval for incremental credit was not given:

Approved for professinal growth and incremental credit.
Approved for professional growth only.
Disapproved.
More information needed before a decision can be reached.

Staff members taking University credit courses during the regular school year are expected to adhere to limitations imposed by the institution. In the absence of such guidelines, staff members could expect approval for incremental credit for not more than eight (8) semester hours earned during the regular school year. Any exceptions to this policy would require prior approval by the Superintendent.

Courses for which incremental credit is approved must be utilized within eight (8) years after completion of said course. Staff members may request approval for courses taken between 1964 and 1969 which would be evaluated and approved according to our present guidelines.

It will still be necessary for staff members to submit requests for increments based upon approved courses with substantiating transcripts.

With the fields of knowledge expanding at an accelerated rate, it is predictable and expected that professionally-oriented teachers will keep current in their field by taking appropriate and additional course work as required in teaching areas.

For Courses Beyond the B.A.

Graduate courses taken and which are part of an approved master's degree program in a subject area speciality included in our curriculum or a related field as defined in 2,b and c below offered by a fully accredited institution of higher learning will be accepted with the expectation of receiving incremental credit provided paragraph 5 of General Provisions, is not violated. Required transcripts submitted to substantiate completion of work and requests for increments must indicate that the applicant teacher has been accepted by the appropriate university authority into a selected master's degree program. In the event that the transcript does not indicate admission to an M.A. degree program, a letter from the registrar is required.

Graduate courses taken but which are not an integral part of an approved master's program, as has been described above, may be accepted for incremental credit if with prior approval of the Superintendent, and if:

They are in the teacher's major area of preparation or the area in which the teacher is presently teaching.

The courses are closely related to the teaching areas or are in a closely related field where they can be justified by current relevance to the instructional program. (By exposure to newly developed materials or methods in his field the teacher may avoid obsolescence or may increase his competency.)

A "related field" might include certain courses in such areas as:

Psychology
Guidance and Counseling
Audiovisual Methods
Educational Statistics and Methods of Research.
Other specific courses designed to enhance the teacher's professional effectiveness in the area to which the teacher is assigned.
Administration and Supervision

Provisions For Courses Beyond the Master's

All teachers who have been granted a master's degree are entitled to additional increments for training received at an accredited college or university at the graduate level after the granting of the master's degree. In addition, teachers with master's degrees who take refresher courses in their subject matter field or who are taking training for a specific position at other than the teacher's present level, with the knowledge and consent of the Superintendent's or of a teacher-administration evaluation committees, are entitled to additional increments.

Graduate courses taken after receipt of and beyond the Master's Degree which are in the teacher's assigned teaching area need no prior approval. They are accepted automatically for incremental credit on the salary schedule as indicated. The teacher should notify the Office of Personnel of intent to change columns by completing a special "Beyond the Master's Intent Form" by April 1 of each school year.

Courses for which incremental credit is sought and which are taken in a related field must be approved by the Superintendent in advance of enrollment in such courses. A "related field" might include certain courses in areas such as:

Psychology
Guidance and Counseling
Audiovisual Methods
Educational Statistics and/or Methods of Research
Administration and Supervision
Other General Educational courses designed to enhance the teacher's professional effectiveness in the area to which the teacher is assigned.

Teachers who are working toward certification in a special field, e.g., Guidance and Counseling or Administration and Supervision, should not expect to receive credit for every course made available to them. While it could be argued that any and all additional training may have some value in some way and to some degree, the District should not be expected, nor has the Board indicated any willingness to subsidize a teacher who wishes to prepare for a different and supposedly "better" position. An exception could be made, however, should the District through the Superintendent, request that a teacher acquire special and/or additional preparation as a prerequisite to an anticipated and agreed upon future assignment. Even in the absence of such a district request, if the teacher were to be employed and assigned subsequently to a position utilizing such special and/or additional training he will be given credit for the training at the time such assignment and determination of salary is made.

COUNSELORS

The counselors' regularly assigned day shall be that generally required of all teachers. As with classroom teachers and other regularly assigned certificated personnel this is not to be interpreted so as to interfere with or relieve the counselors of the responsibility for service as required to serve students, parents, and their colleagues appropriately and professionally. Counselors shall be on a contract year that provides for ten (10) days of service beyond that of regular teachers. The utilization of these ten (10) days may be flexible reflecting the justified needs and desires of the head counselor and building principals. The scheduling of these ten (10) days shall be completed in consultation and with the agreement of the counselor involved. Salary for the additional ten (10) days shall be calculated on a per diem basis.

In emergency situations or those characterized by obvious but unanticipated needs, extended time or extra days of duty for

cause may be requested by principals. If approved by the Superintendent, the salary for such request and approved extended time will be calculated on a per diem basis.

LEAVES: The board will grant sick leave to each certificated employee at the following rate: 9 months - 12 days, 9½ months - 12½ days, 10 months - 13½ days, 10½ months - 14 days, 11 months - 14½ days; 155 days maximum accumulation; any teacher with at least 15 years' service in the school district may be reimbursed upon termination of employment while in good standing, one-half of the unused accumulated sick leave days at the current single daily substitute rate; two days of sick leave may be used for emergency or personal obligations, religious obligations, or additional bereavement leave; bereavement leave of three days per death in the immediate family; summer school employees will be granted one day of sick leave for personal illness, family emergency, family illness, or death in the immediate family; three days' leave for educational conferences and workshops; board will make up the difference between compensation and normal pay for any employee called for jury duty or an employee who is subpoenaed to appear in a matter in which the employee is not a party or a party of interest; sabbatical leave will be granted to three teachers at their regular salary minus salary for a substitute; however, such salary after deduction for substitute services shall in no case be less than the minimum provided by the school code, or one-half of the basic salary, whichever is greater; upon return from sabbatical the teacher will be assigned to a comparable position; upon recommendation of the superintendent, the board may grant a tenure teacher a leave of absence for illness, disability, educational or professional purposes, or political appointment or election; service leave of absence may be granted for participation in exchange teaching program in territories or other countries, foreign or military teaching programs, the Peace Corps, Job Corps, VISTA or some other similar program as a full-time participant, cultural travel or work program related to his professional responsibilities; upon return from such leave a teacher will be placed at the same position on the salary schedule as he would have attained nad he taught in the district during such period; maternity leave will be granted for up to four semesters to any second-year or tenured staff member who submits a written request by the end of the fourth month of pregnancy along with a physician's certification of pregnancy; the employee will not lose accumulated benefits and rights of employment previously gained; if the teacher has completed six months or more of the school term, she will be considered as having completed a full year for advancement on the salary schedule.

INSURANCE: Board pays 100 percent of employees health insurance with single coverage; however, employees may add coverage of dependents at own cost; board pays group life insurance in the amount of $10,000 with double indemnity; district will protect all employees and student teachers from losses resulting from suits arising out of claims for damages resulting from alleged negligent or wrongful acts of the employees committed in the scope of their employment or under the direction of the board of education; tax-sheltered annuity plan available.

ASSOCIATION: The association president will have his daily teaching schedule so arranged that his daily preparation period is the last period of his assigned day; he will be allowed to leave his assignment when necessary during this time to conduct affairs of the association; up to 10 days' released time for designated association representatives to attend the annual Illinois Education Association convention; the association will be granted an additional 10 days per year for members designated by the association president to participate in meetings connected with the Illinois Education Association and the National Education Association; service leave of absence may be granted to any teacher to serve in the Illinois Education Association or the National Education Association as an officer or staff member; upon return the teacher will be placed at the same position on the salary schedule as he would have attained had he taught in the district; the association has the right to use school facilities for meetings outside school hours; the board will provide storage space for association materials in a place that can be secured.

INSTRUCTION: High-school and middle-school teachers will be provided a 30-minute duty-free lunch period and not less than one preparation period per day; elementary teachers will be provided a 45-minute duty-free lunch period and not less than a 30-minute preparation period per day; every effort shall be made to limit a teacher's academic subject preparation to three; staff members who are assigned in lieu of their preparation period, the responsibility of an absent teacher's class, will be reimbursed on a prorated basis of a substitute teacher's pay; the administration will try to insure that no teacher will be required to teach more than four consecutive class periods; every attempt will be made to limit academic classes to 28 students; when a class exceeds 35 students, every reasonable attempt will be made to provide the teacher with such assistance as teacher aides, teacher assistants, or full-time substitutes; the assigned school day for teachers will not exceed 7½ consecutive hours; nonprofessional personnel will supervise noontime playground and lunchroom at all grade levels; professional staff on such duty will do so as volunteers and will be paid at the rate paid nonprofessional supervisors; summer school teaching positions will be filled where possible by regularly appointed teachers in the school district; consideration will be given to competence, major and minor field of study, length of service in the school district, and frequency of prior applications for assignment to summer positions; inservice training workshops will be held annually.

PERSONNEL: Grievance procedure ends with board consideration of arbitration report and final decision within 20 days of submission by arbitrator; right to review personnel file upon written request and in the presence of a personnel officer; the teacher will be permitted to reproduce at his own expense any material in his file, excluding confidential recommendations of former employers and confidential college credentials; no material will be placed in the file unless the teacher has had an opportunity to read it; the teacher must sign material placed in file to acknowledge that he has seen it; material that the teacher does not agree with may be contested; the association and the administration will provide opportunities for teachers to increase or update their knowledge of their teaching field or in general

areas of education to enhance the educational growth of the district; the first two years of employment in the district will be considered probationary years regardless of previous experience; and for teachers with no previous experience may be extended one year; the parties agree that the primary purpose of teacher evaluation is to improve the quality of instruction; evaluations of a teacher's performance will be made by the principal or assistant principal only; evaluation by any other employee of the district will be advisory only; traveling teachers will have evaluations prepared by all building principals and subject area specialists, if appropriate, with the final evaluation a composite prepared by the Director of Elementary or Secondary Education; a copy of this evaluation, individual and composite, will be provided the teacher and a conference held if the teacher so requests; observation of formal classroom performance will be conducted with the full knowledge of the teacher; informal observations outside the classroom which are to be used to evaluate the teacher will be formally evaluated at least twice each year and a tenure teacher will be formally evaluated at least once each year; within five days after formal evaluation a conference will be held to discuss the evaluation; if the principal does not recommend a probationary teacher for continued employment, a copy of the recommendation will be given the teacher; teachers may be discharged only for reasonable and just cause which includes incompetency, cruelty, negligence, and immorality; if practicable seniority will be taken into account in making a transfer; assignments and reassignments will be made by the superintendent on the basis of qualifications and tenure; changes in assignment made before August 1 will be discussed with the staff member to determine if it is satisfactory; any teacher involuntarily transferred will be released from his contract or be granted a leave of absence not to exceed one year.

* * *

APPEAL (IMPASSE)

Mediation

If agreement cannot be reached during negotiations, either party may request mediation as a means of attempting resolution of the item or items in dispute. Such request must be honored by the other party. The Board and the Association shall stipulate in writing points of agreement and points not resolved.

The services of the Federal Mediation and Conciliation Service or other comparable neutral organization, if available, shall be used.

The mediator shall have the authority to confer separately or jointly with the parties, and shall take such other steps as he may deem appropriate in order to persuade the parties to resolve their differences and effect an agreement, provided, that the mediator shall not, without the consent of both parties, make finding of fact or recommend terms of settlement.

Fact-Finding

If mediation is unsuccessful in resolving the dispute between the parties, fact-finding may be invoked by either party.

A fact-finder shall be selected by the American Arbitration Association (AAA) or other comparable neutral organization, if available, in accordance with its rules.

At the time of declaration of impasse, if a proposal has been tendered and not countered, the party to which the proposal was offered may make a final counterproposal prior to fact-finding.

The items of impasse and the positions of the parties in fact-finding shall be as specified in paragraph "c" above.

The fact-finder shall in no more than thirty (30) days after his selection, make findings of fact and recommend terms of settlement, which terms shall be advisory only. Findings of fact and the recommended terms of settlement shall be submitted in writing to the parties.

The fact-finder shall, within (10) days after his selection, meet with the parties or their representatives, or both, either jointly or separately, make inquiries and investigations, hold hearings, and shall take other steps as he deems appropriate. The Board and Association shall furnish the fact-finder, upon his request, all records, papers and information in their possession relating to any matter under investigation by or in issue before the fact-finder.

Within fifteen (15) days from receipt of the written recommendation each party must notify the fact-finder, in writing, of its decision to accept or reject the recommendation of the fact-finder. If the written recommendation is not accepted, the reasons for non-acceptance must be included in the response.

The costs for the mediation and the fact-finder shall be equally shared by the Board and the Association.

Assistance

The Board and the Association may call upon competent professional and lay representatives to consider the matter under discussion and to make suggestions. Both parties have the right to utilize the service of consultants in the deliberations.

Miscellaneous

Any and all agreements reached as the result of negotiations shall be reduced to writing and copies provided to all parties.

Nothing in this agreement shall preclude or impinge upon the recognized and inherent right of the Superintendent and/or a member of the Springfield Education Association negotiation committee to consult with such members of the administrative staff as he may choose concerning matters brought before the negotiating committees. All such conferences shall be private and no information shall be released without mutual consent of the Board and the Association.

* * *

REPRESENTATION REFERENDUM

A group challenging the Association must submit evidence that it has at least thirty percent (30%) of the total regularly certificated professional staff as members. This evidence shall be filed with the Secretary of the Board of Education between September 15 and October 15 of any odd-numbered year. Such a referendum shall be held within thirty (30) days of the filing of the petition of membership.

Time

Such election will be held on a school day which is immediately preceded and followed by a school day. The polls will be open from 3:30 p.m. to 6:00 p.m.

Places

Such election will be held in all middle and high schools.

Eligibility

An eligibility list shall be developed by the Association, the challenging group and representatives of the Board of Education. Copies of said eligibility list shall be made available for the President and/or spokesman of each group, each building principal, and one copy conspicuously displayed in each teacher faculty room. Such eligibility list shall be delivered and displayed within 5 school days of the election. Any challenge to the eligibility list must be made within 48 hours of the election.

Upon signing the affidavit the person will be issued a ballot initialed by a polling judge. Administration and District clerical personnel are not eligible for service as polling judges. If a teacher is selected to serve as a polling judge, it shall not interfere with their working day. Upon completion of voting, the ballot shall be folded and given to the polling judge who will deposit it in the sealed ballot box.

A list of all persons voting absentee will be sent to each polling site no later than 3:15 p.m. on election day. Such individuals delivering lists cannot be a district clerical employee or administrator.

Lobbying Rules

Lobbyists will be permitted in the building to visit with staff members before, or after their 7¼ hours of the regularly assigned teaching day. If the lobbyist is not a member of that building staff, proper arrangements with the building principal must be made in advance. On election day there will absolutely be no distribution of any campaign materials on school grounds. In addition, there will be no campaigning by outside representatives on this day. All posters will be removed prior to the start of this school day by the responsible groups. It will, however, be permissible to wear organizational pins on election day. No permission will be granted to enter building to outside representatives on election day.

All school campaign materials will be limited to the faculty lounge and teachers' mail boxes, and may be distributed by both groups. Proper arrangements with the building principal must be made in advance by both groups. There should be no materials which will receive student and/or public visibility.

All additional matters pertaining to the referendum shall be mutually established by the Association, the Board of Education, and the challenging group.

Upon failure to reach agreement within ten (10) school days following the validation of the petitions, the issues in dispute shall be submitted to the American Arbitration Association.

Costs of the referendum shall be equally shared by the challenging group and the Association.

Ballots

The ballot shall contain only the names of those organizations and/or groups and all of their affiliates, and/or "no representations" which are involved in the election. The ballot shall also contain the statement, "Place an X inside the box opposite the position with which you agree."

The Ballots, along with an eligibility list, shall be delivered in a sealed envelope to each building, and shall be held in safe keeping by the building administrator or his designee until such time for the election. The building administrator shall deliver the sealed envelope with the ballots and eligibility list to the polling judges at the polling site thirty minutes before the time the election in that building is to begin.

The polling site shall be established by the building administrator. Directions to such polling sites will be clearly posted.

Voting

As an individual votes, one (1) polling judge shall pencil out that individual's name from the eligibility list and one (1) judge shall initial the ballot at the time it is handed to the voter.

On the closing of the polling booths the eligibility list shall be placed in the ballot box. The two (2) polling judges will escort the ballot box and the extra ballots to a predetermined central place where the ballots will be counted. Representatives of each organization on the ballot may accompany the polling judges.

Counting

Equal members of the Association and the challenging group may be present to observe the counting of the ballots. The counting shall be done by predetermined and mutually agreed upon ballot counters. If there are contested ballots such shall be decided by a representative of the American Arbitration Association. This person's decision shall be final and binding.

Polling Judges and Poll Watchers

Polling judges will be mutually agreed upon by the Association, Board of Education and the challenging group. Each group may have a poll watcher at each polling site.

Absentee Balloting

Absentee balloting may take place five (5) school days prior to the date of the election and no later than twelve (12) noon of the day preceding the election date.

Absentee voting shall take place at the district administrative office between 8:00 a.m. to 10:00 a.m. and 3:00 p.m. to 5:00 p.m.

Persons wishing to cast an absentee ballot shall sign an affidavit declaring his/her full name and his/her assigned school.

* * *

Kingston, New York

Between City School District of the City of Kingston and the Kingston Teachers Federation (affiliated with AFT, AFL-CIO, and NEA), effective July 1, 1973, to June 30, 1974. Approximately 650 certificated professional employees, excluding the superintendent, associate superintendents, the assistant superintendent, administrative assistants, principals, assistant principals, directors, assistant directors, supervisors, coordinators, department chairmen, deans, per-diem substitute employees.

COMPENSATION: B.A., $8,400 to $13,250, 14 increments; B.A. plus 12 hours, $13,470 maximum; B.A. plus 30 hours, $13,800 maximum; M.A., $9,060 to $13,910, 14 increments; M.A. plus 12 hours, $14,130 maximum; M.A. plus 30 hours, $14, 460 maximum.

Separate salary for school psychologists, 14 increments: M + 36, $9,720-$14,570; M + 48, $14,790 maximum; M + 60, $15,010 maximum; each psychologist to receive a minimum salary increase of $500 for 1973-74.

GUIDANCE COUNSELORS

Guidance Counselors will be placed on step and column on the teachers' salary schedule. The column will be determined by preparation, and the step will be determined by the years of experience as a teacher and guidance counselor. Column and step will be evaluated at the time of original employment in this school district. A $330 differential shall be added to this amount. Pay for those assigned to work an eleventh month shall be computed by taking the base salary, adding the differential, and then taking one-tenth (1/10) of the total. Secondary Guidance Counselors shall work an eleven (11) month period. The eleventh month shall consist of twenty-two (22) working days.

A timetable of the working days would include the first eleven (11) working days in July and the last eleven (11) working days in August. Any deviation from this schedule shall be by recommendation of the building principal and guidance counselor, with the approval of the coordinator of guidance.

All guidance counselors will report for work the same days as teachers during the regular school year except that they will be on duty each working day for the entire month of June and September.

INSERVICE CREDITS

A member of the Teachers' Unit shall be eligible to complete fourteen (14) credits in inservice courses for salary credit. If a member of the Teachers' Unit successfully completes two (2) three hour courses at the college level, either before, during or after completion of fourteen (14) inservice credits, he shall be granted permission to take an additional fourteen (14) credits in inservice courses for salary credit. All inservice courses must be approved by the Superintendent of Schools. Each teacher unit employee, upon successful completion of an inservice course, shall receive a written statement indicating completion of the course. After evaluation by and upon recommendation of the Superintendent of Schools, teachers shall receive inservice credit for educational articles published in educational journals and for published books. Credit shall range from 1 to 6 semester hours.

Credit for up to four years' experience shall be granted for military service; credit up to two years for service in either VISTA or Peace Corps with additional years of credit, up to a total of four, for teaching experience in either organization; any tenure teacher having taught in the district 15 years or more who is eligible for retirement under the New York State Teachers' Retirement System and who has submitted his resignation on or before November 15 of the school year during which he retires is eligible to receive $500 upon termination.

DIFFERENTIALS: Head football coach, $1,450; football assistants, $600 to $950; basketball coaches, $400 to $1,100; baseball coaches, $400 to $700; track coaches, $500 to $775; wrestling coaches, $300 to $600; high-school girls' interscholastic athletics, $300 per sport; cheerleading, $100 to $410; intramurals, $170; drama, $330; band, $300.

OTHER: Adult education and home teaching instructors to be paid $6.00 per hour; additionally, home teaching instructors will receive $1.50 travel allowance for each visit; the differential for uncertified teachers of special education will be $225; teachers required to work on days not specified as working days on the school calendar will be paid 1/200 of annual salary per day; $.10 per mile for authorized travel.

LEAVES: One day of annual sick leave to be credited each month, with unlimited accumulation, to be used in case of personal illness or physical disability; teachers permitted to contribute accumulated sick leave to any member of the teachers' unit who has exhausted his sick leave and is still absent owing to his personal illness, such leave for the individual not to exceed 50 school days in any one school year; bereavement leave up to 5 days for the death of a member of the immediate family; a teacher may be freed to attend a funeral if his duties are, in the discretion of the building principal, adequately covered and without cost to the district; leave for religious holiday will be granted when absolutely necessary for the observance; 2 personal business days granted per year; unused personal leave to be added to accumulated sick leave; no sick time will be deducted from a teacher's sick leave when he leaves school owing to an emergency and no substitute is hired for the remainder of the day; leave will be granted for attendance at workshops, seminars, or other professional improvement sessions; the district will pay reasonable expenses, including fees, meals, lodging, and transportation; teachers will receive time necessary to appear in any legal proceeding connected with his employment; the board will pay the regular salary minus Workmen's Compensation benefits and social security benefits for on-the-job injuries for up to the end of the fiscal year involved; sabbatical leave at full pay for one year after seven years' service in the district for the purpose of pursuing a graduate study program; requests for sabbatical leave prior to February of the preceding year for which leave will be taken will be responded to by the superintendent no later than March 15; leaves of absence will be granted upon the recommendation and upon board of education approval for continuance of education up to and including a doctor's degree, providing it is in an area in which the teacher is working or will work in the district, for acceptance of a grant, scholarship, fellowship, or other education award, for service as an elected or appointed political officer, for convalescence from a serious illness or accident, for service in a full-time position in the teacher organization, and for maternity.

INSURANCE: Board will pay 100 percent of the New York State Health Plan for individuals or families; a dental insurance plan will be established with the board contributing $100 per teacher; district will maintain an insurance coverage to protect teachers against personal property loss, excluding money; tax-sheltered annuity plan available.

ASSOCIATION: Payroll deduction of association dues; 45 minutes daily released time for Federation Grievance Committee chairman; 45 minutes daily released time for Federation president; released time for Federation representatives to attend conferences and conventions of the organization's state and national affiliates to a total of five teacher-days per school year; bulletin board will be provided in each school; Federation representative will be given the opportunity at the end of any faculty meeting to talk to staff.

INSTRUCTION: The maximum class size for kindergarten classes will be 30; if the class exceeds 32, an aide will be provided; maximum class of 29 for grades 1-4, and 30 for grades 5 and 6; if classes exceed the maximum, consideration will be given to adding another section if space is available or to transferring excess pupils to another school; the maximum for junior high-school classes will be 32 in advanced, regents, mid-groups, and art classes, 27 in school classes, 45 in music classes, and 60 in physical education classes; the maximum for high-school classes will be 30 pupils in advanced, regents, and school classes, and 120 in

physical education classes; one 30-minute duty-free lunch period daily; the length of the school day for secondary professional personnel will be 7 hours, 15 minutes, and will be 6 hours, 45 minutes, for elementary-school personnel; the length of the school day will be shortened by 15 minutes on Fridays, on days preceding a holiday, and on days teachers must attend an after-school staff meeting; one or two unused snow days will be added to the Memorial Day vacation; all secondary teachers, except physical education teachers, will have five class assignments; every effort will be made to avoid more than three consecutive class assignments in any school day and more than two different preparations; every secondary teacher will have at least one unassigned period per day; the goal for elementary school is one librarian per 625 students a week; however, the maximum is one librarian per 750 students per week; one vocal music teacher per 750 students per week and one physical education teacher per 240-250 students per day; three speech therapists will be retained for the 1973-74 school year; aides will be hired for lunchroom supervision; clerk typists will be hired to do typing and duplicating work for teachers; every effort will be made to provide physical education, art, music, and library sessions at least once a week for each grade (K-6) and to have a special subject (art, vocal music, physical education or library) each school day.

PERSONNEL: Grievance procedure ends with final and binding arbitration; right to review personnel file upon request; right to answer any material and attach to file copy; building faculty meetings will be held no more than once per month except that during September, May, and June additional meetings may be held, but not to exceed a total of five in one year; after-school meetings will begin by 3:30 and last no more than 60 minutes; classroom observation of teachers for the purpose of evaluation will be done only by appropriate supervisory personnel; a tenured teacher summoned for an interview for the record which may lead to disciplinary action entitled to be accompanied by a Federation representative or by his lawyer; he shall receive two days' notice of such a summons and the reason for summons; an interview not held in accordance with these conditions will not be considered part of the employee's personnel file or record, and neither the fact of the interview nor any statements made at the interview by either the administrator or the teacher may be used in any subsequent proceeding involving the employee; except for unsatisfactory job performance as provided under the tenure law, no teacher will have his employment terminated during the duration of the contract.

* * *

PERSONNEL FILE PROVISIONS IN COMPREHENSIVE TEACHER AGREEMENTS

Teacher personnel file provisions in comprehensive teacher agreements were incorporated in nearly half of the 1,529 negotiated agreements for the 1970-71 school year. A sample of agreements (144) composed of every fifth agreement from each state having a negotiated agreement containing teacher's personnel file provision was selected for analysis. The general negotiated content of these provisions is shown in Table 1. In all the sampled agreements, a teacher's personnel file was subject to a review by the teacher upon prior request and at a mutually convenient time. However, privileged or confidential material was exempted from the teacher's review. While almost 2 provisions in 5 provided that a teacher association representative accompany the teacher during a review of his personnel file, 1 provision in 5 allowed the review to be made in the presence of an administrator, usually the person responsible for keeping the files.

Upon written request, each teacher shall have the right to review at a time mutually convenient the contents of his personal file, excepting however, any confidential reference given prior to the time of his employment. At the teacher's request an M.E.A. representative may accompany the teacher in such review. The review shall be made in the presence of the administrator responsible for the safe-keeping of such file.

[Mapleton Public Schools, Denver, Colorado]

TABLE 1.—CONTENT: PERSONNEL FILE PROVISION

Item	Number	Percent
1	2	3
Teacher has right to review contents of personnel file	144	100.0
Specific contents of personnel file listed	15	10.4
Filing of derogatory materials	69	47.9
Privileged or confidential materials	76	52.8
Right to reproduce material in file	34	23.6
Total sample	144	100.0

One provision in 10 listed the materials to be included in a teacher's personnel file. Such items as medical records, college transcripts, copies of contracts, and other personal and professional data were generally named. For example:

Each teacher's personnel file shall contain the following minimum items of information:

Required medical information.
Teacher evaluation reports and other information regarding teacher performance.
Copies of salary statements.
Other information which is used as a basis for discipline or failure to re-employ a teacher.

[Moline, Illinois]

Each teacher shall have the right, upon request, to review the contents of his own personnel files exclusive of materials received prior to the date of his employment by this District. A representative of the Association may at the teacher's request accompany the teacher in this review. Each teacher's personnel file subject to such review shall contain the following minimum items of information:

Annual TB report and required medical information
All teacher evaluation reports
Photostatic copy of the Teacher's Certificate
Transcript of academic records
Tenure recommendation

[Portland, Oregon]

The Board of Education and Copiague Teachers Association agree that teacher personnel folders will be utilized to contain credentials, certification documents, transcripts, employment recommendations received by the district, statements of evaluation, and an employment record card.

[Copiague, New York]

TABLE 2.—TEACHER'S RIGHT TO REVIEW CONTENTS OF PERSONNEL FILE

Item	Number	Percent
1	2	3
Teacher has right to review contents upon request	144	100.0
Teacher may have association representative at review	53	36.8
Teacher may review contents in presence of administration	35	24.3
Total sample	144	100.0

Almost one-half of the sampled provisions referred to the filing of material derogatory to the teacher's conduct, service, character, or personality. All of these provisions specified that no derogatory material could be placed in the teacher's personnel file unless the teacher had an opportunity to read it and to acknowledge his having seen it by signing it. More than one-third provided the teacher with an opportunity to respond to derogatory material and 3 provisions in 10 provided for the filing of the teacher's response, but 2 provisions in 10 provided for filing of the teacher's response, subject to review by the administration.

However, no material derogatory to a teacher's conduct, service, character or personality will be placed in his personnel file unless the teacher will acknowledge that he has had the opportunity to review such material by affixing his signature to the copy to be filed with the express understanding that such signature in no way indicates agreement with the contents thereof. The teacher will also have the right to submit a written answer to such material and his answer shall be reviewed by the Superintendent of Schools and attached to the file copy.

[Everett, Massachusetts]

Material originating within the School System and which is derogatory to a teacher's conduct, service, character or personality shall not be placed in a teacher's file unless the teacher has had an opportunity to read the material. The teacher shall acknowledge that he has read such material by affixing his signature on the actual copy to be filed. Such signature does not necessarily indicate agreement with the content of such material.

[Phoenix Union High School District, Phoenix, Arizona]

TABLE 3.—FILING OF DEROGATORY MATERIALS IN TEACHER'S PERSONNEL FILE

Item	Number	Percent
1	2	3
Material not filed unless teacher has had opportunity to read it	69	47.9
Teacher has opportunity to respond to derogatory material to be filed	50	34.7
Teacher's response to be inserted in personnel file	43	29.9
Reviewed by administration before insertion into file	32	22.2
Total sample	144	100.0

Slightly more than half of the sample provisions exempted material from the teacher's inspection on the basis of confidentiality. Privileged or confidential material reflected information received by the administration from outside sources concerning the teacher's original employment. One provision in 6 exempted all material obtained by the administration before the teacher's original employment and more than 1 provision in 10 listed specific items originating outside the system which were to be considered as privileged or confidential material not subject to review by the teacher. However, some provisions stated that the administration was to provide the teacher with a list of the items exempted from inspection.

Each teacher, upon request, shall have the right to review the contents of his own personal file maintained by the school system. The review shall be made at the central office in the presence of the administrator responsible for the safekeeping of the file. Privileged information such as confidential credentials, letters of reference from the universities, individuals, or previous employers are specifically exempted from such review. The administrator shall remove such credentials and confidential reports from the file prior to a review of the file by the teacher.

[Ross Twp., Merrillville, Indiana]

Information received by the administration prior to employment, confidential medical records obtained in employment processing, and confidential references or evaluations obtained from sources outside the school system subsequent to employment shall be exempted from inspection. However, the instructor shall be provided a list of such items upon request.

[Wichita, Kansas]

About one-fifth of the analyzed provisions stipulated that a teacher could reproduce or be furnished with photocopies of any material, other than confidential materials, placed in the teacher's personnel file as in the following:

The Director of Personnel shall be responsible for providing the employee with copies of records to be filed in personnel folder, if a copy has not been directed to the employee.

[Smithtown Central School District 1, St. James, New York]

If the teacher has instituted grievance or other judicial proceedings, he shall be granted the right to reproduce any materials in his file not considered to be privileged, such as confidential credentials and related personal references normally sought at the time of employment.
[East Brunswick, New Jersey]

TABLE 4.–CONFIDENTIAL MATERIAL IN TEACHER'S PERSONNEL FILE

Item	Number	Percent
1	2	3
Confidential materials exempted from review by teacher	76	52.8
All material prior to employment considered confidential	23	16.0
Specifically named material considered confidential	21	14.6
Material originating outside system considered confidential	7	4.9
Evaluative materials originating inside system regarding employment or promotion considered confidential	4	2.8
Total sample	144	100.0

Selected provisions covering teachers' personnel files are reprinted below. These are sample provisions only, and not intended to be regarded as exemplary.

TEACHER FILES

All teacher files shall be maintained under the following conditions:

All materials placed in a teacher's file and originating within the School District shall be available beginning Sept. 1, 1970, to the teacher at his request for inspection, except as provided by Section D.

Material originating within the School District and which is derogatory to a teacher's conduct, service, character or personality shall not be placed in a teacher's file unless the teacher has had an opportunity to read the material. The teacher shall acknowledge that he has read such material by affixing his signature on the actual copy to be filed. Such signature does not indicate agreement nor disagreement with the content of such material. If the teacher refuses to sign the derogatory material, the material may be placed in the file with a notation made of such refusal.

The teacher shall have the right to answer any material filed, and his answer shall be submitted to the Administrative Assistant, and attached to the file copy.

All references and information originating outside the School District on the basis of confidentiality, and information obtained within the School District in the process of recommending the teacher for employment or promotion shall not be subjected to this agreement and therefore shall not be available for inspection by the teacher.

[Wilson School District 7, Phoenix, Arizona]

Each teacher shall have the right upon request to examine any of the following documents in his file: (a) teacher's certificate; (b) college transcript; (c) evaluations of his professional performance; (d) letters from parents; (e) clippings from newspapers or periodicals. Entries in teacher files will be signed and dated as part of routine procedure. Entries prior to adoption of the 1966-67 contract shall not be invalidated by inadvertent omission of signature or date if the identity of the person making the entry and the date thereof can be established by competent proof or if such facts are immaterial to the issues at hand.

A representative of the Association may, at the teacher's request, accompany the teacher in such review. The review will be made in the presence of the administrator responsible for the safekeeping of such files. Privileged information such as confidential credentials and related personal references normally sought at the time of employment are specifically exempted from such review. The administrator shall, in the presence of the teacher's authorized representative, remove such credentials and confidential reports from the file prior to a review of the file by the teacher.

All communications, including evaluations by administrators, commendations and validated complaints (as set forth in Article X, Section D) directed toward the teacher which are included in the Personnel File shall be called to the teacher's attention at the time of such inclusion.

[Bloomfield Hills, Michigan]

* * *

All teacher files shall be maintained by the central administration under the following:

No nonconfidential or nonprivileged material derogatory to a teacher's conduct, service, character or personality shall be placed in a teacher's file unless the teacher is notified that such material has been or may be included in his file. Upon request by either a teacher or the administration, a teacher shall be given an opportunity to read such material and shall acknowledge that he has read such material by affixing his signature on the copy to be filed. Such signature merely signifies that he has read the material to be filed; it does not indicate agreement with its content.

A teacher shall have the right to comment upon any nonconfidential or nonprivileged material filed and his comment shall be reviewed by an appropriate member of the administration and attached to the file copy.

Upon request by a teacher, he shall be given access to his file for good cause within a reasonable time. Confidential and privileged information, such as confidential credentials, letters of reference from universities, individuals, or previous employers are exempted from such review. The appropriate administrator shall remove such confidential and privileged material from the file prior to a review of the file by the teacher.

A teacher shall be permitted to reproduce material in his file other than confidential or privileged material, provided that such reproduction is without cost to the Board.

Teachers will keep their files up to date on forms supplied by the Administration concerning names (beneficiaries, persons to be notified in case of emergency, dependents, etc.) addresses, telephone numbers, marital status, higher education related to professional advancement, health and medical status, pregnancy, and other matters required for good cause in personnel administration.

File copies shall not be removed from the offices of the School Administration.

A representative of the School Administration shall be present at any inspection or reproduction of a teacher's file.

The Administration shall provide a facility by which teachers may reproduce material in their files at cost.

[Pompton Lakes, New Jersey]

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Case Reviews

ILLINOIS

Arbitrator Exceeds Authority by Ruling on Non-Arbitrable Issue

The Illinois Appellate Court upheld a lower court ruling that overturned an arbitration award favoring the Champaign Education Association on the ground that the arbitrator exceeded his authority by going beyond the contract. The grievance arose after student lunch periods were lengthened to one hour while teacher duty-free lunch periods remained at 30 minutes. Students were to use the additional time for extracurricular activities or as extra recess time while teachers were to be available for supervision on a rotating basis. The Association maintained that extending student lunch periods while leaving teachers' at the status quo was a violation of the School Code.

Regarding the lower court decision, the Association contended that the court should have based its determination on the statutory grounds for vacating arbitrators' awards in existence prior to the adoption of the Uniform Arbitration Act. Therefore, the only grounds for overturning an arbitration decision were fraud, corruption, other undue means, or a showing that the arbitrator misbehaved. Additionally, the School Code provision that mandates that teachers have a lunch period equal to the students' lunch period should govern in the instant case since conflicts between the agreement and the Code must be resolved in favor of the Code. The Association then argued that the board of education waived its right to challenge the arbitration award when it participated in arbitration and waited until after the award was rendered before filing the petition.

The appellate court found that the association's reliance on the 1917 statutory grounds for vacating arbitrators' awards was not valid since they were repealed by the enactment of the Uniform Arbitration Act. Even if the 1917 statute were still valid. the court pointed out, the language of the act would permit, as does the Uniform Arbitration Act, vacating awards entered by an arbitrator acting without authority. Continuing, the court said that the terms of the contract relating to the lunch period neither conflicted with rights granted under the School Code nor constituted a denial of them. Additionally, alleged violation of the School Code did not constitute a grievance within the terms of the agreement and therefore the issue was not arbitrable.

The court held that the board of education had not waived the right to challenge the arbitration award simply by having participated in arbitration since the record showed that the board had filed a timely objection to the proceeding. Therefore, the lower court decision was upheld. (*Board of Education of Community Unit School District No. 4, Plaintiff-Appellee v. Champaign Education Association, Defendant-Appellant*, Illinois Appellate Court, November 21, 1973.)

MASSACHUSETTS

Service Fee Mandatory Subject of Collective Bargaining

The Massachusetts Supreme Judicial Court dismissed the Lynn Hospital's application to vacate a lower court ruling that upheld an arbitrator's decision requiring payment of an agency service fee to the Massachusetts Nurses Association.

The hospital contended that while agency service fee was a proper subject for voluntary collective bargaining, it could not be determined by aribtation because the arbitration involved was mandatory and not voluntary. To show that the arbitration involved was mandatory, the hospital pointed to section 9A of the labor relations law which states that grievances or disputes between a health care facility and the collective bargaining agent for nurses shall be submitted to arbitration.

The court agreed with the hospital's argument that arbitration was mandatory for grievances and unresolved disputes; however, the two parties had agreed in their previous contract to voluntarily submit their unresolved differences to arbitration. Relying on *National Labor Relations Board v. General Motors*, the court pointed out that the Supreme Court had ruled that the subject of union security is a mandatory subject of collective bargaining if it is not banned by state law. Since Massachusetts had not banned such provisions, the court concluded that the hospital was required to negotiate the subject with the union and to submit the subject to arbitration when negotiations failed to produce an agreement.

On the basis of the foregoing the court dismissed the hospital's petition and confirmed the arbitrator's award. (*Massachusetts Nurses Association, Appelle v. Lynn Hospital, Appellant*, Massachusetts Supreme Judicial Court, January 17, 1974.)

MISSOURI

Contract Does Not Contravene Statutory Ban Against Collective Bargaining By Teachers

The Missouri Supreme Court ruled that an agreement that provided for consultation and recommendations was not in conflict with law or prior court decisions, and dismissed the school board's contention that teachers do not have the right to bargain and negotiate. However, a school board is not precluded from establishing policy, regulation, or resolution in response to teacher proposals.

The case was brought by the R-5 Community Teachers Association which represented teachers employed by the board. The Association sought a declaratory judgment regarding its bid for a written teacher/school board agreement. A lower trial court had previously dismissed the Association's petition.

On appeal, the Association alleged that the board's refusal to honor the written agreement violated its rights of petition, peaceable assembly, and free speech and the right to appoint representatives to meet, confer, and discuss matters regarding employment as provided in the Fifth and Fourteenth Amendments to the federal Consitution and Article 1 of the Missouri Constitution.

The board challenged the court's jurisdiction, alleging that the application of a constitutional provision did not confer jurisdiction upon the court, that the Association did not plead facts adequate to invoke provisions of the Declaratory Judgment Act, and that the Association should have sought specific performance not a declaratory judgment. The trial court sustained the board's move for dismissal on the ground that the Association failed to comply with applicable rules governing class actions.

The state supreme court found that the agreement involved was not in conflict with the standards presented by the board because it provided for consultation and recommendation without binding the board to an agreement. The court held that while the agreement did provide for a study group to make recommendations regarding unresolved issues, the board remained free to accept or reject them. Accordingly, the court reversed and remanded the case to the trial court and directed the Association to prove compliance with rules governing class action. (*Richard E. Peters et al., Individually and as Representatives of Class Known as the R-5 Community Teachers Association, Appellants v. Board of Education of Reorganized School District No. 5 of St. Charles County, Missouri et al.*, Missouri Supreme Court, February 11, 1974.)

NEW JERSEY

School Board's Consolidation of Department Chairmanships Not a Proper Subject of Binding Arbitration

A school board cannot legally agree to submit to binding arbitration its decision to consolidate the chairmanships of two departments into a newly created chairmanship as such an action is an educational policy within the scope of management prerogative, ruled the New Jersey Supreme Court.

The school board had previously sought relief in a lower court to restrain the Dunellen Education Association from proceeding to arbitration. The board argued that submitting the issue to arbitration would be improper because though the agreement did not restrict such action, if the agreement was construed to restrict consolidation, the restriction would be an illegal, unenforceable delegation of the board's statutory responsibilities. The board also held that the commissioner of education had exclusive jurisdiction over the dispute since it arose under state school laws.

The commissioner, who intervened in the case, asserted that he had primary jurisdiction to determine whether the dispute arose under the school laws that are within his jurisdiction and decided that arbitration should be stayed.

Contending that the commissioner had no function regarding the dispute and that the issue was one for arbitration, the Association moved for dismissal. The lower court granted the dismissal, ruling that the controversy arose from the contract, and at the same time ruled out the commissioner's expertise in the matter.

The state supreme court found that in fulfillment of the state's constitutional mandate for legislative maintenance and support of a thorough and efficient system of free public schools, the legislature entrusted school supervision and management to local school boards. The court also found that the commissioner of education was empowered to hear and determine disputes arising under the school laws or the rules of the state board of education or the commissioner.

The court noted that in the New Jersey Employer-Employee Relations Act, the legislature did not specify the meaning of "terms and conditions" in regard to negotiating terms and condition of employment. The court indicated that the Nebraska Supreme Court determined that teacher organizations have a broad view of the meaning while school boards have restricted the meaning to preserve management prerogative and policy-making.

The court ruled that to consolidate was a matter of educational policy remotely affecting the terms and conditions of employment, and that the board had the statutory responsibility for such a decision. The court also ruled that the commissioner had the responsibility to supervise such a determination. So ruling, the court reversed the trial court's decision. (*Dunellen Board of Education et al., Plaintiffs-Appellants v. Dunellen Education Association et al., Defendants-Respondents, Commissioner of Education of New Jersey, Intervenor*, New Jersey Supreme Court, November 20, 1973.)

College Calendar a Matter of Management Prerogative and Non-negotiable

On appeal by the Board of Trustees of Burlington Community College, the New Jersey Supreme Court reversed the Law Division's ruling that the college calendar was a mandatory item for negotiation under the state Employer-Employee Relations Act. The court found that the college calendar which set the length and division of the school year was within management's prerogative and not an appropriate subject of bargaining between the board of trustees and the Burlington County College Faculty Association.

The Association originally filed a petition with the Law Division when the board refused to negotiate the college calendar on the basis that it was exclusively under manage-

ment's control and therefore not negotiable under the Act. The board of trustees held that the calendar did not determine faculty members' days and hours of work, their workload, or their compensation, but only fixed times when the college was open with courses available to students. Although the board of trustees had adopted the college calendar every year since the school's founding, the present governance structure provided for a calendar committee composed of representatives from administration, faculty, and student body. According to the board of trustees, the calendar had a great effect on the school's budget because it was a major determinant of the number of student credit hours produced. Additionally, the calendar was designed to serve the needs and interests of the student body and the neighboring community.

The court believed that the board presented sufficient evidence that designing the school calendar was a major educational policy decision and implicit in the board's responsibility "for the management and control" of the institution. Pointing out that the board did discuss the college calendar with students, faculty members, and the administration through the grievance structure, the court suggested that the discussions also include official representatives of the Association. As the court did not find the college calendar a mandatory subject for negotiation, it reversed the lower court's decision and upheld the board's petition. (*Burlington County College Faculty Association, Plaintiff-Respondent v. Board of Trustees, Burlington County College Defendant-Appellant*, New Jersey Supreme Court, November 20, 1973.)

NEW YORK

Arbitrator's Award of Reinstatement and Back Pay Upheld; Petition To Vacate Strike Penalties Dismissed

The New York Supreme Court of Westchester County ruled on two issues that evolved from negotiations between the Harrison Association of Teachers and the Central School District Board of Education.

o In the first case the court dismissed an appeal by the county school board to vacate an arbitrator's award reinstating a probationary teacher with back pay. The teacher, who had previously been rated highly, was dismissed after she wrote a letter explaining to the parents of a child whom she had been voluntarily tutoring, that she (as well as other Association members) had been requested by the Association to cease all voluntary and unpaid extracurricular work during contract negotiations with the board. The school board obtained a copy of the letter and circulated it through a community newspaper.

The arbitrator, doubting that the teacher would have been dismissed had she not written the letter, ruled that the board had violated the contract by dismissing the teacher not with just cause but in reprisal for a permitted and protected act. Therefore, he ordered the teacher reinstated with back pay.

The court dismissed the board's appeal and upheld the arbitrator's decision on the ground that the record did not indicate that the arbitrator had exceeded his power. (*Harrison Association of Teachers v. Harrison Board of Education, Central School District*, New York Supreme Court, February 1974.)

• In the second case the court dismissed the Association's petition seeking to vacate the penalties imposed for its engagement in a prohibited strike.

The Association contended that the penalties should be vacated because the school board violated section 209 of the Civil Service Law when it failed to negotiate in good faith. As a result the school board was without the right to impose penalties under section 210 of the law.

The court refused to make a determination as to whether the employer had violated section 209 since the Association was seeking only to have the fines imposed under section 210 vacated. The court pointed out that "under section 210 the only issue to be decided is whether a strike occurred, and if so, who engaged in it." Moreover, the court said that the imposition of sanctions under 210 is designed to protect the public interest and may not be lost or waived by the employer. The court then dismissed the petition. (In the Matter of the Application of *Frank J. Murabito and Paul D. Sherman, Petitioners, v. Board of Education, Central School District and Glenn C. Parker, Respondents*, Supreme Court, Westchester County, November 28, 1973.)

WISCONSIN

A Minority of Bargaining Unit Employees May Not Meet With School Board on Bargaining Subjects

The Wisconsin Circuit Court upheld a Wisconsin Employment Relations Commission (WERC) decision[1] that a representative of a minority of bargaining unit employees did not have the right to appear before a public board meeting concerning mandatory bargaining items.

Prior to the proceedings before WERC, a teacher who was not a member of the bargaining association, Madison Teachers Inc., wrote a letter to all teachers in the system allowing them, through the ballot type letter, to express their opposition to a proposed agency shop provision. The teacher then appeared before the board and requested that all teachers be presented with alternatives to the agency shop provision since his survey indicated wide confusion concerning the provision.

As a result of discussion following the meeting, the board adopted a resolution calling for acceptance of the total bargaining package excluding the agency shop provision, among other things, which was still unresolved.

[1] NRD 6.4.9.

MTI filed a complaint with WERC. The board sought review of WERC's decision which held that the board had committed unfair practices under the Municipal Employment Relations Act.

Reviewing WERC's decision, the court held that denying a representative of a minority union the right to appear and speak at a public board meeting regarding mandatory bargaining subjects did not infringe upon constitutional freedom of expression. The court cited *Board of School Directors v. WERC* where the state supreme court came to the same conclusion. The court held in that case that a minority union did not have the right to negotiate with the employer and that it would be a prohibited practice if an employer chose to negotiate with it.

The court ruled, therefore, that while the teacher's statement appeared to be a position statement, which according to *Board of Directors* would make it difficult to label as negotiating, the total circumstances constituted negotiating. The court further found WERC's decision reasonable and consistent with applicable state statute. Accordingly, the court affirmed WERC's order. (*City of Madison et al., Petitioners v. Wisconsin Employment Relations Commission, Respondent, Madison Teachers Incorporated, Intervenor Respondent*, Wisconsin Circuit Court, October 2, 1973.)

FEDERAL

Procedures for Determination of Violation of No-Strike Provision Must Satisfy Statutory Requirements

The U.S. District Court of Ohio enjoined the Vinton Local Board of Education from conducting proceedings to discharge members of the Vinton Local Teachers' Association for alleged violation of statutory no-strike provisions.

In making its determination the court noted that the defendants, in accordance with the Ohio Revised Code, had requested an opportunity to deny violation of the Code. The Code provides for the appointment of a referee to make determinations in such cases if requested by the defendants. Any procedure not in accordance with the Code, such as that advocated by the board of education, denies due process of law and must be enjoined, the court said. (*Vinton Local Teachers' Association, et al., Plaintiffs v. Board of Education of Vinton Local School District et al., Defendants*, United States District Court, Southern District Ohio, October 3, 1973.)

BOARD FINDINGS AND RULINGS

MICHIGAN

First "Last Offer" Arbitration Award Increases Police Wage Differentials

In the first award granted under the "last offer" provisions of the policemen's and firefighters' arbitration act, a three-member panel increased the wage differential between senior patrolmen and sergeants to 17 percent for the contract year, July 1, 1972, to June 30, 1973. The award also maintains a 10.57 percent difference between sergeants and lieutenants and a 19.13 percent difference between lieutenants and captains. The panel based its decision to increase the differential between senior patrolmen and sergeants on job descriptions and other comparative information presented at the hearings.

The panel also ruled that when any member of the Pontiac Police Supervisors Association is promoted, he must receive the full rate of pay of the rank to which promoted. On the other hand, the panel rejected the Association's demand for unmarked cars for captains during off-duty hours as a fringe benefit and for two hours' extra pay for any unit member called at home while off duty on any matter of departmental business on the basis that the established salary differentials compensated for fringe benefits and extra duty. (*Pontiac Police Supervisors Association and the City of Pontiac, Michigan*, November 19, 1973.)

NEW JERSEY

Past Practice May Warrant "Mixed" Units Of Teachers And Supervisors

The New Jersey Public Employment Relations Commission (PERC) upheld a past decision and dismissed a petition by the West Paterson Board of Education seeking exclusion of principals and vice-principals from a bargaining unit represented by the West Paterson Education Association. In a previous decision, PERC had ruled that an exception to the rule prohibiting negotiating units composed of both supervisors and nonsupervisors was valid owing to established practice and prior agreement which made such a "mixed" unit permissible within the meaning of the Public Employment Relations Act (PERA).

The board of education contended that the inclusion of supervisors in the unit created a conflict of interest between the supervisors and nonsupervisory personnel. To substantiate this contention, the board pointed to fact-finding proceedings in which the fact-finder recommended, and the board accepted, a salary increase of 5.5 percent for principals and the union later proposed a 4.3 percent increase. According to the board this showed that "there indeed exists in West Paterson a conflict of interest which cries out for relief."

The Association rebutted the board's allegations, pointing out that the argument was not proper in the instant proceeding and was the kind of issue that might be raised by supervisors for the purpose of severing themselves from a mixed unit on the basis of unfair representation.

PERC agreed with the Association's argument, remarking that the purpose of its reconsideration of the previous ruling was to examine the statutory exceptions to established practice and prior agreement. PERC concluded that although the legislature viewed mixed units as unworkable, it did not desire to disturb relationships that had proved successful and that had been established prior to enactment of PERA. On this basis PERC dismissed the petition. (*In the Matter of West Paterson Board of Education, Public Employer-Petitioner and West Paterson Education Association, Respondent and Employee Representative*, New Jersey Public Employment Relations Commission, September 14, 1973.)

The Public Employment Relations Commission reversed a hearing officer's decision, ruling that department coordinators employed by the Sterling Board of Education should not be represented by the Sterling Education Association teachers unit. The case originally came before the Commission after "the board adopted policy creating the supervisory position of department coordinator to replace department chairmen."

The Association previously had contended that the department coordinator was just another name for department chairman, that the functions of the two were substantially the same and not supervisory, and that past practice exception in the Public Employment Relations Act should hold if the position was found to be supervisory.

The board filed exceptions to the Commission's conclusion that department coordinators are not supervisory, that the similarity between coordinators and chairmen is a basis for finding established practice, and that there is not enough evidence of conflict of interest.

In making its determination, the Commission concluded that the established practice exception did not apply since the negotiations in which the parties agreed to matters relating to employment prior to 1968 was not met as required by the Act.

Because the parties urged an immediate determination despite insufficient record of past conduct whereby the board's intentions could be clearly discerned, the Commission pointed out that it would have to rely heavily on the board's description of the elements of its program for coordinators. From a review of the record and the board's description, the Commission found that the duties performed by the coordinators were supervisory and might cause a conflict of interest and that there was not a community of interest between coordinators and teachers to warrant inclusion in the same bargaining unit. However, since the ruling, in large part, was based on the board's outlined program for coordinators, the decision was made subject to re-examination at a later time should the board's plan not materialize as described. (*In the Matter of Sterling Board of Education, Public Employer and Sterling Education Association, Petitioner-Employee Organization*, New Jersey Public Employment Relations Commission, February 5, 1974.)

NEW YORK

Unilaterally Changing Unwritten Past Practice Benefits Violates Contract

The Hinsdale Teachers Association's (HTA) grievance alleging that the board violated the parties' contract by unilaterally changing fringe benefits, was upheld by a New York Public Employment Relations Board (PERB) hearing officer.

The school board, in an attempt to reduce a deficit in the school cafeteria, increased the price of school lunches and discontinued the serving of free coffee in the teachers' lounge and the granting of free admission to athletic and other extracurricular activities to teachers.

HTA contended that these actions violated the contract since the three issues were fringe benefits which had been unwritten board policies and practices and, therefore, were within the meaning of Article 1, Section 5, of the contract which in essence provided that any benefits, privileges, or duties previously held as board policy and unwritten provisions within the scope of the contract would continue.

Arguing that the grievance did not affect the terms and conditions of the contract, the board asserted that "terms and conditions" held only for a provision stated or offered for acceptance or an agreement by stipulation, and that since no stipulation or agreement governed the items, the contract was not violated.

The arbitrator found that Article 1, Section 5, of the parties' agreement was similar to "past practice" clauses in many negotiated agreements and that its meaning should be found in the usage of labor relations. Accordingly, the arbitrator rejected the board's contention and noted that the concept of "custom and practice" was found in arbitrators' opinions regarding disputes between public schools and their employees the same as in the private sector. He also stated that whether a past practice was a term or condition of employment was to be determined by the parties' acts.

Finding that all items in dispute, excluding the board's discretion to set lunch prices, were established past practice, thereby a condition of employment, and that the termination of them was a violation of the parties' agreement, the arbitrator directed that the items be reinstated. (*Hinsdale Board of Education and Hinsdale Central School Teachers Association*, New York Public Employment Relations Board, March 6, 1974.)

PENNSYLVANIA

Unless New Evidence Is Present Employer Must Bargain with Representative

The Pennsylvania Labor Relations Board ruled that the Monongahela Valley Hospital had committed an unfair labor practice by refusing to negotiate with a newly certified bargaining unit for maintenance, clerical, and technical personnel.

Because the hospital had objected to the election and certification of the bargaining unit and petitioned the courts for review of the board's dismissal of its election objections, the hospital contended that it was justified in refusing to bargain with the union.

The Board overruled the hospital's contention because it was not required to re-examine its certification of a bargaining unit if no new evidence was introduced and because the law provided that appeal proceedings shall not operate as a stay of board orders, unless directed by the court. (*Pennsylvania Labor Relations Board v. Monongahela Valley Hospital, Inc.*, Pennsylvania Labor Relations Board, December 3, 1973.)

WISCONSIN

Failure To Grant Credit for Military Experience Violates Contract

An arbitrator ruled that the Madison Board of Education should have granted one-half year of military service credit to a teacher who received the military training prior to being hired for a teaching position.

The board contended (a) that the issue was not arbitrable because it was not filed within the time limitations specified in the contract, (b) that the term "military ser-

vice" as defined in the contract meant only active duty service or training for active duty for which it had always been board policy to grant credit, and (c) that there was a difference between credit granted to a newly hired employee for prior military training and rights that might exist when leave is granted for military training that interrupts teaching service.

The Madison Teachers Inc. (MTI) contended that the grievance was arbitrable since there was a recurrence of the grievance whenever a salary check was issued to the teacher, and that the right to grieve was protected under the contract. The association asserted that state laws that grant preferences and credits to veterans supported its position, and that it did not intend to make the distinctions the board made.

Noting that while arbitrators respect time limitations designed to protect employers from possible liability, the arbitrator commented that the interpretation of time limitation clauses should not be unreasonably technical. The arbitrator also noted that the parties themselves provided in their contract for renewal of time limits if the act recurs.

The arbitrator rejected the board's contention that the grievance was not arbitrable. He held that military service included not only active service or training prior to active duty, but also full-time National Guard training which the teacher received following honorable discharge from a 71-day duty in the Marine Corps. However, week-end or evening National Guard Service was not within the meaning of "active duty." So ruling, the arbitrator held that the teacher was entitled to one-half year of credit for his military service performed prior to his teaching assignment, that his salary reflect this credit, and that he receive back pay for the school year 1973-74. (*In the Matter of Arbitration Between Madison Board of Education Joint School District, No. 8, City of Madison, Wisconsin and Madison Teachers Inc.*, January 2, 1974.)

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Negotiation Notes

CONNECTICUT

Teacher Bargaining Law Amended

The recently amended statute regarding collective bargaining for teachers, Title 10, now covers all certified professional employees of town and regional boards of education and permits separate bargaining units for superintendents and supervisory personnel. The amendments require bargaining on salaries and other conditions of employment.

Employees in either a supervisory or a teaching unit may be represented by any organization of certified professional employees for the purposes of negotiating salaries and other conditions of employment. To acquire recognition, a majority of the employees must so petition the board of education between October 1 and October 31 of any school year.

The board has three days to post a notice of the request and mail a copy to the secretary of the state board of education.

The board will recognize the designated organization within 30 days after the posting date. However, if 20 percent of the employees in the unit petition for a representation election, such an election is to be held. If no organization receives a majority vote, a run-off election is to be held. The organization receiving the majority vote will be certified as the exclusive representative of all employees in a unit for bargaining purposes, but any certified professional employee may at any time present any grievance to such persons as the town or regional board of education shall designate for that purpose.

A unit that includes both administrators and teachers represented by an exclusive representative may, upon expiration of the salary schedule, remain in effect or the employees may initiate a petition for designation or election of an organization to represent them.

The election procedures also provide for an impartial person or agency, agreed upon by both parties, to conduct a secret ballot election between 20 and 45 days following the first election petition; the town or regional board of education is to pay the costs incurred. When disagreement on the agency to conduct the election occurs, a board of arbitration selects an impartial agency.

The town or regional board of education and the elected organization are required to negotiate salaries and other conditions of employment. The "duty to negotiate" obligates the board to meet at reasonable times, including meetings pertinent to budget-making, to confer in good faith on salaries and other conditions of employment, and to execute a written contract. However, the law does not compel either party to agree to a proposal or to make concessions.

The terms of any written contract will be binding upon the legislative body of the town or regional school district unless rejected by it within 30 days after the filing of the contract. In case of rejection the parties must renegotiate.

HAWAII

Hawaii High Court Dubs HSTA "Trail-Blazer" In Bargaining

Though upholding a lower court ruling that the Hawaii State Teachers Association violated an injunction by striking last year, the state supreme court on March 25, 1974, reduced by nearly half the $190,000 in strike fines levied against the Association. Since HSTA was the first organization to test the ramifications of the state bargaining law allowing strikes by public employees, the court declared that "there is no doubt HSTA acted as the 'legal trail-blazer' in an uncharted, complicated, new legal field of collective bargaining." The high court did not rule on whether the strike was called legally, as HSTA contended, but simply on whether an injunction had in fact been violated. The legality issue is still before the lower court. However, the high court declared that "the promotion of justice would be better enhanced" if strike fines were reduced by $90,000.

AGO: Ombudsman May Not Handle Bargaining Unit Grievances

The attorney general ruled that an ombudsman may not investigate grievances of public employees in units covered by agreements that contain an exclusive procedure for settling disputes. However, he may process grievances of public employees outside the scope of an agreement and not subject to the contractual grievance procedure or of employees excluded from bargaining units.

Further, an ombudsman may not investigate grievances of public employees exempt from civil service unless they are excluded from a bargaining unit, or if they are included, the employee has a complaint outside the scope of the agreement and not subject to the contractual grievance procedure.

WASHINGTON

School Principals and Assistant Principals Are Certified Employees

School principals and assistant principals are to be considered certified employees unless a majority elect to be excluded from the legal definition, according to the provision in the Revised Code of Washington regarding the right of teachers to negotiate through representatives with their employers on school policy concerning, but not limited to, curriculum, hours, and wages.

If principals and assistant principals vote for exclusion from the legal definition, the provisions of the law shall apply to them separately. The amendment stipulates that in that case negotiations between the employer and the separate principals and assistant principals unit be limited to compensation, hours of work, and the duration of employment contracts.

One-Fifth of Men Teachers Moonlight

A Special Labor Force Report published by the Bureau of Labor Statistics revealed that in May 1973, 4.3 million workers held two or more jobs at the same time. Although this is the greatest number of moonlighters ever reported, the percentage of the working force holding two jobs remained essentially the same as in previous surveys (5.1 percent).

The moonlighting rate for men was much higher than for women, four-fifths of all multiple job holders being men.

As in previous years, men teachers below the college level had the highest moonlighting rates—nearly 20 percent of the men but only 3.5 percent of the women were moonlighters.

Protective service employees had the second highest moonlighting rate, 14.2 percent. On an industry-wide basis the highest moonlighting rates were found among men employed in public administration on the state and local level and educational services.

* * *

FEDERAL

Union Interference Spurs Court Denial of Enforcement of NLRB Order

A union interferes with employees' right to free choice in an election and abridges their right to refrain from union activities by offering to waive initiation fees only for those employees who sign union authorization cards prior to an election. On that basis the Supreme Court of the United States refused to enforce a National Labor Relations Board (NLRB) order directing an employer to bargain with the union.

The union, Mechanics Educational Society of America, narrowly won a representative election conducted by NLRB. NLRB rejected objections to the election filed by the employer, and certified the union as representative of the employees. But the employer refused to bargain. The union then filed an unfair labor practice charge. NLRB sustained the charge and ordered the employer to bargain with the union.

The Supreme Court found that whatever an employee's true intentions, signing a recognition slip prior to an election indicates to other employees his support for the union and thereby influences other employees. The court held that the NLRB allowed the union to "buy" support when it permitted the union upon winning the election to waive initiation fees for those who signed recognition cards before the election.

The court held that in accordance with the National Labor Relations Act a fair election procedure must honor not only those who support a union, but also those opposed to a union. The court stated that the Act also makes it an unfair labor practice for an employer to interfere with employees' rights to form, join, or assist unions. The court injected that the Act also provides the right to refrain from any or all union activities. According to the court, the whole of the Act is neutral regarding the right to free choice.

The court ruled that the union's action conflicted with the principle of fair and free choice and was ground for denying enforcement of NLRB's order that the employer bargain with the union. (*National Labor Relations Board, Petitioner v. Savair Manufacturing Company, Respondent*, United States Supreme Court, December 17, 1973.)

Employer's Duty To Offer Health Care

The purpose of the Health Maintenance Organization Act of 1973 is to improve health care services available to the public through a Health Maintenance Organization (HMO) that contracts to provide basic medical care for a fixed fee.

The law, which is tied to the employer's coverage under the Fair Labor Standards Act (FLSA), requires employers of 25 or more workers to offer HMO benefits to them as an optional health plan.

To qualify as an HMO, the health care organization must provide the full range of basic and supplemental health care services mandated by the law and show that it operates in the manner prescribed. A nonoperational health care organization may qualify if the Secretary of Health, Education, and Welfare determines that the organization will provide the required services when it becomes operational.

Employers are required to pay no more than specified in bargaining agreements or health benefit contracts between the company and its employees. Failure of an employer to offer membership in a qualified HMO violates the Fair Labor Standards Act and invokes criminal penalties.

THE CONSUMER PRICE INDEX—FEBRUARY 1974

The Consumer Price Index rose 1.3 percent in February to 141.5 (1967=100), the Bureau of Labor Statistics of the U.S. Department of Labor reported. Almost half of the February increase was due to higher prices for food. Higher prices for gasoline and other energy items accounted for about a fifth of the increase. The February CPI was 10.0 percent higher than a year ago.

On a seasonally adjusted basis, the February increase in the CPI was also 1.3 percent. In January the CPI increased 1.0 percent and in December 0.5 percent. The food index rose 2.5 percent in February, compared with 1.6 percent in January, and 0.3 percent in December. The nonfood commodities index rose 1.0 percent in February, following increases of 1.3 percent in January and 0.7 percent in December. The services index rose 0.7 percent in February, the same as in January.

Monthly Changes in Detail (Not Seasonally Adjusted)

The index for food purchased in grocery stores—the major portion of the food index—rose 3.0 percent, substantially more than is usual for February. The index for food away from home—restaurant meals and snacks—rose 0.7 percent. Over a third of the rise in the food at home index was due to a 7.5 percent rise in beef prices. The February increase in beef prices followed a smaller increase in January and declines in the last 3 months of 1973. Fresh vegetable prices increased sharply in February instead of declining as they usually do. Prices also rose for most other types of food, including processed fruits and vegetables, cereal and bakery products, dairy products, and sugar and sugar-based products. Poultry prices declined, however, instead of increasing as they usually do in February.

The index for nonfood commodities—which usually is unchanged in February—increased 1.0 percent. The gasoline and motor oil index increased 5.3 percent, slightly less than in January, to a level 30.9 percent above February of last year. The fuel oil and coal index rose 3.8 percent, the smallest increase in 5 months, to a level 58.8 percent above February 1973. Apparel prices rose more than they usually do in February, following a seasonal decline in January. Prices also increased for a wide range of other nonfood commodities such as textile housefurnishings, housekeeping supplies, toilet goods, newspapers, and household durables. The effect of these increases was moderated by a further sharp decline in used car prices. New car prices also declined, but less than they usually do in February.

The services index rose 0.7 percent in February. In the household services category, charges for gas, electricity, water and sewerage services, housekeeping and home maintenance services, and rent continued to increase. Mortgage interest rates and property taxes declined. Medical care services increased more than in recent months as a result of larger increases for physicians' fees and charges for most types of hospital services. Other types of services such as apparel, personal care, recreational, and funeral services continued to rise.

Diffusion of Individual Price Changes

Approximately 118,000 individual prices were collected directly by the Bureau of Labor Statistics in February for use in this index. Approximately 80 percent of these quotations (accounting for about 40 percent of the weight of the CPI market basket) represent monthly comparisons. About 34 percent of these monthly comparisons showed an increase, 10 percent showed a decrease, and 56 percent showed no change between January and February. . . The proportion of food prices increasing in February was considerably larger than increases in each of the preceding five months. The proportion of nonfood commodity prices increasing was about the same as in recent months. The proportion of service prices increasing was much smaller than in January and about the same as in the last three months of 1973.

The February index also includes approximately 23,000 price comparisons from periods prior to January, 19,000 of which cover the quarterly span from November to February. About 24 percent of these quarterly price comparisons increased, more than in the October-to-January period. In addition, about 4,700 rental units were surveyed in February, and 27 percent of these reported rent increases from August 1973, about the same as for the 6-month period ended in January.

(U.S. Department of Labor, Bureau of Labor Statistics, news release, March 21, 1974.)

* * *

STATISTICS

NEGOTIATED STUDENT DISCIPLINE PROVISIONS

Growing teacher concern over student discipline in the classroom and the effects on the educational atmosphere caused by disruptive students is indicated by the increase in the percentage of teachers indicating this area to be a major problem—from 15.2 percent in 1968 to 21.2 percent in 1971 as recorded in an NEA Research survey.[1]

The 1970-71 NEA Research survey of 1,529 written negotiated agreements found that 34.1 percent of them contained student discipline provisions. A random sample of agreements containing such a provision, one out of five (108) with at least one from each state, was selected for analysis.

Both in formulating school board or administrative policy as well as in negotiating student discipline procedures, care must be taken to bring the desired results in line with existing interpretations of the federal Constitution relative to personal rights. Many recent court decisions have upheld student challenges to school board and teacher decisions. Among the issues involved in court rulings have been the constitutionality of a school prohibition against the wearing of black armbands by high-school students protesting the Viet Nam War, the constitutionality of school dress and grooming codes, search and seizure, and corporal punishment. The decisions in these cases have limited the discretionary power of school officials and the manner in which such power may be utilized, and have made school administrators, teachers, and board members aware of the necessity to educate themselves regarding their limitations and responsibilities in the school-student relationship. Nonetheless, many court rulings, such as *Wexell v. Scott* and *Owens v. Commonwealth,* indicate that the courts realize that educators have responsibility for student discipline and that teachers frequently work in extremely provoking situations and may occasionally make a mistake in judgment.

Some 12.0 percent of the provisions in negotiated agreements recognize existing student discipline regulations by stipulating that teachers and the administration will abide by these regulations or policies. For example:

> The teachers recognize that all disciplinary actions and methods invoked by them shall be reasonable and just, and in accordance with established Board policy.
>
> **[Ostego Public Schools
> Ostego, Michigan]**

Most of the agreements analyzed contained a statement of philosophy that assigns responsibility for student discipline, mentions conditions under which disciplinary problems are less likely to occur, indicates board and administrative agreement to assist teachers with discipline, and advises teachers on how to handle disciplinary problems should they arise.

Twelve percent of the agreements directly stated that classroom discipline is primarily the teacher's responsibility; however, the clause stating that disciplinary problems are less likely to occur in classes that are well taught and where a high level of student interest is maintained implies teacher responsibility for classroom discipline. An important element in the effectiveness of teachers' disciplinary measures is the amount and kind of support that can be expected from school boards and administrators; more than 45 percent of the provisions stated that the board and the school administration agree to assist teachers in disciplinary matters.

Some contracts, 17.6 percent, outlined a method for constructively dealing with disciplinary problems. Most often, encouragement, praise, and emphasis upon the student's desirable characteristics were suggested as methods of handling a disruptive pupil.

The goals of student discipline with regard to the individual student were mentioned in a few contracts. An example of the language is as follows:

> The goal in discipline is for the pupils to grow and develop In self-control and self-direction to the point that their habits and attitudes will enable them to live harmoniously within their group and ultimately to achieve self-mastery.
>
> **[Oxnard Unified High School District
> Oxnard, California]**

The reasons for imposing disciplinary measures on a student were found in 40.7 percent of the agreements. Usually an over-all statement that did not pinpoint the exact action for which the student may be disciplined was made. An example follows:

> A teacher may exclude a pupil from class for one class period or less when the grossness of the offense, the persistence of the misbehavior, or the disruptive effect of the violation makes the continued presence of the pupil unacceptable.
>
> **[Phoenix Union High School District
> Phoenix, Arizona]**

A few provisions specifically identified undesirable behavior as follows:

> Examples of offenses for which teachers may dismiss students from class: Profanity or obscenity, fighting, gambling, class skips, deliberate and open defiance of authority, inciting others

TABLE 1.—ANALYSIS OF STUDENT DISCIPLINE PROVISIONS IN NEGOTIATION AGREEMENTS, 1970-71

Item	Agreements with clause	
	Number	Percent
1	2	3
Board disciplinary policy or public law tied to agreement by contract language	13	12.0
General statement of teacher/board disciplinary philosophy	60	55.6
Classroom discipline primarily the teacher's responsibility	13	12.0
Disciplinary problems less likely to occur in well taught classes, etc.	27	25.0
Discipline the joint responsibility of board, administration, and teacher	8	7.4
Board and administration agree to assist teacher in disciplinary matters	49	45.4
Procedure for handling disciplinary problems	19	17.6
Goals of student discipline	6	5.6
Reasons for taking disciplinary action	44	40.7
General description of undesirable behavior	37	34.3
Undesirable behavior specifically named	7	6.5
Procedures for initial identification and handling of disciplinary problems	56	51.8
Reasonable force for protection and restraint	3	2.8
Student sent to principal's office	46	42.6
Teacher and principal confer about/with student	8	7.4
Teacher, principal, and appropriate specialist confer with/about student	3	2.8
Parents called to conference	5	4.6
Teacher, principal, appropriate specialist, and parents confer about/with student	3	2.8
Principal or specialist interviews and councils parents and student	6	5.6
Specific punishments	66	66.1
Corporal punishment	12	11.1
Temporary suspension from class	46	42.6
Temporary suspension from school	19	17.6
Expulsion from school	5	4.6
Detention after school	2	1.8
Transfer to another teacher	1	0.9
Need for outside specialist recognized	39	36.1
Total agreements analyzed	108	100.0

to violence or disobedience, possession of pornographic literature, petty theft, petty vandalism, cigarettes, narcotics and gun, etc.

**[Macoupin Community Unit SD No. 7
Macoupin, Illinois]**

Most frequently agreement provisions state that after a teacher has exhausted all means of handling disciplinary problems at the classroom level, the next course of action is to send the student to the principal's office. Then the teacher is to submit a written report outlining the reasons for the pupil's ejection from the classroom. The principal, and sometimes the teacher, then are to decide what measures should be taken. Among these measures are conferences which may include the principal, the teacher, the student, an appropriate specialist, and the student's parents.

A teacher opinion poll conducted by the NEA Research Division found that 6 teachers in 10 thought that they

should have the right to suspend unruly students from their classes without the approval of the principal. About 3 in 10 replied "No," and the remainder were uncertain. When asked the maximum length of time a teacher should be permitted to suspend students from their classes with the principal's approval, the majority of those who favored suspension favored short-term suspensions not exceeding three days, with the largest proportion recommending suspension only for the remainder of the class period.[2]

Dismissal or suspension from class was also the punishment most often mentioned in the agreement provisions (42.6 percent). Generally the length of time that a student might be suspended from class was not specified. In 17.6 percent of the contracts, the principal was empowered to temporarily suspend a student from school.

Recognizing that emotionally disturbed students and disruptive students impede the progress of the entire class, many school boards and teacher groups have incorporated into their student discipline provisions, clauses that recognize the need to consult specialists regarding students with unusual problems since such students cannot be adequately handled with ordinary disciplinary measures. Examples of such clauses follow:

> When, in the judgment of a teacher, a pupil requires referral to other professional personnel or specialists, he shall so inform his principal or immediate supervisor. The principal or immediate supervisor shall arrange as soon as possible for a conference which includes himself, the teacher, and appropriate specialist(s), if necessary, to discuss the problem and to decide upon appropriate steps for its resolution.
>
> **[Wichita Public Schools
> Wichita, Kansas]**

> Teachers have the right to expect the Board and administrative support in their lawful and necessary actions in maintaining discipline and working with pupils and parents; such support to include referral of pupils with deviant behavior to other persons or agencies for assistance.
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> **[Coleman Community Schools
> Coleman, Michigan]**

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[1] National Education Association, Research Division. "Teachers' View of Teaching." *NEA Research Bulletin* 49: 102-108; December 1971. p. 105.

[2] National Education Association, Research Division. "Teachers' Right To Suspend Students." *Today's Educa-Education* 58: 35; February 1969.

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TEACHERS RECEIVE SMALLER INCREASES THAN POLICEMEN, FIREMEN

Bureau of Labor Statistics report disclosed that between January 1, 1972, and January 1, 1973, scheduled minimum salaries for policemen and firemen rose 5.6 percent and scheduled maximum salaries 8.9 percent. However, minimum scheduled salaries for teachers with a bachelor's degree in school systems enrolling 6,000 or more pupils increased 4.2 percent, and maximum scheduled salaries for those with a doctorate, advanced 5.5 percent from the 1971-72 school year to the 1972-73 school year.[1]

For 1972-73, firemen's minimum salaries averaged $9,515 and policemen's minimum $9,963; average maximum salaries were $11,604 and $12,330, respectively. Minimum scheduled salaries for teachers with bachelor's degrees averaged $7,357 for the 1972-73 school year, and maximum scheduled salaries for teachers with a doctorate averaged $14,562. The percentage increases in minimum salaries for policemen and firemen were below those of previous years; however, increases in their maximum salaries were comparable to 1968-69 increases. Although percentage increases for both minimum and maximum teachers' salaries were higher than in 1971-72, the dollar increases were lower than those in years preceding 1971.

In the five-year period since 1968, the annual rate of increase for policemen's and firemen's minimum salaries was 7.4 percent, while maximum salaries rose at an annual rate of 8.2 percent. Since the 1967-68 school year, teachers' minimum scheduled salaries increased annually by 5.5 percent and maximum salaries by 5.8 percent.

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[1] National Education Association, Research. *Salary Schedules and Fringe Benefits for Teachers, 1972-73.* Research Report 1973-R2. Washington, D.C.: the Association, 1973. p. 14.

TABLE 1.—PERCENT CHANGE IN AVERAGE PAY OR SALARY SCALES OF SELECTED GROUPINGS OF GOVERNMENT AND PRIVATE INDUSTRY EMPLOYEES AND IN THE CONSUMER PRICE INDEX OVER THE 5-YEAR PERIOD ENDING IN 1972-73[a]

Occupational group	Average annual rate of increase
Government	
Firemen and policemen:[b]	
Maximum annual salary scales:	
Firemen and policemen	8.2
Firemen	8.0
Policemen	8.3
Minimum annual salary scales:	
Firemen and policemen	7.4
Firemen	7.3
Policemen	7.4
Federal employees under the General Schedule:[c]	
Basic annual salary scales	7.0
Average annual salary rates	7.4
Average annual salaries	9.1
Private industry	
Professional, administrative, technical, and clerical employees, average salaries:[d]	
Clerical and beginning technicians	5.9
Entry and development professional levels, advanced technician levels, and supervisors of nonprofessional levels[e]	5.8
Fully experienced professional working levels, supervisors of professional levels, and program administrative levels	6.0
Production and nonsupervisory workers in private nonfarm economy, average hourly earnings adjusted for overtime (in manufacturing only) and interindustry employment shifts	6.6
Consumer prices	
Consumer Price Index	4.6

SOURCE: U.S. Department of Labor, Bureau of Labor Statistics. *Minimum Salary Scales for Firemen and Policemen Increased 5.6 Percent and Maximum Scales 8.9 Percent in 1972.* News release, December 18, 1973.

[a] All data related to the latest 5 years for which information is available. The increases in firemen's and policemen's scales, hourly earnings of production and nonsupervisory workers, and consumer prices are from January 1968 to January 1973; changes in pay for federal employees under the General Schedule are from October 1967 to April 1972; and under "professional, administrative, technical, and clerical employees," changes in average salaries cover the period from June 1968 to March 1973.

[b] Data pertain only to cities which had a population of 100,000 or more in 1970.

[c] Basic salary scales reflect only statutory changes in salaries. Average salary rates show statutory changes and the effect of changes in the proportion of workers at each step within the salary ranges for individual grades. Average salaries measure the effect not only of these two types of change, but also of changes in the proportion of workers in the various grades.

[d] For additional information about the occupations included in these categories and the scope and method of the study, see *National Survey of Professional, Administrative, Technical, and Clerical Pay, March 1972,* BLS Bulletin 1764, 1973.

[e] Also includes the three highest secretarial levels.

TABLE 2.–AVERAGE MINIMUM AND MAXIMUM ANNUAL SALARY SCALES OF FIREMEN AND POLICEMEN BY CITY SIZE AND REGION,[a] 1968-73

Employee group and year	City size					Region			
	All cities 100,000 and over	Over 999,999	500,000 to 999,999	250,000 to 499,999	100,000 to 249,999	North-east	South	North Central	West
				Minimum annual scales					
Firemen:									
1968	$ 6,753	$ 7,623	$ 6,636	$ 6,335	$ 6,063	$ 7,148	$ 5,681	$ 6,704	$ 7,624
1969	7,413	8,497	7,338	6,890	6,574	7,995	6,182	7,444	8,124
1970	8,041	9,253	7,786	7,685	7,103	8,651	6,678	8,189	8,813
1971	8,489	9,596	8,215	8,179	7,672	9,027	6,980	8,827	9,396
1972	9,015	10,385	8,743	8,480	8,098	9,854	7,249	9,238	9,967
1973[b]	9,515	10,849	9,186	9,054	8,614	10,440	7,838	9,566	10,427
Policemen:									
1968	7,019	7,628	6,741	6,480	6,212	7,322	5,909	7,011	7,736
1969	7,741	8,540	7,274	7,066	6,739	8,231	6,480	7,720	8,210
1970	8,448	9,300	7,888	7,926	7,357	8,953	7,001	8,553	8,953
1971	8,874	9,675	8,291	8,414	7,939	9,256	7,339	9,219	9,518
1972	9,440	10,454	8,742	8,747	8,342	10,152	7,617	9,594	10,060
1973[b]	9,963	10,971	9,311	9,259	8,853	10,763	8,266	9,965	10,505
				Maximum annual scales					
Firemen:									
1968	7,982	9,015	7,865	7,486	7,143	8,376	6,898	7,936	8,870
1969	8,736	10,033	8,591	8,158	7,744	9,247	7,497	8,876	9,444
1970	9,482	10,828	9,293	9,089	8,349	9,960	8,150	9,710	10,353
1971	10,060	11,327	9,839	9,649	9,080	10,368	8,549	10,489	11,296
1972	10,713	12,245	10,485	10,080	9,642	11,212	8,990	11,097	12,030
1973[b]	11,604	13,639	11,166	10,792	10,254	12,577	9,784	11,737	12,551
Policemen:									
1968	8,313	8,976	8,127	7,657	7,338	8,545	7,232	8,377	9,044
1969	9,196	10,101	8,678	8,508	7,982	9,522	7,896	9,461	9,641
1970	10,017	10,927	9,616	9,385	8,648	10,275	8,596	10,424	10,598
1971	10,576	11,452	10,109	9,960	9,408	10,563	9,091	11,230	11,611
1972	11,284	12,387	10,667	10,423	9,988	11,479	9,488	11,897	12,307
1973[b]	12,330	13,720	11,725	11,062	10,650	13,024	10,612	12,523	12,819

SOURCE: U.S. Department of Labor, Bureau of Labor Statistics. *Minimum Salary Scales for Firemen and Policemen Increased 5.6 Percent and Maximum Scales 8.9 Percent in 1972.* News release, December 18, 1973.

[a] Regions used in this study are: NORTHEAST–Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont; SOUTH–Alabama, Arkansas, Delaware, District of Columbia, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia; NORTH CENTRAL–Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin; and WEST–Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

Data relate only to cities that had a population of 100,000 or more in 1970.

[b] Preliminary.

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SPECIAL REPORTS

LONG-TERM UNPAID LEAVES OF ABSENCE FOR RESEARCH, STUDY, AND TRAVEL

Long-term unpaid leaves of absence for research, study, and travel were found in 30 percent of 1,529 teacher/school board collective bargaining agreements in effect during 1970-71. These leaves are similar in purpose to a sabbatical leave; however, prior years of service required before taking leave are fewer than for sabbatical leave, and the teacher is generally under no obligation to return to the school system.

The following analysis is based on a sample of one of every five agreements (110) from each state having a negotiated agreement which contained a long-term unpaid leave of absence provision for research, study, and travel.

Purpose

Generally, long-term unpaid leave is granted for formal study at an accredited institution, educational research, or foreign or domestic travel. It may also permit a teacher to utilize a fellowship, internship, or scholarship.

Length of Leave

The minimum time allowed for unpaid research, study, and travel leave is one semester. More than 3 out of 5 provisions (63.6 percent) granted such unpaid leave extending for one year with two years' duration indicated in about 16 percent of the agreements. A small group (4.5 percent) specified one semester or up to one year and the remainder did not specify. However, such leave may be extended for an additional year at the school board's discretion if timely notice is received by the board prior to the expiration of the first leave. Reprinted below are examples of contract language:

> Leave of absence without pay up to one (1) year may be granted to a permanent tenure teacher for further study when college credits are earned. Under this provision, leave of absence can be granted for one (1) semester when the teacher pursues a course of study of at least eight (8) semester hours. One (1) year's leave of absence can be granted when a teacher pursues a course of study of at least fifteen (15) semester hours. Upon return from such leave, a teacher will be granted up to one (1) year's credit for the purpose of achieving a salary level as if he remained actively employed in the School District..

> All requests for extended leave of absence or renewals will be made in writing to the Office of the Superintendent.

> **[Colorado Springs, Colorado]**

> For a teacher who has been an active member of the Glastonbury Public Schools staff for a minimum of one year a leave of absence of one year may be granted to permit participation in academic year institutes, approved programs of graduate study, or overseas teaching assignments.

> **[Glastonbury, Connecticut]**

Requirements

One-fourth of the agreements indicated that any teacher, probationary or tenure, would be granted such a leave and about a fourth specified tenure teachers. (Table 2) A small group, 4.5 percent, indicated that the leave would be granted to teachers who do not qualify or elect to take a sabbatical, and the remainder did not specify.

> A certified tenure employee may make written application to the Superintendent of Schools for leave, not to exceed one year in length, for purposes of study or travel.

> **[Park Forest, Illinois]**

> A leave of absence of up to one (1) year shall be granted to any teacher not eligible for Sabbatical Leave as provided for in Article IV, Section K of this Contract for purposes of engaging in study or for cultural travel or work program related to his professional responsibilities.

> **[Brookline, Massachusetts]**

TABLE 1.—GENERAL NEGOTIATED CONTENT OF 110 UNPAID RESEARCH, STUDY, AND TRAVEL LEAVE PROVISIONS, 1970-71

General content	Number	Percent
1	2	3
Eligibility requirements for leave	85	77.3
Screening and selection	92	83.6
Length of leave	92	83.6
Procedure for extending leave	8	7.3
Benefits	22	20.0
Conditions on return	69	62.7
Total sample	110	100.0

TABLE 2.–ELIGIBILITY REQUIREMENTS FOR UNPAID RESEARCH, STUDY, AND TRAVEL LEAVE, 1970-71

Eligibility requirements	Number	Percent
1	2	3
Who may apply		
Tenure teacher	26	23.6
Any teacher	28	25.5
Teacher not qualifying for sabbatical leave	5	4.5
Certificated teacher	4	3.6
Length of continuous service required	22	20.0
Five years	2	1.8
Four years	1	0.9
Three years	12	10.9
Two years	3	2.7
One year	4	3.6
Quality of previous service	5	4.5
Teacher's intended program of study	24	21.8
Total sample	110	100.0

One provision in 5 stipulated that a teacher must have served a minimum number of years of continuous service in order to be granted leave, one-tenth specifying three years of service. The number of years of continuous service required ranged from one year to five years. Examples of these provisions follow:

> Professional Study—An instructional employee who has been employed under contract for three years or more, upon written request, may at the discretion of the Board be granted, without pay, a leave of absence for study for one year, provided it does not in any way injure the program of the school.
>
> **[Fenton, Michigan]**

> After four years of service with the Westbrook School Department, any staff member may apply for a one-year leave of absence for study at no pay, subject to the following conditions:
>
> **[Westbrook, Maine]**

Additional criterion used to grant leave is the content of the program of study, indicated in about 1 provision in 4. Basically the applicant's program of study had to reflect his professional responsibilities and be of benefit to the educational process of the school system.

Screening and Selection

Over three-fifths of the provisions provided that a teacher need only request or apply for the unpaid leave of absence with no indicated restrictions as to time limits; just over one-fifth specified filing dates (Table 3).

Applications for leave are generally approved by the superintendent, but in 55.5 percent of the agreements the board makes the final decision.

In only 5.5 percent of the agreements is incorporated a clause which limits a leave to a certain number of recipients, a range from 2 to 5 per year.

Benefits

Contractual fringe benefits retained by the teacher while on such leave of absence without pay most frequently were insurance, other paid or unpaid leaves, and retirement and salary credit. One provision in 10 required the teacher to pay the cost of insurance programs if the carrier permitted. One-fifth of the provisions mentioned some type of fringe benefit retention, with leave accrual maintained in slightly more than 3 percent, and retirement credit in about 5 percent.

TABLE 3.–SCREENING AND SELECTION PROCEDURE FOR UNPAID RESEARCH, STUDY, AND TRAVEL LEAVE, 1970-71

Screening and selection	Number	Percent
1	2	3
Advance notification required	71	64.5
Filing date specified	25	22.7
Recommendation or approval by administration	34	30.9
Superintendent	28	25.4
Principal or other supervisor	3	2.7
Administration committee	3	2.7
Final decision	70	63.6
School board	61	55.5
Superintendent	9	8.2
Limitation on number of recipients	6	5.5
Total sample	110	100.0

Conditions on Return

Future service required after returning from leave was incorporated in about 7 percent of the provisions (Table 4). One-fourth of the provisions mentioned job placement, usually specifying a return to the same or equivalent position. Salary credit upon return to teaching was specified in almost one-half of the provisions, most of them specifying the normal experience credit on the salary schedule which the teacher would have attained had he performed regular teaching duties.

Selected provisions covering unpaid leaves of absence for research, study, and travel are reprinted below. These are sample provisions only, and are not intended to be regarded as exemplary.

TABLE 4.—CONDITIONS ON RETURN FROM UNPAID RESEARCH, STUDY, AND TRAVEL LEAVE, 1970-71

Conditions	Number	Percent
1	2	3
Teacher must notify board of intent to return	15	13.6
Teacher must submit records or transcripts	3	2.7
Future service required	8	7.3
Job placement	28	25.5
Same position	6	5.5
Same or similar position	20	18.2
Contingent on openings	2	1.8
Placement on salary schedule	52	47.3
Experience credit on salary schedule granted	44	40.0
No experience credit on salary schedule granted	8	7.3
Total sample	110	100.0

LEAVE OF ABSENCE

There shall be four basic classifications of leave of absence: educational leave, sabbatical leave (see Art. 14.4), personal leave and maternity leave.

Educational leaves of absence: Teachers who have demonstrated superior capacity for five years under the provisions of the Cheshire Evaluation Plan may apply for an extended leave of absence without pay for purposes of increasing professional competence by making written application to the Superintendent. The Board, on recommendation of the Superintendent, may grant such leave for not less than one semester and not longer than one school year.

All applications for educational leave of absence must be submitted to the Superintendent not less than sixty (60) school days before the leave is to begin.

Applicants must satisfy the Board that the study and/or travel or work experiences for which leave is to be granted will benefit the school system and lead to an increase in teaching effectiveness.

A recipient of educational leave of absence will also:

Be guaranteed the right to return to the teaching position or equivalent that he/she has occupied during the school year prior to the year of leave, and,

On return from leave, be placed on the salary schedule step which he would occupy had he been teaching during the leave time.

On return from leave, all previously accumulated unused sick days and personal days will be reinstated.

[Cheshire, Connecticut]

* * *

STUDY OR SPECIAL TEACHING

A leave of absence up to one (1) year without pay or fringe benefits, shall be allowed upon approval of the Board and Superintendent for study, research, or special teaching in the teacher's major field.

Written request for such leave shall be received by the Superintendent by March 1st in the school year prior to the term the leave is to start.

Notification of a desire to return from leave of absence shall be received, in writing, by March 1st, of the school year prior to the return date.

One year of experience on the salary schedule may be granted by the Board for one year of specialized teaching in the teacher's major field during the leave of absence.

**[Tri Creek School District,
Lowell, Indiana]**

* * *

EDUCATIONAL LEAVE

A staff member who has been employed by the Rockford School District for a minimum of three years and has a record of satisfactory service, shall be eligible for a study leave for a period of up to two years, provided said staff member states his intent to return to the Rockford School District for a minimum period of one year. Upon return, he would be restored to his former position, if possible, or to a position of like nature.

Study leave shall be a leave without pay and may be granted by the Board after receiving the recommendation of the Committee for Sabbatical Leave.

A staff member being granted a leave of absence for study shall advance on the salary schedule as he would have advanced had he been employed in the Rockford School District provided a transcript is filed indicating the required credits have been earned. Upon return from leave, he shall be restored to his former position, if possible, or to a position of like nature. He shall maintain tenure, if granted, insurance benefits, accumulated sick leave, and all other accrued benefits provided in the Professional Agreement.

Request for leave of absence for study shall be made to the Committee for Sabbatical Leave.

[Rockford, Illinois]

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BRIEFS OF AGREEMENTS

Washington Depot, Connecticut

Between Shepaug Regional School District Number 12 Board of Education and Shepaug Valley Education Association, effective July 1, 1973, to June 30, 1974. Approximately 48 certificated professional employees below the rank of superintendent and school principals and excluding temporary substitutes. Should the parties fail to negotiate a successor agreement prior to the termination of this agreement, they may extend the present agreement until a new agreement is reached; all salary-related provisions of the successor agreement shall be retroactive to July 1, 1973.

COMPENSATION: (1973-74) B.A., $8,300 to $12,020, 13 increments; B.A. plus 12 hours, $12,350 maximum; B.A. plus 24 hours, $12,680 maximum; B.A. plus 30 hours, $12,845 maximum; M.A., $9,245 to $14,065, 14 increments; M.A. plus 12 hours, $14,395 maximum; M.A. plus 24 hours, $14,725 maximum; M.A. plus 30 hours, $14,890 maximum; Professional Diploma or six-year certificate, $15,610 maximum; doctorate, $17,240 maximum. Full credit may be given for teaching experience in the public schools of the United States.

LONGEVITY: "For the excess in years of service in the district schools over that required to reach maximum salary, the Board will pay an additional One Hundred (100) Dollars for each of the years in excess, and this amount is to be added to the maximum salary in the appropriate schedule. In formula form $100.00 (Years in school district—Years to reach maximum) plus Maximum Salary."

DIFFERENTIALS: (Percentage times $8,300 Base) Dramatics director, .06; senior class adviser, .03, National Honor Society adviser, .010; boys' varsity basketball, .065; boys' and girls' gymnastics and boys' track, .0525; girls' field hockey, .05; girls' varsity softball .035; coed skiing, .0425.

OTHER: Homebound instructor will receive $7.00 per hour; $.12 per mile reimbursement for travel between schools; teachers involved in curriculum studies will be compensated for time devoted to such studies other than that which falls within the regular working day at the rate of $5.00 per hour.

LEAVES: Fifteen days' sick leave will be granted each year with unlimited accumulation; six days per year noncumulative leave will be granted for illness of a spouse or dependent or for death in the immediate family; three days' personal leave per year for personal matters that must be arranged during the school day; should an emergency arise and the three alloted personal leave days were used for religious observances not provided for in the school calendar, the superintendent may grant up to three additional personal leave days; leave for professional conferences may be granted at the discretion of the superintendent; leave for jury duty will be granted without deduction from any other leave, and the teacher will receive the difference between his pay and jury duty remuneration; professional leave at one-half annual salary for approved programs of study after six consecutive years of service; a leave of absence without pay will be granted up to one calendar year for temporary disability due to illness or injury; leave of absence of up to two years may be granted to teachers with three years of service to serve in Peace Corps or Teacher Corps.

INSURANCE: Blue Cross coverage under the Extended Plan with additional semiprivate room credit rider benefits, semiprivate maternity rider, and special dependent endorsement; general liability insurance coverage for a total of $1,000,000 will be provided for teachers supervising students for school-sponsored activities off school property; tax-sheltered annuity plan available.

ASSOCIATION: Payroll deduction of professional association dues; if negotiation meetings are scheduled during normal working hours, association representatives will be relieved from all regular duties without loss of pay; association business, including investigations and processing of grievances that interfere with the performance of duties will not be conducted during the working hours of a school day.

INSTRUCTION: Middle-school instructors will be assigned no more than five and one-half hours of duty during the day and will not be required to teach in more than two fields; all teachers will receive a 30-minute duty-free lunch period; instructors in departmental or modified departmental programs will have a minimum of 60 minutes planning time daily; classroom teachers will have at least 30 minutes planning time daily; teachers are required to be on duty one-half hour before and after school; every effort will be made to maintain class size in the self-contained classroom at no more than 25 students; should class size exceed 25, it is recognized that assistance may be needed; teachers will be dismissed at least four hours early on the Wednesday before Thanksgiving, last day of the school year; the superintendent will confer with the staff in preparing the regional school district calendar; teachers will play an active role in the preparation, implementation, and evaluation of all curriculum revisions and pilot program studies; since the board recognizes that competent specialists are essential to the operation of an effective educational program, the administration will make known to teachers established lines of communications for appropriate referrals and consultations; the board will supply sufficient auxiliary personnel to permit teachers to devote their time to teaching and preparation and to providing a wider range of services for the educational program; a textbook committee comprised mainly of teachers will make recommendations of textbooks to the superintendent.

PERSONNEL: Grievance procedure ends with final and binding arbitration; when a teachers meeting extends more than an hour beyond the workday, any teacher with com-

mitments made prior to the notification of the meeting is free to leave unless notification of the meeting was given at least two weeks in advance and the ending time beyond the hour limitation was specified; all regularly scheduled meetings must be designated on the calendar for the year; teachers will be given four weeks' notice for after school or evening parent conference schedules or other program for which their attendance is required; prior to the start of evaluation of teachers at least one inservice meeting will be held for discussion of the evaluation criteria to be used; evaluation reports will be placed in teachers' files with a copy provided to the teacher; teachers may comment on the report and both the teachers and the administrator will sign the file copy; teachers will be notified in writing by June 1 of any changes in their programs or schedules for the coming year; if two or more applicants for vacant positions are substantially equal in qualifications, the one with the greatest amount of seniority in the Shepaug Valley School District will be given preference; instructional chairmen will have at least 45 minutes per day for administrative duties in addition to their regular planning time; the board will provide legal counsel to defend any teacher in any action arising out of an assault on a teacher or out of disciplinary action taken against a student by a teacher and in criminal, civil, or administrative proceedings in which the teacher is charged with assault in connection with employment; absence as a result of personal injury compensable under Workmen's Compensation Laws caused by an assault arising out of and in the course of employment will not be charged to accumulated sick or personal leave; the employee will be paid his full salary for the period of absence minus the workmen's compensation paid.

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Charles Stewart Mott Community College
Flint, Michigan

Between Board of Trustees of Charles Stewart Mott Community College and Charles Stewart Mott Education Association, effective August 16, 1973, to August 15, 1975. Approximately 294 faculty and nonteaching professionals including all full- and part-time professional personnel, counselors, area coordinators, health counselors, and related trade and technical instructors. Provision for renegotiation not later than February 15 of the calendar year in which the agreement expires.

COMPENSATION: (1973-74) Less than B.A., $7,411 to $10,581, 10 increments; B.A., $8,994 to $15,064, 10 increments; B.A. plus 15 hours, $15,486; M.A., $9,838 to $16,515, 11 increments; M.A. plus 15 hours, $16,937 maximum; M.A. plus 30 hours, $17,359 maximum; M.A. plus 45 hours, $17,781 maximum; M.A. plus 60 hours, $18,203 maximum; doctorate, $18,625 maximum.

DIFFERENTIALS: Sponsorship of all student clubs and organizations will be voluntary and each sponsor will be paid $60 per semester; basketball coach, $1,790; baseball and track coaches, $1,430; wrestling coach, $1,375; cross country, golf, and tennis coaches, $775; basketball assistant, $750; baseball assistant, $630; debate coach, $600; cheerleading coach, $425.

OTHER: Authorized travel by car, $.12 per mile; faculty members who substitute will be paid $14 per contact hour; full-time instructors assigned to teach an overload course will be paid $210 per weekly contact hour per semester ($220 in 1974-75); faculty members performing professional assignments other than classroom teaching (e.g., advising, late registration duties, special test construction and correction) beyond their regular assignment will be paid at one-half the substitute rate.

LEAVES: Ten days' sick and emergency leave credited annually, unlimited accumulation; up to five days' emergency leave may be used for death in the immediate family and eight days of such leave may be used in case of serious illness of an immediate family member; full-time summer session faculty will accrue two days of sick and emergency leave; summer session faculty teaching one-half time or more but less than full time, will accrue one day of sick or emergency leave and summer session faculty teaching one-quarter or more but less than one-half time will accrue one-half day; two days' personal leave will be granted annually to take care of legitimate business and professional and family obligations that cannot be met outside the regular scheduled teaching assignment; three days' leave of absence without pay will be granted to faculty members who wish to observe traditional and customary holidays; the board will encourage attendance at professional conferences without loss of salary; the board will provide funds for expenses incurred for attendance at authorized meetings; when a natural catastrophe occurs, one day of leave will be granted without loss of pay; leave with pay for jury service with any juror's fees paid to the board; leave with pay when subpoenaed to serve as a witness in a court action arising out of employment; board will pay a faculty member in the military reserve the difference between his regular salary and the pay received for such service up to two weeks; sabbatical leave for one semester at full pay, or one academic year or the last semester of an academic year at half pay after completion of seven years of service in the college within 10 consecutive years; all insurance benefits provided by the board will continue while employee is on leave; a leave of absence up to three years may be granted for personal illness extending beyond accumulated sick leave; the board may grant a leave of absence for one year for study and may extend such leave annually up to a limit of three years for a plan of study approved by the administration; leave without pay will be granted for service in a school system, educational institution, or with an official governmental agency, including Peace Corps.

INSURANCE: Board will pay 100 percent of Blue Cross-Blue Shield MVF-2 Program plus Master Medical with $2 co-pay prescription drug coverage; board will pay group life insurance protection of $25,000; board will pay for long-term disability plan to age 65 at 60 percent of salary for sickness or accident with a 30-working day waiting period.

ASSOCIATION: Payroll deduction of local, state, and national association dues.

Membership, Fees and Payroll Deductions

All faculty members in the bargaining unit except those employed less than three-fifths time, as defined in Paragraph A(3) of Article X shall, as a condition of continued employment by the Board:

Maintain membership in the MCCEA, or

Pay, as a representation fee, an amount equal to the membership dues of the MCCEA (which dues shall include the dues of the Michigan Education Association and the National Education Association).

Each faculty member employed less than three-fifths time, except Civil Service and Building Trades personnel, shall either

Maintain membership in the MCCEA; or

Pay each semester, as a representation fee, ten dollars per weekly contact hour or one-quarter of an amount equal to the yearly membership dues of the MCCEA (defined in Section I-2 above) whichever is less; or

Pay one-quarter of the local MCCEA yearly dues for each semester of employment, provided that he is already a member of the MEA and the NEA.

The provisions of this section shall also apply to the summer session for employees hired only for the summer session of a given school year, except that the rate specified in paragraph 2 shall be five dollars per weekly contract hour per summer session.

Any faculty member now employed by the Board who is not a member of the MCCEA and any faculty member hereafter employed by the Board, shall within thirty (30) days from the execution of this Agreement, or within thirty (30) days from the date of employment, or within thirty (30) days after the indemnity hereinafter mentioned is received and approved by the Board, whichever date is later in point of time, make application for membership in the MCCEA (which shall include membership in the Michigan Education Association and National Education Association) or pay said representation fee if membership is not desired.

In the event that a faculty member fails to pay the membership dues or representation fee, the Board shall cause the termination of the employment of said faculty member as of the end of the school year in which said failure occurs. The parties expressly recognize that the failure of any faculty member to comply with the provisions of this Article shall constitute reasonable and just cause for discharge.

The president, the vice-president, and the Representative Assembly delegate will be released from classes for five days per school year to attend state or national meetings without deductions from salary, provided the association pays the cost of any necessary substitute; three contact hours of released time per week will be granted the president, provided the association bears the cost of his replacement(s) on a part-time or overload basis; effective with the 1974-75 academic year, this figure shall be six contact hours; faculty members engaged in negotiations during school hours will be released from regular duties without loss of salary; the association has the right to use school buildings for business meetings when not otherwise in use; the association may use college equipment, including typewriters, duplicating equipment, calculating machines, and audiovisual equipment, bulletin boards in each division may be used to post notices of association activities and matters; faculty members' mail boxes may be used for the distribution of informational material; the board will provide information on the financial resources of the district, adopted budgets, board minutes, and such other information as the association may reasonably require, together with information necessary for the association to conduct its legitimate business.

INSTRUCTION: The number of contact hours (50 minutes each) per week per semester will be determined by the instructors within each division with the advice of the division chairman and the approval of the president; the regular and standard teaching load will be 12 to 16 contact hours per week; a faculty member will not be assigned more than two course preparations unless more are needed to carry a full load; each faculty member will maintain at least six office hours per week, and will make additional provision for student consultations as may be necessary and reasonable and will be assigned no more than 25 students for counseling during any semester or summer session; whenever possible classes will be assigned within eight consecutive hours and with a 12-hour span between the end of the last assignment and the beginning of the first assignment the next day; full-time faculty employees will not be required to have classes beginning after 4:00 p.m. more than one semester each year and then no more than two per week unless necessary to make a full load; assignment of full-time faculty members to week-end duties will be on a voluntary basis; no class size shall exceed that set forth upon an official list without written consent of the faculty member affected; the board will continue to provide clerical services to the faculty for teaching and counseling purposes.

PERSONNEL: Grievance procedure ends with binding arbitration; right to review personnel file and challenge any contents concerning employment by the board and to be accompanied by a representative of the association; every attempt will be made to schedule faculty meetings at times that do not conflict with classes, except in emergency; the agenda for general faculty meetings will be published 48 hours in advance; attendance at college activities, except Commencement, will be voluntary; all full-time faculty members will be deemed on probation during their first three academic years at the college; not less than one year of credit will be given for teaching and counseling at other accredited higher education institutions; after satisfactory completion of probationary period the faculty member will be granted a continuing contract with full right to hearing and appeal; unless notified 60 days before the close of the academic year that his service will be discontinued, a probationary employee will be employed for the ensuing year; any probationary faculty member whose services are discontinued because they are deemed unsatisfactory or for other causes, may process his dismissal through the first four levels of the grievance procedure.

Evaluation of Probationary Instructors

The evaluation of probationary faculty members shall be made by a committee consisting of the Division Chairman or his designee and the appropriate faculty of the division. The committee shall conduct such evaluations in accordance with applicable divisional rules and regulations.

Evaluations shall include classroom techniques and methods; preparation of course syllabi and objectives; methods, systems and materials used to evaluate students; adherence to professional standards and codes of ethics; and relationships with peers and students.

The committee's written recommendation concerning a probationary faculty member's continued employment or dismissal, together with such documentation as may be requested, shall be transmitted by the Division Chairman to the appropriate Dean.

Written evaluation reports shall be signed by the faculty member and the appropriate Dean after a conference between the two. It is understood and agreed that the faculty member's signature merely acknowledges his having read the report. The probationary instructor shall have the right to respond in writing to the evaluation report, and such response shall be attached to all copies of the report.

Discharge or demotion of a faculty member on continuing contract may be made only for reasonable and just cause, and only after such charges, notice, hearing, and determination thereof, as are herein provided, to wit:

1. All charges against a faculty member shall be in writing, signed by the person making the same and filed with the Secretary, Clerk, or other designated officer of the Board, provided that charges concerning the character of professional service shall be filed at least sixty (60) days before the close of the academic year. The Board, if it decides to proceed upon such charges, shall furnish the faculty member with a written statement of the charges, and shall, at the option of the faculty member, provide for a hearing to take place not less than thirty (30) days nor more than forty-five (45) days after the filing of such charges.

2. On the filing of charges in accordance with the preceding Paragraph, the Board may suspend the accused faculty member from active performance of duty until a decision is rendered by the Board, but the faculty member's salary shall continue during such suspension, provided that, if the decision of the controlling Board is appealed and the arbitrator reverses the decision of the Board, the faculty member shall be entitled to all salary lost as the result of such suspension.

3. The hearing shall be conducted in accordance with the following provisions:

a. The hearing shall be public or private at the option of the faculty member affected.

b. No action shall be taken resulting in the demotion or dismissal of a faculty member on continuing contract except by majority vote of the members of the Board.

c. Both the Board and the person filing charges may be represented by counsel.

d. Testimony at the hearing shall be taken on oath or affirmation.

e. The Board shall employ a stenographer who shall make a full record of the proceedings at such hearing and who shall within ten (10) days after the conclusion thereof, furnish the Board and the faculty member affected thereby with a copy of the transcript of such record which shall be certified to be complete and correct.

f. Any hearing held for the dismissal or demotion of a faculty member on continuing contract must be concluded by a decision in writing, within fifteen (15) days after the termination of the hearing. A copy of such decision shall be furnished the faculty member affected within five (5) days after the decision is rendered.

g. Both the Board and the Faculty member may call witnesses and offer competent and relevant testimony and documentary evidence at the hearing.

h. Any faculty member on continuing contract shall have the right to appeal any decision of the Board under this Paragraph C within thirty (30) days from the date of the Board's decision to an arbitrator.

* * *

Staff Reduction

The Board may, upon giving ninety (90) days written notice, without hearing, terminate the services of any faculty member at the end of the academic year because of necessary reduction in personnel, provided that a meeting shall be held for the specific purpose of consulting with the MCCEA prior to the decision to make any such reductions, and provided that the reductions shall be accomplished according to the following provisions:

The Board shall determine the areas in which reductions shall be made and such reductions shall then be accomplished in the following order: part-time faculty, probationary faculty, year-to-year contract faculty, and lastly continuing contract faculty members. Retention of full-time faculty members shall be determined by using the criteria of seniority in the institution, in the division, and in specified areas within the division (not necessarily in that order of priority).

Released faculty members shall be placed on leave of absence with no obligation to rehire after the expiration of three (3) years. Each faculty member placed on leave of absence as aforementioned shall be reinstated in inverse order of his placement on leave of absence for a vacancy for which he is qualified.

The Board shall notify qualified faculty members on leave of absence of subsequent vacancies by certified mail to the last address registered by the faculty member in the Office of Staff Personnel Services. No new appointments, except on a temporary basis, shall be made within thirty (30) days from the mailing of such notification. No appointment of new faculty members shall be made until all those on leave of absence qualified for the vacancy have been given an opportunity to be reemployed. If a faculty member does not return to work at the specified time the Board shall have no further employment obligation to him, except that when a faculty member who has given notice of his intent to return is prevented from so doing due to illness or other emergencies, his leave shall be extended for a period not to exceed one (1) year.

Upon return such faculty member shall retain all credits toward sabbatical leave, sick and emergency leave and experience credits for salary purposes, but shall not accrue any such credits for sabbatical leave and sick and emergency leave and experience for salary purposes during layoff, provided that college or university teaching and counseling experience gained during layoff shall be evaluated for salary purposes upon re-employment.

* * *

Human Relations

Whereas, the Board and MCCEA are mutually committed to the human rights and dignities of all and to policies and programs of racial integration and desegregation as being necessary to good government, good education, and good management; and

Whereas, the parties to this Agreement are mutually committed to the necessity of equal educational opportunity for all students with no exclusion from any program on the basis of race, religion, creed, or social status:

The MCCEA agrees to continue to admit persons to membership without discrimination on the basis of race, creed, color, religion, or national origin, and to represent fairly all faculty members subject to the terms of this Agreement.

The Board agrees to continue its policy of not discriminating against any faculty member on the basis of race, creed, color, religion, national origin, or sex in hiring, placement, and assignment of personnel covered under terms of this Agreement.

The Board shall make all reasonable efforts to recruit minority group members for employment in the College and to affirmatively act to increase minority employment. To implement this effort the Board will adopt the following procedures:

The Board shall regularly communicate with institutions training substantial numbers of minority group members for the teaching profession.

Campus visits for the purpose of recruiting will be scheduled when it would appear that such visitations will result in successful recruiting. Such visitations may be cancelled when there is an insufficient number of teaching candidates who have scheduled interviews.

The parties recognize that faculty members shall be an integral part of the recruiting effort. Faculty members shall participate in recruiting trips when practicable. Faculty members participating in recruiting trips shall be selected by the Office of the Vice President. The Office of the Vice President shall give the MCCEA the names of faculty members selected.

Recommendation of potential teaching candidates by community leaders and community organizations will be given careful consideration.

Terminal Leave

A terminal leave payment of one hundred twenty-five dollars ($125.00) per year of service to the College will be paid upon retirement thereafter to: 1. Any faculty member who retires at the end of the school year in which he attains age 65.
2. Any faculty member who has ten (10) years of service to the College and who retires at the end of the school year in which he attains age 61, 62, 63, or 64.
3. Any faculty member who retires after reaching age 55 who has ten (10) years of service to the College if retirement is the result of ill health sufficient to qualify such faculty member for disability retirement under the Michigan Retirement System for Public School Employees Act.

A terminal leave payment of one hundred fifty dollars ($150.00) per year of service to the College will be paid upon retirement thereafter to any faculty member who has ten (10) years of service to the College and who retires at the end of the school year in which he attains age 60.

Any faculty member who retires under the terms and conditions of Paragraph A 1 shall receive five hundred dollars ($500.00) additional terminal pay if he has accumulated one hundred (100) unused earned sick and emergency leave days at the time of said retirement.

Any faculty member who retires under the terms and conditions of Paragraph A 2 or B shall receive an additional ten dollars ($10) per day for each day of accumulated sick and emergency leave.

For the purposes of Paragraphs A 1 and A 2, the school year is defined as beginning on September 1 of any given year and ending August 31 of the following year.

No vacancy will be filled except on a temporary basis until such vacancy has been posted for at least 15 days; transfers and changes of assignments will be made only in the area of the faculty member's competence and will be on a voluntary basis; whenever possible faculty members will be given 45 days' notice of involuntary transfers and the reasons therefor if the faculty member so requests; an opportunity to state in writing the reasons for objections to the transfer will be given; an involuntary transfer, or denial of a request for transfer may be challenged through the grievance procedure solely on the ground that the decision was unreasonable; there will be no monitoring or communications device used in the classroom or office without prior consent of the faculty member involved; discipline of faculty members will be subject to the grievance procedure.

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Port Washington, New York

Between Port Washington School District and Port Washington Teachers Association, effective July 1, 1973, to June 30, 1978. Approximately 465 certificated professional employees, including instructional staff.

COMPENSATION: (1973-74) B.A., $9,711 to $13,542, 14 increments; B.A. plus 30 hours, $13,842 maximum; B.A. plus 60 hours, $14,142, maximum; M.A., $10,779 to $18,354, 14 increments; M.A. plus 15 hours, $18,985 maximum; M.A. plus 30 hours, $19,616 maximum; M.A. plus 45 hours, $20,199 maximum; M.A. plus 60 hours, $20,782; doctorate, $21,753 maximum. (1974-75) B.A., $10,235 to $14,191, 14 increments; B.A. plus 30 hours, $14,491 maximum; B.A. plus 60 hours, $14,791 maximum; M.A., $11,361 to $19,344, 14 increments; M.A. plus 15 hours, $20,009 maximum; M.A. plus 30 hours $20,675, maximum; M.A. plus 45 hours, $21,289 maximum; M.A. plus 60 hours, $21,903 maximum; doctorate, $22,926 maximum. (1975-76) "The salary schedule for 1975-76 shall be 6% or Cost-of-living plus 1, whichever is higher, on BA Step 1 of the modified index. This schedule will appear as insert Appendix A in this Agreement." (1976-78) "The salary schedules for 1976-77 and 1977-78 shall be in each of the two years 5% or cost-of-living, whichever is higher, on BA Step 1 of the modified index. This schedule will appear as insert Appendixes B and C in this Agreement. In each instance the computation of the cost-of-living will be that as published by the U.S. Bureau of Labor Statistics for the New York - Northeastern New Jersey area and reported in April as reflecting the cost-of-living figures for the previous twelve months from March to March."

LONGEVITY: After 20 and 25 years $100 each year at B.A. and B.A. plus lanes and five percent above maximum salary at M.A. and higher lanes; part-time teachers will receive a pro-rata share of salary and will be advanced to the next salary step after having taught the equivalent of a full-time yearly schedule; experience credit for up to six years for previous teaching experience in equivalent public or private schools; additional credit up to twelve years may be granted at the discretion of the superintendent and with the approval of the board; credit for active military or Peace Corps experience may be granted up to three years; credit will be granted for previous work experience where deemed advisable by the superintendent.

DIFFERENTIALS: Athletic director, 22 percent of M.A. plus 30, step 25; instructional music assistant, $1,000.

OTHER: Home instruction teachers will be paid $11 per hour; coordinators of inservice courses will be paid $20 per two-hour session in 1973-75 and $22 per two-hour session in 1975-78; teachers on inservice courses will be paid $25 per two-hour session in 1973-75 and $27 per two-hour session in 1976-78; summer-school teachers will be paid $1,200 per six-week session and driver education summer-school teachers will be paid $1,425 per six-week session.

LEAVES: Sick leave advanced at start of school year, no accumulation.

Sick Leave

a. Instructional personnel having served the school district less than three full years shall be eligible to receive thirty (30) days for absence for personal illness at the beginning of each school year; those having served more than three years but less than ten years shall be eligible to receive one-hundred twenty (120) days for absence for personal illness at the beginning of each school year; and, those having served the school district more than ten years shall be eligible to receive two-hundred (200) days for absence for personal illness at the beginning of each school year.

During the first year of service it is understood that, after ten (10) days of absence, no salary will be paid to an employee for the first two days of any subsequent absence.

Personnel employed after the start of the school year, shall be eligible for sick leave on a pro rata basis during their first year of employment.

b. In those instances where an individual, having served the district for three (3) years or more, utilizes a portion of his sick leave allotment during the school year, days so utilized shall be deducted from the normal sick leave allotment (see "a" above) for the individual in the subsequent school year. Where an individual has served the district more than three years but less than ten years, he shall *be guaranteed receipt of a minimum of forty-five (45) days* for absence for personal illness in any one year; where an individual has served the district more than ten years, he shall be guaranteed receipt of a minimum of sixty (60) days for absence for personal illness in any one year.

Where required by the Administration, the employee will furnish a doctor's certificate in order to *qualify* for the above benefits.

No newly employed instructional employee is entitled to sick leave benefits prior to having started to teach in the District and prior to having satisfactorily passed the pre-employment medical examination, including tuberculin test, or chest x-ray.

Part-time teachers will receive a pro rata amount of sick and personal leave; an employee who sustains an on-the-job injury resulting in medical treatments and absence from work will receive his regular salary and fringe benefits up to one school year; any benefits received while on such leave will be paid to the school district; up to 10 days granted for illness in the immediate family; up to five days for absences owing to death in the immediate family; up to three days' personal leave for business that cannot be conducted after school hours will be granted upon the approval of the superintendent; sabbatical leave at one-half annual salary for a half year and 75 percent of annual salary for one year for study, research, or educational travel, after seven years of service in the school system; payment for summer sabbaticals will be limited to $1,000 per employee, and will be computed at $75 per week of program for employee, $15 per week of program for employee dependents up to four, plus full payment for tuition and academic fees; leaves of absence without pay will be granted for participation in Peace Corps or VISTA, restoration of health, service as an officer in a state or national professional organization, study clearly related to applicant's field of teaching, teaching at an accredited school or college for the purpose of enriching candidate's instructional skills, and assumption of political office; upon return to the school system, participants in VISTA or Peace Corps will be placed on the salary schedule at the level they would have achieved had they not been on leave; all employees returning from leave of absence will be assigned their former position if leave was for one year or less.

INSURANCE: Board pays 100 percent of individual health insurance plan and 60 percent of the dependents plan during 1973-75 and 75 percent of the dependents plan in 1975-76 and 80 percent of the plan in 1976-78; tax-sheltered annuity plans available.

Dental Insurance

During the 1973-74 school year, the Board shall make available the sum of $40,000 plus an additional sum to maintain the dental plan in effect during the 1972-73 school year. In the year 1974-75, the Board shall expend the sum of $20,000 above that which it expended in the 1973-74 school year for dental insurance. The sum expended in 1974-75 shall also be expended in the years 1975-76, 1976-77 and 1977-78. These amounts are to be utilized exclusively for the provision of dental insurance for instructional personnel under a plan established by representatives of the Association and administered by the Board.

ASSOCIATION: Payroll deduction of association dues; the association president will be relieved of all building duties; members of the association appointed by either the president or the superintendent to serve on committees may be released from classes or building duty during the school day; leaves of absence without loss of pay for association delegates to attend the annual New York State Unified Teachers House of Delegates meeting; the association will be alloted 10 days a year for association business; no more than three of these days are to be used by any one person, and should be scheduled two days in advance; association has the right to use school buildings for the conduct of general meetings, board will provide a permanent private office within a district facility, including filing space, office furniture, and a typewriter; association will have access to duplicating equipment, audiovisual equipment, and faculty mail boxes; the board will provide information relating to published surveys, reports, agendas, and minutes of public board meetings before public release and upon request, nonconfidential administrative reports and surveys; the board and the association will hold meetings during the school year, by mutual agreement, when requested; five minutes will be allotted at the beginning of each faculty meeting for association announcements.

INSTRUCTION: Direct teaching responsibilities of elementary teachers may not exceed 22½ hours per week and not more than 20 hours for secondary teachers; the secondary teacher's nonteaching duties will not exceed 3 hours and 45 minutes per week; elementary teachers shall have a duty-free lunch period of not less than 50 minutes except when weather or other circumstances may limit such time to 30 minutes; secondary teachers shall have not less than a

45-minute lunch period; a minimum of two and one-half hours per week will be reserved for preparation periods for elementary-school teachers; elementary-school teachers' day will begin at 8:15 and end at 3:15; high-school and secondary teachers' day will begin at 8:00 a.m. and end at 3:10 p.m. and 3:15 p.m., respectively; teachers will be required to work 182 days from September through June; the Professional Growth and Curriculum Development Committee, composed of instructional and administrative personnel, will make recommendations to the superintendent concerning revisions of present educational programs and proposals for new system-wide programs; a committee composed of the principal and three teachers in each building will decide on the utilization of teacher aides, and be responsible for their orientation, supervision, and evaluation; teacher aides will be used only by instructional personnel for noninstructional duties such as library, study hall, bus, cafeteria, playground, and technical duties; instructional aides and teacher assistants will be utilized for the same duties as aides as well as duties under the direction and supervision of the teacher such as checking homework, specific individualized instruction, preparing audiovisual materials, checking attendance, reporting grades, and filing.

PERSONNEL: Grievance procedure ends with advisory arbitration; right to review personnel file and to be accompanied by representative; no material will be placed in the employee's personnel files unless the employee has had an opportunity to read the material; the employee has the right to respond to any material in his file and to have his response attached to the file copy; a maximum of 20 faculty meetings will be held each year; meetings will be held on Mondays and will commence no later than 15 minutes after the dismissal of pupils; the Evaluation Committee for the Advanced Status Program, which is composed of teachers and an advisor from the administration, will review proposed plans for members of the professional staff who wish to attain higher degree status, and recommend applicants to the superintendent and the board; all nontenure teachers will be given a written assessment of their performance and those teachers whose services are to be terminated will be so notified by April 1; such teacher may upon written request have a meeting with the principal and the assistant superintendent for personnel; any teacher evaluated will be notified of the results of the evaluation within five days after the evaluation and should receive a copy of the written assessment within 10 days with the right to make a written comment concerning each evaluation and to have this comment included as part of the evaluation; the Supervision and Evaluation Committee comprised of representatives of the administration and the association will continue to study problems and issues and make recommendations to the superintendent concerning the evaluation of teachers.

Reduction of Personnel

Any proposed reduction in the number of instructional employees shall be discussed by the Association and the Superintendent. In the event that positions are abolished or discontinued in a specific teaching area, e.g., pre-kindergarten through sixth year, special areas or specific secondary subject areas, in order, uncertified teachers, probationary teachers, and then the least senior certified tenured employees in the tenure area, shall be laid off.

When vacancies arise following layoffs:

1. Laid off tenured teachers will be reemployed in order of seniority in the tenure area where they hold certification.
2. If vacancies do not exist in a specific tenure area, laid off tenured teachers in possession of certification to teach in another specific teaching area will be reemployed in order of seniority.

If no position is available for which a tenured teacher possesses certification, the district will utilize one of the following procedures:

1. Every effort shall be made to place a teacher in a position for which he has partially completed the requirements for certification while he proceeds to be retrained and certified.
2. The teacher may be provided with one of the sabbatical leaves provided by contract for the purpose of retraining for appropriate certification.

Laid off probationary teachers who would otherwise be retained will be given priority status for substitute teaching in the specific teaching areas for which they are certified, certifiable, or pursuing new certification. Every consideration will be accorded such teachers for available positions suitable to their talents and certification. Laid off probationary teachers serving as substitutes will be advised of available positions by the Office of Personnel.

Candidates for teaching positions will be interviewed by the principal, chairman, and two teachers of the same year level or subject area, when available, prior to offering the applicant the position; when the qualifications of applicants to fill vacancies or new positions are substantially equal, preference will be given to association members.

Chairmen's Teaching Load

All chairmen shall teach at least the equivalent of two classes. So that he may fully perform the duties and responsibilities that are his as head of a department, the chairman shall be relieved of teaching responsibilities in accordance with the number of teachers that are in his department as follows:

(1) 12 or more teachers in the department, including the chairman, 3 classes fewer than a full load.

(2) 7-10 teachers in department, including the chairman, 2 classes fewer than a full load.

(3) 4-6 teachers in department, including the chairman, 1 class fewer than a full load.

D. Additional Assignments

Department chairmen shall be relieved of building duty.

Teachers will be consulted when the annual budget is being prepared; when a budget cut must be made in teachers' specific budget requests, the teachers will select those items to be deleted provided such deletion does not contradict board policy; whenever remodeling of existing school facilities or constructon of additional school facilities is being considered, teachers with an interest in the foregoing will be consulted in the preparation of plans.

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NEGOTIATION RESEARCH DIGEST

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NATIONAL EDUCATION ASSOCIATION
RESEARCH

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CASE REVIEWS

GEORGIA

School Board Cannot Delegate Allocation of Budget Funds to Teacher Association

In support of a trial court decision, the Georgia Supreme Court held that absent legislative authorization, the Chatham County Board of Education was not empowered to grant the Chatham Association of Educators the right to allocate budget funds as economic benefits to members. The court, therefore, ruled that the contractual provision delegating this right to the Association was null and void.

The parties had negotiated a contract providing for a reopener on the economic sections. The board adopted a resolution amending its budget to grant the Association the right to allocate $339,600 for economic benefits to the board's professional employees. The Association ratified the resolution and decided that one-half of the funds would be applied to an insurance program and the remaining funds to salary increments. The Association informed the board of its action and requested that the funds be made available by February 1, 1973. The board refused to make the funds available.

Association petitioned the court to order the board to carry out its resolution and provide the monies for salaries and the insurance programs and to enjoin the board from withholding funds from its employees. The trial court found that the agreement negotiated between the parties contained terms and conditions of employment as well as a clause stating that the contract provisions would supersede any rules, regulations, and practices of the board. Furthermore, the board's resolution of August 1972 amended the budget to grant the Association the right to allocate $339,600 in economic benefits for professional employees. However, state statutes authorize the state board of education to administer state funds allocated to local school districts; local school districts have no authority to divert these funds. In addition, the board as an individual school system is charged with the duty of levying local taxes for support of the schools, and is responsible for the control and management of the school system. The trial court stated that absent specific legislative authorization, the school board was not empowered to delegate its legally appointed duties to third parties. The court further declared the board's contract and resolution void as they were illegal attempts by the board to delegate its powers to determine conditions of employment and the allocation of public funds. Accordingly, the Association could not enforce the contract and the resolution. The Association appealed the ruling to the supreme court.

Reviewing the trial court's decision, the supreme court affirmed the lower court's decision and dismissed the Association's appeal. (*Chatham Association of Educators v. Board of Public Education for the City of Savannah and the County of Chatham*, Georgia Supreme Court, March 7, 1974.)

MICHIGAN

Statute Illegally Restricted Employers' Contributions to Employees' Retirement Fund

The Michigan Court of Appeals, reversing a circuit court's decision, found that a statute limiting employers' retirement fund contributions unconstitutionally impaired the enforcement of a retirement fund provision of a contract between the Washtenaw Community College Education Association and the Board of Trustees of Washtenaw Community College.

The negotiated agreement included a provision for an optional private retirement fund for instructors to be funded by contributions from both employers and employees. These payments were to be in addition to employers' statutorily required contributions to the public-school employees fund. Subsequent to the effective date of the agreement, when legislation was enacted restricting higher education employers from contributing to more than one employees' retirement fund, the board of trustees discontinued payments to the retirement plan. As a result, the faculty association filed a petition in circuit court for a declaratory judgment asserting that the statute restricting the employers' retirement contributions illegally impaired the enforcement of the parties' contract. The circuit court did not find that the statute impaired the obligations of the contract and dismissed the petition. The association appealed.

The appeals court acknowledged that the Constitution of the United States provided that no state may enact legislation impairing the obligation of contracts. However, when a state has allegedly impaired contractual obligations, the state's economic interests and responsibility to protect the

welfare of its citizens must be considered in relation to the constitutional restriction. The court agreed that the contract was impaired by the legislation, but believed that the central question was whether the impairment was constitutional, for a statute that impairs contract obligations cannot be challenged if it only restricts a party's contractual benefits.

The court found that the statute could be challenged because it abolished retirement benefits the employees expected according to the terms of the contract. The board of trustees contended that the state's responsibility to protect its citizens' interests and welfare outweighed the constitutional ban on impairment of contracts, and that the statute was enacted to make the school employees retirement fund financially sound. The court rejected the board's contention because it found no evidence that the retirement fund was in financial difficulty, and prohibition of contributions to a private fund would not result in more money being diverted to the public fund. The court concluded that the prohibition of contributions to other retirement funds did not result in the state's further protection of the people's interests and welfare.

Examining the nature of the contractual obligation, the court determined that the private retirement fund was an important benefit accorded to employees because an employee could increase his compensation by as much as 5 percent by participating in the private retirement fund.

In conclusion, the court found that the statute restricting higher education employers' contributions to a single retirement fund was unconstitutional as it impaired the contract retirement fund provision; it, therefore, reversed the decision of the trial court. Additionally, in accordance with a pre-trial agreement between the parties, the board of trustees was obligated to pay all appropriate back contributions to the retirement fund. (*Washtenaw Community College Education Association v. Board of Trustees of Washtenaw Community College*, Michigan Court of Appeals, November 2, 1973.)

NEW JERSEY

Board of Higher Education Not Required To Negotiate Tenure Resolutions

In support of a New Jersey Board of Higher Education resolution, the New Jersey Supreme Court ruled that under the state employer-employee relations statute, a board of education was not obliged to negotiate faculty tenure policies as they were matters of educational policy exclusively within the board's power.

In 1971, the board requested the Chancellor of Higher Education to implement a study of tenure at state colleges. The report indicated that there was a serious tenure problem at the state and county colleges. Recognizing that normally between 50 and 60 percent should be tenured, the report pointed out that the tenured faculty in the colleges was approximately 63 percent in 1971, 71 percent in 1972 and would be 77 percent in six years if current practices were continued. Factors affecting the tenure problem were the recent growth in the number of tenured faculty, decreasing enrollment in the colleges, distribution of tenured faculty by department and rank, and the proportion of tenured assistant professors and instructors. The report proposed adoption of an appropriate tenure ratio and various policy changes designed to award tenure to faculty members who have not only performed satisfactorily, but also contributed to the development of the institution. The report also proposed that each state college submit a master plan specifying its personal requirements.

In July 1972, the Chancellor's report was distributed to the presidents of the state colleges, requesting that each president discuss the report with the faculty senate and transmit recommendations back to the board. Subsequently, the board, in support of the Chancellor's recommendations, adopted a tenure resolution incorporating policies which mandated the board of trustees of each college to draw up a 10-year plan to limit the proportion of tenured faculty, to establish more intensive and rigorous review procedures for conferring tenure, and to initiate a procedure to regularly evaluate tenured teachers' performance. Tenure was to be offered only to faculty members who had a terminal degree, whose probationary performance indicated future contribution to the school, and who exhibited superior teaching ability and scholarship. Subsequently, the board adopted a similar plan for county colleges.

Both the Association of New Jersey State College Faculties and the Association of New Jersey County College Faculties appealed the board's resolution to the Law Division. As the petitions were similar, they were consolidated and brought before the Supreme Court. Meantime, the board filed its tenure resolution with the Secretary of State and published the policies in the state register in the form of emergency statutes. The board's action afforded the public an opportunity to comment on the resolutions. Upon receiving no reaction, the board readopted these resolutions as administrative rules.

The faculty associations contended that in filing the tenure resolutions the board violated the New Jersey Administrative Procedures Act which requires that prior notice be given and a hearing be held before filing resolutions. The court found the issue moot; the act allows filing of rules without prior notification in an emergency, and the board's publication of the emergency rules satisfied any statutory requirements. The associations also asserted that the board lacked the authority to adopt tenure policies which impair faculty members' tenure rights. The court pointed out that the board had been given the statutory power to establish reasonable tenure guidelines in accordance with statutory tenure provisions. Reviewing the board's tenure resolutions, the court found that their purpose was to avoid granting tenure to unqualified teachers and in such a high proportion that institutional flexibility would be reduced. As no legal deficiencies were found in the resolution, the court rejected the parties' contentions.

Additional arguments contended that the adoption of the tenure rules violated the New Jersey Employer-Employee Relations Act; however, the court held that although the Act obligated employers to bargain with recognized employee organizations over "terms and conditions of employment" and "working conditions," these terms were never clearly defined as the Act did not purport to restrict the board's supervisory responsibilities as set forth in the state education law.

The court reiterated that adoption of the tenure policies was within the board's statutory duties and the resolutions could be considered matters of major educational policy statutorily within the exclusive province of the board. Accordingly, the court affirmed the board's adoption of the tenure resolution but added that although the board was not obligated to negotiate faculty tenure policies, prior consultation with and recommendations from faculty representatives and other interested parties were very important. (*Association of New Jersey State College Faculties Inc. v. Ralph A. Dungan, Chancellor of Higher Education et al*, New Jersey Supreme Court, October 12, 1974.)

Increases in Teaching Hours and Credit for Courses Ruled Arbitrable

Working hours and progress along the contractual salary schedule are terms and conditions of employment, regardless of overlap into areas of educational policy; consequently, grievances dealing with these matters are arbitrable. The New Jersey State Supreme Court reversed, on appeal, a Chancery Division restraining order that had prevented the arbitration of two grievances submitted by the Englewood Teachers Association in a dispute with the Board of Education of the City of Englewood. In both cases, the teachers had exhausted the four-level internal grievance procedure and sought binding arbitration as provided for in the contract.

The basic issue was the negotiability of the board's increasing the teaching hours of four special education teachers, to bring their work day into conformity with that of other teachers, and the board's refusal to grant credit for courses taken by another teacher which had the effect of denying the teacher a salary increment warranted by the attainment of a higher level of education.

With regard to the unilateral change in work hours, the Association felt that the savings clause of the contract protected the teachers from such an extension because it proscribed any interpretation or application of the agreement which worked to "eliminate, reduce or otherwise detract from any teacher benefit existing prior to its effective date." The board's position was that the matter of a teacher's work hours rested exclusively with it and could not be delegated, as the prerogative was explicit under the state education laws precluding the arbitrability of the complaint; the court's decision sustained this view.

Similarly, arbitrability was the issue involved in the second grievance wherein the board maintained that it had the exclusive right to deal with matters of compensation. The Chancery Division court again favored the board's contention and granted a restraining order against the Association's effort to arbitrate the grievances.

Examining the opposing positions, the state supreme court had to determine the fine line between the board's duties and powers under the Education Law and the Association's rights under the Employer-Employee Relations Act. The court returned to the principles derived in its previous attempt at reconciliation of the provisions of the two statutes in *Dunellen Board of Education v. Dunellen Education Association*, and found that working hours and compensation, along with physical work environment, requisite facilities, and customary fringe benefits were matters within the jurisdiction of the Employer-Employee Relations Act. Specifically, the court held that "major educational policies which indirectly affect the working conditions of the teachers remain exclusively with the Board and are not negotiable whereas items which are not predominantly educational policies and directly affect the financial and personal welfare of the teachers do not remain exclusively with the Board and are negotiable."

Finding the matters at issue to be suitable for negotiation and the grievance procedure, including arbitration if so negotiated, and failing to find any violation of the education statute in the Association's effort to secure arbitration, the court reversed the Chancery Division's restraining orders. The court stressed that it would continue a case-by-case determination in disputes involving the Education Law and the Employer-Employee Relations Act in an effort to give effect to the provisions of both without frustrating the goals or terms of either. Although it anticipated "administrative and judicial burdens" through this approach, the court felt that the burdens would decrease with the emergence of additional guideline opinions. (*Board of Education of the City of Englewood, Plaintiff-Respondent v. Englewood Teachers Association, Defendant-Appellant*, Supreme Court of New Jersey, November 20, 1973.)

NEW YORK

Knowledge of Strike Injunction Sufficient for Compliance

Persons proven to have knowledge of a court ordered injunction are guilty of contempt for violation of the order even if the injunction was not actually served upon them. Also, a school district satisfies the statutory definition of "public employer" or "government" and can properly sue for injunctive relief in its own name. So ruling, the Appellate Division of the state supreme court denied union appeals and affirmed two orders of a special term supreme court which enjoined a strike by the Yorktown Congress of Teachers and held teacher leaders in contempt for continuing the strike in violation of the injunction. However, the court modified the fines and jail sentences levied against individual teachers and union officers.

The union's first appeal was directed at the court's denial of a motion to dissolve a temporary restraining order against the strike. The union contended that the suit filed by the school district to enjoin the strike was improper as it should have been filed by the school board. The court disagreed, finding a school district to be a "proper party plaintiff" in that state statutes defined a school district as a government, public employer, and municipal corporation with the power to negotiate collectively and sign contracts with the teachers.

A second appeal contended that union members had not been proven guilty of criminal contempt for violation of the injunction and that the sentences and fines imposed by the court were excessive.

The lower court had ascertained that all but three of 22 union leaders and other teachers had been served with the restraining order and had been absent from work during the entire period of the strike. The court ruled that the strikers, having willfully violated the order were guilty of criminal contempt and fined the union $1,000 for each day of the strike. In addition, the court sentenced six union officers to 30-day jail terms and the 16 other teachers to 15-day terms, and fined each of them $250.

The appellate court concluded from the evidence that proof of guilt had been established beyond reasonable doubt for the 19 teachers served with the restraining order. The three who had not received the order were union officers and would have known about the injunction, the court believed, stating that "persons who have knowledge of the mandate of the court may be punished for contempt even though not served with a copy of the order allegedly disobeyed." Although the school board requested that the teachers not be jailed, the penalties imposed were held justifiable in view of the teachers' intentional defiance of the law and court order.

The court affirmed both lower court decisions, but reduced the jail sentences to that time already served by the teachers and to five days for the union officers. (*Yorktown Central School District No. 2 v. Yorktown Congress of Teachers, et al*, New York Supreme Court, Appellate Division, Second Judicial Department, October 29, 1973.)

PERB Orders Enforceable By Judicial Declaration

A Public Employment Relations Board (PERB) order directing an employer to negotiate in good faith can be enforced by judicial proclamation, so ruled the New York Supreme Court.

PERB ordered the City of White Plains to bargain with the Firefighters Association regarding two of the Association's six demands. The city contended that PERB's petition was insufficient in law since the court did not have jurisdiction, that it (the city) was bargaining in good faith, that such an order could be entertained only after administrative procedures regarding improper practices were exhausted, and that the issue of good faith bargaining was a matter of another administrative hearing. PERB sought an order directing the city to comply with its order.

The court held that the dispute was whether or not the city was in compliance, although PERB asserted that a non-compliance contention was unnecessary to obtain judicial enforcement. The court ruled that PERB had authority to render its decision and that the evidence supported PERB's determination. Accordingly, the court granted PERB's petition and ordered the city to comply with PERB's decision. (*Matter of New York State Public Employment Relations Board, Petitioner v. The City of White Plains, Respondent*, New York Supreme Court, September 26, 1972.)

SOUTH DAKOTA

Non-Material Conditions of Employment Not Subject to Negotiation

Affirming a trial court's decision, the South Dakota Supreme Court ruled that under the Public Employees Union Law, the Aberdeen School Board was not required to negotiate with the Aberdeen Education Association over elementary conferences, teacher aides, elementary planning, class size, audiovisual expansion, budget allowances, guidance programs, and administrators' retirement. The court said that the above-mentioned items were non-material conditions of employment and, therefore, not subject to negotiation. The teachers Association had appealed the trial court's decision, claiming that the items were "other conditions of employment" and, therefore, a proper subject for negotiations.

Dismissing the school board's contention that the state collective bargaining law was unconstitutional, the court stated that the important issue was whether the trial court had erred in determining that the items were not proper subjects of negotiation. According to the court, the state negotiation statute authorized public employers to bargain with public employees over wages, hours, and other conditions of employment. The instant case concerned the term "other conditions of employment."

The court cited previous court cases and National Labor Relations Board decisions that had ruled that employers did not have to negotiate every item affecting employment, and also cases where employees were not required to negotiate non-material working conditions. In the opinion of the court, the negotiation statute did not require the board to negotiate non-material working conditions. "Other conditions of employment," as viewed by the court, constituted material conditions of employment directly affecting wages, hours, and working conditions. The court did not consider elementary conferences, teachers' aides, elementary planning, class size, audiovisual expansion, guidance programs, and administrators' retirement to be material items affecting working conditions, wages, and hours, but rather matters of management prerogative.

Accordingly, the court dismissed the Association's petition and affirmed the trial court's decision. (*Aberdeen Education Association v. the Aberdeen Board of Education*, South Dakota Supreme Court, March 19, 1974.)

BOARD FINDINGS AND RULINGS

CALIFORNIA

Fact Finders Support Released Time for Organizational Representatives

The majority decision of a fact-finding committee called in to settle a "three-party persistent disagreement" under procedures of the states' Winton Act (CETA) recommended that the Campbell Elementary School District grant released time for conducting organization business to one representative of the Campbell Elementary Teachers Association. The fact-finders based their decision on prior practice and the needs of the school district and the Association.

In previous years, the board officially had granted the president of the CETA released time on the basis of 2/7 of a school day. The practice was continued, however, without official board action. As the Association reimbursed the school district for the permanent substitute, released time was at no cost to the district with the exception of some fringe benefits. At the meet-and-confer sessions for the 1973-74 school year, the Certificated Employees Council (CEC) requested one-half day released time for at least two representatives of the employee organization, and eventually revised its request for one person on a half-time basis. The board offered four days per year for one person, whereupon CEC declared a persistent disagreement and submitted the issue to fact-finding.

In view of the history of the released time program, the CEC claimed that the board's proposal was not meaningful as the purpose of the released time was to promote a better employer-employee relationship. The CEC also presented a list of activities instituted by the Association since the inception of released time. In addition, several principals offered testimonals on the benefits of the released time program.

The board did not deny the established practice of granting released time, but pointed out that a 1967 Attorney General Opinion held that a government agency need not allow time off for conducting organizational business, and contended that comparable school districts did not provide as much released time, that the released time would discriminate against employee organizations other than the CETA, and that eventually other organizations would request the same amount of time. The board also mentioned that the program had received some adverse community reaction and that the released time activities were not always beneficial to the school district.

The fact-finders' majority opinion recognized that the board was not obligated to grant released time and that the AGO was applicable, but questioned whether a strictly legalistic view was appropriate since the minimal number of complaints or problems arising from the program seemed to be outweighed by the principals' testimonials. On the basis of a statement from another employee organization that it did not find the program discriminatory, the majority of the fact-finders felt that the chances of another employee organization requesting a similar benefit were minimal. Finally, the strongest support for the program was its efficient operation.

The fact-finders also pointed out that both the Association and the CEC were working on plans for employing a full-time organizational official, and the board was acquiescent to this type program even though it could not be implemented during the current school year. Considering the fact that the CEC requested released time for one-half of the school day as opposed to the previous 2/7 of the school day, the fact-finders reported that this was no real change in practice, because previously, the organizational representative had been released at noon, leaving only two of a day's five teaching periods after lunch.

In conclusion, both the neutral fact-finder and the CEC fact-finder recommended that the practice of releasing one teacher designated by the CEC from noon onwards be continued for the 1973-74 school year. (*Certificated Employees Council, Campbell Union School District and Board of Trustees, Campbell Union School District*, Fact Finding Panel, January 8, 1974.)

MARYLAND

Teacher Entitled to Full Pay for Early Completion of Assignment

An arbitrator upheld the authority of the Anne Arundel County Board of Education to issue procedures for prorating extracurricular pay, but "simple justice" obligated the school board to pay the full amount to a teacher who satisfactorily completed her assignment in less than the specified time period.

An agreement negotiated between the board and the teachers association specified lump sums for various extracurricular activities. The programs of individuals and the teachers to be assigned were to be determined by the principal with the advice of the faculty council in accordance with administrative guidelines. The Association contended that the guidelines should be negotiated, that they should be limited to specifying extracurricular programs and the

number of teachers to be involved, and the extracurricular rate should not be less than the amount stated in the contract.

The case brought to arbitration involved a teacher, appointed yearbook advisor, who completed the assignment in a shorter time than the one specified in the written offer signed by the teacher when she accepted the assignment. The school board refused to pay the teacher the full sum for the activity and in accordance with extracurricular guidelines prorated the amount.

The arbitrator found that nothing in the contract prohibited the action of the board in setting up minimum time requirements and a system of proration, and that the system of proration had existed informally and unchallenged for a number of years. The arbitrator stated further that if the Association wanted to change the extracurricular guidelines, it should seek to do so at the bargaining table. However, reviewing the instant case, the arbitrator found that the teacher had satisfactorily completed her assignment in less than the estimated time and therefore ruled that the school board pay the teacher the full amount for the assignment. (*Teachers Association of Anne Arundel County and Anne Arundel County Board of Education*, American Arbitration Association, May 1, 1973.)

MINNESOTA

Absent Contractual Provision Public Employee Not Guaranteed Substantive Right to Independent Review of Dismissal

Basing their decision on a state Attorney General's Opinion, the Minnesota Public Employee Relations Board declared that the state public employee bargaining law did not guarantee employees the substantive right to the review of grievances, "unless it is otherwise provided by contract, ordinance, statute or civil service rule."

The board's ruling was issued in a case brought against the Lac Qui Parle County Assessor's Office, for dismissing one employee without either providing reasons for dismissal or affording a hearing of charges. A letter sent to the county board of commissioners requesting a hearing and objecting to the dismissal on the basis that it was without justification was never acknowledged. Subsequently, the employee petitioned PERB for an independent review under Section 179.76 of the bargaining law.

At the PERB hearing, the county asserted that the board lacked jurisdiction in the case because the employee's dismissal was not a grievance arising out of the terms and conditions of employment. According to the county, the assesor had the authority to terminate the employee and furthermore, the action resulted from an elimination of the full-time clerical assistant position in the assessor's office. The county also stated that the employee withdrew a request to appear before the board of commissioners and refused further employment as a part-time assistant.

According to the board there were three central issues in the case: whether the dismissal was subject to independent review, whether the county provided such review, and whether the employee was discharged for cause. The board admitted that there was no evidence that the county provided a procedure for independent review of grievances or that the dismissal of a public employee was a grievance under Section 179.76 of the bargaining law. However, according to the board, the important question was whether the employee was protected from discharge without cause under the state bargaining law when there was no county procedure, contract, or policy providing such protection.

An attorney general opinion on the issue, as requested by the PERB, stated that an employer does not have to prove cause in order to dismiss an employee unless provided for by statute or collective bargaining agreement. The attorney general stated further that cause standards were not imposed on public employers unless their employees were permanent employees in the public service or were covered by a civil service procedure or contract providing a cause standard. He concluded that the clerical assistant's case was not justiciable before the board.

In accordance with the attorney general's opinion, the board ruled that Section 179.76 of the bargaining law did not provide public employees with the substantive right of independent review in the absence of a contract, ordinance, statute, or civil service procedure providing such a right. The board therefore dismissed the clerical assistant's case and added that Section 179.76 of the bargaining statute concerned only the procedural right of independent review. (*Dorothy Richard and Lac Qui Parle County Board of Commissioners and Lac Qui Parle County Assessor*, Minnesota Public Employee Relations Board, January 2, 1974.)

NEW YORK

Student Employees Under College Work-Study Programs Are Not "Public Employees"

Student employees who work for a university as student aides under the federally assisted College Work-Study Program are not "public employees" as defined in the New York Collective Bargaining Law, ruled the Office of Collective Bargaining (OCB), Board of Certification.

The decision emanated from a certification petition brought by a union of college workers seeking a unit of student aides and federally supported College Work-Study Program students at the libraries of the senior colleges of the City University of New York. A second petition requested certification of a unit of student aides and students in the work-study program who performed clerical and related office work at the university.

The city argued for a dismissal of the petitions on the grounds of impropriety since the nature of the employment relations between the student aides and College Work-Study Program students and the university was not within Taylor Law rights and obligations.

The OCB cited cases having related issues in which the common theme was that where an employment relationship exists only for furthering an educational or correctional goal, it is different from that considered in the labor relations statute.

A factual determination revealed that this type of employment is different because positions are reserved particularly for student employees, who are each treated differently, and few students remain in a position or are permitted to remain permanently in a position. Further, the board found that the purpose of student employment is to supplement the students' financial resources so that the students may continue in school, not to provide training or experience in the student's chosen field of study. Finally, the board held that the employment status was totally dependent on continuing student status.

The OCB ruled that the employment relationship was subordinate to the primary educational purpose of the student's relationship with the university, and consequently ruled that the students were not public employees within the meaning and intent of the New York City Collective Bargaining Law. Therefore, the board dismissed the union petitions. (*College Workers Association and the City of New York et al.*, Office of Collective Bargaining, Board of Certification, February 4, 1974.)

Requiring Teachers To Show 'Good Cause' Before Leaving Building Constitutes Violation of Contract

An arbitrator ruled that the Falconer Board of Education violated its agreement with the Falconer Education Association when it issued a memo requiring teachers to show "good cause" before leaving the school building during unassigned periods. Prior to the issuance of the memo, teachers were required only to notify a member of the clerical staff when they were leaving the building.

The contract included a provision that stated that teachers were allowed to leave school during an unassigned period upon proper notification to the principal. Disagreement concerned what constituted "proper notification" and "unassigned periods." The board claimed that preparation periods were assigned periods while the Association held the opposite view.

According to the arbitrator, an unassigned period was any period when a teacher was not assigned to teach a class or supervise a study hall. Therefore, preparation periods were unassigned. Furthermore, since the board had previously accepted teachers' notification of the clerical staff as "proper notification" for leaving the building during an unassigned period, the board's issuance of a memo requiring teachers to show "good cause" before leaving the building was a unilateral change of contract language and thus violated the contract. (*Falconer Education Association and Falconer Board of Education*, American Arbitration Association, March 27, 1973.)

OHIO

Reduction of Extracurricular Activities Because of Financial Squeeze Upheld

The Cincinnati Board of Education was justified in reducing teachers' extracurricular assignments and compensation because of the electorate's failure to approve a tax levy. In so finding, an arbitrator rejected the challenge of the Cincinnati Teachers Association to the board's action. The Association contended that reduction could not be made because the negotiated agreement stipulated various extra-duty provisions as well as rates of pay and a maximum number of hours for each activity.

Reviewing the facts of the case, the arbitrator stated that although the agreement stipulated a maximum number of hours for each activity, a minimum number of hours or the amount to be paid for each activity was not required. In fact, inclusion of a maximum number of hours for each activity implied that sometimes less than the maximum would be scheduled. This concept was reinforced by the inclusion of an hourly rather than an annual rate of compensation. However, the arbitrator found that after the cutback several teachers had devoted more than half of the scheduled hours for various activities, and he recommended that these teachers be reimbursed according to the scheduled hourly rate. (*Cincinnati Board of Education and Cincinnati Teachers Association*, Federal Mediation and Conciliation Service, July 30, 1973.)

PENNSYLVANIA

Teachers To Be Paid for Two-Day Orientation Program in Excess of Contractual Year

In support of a grievance filed by the Bangor Area Education Association, an arbitrator ruled that the mandatory two-day orientation session scheduled by the Bangor Area School District exceeded the negotiated school year, and, therefore, ordered the school board to compensate teachers for attending.

The negotiated agreement effective during the 1972-73 school year provided for a 183-day school year: 180 pupil attendance days, two inservice days, and one orientation day. Prior to the beginning of the 1972-73 school year, all new teachers were informed that they had to attend two orientation days before the schools opened. The Association claimed that the orientation program was never discussed during negotiations, and furthermore the extra orientation days lengthened the school calendar.

Reviewing the facts of the case, the arbitrator rejected the board's contentions that the grievance was improper as the events took place prior to the start of the school year, and that the grievance was improperly filed since not all teachers signed the grievance and some teachers were un-

aware of the grievance. The arbitrator pointed out that the grievance was signed by a chairman of an Association committee who had the right to file a grievance in the name of the organization. The arbitrator also rejected the board's final contention that past practice of holding the orientation without extra pay should be maintained. According to the arbitrator, past practices was superseded by contractual provisions. As the present contract stated that the school year shall not exceed 183 days, the board could not extend the school year without paying additional compensation to teachers. The school board was ordered to reimburse teachers who attended the orientation program. (*Bangor Area School District and Bangor Area Education Association*, American Arbitration Association, April 11, 1973.)

Prior Submission of Budget Does Not Annul a Board's Duty To Bargain on Economic Terms

Prior submission of its budget was no defense for the Muhlenberg Township School District's refusal to bargain with the Muhlenberg Township Education Association regarding economic terms and conditions of employment for the current school year, ruled the Pennsylvania Labor Relations Board (PERB).

The district adopted its final budget for the 1973-74 school year prior to its budget submission date without consultation or negotiation with the Association regarding wages and benefits for the coming year. However, the district granted increases to bargaining unit members who received less than $6,800 annually and who had been employed for more than six months and also granted these employees the same fringe benefits received by others.

The union contended that the district had violated the Public Employment Relations Act (PERA) by refusing to bargain in good faith and by unilaterally changing the terms and conditions of employment.

Citing a similar case, *Reynolds School Board*, PERB said that the budget submission date has the purpose of fixing the timing for activating collective bargaining impasse procedures, and that the Act does not define the conduct or the obligation to bargain. Accordingly, PERB directed the district to bargain on economic issues, but stated that by so ruling, it did not intend that any concession be made regarding the economic matters.

PERB rejected the union's charge that the district committed an unfair practice in unilaterally granting increases in wages and fringe benefits since it found that the district had established past practice of granting such wage increases and equalizing fringe benefits. (*Pennsylvania Labor Relations Board v. Muhlenberg Township School District*, Pennsylvania Labor Relations Board, January 29, 1974.)

FEDERAL

Separate Unit Determined For Law School Faculty: Part-Timers Excluded

Basic differences between the operation of a law school and the operation of the other parts of a university warrant a separate bargaining unit consisting of regular law school faculty, assistant dean, and librarians, and excluding part-time faculty, adjunct facutly, and the head librarian. The National Labor Relations Board adhered to its precedents set in *Fordham University* and *Catholic University of America*, by favoring the unit sought by the Associated Law Professors of the University of San Francisco School of Law over the university-wide unit sought by the administrators of the University of San Francisco.

To determine whether the law school satisfied the guidelines developed in the cases cited, the NLRB examined the law school's facilities, accreditation standards, salaries, governance structure, and degree of independence in matters of curriculum content, recruitment, promotion, and tenure. It found that the law school was housed in its own building, maintained a separate academic calendar, and operated independently in matters of staff conditions of employment. Therefore, it defined the law school faculty as a separate bargaining unit as it constituted "an identifiable group of employees whose separate community of interest has not been submerged in the broader community of interest shared with the rest of the university faculty."

The assistant dean carried a teaching load and performed certain administrative functions, but his responsibilities stopped short of those of a supervisor, the Board asserted, thus including him in the bargaining unit.

While the law school library staff did not teach or hold law degrees, they were included in the unit as they were found to be a "closely allied professional group" operating a facility fully integrated with the law school. The head librarian was defined as a supervisor and excluded from the bargaining unit.

Adjunct professors were usually lawyers retained on a semester basis, and paid by credit hour instead of an annual salary. They were not eligible for tenure, promotion, or fringe benefits and had no voice in the operations of the law school governance. Noting the significant dissimilarity between adjunct and full-time faculty, the NLRB excluded the former from the bargaining unit. (*University of San Francisco and Associated Law Professors of the University of San Francisco School of Law*, National Labor Relations Board, November 7, 1973.)

NEGOTIATION NOTES

IOWA

Teacher Bargaining Law Enacted

Iowa enacted a public employee negotiations act making it the 31st state to give public employees the right to bargain with respect to the terms and conditions of their employment. The newly enacted law permits public employees to organize and bargain collectively, protects their right to join or to refuse to join, participate or refuse to participate in employee organizations, and prohibits and prevents all strikes by public employees. Excluded from the purview of the Act are elected officials and persons appointed to fill vacancies in elective offices, members of any boards and commissions, representatives of a public employer, confidential employees, temporary employees hired for four months or less, judges, judicial magistrates, and the employees of judges.

The Act establishes a Public Employment Relations Board composed of three members, appointed by the governor with approval of two-thirds of the senate, to administer the provisions of the Act. Among the Board's duties will be collecting data and conducting studies related to wages, hours, benefits, and other terms and conditions of public employment, and maintaining a list of qualified mediators and arbitrators, and establishing their compensation rates.

Employers and employee organizations are mandated to negotiate in good faith with respect to wages, hours, vacations, insurance, holidays, leaves of absence, shift differentials, overtime compensation, supplemental pay, seniority, transfer procedure, job classifications, health and safety matters, evaluation procedures, procedures for staff reduction, inservice training, authorization of dues deduction, grievance procedures for resolving disputes arising under the agreement, and other matters agreed upon by both employers and employee organizations.

All parties are prohibited from willfully refusing to negotiate in good faith or refusing to participate in any agreed-upon impasse procedures. Employers are specifically prohibited from engaging in a lockout, and employees and employee organizations are barred from sponsoring or supporting any picketing that is performed in support of a strike, work stoppage, boycott, or slowdown against a public employer.

Charges of violations of the Act must be filed with the Board within 90 days of the alleged violation, and a copy must be sent to the accused party. The accused party must file an answer to the complaint within 30 days. The Board may designate a hearing officer to conduct the hearing on complaints having basis in fact. However, the decision of the hearing officer may be appealed to the Board. Should the Board find the accused guilty, it can enter into a consent order with the party to discontinue the practice or petition the district court for injunctive relief. Any party aggrieved by a Board decision may appeal to the district court of the county within 10 days of such decision.

Board orders or decisions may be modified, reversed, or set aside if the Board acts without power or in excess of its powers, if the order was procured by fraud or is contrary to law, or if facts found by the Board do not support the order.

Maximum punishment for engaging in an unlawful strike is a fine of $500 for an individual or $10,000 for an employee organization for each day of noncompliance with a court injunction barring such action or imprisonment in a county jail not to exceed six months, or both. An employee held in contempt of court for failure to comply with an injunction against a prohibited practice will be ineligible for employment by his public employer for 12 months, and an employee organization found in contempt will be decertified for not less than 12 months.

The Act also outlines procedures for determination of appropriate bargaining units and bargaining representatives. In defining a unit, the Board will consider, along with other relevant factors, the principles of efficient administration of government and the existence of a community of interest among public employees. The Board will call an election to determine the bargaining representative if it finds at least a 30-percent showing of interest. The election will determine whether the employees want exclusive bargaining representation, and if so, which organization. If no employee organization receives a majority of the votes cast, a runoff election will be held.

The parties have the option of negotiating their own impasse procedures or abiding by the procedures for handling impasses outlined in the Act, including mediation, fact-finding, and binding arbitration. [See TEXT section, page 23 for full version.]

MICHIGAN

Residence and Retirement Plan Provisions Ruled Bargainable

Upholding a decision of the Michigan Employment Relations Commission (MERC), the Michigan Supreme Court held that the residence requirement for Detroit police and the police retirement plan were bargainable.

The Detroit Police Officers Association (DPOA) brought the case before MERC, charging that the city refused to bargain. MERC ruled that the adoption of the residence ordinance did not mean that the city could avoid bargaining

a residence requirement, adding, however, that enacting the ordinance was legal since a valid impasse existed when the city common council rejected the parties' negotiated agreement which freed the city to take the unilateral action of enacting the ordinance. Further, MERC held that the city was not obligated to bargain on recruiting requirements for patrolmen. MERC also held that the city erroneously refused to negotiate changes in the police retirement plan by conducting a referendum on amending the city charter provisions for the plan. In so ruling, MERC directed that the city not require approval by a vote of the electorate as a condition for any agreement reached concerning retirement provisions for police.

Ruling on the city's appeal, the Michigan Court of Appeals interpreted the Supreme Court's decision in *Detroit Police Officers Association v. Detroit,* to mean that the city was not obligated to bargain on residence since its enactment of the requirement was legal. However, the court agreed with MERC regarding the city's obligation to bargain concerning retirement changes. But the Supreme Court held that the appeals court misinterpreted its decision since the Supreme Court's ground of decision was the fact that the common council had the authority to enact a residence ordinance.

The high court noted that when the case was before the lower court, the city had agreed that the residence requirement was within PERA's definition of terms and conditions of employment. Now the city claimed that residence was a continuing recruiting requirement, over which, according to MERC, the city was not required to bargain. The Supreme Court held that residence in this context was not a recruiting requirement but rather a condition with which police officers must comply in order to maintain their employment. Accordingly, the high court affirmed MERC's decision and the stipulation that the residence requirement was a mandatory subject of bargaining under PERA, and that collective bargaining could not be avoided by enacting a city ordinance.

Additionally, the Supreme Court affirmed MERC's decision that the city's enactment of the ordinance was legal, noting that the common council was not negotiating directly with the DPOA and that after the city's rejection of the city/DPOA contract, an impasse existed which permitted the city's unilateral action.

Regarding the retirement issue, the court upheld MERC's determination that the changes in the police retirement plan were mandatory subjects of bargaining. The court rejected the contention that the Home Rule Cities Act mandated that the city charter include retirement plans and that such plans could not be changed without voter approval. The court found that the Act did not require that the city charter contain more than a general grant and an outline of authority to a city government to implement and maintain a retirement plan, and that the substantive details of the plan were subject to the duty to bargain found in PERA. But the court did not enforce MERC's order to bargain on the matter.

Accordingly, the Supreme Court affirmed the lower court's decision in part and reversed it in part. (*Detroit Police Officers Association v. City of Detroit and Michigan Employment Relations Commission*, Michigan Supreme Court, February 14, 1974.)

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ALABAMA

Attorney General's Opinion

In a case in which an employee on jury duty failed to give his employer the contractually required 15 hours' notice before returning to work, the attorney general ruled the notification requirement inapplicable. Noting that the employee was unable to give adequate notice of his availability for work because he had not been released from jury duty in time, the attorney general stated that the employee was entitled to his regular compensation for the time missed, less jury duty pay.

HAWAII

Attorney General's Opinion

The attorney general ruled that legislation enacting unilateral pay increases for public employees whose union status was to be determined by a pending representation election was constitutional. However, he added, such legislation was premature and inconsistent with the purpose and intent of the collective bargaining law.

NEW MEXICO

Attorney General's Opinions

The state attorney general recently handed down three opinions regarding collective bargaining in institutions of higher education.

1. Dealing with the matter of union security, the attorney general held that an institution of higher education can lawfully enter into collective bargaining agreements containing provisions for a modified agency shop because state law does not specifically prohibit union shop or agency shop provisions. However, the attorney general found that the state does provide for self-organization, choice of bargaining representatives, and collective bargaining.

2. In another opinion regarding union security, he ruled that institutions of higher education may enter into collective bargaining agreements allowing for a dues check-off system since this type of provision does not come within the concern of the statute that allows a wage assignment only under specified conditions.

3. The third opinion dealt with collective bargaining agreements incorporating compulsory arbitration as a means of settling disputes. The attorney general held that such agreements can legally be entered into as the legisla-

ture's adoption of the Uniform Arbitration Act expressed its intent to favor arbitration, and that it is normal procedure to incorporate arbitration provisions into collective bargaining agreements.

* * *

FEDERAL

Equal Pay Act Guidelines

The Employment Standards Administration of the U.S. Department of Labor currently in the process of applying principles established by the courts under the Equal Pay Act to professional and managerial employees in retail stores, industrial plants, and educational institutions released several guidelines to help insure compliance.

In determining job content, wage-hour compliance officers must consider the requirements of the position and the employee's performance; in comparing positions, job content must be similar in character, and comparisons cannot be based solely on salary. Furthermore, job titles, job descriptions, rank, departmental classification, evaluation methods, and collective bargaining agreement provisions cannot be totally relied on in determining compliance with the act as they may reflect sexist stereotypes. Job comparisons may be made between full- and part-time employees and reviewed on a case-by-case basis. Job comparisons may also be made between departments or disciplines.

Base pay must be equal regardless of fringe benefits. A pay differential for a college degree or a skill is not justified if the degree or skill is not required for the job and payment of a higher salary to attract a minority worker of either sex is illegal if it results in discrimination against a member of the opposite sex. Employees must be informed of merit pay systems, and these systems must be applied regardless of sex. All required payroll records must be made available to Department of Labor representatives.

In determining equal pay for equal work, the burden of proof remains with the Department of Labor; however, the burden shifts to the employer if he disagrees with the Department's findings or believes that an exception applies.

THE CONSUMER PRICE INDEX—MARCH 1974

The Consumer Price Index rose 1.1 percent in March to 143.1 (1967=100), the Bureau of Labor Statistics of the U.S. Department of Labor reported. . . . Higher prices for gasoline and food each accounted for about one-fourth of the rise in the index. The remainder of the increase was due to higher prices for many other consumer goods and services, notably apparel, gas, electricity, postal charges, and physicians' fees. The March CPI was 10.2 percent higher than a year ago.

On a seasonally-adjusted basis, the CPI rose 1.1 percent in March, following increases of 1.0 percent in January and 1.3 percent in February. The increase in the food index of 0.8 percent in March was considerably less than in the preceding two months. The increase in the index for nonfood commodities was unusually large for the third consecutive month. The services index rose 0.8 percent, following increases of 0.7 percent in the preceding two months.

In the calendar quarter ended in March, the CPI rose at a seasonally-adjusted annual rate of 14.5 percent. This compares with a rate of 9.0 percent in the last quarter of 1973. The acceleration in the first quarter was due to large increases for a variety of consumer goods, including gasoline, food, apparel, and household durables. Prices of consumer services rose at about the same rate as in the fourth quarter.

Monthly changes in detail (not seasonally adjusted)

The index for food purchased in grocery stores increased 1.0 percent, substantially more than is usual for March, but less than the increases in February and in January. Fresh vegetable prices rose. Prices of processed fruits and vegetables, cereal and bakery products, and dairy products continued to rise, although not so fast as in late 1973. Increases in prices of sugar and sugar-based items were larger than in recent months. Beef prices, on the other hand, declined in March following a sharp rise in February. Prices also declined for pork, poultry, eggs, and fresh fruits; prices of most items usually rise in March. The index for food away from home—restaurant meals and snacks—rose 0.7 percent, about the same as in recent months.

The index for nonfood commodities, which is usually unchanged in March, rose 1.5 percent. The gasoline and motor oil index rose 7.0 percent to a level 39.3 percent above March of last year. The index for fuel oil and coal declined slightly in March, but it was still 57.7 percent above March 1973. Price increases for apparel commodities were larger than usual for March. Prices continued to increase for other nonfood commodities such as textile housefurnishings, housekeeping supplies, toilet goods, newspapers, houses, household durables, and auto parts. New car prices increased instead of declining as they usually do in March. Used car prices continued to decline.

The services index increased 0.8 percent. In the household services category, postal charges rose almost 20 percent, and charges for gas, electricity, home maintenance and repair services, laundry work, and washing machine repairs increased. The rise in charges for medical care services was led by a 1.7 percent advance in physicians' fees. Among transportation services, there was a large increase in intercity bus fares. Charges for personal care services and apparel services continued to increase.

SOURCE:

U.S. Department of Labor, Bureau of Labor Statistics, news release, April 14, 1974.

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SPECIAL REPORTS

NEGOTIATED FAMILY SICK LEAVE PROVISIONS

Leave for family illness is granted to teachers whose presence is required when a member of his family is ill or injured. Provisions for family illness leave were included in 49 percent (749) of the 1,529 comprehensive agreements in effect in 1970-71 and on deposit in NEA Research. Every fifth agreement with at least one from each state having a negotiated agreement was selected for analysis.

All of the agreements analyzed grant paid leave for family illness. However, 17 agreements stated that should it become necessary for the teacher to be absent longer than the time alloted, he would either be given an extension, usually at the discretion of the superintendent or school board, or in some provisions, be placed on leave without pay.

The definition of "family members" covered by family sick leave provisions ranges from only the spouse or child living at home, to spouse, child, brother, sister, parent, grandmother, grandfather, aunt, uncle, father-in-law, mother-in-law, sister-in-law, brother-in-law, or a person whose relationship to the teacher warrants such attendance. The kinship of family members for which leave may be taken is identified in 71.8 percent of the 149 contracts analyzed. The spouse and children were listed in 63.8 percent of the agreements and parents in 63.1 percent. (See Table 4.) In 28.2 percent of the provisions only broad terms are used, e.g., family, immediate family, blood relative, close relative, or others in the family. A few provisions permit a teacher to utilize such leave for any person whose illness has a "real meaning" to the teacher.

About half (49.0 percent) of the agreements provide that leave for family illness be deducted from sick leave allowance and about one-fourth (24.2 percent) of family sick leave provisions provide for negotiated separate leave. In most agreements in which family illness leave is a separate item, it is listed under a general heading such as leaves of absence or temporary leaves of absence, which usually includes leaves other than leave for personal or family illness.

More than half (59.7 percent) of the agreements specified the number of days that may be used for family illness: 35.6 percent, the maximum days allowable per year; 6.0 percent, the number of days allowable for each incidence of illness; and 18.1 percent no specification as to whether the time listed was for each incidence of illness or a yearly maximum.

TABLE 1.–GENERAL CONTENT OF NEGOTIATED FAMILY SICK LEAVE PROVISIONS, 1970-71

Provisions	Number	Percent
1	2	3
Family leave with pay	149	100.0
Circumstances under which leave is granted		
Critical illness	22	14.8
Emergency illness	3	2.0
Illness	68	45.6
Serious illness	55	36.9
Kinship of family members identified	107	71.8
How leave is charged		
Deducted from sick leave	73	49.0
Deducted from personal leave	16	10.7
Deducted from emergency leave	11	7.4
Separate from other leave	36	24.2
Combined with bereavement leave	13	8.7
Number of days allotted		
Per incident of family illness indicated	9	6.0
Per year	53	35.6
Not specific as to whether per incident or per year	27	18.1
Not indicated	60	40.3
Provisions for extension of leave	17	11.4
Total number of provisions analyzed	149	100.0

TABLE 2.–REQUIREMENTS FOR OBTAINING FAMILY SICK LEAVE, 1970-71

Requirements	Number	Percent
1	2	3
Reason for leave must be verified by a written statement from the employee and/or a physician	20	13.4
Prior notification of an administrator required	22	14.8
Leave must be requested within a certain time limit	14	9.4
Number of provisions stipulating requirements for family leave	42	28.2
Total number of provisions analyzed	149	100.0

TABLE 3.—NUMBER OF FAMILY SICK LEAVE DAYS PROVIDED, 1970-71

Number of days	Number	Percent
1	2	3
Number of days alloted per incident	9	6.0[a]
One	1	0.7
Two	1	0.7
Three	2	1.3
Four	1	0.7
Five	4	2.7
Number of days allotted per year	53	35.6
One	1	0.7
Two	5	3.4
Three	9	6.0
Four	3	2.0
Five	30	20.1
More than five	5	3.4
Number of days allotted not specific as to whether granted per incident or per year	27	18.1
One	1	0.7
Two	1	0.7
Three	11	7.4
Four	2	1.3
Five	9	6.0
More than five	3	2.0
Number of days allotted not indicated	60	40.3
Total number of provisions analyzed	149	100.0

[a] Sub-items do not add to total because of rounding.

The circumstances for which family illness leave is granted include critical illness (14.8 percent), serious illness (36.9 percent), emergency illness (2.0 percent), and illness (45.6 percent). When the terminology used is not clearly defined, the provision is open to interpretation by courts and arbitrators. A few contracts define "critical illness" and "serious illness." Examples follow:

In addition to leave for personal illness as defined above, a teacher may be allowed a maximum of five (5) school days in any one year with full pay because of death or critical illness within the immediate family.

Critical - shall be construed to mean of the nature of, or constituting, a crisis, hence of doubtful issue.

[Mountain Lakes, New Jersey]

Five days absence will be allowed for critical illness or death for each member of the immediate family. This allowance cannot be accumulated from year to year. Critical illness means illness which the attending physician considers sufficiently serious to require the employee's presence at the bedside. (The Director of Personnel reserves the right to require a statement from the attending physician to substantiate critical illness.)

[Coatesville, Pennsylvania]

Serious illness applies to immediate family and shall be construed to mean any illness or injury which a doctor considers to be of such a nature as to require the employee's attendance.

[Mahopac Falls, New York]

In case of serious illness or injury of the immediate family or member of the household, no salary deduction will be made for absences not exceeding three days. These days shall not be deducted from the accumulative sick leave. Absences under this provision must be approved by the Superintendent of Schools. Definition: "immediate family" shall be understood to include: husband, wife, father, mother, child, brother, sister. "Serious illness" shall be defined as illness implying a sense of urgency and the immediate need of medical service.

[Point Pleasant, New Jersey]

The meaning of an emergency leave provision was clarified in Michigan by an arbitrator who ruled that an employee could not use emergency illness leave to care for her grandchildren while her daughter-in-law was in the hospital for the birth of another child. In his decision the arbitrator pointed out that although the period following childbirth could come within the meaning of illness, childbirth is not an unforseen occurrence and therefore cannot be classified as an emergency.[1]

For a teacher to be compensated when on leave for family illness some school systems require the teacher to submit a written statement concerning the leave and/or a statement from the attending physician verifying the illness and the need for the teacher's presence. Advance notification of an administrator is required in 14.8 percent of the agreements.

Examples of family illness leave provisions follow:

Illnesses in the Family

a. Where personal presence is advisable because of the critical illness of (a) a teacher's spouse, child, a parent, father-in-law, mother-in-law, brother, sister, or (b) any other person living in the teacher's immediate family household, absences will be allowed with pay for a total period of ten (10) school days in each school year.

TABLE 4.—KINSHIP OF FAMILY MEMBERS IDENTIFIED IN PROVISIONS FOR FAMILY SICK LEAVE, 1970-71

Kinship	Number	Percent
1	2	3
Spouse	95	63.8
Children	95	63.8
Parents	94	63.1
Brother or sister	73	49.0
Parents-in-law	53	35.6
Person living in same household	44	29.5
Grandparents	35	23.5
Brother- or sister-in-law	17	11.4
Son- or daughter-in-law	14	9.4
Person in loco parentis	12	8.1
Grandchildren	7	4.7
Aunt or uncle	6	4.0
Person dependent on employee	5	3.4
Niece or nephew	3	2.0
Step relative	3	2.0
Foster children	3	2.0
Spouse's grandparents	1	0.7
Step children	1	0.7
Total number of provisions analyzed	149	100.0

b. In all absences under this section totalling four (4) or more consecutive school days, the teacher must file a physician's certificate with the Board Secretary/Business Manager by way of the principal of the school where employed.

c. The Board reserves the right to require a doctor's certificate after one (1) day's absence due to illness in the family.

[East Orange, New Jersey]

TEMPORARY LEAVES OF ABSENCE

a. As of the beginning of the 1970-71 school year, teachers shall be entitled to the following temporary nonaccumulative leaves of absence with full pay each school year.

Up to five (5) days at any one time in the event of death or serious illness of a teacher's spouse, child, parent, or sibling; and up to three (3) days at any one time in the event of death or serious illness of a teacher's son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, sister-in-law, person standing in loco parentis to the teacher, and any other number of the teacher's immediate household.

[Lincoln Park, New Jersey]

Sick Leave may be used for:

Illness or death in the immediate family (up to 4 days). The term "immediate family" includes: mother, father, foster parents, stepmother, stepfather, grandparents, wife, husband, children, brother, sister, mother-in-law, father-in-law, and other relatives or members of the immediate household.

[Arlington, Virginia]

[1]Public School and United Steelworkers of America, District 29, American Arbitration Association, November 13, 1971.

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BRIEFS OF AGREEMENTS

Wilmington, Delaware

Between Marshallton-McKean School District and Marshallton-McKean Education Association, effective July 1, 1973, to June 30, 1975. Approximately 202 certificated professional employees. Provision for renegotiation if notice is given by the Association on or before December 1, 1974.

COMPENSATION: (1973-74 state basic schedules) B.A., $7,146 to $9,527, 10 increments; B.A. plus 30 hours, $10,241 maximum; M.A., $8,098 to $10, 479, 10 increments; M.A. plus 30 hours, $11,194 maximum; doctorate, $11,670 maximum.

DIFFERENTIALS: (1973-74 in four steps) Athletic director, $1,125 to $1,372; head boys basketball and head football coach, $975 to $1,189; assistant football coach, $575 to $702; assistant basketball coach, $525 to $640; head wrestling coach, $897 to $1,093; assistant wrestling coach, $468 to $571; head baseball coach, $700 to $853; assistant baseball coach, $375 to $458; head girls' hockey coach, $424 to $516; assistant girls' hockey coach, $295 to $360; school newspaper advisor, $475 to $579; yearbook advisor, $400 to $487.

LEAVES: Up to 12 days' annual sick leave, cumulative to 120 days; up to three days deductible from sick leave for critical family illness and religious holidays; up to three days' personal leave upon approval of superintendent.

BEREAVEMENT LEAVE

Up to five (5) days. Immediate family is defined as father, mother, brother, sister, son, daughter, husband, wife, parent-in-law, or any relative who resides in the same household, or any person with whom the employee has made his or her home. This absence shall be in addition to other leaves granted the employee.

One (1) day for the funeral. Near relative is defined as first cousin, grandfrather, grandmother, aunt, uncle, niece, nephew, brother-in-law, or sister-in-law. This absence shall be in addition to other leaves granted the employee.

Leave with pay up to 15 days; sabbatical leave after seven years' service in public education in Delaware, provided that at least five consecutive years of service will have been in the employ of the school board; such leave may be granted for professional improvement or for the recovery of health after prolonged illness; the period of leave shall not be shorter than one-half school term, nor longer than one full term; employees granted such leave will be compensated up to $2,000 for a full school term or $1,000 for a half term dependent upon full-time salary and the state minimum salary.

MATERNITY LEAVE

Illnesses and temporary disabilities associated with pregnancy shall be treated as any other illness and shall be subject to the provisions of Delaware Code, Title 14, Section 1318, entitled, *Sick Leave and Absence for Other Reasons*, except for the following provisions necessitated by reasons of "business necessity" or optionally granted provisions for the additional benefit of the employee, said exceptions reflecting the practicalities of the situation.

An employee who is ill because of pregnancy may be absent and remain on the payroll under the provisions of Section 1318 for

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any number of days to which the employee has earned entitlement under the provisions of the section, except as otherwise herein provided.

Prior to the expected delivery of a child, absence with pay will be recognized in accordance with Section 1318, Section 1319, entitled, *Records of Absence; Proof*, and Section 1320, entitled *Deduction for Unexcused Absence*, as these sections may be applicable.

Beginning with the day on which the child is born to an employee, that employee may continue to be absent from employment and remain on the payroll to the extent of earned entitlement under Section 1318 for each working day in a period of twenty (20) calendar days.

Any employee who is absent for any illness during all of the working days in a period of twenty (20) calendar days may remain on the payroll for that period but if then unable to return to work assignment, said employee shall present a report concerning the condition of illness.

The employee may extend the number of days of absence with pay beyond that defined above upon certification of illness by an attending physician and subject to earned eligibility for sick-leave time.

An employee who is absent on account of pregnancy or other temporarily disabling illness but who has not earned or who does not have a sufficient reserve of earned sick-leave days under Section 1318, may be absent in accordance with the provisions in Paragraphs (c) and (d) above, without any jeopardy to employment status but without pay for the period of time after exhaustion of earned sick leave, if any.

An employee who is absent in accordance with the provisions of Paragraphs (c), (d), or (e) above, on account of pregnancy or after the delivery of a child, may request and shall be granted additional days of absence, without pay, in accordance with the provisions of Paragraphs (g), (h), (i), and (j) of this section without any showing of illness regarding the additional days. An employee who is absent in accordance with provisions of Paragraphs (d) or (e) on account of other temporarily disabling illness shall present a physician's certification as documentation in support of the request.

As a condition for the granting of such additional leave, the employee shall indicate to the Board of Education of the school district that said employee will, at the completion of the leave and on such date as is determined in agreement with the Board, return to regular employment in the district or resign from the position held, thus authorizing the Board to employ a regular, full-time person.

The maximum additional days of leave requested by and granted to an employee may be for the remainder of any semester during which the illness occurs and the next succeeding semester of that or the subsequent school term. In the event that a classroom teacher requests additional days of leave without pay for a period shorter than that referred to above, the Board of Education of the school district may require that the teacher remain absent from school until some appropriate and regularly scheduled change in the school schedule, such as the end of a semester, or a marking period.

At the end of any leave as herein described, the professional employee shall be accepted into full-time employment by the leave-granting Board and assigned to the same or a similar position to the one from which leave was granted. In no case may assignment be made so as to invalidate a professional employee's certification status or to bring about a demotion in position or salary for the employee.

The period of absence granted under these provisions shall be applicable to the determination of experience, salary, or pension eligibility and the computation of pension eligibility time in the same manner as any other absence under Delaware Code, Title 14, Section 1318. No state funds shall be used for any payment of salaries to persons absent under the provisions of these sections, except as provided for in Delaware Code, Title 14, Section 1318, Section 1319, and Section 1320. *State Board of Education regulation, September 21, 1972.*

INSURANCE: Basic state program plus $15 per month paid toward Blue Cross and Blue Shield health insurance; group term life insurance which includes accidental death and dismemberment benefit; board paid long-term disability insurance which pays 66 2/3 percent of the employee's salary for a maximum of five years with a 60-day waiting period during the 1973-74 contract year; in 1974-75 contract year the maximum will be to age 65.

ASSOCIATION: Payroll deduction of local, state, and national association dues; the board will provide the equivalent of seven days per year of released time to the president or a person designated by the Association to perform Association duties; whenever an aggrieved employee and/or his Association representative is required to participate in grievance procedures during working hours, the grievant and his Association representative shall suffer no loss in pay; the board will pay one-half of the total state-supported salary plus the local supplement for a lost day for any other employee whom the Association may require to attend, and one-half the cost of a substitute for the employee with the Association paying the balance; if attendance at negotiations, conferences or meetings is required by the board or administration, no pay loss will be suffered; the Association has the right to use school buildings, school facilities, and equipment; the Association may place a bulletin board in each building and will also be assigned space on the bulletin board in the central office of each building; interschool mail facilities and school mail boxes may also be used; the Association will be provided without cost, office space in a building at a location agreed upon; the board will provide information relating to annual financial reports and audits, register of certificated personnel, tentative budgetary requirements and allocations, agendas and minutes of all board meetings, census data, individual and group teacher health insurance premiums, experience figures, names and addresses of all teachers, and such other information that will assist the Association.

INSTRUCTION: Every effort will be made to ensure that a teacher on a departmental schedule will not be required to teach in more than two subject areas; all employees will have a half-hour duty-free lunch period; teachers at the elementary level, excluding kindergarten and first grade, will be granted not less than 120 minutes preparation time per week to be scheduled in blocks of not less than 30 minutes; teachers must report 15 minutes prior to the opening of school and may leave 10 minutes after the close of the school day; one-half of the members of the Educational Improvement Council will be teachers elected by each building staff; the board will employ aides to assist the professional staff in performing professional and nonprofessional duties provided such employment is economically feasible as determined by the board.

PERSONNEL: Grievance procedure ends with the state board of education; right to review personnel file and be

accompanied by an Association representative; material deemed unfavorable by an employee may be destroyed after three years; no derogatory material will be placed in employee's file without his knowledge; employee will have the right to affix a written response pertaining to such material; meetings to be held whenever necessary; however, every effort will be made to limit meetings to 45 minutes; all monitoring or observation of the work performance of an employee will be conducted openly; all employees will be given a signed copy of any formal evaluation report and no such report will be submitted to the central office, placed in the employee's files, or otherwise acted upon without a prior conference with the employee; nontenure teachers will receive evaluation reports at least twice per year; board and Association to develop evaluation criteria; whenever an employee is required to appear before the board, the superintendent, or his designee concerning any matter which could adversely affect continuation of his employment, the employee will be given prior written notice of the reasons for such meeting or interview and will be entitled to have a representative of the Association present to advise and represent; if a terminated or suspended employee is reinstated, he will receive back pay; any discipline, reprimand, reduction in rank or compensation, or deprivation of any professional advantage will be subject to the grievance procedure; areas of competence and length of service in the district will be considered with other qualifications when evaluating employee for promotion; the criteria used in voluntary transfers will be certification, qualification as determined by evaluation, seniority, and recommendation of receiving administrator; if a transfer or promotion is denied, the employee will be given reasons upon request; involuntary reassignment will take place only after all other possible ways of filling the vacancy have been exhausted; upon retirement 50 percent of the per-diem rate of pay in effect at the time of retirement will be paid for up to 90 days of unused sick leave.

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Columbus, Ohio

Between Columbus Board of Education and Columbus Education Association, effective September 1, 1973, to December 31, 1974. Approximately 4,800 certificated professional employees, including all certificated teaching employees, certificated and noncertificated school nurses, dental hygienists, clinic nurses, and regular hours rated teachers who are employed for the major part of the school year; excluding the superintendent, deputy superintendent, assistant superintendents, principals, assistant principals, and other administrative or supervisory personnel. Provision for renegotiation during November 1974 on salary and fringe benefits and on agency shop provided legislative action has established agency shop as negotiable.

COMPENSATION: B.A., $7,900 to $13,683, 14 increments; B.A. plus 150 hours, $14,078 maximum; M.A., $8,761 to $15,168, 14 increments; M.A. plus 30 hours, $15,468 maximum; Ph.D., $16, 456 maximum. Up to five years credited for public-school teaching experience outside the Columbus Public Schools.

DIFFERENTIALS: (Based on percentage of B.A. minimum) Senior head coaches of football, basketball, baseball, track, and wrestling, and director of instrumental music, 13.04 percent; faculty manager and activities coordinator, 10.14 percent; senior assistant coaches of football, basketball, baseball, track, and wrestling, and junior head coaches of basketball, baseball, and track, and senior yearbook advisor, 6.52 percent; senior head coaches of cross country, golf, tennis, and swimming, 5.07 percent; junior and senior intramural directors, senior newspaper, 4.34 percent; senior vocal music, 3.62 percent; senior debate, elementary safety patrol, and junior assistant coaches of basketball, baseball, and track, 2.89 percent.

Stipulations—Summer school rate shall be paid for all summer school work; i.e., coaches, instrumental music, treasurers, etc.

A senior instrumental music assistant shall be employed for two weeks half-day at summer school rate.

Senior treasurer will teach four (4) classes, have two (2) periods assigned for treasurer's duty, one (1) conference period, one (1) lunch period, and one (1) extra duty assignment.* The extra duty assignment may be used to perform the treasurer's duty should the building principal deem it necessary.

Junior treasurer will teach five (5) classes, have one (1) period assigned for treasurer's duty, one (1) conference period, one (1) lunch period, and one (1) extra duty assignment.* The extra duty assignment may be used to perform the treasurer's duty should the building principal deem it necessary.

At the conclusion of the school year the principal is authorized to permit school treasurers to work and receive payment for a number of days necessary to complete the end of the year work.

*It is recommended the junior and senior treasurer not be assigned a homeroom. Extra duties shall not be required of treasurers unless required of teachers generally.

OTHER: Summer-school teachers will be paid $6.60 per hour; rate of pay for part-time hourly personnel will be $6.60 per hour; 11 cents per mile for use of private transportation to perform assigned duties.

The following guidelines shall be followed in determining teaching years of experience for full-time hourly professional employees:

All full-time previous Columbus City School District teaching experience is counted.

A maximum of five (5) years experience out of the system with or without a degree.
(a) Includes military service.
(b) Industrial experience can be counted if it is for twelve (12) months per year and above and beyond certification requirements of seven years.

Full-time teaching experience if it is for 120 days or more per year.

Teaching experience in Public Education institutions, maximum of five (5) years.

Teaching in federally funded programs; such as:
Concentrated Employment Program
Neighborhood Youth Corps
Manpower Development and Training

In order to be counted, federally funded programs must meet full-time teaching requirements:

6 or more hours per day
5 days per week
37 weeks per year

Substitute teaching in Columbus Public Schools if 120 days or more per year.

Degree person-recognize and give credit for industrial experience up to five (5) years.

LEAVES: Fifteen days of annual sick leave granted per year, 200 days' maximum accumulation; 5 days credited upon initial employment; sick leave may be used for personal illness, illness in the immediate family, or death in the immediate family; to accomplish school needs, short-term periods of absence without loss of pay may be granted by the superintendent to attend local, state, and national meetings, to participate in civic activities, and to provide community service; up to three days not deducted from sick leave for paid religious leave upon 10 days' notice; 3 days of absence with pay for emergency personal reasons, reason for taking leave must be given within 10 days after leave is taken; leave for jury duty upon written request to the superintendent, teacher to be paid the difference between his jury pay and his regular salary; sabbatical leave at a salary equal to the difference between the teacher's regular contract salary and the minimum bachelor's degree salary for professional graduate study, travel, writing, or research after at least five years' service in the district and subject to 1 year of service upon return or a refund of monies; teachers on sabbatical leave will be given enough college "scrip" to pay for full-time attendance; "a teacher on sabbatical leave will be given an employment contract for the year of leave"; leaves of absence without pay may be granted for ill health, family illness, exchange teaching, professional study or travel, military leave, service in Peace Corps or VISTA or special leave without stated reasons; upon return from such leave the employee will be returned to a postion comparable to that held before leave was taken.

INSURANCE: Board pays 100 percent of hospital, surgical, and major medical insurance for all individual full-time members of the bargaining unit; board pays 50 percent of first year dependent coverage and 100 percent thereafter; board will provide $2,500 group term life insurance for full-time employees in 1974 and $5,000 in 1975; tax sheltered annuity plan available.

ASSOCIATION: Payroll deduction of local, district, state, and national association dues; Association president will be required to teach a class load equivalent to only one-half of the normal teaching assignment; the Association will reimburse the board for one-half of the president's gross compensation, including the board's contribution to fringe benefits; if it is necessary for the president to devote his efforts to Association duties on a full-time basis, he will be granted a leave of absence without pay from his teaching duties; such leave may be on a year-to-year basis as required; upon request one additional designee of the Association will be required to teach a class load equivalent to one-half of the normal daily teaching assignment with the Association paying half the teacher's salary and benefits during this period.

Association Leave

The Board shall authorize a pool of up to a total of 200 days of leave with pay per year for the use of members of the bargaining unit who are elected to represent the Association or who are chosen to serve on programs or to represent the Association in any official capacity at meetings, conferences, or conventions attended by representatives of the Association. Such leaves will be granted upon written application made not less than five (5) school days in advance to the Assistant Superintendent, Personnel, and in no event shall more than three (3) teachers be granted such leaves at the same time from any school.

Bulletin board space will be provided in the area of teachers' mailboxes for the posting of notices and other materials relating to Association activities; the Association may use school office equipment and audiovisual equipment when such equipment is not in use.

INSTRUCTION: Duty-free lunch period daily; elementary teachers will have approximately 45 minutes per day for preparation time; each elementary staff will conduct a written ballot each year to determine whether there will be one or two 15-minute recesses per day; to the extent class size creates substantial inequities in staffing in relation to comparable courses in the same school, such inequities will be subject to the grievance procedure; teachers will be on duty 30 minutes before classes begin and will remain at least 15 minutes after the close of the scheduled school day; the length of the elementary-school day will be 5-½ hours, excluding the lunch period; the secondary-school day will be 6-3/4 hours, including one class period for lunch; the regular work day for full-time teachers is to be 7-½ hours; a Curriculum Council composed of five representatives appointed by the superintendent and five Association representatives will be established to strengthen the educational program through recommendations to the board and the Association in order to meet the needs of the students, the school, and the community; the board will allocate $8,000 for the Council to function; members of the Council or any subcommittee that serves beyond the regular in-school year will be paid at the summer-school hourly rate; duplicating machines and typewriters will be made available to aid teachers in carrying out their professional tasks; a minimum of one half-time educational aide will be provided for each school to reduce the duties teachers are required to perform in supervising study halls, school yards, and lunchrooms; additional educational aides will also be hired to further reduce nonteaching duties teachers are required to perform; teachers will be involved in the planning of new buildings.

GUIDELINES FOR CLASSROOM VISITATIONS

The Association and the Board wholeheartedly support parent and community involvement in schools and encourage members of the community to visit the schools. However, because of the potential interruption and disruption of children's education posed by uncontrolled classroom visitations, the Board hereby adopts as its policy the following guidelines for public or parental visitations in classrooms in order to minimize disruption of the educational process:

All visitors must check in at the office upon entering the school.

The visitor shall be escorted to the classroom unless the teacher is expecting the visitor and directions to the visitor will be sufficient. In the latter case the teacher should be advised by the office so the teacher will know the office is aware of the visitor's presence.

Where practical, visitations should be by prior arrangement with the teacher. Visitors should inform the teacher of the general purpose of the observation or visitation in advance.

Teachers shall have the right to reschedule a visitor when prior arrangements have not been made.

Where practical, the visitor and teacher should arrange a conference to discuss the observation.

No electronic devices will be used to make any record of the visit except by agreement of the teacher.

Every effort will be made to minimize the amount of disruption caused by such visits.

PERSONNEL: Grievance procedure ends with final and binding arbitration; the provisions of the agreement will have precedence over the Administrative Guide or other board policy; prior to board adoption or revision of any provision of the Administrative Guide, board representatives will consult representatives of the Association a minimum of 30 days prior to such adoption; each school will have a Principal's Advisory Council which will include five teachers to assist the principal and the school staff in developing policies and programs for the school involved.

Teachers will be required to attend two regular staff meetings per month which will not extend beyond 4:30 p.m. or more than 45 minutes when called by the principal; in addition, the principal, in consultation with the Principal's Advisory Council, may schedule two 45-minute staff meetings per month and/or extend one required staff meeting per month a maximum of 30 minutes for purposes of staff development; attendance at such additional meetings or extension will be voluntary unless a majority of the staff vote by secret ballot to require attendance at a particular meeting.

TEACHER EVALUATION

The following number of evaluations shall be conducted by the building administrators based upon continuous experience in the Columbus Public Schools:

1st and 2nd years	2 evaluations
3rd year	1 or 2 evaluations at administrator's option
4th and 5th years	1 evaluation
subsequent years	1 evaluation every fourth year, commencing with the ninth year.

Evaluations provided for in paragraph A of this article shall be for the major purpose of assisting the teacher toward improved instruction.

When a building administrator deems that a teacher's performance is seriously unsatisfactory and it is the administrator's intention to formally reprimand, recommend involuntary transfer, non-renewal of contract, termination of contract, or other disciplinary action, or investigate further with the possibility of formally reprimanding or making any of the aforementioned recommendations, the administrator shall notify such teacher of his intent in writing on a form mutually agreeable to the Board and the Association. Such notification shall set forth the specific areas of alleged unsatisfactory performance. Following such notification the administrator shall evaluate the teacher's performance, observing all stipulations of this article except paragraph A. A conference shall be held between the administrator and the teacher to discuss the teacher's performance prior to any final action by the administrator. The teacher may be accompanied or represented by an Association representative at such conference and shall have three (3) days prior notification of the conference. Final administrative action in regard to the alleged unsatisfactory performance shall not conflict with any provision of this Agreement.

Classroom observations of the work performance of a teacher for the purpose of a formal written evaluation shall be conducted openly with the observer visible to the teacher. A minimum of one (1) and a maximum of three (3) such observations shall be accomplished through prior arrangements with the teacher. In addition, a maximum of three (3) such observations may be accomplished at the convenience of the building administrator provided the number of such observations does not exceed the number of observations accomplished through prior arrangement.

A teacher shall be given a copy of any written evaluation or report on an observation.

Right to examine personnel file with Association representative upon notification of personnel division; no evaluation will be placed in a teacher's permanent file or otherwise acted upon without a prior conference with the teacher; teachers will be permitted to affix comments to any evaluation or report prior to its being placed in the permanent file; factors, forms, and procedures used in all evaluations of teachers shall be cooperatively developed and annually agreed to by the board and the Association; a teacher may have an Association representative present when he/she is being formally reprimanded or warned, or is being disciplined for any infraction of the rules, delinquency, or unprofessional performance; the reasons for a decision not to re-employ a nontenured teacher will be made available in writing to the teacher at his option; the termination of a tenured teacher's contract will not be subject to the grievance procedure, such teachers will have recourse to their rights under Section 3319.16 of the Revised Code of Ohio; racial balance, special skills, experience level, training level, sex, and extra duties will be considered when filling vacancies; teachers will not be involuntarily assigned outside the scope of their teaching certificates or their major or minor field of certification except in an emergency; department chairmen in secondary schools will be elected to a one-year term by the teachers in the respective departments.

DISRUPTIVE STUDENTS

When a disruptive student is identified, a coordinated program will be undertaken by the teacher and principal to determine the causes for the disruptive performance, and to develop an individualized action program to meet the needs of the disruptive student.

A conference may be held among the student's teacher(s), a guidance counselor, the visiting teacher, the parents, and the principal to determine the details of a program to help the student. Such a conference may call upon the participation of the student, a school psychologist, an activities coordinator, the school nurse and a probationary officer as necessary.

Should the above action not be taken by the principal and the pupil's disruptive behaviour continue, the teacher shall have the right to file a grievance at Step 2 of the grievance procedure.

Arlington, Virginia

Between Arlington County School Board and Arlington Education Association, effective July 1, 1973, to June 30, 1975. Approximately 1,200 certificated professional employees including all full-time and regular part-time instructional personnel, all certificated personnel on the classroom teacher's salary schedule, all personnel involved in what is normally considered teaching or instructional capacities, all school nurses and nurses aides, all teacher and lunchroom aides, excluding administrators, supervisors, adult education teachers, substitute teachers, principals' aides, and manpower aides.

COMPENSATION: (1973-74) B.A., $8,408 to $15,551, 14 increments; B.A. plus 15 hours, $15,961 maximum; M.A., $9,598 to $16,795, 14 increments; M.A. plus 30 hours, $17,622 maximum; Ph.D., $18,450 maximum. "Effective July 1, 1974, the 1973 salary schedule shall be improved by a cost-of-living increase equivalent to the increase in the Consumer Price Index for the Washington Metropolitan Statistical Area published by the Bureau of Labor Statistics, U.S. Department of Labor, for the 12-month period ending February 1, 1974." An employee employed for 90 or more school days during the current school year is eligible for a salary increment the following year; credit is given for up to two years of full-time active duty with the armed forces or for service in the Peace Corps; employees with a satisfactory performance record who qualify and retire under the Virginia Supplemental Retirement System or the Arlington County Supplemental Retirement System will be paid a half-day's pay for every day of accumulated sick leave based on their salary at the time of retirement.

DIFFERENTIALS: (Computed on B.A. base x supplemental index) Senior high (s.h.) head football, .16; s.h. head baseball, track, wrestling, crew, basketball, and head junior and senior high intramurals, .14; s.h. head soccer, gymnastics, j.v. football, .12; s.h. head debate, drama, s.h. assistant baseball, track, basketball, football, wrestling, crew, soccer, j.v. football, j.h. head football, .10; s.h. head of tennis, swimming, indoor track; and j.h. head of outdoor track, basketball, wrestling, soccer, .08; s.h. head of rifle, cheerleaders, and j.h. head of cross country, tennis, swimming, drama, .06; s.h. assistant debate and j.h. head of cheerleaders, assistant wrestling, football, outdoor track, .04.

OTHER: Fifteen cents per mile for approved travel.

Because of the difference in the programs in the several secondary schools, and because of the differing demands on the time of those who work in the programs, funds will be appropriated, provided prior written approval of the principal is obtained, for the following supplemental payments: (1) a per-diem compensation for music teachers who accompany students in out-of-county, state sponsored activities; (2) a per-diem compensation for music teachers who assume primary responsibility in the annual music festivals; (3) a per-hour compensation for those music teachers who work with drama coaches in the jointly sponsored Music-Drama productions; (4) a per-hour compensation for senior high school band directors not to exceed 40 hours as required for the football season; (5) a per-hour compensation for vocal Music teachers for a maximum of 90 hours of direction of madrigals or similar singing groups as part of the Music program of the school but not during the regular contract day; (6) the per-hour compensation for those Art teachers who work with drama coaches in performing Arts production, and for Art teachers who work on major student Art exhibitions.

The per-diem rate shall be $36 and the per-hour rate shall be $6. This shall also be the rate for in-service teacher training.

LEAVES: One days' annual sick leave granted per month, unlimited accumulation; sick leave shall be used in half day units; any teacher who reports to work and then becomes ill will be charged with no more than a half day of sick leave; sick leave may be used for personal illness, doctor's appointments, and illness or death in the immediate family; a sick leave bank will be established whereby teachers can donate up to three days of sick leave for use by another teacher who has a long-term illness not covered by accumulated sick leave or the income protection plan; the length of the employee's absence because of illness can in no way impair the employment status of the individual; three days' personal leave granted per year; unused personal leave will be transferred to employee's sick leave account on June 30; time off with pay granted when performing jury duty, when subpoenaed to appear before a public body, commission, or the court, when performing emergency civilian duty in connection with national defense or voting; leave with pay granted for participation in observations, workshops, meetings, conferences, or other activities devoted to improvement of curriculum and instruction; sabbatical leave at annual salary for not less than one full semester or more than one calendar year after six consecutive years in the school system for study, research, or travel; seniority and annual salary increments during the time of such leave will be the same as though the employee were in regular service; disability leave up to 90 days will be granted with full pay to any association member disabled during employment, Workmen's Compensation checks must be endorsed over to the school board; extended leave for one year without pay will be granted for professional full-time study, foreign teaching assignment, or exchange teaching, serious illness in the immediate family, service in Teacher Corps, VISTA, or the Peace Corps; extended leave will count as an additional year of experience for salary purposes except in cases of serious illness in the employee's family; full-time leave without pay will be granted to all individuals who are elected or appointed to any public office.

INSURANCE: During the 1973-74 contract year the board will pay 80 percent of Major Medical, Blue Shield-Blue Cross Plan for full-time unit members, 43 percent of hospitalization insurance for those working 20-29 hours weekly and 33 percent for those working 20 hours or less weekly; in 1974-75 the board will pay 85 percent for full-time unit members, 48 percent for those working 20-29 hours weekly, and 38 percent for those working 20 hours or less weekly; the same dollar amount will be paid for participation in the Group Health Association Plan; the board will contribute $100 or 100 percent, which ever is less, toward the annual cost of life insurance for each unit member; $1,000,000 liability insurance per employee shall be provided; income protection and tax-sheltered annuity plans provided.

ASSOCIATION: Payroll deduction of state and national association dues; 10 days' leave will be granted to unit members who hold an elected position in the National Edu-

cation Association; an additional 10 days will be provided for members of the Virginia Education Association Board of Directors or Chairmen of VEA State Committees; a 10-month leave of absence without pay will be granted the association president; 120 days of organizational leave will be provided for official attendance at meetings of VEA and NEA; 25 additional days will be provided but the association will pay the cost for substitute teachers if necessary; association has the right to use school buildings and typewriting and duplicating equipment; association may post notices, circulars, and other materials on designated bulletin boards or place them in inter-school mail and teacher mail boxes.

INSTRUCTION: To the extent administratively possible, no secondary teacher will be assigned more than two course preparations per semester; all elementary teachers may use for planning purposes the time their classes are being instructed by art, music, and physical education teachers; all elementary teachers except kindergarten will be released from instructional duties for planning purposes at 1:15 p.m. once each week except during those weeks in which school holidays or parent teacher conferences occur; full-time kindergarten teachers will be released from instructional duties for planning purposes on 15 occasions for one-half day; all elementary art and music teachers will be provided at least a 30-minute planning period each day and at least a 10-minute interval between scheduled classes; full-time secondary teachers will be guaranteed at least one planning period per day equivalent to normal teaching period; all elementary and secondary unit members will be provided a daily 30-minute lunch period plus adequate time for going to and coming from the classroom; the normal school day will be 8:45 a.m. to 4:00 p.m. for elementary teachers, 8:00 a.m. to 3:30 p.m. for junior high teachers, and 7:30 a.m. to 3:00 p.m. for senior high teachers; teachers will not be required to designate in any manner their exact time of arrival or time of departure; all teachers affected by changes in organizational and curricular patterns will be actively and directly involved in decision making; the administration will seek the approval of the majority of the teachers involved; teachers will be allowed to use textbooks, course materials, or curricular programs other than those mandated county-wide so long as that teacher, prior to the use of such materials, can provide to the principal a reasonable basis for the choice; association members will serve as supervising teachers of student teachers only on a voluntary basis; assignment of student teachers to supervising teachers will be preceded by reasonable advance notice, an opportunity for an interview, and an opportunity for rejection of the student teacher by the supervising teacher; regular parent-teacher conferences will be held between 12:45 p.m. and 4:15 p.m.; substitutes will be provided for any teacher who has more than 38 conferences; kindergarten teachers will be provided sufficient additional conference days to allow for completeness; principals will involve teachers in an advisory capacity in determining the quality level of instructional supplies, equipment, and furniture; the board will include $45,000 in the budget for each year of this agreement for disruptive pupil programs in secondary schools.

PERSONNEL: Grievance procedure ends with advisory arbitration; teachers will be compensated at the teacher's hourly rate for meetings scheduled by administrators which last more than one hour beyond the contract time; notice of the board's intent not to continue employment of a teacher on continuing contract must be preceded by an unsatisfactory annual evaluation not later than January 15 and a written notice by March 1 that a subsequent unsatisfactory evaluation the following year may result in termination; probationary teachers may be terminated for serious cause; however, the school system must be prepared to show cause; notice of the board's intent not to re-employ a first-year probationary teacher solely on performance grounds must be preceded by an unsatisfactory evaluation; all teachers will be evaluated annually; the evaluation is to be positive, with the purpose being the improvement of teacher performance; an unsatisfactory evaulation must be preceded by a minimum of four classroom visits by a principal or his designee and/or a supervisor and must be of sufficient duration to adequately evaluate the performance of the teacher before the end of January at which time the teacher is given notice of the possibility of an unsatisfactory evaluation; a lay-off will occur only when there is a shift of pupils or a reduction in the number of pupils within the county; if lay-off is necessary, it shall be preceded by a 90-day notice to the employees so affected; the teachers will be laid off on the basis of county-wide seniority within each employee category, the least senior teacher being laid off first; all affected employees will be placed on a recall list and placed in vacancies as they occur in inverse order of lay-off, the most senior being placed first; no employee will be hired new into the county until all employees on the recall list have had an opportunity to bid on the position; if a teacher's request for a voluntary transfer has been denied, he will upon written request and within a reasonable period of time receive from the superintendent or his designee a written explanation of the reasons therefor; an involuntary transfer can be made only for just cause, only after a 90-calendar day notice to the employee; if a teacher is involuntarily transferred, that teacher will take the position only for the duration of the school year, and such position shall be advertised as a vacancy; the transferred teacher has a right to bid on and assert rights to any vacancy except the position from which the teacher was transferred; when two or more applicants for teaching, supervisory, or administrative positions are substantially equal in fitness, length of service in Arlington County shall be given primary consideration; department chairmen shall be selected annually by majority vote of the members of the department, provided the selection is approved by the principal; the board will furnish legal counsel to unit members in defense of legal action arising out of the discharge of their duties within the scope of their employment in the school system; an employee absent from school as a result of personal injury caused by an assault or in the course of his employment shall be paid his full salary for the period of such absence without having such absence charged to his annual or accumulated sick leave; in case of suspension in any disciplinary or legal action, unit members will receive their salary and fringe benefits until the case is decided.

Texts

IOWA

Public Employee Negotiations Act

An Act relating to public employment relations and providing penalties for violations.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. PUBLIC POLICY.

The general assembly declares that it is the public policy of the state to promote harmonious and cooperative relationships between government and its employees by permitting public employees to organize and bargain collectively; to protect the citizens of this state by assuring effective and orderly operations of government in providing for their health, safety, and welfare; to prohibit and prevent all strikes by public employees; and to protect the rights of public employees to join or refuse to join, and to participate in or refuse to participate in, employee organizations.

Section 2. TITLE.

This Act shall be known as the "Public Employment Relations Act."

Section 3. DEFINITIONS.

When used in this Act, unless the context otherwise requires:

1. "Public employer" means the state of Iowa, its boards, commissions, agencies, departments, and its political subdivisions including school districts and other special purpose districts.
2. "Governing body" means the board, council, or commission, whether elected or appointed, of a political subdivision of this state, including school districts and other special purpose districts, which determines the policies for the operation of the political subdivision.
3. "Public employee" means any individual employed by a public employer, except individuals exempted under the provisions of section four (4) of this Act.
4. "Employee organization" means an organization of any kind in which public employees participate and which exists for the primary purpose of representing public employees in their employment relations.
5. "Board" means the public employment relations board established under section five (5) of this Act.
6. "Strike" means a public employee's refusal, in concerted action with others, to report to duty, or his willful absence from his position, or his stoppage of work, or his abstinence in whole or in part from the full, faithful, and proper performance of the duties of employment, for the purpose of inducing, influencing, or coercing a change in the conditions, compensation, rights, privileges, or obligations of public employment.
7. "Confidential employee" means any public employee who works in the personnel offices of a public employer or who has access to information subject to use by the public employer in negotiating or who works in a close continuing working relationship with public officers or representatives associated with negotiating on behalf of the public employer.

   "Confidential employee" also includes the personal secretary of any of the following: any elected official or person appointed to fill a vacancy in an elective office, member of any board or commission, the administrative officer, director, or chief executive officer of a public employer or major division thereof, or the deputy or first assistant of any of the foregoing.
8. "Mediation" means assistance by an impartial third party to reconcile an impasse between the public employer and the employee organization through interpretation, suggestion, and advice.
9. "Arbitration" means the procedure whereby the parties involved in an impasse submit their differences to a third party for a final and binding decision or as provided in this Act.
10. "Impasse" means the failure of a public employer and the employee organization to reach agreement in the course of negotiations.
11. "Professional employee" means any one of the following:
    a. Any employee engaged in work:
       (1) Predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work;
       (2) Involving the consistent exercise of discretion and judgment in its performance;
       (3) Of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; and
       (4) Requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a

general academic education or from an apprenticeship or from training in the performance of routine mental, manual, or physical processes.

b. Any employee who (i) has completed the courses of specialized intellectual instruction and study described in subparagraph four (4) of paragraph a of this subsection, and (ii) is performing related work under the supervision of a professional person to qualify himself or herself to become a professional employee as defined in paragraph a of this subsection.

12. "Fact-finding" means the procedure by which a qualified person shall make written findings of fact and recommendations for resolution of an impasse.

Section 4. EXCLUSIONS.

The following public employees shall be excluded from the provisions of this Act:

1. Elected officials and persons appointed to fill vacancies in elective offices, and members of any board or commission.
2. Representatives of a public employer, including the administrative officer, director, or chief executive officer of a public employer or major division thereof as well as his deputy, first assistant, and any supervisory employees.

   Supervisory employee means any individual having authority in the interest of the public employer to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward or discipline other public employees, or the responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment. All school superintendents, assistant superintendents, principals, and assistant principals shall be deemed to be supervisory employees.
3. Confidential employees.
4. Students working as part-time public employees twenty hours per week or less, except graduate or other post-graduate students in preparation for a profession who are engaged in academically related employment as a teaching, research, or service assistant.
5. Temporary public employees employed for a period of four months or less.
6. Commissioned and enlisted personnel of the Iowa national guard.
7. Judges of the supreme court, district judges, district associate judges, and judicial magistrates, and the employees of such judges and courts.
8. Patients and inmates employed, sentenced, or committed to any state or local institution.
9. Persons employed by the state department of justice.
10. Persons employed by the commission for the blind.

Section 5. PUBLIC EMPLOYMENT RELATIONS BOARD.

1. There is established a board to be known as the public employment relations board. The board shall consist of three members appointed by the governor, with approval of two-thirds of the senate. No more than two members shall be of the same political affiliation and no member shall engage in any political activity while holding office and the members shall devote full time to their duties.

   Each member shall be appointed for a term of four years, except that of the members first appointed, two members shall be appointed for a term of two years commencing July 1, 1974 and ending June 30, 1976, and one member shall be appointed for a term of four years commencing July 1, 1974 and ending June 30, 1978.

   The member first appointed for a term of four years shall serve as chairman and each of his successors shall also serve as chairman.
2. Any vacancy on the commission which may occur when the general assembly is not in session shall be filled by appointment by the governor, which appointment shall expire at the end of thirty days following the convening of the next session of the general assembly. Prior to the expiration of the thirty-day period, the governor shall transmit to the senate for its approval the name of the appointee for the unexpired portion of the regular term. Any vacancy occurring when the general assembly is in session shall be filled in the same manner as regular appointments are made, and before the end of such session, and for the unexpired portion of the regular term.
3. In selecting the members of the board, consideration shall be given to their knowledge, ability, and experience in the field of labor-management relations. The chairman shall receive an annual salary of twenty-four thousand (24,000) dollars. The remaining two members shalleach receive an annual salary equal to ninety percent of the salary received by the chairman.
4. The board may employ such persons as are necessary for the performance of its functions. Personnel of the board shall be employed pursuant to the provisions of chapter nineteen A (19A) of the Code.
5. Members of the board and other employees of the board shall be allowed their actual and necessary expenses incurred in the performance of their duties. All expenses and salaries shall be paid from appropriations for such purposes and the board shall be subject to the budget requirements of chapter eight (8) of the Code.

Section 6. GENERAL POWERS AND DUTIES OF THE BOARD.

The board shall:

1. Administer the provisions of this Act.
2. Collect, for public employers other than the state and its boards, commissions, departments, and agencies, data and conduct studies relating to wages, hours, benefits and other terms and conditions of public employment and make the same available to any interested person or organization.
3. Maintain, after consulting with employee organizations and public employers, a list of qualified persons representative of the public to be available to serve as mediators and arbitrators and establish their compensation rates.
4. Hold hearings and administer oaths, examine witnesses and documents, take testimony and receive evidence, issue subpoenas to compel the attendance of witnesses and the production of records, and delegate such power to a member of the board or persons appointed or employed by the board, including hearing officers for the performance of its functions. The board may petition the district court at the seat of government or of the county wherein any hearing is

held to enforce a board order compelling the attendance of witnesses and production of records.

5. Adopt rules and regulations in accordance with the provisions of chapter seventeen A (17A) of the Code as it may deem necessary to carry out the purposes of this Act.

Section 7. PUBLIC EMPLOYER RIGHTS.

Public employers shall have, in addition to all powers, duties, and rights established by constitutional provision, statute, ordinance, charter, or special act, the exclusive power, duty, and the right to:

1. Direct the work of its public employees.
2. Hire, promote, demote, transfer, assign, and retain public employees in positions within the public agency.
3. Suspend or discharge public employees for proper cause.
4. Maintain the efficiency of governmental operations.
5. Relieve public employees from duties because of lack of work or for other legitimate reasons.
6. Determine and implement methods, means, assignments and personnel by which the public employer's operations are to be conducted.
7. Take such actions as may be necessary to carry out the mission of the public employer.
8. Initiate, prepare, certify, and administer its budget.
9. Exercise all powers and duties granted to the public employer by law.

Section 8. PUBLIC EMPLOYEE RIGHTS.

Public employees shall have the right to:

1. Organize, or form, join, or assist any employee organization.
2. Negotiate collectively through representatives of their own choosing.
3. Engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection insofar as any such activity is not prohibited by this Act or any other law of the state.
4. Refuse to join or participate in the activities of employee organizations, including the payment of any dues, fees or assessments or service fees of any type.

Section 9. SCOPE OF NEGOTIATIONS.

The public employer and the employee organization shall meet at reasonable times, including meetings reasonably in advance of the public employer's budget-making process, to negotiate in good faith with respect to wages, hours, vacations, insurance, holidays, leaves of absence, shift differentials, overtime compensation, supplemental pay, seniority, transfer procedures, job classifications, health and safety matters, evaluation procedures, procedures for staff reduction, in-service training and other matters mutually agreed upon. Negotiations shall also include terms authorizing dues checkoff for members of the employee organization and grievance procedures for resolving any questions arising under the agreement, which shall be embodied in a written agreement and signed by the parties. If an agreement provides for dues checkoff, a member's dues may be checked off only upon the member's written request and the member may terminate the dues checkoff at any time by giving thirty days written notice. Such obligation to negotiate in good faith does not compel either party to agree to a proposal or make a concession.

Nothing in this section shall diminish the authority and power of the merit employment department, board of regents' merit system, educational radio and television facility board's merit system, or any civil service commission established by constitutional provision, statute, charter or special act to recruit employees, prepare, conduct, and grade examinations, rate candidates in order of their relative scores for certification for appointment or promotion or for other matters of classification, reclassification or appeal rights in the classified service of the public employer served.

The public employee retirement systems provided under chapters ninety-seven A (97A), ninety-seven B (97B), four hundred ten (410), and four hundred eleven (411) of the Code shall be excluded from the scope of negotiations.

Section 10. PROHIBITED PRACTICES.

1. It shall be a prohibited practice for any public employer, public employee, or employee organization to willfully refuse to negotiate in good faith with respect to the scope of negotiations as defined in section nine (9) of this Act.
2. It shall be a prohibited practice for a public employer or his designated representative willfully to:
   a. Interfere with, restrain, or coerce public employees in the exercise of rights granted by this Act.
   b. Dominate or interfere in the administration of any employee organization.
   c. Encourage or discourage membership in any employee organization, committee, or association by discrimination in hiring, tenure, or other terms or conditions of employment.
   d. Discharge or discriminate against a public employee because he has filed an affidavit, petition, or complaint or given any information or testimony under this Act, or because he has formed, joined, or chosen to be represented by any employee organization.
   e. Refuse to negotiate collectively with representatives of certified employee organizations as required in this Act.
   f. Deny the rights accompanying certification or exclusive recognition granted in this Act.
   g. Refuse to participate in good faith in any agreed upon impasse procedures or those set forth in this Act.
   h. Engage in a lockout.
3. It shall be a prohibited practice for public employees or an employee organization or for any person, union, or organization or their agents willfully to:
   a. Interfere with, restrain, coerce, or harass any public employee with respect to any of his rights under this Act or in order to prevent or discourage his exercise of any such right, including, without limitation, all rights under section eight (8) of this Act.
   b. Interfere, restrain, or coerce, a public employer with respect to rights granted in this Act or with respect to selecting a representative for the purposes of negotiating collectively on the adjustment of grievances.
   c. Refuse to bargain collectively with a public employer as required in this Act.
   d. Refuse to participate in good faith in any agreed upon impasse procedures or those set forth in this Act.

e. Violate section twelve (12) of this Act.
f. Violate the provisions of chapter seven hundred thirty-six B (736B), Sections one (1), two (2) and three (3) of the Code, which are hereby made applicable to public employers, public employees and public employee organizations.
g. Picket in a manner which interferes with ingress and egress to the facilities of the public employer.
h. Engage in, initiate, sponsor or support any picketing that is performed in support of a strike, work stoppage, boycott or slowdown against a public employer.
i. Picket for any unlawful purpose.

4. The expressing of any views, argument, or opinion, or the dissemination thereof, whether in written, printed, graphic, or visual form, shall not constitute or be evidence of any unfair labor practice under any of the provisions of this Act, if such expression contains no threat of reprisal or force or promise of benefit.

Section 11. PROHIBITED PRACTICE VIOLATIONS.

1. Proceedings against a party alleging a violation of section ten (10) of this Act, shall be commenced by filing a complaint with the board within ninety days of the alleged violation causing a copy of the complaint to be served upon the accused party in the manner of an original notice as provided in this Act. The accused party shall have ten days within which to file a written answer to the complaint. However, the board may conduct a preliminary investigation of the alleged violation, and if the board determines that the complaint has no basis in fact, the board may dismiss the complaint. The board shall promptly thereafter set a time and place for hearing in the county where the alleged violation occurred. The parties shall be permitted to be represented by counsel, summon witnesses, and request the board to subpoena witnesses on the requestor's behalf. Compliance with the technical rules of pleading and evidence shall not be required.
2. The board may designate a hearing officer to conduct the hearing. The hearing officer shall have such powers as may be exercised by the board for conducting the hearing and shall follow the procedures adopted by the board for conducting the hearing. The decision of the hearing officer may be appealed to the board and the board may hear the case de novo or upon the record as submitted before the hearing officer, utilizing procedures governing appeals to the district court in this section so far as applicable.
3. The board shall appoint a certified shorthand reporter to report the proceedings and the board shall fix the reasonable amount of compensation for such service, which amount shall be taxed as other costs.
4. The board shall file its findings of fact and conclusions of law. If the board finds that the party accused has committed a prohibited practice, the board may, within thirty days of its decision, enter into a consent order with the party to discontinue the practice, or petition the district court for injunctive relief pursuant to chapter six hundred sixty-four (664) of the Code.
5. Any party aggrieved by any decision or order of the board may within ten days from the date such decision or order is filed, appeal therefrom to the district court of the county in which the hearing was held, by filing with the board a written notice of appeal setting forth in general terms the decision appealed from and the grounds of the appeal. The board shall forthwith give notice to the other parties in interest.
6. Within thirty days after a notice of appeal is filed with the board, it shall make, certify, and file in the office of the clerk of court to which the appeal is taken, a full and complete transcript of all documents in the case, including any depositions and a transcript or certificate of the evidence together with the notice of appeal.
7. The appeal shall be triable at any time after the expiration of twenty days from the date of filing the transcript by the board and after twenty days notice in writing by either party and the board upon the other.
8. The transcript as certified and filed by the board shall be the record on which the appeal shall be heard, and no additional evidence shall be heard. In the absence of fraud, the findings of fact made by the board shall be conclusive if supported by substantial evidence on the record considered as a whole.
9. Any order or decision of the board may be modified, reversed, or set aside on one or more of the following grounds and on no other:
   a. If the board acts without or in excess of its powers.
   b. If the order was procured by fraud or is contrary to law.
   c. If the facts found by the board do not support the order.
   d. If the order is not supported by a preponderance of the competent evidence on the record considered as a whole.
10. When the district court, on appeal, reverses or sets aside an order or decision of the board, it may remand the case to the board for further proceedings in harmony with the holdings of the court, or it may enter the proper judgment, as the case may be. Such judgment or decree shall have the same force and effect as if action had been originally brought and tried in said court. The assessment of costs in such appeals shall be in the discretion of the court.
11. An appeal may be taken to the supreme court from any final order, judgment, or decree of the district court.

Section 12. STRIKES PROHIBITED.

1. It shall be unlawful for any public employee or any employee organization, directly or indirectly, to induce, instigate, encourage, authorize, ratify, or participate in a strike against any public employer.
2. It shall be unlawful for any public employer to authorize, consent to, or condone a strike; or to pay or agree to pay any public employee for any day in which the employee participates in a strike; or to pay or agree to pay any increase in compensation or benefits to any public employee in response to or as a result of any strike or any act which violates subsection one (1) of this section. It shall be unlawful for any official, director, or representative of any public employer to authorize, ratify, or participate in any violation of this subsection. Nothing in this subsection shall prevent new or renewed bargaining and agreement within the scope of negotiations as defined

by this Act, at any time after such violation of subsection one (1) has ceased; but it shall be unlawful for any public employer or employee organization to bargain at any time regarding suspension or modification of any penalty provided in this section or regarding any request by the public employer to a court for such suspension or modification.

3. In the event of any violation or imminently threatened violation of subsection one (1) or two (2) of this section, any citizen domiciled within the jurisdictional boundaries of the public employer may petition the district court for the county in which the violation occurs or the district court for Polk county for an injunction restraining such violation or imminently threatened violation. Chapter six hundred sixty-four (664) of the Code and the pertinent rules of civil procedure regarding injunctions shall apply. However, the court shall grant a temporary injunction if it appears to the court that a violation has occurred or is imminently threatened; the plaintiff need not show that the violation or threatened violation would greatly or irreparably injure him; and no bond shall be required of the plaintiff unless the court determines that a bond is necessary in the public interest. Failure to comply with any temporary or permanent injunction granted pursuant to this section shall constitute a contempt punishable pursuant to chapter six hundred sixty-five (665) of the Code. The punishment shall not exceed five hundred dollars for an individual, or ten thousand dollars for an employee organization or public employer, for each day during which the failure to comply continues, or imprisonment in a county jail not exceeding six months, or both such fine and imprisonment. An individual or an employee organization which makes an active good faith effort to comply fully with the injunction shall not be deemed to be in contempt.
4. If a public employee is held to be in contempt of court for failure to comply with an injunction pursuant to this section, or is convicted of violating this section, he shall be ineligible for any employment by the same public employer for a period of twelve months. His public employer shall immediately discharge him, but upon his request the court shall stay his discharge to permit further judicial proceedings.
5. If an employee organization or any of its officers is held to be in contempt of court for failure to comply with an injunction pursuant to this section, or is convicted of violating this section, the employee organization shall be immediately decertified, shall cease to represent the bargaining unit, shall cease to receive any dues by checkoff, and may again be certified only after twelve months have elapsed from the effective date of decertification and only after a new compliance with section fourteen (14) of this Act. The penalties provided in this section may be suspended or modified by the court, but only upon request of the public employer and only if the court determines the suspension or modification is in the public interest.
6. Each of the remedies and penalties provided by this section is separate and several, and is in addition to any other legal or equitable remedy or penalty.

Section 13. BARGAINING UNIT DETERMINATION.

1. Board determination of an appropriate bargaining unit shall be upon petition filed by a public employer, public employee, or employee organization.
2. Within thirty days of receipt of a petition or notice to all interested parties if on its own initiative, the board shall conduct a public hearing, receive written or oral testimony, and promptly thereafter file an order defining the appropriate bargaining unit. In defining the unit, the board shall take into consideration, along with other relevant factors, the principles of efficient administration of government, the existence of a community of interest among public employees, the history and extent of public employee organization, geographical location, and the recommendations of the parties involved.
3. Appeals from such order shall be governed by appeal provisions provided in section eleven (11) of this Act.
4. Professional and nonprofessional employees shall not be included in the same bargaining unit unless a majority of both agree.

Section 14. BARGAINING REPRESENTATIVE DETERMINATION.

1. Board certification of an employee organization as the exclusive bargaining representative of a bargaining unit shall be upon a petition filed with the board by a public employer, public employee, or an employee organization and an election conducted pursuant to section fifteen (15) of this Act.
2. The petition of an employee organization shall allege that:
   a. The employee organization has submitted a request to a public employer to bargain collectively with a designated group of public employees.
   b. The petition is accompanied by written evidence that thirty percent of such public employees are members of the employee organization or have authorized it to represent them for the purposes of collective bargaining.
3. The petition of a public employee shall allege that an employee organization which has been certified as the bargaining representative does not represent a majority of such public employees and that the petitioners do not want to be represented by an employee organization or seek certification of an employee organization.
4. The petition of a public employer shall allege that it has received a request to bargain from an employee organization which has not been certified as the bargaining representative of the public employees in an appropriate bargaining unit.
5. The board shall investigate the allegations of any petition and shall give reasonable notice of the receipt of such a petition to all public employees, employee organizations and public employers named or described in such petitions or interested in the representation questioned. The board shall thereafter call an election under section fifteen (15) of this Act, unless:
   a. It finds that less than thirty percent of the public employees in the unit appropriate for collective bargaining support the petition for decertification or for certification.
   b. The appropriate bargaining unit has not been determined pursuant to section thirteen (13) of this Act.
6. The hearing and appeal procedures shall be the same as provided in section eleven (11) of this Act.

Section 15. ELECTIONS.

1. Upon the filing of a petition for certification of an employee organization, the board shall submit two questions to the public employees at an election in an appropriate bargaining unit. The first question on the ballot shall permit the public employees to determine whether or not such public employees desire exclusive bargaining representation. The second question on the ballot shall list any employee organization which has petitioned for certification or which has presented proof satisfactory to the board of support of ten percent or more of the public employees in the appropriate unit.
2. If a majority of the votes cast on the first question are in the negative, the public employees shall not be represented by an employee organization. If a majority of the votes cast on the first question is in the affirmative, then the employee organization receiving a majority of the votes cast on the second question shall represent the public employees in an appropriate bargaining unit.
3. If none of the choices on the ballot receive the vote of a majority of the public employees who could be represented by an employee organization, the board shall conduct a runoff election among the two choices receiving the greatest number of votes.
4. Upon written objections filed by any party to the election within ten days after notice of the results of the election, if the board finds that misconduct or other circumstances prevented the public employees eligible to vote from freely expressing their preferences, the board may invalidate the election and hold a second election for the public employees.
5. Upon completion of a valid election in which the majority choice of the employees who could be represented by an employee organization is determined, the board shall certify the results of the election and shall give reasonable notice of the order to all employee organizations listed on the ballot, the public employers, and the public employees in the appropriate bargaining unit.
6. A petition for certification as an exclusive bargaining representative shall not be considered by the board for a period of one year from the date of the certification or noncertification of an exclusive bargaining representative or during the duration of a collective bargaining agreement which shall not exceed two years. A collective bargaining agreement with the state, its boards, commissions, departments, and agencies shall be for two years and the effective date of any such agreement shall be July first of odd-numbered years. However, if a petition for decertification is filed during the duration of a collective bargaining agreement, the board shall award an election under this section not more than one hundred eighty days nor less than one hundred fifty days prior to the expiration of the collective bargaining agreement. If an employee organization is decertified, the board may receive petitions under section fourteen (14) of this Act, provided that no such petition within one year from decertification shall include as a party the decertified employee organization.

Section 16. DUTY TO BARGAIN.

Upon the receipt by a public employer of a request from an employee organization to bargain on behalf of public employees, the duty to engage in collective bargaining shall arise if the employee organization has been certified by the board as the exclusive bargaining representative for the public employees in that bargaining unit.

Section 17. PROCEDURES.

1. The employee organization certified as the bargaining representative shall be the exclusive representative of all public employees in the bargaining unit and shall represent all public employees fairly. However, any public employee may meet and adjust individual complaints with a public employer.
2. The employee organization and the public employer may designate any individual as its representative to engage in collective bargaining negotiations.
3. Negotiating sessions, including strategy meetings of public employers or employee organizations, mediation and the deliberative process of arbitrators shall be exempt from the provisions of chapter twenty-eight A (28A) of the Code. Hearings conducted by arbitrators shall be open to the public.
4. The terms of a proposed collective bargaining agreement shall be made public and reasonable notice shall be given to the public employees prior to a ratification election. The collective bargaining agreement shall become effective only if ratified by a majority of those voting by secret ballot.
5. Terms of any collective bargaining agreement may be enforced by a civil action in the district court of the county in which the agreement was made upon the initiative of either party.
6. No collective bargaining agreement or arbitrators' decision shall be valid or enforceable if its implementation would be inconsistent with any statutory limitation on the public employer's funds, spending, or budget or would substantially impair or limit the performance of any statutory duty by the public employer. A collective bargaining agreement or arbitrators' award may provide for benefits conditional upon specified funds to be obtained by the public employer, but the agreement shall provide either for automatic reduction of such conditional benefits or for additional bargaining if the funds are not obtained or if a lesser amount is obtained.
7. If agreed to by the parties nothing in this Act shall be construed to prohibit supplementary bargaining on behalf of public employees in a part of the bargaining unit concerning matters uniquely affecting those public employees or cooperation and coordination of bargaining between two or more bargaining units.
8. The salaries of all public employees of the state under a merit system and all other fringe benefits which are granted to all public employees of the state shall be negotiated with the governor or his designee on a statewide basis, except those benefits which are not subject to negotiations pursuant to the provisions of section nine (9) of this Act.
9. A public employee or any employee organization shall not negotiate or attempt to negotiate directly with a member of the governing board of a public employer if the public employer has appointed or authorized a bargaining representative for the purpose of bargaining with the public employees or their representative, unless the member of the governing board is the designated bargaining representative of the public employer.

Section 18. GRIEVANCE PROCEDURES.

An agreement with an employee organization which is the exclusive representative of public employees in an appropriate unit may provide procedures for the consideration of public employee grievances and of disputes over the interpretation and application of agreements. Negotiated procedures may provide for binding arbitration of public employee grievances and of disputes over the interpretation and application of existing agreements. An arbitrator's decision on a grievance may not change or amend the terms, conditions or applications of the collective bargaining agreement. Such procedures shall provide for the invoking of arbitration only with the approval of the employee organization, and in the case of an employee grievance, only with the approval of the public employee. The costs of arbitration shall be shared equally by the parties.

Public employees of the state shall follow either the grievance procedures provided in a collective bargaining agreement, or in the event that no such procedures are so provided, shall follow grievance procedures established pursuant to chapter nineteen A (19A) of the Code.

Section 19. IMPASSE PROCEDURES–AGREEMENT OF PARTIES.

As the first step in the performance of their duty to bargain, the public employer and the employee organization shall endeavor to agree upon impasse procedures. Such agreement shall provide for implementation of these impasse procedures not later than one hundred twenty days prior to the certified budget submission date of the public employer. If the parties fail to agree upon impasse procedures under the provisions of this section, the impasse procedures provided in sections twenty (20), twenty-one (21) and twenty-two (22) of this Act shall apply.

Section 20. MEDIATION.

In the absence of an impasse agreement between the parties or the failure of either party to utilize its procedures, one hundred twenty days prior to the certified budget submission date, the board shall, upon the request of either party, appoint an impartial and disinterested person to act as mediator. It shall be the function of the mediator to bring the parties together to effectuate a settlement of the dispute, but the mediator may not compel the parties to agree.

Section 21. FACT-FINDING.

If the impasse persists ten days after the mediator has been appointed, the board shall appoint a fact-finder representative of the public, from a list of qualified persons maintained by the board. The fact-finder shall conduct a hearing, may administer oaths, and may request the board to issue subpoenas. The fact-finder shall make written findings of facts and recommendations for resolution of the dispute and, not later than fifteen days from the day of appointment, shall serve such findings on the public employer and the certified employee organization.

The public employer and the certified employee organization shall immediately accept the fact-finder's recommendation or shall within five days submit the fact-finder's recommendations to the governing body and members of the certified employee organization for acceptance or rejection. If the dispute continues ten days after the report is submitted, the report shall be made public by the board.

Section 22. BINDING ARBITRATION.

1. If an impasse persists after the findings of fact and recommendations are made public by the fact-finder, the parties may continue to negotiate or, the board shall have the power, upon request of either party, to arrange for arbitration, which shall be binding. The request for arbitration shall be in writing and a copy of the request shall be served upon the other party.
2. Each party shall submit to the board within four days of request a final offer on the impasse items with proof of service of a copy upon the other party. Each party shall also submit a copy of a draft of the proposed collective bargaining agreement to the extent to which agreement has been reached and the name of its selected arbitrator. The parties may continue to negotiate all offers until an agreement is reached or a decision rendered by the panel of arbitrators.

As an alternative procedure, the two parties may agree to submit the dispute to a single arbitrator. If the parties cannot agree on the arbitrator within four days, the selection shall be made pursuant to subsection five (5) of this section. The full costs of arbitration under this provision shall be shared equally by the parties to the dispute.

3. The submission of the impasse items to the arbitrators shall be limited to those issues that had been considered by the fact-finder and upon which the parties have not reached agreement. With respect to each such item, the arbitration board award shall be restricted to the final offers on each impasse item submitted by the parties to the arbitration board or to the recommendation of the fact-finder on each impasse item.
4. The panel of arbitrators shall consist of three members appointed in the following manner:
   a. One member shall be appointed by the public employer.
   b. One member shall be appointed by the employee organization.
   c. One member shall be appointed mutually by the members appointed by the public employer and the employee organization. The last member appointed shall be the chairman of the panel of arbitrators. No member appointed shall be an employee of the parties.
   d. The public employer and employee organization shall each pay the fees and expenses incurred by the arbitrator each selected. The fee and expenses of the chairman of the panel and all other costs of arbitration shall be shared equally.
5. If the third member has not been selected within four days of notification as provided in subsection two (2) of this section, a list of three arbitrators shall be submitted to the parties by the board. The two arbitrators selected by the public employer and the employee organization shall determine by lot which arbitrator shall remove the first name from the list submitted by the board. The arbitrator having the right to remove the first name shall do so within two days and the second arbitrator shall have one additional day to remove one of the two remaining names. The person whose name remains shall become the chairman of the panel of arbitrators and shall call a meeting within ten days at a location designated by him.
6. If a vacancy should occur on the panel of arbitrators, the selection for replacement of such member shall be in the same manner and within the same time limits

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as the original member was chosen. No final selection under subsection nine (9) of this section shall be made by the board until the vacancy has been filled.

7. The panel of arbitrators shall at no time engage in an effort to mediate or otherwise settle the dispute in any manner other than that prescribed in this section.
8. From the time of appointment until such time as the panel of arbitrators makes its final determination, there shall be no discussion concerning recommendations for settlement of the dispute by the members of the panel of arbitrators with parties other than those who are direct parties to the dispute. The panel of arbitrators may conduct formal or informal hearings to discuss offers submitted by both parties.
9. The panel of arbitrators shall consider, in addition to any other relevant factors, the following factors:
   a. Past collective bargaining contracts between the parties including the bargaining that led up to such contracts.
   b. Comparison of wages, hours and conditions of employment of the involved public employees with those of other public employees doing comparable work, giving consideration to factors peculiar to the area and the classifications involved.
   c. The interests and welfare of the public, the ability of the public employer to finance economic adjustments and the effect of such adjustments on the normal standard of services.
   d. The power of the public employer to levy taxes and appropriate funds for the conduct of its operations.
10. The chairman of the panel of arbitrators may hold hearings and administer oaths, examine witnesses and documents, take testimony and receive evidence, issue subpoenas to compel the attendance of witnesses and the production of records, and delegate such powers to other members of the panel of arbitrators. The chairman of the panel of arbitrators may petition the district court at the seat of government or of the county in which any hearing is held to enforce the order of the chairman compelling the attendance of witnesses and the production of records.
11. A majority of the panel of arbitrators shall select within fifteen days after its first meeting the most reasonable offer, in its judgment, of the final offers on each impasse item submitted by the parties, or recommendations of the fact-finder on each impasse item.
12. The selections by the panel of arbitrators and items agreed upon by the public employer and the employee organization, shall be deemed to be the collective bargaining agreement between the parties.
13. The determination of the panel of arbitrators shall be by majority vote and shall be final and binding subject to the provisions of section seventeen (17), subsection six (6), of this Act. The panel of arbitrators shall give written explanation for its selection and inform the parties of its decision.

Section 23. LEGAL ACTIONS.

Any employee organization and public employer may sue or be sued as an entity under the provisions of this Act. Service upon the public employer shall be in accordance with law or the rules of civil procedure. Nothing in this Act shall be construed to make any individual or his assets liable for any judgment against a public employer or an employee organization.

Section 24. NOTICE AND SERVICE.

Any notice required under the provisions of this Act shall be in writing, but service thereof shall be sufficient if mailed by restricted certified mail, return receipt requested addressed to the last known address of the parties, unless otherwise provided in this Act. Refusal of restricted certified mail by any party shall be considered service. Prescribed time periods shall commence from the date of the receipt of the notice. Any party may at any time execute and deliver an acceptance of service in lieu of mailed notice.

Section 25. INTERNAL CONDUCT OF EMPLOYEE ORGANIZATIONS.

1. Every employee organization which is certified as a representative of public employees under the provisions of this Act shall file with the board a registration report, signed by its president or other appropriate officer. The report shall be in a form prescribed by the board and shall be accompanied by two copies of the employee organization's constitution and bylaws. A filing by a national or international employee organization of its constitution and bylaws shall be accepted in lieu of a filing of such documents by each subordinate organization. All changes or amendments to such constitutions and bylaws shall be promptly reported to the board.
2. Every employee organization shall file with the board an annual report and an amended report whenever changes are made. The reports shall be in a form prescribed by the board, and shall provide the following information:
   a. The names and addresses of the organization, any parent organization or organizations with which it is affiliated, the principal officers, and all representatives.
   b. The name and address of its local agent for service of process.
   c. The amounts of the initiation fee and monthly dues members must pay.
   e. A pledge, in a form prescribed by the board, that the organization will comply with the laws of the state and that it will accept members without regard to age, race, sex, religion, national origin, or physical disability as provided by law.
   f. A financial report and audit.
3. The constitution or bylaws of every employee organization shall provide that:
   a. Accurate accounts of all income and expenses shall be kept, and annual financial report and audit shall be prepared, such accounts shall be open for inspection by any member of the organization, and loans to officers and agents shall be made only on terms and conditions available to all members.
   b. Business or financial interests of its officers and agents, their spouses, minor children, parents, or otherwise, that conflict with the fiduciary obligation of such persons to the organization shall be prohibited.
   c. Every official or employee of an employee organization who handles funds or other property of the organization, or trust in which an organization is interested, or a subsidiary organization, shall be bonded. The amount, scope, and form of the bond shall be determined by the board.

4. The governing rules of every employee organization shall provide for periodic elections by secret ballot subject to recognized safeguards concerning the equal right of all members to nominate, seek office, and vote in such elections, the right of individual members to participate in the affairs of the organization, and fair and equitable procedures in disciplinary actions.
5. The board shall prescribe rules and regulations necessary to govern the establishment and reporting of trusteeships over employee organizations. Establishment of such trusteeships shall be permitted only if the constitution or bylaws of the organization set forth reasonable procedures.
6. An employee organization that has not registered or filed an annual report, or that has failed to comply with other provisions of this Act, shall not be certified. Certified employee organizations failing to comply with this Act may have such certification revoked by the board. Prohibitions may be enforced by injunction upon the petition of the board to the district court of the county in which the violation occurs. Complaints of violation of this section shall be filed with the board.
7. Upon the written request of any member of a certified employee organization, the auditor of state may audit the financial records of the certified employee organization.

Section 26. EMPLOYEE ORGANIZATIONS–POLITICAL CONTRIBUTIONS.

An employee organization shall not make any direct or indirect contribution out of the funds of the employee organization to any political party or organization or in support of any candidate for elective public office.

Any employee organization which violates the provisions of this section or fails to file any required report or affidavit or files a false report or affidavit shall, upon conviction, be subject to a fine of not more than two thousand dollars.

Any person who willfully violates this section, or who makes a false statement knowing it to be false, or who knowingly fails to disclose a material fact shall, upon conviction, be subject to a fine of not more than one thousand dollars or imprisoned for not more than thirty days or shall be subject to both such fine and imprisonment. Each individual required to sign affidavits or reports under this section shall be personally responsible for filing such report or affidavit and for any statement contained therein he knows to be false.

Nothing in this section shall be construed to prohibit voluntary contributions by individuals to political parties or candidates.

Nothing in this section shall be construed to limit or deny any civil remedy which may exist as a result of action which may violate this section.

Section 27.

Section nineteen A point nine (19A.9), subsection two (2), Code 1973, is amended to read as follows:

2. For a pay plan within the purview of an appropriation made by the general assembly and not otherwise provided by law for all employees in the merit system, after consultation with appointing authorities *with due regard to the results of a collective bargaining agreement negotiated under the provisions of this Act* and after a public hearing held by the commission. Such pay plan shall become effective only after it has been approved by the executive council after submission from the commission. Review of the pay plan for revisions shall be made in the same manner at the discretion of the director, but not less than annually. *The annual review by the director shall be made available to the governor a sufficient time in advance of collective bargaining negotiations to permit its recommendations to be considered during such negotiations.* Each employee shall be paid at one of the rates set forth in the pay plan for the class of position in which employed and, unless otherwise designated by the commission, shall begin employment at the first step of the established range for his class. Unless otherwise established by law, the governor, with the approval of the executive council, shall establish a pay plan for all exempt positions in the executive branch of government except for employees of the governor, board of regents, the state educational radio and television facility board, the superintendent of public instruction and members of the professional staff of the department of public instruction, appointed under the provisions of section 257.24, who possess a current, valid teacher's certificate or who are assigned to vocational activities or programs, the commission for the blind, members of the Iowa highway safety patrol and other peace officers, as defined in section 97A.1, employed by the department of public safety, and officers and enlisted men of the armed services under state jurisdiction.

Section 28.

If any provision of this Act jeopardizes the receipt by the state or any of its political subdivisions of any federal grant-in-aid funds or other federal allotment of money, the provisions of this Act shall, insofar as the fund is jeopardized, be deemed to be inoperative.

Section 29.

This Act shall become effective on July 1, 1974, but the provisions of this Act relative to the duty to bargain shall not become effective until July 1, 1975. However, public employees of the state, its boards, commissions, departments and agencies may not bargain collectively until June 1, 1976.

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CASE REVIEWS

DELAWARE

Decertification Petition Fails For Lack of Specific Charges

The Delaware Supreme Court ruled that the Conrad Area School Board lost its right to decertify the Conrad Area Federation of Teachers (AFT) following a three-day strike because it failed to pursue such a remedy in initial chancery court hearings during and after the walk-out.

Under Delaware law, Conrad teachers voted for CAFT as their collective bargaining agent for a two-year period. Representatives of CAFT and the school board subsequently engaged in negotiations, but following a dispute over teacher pay raises, the teachers struck. At the board's request, the Court of Chancery issued a temporary order restraining the strike.

A new contract raised salaries by $200, contained a grievance procedure, allowed teachers to review their personnel files, and barred transfers for disciplinary reasons. The teacher negotiation statute provides that if an employee organization designated as exclusive representative violates the no-strike provision, its designation as exclusive representative shall be revoked by the public-school employer and shall be ineligible to be designated as exclusive representative for a period of two years thereafter.

In its complaint, the board sought a declaration by the chancery court that the federation had forfeited its right as a bargaining unit by engaging in the strike, and it sought decertification as part of its relief. The chancery court dismissed the complaint, stating that no legitimate, useful purposes would be served by imposing sanctions after a contempt hearing since the matters leading to the filing of the action had been rendered moot and that the board initially had sought a restraining order, not decertification.

The board did not appeal this decision, but when the state attorney general ruled that striking teacher groups must be decertified under the negotiation law, the board withdrew recognition of CAFT, whereupon the federation instituted legal proceedings against the state. The chancery court stated, not on the basis of the bargaining law but on the principle of *res judicata* (a thing or matter settled by judgment), that it was satisfied that there was no need to equivocate as to the correct principle to apply.

The board issued a renewal of CAFT's certification, but attorneys for the state appealed the decision to the Delaware Supreme Court. The supreme court denied the appeal from the state justice department and state education officials on the basis of alleged violations of the anti-strike statute, agreeing with the lower court which had held that "the board's action was improper and ordered it rescinded on the ground that there had been a judicial determination of the issue." So ruling, the supreme court upheld the chancery court order. (*State of Delaware, et al., v. Conrad Chapter of the Delaware Federation of Teachers, et al.*, Delaware Supreme Court, April 9, 1974.)

FLORIDA

Trial Court Cannot Order Binding Arbitration To Settle Dispute

In the absence of specific legislative guidelines to implement the constitutional right to collective bargaining, it was improper for a trial court to order binding arbitration in a labor dispute between the City of Coral Gables and the Coral Gables Employees Association. So ruling, the Florida District Court of Appeals reversed a lower court's order.

The trial court ordered binding arbitration when an impasse was reached in negotiations after three months of bargaining. Additionally, the employees association was on strike in violation of Article 1, Section 6, of the state constitution.

Citing *Dade County Classroom Teachers' Association v. Ryan*, the Court of Appeals stated that the state Supreme Court held that public employees have a right to bargain collectively according to the 1968 state constitution. Further, in *Dade County Classroom Teachers' Association v. Legislature*, the Supreme Court acknowledged the problem of non-existing statutory guidelines for bargaining and held that enforcing constitutional rights rests with the judiciary.

Pointing out that the legislature had enacted the Firefighters Bargaining Act which provides advisory arbitration, the Supreme Court held that the legislature will in time extend its activity in this field, thus making judicial implementation of the rights in question premature.

Concluding that it was essential that the legislature establish appropriate standards and guidelines in labor relations for the public sector, the Court of Appeals held that at the present time the legislature did not act unreasonably, although it failed to enact legislation implementing the constitutional right to collective bargaining. Accordingly, the Court of Appeals ruled that the trial court improperly ordered binding arbitration in the absence of specific legislative guidelines and reversed the decision of the trial court. (*City of Coral Gables, Florida, Appellant v. Coral Gables Employees Association, Inc., Appellee*, Florida District Court of Appeals, January 15, 1974.)

MICHIGAN

Phone Calls to Fellow Employees in Grievance Held Protected Activity

The Michigan Supreme Court ruled that a substitute bus driver was within her rights under the Michigan Public Employment Relations Act when she phoned fellow drivers assigned to regular runs in order to gather evidence for a grievance alleging a violation of her seniority rights.

The substitute bus driver was hired and assigned to a temporary bus run until the regular driver returned. She asked for a permanent position but was not assigned; whereupon she filed a grievance requesting a permanent position. The collective bargaining agreement gave preference to drivers with seniority, but the school board maintained that a substitute driver did not come within the scope of the agreement since it covered only employees with "regularly scheduled hours." Even though union and school officials met with the school grievance committee on November 18, the complaint was not resolved.

The MERC upheld the trial examiner's recommendation that the substitute driver be reinstated and given back pay, while agreeing that the grievance against the union be dismissed since no cause of action was shown. The court of appeals ordered enforcement of MERC's order. Affirming the appeals court order, the supreme court noted that the substitute driver made the calls in preparing a grievance.

The court discounted suggestions that the phone calls were threatening, noting no claim that the bus driver had threatened physical violence. The court held that there was a "threat inherent in any similar grievance asserting that someone was granted preferred status in derogation of another's seniority rights."

The school board argued that the substitute bus driver was not under the protection of the PERA since she was acting on an individual, rather than a group, grievance. But, according to the court, "The NLRB and the United States Courts of Appeal have held, however, that the filing of a *grievance* by even a single employee constitutes protected concerted activity."

The court also disposed of two other arguments advanced by the school board. First, to the argument that the driver was not included within the bargaining agreement because she allegedly did not keep "regularly scheduled hours," the court found that she did have definite morning and afternoon hours, five days a week. Second, while agreeing that the driver's charge filed with MERC failed to inform the school board of what it was specifically accused, the court stated that the fuzziness of the wording in the complaint did not prejudice a full and fair presentation of the facts and issues in the case.

The dissenting judge held that there was no finding of any concerted activity in the phone calls as required under PERA, that the driver's actions ruptured the bonds of common cause, and that the driver did not communicate to develop facts but to complain, coerce, and intimidate. As such, these activities did not warrent protection but furnished ample cause for discharge. (*Michigan Employment Relations Commission v. Reeths-Puffer School District*, Michigan Supreme Court, March 19, 1974.)

NEW JERSEY

Adoption of New Funding Formula and Budgetary Calendar Not in Violation of Statutory Duty To Bargain

The New Jersey Superior Court dismissed a petition of the Rutgers Council of the American Association of University Professors (RC-AAUP) which claimed that the state board of higher education violated the state's Administrative Procedure Act (APA) and the Employer-Employee Relations Act (EERA) by adopting a 32-week budgetary calendar based on funding methods devised by the state department of higher education. The court found that the new funding method, approved by the legislature, was within the board's authority and did not affect the parties' previous bargaining position. Furthermore, the court reiterated its former position that the school calendar was not a mandatory subject of negotiations.

In previous years, the state appropriated funds for the university, with the university having authority to allocate funds within certain guidelines. These allocations were determined by budgetary formulas based on a student/faculty ratio. The university would submit its budgetary request to the board which would then forward the request to the governor through the budget bureau; the governor would revise the request and send it to the legislature for final determination. The funding formula had no actual relation to the classroom but was a budgetary method based on program objectives. The legislature established a committee to study alternate funding formulas and issue a report prior to the submission of a budget request by the university. The final report of the committee based the budgetary formula on the student/faculty ratio, but unlike the old formula, the new ratio was divided into such components as student levels, subject matter, and faculty experience. Rutgers accepted this formula with the provision that it be allowed to allocate funds according to its needs and goals. Incorporating the new budgetary formula, the board processed the university's budget request and submitted it to the governor and the legislature.

Subsequently, the RC-AAUP petitioned the court, claiming that the board had violated the APA by adopting the revised budgetary formula (The APA protects parties adversely affected by administrative rules and regulations adopted by state agencies.) and the EERA for not consulting with RC-AAUP before implementing the prescribed 32-week budgetary calendar. RC-AAUP also contended that the funding policy interfered with Rutgers' autonomy.

Considering charges that the board had violated the APA, the court stated that the primary issue was whether the board was engaged in rule-making when it adopted the funding policy. The court determined that since the board's adoption of the ratio formula affected only the university's allotment of funds, not the application of them, the new funding policy was within the board's statutory authority and could not be considered rule-making. The court noted that the dispute was rightfully with the legislature for implementing the new funding policy, not with the board for utilizing it.

Examining the RC-AAUP's contentions that the adoption of the student-faculty funding formula and the 32-week budgetary calendar by the board violated the EERA, the court ruled that the new funding policy did not change the collective bargaining position existing between the parties, since RC-AAUP was still free to negotiate all terms and conditions of employment with the university. Regarding the budgetary calendar the court restated its previous position in *Burlington Community College*[1] that although the school calendar has some effect on terms of employment, it is not a mandatory subject for negotiations.

The court found no merit in the RC-AAUP's contention that the new budget formula violated Rutger's autonomy, a matter of concern only to the university, not the RC-AAUP, and also the board did not change the university's statutory authority by simply advising the legislature as to the university's need for funds in accordance with a formula adopted by the legislature.

Finding no merit in any of the RC-AAUP's charges, the court dismissed its petition and upheld the board's action in implementing the new funding policy. (*Rutgers Council of American Association of University Professors v. New Jersey Board of Higher Education et al*, New Jersey Superior Court, November 27, 1973.)

[1]NRD 7. 8.

NEW YORK

Sabbatical Leave Contingent on Contractual Provision

Vested sabbatical leave rights end with the termination of a contract and a school board's failure to act on sabbatical applications during negotiations for a new contract is not an improper practice because the leave is not a basic employee benefit nor a mandatory subject of negotiations. The New York Supreme Court, Nassau County, dismissed petitions filed by the Baldwin Faculty Association seeking enforcement of sabbatical leave provisions in a contract the Association had voluntarily terminated.

Under the Association's 1972-73 continuing contract, sabbatical leaves were vested for the 1973-74 contract year because of a statutory prohibition of sabbaticals in the former year. Five teachers had applied for sabbaticals, and raised the issue when the Baldwin School Board refused to act on the applications, contending that the sabbatical leave provision no longer had effect since the contract had expired.

Although the Association had voluntarily terminated the continuing contract, it maintained that the right to sabbaticals had been vested the previous year and should be granted while negotiations were being conducted for a new contract.

The court examined the provision in question and found no support for continuation of the effect of the clause beyond the limits of the negotiated agreement, negating any presumption that a right to sabbatical leave could be vested outside a contract. In *Ewen v. Board of Education of Union Free School Dist. No. 18*, the court had ruled that teachers could keep previously vested sabbaticals in the face of a legislative ban in the prior year because the leaves had been granted and a provision for sabbaticals existed in a contract still in effect. The court concluded that the school board was not obligated to grant sabbaticals in the instant case until provision for such has been negotiated.

A fall back position of the Association was that the Taylor Law operated to preserve the "status quo" during negotiations since it banned strikes. Citing two previous PERB cases involving continuance of the grievance procedure and salary provisions of expired contracts, the Association believed its members were also entitled to the contested sabbaticals.

The court acknowledged the handicap imposed by the no-strike provision; yet it noted, that the main emphasis of the statute was on collective bargaining rights for public employees, particuarly the employer's duty to negotiate in good faith. Efforts to change major employment conditions and benefits in lieu of a contract might be construed as improper practices—failure to negotiate in good faith—but such an allegation should concern some indispensible item, some mandatory subject of negotiations, since preserving the "status quo" could not mean maintaining all prior contract terms, the court reasoned. Sabbatical leaves for a few teachers were not a mandatory subject of negotiation, the court concluded, unwilling to assure a blanket continuation of expired contract terms, and thereby tip the negotiations power balance in favor of the Association.

The court accordingly dismissed the Association's petition. (*Matter of Application of Arthur Cardinale, as President of the Baldwin Faculty Association et al., Petitioners v. Herbert P. Andersen et al., members of the Board of Education, Union Free School District No. 10, Town of Hempstead, Baldwin, New York et al., Respondents*, New York Supreme Court, Nassau County, August 24, 1973.)

OREGON

Court Affirms PERB Ruling Against Employee in Grievance Involving Merit Rating

An employee cannot invoke the Public Employees Relations Board's (PERB) jurisdiction in a grievance regarding a performance evaluation if he/she does not file a written grievance within procedural time limits in accordance with state administrative rules. So ruling, the Court of Appeals affirmed PERB's denial of the employee's request to set aside or modify the evaluation.

The employee sought to have PERB intervene and consequently change or set aside the evaluation of her performance since it was unsatisfactory. However, PERB ruled against her on the merits.

The employer (Children's Services Division) moved for dismissal on a claim that the employee's grievance was not filed within the 60-day time limit. PERB dismissed the motion, finding that the employee verbally complained to her

supervisor within the 60-day period on the grounds that the language of the parties' labor agreement provided that the initial step of a grievance was an effort to reach agreement with the supervisor. Consequently, PERB held that the grievance was within the procedural time limits.

The court of appeals, although affirming PERB, disagreed with PERB's ruling regarding the timeliness of the grievance and held that failure of the oral attempt necessitated the written presentation of the grievance. The court found that the employee was required to file a written grievance within 60 days from receipt of the merit rating. Accordingly, the court affirmed the PERB ruling against the employee. (*Wittmeyer, Petitioner v. Children's Services Division, Respondent Cross-Petitioner*, Oregon Court of Appeals, December 1973.)

VERMONT

School Board Bound by Negotiated Grievance Procedure in Contract Non-renewal Case

Absent a specific statutory provision limiting its authority to enter into or limit the scope of negotiated agreements, the contention of the Danville Board of School Directors that submission of a teacher dismissal case to final and binding arbitration was an improper delegation of its powers was rejected by the Caledonia County Supreme Court. Final and binding arbitration is the fourth step of a grievance procedure contained in an agreement negotiated between the board and the Danville Teachers Association.

A member of the teachers association, informed by the board that her contract would not be renewed, filed a grievance in accordance with the parties' negotiated grievance procedure. The parties followed the first three steps of the procedure, and the dismissal was upheld at all levels. The Association then submitted the grievance to arbitration. The school board refused to comply with the final step of the procedure, and petitioned the county court for an injunction barring arbitration. The court refused to issue an injunction, and the board appealed the case to the county supreme court.

The board argued that state education statutes granted school boards the sole authority to hire and dismiss teachers, and, therefore, submission of a grievance concerning contract non-renewal to final and binding arbitration was an improper delegation of the board's authority.

Reviewing the facts of the case, the court pointed out contractual provisions which stated that teachers' contracts shall be renewed "except for just and sufficient cause" and that non-renewal of a teacher's contract may be submitted to the negotiated grievance procedure. According to the court, the main issue in the case did not concern the school board's power to hire and dismiss teachers but rather the board's authority to enter into a collective bargaining agreement including a provision for binding arbitration.

The court believed that the board's participation in the first three steps of the arbitration process indicated that it did not object to the arbitration procedures. However, the board objected to an arbitrator's making the final decision as to whether a teacher was dismissed for "just and sufficient cause." Referring to previous legal decisions, the court stated that to prove that a nonrenewal decision could be made only by the board, a statutory provision to the effect must be cited. Concluding that the board failed to demonstrate the existence of a statutory provision limiting its authority to enter into an agreement including arbitration provisions, the court affirmed the lower court's decision. (*Danville Board of School Directors v. Flora Fifield and Danville Teachers Association and Leslie Gensburg*, Caledonia County Supreme Court, December 9, 1973.)

WASHINGTON

Budget Allocations Not a Negotiable Policy

The Washington Supreme Court, in support of a previous superior court decision, ruled that the Spokane School District No. 81 Board of Education was not obliged to negotiate revised budget allocations with the Spokane Education Association. According to the court, the revised budget necessitated by the failure of a special school levy, was not a statement of policy. Furthermore, the board did not violate the state's negotiation statute by negotiating with the Association only once before adopting a budget which resulted in the layoff of 214 teachers.

The Association originally petitioned the superior court for a writ of mandamus to prevent the school district from notifying several teachers of their nonrenewal which resulted from necessary budget cuts.

The Association contended before the supreme court, that the school district violated the state negotiations act. In addition to providing for the negotiation of terms and conditions of employment, the act empowers school boards to adopt rules and regulations for the administration of employer-employee relations. Accordingly, the board adopted a procedure whereby any proposed or revised policy would be read at two public meetings prior to adoption. Under this procedure, the Association had opportunity to meet with the superintendent to communicate its membership's views on a policy change; if a settlement was not reached, the Association had the right to meet with the board within 10 days. If the board and the Association were unable to reach agreement, the board could enforce the new or revised policy subject to the Association's right to request aid from the state superintendent.

Upon rejection of a special school levy, the superintendent drew up plans for allocation of the reduced budget and an Association committee met with a committee from the superintendent's office to discuss possible budget cuts if a second levy vote was defeated. The Association held that no personnel should be discharged as a result of the budget reduction and recommended cuts in other areas of the school program. Although the superintendent incorporated many of the Association's suggestions into his plan, the plan did include the layoff of some teachers. During this

period, the board held two public meetings to discuss plans for budget reductions. After the meetings the Association requested a meeting with the school administration and subsequently with the board regarding budget allocations and the reduced school program. The school board received the Association's request for a meeting three days before the date teachers had to be informed of their non-renewal. Because of the necessity of meeting this deadline, the board voted to adopt the superintendent's proposals without further discussion, and non-renewal notices were sent to 214 certificated staff members whereupon the Association petitioned the court for an order estopping the board from issuing the non-renewal notices.

Although the Association eventually dropped this contention, it first argued that the state negotiation statute provided for negotiations until a settlement was reached. However, the Association maintained that the meetings held with the board did not meet statutory requirements and regulation procedures and that the board's adoption of the superintendent's plan for budget reduction was unlawful.

Reviewing the facts, the court believed that the legislative intent of the statute was to give an employee organization the opportunity to negotiate a proposed policy for a reasonable time prior to the date the board was required to act. Pointing out that both parties were aware that a budget reduction plan might have to be implemented after the first school levy failed, the court stated that the Association could have requested negotiation in case the levy failed a second time. However, the Association neglected to request negotiation with the board until three days before the board was required to send non-renewal notices. The court held that if the Association wished to exercise its right to negotiate with the board, it should have requested negotiation prior to the late date that it did. The court added that prior to its adoption of the superintendent's plan, the board indicated that it was willing to negotiate the staff reductions, and in fact both the Association and the board agreed to modify the superintendent's plan. The court concluded that the Association had never been denied the right to negotiate the budget reductions.

The board and the Association disagreed over the scope of negotiations as specified in the negotiations statute. The Association contended that the statute allowed negotiation of budget allocations because policies relating to negotiable items listed in the statute affect the budget. On the other hand, the board held that budget allocation was one of its non-delegable duties. The court agreed that policy matters relating to specified negotiable items were subject to negotiation but added that although many of the items going into a budget reflect policy decisions, the school budget itself could not be considered a statement of policy. However, this did not preclude the school board from discussing the budget with the Association.

In conclusion, the court affirmed the lower court's order and dismissed the Association's petition. (*Spokane Education Association v. Orville L. Barnes*, Washington Supreme Court, January 17, 1974.)

BOARD FINDINGS AND RULINGS

MAINE

Kittery Teachers Win Back Pay

In an unprecedented decision, the Maine Public Employees Labor Relations Board directed the Kittery School Committee to reimburse teachers for lost wages owing to the committee's decision to unilaterally change the negotiated salary provision of the parties' expired contract.

The school committee contended that Article 23 of the parties' 1971-72 contract which provided 7 percent increases for all teachers with 11 or more years' experience for the school year 1971-72, was no longer in effect; however, it indicated that all other provisions would remain effective pending the end of 1972-73 contract negotiations. The Kittery Teachers Association argued that all contract provisions should remain in effect until the negotiation of a successor agreement.

Citing other rulings in support of its decision, the Board held that the school committee improperly made a unilateral change in working conditions in the midst of negotiations. So ruling, the Board ordered the school committee to pay the teachers involved the full amount lost. (*Kittery Teachers Association and School Committee of Town of Kittery*, Maine Public Employees Labor Relations Board, March 15, 1973.)

Employees Discharged for Union Activity Reinstated with Back Pay

Holding that Gardiner Water District employees were discharged owing to their union activity, the Maine Public Employees Labor Relations Board (PELRB) directed that the four employees be reinstated, reimbursed for wages lost, and compensated some $642 to $1,722 in damages. Further, the Board vacated the results of a representation election which the American Federation of State, County and Municipal Employees (AFSCME) lost shortly after the employee firings.

The discharged employees, who installed water meters for the district's "crash program," were terminated a few days after they circulated a petition for a certification election. Their superintendent later informed them of upcoming pay raises and new retirement and insurance programs, and told them that because of these changes and their unsatisfactory work, they would be fired.

The Board found no good cause for the discharges and noted that the employees were not warned or disciplined prior to the firings. Further, the Board said that talks regarding impending benefits had no relevance to the discharges but would be relevant only to stress benefits lost for participating in union activity.

Finding a violation of Section 964 of the state's bargaining law which prohibits public employers from discouraging union membership through hiring and employment discrimination, the Board ruled that the firings were clearly a result of the employees' union activity. So ruling, the Board ordered an end to the district's illegal actions and directed that the employees be reinstated with compensation for damages, and lost vacation, holiday, and bonus pay plus wages lost.

The Board additionally directed that a new representation election be held owing to the circumstances surrounding the previous election. (*Gardiner Water District*, Maine Public Employees Labor Relations Board, April 1, 1974.)

NEW JERSEY

PERC Finds Over-All Unit of Administrators Appropriate for Collective Negotiations

Finding that administrators in a disputed unit shared a community of interest, backed up by voluntary negotiation experience as one unit, the New Jersey Employment Relations Commission (PERC) ruled that the Long Branch Administrative Association, which petitioned for a unit of administrators—elementary and secondary principals and elementary-school curriculum supervisors—comprised an appropriate unit for collective negotiations.

When the school board refused to recognize the Association as the exclusive bargaining representative for the employees, an employee representative petitioned PERC requesting a unit comprised of principals and vice-principals of elementary and junior and senior high schools, and elementary-school supervisors. However, the school board decided to agree to any determination made by PERC.

Another organization, representing high-school administrators challenged the appropriateness of the unit, contending that the high-school administrators and others named in the disputed unit shared no community of interest with elementary-school administrative personnel and that established practices and special circumstances supported their request for exclusion from the unit.

From a plenary review of the record and evidence, a hearing officer found that the disputed unit was appropriate for collective negotiations and held that the record showed that the administrators in the disputed unit shared a sufficient community of interest to form an appropriate collective negotiations unit.

Replying to the contention that established practices and special circumstances supported the high-school administrators' request for exclusion from the disputed unit, the hearing officer stated that it was not necessary to pursue the issue since determination must deal with community of interest rather than with established practices, prior agreement, or special circumstances. The hearing officer noted, however, that the record indicated a history of a continuous representation prior to the laws of 1968 which reinforced the concept of an all-inclusive administrators unit as appropriate for negotiations. He found that the administrators in the past voluntarily acted concertedly to acquire or improve salaries, fringe benefits, and noneconomic benefits. Accordingly, he determined, and the full Commission agreed, that the administrators in the disputed unit comprised an appropriate unit for collective negotiations and recommended a secret ballot election among the employees within that appropriate unit. (*In the Matter of Long Branch Board of Education, Public Employer, and Long Branch Administrative Association, Petitioner, and Long Branch High School Administrators' Association, Intervenor*, Public Employment Relations Commission, February 28, 1974.)

PENNSYLVANIA

Higher Education Unit Petition Denied

Dismissing a request to represent full-time library aides, teachers, and counselors, the Pennsylvania Labor Relations Board (PLRB) held that the petition of the University of Pittsburgh at Johnstown Teachers Association would "over fragmentize" the employer.

PLRB, as in previous cases which involved the state as employer, held to its position requiring bargaining on an employer-wide basis, and indicated that particular emphasis should be placed on that position when dealing with a teacher unit whose members have identical standards of educational background and use the same disciplines.

Noting that its ruling could have been different if dealing with employees possessing skills used only locally, recruited from local areas, and working under their salaries, hours, and conditions reflecting local conditions for comparable jobs, PLRB found that the University could not fit this category since its teachers are selected nationwide with employer-wide employment standards. Accordingly, PLRB dismissed the Association's unit petition. (*University of Pittsburgh of Commonwealth System of Higher Education (Johnstown Campus)*, Pennsylvania Labor Relations Board, July 11, 1973.)

Board Discussion of Contract Negotiations with Rank-and-File Members Is Unfair Labor Practice

In support of the charge of the Upper Merion Area Education Association, the Pennsylvania Labor Relations Board (PLRB) ruled that talks initiated by a school-board member with picketing rank-and-file members of the Association regarding their reasons for rejecting the district's proposed contract, was illegal and constituted an unfair labor practice to which the employer school district is liable owing to the actions of one of its agents.

PLRB pointed out that in other cases, employer activity which endeavors to disunify members or undermine the selected representative's authority, has been ruled as an unfair labor practice. Accordingly, PLRB found the board member's action illegal as the activity attempted to bypass the exclusive bargaining representative. (*Upper Merion School District and Joseph Fertal*, Pennsylvania Labor Relations Board, June 29, 1973.)

Board's Refusal To Bargain with Head Coaches Violates State's Bargaining Law

Karns City School District violated Section 1201 of the state's bargaining law when it refused to bargain with the association regarding salaries for head coaches, ruled the Pennsylvania Labor Relations Board (PLRB). The ruling struck down the school district's allegation that bargaining on pay for head coaches was not required since they are supervisory employees.

PLRB stated that head coaches, who are in the association's unit of professional teaching employees, devote the major portion of their time to teaching and perform their coaching duties under a supplementary agreement. Since the head coaches have no authority in the hiring process nor are they required to use independent judgment concerning relaying assignments to assistants, PLRB held that their supervision over assistants was meaningless compared to their duties; that their supervision mainly affected student conduct and activities, not other employees. Consequently, PLRB ordered the district to negotiate salaries for head coaches. (*Karns City Area School District*, Pennsylvania Labor Relations Board, August 23, 1973.)

School District's Refusal To Include Substitute Within Coverage of Contract Unfair Labor Practice

Rejecting a school district's concept of "full-time teacher," the Pennsylvania Labor Relations Board (PLRB) ruled that the district committed an unfair labor practice by not including a substitute teacher under the contract negotiated for a unit of nurses, librarians, counselors, and child accounting and full-time certificated instructional personnel.

The district relied on Section 1101 of the Public School Code which describes a substitute teacher as any individual employed during the absence of a regular professional employee, or for other legal cause approved and authorized by a Board of School Directors, to perform the duties of that employee or to perform the duties of a temporary professional employee.

Finding the board's explanation erroneous since it deprived certain employees of the right to representation, PLRB remarked that the record indicated that the district was baffled by the term "full-time certificated instructional personnel" as used in the unit description. PLRB noted that the district classified teachers as professionals, temporary professionals, and substitutes. But PLRB held that the district's classification did not affect the definition of full-time, regular part-time, and casual employees, as used to define employees with sufficient community of interest to be included in the same unit for collective negotiations. (*Carlynton School District*, Pennsylvania Labor Relations Board, June 15, 1973.)

WISCONSIN

School District Ordered To Bargain Changes in Pay for Women Athletic Coaches

In an attempt to conform to the Fair Labor Standards Act, Joint School District No. 8 unilaterally raised pay for women athletic coaches under a collectively negotiated Extra Duty Compensation Schedule of the contract with the Madison Teachers, Inc. (MTI). Nevertheless, the Wisconsin Employment Relations Commission (WERC) ordered the school district to bargain the matter with MTI, but did not grant MTI's request that the board cease paying the raises already implemented.

The schedule used by the board to compensate the women athletic coaches set forth three bases depending on seniority and stipulated that coaches of various activities be paid prescribed percentages of the given base. However, while the percentages for men coaches ranged from 4 to 12 percent, those for women coaches ranged from 4 to 5 percent.

MTI filed a grievance, alleging that the district had violated state and federal laws in paying coaches of girls' sports improperly low wages which were less than the percentage rates for male coaches. Subsequently the board unilaterally instituted the salary amounts it had proposed to MTI.

WERC concluded that even though the compensation negotiated between the parties for coaches of women's sports was not in compliance with the provisions of the Fair Labor Standards Act, the board was not relieved of its obligation to bargain collectively. And in unilaterally implementing the increases, the board refused and continued to refuse to negotiate a prohibited practice under the Act.

The board admitted that it had unilaterally implemented the wage increases, but it denied that doing so constituted a prohibited practice since it is charged with the duty of abiding by the FLSA. The Commission emphasized that "an employer is bound to deal exclusively with the majority representative of its employees."

MTI contended that even if the board had the right unilaterally to increase salaries under the FLSA, that right was limited to equalizing salaries. This the board did not do; instead it "modified" salaries paid to women coaches. Of the 17 "modified" wages, only 6 were equalized and the remaining 11, while increased, remained at levels from one to five points lower than the index for men coaches.

The board's contentions that even if it did bargain the matter, the MTI might charge it with discrimination was mere conjecture, in the Commission's view. Therefore, the Commission ordered bargaining, but allowed the increases already implemented to stand, saying that to rescind them would be inequitable. (*Madison Teachers Inc. v. Joint School District No. 8*, Wisconsin Employment Relations Commission, April 8, 1974.)

Failure To Submit Grievances Concerning Non-renewal to Arbitrator Ruled Unfair Labor Practice

Upholding an examiner's ruling, the Wisconsin Employment Relations Commission (WERC) held that Monona Grove School District committed an unfair labor practice when it would not submit grievances regarding non-renewal of teacher contracts to arbitration as requested by the Monona Grove Education Association.

The examiner rejected the district's claims of timeliness and non-arbitrability. In agreeing with the Association, he found that the defects of the grievances created procedural defenses which by WERC'S policy should be left to arbitrators. Accordingly, he ordered a halt to the district's refusal to submit and participate in arbitration on the grievances and related matters. (*Monona Grove Education Association and Monona Grove Joint School District No. 4*, Wisconsin Employment Relations Commission, August 23, 1973.)

NEGOTIATION NOTES

ALASKA

Contract Incorporates Mediation Board Report

After going to mediation owing to an impasse in negotiations, the Matanuska-Susitna Alaska Education Association and the school board added the mediation board's report to their contract.

Effective July 1, 1974, the contract provides 11 percent increases, with salaries ranging from $11,400 to $22,800. An $800 across-the-board increase is set for 1975-76. Also included in the agreement is a 188-day school year (one day increase) and maximum salaries of $25,200 for elementary-school principals and $25,850 for secondary-school principals.

FLORIDA

Comprehensive Public-Employee Labor Law Enacted

To be effective January 1, 1975, with the exception of provisions effective July 1, 1974, Florida's public-employee labor act amends Section 447.03 of the state's statutes to include the right to refrain from participation in labor organizations. The amended version states that public employees have the right to form, join, or assist labor organizations for the purpose of collective bargaining through designated representatives, as well as the right to refrain from such activity.

The Act provides a nondiscrimination clause which prohibits a public employer from denying employment to any person because of membership or nonmembership in a labor organization, and provides injunctive relief to an aggrieved person(s).

Implementing Article 1 of the state constitution and amending Section 477, Part II, of the statutes, the Act gives public employees the right of organization and representation and requires state and local governments, and other political subdivisions to bargain collectively with duly certified public employee representatives over terms and conditions of employment. Further, the Act creates a public-employee relations commission empowered to assist in resolving disputes between public employers and public-employee organizations, with legislative review of the commission's rulings.

The Act specifies public employer and public employee rights and provides that a duly certified public-employee organization may, upon request, have its dues and assessments deducted and collected by the employer from the salaries of employees who authorize such deductions.

The Act lays down the procedure for registration, recognition, and certification of public-employee organizations and provides for the payment of fees and expenses of collective bargaining.

A grievance procedure is provided with final and binding disposition by an impartial neutral selected by both parties. Further, the Act provides for mediation in case of impasse during negotiations. Both parties choose the mediator, but if no agreement can be reached, the commission is empowered to appoint a special master agreeable to both parties; if not agreeable, the commission appoints the specail master at its discretion.

Unfair labor practices are listed for both the public employer and public-employee organizations which include, but are not limited to, a public employer's refusal to bargain collectively, refusal to bargain in good faith, and refusal to sign a final agreement. Included in the list of unfair labor practices for public-employee organizations is violation of the no-strike clause. [See *Text* section for complete law.]

[EDITOR'S NOTE: Copies of the recently enacted Florida and Iowa collective bargaining statutes as well as full text of collective bargaining laws from states which cover public-school teachers are available free of charge to subscribers of *NRD* from NEA RESEARCH, 1201 16th St., N.W., Washington, D.C. 20036.]

KANSAS

School District Cannot Issue Teacher Contracts When Negotiations Break Down

The Geary County District Court issued a temporary restraining order forbidding the Geary County Unified School District from issuing teachers' contracts to members of the Junction City Education Association following a breakdown in negotiations.

The order mandated that the district cease issuing teachers' contracts, refusing to bargain in good faith, and breaking off negotiations. Additionally, the restraining order directed that the district recall all contracts issued and not accept other signed contracts from teachers.

MICHIGAN

Independent Panel Blasts Michigan Accountability System

Criticizing its educational soundness and usefulness to the state, an independent panel found significant flaws in Michigan's accountability system for education.

The panel's findings showed overwhelming cost for taxpayers and student and teacher time required when "every-pupil" testing for the entire state goes into effect. A more suitable plan for testing, according to the panel, would involve different groups of students taking different small segments of the test.

Another defect indicated by the panel was the withholding of a portion of state funds allotted for the educationally disadvantaged as a penalty to districts showing small gains in achievement scores. Further, the panel opposed publishing district scores, ranking districts from top to bottom, stating that Detroit has followed this system and still remains at the bottom of the list.

The panel also strongly opposed plans to publish a book of objectives for parents, contending that such a book could possibly mislead parents as to what students are taught and cause too great expectations of students' achievement. Finally, the most profound defect indicated by the panel was the evaluation of teachers according to student scores.

NORTH DAKOTA

State's Fair Dismissal Law Involved in NDEA Suits

Two suits involving teacher rights and the state fair dismissal law were heard by the North Dakota Supreme Court.

The first case concerned a teacher who was notified of his nonrenewal without first receiving a notice of intent not to rehire or being given a hearing as prescribed by the state nonrenewal statute.

In the second case a teacher did receive a notice of intent but the notice was not specific; it merely stated the board's intent and the time of the next board meeting which the teacher was to attend. Further, the Association noted that the board met in executive session when, the board president said, it was "sort of agreed" that the teacher would not be rehired.

The Association argued that both teachers were improperly notified of the nonrenewal of their contracts and based this argument on the fair dismissal law which incorporates specific procedures to be followed by a school board in nonrenewal and provides a hearing on the nonrenewal of a teacher's contract. Further, the Association alleged that the school board's procedure violated the fair dismissal law, specifically that portion requiring school boards to act in all fairness and decency in not renewing a teacher's contract.

* * *

FEDERAL

THE CONSUMER PRICE INDEX—MAY 1974

The Consumer Price Index rose 1.1 percent in May to 145.6 (1967=100), the Bureau of Labor Statistics of the U.S. Department of Labor reported. . . .The rise was due to higher prices for a wide range of consumer goods and services, notably fresh vegetables, used cars, apparel, commodities, gasoline, and housekeeping services. The effect of these increases was partially offset by lower prices for some foods, particularly meats. The May CPI was 10.7 percent higher than a year ago.

On a seasonally-adjusted basis, the May CPI also rose 1.1 percent. The increase was larger than in April, and about the same as the average monthly increase in the first 3 months of this year. The food index, which declined in April, increased 0.9 percent after seasonal adjustment. The index for nonfood commodities rose 1.3 percent in May—the fifth consecutive month of substantial increase in this index. The services index rose 1.0 percent in May, compared with an average monthly increase of 0.7 percent in the first 4 months of this year.

Monthly changes in detail (not seasonally adjusted)

The index for food purchased in grocery stores increased 0.6 percent, instead of decreasing slightly as it usually does in May. Prices rose for most food items except meats, poultry, and eggs which continued to decline. Fresh vegetable prices rose substantially more than is usual for May—19.0 percent—following a decline in April. Fresh fruit prices also increased much more than they usually do in May. Prices continued to increase rapidly for cereal and bakery products, sugar and sweets, processed fruits and vegetables, nonalcoholic beverages, and partially prepared foods. The rise in prices of dairy products, however, was noticeably smaller than in recent months. The index for food away from home—restaurant meals and snacks—increased 1.0 percent, following a rise of 1.2 percent in April.

The nonfood commodities index increased 1.6 percent, considerably more than is usual for May. Prices rose for all major types of commodities. The used car index rose sharply for the second consecutive month. New car prices increased, instead of declining as is usual in May. Apparel prices rose more than seasonally. The gasoline and motor oil index continued to increase, but by much less than earlier this year. Prices for furniture, housekeeping supplies, appliances, toilet goods, reading materials, and tobacco products continued to rise.

The services index rose 1.0 percent in May. Indexes for all major categories of services in the CPI, except transportation services and rent, increased more than in any preced-

ing month this year. Charges for household services less rent rose 1.2 percent due to increases in housekeeping services, gas and electricity, home maintenance services, and mortgage interest costs. The index for medical care services also rose 1.2 percent. There were large increases in physicians' fees, fees for other professional services such as eye examinations and laboratory tests, and in charges for hospital rooms. Among other services, charges rose at a faster rate than in recent months for most apparel services such as drycleaning, shoe repairs, automatic laundry, and laundering men's shirts; for barber and beauty shop services, and for movie admissions.

SOURCE: U.S. Department of Labor, Bureau of Labor Statistics, news release, June 21, 1974.

BLS PLANS TWO CONSUMER PRICE INDEXES

The Bureau of Labor Statistics. . .announced a major change in its plan to revise the Consumer Price Index. The Bureau will issue two indexes beginning in April 1977:

"*The present Consumer Price Index for Urban Wage Earners and Clerical Workers* will be updated and continued.

"*A broader Consumer Price Index for Urban Households* also will be published. Both indexes will be as good as or better than the present index and will incorporate improvements being developed by BLS as part of its CPI revision program.

The CPI for Wage Earners and Clerical Workers now covers about 45 percent of the total population and is widely used for the escalation of wages under collective bargaining agreements. The new CPI for Urban Households will cover about 80 percent of the population and will provide a comprehensive measure of consumer price trends for the entire economy.

. . .[the] Commissioner of Labor Statistics explained that the plan for producing two indexes was developed "because the BLS is now convinced that a single index cannot fully meet the diverse needs of users in business, labor, and government."

Spokesmen for organized labor have stressed that continuation of the CPI for Urban Wage Earners and Clerical Workers is necessary for collective bargaining. Escalator agreements now cover more than 5 million union workers. Trade union officers explained that the availability of this index for collective bargaining promotes industrial peace and that failure to continue the index would cause confusion and disrupt collective bargaining.

[The] Commissioner. . .stated that he agreed with these views of organized labor but that "the need for the broader index is also compelling because it will provide a more comprehensive and representative measure of month-to-month price movements in the economy. Moreover, as I pointed out in my recent testimony before a Senate subcommittee, some 44 million persons, including social security beneficiaries and retired Federal workers, are covered by escalation agreements in addition to those covered under union agreements. Also, the Department of Agriculture escalates school lunch payments for some 24 million school children in accord with changes in the CPI and the official Government poverty threshold is also escalated by the CPI. The expanding use of escalation agreements points to the need for an index covering more than urban wage earners and clerical workers."

Production of two indexes rather than one will increase the cost of the Consumer Price Index program. . .and additional appropriations for this purpose will be sought from the Congress.

The BLS traditionally revises its Consumer Price Index about every 10 years in order to take account of changes in consumer buying habits. The revised indexes will include:

1. A new market basket based on a survey of consumer expenditures for commodities and services;

2. New weights reflecting the proportions of expenditures for food, fuel, medical services, and other products people buy; and

3. A new sample of stores where people buy, reflecting shifts in retail purchases, such as from central cities to suburbs and from retail stores to mail order houses.

Source: U.S. Department of Labor, Bureau of Labor Statistics, news release, May 24, 1974.

Union Wage Rates for Local Truckdrivers Rise 7.9 Percent in Year Ended July 1, 1973

Average union wage rates for local truckdrivers and helpers in cities of 100,000 inhabitants or more increased 7.9 percent between July 1, 1972, and July 1, 1973, the Bureau of Labor Statistics of the U.S. Department of Labor announced . . . . The average increase for truckdrivers was 7.9 percent, compared with 8.4 percent for drivers' helpers.

The July 1972-73 increase, which raised the Bureau's wage rate index for all local truckdrivers and helpers to 163.4 (1967=100), was below the 9.9 percent gain reported a year earlier and was the smallest one-year rise since 1968-69.

Wage rates for nearly nine-tenths of the workers surveyed increased during the year ended July 1, 1973. Increases for about three-fifths of the drivers and helpers were for less than 10 percent. The heaviest concentration in both groups were for increases in the range of 2 to under 10 percent.

Union wage rates for local truckdrivers, 91 percent of the workers covered by the study, averaged $5.90 an hour on July 1, 1973. Truckdrivers' helpers averaged $5.30 an hour. When comparisons were limited to the same area and type of operation, however, wage rates for truckdrivers and helpers commonly varied by 30 cents an hour or less. Wage rates for 58 percent of the drivers' helpers, on the other hand, had wage rates over $6 an hour and less than 1 percent exceeded $7.

SOURCE: U.S. Department of Labor, Bureau of Labor Statistics, news release, June 26, 1974.

NEW JERSEY

School Nurses To Be Paid at Teachers' Rate

A ruling of the Cost of Living Council (CLC) granted full and proper pay to school nurses. A 1972 state law requires that school nurses be paid on the teachers' salary schedule. However, several school boards claimed that the change in salary rates would give the nurses a salary increase far above the CLC guidelines. Although most school boards complied with the law, a few districts acted only after court suits and decisions by the Commissioner of Education.

The CLC held that "an historical inequity has existed between school nurses and teachers' salaries at the same experience and training level. The equitable position of the employers involved and the need to prevent gross inequity are such that an exception to the general wage and salary standard is warranted."

ATTORNEY GENERAL'S OPINION

OHIO

According to the state attorney general, the board of trustees of the state university cannot enter into a collective bargaining agreement with an organization of its unclassified employees which provides for binding arbitration of grievances. The state legislature has given the board the exclusive authority in matters concerning employment, removal, and compensation of employees. Absent legislative authorization, the board is not permitted to delegate these powers.

SPECIAL REPORTS

SENIORITY PROVISIONS IN NEGOTIATED CONTRACTS

Seniority is defined as length of continuous service in employment. Long a principle operating to protect employee rights in the private sector, seniority is less frequently incorporated in negotiated teacher contracts. Despite references to "length of service" or "years of teaching experience" in teacher contracts, few such provisions in fact parallel the private sector straight seniority provisions which afford preferential treatment to employees with greatest length of service, especially with regard to job retention and recall in case of layoff. A standard usage of the seniority principle has yet to evolve in teacher contracts, although use of the term or synonymous phrases is increasing among the various approaches to incorporating experience as a factor in the determination of assignments, transfers, promotions, and layoff and recall.

Without a base definition, seniority is left to evolve within the context of applicable provisions which are weakened by exceptions and qualifications. Further, absence of a definition of seniority and/or the utilization of similar but ambiguous terms gives teachers little protection and in the event of disagreement allows arbitrators or the courts or management to make their own interpretations. A seniority provision not only provides stability and equity among employees so that they know where they stand, but also serves as a check on management's power to indiscriminantly fire, promote, transfer, and recall.

A study of 1,529 negotiated comprehensive agreements in effect in 1970-71 in school systems with 1,000 or more pupils enrolled found that 124 agreements contained some reference to seniority or length of service. For purpose of this analysis, three conditions were established to test every reference as to adherence to the seniority principle as found in private sector models. To be counted, a contract had to incorporate at least one of the following:

- That the seniority provision exist as a separate article containing a definition of seniority
- That the provision describe the process for establishing the seniority roster
- That the seniority be the sole determinant in whatever area it is to be applied.

Forty-four agreements were found to contain provisions which met the conditions and could be considered seniority provisions (Table 1). The majority of 80 excluded contracts merely incorporated the state tenure law in some fashion and attempted to elaborate guidelines upon a foundation of tenure rights. The basic difference between tenure and seniority should be noted; tenure status is reached after a requisite time period, and provides due process in the event of dismissal. Seniority is cumulative from a specific date, although nontenure teachers may or may not have seniority rights. As seniority exists independently of other criterion, it should not necessarily be contingent upon or modified by tenure regulations.

However, the seniority rules have been affected by federal regulations and executive orders which mandate "affirmative action" plans for school districts holding federal government contracts in order to redress or prevent race and sex discrimination. However, the incorporation of an affirmative action plan within a negotiated agreement does not nullify the seniority system in those agreements which contain such a provision. An arbitrator ruled that though a school district and the association negotiated an affirmative action plan the seniority provision was operative, not the

TABLE 1.—GENERAL CONTENT OF SENIORITY PROVISIONS IN NEGOTIATED CONTRACTS, 1970-71

Item	Number	Percent
1	2	3
Provision title		
Provisions carrying seniority title	21	47.7
Seniority provision as major subsection of another title	23	52.3
Definitions		
Seniority defined	9	20.5
Continuous service defined	23	52.3
Priority in operation		
System-wide seniority supercedes others	41	93.2
Building or school-wide seniority supercedes others	3	6.8
Major components		
Procedure for resolution of conflict	20	45.5
Effect of interruptions, leaves, termination	24	54.5
Seniority rights upon transfer from other districts	21	47.7
Procedure for development of, access to listing	24	54.5
Total selected provisions	44	100.0

TABLE 2.–PROVISIONS FOR RESOLVING CONFLICT IN SENIORITY

Provision	Number	Percent
1	2	3
Date of most recent appointment or hire	7	35.0
Date of application, eligibility	3	15.0
Lottery	2	10.0
Earliest date of part-time employment	1	5.0
Age	1	5.0
Combination of factors—classification, skill, knowledge, etc.	6	30.0
Total provisions containing procedure for resolving conflict	20	100.0

affirmative action program, in a reduction in force. *(Ann Arbor Education Association and Ann Arbor Board of Education, A. A. A., August, 1973).*

While every selected provision defined seniority, two key elements had to be present: which seniority system had priority and what constituted continuous service. Both were identified in the elaborate provisions, affording benchmarks for purposes of cross referencing with other articles. Even as a major provision, seniority had to be referred to under other provisions to be applicable.

Continuous service was defined in about half of the provisions, usually in terms of a period beginning with the date of hire and ending with some of permanent separation, such as resignation:

> Seniority shall accrue county-wide for each year of continuous service (continuous service being defined as the most recent date of employment to the present) in Hillsborough County.
>
> **[Hillsborough County, Florida]**

Left ambiguous in the majority of provisions was the seniority status of part-time, substitute, probationary, or nontenure teachers, although a ready explanation may be that some of these groups were not part of the bargaining unit. In one contract, time spent as a substitute or provisional teacher was not counted, while in another contract, the probationary period immediately prior to full-time employment could be added to seniority accumulation. Fifteen contracts specified that a teacher who was granted tenure would have seniority from the last date of hire and that new teachers, considered probationary employees, would not have seniority.

A statement identified as the seniority definition was included in 9 of the 44 provisions, all of which defined seniority as length of service in the school system or district. In addition, three defined building-wide and two defined department-wide seniority as subsystems superceded by system-wide seniority.

Definition

> a. District seniority is defined as the length of continuous service as a certificated teacher in the district.
>
> b. Department seniority is defined as the length of continuous service within a particular department.
>
> **[Reavis High School District Oak Lawn, Illinois]**

> For the purpose of this Agreement, seniority is defined as the status attained solely on the basis of length of service in a professional capacity in the Watkins Glen School System.
>
> **[Watkins Glen, New York]**

System-wide seniority as the prevailing mode was clearly evident as all but three of the provisions indicated that system-wide seniority supercedes all other types. Where school or building seniority still has priority, length of service in the district was to be used as a tie-breaker, as in the following:

> In cases where seniority is considered as one of the determining factors in this contract, length of service in that particular school shall count as seniority. In cases where length of service in that school is the same, then length of time in the system shall prevail.
>
> **[Oregon City, Ohio]**

About 45 percent (20) of the provisions contained procedures for resolving similarities or situations of equal seniority (Table 2). The most frequent method used was the date of most recent hire, appointment, or employment, followed by use of the date of application, earliest date of part-time employment, and age. In six provisions, a combination of factors, such as skill, knowledge, and academic achievement, was to be employed to resolve the issue.

With regard to continuity of service, about 54 percent (20) of the 44 provisions described one or more effects of leaves, sustained absences, terminations, and the like in determining retention or loss of seniority. Table 3 shows that for two-thirds of the 24 provisions, approved leaves did not affect continuous service. In a few cases, involuntary leaves or transfers, and transfers to administrative positions also had no effect on the continuity of employment for seniority purposes. Loss of seniority was usually due to resignation, retirement, employment out of the district, or some form of extended separation, with the specific cause being listed in less than 10 percent of the provisions.

> Teachers on leave voluntarily or involuntarily shall continue to accrue seniority. Teachers who leave the employ of the school district and later return begin seniority on the effective date of their re-employment.
>
> **[Wisconsin Heights, Wisconsin]**

> Teachers shall lose their seniority for the following reasons:
>
> (1) Resignation or other form of voluntary severance.
> (2) Discharge for cause.
> (3) Retirement.
> (4) Sustained absence from normal duties for a period of 90 days without filing application for a leave of absence, sick or maternity leave or other request for authorization of absence with the Committee.
>
> **[Swampscott, Massachusetts]**

The effect of prior service in other school districts upon transfer to another system was incorporated in almost half

TABLE 3.–EFFECT OF INTERRUPTIONS ON SENIORITY

Item	Number	Percent
1	2	3
Absence not affecting continuous service		
Approved leaves	16	66.7
Sabbatical	1	4.2
Sick leave up to one year	1	4.2
Military service	1	4.2
Involuntary leave or transfer	2	8.3
Transfer to administrative post	2	8.3
Interruptions affecting continuous service		
Transfer out of district	1	4.2
Personal leave extended	1	4.2
Four or more years on leave	1	4.2
Five years on civic leave	1	4.2
Resignation, retirement, termination	3	12.5
Total provisions	24	100.0

(21) of the provisions, with the majority reflecting protection of teachers already in the district. Only one provision, utilizing a point system, credited service in other districts, while another counted service in districts previously annexed. Sixteen provisions stated specifically that prior service could be applied only to reduce the probationary period and was not considered for seniority accumulation.

> Under no circumstance shall any teacher transferring into District 143½ from any other district, county or state, be placed higher on the individual building or system-wide seniority list than a teacher already having seniority in School District 143½ or any building therein.
>
> [Posen Robbins, Illinois]

> Credit given for outside teaching experience in other school districts shall not be considered for the purpose of accumulating seniority, but shall serve to reduce the probationary period in accordance with the provisions of the Tenure Act.
>
> [Belding, Michigan]

A procedure for developing the seniority lists was provided for in 24 provisions. Over 87 percent of these 24 stated that the school district was responsible for developing and maintaining the listing. Joint responsibility was specified in two provisions, while in one provision the teachers' organization maintained all lists. A system-wide list was provided for in 23 of the contracts, while six called for a building or school list. In addition, eight provisions mandated a listing by classification, and one provided for a separate list in each department. The maintenance of accurate, up-to-date lists and openness is essential to the operation of seniority. Realization of this need was evident in that over half of the provisions concerned with seniority lists also stipulated a time limit or due date for development and subsequent publication. A procedure for notification was included in 70 percent of the provisions which designated the teacher organization as recipient of the lists. Six provisions guaranteed access to individual teachers where lists were not automatically forwarded to the teacher group, and lists were required to be posted in three provisions.

The extent of seniority in operation as well as applicability is compared in Table 5 by type of provision. In the 21 seniority titled provisions, all but two described system-wide seniority and almost half referred to building-wide seniority as well. A system based on seniority by department was included in two, while one included a grade level system. Seniority was applicable in decisions related to teaching assignment and transfers to other schools in almost one-quarter of these provisions. One detailed seniority as applicable in promotions. However, in most such cases, much was open to interpretation, and seniority was either one of many factors or the deciding factor when qualifications were otherwise equal.

> In order to recognize faithful career teachers, it is mutually agreed that, as a condition of providing better working conditions (i.e., assignments of subjects, classes, etc.) or advancement opportunities, seniority will prevail where all other qualifications are equal.
>
> [East Chicago, Indiana]

> Room assignments and building privileges will be assigned by the principals. Teachers with building seniority shall receive priority after classrooms for subject areas, grade levels or subdivisions thereof have been established by the administration. "Building privileges" shall be determined by mutual agreement of the principal and the Union Bargaining Representatives.
>
> [Kakakee, Illinois]

TABLE 4.–SENIORITY LISTS

Item	Number	Percent
1	2	3
Responsibility		
List developed by district	21	87.5
List developed jointly	2	8.3
List developed by teacher organization	1	4.2
Type of listing		
System-wide	23	95.8
Building-wide	6	25.0
By classification	8	33.3
By department	1	4.2
Date or time limit for publication	13	54.2
Access		
List must be furnished to teacher organization	17	70.8
List available to individual	6	25.0
List is posted	3	12.5
Total provisions mentioning seniority lists	24	100.0

Where qualifications are substantially equal, building seniority shall be the determining factor in making assignments within a particular building.

[Niles Township, Illinois]

All but one of the 23 provisions listed under titles other than seniority operated system-wide. Only four provided a building-wide seniority system. As 15 of these provisions followed the Michigan state model, there was an obvious preponderance of seniority subsystems based on subject matter and grade level, as in the following example:

Seniority within the school system shall first be determined by certification as approved by the Department of Education of the State of Michigan, and shall secondly be determined by years of continuous employment in K-3 grade levels or 4-6 grade levels in grades K-6 and by subject matter taught in grades 7-12.

[Homer Community School District, Michigan]

The incidence of the Michigan provisions also skewed the frequency of provisions dealing with applicability of seniority. Decisions over teaching assignment were decided by the principle in three contracts, but only when qualifications and competencies were equal and after consideration of school needs. In four contracts, seniority was a factor in transfer requests, with one of these specifying seniority priority among qualified applicants. Also, two of four anticipated involuntary transfers, mandating that the least senior teacher be transferred first.

Thirteen of the provisions (one outside Michigan) contained elaborate procedures for layoff and recall, with most describing the development of lists, based on seniority, by the school board and reviewed by the teacher organization. Probationary teachers (non tenure) were to be the first laid off and recall was to be in inverse order of layoff. Protection from loss of employment and preference in re-employment through seniority are illustrated by the following examples:

District seniority shall be the determining factor whenever a reduction in staff occurs; the person with the least seniority to be the first eliminated. Rehiring will be based on the same seniority procedure, subject to provisions of applicable New York State Law.

[Batavia, New York]

In order to promote an orderly reduction in personnel when the educational program and curriculum is curtailed, the following procedure will be used:

(1) Probationary employees will be laid off first where any teacher who has acquired any seniority and whose position has been curtailed is certified and qualified to perform the services of the probationary teacher.

(2) In the event seniority teachers must be laid off, layoff will be on the basis of seniority within classification and knowledge, skill and efficiency on the job and physical fitness. It is expressly understood that the Association shall have a right to review the layoff list prior to notification of the individuals to be laid off. In the event of a dispute concerning the layoff lists, the Association shall have the right to file a written grievance thereon within not more than seventy-two (72) hours after the termination of the meeting requesting review of the list.

RECALL. Seniority teachers shall be recalled in inverse order of layoff for new positions opening for which they are certified and qualified.

[Maple Valley, Michigan]

TABLE 5.—TYPES OF SENIORITY SYSTEMS AND APPLICABILITY

Provision	Number	Percent
1	2	3
PROVISIONS CARRYING SENIORITY TITLE	21	100.0
System-wide seniority	19	90.5
Building-wide seniority	10	47.6
By department, subject taught	2	9.5
By grade level	1	4.8
Applicability		
In teaching assignment	5	23.8
In transfers	5	23.8
In promotions	1	4.8
SENIORITY PROVISIONS AS MAJOR SUBSECTION OF ANOTHER TITLE	23	100.0
System-wide seniority	22	95.7
Building-wide seniority	4	17.4
By department, subject taught	15	65.2
By grade level	12	52.2
Applicability		
In teaching assignment	3	13.0
In transfers	4	17.4
In layoff	13	56.5
In recall	13	56.5
Recourse to grievance procedure	11	47.8

The sample provisions which follow are not to be regarded as exemplary, but are included to illustrate the many variations in present practice.

Seniority

System-wide seniority for those teachers active in the system on September 1, 1968 shall be equal to the number of years of teaching in the Hartford Public Schools as indicated in the official personnel roster on said date and thereafter shall be accumulative in accordance with their continuous service. In the event of teachers having an equal number of years, seniority shall be determined among them by *date of their most recent appointment to the system.* For all teachers entering *the system after September 1, 1968* their seniority shall be measured by their continuous service from the *date of their most recent appointment to the system.* Continuous service shall not be deemed to be interrupted by *approved leaves of absence,* but seniority shall be accumulated only during those leaves which are counted for purposes of the longevity program.

School seniority shall equal the length of service of a teacher in his school except that if a teacher is transferred to another school at the request of the Administration he shall take his accumulated school seniority with him to his new assignment.

When any special consideration such as no home room assignment, reduced load or any other special relief is available in a school, release from such duty shall be assigned annually on a rotation basis among the teachers with five or more years of seniority within the school. No teacher shall have more than one such special consideration in any year.

[Hartford, Connecticut]

Seniority

Seniority shall accrue county-wide for each year of continuous service (continuous service being defined as the most recent date of employment to the present) in Hillsborough County.

Seniority shall commence to accrue on the date recorded by the placement supervisor on the personnel authorization form.

When a specific issue must be resolved involving teachers with equal seniority, it will be resolved by an objective *lottery* in the presence of the affected parties.

[Hillsborough County, Florida]

* * *

Seniority

System-wide seniority shall be the length of service as an actual classroom teacher in the district.

Building seniority shall be the length of service as an actual classroom teacher in the building.

Where length of service as an actual classroom teacher in the district is equal, as in a situation involving two or more teachers, *the determining date of employment shall be the determining factor.*

Building seniority shall *not* be superceded by system-wide seniority.

[Cahokia, Illinois]

* * *

Seniority Rights

No tenure teacher in the district schools shall be transferred from one level-primary (K-3), intermediate (4-6), upper level (7-8) to another level on any interchange thereof except on a *qualification basis* or after consultations and agreement between the teacher and the administration.

Teachers may express in writing to their principal or superintendent their preference of *grade level, subject, department assignment, extra-curricular assignment, and school committee.*

Such request shall be kept on file for one school year in the office of the Superintendent.

Requests which are not acted upon shall be re-filed each August to remain active. A teacher whose request was not acted upon may ask for an explanation.

Seniority shall be determined as follows:

System-wide seniority-length of service as a classroom teacher in Community Unit School District No. 7 from *date of appointment.*

Cases involving conflict shall be determined as follows: In cases of equal qualification, *competency* which shall be decided by the administration shall be the *deciding factor, seniority will be considered.*

[Macousin, Illinois]

* * *

Seniority

System-wide seniority shall be the length of services as a teacher in the District. Under *no circumstances shall any teacher transferring into School District No. 111 have seniority.*

Where length of service as a teacher in the system is equal, *date of appointment shall be the determining factor.*

Conflicts of seniority among teachers with the same starting dates of service in the schools shall be resolved by *earlier dates of part-time employment* as a certified teacher or *application for reemployment as a certified teacher,* in that order.

On the first day of each semester, the *administration* shall post and deliver to the Union President and Building Representatives, a district-wide seniority list. This list shall list teachers' names in order of their continuous service in the School District.

In the event of double sessioning, teachers will be assigned on the basis of seniority within *grade levels.*

[South Stickney Elementary School District 111, Illinois]

* * *

Seniority

System-wide seniority shall be the length of service as an actual classroom teacher in the system.

Building seniority shall be the length of service as an actual classroom teacher in the present building. If *building seniority* is the same, *system-wide seniority shall be the determining factor in the resolution of any specific building problem.*

Where length of service as an actual classroom teacher in the system is equal, *the date of hiring shall be the determing factor.*

Room assignments and building privileges will be assigned by the principals. *Teachers with building seniority shall receive priority after classrooms for subject areas, grade levels or subdivisions thereof* have been established by the administration. "Building privileges" shall be determined by mutual agreement of the principal and the Union Building Representative.

Each *building* shall maintain a list showing the *building seniority* of each teacher.

The Superintendent shall make available to any teacher the system-wide seniority as it may affect the resolution of any specific problem.

Under no circumstances shall any teacher transferring in to District No. 111 be placed higher on the seniority lists than teachers already in District No. 111.

Whenever a teacher transfers to an administrative position he will continue to maintain building seniority in the building from which he was last actively teaching.

[Kakakee, Illinois]

* * *

Seniority

Each teacher in the bargaining unit shall have and accumulate seniority on the basis *of the total length of continuous service as a teacher and/or administrator in the Swampscott School System.* Teachers shall lose their seniority for the following reasons:

(1) Resignation or other form of voluntary severance.
(2) Discharge for cause.
(3) Retirement.
(4) Sustained absence from normal duties for a period of 90 days without filing application for a leave of absence, sick or maternity leave or other request for authorization of absence with the Committee.

If there have been two (2) separate and broken periods of employment in the Swampscott School System for any of the reasons listed above in this subparagraph, then *only the latest and continuous period of employment will be considered in determining seniority.*

Questions of seniority under this Agreement shall be finally determined between the Association and the Committee or its designees and shall *not* be the subject of a grievance with the provisions of this Agreement.

[Swampscott, Massachusetts]

* * *

Seniority

Seniority ratings at Southern Regional High School are based on a point system with the following provisions:

An academic year of professional educational *service* at Southern Regional High School has a value of five (5) points.

An academic year of professional educational service at any other accredited school or college, or a calendar year of military service (maximum allowance-four (4) years), has a value of three (3) points.

In cases of equal seniority, and only then, the effort of an individual to improve his academic qualifications during service will affect his seniority rating. In such situations one (1) point will be granted for each six (6) semester hours credit earned. Further, a bonus of five (5) points will be awarded for a masters degree and ten (10) points will be awarded for a doctorate.

Should equal seniority still exist under the above regulations *chronological age* becomes the determinant with the older (oldest) individual having precedence.

Professional educational service of less than a full academic year but of three months or more duration will be counted one-half year and points will be assigned accordingly.

It is the responsibility of each member of the professional staff to advise the P.R.&R. Committee of all pertinent facts affecting his seniority status at this time and as change occurs.

The SREA P.R.&R. Committee will keep the Administration and Board of Education advised of the seniority status of all professional staff members. The committee will also advise each individual staff member of his seniority status.

[Southern Regional HSD, Manahawkin, New Jersey]

* * *

BRIEFS OF AGREEMENTS

Kansas City, Kansas

Between Board of Education of Turner Unified School District and Kansas National Education Association, Turner, effective July 1, 1973, to June 30, 1974. Approximately 245 certificated professional employees, including all teachers employed by the board. Automatic renewal unless notice for renegotiation is given by either party by March 15, 1974.

COMPENSATION: (1973-74) B.A., $7,150 to $9,044, 9 increments; B.A. plus 10 hours, $9,509 maximum; B.A. plus 20 hours, $9,741 maximum; M.A., $7,846 to $10,684, 13 increments; M.A. plus 15 hours, $11,219 maximum; M.A. plus 30 hours, $11,748 maximum.

An additional $300 of longevity pay will be paid at the 20th and 25th years of service in the district to teachers holding an M.A. or above.

DIFFERENTIALS: (High school) head coach basketball, football, and athletic director, $1,025; head coach track, wrestling, $650; assistant basketball, football, $520; assistant track, wrestling, $400; (Junior high) basketball grades 8 and 9, head coach football, $520; head coach track, $400.

INSURANCE: The board will contribute $19,000 during the 1973-74 contract year toward health and accident insurance; any premium in excess of the board contribution must be paid by the individual teacher.

ASSOCIATION: Payroll deduction of local, state, and national association dues.

LEAVES: Ten days' paid leave will be granted to each teacher per school year, 80 days' maximum accumulation; such leave may be used for personal illness or bereavement, up to three days; critical family illness and personal business, up to one day; additional leave will be granted when a teacher is required to be absent because of a sudden or unexpected situation that requires the teacher's personal attendance, for attendance at conventions, institutes, workshops, professional meetings, trips involving school business, and school visitation; up to two semesters of leave without pay may be granted for professional study.

INSTRUCTION: Elementary teachers will have a duty free lunch period of 30 consecutive minutes each day; a minimum of 20 minutes daily will be provided elementary-school teachers for planning time; in determining class size the board will consider such factors as room size, ability of the students, age of the students, grade level, and available facilities; the school day for teachers will begin 30 minutes before the start of the first class period and will end 30 minutes after the end of the last class period; however, on the last school day before a holiday or election day teachers will be allowed to leave school upon completion of regular assigned duties; student teachers will be assigned only with the consent of the cooperating teacher; no more than two student teachers will be assigned to a teach-

er per year; fees provided by cooperating institutions will be divided among the cooperating teachers in accord with a formula to be agreed upon by the association and the board; in the case of a single cooperating teacher the fee shall be paid in full to the one teacher.

PERSONNEL: Grievance procedure ends with arbitration; right to review personnel file upon appointment and under the supervision of the Director of Personnel; no teacher will be given an unsatisfactory evaluation solely because of nonparticipation in PTA activities; the administration will keep no record of participation or nonparticipation in PTA activities; written evaluations will include but not necessarily be limited to pupil progress, rapport with students, relationships with school personnel and community, teacher's development and classroom manner; teachers will be given copies of any evaluation report and may respond to the evaluation in writing; the response will be placed in the teacher's record; the board of education will allow a hearing of any staff member who has been terminated; the staff member will have the right to be represented by an attorney or by the association and to present evidence in his or her behalf, to be confronted with the evidence against him, and to examine and cross examine any witnesses whose testimony may be relevant or form the basis for a decision;

> No staff member shall be terminated without just cause if the staff member has been engaged for more than three (3) years. Just cause shall be understood to include but shall not be limited to any one or more or combination of the following: pupil progress, rapport with students, relationships with school personnel and community, teacher's development, classroom manner, immoral character, conduct unbecoming an instructor, insubordination, failure to obey reasonable rules promulgated by the Board of Education, inefficiency, incompetency, physical unfitness or failure to comply with reasonable requirements of the Board of Education as may be prescribed to show normal improvement and evidence of professional training, or any violation of Article XXI. Instructors also may be dismissed because of decrease in number of pupils or for other causes over which the Board of Education has no control.

Teachers may express preferences for building assignment for grade levels, hourly schedules, and special assignment by notifying principal of such preferences by February 1 preceding issuance of contracts; if a teacher's request fo fill a position is denied, the teacher may request an explanation from the superintendent or principal.

* * *

Prineville, Oregon

Between Crook County School District, County Unit, and Crook County Education Association, effective July 1, 1974, to June 30, 1975. Approximately 124 certificated professional employees, including all certificated teachers and excluding the superintendent, assistant superintendent, principals, vice-principals, substitutes, and per-diem teachers who work outside the school facilities.

COMPENSATION: (1974-75) B.A., $8,000 to $11,175, 13 increments; B.A. plus 30 hours, $11,825 maximum; B.A. plus 45 hours, $12,050; M.A., $8,725 to $12,575, 14 increments; M.A. plus 30 hours, $12,775 maximum; M.A. plus 45 hours, $13,425 maximum.

DIFFERENTIALS: Senior high athletic director, head football, basketball, and wrestling coaches, $880 to $1,240; senior high head baseball and track coaches and assistant football, basketball, and wrestling coaches, sixth-grade athletics, $640 to $910; junior varsity football, baseball, and wrestling coaches, junior high athletic director, $460 to $640; senior high golf, tennis, newspaper, intramurals, speech, gymnastics, junior high football, basketball, track, and wrestling coaches, $350 to $485; senior drill team and rally squad advisor, junior high drama, rally squad advisor, and annual photographer, $210 to $300.

OTHER: Use of automobile from one school building to another, field trips, or other business of the district compensated at 15¢ per mile; teachers will be paid $6.00 per hour for teaching an additional class that is assigned beyond the normal class load; teachers who are assigned work above and beyond the official school calendar will be remunerated at $6.00 per hour.

LEAVES: Ten sick leave days granted per year, maximum accumulation 160 days; a teacher who was employed in another school district may receive credit for accumulated sick leave up to 30 days; 5 noncumulative days' leave with pay will be granted at the teacher's request and the superintendent's approval for emergencies of a serious personal nature; three days' personal leave will be granted per year with substitute's salary deducted from the teacher's salary; up to three consecutive days' leave with pay may be granted for death in the immediate family; teachers subpoenaed for jury duty or for appearance as a witness before a court, legislative committee, or judicial or quasi-judicial body will be paid full salary for the period of required service; all compensation received by the teacher for such duty must be signed over to the district unless earned on the teacher's day off; sabbatical leave at one-half pay for independent study, enrollment in college, or other purposes which in the district's judgment would be of significant value to the district may be granted after at least seven years of service in the district.

INSURANCE: Board pays cost for medical coverage for both the teacher and his family.

ASSOCIATION: Ten days without pay will be granted to members of the Association delegated by the Executive Committee to attend to Association business if a substitute is available; no representative of the Association who participates during working hours in negotiations or grievance proceedings will suffer loss of pay; Association has the right to use school buildings at reasonable times and school equipment, including typewriters, mimeographing machines, other duplicating equipment, calculating machines, and all types of audiovisual equipment; Association bulletin boards will be provided in each faculty lounge; the Association may use interschool mail and mail boxes for appropriately labeled materials; an Association member may speak for at least 10 minutes at faculty meetings; the board will provide information necessary to the functioning of the Association as the exclusive bargaining representative and a current list, including names and addresses, of all certificated employees;

ASSOCIATION SECURITY

A. All teachers covered by this Agreement who are members or who become members of this Association following the date

of signing of this Agreement or who following thirty (30) days of employment voluntarily become members shall, as a condition of employment remain members of the Association, during the term of this Agreement.

B. In consideration of the services rendered by the Association in behalf of all such employees they shall be required to pay to the Association either:

1. Regular monthly Association dues in the case of employees who are or become members of the Association, or
2. An amount of money equivalent to regular monthly Association dues in the case of employees who are not members of the Association as a service charge to the Association for negotiating and administering the contract. The Association shall comply with ORS 243.735, Section 6, Paragraph 1.

C. Teachers who are now members of the Association and teachers hereafter hired who become members of the Association, shall have the right to terminate such membership by sending a withdrawal statement in writing to the Association, with a copy to the District, within the thirty (30) day period preceding the next ending of this Agreement.

D. All regular monthly Association membership dues or equivalent charges may be deducted as provided in ORS 292.055, Section 31.

INSTRUCTION: The school calendar will consist of 177 student-teacher contact days, five inservice days, three paid holidays and 185 teacher contract days; the administration will be receptive to suggestions from teachers regarding the scheduling of parent-teacher conferences.

PERSONNEL: Grievance procedure ends with final and binding arbitration; right to review personnel file upon request.

TUITION REIMBURSEMENT

Teachers shall be reimbursed per credit hour at the rate established by the Oregon State Board of Higher Education. Tuition reimbursement for teachers attending colleges or universities outside the State of Oregon shall not exceed those rates established by the Oregon State Board of Higher Education.

To be eligible for tuition reimbursement the following conditions will be adhered to:

1. The District will reimburse the teacher for approved credit hours taken up to eighteen (18) in each three (3) year period.
2. All courses must be approved in advance by the building principal and the District Superintendent.
3. Each teacher shall complete nine (9) credit hours (6 hours for MS, MS + 45, and BS + 90) during a four (4) year period commencing with the initial date of employment or with the date of completion of the nine (9) six (6) credit hour requirement, whichever is later. Teachers failing to meet this requirement shall fail to advance on the salary schedule.

Workshops, seminars, conferences, in-service training sessions or such other sessions a teacher may be required or requested to take must receive approval from the District Superintendent. Cost reimbursement will be determined at the time of approval is made by the District Superintendent.

All teachers will be evaluated in writing not less than twice per school year; evaluated teacher will have an opportunity to discuss the results of his evaluation with his evaluator within 10 school days after his evaluation; a teacher may make written response to the evaluation and have it placed in his personnel file; consideration will be given to training, experience, specific achievements, wishes, and convenience of the teacher as well as instructional requirements when teachers are transferred within the district; no teacher will be disciplined, reprimanded, or reduced in rank or compensation without just cause; any information basic to disciplinary action against a teacher will be made available to him/her and upon his/her approval, to the Association.

* * *

Montpelier, Vermont

Between Montpelier School District and Montpelier Education Association, effective July 1, 1974, to 1976 school year. Approximately 110 certificated professional employees, including all certificated personnel exclusive of principals and assistant principals. Provision for re-negotiation between April 1 and April 25, 1975.

COMPENSATION: (1974-75) B.A., $7,000 to 11,150, 11 increments; B.A. plus 15 hours, $12,000 maximum; M.A., $8,000 to $12,850, 13 increments; M.A. plus 15 hours, $13,700 maximum; M.A. plus 30 hours, $14,550 maximum. (1975-76) B.A., $7,300 to $11,700, 11 increments; B.A. plus 15 hours, $12,600 maximum; M.A., $8,300 to $13,500, 13 increments; M.A. plus 15 hours, $14,400 maximum; M.A. plus 30 hours, $15,300 maximum. Experience and education credit as well as related military and work experience credit will be granted teachers entering the system for the first time; however, the total of such experience may not be credited for salary purposes above the eighth step on the schedule; re-entering teachers with more than 8 years' experience upon leaving will be placed on the same step as when they left regardless of additional outside experience; one additional semi-monthly check if employed within the school system for eight years or less and one additional monthly check if employed within the school system for nine years or more will be paid to the estate of a teacher in case of death.

DIFFERENTIALS: For 0-5 years' experience: Varsity football and basketball coaches, $910 to $1,190; faculty stage manager and dramatics director, $910 to $1,190; varsity baseball, track and skiing coaches, $770 to $1,050; assistant varsity football, junior varsity basketball, and varsity hockey coaches, $630 to $910; junior varsity football and assistant varsity baseball coaches, $490 to $770; varsity golf and cross country coaches, $350 to $630; student council advisor, debating varsity coach, and yearbook director, $350 to $630.

INSURANCE: Participants in the health insurance plan will have deducted from their first payroll check the following: $6.00 for single coverage, $12.00 for one dependent coverage, or $24.00 for family coverage with the board paying the remainder of the premium; insurance terminates on the last day of the month in which the participant ceases employment; the board will retain any rebate accruing from the master policy and apply such rebate to its general revenue account; the board will assess a maximum premium cost in the amount of $50,000; when it appears that this figure will be reached, the conditions of the agreement will be subject to renegotiation.

ASSOCIATION: Payroll deduction of local and national association dues during July and August

LEAVES: Sick leave will be granted upon submission of a written report by the employee's personal physician on the following basis:

Years of employment	Number of school days with pay per year
1st year	20
2nd year	40
3 to 5 years	60
6 to 10 years	80
11 to 15 years	100
16 to 20 years	120
21 to 25 years	150
25 years or more	180

Six days per school year will be granted for any combination of emergency leave, bereavement leave, leave for civic duty, professional and association business; extended leave at 25 percent of basic contract salary for one-half or one full year may be granted to an employee who has taught in the district for at least eight years; extended leave at 50 percent of basic contract salary for one-half or one full year may be granted to an employee who has taught in the district for at least nine years; individual professional days may be granted for visiting schools, attending professional meetings and conferences, participation in group meetings, and conducting parent conferences; long leaves of absence will be granted for personal health, family illness, maternity, military service, full-time campaign and/or election to public office, further education, travel, appointment to public office, educational research, or teacher association work, with return to former position guaranteed.

INSTRUCTION: Duty-free lunch period equal in time to that of the pupils; the school calendar will consist of 190 days;

A teacher who considers that the amount of time and effort needed to properly supervise an approved activity has increased to compare in hours and responsibility to activities already on the cocurricular schedule may approach the principal and the Superintendent for joint review of the situation. With the recommendation of the Superintendent and the concurrence of the Board, the position may be remunerated at 2% of the base salary until annual negotiations can take place.

Ten short-session days for grade level, departmental curriculum, interschool work, and professional meetings and activities will be instituted for the school year; paraprofessional assistance will be provided for playground, cafeteria, and inclement weather duty.

PERSONNEL: Grievance procedure ends with advisory arbitration; to promote professional growth, the school board will make available fellowships for summer school attendance, attendance at conferences, meetings, programs of a related professional nature, summer project, or extended leave.

Teacher Role

DESCRIPTION

Each member of the faculty will be responsible for both the welfare and educational growth of the pupils of the Montpelier Public School System. Specifically, members of the faculty will;

Assist in the development of the teaching-learning processes;
Be considered as experts in the facets of education to which they are assigned;
Provide leadership and expertise in meeting the individual needs of every pupil.
Be prepared on a daily basis to meet their assigned duties.

DUTIES

Each member of the faculty will:

Carry out the teaching-learning process;
Be available before, during and after formal school day for the purposes of assisting pupils and carrying out the assigned duties with the exception of playground duty, cafeteria duty, inclement weather duty.

NOTE: The non-assignable duties noted in 2a, b,c, will be carried on by paid paraprofessionals. Staff teachers may volunteer for those adults at their own discretion.

Cover, in an emergency situation, a class for an absent teacher only when the services of a substitute teacher cannot be engaged;
Assist in the establishment of orderly procedures for pupils who are transported via bus to and/or from home to school;
Be available to provide bus duty coverage when other personnel are not available as directed by the principal.

* * *

FAMILY BUDGET COST UP 10 PERCENT

Approximately 10 percent more dollars this year are essential for an average urban family of four to maintain the same standard of living as last year, reported the Department of Labor, Bureau of Labor Statistics (BLS).

Updating its three hypothetical annual family budgets (low, intermediate, and high), BLS found that from fall 1972 to fall 1973 the family budget for a middle income family increased 10.3 percent to $12,626. The lower level budget rose 10.8 percent, or $795, to $8,181, a 9.9 percent increase for the same period.

Increasing food prices and tax hikes were the major contributors to rising cost in the three budgets, with food prices weighting heavily on the budget for the lower level since, according to BLS, "food as a proportion of the total cost of consumption declines as the level of living represented by the budget rises." Food cost took 37 percent of the consumption total at the lower level, 33 percent at the intermediate, and 34 percent at the higher level. The increase in food cost was more than triple the rise in any other consumption component at all three levels.

The BLS family budgets were developed for a hypothetical urban family of four comprised of an experienced full-time employed husband at age 38, a non-working wife, a boy age 13, and an 8-year-old girl. With 15 years of mar-

riage, the family is well established and has, "for each budget level, average inventories of clothing, housefurnishings, major durables, and other equipment."

As with food cost in the lower level budget, total housing cost (housefurnishings, household operations, and shelter) accounted for a large portion of the intermediate and higher budget levels. Overall, housing cost accounted for 25 percent of all consumption for the lower level, 30 percent for the intermediate, and 33 percent at the higher level. BLS figures reflected rented units in the lower level and homeownership in the intermediate and higher levels.

Families with a lower level budget were affected more by medical care cost, accounting for 10 percent of consumption cost, while at the intermediate level medical care took 7 percent, and amounted to 5 percent of consumption cost for the higher budget level. Medical care cost for all three levels included family membership in a group hospital and surgical insurance plan, and a specified number of visits to physicians, provisions for dental and eye care, and prescriptions. At the higher level, major medical insurance is also included.

Excluding gifts and contributions, occupational expenses, life insurance, social security, and personal income tax, all elements of consumption accounted for 80 percent of the total lower level budget, 77 percent of the intermediate budget, and 74 percent of the total higher level budget.

Increases in the tax rate and the maximum income on which contributions are made into the social security system accounted for marked increases. The total cost, which includes social security payments and federal, state, and local income taxes went up 10.8 percent in the lower level, 10.3 percent in the intermediate level, and 9.9 percent in the higher level. Social security taxes rose 23.9 percent at the lower level, 34.6 percent and 34.2 percent for the intermediate and higher levels, respectively. Personal income taxes increased by 21.6 percent, 16.9 percent, and 16.4 percent at the lower, intermediate, and higher levels, respectively.

Area indexes showing differences in budget totals for equivalent levels of living, reflect regional variations in consumption patterns, climate, kinds of transportation facilities, taxes, and price differences. Lower budget costs were 9 percent higher, intermediate 14 percent higher, and the

TABLE 1.—SUMMARY OF ANNUAL BUDGETS FOR A 4-PERSON FAMILY AT 3 LEVELS OF LIVING, URBAN UNITED STATES, AUTUMN 1973

Item	Lower budget	Intermediate budget	Higher budget
1	2	3	4
Total budget	$8,181	$12,626	$18,201
Total family consumption	6,580	9,761	13,450
Food	2,440	3,183	4,020
Housing	1,627	2,908	4,386
Transportation	563	1,014	1,315
Clothing	696	995	1,456
Personal care	205	275	390
Medical care	660	664	692
Other family consumption	389	722	1,191
Other items	385	611	1,024
Taxes	1,216	2,254	3,727
Social security and disability	492	647	647
Personal income taxes	724	1,607	3,080

Source: U.S. Department of Labor, Bureau of Labor Statistics. *Autumn 1973 Urban Family Budgets and Comparative Indexes for Selected Urban Areas.* Press Release No. USDL: 74-304, June 16, 1974.

higher budget level 19 percent higher in metropolitan than in non-metropolitan areas. Total budget levels were lowest in small cities in the South.

The budgets do not represent actual expenditures nor are they intended to represent a minimum of subsistence level of living; they reflect three different levels of living based on estimates of costs for different specified types and amounts of goods and services.

TABLE 2.—FAMILY BUDGET TOTALS FOR 40 URBAN AREAS

City	Lower budget	Intermediate budget	Higher budget
1	2	3	4
National average	$ 8,181	$12,626	$18,201
Anchorage	12,010	16,520	23,011
Honolulu	9,924	14,937	21,901
Boston	8,988	14,893	21,986
San Francisco-Oakland	8,939	13,378	19,316
Hartford	8,909	13,721	19,127
New York	8,661	14,448	21,999
Chicago	8,635	13,213	18,919
Champaign-Urbana, Ill.	8,582	12,943	18,723
Washington, D.C.	8,547	13,043	18,869
Los Angeles-Long Beach	8,525	12,520	18,087
Baltimore	8,425	12,519	18,192
Philadelphia	8,415	13,022	18,851
Seattle	8,407	12,667	17,924
Portland, Me.	8,283	12,694	17,578
Minneapolis-St. Paul	8,269	13,020	18,970
Detroit	8,246	12,810	18,591
San Diego	8,229	12,216	17,763
Milwaukee	8,220	13,211	19,186
Buffalo	8,201	13,223	18,920
Indianapolis	8,171	12,738	18,074
Cleveland	8,105	12,806	18,172
Lancaster, Pa.	8,101	12,385	17,470
Kansas City	8,098	12,481	18,126
St. Louis	8,056	12,390	17,691
Pittsburgh	8,002	12,299	17,703
Denver	7,976	12,107	17,422
Cedar Rapids	7,933	12,603	18,183
Durham, N.C.	7,923	12,111	17,206
Green Bay, Wis.	7,922	12,557	18,701
Bakersfield, Calif.	7,827	11,761	16,531
Orlando, Fla.	7,827	11,358	16,210
Wichita, Kans.	7,796	11,876	16,919
Dayton, Ohio	7,785	11,715	16,912
Cincinnati	7,733	12,137	16,896
Atlanta	7,716	11,684	16,683
Nashville	7,583	11,667	16,633
Houston	7,532	11,343	16,188
Dallas	7,494	11,408	16,473
Baton Rouge, La.	7,333	11,368	16,582
Austin	7,233	10,959	15,743

Source: U.S. Department of Labor, Bureau of Labor Statistics. *Autumn 1973 Urban Family Budgets and Comparative Indexes for Selected Urban Areas.* Press Release No. USDL: 74, 304, June 16, 1974.

Texts

FLORIDA

PUBLIC EMPLOYEE COLLECTIVE BARGAINING LAW

An act relating to labor, implementing Section 6 of Article I of the Constitution of the State of Florida; amending section 447.03, Florida Statutes, 1971, to include the right to refrain from participation in labor organizations; creating section 447.17, Florida Statutes, to provide civil and injunctive relief for denial or abridgement of rights; amending chapter 447, Florida Statutes, by adding Part II; providing right to organize and bargain collectively as to terms and conditions of employment; providing method of bargaining procedure; creating and providing administration by the Florida public employees relations commission within the department of commerce; providing for legislative review of commission rules; defining rights of public employees and employers; providing payroll dues deduction; providing rules and procedures for registration, recognition, and certification of employee organizations and bargaining agents; providing payment of fees and expenses in collective bargaining process; providing grievance procedures; providing procedures for resolution of impasse; providing factors to be considered by the special master; providing for compensation and records; establishing unfair labor practices by employers and employee organizations; providing procedures to resolve unlawful actions and practices, penalties and remedies; providing injunctive relief; providing effect on merit and civil service systems and state and local control of same; providing for a local option; providing certain exceptions to §286.011 and chapter 119, Florida Statutes, and providing limits to such exceptions; providing for severability; repealing §230.22 (1) (a), Florida Statutes, as created by chapter 73-338, Laws of Florida, relating to general powers of school boards; repealing §§447.20-477.35, Florida Statutes, as created by chapter 72-275, Laws of Florida, the Fire Fighters Bargaining Act; repealing §839.221, Florida Statutes, which prohibits participation in strikes or membership in organizations that assert right to strike against government employer by governmental officers and employees; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 447.03, Florida Statutes, is amended to read:

447.03 Employees' right of self-organization.—Employees shall have the right to self-organization, to form, join, or assist labor *unions or labor* organizations *or to refrain from such activity* to bargain collectively through representatives of their own choosing, and to engage in concerted activities, for the purpose of collective bargaining or other mutual aid or protection.

Section 2. Section 447.17, Florida Statutes, is created to read:

447.17 Civil remedy; injunctive relief.—

(1) Any person who may be denied employment or discriminated against in his employment on account of membership or nonmembership in any labor union or labor organization shall be entitled to recover from such employer, other person, firm, corporation, labor union, labor organization or association, acting separately or in concert, in the courts of this state, such damages as he may have sustained and the costs of suit, including reasonable attorney's fees. If such employer, other person, firm, corporation, labor union, labor organization, or association acted willfully and with malice, or reckless indifference to the rights of others, punitive damages may be assessed against such employer, other person, firm, corporation, labor union, labor organization or association.

(2) Any person sustaining injury as a result of any violation or threatened violation of the provisions of this section shall be entitled to injunctive relief against any and all violators or persons threatening violation.

Section 3. Part II of chapter 447, Florida Statutes is created to read:

447.001 Statement of policy.—It is declared that the public policy of the state and the purpose of this part is to provide statutory implementation of Section 6, Article I of the Constitution of the State of Florida, and to promote harmonious and cooperative relationships between government and its employees, both collectively and individually, and to protect the public by assuring, at all times, the orderly the uninterrupted operations and functions of government. It is the intent of the legislature that nothing herein shall be construed to either encourage or discourage organization of public employees. These policies are best effectuated by:

(1) Granting to public employees the right of organization and representation;

(2) Requiring the state, local governments, and other political subdivisions to negotiate with bargaining agents duly certified to represent public employees;

(3) Creating a public employees relations commission to assist in resolving disputes between public employees and public employers; and

(4) Recognizing the constitutional prohibition against strikes by public employees and providing remedies for violations of such prohibition.

447.002 Definitions.—As used in this part:

(1) "Commission" means the public employees relations commission created by section 447.003, Florida Statutes.

(2) "Public employer" or "employer" means the state, any county, municipality, special district, and any subdivision or agency thereof which the commission deter-

mines has sufficient legal distinctiveness to properly carry out the functions of a public employer; provided, however, that the board of regents shall be deemed to be the public employer with respect to faculty and administrative and professional employees and for all other public employees within the state university system not otherwise determined by the commission as properly belonging to a statewide bargaining unit composed of state career service system employees; provided further, that the board of trustees of a community college shall be deemed to be the public employer with respect to all employees of the community college.

(3) "Public employee" means any person employed by a public employer except (a) those persons appointed by the governor or elected by the people, agency heads, members of boards and commissions, (b) persons holding positions by appointment or employment in the organized militia of the State, (c) individuals acting as negotiating representatives for employer authorities, (d) persons who are designated as managerial or confidential employees pursuant to criteria contained herein upon application of the public employer to the public employees relations commission.

(4) "Managerial employees" are those employees generally having authority in the interest of the public employer who (a) formulate policy which is applicable throughout the bargaining unit, or (b) may reasonably be required on behalf of the employer to assist directly in the preparation for and conduct of collective bargaining negotiations or to have a major role in the administration of agreements resulting therefrom, or (c) have a significant role in personnel administration or in employee relations, and in the preparation and administration of budgets for any public agency or institution or subdivision thereof, provided, that said roles are not of a routine, clerical or ministerial nature and require the exercise of independent judgment. In determining whether an individual is a managerial employee, the commission shall consider the historic relationship of the employee to the public employer and to co-employees.

(5) "Confidential employees" are persons who act in a confidential capacity to, assist, or aid managerial employees as defined in §447.002(4).

(6) "Strike" means the concerted failure to report for duty, the concerted absence of employees from their positions, the concerted stoppage of work, the concerted submission of resignations, the concerted abstinence in whole or in part by any group of employees from the full and faithful performance of the duties of employment with a public employer, for the purpose of inducing, influencing, condoning or coercing a change in the terms and conditions of employment or the rights, privileges, or obligations of public employment, or participating in a deliberate and concerted course of conduct which adversely affects the services of the public employer, the concerted failure to report for work after the expiration of a collective bargaining agreement and picketing in furtherance of a work stoppage.

(7) "Bargaining unit" means either that unit determined by the commission, or that unit determined through local regulations promulgated pursuant to section 447.022, Florida Statutes, or that unit determined by the public employer and the public employee organization and approved by the commission to be appropriate for the purposes of collective bargaining; provided, however, that no bargaining unit shall be defined as appropriate which includes employees of two employers that are not departments or divisions of the State, a county, or municipality, or other political entity.

(8) "Chief executive officer" for the state shall mean the governor of the state, and for other public employers shall mean the person whether elected or appointed who is responsible to the legislative body of the public employer for the administration of the governmental affairs of the public employer.

(9) "Legislative body" means the state legislature, the board of county commissioners, the district school board, the governing body of a municipality, or the governing body of an instrumentality or unit of government having authority to appropriate funds and establish policy governing the terms and conditions of employment and which, as the case may be, is the appropriate legislative body for the bargaining unit.

(10) "Employee organization" or "organization" means any labor organization, union, association, fraternal order, occupational or professional society, or group, however organized or constituted, which represents or seeks to represent any public employee or group of public employees concerning any matters relating to their employment relationship with a public employer.

(11) "Bargaining agent" means the employee organization which has been certified by the commission as representing the employees in the bargaining unit as provided in §447.009, or its representative.

(12) "Budget submission date" means the date by which, under law or practice, a public employer's budget, or a budget containing proposed expenditures applicable to such public employer, is submitted to or is considered by the legislative body or other similar body of government for final action, or in the absence of any annual budget, the date upon which an annual appropriation ordinance, resolution, or law, for the ensuing fiscal year is required to be introduced before such legislative body, for final action.

(13) "Professional employee" means:

(a) Any employee engaged in work in any two or more of the following categories:

1. Predominantly intellectual and varied in character as opposed to routine, mental, manual, mechanical or physical work;

2. Involving the consistent exercise of discretion and judgment in its performance;

3. Of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; and

4. Requiring advanced knowledge in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education, an apprenticeship or training in the performance of routine mental or physical processes; or

(b) Any employee who:

1. Has completed the course of specialized intellectual instruction and study described in subparagraph 4. of paragraph (a), and

2. Is performing related work under supervision of a professional person to qualify himself to become a professional employee as defined in paragraph (a).

(14) "Collective bargaining" means the performance of the mutual obligations of the public employer and the bargaining agent of the employee organization to meet at reasonable times, to negotiate in good faith, and to execute a written contract with respect to agreements reached concerning the terms and conditions of employment, except that neither party shall be compelled to agree to a proposal

or be required to make a concession unless otherwise provided in this part.

(15) "Membership dues deduction" means the practice of a public employer of deducting dues and uniform assessments from the salary or wages of a public employee upon the presentation to the public employer of cards authorizing the deduction of dues, signed by such individual public employee. Such term also means the practice of a public employer of transmitting the sums so deducted to such employee organization.

(16) "Civil Service" means any career, civil or merit system used by any public employer.

447.003 Public employees relations commission.—

(1) There is hereby created and established within the department of commerce the public employees relations commission, hereinafter referred to as the "commission." The commission shall be composed of five (5) members to be appointed by the governor, subject to confirmation by the senate, from persons representative of the public, known for their objective and independent judgment, and who shall not be employed by or hold any commission with any governmental unit in the state or any employee organization as defined in this part. The governor shall designate one (1) member as chairman. Members shall serve for a term of four (4) years, except that beginning July 1, 1974, two (2) members shall be appointed for a term of one (1) year, one (1) member for two (2) years, and (1) member for three (3) years, and one (1) member for four (4) years. A vacancy for the unexpired term of a member shall be filled in the same manner as herein provided for an original appointment. The presence of three (3) members shall constitute a quorum of any called meeting of the commission. The commission in the performance of its duties and powers under this act shall not be subject to the control, supervision, or direction by the Department of Commerce.

(2) The chairman shall devote his entire time to his commission duties. He shall receive a salary as established pursuant to the provisions of section 216.251, Florida Statutes, and shall not engage in any other business, vocation, or employment. The remaining members shall be paid an honorarium of one hunderd dollars ($100) for each day they are engaged in the work of the commission. The chairman and other members shall also be reimbursed for expenses as provided in section 112.061, Florida Statutes. The chairman shall be responsible for the administrative functions of the commission and shall have the authority to employ such personnel as may be necessary to carry out the provisions of this part.

447.004 Commission; powers and duties.—

(1) After public hearing, the commission shall adopt, promulgate, amend, or rescind such rules and regulations as it deems necessary and administratively feasible to carry out the provisions of this part, in accordance with chapter 120, Florida Statutes.

(2) To accomplish the objectives and to carry out the duties prescribed by this part, the commission may subpoena witnesses, may issue subpoenas to require the production of books, papers, records, and documents which may be needed as evidence of any matter under inquiry, and may administer oaths and affirmations.

(3) In cases of neglect or refusal to obey a subpoena issued to any person, the circuit court of the county in which the investigations or the public hearings are taking place, upon application by the commission, may issue an order requiring such person to appear before the commission and produce evidence about the matter under investigation. A failure to obey such order may be punished by the court as a contempt.

(4) Any subpoena, notice of hearing or other process or notice of the commission issued under the provisions of this part shall be served personally or by certified mail. A return made and verified by the individual making such service and setting forth the manner of such service is proof of service and a returned post office receipt, when certified mail is used, is proof of service. All process of any court to which application may be made under the provisions of this part shall be served in the county wherein the persons required to be served reside or may be found.

(5) The commission shall adopt rules as to the qualifications of persons who may serve as mediators and special masters, shall maintain lists of such qualified persons who are not employees of the commission and shall initiate dispute resolution procedures by special masters pursuant to the provisions of this part.

(6) Pursuant to its established procedures, the commission shall resolve questions and controversies concerning claims for recognition as the bargaining agent for a bargaining unit, determine or approve units appropriate for purposes of collective bargaining and investigate charges of engagement in prohibited practices, and charges of striking by public employees.

447.005 Public employer's rights.—It is the right of the public employer to determine unilaterally the purpose of each of its constituent agencies, set standards of services to be offered to the public, and exercise control and discretion over its organization and operations. It is also the right of the public employer to direct its employees, take disciplinary action for proper cause, and relieve its employees from duty because of lack of work or for other legitimate reasons, provided, however, that the exercise of such rights shall not preclude employees or their representatives from raising grievances, should decisions on the above matters have the practical consequences of violating the terms and conditions of any collective bargaining agreement in force, or civil or career service regulation.

447.006 Public employees' rights; organization and representation.—

(1) Public employees shall have the right to form, join, and participate in, or to refrain from forming, joining, or participating in any employee organization of their own choosing.

(2) Public employees shall have the right to be represented by any employee organization of their own choosing, to negotiate collectively through a certified bargaining agent with their public employer in the determination of the terms and conditions of their employment, and to be represented in the determination of grievances arising thereunder. Public employees shall have the right to refrain from exercising the right to be represented.

(3) Nothing in this part shall be construed to prevent any public employee from presenting, at any time, his own grievances, in person or by legal counsel, to his public employer, and having such grievances adjusted without the intervention of the bargaining agent, if the adjustment is not inconsistent with the terms of the collective bargaining agreement then in effect and if the bargaining agent has been given reasonable opportunity to be present at any meeting called for the resolution of such grievances.

447.007 Dues; deduction and collection.—Any employee organization which has been certified as a bargaining agent shall, upon request, have its dues and uniform assessments deducted and collected by the employer from the salaries of those employees who authorize the deduction of said dues and uniform assessments; provided that such

authorization is revocable at the employee's will upon thirty (30) days written notice to the employer and employee organization; provided that reasonable costs to the employer of said deductions shall be a proper subject of collective bargaining. Such deduction shall be in force during the term of the collective bargaining agreement. The public employer is expressly prohibited from any involvement in the collection of fines, penalties or special assessments.

447.008 Registration of employee organization.—

(1) Every employee organization, prior to requesting recognition by a public employer for purposes of collective bargaining or prior to submitting a petition to the commission for purposes of requesting a representation election, shall adopt a constitution and by-laws and shall register with the commission by filing a copy thereof, together with an annual report in a form prescribed by the commission, and an amended report whenever changes are made, which shall include:

(a) The name and address of the organization and of any parent organization or organization with which it is affiliated;

(b) The names and addresses of the principal officers and all representatives of the organization;

(c) The amount of the initiation fee and of the monthly dues which members must pay;

(d) The current annual financial statement of the organization;

(e) The name of its local agent for service of process and the address where such person can be reached; and

(f) A pledge, in a form prescribed by the commission, that the employee organization will conform to the laws of the state and that it will accept members without regard to age, race, sex, religion, or national origin.

(2) Every employee organization shall file annually with the commission a financial report signed by its president and treasurer or corresponding principal officers containing the following information in such detail as may be necessary accurately to disclose its financial condition and operations for its preceding fiscal year;

(a) assets and liabilities at the beginning and end of the fiscal year;

(b) receipts of any kind and the sources thereof;

(c) salary, allowances, and other direct or indirect disbursements (including reimbursed expenses) to each officer and also to each employee who, during such fiscal year, received more than $10,000 in the aggregate from such employee organization and other employee organization affiliated with it or with which it is affiliated, or which is affiliated with the same national or international employee organization;

(d) direct and indirect loans made to any officer, employee, or member, which aggregated more than $250 during the fiscal year, together with a statement of the purpose, security, if any, and arrangements for repayment; and

(e) direct and indirect loans to any business enterprise, together with a statement of the purpose, security, if any, and arrangements for repayment; all in such categories as the commission may prescribe.

(3) A registration fee shall accompany the initial report filed with the commission. Such money shall be used to defray the cost of registration and investigation of the filing party, with the remainder to be deposited in the general revenue fund. The amount charged for registration shall not exceed fifteen dollars ($15).

(4) Every employee organization shall keep accurate accounts of its income and expenses which accounts shall be open for inspection by any member of the organization or by the commission at all reasonable times.

(5) A copy of the current constitution and by-laws of the state and national groups with which the employee organization is affiliated or associated shall accompany each annual report.

(6) An employee organization which is not registered as provided in this section, is prohibited from requesting recognition by a public employer or submitting a petition requesting a representation election. This prohibition shall be enforced by injunction upon petition of the commission to the appropriate circuit court.

447.009 Certification of employee organization.—

(1) Any employee organization which is designated or selected by a majority of public employees in an appropriate unit as their representative for purposes of collective bargaining shall request recognition by the public employer. The public employer shall, if satisfied as to the majority status of the employee organization and the appropriateness of the proposed unit, recognize the employee organization as the collective bargaining representative of employees in the designated unit. Upon recognition by a public employer, the employee organization shall immediately petition the commission for certification. The commission shall review only the appropriateness of the unit proposed by the employee organization. If the unit is appropriate according to the criteria used in this part, the commission shall immediately certify the employee organization as the exclusive representative of all employees in the unit.

(2) If the public employer refuses to recognize the employee organization the employee organization may file a petition with the commission for certification as the bargaining agent for a proposed bargaining unit. The petition shall be accompanied by dated statements signed by at least thirty (30) percent of the employees in the proposed unit indicating that such employees desire to be represented for purposes of collective bargaining by the petitioning employee organization. Provided that any employee, employers or employee organization having sufficient reason to believe any of the employee signatures were obtained by collusion, coercion, intimidation or misrepresentation or are otherwise invalid, shall be given a reasonable opportunity to verify and challenge the signatures appearing on the petition.

(3) (a) The commission or one of its designated agents shall investigate the petition to determine its sufficiency; if it has reasonable cause to believe that the petition is sufficient, the commission shall provide for an appropriate hearing upon due notice. Such a hearing may be conducted by an agent of the commission, who shall not make any recommendations with respect thereto. If the commission finds upon the record of the hearing that the petition is sufficient, it shall immediately:

(1) Define the proposed bargaining unit and determine which public employees shall be qualified and entitled to vote at any election held by the commission;

(2) Identify the public employer or employers for purposes of collective bargaining with the bargaining agent;

(3) Order an election by secret ballot.

(b) Where an employee organization is selected by a majority of the employees voting in an election, the commission shall certify the employee organization as the exclusive collective bargaining representative of all employees in the unit;

(c) In any election in which none of the choices on the ballot receives the vote of a majority of the employees

voting, a run-off election shall be held according to rules promulgated by the commission.

(d) No new election may be conducted in any appropriate bargaining unit to determine the exclusive representative if a representative election has been conducted within the preceding twelve month period.

(4) In defining a proposed bargaining unit, the commission shall take into consideration:

(a) The principles of efficient administration of government;

(b) The number of employee organizations with which the employer might have to negotiate;

(c) The compatibility of the unit with the joint responsibilities of the public employer and public employees to represent the public;

(d) The power of the officials of government at the level of the unit to agree or make effective recommendations to other administrative authority or legislative body with respect to matters of employment upon which the employee desires to negotiate.

(e) The organizational structure of the public employer;

(f) Community of interest among the employees to be included in the unit, considering:

1. The manner in which wages and other terms of employment are determined.

2. The method by which jobs and salary classifications are determined.

3. Inter-dependence of jobs and interchange of employees.

4. Desires of the employees.

5. The history of employee relations within the organization of the public employer concerning organization and negotiation.

(g) The statutory authority of the public employer to administer a classification and pay plan.

(h) Such other factors and policies as the commission may prescribe by regulations or by its decisions; provided that no unit shall be established or approved for purposes of collective bargaining which includes both professional and non-professional employees unless a majority of each group votes for inclusion in such unit.

447.010 Collective bargaining; approval or rejection.—

(1) After an employee organization has been certified pursuant to the provisions of this part, the bargaining agent for the organization, and the chief executive officer of the appropriate public employer or employers jointly shall bargain collectively in the determination of the wages, hours and terms and conditions of employment of the public employees within the bargaining unit. The chief executive officer, or his representative, and the bargaining agent, or its representative, shall meet at reasonable times and bargain in good faith. In conducting negotiations with the bargaining agent, the chief executive officer or his representative shall consult with, and attempt to represent the views of the legislative body of the public employer. Any collective bargaining agreement reached by the negotiators shall be reduced to writing and such agreement shall be signed by the chief executive officer and the bargaining agent. Any agreement signed by the chief executive officer and the bargaining agent shall not be binding on the public employer until such agreement has been ratified, at a regularly scheduled meeting of the public employer and by public employees who are members of the bargaining unit, subject to the provisions of subsections (2) and (3) of this section.

(2) Upon execution of the collective bargaining agreement, the chief executive shall, in his annual budget request or by other appropriate means, request the legislative body to appropriate such amounts as shall be sufficient to fund the provisions of the collective bargaining agreement. If less than the requested amount is appropriated, the collective bargaining agreement shall be administered by the chief executive officer on the basis of the amounts appropriated by the legislative body. The failure of the legislative body to appropriate funds sufficient to fund the collective bargaining agreement shall not constitute nor be evidence of any unfair labor practice.

(3) If any provision of a collective bargaining agreement is in conflict with any law, ordinance, rule, or regulation over which the chief executive officer has no amendatory power, the chief executive officer shall submit to the appropriate governmental body having amendatory power a proposed amendment to such law, ordinance, rule or regulation. Unless and until such amendment is enacted or adopted and becomes effective, the conflicting provision of the collective bargaining agreement shall not become effective.

(4) If the agreement is not ratified by the public employer or is not approved by a majority vote of employees voting in the unit, in accordance with procedures adopted by the commission, the agreement shall be returned to the chief executive officer and the employee organization for further negotiations.

(5) Any collective bargaining agreement shall not provide for a term of existence of more than three (3) years, and shall contain all of the terms and conditions of employment of the employees in the bargaining unit during such term, except those terms and conditions provided for in applicable merit and civil service rules and regulations.

447.011 Grievance procedures.—Each public employer and bargaining agent shall negotiate a grievance procedure to be used for the settlement of dispute between employer and employee, or group of employees, involving the interpretation or application of a collective bargaining agreement. Such grievance procedure shall have as its terminal step a final and binding disposition by an impartial neutral, mutually selected by the parties; provided, however, that an arbitrator or other neutral shall not have the power to add to, subtract from, modify or alter the terms of a collective bargaining agreement. If an employee organization is certified as the bargaining agent of a unit, the grievance procedure then in existence may be subject of collective bargaining and any agreement which is reached shall supersede the previously existing procedure. All public employees shall have the right to a fair and equitable grievance procedure, administered without regard to membership or non-membership in any organization. A career service employee shall have the option of utilizing the civil service appeal procedure or a grievance procedure established under this section, but such employee cannot use both a civil service appeal and a grievance procedure.

447.012 Resolution of impasses.—

(1) If, after a reasonable period of negotiation concerning the terms and conditions of employment to be incorporated in a collective bargaining agreement, a dispute exists between a public employer and a bargaining agent, or if no agreement is reached within sixty (60) days after the commencement of collective bargaining or at least seventy (70) days prior to the budget submission date of the public employer, an impasse shall be deemed to have occurred. Where an impasse occurs, the public employer, or the bargaining agent or both parties acting jointly may appoint or secure the appointment of a mediator to assist in the resolution of the impasse.

(2) If no mediator is appointed, or if the impasse is not resolved within sixty calendar days prior to the budget sub-

mission date of the public employer, the commission shall:

(a) Appoint a special master and submit all unresolved issues to a special master acceptable to both parties. If the parties are unable to agree on the appointment of a special master, the commission shall appoint, in its discretion, a qualified special master. Provided that nothing in this section shall preclude the parties from using the services of a mediator at any time during the conduct of collective bargaining.

(b) The special master or masters shall hold hearings in order to define the area or areas of dispute, to determine facts relating to the dispute and to render a decision on any and all unresolved contract issues. The hearings shall be held at times, dates, and places to be established by the special master or masters in accordance with rules promulgated by the commission. The special master or masters shall be empowered to administer oaths and issue subpoenas on behalf of the parties to the dispute or on their own behalf. Within twenty (20) calendar days after final hearings, the commission shall transmit the recommended decision of the special master or masters to the representatives of both parties, which decision shall be discussed further by the parties in negotiations and shall be deemed approved by both parties unless either party, by formal action, rejects the decision within fifteen (15) calendar days of the transmission of the decision to the parties.

(c) In the event that either the public employer or the employee organization does not accept in whole or in part the recommendations of the special master or masters, (i) the chief executive officer of the government involved shall, within ten days after receipt of the findings of fact and recommendations of the special master or masters, submit to the legislative body of the government involved a copy of the findings of fact and recommendations of the special master or masters, together with their recommendations for settling the dispute; (ii) the employee organization may submit to such legislative body its recommendations for settling the dispute; (iii) the legislative body or a duly authorized committee thereof shall forthwith conduct a public hearing at which the parties shall be required to explain their positions with respect to the report of the factfinding board; and (iv) thereafter, the legislative body shall take such action as it deems to be in the public interest, including the interest of the public employees involved.

447.013 Factors to be considered by the special master.—The special master shall conduct the hearings and render his decision with the objective of achieving a prompt, peaceful and just settlement of disputes between the public employee organizations and the public employer. The factors, among others, to be given weight by the special master in arriving at a decision shall include:

(1) Comparison of the annual income of employment of the public employees in question with the annual income of employment maintained for the same or similar work of employees exhibiting like or similar skills under the same or similar working conditions in the local operating area involved.

(2) Comparison of the annual income of employment of the public employees in question with the annual income of employment of public employees in similar public employee governmental bodies of comparable size within the state of Florida.

(3) Interest and welfare of the public.

(4) Comparison of peculiarities of employment in regard to other trades or professions, specifically:

(a) Hazards of employment;
(b) Physical qualifications;
(c) Educational qualifications;
(d) Intellectual qualifications;
(e) Job training and skills;
(f) Retirement plans;
(g) Sick leave;
(h) Job security;
(i) Availability of funds.

447.014 The compensation, if any, of the mediator, shall be borne by the party or parties requesting or securing his appointment. The compensation, if any, of the special master shall be borne equally by the parties. All stenographic and other expenses will be divided equally between the parties.

447.015 Records.—All records which are relevant to or have bearing upon any issue or issues raised by the proceedings conducted by the special master shall be made available to the special master by the request in writing of any of the parties to the fact-finding.

447.016 Unfair labor practices.—

(1) Public employers or their agents or representatives are prohibited from:

(a) Interfering with, restraining, or coercing public employees in the exercise of any rights guaranteed them under this act;

(b) Encouraging or discouraging membership in any employee organization by discrimination in regard to hiring, tenure, or other conditions of employment;

(c) Refusing to bargain collectively or failing to bargain collectively in good faith, or refusing to sign a final agreement agreed upon with the certified bargaining agent for the public employees in the bargaining unit;

(d) Discharging or discriminating against a public employee because he has filed charges or given testimony under this part;

(e) Dominating, interfering with, or assisting in the formation, existence, or administration of any employee organization, or contributing financial support to such an organization;

(f) Refusing to discuss grievances in good faith, pursuant to the terms of the collective bargaining agreement with either the certified bargaining agent for the public employee or employees involved.

(2) A public employee organization or anyone acting in its behalf, its officers, representatives, agents or members are prohibited from:

(a) Interfering with, restraining, or coercing public employees in the exercise of any rights guaranteed them under this act; or from interfering with, restraining or coercing managerial employees by reason of their performance of job duties or other activities undertaken in the interests of the public employer.

(b) Causing or attempting to cause a public employer to discriminate against an employee because of the employee's membership or nonmembership in an employee organization or to attempt to cause the public employer to violate any of the provisions of this part;

(c) Refusing to bargain collectively, or failing to bargain collectively in good faith with a public employer;

(d) Discriminating against an employee because he has signed or filed an affidavit, petition, or complaint, or given any information or testimony in any proceedings provided for in this part;

(e) Participating in a strike against the public employer by instigating or supporting, in any positive manner, a strike. Any violation of this section shall subject the violator to the penalties provided in this act.

(f) Instigating or advocating support, in any positive manner, for an employee organization's activities from high school or grade school students, or institutions of higher learning.

(3) Notwithstanding the provisions of subsections (1) and (2), the parties' rights of free speech shall not be infringed upon and the expression of any arguments or opinions shall not constitute or be evidence of an unfair employment practice or of any other violation of this part, if such expression contains no promise of benefits, nor threat of reprisal or force.

447.017 Charges of unfair labor practices.—Violations of the provisions of section 447.016, Florida Statutes, shall be remedied by the commission in the following manner:

(1) Whenever it is charged by an employer or an employee organization that any person has engaged in or is engaging in any unfair labor practice, the commission, or any agent designated by the commission for such purpose, shall conduct a preliminary investigation to determine if there is substantial evidence indicating a prima facie violation of the applicable unfair labor practice provision.

(2) If, upon a preliminary investigation, it is determined that there is not substantial evidence indicating a prima facie violation of the applicable unfair labor practice provision, the designated agent of the commission shall dismiss the charge.

(3) A charging party whose charge is thus dismissed, may appeal to the chairman and one other member of the commission, and if they find substantial evidence of a meritorious charge, that charge shall be reinstated and served pursuant to the procedures of paragraph (a) of this section.

(a) If the commission or its agent determines that there is substantial evidence indicating a prima facie violation the commission or such agent shall issue and cause to be served upon the person, a copy of the charges and a notice of hearing before the commission or a member thereof, or before a designated agent, at a place therein fixed, to be held not less than ten (10) days after service of a copy of the charges by the commission. Any charge may be amended by the charging party, at any time prior to the issuance of an order based thereon, provided that the charged party is not unfairly prejudiced thereby. The person upon whom the charge is served may file an answer to the charge. The charging party and the respondent shall have the right to appear in person or otherwise and give testimony at the place and time fixed in the notice of hearing. In the discretion of the member or agent conducting the hearing, or the commission, any other person may be allowed to intervene in the proceeding and to present testimony. In any hearing the commission shall not be bound by the judicial rules of evidence.

(b) Whenever a charging party alleges that a person has engaged in unfair labor practices and that he will suffer substantial and irreparable injury if he is not granted temporary relief, the commission may petition the circuit court for appropriate injunctive relief, pending the final adjudication by the commission with respect to such matter. Upon the filing of any such petition, the court shall cause notice thereof to be served upon the parties, and thereupon shall have jurisdiction to grant such temporary relief or restraining order as it deems just and proper.

(4) The testimony taken by the member, agent, or the commission shall be reduced to writing and filed with the commission. Thereafter the commission, upon notice, may take further testimony or hear argument.

(a) If, upon consideration of all evidence taken, the commission finds substantial evidence that an unfair labor practice has been committed, then it shall state its findings of fact and shall issue and cause to be served an order requiring the respondent party to cease and desist from the unfair labor practice, and to take such positive action, including reinstatement of employees with or without back pay, as will effectuate the policies of this part. The order may further require the person to make reports from time to time showing the extent to which he has complied with the order.

(b) If, upon consideration of the evidence taken, the commission finds that the person or entity named in the charge has not engaged in and is not engaging in the unfair labor practice, the commission shall state its findings of fact and shall issue an order dismissing the charge.

(c) No notice of hearing shall be issued based upon any unfair labor practice occurring more than six (6) months prior to the filing of the charge with the commission, unless the person aggrieved thereby was prevented from filing the charge by reason of service in the armed forces, in which event, the six (6) month period shall be computed from the day of his discharge.

(d) No order of the commission shall require the reinstatment of any individual as an employee who has been suspended or discharged, or the payment to him of any back pay, if the individual was suspended or discharged for cause.

(5) The district courts of appeal are empowered, upon the filing of an appropriate petition, to review final orders of the commission. Until the record in a case has been filed in the appropriate district court of appeal, the commission at any time, upon reasonable notice and in such manner as it deems proper, may modify or set aside, in whole or in part, any findings or order made or issued by it.

(6) (a) The commission may petition for enforcement of the order and for appropriate injunctive relief, and shall file the record of the proceedings before the commission in the district court of appeal.

(b) Upon the filing of the petition, the appropriate district court of appeal shall cause notice thereof to be served upon the respondent, and thereupon shall have jurisdiction of the proceeding and shall grant such temporary or permanent relief or restraining order as it deems just and proper, enforcing, modifying, or setting aside in whole or in part the order of the commission. No objection that has not been urged before the commission, its members or agent, shall be considered by the district court of appeal, unless the failure or neglect to urge the objection is excused because of extraordinary circumstances. The findings of the commission, with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

(c) If either party applies to the court for leave to present additional evidence and shows to the satisfaction of the court that the additional evidence is material and that there were reasonable grounds for the failure to present it in the hearing before the commission, its members or agent, the court may order the additional evidence to be taken before the commission, its members or agent, and to be made a part of the record. The commission may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file the modifying or new findings, which findings with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive, and shall file its recommendations, if any, for the modification or setting aside of its original order.

(d) Upon the filing of the record the jurisdiction of the court shall be exclusive and its judgment and decree shall be

final, except that the same shall be subject to review in accordance with the rules of appellate procedure. An appropriate district court of appeal may enforce its rulings by contempt proceedings, if necessary.

(7) Any person aggrieved by a final order of the commission granting or denying in whole or in part the relief sought, may obtain a review of such order by filing in the appropriate district court of appeal a petition praying that the order of the commission be modified or set aside. A copy of the petition shall be filed with the commission. Thereupon, the aggrieved party shall file in the said court the record in the proceeding certified by the commission. Upon the filing of the petition, the court shall proceed in the same manner as under subsection (5), and shall grant to the commission such temporary relief or restraining order as it deems just and proper, enforcing, modifying, or setting aside, in whole or in part, the order of the commission. The findings of the commission with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

(8) The commencement of proceedings under subsection (5) or (6) shall not, unless specifically ordered by the district court of appeal, operate as a stay of the commission's order.

(9) Petitions filed under this part shall be heard expeditiously by the district court of appeal to which presented, and shall take precedence over all other civil matters except prior matters of the same character.

447.018 Strikes prohibited.—No public employee or employee organization may participate in a strike against a public employer by instigating or supporting, in any manner, a strike. Any violation of this section shall subject the violator to the penalties provided in this part.

447.019 Violation of strike prohibition; penalties.—

(1) Circuit courts having jurisdiction of the parties are vested with the authority to hear and determine all actions alleging violations of section 447.018, Florida Statutes. Suits to enjoin violations of section 447.018, Florida Statutes, will have priority over all matters on the court's docket except other emergency matters.

(2) If a public employee, a group of employees, an employee organization, or any officer, agent, or representative of any employee organization, engages in a strike in violation of section 447.018, Florida Statutes, the commission or any public employer whose employees are involved or whose employees may be affected by the strike, may file suit to enjoin the strike in the circuit court having proper jurisdiction and proper venue of such actions under Florida Rules of Civil Procedure and Florida Statutes. The circuit court shall conduct a hearing, with notice to all interested parties, at the earliest practicable time. If the plaintiff makes a prima facie showing that a violation of section 447.018, Florida Statutes, is in progress or that there is a clear, real and present danger that such a strike is about to commence, the circuit court shall issue a temporary injunction enjoining the strike. Upon final hearing, the circuit court shall either make the injunction permanent or dissolve it.

(3) If an injunction issued pursuant to this section to enjoin a strike is not promptly complied with, on the application of the plaintiff, the circuit court shall immediately initiate contempt proceedings against those who appear to be in violation. An employee organization found to be in contempt of court for violating an injunction against a strike shall be fined an amount deemed appropriate by the court. In determining the appropriate fine, the court shall objectively consider the extent of lost services and the particular nature and position of the employee group in violation. In no event shall the fine exceed five thousand dollars ($5,000). Each officer, agent or representative of an employee organization found to be in contempt of court for violating an injunction against a strike, shall be fined not less than fifty dollars ($50) nor more than one hundred dollars ($100) for each calendar day that the violation is in progress.

(4) An employee organization shall be liable for any damages which might be suffered by a public employer as a result of a violation of the provisions of section 447.018, Florida Statutes, by the employee organization or its representatives, officers and agents. The circuit court having jurisdiction over such actions is empowered to enforce judgments against employee organizations, as defined in this part, by attachment or garnishment of union initiation fees or dues which are to be deducted or checked off by public employers. No action shall be maintained pursuant to this subsection until all proceedings which were pending before the commission at the time of the strike or which were initiated within thirty (30) days of the strike have been finally adjudicated or otherwise disposed of. In determining the amount of damages, if any, to be awarded to the public employer, the trier of fact shall take into consideration any action or inaction by the public employer or its agents that provoked or tended to provoke the strike by the public employees. The trier of fact shall also take into consideration any damages that might have been recovered by the public employer under subsection (6) (a) 4. of this section.

(5) If the commission after a hearing on notice conducted according to rules promulgated by the commission determines an employee has violated section 447.018, Florida Statutes, it may order the termination of his employment by the public employer. Notwithstanding any other provision of law, a person knowingly violating the provision of said section may, subsequent to such violation be appointed or reappointed, employed or reemployed, as a public employee, but only upon the following conditions:

(a) Such person shall be on probation for a period of six (6) months following his appointment or reappointment, employment or reemployment, during which period he shall serve without tenure. During this period, the person may be discharged only upon a showing of just cause;

(b) His compensation may in no event exceed that received by him immediately prior to the time of the violation;

(c) The compensation of the person may not be increased until after the expiration of one (1) year from such appointment or reappointment, employment or reemployment.

(6) (a) If the commission determines an employee organization has violated section 447.018, Florida Statutes, it may:

1. Issue cease and desist orders as necessary to insure compliance with its order.

2. Suspend or revoke the certification of the employee organization as the bargaining agent of such employee unit.

3. Revoke the privilege of check-off of dues deduction and collection previously granted to said employee organization.

4. Fine the organization up to twenty thousand dollars ($20,000) for each calendar day of such violation or determine the approximate cost to the public due to each calendar day of the strike and fine the organization an amount equal to such cost, notwithstanding the fact that the fine may exceed twenty thousand dollars ($20,000) for each such calendar day. The fines so collected shall im-

mediately accrue to the public employer and shall be used by him to replace those services denied the public as a result of the strike. In determining the amount of damages, if any, to be awarded to the public employer, the commission shall take into consideration any action or inaction by the public employer or its agents that provoked or tended to provoke the strike by the public employees.

(b) An organization determined to be in violation of section 447.018, Florida Statutes, shall not be certified until one (1) year from the date of final payment of any fine against it.

(7) Orders of the commission pursuant to this section are reviewable in the district court of appeal and may be enforced by such court.

447.020 Other unlawful acts.—

(1) Employee organizations, their members, agents, representatives, or any persons acting on their behalf are hereby prohibited from:

(a) Soliciting public employees during working hours of any employee who is involved in the solicitation;

(b) Distributing literature during working hours in areas where the actual work of public employees is performed, such as offices, warehouses, schools, police stations, fire stations and any similar public installations. This section shall not be construed to prohibit the distribution of literature during the employee's lunch hour or in such areas not specifically devoted to the performance of the employee's official duties.

(c) Instigating or advocating support, in any positive manner, for an employee organization's activities from high school or grade school students during classroom time.

(2) No employee organization shall directly or indirectly pay any fines or penalties assessed against individuals pursuant to the provisions of this part.

(3) The circuit courts of this state shall have jurisdiction to enforce the provisions of this section by injunction and contempt proceedings, if necessary. A public employee who is convicted of a violation of any provision of this section may be discharged or otherwise disciplined by his public employer, notwithstanding further provisions of law, and notwithstanding the provisions of any collective bargaining agreement.

447.021 Merit or civil service system; applicability.—The provisions of this part shall not be construed to repeal, amend, or modify the provisions of any law or ordinance establishing a merit or civil service system for public employees or the rules and regulations adopted pursuant thereto; or to prohibit or hinder the establishment of other such personnel systems unless the provisions of such merit or civil service system laws, ordinances or rules and regulations adopted pursuant thereto are in conflict with the provisions of this part, in which event such laws, ordinances, or rules and regulations shall not apply, except as provided in §447.006(3).

447.022 Local option.—Any district school board or political subdivision (other than the state or a state public authority), may elect to adopt by ordinance, resolution or charter amendment its own provisions and procedures in lieu of the requirement of this part, provided that such provisions and procedures effectively secure to public employees substantially equivalent rights and procedures as set forth in this part. Prior to becoming law the public employer shall apply to the commission for review and approval as to whether local provisions or procedures, or both, are substantially equivalent to the provisions and procedures set forth in this part. All public employee agreements now in existence shall remain in effect until their expiration.

447.023 Government in the sunshine.—

(1) All discussions between the chief executive officer of the public employer and the legislative body of the public employer relative to collective bargaining shall be exempt from §286.011, Florida Statutes.

(2) The collective bargaining negotiations between a chief executive officer and a bargaining agent shall not be exempt from §286.011, Florida Statutes.

(3) All work products developed by the public employer in preparation for negotiations and during negotiations shall be exempt from Chapter 119, Florida Statutes.

Section 4. It is declared to be legislative intent that the provisions of this act are severable; if any section, subsection, sentence, clause or provision is found to be unconstitutional or invalid for any reason, the same shall not affect the remaining provisions of this act.

Section 5. The legislature shall retain the right to approve, amend or rescind all rules promulgated by the commission pursuant to this act. In the absence of legislative action to the contrary, all rules shall have full force and effect upon their approval by the commission.

Section 6. Paragraph (a) of subsection (1) of section 230.22, Florida Statutes, as created by chapter 73-338, Laws of Florida, is hereby repealed.

Section 7. Section 839.221, Florida Statutes, is hereby repealed.

Section 8. Chapter 72-275, Laws of Florida, appearing as section 447.20 through section 447.35, Florida Statutes, 1972 supplement, is hereby repealed.

Section 9. This act shall take effect January 1, 1975, except that sections 447.003, 447.004 and 447.008(1), (2), (3), (4) and (5), Florida Statutes, shall become effective July 1, 1974, or at such time as the administrative rules and regulations of the commission have been adopted, whichever is first.

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CASE REVIEWS

COLORADO

Jeopardy to Students' Education Cited in Court Order To End Strike in Colorado

The right of students to a public education takes precedence over the rights of school-board officials and teachers when a teacher strike presents a clear danger to public schooling. Therefore, the Arapahoe County District Court enjoined the Littleton Education Association from further strike activity against the Arapahoe County School District No. 6, having concluded that the strike had substantially jeopardized the educational system.

The court had earlier denied an injunction against the teacher strike, having interpreted the school board's legal action as an attempt to bypass a negotiated settlement and force the Association to accede to the board's last offer in an attempt to "guarantee closed debate on the issue and to use (or abuse) the power of the court to force the teachers to accept the board's terms on a 'take it or leave it' basis." The strike followed impasse over the board's wage proposal which abolished the index salary schedule and offered a general increase in its place. Although the strike had been disruptive, it had served a purpose in that another attempt had been made to reach agreement.

Failing to reach agreement with the board, the teachers continued their strike, and the court reconsidered the case. The court pointed out that the school board, in the first place, must discharge its duties and responsibilities under the law. Secondly, teachers have a right to collective bargaining and may lawfully disagree with board policies. Under state statutes, however, students are guaranteed a public education. The effect of the strike on the students' education became the focus of the court's concern; the court reasoned that school-board members were free to seek that office and teachers were free to select where they taught. The court found that since students must go to school, their rights were "being irreparably injured, damaged and lost as a direct result of the strike." The court further found no basis upon which to rule the strike lawful and was unwilling to issue a favorable precedential decision, preferring "to interpret the law as it finds it."

The court ordered the Association to cease strike activity and any action interfering with normal school operations. (*Arapahoe Co. School District No. 6 vs. Littleton Education Association, et al.;* Arapahoe Co. District Court, Colo., January 18, 1974.)

MONTANA

Public Employee Right To Strike Upheld

Since the Montana Collective Bargaining for Public Employees Act does not specifically prohibit strikes, as was the case in other legislation concerned with bargaining, the Board of Personnel Appeals has ruled that public employees have the right to strike. The Helena District Court sustained the decision, and the issue has been appealed to the state supreme court. The ruling came as a result of a walkout by highway maintenance employees over a wage dispute with the state department of highways during protracted negotiations for a successor contract.

The striking workers were part of a group of trade units represented by the Public Employees Craft Council. With the state highway department contract expiring in June 1973, negotiations stalled on the wage items and mediation was initiated. The board of personnel appeals, created by bargaining legislation effective in July, intervened with fact-finding procedures which resulted in a recommendation favoring a 7 percent across-the-board increase. The amount was still unacceptable and precipitated the walkout in January 1974. The highway department obtained a temporary restraining order and sought to permanently enjoin the strike, contending that public employees were not explicitly granted the right to strike under the state bargaining law.

The union argued that the provision of the statute guaranteeing employee rights to "concerted activities for the purpose of collective bargaining or other mutual aid or protection" was specific enough to include the right to strike.

The court focused on the interpretation of the existing statutory language, noting that similar phrases in private sector bargaining laws had been considered sufficient to imply the right to strike. Earlier legislation granting bargaining rights to teachers had specifically prohibited strikes. Nurses in private and public hospitals had also gained negotiations rights and could strike only under certain conditions. Absent a specific bar to strikes, the court concluded, it was certainly reasonable to follow common labor usage of "concerted activity" as including strikes.

The court ruled in favor of the union and removed the temporary restraining order; the order was reissued, however, on appeal by the highway department, pending a state supreme court review of the case.

NEW JERSEY

Insubordination, Unprofessional Conduct Grounds for Dismissal

The First Amendment right of free speech does not cover a teacher's public criticism of immediate supervisors where foul language and vindictive motives are evident. The New Jersey Superior Court Appellate Division upheld the dismissal of the president of the Brick Township Education Association for derogatory remarks judged insubordinate made during an orientation speech for teachers new to the system. Pending higher appeal, this decision was the latest in a series of hearings and reviews during which the teacher unsuccessfully advanced her defense on the basis of constitutional rights. The court pointed out that its decision rested upon an examination of individual conduct and not the teacher's role as an association leader.

The teacher had been suspended shortly after having made the remarks critical of the school board and the superintendent. She sought review by the state education commission. An investigation conducted by a hearing officer from the commissioner's office found that dismissal was warranted for conduct unbecoming a teacher. The commissioner agreed with the hearing officer's findings, but awarded the teacher back pay from the 121st day of suspension to the date of his decision. A later review by the state board of education sustained the dismissal, effective as of the date of suspension.

Citing *Pickering v. Board of Education,* the teacher claimed constitutional protection of the right to speak out publicly in opposition to local board policies. The Supreme Court of the United States had ruled in *Pickering* in favor of a teacher who had criticized the school board in a letter to the editor of the city newspaper. The teacher maintained that since her actions closely paralleled those of the earlier case, her verbal dissension should not be penalized.

The court examined testimony presented at the hearing and later reviews and noted that the charges of personal character attacks and the use of expletives with superiors and students had been substantiated. The totality of such conduct was unprofessional and merited dismissal, the court stated, agreeing with the state board's decision. In *Pickering,* the court observed, the public criticism had been limited properly to policy and had not digressed to attacks on individuals. Having crossed the bounds of constitutionally protected behavior, the teacher was justifiably dismissed, the court decided. (*Kathleen M. Pietrunti v. Board of Education of Brick Township,* New Jersey Superior Court Appellate Division, May 6, 1974.)

NEW YORK

School Board Ordered To Negotiate Reduction of Work Year

Since the length of the work year is a term of employment, a school board must negotiate over any modifications and may not unilaterally shorten the work year. The Appellate Division of the New York Supreme Court recently upheld a Public Employment Relations Board (PERB) ruling which declared the Oswego school board in violation of the Civil Service Law for failure to negotiate reduction of the work year with employee members of the Association of Administrative Personnel of the Enlarged City School District of Oswego.

The PERB based its decision on the uncontested fact that the Oswego school board had, during negotiations with the Association for a new contract, unilaterally reduced the work year for some bargaining unit employees to 11 or 10 months from the former 12-month work year. The new policy was to take effect in mid-summer on the starting date of the new contract. Shortening the work year without prior negotiation with the Association was an improper employer practice, PERB concluded, and ordered the board to negotiate the proposed change.

The school board appealed the PERB order, claiming that under the fundamental governmental decision-making power provided in the Education Law it had exclusive authority to determine the length of its employees' work year. The board also claimed that the action was not a mandatory subject of negotiation since it dealt with basic educational services and was an effort to reduce operating costs.

The court found that since "the length of the work year is a function of hours of work and thus a 'term of employment,' " it was a mandatory subject of negotiations under provisions of Civil Service Law, unless specifically prohibited by the Education Law. Finding no such prohibition, the court stated that the board's powers were broad enough to include negotiating the length of the work year. The court also rejected the argument that the board's action concerned basic policy or management rights since there was no effect on public service and the educational program remained the same, with no change in function of the administrators. The court, therefore, concluded that the board's policy change was "simply a unilateral decision to change the hours and wages of the school administrators without negotiation."

The Appellate Court denied the school board appeal and sustained the PERB order. (*City School District of the City of Oswego, New York v. Robert D. Helsby et al., Constituting the Public Employment Relations Board et al.,* New York Supreme Court, Appellate Division, July 12, 1973.)

Contract Violation Grievance Untimely; Time Limits Not Waived by Employer's Inquiry

Holding that the North Babylon Teachers Organization failed to observe contractual time limits in filing for a grievance arbitration, the New York Supreme Court granted a stay of arbitration proceedings requested by the North Babylon Board of Education.

The Association filed the grievance in September 1972 after the school board refused to hire the teacher as an assistant football coach. Late in October, the district principal informed the Association that he had rejected the grievance and inquired whether the Association considered the

matter to be one of contract interpretation and therefore subject to binding arbitration. Under the parties' collective bargaining agreement grievances concerning application or interpretation of a term or provision of an agreement were subject to binding arbitration while all other grievances were subject only to advisory arbitration. Binding arbitration grievances were to be submitted within five days of the principal's determination, while advisory arbitration was to be pursued within 10 days. Here the request for binding arbitration was submitted more than 30 days after the principal's determination. In response to school-board contentions that the request for arbitration was untimely, the Association contended that time limits were waived by the principal's inquiry as to whether binding arbitration would be pursued.

The court found that the grievance clearly concerned a contract violation and was subject to procedures for advisory arbitration. The court rejected the Association's contention that the principal's inquiry concerning the arbitration method constituted a waiver of time limits. Pointing out that a waiver was "an intentional relinquishment of a legal right" and that the principal's rejection of the grievance and his inquiry did not constitute a clear waiver of the time limits. The court granted the board's petition for a stay of arbitration. (*Matter of arbitration between North Babylon Board of Education and North Babylon Teachers Organization*, New York Supreme Court, February 22, 1974.)

PENNSYLVANIA

Department Heads' Membership in Employee Organization Upheld

A school district requirement that department heads withdraw membership in an employee association or resign as department heads constituted an unfair labor practice, ruled the Pennsylvania Commonwealth Court.

The Eastern Lancaster County Education Association, (ELCEA) filed an unfair labor practice charge before the Pennsylvania Labor Relations Board (PLRB) when the school district informed department heads that they had to either cease membership in the ELCEA or give up their department head positions. The school district contended that continuation as department head precluded membership in ELCEA.

PLRB ruled in favor of the department heads, saying that as first-level supervisors, the department heads might continue in their positions and retain their association membership. The school district appealed. The court of Common Pleas set aside the PLRB order and ruled that department heads engage in collective bargaining, as they hear grievances, and that, therefore, membership in ELCEA was prohibited under the Public Employee Relations Act.

The Pennsylvania Commonwealth Court reversed the lower court order. Accepting the decision in *Ellwood City Area School District v. Secretary of Education* the court ruled that the Public Employee Labor Relations Act provided that department heads could hold membership in employee associations that bargain with the employer, albeit not in the same bargaining unit of the employee association. So ruling, the court held that the action of the school district was an unfair labor practice as it attempted to interfere with the department heads in the exercise of their rights. (*Pennsylvania Labor Relations Board, Appellant v. Eastern Lancaster County School District, Appellee, Eastern Lancaster County Education Association, Intervening Appellant*, Pennsylvania Commonwealth Court, January 3, 1974.)

RHODE ISLAND

Arbitration Award Which Ousted Teacher from Promotional Position Vacated

Ruling that arbitrators exceeded their powers, the Rhode Island Superior Court vacated an arbitration board award which removed a teacher from his position as department head and replaced him with another teacher. The court further held that the arbitrators violated the law by permitting the teachers union to deny fair representation to the removed teacher.

The ousted teacher (plaintiff) and the defendant were both members of the same union and were both candidates for the position of business department head. The plaintiff had been the unanimous choice of the school committee to fill the position which he held for one year. Having filed a grievance challenging the plaintiff's appointment, the defendant was turned down at each step of the grievance procedure but requested that the union proceed to arbitration.

Prior to arbitration, the union met with the defendant to discuss his testimony, but did not question the plaintiff regarding his qualifications for the position. At the trial, the plaintiff alleged that the union presented testimony supporting the claim that it was not representing the defendant but was providing a forum in which his grievance could be aired.

The plaintiff also contended that the union sided with the defendant during the grievance process and voted to take the defendant's case to arbitration.

The arbitration board decision removed the plaintiff from his position as department head and replaced him with the defendant. The plaintiff then wanted to grieve, but was informed by the union that it would pursue a grievance regarding the adequacy of his representation by the school committee but not a grievance attempting to regain his position.

Hearing the plaintiff's case to vacate the arbitration award, the Superior Court stated that to vacate the award it must determine whether the award was procured by fraud, whether the arbitrators exceeded their powers, or whether there was no valid submission or contract. The court found that the arbitrators exceeded their powers by dismissing the plaintiff and appointing the defendant, a power vested exclusively in the school committee. The court also held that

the arbitrators violated the law by allowing the plaintiff to be represented by the school committee instead of his union.

The court ordered the re-appointment of the plaintiff to the position of department head and payment of the differential from the date of his discharge by the arbitrators. (*Richard A. Belanger, Plaintiff v. Arthur B. Matteson et al., Defendants*, Rhode Island Superior Court, February 26, 1974.)

FEDERAL

Published Union Scab List Not Libelous, Supreme Court Declares

Since "uninhibited, robust, and wide-open debate in labor disputes" is protected under federal labor law and the application of state libel laws is limited to statements known to be false, the printed listing of nonmembers as being scabs is not unlawfully defamatory. The Supreme Court of the United States thus reversed a libel judgment against Old Dominion Branch No. 496 and the National Association of Letter Carriers by the Virginia courts. The case involved defamation suits filed by non-union postal employees during an organizational drive to attain 100 percent membership. The employees' names had appeared on the scab list for three consecutive issues of the local monthly newsletter, though previously court action had been threatened to prevent recurrence of the defamatory practice. In a subsequent trial, a jury verdict awarded damages in excess of $165,000. The union appealed, but the state supreme court upheld the judgment.

Countering the initial suits and during the later appeals, the union maintained that the published scab list was protected speech under the First Amendment and under federal labor law.

In the state court action, the trial judge, on the basis of his interpretation of the decision of the Supreme Court of the United States in *Linn v. Plant Guard Workers Local 114*, had allowed the libel suits to be presented. The high court in *Linn* had ruled that federal labor statutes did not completely pre-empt the applicability of state libel laws for statements made during labor disputes, so that under certain circumstances, particularly incidents involving falsehood and malice, individuals could sue to recover damages. The trial judge's charge to the jury contained an interpretation of "malice" that was based on common law, and defined in his terms as statements motivated by "hatred, personal spite, ill will, or desire to injure."

The Supreme Court review centered on the interrelated issues of the extent of protected speech for public employees under federal labor laws, the extent of First Amendment protection, the lower court's interpretation of the *Linn* decision, and the nature of libel within the context of labor disputes.

The Court established that the union was certified as exclusive bargaining agent for mail carriers in the local jurisdiction under provisions of Executive Order 11491 granting basic organizing and bargaining rights to federal workers, including postal employees. Union freedom of speech guarantees are derived primarily from section 7 of the National Labor Relations Act which protects the right of employees to "persuade other employees to join [unions] for their mutual aid and protection." The court found NLRA protections equally applicable for the letter carriers. Although covered by an executive order, basic rights parallel those of employees in the private sector. The Court determined that the legislative and executive intent was to foster free debate during organizing and labor/management disputes. Precedential decisions by labor boards had allowed wide latitude and vigorous free expression in such cases, the Court noted, favoring the defense advanced by the union.

With regard to whether the libel suits should have been allowed under state law, the Court stated that its decision in *Linn* had been misinterpreted by the lower courts. The pre-emptive effect of state libel law on federal statutes hinged on a test for malice different from that of common law. In *Linn*, the court had returned to the *New York Times Co. v. Sullivan* test that suit be permitted "only if the defamatory publication was made 'with knowledge that it was false or with reckless disregard of whether it was false or not.' " Since malice was the Court's shorthand term for the *New York Times* test, the Court reversed the lower court decision because of erroneous instructions to the jury.

For the sake of clarity in future applications of its decisions, however, the court went on to apply the test in the instant case. The newsletter's use of the word "scab" was factual as it was literally true that the nonmembers were scabs. The union's published scab list was thus protected under federal law, the court concluded, and could not be the basis for a state libel suit. A dissenting opinion held that the majority decision "appears to allow both unions and employers to defame individual workers with little or no risk of being held accountable." (*Old Dominion Branch No. 496, National Association of Letter Carriers, et al. v. Austin, et al.*, United States Supreme Court, June 25, 1974.)

BOARD FINDINGS AND RULINGS

MINNESOTA

PERB Upholds Separate Units for Each Campus of State-wide System

Ruling on an appeal of a decision of the Minnesota Bureau of Mediation Services, the Minnesota Public Relations Board (PERB) upheld the Bureau's determination of a separate faculty unit for each college of the state-wide system as appropriate for collective bargaining. The appeal was made because the decision of the Bureau had been based on "geographic hardship," an exception to the unit determination rule.

A joint petition had been filed by the Minnesota State College Board (MSCB) and the Inter-Faculty Organization seeking certification of IFO as bargaining agent for a system-wide unit. Although the Bureau originally had ruled such a unit appropriate, challenges raised by faculties at two campuses were sufficient to allow reconsideration of the decision. At hearings on the matter, the Minnesota Education Association, the MSCB, the IFO, and the AAUP all supported a state-wide unit, citing past history, backing of the majority of faculty, and MSCB's ultimate control of fiscal and other resources as compelling factors. The Bureau then determined that a separate unit for each college was appropriate. The four organizations appealed this decision to the Minnesota PERB.

The Bureau director had based his decision on the statutory provision mandating that he "define appropriate units of state employees as all employees under the same appointing authority except where professional, geographical or other considerations affecting employment relations clearly require appropriate units of some other composition." While MSCB was technically the appointing authority, the director reasoned, it had delegated significant authority in matters of appointments, promotions, salary increases, terminations, and other conditions of employment to local college presidents. He concluded that units of faculties under each college president were appropriate since each was in reality the appointing authority.

The PERB concluded that each president was delegated appointing authority under MSCB's own rules and that each campus was operationally distinct as to educational offerings, governance, administration, faculty constituency, and salary scheduling. Also evident, PERB maintained, was the wide geographic separation of the campuses and the lack of uniform policies or faculty transfers among the colleges. The Board pointed out that its decision would allow a larger unit, as desired by the appellees, through election of the same bargaining organization in some or even all the campuses.

Two dissenting opinions argued that the statutory intent was that of broad units with a community of interest generated out of a common appointing authority. Furthermore, if such authority could be delegated, it could also be redelegated, conceivably forcing modification of the unit to match the new appointing authority. Dissenting members also said that faculty members shared a community of interest as "professionals" as defined by law which warranted a system-wide unit and that most of the parties to the appeal, including the MSCB, favored the broad unit. A precedent existed, they continued, in that all community college faculty members were in a single unit with one certified representative, the Minnesota Junior College Faculty Association, which had negotiated a state-wide contract.

Further objections were that the separate units would foster a less stable bargaining arena and that basic topics of negotiations, especially fiscal resources and employment policies, were the responsibility of the MSCB and not the college presidents. (*Minnesota State College Board, and Inter-Faculty Organization, and Minnesota Federation of Teachers, and Minnesota Education Association, and American Association of University Professors*, PERB, April 8, 1974.)

Ride to Polls and Use of Campaign Materials on Election Day Ruled Not Improper

Posting campaign literature, wearing pro-Federation buttons, and providing needed transportation to the polls did not significantly affect the outcome of an election and, therefore, were not improper practices. The Minnesota Bureau of Mediation Service dismissed charges filed by the Stewartville Education Association against the Stewartville Federation of Teachers and sustained the Association's defeat in a representation election between the two organizations.

The SFT had filed for the representation election, seeking to displace the SEA as bargaining agent for the Stewartville teachers. While successful in the election, the SFT's certification as exclusive representive was delayed owing to the charges of unfair labor practices filed by the SEA. The Association's charges alleged violation of three Bureau election rules dealing with proper posting of pro-SFT materials, transportation to the polls, and partisan discussions with students concerning the election.

Testimony at hearings revealed that SFT posters had been placed on a hall bulletin board used by both organizations and in the school library, and that a few teachers had worn SFT buttons during the representation campaign. One teacher, absent because of bereavement, was visited at home by fellow teachers who gave her a ride to the polls at her request. Another teacher had made remarks to students about the demise of the SEA by way of explaining the significance of a flower he was wearing.

The Bureau director hearing the case noted that the flower incident had occurred so soon after the election rules were issued that the teacher involved might not have been aware of them. He found no violation in providing a ride to the polls under the circumstances attested to, and regarded the SFT identification buttons as innocuous though a "use of poor judgment." The violation in posting signs was that they could be viewed by students, the director observed, but the action did not affect the election results.

The charges were dismissed and the SFT was certified as the exclusive representative for the teacher unit. (*SFT and SEA, and Independent School District No. 534, Stewartville*, Minnesota Bureau of Mediation Services, April 5, 1974.)

NEW YORK

Association Dues Deduction Privileges Suspended

PERB confirmed a hearing officer's report which charged the Susquehanna Valley Teachers Association (SVTA) with conducting an illegal strike proscribed under the state's Taylor Law. In addition to the already imposed court fines, the PERB ordered the SVTA's dues check-off privileges suspended for 12 months, with restoration subject to a promise not to engage in future strike activity.

The SVTA had presented before the hearing officer 15 specifications of improper practice and/or failure to negotiate in good faith which the association contended, taken together created extreme provocation and thus caused it to engage in a strike. However, the hearing officer dismissed all charges but three, which he deemed had only a "chilling" effect on negotiations.

With regard to the three violations of improper practice charged against the school board, the hearing officer ordered the board to cease and desist from refusing to negotiate with the SVTA in good faith and interfering with, restraining, and coercing its employees in their exercise of protected rights under the Act by (a) reneging upon matters previously agreed upon during negotiations, (b) improperly preconditioning negotiations upon the reopening of previously resolved matters, and (c) failing to maintain the *status quo*. Also, he ordered the board to compensate returning employees for the period September 5 to October 5 with the appropriate percentage of their annual increments as called for by the prior contract, together with interest thereon at the rate of 3 percent per annum, and to post an appropriate notice at locations ordinarily used to communicate with unit employees.

The hearing officer dismissed the 12 alleged violations since most of them concerned the board's duty to negotiate in good faith, which, as defined by the PERB, required that *"both parties approach the negotiating table with a sincere desire to reach an agreement."* From this perspective, PERB stated that the SVTA had failed to sustain its burden of proof as to these allegations.

As to the strike charge against the SVTA, the hearing officer recommended that the Association be found to have violated paragraph 210 of the Act and that the penalty imposed by the PERB reflect the impact of a 17-day strike and its effect upon the public health, safety and welfare of the community in the absence of "extreme provocation." The hearing officer reasoned that despite the exhaustive list of charges made by the SVTA and the circumstances surrounding negotiations, the strike was intended to secure an improved negotiating position and not a result of extreme provocation. Therefore, the PERB ordered that the dues deduction privileges of the SVTA be suspended for 12 months commencing immediately, and that this privilege be restored thereafter if the SVTA affirmed that it no longer asserted the right to strike. (*Board of Education, Central School District No. 1, The Towns of Conklin, Binghamton, Kirkwood and Vestal, Broome County, and Susquehanna Valley Teachers Association*, Public Employment Relations Board, August 31, 1973.)

NEVADA

Unification Now Permitted; Scope of Bargaining Further Delineated

In two recent Nevada Local Government Employee-Management Relations Board decisions, a reversal of a previous order now permits unified membership and landmark definitions expand the scope of negotiable items to include the hiring of nonteaching aides and preparation time for parent-teacher meetings. Excluded as bargainable items, however, were teacher evaluation of evaluators; assignment of the aides; hiring and assignment of nurses; a minimum discretionary fund per teacher for instructional materials; matters dealing with field trips; and the number, staffing, and operation of libraries.

The unification case was heard upon petition by the Clark County Classroom Teachers Association to reconsider an earlier Board ruling that it was unlawful to require membership in the Nevada State Education Association and the NEA upon joining the CCCTA. The decision had been rendered in a case involving a complaint filed by Local 2170 of the American Federation of Teachers charging administrator dominance within the unified local. The Board examined the eligibility and the role of administrators and principals in the NSEA and NEA, noting that neither could be members of the CCCTA since the Nevada bargaining law prohibited them from joining.

The Board also found that the actual percentage of administrator members in the state and national associations

was too small to control policy at either level and that the number of such members was diminishing. Local affiliates were clearly autonomous, the Board discovered, and since only teachers could join the CCCTA, with that membership a condition of state and national membership, administrator dominance could not be substantiated. The Board further established that unified membership systems were common among labor organizations.

Finding no violation of the statute barring administrator membership in dominance of a teacher organization, the Board reversed its previous decision and allowed CCCTA's unified membership plan.

The second case concerned bargaining proposals offered by the Washoe County Teachers Association which were held non-negotiable by the Washoe County School District. The issues were brought before the Board for a ruling, along with the matter of admitting substitute and adult education teachers to the WCTA.

The contested WCTA proposals were:

Hiring teacher aides to relieve the noninstructional clerical load

Creation of a $100 per teacher discretionary fund for extra materials

Employment of more school nurses

Additional preparation time for parent-teacher conferences

Released time for visitations by special education teachers

A procedure for teacher evaluation of administrators, including the evaluation criteria and implementation guidelines

Expansion of library facilities and additional library staff

Procedures for employment and training of substitute teachers

Provision for more instructional field trips.

The Board found all but the first two proposals to be management prerogatives not affecting teachers' wages, hours, and conditions of employment and, therefore, nonnegotiable. While the employment of teacher aides was bargainable, the procedures for hiring and assigning aides were not negotiable, the Board ruled. The Association petition was upheld in regard to bargaining over parent-teacher conferences, but not over the dates of such meetings.

The Board ruled adult education teachers ineligible to join the regular teacher unit since adult education had recently become the responsibility of the community colleges. The inclusion of substitute teachers hinged upon the individual's length of employment since a per-diem rate was paid for up to 20 teaching days, while substitutes employed for longer periods were given short-term contracts paralleling scheduled salaries for regular teachers. Therefore, the Board ruled that substitute teachers fitted the negotiated definition of teacher and could be included in the bargaining unit. (*Las Vegas Federation of Teachers vs. Clark County School District and Clark County Classroom Teachers Association*, Nevada Local Government Employee-Management Relations Board, April 23, 1974.) (*Matter of Washoe County Teachers Association and Washoe County School District*, Nevada Local Government Employee-Management Relations Board, March 26, 1974.)

VERMONT

Dissemination of Organizing Materials During Working Hours Lawfully Prohibited

Prohibiting distribution of organizational campaign literature during office hours does not constitute an unfair labor practice when the distributing of the literature disrupts normal work operations. The Vermont Employees Labor Relations Board so ruled in dismissing charges brought by the American Federation of Teachers alleging unlawful interference with the formation of a union in the Vermont State College system. The AFT had previously been successful in a representation election for a unit of state college faculty members and subsequently sought to organize nonfaculty workers. However, union tactics ran afoul of administration policies, resulting in management's attempt to restrict organizing activity, and subsequent union charges of interference with legitimate campaign practices.

The specific issue addressed in the board's decision concerned the distribution of a leaflet announcing the rescheduling of a union meeting. Given the urgency of the message, a union organizer and a faculty member distributed notices during working hours and conferred with workers at their desks. The organizers were informed that campus policy prohibited solicitation during working hours and that their communications effort had clearly violated that policy.

The AFT filed charges of unfair labor practice, asserting that campus management was attempting to interfere with the formation and orderly conduct of a union, an activity proscribed under the state bargaining law. The union felt that ample precedent had been established in the earlier faculty election when professors had been visited during the work day and no challenges had been raised by the administration. The Board determined, however, that the issue had not been brought up in this campaign and that the administration's policy was not in written form.

Striving for a balance between the union's protected activity and the campus management's right to maintain orderly business operations, the Board commented that the policy, nonetheless, was reasonable. The union did have regular access to the campus mails and could visit employees outside working hours. Acknowledging that faculty members had been visited by union organizers during office hours, the Board maintained that working conditions for non-faculty employees were clearly different and that visiting these employees at their desks disrupted the operation of college business. The Board ruled, therefore, that the college administration's restrictions on union activity were justifiable, nondiscriminatory, and not an unfair labor practice. (*American Federation of Teachers vs. Vermont State Colleges*, Vermont Employees Labor Relations Board, March 8, 1974.)

WISCONSIN

Grievance Rights May Not Be Abriged Between Contracts

Unilateral modification of any item within the scope of bargaining is unlawful in the interim between the lapse of the old contract and the effective date of a successor contract. The Wisconsin Employment Relations Commission sustained an examining officer's order prohibiting the school board of Unified School District No. 1 (Racine County) from changing the grievance procedure during negotiations for a successor agreement with the Racine Education Association.

With the lapse of the association contract, the school board adopted a policy limiting the types of grievances which could be adjudicated and eliminated binding arbitration. The board maintained that operational pressures justified the change and that the issue was moot since a new contract had already been signed.

The Association charged that the board's action constituted an unfair labor practice. The examining officer found for the Association, ruling that the board had failed to meet its obligation to negotiate the changes.

The WERC concurred with the examining officer's report and pointed out that grievance and arbitration procedures fall within the scope of bargaining delineated in the Wisconsin Municipal Employment Relations Act. Failure to bargain over or unilaterally changing any terms and conditions of employment during negotiations is a "prohibited practice" under the Act, WERC ruled. While aware of a new agreement between the parties, WERC insisted that the violation be specified and a cease and desist order rendered so as to preclude a recurrence of the board's action. (*Racine Education Association v. Unified School District No. 1 of Racine County, Wisconsin*, Wisconsin Employment Relations Commission, April 19, 1974.)

Student Counselors, Librarians, and Federally Funded Teachers Should Be Included in Unit of Full-time Teaching Personnel

Ruling on a unit petition, the Wisconsin Employment Relations Commission (WERC) held that student counselor, librarian, and federally funded teacher positions ought to be included in a unit of full-time teaching personnel represented by AFT Local 2308.

WERC rationalized that student counselors have a similar education background and role in the educational program; thereby they share a community of interest with the certified teaching staff although they are not directly involved in teaching. Turning to the librarian position, WERC found that it should also be included in the unit since the duties are not supervisory and there is a community of interest.

Finally, WERC ruled that even though the federally funded teachers receive hourly pay but no fringe benefits, such as the locally funded teachers do, they should be included in the unit since the similarity of the profession negates differences in employment conditions. (*Vocational, Technical, and Adult Education District No. 5 and AFT Local 2380*, Wisconsin Employment Relations Commission, July 30, 1973.)

NEGOTIATION NOTES

MONTANA

Higher Education Bargaining Law Passed

The state public employee bargaining statutes have been amended by the legislature to provide basic organizing rights and procedures for collective bargaining faculty members and other resident professional educational employees working half time or more at a university or community college. This broad scope of law guarantees "academic freedom," provides for exclusive representation by a bargaining agent, and delineates methods for resolution of conflicts including voluntary binding arbitration.

Bargaining unit eligibility is extended to teaching faculty, librarians, counselors, researchers, chairmen, and deans, with the stipulation that they be employed at least half-time and not be registered as students. Professional employees are granted the right to form collective organizations and negotiate over terms and conditions of employment. Agreement on salaries, wage scales, hours of work, fringe benefits, grievance procedure, and other negotiated items must be in the form of a written contract.

Administrators employed at the central administrative offices of a university or community college are excluded by definition from faculty bargaining units. Prohibited unfair labor practices include administrator dominance or interference with bargaining unit organizing activities, interference with the internal operation of the employee association, refusal to negotiate, and attempts to influence membership in unions.

The state board of personnel appeals will conduct certification elections for exclusive bargaining representative when a labor organization can prove support of the potential unit by at least 30 percent of the employees involved. A representative election will be held under the auspices of the state labor department prior to the certification election if the board determines that doubt exists as to the desire of the employees to organize and negotiate. For both elections, the board defines the bargaining unit and eligible voters in consultation with the higher education commission. The certified union is determined by majority vote although the board must also be satisfied that the organizational structure is democratic and utilizes sound fiscal controls. An agency shop clause is permitted, with nonassociated employees having the right to contribute the fee to a union designated charity. The union is prohibited from refusing to bargain or abridging individual member rights.

Charges of unfair labor practices by either employer or union are to be adjudicated by the board of personnel appeals or its appointed examining officer. After hearings at which the parties at issue present testimony, the examiner will issue a ruling to dismiss, sustain, or award redress, which will serve as the board's order unless challenged within 20 days.

As both union and employer have a duty to bargain, provision exists for mediation in the event of negotiations disputes. Either side may submit such disputes to mediation; however, the board may intervene to initiate mediation if no agreement is reached within 60 days. The parties then have 30 days to settle before the board convenes a fact-finding panel whose expenses are shared by the board and disputants. The dispute may also be submitted to voluntary, binding arbitration, although the decision is regarded as advisory if it requires legislative action. Arbitration costs are shared half by the state and half between the parties.

Binding arbitration may also be negotiated as part of the grievance procedure, with the stipulation that individuals may present grievances themselves and not through the union, if they so desire. Decisions and awards rendered under the alternative process must conform with the contract.

All concerned are urged to negotiate in time to reach agreement before state budget submissions are filed.

Charitable Contributions May Be Substituted for Dues

An amendment effective July 1, 1974, adds to the Montana public employee bargaining statute a provision allowing individuals whose religion prohibits them from joining a union to contribute the agency shop fee to a charity. The procedure also applies to initiation fees and any assessments levied by the union where an agency shop guarantee has been secured. The labor organization is authorized to select a "nonreligious, nonunion" charity, and the employee must furnish the union with written proof of payment. The same penalties provided by the contract for nonpayment of dues apply if the individual fails to pay or furnish proof of payment.

The employee initiates the procedure by written petition to the chairman of the board of personnel appeals. A com-

mittee is then appointed within 10 days to decide upon the eligibility of the petitioner for "nonassociation" status. The three-member committee consists of a clergyman of a denomination different from that of the employee, a labor representative not connected with the union, and an at-large member who presides and must call a meeting within 10 days to hear evidence. A decision must be rendered within three days, with copies forwarded to all parties.

AGO OPINION

The state attorney general recently ruled on three similar cases involving employee benefits:

- A board of county commissioners cannot enter into a contract incorporating payments by the county toward group insurance premiums exceeding the statutorily prescribed amount of $10 per month per employee.
- A county must remit employee benefits to the union trust as assigned by the employees rather than pay such benefits as wages, the maximum contribution to the trust not exceeding the maximum of $10 per month per employee allowed by law.
- A county employer is prohibited from contributing to both the Public Employees Retirement System and a private union pension trust, but union employees may contribute to the latter even though the county contributes to the former.

NEW YORK

Taylor Law Amendments Provide Binding Arbitration for Police, Firemen; Teachers' Recourse to PERB over Salary Impasse

Two Identical amendments to the Taylor Law, effective July 1, 1974, now allow binding arbitration where impasse occurs during negotiations between public employers and policemen and fire fighters in New York State. The changes in the bargaining law do not affect New York City, where separate negotiation statutes are currently in effect. Procedures governing negotiations with school boards revised to provide mediation under the Public Employment Relations Board in cases of impasse over salary matters. School boards formerly could set salaries if agreement was not reached with teacher organizations.

While the provisions for binding arbitration of impasses involving police and fire fighters negotiations will be in effect for only three years, framers of the legislation hope for a greater incidence of realistic negotiations and voluntary settlements so that the procedure can be extended to other organized bodies. The guidelines and time limits for impasse resolution under the new rules are as follows:

Mediation—Wherever impasse is declared by either employees or employer, or determined to exist by the PERB, the PERB will appoint a mediator who will reconcile the dispute for up to 15 days.

Fact Finding—If no agreement is reached during mediation, the parties will proceed to advisory fact finding. If the parties do not agree on the fact finder, PERB is authorized to appoint one. The fact finder is allowed 10 days for consultation with the parties and must file his advisory recommendations with PERB within 30 days after the meeting period.

Binding Arbitration—The parties have 10 days from the filing of the fact finder's report to seek binding arbitration. A three-member panel will be appointed, consisting of one employee representative, one management representative and a public member, selected by the parties, who serves as chairman. PERB will pay the chairman's fees if he is chosen from a list of PERB arbitrators; otherwise, the parties will share these costs. An eleventh-hour rule enables the parties to renegotiate any disputed matter immediately prior to a vote on the issue by the arbitration panel. Decisions will be reached by majority vote and will be binding (not subject to local municipal or legislative review) for two years from the expiration date of the contract.

If no contract exists, the decision will be binding for two years from the date of the panel's report.

Under new regulations covering teacher union-school board negotiations, a settlement must be reached over salary issues and PERB is authorized to conciliate if impasse prevents an agreement on compensation. Effective May 23, 1974, a school board cannot unilaterally impose a salary schedule in the event of impasse, as was formerly the case when school boards were authorized to arbitrate impasse disputes and at the same time be a party at interest.

The imbalance in favor of the school boards has been abolished so that PERB can more effectively utilize mediation and fact finding in an effort to facilitate an agreement.

* * *

FEDERAL

Supreme Court Hears Arguments on California Maternity Disability Benefits

The constitutionality of denying disability benefits for normal pregnancies under the California Unemployment Insurance Code is being considered by the Supreme Court of the United States. Although the state UIC has been amended through legislative action following an Appellate Division decision favoring disability benefits for complications arising from pregnancy, normal pregnancy and delivery are still excluded as a compensable disability. Three of four appellees in the case which reached the high court did receive disability benefits for complications following the change in the law; however, the fourth who had had a normal delivery did not.

Arguing against the benefits, the California Deputy Attorney General noted that costs per woman in Hawaii, where normal pregnancies are covered, had doubled and that since the change in the California law, women were receiving more benefits than men and had a greater claim

rate. In addition, the state attorney pointed out that increased costs which would force an increase in funding, that pregnancy was voluntary and could be planned, that pregnancy involved extended leave, and that medical treatment varied in pregnancy cases. A lower rate of return to work following pregnancy as compared to other disability leaves was also claimed and attested to in *amicus curia* briefs filed by General Electric and ATT.

The appellees' attorney attempted to focus on the issue as it concerned benefits to be paid for disabilities arising out of normal pregnancies. Further discussion revealed that hysterectomies were covered under California law, but coverage in cases of voluntary abortion was undecided. The higher disability rate among women was attributed to the disparity in wages between the sexes—low wage earners generally had a higher disability rate. Arguments next focused on the state's claim of disproportionate cost, with counsel for the appellees agreeing that extending the coverage would cost more but not to the extent claimed. Denial of disability benefits for pregnancy amounts to sex discrimination and should be banned, he said.

The favorable support of labor unions added to the weight of testimony seeking to remove discriminatory coverage, further discounted the state's argument of increased costs.

The summation on behalf of the state emphasized that the matter was properly a concern of the state legislature and that the change in coverage sought would result in a small percentage of workers receiving a disproportionate percentage of disability benefits. (*Geduldig v. Aiello; Geduldig v. Armendariz, Johnson, Jaramillo;* U.S. Supreme Court No. 73-640.)

* * *

Labor Department Allocates $620 Million To Create Public Service Jobs

The distribution of $620 million to all states and over 600 local governments has been provided by the U.S. Department of Labor to create approximately 95,000 public service jobs from money made available under the Second Supplemental Appropriations Act for fiscal 1974.

Most of the money (over half) is appropriated under Title II of the Comprehensive Employment and Training Act of 1973 (CETA) to provide transitional public service employment for the unemployed and underemployed in areas of substantial unemployment, those where there was joblessness of 6.5 percent or more in three consecutive months. Program agents under the Emergency Employment Act (EEA) will receive the remainder of the money. The funds will provide related training and services to persons in public service jobs, helping them to move into regular private sector employment.

In distributing the funds under CETA, $296 million will go to 316 state and local governments and all federal and state Indian reservations. All states, cities, and counties of over 75,000 population, and Indian intertribal councils serving as program agents will receive $238.5 million under Section 5 of the Emergency Employment Act of 1971. This appropriation is fashioned to facilitate an orderly transition from the expired EEA to the new CETA. Finally, at the Secretary's discretion, $85.5 million will be distributed under CETA Title II to areas of substantial unemployment, and for program administration.

The Labor Department regional offices will distribute the funds on the basis of applications submitted by prime sponsors under CETA and by program agents under EEA. Funds distributed under CETA must be used by June 30, 1975, and EEA funds must be used by March 31, 1975, as EEA will be terminated on that date.

For both CETA and EEA, potential hires must be unemployed or underemployed, with special consideration to be given to groups such as veterans, welfare recipients, and former manpower trainees. Public employees under the plan must receive the same pay, benefits, and working conditions as regular employees.

SPECIAL REPORTS

BRIEFS OF AGREEMENTS

SHAWNEE MISSION, KANSAS

Between Shawnee Mission School District No. 512 and National Education Association of Shawnee Mission, effective July 1, 1974, to June 30, 1975. Approximately 1,400 certificated professional employees, including all members of the teaching staff regularly assigned as well as those assigned on a part-time basis.

COMPENSATION: Up to six years' credit on the salary schedule will be granted for previous approved experience; a maximum of three years' credit on the salary schedule may be granted for military service or alternate civilian service required by the selective service system.

OTHER: Summer school payment will be computed on an hourly basis for four hours per day for four, six, or eight weeks to be paid in two checks, one each session or semester of summer school.

LEAVES: Teachers are allowed 10 days' personal leave per year plus 3 days' bereavement leave; personal leave may accumulate without limit; up to the total number of days of accumulated personal leave may be used for personal illness or injury; up to three days per contract year may be used for emergency leave, and up to two days per contract year may be used for business leave; selected teachers may be granted leave to attend state, regional, or national meetings of professional education associations or learned societies; leave will be granted for jury duty with the difference between the teacher's salary and pay for jury duty to be paid by the district; up to 15 days will be granted for military reserve obligations; the teacher will be reimbursed any difference between his base contract daily rate and his military pay; an employee will be paid his full salary less the amount of any Workmen's Compensation payments for up to 180 days for personal injury arising out of employment.

PARENTAL LEAVE

(All requests for extended leaves of absence will be applied for and those approved shall be granted in writing.)

1. A teacher may be granted a leave of absence, without pay or increment, for the purpose of prenatal care, or for the purpose of child care, upon the birth or adoption of a child into his or her family. In the event that both parents are employees of the District, then they must elect which one shall take the leave. Such leave may commence at any time and may extend through the end of the current contract year.

2. Such leave may be combined with Personal Leave as follows:

(a) Absence caused by physical incapacity must be charged to Sick Leave under the provisions of Section "D", Personal Leave, Temporary and Section "E", Sick Leave.

(b) In such case, the teacher may be required to submit periodically, with the Personnel Office, a physician's statement setting forth the nature of the illness or incapacity and the projected date of possible return.

(c) Use of accumulated Personal Leave shall cease as of the date on which the physician certifies that the teacher is physically capable of returning to a teaching assignment. The leave of absence, without pay or increment, granted for the purpose of child care shall commence on that date.

3. Upon written application, such leave may be extended for one school year.

Teachers enrolled in approved graduate study programs leading to advanced degrees may be authorized to be absent from assigned duties for a designated portion of the regular work day or work week to attend classes or to participate in the activities required in the degree program; the salary of such teachers will be prorated accordingly; teachers appointed to official bodies of the state of Kansas may be allowed excused absences without loss of pay, as necessary to attend scheduled meetings; upon return from military leave, the employee will be placed on the salary schedule at the level he would have attained had leave not been taken; leaves of absence without pay may be granted for foreign travel or teaching and academic study.

INSURANCE: Blue Cross—Blue Shield plan is subsidized by the district and is available to all employees without restriction at a reduced rate; the board will contribute up to $16.64 of the individual employee's single membership premium of the current district approved health plan; tax-sheltered annuity plan available.

ASSOCIATION: Payroll deduction of local, state, and national association dues; teachers designated by the Association may, upon request, be granted a leave of absence for up to two years without pay to engage in activities of local, state, or national affiliates of the Association; upon return the teacher will be assigned to the same or to a substantially equivalent position; Association may use school buildings at reasonable times; the board will provide information such as financial data, names and addresses of employees, and board agenda.

INSTRUCTION: All teachers will have an uninterrupted duty-free lunch period of at least 25 minutes; teachers assigned full-time to a secondary school will have at least one period each day for planning, preparation, and evaluation of instructional activities; elementary-school teachers, 150 minutes per week; teachers will start work 30 minutes before classes convene and will remain 30 minutes after classes are dismissed.

PERSONNEL: Grievance procedure ends with superintendent's decision; employees have the right to review personnel file and to answer any material filed subsequent to employment and have such answer affixed to the material; an employee may have any evidence of competence, professionalism, or outstanding performance or service he chooses placed in his personnel folders in the building and at the district offices.

PROFESSIONAL GROWTH

A. Professional Growth

The Board and the Association recognize that continual growth in knowledge of the content and methodology of education is essential for all teachers. To assure good education for students, minimum periodic study expectations are established in terms of professional growth units. One professional growth unit is defined as one semester hour of college or university credit or the equivalent quality and amount of work normally required to receive one semester hour of college credit and receiving the approval of the Professional Growth Committee.

B. Professional Growth Committee

The Professional Growth Committee will be composed of eleven members: the Director of Staff Development of the Shawnee Mission Public Schools, five members to be appointed by the Association, and five members to be appointed by the Superintendent. The Director of Staff Development serves as a permanent member and chairman of the committee.

C. Periodic Study Requirements

1. A teacher who holds a Bachelor's Degree is expected to earn at least six professional growth units within each four-year period.

2. A teacher who holds a Master's Degree is expected to earn at least six professional growth units within each six-year period.

3. Sections (1) and (2) will not apply to teachers past age sixty-five who have been in the service of the District a minimum of ten years.

4. A teacher may postpone periodic study upon presentation and approval of an application for deferment. Such application should be supplemented by a letter from a licensed physician stating that, in the best interest of the teacher's health, the teacher should rest or receive medical treatment during the summer months rather than attend summer school.

5. Credit shall not be given for a Master's Degree unless a minor is in the field of subject assignments.

A probationary period of at least three consecutive years of experience in the district is required of all teachers before they attain permanent status; the board may extend the probationary period up to four or five years if deemed necessary to fully assess performance and improvement; the teacher will be informed in a private conference and in writing of the extension of probation, the reasons for extension, and areas in need of improvement; recommendations for dismissal of a probationary teacher or placement of a teacher on permanent status will be made by March 15 of the fifth year of probation; if a probationary teacher is not continued in employment, the board will advise the teacher of the reasons therefor in writing; any proposed discharge or demotion of a permanent status teacher must be preceded by a warning and a specific statement in writing of the reasons therefor, and the teacher will be given not less than nine weeks to demonstrate improvement if the proposed discharge or demotion is based on incompetency or neglect of duty; the building principal and the appropriate supervisor will design a program of inservice activity to help the teacher bring his performance to such a level of improvement that at the end of nine school weeks continued employment may be possible.

PERSONNEL APPRAISAL

1. In order to insure a high quality of performance on the part of certified employees of Unified School District No. 512, Johnson County, Kansas, a continuous program of teacher and administrator evaluation shall be established in the School District. The purposes of such evaluation program shall be:

(a) To improve the performance of individual staff members and thus the instructional program of the School District.
(b) To assist in the implementation of District and state educational goals.
(c) To assist the employee in developing specific goals for implementing his contractual assignments.
(d) To build community confidence in the quality of the school.
(e) To identify teachers and administrators who may qualify for positions of greater responsibility in the School District.
(f) To provide a basis for administrative recommendation and Board decision as to renewal of contract.

2. The Board of Education adopts the general philosophy that any evaluation system should be based upon the development of specific performance objectives. Such objectives should be jointly developed by the individual employee who is the subject of the evaluation process and by personnel designated by the Board. The Board shall place primary responsibility upon members of the administrative staff in making such evaluations. Once such performance objectives have been identified and agreed upon, the evaluation process should attempt to measure the success of the individual employee in meeting his own performance objectives for the school year.

3. The evaluation procedure shall include self-evalution on the part of the individual employee, classroom and/or other building area visitations by the administrative staff of the School District, and such other evaluative procedures as the Superintendent of Schools may deem appropriate.

All certified employees will be evaluated at least twice a year in the first two consecutive years of employment, once a year during the third and fourth years of employment, and after the fourth year, at least once in every three years; evaluated personnel will have the right to discuss the written appraisal with their evaluator and the right to answer any part of such report; such written answer will be affixed to the report before it is submitted to the personnel office or filed; if an employee is rated as less than satisfactory in any formal evaluation, he and his evaluator will work together to raise the employee's level of performance before the next formal appraisal.

TERMINATION OF CONTRACT

1. A contract may be canceled by mutual agreement or for one or more of the following causes after due process shall have been afforded the teacher:

(a) incompetency;
(b) physical disability or sickness of any type which interferes with the performance of duty;
(c) insubordination, which shall be deemed to mean a willful refusal to obey the school laws of this state, the rulings of the State Board of Education, or reasonable rules and regulations prescribed for the government of the schools of the District by the Board;
(d) neglect of duty;
(e) immorality;
(f) failure to give evidence of professional growth;
(g) unethical conduct as outlined in the Code of Ethics of the Education Profession and as determined by the Professional Rights and Responsibilities Committee of the Association.

2. The District reserves the right to dismiss teachers because of decrease in the number of pupils or for other causes over which it has no control. The selection of teachers for dismissal shall be made in a nonarbitrary manner.

3. Physical and mental examinations may be ordered only when reasonable cause exists for believing that the professional performance of a teacher is being impaired by reason of health. The teacher may appeal such an order through the grievance procedure prior to submitting to a physical or mental examination.

4. The Board may order a physical or mental examination for a permanent status teacher prior to dismissal on the basis of physical or mental disability, the expense to be borne by the District. The teacher may have his own examination, and in the event the medical examinations conflict, a third examination may be ordered at Board expense to be conducted by a mutually-acceptable physician.

If a teacher's written request for assignment to a particular position is not accepted, the teacher will receive an explanation in writing from the principal; when a request for transfer is denied, notification will include an explanation of the reasons for denial; district teachers will be given consideration for vacancies as they occur before new teachers are employed to fill vacant positions; if a teacher objects to an involuntary transfer or to the procedures followed in implementing the transfer, he may appeal through the grievance procedure; in filling summer school openings, preference will be given to applicants from the regularly appointed teaching staff, but this will not preclude the board from employing outside personnel who would benefit the program.

* * *

MONTGOMERY COUNTY
ROCKVILLE, MARYLAND

Between Montgomery County Board of Education and Montgomery County Education Association, effective for the school years 1974-76. Approximately 7,318 certificated professional employees. In October of each year that the Association is recognized, the parties will present all proposals relative to salaries, wages, hours, and other working conditions.

COMPENSATION: (1974) B.A., $8,668 to $11,788, 6 increments; B.A. plus 15 hours, $13,695 maximum; M.A. $9,408 to $17,596, 13 increments; M.A. plus 30 hours, $18,289 maximum.

All personnel on the state nondegree, state bachelor's degree salary schedule, and the Montgomery County Public Schools supplementary salary schedule will be guaranteed a minimum of 7.0 percent over their fiscal year 1974 salary.

The 1974-75 salary schedule will be adjusted beginning July 1, 1975, for 1975-76 as follows:

a. The percent of adjustment will be determined by the year-end averaging of the percent of increase of the Consumer Price Index for the Washington Metropolitan Area ending with the following dates: November 1973; February, 1974; May, 1974; and August, 1974. The amount of money to be added for salary schedule improvement will be determined by applying the resultant percentage to the total cost of FY 1975 professional salaries and wages updated to FY 1976.

Since the Department of Staff Development administers the credit granting authority for salary placement, appeals from this authority should be provided. A special appeals board shall be established composed of two members appointed by the Superintendent from Board staff, other than staff of the Department of Staff Development, and two members appointed by the Association. The appeals board will receive appeals from the credit granting authority and recommend dispositions to the Associate Superintendent for Personnel Services who will make the final decision. Annually, on or before May 1, the appeals board will review the criteria employed in granting of credit and report its findings to the PDEI Committee.

Longevity

All teachers on schedules C and D will be eligible for longevity pay according to the following criteria:
(a) Longevity Payment I — Beginning the tenth* creditable year of employment with the Montgomery County Public Schools, and the nineteenth year of total creditable experience.
(b) Longevity Payment II — Beginning the fifteenth* creditable year of employment with the Montgomery County Public Schools, and the twenty-fourth year of total creditable experience.
(c) Longevity Payment III — Beginning the twentieth* creditable year of employment with the Montgomery County Public Schools, and the Twenty-ninth year of total creditable experience.

*Only creditable years of experience shall be considered toward longevity. Years employed on a second-class certificate shall not be considered creditable years. A longevity increment shall be determined as follows:

Longevity I — 5 percent times the first step of the bachelor's degree salary schedule.
Longevity II — 10 percent times the first step of the bachelor's degree salary schedule.
Longevity III — 15 percent times the first step of the bachelor's degree salary schedule.

DIFFERENTIALS: Classification III—golf, track, soccer, cross country, girls' hockey, girls' basketball, and girls' volleyball coaches, choral and drama directors, yearbook and newspaper sponsors, $400; Classification IV—cross

country, tennis, and swimming coaches, gymnastics director, class advisor, $700; Classification V—choral director, basketball coach, assistant soccer coach, intramural director, debate and forensics sponsors, band, drama, and stage directors, yearbook and newspaper sponsors, $1,000; Classification VI—soccer coach, assistant wrestling, baseball, track, basketball, and football coaches, $1,300; Classification VII—athletic director, baseball, basketball, track, wrestling, football coaches, $1,600.

OTHER: Resource teachers will be paid $1,000 for a department of 4-9 teachers or $1,600 for a department of more than 9 teachers; one-session kindergarten teachers will work four hours and 10 minutes each duty day and will be paid at 60 percent of their appropriate salary placement; 13 cents per mile for authorized use of personal automobile; if gasoline prices increase or decrease from the January 1, 1974, prices, mileage will be adjusted one cent for every 10 cent change; part-time work will be compensated at the hourly rate commensurate with the unit member's experience and training and the member will be eligible on a proportional basis for all the benefits enjoyed by a full-time unit member.

LEAVES: Not negotiated this year; a unit member absent from school as a result of personal injury caused by an accident or an assault occurring in the course of his employment will be paid full salary less the Workmen's Compensation award for the period of such absence; 12-month employees may be granted summer leave without pay for not more than 37 days provided they file a written request for such leave with the associate superintendent for personnel services by April 15.

INSURANCE:

INSURANCE AND ANNUITY

A. As of July 1, 1974, the Board agrees to continue the following plan of shared premium cost for the current health insurance-life-dental insurance program:

Years in Employee Benefit Plan	Board	Unit Member
1-3	55%	45%
4-7	65%	35%
7 and thereafter	75%	25%

B. The Board agrees to continue to carry a comprehensive general liability policy in which employees are named insureds while acting within the scope of their duties with limits of liability at not less than $300,000.

C. Unit members will be eligible to participate in the currently available tax-deferred annuity plans. The forms for the necessary reduction of annual salaries shall be availabe at the central office or MCEA's headquarters.

D. The joint MCEA-MCPS committee for the purpose of reviewing periodically the Employee Benefit Plan shall be continued and shall make recommendations to the parties when warranted. Each party shall appoint three members of the committee.

E. A special committee shall be formed to study the Federal HMO law and report recommendations to the Superintendent by November 15, 1974, with Board of Education acting upon them by January 15, 1975.

The board will reimburse a teacher up to $10,000 for the cost of medical, surgical, or hospital services (less insurance reimbursement) incurred as the result of any injury sustained in the course of employment; the board will reimburse a teacher up to $500 for any clothing or other personal property damaged or destroyed as the result of his enforcement of school regulations.

ASSOCIATION: Payroll deduction of local, state, and national association dues;

Association officers and/or representatives will be permitted to draw on a bank of 250 full paydays for use in external or internal Association business. No less than one-half day may be used at any one time and no unit member may be absent for this purpose more than ten (10) days per year. Such leave will be granted in accordance with the current procedures established by the Superintendent.

The Association president will be granted leave at half salary and related permissible benefits; Association members participating in negotiation meetings between the board and the Association held during the school day will charge leave to the Association's leave bank; a bulletin board for the Association will be provided in each building; the Association has the right to use school buildings and equipment at reasonable times and also the interschool mail service; the board will provide information relating to board agenda prior to each meeting and a copy of board minutes after their approval by the board; the Association will appoint a liaison committee in each building to meet with the principal or appropriate supervisor monthly to discuss matters of common interest and concern; the school board and the superintendent will meet with the Association Board of Directors at agreed-upon times to discuss matters of common concern and interest.

INSTRUCTION: Teachers will be responsible for no more than three preparations a day; teachers in schools organized on a six-period schedule will be assigned no more than five regular classes and one period for preparation; teachers of vocational subjects may be assigned six classes but will not be assigned a home room or other duties; elementary teachers will be granted three hours' planning time per week; the board will make an effort to guarantee that no self-contained elementary class will exceed 35; if a class does exceed 35, every effort will be made to provide an aide for that class; in staffing schools with classroom teachers, however, school administrators should regard ratios ranging from one teacher for each 25 or 28 pupils as the arrangement which will be approximated following assignment of all professional personnel in the school system; teachers' work day will be eight hours; unit members will indicate their presence for work by placing a check mark in the appropriate column of the faculty "sign in" roster; the number of student instructional days will not exceed 185.

EDUCATIONAL SPECIALSTS

A. The Board and the Association recognize the fact that an adequate number of competent specialists is essential to the operation of an effective and productive educational program.

B. Where possible and practical in terms of the budget which is authorized by the County Council, the Board will not reduce the number of specialists employed in the school system and where circumstances permit will strive to increase their number in order to reach the following goals;

1. Elementary Schools
   Reading Specialists — Not less than one for every two schools

Music Teachers—Instrumental	Not less than one for every five schools
Art Teachers	Not less than one for every 540 students
Guidance Counselors and Social Workers	This program to be expanded as budget permits with a continual evaluation to be carried out.
Music Teachers—Vocal	Not less than one for every 540 students
Physical Education Teachers	Not less than one for every 450 students
Librarians	Not less than one per school
2. Secondary Schools	
Guidance Counselors	Not less than one for every 300 students
Librarians	Not less than one for every 500 students
3. Pupil Services Personnel (including pupil personnel workers, school psychologists, students, social workers, community coordinators)	Not less than one for every 2,000 students
4. Speech and/or Hearing Therapists	Not less than one for every 2,000 students

C. Elementary art, vocal music, and physical education teachers shall be assigned to no more than two schools if possible and in no case more than three schools.
D. New secondary schools shall open with an allotment of counselors which is at least that which would be normally assigned under the current staffing standard.

PERSONNEL: Grievance procedure ends with binding arbitration; right to review personnel file and be accompanied by an Association representative; the Professional Development and Educational Improvement Committee, composed of five members appointed by the Association and five appointed by the superintendent, will review and make recommendations on the progress of staff development, preservice teacher education programs in teacher education institutions and preservice teacher education practice and policies in the district, and certification regulations for the state of Maryland; the Committee will also consider and recommend new programs to promote the professional growth and competence of unit members; at least twice a year, one-half day will be utilized for inservice programs to be planned as area-wide workshops; upon written request teachers will be given a copy of any class visit or evaluation report prepared by their supervisor at least one day before a conference is held to discuss it; no report will be submitted to the central office, placed in the teacher's file, or otherwise acted upon before a conference with the teacher; teachers may attach comments to any derogatory material in their file; probationary teachers who receive notice of nonrenewal of a provisional or regular contract may within 10 days of that notice request a hearing by the superintendent; upon request prior to the hearing the teacher will be informed of the reasons for the proposed termination; the teacher will be entitled to be represented by the Association and/or counsel of his choice and will be granted an opportunity to defend himself; the decision of the superintendent will be in writing, stating the reasons for his determination.

PROCEDURES FOR REDUCTION IN PROFESSIONAL STAFF

Definition

A. Reduction of professional staff shall mean that the termination of a unit member(s) will occur because of one or more of the following reasons:

1. Decrease in student enrollment.
2. Change in curriculum.
3. Decline in subject or grade level enrollment.
4. Budget limitations.

B. Procedure

If any reduction in personnel within any given field of instruction, the determination of those who are to be released will be in the following order:

1. Unit members holding Class II certificates.
2. Nontenured unit members holding provisional certificates.
3. Nontenured unit members holding regular certificates.
4. Tenured unit members.

When a reduction in professional staff is necessary, a unit member's length of service in MCPS and quality of job performance will receive equal consideration in determining those individuals who will be terminated. Among additional factors to be considered will be the competency of the teacher as related to the program needs of the school.

C. Recall

1. Any unit member whose service has been terminated because of the elimination of a position or a reduction in professional staff shall for a period of two (2) years receive priority consideration for reemployment if they so desire and if appropriate vacancies develop.
2. In the event that a unit member does not desire at the time of termination to be placed on the list for priority consideration for reemployment, he shall receive full payment for all earned unused leave. For those terminated unit members with tenure, they will receive in addition one month's salary for each year of creditable MCPS service up to a limit of six months' salary.

D. Any action taken under this policy will not be subject to the grievance procedure; however, it shall be subject to the administrative complaint procedure.

Transfers will usually not be approved for personnel who are to be evaluated for tenure, personnel who are requesting transfer out of their field of preparation and certification, and personnel who are listed on mid-year report; if more than one unit member has applied for the same position and both are acceptable to the principal, seniority in the district will be considered; however, the balanced staffing policy of the school system will apply in the consideration of seniority; each faculty unit should be appropriately balanced in terms of sex, race, ethnic background, age, and experience; if a unit member's request for a voluntary transfer is denied, he will upon request be given a written explanation of the reasons from the superintendent or his designee; an involuntary transfer will be made only after a meeting between the unit member and the area assistant superintendent, at which time he will be notified of the reason for the transfer; involuntary transfers are not subject to the grievance procedure, but they will be subject to the administrative complaint procedure; normally no unit member will be subject to an involuntary transfer more than

twice within any five-year period; in filling vacancies for promotional positions, consideration will be given to the currently employed unit member's length of service in the school system, areas of competence, major and/or minor fields of study, quality of performance, and attendance record; positions in evening school and positions under federal and other special programs will be filled first by regularly appointed teachers in the district; in filling new openings for 12-month employment, consideration will be given first to the currently employed unit member's areas of competence, major and minor fields of study, quality of teaching performance, attendance record, and length of service in the district; any suspension of a teacher will be with pay; a teacher is entitled to be accompained by an Association representative when being formally disciplined by any member of the administration.

* * *

QUINCY COMMUNITY SCHOOLS
QUINCY, MICHIGAN

Between Quincy Community School District and Quincy Education Association, effective July 1, 1972, to June 30, 1975. Approximately 69 certificated professional employees including full-time certificated teachers on tenure or probation, guidance counselors, and librarians, and excluding administrators, substitute department heads, supervisors, evening and summer school teachers, office, clerical, maintenance, operating, cafeteria, and transportation employees.

COMPENSATION: (1974-75) B.A., $8,200 to $12,050, 11 increments; B.A., plus 20 hours, $12,550 maximum; M.A., $8,500 to $13,250, 11 increments; M.A., plus 20 hours, $13,650 maximum. (Experience/education crediting) Full credit up to 5 years for teaching experience in any school district.

DIFFERENTIALS: (Three steps) Football and basketball, $800, $900, $1,000; wrestling, $650, $750, $850; track and baseball, $550, $650, $750; cross-country, girls' basketball and golf, $250, $350, $450; all assistant coaches, $500, $550, $600; school paper $150; bowling $200; yearbook $300; special education teachers receive $150 additional.

OTHER: Substitute teachers, any teacher who teaches more than the normal teaching load will receive additional compensation at the rate of $6 for each teaching period in excess of normal load.

LEAVES: Probationary employees will receive 10 days' sick leave per year and tenure teachers will receive 15 days' sick leave per year, cumulative to 110 days; any teacher absent because of injury or illness compensable under the Michigan Workmen's Compensation Act will receive the difference between the allowance under the Act and his regular salary until the accumulated sick leave equivalent is exhausted; in the event of critical illness in the immediate family, the teacher may be granted up to 30 percent of the accumulated sick leave; professional conference days may be granted for any education purpose at the discretion of the principal, up to two days per year will be allowed each teacher for professional and family obligations, including funerals; up to five days may be deducted from sick leave for death in the immediate family; a teacher required to serve on a jury will be granted leave and paid the difference between his pay for such jury service and his salary; a leave of absence without pay for up to two years will be granted to any tenure teacher upon application, for the purpose of participating in exchange teaching programs, Peace Corps, Teacher Corps, or Job Corps, or cultural travel; upon return from such leave the teacher will be placed at the same position on the salary schedule as he would have attained had he not been on such leave; a leave of absence without pay for up to two years may be granted for the purpose of engaging in study at an accredited college or university; a leave of absence not to exceed four years will be granted to any tenure teacher for the purpose of campaigning for, or serving in, a public office.

INSURANCE: Board pays full cost of Blue Cross-Blue Shield health protection for a 12-month period for each member of the bargaining unit and eligible dependents.

ASSOCIATION: Payroll deduction of local, state, and national association dues; all teachers will as a condition of employment, pay as a fee to the Association an amount equal to membership dues payable to the Association, the National Education Association, and the Michigan Education Association; a leave of absence without pay for up to two years may be granted to any tenure teacher upon application, for the purpose of serving as an officer of the Association or on its staff; Association has the right to use school building and equipment including typewriters, mimeographing machines, other duplicating equipment, calculating machines, and all types of audiovisual equipment; at least one bulletin board will be provided for Association use in each building; the board will provide information relating to financial resources of the district, including annual financial resources and audits, register of certificated personnel, county allocation, board budgets, agendas and minutes of all board meetings, monthly financial statements, membership data, names and addresses of all teachers, salaries paid, and information which may be necessary for the Association to process any grievance or complaint.

INSTRUCTION: Normal weekly teaching load in junior and senior high schools will be 25 teaching periods or not more than five per day; a supervised study period will be considered a teaching period; the normal teaching load in elementary schools will not exceed five hours of classroom teaching per day; elementary teachers are entitled to a duty-free uninterrupted lunch period; elementary teachers may use for preparation time all time during which their classes are receiving instruction from teaching specialists.

The pupil-teacher ratio is an important aspect of an effective educational program. The parties agree that class size should be lowered wherever possible to meet the following standards:

	Optimum	Maximum
1. Elementary	24	30
2. Middle School	24	30
3. Secondary	24	30
Physical Education	30	45

Where maximum standards within a particular building and grade level must exceed maximum, excess students will be equally distributed among the teachers assigned to that grade level or course.

Teachers are required to report to work 30 minutes before the opening of the pupils' regular school day and are to remain at work 15 minutes after the close of the pupils' regular school day.

PERSONNEL: Grievance procedure ends with binding arbitration; principals have the right to call one faculty meeting per week on a designated day up to 4:30 p.m.; two regular scheduled parent-teacher conferences per year for all grades K through 12; probationary teachers will be evaluated at least once a semester and tenure teachers once a year; each observation for evaluation purposes will be for a minimum of 30 minutes; a copy of the written evaluation will be submitted to the teacher at the time of personal interviews or within 10 days thereafter; if the teacher believes his evaluation was incomplete or unjust, he may put his objections in writing and have them attached to the evaluation report to be placed in his personnel file.

A "Teaching Coach" may be assigned to every probationary teacher upon entrance of the teacher into the system. The "Teaching Coach" insofar as possible, shall be a tenure teacher with a minimum of five (5) years teaching experience and shall be engaged in teaching within the same grade, building or discipline as the probationary teacher. It shall be the duty of the teaching coach to assist and council the probationary teacher in acclimating to the teaching profession and the school system. The teaching coach shall not be involved in the evaluation of the probationary teacher.

If the board deems it necessary to reduce the teaching staff, it will make the reductions in accordance with the best interests of the district with consideration being given to the educational growth of the children, and the qualifications, tenure, and competence of the teachers involved; the board supports a policy of filling vacancies from within its own teaching staff; an involuntary transfer will be made only in *case* of emergency or to prevent undue disruption of the instructional program; if the teacher objects to such transfer, the dispute may be resolved through the professional grievance procedure; a teacher will at all times be entitled to have *present* a representative of the Association when he is being reprimanded, warned, or disciplined for any infraction of rules; any discipline or reprimand asserted by the board or its representative will be subject to the professional grievance procedure.

* * *

UNEMPLOYMENT COMPENSATION COVERAGE FOR TEACHERS

Recent NEA testimony before the House Ways and Means Committee on mandatory inclusion of teachers under the federal unemployment compensation statute[1] dramatically pointed out the recent high unemployment statistics in a profession which heretofore had been considered relatively immune from such economic displacements.

Teachers suffer layoffs and reductions in force owing to decreased enrollments, tight public money, and inflation. The first to feel the fiscal pinch were university professors and hospital workers. Both groups in 1970 were brought under the umbrella of federal-state unemployment statutes. Yet most teachers in public elementary and secondary schools remain without protection against sudden, unanticipated cutoff of earning power.

Status of Unemployment Compensation for Teachers

Present federal law provides that a state must meet or exceed the established minimum requirements in order to participate in the joint federal-state system. The law permits states to elect mandatory or permissive/elective coverage of nonfederal public employees, but efforts to secure such coverage on a state level have reached fruition in only eight states. Most states allow elective coverage of employees by the employer jurisdiction.

Most teachers are employed by local school jurisdictions, though some teachers, as in Alaska and Hawaii, are state employees. Virtually all local governmental units refuse to cover teachers unless coverage has been specifically negotiated by the local association or mandated by state law. A few locals have secured such protection through collective bargaining; however, currently only eight states and the District of Columbia provide mandatory unemployment compensation coverage for teachers. Those eight states are Hawaii, Kansas, Connecticut, Ohio, Oregon, Minnesota, New Jersey, and Washington. Michigan will soon extend such coverage as of January 1, 1975. These teachers who enjoy such protection number 356,926 or 15.7 percent of a total teacher working force of 2,124,150[2].

Extent of Teacher Unemployment

Unemployment resulting from separations from the teaching profession either through reduction in force or dismissal struck more than 11,728 teachers in 1972-73 and more than 15,047 in 1973-74, nearly 1 percent of the teaching force (Table 1). The U.S. Office of Education predicts that within the next five years reductions in total teaching positions throughout the United States will number in excess of 80,000. As shown in Table 1, the figures for total separations are not comprehensive and comprise only those states responding to an NEA Research survey. Some states have no available statistics on teacher unemployment; some states compile statistics on unemployed teachers but do not categorize by reason for separation. The latter could not be tabulated in the survey and coupled with the lack of statistics from those states that do not collect such data results in a low "separation" total.

1970 Extension of Unemployment Compensation Coverage

Faced with the possibility of high, short-term unemployment among university faculty and public hospital staff, the Congress in 1970 extended mandatory coverage to these employees. A system was created which permitted public employers to participate in the unemployment fund on the same basis as private employers, or to elect a fixed contributory system of reimbursement based on incidence of claims to the service of the particular employer. Of 28 states that provide only elective coverage for local employees, 11 mandate protection for state employees. Six states that provide mandatory coverage for state employees grant no provision for protection of local governmental employees even on an elective basis. In several states, local school boards have elected coverage for noncertificated personnel while refusing to extend coverage to teachers.

Pending Legislation

Pending legislation[3] before the Congress seeks to cover under the existing Act (FUTA) those teachers who will be subjected to a reduction in force, lay-off owing to a budget reduction, or dismissal. The period between the ending and the beginning of school would not be compensable as the summer holidays are considered to be compensated for during the school year. On the face, it is inequitable that private sector employees, such as construction workers earning an average of $8.55 per hour plus fringe benefits and having potential yearly earnings in excess of $16,000 (based on a 37-hour week, 52-week work year) excluding overtime pay, as compared with an annual average teachers salary of $10,675[4], can claim unemployment compensation for non-working winter months while teachers separated from their employment are forced to seek any type of employment, change careers, or remain unemployed until fall hiring opens.

Though the legislative route is by far the best long-term guarantee, other unions, notably the United Auto Workers and the Seafarers International (longshoremen) have been striving to negotiate a guaranteed income provision for their members during slack or nonproduction seasons. This concept of guaranteed income is a formal negotiable extension

of unemployment compensation. Regardless, be a person a teacher or construction worker, both are entitled to the same form of income protection during periods of unemployment.

Unemployment Insurance Described

Unemployment insurance is a federal-state system that provides temporary subsistence to workers during periods of unemployment. It provides financial assistance on the assumption that the individual is actively seeking work. The benefit payments do not replace earnings, but they do help the individual to maintain some purchasing power during unemployment.

The unemployment compensation,[5] an outgrowth of federal and state legislation covering approximately 86 percent of all nonfarm workers, was established in 1935 by the Social Security Act and subsequent amendments and legislation on federal and state levels. It requires that states meet certain minimum federal standards. Compliance allows private employers to credit against their federal tax the amounts they pay to the state for benefits to the unemployed. The state is also entitled to federal grants to cover all the necessary costs of administering the program. The primary purpose of the grants is to insure the use of state unemployment funds only to pay unemployment benefits. Other purposes are to safeguard the investment of the fund, to guarantee an opportunity for fair hearing to all individuals whose claims are denied, and to limit grant expenditures to amounts and purposes required for proper and efficient administration of the state law.

A federal tax of 3.28 percent on the first $4,200 of each worker's wages is charged to employers to self-underwrite the unemployment insurance program. Most employers and all public employers may offset 90 percent of the federal tax by taxes and experience rating credit under state law. The remainder of the tax, 0.58 percent of taxable wages (net payable) is paid to the federal government. Revenues from this tax are used to pay administrative expenses of federal and state agencies and the federal share of the extended unemployment benefits program.

Each state levies a tax on employers, and three states—Alabama, Alaska, and New Jersey—collect contributions from employees[6] which are deposited to the state account in an unemployment trust fund in the federal treasury. These funds are withdrawn as needed.

Owing to the overriding presence of federal law and guidelines, in the majority of the states, operations, benefits to claimants, and rates of contributions from employees are standardized. The prevailing rate of contributions in all but seven states is 2.8 percent; in Hawaii, Ohio, and Nevada, 3.0 percent; in Montana, 3.1; and in North Dakota, 4.2 percent. Rates of contributions are tied to the unemployment experience of an employer. In Nevada, an unrated employer is assigned a 3.0 percent rate. In Idaho a rate of 2.7 percent of total payroll is assessed if the ratio of the unemployment fund to the total payroll is 4.25 percent or more; however, if the ratio falls below this point, the rate is adjusted to 2.9 percent and as it slides lower, it is adjusted upward to 3.1 or 3.3 percent. The varying rates in the example states above are contrary to norm, though it is important to note that a particular state and a particular employer within a state usually has a variable rate, up or down from the standard as determined by his incidence of unemployment experience.

Federal law also gives employers additional credit, the difference between the actual state rate paid by the employer and the lower of the state's highest rate or 2.7 percent, for a lowered rate of contribution if the employer's rate is based on three or more years of unemployment experience. Individual states may grant a reduced rate of not less than 1 percent to employers who have not had three years of experience and contributions into the system.

State laws usually mandate certain qualification requirements for an employer to be included in the unemployment insurance system. They include "(1) the coverage provisions of the state law [at any time vs. 20 weeks]; (2) in states using benefits or benefit derivatives in the experience-rating formulas, the type of basic period and benefit year and the lag between these two periods, which determine how soon a employer may be charged for benefits; (3) the type of formula used for rate determinations; (4) the length of the period between the date as of which rate computations are made the effective date for rates."[6]

The taxable wage base of most states is that provided in the Federal Unemployment Tax Act, wherein an employer pays a tax on wages paid to each worker within a calendar year up to the amount specified in state law. Most states have an adjustment mechanism that ties the state wage base to the federal in the event the federal standard is amended. The average tax rate for Virginia, for example, was 0.41 percent in 1972 on a taxable wage base of $4,200, and 0.23 percent of total wages. The average tax rate for all states is 1.70 percent of taxable wages with some states (e.g., Massachusetts) as high as 3.24 percent. The variance in tax rates on taxable wages is due to the variables in each state's taxable wage base and rates, benefit system, and economic conditions.

Nonprofit and Public Employee Financing Provisions

Federal law requiring each state to extend unemployment benefits to workers of nonprofit organizations employing four or more persons with 20 or more weeks of employment and in state hospitals and institutions of higher education provides a different method of financing benefits paid to employees. These institutions may elect to make payments in lieu of contributions. Prior to this amendment of federal law in 1970, these institutions were prohibited from financing their employees' benefits on a reimbursable basis owing to the experience rating standards established by federal law. State laws permit two or more employers participating on a reimbursable basis to jointly apply to the state agency for the establishment of a separate group account to pay the benefit costs charged to service in their employ. For purposes of benefit reimbursement and cost allocation, this group is considered a single employer.

Nonprofit organizations are required by federal law to pay into the state fund amounts equal to the benefit costs, including that half of extended benefits not paid by the federal government. (No state permits noncharging of bene-

TABLE 1.—NUMBER OF TEACHERS SEPARATED FROM SERVICE, BY STATE, 1972-73 AND 1973-74

State	1972-73			1973-74		
	By reduction in force	For cause[a]	Total	By reduction in force	For cause	Total
1	2	3	4	5	6	7
Alabama	No reply					
Alaska	50	3	53	30	2	32
Arizona	NA	0	NA	600	0	600
Arkansas	No reply					
California	3,100	0	3,100	3,300	0	3,300
Colorado	60	16	76	110	25	135
Connecticut	No reply					
Delaware	25	1	26	25	2	27
D.C.	No reply					
Florida	NA	NA	NA	NA	NA	NA
Georgia	0	0	0	NA	0	NA
Hawaii	678	3	681	695	6	701
Idaho	1	7	8	3	4	7
Illinois	NA	NA	NA	477	100	577
Indiana	58	209	267	276	177	453
Iowa	NA	NA	NA	NA	NA	NA
Kansas	NA	NA	NA	NA	NA	NA
Kentucky	1,045	127	1,172	910	137	1,047
Louisiana	No reply					
Maine	150	10	160	200	10	210
Maryland	NA	NA	NA	NA	NA	NA
Massachusetts	10	6	16	65	7	72
Michigan	900	500	1,400	900	500	1,400
Minnesota	400	75	475	850	90	940
Mississippi	No reply					
Missouri	300	500	800	400	600	1,000
Montana	NA	NA	NA	NA	NA	NA
Nebraska	NA	NA	NA	10	25	35
Nevada	0	0	0	0	1	1
New Hampshire	No reply					
New Jersey	340	258	598	217	339	556
New Mexico	0	0	0	0	0	0
New York	234[b]	46[b]	280[b]	NA	NA	NA
North Carolina	No reply					
North Dakota	68	62	130	106	60	166
Ohio	476	243	719	772	253	1,025
Oklahoma	No reply					
Oregon	20	218	238	NA	NA	NA
Pennsylvania	34	144	178	76	2,298	2,374
Rhode Island	No reply					
South Carolina	No reply					
South Dakota	NA	28	28	6	23	29
Tennessee	400	225	625	NA	NA	NA
Texas	NA	NA	NA	NA	NA	NA
Utah	3	5	8	0	4	4
Vermont	NA	23	23	NA	15	15
Virginia	NA	NA	NA	NA	NA	NA
Washington	270	25	295	35	27	62
West Virginia	NA	NA	NA	NA	NA	NA
Wisconsin	105	240	345	80	190	270
Wyoming	20	7	27	None or few	9	9
Total	8,747	2,981	11,728	10,143	4,904	15,047

[a]For all causes other than reduction, death, retirement, and resignation.
[b]Does not include New York City.

fits to reimbursing employers.) Under such a reimbursement system, a contributing employer is not indebted to the unemployment fund nor is it required to maintain a minimum contribution rate or a solvency account. Rather, each participating employer in the special fund is liable only for benefit costs paid to its own employees and is not liable at all for the cost of any other benefits. As such, the liability to share group costs vs. group risks is absent.

Usually, the employer electing to participate on a reimbursement basis is billed at the end of each calendar quarter or period, as determined by the administering agency, for the full amount of regular benefits plus half of the extended benefits paid during that period of service attributable to his employ. Alternatively, a nonprofit employer may be assessed a flat rate at the end of each calendar quarter or other period specified by the agency. This assessment is determined on the basis of a percentage of total payroll in the preceding calendar quarter rather than being actual benefit costs incurred by the organization. However, to prevent excesses or insufficient payments into the fund, modifications of the percentages are made by the state agency on an annual basis, at which time an accounting to collect or dispose of overpayments is also made. The latter percentage plan is preferred as it is less burdensome than quarterly reimbursement method and spreads costs more nearly uniformly throughout the calendar year. Nearly half the states permit nonprofit organizations and/or public employer jurisdictions the option of choosing either plan.

In 23 states, benefits paid to state and local government employees are financed through either the reimbursement method or paid contributions as for other employers. In 27 states, no election is permitted and the state or local jurisdiction must reimburse the fund for benefits paid to employees. (Table 2)

There are variations among states. For example, Alabama requires both the state and its political subdivisions to pay an estimated amount each quarter, with end-of-year adjustments if necessary. New Mexico and Utah have no provision specifying means of financing benefits, thus allowing the particular employer jurisdiction to choose the most convenient method of payment. Illinois, Nevada, and New York do not mandate reimbursement and they provide an option to join the unemployment insurance pool with other employers.

Limitations of Coverage

Although adoption of unemployment insurance laws by states has been influenced by federal statute, coverage is limited by exclusion of certain types of employment. While states are free to determine the employers liable for contributions and though most states can extend coverage to excluded workers under voluntary election of coverage provisions, there is no compelling reason to cover public-school teachers as a group, as failure to do so is of no advantage to the state employer.

Numerous reasons are offered by public employers as to why their employees should not be extended unemployment compensation coverage. The financial factor is perhaps the least significant as the preceding discussion has illustrated the relatively low cost of the program. Such a program is based on a "shared-risk" concept among employers if participation is on a contributory basis, or full reimbursement depending upon incidence of claims to the service of that public employer. True, the public employer does not receive the tax write-off benefits that a private sector employer receives, but neither does a public employer pay into the fund as much as a private sector employer. Also, a stringent checking-screening system of claimants and the right of challenge to a claim by the employer or employee thwarts spurious claims.

From a funding standpoint, monies for a fully employer-paid program would come either from general funds earmarked for compensation and benefits, or from funds specially appropriated for this specific program. However, as the program is applied to higher education facilities and public hospitals, the employer may choose to enroll in a plan based on the reimbursement method which is advantageous to the public employer with little or no incidence of unemployment charged to service in his employ.

Severance Pay as Unemployment Compensation

A standard provision in private sector labor contracts which guarantees some form, though limited, of income protection upon separation from an employer's service for any reason other than death or retirement, is severance pay. This type of provision is noticeably absent from teacher contracts. Less than 1 percent of the agreements analyzed by NEA Research contained a true severance pay provision which measured up to those in the private sector. All incorporated length of service and unused sick leave as factors in determining the amount of compensation. Limited income protection can be provided teachers who are faced with dismissal or a reduction in force if a severance pay provision is incorporated into the agreement. The combination of a reduction-in-force provision and a strict seniority provision provides for the orderly and equitable separation of employees. A severance pay provision and/or provision of unemployment compensation would make the public employer reassess his educational priorities and engage in lay-offs or dismissals only if such measures were absolutely necessary, and then in such a manner as would provide minimal hardship to unemployed teachers.

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[1] Federal Unemployment Tax Act, Chapter 23 of Internal Revenue Code of 1954.

[2] National Education Association, Research. *Estimates of School Statistics, 1973-74.* Research Report 1973-R8. Washington, D.C.: the Association, 1974. p. 29. (Revised figure)

[3] H. R. 14952 introduced by Representative Joseph Morazitti (R-N.J.).

[4] National Education Association, Research, *op. cit.*, p. 31.

[5] This discussion of the federal-state unemployment compensation system was derived from *Comparison of State Unemployment Insurance Laws,* U.S. Department of Labor, Manpower Administration, Revised January 1, 1974.

[6] *Comparison of State Unemployment Insurance Laws,* U.S. Department of Labor, Manpower Administration, Revised January 1, 1974.

TABLE 2.—COVERAGE OF SERVICE FOR STATE AND LOCAL GOVERNMENTS[a]

State	Mandatory		Elective		Benefits financed by—		Financing benefits for state hospitals and colleges[b]	
	State	Local	State	Local	Contributions	Reimbursement	Choice	Mandatory reimbursement
1	2	3	4	5	6	7	8	9
Alabama	...	b	...	...	...	X	...	X[g]
Alaska	...	...	X	X	c	c	X	...
Arizona	...	...	X	X	c	c	X	...
Arkansas	X	...	...	...	c	c	X	...
California	b	b	X	X	c	c	X	...
Colorado	...	...	...	...	...	...	X	...
Connecticut	X	X	...	...	c	c	...	X
Delaware	X	...	...	X	...	X	X	...
District of Columbia	...	...	X	...	...	X	...	X
Florida	X	...	...	X	X	...	...	X
Georgia	...	...	...	...	...	...	X	...
Hawaii	X	X	...	...	...	X	...	X
Idaho	X	b	...	...	...	X	...	X
Illinois	X	...	...	...	...	X	...	X[g]
Indiana	...	b	...	...	X	...	X	...
Iowa	X	...	...	...	...	X	X	...
Kansas	...	X	...	X	...	X	...	X
Kentucky	...	...	X	X	X	...	X	...
Louisiana	X	...	...	X	c	c	X	...
Maine	...	...	...	...	...	...	...	X
Maryland	b	...	X	X	X	...	...	X
Massachusetts	...	...	c	...	...	X	...	X
Michigan	X	...	...	X	...	X	...	X
Minnesota	X	X	...	...	...	X	...	X
Mississippi	...	...	...	...	...	...	X	...
Missouri[d]	...	...	X[f]	X[f]	X	...	X	...
Montana	X[l]	...	...	...	...	X[j]	...	X
Nebraska	X[k]	...	...	X	...	X	...	X
Nevada	...	...	X	X	X	...	...	X
New Hampshire	X	...	...	X	...	X	...	X[i]
New Jersey	b	X	...	...	X	...	...	X
New Mexico	...	...	...	...	...	...		No provision
New York	X	b	...	X	c	c	X	...
North Carolina	...	...	...	...	...	...	X	...
North Dakota	...	...	X	...	...	X	X	...
Ohio	X	X	...	...	...	X	...	X
Oklahoma	X	...	...	...	...	X	...	X
Oregon	X	X	...	...	c	c	...	X
Pennsylvania	X	...	...	e	X	...	...	X
Puerto Rico	b	b	...	...	X	...	X[g]	...
Rhode Island	X	...	...	X	...	X	...	X
South Carolina	...	...	...	...	...	...	X	...
South Dakota	X	...	...	X	...	X[c]	...	X
Tennessee	...	...	X	X	X	...	X	...
Texas	X	...	...	X	...	X	...	X
Utah	X	...	...	X	...	X		No provision
Vermont	...	...	...	X	...	X	X	...

TABLE 2.–COVERAGE OF SERVICE FOR STATE AND LOCAL GOVERNMENTS[a] (Continued)

State	Mandatory		Elective		Benefits financed by–		Financing benefits for state hospitals and colleges[b]	
	State	Local	State	Local	Contributions	Reimbursement	Choice	Mandatory reimbursement
1	2	3	4	5	6	7	8	9
Virginia	...	...	...	...	...	...	...	X
Washington	X	b	...	X	c	c	...	X
West Virginia	...	...	...	...	...	...	X	...
Wisconsin	X	b	...	X	...	X	...	X
Wyoming	...	...	X[f]	X[f]	X	...	X	...

SOURCE: *Comparison of State Unemployment Insurance Laws*, U.S. Department of Labor, Manpower Administration, Revised January 1, 1974.

[a]Including instrumentalities thereof. All states are required by federal law to cover employees of state hospitals and institutions of higher education and to provide each subdivision with the right to elect coverage for employees of local hospitals and institutions of higher education.

[b]Limited to service for Walker County and its agencies or instrumentalities; this provision has not been implemented, *Alabama*. Limited to service for public housing authorities and to services performed for the state by blind and physically handicapped workers in non-civil-service positions; mandatory coverage applicable only to employees with civil service status who receive notice of layoff on or after March 1, 1971, due to reduction in the budget, reduction in staff due to economy or from organizational changes or a reduced workload, *California;* irrigation and soil conservation districts, *Idaho;* municipally-owned public utilities, *Indiana;* services for the Maryland Workshop for the Blind, *Maryland;* services for South Jersey Port Commission, *New Jersey;* custodial service for boards of education of cities of 400,000 or more, *New York;* agencies or instrumentalities of P.R. or of its municipalities, operating as private enterprises, P.R.; public utility districts and public power authorities, *Washington;* and first class cities, *Wisconsin*.

[c]State and local have choice of financing, *Arizona;* state has choice of financing, *Arkansas;* contributions for state, reimbursement for local, *California;* reimbursement for state and either contributions or reimbursement for local, *Connecticut, New York, Oregon;* either contributions or reimbursement for State, reimbursement for local, *Louisiana*. Initial deposit required of 2.7% of the political subdivision's taxable wages during the 4 quarters preceding the effective date of election, *South Dakota*. Contributions required from the Toll Bridge Authority, public utility and port districts and public power authorties; the State and all other political subdivisions electing coverage make payments in lieu of contributions, *Washington*.

[d]No election reported.

[e]Elective coverage limited to service for instrumentalities specifically authorized by legislation, *Massachusetts;* and municipal authorities, school cafeterias, and volunteer fire companies, *Pennsylvania*.

[f]By interpretation.

[g]State and local governments must pay an estimated amount each quarter and at the end of the year either pay a balancing amount or receive a refund, *Alabama;* local governments may make payments in lieu of contributions on the same basis and in the same manner as amounts determined for ERs who are liable for payment of contributions, or they may elect reimbursement in the same manner as nonprofit organizations, *Illinois;* both the state and its political subdivisions are permitted a choice of financing benefits by either contributions or reimbursement, *Puerto Rico*.

[h]Political subdivisions covering their employees of hospitals and institutions of higher education, must reimburse the fund for benefits paid in all states except, *Alabama, Illinois,* and *Puerto Rico,* as indicated in footnote g above and in *Connecticut* as indicated in footnote c.

[i]Prior to January 1, 1975, choice of financing is available, *New Hampshire*.

[j]Regulation provides for quarterly prepayment of a rate based on gross payroll.

[k]Beginning January 1, 1974, state departments, commissions and boards are required to elect coverage for not less than 2 CYs, *Nebraska*.

[l]Effective January 1, 1975, *Montana*.

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NEGOTIATION RESEARCH DIGEST

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CASE REVIEWS

ILLINOIS

Arbitrability of Contract Disputes To Be Resolved by Parties and Arbitrator

The Illinois Appellate Court ruled that a decision on the arbitrability of a contract dispute should be left to the parties and the arbitrator. This ruling was handed down as the court affirmed in part and reversed in part a lower court decision regarding two grievances filed by teachers in the South Stickney School District.

In one of the grievances, the teacher protested a transfer to another school and charged a violation of seniority rights. The other grievance alleged that the school board improperly required teachers to list students' names on attendance sheets. In both cases, the trial court ruled the issues inarbitrable. The appellate court concurred with the trial court, upholding its decision in the first grievance, but reversed the second, ruling in favor of the teacher.

The appellate court decision in the two grievances was based on the finding that the parties' contract stipulated that grievances resulting from an alleged violation of the agreement or unfair treatment of a teacher might be submitted to arbitration. On involuntary transfers, the contract stipulated that the administration was to use the teacher's qualifications, length of service, and personal preference as criteria to decide who shall be transferred.

In the grievance regarding the transfer, the teacher contended that a first-year teacher should have been transferred. The school board, contending that the issue was vested within its discretion and could not be decided by an arbitrator, moved to have the arbitration stayed. Citing *Board of Education v. Rockford Education Association*, which dealt with a grievance charging that a teacher was improperly denied a promotion, the lower court held that the grievance and the arbitration demand infringed on the board's discretion and therefore ruled the matter inarbitrable.

The trial court also held for the board in the matter regarding the teacher's complaint of being required to perform clerical duties in contradiction to the parties' agreement. The board contended that this grievance was also inarbitrable since the assignment was within its discretionary powers.

The appellate court interpreted the decision in *Board of Education v. Rockford* to mean that while particular decisional matters might be contained in a collective bargaining agreement, they could not be delegated. Citing *Board of Education, Community Unit School District No. 4 v. Champaign Education Association*, the court agreed that arbitration of minor disputes under a contract "does not constitute delegation by the board," and found that such disputes should go to arbitration when parties reach impasse.

The appellate court found that since some matters are reserved to the board under the state School Code, only items of bargaining agreements not in conflict with the Code are arbitrable. Accordingly, the court held that the decision of whether a dispute is arbitrable should be left to the parties and the arbitrators. Further, the court found nothing which would preclude the use of the state arbitration act to govern the resolution of minor disputes.

Concluding, the appellate court ruled that in the case of the transfer the decision should be made by the school board since an arbitrator's decision would result in the arbitrator determining teacher qualifications. However, the court ruled that the dispute over the board's requiring teachers to fill in student's names on attendance sheets might be submitted to arbitration since it fell under minor matters. (*Board of Education, South Stickney School District 111, Cook County, Illinois v. Karlene Johnson, etc., and AFT Local 943*, Illinois Appellate Court, First District, April 11, 1974.)

NEW HAMPSHIRE

Names and Addresses of Substitutes Employed as Strikebreakers Released Under "Right to Know" Law

After reviewing a case involving the Timberlane Regional Educational Association and the Timberlane Regional School District, the New Hampshire Supreme Court upheld a local trial court interpretation of the state "right to know" law (RSA Ch. 91-A) as requiring the district to furnish names and addresses of substitute teachers employed during a strike.

The Association had contended that it needed the information to check the credentials of the substitutes to determine whether there were violations of statutes relating to professional strikebreakers, and to be able to contact the substitutes.

In the hearing before the supreme court, the district contended that the trial court order to furnish the informa-

tion should be set aside on the grounds that the court ignored the question of hardship to the district resulting from the order, but the supreme court upheld the trial court decision.

In a dissenting opinion, it was held that the "right to know" law exempted information which constituted an invasion of privacy, and that addresses should be considered as exempted, particularly where there was insufficient reason for disclosure. (*Timberlane Regional Education Association v. Robert V. Compton*, New Hampshire Supreme Court, May 17, 1974.)

NEW JERSEY

Easter Vacation Cutback Overruled

Because the minimum 180-day school year had been waived, a New Jersey school board could not shorten a contractual vacation to make up for days lost owing to a fuel conservation close-down. The State Superior Court decision favored the Englewood Teachers Association suit against the Englewood Board of Education which had ordered teachers to work during their Easter vacation.

The school board argued that the three school days lost because the state board had ordered the Christmas vacation to be extended had to be made up to fulfill minimum school year requirements and qualify for state equalization monies.

The Association sought compliance with a negotiated provision stipulating a one-week spring vacation. Legislation had waived the minimum school year, the Association pointed out, and the three-day shut down to conserve fuel was to be considered actual school time for funding under the special law.

The court ruled that the special state legislation preempted the school board order for a three-day make-up period during the scheduled spring vacation and that the order violated the teachers' contracted vacation leave provision. (*Englewood Teachers Association v. Englewood Public Schools*, New Jersey Superior Court, April 1974.)

NEW YORK

Breach of Contract Suit Requires Additional Evidence

The New York Supreme Court determined that additional oral evidence was necessary for it to decide whether a school board was bound by the terms of a preamble to a negotiated agreement.

When the school board allegedly abandoned a "More Effective Schools Program" described within the preamble to the parties' agreement, the teachers union brought the suit charging breach of contract. The union sought to compel the board to continue the agreement as expressed in the preamble, contending that it gave up part of its salary package in exchange for the Program as part of the strike settlement.

The school board claimed that the preamble was a statement of policy, not a contractual obligation, and that it did not have the authority to enter into a contract regarding matters at issue under state statutes and the federal Constitution.

Holding that while proof of the physical unity of the documents had been shown, the court found that oral testimony was necessary to establish the acquiescence of the parties to be charged. Further, the court held that as a prelude to the agreement, the preamble might give reason for the agreement but might not be binding.

The court denied the board's motion for dismissal and the union's cross motion for summary judgment since no answer had been served in the case and a trial was required to establish whether the documents were separate or to be construed together, as well as to determine the intent of the parties. (*Shanker, Plaintiff v. Monserrat, Defendant*, New York Supreme Court, January 18, 1974.)

Impact of Class Size Negotiable

The New York Court of Appeals sustained a Public Employee Relations Board decision that class size was a matter of educational policy and clearly non-negotiable, but that the impact of class size was negotiable.

PERB held that the dispute rested on whether the Education Law limited the negotiability of terms and conditions of employment, or whether the Taylor Law circumvented the school board's power so that negotiation would be possible without regard to the Education Law.

The West Irondequoit Teachers Association argued that class size was a condition of employment, qualifying it as a mandatory bargaining topic under the Taylor Law. The Association further contended that, contrary to Civil Service Law, the board had failed to bargain in good faith, since in May 1970, specific proposals on class size had been discussed during negotiations, wherein the board recognized that excessive class size was detrimental to the mental health of teachers.

The board contended that no definite agreement on class size had been reached, but that it had proposed in writing a recommendation that the relationship among class size, learning, and teaching load be subject to continued examination by both parties while at the same time stressing the desirability of maintaining flexibility in regard to class size for purposes of curricular diversification.

While PERB recognized that the impact of class size on teacher load was negotiable, it stated that the fixing of class size was exclusively a matter of educational policy.

Upholding the distinction between the original specification of class size and the resultant impact on working conditions and holding that the courts do not have the authority to substitute their interpretation on the strength of what the NLRB or the federal courts might do in a similar situa-

tion, the Appelate Court ruled that the PERB decision was basically sound and affirmed it. (*West Irondequoit Teachers Association v. Robert D. Helsby, et al., Constituting the Public Employment Relations Board, et al.*, New York Court of Appeals, July 11, 1974.)

NEVADA

Agency Shops Declared Non-Negotiable Under "Right to Work" Law

After reviewing a case involving Independent Guards Association, Local No. 1, and Wackenhut Services, the Nevada Supreme Court upheld a trial court decision that declared an agency shop agreement in violation of the state "right to work" law. The court ruled that agency shops are the equivalent of union shops and, therefore, under section 14b of the National Labor Relations Act are subject to state laws prohibiting union shops.

When an employee of Wackenhut Services resigned from the Association and refused to pay the equivalent of dues, the Association requested Wackenhut to fire him or forfeit his seniority rights. In this connection, the Association sought a declaratory judgment as to whether the agency shop provisions were legal and binding. The trial court ruled that the provisions were in violation of the state "right to work" law and therefore unenforceable.

The Association appealed to the Nevada Supreme Court, contending that the agency shop provision was not prohibited under section 14b of the National Labor Relations Act, which allows states to prohibit agreements requiring union membership as a condition of employment or continuation of employment. The court rejected the Association's contention, citing federal Supreme Court rulings in *Labor Board v. General Motors* [373 U.S. 734 (1963)] which held agency shops to be the 'practical equivalent' of union shops and in *Retail Clerks v. Schermerhorn* [375 U.S. 96 (1963)] which held an agency shop clause to be in violation of the "right to work" provision in Florida's constitution and subject to injunction by state courts. The court concluded that an agency shop provision is the practical equivalent of a union shop and therefore under section 14b of the National Labor Relations Act it is subject to state laws prohibiting the union shop. (*Independent Guards Association, Local No. 1 v. Wackenhut Services, Inc.*, Nevada Supreme Court, May 29, 1974.)

PENNSYLVANIA

Contracting Out Is a Mandatory Subject of Bargaining

Holding that contracting out is a mandatory subject of bargaining, the Allegheny County Common Pleas Court ruled that the Borough of Wilkinsburg unlawfully had refused to bargain in good faith with sanitation workers in a dispute regarding this issue. So ruling, the court reversed an earlier decision of the Pennsylvania Labor Relations Board (PLRB) which had held that the Borough only had to meet and confer with employees and that economics spurred contracting out of bargaining unit work, not anti-unionism.

The court stated that its major concern was whether contracting out was a mandatory subject of bargaining under Section 701 of Act 195 or whether the matter related to Section 702 which required the employer to meet and confer with the union. The Act gives public employees the right to organize and engage in concerted activities and requires public employers to recognize and negotiate with employee representatives.

Citing the *Fibreboard* decision which held that the employer must bargain over any contracting out, the court found that to hold that contracting out was an inherent managerial prerogative rather than a mandatory subject of bargaining would weaken Act 195. Further, the court found that it could best serve legislative purposes by holding that contracting out falls under other terms and conditions of employment.

The court also held that to include contracting out among mandatory subjects of bargaining did not interfere with the borough's inherent managerial right to reduce standards of service or adopt a budget appropriate to insure economic use of tax revenue; that while the borough retained the right to reduce its level of services, it could not contract out during negotiations, particularly when it had given to the union no information regarding reductions in services.

Concluding, the court ruled that the borough unlawfully refused to bargain in good faith and thus violated Act 195. (*Employees of the Sanitation Department of the Borough of Wilkinsburg, Petitioners, v. Pennsylvania Labor Relations Board and Borough of Wilkinsburg, Respondents*, Court of Common Pleas of Allegheny County, Pennsylvania Civil Division, April 4, 1974.)

BOARD FINDINGS AND RULINGS

MASSACHUSETTS

Bargaining for Principals Ordered Under Old Law Until New Law Becomes Effective

The Massachusetts Labor Relations Commission (MLRC) ordered two school committees to continue bargaining with units of principals under the old collective bargaining law until the new law, which might preclude such employees from negotiating, became effective.

The Wellesley School Committee continually refused to bargain with Unit B of the Wellesley Teachers Association which included principals, assistant principals, directors, coordinators and department heads, pending a ruling by MLRC or the courts regarding whether members of that unit would be considered managerial employees under the new law.

MLRC held that the rights of these employees to bargain under the old law was not at issue since the old law continued until the new law became effective. MLRC, therefore, held that the school committee's refusal to bargain was based on the committee's assumption of what would exist when the old law was no longer in effect. Ruling that the school committee denied the exclusive bargaining agent its rights, MLRC ordered the school committee to bargain.

The Littleton School Committee's refusal to bargain with principals and assistant principals represented by Teamsters Local 380 was similar to the *Wellesley* case. The school committee attempted to prove that four of the five employees of that unit would be managerial under the new law.

MLRC referred to the *Wellesley* case and stated that it would not interpret the new law until it became effective. (*Town of Wellesley, School Committee and Wellesley Teachers Association*, Massachusetts Labor Relations Commission, May 6, 1974.) (*Town of Littleton School Committee and Teamsters Local 380*, Massachusetts Labor Relations Commission, January 30, 1974.)

MICHIGAN

Unilateral Change in Retirement Provisions Held Unfair

The Michigan Employment Relations Commission, upon recommendation by an administrative law judge, issued a cease and desist order to the City of Mt. Clemens following the Mt. Clemens Fire Fighters Union charge of unfair labor practices. The dispute concerned a unilateral change in the computation of compensatory accumulated sick leave for retiring city employees.

The union charged that the board of trustees, representing the city, changed the terms and conditions of employment in violation of the collective bargaining agreement between the parties.

The city contended that a collective bargaining agreement made in accordance with the Public Employment Relations Act could not alter a city charter provision, arguing that since the retirement system was established by that city's charter and was managed by the Retirement Board of Trustees, it would be unlawful to allow an arbitrator to intervene. Such action, the city asserted, could result in the amending of the city charter and the binding of a third group— the board of trustees—not a party to the contract.

The city also contended that a decision to determine the arbitrability of a dispute historically rested with the courts, not with the Commission or an administrative law judge.

At issue in the city's first argument was the question of conflicting grants of power, those provided by the state legislature through PERA and those granted cities under the Home Rule Cities Act. The Commission dismissed this argument, citing *Detroit Police Officers Ass'n. v. City of Detroit* wherein the state supreme court ruled that while city governments were authorized by their charters to administer retirement programs, substantial details were contractual and subject to bargaining.

Concerning the city's second contention, the Commission resorted to a decision of the Supreme Court of the United States (*NLRB v. Strong*) which held:

> Arbitrators and courts are still the principal sources of contract interpretation, but the Board may prescribe conduct which is an unfair labor practice even though it is also a breach of contract remediable as such by arbitration and in the courts.

Reaffirming the administrative law judge's application of *Hurley Hospital*, which held that an employer's failure to proceed on a grievance to arbitration was an unfair labor practice even though it is also a breach of contract remediable as such by arbitration and in the courts.

The Commission ordered the city to bargain with the union and submit to arbitration any disputes not resolved through collective bargaining channels. (*City of Mt. Clemens, Public Employer v. Mt. Clemens Fire Fighters Union Local 838, I.A.F.F.*, MERC, October 26, 1973.)

NEW YORK

Ratification Without Preconditions Ordered

A Public Employment Relations Board hearing officer determined that the Rensselaer City School District superintendent violated the Public Employee Fair Employment

Act by refusing to execute an agreement made with the Rensselaer Teachers Association unless the agreement was modified.

The point of contention concerned a provision that the "academic subject area secondary school teachers'" schedule be limited to five instruction periods and one preparation period. At the Association's request the employer's negotiator agreed to delete "academic subject area," thus changing the coverage of the provision to "secondary school teachers."

Following a memorandum of understanding between the school board and the Association and the distribution of a revised contract, the Association president noted two substantive errors, omission of the extracurricular pay schedule and retention of the words, "academic subject area." The Association president called this to the attention of the negotiator who then requested that the packets of agreements be returned for correction.

Subsequently, a school librarian filed a grievance claiming that he was a secondary teacher and therefore entitled to the same consideration concerning teacher load. The Association supported this position, but the school board maintained that since it had ratified only the earlier written memorandum, it had no further obligation. Additionally, it insisted that the Association state in writing that the librarian, nurse-teacher, guidance counselor, and attendance teacher be exempted from coverage.

The Public Employment Relations Board took exception to this reasoning. It said that the actions of the board and the superintendent indicated that an agreement had been reached in some form. According to the PERB, an agreement is "an exchange of mutual promises between the school superintendent and the employee organization. The statutory role of the Board of Education is limited to the approval of matters that inherently require legislative approval, as the provision of additional funds."

PERB concluded, then, that the superintendent violated an agreement under the conditions of a revised 1973-74 and new 1974-75 contract, which included, among other things, a revised article dealing with class load for secondary teachers, and recommended that he be ordered to sign the agreement without any preconditions. (*Rensselaer City School District, New York and Joseph V. Reilly, Superintendent of Schools v. Rensselaer Teachers Association*, Public Employment Relations Board, July 30, 1974.)

Duty To Bargain Includes Terms and Conditions of Employment Not Covered in the Contract

The duty to bargain does not terminate with a collectively negotiated agreement. An employer has a continuing duty to negotiate terms and conditions of employment not covered in the contract, provided the employee organization has not specifically waived its right to do so and communicates its desire to negotate. Therefore, PERB ordered the North Babylon Union Free School District to cease and desist from refusing to negotiate with the North Babylon Teachers Organization (NBTO) regarding the impact of its abolition of teaching positions.

The school district informed NBTO that because of financial difficulties it would have to eliminate some teaching positions. NBTO then requested a meeting to discuss the impact of the reduction, but the district refused to discuss the matter.

NBTO filed a complaint with PERB, charging the district with refusing to negotiate in good faith. The district claimed that there was no impact on terms or conditions of employment, that it had not modified the terms and conditions provided in the contract, and that the NBTO had never made a clear demand to negotiate on the impact of its decision.

Accepting a fact-finder's report, PERB concluded that the teachers had communicated their desire to negotiate and then ruled in favor of NBTO, stating that an employer cannot avoid a duty to negotiate by making a unilateral determination of fact, and that in the absence of an explicit waiver by an employee organization, the employer may not alter or refuse to negotiate terms and conditions of employment not provided for in the contract. It, therefore, ordered the district to cease and desist from refusing to negotiate. (*In the Matter of North Babylon Union Free School District and North Babylon Teachers Organization*, PERB, April 29, 1974.)

OHIO

Length of Provisional Certificated Teacher Contract Not Negotiable

Agreeing with the school board, an arbitrator ruled that the length of a contract issued to a teacher holding a provisional certificate was not a subject of bargaining. He stated that the parties should have utilized mediation, as provided in their agreement, to resolve conflicts before they became major disputes. He concluded that drastic and harsh change in board policy reduced teachers' trust and respect for the board.

Prior to the conflict, the board's policy had been to grant a one-year teaching contract to a teacher with a four-year provisional certificate, and to extend the contract for three years on rehiring the teacher, followed by a five-year contract if the teacher was retained.

Prior to arbitration, the board queried teachers and the Association president concerning extending the one-year contracts to three years in order to more adequately evaluate the teachers' performance before granting the extended contracts. The Association wanted to negotiate the change; however, the board decided that the matter was not negotiable.

The Association contended that the board must negotiate the matter since there were no legal restraints against doing so, and because the board violated the spirit and intent of the contract. The Association further argued that personnel policy, which was listed in the parties' agreement as a negotiable item, included length of contract since per-

sonnel policy meant any governing principle or plan dealing with teachers.

Finding that neither party tried to define personnel policy before the dispute or relate it to length of contract, the arbitrator noted that the Association wanted to define the term in a broad sense while the board wanted to restrict the meaning. The arbitrator held that the term should not be interpreted to include all governing principles and indicated that if the term was to be interpreted broadly, it should include other related items. Further, the arbitrator held that because of its importance to provisionally certificated teachers, the parties would have included length of contract in the list of negotiable items if they had intended it to be negotiable. Additionally, the arbitrator held that the item did not fit as other agreed-upon matters which directly affected the educational program.

Rejecting the Association's contention that the board violated the spirit and intent of the agreement by setting aside the resolution of disputes without explanation, the arbitrator held that the only resolution reached at the parties' agenda meeting regarding length of contract was a board member's proposal which the board later rejected. The arbitrator found that the board had informed the Association more than once that the matter was not negotiable and that the Association's thinking otherwise was assumptive. However, the arbitrator agreed with the Association that the board should have communicated an explanation of its policy change, but that its failure to do so did not mean that length of contract was negotiable.

Agreeing that the board had not utilized the mediatory facilities provided by the contract, the arbitrator stated that either party could have requested consideration by an advisory panel, and should have made use of their contractually provided mediation procedure since it was designed to resolve differences before they developed into general conflagrations.

Although ruling in favor of the board, the arbitrator stated that the board's change in policy regarding the length of contract for provisionally certificated teachers was a drastic change which could only reduce the teachers' lack of respect and trust for the board. (*Bethel-Tate Board of Education and Bethel-Tate Education Association*, Federal Mediation and Conciliation Service, September 25, 1973.)

OREGON

Working Conditions Not Discussed or Covered by Agreements Made Before October 1973 Now Negotiable

As a result of the enactment of the new comprehensive collective bargaining law, negotiations can be reopened on any matter not discussed or covered by a collective bargaining agreement concluded before October 5, 1973. Reopener provisions in these contracts, which do not specifically authorize bargaining on such matters, do not relieve an employee of his duty to bargain on them. Therefore, PERB ordered Redmond School District No. 2 to negotiate on the proposals of the Redmond Education Association that pertained to subjects not covered by their existing agreement.

The Association and the school district had entered into a three-year agreement under the "meet and confer" statute when, according to the state attorney general, working conditions, grievance procedures, and class size were not "normally" subjects of consultation. The new statute called upon public employers and employees to "bargain" on wages, hours, and conditions of employment, whereupon, the Association requested the school district to renegotiate 26 items. The district refused to bargain on all but seven items which related to cost-of-living increases.

The Association filed a complaint with PERB, charging the district with refusing to bargain on unemployment conditions. The Association contended that under the new statute, issues which were not negotiable when the agreement was made were now open to bargaining. The district argued that, according to the new law, "nothing in this act affects a collective bargaining agreement made prior to this act" and, therefore, only annual reopeners on cost-of-living items were affected.

PERB ruled in favor of the Association, stating that "the legislature intended that the parties would be bound only to agreement on matters on which they had engaged in arms length negotiations" and "it would be unconscionable to assume that the legislature would destroy the statute which authorized and restricted negotiations and leave the parties in limbo on matters they had never consulted and negotiated on." PERB added that the provision on reopener could not bar negotiations on matters that were not specifically covered by it.

The school district was ordered to negotiate on "those employment conditions which are mandatory bargaining subjects under the new law." (*Redmond Education Association v. Redmond School District No. 2*, Oregon PERB, May 2, 1974.)

WISCONSIN

Supervisory Status Requires More Than Minor Managerial Responsibilities

A position which requires greater expertise than others and involves responsibilities that indicate superior status does not have supervisory status unless the position involves more than routine and minor managerial responsibilities. Therefore, WERC ruled that the positions of assistant athletic director and directors of guidance should not be excluded from the Menomonee Falls Education Association bargaining unit of certified teaching personnel. In the case of the guidance directors, minor roles in the screening of job applicants and other routine judgments were not considered sufficient criteria for supervisory status. (*Menomonee Falls Public Schools Joint School District No. 1*, WERC, March 4, 1974.)

NEGOTIATION NOTES

COLORADO

Board of Regents May Bargain with University Faculty

Recently the Colorado Division of Labor ruled that the Board of Regents of the University of Colorado may negotiate a collective bargaining agreement with the faculty.

After extensive hearings on this issue, the Labor Division held that the faculty members were in a position similar to that of public-school teachers, and that the regents' obligation in operating the University was similar to that of a school board. Like public-school teachers, the faculty members of the University of Colorado may decide whether they want collective bargaining and who the bargaining agent will be.

The overriding issue is that the introduction of binding negotiations will rest on the governing board of the University. The University faculty members have already voted in favor of collective bargaining, but as yet have chosen no bargaining agent.

KENTUCKY

Attorney General's Opinion

Broadly interpreting Kentucky school laws which define the powers and duties of a school board in effective management, the state attorney general decreed that the validity and duration of a negotiated contract between a local association and a board of education were subject to the whim and pleasure of the board.

According to law, a school board may not bind itself or future boards to any contract which inhibits it from effectively managing its day-to-day operations, including setting up qualifications for and employment of teachers. The law further states that a vote of three members of the school board is sufficient to repeal any rules, regulations, or bylaws which impede the board in the discharge of its management functions.

The state association is currently contemplating litigation to challenge this position which enables school boards at any time to unilaterally void a negotiated agreement with a local education association. The state association points out that this interpretation is off base since school boards may enter into some contracts for services which include arbitration clauses establishing third-party resolution of disputes. The state attorney general is of the opinion that a school board may enter into some contracts.

MONTANA

Public Employee Bargaining Law Enacted

"To promote public business by removing certain recognized sources of strife and unrest," Montana enacted a public employee bargaining law. The law covers persons employed by a public employer except elected officials, persons directly appointed by the governor, supervisory employees and management officials, members of any state board or commission, school district clerks and school administrators, paraprofessional instructors, registered professional nurses, professional engineers and engineers in training, and any person whose work has ceased as a consequence of an unfair labor practice or concerted employee action. An amendment, effective July 1, 1974, gave professional instructors and teachers coverage under the law.

Certification as an exclusive bargaining representative will only be granted to or continued by an organization which guarantees democratic organization and procedures, elections conducted pursuant to adequate standards and safeguards, controls for the regulation of officers and agents having fiduciary responsibility, maintenance of sound accounting, and fiscal controls, including annual audits.

No employee who for religious reasons is not permitted to join or financially support a labor organization will be required to do so. However, in lieu of payment of union assessments, an equivalent sum may be paid to a nonreligious, nonunion charity designated by the labor organization. The employee must submit proof of payment to the labor organization. Failure to make payments or furnish proof will subject the employee to the same sanctions as would nonpayment of dues, initiation fees, or assessments.

A determination as to whether an employee is qualified to avail himself of the right of non-association with a labor organization will be initiated by a letter from the employee to the chairman of the board of personnel appeals. The chairman will then appoint a committee consisting of a clergyman not connected with the sect in question, a labor union official not directly connected with the labor organization in question, and a member of the public at large, who will be the chairman. This committee will, after receiving written or oral presentation from all interested parties, make its determination.

Unfair labor practices include refusal by either party to bargain in good faith; domination, interference, or assistance in the formation or administration of a labor organization on the part of employers; and the use of agency shop fees for contributions to political candidates or parties at state or local levels by labor organizations.

Whenever a party complains to the board, alleging violation of the Act, the Board will hold a hearing. If the party charged is found guilty of an unfair labor practice, the Board may order the party to cease and desist from the practice and may require the party to make reports from time to time showing the extent of compliance with the order. Should the party not comply with the Board's order, the Board or the complaining party may petition the district court for appropriate temporary relief or a restraining order. The court, after a hearing on the matter, may grant relief as requested by the Board or may set aside the order of the Board in whole or in part. The Board will direct an election by secret ballot to determine representation if it receives a petition from an employee, a group of employees, or a labor organization alleging to be acting in behalf of at least 30 percent of the employees; or the employer alleging that one or more labor organizations has presented to it a claim to be recognized as the exclusive representative.

The public employer will be represented in negotiations by the chief executive officer of the state or political subdivision, or the chairman of the county commissioners or the commissioner of higher education or his designated representative.

The parties may request mediation after a reasonable period of contract negotiation or upon expiration of an agreement if a dispute concerning the collective bargaining agreement exists between the parties. Fact-finding may be initiated by the parties upon expiration of an agreement or 30 days following certification of an exclusive representative if a dispute exists. If the parties fail to request fact-finding in these instances, the Board may initiate fact-finding. The parties may, however, submit any or all the issues to final and binding arbitration, in which case arbitration will supersede the fact-finding procedures.

WEST VIRGINIA

"Second Class" Status of Public Employees Affirmed

Affirming a 1966 attorney general's opinion, a current ruling ranks public employees, particularly teachers, as second-class citizens with no rights to determine their working standards and conditions. The ruling reiterates the notion of employer paternalism since the final determination of wages, hours, working conditions, and the like rests with the particular governmental unit and cannot be delegated away.

However, modern trends in public employee labor relations are evident in that school employees may "join any association or labor organization of their own choosing, with the knowledge that they cannot be discriminated against because of such membership."

Other sections of the ruling allow school boards to recognize and negotiate with unions or representatives of teachers and other employees, but any such agreements arising out of these negotiations may not be collective bargaining agreements carrying the right to strike or binding arbitration. These "agreements" are valid contracts only if they establish, create, and define the "limitation or extent to which they [employer] may agree with their employe."

The attorney general placed only *one* limitation on such contracts, that being "the general law applicable to the possibility of financial or statutory changes that may occur during the life of the written document which may make some or all of its terms inoperative."

FEDERAL

National Labor Relations Act Extended To Include Nonprofit Hospitals

Coverage of the National Labor Relations Act has been extended to nonprofit hospitals, convalescent hospitals, health maintenance organizations, health clinics, nursing homes, extended care facilities, and other institutions devoted to the care of sick, infirm, or aged persons.

The amendment requires any party seeking to modify or terminate a bargaining agreement to serve written notice of intent at least 90 days in advance to the Federal Mediation and Conciliation Service (FMCS). However, if bargaining is for an initial agreement, the FMCS must be given 30 days' notice of an existing dispute. Upon receipt of these notices, the FMCS will attempt to reach an agreement through mediation and conciliation in meetings in which both parties are required to participate.

Should the director of the Federal Mediation and Conciliation Service determine that a threatened or actual strike or lockout would substantially interrupt the delivery of health care in the locality, he may, within 30 days after receiving the 60-day notice of contract termination or modification, appoint a board of inquiry to investigate the issues involved. This board must make a written report containing findings of fact and submit recommendations for settling the dispute to the parties within 15 days.

Before engaging in any strike, picketing, or other concerted refusal to work, the labor organization must give both the employer and the FMCS at least 10 days' notice. The date and time that such action will begin must be included in the notice.

Employees who for religious reasons are not permitted to join or financially support a labor organization will not be required to do so as a condition of employment. But, such an employee may be required to pay in lieu of dues, an amount equal to union assessments to a nonreligious charitable fund exempt from taxation and designated by the agreement or one of his own choosing.

* * *

THE CONSUMER PRICE INDEX–SEPTEMBER 1974

The Consumer Price Index rose 1.1 percent in September to 151.9 (1967 = 100.0), the Bureau of Labor Statistics of the U.S. Department of Labor reported. The rise was due to higher prices for a wide range of consumer goods and services, notably meats, apparel commodities, and mortgage interest costs. Prices declined for a few items, particularly fresh fruits and vegetables and gasoline. The September CPI was 12.1 percent higher than a year ago.

On a seasonally-adjusted basis, the rise in the September CPI of 1.2 percent was about the same as in August. The food index rose more in September than in August after seasonal adjustment–1.9 percent compared with 1.4 percent, while the index for nonfood commodities increased less–1.0 percent in September compared with 1.5 percent in August. The services index rose 1.1 percent in September, the same as in the preceding month.

For the calendar quarter ended in September, the CPI increased at a seasonally-adjusted annual rate of 14.2 percent. This was up from the 10.9 percent annual rate in the second quarter and the same as the first quarter's pace. Food prices, which rose at a 3.1 percent annual rate in the second quarter, increased at a 12.3 percent annual rate in the third quarter as prices of meats, poultry, and eggs rose following declines in the second quarter. The nonfood commodities index rose at an annual rate of 16.5 percent in the 3 months ended in September, marking the third consecutive quarter in which the increase has been at about this rate. Although gasoline prices declined and price rises for fuel oil and used cars moderated, prices for a wide range of other nonfood commodities increased at a faster pace in the third quarter than in the second. The services index rose at a 13.9 percent annual rate in the calendar quarter ended in September, continuing an acceleration evident since the beginning of the year.

Monthly changes in detail (not seasonally adjusted)

The index of food purchased in grocery stores–which usually declines in September–rose 1.5 percent. With the exception of fresh fruits and vegetables, all major categories of food purchased in grocery stores increased. Beef and pork prices rose instead of declining and poultry prices, which are usually unchanged in September, also rose. Prices of dairy products increased for the first time in 4 months. Prices of fats and oil products rose sharply. Prices continued to increase for other food items such as eggs, cereal and bakery products, processed fruits and vegetables, and sugar and sweets. Fresh fruit and vegetable prices showed their usual large seasonal decline. The index for food away from home–restaurant meals and snacks–rose 0.7 percent.

The index for nonfood commodities rose 1.1 percent. About a fourth of the increase was due to higher prices for apparel commodities. In addition, there were large increases in prices of houses, housefurnishings, housekeeping supplies, toilet goods, reading materials, and alcoholic beverages. New car prices increased slightly instead of declining substantially as they usually do at the end of the model year. Prices for used cars and fuel oil continued to rise but the increases were smaller than in recent months. Gasoline prices declined for the second consecutive month.

The services index rose 1.1 percent in September. Over a fourth of this increase was due to a rise in mortgage interest costs which reflected earlier increases in interest rates on conventionally financed loans as well as the previously announced rate increase for VA-guaranteed loans (from 9.0 to 9.5). Charges for other household services such as home maintenance and housekeeping services and utilities–gas, electricity, and telephone– also rose. The index for medical care services rose 1.0 percent in September, compared with an average monthly increase of 1.5 percent from April to August. Charges for auto repairs and other services such as dry cleaning, shoe repairs, and barber and beauty shop services continued to rise. College tuition, which is priced for the CPI in September of each year, also rose.

Reprinted from: U.S. Department of Labor, Bureau of Labor Statistics. *The Consumer Price Index–September 1974*, News Release, October 22, 1974.

STATISTICS

Consumer Price Index: August 1973-August 1974 and 10-Year Averages

Another contractual school year of rampant inflation was evident according to data supplied by the Bureau of Labor Statistics. With the reporting of the Consumer Price Index for August 1974 reaching 150.2, a 1.3 percent rise over the previous month, the CPI is 11.2 percent higher than in August 1973. Although prices for gasoline and fresh vegetables declined, the August 1974 index was pushed upward by increased prices for apparel, especially for women and girls, household services, medical care, used cars, and food, especially meats. One year ago, the August CPI set a new record, besting a 26-year mark, with a one-month increase of 1.9 percent.

The CPI for August 1974 registered a 1.3 percent increase after seasonal adjustments, the highest price rise in 12 months. While a decline in food prices helped to hold the July increase to 0.8 percent, the high August figure was

TABLE 1.—CONSUMER PRICE INDEX, ALL ITEMS, SELECTED CITIES OR SMSA'S, 1964 TO 1973 (1967=100)

SMSA/city	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973
1	2	3	4	5	6	7	8	9	10	11
U.S. City average[a]	92.9[b]	94.5	97.2	100.0	104.2	109.8	116.3	121.3	125.3	133.1
Atlanta, Ga.[c]	92.8	94.0	97.0	100.0	104.0	110.2	116.3	121.7	125.5	133.7
Baltimore, Md.[c]	92.9	94.4	97.7	100.0	104.1	110.5	117.0	123.4	126.3	134.9
Boston, Mass.[c]	92.7	94.5	97.7	100.0	104.1	110.0	116.5	122.8	127.1	134.7
Buffalo, N.Y.[c]	92.0	94.2	97.4	100.0	104.5	109.6	116.1	121.8	126.6	134.8
Chicago, Ill.-Northwestern Ind.	93.4	94.7	97.4	100.0	104.3	109.9	116.3	120.8	124.3	132.0
Cincinnati, Ohio-Ky.[c]	93.7	94.4	97.2	100.0	104.8	109.8	115.7	120.7	124.7	132.1
Cleveland, Ohio[c]	93.2	94.7	97.2	100.0	105.9	111.9	119.3	122.8	126.5	134.1
Dallas, Texas[c]	92.6	93.8	97.1	100.0	104.5	111.3	117.8	121.3	124.9	132.0
Detroit, Mich.	90.5	92.6	96.7	100.0	104.3	110.6	117.4	121.7	126.2	134.5
Honolulu, Hawaii[c]	92.9	94.6	97.3	100.0	103.8	108.5	114.2	118.9	122.8	128.3
Houston, Texas[c]	93.7	94.8	97.5	100.0	104.3	111.0	116.8	120.9	125.2	132.3
Kansas City, Mo.-Kans.[c]	92.5	95.5	98.0	100.0	104.0	109.6	115.8	120.5	124.0	130.3
Los Angeles-Long Beach, Calif.	93.7	95.7	97.5	100.0	103.9	108.8	114.3	118.5	122.3	129.2
Milwaukee, Wis.[c]	93.9	95.8	98.0	100.0	103.5	109.5	115.8	120.1	123.7	131.5
Minneapolis-St. Paul, Minn.[c]	93.2	94.5	96.8	100.0	104.6	109.9	117.5	121.7	125.5	133.0
New York, N.Y.-Northeastern N.J.	92.8	94.3	97.5	100.0	104.3	110.8	119.0	125.9	131.4	139.7
Philadelphia, Pa.-N.J.	93.2	94.7	97.3	100.0	104.8	110.4	117.8	123.5	127.0	135.5
Pittsburgh, Pa.[c]	94.3	95.8	98.3	100.0	104.7	110.4	116.4	121.5	125.3	132.9
St. Louis, Mo.-Ill.[c]	92.6	94.1	97.2	100.0	104.0	109.2	115.2	119.6	122.3	129.3
San Diego, Calif.[c]	(NA)	95.2	97.1	100.0	104.1	109.5	115.3	119.9	124.4	132.5
San Francisco-Oakland, Calif.[c]	92.9	94.7	97.1	100.0	104.5	110.2	115.8	120.2	124.3	131.5
Seattle, Wash.[c]	93.4	94.5	97.1	100.0	104.1	109.2	114.0	116.4	119.7	127.5
Washington, D.C.-Md.-Va.[c]	92.8	94.1	97.3	100.0	104.7	111.2	117.6	122.7	126.9	135.0

SOURCE: U.S. Department of Labor, Bureau of Labor Statistics. *Consumer Price Index for Urban Wage Earners and Clerical Workers, All Items—Series A (1967=100).* Washington, D.C.: the Bureau. Various issues.

[a]Based on 50 urban areas for 1965, and 56 metropolitan areas and nonmetropolitan urban places beginning in January 1966. Excludes Portland, Oreg., and Scranton, Pa. For 1965, excludes Cincinnati, Ohio-Ky.; Houston, Texas; Kansas City, Mo.-Kans.; Milwaukee, Wis.; Minneapolis-St. Paul, Minn.; and San Diego, Calif.

[b]Beginning in 1964, the index structure was revised to reflect the buying patterns of urban wage earners and clerical workers in the 1960's, including single workers living alone as well as families with two or more persons. Indexes for prior years apply only to families of two persons or more.

[c]The Bureau determines a weighted average for the 18 Standard Metropolitan Areas which are on a quarterly CPI cycle. The factor weights used in determining the weighted average are available through the Bureau.

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TABLE 2.—CONSUMER PRICE INDEX, ALL ITEMS, SELECTED CITIES OR SMSA'S, 1973-74 BY MONTH (1967 = 100)[a]

SMSA/city	September	October	November	December	January	February	March	April	May	June	July	August
1	2	3	4	5	6	7	8	9	10	11	12	13
U.S. city average	135.5	136.6	137.6	138.5	139.7	141.5	143.1	144.0	145.6	147.1	148.3	150.2
Atlanta, Ga.	137.0	...	...	138.9	...	...	144.1	...	...	147.5	...	...
Baltimore, Md.	137.5	...	...	140.7	...	...	147.3	...	...	151.7	...	...
Boston, Mass.	...	138.7	...	...	142.0	...	...	145.3	...	...	149.9	...
Buffalo, N.Y.	...	...	138.6	...	...	144.2	...	...	147.7	...	...	151.8
Chicago, Ill.-Northwestern Ind.	134.6	135.7	136.1	136.8	138.7	140.6	142.1	143.0	144.1	145.9	146.5	48.3
Cincinnati, Ohio-Ky.	134.4	...	...	136.6	...	...	141.3	...	...	146.1	...	...
Cleveland, Ohio	...	...	137.5	...	...	142.1	...	...	146.2	...	...	150.1
Dallas, Texas	...	...	135.6	...	...	139.6	...	...	143.3	...	...	147.9
Detroit, Mich.	137.3	137.9	139.0	140.0	141.5	143.8	144.9	145.5	146.6	148.7	149.8	151.3
Honolulu, Hawaii	129.6	...	...	132.8	...	...	137.7	...	...	141.4	...	...
Houston, Texas	...	136.2	...	...	139.1	...	...	143.1	...	...	148.2	...
Kansas City, Mo.-Kansas	132.5	...	...	134.4	...	...	138.6	...	...	143.6	...	...
Los Angeles-Long Beach, Calif.	131.2	132.3	133.6	134.1	135.2	136.2	137.6	139.2	140.6	141.8	143.3	145.4
Milwaukee, Wis.	...	...	135.7	...	...	139.0	...	...	142.1	...	...	145.9
Minneapolis-St. Paul, Minn.	...	136.3	...	...	140.3	...	...	145.2	...	...	149.0	...
New York, N.Y.-Northeastern N.J.	142.3	143.1	144.4	145.9	146.8	149.0	150.8	150.9	152.5	153.8	154.6	157.0
Philadelphia, Pa.-N.J.	138.1	139.4	140.5	141.3	142.8	144.9	147.0	148.2	149.5	151.1	152.1	153.8
Pittsburgh, Pa.	...	136.6	...	...	139.3	...	...	144.2	...	...	148.6	...
St. Louis, Mo.-Ill.	132.3	...	...	133.8	...	...	138.2	...	...	141.4	...	...
San Diego, Calif.	...	...	136.5	...	...	140.2	...	...	143.3	...	...	150.3
San Francisco-Oakland, Calif.	134.5	...	...	135.2	...	...	139.2	...	...	144.1	...	...
Seattle, Wash.	...	...	131.4	...	...	135.8	...	...	139.5	...	...	143.2
Washington, D.C.-Md.-Va.	...	...	139.4	...	...	144.0	...	...	147.7	...	...	152.9

SOURCE: U.S. Department of Labor, Bureau of Labor Statistics. *Consumer Price Index*. News Release, September 1973 through August 1974.

[a]Foods, fuels, and several other items are priced every month in all cities. Most other goods and services are priced according to the following schedule:

1. Every month-city average: Chicago, Ill.-Northwestern Ind.; Detroit, Mich.; Los Angeles-Long Beach, Calif.; New York, N.Y.-Northeastern N.J.; and Philadelphia, Pa.-N.J.
2. January, April, July, October: Boston, Mass.; Houston, Texas; Minneapolis-St. Paul, Minn.; and Pittsburgh, Pa.
3. February, May, August, November: Buffao, N.Y.; Cleveland, Ohio; Dallas, Texas; Milwaukee, Wis.; San Diego, Calif.; Seattle, Wash.; and Washington, D.C.-Md.-Va.
4. March, June, September, December: Atlanta, Ga.; Baltimore, Md.; Cincinnati, Ohio-Ky.; Honolulu, Hawaii; Kansas City, Mo.-Kans.; St. Louis, Mo.-Ill.; and San Francisco-Oakland, Calif.

paced by seasonally adjusted increases of 1.4 percent for food and 1.5 percent for commodities other than food. The unadjusted services index increase of 1.1 percent continued the 1 percent or better rise for the fourth consecutive month.

While both the index for food purchased for home consumption and the nonfood commodities indexes normally decline in August, unadjusted price increases in these areas boosted the all-items average. Larger than usual price gains were noted for eggs, pork, and beef. The trend of higher prices for cereal and bakery products, sugar, processed fruits and vegetables, and partially prepared foods continued during the month. Declines were evident, however, in prices for fresh vegetables, fish, and dairy products.

Led by the higher apparel prices, the nonfood commodities index at 1.4 surpassed the 1.3 percent rates of each of the three previous months. Nondurables apart from apparel, such as fuel oil and coal, tobacco products, and alcoholic beverages, also continued to rise during the month. Durable commodities like household items and used cars rose at rates comparable to or higher than the over-all index. A separate news release issued by the Bureau of Labor Statistics listed a decline of 0.8 percent to 55.4 cents per gallon of regular gasoline from July to August. Premium gasoline dropped 0.6 percent to 59.1 cents per gallon on the average.

Over one-quarter of the 1.1 percent rise in the cost of services was due to higher mortgage interest rates owing to abnormally high interest rates on conventional loans and an increase from 9.25 to 9.50, in rates for FHA-insured loans. Costs of home maintenance and repair as well as utilities and medical care continue to rise.

Table 2 lists the CPI for all items, U.S. average and selected cities or Selected Metropolitan Statistical Areas (SMSA's) for which the Bureau publishes an index on either a monthly or a quarterly basis, for September 1973 through August 1974. Table 1 lists the annual averages for the U.S. and selected cities or SMSA's from 1964 through 1973.

The 11.2 percent increase over the twelve-month period, August 1974 to August 1974, comprised an 11.4 percent increase in commodities (about 63 percent of all items) and a 10.7 percent rise in the cost of services (the 36.5 percent balance of the items). The commodity record setters in food were cereals and bakery products with a 34.9 percent increase, dairy products with 19.0 percent increase, and food away from home with a 13.7 percent increase. As for nondurable commodities other than food, gasoline and motor oil increased 38.4 percent and fuel oil and coal rose 66.3 percent. The costs for general household services other than rent rose 15.1 percent while medical care costs increased 12.8 percent.

The purchasing power of the dollar, computed as the reciprocal of the August CPI, has declined fully 10 percent or 7.4 cents over the year as compared with the 1967 dollar.

The CPI is designed to measure "average changes in prices of goods and services usually bought by urban wage earners and clerical workers, both families and single persons living alone." Prices of some 400 items representing price movements of all goods and services purchased by wage earners and clerical workers regularly are obtained in urban portions of 39 Standard Metropolitan Statistical Areas (SMSA's) and 17 selected smaller cities.

Price changes used in calculating the CPI are averaged and then weighted according to their importance in spending. In the total index, all SMSA and city data are combined and weighted on the basis of the 1960 populations of SMSA's and the cities they represent. While index numbers were previously computed on the base 1957-59=100, a new base reference point of 1967-100 became effective January 1971. Statistical series expressed as indexes are affected by the change in base, but the rebasing of the CPI does not alter percentage changes between index figures over time, except for rounding differences. The CPI is rounded to one decimal point.

For details see: U.S. Department of Labor, Bureau of Labor Statistics. *The Consumer Price Index—August 1974* and *Retail Gasoline Price—August 1974*, News Releases, September 20, 1974.

BRIEFS OF AGREEMENTS

COMPTON, CALIFORNIA

Between Compton Education Association and Compton Unified School District, effective December 1973 to 1975. Approximately 1,503 certificated professional employees.
COMPENSATION: (1974-75) B.A., $8,336 to $14,325, 12 increments; B.A. plus 15 hours, $14,909 maximum; B.A. plus 30 hours, $15,494 maximum; M.A., $10,089 to $16,078, 12 increments; M.A. plus 15 hours, $16,661 maximum; M.A. plus 30 hours, $17,245 maximum.
DIFFERENTIALS: Not indicated.
INSURANCE: District will insure Association members against personal liability for death, injury to person, or damage or loss of property; health and life insurance coverage not indicated.
INSTRUCTION: All teachers will have a duty-free lunch period of not less than 30 minutes; a committee that includes Association members will be established to review and recommend appropriate class sizes for various subjects in the secondary schools; all teachers will report to school 30 minutes before the start of classes and remain on duty for a minimum of seven hours; an advisory committee composed of elected faculty members will be established at each school to make recommendations to the principal on matters affecting educational programs.

SCHOOL ACTION CONTROL COMMITTEE

By February 1, 1974, a School Action Control Committee shall be established to develop educational programs which will focus on the control of violence and the retention of students in schools. It is expected that the major thrust of such programs will be at the secondary school level.

The School Action Control Committee (SACC) shall be composed of:

- three teachers selected by the CEC
- three community representatives selected by the CEC
- four students, one selected by the student body governance groups at each high school
- three community representatives selected by the Board of Education
- three district representatives selected by the Board of Education

The SACC shall have the following specific responsibilities:

- develop coordinating and communicating liaison with community groups and agencies that currently service the youth within the CUSD in order to reduce fragmentation of effort and to focus energies in desired directions
- conduct research, as needed, into incidents of violence, truancy, vandalism, absenteeism, drop-out rates, reasons for the occurences of these symptoms of problems
- develop a cohesive, directed program for dealing with the findings of above
- seek with the assistance of other District personnel funding from all sources, public and private, to provide the financial resources necessary for the program
- make recommendations to the Board of Education by June 1, 1974, of programs to be included in the 1974-75 budget.

PERSONNEL: Grievance procedure ends with the board of education;

Materials in personnel files of employees which may serve as a basis for affecting the status of their employment are to be made available for the inspection of the person involved in the presence of an authorized person. Such review shall take place during normal business hours, and the employee shall be released from duty for this purpose without salary reduction.

No derogatory material may be placed in an employee's file until the employee is given notice and an opportunity to review and comment on it; the employee may authorize an Association representative to examine the file and obtain copies of the items within the file; notice of a faculty meeting must be given at least 48 hours in advance except in an emergency; certificated employees from within the district will get first consideration for any vacancy; seniority will be the deciding factor when two or more employees apply for the same position; employees denied a transfer will be given the reasons for denial in writing; upon request the employee will be granted a meeting with the administration to discuss the issue and/or have the right to file a grievance; when an employee is transferred involuntarily, he will receive a letter of notification concerning such transfer; additionally, a conference of the party who initiated the transfer, the area administrator, and the transferee will be arranged to discuss the reason for the transfer; if after conferring with the principal, head teacher, area administrator, and/or assistant superintendent of personnel services, the transferee still does not agree with the transfer, he may file a grievance; all summer school teachers will be selected from the school district with consideration given to the employee's major and/or minor fields of study, experience, and performance as determined by the latest written evaluation; all else being equal, seniority within the district will determine who is selected.

LONG TERM SUBSTITUTES

Long term substitutes are those employed to replace regular certificated employees or temporary employees who are absent for twenty (20) or more consecutive school days. A long term substitute shall be paid according to Class I, Step I of the salary schedule. A daily substitute becomes a long term substitute when he has entered his 21st consecutive day of service in the same assignment. A long term substitute who works for more than 75% of the school year shall be classified as a probationary certificated employee for the next school year and is entitled to all probationary certificated employee rights and responsibilities

as long as there as a vacant position pursuant to Education Code Section 13336.5. Such probationary status is not applicable to those who are employed to serve in an on-call status to replace absent regular employees on a day-to-day basis. All long-term substitutes employed shall be notified in writing that there is a possibility that they may be released from their assignment prior to completing 75% requirement above.

Upon request, the district will provide for the defense of any action or proceeding brought against an employee on account of an act or omission in the scope of his employment; if the district refuses to provide counsel and the employee prevails in the proceeding, the employee will be entitled to reimbursement for necessary legal expenses; the district will reimburse an employee up to $100 for personal property damaged in the line of duty.

UNIVERSITY OF DUBUQUE
DUBUQUE, IOWA

Between the Association of Faculty and Theological Education Professionals of the Theological Seminary of the University of Dubuque and the University of Dubuque, effective May 11, 1974. Approximately 305 certificated professional employees.

The Bargaining unit shall consist of all employees of the University of Dubuque who are administratively accountable to the Dean of the Seminary and who fall into one or another of the following categories of employment: (1) full-time faculty, including the associate professor of bibliography; (2) regular part-time faculty; (3) irregular part-time faculty who are employed for two consecutive semesters, or for one semester in each of two consecutive years; (4) full-time non-supervisory professional staff, including the director of admissions and the student affairs, administrator; (5) regular part-time non-supervisory professional staff including the acting director of field education; (6) irregular part-time non-supervisory professional staff who are employed for two consecutive semesters or for one semester in each of two consecutive years.

COMPENSATION: (1974-75—Placement on schedule dependent upon recommendation of the Appointment and Promotion Committee): Staff or instructor, $7,735 to $11,650, 9 increments; assistant professor, $10,345 to $13,825, 8 increments; associate professor, $12,085 to $15,130, 7 increments; professor, $14,695 to $16,870, 5 increments.

INSURANCE: Board pays costs of group medical, life, and disability insurance coverage; employee has choice of pension program at the present percentage rate of the individual's base salary.

ASSOCIATION: Payroll deduction of state, local, and national association dues; released time with pay for association representative to participate in negotiations or grievance proceedings during scheduled working hours; for the term of office, the association president will have a load reduction of one credit hour per semester or its equivalent; for a nonteaching association member, the equivalency is three working hours per week; upon written request and with reasonable notice, the University will make every effort to make available a room appropriate for association meetings; faculty and staff bulletin boards may be used to post notices of association activities and concerns; association may use typewriters, duplicating equipment, calculating machines, and audiovisual equipment if not otherwise in use.

INSTRUCTION: Each faculty member will offer not more than two courses per semester; the academic year extends from three working days prior to the beginning of classes in the fall through the commencement exercises in the spring.

FACULTY RESPONSIBILITIES AND WORKING CONDITIONS

Faculty Rights: The faculty as a body shall have responsibility for:

- The standards for admissions of students.
- The standards for academic performance.
- The initiation of new degree programs, the establishment of requirements for such degrees, and the approval of degree recipients.
- The decisions for initiating and developing curriculum, including courses, and the structuring of courses into new programs.

PERSONNEL: Grievance procedure ends with final and binding arbitration; university may pay expenses for national regional professional meetings; faculty and staff meetings will be held monthly; evaluations will include an interview with the employee by the Faculty Appointment and Promotion Committee, self-evaluation forms, student evaluation forms from one class each semester (the class to be selected by the person being evaluated), recommendations from appropriate parties, recommendations and other material from the person being evaluated, and recommendations from the dean of the Seminary; a tenured faculty member may within 14 days after receiving notification of dismissal in which charges and specifications are included, send a written reply to the dean and the Appointment and Promotion Committee requesting a hearing; the faculty member may call upon outside counsel in his defense; the hearing committee will reach its decision on the basis of the evidence presented at the hearing within five working days after the close of the hearing unless otherwise agreed upon; if the president fails to sustain a committee decision favorable to the faculty member, the association may within 10 days notify the president in writing of its intention to appeal the matter to the board; the review of the board will be based on the record of the committee hearing accompanied by argument, oral or written, or both, by the principles or their representatives; the board will render the final decision; if it becomes necessary for the board to terminate a continuous appointment because of financial exigency, the amount of notification will depend on the position; a tenured faculty member will receive no less than 12 months' notification before the termination date, a full-time nontenured faculty member no less than nine months, and a full-time professional staff member no less than six months; all part-time staff positions will be eliminated before a nontenured full-time faculty member is terminated; remaining nontenured faculty members will be terminated according to recommendations based on guidelines established by the Faculty Program Development Committee which will include recognition of institutional academic and administration program needs, seniority, and individual circumstances; the final decision will be made by the board.

NONRENEWAL

Prior to the termination of a tenured faculty member's appointment the Institutional Advancement Committee shall meet with the President and Dean for a thorough discussion of the situation. The discussion shall include a specific number of tenured positions to be terminated or other information which will make sufficiently clear to the Committee, the Board's intentions in declaring a financial exigency. The Committee shall be given opportunity to submit a report and a recommendation for the reduction of tenured faculty positions in writing within 30 days to the Board of Directors. Such statement shall be responsive to the financial exigency and shall indicate program priorities. The Board shall make a decision and document the reasons for its decision in a written statement to the Association. In the event the Board's tenured faculty reduction determination differs in program priorities but not in the number of positions to be reduced from the recommendation of the Institutional Advancement Committee, the Board shall return its decision to the Institutional Advancement Committee within ten (10) working days. The Committee shall review the Board's determination within 5 days. If three-fourths (3/4) of the full Committee vote to uphold the Board's determination then it shall stand and be final. If three-fourths (3/4) of the Committee do not vote to uphold then the Committee's own recommendation on the program areas involved in the reduction of tenured faculty positions shall prevail and be final.

Before terminating an appointment because of financial exigency, the administration will make every effort to place the affected full-time faculty member and professional staff in other suitable positions within the institution. If retention is not possible, the administration shall assume responsibility for assisting the faculty or staff member in securing other employment consistent with that person's abilities.

In the event that a tenured appointment is terminated, a replacement for the released faculty member shall not be appointed within two years from the effective date of the release unless the released faculty member has been offered reappointment in writing by mail and has had a period of not less than thirty (30) days in which to accept or decline the offer.

* * *

APPOINTMENT

Appointment Procedure:

- Determination of the need for a faculty appointment shall be the responsibility of the Faculty Program Development Committee and the Dean of the Seminary.

- Recommendations for appointment of particular candidates for full-time and part-time faculty and staff positions shall originate with the Appointment and Promotion Committee.

- After each candidate has been interviewed by the members of the faculty and students, the Appointment and Promotion Committee shall submit their recommendations to the Dean.

The Appointment:

- Each appointment shall be approved by the Dean of the Seminary after receipt of the recommendation of the Appointment and Promotion Committee.

- Initial appointments shall be probationary and for a term of one year. Initial faculty appointments do not imply automatic reappointment and shall not grant tenure unless specifically recommended by the President and approved by the Board. Appointees shall receive a copy of this Agreement, and a letter of appointment and acceptance. The letter of appointment and acceptance shall include, *Interalia*: (a) the dates for which appointment is effective, (b) the salary, (c) the professional rank, and (d) the teaching or administrative assignments.

Qualifications: The minimum basis for appointment or advancement may be stated as follows:

- An *Instructor* shall normally have the M. Div. degree or its equivalent or substantial progress toward a doctorate.

- An *Assistant Professor* shall normally have the M. Div. degree and substantial progress toward the doctorate or its equivalent, at least three (3) years of successful teaching in higher education and an acceptable rating on the evaluative criteria given below in Para. 51. A person who holds a Ph.D. degree or its equivalent may also be given the rank of assistant professor regardless of previous teaching experience.

- An *Associate Professor* shall normally have the Ph.D. degree or its equivalent, and an acceptable rating on the evaluative criteria given below in Para. 51, and at least six (6) years of successful teaching in higher education.

- A *Professor* shall normally have the Ph.D. degree or its equivalent, at least eight (8) years of successful teaching in higher education and an acceptable rating on the evaluative criteria given below in Para. 51.

Exceptions to the degree-requirements for the various ranks as set forth in this section can be recommended by the Appointment and Promotion Committee in cases of extraordinary records of experience, training, or competence in fields related to theological education.

After three successive one-year probationary contracts, a faculty member who has received a favorable evaluation will be tendered a one-, two-, or three-year contract; the Faculty Appointment and Promotion Committee will meet with each faculty member not less than 45 days prior to the renewal to evaluate that member's performance during the year and to make recommendations to the dean; the report of the Committee in the sixth year of the faculty member's employment will include a recommendation for granting tenure or a recommendation for separation from the institution; should an employee's evaluation reveal any inadequacies, the faculty member will have an opportunity to submit a plan to remedy those inadequacies; after a maximum of seven years, full-time qualified professional faculty members will be granted tenure.

TENURE

Tenure shall be defined as that status wherein a member of the faculty shall be retained until that person reaches the retirement age of 65, unless the member (1) resigns; (2) is dismissed due to the financial exigencies of the Seminary according to the procedure described in Para. 61-65.; or (3) is dismissed for just cause. Just causes for purposes of this Article include (a) physical or mental incapacity; (b) neglect of duty; (c) conviction of a felony during the period of employment; (d) intentional dishonesty; (e) professional incompetence; (f) moral turpitude; (g) intentional and substantial disruption of the functioning of the University. In any dismissal of a member of the faculty on tenure, the University has the burden of proving just cause.

The total period of continuous full-time service at the University of Dubuque prior to the acquisition of continuous tenure will not exceed seven years. Three or more years of previous full-time service with the rank of instructor or higher in other institutions of higher learning will reduce the probationary period to a maximum of four years, even though the total full-time service in the profession may thereby exceed seven years. The terms of such extension will be stated in writing at the time of initial appointment.

Summer teaching assignments are voluntary; volunteers will be employed on a rotation basis deemed equitable by the Faculty Program Development Committee and the dean; when opportunities for advancement occur, the university will promote from within and on the basis of ability rather than length of service; the Appointment Committee will review the qualifications of any faculty member applying for promotion and make its recommendations to the president; if there are any conflicting view points or unresolved judgments in the Committee, the conflicting arguments will be submitted in separate written reports to the president; the president will then submit his own recommendations along with the written reports to the board of directors for final action.

* * *

ALLEGANY COUNTY
CUMBERLAND, MARYLAND

Between the Board of Education of Allegany County and the Allegany County Teachers Association, effective July 1, 1973, to January 31, 1975. Approximately 781 certificated professional employees including all certificated professional employees of the board in Unit One as provided in the superintendent's memorandum; provision for renegotiation if the document is rejected by either party within 15 school days after the document is signed by the respective negotiating teams.

COMPENSATION: (1974-75)

Teaching Years	Provisional Nondegree Certificate	Provisional Degree Certificate	Standard Professional Certificate	Advanced Professional Certificate
1	$ 6,920	$ 7,300	$ 7,750	...
2	7,280	7,660	8,010	...
3	7,630	8,010	8,370	...
4	7,990	8,370	8,750	$ 9,600
5	8,350	8,710	9,130	10,010
6	8,690	9,070	9,520	10,420
7	9,050	9,430	9,900	10,830
8	9,400	9,780	10,270	11,250
9	9,760	10,140	10,640	11,660
10	10,120	10,490	11,040	12,060
11	...	...	11,390	12,470
12	...	...	11,780	12,880
13	...	...	12,160	13,290
14	...	...	12,550	13,690
21*	...	...	12,850	13,990

*This step will be paid as a longevity step in accordance with Section C of Article XIII.

A teacher who holds 30 hours' credit, approved by the Superintendent, above or in addition to those hours received and used for the master's degree, shall receive $450 in addition to his regular salary.

A teacher who holds 60 hours' credit, approved by the Superintendent, above or in addition to those hours required and used for the master's degree, shall receive $800 in addition to his regular salary.

The criteria to be used in granting the above are:

1. Credit hours must be verified by an official transcript.
2. Credit hours must be related to the teaching assignment or other area of preparation.
3. The credit hours may be earned in more than one college or university and need not apply toward an advanced degree.

A teacher who holds a Ph.D. or Ed.D. degree shall receive $1,460 in addition to his regular salary.

A teacher who is issued a Standard Professional Certificate, holds a Master's Degree, and is eligible for an Advanced Professional Certificate in all respects except for the three-year in-state teaching requirement will receive $300 additional for a period not to exceed three years.

The Provisional Nondegree and Provisional Degree schedules will terminate at the tenth year. Teachers presently holding such certificates and having more than ten years experience will receive an increase of $100 over their 1973-74 pay rate.

After 20 years of teaching experience in Allegany County, a teacher who holds a Standard Professional or Advanced Professional Certificate will receive additional compensation of $300 annually; upon retirement the board will pay to the teacher $10 for each day of unused sick leave earned, not to exceed 100 days or $10 for each year of service whichever is greater.

DIFFERENTIALS: (1974-75)

	Head Coach	Assistant
Baseball	$ 400	...
Basketball	750	$500
Cross country	200	...
Football	1,000	650
Soccer	400	...
Tennis	200	...
Track	400	...
Wrestling	400	200

A teacher who receives compensation for extracurricular activities shall consider time devoted to the activity as an addition to the regular workday and shall carry his share of all duties assumed by the other faculty members.

OTHER: Curriculum workshop, $100 per week; driver education, $5 per hour; 12 cents per mile for interschool transportation for those assigned to more than 1 school per day.

INSURANCE: Board-paid Blue Cross-Blue Shield for individual teachers and 50 percent of dependent coverage; the board will pay 70 percent of the premium of life insurance for each eligible teacher employed on a regular or provisional certificate contract and for not less than 10 hours weekly; the board will pay 70 percent disability insurance benefits to cover at least 60 percent of the teacher's gross salary but not more than 70 percent with a six-month waiting period before benefits begin; tax-sheltered annuity plan available.

ASSOCIATION: Payroll dues deduction for local, state and national associations; for investigation or processing of the arbitration proceedings a teacher or an Association representative will be released from regular assignment without loss of pay or benefits; board will provide Association with

agenda and minutes of meetings; Association may request to be placed on agenda; use of school facilities, buildings, and equipment and interviews with teachers as long as there is no disruption of educational program; Association may use interschool mail and post notices on designated bulletin boards; board will provide Association with names and addresses of new teachers.

LEAVE: Ten days' annual sick leave will be credited to each teacher for each contract year; unused sick leave will accumulate without limit; 2 days' personal leave per year without loss of pay and not chargeable to sick leave for urgent personal business;

> A teacher may have four successive calendar days to travel to and from, and to be present at the funeral of a parent, spouse, sibling, or offspring, or of a regular member of his household, without charge to leave or loss of pay for any days falling within his regular working schedule. He may have up to one duty day without charge to leave or loss of pay to attend the funeral of an in-law, grandchild, grandparent, uncle, aunt, or cousin not a regular member of his household, except that in case of a parent-in-law, it shall be two calendar days.

4 successive calendar days with pay for professional conferences, school visitations; teachers on jury duty will be paid their regular compensation less any jury fees; the board will grant political leave of absence without pay to a teacher desiring to campaign for or serve in public office; not more than 1 percent of the teachers unit will be granted sabbatical leave in any one year; the teacher requesting sabbatical leave will make written application to the superintendent before April 1 stating the purpose of the leave in an outline form; a teacher on sabbatical leave will receive 50 percent of his regular salary; after returning from sabbatical leave, the teacher will be placed in his regular position if he so requests, and will serve two years immediately following the sabbatical leave in the public schools of Allegany County, or repay the board an amount equal to the salary he received plus interest at the current prime rate; upon return from leave, he will be placed on the salary schedule at the level he would have achieved had he remained actively employed in the system. Maternity leave will be granted to women tenured teachers without pay; sick leave may be used for absence owing to disability connected with or resulting from pregnancy; upon notification maternity leave will be extended for one year unless teacher and the board agree to a shorter time, or unless otherwise provided by law; one teacher, upon designation and request by the Association, may be granted a leave of absence without pay for 1 year to engage in Association activities; a leave of absence without pay may be granted to any teacher who joins the Peace Corps or other substantially equivalent program for advanced study or to care for a sick member in the immediate family.

INSTRUCTION: Work day of 7 1/2 hours to include a duty-free lunch period of 30 minutes daily and a preparation period; teachers may leave the building during their lunch period with permission of the principal; junior and senior high-school teachers will be provided a minimum of 5 preparation periods per week except when unusual circumstances do not permit such scheduling; elementary-school teachers will have a minimum of 200 minutes of preparation/planning time per week; every effort shall be made in each school to reasonably equalize the teaching load as reported on the basis of the number of students per full-time teacher; before a holiday, teachers may leave 15 minutes after dismissal of students; teachers whose required arrival time is earlier than the regular duty day will have a correspondingly earlier departure; the total number of pupil-days will be not less than 180, including days missed for inclement weather; specialists will be given preparation time within their workday; parent-teacher conferences will be scheduled at a time acceptable to the parties involved; special instructional programs will be provided on a voluntary basis; if volunteers are not available and assignment is necessary, a teacher's qualifications and interest shall be considered; resource teachers and regular teachers will cooperate in the integration of special subjects with the total program.

PERSONNEL: Grievance procedure ends with binding arbitration; the teacher and his representative may review personnel file; faculty meetings, departmental meetings, inservice meetings, and other professional meetings will be scheduled during the regular workday; the board will reimburse a teacher holding a standard or advanced professional certificate for course work beyond the bachelor's degree at the rate of $40 per credit hour for up to 6 hours for each certificate renewal in the contract year; payment will be made March 1 and October 1 upon receipt of transcript from the college certifying successful completion of the course for which reimbursement is to be made; an in-service training program will be explored by the superintendent in cooperation with the Association; evaluation criteria are filed and decided on a two-level phase periods involving the administrator and/or supervisors, the Association, and the teacher, but if no agreement is reached, an arbitration procedure will be used; a teacher requesting a voluntary transfer will be given priority over new hires; a teacher whose request for a transfer has been denied has the right to discuss the results with the appropriate person; the teacher will be notified in advance and given the reasons for an involuntary transfer; vacancies will be posted in each school at least 10 days before an application deadline with a copy sent to the Association; teachers will not be required to work under unsafe or hazardous conditions or to perform tasks which endanger their health or safety; each school will have a written policy on classroom control and discipline developed with faculty participation; adequate referral procedures, conferences, and guidelines will be included in such policy to provide appropriate actions to assist in the resolution of disciplinary problems.

SPECIAL REPORTS

COST-OF-LIVING PROVISIONS IN TEACHER/BOARD AGREEMENTS

Owing to record rates of inflation over the past year, salary negotiations have centered on clauses aimed at maintaining purchasing power. Since annual rates of key indicators, such as the Consumer Price Index (CPI) and the Wholesale Price Index, have exceeded double digit percentage increases, equivalent raises in teacher salaries are being sought. To negate the effects of spiralling inflation, various wage adjustment mechanisms are being used. The cost-of-living (COL) clause is one mechanism which can provide a measure of protection against inflation.

To effectively negotiate a COL clause an array of the elements should be considered in constructing it. Excerpts from typical provisions are presented in this article to illustrate the operation of such elements and should not be regarded as ideal. Additional provisions, including available state models, are also presented. No attempt is made to introduce a model COL clause. Data on the incidence and types of COL provisions are insufficient for statistical analysis and trend projection. However, some conclusions are drawn from private sector practice and examination of provisions in contracts primarily from Michigan, New York, and Pennsylvania.

Three methods in general use provide for salary increases in relation to the rate of price increases as measured by the CPI: the reopener clause, the escalator during a contract year, and the cost-of-living adjustment at the end of a contract year of a multi-year contract. They may be used separately or in combination. The reopener clause provides for new salary negotiations when the CPI reaches or passes a predetermined mark, or at the end of a contract year in multiyear contracts. Escalator clauses and COL clauses employ a formula for automatically adjusting individual salaries or generating a new wage table on the basis of an increase in the CPI. The escalator clause adjusts wages during the contract year rather than once a year, and, therefore, is of greater advantage to the wage earner.

Whether the choice be the during-the-year escalator, or the end-of-year adjustment, or some combination of the two, clarity in COL clause language should be of primary concern to the negotiating parties. Special care should be taken to define terms accurately and to fully describe the intended operation of the clause. An important consideration is to ensure that the COL adjustment is clearly understood by all parties to be separate from in-step increases or wage improvement increases. Also, a COL increase should be applied after the wage improvement increase is applied. School boards might lump COL increases with the yearly salary improvement and may refer to the total as a teacher's "raise". This fails to recognize that the COL increase merely helps teacher salaries keep pace with inflation between negotiated raises.

The complexity of a COL provision can be gauged from the number of variables the negotiator must define and interrelate. [A taxonomy of the variables identified to date is appended.] The major items include Index selection; the time period to be measured for change; the base date from which change is to be measured; the formula for calculating change; the period for salary adjustment; the effective date of the adjustment, the application of the adjustment, with minimum and/or maximum limits; the additional improvement, if any; and the effect on the salary schedule, including the method of translating the COL increase into dollar amounts.

With better than 20-years' experience in negotiating COL provisions in the private sector, the typical COL escalator clause in a multiyear contract carefully defines the index to be used, provides for quarterly escalation, gives a table of salary adjustment dates, utilizes a formula that converts a *point* increase in the CPI to a *cents* increase in hourly wages, stipulates a guaranteed minimum or an annual improvement in wage scales, and may be limited to a maximum or ceiling COL increase, but guarantees that wages will not decrease should a decrease occur in the CPI.

Association negotiators can benefit from the experience of negotiators for private sector contracts and the general acceptance of COL clauses, but they are faced with the reality that most teacher contracts are single-year agreements and only a few are as comprehensive as industrial union contracts. Given the existence of a comprehensive contract, a school board, as does private industry, may opt for the relative security from the stresses of yearly contract negotiations and/or labor peace through a multiyear agreement. If an association relinquishes the opportunity for annual contract revision and salary improvement through negotiation, it must secure some measure of protection from the eroding force of inflation in the second and subsequent years of a contract.

Most COL provisions in teacher contracts provide for an adjustment in the second or subsequent years of a contract. About a third of the clauses reported also call for a general salary increase in conjunction with the COL adjustment. Few, however, have a guaranteed minimum COL increase regardless of the change in the CPI. The escalating factor usually employed is the *percent* change in the CPI (as opposed to the *point* difference) over 12 months or a calendar year. A few unacceptable clauses have been noted, for example, agreement to lower salaries if the CPI decreases and agreement on a reduction in force if necessary to pay the COL adjustment. The guide to COL variables presented below should aid those contemplating such provisions to cover requisite areas and avoid problems of interpretation when the clause goes into effect.

Table 1 lists the monthly CPI figures, calendar year averages, and percent change from year to year. The percent change from the previous year by the month is also listed from January 1970 to the present. The Table can be completed as the last quarter CPI marks become available by using the footnoted formula for percent changes.

INDEX SELECTION

SELECTION OF A SUITABLE INDEX INVOLVES THE OPTIONS BELOW:

1. Index Base

Two index bases, 1957-59=100 and the newer 1967=100, are currently published. Work on a new index base for the 1970's is about half completed; publication of that index by the Bureau of Labor Statistics is scheduled for 1976. While the 1967=100 index will likely be published concurrently with the new index, the change in bases should be anticipated. Sample language regarding protections in case of unavailability of the CPI in present form, appears below.

> In the event the Bureau of Labor Statistics ceases monthly publication of the Index in its present form the adjustment shall be calculated from conversion figures thereafter compiled by the Bureau of Labor Statistics.
>
> * * *
>
> If the Consumer Price Index in its present form and calculated on the same basis shall be revised therefrom or discontinued, the parties shall attempt to determine an appropriate Consumer Price Index figure by agreement or, if agreement is not reached, the parties shall request the Bureau of Labor Statistics to make available a Consumer Price Index in its present form for the appropriate date or dates and calculated on a comparable basis. Any scheduled salary increases delayed by contingencies discussed in this paragraph shall be paid as of the first regular pay day subsequent to receipt of the delayed Consumer Price Index information and shall be retroactive to the appropriate calculation date.
>
> * * *
>
> Any change in Schedule A-3 shall apply only to the fiscal year beginning with July 1, 1972.
>
> If the publication of the index shall be discontinued, the parties shall thereafter accept comparable statistics on the cost of living for the Buffalo, New York area, as they shall be computed and published by an agency of the United States Government, or if the United States Government shall discontinue such statistics, by a responsible financial periodical of recognized authority then to be selected by the parties. If the parties cannot agree upon a selection of appropriate comparable statistics, within 60 days of the end of the current index quarter, that selection shall be determined by reference to, and under the rules of, American Arbitration Association.

2. National and City Indexes

The CPI most often used is the U.S. Cities average, all items, published monthly during the third week of the following month by the U.S. Department of Labor, Bureau of Labor Statistics (BLS), in Washington, D.C., and in 10 regional offices.

This CPI, on a base of 1967=100, measures the average changes in prices of about 400 items of goods and services in five categories: food, housing, apparel and upkeep, transportation, and health and recreation. The prices are obtained monthly in 56 sampling areas and then averaged for the month.

Published in addition to the national average are the details of price change by category, e.g., food, and item, as well as city indexes for 23 cities or Standard Metropolitan Statistical Areas (SMSA's). The publishing schedule is as follows:

> 1. Every month-city average: Chicago, Ill.-Northwestern Ind.; Detroit, Mich.; Los Angeles-Long Beach, Calif.; New York, N.Y.-Northeastern N.J.; and Philadelphia, Pa.-N.J.
> 2. January, April, July, October: Boston, Mass.; Houston, Texas; Minneapolis-St. Paul, Minn.; and Pittsburgh, Pa.
> 3. February, May, August, November: Buffalo, N.Y.; Cleveland, Ohio; Dallas, Texas; Milwaukee, Wis.; San Diego, Calif.; Seattle, Wash.; and Washington, D.C.-Md.-Va.
> 4. March, June, September, December: Atlanta, Ga.; Baltimore, Md.; Cincinnati, Ohio-Ky.; Honolulu, Hawaii; Kansas City, Mo.-Kans.; St. Louis, Mo.-Ill.; and San Francisco-Oakland, Calif.

City calendar year averages, published in late January, reflect the average of 12 monthly city indexes on the every month schedule and a *weighted* average for cities on quarterly cycles. Owing to the weights, an average computed from four city indexes published during the year will probably differ from the BLS calendar year average for the cyclical cities.

The example below illustrates the use of the national CPI, along with two city indexes published every month.

> The parties hereto agree to use the Consumer Price Index (1967 equals 100) prepared by the U.S. Department of Labor, Bureau of Labor Statistics, upon all items listed on the index and to prepare therefrom an annual average increase determined on the percentage of change of all items taken from the Detroit area, Chicago area, and the total United States.

TIME PERIODS AND CHANGE MEASUREMENT

1. Measurement Periods

The time period over which change in the index is measured should be as short as can be agreed upon and measurement should occur as often as possible. Change is commonly measured over a quarter, six months or midyear, calendar year, or contract year. Clause language should stipulate a base month CPI, as in this excerpt:

> It is agreed that the Consumer Price Index, All Items, Philadelphia Metropolitan Area for April, 1973, was 133.4 on a 1967 base of 100.

Measurement should then be specified to an end-of-period *month* CPI, since the CPI is not issued for any specific day in the month but for the whole month. If in

the example above the period were one year, language would refer to the CPI for April 1974 as the end of the period mark.

Whatever the period, it is safest to stipulate the base month and year, the end-of-period month and year, and the effective date of the increase as often as necessary to avoid misinterpretation. It is advisable to construct a table listing all the dates and the interrelationships among them. An example of one possible table appears in the closely related discussion on the wage adjustment period. Keep in mind that the CPI for a given month is not published until the third week of the following month, about a two-month lag.

2. Formulas for Measuring Change

Index change over a given period can be measured in a number of ways, the most advantageous being the *point* difference: New CPI minus old CPI equals point change.

The concept of the point difference as a measure of percentage increase is legitimate because the CPI itself is a percentage (the index measures the *rate* of change in prices, hence is expressed as a percentage). Point change is popular in labor contracts where the point difference is usually pegged to a cent increase in hourly wages, as in: 0.4 points rise in the CPI equals 1 cent increase.

A second method, popular in teacher contracts, is the BLS formula for computing *percent* change:

$$\frac{\text{New CPI} - \text{old CPI}}{\text{Old CPI}} \times 100 = \$\text{ change}$$

The Michigan Education Association's suggested clause modifies the percent change formula to arrive at a factor to multiply each salary by:

$$\frac{\text{New CPI}}{\text{Old CPI}} = \text{factor}$$

Factor X old salary = new salary

The following example works like the Michigan formula but subtracts the integer 1 which gives the same result as the BLS formula:

Changes in cost of living shall be based upon the consumer price index (referred to as index) for Buffalo, New York for all items of the Bureau of Labor Statistics of the United States Department of Labor for the quarter ending with the last day of February of the year preceding the year in which the calculations are made (referred to as base quarter), and for the quarter ending with the last day of February in the year in which the calculations are made (referred to as current index quarter). The number for the current index quarter shall be divided by the number for the base quarter. From the quotient thereof shall be subtracted the integer 1, and any resulting numbers shall be deemed to be the percentage of increase or decrease in the cost of living.

Examples of the use of averaging techniques are as follows:

The U.S. Consumer Price Index all items summary of retail prices, as published by the U.S. Department of Labor shall be used. The percentage gain or loss shall be calculated by dividing the annual average index for the period June, 1973, through May, 1974, by the annual average index for the period June, 1972, through May, 1973.

The Consumer Price Index to be used shall be for the area described as New York-Northeastern New Jersey and shall be based upon the percentage increase between the January, 1973 index (U.S. Department of Labor Release of February, 1973) and the January, 1974 index (U.S. Department of Labor Release of February 1974) plus the percentage increase between the February 1973 index (U.S. Department of Labor Release of March, 1973) and the February, 1974 index (U.S. Department of Labor Release of March, 1974) divided by two.

* * *

Index comparisons will be made between the average Consumer Price Index (National Average) for the 12-month period April, 1973 through March, 1974, with the Average Consumer Price Index 12-month period April, 1974 through March, 1975. If 1973-74 average 12-month index exceeds the 1974-75 average 12-month index, the 1975-76 salary or wage schedules as published do not change. If the 1974-75 average 12-month index exceeds the 1973-74 average 12-month index the difference divided by the 1973-74 average 12-month index will be the percent increase.

* * *

When considering averages of city indexes, care must be used that the necessary indexes are available in the same month. The example below is from a provision measuring quarterly change, yet the two city indexes cited are on different quarterly cycles.

For the purpose of this Section, Consumer Price Index shall mean the Consumer Price Index as reported by the Bureau of Labor Statistics, U.S. Department of Labor for All Items—Washington, D.C. and All Items—Baltimore, Maryland, averaged and expressed to the nearest tenth of one (1) per cent.

A third category of change formulas employs averages such as the average of monthly CPI figures (national or city) over a quarter, a calendar year, 12 months, or two 12-month periods. Averages of point or percent differences over similar periods are also common.

The use of averages reflects attempts to hedge against unfavorable fluctuations in CPI's and rates of point or percent change. Since no fail-safe method for predicting change exists, it is difficult to establish whether the use of averages will produce the most effective measure of change. The experience of the past five years, detailed in Table 1, suggests that during periods of declining *rates* of change (as from 1970 to mid-1972) the average of a calendar year, or other average of percents over 12 months, was higher than at least half of the percent changes of one month over the same month in a prior year. However, the rates of monthly percent change (from same month, prior year) have increased since the latter part of 1972, so averages of percents over 12 months will be lower than the latest available percent change of a month over the same month in the prior year. For example, the calendar year 1973 CPI was 6.2 percent higher than 1972, but December 1973 was 8.8 percent higher than December 1972.

3. Wage Adjustment Period

The time period for change measurement and wage measurement are likely to be the same in length, but it is important to stipulate how the adjustment period relates to the change period measured. For example, change is

TABLE 1.—CONSUMER PRICE INDEX, ALL ITEMS, 1954 to 1974 (1967=100)

Year	January	February	March	April	May	June	July	August	September	October	November	December	Average for year	Percent change from previous year
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
1954	80.7	80.6	80.5	80.3	80.6	80.7	80.7	80.6	80.4	80.2	80.3	80.1	80.5	0.5
1955	80.1	80.1	80.1	80.1	80.1	80.1	80.4	80.2	80.5	80.5	80.6	80.4	80.2	−0.4
1956	80.3	80.3	80.4	80.5	80.9	81.4	82.0	81.9	82.0	82.5	82.5	82.7	81.4	1.5
1957	82.8	83.1	83.3	83.6	83.8	84.3	84.7	84.8	84.9	84.9	85.2	85.2	84.3	3.6
1958	85.7	85.8	86.4	86.6	86.6	86.7	86.8	86.7	86.7	86.7	86.8	86.7	86.6	2.7
1959	86.8	86.7	86.7	86.8	86.9	87.3	87.5	87.4	87.7	88.0	88.0	88.0	87.3	0.8
1960	87.9	88.0	88.0	88.5	88.5	88.6	88.7	88.7	88.8	89.2	89.3	89.3	88.7	1.6
1961	89.3	89.3	89.3	89.3	89.3	89.4	89.8	89.7	89.9	89.9	89.9	89.9	89.6	1.0
1962	89.9	90.1	90.3	90.5	90.5	90.5	90.7	90.7	91.2	91.1	91.1	91.0	90.6	1.1
1963	91.1	91.2	91.3	91.3	91.3	91.7	92.1	92.1	92.1	92.2	92.3	92.5	91.7	1.2
1964	92.6	92.5	92.6	92.7	92.7	92.9	93.1	93.0	93.2	93.3	93.5	93.6	92.9	1.3
1965	93.6	93.6	93.7	94.0	94.2	94.7	94.8	94.6	94.8	94.9	95.1	95.4	94.5	1.7
1966	95.4	96.0	96.3	96.7	96.8	97.1	97.4	97.9	98.1	98.5	98.5	98.6	97.2	2.9
1967	98.6	98.7	98.9	99.1	99.4	99.7	100.2	100.5	100.7	101.0	101.3	101.6	100.0	2.9
1968	102.0	102.3	102.8	103.1	103.4	104.0	104.5	104.8	105.1	105.7	106.1	106.4	104.2	4.2
1969	106.7	107.1	108.0	108.7	109.0	109.7	110.2	110.7	111.2	111.6	112.2	112.9	109.8	5.4
1970	113.3	113.9	114.5	115.2	115.7	116.3	116.7	116.9	117.5	118.1	118.5	119.1	116.3	5.9
* . . .	6.2	6.3	6.0	6.0	6.1	6.0	5.9	5.6	5.7	5.8	5.6	5.5	. . .	. . .
1971	119.2	119.4	119.8	120.2	120.8	121.5	121.8	122.1	122.2	122.4	122.6	123.1	121.3	4.3
* . . .	5.2	4.8	4.6	4.3	4.4	4.5	4.4	4.4	4.0	3.6	3.5	3.4	. . .	. . .
1972	123.2	123.8	124.0	124.3	124.7	125.0	125.5	125.7	126.2	126.6	126.9	127.3	125.3	3.3
* . . .	3.4	3.7	3.5	3.4	3.2	2.9	3.0	2.9	3.3	3.4	3.5	3.4	. . .	. . .
1973	127.7	128.6	129.8	130.7	131.5	132.4	132.7	135.1	135.5	136.6	137.6	138.5	133.1	6.2
* . . .	3.7	3.9	4.7	5.1	5.5	5.9	5.7	7.5	7.4	7.9	8.4	8.8	. . .	. . .
1974	139.7	141.5	143.1	144.0	145.6	147.1	148.3	150.2	151.9					
* . . .	9.4	10.0	10.2	10.2	10.7	11.1	11.8	11.2	12.1					

SOURCE: U.S. Department of Labor, Bureau of Labor Statistics.
*Percent change of the month's CPI from the same month's CPI of the previous year. To complete the series for the last quarter 1974, follow this example for October:

$$\frac{\text{October 1974 CPI} - \text{October 1973 CPI}}{\text{October 1973 CPI}} \times 100\% = \%\ \text{change}$$

measured over the past calendar year by using the percent change and an adjustment is paid as of the next contract year. The wage adjustment is sometimes dependent on a "trigger" CPI mark, as in the sample below. Although a bit vague as to operation, the clause apparently calls for an adjustment in any *month* the CPI rises one full percentage point:

A method of adjusting salaries to the Nation's economy by increasing salaries each time the National Consumer Price Index moves up a full percentage point. Salaries will be composed of a base salary plus a Cost of Living Adjustment, providing built-in protection against inflation. The month after the National Consumer Price Index changes by a full percentage point, an Employee's salary will be adjusted accordingly.

4. Effective Date of Adjustment

Special care should be taken to cite the date(s) on which the salary adjustment or revised salary schedule is to take effect. Obvious dates include the contract anniversary date, a predetermined date for revision(s), or a variable time limit for payment following a set change in the CPI, e.g., salaries would be adjusted within 10 days of a full *point* increase in the national CPI. Examples appear below:

The 1974-75 salary schedule shall take effect commencing with August 26, 1974.

Effective July 1, 1972, the salary schedule will be improved by a cost-of-living increase equivalent to the increase in the Consumer Price Index for the Washington Metropolitan Statistical Area, published by the Bureau of Labor Statistics, U.S. Department of Labor, for the twelve-month period ending August 1, 1971, plus one hundred dollars on each step. In addition, unit members will receive a step increase on the salary schedule for which they are eligible.

The example below provides for quarterly escalation and clearly relates the measurement period, the wage adjustment period, and effective dates through the use of a table.

The percent change formula is defined and an example of the computation is provided:

The Cost of Living Allowance will be determined in accordance with changes in the official Consumer Price Index for Urban Wage Earners and Clerical Workers (including Single Workers), published by the Bureau of Labor Statistics, U.S. Department of Labor, (calculated on 1967 = 100), and hereinafter referred to as the BLS Consumer Price Index.

A	B
Based Upon BLS Consumer Price Index; quarter Ending:	Lump Sum Adjustment Made on First Payday after
September 30	November 15
December 31	February 15
March 31	May 15
June 30	August 15

The amount of the Cost of Living Allowance shall be computed by subtracting the CPI for July 1 from the CPI of the base dates given in column A above. The difference will be multiplied by 100 and the resulting product will be divided by the CPI for July 1, 1971. This quotient, rounded to the nearest .1, shall be the percentage increase for that quarter. Salary adjustment will be calculated, using this percentage of the teachers basic salary according to Appendix A for the days worked during that quarter.

Example

Base Dates	CPI
July 1, 1971	120.1
December 31, 1971	123.7
Difference	3.6

$$\frac{3.6 \times 100}{120.1} = 3.0\%$$

APPLICATION OF THE ADJUSTMENT

1. Application Methods

The application of the COL adjustment involves major decisions in two basic areas. The first concerns the method of the application with regard to base salary, annual increments, growth increments, bonuses for additional degrees, maximum steps, new hires, transfers, and any other salary variables. Equitable distribution of a COL adjustment hinges on its application to *all* variables.

The second area deals with the sequence of the application: Is the COL increase to be applied to current salaries or after salary improvement, step, and/or increment movement? The latter provides the larger increase for most individual salaries, given the same COL adjustment, and should be the association's first choice.

Focusing on the likely contrasting positions in construction of a year-end COL adjustment will illustrate the pros and cons implicit in sequence selection. School boards in this case will seek to limit the application to current salaries, using the rationale that inflation has diminished buying power of salaries in effect during the one-year COL measurement period. If school boards were willing to grant *retroactive* adjustments or absolute parity lump-sum payments, sufficient protection might be gained relative to current salaries. However, owing to the time lag in CPI availability and time constraints imposed by budget development processes, the COL measurement period in most provisions is not extended into the summer months and is inadequate to gauge the inflationary impact on current salaries.

Application of the COL adjustment *after* base salary increases and step movement, the association goal, results in new salaries being paid with inflation protected dollars. Since buying power lost over year-long periods can never be fully recuperated, associations gain more for members in the inflation struggle with the method described. Only an escalator during the year, e.g., quarterly or mid-year, provides a better advantage. Even with the escalators, however, the last adjustment before annual schedule improvement and step movement, should be applied *after* the increases in order to start the new salary year with constant dollars.

The examples to follow exhibit the wide variety of COL adjustments in present use; others are listed in the taxonomy.

In the following example the total salary budget is improved by 5 percent to finance the cost of increments and to improve individual salaries for the second year. A COL percent increase is stipulated on the basis of the percent increase of the CPI exceeding 5 percent and one-half the percent difference under the 5 percent mark:

The negotiated and settled salary schedule for 1973-1974 shall be based on a total increase of 5% to contract salaries calculated on the sum of contract salaries of K-12 teachers employed on December 1, 1972. The resulting dollar amount, arrived at by the 5% multiplication of the contract amounts on the stipulated date, shall first be used to finance the cost of increment for moving eligible teachers to their next year of service level. The remaining dollar amount after the deduction for the cost of increment shall then be divided by the total number of teachers included in the contract calculations (K-12) as of December 1, 1972, with the resulting amount applied to each step of the 1972-1973 salary schedule. The resulting dollar amount shall also be applied to teachers at the Moorhead Area Technical School.

It is further agreed that under the same formula and method of calculation a cost of living factor will be included, provided the cost of living factor of the Chicago Department of Labor Office as adjusted to the Minneapolis, Minnesota, area for the one-year period ending February 1, 1973, reflects an increase in excess of 5%. The total calculation shall be increased to the said cost of living percentage or factor, and in the event the cost of living factor is below 5%, the total shall be decreased by one half of the percentage difference. (i.e., 6% cost of living increase = 6% total or 4% cost of living increase = 4.5% total).

The following example provides for 5 percent improvement in the second year for all individual salaries and a mid-year COL adjustment limited to a percent increase of 6 percent:

For the 1971-1972 school year, the salary amounts set forth in attached Schedules A, B, and C (except summer substitute teachers) and Group D (coaches) in Schedule D, shall be increased effective July 1, 1971, five per cent (5%). Effective the first (1st) day of the second semester in 1972, the then current schedules will be further increased by the amount of the percentage increase, if any, in the U.S. Department of Labor Consumer Price Index (CPI)—U.S. Average-Measured from July, 1971 to January, 1972; such increase, if any, to remain in effect for the remaining term of this Agreement. The above described "Cost of Living Adjustment" shall not exceed six per cent (6%). The per cent of increase will be determined by dividing the number of points increase in the CPI between July, 1971 and January, 1972, by the number of points on the CPI for July, 1971.

Choice between a 4 percent guaranteed increase or the CPI percent increases plus 1 percent, in addition to increments, is called for in the following:

1974-75 Salary Schedule—Salary provisions for the 1974-75 school year will be increased by raising the base of the salary index either 4% or the percentage increase in the Consumer Price Index plus 1% whichever is greater, plus increment.

Three options appear in this sample, but note the vagueness of the first, the COL option:

Base on Bachelor Schedule—choice to be made no later than May 15, 1971. Choices as follows:
a. Cost of living for period from March 1, 1970 to March 1, 197; (Eastern Sea Board—Bureau of Labor Statistics)
b. Base of $7,200
c. Match highest base of Cortland County Schools, (Cortland, Homer, Cincinnatus, Marathon), as established by May 15, 1971 determination date.

This next example specifies a 4 percent increase for all steps and a COL increase for any percent increase in the CPI over 4 percent, up to a 6 percent maximum:

For the 1974-75 school year, the 1973-74 Teacher Salary Schedule shall be increased a minimum of 4% at all steps and degree levels, with the exception of the 1 L/CM and 2 L/CM steps, which shall be $400 and $1,000 above step 11 for the appropriate degree level respectively.

If the cost of living increases more than 4%, the 1974-75 Teacher Salary Schedule shall be increased from the 1973-74 schedule proportionally, to a maximum increase of not to exceed 6%.

A COL adjustment is made in the second year, with no additional improvement in the example below. Since a dollar increase is stipulated, however, the clause apparently calls for dollar improvment regardless of the COL variable. Note that provision is made for those on maximum steps:

For the 1974-75 school year, the salary for each professional employee shall be adjusted by the average percentage of increase in the cost of living for the calendar year 1973 over the calendar year 1972 as determined from the Revised Consumer Price Index for Urban Wage Earners and Clerical Workers, Philadelphia, Pa., Series A-05 published monthly by the Bureau of Labor Statistics. This increase shall not be less than $300.00 for any teacher. In addition for 1974-75 all maximum salaries shall be adjusted by the same percentage.

2. Limits

Teacher negotiators should not accept language that calls for a decrease in salaries if a decrease occurs in the CPI. In the early days of the labor sector COL provisions, a "floor" was agreed to below which salaries would not be reduced. Today negotiators refuse to consider reductions and use the term "floor" to indicate a mark which the CPI must pass before an increase is applied, as in:

If the percent increase is 4% or less, the salary or wage schedule as published will not change.
If this percent increase exceeds 4%, the amount over 4% becomes the adjustment factor. This will be multiplied by the 1974-75 salary or wage schedules as a salary or wage adjustment. This adjustment will be added to the published salary schedule for 1975-76.

With rates of inflation increasing, school boards could pressure for a ceiling or maximum on COL increases, as well as a high floor to minimize the effect of large rises in the CPI. Teacher associations should anticipate the floor concept and counter with proposals for a guaranteed minimum percent or dollar amount. The COL adjustment may then become operative following the agreed-upon formula. Agreement to minimums and maximums may check school-board arguments relating to budgeting problems posed by "open-ended" COL clauses. Guaranteed minimums within the context of COL provisions, should not be considered as salary improvement or additional professional growth increments.

In the example below, an increase of 1.7 percent was negotiated, thus raising the stated base to $8,850; the minimum and maximum increases were stipulated:

Salary Schedule for 1973-74 will be based on the percentage increase in the cost of living as reflected in the Detroit area Consumer Price Index. The formula used will be the average of the percentage increases from September 1972 to May 1973. The increase will not be less than 2% or greater than 5%. The starting salary will be $8,850.

3. Additional Improvement or General Increase

Since COL adjustments merely keep salaries in pace with inflation during a given period, an additional improvement factor should be negotiated to provide the general increase in subsequent years of a multiyear contract. In the example below, all steps are improved by a dollar amount and a COL adjustment is provided for to protect the previous year's salaries:

The Salary Schedule for the school year 1974-75 shall be that of the one for the 1973-1974 year with each step increased by $100 and a percentage equal to the percentage increase of the cost of living for the Philadelphia area from July 1, 1973 to June 30, 1974, as published by the United States Department of Labor Statistics. Each teacher will earn his proper step increase where applicable.

Although a decrease is allowed, the clause below clearly distinguishes among a COL adjustment, an improvement increase, and a percentage professional growth factor:

The Board shall establish and implement each year, i.e. 1973-74, 1974-75, a salary schedule which will incorporate adjustments to the current effective salary schedule as follows:

a. The annual cost of living percentage increase or decrease as published in the April publication of the Consumer Price Index, United States City Evaluation, U.S. Department of Labor, Bureau of Labor Statistics.

b. To the cost of living shall be added a .5% improvement factor.

c. The sum of the percentages presented in a and b shall be applied to the prevailing salary schedule base rates, after which shall be applied the 4.3% professional growth factor.

The following excerpt relates to a salary schedule with no intermediate lanes, since additional preparation levels are awarded bonuses; separate increases in these bonuses are detailed:

The teachers' salary schedule for the 1974-1975 school year shall be the schedule adopted in negotiations for 1973-1974 increased by the increase in the Consumer Price Index (CPI) for the one year period from November, 1972, to November, 1973, but in no event exceeding 5.5 per cent of such schedules. The above referenced increases are to be effected in addition to the increments.

A teacher who holds 30 semester hours of course credit approved by the Superintendent, above or in addition to those hours required and used for the master's degree shall receive $350 more than his regular salary effective July 1, 1973, and $450 more than his regular salary effective July 1, 1974.

A teacher who holds 60 semester hours of course credit, approved by the Superintendent, above or in addition to those hours required and used for the master's degree shall receive $700 more than his regular salary effective July 1, 1973, and $800 more than his regular salary effective July 1, 1974.

A teacher who holds a Ph.D. or Ed.D. degree shall receive $1,360 in addition to his regular salary effective July 1, 1973, and $1,460 in addition to his regular salary effective July 1, 1974.

4. Effective on Salary Schedule

Language should make clear that a COL adjustment is a permanent change in the schedule; the COL increase means more dollars paid to an individual but these should be considered as constant dollars relative to a base. If lump-sum amounts have been paid as COL adjustments, the payments should be totaled to arrive at a figure which revises salary schedule steps upward to a new base.

The example here consolidates COL adjustments to achieve a revised base wage rate:

As soon as reasonably possible after July 1, 1972, and July 1, 1973, the total accumulated cost of living adjustment for the prior year of July 1 through June 30 as provided, not to exceed the applicable maximum amount, shall be added to each employee's base wage rate.

The example below details the construction of the new salary schedule on the basis of COL adjustment with a guaranteed minimum of 3%, up to a ceiling of 6%. Although there is no provision for an additional salary increase, the COL adjustment is combined with a reopener triggered by a 7.3% increase in the CPI.

The salary schedule for 1974-75 shall be determined according to the following procedure:

1. Each step on the 1973-74 schedule shall be increased by a percentage equal to the percentage increase in the Consumer's Price Index from a base of July 1973 to July 1974, providing, however, that the increase will not be less than 3% or more than 6% unless the wage portion of the contract is reopened as provided in No. 4 below.
2. The Consumer's Price Index is defined as the Bureau of Labor Statistics reported using 1967=100 as a base. The July 1973 index figure for the United States city average is 132.7.
3. In determining the percentage increase, the following method will be used:

$$\frac{\text{July 1974 index}}{132.7} - 132.7 = \%\ \text{increase}$$

The percentage increase will be calculated to two places and rounded to the nearest one place, e.g., 5.44% equals 5.4; 5.45% equals 5.5%.
4. In the event that the percentage increase exceeds 7.3% (percentage to be calculated as in No. 3 above) the parties agree to open only the salary portion of the contract, with a guarantee of at least 6% at each step.

The following provisions are intended to present an array of the three types of wage improvement provisions being negotiated in the public and private sectors. None is advocated; however, the wide assortment of contract language and variations in dealing with wage improvement is intended as "boiler plate" language for adaptation to particular situations. The provisions have been extracted from state education association and union models where available, as well as from existing union contracts from both the public and private sectors.

COST-OF-LIVING ADJUSTMENTS

Single Increase

A. On the ____ day of September 19 ___, each step of the salary schedule (Appendix ____), shall be increased by a factor to be computed as follows:

1. Divide the July 1974 Consumer Price Index by the July 1973 Consumer Price Index.
2. The factor shall be rounded to the nearest one-thousandth.

Example:
July 1974 CPI estimate = 143.3
July 1973 CPI = 132.7
143.3 ÷ 132.7 = 1.0798
1.0798 x each step of the salary schedule

B. The Consumer Price Index is defined as the (Consumer Price Index for Urban Wage Earners and Clerical Workers, (1) U.S. Cities or (2) Detroit) published monthly by the Bureau of Labor Statistics, United States Department of Labor.

C. In addition to the above computation, on the ____ day of July 19 ____, each step of the salary schedule shall be increased by ____ % as schedule improvement.

D. In no event shall a reduction in salary occur as a result of this clause.

E. If the Consumer Price Index in its present form and calculated on the same basis shall be revised therefrom or discontinued, the parties shall attempt to determine an appropriate CPI figure by agreement or if agreement is not reached, the parties shall request the Bureau of Labor Statistics to make available a Consumer Price Index in its present form for the appropriate date or dates and calculated on a comparable basis. Any scheduled salary increases delayed by contingencies discussed in this paragraph shall be paid as of the first regular pay day subsequent to receipt of the delayed CPI information and shall be retroactive to the appropriate calculation date.

Table I

July 1 Adjustment	May CPI ÷ February CPI
October 1 Adjustment	August CPI ÷ May CPI
January 1 Adjustment	November CPI ÷ August CPI
April 1 Adjustment	February CPI ÷ November CPI

Ceiling

A. In no case shall the cost-of-living increase as defined in this Section be less than ___% nor more than ___%.

Quarterly Increases

A. For the duration of this Agreement, each step of the salary schedule as contained in this Agreement (Appendix _____) shall be adjusted on a quarterly basis and shall be calculated as follows:

1. Adjustment dates shall be July 1, October 1, January 1, and April 1.
2. On each adjustment date, the percentage adjustment shall be calculated according to Table 1.

[Michigan Education Association]

* * *

COST OF LIVING ESCALATOR CLAUSE

If there is an increase in the Consumer Price Index, the salary schedules shall be increased at each step to compensate therefor. The percentage constituting the cost of living adjustment shall be determined by the bargaining agent and certified to the employer. The method to calculate the percent change shall be as follows:

1. The index to be referred to is the Consumer Price Index—United States City Average—All Items, published by the U.S. Bureau of Labor Statistics. If the publication of the B.L.S.—C.P.I. Index should be discontinued, the parties shall mutually select another financial periodical of recognized authority. If the parties cannot agree upon a selection of appropriate comparable statistics within 30 days, that selection shall be determined by reference to and under the rules of the American Arbitration Association.

2. The percentage of increase, if any, shall be determined by computing the All Items Index from the base month of _____ 197__ to _____ 197___, calculating the percent change over the base paid, if any, by which the index has increased. (See example below)

3. The parties may, by mutual agreement, desire to alter the months to be considered in determining the average when making the comparative measurement.

4. Under no circumstances shall the columns in the salary schedule, by step, be lower than _____.

EXAMPLE

$$\frac{\text{November 1973} - \text{November 1972}}{\text{November 1972}} = \frac{\text{Index Point Difference}}{\text{Base}} \times 100 = X$$

$$\frac{137.6 - 126.9}{126.9} = .084 \times 100 = 8.4$$

[Pennsylvania Education Association]

* * *

COST OF LIVING

All employees covered by this Agreement shall be covered by the provisions for a cost-of-living allowance, as set forth in the section.

The amount of the cost-of-living allowance shall be determined and redetermined as provided below on the basis of the "Consumer Price Index for Urban Wage Earners and Clerical Workers (All Items) Published by the Bureau of Labor Statistics, U.S. Department of Labor (1957-1959 = 100)" and referred to herein as the "Index."

The first cost-of-living allowance shall be effective the first pay period beginning on or after July 1, 1971, based on the difference between the Index figure of March, 1970, and the Index figure for February, 1971, and shall continue in effect until the first pay period beginning on and after July 1, 1972.

The second cost-of-living allowance shall be effective the first pay period beginning on and after July 1, 1972, based on the difference between the Index figure of March, 1971, and the Index figure for February, 1972, and shall continue in effect to and including June 30, 1973. Adjustments in the cost-of-living allowance shall be made on the basis of changes in the Index as follows:

First Allowance:
Index Increase from March, 1970

There shall be a $.01 per hour or .25 mill per mile adjustment for every .3 point increase in the Index.

For example:	Allowance Per Hour	Allowance Per Mile
First .3 point	1¢	.25 mill
Second .3 point	2¢	.50 mill
Third .3 point	3¢	.75 mill
Fourth .3 point	4¢	1.00 mill
Fifth .3 point	5¢	1.25 mill
Sixth .3 point	6¢	1.50 mill
Seventh .3 point	7¢	1.75 mill
Eighth .3 point	8¢	2.00 mill

Second Allowance
Index Increase from March, 1971

There shall be a $.01 per hour or .25 mill per mile adjustment for every .3 point increase in the Index.

There shall be a maximum of $.08 payable under each of the two allowances.

In the event that the Bureau of Labor Statistics shall not issue the appropriate Index on or before the beginning of one of the pay periods referred to herein, any adjustment in the allowance required by such Index shall be effective at the beginning of the first pay period after receipt of such Index. No adjustments, retroactive or otherwise, shall be made in the amount of the cost-of-living allowance due to any revision which later may be made in the published figures for the Index for any month on the basis of which the allowance has been determined. The cost-of-living allowance shall not become a fixed part of the base rates for any classification.

A decline in the Index shall not result in a reduction of classification base rates.

Continuance of the cost-of-living allowance shall be contingent upon the continued availability of official monthly Bureau of Labor Statistics Price Index in its present form and calculated on the same basis as Index for 1965 unless otherwise agreed upon by the parties.

[National Master Freight–Teamster]

• • •

COST OF LIVING ESCALATOR – MID-YEAR

A. The Board and Association agree that, effective with the first pay period beginning on or after January 1, 197___, and thereafter during the period of this Contract, a Cost-of-Living Adjustment, if applicable, shall be made and each position on the teacher's salary schedule shall be adjusted upward accordingly.

B. Such adjustment shall be based on changes, if any, in the Consumer Price Index published by the Bureau of Labor Statistics, United States Department of Labor for the Minneapolis area for the period from April, 197___ to October 197 ____. (1967-1969 Base = 100)

C. In no event will a decline in the Cost-of-Living provide the basis for a reduction in pay.

[Minnesota Education Association]

• • •

COST OF LIVING ESCALATOR – TWO-YEAR

The increases in the 1976-77 salary schedule shall be computed in the following manner:

1. The 1976-77 salary schedule base shall be the 1975-76 base plus the percent of increase in the cost of living plus _____($_____) dollars.

2. The percent of increase in the cost of living shall be computed on the Consumer Price Index published by the Bureau of Labor Statistics, United States Department of Labor for the Minneapolis area for the twelve month period July, 1975 to July, 1976. (1967-1969 base = 100). The computation shall be made according to the following example.

Consumer Price Index, July, 1976 (_____)
Consumer Price Index, July, 1975 – (_____)
Index Point Change = (_____)

$$\frac{\text{Index Point Change}}{\text{CPI, July 1975}} \times 100 = \text{Cost of Living Increase}$$

3. The percentage relationships between the steps on the 1975-76 salary schedule shall be maintained and applied to the 1976-77 salary schedule base.

[Minnesota Education Association]

• • •

BASE PAY CHANGE
[Reopener]

The B. A. minimum of $6200.00 shall become $6500.00 as of September 1, 1972. The following conditions are agreed to by both parties concerning this proposal.

The cost of living index as issued by the Department of Labor will be recorded as of September, 1970 and as of January 1972.

If the cost of living index as of January, 1972 is the same as or lower than the index as of September, 1970, the Bellefontaine Educational Association agrees to accept $6500.00 as the B. A. minimum effective September 1, 1972.

If the cost of living index as of January, 1972, is higher than the index as of September, 1970, the Bellefontaine City Board of Education agrees to enter into negotiations with the Bellefontaine Education Association to determine the B. A. minimum to be effective September 1, 1972. Under no circumstance is the B. A. Minimum to be lower than $6500.00

[Bellefontaine, Ohio]

• • •

COST OF LIVING ALLOWANCE

In addition to the wage rates of each employee, and subject to the conditions and provisions set forth in this section, a cost-of-living allowance shall be paid to such employee, based upon changes in the cost-of-living, as follows:

(a) The cost-of-living allowance, if any, shall be determined in accordance with changes in the Consumer Price Index for Urban Wage Earners and Clerical Workers (1967 = 100) United States City Average published monthly by the Bureau of Labor Statistics, United States Department of Labor, and hereinafter referred to as the Price Index.

(b) Adjustments or readjustments in the cost-of-living allowance, if any, shall be made quarterly during the period beginning with the fourth month of this agreement at the following times.

Effective Date of Cost Of Living Adjustment (first pay period beginning on or after)	Based On Price Index For:
February 1, 1974	December, 1973
May 1, 1974	March, 1974
August 1, 1974	June, 1974
November 1, 1974	September, 1974
February 1, 1975	December, 1974

In the event the Bureau of Labor Statistics does not issue the Price Index on or before the beginning of the pay period referred to above, any adjustment required will be made at the beginning of the first pay period after publication of the Price Index. No adjustment, retroactive or otherwise, shall be made because of any revision which may later be made in the published Price Index.

(c) The amount of the cost of living allowance which shall be effective for any three (3) month quarterly period

as provided in paragraph (b) above shall be in accordance with the following tables:

Bureau of Labor Statistics Consumer Price Index	Cost of Living Allowance
138.5-138.7	none
138.9-139.2	1¢ per hour
139.3-139.6	2¢ per hour
139.7-140.0	3¢ per hour
140.1-140.4	4¢ per hour
140.5-140.8	5¢ per hour
140.9-141.2	6¢ per hour
141.3-141.6	7¢ per hour

and so forth, with 1 cent (1¢) adjustment for each additional .4 point change in the Price Index.

(d) In no event will a decline in the Price Index below 138.5 provide the basis for a reduction in the job classification wage rate.

The amount of any cost-of-living allowance in effect at the time shall be included in computing overtime payment, vacations and holiday payment, sick leave payment, and longevity pay.

If the Bureau of Labor Statistics, Consumer Price Index in its present form and calculated on the same basis shall be revised therefrom or discontinued, the parties shall attempt to adjust this change, or, if agreement is not reached, the parties shall request the Bureau of Labor Statistics to provide an appropriate conversion of the allowance which shall be applicable as of the appropriate allowance date and thereafter.

[American Federation of State, County, Municipal Employees]

* * *

COST-OF-LIVING ALLOWANCE

Each employee covered by this Agreement shall receive a cost-of-living allowance based on the BLS National Consumer Price Index (1967 = 100), hereinafter referred to as the C. P. I., in accordance with the following:

1. Effective July 23, 1972, an adjustment will be made in all basic weekly rates. The amount of the adjustment shall be as indicated in the following table based on the C.P.I. for May, 1972. (No downward adjustment is to be made.)

2. Effective July 22, 1973, a second adjustment will be made in all basic weekly rates. The amount of the adjustment shall be as indicated in the following table based on the C.P.I. for May, 1973, less the adjustment made in (1) above. (No downward adjustment is to be made.)

3. Cost-of-living allowances shall be included in "basic rates" for purposes of all computations.

4. In the event the Bureau of Labor Statistics does not issue the appropriate C.P.I. on or before the dates referred to in (1) and (2) above, any adjustment in the cost-of-living allowance required by such appropriate indexes shall be effective at the beginning of the first pay period after receipt of the indexes.

5. No adjustments, retroactive or otherwise, shall be made as the result of any revision which may later be made in the published figures for the C.P.I. for the dates referred to in (1) and (2) above.

6. The parties to this Agreement agree that the cost-of-living allowance is dependent upon the availability of the C.P.I. in its present form and calculated on the same basis as the index for May, 1971, unless otherwise agreed upon by the parties. If the Bureau of Labor Statistics changes the form or the basis of calculating the C.P.I., the parties agree to request the Bureau to make available, for the life of this Agreement, a C.P.I. in its present form and calculated on the same basis as the index for May, 1971 (1967 = 100).

Cost-of-Living Adjustment Table

BLS National Consumer Price Index (1957-59=100)	(1967=100)	Cumulative Adjustment in Weekly Rate
Below 140.6	Below 120.9	0
140.6-141.2	120.9-121.4	$0.50
141.3-141.7	121.5-121.8	1.00
141.8-142.2	121.9-122.3	1.50
142.3-142.7	122.4-122.7	2.00
142.8-143.2	122.8-123.1	2.50
143.3-143.7	123.2-123.5	3.00
143.8-144.2	123.6-124.0	3.50
144.3-144.7	124.1-124.4	4.00
144.8-145.2	124.5-124.8	4.50
Etc.	Etc.	Etc.

[N.J. Bell Telephone Co.—IBEW]

* * *

SALARIES

Teachers' Salaries 1973-74

All teachers will receive an increase of 5% each or a cost-of-living increase* each, whichever is larger, over their 1972-73 Ithaca School District salary. Ithaca teachers with less than 9 years experience as of June 30, 1973, will receive an additional sum of $200 in 1973-74.

*The percentage increase in cost-of-living that occurred between March 1, 1972 and March 1, 1973 as measured by the average between the Buffalo and New York-Northeastern New Jersey areas index published by the Bureau of Labor Statistics.

Teachers' Salaries 1974-75

1. All teachers with less than 9 years total teaching experience will receive an increase of $200 over their 1973-74 Ithaca School District salary.

2. In addition, each teacher with 9 or more years experience may receive, in whole or in part as below specified, a merit increment of $800 as follows in (a). Each teacher with 8 or less years experience may receive, in whole or in part as below specified, a merit increment of $600 as follows.

a. All classroom teachers and leadership personnel, having been evaluated by their immediate supervisors in accordance with the instrument devised in 1972-73, shall be

divided into three groups of teachers:

(1) Group 1—teachers with 1-6 years of total teaching experience

(2) Group 2—teachers with 7-9 years of total teaching experience

(3) Group 3—teachers with 10 or more years of total teaching experience.

b. Teachers whose evaluation scores are in the fourth quartile of Groups 1, 2 and 3 will receive the full merit increment ($800 or $600). Teachers whose evaluation scores are in the third quartile of Groups 1, 2 and 3 will receive 3/4 of the merit increment ($600 or $450). Teachers whose evaluation scores are in the second quartile of Groups 1, 2 and 3 will receive 1/2 of the merit increment ($400 or $300). Teachers whose evaluation scores are in the first quartile of Groups 1, 2 and 3 will receive 1/4 of the merit increment ($200 or $150).

3. In addition, each teacher will receive a 2% increase of their 1973-74 salary.

4. Any teacher who does not wish to participate in the above merit program, Items C 1-3, will receive an increase of

a. $250 plus 2% of their 1973-74 salary if they have less than 9 years experience as of June 30, 1974.

b. $100 plus 2% of their 1973-74 salary if they have 9 years or more experience.

5. In the event that by May 1, 1974, both parties agree that the teacher evaluations district-wide are not satisfactory to base a merit program upon, the teachers' salaries for the 1974-75 school year will be as follows:

a. a cost-of-living* increase for each teacher with 9 or more years of experience

b. a cost-of-living* increase plus $200 for each teacher with less than 9 years experience

c. the PGC program will continue for 1974-75.

*The percentage increase in cost-of-living that occurred between March 1, 1973 and March 1, 1974 as measured by the average between the Buffalo and New York-Northeastern New Jersey areas index published by the Bureau of Labor Statistics.

[Ithaca, N.Y.]

* * *

SALARIES

Salary Schedules:

a. The salary schedule for 1972-73 appears in Appendix A-1 attached to and which forms a part of this agreement.

b. The salary schedule for 1973-74 shall be based upon the salary index guide of Appendix A by increasing BA Step 1 (Column C) by 5.5 percent or, if greater, by a percentage increase equal to the percentage change in the New York, New Jersey Metropolitan area cost of living index, if any, for the twelve months ending March 1973, as determined by the Bureau of Labor Statistics, Consumer Price Index.

[Sachem, N.Y.]

* * *

COST OF LIVING

The difference, if any, between the Consumers Price Index for the city of Minneapolis - St. Paul, Minnesota (new series index 1967 = 100) as published for the months July, 1973, and April, 1974, by the Bureau of Labor Statistics of the United States Department of Labor shall be computed. For each full .4 point increase so computed two tenths of one percent rounded to the nearest dollar shall be added to the rates of pay in the salary schedule as a cost of living allowance. Such cost of living allowance shall become effective the first full payroll period after July 1, 1974, and shall continue in effect until the first full payroll period after January 1, 1975. A redetermination of the cost of living allowance shall be made in October, 1974, and will involve computation of the difference, if any, between the aforementioned index as published for the base month of July, 1973, and the month of October, 1974. For each full .4 point increase so computed two tenths of one percent rounded to the nearest dollar shall be added to each step of the salary schedule as a cost of living allowance. Such cost of living allowance shall become effective the first full payroll period after January 1, 1975, and shall continue in effect during the term of this Contract. The cost of living allowance provided above is in addition to step advancement.

Employees' positions on the salary schedule shall not be altered because of this Contract except as provided for under the terms of this Contract.

[Minnesota Community College]

* * *

For the year 1974-75 teachers will be compensated according to a revised salary schedule as follows:

1. Each step on the 1973-74 salary schedule shall be multiplied by One Hundred Percent (100%) plus the percentage, if any, by which the Consumer Price Index, All Items, for the Philadelphia Metropolitan Area as calculated by the United States Department of Labor has increased between April 30, 1973, and April 30, 1974.

2. It is agreed that the Consumer Price Index, All Items, Philadelphia Metropolitan Area for April 30, 1973, was 133.4 on a 1967 base of 100.

3. Each teacher, pursuant to the provisions of Section 602, shall be placed on the appropriate step of the revised salary schedule for 1974-75 as calculated above.

4. In the event the Consumer Price Index, All Items, Philadelphia Metropolitan Area, has increased less than Five Percent (5%). The salary steps subject to this minimum increase of Five Percent (5%) are as follows:

Standard Certificate - Twelfth Step
Bachelors (College Certificate) - Twelfth Step
Master's Degree - Thirteenth Step
Master's Degree plus thirty credits - Thirteenth Step
Doctor's Degree - Thirteenth Step

5. Nurses shall be placed on the step appropriate under Section 602 of the teachers' salary schedule

[Springfield Twp., Pa.] 2851

TAXONOMY OF VARIABLES IN COST-OF-LIVING PROVISIONS

Index selection
- Base—1957-59 = 100
  - 1967 = 100
- U.S. city average, all items
  - Monthly
  - Annual
- City or SMSA
  - Monthly cycle
  - Quarterly cycle

Change factor computation
- Time periods—Measured interval from base to future X
  - Calendar year
  - Other 12-month period
  - Period more or less than 12 months
    - Month
    - Quarter
    - Six months
    - Annual or 12 month average vs. next annual or 12-month average
- Index point change
  - Direct percent multiplier
  - Point change in formula
- Index percent change
  - New index less old index divided by old index
  - New index divided by old index
- Average change
  - Average of index figures
  - Average of points change
  - Average of percent change
  - Average of period X and period Y

Period for wage adjustment
- Contract Year
- Six months or midyear
- Quarter
- Month

Effective date of adjustment
- Contract anniversary
- Predetermined date for revision(s)
- Variable—triggered by CPI change
- Date of payment

Application of adjustment
- Dollar amount applied to:
  - Each step or individual salary
  - BA base of index salary schedule
  - No change in BA base index
  - BA base increased in subsequent period
  - BA base decreased in subsequent period
  - BA lane only
    - Increments constant
    - Increments change under formula
- Percent increase applied to:
  - (same as above)
- Other applications, dollar amount or percent increase
  - Lump-sum payment
  - Increase applied to separate BA, MA indexes
  - Increase applied to those at maximum step
  - Increase is average of BA lane
  - Increase is average of each lane
  - Merit increase

Limits
- Direct application, no limits
- Floor, no increase until past floor
- Minimum, guaranteed
- Maximum or ceiling
- Minimum and maximum—Percent or Dollar Amount

Additional improvement factor
- Improvement plus COL = dollar amount or percent applied
- Improvement by dollar amount, then COL dollar increase
- Improvement by dollar amount, then COL percent
- Improvement by COL percent, then dollar amount
- Improvement by percent, then COL percent (compound increase)
- Improvement conditional on passing COL floor

Effect on salary schedule
- No effect, lump-sum paid
- Permanent adjustment, new schedule

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NRD

NEGOTIATION RESEARCH DIGEST

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NATIONAL EDUCATION ASSOCIATION
RESEARCH

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CASE REVIEWS

HAWAII

Fine Against Hawaii State Teachers Association Reduced

The Hawaii Supreme Court reduced to $100,000 a $190,000 fine assessed against the Hawaii State Teachers Association (HSTA) for violating a preliminary injunction against striking because the issues in the case had never been litigated previously and the new laws governing collective bargaining among public employees were very complex. A lower court enjoined HSTA from striking after the Hawaii Public Employment Relations Board (HPERB) ruled that HSTA was guilty of failure to bargain in good faith with the Hawaii Board of Education. HSTA appealed to HPERB, contending that the parties were at an impasse. HPERB upheld HSTA's allegation, but the above-mentioned lower court overturned the ruling on the ground that HSTA had failed to bargain in good faith, and without good faith bargaining on the part of HSTA, there could be no finding of an impasse. HSTA went on strike and was found in contempt of the court injunction and fined $190,000.

HSTA appealed the validity of the contempt order and fines, contending that the court lacked jurisdiction to determine whether the parties had reached an impasse and that the court decision was being appealed at the time that the fine was levied.

The Hawaii Supreme Court ruled that the lower court had acted within its jurisdiction and that HSTA was bound by its decision until its decision was reversed for error by itself or by a higher court. Additionally, the court ruled that the contempt order was valid when the strike occurred since the injunction covered the duration of the contract between the parties, and that HSTA did not qualify for exception from the order since it had not attempted to bargain in good faith prior to the strike.

Although the Hawaii Supreme Court upheld the lower court decision, it decided to reduce the fine levied against the HSTA because "HSTA acted as the 'legal trail-blazer' in an uncharted, complicated, new legal field of collective bargaining among the public employees in the State of Hawaii." (*Hawaii Public Employment Relations Board, State of Hawaii, Plaintiff-Appellee v. Hawaii State Teachers Association et al., Defendants-Appellants*, Hawaii Supreme Court, March 24, 1974.)

ILLINOIS

Public Employee Strikes Enjoinable

In a case between the city of Pana and the American Federation of State, County and Municipal Employees, the Illinois State Superior Court reversed an appellate court ruling[a] that public employee strikes may not be enjoined. The superior court held that the state anti-injunction act was inapplicable because public employee strikes were illegal.

When the employees of the city of Pana went on strike, the circuit court granted the city's motion to enjoin the employees from engaging in any form of cessation of work.

The AFSCME appealed, arguing that the provision in the anti-injunction act whereby the issuance of an injunction in a dispute over terms and conditions of employment, by any state court was prohibited. Accordingly, an appellate court reversed the decision of the lower court.

Contending that the anti-injunction act was not intended to apply to work stoppages among government employees which had been and still were universally considered unlawful, and asserting that the corresponding federal statute, the Norris LaGuardia Act, has been held to be inapplicable to federal government employees, the supreme court concluded that the strike was enjoinable in that it was illegal and presented imminent danger to the welfare of the citizens. (*City of Pana v. Harold Crowe et al.*, Illinois Supreme Court, May 20, 1974.)

[a] *Negotiation Research Digest* January 1974, p. 3.

MINNESOTA

Arbitration Ordered for Teacher Denied Annual Increment and Salary Increase

Dissolving a temporary restraining order which stalled arbitration proceedings, the Minnesota District Court ruled that a teacher was entitled to judgment and ordered the parties to proceed to arbitration on the matter of a denial of an increment and negotiated salary increase.

The parties' agreement stated that the salary schedule was not a part of the continuing contract, that the board reserved the right to withhold any salary increases for disciplinary reasons, and that this provision was subject to the grievance procedure and applied only for just cause.

The teacher alleged that just cause was not established and filed a grievance contending that she complied with the contract procedure in processing the grievance to arbitration.

The board contended that the teacher did not comply with procedures and secured a stay of arbitration shortly before the hearing before the American Arbitration Association was to begin.

In its memorandum, the court held that the state supreme court adheres to a rule which permits the courts to review arbitration cases only after arbitration. The exception to that rule is in cases where no contract exists or an existing contract was induced by fraud.

In the case at bar, the court found that there was a contract to arbitrate the grievance, and held that the question was whether the procedures were properly followed to invoke the arbitration mechanism. Accordingly, the court held that the arbitration panel should first determine the arbitrability of the case, and that if the arbitration panel assumed jurisdiction, the court could review the arbitrator's decision on appeal.

The court, therefore, ordered the temporary restraining order be dissolved and the parties to proceed to arbitration. (*Independent school District No. 204, Kasson-Mantorville Schools, v. Dorthy N. Johnson*, Minnesota District Court, June 6, 1974.)

NEW YORK

Arbitration Is Prerequisite to Court Proceeding

Under New York State law, any dispute arising within the scope of a valid collective bargaining agreement that provides for arbitration must be submitted to arbitration as a prerequisite to any court proceeding. Unless the agreement clearly excludes a given issue from arbitration, the question of arbitrability is for the arbitrator rather than the courts to decide. The courts will enjoin arbitration under such an agreement only when (a) there is fraud or duress, (b) there is no valid dispute between the parties, (c) the performance which is the subject for the demand for arbitration is prohibited, and (d) a contractural prerequisite to arbitration has not been fulfilled. Accordingly, the supreme court denied the request of the Connequot Board of Education that arbitration demanded by the Connequot Teachers Association be stayed.

The Association had requested arbitration on two unrelated issues. The board of education went to court seeking a stay of arbitration on the grounds that the Association had no standing under the contract to request arbitration, and that it had improperly combined two issues which had no common basis in law or fact. The Association contended that it did have standing and that it wished to have each of the issues arbitrated separately.

Ruling in favor of the Association, the court stated that the contract gave the Association standing to demand arbitration, and that the two issues could be included in the same demand, provided they were arbitrated separately. Finally, the Court stated that under valid agreements which provide for arbitration, arbitration is a prerequisite to any court proceeding for all disputes arising within the scope of the contract, and that a stay could be granted only in case of fraud or duress, the absense of a valid dispute, a demand for performing a prohibited act, or failure to fulfill a contractual prerequisite to arbitration. (*Matter of Board of Education and Connequot Teachers Association*, New York Supreme Court, Suffolk County, March 14, 1974.)

No Binding Agreement Exists Unless Parties Agree on Language To Be Used

No binding agreement exists unless the parties have agreed upon the language to be used in the contract. Therefore, the New York State Supreme Court granted a stay of arbitration which had been sought by the White Plains Teachers Association.

The Association and the city of White Plains had executed a memorandum of agreement in which the parties agreed to submit disputes over the proper language of the contract to arbitration. However, at the top of the memorandum, the following was written: "Outline form only—subj. to lang. and approval of B of E and ratification by Tchrs. Assn."

When a dispute occurred, the Association refused to submit it to arbitration. The board sought and received an order from a lower state court directing the Association to implement the memorandum. The Association appealed.

Upon appeal, the supreme court ruled in favor of the Association, stating that "there could be no binding agreement where the parties had not agreed upon the language to be used in the contract." (*City School District, White Plains Respondent v. White Plains Teachers Assn.*, New York Supreme Court, Appellate Division, Second Department, March 18, 1974.)

WISCONSIN

Residency Requirement Affecting Job Security Requires Bargaining

A residency requirement for municipal employees which threatens current nonresident employees with discharge for failure to comply is a condition of employment and subject to mandatory collective bargaining under the Wisconsin Municipal Employment Act. Therefore, the Wisconsin Circuit Court upheld a decision of the Wisconsin Employment Re-

lations Commission which cited the city of Brookfield for unlawful refusal to bargain when the city unilaterally adopted a residency requirement for its municipal employees. WERC ordered the city to bargain on residency requirements with Fire Fighters Local 2051.

When the city enacted a residency requirement for municipal employees, the fire fighters filed a complaint with WERC, charging the city with failure to bargain in good faith. WERC ruled in favor of the fire fighters. The city appealed, contending that the residency requirement was not a subject of mandatory collective bargaining, but a managerial decision, fundamental to the direction of the municipality and that the residence of employees was so important that the policy of self government and public welfare must prevail against policies favoring reduction of labor strife.

Upholding WERC's decision, the court, ruled that the residency requirement affected job security, and was a condition of employment, and noted that previous court rulings had established that (a) any change which directly related to the termination of employment was mandatorily bargainable, and (2) residency requirements constituted a condition of employment and therefore must be considered mandatory bargaining subjects. In addition, the court ruled that an action taken "in direct impingement of job security" was a managerial prerogative of the municipal employer under the Municipal Employment Law, and that any decision by a municipality which conflicts with state or federal statutes is void. (*City of Brookfield v. WERC*, State of Wisconsin Circuit Court, Waukesha County, June 21, 1974.)

FEDERAL

Sick Leave Usable for Pregnancy-Related Disabilities

Denial of the use of accumulated sick leave for pregnancy-related disability was declared discriminatory and in violation of Title VII of the Civil Rights Act of 1964 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution by a U.S. District Court Judge.

A woman teacher, seeking relief through the Equal Employment Opportunity Commission (EEOC), charged that the Lake Oswego School District, No. 7, had denied her request to use her accrued sick leave for her absence for pregnancy-related disability. She contended that a distinction between childbirth-caused disabilities and other medical disabilities discriminated against her on the basis of sex.

The members of the Lake Oswego Board of Education argued that they were not the teacher's employer within the meaning of 42 U.S.C. 2000 e-2(a).

A 1972 amendment to Title VII promoting equal employment opportunities provided coverage for state and municipal employees and educational institutions. As the power to hire is vested with the school board and the school-board members are agents of the district under state law, it was reasoned that they are, therefore, employers. Whereas the school board is immune from suit under the doctrine of sovereign immunity, school-board members are entitled only to qualified immunity for acts performed by them in good faith.

In regard to the teacher's entitlement to use sick leave for a pregnancy-related disability, the school district argued that state law states that pregnancy or childbirth is not an illness or injury. However, the court held that the EEOC had issued guidelines which stipulated that the treatment of maternity disabilities separate from other disabilities was sex discrimination. The court pointed out that in *Naran Andreev v. National Broadcasting Company*, an attempt to test the EEOC guidelines, it was held that pregnancy must be treated the same as any other illness.

In regard to the Equal Protection Clause, the teacher contended that a distinction between childbirth-caused disabilities and all other disabilities is arbitrary and discriminatory and, therefore, contrary to the Fourteenth Amendment to the Constitution of the United States.

The defendants argued that their policies were not sexually discriminatory because pregnancy is a class by itself and the school district's notice of them is not a classification by sex. Because sex is voluntary, they asserted, it is not an illness or injury within the range of dibilitating injuries defined by state law.

Disagreeing with this argument, the court held that since pregnancy is a natural, expectable, foreseeable, and ultimately necessary condition restricted to women, and is not regulated by statutory law but biological law, the regulation penalized women teachers for being women, and must be condemned.

The defendants also argued that granting sick leave for pregnancy-related disabilities would increase administrative costs. The court struck down this argument, citing *Aiello v. Hanson*, in which it was held that to exclude pregnancy-related disabilities as dibilitating injuries or illness, a state must also prove that the restriction of these disabilities rests upon substantial differences relative to the objective of the legislation. The court reasoned that excluding all pregnancy-related disabilities on the grounds that the claims would be large, places the state in a position of fostering a stereotype concept contrary to the guidelines of the Equal Protection Clause.

Therefore, the court ruled that the board intentionally engaged in an unlawful employment practice in violation of Title VII of the Civil Rights Act of 1964 by discriminating on the basis of sex in its denial of sick leave benefits for childbearing-related disabilities. In addition, the court found the determination of sick leave benefits arbitrary and irrational.

In conclusion, the court held that the doctrine of sovereign immunity was applicable to the school district and that the teacher was entitled to sick leave benefits. It granted the teacher costs and attorneys' fees as relief from discrimination and enjoined the board members from future refusal to allow use of sick leave for pregnancy-related disabilities. (*Barbara Hutchinson v. Lake Oswego School District, Equal Employment Opportunity Commission*, U.S. District Court, April 25, 1974.)

BOARD FINDINGS AND RULINGS

CONNECTICUT

School Boards Must Bargain Before Contracting Out Bargaining Unit Work

In two related cases, the Connecticut State Board of Labor Relations ordered the school board to bargain with the organization representing its employees before contracting out bargaining unit work. The cases involved the school boards of Plainville and Southington and AFSCME Local 1303 representing custodians and maintenance workers. In both cases the labor board held that the school board had committed an unfair labor practice by failing to bargain with the union before contracting out the work in existing job categories, and ordered the boards to bargain with the union.

- In the Plainville case, the labor board held that custodial work performed in a new addition to an existing building was bargaining unit work since the work was specified as bargaining unit work in the contract, was performed in part by members of the bargaining unit even after it was contracted out, and was substantially the same as work that was not contracted out in the original building. In addition, members of the bargaining unit performed all maintenance work in the new building.

Having defined bargaining unit work, the labor board stated that when a substantial amount of bargain unit work of a permanent nature is to be contracted out in departure from past practice relating to similar work, and in the absence of a "prospect of intolerably repeated full-scale bargaining," the employer is required to bargain with the union.

- In the Southington case, the school board voted to contract out work before the certification of a newly elected bargaining agent and in the absence of a request to negotiate from the former bargaining agent. The labor board ruled that an employer must initiate bargaining with the union and that the failure of the unions to bring the matter to the bargaining table did not constitute a waiver of its right to have the status quo remain unchanged by unilateral action on the employer's part.

The labor board also ruled that having made an unlawful decision before the certification of the new bargaining agent, the school board was required to review the implementation of that decision with the new bargaining agent and to halt implementation, "until such contracting out is agreed to by the union after negotiation, or until final impasse in such negotiations has been reached." (*Plainville Board of Education and AFSCME Local 1303*, Connecticut State Board of Labor Relations, January 18, 1974.; *Southington Board of Education and AFSCME Local 1303*, Connecticut State Board of Labor Relations, May 10, 1974.)

HAWAII

Withholding Seniority Credit from Striking Teachers Upheld

The Hawaii Public Employment Relations Board ruled that the deduction of one month's seniority credit from teacher strike participants, members of the Hawaii State Teachers Association, was not in violation of a strike settlement agreement.

A dissenting HPERB member took issue, stating that the decision could exercise a chilling effect on future legally protected strikes. He also contended that the Board lacked jurisdiction to penalize the Association because the issue involved a breach of contract more appropriately handled through the negotiated grievance procedure.

Acknowledging that the dispute was arbitrable, the HPERB stated that it retained jurisdiction to save money and time which would be in the best interest of both the public and the teachers.

Seniority service credit, which is computed on a half-month paid status basis, operates in favor of employees whose work meets half-month criterion and to the disadvantage of those whose work does not. The Board concluded, nonetheless, that the policy was not discriminatory since it was applied equally to strikers and non-strikers. Also, the Board was of the opinion that the employer properly viewed the strike as unauthorized leaves without pay. Since certain approved leaves do not accrue service credit, it was unreasonable to conclude that the board of education should have granted service credit for absence owing to strikes.

In the absence of clear language in the strike settlement agreement covering seniority and the lack of coverage of it in a reopener, the Board determined that it was without authority to act, other than to sustain the board's policy of deducting seniority credit from striking teachers. (*Hawaii Board of Education vs. Hawaii State Teachers Association*, Hawaii Public Employment Relations Board, July 9, 1974.)

MASSACHUSETTS

Successor Agreement Does Not Bar Petition Filed During the Open Period

The negotiation of a successor agreement before the filing of a petition for a representation election does not invalidate that petition if it was filed during the "open season" between 120 to 60 days before the expiration of the existing contract. Any successor agreement reached before the end of the open period is to be considered premature so as to allow employees the opportunity to review their choice of representatives. The Massachusetts Labor Relations Commission so ruled, upholding the representation petition filed by the Pittsfield Federation of Teachers as timely filed.

The Federation had filed its petition during the open season before the expiration of the contract between the Pittsfield Teachers Association and the Pittsfield School Committee. Before the filing of the petition, a successor agreement had been negotiated by the Association and the school committee and ratified by the Association members.

The school committee and the Association challenged the validity of the petition before the Commission, contending that the petition could not be considered as timely filed because under the Municipal Employee Relations Act "no election can be directed during the term of an existing agreement," and, therefore, the petition was barred by the prior execution of their successor agreement.

Ruling in favor of the Federation, the Commission noted that barring a representation petition filed during the open period on the grounds of prior execution of a successor agreement could permit an employee association to "effectively prevent employees from ever having the opportunity to review their choice of representatives," by executing a successor agreement prior to the open season. Therefore, the Commission held that any agreement negotiated before the end of this period would be considered premature and subject to renegotiation if the employees elected a new bargaining agent. (*Matter of City of Pittsfield School Committee and Pittsfield Federation of Teachers, Pittsfield Teachers Association, Intervenor*, Massachusetts Labor Relations Commission, June 6, 1974.)

NEW YORK

Recognition Not Terminated When Employer Files an Application for Managerial Status

"A recognition properly granted by an employer may not be withdrawn by the whim of the employer." Under the Taylor law, an employer's recognition of an organization is not terminated by his application for managerial status for his employees who are members of the organization. Nor is there an automatic stay of a PERB decision pending resolution of appeal of its decision to the courts. Therefore, PERB ordered the Hempstead Public Schools, Union Free School District No. 1, to bargain with the Hempstead Schools Association of Administrators on wages and working conditions for building principals.

The Association had filed a complaint with PERB when the school district refused to negotiate, pending resolution of its appeal from a 1973 PERB decision which rejected the district's petition for designation of building principals as managerial employees.

The district contended that (a) having recognized the Association voluntarily, it was free to withdraw recognition on its own, (b) recognition of this Association was terminated with the filing of the district's application for managerial status, and (c) it was not required to negotiate pending the resolution of its appeal.

PERB held that "recognition properly granted by an employer may not be withdrawn at the whim of the employer, but may only be withdrawn if the employer at an appropriate time has objective evidence that the employee organization no longer represents an appropriate unit or enjoys majority status, or if the employer invokes the processes of this Board by way of petition for decertification or certification." It maintained that recognition is accomplished only by final approval of an employer's application and not by the application itself, and becomes effective only upon the end of the period of unchallenged representation. Also, no automatic stay of a PERB decision is provided by reason of appeal from that decision to the courts.

PERB ordered the district to bargain with the Association on wages and working conditions for building principals. (*Hempstead Schools Association of Administrators and Hempstead Public Schools, Union Free School District No. 1*, PERB, April 1, 1974)

Composition of Evaluation Committee Not Negotiable

In a case involving the Professional Staff Congress (PSC) of CUNY and the Board of Higher Education of the City of New York, PERB ruled that the composition of the Personnel and Budget Committee (PBC) which evaluates college faculty was not a term or condition of employment under the provisions of the Taylor Law, but was a managerial prerogative, not a mandatory subject of negotiations.

During negotiations, PSC demanded contract language barring student membership on P&B's. The Board opposed the demand on its merits and contended that it was not within the scope of mandatory negotiations. PSC submitted the issue to a fact finder who determined that PERB had exclusive jurisdiction over the question of negotiability.

The Board filed a complaint with PERB, charging PSC with refusing to negotiate in good faith by demanding the limitation of student voting on the committee as a condition of agreement. PSC denied any violation, contending that since P&B committees made decisions concerning terms of employment, the composition of them affected those terms, and that the faculty had an interest in the

continuation of the long-standing practice of excluding student representation on P&B committees. In addition, PSC contended that peer evaluation was vital to the stability and academic soundness of colleges and that "the faculty must continue to manage."

PERB ruled in favor of the Board, citing *Matter of the Board of Education of the City of New York* (5 PERB 3094 (1972)), in which it decided that "the assignment of responsibilities to one group of supervisors or another is a management prerogative within the meaning of the Taylor Law; it is a term of employment of the supervisors involved but not of the employees being supervised." PERB also held that "collective negotiation. . .is not designed to resolve policy questions regarding the structure of governance of a public employer or the nature of that public employer's responsibility to its constituency. . .[which involves] issues of social concern to many groups in the community other than the public employer's administrative apparatus and its employees." The use of collective negotiations for such disputes would amount to disenfranchising other interested groups, which "would neither serve the interests of the community nor the requirements of the Taylor Law."

In addition, PERB considered an argument, not raised by PSC, that an employer cannot alter a past practice unilaterally even though it is not within the scope of negotiations. Recognizing that past practice enlarges the scope of negotiations, PERB rejected this argument, noting its decision in *Board of Education of the City of New York* that "the Taylor Law imposes no obligation upon an employer to maintain a past practice that is not a term or condition of employment even though it may have obligated itself to do so contractually. Also, where there is no contractual obligation, past practice does not enlarge the Taylor Law obligations of an employer to negotiate.

PERB ordered PSC to "cease and desist from insisting that non-mandatory subjects of negotiations be considered by a fact finder. . .[and] from persisting in a demand for a non-mandatory subject after fact finding."

In a dissenting opinion, it was argued that peer evaluation was a mandatory subject of negotiations. Citing NLRB's decision in *Matter of Adelphi University*, it was noted that "the industrial model does not fit the university. . .while qualifications for employment have been traditionally regarded as a managerial prerogative, an obvious exception would be a university, where the faculty have traditionally participated in their own governance in such matters as hiring, tenure and dismissal." Whereas in *Board of Education of the City of New York*, the supervisors and the employees were distinct groups, "in the instant case, those rated and those doing the rating are all faculty." Since faculty members rate themselves, that rating is a term and condition of employment. Faculty members here were employed with the understanding that their retention and advancement would initially (but not finally) be decided by their peers.

Additionally, in *Matter of Board of Education, City School District of Rochester*, PERB stated that "the phrase terms and conditions of employment, is considered to cover any subject which has a 'significant or material relationship' to the conditions of employment, unless it involves decisions concerning the basic goals and direction—the mission--of an employing enterprise." The composition of the faculty evaluation committee does not involve the basic goals or mission of the university. (*Board of Higher Education of the City of New York, Charging Party and Professional Staff Congress, CUNY, Respondent*, Public Employment Relations Board, April 29, 1974.)

MICHIGAN

Bargaining Through Representatives Upheld

In a decision concerning an alleged refusal to bargain brought by the Detroit College of Business Faculty Association against the Detroit College of Business, the Michigan Employment Relations Commission recommended dismissal of the charges because the Association was unable to produce sufficient evidence of a violation.

Upon affiliation with the Michigan Education Association (MEA), the Detroit College of Business Faculty Association (DCBFA) notified the college that the MEA would in the future provide it with assistance in negotiation and grievance processing. However, the college refused to allow an Association meeting to be held in college facilities upon learning that the principal speaker was to be an MEA representative.

The DCBFA charged that the college engaged in unfair labor practices by refusing to allow MEA to represent it in collective bargaining and other activities with the college. The college contended that the charge should be dismissed because it had not refused to bargain with other than an MEA agent, that the matter should be pursued through grievance procedures as provided by the collective bargaining agreement, and that the college was not required to honor the MEA as agent for the DCBFA.

The MERC agreed that the refusal of the college to negotiate was not because a representative of the affiliate organization was present, but rather because MEA had not notified the college of its intent to represent the DCBFA. Citing the *Benton Township* decision that public employees are guaranteed the right to assistance from affiliate organizations, MERC held that employee organizations have the right of free choice of representative.

Regarding the contention that the matter should be handled through the grievance procedure in accordance with NLRB's *Collyer Insulated Wire* doctrine, the Commission disagreed, saying that the right to bargain is a basic right granted by the Labor Mediation Act, but that DCBEA's situation dealt with a bargaining problem arising under a contract which provided for arbitration. Therefore, this right could not be delegated to an arbitrator.

Concluding, the Commission declined to issue a declaratory judgment, recommended that the charges be dismissed, and upheld the right of employees to bargain through representatives of their own choosing. (*Detroit College of Business and Detroit College of Business Faculty Association*, Michigan Employment Relations Commission, March 28, 1974.)

Teachers Not Required To Work on Day Lost by Inadvertent Class Cancellation

In a dispute between the Lake Fenton Education Association and the Lake Fenton Board of Education, an arbitrator ruled that public-school teachers were not obligated to make up time lost by an inadvertent class cancellation.

Having agreed to extend the school calendar to compensate for time lost during a teachers' strike, the Association objected to the board's unilateral rescheduling of a missed class session and subsequent extension of the final teacher work day. The board president explained that the passage of a state bill which discouraged the holding of strike make-up sessions on Saturday, but encouraged the extension of the school term, precipitated his decision. Such action unintentionally released the teachers from their contractual obligation to work a specified number of days.

While Michigan law requires 180 days of student instruction, the contractual arrangements concerning student instruction days and teacher work days, negotiated between the two parties, was in excess of the minimum standard. Exceptions to the time minimum were allowed for acts of God, and compensatory sessions were required only when these occurrences exceeded five days.

The arbitrator pointed out that the minimum requirement for student days of instruction would be met, and that there was no statutory requirement to reschedule the class in question since this obligation would be necessitated only by an act of God. He also indicated that he was not authorized to amend the bargaining agreement by adding teaching days. Determining that both the contract and the Michigan statutes allowed for time to be missed without any obligation to compensate, and that the teachers were willing to work on the day in question, the arbitrator granted the union's request to set the teacher's workday in accordance with prearrangements. (*Lake Fenton Education Association vs. Lake Fenton Board of Education*, Michigan Employment Relations Commission, May 16, 1974.)

FEDERAL

Waiver of Initiation Fee Prior to Election Held Legal

A union's offer to waive its initiation fee for all eligible employees prior to a representation election was deemed legal by the National Labor Relations Board. The United Auto Workers offered a pre-election waiver of fees during the course of three meetings and in a handbill distributed to employees. The employer argued that such an offer constituted a restriction on the employees' freedom of choice because the union had thus conditioned the election on the waiver of fees.

An NLRB regional director held that the election was valid and he overruled the timely objections of the employer. The full NLRB supported this decision, citing *NLRB v. Savair Mfg. Co.* wherein the Supreme Court of the United States characterized such a waiver of initiation fee as the elimination of an artificial obstacle to an employee's freedom of choice in an election, and therefore, held it to be a legitimate interest of the union. Further, the high court held that the availability of the waiver to all employees whether they joined the union before or after the election ensured that the election was not conditioned upon union support during the election.

Noting the absence of a penalty for employees who did not support the union during the campaign or the election, the NLRB held that the election was clearly not conditioned upon expression of support for the union. The availability of the waiver to all current employees did not interfere with their freedom of choice, according to the NLRB, and neither did it affect the outcome of the election.

Accordingly, the NLRB rejected the employer's appeal and upheld the election. (*Endless Mold, Inc. and International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW)*, National Labor Relations Board, April 19, 1974.)

NEGOTIATION NOTES

ARIZONA

State and Local Governments Barred from Entering into Collective Bargaining Agreements with Public Employees

The attorney general ruled that state and local governments may not enter into a collective bargaining agreement with public employee unions.

According to the attorney general, in the absence of provisions in the Arizona constitution or statutes granting the state or local governments the power to bargain collectively with public employees, the power to establish terms and conditions of employment for those employees resides with the state legislature.

Also, a local government which has adopted a merit system establishing terms and conditions of employment for its employees on the basis of authority delegated by the state legislature is barred from entering into a collective bargaining agreement with a union. In the absense of such a system, a local public employer may enter into an agreement to meet and discuss terms and conditions of employment with a union, provided the agreement does not grant the union exclusive recognition and does not preclude the negotiation of "side" agreements between the local government and individual employees.

CALIFORNIA

No Closed Door Meet-and-Confer Sessions

In an attempt to resolve an ambiguity in state law, the Attorney General created an anomalous situation which allows school boards to meet in executive session to discuss negotiation strategy. The situation results from Section 3505 of the Government Code which permits governing bodies to meet and confer with employees with or without a designated representative. However, Section 54953 of the Brown Act mandates open public hearings while another section, 54957.9, permits boards to discuss meet-and-confer strategy in executive session, upon electing to have a designated representative accompany the board in meet-and-confer sessions with its employees.

Mindful of the law and strong public policy against meetings of public bodies held in secret, the attorney general ruled that a board may not meet in executive session to discuss meet-and-confer strategy unless it has chosen a designated representative to assist it, *but*, the board that does not do so may also hold nonpublic hearings.

Despite the anomaly, the attorney general has made it possible for governing bodies to bypass the prohibition by the expedient of naming one or more board members as designated representatives.

KANSAS

Public Employees Labor Relations Act Amended

Two amendments to the Kansas Public Employees Labor Relations Act outline procedures for certification of business agents for employee organizations and mandate submission of annual reports. To be certified as a business agent, a person must file an application with the secretary of state and pay a registration fee of $1.00. He must be a U.S. citizen, must give his name, address, and length of residence in Kansas, and must submit along with the application a statement signed by the president and the secretary of the organization authorizing him to act in behalf of the organization.

Every employee organization with 100 or more members must file annual reports showing its financial condition. These reports must also include names and titles of officers and business agents along with their salaries, bonuses, and other remuneration, the date of elections for officers, amount charged for initiation fees, assessments, and other periodic payments, and an audited statement of the organization's income, expenditures, assets, and liabilities. However, the requirement for the annual report may be satisfied by submitting copies of the reports required to be filed with the U.S. Department of Labor in accordance with the federal labor management reporting and disclosure act of 1959.

MASSACHUSETTS

Some Teachers Eligible for Food Stamps

Many highly trained teachers with years of experience qualify for the federal government's food stamp program according to the Massachusetts Teachers Association (MTA). The Association noted that many of the teachers qualifying for food stamps are not just teachers who are at the low end of the pay scale, "some are seasoned teachers who have years of experience and hold advanced degrees."

Under the Food Stamp Program which is run by the U.S. Department of Agriculture in cooperation with the Department of Health, Education, and Welfare and administered in Massachusetts through the state Department of Welfare, food stamps or coupons are sold to the unemployed, welfare recipients, and low-wage earners for less than their actual value to help them purchase food. How many stamps a family receives and the amount it pays for them are based on the size of the family and its adjusted income. For example, an eligible family of four receives $150 in stamps; a family with an adjusted net income of $420 per month would pay $118 for the $150 worth of stamps but another family with a lower adjusted income would pay less.

To determine a family's eligibility for stamps, the family's resources, which include money on hand or in the bank, stocks and bonds, money from insurance settlements, inheritances, prizes and awards, and lump-sum payments from Social Security, must not exceed $1,500. However, for persons age 60 or older maximum resources must not exceed $3,000. If the family meets this requirement, its adjusted income is determined by deducting federal and state income tax, Social Security or mandatory retirement, association dues, mandatory association costs, court ordered alimony or child support, medical and dental costs, health insurance costs over $10, and child care. Shelter, including rent or mortgage payments, real property insurance, electricity, water, heat, cooking costs, sewage disposal fees, and special assessments, may be deducted if they total more than 30 percent of income after deductions. Finally, the family size and adjusted income are used to determine if the family is eligible to participate in the stamp program.

The MTA pointed out that although it is impossible to say exactly how many teachers are participating in the stamp program, many more are probably eligible. The Association is urging teachers to apply if they qualify.

NEW HAMPSHIRE

Interference with Peaceful Picketing a Violation of Teachers' Constitutional Rights

Teachers have a constitutional right to picket, ruled a federal court in New Hampshire. Specifically, the court ruled that striking teachers in Timberline, New Hampshire, are guaranteed the right of free speech and assembly by the federal Constitution even though they are no longer employed by the school district. School officials, who replaced the teachers with strikebreakers, contended that the teachers no longer had a contractual relationship with the district, and, therefore, their picketing was a parade, not a strike activity. Disagreeing with the district's contention, the court ruled that the teachers, who have been on strike since February 26, did not need a permit to picket either schools or school-sponsored events. The court then enjoined school officials from further interference with peaceful picketing.

NEW YORK

Nurse/Clerks Placed in Teacher Bargaining Unit

The New York Public Employment Relations Board ruled that two public-school nurse/clerks should be included in a professional rather than a nonprofessional bargaining unit.

The two nurses sought to align themselves with the Putnam Valley Federation of Teachers, the professional staff bargaining agent, instead of the Putnam Valley Chapter, Civil Service Employees Association. The two positions included the job category of nurse/teacher in the elementary school. One of the nurse/clerks whose duties were substantially the same as those of the school nurse with the exception of teaching, was hired for the middle school building. A part-time health education teacher was hired for both schools; this clearly established limitations on the role of the nurse/clerk as opposed to that of the nurse/teacher.

A PERB hearing officer ascertained that the employee was fully aware of her placement in the new position as nurse/clerk in the nonteaching unit; yet he affirmed that no evidence existed to indicate any preconditional employment arrangements with the Putnam Valley Chapter with regard to the nurse/clerk's status and salary. He found the duties of the nurse/clerk to include providing routine examinations and emergency care for students, operating a daily student health care program, serving as attendance officer, maintaining records, and participating in community health care programs.

The extensive duties of the nurse/clerks, in addition to the requirement of a license and the general professional scope of their work, coupled with the lack of evidence of potential conflict of interests between teachers and nurses, convinced PERB to grant the petition of the nurse/clerks and place them in the professional bargaining unit. (*Putnam Valley Central School District and Putnam Valley Federation of Teachers, Local 1857, NYSUT, NEA, AFT, AFL-CIO and Putnam Valley Chapter, Civil Service Employees Assn., Inc. Intervenor,* New York Public Employment Relations Board, July 3, 1974.)

NORTH DAKOTA

School District Employees Covered Under State Minimum Wage Law But Not State Employees

The state attorney general ruled that the State Minimum Wage Law (Century Code, Chapter 34-06) covered the employees of school districts and other political subdivisions of the state.

The language of the law does not specifically refer to public employees; however, the attorney general held that the broad definition of "employer" as "any person or group of persons acting in the interest of an employer in relation to an employee" meant that the law was applicable to public employers. Therefore in the absence of contrary provisions the employees of political subdivisions of the state, including school districts, are covered under the state minimum wage law even though state employees are excluded.

SOUTH DAKOTA

Public Employee Union Law Amended

As amended, Section 3-18-2 of the South Dakota laws regulating public employee unions now allows public employees to form and join labor or employee organizations, or to refrain from forming or joining such organizations. Public employees may designate representatives to meet and negotiate with a governmental agency or its designated representative regarding grievance procedures and conditions of employment. The amended version of the law prohibits discharge or discrimination against an employee for exercising these rights. Moreover, the law mandates that the governmental agency or designated representative meet and negotiate in good faith with the employees' representatives at reasonable times concerning grievance procedures and conditions of employment. However, the obligation to bargain does not require either party to agree to a proposal or to make concessions, but each party is required to formulate a statement of rationale for any position taken.

* * *

FEDERAL

Library Not Eligible To Pay Full-Time Students at Subminimum Wage Rates

Replying to an inquiry regarding payment of subminimum wages to employees of a public library, the Wage and Hour Administration of the U.S. Department of Labor ruled that full-time student employees of public libraries are covered under the Fair Labor Standards Act as amended in 1974 and, must be paid the minimum wage.

Only retail or service establishments or institutions of higher education who employ full- or part-time student employees during summer vacations may pay them less than minimum wages. Public libraries do not come under these categories because the work of a library is directed to the improvement of the cultural level of the community, a goal alien to the accepted understanding of a "retail" activity.

Therefore, a public library is not permitted to pay employees 85% of the minimum wage as established by section 14(b) of the Fair Labor Standards Act which allows payment of subminimum wages.

Increase in Pay Standards for White-Collar Workers Proposed

The Labor Department, Wage and Hour Division, has proposed to increase the pay standards for executive, administrative, and professional employees covered under the Fair Labor Standards Act. The standards are to be increased from $125 to $160 a week for executive and administrative employees and from $140 to $185 a week for professional employees. The increases are recommended because since March 1970 the Consumer Price Index has risen 27 points and the minimum wage standard has increased to $2.00 an hour.

An even higher standard of $200 to $300 a week is proposed for executive, administrative, and professional employees whose salaries exceed the normal $125 or $140. Additionally, the special salary standards for the motion picture industry and for white-collar workers in Puerto Rico, the Virgin Islands, and American Samoa would also be raised.

STATISTICS

MULTIPLE JOBHOLDING, MAY 1973

According to recent data published by the U.S. Bureau of Labor Statistics, the number of workers holding two or more jobs reached an all-time high in May 1973—4.3 million, or 5 percent of all employed persons.

From May 1972 to May 1973, the number of workers having more than one job, particularly those who were engaged in durable goods, manufacturing, construction, and public administration, increased 500,000.

While the percentage of multiple job holders who were women increased from 14 percent in 1962 to 20 percent in 1973, the increase is attributable in part to the more rapidly increasing number of women than men in the labor force. The majority of moonlighters in May 1973, however, were men. The greatest incidence of multiple job holding, 9.26 percent, was among married men aged 35 to 44. In recent years, the rate of moonlighting among black men workers

TABLE 1.—PERCENT DISTRIBUTION OF MULTIPLE JOB HOLDERS BY HOURS WORKED AT PRIMARY JOB, MAY 1973

Occupation group of primary job	Total at work at 2 jobs or more	Hours worked at primary job: 1 to 21	22 to 34	35 to 39	40	41 to 48	49 or more
1	2	3	4	5	6	7	8
ALL OCCUPATIONS	100.0	13.3	11.5	6.5	39.2	14.2	15.3
Professional, technical and kindred workers	100.0	11.7	10.3	9.4	40.9	13.4	14.4
Teachers, except college	100.0	9.9	9.7	12.4	42.2	12.6	13.1
Other professional, technical, and kindred workers	100.0	12.7	10.5	7.8	40.2	13.8	14.9
Managers and administrators, except farm	100.0	3.5	9.4	8.9	32.0	16.2	30.0
Sales workers	100.0	21.8	12.0	4.5	30.7	13.4	17.5
Clerical and kindred workers	100.0	17.3	10.9	8.9	52.1	8.9	1.8
Craft and kindred workers	100.0	5.8	9.7	3.8	47.4	17.6	15.7
Carpenters and construction craft workers	100.0	9.4	18.5	3.1	46.4	10.5	12.1
Mechanics and repairers	100.0	4.1	8.5	2.8	45.4	20.1	19.1
Other craft and kindred workers	100.0	4.6	4.0	5.3	49.7	20.9	15.5
Operatives, except transport	100.0	8.2	8.0	4.3	44.8	20.9	13.8
Transport equipment operatives	100.0	12.9	13.0	4.7	34.9	19.5	15.0
Drivers and delivery workers	100.0	14.5	13.1	5.2	32.1	19.7	15.5
Other transport equipment operatives	[a]	...	...	...	...	...	...
Laborers, except farm	100.0	24.4	13.0	5.2	40.4	10.9	6.2
Service workers, including private household	100.0	23.3	18.0	3.8	31.9	11.6	11.0
Farmers and farm managers	100.0	9.5	9.4	5.0	7.4	12.5	56.2
Farm laborers and supervisors	100.0	30.8	16.8	7.2	14.5	11.6	19.2

SOURCE: Michelotti, Kopp. *Multiple Jobholding in 1972 and 1973.* Special Labor Force Report 166. Reprinted from *Monthly Labor Reviews,* May 1964.

[a]Percent not shown where base is less than 75,000.

has been lower than that of white men, but in 1973, the rate for black men rose significantly to 6.0, compared with 6.7 for white men. The rate among black women workers was 3.0 percent; among white women, 2.7 percent.

In terms of occupation and industry, it is noteworthy that 19.2 percent of the teachers below college level held two or more jobs. Policemen and firemen at 14.2 percent ranked second highest. In contrast, self-employed men in nonagricultural jobs had one of the lowest rates. Generally, moonlighters did not engage in the same type of work on their second jobs as on their first jobs. Professionals, however, were an exception, the majority being employed as professionals on the second job as well as on the first. The majority (three-fourths) of men multiple job holders held a full-time job and a part-time job, but about half of the women moonlighters had two part-time jobs and 45 percent had a full-time job and a part-time job. On the average, men worked 14 hours a week at their second jobs, and women worked 11 hours.

Table 1 shows the number of hours worked at the primary job for persons at work at two or more jobs by occupation group of primary job in May 1973. For the total group 39 percent worked 40 hours a week; 42.2 percent of teachers below the college level worked 40 hours.

For details see: Michelotti, Kopp. *Multiple Jobholding in 1972 and 1973.* Special Labor Force Report 166. Reprinted from *Monthly Labor Review,* May 1974.

* * *

WHITE-COLLAR PAY INCREASED BY 6.4 PERCENT

A 6.4 percent increase in average annual salaries for selected white-collar occupations in private industry was revealed in a survey conducted by the U.S. Department of Labor, Bureau of Labor Statistics, for the year ending March 1974. (Average teacher salaries paid in 1973-74 increased 5.0 percent) At the same time, the Consumer Price Index rose 10.2 percent.

Data from the beginning of the series in 1961 show a trend toward larger percentage increases in salaries, reaching a peak in 1970 to 1971, declining from 1971 to 1973, and rising again from 1973 to 1974.

The largest percentage increase from 1973 to 1974, 6.5, was recorded for the clerical group, and the lowest, 5.0, for the entry and developmental professional and administrative group. Average annual first or entry level salaries of selected occupational groups were as follows: engineers, $11,901; buyers, $10,073; job analysts, $9,783; and chemists, $10,660. The average scheduled minimum salary for beginning teachers with bachelor's degrees in 1973-74 in school systems enrolling 6,000 or more pupils was $7,720. The average annual salaries of two groups—chief accountants I, averaging $15,790 may be compared with the average scheduled maximum salary for teachers with master's degrees, $13,303.

For details see: U.S. Department of Labor, Bureau of Labor Statistics. "White-Collar Salaries Rise 6.4 Percent." News Release, August 8, 1974.

TABLE 1.—AVERAGE SALARIES OF EMPLOYEES IN SELECTED WHITE-COLLAR OCCUPATIONS IN PRIVATE ESTABLISHMENTS, MARCH 1974[a]

Occupation and class	Number of employees[b]	Average salaries[c] Monthly	Average salaries[c] Annual
1	2	3	4
Accountants and Auditors			
Accountants I	7,376	$ 812	$ 9,739
Accountants II	13,735	962	11,549
Accountants III	28,869	1,107	13,285
Accountants IV	19,206	1,338	16,051
Accountants V	7,259	1,630	19,560
Auditors I	1,208	863	10,352
Auditors II	2,682	1,002	12,024
Auditors III	5,025	1,198	14,371
Auditors IV	2,923	1,458	17,491
Chief accountants I	619	1,467	17,601
Chief accountants II	1,222	1,673	20,072
Chief accountants III	768	1,984	23,805
Chief accountants IV	325	2,418	29,021
Attorneys			
Attorneys I	580	1,185	14,223
Attorneys II	1,504	1,363	16,357
Attorneys III	2,443	1,757	21,082
Attorneys IV	1,968	2,163	25,956
Attorneys V	995	2,667	31,999
Attorneys VI	614	3,182	38,180
Buyers			
Buyers I	4,021	839	10,073
Buyers II	11,910	1,012	12,141
Buyers III	13,965	1,222	14,659
Buyers IV	5,200	1,452	17,421
Personnel Management			
Job analysts I	55	815	9,783
Job analysts II	297	957	11,488
Job analysts III	676	1,160	13,921
Job analysts IV	494	1,439	17,263
Directors of personnel I	1,114	1,316	15,790
Directors of personnel II	1,924	1,568	18,815
Directors of personnel III	1,089	2,007	24,078
Directors of personnel IV	413	2,345	28,140
Chemists and Engineers			
Chemists I	1,719	888	10,660
Chemists II	4,035	1,034	12,408
Chemists III	9,540	1,191	14,298
Chemists IV	12,161	1,440	17,283
Chemists V	8,725	1,725	20,702
Chemists VI	4,191	2,007	24,079
Chemists VII	1,564	2,350	28,203
Chemists VIII	412	2,873	34,475
Engineers I	15,358	992	11,901
Chemists and Engineers—Cont.			
Engineers II	30,532	$1,098	$13,171
Engineers III	83,255	1,263	15,160
Engineers IV	113,436	1,494	17,929
Engineers V	81,652	1,721	20,654
Engineers VI	44,283	1,986	23,827
Engineers VII	16,593	2,247	26,960
Engineers VIII	3,688	2,622	31,469
Technical Support			
Engineering technicians I	4,039	665	7,975
Engineering technicians II	12,810	760	9,122
Engineering technicians III	26,151	874	10,491
Engineering technicians IV	31,853	998	11,974
Engineering technicians V	18,247	1,138	13,654
Drafters-tracers	5,425	587	7,048
Drafters I	18,350	709	8,507
Drafters II	28,581	870	10,443
Drafters III	31,067	1,089	13,070
Computer operators I	4,488	573	6,879
Computer operators II	10,467	636	7,632
Computer operators III	19,717	741	8,887
Computer operators IV	11,498	857	10,279
Computer operators V	2,901	925	11,098
Computer operators VI	768	1,034	12,403
Clerical Supervisory			
Keypunch supervisors I	1,277	737	8,842
Keypunch supervisors II	2,081	796	9,547
Keypunch supervisors III	1,143	917	11,005
Keypunch supervisors IV	385	1,067	12,809
Keypunch supervisors V	64	1,129	13,552
Clerical			
Clerks, accounting I	92,282	551	6,607
Clerks, accounting II	69,323	697	8,367
Clerks, file I	26,099	426	5,109
Clerks, file II	22,814	471	5,647
Clerks, file III	8,357	577	6,928
Keypunch operators I	63,909	537	6,440
Keypunch operators II	45,157	624	7,492
Messengers	25,435	470	5,643
Secretaries I	58,370	633	7,601
Secretaries II	76,386	685	8,221
Secretaries III	69,133	729	8,742
Secretaries IV	44,389	797	9,568
Secretaries V	14,180	866	10,396
Stenographers, general	43,612	579	6,954
Stenographers, senior	50,486	658	7,900
Typists I	63,176	484	5,810
Typists II	39,301	563	6,751

SOURCE: U.S. Department of Labor, Bureau of Labor Statistics. "White-Collar Salaries Rise 6.4 Percent." News Release, August 8, 1974.

[a]Includes establishments with 250 workers or more in manufacturing and retail trade; and 100 or more in transportation, communication, electric, gas and sanitary services, wholesale trade, engineering and architectural services, commercially operated research, development, and testing laboratories, and finance, insurance, and real estate.

[b]Occupational employment estimates relate to the total in all establishments within scope of the survey and not to the number actually surveyed.

[c]Salaries reported relate to the standard salaries that were paid for standard work schedules; i.e., the straight-time salary corresponding to the employee's normal work schedule excluding overtime hours. Nonproduction bonuses are excluded, but cost-of-living bonuses and incentive earnings are included.

SPECIAL REPORTS

MATERNITY LEAVE PROVISIONS IN TEACHER AGREEMENTS

Are teacher associations and school boards negotiating maternity leave provisions that are in compliance with Equal Employment Opportunity Commission Guidelines which represent the official interpretation of Title VII of the Civil Rights Code of 1964 and recent court decisions? A random sample of 1973-74 contracts on file at the NEA incorporating a maternity leave provision was surveyed to see what is being negotiated since issuance of the Guidelines.

According to the revised "Guidelines on Discrimination Because of Sex" issued by EEOC, employment policies which exclude applicants or employees from employment because of pregnancy are in violation of Title VII; and pregnancy and any disability deriving from pregnancy, including recovery from childbirth, miscarriage, or abortion, should be treated like any other temporary disability under any health or temporary disability insurance or sick leave plan available in connection with employment.[1] Additionally, the federal courts have ruled that maternity leave provisions which require that teachers terminate employment at a given point of pregnancy and remain on leave for a given length of time, regardless of the individual's physical condition, violates the equal protection clause of the Fourteenth Amendment to the federal Constitution.

None of the 50 contracts analyzed denied a tenured teacher maternity leave. However, 24 percent (12) of the contracts did not grant such leave to nontenured teachers and/or teachers with less than a specified length of service with the school district. Use of sick leave during absence

[1] The Supreme Court in *Geduldig v. Aiello, et al.* ruled that California's refusal to pay disability benefits for normal pregnancy disabilities was not a violation of the Equal Protection Clause of the Fourteenth Amendment of the federal Constitution. Payment of benefits for disability accompanying normal pregnancy and delivery would require California to change or compromise its policy with regard to the amount employees pay into the program, maximum benefits allowable, and other variables affecting the solvency of the program. And, according to the court, the Equal Protection Clause does not require a state to change its insurance program in order to make it more comprehensive.

TABLE 1.—MATERNITY LEAVE PROVISIONS IN NEGOTIATED AGREEMENTS, 1973-74

Provision	Number	Percent
1	2	3
Tenured teachers granted leave	50	100
Nontenured teachers granted leave	38	76
Use of sick leave for maternity leave		
Sick leave may be used	17	34
Sick leave may be used only for disability	5	19
Sick leave may be used until exhausted	4	8
Sick leave may not be used	15	30
Not mentioned	18	36
Restrictions on continuation in employment		
Employment may continue without medical approval for an unspecified time	31	62
Employment may continue with medical approval	16	32
Employment ends at predetermined time before birth of child	3	6
Restrictions on return to employment		
Length of leave following birth of child predetermined and mandatory	4	8
Return to employment requires medical approval	11	22
30 days' notice required	2	4
60 days' notice required	3	6
More than 60 days' notice required	2	4
Total agreements analyzed	50	100

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was permitted by 34 percent (17) of the contracts analyzed, but 30 percent (15) denied use of sick leave for this purpose. Five of the provisions permitting use of sick leave for maternity leave covered only the period of actual disability or incapacitation while four (8 percent) allowed the individual to use such leave until it was exhausted.

Three provisions required pregnant teachers to stop work a certain length of time before expected delivery without regard to the individual's physical condition. In the *Matter of Jo Carol La Fleur vs. Cleveland Board of Education,* the Supreme Court of the United States overturned the board's maternity leave policy which forced pregnant teachers to take unpaid leave after the fourth month of pregnancy and to continue in such status until the beginning of the first school term after the baby was three months old, and upheld the decision of the U.S. Court of Appeals for the Sixth Circuit that need for such an extended period of leave required by the board was "arbitrary and unreasonable" and not supported by medical evidence.

Language more in line with the intent of the Guidelines was found in (32 percent) (16) of the provisions which allowed teachers to continue working provided they could carry out their contractual responsibilities and had obtained medical permission to do so. The U.S. Fifth Circuit Court of Appeals in *Schattmen vs. Texas Employment Commission* upheld the right of a woman upon the advice of her physician to decide when she should terminate employment. The majority of the provisions, 62 percent, (31), neither required the teacher to stop work at a certain point nor to have a physician's permission to continue working.

Women teachers are required to remain on leave for a certain period of time following birth of a child by 8 percent (4) of the provisions. A doctor's certificate of good health is required in 22 percent (11) of the provisions before the teacher may return to duty. Some school districts, 14 percent, require 30 or more days' notification prior to return to duty. Such lengthy notification could be viewed as a means of mandating that teachers remain on leave for a specified time. Additionally, clauses that allow teachers to return to duty only at a given point during the school year, such as the beginning of a semester or a school year, may cause a teacher to extend her leave longer than she wishes; on the other hand, such a provision prevents disruption of the educational program.

Twelve percent (6) of the provisions analyzed provide for maintenance of benefits while on leave. Of those six, the teacher must pay the total cost of such benefits in five and the teacher and board share the costs in one.

Four percent (2) of the agreements contained a clause stating that the maternity leave provision will be changed if found to be in violation of any legislative action. State boards of education in Connecticut and Hawaii revised their minimum employment standards for pregnant teachers to comply with the EEOC Guidelines by providing that pregnancy and pregnancy-related disabilities are to be treated as temporary disabilities covered by sick leave benefits.

Following are sample provisions from negotiated contracts and a proposed Parental Leave of Absence Policy issued by the NEA Office of General Counsel to assist local teacher associations in modifying their present policies and negotiated maternity leave provisions.

PROPOSED PARENTAL LEAVE OF ABSENCE POLICY

A parental leave of absence without pay shall be granted to a teacher for the purpose of childbearing and/or child rearing as follows:

(1) A teacher who is pregnant shall be entitled upon request to a leave to begin at any time between the commencement of her pregnancy and one (1) year after a child is born to her. Said teacher shall notify the superintendent in writing at least thirty (30) days prior to the date on which she desires to begin her leave and shall include with such notice either a physician's statement certifying her pregnancy or a copy of the birth certificate of her child, whichever is applicable. A teacher who is pregnant may continue in active employment as late into her pregnancy as she desires provided she is able to properly perform her required functions, except that a teacher who will have completed the seventh month of her pregnancy on the date scheduled for the commencement of a new school year may be placed on involuntary leave effective as of the beginning of said school year. If a teacher's leave is taken for the express purpose of childbirth or other termination of pregnancy and the total amount of leave does not exceed thirty (30) days, the teacher may at her option have all or any part of said leave charged to her annual or accumulated sick leave.

(2) A male teacher shall be entitled upon request to a leave to begin at any time between the birth of a child to his wife or whom he has fathered and one (1) year thereafter.

(3) A teacher adopting an infant child (*i.e.*, one (1) year of age or less) shall be entitled upon request to a leave to commence at any time during the first year after receiving *de facto* custody of said infant child, or prior to receiving such custody if necessary in order to fulfill the requirements for adoption.

A teacher who is granted a parental leave of absence pursuant to Section A above shall have the following reemployment rights:

(1) If a teacher notifies the superintendent of his or her desire to resume active employment within sixty (60) days after the termination of pregnancy for any reason, the acquisition of *de facto* custody of an infant child, the birth of a child to the wife of or fathered by a male teacher, or the commencement of the leave, whichever is later, said teacher shall within fourteen (14) days after receipt of the notice be assigned to the same position which she or he held at the time the leave commenced, or if that position is no longer in existence, to a substantially equivalent position, except that if a teacher gives such notice after April 30, she or he may be placed on involuntary leave until the commencement of the next school year. Said teacher shall be considered as if she or he were actively employed by the school district during the period of the leave and shall be placed on the salary schedule at the level that would have been achieved if no leave had been taken, provided that the period of the leave shall not count toward the fulfillment of the time requirements for acquiring tenure.

(2) If a teacher notifies the superintendent of her or his desire to resume active employment after the expiration of the aforesaid sixty (60) day period but within forty-eight (48) months after the commencement of the leave, said teacher shall be assigned to the first available vacant position for which she or he is qualified, provided that if more than one (1) teacher has given notice pursuant to this paragraph, the teacher who gave such notice at the earliest date shall be assigned to the position in question. Said teacher shall not receive credit on the salary schedule for the period of the leave.

(3) A teacher who resumes active employment pursuant to paragraph (1) or (2) above, shall have restored all benefits to which she or he was entitled at the time the leave commenced, including without limitation unused accumulated sick leave and credits toward sabbatical eligibility. While on leave, a teacher shall have the option to remain an active participant in the state

teacher retirement system and/or other fringe benefit programs by contributing thereto the amount she or he would have been required to contribute if actively employed and the school district shall contribute the amount that it would have been required to contribute if the teacher were actively employed.

A teacher on parental leave of absence shall not be denied the opportunity to substitute in the school district by reason of the fact that she or he is on such leave of absence.

* * *

MATERNITY AND ADOPTION LEAVE

A teacher who is pregnant should notify her principal immediately in order for her to become aware of the options available. Planning can then be done in the best interest of both the teacher and the students.

The teacher must present a physician's statement attesting to her pregnancy and the anticipated date of birth. Two calendar months prior to the anticipated date she must choose one of the following options:

Option 1—Request leave for one school year, for the remainder of the school year, or for three and one-half calendar months. (Two months prior and one and one-half months after anticipated date. One-half calendar month shall be considered to be fifteen days.) A temporary teacher will be appointed for the length of the leave.

Option 2—Present physician's statement declaring it will not be harmful for teacher to work and declare intentions to use sick leave during her absence. A substitute teacher will be used during the teacher's absence.

A teacher who chooses Option 2 may change to Option 1 at any time, but within one and one-half calendar months after the birth, she must change to Option 1 or declare her intentions to return to work.

Option 1 may be used for the adoption of a child.

Return to Position After Extended Leave

A teacher granted an extended leave of absence during a school term may not expect reassignment until the beginning of the next school year. The teacher must file a Request for Leave with the Personnel Office and notify his principal by April 15th.

[Hillsborough County Public Schools]
[Tampa, Florida]

* * *

MATERNITY LEAVE

When a married woman teacher shall become pregnant, and desires to return to the employ of the Board at a future date she must make written application to the Assistant Superintendent, Teacher Personnel for a leave of absence without pay. Such application must be accompanied by a doctor's written statement, stating the approximate date of delivery. Verification by the School Physician of the diagnosis may be required. This leave of absence may become effective at any time during pregnancy, and must become effective no later than the last expected date prior to delivery on which the teacher will be physically and emotionally capable of performing all the duties and functions of her position, with said date to be established by a doctor's written statement. To request the termination of a maternity leave, the teacher must submit to the Superintendent of Schools a written statement from her doctor certifying that she is both physically and emotionally ready to resume her duties in the schools. The Superintendent of Schools may require verification of the statement by the School Physician. Reinstatement on the rolls shall occur no later than thirty (30) days following the doctor's certification and the teacher's notification that she is ready for assignment.

In the event of legislative action which would affect these maternity leave provisions, or in the event of decisive court action to that effect, the parties agree to reopen negotiations under the Interim Negotiations provision of the Procedures for Professional Negotiations on the affected maternity leave provisions only. In the event of a court decision affecting the maternity leave provisions from which a party at interest shall appeal, the parties to this Agreement shall reopen negotiations as provided above and the Board shall otherwise proceed in the implementation of the court's decision unless a stay of execution is obtained.

The maximum amount of leave granted for a maternity case shall be the remainder of the semester in which the leave becomes effective and one school year. When the employee elects to use the maximum amount of maternity leave provided, she shall inform the Superintendent of Schools, in writing, of her intention to return to service at least 120 days before she expects to resume her duties. Failure to comply with this regulation shall be deemed an automatic resignation.

[Columbus City School District]
Columbus, Ohio]

* * *

ABSENCE REQUIRED BY PREGNANCY AND MATERNITY LEAVE

Pregnancy will be treated as any other temporary medical disability in accordance with the Federal Civil Rights Act of 1964, as amended, and Subchapter II, Chapter III, Wisconsin Statutes. Thus a teacher may, with her doctor's consent, teach as long as she is physically and emotionally capable of performing her professional duties. A teacher is expected to return to her professional duties when medically capable of returning unless a leave has been granted pursuant to the following paragraphs. However, it is not the intent of this section to provide benefits different from or in excess of valid guidelines or regulations established pursuant to said laws except for teachers who have been employed by the Madison Board of Education in excess of three years.

The teacher shall notify the principal immediately when pregnancy has been established and she shall present a statement from a physician as to the anticipated date of birth.

At least three years of continuous employment in the Madison Public Schools immediately prior to a request for maternity leave is a prerequisite for approval of the leave.

A request for a maternity leave of absence is made in writing to the Director of Personnel for approval; a disapproved request may be appealed to the Superintendent of Schools and the Board of Education.

[Madison School District]
[Madison, Wisconsin]

* * *

Prepared By
Tasha McGuthrie

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BRIEFS OF AGREEMENTS

JEFFERSON COUNTY, KENTUCKY

Between the Jefferson County Board of Education and the Jefferson County Teachers Organization, effective July 1, 1974, to June 30, 1976. Approximately 4,200 certificated professional employees including all teachers other than temporary substitutes.

Either party desiring changes, additions, or deletions will notify the other party in writing and request a conference which will be held within 30 days. Changes will be negotiated only upon consent of both parties.

COMPENSATION: B.A. $7,725 to $12,360, 13 increments; B.A. + 15 hours, $12,669 maximum; M.A., $8,419 to $13,402, 14 increments; M.A. + 15 hours, $13,596 maximum; Ph.D., $9,113 to $14,214, 14 increments. In addition $260 is granted after 20 and 25 years of service, respectively.

DIFFERENTIALS: In the extra service pay schedule (full schedule not listed): head coaches, $52-$85; assistant coaches, $116-$189; other coaches and activities, $42-$585; department chairmen, $37-$50.

LEAVES: 3 to 12 days' sick leave, depending on the length of the teachers' contract, unlimited accumulation, credited from the initial day of employment; 3 days' emergency leave, noncumulative, credited from initial day of employment, to be used for serious illness of a relative not living with the teacher, death of family member, military induction physical, subpoena or summons to court arising from other employment, personal legal matters which cannot be transacted outside school hours, emergencies, and other reasons approved by associate superintendent of personnel; 3 days' temporary professional leave for participation in workshops, inservice days, etc. upon approval of immediate supervisor and assistant superintendent or instruction; 2 years' sabbatical leave for advanced study in certificated field upon principal's recommendation, provided the teacher agrees to serve in the county for twice the length of leave upon return; up to the initial period of enlistment for military leave credited for placement on the salary schedule; up to 2 years granted for service in the Peace Corps, VISTA, National Teacher Corps, or as exchange teacher, after 2 years of employment, upon recommendation of the principal provided the teacher agrees to serve in the county for twice the length of leave upon return.

MATERNITY LEAVE

Any teacher desiring a maternity leave shall notify the Board in writing thirty (30) days prior to the anticipated date of interruption of teaching duties. She shall indicate in written notification whether she wishes to terminate her employment or apply for a maternity leave of absence as provided in KRS 161.770. If a maternity leave is requested the anticipated date of return to teaching duties shall be indicated. Such notice shall be communicated to the Associate Superintendent for Personnel for file purposes and shall be accompanied by a physician's statement verifying pregnancy.

The teacher shall give written notice to the Associate Superintendent for Personnel at least thirty (30) days prior to resumption of her regular teaching duties; not earlier however, than the date set forth in the original notice. Such notice shall be accompanied by a statement from the teacher's physician certifying that the teacher is both physically and mentally ready to resume her regular duties.

In all cases of maternity leaves of absence the Board shall keep the teacher's specific school assignment available to her upon the resumption of teaching duties provided:

- Such position has not been eliminated during the period of maternity leave of absence for any valid reason other than such interruption.
- The teacher has, prior to interruption of duties, requested in writing that the same teaching assignment be retained.
- The teacher's planned absence from duties does not exceed ninety (90) days.

In the event the teacher's assignment has been eliminated during the period of this leave by virtue of permissible reason as limited in Paragraph 3 above, the Board shall offer to the teacher a resumption of employment in the first comparable position that becomes available after the receipt of notice from the teacher and the teacher's physician that the teacher is able to return to teaching duties on a specific date.

A maternity leave of absence may be extended for up to two (2) years upon written request by the teacher to the Associate Superintendent, Division of Personnel.

INSURANCE: Board-paid group term life insurance, $10,000 per teacher; 80% board-paid Blue Cross-Blue Shield; sick leave group coordinated income protection insurance, $10.50 to $18 per day, depending upon accumulated sick leave, payable 190 days per 12-month period, maximum 390 days.

ASSOCIATION: Use of school buildings for meetings at all reasonable hours as agreed to by the principal; transaction of official Association business on school property at all reasonable times as agreed to by the principal; use of bulletin boards, inter-school mail and mail boxes except for material endorsing or opposing a candidate for public office or uncomplimentary to the board or the school system; board will provide, upon request, all regular and routine financial information concerning the school system, information relating to Association-board relationships, and copies of proposed changes in board rules and regulations prior to board action.

INSTRUCTION: A secondary teacher's normal load will be 4 preparations and 5 class periods, including assignment to a supervised study period; if 5 preparations are necessary, the teacher will be freed from extra service duties, and where possible, homeroom; in emergencies, when 6 classes per day are permitted, teachers affected will be freed of extra service duties; all teachers, if requested by the principal, will accept a maximum of 2 extra duty assignments (jobs not covered by an adopted pay schedule) without pay; elementary principals and their staffs will develop a plan to provide a reasonable break for each teacher; the board will continue to work toward reducing class size; the length of the school day will be uniform for all secondary, and all elementary teachers; the school year will be 177

pupil days; teachers will not be assigned outside the scope of their teaching certificates or their major or minor fields of study, except temporarily or for just cause; teachers so assigned will be given an opportunity to return to their certificated field at the beginning of a quarter; notification of tentative schedules for the ensuing quarter will be given by the close of the current quarter, and if changes are necessary, an immediate attempt will be made to notify the teacher; procedures for intra-school assignments which provide opportunity for teacher requests will be developed in each school.

PERSONNEL: The grievance procedure ends with a hearing before the board; a teacher has the right to review all materials in his or her file, except for references and confidential information, in the presence of a representative of the Division of Personnel and a representative of the Association; a teacher certificated after July 1, 1967, must acquire a minimum of 30 semester hours in an approved program for a master's degree within 10 years for renewal of certificate.

EVALUATION

In order to assist teachers to improve instructional quality and meet their individual responsibilities, periodic evaluations of teachers will be a continuing process. Evaluation will be for the purpose of assessing teacher performance and/or effectiveness and guiding efforts of improvement.

Evaluators shall be trained in the techniques and criteria to be used in the evaluation process. The performance of all teachers shall be evaluated in writing. Teachers on limited contracts shall be evaluated in each year of their employment. Teachers on continuing contracts shall be evaluated at least once every four (4) years. All teachers shall be evaluated according to procedures contained herein.

The teacher and evaluator shall confer within a few weeks following the teacher's commencement of service in any year the teacher is to be evaluated in order to set forth goals and objectives to help the individual needs of children. Notes are made of the goals agreed upon and the ways of fulfilling objectives. The teacher and the evaluator shall each receive a copy of the agreed to goals and objectives.

Before the end of the teacher's initial quarter of employment for that year of service, the teacher and evaluator shall confer and review the notes from the first conference. Original objectives and goals are discussed and evaluated with changes made if needed. Again notes are recorded and agreed to with each party receiving a copy of the notes.

By April 15th the teacher and evaluator shall confer in an attempt to reach agreement on the fulfillment of the goals and objectives. The Teacher-Evaluator Conference form (Appendix C) shall be completed, and the teacher is to read and sign the evaluation form, and shall receive a copy. Such signature indicates that the teacher has read and is aware of the contents. If the teacher disagrees with the evaluation he or she may submit a written reply within ten (10) days to the Principal, who will forward the written reply to the Director of Administrative Problems for Certified Personnel who will attach it to the file copy. The Division of Personnel will acknowledge the receipt of such reply by written notification to the teacher and principal.

All monitoring or observation of the teacher shall be conducted openly and with knowledge of the teacher.

Each observation of a teacher in teaching situations should be for a minimum of thirty (30) consecutive minutes.

If an evaluator finds a teacher lacking, the reasons therefor shall be set forth in specific written terms and shall an identification of the specific ways in which the teacher is to improve and of assistance to be given by the evaluator and/or other staff member(s). The final written evaluation will include how this assistance was given and the results thereof.

In addition to the formal assessment and evaluation which results in a written report, any teacher may be observed as the Principal deems advisable for the purpose of improvement of instruction. Teachers are encouraged to make use of video-tape recorders where available, for the purpose of self-evaluation. These video-tapes may be reviewed by the Department Chairman, Principal and other appropriate Instructional Personnel.

Administrative staff members are encouraged to write and have filed in the teacher's personnel file letters of appraisal and commendation.

The Principal will be expected to submit to the Director of Administrative Problems for Certified Personnel and to the teacher the final written evaluation and recommendation concerning each year being evaluated prior to May 1st of each year.

Evaluations other than those mentioned in the Section A are encouraged at any time deemed advisable by either the teacher or the evaluator.

A copy of the teacher's job description is incorporated by reference in Appendix.

A transfer may be requested by the teacher, by the principal of the teacher's school, or by the superintendent, but it will not be considered if the teacher does not qualify for an existing vacancy; a teacher's application is effective for one year only and if not granted must be reapplied for the following year.

INVOLUNTARY TRANSFERS

An involuntary transfer will be made by the Superintendent to prevent undue disruption of the instructional program, to relieve overstaffing and other unforeseen circumstances which may occur. To the extent practicable, the procedure for selection of surplus teachers to be transferred will be followed.

Procedures For Selecting Surplus Teachers

Surplus is a situation which exists when there are more teachers under contract and assigned to a school than are needed at that school.

The first step in selecting the surplus teacher(s) for transfer will be for the Principal to assess the composition of the school and the needs of the school.

- The Principal will seek a volunteer.
- If there are no volunteers then the teacher with the shortest period of service in the System will be considered the surplus teacher.
- A teacher should not be transferred two consecutive years unless such transfer is necessary to permit the teacher to be retained in the System.
- A teacher should not be transferred in the year immediately preceding attainment of continuing contract status.

Prior to the end of the quarter, or as soon as possible thereafter, the transferee will be altered to a possible transfer and to the probable assignment. If at all possible, the transferee should be notified of his or her tentative schedule.

The teacher chosen for transfer shall have the right to appeal to the Associate Superintendent for Personnel within five (5) days after receiving notification of the transfer.

Any sections contained herein under this Article shall not be applicable if in conflict with any court ordered transfer plans should such orders be instituted during the life of this Agreement. Preference for assignment for the summer quarter and adult education positions will be given to staff members who apply; the associate superintendent for personnel will publish a list of vacancies for the ensuing year in March, April, and May; first choice will be given to teachers transferred involuntarily; vacancies will be posted in each school in advance where possible, preference will be given to qualified teachers already employed by the board, but additional applicants will be encouraged to apply; teachers are responsible for control of stu-

dents under their supervision or observation; if a particular pupil requires specific attention, the board will take reasonable steps to assist the teacher and the pupil. Teachers may take such action as necessary to protect themselves from attack or to prevent injury to students. Procedures for handling disruptive students will be developed in each school, put in writing, and presented to each teacher; if a teacher is assaulted while on duty, either on or off school property, the board will provide legal advice through its counsel.

* * *

PENNSAUKEN TOWNSHIP
PENNSAUKEN, NEW JERSEY

Between Pennsauken Education Association and Pennsauken Board of Education, effective September 1, 1974, to June 30, 1975. Approximately 387 certified professional employees including certified teaching personnel, guidance counselors, department chairmen, teaching grade-level chairmen, librarians, nurses, social workers, and learning disability specialists. Negotiation for a successor agreement to begin after October 1 of the calendar year preceding the calendar year in which the agreement expires.

COMPENSATION: (1974-75) B.A., $8,575 to $13,875, 12 increments; B.A. plus 30, $14,725 maximum; M.A., $9,775 to $15,525, 12 increments; M.A. plus 15 hours, $16,325 maximum. For credit to be given for advancement on the salary guide, all courses will be on the graduate level in a planned M.A. program. Teachers with 15 years of continuous employment in Pennsauken School System will receive $100 in addition; after 25 years of continuous employment an additional $200 will be paid.

DIFFERENTIALS: Athletic director, $1,900; head of football, $1,800; head of basketball, $1,325; heads of baseball, track, and wrestling, $1,050; head of soccer and football assistants, $900; heads of majorettes, color guards, and swimming, $775; heads of girls' basketball, hockey, softball, and swimming, $625; cheerleading, $500; tennis, $450; department heads for elementary head teachers, junior high grade level advisors, and senior high department heads, $600.

OTHER:

If the board requires a teacher to accept summer employment, such teacher will be paid $115 per week during the 1974-1975 school year for twenty (20) hours' work (five days, four hours each day); if a teacher is employed for less than twenty (20) hours per week, compensation will be calculated on the basis of $5.80 per hour during the 1974-1975 school year;

Guidance counselors employed by the board during the summer will be paid $185 per week during the 1974-1975 school year. It is understood during such summer employment that they will be available to students and parents for guidance services as required;

Teachers employed to do home tutoring will be paid $8.20 per hour during the 1974-1975 school year.

LEAVES: Ten days of sick leave, unlimited accumulation; a deduction of 1/200 of teacher's annual salary will be made for each unexcused absence; part-time employees will receive pro rata sick leave, limited to 1 day per month.

Teachers employed by the Board after July 1, 1967 who have been continuously employed for eight (8) consecutive years in one school system immediately prior to such employment, shall be allowed one-half (1/2) of the sick leave which they had accumulated with the prior employer; after five (5) years of continuous employment by the Board, such teachers will receive credit for the remaining fifty (50%) percent of the sick leave which they had accumulated with the prior employer.

Two days for professional conference, state association meeting; sabbatical leave for 1 percent of faculty at any one time for one year after 7 years of continuous service; a teacher on sabbatical leave will be paid 75 percent of salary if leave is for study, research, or work experience in foreign schools, and 25 percent if for travel; if a teacher receives a grant, paid fellowship, or a salary in connection with a paid sabbatical, the teacher will reimburse the board that amount above his/her scheduled salary; maternity leave without pay which may be extended until beginning of the following school year; 5 days of breavement leave for deaths in the immediate family and 1 day for others.

INSURANCE: Board-paid Blue Cross-Blue Shield for teacher and dependents; board-paid dental coverage.

ASSOCIATION: One period of released time per day (last period) for the Association president and representative for contract administration; right to use school building (upon notice and at reasonable time); use of school equipment, typewriters, mimeographing, and duplicating machines; use of bulletin boards for posting information of professional interest and interschool mail and mail boxes.

INSTRUCTION: The number of preparation as well as the number of times a teacher is required to change teaching stations, will be kept to a minimum; secondary teachers will not be assigned to teach more than 3 consecutive periods; where double periods are used, teachers will not be required to meet more than 6 classes consecutively; lunch periods shall last at least 30 minutes except in schools where pupils are allowed less time; duty-free lunch period will be 50 minutes in elementary schools; if a class consists of 35 or more students, a teacher's aide will be assigned; all personnel will not be required to report earlier than one-half hour before the start of the school day or remain longer than one-half hour after the close of the school day; school calendar will consist of 188 days; a special tutorial program will be instituted to provide additional instruction to students who require such attention.

STUDENT TEACHER SUPERVISION

Mutual Responsibility

The Board of Education and the Pennsauken Education Association mutually recognize that the education of the children of the Pennsauken School District is their primary responsibility. They further recognize their responsibility to assist in the effective training of future teachers under the highest standards.

Procedure

The following procedures shall govern the supervision of student teachers:

Tenure—No teacher shall have a student teacher under his super-

vision unless said teacher has obtained at least two years teaching experience.

Voluntary Participation—Each teacher shall have the right to accept or reject a student teacher. The teacher shall receive sufficient notice prior to the student's introduction to the classroom.

Eligibility to Teach—A student teacher shall teach only in areas for which he will be eligible for certification.

Record and Interview of the Student Teachers—Prior to the assignment of student teachers, the superintendent, through the principal, shall arrange for an interview of the student with the prospective cooperating teacher. The cooperating teacher may request from the student teacher a listing of the completed college courses and notations of special talents, as well as the beginning and termination dates of the assignment and holidays or special events which will affect the student teacher's attendance.

Released Time—Each cooperating teacher will be provided with released time with pay for attendance at regularly scheduled orientation and evaluation sessions sponsored by a student's college.

PERSONNEL: Grievance procedure will end with advisory arbitration; any aggrieved person may be represented at all stages of the grievance procedure by himself, or at his option by a representative selected or approved by the Association; a teacher not represented by the Association will, at the time of submission of the grievance to the superintendent or at any later level, be notified that the grievance is in process, have the right to be present and present his position in writing at all hearing sessions held concerning the grievance, and will receive a copy of all decisions; the board and the Association will assure the individual freedom from restraint, interference, coercion, discrimination, or reprisal in presenting his appeal with respect to his personal grievances; not more than 2 faculty meetings per month for a period not to exceed one-half hour beyond the teacher's day; no limit to the number of meetings held during the teacher's day; 3 days for orientation and inservice training; teachers will have the right to see evaluation reports, countersigned by the evaluator; nontenure teachers will be evaluated 3 times each year; tenure teachers will be evaluated at least once each year; no teacher will be disciplined, reduced in rank or compensation, or deprived of any professional advantage without just cause and will be subject to the grievance procedure; whenever any teacher is required to appear before the superintendent, board, or any committee or committee member concerning any matter that could result in termination of employment, he will be given written prior notice of the reasons for such meeting or interview, and will be entitled to have a representative of the Association present to advise him and represent him during such meeting or interview; any suspension will be with pay until formal action by the board of education; no teacher will be prevented from wearing pins or other identification of membership in the Association or other affiliates; a list of promotions will be sent to each school and a copy will be sent to the Association 15 days before the final date when applications must be submitted; requests for voluntary transfers must be in writing and filed no later than June 10; board may request reasons for transfer; involuntary transfer notice will be given to the teacher affected by June 1.

PRINCE WILLIAM COUNTY
MANASSAS, VIRGINIA

Between Prince William County School Board and Prince William Education Association, effective July 1, 1973, to June 30, 1975. Approximately 1,620 certificated professional employees except superintendent, assistant superintendent, supervisors, principals, and assistant principals. Any provision of the negotiated agreement requiring the appropriation of funds will not become effective until such funds are appropriated and if such funds are not available, the parties agree to reopen negotiations.

COMPENSATION: 1974-75 B.A., $8,560 to $13,450, 12 increments; B.A., plus 15 hours, $14,648 maximum, 14 increments; B.A. plus 30 hours, $14,969 maximum, 14 increments; M.A., $9,523 to $16,104, 16 increments; M.A. plus 30 hours, $16,532 maximum, 16 increments; Ph.D., $10,351 to $16,932, 16 increments. Maximum allowance of 7 years for placement on the salary schedule for experience outside Prince William County; all teaching experience with Prince William County will be accepted for placement on the salary schedule; teachers will retire on or before the last day of the fiscal year during which their retirement birthday occurs, and at the time of separation or retirement will receive for sick leave accumulated since July 1, 1967, $10 per day up to a maximum of 90 days; $.12 per mile for inter-school travel.

LEAVES: Sick leave credited at beginning of school year with unlimited accumulation: 9-1/2 and 10 month employees—12 days, 10-1/2 and 11 month employees—13 days, 12 month employees—14 days; sick leave to be used for personal illness caused or contributed by pregnancy, miscarriage, abortion, childbirth, and recovery therefrom, quarantine, illness, or death in the teacher's family whether or not such members of teacher's family live in the household of the teacher; summer school employees credited with 2 days' sick leave, up to 15 days' sick leave earned out of state may be credited; if 500 employees agree, a sick leave bank will be established on a voluntary basis and each employee will donate 1 day of sick leave to the bank; a member of the bank will not be able to utilize sick leave bank benefits until his own sick leave is depleted; a maximum of 45 days may be drawn but the first 30 days of illness and disability must be covered by the employee's own accumulated sick leave; if all sick leave is used from the sick leave bank, the teacher may resign by giving the board two weeks' notice prior to the expenditure of all sick leave, or the teacher may request and be granted leave without pay; 5 days of personal leave, 2 of which maybe charged to sick leave, will be credited to be used at the teacher's discretion without deduction in pay provided 5 days' notice is given unless an emergency beyond teacher's control arises; teachers participating in year-round school programs will be allowed 7 days of leave; unpaid temporary leave for professional conferences and school visitation may be granted upon 2 weeks' notice; paid temporary leave upon 2 weeks' notice to attend state association conventions or participate in legal proceedings; sabbatical leave may be granted for 1 full year at 1/2 pay after 6 consecutive years of teaching; maternity leave will be granted upon request to those hav-

ing a continuing contract status, without pay, for not more than 2 years; a probationary teacher may be granted maternity leave up to one year; return from maternity leave will be conditioned on the existence of a vacancy for which the teacher is qualified.

INSURANCE: Board-paid single coverage for Blue Cross/Blue Shield, additional coverage may be payroll deducted; the board will pay one-half the cost of life insurance during the first year of this agreement and full cost thereafter in amounts equalling twice each teacher's annual salary, Workmen's Compensation coverages.

ASSOCIATION: Dues deduction of local, state, and national dues; up to 2 years' unpaid leave to serve as an association officer; members of the Instructional Liaison Council will be allowed one-half day per month for meetings scheduled during school hours; Association has the right to use school buildings and equipment, including typewriters, mimeograph machines, and other duplicating equipment, and calculating and audiovisual equipment at a reasonable time, inter-school mail, and mail boxes; the Association will have the right to place notices, circulars, and other materials on faculty bulletin boards; the board will provide information on the joint expense of the Association and the board after the agreement is signed; political advertising is prohibited except for candidates for association offices.

INSTRUCTION: Secondary teachers will have no more than 3 lesson preparations per day; elementary teachers will have a minimum of 110 minutes of planning time; class periods may be altered as scheduled changes may require; each teacher will have a duty-free lunch period of a minimum of 25 minutes unless an emergency occurs; class size will adhere to the requirements of the Southern Association of Schools and Colleges with respect to the number of students assigned per teacher; a school day will not exceed 7 continuous hours; the school calendar will not exceed 194 days (instructional and inservice days); days missed as a result of inclement weather will not be made up unless the total number of teaching days would fall below 180.

PERSONNEL: Grievance procedure ends with a final and binding arbitration; any aggrieved person may be represented at all stages of the grievance procedure by himself or by a representative; when a teacher is not represented by the Association in the processing of a grievance, the Association shall, at the time of submission of the grievance to the superintendent or any later level, be notified that the grievance is in process, have the right to be present and present its position in writing at all hearing sessions held concerning the grievance and shall receive a copy of all decisions rendered; a copy of the principal's written decision made in response to a written grievance shall be given to the Association immediately; the board and the Association shall assure the individual freedom from restraint, interference, coercion, discrimination or reprisal in presenting his appeal with respect to his personal grievance; if the grievance is not settled to the satisfaction of the teacher after appeal to the superintendent, a sub-committee of at least three (3) board members shall conduct a hearing with the board for final decision.

A purpose of the Instructional Liaison Council will be to establish a channel for educational contributions to the county school system through evaluations, recommendation, and research; the Council will encourage the initiation of ideas and suggestions for projects by individual teachers, departments, Association committees, and administrators; negotiation sessions will be held outside school hours, if possible, at such times and places as agreed upon and will be conducted in closed sessions; evaluations shall only be conducted by a qualified building principal or assistant principal or other full-time certified administrator possessing a master's degree and/or three (3) years' successful teaching experience at the teacher's level of performance; a copy of the written evaluation report shall be submitted to the teacher at the time of a personal interview to be conducted within ten (10) days of observation but, in no case later than April 15; first year probationary teachers shall be evaluated at least two times during the school year, one no later than December 1; a teacher is on probation until he has served under annual contract for 3 consecutive school years and has been elected for his fourth contract; after having served probation, a teacher holding a collegate professional certificate, according to state school law, will be entitled to a continuing contract; vacancies will be posted for 5 working days before being filled; a copy of such listing shall be given to the president of the Association; a teacher may be transferred subject to the exigencies of the school system; such teacher is to be notified promptly in writing of his/her transfer and upon petition, the superintendent will review the transfer; no teacher will be assigned outside the scope of his teaching certification; the wishes of the individual teacher applying for reassignment and/or transfer shall be honored to the extent that the transfer does not conflict with the instructional requirements and best interests of the school system; no teachers shall be precluded from filing a request in subsequent years for a transfer to a position for which request has been previously denied; each school will post descriptions of the positions along with the expected date for filling the promotional vacancies available, ordinarily at least thirty (30) school days before the final date when applications must be submitted and in no event less than fifteen (15) school days before such date, except in cases of emergency; a copy of said notice shall be given to the Association at the time of posting; persons who desire to apply for such vacancies shall submit their applications in writing to the Superintendent within the time limit specified in the notice; teachers may temporarily excuse disruptive students from class by referring them to the appropriate administrators; the principal has the responsibility to exercise his special expertise to avoid further disruption; teachers will report all cases of assault in which they are involved while acting in the course of their employment; the board will give full support, including legal and other assistance, to teachers assaulted while acting in the discharge of their duties; legal counsel will be furnished to a teacher if criminal or civil proceedings are brought alleging wrongful conduct in connection with his employment; teachers will have the right to academic freedom with no special limitations placed upon study or investigation presenting and interpreting facts and ideas provided they are relevant to the course content and curriculum.

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RESEARCH

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CASE REVIEWS

ILLINOIS

Teachers Who Refuse To Sign New Contract Entitled to Payment Under Old Agreement

Determining the Aurora School District Board's policy to be neither arbitrary, capricious, nor unreasonable, an appellate court justified payment under the provisions of the previous contract to two teachers who refused to sign a new contract.

Threatened with a strike by the Aurora Education Association East if no satisfactory contract were produced for the coming term, the district responded with a new agreement containing salary and benefits increases and a proposal for the recalcitrant teachers to accept the new contract or the same salary terms and benefits as in the previous year.

Two teachers contended that the board had no legal base to arbitrarily demand that a tenured teacher sign a contract containing other obligations in addition to a salary offer, arguing that they were entitled to the same salary as the other teachers in the district. The appellate court, however, by virtue of *Donahoo v. Board of Education*, determined that a board could negotiate contracts with tenured teachers. Additionally, in accordance with *Allen v. Mauer*, which permitted "unsigned" teachers to be compensated under previous contract provisions while "signed" teachers could be remunerated under the new contract, the court ruled that the teachers were ineligible for the salary increase under the new arrangement because they could not expect to benefit from a contract they did not sign.

Concluding that the alternative chosen by the teachers contained a reinforcement of the law allowing tenured teachers who had not signed a contract to return to their assignments under the old salary terms, the court reaffirmed its decision. (*Robert F. Davis and Jerry Lubshina v. Aurora, Ill., Board of Education*, Illinois Appellate Court, June 5, 1974.)

MASSACHUSETTS

Municipal Finance Law Does Not Bar Three-Year Salary Agreements

According to the Massachusetts Supreme Judicial Court, the Massachusetts Municipal Finance law cannot be interpreted to mean that approved salary increases must take effect within three months of enactment, and, therefore, municipalities in which wage scales are established by ordinance are not barred from negotiating binding increases effective in the second and third year of a contract period. This provision of the municipal finance law conflicts with the state collective bargaining act which mandates implementation of salary increases in the second and third year of a contract. To use the provision of the municipal finance law as a bar to a negotiated increase constitutes failure to bargain in good faith, and, therefore, the Supreme Judicial Court ordered the town of Taunton to pay salary increases provided under a three-year contract.

In January 1972, the newly elected mayor refused to request the Council to appropriate the funds for the 1972 increases, claiming that the contract violated the state municipal finance law. The Taunton police filed a complaint with the Massachusetts Labor Relations Commission. The Commission ruled that the mayor's action violated the contract and the state collective bargaining law and was, therefore, a failure to bargain in good faith.

Both a trial court and an appeals court upheld the mayor's position, and ruled that the municipal finance law required that both ordinances approving budget increases and the increases themselves must take effect within three months, thus barring the negotiated increases.

On appeal, the state supreme court overruled the lower courts' interpretation, and held that the municipal finance law should not be interpreted to require increases to take effect within three months, and thus reconciled the municipal finance law with the state collective bargaining law which allows municipal employees to sign three-year bargaining contracts. The supreme court also indicated that it approved the decision of the MLRC that under a validly negotiated and executed agreement "emphasis should be placed on the obligation of the parties to a municipal collective bargaining contract to implement its provisions and . . .the mayor's refusal to honor this obligation properly could be found to constitute a prohibited practice." (*Mendes et. al. v. City of Taunton, et al.*; Massachusetts Judicial Supreme Court, August 2, 1974.)

NEW YORK

Employer's Restriction on Instructors' Earning Power Violates Collective Bargaining Agreement

Restriction on the number of hours daytime faculty members can teach in the night school division is a matter for an arbitrator to decide under the collective bargaining agreement, according to a decision of the New York State Supreme Court in a case bought by the Hudson Valley

Community College Faculty Association against Hudson Valley Community College.

The college had formulated new regulations which placed limitations on the potential earning power of the Association members by restricting the number of hours day faculty could teach in the night division. Teachers in the night division were not included in the bargaining unit. The HVCCFA argued that the determination of the arbitrability of the grievance was properly the subject for an arbitrator to decide, that the subject of the grievance was not excluded from the collective bargaining agreement, and that the result was contrary to public policy. The college held that the teaching assignments in the night division were not under the scope of the agreement and, therefore, not arbitrable.

The court held that a limitation on the earning power of the Association members when no such prearrangements existed, constituted an infraction of the bargaining agreement. The court reasoned that to deny arbitration on the ground that the night division faculty were not parties to the agreement and, therefore, not entitled to utilize the grievance procedure, was irrelevant since faculty members who were protected by the contract had rights respecting instruction in the night division.

Attacking the college's contention that submission of the case to arbitration would abrogate their managerial rights, protected by the contract, the court declared that the argument lacked merit because it opposed the very nature of arbitration.

Concluding that the Association's resort to arbitration was appropriate, the court dismissed the case. (*Hudson Valley Community College Faculty Association v. Hudson Valley Community College*, New York Supreme Court, Appellate Division, March 21, 1974.)

PERB Erred in Ordering Board To Pay Merit Increments

The New York State Supreme Court, Appellate Division, while upholding a PERB ruling that the refusal of the Jefferson County Board of Supervisors to grant merit increments to the college faculty members violated the Taylor Law's duty to bargain in good faith, rejected the Board's right to order payment of the increments.

A contractual arrangement between the Faculty Association of Jefferson Community College and the Jefferson County Board of Supervisors had established that all increments be based on merit, determinable by the Board of Trustees which had customarily granted increments to all continuing faculty members. When the Board of Trustees submitted its budget for the increments, the Board of Supervisors, instead of providing the funds, asked for an explanation of its method of granting increments. Having received no reply, the Board of Supervisors entered into a more satisfactory agreement with other county employees and submitted to the Board of Trustees only half of the budget requested.

Filing a complaint with PERB, the Association charged that the Board of Supervisors interfered with their contract rights and failed to negotiate in good faith. Thereupon PERB ordered the Board of Supervisors to cease and desist from refusing to pay the recommended increments.

Seeking an annulment of the PERB determination, the Board of Supervisors maintained that PERB had no authority to order them to pay the merit increments.

Finding that there was sufficient evidence to support PERB's determination that the Board of Supervisors attempted unilaterally to alter its contract with the Association, the Court modified the PERB award to an order directing the Board of Supervisors to negotiate in good faith, and since the Civil Service Law does not empower the PERB to impose a remedy, ordered the payment of the merit increment deleted from the award. (*Jefferson County Board of Supervisors v. New York State Public Employment Relations Board, the Faculty Association of Jefferson Community College, and the Board of Trustees of Jefferson Community College*, N.Y.S. Supreme Court May 23, 1974.)

Teachers' Strike Penalty Justified and Timeliness of Back Pay Grievance Clarified

Clarification concerning strike penalty and the procedure for claiming back pay through the grievance process were established in two separate proceedings by the appellate division of the New York State Supreme Court.

- In a case brought by the Yonkers Federation of Teachers against the state Public Employment Relations Board, the Court upheld a PERB decision which revoked the dues checkoff privileges owing to the Federation's violation of the Civil Service Law which prohibits strikes by public employees.

The Yonkers Board of Education had filed a charge with PERB that the Yonkers Federation of Teachers had violated the Civil Service Law by striking. The Federation held that the board had provoked the strike by engaging in "acts of extreme provocation."

A PERB hearing officer sustained the board's charge and held that the strike was called because the Federation failed to achieve its bargaining demands during a self-imposed time period. The full PERB then instructed the board to suspend the Federation's dues deduction privileges.

The State Supreme Court found that the union had resorted to the strike as a bargaining weapon after threatening a walkout. Although recognizing that the board's behavior was not commendable, the Court found no justification in the Federation's claim that the school district was guilty of "acts of extreme provocation" and upheld PERB's decision to suspend the union's dues checkoff privileges. (*Yonkers Federation of Teachers, AFT Local 860, AFL-CIO v. PERB*, New York State Supreme Court, Appellate Division, June 25, 1974.)

- The case between the Guilderland Central Teachers Association and the Guilderland Central School District involved the timeliness of filing a demand for veterans' military service pay. The board contended that it was not obligated to grant back pay since the grievance had not been filed within the 20-day time limit established by Sec-

tion 3813 of the Education Law. The appellate court ruled that both parties had the option to dispense with the application of Section 3813, designed as a protective measure against unnecessary delays which would impede the validity of an investigation.

Because the Guilderland contract did not require compliance with the clause in question, the court determined that adherence to the 20-day limit was not a prerequisite for arbitration. (*Guilderland Central School District and Guilderland Central Teachers Association*, New York State Supreme Court, Appellate Court, Appellate Division, June 13, 1974.)

RHODE ISLAND

City Held In Contempt of Court for Failure To Fulfill Contract

In a seemingly never ending legal battle, the Providence Teachers Union sought and won a contempt citation against the city and school committee of Providence for failure to live up to their contractual obligation to pay more than $350,000 in severance pay to 55 retired teachers.

Under a severance pay clause, negotiated in 1968, retiring teachers with 35 years of service were to receive credit for 90 full days and 200 half days maximum less any used sick leave. During the negotiations the city neglected to cost out this clause and upon implementation the city balked, claiming inability to pay.

Several arbitration and court decisions have struck down numerous city arguments among which were the inability to pay and a questioning of the validity of the contract relative to ratification by the city comptroller. In each instance the union was upheld.

Under state law, any municipality that claims inability to pay may be ordered to enact a general assessment of all revenue properties in order to meet its financial obligation. However, rather than seeking this long avenue to force payment the union obtained a contempt citation to force the city to pay. (*Providence Teachers Union v. David R. McGovern*, Rhode Island Supreme Court, May 13, 1974; *Providence Teachers Union v. School Committee of the City of Providence*, May 13, 1974.)

WASHINGTON

Inquiry into Sincerity of Religious Beliefs Not Prohibited

While the truth of a religious belief is not open to question, neither the Constitution of the United States nor the Constitution of the state of Washington prohibits "an inquiry into whether a religious belief is truly or sincerely held." Therefore, a Washington State trial court held that a quasi-judicial appeals board had the power to determine the religious sincerity of city employees in order to settle a dispute arising under the union shop provision of the collective bargaining agreement between the Municipality of Metropolitan Seattle and Local 674, Public Service Employees Union. However, because the dispute involved a fundamental right of the employees, the court held that it had power of judicial review and issued the following guidelines to the Board: If the Board finds that all or any of the employees, either truly holds a religious belief which teaches nonassociation with a union or is a member of a church or religious body which teaches nonassociation, the employees "may continue to make payments to the charities which each has selected" instead of paying dues and initiation fees to the union. Such a settlement could not be challenged as a violation of equal protection of the laws since such discrimination is permitted by the First Amendment of the Constitution of the United States.

State law provides that a public employee who is a member of a church or religious body whose teachings or tenets require nonassociation with a union and is employed under a union shop agreement shall pay an amount of money equivalent to regular union dues and initiation fees to a nonreligious charity or to another charitable organization agreed upon by the employee and his bargaining representative.

Acting under this law, several employees had forwarded checks covering initiation fees and the first month's dues to the union with the stipulation that the checks be turned over to a charity. The union requested the employees to inform it of the nature of their religious objections, and said that it would no longer accept their payments until it was satisfied that their objections were bona fide and threatened to request their termination unless the information was supplied.

Acting under the terms of the collective bargaining agreement providing for binding arbitration of disputes arising under it, the city brought the matter directly to an appeals board and asked it to determine if the employees' religious objections were genuine.

The employees contended that the board lacked jurisdiction on the following grounds: (a) By forwarding their checks, the union had waived its right to object to their payments to charity. (b) The preliminary steps of the grievance procedure had not been followed. (c) The inquiry was unnecessary because the law permitted the employees to choose whom they would pay. (d) The inquiry was prohibited as a violation of religious freedom under the First Amendment of the federal Constitution and the Constitution of the State of Washington.

The board denied these contentions and asserted its jurisdiction. The employees appealed to a state trial court to issue a writ of prohibition against the inquiry. The union contended that the court lacked jurisdiction to hear the challenge after the board had decided the question.

The court ruled that the arbitration statute implied that "a court has some authority in connection with arbitration of labor disputes to either enforce or revoke any agreement" and "in context with constitutional and statutory provisions" granting the court powers to issue writs of pro-

hibition, "it is evident that where fundamental rights of a party are involved, the Superior Court has constitutional and statutory power of judicial review."

The court then dismissed the employees' contentions that the appeals board lacked jurisdiction. The court held that the question of the union's waiver of its rights has no bearing on the jurisdiction of the board, and that the preliminary steps of the grievance procedure were not applicable to this dispute because the job classification of the employees required that any action to terminate them would have to be taken by a majority vote of the governing body of the municipality. Under statute, the inquiry was necessary because the employees' right to select where payments go would arise only "if the employee holds a bona-fide religious belief or is a member of a church or religious body which teaches nonassociation." The court determined that while the truth of a religious doctrine or belief may not be questioned, neither the First Amendment to the federal Constitution nor the Constitution of the State of Washington "prohibit an inquiry into whether a religious belief is truly and sincerely held." (*Adams, et al. v. Public Service Employees Union and Grant*, Superior Court of the State of Washington for King County, June 20, 1974.)

FEDERAL

Indiana Education Employment Relations Board Has Jurisdiction over Case Involving Unfair Labor Practice, Decided on Other Ground Before the Board Existed

According to the U.S. Court of Appeals, 7th Circuit, the Indiana Education Employment Relations Board should have initial jurisdiction over charges that Michigan City's granting of exclusive use of internal communications facilities to the Michigan City Education Association as exclusive bargaining representative was an unfair labor practice under Indiana's collective bargaining statute and violated the rights of the Michigan City Federation of Teachers under the federal Constitution, even though the suit as orginally argued and decided by a lower federal court did not involve unfair labor practice charges, since neither the statute nor the board existed at that time. Therefore, the Court vacated a lower federal court's judgment in favor of the Federation and remanded the case to the Board.

Under the collective bargaining agreement signed in August 1972, the city had granted the Association, as exclusive bargaining agent for teachers, the exclusive right to use internal channels of communications such as school mailboxes, equipment, and buildings. The Federation filed a suit requesting a federal district court to prohibit the enforcement of exclusivity on the grounds that the denial of access to internal channels of communications violated its right under the 1st and 14th Amendments to the federal Constitution. The Association contended that since labor law was the source of its privileges as sole bargaining agent, constitutional law was not controlling.

Ruling on behalf of the Federation, the district court held that constitutional law was controlling and that the grant of exclusive privileges affected the ability of the Federation to communicate with its own members and all other teachers. Therefore, the injunction was granted.

The Association filed an appeal with the U.S. Court of Appeals, 7th Circuit, requesting the court to determine whether labor law or constitutional law was controlling, and if constitutional law was controlling, did the state have sufficient interest to warrant the granting of exclusive privileges.

However, after the appeal was filed and before it was adjudicated, Indiana enacted a statute which authorized school boards to engage in collective bargaining with teachers and created an Indiana Education Employment Relations Board with jurisdiction to determine unfair labor practices charges. Therefore, the Federation, in reply to the Association, asserted that the granting of exclusive privileges was an unfair labor practice under the new Indiana statute.

The court held that since the Federation had alleged that the granting of exclusive privileges to the Association was an unfair labor practice under the new statute, jurisdiction in the first instance properly belonged to the Indiana Education Employment Relations Board, and that the Federation had to exhaust all available state remedies before invoking federal jurisdiction. (*Michigan City Federation of Teachers, Local No. 399 v. Michigan City Area Schools, and Michigan City Education Association*, U.S. Court of Appeals 7th Circuit, April 16th, 1974.)

BOARD FINDINGS AND RULINGS

HAWAII

Exclusive Representative Entitled to Service Fee Despite Lack of Contract

The absence of a contract between the Hawaii Federation of College Teachers and the University of Hawaii does not the foreclose the exclusive representative from entitlement to service fees according to the Hawaii Public Employment Relations Board.

The issue of representation and the legality of HFCT's right to service fees when no contract was in force was challenged by the Federation's rival, the University of Hawaii Professional Assembly (UHPA) precipitating a review of the situation by HPERB.

Advancing a strict interpretation of the statute governing service fees, UHPA argued that only costs for negotiating and administering an agreement can warrant service fees, and since no bargaining agreement was in effect, a minimal fee should be imposed and any excess fees should be refunded to employees.

According to the board, the statutory purpose of promoting effective bargaining efforts by chosen representatives could not be achieved by a narrow interpretation of the service fee provision. For that reason the board deemed it necessary to adopt a construction which would be a modified agency shop, not only to eliminate the "free rider," but to insure the exclusive representative of financial stability so that it might perform all its responsibilities.

The Board determined the analysis above to be valid, and in another refutation of UPHA's strict and literal interpretation of the service fee provisions in the law, cited a state supreme court decision, *Thomas v. Norton,* which held that statutes must be interpreted according to their intent and meaning, that is, every part must be viewed in connection with the whole. The fundamental rationale of the Board was crystallized in its statement that the right to a service fee is not discretionary, but statutorily mandated and extending to any exclusive representative, not only those who have negotiated an agreement and have an agreement to administer. Consequently, the Board deemed the HFTA still entitled to the service fee since there was no provision for terminating the service fee before an exclusive employee representative ceased to be so.

Stressing that an exclusive representative, not only provides negotiation and contract administration, but also has the right to act for said employees, the Board asserted that since the exclusive representative has the duty to represent the interests of all such employees, it has the right to a service fee deduction as long as the employee organization remains certified as its exclusive representative. In view of this, the Board said that the right to a service fee deduction was not merely coincidental, but consequential.

UHPA proposed that if payment of the established service fee prevailed, it should be reduced. The Board held that since the primary purpose of the service fee was to pay for services rendered in the employees' behalf, and as such was a form of union security, it further protected the exclusive representative against competing unions by making it financially stable and free to carry out its responsibilities without resorting to the problem of raising revenues before fulfilling its responsibilities. Thus, the Board refrained from interfering with the decision made by the majority of members in the unit to have HFTA as their exclusive representative.

Turning its attention to UHPA's contention that HFCT had failed to meet its burden of showing cause why it should be allowed a service fee of any specific amount, the Board reiterated its statement concerning service fees wherein it stated that any review of service fees would be "based upon a history of actual costs and expenditures incurred by the petitioner during said interim period."

A thorough examination of HFTA's accounts revealed no serious discrepancies but a dependence upon the service fee deducted. In the absence of conflicting contractual provisions and in the absence of a contract the rules and regulations of the employer remain applicable, and, therefore, HFTA must expand funds and efforts to insure enforcement of them.

Concluding, the Board found on the basis of the record that costs incurred by HFTA benefited all employees in the unit and would continue to do so. The service fee deemed reasonable, the public employer was ordered to resume such deductions for HFTA until the Board directed otherwise. (*Hawaii Federation of College Teachers and University of Hawaii Professional Assembly, Intervenor*, HPERB, Sept. 25, 1974.)

MICHIGAN

Confiscation of Newspapers Containing Election Endorsement Declared Unconstitutional

The removal of a teachers association newspaper from school mailboxes because it contained an endorsement of school-board candidates violated the contractual rights of the Association, the teachers' rights to free speech under the federal Constitution, and the state employment relations act. Therefore, an arbitrator sustained a charge of unfair labor practice in a grievance filed by the Wayne-Westland Education Association against the Board of Education, Wayne-Westland Community Schools.

During a school-board election, the Association, operating under an agreement granting it use of school mailboxes for communicating with its members (while prohibiting political activity by teachers on school property) distributed an issue of its newspaper containing an endorsement of two candidates. Upon being notified of the contents of the newspaper, an assistant superintendent confiscated the issue.

The Association's grievance against the board contended that (a) the Association had not engaged in political activity prohibited by the contract since the newspaper was distributed solely to teachers and the candidates endorsed were not teachers, (b) confiscation violated the contractual rights of the Association to use the mailboxes to communicate with its members, (c) the confiscation violated teachers' rights under Michigan's Public Employee Relations Act to engage in activities for their protection, and (d) the confiscation violated teachers' rights to free speech under the federal Constitution.

The board contended that the distribution of the newspaper was a violation of the contract which stipulated that "the political activities of any teacher. . .campaigning for a candidate shall be conducted. . .off school premises and outside working hours," that as trustee of school property, the board could not allow school mailboxes to be used to foster political campaigns or other special interest, and that the board had the authority to order the removal of the newspaper from school mailboxes under the state statute granting it general power to manage the schools and preserve school property.

Ruling in favor of the Association, the arbitrator held that the distribution of the newspaper was not prohibited by the contract because it was distributed only among teachers and the candidates endorsed were not teachers. Further, the board's responsibility as a trustee was not involved because no additional funds or facilities beyond the mailboxes, which were already provided, were used to distribute the issue of the newspaper. The confiscation according to the arbitrator, was an unfair labor practice because it violated the contractual right of the Association to use mailboxes to communicate with its members because under the First Amendment to the federal Constitution, teachers individually and collectively through their Association have rights of free speech including the right to endorse candidates for elections. The Supreme Court of the United States, in *Perry v. Sindermann*, (403 U.S. 597, (1972)) held that the government cannot infringe upon the exercise of a person's constitutionally protected rights, especially the rights of free speech, "to produce a result which it could not directly command." Therefore, the board's denying the Association its contractual right to use mailboxes, when that right was used for the purpose of endorsing candidates, constituted an unlawful infringement on teachers' rights of free speech.

The arbitrator, however, denied an Association request to order the board and its employees to refrain from further similar actions on the grounds that he lacked authority to do more than resolve the issue presented to him. (*Wayne-Westland Education Association and Board of Education, Wayne-Westland Community Schools*, May 22, 1974.)

NEVADA

Employer Has Right To RIF But Order of Discharge and Re-employment Is Negotiable

Management has the right to decide when a reduction is necessary, the number of employees to be terminated, and the areas where reduction shall occur. However, "the order in which personnel. . .shall be discharged and any rights they may possess after discharge with regard to preference in re-employment are conditions of employment" and subject to mandatory bargaining. Employee-Management Relations Board ruled that the Mineral County School District was required to negotiate with the Mineral County Classroom Teachers Association on the latter's proposal of procedures to be used for implementing a reduction in force.

The Association made its proposal when a possible reduction in staffing at a military installation, the county's main source of employment, threatened to cause a drastic decline in enrollment and funding. The district refused to negotiate, contending that the subject of the proposal was a management prerogative. The Association filed a complaint with the Board, contending that its proposal was a condition of employment and subject to mandatory negotiations.

Ruling in favor of the Association, the Board noted that the Nevada Local Government Employee Relations Act "obviously envisions circumstances where the procedures for the reduction of the teaching force would be contained in a written contract." Citing the decision of the Federal Court of Appeals for the Third Circuit in the case of *N.L.R.B. v. Royal Plating and Polishing Company*, 350 F2d. 191 (1965), which held that while an employer of a failing business has no duty to bargain regarding its decision to shut down, it must notify the union of its intentions so that the union may bargain over the rights of the employees affected, the Board concluded that a "similar approach is warranted in the public sector where the necessity for a reduction in force is created by circumstances beyond the control of the local government employer."

The Board ruled that in these circumstances, the order of discharge of personnel and the rights of discharged personnel with regard to preference in re-employment are conditions of employment and subject to mandatory bargaining. (*Mineral County Classroom Teacher's Association v. Mineral County School District*, Nevada Local Government Employee-Management Relations Board, June 20, 1974.)

NEW JERSEY

Substitute Serving As Full-Time Employee Entitled to Tenure

Finding that the Newark Board of Education had exceeded its authority in dismissing a teacher whose tenure was disputable, the commissioner of education ordered reinstatement of the employee and all retroactive compensation due him.

Before a hearing examiner, the teacher contended that he had satisfied tenure requirements, and that his termination was, therefore, discriminatory. The board argued that he had falsified a timesheet and had not qualified for tenure because he was hired as a per-diem substitute and lacked proper certification even as a long-term substitute.

The hearing examiner found no evidence to support the discrimination charge, and in view of the fact that it was difficult to determine whether the teacher was regularly employed for sufficient time so as to have acquired tenure status, he referred the matter to the commissioner.

For tenure New Jersey state law requires service for three consecutive calendar years, or any shorter period, as determined by the board; or three consecutive academic years in conjunction with employment at the beginning of the next successive academic year; or the equivalence of more than three academic years within any four consecutive academic years. Under these provisions and basing his decision, in part, on *Ruth L. Yanowitz et al. v. Board of Education of Jersey City,* which held that long-term substitute teaching, under certain conditions, can be considered a full-time teaching assignment, the commissioner ruled that the teacher's service was clearly not that of a substitute, but of a tenured employee. Although the board had failed to recognize and accord the teacher with tenure accrual, he was, nonetheless, a regular employee, was paid a yearly salary, and possessed full state certification in accordance with the statutory prescription acknowledging tenure acquisition when a teacher has rendered the required service for a given period. The commissioner further concluded that even by the board's calculation the teacher was regularly employed for approximately three years, and under such circumstances, the prior period in question should be applied as a tenure accrual.

The commissioner ordered reinstatement and retroactivity of salary and other benefits. (*Richard Glover, v. Board of Education of the City of Newark,* Acting Commissioner of Education, July 26, 1974)

NEW YORK

Board's Unilateral Change in Health Leave Policy Held Improper

In a case brought against the Plainedge Union Free School District by the Plainedge Federation of Teachers, the New York State Public Employment Relations Board held the school board's unilateral change in a health leave policy improper.

Shortly before December 13, 1973, the union president received a copy of the agenda of the school board meeting. The agenda contained an item, "disposition of resolution to revise the health leave policy." When shown a copy of the revised policy by the superintendent, the union president asked for a copy to be mailed to him and for time to review it. He also asked that the matter be tabled so that it could be discussed between the parties.

On December 14 the superintendent sent the union president a copy of the proposed policy together with a letter explaining the purpose of the new policy. The union president reviewed the proposed policy with the union executive board.

On January 9, 1974, the union president received a copy of the agenda for the January 10 meeting of the school board. The agenda again included the proposed health leave policy. The union president then asked the president of the school board to table the matter to give the union time to negotiate it with the school board, but the school board adopted the new policy.

On February 13, the union filed an improper practice charge, contending that the school district refused to negotiate and unilaterally changed the health leave policy. The school district denied the charge and asserted that the health policy was a matter for advisory arbitration.

At the hearing the school district maintained that according to the current agreement with the union it had the right to change the health leave policy. Furthermore, the failure of the union to request a meeting with the school board between December 14 and January 10 constituted a waiver of negotiation rights.

PERB held that the school district unilaterally modified terms and conditions of employment by reducing the length of health leave for teachers, a substantial change in employment conditions, and that since there was no specific agreement on a time limit for negotiation, the union's failure to request a meeting between December 14 and January 10 did not constitute a waiver of its right to negotiation. PERB, therefore, ordered the school district to cease and desist from unilaterally modifying the health leave policy. (*Plainedge Union Free School District v. Plainedge Federation of Teachers,* New York State Public Employment Relations Board, June 19, 1974)

PENNSYLVANIA

Lockout As a Bargaining Tactic Does Not Violate NLRB

The use of a lockout solely to support a legitimate bargaining position does not violate the National Labor Relations Act on state law. Therefore, the Pennsylvania Labor Relations Board ruled that the New Castle Area School District was not guilty of an unfair labor practice when it would not allow teacher aides to return to their jobs until a new contract was negotiated and the funding for these positions was established.

During negotiations with the New Castle Association of School Service Personnel, the district took the position that teacher aides would not be permitted to work without a contract, because Title I money had not been approved for teacher aides, and "that without agreement as to wages it was impossible to determine whether adequate funds would be available under the Title I grant." After an agreement was reached, the aides returned to work.

The union filed a complaint with the Pennsylvania Labor Relations Board, charging the district with a lockout in violation of the National Labor Relations Act. Ruling in favor of the district, PLRB cited the decision of the Supreme Court of the United States in *American Ship Building Company,* [380 U.S. 300] which held that "the use of a lockout solely in support of a legitimate bargaining position was not violative of the National Labor Relations Act." In the present case, PLRB ruled that the employer's action was not "designed to coerce, restrain or discourage membership in the union" but was simply a bargaining tactic. (*PLRB v. New Castle Area School District,* Pennsylvania Labor Relations Board, June 27, 1974)

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FEDERAL

NLRB Declines Jurisdiction over Howard University

Owing to Howard University's "unique relationship" with the federal government, the National Labor Relations Board declined to accept jurisdiction, and dismissed a petition from Teamster Local 246, requesting the NLRB to order a representation election among the full-time faculty at the Howard University law school. NLRB reasoned that effective collective bargaining at the university would entail the involvement of federal agencies over which it (the Board) would have no jurisdiction.

The Teamsters claimed that Howard was a private institution, similar to Cornell where the NLRB had previously accepted jurisdiction. The university, citing the NLRB decision in the case of Temple University, sought dismissal of the petition on the ground that its relationship with the federal government removed it from NLRB jurisdiction.

In examining Howard's relationship with the federal government, the NLRB made the following observations: (a) Howard University was established by Congress; (b) half of its total academic budget from 1965 to 1972 was derived from Congressional appropriations; (c) its expenditures of federal monies were subject to supervision and control by the Department of Health, Education, and Welfare, by the General Services Administration in the area of construction, and by Congress, to whom Howard had to submit an annual report; (d) the University classified its non-faculty employees under the wage scales used by the federal government; and (e) salaries of all university employees prior to 1973 were paid by U.S. Treasury checks.

Ruling in favor of Howard, the NLRB concluded that "the federal interest in Howard far exceeds in degree that associated with the government's customary funding of specific university projects." On the ground of this "unique relationship" with the federal government, the NLRB dismissed the Teamsters' petition.

In a dissenting opinion, it was argued that Howard in its relationship with the federal government was not restricted in any way with regard to personnel or labor relations policies, except for statutory benefits which must be paid to former federal employees working in Freedmen's Hospital. Additionally, the decision created an anomalous situation since Howard was already engaged in collective bargaining with several employee groups. Finally, the dissenters argued, unlike Temple University where an alternative authority, the state of Pennsylvania, was capable of asserting jurisdiction, in the case of Howard there was no alternative, and the NLRB by declining jurisdiction was creating a "permanent no-man's land. . .not subject to any legislative attempts at comprehensive regulation," in manifest contradiction to the thrust of section 14c of the Wagner Act. (*Howard University and Teamsters*, National Labor Relations Board, June 14, 1974.)

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NEGOTIATION NOTES

MICHIGAN

Compensation Plan for 1975-76 in Preparation Under Unique Michigan Law

A new procedure for determining pay and fringe benefits for classified employees in the state is being drafted by the Compensation Advisory Board (CAB) of the Michigan Civil Service Commission.

A study committee appointed by the Board has proposed the following for fiscal year 1975:

1. *Pay:* A 6 percent increase and a 27 cent per hour interim increase, effective January 1, 1975, in addition to a cost-of-living plan effective July 1975.

2. *Fringes:* Dental insurance, additional holidays, and partial payment for accumulated sick leave on separation.

3. *Retirement:* Full retirement at age 55 with 30 years of service, full state payment of employee contributions, 20-year vesting, and improvement of the benefit formula.

4. *Expenses:* Ten percent increase; 18 cents per mile on mileage; residence transaction allowances for required moves.

MINNESOTA

Independent Review Hinges on Presence of Contract Rights

On appeal to the Minnesota Supreme Court, two librarians were denied their petition brought against the Polk County Library Board seeking to require the establishment of a panel as provided under the Public Employees Labor Relations Act to review their discharge. The two employees had been terminated by the PCLB without a hearing.

Having been denied a panel by the state mediation board to independently review the discharge and as well as being rebuffed by a district court, the two librarians contended before the appellate court that their rights to a review of the discharge, and their rights to continued employment were abridged as a result of the summary dismissal and the library board's refusal to submit the matters leading to the discharge to an independent review as provided under the state law.

The appellate court noted that neither librarian properly invoked the statutory procedures for review "of any grievance arising out of the interpretation of or adherence to terms and conditions of employment."

The court based its decision on the nature of their contractual relationship with the employer. Finding that neither librarian had any contractual or tenure rights owing to the absence of a negotiated agreement, the employer-employee relationship was terminable at will by either party. Thus, absent an employee's contractual obligation to perform a job, the PCLB was free from any obligation to retain an employee and might terminate that employee at will without showing cause or providing the right to review for cause, unless the dismissed employee could prove a contract to that effect.

Because the court found no controversy over the terms and conditions of employment, it denied the petition for relief on the grounds that the action was not based on state law providing review for denial of a contractual employment relationship. (*Avis Boe et al, Appellants v. Polk County Library Board; A Department of Polk County, Respondent,* Minnesota Supreme Court, April 19, 1974.)

MISSOURI

Juvenile Court Employees May Unionize

The Missouri Supreme Court ruled that juvenile court employees were public employees entitled to organize and bargain collectively with their employer. The juvenile court sought to stop the Missouri State Board of Mediation from determining whether the Western Missouri Public Employees Local 1812 was entitled to represent employees of the juvenile court.

The juvenile court contended that its employees were not covered by the statute permitting union membership and that the Board of Mediation had no jurisdiction in the matter because its involvement would "constitute an invasion and interference with the powers of the judicial department in violation of the doctrine of separation of powers contained in the 1945 Mo. Const., Art. II. § 1."

The employees contended that because they were employed by a public body, they were covered by the statute and that compliance with the statute would not encroach upon the powers of the employer.

The Supreme Court ruled that the employees were public employees according to the statute because they were paid either by the state of Missouri and/or by Jackson County, a political subdivision. The court then pointed out that when the juvenile court refused to recognize their constitutional right to select a bargaining representative, they could have abandoned their constitutional right or adopted

the approach statutorily outlined, mediation. Since the employees selected mediation, the court analyzed the questions before the mediation board and determined that neither of the issues was of interest to the employer. Further, the mediation board's response to the questions would not be considered an invasion of the judicial department.

In conclusion, the state supreme court pointed out that the employer's concern with possible abuse of its powers did not warrant striking down a statute. On the basis of the foregoing, it directed the Board of Mediation to make a determination. (*State ex rel. Honorable Timothy D. O'Leary, Presiding Judge, 16th Judicial Circuit et al., Relators v. Missouri State Board of Mediation et al., Respondents*, Missouri Supreme Court, April 8, 1974.)

NEW YORK

NYC Mayor and Unions Organize Productivity Council

A joint productivity program designed to secure better service without spending additional city revenue has been established by the New York City mayor and leaders of four unions. Since productivity has been a basic issue in municipal bargaining agreements among nonuniformed employees, sanitationmen, police, and correction officers, the newly organized Productivity Council is expected to make productivity a continuing effort. Viewed by the mayor as a significant step in creating a new era of cooperation between the city and labor unions, the council is expected to expand as agreements are negotiated with other unions.

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FEDERAL

Employer Obligated To Provide Information Necessary and Relevant to the Processing of a Grievance

According to the National Labor Relations Board, an employer's duty to bargain, under Section 8(a)(5) of the National Labor Relations Act, includes the obligation to provide a union with information which is relevant and reasonably necessary to process a grievance. Therefore, the Board sustained charges of unlawful refusal to bargain which were brought against the Trustees of Boston University by the Building and Service Employees International Union, Local 254.

The University notified six painters that they were being laid off owing to a reduction in the budget for physical plant. The paint shop had been selected for elimination allegedly because its services were "least essential." Acting under a contract which prohibited the arbitrary and capricious exercise of management rights, the union filed a grievance on behalf of the employees, claiming that the University had acted arbitrarily by eliminating the paint shop, since a good deal of painting was being carried on by subcontracting firms. The union requested from the University copies of the physical plant budgets and painting subcontracts for the current year and the two preceding years to permit it to ascertain whether the University's action was valid. The personnel director refused to supply the information, claiming that the union was not entitled to it, and denied the grievance on the grounds of management rights.

The union filed a petition with the National Labor Relations Board, charging that the University's refusal to supply information which was relevant and necessary to the processing of a grievance constituted unlawful refusal to bargain under section 8(a)(5) of the National Labor Relations Act. The University replied that its action was not arbitrary and offered arguments which had not been presented to the union previously.

Ruling in favor of the union, an administrative law judge held that an employer is obligated to provide a union with information which is relevant and reasonably necessary to evaluate the merits of a grievance in order to decide whether to pursue it or drop it, and that in the present case, the information requested was relevant. The judge concluded that the University had violated its duty to bargain under the NLRA. (*Trustees of Boston University and Building and Service Employees International Union, Local 254, AFL-CIO*, NLRB, April 29, 1974.)

Exclusion of Maternity Benefits from California's Disability Coverage Held Constitutional

After reviewing a federal trial court decision, the Supreme Court of the United States upheld the constitutionality of a provision of the California Unemployment Insurance Code, which excluded maternity-related disability from its disability coverage. The Court held that this exclusion did not violate the equal protection clause of the 14th Amendment to the federal Constitution because the program covered all other risks to which women are subject. According to the high Court, the equal protection clause does not require the state to insure all risks, and "there is nothing in the Constitution that requires the State to subordinate or compromise its legitimate interests solely to create a more comprehensive social insurance program than it already has." The Court defined legitimate interests to include: (a) maintaining the self-supporting nature of an insurance program, (b) keeping benefit payments for disabilities at an adequate level, and (c) maintaining the contribution level at a rate that will not unduly burden participating low-income employees.

The case involved four women, private employees, who were generally eligible for payments from the California Unemployment Compensation Disability Fund. This fund provides payments for private employees, who are temporarily disabled and unable to work because of an illness not

covered by Workmen's Compensation. The categories of disability not covered included a single disability exceeding 26 weeks, or less than 8 days without hospitalization; court commitment as an alcoholic, drug addict, or sexual psycopath; and any illness caused by or arising from pregnancy. The women, who suffered unemployment disabilities because of pregnancy, challenged the pregnancy exclusion as a violation of the equal protection clause of the 14th Amendment of the federal Constitution. The state contended that inclusion of pregnancy-related illnesses in the coverage would make it impossible to maintain a self-supporting program within the existing level of employee contributions.

The Federal District Court ruled in favor of the women on the ground that the exclusion was "not based upon a classification having a rational and substantial relationship to a legitimate state purpose," and concluded that increased cost could be accommodated through minor adjustments of the rate of employee contribution, the maximum benefits payable, and other variables affecting the solvency of the program.

The Supreme Court, on appeal, reversed the lower court decision on the grounds that exclusion of maternity benefits, since it discriminates against a class of risk and not a class of persons, does not violate the equal protection clause of the 14th Amendment of the federal Constitution, and that California's policy of maintaining a self-supporting program, an adequate level of benefits, and a contribution rate that would not unduly burden low-income employees represented a legitimate state interest which the state did not have to compromise solely to increase coverage.

A dissenting opinion argued that excluding from coverage disabilities suffered only by women, while including coverage of disabilities suffered primarily or exclusively by men, such as hemophilia, and prostatectomies, "inevitably constitutes sex discrimination." In previous cases the Supreme Court had ruled that such discrimination could be justified only if the state could demonstrate that "the challenged legislation serves overriding or compelling interests that can not be achieved either by a more carefully tailored legislative classification or the use of feasible, less drastic means." The state "must do more than show that denying benefits to the excluded class saves money." California's legitimate interest in fiscal integrity could easily have been served through a variety of less drastic, sexually neutral means. (*Dwight Gedulig, et al., v. Carolyn Aiello, et al.*, U. S. Supreme Court, June 17, 1974.)

* * *

THE CONSUMER PRICE INDEX—NOVEMBER 1974

The Consumer Price Index rose 0.8 percent in November to 154.3 (1967=100), the Bureau of Labor Statistics of the U.S. Department of Labor reported. The rise was due to higher prices for a wide variety of consumer goods and services, including most types of food, clothing, natural gas, mortgage interest costs, and housekeeping supplies. The effect of these increases was partially offset by declines in prices for beef, fresh fruits, eggs, and gasoline.

On a seasonally adjusted basis, the rise in the November CPI was 0.9 percent, the same as in October. Each of the three major components of the index rose about as much as in October. The increase in the food index, 1.4 percent after seasonal adjustment, marked the fourth consecutive month of rapid rise. The index for nonfood commodities rose 0.8 percent in November, slightly more than in October but much less than the average monthly increase of 1.2 percent in the first 9 months of this year. The services index also rose 0.8 percent in November, compared with an average monthly increase of a little over 1.0 percent in the preceding 6 months.

The November CPI was 12.1 percent higher than in November 1973. During this same period, the food index rose 11.9 percent, the index for commodities other than food rose 13.5 percent, and the services index rose 10.9 percent.

Monthly changes in detail (not seasonally adjusted)

The index for food purchased in grocery stores increased 1.1 percent, instead of declining as it usually does in November. Prices averaged higher for most types of food except beef, fresh fruits, and eggs. Prices for sugar and products for which sugar is an important ingredient continued to rise rapidly and accounted for a substantial part of the November increase in food prices. Fresh vegetable prices rose more than they usually do in November. Pork and poultry prices also increased, but beef prices declined seasonally, as did fresh fruits and eggs. The index for food away from home—restaurant meals and snacks—increased 0.9 percent, about the same as in recent months.

The index for nonfood commodities increased 0.8 percent. Higher prices for apparel commodities were responsible for almost a fourth of the rise. Prices for housekeeping supplies, tobacco products, floor coverings, appliances, houses, and fuel oil continued to increase rapidly. Prices also rose for other commodities such as furniture, toilet goods, alcoholic beverages, reading materials, and used cars, but increases were smaller than in recent months. New car prices rose in November, but much less than in October. Gasoline prices declined for the fourth consecutive month but remained about 26 percent above year earlier levels.

The services index rose 0.8 percent in November. Over three-fifths of the increase was due to higher charges for all types of household services, including rent. Charges for residential gas rose sharply. Mortgage interest costs continued to rise, reflecting earlier increases in interest rates on conventionally financed loans. Increases in charges for medical care, personal care, apparel, recreational, and transportation services also contributed to the rise in the services index. Among transportation services, taxicab fares and parking fees rose sharply, and charges for auto insurance turned up after declining almost steadily in the preceding 5 months.

U.S. Department of Labor, Bureau of Labor Statistics. *The Consumer Price Index—November 1974.* News Release, December 20, 1974.

Special Reports

TEACHER STRIKES, 1973-74

In the 1973-74 school year, NEA Research recorded 154 teacher strikes involving more than 74,000 teachers and an estimated 718,000 man-days of instruction.

A teacher strike is any concerted group action which disrupts the regularly scheduled instruction time for at least one school day. The data are not adjusted downward when teachers in a school system are involved in more than one strike in a school year, or when days lost owing to strikes are rescheduled to meet state minimum attendance requirements. A strike may be initiated in and affect a single school building, a local school district, or a state school system. The duration of a strike is measured by the instructional day, those days on which classes are scheduled; they do not include teacher working days before the opening or after the closing of school, teacher orientation days, in-service days, holidays, or week ends.

The 154 strikes occurred in 20 states, and ranged from 1 day to the unsettled strikes in Timberlane, New Hampshire; and Hortonville, Wisconsin.

Fewer

Fewer than 1 teacher in 25 was involved in strikes; man-days of instruction lost totaled less than 1/5 of 1 percent of the estimated man-days of instruction for the entire United States. Four states, Maryland, Michigan, Missouri, and Pennsylvania, accounted for almost 70 percent of the total man-days of instruction lost. The total number of man-days of instruction was calculated by multiplying the estimated total instructional staff in 1973-74 by an assumed 180-day instructional year.

TABLE 1.—MAN-DAYS INVOLVED IN TEACHER STRIKES, 1973-74 SCHOOL YEAR

State	Estimated total instructional staff[a]	Assumed number of man-days of instruction[b]	Estimated number of man-days involved in teacher strikes[c]	Man-days involved in teacher strikes as a percent of total man-days of instruction[d]
1	2	3	4	5
California	202,600	36,460,000	55,565	0.2
Colorado	28,748	5,174,640	17,492	0.3
Connecticut	40,145	7,226,100	1,026	*
Delaware	7,280	1,310,400	1,700	0.1
Illinois	124,200	22,356,000	5,815	*
Indiana	59,000	10,620,000	4,329	*
Maryland	48,852	8,793,360	160,820	1.8
Michigan	101,270	18,228,600	219,543	1.2
Minnesota	49,700	8,946,000	960	*
Missouri	52,812	9,506,160	60,000	0.6
New Hampshire	9,569	1,722,420	7,904	0.5
New Jersey	94,100	16,938,000	1,430	*
New York	209,510	37,711,800	20,793	0.1
Ohio	118,812	21,386,160	26,642	0.1
Pennsylvania	125,200	22,536,000	61,765	0.3
Rhode Island	10,792	1,942,560	17,038	0.9
Tennessee	41,371	7,446,780	1,000	*
Texas	150,113	27,020,340	18,000	0.1
Washington	39,950	7,191,000	2,160	*
Wisconsin	53,177	9,571,860	34,536	0.4
20 states	1,567,201	282,096,180	718,518	0.3
Remaining 30 states and D.C.	819,159	147,448,620	...	...
United States	2,386,360	429,544,800	718,518	0.2

[a]From: National Education Association, Research. *Estimates of School Statistics, 1973-74.* Research Report 1973-R8. Washington, D.C.: the Association, 1973. p. 29.

[b]Assumes a constant of 180 days of public-school instruction for the year. While the number of instruction days varies from state to state, the majority of states require a minimum of 180.

[c]Based on instructional days of full-time teachers during the regular school year. Teacher report-in days, holidays, week ends, and vacation days are excluded. Data on strike estimates are compiled from published and unpublished information collected by the Bureau of Labor Statistics, U.S. Department of Labor, and NEA Research.

[d]Assumes that man-days involved in teacher strikes are not rescheduled.

*Less than 1/10 of 1 percent.

TABLE 2.—TEACHER STRIKES, BY TYPE OF ORGANIZATION, BY MONTH, AND BY STATE, 1973-74 SCHOOL YEAR[a]

Type of organization, month, and state	Number of strikes	Estimated number of personnel involved	Estimated number of man-days involved[b]
1	2	3	4
TYPE OF ORGANIZATION			
Professional association	127	50,184	485,928
Teacher union	22	23,076	211,797
Joint union/association	5	1,613	20,793
Total	154	74,873	718,581
MONTH			
August	12	11,632	28,593
September	89	39,442	335,752
October	15	3,589	28,948
November	7	1,837	20,706
December	2	661	2,986
January	4	1,622	17,155
February	5	8,222	175,649
March	6	5,064	99,625
April	4	1,717	6,853
May	9	988	2,152
June	1	99	99
Total	154	74,873	718,518
STATE			
California	4	4,877	55,565
Colorado	2	1,511	17,492
Connecticut	1	171	1,026
Delaware	1	850	1,700
Illinois	6	1,413	5,815
Indiana	1	111	4,329
Maryland	1	7,310	160,820
Michigan	49	27,441	219,543
Minnesota	1	96	960
Missouri	1	2,000	60,000
New Hampshire	1	104	7,904
New Jersey	3	850	1,430
New York	5	1,613	20,793
Ohio	27	5,924	26,642
Pennsylvania	26	5,507	61,765
Rhode Island	3	2,294	17,038
Tennessee	1	100	1,000
Texas	1	9,000	18,000
Washington	2	282	2,160
Wisconsin	18	3,419	34,536
Total	154	74,873	718,518

[a]Compiled from published and unpublished information collected by the Bureau of Labor Statistics, U.S. Department of Labor, and NEA Research.
[b]Based on instructional days of full-time teachers during regular school year. Teacher report-in days, holidays, week ends, and vacation days are excluded.

BRIEFS OF AGREEMENTS

ENDICOTT JUNIOR COLLEGE
BEVERLY, MASSACHUSETTS

Between Endicott College Faculty Association (NEA) and Endicott Junior College, effective October 1974 to September 1, 1976. Approximately 64 certificated professional employees, including full-time faculty members, head librarian, guidance counselor, and director of internship, but excluding all other employees, department heads, part-time faculty members, librarians, cataloguers, programmed learning center co-ordinator, language laboratory co-ordinator, guards, and supervisors as defined; the board will not negotiate individually with any faculty member or with any faculty organization pertaining to wages, hours, and conditions of employment other than the Association for the duration of the agreement; a contract may be reopened upon written notice for the purpose of negotiating wages and fringes not less than 60 calendar days before September 1975.

COMPENSATION: (1974-75)

Grade 1 - $9,520.00.
Professional Arts - less than Bachelor's and three (3) years of experience. *Liberal Arts* - less than a Master's).
Grade 2 - $10,080.00.
(Professional Arts - Bachelor's and three (3) years of experience or Master's. *Liberal Arts* - Master's or Bachelor's Art and 30 credits).
Grade 3 - $10,640.00.
(Professional Arts - Bachelor's and 30 credits and three (3) years' experience or Master's and three (3) years' experience. *Liberal Arts* - Master's and 15 credits, degree program, and three (3) years' experience).
Grade 4 - $11,200.00.
(Professional Arts - Master's and 15 credits and three (3) years' experience. *Liberal Arts* - Master's and 30 credits or Bachelor's and 60 credits, degree program, and three (3) years' experience).
Grade 5 - $11,760.00.
(Professional Arts - Master's and 30 credits and three (3) years' experience. *Liberal Arts* - Doctorate, earned).

Longevity increase of $500 for bargaining unit members with 7 or more full years of service at Endicott and an increase of $200 for bargaining unit members with 4 or more full years of service at Endicott; unit employees teaching less than 13 contact hours, will receive pro-rata compensation based on a standard of 13 contact hours per year; retirement plan includes all members of the bargaining unit.

LEAVES: Ten days' sick leave for each academic year of service, 50 days maximum accumulation; additional sick leave may be granted by administrative action; up to 3 consecutive days will be granted for bereavement leave and must include the day of funeral when a death occurs in the immediate family; jury duty leave with pay being the difference between the regular salary and jury pay, including mileage allowances during such absences. Leave of absence without compensation normally for a period of one year, may be granted upon recommendation of the Supervisory Department Head and concurrence and approval by the Academic Dean.

INSURANCE: Board pays 50 percent of the cost of the Master Medical Plan; Workmen's Compensation will cover all faculty members in case of on-the-job accidents; such accidents should be reported to the supervisor.

ASSOCIATION: Payroll deductions for local, state, and national associations will be made according to the necessary official authorization form; maintenance of membership provision which cannot be cancelled for 1 year, and only upon written notice postmarked and received by the college within 15 days following the expiration of any such year or within the 15 days following the termination date of any collective bargaining agreement; a bulletin board will be provided to post notices of recreational and social activities, notice of election of officers and representatives, and notices of Association meetings; the Association will be given the use of the campus mail service and a room for meetings; bargaining unit information to be provided to Association.

INSTRUCTION: Faculty teaching load will average 15 student-contact hours and will not exceed 18 contact hours per week; preparation periods will not involve more than 4 separate courses in any term; one and one-half laboratory or studio hours will be counted as the equivalent of one lecture hour; no required course class will be discontinued if there are at least 10 students in the class; any change in existing class size will be consistent with the objectives of preserving an atmosphere conducive to effective teaching and learning.

PERSONNEL: Grievance procedure ends with a final and binding arbitration; right to review personnel file accompanied by an Association representative of his own choosing; a faculty member is required to attend departmental meetings and faculty meetings and is expected to serve on faculty committees to which elected; a meeting room which will accommodate all bargaining unit faculty members will be available once a week; Academic Policy Committee reviews and recommends academic policy, classroom procedures, and instructional standards; Curriculum Committee to review and suggest changes in academic curriculum and its growth and development; all committees to be composed of 3 elected faculty members and 3 members of the administration or supervisory staff; all faculty appeals on issues of evaluation and ranking will be processed to the Ranking and Evaluation Committee; 4 evaluation sources will be employed: Department Head, students, peers, and self; a member of the faculty may be terminated and the faculty member may be dismissed if after due process there is found to be just cause for such action; no

employee may be dismissed, disciplined, reduced in rank, retrenched, or suspended without just cause; retrenchment may be considered owing to financial considerations, program or class curtailment, and declining enrollment; it will be executed by dismissing part-time employees first, then the full-time faculty; retrenched faculty will be credited with their original date of appointment for all contractual purposes if they are recalled within two years of removal; recommendations for promotions in rank will originate with the faculty members or the department chairman involved; after 3 years of service at Endicott Junior College in any rank faculty will be automatically considered for promotion to the next rank if their names have not been submitted before that time.

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CELINA, OHIO

Between Celina City Schools and Celina Education Association, effective September 1974 to June 1976. Approximately 141 certificated professional employees, excluding central office staff and building principals. Provision for renegotiation annually by the parties exchanging complete written proposals on all items to be negotiated.

COMPENSATION: (1974-75) B.A., $7,500 to $11,640, 12 increments; 5 years, $12,667.50 maximum; M.A., $8,475 to $13,447.50, 13 increments. Experience crediting up to 10 years for outside teaching in public schools and up to five years for teaching in an accredited private school; credit will be given for each year spent in full-time active military service to a maximum of five years; no combinations of these may exceed the maximum credit of 10 years; a teacher who earns at least four semester hours or six quarter hours of credit toward his master's degree in his major field of study or area will receive in addition to his regular salary $25 for each semester hour or $16.50 for each quarter hour earned; upon retirement an employee will be paid one-fourth of the value of his accumulated sick leave up to a maximum of 120 days at the employee's daily rate of pay at the time of retirement.

DIFFERENTIALS: (Based on percent of B.A. minimum) Athletic director, heads of varsity football and basketball, 7 steps, 13 to 20 percent; instrumental music, head assistants for varsity football and basketball, heads of varsity baseball, track, and wrestling, 6 steps, 10 to 16 percent; choral music, heads of freshman football and basketball, adult education, yearbook advisor, assistants for varsity basketball and football, 5 steps, 7.5 to 11.25 percent; cheerleader advisor, junior high music, varsity tennis, assistant for varsity baseball, heads of girls' basketball and volleyball, heads of junior high football and basketball, assistants for freshman football and varsity track, student council advisor, department head with full teaching schedule, 4 steps, 5.5 to 7.9 percent; junior class advisor, girls' track, senior high girls' intramurals, school play, 3 steps, 3.5 to 5 percent; senior class advisor, junior high student council advisor, 3 steps, 1.5 to 3 percent.

OTHER: Twelve cents per mile for travel from one building to another.

LEAVES: One and one-quarter hours of sick leave credited monthly, 135 days maximum accumulation; previously accumulated sick leave of a regular teacher who has been separated from the school system will be placed to his credit upon his re-employment; any regular teacher who transfers from one school system to another in Ohio will be credited with the unused balance of his accumulated sick leave; the board will grant as much as 10 days; additional sick leave without loss of pay to a teacher who has exhausted accumulated sick leave; 2 days' personal leave upon request to be used for any purpose with additional days as warranted by emergency upon request; up to 3 days' leave will be granted for death in the immediate family and 1-2 days for other relatives depending upon distance; sabbatical leave for one year after 7 consecutive years of teaching in the district; upon return the teacher will be given the same contractual status that he had prior to the leave;

MATERNITY LEAVE

When a teacher becomes pregnant, she shall notify the Superintendent at least sixty (60) days prior to her expected date of delivery or thirty (30) days prior to the expected date of commencement of her disability absence, leave, or resignation, whichever date shall come first. Such notification shall be on a form furnished by the Board. The teacher shall select one of the options provided below in this provision and shall have her doctor complete the appropriate section which shall indicate the expected beginning date of disability and the approximate date of delivery.

It is desirable that the pregnant teacher begin her disability leave or maternity leave by the end of the seventh month or in the eighth month, unless a doctor's statement would establish an earlier date. When applicable, the beginning and ending time of the leave by the teacher should correspond as closely as possible to the end of a grading period.

A request by a teacher to resume her teaching duties shall be accompanied by a statement from her doctor certifying that she is both physically and emotionally ready to resume her duties.

OPTIONS AVAILABLE:

- Maternity leave of absence without pay.
- Disability Leave of Absence (Sick Leave) Under normal circumstances the use of accumulated sick leave by a pregnant teacher will be limited to 70 days. Extension of the use of such leave for pregnancy beyond the 70 day period will be contingent upon the recommendation of the attending physician.
- Resignation
- Any combination of Options 1, 2, or 3.

INSURANCE: Board pays Blue Cross/Blue Shield and major medical insurance; board pays 40% for family coverage above single contract premuim; Workmen's Compensation available; tax-sheltered annuity plan available.

ASSOCIATION: Payroll deduction of local, state, and national association dues; with board approval, teacher delegates will be released from regular duties without loss of pay to attend Association meetings with the number of days granted in accordance with the wishes and permission of the board; the Association has the right to use school buildings and duplicating equipment designated by the school principal, and teacher bulletin boards; the board agrees to provide information on financial resources of the district and other information regularly and routinely

prepared to the extent that such information would be available to the general public.

INSTRUCTION: Duty-free lunch of 30 minutes; secondary teachers will have at least one unassigned period for planning and where possible two; elementary teachers will be unassigned during recess and when special teachers are in the classroom.

CLASS SIZE

The Board and the C.E.A. recognize that the teacher-pupil ratio is an important aspect of an effective educational program. Whenever possible under the circumstances (availability of facilities and financial resources) the maximum number of pupils per teacher shall be as follows:

Kindergarten—Grade 6	25-30 pupils
Grade 7-12 Academic	25-30 pupils
Laboratory and Shop	18-24 pupils
Special Education (E.M.R.)	12-24 pupils

Teachers are to report to their buildings 30 minutes and to their classroom 10 minutes before classes begin and are to remain 15 minutes after classes are dismissed; however, on Fridays, or the day before vacations or professional days, teachers may leave five minutes after classes are dismissed; teachers whose college classes or travel time to classes require early departure from their school building may, upon request, be permitted to leave immediately after completion of classroom duties; the superintendent and a committee of two teacher representatives (elementary and secondary levels) appointed by the association president will prepare a recommended school calendar. "As much help as possible under existing financial conditions and building facilities should be offered to teachers in providing meaningful programs for under achievers and/or emotionally disturbed children"; all monitoring and observation of the performance of the teacher will be conducted openly and with full knowledge of the teacher; "no teacher shall be disciplined, reprimanded, reduced in rank or compensation or deprived of any professional advantage without just cause. Any such discipline, reprimand, or reduction in rank, compensation or advantage including adverse evaluation of teacher performance or violation of professional ethics asserted by the Board or any agent or representative thereof shall be subject to the Professional Grievance Procedure hereinafter set forth."

PERSONNEL: Grievance procedure ends with board of education; any unjust discipline, reprimand, reduction in rank, compensation, or advantage, including adverse evaluation of a teacher, is subject to the grievance procedure; teachers have the right to review their personnel files; building faculty meetings which extend the school day by not more than 15 minutes may be called semi-monthly; district-wide faculty meetings which may extend the school day by not more than one hour may be called a maximum of four times annually; hours earned up the attainment of the master's degree are reimbursable under the professional growth program; teachers may receive one of two kinds of contracts, a limited contract which may be extended for not more than five years or a continuing contract which will remain in effect until the teacher resigns or retires, or until it is teminated or suspended by the board; an inexperienced teacher will receive three one-year contracts and then, if doing satisfactory work and having either a life permanent or professional certificate, a continuing contract; experienced teachers will receive two one-year limited contracts and then a continuing contract if doing satisfactory work and having proper certification; monitoring and observation of the performance of the teacher will be conducted openly and with full knowledge of the teacher; because frequent transfers of teachers disrupt the educational process, the Association and the board agree that the transfers should be minimal; when a reduction in the number of teachers in a school is necessary, all volunteers will be transferred first if possible; new teachers must submit a report of a complete physical examination before commencing duties; all employees are required by law to have an annual tuberculosis test; any parent or student having a complaint against a teacher will confer with the teacher; if this does not resolve the problem, the principal will confer with the parties; if such conferences still do not resolve the problem, the complainant should submit his signed complaint to the principal who will forward it to the superintendent and notify the teacher, in writing.

FACULTY FACILITIES

Each school should have the following facilities:

- Space should be provided in each classroom in which teachers may safely store instructional materials and supplies.
- A workroom should be available containing adequate equipment and supplies to aid the preparation of instructional supplies.
- There should be adequate lunchroom facilities, teacher lounge and adequate restroom and lavatory facilities for teacher use.
- Existing telephone facilities shall be made available to teachers for their reasonable use.
- Adequate free parking facilities should be provided close to or adjoining the school.

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RHODE ISLAND JUNIOR COLLEGE
PROVIDENCE, RHODE ISLAND

Between Rhode Island Junior College and Rhode Island Junior College Faculty Association, effective July 1, 1974, to June 30, 1975. Approximately 147 certificated professional employees.

COMPENSATION: Instructor, $9,110 to $11,130, 3 increments; assistant professor, $12,190 to $14,840, 5 increments; associate professor, $15,370 to $16,960, 5 increments; professors, $16,960 to $18,050.

OTHER: Department chairmen will be compensated at $500 per academic year; compensation for teaching courses in summer school will be $18 per hour for evening sessions and 8 percent of base salary per three credit course.

LEAVES: Annual vacation for 12-month faculty members will be 22 days per year with 44 days' maximum accumulation; employees called for jury duty will be granted leave of

absence and will receive regular pay; jury duty pay must be remitted to the board; 15 days with pay granted for military reserve obligations; beyond 15 days, leave without pay will be granted; sabbatical leave for one year at half pay or one-half year at full pay after six years of service and attainment of rank of assistant professor or above for graduate study, postdoctoral study, research, or other professional improvement; upon completion of the contractual year during which the sabbatical leave is taken, the faculty member will begin again to accumulate leave service credit; upon return from sabbatical leave an employee's salary will be the same as he would have received had the period of his leave been spent in the service of the board; a sabbatical leave may be extended without pay for one additional year; a faculty member who has served full time for at least three years may be granted a leave of absence to pursue graduate study for one year at one-quarter pay; maternity leave without pay will be granted for up to two semesters with a guarantee of assignment to her position upon returning.

Sick Leave

In the event of accident or sickness which renders any faculty member temporarily incapable of performing his duties, sick leave may be granted by the college as follows:

A member of the faculty who has served as such for two years or less may be granted as much as one month's sick leave with full pay. For each subsequent year of service beyond two years, he may be granted an additional half month of sick leave until the accumulated total reaches a maximum of twelve months.

If, after the entire sick leave allowance for a faculty member has been used, he is still unable to resume his duties, he shall apply for a leave, with or without pay, or resign, and the decision shall rest with the President and the Board of Regents or its designee.

INSURANCE: Board-paid Blue Cross family plan; all Association members have the benefits of the state group life insurance program.

ASSOCIATION: The Association has the right to conduct official business on any of the college's campuses at any reasonable time; use of faculty mail boxes and bulletin boards available to the Association; the board agrees to provide information relating to budget requests and authorization, staffing projections, register of professional personnel, names and addresses and salaries of all faculty in the bargaining unit, agenda and minutes of all Regents' meetings, and new or modified long-range institutional planning.

INSTRUCTION: Most full-time faculty will maintain a classroom minimum of 12 clock hours and a maximum of 16 clock hours, the Vocational-Technical and Nursing Division a maximum of 18 hours, and practical nurse instructors a maximum of 25 hours; department chairmen will carry no less than six nor more than 12 semester hour load per semester; faculty members with less than 15 clock hours will have a weekly office schedule of six hours; those with more than 15 will carry a weekly office schedule of four hours; exceptions to the minimum class load or office schedule will be determined by the department and appropriate dean; employment of readers to assist English instructors in correcting student essays will be maintained.

PERSONNEL: Grievance procedure ends with final and binding arbitration; right to review personnel file at any time during normal business hours and to file a statement in response to any item placed therein; a designated Association representative with written authorization from the employee concerned and in the presence of a representative of the administration may examine the official personnel file of the employee; attendance at all meetings will be voluntary with the exception of general faculty meetings at the beginning of each semester or summer session; after a faculty member has served an apprenticeship for seven years and has been found worthy of retention, he will be granted a continuing appointment which cannot be terminated except by due process; if a faculty member is dismissed or suspended, he may have his case reviewed in accordance with the grievance and arbitration procedure; if the dismissed or suspended employee's appeal is sustained, he will be restored to his former position and compensated at his regular rate for any time lost during the period of such dismissal or suspension;

RETRENCHMENT

Among the part-time employees in the Department or program before full-time employees are terminated.

Among full-time employees holding academic rank, such termination shall be made from those holding temporary appointments, and from those holding term appointments before the termination of employees holding continuing appointments. Such removal shall be made in the inverse order of appointment within each such group.

Among full-time professional employees, such termination shall be made in the inverse order of original appointment, provided, however, such removal shall be made from among employees having temporary appointments before the removal of employees having term appointments.

The Board will notify the persons affected as soon as practicable recognizing that, where circumstances permit, it is desirable to provide the following notice of termination:

For those holding a term appointment, at least four months.

For those holding a continuing appointment, at least one semester.

Persons removed as a result of retrenchment shall be advised of the opportunity for reemployment in the same or a similar position at the college for a period of two years, and must accept such offer within 15 days after such offer, such acceptance to take effect not later than the beginning of the semester immediately following the date such offer was made. The College shall make every reasonable effort to place an incumbent so separated within the College, provided that a suitable position for which the person is otherwise qualified is available for such appointment.

The original appointment shall mean the date of first appointment to College service, followed by continuous and uninterrupted service within the College up to the time of reduction and abolishment of positions. Authorized leave of absence at full salary or without salary shall not be deemed an interruption of service with the College. In the event an incumbent believes such date has been incorrectly determined, he shall so advise the college, and indicate the date he believes to be correct.

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CRITERIA FOR PROMOTION

Teaching effectiveness is the prime criterion in determining the worth of a teacher. The department chairmen, the deans, and the President will use all appropriate means to determine fairly the relative effectiveness of individual teachers. Consideration will be given to information received on student evaluation forms and to observations made during class visits by the department chairmen and by the Dean.

Subordinate to teaching effectiveness, but contributing to it, are the following criteria, all of which may be considered to determine an individual's eligibility for promotion: *productive scholarship* (work on and/or publication of papers or books on one's special field); *Professional improvement*, experience (years of duty as a teacher); *committee work* (supervision of student activities); *community activity* (participation in extramural activities which may serve, directly or indirectly, the best interests of the college).

In addition to the criteria set forth in paragraphs (a) and (b) above, consideration will be given to those personal characteristics which promote the smooth functioning of faculty-student, faculty-administration and intra-faculty relationships.

* * *

DEPARTMENT CHAIRMEN

The Department Chairman shall have administrative responsibility for the program of the department under the Dean; cooperate with department members in planning programs; evaluate the instructional, administrative processes of the department and make recommendations to the Dean; evaluate periodically the department members and report the evaluations as required; recommend appointments, reappointments, promotions and dismissals of department members; insure that adequate supervision, advice and training are provided to new department members and others who might profit therefrom; generally promote the welfare of the department and the college by every appropriate means; and carry out such other duties as are set forth elsewhere by the college.

When the position of department chairman becomes vacant, the Search Committee composed of five members, four of which are faculty members, will solicit names of possible candidates, interview the candidates in conjunction with the dean, and submit to the president of the college the names of acceptable candidates; if the president does not accept any of the candidates suggested, he will explain his decision to the Committee and will request the Committee to continue its search until a candidate acceptable to all parties is found; if in the opinion of the faculty the department chairman is not fulfilling his responsibilities, they will, by a petition signed by two-thirds of the eligible voting faculty members of the department, initiate reappointment procedures.

* * *

JOINT SCHOOL DISTRICT NO. 12
SULLIVAN, WISCONSIN

Between Kettle Moraine Education Association and the Board of Education of Kettle Moraine, effective November 7, 1973, to August 15, 1975. Approximately 90 certificated professional employees.

COMPENSATION: (1974-75) B.A., $7,900 to $12,869, 10 increments; B.A. plus 18 hours, $13,194 maximum; M.A., $8,600 to $14,009, 10 increments; M.A. plus 18 hours, $14,335 maximum. Previous credit earned will be evaluated before the first contract is signed; retirement contributions to the state retirement fund will be paid by the school district at the rate of 3-3/4 percent of the teacher's salary; maternity leave will be calculated 1/190 of their contracted salary, shall be paid for every day they teach counting the number of days from the day they begin teaching to the end of the contracted school year; compensation for team leaders and department heads will be 4 percent of the B.A. base salary; 1/190 of contract salary for each additional day of employment beyond school year of 190 days; payment for summer school assignments will be made on a prorated basis of the teacher's regular base salary; teachers contracted to teach a part of a day will be paid the fractional part of a normal teaching day multiplied by 1/190 of the salary; if substitute teachers are required for longer than one month, a higher salary than the per-diem substitute rate will be negotiated; a teacher requested to teach for another person during his preparation period will be paid $7 per hour or portion thereof prorated; the Board will pay $30 per college credit earned with grade of B or A.

DIFFERENTIALS: (Percent of 1974-75 B.A. Base)

Athletic Director

HIGH SCHOOL

Boys Sports		**Boys Sports**	
Football		**Cross Country**	
Varsity	12.0	Varsity	7.0
Jr. Varsity	8.0		
Freshmen	6.0	**Tennis**	
		Varsity	5.0
Basketball			
Varsity	12.0	**Golf**	
Jr. Varsity	8.0	Varsity	5.0
9th	6.0		
		Girls Sports	
Wrestling		Girls Track	3.5
Varsity	12.0	Head Assistant	2.5
Jr. Varsity	8.0	Tennis	2.5
9th	6.0	Volleyball	2.5
Track		**Activities**	
Varsity	8.0	Drama	5.0
Jr. Varsity	5.0	Head	5.0
9th	5.0	Assistant	2.0

Baseball		**Band**	7.0
Varsity	8.8	Cheerleader	5.0
Jr. Varsity	6.0	Chess	1.0

MIDDLE SCHOOL

Boys Sports		**Girls Sports**	
Basketball	5.0	Gymnastics	1.75
Basketball	2.5	Basketball	1.75
Boys Softball	1.75		
Boys Wrestling	1.75	**Coed**	
		Volleyball	1.49
Girls Sports		Audio Visual	1.87
Softball	1.75		

ELEMENTARY SCHOOL

Boys Sports		**Girls Sports**	
Basketball	2.47	Basketball	1.49
Soccer	1.49	Volleyball	1.49
Volleyball	1.49		
Softball	1.49	Coed Track	1.33
		Audio Visual	1.84
Girls Sports		Forensics	1.49
Softball	1.49		

Notification of nonrenewal or renewal of extracurricular assignment totaling 3.5% or more of the schedule base (BA + 0) will be made before the end of the current school year, or 30 days following the close of the activity, whichever is later.

LEAVES: Twelve days' sick leave per year earned at a rate of 1 day per month, 9 days' maximum accumulation; new teachers will be credited with 6 days' sick leave on first contract day; 3 days' emergency leave to be used for personal, legal, business, and family emegencies; sabbatical leave for one year or for one semester at half pay after a minimum of 7 years of meritorious service, provided teacher renders 2 subsequent years of service following the sabbatical; up to 1 year unpaid leave for study, research, and travel; long-term medical or maternity leave provided with choice of following options:

> So long as valid state and federal guidelines require it, teachers on leave for maternity reasons shall be allowed to use accumulated sick leave during the period between the date the teacher's doctor certifies that such teacher is incapable of performing normal teaching duties and the date the teacher's doctor certifies that such teacher is capable of resuming normal teaching duties. Allowances due to sick leave in this situation will be paid to the teacher only until such time as the U.S. Supreme Court decides such payments are not required of an employer. Upon such decision the Board may terminate such benefits. Sick leave benefits under this paragraph shall be accrued to the teacher on maternity leave only during the actual service days and/or school days missed.

> Leave requested for maternity or other medical reasons for a period extending up to three (3) semesters shall be allowed, and the teacher will only be permitted to return to the classroom at the beginning of a school year, i.e., August. Accumulated sick leave may not be used in conjunction with the leave and the entire absence will be without pay. An employee failing to return at the end of such leave will automatically lose all employment rights and benefits.

> Not later than the sixth (6) month of pregnancy, it shall be the duty of the teacher to notify the Superintendent in writing of the pregnancy, to furnish a physician's certificate stating the expected date of delivery and to notify the District as to which of the above options she intends to take. Before the teacher returns to work, she shall furnish a physician's certificate stating that personal health is adequate for return to teaching duties.

INSURANCE: Board pays up to $56 of health insurance premium for employees and dependents including dental insurance; life insurance will be based on the nearest $1,000 of contract salary with district paying 32% of the premium; income protection will be provided for all certified teachers under contract with the school district.

ASSOCIATION: Dues deduction for local, state, and national associations; Association has right to use school buildings upon notice and without interruption of normal school operations as well as use of all school equipment and facilities for Association business; board will provide Association with copies of agenda and minutes of meetings and will seek Association input on agenda; Association officials will be permitted to transact Association business during school day provided normal teaching is not interferred; 2 days' leave for state association conventions.

INSTRUCTION: Teachers are expected to be available in the school building for 8 hour day; elementary teachers will have 225 minutes of planning time per week during pupil attendance hours; normal teaching load of middle- and high-school teachers will be 5 classes, one study hall or home room, and one preparation period in a 7 period day; a daily minimum of 30 continuous minutes of duty-free lunch period provided; the regular school year will be 190 days; one-half day will be allocated at the end of the semester for the purpose of record keeping; the paraprofessional will be limited to assisting the certified teacher in nonclass supervision and nonteaching duties, but may not be assigned professional responsibilities such as diagnosing, prescribing, and evaluating, but may undertake tutorial duties under the direction of a teacher.

PERSONNEL: Grievance procedure ends with binding arbitration; right to review personnel file only when processing a grievance; mandatory meetings when announced with the length and number being reasonable; teachers holding a bachelor's degree must earn a minimum of 6 credits every 4 years which must qualify toward an advanced degree for salary credit unless otherwise approved; observation of the work performance of a teacher will be conducted openly with full knowledge of the teacher; a copy of his/her evaluation is to be given to the teacher, and will be signed to acknowledge the conference with the evaluator, and not as an agreement with the evaluation; a teacher will not be disciplined, reprimanded, or deprived of any professional advantage without just cause; 15 days before giving written notice of refusal to renew a teacher's contract for the ensuing school year, the superintendent will inform the teacher by preliminary notice in writing, including specific reasons why the board is considering nonrenewal, but if the teacher files a written request with the superintendent within 5 days, he/she has the right to a conference with the board

before being given written notice of non-renewal; volunteers will be considered first when a reduction in subject area must be made; the board will notify the teachers to be laid off and the Association in writing, stating the reason for the lay off; rehired teachers after lay off will have all benefits reinstated up to the time of the lay off; performance and seniority will be the primary considerations in retaining teachers when a lay off is necessary and also for the recall; unsatisfactory job performances will be handled as follows:

> If, in an administrator's evaluation (presently submitted in November and February) a teacher is judged below average, or if he is rated poor in any of the evaluation categories, he shall receive immediate written notification of that fact and may have a conference with the appropriate administration. If the teacher fails to improve within a reasonable time as specified by the evaluator on the evaluation form, he may be placed on probation for the subsequent contract year.
>
> A teacher who is placed on probation will receive written notification of that fact and of the conditions he must meet with his contract for the following year. He shall then continue on probation for that next year.
>
> If after one year of probation the teacher is still considered unsatisfactory, the Superintendent may recommend to the board that a teaching contract not be issued for that next academic year. When such action is considered necessary, written notification of the Board's intent shall be given to the teacher no later than March 1st of the teaching year.

Departmental organizations will be established by the board in areas where there are 5 or more teachers; department heads will be assigned a full teaching load and will be assigned released time equal to 2-1/4 days per month.

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NRD

NEGOTIATION RESEARCH DIGEST

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NATIONAL EDUCATION ASSOCIATION
RESEARCH

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CASE REVIEWS

DELAWARE

Mandamus Writ Not Injunction Proper Remedy To Force Good Faith Bargaining

The Delaware Chancery Court denied a request for preliminary injunction sought by the Capital Educators Association (CEA) to enjoin the Capital School District from refusing to negotiate in good faith on a new contract. The school board took the position that it would not negotiate until CEA agreed that both parties be governed by a set of ground rules proposed by the board. One of the proposed rules was that all items for discussion be submitted in writing to the board at the first negotiations meeting.

CEA contended that the board was refusing to negotiate in good faith because the demand that the Association restrict itself to issues presented at the onset of negotiations was an illegal attempt "to curtail the lawful right of its members to bargain on new issues which might be brought to light during negotiations."

The board contended that its demand was not illegal because the statute authorizing collective bargaining did not require it to negotiate on a few issues at a time without knowing what all of the issues would be. The board also pointed out that there was no immediate danger of harm to the Association since the present contract did not expire for two months. Additionally, the present court had no jurisdiction in this case because the CEA was attempting to compel the board to carry out a function required by law.

The court found no immediate threat of harm to CEA since the present contract had not expired. However, the court noted that should the situation not change by the upcoming fall, there was a likelihood that harm would come. Nonetheless, the court pointed out that in order to issue a preliminary injunction the party seeking the injunction must be in immediate danger of inevitable and irreparable injury.

The court then pointed out that the statute mandated, and did not leave to discretion, a party to meet and confer in good faith at the request of the other party. For CEA to compel the board to perform its statutory duty the Association must seek *mandamus* action, wherein a party is coerced to perform a pre-existing duty, over which the immediate court has no jurisdiction. On the basis of the foregoing the preliminary injunction was denied and the complaint was dismissed. (*Capital Education Association, Plaintiff v. Harry F. Camper et al., Defendants,* Delaware Chancery Court, May 2, 1974.)

2897

FLORIDA

Court Must Accept Application for Writ of Mandamus

A Florida Court of Appeal was ordered by the Florida Supreme Court to accept the application for a writ of mandamus filed by the Monroe Education Association to compel the Monroe County School Board to show cause for not engaging in collective bargaining with the Association. The clerk for the District Court rejected the petition, stating that "this application is not ancillary to any matter pending in this court and therefore cannot be filed here."

Citing *Couse v. Canal Authority,* the Supreme Court pointed out that issuance of a constitutional writ is not dependent upon or totally ancillary to independent appellate proceedings. Although the Supreme Court usually does not supervene and take jurisdiction from lower courts, it will do so when a case involves extraordinary circumstances that affect public interest or emergency situations that require expedition. The court then pointed out that an appellate court's ability to handle extraordinary or emergency situations is hampered if applications for constitutional writs are rejected on the basis that they are not ancillary to any matter pending in the appellate court. The court concluded that the clerk's rejection on behalf of the court was improper. (*Monroe Education Association, Petitioner v. Clerk, District Court of Appeals,* Florida Supreme Court, July 24, 1974.)

MAINE

Municipal Public Employees Labor Relations Act Controls Interest Arbitration; Uniform Arbitration Act Controls Grievance Arbitration

The Maine Judicial Supreme Court held that while interest arbitration relating to disputes arising out of the formation of a collective bargaining agreement was controlled by the Municipal Public Employees Labor Relations Act, grievance arbitration which settles disputes arising out of the interpretation of an existing contract was controlled by the Uniform Arbitration Act. Therefore, the Court sustained the appeal of the Maine School Administrative District 5 Teachers Association to order a trial court to confirm an arbitrator's award after the District had failed to amend its appeal of an arbitrator's decision according to the procedures set up by the Uniform Arbitration Act.

Acting under a collective bargaining agreement which required binding arbitration as the final step in the grievance procedure, an arbitrator ruled on behalf of the Association and ordered the District to reinstate a teacher dismissed on the grounds that "her services were no longer profitable." The District filed a petition in a state trial court, requesting that the arbitrator's award be reversed. In filing this petition, the District assumed that the appropriate appeals procedure in grievance arbitration was governed by the broad scope rules found in the Municipal Public Employees Labor Relations Act and, therefore, did not state any grounds for its appeal since such a statement was not required under that statute.

The Association, however, contended that the appellate procedure in grievance arbitration was governed by the Uniform Arbitration Act and, therefore, moved to dismiss the District's petition since it failed to state grounds for appeal. The trial court denied the Association's motion and held that the District was entitled to an opportunity to amend its petition in accord with the requirements of the Uniform Arbitration Act.

When the District failed to amend its petition within three months after the date of the award, the Association, following the procedure set out in the Uniform Arbitration Act, requested the trial court to confirm the arbitrator's award. The trial court refused to confirm the award, without giving an explanation, whereupon the Association appealed to the Maine Judicial Supreme Court.

Ruling on behalf of the Association, the Court held that the language of the Municipal Public Employees Labor Relations Act indicated that the state legislature intended to approve collective bargaining for municipal employees and provide means for settling disputes arising out of the formation of a labor contract. Therefore, while the arbitration of these disputes, interest arbitration, was within the purview of that statute, grievance arbitration, which settles disputes arising from the interpretation of an existing contract, remained within the control of the Uniform Arbitration Act. While the trial court had correctly permitted the District to amend its original petition, it should have dismissed the petition and confirmed the award when the District failed to amend within 90 days from the date of the award.

The state Supreme Court sustained the Association's appeal and remanded the case to the lower court for confirmation of the award. (*Maine School Administrative District 5 v. MSAD 5 Teachers Association*, Maine Judicial Supreme Court, August 5, 1974.)

NEW JERSEY

Courts Define Arbitrable Subjects

Despite obscure language and pending definitive legislation, the New Jersey Superior Court ruled in four cases what items are arbitrable in disputes between teachers and boards of education and in one case the scope of bargaining. In determining arbitrable subjects the court used as guidelines the decisions in *Dunellen Board of Education v. Dunellen Education Association*, where the court held that management has educational responsibilities which cannot be abdicated and therefore cannot be arbitrated, and *Board of Education of Englewood v. Englewood Teachers Association*, where the court ruled that employment terms and conditions are generally negotiable unless they affect major educational policies.

- In *Hillside* the court ruled that the following grievances were not arbitrable: (a) the establishment of quiet study duty, (b) reduction in resource aid personnel, (c) a change in the method of assigning home room duty, and (d) a change in the method of weighting teaching and non-teaching duties.
- In *Long Beach* the court upheld an advisory arbitration of additional pay for law school credits since the interpretation sought would not have any effect on major education policies but would affect terms of employment. In *Richard Chabak v. Board of Education of Plainfield* the court ruled that whether teachers shall be required to sign in and whether they shall write their full names or initials are managerial prerogatives that have a minimal effect upon the terms and conditions of employment.
- Workload is a negotiable and an arbitrable subject, the court ruled in *Englewood* where the workload of English teachers at a high school was changed from four class periods a day to five.

In *Westwood* the court held that state law prohibits negotiation of the board's right to withhold a teacher's salary increment for inefficiency or other good cause. Nonetheless, the court encouraged "timely voluntary discussion" of the matter. (*Board of Education, Hillside v. Hillside Education Association, Long Beach Island Board of Education v. Long Beach Island Teachers Association, Richard Chabak v. Board of Education, Plainfield, Board of Education, Englewood v. Englewood Teachers Association*, New Jersey Superior Court, July 29, 1974.) (*Westwood Education Association v. Board of Education, Westwood*, New Jersey Superior Court, June 21, 1974.)

NEW MEXICO

Public Employees Not Covered Under Little Norris-LaGuardia Act

The New Mexico Supreme Court ruled that public employees do not come under the Norris-LaGuardia Act, signifying that government employers may enjoin strikes without adhering to administrative procedures which require a public hearing and specific findings by a trial judge. A district court had included public employees under the scope of the Act, and refused to enjoin the strike.

A five-day walkout by 1,000 city employees led the city to seek an injunction which district judges declined to issue on grounds that the city neither complied with the state little Norris-LaGuardia Act nor satisfied its own administrative regulations through its labor board.

The city appealed to the state Supreme Court, but the strike ended before it could be heard, whereupon the union argued that since the strike was settled, the city's appeal was moot. While it was customary for the Court not to pass upon moot issues, it held that because the questions raised were of such public importance and likely to recur, the matter should be resolved.

Concerning the district court finding that the city failed to resort to administrative procedures before going to court, the Court declared that such action would have been futile since no one denied that a strike—a prohibited practice—had occurred. Furthermore, the Court observed, the imminent threat to the lives and property of the citizenry was sufficient justification for the course taken by the city.

The matter remaining to be resolved was whether New Mexico's little Norris-LaGuardia Act included public employees. The district judges were of the opinion that this group was covered by the Act since it was not specifically excluded. Following the principle of statutory construction which limits the court to giving effect to the express and unambiguous language of the statute and not to rewriting the statute in accordance with its view, the Court noted that because the Act did not specifically include public employees, it must exclude them.

Basing its decision on the position taken by jurisdictions that have the Norris-LaGuardia Act that the Act does not apply to public employees and in the absence of explicit provisions that it does so apply, the state Supreme Court concluded that the district court erred. (*City of Albuquerque v. Henry V. Campos, et al., American Federation of Municipal, State and County Employees, Local 624, and Lt. Leonard Ortega, et al., American International Fire Fighters, Local 1455*, New Mexico Supreme Court, August 16, 1974.)

NEW YORK

Boards of Education May Enter into Contracts with Untenured Supervisors

According to the New York Supreme Court for Suffolk County, an arbitrator's interpretation of a contract which rests on questions of fact is not reviewable by the courts. The state Education Law expressly permits a board of education to enter into employment contracts with untenured supervisors for one to five years. Therefore, the Court upheld an arbitration award in a dispute involving the Half Hollow Hills Teachers Association and the board of education.

The contract between the board and the Association contained a provision relating to salary differentials which listed the positions of chairmen in three branches of music. When the board decided to eliminate these three positions whose occupants were not tenured and replace them with a single director of music, the Association filed a grievance contending that the provision on differentials required the board to retain the three positions.

An arbitrator ruled in favor of the Association, but deferred a remedy pending further proceedings. The board then filed a petition requesting a state trial court to vacate the arbitrator's "interim award" on the grounds that the arbitrator had exceeded his authority in interpreting the contract and stating that if the arbitrator's interpretation was correct, the contract was illegal under the state Education Law because it restricted the board's authority to establish and maintain supervisory and untenured positions.

The Association requested the Court to dismiss the board's petition, contending that it was improperly filed, that the arbitrator's award was not final or definite, and that the arbitrator had not exceeded his authority.

After rejecting the Association's contentions with respect to the filing of the petition and the finality of the award, the Court ruled in favor of the Association, stating that the arbitrator's interpretation of the contract was not reviewable by the courts since it rested on questions of fact, and that the Education Law expressly permitted the board to enter into employment contracts with untenured supervisors for one to five years. (*In re Board of Education Petitioner, Half Hollow Hills Teachers Assn. Respondent*, New York Supreme Court, Suffolk County, July 19, 1974.)

Arbitrator Cannot Exceed Contract

Under New York State Education Law, a school board has discretionary power in creating and abolishing positions provided it does not act in a manner which is arbitrary, capricious or "contrary to the best interests of the children," nor does the law require the board to negotiate such matters. Therefore, a New York State trial court vacated an arbitrator's award in a grievance filed by the Rockville Centre Teachers Association on the grounds that the arbitrator had exceeded his authority and divested the Rockville Centre Board of Education of its "innate power and duties under the Education Law."

The board had voted to abolish the positions of two speech teachers on grounds of economy after voters had twice rejected the proposed annual school budget. However, the board contracted with a center for speech disorders to provide a reduced part-time speech therapy program.

The Association filed a grievance with the superintendent, alleging that "the termination of the two speech and hearing staff positions and the subcontracting of said professional duties covered under the terms of our agreement constituted a violation of said agreement."

An arbitrator ruled in favor of the Association, holding that one teacher had in effect been terminated without just cause in violation of the agreement, since the bulk of the work of her position had not been abolished but contracted out, and the contracting out of bargaining unit work without prior negotiation with the Association violated the express terms of the agreement. The arbitrator's award granted the teacher a sum of money equal to that which she lost as the result of termination, directed the board to restore her to her position if work similar to the work she previously performed was to be performed in the coming

school year, and directed the board to cease contracting out work without prior negotiation with the Association.

In vacating the arbitration award, the Court held that since nothing in the contract required the board to negotiate prior to or show just cause for the abolition of a position, the arbitrator had exceeded his authority by modifying the terms of the agreement. According to the Court, the award violated the state Education Law since it divested the board of its authority to exercise discretion in creating and abolishing positions, which is limited only by a duty to act in a manner which is not arbitrary, capricious, or "contrary to the best interests of the children." (*Rockville Centre Teachers Association v. Board of Education*, New York Supreme Court, Nassau County, March 7, 1974.)

OREGON

Broad Scope Bargaining Law Allows for Contract Reopener

The Oregon Court of Appeals ordered the Redmond School District to reopen negotiations with the Redmond Education Association before the expiration of an existing contract for the purpose of negotiating items which were nonnegotiable under the previous state bargaining law. This action gave judicial force to a Public Employment Relations Board ruling which held that under the new state bargaining law a board had to negotiate over items previously excluded even though a valid contract was in existence.

PERB held that since no provision in the agreement specifically prohibited reopening on matters not considered during negotiations, the Association could request such action. The district applied a strict interpretation of the new statute which read: "Nothing in this Act affects a collective bargaining agreement made before the date of this Act."

Interpreting the purpose of the law to be the avoidance of disruptions, the Court declared that the intention could be achieved without requiring teachers to wait for the termination of their contracts before exercising their right to bargain over additional matters. (*Redmond School District v. Public Employee Relations Board*, Oregon Court of Appeals, October 14, 1974.)

WISCONSIN

Amendment on Final Offer Following Move to Arbitration Rejected

In a case brought by the Milwaukee Deputy Sheriffs' Association against Milwaukee County, the Wisconsin Supreme Court, upon appeal by the county, upheld a lower court decision that struck down a portion of an arbitration award on the grounds that after a petition for final and binding arbitration is filed, no party may amend its final offer to include an offer not previously introduced in the collective bargaining process.

The Wisconsin Employment Relations Commission (WERC) ruled that an impasse existed between the parties. The Association argued that the county's offer to extend the contract came only after the Association filed its petition for final and binding arbitration and should, therefore, not be considered. Nevertheless, the parties proceeded to arbitration in which the arbitrators accepted the county's final offer providing for a long-term contract. Maintaining that the arbitrator exceeded his authority by selecting the county's untimely offer, the Association submitted a motion to WERC to eliminate the contested portion of the arbitrator's award. WERC dismissed the motion on the grounds that the matter was outside its power and should more appropriately be handled in the courts.

Conversely, an award vacating the controversial section of the arbitration decision favoring the Association was ordered by a trial court and supported on the grounds that the principle that "the purported rationale . . . is that final offer selection will induce bargaining since the parties will not make exorbitant demands for fear that the other party's more reasonable position will be adopted as the arbitrator's award."

The appellate court held that permitting arbitrators to select issues raised for the first time after negotiations have closed would have a reverse effect on the legislative intent to provide meaningful and productive negotiation before arbitration. It further determined that if unlimited counter-offers were permitted after the filing of the petition for arbitration, it would be impossible to determine the date of impasse.

In denying the county's appeal, the Supreme Court affirmed the lower court decision that the arbitrator exceeded his power in permitting the interjection of a new contract time period in an amended final offer after a petition for arbitration had been filed. (*Milwaukee Deputy Sheriffs' Association v. Milwaukee County*, Wisconsin Supreme Court, October 1, 1974.)

FEDERAL

Total Pattern of Conduct Demonstrates Refusal To Bargain in Good Faith

While individual actions of a party during negotiations, when taken in isolation, cannot sustain a charge of bad faith bargaining under section 8a of the National Labor Relations Act, bad faith may be inferred from the total pattern of a party's conduct which demonstrates absense of a serious intent to reach an agreement. Therefore, the U.S. Court of Appeals, 2nd Circuit, denied the petition of Continental Insurance Company to set aside an NLRB directive to cease refusing to bargain with the Teamsters local representing its employees in two separate units, to cease making unilateral changes in terms and conditions of employment, and to take affirmative action to bargain under the National Labor Relations Act.

The Teamsters local was certified as the bargaining representative for company employees in two bargaining units in March 1968. However, the company did not begin to bargain with the union until December 1969, after the Supreme Court of the United States refused to review a lower federal court decision confirming the appropriateness of the bargaining units and ordering the company to bargain.

During the course of negotiations the union filed charges with the NLRB, alleging that the company had failed to bargain in good faith. The company denied the charges.

In July 1973, the NLRB accepted the report of an Administrative Law Judge which stated that (a) the company had refused to bargain jointly for its two units even though its representative and the union's proposals for both units were identical; (b) the company's initial positions and proposals with respect to vacations, severance pay, wage rates, grievances, and arbitration procedure were "patently unfair" since they offered less than the benefits already existing in the absence of collective bargaining; (c) the company's initial demand that in return for recognition the union agree not to organize other company employees, was outside the scope of mandatory collective bargaining and wholly unreasonable; and (d) the company had unlawfully bypassed the union and dealt directly with the employees, transferring some out of the bargaining unit and adjusting the wages of others while bargaining was taking place.

After the NLRB issued the recommended order, the company petitioned the U.S. Court of Appeals to set aside the order, while the NLRB requested the Court to enforce its order.

Ruling in favor of the Board, the Court, accepted the fact-finding report and concluded that while "some of the Company's bargaining positions and proposals, standing, alone might not support the charges against it," "the totality of circumstances. . .considered upon the record as a whole," indicated that "the Board's findings of unfair labor practices on the part of the Company were supported by substantial evidence." According to the Court, absense of good faith on the part of an employer could be inferred from a pattern of conduct which included: (a) unreasonable fragmentation of bargaining sessions, (b) pointless questioning of the union's proposals, (c) making unnecessarily complicated proposals, (d) making demands outside the scope of collective bargaining, (e) offering less than existing benefits while refusing to grant any benefits over and above those that existed and (f) unilaterally changing working conditions during bargaining. On these grounds, the Court granted the Board's application for enforcement and the company's petition was denied. (*Continental Insurance Co. v. NLRB*, United States Court of Appeals, Second Circuit, April 9, 1974.)

State Retirement Plan Must Comply with Federal Law

The U.S. District Court for Connecticut ordered the state to bring its State Employees' Retirement Act into compliance with Title VII of the Civil Rights Act of 1964. The state retirement system gave women preferential retirement status by permitting them to retire at an earlier age and at a higher monthly pension benefit; this meant that women could retire at age 50 while men had to wait until age 55.

The Connecticut State Employees Association on behalf of all present and past male participants in the state retirement system, charged that the State Employees' Retirement Act violated both the Equal Protection Clause of the Fourteenth Amendment of the federal Constitution and Title VII.

The state argued that this suit was barred by the Eleventh Amendment to the federal Constitution which is interpreted as barring suits for money damages against unconsenting states. In justification of the disparate treatment of men and women, the state pointed out that it originally established the retirement plan with preferred treatment for women to attract women into state employment even though the wages were less than those paid in the private sector. Additionally, the state cited *Gruenwald v. Gardner* wherein the court upheld a disparity in the computation of federal social security retirement benefits where men and women had equal earnings.

In response to the state's argument that the suit should be barred by the Eleventh Amendment, the Court pointed out that where a state statute is in conflict with a federal statute, the conflict will be resolved on the basis of the supremacy clause of the federal Constitution. The Court then turned to the Equal Employment Opportunity Commission's discrimination guidelines which state that "it shall be an unlawful employment practice for an employer to have a pension or retirement plan which establishes different optional or compulsory retirement ages based on sex or which differentiates in benefits on the basis of sex."

After denying money damages retroactive to July 2, 1965, and payment of the union's legal fees, the Court cited *Eldeman v. Jordan* to show that federal courts are without jurisdiction to award a retroactive money payment without the state's prior consent when such payment would have to come from the state's general revenue. The Court then ordered the state to administer its retirement program equitably with regard to retirement age and benefit computations. (*Fitzpatrick et al., v. Bitzer, Chairman of the State Employees' Retirement Commission et al.*, United States District Court, Connecticut, September 16, 1974.)

BOARD FINDINGS AND RULINGS

INDIANA

Athletic Directors, Head Football and Basketball Coaches, and Department Chairmen Excluded from Teachers' Association

The Indiana Education Employment Relations Board ruled that one high-school and two junior high-school athletic directors, head football and basketball coaches, and 34 department chairmen should not be included in the Lawrence Education Association because they have supervisory authority and responsibilites.

The athletic directors were barred because they evaluate coaches, help select, interview, and recommend assignments, and fix the pay schedule for coaches. Head football and basketball coaches were excluded because they have responsibility for the selection of assistants and the general control and direction of their programs. Department chairmen were not included because they do not share a community of interest with other employees, all but seven receive extra compensation, they receive released time to perform duties, and they prepare written teacher evaluations. (*Metropolitan School District of Lawrence Township and Lawrence Education Association*, Indiana Education Employment Relations Board, April 5, 1974.)

MASSACHUSETTS

Motion To Dismiss Unfair Practice Complaint for Vagueness Denied

The Massachusetts Labor Relations Commission rejected the Burlington School Committee's motion to dismiss an unfair practice complaint by the Burlington Education Association.

The school committee argued that the complaint failed to state a claim upon which relief could be granted, and was vague. Finding the allegations not so vague that the committee was unable to prepare a defense, the Commission declared that it could not rule that the Association was not entitled to any relief.

The school committee also argued that the complaint lacked sufficient facts to enable preparation of an appropriate defense. The Commission responded that the basis of the alleged violation existed, thereby affording the committee an opportunity for proper litigation.

Replying to the school committee's argument that the complaint failed to plead sufficient facts that it violated the collective bargaining law, the Commission stated that it could not rule without further evidence to support the school committee's position.

Accordingly, MLRC denied the motion to dismiss and ordered a hearing to establish whether or not the school committee engaged in prohibited conduct. (*Matter of Town of Burlington School Committee and Burlington Education Association*, Massachusetts Labor Relations Commission, October 24, 1974.)

Grievance Which Bridges Two Statutes Deferred to Compulsory Arbitration

Responding to a complaint filed by a union of state employees, the Massachusetts Labor Relations Commission, deferred to arbitration the issue of whether an appointment by the employer, the Department of Public Utilities, was in violation of the contract.

Because the dispute originated before the enactment of a new Collective Bargaining Act, a quandary arose as to whether the matter should be resolved under the old or under the new Act.

In deferring the issues to binding arbitration, the Commission concluded that the legislative intent of the new Act allowed such action by the Commission rather than requiring it to decide the issue. (*Massachusetts State Employees Association v. Massachusetts Department of Public Utilities*, Massachusetts Labor Relations Commission, September 23, 1974.)

MICHIGAN

School Board Must Reinstate Teacher Dismissed for Union Activity

The Michigan Employment Relations Commission (MERC) ordered the Paw Paw Board of Education to cease terminating employees because of their activities in the Paw Paw Education Association. The case was brought before MERC when the president-elect of the Association, a probationary teacher, was not granted a contract for the coming school year.

The school board contended that reinstatement of the teacher would have the effect of granting tenure in violation of the Michigan Teachers Tenure Act.

On the basis of its ruling in *Swartz Creek* the Commission said that "it may be reasonable to construe the reinstatement remedy of the Commission as allowing an additional probationary period in the case of an untenured teacher." However, that issue was academic since the teacher had at least another six months to complete his third year of probation in accordance with the rules of the Tenure Act.

Continuing, the Commission pointed out that determining whether the teacher was discriminated against because of union activities was difficult in this case because the teacher was probationary and in evaluating such an employee to determine whether he and the school board should enter into a permanent employment relationship the employer must make a value judgment on the basis of intangible reasons which are difficult to express. Nonetheless, the Commission determined from the record that representatives of the administration had expressed the administration's dissatisfaction with the employee's activities on behalf of the union and his attempts to assert his rights under the collective bargaining agreement. The Commission concluded that the school board terminated the teacher because of his activity on behalf of the Association. Therefore, the Commission ordered the board to cease terminating employees because of their activities on behalf of the Association, to reinstate the employee to his former or substantially equivalent teaching position with back pay with 6 percent interest per annum minus any interim earnings, and to post notice of this decision in conspicuous places at the employer's offices and the various school buildings. (*In the Matter of Paw Paw Board of Education, Respondent, and Paw Paw Education Association, Charging Party*, Michigan Employment Relations Commission.)

Failure To Agree or Make a Concession Does Not Violate Duty To Bargain

Under Michigan's Public Employment Relations Act, a public employer that initially refused to grant a wage increase and later modified its position had engaged in "permissible hard bargaining" and did not violate its duty to bargain in good faith. In addition, since the Act requires a public employer to bargain with a union that has engaged in an illegal strike, a public employer cannot be prohibited from making concessions after the strike. Therefore, the Michigan Employment Relations Commission, affirmed the decision of an administrative law judge who had dismissed charges of unfair labor practice brought by the Lake Michigan Federation of Teachers against Lake Michigan College.

During negotiations for a new contract the college and the Federation agreed on all issues except salary, the duration of the contract, and the work week of librarians.

The union requested fact-finding and, following the issuance of the fact-finder's report, the college and the Federation reached a tentative salary agreement under which the college would grant increments for experience and education as provided in the preceding contract and reopen negotiations for a salary agreement to cover 1973.

However, the union rejected the agreement and an offer to increase teachers' salaries in 1972-73 on the condition that increments for education and years of experience be eliminated.

The union filed charges with MERC, alleging that the college had violated its duty to bargain in good faith by "asserting positions on a take it or leave it basis, demanding that the employees give up rights and benefits to which they are entitled by law, and refusal to make counterproposals."

The union called a strike, whereupon the college offered to settle the strike by providing larger increases than its previous offers. The union rejected this offer and amended the charges it had filed with MERC, adding as evidence of bad faith the fact that the college had offered larger increases to teachers who were hired during the strike than it had offered to members of the bargaining unit before the strike.

Ruling in favor of the college, an administrative law judge held that the college, while initially refusing to grant a salary increase, had modified its position, and added that even if the college had refused to make any concessions with respect to salary, it would not have violated its duty to bargain in good faith. Its over-all pattern of conduct did not reveal hostility to the union or the bargaining process and did not include actions which independently violated its duty to bargain or other actions revealing intent to avoid reaching an agreement.

Under the National Labor Relations Act and the Michigan Public Employment Relations Act, the duty to bargain in good faith does not require an employer to make a concession or to agree to a proposal. The judge also ruled that since the Public Employee Relations Act requires a public employer to bargain with a union that has engaged in an illegal strike, a public employer cannot be prohibited from making concessions to the union after the strike.

Therefore, the judge held that the college had engaged in permissible "hard bargaining" and dismissed the union's charges. Upon appeal by the union, MERC affirmed the judge's decision. (*Lake Michigan College and Lake Michigan Federation of Teachers*, Michigan Employment Relations Commission, February 25, 1974.)

NEVADA

Teacher Salary Increase Ordered After Study of Expected Revenue

Following a comprehensive study of expected revenue, teacher turnover, and student enrollment in the Washoe County School District, and after considering the obligations of the school district and the "reasonableness" of the negotiating parties' situation as specified in a state statute, a fact-finder prescribed an increase in the starting salary of instructors having degrees.

When an impasse on teacher salaries and major benefit proposals resulted from negotiations between the two

parties, the governor transferred the matter to fact-finding. While the school district representatives and the Association reached a compromise concerning teacher salaries, they were unable to agree on medical insurance, extra duty pay, and an uninterrupted service requirement submitted by the district.

On the bases of (a) *City of Las Vegas*, in which priority was the criterion for reasonableness of the parties' position; (b) the decision in *Clark County School District v. Clark County Classroom Teachers Association*, which emphasized the district's ability to pay, the comparison of salary levels, and the cost of living; and (c) the district's underestimation of its revenue resources, the fact-finder ordered the district to establish a higher salary base for various levels. (*Washoe County School District v. Washoe County Teachers Association*, American Arbitration Association, May 5, 1974.)

NEW YORK

Union's Refusal To Bargain on a Management Prerogative Not an Improper Practice

Holding that to establish criteria for evaluating teachers is a management prerogative under the parties' agreement, the New York State Public Employment Relations Board (PERB) dismissed an improper practice charge filed against the Pearl River Teachers Association (PRTA).

The charge was brought by the Pearl River Union Free School District which alleged that the union violated the Public Employees' Fair Employment Act by refusing to negotiate in good faith with the intent of developing an evaluation instrument for teacher evaluation.

The parties' agreement provided for a timetable and a committee of PRTA and school district appointees. PRTA's executive board rejected the committee's recommendations. PRTA dissolved its committee and recommended that its membership reject the committee's approach to evaluation of teachers.

Then PRTA requested meetings with the school district to develop an evaluation instrument, but the district sought to have PRTA reconstitute its committee. However, PRTA maintained that it no longer saw a need to continue work on the evaluation instrument since the committee failed to meet the time schedule provided in the agreement.

The school district contended that PRTA's refusal to continue any further participation in the committee meetings constituted a violation of its obligation to negotiate in good faith regarding a mandatory subject of negotiations which the parties had agreed upon during the term of the contract.

Disagreeing with the contention that the teacher evaluation instrument was a mandatory subject of bargaining, PERB found that the evaluation instrument was a device to establish criteria for the evaluation of teachers. PERB said that establishment of such criteria was clearly a management prerogative and that the development of an evaluation instrument was a permissive rather than a mandatory subject of negotiations.

Concluding, PERB ruled that PRTA's refusal to continue to meet with the district did not constitute a violation of the Act. Although its ruling favored the union, PERB stated that the obvious consequence of its ruling was that the school district had the right to unilaterally develop and implement a new teacher evaluation instrument, subject only to its obligation to negotiate with PRTA regarding the effect of such a change on terms and conditions of employment. (*Pearl River Teachers Association, Local 1969, NYSUT, AFL-CIO, v. Pearl River Union Free School District*, New York State Public Employment Relations Board, February 26, 1974.)

Hearing Officer Erred in Dismissing Improper Practice as Untimely

Remanding a dispute to be resolved through the grievance procedure, the New York State Public Employment Relations Board reversed a hearing officer's decision which dismissed as untimely an improper practice charge filed by the Susquehanna Valley Teachers Association (SVTA) against the Susquehanna Valley Central School District. The dispute centered on a negotiated provision which in ambiguous language provided that salary impasse would be decided under Taylor Law procedure for resolving disputes rather than by a legislative hearing.

The contract negotiated between the Susquehanna Valley Central School District and the Susquehanna Valley Teachers Association provided for the establishment of a joint committee to make recommendations for an alternative salary plan subject to negotiations under the Taylor Law. Conflict over the composition of the committee resulted in abandonment, leading to direct negotiations between the parties. Objecting that it was not obliged to negotiate, the Association protested when the school district referred the impasse to the school board for a legislative determination.

The legislative determination having been issued, the Association charged that the contract did not provide for the invocation of this type of impasse procedure. Noting a significant time lapse between the invocation of impasse procedure and the actual filing of the charge, the hearing officer dismissed the charge as not being timely.

Arguing before the full PERB that there was a distinction between a legislative determination and other impasse procedures provided in CSL § 209 and that only the legislative determination permitted terms and conditions of employment to be imposed upon it, the Association charged that the attempt to impose terms and conditions of employment through a legislative determination was improper. The Association stated that its participation in other procedures did not signify a waiver of its right not to be subjected to a legislative determination, and affirmed that there was no reason to file a charge earlier.

While agreeing with the Association's analysis and finding the charge to have been timely, PERB was unable to determine whether the contract providing that the dispute shall become subject to negotiations under the Taylor Law

included the invocation of a legislative determination. PERB recommended that the parties resolve the issue by a contractual interpretation through the grievance procedure and deferred the matter to arbitration. The Board also ordered that the improper practice charge be dismissed, subject to a motion to reopen if specific conditions were met. (*Susquehanna Valley Teachers Association v. Susquehanna Valley Central School District*, New York Public Employment Relations Board, May 23, 1974.)

PENNSYLVANIA

Employer's Unilateral Cut in Wages a Violation of Collective Bargaining Agreement

The Pennsylvania Labor Relations Board issued a cease and desist order to the West Mifflin Area School District when, contrary to the previous agreement, the district unilaterally cut wage increases for extracurricular duties of coaches.

During negotiations following a strike, agreement was reached to give extra pay to coaches of various sports, notwithstanding the fact that the strike had made it impossible for the coaches to perform their duties.

Later, when the school district proposed a cut in the coaches' pay because of the latter's inability to perform their duties during the strike, the union, representing the coaches, refused to consent to such an arrangement.

The Board observed that, in accordance with the Public Employee Relations Act, the certification of a bargaining unit precluded any unilateral action, and that both sides were required to bargain in good faith. Thus, the Board held that the school district's unilateral action in reducing the amount to be paid the coaches was in violation of the bargaining requirement of Section 903 of the Public Employee Relations Act and its mandatory requirement to arbitrate the issue. (*Pennsylvania Labor Relations Board v. West Mifflin Area School District*, Pennsylvania Labor Relations Board, September 16, 1974.)

Board Cannot Stall Bargaining Because of "Outside" Negotiator

The Pennsylvania Labor Relations Board ordered the Northern Lebanon School District to cease and desist from interfering with the Northern Lebanon Education Association's rights by attempting to dictate the make-up of the Association's bargaining team. The school district refused to continue bargaining with the Association after the first bargaining session because the Association negotiating team included a professional employee from another school district.

The school district contended that the Association's "use of an 'outside' negotiator would interject, into the negotiation, thoughts and concepts which would be foreign to the interests of the professional employees that make up the bargaining unit" thereby prolonging negotiations.

The Board overturned the employer's argument as tenuous and meaningless, and stated that the school district's action violated Sections 401 and 301 of the Public Employee Relations Act which provided that public employees may "bargain collectively through representatives of their own free choice" and defined bargaining representative as any individual acting for public employers or employees. Concluding, the Board emphasized the untenability of the employer's argument by pointing out that the school district wanted to use a professional negotiator of its own choosing and yet deny this same right to the Association. (*PLRB and Northern Lebanon School District*, Pennsylvania Labor Relations Board, June 24, 1974.)

WISCONSIN

WERC Clarifies Negotiable Items

Clarifying negotiable items for teachers and school boards, the Wisconsin Employment Relations Commission ruled that school boards must negotiate items directly affecting teachers' job security, but are not required to bargain educational policy. However, when educational policies affect teaching loads and salaries, boards must negotiate that impact. According to the WERC, class size is an educational policy not subject to mandatory bargaining, but because class size affects teachers' work load, the impact of class size "as it affects hours, conditions of employment and salaries" is negotiable.

Clarification of negotiable items was requested in separate actions by the Beloit school board and education association and Oak Creek school board and education association. The Wisconsin Association of School Boards, the League of Wisconsin Municipalities, the Milwaukee Teachers' Education Association, Madison Teachers, and Green Bay Teachers Education Association also joined the suits.

Items that the Beloit Education Association wanted to bargain included teacher evaluation together with selection of evaluators, access to teacher files and opportunity to respond to materials therein, right to representation when warnings or discipline are given, order of layoffs and recalls, control over school calendar, removal of disruptive students from class, institution of a reading program, a one-month summer program, and class size. Oak Creek Teachers Association wanted to negotiate class size, teacher contact hours, hiring of additional librarians, a pilot program for emotionally disturbed students, regulation of interns and paraprofessionals, establishment of department heads and unit chairpersons, and formulation of a committee on resource centers and a committee to investigate inservice programs.

Following discussion of the proposals submitted by the two associations, WERC ruled that school boards must negotiate orientation of newly hired teachers to evaluation

procedures and standards expected by the employer; length, number, and openness of teacher evaluations; copies of observation reports and complaints and defenses to evaluations; right to refute reports in personnel file; right to representation when warned, reprimanded, or disciplined; just cause for dismissal or discipline, copies of charges, and a hearing; procedure for layoff and recall and retention of previous service credits; physical violence by students; school calendar which establishes number of teaching days, inservice days, vacation periods, convention dates, and length of school year; and teacher clerical duties. According to WERC the following items are not mandatory bargaining subjects but may be negotiated if the board wishes or only if the items have an impact upon hours, salaries, or working conditions: class size, teacher-pupil contact hours, establishment of a committee on resource centers, librarians, pilot program for emotionally disturbed students, curriculum studies, regulation of intern teachers and paraprofessionals, committee to investigate and sponsor inservice programs, establishment and reimbursement of department and unit chairpersons, remedial reading program, and summer school program. (*Beloit City School Board and Beloit Education Association*, Wisconsin Employment Relations Commission, September 11, 1974.) (*Oak Creek-Franklin Joint City School District No. 1 and Oak Creek Education Association*, Wisconsin Employment Relations Commission, September 11, 1974.)

* * *

FEDERAL

NLRB To Rule On Union Bias Before Certification

As a result of an objection to an election at Bekins Moving & Storage Co., the National Labor Relations Board (NLRB) decided to rule on the merits of an objection challenging a union's intention to equitably represent its members.

The company alleged that Local 390 of the Teamsters engaged in invidious discrimination regarding sex and Spanish-speaking and Spanish-surnamed persons, and, therefore, was disqualified from seeking an election. Further, the company argued that since the NLRB is an agency of the federal government, its authority is subject to limitations imposed by the Fifth Amendment and that it has a responsibility to administer the Taft-Hartley Act with regard to other statutes.

NLRB pointed out that the Fifth Amendment does not apply to individuals, but that it does forbid participation in and practice of invidious discrimination by the federal government. It said that to grant the benefits of certification to an organization which engages in and practices invidious discrimination would indicate sanctioning such actions by the federal government. Consequently, the majority of the NLRB decided that a precertification inquiry regarding the union's willingness and capacity to represent its members on an equal basis was appropriate and constitutional.

The dissenting opinion held that the NLRB does not have the authority to withhold certification from a union after it wins an election. The majority countered that the Supreme Court has constantly held that neither the federal government nor state governments may act to further discrimination, that NLRB lacks constitutional power to confer certification rather than statutory power to withhold it, and that other agencies, e.g., Equal Employment Opportunity Commission (EEOC), which have power granted by Congress should enforce statutes. The majority then held that NLRB would determine, on a case-by-case basis, whether the nature and quantum of the proof would require NLRB to decline from certifying a labor organization.

A proposal to revoke certifications, where necessary, was offered by the dissenters, but the majority held that such action would only delay a determination of the issue, and, therefore, an inquiry would be made after the union won the election. The majority added that a post-election hearing would result in a report and recommendations by a hearing officer, affording the parties opportunity to file exceptions and briefs.

The majority of the NLRB concluded that the board lacked experience in this particular newly developing area of the law to codify its approach to the issues, but that the parties were entitled to judicial review of its determinations regarding the proper scope of NLRB's duty and authority to conform its law and procedures to the requirements of the Constitution and legislation against invidious discrimination. (*Bekins Moving & Storage Co. of Florida, Inc. and Freight Drivers, Warehousemen and Helpers, Local Union No. 390, an Affiliate of International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America*, National Labor Relations Board, June 11, 1974.)

Negotiation Notes

COLORADO

Severability Clause Accountable for Court's Abstention on Compulsory Arbitration Issue

The City of Aurora brought suit seeking a determination which would set aside that portion of a proposed amendment to the city charter providing for collective bargaining and compulsory arbitration for fire fighters. The city had argued before a district court that the arbitration section was unconstitutional but was rebuffed. The Colorado Supreme Court sustained the lower court decision.

A critical factor in the court's decision was the severability clause contained in the amendment which provides that if any section of the amendment is declared invalid, the remainder of the amendment would not be affected.

The city contended that the amendment was invalid as the provisions for compulsory arbitration unconstitutionally delegated legislative authority, and on the assumption of constitutionality, it represented an unconstitutional delegation of power by reason of failure to prescribe standards.

The petitioners argued that the action was premature in that the electorate might reject the amendment, making the subject moot.

Since the courts lacked the power to rule upon a partial amendment before a referendum election, the court abstained from passing on the constitutionality of the issue. (*City of Aurora v. Samuel J. Dilley, et al.*, Colorado Supreme Court, September 23, 1974.)

MASSACHUSETTS

Procedure for Enforcement of and Appeals from Orders of the State Labor Relations Commission Modified

Under an amendment to the Massachusetts State Labor Relations Act, when a petition is filed for the enforcement of an order of the State Labor Relations Commission respecting certification of a labor organization as exclusive bargaining representative which is based in part upon facts certified after an investigation, the certification and record of that investigation must be included in the transcript that accompanies the petition.

In addition, under the amendment, an order by a member or agent of the Commission in connection with a charge of unfair labor practice becomes final and binding, unless within 10 days after notice thereof, any party requests review by the full Commission. A review may be made upon a written statement by the Commission member or agent agreed to by the parties, or upon written statements furnished by the parties, or if any party or the Commission requests, upon a transcript of the testimony taken at the preliminary hearing.

However, under the amendment, there is no longer a deadline for an aggrieved party to file a petition with a superior court seeking to modify or set aside a final order of the Commission.

Fire Fighter Unit Designations Clarified

A recent amendment to the state public employee bargaining law has clarified the bargaining unit designations for uniformed fire fighters. The amendment to Section 3 of the Public Employee Bargaining Act gives the state Commission the authority to adopt rules, regulations, and procedures for unit determination and sets down the criteria the Commission is to follow in drawing up appropriate bargaining units, specifically fire fighter units.

The amendment excludes all personnel below the ranks of fire commissioner, fire commission and public safety directors, board of engineers, or chief of department from the ranks of professional, confidential, executive, administrative, and other managerial employees.

The section mandates that professional, confidential, executive, administrative, and other managerial personnel cannot be included in a unit of nonprofessional employees except by a majority vote of these professional personnel. (*Massachusetts 47, 302 Section 2*, Employee Rights.)

NEW JERSEY

Powers of Public Employment Relations Commission Extended

Recent ammendments to the New Jersey Employer-Employee Relations Act, which became effective January 19, 1975, exclude managerial and confidential employees of a public employer from the coverage of the Act, require public employers and employees to utilize existing con-

tractual grievance procedures for setting disputes covered by the terms of a contract, extend the power of the Public Employment Relations Commission to issue complaints of unfair labor practices and to seek enforcement of its orders in state appellate courts, and require the Commission to extend the benefits of its training programs to public employees.

"Managerial executives" are defined as persons who "formulate" or are "charged with the responsibility of directing the effectuation" of management policies and practices. However, in school districts, only the superintendent or other chief administrator and the assistant superintendent are managerial executives. "Confidential employees" are defined as those "whose functional responsibilities or knowledge in connection with the issues involved in the collective negotiations process would make their membership in any appropriate negotiating unit incompatible with their official duties."

Public employees and employers are obligated to utilize grievance procedures established in a collective bargaining agreement for resolving any dispute which is covered by the terms of the agreement, regardless of any alternative procedures provided by statute.

The Act makes it an unfair labor practice for either an employer or employees to (a) interfere with, restrain, or coerce employees in the exercise of their rights under the Act; (b) refuse to negotiate in good faith respecting terms and conditions of employment or to process a grievance; (c) refuse to reduce a negotiated agreement to writing or sign an agreement; (d) violate any rules or regulations established by the Commission.

The Commission has exclusive initial jurisdiction over charges of unfair labor practices. Upon receiving such a charge, the Commission or its agent may issue a complaint and schedule a hearing to receive evidence, following the procedures of the Administrative Procedure Act, provided that the charging party files a petition within six months of the day that an unfair labor practice allegedly occurred. If a party files a petition more than six months after the event, and can show that it was prevented from meeting the deadline, the deadline is extended to six months after the day when the obstacles to meeting the deadline were removed.

If after a hearing, the Commission confirms a charge of unfair labor practices, it shall order the guilty party to cease and desist and to take action necessary to comply with the Act. The Commission may apply to the state appellate courts to seek enforcement of its order. A court is obliged to confirm the Commission's findings of fact when they are based upon "substantial evidence on the record as a whole" and to grant enforcement of a Commission order which is "reasonably designed to effectuate the purposes of this Act."

The Commission has the power, upon request from either party, to determine whether a matter is within the scope of collective negotiations. Such determinations may be appealed to the state appellate courts.

The Commission may adopt rules necessary for regulating the conduct of representation elections, the time of commencement of negotiations and of the commencement of impasse procedures in order that disputes may be resolved before budget submission dates.

In addition to extending the powers of the Commission, the Act obligates the Commission to extend the benefits of technical advice and training programs in labor management relations which it offers in conjunction with the Institute of Management and Labor of Rutgers to public employees as well as employers.

TEXAS

AGO: Grievance May Be Heard But Not Rectified

The state attorney general ruled that under a state statute which gives public employees, who are not allowed to strike or engage in collective bargaining, the right to present grievances concerning wages, hours, and working conditions public employers are obligated to meet with them or representatives of their choosing, at reasonable times and places to hear grievances, although they are not legally required to redress them.

WASHINGTON

AGO: Prior Written Agreement Must Exist To Grant Retroactive Pay

Negotiated contracts which contain retroactive pay provisions for work performed before the effective date of a negotiated settlement are contingent upon the existence of a written agreement between the union and the public employer which states that pay received before the implementation of the agreement is not full pay for the services rendered.

The state attorney general addressed this opinion specifically to newly certified units which do not begin bargaining until after the date of certification, thereby necessitating such an agreement.

FEDERAL

Contractor May Not Invade Privacy To Prove Non-Discrimination

According to the Director of the Office of Federal Contract Compliance, a government contractor is not required to survey the ethnic or religious composition of his labor force to demonstrate routine compliance with federal regulations prohibiting discrimination in employment. Such a survey "may be appropriate" only if there are "indications of discrimination." In the absence of such indications, a contractor who demonstrates that he has taken "positive recruitment and outreach steps" as indicated in federal regulations (41 CFR 60-50.2(b)) will be deemed in compliance.

Leave For Pregnancy To Be Handled As Sick Leave

The Civil Service Commission in October 1974 issued new guidelines for federal employees concerning leaves related to pregnancy. Maternity leave has been abolished as a special category, and will be handled in accordance with the policies, regulations, and procedures governing sick leave. An employee requesting sick leave for maternity reasons is required to notify the agency of the reason for the leave, the approximate dates, and the expected duration. The length of absence will be determined by the employee, her physician, and her supervisor on an individual case basis. The agency is expected to permit the employee to continue working as long as she is not physically incapacitated.

In addition, the agency is expected to be aware of and seek medical advice on any particular working condition which might have harmful effects upon the employee or her unborn child, and to notify her of the medical opinion. "If the pregnant employee, after consulting her physician, asks for modification of her duties or a temporary reassignment to other available work for which she is qualified, every reasonable effort should be made to grant her request."

Following return from leave, the agency is expected to provide the employee with the same position or another position comparable to the one that she held before taking leave.

A male employee may request only annual leave or leave without pay to care for or assist his minor children or the mother of his newborn child while she is incapacitated. While each request "should be considered on its own merits," approval of leave for this reason is to be consistent with the agency's policy for granting leave in similar situations.

EEOC Requires Schools To Survey Racial Composition of Employees Annually

Equal Employment Opportunity Commission regulations require every public elementary and secondary school system, district, or any separately administered school with 15 or more employees, and every individual school regardless of size to annually survey its employees in order to gather racial/ethnic data for Elementary and Secondary Staff Information Report, EEO-5. This report is to provide the number of all employees, subject to local and state civil service regulations, employed during the current school year, by race/ethnic origin, sex, full-time and part-time, newly hired status, and occupation. The Commission recommends that the surveys be conducted visually by supervisors rather than by direct inquiry.

School systems, districts, and schools are required to retain the survey records for three years so that they may be available upon request to the School Reporting Committee. This Committee is a joint effort of the Equal Employment Opportunity Commission, the Office of Civil Rights, and the Office of Education, which was established under authority provided in the Civil Rights Act of 1964, the Equal Employment Opportunity Act of 1972, and the Education Amendment of 1972. In addition, systems, districts, and individual schools are required to retain records of decisions and actions to personnel for two years. When a charge of discrimination has been filed against a school by the EEOC or the Attorney General, or any individual, all relevant personnel records are to be retained until litigation is completed, in the case of an action, or in the case of a charge, until expiration of the statutory period within which action may be brought in a U.S. district court.

After an EEO-5 form is submitted, the data are distributed and published as follows: all the detailed data are available to EEOC and OCR; the data presented to OE do not include race and sex composition. While all three organizations will publish aggregate data by state or region, OE may publish data from school systems which do not indicate on the EEO-5 form that permission to publish is withheld; OCR may publish some data by school system and individual school; but EEOC is forbidden to publish any data other than aggregates. [Text of the rules and regulations appear on page 27.]

NLRB To Continue Jurisdiction over Private Elementary and Secondary Schools

The National Labor Relations Board decided not to adopt a proposed rule, announced in September 1974, which would have excluded private elementary and secondary schools from its jurisdiction. Standards for asserting NLRB jurisdiction set by case precedent will continue in effect, including the $1 million annual gross revenue guideline.

Factors cited in the proposed rule were the "insubstantial impact" on interstate commerce of employee disputes involving these types of schools, the high degree of state regulation and control over both proprietary and public schools, the inherently "local nature" of private school operations, and concern for maximum utilization of Board resources, since its caseload exceeded 42,000 cases in fiscal 1974.

The proposed rule reiterated the NLRB's position that its work and statutory mandate could best be achieved by limiting its jurisdiction to "enterprises whose operations have, or at which labor disputes would have, a pronounced impact upon the flow of interstate commerce."

Response to the proposed rule filed by parents organizations, state and national church groups, education associations, and labor representatives was split along traditional lines: employee advocates opposed declination of jurisdiction, while proprietary school operators and supportive groups approved it.

SPECIAL REPORTS

States Tighten Discrimination Laws in Accord with Federal and EEOC Guidelines

During the past year several states enacted new legislation or revised old statutes to more closely conform with federal regulatory law and or Equal Employment Opportunity Commission (EEOC) guidelines which have the force of law in regard to hiring practices, contracting, and equal treatment of all minorities, regardless of race, sex, creed, or national origins. These statutes, guidelines, and state human relations commission rules and regulations are of import to local teacher associations as implementation of these laws and their effectuation are obligatory on both the employer and the employee organization.

These guidelines not only delineate prohibited practices for both the employer and the employee organization, but also describe the manner of compliance and recourse to redress of inequities.

The following is not intended as a comprehensive roundup of all state legislation on human rights; rather, it is a general update of changes in state legislation which came into effect in 1974. The accompanying table indicates the type of legislative action taken by several states and the areas covered.

Alaska: An amendment to the state anti-discrimination law (Title 18, Ch. 80), effective August 14, 1974, prohibits employment advertisements or inquiries which express or imply any limitation, specification, or preference as to sex, race, age, creed, color, or national origin.

Arizona: An amendment to the Civil Rights Act, effective May 3, 1974, revises the coverage of the Act, the specifications of unfair employment practices, and the powers of the Commission and repeals the law requiring contracts between public contractor and employers to contain an anti-discrimination clause.

With respect to employee coverage the amendment excludes from the Act all elected public officials of the state and its subdivisions and their appointees who are engaged in policy making and their personal staffs not subject to civil service laws. Indian tribes are excluded from coverage as employers.

With respect to unfair practices the amendment makes the following changes:

1. It prohibits an employer from discriminating in employment on grounds of religious practice or observances as well as belief unless the employer can show that accommodation to practices or observances would cause him undue hardship in the conduct of his business.
2. It repeals restrictions on employment advertisements by employers and employment agencies, but prohibits employment agencies and labor unions from making or refusing to make referrals on the basis of race, sex, color, religion, or national origin.
3. It permits employers to give and act upon professionally developed ability tests provided the test itself, its administration, and action based on it are not discriminatory.
4. It prohibits employers and labor organizations from discriminating in admission to apprenticeship and training programs conducted under their auspices.
5. While prohibiting employers and unions from limiting, segregating, or classifying employees in any way which tends to limit their opportunities or adversely affect their status because of race, color, religion, sex, or national origin, it permits employers to utilize merit or seniority systems which produce differential compensation or terms and conditions of employment unless those systems are discriminatory in intent.
6. It permits employers and labor organizations to discriminate against members of an organization required under federal law to register as communist.

The amendment empowers the Commission to cooperate and enter into agreements with all state, local, and federal agencies; to examine and copy all evidence relevant to a complaint being investigated; to subpoena witnesses and documents for its hearings; and to intervene in a civil action brought against any defendant except the state. The amendment also authorizes the courts to issue back pay awards which may be equal to back wages for two years before the issuance of a complaint minus interim earnings or amounts earnable with reasonable diligence by the employee.

California: An amendment to the Fair Employment Practices Act, effective July 1, 1974, prohibits discrimination in employment against the physically handicapped, including those suffering any impairment which requires special education or remedial services, but permits an employer to refuse to hire an applicant whose physical handicap renders him unable to perform the job or to perform it without endangering the health and safety of himself or others.

In addition, the Fair Employment Practice Commission has issued sex discrimination guidelines, effective November 7, 1974. Under these guidelines, discrimination based on sex is lawful only when sex is a bona fide occupational qualification essential to the normal operation of the employer's business if the employer can prove that it is impossible for a man (or a woman) to perform a specific job.

In order to publish a help-wanted advertisement which expresses a preference based upon sex, an employer must obtain the approval of the Commission in writing, show it to the newspaper requested to publish the ad, and keep it available for public inspection. Written approval by the Commission must also be submitted by the employer to employment agencies which are requested to process job orders based upon sex.

The standards of all job qualifications and tests used by the employer must be evaluated by the employer to determine if there is an adverse effect on members of one sex. If such an effect exists, the test must be validated in accord with the Commission guidelines on employment selection procedure.

Employment agencies are prohibited from (a) processing job orders based on sex without the written approval of the Commission, (b) referring or refusing to refer on grounds of sex, (c) maintaining separate application forms or separate files for male and female jobs or applicants. In addition, an employment agency is prohibited from dealing in one sex, unless sex is a bona fide occupational qualification for the jobs it fills.

Discrimination in hiring or fringe benefits on grounds of sex, marital status, presence of dependents, head of household status, or

pregnancy is prohibited. Employers are also prohibited from making job classifications or departmental assignments on the basis of sex, and unions are prohibited from negotiating a collective bargaining agreement in which jobs are classified by sex. The guidelines also prohibit systems of seniority or progression based upon sex or upon a distinction between light and heavy jobs unless that distinction can be justified in terms of employment injuries or physical limitations. Equal pay and job status must be given to women and men who perform jobs requiring equal skill, effort, and responsibility, and both sexes must have equal access to all training programs and promotion opportunities.

Finally, irrespective of marital status, it is an unfair labor practice to discharge a woman or penalize her with respect to terms and conditions of employment because she requires leave as a result of a temporary disability owing to pregnancy, childbirth, or recovery therefrom. If a regular leave policy exists, conditions of leave must be those applicable to other leaves under that policy. However, irrespective of the presence or absence of a regular leave policy an employer must grant a "reasonable" period of leave for temporary disabilities resulting from pregnancy or childbirth, and upon return from maternity leave, employees must be reinstated without loss of status, pay, or seniority.

If an employer has no leave policy, an exception to these requirements will be made only if the employer can prove that "business necessity or financial hardship will place an undue burden on the employer."

Connecticut: An amendment to the Governor's Code of Fair Practices, effective October 1, 1974, requires state contracts to contain a clause in which the contractor agrees not to discriminate on grounds of sex or physical disability, unless he can show that a physical disability prevents the performance of the work involved. The contractor must agree to provide the Civil Rights Commission with the information relating to his employment practices and procedures under the contract.

Hawaii: An amendment to the Hawaii Fair Employment Practices Act, effective June 10, 1974, prohibits employers from refusing to hire, employ, or discharge an individual on the basis of a conviction for an offense which does not have a substantial relationship to the functions and responsibilities of the job which the individual is seeking or is currently employed in.

Iowa: An amendment to the Civil Rights Act, effective July 1, 1974, empowers the Civil Rights Commission to subpoena books or papers which are relevant to a complaint and permits the Commission to issue temporary injunctions when it appears that a complainant may suffer irreparable injury as a result of an alleged violation of the Act. Permission to issue injunctions expires July 1, 1975.

Kansas: An amendment to the Act Against Discrimination, effective upon publication in 1974, prohibits discrimination in employment against the physically handicapped, if the handicap is not related to the person's ability to perform a particular job. However, no employer is required to construct any special facilities or fixtures in order to comply with the Act.

Kentucky: An amendment to the Fair Employment Practices Act, effective 90 days after legislative adjournment in 1974, prohibits an employer from discriminating in employment on grounds of religious practice or observances as well as belief, unless he can show that accommodation to practices or observances would cause him undue hardship in the conduct of his business.

Maine: An amendment to the Human Rights Act, effective 90 days after legislative adjournment in 1974, prohibits discrimination in employment against the physically handicapped unless the handicap prevents the prospective employee from getting to work, performing duties or performing them without endangering the health and safety of the employee or others. In addition, an employer is prohibited from requesting applicants or employment agencies to supply information on physical handicaps unless the application is necessary for a "suitable job referral."

After September 1, 1974, all places of work which are newly built and older buildings which are expanded or remodeled at a cost exceeding $100,000 must make special provisions to allow the employment of the handicapped.

Maryland: An amendment to the Fair Employment Practices Act, effective July 1, 1974, prohibits discrimination in employment on grounds of marital status or physical or mental handicap, including retardation if the handicap does not reasonably preclude the performance of duties.

Massachusetts: An amendment to the Fair Employment Practices Law, effective January 15, 1974, prohibits employers from requiring employees to violate or forgo religious observances, including the Sabbath and religious holidays. Employers are also required to make any reasonable accommodation to the religious needs of employees or prospective employees which will not cause undue hardship in the conduct of his business. Undue hardship is defined as inability to provide services required by state or federal law, endangering the health and safety of employees, an emergency, a situation where the orderly transaction of business cannot be carried out by having the absent employee replaced by another similarly qualified employee.

Minnesota: An amendment to the Human Rights Act, effective August 1, 1974, requires bidders for public contracts to apply to the Commissioner of Human Rights for a certificate of compliance with the Act which forbids discrimination in employment on the basis of race, religion, national origin, sex, marital status, and status with regard to public assistance or disability. However, no state contract which was awarded before the denial, suspension, or revocation of a certificate may be terminated or abridged.

In addition, the Department of Human Rights has issued *Guidelines for Eliminating Sex Discrimination*, which became effective on July 8, 1974. Under these guidelines, sex is a bona fide occupational qualification only where it is required for authenticity or genuineness, as in the case of models, or where public morals require one sex to perform a particular job, as in the case of males being required as attendants in men's washrooms. Tradition, stereotypes concerning the capabilities of men or women in general, preferences of workers, clients, or customers, or the employer's need to provide separate restrooms, are not bona fide occupational qualifications.

In the absence of a bona fide occupational qualification, employment advertisements indicating a preference, limitation, or specification based upon sex are unlawful. The use of masculine gender without the use of the feminine in a help-wanted ad is an indication of preference. Sexually separated help-wanted columns in newspapers are unlawful.

In the absence of a bona fide occupational qualification, employment agencies which deal in one sex or which knowingly fill a job order based upon a sexual preference are engaging in unfair employment practices. Agencies which fill job orders based upon sexual preferences must notify the Department of Human Rights of the employer's request and the basis of the employer's claim that sex is a bona fide occupational qualification, in order to avoid liability for violating the Human Rights Act.

In the absence of a bona fide occupational qualification, separate lines of seniority or progression are unlawful if members of one sex are adversely affected.

Discrimination in hiring or in the provision of fringe benefits on the grounds of sex, marital status, head of household status, or number of dependents, is prohibited, and an employer is required to hire pregnant female applicants unless "he can show that it is not reasonable to do so." Employers are required to take affirmative action to hire women for jobs from which they have been previously excluded.

In addition, sick leave plans or temporary disability insurance plans maintained by employers must cover disabilities caused by pregnancy, miscarriage, abortion, childbirth, and recovery therefrom as temporary disabilities. Irrespective of the presence or absence of a sick leave plan, an employer must grant a pregnant employee up to five months' maternity leave, and upon her return, the employer must reinstate her to a position equal in pay, status, and seniority to the one she left. An employer may require medical certification of fitness to work. Termination of an employee based upon pregnancy is prohibited.

FAIR EMPLOYMENT PRACTICE LEGISLATION IN 1974

	States																					
	AK	AZ	CA	CT	HI	IA	KS	KY	ME	MD	MA	MN	MT	NY	OH	RI	SD	TN	VT	VA	WA	WI
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23
TYPE OF LEGISLATION																						
Executive order																X						
Guidelines or regulations			X									X			X	X	X				X	
Statutes	X	X	X	X	X	X	X	X	X	X	X	X	X	X				X	X	X		X
AREA OF CHANGE																						
Affirmative action															X	X					X	
Advertising	X	X											X									
Agency powers		X				X							X									X
Contract compliance		X										X				X						
Employment testing		X															X					
Equal pay																		X		X		
National origin																	X				X	
Physical handicap			X	X			X		X	X			X	X					X			
Pre-employment inquiry																					X	
Race																					X	
Religious practice		X						X			X						X					
Sex			X									X				X	X				X	
Seniority		X																				
Apprenticeship program		X											X			X						
Record-keeping regulation		X											X									
Public employment																X						
Criminal conviction					X																	

2913

2912

Montana: An amendment to the Fair Employment Practices Act, effective July 1, 1974, amplifies the provisions of the Act and creates a Commission for Human Rights to enforce the revised statute. The Act as revised bars discrimination in advertising, hiring, terms and conditions of employment, admission to union membership, and training and apprenticeship programs by employers, labor organizations, and employment agencies on the grounds of sex, age, physical or mental handicap, race, creed, color, or national origin unless based on a bona fide occupational qualification.

With the exception of policy-making positions on the immediate staff of public officials, the law prohibits discrimination on grounds of political beliefs.

Private and public educational institutions are prohibited from discriminating in admissions. Employers, labor organizations, and employment agencies are required to maintain records on age, sex, and race required for the administration of federal and state laws.

The statute creates a Commission for Human Rights to consist of five members appointed by the governor which will operate under the Department of Industry and Labor. Complaints by individuals are to be sent to the Department and reviewed by the Commission which will meet four times a year. The Commission may request a district court to issue a temporary cease and desist order lasting 14 days. The department will investigate and attempt to settle disputes in an informal manner. If the department's efforts fail, the Commission will hold a formal hearing. Upon a finding of discrimination, the Commission will hold a formal hearing. Upon finding of discrimination, the Commission may issue a restraining order and require affirmative action, including "rectification of pecuniary harm." However, the Commission may not award "punitive damages." The Commission may also request a court to issue an injunction to enforce its orders.

New York: An amendment to the state Human Rights Law, effective September 1, 1974, prohibits discrimination in employment against individuals with any physical, mental, or medical disability which is not related to their ability to engage in activities involved in the job or occupation in which they are employed or are seeking employment. Employers, labor unions, and employment agencies are forbidden to discriminate on grounds of disability with respect to advertising, filling job orders, hiring, union membership, terms and conditions of employment, admission to apprenticeship, or on-the-job training programs or discharge.

Ohio: The Civil Rights Commission issued guidelines on "goals and timetables" for affirmative action, effective July 23, 1974. Under these guidelines, an appropriate goal for an employer with a history of past discrimination is to bring the proportion of minority and female employees up to the level of minorities and females in the general population of the employer's labor area as defined by the SMSA, or in the case of professional and managerial positions, up to the level indicated by the general availability of minority group members with the requisite qualifications.

The degree of appropriateness of this goal is affected by the following: (a) unemployment among minorities and women in the labor area, (b) the availability of minority and female workers with the requisite skills, (c) the presence in the facility of minority or female employees who may be promoted or trained, (d) the capacity of an employer to train on the job, (e) the presence of accessible training institutions, (f) the presence of a significant hiring or promotion rate owing to employee turnover or growth of the employee population, and (g) the ability of the employer to recruit outside the labor area. With respect to setting time tables, relevant factors involved include expected expansion and contraction of and turnover among the employee population.

If a plan is adopted involuntarily as a result of a complaint of discrimination, regular reporting to the Commission is a necessary part of the goals and timetables. An employer who wishes to be considered in compliance with the FEPL must demonstrate a good faith effort.

Rhode Island: In January 1974, the governor issued an executive order revising the "Governor's Code of Fair Practices," which establishes equal opportunity and affirmative action as the policy of all units of the state government. In addition, the Commission for Human Rights issued sex discrimination guidelines.

The Code as revised, prohibits discrimination in hiring, promotion, and provision of services against any person on the basis of race, color, religion, sex, age, national origin, or physical handicap by departments of the state government, private employers using state agencies providing employment, referral, or placement services, educational counseling, and vocational guidance, and on-the-job training programs which state agencies conduct or participate in, private businesses, educational institutions, or health care facilities licensed or chartered by the state, and public contractors on any contract which exceeds $20,000.

In addition to prohibiting discrimination, the Code requires all departments of the state government, public contractors, and private educational institutions licensed or chartered by the state to take affirmative action. Within the state government, "each appointing authority" is expected to draw up and submit an affirmative action plan and annual reports showing the allocation of funds for on-the-job training, the parity of civil service classes doing similar work, and the training of supervisory personnel in "equal opportunity" principles and procedures. In addition, the "Division of Personnel" or the civil service is required to "take positive steps to insure that the entire examination and testing process. . . is from conscious or inadvertent bias." Public contractors are required to submit affirmative action plans similar to those submitted by federal contractors under Federal Executive Orders 11216 and 11375.

The Code provides for enforcement, with respect to the private sector, through the state agencies which charter, license, grant contracts, financial assistance, or services to segments of the private sector, and the Rhode Island Commission for Human Rights. The agencies are expected to draw up for their particular clients compliance regulations, which are to be reviewed by the Commission for Human Rights and approved by the governor. These regulations may include requirements for submission of data, other monitoring procedures, and penalties. Under these regulations, the ultimate penalty for noncompliance is to be forfeiture of state contracts, grants of assistance, licenses and charters, and services. State agencies which have the authority to grant and revoke charters are expected to "actively use their authority."

In addition, state agencies are expected to monitor their clients. Public contractors are expected to submit to the State Purchasing Agent compliance reports similar to those submitted by federal contractors under Federal Executive Orders 11216 and 11375. The Department of Health is expected to make periodic reports to the Commission for Human Rights at times specified by the Commission. State employment services are to notify the Commission promptly of any employers, employment agencies, or unions suspected of practicing unlawful discrimination. Private educational institutions are required to "show compliance" at the request of the Board of Regents or the Commission for Human Rights.

However, the affirmative action plans prepared by public contractors are to be submitted for review by the Commission and approval by the governor.

In the public sector, nondiscrimination and affirmative action in hiring, promotion, and provision of services by state agencies are to be enforced by the Commission for Human Rights and a State Equal Employment officer, who is to be selected by the governor and is to work under the Director of Administration.

With respect to nondiscrimination, the Commission is authorized to make rules and regulations to obtain compliance and to establish penalties for noncompliance, with the approval of the governor. Monitoring is partly provided for in the form of monthly reports on hiring and promotion to be submitted by each agency to the State Equal Employment Officer. In addition, the Commission for Human Relations is authorized, at its own initiative, or upon a complaint, to bring charges of discrimination against state agencies or their personnel. The Commission may order the discontinuance of any agency practice or "pattern" which it considers to be discriminatory in intent and seek court enforcement of its order.

Affirmative action plans are to be drawn up within the agencies, in accordance with criteria established by the Commission for Human Rights, and to be submitted within the deadlines established by the State Equal Employment Officer. The annual budget submissions of each agency are expected to contain results and targets for implementing affirmative action. All affirmative action plans are to

be submitted to the State Equal Employment Officer and may be subject to review by the Commission. If the officer disapproves of a plan, it must be redrawn in accordance with the criteria of the Commission. Final approval of all plans is made by the governor.

The Commission for Human Rights is authorized to initiate complaints against state agencies and their personnel who fail to comply with the requirements of an affirmative action plan.

Under the new guidelines on sex discrimination issued by the Rhode Island Commission for Human Rights sex is a "bona fide occupational qualification where it is necessary for the purpose of authenticity or genuineness, e.g., as actor or actress; or where community standards not otherwise inconsistent with the Fair Employment Practices Act demand that a person of a particular sex be selected, e.g., a male to be men's washroom attendant, a woman to be a fitter in a lingerie establishment."

However, sex is not a bona fide occupational qualification where it is based on the preferences of employers, customers, clients, etc., or where it is based on stereotyped assumptions about the capacities of women or men in general as workers. Individuals are to be considered by employers on the basis of their individual capacities.

Where sex is not a bona fide occupational qualification, the following are unlawful employment practices: (a) classifying jobs as male or female, directly or in disguised form such as "light" or "heavy," with separate lines of progression or seniority; (b) unequal pay for substantially, but not necessarily 100 percent similar work; (c) help wanted advertisements or pre-employment inquiries which express any "preferences, limitations, specification, or discrimination" based upon sex; (d) discrimination between employees on grounds of sex, marital status, or head of household status; and (e) discrimination with regard to fringe benefits or retirement age.

While requests for leave and insurance payments for disabilities connected with pregnancy or childbirth are to be treated on the same terms as other temporary disabilities, in accord with written and unwritten policies governing sick leave, the termination of an employee under such policies is unlawful where available leave is inadequate and there is a "disparate inpact on employees of one sex" and the policies are not justified by "business necessity."

Finally, "any policy of maternity leave shall be based upon individual capacities or characteristics. . . . An employer may require that the employee produce medical certification that she is physically able to continue work, while pregnant, and that she is physically able to resume her work, after childbirth."

South Dakota: The Commission on Human Rights adopted rules of practice and procedure, effective June 10, 1974, which contain guidelines for implementing the employment aspects of the Human Relations Act of 1972 which bans discrimination in employment on the basis of race, color, creed, religion, sex, national origin, or ancestry. These guidelines pertain to hiring, discharge, the use of employment tests, and discrimination on the basis of sex, religion, national origin, and ancestry.

With regard to hiring, the guidelines stipulate that an employer must assure that all potential applicants are given fair notice of vacancies, have an equal opportunity to apply, and are considered on nondiscriminatory grounds. With regard to discharge, the guidelines stipulate that the Commission will consider an employer in violation of the Act if discrimination constitutes part of and not necessarily the entire reason for discharging an employee.

With regard to employment testing, the guidelines stipulate that the use of a test which adversely affects any class of persons protected by the Act constitutes discrimination, unless the test has been validated along the guidelines of the EEOC, issued on July 21, 1970, and the employer can demonstrate that no alternative procedures are available. While employers may use an unvalidated test if there is substantial evidence of its validity and validation procedures required by EEOC are in progress, employment agencies are barred from making referrals or appraisals on the basis of such a test. If a test is validated, employers must provide opportunities for retest and reconsideration to employees who, after failing the test, avail themselves of more training and experience. In addition, a validated test may not be imposed on employees or applicants who have been subject to past discrimination when neither they nor other employees were previously subjected to it.

With respect to sex, the guidelines stipulate that sex is a bona fide occupational qualification where it is necessary for "authenticity and genuineness." Qualifications based on preferences of employers, employees, or customers, or on sexual stereotypes are not bona fide. In the absence of a bona fide occupational qualification, the Act prohibits sex as a basis for separate lines of progression and seniority, help-wanted ads, the filling of job orders by employment agencies, and employment agencies dealing only with one sex. In addition, the guidelines prohibit discrimination in fringe benefits which is based on sex, marital status, or head of household status. Finally, where the Occupational Safety and Health Act requires the existence of separate restrooms for each sex, refusal to hire in order to avoid this provision is an unlawful employment practice.

With respect to religion, an employer is required to make a reasonable accommodation to the religious needs of employees and prospective employees, unless the employer can demonstrate that a reasonable accommodation would cause an undue hardship in the conduct of his business.

With respect to national origin, the guidelines prohibit the employers from using tests written in English where skill in English is not required for a job and is not the mother tongue of the employee or applicant. They also prohibit denying equal opportunity on the grounds that an employee is married to or has otherwise associated with persons of a specific national origin via attendance in schools and churches or affiliation with lawful organizations. With respect to ancestry, the guidelines prohibit discrimination against persons who do not meet national norms for height and weight where meeting those norms is not necessary for the performance of the work involved.

Tennessee: The Equal Pay Law, effective July 1, 1974, prohibits discrimination in the payment of wages or salaries based upon sex for jobs involving comparable skill, effort, and responsibility, unless the differentials are based upon a nondiscriminatory seniority system or measures of the quality and quantity of output. To enforce the Act, the Commissioner of Labor is empowered to issue regulations, resolve disputes by persuasion and conciliation, or institute a suit on behalf of an aggrieved employee. The courts are empowered to award an employee both back pay and damages.

Vermont: A new law, effective July 1, 1974, bars "unreasonable" discrimination against the physically handicapped, either in employment or in union membership. The statute provides for enforcement through civil suits.

Virginia: A new Equal Pay Law, effective July 1, 1974, prohibits employers from discriminating in the payment of wages or salary based upon sex for jobs of comparable skill, effort, and responsibility unless the differentials are based upon a nondiscriminatory seniority system or measures of the quantity or quality of output. The statute provides for enforcement through civil suits, and the courts are permitted to award an amount equal to back pay plus twice the amount of wages withheld.

Washington: The Human Rights Commission has issued new guidelines and regulations, effective June 21, 1974, with respect to pre-employment inquiries, bona fide occupational qualifications, and affirmative action under the Law Against Discrimination which prohibits discrimination in employment on the basis of age, sex, race, color, creed, national origin, or physical handicap.

With respect to pre-employment inquiries the guidelines stipulate what is permitted and what is prohibited as follows:

1. While an employer may request employees to provide a birth certificate or state their true age, inquiries implying a preference for a person under age 40 are prohibited.
2. While proof of citizenship may be required after hiring, any demand for proof before hiring or any inquiry which would divulge national origin is prohibited.
3. While inquiries into the existence of obstacles for meeting job attendance or scheduling are permitted, inquiries concerning a spouse, spouse's employment, salary, or child care arrangements are prohibited.
4. While inquiries into the existence of job-related handicaps are permitted, inquiries into general existence of handicaps, or

height and weight are prohibited unless based on actual job requirements.

5. All inquiries into arrests, and any inquiry into a conviction which occurred seven years before the job application are prohibited.
6. Any inquiries into the applicant's original name if it was changed by court order or marriage are prohibited.
7. Inquiries into national origin other than ability to speak foreign languages where that ability is a job requirement are prohibited.
8. Any requirement to list organizational memberships which indicate sex, marital status, race, color, religion, or national origin is prohibited. All questions relating to race, sex, pregnancy, and religion and inquiries concerning the names of relatives not employed by the company are prohibited.
9. Requests for photographs are prohibited.

Inquiries or requests that an applicant specify race, etc., must be accompanied by statements indicating why race, etc., is a bona fide occupational qualification. In the absence of a rationale, the inquiry is evidence of an unfair employment practice.

With respect to "bona fide occupational qualification," the regulations stipulate that race, creed, color, national origin, age, sex, and marital status are bona fide occupational qualifications where they are (a) essential to the accomplishment of the purpose for which the person is hired, e.g., integrating a school, or social work with an ethnic group where a group member is necessary, and (b) needed to correct past discrimination. However, an employer may inquire into an applicant's race, color, sex, religion, marital status or national origin when direct inquiry is mandated by federal law and there is no other practical way to obtain data for a nondiscriminatory purpose. Records of such inquiries are to be kept separate from personnel files and reserved for use by top management in meeting the reporting requirements of the Human Rights Commission. No past employment records may be kept.

Inquiries which are based on an affirmative action plan must indicate that the plan was approved by the Human Rights Commission. The new guidelines stipulate that affirmative action plans should be put into effect by an employer wherever a class of employees is not represented in the employee population in proportion to its representation in the community. Unions and employers are expected to determine what, if any, practices of theirs are resulting in under-representation of a particular group and to make changes accordingly. While other groups cannot be excluded from consideration in hiring, and cannot be laid off in order to implement a plan, it is permissible to give weight to a class of applicants which is under-represented in the employee population. Permissible components of such plans include (a) the ascertaining of data regarding the race, etc., of applicants and the use of such data for selection and referral, (b) maintaining these data in separate files for recruitment when jobs are available, and (c) special rules for the retention of protected groups in case of layoffs.

Wisconsin: An amendment to the Fair Employment Act, effective June 16, 1974, gives the Department of Industry, Labor and Human Relations the power to make back pay awards upon a finding of discrimination. An employer's liability extends back two years from the filing of the complaint by the employee. Interim earnings or an amount earnable with reasonable diligence on the part of the employee operate to reduce the award, while relief payments made to the employee by unemployment or welfare agencies are to be deducted from the award and returned to the agencies.

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BRIEFS OF AGREEMENTS

Wyoming Public Schools
Wyoming, Michigan

Between the Board of Education of the Wyoming Public Schools and Wyoming Education Association, effective July 1, 1973, to June 30, 1976. Approximately 384 certificated professional employees—those certified by the Michigan State Department of Education, those on tenure or on probation, and those on interim or per-diem appointment—including teachers, guidance counselors, librarians, administrative assistants, cooperative and vocational coordinators, social workers, speech and hearing therapists, advising or critic teachers, and teachers of the home bound or hospitalized, and excluding the superintendent, deputy superintendent, assistant superintendent, principals, assistant principals, directors, teachers assigned at least half-time to the principal's office, coordinators, supervisors, and diagnosticians.

COMPENSATION: (1974-75 expressed in dollar and percentage amounts) B.A., $9,699.62 (100) - $15,131.41 (156), 9 increments; M.A., $9,990.61 (103) - $16,489.35 (170), 9 increments; M.A. plus 60, $10,378.59 (107), $17,847.30 (184). For 1975-76, the index will remain constant; however, base dollar amounts will be adjusted to reflect cost-of-living adjustment plus $50.

OTHER: Compensation for retirement credit and severance pay computed as follows:

Years of service	Retirement	Severance rule
11-19	$10 per day to a maximum of 16% of the individual salary	$5 per day
20 years and over	$25 per day to a maximum of 25% of the individual salary	$7 per day

DIFFERENTIALS: (Computed as a percentage of B.A. base without experience; five steps) Varsity football, basketball head coach, 11.5-15.5%; varsity baseball, track head coach, 8-11%; varsity football assistant coach, junior varsity football, basketball head coach, 7-10%; junior varsity football assistant coach, 9th grade football, basketball head coach, 6-9%; varsity track assistant coach, varsity gymnastics, cross country, tennis, junior varsity baseball head coach, 5-8% wrestling assistant, 9th grade football assistant coach, golf, wrestling head coach, gymnastics coach, 4-6%;

9th grade baseball, track head coach, 3.5-5.5%. Girl's basketball head coach, 4.5-7%; golf, tennis, softball, basketball assistant coach, volleyball head coach, 3-5%; bowling, volleyball assistant coach, 2-3%. Substitute rate is $22.50 per day, employment for more than 5 consecutive days, $27.50 per day for each consecutive day taught beyond the initial 5 day period, and for 10 or more consecutive days, $27.50 per day, starting with the first day; "in addition to the subsistence furnished at the school-sponsored 7th grade camps, each teacher remaining at the camp over-night shall receive, in addition to his base salary, the sum of $40 for spending nights at a full camp program for 4 nights. Those spending less than the full 4 nights shall receive $10 per night"; driver training instructors will be placed on the step which corresponds to their years of teaching experience in driver training; transportation will be reimbursed at the current rate per mile; meals reimbursed at actual cost, but not to exceed $11.50 per day; parking, storage cost, and toll fees are reimbursable; assignments involving lengthening by 1 period the teacher's day beyond the normal work load, 1/6th of base pay for teachers having a 6-period teaching assignment and loss of a planning period.

LEAVE: Fifteen days of paid leave, unlimited accumulation, to be used as the teacher deems necessary for personal illness, injury, professional purposes, emergency, bereavement; 2 days' business leave deducted from leave allowance upon 7 days' notification; a teacher, who contracts mumps, scarlet fever, measles, chicken pox while teaching will suffer no diminution of compensation and will not be charged with leave; leave of absence with pay and not chargeable against the teacher's allowance will be granted for jury, court appearance as a witness in a case connected with the teacher's employment, authorized school visitations, and conference attendance; leave of absence without pay may be scheduled for any regularly certificated eligible teacher for not more than a year; military leave will be granted to any teacher inducted into active service; an extension may be granted after the expiration of the one-year period; teachers on military leave will be given the benefit of any increments which would have been credited to them had they remained in active service in the school system; notification of a pending maternity leave of absence will be made in writing no later than the 4th month of pregnancy; sabbatical leave may be granted to an applicant with 7 consecutive years of satisfactory service as a full-time employee holding a life or permanent certificate; absence from service for 2 years under a leave of absence without pay granted by the board of education will not break the continuity of service required; special leave subject to approval of superintendent must be made at least 7 days in advance; one day will be available each year for such leave to teachers who have accumulated 40 days (2 days if 100 days) with 2 days' leave deducted for each day used under this category, and granted only if a qualified substitute is available; misuse or excessive use of leave days will result in a reduction in pay by 1/185 of the annual salary; principal may grant leave of absence to teachers not responsible for students, for a dental appointment after the teacher's last class; personal emergency, class, or professional meetings.

INSURANCE: Board pays 1973-74 premiums for health and dental care insurance with teacher paying any differential for individual or family coverage; non-tenure teachers receive only individual coverage.

ASSOCIATION: A bulletin board will be placed in the teachers' lounge; the board will provide information to Association carrying out its function as bargaining agent; board will furnish Association with copies of agenda and minutes of board meetings; board will advise Association of proposed millage or bond requests before public announcement and will advise Association of any proposed construction before finalization; the Association will have the right to use school facilities and equipment, including typewriters and duplicating equipment, at reasonable times when such equipment is not used otherwise and will furnish all materials and supplies incidential to their operation; board will notify Association of changes in individual teacher contracts;

DEDUCTIONS FOR PROFESSIONAL DUES

All teachers as a condition of continued employment shall sign and deliver to the Board of Education an assignment authorizing deduction of membership dues and assessments of the Association, including the National and Michigan Education Associations. Any teacher who is not a member of the Association in good standing within thirty (30) days from the date of commencement of teaching duties, shall, as a condition of employment pay as a fee to the Association an amount equal to membership dues payable to the Association, the NEA and MEA, or, if for reasons of conscience, any teacher does not choose to pay the annual dues and assessments to the Association aforenamed, said teacher shall forward to the President of the Association, an appeal, in writing, setting forth his reasons to be exempted from paying the dues and assessments, but with the understanding agreement that he must contribute an equal amount under the following options;

The amount may be contributed to a charity which must be approved by the Association.
The contribution must be made within sixty (60) days of the commencement of teaching.
Any teacher choosing to pay a fee to the Association in lieu of membership shall make the total payment within sixty (60) days of the commencement of teaching.
In the event the dues and assessments, or an equal amount, shall not be paid, the Board upon receiving a signed statement from the Association indicating a teacher has failed to comply with the conditions, shall immediately begin, within the framework of proper tenure procedure, to notify said teacher that refusal of said teacher to either authorize the payment of dues and assessments to the Association or to contribute a like amount to an approved charity, is just and reasonable cause for termination of employment, and said teacher will not be re-employed for the next school year.

Those wishing to pay their dues in cash shall do so by November 1st. The payment should be made directly to the Association.

The Association shall deal with ethical problems arising under the Code of Ethics of the Education Profession in accordance with the terms thereof and the Board recognizes that the Code of Ethics of the Education Profession is considered by the Association and its membership to define acceptable criteria of professional behavior.

INSTRUCTION: Class periods are 45 to 60 minutes long; daily load will consist of any combination of classes or study halls for 5 periods, 5 days per week, and 1 daily planning period of 45 to 60 minutes; the school day will consist of 7-1/2 hours, including a 30-minute duty-free lunch; a maximum of 5-1/2 hours in elementary and 5

hours in secondary school will be spent in teaching or supervisory duty; the school day will not start before 7:05 a.m. or extend beyond 4:00 p.m. without compensation; the teaching year will consist of 185 days, a minimum of 180 days of which will be instructional; teachers will not be required to report more than 2 working days before the beginning of classes in the fall, or to remain more than 2 days after classes end; special instructional programs will be implemented through innovative or pilot programs; those not wishing to participate may request a transfer.

CLASS SIZE

The parties recognize that the availability of optimum school facilities for both student and teacher is desirable to insure the high quality of education that is the goal of both teacher and Board. It is acknowledged that the primary duty and responsibility of the teacher is to help students learn and that the organization of the school day should be directed at insuring that the energy of the teacher is primarily utilized to this end,

Elementary	Excess Members Allowed	Total
K-22 students	3	25
1-22 students	3	25
2-23 students	3	26
3-24 students	3	27
4-25 students	3	28
5-26 students	3	29
6-26 students	3	29

Secondary	Class Size	Excess Members Allowed	Total
English	25	4	29
Social Studies	25	4	29
Mathematics	25	4	29
Science	25	4	29
Language	25	4	29
Business	25	4	29
Typing	28	4	32
Industrial Arts	20	4	24
Drafting	23	4	27
Vocational Shops	14	1	15
Home Making	25	4	29
Art	25	4	29
Physical Education	31	4	35
Health	25	4	29
General Education	25	4	29
Phase	16	4	20
Vocal Music			Unlimited
Instrumental Music			Unlimited
Study Hall			Unlimited

At no time shall a class exceed the reasonable physical limits of the classroom, lab facility or number of work stations available and equipped for students.

Any traditional elementary class enrolling students in excess of the total number allowed for the grade in question shall be reimbursed by the Board at the rate of $1.00 per child, per attendance day.

A secondary class enrolling students in excess of the number of students allowed shall be reimbursed by the Board at the rate of twenty (20) cents per child, per class hour, that is, each class period a students name is carried on the roll for that class.

A departmentalized elementary class enrolling students in excess of the number of students allowed shall be reimbursed by the Board at the rate of twenty-five (25) cents per block of time, that is, each block of time a student's name is carried on the roll for that period. The first block of time shall be the period from commencement of school in the a.m. until the normal recess time; the second block of time shall be from the a.m. recess until noon; the third block of time shall be from commencement of the p.m. session until the normal recess period, the fourth block of time shall be from the recess period until the end of the p.m. session.

Deviations from these blocks of time may be worked out on a building level by those teachers affected, and if concensus is reached, overload reimbursement may be made to accomodate a different schedule. It is recognized by the parties that reimbursement shall not exceed the one ($1.) dollar per student overload per day.

Split classes are not to exceed twenty (20) pupils per class. Split classes are organized by scheduling students from two traditional grades.

The parties in recognition of the concept of family grouping as is sometimes used in an individualized program, e.g., The Westinghouse PLAN program, hereby agree that a building may establish classes consisting of family groups. A family group is a structured combination of students of varying abilities and ages and shall qualify for either additional aid service: or for excess membership reimbursement as cited. The average years beyond kindergarten for the group shall be used to determine the grade level which applies toward reimbursement or aide services.

A building principal shall have consultation with the building faculty members to allow teacher input prior to making his final decision for a building grouping plan.

Reimbursement for excess membership under the terms of this Article shall be made subsequent to the end of each semester. The excess membership count shall start with the beginning of the third (3rd) week of school. The time from the opening of school until the third (3rd) week shall be a period for the building principal to confer with teachers and make class or room adjustments.

A maximum of $30,000 for excess membership, and $10,000, for aides will be budgeted for reimbursement of excess membership under this Article. Funds budgeted for reimbursement of excess membership may be allocated for additional aide service in an amount not to exceed that which the teacher would have received for excess membership. From the $40,000, will be paid any claims against the amount of excess membership during the first semester of the school year, and the residue will be prorated, if necessary, for any amount due and payable for the second semester's operation.

Paraprofessional services will be available to classroom teachers with excess membership (in lieu of reimbursement) according to the following guidelines:

In the event a teacher does not receive the services of a paraprofessional: for a five (5) consecutive day period the teacher shall receive excess membership reimbursement from the first day of the loss of services of the paraprofessional, and shall receive excess membership reimbursement for the remainder of the school year or until another paraprofessional is secured.

Elementary classrooms

1/4th of school day	2 students of excess membership
1/2 of school day	4 students of excess membership
3/4ths of school day	6 students of excess membership
Full school day	8 students of excess membership

Paraprofessional services, in lieu of excess membership reimbursement, could become an option for a secondary teacher, and departmentalized elementary teachers, during the tenure of this contract upon approval of a formula by the preview and evaluation committee.

In-service programs will be provided by the Board to assist teachers in utilizing paraprofessionals and for paraprofessional training.

PERSONNEL: Grievance procedure ends with final and binding arbitration; the teacher may review his/her own file and have a representative of the Association accompany him/her; privileged information specifically exempted from review will include confidential credentials and related personal references normally sought at the time of employment; the reimbursement for college courses will not exceed $30 per semester hour or $20 per term hour, or the maximum current rate being charged by a state college or university; reimbursement will be made only for courses at the graduate level and for 25 semester hours applied toward the M.A. or for a maximum of 15 semester hours taken after the master's degree; probationary teachers will be evaluated at least 3 times during the school year.

TENURE PROCEDURE

The building principal will appoint a sponsor from within the building for each probationary teacher. If possible the sponsoring teacher should teach the same subject area or the same grade level as the probationary teacher. The sponsor will serve in an advisory capacity only.

At the request of either the probationary teacher or the sponsor, a new sponsor may be appointed by the principal.

The sponsor is to aid the probationary teacher in becoming familiar with the building procedures, acquainting him with adult personnel in the building in which he is teaching and offer aid whenever possible in helping the teacher adjust to his teaching assignment.

Teachers whose services are being considered for termination under provisions of the Tenure Act shall receive a registered or certified letter of notification and statement of charges from the Superintendent and be advised of their rights under the Tenure Act for a hearing and appeal. Teachers who are so notified may be suspended with pay pending a final determination by the Board after completing a hearing as provided in the Tenure Act.

Criteria and evaluation of work performance of probationary teachers will be in writing; the observation period will be no less than 45 minutes; all teachers will be notified of pending staff vacancies and new positions and will have 10 days to apply; the board will facilitate the assignment process by providing for the transfer of teachers between buildings; a written request will be submitted, indicating transfer locations, with notification of the decision within 15 days after the request;

STUDENT DISCIPLINE

Corporal Punishment: It is axiomatic that the best learning takes place in the best learning situation. The best learning situation is found where the teacher, student and parent are working cooperatively. This condition is augmented by a physical environment that is pleasant, neat and clean and in harmony with the general learning situation. All students are expected to show appropriate respect to the teacher and in like manner the school and all teachers are expected to deal with their students in a manner that is wholly professional. In the event of student misconduct or non-conformance with school rules, a conference will be held with the parents of the student and evaluation summaries of the conference filed with the student's record. Persistent student misconduct or persistent non-conformance with school rules constitutes sufficient reason for the Superintendent to recommend to the Board that the student be expelled.

The laws of the state of Michigan generally follow the doctrine of "loco parentis" in matters of teacher-pupil relationships, in other words, the teacher stands in the place of the parent in school behavior questions. This doctrine generally gives the teacher the legal right to administer reasonable corporal punishment. If it does seem that corporal punishment is the only remaining solution to a problem of persistent student misconduct or disobedience, please observe the following questions before administering same:

- Wil this accomplish the purpose intended?
- Are you correct in your actions?
- Are you acting in good faith and in a thoroughly professional manner?
- Can I secure an adult witness?

If the above questions can be answered to the personal satisfactions of the teacher or principal concerned and it is then deemed advisable to administer corporal punishment the following guide lines should be observed:

- Punishment should not be administered in anger.
- There should be an adult witness present.
- The punishment should occur in a location other than the classroom preferably the principal's office.
- Punishment should be limited to "spanking" using the hand or appropriate instrument on the fleshy part of the buttocks.
- Students should not be slapped about the face or ears, subjected to ear pulling, hair pulling, or striking with ruler, book or other ariticle.

In cases of self-defense, the teacher has a right to defend himself.

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ACADEMIC FREEDOM

Controversial Issues: Training for effective citizenship in a democracy is accepted as one of the major purposes of the Wyoming Public Schools. The instructional program established to achieve this purpose demands free discussion of issues including discussion of those issues that may be considered controversial. Free discussion of controversial issues is the heart of the democratic process. Freedom of speech and the free access to information are among our most cherished American traditions. For the Wyoming Public Schools the policy on controversial issues is defined in terms of the rights of pupils rather than in the terms of the rights of teachers. In the study of controversial issues in our schools the pupil has four (4) rights to be recognized:

- The right to study any controversial issue which has political, economic, or social significance and concerning which, at the student's level of maturity, he should begin to have an opinion.
- The right to have free access to all relevant information, particularly those materials that circulate freely in the community.
- The right to provide competent instruction in an atmosphere free from bias, prejudice, and external pressures.
- The right to form and express his own opinions on controversial issues without thereby jeopardizing his relations with his teachers or the school.

The study of controversial issues is objective and scholarly with a minimum emphasis on opinion. The teacher should approach controversial issues in the classroom in an impartial and unprejudiced manner and must refrain from using his classroom privileges and prestige to promote a partisan point of view. Good teaching of subjects containing controversial issues requires more skill than most other kinds of teaching and, so far as possible, only teachers of broad experience and superior ability are to be assigned subjects in which a large body of the material involves controversy.

FRANKLIN AREA SCHOOL DISTRICT
FRANKLIN, PENNSYLVANIA

Between the Board of Education of Franklin Area School District and Franklin Area Education Association, effective July 1, 1974, to June 30, 1976. Approximately 185 certificated professional employees in the collective bargaining unit.

COMPENSATION: (1974-75) B.A., $8,000 to $13,350, 16 increments; M.A., $8,350 to $14,050, 17 increments; M.A. plus 24 hours, $14,300 maximum; retirement bonus will be paid to those employed 10 years in the school system before retirement at the rate of $50 per year; teachers assigned to evening school, summer school, and or home bound instruction will be compensated at the rate of $6.50 per hour.

DIFFERENTIALS: (3 increments with 10% increments in 4th, 6th, and 8th years). Head football coach, basketball coaches, $1,400-1,600; junior varsity football coach, assistant head track coach, $800-1,000; junior varsity assistant football coach, junior high head basketball coach, assistant varsity track coach, girls' head basketball coach, assistant head wrestling coach, $700-900; girls' track, $600-800; girls' volleyball, $500-700; extracurricular activities: high-school marching band director, $500; head-school marching band assistant director, junior class advisor, student council (senior high), broadcast (musical), stage crew, $300; American Field Service, pep band, $200; National Honor Society, Debate Club, Future Teachers, $100.

When an athletics employee moves to a higher position within a sport, he will receive additional compensation of at least $100; any athletics employee who currently receives a higher salary than his position calls for in the schedule above will retain that salary until he resigns that particular position.

OTHER: Substitute teachers may be volunteers or assigned teachers who will be paid as follows:

$$\frac{\text{Salary}}{183} = \text{daily rate}$$

$$\frac{\text{Daily rate}}{\text{Number of periods}} = \text{period rate}$$

1–1/2 X period rate – Scale of each period that a teacher is used as substitute.

15¢ per mile for travel expenses.

LEAVE: Ten days' annual leave, the first 5 days credited on the opening day of the school year "beyond the state mandated ten (10) days; said five (5) days shall be used only after the mandated accumulated sick leave days are exhausted; the unused portion of all sick leave allowance shall be cumulative without limitation; only the accumulated sick leave which is mandated by the School Code of 1949 as amended shall be transferable to another school district"; two days' personal leave with pay for legal, business, household, family, or emergency matters upon written notification at least 24 hours in advance; unused personal leave days cumulative up to 4 days; up to 3 days with pay for professional conferences, school visitations, and business of benefit to the school district; sabbatical leave requests to be submitted at least 30 days in advance; sabbatical leave at ½ pay with quarterly progress reports; sabbatical leave limited to 10% of the number of persons eligible; maternity leave will be determined jointly by the employee and the employee's physician; the superintendent is to be notified no later than 120 days following the physician's certification of pregnancy; employee may choose not to use accumulated sick leave, or if sick leave expires, she will be permitted to continue to receive all fringe benefits by remitting the cost of the benefits to the board; athletics coaches and directors will be provided up to 20 days of professional leave per school year; the board will provide at its expense substitute teachers for those athletics employees taking such leave.

INSURANCE: Board pays all but $.50 toward the monthly premium for individual coverage and all but $1.00 toward the monthly premium for dependent coverage for group health insurance; board-paid life insurance coverage of $10,000; payroll deduction for charitable contributions, insurance, annuities, and government bonds; accident insurance will cover each driver education teacher for the amount of $10,000 if death occurs.

ASSOCIATION: Dues deduction for local, state, and national organizations; leave granted to attend conferences or conventions of state and/or national organization upon 10 days' advance notification; school equipment, bulletin boards, and interschool mail and mail boxes may be provided without charge as long as extra custodial help is not required.

ASSOCIATION RIGHTS

Access to Information

The Board agrees to furnish to the Association in response to reasonable requests from time to time all information concerning the financial resources of the District which is otherwise publicly available or a matter of public record. In addition, the Board will make available to the Association those materials legally required as part of the Association's function as the collective bargaining agent. Further, the representative of the Association who attends a regular or special meeting of the Board shall be provided with a complete agenda of said meetings.

Released Time for Meetings

Whenever any member of the Bargaining Unit is required by the Board to participate during working hours in meetings or conferences in connection with negotiations or grievance proceedings, he shall suffer no loss in pay. This provision shall not be construed, however, to require the Board at any time to meet for such purposes during normal working hours.

Notice of Meetings

An agenda of any general or building faculty meeting shall be given to the employees involved at least three (3) days prior to said meeting with the understanding that additions to the agenda may be necessary before said meeting. The Association shall have the opportunity to suggest items for the agenda.

INSTRUCTION: An effort will be made to limit the number of preparations to no more than 3 per day for secon-

dary teachers, but with at least 5 preparations per week; elementary teachers will have daily preparation time with a minimum of 200 minutes per week; 30 minutes duty-free lunch with right to leave the school premises upon oral notification; secondary teachers' teaching load limited to 30 teaching periods per week, including laboratory work; the school day will not exceed 7-½ consecutive hours, but a tolerance of 15 minutes will be allowed at the beginning and the end of the day if the bus schedule cannot be adjusted; the school calendar will consist of 180 days when pupils are in attendance and 3 inservice days to include evening Open House Programs; compensation for each day in excess of school work year of 183 shall be at the rate of 1/183 of the employee's regular yearly salary. Special instructional programs in adult education will depend upon enrollment and availability of teachers.

PERSONNEL: Grievance procedure ends with final and binding arbitration; right to review personnel file and to confer with the persons responsible for reports which are to be signed by the teacher acknowledging the review of all documents and expressing an understanding of their contents; faculty meetings will not exceed 1/2 hour; meet and discuss procedure meetings intended to revise and develop building policies will be conducted in private and only with those who have an interest or responsibility for them.

TUITION REIMBURSEMENT

The Board shall pay the cost of graduate credit hour to each employee for graduate credit hours earned during or subsequent to the 1974-1975 school year, subject to the following limitations:
Payment per graduate credit hour will be limited to six (6) credits per year per employee with the exception that during the first three (3) years of teaching employment (not necessarily in the district), the limit shall be twelve (12) credits per year per teacher. During the school year, payment will be limited to three (3) credit hours per semester unless the teacher obtains prior written approval from the Superintendent.

Teachers must obtain advance approval in writing on the appropriate forms from the Superintendent to register for courses when the Board payment per credit is desired.

A grade acceptable to the college or university attended must be achieved, and an official transcript must be filed in the central office, along with a copy of a receipt indicating cost of credits, before such payment shall be made. Payment shall be made in a lump sum within thirty (30) days after submission of transcript and a copy of receipt of payment for credits.

Request for transfer must be in writing to the superintendent and must give reasons for transfer, the school grade or position sought, and the applicant's academic qualifications; when a vacancy arises or is expected, employees will be notified at least 3 weeks before the position is to be filled; protection of teacher in cases of assault, each case to be handled upon its individual merit.

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Text

INSTRUCTIONS FOR FILING EQUAL EMPLOYMENT OPPORTUNITY COMMISSION ELEMENTARY-SECONDARY STAFF INFORMATION REPORT EEO-5

Federal law requires that the Equal Employment Opportunity Commission (EEOC) and the Office for Civil Rights (OCR) of the Department of Health, Education and Welfare (HEW) prescribe such records and reports as are necessary for the enforcement of the Civil Rights Act of 1964. Accordingly this report is required by the OCR to carry out the purposes of Title VI of the Act and by EEOC to carry out the purposes of Title VII as amended by the Equal Employment Opportunity Act of 1972.

This compliance reporting system is being implemented by the School Reporting Committee (EEO-5) in a joint effort between EEOC, OCR and the National Center for Educational Statistics of the Office of Education (HEW) for the collection of employment data of public elementary and secondary school systems or districts and schools. The applicable laws, and regulations issued respectively by the EEOC and OCR pursuant to such laws are reprinted in section 4 of the Appendix. The bases for the requirement of these data by the Office of Education are also explained in that section of the Appendix.

1. RECORD-KEEPING AND FILING REQUIREMENTS.

Every public elementary and secondary school system or district, including every individually or separately administered district within a system, and every separately administered school, with 15 or more employees, and every individual school regardless of its size, within such system or district, is required to make or keep all records necessary for completing and filing the report EEO-5, whether or not it is required to file the report in any particular year.

The School Reporting Committee will determine each year which of these systems, districts, and schools will be required to file report EEO-5, and will notify them of that fact when it mails them the forms.

2. WHEN TO FILE.

Employment statistics should cover the payroll period closest to October 1 of the reporting year and the reports should be filed no later than October 15, 1974.

3. WHERE TO FILE.

The completed reports should be forwarded to the P.O. Box indicated on the form. All requests for additional report forms should also be directed to this address.

4. HOW TO FILE.

A report must be filed covering the employment data of all the administrative and other functions of the system and the combined employment data of all the schools within the system regardless of the employment size of individual schools. A report must also be filed for each elementary or secondary school within the system or district.

Forms will be sent directly to the school system or may be transmitted to the system through the State Education Agency. In those jurisdictions where all the data are available at a single location, reports for individual schools and the aggregate report for the system or district may be completed and certified by the central office. Where data are not available at a single location, reports should be obtained by the central office from individual schools. In such cases certification will be made by a school official.

5. REQUESTS FOR INFORMATION AND SPECIAL PROCEDURES

A school, school system or district which believes that preparation or the filing of report EEO-5 would create an undue hardship may apply to the Commission for a special reporting procedure, submitting a written alternative proposal for compiling and reporting the required information. Only those special procedures *approved in writing* by the Commission are authorized. Such authorization will remain in effect until notification of cancellation is given.

Direct all requests for special reporting procedures and other information to: School Reporting Committee, EEO-5—Attention: Office of Research, 1800 G Street, N.W. Washington, D.C. 20506.

6. INSTRUCTIONS FOR FILING EEO-5

A. TYPE OF REPORT

Check whether the report is for a school system, an individual school, or another type of educational agency. Specify type of agency if other than system or school. If it is for a separate school facility or for an annex, specify next to "Other."

(1) School System or School District Report

The report for the school system must provide summary data for all personnel employed by the school system either full-time or part-time, regardless of the location of the person's assignment to a school or other unit of the school system. Full-time personnel must be reported in Part II-A of the report; part-time personnel are to be reported in Part II-B. It is important to note that if a person is employed on a full-time basis by the school system, but assigned to one or more schools on a part-time basis in each, that person must be reported as a full-time employee on the school system report but as a part-time person on the school report. Anyone employed part-time and assigned part-time to a school must be reported as part-time on both the school system and school reports where he or she is assigned.

(2) School Report

A report must be filed for each school and each classroom facility if in a separate location from the school operated by the school system. See definition of "School" in section 1 of the Appendix.

Persons assigned full-time to the school must be reported in Part II-A of the matrix. Persons assigned part-time to the school, regardless of whether they are employed full-time by the school system, must be reported in Part II-B of the matrix.

B. DATA TO BE REPORTED

Part I—IDENTIFICATION INFORMATION

A. Type of Agency Which Operates the Reporting School System or School.

Check the agency which operates the reporting unit (School System or School) and which has the responsibility or ultimate authority for the employment or dismissal of a member or members of the staff.

B. School System Identification

Enter the school system name and address whether the report is for the system as a whole (the aggregate report) or it is for an individual school or for a separate classroom facility. In addition enter the number of schools operated by the system. *Do not* count a separate classroom facility or annex as a school in reporting the number of schools.

C. School Information

1. **Identification**
   Enter the school name and address.

2. **Grades Offered**
   Place an "X" in *each* of the boxes corresponding to the grades taught in the school or separate school facility or annex. Also enter the total enrollment as of October 1 of the current year or the nearest date thereto when enrollment is considered to be stabilized.

3. **Assignment of Principal**
   If a principal is assigned to the school for which this report is intended, complete all the applicable items in this section.

Part II—STAFF STATISTICS

These series of items will reflect the full-time, part-time and new hires by the activity assignment classification as shown in the stub of the matrix, by sex for each of the designated racial/ethnic categories in columns A through L for either the system's report or the individual school's report.

A. Full-Time Staff (See section 2 of Appendix for definitions of assignment classifications)

Lines 1-19 should include all full-time employees, except for elected and certain appointed officials (as explained in the definition of "Employee" in section 1 of the Appendix). In the school system report, include in these statistics all full-time employees of the system, whether or not they are assigned part-time to one or more schools. On the other hand part-time employees of a school should not be counted as full-time employees in the school's report, even if they are full-time employees of the school system. With the exception of persons required to be reported on line 9, *Psychological*, report employees having multiple-activity assignments, such as teacher-counselor or similar combinations as is frequently the case in guidance, library, audio-visual, etc., as full-time in the assignment in which they spend at least 51 percent of the time. If the employee spends exactly 50 percent of the time in one of two assignments report him or her as full-time in the more critical one. If the time is distributed between more than two assignments, report the employee as full-time in the one in which he or she spends the major portion of the time or in the more critical one if the time is evenly distributed.

B. Part-Time Staff

Lines 20 through 22 should include statistics for all part-time employees. In a report for a school, these will include persons assigned part-time to that school, even though employed full-time by the school system.

C. New Hires

Lines 23-28 should include the number of full-time staff who have been newly hired by the school or the school system between July 1 and October 1 of the current year, for each of the assignment classifications listed. Use the definition of full-time shown in the Appendix for reporting new hires in school systems and individual schools. Do not report as a new hire an employee who has been on sabbatical or any other type of leave which is not considered a break in service, nor should anyone involved in a change in job category or promotion be reported as a new hire.

7. PRESERVATION OF RECORDS MADE OR KEPT

The EEO-5 report requires the combining of some data to complete the form. Separate agency-employment data by sex and race/ethnic identification in those job categories should be maintained on site in such form as is required in the EEO-5 report, and should be available upon request to representatives of federal agencies. Copies of submitted EEO-5 forms should be retained for a period of 3 years.

8. CERTIFICATION

Enter the telephone number (include area code and extension, if any), name, title, and signature of the person who is responsible for the report and can answer questions about it.

9. PUBLICATION OF EEO-5 DATA

The three organizations that sponsor EEO-5 operate under different legislative authorities and have different plans for publication.

The authority of the Equal Employment Opportunity Commission enables it to obtain all the data items in Part II of the form. The items which the Office for Civil Rights is authorized to obtain are shown in the copy of the form that is marked for its use. The Office of Education is authorized only to obtain totals by activity assignment as presented in column "M" of the form.

Within these limitations, all three organizations plan to publish or otherwise make available statistics combining school systems into geographic aggregates, such as states, regions, etc. As restricted by Section 709(e) of the Civil Rights Act of 1964, the EEOC will not publish any data other than such aggregates.

The Office for Civil Rights may, as in some of its previous surveys, publish data by school system and for individual schools. The Office of Education will publish only individual school system data for those systems that have not indicated on the form that they are withholding authority for such publication.

APPENDIX

1. DEFINITIONS

a. **"EEOC"** refers to the Equal Employment Opportunity Commission established under Title VII of the Civil Rights Act of 1964.

b. **"OCR"** refers to the Office for Civil Rights, Department of Health, Education and Welfare.

c. **"OE"** refers to the Office of Education, Department of Health, Education and Welfare.

d. **"School Reporting Committee (EEO-5)"** refers to an interagency committee representing EEOC, OCR, and OE for the purpose of jointly sponsoring Report EEO-5 and preventing any duplication of requirements by these agencies for employment statistics from institutions of elementary and secondary education.

e. **"School system or district"** refers to the political jurisdiction, or a dependent agency of a political jurisdiction charged with the responsibility for the operation of elementary and/or secondary schools within given geographic boundaries.

f. **"School"** refers to a division of the school system or district consisting of a group of pupils in one or more grade groups organized as a unit with one or more teachers to give instruction of a defined type and housed in a school plant of one or more buildings.

If a school has classroom facilities in more than one geographical location, a separate school report must be filed for each separate campus location or annex.

g. **"State educational agency"** refers to an agency of a State government that has some functional or jurisdictional relationship to the operations of the school systems or districts within the State.

h. **"Employed"** refers to a person employed by a school system or district, or a school, or a State-educational agency. This term shall not include any person elected to public office in a State or political subdivision of a State by the qualified voters thereof, or any person appointed by such officer to be on such officer's personal staff, or an appointee at the policy-making level, or an immediate adviser with respect to the exercise of the constitutional or legal powers of the office. However, this exemption shall not include employees subject to the civil service laws of a State government, government agency, or political subdivision.

i. **"Full-time employees"** refers to persons employed on a full-time basis during the pay period. These are the staff members of the school or the school system or district whose current assignments require their services at the school campus or who work for the school system or district for the whole day everyday (excluding temporary and substitute employees).

j. **"Part-time employees"** refers to persons employed during this pay period who are usually engaged for less than the regular full-time work week. Do not include temporary, or substitute employees.

k. **"New hires"** refers to persons who were hired for the first time or after a break in service for full-time employment by the particular school system or school between July 1st and September 30th of the current year.

2. **ASSIGNMENT CLASSIFICATIONS** (Lines 1 through 28 of Part II of the form.)

a. Line 1—**Officials, Administrators and Managers:** These are occupations requiring administrative personnel who set broad policies (not elected or appointed officials), exercise overall responsibility for execution of these policies, or direct individual departments or special phases of the school system, or district or school operations. Include in this category superintendent of schools, deputy, associate, and assistant superintendent of schools, school business officials, and other professional administrative staff. (DO NOT include principals, assistant principals or supervisors of instruction). Supervisors of service workers, skilled crafts and laborers should be reported (counted) in their corresponding categories.

b. Line 2—**Principals:** Staff members performing the assigned activities of the administrative head of their respective schools (not school systems or districts) to whom has been delegated responsibility for the coordination and direction of the activities of the school.

c. Lines 3 and 4—**Assistant Principals:**
(1) **Teaching:** Staff members who in addition to assisting the head of a school (normally the principal) in performing the activities of directing and managing schools are also engaged in instructing pupils in courses in classroom situations.
(2) **Non-Teaching:** Assignment of staff members to perform only the professional activities of assisting the head of a school (normally the principal) in performing the activities of directing and managing a school.

d. Lines 5, 6 and 7—**Classroom Teachers:** Staff members assigned the professional activities of instructing pupils in courses in classroom situations for which daily-pupil attendance figures for the school system are kept. Include in this category music, band, physical education, and home economics teachers, etc., as classroom teachers if they teach full-time at a school campus. Report classroom teachers separately for elementary, secondary or other. Use the local school system's definition of elementary and secondary. If a teacher has responsibility at both the elementary and secondary levels, report the teacher at one level only. DO NOT report the teacher as ½ elementary and ½ secondary. "Other Classroom Teachers" applies to full-time classroom teachers who teach ungraded classes, special education, art, music, band, physical education, home economics, etc., who have not been reported in the elementary or secondary classroom teacher categories.

e. Line 8—**Guidance:** Include staff members responsible for advising pupils with regard to their abilities and aptitudes, educational and occupational opportunities, personal and social adjustments, etc.

f. Line 9—**Psychological:** Include only the following individuals: psychologists, psychometrists, psychiatrists and psychological-social workers who are engaged in providing psychological evaluative services to pupils *for placement purposes* regardless of the amount of time spent in this activity. All other professionals engaged in placement of pupils should be reported in their most pertinent category in Part II-A such as item 1 (Officials/Administrators/Managers), item 8 (Guidance) or item 12 (Other Professional Staff), etc.

g. Line 10—**Librarian and Audio-Visual:** Librarians include staff members responsible for organizing and managing school libraries. Audio-visual personnel include staff members responsible for preparing, caring for, and making available to instructional programs, the equipment, materials, scripts, and other aids which assist teaching and learning through special appeal to the senses of sight and hearing, e.g., director of audio-visual services, scriptwriter, etc.

h. Line 11—**Consultants and Supervisors of Instructions:** Include staff members performing activities of leadership, guidance, and expertness in a field of specialization for the purpose of improving the performance of teachers and other instructional staff members.

i. Line 12—**Other Professional Staff:** Include staff members performing some instructional or related function on a full-time basis that cannot be properly classified for reporting on lines 2 through 11, such as non-classroom teachers who may be teaching the homebound, teaching through correspondence, teaching through radio or television from a studio, providing instruction for exceptional pupils released from regular classes for short periods of time, and instructing pupils in non-course (cocurricular) activities. Include persons engaged in psychotherapy and other mental health services such as psychiatrists or psychologists who are not reported in Part II-A, item 9 (See paragraph f above). Also included are professional non-instructional staff (not officials/administrators, etc.) such as physicians, dentists, speech therapists, school social workers, community workers, attendance officers, attorneys, architects, engineers, registered professional nurses and other professional noninstructional personnel.

j. Line 13—**Teacher Aide:** A staff member performing assigned activities which are not classified as professional educational, but which assist a staff member to perform professional-educational-teaching assignments. Include all personnel working with students under the direct supervision of a classroom teacher or under the direct supervision of a staff member performing professional-educational-teaching assignments on a regularly scheduled basis. In other words, aides who participate on a regularly scheduled basis in the formal educational effort directed toward the student and/or whose impressions of student educational progress or needs may contribute to the formal authorized educational evaluation of students should be classified as Teacher Aides.

Examples:

(1) Librarian aide
(a) A librarian aide who functions to fulfill particular educational needs of specific students on a regularly scheduled basis should be reported as a teacher aide.

(b) A librarian aide who functions essentially as a clerical or physical aide to the librarian and whose contact with particular students is casual or irregular should be counted in the assigned dept—Librarian and Audio Visual—line 10.

(2) Playground aide

(a) A playground aide who has been advised by the professional staff of the particular educational needs of specific children and who regularly directs efforts toward meeting these needs should be counted as a teacher aide.

(b) A playground Aide whose prime function is custodial should be counted as a service worker—line 16.

Line 14—**Technicians:** Occupations requiring a combination of knowledge and manual skill which can be obtained through about 2 years of post-high school education, such as is offered in many technical institutes and junior colleges, or through equivalent, on-the-job training. Includes: computer programmers and operators, film inspectors, projectionists, graphic artists, draftsmen, engineering aides, non-teaching-related mathematical aides, licensed, practical or vocational nurses, dietitians, photographers, radio operators, scientific assistants, technical illustrators, technicians (medical, dental, electronic physical sciences), and similar occupations which cannot be properly classified in other activity assignments.

l. Line 15—**Clerical/Secretarial:** These are occupations requiring skills and training in all clerical-type work including activities such as preparing, transcribing, systematizing, or preserving written communications, and reports or operating such mechanical equipment as bookkeeping machines, typewriters and tabulating machines. Includes: bookkeepers, messengers, office machine operators, clerk-typists, stenographers, court transcribers, hearing reporters, statistical clerks, dispatchers, license distributors, payroll clerks and kindred workers.

m. Line 16—**Service Workers:** (paraprofessionals and persons in cafeteria maintenance, transportation, etc.): Staff members performing a service for which there are no formal qualifications including paraprofessionals and nonsupervisory personnel in cafeteria, or transportation work. Include also custodial or others with the responsibility for cleaning the buildings of school plants or supporting service facilities; maintenance and operating such equipment as heating and ventilating systems; preserving the security of school property; and keeping the school plant safe for occupancy and use. Such activities may include cleaning, sweeping, disinfecting, heating, lighting, moving furniture, keeping school entrances appropriately locked or unlocked, keeping such facilities as fire escapes and panic bars in working order, and watchmen duties.

n. Line 17—**Skilled Crafts:** Occupations in which workers perform jobs which require special manual skill and a thorough and comprehensive knowledge of the processes involved in the work which is acquired through on-the-job training and experience or through apprenticeship or other formal training programs. Includes: mechanics and repairmen, electricians, heavy equipment operators, stationary engineers, skilled machining occupations, carpenters, compositors and typesetters and kindred workers.

o. Line 18—**Laborers:** Staff members who perform manual labor not classified in another activity assignment classification. Includes garage laborers, car washers and greasers, gardeners and groundskeepers or activities such as lifting, digging, mixing, loading and pulling operations.

o. Line 20—**Professional Instructional:** This classification (required under B. Part-Time Staff) should include all the activity assignment classifications listed in numbers 2 to 12 under A. Full-Time Staff in Part-II of the form.

3. RACE/ETHNIC IDENTIFICATION

You may acquire the race/ethnic information necessary for this report either by visual surveys of the work force, or from post-employment records as to the identity of employees.

Eliciting information on the racial or ethnic identity of an employee by direct inquiry is not encouraged. An employee may be included in the minority group to which he or she appears to belong, or is regarded in the community as belonging.

Where records are maintained, it is recommended that they be kept separately from the employee's basic-personnel file or other records available to those responsible for personnel decisions.

Since visual surveys are permitted, the fact that race/ethnic identifications are not present on employment records is not an excuse for failure to provide the data called for.

Moreover, the fact that employees may be located at different addresses does not provide an acceptable reason for failure to comply with the reporting requirements. In such cases, it is recommended that visual surveys be conducted for the employer by persons such as supervisors who are responsible for the work of the employees or to whom the employees report for instructions or otherwise.

Please note that conducting a visual survey and keeping post-employment records of the race or ethnic origin of employees is legal in all jurisdictions and under all Federal and State laws. State laws prohibiting inquiries and recordkeeping as to race, etc., relate only to applicants for jobs, not to employees.

Race/Ethnic designations as used by the Equal Employment Opportunity Commission do not denote scientific definitions of anthropological origins. For the purposes of this report, an employee may be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging. However, no person should be counted in more than *one* race/ethnic group.

White should include persons of Indo-European descent including Pakistani and East Indian.

Black should include persons of African descent as well as those identified as Jamaican; Trinidadian, and West Indian.

Spanish Surnamed should include all persons of Mexican, Puerto Rican, Cuban, Latin American or Spanish descent. Spanish Surnamed, while not a race identification, is included as a separate ethnic category because of the employment discrimination often encountered by this group. For this reason do not include Spanish Surnamed under either White or Black.

American Indian should include persons who identify themselves or are known as such by virtue of tribal association.

Asian American should include persons of Japanese, Chinese, Korean or Filipino descent.

Other should include Aleuts, Eskimos, Malayans, Thais and others not covered by the race/ethnic groups on the form.

4. LEGAL BASIS FOR REPORTING REQUIREMENTS; RECORDKEEPING REGULATIONS

Equal Employment Opportunity Commission

a. Section 709(c), Title VII, Civil Rights Act of 1964 (as amended).

Every employer, employment agency, and labor organization subject to this title shall (1) make and keep such records relevant to the determinations of whether unlawful employment practices have been or are being committed. (2) preserve such records for such periods, and (3) make such reports therefrom, as the Commission shall prescribe by regulation or order, after public hearing, as reasonable, necessary, or appropriate for the enforcement of this title or the regulations or orders thereunder.

b. Chapter XIV, Title 29, Code of Federal Regulations

Subpart L—Public Elementary and Secondary School Systems, Districts, and Individual Schools Recordkeeping

Sec. 1602.39 Records to be made or kept.

On or before October 15, 1973, and annually thereafter, every public elementary and secondary school system or district, including every individually or separately administered district within a system, with 15 or more employees and every individual school within such system or district, regardless of the size of the school shall make or keep all records and information therefrom which are or would be necessary for the completion of report EEO-5 whether or not it is required to file such a report under Sec. 1602.41. The instructions for completion of report EEO-5 are specifically incorporated herein by reference and have the same force and effect as other sections of this part.[1] Such records and the information therefrom shall be retained at all times for a period of 3 years at the central office of the elementary or secondary school system or district, or at the indiviudal school which is the subject of the records and the information therefrom, where more convenient, and shall be made available if requested by an officer, agent, or employee of the Commission under section 710 of Title VII, as amended. It is the responsibility of every such school system or district, to obtain from the Commission or its delegate necessary instructions in order to comply with the requirements of this section.

Sec. 1602.40 Preservation of records made or kept.

(a) Any personnel or employment record made or kept by a school system, district, or individual school (including but not necessarily limited to application forms submitted by applicants and other records having to do with hiring, promotion, demotion, transfer, layoff, or termination, rates of pay or other terms of compensation, and selection for training or apprenticeship) shall be preserved by such school system, district, or school, as the case may be, for a period of 2 years from the date of the making of the record or the personnel action involved, whichever occurs later. In the case of involuntary termination of an employee, the personnel records of the individual terminated shall be kept for a period of 2 years from the date of termination. Where a charge of discrimination has been filed, or an action brought against an elementary or secondary school by the Commission or the Attorney General, the respondent elementary or secondary school system, district, or individual school shall preserve similarly at the central office of the system or district or individual school which is the subject of the charge or action, where more convenient, all personnel records relevant to the charge or action until final disposition thereof. The term "personnel record relevant to the charge," for example, would include personnel or employment records relating to the person claiming to be aggrieved and to all other employees holding positions similar to that held or sought by the person claiming to be aggrieved; and application forms or test papers completed by an unsuccessful applicant and by all other candidates for the same position as that for which the person claiming to be aggrieved applied and was rejected. The date of "final disposition of the charge or the action" means the date of expiration of the statutory period within which a person claiming to be aggrieved may bring an action in a U.S. district court or, where an action is brought against a school system, district, or school either by a person claiming to be aggrieved, the Commission, or the Attorney General, the date on which such litigation is terminated.

(b) The requirements of this section shall not apply to application forms and other pre-employment records of applicants for positions known to applicants to be of a temporary or seasonal nature.

Subpart M—Elementary-Secondary Staff Information Report

AUTHORITY—Sec. 709(c), 78 Sta. 265, 42 U.S.C. sec. 2000e-8(c); 29 CFR 1602.3.

Sec. 1602.41 Requirement for filing and preserving copy of report.

(a) On or before October 15, 1974, and annually thereafter, certain public elementary and secondary school systems and districts, including individually or separately administered districts within such systems, and individual schools within such systems or districts shall file with the Commission or its delegate executed copies of Elementary-Secondary Staff Information Report EEO-5 in conformity with the directions set forth in the form and accompanying instructions. The elementary and secondary school systems and districts covered are: (1) every one of those which have 100 or more employees, and (2) every one of those others which have 15 or more employees from whom the Commission requests the filing of reports. Every such elementary or secondary school system or district shall retain at all times, for a period of 3 years, a copy of the most recently filed EEO-5 at the central office of the school system or district, or the individual school which is the subject of the report, where more convenient, and shall make the same available if requested by an officer, agent, or employee of the Commission under the authority of section 710 of Title VII, as amended. It is the responsibility of the school systems or districts above described in this section to obtain from the Commission or its delegate necessary supplies of the form.

(b) For calendar year 1973, the requirements of paragraph (a) of this section shall be carried out on or before November 30, 1973.

Sec. 1602.42 Penalty for making of willfully false statements on report.

The making of willfully false statements on report EEO-5 is a violation of the United States Code, title 18, section 1001, and is punishable by fine or imprisonment as set forth therein.

Sec. 1602.43 Commission's remedy for school systems, districts', or individual schools' failure to file report.

Any school system, district, or individual school failing or refusing to file report EEO-5 when required to do so may be compelled to file by order of a U.S. district court, upon application of the Commission or the Attorney General.

Sec. 1602.44 School systems', districts', or individual schools' exemption from reporting requirements.

If it is claimed that the preparation or filing of the report would create undue hardship, the school system, district, or individual school may apply to the Commission for an exemption from the requirements set forth in this part by submitting to the Commission or its delegate a specific proposal for an alternative reporting system prior to the date on which the report is due.

Sec. 1602.45 Additional reporting requirements.

The Commission reserves the right to require reports, other than that designated as the Elementary-Secondary Information Report EEO-5, about the employment practices of private or public individual school systems, districts, or schools, or groups thereof, whenever, in its judgment, special or supplemental reports are necessary to accomplish the purposes of Title VII. Any system for the requirement of such reports will be established in accordance with the procedures referred to in section 709(c) of Title VII and as otherwise prescribed by law.

Subpart N—Records and Inquiries as to Race, Color, National Origin, or Sex

Sec. 1602.46 Applicability of State or local law.

The requirements imposed by the Equal Employment Opportunity Commission in these regulations, subparts L and M of this part, supersede any provisions of State or local law which may conflict with them.

[1] Note.—Instructions were published as an appendix to the proposed regulations on June 12, 1973 (38 F.R. 15463).

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NEGOTIATION RESEARCH DIGEST

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CASE REVIEWS

CALIFORNIA

Winton Act Bars School Boards from Adopting Binding "Memorandum of Agreement" on Terms and Conditions of Employment

According to the Court of Appeals, the Winton Act prohibits boards of education and school districts from adopting or ratifying agreements which deprive them of their authority to unilaterally establish terms and conditions of employment. Dismissing the contentions of the Certificated Employees Council of the Jefferson Elementary School District, the court held that the Act does not deprive teachers of their freedom of association under the First Amendment to the federal Constitution since it does not deprive them of any rights which they may possess as individuals. However, public-school teachers have no right to bargain collectively under state or federal law. The court decision declared the contract between the Council and the district to be null and void.

When a teacher, acting on the basis of the arbitration provision, requested that a wage dispute be submitted to arbitration, the school district filed suit in a lower court petitioning to have the agreement declared null and void on the grounds that it was a binding collective bargaining agreement and, therefore, illegal under the Winton Act which prohibits school boards from entering into binding contracts with representatives of "certificated employees." The Council argued that the agreement "was not a contract, but rather a proposal of provisions adopted by the Board as part of its rules and regulations" which by adoption became incorporated into individual contracts with new teachers.

A lower court ruled that the whole agreement was void, and, therefore, its binding arbitration provision was void and the teacher had no legal basis to request arbitration.

The Council appealed to the Court of Appeals requesting the court to reverse the lower court's decision on the grounds that (a) the agreement was not a contract; (b) the agreement was invalid because it violated the teacher's right of association under the First Amendment; (c) the agreement could not be entirely invalidated since it contained a severability clause and many of the provisions were within the board's power to adopt; and (d) the arbitration provision was valid, irrespective of the remainder of the agreement.

Ruling in favor of the district, the court said that the entire agreement was invalid since it was a binding agreement which deprived the board of its power to establish terms and conditions of employment, and, therefore, constituted an improper delegation of legislative authority by the board under the Winton Act. According to the court, that Act does not violate teachers' rights under the First Amendment since (a) it allows them to meet and confer with school boards and make recommendations; (b) public-school teachers have no right to bargain collectively under the First Amendment; and (c) the Act does not deprive teachers in an association of any rights they possess as individuals since it deprives school boards of the power to make binding agreements with individual teachers as well as their associations. Finally, the court held that since the agreement as a whole was invalid, individual provisions in it were necessarily inoperative, including the provision regarding binding arbitration. (*Jefferson Elementary School District v. Bent*, California Court of Appeals, September 24, 1974.)

DELAWARE

No Injunction Issued in the Absence of Teacher Strike

In the absence of a strike or evidence that the Delaware State Education Association had the intention or the opportunity to engage in such a concerted activity, the New Castle County Court of Chancery refused to grant the injunction sought by the State of Delaware and the Delaware State Board of Education. However, the court indicated that it would grant an injunction if a strike were to occur. Rejecting the Association's contentions, the court held that the "irreparable harm" of interfering with the right of children to go to school could not be legalized by the use of a personal leave day, and warranted the issuance of injunctions which the courts could not avoid because of the "complexity" of labor disputes. However, while stressing that normally teachers should respond to an employer's illegal actions by seeking legal remedies, the court noted that some "unclean action" by an employer might serve as grounds for denying an injunction.

After teachers returned to work following a one-day state-wide boycott, the state and the board requested the New Castle County Court of Chancery to issue an injunction ordering the Association and its members to refrain from similar work stoppages or strikes in the future.

The Association contended that its boycott was not an illegal strike but a "job action" since teachers had utilized the one day of personal leave allowed them under state law

to conduct their protest. In addition, the Association argued that an injunction should not be issued automatically even if a strike was in progress, and cited previous decisions from other states which held that teacher strikes did not cause irreparable harm, that the courts should not issue an injunction on behalf of an employer who had provoked a strike by violating his duty to negotiate in good faith, and that the courts should avoid getting involved with labor disputes.

While denying the injunction, the court, rejected all of the Association's contentions. The court noted that the state legislature did not allow teachers a personal leave day in order to legalize strikes, and that strikes were illegal and caused irreparable harm since they interfered with "the right and duty of children to attend school" and that courts could not avoid enforcing the law because of the complexity of labor disputes.

However, while stressing that legal action rather than strikes should be the normal response of teachers to illegal actions by an employer, the court added that "one might imagine a case," where an injunction might be denied, because of some "unclean action" by an employer.

Finally, the court held that an injunction could not be issued in the absence of evidence that the Association or its members had the intention or the opportunity to engage in a strike or work stoppage, and that such an injunction would be futile since the Association had already returned to work. (*The State of Delaware, Delaware State Board of Education, et. al. v. Delaware State Education Association, et. al.*, New Castle County Court of Chancery, October 2, 1974.)

ILLINOIS

Provisions Not Binding Until Legality Clarified

In an unusual suit brought by the East St. Louis Teachers Association in behalf of itself and the employer, School District #189, the Illinois Circuit Court, on appeal from a lower court, declared that no legal issues could arise under certain contract provisions which were not binding on the parties until a court ruled on their legality.

The issue stemmed from an agency shop provision in the collective bargaining agreement which had been withheld from taking effect, pending a court determination of its legality.

Alleging that the parties were in doubt as to the meaning of the provision in question, the union sought from the trial court a declaratory judgment concerning the rights and liabilities of the parties in accordance with the Civil Practice Act. Admitting all of the allegations, the board argued that the agency shop provision was in violation of the Act in that it required union membership as a condition for continued employment. The trial court, however, dismissed the action for want of jurisdiction.

The issue before the circuit court was to determine whether or not the trial court erred in dismissing the case. The court noted that although contractual provisions are a subject of inquiry, there must be a controversy between the parties before a declaration of rights can be made. It further observed that the declaratory judgment procedure is not intended to permit moot or hypothetical cases, or to enable parties to secure advisory opinions or legal advice from the court with respect to expected difficulties. (*Meyer v. Madison County*)

On the basis of the foregoing considerations, the court concluded that it was not within its province to make a determination on matters arising under a contract which was not binding. (*East St. Louis Teachers Association vs. School District #189*, Illinois Circuit Court, May 16, 1974.)

MISSOURI

Teachers' Strike Understandable and Not a Bar to the Enforcement of a Valid Procedural Agreement

The Circuit Court of St. Louis held that in spite of the absence of statutory collective bargaining, a procedural agreement between the Hazelwood Community Teachers Association and the Hazelwood Board of Education which required the board to negotiate with the Association before implementing its policies and to submit unresolved issues to advisory fact finding, was valid and binding, and could not be terminated without proper notice. Rejecting the board's contention, the court, held that while the Association had "dirty hands" as the result of a strike, the board had not suffered any direct injury from the strike, and, therefore, had no standing to request the court to refuse to enforce the fact-finding provisions of the agreement. The court held that the strike was a product of understandable "frustration and disgust" after good faith efforts to negotiate proved unproductive. Therefore, it ordered both parties to commence fact-finding.

Operating under a state law which prohibited school boards from negotiating binding collective bargaining contracts, the board and the Association entered into an agreement which required the board to negotiate with the Association before implementing new policies, and provided for advisory fact finding in the event of an impasse, but left the board with sole final authority to decide wages, hours, and working conditions. The agreement did not specify an expiration date, but stated that either party could terminate it at will with proper notice.

When an impasse occurred, the board refused to submit the issues to fact finding, and the Association, after engaging in a 7-day strike, petitioned the Circuit Court of St. Louis County to enforce the agreement.

In court the board restated its prior position at impasse, contending that the agreement was not an enforceable contract and that the fact-finding provisions were an invalid delegation of the board's authority. The board also contended that by implementing its new policies it had effectively terminated the agreement. Finally, the board contended that the association had no standing to request en-

forcement of the agreement in court since, owing to the strike, it had not entered the court with "clean hands."

The court held that the teachers' strike was understandable after two months of "nonproductive jawboning" with the board under circumstances of inflation, oversupply of teachers, and the absence of collective bargaining rights, and that since the board had suffered no direct injury as a result of the strike, it could not request the court to apply the "clean hands" doctrine. The court held that the agreement was valid since it left final authority over wages, hours, and working conditions with the board, binding since it created reasonable expectations which both parties had a right to rely on and enforce, and still in force since the board had not given notice to the Association that it was terminating the agreement.

Therefore, the court ordered the board and the Association to establish a fact-finding committee and submit the unresolved issues for consideration. (*Hazlewood Community Teachers Association vs. Robert Bischof*, Circuit Court of St. Louis County, Mo., September 3, 1974.)

NEW YORK

Unless Specifically Excluded from Contract, Tenure Is Negotiable

According to the New York State Supreme Court, since the Education Law does not explicitly prohibit a school board from negotiating on tenure, it is a subject of mandatory collective bargaining under the Taylor Law. Therefore, in the absence of a contract provision excluding tenure matters from the grievance procedure, the court held that disputes between the Romulus Central School District Board of Education and the Romulus Central School Faculty Association concerning tenure was subject to arbitration, and confirmed an arbitrator's award which modified the board's procedure for granting tenure under the Education Law, in order for the board to fulfill its obligations to evaluate a teacher in accordance with the procedures provided in its contract with the Association. The court also held that if the board refused to implement the award, it would be in violation of both the Taylor Law and the due process provisions of the federal Constitution.

When the superintendent refused to grant tenure to an art teacher who had completed his probationary period and had been recommended for tenure by his immediate supervisor, the Association filed a grievance under the evaluation provisions of its contract and the provision that a grievance could be based upon any event or condition affecting the welfare or terms and conditions of employment of any teacher. An arbitrator held that the teacher should be continued on probation for another year, during which time he was to receive a "fair and systematic evaluation" as provided in the contract.

Following the award, the superintendent ordered the board not to employ the teacher and the board notified the teacher that he was being dismissed. The board requested the court to vacate the award on the grounds that (a) the school board had previously objected that the issue was not arbitrable; (b) tenure cannot be subject to arbitration since allowing arbitration would deprive the board of its rights under the state Education Law to determine the competency of teachers; (c) in this case the arbitrator had created a method of granting tenure which differed from that specified in the Education Law; (d) the board could not implement the award since the superintendent who was not a party to arbitration had ordered the board not to implement it.

The court rejected the board's contentions as follows: (a) The board's previous objections to arbitration were irrelevant since it had not previously requested a stay of arbitration. (b) Since the Education Law does not explicitly prohibit a school board from negotiating on tenure, a board has the legal obligation to negotiate on tenure under the Taylor Law, and disputes concerning the resulting contractual obligations of the board should be settled by arbitration. (c) In the absence of a contract provision excluding matters related to tenure from the grievance procedure, the arbitrator had the right to order the board to modify its procedure for granting tenure in order to fulfill its contractual obligations. (d) Since the arbitrator's award was valid, the board was obligated under the Taylor Law and the due process provisions of the federal Constitution to implement it, irrespective of the order of the superintendent. (*Romulus Central School Faculty Association v. Romulus Central School District*, New York State Supreme Court, Seneca County, May 7, 1974.)

Common Council's Approval of Policemen's Contract Not Required for Validity

The New York Supreme Court, Appellate Division, reversed a lower court ruling that a collective bargaining agreement approved by the Board of Estimate and Apportionment and negotiated between the city mayor and the police force association was subject to a requirement under the Public Employee Relations Act that the common council must approve the agreement before it can be executed.

The conclusion of the lower court that approval by the common council was necessary was based on the determination that a section of the Civil Service Law modified a provision in a minor statute which had vested the power to fix salaries of public employees in the Board of Estimate and Apportionment.

Judging this opinion to be a misconstruction, the higher court determined that section 204-a of the Civil Service Law requires only that the contract contain a statement that any provision requiring legislative action shall not be effective until the approval is granted. If the negotiating authority is delegated to a third party, approval is implied when the negotiating parties have reached agreement.

Concluding, the court stated that the policemen's association was entitled to a judgment declaring the contract to be valid. (*John E. Creedon Police Benevolent Association, Inc., v. City of Utica*, New York Supreme Court, Appellate Division, May 23, 1974.)

OHIO

School Boards May Negotiate Legally Binding Agreements

The Vinton County Board of Education violated its contractual obligation by unilaterally terminating its agreement with the Vinton Teachers Association, an agreement entered into after a teacher strike. The Association filed a suit to force the board to fulfill the agreement which included changes in the grievance procedure with binding arbitration as a final step and a dismissal policy which would require that teachers be advised in writing the reasons for termination. The Association also asked for two-year contracts for teachers rehired for only one year. The school board argued that the motion should be dismissed since it did not believe that it had the authority to enter into a negotiated contract.

The Vinton County Common Pleas Court judge determined that "the school board is a body politic capable of being sued, bringing suit, contracting and being contracted with, and . . . they may lawfully enter into a collective bargaining agreement . . . with the teacher association." Furthermore, the court held that the board and the Association could enter into a "legally binding and enforceable collective bargaining contract and that they operated under this contract." But, the court added, it could not control the discretion of the board. The only limitations that the court could impose upon the board representatives was that they comply with the state statutes regulating schools. The court ordered the board representatives and the Association's negotiators to meet in good faith, otherwise a qualified third party neutral would be appointed to preside over negotiations. (*Vinton Local Teachers Association v. Vinton Local Board of Education*, Vinton County Court of Common Pleas, August 7, 1974.)

PENNSYLVANIA

Arbitrator Not Bound by Statutory Minimum Retirement Age Option Which the City Chose Not To Enact

The Pennsylvania Commonwealth Court ruled that since the City of Reading had not exercised its option under the Public Employee Relations Act to establish a minimum retirement age of 50 for policemen, an arbitrator's award could not be bound by that option. Therefore, the court confirmed an arbitrator's award requiring the city to pay retirement benefits to members of the Reading Lodge Fraternal Order of Police, No. 9, who chose to retire before the age of 50.

After an arbitrator's award required the City to pay retirement benefits to policemen who chose to retire after 20 years of service before reaching the age of 50, the city appealed to the Pennsylvania Commonwealth Court, requesting the court to reverse the award. The city contended that the award violated the Public Employee Relations Act which provided the city with the option of prescribing a minimum retirement age, but fixing the minimum at 50.

The court held that since the city had failed to exercise its option to fix a minimum age, the arbitrator could not be bound by that option, nor could the city exercise that option to "hide behind self-imposed legal restriction." (*City of Reading v. Reading Lodge Fraternal Order of Police No. 9*, Pennsylvania Commonwealth Court, October 3, 1974.)

FEDERAL

All Managerial Employees Excluded from Collective Bargaining Under NLRA

The Supreme Court of the United States ruled that all managerial employees are excluded from coverage under the National Labor Relations Act. The decision prohibits managers and supervisors from participating in a labor organization as a separate bargaining unit under the National Labor Relations Act. However, the Court reversed a lower court's decision which required the NLRB to use rulemaking when announcing new principles rather than the present method of adjudication in handling problems on a case-by-case basis. The Court thus remanded *Bell Aerospace Co., Textron Inc. and United Auto Workers, Amalgamated Local 1286*, to the appellate court to permit the Board to make its decision conform with the Court's opinion.

On July 30, 1970, the union, seeking to be certified as bargaining representative for 25 buyers employed by the company, requested the NLRB to order a representation election. The buyers purchased all of the company's supplies from outside vendors, and when other departments did not stipulate a particular supplier, the buyers were free to place any order up to $5,000 without the approval of a superior. In addition, a buyer served as chairman of the team which made purchase decisions for the project which represented 70 percent of the company's sales.

On the basis of these functions, the company contended that the buyers were "managerial employees," and, therefore, were not covered by the National Labor Relations Act and had no right to participate in a labor organization in a separate bargaining unit. In addition, the company argued that unionization would create a potential conflict of interest since the buyers would be more receptive to bids from union contractors and would influence "make or buy" decisions in favor of creating additional work for sister unions.

The NLRB held that even though the buyers might be managerial employees, they were not excluded from the protection of the National Labor Relations Act since their work did not involve the formulation or implementation of labor relations policies, and Congress, in passing the Taft Hartley Act, had intended to exclude only managerial employees whose duties and responsibilities would give rise to a conflict of interest. The Board dismissed the company's

argument of potential conflict of interest as unsupported conjecture, holding that the company had sufficient authority to control any temptation of the buyers to give preferential treatment to union contractors.

The company stood by its position that the buyers were managerial employees and refused to bargain. When the Board, acting upon a petition from the union, found the company guilty of unlawful refusal to bargain and ordered it to bargain with the union, the company appealed to the U.S. Court of Appeals, 2nd Circuit, seeking reversal of the Board's order.

The appellate court held that Congress had intended to exclude "all true managerial employees" from coverage of the Act, including all those whose duties involved formulating or determining any employer policy, or making judgments on behalf of an employer independent of any established policy, and not just policies connected with labor relations. The court held that while it was possible that the buyers "were not sufficiently high in the managerial hierarchy to constitute true 'managerial employees'," the Board, acting on a new and erroneous assumption that the Act excluded only those whose duties in connection with labor relations policy created a conflict of interest, had failed to make a proper factual determination of the buyers' status.

Therefore, the court remanded the case to the Board, requesting it to determine if the buyers were in fact managerial, and in consideration of the fact that in all previous decisions the Board had held that buyers were excluded from the Act, the court held that if the Board were to conclude that these buyers were not "managerial," it should proceed by rule-making and formally establish a guideline as to which buyers it would consider managerial, rather than proceed by adjudication on a case-by-case basis.

The Board filed a writ of certiorari, requesting the Supreme Court of the United States to hear the case.

With respect to the issue of "rule-making" verus "adjudication," the Supreme Court unanimously rejected the lower court's position and held that "the Board is not precluded from announcing new principles in an adjudicative proceeding" since buyers have widely varying duties depending on the company or the industry. According to the high Court, it was proper to proceed on a case-by-case basis since any general rule would have no more than marginal utility.

However, the Supreme Court was split on the issue of whether all managerial employees were excluded from the National Labor Relations Act. The majority held that "the Board's early decisions, the purpose and legislative history of the Taft-Hartley Act of 1947, the Board's subsequent and consistent construction of the Act for more than two decades, and the decisions of the courts of appeals, all point unmistakably to the conclusion that 'managerial employees' [those who formulate and effectuate management policies by expressing and making operative the decisions of their employer] are not covered by the Act."

Therefore, confirming the lower court's decision, the Court remanded the case "to permit the Board to apply the proper legal standard in determining the status of these buyers."

A dissenting opinion held that the language of the National Labor Relations Act indicated that only supervisors were excluded from coverage, and since nothing in the legislative history of the Act or Board decisions prior to the Act precluded other managerial employees from organizing in separate bargaining units, there was no reason for the Court to require the Board to follow an erroneous interpretation of the Act which it made on only two occasions, that all managerial employees were excluded. (*NLRB v. Bell Aerospace Co., Textron Inc.*, U.S. Supreme Court, April 23, 1974.)

Labor Relations Law Excluding Police Not in Violation of Constitutional Rights

A Missouri labor relations law not according police the right of other public employees to present pay and employment proposals to their employers does not violate their constitutional rights according to a federal court panel responding to a suit brought by the St. Louis County Police Officers Association against a former superintendent of police.

The suit was vested on the premise that the law had a "chilling effect" on policemen's ability to exercise their constitutional rights of free speech, assembly, and redress of grievances. The court observed that while the statute in question did exclude policemen and was phrased in declaratory language, it did not imply that policemen were prohibited from organizing or from presenting proposals to their employers, nor was there any mention in the law that a public employer was authorized to penalize a police officer for exercising those rights.

An examination of the facts revealed that the policemen had been permitted to exercise their rights of freedom of speech and association, and that the board of police commissioners had recognized and dealt with the representatives of the police officers.

In making an important distinction between the right of "all" citizens and the right of "collective bargaining," the state supreme court held that union membership was protected by the right of association under the First and Fourteenth Amendments. In regard to the right of true "collective bargaining," the court pointed out that no such right was granted to any public employee either by the debatable labor relations law or by any other statute of Missouri.

Judging that the facts presented demonstrated the absence of any actual controversy respecting the law, the federal court dismissed the case without prejudice. (*Edward Fitzgerald et al., vs. Robert J. diGrazia, et al.*, U.S. District Court, Eastern District of Missouri, August 22, 1974.)

BOARD FINDINGS AND RULINGS

INDIANA

Employer's Insistence on Complete Package and Settlement of "Discussables" as Preconditions to Negotiation Held Improper; Employer May Poll Teacher Preferences on Up-coming School Calendar

Under the Indiana Classroom Teacher Collective Bargaining Act, a school employer is required to negotiate in the absence of a complete package of proposals from an employee organization and may not insist on the settlement of "discussable" items as a precondition to negotiations on "bargainable items."[1]

Therefore, the Indiana Education Employment Relations Board ruled that the Tippecanoe School Corporation had established improper preconditions to bargaining and ordered it to proceed without further delay in negotiating a contract with the Tippecanoe Education Association.

After eight meetings, at which the school corporation refused to proceed with negotiations on salary, the Association filed a complaint, charging the corporation with frustrating the meetings. The corporation contended that it could not negotiate on salaries until the Association produced a complete package with full explanations of the details and costs involved, and asserted that the Association was responsible for the delays, since the Association had refused to settle on discussable items, including bulletin boards and mail boxes, which the corporation had insisted on as a precondition to discussing salaries and other bargainable items.

Ruling in favor of the Association, the Board held that the Association's salary proposal was sufficient as a starting point for negotiation, and that the corporation's insistence on the settlement of discussable items as a precondition for negotiating on bargainable items was tantamount to requiring the Association to waive meaningful discussion on discussable items. The Board concluded that "waiver of meaningful discussion [on discussable items] as a pre-condition to bargaining is more than is required of the school employee organization by law."

The Board, however, rejected the Association's charge that the corporation had committed an unfair labor practice by polling teachers as to their preferences for an up-coming term school calendar. The Board held that while the corporation had to negotiate a final settlement on the calendar with the Association, it had the right to bypass the Association in ascertaining the preferences of the teachers. (*Bobbe June Blom v. Tippecanoe School Corporation*, IEERB, July 5, 1974.)

[1] Under the Indiana Teacher Bargaining Law, salary, wages, and hours, fringe benefits, and grievance procedure are referred to as subjects of bargaining, while all other negotiable items are referred to as subjects of discussion.

MASSACHUSETTS

Discharged Nontenured Teacher Has No Right to Counsel at Investigative Hearing Called at the Discretion of School Board

Under the federal Constitution and the Massachusetts Municipal Employee Relations Act, a school board that is not otherwise obligated by contract, does not have to grant a hearing to a nontenured teacher whose contract is not being renewed. If a school board grants a hearing at its discretion, it may refuse to permit the teacher to be accompanied by attorneys or a member of the staff of the teacher's bargaining unit, provided that no action will be taken against the teacher as a result of the hearing. Therefore, the Massachusetts Labor Relations Commission dismissed a complaint of unfair labor practice filed against the town of Nantucket by the local teachers association.

At the request of the Association, the Nantucket School Committee scheduled a termination hearing for two nontenure teachers. The committee denied an Association request that the teachers be represented at the hearing by the Association or attorneys. The hearing took place as scheduled, but the committee did not reverse its earlier decision. The Association filed a complaint with the Massachusetts Labor Relations Commission, charging that the committee had committed an unfair labor practice by refusing to allow the teachers to be represented.

The Commission noted that the Supreme Court of the United States had ruled that a nontenure teacher whose contract was not renewed was not entitled to a hearing and that the committee had granted the hearing at its discretion. It concluded that since the hearing was purely investigative and no action was taken against the teachers as the result of the hearing, the committee was not obligated to permit the teachers to be represented. (*Matter of Inhabitants of the Town of Nantucket et al. and Andrew Linebaugh et al.*, Massachusetts Labor Relations Commission, June 14, 1974.)

MICHIGAN

Union's Insistence on Retaining Prior Negotiated Concession Is Not a Refusal To Bargain

The Michigan Employment Relations Commission dismissed the charge by the Lake Shore Public Schools that Lake Shore Federation of Teachers refused to bargain in accordance with the Public Employment Relations Act (PERA). During contract negotiations the union refused to agree to the proposal by the school district to change the qualifications agreed to in the prior contract for vocational teachers.

The school district alleged that "the union insisted to the point of impasse that vocational education teachers employed by the school district possess qualifications beyond that required by State law or State Board of Education regulations and that such subject matter is not a mandatory subject of bargaining" under PERA. Additionally, the school district said that although it agreed to negotiate the subject in the past, it was now withdrawing permission to negotiate the subject.

The union contended that although the issue was a voluntary rather than mandatory subject of bargaining, the subject had previously been agreed upon and was now moot.

In reaching its conclusions, the Commission first pointed out that the subject of educational qualifications of vocational teachers was not moot since there was outstanding disagreement between the parties on the subject. Secondly, the union did discuss the issue with the school district on four occasions and the facts failed to establish that the union insisted to the point of impasse that the school district negotiate a nonnegotiable subject. Concluding, the Commission held that the union's insistence on retaining a prior concession which might have been a voluntary subject of bargaining was not a refusal to bargain. (*In the Matter of Lake Shore Federation of Teachers, Respondents, and Lake Shore Public Schools, Charging Party*, Michigan Employment Relations Commission, January 7, 1974.)

Bargaining History Determines Who Is the Employer for Purposes of Collective Bargaining

When there is no reason to depart from an established pattern of bargaining, bargaining history may be decisive in determining who is the employer for collective bargaining purposes. Therefore, to promote uniformity of bargaining in the Oakland Intermediate District, the Michigan Employment Relations Commission held that the Clarkston Board of Education was the sole employer of teachers employed at a vocational-technical education center which it operated under contract from the district and that the teachers could appropriately be included in the bargaining unit of the Clarkston Education Association. The MERC then ordered a self-determination election among the teachers.

The Association petitioned MERC to designate the vocational center as part of its bargaining unit and order a representation election. In its petition, the Association designated both Clarkston and the Oakland Intermediate District as employers. Clarkston maintained that it was not involved either as the employer of the teachers or as joint employer with Oakland.

A MERC hearing officer determined that Clarkston was one of four local constituent districts operating vocational-technical education centers under identical contracts with the Oakland Intermediate District. Under its contract, Clarkston hired and paid for the staff, but these funds were channeled through the district which chose and coordinated the program at the center, and provided funds for administrative overhead. While Clarkston hired the principal, it did not exercise the same degree of involvement in the administration of the Center as it did in other schools.

However, the district, in its contract with Clarkston, had not specifically reserved to itself the right to bargain collectively for the staff of the center. In the other three centers, the local school districts acted as the sole employer for the purpose of collective bargaining and teachers in those centers were included in the local NEA bargaining unit.

Reviewing the record of the hearings, MERC held that just as history of bargaining may be decisive in determining the scope of a bargaining unit, it may also be decisive in determining who the employer is for collective bargaining purposes, and that in this case, there was no reason to depart from the established pattern. Therefore, to promote uniformity of bargaining within the district, MERC held Clarkston to be the sole employer of the teachers in question.(*In the Matter of Clarkston Community Schools, Board of Education and Oakland Schools Intermediate Board of Education, and Clarkston Education Association*, Michigan Employment Relations Commission, February 22, 1974.)

NEW YORK

Conflict of Interest Warrants Removal of Department Chairmen and Directors from Teaching Unit

The Public Employment Relations Board declared that basic differences between the interests of department chairmen and directors of school districts and the interests of teachers warranted the removal of the former from the teachers' bargaining unit. Adhering to the precedent set in *Roslyn*, the Board further stated that supervisors of different rank might be placed in the same unit.

The Mineola Association of Professional Supervisors (MAPS) filed a petition seeking decertification of the Mineola Teachers Association because the unit included

supervisory employees of the Mineola Union Free School District whose interests conflicted with those of the teachers.

PERB was asked to determine whether or not the MAPS was an employee organization, whether there was sufficient conflict of interest that would require the removal of the department chairmen and the directors from the teaching staff unit and if so, whether they should be placed in their own separate unit or grouped with the supervisory and administrative personnel.

Concerning the issue of MAPS' status, the hearing officer found that the body met the requirements for an employee organization as established by the Fair Employment Act. On the question whether the duties performed by the department chairmen and directors could be classified as supervisory and, therefore, constitute cause for their removal from the teaching unit, the hearing officer concluded that not only were their functions largely supervisory, but also they created sufficient conflict of interest to justify removal of the department chairmen and directors from the teaching unit. In regard to the matter of proper placement of these employees, the hearing officer, supported by the employer's assertion of administrative convenience and lack of any evidence which might indicate possible negotiating conflict between the groups, declared that the most appropriate unit would consist of all supervisors. The different levels of supervision was reconciled by the rationale in *Roslyn* which stated that "it is not legally inconsistent to include supervisors of different ranks, but not supervisors and rank-and-file employees, together in one unit."

Therefore, the hearing officer determined the unit in which various employees should be placed and ordered an election by secret ballot among those employees. (*Mineola Union Free School District, Mineola Association of Professional Supervisors, Mineola Teachers Association, and Association of Mineola School Administrators*, Public Employment Relations Board, September 5, 1974.)

PENNSYLVANIA

Personal Leave with Pay for Activities Not Entailing Legal Matters Denied

Deciding that a teacher's purchase of an estate was the only matter which qualified as legal business under the contract, an arbitrator concluded that the teacher could be reimbursed for only two days of a five-day personal leave since two days was sufficient to execute the business.

After returning from five days' leave and being refused use of paid personal leave for that time, the teacher filed a grievance and appealed to the superintendent on the grounds that her business of house hunting and applying for a new job out of state could not be conducted at another time.

In response to the grievance and upon the recommendation of the superintendent, the Board approved two days of personal leave to account for travel and the actual house purchase.

Noting that the teacher/board agreement restricted the use of personal leave to do legal business, the arbitrator upheld the Board's action. (*Bethel Park School District and Bethel Park Federation of Teachers*, American Arbitration Association, October 1, 1974.)

WISCONSIN

Without Contractual Requirements To Bargain Management Rights Clause Prevails

A school board's statutory duty to manage and determine curriculum is restricted when such actions impact on the terms and conditions of employment. Stressing the impact factor of such decisions, an arbitrator reluctantly ruled that elimination of a course offering resulting in the nonrenewal of the instructor was not a term or condition of employment. Therefore, "short of an explicit contractual provision, requiring the Board to bargain on such matters," the arbitrator dismissed the contention of the Lakeshore Education Association, that the Lakeshore Area Board of Vocational, Technical, and Adult Education was required, by virtue of a maintenance of standards clause, to negotiate with the Association before eliminating a course. The Board's contention that a management rights clause had preserved its statutory authority to take unilateral actions regarding curriculum was sustained.

The Association filed a grievance, and requested the board to negotiate its decision to eliminate a course and not to renew the instructor's contract. The board refused to negotiate, and with the Association's consent the matter was brought directly to arbitration.

The Association requested the arbitrator to order the board to reinstate both the program and the instructor until it negotiated with the Association as required by the maintenance of standards clause. The Association contended that by agreeing to the maintenance of standards clase, the Board had bargained away its unilateral right to control the curriculum and that elimination of the course constituted a change in policy which affected the terms and conditions of employment.

The Board argued that it had retained its statutory right to control the curriculum through a management rights clause which stated that the Board retained powers and rights conferred upon it by state and federal laws, and that its decision was a proper exercise of management prerogative.

Noting that the specifications of the grievance addressed only the question of a board's statutory duty to manage, the arbitrator was forced to rule that the determination of courses to be offered was not a term or condition of employment owing to an absence of "an explicit contractual provision requiring the Board to bargain on such matters." Specifically, the arbitrator held that this award in no way precluded bargaining over the course elimination and the consequent non-renewal. (*Lakeshore Education Association and Lakeshore Area Board of Vocational, Technical, and Adult Education District 11*, Wisconsin Employment Relations Commission, September 17, 1974.)

NEGOTIATION NOTES

ARKANSAS

Community College Construction Not Exempt from Payment of Minimum Wages

The state attorney general determined that a community college does not qualify as a public school under state law which exempts public school construction from the minimum wage law. Therefore, community college construction is subject to the requirement of payment of minimum wage rates.

MASSACHUSETTS

New Rules To Implement Public Employment Relations Act

The Massachusetts Labor Relations Commission (MLRC) and the Massachusetts Board of Conciliation and Arbitration adopted rules which will help implement the recently enacted Public Employment Labor Relations Act.

The new rules adopted by MLRC cover definitions; representation petitions and elections; prohibited practices; filing negotiated agreements; requests for binding arbitration; petitions to investigate a strike or potential strike; priority hearings on complaints based on temporary relief or restraining orders; and designation of the executive secretary, attorneys, and examiners as agents of MLRC.

With at least a 30 percent showing of interest, an employer, an employee organization, or a "substantial number" of employees will be granted an election to determine representation. A 10 percent showing of interest may merit a hearing by MLRC to determine if a secret ballot election should be conducted unless a bargaining agreement is in effect or another election has taken place in the preceding 12 months. Also detailed are procedures for challenging a voter's eligibility or the conduct of an election for runoff elections, and for clarifying or amending an existing bargaining unit or amending certification of a bargaining representative.

Included in the prohibited practices rules are procedures for filing complaints; giving notification of hearings; filing answers or denials of complaints; conducting hearings, including examination and payment of witnesses, objections to the manner in which a hearing is conducted, oral arguments, and post-hearing briefs.

The Massachusetts Board of Conciliation and Arbitration (MBCA) issued rules governing mediation and factfinding—who may file for mediation and factfinding, when and where to file, appropriate form for petition, and service procedures on the opposite party. If the Board is notified of an impasse, a mediator will be appointed within seven days to determine if an impasse exists. Should an impasse exist, the Board will appoint a mediator within five days unless the parties have agreed to select an outside mediator. If the impasse persists beyond 20 days, a fact finder will be appointed unless the parties agree to select their own fact finder. Within 30 days the fact finder must issue a report which includes a statement of the issue, finding of facts, rationale for the recommendation, and a statement of the recommendation. If the impasse continues after consideration of the report, the issues in dispute will be returned to the parties for further bargaining.

The new rules also outline procedures for disqualification or withdrawal of a fact finder, withdrawal of a factfinding petition, the fact finder's authority and responsibility, scheduling of conferences and hearings by the fact finder, how the fact finder should handle mediation should the parties opt for mediation, and hearing rules. The hearing rules cover proceedings in the absence of a party, conduct of the hearings, parties' representatives, intervention, order and record of proceedings, evidence, objections, and termination of hearings.

Since Massachusetts law mandates binding final offer arbitration in case of impasse in negotiations for firemen and policemen, MBCA also issued rules in this area. A petition for final offer arbitration may be filed when a dispute between the parties reaches an impasse, all other dispute resolution procedures have been exhausted, and 30 days have passed since publication of the factfinding report. The parties must then appoint one arbitrator each and the two arbitrators selected will then select a third arbitrator who will serve as chairman of the panel. The initial hearing will be held within 10 days of the appointment of the chairman. In making its determination the panel will consider such things as the financial ability of the municipality to meet costs; interests and welfare of the public; hazards of employment; physical, educational, and mental qualifications; job training and skills involved; wage and employment comparisons; fact finder's report; the cost of living; and the stipulation of the parties.

Arbitration hearings must be concluded within 40 days and the award must be issued no later than 10 days after the conclusion of the hearing. The panel chairman may

remand the dispute to the parties for further collective bargaining at any time before the award is rendered if he is of the opinion that it would be helpful. Should the parties reach agreement outside arbitration, they must notify the panel in writing and request the panel chairman to suspend the proceedings.

NEW JERSEY

Motion for Reconsideration of PERC Decision Allowed

The New Jersey Public Employee Relations Commission issued a change in the rules and regulations governing the motion for Commission reconsideration effective March 7, 1974. A party to a proceeding before the Commission may, because of extraordinary circumstances, move for a reconsideration after the Commission decision has been rendered.

The party must state the material error claimed and, where applicable, specify the precise source, must file the motion within 15 days after the Commission decision, and must print or otherwise duplicate such motion. Copies must be served on the parties and a statement of service must be filed with the motion papers. The filing and pendency of a motion for reconsideration will not impede the effectiveness of the Commission decision unless ordered by the Commission nor shall it be necessary in order to exhaust administrative remedies.

NEW YORK

Unit of Assistant District Attorneys Certified

Rejecting the city's contention that assistant district attorneys were excluded from collective bargaining as managerial and confidential employees, the New York City Office of Collective Bargaining held that under the Taylor Law managerial employees were those who established new policy, and confidential employees were those who assisted managerial employees in a confidential capacity in the performance of labor relations functions. Therefore, the OCB, acting on a petition filed by the Association of New York City Assistant District Attorneys, certified a bargaining unit consisting of assistant district attorneys and criminal law investigators below the level of bureau chief.

The petition was submitted on August 31, 1973. The city unsuccessfully moved to dismiss the petition on the grounds that the Association was not a labor organization within the meaning of the New York City Collective Bargaining Law. Having rejected this contention at a preliminary hearing, the OCB then dealt with the city's substantive arguments.

The city contended that a recent amendment to the Taylor Law which excluded assistant attorneys general from collective bargaining as managerial and confidential employees, also applied to assistant district attorneys since their functions were similar. In addition, the city contended that assistant district attorneys were confidential employees since "they must maintain a relationship of flexibility and undivided loyalty to the district attorney and there is a potential conflict of interest since they may have occasion to investigate labor union activities involving city employees."

The OCB held that (a) the rights and status of assistant district attorneys were not affected by the Taylor Law Amendment since the state legislature had the power to include them and did not do so; (b) the assistant district attorneys, except for bureau chiefs, were not managerial employees, since their normal function was to follow established policy rather than to establish new policy; (c) assistant district attorneys were not confidential employees since they did not perform labor relations functions and the Taylor Law specifically classified confidential employees as those who assisted managerial employees in a confidential capacity in the performance of labor relations functions; (d) other law enforcement officials, police, and county investigators had been unionized for some time without any evidence of conflict of interest or impaired performance resulting, and there was no evidence that the situation would be otherwise for assistant district attorneys. Therefore, the OCB certified a bargaining unit consisting of assistant district attorneys and criminal law investigators below the level of bureau chief. (*Matter of Association of New York City Assistant District Attorneys in the City of New York and the City of New York et al.*, Office of Collective Bargaining, Board of Certification, February 28, 1974.)

OHIO

Bargaining Provision Limiting Pregnancy Benefits in Conflict with EEOC Guidelines

Affirming an arbitration award which set aside a collective bargaining provision limiting pregnancy benefits in violation of EEOC sex discrimination guidelines as properly within the arbitrator's power, the Ohio State Court of Appeals at the same time reversed and vacated the award owing to failure to make timely application for the confirmation of such award.

At issue in this appeal from a lower court brought by the Goodyear Tire and Rubber Company was the question of pregnant employees' entitlement to the same leave and disability benefits provided other employees. The union, United Rubber, Cork, Linoleum and Plastic Workers of America, claimed benefits accorded pregnant workers were discriminatory by reason of sex. The arbitrator concluded that the insurance benefits agreement between the parties conflicted with the EEOC Guidelines interpretation of Title VII, Civil Rights Act of 1964, making such terms discrim-

inatory, and that the specific terms had to conform to the guidelines. The company filed a complaint in a lower court, seeking to vacate the award and alleged that the arbitrator had exceeded his authority.

Finding that the EEOC Guidelines are not regulations having the force of law, but evidence of the Commission's interpretation of the Civil Rights Act, the lower court concluded that the arbitrator had not exceeded his authority.

The Appeals Court observed that the agreement between the company and the union provided that the arbitrator "shall have the authority only to decide the question pursuant to the provisions of Part V applicable to the question, but he shall have no authority in any way to alter, add to, or subtract from any such provisions. The decision of the impartial umpire shall be binding on the Employer, such Employee, and all other interested parties."

The court further pointed out that valid applicable statutory provisions are parts of every contract as fully as if extended in writing, thus justifying the inclusion of the Civil Rights provisions in the insurance contract. Determining that the applicable law was not the guideline but the provisions of the Civil Rights Act and that it was applied not to alter the contract or as a public law in conflict with the bargaining agreement between the parties, but simply a material provision written into the contract, the court asserted that the arbitrator's decision could not be impeached for error.

Concluding that the arbitrator did not exceed his authority, the court upheld the judgment of the lower court. However, since the union filed no motion for confirmation, that applicable part of the award was reversed and vacated. (*Goodyear Tire and Rubber Company v. Local Union No. 200, United Rubber, Cork, Linoleum and Plastic Workers of America*, Ohio State Court of Appeals, April 17, 1974.)

* * *

FEDERAL

"Last Hired, First Fired" Principle Valid Under Title VII

The U.S. Court of Appeals, 7th Circuit, partially reversing the decision of a federal district court, held that the seniority rights of white workers under a collective bargaining agreement which established the "last hired, first fired" principle of seniority, remained valid under Title VII of the Civil Rights Act of 1964, even when the employer had engaged in past discrimination in hiring. But in light of the employer's history of past discrimination, and the "potentially discriminatory impact" of the seniority system, the Court upheld the lower court decision that an agreement between the Wisconsin Steel Works and the United Order of American Bricklayers and Stonemasons, Local 21, which accorded priority in recall to white bricklayers, who had forfeited their seniority rights in return for severance pay, over a recently hired black bricklayer, unlawfully perpetuated past discrimination.

Rejecting the union's contentions that it could not be sued, the court held that two black bricklayers who had filed suit were not required to exhaust EEOC remedies or the contract grievance procedures in order to sue in federal court, that the union was liable as a party to the recall agreement, and that the plaintiffs' right to sue the union was not affected by nonmembership.

The court also rejected the company's contention that in order to prove past discrimination, the plaintiffs were required to show that black applicants were denied actual jobs, and held that a charge of past discrimination, not related to the hiring of a specific individual, was proven by the absence of a single black bricklayer in spite of repeated attempts by blacks to obtain employment as bricklayers.

However, the court, reversing the decision of the district court, held that a black bricklayer who was never hired by the company as a result of the priority in recall accorded to the white worker was not discriminated against and, therefore, had no claim against the company. In addition, the court held that the lower court had acted arbitrarily in calculating the amount of damages and attorneys' fees awarded to the plaintiffs. Therefore, the court remanded the case to the district court for recomputation of the damages and attorneys' fees due the black bricklayer whose rights were violated by the agreement.

The black bricklayer was hired by the company in July 1964. Before 1964, the company had employed no black bricklayers and blacks who had been employed by the company as laborers since 1947 were repeatedly denied opportunity available to white laborers to transfer to the bricklayers' apprenticeship program.

As a result of the "last hired, first fired" seniority system which had been included in the collective bargaining agreements between the company and the union since 1946, the black bricklayer was laid off in September 1964 as part of a company plan to reduce its force of bricklayers on the assumption that they would no longer be needed. By March 1965, over 30 bricklayers, including whites with 10 years' seniority, were laid off.

In September 1965, eight white bricklayers who had been laid off opted, under a severance agreement between the union and the company, to forfeit their seniority rights in return for severance pay of $966. However, in June 1966, the company decided that it needed more bricklayers and entered into an agreement with the union restoring the seniority of the eight white bricklayers who had forfeited their rights. Three of them returned to work before January 1967 without reapplying to the company for employment.

The June 1966 agreement remained unknown to the black bricklayer until March 1967 when he returned to work under a company policy of recalling former employees who did not have contractual seniority rights. If the June 1966 agreement had not restored the seniority of the white workers, the company would have recalled him in January rather than in March. In addition, the June agreement resulted in his being laid off for a second time in May 1967.

Following this second layoff, the black bricklayer requested the Equal Opportunity Commission to reconsider charges which he and another black bricklayer had filed before the Commission in May 1966. The company had

refused to hire the second black bricklayer, who was a union member, but had never worked for the company. The black bricklayer had charged that the company's layoff of one of them under the seniority system, and refusal to hire the other had constituted unlawful racial discrimination under Title VII of the Civil Rights Act of 1964. The Commission, which had dismissed their complaints as unsubstantiated in February 1967, now concluded that since the company had reinstated the three white bricklayers who had forfeited their seniority rights while refusing to hire one black bricklayer and reinstate another, the black bricklayers had grounds to sue in the federal courts.

In August 1967, while the case was still before the EEOC, the company recalled the black bricklayer whom it had laid off in May. However, he had already found other work and refused the offer on the grounds that the recall might prejudice the outcome of his case.

In 1968, the black bricklayers filed suit in a federal district court, charging that the company and the union had violated the Civil Rights Act of 1866 and Title VII of the Civil Rights Act of 1964 since (a) the company had discriminated in hiring before 1964; (b) the seniority system of "last hired, first fired," provided in the collective bargaining agreement between the company and the union, perpetuated prior discrimination and was, therefore, unlawful under Title VII, and all layoffs of black bricklayers which had occurred under that agreement were illegal; and (c) the June 1966 agreement between the company and the union had placed white bricklayers ahead of black bricklayers. On this basis, the black bricklayers requested the district court to order the company and the union to pay them damages equivalent to the wages they would have received in the absence of discriminatory layoffs and hiring.

The district court at first dismissed the case on procedural grounds in 1969. However, on appeal, the U.S. Court of Appeals for the 7th Circuit, reversed the lower court decision, and the Supreme Court of the United States refused to rehear the case. Therefore, in 1973, the U.S. district court, which had previously dismissed the case, ruled on the substantive issues. The district court sustained the charges of the black bricklayers on all counts and ordered the company to offer them employment, and together with the union to pay each of them $5,000 in damages plus attorneys' fees.

The company and the union appealed to the U.S. Court of Appeals for the 7th Circuit on the following grounds: (a) The union contended that it could not be sued since its participation as signatory of the collective bargaining agreement and the June 1966 agreement restoring seniority were not sufficient grounds for liability; (b) the black bricklayer who had been laid off was not a union member and, therefore, had no standing to sue the union; and (c) the black bricklayers could not sue in a federal court since they had failed to exhaust the grievance procedure provided in the collective bargaining agreement, and had not previously filed charges against the union regarding the June 1966 agreement with the EEOC. The company contended that in the absence of evidence that black applicants were denied actual job openings, the charge that the company had discriminated before 1964 could not be sustained; that the "last hired, first fired" seniority system was not in violation of Title VII since it was racially neutral, and striking it down would result in reverse discrimination; and that the June 1966 agreement to restore the seniority of a group of white bricklayers was not discriminatory since the white bricklayers would have been entitled to prior recall anyway under the company policy of recalling employees without contractual rights according to length of service. In addition, both the black bricklayers and the defendants contended that the calculation of the back pay award for attorney's fees was improper.

The court dismissed the union's contentions that it could not be sued, stating that: (a) the union as an integral party to the June 1966 agreement shared liability with the company; (b) nonmembership in a union had no bearing on the right of blacks to enter into an employment contract on the same basis as whites; (c) there was no requirement to exhaust contractual remedies for claims brought under any of the civil rights acts; and (d) since the June agreement which produced the primary charge of discrimination occurred after the black bricklayers filed their initial claim with EEOC, they had a reasonable excuse for failure to exhaust EEOC remedies.

In addition, the court dismissed the company's claim that proof of discrimination before 1964 was absent, holding that a charge of past discrimination, not related to the hiring of a specific individual, did not require the plaintiffs to show that black applicants were denied actual jobs, and that the absence of a single black bricklayer before 1964 in spite of repeated attempts by blacks to obtain such employment was sufficient evidence.

Therefore, in the light of the company's "past history of racially discriminatory hiring practices and racially neutral yet potentially discriminatory impact of the employment seniority system utilized by the company," the court held that the company's action of according priority in recall to white bricklayers over black bricklayers when neither possessed contractual seniority rights perpetuated past discrimination into the present. The court rejected the contention that this action would have resulted from company policy since that policy was "not clear with respect to the priority status of white workers who had accepted severance pay," but noted that if company policy would have produced this result, the policy would be in violation of the civil rights statutes.

However, while the court held that the June agreement violated the rights of the black bricklayer who had been laid off under the Civil Rights Act of 1866 and the Civil Rights Act of 1964, it held that the agreement did not discriminate against the black bricklayer who had never been employed by the company since "a policy favoring recall of a former employee with experience even though white before considering a new black applicant without experience comports with the requirement of Title VII . . . ."

Furthermore, the court held that the legislative history of Title VII indicated that the "last hired, first fired" principle of seniority remained valid under the Act, even when an employer, as a result of past discrimination, employed an all-white labor force, and newly hired blacks

had less seniority than whites, provided that the seniority system gave workers equal credit for actual length of service with an employer, irrespective of department or job. Therefore, the court, reversing the judgment of the district court, ruled that the seniority system incorporated into the collective bargaining agreement between the company and the union was valid.

Finally, the court held that the district court had not properly calculated damages since it improperly gave consideration to the absence of a racially discriminatory motive on the part of an employer, and computed the amount due attorneys solely on the basis of "hours spent times the billing rate."

Therefore, the court remanded the case to the district court, instructing it to modify its award by calculating the wages which the remaining plaintiff would have received if he had been employed from January 17, 1967, when he would have been recalled in the absence of the June agreement, until September 5, 1967, when he turned down an offer of recall by the company, and then subtracting from the total wages due during this period the amount he actually received between March and May. In addition the district court was instructed to recompute the attorneys' fees awarded on a basis which took account of factors, other than hours and the billing rate, which are included in the American Bar Association's Code of Professional Responsibility. (*Walters v. Wisconsin Steel Works of International Harvester Co.*, U.S. Court of Appeals, 7th Circuit, August 16, 1974.)

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THE CONSUMER PRICE INDEX—JANUARY 1975

The Consumer Price Index rose 0.5 percent in January to 156.1 (1967=100), the Bureau of Labor Statistics of the U.S. Department of Labor reported. . . .Higher prices for medical care services, utilities, houses, cereal and bakery products, and fresh fruits and vegetables were responsible for a large part of the January rise. The effect of these increases was partially offset by price declines for clothing, autos, beef, sugar, and lower mortgage interest rates.

On a seasonally adjusted basis, the rise in the January CPI was 0.6 percent; this compares with increases of 0.7 percent in December and 0.9 percent in both November and October. The food index rose 0.8 percent in January, after seasonal adjustment, about the same as in December and considerably less than in the August-November period. The January nonfood commodities index rose 0.6 percent after seasonal adjustment, continuing the slower rate of increase evident since last fall. The increase of 0.8 percent in the services index in January was about the same as in the final 3 months of 1974.

In January 1975, the CPI was 11.7 percent higher than in January 1974. The food index was 11.2 percent, the nonfood commodities index 12.5 percent, and the services index 11.4 percent above their levels of January 1974.

Monthly changes in detail (not seasonally adjusted)

The index for food purchased in grocery stores, which usually shows no change in January, rose 0.6 percent. Prices for cereal, bread, other bakery products, and sugar-based products—such as nonalcoholic beverages and candy bars—continued to rise rapidly. Prices also rose in January for pork, fats and oil products, and fresh fruits and vegetables. However, beef prices declined for the fourth consecutive month, and prices for poultry, dairy products, and processed fruits and vegetables turned down. In addition, sugar prices declined, reflecting lower prices at the wholesale level. The index for food away from home—restaurant meals and snacks—rose 0.8 percent, the same as in recent months.

The index for nonfood commodities remained unchanged in January. Prices for apparel and textile housefurnishings declined sharply due to widespread winter clearance sales. The new car index declined, reflecting the effect of manufacturers' rebates to consumers. The used car index continued to move down. In addition, prices decreased slightly for tires and furniture. These declines offset price increases for other nonfood commodities such as gasoline, appliances, houses, housekeeping supplies, toilet goods, drugs, and tobacco products.

The services index increased 0.8 percent in January. Higher charges for medical care services, particularly hospital services, and for utilities—gas, electricity, and water and sewerage—accounted for about half the rise in the services index in January. Charges for other types of services, such as housekeeping and home maintenance, barber and beauty shop, dry cleaning and automatic laundry services, and movie admissions continued to rise. Mortgage interest rates, however, declined sharply, and auto insurance charges moved down. Telephone rates also decreased due to a reduction in the Federal excise tax effective January 1, 1975.—U.S. Department of Labor, Bureau of Labor Statistics, News Release, February 21, 1975.

SPECIAL REPORTS

STATE LEGISLATION ON IMPASSE PROCEDURES AFFECTING TEACHERS

Barbara Bell

The objective of collective bargaining is to have the parties reach an agreement. Frequently, labor and management are confronted with an impasse over recognition or bargainable items and are unable to resolve a dispute. To break the impasse, the parties may resort to one or more of the three mechanisms for resolving disputes, namely, mediation, fact-finding, and arbitration.

An analysis of state statutes, executive orders, and attorney general opinions reveals that 26 states have legislation concerning impasse procedures affecting teachers. Ranging widely in scope, the statutes set forth the procedures and conditions under which settlement is to be reached. Each of the three mechanisms of resolving disputes involves intervention of a neutral third party. However, the role of the neutral in each procedure is different.

Mediation involves the intervention of a third party who acts as a facilitator to the communication of proposals and the intent of each party and who assists the parties to reach an agreement. Mediation is the most frequently legislated method of impasse resolution, though it is not often used in settling disputes in public sector education. While the mediator has no formal decision-making role, his intercession greatly affects the ultimate settlement. By statute or state labor board regulations, mediation may be initiated any time between the notice of termination of an agreement and the final settlement. A mediator may suggest avenues of agreement and present either party's position in a non-biased manner, but he may not force or dictate agreement.

Even though most state laws provide for mediation as a first step in dispute settlement, often where disagreement on the facts of the issues exists, the parties may bypass mediation and go directly to fact-finding.

Equal numbers of states provide for advisory and binding fact-finding decisions; while in arbitration, two states are governed by advisory decisions and seven states by binding decisions. In Nevada, if the parties do not agree to make the decision binding, either party may request the governor to do so.

The publication of facts in fact-finding and arbitration is either mandatory or by agreement of the parties. More states have mandatory agreement policies in their statutes than have voluntary agreement.

The purpose of fact-finding is to determine the facts relative to the merits of the position(s) of either side and to induce the parties to accept or modify their position on the basis of these findings and move the parties to voluntarily reach an agreement. A single fact-finder or a fact-finding panel comprised of a neutral and a representative of each group, may be employed and charged to make an advisory or binding determination and/or recommendation to the parties. These findings may be made public immediately, or they may first be made available exclusively to the parties who have the opportunity to accept them. If they are rejected, they are usually, by statute, made public to bring public pressure to bear on acceptance of them or renewal of intensified negotiations.

The third method of resolving disputes, arbitration, differs from mediation and fact-finding in that the third party is charged with deciding which proposals are fair and equitable, thereby dictating a settlement. There are two types of arbitration decisions—binding and advisory. Arbitration may be a mandatory statutory requirement, or a voluntary statutory requirement on the parties, contingent on acceptance by the parties. Arbitration brings fact-finding to a conclusion in that the arbitrator considers the facts and renders a decision about which of the opposing positions should be accepted by the parties, or presents a middle ground as a panacea to the dispute. The decision in advisory arbitration, however, may be accepted or rejected by the parties. Arbitration as a final attempt at settlement may be voluntary or compulsory with the decision being either advisory or binding. Often these factors are in combination, i.e., voluntary binding arbitration, compulsory binding, voluntary advisory, or voluntary binding.

Binding arbitration enjoins the parties to accept the arbitration decision. Some statutes, however, provide that an arbitration decision may be appealed under exceptional legal circumstances.

The following presents some of the more salient features of the state statutes on resolving disputes (see Table 1).

Twenty-three, 87 percent, of the states provide recourse to mediation; 19, 76 percent, to fact-finding; and 11, 43 percent, to arbitration. Nine states have a combination of mediation and fact-finding, but no state has a combination of fact-finding and arbitration procedures. Con-

TABLE 1.–PROVISIONS OF STATE LEGISLATION ON IMPASSE PROCEDURES AFFECTING TEACHERS

	Mediation			Fact finding					Arbitration				
State	Voluntary	Compulsory	Third party selected by	Voluntary	Compulsory	Third party selected by	Decision	Publication of facts	Voluntary	Compulsory	Third party selected by	Decision	Publication of facts
1	2	3	4	5	6	7	8	9	10	11	12	13	14
AL	Request		Parties										
CT	Request	X	Board						X		Parties	Advisory	
DE	Request		Parties	Request		Parties							
FL		X	Parties/ commission		X	Parties/ commission		Mandatory					
HI	Request	X	Parties										
ID	Request		Parties	Request		Parties							
IN	Request		Board	Request		Board			Request		Board	Binding	
IA	Request		Board		X	Parties			Request		Parties		
ME	Request		Parties	Request		Parties	Binding	Agreement	Request		Parties	Advisory/ binding	
MD	Request		Parties										
MA	Request		Parties	Request		Parties		Mandatory	Request			Binding	Mandatory
MI	Request	X		Request	X								
MN									Request			Binding	
NE					X	Parties	Advisory						
NV	Request			Request		Parties	Advisory						
NJ	Request				X				X		Parties		Mandatory
NY	Request		Board		X	Board	Binding		Request				
ND	Request		Parties	Request		Commission		Mandatory					
OK		To be developed			X	Parties							
OR	Request	X	Parties	Request		Superintendent	Mandatory				Binding		
PA	X	X	Board		X	Board		Mandatory	Request		Parties/ Board	Binding	
RI	Request			Request					Request		Parties	Binding	
SD	Request												
VT	Request		Parties	Request		Parties	Advisory						
WA				Request		Commission	Advisory						
WI	Request		Commission	Request		Commission							

Sources:
Labor Law Reporter, State Laws, Commerce Clearing House.
U.S. Department of Labor, Labor Management Services Administration, Division of Public Employee Labor Relations. *Dispute Settlement in the Public Sector: The State-of-the-Art.* Washington, D.C.: Government Printing Office, 1972. 141 p.

necticut is the only state with both mediation and arbitration arrangements. Thirty-four percent of the states, representing Indiana, Iowa, Maine, Maryland, New Jersey, New York, Oregon, Pennsylvania, and Rhode Island, have incorporated in their statutes all three methods of impasse resolution.

In the states with collective bargaining laws for teachers, the means of resolving impasses most frequently designated are mediation and fact-finding. An examination of mediation provisions finds that this process is voluntary and by request of one or both parties in 22 of the 26 states and compulsory in only six. Mandatory submission of issues at impasse to a specific fact-finding or mediation procedure has not gained general acceptance. Similarly, few states mandate compulsory arbitration as the procedure for settling an impasse for teacher negotiation.

The majority of the state statutes provide that the selection be made by the party representatives. In the event that the parties are unable to agree upon a neutral third member, the state labor relations board or some jurisdictional body submits a list of names to be alternately struck by the parties or assigns a third party neutral. Five states provide that the neutral party be appointed by a labor relations board or commission. Most states allow the selection of the third party neutral from the American Arbitration Association or the Federal Mediation and Conciliation Service.

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BRIEFS OF AGREEMENTS

PITTSFIELD PUBLIC SCHOOL COMMITTEE
PITTSFIELD, MASSACHUSETTS

Between Pittsfield School Committee and Pittsfield Teachers Association, effective September 1, 1973, to August 31, 1975. Approximately 700 certificated professional employees, including classroom teachers, guidance counselors, coaches, and extracurricular personnel, and excluding the superintendent, assistant superintendents, administrative assistant to the superintendent, substitutes, and all other employees of the school department.

COMPENSATION: (1974-1975) B.A., $8,200 to $12,710, 11 increments; M.A., $9,100 to $14,105, 11 increments; Ph.D., $15,345 maximum, 11 increments. Occupational education teachers with a degree credited with 8 years of teaching plus 10% differential; blocks of 9-18-27 credits for master's and up to 42 credit hours beyond M.A. compensated at $15 per credit for approved courses; professional preparation beyond high school based on a 1.05 ratio; teachers paid in 20 semi-monthly installments; new teachers without experience will be granted 2 annual increments with the understanding that credit validation must be made by the end of the 3rd year of service; vocational teachers receive $40 for a block of 10 credits; severance pay upon death or retirement based upon length of service and unused sick leave, $1,250-$1,950 after 20 years' service; additional $500 will be given if the teacher notifies the superintendent one year before his mandatory retirement date.

DIFFERENTIALS: All persons receiving differentials will have a daily schedule determined by the superintendent after consultation with the individual or group concerned; head coaches reach maximum in 5 steps; assistant coaches reach maximum in 3 steps.

High School Athletic Schedule

Football Head	$1050-$1400
Asst. 1	$600-$800
Asst. 2	$500-$700
Asst. 3	$400-$600
Basketball Head	$1050-$1400
Asst. 1	$600-$800
Baseball Head	$875-$1250
Asst. 1	$500-$700
Asst. 2	$400-$600
Hockey Head	$825-$1150
Swimming Head	$625-$950
Wrestling	
Golf Head	
Tennis Head	
Girls Basketball	$400-$700
Girls Ski Coach	

Elementary

Elementary school to be divided into 6 zones of 3 schools each depending on facilities.

Zones A-F

Fall	Winter	Spring
$250	$300	$250

Junior High

Football	A	$400
	B	$300
Basketball	A	$300
	B	$300
Baseball		$250
Track		
Soccer		$300

Senior class advisor, $300; yearbook editor, newspaper, radio club, $250; jr. class advisor, yearbook business, drama, debating, $200; sophomore class advisor, student government, literary journal, educational art, bookstore, pep club, cheerleader, cadets, $150.

OTHER: 10¢ per mile for all inter-school driving; previous teaching experience will receive credit up to 10 years on the salary schedule for one who has remained active in education upon returning to the system; administrators receive basic salaries, plus ratio over the B.A. maximum; speech therapist, (.07) $890; practical nursing coordinator, supervisors, (.15) $1907; asst. director of vocational education, asst. to high-school principal, coordinator of reading ser-

vices, foreign languages, health, safety and transportation, elementary-school principal of 10 teachers or fewer, (.25) $3178, high-school vice-principal, director, (.35) $4449; junior high principal, (.40) $5084; director of vocational education, (.44) $5592; high-school principal, (.55) $6991.

LEAVES: Sick leave of 15 days per year credited as of the 1st offical day of the school year, maximum accumulation of 125 days; additional days may be granted at the discretion of the school committee; 2 days of personal leave with written notice to be used for extreme necessity or personal hardship; absence up to 3 hours for approved reasons not chargeable to personal leave; 4 consecutive school days for death in the immediate family; up to 20 days paid leave to attend state or national association conventions; 2 days for professional conference, school visitation, subject to the approval of the superintendent; leave for military reserve obligation up to 17 days with committee paying the difference between the renumeration paid by the government and the teacher's regular compensation; paid leave as necessary to attend legal proceedings arising out of employment or as required by law; sabbatical leave at 3/4 salary, thus exceeding the regular salary rate, the teacher will receive that percentage of the salary totalling an increase of 25%; the teacher will be required to reimburse all monies if he fails to return to employment for 1 full year after a semester's leave or 2 full years after one full year's leave; maternity leave up to one year will be granted to tenure teachers without pay or increment; leave of absence will be granted without pay or increment to any tenure teacher to serve for one term in a full-time public office; unpaid military leave up to 4 years for active duty in armed services; up to 2 years unpaid leave for Peace Corps or exchange teaching; 1 year may be granted upon recommendation for professional improvement; a written application for extensions or renewals of leave must be made no later than 30 days before the expiration date of leave.

INSURANCE: Board will pay 50 percent of insurance premium for $2,000 term life insurance plan, and individual or family Blue Cross/Blue Shield coverage; tax-sheltered annuity plan available; board will pay full salary less workmen's compensation and full cost of medical, surgical, and hospital services for work-related injuries.

ASSOCIATION: Dues deduction for local, state, and national associations; in each school building one bulletin board will be provided for displaying Association notices and other material; a representative of the Association will lose no pay and may be relieved from all regular duties; public documents, copies of the minutes and other material distributed to the committee members will be made available to the Association.

INSTRUCTION: For secondary-school teachers no more than 3 teaching preparations in a subject, and not more than 2 subjects; a maximum of 6 periods per day consisting, if feasible, of at least 1 preparation period and no more than 5 student supervision periods for junior high- and secondary-school teachers; 1/2 hour duty-free lunch with an additional 1/2 hour if possible; teachers' day starts 15 minutes before and ends 15 minutes after students' day; committee reserves the right to increase the secondary school day from 6 to 7 periods and the teacher's work day by 45 minutes; K-12 class size 25 maximum, industrial arts 15, vocational 20, physical 35, and band and choral no limit; elementary teachers may use specialists' time as a preparation period; specialists provided for assistance to students with psychological, emotional, hearing, vision defects, and for remedial reading, speech therapy, art, music and physical education; teachers to be relieved of conducting eye or ear examinations, driving students to activities, and performing nonteaching administrative, clerical, or supervisory tasks including study hall; teachers may be assigned temporarily to subjects outside their major field; changes in grade assignments both in elementary and secondary school will be voluntary.

PERSONNEL: Grievance procedure ends with final and binding arbitration; a teacher may, upon request in writing, review his/her personnel file; a representative of the Association may accompany him during such review; teachers may be required to attend no more than 3 staff meetings cumulative to 3 hours per month, and 4 parent-teacher meetings per year; notification of such meetings and agenda will be made at least 48 hours in advance; 1/2 of tuition reimbursed with approval of program; nontenure teachers may be required to attend up to 5 orientation sessions per semester in each of the first 3 years of employment; evaluation will be conducted openly and with full knowledge of the teacher; a copy of the report may be discussed by the superiors and the teacher being evaluated; evaluation will be reviewed by the teacher and signed with the express understanding that such signature in no way indicates agreement with the content thereof; vacancies which occur during the school year will be posted on each school bulletin board; during July and August written notice of vacancies will be given to the Association; the qualifications for the position, its duties, and the rate of compensation will be announced; the position will be filled within 30 days from the date of posting; promotions will be based on the qualifications of the applicants but in case of similar qualifications the promotion will be given to the teacher already employed by the committee; a list of open positions is to be made available to all teachers being transferred; involuntary transfers will be determined by the quality of teaching performance, length of service, field of study, area of competence, and availability of a comparable position; teachers will immediately report all cases of assault suffered to the superintendent; adequate equipment and instructional materials to be made available; a faculty lounge, separate dining facilities, and parking will be provided.

* * *

PENNFIELD SCHOOL DISTRICT, BATTLECREEK, MICHIGAN

Between the Board of Education of the Pennfield School District and Pennfield Education Association, effective August 29, 1974, to August 15, 1975. Approximately 100 certificated professional employees, excluding the superintendent, principals, and assistant principals, curriculum coordinators, assistant coordinators, and director of guidance and counselors.

COMPENSATION: (1974-1975) B.A., $8,800 to $14,124, 13 increments; M.A., $9,630 to $15,408, 13 increments; up to five years' experience in schools other than Pennfield will be credited for new personnel; no principal may participate in any paid extracurricular activity; the board of education will not reduce the differential currently being paid to Type A special education teachers, social workers, and speech correction teachers.

DIFFERENTIALS:

Athletic Director	$1,320	Head Coaches	
		Wrestling	$975
Boys Sports		Baseball	$800
Football Coaches	$1,320	Track	$770
Basketball Coaches		Tennis	$580
Assistant Varsity Football & J.V. Basketball	$ 800	Assistant	
		Wrestling	$600
		Baseball & Track	$440
J.V. and Frosh Football & Frosh Basketball	$ 710	Tennis	$320
		Basketball Assistant	$490
		Tennis	$320
Girls Sports		Jr. High (2) Track	$317
Basketball Jr. High (2) Track	$ 500		

Retirement qualifications include 25 years of teaching service with at least 10 years in Pennfield Schools; up to 50 days of unused sick leave will be credited toward retirement at per-diem substitute pay.

LEAVE: Sick leave may be accumulated at the rate of 1 day at the beginning of each semester and 1 day per month from September through June, 100 days maximum accumulation; 2 days of sick leave may be used for illness of the teacher's spouse or child; the teacher should notify the principal at least by 6:30 a.m. if he/she is unable to report for work; teachers using sick leave during the first semester and using more than the accumulated sick leave will be paid at the end of the second semester for such absence, provided additional accumulated leave has been acquired; upon written notification 2 days of personal leave may be used for purposes other than illness but may not be taken immediately before or after a holiday or vacation period unless authorized by the superintendent; 24 hours' advance notice must be given for approval of leave other than for illness; personal business will not include days that could be classified as vacation days or PEA, NEA, or MEA workshop days, or conventions unless so designated by the superintendent or the board; funeral leave of 3 days to be deducted from accumulated sick leave; leave of absence for maternity may be approved, but without pay and increments for not more than 2 semesters beyond the date of which the leave has been effective; 2 years without pay may be granted for service in a public office with an additional 2 years if a written request is approved by the board; if a teacher does not report for work within 20 minutes of starting time and has not reported by phone, a substitute may be called for the remainder of the day; sabbatical leave may be granted for 1 year without pay after 7 years of service; any period spent on leave shall be treated as teaching service for the purpose of applying the salary schedule.

INSURANCE: Board will pay up to $627 of total premium or $52.24 per month per teacher for Blue Cross/Blue Shield insurance premiums with the additional riders; $8,000 term life insurance policy available to each contractual school employee with premiums paid by the board of education; Workmen's Compensation available.

ASSOCIATION: Payroll deduction of state and national dues; Wednesday afternoons following the close of school until 6:00 p.m. will be reserved for Association; bulletin boards and other established media of communication will be made available to the Association and its members; supplies are to be furnished by the Association; Association granted 4 paid days for its officials to transact Association business.

INSTRUCTION: Each teacher will have a 35-minute duty-free lunch, 5 unassigned preparation periods in the junior and senior high school, and 500 minutes each 2 weeks in the elementary schools; a supervised study period will be considered a teaching period; the school day will be 8 hours long with teachers arriving at least 35 minutes before the start of classes and leaving at least 30 minutes after class dismissal; school calendar to consist of 180 teaching days; the Association will create a teacher curriculum advisory committee to formulate suggestions to be made to the board for consideration and possible inclusion in the school curriculum.

PERSONNEL: Grievance procedure ends with written decision of the board; representatives of the board and the Association negotiating teams will meet regularly one day each month to review the administration of the contract and to resolve problems; such meetings are not intended to bypass the grievance procedure; arrangements will be made for at least 1 inservice course, and workshops, conferences, and programs per year; this will also be a joint endeavor between the Association and the administration; all teacher evaluations will be written; probation teachers will be evaluated 3 times during the year and tenure teachers at least once.

EVALUATION PROCEDURE

A teacher shall have knowledge as to when any observation or evaluation is being made. Formal evaluations, shall be for a minimum of twenty (20) consecutive minutes or two (2) separate periods of fifteen (15) consecutive minutes, if isolated observations are to be used in overall evaluation or are to be considered in the recommendation for the noncontinuance of employment of any teacher, these instances shall be brought to the teacher's attention either by conference or written communication within five (5) days of the occurrence.

A copy of the written evaluation shall be submitted to the teacher on the day of the observation or within five (5) days thereafter, one (1) to be signed and returned to the administration and the other to be retained by the teacher; in the event that the teacher feels his evaluation was incomplete or unjust, he may put his objections in writing and have them attached to the evaluation report to be placed in his personnel file.

The evaluation form may be reviewed during the school year by representatives of the board and the Association to determine its validity and changes may be made as a result of such review.

The final written evaluation report for each probationary teacher will be submitted to the superintendent; a copy shall be furnished to the teacher and to the Association upon written request of the teacher; if a report contains any information not previously made known to and discussed with the probationary teacher, the teacher may submit additional information to the superintendent; in the event a probationary teacher is not continued in employment, the board will advise the teacher of the reasons in writing.

Requests for a transfer must indicate reasons, grade, or position sought and applicant's academic qualifications; such requests will be renewed once each year to assure active consideration by the board; whenever a vacancy arises or is expected, the superintendent will notify the Association by letter; involuntary transfer will be made solely in time of emergency or to prevent undue disruption of guidance, discipline, safety, and hygiene and care of students; suspension of students may be imposed only by the principal; a teacher may use force as is necessary to protect himself from attack or to prevent injury to another student; board will establish a policy regarding student discipline and advise each teacher of it before the first day of classes; cases of assault will be reported immediately and legal counsel will be provided to advise the teacher of his rights.

* * *

TEMPLE UNIVERSITY OF THE COMMONWEALTH SYSTEM OF HIGHER EDUCATION PHILADELPHIA, PENNSYLVANIA

Between Temple University of the Commonwealth System of Higher Education and American Association of University Professors, effective July 1, 1973, to June 30, 1976. Approximately 2,953 certificated professional employees, including full-time faculty, department chairmen, full-time professional librarians (department heads) on the Paley Library budget, nonfaculty academic professionals, and excluding members of the faculty, librarians, and support professionals at Rome, Italy, campus Medical School, Law School, Dental School and Hospital of Temple University and all other nonfaculty and professional employees, teaching associates and graduate assistants, computer activity personnel, management supervisors, first-level supervisors, and confidential employees as defined in Act 195.

COMPENSATION: (1974-75 minimums) instructors, $10,000; assistant professor, $11,500; associate professor, $14,100; professor, $17,800. (1975-76 minimums) instructor, $10,500; assistant professor, $12,000; associate professor, $15,000; professor, $18,000.

SALARIES

- All employees covered by this Agreement shall receive a retroactive increase of 6.2% of the 1972-73 salaries dating back to July 1, 1973.

Temple will not be required to pay any contributions for 1973-74 to TIAA-CREF or to the Equitable for pension contributions covered by the amount of this increase.

Summer school salaries for 1974 shall be adjusted by the amount of the above increase. This shall also apply wherever percentages of salaries are used.

- For the year 1974-75, beginning July 1, 1974 the following shall apply:

  All salaries of continuing employees shall be increased by 5.5% or $825 per year, whichever is greater.

  On January 1, 1975 there will be a further increase at the rate of 2½% per year of the 1973-74 salaries of continuing employees or $375 per year, whichever is greater.

  In addition 1% of the 1973-74 salary base shall be set aside for Merit Increases as described in this Agreement.

  In addition, 1% of the 1973-74 faculty salary base shall be set aside for inequity increases as described in this Agreement.

  Adjustments of 1% for academic professionals will be made in accordance with the appropriate sections of this Agreement.

  An additional increase of 1% of the 1973-74 salary will be made for continuing librarians in lieu of an inequity increase.

- For the year 1975-76, beginning July 1, 1975 the following shall apply:

  All salaries of continuing employees shall be increased by 4% of the 1974-75 salaries.

  In addition 1½% of the 1974-75 salary base shall be set aside for merit increases as described in this Agreement.

  Beginning January 1, 1976 all salaries of continuing employees shall be increased by 5% of the 1974-75 salaries.

  Beginning January 1, 1976 Temple will pay one half of the cost of Family coverage under the Blue Cross/Blue Shield Major Medical Plan.

Salary Adjustment for Faculty—Inequities Fund

Within 30 days of the signing of this Agreement, a University Inequity Adjustment Committee shall be formed. It shall consist of a representative from the Office of the President, the Vice President for Academic Affairs (or one person designated by him), one small school Dean and one other Dean (each selected by the Council of Deans), and four members named by the AAUP.

The Committee shall first consider among other things the differences between colleges in average salaries by years of service in each rank to see if they represent inequities. Using its best judgment, the Committee shall then apportion among the various colleges an amount of money equivalent to 1% of the 1973-74 salary base of faculty members within the bargaining unit in a manner designed to help correct salary inequities between colleges and within colleges. It shall complete the apportionment between colleges within 60 days after its appointment.

The procedure for distributing these funds to individual faculty members within each college in order to correct individual inequities shall also be determined by the University Inequity Committee. All inequity salary increases so determined shall be effective January 1, 1975.

- **Redressment of Wage Inequities for Women and Minorities (Faculty and Academic Professionals)**

In order to identify and correct any existing faculty salary inequities based on sex or race, Temple and AAUP shall each appoint six persons from within the University community to serve on a Salary Review Committee.

The Committee's responsibilities will be three-fold: (1) to develop a comprehensive system for determining any internal inequities affecting women or minority faculty members; (2) to guide and advise departmental faculties, chairpersons and deans in redressing any such inequities; and (3) to hear appeals from persons who are dissatisfied with redressment decisions of departmental faculties, chairpersons and deans.

Within 30 days of the signing of this Agreement, the members of the Salary Review Committee will be named. The Committee shall collect data as it deems appropriate on such matters as teaching, research and service. Appropriate support staff and computer time will be made available to the Committee. It will run a multiple regression on the data for the majority group (white males) in each school, department or group of departments.

Data for a woman or a minority member will be substituted into the appropriate equation and an estimated salary will be computed and compared with the present salary. The difference, if any, between the estimated salary and the present salary will be submitted to departmental faculties, chairpersons, and deans as a basis for investigating whether an inequity exists. The Committee will be available to work closely with departmental faculties, chairpersons, and deans to help determine if redressment awards should then be recommended. The departmental faculties, chairpersons and deans will inform the Salary Review Committee of their respective decisions.

Any person who is dissatisfied with his redressment award (or lack thereof) as decided by the above process may appeal to the Salary Review Committee. In the event the Committee decides that the appeal has merit, it shall consult with the appropriate dean before submitting its final recommendation to the Academic Vice President. The Committee will also send a written statement of its decision to the person involved.

If the Academic Vice President does not agree with the Committee, he shall so inform the woman or minority person and the Committee of his reasons. The decision of the Academic Vice President shall not be subject to the grievance and arbitration provisions of this Agreement.

The Salary Review Committee shall complete its development of the comprehensive system for determining any internal inequities and shall send estimated salary data to departmental faculties, chairpersons and deans by February 15, 1975.

- **Inequity Redressment for Academic Professionals:**

An academic professional who believes there is a disparity in salary because of race or sex may avail himself of the grievance procedure herein.

- **Matching Offers:**

In the event that the Administration wishes to pay any member of the bargaining unit in terms more favorable than those set forth herein, it may do so provided that it makes a written request with a detailed rationale to the AAUP and the AAUP grants its written approval in regard thereto; except, however, when the departmental faculty, chairperson and Dean wish to retain a faculty member who has a bona fide offer (in writing) from a rival institution, the Dean (with the approval of the departmental faculty and the chairperson) may offer a competitive salary adjustment to attempt to retain the individual without the prior approval of the AAUP. In the event that a salary increase results, Temple shall inform the AAUP in writing within ten days of the decision.

- **Summer Compensation:**

Summer teaching shall be paid at the rate of 3% of the preceding academic year salary for each semester hour taught.

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FEDERAL WAGE CONTROLS

If the Federal Government institutes wage controls in any form and any portion of this collective bargaining agreement is deferred or cut back, the parties may meet to consider a reallocation of the monetary equivalent of the dissapproved wages or benefits in a manner that would result in government approval.

SELECTION AND COMPENSATION OF DEPARTMENT CHAIRPERSONS

The AAUP and Temple University recognize that the role of the chairperson differs among academic units across the University and even within departments in any school or college. Accordingly, the AAUP and Temple agree that in the designation of any chairperson the mode of designation of the department's nominee shall be determined by the department, provided that the department shall consult with the Dean before making a final determination of the procedure and that the last such instance of consultation shall occur no more than thirty days before a nominee is to be designated. Normally, no chairperson shall be nominated or appointed without the approval of a majority of full-time faculty of the department. Should the Dean find it necessary not to accept the department's nominee, he shall ask for an alternate nominee. Should mutual concurrence not then be arrived at, the Dean may then appoint an acting chairperson but shall account for his action to the appropriate faculty body in his college.

Accordingly, the AAUP and Temple agree that the designation of the departmental chairperson shall be the mutual concern and shall require the input of the Dean and the departmental faculty, and that no chairperson shall be designated without departmental faculty and Dean concurrence in the appointment.

Chairpersons are appointed for initial terms not to exceed five years. Beyond this, with due consideration to the value of change, they may be reconsidered for an additional term or terms not to exceed five years each.

Incumbent chairpersons shall finish their current terms.

Department chairpersons or department heads in the library may receive extra compensation in addition to their salaries for their administrative duties. When they do receive such extra compensation, the AAUP will be notified in writing of the amount and the reasons for the extra compensation.

OTHER: Early retirement at age 62 for those at least age 55 and employed a minimum of 10 years; provision for accelerated payment of contributions to provide benefits as if the individual had served to age 67.

LEAVE: Sick leave policy is recorded in the Employee's Handbook; librarians receive up to 3 months' sick leave; leave of absence without pay with option to continue fringe benefits at unit member's expense; maternity leave will not exceed contractual obligation, credit for tenure will accumulate during such period; a staffing on rotation basis "dur-

ing the days preceding and following Christmas and New Year, all offices that do not need to be fully staffed shall shall operate on a partial staff."

INSURANCE: University pays for $5,000 of life insurance, with opportunity for individual to purchase twice his salary (minus the $5,000 noncontributory insurance) on a contributory basis at the prevailing rate; effective January 1, 1976, ½ of the cost of family coverage under the Blue Cross/Blue Shield Major Medical Plan will be paid.

ASSOCIATION: Payroll deduction of dues; maintenance of standards; no strike/lockout provision; released time for librarians and academic professionals granted for processing grievances during normal working hours; right to use school buildings upon notice and approval on the same basis as granted to any group within Temple; bulletin boards are to be designated for posting Association communications; no cost for use of campus mail service; the board will provide information relating to wages, hours, and terms and conditions of employment of members of the bargaining unit; one AAUP telephone number is to be listed in the university telephone directory.

INSTRUCTION: Compensatory time granted for work beyond the normal work week hours; time and a half off for all hours worked between 4:30 p.m. on Friday, or the day preceding a holiday, and 8:30 a.m. Monday or 8:30 a.m. of the next regularly scheduled work day following a holiday.

PERSONNEL: Grievance procedure ends with final and binding arbitration; the right to review personnel file by the employee at his request, a separate administration file is also to be kept; 2 years maximum probation with a written evaluation made by the director at least annually which is to be discussed with the academic professional, signed by both and placed in the academic professional's personnel file; the tenure policy is not to have quotas limiting the number of persons who can advance to the level of tenure; the appeals process notifies within 2 weeks the decision rendered in favor of tenure or its rejection; an aggrieved faculty member is to notify Temple and AAUP of an appeal; a committee is to be appointed jointly by Temple and AAUP and by majority vote, the committee either confirms the decision, reverses, or remands one time for such further consideration as it deems appropriate;

> If the case is remanded for such further consideration and as a result the established time limits for a tenure decision are exceeded, it is hereby understood that this will not constitute de facto tenure. The committee shall be empowered to direct when reconsideration must be completed. If the reconsideration decision extends past July 1, and the final decision is against tenure, the faculty member shall then receive an additional one year terminal contract.
>
> If following remanding a committee must again be constituted, the members thereof need not be the same persons as those who served on the committee when the matter was initially remanded.
>
> The decision of the committee shall in all cases be final and binding upon Temple, the AAUP, and the faculty member involved. A tie vote shall be deemed to be a confirmation of the decision of Temple.

Dismissal because of retrenchment will be exercised in the order of part-time, non-tenure, tenure faculty with least years of service; persons denied promotions except for a position of department chairperson, or rank within the bargaining unit may utilize the grievance and arbitration provisions; for new positions for academic professionals created, the university will develop and implement a proper rate and report it to the AAUP; when a salary for a new position is established, the AAUP may within 30 days file a grievance alleging that such new rate does not bear a fair relation to other rates; Article IX of the present contract defines appointments, promotions, and termination of service for librarians.

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NEGOTIATION RESEARCH DIGEST

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NATIONAL EDUCATION ASSOCIATION
RESEARCH

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CASE REVIEWS

CALIFORNIA

Evaluation Guidelines Do Not Relieve Employer of "Meet and Confer" Requirements

A state law providing that each school district must develop and adopt guidelines for the evaluation and assessment of teacher performance and be receptive to the advice of certificated personnel does not exempt them from the Education Code provisions requiring "meet and confer" sessions with representatives of certificated employee organizations concerning terms and conditions of employment.

Two Monterey teacher organizations sought relief in the California Court of Appeals from a lower court judgment denying their petition for a writ of mandamus and a preliminary injunction against the Monterey Peninsula Unified School District. The teachers contended that the trial court erred in concluding that it was not the intention of the legislature to make the Stull guidelines subject to the Winton Act "meet and confer" requirements. The lower court responded that section 13486 of the Stull Act provided its own procedure for teacher representation in the adoption of guidelines and that this requirement was fulfilled by the utilization of the Certificated Personnel Evaluation Committee. The court then followed the rules of statutory construction, the later and more specific language of the Winton Act.

Noting that the rules were not applicable unless the language of the two statutes could not be harmonized, the court of appeals interpreted the Stull "advice" requirement as a mandatory requirement. Were it not for the advice requirement, the court argued, the guidelines could be developed and adopted without the participation of the affected employees since the Winton Act did not require a school employer to meet and confer on an issue unless requested to do so by representatives of the certificated employees. In this sense it was evident that the advice requirement of the Stull Act harmonized with the "meet and confer" requirement of the Winton Act. The court further observed that the Stull Act provision for giving teachers a voice in the development and adoption of the guidelines was in addition to, not to the exclusion of, the meet and confer process.

To the teachers' next contention that the trial court erred in concluding that the Stull guidelines governed tenure and were exempt from the "meet and confer" requirements of the Winton Act, the court, having considered the language of the act, determined that the lower court based its conclusion on a sentence which upheld the pre-eminence of tenure over other considerations. Interpreting the sentence in proper context, the court of appeals asserted that the legislature intended tenure regulations to be subject to the "meet and confer" requirement. The "meet and confer" process was not intended to strengthen those rules and regulations by establishing orderly and uniform methods of communication between teachers and administrators. Although the court had encountered no case interpreting section 13080 of the Winton Act, it asserted that *Los Angeles County Firefighters Local 1014 v. City of Monrovia* interpreted substantially identical language in the Meyers-Milias-Brown Act, which amended and expanded the George Brown Act, an equivalent and source of the Winton Act.

Recalling the *Monrovia* case in which the city contended that the superseded language created a specific exemption, the court noted that the contention was rejected by the tribunal in that the latter was of the opinion that the legislature intended by the entire act to set forth reasonable principles which public agencies must follow in their rules and regulations in the administration of employer-employee relations; and further, that the legislature did not intend to replace the field of public employer-employee relations except where public agencies do not provide reasonable methods of administering employer-employee relations. Inasmuch as the evaluation under the Stull guidelines was made a permanent attachment of the employee's file, thereby constituting a direct connection with employer-employee relations, the court disagreed with the trial court's conclusion that the Stull guidelines were beyond the scope of the Winton Act as they did not involve employment conditions and employer-employee relations.

Responding to the district's contention that the teachers were barred from declaring that the development and adoption of the Stull guidelines were subject to the requirement of the Winton Act because of their untimely request to meet and confer, the court called attention to the precise language of the lower court's findings which inadvertently negated the district's argument.

The court reversed the trial court's judgment and ordered it to grant the teachers' petition for a writ of mandamus and issue an injunction to enjoin the district from applying its guidelines pending its compliance with the meet and confer requirements of the Winton Act, (*Certificated Employees Council of the Monterey Peninsula Unified School District et al, v. Monterey Peninsula Unified School District*, California Court of Appeals, October 4, 1974.)

ILLINOIS

School Board May Not Dismiss for Cause Without Following Evaluation Procedure Specified by Contract

The Illinois Appeals Court, First District, held that under a contract specifying a procedure for evaluating teachers, a school board cannot dismiss for cause unless it has followed the evaluation procedure specified in the contract, even if the cause refers to events that took place outside the classroom. In addition, the court held that when a school board, within the time limit specified by the Illinois Tenure Act, fails to exercise its option to extend a teacher's probationary status, the teacher automatically becomes tenured. Therefore, the Court confirmed a lower court verdict granting a writ of mandamus which ordered the Cook County Board of Education to grant tenure to a member of the Illinois Education Association whom it had dismissed.

During the first three semesters of employment with the board as a probationary teacher, the teacher had not been evaluated in accordance with the requirements of the contract between the board and the Association. After several incidents in which the teacher encouraged students who were protesting against the board and made an obscene gesture to security officers during student protests, the board dismissed the teacher on grounds of his conduct during these incidents, and his general lack of cooperativeness and failure to fulfill his responsibilities, without advising him of his rights under the Illinois Tenure Act. Under that Act, the teacher had become tenured after the board failed to send him written notice to the contrary 60 days before the end of his second year.

The teacher filed a grievance, contending that his dismissal was in violation of both the contract and the Tenure Act. After an arbitrator ruled against him in an advisory arbitration proceeding, the teacher and the Association filed a writ of mandamus with an Illinois trial court, requesting the court to order the board to grant him tenure as required by the Act.

After the trial court granted the writ, the board appealed to the Illinois Appeals Court, First District, alleging that (a) the writ could not be granted to enforce contractual obligations; (b) the contract did not bar dismissing a nontenured teacher for cause, and was not applicable to dismissals based on events outside the classroom; (c) the contract was void if it barred the dismissal, since the board could not bargain away its statutory right to dismiss for casue; and (d) the lower court had "usurped" the statutory power of the board to decide to grant the teacher tenure or extend probation for another year.

The Court held that while the contract did not eliminate the statutory power of the board to dismiss for cause, it required the board to take specified steps regarding evaluation in order to exercise that power. Since the board had not taken those steps, the teacher's dismissal was invalid. In addition, since the board had not exercised its option to extend probation within the statutory time limit, the teacher was tenured, and the lower court had acted properly in granting the writ of mandamus to enforce the teacher's statutory rights.

The lower court verdict was affirmed. (*Illinois Education Association v. Board of Education, Cook County;* Ill. App.Ct., 1st Dist., October 3, 1974.)

MASSACHUSETTS

Maternity Provision Unconstitutional

On appeal from a lower court, the Massachusetts Supreme Judicial Court remanded for recalculation of back pay awards a determination reinstating two public-school teachers terminated under an unconstitutional maternity provision.

Shortly after the teachers were forced to resign owing to their pregnancy, they received a letter informing them that sick leave benefits did not extend to pregnancy and that they were terminated as of the date of the letter. They complained to the Massachusetts Commission Against Discrimination, and an investigating commissioner notified the superintendent that he had found probable cause concerning the complaints and suggested a conciliation which included a revocation of their termination order and a six-month retroactive maternity leave with a right to reinstatement and benefits. The school committee accepted this offer, but the teachers rejected it.

The teachers argued that the board's unilateral termination was a "dismissal" of tenured teachers which, under Massachusetts General Laws, was illegal because they were not given notice and a hearing. The school committee maintained that the letter of termination did not apply to the statute cited by the teachers but rather to a rule as to pregnancy which supported a "forced resignation." Although the dismissal had the tone of absolute termination and the school committee had never invited the teachers to return to work, the court determined that the letters represented an effort to enforce the rule requiring pregnant teachers to resign, while implying rights of reinstatement. Under this circumstance, the termination letters were not dismissals within the scope of the statute which dealt with complete separation.

On the question of the constitutionality of the termination, the court, guided by recent Supreme Court decisions involving school-board regulations which required teachers to terminate their services long before the expected date of birth, asserted that such rules penalized the pregnant teacher and interfered with her freedom of personal choice. Further, such restrictions were found to foster no state interest and the limiting of a teacher's right to return to work until the beginning of the semester following the date on which her child was three months old, rested on an irrebutable presumption of disability that was unnecessary, arbitrary, and irrational.

Having determined that the rule of the Malden school committee was invalid, the court had to determine whether

the treatment accorded the teachers met constitutional standards. The court determined that categorical disallowance of all sick pay for disabilities related to pregnancy was improper when sick leave was allowed for other disabilities.

The school committee invoked the doctrine of mitigation applicable to discharges under contracts for personal service, that is, if the discharged employee can by reasonable efforts obtain work to compensate for his loss of salary, he would to that extent be denied a monetary recovery. The teachers argued that tenured teachers were exempted from the rule on mitigation. Referring to *Police Commr. of Boston v. Ciccolo*, which upheld the right of discharged employees to reinstatement without loss of compensation but subject nevertheless to the rule of mitigation as in *McKenna v. Commissioner of Mental Health*, the court declared that the cases cited by the teachers were not applicable. The court further stated that the school committee was charged with the burden of proof that the teachers could have mitigated their losses through the procurement of similar employment. The argument that the teachers could have returned to their jobs in the Malden school by accepting the terms of conciliation proposed by the commissioner was rejected by the court on the grounds that the teachers' refusal to accept those terms did not satisfy the school committee's burden as to mitigation, even if the conciliation proposal was understood to be an offer of reinstatement, for the proposal compromised the very constitutional right that the teachers were asserting. The court ordered the decree vacated and the cases remanded for further investigation. (*Francine E. Black and Kathleen M. Lane v. School Committee of Malden et al.*, Massachusetts Supreme Judicial Court, April 26, 1974.)

MONTANA

School Board May Issue Individual Teacher Contracts Before Ratification of Agreement

Upholding a lower court decision, the Montana Supreme Court ruled that the Billings School Board did not violate the statutory duty to bargain in good faith when it issued individual contracts to teachers before signing a master contract with the Billings Education Association (BEA). After the parties reached an impasse in negotiation of a second contract, an impasse panel issued recommendations. The two parties finally agreed on all the recommendations except one, so no master agreement was ratified before the board tried to distribute individual contracts to teachers. BEA obtained a temporary order restraining the board from issuing or accepting individual contracts. Later a hearing was held to show cause why the board's action should not be restrained.

Reflecting on the Montana Professional Act for Teachers, the court pointed out that issuance of individual contracts not in conformance with the master agreement was not prohibited. However, the Act provides that the master agreement controls in cases of inconsistent provisions in individual contracts. Further, the law mandates that teachers have contracts before they teach. The court concluded that it was not necessary for a master agreement to be negotiated and ratified before the board could offer individual contracts. The Supreme Court of Montana agreed with this decision and pointed out that the right to individual contracts did not require a master contract, only a good faith effort to negotiate, and the school board had made such an effort. (*Billings Education Association, Inc., vs. Board of Trustees of Billings, School District No. Two*, Yellowstone County District Court, August 5, 1974.)

NEW HAMPSHIRE

Right-To-Know Law Does Not Require the Press To Be Present at Negotiating Sessions

The New Hampshire Supreme Court ruled that the state right-to-know law did not require the public to be present at negotiating sessions between public employers and employees, but required only that the public be informed of the terms of the resulting agreements. Therefore, the court confirmed a lower court decision which denied an injunction to reporters who were seeking to prevent the Concord Union School District from excluding them from bargaining sessions between the district and the Concord Education Association.

A newspaper reporter had requested to attend one or more of the bargaining sessions between the Association and the district traditionally closed to the public. When the district refused his request, the reporter and several colleagues filed suit in a state trial court, contending that their presence at the bargaining sessions was required under the state right-to-know law, regarding the decisions and considerations on which government action was based, and requested the court to enjoin the district from excluding them from the sessions. The trial court refused to grant the injunction on the grounds that the presence of the reporters would disrupt negotiations and delay the adoption of the school budget.

The reporters appealed to the New Hampshire Supreme Court, contending that the right-to-know law required that "all public proceedings of any school district must be open to the public." The district contended that such an application of the law would destroy the state collective bargaining statute, which utilizes the established techniques of private sector bargaining, since the collective bargaining process cannot "operate effectively if exposed to the public eye."

The Court held that in the absence of evidence that the state legislature had considered the application of the right-to-know law to public sector bargaining, it was improbable that the legislature would have applied the law in a manner that would "destroy the very process it was attempting to open to the public." The record indicated that "the pres-

ence of the public and the press at negotiating sessions would inhibit the free exchange of views and freeze negotiators into fixed positions from which they could not recede without loss of face." However, the Court reminded the district that the right-to-know law required the board to approve the agreement arrived at in open session, so that the public's right to know what was agreed to in the contract will be protected. (*Talbot v. Concord Union School District*, New Hampshire Supreme Court, July 30, 1974.)

NEW JERSEY

Teacher's Right of Free Speech Not Absolute

The New Jersey Supreme Court affirmed a lower court decision which ordered the State Commissioner of Education to hold a hearing on the petition of a South Plainfield teacher, alleging that the South Plainfield Board of Education had unconstitutionally retaliated against the teacher's exercise of her right to free speech by refusing to renew her contract, and further that the South Plainfield Education Association had the rght to intervene. While noting that a teacher's right to free speech does not include verbal attempts to usurp the authority and prerogatives of administrators, the court refused the Commissioner's request for binding guidelines pending the submission of the hearing record.

After the board failed to renew the contract of a teacher who would otherwise have received tenure, the teacher filed a grievance stating that the board's action was retaliation for her questioning and criticizing certain administrative policies and directives before her co-workers and was, therefore, a violation of her right to free speech under the First Amendment to the federal Constitution.

When her grievance was denied, the teacher and the Association filed a petition with the State Commissioner of Education requesting that the board's action be reversed. In her petition the teacher reiterated her grievance and presented evidence from her supervisor's report, substantiating her claim that she was not renewed because of her public remarks.

The Commissioner dismissed the petition on its face without taking testimony, on the grounds that the petition contained only "naked allegations," and ruled that the Association had no standing to appear as co-petitioner.

The teacher then appealed the Commissioner's ruling to the State Board of Education which submitted the matter to its Law Committee, and upon receiving its report denied the appeal without affording the teacher an opportunity to examine the Committee's report.

The state appellate court ruled that the State Board of Education had acted improperly by failing to permit the teacher to examine the Law Committee's report, that the Association should have been permitted to continue as petitioner, and that the Commissioner had improperly dismissed the petition since it contained enough evidence to require the taking of testimony as a formal hearing. The appellate court remanded the case to the Commissioner.

The Commissioner then appealed to the New Jersey Supreme Court, seeking reversal of the appellate court decision and requesting guidelines for handling the case if the appellate court order was sustained.

The New Jersey Supreme Court upheld the appellate court ruling on all counts and refused to issue binding guidelines until it received a record from the Commission embodying not only testimony as to what the teacher said, but also testimony on "the accompanying colorations, the circumstances and other pertinent factors." However, the court noted that a teacher's right to free speech is not an absolute one, but may be limited to protect a legitimate state interest. The court cited *Chitwood v. Feaster* wherein it was held that if a teacher cannot or does not work cooperatively and harmoniously with the head of the department, but "undertakes to seize the authority and prerogatives of the department head" by means of verbal noncooperation and aggression, he is not protected by the First Amendment and is not immune from dismissal. (*Winston v. Board of Education, Borough of South Plainfield*, New Jersey Supreme Court, May 13, 1974.)

NEW YORK

Teachers' Strike Penalty and Back Pay Grievance Resolved

Clarification of strike penalty and the procedures for recovery of back pay through the grievance process were established in two separate proceedings by the appellate division of the New York State Supreme Court.

In a case brought by the Yonkers Federation of Teachers against the state PERB, the court upheld a PERB decision which revoked the dues checkoff privileges owing to the Federation's violation of the Civil Service Law which prohibits strikes by public employees.

The Yonkers Board of Education had filed a charge with PERB that the Yonkers Federation of Teachers violated the Civil Service Law by striking. The Federation held that the board provoked the strike and forced the teachers to stage the walkout by engaging in acts of extreme provocation."

A PERB hearing officer sustained the board's charge and held that the Federation called the strike because it failed to achieve its bargaining demands during a self-imposed time period. The full PERB then instructed the board to suspend the Federation's dues deduction privileges.

The court determined that the union resorted to the strike as a bargaining weapon after threatening a walkout. Although recognizing that the board's behavior was not very commendable, the court found no justification in the Federation's claim that the school district was guilty of "acts of extreme provocation" and upheld PERB's decision to suspend the union's dues privileges. (*Yonkers Federation of Teachers, AFT Local 860, AFL-CIO v. PERB*, New York State Supreme Court, Appellate Division, June 25, 1974.)

In a case between the Guiderland Central Teachers Association and the Guiderland Central School District involving a demand for military service pay, the board contended that it was not obligated to grant back pay since the grievance had not been filed within the 20-day time limit established by Section 3813, designed as a protective measure against unnecessary delays which would impede the validity of an investigation.

Because the Guiderland contract did not require compliance with the clause in question, the court determined that adherence to the 20-day limit was not a prerequisite for arbitration. (*Guiderland Central School District and Guiderland Central Teachers Association*, New York State Supreme Court, Appellate Court, Appellate Division, June 13, 1974.)

Impart of Class Size, Not Class Size Itself, Negotiable

According to the New York Court of Appeals, while class size is not negotiable, its impact is, including proposals to vary the salary and benefits received by individual teachers according to the size of their classes. Therefore, the Court upheld a lower court ruling that the Public Employment Relations Board had made a reasonable distinction between class size and its impact in a case involving the West Irondequoit Teachers Association and the West Irondequoit Board of Education.

During negotiations, the Association had proposed that class size be limited to 20 pupils in kindergarten and first grade, and to 25 in grades 2 through 6, and that increases beyond those limits would require the agreement of the individual teacher affected and the building principal, with disagreements subject to the grievance procedure.

When the board refused to agree to its proposal, the Association filed an improper practice charge with PERB, alleging that the board had failed to negotiate in good faith. The Board argued that class size was not a term or condition of employment, subject to mandatory collective bargaining under the Taylor Law, but a matter connected with "the formulation of primary educational policy." After the hearing officer concluded that class size had nothing to do with "primary educational policy" and had a significant impact on teachers' working conditions, the board requested to have the case reviewed by the full PERB.

Reversing the decision of the hearing officer, the PERB majority concluded that while the impact of class size on teacher workload was negotiable, "the fixing of class size initially was purely the subject of educational policy made in light of the employers' resources and the needs of its constituency."

After a lower appellate court unanimously upheld PERB's decision, the Association appealed to the New York Court of Appeals, contending that class size fell into the same category as length of the school year, which PERB and the state appellate courts had concluded was a term and condition of employment. Therefore, the Association argued, the distinction between class size and its impact was unreasonable.

The Court rejected the Association's contention and ruled that whereas the length of the working year directly affected only the relationship between employers and employees, "class size is a basic element of educational policy bearing on the extent and quality of the service rendered." Upholding the reasonableness of PERB's distinction between class size and its impact, the court noted that while class size itself was not negotiable, its impact was, and teacher bargaining agents could propose, for example, that the salary and benefits of individual teachers vary with class size. (*West Irondequoit Teachers Assn. v. Helsby*, New York Court of Appeals, July 11, 1974.)

PENNSYLVANIA

No Subcontracting Occurred When Primary Work of Fired Employees Was Absorbed by Members of the Bargaining Unit

The Pennsylvania Court of Common Pleas held that subcontracting had not occurred when the Mars Area School District eliminated paid teacher aides who were members of the Pennsylvania State Education Association and expanded the number of volunteer aides since the primary work of the teacher aides had been absorbed by the teachers and was not performed by volunteers. Therefore, the court reversed the decision of the Pennsylvania Labor Relations Board which had held that the district had committed an unfair labor practice when it failed to bargain with the Association before eliminating the teacher aides.

The district had employed both volunteer aides and paid teacher aides. Volunteers were assigned to individual teachers to assist them with clerical and tutorial work. Paid teacher aides, who were initially hired to free teachers from supervisory duties in the cafeteria and other areas outside the classroom, were also employed in assisting teachers with clerical and tutorial work and housekeeping.

After salaries of teacher aides became bargainable and were raised, the district, in an economy drive, eliminated nine aides without consulting the Association and expanded the number of volunteer aides.

The Association filed a petition with the PLRB, contending that the district had committed an unfair labor practice under the Public Employee Relations Act by subcontracting the work of Association members without prior negotiation. The district argued that the decision to eliminate teacher aides was a matter of "inherent managerial policy" over which it was not required to negotiate.

The PLRB held that the elimination of the aides was part of an "integral part of a plan to replace union personnel with nonunion personnel" and, therefore, was subject to mandatory collective bargaining under the Act.

Following the board's decision, the district appealed to the Court of Common Pleas, contending that the board's ruling was capricious and not supported by the facts.

The court held that no subcontracting had occurred since the supervisory duties which constituted the primary work of teacher aides was in fact being performed by teachers, and not by volunteer aides. The unfair labor practice charge was dismissed. (*PLRB v. Mars Area School District*, Court of Common Pleas, Butler City (Pa.) August 21, 1974.)

* * *

FEDERAL

Obligation To Pay Union Dues Held Constitutional

The Supreme Court of the United States refused to review a decision of the U.S. Court of Appeals, 2nd Circuit, which held that the power of a union under the National Labor Relations Act to collect dues from employees in a union shop does not constitute an "unwarranted abridgement" of free speech, that employees may not be relieved from the obligation of paying dues on the grounds that the benefits they receive are not sufficiently substantial; and that charges that a union attempted to force employees to join a union and comply with its regulations and orders fall within the exclusive jurisdiction of the National Labor Relations Board.

On these grounds, the Court of Appeals had reversed the decision of a federal district court in a case involving two media commentators on contract with CBS.

Under the collective bargaining agreement between CBS and the American Federation of Television and Radio Artists CBS was required to employ only persons who joined the union within 30 days of employment and remained members in good standing. The union constitution gave the executive board the power to expel any member who failed to obey any union order or regulation. When one of the commentators, a union member, informed the union that he intended to resign from membership, union representatives informed him that he would lose his job if he refused to remain a "full-fledged" member. The other commentator was informed by his prospective employer that he had to join the union as a condition of employment.

The two commentators filed suit in a federal district court, asserting that the requirements that they be union members, pay dues, and comply with union orders and regulations, since they were imposed under authority derived from the National Labor Relations Act, constituted "governmental action" subject to constitutional review by the federal courts, and violated their constitutional rights of free speech and deprived them of their property without due process of law. In addition, they claimed that they had no obligation to pay dues since they had not derived any substantial benefit from union membership.

The district court held that the benefits which the commentators received from membership in union pension plans were not substantial enough to constitute an obligation to pay dues, and declared that any provision of the agreement requiring the commentators to remain union members, pay dues, and comply with union regulations and orders was null and void.

The union filed an appeal with the U.S. Court of Appeals 2nd Circuit. This court declined to consider whether the union shop agreement was in fact "governmental action" and assumed jurisdiction on the grounds that its initial examination indicated that the constitutional claims raised were substantial and not presented "solely for the purpose of obtaining jurisdiction."

Having assumed jurisdiction, the Court of Appeals reversed the lower court ruling in its entirety. It held that union dues did not constitute an unwarranted abridgement of free speech, since they were not "flat fees imposed directly upon the exercise of a federal right" and "constitute the employee's share of the expenses of operating a valid labor regulatory system which serves a substantial public purpose," the reduction of industrial strife. Furthermore, the lower court judgment that the benefits which the commentators received were not substantial enough to impose an obligation to pay dues was rejected on the grounds that "there is no rational basis for distinguishing between the degrees of benefit one enjoys as a result of a union's bargaining efforts on his behalf." Finally, the court held that allegations that the collective bargaining agreement imposed compulsory union membership and compliance with union regulations and orders constituted "arguable" unfair labor practices and, therefore, fell initially within the exclusive jurisdiction of the National Labor Relations Board and, therefore, the district court had no power to adjudicate. The appeals court reversed the district court ruling and remanded it.

The commentators filed a writ of certiorari requesting the Supreme Court of the United States to rehear the case. The request was denied. (*Buckley v. Television and Radio Artists*, U.S. Supreme Court, December 23, 1974.)

BOARD FINDINGS AND RULINGS

MASSACHUSETTS

Unit of Principals and Assistant Principals Certified

Holding that a party may not relitigate representation issues appearing as objections to an election, the Massachusetts Labor Relations Commission (MLRC) certified a unit comprised of principals and assistant principals in the Littleton school system.

The school committee argued that the principals and assistant principals were managerial employees under the state's new collective bargaining law, and thus should be precluded from collective bargaining since any contract negotiated between the parties would be unenforceable.

The union moved for dismissal on the grounds that the appropriateness of the unit was not a proper issue to be raised as an objection to an election.

MLRC sustained the motion for dismissal, ruling that a party may not relitigate representation matters on the pretext of objecting to an election. It indicated that these issues should be raised at the outset of representation proceedings, or in unit clarification proceedings, or as a defense in unfair practice proceedings involving an employer's alleged refusal to bargain.

Concluding, MLRC denied the school committee's objection, and sustained the union's motion to dismiss. MLRC ruled to certify the union as the collective bargaining representative of the employees in the unit. (*In the Matter of Town of Littleton School Committee and International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local 380*, Massachusetts Labor Relations Commission, January 30, 1974, and February 6, 1974.)

MICHIGAN

Inclusion of Part-Time Faculty in Bargaining Unit of Full-Time Faculty Permissible

The Michigan Employment Relations Commission granted the Kirtland Community College Faculty Association's petition for an election among part-time faculty with the intention of including them in the full-time bargaining unit since both groups performed the same type of work.

Contending that a single unit of full-time and part-time faculty would be inappropriate, the college sought dismissal of the petition.

Upon examination of the college's employment requirements and practices, the Commission concluded that the distinctions between full-time and part-time faculty did not warrant the exclusion of part-time faculty from the bargaining unit. The Commission also observed that the term "part-time," as applied to certain faculty members, might be a misnomer since they taught a full load. Furthermore, evidence indicated that the majority of part-time employees were considered by the employer to have a reasonable expectation of continued employment.

The Commission found that the inclusion of part-time faculty in the full-time bargaining unit was without conflict, and, therefore, an election to that end would be permissible. (*Matter of Kirtland Community College and Kirtland Community College Faculty Association*, Michigan Employment Relations Commission, November 15, 1974.)

Employee Classifications Having Community of Interest Accrete to Teachers' Unit

The Michigan Employment Relations Commission ruled that media production specialists and clinical assistants have a sufficient community of interest to be included in the Kellogg Faculty Association (KFA).

The Kellogg Community College argued against inclusion of media production specialists since they were staff administrators who exercised supervisory authority in the area of proper media approach and their salary was on an administrative level independent of faculty salary. The college also contended that clinical assistants should not be included because their pay, work shifts, and duties differed from those of unit members.

The Association, arguing for inclusion of media production specialists, pointed out that the specialists did not have authority to hire or discharge anyone in the existing or proposed unit and had no authority to evaluate or recommend anyone to be hired or fired, and that the position was similar to the position of audiovisual coordinator which was already included in the unit. The Association also argued that clinical assistants should be included since their duties were formerly performed by full-time faculty members.

The Commission ruled that media production specialists should be included because they did not supervise other employees, were not managers in the sense that they were

instrumental in policy considerations, and generally had a community of interest with other unit members. The Commission also ruled that clinical assistants should be included because they taught students as well as advised other faculty members on teaching and were not supervisory over other unit members.

On these bases the Commission ruled that the two groups of employees could be included in the KFA if the two groups voted for inclusion. (*In the Matter of Kellogg Community College, Employer, and Kellogg Faculty Association, Petitioner*, Michigan Employment Relations Commission, June 14, 1974.)

NEW YORK

Certification of Union Without Election Held Appropriate

An employer's interrogation of employees as to their union preferences constituted unlawful coercion under the Civil Service Law since the interrogation was not required to determine the majority status of the union and was conducted without "minimal safeguards" such as secret ballot. Certifying a union without an election, by ordering the employer to negotiate upon request was an appropriate remedy when the employer's conduct had prevented the "laboratory conditions" for conducting an election and there was independent evidence of the union's majority status.

A majority of the employees in the Highway Department of the town of Clay indicated their preference for the union by signing authorization cards, which were turned over to the town clerk, who verified the majority status of the union. The town supervisor circulated petitions for employees to disavow the union, and ordered the employees to report during working hours to his office where he interrogated them concerning their union preference. The supervisor again circulated petitions to disavow the union. Some employees changed their minds several times, and several new employees were hired who "quite expectedly" did not support the union. Finally, the employer informed the employees that a raise was imminent and then announced that the raise could not be implemented since it might be interpreted as unlawful persuasion of employees not to join the union.

In response, the union filed a petition with PERB, contending that the interrogation and the withdrawal of the announced raise were unfair labor practices in violation of the Civil Service Law, and since the town supervisor had extended an offer of recognition to the union, the town was obligated to negotiate with the union.

PERB held that an interrogation regarding the union sympathies of employees was legitimate only if its purpose was to determine the union's majority status and if it was conducted with certain minimal safeguards, including communication of the purpose of the inquiry to employees, assurances against reprisals and discrimination, and the use of a secret ballot to ascertain employee preferences. Since the status of the union had been ascertained before the interrogation, and no safeguards had been observed, PERB concluded that the town's conduct was coercive and had the purpose of depriving employees of their rights under the Civil Service Law. The withdrawal of the announced raise considered as "carrot on a stick" action also constituted unlawful coercion under the Act. Finally, PERB ruled that the supervisor's offer constituted de facto recognition, and, therefore, the town was obligated to negotiate with the union.

After PERB sustained the union's charges and ordered the town to negotiate upon request, the town appealed to a state court. The court, while confirming PERB's rulings with respect to the interrogation and the withdrawal of the raise, held that the union had not been recognized and therefore remanded the case to PERB for a decision on sanctions with regard to the interrogation and the raise.

In considering this question, PERB held that an order to negotiate upon request, thereby certifying the union without an election, was an appropriate remedy where there was independent evidence of the majority status of the union and the employer's improper practices were "so disruptive of the election process as to prevent the laboratory conditions for conducting an election," and that the impact of an employer's conduct on the election process was to be determined from an assessment of the circumstances surrounding the conduct.

The majority of PERB, in concluding that the town had prevented the laboratory conditions for conducting an election, took account of the following: (a) The majority status of the union was known to the town. (b) After receiving verification of the union's status, the town had violated the Act by failing to recognize or to refuse to recognize the union, or to request PERB's assistance in conducting an election. (c) Instead the town had made unlawful attempts to pressure the employees into changing their mind. (d) The town's actions had resulted in some employees changing their minds several times. Therefore, PERB ordered the town to negotiate with the union upon request, to cease and desist from improperly interrogating employees, and to inform the employees of its decision by posting a notice in an appropriate location. (*In Matter of Town of Clay and Service Employees International Union, Local 200*, PERB, September 27, 1974.)

Different Working Conditions Unjustifiable for Separate Bargaining Units

Since the working conditions and special interests of both groups did not justify separate units, a Public Employment Relations Board hearing officer determined that professional and nonprofessional faculty members, represented by the Adirondack Community College Faculty Association and employed by the Warren County and Washington County Adirondack Community College, should be incorporated in a single negotiating unit.

The Association sought consolidation of the professional and nonprofessional units as well as inclusion of certain

unrepresented people while the college wanted to retain the separate units for these groups on the basis of difference in working conditions.

Observing that a close community of interest and function existed between the academic and nonacademic personnel, the hearing officer was of the opinion that the group should be represented by one unit. Therefore, he ordered that an election among all the employees be held. (*Matter of Warren County and Washington County Adirondack Community College and Adirondack Community College Faculty Association*, Public Employment Relations Board, September 4, 1974.)

OHIO

University Must Pay Salary Increase for Doctorate Granted at Institution It Did Not Recognize

Interpreting a contract between Youngstown State University and the University Chapter of the Ohio Education Association, which provided salary increments for completing a terminal degree, an arbitrator held that since university officials had failed to define from which institutions they would not recognize degrees, the decision of a department chairman to approve a teacher's program for completing a doctorate at a Mexican institution was binding on the University. Therefore, the arbitrator directed the University to pay the teacher the salary increment provided in the contract.

The teacher, who wished to complete her doctorate at a Mexican university, disclosed her plans to her department chairman and received his approval. However, upon completion of her doctorate, the University refused to grant her the contractually required salary increase for obtaining a terminal degree before the start of an academic year, on the grounds that the institution which granted the degree was not properly accredited, and the degree was therefore unacceptable.

The teacher grieved, requesting that she be awarded the increase as required by contract, and recognition of her degree in all matters connected with promotion, advancement, and university publications.

The arbitrator held that since University officials had not placed any limits on the institutions they would recognize, the decision by the department chairman to approve the teacher's plan constituted approval by the University which could not be withdrawn. However, the arbitrator noted that he could not modify the contract which left matters concerning advancement, promotion, and University publications within the discretion of the University. Therefore, he confined his award to what was stipulated by the contract, and directed the University to pay the salary increase. (*Youngstown State University and Youngstown State University Chapter of the Ohio Education Association*, Federal Mediation and Conciliation Service, September 11, 1974.)

WISCONSIN

Inquiry into Reason for Requesting Personal Leave Held Permissible Where Contract Does Not Prohibit It

An examiner of the Wisconsin Employment Relations Commission ruled that furtherance of an outside business interest was not a reason for granting personal leave under a contract that provided for leave for unavoidable reasons connected with "personal business." In addition, the examiner held that in the absence of contract language expressly prohibiting inquiry into the reasons for requesting personal leave, such inquiry was a proper exercise of administrative authority when leave was requested for the opening days of school. However, the examiner ruled that teachers who, after giving notice of their intent, had taken leave without pay in the absence of a direct order not to do so, had been improperly suspended. Therefore, the examiner ordered the Whitewater Unified School District to pay the teachers for the days they were suspended and to remove from their files all correspondence connected with the suspension.

The two teachers had requested two days' personal leave under a contract which provided for the use of two days of sick leave as personal leave days for the conduct of personal business which could not be conducted on other than a school day, but only for "sound, pressing, and unavoidable reasons." When the teachers informed their supervisor, at his request, that the purpose of their leave was to purchase a valuable horse for their outside horse-raising business, and that if necessary they would take leave without pay, the administrator informed them that personal leave was not available for that purpose, and said that he would not approve the payment of their salary for the two days in question.

Following this conversation, the administrator informed the elementary school where one of the teachers worked that she might be absent and the principal distributed a memorandum to the faculty to inform them and stated that in this event, her classes would be covered by existing staff and no lesson plans would be required.

However, when the two teachers returned from leave, they were suspended without pay for 2½ days for failing to inform the administrator that they were definitely planning to be absent and for failing to file lesson plans.

In response, after filing and processing a grievance, the teachers and their Association filed a petition before WERC, alleging that the district had violated the contract by refusing to grant personal leave. The contract did not specifically give the administrator the right to inquire into the reason for personal leave, and past practice was to grant leave without such inquiry. Therefore, both contract language and past practice of the administration in granting leave for such reasons as attendance at family weddings, funerals, and the installation of a carpet at a teacher's home, supported their right to take personal leave for the purpose in question. In addition, the teachers contended that their suspension was in violation of the Municipal Employment Relations Act, since they had followed established procedure for taking personal leave. Therefore, they requested

the Commission to order the district to remove all evidence of the suspension from their files and to pay their salary for two days of leave and the subsequent 2½ days of suspension.

In reply, the district contended that (a) in the absence of contract language prohibiting an inquiry, the inquiry was a proper exercise of administrative responsibility under the management rights clause; (b) the language of the personal leave provision did not permit personal leave to be used for the purpose of pursuing an outside business interest; and (c) the suspension was justified by the failure of the teachers to notify the administration that they would be absent and subsequent failure to file lesson plans.

With respect to the issue of personal leave, the Commission examiner held that in the absence of language expressly prohibiting inquiry into the reasons for personal leave, plus the past practice of teachers voluntarily giving their reasons, such an inquiry was a proper exercise of administrative responsibility when leave was requested on the opening days of school, and that the furtherance of an outside business interest did not constitute a "sound, pressing and unavoidable reason" for taking personal leave, since unlike weddings or the installation of carpeting, outside business interests did not constitute personal business.

However, with respect to the issue of suspension, the examiner held that the suspension was improper since the teachers had given notice of their intent and had not received a direct order not to take leave, and, therefore, had not acted in an insubordinate manner.

The examiner ordered the district to grant the teachers pay for the days they were suspended and to remove all correspondence connected with the suspension from their files. (*Zordel et al. vs. Whitewater Unified School District No. 1*, WERC, December 12, 1974.)

* * *

FEDERAL

Employer's Withdrawal of Recognition of a Union Unlawful

The National Labor Relations Board modified the recommendations of an administrative law judge in an unfair labor practice charge brought against Orion Corporation by the International Association of Machinists and Aerospace Workers, AFL-CIO. The case was brought before NLRB when the employer withdrew recognition of the union after the end of the union's certification year, alleging that the union did not represent a majority of the employees.

The board pointed out that actual employee membership or financial support does not always mirror the total number of union supporters since many workers may favor union bargaining but do not want to be union members. Therefore, the employer's evidence could not sustain its argument that the union no longer represented the majority of the unit.

The Board did not agree with the recommendation of the administrative law judge that the employer be ordered to reimburse the union for litigation costs because the employer's conduct, although serious, was not extremely aggressive or pervasive and not part of a pattern of illegal activity to warrent an unfair labor practice charge also, the employer's defense was not frivolous. Additionally, the Board refused, as a remedy for the employer's unlawful withdrawal of recognition, to order that a new certification year should begin with the resumption of good faith bargaining "since the withdrawal of recognition took place after the expiration of the original certification year and charges stemming from earlier refusals to bargain were barred by the six-month time limit." (*Orion Corporation and District 10, IAM, AFL-CIO*, National Labor Relations Board, May 1974.)

NLRB Refuses To Exercise Jurisdiction over Private Schools for Physically Handicapped

In two related cases, the National Labor Relations Board declined to accept jurisdiction over private schools for the physically handicapped in Pennsylvania on the grounds that the schools served as adjuncts to the public school system and were essentially local so that labor disputes in connection with them would not have a substantial impact upon interstate commerce.

The cases involved the Overbrook School for the Blind and the Pennsylvania School for the Deaf, and the American Federation of Teachers which had requested the regional director of the NLRB to order a representation election among the full-time and part-time professional staff. In each case, after the regional director of the NLRB had approved the AFT's request, the school appealed, contending that it would be contrary to the purposes of the National Labor Relations Act for the Board to accept jurisdiction.

Reversing the determination of the regional director, the board in the case of Overbrook, took into account that the school, whose students were nearly all from Pennsylvania, was chartered by an act of the state legislature, and was operated under the auspices of the State Department of Education which provided financial assistance, set standards for physical facilities, staffing, and instruction, and utilized the school to meet its statutory obligation to provide educational opportunities for handicapped children of the state who could not be provided for by the facilities of the public schools. On these grounds the Board held that although the school was private in form, it supplemented the facilities and program of the public school system, and that the operations of the school were essentially local so that labor disputes connected with them would not have a substantial impact on interstate commerce.

In the case involving the Pennsylvania School for the Deaf, whose operations were virtually identical to those of Overbrook, the Board applied its ruling in Overbrook as precedent. (*Overbrook School for the Blind and American Federation of Teachers*, National Labor Relations Board, September 25, 1974.) (*Pennsylvania School for the Deaf and American Federation of Teachers*, National Labor Relations Board, September 25, 1974.)

NEGOTIATION NOTES

FEDERAL

No Constitutional Duty To Bargain with Teachers

According to the U.S. District Court for North Carolina, the First Amendment to the Constitution of the United States does not require a state to enter into a collective bargaining agreement to guarantee that public employees' rights of association and advocacy will be effective. Thus, the court upheld the North Carolina law that declares illegal any agreement or contract between a governmental authority and a labor organization.

In 1967, in spite of the absence of a collective bargaining agreement, school districts decided to give teachers a portion of the school tax as an addition to their salary. In 1972, when the county commissioners terminated the plan over the objections of the Winston-Salem County Unit of the North Carolina Association of Education, the Association filed suit in U.S. District Court, contending that the cancellation was the result of the officials' discovery of a state statute prohibiting units of the state government from entering into collective bargaining agreements with public employee unions. The Association also contended that the statute was unconstitutional since it rendered meaningless the rights of teachers to join a labor organization under the First Amendment by depriving the organization of the capacity to produce the benefits for which it was created. In addition the Association contended that the statute violated the Fourteenth Amendment since it deprived public employees of rights accorded to employees in the private sector, and, therefore, denied employees equal protection of the law.

The school officials argued that the Association had no standing to sue, and had no contractual rights which were affected by the statute.

The court held that the Association had standing to sue. However, ruling in favor of the school officials, the court held that the First Amendment, while providing teachers with the right to associate and advocate, did not require a state to enter into a collective bargaining agreement to guarantee that advocacy will be effective. Since the statute did not violate rights to freedom of association under the First Amendment, the court concluded that the Association had no claim under the Fourteenth Amendment. The court added that unlike bargaining in the public sector, public employee bargaining impinges upon the right of the people of a state to govern themselves since it involves granting public employees "special status and access to the decision-making process" at the expense of other groups. (*Winston-Salem/Forsyth County Unit of the North Carolina Association of Educators et al. v. A. Craig Phillips et al.*; USDC Mid Dist. N.C., September 17, 1974.)

Teacher Awarded Back Pay for Sex Discrimination

According to the U.S. District Court for Delaware, public-school teachers are covered by the Fair Labor Standards Act (FLSA) as amended by the Equal Pay Act. The Court held that a pay differential between two teachers employed as coaches at a public high school in the Woodbridge School District constituted unlawful sex discrimination, and enjoined the district from continuing to violate the Act and ordered the district to pay differential back wages and interest to the woman teacher.

Between March and May 1973, two teachers, neither of whom had any prior coaching experience, were employed as coaches; the woman was paid $300 to coach the girls softball team, and the other teacher, a man, was paid $400 to coach the boys baseball team. The woman teacher filed a complaint with the U.S. Department of Labor, alleging that the pay differential established by the district constituted unlawful sex discrimination under FLSA.

The Secretary of Labor filed suit in U.S. District Court, requesting the court to enjoin the district from withholding back wages owed to the teacher as a result of the alleged violations of the Act, and from continuing to violate the Act. The district agreed that in the event of its being found in violation, it would pay the teacher a sum equal to the differential plus 6 percent interest.

The court held that the school was covered by the Act since school employees regularly handle and work on goods that have been moved or produced in interstate commerce, and that teachers were covered by the Act as a result of the Education Amendments of 1972 which eliminated the "professional exemption" with regard to teachers. Finally, the court held that coaching jobs were substantially equal since "the actual job requirements. . .viewed over the entire work cycle. . . (1) involve the same primary job functions and (2) require substantially equal skill, effort, and responsibility," and differentials were not warranted since the district had failed to prove the existence of "incidental differences" which "(1) require extra skill, effort or responsibility, (2) consume a significant amount of time of all those whose pay differentials are to be justified in terms of them; and (3) are of an economic value commensurate with the pay differential."

Therefore, the court ordered the district to pay the teacher a sum equal to differential back wages plus 6 percent interest and permanently enjoined the district from violating the Fair Labor Standards Act. (*Brennan v. Woodbridge School District*, U.S. District Court for the District of Delaware, July 26, 1974.)

Failure To Pay Sick Leave for Absenses Relating to Pregnancy Violates the Civil Rights Act of 1964, and Equal Employment Opportunities Act of 1972

According to a U.S. District Court, failure to pay sick leave compensation for absences related to pregnancy violates both the Civil Rights Act of 1964 and the Equal Employment Opportunities Act of 1972. Therefore, the South Western City School District was ordered to pay a public-school teacher sick leave and court costs.

The teacher who had been working under contract with the district since 1971 became pregnant during the 1972-73 school year, but continued teaching under the advice of a physician until March 6, 1973, thereby accumulating 43 days of sick leave. However, when she requested the district to apply her sick leave for absences during the last month of pregnancy and certain post-partum days, the district refused her request and instead placed her on unpaid leave of absence on the basis of an Ohio statute which did not include pregnancy as a disability for which a teacher was entitled to use sick leave.

The teacher filed suit in a U.S. District Court, petitioning the court to declare the Ohio statute as unlawfully discriminating on the basis of sex under the Constitution of the United States and the Civil Rights Act of 1964, and to order the district to pay her sick leave for the 43 days she had accrued and used.

However, during this litigation, the Ohio legislature amended the statute to include pregnancy as one of the disabilities for which a teacher may use sick leave.

Therefore, the court, while ruling in favor of the teacher and stating that failure to pay sick leave compensation for absences during pregnancy violated both the Civil Rights Act of 1964 and the Equal Employment Opportunities Act of 1972, declined to rule on the constitutional issue since the revision of the statute in question had rendered the issue moot.

The district was ordered to pay the teacher sick leave and court costs. (*Farkas v. South Western City School District*, U.S. District Court Southern District of Ohio, April 8, 1974.)

CSC Computerizes Federal Contract Information

The Civil Service Commission now has in operation a computerized Labor Agreement Information Retrieval System (LAIRS) which will aid the Commission in evaluating current personnel management practices and trends reflected in the texts of collective bargaining agreements between federal agencies and unions of their employees. Currently the LAIRS file has the full texts of 2,600 contracts and has coded 176 distinct elements found in these agreements. Information on these agreements will be updated as new information is received. Additionally, the agreements themselves are indexed and microfilmed "to afford reliable and rapid availability of the full text of the agreements."

To secure access to the computerized data file a keyboard terminal at the Commission is tied into a nationwide computer system called INFONET. An operator types out a request in computer language which is relayed to the INFONET data bank. When the information is retrieved, it is relayed to the LAIRS at the Commission where a computer operator can request the information on a printout. The printout lists contracts that contain the requested information and the page number where the information can be found. The contracts, which are on microfiche, are retrieved and placed in a reader printer which can photocopy relevant information.

Federal Labor Relations Policy Modified

On February 6 President Ford signed Executive Order 11838 which encompasses recommendations of the Federal Labor Relations Council to change the federal labor relations program under Executive Order 11491.

The Council heard testimony and issued its conclusions on 11 different topics. Under the new Order, guards are to be treated the same as other employees for representation purposes since their inclusion in bargaining units would not present a conflict of interest. Sections 7(e) and 21(b), which covered associations of supervisors and management officials, were deleted. However, in its report the Council assured these groups that the Civil Service Commission would "continue to provide guidance on intra-management communication and consultation through the Federal Personnel Manual system" and that the exclusion of the two sections will have no detrimental effect on the two groups.

On the issue of consolidation of existing units the Council recommended that units may merge without an election in order to consolidate "hitherto fragmented bargaining units." However, affected employees may petition for a referendum on the question. Additionally, the appropriateness of the agreed-upon unit must be determined by the Assistant Secretary of Labor. If parties do not agree on consolidation, either party may petition the Secretary for an election on the issue.

The Council recommended that limitations on the scope of negotiations should be issued only at the agency headquarters level or at the level of a primary national subdivision level. The Council viewed this change as an effort to free bargaining from the grip of agency regulations which "have unduly constricted negotiations by reason of the complexity of issuances as well as by the diverse exercise of authority and discretion with regard to the issuance and implementation of regulations dealing with otherwise negotiable matters within subordinate levels of the same agency."

Section 13(a), which mandated that negotiated grievance procedures be limited to grievances over the interpretation or application of the agreement, was dropped and Section 13(d) was changed to give only the Assistant Secretary of Labor the power to determine whether a grievance in a matter is subject to a statutory procedure. However, under

13(d) arbitrators may determine whether a matter is grievable or arbitrable under the terms of a negotiated grievance procedure.

To speed approval of negotiated contracts, the Council recommended that if a contract is not approved within 45 days, the agreement will automatically become effective, subject only to the requirements of the law, the Order, or regulations of appropriate authorities outside the agency.

Changes in Sections 6(a) and 11 now make it possible for the Assistant Secretary to hear and rule on negotiability disputes that arise in the context of unfair labor practice proceedings under the order. A party adversely affected by a ruling by the Assistant Secretary may have the decision reviewed by the Council.

NEW YORK

Common Council's Approval of Policemen's Contract Not Required for Validity

The New York Supreme Court, Appellate Division, reversed a Special Term conclusion that a collective bargaining agreement approved by the Board of Estimate and Apportionment and negotiated between the mayor of the city of Utica and its police force association was subject to a requirement under the Public Employee Relations Act that the Common Council approve the agreement before it could be executed.

The Special Term conclusion was based on the determination that a section of the Civil Service Law modified a provision in a minor statute which had vested the power to fix salaries of public employees in the Board of Estimate and Apportionment.

Judging this opinion to be a misconstruction, the court determined that section 204-a of the Civil Service Law meant that any provision requiring legislative action would not be effective until the approval was granted and did not negate the entire contract. If the negotiating authority is delegated to a third party, approval is implied when the parties have reached agreement.

Concluding, the court stated that the policemen's association was entitled to a judgment declaring the validity of the contract. (*John E. Creedon Police Benevolent Association, Inc., v. City of Utica*, New York Supreme Court, Appellate Division, May 23, 1974.)

PERB Opinion Letter

According to Public Employment Relations Board counsel, the payment of a teacher for services not actually rendered does not constitute an unconstitutional use of public funds where such payment is made pursuant to a collective bargaining agreement. In offering this advisory opinion, PERB reiterated the decision in *Antonopoulou v. Beame, as Comptroller of the City of New York*, in which the court pointed out that because the contract was a legal obligation, it removed the payment from the constitutional prohibition. This, in effect, the court stated, was similar to the Civil Service Law §77, which requires the payment of back pay to a wrongfully terminated employee even though such employee has rendered no services.

OKLAHOMA

Attorney General Opinion

The state attorney general issued the following recent opinions which affect educators' status under collective bargaining.

- A teacher whose present service in a school district consists of less than 3 years of continuous service without tenure and prior employment with the district, not in consecutive years with his present service, is ineligible for creditation toward the probationary period requirement.
- The designation of a professional organization under 70 O.S. 1971, §509.2, during a school year by a majority of the school district's professional educators, for negotiation with the board, continues even after the school year.

WISCONSIN

Court Sets Aside FEP Agency's Charge of Sex Discrimination Under Insurance Plan

A state Fair Employment Practice agency determination that an employer's group insurance plan constituted an instance of sex discrimination by limiting benefits for pregnancy-related disabilities was rejected by the Wisconsin Circuit Court in a case between the Ray-O-Vac, Division of E.S.B. Inc., and the Wisconsin Department of Industry Labor and Human Relations.

The petitioner relied chiefly on *Geduldig v. Aiello* which held that a statutory system of disability insurance did not violate the equal protection clause of the federal Constitution because it provided lesser benefits for pregnancy disability than for other disabilities.

An employee was denied benefits because the conception of her child occurred during a layoff, a time when benefits for pregnancy were not extended. Because no other disability benefit is denied on account of the time of origin of the condition, the Department found this situation to be a basis for sex discrimination.

Interpreting discrimination under the Fair Employment Practices Act to mean making a distinction in treatment, the Circuit Court determined that the statute signified that as to the benefits of employment women shall be entitled to equal benefits with men. On the basis of the insur-

ance provisions, the Court found men and women insured on equal terms against disability arising from non-occupational injury and disease. The court could not agree that maternity benefits, solely because they are less than benefits for injury or disease, discriminate against women in view of the fact that maternity benefits are provided in addition to those other benefits to which both are entitled.

In regard to the employee being denied benefits because she conceived during layoff, a time in which the insurance was not in force, and no other benefits were so restricted, the court found that the justification for the limited coverage was based on the fact that it was confined to maternity benefits, which are apart from those benefits derived from injury or disease.

Determining that there was no discrimination in the plan, the court set aside the findings, conclusions, and order of the Department. (*Ray-O-Vac, Division of E.S.B., Inc. v. Wisconsin Department of Industry Labor and Human Relations et al.*, Wisconsin Circuit Court, August 7, 1974.)

Medical and Allied Health Workers Organize for Bargaining

Public employee bargaining is spreading in all directions and now is beginning to include the medical professions and allied health fields. Preceded by teachers and state and county workers, the health employees are petitioning for exclusive representation of units at various institutions and are encountering the same pitfalls as teachers.

Recently the Pennsylvania Nurses Association negotiated a contract with Brownsville General Hospital. This contract establishes a base pay rate of $719 per month with increments based on amount of service. Also included is a system of layoff and recall based on seniority, final and binding arbitration of grievances, vacation, sick, and bereavement leaves, and employer-paid health and life insurance.

Affiliates of the American Nurses Association have won elections in Waynesburg, Pennsylvania, and Vancouver, Washington, have obtained National Labor Relations Board elections in Medford, Oregon, and Williamston, West Virginia, and have petitioned for further elections in Pennsylvania. Although the units in Waynesburg and Brownsville, Pennsylvania, include head nurses, head nurses were excluded from the Washington unit and the units in Oregon and West Virginia because the employers contend and NLRB agrees that head nurses are supervisory employees.

Teachers May Receive Summer Unemployment Compensation

The Emergency Jobs and Employment Assistance Act which was signed into law by President Ford contains a loophole which may extend assistance to school teachers on summer vacations. The $2.5 billion alloted for utilization of the Act is earmarked mainly for laid-off workers whose unemployment benefits have been exhausted. However, because under the Act state labor laws will determine eligibility, many teachers on continuing contracts will qualify for payment after 10 months of work even though they get 12 months of pay in 10 months because some state laws allow for such compensation.

The problem was first brought to the attention of federal officials by the State of New Jersey which has the loophole in its state law. However, the New Jersey State Senate will close the loophole with a bill which will disallow benefits for teachers with continuing contracts.

Increase in White-Collar Membership in Unions and Associations Small

The latest report on white-collar membership in unions and bargaining associations covering the period from 1970 to 1972 issued by the U.S. Department of Labor, Bureau of Labor Statistics, indicates that efforts to recruit white-collar workers have produced meager results. The number of white-collar workers affiliated with associations or unions increased from 4.9 million in 1970 to 5.2 million in 1972. During this period the ratio of white-collar workers to total union membership increased only 0.3 percent. White-collar workers represent more than 79 percent of the membership in professional and public employees associations and only 16.5 percent in unions. From 1970 to 1972, white-collar workers on union rolls increased by 81,000 while enrollment within associations increased by 204,000. However, the 85 percent gain in association membership is attributable to the inclusion of 13 additional associations in the Bureau's membership count.

The Bureau cautions that figures on white-collar membership are not precise since the reporting agencies may differ in interpretation of the term. Nonetheless, the survey showed that NEA claimed the highest number of white-collar workers, 1,162,353, followed by the Musicians with 315,000, the American Federation of Teachers, 248,521, the Communications Workers, 243,803, and the Brotherhood of Railway Clerks, 238,355.

Special Reports

SALARY SCHEDULE PROVISIONS IN NEGOTIATED TEACHER CONTRACTS

Tasha McGuthrie

A random sample of salary schedule provisions in 1974-75 contracts on file in NEA Research was analyzed for structure and policies. Actual dollar amounts of salaries were excluded. The analyzed provisions are not meant to serve as model items for a "good" salary schedule; however, the information contained will give those concerned with structuring salary schedules an idea of the kinds, frequency, and other related items incorporated in salary provisions of negotiated contracts.

That all of the 193 provisions analyzed contained vertical increments and nearly all (97.4 percent) contained horizontal lanes indicates that the philosophy of the teacher salary schedule is that a teacher's competency is increased through on-the-job experience, training, and/or advanced education. Although horizontal increments are not recorded on the salary schedule in 2.6 percent (5) of the provisions, salary credit for hours beyond the B.A. degree was recognized in these provisions in the form of bonus pay.

Nearly one-half (42 percent) of the provisions provide bonus pay for items not included on the salary schedule. Some contracts provide for additional compensation for earned credits at intermediary points between scheduled preparation lanes. Other contracts provide a bonus which is applied to a specific preparation lane upon attainment of a particular degree. Note the following sample provision that incorporates such a clause.

> *1. Master's Degree—increase $400. (only one master's degree applicable)
>
> *2. Work beyond Master's—two increments of $200 each for each 15 hours of approved graduate work earned beyond Master's degree if fully certified and earned within a period of the last five consecutive years in Queen Anne's County.
>
> *3. Earned Doctor's Degree—$,000 beyond Master's degree.
>
> **[Queen Anne's County Public Schools
> Centerville, Maryland]**

Salary indexes wherein all salary steps of the schedule show a relationship to a base factor were included in about 1 of every 5 (18.1 percent) schedules.

Even though only one-fifth (20.2 percent) of the provisions actually state that increments are attained annually either automatically or for satisfactory service, it is likely that they are granted annually unless the schedule indicates otherwise. As shown in Table 2, 1 agreement in 5 (20.2 percent) contains some limitation on granting vertical increments. One limitation which is found in 1 provision in 10 (10.4 percent) is that "satisfactory" service is necessary before moving to the next higher step on the schedule. Of the provisions stating that the increment may be withheld for unsatisfactory service almost one-half state that the teacher must receive written notification explaining why the increment is being withheld. One example of this provision follows.

> Thereafter, teachers whose performance is satisfactory shall be advanced one step on the appropriate salary schedule at the beginning of each successive school year. Before withholding a step increment, a teacher must be notified in writing prior to April 1 in the school year preceding the year in which the step is proposed to be withheld. Such notification shall include a detailed list of all factors upon which the tentative decision is based. The teacher shall have the right to rebut and respond with the assistance of the Association if the teacher so requests.
>
> **[Waterford, Connecticut]**

In 6.2 percent of the provisions, annual increments are withheld if the teacher does not earn additional credit within a specified number of years. Note the following example.

> Teachers holding a degree below the Masters level are expected to maintain professional growth by earning at least three (3) credits during each four (4) year period. Such credits shall be semester hour credits or their equivalent, and may be earned through accredited correspondence work, summer sessions, course work at an accredited institution of higher learning, approved travel, or in District inservice courses and curriculum work.
>
> **[Kenosha, Wisconsin]**

Prior experience credits for new hiries are included in almost half (46.1 percent) of the provisions. The amount of

TABLE 1.—CONTENT OF 193 SALARY PROVISIONS IN NEGOTIATED TEACHER CONTRACTS, 1974-75

Content	Number	Percent
1	2	3
TOTAL SAMPLE OF AGREEMENTS ANALYZED	193	100.0
Agreements containing vertical increments	193	100.0
Annual advancement automatic	19	9.8
Conditions must be met	39	20.2
Agreements containing horizontal levels	188	97.4
Conditions for recognition of professional study	57	29.5
Credit for activities other than professional study	23	11.9
Bonus pay for items not included on schedule	81	42.0
Salary index	35	18.1
Prior experience credit for new hires	97	50.3
Teaching experience outside district	89	46.1
Military service	49	25.4
Peace Corps, VISTA, Teacher Corps	13	6.7
Prior district or state teaching experience	6	3.1
Other	13	6.7
Pay differentials for extra work and/or greater responsibility	170	88.1
Directing extracurricular activities	163	84.5
Staff with special assignments or classes	75	38.9
Department chairmen	58	30.1
Salaries of teachers with special assignments not included on the regular salary schedule	65	33.7
Pay differential for longevity	81	42.0
Cost-of-living clause	24	12.4

experience credit given varies from two years to full credit. The NEA advocates that full credit for all prior teaching experience be given teachers when they transfer to other districts and having this provision incorporated into the salary schedule should be a "negotiation priority."[1]

Only 3.1 percent of the schedules give more credit for previous district or in-state experience than for out-of-state experience.

Credit for military service is allowed in one-fourth (25.4 percent) of the provisions and 6.7 percent allow credit for volunteer services such as Peace Corps, VISTA, or Teacher Corps. The minimum and maximum amounts of military credit allowed varies, as shown in the following examples.

Military Service

All honorably discharged Veterans, Peace Corps and Vista volunteers with twenty-one (21) or more months of active service will be allowed one additional step on the salary schedule.

[Spencer, Massachusetts]

MILITARY SERVICE CREDIT

Salary schedule credit for military service shall be granted for up to three years on the basis of one year credit for each year military service or major fraction therof.

[Bay Shore, New York]

Clauses allowing vertical credit for work experience, long-time substitute work within the district, and education-oriented travel are incorporated in 6.7 percent of the provisions surveyed. Credit for work experience relevant to the subject taught usually applies to vocational education teachers. The examples below are typical.

Vocational Instructors: For salary scale purposes, 6 years trade experience shall be equivalent to a B.S.. Any years of trade experience from 6 to 10 years will count as one year trade experience for one year of teaching experience and will place the teacher on the appropriate step on the Bachelor's scale. Teaching experience outside the school system shall count as one year for one year until a maximum on the salary schedule is reached. All college credits obtained will be included to place the person on the appropriate salary schedule as outlined in paragraph 1, to a maximum of Bachelor's +24. For any credits required for certification beyond 24, the person shall be paid the total tuition cost of the course.

[Carlisle, Pennsylvania]

[1] National Education Association, Division of Affiliate Services. *Guidelines 6 for Effective Representation of Teachers.* Washington, D.C.: the Association, 1969.

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TABLE 2.—CONDITIONS FOR RECEIVING VERTICAL INCREMENTS, 1974-75

Conditions	Number	Percent
1	2	3
Satisfactory evaluation	20	10.4
The earning [illegible] a given number of credit hours within a certain period of time	12	6.2
Increments automatic up to a certain step but beyond that step further credit must be earned	5	2.6
Increments automatic up to a certain step, but beyond that step increments may be withheld at discretion of the board of education	2	1.0
	39	20.2
TOTAL SAMPLE OF PROVISIONS	193	100.0

TRADES AND INDUSTRY SALARY SCHEDULE

The seven years experience required by state law for certification of a trades and industry teacher shall be equated to placement on the beginning salary step of the B.A. Schedule.
As many as three additional years credit may be granted for trades and industry experience beyond this seven year minimum. Successful completion of 75 semester hours of college credit shall enable a trades and industry teacher to be placed on the B.A. plus ½ Schedule.

Experience and Education

	Trade Experience	Trade Experience	Step on B.A. Schedule
B.A. Degree plus 3 years or		7 years	1
B.A. Degree plus 4 years or		8 years	2
B.A. Degree plus 5 years or		9 years	3
B.A. Degree plus 6 years or		10 years	4

This schedule is applicable only to those teachers serving in state-approved Trade and Industry Programs.

[Cleveland, Ohio]

Certain requirements must be met before reclassification to a higher salary class is made for earned college or university credits (Table 3). The administration must approve the courses to be taken for or toward salary reclassification in 9.3 percent; 5.7 percent of the provisions stipulate that all course credit earned must be related to the teaching assignment or lead to a higher degree. In 12.4 percent of the provisions official transcripts must be filed before adjustment on the salary schedule can be made. Examples of these provisions are:

PREPARATION BEYOND BACHELOR'S AND MASTER'S DEGREES

Any teacher who qualified for additional compensation due to having earned either fifteen (15) or twenty-five (25) graduate semester hours or equivalent in graduate term hours after receiving the Bachelor's Degree, or fifteen [illegible] thirty (30) graduate semester hours or equivalent in graduate term hours after receiving the Master's Degree from an accredited college or university (NCASSC) may qualify for such increases upon presentation to the Assistant Superintendent an official transcript of such credit. Compensation will begin and will be prorated according to the current salary schedule from the day such validation is dated. Such application is to be made within sixty (60) days of completion of work. It is further understood by both parties that this additional training should be related to the current teaching assignment or degree work of the applicant and that courses taken after October 1, 1970, shall be approved by the Superintendent or his designate prior to enrollment.

**[Avondale School District
Auburn, Michigan]**

A teacher shall be advanced through the horizontal steps of the salary schedule by completing academic credit on the increment basis provided herein. Academic credit may be earned in any accredited college or university with prior approval by the Principal with appeal to the Assistant Superintendent for Personnel Services upon disapproval of the Principal.

[Paradise Valley School District]

Pay differentials are based on extra work and/or greater responsibilities. These differentials which are included in 84.5 percent of the provisions analyzed are for directing extracurricular activities such as organized sports and clubs. Department chairmen are given extra compensation in 3 schedules in 10 (30.1 percent); 4 in 10 (38.9 percent) pay salary differentials to staff members with special classes, such as special education teachers, teachers of emotionally or physically handicapped students, or staff who have special certification such as school social workers and counselors.

The salaries of teachers with special assignments, such as homebound instructors, adult education, summer school, and substitute teacher [illegible], included on the regular salary schedule in 33.7 [illegible] of the provisions. Instead, their salaries are listed separately as an hourly or annual rate. For example:

Supplementary Pay — Hourly: The following supplementary positions shall be paid on the hourly rates indicated below:

TABLE 3.–CONDITIONS FOR RECOGNITION OF PROFESSIONAL STUDY FOR HORIZONTAL MOVEMENT, 1974-75

Conditions	Number	Percent
1	2	3
Official transcripts required	24	12.4
Approval by administration prior to taking course	18	9.3
All course credit must be in a program leading to a higher degree or related to teaching area	11	5.7
Institution where courses are taken must be accredited	4	2.1
	57	29.5
TOTAL SAMPLE OF PROVISIONS	193	100.0

Adult Education & Summer School Teachers	$5.50
Driver Education - Classroom Behind the Wheel	5.50
Summer Scheduling	5.50
Summer Curriculum Planning	5.50

[Waterford, Connecticut]

Increments for longevity which extend beyond the maximum step in the schedule are provided in 42 percent of the provisions. These increments are paid either at intervals (for example every five years) or following a specified number of years of teaching services.

Cost-of-living formulas for automatically adjusting individual salaries or generating a new salary schedule on the basis of an increase in the Consumer Price Index published by the U.S. Department of Labor are included in 12.4 percent of the salary provisions surveyed. Note the following sample cost-of-living provision.

SALARY SCHEDULES AND INDEX

For the term of this agreement the salary structure heretofore in effect shall be retained with an increase in the present BA base to reflect an adjustment of 5.5%. In the 1974-75 school year the 1973-74 BA base shall be increased by a percentage equal to the increase in the cost of living for the 1973 calendar year plus 2%. In school year 1975-76 the 1974-75 BA base shall be increased by an amount equal to the increase in the cost of living for the 1974 calendar year plus 1%. The total increase for each year 1974-75 and for 1975-76 shall not be less than the cost-of-living increase in the New York Metropolitan Area for the 1972 calendar year nor greater than that by more than 1.5%.

[Bay Shore, New York]

The survey indicates that an integral part of most salary schedules is promotion, either vertically for on-the-job experience or horizontally for training and/or continued advanced education. The increase in negotiation activity and sophistication of the process is leading to an increase in the number of provisions incorporating pay differentials for directing extracurricular activities. Teacher contracts are beginning to reflect cost-of-living provisions and/or escalator clauses to maintain purchasing power in the face of inflation. Teacher contracts are exhibiting more homogeneity and are slowly moving toward an industrial union model which provides for full compensation for directing any job-related activity as well as the carrying over of experience credit from job to job since such experience directly relates to performance and competency.[2]

[2]For additional information regarding the frequency and dollar ranges for extra-duty, non-athletic pay and for an analysis of cost-of-living provisions in teacher contracts, see *Negotiation Research Digest*, Vo. 6, No. 9, May 1973, and Vol. 8, No. 2, October 1974.

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BRIEFS OF AGREEMENTS

ASSOCIATION OF PENNSYLVANIA STATE COLLEGES AND UNIVERSITY FACILITIES

Agreement effective September 1, 1974, to August 31, 1977. This comprehensive agreement includes both academic and administrative faculty.

SALARIES

Separate salary schedules are designed for faculty and administrative faculty members, the former providing 6 increments and the latter 7.

INCREMENTS: Negotiations for salaries to reopen September 1, 1975. Failure to agree on salaries and wages to be resolved by a binding determination of an arbitration panel. Annual service increments to be granted on anniversary dates defined by Commonwealth/College regulations and past practice. A minimum increment of $10 per bi-weekly pay period during the acadmeic year or calendar year is to be paid to administrative faculty members. The department chairperson receives a differential of $200 to $750 according to department size.

INCREASE: Salaries issued on the basis of a bi-weekly, 20 pay or a bi-weekly 26 pay system. Salary schedule provides an average differential of 21 percent between preparation levels and 5 percent between steps. The minimum salary for a full-time professor is $18,158, maximum $24,356.80; an instructor, $10,108.80, maximum $13,540. Part-time academic faculty are paid 1/24 of full-time academic year salary for each semester credit hour taught. Part-time administrative faculty members are paid on a pro-rata basis.

OVERLOAD PAY: A faculty member will be paid 1/30 of his salary for every additional credit hour exceeding the 14 assigned per semester or 24 credit hours assigned in an academic year. Student teacher supervisors will be paid 1/45 of the academic year salary for each student-teacher assigned to him/her in excess of 45. Librarians will be paid at the straight-time hourly rate.

PROMOTIONS

PROFESSIONAL DEVELOPMENT AND EVALUATION: Each department selects an evaluation committee, excluding the department chairperson. Nontenure academic faculty members will meet with the evaluation committee at the beginning of the first semester of employment to discuss the evaluation procedure. Two observations per academic term for each nontenured faculty member will be made during the probationary period with at least one made by the department chairperson. The procedure includes a written critique of each observation for improvement and suggestions, with the nontenured faculty member receiving a copy. The parties discuss the critique and sign all copies, indicating that a conference has been held. A signed copy, along with any comments, is placed in the faculty member's personnel file. Tenure academic faculty follow the same evaluation procedure as nontenured academic faculty but will be observed once each academic year, or more frequently, if warranted, and evaluated once every 3 years. Nontenured administrative faculty members will receive a review of performance of their duties at least twice each term during probation and must discuss their disagreements with their managers. Tenured administrative faculty will have one annual performance review, or more if warranted, and be evaluated every 3 years.

RENEWAL AND DISMISSAL: Nonrenewal of nontenured academic and administrative faculty members can be effected only through separate evaluations prepared by the department or administrative committee and the department chairperson or supervisor. A summary of the student evaluations must accompany the evaluation reports. The nontenured faculty member must sign all evaluation copies and may attach a reply in the event of disagreement and discuss such disagreements with the appropriate administrators before the evaluation is forwarded to the college president. First-year nontenured faculty members, if denied renewal, will receive a written statement if they request it. The president's decision will be final and binding, and faculty members will have no recourse to the grievance procedure and/or arbitration. Second-year nontenured faculty members will not be denied renewal without just cause. Faculty members beyond the second year of nontenure must be notified no later than May 31 of the third year, if the fourth year is to be a terminal year. Tenure faculty members may be terminated only for just cause.

PROMOTION PROCEDURE: A college-wide promotion committee will include no more than one member from any one department. The president from each college will grant promotions only if approved by the standards and procedures for each college. Each college-wide promotion committee will prepare a precise statement of the promotion policy and procedures followed by the president's presentation of the statement to an ad hoc committee. The committee must approve procedures and promotion policies before the college may enforce and grant them. Faculty members must meet minimum qualifications, with a written substantiation no later than November 15. Applications are to be submitted first to the department committee which will submit the full list of applications together with recommen-

dations to the college-wide promotion committee. This committee will submit the list together with recommendations to the president who will make the promotions. Administrative faculty members have the right to grieve only when promotional procedures are not observed.

DUE PROCESS

REVIEW OF ACADEMIC JUDGMENT: Disposition of a grievance before step 3 of the grievance procedure does not mandate a binding precedent for the settlement of future and similiar grievances.

PERSONNEL FILES: Each college will keep one official personnel file which is to be available for examination by the employee. The official pre-employment file will be discarded at the time of granting tenure. Only the president and his designee are to have access to the official personnel file without the written approval of the faculty member. "Departmental and College-wide tenure and promotion committess shall have access to the official personnel file of any faculty member who is being considered for tenure and/or for promotion who, at the time of application, gives approval in writing."

INDEPENDENT STUDY COURSES: These classes conducted by faculty members must meet the requirements of academic, assigned, credit hours and must have a catalogue listing before the course may be offered. The department must approve the course of study undertaken by the student, and the faculty member may not accept students for more than 9 academic credit hours of independent study per semester.

WORKLOAD

WORKLOAD FOR ACADEMIC STAFF: Twenty-four academic credit hours will comprise the full work load. Fourteen academic credit hours will be the maximum per academic term unless overload compensation is paid. No more than 3 preparations will be assigned without extra compensation. Any faculty member teaching graduate courses will have the following considered a maximum full work load in any academic term:

A. 3 graduate courses up to a maximum of 9 academic credit hours.

B. 2 graduate courses and 2 undergraduate courses, up to a maximum of 12 academic credit hours.

C. 1 graduate course and 3 undergraduate courses, up to a maximum of 12 credit hours.

Work load requirements which exceed the 2 academic term systems of 15 teaching weeks each or rearranged differently will be assessed according to a mathematical equivalent.

WORK WEEK FOR THE LIBRARIAN: The schedule is based on library needs as determined by the president of the college, but no more than 35 hours per week.

ANNUAL LEAVE FOR ADMINISTRATIVE FACULTY MEMBER: After 30 days of service the administrative faculty member is eligible for annual leave. An increase in leave days is accrued according to the amount of service rendered as of date of hire.

ACADEMIC MANAGER: The academic manager who works within the bargaining unit and performs teaching duties has faculty rank and tenure privileges.

MANAGEMENT RIGHTS: Management is not limited except as modified by the agreement in the exercise of its discretionary or policy-making rights insofar as they relate to the functions and programs of the public employer (Commonwealth/College), standard of services, its over-all budget, utilization of technology, the organization structure, and selection and direction of personnel.

LIBRARIAN FACULTY have academic rank and tenure privileges.

LABORATORY SCHOOL TEACHERS have faculty status and rank.

RETRENCHMENT will be implemented according to seniority: temporary, part-time; temporary, full-time; regular, part-time; regular, full-time. The college will attempt to place these faculty members in other suitable positions. If a person is an administrative faculty member, he/she has the right to return to a previous administrative unit and displace an administrative faculty member with less seniority.

STAFF RIGHTS

ACADEMIC FREEDOM: Faculty members may not introduce controversial matter which has no relation to their subjects.

DISCRIMINATION: Faculty members or candidates for employment may not be discriminated against on the basis of race, creed, sex, color, family status, age, national origin, APSCUF membership or activity or lack thereof, or political belief and/or affiliation.

SABBATICAL LEAVE: A minimum of 7 years of service is required for one academic term with full pay or 36 weeks at half-pay. No restrictions are to be placed upon a faculty member who is the recipient of an additional grant from any other institution.

MATERNITY LEAVE: Maximum of 6 months is to be granted. At the discretion of the president of the college the leave may be extended, but the total amount of leave may not exceed 12 months. Accrued sick leave may be used for the period a woman faculty member is unable to work owing to the medical reasons certified by a physician. A faculty member will retain all seniority and pension rights that had accrued up to the time of her leave, but these rights will not accrue during the period of the leave.

BEREAVEMENT LEAVE: Up to 5 days for death in the immediate family may be granted; 3 days for death of a near relative residing with the same household.

LEAVE OF APSCUF SERVICE: Those appointed or elected to full-time official or representative status must submit a request at least 60 days before the start of a term; maximum term of office 3 years.

OTHER BENEFITS

SICK LEAVE: Fifteen days per academic year will be accrued and are cumulative from year to year.

WORK-RELATED DISABILITY: Payments will be made for the periods during which the faculty member would have been working, and will be the difference between the monies to which the faculty member may be entitled under workmen's compensation, social security, or other applicable disability benefits and full salary for one year or for the duration of the disability.

RETIREMENT: Selection of retirement plan is optional, but the amount contributed by the state is calculated at the rate actuarially determined to be payable to the State Employee's Retirement Fund. Any faculty member who reaches age 65 may be subject to being retired at the discretion of the college president.

INSURANCE: Full-time faculty members are entitled to BlueCross/BlueShield full coverage and major medical coverage. After 90 days of employment faculty members are entitled to life insurance coverage.

ACADEMIC SERVICE AWARDS: Faculty members who excel will receive recognition as Commonwealth Teaching Fellows for a given year and a cash award. An additional cash payment is awarded to those receiving a Distinguished Teaching Chair. Exceptional academic services to the state also receive additional recognition.

* * *

INDEPENDENT SCHOOL DISTRICT NO. 535

ROCHESTER, MINNESOTA

Between the Board of Education of Independent School District No. 535 and Rochester Education Association, MEA-NEA, effective July 1, 1974, to June 30, 1974. Approximately 962 certificated professional employees, including physical and occupational therapists, excluding the superintendent, assistant superintendents, administrative assistant to the institute, director of elementary education, director of personnel, director of student accounting, director of special education, director of the planetarium, director of Quarry Hill Nature Center, director of audio-visual aids, director of the library processing center, full-time consultants, principals, assistant principals, assistant for business and personnel, vocational-technical institute coordinators, vocational director of ancillary services, coordinator of school information, director of secondary education, coordinator of community and adult education, assistant director of special education, coordinator of secondary vocational and alternate school, director of school business affairs, and the director of the vocational-technical institute.

COMPENSATION: (1974-75) B.A., $8,400 to $13,400, 12 increments; B.A. plus 15 hours, $14,450 maximum; M.A., $9,170 to $17,090, 13 increments; M.A. plus 15 hours, $17,650 maximum; M.A. plus 30 hours, $18,100 maximum; Ph.D. $20,100 maximum; Educ. Spec. $19,200 maximum. Teachers working an extra month in the summer will be paid 10% of the rates above; all teachers employed less than full time will be paid a pro-rata portion of their appropriate lane and step on the salary schedule; up to 8 years may be given for prior teaching experience and those employed teachers required to hold vocational certification will be placed in the appropriate lane of the salary schedule; instructors at the vocational institute will be placed on the B.A. lane without a degree.

SEVERANCE PAY

Any teacher leaving the employment of District No. 535 shall be entitled to severance pay according to the schedule found in Section 3 of this Article. Such severance pay shall be based on the teacher's current per diem rate of pay at the time employment is terminated. Such severance pay shall be exempted from retirement deductions and from any calculation in retirement benefits.

Each teacher shall be credited with two (2) days for each year of service in the District and in addition, each teacher shall be credited with their total amount of unused accumulated sick leave. Such service days may be contributed to the maximum or used in lieu of sick leave days up to the maximum provided in Section 3 of this Article.

A teacher terminating employment with District No. 535 shall be entitled (as provided in Section 2) to a maximum of:

- 100 days at age 55, 56, 57, 58, 59, 60, 61, or 62.
- 75 days at age 63 for 1974-1975 only and thereafter it shall be 66 days.
- 50 days at age 64 for 1974-1975 only and thereafter it shall be 33 days.
- 25 days at age 65 for 1974-1975 only and thereafter it shall be 0 days.

Age shall be determined by the age on the thirtieth day of June in the calendar year that the teacher's employment is terminated.

The payment shall be made in a lump sum. At the teacher's option, it shall be paid within one (1) calendar year from the termination of employment.

DIFFERENTIALS: (Extra Duty Schedule estimated according to 10 categories based on experience within 3 steps: 0-4 years, 5-9 years, and 10+). Athletic director, head football A, head basketball A, $1,520-$1,840; head wrestling A, head hockey A, head swimming A, head gymnastics A, $1,330-$1,650; head baseball A, head track A, $1,140-$1,400; 1st asst. football A, 2nd asst. football A, asst. basketball A, head football B, head basketball B, $1,020-$1,220; science fair director, asst. athletic director, asst. football B, asst. basketball B, asst. hockey, asst. gymnastics, asst. wrestling, asst. swimming, asst. baseball, asst. track, head cross country, head tennis, head golf, intra-mural director of junior high school, elementary intra-mural director, girls' interscholastic coaches: basketball, gymnastics, synchronized swimming competition, swimming, track and field, volleyball, tennis, $890-$1,020; yearbook-senior high, visual aids asst. at Central Junior High School, resource teachers, $760-$890; cheerleader

advisor, director of debate team, $640-$740. Department chairmen receive a 3% increment after 17 years of service, 9 of which must have been accumulated within the Rochester School System; department chairman schedule is based on the number of staff within the department, ranging from $640-$930 for 10-month contract; the 11-month schedule ranges from $700-$1,020.

OTHER: School psychologist salaries will be appropriate to level of training and experience, an additional amount equal to 7% of their salary; resource teachers' salary schedule based on training and experience, an additional amount equal to 2.75% of their 11-month salary; $.15 per mile for in-district travel and $.12 per mile for out-of-district travel; reimbursement for annual travel expenses totalling $400 or more on submission of monthly reimbursement vouchers.

LEAVES: Sick leave provision is as follows:

> At the beginning of each school year each teacher shall be credited with a ten (10) day sick leave allowance to be used at any time for absence caused by illness or physical disability of the teacher; attendance upon a seriously ill spouse or child in the teacher's household, or emergency medical, or dental appointment or treatment that is not of a routine nature and cannot be scheduled at a time other than during the school day. For each additional twenty (20) days that a teacher is employed, beyond the ten (10) month contract period as provided in Article XX, the teacher shall receive an additional day of sick leave. The additional day(s) shall be available during the period of employment beyond the ten (10) month contract; but it will not appear on the teacher's sick leave record until the next annual sick leave update.
>
> The unused portion of the sick leave allowance shall accumulate from year to year without limitation.
>
> If a teacher has accumulated less than thirty (30) sick leave days and/or hospital leave days in a fiscal year, only the cost of the substitute shall be deducted for illness beyond this accumulation up to a total of thirty (30) days. After the benefits in this section are used, full deductions shall be made from the salary.
>
> At the beginning of each school year each teacher shall be credited with twenty (20) days of hosptial and covalescence leave to be used for absences caused by illness or physical disability of the teacher which cause the teacher to be hospitalized. This leave is granted on an annual basis and does not accumulate.
>
> Hosptial leave may be used, as prescribed, by a teacher until such time as any combination of the teacher's hospital leave and sick leave equal ninety (90) working days. Beyond this point, hospital leave is lost and will not be restored until the combined sick leave and hospital leave is less than ninety (90) days.
>
> The Board will give consideration to extending additional sick leave benefits in hardship cases.

No more than 2 percent of the professional staff may simultaneously take 2 days professional leave for professional conferences, workshops, school visitation, but 1 day may be used for arranging graduation programs with colleges and universities; misused leave will result in loss in salary if not considered reasonable; military leave up to 4 years and such additional time as the teacher may be required to serve pursuant to law; 15 school days will be allowed for military reserve obligation without loss of pay; after 7 years of experience teachers are eligible for sabbatical leave for study, educational travel, research, teaching, and education projects related to current professional responsibilities; this leave will be limited to not more than 1-1/3% of the total faculty; the present leave of absence policy is not to be replaced and must be distributed proportionately among school levels; one-half of salary will be paid but the teacher may not progress on the salary schedule for the time spent on leave; all benefits and rights of employed teachers are to be retained; a two-year committment to the school system must be made, or the teacher must repay the salary received while on leave; if the teacher returns for only one year of service, half the monies received while on leave is to be paid; a disabled teacher drawing disability benefits or on long-term disability who has exhausted all accumulated sick pay and hospital leave will be granted up to one year of additional leave without pay renewable annually upon written request; disabled teachers on leave are to receive all available benefits which other teachers have access to; maternity leave will be granted without pay with notification given at least 30 calendar days in advance; extended leave granted upon approval of the director of personnel; all benefits to which the teacher was entitled will be restored upon the teacher's return to work; bereavement leave may not exceed 5 days at full pay for each death in the immediate family with 2 days granted for a relative outside the immediate family; 2 emergency absence days deducted from sick leave may be granted at full pay with prior notification of the building principal; in emergencies and inclement weather teachers will not be required to make up time lost when students are not present; full pay for jury duty with the school district receiving all monies and checks for jury duty except for those travel expenses and money earned when the teacher is not contractually required to be on duty; teachers ordered or subpoenaed by the Association to appear at grievance arbitration hearing are not covered by the contract.

ABSENCE FOR PERSONAL REASONS

> Only the daily substitute compensation shall be deducted in the case of absence at any time for personal reasons that cannot be dealt with other than during the school day. Up to a total of ten (10) days in any one (1) year shall be available for the purpose of this Article. This provision does not apply for teachers who have already missed thirty (30) days or more during the school year.

INSURANCE: Board pays 50 percent of the premium cost of a $15,000 term life insurance policy with accidental death and dismemberment; disability insurance is available to all teachers with the Board paying 50 percent of the premium.

INSURANCE BENEFITS

> The Board will pay one hundred per cent (100%) of the single premium.
>
> The Board will pay seventy per cent (70%) of the dependent's premium and the employee will pay the remaining thirty per cent (30%).
>
> If two employees of Independent School District No. 535 are husband and wife, the Board shall pay one hundred per cent (100%) of the dependent's premium.

The following improvements shall be made in the current major medical accident and health insurance policy as soon as possible but in no event later than December 31, 1974:

- Increase the major medical maximum from $50,000 per cause to $75,000 per cause.
- Increase the current scheduled $100 Lab and X-ray benefit to a $200 non-scheduled benefit.
- Provide a maximum "out-of-pocket" expense limit of $500 per cause.
- Provide all female teachers with maternity coverage.
- Provide all female dependents with maternity coverage.

The Board shall provide and pay the full premium of the Traveler's Dental Plan for all teachers and their eligible dependents as soon as possible.

The Board shall make available for purchase, by the teacher at the prevailing group rates, the major medical accident and health insurance for those teachers who retire prior to age sixty-five (65) and who are between the ages of fifty-five (55) and sixty-one (61) inclusive.

The Board shall continue to provide health care coverage, on the same basis as other group members, major medical accident and health insurance for those teachers who retire prior to age sixty-five (65) and who are between the ages of sixty-two (62) and sixty-five (65).

In both A and B above the coverage or the opportunity to purchase the coverage shall cease when the teacher reaches the age of sixty-five (65).

ASSOCIATION: Payroll deduction of local, state, and national dues; the Association will be credited with 100 days of leave to be used by teachers who are officers or agents of the Association; substitute pay is deducted from the teacher's pay; right to use school buildings without cost when custodial overtime is not required; bulletin boards may be used at the expense of the Association with the permission of the building administrator; inter-school mail is to be distributed in the Educational Service Center Building; the board will provide information relating to its agenda and a copy of board informational packet.

INSTRUCTION: Each teacher will receive keys to classroom, faculty lounge, and work area; adequate parking facilities will be provided at no cost or expenses incurred in parking at a public lot will be reimbursed; if space is available within each school, teachers will be assigned a room for working purposes; a designated consultant will select elementary-school substitutes from an approved list; classes may be assigned to a substitute while the absent teacher deals with conferences, death in the family, emergency, accident, sickness, and parent conference days.

SENIORITY

Any teacher who works sixty (60) or more consecutive duty days shall acquire seniority rights and be placed on the appropriate seniority list(s).

The Board shall establish a seniority list for each area of certification. In order to be placed on this seniority list(s) the teachers must be currently teaching in their field of certification or they must have taught one class for a period of sixty (60) school days or more in the school district. Seniority shall be established from the date a contract is signed with the district. In the event that teachers have equal seniority their seniority ranking shall be determined by the drawing of lots. The drawing of lots shall be conducted jointly by the Association and the Board.

Teachers brought into the Rochester School District by consolidation shall be credited with the full amount of seniority they accrued in the consolidated district. In the event their seniority is equal to the seniority of other teachers, their seniority ranking shall be determined by the drawing of lots. The drawing of lots shall be conducted jointly by the Association and the Board.

A teacher whose employment has been legally terminated by resignation, or termination, pursuant to M.S. 125.12 but whose employment was subsequently reinstated, by action of the school board and the teacher, without interruption of regular services, shall retain the teacher's original seniority date.

UNREQUESTED LEAVE OF ABSENCE

Teachers who have seniority rights shall be placed on unrequested leave of absence in fields in which they are certified. A teacher shall be placed on an unrequested leave of absence in accordance with the seniority list(s) established in Section 2-B. In all cases, the teacher with the least amount of seniority shall be placed on unrequested leave of absence first.

The provision herein shall not apply if it will result in any violation of the district's affirmative action program which shall include ethnic, race, color, or sex; and any person employed in an affirmative action program may be retained in the field of certification of a teacher with greater seniority if it is necessary to effectuate the purposes of such affirmative action program.

The present teacher evaluation policy will not be changed without consulting the meet and confer council; daily student contact for kindergarten teachers will be two 2½ hour sessions, one in the morning and one in the afternoon; teachers of grades 1-6 will have a maximum contact of 5½ hours per day, totalling 27½ hours per week; secondary teachers will teach 5 periods in a 7-period day, not exceeding 5 hours per day; class size problems will be referred to the meet and confer council;

WORK LOAD, PREPARATION PERIODS, CLASS SIZE

The District shall maintain as much uniformity in faculty working hours as is reasonably possible. The normal work day is 8:00 AM to 3:45 PM with a duty free lunch period at least equivalent to the time allowed students. In the event of a different arrival and/or departure time the total length of the in-school day shall not exceed seven (7) hours and forty-five (45) minutes of continuance duty including the duty free lunch period.

Teachers are expected to be on duty according to the above schedule from Monday through Friday, except that they may leave on the last school day of the week ten (10) minutes after the last regularly scheduled class in the building is dismissed.

A teacher wishing to be excused early shall consult with the building principal or immediate supervisor.

Faculty members shall attend conferences, department meetings, and faculty meetings and shall care for other responsibilities reasonably required.

Vocational-technical Institute schedules shall conform to the time requirements indicated above and shall be continuous duty but starting and ending times will of necessity vary from those indicated in Section 1-A.

The maximum daily student-contact time for a teacher in kindergarten shall be two (2) two and one-half (2½) hour sessions one in the morning and one in the afternoon.

The maximum daily student-contact time for a teacher in grades one (1) through six (6) shall be an average of five and one-half

(5½) hours per day or a total of twenty-seven and one-half (27½) hours per week.

The maximum daily teaching time for a secondary teacher and an RAVTI teacher shall be five (5) teaching periods in a seven (7) period day not to exceed five (5) hours per day. Teachers may be assigned additional student-contact time (except as provided in Article XXXVII, Section 1) not to exceed two and one-half (2½) hours per week. Assignment to a supervised study period shall be considered a teaching period for purposes of this Article.

Where the educational program is such that Section 2-C above cannot be complied with, the total student-contact time shall not exceed twenty-seven and one-half (27½) hours per week.

Any part-time teacher who has less than four (4) but two (2) or more student-contact hours per day shall have and be paid for one (1) hour of preparation time per day which shall be used in the assigned building(s).

Any part-time teacher who has four (4) or more student-contact hours per day shall have and be paid for two (2) hours of preparation time per day which shall be used in the assigned building(s).

If the teacher feels that the size of the teacher's class is unreasonably large, the teacher may refer the problem to the Meet and Confer Council.

PERSONNEL: Grievance procedure ends with binding arbitration; right to review personnel file with 1 day prior notice; upon request a representative of the Association may accompany the teacher in the review; any material not shown to the teacher and placed in the teacher's file under jurisdiction of the director of personnel within 10 school days after receipt or composition will be of no force or effect in any employer action against the teacher; teachers will attend conferences and departmental and faculty meetings; inservice training of 12 hours is equivalent to 1 quarter college credit and must be approved by the board; vacancies exist upon receipt of resignation and/or when a new position covered by the contract is created; a list of vacancies will be posted in the personnel office; no immediate opening may be filled for 5 week days, other openings for 10 week days; the seniority list will establish the basis for all transfers; involuntary transfer will be arrived at by reassigning the one with least seniority, who is certified for the vacant position.

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BEAVERCREEK LOCAL SCHOOLS
XENIA, OHIO

Between the Beavercreek Board of Education and the Beavercreek Classroom Teachers Association, effective September 1, 1974, to August 31, 1976. Approximately 300 certificated professional employees, comprising substitutes and professional teaching staff, i.e., special area teachers, certified summer school teachers, certified adult school teachers, certified librarian, counselors, and nurses who are full-time or regular part-time employees, excluding the professional administrative staff, i.e., superintendent, assistant superintendent, administrative assistant, directors, supervisors, coordinators, principals, assistant principal, psychologists, and all other administrative personnel. Provisions for automatic renewal within 5 days after January 2 of each year.

COMPENSATION: (1974-1975) BA, $8,125 to $12,146, 11 increments; MA, $8,937 to $14,218, 12 increments; MA + 30, $15,169 maximum, 12 increments. Longevity increase every fifth year; the daily rate for the professional teaching staff will be determined by dividing the annual salary by 183; severance pay may be granted to a maximum of 200 days within the limits established by law; retirement may be applied for a maximum of 15% of a maximum of 200 days accrued, but unused sick leave payment will be the daily rate shown on the employee's final teaching contract and made only once within 90 days of the official retirement date.

DIFFERENTIALS: (Scale has 5 steps and 10 lanes, step 3 maximum experience credit possible for new staff); Athletic Director and Intramural Director, $1450.82-$2418.08; head varsity football and basketball, $967.21-$1450.82; assistant varsity football (4) and basketball, head varsity wrestling, baseball, track, junior high co-ordinator (2), and high school marching band, $640.77-$810.04; head freshman football, head sophomore basketball, head freshman basketball (2), sophomore football (2), high-school instrumental music, head varsity gymnastics, high-school boy's soccer, $544.05-$640.77; head 8th football (2), assistant freshman football (2), head 8th basketball (2), assistant varsity wrestling, track (2), baseball, head varsity golf, cross country, tennis, high-school trainer (fall), girls gymnastics, $447.33-$544.05; head freshman track, baseball (2), music coordinator, head 7th football (4), basketball (2), $374.78-$447.33; head 7th and 8th baseball, track (2), high-school debate, speech, audiovisual, girls track, basketball, volleyball, $302.25-$374.78; high-school cheerleaders, high-school girls softball, tennis, $229.71-$302.25; junior high cheerleader (2), high-school winter intramurals (2), $181.35-$229.53.

OTHER: Substitute pay of $24 per diem for first 20 days in the same assignment; rate will increase to teachers daily rate on the 21st day; after 60 consecutive days in the same assignment, the teacher will be entitled to all fringe benefits; summer school and adult school teachers receive $6.50 per hour; home instruction and learning disability teachers and tutors, $5.50 per hour.

LEAVES: Sick leave to accrue at rate of 1¼ days for each completed month of employment up to 15 days per year cumulative to 200 days; forms to be filled for use of sick leave for personal or family illness or injury or maternity; 3 days' personal leave, noncumulative, with 48 hours advance notice; paid leave for jury duty upon submission of stipend to board; paid military leave for duty not to exceed 31 days in one year, provided that any compensation shall be the difference between employee's regular pay and the military pay; sabbatical leave granted for one or two semesters after 5 years of employment; teacher receives difference between substitute pay and regular salary; emergency days of absence will be fully paid days unless otherwise stipulated and will not be deducted from sick leave accumulation; long-

term nonpaid leave available for professional study, overseas teaching, maternity when sick leave is exhausted, political office, professional association office, military obligations, and child care.

INSURANCE: Workmen's Compensation available.

INSURANCE

Full-Time Professional Staff - The Board agrees to pay on behalf of each Professional Staff member the cost of all single or family contract premium, except $5.00 per month to be paid by the staff member on family contract for the Blue Cross-Blue Shield Major Medical (365 UCR) coverage with diagnostic service and emergency care rider. The Major Medical will be $50.00 deductible, 90% - 10% of the next $2000, and 100% over $2000 up to $250,000.

Part-Time Professional Staff on Single Coverage - The Board agrees to pay a part of the single plan cost of coverage stated above. For those who work under (3) hours per day, one-half (1/2) of the monthly premium; for 3 to 6 hours per day, two-thirds (2/3) of the monthly premium.

Part-Time Professional Staff on Family Coverage - The Board agrees to pay all but $10.00 per month premium on the family contract for those who work 3-6 hours per day; and all but $12.50 per month premium on a family contract for staff working less than three (3) hours daily.

The insurance is *not* automatic - Staff must make application in writing within ninety (90) days of the date of employment to make the insurance effective as of the first paid contract day, and any change in personal status affecting single or family plan must be reported to the Clerk-Treasurer to effect the change.

Life Insurance - The Board agrees to pay on behalf of each full-time professional staff member working six (6) hours per day or more the premium on $12,500 Group Life Insurance policy effective September 1, 1974. The Board shall select the company to provide the insurance. Coverage in addition to $12,500 may be purchased by the teacher at the rate paid by the Board if approved by the Insurance Company.

ASSOCIATION: Dues deduction for local, state, and national; right to use school buildings and facilities without charge for professional meetings at times when a custodian is normally on duty; at other times the board must be reimbursed for custodial wages; the Association may use typewriters, duplicating equipment, and audiovisual equipment; inter-school mail and mail boxes may be used to announce faculty meetings; use of the public address system for brief announcements; Association will be provided with agenda and minutes of board meetings; names and addresses of all employees to be provided to the Association; Association has 9 days' released time for bargaining unit work.

INSTRUCTION: Preparation periods will be equal to the length of the class period in secondary school and 45 minutes in the elementary school; every effort will be made to keep classes small, to equalize them in each building, and to meet the pupil/teacher ratio as recommended in the Minimum Standards for Ohio Schools; duty-free lunch period of 30 minutes; school day will be 7 hours and 15 minutes long; the school calendar of 190 days to include 180 days of instruction, 2 inservice days, 1 record-keeping day at the end of the last semester; student teachers will be limited to one cooperating teacher unless a special request is made; 3 days annually for parent-teacher conferences on the kindergarten level; 2 days annually for elementary teachers for parent-teacher conferences.

PERSONNEL: Grievance procedure ends with an advisory decision; right to review personnel file, and to file a written response to any material placed therein; personnel file available for inspection to administration or Association representative on a "need to know" basis; 2 regular faculty meetings may be scheduled by the principal per month; 2 days' advance notice required for excused absence from professional staff meetings.

CLASSROOM OBSERVATION

Each teacher shall observe some other teacher's class and instruction at least once each semester as part of in-service training. First priority for visitation is to be during the visiting teacher's regular planning period and in the building where the teacher teaches. Visitations will be scheduled in consultation with the Building Principal and the teacher to be visited and will be recorded on a form provided. If possible the teacher who is doing the observing shall submit his observation request form to the Building Principal at least forty-eight (48) hours in advance of the time, date, and place of observation. Visitations to other school buildings outside the school system or within the school system may be approved if arrangements can be worked out between the principal and the teachers involved. These visitations shall be counted in fulfilling the above-mentioned two visitation requirements.

Evaluation criteria are formulated to improve pupil instruction, aid in objective self-analysis, indicate professional growth, show the values of inservice training, and provide information for establishing contract status, certification, and promotion; the evaluation procedure, to be conducted periodically, to include a self-analysis and will not be part of the final evaluation which consists of classroom visitation and a conference involving the teacher and the principal or the assistant principal; the final evaluation is to be given by the principal, who will make out the final form; notice of dismissal or nonrenewal must be given not less than 60 days before April 30; the board will give consideration for promotion first to those candidates who apply in writing, then to other qualified candidates; department chairmen are directly responsible to the high-school principal; during the 1974-75 year department heads in the junior high school will serve on a voluntary and non-paid basis, but failure or refusal to serve will not adversely affect the appraisal or standing of the teacher in any manner; student disciplinary action will be dealt with by filing documentation of the student's behavior, scheduling conferences with appropriate person(s) or agencies and considering the student's activities and courses for possible adjustment; protection of teachers will be judged according to the severity of the assault; a written report will be made to the assistant superintendent; an administrator will be present during the normal school day for the protection of both pupils and teaching staff members.

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NRD
NEGOTIATION RESEARCH DIGEST

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RESEARCH

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CASE REVIEWS

CALIFORNIA

Employer Cannot Act Before Receiving Recommendations of Panel

Although under the Winton Act, the recommendations of a fact-finding panel are advisory, an employer must consider them before taking final action. The California Court of Appeals so ruled in reversing a trial court decision involving a dispute concerning the Richmond Unified School District's modification of the contractual grievance procedure before the issuance of recommendations of a factfinding panel request by the teacher's union.

The teacher's union sought a writ of mandamus to abrogate the board's decision to modify regulations governing employee grievances, a decision the board had passed before taking action required by the Winton Act for resolving persistent disagreements. One rule dealt with teacher evaluation, which before the board's modification, was subject to the grievance procedure; the other rule, permitting the union to pursue a case even though principals did not wish to continue, was deleted by the board.

The Winton Act requires a public-school official to meet and confer with representatives of certificated employee organizations upon request with regard to all matters relating to employment conditions and employer-employee relations. The Act stipulates that parties shall refer any persistent disagreement to a committee of three persons.

While the board was not bound by the findings of the panel and could reach a result contrary to the recommendations of the committee, the appeals court reasoned that to do so without considering the committee's recommendations would render useless the statutory device for the consideration of persistent disputes. Likewise, this reasoning could apply to the "meet and confer" requirements and thus hinder the purpose of the Winton Act.

The board argued that it could still consider the recommendations of the committee after it had acted and then alter its action. The appeals court held that the legislature did not intend that the hearing of the committee's recommendations and findings precede a final decision of the board. The appeals court, however, stated that the legislature's use of the word "shall" rendered the provisions of the Winton Act mandatory rather than permissive.

To the board's reasoning that such a statute would place the legislature in a position of requiring a futile procedure, the court responded that in accordance with the rules of statutory construction, statutes are to be given reasonable interpretations to avoid absurd results stemming from literal interpretations which may render the purpose of the statute useless (*Brodsky v. Seaboard Realty Co.*). On the board's contention the trial court had ruled that the procedure sought by the teacher's union could obstruct the board's management of the schools. The appeals court, however, observed that the circumstances surrounding the case did not meet the requirements of an emergency which could result in irreparable damage and for which a hasty decision on the part of the board would be in order. The appeals court determined that factfinding and recommendations should precede the decision of the employer and that such a procedure could not be construed as prohibiting the employer from making the final decision. Only if the sequence acted to prohibit the employer from making a final decision would the sequence be required to yield.

The court of appeals ordered the trial court to issue the writ of mandamus sought by the teacher's union, and the board to comply with the procedures set forth under the Winton Act. (*Certificated Employees Council of the Richmond Unified School District et al, v. Richmond Unified School District*, California Court of Appeals, November 25, 1974.)

HAWAII

Court Clarifies Interpretation of "Impasse"

In a question over the proper construction of the statutory term "impasse," the Hawaii Supreme Court upheld a lower court interpretation of the term as the failure of a public employer and an exclusive representative to achieve agreement in the course of good faith bargaining.

Recalling the intention of the state legislature in promoting joint decision making, the higher court emphasized such prohibitive practices of the collective bargaining act as refusing to bargain collectively in good faith. Rejecting the Hawaii State Teachers Association construction of impasse as the failure of a public employer and exclusive representative to achieve agreement without good faith bargaining or negotiation, the court stated that such a construction would jeopardize the law on collective bargaining in public employment and permit public employees to strike capriciously and arbitrarily. The court further asserted that HPERB had the sole authority to determine and declare the existence of an impasse.

Concluding, the court sustained the lower court's determination and said that in its opinion the trial court reversed the HPERB order because substantial rights of the board of education had been prejudiced. (*The Board of Education, State of Hawaii v. The Hawaii Public Employment Relations Board et al.*, Hawaii Supreme court, November 21, 1974.)

ILLINOIS

Boards Lack Power To Set Retirement Age

Upholding lower court decisions requiring reinstatement of eight Cook County Hospital employees with back pay, the Illinois Appeals Court ruled that a county commission, in the absence of statutory legislation, had no power to establish a mandatory retirement age.

The commission contended that while it had no statutory authority to set a compulsory retirement age, it had the inherent power to do so, or implied authority by virtue of its enabling act to make such regulations. The commission added that its bargaining agreements with other unions included a mandatory retirement clause.

The appellate court rejected these arguments on the grounds that the act establishing the commission did not include any such powers. The court indicated that in a similar case which invalidated the mandatory retirement program, it had rejected the argument that the board had implied authority from the legislature to set a retirement age. The court acknowledged that some municipal authorities had been delegated limited power to set compulsory retirement, but these statutes specifically delegated such authority. Since the Act in question neither fixed a compulsory retirement because of age nor expressly delegated such authority to the commission, the court determined that the commission lacked authority to impose compulsory retirement.

Concerning the argument that because the commission and unions bargained a retirement age, the forced retirements were valid, the court held that they were invalid for the reason that the law cannot enforce a contract which it prohibits; that is, the act creating the commission clearly defined its retirement procedures, and the provision in the union contracts referring to mandatory retirement age could not supercede the rights conferred on employees under a valid statute. Therefore, the appellate court affirmed the reinstatements and back pay ordered by the lower courts. (*Charles Sibley, et al., v. Cook County Health and Hospitals' Governing Commission*, Illinois Appellate Court, First District, August 15, 1974.)

MAINE

Union's Appeal from Order Staying Arbitration Dismissed

Finding that the Lake Region Teachers Association initiated arbitration and subsequently withdrew it, the Maine Supreme Judicial Court dismissed the Association's appeal from a lower court order staying arbitration.

The court reasoned that the Association terminated the original arbitration proceeding after the decision of the lower court had been entered and before filing the notice of appeal, thus, rendering moot the question of the lower court's stay of the then pending arbitration proceeding.

The Association originally filed for arbitration with the American Arbitration Association (AAA) regarding a probationary teacher's grievance. The school district asserted that the Association was without right to arbitrate the grievance it alleged and sought to stay the proceeding. The lower court so stayed the proceeding.

After the judgment by the lower court and prior to filing notice of appeal, the Association notified the AAA that the grievance was being withdrawn. Receiving no contrary response after writing to confirm the withdrawal of the grievance, the AAA closed its files on the matter.

Considering the evidence before it, the high court ruled that the Association rendered moot the question it raised—whether a pending arbitration should proceed—by terminating the arbitration proceeding. Accordingly, the court dismissed the Association's appeal. (*School Administrative District No. 61 et al., Plaintiffs v. Lake Region Teachers Association, Defendant*, Maine Supreme Judicial Court, November 2, 1974.)

MICHIGAN

Under Public Employee Relations Act the Courts Retain the Power To Enjoin Strikes

The Michigan Court of Appeals ruled that the power to enjoin strikes by public employees is not within the exclusive jurisdiction of the Michigan Employment Relations Commission, but is a power of the courts. In rejecting the jurisdictional question raised by the Detroit Federation of Teachers, the court noted that a strike was not necessarily inconsistent with the union's duty to bargain in good faith.

Under court order, union officials held a meeting to inform the members of the court order to return to work. Union officials were neither enthusiastic nor used the words "urge" or "recommend" to end the strike.

Having been found guilty of contempt, the union officials appealed to the Michigan Court of Appeals, contending that the courts lacked jurisdiction over strikes since a strike constituted "failure to bargain in good faith" and was, therefore, an unfair labor practice within the exclusive jurisdiction of the Michigan Employment Relations Commission as established in the state Public Employee Relations Act. In addition, the union officials contended that there was insufficient evidence to support a finding of contempt.

The court rejected the union's claim that MERC had exclusive jurisdiction on the grounds that the legislature had not included strikes among the unfair labor practices listed in the Public Employee Relations Act, and had retained a separate provision prohibiting public employee strikes. The courts, therefore, could not assume that the legislature had intended to render the anti-striking statute redundant or to eliminate the historic power of the courts to issue injunctions against strikes by public employees.

The court also noted that it was "surely possible that a union could both bargin in good faith and still strike."

However, the court ruled in favor of the union officials, overturning the contempt citation for lack of evidence since the lower court injunction had not required union officials to be enthusiastic in ordering teachers back to work, to persist in the face of shouts or threats, or to succeed in ending the strike. (*Board of Education for School District of City of Detroit v. Teachers, Local 231*, Michigan Court of Appeals, Division 1, September 12, 1974.)

NEW YORK

Court Acts on Two Demands To Stay Arbitration for Procedural Defects

In two hotly debated issues involving arbitrability and scope of bargaining, the New York Supreme Court, in a case brought by the Somers Board of Education and the Somers Faculty Association, granted a stay of arbitration regarding the payment of interest on retroactive salary increase since the issue was not covered by the contract, and refused to grant a stay over the issue of past service credit since the grounds for the stay, procedural defects, were for the arbitrator to determine.

The school board alleged that the two demands to stay arbitration were incorrectly started at level two, that the grievances were waived by the failure to observe time limitations, and that several other procedural requirements were not met.

The court held that procedural defects in an arbitration are for an arbitrator to decide and a stay of arbitration cannot be granted by the judiciary.

The court based its decision on *Matter of Suffern Distributors Inc. v. Local 153, Office and Professional Employees International Union*, wherein questions of compliance with step-by-step grievance procedures, before arbitration, of matters pertaining to the collective bargaining agreement were held to be questions to be passed upon by the arbitrator upon consideration of the merits of the case. Also, in *Matter of Arlington Teachers*, it was held that a claim that a demand for arbitration was not timely rendered under the provisions of the collective bargaining agreement was for the arbitrator to determine.

Additionally, the court was asked to deny arbitration on a grievance concerning interest payments on retroactive salary increases.

The school board argued that the agreement did not include a provision on retroactive salary disputes and, therefore, that it was not obligated to arbitrate the matter since the agreement must contain those issues which must be the subject of arbitration.

Finding that the effect of the arbitration clause was to confine arbitration to grievances involving the interpretation or application of the agreement only insofar as they were expressly covered by the agreement, the court determined that the arbitration clause did not allow arbitration on any provision in the collective bargaining agreement or on any term or condition of employment.

Recalling that in prior decisions involving labor disputes the presumption of arbitrability extended to the deep-seated issue as to who must determine whether a question is arbitrable, when the arbitration clause is limited and issues not covered by it are reserved to the board, the court assumed its obligation to make a determination.

In regard to the issue of credit for prior service, the court found that this was provided for in the agreement, which signified an interpretation of a provision because the issue rested on alleged procedural defects, matters judged for the arbitrator's determination.

The court concluded that since there was no mention in the agreement concerning the payment of interest on a retroactive salary increase, a stay of arbitration was in order and dismissed the issue of prior service credit. (*Board of Education, Somers Central School District v. Somers Faculty Association*, New York Supreme Court, July 18, 1974.)

Distinctions in State Law Between Public and Private Employees Are Constitutional

According to the New York State Supreme Court for Suffolk County, distinctions in state law between public and private employees are not unconstitutional per se under the 14th Amendment to the federal Constitution. Those who challenged the constitutionality of a specific distinction must prove that it is not reasonable or necessary to obtain a permissible legislative end. On this rationale, the Court rejected the contention of the Central Islip Teachers Association that the Taylor Law's 30-day time limit for appealing from orders of the Public Employment Relations Board was unconstitutional when the Association failed to meet its burden of proof.

After PERB denied teachers a pay increment on the grounds that the Association's petition was not timely filed, the Association appealed to the New York State Supreme Court for Suffolk County. PERB, in response, requested the court to deny the Association's petition for review, on the grounds that the Association had failed to file within the deadline prescribed by the Taylor Law, which requires a party seeking appeal from a PERB order to file a petition within 30 days after receiving the order. The Association contended that since private sector employees were allowed up to four months to appeal from a decision of the State Labor Board, the 30-day deadline on appeals by public employees constituted a denial of equal protection of the law under the 14th Amendment to the federal Constitution.

The court held that since the federal Constitution does not provide individuals with a right to a government job or prevent the government from imposing reasonable and necessary limitations and conditions on public employment, distinctions in state law between public and private employees were not unconstitutional. According to the Court, the Association had to prove that the distinction in time limits provided for public and private employees was unconstitutional by showing that the distinction was un-

reasonable or unnecessary to meet a permissible end. Since only a clear violation of the Constitution will justify judicial overturning of legislation because such legislation infringes on protected rights or is a subject category, the court could not question the wisdom of the legislature in imposing different time limits. Since the burden of proof lay not with the state but with the Association to show a clear violation, the Court dismissed the petition on the grounds that the Association did not meet these standards. (*Central Islip Teachers Association v. Helsby, et al.*, New York State Supreme Court, Suffolk County, August 1, 1974.)

PENNSYLVANIA

PLRB May Withdraw a Complaint Without a Hearing

The County Court of Common Pleas ruled that the Pennsylvania Labor Relations Board (PLRB) had authority under the Public Employee Relations Act to withdraw without a hearing a complaint it had previously issued in order to eliminate meritless charges.

The court dismissed a suit filed by the American Association of University Professors (AAUP) which alleged that the PLRB lacked authority to dismiss without a hearing a charge brought against Pennsylvania State University after a complaint had been issued.

The AAUP had filed a petition with PLRB alleging that the university had committed an unfair labor practice by denying the use of university addressing and mailing facilities to the AAUP in its organizing drive while using those same facilities to conduct an anti-union campaign. The Board issued a complaint against the university which the university, urged the Board to dismiss on the grounds that its conduct was lawful.

Acting under the statutory language of the Act, which vests the Board with authority to "issue" and "amend" complaints, the Board withdrew the complaint without a hearing.

The AAUP filed suit in common pleas court, contending that the PLRB lacked statutory authority to withdraw complaints without a hearing and requested the court to order the PLRB to hold a hearing.

The court held that the Public Employee Relations Act and Board rules "contemplate a screening process to eliminate meritless charges" where "a hearing would serve no useful purpose." In addition, the court stated that an employer was not required "to make its communications systems available to a union which is attempting to organize its employees" as a condition for using those facilities to conduct an anti-union campaign. The AAUP complaint can be refiled if the university's actions truly diminish its ability to reach employees. The AAUP suit was dismissed. (*American Association of University Professors, University Park Chapter, v. Pennsylvania Labor Relations Board*, Centre County Court of Common Pleas, November 7, 1974.)

VERMONT

Public Employers Not Required To Hold Hearing Before Terminating Tenured Employee If Hearing Is Held After Termination

The Court reiterated its previous position that questions of fairness involving procedural rights afforded by administrative bodies must be examined by the courts even when they were not raised in earlier proceedings. According to the Vermont Supreme Court, public employers are not required to grant tenured employees a hearing before termination, provided they give the employee notice and eventually a hearing after termination. Therefore, the Court denied the appeal of an employee who had contended that the State Department of Highways had violated his rights to due process under the federal Constitution by not granting him a hearing before discharge.

After the tenured employee was discharged from his position with the State Department of Highways on grounds of unsatisfactory performance, he was granted a hearing before the Commissioner of Highways and Personnel Board who confirmed the Department's decision. The employee appealed again, unsuccessfully, to the State Employee Labor Relations Board.

Next, the employee appealed to the Vermont Supreme Court, contending that the state had violated his constitutional rights by not granting him a hearing before terminating his employment. The court accepted his appeal in spite of the fact that he had not raised the issue in any previous proceeding, on the grounds that the employee's contentions raised constitutional questions of a dimension and magnitude that required an answer, and reiterated its previous position that "questions of fairness involving procedural rights afforded by administrative bodies must be examined" by the courts even if they had not been properly raised in earlier proceedings.

However, ruling in favor of the State Employee Labor Relations Board, the Court held that since the government had a right to dismiss a tenured employee for cause, the employee had no reason to be certain of keeping his job, and, therefore, the government could protect its legitimate interest in efficient job performance by postponing a hearing until after an employee was dismissed, provided the employee received notice and an eventual opportunity to be heard. (*In re Maher*, Vermont Supreme Court, October 1, 1974.)

WISCONSIN

Fair-Share Agreements Held Constitutional

The Milwaukee County Circuit Court held that fair share agreements, which require employees in a union shop to pay an amount equal to union dues as their share of the costs of collective bargaining and contract administration are not in violation of the constitutions of either the United

States or the state of Wisconsin. Therefore, the Court dismissed a suit brought by several teachers against the Milwaukee Board of Education and the Milwaukee Education Association.

Under the fair-share agreement between the board and the Association, all employees in the Association's bargaining unit were required as a condition of employment to pay an amount equal to membership dues to the Association as their "proportionate share of the cost of the collective bargaining process and contract administration."

Several teachers sought to have the agreement and the Municipal Employment Relations Act which provided for it, declared in violation of their rights under the constitutions of the United States and the state of Wisconsin and state school statutes respecting tenure and promotion. Therefore, they brought suit against the board and the Association in the Milwaukee County Circuit Court, seeking a declaratory judgment, and requesting the court to issue a temporary and permanent injunction against the enforcement of the agreement with respect to them and other employees whom they represented, and to award damages for deductions from their earnings that were improperly withheld.

The board and the Association, in reply, contended that the court could not accept jurisdiction since the subject matter fell within the exclusive jurisdiction of the Wisconsin Employment Relations Commission, and the teachers had failed to file a claim with the board or to include the city of Milwaukee as a defendant party.

While denying the claim that WERC had exclusive jurisdiction, the court held that the Municipal Employment Relations Act had not violated the rights of the teachers. Since the Act had been passed after the school statutes, "there is a presumption" that the legislature acted with knowledge of those statutes and that the operation of the Act should be "harmonized" with them. In addition, the court held that the Act was not in violation of the teachers' rights under the constitutions of either the United States or the state of Wisconsin, since the teachers were not required to join a union and their dues could legally be used only for purposes of defraying the expenses of collective bargaining and, therefore, did not constitute a political levy in violation of the teachers' freedom of expression.

Sustaining the jurisdictional contentions of the board and the Association, the court held that the teachers should have filed a claim with the school board as a precondition for suing the board for damages, and that the city should have been made a defendant so that if the Association were insolvent, the city would be liable for damages, since under the contract the Association had released the board from liability. (*Gerleman, et. al. v. Milwaukee Board of School Directors, et. al.*, Circuit Court, Milwaukee County, Wisconsin, December 27, 1974.)

* * *

FEDERAL

"Conduct Unbecoming. . ." Unconstitutionally Vague Language

Ambiguous phrases, such as "unbecoming" and "detrimental to the service," were declared unconstitutionally vague in a decision handed down by a Court of Appeals.

Upholding a district court ruling calling for the removal of official reprimands placed in the files of two Milwaukee police officers because they wrote to the city's negotiator, a bargaining proposal concerning standby pay, the court struck down the application of the regulation as unconstitutionally impermissible. The sole question following the city's appeal was whether or not the district court ruling of unconstitutional vagueness was correct.

The court was guided by *Connally v. General Construction Co.* which stated that "a statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application, violates the first essential of due process of law." In determining whether the rule, "conduct unbecoming a member and detrimental to the service," conformed with the constitutionally mandated "rough idea of fairness," it was necessary for the court to establish whether the regulation created standards which could be objectively interpreted by all concerned.

Finding nothing in the rule which offered a clear explanation of its coverage or limitations, and primarily because such a rule placed restrictions on the policemen's right of due process, the court affirmed the order of the district court and declared that the application of the rule was constitutionally impermissible. (*Milwaukee Chief of Police and Milwaukee*, USCA 7, August 14, 1974.)

* * *

BOARD FINDINGS AND RULINGS

INDIANA

Dues Checkoff for Minority Representative Approved

An Indiana Education Employment Relations Board (IEERB) hearing officer determined that dues checkoff for a minority organization having at least 20 percent of its members desiring a dues deduction did not constitute an unfair labor practice despite the certification of another union as exclusive bargaining representative.

The National Education Association-South Bend, representing the majority organization, filed a complaint with the IEERB alleging that the school-board practice of deducting dues for both the NEA affiliate and the South Bend Federation of Teachers established an unfair practice under the public law. The Association further contended that such a procedure was prohibited in that the law specified that an employer deduct dues only for the certified representative from employees who have so authorized.

Citing a determination by the state attorney general, who ruled that the withholding of dues was permissible whenever a number greater than 20 percent of employees requested the deduction, the hearing officer declared that SBFT met this criterion. In an effort to reconcile the differences between the seemingly opposing statutes that required dues deduction on behalf of the certified bargaining representative and that allowed deductions for any organization which could verify a membership of over 20 percent, the hearing officer stated that exclusive representation cannot operate as "a bar" to deductions for the minority body.

The charges of unfair labor practice filed against the school district for deducting dues for both organizations were dismissed. (*H. Allen Maxwell et al., and South Bend Community School Corp. and South Bend Federation of Teachers*, Indiana Education Employment Relations Board, November 18, 1974.)

MASSACHUSETTS

Breakup of School Bargaining Unit into Teachers and Administrators Ordered

Following its traditional policy of establishing a separate unit for administrators and supervisors, where their number is large enough to allow them to bargain effectively in a separate unit, and where including them in a mixed unit would create conflicts of interest within that unit, the Massachusetts Labor Relations Commission broke up an over-all unit represented by the Chicopee Educators Association into a classroom teacher unit and an administrators unit. Department heads were placed in the administrators unit on the grounds that most of their working time was spent supervising and evaluating applicants for positions in their departments. Employees in the classroom teacher unit were to choose between the Association and the Chicopee Federation of Teachers, and employees in the administrators unit were to choose between the Association and no representative.

The Chicopee School Committee had recognized the Association as the representative of a bargaining unit which had not been certified by the Commission, and included principals, vice-principals, directors, department heads, and school psychologists in addition to teachers, counselors, counselor examiners, librarians, and an instructional media specialist.

The Federation filed a petition with the Commission, challenging the appropriateness of the unit and requesting the Commission to order a representation election in a revised unit which excluded administrators, department heads, and school psychologists. The Association contended that the existing unit was appropriate, and requested that no elections be held.

The Commission followed its practice of establishing a separate administrative unit for supervisory employees where their number was large enough to allow them to bargain effectively in a separate unit and where including them in a mixed unit with teachers would create conflicts of interest within the unit. The Commission ruled that department heads were supervisors since they spent most of their working time supervising teachers or evaluating applicants for positions in their departments, and their judgments carried equal weight with those of other supervisors. On the other hand, the Commission held that other positions which had different educational requirements but which carried working conditions, wages, and hours similar to those of teachers could be included with teachers in a single bargaining unit.

Therefore, the Commission established two separate units: the Classroom Teacher Unit which had been requested by the Federation, and a separate Administrators Unit consisting of all principals, vice-principals, directors, assistant directors, supervisors, department heads, and school psychologists, but excluding managerial and confidential employees. (*Matter of City of Chicopee, School Committee, and Chicopee Federation of Teachers Local 2416, AFT*, Massachusetts Labor Relations Commission, November 18, 1974.)

MICHIGAN

Female Employees Entitled to Sick Leave Benefits for Confinement and Recuperation Unless Contract Specifically Exempts Normal Pregnancy

If a sick leave provision does not specifically exempt normal pregnancies, the arbitrator held, it has to be interpreted as covering normal pregnancies and that for purposes of applying sick leave benefits, under such a provision, the period of "illness" begins at the birth of the child and ends when the woman is released from medical care by her physician. The applicability of a sick leave provision to pregnancy is unaffected by the presence of an unconstitutional mandatory maternity leave provision. Therefore, the arbitrator ruled that under the contract between the Reeths-Puffer Education Association and the Reeths-Puffer Board of Education, a teacher was entitled to sick leave benefits for the period covering confinement and recuperation after the birth of her child.

After the teacher in question was advised by her physician to take leave of absence, starting on January 2, 1974, in anticipation of the birth of her child, she informed the superintendent that she was taking leave and requested that her leave be treated as sick leave rather than maternity leave without pay as specified in the contract between the school board and the Association. She cited Equal Employment Opportunity Commission guidelines as the basis of her request. When the Board refused to grant her the benefits she requested, she filed a grievance.

At arbitration the board contended that the teacher had no basis under the contract for requesting sick leave since the contract specifically provided for maternity leave without pay, not sick leave, and while the teacher was unable to work, she was not sick. The Board contended that according to the Supreme Court in *Geduldig v. Aiello* pregnancy was not a disabiling illness, and that the language of the contract specifically prohibited the arbitrator from modifying its terms.

The Association contended that the teacher was entitled to sick leave under the 14th Amendment to the federal Constitution, EEOC Guidelines, and the Michigan Civil Rights Act, all of which made failure to pay sick leave for pregnancy-related disabilities uniawful sex discrimination.

The arbitrator held that the board had misconstrued *Geduldig v. Aiello*, and that previous decisions by administrators and the decision of a U.S. District Court in the case of *Bravo v. Board of Education* required employers to treat maternity leave as sick leave. The effect of *Geduldig v. Aiello* was to permit an employer, through a negotiated collective bargaining agreement, to specifically exempt normal pregnancies from sick leave benefits. The maternity leave provision in the contract did not constitute such an exemption because as a result of the Supreme Court decision in *Cleveland Board of Education v. LaFleur*, a board could not and did not require a pregnant teacher to take leave prior to the seventh month of pregnancy for reasons of good taste, and absence for pregnancy had to be considered as absence for illness unless the sick leave provision itself specifically exempted normal pregnancy from coverage. If a sick leave provision contains no language specifically exempting normal pregnancies, a female employee is entitled to sick leave benefits during the period of illness which begins at the date of birth of her child and ends at the date when she is released from medical care by her physician.

Therefore, since the sick leave provision iself contained no language specifically exempting normal pregnancy, the arbitrator ruled that the teacher was entitled to receive sick leave benefits from the date of her child's birth until released by her physican to return to work. (*Reeths-Puffer Education Association and Reeths-Puffer Board of Education*, American Arbitration Association, September 20, 1974.)

Faculty Must Obtain Consent of College Before Engaging in Outside Employment

Requiring faculty to obtain permission from the college before engaging in outside employment, and subjecting the withholding of permission to arbitration were reasonably related to the legitimate objectives of the college, which included ascertaining that there would be no conflicts between outside employment and teaching obligations. Therefore, an arbitrator denied the grievance presented by the Faculty Association of Ferris State College which contended that the college should not require permission for outside employment so long as individual faculty members performed their duties satisfactorily. The arbitrator determined that the rule was valid under the existing contract and could not be changed except by collective bargaining.

The rule was promulgated after the state legislature passed an appropriations act which prohibited institutions of higher education from using state funds to pay employees for time spent working outside the institution without written authorization from the board of trustees, and further required reports of these authorizations to be submitted to the legislature. In response, the President of the College issued an executive memorandum reinstating the policy of requiring faculty members who wished to engage in outside employment to obtain the prior consent of the College.

The Association contended that the memorandum violated its contract with the college which granted administrators the power to adopt "reasonable" policies within the limits of state and federal law. The Association held the rule to be unreasonable because it imposed economic control over the time of faculty members which was not needed to perform college duties.

The College specified that under the rule permission would be required only for outside employment and would be granted as long as there was no conflict of interest with teaching obligations and the individual was satisfactorily performing his duties. Withholding of permission would be subject to the grievance procedure and reviewed by arbitration.

The arbitrator held that the rule, as modified at arbitration, was reasonably related to the legitimate objectives of

the college in fulfilling its responsibilities to report to the legislature and in ascertaining that there would be no conflicts between outside employment and teaching obligations.

Therefore, the arbitrator held the rule to be reasonable under the existing contract, but stipulated that any change in the rule must come through collective bargaining. (*Ferris State College and Ferris State College Faculty Association*, American Arbitration Association, November 2, 1974.)

NEW YORK

Workload Partially Based upon Class Size Is Negotiable, But Submission of Non-Negotiable Demands to Fact Finder Violates Duty To Bargain in Good Faith

According to New York State Public Employment Relations Board, while the presentation to a fact finder of demands which were beyond the scope of negotiations constitutes refusal to negotiate in good faith, a workload partially based on class size was negotiable, and demands withheld from a fact finder at his request were not automatically withdrawn.

During negotiations, the Yorktown Faculty Association requested that the Yorktown Central School District negotiate items which the district contended were beyond the mandatory scope of negotiations. These items included: (a) the district's decision to eliminate jobs; (b) a maximum limit of 22,000 weighted student-contact minutes per week, computed on a basis that included class size; (c) a greater role in decision-making related to curriculum development, the evaluation of principals, and the assignment of paraprofessionals; (d) specific numbers of student-contact periods in various subject areas with teaching specialists; and (e) salary and job assignment of per-diem substitutes who were not in the bargaining unit. In addition to the disagreement over these demands, there was disagreement on a number of negotiable items.

When an impasse was reached, the matter was submitted to fact-finding. At the fact finder's request, certain demands which the district considered negotiable were not submitted for consideration. However, when the fact finder accepted for consideration the Association demands which the district considered non-negotiable, the district, while replying to the demands on their merits, restated its position that these demands were not mandatory subjects for negotiations.

After the fact finder submitted his report, the parties could still not reach an agreement. The Association reiterated its demands, including those which had been withheld from the fact finder.

The district filed a complaint with PERB, charging that the Association had violated the Civil Service Law by insisting that the district negotiate on demands which were beyond the mandatory scope of negotiations, had violated its duty to negotiate in good faith by presenting those demands to a fact finder, and by reinstating after fact-finding demands which had been withheld from the fact finder. Subsequently, the Association also filed a complaint with PERB, charging that the district had unlawfully refused to negotiate over the impact of its decision to eliminate jobs, the salary of per-diem substitutes, and other demands, and had failed to comply with a fact-finder's request to supply financial data.

While sustaining the district's contentions that certain Association demands were beyond the mandatory scope of negotiations, a hearing officer dismissed all of the remaining charges of both parties. Both parties objected to the hearing officer's decision, and the matter was, therefore, reviewed by the full Board.

The Board revised the hearing officer's decision as follows: (a) the Association's demand for weighted student-contact minutes per week was a negotiable item since it was computed not only on class size, but also upon hours of work and numbers of teaching periods which are mandatory subjects of negotiations; (b) the other Association demands challenged as non-negotiable by the district, were beyond the mandatory scope of collective bargaining; (c) since the district had objected to consideration of these non-negotiable demands by a fact finder, the Association's insistence on presenting these demands during fact-finding constituted a refusal to negotiate in good faith; (d) other demands which were negotiable and had been withheld from the fact finder at his request were properly maintained by the Association after fact-finding, since "it does not follow that demands not submitted to a fact finder are automatically withdrawn."

Therefore, the Board ordered the Association to cease and desist from insisting upon a fact finder's consideration of any proposal which is not within the mandatory scope of negotiations, and ordered the district to negotiate on the Association's demand that there should be a maximum limit on weighted student-contact minutes per week. (*In the Matter of Yorktown Faculty Association and Yorktown Central School District*, Public Employment Relations Board, May 13, 1974.)

OREGON

Colleges To Bargain as Separate Units

The Oregon Public Employee Relations Board ruled that faculty members of the state's higher education institutions should bargain individually on a campus-by-campus basis rather than as a state-wide unit.

Affecting all faculty and academic members (including graduate teaching assistants) the decision represents a loss for the State Board of Higher Education [BHE] and the Oregon State Employees Association.

PERB's determination was based largely on community of interest since it is at the campus level that employees are selected, appointed, awarded tenure, promoted, and terminated, ranks and salaries are determined, grievances are

resolved, and various other aspects of employment peculiar to the institution are considered.

PERB noted BHE's lack of strong central control over each campus, except for budgetary and curricular matters, and pointed out that presidents establish their own policies within the framework of faculty input, general guidelines, and due process requirements set by the Board of Higher Education.

PERB forsees the possibility of lengthy negotiations over what is bargainable, whip-sawing demands, and frequent impasses, but argues that these conditions are normal occurrences for any bargaining unit. It also recognizes that many items can probably be negotiated only with the Board of Higher Education, such as standards for appointment, promotion, tenure, and sabbatical leave.

The overriding reason for its decision, according to the PERB, was that only in single bargaining units can the desires of small institutions be heard. (*Oregon State Employees Association v. Oregon College of Education, et al.*, Public Employment Relations Board, December 16, 1974.)

WISCONSIN

Denial of Sick Pay for Pregnancy Not in Violation of Labor Agreement

Relying on uniform past interpretation of the contract language, a Wisconsin Employment Relations Commission arbitrator ruled that the Merrill Area Joint School District's denial of sick pay to three women teachers on leave for pregnancy was not in violation of the labor agreement.

The Merrill Area Education Association contended that no provision of the agreement granted authority to the employer to deny sick leave benefits, that the clear language of the contract required the payment of sick leave pay for any disability, that the employer was not mandated to determine what was or was not a disability, that state and federal law prohibited discrimination based on sex, and that the state Department of Industry, Labor and Human Relations mandated equal treatment of pregnant women.

The school district contended that the agreement should be interpreted in the context in which it was written and in light of established practices of the parties, that dictionary sources make a distinction between "sick" and "pregnant," thus excluding pregnancy from the sick leave provision of the agreement, that the state of the law on sex discrimination was currently confused, and that the Department of Industry, Labor and Human Relations guidelines lacked the force of law.

Noting that the collective bargaining agreement contains a nondiscrimination clause, the arbitrator pointed out that the provision was silent on the matter of sex discrimination and did not grant him the authority to approach the grievances as sex discrimination cases. Additionally, since the agreement contained no special provision for the granting of maternity leave, the role of the arbitrator was clearly defined as that of interpreting the word "sick" as used in the agreement.

The arbitrator felt disinclined to seek out ambiguity where the language of the agreement was clear on its face. He also underscored federal and state laws as forbidding the continuation of previously existing distinctions between temporary disabilities associated with pregnancy and those associated with other illnesses.

Owing to the current legal ambiguity in the application of the state maternity guidelines and his charge to rule on the merits of each case without interpreting or amending the contracgs the arbitrator looked beyond the contract to previous contracts, and past practice. While prior agreements provided no clarification of the definition of "sick" and the occasions on which sick leave may be used, the arbitrator declared it an undisputed fact that sick leave had been uniformly applied in a manner which excluded absences for pregnancy-related disabilities.

Concluding, therefore, that the term "sick" had acquired an established meaning in the contract and past practice of the parties which excluded pregnancy, he dismissed the grievance. (*Merrill Area Joint School District v. Merrill Area Education Association*, Wisconsin Employment Relations Commission, November 13, 1974.)

Board Refusal To Arbitrate Extension of School Year Without Compensation to Teachers Prohibited

The Wisconsin Employment Relations Commission (WERC) found that a school board was guilty of a prohibited practice by refusing to arbitrate a dispute concerning its directive that new teachers be required to work two additional days without compensation.

Charging that the Sauk Prairie School Board unilaterally changed the dates for new teachers to start school, two days in advance of the date established in the agreement, the Sauk Prairie Education Association said that the school board owed them additional monies. The board rejected the Association's contention on the grounds that it did not constitute a grievance covered by the collective bargaining agreement, but was rather a clerical error which the board offered to resolve by suggesting that the new teachers use two convention days as time off to rectify the error.

Disregarding the board's proposal, the Association requested a meeting to process the dispute to arbitration. When the board refused, the Association called upon WERC to appoint an arbitrator and hear the grievance.

The WERC examiner found that the school board's initial imposition of 192 contract days violated the collective bargaining agreement and that the board's refusal to arbitrate the issue constituted a violation of the collective bargaining agreement, and as such, represented a prohibited practice within the meaning of section 111.703(3)(a) 5 of the Wisconsin Statutes.

WERC, therefore, ordered the board to cease and desist from refusing to submit the grievance to arbitration and to take affirmative action toward implementing the policies of the statute. (*Sauk Prairie Education Association v. School Board of Sauk Prairie Public Schools, District III*, Wisconsin Employment Relations Commission, October 31, 1974.)

FEDERAL

NLRB Designates Bargaining Units for Faculty at University of Miami

The National Labor Relations Board approved two separate bargaining units for faculty at the University of Miami: one for the law school and the other for all other faculties except the medical school and the school of marine and atmospheric science.

The American Association of University Professors and the Law Faculty Association requested the NLRB to order representation elections among the full-time faculty, professional law librarians, and professional academic librarians holding faculty rank, and department chairmen who were to be divided into two separate units. The law school faculty was to be represented by the LFA, and all other faculty with the exclusion of those in the medical school and the school of marine and atmospheric science were to be represented by AAUP.

The university contended that either the faculty could not be represented in any unit since they were "supervisory and managerial" by virtue of group participation in faculty governance, or only a university-wide bargaining unit was appropriate. The university stipulated that its proposed unit would also include department chairmen, law librarians, and academic librarians holding faculty rank, in addition to full-time faculty.

The Board held that the faculty were not supervisors or managerial employees since their participation in college decision making with respect to hiring, promotion, salary, and granting of tenure was in their own interests rather than the employer's and final authority over those matters rested with the Board of Trustees. In addition, the Board rejected a university-wide bargaining unit, and accepted a separate unit for the law school on the grounds that the school was physically separated from other buildings and activities on campus, and exercised administrative autonomy, and the faculty worked under conditions different from those of other faculty as a result of the need to adhere to the accreditation standards established by the American Bar Association and the American Association of Law Schools. Finally, applying criteria which had guided its earlier decisions, the Board excluded the medical school and the school of marine and atmospheric science from the over-all bargaining unit on the grounds of geographic separation from the campus, substantial employment in activities other than teaching, such as patient care or research, differences in student-staff ratios and school calendars, non-university funding of expenses, including salaries, which were derived from patient care of research grants, administrative autonomy, absence of prior bargaining history, and the absence of a union demand for inclusion in a broad bargaining unit.

The Board included in the units all full-time employees, other than supervisors, who were professionals holding advanced degrees, teaching classes, or working as librarians under annual contract with the University Division of Academic Affairs, which paid them out of its budget or otherwise substantially controlled their income, and who enjoyed either tenure or all prerogatives and fringe benefits of faculty other than tenure and participation in university governance. Thus, all classes of full-time faculty, professional librarians working as law librarians or holding academic rank, research scientists and program specialists, department chairmen, and associate and assistant deans who held faculty appointments and regularly taught or engaged in similar academic activities in a department to which they were permanently affiliated were included in the bargaining units.

Part-time faculty were excluded since, being ineligible for tenure and not participating in university governance, they had substantially different pay and working conditions and, therefore, lacked sufficient community of interest.

Deans were considered supervisors since they were appointed and paid in administrative rather than faculty categories, had final authority over the distribution of budget allocations, could prevent the faculty in a department from meeting to nominate a chairman, and could reject their nominee. Since department chairmen were regular faculty who taught classes, and could make only recommendations to the Board of Trustees regarding the granting of tenure and promotion, and nominate new appointees to the faculty, after consultation with the faculty in their departments, they were not considered to have supervisory authority. Assistant and associate deans never exercised the supervisory authority possessed by deans, and most of them held regular faculty appointments and taught classes.

Coaches were excluded since they were not employed by the division of academic affairs, and shared no faculty or professional characteristics with the exception of a few individuals who held advanced degrees. ROTC chaplains and instructors were excluded since they were not university employees. Research and training associates, who performed work similar to that of research scientists and often worked under their direction, were permitted to vote, subject to challenge, since many of them did not hold advanced degrees, and the record was not clear as to their status as professionals. (*University of Miami and University of Miami Chapter, American Association of University Professors, et al.*, National Labor Relations Board, September 27, 1974.)

NEGOTIATION NOTES

CALIFORNIA

8-hour Day and 40-hour Week for State Employees

The state Industrial Welfare Commission issued an order stipulating that state employees shall normally be required to work a maximum of eight hours a day and 40 hours a week. Overtime work may be required where necessary to carry out state business during a manpower shortage.

MARYLAND

AGO: No-Reprisal Agreements Are Invalid; Penalties for Teacher Strikes Must Be Applied in Every Case

The Attorney General, in an advisory opinion, held that the state legislature in enacting the Teacher Bargaining Law had intended the penalties for striking to be mandatory and applied in every case. The opinion had been requested by the State Board of Education which was hearing a suit brought by the independent United Teachers Guild. The Guild had requested the Board to declare a no-reprisal agreement between the Public School Teachers Association and the Baltimore Board of School Commissioners to be null and void and to apply the penalties. Under the statute, the PSTA would lose its status as exclusive bargaining agent for two years, and dues checkoff privileges for one year.

As part of the strike settlement, the Commissioners and the PSTA had entered into a no-reprisal agreement under which the PSTA would retain both its status and its checkoff privileges. This agreement was challenged by the Guild which filed suit in the Court of Common Pleas in Baltimore, requesting the court to order the Board to enforce the penalties against the PSTA and to negotiate the 1975-76 contract for Baltimore City Teachers with a committee representing the Guild, the Association, and an AFT affiliate which had also participated in the strike.

After the court dismissed the suit on the grounds that jurisdiction lay with the State Board of Education, the Board requested the Attorney General to issue an advisory opinion as to whether enforcement of penalties was mandatory and who had responsibility for enforcement. The Attorney General held that the penalties were mandatory and had to be applied in every case since the deterrent effect of the statute would be diluted if a union could assume that after engaging in an illegal strike, it still might succeed in obtaining no reprisals as a term of settlement.

He added that the State Board had the responsibility for establishing guidelines and issuing orders on enforcement of the no-strike provisions, but that the Commissioners had actual enforcement responsibility, and could appeal the Board's ruling in the courts.

Finally, he suggested that the losing party at the upcoming hearing appeal to the courts since the law did not provide for interim elections, and the application of his opinion would leave the teachers without any bargaining agent for two years, would deprive school boards of a "valuable settlement tool" in the form of a promise of no reprisals, and would have the "incongruous effect" of rewarding the AFT affiliate which had remained on strike after the settlement between the PSTA and the Commissioners.

NEW YORK

Management Must Arbitrate Impact of Program Changes or Negotiate Over Wages and Hours

The Office of Collective Bargaining ruled that the City of New York was within its rights in implementing two productivity programs in the fire department during contract negotiations.

The Uniformed Firefighters Association and the Uniformed Fire Officers Association charged that the city was illegally acting unilaterally when it introduced the productivity programs, and contended that the city's action would result in the firemen working under "less than immediate supervision," forcing them to perform extra-contractual work.

Finding no evidence that "irreparable harm" would befall the employees, the OCB rejected the unions' requests that the city be temporarily restrained from implementing the programs. The Board also found that the majority of the unions' complaints were contract matters which should be more properly handled through grievance arbitration procedures. In regard to the alleged possibility of the firefighters working under less than immediate supervision and the resultant increase in workload, the Board held that the union failed to provide information on the impact of the changes.

The Board determined that the productivity programs were a management prerogative and, therefore, exempt from the status quo provisions of the law. According to the Board the status quo provision was enacted to balance the employee's denial of the right to strike, not to prevent the city from acting upon unbargained managerial prerogatives. To act to the contrary, it said, would have the effect of immobilizing the city in its labor decisions during what is normally an extended period. (*Uniformed Firefighters Association and Uniformed Fire Officers Association and New York City, et al.*, New York City Board of Collective Bargaining, Office of Collective Bargaining, August 20, 1974.)

OKLAHOMA

Attorney General Opinion

Addressing himself to three questions relative to the conduct of bargaining unit elections, the state attorney general held that a majority of the professional educators of a school district was required for the election of a bargaining agent of a professional organization. He also stated that unless there was a statutory provision to the contrary, this election must be conducted by the organizations themselves since employers are prohibited from interfering with employees' free choice. In regard to the question of advance notification of an election, the attorney general believed that proper notice meant reasonable notice of the election itself and of the candidates to be voted on so as to allow sufficient time for school district members to vote.

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FEDERAL

Research Assistants Lose Bid for Bargaining Rights

Acting on a representation petition, the National Labor Relations Board refused to extend collective bargaining rights to a group of graduate research assistants at Stanford University, concluding that they were basically students, not regular employees of the university. The decision excludes such groups at private colleges from coverage under the National Labor Relations Act. Although units at public institutions, currently under state labor board jurisdiction as in Wisconsin and Michigan, are not affected, the precedent culminates a series of adverse rulings thwarting student workers' efforts to achieve bargaining status.

The research assistants and the Service Employees International Union, AFL-CIO, argued that they were carried on the university salary roster and were compensated much like other employees.

The university argued that research services performed by the graduate assistants were an integral part of their doctoral program. Emphasizing their role as students, the university's brief pointed out that research assistants were not eligible for employee fringe benefits and leaves, but could avail themselves of student housing, health services, and recreational facilities.

The NLRB sustained the university's contention, noting especially that salary paid to the research assistants was tax exempt and was not a function of job performance or number of hours worked. The board ruled that they were students, not employees, and thus, ineligible for bargaining rights under the NLRA.

City of Charlotte Ordered To Deduct Union Dues

The U.S. District Court ruled that the City of Charlotte, North Carolina, cannot refuse dues checkoff for Local 660, International Association of Firefighters, while making payroll deductions from employees' checks for other purposes. Although the city consistently refused to collect dues, the union decided to pursue the issue after two life insurance companies refused to sell the union group life insurance for its members because dues checkoff was not permitted.

The court rejected the city's argument that a state statute prohibited checkoff as inapplicable since the issue did not involve contract negotiation. The court reasoned that the city was arbitrary and had no rational basis for refusing dues checkoff. Additionally, the court said the city was in violation of the equal protection clause of the federal Constitution as long as it withheld money from employees for purposes not specifically required by law while refusing to deduct union dues. (*International Association of Firefighters, Local 660, et al., v. City of Charlotte, et al.*, U.S. District Court, Charlotte, North Carolina, September 5, 1974.)

Statute Prohibiting Police Officers from Belonging to Pro- Strike Unions Declared Unconstitutional

The U.S. District Court for the District of Columbia, declared unconstitutional a District of Columbia statute which prohibited police officers, under pain of immediate discharge, from joining or affiliating with any organization which "holds, claims, or uses the strike to enforce its demands."

The Board of Labor Relations of the District of Columbia ordered an election in which District of Columbia policemen could choose the Police Officers Guild, the International Brotherhood of Police Officers, or the Policemen's Association as their exclusive bargaining representative. Subsequently, the Police Officers Guild voted to affiliate with the National Union of Police Officers, a division of the

Service Employees International Union. While the NUPO constitution prohibits strikes, the SEIU advocates and exercises the right to strike in the private sector. The Director of Personnel for the District of Columbia immediately informed POG that its affiliation with NUPO had placed its members' jobs in jeopardy under District of Columbia law since NUPO was affiliated with the AFL-CIO "whose other affiliates engage in strikes." In addition, the Director of Personnel ordered POG struck from the ballot and excluded from further participation in the election.

The POG and the IBPO, which entered as an intervenor, requested the court to declare the District of Columbia statute an unconstitutional infringement upon its members rights under the First Ammendment to the federal Constitution and to issue an injunction against the enforcement of the statute. The District of Columbia challenged both the jurisdiction of the court and the appropriateness of the three-judge panel, and contended that the statute was required by legitimate state interests which outweighed the employees' rights. These interests included the necessity of preventing strikes by public employees, especially police, and the necessity for maintaining the impartiality of policemen in labor disputes where union sympathies might interfere with the performance of their duties.

After dealing with procedural issues, the court stated that under the First Amendment to the federal Constitution, public employees had protected rights to join a labor union, to advocate the right to strike, and to join others in doing so, and that the legitimate interests of the District of Columbia were not sufficiently compelling to warrant the infringement on these rights by the statute which in effect prohibited public employees from joining any labor union. In the absence of evidence that any member of POG-NUPO or IBPO had failed to perform satisfactorily in a dispute involving a labor union, the mere possibility of an abuse was not sufficiently compelling to warrant the infringement. Finally, the District's legitimate interests in preventing strikes by public employees could be satisfied by legislation prohibiting strikes without infringing on the employees' rights under the First Amendment.

Therefore, on these grounds, the court declared the statute unconstitutional, but declined to issue an injunction since it did not believe its decision would be ignored. (*Police Officers Guild, National Union of Police Officers, AFL-CIO, et al v. Walter E. Washington, as Mayor Commissioner of Washington, D.C. et al.*, U.S. District Court, For the District of Columbia, December 21, 1973.)

* * *

Major Collective Bargaining Settlements, 1974

During 1974, major collective bargaining settlements provided for larger wage adjustments than in 1972 and 1973, according to preliminary estimates by the Bureau of Labor Statistics (BLS), U.S. Department of Labor.

Negotiated wage-rate adjustments for 1974 averaged 9.8 percent during the first year of the contract and 7.3 percent annually over the life of the contract, compared with wage adjustments averaging 5.8 and 5.1 percent, respectively, during 1973. The data exclude gains under cost-of-living escalator clauses.

The 1,171 collective bargaining settlements in the private nonfarm economy affecting 1,000 workers or more each covered almost 5.0 million workers, primarily in the steel, communications, construction, retail trade, apparel, and bituminus coal mining industries.

Wage-rate adjustments in manufacturing averaged 8.7 percent in the first contract year and 6.1 percent annually over the life of the contract. In 1973, wage-rate adjustments averaged 5.9 percent in the first contract year and 4.9 percent annually over the life of the contract.

Adjustments in nonmanufacturing averaged 10.4 percent in the first contract year and 7.9 percent over the life of the contract, compared with 5.7 percent in the first year and 5.3 percent annually over the life of the contract during 1973. The construction industry alone had settlements with wage adjustments averaging 11.0 percent the first year, and 9.5 percent annually over the life of the contract. In 1973, the figures were 5.0 and 5.1 percent, respectively.

Cost-of-living escalator clauses covered 60 percent of the workers under major collective bargaining settlements during 1974 and provided 6.1 percent in annual wage-rate adjustments, excluding potential cost-of-living adjustments under these formulas. Contracts without escalator clauses averaged 9.1 percent in annual adjustments, compared with gains of 4.9 and 5.3 percent, respectively, in 1973.

Settlements reached in 1974 incorporating escalator clauses have averaged salary adjustments of 11.7 percent thus far. These gains include first-year negotiated increases and escalator adjustments effective during the first contract year.

Escalator provisions were incorporated in 164 settlements covering 869,000 workers, marking the largest increase in escalator coverage since the steel and communications industries included escalators in their contracts in 1971. Now, escalator provisions cover about 51 percent (5.3 million) of all workers in major bargaining units.

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CONSUMER PRICE INDEX—FEBRUARY 1975

The Consumer Price Index rose 0.7 percent in February to 157.2 (1967=100), the Bureau of Labor Statistics of the U.S. Department of Labor reported today. Increases in a wide range of goods and services, including medical care services, utilities, rent, houses, clothing, fresh fruits and vegetables, and products containing sugar accounted for the rise in the February CPI. The effect of these increases was partially offset by lower prices for meats, sugar, and used cars.

In February 1975, the CPI was 11.1 percent higher than in February 1974. The food index was 8.9 percent, the nonfood commodities index 12.2 percent, and the services index 11.5 percent above their levels of February 1974.

Seasonally adjusted changes

On a seasonally adjusted basis, the rise in the February CPI was 0.6 percent. The increase was the same as in January. The rise in food prices was much smaller than in January, but the increase in nonfood commodities was larger. The CPI rose 0.7 percent in December, and 0.9 percent in both November and October.

The food index rose 0.1 percent in February after seasonal adjustment, much less than in January and the smallest increase in 7 months. The slowdown in February was primarily due to declines in beef, pork, poultry, and sugar prices. Prices of sugar-based products, however, continued to rise rapidly. Prices of most other grocery store foods—notably fresh fruits and vegetables and eggs—and prices of restaurant meals also rose in February.

The nonfood commodities index rose 0.8 percent after seasonal adjustment. Although larger than in either of the 2 preceding months, the February increase was less than increases in the first 9 months of 1974. The new car index, which declined in December and January, rose in February, reflecting higher prices for imported cars. The index for apparel commodities also increased following 2 months of decline. Prices of many other commodities, particularly nondurable goods, continued to rise rapidly. Increases in prices of household durables, however, were smaller than in recent months.

The index for services increased 0.8 percent in February, about the same as in each of the preceding 4 months. Charges for medical care services and utilities continued to rise rapidly in February, while increases in charges for home repair and personal care services were smaller than in recent months, and mortgage interest rates continued to decline.

Monthly changes in detail (not seasonally adjusted)

The index for food purchased in grocery stores—the major portion of the food index—increased 0.4 percent, slightly less than the usual seasonal increase for February. A large part of the increase was due to higher prices for fresh fruits and vegetables, which rose more than seasonally and large increases in prices of bakery products and other sugar-based products. Prices of dairy products also rose. The effect of these increases was partially offset by declines in sugar, beef, pork, and poultry prices. Meat and poultry prices usually rise in February. Prices for processed fruits and vegetables declined slightly. Egg prices also decreased, but much less than they usually do in February. The index for food away from home—restaurant meals and snacks—rose 0.9 percent, about the same as in recent months.

The nonfood commodities index increased 0.7 percent instead of decreasing slightly as it usually does in February. About two-thirds of the increase stemmed from higher prices for houses, apparel, housekeeping supplies, and alcoholic beverages. The increase in the apparel index—which was somewhat larger than usual for February—reflected higher introductory prices for spring items. Prices of most other non-durable goods such as textiles, housefurnishings, toilet goods, drugs and prescriptions, tobacco products, gasoline, and fuel oil also increased. In addition, the new car index rose instead of declining as it usually does in February, and there were increases in prices of appliances and recreational goods. The used car index continued to decline, but less than in December or January.

The services index increased 0.8 percent in February. Almost a fourth of the rise resulted from higher charges for medical care services—both physicians' fees and hospital services. Charges for all types of household services increased except mortgage interest rates. Gas, electricity, and water and sewerage rates rose sharply. Charges for housekeeping services and rent increased. Among other services, there were large increases in charges for auto repairs and dry-cleaning services and in taxi-cab fares. (U.S. Department of Labor, Bureau of Labor Statistics, News Release, March 20, 1975.)

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STATISTICS

MEDIAN SALARY FOR ENGINEERS INCREASED 13 PERCENT

The median annual salary for engineers went up by 13 percent to $20,660 during 1971-1973, according to a National Society of Professional Engineers (NSPE) survey. NSPE, however, noted that the increase in real spending power amounted to only 3.4 percent owing to the rising cost of living.

Although the NSPE survey had a 33 percent response rate, the data indicated that 9 respondents in 10 earned at least $13,830; three-fourths earned at least $16,700; one-half earned at least $20,660; one-fourth earned at least $26,670 and 1 in 10 earned at least $35,740.

The highest incomes were in the fields of chemical, aeronautical, aerospace, and petroleum and mining. The highest paid salaried employees were those working for educational institutions, consulting firms, and construction-contracting firms. Engineers in executive-administrative positions and consultants were paid higher salaries than engineers in design, production, and maintenance.

The survey showed a decrease in unemployment for engineers, reporting full employment by 97 percent of the respondents. Industrial engineers reported the lowest full employment rate. NSPE noted that the incidence of unemployment was probably higher for nonrespondents.

TABLE 1.–MEDIAN, QUARTILE, AND DECILE INCOME, 1973, BY FIELD OF EMPLOYMENT AND EMPLOYMENT STATUS

Employment and employment status	Lower decile	Lower quartile	Upper median	Upper quartile	Upper decile
1	2	3	4	5	6
FIELD OF EMPLOYMENT					
Industry	$13,980	$16,630	$20,330	$25,710	$32,970
Public utilities	13,390	15,850	19,780	25,070	31,700
Federal government	16,000	18,710	21,930	[illegible],980	30,050
State government	12,870	15,150	18,130	[illegible],600	26,260
County or municipal government	13,440	16,070	18,990	22,990	27,610
Consulting firm	13,490	16,720	22,010	29,710	44,290
Construction-contractor firm	14,640	18,180	24,220	[illegible]3,010	48,590
Educational institution	14,690	17,720	22,070	[illegible],460	32,680
Other nonprofit organization	15,420	17,710	21,380	25,900	38,130
Other	13,330	17,070	20,960	27,900	38,130
EMPLOYMENT STATUS					
Self-employed	16,740	22,060	29,150	41,020	58,120
Employee	13,560	16,310	19,120	24,830	30,590

Source: Bureau of National Affairs. "NSPE Reports Engineers Salary Increases During 1971-1973 Period." *White Collar Report* Number 895, May 24, 1974, p. B-7. Reproduced with permission.

EMPLOYMENT AND UNEMPLOYMENT FIGURES FOR DECEMBER 1974

The number of unemployed persons rose by 560,000 to more than 6.5 million as of December 1974, as the number employed dropped by 550,000 in December to 85.2 million. The jobless rate reached its highest point since 1961 as it climbed to 7.1 percent.

The number of persons with jobs decreased for the third consecutive month. The December employment decline followed a reduction of 800,000 in November and reduced the number of employed persons 1.4 million below that of September's high mark.

The number of nonagricultural payroll jobs in December was 77.7 million, 675,000 below the November level and 200,000 less than the previous year. The average weekly hours for production for nonsupervisory employees increased in December; however, manufacturing hours decreased.

Layoffs have influenced the increase in unemployment, as the number of unemployed who had lost their last jobs increased by 360,000 to 3.2 million. The total number without jobs increased by more than 2 million since December 1973. The unemployment rate rose 2.5 percentage points during the 14 months following the 4.6 percent low in October 1973. Part of this increase was due to last winter's energy crisis; however, most of the increases came during the past four months as the rate increased from 5.4 percent in August to 7.1 percent in December.

All employee groups were affected by the rise in joblessness. The unemployment rate for adult men increased to 5.1 percent in December, up from 4.6 percent in November; that of adult women increased to 7.2 percent, up from 6.6 percent. Teen-age unemployment rose to 18.3 percent, compared with 17.3 percent in November. Unemployment for black workers increased more significantly than for white workers. While the rate for white workers increased proportionately from 5.8 percent to 6.4, the rate for black workers rose to 12.8 percent compared to the previous 11.7 percent. The jobless rate for heads of households increased from 3.9 to 4.5 percent. Full-time employees experienced a rate increase from 6.2 to 6.8 percent.

Accounting for nearly half the jobless total, workers under state unemployment insurance programs experienced a jobless rate increase to 4.7 percent from 4.3 percent in November and 2.7 percent in December 1973.

White-collar workers saw a jobless rate increase to 4.1 percent in December 1974 with most of the increase occurring among sales workers and managers. Blue-collar joblessness rose from 8.2 to 9.4 percent. The manufacturing jobless rate was at 8.6 percent in December, twice that of December 1973, and construction unemployment went to 15.0 percent, the highest rate since 1961.

Following a November drop, the size of the civilian labor force stabilized at a seasonally adjusted 91.7 million. The labor force increased during 1974 by 1.6 million, significantly less than the 2.7 million increase a year earlier. Although employment increased during most of 1974, decreases at year end left the economy with almost 1.5 million fewer employees in December 1974 than the previous year.

The December drop in nonagricultural payroll employment was basically in the goods producing sector. Employment cutbacks were significant in the manufacturing industries, down 505,000 during the month and down 840,000 from October. Employment in durable goods was down by 335,000 from November to December. Factory jobs declined by 1.2 million since December 1973.

With the 50,000 decline in December, the over-the-year job loss in contract construction was 305,000. Mining dropped 30,000, reflecting strike action.

Retail trade jobs in the service industries declined by 130,000 in December, while other industries in this sector remained the same. Service-producing employment rose by 1.3 million, but was offset by the 1.5 million decline in the goods industries.

Seasonally adjusted, the average workweek for all production or nonsupervisory employees was 36.4 hours in December, an 0.2 hour rise from 0.4 in November. However, the average hours were down 0.6 hour from the previous year.

The workweek in manufacturing went from 0.1 hour after an 0.6 fall in November. Factory hours dropped 1.2 hours over the year. Mining was up 5.3 hours, reflecting a return to regular schedules following the strikes.

Hours worked by production or nonsupervisory workers decreased by 1.3 percent in December compared with a 1.5 percent drop in November. Total man-hours declined by 3.6 percent over the year, with manufacturing showing the most decline as factory man-hours were down 3.5 percent over the month and 10.8 percent from the previous year.

Average hourly earnings increased 0.7 percent (seasonally adjusted) for production or nonsupervisory workers on private nonagricultural payrolls in December. Hourly earnings rose 8.7 percent since December 1973. Average weekly earnings went up 1.2 percent in December 1974 and 6.9 percent above December 1973.

The average weekly hourly earnings increased by 2 cents to $4.38 before seasonal adjustments. Hourly earnings have increased 35 cents since December 1973. Weekly earnings averaged $159.87, up by $2.04 over November and by $10.36 above December 1973.

The Hourly Earnings Index was 165.1 (1967=100) in December, up 0.7 percent above the November level, and 9.2 percent over December 1973. For the 12-month period ending in November, the Index in dollars of constant purchasing power dropped by 2.7 percent.

TABLE 1.–GROSS HOURS AND EARNINGS OF PRODUCTION OR NONSUPERVISORY WORKERS ON PRIVATE NONAGRICULTURAL PAYROLLS, BY INDUSTRY DIVISION AND MAJOR MANUFACTURING GROUP

Industry	Average weekly hours				Average hourly earnings				Average weekly earnings			
	1971	1972	1973	1974*	1971	1972	1973	1974*	1971	1972	1973	1974*
1	2	3	4	5	6	7	8	9	10	11	12	13
TOTAL PRIVATE	37.0	37.1	37.1	36.6	$3.44	$3.67	$3.92	$4.22	$127.28	$136.16	$145.43	$154.45
MINING	42.4	42.5	42.5	42.8	4.06	4.41	4.72	5.20	172.14	187.43	200.60	222.56
CONTRACT CONSTRUCTION	37.2	36.9	37.0	36.9	5.69	6.03	6.38	6.74	211.67	222.51	236.06	248.71
MANUFACTURING	39.9	40.6	40.7	40.0	3.57	3.81	4.07	4.40	142.44	154.69	165.65	176.00
Overtime hours	2.9	3.5	3.8	3.2	...	...	...	...	...	...	...	...
Durable Goods	40.4	41.3	41.5	40.7	3.79	4.06	4.33	4.68	153.12	167.68	179.70	190.48
Overtime hours	2.8	3.6	4.1	3.4	...	...	...	...	...	...	...	...
Ordnance and accessories	41.6	42.0	41.8	41.7	3.81	4.08	4.35	4.72	158.50	171.36	181.83	196.82
Lumber and wood products	40.3	41.0	40.7	39.7	3.17	3.36	3.62	3.91	127.75	137.76	147.33	155.23
Furniture and fixtures	39.8	40.5	39.9	39.0	2.90	3.06	3.26	3.50	115.42	123.93	130.07	136.50
Stone, clay, and glass products	41.6	41.9	42.1	41.4	3.67	3.94	4.21	4.52	152.67	165.09	177.24	187.13
Primary metal industries	40.4	41.6	42.4	41.7	4.23	4.67	5.04	5.60	170.89	194.27	213.70	233.52
Fabricated metal products	40.4	41.2	41.6	40.8	3.74	4.00	4.26	4.59	151.10	164.80	177.22	187.27
Machinery, except electrical	40.6	42.0	42.6	42.3	3.99	4.28	4.56	4.92	161.99	179.76	194.26	208.12
Electrical equipment and supplies	39.9	40.5	40.4	39.7	3.48	3.68	3.88	4.15	138.85	149.04	156.75	164.76
Transportation equipment	40.7	41.8	41.9	40.1	4.41	4.73	5.06	5.46	179.49	197.71	212.01	218.95
Instruments and related products	39.8	40.6	40.8	40.2	3.53	3.73	3.90	4.18	140.49	151.44	159.12	168.04
Miscellaneous manufacturing industries	38.9	39.3	38.9	38.5	2.97	3.11	3.27	3.50	115.53	122.22	127.20	134.7j
Nondurable Goods	39.3	39.7	39.6	39.0	3.26	3.47	3.68	3.98	128.12	137.76	145.73	155.22
Overtime hours	3.0	3.3	3.4	3.0	...	...	...	...	...	...	...	...
Food and kindred products	40.3	40.4	40.4	40.3	3.38	3.59	3.82	4.15	136.21	145.04	154.33	167.25
Tobacco manufacturers	37.8	37.5	38.5	37.8	3.16	3.47	3.76	4.14	119.45	130.13	144.76	156.49
Textile mill products	40.6	41.4	40.9	39.4	2.57	2.74	2.95	3.19	104.34	113.44	120.66	125.69
Apparel and other textile products	35.6	36.0	35.8	35.1	2.49	2.62	2.78	2.99	88.64	94.32	99.52	104.95
Paper and allied products	42.1	42.8	42.7	42.1	3.67	3.94	4.19	4.50	154.51	168.63	178.91	189.45
Printing and publishing	37.5	37.9	37.9	37.6	4.20	4.48	4.68	4.96	157.50	169.79	177.37	186.50
Chemicals and allied products	41.6	41.8	42.0	41.6	3.94	4.21	4.48	4.84	163.90	175.98	188.16	201.34
Petroleum and coal products	42.5	42.3	42.3	42.4	4.57	4.93	5.21	5.62	194.23	208.54	220.38	238.29
Rubber and plastics products, nec.	40.3	41.2	41.1	40.3	3.40	3.60	3.80	4.02	137.02	148.32	156.18	162.01
Leather and leather products	37.7	38.3	37.9	37.2	2.60	2.71	2.81	3.01	98.02	103.79	106.50	111.97
TRANSPORTATION AND PUBLIC UTILITIES	40.2	40.5	40.7	40.5	4.21	4.64	5.03	5.43	169.24	187.92	204.72	219.92
WHOLESALE AND RETAIL TRADE	35.1	35.1	34.7	34.1	2.86	3.01	3.20	3.47	100.39	105.65	111.04	118.33
Wholesale trade	39.8	39.9	39.5	38.9	3.67	3.88	4.12	4.49	146.07	154.81	162.74	174.66
Retail trade	33.7	33.7	33.3	32.7	2.57	2.70	2.87	3.09	86.61	90.99	95.57	101.04
FINANCE, INSURANCE, AND REAL ESTATE	36.9	37.1	36.9	36.8	3.27	3.42	3.57	3.81	120.66	126.88	131.73	140.21
SERVICES	34.2	34.1	34.0	34.0	3.02	3.23	3.46	3.74	103.28	110.14	117.64	127.16

SOURCE:
"Employment and Unemployment Developments, December 1974," *Employment and Earnings*, Vol. 21, No. 7, January 1975.
*Preliminary unweighted averages.

SPECIAL REPORTS

MAINTENANCE OF STANDARDS PROVISIONS IN TEACHER CONTRACTS

Joseph A. Falzon

Maintenance of standards provisions are generally incorporated into contracts to preserve and maintain the highest minimum level of economic benefits, terms and conditions of employment, and rights and privileges derived from the employment relationship. They may be specified or implied in the contractual agreement, board policies, rules or regulations, or past practice. The provision prevents a reduction of benefits from actual change or change through interpretation of contract languague, board policies, or past practice.

In most teacher school-board agreements, this provision is found under the heading, "Maintenance of Standards" or "Maintenance of Benefits." It is often misappropriately placed under a "Savings and Separability" clause and in some instances in a "Miscellaneous" article, giving the impression that "Maintenance of Standards" is more an afterthought than an integral part of the contract which preserves non-negotiated benefits.

Essentially the maintenance of standards provision is intended to preserve those items that are not delineated or cannot be delineated in detail in the negotiated contract so as not to limit the benefits obtained through past practice found in the meaning of the contract, and that cannot be changed except by consent of both parties.

This analysis of 143 maintenance of standards provisions found in 1974-75 contracts on file in NEA Research examines the provision according to the scope of its application to the contract, board policies, rules and regulations, and past practice.

Each contract was analyzed for four types of protection clauses, either alone or in combination, which would reveal the impact of such a provision on board action to change, alter or reduce any one of a number of terms and conditions of employment which are or have been enjoyed by teachers.

The most comprehensive provision in terms of coverage, incorporated the first two clauses. Each clause acting independently affords broad coverage in terms of a specific time frame, scope of coverage, and impact of coverage. The first clause prevents any change, alteration or reduction in terms and conditions of employment through the adoption and/or implementation of new contract language, new policies, and new rules and regulations or the elimination of any aspect of the employer-employee relationship established in these areas or in past practice. This clause establishes a time reference in relation to the effective date of the contract by focusing on a level of conditions gained through any instrument and freezing those policies, rules and regulations, and practices into the future insofar as they impact on the employment relationship.

The second clause of the provision states that alteration of or reduction in terms and conditions of employment through implication or interpretation of the contract may not be made. This clause effectively limits interpretation of

TABLE 1.—TYPES OF MAINTENANCE OF STANDARDS PROVISIONS ACCORDING TO INCORPORATION OF FEATURES

Provision	Number	Percent
1	2	3
No material change in policies, past practice, and contract/no interpretation of contract to reduce contract benefits or terms and conditions of employment	52	36.4
Board policy cannot be changed to reduce benefits or terms and conditions of employment	52	36.4
Specified items and/or contract only cannot be changed/or applied to reduce benefits or terms and conditions of employment	22	15.4
No material change in board policies, past practice, or contract to alter or reduce benefits or terms and conditions of employment	10	7.0
No material change or alteration to reduce benefits or terms and conditions of employment in contract and board policy	7	5.0
Total number of agreements	143	100.2

the terms and conditions of employment so as not to reduce or level off any gains previously enjoyed which are greater than the negotiated norm.

Each of the two clauses may be found alone; however, the majority of provisions included them in combination, thus providing maximum coverage.

Other clauses pertain to the contract or board policies, rules, or regulations that may be changed, altered, or reduced.

The most comprehensive provision bars any alteration or reduction in the contract, board policies, rules, regulations, and past practice, either specifically or impliedly. This type of provision usually combined prevention of elimination or reduction of the *actual* terms and conditions of employment, including wages, and prevention of withdrawal of any benefits and/or professional advantages or privileges enjoyed by implication. The following example best illustrates this type of provision.

> Except as this Agreement shall otherwise provide, all terms and conditions of employment applicable on the effective date of this Agreement to employees covered by this Agreement as established by the rules, regulations and/or policies of the Board in force on said date, shall continue to be so applicable during the term of this Agreement. Unless otherwise provided in this Agreement, nothing contained herein shall be interpreted and/or applied so as to eliminate, reduce, or otherwise detract from any teacher benefit existing prior to its effective date.

The provision quoted above establishes that all prior policy, and rules and regulations which relate to terms and conditions of employment, i.e., negotiable items, cannot be changed. The language implies that *all* terms and conditions established by prior policy must be maintained at the highest minimum standard and, in effect, can be changed only for the benefit of the employee. The language of the second sentence further guards against changes through interpretation or application of the contract to board policy and rules and regulations and precludes change except through negotiation; nor can the contract be used to take away employee benefits which are better than those provided by contract.

TABLE 2.—ITEMS PROTECTED BY MAINTENANCE OF STANDARDS PROVISION

Provision	Number	Percent
1	2	3
No reduction, alterations in:		
Terms and conditions of employment only	41	28.7
Terms and conditions of employment and wages	20	14.0
Terms and conditions of employment and benefits	35	24.5
Terms and conditions of employment, benefits, and wages	8	5.6
Benefits only	13	9.1
Advantages only	9	6.3
Bargainable items only	8	5.6
Financial items only	9	6.3
	143	100.1
Items listed in combination with those above		
Stipulated certain items	13	9.1
Curriculum only	2	1.4
Reductions in force	23	16.1
Total number of agreements	143	

Variations include references to items which are bargainable to specifically identify those items which are terms and conditions of employment. By listing certain items and/or inserting a separate clause to protect against reductions, elimination or alteration in those conditions, the employer is stopped from instituting changes without negotiation over the impact of these changes. Note the two examples below.

> All conditions of employment, including teaching hours, extra compensation for work outside regular teaching hours, relief periods, leaves, and general working conditions shall be maintained at not less than the highest minimum standards in effect in the district at the time this Agreement is signed, provided that such conditions shall be improved for the benefit of teachers as required by the express provisions of this Agreement. This Agreement shall not be interpreted or applied to deprive teachers of professional advantages heretofore enjoyed unless expressly stated herein.

Maintenance of Standards

> A. All conditions of employment, including teaching hours, extra compensation for duties outside the regular teaching hours, relief periods, leaves, and general teaching conditions shall be maintained at not less than the highest minimum standards in effect in the district at the time this Agreement is signed, provided that such conditions shall be improved for the benefit of teachers as required by the express provisions of this Agreement. This Agreement shall not be interpreted or applied to deprive teachers of professional advantages heretofore enjoyed unless expressly stated herein.
>
> B. The duties of any teacher or the responsibilities of any position in the negotiating unit will not be substantially altered or increased without prior negotiation with the Chapter.

Both of these examples reinforce the coverage by enumerating items, while clearly establishing the effective "time" and the extent of the benefits being enjoyed. The language clearly states that during the terms of the agreement no changes can be made except those which would benefit the employees since the highest minimum standards must be maintained. The second clause of the second example clearly forbids management to unilaterally change or increase teaching duties without prior negotiation.

All three examples not only insure against changes being imposed, but they also forbid change through interpretation which may result from ambiguity in the contract, board policy, and rules and regulations. This feature pertains especially to "advantages or benefits" if they are above the level specified in the contract and unless they are specifically restricted by the contract. Ambiguous language may be used to implement change or to introduce a new practice which may deprive or place a restriction on employees, for example, the institution of a residency requirement or the requirement that a doctor's note be submitted to verify all illness. In the absence of this feature in a maintenance of standards provision or the entire absence of such a provi-

sion, some arbitrators have held that past practice is decisive,[1] but others have held that management has inherent right to impose "reasonable rules" irrespective of past practice.[2]

In a case of record an arbitrator held that the school board was required to continue to pay "supply and demand supplements" which had been granted to three teachers after their hire even though the contract stipulated that the salary schedule was to apply to all teachers and that private arrangements must be consistent with the terms and conditions of the agreement. The contract contained a maintenance of standards provision. Therefore, the arbitrator reasoned that when the school board discontinued paying the supply and demand supplements without the teachers' consent, it deprived them of "employment benefits previously enjoyed."[3]

In sum, maintenance of standards provisions typically contain several features: (a) Coverage is insured for "all" conditions and terms of employment within the framework of the contract, board policies, rules and regulations, and past practice. (b) There are no qualifiers to the scope of coverage. (c) If items are listed, they are prequalified as "included" in the scope of coverage. (d) Prior advantages and benefits gained are preserved against reduction by interpretation and/or application of the contract language, board policies, rules and regulations, and past practice without the stipulation that the benefits will necessarily be continued at pre-existing levels. (e) Most changes are negotiable, certainly all that affect terms and conditions of employment, even if only the impact of the change.

The most comprehensive maintenance of standards clause is not an ironclad guarantee against change in board policy, rules and regulations, amplification, contract/or past practice, for under the management rights clause management has the right to institute an administrative policy, for example, requiring doctor's notes for use of sick leave to curb abuses, if the policy is both justified and feasible to eliminate the abuse. In other words, the change must be applied to the whole class of employees not the selected few who enjoy a particular benefit. In a class grievance where there is inconvenience to the whole class but no individual benefits are reduced or altered, arbitrators tend to uphold management and place the burden on the union to halt the change through the negotiation proces rather than through the grievance process. This rationale, however, works to curb management's desire to institute change, and thus the maintenance of standards works to bring management to the table to "talk" about change rather than to institute change.

Some maintenance of standards provisions consist of only one of the features contained in the most comprehensive type of provision: only protection against any change which may result from interpretation of the contract and/or outright contract revision, or only protection against changes which may result from board policy and rules and regulations. Both have implied reference within the framework of past practice.

Those provisions which bar change in terms and conditions of employment which arise from changes in board rules, policies, and regulations may limit changes to those found in written documents because unwritten past practice is not clearly included in the coverage. Equally, changes may emanate as a result of the interpretation of the contract language as the contract is the controlling factor. In an arbitration decision, the arbitrator decided that board policy is not limited to written documents but covers any "matter within the general province of the Board on which the Board has acted on one or more occasions." Such an interpretation, however, is not generally applied in cases where written policy handbooks exist.[4]

Provisions which restrict change in the employment relationship to the contract terms and conditions of employment do not clearly include unwritten past practice. Thus, a board may change or reduce benefits previously enjoyed by all or by individuals if these benefits are above the level specified in the contract. In addition, most provisions of this type do not incorporate a clause covering "benefits" or "professional advantages" and so a board may implement a policy change within the broad framework of the contract and thereby reduce prior conditions.

Generally, provisions which pertain only to changes in board policy, rules and regulations, or past practice or only to the contract are deficient as they restrict the coverage. In terms of vulnerability, however, the provision that restricts coverage to the contract is potentially the weakest, irrespective of qualifiers relative to negotiating change or consent by both parties, since in the event of an impasse it may allow an unfavorable decision by means of board policy change or by an arbitrator's decision. Examples of the two aforementioned types of provisions are reprinted below. They are deficient in coverage because they do not incorporate all or most of the variables which a school board may act upon to change the working relationship. One striking feature of these provisions, however, is that the clearly stated language thay any proposed changes must be negotiated or instituted only by consent of both parties, leaving no room for interpretation.

Notice of Policy Additions and/or Changes

The Board and/or the Superintendent shall notify the Association President of contemplated new or amended policies affecting the Association or its members as early as practicable prior to the first meeting of the Board to consider such policy. The Board will give the Association reasonable opportunity for negotiating before adoption and/or amendment of policy affecting Association members.

[Clover Park, Washington]

* * *

With respect to salaries, wages, hours and other terms and conditions of employment, the Board agrees that, insofar as these matters are not covered by this agreement, it will make no changes in its existing conditions concerning them without prior bargaining with the Congress.

[Bethpage, New York]

* * *

Maintenance of Standards

Before the Board or Administration adopts a change in policy which would effect a change in wages, hours, or other terms and conditions of employment which are not covered by the terms of this Agreement, the Association shall be notified in writing that such change is being considered. The Association shall have the right to negotiate upon such proposed changes by stating its desire to do so within five (5) school days of the said notice.

In the event of any dispute as to whether or not a change in policy or practice changes wages, hours or terms and conditions of employment, the question may be submitted to arbitration under the terms of this Agreement and the determination by the arbitrator shall be limited to whether the said change is a term or condition of employment and therefore to be negotiated.

[Herricks, New York]

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Board Policy

The Board maintains the right to make the policy changes which it deems in the best interest of the District. Anticipated changes relating to terms and conditions of employment shall be brought to the attention of the Association in writing. The Association will have the right to negotiate such changes provided it files a request in writing within ten (10) working days after receipt of said notice.

Existing policies and by-laws of the Board affecting salaries, hours and working conditions not covered by this Agreement of members of the bargaining unit shall not be altered, amended or rescinded unless notice is first given to the Association, and the Association shall be notified before the Board establishes new policies or by-laws affecting the salaries, hours and working conditions not covered by this Agreement of members of the bargaining unit. Within ten (10) school days after receipt of such notice, the Association may request negotiations and, if negotiations are so requested, they shall begin within a reasonable time. The policies and by-laws referred to above are the most recent policies and by-laws of the Board on a particular subject whether embodied in the policy book or in Board minutes.

[Roslyn, New York]

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Negotiable Matters Not Covered

Before the Board knowingly adopts a change in policy not covered by this agreement but which affects teachers' terms or conditions of employment, the Board will promptly, but, in no case, later than twenty (20) school days prior to taking action, notify the Federation in writing that it is considering such a change. The Federation will have the right to negotiate with the Board over such proposed change provided that it files such a request with the Board within ten (10) school days after receipt of said notice.

[Schenectady, New York]

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Miscellaneous Provisions

Any changes or modifications in terms and conditions of employment will be made only through negotiations by the Board and the Association.

[Manalapan-Englishtown, New Jersey]

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Maintenance of Standards

This agreement shall not cause an individual to suffer any reduction in rights, privileges, salary and/or benefits.

[Sweet Home, New York]

As indicated previously, the thrust of the maintenance of standards provision is to provide the widest possible coverage to protect a teacher against vagaries which may change his employment status in any way. The language used to indicate this scope, therefore, becomes most important in determining how inclusive the provision is.

"Terms and conditions of employment" is the most common term used to encompass most aspects of the employer-employee relationship generally considered proper subjects for mandatory bargaining. (Note Table 2.) Such a term also includes any past practices which may not initially have been mandatory subjects of bargaining but which have become so as a result of common acceptance, clear enunciation, and application as a fixed practice over a period of time.[5]

The remaining terms, "teacher benefits" and "professional advantages" usually appear in conjunction with "terms and conditions of employment", and are intended to prevent contract language from being applied or interpreted in a manner that eliminates favorable individual benefits thus preventing change through contract language.

The differences between the terms "benefits" and "professional advantages" are not clear. According to Black's Law Dictionary, "benefits" is synonymous with "advantage" and is "not limited to pecuniary gains," but "refers to whatever is advantageous, promotes prosperity or happiness." In practice, neither arbitrators nor the courts have determined exactly what is meant by "teacher benefits" or "professional advantages." It is possible that "professional advantages" may be held to include such matters as serving on curriculum and textbook committees, since the courts have considered that giving advice and planning are part of "professional employment." Wages, hours, and insurance, however, may be considered "teacher benefits" which teachers receive as employees rather than as "professionals."

Additionally, many provisions incorporate clauses that require "negotiations" or "mutal consent" prior to the instituting of effective change. There seems to be little difference between "mutual consent" and "negotiations." Negotiation, however, does not require agreement. Therefore, if negotiations reach an impasse, the board may be able to implement changes unilaterally unless the matter is subject to binding arbitration. In that case, the arbitrator rather than the Association and the board decides what changes will take place.

Irrespective of the type of protection offered, all of these provisions contain terms which acting together may broaden or restrict the scope of protection they offer. Within the limits of the law and as determined by the arbitrators and the courts, the amount of protection offered by a maintenance of standards clause is affected by its language.

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[1]Joy Mfg. Co. and Machinists Local 1842, District 83, 6/12/70, 54 LA 1269

[2]Federal Services Inc. 11/7/73, 41 LA 1063

[3]Board of Education, Central School District No. 1 (Harrison) and Harrison Association of Teachers, Sept 21, 1972, 38 Arbitration In Schools J-15

[4]The Board of Education, Hinsdale and Hinsdale Central School Teachers Assn., March 6, 1974, 74-1 Arb. 8021

[5]*Ibid.*

BRIEFS OF AGREEMENTS

WEST NEW YORK EDUCATION ASSOCIATION
WEST NEW YORK, NEW JERSEY

Between West New York Board of Education and West New York Education Association, effective July 1, 1974, to June 30, 1976. Approximately 386 certificated professional employees, including teachers, nurses, social workers, psychologist, elementary testing coordinator, department heads, librarians, guidance, and learning disabilities specialists.

COMPENSATION: (1974-75) B.A., $9,600 to $15,550, 11 increments; B.A. plus 15 hours, $15,950 maximum; M.A., $10,500 to $16,400, 11 increments; M.A. plus 15 hours, $17,000 maximum; M.A. plus 30 hours $17,600 maximum; Ph.D., $17,900 maximum.

Full credit up to maximum step of the salary schedule will be given upon initial employment for previous outside teaching experience in an accredited public school, up to 4 years for military experience or alternative civilian service, and up to 2 years for Peace Corps, VISTA, National Teacher Corps work or time spent on a Fulbright Scholarship; the aforementioned credit will be given to any currently employed teacher who has not heretofore received it.

OTHER: 12 cents per mile for use of automobile to take students to activities outside the school building.

LEAVES: Ten days of annual sick leave credited yearly; unlimited accumulation;

SICK LEAVE

In the event of illness of any employee, who is under tenure, upon the expiration of the employee's sick days accumulated in the course of service, the employee shall have and sustain complete loss of pay for one week (five school days) and for the second week (five school days) of such continued illness, the employee shall have deducted from his or her pay, the per diem salary of a substitute.

After the expiration of the two (2) weeks period mentioned in paragraph 3, upon the concurrence of the Board's Medical Director on the recommendation of the attending physician that further absence from service is essential, the Board (having in mind the length of employment of such employee) shall grant further leave to such ill employee, in accordance with the following schedule:

LENGTH OF EMPLOYMENT	ADDITIONAL SICK DAYS WITH FULL PAY	FURTHER PERIOD OF PAYMENTS LESS SUBSTITUTE PAY
Less than 10 years	40 days	10 days
Less than 20 years	60 days	20 days
20 years or more	80 dyas	30 days

The rate of pay for the periods mentioned in the schedule covering "Additional Sick Days With Full Pay" and covering "Further Period of Payment, Less Substitute's Pay", shall be figured at 200 school days per year.

After an employee has used or consumed all accumulated sick leave and the further two-week period hereinbefore mentioned and provided for, and the period of service sick days pursuant to the before listed schedule, and the designated period set up therein with provision less substitute's pay, the employee shall thereafter suffer full and complete loss of any pay until such time as he is able to return to service.

Two days of personal leave to be used for personal, legal business, household, or other matters which require absence during school hours; up to 5 days for death in the immediate family; up to 2 days paid leave for school visitation; employees will be given time necessary for military reserve obligations but the teacher will be paid his regular salary less any pay received from the state or federal government; up to five days at the beginning or end of the school year with pay may be granted as required to attend summer school classes and/or to travel to the place where such classes are to be held, providing these classes are taken to maintain certification for employment and are not available at any other time; other leaves of absence with pay may be granted by the board for "good reasons"; sabbatical leave at one-half of the scheduled salary for a minimum of 6 months and a maximum of 1 year after 7 years of service in the district for formal graduate study, writing of a doctoral thesis, or travel planned in consultation with the superintendent; sabbatical leave for rest and recuperation may be granted after 15 years of service for a minimum of 6 months and a maximum of 1 year at half pay; a leave of absence for up to 2 years may be granted for service in the Peace Corps, National Teacher Corps, or VISTA, for service as an exchange teacher or for acceptance of a Fulbright Scholarship.

INSURANCE: Board-paid health insurance with family coverage.

ASSOCIATION: Payroll deduction of local, state, and national association dues; up to 2 days of released time for two representatives to attend conferences and conventions of state and national affiliated organizations; released time will be granted for Association representatives to participate in negotiations, grievance proceedings, conferences, or meetings; leaves of absence for 2 teachers designated by the Association for a minimum of 1 year but not to exceed 2 years for the purpose of engaging in activities of the Association or its affiliates; right to use school buildings at reasonable times with advance notice; denial of use of a building for a meeting without just cause will be subject to the

grievance procedure at Level Two; the Association also has the right to use school facilities and equipment including typewriters, mimeographing machines, other duplicating equipment, calculating machines, and all types of audio-visual equipment; bulletin boards for Association use will be placed in each teachers' lounge and adequate space will be assigned on the central office bulletin board; the Association may use interschool and intraschool mail facilities; the board will provide a desk and telephone for the use of the Association in the school building where the president is employed; the board will provide for inspection all pertinent records, data, and board information, including but not limited to annual financial reports and audits, register of certificated personnel, tentative budgetary requirements, census data, names and addresses of all teachers, agendas and minutes of all board meetings, and such other information that will assist the Association in the development of intelligent, accurate, informed, and constructive programs on behalf of teachers and their students, together with information which may be necessary to process any grievance or complaint.

INSTRUCTION: High-school teachers will not be required to teach more than 2 subject areas, nor more than 2 teaching preparations at any one time; the daily teaching load in senior high school will be 6 teaching periods and will not exceed 4 hours of pupil contact per day; assignment to a supervised study period will be considered a teaching period; the daily teaching load in elementary schools will not exceed 5¼ hours of pupil contact; department heads will not be assigned more than 3 student instruction periods daily and will be excused from study hall and homeroom assignment; the total in-school workday will consist of not more than 6 hours and 45 minutes which will include a duty-free lunch period:

Teachers shall have a daily duty-free lunch period of at least the following lengths:

a. Elementary School - 11:40 to 12:50
b. High School - 40 minutes
c. Federal Lunch Program - 40 minutes

Preparation periods of a minimum of 200 minutes per week will be provided for elementary-school teachers by means of scheduling, revision of allocated time, and/or augmentation of personnel;

CLASS SIZE

The Board agrees to strive for the following class size:

Kindergarten to Third	20 pupils
Fourth to Eighth	25 pupils
Educables	14 pupils
Trainables	9 pupils
High School regular Academic Subjects	25 pupils

A joint Instructional Council consisting of 5 representatives appointed by the board and 7 by the Association will be established to make and discuss recommendations on teaching techniques, curriculum improvements, and other related matters relevant to the effective operation of the district; after the superintendent's consideration, the board and the Association will consider and study all written recommendations submitted by the Council for action; a joint Staffing Needs Study Committee consisting of 3 members appointed by the superintendent and 3 members appointed by the Association will be established to determine how many specialists are necessary for the district in various special categories; the teacher has the exclusive right and responsibility to determine grades and other evaluation of students within the evaluation policies of the district on the basis of the teacher's professional judgment.

PERSONNEL: Grievance procedure ends with final and binding arbitration; all documents, communications, and records dealing with the processing of a grievance will be filed separately from the personnel file of any of the participants; all meetings and hearings conducted under the grievance procedure will be conducted in private and will include only the parties in interest and their designated or selected representatives; a teacher has the right to review his personnel file upon request and to have an Association representative accompany him during such review; at least once every 3 years a teacher will have the right to indicate those documents in his file, which he believes to be obsolete or otherwise inappropriate to retain and such documents will be destroyed; the board will not establish any separate personnel file not available for the teacher's inspection;

MEETINGS

Building-based teachers may be required to remain after the end of the regular workday without additional compensation for the purpose of attending faculty or other professional meetings ten (10) times during the school year. No more than two (2) meetings shall be held in one month. Such meetings shall begin no later than five (5) minutes after student dismissal and shall run for no more than forty-five (45) minutes. If additional time is needed, students shall be dismissed early.

An Association representative may speak to the teachers at any meeting referred to in paragraph 1 above for at least five (5) minutes on the request of the representative. Any teacher may leave if he or she desires.

The notice of an agenda for any meetings shall be given to the teachers involved at least two (2) days prior to the meeting, except in an emergency. Teachers shall have the opportunity to suggest items for the agenda.

The evaluation of all teachers will be conducted openly and with full knowledge of the teacher; the use of eavesdropping, public address, audio systems, and similiar surveillance devices is prohibited; results of standardized tests used for evaluating students will not be used to evaluate a teacher's performance; a teacher will be given a copy of his evaluation at least 1 day before any conference to discuss it; no such report will be submitted to the central office, placed in the teacher's file, or otherwise acted upon without prior conference with the teacher;

EVALUATION CRITERIA

Strengths of the teacher as evidenced during the period since the previous report.

Weaknesses of the teacher as evidenced during the period since the previous report.

Specific suggestions as to measures which the teacher might take to improve his performance in each of the areas wherein weaknesses have been indicated.

Any question or criticism of the instructional methodology used by a teacher will be made in confidence; no teacher will be disciplined, reprimanded, reduced in rank or compensation, or deprived of any professional advantage without just cause; any such action asserted by the board or its representatives will be subject to the grievance procedure; any teacher required to appear before the board or superintendent concerning any matter which could adversely affect him must be given prior written notice of the reasons for such meeting and is entitled to have a representative of the Association present to advise him.

FAIR DISMISSAL PROCEDURE

No later than September 15, 1974, (September 15, 1975), the Association agrees to establish a Fair Dismissal Committee consisting of seven (7) members, three (3) members appointed by the Board, three (3) members appointed by the Association and the Superintendent.

This Committee shall develop specific criteria which shall be used for nonrenewal of contract or termination of employment for nontenure teachers.

The recommendations shall be submitted to the Board and the Association no later than March 1, 1975 (March 1, 1976).

The Board shall provide said criteria to all presently employed nontenure teachers.

On or before April 15 of each year, the Board shall give to each nontenure teacher continuously employed since the preceding September 30 either:

A written offer of a contract for employment for the next succeeding year providing for at least the same terms and conditions of employment but with such increases in salary and benefits as may be required by law or agreement between the Board and the Association, or

A notice that such employment shall not be offered.

In filling vacancies considered to be promotions, preference will be given to qualified teachers already employed by the board; in filling positions in the evening school, summer school, home teaching, federal projects, and other programs, teachers employed in the district will have priority over applicants from outside the district; the board will give full support, including legal and other assistance, to a teacher assaulted while acting in the discharge of his duties; the teacher will not lose any sick or personal leave when absence arises out of or from such assault or injury; the board may reimburse teachers for any loss, damage, or destruction of clothing or personal property of the teacher while on duty in the school, on the school premises, or at a school-sponsored activity; the board may reimburse a teacher for the cost of medical, surgical, or hospital expenses incurred as the result of any injury sustained in the course of employment.

STUDENT DISCIPLINE

When, in the judgment of a teacher, a student requires the attention of the principal, assistant principal, a counselor, psychologist, physician or other specialist, he shall so inform his principal or immediate superior. The principal or immediate superior shall arrange as soon as possible for a conference among himself, the teacher, and an appropriate specialist to discuss the problem and to decide upon appropriate steps for its resolution.

When, in the judgment of a teacher, a student is by his behavior seriously disrupting the instructional program to the detriment of other students, the teacher may refer him to the principal or vice-principal. In such cases the principal shall arrange as soon as possible, and under normal circumstances not later than the conclusion of the following school day a conference among himself, the teacher and possibly an appropriate specialist to discuss the problem and to decide upon appropriate steps for its resolution. If the teacher in question objects to the proposed step, the teacher may file a grievance at level two.

The Association will select a Liaison Committee for each school building which will review and discuss local school problems and practices and play an active role in the revision or development of student-faculty policies; these committee members will meet with the superintendent at the request of either party to review and discuss current school problems and practices and the administration of the agreement.

* * *

MAD RIVER TOWNSHIP SCHOOLS
DAYTON, OHIO

Between Mad River Township Board of Education and the Mad River Township Classroom Teachers, effective September 1, 1974, to August 31, 1976. Approximately 392 certificated professional employees.

COMPENSATION: (Effective January 1975) B.A., $8,060 to $12,372, 11 increments; B.A. plus 150 hours, $13,299 maximum; M.A., $8,866 to $14,226, 12 increments; Teaching M.A., $9,269 to $14,629, 13 increments; Ph.D., $14,992 maximum.

(Effective 1975-76 School Year) B.A., $8,500 to $13,047, 11 increments; B.A. plus 150 hours, $14,025 maximum; M.A., $9,350 to $15,002, 13 increments; Teaching M.A., $9,775 to $15,427, 13 increments; Ph.D., $15,810 maximum. Longevity step after 20 years of service; all teachers with 10 or more years of service in the district will at the time of their retirement receive pay for ¼ of their unused sick leave to a maximum of 120 days.

OTHER: A regular teacher who serves as a substitute during his/her designated planning period will be paid $5 per hour; a teacher required to attend a curriculum development or inservice program during noncontractual days will be paid $35 per day or $6 per hour if less than 4 hours.

LEAVES: 1 ¼ days of sick leave will be granted per month of service; maximum accumulation, 215 days; justification for use of three or more consecutive days of sick leave must be submitted; teachers may use sick leave for any disabling complication of pregnancy or childbirth; up to 5 days of sick leave may be used for the death of a "near" relative and one day for other relatives; two days of personal leave may be granted for doctor, dental, or business appoint-

ments, required court appearances, emergencies, religious holiday, death of a close friend or for a father or prospective father immediately before, at, or following birth of a child.

INSURANCE: Board pays 100 percent of health and hospital insurance and $10,000 term life insurance policy; tax-sheltered annuity plan available; all teachers will be members of the State Teachers Retirement System.

ASSOCIATION: The Association has the right to use school buildings, a school bulletin board, school mail and teachers' mail boxes; the Association may make brief announcements at faculty meetings and participate in orientation meetings for new teachers and in the first general faculty meeting in September.

INSTRUCTION: Time will be provided for in-school planning; the Association will participate in the committee which establishes or revises the school calendar.

PERSONNEL: Grievance procedure ends with board of education action upon recommendations made by an advisory panel jointly selected by the superintendent and the Association.

INDIVIDUAL CONTRACTS

LIMITED CONTRACTS: Limited one year contracts shall be issued to teachers new to Mad River School District for the first three consecutive years in the system. Teachers who are deemed satisfactory by their evaluation, recommended by their building principal and qualify as to certificate, may receive one two-year limited contract. At the end of the two-year limited contract, the teacher may, upon the recommendation of his principal, receive another two-year limited contract.

CONTINUING CONTRACTS: A continuing contract remains in effect until the teacher resigns, retires, or until the contract is terminated as prescribed by law (3319.08 Revised Code). A continuing contract shall be granted only to teachers holding professional, permanent, or life certificates who have taught three years, within the last five years in the Mad River School District, or in the case of teachers having attained continuing contract status elsewhere in the *State of Ohio*, who have completed two years of service in this district or who are recommended for a continuing contract by the Local Superintendent at any time during such two years of employment (3319.11 Revised Code).

"The contract of a teacher may not be terminated except for gross inefficiency or immorality, for willful and persistant violation of reasonable regulations of the Board, or for other good and just cause." (Ohio Revised Code, Section 3319.16)

The superintendent must notify the board of all pertinent facts when considering dismissal of a teacher; any teacher who has been notified by the board of its intent to dismiss must be informed of his/her right to counsel and may review his/her personnel file; when a teacher is not to be rehired at the expiration of his/her limited contract, the board must give written notification before April 30 or the teacher will be deemed re-employed; before a teacher is recommended for non-re-employment the teacher will be given written notice of the areas of deficiency and recommendations for improvement; the board and the administration will give sufficient help, time, and effort to enable the teacher to correct the cause of his potential non-rehiring; if the teacher is nonresponsive, the board will take action not to re-employ; any teacher who is to be transferred will be consulted before transfer; longevity in the district will be given consideration, but the focal point of all transfers will be the welfare of the students; every effort will be made to act favorably on teacher requests for transfers; a teacher whose services are unsatisfactory may be assigned to a position in which he can reasonably be expected to be successful; such reassignment must be confirmed by the board of education; in cases of assault the board will provide legal counsel to advise the teacher of his rights and obligations and will render all reasonable assistance to the teacher in connection with handling of the incident by law enforcement and judicial authorities; "teachers should provide, for their own protection comprehensive public liability insurance in an amount not less than $250,000 for each occurrence or accident. Membership in many professional organizations provide such coverage automatically."

* * *

TUMWATER SCHOOL DISTRICT NO. 33
TUMWATER, WASHINGTON

Between the Board of Directors of Tumwater School District No. 33 and the Tumwater Education Association, effective August 31, 1974, to September 1, 1975. Approximately 107 certificated professional employees. The Association may give 10 days' notice if it wishes to renegotiate the salary schedule because of changes in economic conditions, national wage policy, cost of living, revised district annual budget, or conditions in education.

COMPENSATION: B.A., $8,400 to $12,180, 9 increments; B.A. plus 15 hours, $12,516 maximum; B.A. plus 30 hours, $12,852 maximum; 5 years or state certificate, $9,408 to $13,608, 10 increments; 5 years plus 30 hours, $14,280 maximum; M.A., $10,416 to $15,036, 11 increments; M.A. plus 30 hours, $15,708 maximum; M.A. plus 1 year, $11,424 to $16,044, 11 increments.

DIFFERENTIALS: High-school athletic director, $1,344; high-school head football, basketball, wrestling, $1,176; high-school head track, baseball, girls' track, $840; high-school assistant football, basketball, wrestling, swimming, activities supervisor, cross country, music (vocal), junior high-school head football, basketball, wrestling, $756; high-school assistant track, baseball, golf, girls' basketball, volleyball, junior high-school assistant football, basketball, head track, baseball, assistant wrestling, GAA, girls' track, basketball, volleyball, head soccer, grade-school intramurals, $546; high-school girls' assistant track, basketball, debate, paper, high-school girls' assistant track, volleyball, $336; senior class advisor, high-school bowling, dramatics, diving, $286.

Other: Teachers will be reimbursed 1/5 of the regular substitute pay for each class covered; 12 cents per mile for travel.

LEAVES: Ten days' sick leave per year credited at the beginning of the year; maximum accumulation, 180 days; after all accumulated sick leave is used, the teacher will receive the difference between a substitute's pay and 1/181 of his regular salary if the contracted year is completed; no teacher will receive more than 20 days' differential pay in

any school year; 5 days per year for childbirth by the spouse, family illness, or bereavement will be granted and expenses will be paid to attend meetings and conventions recommended by the superintendent and approved by the board; up to 2 days nonscheduled leave per year will be granted for situations which require absence during school hours; leave will be granted for jury duty and all monies received must be turned over to the district; sabbatical leave at 1/3 the employee's regular salary for up to 1 year for study, research or approved travel after 4 years of continuous service in the district; leave for up to one year without pay may be granted for illness, personal hardship, and maternity; leave will be granted for service in public office.

INSURANCE: Board pays $30 per month for employees participating in the Association-sponsored Blue Cross Medical Insurance, Thurston County Medical or Group Health Cooperative of Puget Sound; up to $14.10 will be contributed per month by the district toward family coverage in the dental plan; tax-sheltered annuity plan available; the district assumes responsibilities for injury to certificated employees outlined in the District's liability insurance policy and by the Department of Labor and Industries.

ASSOCIATION: Payroll deduction for local association dues; Association representatives scheduled to participate in negotiations, grievance proceedings, conferences, or meetings will suffer no loss in pay; leave will be granted for Association representative to attend local, state, or national conferences, meetings, or conventions; the substitute's salary will be deducted from the representative's salary; the Association has the right to use district buildings for meetings and to transact Association business; the Association also has the right to use district mail service and teacher mail boxes for communication purposes; Association activities and business matters may be posted on bulletin boards in the faculty lounge in each building; the board will provide to the Association a list of newly hired certificated employees; substitutes, certificated employees, and the end-of-the year summary of leaves charged to the district;

> The Board shall furnish to the Association upon request, information concerning the financial resources of the District, including but not limited to, annual financial reports and audits, register of certificated personnel, tentative budgeting requirements and allocations, agendas and minutes of all Board meetings, census and membership data, names and addresses of all certificated personnel, and such other information as will assist the Association in developing intelligent, accurate, informed and constructive programs, together with information which may be necessary for the Association to process any grievance or complaint. The District shall take steps to fully implement Initiative 276.

INSTRUCTION: Middle school and secondary level certificated employees will be provided with a continuous, uninterrupted planning period equal in length to a regular period; 30-minute duty-free lunch period; employees in elementary positions will be provided with two 15-minute relief periods daily; the duties of any position in the unit shall not be substantially altered or increased without prior negotiations with the Association;

CLASS SIZE

> Exceptions to the following maximum class size limits shall be acceptable only after the Association and the School Board have agreed, in writing, to exceed the following limits:

	Optimum	Maximum
Kindergarten	16	20
Grades 1-3	18	20
Grades 4-5	20	24
Grades 6-8	20	24
Grades 9-12	20	24

> **Computation of District Ratio**
>
> The ratio of pupils to total certificated (classroom teachers) within the District shall not exceed 25-to-1. In the computation to determine the District-wide student-teacher ratio, specialists for elementary schools and certificated employees who do not maintain a regular classroom shall not be counted in the student-teacher ratio determination. Only full-time equivalent (FTE) certificated employees (classroom teachers) shall be used to determine the District-wide student-teacher ratio.

The school day for certificated employees begins 30 minutes before the regular school day and ends 30 minutes after dismissal of students; the length of the day will not exceed 7 hours; the school calendar will consist of 180 student days and 181 teacher contracted days; student teachers will conduct themselves as regularly employed teachers, engaging in such responsibilities as supervision of students, inservice obligations and extracurricular activities;

> The supervising certificated employee has the right to recommend dismissal of a student-teacher without the consent either of the District or the college/university. Prior to dismissal, the supervising certificated employee shall provide an explanation to the building administrator, the college supervisor, and the student-teacher involved.

PERSONNEL: Grievance procedure ends with final and binding arbitration; all documents, communications, and records dealing with the processing of a grievance will be filed separately from the personnel files of the participants; teachers have the right of full and complete access to review their personnel file and to be accompanied by anyone they choose; upon request and at the board's expense copies of documents contained therein will be given to the employee; no evaluation, correspondence, or other material making derogatory reference to an employee's or former employee's competence or character will be kept in the personnel file without the employee's knowledge and opportunity to attach his own comments; the district and the Association will agree on the organization and number of inservice days; periodic appraisals and evaluation by the superintendent are to be kept on record; each employee will be given the opportunity to confer with his immediate supervisor before an evaluation is placed in his personnel file; employees placed on probation as a result an evaluation will be notified and given the reasons and recommendations for improvement in writing; such employees shall be re-evaluated; following this re-evaluation the employee's

supervisors will recommend either that the probation be lifted or that the employee be notified that the board is considering not renewing his contract for the ensuing year for cause; an employee has the right to have a representative of the Association present when he is being reprimanded, warned, disciplined for any infraction of rules or delinquency in professional performance; all information relevant to such charges will be made available in writing to the teacher and the Association; any employee reprimanded, disciplined, reduced in rank or compensation, or deprived of professional advantage without just cause shall have recourse to the grievance procedure; any derogatory material not shown to a certificated employee within 10 days after receipt or composition will not be allowed as evidence in any grievance or disciplinary action against such employee; any staff not to be re-employed for the ensuing year will be issued a notice of non-renewal of contract stating sufficient cause by registered mail on or before April 15;

There shall be a Supplementary Educator Contract for specified extracurricular and special assignments which shall not exceed one year and shall be in accordance with statutory provisions. The District shall advise educators in writing not later than April 15 if the individual Supplementary Educator Contract is not to be renewed for the next school year. The District shall state the probable cause or causes in writing to the employee. Educators who receive notice of probable cause for termination of the Supplementary Educator Contract shall have the right of appeal through the District's grievance procedure.

No transfer request will be denied arbitrarily, capriciously, or without basis in fact; no vacancy will be filled by an involuntary transfer if a qualified voluntary transferee is available;

TRANSFER - INVOLUNTARY

Notice of involuntary transfer or reassignment shall be given to a certificated employee as soon as practicable, and except in cases of emergency, not later than June 30 of any given year.

An involuntary transfer or reassignment shall be made only after consideration of voluntary transfers a meeting between the certificated employee involved and the superintendent designee, at which time the certificated employee shall be notified of the reason thereof. In the event that a certificated employee objects to the transfer or reassignment and upon request of that certificated employee, the superintendent shall meet with him. The certificated employee may, at his option, have an Association representative present at such meeting.

A list of open positions in the School District shall be made available to all certificated employees being involuntarily transferred or reassigned. Such certificated employees may request the positions, in order of preference, to which they desire to be transferred. All such certificated employees shall be given adequate time off for the purpose of visiting schools at which open positions exist. A certificated employee being involuntarily transferred or reassigned shall be placed only in an equivalent position, one which, among other things, does not involve reduction in position or in total compensation.

Current personnel will be allowed to apply for promotions before applications are accepted from out-of-district applicants; certificated employees will not be requested or required to perform nonprofessional duties, or custodial functions; each certificated employee is legally responsible for the supervision of his group and reporting conflicting situations to immediate supervisors;

Any certificated employee who does not receive a copy of this agreement from the Board, or someone acting for the Board, shall not be placed on probation, suspended, discharged, nonrenewed, or otherwise adversely affected in his contract status because of his failure to comply with the policy of which he had no actual knowledge at the time of the alleged infraction.

HOLD HARMLESS

The District shall hold harmless and defend each person who is employed as a certificated employee of the District from any and all claims for damages caused or alleged to have been caused in whole or in part by that person while performing his duties as an employee.

The District shall maintain such coverage in the District's liability policy as is necessary to assure that the insuring company waives all rights to recovery from any certificated employee any money paid on behalf of the District and/or employee.

* * *

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NRD
NEGOTIATION RESEARCH DIGEST

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NATIONAL EDUCATION ASSOCIATION
RESEARCH

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CASE REVIEWS

CALIFORNIA

Agency Shop Agreement Held Valid Under Meyers-Milias-Brown Act

The California Superior Court ruled that municipalities were authorized under Meyers-Milias-Brown Act to enter into agency shop agreements in order to make use of collective bargaining in the public sector, thereby fulfilling the "overriding purpose" of the Act. Therefore, the Court refused to grant the request of the City of Hayward to set aside an arbitrator's award which upheld the validity of the contract between the city and United Public Employees Local 390 of Service Employees International Union.

In 1972, the city and the union entered into a collective bargaining agreement which contained an agency shop provision. The provision specifically prohibited coercing employees to join the union, obligated the union to represent all employees in the bargaining unit irrespective of union membership, and required all employees as a condition of continued employment to pay the union an amount equal to arbitrator fees and monthly dues as the "fair share" of the expenses of representation.

After the agreement was signed, the city was informed by its attorney that the agency shop provision was illegal. The city filed suit in California Superior Court in Alameda County, requesting the court to void the entire collective bargaining agreement on the grounds that the agency shop provision was in violation of the Meyers-Milias-Brown Act for public employees, the Municipal Code, and the City Charter.

The city and the union had agreed to submit the issue to arbitration with the stipulation that the arbitrator's award could be challenged in the courts. After the arbitrator ruled in favor of the union, the city appealed to the court to set aside the arbitrator's award. The city argued that the provision violated the Municipal Code and the City Charter because by stipulating that employees could be terminated for nonpayment of dues, the provision created a condition of termination not authorized by the Code or the Charter. In addition the city argued that the agency shop provision was in violation of the Meyers-Milias-Brown Act, because by requiring employees to pay the equivalent of union dues, it violated their freedom of choice.

The court held that the provision was valid under both the Charter and the Code because these allowed the city to terminate employees for failure to observe rules and regulations, and the city was obligated under the agreement to revise its personnel rules to conform with that agreement. With respect to the Meyers-milias-Brown Act, the court ruled that the Act authorized the city to restrict employees' freedom of choice to the extent of requiring payment of dues in order to obtain the purpose of the Act, the use of collective bargaining to avoid the "harsh consequences" of labor disputes in the public sector. The court confirmed the arbitrator's award. (*City of Hayward et al. v. United Public Employees, Local 390 of the Service Employees International Union, AFL-CIO*, California Superior Court, November 15, 1974.)

CONNECTICUT

Mandamus Not a Remedy for Breach of Contract

On an appeal from a lower court, the state supreme court ruled that a writ of mandamus was inappropriate for recovery of back pay due teachers under a contract since the relief could have been obtained through a declaratory judgment or a suit for breach of contract. The court determined, however, that since the contract provided for a salary increment for each year of teaching experience and the contract was extended to cover negotiating time, the teachers were entitled to the salary increase.

The dispute between the Milford Education Association and the Milford Board of Education arose over the language of the holdover agreement. The union claimed that the new contract was identical to the previous one which provided for yearly advancement on the salary scale. The board maintained that salaries were to remain the same as those paid the previous school year and that there was to be no increase as a result of an additional year of teaching experience.

The board initially argued that the union had not alleged sufficient facts to warrant a writ of mandamus, that is, that the union failed to show that the board had a ministerial duty to perform the act requested, that the union had an absolute right to the relief sought, and that the union had no other recourse.

On appeal from the superior court decision, the board contended that the court erred in concluding that a writ of mandamus was an appropriate remedy in such a case as this where the issue was essentially a breach of contract and the judgment of the court was an order which could be administered only in a declaratory judgment.

Finding merit in this contention, the appellate court declared, as in *Lahiff v. St. Joseph's Total Abstinence Society*, that "the writ of mandamus is an extraordinary

remedy to be applied only under exceptional conditions, and is not to be extended beyond its well-established limits." Quoting from *State v. New Haven Northampton Co.*, the court added, "The writ of mandamus is designed to enforce a plain positive duty, upon the relation of one who has a clear legal right to have it performed, and where there is no other adequate legal remedy."

Recalling the Supreme Court's past practice in its use of mandamus, the court said that mandamus was not the proper remedy to enforce performance of a contract for employment where the compensation, length of service, and duties of the employee are not fixed by statute.

Deeming that it could not allow the union to obtain a trial preference by a claim for an extraordinary remedy to which the union was not entitled, the court concluded that the lower court erred in granting the union's claim for a writ of mandamus.

Concerning the board's claim that the lower court erred in its interpretation of the contract and in its conclusion that the salary schedule provided for yearly salary increases upon the completion of each year's teaching experience, the appellate court, after examining the two extension agreements, determined that they did provide for salaries to be identical to those established in the previous contract.

Thus, the court concluded that there was no error concerning the lower court's determination of the proper interpretation of the extension agreements but that there was error on the part of the court in granting relief through its judgment. The court set aside the lower court judgment but remanded the case to the superior court for further proceedings in accordance with its opinion.(*Milford Education Association v. Board of Education of the Town of Milford*, Connecticut Supreme Court, January 21, 1975.)

DELAWARE

Grounds for Dismissal of Nontenured Teacher Not Subject of Mandatory Collective Bargaining

The Delaware Chancery Court held that under the state tenure law a nontenured teacher who is dismissed has no right to a hearing and that procedures and standards for dismissal of nontenured teachers cannot be mandatory subjects of collective bargaining or contractual commitment. Therefore, the Court refused a teacher's request to order the district to submit the reasons for terminating her to the last step of the grievance procedure because her dissatisfaction with the board's reasons for dismissing her could not constitute a grievance.

After the nontenured teacher in question was notified that she was to be terminated, she sought to contest the termination through the grievance procedure in the contract between the district and the Mount Pleasant Education Association. The district refused to discuss the issue on the grounds that it was not subject to the grievance procedure; nevertheless, the school board granted her a hearing but confirmed its previous decision to terminate her. The teacher then requested the board to submit the issue to an advisory committee established by contract as the last step of the grievance procedure. When the board refused, the teacher filed suit in the Chancery Court requesting the court to order the district to submit the issue to committee.

The court held that under the Delaware tenure law, the school board was not required to justify its decision not to renew the contract of a nontenured teacher, and, therefore, such decisions could not be subject to mandatory collective bargaining or "contractual commitment," but must remain within the discretion of the school board. Therefore, the court concluded that dissatisfaction with the reasons for termination of a nontenured teacher could not constitute a grievance under the provisions of a collective bargaining agreement.

The court denied the teacher's request. (*Newman v. Board of Education of the Mount Pleasant School District*, Chancery Court of State of Delaware for New Castle County, September 9, 1974.)

MINNESOTA

State Colleges Must Bargain as Unit

The Ramsey County District Court overturned a Public Employment Relations Board determination that called for separate bargaining units among state college faculty members.

The State College Board had filed a request with the Inter-Faculty Organization asking that the director of the Bureau of Mediation certify IFO as exclusive representative.

The court observed that several statutes and two state attorney general opinions upheld the position that the State College Board was the ultimate authority of the colleges for all educational matters, and that it may delegate authority, and reassume or redelegate its original grant of power. The judge stated that "although there does not appear to be any judicial decision construing the meaning of the statute, it is submitted that the intent of the legislature in declaring that the appropriate unit for state employees shall consist of those employees under the same appointing authority was to include all employees who have common circumstances of employment such as profession and nature of work, salary consideration and terms, conditions, and policies associated with their employment."

The court further noted that bargaining as one unit makes possible better use of human and financial resources. It also observed that PERB had failed to consider the wishes of the parties concerned since four out of five favored a state-wide unit.

Determining that the PERB decision was not supported by substantial evidence, the court ordered a state-wide unit to represent college faculty members. (*Minnesota State College Board and Minnesota Department of Personnel v. Public Employment Relations Board*, Ramsey County District Court, November 13, 1974.)

NEW JERSEY

State Education Board Must Negotiate Rules Governing Teachers' Outside Work

Guidelines regulating outside employment must be negotiated if they affect terms and conditions of employment, ruled the New Jersey Supreme Court in modifying an Appellate Court ruling. Three education associations charged the state Board of Higher Education with unilaterally promulgating without negotiating with the Association extracontractual guidelines regulating teachers' outside employment because these guidelines affected terms and conditions of employment.

Offering no objection to the original regulations, the associations' college faculties contended that certain additional guidelines impinged upon the terms and conditions of employment and were, therefore, negotiable under the state Employer-Employee Relations Act. To substantiate their argument that the guidelines did not affect major educational policy, as the Board argued, but did not directly affect terms and conditions of employment, thus making it a negotiable matter, the associations cited *Dunellen Board of Education v. Dunellen Education Association* and *Board of Education Englewood v. Englewood Teachers* in which the court held that "issues which bore directly on the hours and compensation of the individual grievant teachers were proper subjects of mandatory negotiations."

Accepting the rationale supported by the cases cited, the court ruled that the guidelines, in part, should have been negotiated, because in affecting the work and welfare of the college employees, they encroached upon the terms and conditions of employment. (*Association of New Jersey State College Faculties, Inc., et al. v. New Jersey Board of Higher Education*, New Jersey Supreme Court, November 1974.)

Payment for Unused Sick Leave upon Retirement Not an Illegal Gift of Public Monies

The New Jersey Superior Court ruled that payment for accumulated sick leave upon retirement did not violate a provision of the state constitution prohibiting gifts of public monies to private persons. The Maywood Education Association and the Maywood Board of Education negotiated a longevity award which would pay to teachers upon retirement after 20 or more years of service in the district "five (5) percent of the unused portion of accumulated sick leave days, as of September 1 of the last school year of employment, times the daily rate of pay established by the existing guide at the time of retirement." Nonetheless, when two employees retired and applied for the award, the board refused to pay them.

The board contended that the negotiated provision was illegal and unenforceable because the Education Law prohibits any payment for unused sick leave. Also, because the legislature did not give express authority to pay school employees for unused sick leave, it logically must prohibit such payment. The board argued that payment for unused sick leave would constitute a gift of public monies in violation of the New Jersey Constitution.

The court pointed out that "the only statutory limitation on sick leave for school employees is that an employee may not accumulate more than 15 days per annum for future use." The court found erroneous the board's reasoning that since the legislature did not specifically sanction payment of accumulated sick leave to school-board employees, the legislature did not intend it. According to the court, the failure of the legislature to specifically include certain groups of employees should be interpreted not as prohibiting such payment but rather as leaving to the discretion of individual public employers within their existing statutory authority whether to compensate employees for accumulated sick leave.

Finally, the court rejected the board's argument that payment for unused sick leave would constitute a gift of public monies and cited to support its position *Teachers Association Central High School District No. 3 v. Board of Education*, wherein a New York court ruled that payment for unused sick leave was not a gift but a condition of employment or "a form of compensation withheld or deferred until the completion of continued and faithful service." The court also cited New Jersey court decisions wherein the courts ruled that other forms of fringe benefits besides payment for unused sick leave were not violative of the gift provisions of the New Jersey State Constitution to support its conclusion that "compensation paid to public employees, whatever the label, is not a gift so long as it is included within the conditions of employment either by statutory direction or contract negotiation." On the basis of the foregoing the court ordered the board to comply with the negotiated provision for payment of unused sick leave. (*Maywood Education Association, Inc. et al, Plaintiffs v. Maywood Board of Education, Defendant*, New Jersey Superior Court, Chancery Division, December 20, 1974.)

NEW YORK

PERB Overruled on Sabbatical Leave Matter Pending Appeal

The New York Supreme Court ruled that the Elwood Union Free School District was not guilty of an improper practice, contrary to a New York Public Employment Relations Board (PERB) decision, for refusing to implement a sabbatical leave agreement which had been incorporated in a collective bargaining agreement because the subject of sabbatical leaves was pending appeal in court and the school board's negotiator exceeded his authority in attempting to settle the suit in the collective bargaining agreement.

Believing that a provision in the Civil Service Law barred sabbatical leaves, the school board passed a resolution denying such leaves for the school year 1972-73. Subsequently,

teachers seeking sabbatical leave challenged the above-mentioned provision. Later, the Supreme Court ordered and reaffirmed its decision that the leaves be granted.

During judicial proceedings the two parties discussed the sabbatical leave provision and negotiated a collective bargaining agreement, both of which were ratified by the teachers. The school board approved the contract but refused to ratify the sabbatical leave agreement whereupon the teachers organization filed an improper practice charge.

A PERB hearing officer dismissed the charge, finding that the school-board negotiator had no authority to conclude the sabbatical leave agreement without first submitting it to the school board for approval, and that the teachers were aware of his limited authority. The full PERB, however, overruled the hearing officer's decision on the grounds that the employer had not negotiated in good faith and ordered that the sabbatical leave agreement be executed.

On appeal, the Supreme Court modified its earlier decision to a direction that the school board "review and consider" the sabbatical leave provision rather than "grant" leaves liberally since the leaves were not granted as a matter of right under the governing contract as set forth in *Matter of Streb v. Board of Education of Union Free School District, No. 1, Town of Huntington.*

Judging that the school board's negotiator acted beyond his authority and that the teachers' negotiators were aware of this, coupled with the fact that the school board had not authorized the settlement, the court concluded that the board's refusal to execute the sabbatical leave agreement could not constitute an improper practice. (*Elwood Union Free School District No. 1 of the Town of Huntington v. New York Public Employment Relations Board*, New York Supreme Court, September 23, 1974.)

PENNSYLVANIA

Department Heads Properly Placed in Teacher Unit

The Pennsylvania Court of Common Pleas upheld a Pennsylvania Labor Relations Board (PLRB) determination that department chairmen were nonsupervisory personnel properly included in a unit of professional employees because the functions they performed did not place them in the category of first-level supervisors.

The Altoona Area School District and the Altoona Area Education Association filed with PLRB a joint request for certification of the propriety of including department heads in the bargaining unit. The school district contended that the department chairmen were first-level supervisors and ineligible for inclusion in a rank and file unit. The Association disagreed. The PLRB included them in the teacher unit.

The question before the court was whether the PLRB decision could be supported by substantial and legally credible evidence and whether the PLRB conclusions and order were reasonable and not arbitrary or capricious. The court considered the definition of "supervisor" under the Public Employment Relations Act: "any individual having authority in the interest of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees or responsibly direct them or adjust their grievances; or to a substantial degree effectively recommend such action."

On the basis of this definition and the department chairmen's functions, the court determined that the employees in question were not vested with such supervisory powers, but were teachers who were given some free time to perform certain duties in behalf of the school district. The court further asserted that the department chairmen were so far removed from the decision-making body that they could not be construed as being part of a supervisory team.

The court confirmed the PERB decision and dismissed the school district petition. (*Pennsylvania Labor Relations Board v. Altoona Area School District*, Pennsylvania Court of Common Pleas, February 7, 1974.)

Lower Court Rulings on Grandfather Agency Shop Clause Sustained

The Pennsylvania Supreme Court sustained a lower court overturn of a Pennsylvania Labor Relations Board decision by finding that the inclusion of a grandfather agency shop clause in an agreement between the University of Pennsylvania and the Teamsters Local 8 constituted an unfair labor practice by broadening the scope of a maintenance of membership provision "in violation of the Public Employee Relations Act."

At issue in the case as originally brought before the Board by a non-union laboratory technician was whether non-union members were required under a successor contract to pay dues not required under the prior agreement, since both parties agreed to extend the old contract until a new agreement was reached. Following the adoption of the new contract, the technician received official union notification that unless she continued paying agency shop fees, she would be dismissed. She paid under protest, but filed a complaint charging an unfair labor practice.

In accordance with Section 904 of the PERA, any provision of an agreement in effect on January 1, 1970, which is consistent with the PERA, but otherwise legal, would continue until the expiration of the agreement. The clause also provided that "parties to such an agreement may continue voluntarily to bargain on any such items after the expiration date of any such agreement and for so long as these items remain in any future agreement." The PERB upheld the technician's argument that the above-cited section of PERA permitted parties to bargain for inclusion of inconsistent terms, but not a more severe security clause than contained in a previous agreement. PERB later reversed itself and entered a final order, with one member dissenting, upholding the union security provision.

On appeal, the Court of Common Pleas reversed the PERB decision and ruled in favor of the technician. This decision was affirmed by the Commonwealth Court.

The present State Supreme Court responded to petitions filed by the union and the PERB which advanced the argument that the strict agency-shop provision of Agreement II was simply a modification of the modified agency-shop provision of Agreement I and that such a modification was specifically permitted by Section 904. The court disagreed with the union-board interpretation of the statute on the basis that no item directly involved the appellee since Agreement I contained only a modified agency-shop provision which did not affect her.

To the union-board argument that the court's interpretation of the term "bargain" was inconsistent with common useage, the court admitted that while "bargain" connotes a "give and take procedure," there was actually no "give" on the part of either party. The court rationalized that "to bargain" meant that the parties could again agree to the modified agency-shop provision. It did not mean that they could enlarge the now forbidden practice to include those not previously bound by it.

The union then argued that the application of Section 904 to collective bargaining agreements which became effective after January 1, 1970, but before the statute was enacted on July 23, 1970, was unconstitutional. Dismissing this argument as without merit, the court declared that the only obligation impaired was that purportedly placed on the technician—that of paying union fees to the union which it contended was not contractual since the technician was not a party to the contract.

Citing *Livingston's Lessee v. Moore* which held that the enactment of a law impairing an obligation to which there has been no consent cannot violate the contract clause, the court affirmed the lower court decision. (*Pennsylvania Labor Relations Board et al., v. Erika S. M. Zelem*, Pennsylvania Supreme Court, December 5, 1974.)

FEDERAL

Union Shop Agreement on Federal Property Not Subject to State Law and Not Discriminatory on Basis of Religion

Texas statutes which prohibit union shop agreements cannot be enforced on a federal property because federal enclaves are controlled exclusively by federal law. Also, a union shop agreement does not discriminate against members of religious groups in the exercise of their religious beliefs since the agreement does not require them to "subscribe to any tenets or doctrines of unionism or to engage in any strikes or violence against their employers." The union dues exacted from them as employees under the agreement are merely a "tax" by which they "support the collective bargaining activities" from which they directly benefit.

A General Dynamics plant located on a federal enclave in Texas had entered into a union shop agreement with the International Association of Machinists and Aero Space Workers, District Lodge 776. Under that agreement all employees within the bargaining unit covered had to pay the union a sum of money equal to the dues and initiation fees of the union as a condition of continued employment. Upon learning that the Seventh Day Adventist Church forbids a member to join or contribute to a labor union, two Seventh Day Adventist employees resigned from the union and together with a third employee of their faith filed a complaint with the Equal Employment Opportunity Commission, alleging that the union shop agreement discriminated against them in the exercise of their religious practice by requiring them to support a union financially.

When the EEOC district director could not resolve the issue, the employees filed suit against General Dynamics and the union in a federal district court, alleging that the union shop agreement violated the Texas Right To Work Act, because it was negotiated and ratified outside the federal enclave, and claiming that they were entitled to be exempted from the agreement under Title VII of the Civil Rights Act of 1964 since the agreement discriminated against them in the exercise of their religious beliefs.

General Dynamics and the union challenged the sincerity of the religious beliefs of two of the employees and contended that their suit was premature since they had not exhausted the union's grievance procedure, and since EEOC had not issued a notice to sue, a necessary preliminary to filing suit under the Civil Rights Act of 1964.

The court found that the employees were sincere in their religious convictions, and held that their suit was not premature since they did not have to exhaust the grievance procedure to assert a statutory right and since the EEOC was not required to issue a notice to sue, but could properly delegate this function to any subordinate.

However, the court held that (a) Texas statutes which prohibit the enforcement and control of a union shop agreement do not prohibit the negotiations leading to it; (b) an agreement enforced within a federal enclave is not subject to control by state statutes since such enclaves are exclusively within federal jurisdiction; and (c) a union shop agreement does not require that they "subscribe to any tenets or doctrines of unionism or to engage in strikes or violence against their employers," but only requires them to pay their share of the costs of collective bargaining, from which they directly benefit.

The court also ruled on a cross-claim filed by General Dynamics which sought to recover from the union the legal fees and expenses it had incurred as a result of involvement in this suit. Under the union agreement, the union was required to indemnify the company for all claims arising from the carrying out of the agreement. The agreement contained no language exempting the union from liability for reasonable attorney's fees and expenses incurred by the company in the process of defense against such a claim. Therefore, the court ruled that General Dynamics was entitled to recover legal fees and expenses. (*Cooper v. General Dynamics, Convair Aerospace Division, Fort Worth Operation*, U.S. District Court, Northern District of Texas, Fort Worth Division, July 17, 1974.)

BOARD FINDINGS AND RULINGS

MASSACHUSETTS

Employer Not Obligated To Bargain over Curriculum Review Council; Compelled To Bargain over Impact of Mandatory Subjects

Holding that some decisions are fundamental to the basic direction of a corporation, the Massachusetts Labor Relations Commission found that a school committee was not compelled to bargain over the establishment of a curriculum council since curriculum review was not a mandatory subject of bargaining.

The case was brought by the Groton Teachers Association against the Groton School Committee when the latter refused to bargain over an Educational Development Council which, under the Association's proposal, would review curriculum and other matters related to teaching before the implementation of any recommendation.

Observing that the proposal did not have an impact on wages, hours, and conditions of employment, the Commission determined, as in *Yorktown Faculty Assn., [N.Y. PERB 7,]* that curriculum was a managerial function beyond the scope of mandatory bargaining. Nevertheless, the Commission stated that when a decision can be shown to have bearing on mandatory subjects of bargaining, the employer must bargain on its effects. (*Matter of Groton School Committee and Groton Teachers Association*, Massachusetts Labor Relations Commission, December 17, 1974.)

MAINE

Charges of Refusal To Bargain and Improper Selection of Chief Negotiator Dismissed

The Maine Public Employees Labor Relations Board found no merit in the arguments of the Maine School Administrative District that the Maine School Administrative District Number 43 Teachers Association had unlawfully refused to bargain and that under the collective bargaining agreement the Association could not replace its chief negotiator without the employer's consent. The first charge was made after teachers "in and about" the negotiations area disturbed a negotiations session.

Following this incident the parties agreed to change locations and the Association sent a letter to its members requesting them to stay away from the negotiations area. The second charge was made because the Association appointed a new chief negotiator when the original chief negotiator resigned.

The school district contended that the distraction caused by the teachers during negotiations constituted a refusal to bargain on the part of the Association. The district also contended that according to the agreement with the Association, the chief negotiator on its bargaining team could not be replaced without the district's approval.

The Board found that the agreement between the parties to change the place for negotiations and the memorandum issued by the Association disposed of the allegations of an unfair labor practice and dismissed the charge.

After reviewing the negotiating procedure outlined in the parties' contract, the Board determined that the agreement did not establish that the opposite side must agree on who is selected to be chief negotiator. The agreement provided for a "revolving chair" by which a person not a regular member of the bargaining team, could come into specific negotiating sessions to offer professional advice and comment. The mere existence of this concept, the board reasoned, was an indication that the parties foresaw the possibility of changes in the composition of the bargaining teams. Therefore, the Board ruled that "the bargaining agreement does not limit or prohibit the selection of an individual as the chief negotiator who is not a member of the negotiating team or of the Association." (*Maine School Administrative District No. 43 Board of Directors, Byron-Mexico-Roxbury, Plaintiff v. Maine School Administrative District No. 43 Teachers Association et al., Defendants*, Maine Public Employees Labor Relations Board, December 12, 1974.)

MICHIGAN

"Professional Advantage" Provision Not Applicable to Just Cause Transfer

An arbitrator upheld the involuntary transfer of a high-school coach/history teacher to the same assignment at a middle school because that transfer was based on educational reasons and the needs of the district.

Referring to the section in the agreement which provided that seniority in the school system was to be determined by certification and by continuous employment in a

particular grade level in K-8 and subject matter in grades 9-12, the Association contended that the transfer deprived the teacher of the professional advantage of continuing to accrue high-school level seniority.

The board asserted that under the agreement it had the right to transfer any employee, and that the language, "deprived of professional advantage," did not refer to transfers and that there was no limitation on the board's right to transfer. The board further maintained that the transfer was for just cause, and was not, therefore, arbitrary or capricious.

Under the seniority system, the teacher would be the first to be laid off in the middle school in the event of a layoff. Additionally, his years of high-school seniority would stay frozen, thus depriving him of the advantage of continuing to build up security on the same basis as if he had remained at the high-school level.

On the basis of the effects of the seniority system, the arbitrator conceded that an argument could be made that the transfer did result in the professional deprivation of the teacher. However, his interpretation of the language "without just cause" led him to believe that it was a modification of the limitation put on the board's right to transfer on the assumption that the transfer deprived a teacher in grievance situations of a "professional advantage."

In the absence of evidence of arbitrary or capricious action, the arbitrator held that the transfer was for just cause and that the "professional advantage" provision of the contract had not been violated. (*Blissfield Board of Education v. Blissfield Education Association*, American Arbitration Association, November 16, 1974.)

Substitute Report Form Does Not Change Terms and Conditions of Employment

A trial examiner for the Michigan Employment Relations Commission ruled that the use of a "substitute report form," which was alleged to be an instrument for evaluating teachers, did not constitute a unilateral change in terms and conditions of employment since the form was "merely a means of finding out if the teacher is performing the required terms and conditions of employment." Furthermore, the examiner ruled that under the statutory time limit of six months established by the Public Employment Relations Act, no unfair labor practice charge could now be filed because the form had been introduced three years ago. The examiner dismissed the unfair labor practice charge filed by the Romulus Education Association against the Romulus Board of Education.

In spring 1974, the Association discovered that several principals were requiring substitute teachers to fill out a report form on which the substitute was to indicate the presence or absense of a seating chart, an attendance sheet, and lesson plans, ease of following those plans, courtesy from the pupils, and order and cleanliness in the classroom. The Association requested the Assistant Superintendant in charge of personnel to stop using the forms. The superintendent denied that they were being used to evaluate teachers and promised that the use of the form would stop.

When the use of the form did not end by May, the Association filed an unfair labor practice charge with MERC, alleging that the board had engaged in unlawful refusal to bargain by unilaterally promulgating an instrument which could be used in evaluating teachers.

The board argued that the charge should be dismissed because the form was not used to evaluate teachers and was not issued by the board but by various principals, and did not constitute a unilateral change in working conditions. The board contended that even if the use of the form was considered an unfair labor practice, the Association had failed to meet the statutory time limit of six months established under the Public Employment Relations Act for filing a complaint, because the form had been introduced three years before.

A MERC examiner held that no unfair labor practice had occurred because the forms were not being used to evaluate teachers, and even if they were so used, they would not be a change in terms and conditions of employment because they were "merely a means of finding out if the teacher is performing the required terms and conditions of employment." He concluded that even if the use of the forms was considered an unfair labor practice, the Association had failed to file a charge within the statutory time limit. (*In the Matter of Romulus Board of Education and Romulus Education Association*, MERC, October 18, 1974.)

Residency Requirement Valid as Condition for Hiring But Not for Promotion

The passage of a resolution imposing a residency requirement as a condition for promotion constitutes a unilateral change in terms and conditions of employment and violates the employer's duty to bargain, even though the resolution has not been implemented. Therefore, the Michigan Employment Relations Commission confirmed the decision of an administrative law judge and dismissed objections to his decision raised by the Detroit Board of Education and several unions representing teachers and other city school board employees. Conditions of hiring and recruitment, however, are not subject to mandatory collective bargaining under the Public Employment Relations Act, because the Act does not cover job applicants. Therefore, the Act permits a public employer to impose a residency requirement as a condition for hiring and recruitment.

The City of Detroit school board adopted a resolution requiring residency in the city as a condition for hiring, recruitment, and promotion of all employees. Unions representing several groups of board employees filed charges with MERC contending that the board's action constituted a unilateral change in terms and conditions of employment and violated its duty to bargain under the PERA. An administrative law judge ruled that while the adoption of the resolution violated the Act insofar as it dealt with promotions, the resolution was valid with respect to hiring and recruitment.

Both sides appealed to MERC. The board contended that since the resolution had not been implemented and had not affected the promotion of employees, the passage of the resolution by itself did not constitute a violation of

the Act. In addition, the board contended that because the matter had not been submitted to arbitration under grievance procedures included in its contracts with the several unions, MERC could not assume jurisdiction. The unions contended that the board was obligated to bargain with respect to terms and conditions of hiring and recruitment, and, therefore, the resolution violated the Act insofar as it affected those subjects.

MERC ruled that the passage of the resolution constituted an act similar to a unilateral promulgation of a plant rule which both the NLRB and the Supreme Court, ruling in the case of *NLRB v. Katz* (1962), had held to be an unlawful refusal to negotiate under the National Labor Relations Act. As in the case of a plant rule, the resolution indicated that failure to comply with the announced change in promotion standards could result in an employee being penalized by failing to be promoted.

The Commission noted that under the provisions of the Act prescribing a six-month time limit on the filing of an unfair labor practice, the passage of the resolution per se was a violation of the Act because the results of implementation which would occur six months after the passage of the resolution could not be challenged as unfair labor practices, as those practices would be considered as dating from the day the resolution was passed.

With respect to the jurisdictional issue, MERC held that deferral to arbitration was not appropriate because the issue in this dispute was primarily statutory.

Finally, MERC held that the classification, "employees," referred only to those who had already been hired and did not include job applicants. Therefore, MERC concluded that hiring and recruitment standards were not subject to mandatory collective bargaining, and that the Act permitted public employers to impose residency requirements as a condition for obtaining employment. (*Board of Education of the School District of the City of Detroit and Detroit Federation of Teachers, et al.*, Michigan Employment Relations Commission, November 21, 1974.)

MINNESOTA

Teacher Has "Expected Right" to Salary Credits for Law Courses

Although a contract which provided for an M.A. + 60 salary lane contained no language specifically referring to law school credits, such credits were within the "general periphery" of the provision and the teacher had an "expected right" to be placed in the M.A. + 60 lane upon completion of a law course.

An arbitrator ruled that Anoka-Hennepin School District No. 11, denied a teacher due process of law when it unilaterally refused the teacher the necessary credit for advanced placement without granting him a hearing. Since the contract contained no specific guidelines or restrictions, the district should have advised the teacher of its position.

According to the arbitrator, a teacher has certain contractual and statutory rights. To take them away after the fact is failure to provide equal protection and due process and renders the district action arbitrary, capricious, and unreasonable. Though a district may not intend to act in an arbitratory manner, the unilateral denial of expected rights without prior exploration or a hearing thereafter violates the teacher's due process rights. (*Anoka-Hennepin Education Association and Anoka-Hennepin School District 11, Bureau of Mediation Service*, July 8, 1974.)

State University Must Bargain as Unit

Shortly after a district court ordered a state-wide unit to represent college faculty members, the director of the Bureau of Mediation Services decided that differences among campuses, colleges, and departments at the University of Minnesota did not warrant separate bargaining units.

Various groups within the university had favored separate units for such reasons as salary diversity, uniqueness of professional accreditation, and difference in level of students taught, that is, postgraduate as opposed to undergraduate. The state public employee law, however, cancelled these arguments advanced by the university groups. (*University of Minnesota Board of Regents, et al. and Minnesota Bureau of Mediation Services*, December 6, 1974.)

NEW YORK

New York Public Employment Relations Board Negotiated Intent Must Be Implied in Contract Language

Refusing to read into the language of a contract a dollar estimate offered during negotiations between the City of White Plains and Professional Fire Fighters Association, Local No. 274, the Public Employment Relations Board affirmed a hearing officer's decision that the city had the right to unilaterally reduce the sum budgeted for tuition reimbursement, since the contract left the sum to be budgeted at the city's discretion. Therefore, PERB dismissed an unfair labor practice charge filed by the Association against the city.

During negotiations with the Association, city officials estimated that the city would be able to continue its policy of tuition reimbursements to fire fighters taking higher education courses in fire service. The city had estimated that $1,200 would be set aside. Acting on the assumption that this estimate would hold, the Association signed a contract which provided that the amount of reimbursement would be "within budgetary allocations." Subsequently, the city halved the estimated allocation for tuition reimbursement. The Association filed a petition with PERB, charging that the city's unilateral reduction of its previous allocation was in violation of the state Civil Service Law.

A hearing officer dismissed the Association's charges on the grounds that the language of the contract and the uncontradicted testimony of both parties indicated that the

Association had agreed that the city would have the unilateral right to determine the sum to be allocated. The Association filed exceptions to the hearing officer's decision before PERB, alleging that the estimate presented by city officials during negotiations had to be read into the language of the agreement.

PERB sustained the hearing officer's conclusion that no sum had been agreed to and the amount to be provided had been left to the city's discretion. (*City of White Plains and Professional Fire Fighters Association, Inc., Local No. 274, International Association of Fire Fighters*, PERB, May 13, 1974.)

Exclusive Representation Immune to Challenge Until End of Fiscal Year Preceding Expiration of Contract

According to PERB, under the Civil Service Law when a decertification petition is not filed during the open season, the status of a labor organization which is exclusive bargaining representative for public employees under a contract which is not coterminous with the employer's fiscal year remains immune to challenge only until the end of the employer's fiscal year which directly precedes the expiration date of the contract.

Under a two-year collective bargaining agreement scheduled to expire on June 30, 1974, the Civil Service Employees Association was the exclusive bargaining representative for the employees of the New York State Thruway Authority whose fiscal year ended on December 30. On June 20, 1974, the Service Employees International Union filed a decertification petition, requesting the Director of Public Employee Practices and Representation to order a representation election in which the employees of the Authority could choose either to retain CSEA as their bargaining agent or to install SEIU in its place.

When the Director approved the petition, the Authority and the Association requested PERB to reverse his ruling on the grounds that the petition was not timely filed under PERB rules. According to the Authority and the Association, if a contract was not coterminous with the employer's fiscal year and no petition had been filed in the open season during the eighth month before the end of the fiscal year (May 1973) that directly preceded the expiration of the contract, under PERB rules no further petitions could be filed and no election could be held until after the contract expired on June 30, 1974.

PERB rejected this contention, stating that while the time period during which an incumbent bargaining agent cannot be challenged under the Civil Service Law is extended when a petition is not filed during the open season, the extension of immunity in the case of a contract which is not coterminous with the employer's fiscal year is limited by the Civil Service Law to the end of the employer's fiscal year directly preceding the expiration date of the contract. (*In Matter of the New York State Thruway Authority and Service Employees International Union, and the Civil Service Employees Association, Inc.*, New York State Public Employment Relations Board, August 7, 1974.)

OREGON

Dismissals of Pro-Union Employees Improper

Any attempt by an employer to persuade public employees, including supervisors, not to join a labor organization, or any attempt to interfere with their selection of a bargaining agent is unlawful intimidation according to the Oregon Public Employee Relations Board. In addition, PERB ruled that in the context of demonstrated anti-union hostility, dismissals which affect only those employees who are seeking to join a union are improper because of their discriminatory impact even if they are not motivated by an unlawful intent to prevent employees from exercising their rights. Therefore, PERB, acting on a petiton filed by the Linn-Benton Rural Teachers Association, held that the Price School District had engaged in unlawful coercion of its employees and ordered the district to cease and desist.

The Association, acting on the request of three teachers employed by the district, petitioned PERB to be certified as their bargaining agent. Thereupon, school-board members visited the teacher who served as principal of the system, informing him that they were not happy with the teachers' decision to join the Association, and attempted to persuade him not to join the bargaining unit. Following that visit, the district filed a petition with PERB seeking to exclude the principal from the bargaining unit, and fired the two teachers, one of whom was probationary, on the grounds that they had "neglected slow learners."

The Association filed charges with PERB, contending that both the visit to the principal and the firing of the two teachers constitued unlawful attempts by the district to coerce its employees from exercising their right to bargain under the law. After these charges were filed, the school board stated that the teachers would be allowed to leave the district with a clean record if the charges were dropped.

PERB held that under the collective bargaining statute any attempt by an employer to persuade public employees, including supervisors, not to join a union, or any attempt to interfere with their selection of a bargaining agent was unlawful. Therefore, PERB concluded that the following actions of the school board constituted unlawful coercion: the attempt to persuade the principal not to join, the statements that board members were not happy with the teachers' decision to join, the suggestion that the teachers should negotiate on their own with the board, the offer to provide the teachers with a clean record in return for dropping charges, and the dismissal of the two teachers.

PERB ruled that within the context of the district's anti-union activity and statements, the dismissal of the two teachers was improper because of its discriminatory impact, even if, as the district contended, the dismissals were contemplated and not motivated by hostility to the Association. PERB, however, held that the evidence failed to support the district's contention that its action was not so motivated.

PERB ordered the board to cease and desist from engaging in unlawful coercion of employees; however, it did not order reinstatement of the teachers, but requested the parties to submit briefs on the impact and possible conflict

of such an order with respect to the teacher tenure law and the local budget law, since this was the first case where PERB was considering ordering the reinstatement of a probationary teacher. (*Linn-Benton Rural Teachers Association v. Price School District*, Oregon PERB, November 18, 1974.)

PENNSYLVANIA

Principals and Assistants Not Managerial and Belong in Same Unit

In a case involving the question of the appropriate unit for certain administrative professional employees of McKeesport Area School District, the Pennsylvania Labor Relations Board ruled that the personnel could be properly placed in a unit of first level supervisors because the employees did not perform managerial functions.

The matter arose when the labor organization representing the employees petitioned for approval of a unit comprised of principals, assistant principals, vice-principals, and unit directors. The sole issue was whether some of the employees were first-level supervisors or managerial employees.

A review of the duties of the employees revealed that the disputed personnel exercised only minor supervisory control over classroom teachers and other employees and that their similar assignments were directed by the central administration. Additionally, none of the employees supervised the activities of the others.

For the foregoing reasons, the PERB determined that the employees composition in a single unit was proper. (*Matter of the Employees of McKeesport Area School District*, Pennsylvania Labor Relations Board, January 13, 1975.)

FEDERAL

NLRB Accepts Jurisdiction over Parochial School System; Excludes Department Chairmen, Vice-Principals, and Nurses from Bargaining Unit

According to the National Labor Relations Board, private schools are not exempt from its jurisdiction as religious institutions unless their instruction is limited to religious subjects. In addition, the Board held that geographically and administratively separate private schools which are operated as an "integrated enterprize" fall within its jurisdiction if their combined assests are equal to $1 million. Therefore, the Board, acting on a representation petition filed by the Baltimore Archdiocesan Lay Teachers Organization, accepted jurisdiction over five high schools operated by the Archdiocese of Baltimore.

The five high schools in question are operated by separate religious orders in different parts of Maryland but owned by the Archdiocese. The Archdiocese approves tuition rates and the selection of principals, provides tuition grants to students, establishes health and benefit plans for all employees, resolves grievances between the faculty and the schools, and has negotiated faculty wage scales and teacher contracts with the faculty group, which it had not formally recognized.

The lay faculty group sought to formalize the relationship and petitioned the NLRB to direct an election among all full-time and regular part-time faculty, including vice-principals, department chairmen, athletic directors, business managers, and nurses.

The Archdiocese claimed that the NLRB lacked jurisdiction since the schools were autonomous and separately failed to meet the $1 million jurisdictional standard which the Board had previously applied to private schools, and were religious institutions since they "provide an education based on Christian principles." In addition, the Archdiocese requested the Board, if it assumed jurisdiction, to exclude vice-principals, department chairmen, business managers, athletic directors, and nurses from the bargaining unit.

The Board ruled that the schools were not exempt from its jurisdiction since the Archdiocese was operating them as an "integrated enterprise" and taken together the schools met the $1 million jurisdictional standard. In addition, the Board held that schools which taught lay subjects could not be exempted as "completely religious" institutions.

However, with respect to the composition of the bargaining unit, the Board ruled in favor of the Archdiocese on all counts. Vice-principals were excluded as supervisors since they exercised the authority of the principal in his absence, had authority to evaluate and reprimand faculty, and assigned substitute teachers. Department chairmen and athletic directors were excluded as supervisors since they had the authority to make effective recommendations with respect to hiring and firing. Business managers, were excluded on the grounds that their primary duties in supervising nonprofessional employees and their quasi- managerial role in preparing budgets coupled with their being paid on a separate salary schedule meant that they lacked sufficient community of interest with the faculty. Finally, nurses were excluded on the grounds that they were not on the faculty salary schedule, did not always receive faculty fringe benefits and their training skills and duties did not relate to those of the faculty.

Therefore, the Board directed an election among all full-time and regular part-time faculty, including librarians, guidance counsellors, and administrators. (*Roman Catholic Archdiocese of Baltimore and Baltimore Archdiocesan Lay Teachers Association*, January 28, 1975.)

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NEGOTIATION NOTES

ARKANSAS

State Agencies Are Not Required To Deduct Union Dues from the Salaries of State Employees

The Arkansas Supreme Court held that, while state agencies were permitted to deduct union dues from the payroll of state employees, such deductions were not mandatory under state law. Therefore, the Court, upholding a lower court ruling, denied the request of Arkansas State Highway Employees, Local 1315, for a writ of mandamus ordering the State Highway Commission to reinstate dues deductions.

In 1955, the Arkansas legislature enacted a statute which provided that "deductions from the payrolls of state employees . . . shall be permitted only for the following purposes." The purposes enumerated included withholding taxes, social security, retirement, and group medical and life insurance. Between 1965 and 1973, the legislature added credit unions, union dues, value of maintenance, and purchase of U.S. Savings Bonds.

In 1972, the Highway Commission, which had previously deducted union dues as authorized by members of the union, ceased deducting the dues on the grounds that it was not required to do so. The union filed a writ of mandamus, requesting a state trial court to order the Commission to deduct the dues. After the state trial court denied the writ on the grounds that the statute had not made dues deductions compulsory, the union appealed to the Arkansas Supreme Court, contending that the lower court had misconstrued the statute.

The Arkansas Supreme Court, in a majority decision, ruled that the wording of the statute made it impossible to state that dues deductions were clearly mandatory.

A dissenting opinion held that in spite of the wording of the statute, some of the deductions "permitted" were in fact mandatory, and deductions for savings bonds, credit unions, union dues, etc. would not have been included by the legislature unless they were likewise mandatory, since state agencies could not be expected to voluntarily pay for the necessary bookkeeping. (*Arkansas State Highway Employees Local 1315, v. Maurice Smith, et. al;* Arkansas Supreme Court, October 28, 1974.)

FLORIDA

PERC Adopts Rules and Regulations

The rules and regulations of the Florida Public Employees Relations Commission (PERC), designed to regulate the state's new public bargaining law, took effect in November 1974.

The rules define 23 terms and describe procedures for certification of employee organizations. This section covers petitions for clarifying bargaining units and amending certifications, and procedures for hearings, motions, introduction of evidence, subpoenas, and records. The rules also outline procedures for conducting representation elections and runoffs. The rules additionally include unfair labor practice procedures which cover the filing and processing of charges, issuing complaints, answers, intervention, hearings, motions, waivers, introduction of evidence, subpoenas, records, and PERC determination. Procedures for resolving impasse include mediation, fact finding and recommendations by a "special master," and referral of unresolved disputes to the employer's legislative body which shall take any action it considers necessary in the interests of both the public and public employees.

MINNESOTA

Attorney General Opinion

The state attorney general, interpreting section 179.63 of the Minnesota law, ruled that the work week was undeniably a term or condition of employment because it involved hours of employment. Thus, public employers are required to bargain over the work week, and if no agreement is reached, the issue may be arbitrated.

This interpretation was based on the decision on *Firefighters Union, Local 1186, International Association of Fire Fighters, AFL-CIO v. City of Vallejo, et al.,* in which the California Supreme Court held that the union's proposal for a work week was arbitrable. Additional support for the attorney general's position was found in *Local*

Union No. 189, Amalgamated Meat Cutters and Butcher Workers, et al. v. Jewel Tea Company where the Supreme Court of the United States interpreted the scope of bargaining under the National Labor Relations Act and held that hours of the day and days of the week are mandatory subjects of bargaining.

The attorney general also considered the question of whether subcontracting out of work normally performed by bargaining unit members was negotiable and arbitrable. While similar cases under the NLRA held the affirmative, supportive decisions of state labor boards were found which permitted temporary subcontracting of special work not usually performed by the bargaining unit and held that they were not negotiable and arbitrable.

Citing several decisions of the Connecticut Board of Mediation and Conciliation concerning the question of subcontracting, the attorney general stated that the cases offered guidelines for determining whether the subcontracting of work is a mandatory subject of negotiation. He stressed, however, that since the parties in these cases failed to clarify their final positions as to the material nature of the subcontracting, the litigations could not represent precedents. As such, the attorney general refrained from ruling on this matter.

NEW YORK

Back Pay for Women Varsity Coaches Ordered

The New York Human Rights Division awarded retroactive pay to five women coaches in Camden who complained that they were not being paid the same salary as men coaches.

In response to the coaches' complaint against the school board, the Human Rights Division also called for nondiscrimination in coaching assignments, for salary schedules reflecting equal work for equal pay, and for the establishment of a review committee to make recommendations to the coaching staff. (*Camden, New York, School District and Camden Teachers Association*, New York Human Rights Division, 1974.)

Michigan and Pennsylvania Increase Survivors' Death Benefits

Recent legislation in Michigan and Pennsylvania has revised and upgraded death and survivor benefits paid to the estate or heirs of public employees. In Michigan, these payments are now to include all accrued fringe benefits and employer contributions to retirement funds. Pennsylvania, however, permits only a maximum of $2,000 in wages, salary, and accrued vacation benefits to be paid by the employer.

FEDERAL

NLRB Report on Health Care Institutions

In his quarterly report, the National Labor Relations Board General Counsel discussed several issues in labor-management relations in health care institutions.

- In a refusal-to-bargain case, the General Counsel issued a complaint against an employer who asserted, before contract negotiations, that department heads were improperly included in a unit of laboratory technicians because they were supervisors under the Taft-Hartley Act. The unit had been certified previously by the Michigan Employment Relations Commission before the hospital amendments to the Act took effect. Rejecting the employer's contention, the General Counsel commented, "It is settled law that even a good faith, but erroneous doubt as to the appropriateness of a unit does not privilege a refusal to bargain with an incumbent union."
- Other complaints by the General Counsel were directed against two employers who forbade the distribution of union literature. In the first case where distribution was banned on the entire hospital premises, the General Counsel stated that the ban was "presumptively unlawful" because it was not limited to work areas, and that further proceedings were warranted in regard to the implementation of the rule.
- In the second case, the employer forbade the distribution of union literature in the cafeteria and the coffee shop. Here, the General Counsel stated that the legality of the rule must be determined because employers may ban the distribution of literature in employee work areas even during non-working hours, but employees performed no work in the areas in question.
- Another case involved the suspension of three workers who used their coffee break to discuss working conditions. The plant services manager who met with the group told them they were engaging in a work stoppage. The General Counsel concluded that the employer's charge was without cause since there was clearly no evidence of an alleged work stoppage.
- The NLRB General Counsel issued a complaint against a union that struck three hospitals and triggered a work stoppage at a fourth, on the grounds that the union failed to notify the affected employer of its intention to picket. The General Counsel cited section 8(g) of the National Labor Relations Act which, as he said in another case, showed that Congress intended a health care institution to receive advance notice of any contemplated work stoppage activities in order to assure the well-being of patients.

Joinder of Non-charged Union Does Not Require Dismissal for Lack of Jurisdiction

In a suit brought against the Braswell Motor Freight Lines by the Equal Employment Opportunity Commission for alleged racial discrimination in violation of Title VII of the Civil Rights Act, the U.S. District Court ruled that join-

der of a non-charged union does not compel dismissal for lack of technical requirements.

The unions argued that failure to charge them before the EEOC and failure to follow the prerequisites of the Civil Rights Act required dismissal. They further contended that joinder could not prevent dismissal for lack of jurisdiction.

The EEOC asserted that joinder of the unions need not be based on fulfillment of the jurisdictional steps, and, therefore, the unions were properly joined as defendants.

Countering, the defendants cited a similar case *(Miller)* which upheld their position. However, the court pointed out that the rule in *Miller* which maintained that failure to name defendants in EEOC charge, required dismissal, was not absolute, as substantiated in *Held v. Missouri* where joinder of a union was upheld, without technical requirements, on the grounds that it was indispensible to the proper administration of relief, compelled by the evidence.

Concluding that since the unions were not charged with violations of the Civil Rights Act and the prerequisites of the Act were not fulfilled, the court overruled the motions to dismiss and limit relief. (*Equal Employment Opportunity Commission v. Braswell Motor Freight Lines, Inc.*, U.S. District Court, August 28, 1974.)

First Amendment Does Not Provide Employees with Right to a Grievance Procedure or Right To Bargain Collectively

Employers are not required by the First Amendment to the federal Constitution to grant collective bargaining rights or a grievance procedure to employees. Further and employer may legitimately withhold these rights from policemen while granting them to other municipal employees owing to the nature of police work. In addition, where a school board is an "independent corporate entity," the city or other jurisdiction connected with that school board is not the employer of school employees and, therefore, is not accountable for differences in rights between school-board employees and other municipal workers.

The Chicago Police Department provided no grievance procedure for its employees, except in cases of discharges or suspensions exceeding 30 days. After unsuccessful efforts to get the Department to establish a grievance procedure covering hours, wages, assignments, and other working conditions, the Confederation filed suit in the U.S. District Court charging the city with violation of employee rights under the First Amendment by failing to establish a uniform grievance procedure and some form of collective bargaining for patrolmen. In addition, the Confederation contended that the city had violated the 14th Amendment by discriminating against police, since the "non academic" employees of the Chicago Board of Education had been granted collective bargaining rights and municipal library workers had been granted a grievance procedure.

The court held that the First Amendment does not provide employees with rights to a grievance procedure or mandatory collective bargaining, and that, therefore, the granting of these rights remains within the discretion of the city or the state legislature. In exercising its discretion, the court held, the city would have a legitimate purpose in granting collective bargaining and a grievance procedure to others while denying them to police since the nature of police work requires that the Department have unquestioned authority in making assignments in emergencies and that police instantly obey orders. However, the court noted that since the board of education and the library board were distinct corporate entities, the city was not the employer of the municipal workers in question and, therefore, not accountable for differences between the rights accorded to those workers and those accorded police. The court dismissed the complaint. (*Confederation of Police v. City of Chicago*, USDC No. Ill., October 7, 1974.)

Congress Removes Hatch Act Restrictions on State and Municipal Employees

State and municipal employees working in agencies which receive federal funds are now permitted to work voluntarily, on their own time, for candidates of their choice or to run for elective office as nonpartisan or independent candidates. This change in federal law, Title IV of the Federal Election Campaign Act of 1974 amending the Hatch Act, affects immediately state and municipal employees in 40 states where state laws do not contain the Hatch Act prohibitions which were repealed by the new statute.

The amended statute retains those provisions of the Hatch Act which prohibit managers or supervisors from forcing employees to contribute to or work for a candidate, and prohibit state and municipal employees whom it covers from using their official positions to influence the outcome of an election. State and municipal employees covered by the new statute are barred from running as candidates affiliated with any party whose candidates for Presidential elector received votes in the last Presidential election.

The U.S. Office of Revenue Sharing maintains that the remaining Hatch Act restrictions are inapplicable to state and local employees whose salaries are partly or entirely provided out of revenue-sharing funds. Its position has received support from ranking members of the Senate Finance Committee and the House Ways and Means Committee who have stated that the Congress did not intend revenue-sharing funds to be subject to the Hatch Act. The Civil Service Commission opposes this position, and the matter is to be resolved by the Justice Department.

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SPECIAL REPORTS

FACULTY BARGAINING UNITS IN HIGHER EDUCATION

Lawrence M. Robinson

Faculty bargaining units in public and private junior colleges, four-year colleges, and universities include regularly employed full-time teachers. This survey of 145 higher education contracts attempts to determine the extent to which employees other than full-time teachers are included in faculty bargaining units. In addition to the contract survey, an analysis is made of existing units in higher education as determined by the National Labor Relations Board and state boards.

Findings of Contract Analysis

For purposes of this study, employees other than full-time teaching staff were classified as follows:

Librarians: professional librarians who have an MLS degree; may not include the head librarian who is often regarded as supervisory
Counselors: guidance counselors, not necessarily including academic counselors or admissions counselors
Specialists: research related personnel such as research faculty, technologists, technicians, laboratory assistants, and media and audiovisual specialists
Nurses: individuals with these titles, not including directors of nursing who are classified as directors
Other professionals: professional employees generally without further specification; includes coaches
Department chairmen: individuals with these titles
Directors: individuals with these titles
Coordinators: individuals with these titles
Administrators: associate deans, assistant deans, registrars, business managers, and others not mentioned frequently enough to merit separate tabulation
Teaching assistants: individuals with these titles in junior colleges; includes graduate assistants and interns in four-year colleges, not including medical interns
Non-academic personnel: office, clerical, custodial, and other employees.

Table 1 shows the number of contracts and the percent of all contracts which mention these groups, and the number and percent of contracts which include these groups in faculty bargaining units. Part-time faculty were excluded from contracts which included full-time faculty only. In some contracts, however, faculty teaching one-half of a normal work load were included in the faculty unit as "part-time faculty," while other part-time faculty, teaching less than one-half of a normal load were excluded. When these so-called full-time faculty units actually include part-time faculty the latter are listed in the table as included in these units.

Unit determination and the categories of employees included or excluded from the unit depend upon several factors. Most units are determined on the basis of community of interest, the focus of each employee group, and the employee position in relation to the over-all mission of the employer. Other factors which may work to expand or contract the scope of the unit are supervisory or reporting lines, faculty governance structure, working conditions, geographic location of the campus with respect to the central campus, special curriculum, budgetary control, and past practice.

The inclusion or exclusion of certain types of employees, notably department chairmen, program coordinators, counselors, administrative faculty or professionals, and librarians depends on the scope of the particular job and the relationship of that position to other teaching or administrative faculty positions. As a rule if a position has attached to it such supervisory duties as recommends hiring, firing, promotions, or direction of personnel, or is involved in the labor relations process, it is excluded from the unit. For personnel, such as program coordinators and department chairmen, the amount of time required for directing the work force versus the amount of classroom teaching time will be a criterion for determining whether that position is supervisory or within the employee unit. Part-time faculty are usually included in the over-all faculty unit if their relation to the full-time faculty and involvement in the governance structure is deemed sufficient, and if they are required to teach more than one-half of the normal teaching load of the regular faculty. Research assistants, graduate assistants, interns, and fellows may be included or excluded, depending upon their relationship with the institution and the focus of their relationship. If the accent is on teaching or research, they may be included. If the accent is on learning, however, rather than teaching or research, they may be excluded. The source and reason for funding the particular position may also be very important.

This is by no means an exhaustive list of criteria which may be utilized to test the appropriateness of an employee group or employee position within the over-all faculty unit. Appropriate units are determined on a case-by-case basis, the above-mentioned criteria being tests of appropriateness.

Part-time faculty are typically included in private four-year college bargaining units but excluded from faculty bargaining units in the public sector. The majority of contracts which include part-time faculty at either 4- or 2-year colleges require one-half or more of a normal load as a minimum for inclusion.

Librarians and counselors are included in faculty bargaining units irrespective of the type of institution.

Specialists are included in faculty bargaining units at public institutions but excluded from those units at private

TABLE 1.—NUMBER AND PERCENT OF CONTRACTS IN HIGHER EDUCATION SPECIFICALLY INCLUDING TYPES OF PERSONNEL, OTHER THAN FULL-TIME TEACHERS, IN BARGAINING UNIT

Type of institution and type of personnel	Contracts specifically mentioning type of personnel		Contracts specifically including type of personnel in bargaining unit	
	Number	Percent of total	Number	Percent of contracts specifically mentioning type of personnel
1	2	3	4	5
PUBLIC JUNIOR COLLEGES (115 contracts)				
Average bargaining unit:				
Other professionals	5	4.3	5	100.0
Counselors	63	54.8	62	98.4
Librarians	68	59.1	63	92.6
Specialists	25	21.7	19	76.0
Coordinators	24	20.9	14	58.3
Nurses	6	5.2	3	50.0
Personnel usually excluded:				
Department chairmen	48	41.7	21	43.8
Part-time faculty	83	72.2	27	32.5
Directors	50	43.5	8	16.0
Other administrators	80	69.6	6	7.5
Non-academic personnel	15	13.0	1	6.7
Teaching assistants	2	1.7	0	0.0
PUBLIC 4-YEAR COLLEGES (20 contracts)				
Average bargaining unit:				
Librarian	15	75.0	12	80.0
Specialists	5	25.0	4	80.0
Counselors	8	40.0	5	62.5
Other professionals	5	25.0	3	60.0
Department chairmen	12	60.0	7	58.3
Part-time faculty	4	70.0	6	42.9
Personnel usually excluded:				
Coordinator	4	20.0	1	25.0
Other administrators	16	80.0	3	18.8
Directors	11	55.0	1	9.1
Non-academic personnel	5	25.0	0	0.0
Teaching assistants	6	30.0	1	16.7
PRIVATE 4-YEAR COLLEGES (10 contracts)				
Average bargaining unit:				
Librarian	8	80.0	8	100.0
Counselors	4	40.0	3	75.0
Part-time faculty	10	100.0	6	60.0
Other professionals	2	20.0	1	50.0
Personnel usually excluded:				
Specialists	3	33.3	1	33.3
Department chairmen	6	60.0	2	33.3
Directors	3	33.3	1	33.3
Coordinators	1	10.0	0	0.0
Non-academic personnel	2	20.0	0	0.0
Teaching assistants	3	33.3	0	0.0
Other administrators	6	60.0	0	0.0
ALL INSTITUTIONS (145 contracts)				
Average bargaining unit:				
Librarians	91	62.8	83	91.2
Counselors	75	51.7	70	93.3
Specialists	33	22.8	24	72.7
Other professionals	11	7.6	8	72.7
Coordinators	29	20.0	15	51.7
Nurses	6	4.1	3	50.0
Personnel usually excluded:				
Department chairmen	66	45.5	30	45.5
Part-time faculty	107	73.8	38	35.5
Directors	64	44.1	10	15.6
Teaching assistants	11	7.6	1	9.1
Other administrators	102	70.3	9	8.8
Non-academic personnel	22	15.2	1	4.5

4-year colleges. Research-related positions are the most frequently mentioned in contracts of personnel at all institutions. Media specialists are mentioned only in public institutions, and with one exception all of those are junior colleges.

Nurses are mentioned only in a few public junior colleges where half the contracts include them and half exclude them.

Other professionals are included in eight contractually defined faculty bargaining units. Four of these include professional employees generally. Out of these four, two are public 4-year colleges, one is a public junior college, and one is a private 4-year college. Coaches are included at one public junior college, and one public 4-year college, but are excluded from another public 4-year college and one private 4-year college. The remaining inclusions in this category involve non-student aides, reading specialists, and professional assistants who are separately included in junior college bargaining units.

Department chairmen are included only in public 4-year college bargaining units. Coordinators are included only in public junior college bargaining units.

All other groups are typically excluded from faculty bargaining units, regardless of the type of institution. While it appears that teaching assistants are included in bargaining units at 4-year public colleges, there is no indication that teaching assistants differ from graduate assistants who are generally excluded from 4-year public college bargaining units.

Outside New York and Washington, directors appear to be the highest level of administrator included in faculty bargaining units. In New York, deans are included in the bargaining unit at Monroe Junior College, while associate and assistant deans are included in the bargaining unit at SUNY. In Washington, only two junior college contracts out of 11 exclude administrators other than the president of the college. The president or other chief executive officer is the only administrator excluded from faculty bargaining units by the state's junior college bargaining law.

Only one contract from Maine and one from Michigan make the inclusion of administrators dependent upon a specified teaching load. Both contracts are from junior colleges.

Bargaining units at public 4-year colleges are the broadest in scope since they include department chairmen who are typically excluded from faculty bargaining units at other institutions, and specialists who are excluded from private-four year colleges.

National Labor Relations Board Determinations

At present the NLRB has jurisdiction only over private educational institutions with assets of $1 million or more. The Board may intervene in the process of establishing a bargaining unit in several ways. This study, however, considers only those NLRB decisions where the Board has ruled either to include or exclude the groups defined in Part I from faculty bargaining units.

Since 1971, the Board has made at least 19 decisions pertaining to appropriate faculty bargaining units; they have involved only private 4-year colleges. The most recent survey conducted by the National Center for the Study of Collective Bargaining in Higher Education found 38 faculty bargaining units at private 4-year colleges. It appears that the NLRB has made a unit determination in approximately half of the existing faculty bargaining units. At the remaining private 4-year colleges, the parties have been able to agree upon the composition of the bargaining unit, and have, therefore, not called upon the Board to make a unit determination.

When the Board is requested to make a unit determination, it has broad discretionary power under the National Labor Relations Act to consider the unit as a whole, including groups whom the parties themselves have agreed to include or exclude. In these 19 decisions, however, it appears that the Board confined itself to making rulings on groups or individuals whose inclusion was disputed.

The following table indicates the number of decisions the Board made regarding particular groups and the outcomes of those decisions. The decisions are tabulated in rank order of inclusion.

Group	Number of decisions	Included	Excluded
Librarians	8	8	0
Guidance counselors	1	1	0
Directors	6	4	2
Department chairmen	8	5	3
Other administrators	10	5	5
Other professionals	9	3	6
Graduate assistants	2	0	2
Part-time faculty (since July 1973)	4	0	4
Part-time faculty (before 1973)	8	8	0

In these 19 decisions the Board developed guidelines for applying the National Labor Relations Act to higher education faculty bargaining units. Under the NLRA, professionals and nonprofessionals may not be included in the same bargaining unit unless each group separately votes for a mixed unit. In its first unit determination case, at Long Island University in 1971, the Board started from the premise that faculty bargaining units were professional since the core of such units consisted of teachers. At LIU the Board was asked to decide if librarians, guidance counselors, the director of guidance, admissions counselors, research scientists, and laboratory assistants should be included in the faculty bargaining unit. The Board resolved this question by including those employees who were engaged in "professional work" and excluding others. According to the Board, professional work is work which requires employees to utilize advanced training in a specialized field and to exercise independent discretion and judgment.

At LIU, the Board concluded that librarians, guidance counselors, and research scientists were engaged in professional work and, therefore, included them in faculty bargaining units. In subsequent cases, the Board consistently included these groups in faculty bargaining units unless they were supervisory employees.

The Board also concluded at LIU and in subsequent cases that others, including academic or admissions counselors, laboratory technicians who work under close supervision, coaches, and full-time administrators were not engaged in professional work, and consistently excluded them unless they shared a community of interest with faculty which specifically includes line of reporting or supervision.

In addition, the Board has also applied this occupational distinction to part-time administrators who were not held to be supervisors or managerial and confidential employees. Those who also functioned as teachers, librarians, guidance counselors, or research scientists have been included in faculty bargaining units, while all others have been excluded, irrespective of title or faculty rank.

Department Chairmen—Under the National Labor Relations Act, supervisors have no right to bargain since the Act specifically excludes them from coverage. The Act defines supervisors as individuals who exercise authority to hire, fire, promote, transfer, assign, reward, or discipline other employees or to effectively recommend the same, provided that the exercise of authority requires the use of independent judgment and is not merely routine or clerical.

While the question of supervisory authority has also risen with regard to directors, other administrators, and certain professionals, department chairmen have been the focal point of this issue in three rulings where the Board indicated what it considered to be a "supervisor" in the area of higher education. These rulings occurred in the cases at Long Island University (1971), Fordham University (1971), and New York University (1973).

In all three cases, the central issue was the power of department chairmen to make recommendations concerning hiring, firing, and promotion. At LIU, the department chairmen alone submitted recommendations, and the Board held that they were supervisors since their recommendations were "effective." Some months later at Fordham, however, the Board dealt with department chairmen whose recommendations regarding hiring, etc. were submitted along with those of other faculty in their departments. Here the Board concluded that the department chairmen were not supervisors, even though their recommendations were more effective than those of other faculty, on the grounds that the greater effectiveness of their recommendations was a result of their greater experience and expertise as individuals, rather than of their position. At NYU, the Board held that department chairmen did not have supervisory authority even though their recommendations were the only ones submitted and were effective, because they submitted their recommendations only after consulting with and obtaining the consent of other faculty.

The remaining issue involved in these cases was the department chairman's role in directly supervising and assigning work to other employees. Considering the Board's rulings on both recommendations and direct supervision, it appears that in higher education, the Board defines supervisors as individuals who do one of the following: (a) directly supervise or assign work to members of the bargaining unit; (b) spend 50 percent of their time supervising the work of employees who are not included in the bargaining unit; (c) act alone in submitting recommendations with respect to hiring, tenure, or dismissal of bargaining unit employees without the advice and consent of other faculty members, provided those recommendations are "effective."

Deans, Assistant Deans, and Managerial and Confidential Employees—In its official guide to the National Labor Relations Act, the Board states that as a matter of policy, it excludes from bargaining units "employees in executive positions and employees who act in a confidential capacity to an employer's labor relations officials," even though they are not expressly excluded by the language of the Act itself. The Board holds that administrators who have independent decision-making authority with respect to the selection of department chairmen or the allocation of budgets must be designated as managerial and confidential employees. The Board applied this definition to exclude from the bargaining units deans at the University of Miami (1974) who were responsible for the distribution of budgets and faculty salaries, and who had the authority to reject the nominees of the faculty for positions of department chairmen. Under this same definition, however, the Board included associate and assistant deans in faculty bargaining units at Miami and Catholic University Law School (1973) since they were not permitted to use independent judgment when they acted as substitutes for the deans.

Part-Time Faculty, Graduate Assistants, and Nonteaching Professionals—The NLRA, apart from excluding supervisors from coverage, and placing conditions on the inclusion of nonprofessionals in bargaining units with professional

TABLE 2.—NUMBER OF STATE BOARD DECISIONS ON INCLUSION OF TYPES OF PERSONNEL IN FACULTY BARGAINING UNITS IN HIGHER EDUCATION

Type of personnel	Hawaii		Michigan		New Jersey		New York		Rhode Island		Wisconsin	
	Included	Excluded	Included	Excluded	Included	Excluded	Included	Excluded	Included	Excluded	Included	Excluded
1	2	3	4	5	6	7	8	9	10	11	12	13
Part-time faculty	...	...	4	1	0	1	0	1	...	...	1	0
Librarians	...	...	1	0	...	...	...	...	...	...	...	...
Counselors	...	...	2	0	1	0	...	...	...	...	...	...
Other professionals	...	...	...	...	1	0	1	0	...	...	...	...
Admissions counselors	...	...	2	0	...	...	...	...	...	...	...	...
Laboratory technicians	...	...	1	0	...	...	1	0	...	...	...	...
Coaches	...	...	1	0	...	...	...	...	...	...	...	...
Media specialists	...	...	1	0	...	...	...	...	...	...	...	...
Department chairmen	1	0	1	4	0	4	1	0	1	0	...	...
Directors/coordinators	...	...	2	1	1	0	...	...	...	...	...	...
Assistant deans	0	1	...	...	...	...	1	0	...	...	...	...
Deans	0	1	...	...	...	...	...	...	...	...	...	...
Graduate assistants	0	1	...	...	...	...	...	...	...	...	...	...
Other administrators	...	...	1	0	1	1	1	0	...	...	...	...

employees, does not provide further guidelines in determining who may be included in a faculty bargaining unit in higher education. In the absence of any history of collective bargaining in higher education, the Board has followed its traditional policy of including only those employees who have a "community of interest," which the Board interprets as the same or substantially similar interests concerning wages, hours, and working conditions. In making unit determinations for 19 faculty bargaining units, the Board has defined "community of interest" in higher education as including a common salary schedule, line of supervision or "reporting," job security, eligibility for promotion and tenure, and regular and permanent status as employees.

The Board has held that its definition of community of interest requires the exclusion of both graduate assistants and part-time faculty from faculty bargaining units. In 1971 at Adelphi University and in 1973 at the College of Pharmaceutical Science at Columbia, the Board held that graduate assistants who were engaged in teaching and research had to be excluded from faculty bargaining units since their connection with their jobs depended on their status as students, and this, in turn, had resulted in differences in terms and conditions of employment between them and other employees.

Before July 1973, the Board held that it would include in faculty bargaining units regular part-time faculty, that is, those who worked at least one quarter of the normal full load, since their chief functions and qualifications were similar. In July 1973 however, in New York University, the Board reversed its position and held that part-time faculty had to be excluded since they did not share similar salaries or benefits, did not participate in university governance, and were not eligible for tenure. The New York University ruling has governed all subsequent Board rulings on part-time faculty.

While the Board has applied the community of interest guideline mainly to part-time faculty and graduate assistants, this guideline has also been applied to nonteaching professionals and administrators where the professional character of their work was questionable. In 1974, in two separate cases at Park Point College and the University of Maimi, the Board apparently concluded that coaching was not clearly professional work, and excluded coaches from faculty bargaining units on the grounds that their line of reporting was not similar to that of the faculty, and they lacked various other considerations of community of interest such as eligibility for tenure and a connected salary schedule. In addition, the case at the University of Miami also involved research associates, whose status as professionals was considered questionable since they lacked independence of judgment and discretion in their work. The Board permitted them to vote, however, subject to challenge, since they taught classes and their line of reporting was the same as that of faculty.

At Florida Southern College and Tusculum College in 1972, the Board dealt with deans of students and other administrators who were not guidance counselors but acted as student advisors, held advanced degrees and faculty rank, and participated on faculty committees. The Board ruled that in spite of their degrees, they were not professionals, since their work did not require them to utilize advanced academic training. The Board then concluded, in each case, that in spite of their faculty rank, the administrators lacked community of interest with the faculty since their line of reporting was not the same.

State Boards Determinations

The following is an examination of unit determination by state boards in Hawaii, Michigan, New Jersey, New York, Rhode Island, and Wisconsin. While other state boards have made unit determinations for faculty bargaining units, particularly in Pennsylvania, their decisions are not available except in scattered instances.

While all of the boards in these states have jurisdiction over public colleges and junior colleges, only those in Michigan, New Jersey, and Rhode Island exercise jurisdiction in the private sector outside NLRB jurisdiction. There is no evidence, however, that any board in these states has made a unit determination involving private 4-year colleges.

The direct impact of state board decisions on the composition of faculty bargaining units has been far greater at public 4-year colleges than at public junior colleges. A comparison of available contracts from these states with the published records of these state boards indicates that while these boards have made unit determinations in 13 out of 80 existing faculty bargaining units at public junior colleges, these same boards have made unit determinations in 8 out of 15 existing faculty bargaining units at public 4-year colleges. Therefore, while the composition of faculty bargaining units at most public junior colleges in these states has been established through voluntary agreement, state boards have made unit determinations at most public 4-year colleges.

The impact of state boards on public 4-year colleges appears to result from the tendency of these colleges to bargain on a system-wide basis. The data from the National Center for the Study of Collective Bargaining in Higher Education indicate that public 4-year colleges are bargaining on a system-wide basis in 7 out of 9 states for which contracts are available, and that system-wide contracts account for more than 25 percent of all contracts from public 4-year colleges. In comparison, the same data indicate that public junior colleges are bargaining on a system-wide basis in 6 out of 16 states, and that system-wide contracts account for less than 1 percent of all contracts from public junior colleges.

It is clear that when a state board determines the composition of a system-wide unit, the direct impact of its decision is greater than if it had ruled only on a few institutions within a system. It is also possible, however, that the creation of system-wide units at public 4-year colleges has increased the likelihood of board intervention by making it more difficult for the parties to arrive at a voluntary agreement on the scope of the bargaining unit.

Table 2 shows the ratio of inclusion to exclusion in state board decisions for defined groups. For example, Michigan's board made five decisions on part-time faculty and included them in four cases.

The following table shows the number of boards that include and the number that exclude groups of personnel. A board is considered as including a group unless the majority of its decisions excluded that group.

	Include	Exclude
Nonteaching professionals	3	0
Other administrators	2	0
Directors/coordinators	2	0
Department chairmen	3	2
Part-time faculty	2	2
Assistant deans	1	1
Graduate assistants	0	1
Deans	0	1

Community of Interest, Part-Time Faculty, and Graduate Assistants—The NLRB's practice of defining community of interest in higher education in relation to terms and conditions of employment has been followed by state boards in New York, New Jersey, Hawaii, and Wisconsin. These state boards, like the NLRB, have applied the community of interest test to exclude graduate assistants, and to exclude or restrict the inclusion of part-time faculty. New York's PERB, excluded all part-time faculty from the faculty bargaining unit at the City University of New York on grounds of differences in fringe benefits, tenure, and methods of determining salary. New Jersey's PERC, in 1969, excluded all part-time faculty from the faculty bargaining unit at the state colleges on the grounds that teaching employment was not their principal source of income since they had only a temporary interest in the colleges. Wisconsin, in 1963, excluded part-time faculty who worked less then half time from the faculty bargaining unit of the Milwaukee Board of Vocational and Technical Education on the grounds that the employer had provided different conditions of employment, wages, and benefits. Hawaii's HERB excluded graduate assistants from the faculty bargaining unit at the University of Hawaii on the grounds that their salary schedule and the nature of their appointments and work differed from that of the rest of the faculty.

In Michigan, however, MERC has defined community of interest in a manner that excludes consideration of terms and conditions of employment. MERC stated its position most explicitly in the case of Wayne State University (1972) wherein it included nonteaching professionals described as "academic staff" in a faculty bargaining unit. After noting that "the teaching faculty have historically been treated differently from other University personnel with regard to wages, hours, and working conditions," the Commission concluded that "notwithstanding the noted differences between the two groups, they share a single community of interest", since they are "functionally integrated by virtue of their synergistic efforts *aimed at the education* of university students."

Acting on the basis that in higher education all those whose efforts are directed at the education of students have a community of interest, MERC has consistently included regular part-time faculty and excluded only those who were hired on a semester basis on the grounds that their inclusion would create instability in the bargaining unit. In addition, MERC in the case of the University of Michigan (1972) stated that graduate assistants or other student employees would be included in faculty bargaining units if they performed bargaining unit work; however, MERC has not yet dealt with a request to include them.

Nonteaching Professionals—Whereas the NLRB's treatment of part-time faculty and graduate assistants has generally been followed by state boards, no state board has followed NLRB practice in dealing with nonteaching professionals. The NLRB has tended to exclude such nonteaching professionals as academic or admissions counselors, laboratory technicians, and coaches on the grounds that they were not engaged in professional work. State boards did not apply this concept and, therefore, did not exclude any of them on the basis of their duties unless those duties made them subject to exclusion as supervisors or managerial and confidential employees.

In general, state boards in Michigan, New York, and New Jersey have included nonteaching professionals in faculty bargaining units where they passed the community of interest test. New York's PERB included all nonteaching professionals and administrators who were not managerial employees in faculty bargaining units at the City University of New York (1968), the State University of New York, Jefferson Community College, and Adirondack Community College since the employers had not provided different terms and conditions of employment for nonteaching professionals and administrators as opposed to faculty. New Jersey's PERC included all nonteaching professionals and administrators in the faculty bargaining unit at the state colleges but excluded some administrative employees from the bargaining unit at Middlesex Community College. In Michigan, MERC has consistently included nonteaching professionals and all administrators who were not supervisors or managerial employees in faculty bargaining units.

Department Chairmen—In dealing with cases where parties have argued that department chairmen or administrators should be excluded as supervisors, several state boards have not operated like the NLRB. The NLRB operates under the National Labor Relations Act which excludes supervisors from its coverage. State statutes in Hawaii, New York, and Rhode Island, however, do not exclude supervisors from all bargaining units of rank and file employees. The Hawaii Board ruled that since the legislature had avoided segregating supervisory and nonsupervisory employees in the bargaining unit of the University of Hawaii, department chairmen could be included in that unit although they had supervisory authority. The New York PERB included department chairmen in the faculty bargaining unit at the State University of New York in 1971 on the grounds that the Taylor Law did not exclude supervisors from rank and file bargaining units of public employees, and in fact there was no necessary conflict between supervisors and professionals since the actual degree of supervision of professionals was minimal. In Rhode Island, the board included department chairmen in the faculty unit at the University of Rhode Island on the grounds that they did not exercise "management control duties" and their functions were "not dissimilar" from those of other teachers.

Within the context of the National Labor Relations Act, the NLRB has held that department chairmen are supervisors if they possess the power to effectively recommend the hiring, firing, or promotion of employees. State boards in Michigan and New Jersey operate under statutes which prohibit the inclusion of supervisors in bargaining units of rank and file employees, and apply the doctrine of effective recommendation to define who is a supervisor.

Whereas the NLRB has included department chairmen in the majority of cases, state boards in Michigan and New Jersey have typically excluded them. The NLRB, in applying the concept of effective recommendation in a wide range of circumstances, concluded that although the recommendations of a department chairman or administrator may be effective, the individual involved is not, therefore, a supervisor unless his or her recommendations are the only ones submitted, or are submitted without the advice and consent of other department faculty. In New Jersey, PERC has never dealt with a case where the chairmen have acted only with the advice and consent of other faculty, or where other faculty have submitted recommendations. Therefore, in applying the concept of effective recommendation, PERC has consistently excluded department chairmen from faculty bargaining units on the grounds that their recommendations were followed in the majority of cases and were, therefore, effective.

In Michigan, however, MERC has departed from the NLRB in refusing to distinguish between chairmen who act alone and chairmen whose recommendations are submitted along with those of other faculty. MERC has held that department chairmen have to be excluded from rank and file bargaining units if their recommendations are usually followed. Therefore, MERC excluded department chairmen from the bargaining unit at Eastern Michigan University (1972), even though other faculty also submitted recommendations on the grounds that the chairmen's recommendations were more likely to be followed where there was a conflict.

As was previously stated, the National Labor Relations Board included department chairmen at Fordham under similar circumstances on the grounds that the greater effectiveness of their recommendations was a result of "experience and expertise" rather than supervisory authority. On the other hand, MERC included department chairmen in the faculty bargaining unit at Southwestern Michigan College (1969), even though their recommendations were the only ones submitted, on the grounds that they were not usually followed. The NLRB, is contrast, has never included department chairmen in a faculty bargaining unit where their recommendations were the only ones submitted.

Managerial and Confidential Employees—State boards in Hawaii and New York have dealt with cases involving deans and assistant deans which raised the issue of managerial and confidential employees. In both states, relevant statutes follow the policy of the NLRB in mandating the exclusion of managerial and confidential employees from bargaining units. In line with NLRB rulings, Hawaii's HERB held that deans had to be excluded from the faculty bargaining unit at the University of Hawaii as managerial employees since they made policy decisions on matters involving curriculum, personnel, budget allocation, and student services.

Whereas the NLRB has held that associate and assistant deans must be excluded only insofar as they are permitted to use independent judgment when they act as substitutes for deans, the state boards have taken different approaches. HERB excludes associate and assistant deans as confidential employees since otherwise they could not be allowed to function as advisers to the deans for purposes of collective bargaining. In New York, however, PERB included associate and assistant deans in the faculty bargaining unit at the State University of New York in 1971 on the grounds that all parties had not agreed to their exclusion and it was impossible to issue guidelines on who was or was not managerial where the faculty themselves participated in governance.

Some groups are generally included or excluded from full-time faculty bargaining units, irrespective of institutional characteristics or how the bargaining unit was established. While librarians and guidance counselors are typically included in faculty bargaining units, directors, graduate assistants, teaching assistants, and nonacademic employees are generally excluded.

When contracts alone are considered, the inclusion or exclusion of other groups varies with the type of institution. Unlike either private or public 4-year colleges, junior colleges tend to include coordinators in faculty bargaining units. Private 4-year colleges tend to exclude other professionals and specialists who are usually included in the public sector. In addition, unlike institutions in the public sector, private colleges tend to include part-time faculty.

Within both the private and the public sectors, however, the extent to which some groups are included or excluded depends on whether the unit is arrived at by voluntary agreement or is the outcome of a board order. NLRB decisions have usually resulted in the inclusion of department chairmen and other administrators, and since 1973, the exclusion of part-time faculty. State board decisions have usually resulted in the inclusion of directors and other administrators who are excluded by the majority of contracts from faculty bargaining units in both junior and 4-year public colleges. In addition, state boards have often included part-time faculty and department chairmen who are excluded from faculty bargaining units at public junior colleges.

Faculty bargaining units in the public sector tend to be somewhat broader than those in the private sector. This is particularly true of the public 4-year colleges where most bargaining units have been established by state boards, a seeming result of multi-unit or system-wide bargaining in public 4-year colleges. With the single exception of Nebraska, state college systems which are covered by a system-wide contract establish one faculty bargaining unit covering all campuses. Of all system-wide bargaining units established only New Jersey excludes part-time faculty; however, none excludes department chairmen. In addition, four of five state-wide systems include specialists or other professionals, and other administrators. The 4-year public colleges in state-wide bargaining units, all of which have been determined by state boards, are generally the broadest in scope. On the other hand, those established by the NLRB under its present rulings tend to be the narrowest in scope insofar as the number of employees working as part-time faculty or other professionals is typically larger than the number working as department chairmen or other administrators.

BRIEFS OF AGREEMENTS

SCHOOL DISTRICT No. 11
THE COLORADO SPRINGS
TEACHERS ASSOCIATION
COLORADO SPRINGS, COLORADO

Between the Board of Education of School District No. 11 and the Colorado Springs Teachers Association, effective January 1, 1975, to December 31, 1976. Approximately 1,651 certified professional employees, including all personnel assigned to newly created teaching or teaching-related positions, unless such positions are supervisory or administrative.

NEGOTIATIONS SCHEDULE: REOPENER

The parties hereto shall re-open negotiations on or before the 15th of August of each year during the term of this Agreement on the following subjects:

Salaries, fringe benefits, stipends and other matters concerned with remuneration or reimbursements to teachers.

Specific provisions may be negotiated if such are identified by an arbitrator as being ambiguous or inconsistent with the intent of the parties.

On or before August 15, 1976, the parties shall begin negotiations of a successor Agreement which shall become effective on January 1, 1977.

COMPENSATION: (January 1, 1975, "A" Base Step Column) B.A., $8,500 to $12,100, 9 increments; B.A. plus 16 hours, $12,900 maximum; M.A., $9,700 to $15,300, 14 increments; M.A. plus 16 hours, $16,100 maximum; M.A. plus 32 hours, $16,900 maximum; M.A. plus 48 hours, $17,700 maximum; Ph.D., $18,500 maximum.

RECOGNITION OF PREVIOUS EXPERIENCE

Previous teaching experience for new teachers will be granted at the following rate beyond the minimum at each level of preparation. One full increment granted per year of experience up to and including three (3) full years of acceptable teaching experience. Three (3) additional years of experience will be recognized at the rate of one-half increment for each full year of acceptable teaching experience. A total of six (6) years previous acceptable teaching experience is recognized.

One-half increment for each year of military service not to exceed four (4) years will be granted to those teachers with active military service.

The total experience credit (teaching experience and military service) shall not exceed six (6) years.

Vocational trades and industry teachers will be placed on the salary schedule according to the following criteria:

Vocational Credentials	AB
Vocational Credentials + 32 semester hours	AB + 16
Vocational Credentials + 48 semester hours	AB + 32
Vocational Credentials + AB	Masters
Vocational Credentials + AB + 16	MA + 16
Vocational Credentials + MA	MA + 32
Vocational Credentials + MA + 24	MA + 48
Vocational Credentials + MA + 48	PhD
Vocational Credentials + PhD	PhD

EARLY RETIREMENT OPTION

The following early retirement option shall be available to teachers who qualify.

A certificated teacher who retires from full time active service at age sixty (60) or earlier, has twenty (20) years service credit in School District No. 11, and is immediately eligible for retirement benefits pursuant to the Colorado Public Employees Retirement Association Rules and Regulations shall receive from the District a five thousand dollar ($5,000) lump sum payment payable on the first working day of the fifth month following the date of retirement. If retirement from full time active service is taken at age sixty-one (61), a three thousand dollar ($3,000) lump sum payment will be provided; retirement from full time active service at age sixty-two (62), a two thousand dollar ($2,000) lump sum payment is granted, and a one thousand dollar ($1,000) lump sum payment if retirement full time active service is taken at age sixty-three (63).

Twenty (20) years of service in School District No. 11, retirement from full time active service, and immediate eligibility for retirement benefits pursuant to the Colorado Public Employees Retirement Association Rules and Regulations shall be required at each age level to qualify for the cash payment.

No payment is granted to those who retire at age sixty-four (64) or sixty-five (65).

DIFFERENTIALS: Head coaches, football, basketball, 10.5%; head coach, track, baseball, wrestling, girls' track, 7.8%; basketball assistant, football 1st assistant, 7.3%; football (A) assistant, swimming, boys' and girls' gymnastics, 6.9%; football head (B) coach, 6.4%; football (B) assistant, (C) coach, hockey, wrestling assistant, 6.0%; track and baseball assistants, girls' swimming, 5.0%; boys' and girls' tennis, cross country, girls' volleyball, golf, 4.1%; boys' and girls' intramurals, $700; boys' weight supervision, $300; equipment, $200. Junior high athletics: boys' and girls' intramurals, 8.0% (no annual increment); boys' basketball 8th, 9th, head coaches, girls' and boys' track, wrestling head coach, 4.5%; girls' softball, volleyball, 3.2%; boys' and girls' gymnastics, 2.5%; senior high sponsors of clubs and activities will be paid from $75 to $600.

SENIOR HIGH ATHLETICS

Teachers shall be compensated for their coaching duties and responsibilities for most sports through the use of an Index of the AB Base of the Teachers' Salary Schedule. When an Index is used, Experience Increments shall be granted in each Sport until the maximum base is reached in the AB category of the Teachers' Salary Schedule. The teacher with no experience in the particular sport would be indexed to Step One of the Teachers' Salary Schedule.

Experience Credit shall be recognized as follows:

Coaching experience in School District No. 11 only will be recognized.

Experience in one sport will not apply as experience in another sport.

When a District No. 11 Junior High coach is made a Senior High coach, his experience at the Junior High level in that particular sport will count as follows: each year of experience in that sport will be counted at 1/2 year for the purposes of placement on the Senior High Coaches salary schedule.

In the event that a Junior High coach becomes a Senior High coach, his experience at the Junior High level in that particular sport would apply at a ratio of two to one.

OTHER: Adult education teachers, summer school teachers, and teachers of homebound children will be paid $6 per hour; emergency substitutes, $6 per hour; curriculum development assignments outside school hours, $5 per hour; approved curriculum or instructional work outside school hours, $3 per hour.

LEAVES: Up to 11 days of sick leave will be credited annually to each teacher; upon exhaustion of sick leave a teacher may receive his salary minus the normal daily remuneration of a substitute for up to 30 days; thereafter the teacher may be granted leave without pay for up to 1 year; 2 days of sick leave may be used for legal, business, or family matters which cannot be taken care of outside working hours; sick leave may also be used for death or family illness; if accumulated sick leave is exhausted, teachers may be paid their salary minus substitute charges for up to 10 days; teachers may use unused and accumulated sick leave by reason of pregnancy for that period of time that the teacher is disabled; for the purposes of sick leave, a teacher's disability shall be deemed to terminate thirty (30) days after termination of pregnancy unless she provides a doctor's statement verifying that she is unable to return to work; teachers are entitled to 1 day of leave without loss of pay for professional visitations or attending meetings or educational conferences; a maximum of 10 days per school year will be granted to those participating in short-term military duty; however, all pay received must be turned over to the district; leave will be granted for jury duty; payment received must be turned over to the district; up to 5 days of noncummulative emergency leave may be granted at the discretion of the superintendent; 1 year of leave without pay may be used for exchange teaching; sabbatical leave may be granted after 6 years of service in the district for college or university study or for other reasons of educational value to the school system.

SABBATICAL LEAVE

A teacher on sabbatical leave (either for one-half (1/2) of a school year or for a full school year) will be paid at sixty per cent (60%) of the salary rate he would have received if actively teaching in the District. A teacher will receive credit toward salary increment while on sabbatical leave and receive insurance and retirement benefits while on sabbatical leave as if an employee of the District.

It is expected that the teacher who uses this provision will return to the professional service in the District for at least two (2) years immediately following completion of sabbatical leave unless an extended leave is granted by the Board. In that event, the teacher would return immediately following completion of the leave. A teacher returning from sabbatical leave shall be returned to classroom duties in accordance with the provision of Paragraph 3.2 above.

Leaves of absence without pay may be granted for exchange teaching, to serve in Peace Corps, VISTA, or National Teacher Corps, to serve in public office, or to care for a sick member of the immediate family or household.

INSURANCE: Board pays 2/3 of the health insurance premium for single or family coverage; board pays part of the premiums for life and long-term disability insurance; personal injury insurance coverage will be provided to the extent available from commercial carriers without cost for all staff members; it will provide for personal injury liability with coverage for all hazards, including false arrest, detention and imprisonment, malicious prosecution, libel, slander, defamation of character, invasion of privacy, wrongful eviction, or wrongful entry, and allied perils, limits of liability will be $1 million per employee; the board will reimburse teachers for damages up to a maximum of $100 per incident for items not covered by insurance.

ASSOCIATION: Payroll deduction of local association dues;

RELEASE TIME FOR LOCAL PRESIDENT

The Association President may choose: (1) Release time of one-half day. The Association and the Board will share equally the cost of a one-half time contracted teacher on regular salary, or; (2) leave of absence up to two years. The Board agrees to pay an amount equal to twenty-five percent of his salary with the Association paying the balance. The President shall receive credit toward salary increases while on leave and shall receive normal insurance and retirement benefits as if a full-time employee of the District. The Association reimbursement for seventy-five percent of the President's salary shall be made to the District in two equal payments to be made on January 31 and June 1.

Released time without loss of pay for Association representatives to attend grievance meetings or hearings called by the superintendent during the school day;

RELEASE TIME—LOCAL BUSINESS

Teachers may have release time when the Association requests such time in advance. An attempt will be made to minimize such requests. Release time may be granted for:

Association work not of a direct educational nature and substitute charges will be paid by the Association.

Work of mutual benefit to the Association and the District and one-half substitute charges will be paid by the Association.

Work in pursuit of District goals without charge to the Association, as established by past practices.

Upon request of the Association, leave of absence without pay shall be granted to the teachers for up to one school year for the purpose of engaging in Association activities. Upon return from such leave, each teacher will be granted one year's credit for the purpose of achieving a salary level as if he had remained actively employed in the District.

The Association may use such school facilities as bulletin boards in faculty lounges or other locations, school communications systems, and mailboxes without cost; politically oriented materials which endorse or oppose a political candidate for public office may not be placed on bulletin boards or in mailboxes; the superintendent will make available upon request all available information concerning the financial resources, budgets, salary listings, and salary schedules, periodic personnel reports, lists of expenditures, teacher assignment lists, and all personnel information not confidential; the board will provide the Association with an advance copy of the agenda and the minutes for official board meetings; the board will notify the Association of any special meetings and provide the agenda for the meetings.

INSTRUCTION: The normal workday is not to exceed 7 hours, excluding the lunch period; duty-free lunch period of at least 30 minutes daily; the workday for junior and senior high-school teachers will include assignments of 55 minutes each and one planning and conference period of 55 minutes; elementary teachers will have a preparation and planning period of 30 minutes daily; the total number of workdays required are 184 for 1st year teachers and 182 days for others; the Joint Council will recommend the school calendar each year; teachers may be assigned non-teaching duties which will not exceed 300 minutes per 20 consecutive school days; the curriculum will be developed by professional staff with input from the community and practicing teachers; teachers are required to be present at one parent conference during the semester; teachers may be requested to check in or out of school.

PROCEDURE FOR PROCESSING COMPLAINTS ABOUT EDUCATIONAL MATERIAL

When a complaint has been raised that the parties agree justifies an independent investigation, they shall select three mutually acceptable community leaders to investigate the issues involved. This committee shall report their findings and recommendations to the Association and the Board of Education.

PERSONNEL: Grievance procedure ends with a decision by a review panel;

GRIEVANCE PANEL

The Panel shall be composed of three members. The members shall be selected in the following manner within three days, excluding weekends, following rejection of the Level III report.

One member shall be chosen by the Board within three days.

One member shall be chosen by the Association within three days.

The third member shall be chosen by the other two members within six days. In the event the members appointed by the parties fail to agree upon a third member, the third member shall be appointed by the American Arbitration Association.

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An Association representative has the right to be present at a grievance meeting if requested by the aggrieved; the teacher has the right to review his file and make a written response to any material placed in his file; personnel meetings will be scheduled on the 1st and 3rd Friday of each month, March through May; a Joint Council composed of 5 association appointed members and 5 board appointed members will meet at least twice monthly with the superintendent and/or deputy superintendent concerning issues pertinent to maintaining quality education and high teacher morale; nonrenewed probationary teachers must be given written reasons for nonrenewal; after the 2nd or 3rd year of employment teachers to be dismissed or nonrenewed may demand a review of such action through the grievance procedure.

LAYOFF PROCEDURE

Teachers issued a contract for fewer than 160 teaching days.

Teachers who are employed part time as defined by the Colorado Teachers Employment, Dismissal, and Tenure Act of 1967, 123-18-2 (6).

Teachers who are employed for the full school year for programs supported with out-of-district funds for which the funding may be terminated.

Teacher employed for the full school year to replace a teacher who will be on an approved leave of absence.

However, in the event of termination of funds in item 2.4.c, or for teachers employed in item 2.4.d, those teachers shall be given priority over new applicants for openings for which they qualify in the same subject area and at the same level of the previous year's employment (primary, intermediate, junior high, or senior high) prior to the beginning of the next school year.

Currently employed teachers will be given priority when considering candidates to fill vacancies or staff new schools; upon request teachers denied transfers will be given the reasons for denial in writing by the Office of Personnel Services; teachers involuntarily transferred will be notified no later than April 1 and given the reasons therefor in writing except where the transfers are necessitated because of changes in enrollment or out of the need to staff new schools.

INVOLUNTARY TRANSFERS

When a principal, division director or the Superintendent requests the transfer of a teacher effective the following school year, that teacher shall be notified as soon as possible.

INVOLUNTARY TRANSFERS

When a principal, division director or the Superintendent requests the transfer of a teacher effective the following school year, that teacher shall be notified as soon as possible, but not later than April 1 in writing, giving the reasons therefor (excepting when involuntary transfers are necessitated because of changes in enrollment or the need to staff new schools).

The Building and District administrators shall involve the teacher in considerations of involuntary transfers concerning the teacher.

When a transfer of a teacher is necessary because of enrollment conditions, a volunteer qualified for the new assignment will be

offered transfer. If there is no volunteer, a qualified teacher who began employment within the last twelve months will be transferred. (Normally, this will be the teacher with the latest date of employment.) If there is no such "new teacher" in that school, the most recently employed qualified teacher will be transferred. The program of the school from which a teacher is to be transferred must be considered and the staff reassignments minimized when determining the teacher to be transferred.

Notification of intent to transfer a teacher as requested by the administration shall be made by the principal of the school in which the teacher is currently assigned. Upon request of the teacher, a meeting shall be arranged between the teacher involved and the Assistant Superintendent, Personnel Services, or his designee, at which time the transfer will be discussed and the reasons given for the transfer. The teacher may request that a representative of the Association be present at such meeting. Approval of all transfers must be given by the Assistant Superintendent, Personnel Services, or his designee.

A teacher being involuntarily transferred from a school shall be given the opportunity to visit schools in which open positions exist.

Teachers shall be involuntarily transferred or reassigned only for valid and sufficient reasons.

Teachers applying for a change of status position will submit a written request to the Office of Personnel Services.

PROMOTIONS

A "Change of Status" position shall be defined as any position for which a teacher's certificate is required and for which there is a salary schedule other than the Teacher's Salary Schedule. Change of Status positions do not include positions paying adjusted compensations nor full time counseling positions.

All such vacancies will be adequately publicized by the Office of Personnel Services and posted in all buildings. The qualifications for the position, its duties, and the salary schedule will be clearly set forth.

It shall be the duty of the Office of Personnel Services to review the applications of candidates to be interviewed, to attach or add documents or comments that are thought to be appropriate and forward them to the interviewing committee members.

One representative of the Association shall serve on each interviewing committee. After the selection, the teacher will be notified by the Office of Personnel Services regarding the disposition of his Change of Status Report.

Any teacher who has been denied a Change of Status shall, upon written request, be furnished written reasons for such denial by the Assistant Superintendent, Personnel Services.

Department chairmen will be selected and retained as recommended by the Joint Council and ratified by the parties; student discipline will be initiated by submitting a memo to the principal.

STUDENT DISCIPLINE

A brief overview of the student's attitude and behavior and reasons for such attitude and behavior as are known to the teacher.

A specific recommendation for discipline.

An assessment of what the teacher feels the recommended discipline will accomplish.

In the event the principal rejects the teacher's recommendation regarding discipline, upon request the principal shall set forth in writing his or her specific reasons for rejection and a copy shall be given to the teacher.

The Board recognizes its responsibility to give all reasonable support and assistance so that teachers can maintain control and discipline while engaged in their duties and responsibilities as teachers.

* * *

AUSTIN EDUCATION ASSOCIATION
AUSTIN, MINNESOTA

Between Independent School District 492 and Austin Education Association, effective July 1974 to May 30, 1975. Approximately 423 certificated professional employees, including all professional employees who are required to be certified by the State Board of Education and who are employed more than 14 hours per week and more than 100 work days per year, and excluding supervisory employees, confidential employees, superintendents, assistant superintendents, principals, and assistant principals who devote more than 50 percent of their time to administrative or supervisory duties.

COMPENSATION: B.A., $8,273 to $13,773, 12 increments; B.A. plus 15 hours, $14,223 maximum; B.A. plus 30 hours, $14,803 maximum; B.A. plus 45 hours, $15,243 maximum; M.A., $9,023 to $16,133, 12 increments; M.A. plus 30 hours, $16,743 maximum; 6th year, $17,223 maximum.

Experience or education credit for placement on salary schedule will be evaluated by the superintendent or his designee who will make recommendations to the board of education; employees with experience in other schools will be given credit on the salary schedule for each year of such experience to a maximum of 6 years for teaching experience, and 2 years for Peace Corps, VISTA, or National Teacher Corps; military experience will be counted as teaching experience with a maximum of 5 years allowed; vocational, trade, and industry teachers with 4 years of journeyman trade experience will be placed on the B.A. lane of the salary schedule and classified as 4 Trade rather than B.A.

SALARY ADVANCEMENT PROCEDURE

- The employer shall continue to provide the non-degree vocational employee the opportunity of advancing to the BA + 45 or 4 Trade + 45 lane by acquiring 45 quarter credits in his instructional area and/or related subjects when prior approval is obtained from the Superintendent or his designee and is in the personnel file.

- The employer shall provide the non-degree vocational employee the opportunity of advancing to the Master's lane by meeting the requirements for advancement to the BA + 45 or 4 Trade + 45 lane by acquiring an additional 24 quarter graduate credits in his instructional area and/or related subjects as approved by the Superintendent or his designee. (The additional 24 graduate credits need not be earned while enrolled upon a graduate program but must be at the graduate level.)

- After June 1, 1969 advancement to the BA + 45 or 4 Trade + 45 lane may include credits for state approved and/or director approved seminars in their instructional area for those employees teaching in the Austin Vocational-Technical Institute. Prior approval must be given and in the personnel file. One quarter of credit will be granted for each thirty clock hours of seminars. A maximum of five quarter hours granted through seminars may be used at the BA + 15 or 4 Trade + 15 lane, ten quarter hours at the BA + 30 or 4 Trade + 30 lane, and fifteen quarter hours at the BA + 45 or 4 Trade + 45 lane. The clock hours may be accumulative in order to reach thirty clock hours or a multiple of thirty clock hours. (It is not the intention of this paragraph to give credit for professional meetings attended by employees of the Austin Area Vocational-Technical Institute but rather those bona fide seminars which are conducted by various state department and outside agencies which, by their very nature, are unable to grant college degree credits.) Final determination as to applicability of the seminars for credit shall be made by the Superintendent or his designee.

- An employee possessing both a Bachelor's degree and a vocational certificate in the Trades and Industry Department of the Austin Area Vocational-Technical Institute shall be placed in the BA + 15 lane and on the step commensurate with his teaching experience up to the maximum allowable for outside experience on the salary schedule at time of initial employment. Any employee presently teaching in the Trades and Industry Department shall be advanced 15 quarter hours on the salary schedule if he also holds a B.A. degree. An additional 15 quarter hours towards the sixth year lane will be granted for those who have a Master's degree. All other departments of the Austin Area Vocational-Technical Institute where a degree is a part of the prerequisite for obtaining a vocational certificate shall not be so advanced.

DIFFERENTIALS: Boys' athletics coaches: heads A, football, basketball, $1,800; heads A, wrestling, swimming, hockey, gymnastics, $1,500; heads A, track, baseball, $1,390; assistants A, football, basketball, $1,200; assistants A, wrestling, swimming, hockey, gymnastics, $1,006; assistants B, football, basketball, head cross country, $990; assistant track, assistant A baseball, $900; assistant B wrestling, head B baseball, $790; assistant B baseball, $670; girls' athletics coaches: gymnastics, $990; head basketball and volleyball, $770; head track, $715; head tennis, $644; assistant gymnastics, $594; head swimming and Catalina and synchronized swimming, $590; assistant basketball and volleyball, $462; assistant track, $429; assistant swimming, $318; extracurricular activities: debate, high-school drama, $1,300; cheerleaders, $590; publications, $830; extracurricular music, $740; junior high drama, $410; junior high newspaper, $365.

OTHER: Substitute or regular teachers called to substitute will be compensated at $6.00 per hour; 15 cents per mile for use of automobile in the performance of duties.

LEAVES: One day of sick leave will be granted for each 20 teacher contract days or major fraction thereof; newly appointed employees will receive 10 additional days of sick leave the first year which will not accumulate; if accumulated sick leave is exceeded, the deduction from the employee's salary will be the amount paid to the substitute for up to 90 days; up to five days will be granted for serious illness or accident of a member of the immediate family; if the allotted time is exceeded, the deduction from the employee's salary will be the substitute's pay for up to 90 days; personal leave for business that cannot be conducted during school hours or for situations beyond the control of the employee may be granted by the superintendent; up to five days of leave with pay may be granted for the death of a member of the immediate family and 3 days for each grandparent-in-law; leave may also be granted for other members of the family at the discretion of the superintendent; time to attend professional conferences without salary deduction may be granted by the superintendent; while serving on jury duty or as a subpoenaed witness the employee will receive full salary and benefits but pay received for serving on a jury or as a witness must be turned over to the district; sabbatical leave at one-half the employee's current salary; the employee on sabbatical leave will continue membership in the State Teachers' Retirement Fund and in the board-paid medical and income protection insurance programs; an employee may accept grants, scholarships, fellowships, or other stipends if the sum of the salary paid and such grants does not exceed the amount that the employee would receive if teaching in the district; upon returning, the employee will be given credit on the salary schedule for one year of outside teaching experience provided he taught during the leave, or will be allowed to use the credits which meet criteria for advancement on the salary schedule; leaves without pay may be granted for "adequate reasons"; an employee granted such leave may maintain medical insurance by paying in advance the projected cost for coverage and if rates change during the absence, the employee must pay the difference; upon return from leave the employee will be reinstated with the same benefits as he had before the leave; sick leave accumulated prior to leave will be reinstated.

INSURANCE: Board pays 100 percent of health insurance, $7,500 term life insurance, and income protection coverage; tax-sheltered annuity plan available; an employee unable to work because of an absence covered by the Minnesota Workmen's Compensation Law will receive regular pay until accumulated sick leave is exhausted but must return to the employer all money received from Workmen's Compensation for the period covered by sick leave.

SICK LEAVE CREDIT

In the event the employee at a later date becomes ill or injured requiring an absence, and does not have sufficient sick leave accrued to cover such absence, any or all of the sick leave used due to assault shall be reinstated as is necessary.

SICK LEAVE CREDIT FOR RETIREMENT

For any employee submitting a written resignation prior to March 1st of any school year for the purpose of retirement, who will reach the age of 62, 63 or 64 prior to September 1st of that

calendar year, the employer will provide for such employee at no cost, single hospital, medical insurance coverage comparable to that in effect at time of retirement, and will make available at employee's expense the difference between single and family coverage for those desiring family coverage. However, such insurance benefits shall cease when such employee attains the age of 65 years.

ASSOCIATION: Up to 50 days, with deduction of pay for a substitute for elected officers or appointed representatives for the purposes of conducting the duties of the Association; the Association must notify the superintendent or his representative at least 24 hours before the date of intended use of such days except in an emergency; leave of up to 2 years without pay for an elected or appointed official of the Association for the purpose of serving as an official or staff member of the state association; seniority will continue to accrue while teacher is on such leave, but the teacher will not be given credit on the salary schedule and will not advance on the salary schedule.

INSTRUCTION: The normal working day will not exceed 7 hours, 40 minutes, including a minimum duty-free lunch period of 30 minutes.

PERSONNEL: Grievance procedure ends with final and binding arbitration; lay off and recall will be based on seniority within areas or departments; probationary teachers will be laid off first and then tenure teachers in inverse order of their seniority (least seniority first); if tenure teachers have equal seniority within an affected area or department, the teacher having the highest qualifications will be retained; employees with highest seniority will be recalled first; a recall list will be maintained and updated yearly; employees on the recall list for more than three years will be dropped from the list; an employee transferred to an administrative or executive position will continue to accrue benefits as if he belonged to the Association and such benefits will be credited to him upon return to the unit except that seniority will accrue to a maximum of two years; however, the limitation on accural of seniority will not apply to employees who transferred before July 1, 1974.

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NATIONAL EDUCATION ASSOCIATION
RESEARCH

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CASE REVIEWS

DELAWARE

Teachers' Rights Under Individual Contracts Not Nullified by Later Union Agreement

According to the Superior Court, Sussex County, the vested rights of teachers to payments for past performance under individual or oral contracts cannot be bargained away by union representatives via a negotiated master agreement unless they conflict with the terms of a collective bargaining agreement or "frustrate the policy of the National Labor Relations Act." Therefore, the Court ordered the Woodbridge School District to continue paying moving expenses to six teachers under individual oral contracts which the court viewed as existing separate and apart from the master agreement.

When six teachers negotiated individual contracts with the school board in 1969 and 1970, the school board promised to compensate them for their moving expenses in installments for each of three years of service rendered. However, the board refused to continue making payments under these contracts after it negotiated a master agreement with the union representing the teachers. The teachers filed suit in Sussex County Superior Court, requesting the court to order the board to continue the payments.

The board argued that the payments were intended as general supplements to the state's salary schedule, rather than as reimbursement for moving expenses. Therefore, its obligations to the teachers under their individual contracts were terminated and superceded by the salary schedule in the collective bargaining agreement. The board claimed that in the course of negotiations the union representatives had orally bargained away the teachers rights under their individual contracts.

The Court held that the payments under the board's oral contracts were specifically for moving expenses. However, even if they were considered as general supplements, the Board's obligations to the teachers remained valid under the terms of the collective bargaining agreement because the salary schedule covered only payments for future services, and did not supercede the board's obligations to pay for services already performed under individual contracts. The court noted that the teachers' rights under their individual contracts were protected by the maintenance-of-standards clause in the collective bargaining agreement which prohibited the board from eliminating or reducing existing terms and conditions of employment. Irrespective of the maintenance-of-standards clause, the court ruled that prior individual contracts "are not automatically nullified upon execution of a collective bargaining agreement" and "may be continued in force to the extent that they in no way frustrate the policy of the National Labor Relations Act and do not conflict with the collective bargaining agreement itself." Finally, the court ruled that there was no evidence that the union had made an express agreement with the school board to bargain away the teachers' rights, and that if such an agreement existed, it would be void since union negotiators have no authority to bargain away accrued rights from past performance under individual contracts. (*Kolkum et al. v. Board of Education, Woodbridge School District*, Superior Court, Sussex County, Delaware.)

FLORIDA

Grievance Procedure Must Be Completed

Overturning a lower court decision, the Florida District Court of Appeal ruled that a teacher and his union, the Monroe Education Association, were entitled to summary judgment in their suit against the school board to compel it to arbitrate the nonrenewal of the teacher's contract.

The Association contended that the lower court erred in refusing it a partial summary judgment on the grounds that the teacher was not entitled to arbitration as part of the grievance procedure and that the Association did not have standing to represent him. The school board contended that the teacher's nontenure status disqualified his entitlement to arbitration, that the teacher failed to comply with time limits, and the Association lacked standing owing to an absence of evidence that the teacher actually held membership in the Association.

On the question of whether it was an error to deny the teacher a partial summary judgment as to his entitlement to the entire grievance procedure, the district court stated that the board's arguments were without merit since from the adoption of the grievance procedure and from the fact that the teacher was granted the procedural steps, it followed that he was entitled to the fifth step, arbitration. The district court asserted that the school board was bound to comply with its own rules and policies for which *Vitarelli v. Seaton* established the precedent. The court further stated that having invoked the grievance procedure, both parties were obliged to exhaust it as in *Merkle v. Rice Construction Company*.

As regards the question whether the Association had standing, the district court stated that it was undisputed that the Association might assist by providing legal representation. The court further pointed out that *Cannery, Citrus, Drivers, Warehousemen and Allied Employees of Local 444 v. Winter Haven Hospital, Inc.* established authority for the proposition that labor organizations do have standing to seek the enforcement of rights conferred upon employees by reason of their employment relationship.

Finding that the Association did have standing to bring suit on behalf of the teacher, the district court declared that the lower court erred in dismissing the second count. Therefore, it reversed the lower court decision and remanded the case to the trial court with directions to reinstate Count II of the complaint, and to grant partial summary judgment concerning the issue of entitlement to arbitration. (*Phillip Fredericks et al v. The School Board of Monroe County*, Florida District Court of Appeal, February 4, 1975.)

NEW JERSEY

Retirement Bonuses Based on Unused Sick Leave Not Gifts

According to the New Jersey Superior Court, retirement bonuses based upon unused sick leave constitute legitimate compensation paid public employees, and may not be construed as gifts so long as they are included as a condition of employment by statute or contract. Therefore, the court, ruling on behalf of the Maywood Education Association, ordered the Maywood Board of Education to pay retirement bonuses to two teachers under the plan which the board had adopted.

After the state legislature enacted a law providing retirement bonuses for state employees without including teachers, the board of education adopted a plan under which teachers who retired after 20 years would receive their current daily salary for 5 percent of their unused sick leave days as of the September preceding their retirement. However, when two teachers applied to receive this bonus, the board refused to pay it on the grounds that the plan was illegal. The board contended that the failure of the state statute to mention teachers meant that the legislature had not empowered school boards to pay retirement bonuses to teachers and, therefore, these bonuses constituted a "gift" of public money in violation of state law. Association filed suit in New Jersey Superior Court, requesting the court to order the board to pay the two teachers the bonuses due them under the plan.

The court held that since the statute did not prohibit local school boards from adopting retirement bonus plans for teachers, the legislature was permitting school boards to adopt such plans at their discretion. The court concluded that retirement bonuses based on unused sick leave days constituted "a form of compensation withheld or deferred until the completion of continued and faithful service" and that "compensation paid to public employees, whatever the label, is not a gift so long as it is included within the condition of employment either by statutory direction or contract negotiation." (*Maywood Education Association et. al. v. Maywood Board of Education*, New Jersey Superior Court, December 19, 1974.)

NEW YORK

Filing Charges with PERB Does Not Bar Seeking Arbitration

According to the New York State Supreme Court, Appellate Division, a party to a contract who files charges with PERB is not thereby barred from pursuing the same issue at arbitration. Where a contract contains a broadly worded arbitration clause, the Court held, a dispute on any subject under the contract is presumed to be arbitrable unless the contract contains express language to the contrary. Therefore, the court upheld a lower court's refusal to grant the stay of arbitration requested by the Susquehanna Valley Central School District at Conklin in its dispute with the Susquehanna Teachers Association.

Under a memorandum of understanding between the district and the Association, an investigation of teacher salary structure for 1973-74 was to be discussed by a joint committee which was to issue its report and recommendations by March 15, 1973. However, the committee was never created, and the Association filed unfair labor practice charges which were heard before a PERB hearing officer. Three days after the hearing, the Association demanded that the matter be submitted to arbitration under the contract which stipulated that "a grievance is a claim by any teacher or group of teachers in the negotiating based upon any event or condition affecting their professional standing and/or terms and conditions of employment including but not limited to any claimed violations. . .of law, rules or regulations. . .[of] this agreement."

The district then filed a petition with a lower state court, contending that the Association could not request arbitration because it had already filed charges with PERB, and the matter in question was not arbitrable because it was not included in the contract. The district requested the court to issue a stay of arbitration.

The trial court refused to grant the stay and the district appealed. The Court held that a party to a valid agreement providing for arbitration was not barred from seeking arbitration by having previously filed charges with PERB, and noted that the courts would enjoin arbitration only if (a) the contract was made under force or duress, (b) there was no bona fide dispute, (c) the arbitrator was requested to order an action prohibited by statute, and (d) contractually required preliminaries to arbitration were not met. The court ruled that under the language of the grievance provision of the contract, matters relating to salary were subject to arbitration, and that in any event, "where there is a broad arbitration clause in a collective bargaining agreement, there is a presumption that all questions arising thereunder are arbitrable" and "it is only

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where the parties have employed language that clearly rebuts the presumption of arbitrability" that an issue will be held nonarbitrable. (*Susquehanna Valley Central School District at Conklin v. Susquehanna Teachers' Association*, New York Supreme Court, Appellate Division, Third Department, December 5, 1974.)

Arbitrator's Reinstatement Award May Not Be Vacated

The New York State Supreme Court, Appellate Division, Second Department, ruled that state statutes do not prohibit a school board from bargaining on notice of termination or procedures for granting tenure. In addition, the court ruled that the courts cannot vacate an arbitrator's award unless it is shown that the arbitrator either dealt with matters which had not been submitted to him, or gave a "completely irrational construction" of the contract involved in the dispute. Therefore, the court reversed a lower court decision, and ruled in favor of the Harrison Association of Teachers and confirmed an arbitrator's award against the Board of Education, Harrison Central School District.

After the board dismissed a probationary teacher who would otherwise have received tenure, the Association filed a grievance contending that the board had failed to give the teacher proper notice of termination, and that, therefore, under the contract between the board and the Association, the teacher had to be reinstated and granted tenure.

At arbitration, the board contended that the contract did not impose procedural requirements on the board with regard to either notice of termination or the granting of tenure. The board also argued that insofar as the contract was interpreted as imposing such requirements, it was in violation of state statutes which prohibited it from bargaining over either notice of termination or the granting of tenure.

The arbitrator held that the board had improperly terminated the teacher and that she should be reappointed and recompensed for lost earnings.

The board, on appeal, had the award vacated on the grounds that the arbitrator had misinterpreted the contract and the statutes, and had exceeded his powers by enforcing his interpretation of the contract and thereby depriving the board of its statutory authority to grant tenure.

The court held that an arbitrator's award cannot be set aside because of errors in law or fact unless it is shown that the arbitrator "either dealt with matters beyond the scope of what was submitted to him or. . .gave a completely irrational construction to the provisions of a collective bargaining agreement involved in the dispute." In addition, the court held that the board was "not prohibited from bargaining as to notice of termination or tenure by any explicit and definite statutory provision." Finally, the court held that the arbitrator's construction of the contract was not irrational. Therefore, the court confirmed the arbitrator's award on the grounds that the board had not met its burden of proof. (*Board of Education, Harrison Central School District v. Harrison Association of Teachers*, 2nd NY Ap. Ct. October 21, 1974.)

OREGON

Issues Not Subject to Bargaining Under Old Statute Now Negotiable

The Oregon State Court of Appeals ruled that Oregon's revised Public Employee Bargaining Law allowed unions to demand reopening of negotiation on any issue not previously subject to mandatory collective bargaining and, therefore, not covered by an existing agreement unless that agreement expressly barred reopening on specific matters. The Court thus upheld PERB's ruling, on appeal, in a case involving the Redmond Education Association and the Redmond School District.

After the new bargaining statute became effective, the Association requested the district to reopen negotiations. Many of the items listed for negotiations were not covered by the existing contract because it was negotiated under the prior meet and confer statute which provided for a narrower scope of bargaining than the new law. The district refused to negotiate on any items not directly related to cost of living and expressly subject to the reopener clause of the existing contract.

The Association filed charges with PERB, contending that the district had engaged in unlawful refusal to bargain under the new law. PERB held that under the new law, the district was obligated to bargain on issues not negotiable under the old law, because the contract did not specifically prohibit reopening on matters not previously negotiated.

The district appealed to the court, contending that it could not be obligated to bargain on matters other than salary because the reopener clause in the existing contract was limited to salary, and the new law provided that "nothing in this Act affects a collective bargaining agreement made before the date of this act."

The court held that "in the absence of an express contractual provision to the contrary," subjects not negotiable under the old meet and confer statute became immediately negotiable upon a change in the law which included those subjects in a broader scope of bargaining. The court ruled that the purpose of the section of the statute concerning existing contracts was to avoid disruptions that would be caused by the abrogation of those agreements, and held that this purpose was served where previously agreements "can be enforced as written" while allowing bargaining on issues which were not covered because they were not previously subject to mandatory collective bargaining. (*Redmond School District v. Public Employee Relations Board, et. al.* Oregon State Court of Appeals, October 14, 1974.)

Union's Communication with Officials Other Than Bargainers Not Unfair Labor Practice

Upholding a Public Employment Relations Board decision, the Oregon Court of Appeals ruled that a teachers union did not violate the public employees bargaining law by attending a school district budget meeting where teachers' salaries were discussed.

The Crowfoot Elementary School District charged that the teachers union was guilty of an unfair labor practice because the bargaining law stipulated that during negotiations no direct or indirect communication may take place with officials other than those designated to represent the employer. The district also argued that PERB erred in determining that the law did not exclude such conduct as that of the teacher union.

The court noted that both the Open Meetings Law and the Local Budget Law stated that all meetings shall be open to the public and that nowhere in the bargaining law was there mention of public employees' exclusion from its coverage.

Reaching the same conclusion as did the PERB, that the legislature did not intend to abridge the right of teachers to attend such meetings, the court held that the teachers union conduct did not constitute an unfair practice. (*Crowfoot Elementary School District v. Public Employee Relations Board et al.*, Oregon Court of Appeals, December 9, 1974.)

PENNSYLVANIA

Only an Employer May Seek a Strike Injunction

The Pennsylvania Court of Common Pleas refused to issue an injunction sought by three ministers to restrain all personnel employed by the Williamsport Area School District from striking.

The Pennsylvania State Education Association and the Williamsport Education Association contended that the court lacked jurisdiction in the matter since the plaintiffs were not the public employer and according to the Public Employees Relations Act only the public employer could sue for a strike injunction against its employees.

The court agreed that the Act limited its jurisdiction in this matter and pointed to *Commonwealth of Pennsylvania vs. Ryan, et. al.* wherein it was decided, "No emergency, real or feared, and no alleged hardship to a complaining party, however great, can justify a Court's entertaining and passing upon a subject matter which is not within its jurisdictional competence." Further, the court said that the major purpose of the Act, to encourage peaceful resolution of disputes by the parties through collective bargaining, would be undercut if it entertained a complaint filed by a party other than the employer. The court then dismissed the complaint for lack of jurisdiction. (*Reverend Alling et al., Plaintiffs v. Williamsport Area School District et al., Defendants*, Pennsylvania Court of Common Pleas, November 5, 1974.)

WASHINGTON

24 Hours' Notice Required for Board Meeting on Request for Injunction Against Strike

The State Supreme Court ruled that under the state's Open Public Meetings Act, the Board of Education of the Mead School District was required to provide 24 hours' notice to the press and the public before meeting to consider a resolution calling for injunction against a strike by the Mead Education Association. The court held that the state legislature had intended to provide an "emergency" exemption from the requirements of the Act only where circumstances involved or threatened physical damage, and the likelihood of damage would be substantially increased by a one-day delay. Under this definition, the court ruled that the strike had not constituted an emergency, and thereby sustained the Association's claim that a lower court should not have issued the injunction sought by the board.

After the Association went on strike, the board met in executive session and passed a resolution requesting a lower court to issue an injunction against the strike.

At the court hearing, the judge dismissed the board's petition on the grounds that the board had violated the Open Public Meetings Act by passing its resolution in closed session. However, that evening the board met again in the presence of reporters and a member of the public and re-enacted its resolution calling for an injunction. The following day, the judge accepted the petition and granted a temporary injunction.

The Association appealed to the State Supreme Court, contending that the injunction should not have been granted on the grounds that the board was still in violation of the Open Public Meetings Act when it made its second request since it had failed to provide 24 hours' notice to the media and the public before re-enacting its resolution.

The board contended that it had not violated the Act since the Act specifically exempted from the 24-hour notice requirement special meetings called to deal with an "emergency." The board claimed that the strike had constituted an emergency since it had disrupted the schools and the lives of students and their families, and involved possible damage to the heating system since maintenance and sanitation workers had refused to cross the picket line.

The Court held that the legislature had intended to provide for an "emergency" exemption from the notice requirements of the Act only when the circumstances involved or threatened physical damage, and a one-day delay would "substantially increase the likelihood of such injuries." The Court concluded that the situation created by the Association's strike did not qualify as an emergency under the Act. (*Mead School District v. Mead Education Association*, Washington State Supreme Court, January 10, 1975.)

BOARD FINDINGS AND RULINGS

IOWA

State's First Final-Offer Award

Final-offer arbitration—the first of its type in the state—was requested by the Keokuk School Board and Keokuk Education Association (KEA) following a dispute over the scheduling of an inservice training day, compensation for Association leave, and salaries. The arbitrator in his award stated that the board's position regarding the inservice training day should prevail, that teachers should not be compensated for Association leave, and that the Association's salary proposal was more equitable than that offered by the board.

In regard to the length of teachers' contractual year and the number of inservice training days, the parties could not agree on the issue at impasse. KEA claimed that it and the school district had agreed that the school year was to consist of 188 days, eight of which were to be set aside for inservice training, and that the scheduling of one of the inservice days was the only disputed issue. Contending that the whole issue was in dispute because the topic had not been negotiated, the board argued that the scheduling of inservice days was a management prerogative, while the number and content of the days were negotiable.

The arbitrator concluded from the contractual language which included inservice training in a list of negotiable items, that all aspects of inservice training were negotiable. He found that KEA failed to sustain its argument that one inservice day should be held on the date to coincide with the state convention, mainly because of the high probability of the convention's being cancelled. He, therefore, gave the award to the school district.

On the issue of Association leave, the school district declared such leave nonarbitrable because it was purportedly in violation of the collective bargaining law, claiming that the leave would give Association personnel opportunity to learn negotiating skills which could be used against the administration to the detriment of "good administration, good school management, and sound educational policy." The school board made a final proposal to pay for a substitute teacher but not to compensate teachers on Association leave. Countering that it did not file an exclusive representation petition because it lacked an address to which to mail it, KEA requested a bank of six days upon which Association members could draw to attend meetings.

The arbitrator dismissed the legal argument on the grounds that the item was negotiable. Finding the KEA final offer poorly drafted, vague, and exacting, the arbitrator accepted the district's offer as more reasonable.

Concerning the final item, salaries, KEA presented exhibits to show that serious discrepancies existed between teacher salaries in Keokuk and those in other Iowa school districts, and pointed out that the district had a budgeted surplus the previous year.

Rejecting the school district's counter claims as miscalculations, the arbitrator found KEA's claims correct and granted the award to the Association. (*Matter between the Keokuk Education Association and Keokuk Community School District*, Public Employment Relations Board, January 29, 1975).

MICHIGAN

Representation Petition for Inadequate Showing of Interest

Two separate cases concerning representation petitions came before the Michigan Employment Relations Commission.

In the first case, MERC dismissed a representation petition filed by the Michigan Association of Higher Education (MAHE) and a decertification petition filed against MAHE. The Association sought to include unrepresented part-time faculty and academic staff in Gogebic Community College in its current bargaining unit of full-time faculty. The other petition requested a decertification election among the full-time faculty currently represented by MAHE.

While the petition filed by MAHE was supported by dues checkoff authorizations of employees in its current bargaining unit, a showing of interest by 30 percent of the unrepresented employees was not presented. In regard to the petition for a decertification election designed to disaffiliate with MAHE, it was found that the showing of interest petition signature list was not dated.

MERC presented MAHE with two options—that of seeking an election in the over-all unit, or having an election in the unrepresented residual group and adding that group to its current unit if a proper showing of interest could be indicated in either situation.

MERC concluded that the only reasonable means of determining employee sentiment for an election was to require that the petition be dated. Owing to the inadequacy of the showing of interest, the two petitions were dismissed.

In the second case, MERC, upholding a decision of its director, found no merit in a decertification petition involving the Central Michigan University and its faculty association. The director found that the showing of interest documents did not contain affirmative allegations required by the Public Employment Relations Act, but merely requested an election. As such, the documents were not in compliance with the statute. The petitioners argued that the director's decision was in error and should be rescinded.

Setting aside the petitioners' contention that the intention of the signatories was understood, the full Commission, relying on *Detroit Board of Education*, declared that since the purpose of the petition was to obtain an election and there was no clear designation of an employee organization as the agent of collective bargaining, the petition was invalid for the purpose of establishing a showing of interest.

MERC, therefore, dismissed the decertification petition. (*Matter of Gogebic Community College and Michigan Association of Higher Education, Gogebic Community College District*, Michigan Employment Relations Commission, October 31, 1974; *Matter of Central Michigan University and Central Michigan University Faculty Association*, Michigan Employment Relations Commission, November 6, 1974.)

Economic Pressure in Form of Strike Not a Violation of Bargaining Duty

The Michigan Employment Relations Commission reversed the findings of three of its administrative law judges and upheld the decision of one by ruling that economic or unfair labor practice strikes do not constitute violations of unions' bargaining duty imposed by Section 10 of the Public Employment Relations Act (PERA).

The administrative judges in *Montrose*, *Birmingham*, and *Warren* concluded that any violation of Section 2 of PERA which prohibits strikes by public employees "called by a labor organization for the purpose of forcing the employer to accede to the position of the union in contract negotiations is a violation of the union's bargaining duty imposed by Section 10(3)c) of PERA." In *Birmingham* the judge reasoned that a strike for the purpose of forcing the employer to consent to union demands is analogous to a lockout by the employer, which is a prohibited practice under Section 10. The judge in *Warren* commented that allowing a labor organization to engage in an illegal strike and allowing that organization to maintain all its statutory rights is "farcical."

The Commission, however, pointed out that although Sections 2 and 6 of PERA prohibit strikes and outline a disciplinary procedure for such actions, it could not assert jurisdiction according to Section 16, unless the violation of Section 2 was found to be an unlawful refusal to bargain in good faith in violation of Section 10. Therefore, because "the exertion of economic pressure away from the bargaining table, whether protected activity or not, does not constitute a violation of bargaining responsibilities and thus does not violate Section 10(3)(c) of PERA," the Commission reversed three rulings and upheld the decision in *Lamphere*. (*Montrose Community Schools and Montrose Education Association, Birmingham Education Association and Birmingham School District, Warren Education Association and Warren Consolidated Schools, Lamphere Federation of Teachers and Lamphere School District*, Michigan Employment Relations Commission, January 10, 1975.)

NEW YORK

A Long-Standing Practice of Paying Annual Salary Increments Cannot be Altered in the Absence of Successor Agreement

According to the state Public Employment Relations Commission, a long-standing practice of paying automatic salary increments to teachers cannot be altered unilaterally during negotiations for a successor agreement even if the practice was never embodied in a prior agreement. PERB, rejecting the contention of the Board of Cooperative Educational Services, Rockland County, held that in the absence of a collective bargaining agreement, the payment of annual increments could not be considered a gift of public monies. PERB also rejected the board's contention that PERB's remedial authority in dealing with employers who violated the Taylor Law was limited to entering an order directing the employer to negotiate in good faith. Therefore, PERB upheld a hearing officer's ruling which sustained charges by the BOCES Staff Council that the board's refusal to pay annual salary increments in the absense of a successor agreement violated its duty to bargain in good faith, and ordered the board to pay increments retroactive to the commencement of the 1974-75 school year plus 3 percent interest.

When negotiations for a successor agreement had not been completed, the board refused to pay step increments to the returning teachers.

The Council filed a complaint with PERB, charging that the board had violated its duty to negotiate in good faith by unilaterally altering terms and conditions of employment during negotiations. The hearing officer held that "a long standing and continual practice of providing annual salary increments is such a term and condition of employment that cannot be altered unilaterally during negotiations." The board was ordered to pay increments retroactive to the commencement of the 1974-75 school year plus 3 percent interest.

The board appealed to PERB to reverse the hearing officer's decision, contending that in the absence of a successor agreement it had no contractual duty to pay the increments, and, therefore, the payment would constitute a gift of public money in violation of the state constitution. The board also contended that under the Taylor Law, PERB and its hearing officers could only enter an order

directing the public employer to negotiate in good faith, and, therefore, lacked the authority to order the board to pay either the increments or the interest thereon.

PERB ruled that the payment of increments could not be considered a gift because "the continued service performed by the employees. . . constitutes consideration for the increment," and that "expectation of any annual increment based upon a long standing and continual practice of its having been paid is a term and condition of employment that cannot be altered unilaterally during negotiations," even if the practice was never "embodied in an agreement." PERB also rejected the board's interpretation of the language of the Taylor Law, ruling that the legislature had not intended to limit its remedial powers to entering an order directing a public employer to negotiate in good faith because that would render its proceedings futile, and cited General Municipal Law, Article 3a, as the source of its authority to impose interest payments. (*In Matter of Board of Cooperative Educational Services, Rockland County and BOCES Staff Council*, New York PERB, February 21, 1975.)

RHODE ISLAND

reimburse

Men and Women Varsity Coaches Must Receive Equal Pay

A Providence, Rhode Island, arbitration panel ruled that women high-school varsity coaches were entitled to the same pay as their male counterparts.

The grievance was brought by 13 women varsity coaches who complained that they were not being paid according to the contract. Following the grievance procedures, the superintendent ordered equal pay; however, he retracted when the school's internal auditor recommended that women coaches be paid a percentage of men coaches' pay.

Challenging the accuracy of the auditor's data, the union representing the teachers argued that there was no substantial difference between coaching responsibilities for boys' or girls' sports and that the number of practice hours and games should not be considered. The union further pleaded that the Equal Employment Opportunity Commission Guidelines and the Rhode Island Commission for Human Rights forbade discrimination based on sex.

The school administrators argued that the contract provision for coaching pay covered only coaches of boys' sports because when it was adopted, coaches of girls' sports did not exist. The school authorities also claimed that the different rates did not discriminate against coaches on the basis of sex inasmuch as a woman coach supervising high-school boys would receive the higher rate and a man coach managing high-school girls, the lower rate, because of the work load involved. The arbitration committee observed that a man coach who supervised fewer practice hours and games was paid the same as coaches of the same sport whose teams practiced longer and played more games.

In granting the teachers' grievance and awarding back pay, the school committee relied upon general arbitration principles and an arbitrator's statement in *Royal McBee Corp.* which read that once a binding conclusion had been reached in a grievance, that grievance ceases to exist, and any breach of the settlement terms gives rise to a new grievance. (*Providence School Committee and Providence AFT Local 958*; December 6, 1974.)

WISCONSIN

Board Cannot Require Teacher-Volunteers To Perform Extra Duty Without Pay

An examiner for the Wisconsin Employment Relations Commission ruled that teachers were not required to work after hours without pay at a camp run by the School Board of Berlin Public Schools, although they had previously staffed the camp on a voluntary basis. Therefore, the examiner held that the board had unilaterally altered terms and conditions of employment in violation of the contract and the Municipal Employment Relations Act when it informed the teachers that their contracts required them to continue to staff the camp without pay. The board was ordered to cease and desist from further violations and to reimburse the teachers at the daily rate specified in the contract for the time they spent working in the camp.

From 1966 until 1972, the board ran a camping program for students after school hours in May which was staffed by teachers who agreed to work without pay. In fall 1972, however, the teachers who had staffed the camping program refused to continue to do so unless they were paid. In May 1973, the board advised these teachers that they were obligated to staff the camp without pay because they had agreed as part of their individual contracts to "continue to supervise assigned areas." The teachers requested and received from the principal a statement that they had been "assigned to teach and supervise" at the camp.

After the board denied their request for extra duty pay, the Berlin Education Association filed a grievance alleging that the board by assigning the teachers to work without pay had unilaterally extended their normal working day and thereby violated the contract between the board and the Association which required the board to negotiate changes in wages, hours, and conditions of employment. After filing this grievance, the teachers went to work in the camp without pay as ordered.

After unsuccessfully exhausting the grievance procedure, the Association filed a complaint with the Wisconsin Employment Relations Commission, alleging that the board had violated the contract and the Municipal Employment Relations Act by unilaterally changing terms and conditions of employment. The board argued that no change had occurred because in their individual contracts the teachers had agreed to continue to supervise assigned areas, and, therefore, their service in May 1973 was voluntary. The board noted that it had confirmed the voluntary character of the camp assignments at a board meeting several days before the camp was conducted.

A WERC Examiner held that the teachers had not voluntarily agreed to work at the camp when they signed their individual contracts because although the camp had previously been staffed on a voluntary basis, it did not consti-

No difference in men's pay

tute an "assigned area" under the terms of those contracts. Furthermore, the examiner held that the board had led the teachers to believe that they "had no choice in the matter," and noted that the board had not informed the teachers of its confirmation of the voluntary character of camp assignments. Therefore, the examiner concluded that the board had unilaterally altered the terms and conditions of employment of the teachers in violation of the contract and the Municipal Employment Relations Act.

The examiner ordered the board to cease and desist from further violations and to pay the teachers at the daily rate specified in the contract for the time they spent working in the camp. (*Berlin Education Association v. School Board of Berlin Public Schools*, Wisconsin Employment Relations Commission, September 11, 1974.)

Exclusive Use of School Mail Facilities Only for Carrying Out Bargaining Functions

The Wisconsin Employment Relations Commission ordered the Milwaukee Board of Education to cease and desist from allowing a teachers association exclusive use of the bulletin board and mailboxes to disseminate information regarding the internal activities of the organization while denying the same privilege to an opposing organization. The WERC declared that such action by the board was a form of coercion of teachers in its employ and constituted a prohibited practice under the Wisconsin statutes.

The Milwaukee Federation of Teachers complained when the board of education refused to allow it to distribute certain materials through the mailboxes although the Milwaukee Teachers Association was allowed to distribute materials in the same manner on subjects which allegedly did not relate to its function as exclusive bargaining representative.

The Commission ordered the board to cease and desist from interfering with the rights of teachers in its employ and to adopt a policy regulating the distribution of materials which would provide equal use of facilities to all labor organizations except that the exclusive bargaining representative may be granted exclusive use of the facilities for matters pertaining to its function as exclusive bargaining representative. (*Milwaukee Teachers Union Local 252, v. Milwaukee Board of School Directors*, Wisconsin Employment Relations Commission, November 20, 1974.)

Board Refusal To Bargain over Summer Employment Not a Prohibited Practice

The Wisconsin Employment Relations Commission determined that a school board's refusal to bargain over the hours, wages, and conditions of employment for summer school teachers was not a prohibited practice because provisions in the agreement constituted a waiver of the parties' right and duty to bargain on such matters.

The Nicolet High School Association presented reopener demands to Joint Union High School District to negotiate a contract with it for the ensuing summer school session. The board responded that summer school compensation was non-negotiable as this item was not contained in a reopener clause.

WERC noted that specific articles in the current agreement constituted a waiver of the Association's right and the board's obligation to bargain collectively concerning, among other things, summer school employment. It further observed that nowhere in the agreement was there an exception to such waiver.

The Commission found that the broad "management rights" clause in the agreement clearly precluded the right of the Association to bargain collectively on certain items including summer school employment; that the items for renegotiation in the reopener clause were limited to matters regarding the salary schedule, health insurance contribution, number of contract days, and committee recommendations; and that there was no connection between the items in the reopener clause and summer school compensation.

On the basis of the foregoing, the WERC concluded that the board's refusal to bargain collectively and its unilateral change in the method of computing wages of summer school teachers did not constitute prohibited practices. It therefore dismissed the complaint. (*Nicolet Education Association v. Joint Union High School District No. 1 School Board*, Wisconsin Employment Relations Commission, October 31, 1974.)

NEGOTIATION NOTES

IDAHO

AGO: State Agencies Not Mandated To Bargain with Employees

The Attorney General of Idaho ruled that state employees have no collective bargaining rights, since the state, its departments, agencies, institutions, and "political subdivisions" are not authorized to enter into collective bargaining agreements with their employees. The chief deputy attorney general noted that in an earlier attorney general's opinion, municipalities were permitted but not required to enter into collective bargaining agreements with their employees if no local ordinance was violated.

The attorney general's opinion was issued in reply to the Chairman of the State Board of Corrections who was dealing with a request from guards for permission to form a bargaining unit. The attorney general was asked if the state board was authorized to enter into a collective bargaining agreement.

The attorney general based his recent reply on a 1967 ruling by the state supreme court interpreting a state statute which stipulated that "when a question arises concerning representation of employees in a collective bargaining unit," the Commissioner of the Idaho State Department of Labor shall "investigate such controversy and certify to the parties, in writing, the name or names of the representatives who have been designated or selected." The majority of the court ruled that the ambiguous language of this statute did not demonstrate legislative intent to inaugurate mandatory collective bargaining in public employment, and that under the statute, the commissioner's duties were confined to the private sector. A concurring opinion stated that an amendment making the statute applicable to public employees would constitute an unlawful delegation of the sovereign powers of government to a private organization.

Accordingly, in clarifying this opinion, the chief deputy attorney general noted that while this statute was the only existing statute applicable to state employees, the legislature had passed statutes requiring municipal public employers to "meet and confer in good faith" with representatives of firemen and teachers, on terms and conditions of employment, and had authorized agreements resulting from these discussions to be reduced to written contracts.

Therefore, the chief deputy attorney general concluded that municipalities, unlike the state, were permitted but not required to engage in collective bargaining with their employees. He added that "once a governmental entity enters into collective bargaining with its employees, it might well be decided by a court that certain employee rights have vested and that the governmental entity would not be allowed at some future date to deny or take away the collective bargaining privilege it had granted."

(Attorney General of Idaho, February 6, 1975)

IOWA

Working Agreement in Violation of Contract Principles Declared Unenforceable

The Iowa Supreme Court, on appeal from a lower court, ruled that the working agreement of Cedar Rapids School District and the Service Employees International, Local No. 55, was unenforceable because it violated basic contract principles.

Alleging that the working agreement was designed to regulate working conditions and compensation, the union filed a petition in a trial court seeking a declaratory judgment to enjoin the district from modifying and formulating new rules not provided for in the agreement. Specifically, the union sought to have the court declare that its members should be compensated for time and a half for certain work performed outside the regular schedule and to declare that the district did not have the right to adjust the work schedule without consulting the union.

Contending that the working agreement was a contract, the union argued that the signature of the parties was not necessary to establish a binding contract and that the defendant was estopped from contending the agreement was not a contract.

The school district countered that it could not become a party to collective bargaining agreements in the industrial context and, therefore, any contract provision of an illegal agreement was unenforceable.

According to the trial court, the parties had not bargained in the industrial sense, and since they did not sign the working agreement, they acknowledged that state law prohibited them from doing so. Basing its opinion on *State Board of Regents v. United Packinghouse Food and Allied Workers, Local No. 1258,* which held that the Board of Regents "may voluntarily meet and confer with representatives of groups of employees to discuss wages, working conditions and grievances," the trial court stated that the same procedure was followed in the present case in order to establish the district's course concerning this matter. Clarification was also sought in *J. J. Case Co. v. National Labor*

Relations Board which held that collective bargaining agreements in the industrial sense are not contracts of employment but trade agreements entered into between representatives of the employees and the employer resulting in an understanding as to terms and conditions of employment.

While asserting that the board had no power to enter into a collective bargaining agreement in the industrial context, the state supreme court held that it was permissible provided the terms of the contract were within the legal authority of the board and contained no terms which could not be included in individual contracts.

As in *Board of Regents v. United Packinghouse Food and Allied Workers,* the court was not concerned with whether the agreement would be unenforceable because of a lack of authority by the school board if it otherwise resulted in an enforceable agreement, but rather, whether the parties entered into an enforceable agreement.

In support of its position that the contract was enforceable, the union contended that the validity of the agreement was not dependent upon the parties affixing their signatures to the document. Supporting this position, the court referred to *Henderson v. Henderson* wherein the Supreme Court ruled that signatures of both parties were not required to establish a binding contract if common assent could be shown.

An examination of the trial court proceedings led to the supreme court's conclusion that the lower court's determination that it could not render a declaratory judgment on the working agreement rested on whether common assent had been given, rather than whether the parties had affixed their signatures. The supreme court disagreed with the union's contention that the trial court was confused in this regard.

The union then directed its attention to possible estoppel relief which could prevent the district from denying the validity of the agreement because of the adoption of the agreement by the school board. However, the union's failure to meet essential elements required by an estoppel prevented the supreme court from reviewing the issue.

In reaching its conclusion that the school-board policy was not a binding and enforceable contract, the supreme court declared that the school district and the union were aware of the board's ultimate authority to reject any requests made by union representatives without the threat of sanctions against them.

Since the union failed to sustain the contention for want of an outward manifestation by the school district that the working agreement was an enforceable contract, the supreme court ruled that the trial court was without jurisdiction to process a declaratory judgment. (*Service Employees International, Local 55 v. Cedar Rapids Community School District,* Iowa Supreme Court, October 16, 1974.)

NEW YORK

Courts Disagree on Constitutionality of Police, Firemen's Binding Arbitration Law

Two New York Courts drew opposite conclusions concerning the constitutionality of the police and firemen's binding arbitration law under the state constitution. The 1974 statute, which amended the Taylor Law, provides for compulsory binding arbitration in the event of an impasse in contract negotiations between municipalities and either uniformed service. The decision is not subject to the approval of any local legislative body or authority, thereby removing the "final step" under the old Taylor Law.

- In an action brought by the city of Amsterdam, the city sought a preliminary injunction against an order of PERB, which referred a negotiations impasse between the city and its police and firemen to binding arbitration. The city contended that the statute was unconstitutional because it required the city to surrender taxing power to an arbitrator, thus jeopardizing a system of government by the people by substituting "government by arbitration."

The police and firemen's union and PERB contended that the city had not demonstrated the unconstitutionality of the statute beyond a reasonable doubt. The union cited *City of Dearborn and Firefighters Local 412,* [Michigan Court of Appeals] wherein a similar statute was upheld as constitutional on the grounds that (a) the state constitution takes precedence over the home rule powers of cities and empowers the state legislature to "enact laws providing for the resolution of disputes concerning public employees"; (b) an arbitrator's award which increases the price of services is analogous to a price increase of any commodity which places an additional burden on municipal budgets; (c) a monetary award does not necessitate a tax increase because the city is free to reallocate resources; and (d) the award is subject to judicial review.

The court held that the statute was unconstitutional because it compelled local legislatures to either suspend taxing power or transfer it to an arbitration panel not elected in accordance with the one-man one-vote rule. The court reasoned that the arbitration statutes transferred taxing power to public employees who could create an impasse by maintaining demands to which a city could not agree, and under the statute, a city's taxing power must remain with the elected legislature. The court also reasoned that the arbitrator was vested with taxing power in the event of an impasse because to fulfill the requirements of his award, a local legislature could be forced either to increase taxes or to reallocate tax monies. The court, in rejecting the conclusions of the Michigan Court of Appeals, held that an arbitrator's award could not be viewed as any other price increase because it had a "must purchase status" not enjoyed by other commodities.

Firstly, the court concluded that the statute was unconstitutional because it deprived citizens in municipalities of their fundamental right to equality of representation by permitting public employees acting alone to transfer municipal taxing authority from an elected legislature to an arbitration panel which was not similarly elected in accordance with the one-man one-vote rule. Secondly, the court concluded that the statute further violated the state constitution by creating "invidious discrimination" among the citizens of the state on the basis of wealth, because deprivation of voting equality would be more likely to occur in cities with weak tax bases which would be less able to avoid negotiating impasses by meeting the demands of their employees. Thirdly, the court held that, unlike the Constitution of Michigan, the New York constitution did not con-

tain specific language permitting this statute, and the interest of the state in resolving labor disputes was outweighed by the more compelling "national and state interest" in "the preservation of the one-person, one-vote principle." In addition, the court ruled that if the authority exercised by the arbitration panel was not viewed as taxing power, the statute was still in violation of the state constitution, because the latter specifically prohibited the suspension of taxing authority that results from this standpoint. Finally, the court concluded that while under the statute an arbitrator's award was subject to judicial review, that fact alone did not render "taxation without representation" constitutional.

While holding that the state statute was unconstitutional, however, the court ruled that municipalities were free to voluntarily agree to submit to compulsory arbitration through local ordinances. The court granted the injunction.

● The city of Corning petitioned the state supreme court for Steuben County to grant an injunction staying arbitration proceedings which had been ordered by PERB in impasses between the city and the police and the firemen. The city contended that the statute was unconstitutional because it established taxation without representation, violated the home rule provisions of the state constitution, and was discriminatory because it affected only firemen and police. In addition, the city contended that the statute could not be applied to Corning because as a general statute it could not be enforced in violation of the city charter which was a special act of the state legislature, and mandated the placement of legislative authority in the hands of elective officials. Finally, the city argued that the statute should not be applied retroactively to the dispute between Corning and its employees because the negotiations between them could have been completed before the law went into effect except for the willful delaying tactics of those employee groups.

The court held that the statute was constitutional because under Article IX of the state constitution, the authority granted to a local government to adopt and amend local laws relating to the terms and conditions of employment of its employees could not be exercised in a manner inconsistent with any general laws of the state. The court also held that the state legislature by enacting a general law could mandate terms and conditions of employment for municipal employees and thereby mandate expenditures for local governments with respect to specific categories of employees. If the legislature could do this directly, it could also do so through the medium of compulsory arbitration. The court noted that "the courts are to preserve the constitutionality of legislation unless we are restrained by clear, unequivocal and express constitutional provisions."

In addition, the court rejected the city's claim that the statute could not be applied to it because local legislation may not be inconsistent with a general state law, and therefore the city charter must yield insofar as it is inconsistent with state law. Finally, the court rejected the claim that the law could or should not be applied retroactively to the city's pending dispute with its employees because binding arbitration was not a new remedy but only a "more effective means of enforcing established rights and remedies" under the Taylor Law, and the application of binding arbitration would not deprive the city of a substantial right because the city had not exercised its rights under the old Taylor Law by taking the final step of legislative review which had been removed by the new statute.

The court ordered the city to proceed with binding arbitration. (*City of Amsterdam v. Helsby et. al.*, New York State Supreme Court, Montgomery County, November 30, 1974; *City of Corning v. Civil Service Employees Assn. et. al.*, New York State Supreme Court, December 19, 1974.)

OKLAHOMA

"Meet and Confer" Law for Firemen and Police Constitutional

According to the Oklahoma Supreme Court, a state statute granting municipal policemen and firemen the right to "meet and confer" with municipal employers regarding terms and conditions of employment properly superceded contrary municipal charter provisions because it involved a matter of state-wide concern and did not violate the state constitution because it did not require municipal employers to engage in collective bargaining. However, the court, ruling in favor of the City of Midwest City, held that the state legislature in amending the statute violated the state constitution by broadening the coverage to include other municipal employees without re-enacting the statute at length, and by endowing the Public Employment Relations Board with jurisdiction over unfair labor practice cases without defining the board's power in these cases. Therefore, the Court declared that the statute was inoperative insofar as it applied to municipal employees other than firemen and policemen, and upheld the ruling of a lower court which had granted the city a writ which prohibited the Public Employment Relations Board from exercising its jurisdiction in an unfair labor practice case involving the city and the Fraternal Order of Police.

When the city refused to negotiate with the Fraternal Order of Police regarding salary, the FOP filed a petition with the Public Employment Relations Board, charging that the city "had engaged in and was engaging in unfair labor practices." The city requested a district court to enjoin the board from exercising jurisdiction in the case on the grounds that under the city charter, the city was solely responsible for reclassifying police personnel, as was allegedly required by the FOP's salary proposal, and, therefore, the dispute was a matter of municipal concern to which statute could not be applied under the Oklahoma state constitution.

The district court held that the "administration of municipal police and fire departments are matters of municipal concern" on which the city charters supercede general laws under the Oklahoma state constitution and ruled that the statute was null and void because it violated the provisions of the state constitution respecting municipal charters by forcing municipalities to bargain over matters of purely municipal concern. The Public Employment Relations Board was enjoined from taking further steps to enforce the statute in this dispute.

The Board appealed the district court ruling to the Oklahoma Supreme Court, contending that the statute was constitutional since it did not require municipalities to bargain, but solely to meet and confer with employees on terms and conditions of employment, and permitted the municipalities to treat the proposals of employees and arbitrator's findings as advice which the municipalities were free to accept or reject.

The city contended that the 1972 amendment to the statute was unconstitutional and, therefore, the Board had no authority or jurisdiction to hear or adjudicate any matter presented by FOP.

The supreme court, reversing the lower court's decision, held that the statute was constitutional insofar as it did not authorize collective bargaining, but "merely provides for a collective voice for firefighters and policemen to speak to their employer," and "the privilege of communicating with their respective employers with a collective voice involves a matter of state-wide concern" and therefore "supersedes any [municipal] charter provisions to the contrary." However, the court held that the 1972 amendment to the statute was unconstitutional because in the absense of "legislative standards or guidelines prescribing what the Board may do if an individual or entity is charged with unfair labor practices. . .the legislature has, in effect, delegated to the Board, legislative powers which it alone could exercise." In addition, the court ruled that the legislature had violated the state constitution by amending the statute so as to include all municipal employees by reference under the term "Firefighters and Policemen," rather than reenacting and publishing the entire statute as amended. Therefore, the court granted the city a writ prohibiting the Public Employment Relations Board from exercising jurisdiction in the dispute between the city and the FOP, and declared that "the 1971 Act and the 1972 amendment is inoperative" insofar as it affects any employees other than firemen or policemen. (*The City of Midwest City v. Govel Cravens et. al.*, Supreme Court of the State of Oklahoma, February 14, 1975.)

WASHINGTON

State Budget Director Is Public Employer for Purposes of Wage Bargaining with State Employees

The State Supreme Court ruled that to fulfill the legal right of state employees to bargain on wages, bargaining had to occur before salary rates were submitted for final approval to the state legislature, and held that the state budget director had the right to revise the salary recommendations of the State Personnel Board. The latter could not bargain because its recommendations were subject to approval by the budget director. Therefore, in order to fulfill the bargaining rights of state employees, the court ruled that "the appropriate 'public employer' for purposes of wage bargaining is the budget director" because he had the power to approve the Board's recommendations.

Under state law, the State Personnel Board recommends salary rates for state employees which are supposed to be competitive with those of private industry. The Board's recommendations are then subject to the approval of the state budget director, the governor, and finally the state legislature.

After the Board submitted its recommendations on salary, the budget director revised them downward and requested the union representing state employees to negotiate. The union refused to negotiate and filed suit in the state supreme court, contending that under state statute, the budget director was not authorized either to alter the recommendations of the Board or to act as the state's bargaining agent.

The Court held that "if the right to bargain for wages is not to be an empty one, the state's bargainer must be a final stop on the journey to the legislature." The Court ruled that the Board could not bargain for the state because its recommendations were subject to approval and revision by the budget director. Therefore, the Court concluded that "the appropriate 'public employer' for purposes of wage bargaining is the budget director" because he has the power to review the Board's recommendations. (*John Ortblad, et. al. v. State of Washington*, Washington State Supreme Court, January 10, 1975.)

FEDERAL

Overtime Guidelines for Police and Firemen

In December 1974, the Wage and Hour Administrator issued regulations for implementing the amendments to the Fair Labor Standards Act, which extended the coverage of the Act to public employees engaged in fire protection and law enforcement. These regulations deal with overtime pay and minimum wages which became effective January 1, 1975.

Any public employer, including forest conservation agencies and correctional institutions, employing more than five employees who spend 80 percent of their time engaged in fire protection and law enforcement and who are paid on a workweek basis, must pay these employees time and one-half for time worked beyond 40 hours a week.

Covered employees include all those who have legal authority and spend 80 percent of their working time engaged in law enforcement or the prevention, control, and extinguishing of fires, with the exception of those who are working in a bona fide executive, administrative, or professional capacity. Ambulance and rescue service personnel employed by a law enforcement or fire protection agency are also covered if their work is an integral part of the agency's activities. Those who work for other public agencies are also covered if they have not been covered previously by FLSA and they have received special training and are regularly dispatched to fires, riots, etc.

An employer may choose to calculate hours worked over a work period from 9 to 28 days rather than a workweek. An employer using this option is not required to pay overtime unless hours worked exceed 8.57 per day or 60 per

week, and may provide compensatory time instead of overtime where state law permits, provided wages paid per hour over the work period are equal to the statutory minimum wage.

However, to gain this work period system, the employer must count as working time and compensate the employee for all time when the employee is on duty including:

- All pre- and post-shift activities which are integral part of work
- Time spent attending required training classes
- Time spent off the employer's premises during which an employee, as a result of work performed or to be performed, is not able to effectively use time for personal pursuits
- Sleep time or meal time if an employee is on duty for 24 hours or less, or where the tour off duty is greater than 24 hours, unless the employee in this case specifically agrees to exclude such time. Such an agreement is not valid if the period covered exceeds 8 hours, or if the employee's sleep is interrupted to the extent that sleep time falls below 5 hours
- Early relief time—where an employer requires employees to relieve their fellow workers on a previous shift prior to their own scheduled starting time
- Trading time—where the employer encourages employees to substitute for others on shifts for reasons of business necessity and the time is not "traded back" within 12 months.

THE CONSUMER PRICE INDEX—APRIL 1975

The Consumer Price Index rose 0.5 percent in April to 158.6 (1967=100), the Bureau of Labor Statistics of the U.S. Department of Labor reported. Prices rose for many items including used cars, furniture, houses, gasoline, magazines, auto insurance, natural gas, and some food items, notably fresh fruits, eggs, and beef. Prices declined, however, for many other food items, particularly fresh vegetables and sugar. Mortgage interest rates were lower.

Seasonally adjusted changes

On a seasonally adjusted basis, the CPI rose 0.6 percent in April, compared with 0.3 percent in March. The rise in the CPI had become progressively smaller since last fall—from 1.2 percent in September, to 0.6 percent in January, 0.5 percent in February, and 0.3 percent in March. The larger rise in April reflected an upturn in food prices following 2 months of decline and a larger increase in nonfood commodities.

The food index increased 0.4 percent in April, after declining 0.6 percent in March and 0.3 percent in February. The April rise in the food index, however, was moderate—compared with increases early this year and in late 1974. The upturn was primarily due to price increases for meats and eggs. Beef prices increased for the first time in 7 months. Prices for many foods continued to decline. Sugar prices, particularly, fell substantially. Prices for cereal and bakery products decreased slightly in April, after rising rapidly for about 2 years. Increases for nonalcoholic beverages and other processed food items were smaller than in recent months.

The index for nonfood commodities increased 0.8 percent in April, compared with 0.5 percent in March. Monthly increases in this index have fluctuated within this range—0.5 and 0.8 percent—since last summer when the index was rising in excess of 1.0 percent per month. In April, gasoline, coal, home maintenance and repair commodities, and furniture prices increased more than in recent months, and house prices continued to rise. Price increases were smaller than in recent months for many items including new cars, recreational goods, drugs and prescriptions, toilet goods, and alcoholic beverages. Apparel prices averaged unchanged, continuing the stability evident since November.

In April 1975, the CPI was 10.2 percent higher than in April 1974. The food index was 7.9 percent higher, while the nonfood commodities index and the services index were both 11.0 percent higher than their April 1974 levels.

Monthly changes in detail (not seasonally adjusted)

The index for food purchased in grocery stores declined 0.2 percent. This was smaller than the usual seasonal decline for April. Prices were lower in April for most types of foods including poultry, fresh vegetables, dairy products, bakery products, fat and oil products, processed fruits and vegetables, and sugar. Sugar prices fell 15.6 percent in April for a decline of over 33 percent so far this year, but they were still more than 80 percent above their April 1974 level. Pork prices also decreased, but much less than they usually do in April. These declines were partially offset by contraseasonal increases in prices of beef and eggs and a large seasonal increase in fresh fruit prices. The index for food away from home—restaurant meals and snacks—rose 0.5 percent, the same as in March.

The index for nonfood commodities increased 0.8 percent; it usually shows no change in April. There were large increases in prices of furniture, gasoline, houses, home maintenance and repair commodities, housekeeping supplies, reading materials, and used cars. New car prices, which usually decline in April, rose slightly. Prices also increased for most other nonfood commodities such as toilet goods, drugs and prescriptions, appliances, television sets, tires, and apparel.

The services index rose 0.6 percent in April. Among major categories of services in the CPI, the index for transportation services rose the most—0.8 percent—primarily because of increases for auto insurance. Parking fees, auto repair charges, and taxicab fares also increased. The index for medical care services rose 0.7 percent in April, with both physicians' fees and hospital service charges rising by this amount. Among household services other than rent—which rose 0.5 percent—large increases in charges for natural gas, water and sewerage rates, and baby sitters were moderated by declines in mortgage interest rates. The rent index rose 0.3 percent. Charges for other services such as drycleaning, laundry, barber shop, and beauty shop services also rose moderately.

—U.S. Department of Labor, Bureau of Labor Statistics, News Release, May 21, 1975.

SPECIAL REPORTS

NEGOTIATED REDUCTION-IN-FORCE PROVISIONS

Tomás Saucedo

Protecting teaching positions in a time of high unemployment owing to declining enrollment and tight money has become a priority for teacher organizations. A strong reduction-in-force provision can counter the threat of employment loss by mandating consideration of alternatives following determination of the necessity for reductions and establishing procedures to be used when conditions warrant a reduction. As a guide to constructing a reduction-in-force provision, an array of the elements necessary will be presented along with specific examples from contracts in effect during the 1973-74 school year. For this study, 31 provisions were selected for clarity of definitions, unique aspects, or over-all comprehensiveness. Because of the highly subjective judgments and the limited availability of recent contracts, no statistical inferences can be made. Comparisons will be made with published studies of industry contracts[1] and a previous *Negotiation Research Digest* article[2] to better explain the concepts and procedures.

The teacher's working conditions present hurdles for the development of objective criteria and fair treatment of individuals facing layoff. While seniority is a well understood concept in the private sector, a teacher's length of experience may vary in significance. Factors such as dual certification, major and minor fields of preparation, tenure, and experience in the grade level, building, department, or school district, all may be taken into consideration. Because of school year cycles, teacher layoff commonly results in loss of employment for a year or longer.

INDUSTRIAL LAYOFF PROVISIONS

In a study of 1,845 major private sector agreements covering 7.7 million workers, about 80 percent of the contracts contained detailed layoff provisions. In about one-quarter of the provisions, seniority was the *sole* factor governing layoff decisions. Seniority was the primary factor in one-half of the provisions and was a secondary, or tie breaking factor, in one-fifth. Plant-wide seniority was most common, followed by unit seniority; both types were usually subject to qualifications for the job. Other common factors were skill and ability, qualifications for the job affected, and physical fitness. In contrast, seniority in teacher contracts usually is operative concurrently with tenure and/or certification and while primary, it cannot be considered an exclusive factor. However, district-wide seniority comparable to plant-wide seniority is the most common.

Advance notice of a layoff, ranging from three days to over 10 days (average, about one week) was required in about one-half of the provisions. Notification of the employee, the union, or both was further required in slightly more than one-quarter of the clauses. Almost an equal number stipulated payment in lieu of notice for wages lost if the employer failed to comply with notice requirements. Specific notice is not as prevalent in teacher contracts.

Unions were rarely allowed to participate in decisions to implement layoffs; however, they had the right to be involved in procedural decisions and in the monitoring of the layoff in about one-quarter of the contracts. Bumping was specified in almost two-thirds of the clauses, with most establishing restrictions such as limiting bumping to the least senior employee rather than any less senior employee. Such restrictions reflect attempts to limit widespread dislocations. Over one-quarter of the provisions specified layoff for other than regular employees first, such as probationary or temporary workers. Since most teacher RIF provisions stipulate procedures to be followed once a reduction is in effect, teacher associations, like labor unions, are encountering strong resistance to bilateral decisions to institute layoffs. There is evidence of efforts to restrict school-board fiats through narrow definitions of allowable circumstances, thus setting the stage for challenge of the RIF decision. Procedural similarities are noted in the discussion on seniority.

Additional protection from layoff or "super-seniority" for certain individuals was found in about 40 percent of the labor clauses. Often mentioned were union officials, key personnel, or trainees; some contracts specifically excluded older and handicapped workers from layoff. Such special consideration appears only rarely in the available teacher contracts.

A recall procedure by seniority was detailed in most private sector contracts, and in about a third, the duration of recall rights depended on length of service. Where stipulated, the employee usually retained recall rights from one to three years. Teacher contract provisions usually use recall by seniority or inverse order of layoff, although frequently additional qualifications have to be met.

3046

Alternatives to layoffs were found in about one-quarter of the agreements, the most common approach being that of "work sharing": either the available work was shared by all employees on a prorated basis or the normal work week was reduced to accomodate the available work, the latter usually to a minimum 32-hour work week. Other alternatives were limits on overtime as less work became available, and limits on subcontracting so as to retain maximum work loads in-plant. These concepts are not evident in teacher contract provisions.

While often not as detailed, teacher contract RIF provisions are similar in basic structure to private sector contracts and are innovative where challenges peculiar to the profession have had to be addressed.

RIF PROVISION GOALS

The purposes of a RIF provision are to prevent the employer from arbitrarily reducing the work force by restrictive language which defines the conditions that would justify a RIF, and to establish an equitable procedure for determining who is to be laid off if a RIF is necessary.

Substantial additions have accrued to the body of case law supporting teachers' due process rights in dismissals. These developments are insufficient, however, to ensure that teachers will have firm basis to grieve RIF disputes in the absence of substantive restrictions on school-board authority to reduce the work force. The strongest position is an absolute ban on reductions for the term of the agreement. Short of such language, the less that is specified in the RIF clause, the more that is left open to management prerogative.

LIMITS ON STAFF REDUCTIONS

Provisions which limit reductions in force fall into two general categories. One provides alternatives or bars any reduction for a specified time. The other lists the circumstances which must exist before a RIF can be initiated. Some provisions incorporate both sets of limits, highly desirable where the degree of limitation can be negotiated.

A few association contracts ban reductions for the duration of the school year and/or guarantee alternative full-time employment:

> The Board shall give no less than thirty (30) days notice to the teacher being laid off. Teachers may not be laid off pursuant to this Reduction in Personnel section during the regular school year.
>
> [Grand Rapids, Michigan]

• • •

> Upon termination because of position or program for any tenure teacher, such teacher shall be assigned to another position within the District for which the individual is qualified. Where no such vacancy exists, said teacher shall be assigned to a full-time substitute position, with no loss of salary or fringe benefits, until such vacancy does occur.
>
> [Bay Shore, New York]

Typical alternatives to RIF's are reduction by attrition, reassignment, and voluntary leave of absence. Recognition of attrition should be stipulated since turnover may diminish or eliminate rationale for reductions.

> **Staffing and Recruitment**
>
> Procedure for staffing adjustments in the event of insufficient revenue:
>
> a. Attrition by resignation and retirement shall be utilized as the first means of staff reduction.
> b. The District may reassign any staff member to a position for which he is qualified and certificated; however, when the financial crisis which precipitated such reassignment has been alleviated, reassigned educators shall have first option for return to their position.
>
> [Mount Vernon, Washington]

Provision for individual initiative to reduce the over-all impact of reductions is illustrated by these examples:

> A teacher may be granted a voluntary leave of absence under the provisions of Article 8.000 so as to reduce the number of layoffs.
>
> [Bay City, Michigan]

• • •

> *Reduction in Enrollment.* When a reduction in the number of teachers is necessary, qualified volunteers shall be first reassigned. Then reassignment shall be made on the basis of years of service in the Milwaukee system with those teachers most recently appointed to the school system being reassigned first, except where departmental, necessary extracurricular, kindergarten, primary, intermediate, or upper grade level needs prevail.
>
> [Milwaukee, Wisconsin]

Where the potential RIF involves a limited number of teachers, all can be retrained to fill existing vacancies or retained in another operative capacity. Proper planning by administration officials can provide sufficient time for the retraining. Even a degree of "preventive medicine" is possible, as envisioned in the example here:

> The Board and Association recognize that on occasion alterations in program or vagaries in enrollment can endanger an individual tenure teacher's employment. Should such a condition occur, the tenure teacher may enter a program to equip himself for alternative assignment with Board encouragement and support. The tenure teacher will submit a written proposal to the director of instruction. The director of instruction and ELEA president will confer. If they agree that the tenure teacher's continuing employment is imperiled, the Board will pay the cost of tuition, books and normal fees for up to fifteen semester or twenty quarter hours credit specifically chosen to provide an assignment alternative.
>
> To protect against undue budgetary stress, the Board and Association agree that the total semester-hour commitment for the year will not exceed 30; the total quarter-hour, 40.
>
> [East Lansing, Michigan]

While strong alternatives as job security measures may not be achieved, the second category of limitations are requisite not only to thwart reductions but also to establish the parameters for association defensive action to determine if a RIF is necessary. Failure to list the kinds of situations where RIF's may be justified leaves interpretations of such situations completely in the school board's domain. Teacher interests may well come last in order of priorities, much as in the example below (intentionally unidentified):

In the event the Board deems it necessary to reduce the teaching staff, it shall make said reductions in accordance with the best interests of the district, as deemed by the Board, with consideration being given to the educational growth of the children, and the qualifications, tenure, and competence of the teachers involved within the area that is being reduced, and notify the teacher(s) involved. Any action taken pursuant to this section shall automatically relieve the Board from any further contractual obligation pursuant to individual employment contracts.

Provisions which list justifiable circumstances for reductions usually cite some or all of the following: substantial reduction in available funds, substantial decline in pupil enrollment, elimination of an educational service, and district consolidation. The degree of reduction in operating funds or in student enrollment becomes the contested issue with this language in effect, setting the stage for recourse to an arbitor or to the courts.

Teacher Lay-Off and Re-Employment

B.16.61 When a reduction in the district's teaching staff is expected for the coming year due to a loss of students in ADA, educational programs, federally-funded programs or curriculum changes, the following procedure will be used.

B-16.611 The Superintendent and Assistant Superintendent shall determine the area, subject or programs that will lose staff positions for the coming year.

The Personnel Office will determine how many staff positions in the area, subject or programs to lose units, are planning to retire, resign or go on leave for the coming year. That number shall reduce the amount of staff members to be laid off the coming year.

B-16.613 A teacher to be laid off, who is certified in another area or subject, shall have the right to a vacant position in such area or subject.

[Hillsborough County (Tampa), Florida]

The narrowness of definition can further limit board discretion as well as strengthen the association's position. For example, enrollment decline is measured and stipulated in increments of 20 students in this excerpt:

Job Security

With respect to the total number of members of the Unit employed on October 13, 1972, and the total enrollments as of that date by levels as noted below; if there should be an enrollment decline of 20 students on any level the following adjustments shall be made.

For primary and intermediate levels a drop of 20 students in total enrollment for either level shall result in excessing one teacher for such level. For each drop of 20 students on the junior or senior high levels, there shall be one less class scheduled in five of the instructional areas. No subject area shall be decreased by more than one class for each drop of 20 students.

[Bay Shore, New York]

In summary, the association's first goal—that of limiting the board's authority to arbitrarily reduce staff—can best be achieved through negotiated alternatives and through agreement on a definition of the justifiable RIF situations written into the contract. With regard to definitions, the burden of proof shifts to the board with increasing specificity. The association's ability to challenge the RIF decision is thereby increased even though a procedure for challenge may not have been in the contract.

ADVANCE NOTICE TO THE TEACHER ORGANIZATION

The first procedural consideration vital to the association's concern for equitable treatment of teachers in RIF situations is that of advance notice to the bargaining representative. Few teacher contracts included strict requirements for advance notice, a provision not uncommon in private sector provisions. The low incidence of a requirement for advance notice is not indicative of lesser priority ascribed to the procedure. NEA negotiation guides, articles, and state models identify advance notice as a key to organizational success in protecting members from loss of employment. Since the clause should force the board to justify the need for a reduction in force, the notice should, at minimum, contain the justification of and the effective date of the reduction. It follows that the board should be obligated to share information and relevant data to test the need for reduction under the reasons given in the notice. The association would then be in the best position for challenge, or if a RIF is unavoidable, negotiation over the number of positions affected, the individuals involved, and the schedule of such events as public announcement of the RIF, individual notices, appeals, and transfers. As in industry, the notice requirement would be strengthened by provision for penalties for failure to comply, such as a wage payment, or bar to implementation for a given length of time.

Ideally, language should require the board to notify the association within a specified time sufficiently in advance to allow discussion of alternatives and to prepare implementation plans acceptable to both sides should conditions actually warrant a reduction and though the decision to RIF may not be negotiable, the impact on the teaching staff is negotiable.

In the example below, a reduction is allowed only under the three conditions listed, and the board is required to notify the association before implementation. Although no time limit on notice is imposed, nor is a penalty evident, the clause illustrates the extent of stricture association negotiators have achieved:

No teacher shall be discharged or laid off pursuant to a necessary reduction in personnel unless there is a decrease in the students enrolled in the school district or a lack of operating funds, or the reduction of or elimination of programs.

Prior to reaching a conclusion to reduce personnel, the Board will give notice to the Association and give the Association an opportunity to meet with the Board regarding:

The necessity and extent of such reduction of personnel.

The criteria to be used in determining the types of programs that will be reduced or eliminated.

[Battle Creek, Michigan]

REVIEW, CONSULTATION, NEGOTIATION

Closely related to required advance notice is requiring an opportunity for review, consultation, or even negotiation

over the impact of a decision to RIF and the implementation procedures, well in advance of the actual reduction. Review provides involvement of the association, limited usually to announcement of the board's intentions. Even the bare bones participation implied in such provisions was not common in the contracts studies, and only rarely were consultation or negotiation rights included in RIF clauses. Teacher advocates should, nonetheless, strive for language mandating bilateral decisions on the impact of staff reductions. Issues arising out of review and consultation should be grievable; both grievances and negotiations impasse relating to a RIF provision should be subject to binding arbitration.

Variants excerpted below indicate review rights and access to grievance procedure for issues arising from the RIF list. The first specifies that layoff will be on the basis of seniority and authorizes the association to grieve disputes. The second allows limited board discretion in reductions "out of line of seniority," but provides access to grievance and arbitration in the event of abuses.

> In the event seniority teachers must be laid off, lay off will be on the basis of seniority as established hereinbefore. It is expressly understood that the Association shall have a right to review the lay off list prior to notification of the individuals to be laid off. In the event of a dispute concerning the lay off list, the Association shall have the right to file a written grievance thereon within not more than three (3) work days or three (3) week days during summer vacation after the termination of the meeting requesting review of the list.
>
> [Lowell, Michigan]

* * *

> **Reduction of Staff**
>
> Should it become necessary to reduce the number of teachers employed by the Board, the order of reduction shall be governed by seniority; that is, teachers with the least service with the district shall be laid off first in accordance with date of hire. The Association recognizes, however, that upon certain occasions it will be necessary to assure proper staffing throughout the school system for the Board to retain, out of line of seniority, the most qualified, capable and efficient teachers by training and experience. When such an occasion should arise, the Association's president will be advised in advance of the number and category of such teachers. The discretion hereby vested in the Board shall not be abused. Complaints that the Board has abused its discretion in this respect may be taken up through the grievance and arbitration procedures provided in this Agreement.
>
> [East Lansing, Michigan]

NOTICE TO TEACHERS

The board should be required to notify displaced staff within a specified time; 60 days' advance notice is common. Where association notification is not required, advance notice to individuals affords at least some opportunity to organize a challenge to the RIF decision. Even where prior association notice and involvement are mandated, the individual notice reinforces the goal of orderly reductions and allows time for appeal.

Three interrelated areas should be detailed in the notice to protect due process rights: First, the time schedule for implementation is an initial necessity. Second, the reasons for the reduction should be stipulated. Third, the reasons for the selection of the teachers affected should be given. This basic information can be used to test whether the reduction is avoidable and if not, whether the selections made were based on objective and accurate application of the criteria.

The following are samples of notice and time limit language which fall short of the content coverage advocated.

> Notice of such suspension shall be given to the career educator thus affected on or before April 15 of the applicable school year. In making such dismissals, other personal and professional qualifications being equal, educators shall be dismissed in the inverse order in which they were employed, provided, however, that no career educator is dismissed while a qualifying educator is retained to perform a service which the career educator is qualified and competent to render.
>
> [Nebo, Utah]

* * *

> The following procedures and conditions shall apply to any necessary reduction in personnel:
>
> The Board shall consult with the Association about any proposed lay-off.
>
> No teacher shall be discharged or laid off pursuant to a necessary reduction under 4.811 for the beginning of a school year unless such teacher shall have been notified of discharge or lay-off by the last day of the previous school year.
>
> No teacher shall be discharged or laid off pursuant to a necessary reduction under 4.811 during the school year unless such teacher shall have been notified of discharge or lay-off at least thirty (30) days prior to the effective date.
>
> [Ann Arbor, Michigan]

STAFF REDUCTION PROCEDURES

The majority of RIF provisions investigated dealt primarily with procedures to be used in an actual reduction. Seniority or length of service was often a criterion, along with certification, specific qualifications, and teaching experience. Rarely was seniority the sole determinant. Temporary and probationary employees were often to be terminated before any tenured staff. Where the RIF extended to tenured teachers, provision was often made for preferential treatment of them in subsequent transfers, filling vacancies, and substitute teaching positions. Additional protection was sometimes provided for association officers, individuals close to retirement age, and recent hires within racial and ethnic minority groups. In most instances, teachers were to be recalled in reverse order of layoff as positions became available. Teachers exercising recall rights, however, usually had to meet certification and qualification requirements for the position.

The existence of language covering the circumstances above indicates the general lack of protection under state tenure laws. At least 13 state tenure laws allow dismissals if warranted by economic conditions in the school district. Only a few of the state statutes, California, Ohio, and Illinois, for example, describe the procedure to be followed in RIF situations. Where state tenure law addresses RIF problems, associations should include at least some reference to applicable codes, as in the examples to follow.

Additional procedures can then be elaborated to include circumstances not anticipated by existing law.

> Any reductions in personnel resulting from school District reorganization shall be in compliance with Section 24-12 of the Illinois School Code.
>
> Before the Board makes any reduction in personnel, it shall advise the Association regarding such reductions and, before taking action, seek the Association's views on the matter.
>
> [For districts of less than 500,000 population, the code mandates that a 60-day advance notice on RIF's be given and that a statement of honorable dismissal be furnished to all affected. Probationary teachers are the first terminated. A dismissed teacher has priority in assignment to the former position if it is reinstated within one calendar year.]
>
> [Skokie, Illinois]

* * *

> Should teacher reductions be necessary, the following provisions of the Revised Code of Ohio shall be applicable:
>
> When by reason of decreased enrollment of pupils, return to duty of regular teachers after leaves of absence, or by reason of suspension of schools or territorial changes affecting the district, a board of education decides that it will be necessary to reduce the number of teachers, it may make a reasonable reduction. In making such reduction, the board shall proceed to suspend contracts in accordance with the recommendation of the superintendent of schools who shall, within each teaching field affected, give preference to teachers on continuing contracts and to teachers who have greater seniority. Teachers, whose continuing contracts are suspended, shall have the right of restoration to continuing service status in the order of seniority of service in the district if and when teaching positions become vacant or are created for which any of such teachers are or become qualified.
>
> [Dayton, Ohio]

SENIORITY

In 1,500 contracts on file at NEA Research, 44 provisions comprehensive enough for study were found in which seniority was the prime determinant for reductions. The major components of such provisions were (a) either a definition of seniority or a definition of continuous service; (b) a statement regarding types and priority of systems where more than a district-wide seniority system existed; (c) the effect of interruptions in service; (d) the procedure for developing the seniority list; (e) methods for resolving equal seniority; and (f) applicability in assignments, transfers, and layoff and recall.

Seniority was usually defined as length of continuous employment from the date of hire. While nontenured teachers rarely had seniority rights, the period of experience before gaining tenure was included in computing length of employment for seniority purposes. The most common seniority system appeared to be that of all tenure teachers on a district-wide basis and usually had priority over school- or building-wide seniority. Seniority was further operative within departments or subject areas (usually in high school) and within grade levels (in elementary school). In 13 of the 44 provisions, seniority governed layoff and recall.

The provisions illustrated the possible methods for structuring the competing interests of individual job protection and program needs within the district when reductions were necessary. Where seniority existed system-wide, the senior teachers had relative employment security although their own positions might be eliminated. The school district decided which *positions* were to be eliminated and seniority governs which *teachers* were to be laid off. The senior teacher whose position was eliminated then transferred into the vacancy left by the riffed teacher.

Strict seniority operating system-wide maximizes objectivity but may diminish adequate delivery of services since the profession is not homogeneous and specialized skills are often requisite to specific teaching posts. Program needs are recognized by provisions calling for seniority subsystems where determinations are first made among teachers within schools or buildings, subject areas or departments, or the grade level taught; other qualifications may be specified. The extreme is reached where seniority merely breaks a tie among teachers with "equal" qualifications. Where multiple criteria govern, a riffed senior teacher may displace or "bump" a less senior teacher, but exercise of such rights may result in widespread dislocations. Within extremes, a local decision must be made as to which seniority system or other objective criterion will prevail. No single system is best for all circumstances.

Whichever system is employed, it is critical that its operation be understood and that necessary guidelines be developed. A good example is that of the master seniority list for district-wide use. The list should be developed early in the year so as to afford every teacher an opportunity to know his seniority status and challenge any errors which may have occurred. It is far more practical and less devisive for the seniority list to be well settled in advance of the need for it.

The following will illustrate aspects of seniority outlined. In the excerpt below, for example, tenured teachers have the right to displace nontenured teachers with less service, while riffed or displaced nontenured teachers have priority for vacancies not sought by a tenured teacher. The provision does not address situations involving only tenured teachers, nor are qualifications defined.

> **Reduction in Staff**
>
> If any position within the unit is eliminated, a tenured employee in that position shall have the opportunity to fill any other position for which he is qualified, provided:
>
> He is seeking to fill a position held by a non-tenured employee whose length of service in the district is shorter, and
>
> His performance has been rated satisfactory
>
> If the position of a non-tenured teacher is eliminated, and the teacher's performance has been satisfactory, he shall have first priority on any vacant position for which he is qualified, and which is not sought by a tenured teacher.
>
> [Islip, New York]

Subsystems for the operation of seniority within elementary grades and high-school subject areas are illustrated below, although the provision deals only with procedures once a reduction is under way. Seniority prevails among tenure teachers once qualifications are established. An effort is made to ensure that "qualification" can be gained

in either a major or a minor subject thereby extending individual security. Even the teaching experience requirement can be fulfilled by audit or observation. Given a potentially large "protected class," the lack of a clause for settling competing seniority claims may be a critical weakness although it is conceivable that major/minor priority operates in the enumerated order.

The number of positions to be filled in grades K-6 shall be determined by the Board and shall be filled from those tenure teachers then teaching in grades K-6 in accordance with their respective periods of continuous service with the Grandville Schools, the senior qualified teacher will be chosen over those teachers with less continuous service.

The subjects to be taught and the number of teaching positions to be filled in grades 7-12 shall be determined by the Board. Such positions shall be filled from those tenure teachers then teaching in grades 7-12 who are qualified therefor by virtue of having either (1) a major in the particular subject to be taught or (2) a minor in such subject with actual teaching experience in the subject in the Grandville Schools or (3) a minor and actual teaching experience in the subject elsewhere which the Board, after investigation, determines to be satisfactory, all in accordance with their respective periods of continuous service with the Grandville Schools, the senior qualified teacher will be chosen over those with less continuous service.

A tenure teacher who does not have any actual teaching experience in his minor field may fulfill this requirement by auditing and/or observing a comparable classroom experience in his minor field for a period of at least 10 class periods in the secondary schools or 8 hours in the elementary schools, during one school year. Observation days may not be used for this purpose. However, such auditing and/or observation may be done during the teacher's conference or preparation period but must not interfere with his regular classroom duties or responsibilities. Arrangements must be acceptable to the teacher being observed and the Building Principal and all such activities will be under the direction and supervision of both the teacher observed and the Building Principal. Upon completion of such auditing and/or observation, a statement of completion will be prepared by the Building Principal in triplicate (one copy to the teacher involved, one copy to be kept on file by the Building Principal, and one copy to the Personnel Office).

In order to remain up-to-date, a teacher of non-academic subjects such as music, physical education or art must do an additional 2 class periods or clock hours of auditing or observing once each year.

[Grandville, Michigan]

The focus of the following example is on elementary grades. Reductions proceed in order of temporaries, probationaries and tenured teachers, with length of service prevailing within groups. Qualification is established by meeting both certification and teaching experience requirements in subject areas for "lower elementary" and "upper elementary" clusters. Note that reductions are prohibited beyond a 50 percent change in personnel within a subject area.

The following provisions shall apply if there is a necessary reduction in personnel:

The order of reduction shall be:

Temporary employees without individual contracts.

Probationary teachers according to qualifications and certification.

Qualifications and certification are defined as having a teaching certificate in a subject area and having successfully taught in that area within the last six (6) years in the Battle Creek Public Schools. Subject area in the elementary shall be K-3 (lower elementary) and 4-6 (upper elementary). Third and fourth grade teachers can move up or down one grade level. When more than one teacher is qualified and certified for a position, the teacher or teachers with the least number of years of teaching experience in the Battle Creek Public Schools shall be laid off first.

Tenure teachers according to qualifications and certification.

Qualifications and certification are defined as having a teaching certificate in a subject area and having successfully taught in that area within the last six (6) years in the Battle Creek Public Schools. Subject area in the elementary shall be K-3 (lower elementary) and 4-6 (upper elementary). Third and fourth grade teachers can move up or down one grade level. When more than one teacher is qualified and certificated for a position, the teacher or teachers with the least number of years of teaching experience in the Battle Creek Public Schools shall be laid off first. Exception to the above may be made in the subject area if the reduction procedure would cause more than a fifty percent (50%) change in personnel in any subject area.

[Battle Creek, Michigan]

Teachers holding dual or multiple certification have seniority rights in areas taught, under this provision:

If an employee is certified in two or more teacher categories, that teacher will have the right to assert accrued seniority in such category in order to avoid being laid off, provided he has taught in that category and endorsement area.

[Arlington, Virginia]

A key definition of "qualifications" is included in the following example. While length of service apparently rules throughout the district, retention hinges on qualification.

Whenever it becomes necessary to lay off employees due to a shortage of work, or lack of funds, employees shall be laid off in inverse order of their length of service to the extent that teachers retained are qualified for their position; and whenever so laid off, such employees shall possess rights of re-employment for a period not to exceed two years when vacancies exist for which they are qualified.

Qualified shall be defined as certified and having taught in that area.

[Eau Claire, Wisconsin]

The shortcomings of the example above are apparent in contrast to the excerpt below which both details the order of layoff and provides definitions for qualifications, certification, and length of service. Note that leaves of absence and time spent on layoff do not break the continuity of service although such time is not counted in an individual's total service. The latter reinforces the important concept that the layoff is considered temporary and that benefits are being held in abeyance until reinstatement. Layoff is governed by system-wide seniority in the prescribed order.

Reduction of Personnel

In the event it becomes necessary to reduce the number of teachers through layoff of employment, or to reduce the number of

teachers in a given subject area, field, or program or eliminate or consolidate position(s), the Board shall follow the procedure listed below:

Teachers not holding a regular Michigan provisional, continuing, or vocational certificate will be laid off first, provided there are fully qualified, fully certificated teachers to replace and perform all of needed duties of the laid off teachers.

If reduction is still necessary, then probationary teachers with the least number of continuous years of teaching in the Grand Rapids Public School System will be laid off first, provided there are fully qualified, fully certificated teachers to replace and perform all of the needed duties of the laid off teachers.

If the reduction is still necessary, then tenure teachers with the least number of years of continuous teaching experience in the Grand Rapids Public School System will be laid off first, provided there are fully qualified, fully certificated teachers to replace and perform all the needed duties of the laid off teachers.

Fully qualified and fully certificated shall be defined as follows:

Teachers who have earned a provisional or continuing teaching certificate in a given subject area.

Teachers who have completed eighteen semester hours of college credit in a given subject area or have taught in the subject area on a regular basis within the last five years preceding the layoff.

Teachers who have earned the minimum credit hours required by the North Central Association.

Length of service is defined as unbroken service in the Grand Rapids Public School System. Leaves of absences, with or without pay, and absences due to layoff are not to be considered a break in service; and time spent on leave or laid off will not count toward continuous service time.

Any layoff pursuant to this Agreement shall automatically terminate the individual's employment contract and all benefits allowed therein including all benefits under this Master Agreement. Upon recall, the individual's employment contract and all benefits allowed therein, including all benefits under this Master Agreement, shall be reinstated in full.

[Grand Rapids, Michigan]

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SUPER SENIORITY AND SPECIAL PREFERENCE

Associations should seek additional protection for officers and key representatives through the mechanism of "super seniority" as is the practice in private sector contracts. In effect, teacher leaders would be a protected group, insuring that organizational response to the RIF threat is not weakened by elimination of persons in leadership roles. Within clauses specifying a strict seniority system, language could dictate, for example, that the president be considered as having greater seniority than any other member. The next officers in succession, to the extent they are considered vital to association survival, could likewise be granted "super seniority status."

Professional education considerations can also warrant special preference in RIF situations. The following clause recognizes that the loss of a particular teacher, although next in the seniority line, might affect the district's accreditation. Such teachers are deemed "irreplaceable" and are protected by placement at the top of their seniority group.

Necessary differentiation among employees with the same seniority shall be accomplished by the following criteria:

a) Employees shall be ranked according to their placement on the salary schedule, with the greatest advancement to the least advancement as a ranking for the greatest seniority to the least seniority.

b) Step a) will be eliminated in cases in which a certificated employee cannot be replaced by another District employee with a greater seniority and whose release would be the deciding factor in loss of district accreditation. In such a case, the irreplaceable employee will be ranked at the head of his seniority grouping for seniority differentiation.

[Mount Vernon, Washington]

Some associations have also believed that persons close to retirement or of advanced age should have additional protection to mitigate the threat of employment loss. The preferential treatment is justified because such individuals face practical barriers to re-employment and have probably rendered lengthy service to the district. These teachers could be considered as a separate class or be credited with additional service years as in the excerpts below:

Any tenured teacher who is sixty (60) years of age or older when a layoff occurs shall be given an additional two (2) years of seniority for purposes of this Article.

[Bangor, Michigan]

Any teacher who is laid off and who in the future would reach age sixty-five (65) (compulsory retirement, Article 36) and who would lack two (2) years of service to acquire retirement benefits, may teach two (2) additional years so as to acquire such needed service.

[Bay City, Michigan]

Where districts have implemented affirmative action plans, exceptions to the standard seniority rules offset the problem of accomplishments being wiped out in a reduction. To counter the "last hired, first fired" effect, the first clause below prescribes separate seniority groups for racial categories (not defined) so as to maintain the racial ratio of the previous year. The second example exempts from seniority mandated reduction of first-year probationary ethnic minority teachers, normally the first in order of layoff, until their numbers are in harmony with the ethnic minority enrollment, or until all "ethnic majority" teachers have been laid off.

In the event a reduction of staff is necessary, the order of layoff described in this provision shall apply within the constraints listed below.

A racial ratio the same as 1972-73 shall be maintained. The order of layoff described in this provision shall be applied individually to each group.

[Ann Arbor, Michigan]

When certification and competency are relatively equal, seniority will be disregarded for all first year probationary ethnic minority teachers and such teachers shall be maintained until the number of ethnic minority teachers employed by the Board is no less than the percentage of ethnic minority students enrolled in the district, or until all ethnic majority probationary teachers have been laid off regardless of their probationary year.

If, at anytime, the percentage of ethnic minority teaching personnel reaches the ethnic minority student population percentage norm, further staff reduction shall result in maintaining a racial balance among staff no lower than the existing student ratio.

[Lansing, Michigan]

VACANCIES

Access to existing vacancies should be clearly stipulated, although the need for such language may be minimized by a provision that the reduction be accomplished through attrition. Where strict seniority governs, however, vacancies are created as less senior employees are terminated. For example, if a position is eliminated and the incumbent is protected by virtue of greater seniority, a less senior teacher would then be laid off and the vacancy created would be filled by the senior teacher. Another operational option could be that of "bumping," referred to in the discussion on private sector agreements. The right to displace any less senior employee may introduce an unacceptable element of insecurity because of a chain reaction as each displaced individual asserts his/her rights in succession. A degree of control can be established by limiting bumping to displacement of the *least* senior employee and having well-defined seniority groups. Where rigidly controlled, bumping systems would differ from seniority generated vacancies only in that the former is incumbent initiated while the latter follows an established order.

The teacher contract provisions studied usually listed only the employment categories within which seniority would prevail, as in previous examples, and no language was found which explicitly defined bumping rights. Mechanisms were found which provided access to vacancies in other areas where the teacher held certification. This right was usually limited to tenured teachers, as in the two following examples:

Reduction in Tenure Positions

A tenured teacher affected by a reduction in the number of positions in his tenure area will not be released from employment in the district while there is another position in another tenure area available for which the teacher is certified.

[Herricks, New York]

* * *

In the event that there is a reduction in the number of positions, or an abolishment of a position, within a tenure area, and such reduction or abolishment requires the termination of the services of any teacher within the tenure area, the services of that teacher with the least seniority in the tenure area shall be first terminated unless there is a vacant position in another tenure area for which such teacher is certified. Said position shall be offered to such teacher.

[Sachem, New York]

* * *

The access rights illustrated here should not be confused with recall rights to vacancies *after* employment loss. While recall is no less important, the first order of business should be employment protection. A clause addressing re-employment follows for comparison with the previous examples:

Layoff and Recall

In cases requiring a reduction of the teacher work force due to a decrease of work or operating funds, principal consideration for the order of reduction shall be: first, temporary employees; next, probationary teachers according to qualification, certification, and seniority; next, tenure teachers according to qualification, certification, and seniority. Any teacher on permanent tenure whose services are terminated because of a necessary reduction in personnel shall be appointed to the first vacancy in the school district according to seniority for which he/she is certificated and qualified.

[Sylvania, Ohio]

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[1] Tillery, Winston L., "Layoff and Recall Provisions in Major Agreements." *Monthly Labor Review* 94: 41-46; July 1971.

[2] National Education Association, Research. "Seniority Provisions in Negotiated Contracts." *Negotiations Research Digest* 7: 15; June 1974.

TAXONOMY FOR A REDUCTION-IN-FORCE PROVISION

The two basic approaches to reduction-in-force provisions are (a) a freeze on general reduction in force during the term of the agreement, and (b) establishment of limits, procedures, and rights if reduction in force becomes necessary. An outline of the basic elements contained in the second approach are listed below.

A. Statement of basic education policy used in the development of the reduction-in-force procedure
B. Reasons for which RIF may be considered
   1. Substantial reduction in available funds
   2. Substantial reduction in pupil enrollment
   3. School district consolidation or merger
C. A specific time by which the board is to give the association notice of the anticipated RIF
D. Guaranteed sharing with the association, information on enrollment projections, staffing patterns, special programs, and financial data used as the bases for determining RIF's
E. Guaranteed opportunity for the association to either meet, review, confer, and negotiate over the factors, education priorities, student programs, and possible alternatives before a final determination on reduction in force is made
F. Maintenance of the ratio of budgetary items at the previous year's level when reduction in force is being considered for classroom teaching positions
G. Factors to be used in the compilation of a reduction-in-force list of bargaining unit members: eduction programs, characteristics of staff, organization of school system, special preferences, or a combination of these

1. Education program considerations are basic curriculum needs of students, instructional materials to support the basic curriculum, special education programs, special funded programs, teacher-pupil ratio, and cocurricular and extracurricular activities
2. Characteristics of staff to be considered are seniority, tenure, certification, status (probationary, temporary, substitute), qualifications, graduate credit, and degrees
3. Organization of school system factors are system-wide vs. grade level, specialists, and departmental, building, or administrative unit bases
4. Special preference factors are association leaders and officers, affirmative action personnel, personnel in special funded programs, and teachers only a few years from retirement

H. Preparation, distribution, and posting of reduction-in-force list for verification of individual positions on the list

1. List prepared jointly by the administration and the association on the basis of negotiated criteria, or if prepared by the administration, see item 4 below
2. Publication and distribution of list to each building, administrator, association leader, and building representative
3. Posting of list in each building for a specific period of time well in advance to allow sufficient time for hearing individual appeals
4. Association or individual right to appeal inconsistencies or violations of the negotiated criteria found in the reduction in force list
   a. Specific time limits for appeal
   b. Criteria to be used in case of ties
   c. Effect of leaves of absence or breaks in service on an individual's position on the list

I. Selection and notification of individual teachers to be placed on layoff status

1. List of individuals to be laid off filed with the association
2. Individuals notified well in advance by a specific date that they are scheduled to be laid off the next school year
3. Statement of reasons for layoff to be provided each teacher and put in his/her personnel file
4. Notices to be sent by registered mail
5. Bumping rights to be given in detail

J. Assistance to be provided teachers on layoff status by the school board through

1. Notification penalties
2. Severance pay by either lump sum or payment for unused sick leave
3. Establishment of contacts in surrounding schools not suffering reduction in force
4. Provision of personal references

K. Vacancies in teaching positions not to be filled by new hirees while qualified teachers are on layoff

L. Recall procedure

1. Recall list to be compiled in inverse order of layoff
2. Teachers to be automatically placed on recall list upon termination
3. Recall rights to continue for a specific period of time
4. Notices of vacancies to be sent to qualified individuals by registered mail
5. Position to be accepted within a specified period and to be offered to the individual having priority on the recall list
6. Continuation of insurance programs at employee option
7. Individual teachers to be responsible for notifying the school district of change of address, qualifications, or status

M. Rehire rights

1. No loss in salary schedule progression
2. Restoration of benefits with option to buy back retirement credit lost owing to layoff
3. Waiver of waiting period for health insurance
4. Accumulation of leaves restored
5. Break in service owing to lay off to be treated as time in service

N. Disputes to be subject to a grievance procedure providing for final and binding arbitration

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BRIEFS OF AGREEMENTS

GUNNISON, COLORADO

Between Gunnison Watershed School District RE 1J and Gunnison County Education Association, effective January 1, 1975, to December 31, 1976. Negotiations for a successor agreement will commence not later than 120 days before the date on which this agreement expires; if the parties do not reach agreement before October 31, the issues will be submitted to mediation.

COMPENSATION: (February 1975-December 1975) B.A. $7,900 to $9,100, 4 increments; B.A. plus 15 hours, $9,650 maximum; B.A. plus 30 hours, $10,200 maximum; M.A., $8,900 to $11,600, 9 increments; M.A. plus 15 hours, $12,150 maximum; M.A. plus 30 hours, $12,700 maximum; Ph.D., $15,510 maximum.

DIFFERENTIALS: (Based on percentage of teacher's salary, but total not to exceed established maximums) Moderators of journalism, Pep Club, and School Annual, assistant baseball coach, intramural coaches, assistant track coach, 4% of their salaries; junior high Pep Club moderator, intramural athletics coach for girls, track coach, and assistant

wrestling coach, 3%; high-school asst. wrestling coach, junior high-school basketball, football, and wrestling coaches, 5%; senior high-school baseball, asst. basketball, asst. football, gymnastics, and track head coaches, girls' track and field coach, and girls' winter sports coach, 6%; head coaches of basketball and football, 10%; head coach of wrestling, 9%.

OTHER: $.12 per mile or $7.50 per month, whichever is greater, for all required travel.

LEAVES: Ten days of sick leave granted per academic year, unlimited accumulation; one personal leave day without loss of pay during each school year for legal, business, or family matters which require absence during school hours; such leave to be cumulative as sick leave; professional visitation leave without loss of pay to attend educational meetings and conferences; leave to be granted for jury or subpoena as a witness; the teacher will turn over to the board payment received for such service and no deduction will be made from the teacher's salary; two days of emergency leave for inability to attend school because of inclement weather or for unusual circumstances will be granted without loss of pay; two days of breavement leave for death in immediate family; sabbatical leave at 80% of regular salary for 6 months to 1 year to take college or university courses, for independent study or travel after 6 full school years of service in the district; extended leaves of absence without pay may be granted for caring for a sick member of the immediate family or household, serving in an elected public office, personal leave for health, travel, or relaxation, professional development, professional services (Peace Corps, VISTA, National Teacher Corps).

INSURANCE: Board will pay premium for $4,000 of term life insurance; board will provide Blue Cross-Blue Shield Preferred 120 Plan for the individual staff member.

ASSOCIATION: Dues deduction for local, state, and national associations; 10 days of professional leave granted to Association representatives during school year for attendance at Association meetings; leaves of absence without pay will be granted to 1 teacher for 1 school year or 1 semester to engage in Association activities; upon return from such leave the teacher will be granted up to 1 year's credit on the salary schedule; released time for Association representatives involved in negotiations during school hours; the Association president may be dismissed from the building at any time to conduct Association business with prior approval of the building principal; the principal and the faculty representative will meet at the request of either party to discuss the administration of this agreement and procedures for the improvement of the school program and policies; the Association has the right to use school facilities without cost, to deliver and receive materials through the school mail and delivery service, to use the school public address system to make announcements concerning Association business, to use school buildings for meetings, and to use school equipment; the board will provide the Association with an advance copy of the agenda for each official board meeting; the board will make available to the Association on request all information concerning the financial resources, including the superintendent's tentative budget, tentative budgetary listings and salary schedules, periodic lists of expenditures, teacher assignment lists, staffing patterns, and other material open to public inspection.

INSTRUCTION: The work day for teachers will not exceed 7½ consecutive hours including lunch and preparation periods; teachers will have a continuous duty-free lunch period of at least 30 minutes; senior high-school teachers may be requested to instruct students for 285 minutes of any normal workday; class periods will not be less than 45 minutes long; one 45-minute preparation period daily; elementary teachers shall have at least 200 minutes per week for planning and preparation; the number of preparations of junior and senior high-school teachers will be limited to 3 during any one semester wherever possible.

> The staff of the school working with the building principal and the administration shall decide upon the staffing pattern best suited to the needs of the students in that building and make recommendations to the Board.
>
> When more than two (2) children from the educationally or physically handicapped classes are integrated into a regular classroom two (2) hours or more per day, the regular classroom teacher shall, upon request, have a teacher aid for that period of time.

PERSONNEL: Grievance procedure ends with board action on advisory arbitration; right to review personnel file and make copies of any documents contained therein; no derogatory material will be placed in the teacher's file unless the teacher has had an opportunity to review the material; teacher will also have the right to submit a written answer to such material and his answer will be attached to the file copy; attendance at regular meetings of parent-teacher organizations is a matter of determination by the teacher;

> Teacher aides assigned to teachers shall be under the direct supervision of the teacher(s) to whom the aide is assigned.
>
> Teacher aides shall be evaluated by the teachers to whom the teacher aides are assigned. Such evaluations shall be considered in retention of the aides.
>
> School aides shall not be used in any instructional capacity except as allowed by law.

Board will provide funds to help defray costs incurred by teachers who attend instructional area conferences; credit taken must be consistent with teaching position and must be approved by the board; all monitoring or observation of a teacher will be conducted openly and formal evaluations will be conducted with prior notification of the teacher; any areas of unsatisfactory performance will be mentioned in specific detail and specific written suggestions and a planned program for improvement will be submitted to the teacher involved; after each observation for evaluation the evaluator will confer with the teacher and offer suggestions for improvement; each teacher will be given a copy of all evaluation reports placed in his personnel folder; no evaluation report will be submitted to the central office, placed in the teacher's files, or otherwise acted upon without prior conference with the teacher; an effort will be made to evaluate tenure teachers at least every 3 years; probationary teachers will be evaluated at least three times each school year by their principal or members of the supervisory staff; when filling vacancies or staffing new schools, currently employed teachers will be given first consideration; any teacher denied a transfer may request reasons for denial

from superintendent; a teacher being involuntarily transferred will be given an opportunity to visit schools in which vacancies exist and will be given preference over other applicants; vacancies must be posted immediately in a prominent place in all school locations.

> Administrative vacancies will be adequately publicized by the Superintendent and posted in all buildings. The qualifications for the position, its duties, and the salary schedule will be clearly set forth.
>
> Teachers who desire to apply for Administrative positions shall submit their requests in writing to the Superintendent. Such applications will be kept confidential by the Superintendent, except when recommendations are requested from those who can evaluate the applicant's performance and character. The Superintendent may request that persons involved keep the exchange of information confidential.

Openings for summer school positions will be filled first by qualified teacher applicants already employed by the district; a teacher will not be charged for time lost for physical injuries caused by an assault while carrying out his duties and responsibilities as an employee of the district; the teacher will receive his salary during this period of disability, as defined by the Workmen's Compensation Act, and assign any Workmen's Compensation payments to the school district; the board reserves the right to have the teacher examined by a physician to determine the teacher's right to receive benefits under this provision; if any teacher is complained against or sued as a result of any action taken by the teacher while acting within the scope of his employment, the teacher may request the board's assistance in the preparation of his defense; upon receipt of such request, the board may instruct its attorney to consult with the teacher's legal counsel and to render necessary assistance to the teacher in preparation of his defense.

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HOLYOKE, MASSACHUSETTS

Between the Holyoke School Committee and the Holyoke Teachers Association, effective January 1, 1974, to June 30, 1976, covering all classroom teachers, guidance counselors, department heads, librarians, teachers of special subjects, therapists, coaches, extracurricular personnel, school psychologists, the placement officer, teachers of driver education, teachers on the regular Holyoke Staff teaching in summer school, and those teaching in the evening school excepting members of Holyoke Educators Association, substitutes, nursery/day care personnel, teachers in federal projects, the superintendent, the assistant superintendent, and all other employees of the school department.

COMPENSATION: (1975-76) B.A., $8,297 to $12,842, 10 increments; M.A., $13,752 maximum; M.A. plus 30, $14,319 maximum; Ph. D., $14,888 maximum. Salary increases are granted for additional experience and for additional training.

DIFFERENTIALS: Heads of departments receive 1.09 of appropriate step on M.A. schedule; travel allowance, $.10 per mile; longevity increment of $100 after 10 years.

LEAVES: Fifteen days of sick leave a year with a maximum accumulation of 210 days; emergency personal leave of three days of annual sick leave will be allowed for absence owing to the death of a close friend, personal business not transactable during nonschool hours, court appearances, school commencement of near relatives, religious holidays; special leaves not covered by other leave policies must be requested of the school committee.

INSURANCE: Blue-Cross-Blue Shield (65% contribution) coverage or its equivalent is available to all members on a contributory basis; life insurance under Blue Cross Blue Shield provides $2,000 maximum (65% contribution); tax-sheltered annuity plan available through payroll deduction from a company of the teacher's own choosing.

ASSOCIATION: Dues deduction for local, state, and national associations.

INSTRUCTION: Classroom visits by teachers of special departments may, under certain conditions, provide elementary teachers with preparation time during the school day; no high-school academic teacher will be required in any one year to teach more than two subjects or to make more than two teaching preparations, except, however, that such teachers may be required to make an additional preparation if they are relieved of home room obligations and duties such as study hall supervision; no secondary teacher on the junior high level will be required to teach more than two subjects in the same year.

PERSONNEL: In the determination of reassignments and transfers, the convenience and wishes of the individual teacher will be honored to the extent that these considerations do not conflict with the instructional requirements and best interests of the school system and the pupils; there are no limits to the number of credits one may earn in a calendar year; however, no more than four courses or 12 hours may be taken during a school year; a copy of each evaluation report shall be provided to the teacher; the teacher will have the right to make a written reply which shall be attached to the report; a principal who intends to give an unfavorable recommendation to the superintendent will so inform the teacher.

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HASTINGS, MICHIGAN

Between Board of Education of the Hastings Area School District and the Hastings Education Association, effective July 1, 1973, to June 30, 1976. Approximately 170 certificated professional employees, including department heads, counselors, librarian, and nonteaching certified school nurse. Provision for reopener on matters of common concern upon request by either party; provision for renegotiation at least 60 days before expiration of this agreement.

COMPENSATION: [1973-74—1975-76—opened by mutual agreement only; 1976-77—1977-78—opened by either party.]

There are established 10 levels of pay for teachers with a degree.

1. 8500—Probationary with no experience.
2. 9000—Probationary with one or more years experience.

The following are all tenure levels.

3. 10,000—Tenure with three or more years teaching experience.
4. 11,000-a) BA with 6 or more years teaching experience or
-b) MA with 5 or more years teaching experience
5. 12,000-a) BA with 9 or more years teaching experience or
-b) MA with 7 or more years teaching experience
6. 13,000-a) BA with 11 or more years teaching experience or
-b) MA with 9 or more years teaching experience
7. 14,000-a) BA 20 with 13 or more years teaching experience or
-b) MA with 11 or more years teaching experience
8. 14,500-a) BA 24 with 20 or more years teaching experience or
-b) MA with 13 or more years teaching experience
9. 15,000-a) MA with 20 or more years teaching experience or
-b) MA 15 with 12 or more years teaching experience
10. 15,500-a) MA 15 with 15 or more years teaching experience

The above levels of pay are subject to a cost of living index to be applied every six months, the first being January 1, 1974 and then each 6 months thereafter. The cost of living allowance will be determined in accordance with changes in the national Index for all items of the Consumer Price Index New Series published by the Bureau of Labor Statistics, U.S. Department of Labor (BLS New Index)

II. Extra pay for extra duties

A. The percentage for each extra duty is listed below and will be applied to the pay for levels 2-10 of Schedule A as determined by the following experience chart for extra pay duties.

Levels		Levels	
2	0-2 years experience	6	11-12 years experience
3	3-5 years experience	7	13-16 years experience
4	6-8 years experience	8	17-20 years experience
5	9-10 years experience	10	25 & up years experience

All experience in the extra duty will be credited and 1/2 credit for the experience when changing from one sport to another in the Hastings system. The rate of pay for each level will be from Schedule A on July 1 of each year for the ensuing school year.

The percent of pay for each extra duty is listed below

13%
1. Head Football
2. Head Basketball
3. Head Wrestling
4. Vocal Music
5. Band Director

9%
1. Head Baseball
2. Head Track

8%
1. Asst. Varsity Football
2. Head J.V. Football
3. Head Fr. Football
4. J.V. Basketball
5. 9th Basketball
6. Asst. Wrestling
7. Cross country
8. Tennis
9. Cheerleading
10. Asst. Band Director
11. Yearbook
12. Golf

6%
1. Asst. J.V. Football
2. Asst. Fr. Football
3. 8th Basketball
4. 7th Basketball
5. Asst. Baseball
6. Asst. Track
7. Orchestra
8. Retail Store
9. Plays
10. Jr. High Wrestling

5%
1. Newspaper

Girls Athletics (to be reviewed at the end of 1973-74 school year)

4%
1. Head Basketball
2. Asst. Basketball

3%
1. Head Volleyball
2. Asst. Volleyball
3. Softball
4. Track
5. Golf
6. Tennis

B. Other teaching Assignments

1. Summer School .1% hr. of Level 1.
2. Driver Education (Classroom and BTW). . .1% hr. of Level 1.
3. Varsity Athletic Events .1% event of Level 3.
4. Other Athletic Events .1% event of Level 1.

C. Heads of Department—Pay based on the level the teacher is on from Schedule A.
(This program evaluated at the end of 1973-74 school year.)

1. High School
   a) Communication Skills —7% Asst.—4%
   b) Social Studies —7%
   c) Mathematics —7%
   d) Driver Education —7%
   e) Science —8%
2. Junior High
   a) Social Studies —7%
   c) Communication Skills —7%
   c) Math and Science —8%
3. K-12
   a) Library —7%
   b) Counseling —7%
   c) Vocational Ed. —8% (1 hr. released time) Asst.—4%
   d) Fine Arts —7%

III. Previous Experience

A. Full credit for all previous experience.
B. Full credit for all previous extra duty experience.

IV. Effective Dates

Increments become effective on the starting day of school each year and advancement under salary schedule shall be automatic as of starting of school January 1, following completion of required academic or professional courses or experience.

V. Performance Pay Clause

A. Available in the 1974-75 school year and continuing for duration of contract.
B. An amount of $1,000 granted for a period of time as determined by the superintendent.
C. Criteria for granting
   1) Degree and Tenure
   2) Building principal and curriculum directors recommendations
   3) Superintendents recommendation
      a) May request a personal interview.
      b) Will put in writing his disposition of the application
      c) Will set the length of time the pay is granted

VI. Substitute Teaching
A. For 1973-74—$35.00/diem
B. For 1974-78—$40.00/diem
B. Any class over regular assignment the teacher shall receive 1/5 salary at the high school and 1/6 salary at the Junior High.

VII. Extra Credit Hours
A. $35.00/semester hour for on-campus
B. $20.00/Semester hour for off-campus credit out of Hastings
C. $10.00/Semester hour for off-campus credit in Hastings

A terminal leave payment of 10 percent of Level 1 of the salary schedule will be paid upon retirement, provided the teacher shall have been employed in the school district for the previous 15 years.

LEAVES: Fifteen days of sick leave granted the first year with 10 days per year thereafter, accumulative to 120 days; a teacher absent from work because of mumps, scarlet fever, measles, or chicken pox shall suffer no diminution of compensation and shall not be charged with sick leave; any absence under this section shall require a doctor's certification in order for the teacher to receive compensation; leaves of absence with pay chargeable against the teacher's sick leave allowance will be granted for serious illness in the immediate family or funeral attendance for one whose relationship to the teacher warrants such attendance; leaves of absence with pay not chargeable against the teacher's sick leave allowance will be granted for death in the immediate family (up to 3 days), jury service, court appearance as a witness in any case connected with the teacher's employment, approved visitation at other schools, attending educational meetings, and selective service physical examination; one day of personal business leave will be granted each year.

Any teacher who is absent because of an injury or disease compensable under the Michigan Workmen's Compensation Law, shall receive from the Board the difference between the allowance under the Workmen's Compensation Law and his [illegible] salary for a period of 30 calendar days with no subtraction [illegible] accumulated sick leave. Such 90 day period to be extended when school is not in session. Upon the completion of this 90 day calendar period, the teacher may use his accumulated sick leave on a pro-rated basis determined by the percentage of earnings not covered by the Workmen's Compensation received.

Leaves of absence without pay may be granted upon application and with approval of the board for study related to the teacher's license field; study to meet eligibility requirements for a license in the field of education other than that held by the teacher; study, research, or special teaching assignment involving probable advantage to the school system (teachers who have been employed for 7 years may be granted a sabbatical leave for 1 year upon application to and with approval of the board), or to campaign or serve in a public office.

INSURANCE: Board-paid health insurance and $15,000 term life insurance.

ASSOCIATION: Payroll deduction of local, state, and national association dues

All teachers as a condition of continued employment shall either:

- Sign and deliver to the Board an assignment authorizing deduction of membership dues and assessments of the Association (including the National and Michigan Education Associations) within thirty (30) days of the commencement of employment and such authorization shall continue in effect from year to year unless revoked in writing between June 1 and September 1 of a given year, or:

- Cause to be paid to the Association a representation fee equivalent to the dues and assessments of the Association (including the National and Michigan Education Association) within sixty (60) days of the commencement of employment. In the event the representation fee shall not be paid, the Board, upon receiving a signed statement from the Association indicating that the teacher has failed to comply with this condition, shall immediately notify said teacher that his services shall be discontinued at the end of the current school year. The refusal of said teacher to contribute fairly to the costs and administration of this and subsequent Agreements is recognized as just and reasonable cause for termination of employment.

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Released time of one hour per day for the president of the Association; Association representatives participating during working hours in negotiations or any professional grievance negotiation, including arbitration, will be released from regular duties without loss of salary or benefits; the Association has the right to use school building facilities at all reasonable hours for meetings, provided such use does not conflict with any previously scheduled school-sponsored activity; bulletin boards and other established media of communication will be made available to the Association; the Board will furnish to the Association information concerning the financial resources of the district, tentative budgetary requirements and allocations, and such other information as well as assist the Association in developing programs in behalf of the teachers and their students, together with information which may be necessary for the Association to process any grievance or complaint.

INSTRUCTION: The normal weekly teaching load in the senior high school will be 25 teaching periods and 5 conference periods; in the junior high, 30 teaching periods and 5 conference periods; in the elementary school, 27½ hours and the equivalent of 5 unassigned preparation hours; teachers will not be assigned, except temporarily or for good cause, outside the scope of their teaching certificates or their major or minor field of study without prior consultation of the Association; the lunch period will be 25 minutes in secondary schools and 45 minutes in elementary schools; academic classes will be limited by a pupil-teacher ratio not to exceed 25:1 except where it is desirable as determined by the principal and teacher; nonacademic classes with no permanently established learning stations, excluding physical education and music, will be limited to a pupil-teacher ratio not to exceed 25:1; department meetings will be held whenever the department head deems it necessary; the board will furnish without charge, at the teacher's request, gym uniforms for all physical education teachers and smocks for art teachers and home economics teachers.

PERSONNEL: Grievance procedure ends with final and binding arbitration; grievance proceedings will be kept as confidential as may be appropriate at the level of each procedure, which will not be construed as limiting the right of any teacher with a grievance to discuss the matter informally with any appropriate member of the administration; if any teacher for whom a grievance is sustained shall be found to have been unjustly discharged, he shall be reinstated with full reimbursement of all professional compensation lost; all monitoring or observation of the work performance of a teacher will be conducted openly and with full knowledge of the teacher; secondary probationary teachers will be evaluated at least once each semester by an administrator and head of department, and elementary probationary teachers will be evaluated once each semester by an administrator and an experienced elementary tenure teacher appointed by the building principal; all tenure teachers will be evaluated by an administrator and/or department head at least once each school year; any tenure teacher who has his tenure revoked will have the right to be evaluated by an experienced tenure teacher appointed by the department head or the assigned elementary teacher evaluator; a teacher will at all times be entitled to have a

representative of the Association present when he is being reprimanded, warned, or disciplined for any infraction of discipline or delinquency in professional performance; no teacher will be disciplined, reprimanded, reduced in rank or compensation or deprived of any professional advantage without just cause; any such discipline, reprimand, or reduction in rank, compensation, or advantage will be subject to the professional grievance negotiation procedure; no vacancy will be filled except in case of emergency on a temporary basis, until such vacancy shall have been posted for at least 15 days; the board agrees to give top priority to its own staff for assignments to supervisory positions; any teacher on continuing tenure whose services are terminated because of a lack of funds will be appointed to the first vacancy in the district for which he is certified and qualified in accordance with the seniority procedures developed by the System Tenure Committee; in the event transfers of teachers are necessary, the teachers involved will be consulted collectively; if total agreement on necessary transfers is reached, lists of available positions will be posted and such transfers will be made only after consultation with the Association; any teacher complained against or sued by reason of disciplinary action taken by the teacher against a student will be provided legal counsel and other necessary assistance for his defense by the board; the board will reimburse teachers for any loss, damage, or destruction of clothing or personal property not covered by the teacher's personal insurance, while on assigned duty if the loss is not the fault of the teacher.

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THE PORTLAND ASSOCIATION OF TEACHERS SCHOOL DISTRICT NO. 1 MULTNOMAH COUNTY, OREGON

Between the Portland Association of Teachers and School District No. 1, effective July 1, 1974, to June 30, 1975. Approximately 3,600 certificated professional employees, including all teachers employed at least half-time. The parties will commence negotiations over a successor agreement no later than 180 calendar days before the expiration of this contract. Should a Joint Committee meeting result in a mutually acceptable written amendment of the present contract, then said amendment shall be subject to ratification by the Board and the Association, provided that the Joint Committee shall be empowered to effect temporary alterations to resolve special problems.

COMPENSATION: (1974-75) B.A., $8,369 to $11,908, 13 increments; B.A. plus 15 hours, $12,121 maximum; B.A. plus 30 hours, $12,292 maximum; B.A. plus 45 hours, $13,361 maximum; M.A., $9,641 to $13,596, 13 increments; M.A. plus 15 hours, $14,163 maximum; M.A. plus 30 hours, $14,740 maximum; M.A. plus 45 hours, $15,264 maximum. Longevity pay is incorporated into the lane of the salary schedule at the maximum step.

Any teacher who was on the maximum of the Bachelor's degree Column or the Master's Degree Column during the 1969-70 school year, and will be on the maximum of any column of 1974-75 schedule, will receive as of fiscal year beginning July 1, 1974, an additional longevity factor of 3 percent of his basic annual salary, except that if he is on columns for BA+90, MA+30, BA+105 or MA+45 such factor shall be 3-1/2 percent of his basic annual salary.

EXPERIENCE CREDIT

In granting credit for industrial experience for the purpose of ascertaining the placement of the teacher on the salary schedule, each eight months in a calendar year of continuous employment in a trade, occupation or profession shall be considered in the same manner as one year of teaching experience. Only employment in a full-time position from which the applicant derived his chief means of support and in which he was employed at least eight months in each calendar year shall be counted. This means that an applicant employed out of a union hiring hall when work is not continuous may count partial employment toward experience in any one year.

Persons considered for employment as full-time instructors who do not have a Bachelor's Degree or a recognized trade or craft background shall be evaluated on the basis of their occupational experiences and specialized schooling relating to their occupations. Four years of experience and/or schooling in his occupation or profession shall qualify the person for employment on the "BA" teachers' schedule.

The monetary value of half of a teacher's accumulated unused sick leave will be paid upon retirement.

DIFFERENTIALS: (percent of base) Athletic director, 26%; head coach of football, basketball, gymnastics, wrestling, baseball, track, 16%; assistant athletic director, 13%; department chairman (A), drama (A), forensics (A), instrumental music (A), vocal music (A), head teacher, 12%; drama (B), 10%; newspaper, yearbook, assistant coach of football, basketball, gymnastics, wrestling, baseball, track, 9%; department chairman (B), forensics (B), instrumental music (B), consultants, unit leaders (A), 8%; intramurals (A), 7%; pep club (A), unit leaders (B), 6%; cross country, intramurals (B), rally-varsity, college and financial aid coordinator, inservice coordinators, TV producers and directors, 5%; pep club (B), safety patrol (A), rally-JV, department chairman (C), 4%; safety patrol (B), pep club (C), radio-TV coordinator, 2%; special projects, 1-16%; intramurals-high school, 1-14%.

SPECIAL SALARY PROVISIONS

Shop foremen at Benson shall receive 12 percent of base per school year in addition to their regular teaching salary.

Each temporary teacher reemployed for the next school year, whose salary has reached the maximum for newly elected teachers, shall be reemployed at his present salary and shall not advance further on the salary schedule. Temporary teachers shall not receive any additional partial pay after they have exhausted their sick leave for the teaching year. Temporary teachers who have taught 50 percent of the previous school year but have not reached the maximum for the newly elected teachers shall be entitled to an increment.

Hourly teachers in the regular day school and the evening high school program shall receive $9.84 per instructional hour; provided, however, that no teacher who teaches in a regular day school for more than one hour per day or five hours in any one day of the week shall be considered an hourly teacher. Home instruction teachers shall receive $7.44 per hour. Those with degrees shall receive $8.39 per hour.

Rate of pay for teachers of in-service classes shall be:

$366 for a 2-hour course, winter
$549 for a 3-hour course, winter
$470 for a 2-hour course, summer
$705 for a 3-hour course, summer

Rate of pay for all teachers on special professional assignment by the appropriate administrator shall be $7.44 per hour if the assignment is comparable to their regular year assignment in terms of preparation, etc. For assignments that are not comparable, the job shall be classified in advance as to comparability and rate of pay.

Central Staff Professional Librarians are employed on a twelve-calendar-months basis with one month vacation with pay, and are not classified as teachers for tenure purposes.

A teacher appointed to substitute in an administrative or supervisory position shall be paid his teaching salary plus $7.90 per working day for a short-term emergency period. When the teacher assumes full responsibility for the position for an extended period of time, he shall receive the pay of the regular appointment.

Temporary teachers shall not be eligible for continued reassignment except where, in the opinion of the Superintendent after consultation with the Association an emergency exists. The Assistant Superintendent for Personnel shall identify to the Association the temporary teachers being rehired for the entire subsequent school year and the circumstances thereof.

Supervisors of interns will receive in addition to their regular salary:

One intern = .04 x Base
Two interns = .06 x Base.

Coordinators in horticultural instruction shall receive 0.16 x Base in addition to regularly established salary.

Differentiated staff positions shall be paid according to the following schedule:

Curriculum Associates shall be paid

(1) their regularly established salary as fixed on the adopted salary schedule, plus

(2) 15 percent of the BA minimum as an additional responsibility factor, plus

(3) 1/190th of the yearly established salary ((1) plus (2)) of the individual for each of his 35 days' additional work.

Coordinating Teachers shall be paid

(1) their regularly established salary as fixed on the adopted salary schedule, plus

(2) 8 percent of the BA minimum as an additional responsibility factor, plus

(3) 1/190th of the yearly established salary ((1) plus (2)) of the individual for each of his 15 days' additional work.

Staff teacher — same as regular schedule only starts on Step 4 of regular salary schedule.

High school counselors may and head high school librarians shall be placed by the District on a work year of up to 210 days.

In accordance with other provisions of this Agreement, the annual salary for those on regular 210 day and 256 day assignments shall be payable in equal payments as other salaries provided for in said Agreement and the amount thereof shall be determined by adding to the teacher's salary as set forth in the salary schedule his daily rate thereunder for each day of his regular assignment which exceeds 190 days. Thus:

$$\frac{1 \times \text{Base}}{190} \times \text{No. days beyond 190}$$

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Teachers of Outdoor School shall receive an additional $50 per weekly session expense reimbursement, contingent on such amounts being reimbursable to the District by Multnomah County Intermediate Education District.

Fifteen cents per mile for on-the-job travel.

LEAVE: Ten days of sick leave will be granted each year with maximum accumulation of 230 days; teachers may not transfer more than 12 days of sick leave accrued in another district; absence owing to compensable injury incurred in the performance of duties will not be charged against the teacher's sick leave days and the district will pay the teacher the difference between his salary and benefits received by him under Workmen's Compensation for up to 180 days; 3 days per year for family illness; one-half day to attend the funeral of a relative or friend if within a radius of 15 miles of Portland and one day if more than 15 miles; 3 days for death in the immediate family and 5 days for the death of a spouse; up to 3 days of emergency leave for unanticipated matters; leave with pay to appear as a witness in court or to serve on a jury; all fees received must be turned in; professional leave with pay for school visitation, for viewing instructional techniques or programs, and for attending conventions, conferences, workshops, or seminars; 2 days of religious leave for observances that require participation during the school day; sabbatical leave not to exceed 1 school year at not less than 3/4 of salary or the beginning salary on the B.A. step whichever is less; tenure teachers may be granted sabbatical leave for study or research after 5 years of consecutive service in the district, for travel after 10 years of service, and for rest and recuperation after 15 years of service; employees on sabbatical leave will retain all rights of tenure, retirement, insurance, sick leave, and automatic increase in salary as if they were teaching during the period of leave; tenure teachers may be granted maternity leave without pay up to 1 school year; upon returning the teacher will be paid at the next step of the current salary schedule; leave of absence may be granted up to 2 years to tenure teachers volunteering for exchange teaching programs; tenure teachers may be granted leave of absence for study programs; upon return the teacher will be placed on the next step of the current salary schedule; teachers inducted or enlisted into the armed services will be granted military leave of absence; tenure teachers will be granted leave of absence up to 2 years to serve in a public office; upon return from leave all accumulated benefits will be restored.

INSURANCE: $30 per month will be paid toward any full-time teacher's medical-hospitalization, dental, disability, or group term life plan; payments for part-time teachers will be prorated; tax-sheltered annuities available; long-term income protection insurance programs as available; fully paid auto liability insurance available.

ASSOCIATION: Deduction of dues for local, state, and national associations; a leave of absence up to 2 years may be granted a tenure teacher for the purpose of serving as an officer of the Association or its staff; upon return the teacher will be placed at the next higher step on the current salary schedule; the Association has negotiated the following rights and privileges;

ASSOCIATION RIGHTS AND PRIVILEGES

The Association or its representatives shall have the right to transact official Association business on school district property at all reasonable times; use school district facilities and equipment including typewriters, mimeographing machines, other duplicating equipment, calculating machines, audio-visual equipment, provided the same are not otherwise in use; post notices of activities and matters of Association concern on teacher bulletin boards, at least one of which shall be provided in each school building, and use the district mail service and teacher mail boxes for communications. The Association shall pay for the reasonable cost of all materials, supplies and special services required beyond normal operation incidental to such uses. The exercise of Association Rights under this Section shall not interfere with or interrupt classes or other normal school operations.

* * *

ELECTION OF EXCLUSIVE REPRESENTATIVE

The Association shall continue to be the exclusive representative of all teachers employed on at least a half-time basis for collective bargaining on employment relations as defined by law during the term of this Agreement unless, under applicable law, some other method of representation or some other applicable representative is elected. Should another method or representative of the teachers be so elected during the term of this Agreement, this Agreement shall not terminate but thereafter no provision of this Agreement shall be construed to require the Board to bargain with the Association and the recognition and authority of the Association as contained in Articles 1 (Status of Agreement, 2 (Association Rights and Privileges), 4 (Negotiation Procedure), 5 (Administration of Agreement), 6 (Grievance Procedure) and 14 (Insurance Protection) shall terminate.

The district will furnish the Association with information necessary to function as the exclusive bargaining representative; the Association faculty representative will be included as a member at any general standing faculty administration committee; the principal and the faculty representative will meet at least once each school month to review the administration of the contract as it affects that building and resolve problems which arise; the Association will be provided time on the agenda of all orientation programs for new teachers, regularly scheduled board meetings, and faculty meetings.

ADMINISTRATION MEETINGS

Representatives of the Board and the Association to the Joint Committee will meet on the last Tuesday of each school month for the purpose of reviewing the administration of the contract in force and to resolve any problems that may arise thereunder. These meetings are not intended to bypass the grievance procedure and shall not constitute an invitation to continuously renegotiate the provisions of this Agreement.

Each party shall submit to the order, on or before the Friday prior to the meeting, an agenda of items to be discussed.

If Section A of Article 13 (Fair Share provision) becomes effective, release time without pay shall be provided to a maximum of three Association representatives for attendance at such meetings. Otherwise, release time with pay shall be allowed each member.

INSTRUCTION: The normal workday begins 15 minutes before the opening of school and ends 15 minutes after dismissal of students; a minimum of 1/2 hour duty-free lunch period daily; teachers working less than 2/3 time may have a duty-free lunch period, but this will be in addition to their regular assigned duty time; 177 instructional days plus 7 planning days, plus six paid holidays total 190 school calendar days; the board may adjust the school calendar for inclement weather and/or fuel shortage; staff will participate in the formulation of educational policies and practices through participation in the Educators, and Staff Advisory Councils, contract administration meetings, faculty representative-principal meetings, building committees, orientation programs, and board meetings.

PERSONNEL: Grievance procedure ends with final and binding arbitration.

PERSONNEL FILES

Each teacher shall have the right, upon request, to review the contents of his own personnel file exclusive of materials received prior to the date of his employment by this District. A representative of the Association may at the teacher's request accompany the teacher in this review. Each teacher's personnel file subject to such review shall contain the following minimum items of information:

All teacher evaluation reports
Transcript of academic records
Tenure recommendations

Copies of annual contracts of the teacher shall be available for inspection by the teacher in the office of the Clerk. The teacher may respond to any item placed in such personnel file and said response shall become a part of said file.

The professional growth program requires that all teachers file a plan complying with the board's requirement of completing 6 hours every 4 years; disagreement regarding the evaluation and processing of credits may be appealed to the Appeals committee; teachers attending classes will be paid at the teacher's regular hourly rate; teacher performance will be evaluated in writing; probationary teachers will be evaluated at least twice during the school year and tenure teachers at least once a year; written forms outlining criteria to be utilized will be distributed to the teachers involved before evaluation; should a probationary teacher receive a "shall not recommend reelection" evaluation on his second evaluation, the teacher and/or evaluator may request and have conducted an additional evaluation;

EVALUATION REPORT PROCEDURE

A copy of the written evaluation shall be submitted to the teacher at the time of personal conference or within ten (10) days thereafter; one copy is to be signed and returned to the Administration, the other is to be retained by the teacher. In the event that the teacher feels that his evaluation was incomplete or unjust, he may put his objections in writing and have them attached to the evaluation report, to be placed in his personnel file with a copy to the Area Superintendent. In the event the teacher desires to have further relief from such report he shall utilize the grievance procedures described elsewhere in this Agreement within ten (10) days of such report.

Any teacher who shall have received an evaluation in the school year which he considers substantially negative may, upon request, have his performance evaluated by a tenure teacher assigned by the Association hereinafter called "peer evaluator". This evaluation shall be made using the same criteria as that which resulted in the original negative evaluation. The Administration may likewise, upon request, have such evaluation by a peer evaluator appointed by the Association in any case in which

the teacher shall have filed an objection or instituted a grievance procedure with respect to such evaluation. In designating such peer evaluator, the Association shall consult and make arrangements therefor through the Area Superintendent or his designee. The peer evaluator shall arrange the times for his absence from regular duties and the times for personal "in the classroom" observations of the teacher with their respective principals or other applicable administrator. A person serving as such peer evaluator shall be given released time to conduct the evaluation but may be designated in a school year to no more than three teachers and the time devoted with respect to any one evaluation shall not exceed an aggregate of one-half day. All such evaluations shall be in addition to evaluations made by the Administration, shall be in writing, shall be filed within ten (10) days of the original request and shall be furnished the Administration, the Association and the teacher promptly following their completion.

Dismissal without just cause is subject to the grievance process; in case of a reduction in teaching staff the district will consider personnel for release in the inverse order of their length of service in the district but with consideration being given to areas of certification, grade level, special qualifications, experience, programs requirements, minority employment, and increased level of training; the order of re-employment will be based on the above considerations; a current listing of vacancies throughout the district will be made available to those considering transferring; the administration may initiate a transfer in an emergency and the teacher will be notified through consultation at least 1 week before the date of transfer; candidates for administrative or supervisory positions will be screened by a committee established by the superintendent, which includes 2 teachers appointed by the Association.

ANNUAL SUBSCRIPTION RATES:

NEA members and NEA affiliated organizations

First or single subscriptions, per year ____ $15
Additional subscriptions sent to the same address, each per year ____ $10

Other persons, organizations, or institutions

First or single subscriptions, per year ____ $30
Additional subscriptions sent to the same address, each per year ____ $20

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